

# **Sandell Variance**

## **Request to Paint Home White and Install Sport Court Lighting**

**4474 E. Valley Vista Lane | Paradise Valley, Arizona**

**APN# 169-20-122**

### **REQUEST**

This application requests a variance from the strict conformance to the following two specific standards in the Hillside Development Regulations (the “Hillside Regulations”), which are necessary due to the unique configuration and characteristics of the Property, which is actually mostly flat and not hillside terrain, and for the Property owner to have the same rights as similarly-situated properties in the same zoning district:

1. To allow the exterior of the home located at 4474 E. Valley Vista Lane (the “Property”) to be painted with a paint color having a Light Reflectance Value (LRV) greater than 38%, as the portion of the lot the home will be built on does not technically fall under the Hillside regulations; and
2. To allow the installation of downward-directed sport court lighting on the Property, in conformance with the requirements of Section 502(9)(c) of the Zoning Ordinance, and consistent with the sport court lighting that exists on most other adjacent homes that are at the same elevation as the portion of the lot on which the sport court will be constructed.

Despite only a small fraction of the Property containing slopes of 10% or higher, the Property has been designated as a “Hillside” lot and is subject to the Hillside Regulations, which are intended to preserve the natural desert environment, protect scenic views, and minimize physical disturbance to hillside terrain. This variance request not only respects those goals but purposefully reinforces them because it allows the Property owner to maintain the views of the Hillside portions of the Property and protects against disturbance of those areas. In fact, no portion of the home or other proposed improvements will actually be visible from the public street or any other property. The proposed exterior paint and low-impact sport court lighting are limited to a flat, visually enclosed portion of the Property that is uniquely constrained by topography, lot shape, and natural drainage features. The portion of the Property that the home is being built on is flat and does not actually meet the Hillside conditions, so these alterations on this unique property will not be negatively impactful to the public or other property owners in any way. These improvements will not impact any surrounding viewsheds or the natural landscape.

Although the Hillside Regulations prohibit paint colors with an LRV above 38% and ban sport court lighting in order to accomplish its purpose of preserving and protecting native desert

environment and natural viewsheds, strict enforcement of the code in this context imposes unnecessary burdens that do not serve the purposes of the Hillside Regulations, and they unnecessarily burden this Property, where the improvements are situated not on a visible Hillside but in a shallow depression at the same elevation as all of the surrounding non-Hillside homes. Here, the Property is only designated as Hillside because of the technical nature of the Hillside classification, while the unique physical characteristics of this Property justify limited, thoughtful relief from the strict application of the Hillside Regulations.

### APPLICATION MEETS ALL VARIANCE CRITERIA

Granting the deviations requested from Sections 502(9)(c) and 2207 (II)(D) of the Town Ordinance is acceptable as long as the request complies with the following approval criteria, as contained in Section 2-5-3(C)(4).

***CRITERION 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.***

*The Property's unique shape, topography, and surroundings are special circumstances that justify the requested variance:*

#### *1. Irregular Topographic and Hillside Classification:*

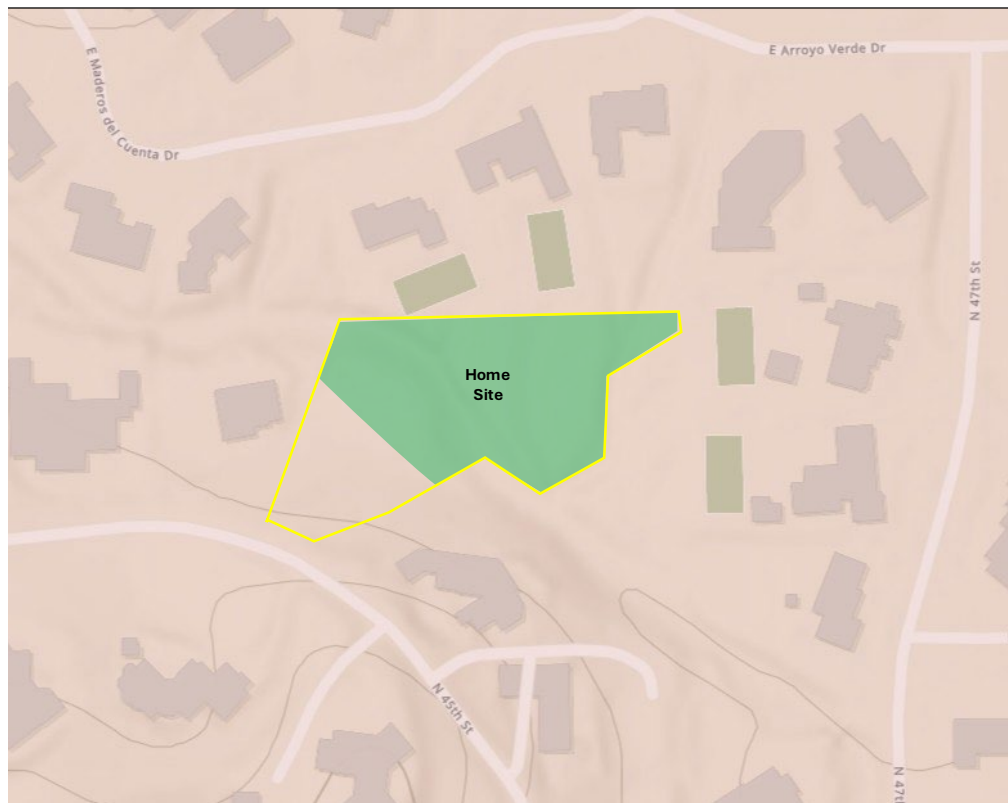
Less than 10% of the Property is actual Hillside, and while the Property includes a narrow band of steep slope near the entry drive—triggering a Hillside designation under the Town's regulations—more than 90% of the lot has a slope less than 10%, is mostly flat, and does not exhibit the environmental sensitivity or visual exposure typically associated with hillside terrain. Within the remaining 90% flat area, two large washes constrain development and forces the Property owner to carefully consider where to place improvements. The unique topography of this Property is illustrated by **Exhibit A**, which identifies the higher-sloped areas on and adjacent to the Property and how those sit relative to the Property and the improvements. The USGS topographic map shown below as **Exhibit B** shows the small portion of the Property that is burdened with steeper slopes, and that the majority of the Property lies in flatter areas that are similar to the surrounding, improved lots to the north and east.

