

# TOWN *Of* PARADISE VALLEY



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## STAFF REPORT

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**TO:** Chair and Board of Adjustment

**FROM:** Chad Weaver, Community Development Director  
Paul Michaud, Planning Manager  
George Burton, Senior Planner

**DATE:** June 4, 2025

**DEPARTMENT:** Community Development Department/Planning Division  
George Burton, 480-348-3525

**AGENDA TITLE:**

**Amin Variance – 6521 N. 40<sup>th</sup> Place (APN 169-52-020)**

**Variance to allow a new single-family residence to encroach beyond the allowable height limits. Case No. BA-25-02**

This application is a variance request to allow a new single-family residence to encroach beyond the allowable height limits. Staff recommends denial of this variance request since the house can be redesigned to reduce the amount of height encroachments.

**RECOMMENDATION**

Motion For Denial:

It is recommended that the Board of Adjustment **[deny]** Case No. BA-25-02, a request by Yogesh Amin, property owner of 6521 N. 40<sup>th</sup> Place; for a variance from Article X, Height and Area Regulations, to allow a new single-family residence to encroach beyond the allowable height limits.

Reasons For Denial:

Staff finds that there is property hardship associated with the lot. However, this appears to be a design hardship since the amount of height encroachment can be reduced to address the associated property hardship (e.g. the request does not appear to be the minimum amount needed to cure the associated property hardship).

## BACKGROUND/DISCUSSION

### Background

The Board reviewed a previous application for height encroachment at the May 7, 2025 meeting. The applicant requested a continuance to modify the plans and reduce the amount of height encroachment. The request for continuance was granted to the June 4<sup>th</sup> meeting date by a vote of 7 to 0. The property was also reposted identifying the continuance to June 4<sup>th</sup>. A copy of the draft May 7<sup>th</sup> meeting minutes is enclosed for reference.

The applicant updated the plan and reduced the amount of height encroachment. In summary, the applicant lowered the elevation of the building pad (which lowers the house by 12 inches) and modified and reduced several of the roof lines:

- Approximately **8.0%** (753 square feet) of the proposed roof area encroaches beyond the Open Space Criteria (**previously 16.2%** or 1,531 square feet), with a maximum of **4.0'** above the Criteria (**previously 5.9'**).
- Approximately **13.6%** (1,275 square feet) of the proposed roof area encroaches beyond the 24' height limit (**previously 20.0%** or 1,890 square feet), with a maximum of **3.5'** above the 24' limit (**previously 4.5'**).

Below is a comparison between the original height encroachments/request with the updated height encroachments/request for the new home.

	Original Request	Proposed Request
Front Yard Setback	58'4"	58'4"
North Side Yard Setback	22' (+/-)	22' (+/-)
South Side Yard Setback	20'	20'
Rear Yard Setback	40'	40'
Maximum Overall Height	28.5' (20.0% of roof)	27.5' (13.6% of roof)
Open Space Criteria	19.3' to 27.9' (16.2% of roof)	18.6' to 26.7' (8.0% of roof)
Floor Area Ratio Limit	24.8%	24.6%
Hillside Designation	2.5% Building Pad Slope 7.25% Property Slope	2.5% Building Pad Slope 7.25% Property Slope

### Scope of Request

The property is zoned R-43 and Section 1001 of the Town Zoning Ordinance identifies that the primary residence must meet two height requirements: a maximum overall height of 24 feet measured from the lowest natural grade (LNG) under the house and must meet the Open Space Criteria (OSC). The OSC is essentially an "imaginary tent" that centers the mass of house by allowing the house to increase in height as it gets further away from the property lines. For instance, the house may be 16 feet tall at the 20-foot setback, 20 feet tall at the 40-foot setback, and 24 feet tall at the 60-foot setback. 8.0% (753 square feet) of the proposed home encroaches beyond the OSC limit and 13.6% (1,275 square feet) of the new house encroaches beyond the 24-foot overall height limit.

Below is a comparison of the Zoning Ordinance requirements and the modified/proposed house.

	<b>Zoning Ordinance</b>	<b>New SFR</b>
Front Yard Setback	40'	58'4"
North Side Yard Setback	20'	22' (+/-)
South Side Yard Setback	20'	20'
Rear Yard Setback	40'	40'
Maximum Overall Height	24'	27.5' (13.6% of roof)
Open Space Criteria	16' to 24'	18.6' to 26.7' (8.0% of roof)
Floor Area Ratio Limit	25.0%	24.6%
Hillside Designation	10% slope or greater	2.5% Building Pad Slope 7.25% Property Slope

### Lot History

The subject property is Lot 35 of the Lincoln Heights subdivision. This lot was platted in Maricopa County in 1959, the original house was built in 1969 under Maricopa County's jurisdiction, and the property was annexed into the Town in 1982. There are no building permits on file for this property.

