



MEMORANDUM

TO: Cochise County Board of Adjustment
FROM: Matthew Taylor, AICP, Planner II
FOR: Christine McLachlan, AICP, Planning Division Manager
SUBJECT: Variance Application – Docket VAR 23-07 (Shawnee Setback)
DATE: September 12, 2023, for the September 27, 2023, Public Hearing

Docket VAR 23-07 (Shawnee Setback)

The applicant, Mr. Donald Simpson, requests a Variance to reduce the minimum required accessory structure setback in the SR zoning district (Single-Household Residential) from 20-feet to 5-feet. The subject property is located at 5555 S. Shawnee Drive, Sierra Vista, AZ (APN 105-94-166). The applicant proposes placing a 384-square foot prefabricated accessory structure 5-feet from the north property line. If the Board approves the Variance, the applicant must obtain the required building permits prior to placing the structure on the property.

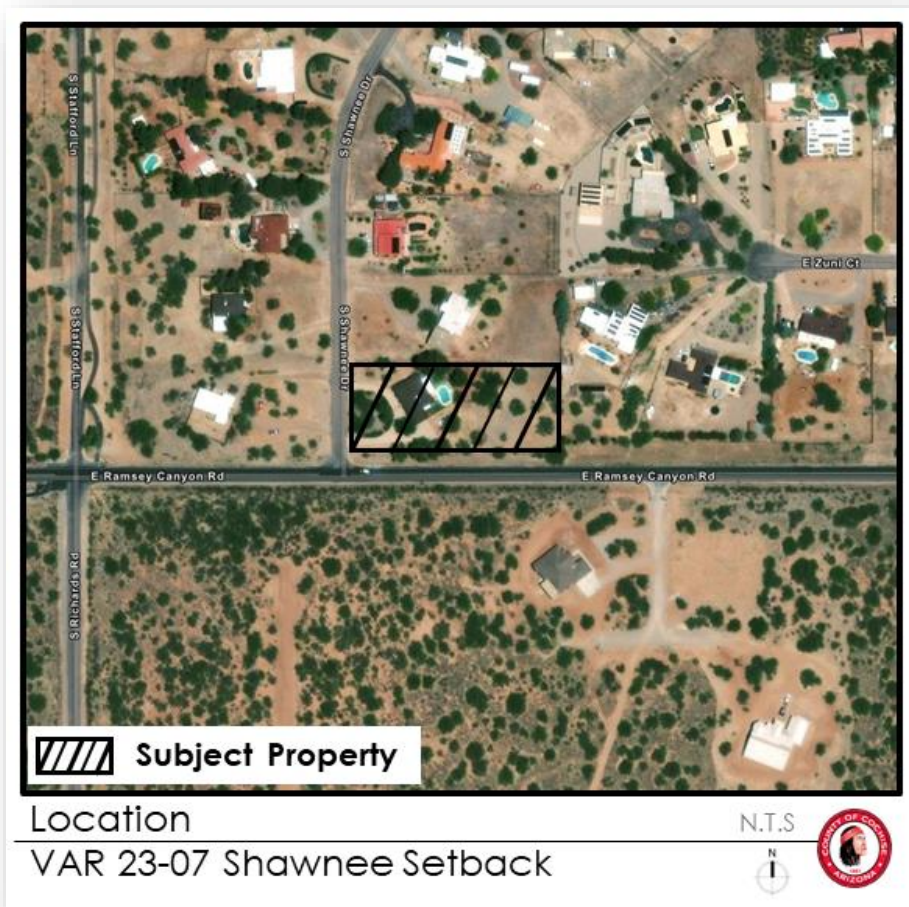
I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES

Site Size: 1.18 acres
Zoning: SR-43 (Single-Household Residential, 43,560-square feet minimum site area)
Growth Area: Category A
Plan Designation: Neighborhood Conservation
Area Plan: None
Existing Uses: Single family residence with accessory structure
Proposed Uses: Single family residence with new accessory structure 5-feet from north property line

Surrounding Zoning and Uses

Relation to Subject Parcel	Zoning District	Use of Property
North	SR-43	Residential
South	R-36	Residential
East	SR-43	Residential
West	SR-43	Residential

Figure 1: Request Location



II. SITE HISTORY

1976 – Single Family Residence (2,555 SF)

1978 – Swimming Pool

1989 – Septic Tank (system expansion)

III. REQUEST DESCRIPTION

Section 2.24.040 of the Zoning Regulations establishes setbacks for principal and accessory structures/uses in the SR zoning district. A 20-foot minimum setback is required principal structures and accessory structures greater than 200 SF. A 10-foot minimum setback is required for accessory structures 200 SF or less. The applicant requests a Variance to allow a new 384 SF accessory structure 5-feet of the north property line.