***[Remainder of Page Intentionally Left Blank]***

**Exhibit A** - Site Context Map

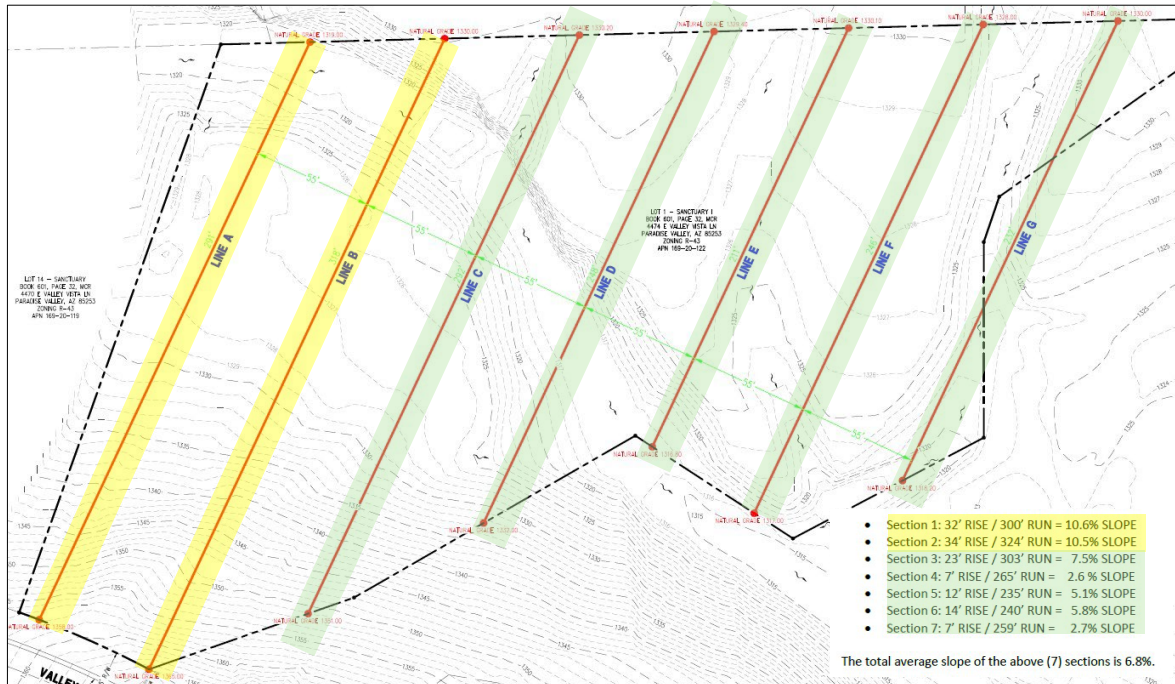


**Exhibit B** - USGS Topographic Map



The Hillside Slope Analysis shown below as **Exhibit C** as well as the detailed grading and engineering documentation submitted with this application—including the ‘Sandell Slope Analysis,’ ‘Slope Calc,’ and the Grading & Drainage Plan— illustrate that the Property has a Building Pad Slope of just 3.70% and an overall average slope of 6.8% across seven representative cross-sections. Notably, both the site and pad slopes fall below the 10% threshold that typically defines hillside conditions under Town Code Sections 2202 and 2209(B).

**Exhibit C** - Hillside Slope Analysis



## 2. Irregular Site Shape, Wash Constraints, and Visual Containment:

The Property’s unusual shape, combined with the presence of a natural wash protected by a 40-foot drainage easement across the front of the lot, presents significant site planning challenges not encountered by neighboring parcels. As illustrated in **Exhibit D**, the primary developable area lies on the far side of this wash, which must remain undisturbed to preserve its stormwater conveyance function during rainfall events. To maintain the natural hydrology of the Property, a bridge is required to span the wash and provide access to the buildable area—further reducing the usable lot area and complicating circulation. These naturally-occurring circumstances and constraints significantly limit where accessory uses, such as a sport court, can be located. Unlike adjacent properties with uninterrupted access to large, flat pads, this lot is effectively segmented by its natural features. Consequently, the proposed sport court has been thoughtfully located in the only feasible flat area—an interior zone that is naturally screened by vegetation and buffered by existing topography. This placement ensures minimal visual impact to other properties and the public. Likewise, the request for higher LRV exterior paint pertains to a home that is already



