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Case No.: S0200CV202600895
HON. RICHARD KARWACZKA

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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF COCHISE

WALSTON HOMES LLC, an Arizona limited liability company; and DUSTIN FOOTE, an unmarried man, Appellants, v. COCHISE COUNTY BOARD OF ADJUSTMENT, a quasi-judicial board, Appellee.	Case No.: Cochise Co. Board of Adjustment Docket ABA26-02 Cochise Co. Residential Building Permit #BP26-000977 **NOTICE OF APPEAL FOR JUDICIAL REVIEW OF ADMINISTRATIVE DECISION**

Pursuant to A.R.S. §12-904, A.R.S. §11-816(D), Section 2.60.070 of the Cochise County Zoning Regulations, and the Arizona Rules of Procedure for Judicial Review of Administrative Decisions ("JRAD"), Appellant Walston Homes LLC and Dustin Foote hereby give notice of appeal of the final Notice of Action of the Cochise County Board of Adjustment in Docket ABA26-02 (Appeal of Zoning Inspector Decision) taken on October 28, 2026 that reversed the Cochise County Zoning Inspector's issuance of a residential building permit (#BP26-000977) made by Walston Homes LLC as applicant for the real property located at 4116 S Calle Encina near Sierra Vista (tax parcel 105-18-012A) owned by Dustin Foote.

Pursuant to JRAD Rule 4, the following items are included in this Notice of Appeal:

1. The caption of the case and the administrative agency case number are:

a. Ted Berns, et al., v. Walston Homes LLC and Dustin Foote, Docket ABA26-02 (Appeal of Zoning Inspector Decision)

b. Cochise County Board of Adjustment

2. The party filing the appeal is as follows: Walston Homes LLC and Dustin Foote. More specifically, Walston Homes LLC as applicant under residential building permit (#BP26-000977) for the real property located at 4116 S Calle Encina near Sierra Vista (tax parcel 105-18-012A) that is owned by Dustin Foote, residential property owner.

3. The final administrative decision from which the party is appealing is the Board of Adjustment action taken on October 28, 2026, which is therefore the date of the "final administrative order" from which this appeal is timely brought.

4. The findings and decision or part of the findings and decision sought to be reviewed are as follows:

a. The determination in the Notice of Action that the Cochise County Building Inspector improperly issued the August 28, 2026, residential building permit (#BP26-000977) for property located at 4116 S Calle Encina near Sierra Vista (Tax Parcel 105-18-012A).

b. The determination in the Notice of Action that the building described in the residential building permit (#BP26-000977) for property located at 4116 S Calle Encina near Sierra Vista (tax parcel 105-18-012A) is not a "Residence" as defined by the Cochise County Zoning Regulations.

5. The issues presented for review are as follows:

a. Did the Board of Adjustment err in interpreting the definition of "Residence" by granting the appeal in ABA26-02 (Appeal of Zoning Inspector Decision) determining that the residential building permit (#BP26-000977) failed to meet the definition of "Residence?"

b. Did the Board of Adjustment err in determining that the residential building permit (#BP26-000977) failed to meet the definition of "Residence" where Cochise

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County Development Services provided evidence that it had approved numerous building permits substantially similar to the issued building permit?

c. Did the Board of Adjustment err by effectively imposing a maximum square footage for attached accessor structures where the Cochise County Zoning Regulations do not identify a maximum square footage for attached or detached accessory structures in Residential zoning districts?

d. Did the Board of Adjustment err by interpreting the phrase "intended primarily for residential occupancy for the purposes of Section 2.18.030" where accessory structures are allowed to exceed the size of the principal structure in Residential zoning districts if the parcel is four acres or larger?

6. Pursuant to JRAD Rule 5, Appellant requests the record on appeal include a transcript of the October 28, 2026, hearing.

7. A request for trial *de novo*, is requested.

DATED this 3rd day of November, 2026.

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