



Development Services

520-432-9300
developmentservices@cochise.az.gov
www.cochise.az.gov
1415 Melody Ln, Bdg F
Bisbee, Arizona 85603

MEMORANDUM

TO: Cochise County Board of Adjustment
FROM: Matthew Taylor, AICP, Planner II
FOR: Christine McLachlan, AICP, Planning Division Manager
SUBJECT: Docket VAR24-02 (Gardner Setbacks)
DATE: June 26, 2024

Docket VAR24-02 (Gardner Setbacks)

A Variance request to reduce minimum required 40' side yard setback along the east property line and 20' front yard setback to 1' for a proposed 400 square foot residential carport.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES

Applicant: Mary Parker
Location: 4153 E. Gardner Street, Sierra Vista
APN: 107-66-053B
Parcel Size: 23,522 square feet (.54 acres)
Zoning: General Business District (GB)
Plan Designation: Enterprise
Growth Area: Category B (Community Growth Areas)
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	GB	Single Family Residential
South	GB	Undeveloped
East	R-36	Single Family Residential
West	GB	Single Family Residential

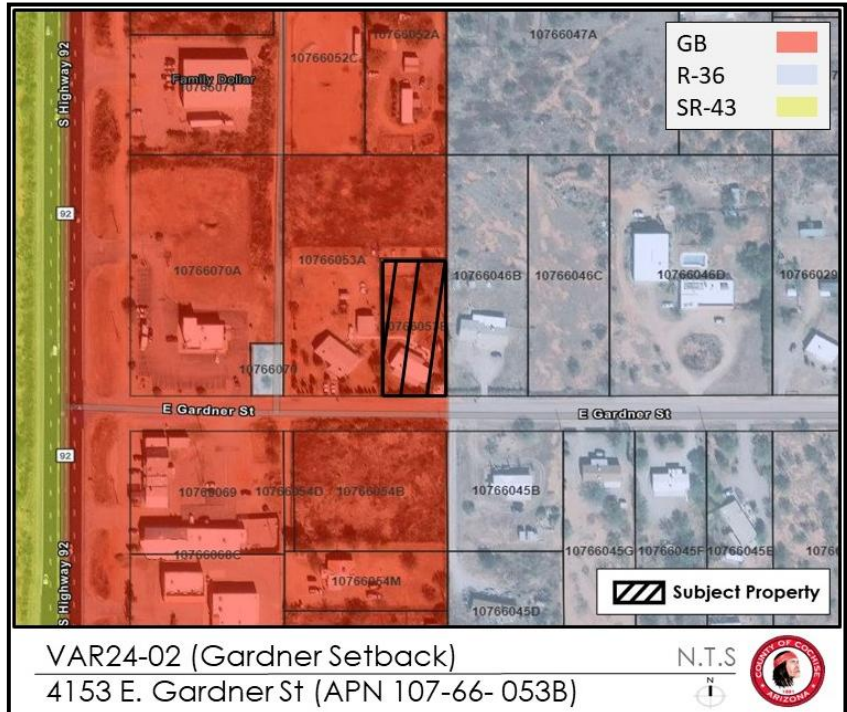
II. SITE HISTORY

1961 – Sierra Vista Estates (pre-dates County zoning regulations)
1976 – Mobile Home
1989 – Parcel Split
1995 – Septic System (new leach field)

III. REQUEST DESCRIPTION

Section 2.33 of the zoning regulations establishes minimum setbacks in the GB zoning district. Setbacks partially depend on the zoning district of adjacent parcels which in this case are residential to the east and business to the north, west, and south. Minimum required setbacks for the subject property are 5’ from the north and west property lines and 40’ from the east property line. Additionally, the zoning regulations require a 20’ setback from any roadway.

The parcel is just over a half-acre in its current configuration. The original parcel, Sierra Vista Estates Lot 52, was just over 4 acres as platted. County records show the issuance of a mobile placement permit in January 1976 and suggest the property was zoned residential at that time (TR-36, later converting to R-36). Subsequent GB zoning allows single and multi-family dwellings at a density of one unit per 3,600 square feet. The applicant seeks relief from front and side yard setbacks to allow a carport over an existing concrete slab that has been used for vehicle parking for several years. The slab provides parking space for one and potentially two vehicles.



IV. ANALYSIS OF IMPACTS – COMPLIANCE WITH VARIANCE FACTORS

Section 2.60.010 of the Zoning Regulations identifies eight (8) findings of fact the Board must consider when evaluating Variance applications. Staff uses these factors to determine the suitability of a Variance request, whether to recommend approval of a Variance, and to determine what conditions and/or modifications may be needed. This Variance request fully or partially complies with all factors.