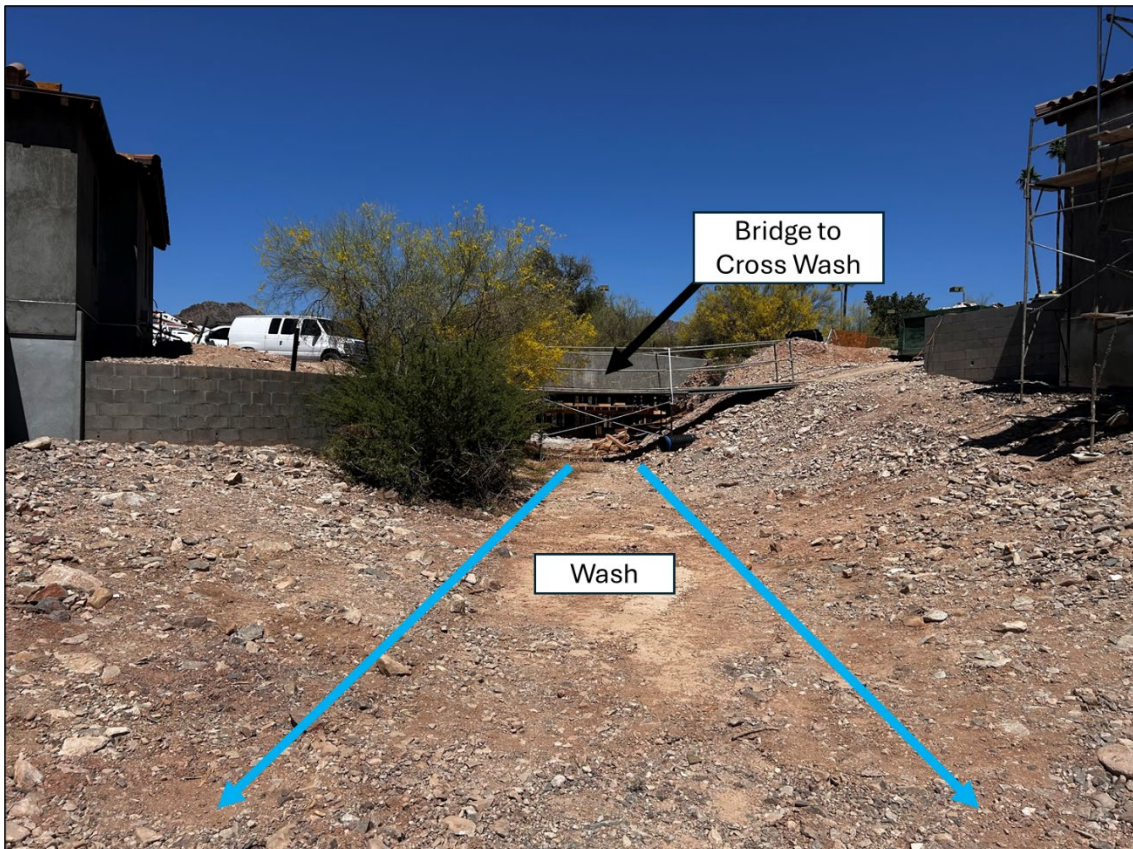
visually shielded by landscaping and set back from public viewsheds. The site's irregular geometry, preserved wash, and vegetative buffering collectively minimize any adverse impacts and support approval of the variance request.

**Exhibit D** - Site Constraints Photographs



***[Remainder of Page Intentionally Left Blank]***





The combination of an irregular lot configuration, drainage limitations due to the washes, and compliance requirements associated with Hillside zoning regulations has created significant barriers to development that do not exist on surrounding properties. In a housing market as competitive and built-out as Paradise Valley's, the fact that a lot of this size and location remains undeveloped speaks volumes about the constraints imposed by its physical characteristics. These challenges are not only unique, but they materially restrict the property's potential in ways that justify the requested variances.

***CRITERION 2: That the special circumstances applicable to the property were not self-imposed or created by the property owner.***

The applicant did not create the unique topographical conditions of the Property that warrant this variance as those conditions are all naturally occurring on the Property.

The Hillside designation applied to this Property arises from a narrow band of sloped terrain located near the entry drive. This condition, while physically minor in scale, triggers a full Hillside classification under the Town's uniform slope-based mapping methodology. This designation applies uniformly across the entire parcel, despite the fact that over 90% of the lot is mostly flat and lacks the sensitive environmental or visual exposure characteristics typically associated with Hillside terrain (see ***Exhibit C*** above). The applicant did not create or exacerbate this condition. Rather, the existing terrain and resulting regulatory classification are appurtenant to the Property, and the applicant has complied fully with the Town's siting and grading regulations by locating the home on the least disruptive portion of the site.

***[Remainder of Page Intentionally Left Blank]***

***CRITERION 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.***

Strict application of the Hillside Regulations would deprive the applicant of reasonable design flexibility and common residential amenities—privileges regularly enjoyed by other property owners within the same R-43 zoning district on similarly-situated lots that are mostly flat and therefore unconstrained by the Hillside Regulations. These restrictions arise not from the actual environmental sensitivity of the Property or from the owner’s own acts, but from a technical classification imposed due to a narrow-sloped area at the front of the lot and which constitutes a small fraction of the Property area. As currently enforced, the Hillside designation imposes undue regulatory burdens on the flat, visually enclosed portion of the lot where the home is located – burdens that are not rooted in meaningful environmental or scenic concerns, but rather a technicality tied to a single sloped segment near the driveway. The majority of the Property is flat and visually enclosed – largely not visible from public streets or lower elevation properties. The home has been responsibly sited to preserve the surrounding desert and scenic views that are actually located on higher-sloped areas, directly supporting the intent of the Hillside Ordinance.

