



# City of Apache Junction, Arizona

## Meeting Minutes Board of Adjustment

Meeting Location:

City Council Chambers  
at City Hall  
300 E Superstition Blvd  
Apache Junction, AZ

[www.ajcity.net](http://www.ajcity.net)  
Ph:(480) 982-8002

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Monday, June 11, 2018

7:00 PM

City Council Chambers

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### 1. Call to Order

Chair Schoenbeck called the meeting to order at 7:00 pm.

### 2. Pledge of Allegiance

Chair Schoenbeck led the Pledge of Allegiance.

### 3. Roll Call

**Present**                      6 -      Vice Chair Gage  
    Board Member Borey  
    Chairperson Schoenbeck  
    Board Member Buzzin  
    Board Member Biggs  
    Board Member Weller

**Excused**                      1 -      Board Member Jones

Staff present:

Joel Stern, City Attorney

Larry Kirch, Development Services Director

Rudy Esquivias, Senior Planner

### 4. Consent Agenda

Board Member Biggs motioned to accept the agenda as presented. Board Member Buzzin seconded. Approved in a vote of 6 in favor and none opposed. (Yes: Gage, Borey, Schoenbeck, Buzzin, Biggs, Weller. No: none.)

Board Member Biggs motioned to approve the minutes with corrections on page 3 and page 4. Board Member Buzzin seconded the motion. Approved in a vote of 6 in favor and none opposed. (Yes: Gage, Borey, Schoenbeck, Buzzin, Biggs, Weller. No: none.)

[18-279](#)                      Consideration of approval of agenda.

[18-294](#)                      Consideration of approval of meeting minutes of May 7, 2018.

### 5. Motion for Executive Session in the Development Services Conference Room

None.

## 6. Public Hearings

### 18-278

Presentation, discussion, public hearing and consideration of case BA-3-17, an appeal of the Zoning Administrator's decision by Bambi Johnson, represented by Adam Martinez and Thomas F. Galvin, Jr. of the Rose Law Group, appealing the Zoning Administrator's interpretation of Apache Junction City Code, Volume II, Land Development Code, Chapter 1, Zoning Ordinance, Article 1-1: Introductory Provisions, Section 1-1-3 Applicability; and Article 1-2: Types of Uses, Section 1-2-4 Administrative Uses; and Article 1-5: Zoning Bulk and Use Regulations, Section 1-5-3 Non-residential Use Regulations, Table 5-3 Non-residential Use Regulations; and Article 1-6 Supplemental Regulations, Section 1-6-23 Temporary Uses and Structures; and Article 1-16 Administration: Section 1-16-12 Conditional Use Permits, Administrative Use Permits and Building Permits. Applicants disagree with and are appealing the Zoning Administrator's interpretation pertaining to permits required for "Temporary Uses" and/or "Private Outdoor Music Festivals/Events", including number of events allowed and conditional use permit. This item was continued from the May 7, 2018 meeting.

Chair Schoenbeck asked City Attorney Stern to update the board on the status of the case.

City Attorney Stern explained he received an email from the applicant's representative, Tom Galvin, stating the applicant, Ms. Johnson, has withdrawn her appeal.

Chair Schoenbeck opened the public hearing portion of the item.

Hearing or seeing none, Chair Schoenbeck closed the public hearing portion of the item.

Chair Schoenbeck called for a motion.

Board Member Weller asked City Attorney Stern if the case is dismissed with prejudice. City Attorney Stern replied not necessarily and the case could be brought back. He added that it would be a different date and possibly if another statement was challenged. He said in this forum, cases are dismissed with or without prejudice. Board Member Weller said the board is quasi-judicial. City Attorney Stern said that is correct but doesn't think there is any enforcement if it was said with prejudice.

Vice Chair Gage asked if by dismissing the case, the board is acknowledging the planning department's interpretation of the code is four events a year before a conditional use permit is required. City Attorney Stern said it is the zoning administrator's opinion but he thinks that is correct and it would take at least four events to trigger a conditional use permit.

Board Member Weller asked if an amendment can be made and the board stands by the ruling of planning and zoning. Chair Schoenbeck said he thinks by accepting dismissal the board is standing by the decision. City Attorney Stern said yes. Board Member Weller said the applicant can still challenge it without prejudice. Chair Schoenbeck said no matter what the board says, they could come back and challenge it. City Attorney Stern said the applicant would have to pay fees, it would have to be noticed again but they could bring it back if they wanted to. He added it would be a new case with new fees involved.

Board Member Biggs motioned to accept the withdrawal of the case as stated in the email and

dismiss the case moving forward. Board Member Buzzin seconded the motion. Approved in a vote of 6 in favor and none opposed. (Yes: Gage, Borey, Schoenbeck, Buzzin, Biggs, Weller. No: none.)

## **7. Selection of Meeting Dates, Times, Location and Purpose**

Board Member Biggs asked City Attorney Stern to explain if the next meeting were to approve the minutes of this meeting. City Attorney Stern said it would be but could also be cancelled due to lack of items. He said the approval of minutes doesn't have to occur at the next meeting because there isn't a lot done here however, if this was a full blown meeting the board would meet anyway. He added it depends on when staff would like to bring it back. He said if there are no items, staff will let the board know there isn't a meeting. Chair Schoenbeck asked if they would schedule a meeting and find out if the meeting will be held or not. City Attorney Stern said correct. Board Member Biggs said if there isn't a meeting, it can be cancelled. City Attorney Stern replied a motion is still made for the next meeting. He said it is posted on the city clerk's website for that certain Monday every month, and if there is no meeting the board doesn't convene and the board is notified. Board Member Biggs asked even if a meeting is scheduled, staff will let the board know there isn't one. Director Kirch said that is correct.

Chair Schoenbeck called for a motion.

Vice Chair Gage moved that the Board of Adjustment hold a regular meeting on July 9, 2018 at 7:00 pm in the City Council Chambers located at 300 E. Superstition Boulevard. Board Member Biggs seconded the motion. Approved in a vote of 6 in favor and none opposed. (Yes: Gage, Borey, Schoenbeck, Buzzin, Biggs, Weller. No: none.)

## **8. Adjournment**

Meeting adjourned at 7:10 p.m.

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Frank Schoenbeck  
Chairperson