



Town of Paradise Valley

6401 E Lincoln Dr
Paradise Valley, AZ 85253

Minutes - Final

Board of Adjustment

Chair Quinn Williams
Boardmember Robert Brown
Boardmember Priti Kaur
Boardmember Leibsohn
Boardmember Jon Newman
Boardmember Hope Ozer
Boardmember Rohan Sahani

Wednesday, November 3, 2021

5:30 PM

Council Chambers

1. CALL TO ORDER

2. ROLL CALL

Present 6 - Boardmember Robert Brown
Boardmember Priti Kaur
Boardmember Jon Newman
Boardmember Hope Ozer
Boardmember Rohan Sahani
Chairperson Quinn Williams

3. EXECUTIVE SESSION

4. STUDY SESSION ITEMS

5. PUBLIC HEARINGS

- A. [21-339](#) Barnier Residence Variance - 4141 E Keim Drive (APN 169-22-040).
Hillside Solar Variance. Case No. BA-21-10

A variance from the Zoning Ordinance, Article XXII, Hillside Development Regulations, to allow for unscreened roof mounted solar panels (solar panels that are not hidden from view when viewed from the same or lower elevation) to be installed on a single-family residence with a pitched roof.

George Burton, Senior Planner, introduced the request to allow unscreened solar panels on a hillside property. He indicated that the applicant's request is to put 70 unscreened solar arrays on the east and west sides of the house roof. He noted the roof was pitched and there is no flat to accommodate the panels. He pointed out that the applicant did not want to use solar shingles due to their inefficiency and did not want to mount them on the ground and add disturbed to the site. He shared photos of the site

and property. He indicated that staff's analysis was that the request did not meet the six variance criteria and recommend it be denied since they did not believe there was a property hardship.

Boardmember Robert Brown asked if there were any other pitched roof homes in the Town that have been allowed to have solar panels.

Mr. Burton replied that over the past ten years there were probably two homes granted this variance request.

Bobby with Sun Valley Solar, stated that due to the way the roof was constructed they could not use solar tiles. He noted that the solar tiles were also inefficient. He noted that the area outlined for possible ground solar panels was not viable due to flooding and water hazards.

Boardmember Hope Ozer inquired where the solar panels were required to be hid from.

Mr. Burton indicated that they should not be visible from anywhere off the property at the same elevation or lower.

Boardmember Rohan Sahani asked if there were any flat portions of the roof.

Mr. Burton replied that the entire roof was pitched.

Julie Johnson, Applicant, indicated she and her husband were the homeowners and started the application since they felt this was something they could do to help with climate change efforts.

Chairperson Williams opened the meeting up for public comments .

Scott Jarson disclosed that he was a member of the Hillside Building Committee but indicated he was there as a private citizen of the Town. He commented that he believed the placement of the solar panels added to the visual disturbance of the hillside. He noted this was a large property that should support ground mount options or at the least relocate the panels to be more south facing and less visible. He clarified that he supported staff's recommendation.

Boardmember Ozer remarked that when she visited the site the only location, she believed would not create a visual disturbance was near the driveway. She stated that as much as she wanted to support the homeowners desire to cut down on their carbon footprint, she did not see how the application met any of the six criteria for a variance.

Boardmember Sahani expressed that he was in support of the application since he did not see anywhere else the solar panels could be placed.

Boardmember Brown remarked that the site photos seemed to show a lot of screening on the east and the west from vegetation on the property.

Chairperson Williams indicated that while they may want to support reducing carbon footprints, the Board is governed by statutes that only allow them to grant variances when they find that the application meets all the criteria for a variance. He indicated that he did not feel the statutory requirements were met in this case to allow a variance even though he personally would like to see the addition of solar.

Boardmember Ozer motioned for denial since the requested variance was a design hardship and not a property hardship and no special circumstances applicable to the property that warrant a variance and based upon these reasons and that the request did not meet the six variance criteria.

A motion was made by Boardmember Ozer, seconded by Boardmember Newman, to deny the variance request. The motion carried by the following vote:

Aye: 4 - Boardmember Kaur, Boardmember Newman, Boardmember Ozer and Chairperson Williams

Nay: 2 - Boardmember Brown and Boardmember Sahani

B. [21-345](#)

AZ Property Holdings LLC Variance - 5712 E Glen Drive (APN 169-55-026A) Variance for new Single-Family Residence. Case No. BA-21-11.