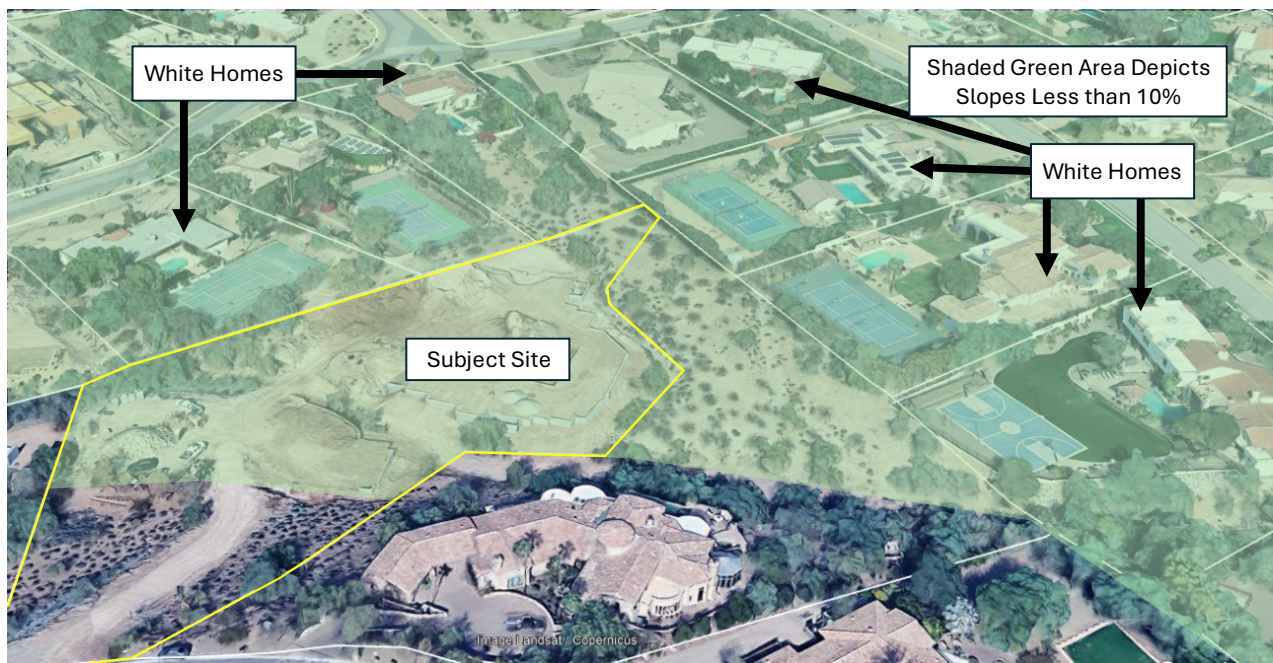
The Property’s unique topography and the natural drainage patterns of the existing wash place significant constraints on the Owner’s ability to improve the Property in the manner that other similarly-situated properties have been improved. This is evident in the fact that despite being platted in 1994, the Property has remained vacant for over 30 years—an uncommon occurrence in the Town of Paradise Valley, where the vast majority of similarly-zoned parcels have long since been improved. This persistent vacancy is a direct reflection of the Property’s unique circumstances that have caused development challenges and the deprivation of rights and privileges enjoyed by other owners.

Giving the unique topographic conditions and configuration of the Property, the home was deliberately and responsibly sited on the flatter bench of the Property to avoid unnecessary grading or disturbance, and to be consistent with the environmental intent of the Hillside Regulations. Had the home been placed further upslope within the hillside-designated portion of the lot—approximately 20 to 30 feet higher in elevation—it would have mirrored the siting of Hillside homes to the west and southwest and become highly visible from the surrounding lowland areas. In that case, a subdued color palette would have been critical to mitigating visual impacts, in line with the Ordinance’s goals (see **Exhibit A** above). Instead, the home is positioned at the same elevation as the similarly-situated, neighboring residences to the north and east, all of which are outside of the Town’s “Hillside” designation because they are located on relatively flat ground. This thoughtful siting strategy effectively eliminates the need to mitigate against inappropriate development that would obstruct viewsheds or spoil native landscapes that benefit the community and public at large, but it still subjects the Property to limitations that would not otherwise apply to the similarly-situated flat lots that surround it, making it clear that the requested variance is appropriate to remedy the hardships faced by the Property owner by imposing Hillside restrictions on flat land.

