



MEMORANDUM

TO: Cochise County Board of Adjustment
FROM: Christine McLachlan, AICP, Planning Division Manager
FOR: Daniel Coxworth AICP, Development Services Director
SUBJECT: Docket VAR 23-06 (Navaho Setback), Application for a Variance
DATE: July 18, 2023, for the July 26, 2023, Meeting

Docket VAR 23-06 (Navaho Setback)

The applicant, Mr. Allan Davis, requests a reduction in the required setback for an accessory structure in a SR-43 residential zoning district. By zoning, all accessory structures must be no less than twenty (20) feet from all property boundaries. The applicant requests a variance to construct a 550 SF accessory building ten (10) feet from the western property line. The subject property is located at 3513 E. Navaho, Sierra Vista, AZ (APN 105-99-101). The granting of a variance is subject to approval from the Cochise County Board of Adjustment. If the Board approves the request, the Applicant must then obtain a building permit to construct the building.

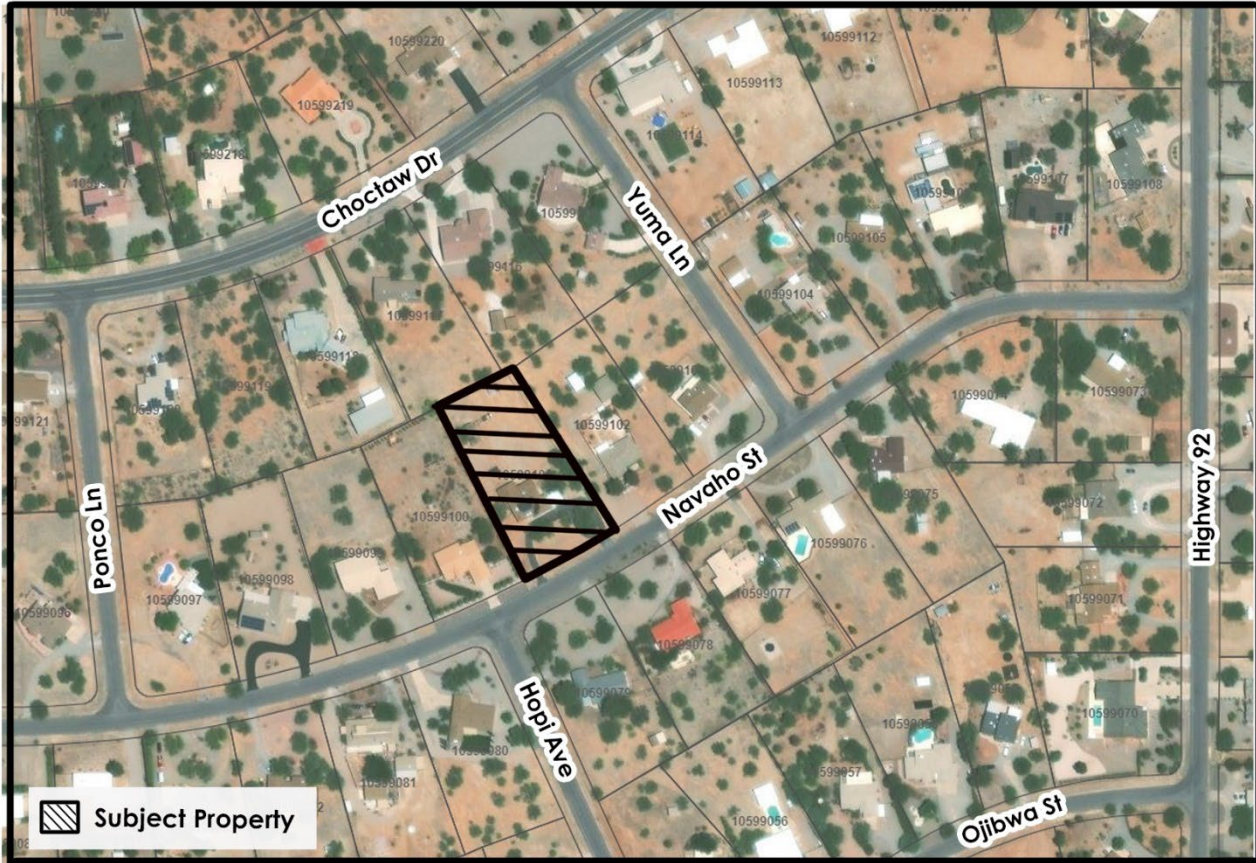
I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES

Site Size: 1.00 acre
Zoning: SR-43 (Single Household Residential, one dwelling per acre)
Growth Area: Category A
Plan Designation: Neighborhood Conservation
Area Plan: None
Existing Uses: Residential- includes a house with an attached carport
Proposed Uses: Residential with all existing accessory structures as well as a 550 SF metal building, 10' from the western property line

