

Town of Paradise Valley

Minutes – Draft

Board of Adjustment

Wednesday, October 2, 2019 at 5:30 PM Council Chambers

1. CALL TO ORDER

Chairman Eric Leibsohn called the meeting to order.

2. ROLL CALL

In Attendance:

Chairman Eric Leibsohn
Board Member Emily Kile
Board Member Richard Chambliss
Board Member Jon Newman
Board Member Quinn Williams

Absent:

Board Member Hope Ozer
Board Member Rohan Sahani

Staff in Attendance:

Jeremy Knapp, Community Development Director
George Burton, Planner
Andrew Miller, Town Attorney

3. EXECUTIVE SESSION

4. PUBLIC HEARINGS

- A. Case No. BA-19-07 (Yearly Variance). Request by the owner of 6067 N. Paradise View Drive (APN: 164-04-074) for a variance from Article XXII of the Zoning Ordinance for unscreened roof mounted solar panels.

George Burton provided an overview of the project. He commented that the applicant is requesting a variance to place unscreened solar panels on the south side of the home's roof.

The property is located at 6067 N. Paradise View Drive. He then presented a vicinity map and aerial view of the lot. The property was platted in the town in 1983 as Lot 14 of Paradise Mansion Estates Subdivision. A building permit was issued for the home in January 22, 1993. A building permit for a pool and spa were issued on April 27, 1993, a permit to remodel the home in May 20, 2003 and a permit for water features on July 31, 2005. The property is approximately one acre in size, zoned R-43 hillside, relatively square in shape, and is situated above Paradise View Drive. The request consists of three arrays and nine solar panels on the house. The Hillside Code requires solar panels be hidden from the same elevation or lower. He then showed an aerial depicting the location of the proposed panels. The panels will be about 1'-6" above the roof surface. He then showed photos of the site.

He mentioned the findings opposed show the request is self-imposed and other alternatives exist. There is no property hardship. The size, shape, and topography of lot do not prevent solar panels from being screened. The house has a flat roof and can accommodate parapets to screen solar panels. Ground mounted solar panels may also be explored. The applicant should be aware of all circumstances on property and plan any designs accordingly. Code does not require most optimal or profitable use of a property and all other properties in area must comply with the zoning ordinance. Two homes in area have roof mounted solar panels that are screened.

Mr. Burton stated that the findings in favor are that the variance request meets the intent of the code. Screening may cast a shadow on the panels and reduce efficiency of the system. The intent of code is to minimize disturbance to the hillside and preserve natural features. Roof mounted solar does not create additional disturbance to hillside and may have limited visual impact. The panels will not create visual obstruction to neighboring properties. He then overviewed each potential actions the board may take.

Chairman Leibsohn asked if there are existing panels on the roof.

Mr. Burton indicated that there are not. He then showed a map where the neighboring parcels contain solar screening.

Member Kile inquired regarding the process if the variance were approved.

Mr. Burton responded that the Hillside Committee would review the application next.

Chairman Leibsohn asked Mr. Burton to identify which properties will be impacted in terms of a line of sight.

Mr. Burton noted two properties east of the subject property.

Member Kile commented that screens will always cast a shadow.

Mr. Burton responded that they do cast a shadow, but the screen's proximity to the panels will impact whether or not the shadow overlaps the panels. He explained that panels are typically setback the same distance as the height of the parapet so a shadow isn't cast across the panels.

Member Kile mentioned that she could not see the panels when she went out to the site and there appeared to be a lot of vegetation between the neighbors and applicant.

Member Newman commented the other two homes adjacent to the applicant's property have topography.

Mr. Burton replied that he is not as familiar with the neighboring parcel's topography. He mentioned no comments in favor or opposition were received.

Chairman Leibsohn suggested they open the public hearing and stay in the same room.

Member Jon Newman made a motion to open the public hearing and stay in the same room.

The motion was carried by the following vote:

Aye: 5 – Chairman Leibsohn, Member Kile, Member Chambliss, Member Williams and Member Newman.

Chairman Leibsohn asked the applicant to present their proposal.