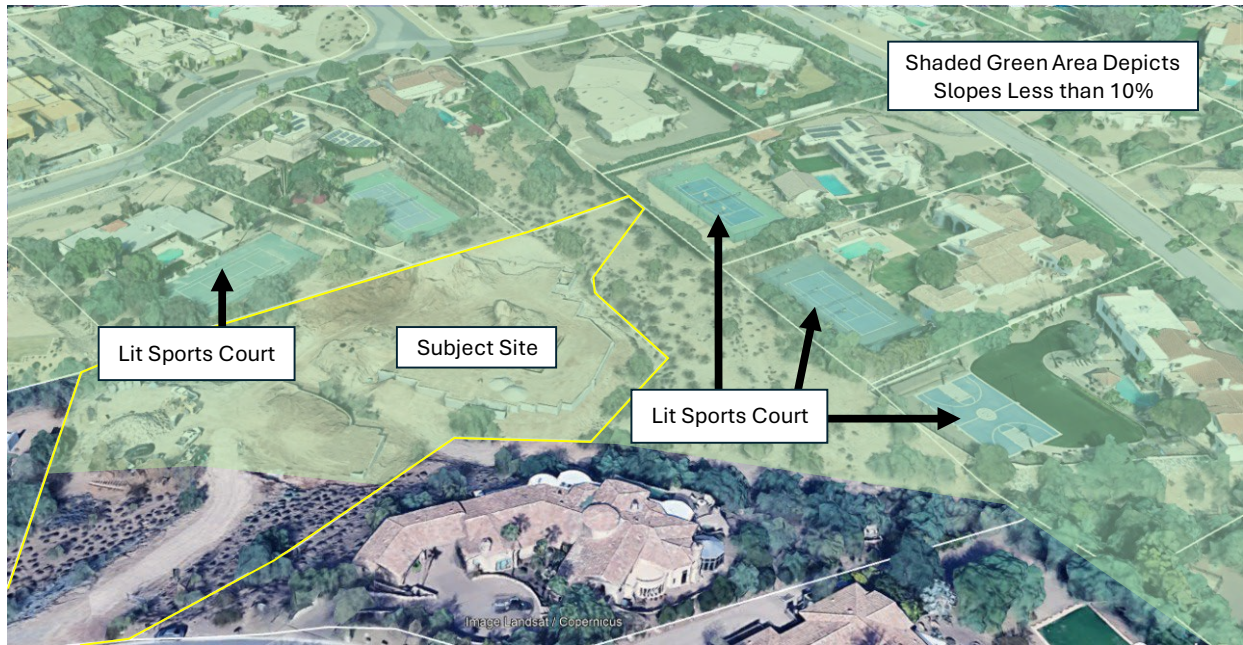


The variance request for higher LRV paint and low-level sport court lighting arises solely because of the lot's Hillside designation despite the lack of Hillside characteristics where the home and sport court improvements are to be located —not due to any self-imposed condition or non-conforming construction. These proposed design elements are consistent with the prevailing neighborhood character, where white homes and lit sport courts are common features (see **Exhibit E**). In fact, as shown in **Exhibit E**, many neighboring properties within the same R-43 zoning classification, but outside the Hillside overlay, utilize higher LRV finishes and have illuminated recreational amenities. The applicant's request simply seeks parity with these nearby homes and would not be necessary but for the technical classification imposed due to minor terrain variation.

**Exhibit E** – Neighborhood Context Map – White Homes & Lit Sports Courts



**[Remainder of Page Intentionally Left Blank]**



Alternatives to the proposed improvements are either infeasible, will undermine the functional use and enjoyment of the Property, and deprive the owner of rights that it should be able to enjoy on the Property. Repainting the home in a darker color purely to satisfy a regulation that is not visually relevant from off-site locations would impose an unnecessary aesthetic burden without achieving a meaningful public benefit. Similarly, prohibiting sport court lighting on a lot that has already been functionally constrained by an irregular shape, wash corridor, and limited building area would render a common recreational use effectively unusable during normal evening hours. Given the home's enclosed location and surrounding topography, neither the higher LRV paint nor the lighting would result in visual impacts to neighboring properties or scenic corridors.

Further, a precedent exists for this type of request: On December 1, 1982, the Board of Adjustment granted a color variance to allow an off-white home on a Hillside-designated lot located at 6936 N. Mummy Mountain Road. The Board concluded that, despite the general prohibition on such colors under the Town's Mountain Building Regulations, the proposed color did not conflict with the ordinance's intent when considered in context (see ***Exhibit F, attached hereto***). Similarly, the subject home is situated at the same elevation as neighboring non-Hillside homes and is not visible from prominent public vantage points, meaning the use of an off-white finish would not diminish scenic quality or violate the spirit of the ordinance.

In addition, the outright prohibition of sport court lighting under Hillside regulations unfairly restricts the applicant from enjoying an amenity that is widely used across the Town. Sport courts with lighting are a standard feature in the neighborhood where the Property is located and contribute to active residential use and enjoyment. Due to the irregular lot shape, presence of a wash, and limited buildable area, the court must be sited within a discreet and naturally buffered section of the lot. The proposed lighting will be low-profile, fully shielded, and directed

downward to prevent glare or offsite impacts. Thus, denying this aspect of the variance not only undermines the applicant's use of the Property but also does so without achieving a meaningful public benefit.

Therefore, the requested variance is necessary to ensure the Property owner can enjoy the same design and recreational privileges commonly exercised throughout the zoning district, while continuing to uphold the Town's environmental and visual preservation goals.

## CONCLUSION

The requested variance represents a narrowly tailored and reasonable adjustment to technical restrictions that were applied uniformly but without context. The Property is unique in shape and topography, with a shallow entry slope, fragmented developable area due to a natural wash, and a siting condition that places the home within a visually contained, flat zone consistent with surrounding non-Hillside properties.

Approval of this variance maintains the Town's hillside protections where they matter most - along the genuine slope - and ensures the continued low-profile condition of the existing home. It also shields surrounding neighbors from the risk of visually disruptive development in the future. Given the documented slope conditions, the irregular hillside classification, and the applicant's responsible placement of the home on the gentlest portion of the site, granting this variance aligns with the Town's long-term planning objectives and preserves the visual integrity of the surrounding neighborhood.

The applicant has complied fully with the Town's siting and disturbance standards, and granting this variance would allow for reasonable and common improvements—namely, off-white exterior paint and shielded sport court lighting—that are compatible with the neighborhood and consistent with the Town's visual preservation goals. Denial of the request would deprive the applicant of privileges routinely enjoyed by others in the same zoning district, without advancing the protective intent of the Hillside Ordinance.