Surrounding Zoning and Uses

Relation to Subject Parcel	Zoning District	Use of Property
North	SR-43	Residential
South	SR-43	Residential
East	SR-43	Residential
West	SR-43	Residential

Figure 1: Request Location



Location
 VAR 23-06 Navajo Setback



II. SITE HISTORY

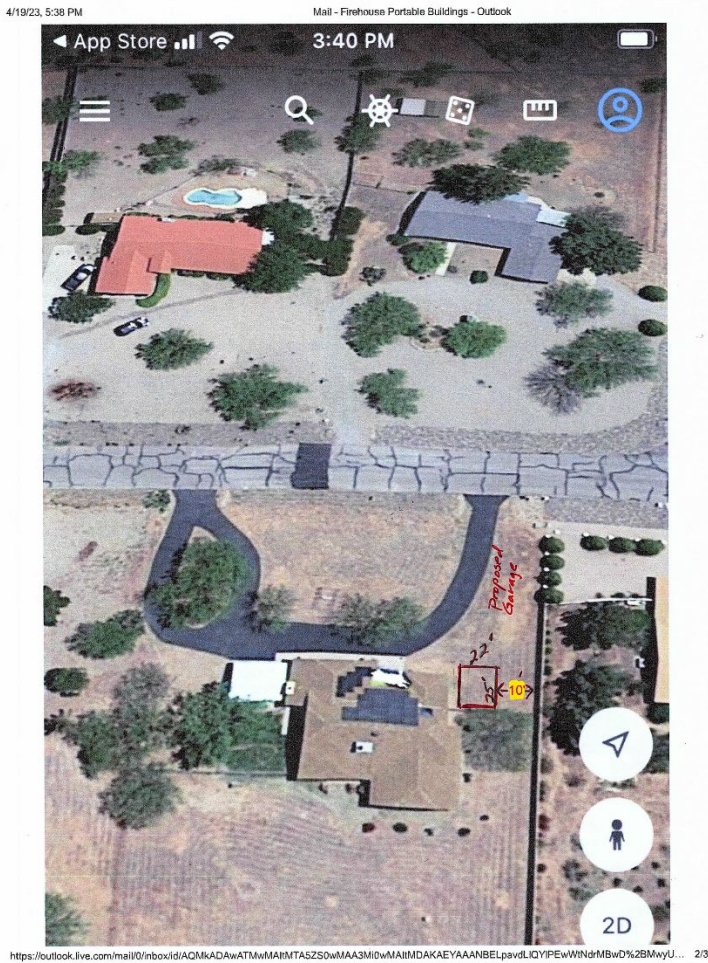
- 1987 – Single Family Home Construction (2,115 SF)
- 1987 – Septic permit issued
- 2016 – Solar panel (roof mounted) permit issued

III. REQUEST DESCRIPTION

The applicant, Mr. Allan Davis, requests a reduction in the required setback for an accessory structure in a SR-43 residential zoning district. By zoning, all accessory structures must be no less than twenty (20) feet from all property boundaries. The applicant requests a variance to construct a 550 SF accessory building ten (10) feet from the western property line. To do so, the Board of Adjustment would need to permit a ten (10) foot reduction in setback from the western property line to the accessory structure.

Section 904.03 of the Zoning Regulations establishes setbacks for principal and accessory structures/uses in SR Single-Household residential zoning districts. The minimum required setback for all principal or accessory structures in SR-43 zoning is twenty (20) feet.

Figure 2: Concept Plan



IV. ANALYSIS OF IMPACTS – COMPLIANCE WITH VARIANCE FACTORS

Section 2102.02 of the Zoning Regulations provides a list of eight factors with which to evaluate Variance applications. Staff uses these factors to help determine the suitability of a given variance request, whether to recommend approval for a variance, as well as to determine what conditions and/or modifications may be needed. With the information provided, eight (8) factors apply to this request. The project, as submitted, fully complies with six (6) of the factors.



1. There is an unnecessary hardship created by zoning regulations – Does not comply

Section 904.03 of the Zoning Regulations established setbacks for principal and accessory structures/uses in residential zoning. The minimum required setback for all principal or accessory structures in SR-43 zoning is 20 feet. SR-43 zoned property must be a minimum of 43,505 SF. The lot is legally conforming in terms of minimum lot size. An undeveloped lot within this zoning designation could accommodate both the home and the proposed accessory structure while observing all required setbacks.

