



Town of Paradise Valley

6401 E Lincoln Dr
Paradise Valley, AZ 85253

Minutes

Board of Adjustment

Wednesday, May 2, 2018

5:30 PM

Council Chambers

1. CALL TO ORDER

2. ROLL CALL

Present 6 - Chairperson Emily Kile, Board Member Jon Newman, Board Member Eric Leibsohn, Board Member Quinn Williams, Board Member Hope Ozer, Board Member Anna Thomasson, and Board Member Rick Chambliss

Absent 0

3. EXECUTIVE SESSION

4. STUDY SESSION ITEMS

A. 18-182 Emerson Variance Reconsideration – 5739 N. Casa Blanca Drive (APN: 173-08-004A) Case No. BA-17-04

The Board discussed the application during the work session. George Burton, Planner, presented the Emerson Variance to allow two non-conforming walls to remain on site. This item was before the Board in both January and March. It is before the Board this evening for reconsideration.

Mr. Burton explained how roadway dedication is obtained and how it effects the lot size.

Staff is recommending denial of this request due to other wall options that exist; including, view fence and meandering wall.

B. 18-187 Verma Variance – 6823 E. Lincoln Drive (APN: 174-63-008A) Case No. BA-18-01

The Board discussed the application during the work session. Eva Cutro, Special Projects Manager, presented the application in accordance with the packet. Board Member Williams asked about the size of the lot and Chair Kile asked a question regarding one of the emails stating that the house is 27' tall. Ms. Cutro clarified that the house is below the 24' overall height limit and that the 27' height is for the chimneys, which meets code.

Chair Kile asked if the pool meets setbacks. Ms. Cutro noted that the pool is not part of the request and will meet setbacks.

Board Member Chambliss asked about the height requirements and Ms. Cutro explained the height limitation per code.

Board Member Thomasson asked how much the neighboring lot encroaches into the setback.

5. PUBLIC HEARINGS

A. 18-178 Emerson Variance Reconsideration – 5739 N Casa Blanca Drive (APN: 173-08-004A) Case No. BA-17-04

Jordan Rose, the applicant's representative, presented additional information on this variance request.

Ms. Rose stated that this lot is unique because it is the only lot that originally had road frontage on only one side and now has frontage on three sides. Over the years, roads were built to the north and the south requiring roadway dedication. This lot now has road frontage on three sides and has dedicated over one-half acre of land for roadway. Today, when subdividing a lot, new roads are bordered by "tracts" so as not to impact existing lots (requiring them to dedicate roadway and/or have increased setbacks).

The Board had questions regarding the one-half acre of land for roads. It was noted that 14,000 square foot was for roadway, the remainder would be usable yard that would be lost if the walls must be re-located.

It was noted that since the homeowner is proposing to remodel their home by more than 50% that is why the walls must be relocated. The remodel does not require a variance.

There was discussion of the letter from Mr. Carter, the previous owner. It was noted that the previous Community Development Director, Hamid Arshadi, interpreted that going forward all new construction would have to comply with the Town Code.

Board Member Chambliss stated he originally made the motion for denial but after hearing the additional information he is inclined to approve the variance.

At 6:30 pm, the meeting was opened to the public. Two residents stated they are in favor of this variance.

Board Member Leibsohn made a motion to approve this variance with the findings in favor noted in the application packet. Board Member Ozer seconded.

Board Member Williams believes moving the wall would greatly disturb the existing landscape and create a negative condition for the neighbors.

The motion carried by the following vote:

Aye: 5 - Board Member Williams, Board Member Leibsohn, Board Member Newman, Board Member Thomasson, and Board Member Ozer.

Nay: 2 – Chair Kile and Board Member Chambliss

**Verma Variance – 6823 E. Lincoln Drive (APN: 174-63-008A)
Case No. BA-18-01**

Mark Candelaria, architect for the applicant, presented their case. Mr. Candelaria explained that the height in the area of encroachment is approximately 16' tall. Mark provided an illustration showing an option for a 2-story home that meets the 40' rear setback.

Board Member Leibsohn asked if he exhausted all possible design options to relocate the house further to the north to meet setbacks?

Mr. Candelaria replied "yes" and note that if they pushed the house north they would not be able to make turn-around in driveway.

Board Member Leibsohn noted that he doesn't think the applicant exhausted all the design alternatives and can reduce or eliminate encroachment and that being close to Lincoln is the driving force.

Board Member Ozer noted that if Mr. Verma wants a house that size, then they should purchase a lot that can accommodate that house. The applicant is trying to fit an elephant in a thimble. The issue is self-imposed and not appropriate for this site.

Chair Kile asked how far back is the house from Lincoln.

Board Member Leibsohn responded that the house is setback 61'.

Chair Kile asked if the space between wall and house can accommodate emergency vehicles?

Chair Kile also noted that the way the lot is shaped, it essentially has a front with two side yards.

Board Member Leibsohn corrected his previous comment and clarified that the house is setback 53' from Lincoln.

Public Comment:

Beth McCullum - Opposed.

Adam Terrell - Opposed to this request. His company sold the property to the neighboring lot to the west. The house was already non-conforming and the western property's bedroom view is to the east, where the new house will go. He stated that he didn't understand why they have to go so far back into the setback.

Cathy Siendradras - Opposed to this variance request. Need to take responsibility for their actions and the applicant should not try to put a round peg in a square hole. The whole thing is wrong and the rules are there to protect our rights.

