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November 30, 2021

Pima County Board of Adjustment
Development Services Department, Planning Division
201 N Stone Avenue, 1st Floor
Tucson, AZ 85701

RE: December 6th Board of Adjustment Meeting Agenda Item #4.
P21VA00020 MILLER – N. TORTOLITA ESTATES DR.

Dear Board:

We are requesting that you deny the variance application P21VA00020 MILLER at this time.

For the record, we were not notified of the original MSR #P21ZE00130 and were not provided an opportunity to protest that initial application. Contrary to what is written in the Staff's RECOMMENDATION of the MEMORANDUM dated 22 November 2021, as a surrounding property owner, we do have issues with the proposed variance.

First, we question the applicant's definition of the Front Yard vs. Side Yard setbacks. It is our understanding that the Front Yard setback is determined by the access to the property. As described in Exhibit B from the applicant's Board Package (MEMORANDUM dated 22 November 2021), the applicant accesses their property from the southeast boundary thus the southeast boundary should be defined as the Front Yard setback and the southwest boundary should be defined as the Side Yard setback. In this variance application it is reversed. We feel that the application for variances to the setback is misconstrued and therefore the application should not be considered at all. If the applicant states that the southwest boundary is the Front Yard, they would have to recognize the legitimacy of the 40' Access and Utility Easement (DKT. 10715 PG. 448 ITEM NO. 10 & 19) which enters the property from the southwest boundary and from which the applicant should be using to access their property. If the 40' Access and Utility easement is recognized by the applicant, this variance application negatively impacts the easement as described further.

Second, we are property owners of parcel 219-11-006X located to the north (noncontiguous) to the applicant's parcel. Our property was granted a water utility easement thru the applicant's property to a well located on parcel 219-11-004F (Owners Ryan and Nicole Stoker) to the southeast of the applicant's parcel (detailed in attached Exhibit B-1). Granting the variance would create unnecessary hardship and will adversely affect our rights as property owners. In addition, the variance would also cause economic hardship in the construction of our water line and accessing our well.

The house and the requested Side Yard setback variance encroach upon the 40' Access and Utility Easement necessary to build our water line and access the well. Utilizing Exhibit B from the applicant's

Board Package, we have outlined the area of concern in blue (see attached Exhibit B-1). Our ability to use the aforementioned easement to build our water line could be hampered by the variance allowance. There is a portion of the aforementioned easement that is required to build the water line that passes directly through the area of the 20' Side Yard setback (see attached Exhibit B-1). The previous owners of the applicant's property granted a 10' waterline easement (SEQ. NO. 20190440479 and NO. 20190440480 ITEM NO. 21 & 22) through their property, but the parcel to the southeast (parcel 219-11-004F – Owned by Ryan and Nicole Stoker) did not grant approval to their portion of the easement. To reach the existing easement that leads to our well, we are required to use the very portion of the 40' Access and Utility easement for which the variance has been requested.

It is unfathomable that the applicant was unaware that their property was noncompliant with the required setbacks as they conducted their due diligence prior to purchase, but at a minimum, the applicant was very aware of the access and utility easement and that all property owners with well shares were interested in using those easements.

The applicant continues to exhibit bad behavior by further building on the portion of the easement where the variance exception is requested, e.g., 400+ sqft greenhouse, permanent stone/brick walls, cemented metal posted gates and permanent landscape features, etc. (see Exhibit C – picture "East Side Property Line" of the applicant's Board Package. Contrary to the description in the Board Package by the applicant's attorney, we have no intentions of abandoning our rights to any of the easements currently granted to us and all landowners in that portion of the Township and Range described in the easement. It is how we access our well and for some, how they access their property. Approving this variance would validate the applicant's encroachment on a legal access and utility easement.

Again, approval of this variance could negatively impact our use of both the 10' water line easement and the 40' access and utility easement required by neighboring landowners to access the well and proposed water lines. Approving the variance at this time impacts the legalities of using those easements.

Thank you for your consideration,

The image shows two handwritten signatures in black ink. The signature on the left is 'Paul Deshler' and the signature on the right is 'Elena Deshler'. Both signatures are written in a cursive, flowing style.

Paul Deshler and Elena Deshler

Attachment: Exhibit B-1

Exhibit B-1 Proposed water line from properties 219-11-006T and 219-11-006X to well located on parcel 219-11-004F.

- Area where building the waterline would be difficult
- Proposed water line