A request by Az Property Holdings LLC, property owner of 5712 E Glen Drive; for a variance from Article XXII, Hillside Development Regulations and Article X, Height and Area Regulations.

Mr. Burton provided an overview of the item. He indicated the request was to allow the new single-family residence to exceed the 24-foot height limit from natural grade, allow the house to encroach into the side yard setback, allow the raised patio to encroach into the front yard setback and exceed the 8-foot height limit from natural grade, and to maintain and modify a nonconforming spill slope (but reduce it by 20%). He provided vicinity maps and reviewed the history and conditions of the lot.

Mr. Burton reviewed the scope of the request in detail. He indicated that the proposed home exceeded the 24-foot height limit in four areas ranging from 8 to 50 square feet of encroachment. He stated the second variance

was for the side yard setback of 18 feet instead of 20 feet with a total of 8 square feet encroachment. He reviewed the third variance request for a raised patio exceeding the height 8' limit, with heights varying from 10 feet 6 inches to 13 feet 6 inches tall and setbacks ranging from 15 feet 9 inches to 29 feet 7 inches from the front property line (in which the Town Code requires a 40-foot front yard setback and 8-foot height limit). He reviewed the final request to maintain and modify the existing spill slope. He indicated the applicant planned to reduce the current 9 nonconforming areas with a slope exceeding 45 degrees down to 7. He provided site photos of the property.

Mr. Burton remarked that staff's recommendation was to deny the height encroachment for the main house since there are property hardships that warrant the height variance. He stated that staff recommended approval of the setback encroachment since there was a hardship due to the size and shape of the topography of the lot. He indicated that staff also recommended approval of the raised patio deck on both the height and setback encroachments due to the size, shape, and topography of the lot. He shared that staff recommended approval of maintaining and modifying the existing spill slope since it met the intent of the code and had reduced the nonconformity.

Mr. Burton shared a public comment of opposition that was received earlier that day. He noted that the comment indicated that construction has started without approval but that was not the case. Mr. Burton noted that the citizen may be confusing the property with another nearby lot that is under construction and was unsure if the neighbor's opposition is applicable to this application. He noted that regardless of the Board's decision, the development of the property is subject to Hillside Building Committee review.

Scott Carson, Applicant's Representative, commented that they have spent several months coming up with a design solution for this difficult lot to build on. He noted that most of the lot was unbuildable. He noted that they felt that they met requirement for the variance because of the steepness of the lot and the fact that they could not push the building pad back any further than it already was. He noted that if they were able to measure their heights from the current grade which has been there for over 40 years, they would be fully in compliance with the 24-foot height limit. He shared that they planned to landscape the property to enhance the area and make the area look like natural desert. He reiterated that he felt that they had come up with a good solution that met the intent of the code and would be a nice addition to the Town.

Boardmember Ozer asked if the applicant would consider bringing down

some of the height if the Board was to approve the rest of the variance.

Mr. Carson reiterated that they could not move the home back any further and that they had already worked on reconfiguring the home the best they could, and this was the best option they found with the least amount of encroachment. He stated they would do their best though if they were denied the height variance. He noted that lowering the chimney would require them to lower the roof and that as an architect he did not like using direct vents since they can leave odors in the home and be a safety hazard.

Chairperson Williams asked if the applicant could share a compelling argument as to why they did not feel the height was a design hardship but a property hardship.

Mr. Carson replied that they could not push the home down any further since they would be forced to exceed the limit of a 30-foot cut into the hillside.

Shelly Mongie, Applicant, indicated they had lived in the valley for several years and were moving to this location to be closer to family and have a view. She indicated that they had spent a lot of time creating something that would accommodate their family and be safe.

Chairperson Williams opened the public comment period for the item.

Steven Shaffner asked how they were going to lower the site nine feet and how long they anticipated neighbors would be listening to digging on the site. He noted that a neighbor to the east indicated it would not take long but they have been drilling and digging five days a week for five to six months.

Mr. Carson indicated they planned to lower the existing building pad by nine feet. He shared that they would remove the soil by digging. He stated that removing the soil should not take any longer than a few weeks since most of it was fill placed on top of the site.

