



Report to the Board of Adjustment

Prepared by the Maricopa County Planning and Development Department

Case: BA2019008 – Hiway Baptist Church

Hearing Date: April 18, 2019

Supervisor District: 2

Applicant: Eric Bolze, E2 Innovations Inc.

Property Owner: Hiway Baptist Church

Request: **Variance to the development standard of the Maricopa Zoning Ordinance to permit:**

- 1) Proposed front setback of 2' for a freestanding monument sign where 20' is the minimum permitted per MCZO Article 1402.5.1

Site Location: APN 220-13-003F @ 10505 E. Brown Rd. – approx. 640' east of 140th St. & Brown Rd., in the Mesa area

Site Size: 7.32 acres/300,300 sq. ft.

Current Use / Zoning: Church / Rural-43

Open Violation: **No Violation on property**

Citizen Support/Opposition: No known opposition

Findings: **The request meets the statutory test for variance approval**

Background:

1. **June 10, 1988:** The current owner took possession of the subject property via a Warranty Deed **(1988202390)**.
2. **Circa 1988:** no records were found for building permits, however meeting minutes for the below temporary use requests indicates a building permit issued around 1988.
3. **March 23, 1988:** One temporary use permit for a residential travel trailer/RV was granted for a period of one year and six (6) temporary travel trailers/RVs were permitted for 30 days from the date of obtaining zoning clearances/building permits for utility hookup under **(BA88-42)**.
4. **April 12, 1989:** Renewal request for a TUP to maintain a temporary travel trailer/RV on the site and maintain a temporary construction trailer and yard during construction **(BA89-42)**. The request maintain a maintain a temporary construction trailer and yard during construction was approved for one year, however the renewal of a temporary travel trailer/RV was denied.
5. **March 28, 1990:** Renewal of a TUP to maintain a temporary construction trailer and yard during construction **(BA90-46)**. TUP was granted for one year.
6. **March 31, 1994:** A Special Use Permit was granted on a portion of the site for an adult care facility **(Z94-25)**. The proposal never came to fruition.
7. **May 21, 1997:** A variance was granted for a sign to be perpendicular to the street where the MCZO only permitted a sign to be perpendicular **(BA97-24)**. The variance permitted the sign to be perpendicular to be 24 sq. ft.
8. **March 16, 2016:** A Certificate of Occupancy was issued for a 3,181 sq. ft. addition to the property **(B201501601)**.
9. **March 12, 2019:** The subject variance was filed **(BA2019008)**.

Reviewing Agencies Comments:

10. **Engineering (Transportation, Drainage, and Flood Control):** No objection to the request, see attached memo dated March 25, 2019. MCDOT has added the following condition:
 - a) Brown Road is MCDOT maintained Right-of-Way, and is classified as a Minor Arterial which carries a 65ft minimum half-width requirement. The new sign will be located within 57ft from the center-line of Brown Road, and will therefore be positioned within the future 65ft half-width right-of-way. Please note, at such time in the future MCDOT should choose to develop this section of Brown Road to its full extent, the Church will be required to relocate the sign, out of the future right-of-way, at their own expense.
11. **Environmental Services Department (MCESD):** No objection to the request, see attached memo dated March 13, 2019.

Existing On-Site and Surrounding Zoning/Land Use:

- 12. On-site: Rural-43 / Church
- North: Brown Rd. then R-35 / Single-family residence
- South: Fenimore Rd. then Rural-43 /Single-family residence
- East: Rural-43 / Single-family residences
- West: Rural-43 / Single-family residences