The requested variance is not an illegal use variance and will not allow any uses that are not already permitted in the zoning district in which the Property is located.

The requested variance will not constitute a grant of special privileges that are inconsistent with the limitations upon other properties in the vicinity and zoning district in which the Property is located. The majority of the properties surrounding the Property are located on mostly flat land, and as shown above, those are similarly situated to the Property and enjoy the same exact privileges being requested by this variance.

For these reasons, we respectfully request approval of the variance as submitted.

## **Exhibit F**

Board of Adjustment Minutes – Mummy Mountain Road Variance Approval



BOARD OF ADJUSTMENT  
TOWN OF PARADISE VALLEY  
TOWN HALL  
MINUTES OF THE DECEMBER 1, 1982 MEETING

CALL TO ORDER

CHAIRMAN JOHNSEN called the meeting to order at 5:35 P.M. in the Town Hall, 6401 East Lincoln Drive. An orientation session called for 4:30 preceeded the meeting.

ROLL CALL

Members present:   MARSI JOHNSEN  
                          ANNE E. ANDEEN  
                          WILLIAM O'CONNOR  
                          DONALD D. SCHWENN  
                          WILLIAM S. CULLEN  
                          JOAN HORNE  
                          REGINALD SYDNOR

Also present:       William M. Piatt, Town Attorney  
                      Muin M. Kalla Planning Director  
                      Helen C. Dennis, Secretary

STAFF SWORN

CHAIRMAN JOHNSEN administered the oath to the Staff.

WITNESSES SWORN

CHAIRMAN JOHNSEN asked that everyone who wished to participate in the meeting, give their names and addresses to the Secretary and stand to be sworn. She then administered the oath to following persons:

Philip E. vonAmmon, 9001 North Martingale Lane  
Richard Johnes, 6300 Yucca Road  
Paul R. Yates, Jr., 6801 N. 47th Street  
Sam DeMuro, 5231 E. Arroyo

MINUTES OF PREVIOUS MEETING

CHAIRMAN JOHNSEN advised that the minutes of the November 3rd meeting had been mailed to the members and asked if there were any corrections. There being none, upon motion of MRS. ANDEEN, seconded by MRS. HORNE the minutes of the November 3, 1982 meeting were accepted as submitted.

MOTION:

REGULAR ORDER OF BUSINESS

MR. and MRS. PHILIP E. vonAMMON

GRANTED/STIPULATION

This was a request for a variance for an existing non-conforming use to convert an existing carport into living quarters at 6624 Smoke Tree Lane.

MRS. HORNE withdrew from the discussion and the vote on this issue inasmuch as her home is next door to the subject property.

A drawing of the site and area under discussion was projected on the screen. MR. vonAMMON presented the petition, stating that he and his wife were the owners of the subject property. He described the location on Smoke Tree Lane and advised that this duplex was built many years before the Town was incorporated and before Maricopa County had zoned the area for single family residential purposes. He said it had been used continuously as a duplex, and it resembles a long ranch house. MR. vonAMMON explained, "The two rectangles [on the drawing] that have street numbers in them, 6624 and 6626, are the enclosed residential portions. There is a carport in the back, or to the west, of each of the units and a small patio. And on the north and south end of each of the units there's a small concrete porch which also functions as an entryway for the respective dwellings." He stated that they purchased the property approximately 20 years ago. MR. vonAMMON said that he and his wife plan to sell the residence they now occupy and live in the south unit [6624] of the duplex. He described it as a relatively small dwelling as it was now but said they felt if they could make the carport on the south unit into a family room and have some storage space, it would be then be a comfortable place for them to live. They also would like to enclose an entryway so that instead of stepping off the porch right into the living room, a person would enter into a vestibule and then into the living room. He pointed out that the fact that it was a property that could be rented was attractive to them because it would provide some supplemental income for retirement. He said whether or not they moved in, the property would continue to be a duplex because it was a legal non-conforming use. In conclusion, he said, "We are asking for a variance for the privilege of putting three sides on the carport. As pointed out in the Director's report, it is not contemplated that additional dwelling units would be added to the thing. It still would be a two-family dwelling. It never would be more than that."

The Board discussed the details of the modification. MR. vonAMMON described the steps to be taken for the remodeling. In response to questions, he said he did not plan on adding another carport. The carport on the north unit was damaged by fire, and when it was repaired, the roof was not built out to align with the south carport roof and it was his desire to complete the alignment of the roof and it would suffice as a two car carport. MR. SCHWENN called attention to the fact that the alignment and extension of the north carport roof did not appear on the application, and MR. vonAMMON said it was an oversight, the application should cover the items shown on the drawing. Inasmuch as it was on the drawing, the Board agreed to permit the petitioner to amend the wording of the application to cover the extending of the roof of the north carport. There would be no enclosed parking attached to 6624. He said they do not propose to add any square footage. Discussion pointed out that this request was not for an expansion of the non-conforming use and there was no additional square footage involved. The setbacks remained the same; however, the law states that any alteration to a non-conforming use structure cannot be made without coming before the Board of Adjustment for approval.

CHAIRMAN JOHNSEN opened the meeting for public participation. No one responded.

MR. CULLEN established the fact that the material to be used for the walls in the carport would be compatible with the material on the rest of the house. MR. vonAMMON said they plan to construct a masonry wall with a 4'x10' arcadia door across the area so they could enjoy the view of Camelback Mountain. He pointed out that he was negotiating with A.P.S. to try to get them to remove the unsightly power poles that were on the property line and put the wires underground.

