

**TOWN**  
*Of*  
**PARADISE VALLEY**

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**STAFF REPORT**

**TO:** Chair and Board of Adjustment

**FROM:** Lisa Collins, Community Development  
Director Paul Michaud, Planning Manager  
Jose Mendez, Hillside Development Planner

**DATE:** May 3<sup>rd</sup>, 2023

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

**AGENDA TITLE:**  
**UR Project Variance – 7941 N 55th Street (APN 169-06-076B)**  
**Case No. BA-22-06**

This application includes variance requests from the Zoning Ordinance, Article XXII, Hillside Development Regulations to allow development for a new single-family residence to exceed allowable development standards.

**RECOMMENDATION**

Motion For Approval

It is recommended that the Board of Adjustment [**approve**] Case No. BA-22-06, a request by applicant/ representative Drew Bausom (The Construction Zone, LTD.), on behalf of property owners of 7941 N 55th Street; for a variance from the Zoning Ordinance, Article XXII, Hillside Development Regulations, to allow a new single-family residence and the development of the property to exceed allowable development standards which include: 1.) Allow a gross disturbed area of 20,950 S.F. with a final net disturbance of 18,388 square feet (S.F.) (41.6%) from the allowed 4,241 S.F. (9.60%). 2.) Allow a max cut height of 38 feet from the allowed 30 feet.

Reasons For Approval:

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

**BACKGROUND**

Previous Requests

The applicants previously presented the Board of Adjustment with a request for multiple Variances (8) on October 19, 2022. The Board took action to continue the application for further review.

The applicant submitted a new design and met with staff on multiple occasions to create a

design that requires the least number of variance requests. During this time the applicant made several requests for **Continuance** to the Board of Adjustment:

November 2, 2022

February 1, 2023

March 1, 2023

Lot Conditions

The property is zoned R-43 Hillside and is approximately 44,180 SF or 1.014 acres in size. The property is semi-rectangular in shape and measures between approximately 150 feet and 169 feet wide and a length of 264 feet on the south property line and 240 feet on the north property line with a median depth of approximately 252 feet. The property is very steep towards the rear. The slope of the lot on average is over 43% and most of the lot is steeper.

This property has remained vacant/undeveloped while all adjacent parcels have been developed. The road that was created in the 1970's to access the lots cut through a portion of the frontage of the lot creating 2,200 S.F. of existing disturbance. The street cut created a slope that ranges from 45%-75% grade from the street level resulting in a steep and difficult access on the frontage of the lot.

Residence/Design

The building has been positioned within building setbacks in an area with an approximate building pad slope of 44.4%. The proposed home will fit and conform to the twenty-four foot height limit that parallels the existing predevelopment Natural Grade. The applicant proposes a direct cut to enter the property from 55<sup>th</sup> Street with a diagonal driveway. The driveway leads to a garage at the base of the home.

**DISTURBANCE CALCULATIONS:**

Permitted Disturbance: Slope Category 44.4% allows for 9.60%  
Lot size 44,180 S.F. the allowed disturbance is **4,241 S.F.**

**Proposed Disturbance of 18,388 SF (41.6%) S.F.**

Gross Proposed Disturbance: **20,950 S.F.**

Restored and revegetated area:

Area adjacent to home to be restored **1,000 S.F.**

Building Footprint Area: **3,762 SF**

+ Pre-Existing Disturbance:

Slope cut from street **+2,200SF**

**Total Net Disturbance: 18,388 S.F. (41.6%)**

Request

The applicant requests variances from the Zoning Ordinance, Article XXII, Hillside Development Regulations, which include the following:

Allow a net disturbance of 18,388 SF (41.6%) to exceed the allowed 4,241 SF (9.60%).  
*Section 2207.III.F: The total Disturbed Area shall not exceed the allowed percentage of the Lot area as shown in TABLE 1 (Building Site Slope 44%; Allows Land Disturbance of 9.60% of lot).*

Allow a max cut height of 38 feet. *Section 2207.III.C: The maximum height of any Cut used to establish a Building Site shall not exceed 30 feet.*

## **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.

***Request: Allow a gross disturbed area of 20,950 SF with a final net disturbance of 18,388 SF (41.6%).***

*"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 applicant has indicated that the hardship is the result of the lot size, rugged terrain, and steep slope of the lot (averaging approximately 43%) which limits the amount of disturbance permitted. The property was platted in 1974 through Maricopa County and annexed into Paradise Valley before Hillside Development Regulations were adopted, hence the lot is undersized in comparison to today's standard. In order to meet the current regulations, the subdivision would be required to have a lot size of 365,900 S.F. (8.4 acres) based on the slope. This means the current lot is only 12% of the size required by code. In addition, there is 2,200 S.F. of existing disturbance that was created when the right-of-way was cut. This further limits the amount of new disturbance allowed by about half (total allowed 4,241 S.F.). Building an entry and driveway onto the property is challenging due to the cut slope left on the frontage of the right-of-way. Furthermore, the steep grade on the property requires a longer driveway. These site conditions prevent building a driveway at a grade that can be deducted from the disturbance calculations as is possible in other properties with lower grades and/or larger lots.

*"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 hardship is not self-imposed, nor created by the property owner. The size of the property, steepness of the lot, and the existing disturbance are the result of how the property was originally platted and the right-of-way (R.O.W.) construction cut.

*“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:

It is typical that similar properties with steep slopes need a variance from disturbance requirements to develop. The difficulties on this site are further exacerbated by the pre-existing disturbance and the steep right-of-way cut. Properties on this street have similar driveway lengths and similar or larger homes and outdoor living areas. The strict application of the Zoning Ordinance would deprive the property of privileges enjoyed by other similar properties.

**Request: Allow a max cut height of 38 feet 0 inches**

*“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 width of the lot and the steep slope (averaging 43%) which limits the placement and orientation of the home. The property is zoned R-43 and has a width of approximately 169 feet. The zoning side setbacks for this property are 20 feet which limits the building envelope width to approximately 128 feet 6 inches. The outdoor areas are limited to the front or rear, hence the need to cut behind the home further into the terrain. The steep slope also requires retention and boulder roll area which raises the amount of cut height needed. The sunken placement of the home lowers the visible volume and lowers the base elevation into the terrain which reduces visibility of the home, but in doing so the cut height is increased.

*“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 hardship is not self-imposed nor created by the property owner. The property was platted before Hillside Development Regulations were created. The current size of the lot would not be in compliance with the code. A lot with this slope would need to be approximately 10 times larger. The width of that size lot would allow for a larger horizontal envelope on which to build on.

*“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:

This type of request is not atypical given the grade of the lot and the existing site conditions. Raising the home/base level closer to grade would potentially reduce the height of the cut; albeit this would raise the home above the natural grade and increase its visibility. Adjacent properties in this zoning designation and with similar slope have rear outdoor living areas that cut into the hillside. In addition,

the steep aspect of the lot requires a large cut for rock cut stability and bolder roll area which is typical of other similar properties.

**REQUIRED ACTION**

The Board must consider the facts and determine if the variance requests meet all three (3) 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:
    - i. Architecture Plans, prepared by Construction Zone; dated February 17<sup>th</sup>, 2023 received on March 21<sup>st</sup>, 2023.
  - b. The applicant must obtain the required Hillside Development permits and Building permits & inspections from the Building Department.
3. Continue the application for further review.

**COMMENTS:** Staff received several comments on the original project submittal that went to the Board of Adjustment October 19<sup>th</sup> 2022. The comments and inquiries were due to the unusual multiple number of Variance requests (8) the project proposed.

On this proposal staff received no 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. Presentation Book
- G. Notification Materials