



Development Services

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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 VAR24-03 (Pinto Setbacks)
DATE: June 26, 2024

Docket VAR24-03 (Pinto Setbacks)

A Variance request to reduce minimum required setbacks along the west property line from 10' to 5' for an existing 120 square foot accessory structure and from 20' to 10' for a new 320 square foot accessory structure.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES

Applicant: Stephen Insalaco
Location: 3280 W. Pinto Place, Benson
APN: 124-03-186
Parcel Size: 1.42 acres
Zoning: R-36 (Residential District, one dwelling per 36,000 square feet)
Plan Designation: Neighborhood Conservation
Growth Area: Category C (Rural Community Areas)
Existing Use: Single family residence with accessory structures
Proposed Use: Single family residence with accessory structures

Surrounding Zoning and Uses:

Relation to Property	Zoning District	Use of Property
North	R-36	Single Family Residential
South	R-36	Single Family Residential
East	R-36	Single Family Residential
West	R-36	Single Family Residential

II. SITE HISTORY

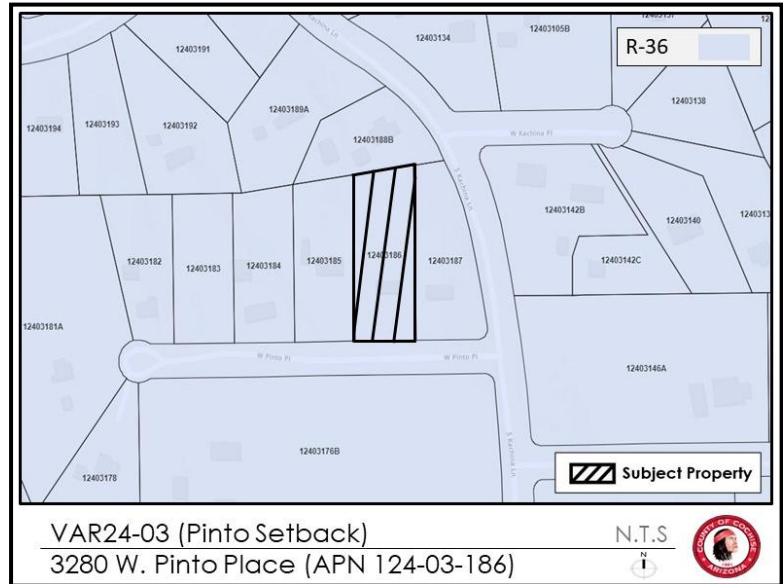
1970 – J Six Ranchettes Unit #1 (pre-dates County zoning regulations)
2008 to present – Manufactured home, property improvements

III. REQUEST DESCRIPTION

Section 2.18.040 of the zoning regulations establishes minimum setbacks in the R-36 zoning districts. Dwellings and accessory structures over 200 square feet (SF) are subject to 20’ setbacks within all property lines. Accessory structures 200 SF or less are half the district or 10’ in the R-36 zoning district. The applicant requests a setback reduction to 10’ for a steel storage container (320SF) and to 5’ for a small storage shed (120SF). The property to the west and most effected should the Variance be approved has an owner-occupied single family residence.

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 five (5) findings.



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

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 subject property measures 155’ in width with depts of 410’ (east property line) and 389’ (west property line). A 10’ utility easement exists at the rear property line. The property totals about 1.4 acres (61,855 SF) and is not irregularly shaped barring a 21’ variation in lot depth.

The applicant has approximately 20,000 SF of undeveloped area to the north of the residence, septic system, and other existing improvements to locate both accessory structure identified for relief in the northerly portion of the property. Moving these accessory structures could involve significant expense and some site work given the gentle 6’ elevation change between the center of the property and north (rear) property line. This request is more about convenience and preference, notwithstanding demonstrable mobility issues stated by the applicant.

2. There are peculiar site conditions present – Does Not Comply

The subject property does not demonstrate any unique or peculiar site conditions. The parcel does have a gentle descending slope of about 12’ from south to north property line but is not substandard relative to lot size. Further, the parcel is not irregularly shaped, is absent significant topographical features and is not located within any flood hazard areas. The existing residence is

56' in length and given the parcel's 155' width, clearance between the residence and property lines is roughly 40'-55' which enables easy passage to the rear (north) areas of the parcel.

3. This is not a self-created hardship – Does Not Comply

This factor considers whether “The unnecessary hardship does not arise from a condition created by an action of the owner of the property.” Per earlier analysis there is no obvious hardship justifying the approval of a Variance. The applicant has identified health issues suffered by himself and other family members which necessitates these storage structures be close to the residence and not several feet away. Many of the property's accessories structures are clustered in the center of the property west of the residence near the property for this reason.



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 relocating the shed and storage container as they are already in place on the property. The requested 5' setback for the shed is the minimum needed for relieve as it is currently 5' from the west property line. The applicant seeks to relocate the storage container 10' to the west from its current location to make room for a new 1200 SF shop building (structure B on site plan). The county issued a permit for the proposed shop structure on 21 May 2024 (BP24-000463). Denial of the variance would require the applicant to modify the site plan associated with that permit. The proposed shop is proposed to be at least 20' from the property line. Since the container is an engineered steel structure its dimensions are effectively fixed, meaning an approved Variance authorizes the container 10' from the property line and within 2' of the proposed shop.

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

Sheds and steel containers are allowed for use as storage structures in residential zoning districts.

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

This property is within an established residential neighborhood of rural character, featuring large lots and a mix of single family residential types with a variety of accessory structures. The

applicant has several existing accessory structures as do others in the neighborhood, including steel Conex containers. Steel containers do not present obvious hazards as they are heavy prefabricated structures not prone to fire and unlikely to be toppled by high wind loads. Common concerns associated with the use of Conex containers for residential use is typically aesthetic given their rectangular shape and linear roofline.

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. Clustering of accessory structures on residential property is not discouraged since it can offer large areas of open space facilitating natural light, air circulation, and breaks in the developed environment. However, in this case, the clustering is occurring along the property line next to another residentially zoned parcel with an occupied dwelling. Concentrated in this area are a 12'X12' barn structure, 8'X40' Conex container, 10'X12' storage shed and a planned 30'X40' shop building. Existing and proposed structures are a combined 1,784 SF and amassed in a relatively small section of the property. This concentration of structures may not pose any obvious health or safety issues but they do create a crowing effect that could be exacerbated being so close to the property line.

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. 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. Generally, storage containers are not overtly residential in appearance having a more angular industrial appearance; however, the applicant has painted the container a solid color to soften the visual impact and has mentioned the possibility of planting additional vegetation around the container to further reduce its profile.

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 mailed notices to property owners within 300' on May 29, 2024, posting the property on May 30, 2024.

VI. SUMMARY AND CONCLUSION

Factors in Favor of Approving the Variances

1. The Variance request complies or partially complies with five (5) of eight (8) criteria used to determine the suitability of a Variance.
2. Support from property owners within 300', including adjacent property owners.

Factors Against Approving the Variance

1. Does not comply with three (3) criteria (unnecessary hardship; peculiar site conditions; not self-created).
2. Opposition from property owners within 300'.

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. The applicant shall offset potential visual impacts of structures closer than 20' to the west property line with a combination of a fence or wall and vegetation.



Sample Motion: Mr. Chairman, I move to approve Docket VAR24-03 with conditions recommended by staff, granting the Variance as requested for property located at 3280 W. Pinto Pace (APN 124-03-186), the Factors in Favor of Approval constituting the Findings of Fact.