MOTION: MR. SYDNOR moved to approve the application for variance as amended, to include the extension and alignment of the roof over the north carport with the stipulation that the property shall remain under single ownership. MR. O'CONNOR seconded the motion. The motion carried 6-0 with one abstention [MRS. HORNE].

JOHNES DEVELOPMENT COMPANY

DENIED

This was a petition requesting a variance of approximately 10' from the building setback line to construct a spa at 6234 Yucca.

MR. DICK JOHNES, the builder presented a map/diagram which was projected on the screen. He described the house as being pretty much from property line to property line because they wanted to create an interior open courtyard for the house. He described the design of the house in detail and said that initially they had wanted to create an outside sitting area which would be walled and which would be landscaped just outside the bathroom area. They had considered either putting a fountain or a fireplace out there. MR. JOHNES commented that that would be legal under the existing permit. He said that in looking at the way they were going to design the pool, the upper portion was going to be the outdoor spa, but they decided that one of the problems of having the spa in that location would be that the resident would have to go from the master bath and walk across the open yard and be visible to the neighbors and they thought it would be a very nice amenity to the house if they were able to place a 4'x 8', very small spa that would be within the courtyard area, but it would infringe from the setback line at that point; therefore, he was requesting a variance to put the spa within that walled area. He said his company owns the lot on one side of the subject property and the neighbor on the other side, Jim French, had delivered a letter to the Board stating that he was in favor of the variance.

MR. CULLEN inquired whether Mr. French was present and he was not. MR. CULLEN asked MR. JOHNES whether Mr. French was aware of the noise that was connected with the operation of the spa, and MR. JOHNES said that had been explained to him. He said the equipment would be enclosed with another fence so that the sound would be sent up vertically. MR. JOHNES said this location would back up to Mr. French's greenhouse. MR. CULLEN asked for the reasoning behind not putting the spa in the corner of the patio, and MR. JOHNES explained that the patio was designed to give a view of Camelback Mountain. In response to MR. SCHWENN'S direct questions, MR. JOHNES agreed there was no physical reason why the spa could not be located there. MR. JOHNES said it was just a matter of a choice of what they felt would be the amenity they would prefer.

MRS. HORNE said she had thought when she visited the property that it would be acceptable to have the spa as originally designed on the edge of the pool. She pointed out that there were two choices of location for the spa without the need for any variances. MR. JOHNES said that was correct. He said it is a very hard decision. He said that before, they have usually had an entrance that came through the bedroom, but some people would like to have a more private area so when they came in and weren't quite dry they would not be walking over the carpeted area or the wood floor area. He said it is just a subjective decision on their part as to what they think would be most saleable.

MRS. HORNE established that this would be the sixth home MR. JOHNES has built in Finisterre and these same things had come up with previous buildings.

MR. CULLEN pointed out that the Town does have an ordinance covering the setbacks for pools and spas and said he found it difficult to find a hardship involved. He was concerned that everybody else would like to put a spa or an earth satellite station or something like that adjacent to a wall in a similar situation.

MR. JOHNES said there really was not the alternative of coming from the bathroom area. He said that was a very important point with them. Many of the people who have bought their homes have stated that one of the problems about the spa is that they don't wish to go outside in an open area. They would have liked to have had access from that bathroom area. In response to CHAIRMAN JOHNSEN'S question, MR. JOHNES said they had been debating this for about six weeks. They had wanted to put it in the private area off of the bathroom, but when they looked at it and in talking with the sales people they found that the proposed location would be the place they would prefer to have it. MR. JOHNES said he was sensitive to the dilemma the Board of Adjustment was in. He said he felt the proposed area is a dead area as far as the neighbor is concerned and would not cause a hardship. MR. CULLEN commented that while this arrangement might be alright with Mr. French, it might not be alright with the person he sold his house to four or five years from now. He pointed out that when the Board approved a variance, it is forever.

MR. JOHNES said he looked at the over-all aesthetics of the house and the area and he felt that they have created something they are proud of. He reminded the Board that his company had developed a lot of property within the Town and this is the first time they have ever come in for a variance.

MRS. ANDEEN inquired whether the spa was envisioned in the initial design of the house and MR. JOHNES answered, "Yes, the spa was envisioned to be in that upper pool area where we showed you. And then when we got to looking at the site, the site elevates at that point and that was one of the problems too of that location for it."

MRS. HORNE asked whether or not the construction of the house was in such a stage of development that no changes could be made structurally, and MR. JOHNES said it is just a matter of dollars, but the problem with the bathroom design is that they are totally committed with the plumbing.

CHAIRMAN JOHNSEN asked for any comments from the public.



CORRECTED

MR. PAUL R. YATES, JR. described the house design and said there was no way to change the master bedroom around. He concurred that many buyers have suggested their desire to have a spa in the proposed location.

MOTION: MRS. HORNE moved to deny the variance because the basis upon which the petition was made was not within the Board's province to grant. MRS. ANDEEN seconded the motion. The roll was called and the motion carried unanimously 7-0.

SAM DeMURO

GRANTED/STIPULATIONS

This petition was continued from 11/3/82. It was a request for a variance from Section 5(v) of the Mountain Building Regulations relating to color for a residence at 6936 North Mummy Mountain Road.

The Board held an on-site meeting on Saturday, November 13, 1982 to examine 4'x8' posts painted the colors MR. DeMURO proposed in relation to the surrounding terrain.