Chair Kile asked about the pool setback requirements.

Ms. Cutro identified that the pool has a 20' setback from rear property line to water's edge.

Robert Mitchel - Opposed to the size of this house.

A resident named John - He noted that he lives 3 houses down from this property. There is a lack of concern for the neighbors and the house seems to be worked on for repairs. The value of the neighbor's houses will decrease because of this home.

Chair Kile read the 6 variance criteria.

Oriana Lieman-Wood. A concerned neighbor. Why would one neighbor wish be more of a concern than others. Maybe this is not the right house to building on this lot. Maybe give a variance on the fence wall setback to move the house forward.

Ron Geguzys - Lives next door to this lot. His bedroom looks right at the property. He went over the six criteria. This is at the owners convenience. The house would sit in his back yard and Mr. Geguzys would not be able to sell his house. There no mis-understanding and this is favoring one resident over another. These are self-imposed hardships. The house can move north to meet the setbacks. Verma tried to buy the property, but don't encroach on his house. Mr. Geguzys said he doesn't care about two story since it will be further away from his house.

Andrew Gordon. Located just east of this lot. Lived there 27 years. Not supportive of the Variance since the house is out of context.

William McCarthy - Opposed.

Kelly Parker - Opposed. This property has been left in disrepair. Feels the pile of rubble was left there purposely to get a welcoming response. The applicant is preserving their own views but not the neighbor's views. This is predatory towards the neighbors.

Shelly Dougherty – She is concerned that staff supported this project. Implied there is a back-door deal. We are not here on the Board to pick favorites. They have a hardship with Lincoln and should focus on traffic mitigation.

Board Member Chambliss stated that he has found staff to be very competent and considerate. There is no back-door deal. Staff has looked at the request and made their recommendation. Want to dispel that previous comment.

Board Member Ozer also stated that staff makes a recommendation in a black and white way, which is their job. Staff is very ethical and we are fortunate to have them.

Avitar Verma - Owner of the subject lot. Thanked the Board, staff, and the neighbors. He wants to build a nice house and the concerns of the residences are important. We are not debating that. We request approval and want to beatify the area on a triangular lot. He worked for almost 2 years with architect on this design.

Mark Candelaria stated that the main thing is the shape of the lot and that it adjoins Lincoln Drive. He spoke about the merits of the design and the hardship of the access off Lincoln and the shape of the lot. The house will add value of the neighborhood. If they don't receive the variance, they will build a two-story home.

Mr. Geguzys spoke again. He was concerned about the house blocking their view. He stated that the water feature will be right up against the wall and asked if the house be scaled down to fit the lot.

Board Member Ozer asked Mr. Geguzys if they were to comply with the setbacks, is that preferable?

Mr. Geguzys stated - she will get noise from the back yard and a two-story home is not

as bad as being close.

Board Member Ozer motioned for denial of this case in accordance with the findings opposed in the packet.

Second by Board Member Leibsohn.

Board Member Ozer stated that the house is too big for a triangular lot. This lot is buildable without a variance and with an appropriate design. The hardship is a self-imposed.

Board Member Leibsohn echoed Board Member Ozer's comments. It's a great design but too big for this lot. This is a self-imposed hardship and the variance criteria have not been met.

Board Member Chambliss stated that it does not meet all six criteria. This is a self-imposed hardship. It's a beautiful house on the wrong lot.

Board Member Williams thanked the applicant for contacting the neighbors and stated that the request does not meet the variance criteria.

Chair Kile agreed with Board Members comments that the variance criteria have not been met. The motion carried by the following vote:

Aye: 7 - Chair Kile, Board Member Leibsohn, Board Member Newman, Board Member Thomasson, Board Member Ozer, Board Member Williams, and Board Member Chambliss.

Nay: 0

6. ACTION ITEMS

18-181

Election of Chair

A motion was made by Board Member Ozer to nominate Board Member Leibsohn as Chair and seconded by Board Member Chambliss. The motion carried by the following vote:

Aye: 7 - Chair Kile, Board Member Leibsohn, Board Member Newman, Board Member Thomasson, Board Member Ozer, Board Member Williams, and Board Member Chambliss.

Nay: 0

7. CONSENT AGENDA

A. 18-013 Approval of the March 7, 2018 Board of Adjustment Meeting Minutes

A motion was made by Board Member Ozer and seconded by Board Member Leibsohn, to approve the March 7, 2018 minutes. The motion carried by the following vote:

Aye: 6 - Chair Kile, Board Member Leibsohn, Board Member Newman, Board Member Ozer, Board Member Williams, and Board Member Chambliss.

Abstain: 1 - Board Member Thomasson

8. STAFFREPORT

Staff thanked Catherine Kauffman for her years of service on the Board of Adjustment.

9. PUBLIC BODY REPORTS

Chair Kile and the Board thanked Catherine Kauffman for her years of service to the Town.

10. FUTURE AGENDA ITEMS

Mr. Burton apprised the Board of the upcoming variance requests.

11. ADJOURNMENT

A motion was made at 7:48 p.m. by Board Member Williams and seconded by Board Member Chambliss, to adjourn the meeting. The motion carried by the following vote:

Aye: 7 - Chair Kile, Board Member Newman, Board Member Leibsohn, Board Member Williams, Board Member Ozer, Board Member Thomasson, and Board Member Chambliss.

Nay: 0