

# **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  
Jose Mendez, Hillside Development Planner

**DATE:** December 6, 2023

**DEPARTMENT:** Community Development Department/Planning Division  
Jose Mendez, 480-348-3519

**AGENDA TITLE:**

**6919 N Highlands Drive Hillside Variance – 6919 N Highlands Drive (APN 169-53-034). Case No. BA-23-06**

This application includes a variance from the Zoning Ordinance, Article XXII, Hillside Development Regulations, to exceed the allowable disturbance and exceed the allowable retaining wall height limit. Staff recommends approval of this variance request.

**RECOMMENDATION**

Motion For Approval

It is recommended that the Board of Adjustment **[approve]** Case No. BA-23-06, a request by Victor Sidy, Architect and applicant/ representative for 6919 N Highlands Drive; for a variance from the Zoning Ordinance, Article XXII, Hillside Development Regulations, to: 1) allow a new single-family residence and the development of the property to exceed the allowable disturbed area not more than 4,737 square feet; and 2) exceed the maximum allowed retaining wall height limit along the uphill (west) side of the driveway for a length of approximately 54 lineal feet (varies from 9 feet up to 12 feet tall).

Reasons For Approval:

Staff finds that there are special circumstances, applicable to the subject lot, meeting the variance criteria.

**BACKGROUND**

Lot Conditions

The property is zoned R-43 Hillside and is approximately 71,043 square feet (SF) or 1.63 acres in size. The property is L-shaped and measures approximately 182 feet wide along the right-of-way on Highlands Drive and 182 feet deep toward the rear on the north property line and measures approximately 450 feet wide at the rear of the property on the east.

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This property has remained vacant/undeveloped while all adjacent parcels have been developed. When the road was built to access the adjacent parcels a spill slope was created on this property creating a disturbance of approximately 4,762 SF. The steepness of the site and difficult access point require the home to be located at the northwest of the property to be accessed from Highlands Drive.

### Residence/Design

The building has been positioned within the buildable area of the lot at approximately the 28 percent (%) slope line. The topography and odd shape of property requires positioning the home close to the right-of-way. The exterior living areas are limited to a smaller footprint in comparison to most of the adjacent properties along Highlands Drive (see *Attachment D. Narrative*). The proposed project meets the Hillside Development Regulations for height, overall height of 40 feet, and cut height. The new access driveway parallels the right -of-way and requires stabilization on the high side with varying retaining wall heights exceeding height limits at two portions between 9 feet and 12 feet maximums. The first portion is 34-feet long and the second portion next to the garage is 20-feet long. The retaining walls will not be visible from the right-of-way and will be minimally visible from below as the home sits against the slope obstructing the driveway.

### **DISTURBANCE CALCULATIONS:**

Permitted Disturbance: Slope Category 28% allows for 11.28%  
Lot size 71,043 S.F. the allowed disturbance is **8,014 S.F.**

**Proposed Disturbance 12,721 S.F. over by 4,737 S.F.**

Gross Proposed Disturbance: **21,301 S.F.** (Includes existing spill slope 4,762 S.F.)

- Restored and revegetated area: **1,201 S.F.**
- Building Footprint Area: **7,379 S.F.**

**Proposed Net Disturbance: 12,721 S.F.**

- Pre-Existing Disturbance 4,762 S.F.
- + New driveway 1,672 S.F.

Actual proposed disturbance: 9,631 S.F.

### Request

The applicant requests a variance from the Zoning Ordinance, Article XXII, Hillside Development Regulations, Section 2207 III. Land Disturbance Standards to allow a new single-family residence and the development of the property to exceed the allowable disturbed area by 4,737 S.F. (6.67%) from the allowed 8,014 S.F. (11.28%) to a total of 12,721 S.F. (17.9%) and VI. Walls and Fences to exceed the 8-foot maximum allowed driveway retaining wall height to a maximum of 12 feet.



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### 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 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 are staff's analysis with regard to 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 hardship is the result of the existing spill slope created when Highlands Drive was built, the irregular shaped lot, the rugged terrain, and steep slope of the lot which limits the amount of disturbance permitted. The residence is proposed in the most buildable portion of the lot, in-line with the adjacent homes and cut into the hillside. The site constraints necessitate a steep driveway that parallels the road to reduce disturbance and requires retaining walls to stabilize the upper portion of the lot adjacent to the right-of-way. The pre-existing spill slope and disturbance on the property alone limits the access point and reduces the allowed disturbance which greatly contributes to the hardship.

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 request is not self-imposed. The property conditions on this lot and irregular shape make it a difficult lot to build on. The applicant is utilizing the existing site conditions by placing the building in the most buildable location and designing a short access driveway to reduce the need for additional disturbance. The driveway parallels the adjacent slope towards the right-of-way and requires additional height for the driveway retaining walls. This proposal is modest in size with a reduced outdoor living area compared to most of the adjacent properties which reduced the disturbance request. The proposed development utilizes existing disturbances on site for access and proposes to naturalize and replant to the furthest extent possible.

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).*



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### Staff Analysis:

The strict application of the Hillside Development Regulations greatly reduces the development on this irregular shaped lot with the steep and narrow portion towards the right-of-way and difficult setback bound towards the rear bottom and difficult topography. The existing spill slope and steep slope requires a driveway retaining wall that stabilizes and secures access to the property. In addition, this reduces the amount of disturbance needed for development.

### **REQUIRED ACTION**

The Board must consider the facts and determine if the variance requests meet all three variance criteria. The Board may take the following actions:

1. Deny the variance request.
2. Approve the variance requests, subject to the following stipulations:
  - a. The improvements shall be in compliance with submitted plans & documents, being the Architecture Plans and G&D Plans, prepared by Victor Sidy Architect and SCG Summit Civil Group provided on November 13, 2023.
  - b. The applicant must obtain the required Hillside Development permits and Building permits & inspections from the Town's Building Division.
3. Continue the application for further review.

**COMMENTS:** Staff received no inquiries or comments regarding this request.

**COMMUNITY IMPACT:** None

**CODE VIOLATIONS:** None

### **ATTACHMENTS:**

- A. Staff Report
- B. Vicinity Map & Aerial Photo
- C. Application
- D. Narrative
- E. Plans
- F. Exhibit Diagrams
- G. Notification Materials
- H. Presentation