

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

**THURSDAY, JUNE 10, 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, Vice Chairperson Benjamin Naber, Brian Britton, Tammy Gee, Kyle Holschlag, Larry Feiner were present.

City staff present: Christina LaVelle (Planner), Joseline Castaneda (Planner), Russ Romney (Deputy City Attorney), 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 April 8, 2021, meeting minutes was made by Mr. Naber, and seconded by Mr. Britton. All were in favor except for Mr. Feiner who was not present yet.

WITHDRAWALS AND CONTINUANCES

None.

PUBLIC HEARING ITEMS

VAR21-02 – HAYES TRUST VARIANCE - A request by Magdalena Mayer, Hayes Living Trust, to reduce the west side setback to 15 feet and rear setback to 30 feet from the required 50-foot setback minimum as required in the A-1 (Agricultural) zoning district. The purpose of this variance is to allow a garage addition to the main residence. The site is located at 6613 W Surrey Avenue, on 67th Avenue and Surrey Avenue and it is in the Sahuaro District.

Ms. Castaneda gave a presentation on the variance proposal.

The applicant spoke about the old garage and informed them in 2007 a variance for the other side set back was requested by the previous property owner.

Mr. Naber asked if the existing garage will it be taken down.

Applicant answered his question.

Ms. Gee spoke about this variance stating she doesn't think it meets the 3rd finding.

Mr. Hoscholag stated there is no requirement to remove the structure.

Chairperson Cheshier explained her concerns about the old garage on the lot line and using the current garage for storage and does not meet setback requirement.

Mr. Romney stated structures that exist can stay legally.

Chairperson Cheshier opened the public hearing.

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

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 lot size creates a special circumstance not self-imposed by the property owner. The A-1 development standards were established for larger lots of 40 acres minimum lot size and this lot is 0.84 acres. The setbacks intended for these lot sizes make the current main residence legally nonconforming and an increase to the footprint 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.

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

The strict application of the Zoning Ordinance would limit the property to a fifty (50) foot west side and rear building setbacks which makes the existing residence legal non-conforming and does not allow for an increase to the footprint.

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; and**

The requested side and rear setback reduction are the minimum necessary for a residential addition and allow the same privileges received by the surrounding property owners. The

variance is the minimum necessary to build a residential 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 surrounding area and will not detrimentally affect any neighboring properties. The proposed garage addition will maintain a west side setback of fifteen (15) feet from the property line. This setback will comply with the fifteen (15) feet separation between residential buildings from adjacent lot as required in residential districts by the Zoning Ordinance.

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

Mr. Naber 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.

VAR21-03 – WAYLAND RESIDENCE VARIANCE : A request by Tony Wayland to reduce the required setbacks for the side yards to five (5) and ten (10) feet and the rear yard to fifteen (15) where a twenty (20) foot perimeter setback is required in the R-3 (Multiple Residence) zoning district. The site is located at 4803 West Myrtle Avenue, in the Cactus District.

Ms. Castaneda gave a presentation on the variance proposal.

Mr. Britton asked if the 5ft would be on the street side.

Ms. Castaneda responded.

Mr. Feiner asked if this home is the only single-family residence in the neighborhood.

Chairperson Cheshier opened the public hearing.

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

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 twenty (20) foot perimeter setbacks create a special circumstance not self-imposed by the property owner. The current single-family residence was built in 1950, which was prior to the adopted 1993 Zoning Ordinance.

The current code requires a twenty (20) foot perimeter setback and has created legal non-conforming residence and an increase to the footprint of the residence and to develop an accessory structure 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.

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 of the same classification in the same zoning district;

The strict application of the Zoning Ordinance would limit the property to twenty (20) setbacks and limit the size of the proposed single-family residence and an accessory building. The R-3 perimeter setbacks limit the dimension and size any addition to single-family residence or accessory structure to eight (8) feet in width.

Lots of similar size and shape within the Rancho El Higo subdivision within the same zoning district enjoy varying reduced side and rear yard setbacks for primary residences and accessory structures. Also, the typical house dimension in the same subdivision on a lot of similar size is approximately forty (40) feet by forty (40) feet with a total of sixteen hundred (1,600). The existing house is eight hundred (800) square feet in size.

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; and

The requested side and rear yard setbacks are the minimum necessary to construct a single-family residential addition and an accessory building of adequate size. The current standard would reduce the width of an addition or an accessory structure to eight (8) feet which is not a reasonable width for any structure.

The variance is the minimum necessary to build a single-family addition and accessory building on a lot where the current setbacks have reduced the maximum width of any additional structures to a dimension that is unusable.

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. The proposed accessory building maintains a setback of fifteen (15) feet from the adjacent single-family residences. The setback for the accessory structure is six (6) feet larger than the required accessory setback for a single-family residence. Also, the new addition to the home will maintain a seventeen (17) foot setbacks from the adjacent single-family residence going along the line of the non-conformity. Both the accessory structure and the addition maintain the required fifteen (15) feet of setback between adjacent buildings as required in single family zoning districts. Furthermore, the reduced setbacks are consistent with the developed properties within the general area. Therefore, granting the variance will not have a detrimental effect on the area or City in general.

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

Mr. Naber 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.

STAFF REPORT

There were none.

BOARD COMMENTS AND SUGGESTIONS

They were none.

NEXT MEETING

The next regular meeting of the Board of Adjustment is scheduled for August 12, 2021, at 4:00 p.m., in the Council Chambers Building Conference Room B3, located at 5850 W. Glendale Ave, Glendale, Arizona, 85301.

ADJOURNMENT

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