

TOWN *Of* **PARADISE VALLEY**



STAFF REPORT

TO: Chair and Board of Adjustment

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

DATE: May 7, 2025

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

AGENDA TITLE:

Fishman Variance – 6650 E. Meadowlark Lane (APN 174-51-021)

Variance to allow a detached garage to encroach into the side yard setback.

Case No. BA-25-01

This application is a variance request to allow a detached garage to encroach into the west side yard setback. Staff recommends denial of the garage setback encroachment due to the lack of property hardship.

RECOMMENDATION

Motion For Denial:

It is recommended that the Board of Adjustment [**deny**] Case No. BA-25-01, a request by Meadowlark Lane Revokable Trust, via Trustor and Trustee Mathew Fishman, property owner of 6650 E. Meadowlark Lane; for a variance from Article X, Height and Area Regulations, to allow a detached garage to encroach into the west side setback.

Reasons For Denial:

Staff finds that there are no property hardships that warrant the variance and that the request does not meet all three variance criteria.

BACKGROUND/DISCUSSION

Scope of Request

The property is zoned R-43 and Section 1001 of the Town Zoning Ordinance identifies that detached accessory structures must meet a minimum setback of 60 feet from the front property line, a 20-foot setback from the side and rear property lines adjoining a neighbor, and a 40-foot setback from the side and rear property lines adjoining a street/right-of-way (ROW).

The property is a corner lot. The applicant is requesting a variance to allow a new detached two-car garage to encroach into the west side setback adjoining the street (N 66th Place). The Town Zoning Ordinance requires a 40-foot setback and the applicant is proposing a setback of 30 feet from the west property line.

The detached garage is 571 square feet with 124 square feet encroaching into the setback. The garage is single story and is 16 feet tall (measured from the lowest natural grade under the structure).

Background

The Board reviewed a previous application for setback encroachment at the March 5, 2025 meeting. The applicant requested a continuance to modify the plans and reduce the setback encroachment. The request for continuance was granted to the May 7th meeting date by a vote of 7 to 0. The property was also reposted identifying the continuance to May 7th. A copy of the March 5th meeting minutes is enclosed for reference.

The applicant updated the plan and reduced the amount of setback encroachment. Below is a comparison between the original design/request with the updated design/request.

	Original Request	Proposed Request
Front Yard Setback	145' (+/-)	142' (+/-)
West Side Yard Setback	23'1-1/2" (366 sq ft encroachment)	30' (124 sq ft encroachment)
East Side Yard Setback	130' (+/-)	130' (+/-)
Rear Yard Setback	21'5-1/2"	24'1-1/2"
Maximum Height	16'	16'
No Floor Area Ratio Limit	19.83%	19.15%
Change/Delta	30% Greater Setback with 66% Less Encroachment	

Below is a comparison of the Zoning Ordinance requirements and the updated/proposed detached garage.

	Zoning Ordinance	Detached Garage
Front Yard Setback	60'	142' (+/-)
West Side Yard Setback	40'	30'
East Side Yard Setback	20'	130' (+/-)
Rear Yard Setback	20'	24'1-1/2"
Maximum Height	16'	16'
No Floor Area Ratio Limit	25.0%	19.15%

Lot History

The subject property is Lot 10 of the Hummingbird Vista subdivision. This lot was platted in the Town in 1972. The following is a chronological history on the development of the property:

October 3, 1974	Building permit for single-family residence
January 13, 1975	Building permit for pool
May 29, 1975	Building permit for fence wall
February 22, 1990	Building permit to remodel house
September 21, 2012	Demolition permit to remove house, pool, and fence walls
October 31, 2012	Building permit for new single-family residence
October 31, 2012	Building permit for guest house
October 31, 2012	Building permit for fence walls
January 16, 2013	Building permit for pool and spa
January 16, 2013	Building permit for fence

Lot Conditions

The property is zoned R-43 and is 44,453 square feet in size (1.02 acres). The property is a corner lot that fronts Meadowlark Lane to the south and adjoins 66th Place on the west side. The lot is square in shape with an approximate width of 215 feet and an approximate depth of 202 feet. The property also adjoins a cul-du-sac bulb at the northwest corner of the lot.

DISCUSSION ITEMS

Variance Criteria:

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

There are no property hardships that warrant the variance request. The property is not undersized, oddly shaped, nor burdened with an adverse topographical feature which prohibits setback compliance. Corner lots are not atypical and the property meets or exceeds the Town's platting standards. When subdividing a lot, the Town Code requires a minimum dimension of 165 feet wide and 205 feet deep. The subject property is approximately 200 feet wide at its narrowest point and is approximately 202 feet deep with the front yard designated along Meadowlark Lane. The lot complies with the current lot width standards were the front yard along 66th Place at 218.78 feet deep.

This is a design hardship since other code compliant options exist. Although not ideal, the following code compliant options exist: 1) the existing house garage may be enlarged/expanded, the proposed detached garage can be moved further east and attached to the existing guest house so it no longer encroaches into the setback, and 3) the proposed detached garage may be placed on east side of the property.

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:

Staff believe the detached garage setback encroachment is self-imposed since there are no property hardships that prevent setback compliance. The location of the proposed detached garage is the most practical and ideal location based upon the layout and location of the existing home, existing guest house and existing pool. However, the size, shape, and property of the lot do not prevent the applicant from constructing a code compliant structure or addition.

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:

Setback encroachment is not out of character for this area/neighborhood. The applicant identified several properties that have structures which encroach into the setbacks. However, the purpose of setback requirements is to maintain view corridors and consistent streetscapes.

This is a design hardship and there are no property hardships that prohibit setback compliance. The adjoining neighboring setback encroachments may be the result of structures annexed into the Town, structures permitted under older setback/code requirements, or built without a permit. Additional setback encroachment in the neighborhood is not warranted and the request is a design hardship.

REQUIRED ACTION

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

1. Deny the variance request.
2. Approve the variance request subject to the following stipulations:
 - a. The improvement shall comply with the submitted plans and documents:
 - i. Site Plan, Sheet 1.0, prepared by Design Lab Collaborative and dated March 19, 2024.
 - ii. Site Plan Exhibits, Sheet 1.1, prepared by Design Lab Collaborative and dated March 19, 2024.

- iii. Garage North & South Elevations, Sheet 2.0, prepared by Design Lab Collaborative and dated March 19, 2024.
- iv. Garage East & West Elevations, Sheet 2.1, prepared by Design Lab Collaborative and dated March 19, 2024.
- b. The applicant must obtain the required building permits and inspections from the Town's Building Division.

3. Continue the application for further review.

COMMENTS

Prior to the March meeting, staff received one inquiry from a neighbor who identified that he was opposed to the variance and the applicant provided two letters in support for the variance. Also, another neighbor attended the March meeting and expressed opposition to the request.

Staff did not receive any comments regarding the updated plans (with the proposed/lesser setback encroachment).

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 on Original Request
- G. Staff Presentation
- H. March 5, 2025 Board of Adjustment Meeting Minutes