- 1. There is an unnecessary hardship created by zoning regulations – Partially Complies

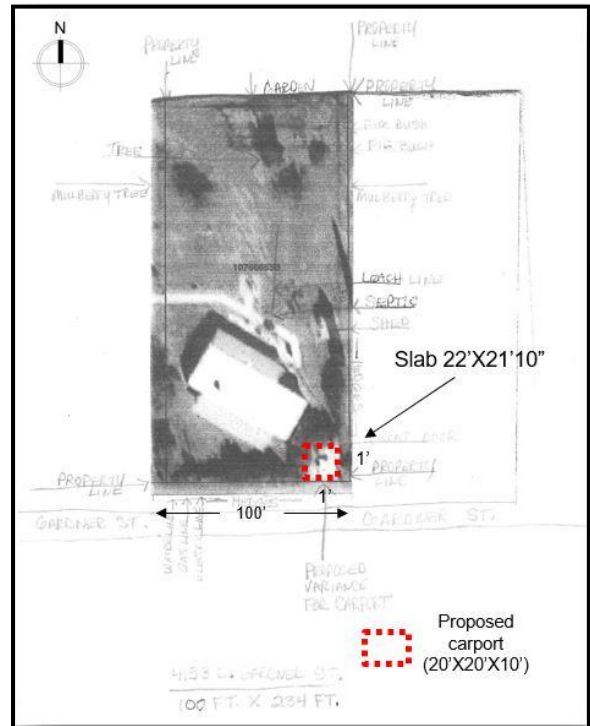
County zoning regulations authorize principal and accessory structures in non-residential zoning districts. These structures are subject to applicable site development standards such as lot coverage, height, setbacks and minimum separation requirements. The applicant has enough land area to construct a carport on the property behind the residence; however, given constraints associated with the location of existing improvements on the property including a shed and septic system a Variance from the 40' side setback requirement would likely be necessary given the 100' width of the parcel. The placement of the residence conformed with residential setback requirements of the time but the dwelling is itself is nonconforming to business district side and rear setback requirements. This likely change in zoning from residential to business created a hardship, doubling previous side yard setback requirements.

2. There are peculiar site conditions present – Partially Complies

Several lots within Sierra Vista Estates have been subdivided into parcel sizes less than the parcels ranging from two to four acres as platted. The applicant's property does not demonstrate an irregular shape, significant change in grade, or presence within any flood plain. However, the parcel was created after placement of the existing residence, resulting in a narrow parcel (100') unlike most other lots within the neighborhood. The narrowness of the lot, septic system location, and shed along the east property line combine to limit access to the rear of the property and constructing additional buildings on the property north of the residence, including carports. The peculiarity in this case is the previous owner's placement of the manufactured home front and center on the property and subsequent split resulting in a parcel width of 100', reducing access to the rear yard and buildable 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 has not significantly changed property layout beyond altering the altering



the septic system's leach field in 1995. The Variance request is because of the applicant's desire to acquire and locate a new 20'X20' carport on an existing slab at the southeast corner of property along Gardner Street. The slab has been used for vehicle parking for several years and falls within both front and side yard minimum setback boundaries; no structure can be built in that location without a Variance. The applicant wants to avoid changing the property's current characteristics such as existing structures, fencing, or mature 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. Nonetheless, the current property owner has not created existing constraints relative to placement of the residence, septic system or possible change in zoning classification.

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

As identified in earlier factor analysis, the applicant has alternatives that could potentially negate the need for a Variance. However, this would involve placing the desired carport several feet north of the residence and existing septic system, perhaps as much as 90'-100'. Reducing the size of the proposed carport from 20'X20' would not eliminate the need for a Variance as the 40' required setback consumes the entire concrete slab and about 1/3 of the residence itself. Given the existing improvements to the property, the requested setback relief appears to be the minimum necessary for the applicant's proposed 400 square foot detached carport.

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

Carports are a permitted use in all zoning districts.

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

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

Property owners to the east are unlikely to be negatively impacted should a carport be built in the proposed location. The residence, 4165 Gardner Street, is setback about 85' from the street and about 70' from the proposed location of the carport. The driveway is about 50' from the proposed location of the carport, so visual obstruction is unlikely to occur for the residents to the east. 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 4165 Gardner Street and could create an inconvenience, leading to erosion over time. Even with the requested 1' side yard setback along the east property line is approved, the carport will be more than 80' from the nearest off-premises dwelling. In comparison, residential district setback regulations 15' separation between principal structures and as little as 5'-10' from principal to accessory or accessory to accessory structures. A large row of oleander runs along the adjacent property from the shared property line to the driveway – this vegetation is likely to present more of a visual obstruction to both the applicant and adjacent residents than the proposed open carport.

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 posted the property on May 14, 2024, publishing legal notice and mailing notices to property owners within 300' on May 29, 2024.

VI. SUMMARY AND CONCLUSION

Factors in Favor of Approving the Variances

1. The Variance request complies or partially complies with the eight criteria used to determine the suitability of a Variance.
2. Staff did not receive opposition from property owners within 300'.

Factors Against Approving the Variance

None identified.

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 to an open carport without walls and not to any future enclosed accessory structures or principal structures.
2. Applicant will incorporate design features into the carport if needed, mitigating water runoff onto adjacent properties or roadway.

Sample Motion: Mr. Chairman, I move to approve Docket VAR24-02 with conditions recommended by staff, granting the Variance as requested for property located at 4153 E. Gardner Street (APN 107-66-053B), the Factors in Favor of Approval constituting the Findings of Fact.