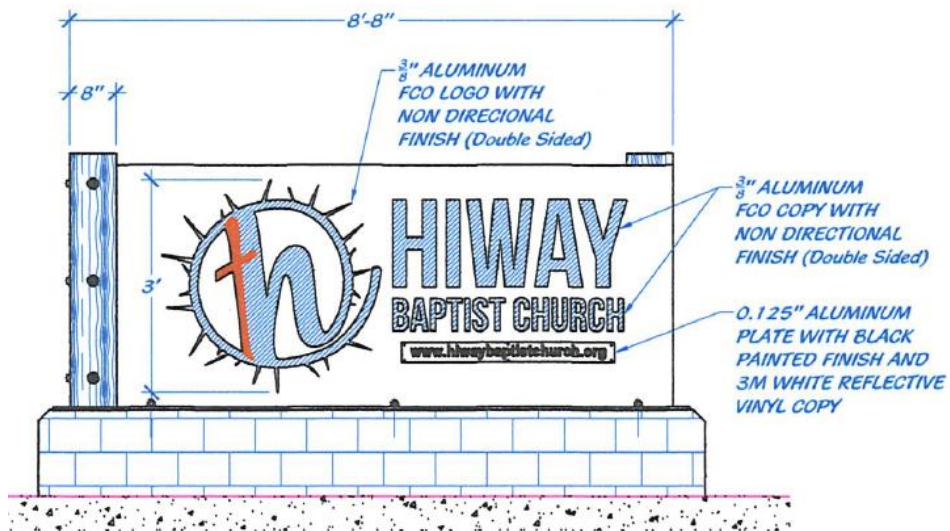
Site Analysis:

- 13. The subject property is approximately 640' east of the southeast corner of 140th St. and Brown Rd. in the east Mesa area. The area is largely developed with single-family residences consisting of lot splits to the east, west, north, and south of the subject property. The site itself is relatively flat, developed and used as church, there are three buildings, paved parking areas, turf areas on subject site.
- 14. The applicant proposes a 2' setback for the proposed new freestanding monument sign. Per the MCZO, a church is allowed signage; however, it must be 20' from the property line. The sign is 4'10" tall and 41.85 sq. ft. in area, meeting the signage requirement outlined in Section 1402 of the MCZO.
- 15. The current R/W for Brown Rd. is 55' and leaves approximately 42' from the edge. The proposed freestanding monument sign is setback approximately 44' from the edge of the current roadway. The 20' setback requirement would put the sign 62' from the edge of pavement causing a visual hardship for the church as well as a safety concern for drivers attempting to read the signage.