The colors chosen by MR. DeMURO as well as the colors that have been approved were passed around the Board. MRS. JOHNSEN pointed to one particular shade that had been used on a home on Hummingbird Lane and attested to the fact that it did appear to be white as constructed. MR. DeMURO did not feel that that color would be acceptable at all.

The statements which MR. DeMURO had given as the basis for his request were reviewed in detail. MR. DeMURO gave an account of his personal experience and aspirations in beginning the project two years ago. He said that all of his life he had hoped to build a Mediterranean home and now he felt he was about to see it built. He said he specifically wanted a house with columns, and a white house. He hastened to say, he did not mean "hospital white" he meant an off-white. He said the architecture and the entire house was designed around his dream of a white house with columns. He said they were 90% through with the plans when the area was annexed and they were faced with new restrictions. He pointed out that the structure would cover a lot of the scarring on the mountain and he contended it would greatly enhance the area. He said if he had begun a house under the Town of Paradise Valley jurisdiction, he would have designed a completely different type of a house and complied with all the restrictions, but he had designed the house under County regulations and had met those regulations.

MR. SYDNOR referred to the minutes of the previous meeting in which MR. DeMURO stated that permits for the preliminary construction had been issued by the County and asked exactly what construction permits were issued and also asked for a detailed accounting of which plans were and were not approved by the County.

MR. DeMURO said the County approved the plans for the wall, the septic system, the grading, the gazebo and the swimming pool area. The County had not approved the house because he had not submitted it to the County for approval. He said that was the only approval that he did not have.

MR. SYDNOR established the fact that the long retaining wall would be faced with stone, or some material which would blend in with the mountain side and eliminate the public view of the wall and that was stipulated on the permit issued by the County. The material was not specified. MR. DeMURO said the permit also carried the stipulation that any rock that was defaced in the process would be returned to its original colors. Discussion led by MR. SYDNOR brought out that the complete plans for the house and wall have not yet been submitted to the Town. MR. DeMURO said he intended to face the retaining wall either with stone or imitation stone such as the building on 24th and Missouri. He said there would be a lot of plantings placed in front of the wall. MR. DeMURO stated that he did not think white blends with the mountain, but he felt it brought out the beauty of the mountain.

Further discussion indicated that there were other problems arising because of the difference in County and Town requirements such as the height of the house, and the slope of the driveway. He said if the house were held to the Town's specifications, depending upon how the measurements are taken, the slope of the driveway would be undriveable. If the driveway is dropped to reduce the degree of slope, then the house is not in compliance.

At the CHAIRMAN'S request, MR. DeMuro presented a drawing showing the side of the house with the retaining wall. MR. SYDNOR commented that it would appear from the conversation that MR. DeMURO would be coming back to the Board to get a variance for the height of the house. MR. DeMURO agreed. After discussion it was felt that if that should be necessary, it would be the only other variance required.

The Board questioned the lack of color on the retaining wall and MR. DeMURO went over the drawing in detail pointing out which area would be the second color he had chosen and which would be grey tinted glass. He assured the Board that the retaining wall would not be white or any shade thereof, the sketch had not been completed that far down and no color had been filled in on the wall. He said it would be surfaced as previously outlined.

MR. CULLEN interjected the question of whether the Board was being asked to put the cart before the horse by approving a color when in fact the house might not be acceptable and MR. DeMURO said he was told that the color must be approved before anything else could be done.

MRS. HORNE ascertained that there was no other color that would be acceptable. MR. DeMURO said he had taken his second choice which was darker than off-white, but that he could not build the house with any darker color.

MOTION: MR. O'CONNOR moved to grant the variance and approve MR. DeMURO'S second choice of color using the basic rendering he has submitted with that one wall that he said would not be in white [or any shade thereof]. CHAIRMAN JOHNSEN asked MR. DeMURO to specify that for the record and MR. DeMURO said, "Yes, I will absolutely guarantee that that wall will not be in white [or any shade thereof]." MR. CULLEN seconded the motion. MRS. JOHNSEN offered an amendment to the motion that the approval of the

variance applies only to the design submitted. If any thing should happen that this particular house is not built, the color approval does not hold. MR. CULLEN seconded the amendment. MR. O'CONNOR accepted the amendment. The Roll was called. CHAIRMAN JOHNSEN said that this was a very difficult decision to make, because the Town's guidelines were that the color was to blend in with the existing mountainside, but because of the extenuating circumstances and the fact that it was started previous to annexation, she voted "yes". MRS. ANDEEN voted "no". MR. O'CONNOR voted "yes". MR. SCHWENN voted "yes" for the same MRS. JOHNSEN gave. MR. CULLEN voted "yes". MRS. HORNE voted "no". MR. SYDNOR voted "yes". The motion carried 5-2.


PETITIONS WITHDRAWN

There were request on file to withdraw the last two items on the agenda [James Pugliano, variance for construction of a tennis court and Helen Clarke Donahoe Estate, variances for construction of Triptych]; The request for withdrawal of the petition by Mr. Pugliano was granted; however, the letter from Mr. Bell asking to withdraw the petition for the Helen Clarke Donahoe Estates contained an error in dates. The secretary was instructed to contact Mr. Bell for a corrected letter and the with the stipulation that the corrected letter be submitted, the request to withdraw was granted.

ADJOURNMENT

MOTION: There being no further business to come before the Board, upon motion of MR. O'CONNOR, seconded by MR. CULLEN, the meeting adjourned at 6:39 P.M.

Respectfully submitted,

  
HELEN C. DENNIS, SECRETARY

  
MARSI JOHNSON, CHAIRMAN