

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
Brandon McMahon, Planner II

DATE: September 3, 2025

DEPARTMENT: Community Development Department/Planning Division
Brandon McMahon, 480-348-3531

AGENDA TITLE:

Westbrook Variance – 6341 N 34th Place (APN 164-05-023)
Variance to exceed the maximum allowable retaining wall height
Case No. BA-25-06

RECOMMENDATION

Motion For Approval

It is recommended that the Board of Adjustment **[approve]** BA-25-06, a request by Steven R. Frome, SefDesign LLC, on behalf of Phillip Westbrook, property owner of 6341 N 34th Place (APN 164-05-023) for a variance from the Zoning Ordinance, Article XXIV, Walls and Fences, to allow retaining walls to exceed the maximum height limits.

Reasons For Approval

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

BACKGROUND/DISCUSSION

Background

The residence at 6341 N 34th Place was originally constructed in 1977, along with the existing fence and retaining walls. There is an existing drainage wash along the north end of the property, paralleling Lincoln drive. Over the years the drainage flows in the wash have eroded the south bank and continue to cause erosion towards the residence. The current erosion is in close proximity to the residence and is causing concern for failure of the existing foundations.

Scope of Request

Section 2407 of the Zoning Ordinance limits the maximum height of any retaining wall to (6) feet tall (the height of a retaining wall is measured from the low side of natural grade to the top of the wall whether the top is retaining earth or not). The owner is proposing to provide a new retaining wall that varies in height, with a maximum height of nine (9) feet above exterior grade, and redefine the existing drainage easement to provide protection from further erosion and protect the residence foundations. The structural design of the wall requires it to

be placed into the wash area and rise to a maximum visible height of 9-feet measured from the lowest point of the wash grade. The new retaining wall being placed within the wash will require the existing drainage easement to be modified (included in the proposed stipulations). Per Building Code, the new wall is to be a single poured concrete retaining wall, have a decorative board formed finish with a brown additive color that blends into the landscape color palette. Per the Geotechnical report, the new retaining wall footing is designed to be set into the rock sub-base of the wash to avoid any future erosion along the southern bank of the wash. The top elevation of the concrete wall will vary to match the adjacent grade at the residence elevations, thus blending into the landscape view from Lincoln Drive. The intent is to maintain the oleander plantings along the wash bank to maintain privacy, to soften the view, and reduce the noise level from Lincoln Drive. Lastly, the new retaining wall will not be visible from Lincoln Drive due to its placement in the wash.

Lot History

The subject property is Lot 18 of the MIRADA LOS ARCOS PHASE 2 subdivision, which was platted in 1973 (home constructed 4 years post). The following is a chronological recent history of the property:

January 3, 1977	Home constructed
April 17, 1977	Building permit for new pool
July 21, 1977	Building permit for new fence walls (noted at 6-foot max)
February 12, 1981	Building permit for remodel/addition
March 14, 2011	Building permit for second-story addition, covered walkway & decking
April 2, 2013	Electrical permit to restore power after house fire
April 11, 2013	Building permit to rebuild trusses after house fire
June 26, 2014	Building permit for additions
January 9, 2020	Building permit to scour wall to prevent erosion/modify retention
April 21, 2020	Building permit for roof-mounted solar array

Lot Conditions

The property is zoned R-43 and is 51,462 square feet in size (± 1.18 acres). The property is irregular in shape (6-sided) and is 209-foot wide by 300-foot deep. There is an existing drainage wash along the north end of the property, paralleling Lincoln drive. Over the years the drainage flows in the wash have eroded the south bank and continue to cause erosion towards the residence. The erosion is approximately 15 feet from the residence and is causing concern for failure of the existing foundations.

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 northern quarter portion of the site has a large wash running along the south side of Lincoln drive, in close proximity to the existing foundation. To prevent current and future erosion leading to the failure of the existing residence, special circumstances relative to the flows and topography of the existing wash verify the necessity for the variance. Due to the existing soil conditions and the structural design criteria, the new maximum retaining wall height, of 9-feet above exterior grade is required to be placed within the existing wash area (The Town Engineering verified this via the enclosed memo dated July 28, 2025).

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 existing retaining wall was constructed in 1977, and at the time of that construction, the wash appeared to be sufficient in depth for required drainage. Over the decades, the wash erosion continued to scour towards the residence and the home's foundations. To that end, this variance request is not self-imposed and is necessary to mitigate future erosional damage to the lot and foundation of the residence. Further erosion is expected if provisions are not made to mediate the erosion and prevent the foundations and residence from failure.

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:

The special circumstance of decades of wash erosion prevents the permitting and construction of a 6-foot retaining wall, per zoning requirements. These circumstances are not necessarily typical for R-43 zoned lots. The bank scouring requires a taller retaining wall to hold back much of the foundation and grade internal to the site (existing flows within the wash will continue to erode the south bank and cause damage to the residence foundations and ultimately failure of the residence). The new retaining wall location provides a sufficient distance from the home's foundation while preventing further erosion and maintaining flows.

REQUIRED ACTION

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

1. Approve the variance request, subject to the following stipulations:
 - a. The improvement shall be in compliance with the submitted plans and documents:
 - i. Narrative, prepared by Steven E . Frome, of SeFDesign LLC, dated July 15, 2025.
 - ii. Site Plan, prepared by Steven E . Frome, of SeFDesign LLC, dated July 15, 2025.
 - iii. Retaining Wall Site Photos Exhibit, prepared by Steven E . Frome, of SeFDesign LLC, dated July 15, 2025.
 - iv. Grading and Drainage Plan with Cross Sections, prepared by KBell Engineering dated July 14, 2025.
 - v. Structural Engineering Plan, prepared by Schaefer Engineering dated July 7, 2025.
 - vi. ASCE Hazards Report, prepared by ASCE dated June 30, 2025.
 - vii. Drainage Report, prepared by KBell Engineering dated July 11, 2025.

- viii. Geotechnical Investigation Report, prepared by Lvann Engineering Inc dated May 1, 2025.
 - b. The applicant must modify the existing drainage easement per the approved plan set and is subject to Town Engineering Division review and approval.
 - c. The applicant must obtain the required building permits and inspections from the Building Department.
- 2. Deny the variance request.
- 3. Continue the application for further review.

COMMENTS/NOTIFICATION

Staff has received one phone call regarding this application, which was a general inquiry. The applicant posted the site on and mailed notice (to lot owners within a 1500' radius of the subject site) on July 29th. The newspaper legal advertisement for this case was placed in the Scottsdale Republic on August 18th. All required affidavits are included in the case packet material (Attachment F).

COMMUNITY IMPACT: None.

CODE VIOLATION: None.

ATTACHMENTS

- A. Staff Report
- B. Vicinity Map & Aerial Photo
- C. Application
- D. Narrative & Plans
- E. July 28, 2025 Town Engineering Letter
- F. Notification Materials
- G. Presentation