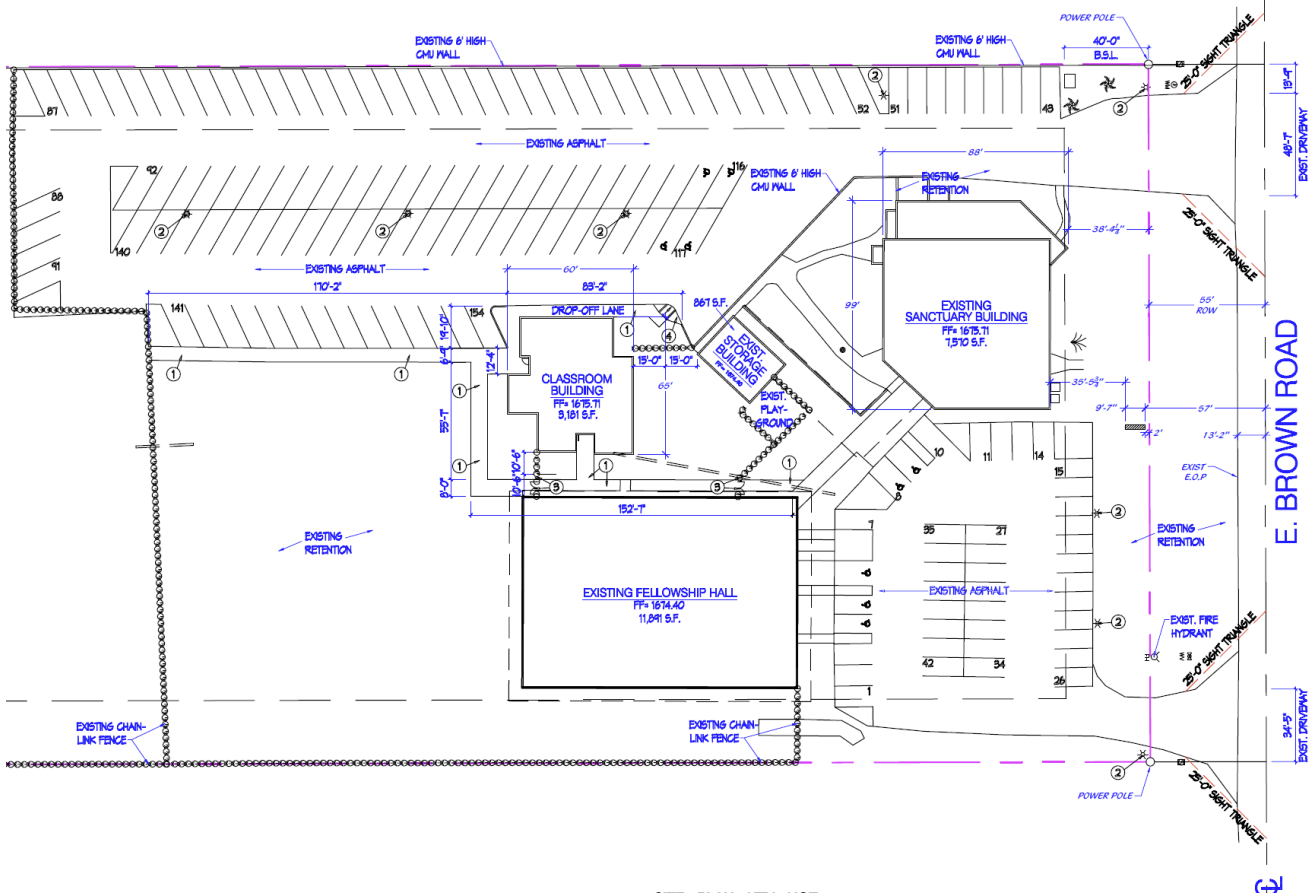
Aerial photo of subject site & surrounding environs



Aerial photo of subject site



Proposed site plan



16. The following table is included to illustrate and contrast the standards for the underlying zoning district with those proposed by the owner (Note: changes to proposed standards are indicated in bold).

Standard	Rural-43 Zoning District	Proposed Standard
Front Yard Setback	20-feet	2-feet
Maximum Height	12-feet	4 ft.-10 in.
Maximum Sign Area	48 sq. ft.	41.85 sq. ft.

Note: Standards indicated in **bold** do not meet base zoning standards

ARS § 11-816.B.2 and MCZO Article 303.2.2 states the Board of Adjustment may, "Allow a variance from the terms of the ordinance if, owing to peculiar conditions, a strict interpretation would work an unnecessary hardship and if in granting the variance the general intent and purposes of the zoning ordinance will be preserved."

State Statute / County Zoning Ordinance Tests:

17. **Statutory Test -1 Peculiar condition** – Discuss and explain what is/are the peculiar condition facing the property and include reference to the Maricopa County Zoning Ordinance Regulation or Development Standard to be varied. Explain the proposed use of the property with the variance request. Identify and explain all peculiar conditions on your property in regard to the following areas: slope, narrowness, shallowness, irregular shape, location, washes, vegetation, and easements, etc. Explain how enforcement of

the Zoning Regulation or Development Standard would impose a hardship on the property.

"The Zoning Ordinance Section 1402.5.1.5 states for a sign there is a 20' setback from the property line to the leading edge of the sign. The large amount of dedicated ROW (55') & distance from the edge of pavement to the PL (42') creates a visual hardship combined with the 20' sign setback. We are requesting a variance to the ordinance to a 2' setback from the PL to the sign."

18. **Statutory Test 2 – Unnecessary Hardship** – Explain the unnecessary hardship the peculiar condition on the site create with respect to existing Regulation and Standard of the Maricopa County Zoning Ordinance. Please discuss and explain that the unnecessary hardship facing the property is not self-created in the line of title.

