

**DRAFT MINUTES
BOARD OF ADJUSTMENT
CITY COUNCIL CHAMBERS
CONFERENCE ROOM B3
5850 W. GLENDALE AVENUE
GLENDALE, ARIZONA 85301**

**THURSDAY, APRIL 8, 2021
4:00 PM**

CALL TO ORDER

The meeting was called to order at 4:00 PM.

ROLL CALL

Committee members present: Chairperson Cathy Cheshier, Brian Britton, Larry Feiner, Tammy Gee, Kyle Holschlag were present.

Committee members absent: Vice Chairperson Benjamin Naber was absent.

City staff present David Richert (Planning Administrator), Christina LaVelle (Planner), Joseline Castaneda (Planner), Russ Romney (Deputy City Attorney) Samantha Cope (Administrative Support Staff), and Alexis Vasquez (Recording Secretary).

CITIZEN COMMENTS

Chairperson Cheshier asked for citizen comments, and no citizen comments were made.

APPROVAL OF THE MINUTES

A motion to approve the March 11, 2021, meeting minutes was made by Mr. Feiner, and seconded by Mr. Britton. All were in favor.

WITHDRAWALS AND CONTINUANCES

Mr. Richert announced that there were none.

PUBLIC HEARING ITEMS

CARLOS MONREAL VAR20-04: This is to inform you of a request by Carlos Monreal to reduce the required setbacks from 50 feet to 15 feet on the sides and 30 feet on the rear; and to increase the lot coverage from the required maximum of 10%, as required in the A-1 zoning district, to 30% maximum to allow for single family additions. The site is located in the Sahuaro District.

Findings

The Board of Adjustment must analyze four findings based on the evidence in the record prior to granting a variance. Each finding is presented below along with staff's analysis.

1. “There are special circumstances or conditions applicable to the property including its size, shape, topography, location, or surroundings which were not self-imposed by the owner.

The fifty (50) foot side and rear yard setbacks create a special circumstance not self-imposed by the property owner. The property was platted in 1973 and was subject to the zoning ordinance (Ordinance No. 243) adopted December 13, 1960, in which the side and rear yard setbacks were five (5) and ten (10) feet and the lot coverage, by structure, was a maximum of forty (40%) percent.

The current code requirement for these setbacks are fifty (50) feet and the maximum lot coverage by structure is ten (10%). This has created legal non-conforming residence and an increase to the footprint of the residence is not possible without a variance. This was not self-imposed by the owner but a result of changing development standards for the same zoning district over time.

In addition, when the lot was created, the minimum residential lot size was six thousand (6,000) square feet. The current code standard requires a minimum lot size of forty (40) acres, or approximately one million seven hundred thousand (1.7 million) square feet, if the lot were created today. The property is seventeen thousand six hundred and twenty-five (17,625) square feet in size.

The variance is the minimum necessary to alleviate the hardship of a lot that was legally created and conformed to setbacks, lot coverage, and lot dimensions at the time but does not conform to today’s development standards.

2. “Due to the special circumstances, the strict application of the Zoning Ordinance would deprive the property of privileges enjoyed by other properties in the same classification in the same zoning district.

The strict application of the Zoning Ordinance would limit the property to fifty (50) foot side and rear yard setbacks and limit the size of the proposed single-family residence. The A-1 side and rear yard setbacks limit the dimension and size of the single-family residence to five (5) feet by forty-three (43) feet with a total square footage of two-hundred and fifteen (215) square feet.

Lots of similar size and shape within the Sunburst Farms subdivision within the same zoning district enjoy reduced side and rear yard setbacks. The typical setbacks within this subdivision are fifteen (15) foot side yard and thirty (30) foot rear yard setbacks and have an increase in lot coverage. Also, the typical house dimension in the same subdivision on a lot of similar size is approximately fifty (50) feet by forty (40) feet with a total of two thousand (2,000) square feet.

A variance is the minimum necessary for the property to enjoy the same privileges as the surrounding properties within the same zoning district.

3. “The variance is the minimum necessary to alleviate the property hardship.”

The requested side and rear yard setbacks as well as an increase in lot coverage are the minimum necessary to construct a single-family residential addition of adequate size.

The variance is the minimum necessary to build a single-family addition on a lot under the minimum lot size that cannot conform to the current development standards.

4. “Granting the variance will not have a detrimental effect on the property, adjoining property, the surrounding neighborhood, or the City in general.”

The requested building setbacks are consistent with other properties in the same subdivision and surrounding area and will not detrimentally affect any neighboring properties.

Recommendation:

The variance request appears to meet all four findings and should be approved. If the Board decides to grant the variance, it should be subject to the following stipulation:

1. Development shall be in substantial conformance with the applicant’s narrative, site plan, floor plan and building elevations dated March 18, 2021.

Chairperson Cheshier asked the board if they had any questions for staff.

Chairperson Cheshier asked for clarity on lot coverage. Ms. Lavelle went over the lot coverage.

Chairperson Cheshier than asked applicant if he wishes to speak on the case.

Applicant said no thank you.

Proposed Motion: Move to approve VAR20-04 per the findings and subject to the stipulation contained in the staff report.

Chairperson Cheshier opened the public hearing.

With no one wishing to speak, Chairperson Cheshier closed the public hearing.

After the public hearing closed, the board voted per each finding with the help of Mr. Romney.

1. Mr. Britton, Mr. Feiner, Ms. Gee, Mr. Holschlag, and Chairperson Cheshier all vote “aye.”
2. Mr. Britton, Mr. Feiner, Ms. Gee, Mr. Holschlag, and Chairperson Cheshier all vote “aye.”
3. Mr. Britton, Mr. Feiner, Ms. Gee, Mr. Holschlag, and Chairperson Cheshier all vote “aye.”
4. Mr. Britton, Mr. Feiner, Ms. Gee, Mr. Holschlag, and Chairperson Cheshier all vote “aye.”