1. There is an unnecessary hardship created by zoning regulations – Does Not Comply

The subject property conforms to current zoning ordinance requirements and does not appear to contribute directly to a property owner hardship. The property is rectangularly shaped and legally platted (Lot 110, Pueblo del Sol Village One, Unit B). Lots in this configuration routinely accommodate single-family residences and accessory structures without requiring a Variance.

2. There are peculiar site conditions present – Partially Complies

The subject property does not demonstrate an irregular shape, significant changes in grade, or presence within a flood plain. The property is similar in size and shape with other lots within the Pueblo del Sol neighborhood. The property owner proposes replacing an existing storage shed with a new prefabricated structure in approximately the same location. The original septic system was improved in 1989, expanding the leach field in an easterly direction, immediately to the south of the existing accessory structure. This improvement restricts placing the proposed storage building further away from the north property line.

3. This is not a self-created hardship – Partially 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 is the subject property’s original owner/occupant. Property improvements date to 1976-1978, including the existing storage shed. The shed is in an area along the north property line measuring about 4,200 SF that is enclosed with secondary fencing and featuring multiple mature trees.

The applicant seeks to restrict visibility of the new storage building from Shawnee Drive and Ramsey Canyon Road by placing the new structure in the same approximate location as the old structure to preserve the property’s existing rural character. Necessary septic system improvements within this area and the applicant’s desire to preserve mature trees throughout the property generally reduce viable siting of the new shed.

4. This is the minimum to afford relief – Complies

The applicant proposes placing a new storage building in the same general location as the existing 120 SF building due to the presence of the septic system. The existing storage structure, heavily weathered and in an advanced state of deterioration, will be removed.

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

The proposed 384 SF storage building is allowed within SR zoning districts.

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

This property is within an established medium density neighborhood featuring lot sizes in excess of one acre. The proposed storage building is incidental to the existing residence, being located within the rear yard and lesser in overall size and height than the principal structure. Additionally, the applicant does not intend to service the building with utilities (electrical, mechanical, plumbing).

The property owner to the north would be most affected by the new storage building. However, since the new structure functions only as a shed for storing personal property, potential impacts will be strictly visual. Nearby property owners will see a storage building that is residential in nature and is in character with the neighborhood overall.

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

The purpose of the Zoning Regulations is to conserve and promote public health, safety, convenience, and general welfare, guiding future growth and improvements within Cochise County. Building setbacks are established by zoning districts to preserve and character of each district and provide adequate separation between structures to prevent overcrowding of uses. Should the Variance be approved, general harmony with the Zoning Regulations is maintained given separation from structures on adjacent properties and preservation of residential neighborhood character.

8. No violation of state or federal law – Complies

Section 504 of the Americans with Disabilities Act (ADA) mandates reasonable accommodation requirements. 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. The applicant identifies mobility issues as one of several justifications for simply placing the new accessory structure is the same approximate location as the existing structure. The requested Variance does not appear contradictory with any applicable state or federal laws.

V. PUBLIC COMMENT

Staff posted the subject property September 1, 2023, and mailed notices to neighboring property owners within 300-feet September 6, 2023. Legal notice was published in the Sierra Vista Herald September 8, 2023. Staff has not received comments in opposition.

VI. SUMMARY AND CONCLUSION

Factors in Favor of Approving the Variances

1. The Variance request is consistent with five of the eight criteria used by staff to determine the suitability of a Variance (minimum degree of relief; permitted use; no adverse impacts to surroundings; general zoning harmony; no violation of state or federal law).
2. The applicant has described mobility issues. Section 504 of the Americans with Disabilities Act, which is federal law, mandates a reasonable accommodation requirement to avoid discrimination.
3. The case planner did not receive opposition from property owners within 300-feet.

Factors Against Approving the Variance

1. The Variance request is not fully consistent with three of the eight criteria used by staff to determine the suitability of a Variance (unnecessary hardship; peculiar site conditions; self-created hardship).

VII. RECOMMENDATION

Based on the Factors in Favor of Approval constituting Findings of Fact, Staff recommends **Approval** of the Variance with the following condition:

- The new storage building shall not be serviced with utilities, e.g., electrical, mechanical, or plumbing.

Sample Motion: Mr. Chairman, I move to approve Docket VAR 23-07 (Shawnee Setback), located at 5555 S. Shawnee Drive, Sierra Vista, AZ (APN 105-94-166), granting the Variance as requested by the Applicant, the Factors in Favor of Approval constituting the Findings of Fact.