2. There are peculiar site conditions present– Partially complies

There are no physical conditions unique to the site. The lot meets the minimum size requirements for its zoning. It is not irregularly shaped, and there are no significant changes in grade. There are no flood hazard zones on site. This is a long and narrow lot, like the majority of those in the immediate vicinity. Given the current configuration of the front and back yard, which is split by a fence and trees, the positioning of a detached garage, with direct access to the house, adding an additional detached garage is a challenge. Particularly because this is not a corner lot and there is no alley to access the rear of the site.

3. This is not a self-created hardship – Complies

This factor considers whether “The unnecessary hardship does not arise from a condition created by an action of the owner of the property.” The applicant and current property owner purchased the property in 2022. This neighborhood was originally developed in the 1980s. This house was constructed in 1987. Since that time, but prior to this application, an asphalt looped driveway, fence and landscape were installed, which make connections for a backyard placement of the proposed accessory structure a challenge.

4. This is the minimum to afford relief – Complies

SR-43 zoning requires a 20-foot setback. The house and attached carport are 30’ from east and west property lines. The proposed structure is oriented with the narrower side (22’ wide) facing the setback. To preserve at least 10’ from the western property line, the accessory structure will need to be placed as close as possible to the house.

5. This is a permitted use in Zoning Regulations – Complies

The application is for a detached accessory structure. More specifically, a 550 SF accessory structure. The use is permitted within the SR-43 zoning district.

6. There is no adverse impact to surrounding property owners –Complies

This property is within a medium density neighborhood. Overall, the property is in excellent condition. If permitted by the Board of Adjustment, the accessory structure must be incidental to the existing house, meaning it must be lesser in overall size and height than the house. The proposed building is 550 SF and it may not exceed the height of the 2,115 SF home. Potentially the most impacted property is directly to the west. As shown in the photos, that property is surrounded by a 6’ tall masonry block wall. The case planner received a letter of objection from a property owner within 300 feet, but not directly adjacent. They were concerned about mountain and waterfall views from their backyard. However, this structure will not be permitted to exceed the height of the existing one-story house.

7. General harmony with the intent and purposes of the Zoning Regulations – Complies

As stated in Article 2 of the Zoning Regulations, a setback is defined as follows, “the horizontal distance between the property line or road travel way and the foundation, wall, or main frame of any building or structure, and between the property line and the outer perimeter of any outdoor area significantly involved in the use or activity of the site, including non-residential sales, rental, display, or storage areas. No structure/use permitted herein shall limit the rights of the owner of any underlying easements which burden a particular site from utilizing their easement.” SR (Single-Household Residential) Zoning Districts are established to achieve the following purposes:

901.01 To stabilize and protect single-household residential development.

901.02 To provide areas for families living at a broad range of densities.

901.03 To provide for residential neighborhoods.

This request is to encroach into the minimum setbacks. The general harmony of the Zoning District is preserved.

8. No violation of state or federal law – Complies

The request is for a 10' reduction in the required setback to the property line. The applicant states an accommodation is needed for health and mobility reasons. Section 504 of the Americans with Disabilities Act mandates a reasonable accommodation requirement. More specifically, Titles II and III of the ADA require public entities and public accommodations to make reasonable modifications to policies, practices, or procedures to avoid discrimination. On the application, the applicant states he and his wife are elderly and have health and mobility issues. This variance request is a reasonable accommodation to comply with this federal law.

V. PUBLIC COMMENT

Staff mailed notices to neighboring property owners within 300-feet on July 3, 2023. Staff posted the property on July 7, 2023 and published a legal notice in the Sierra Vista Herald on June 5, 2023. To date, staff has received one letter in opposition, which was attached to this staff report.

VI. SUMMARY AND CONCLUSION

Factors in Favor of Approving the Variances

1. This variance request is consistent six of the eight criteria used by staff to help determine the suitability of a given variance request. (Not a self-created hardship, Minimum degree of relief, permitted use, no adverse impacts to surroundings, general zoning regs harmony, no violation of state or federal law)
2. The applicant has health and mobility issues. Section 504 of the Americans with Disabilities Act, which is federal law, mandates a reasonable accommodation requirement to avoid discrimination.

Factors Against Approving the Variance

1. This variance request is not fully consistent with two of the eight criteria used by staff to help determine the suitability of a given variance request. (Unnecessary hardship created by zoning/factor 1, Peculiar site conditions present/factor 2)
2. The case planner received one letter of opposition from neighbor within 300'.

VII. RECOMMENDATION

Based on the Factors in Favor of Approval as Findings of Fact, Staff recommends **Approval** of the Variance as requested.

Sample Motion: Mr. Chairman, I move to approve Docket VAR 23-06 (Navaho Setback), located at 3513 E. Navaho Street, Sierra Vista, AZ (APN 105-99-101), granting the Variance as requested by the Applicant, the Factors in Favor of approval constituting the Findings of Fact.