Frank Yeary, homeowner, commented that they bought the home 18 months ago and desired to place solar energy on their home. He indicated that the home was designed by Bob Bacon and they do not want to see the solar panels. They did not think this would be hard to do because they are the highest home in the neighborhood. He stated that he and his neighbor own the adjoining vacant lot in order to preserve the view. The house is setback far enough so the panels will not be seen. He mentioned that most of the roof sits several inches below the copper facia. He mentioned that placing parapets behind the copper facia will not be appropriate from a design perspective. He believes that it is his moral obligation to offset the carbon emission from the home. He noted the screening between his home and the neighboring properties.

Chairman Leibsohn asked if the applicant explored other locations on the property.

Mr. Yeary stated that they optimized the panels for reducing the view impact and not solar access.

Chairman Leibsohn asked what insurance does the Town have that the slope of the panels will not be increased.

Mr. Yeary stated that he would be willing to accept a condition the panels will not be increased in height.

Bobby Burnett with Sun Valley Solar explained that the owners did not want the design to be visible. They lowered the panels below 18 degrees and analyzed the roof to see where panels would be visible. He mentioned that parapets are not an option due to the architecture of the building. Screening would also require panels to be set back further than what is needed.

Chairman Leibsohn asked if the number of panels shown account for the entire house.

Mr. Burnett stated that they started with 96 panels to fully offset the energy use of the house. They then took the number down to 57 panels. The number they aimed for was to eliminate the base amount of energy.

Chairman Leibsohn asked if they were trying to harvest reserve energy to be used during nonpeak times.

Mr. Burnett stated that in order to accommodate the peak, the number of panels proposed is needed. They will not have batteries, so energy produced which is not used will be placed back on the grid.

Member Williams asked what the hardship is on the property that necessitates not having to install screening.

Mr. Yeary stated if they were to install parapets, the number of panels would be reduced below the level the house generates above base load. He mentioned that the other hardship is the community would not want him to make the house significantly less attractive.

Mr. Burnett noted the panels would not be able to be designed if the roof structure were altered.

Member Williams stated that he agrees with the project, but does not see a hardship.

Mr. Burnett stated that the hardship is that adding parapets will ruin the architectural integrity of the home.

Member Chambliss stated that the intent is to shield the panels from the view of the neighbors. He commented that due to the topography of the lot and design of the panels, the panels are hidden from view. He asked for more clarification on the dimensions of the roof.

Mr. Yeary indicated that from the ground directly below the roof, it is approximately 22 feet tall.

Chairman Leibsohn mentioned that he does not understand the hardship.

Mr. Burnett commented that screening would decrease the area available for panels, thus making the system less effective.

Member Kile stated that she agrees they need to be rational in their decision making. She mentioned sometimes screening can be less attractive than the panels themselves. She indicated the applicant has done everything they can to reduce the impacts on neighboring properties.

Member Chambliss mentioned that there was another case similar to this one that he was in favor of granting.

Member Leibsohn stated that he is torn on this issue because he is not convinced that there is no an architectural solution to the problem at hand. He mentioned this may not be the minimum number of panels to satisfy the energy needs of the home. He commented that the panels on the roof's edge may be able to be relocated to another area of the roof.

Member Kile asked how does changing the amount of the panels change the criteria of the hardship.

Chairman Leibsohn stated that she raises a good point and is also concerned with reducing visual impacts of the panels.

Member Kile inquired if any of the Board Members visited the property. No one else had. She stated that she walked the site and would be shocked if anyone else would be able to see the panels. She believes that the applicant is correct in that reducing the panels would not meet the energy criteria of the home. She mentioned that a ground mounted system would be more offensive as it would put it closer to the neighbor's line of sight.

Member Newman asked if the number of panels are reduced from the roof's edge, the system will meet the required two-foot setback. He indicated that if the vacant property were to develop, the panels would impact it.

Member Kile stated that this property is lower and would probably not be impacted.

Mr. Yeary stated that he and his neighbor are not planning to sell this property.

Member Kile moved for approval of BA-19-07 Variance shall be in compliance with submitted plans and documents and Board finds there are special circumstances, applicable to only subject lot, meeting the variance criteria, including revision #3, Sheet PV2, Roof Plan, prepared by Sun Valley Solar Solutions LLC; and dated September 5, 2019 in accordance with the plans in the packet. The motion was seconded by Member Williams.

Chairman Leibsohn opened public comment. No one spoke. He then closed public comment.

