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MEMORANDUM

TO: Cochise County Board of Adjustment
FROM: Matthew Taylor, AICP, Planner II
FOR: Christine McLachlan, AICP, Planning Division Manager
SUBJECT: Docket VAR 24-01 (Apache Setback)
DATE: February 28, 2024

Docket VAR 24-01 (Apache Setback)

The applicant, CJ Abraham, requests a Variance to reduce the minimum front yard setback from 7.5-feet to 3-feet and minimum side yard setback from 5-feet to 0-feet for a detached carport. The subject property is located at 402 E. Apache Street, Huachuca City AZ (APN 106-39-117) and is zoned MH-72 (Multiple Household Residential, 7,200 square foot minimum site area). 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: 5,843 square feet (.13 acres)
Zoning: MH-72
Growth Area: Category B (Community Growth Areas)
Plan Designation: Neighborhood Conservation
Area Plan: None
Existing Use: Single family residence
Proposed Use: Single family residence with new detached carport
Surrounding Zoning and Uses:

Relation to Property	Zoning District	Use of Property
North	MH-72	Single Family Residential
South	GB	Multiple Residences
East	MH-72	Single Family Residential
West	MH-72, Huachuca City	Single Family Residential

Figure 1: Property Location



II. SITE HISTORY

1960 – Babacomari Vista #1 Subdivision (pre-dates County zoning regulations)

1996 – 1969 Biltmore Mobile Home Affixed to Property

III. REQUEST DESCRIPTION

Section 2.27 of the zoning regulations establishes principal and accessory structure setbacks in MH zoning districts. Minimum required setbacks are 7.5' within all property lines. The parcel is a legal nonconforming lot, having been platted in 1960 prior to the adoption of County zoning regulations in 1975. Section 2.57 reduces required setbacks to 5' on nonconforming lots. The applicant proposes an 18'X20' detached carport in an existing parking area that is currently surrounded on three sides by a chain link fence.

potentially enable the applicant to obtain a smaller carport that does not require a Variance or would lessen the requested relief (3' front setback, 0' side setback).

2. There are peculiar site conditions present – Partially Complies

The applicant's property (Lot 2, Block 5, Babacomari Vista) is similar in size and shape with other platted lots within the Babacomari Vista neighborhood, averaging less than 6,000 square feet. This property does not demonstrate an irregular shape or significant changes in grade. Several property owners within this neighborhood have acquired 2 or more lots and combined them for more buildable area, resulting in some properties exceeding 10,000 square feet. Many lots have structures that do not meet minimum setback requirements and, in some instances, dwelling units and accessory structures appear to encroach onto adjacent properties.

All lots within Babacomari Vista Units #1 and #2 are located within a flood plain. The applicant is not prohibited from building a detached carport as it will not be used as habitable space and not significantly affect water flow onto or off the property. In this case, the peculiarity is the parcel's substandard size and previous owner's placement of the mobile home near the center of the property which reduces usable side yard area.



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 purchased this property long after it was created and has not altered the lot's original 70'X83.47' configuration or it's improvements. Since the applicant has two vehicles and wishes for both to be protected from weather, an 18'X20' carport is proposed. The applicant also does not wish to change any of the property's current characteristics such as existing structures, fencing, or vegetation. An approved Variance effectively creates more buildable area for the applicant without disturbing the existing site layout, making the request more about personal preference than a hardship created exclusively by the property.

4. This is the minimum to afford relief – Partially Complies

As identified in earlier factor analysis, the applicant has alternatives that may negate the need for a Variance. A combination of smaller carport, relocating the existing chain link fence, and moving or removing existing vegetation could potentially eliminate the need for the Variance as proposed. However, the existing septic system to the south of the project site cannot be relocated without significant expense if at all. The proposed carport will have to maintain a

minimum distance of 10' from both the septic tank and leach field. Additionally, the attached mobile home awning creates an additional constraint as the proposed carport must be a minimum of 5' from the awning. Given the overall development of the site, the requested 3' front setback and 0' side setback appears to be the minimum necessary for the applicant's proposed 360 square-foot detached carport.

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

Detached carports are permitted accessory structures in all residential zoning districts.

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

This property is within an established residential neighborhood featuring single family residences with a variety of accessory structures. A carport on the applicant's property would not negatively impact existing neighborhood character.

Property owners to the west (400 E. Apache) and north (401, 403, and 405 Apache) are unlikely to be impacted by the proposed carport. However, the property owner to the east (404 E. Apache) could potentially be impacted as the proposal is to construct the carport on the shared property line. County records show the manufactured home installed at 404 E. Apache is setback 22' from the property line shared with the applicant and 7' from public right-of-way. The proposed carport is steel and unlikely to pose a hazard to adjacent property owners, being unlikely to collapse or fall over if anchored correctly.



Rain events could lead to water runoff and intrusion onto the property at 404 E. Apache which could create an inconvenience for the property to the east and over time lead to erosion issues. Even with a 0' side yard setback, the carport will be 22' from the dwelling to the east. In comparison, current setback regulations allow adjacent dwellings units in this neighborhood to be 5' from the property line or a combined 10' between residences.

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

The requested Variance does not appear contradictory with any applicable state or federal laws.

V. PUBLIC COMMENT

Staff published legal notice and posted the property with the applicant present on February 9, 2024. Staff sent letters to property owners within 300' on February 12, 2024. At the time of this report, two notified property owners expressed support for the Variance.

VI. SUMMARY AND CONCLUSION

Factors in Favor of Approving the Variances

1. The Variance request complies or partially complies with seven (7) of the eight (8) criteria used to determine the suitability of a Variance (peculiar site conditions; not self-imposed; minimum degree of relief; permitted use; no adverse impacts to surroundings; general zoning harmony; no violation of state or federal law).
2. Staff did not receive opposition from property owners within 300'.

Factors Against Approving the Variance

1. The Variance request does not comply with one (1) of eight (8) criteria used to determine the suitability of a Variance (unnecessary hardship).

VII. RECOMMENDATION

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

1. Variance applies to proposed carport and not to enclosed accessory structures or principal structures.
2. Applicant will incorporate design features to mitigate water runoff onto adjacent properties.

Sample Motion: Mr. Chairman, I move to approve Docket VAR 24-01 with conditions recommended by staff, for property located at 402 E. Apache Street, Huachuca City, AZ (APN 106-39-117), granting the Variance as requested by the applicant, the Factors in Favor of Approval constituting the Findings of Fact.