"The 20' sign setback from the property line creates a visual hardship for the readability of the proposed church monument sign. This is a hardship since this property has a 55' ROW leaving 42' from edge of pavement to the Property Line. Adding the 20' setback puts the sign at 62' from EOP. This is a visual hardship for the Hiway Baptist Church monument sign."

19. **Statutory Test 3 – General Intent and Purpose of the Zoning Ordinance** - Discuss and explain how the granting of the requested variance would not cause a negative impact on the general intent and purpose of the Zoning Ordinance.

"The church can have a sign at both entrances (2 total) and they are requesting only one sign in the middle of the PL. The 55' ROW with 42' from EOP to the PL is a significant buffer compared to the lesser ROW dedication by all adjacent properties. The sign location requested is also away from adjacent neighbors."

20. **Per MCZO – Evidence of the ability and intention of the applicant to proceed with construction work within 120 days after variance decision by the Board of Adjustment.**

Provide evidence of the ability and intention to proceed with construction work within 120 days (4 months) after Board of Adjustment decision. Discuss if there are building permit or as-built permit currently filed with Planning and Development Department and the current review status. Specify the permit number. If no permit have been filed, please provide a timeline for building permit submittal and projected timeframe for construction. Conversely, indicate if the variance request is/are not related to a specific development proposal.

"The sign design has been approved by the church and upon approval of our variance request we will submit for a sign permit. Once the sign permit is approved the construction and installation of the sign will immediately commence."

Findings:

21. The applicant has the burden of proving that, in accordance with ARS §11-816.B.2 and MCZO, Art. 303.2.2, the property is entitled to receive a variance. To do so, the applicant must present evidence that, due to a peculiar condition related to the land, that being something that is not a common condition of other properties, applying the requirement of the MCZO as written to this particular property would work an undue hardship on the property. In addition, the applicant must demonstrate that the granting of the variance would preserve the general intent and purpose of the MCZO.

Based upon what the applicant has submitted and the staff analysis in this report, staff offers the following findings:

- The applicant has demonstrated that there is a peculiar condition facing the property in that there is currently a 55' R/W, leaving approximately 42' of undeveloped vacant land between the current roadway pavement and the property line.
- The applicant has demonstrated the peculiar condition / physical hardship is not self-created in the line of title.
- The applicant has demonstrated that the general intent and purpose of the MCZO will be preserved despite the variance because the request is for a setback on a minor arterial roadway, the proposed freestanding monument sign meets the height and sign area allowed in the MCZO and would not impact the adjacent residential areas.

And further, staff offers the Board the following Conditions of Approval:

- a) General compliance with the site plan stamped received April 9, 2019.
 - b) All required building permit for the proposed development shall be applied for within 120 days of the hearing date unless otherwise directed by the Board. Failure to apply for any required building permit within the specified time, or to complete necessary construction within one year from the date of approval, shall negate the Board's approval.
 - c) MCDOT has the following condition:
 1. Brown Road is MCDOT maintained Right-of-Way, and is classified as a Minor Arterial which carries a 65ft minimum half-width requirement. The new sign will be located within 57ft from the center-line of Brown Road, and will therefore be positioned within the future 65ft half-width right-of-way. Please note, at such time in the future MCDOT should choose to develop this section of Brown Road to its full extent, the Church will be required to relocate the sign, out of the future right-of-way, at their own expense.
 - d) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.
22. However, if the Board finds that any aspect of the statutory test has not been proven, Board must state on the record the basis for that determination in a motion to deny the relief sought.

Presented by: Jaclyn Samowski, Planner
Reviewed by: Darren V. Gerard, AICP, Deputy Director

Attachments: Case Map (1 page)
Application / Supplemental Questionnaire (3 pages)
Site Plan (2 pages)
Engineering Comments (1 page)
MCESD Comments (1 page)