### Lot Conditions

The property is zoned R-43 (non-hillside) and is 37,987 square feet in size (0.87 acres). The property is relatively square in shape with an approximate width of 219 feet and an approximate depth of 194 feet. Although the property is not designated as a hillside lot, it has an approximate site slope of 7.25%. The terrain slopes upwards towards the rear of the property and there is approximately 17 feet of grade elevation/difference from the front property line to rear property line.

The current Town Code identifies that properties with a building pad slope of 10% or greater are designated as hillside lots. Also, current development standards require newly platted lots to have a minimum dimension of 165 feet wide and 205 feet deep.

## **DISCUSSION ITEMS**

### Variance Criteria:

Town Code and Arizona Revised Statutes set criteria an applicant must meet before a Board of Adjustment may grant a variance request. If the Board finds that an applicant meets all of these criteria, the Board may grant the variance. However, if the Board finds the applicant does not meet all of the criteria, the Board may not grant the variance. The following is the staff's analysis regarding the variance criteria:

1. *"That there are special circumstances applicable to the property, which may include circumstances related to the property's size, shape, topography, location, or surroundings; and"* (Town Code Section 2-5-3(C)4).

### Staff Analysis:

The slope of the property, slightly smaller lot size, and shallow depth of the lot create property hardships. The property is not designated as a hillside lot yet has a

site slope of approximately 7.25% (from the west to the east property line) and a building pad slope of approximately 2.5% (with hillside lots having a building pad slope of 10% or greater).

Staff believes that some height encroachment is warranted due to these property hardships, however, the design of the house does not appear to be the minimum amount needed to cure the property hardships. Although it is not ideal, the design of the house can be modified to reduce the proposed height encroachments. Specifically, the height encroachments can be reduced by removing the “butterfly” portions of the roof and further lowering the building pad.

2. *“That the special circumstances applicable to the property were not self-imposed or created by the property owner; and”* (Town Code Section 2-5-3(C)4).

Staff Analysis:

The slope of the property is the result of how it was platted. The applicant is trying to utilize the existing building pad, however, the house can be redesigned and reorientated to reduce the amount of height encroachment. The current proposal appears to be more of a design hardship instead of a property hardship since other alternatives exist to reduce the amount of height encroachments.

3. *“That the strict application of the Zoning Ordinance will deprive the property of privileges enjoyed by other property of the same classification in the same zoning district”* (Town Code Section 2-5-3(C)4).

Staff Analysis:

The applicant is trying to work with the site conditions and is trying to utilize the building pad of the exiting home. Although there is a fair amount of slope to this property, all other homes in the area must meet height requirements despite the slope of their lot. As previously noted, the “butterfly” roof can be removed or redesigned and the building pad can be lowered to reduce the amount of height encroachments.

In this instance, the roof style is magnifying the topographical challenge posed by the slope in terms of meeting the Open Space Criteria. Any other type of roof would lessen this challenge and likely comply with the code or minimize any variance necessary.

## **REQUIRED ACTION**

The Board of Adjustment must consider the facts and determine if the request for height encroachment meets all three variance criteria. The Board of Adjustment may take the following action:

1. Approve the variance request subject to the following stipulations:
  - a. The improvement shall comply with the submitted plans and documents:
    - i. Site Plan, Sheet A.1, prepared by Victor Sidy Architect and dated May 16, 2025.

- ii. Roof Plan, Sheet A.3, prepared by Victor Sidy Architect and dated May 14, 2025.
    - iii. Elevation Plan, Sheet A.5, prepared by Victor Sidy Architect and dated May 14, 2025.
    - iv. Elevation Plan, Sheet A.6, prepared by Victor Sidy Architect and dated May 14, 2025.
    - v. Cross Section Plan, Sheet A.7, prepared by Victor Sidy Architect and dated May 14, 2025.
  - b. The applicant must obtain the required building permits and inspections from the Town's Building Division.
2. Deny the variance request.
3. Continue the application for further review.

**COMMENTS**

The applicant provided one letter of support from a neighboring property owner via the original submittal. Staff forwarded several comments of opposition from the May 7th meeting to the Board. Also, one neighbor expressed support for the variance at the May 7<sup>th</sup> meeting. However, staff has not received any comments regarding the current/modified design with the reduced height encroachments.

**COMMUNITY IMPACT:** None.

**CODE VIOLATION:** None.

**ATTACHMENTS**

- A. Staff Report
- B. Vicinity Map & Aerial Photo
- C. Application
- D. Narrative & Plans
- E. Notification Materials
- F. Public Comment
- G. May 7, 2025 Draft Board of Adjustment Meeting Minutes
- H. Staff Presentation