The motion was carried by the following vote:

Aye: 5 – Chairman Leibsohn, Member Kile, Member Chambliss, Member Williams and Member Newman.

5. ACTION ITEMS

6. STUDY SESSION ITEMS

A. Discussion of Upcoming Board of Adjustment Annual Update to Town Council

Jeremy Knapp, Community Development Director, stated that in November or December of this year, the chair will provide an update to the Town Council. He mentioned that the Town Council would like to hear any concerns or opportunities the board sees in how it conducts its processes. They could include any pediments to fulfilling their duties, highlight things that work well, and resources that they may need.

Chairman Leibsohn commented they need to have a better definition of what constitutes a hardship.

Member Chambliss stated that he believes there should be exceptions built into the code regarding screening for solar panels because there are instances where this does not make sense.

Chairman Leibsohn mentioned that each lot is unique and the variance process is appropriate.

Member Williams stated that providing more flexibility within the ordinance could give the Hillside Committee more discretion. He indicated that meeting a state statute for a variance is a high bar.

Jeremy Knapp indicated that there may need to be other code amendments regarding specific items.

Member Chambliss stated that the solar panel issue has come up twice and appears to need more flexibility within the code. Sometimes, due to the elevation of the property, the intent of the regulation is met because the panels are screened.

Member Williams commented that there are policy issues needing to be addressed. He believes the Town Council needs to look at the setback ordinances as well.

Chairman Leibsohn asked if there is a formal process for looking at the Zoning Ordinance for possible amendments.

Jeremy Knapp stated that staff looks at the Zoning Ordinance daily, and when they have time and there is appetite from the Planning Commission and Town Council, they will start the process. He clarified that staff has an ongoing list of potential amendments they are working on.

Andrew Miller, Town Attorney, stated that when he first started with the Town there was a list of 30 zoning interpretations and they decided to clean these up and the Special Use Permit section. They hired some consultants to help them out. This was done in 2005. When making changes to the code, they need to be cognizant of Proposition 207 and consider if changes result in a diminution of property values.

Member Williams suggested that if a nonconformity is reduced then the zoning administrator should be able to have discretion to approve those matters.

Mr. Miller stated that it can be hard to give the administrator too much discretion.

Member Kile indicated that the screening for solar panels issue seems more straight forward than other issues.

Member Williams commented that setbacks are applied to full zoning districts and it is really hard for some people build on their properties.

Mr. Miller stated that the test for a hardship is to look at the specific lot compared to lots surrounding it.

Member Kile mentioned that the new Board Member has not been to the last few meetings. She requested that as part of the interview process, the time commitment and meeting times should be stressed.

Member Chambliss commented that if someone misses a certain number of meetings they can be dismissed, and this should be stressed during the interview process.

Chairman Leibsohn agreed that people come to meetings.

Member Kile suggested that members visit the properties prior to meetings. She commented that she was initially concerned when staff has stopped making recommendations. However, she believes the Board has made the transition rather well.

Member Williams asked staff to tell them the variance fee.

Mr. Burton responded that it is \$1,765.

Mr. Knapp indicated that they can work on their rules and procedures in the Spring. He indicated that members can be sent to training if they have interest.

Member Chambliss mentioned that they had training in the past that was recorded and could be reviewed.

Mr. Miller commented that they may have more discussions in the future on conflicts of interest. Rules for Hillside, Planning Commission, and Board of Adjustment should be similar.

7. CONSENT AGENDA

A. Approval of June 5, 2019 Board of Adjustment Meeting Minutes

Member Chambliss motioned to approve the June 5, 2019 meeting minutes and Member Newman seconded the motion.

The motion was carried by the following vote:

Aye: 5 – Chairman Leibsohn, Member Kile, Member Chambliss, Member Williams and Member Newman.

8. STAFF REPORTS

9. PUBLIC BODY REPORTS

10. FUTURE AGENDA ITEMS

Jeremy Knapp, Community Development Director, mentioned that the next meeting is November 6, 2019. They have one tentative agenda item regarding a retaining wall receiving more height than was originally approved.

11. ADJOURNMENT

Member Newman motioned to adjourn and Member Williams seconded the motion.

Aye: 5 – Chairman Leibsohn, Member Kile, Member Chambliss, Member Williams and Member Newman.