Mr. Feiner made a motion to approve the variance subject to the stipulation, and it was seconded by Mr. Britton. All voted “aye” in favor, and none opposed. Variance granted.

MAXIMO CABELLOS VAR20-09:

A request by Maximo Cabellos, representing MXD Solutions LLC, for a variance to reduce the north side setback to 5 feet from the 20-foot side setback that is required in the R-3 (Multiple Residence) zoning district. The purpose of the variance is to allow the construction of a new single-family custom home. The site is located at 7119 N 66th Drive, on 66th Drive and Myrtle Avenue and is in the Ocotillo District.

Findings

The Board of Adjustment must analyze four findings based on the evidence in the record prior to granting a variance. Each finding is presented below along with staff’s analysis.

1. “There are special circumstances or conditions applicable to the property including its size, shape, topography, location, or surroundings which were not self-imposed by the owner.

The width of the lot creates a special circumstance not self-imposed by the property owner. The construction of a new home requires some level of relief. The surrounding neighborhood is developed with a variety of side-yard setbacks, many that do not meet the current R-3 perimeter setbacks.

2. “Due to the special circumstances, the strict application of the Zoning Ordinance would deprive the property of privileges enjoyed by other properties in the same classification in the same zoning district.

The strict application of the Zoning Ordinance would limit the property to twenty (20) foot side setbacks and limit the type of housing product due to total width. Several of the properties in the neighborhood have setbacks that are similar to those proposed by the applicant.

3. “The variance is the minimum necessary to alleviate the property hardship.”

The requested side setback reduction is the minimum necessary to construct a single-family residence of adequate size. The proposed development standards are similar to the residences north of the subject property. The proposed location of the building will comply with the 15-foot building separation from the abutting lot as required by the Zoning Ordinance.

4. “Granting the variance will not have a detrimental effect on the property, adjoining property, the surrounding neighborhood, or the City in general.”

The requested building setbacks are consistent with other properties in the surrounding area and will not detrimentally affect any neighboring properties.

Planning Staff recommends the approval of VAR20-09 subject to the following stipulations:

- 1) Development shall be in conformance with the narrative dated November 24, 2020.

- 2) Development shall be in conformance with applicable site and elevation plans dated January 27, 2021.
- 3) Development shall be in conformance with floor plan date February 02, 2021.

Mr. Britton asked what was on the property. Ms. Castaneda informed him it was vacant.

Chairperson Cheshier asked the board members if they have any questions for staff.

Mr. Feiner asked if the fire access was wide enough. The applicant confirmed it was.

Chairperson Cheshier asked if the applicant wished to speak. The applicant proceeded with a presentation on the site plan.

Chairperson Cheshier expressed concerns about setbacks. The applicant explained the neighbor's wall is on his property causing him to lose 4ft on the south side.

Mr. Britton stated they have approved similar request before.

Chairperson Cheshier inquired if the applicant would be willing to move the house closer to the south property line to decrease the variance request.

Applicant explained due to the encroachment of the neighbor's wall the requested variance is necessary in order for the RV gate on the south side of the property to be able to open properly.

Chairperson Cheshier asked if the applicant would ask their neighbor to remove their encroaching wall.

The applicant declined because he did not want to cause any issues with the neighbor since his mother will be residing on the property.

Proposed Motion: Move to approve VAR20-09 per the findings and subject to the stipulations contained in the staff report.

Chairperson Cheshier opened the public hearing.

With no one wishing to speak, Chairperson Cheshier closed the public hearing.

After the public hearing closed, the board voted per each finding with the help of Mr. Romney.

1. Mr. Britton, Mr. Feiner, Ms. Gee, Mr. Holschlag, and Chairperson Cheshier all vote "aye."
2. Mr. Britton, Mr. Feiner, Ms. Gee, Mr. Holschlag, and Chairperson Cheshier all vote "aye."
3. Mr. Britton, Mr. Feiner, Ms. Gee, Mr. Holschlag, and Chairperson Cheshier all vote "aye."

4. Mr. Britton, Mr. Feiner, Ms. Gee, Mr. Holschlag, and Chairperson Cheshier all vote “aye.”

Ms. Gee made a motion to approve the variance subject to the stipulations, and it was seconded by Mr. Britton. All voted “aye” in favor, and none opposed. Variance granted.

OTHER ITEMS

- A. Voice voting - Chairperson Cheshier – Mr. Romney informed the board that it was best practice to individually poll the board unless it was for approving minutes.
- B. Zoning Ordinance update - David Richert – Mr. Richert gave an update to the board regarding setbacks for Multi-Family Zones, and the A-1 Zoning Districts. He asked the board if they would be interested in meeting with the Planning Commission and a representative from the Michael Baker International Group who is working on the Zoning Code rewrite. The board expressed interest, so Mr. Richert said he would speak with the Chairperson of the Planning Commission.

STAFF REPORT

Ms. Richert did not have a staff report.

BOARD COMMENTS AND SUGGESTIONS

The board inquired if there were any updates on the Catlin Court lawsuit. Mr. Romney informed them that it is still on going and there is nothing new to report at this time. He thanked the board members for their cooperation and volunteering more of their time.

NEXT MEETING

The next regular meeting of the Board of Adjustment is scheduled for May 13, 2021, at 4:00 p.m., in the Council Chambers Building, located at 5850 W. Glendale Ave, Glendale, Arizona, 85301.

ADJOURNMENT

Mr. Holschlag made a motion to adjourn the meeting, and it was seconded by Mr. Feiner. All voted “aye” in favor, and none opposed.