Steven Shaffner urged that some sort of restriction or penalty be made so unrelenting digging does not continue. He asked that they be sure that the digging will only take a few weeks other wise he would not support the construction.

Scott Jarson commented that as a citizen he supported staff's recommendation for two, three, and four and believed that the plan and landscaping gave them hope for improvement on a slope that has long been an eyesore.

Boardmember Ozer asked if they knew for certain that they could bring the building pad down the proposed nine feet without having to drill or jackhammer at rock.

Mr. Carson replied that the soil reports that had been done included test digs and they were confident that most of the pad would not be a hard dig. He pointed out that there some hard dig up against the rock slope, but it would not be extensive. He noted that a lot of research had been done to make sure they would not have to drill since that would bring construction costs up significantly. He reported that digging would be two months at most but hopes it would be much less than that.

Boardmember Ozer asked if they would be comfortable with a stipulation that included a penalty if the digging extended past the two months.

Mr. Carson responded that they would need to talk to Town staff if that was even possible to do as well as the homeowner. He noted that it would make more sense if that was a Town wide rule rather than putting that burden on one specific homeowner.

Mr. Burton commented that since that was a construction issue it would be dealt with by the Hillside Building Committee and the building permit process.

Boardmember Sahani inquired if Mr. Shaffner was comfortable with the two-month digging and drilling limit.

Mr. Shaffner replied that he would hope to see it completed in a few weeks rather than months. He indicated that he had spoken with the Town mayor and hoped they could pass rules and regulations so this could be enforced better.

The Board of Adjustment made two motions on this request:

A request by Az Property Holdings LLC, property owner of 5712 E Glen Drive; for a variance from Article XXII, Hillside Development Regulations to allow the new single-family residence to exceed the 24' height limit, to allow: 1) a raised outdoor living area/patio to encroach onto the front yard setback and exceed the 8' height limit measured from natural grade, 2) modify and maintain a nonconforming spill slope, and 3) allow a portion of the new single-family residence to encroach into the side yard setback.

A motion was made by Board Member Sahani, seconded by Board Member Brown to approve the variance request subject to stipulations:

a. The improvements shall be in compliance with submitted plans & documents:

i. The Plans and Narrative, with title page 5712 E Glenn Drive Paradise Valley Arizona Variance Request, pages 1 – 32, and prepared by Cosan Studio;

b. The applicant must obtain Hillside Building Committee approval;

c. The applicant must obtain the required building permits and inspections from the Building Department and Engineering Department; and

d. The applicant must provide documentation from a registered Geotechnical Engineer certifying the stability of the spill slope. This documenting must be reviewed and approved by the Town Engineering Department prior to issuance of building permit.

Aye: 6 - Boardmember Brown, Boardmember Kaur, Boardmember Newman, Boardmember Ozer, Boardmember Sahani and Chairperson Williams

A request by Az Property Holdings LLC, property owner of 5712 E Glen Drive; for a variance from Article XXII, Hillside Development Regulations to allow the new single-family residence to exceed the 24' height limit.

A motion was made by Chair Williams, seconded by Board Member Brown to approve the variance request subject to stipulations:

a. The improvements shall be in compliance with submitted plans & documents:

i. The Plans and Narrative, with title page 5712 E Glenn Drive Paradise Valley Arizona Variance Request, pages 1 – 32, and prepared by Cosan Studio;

b. The applicant must obtain Hillside Building Committee approval;

c. The applicant must obtain the required building permits and inspections from the Building Department and Engineering Department; and

Aye: 6 - Boardmember Brown, Boardmember Kaur, Boardmember Newman, Boardmember Ozer, Boardmember Sahani and Chairperson Williams

6. ACTION ITEMS

None.

7. CONSENT AGENDA

None.

8. STAFF REPORTS

Mr. Burton reported that Emily Kile resigned from the Board of Adjustment. He thanked her on behalf of the staff for all her years of service and hard work.

Paul Michaud, Planning Manager, reminded the Board that the Arizona Planning Association training workshop was on December 10, 2021. He noted they were trying to get a count on who would attend by Friday.

Chairman Williams thanked Boardmember Kile for her years of service to the Board. He noted that she had been a tremendous resource and asset to the Board of Adjustment, and they are sad to see her go.

9. PUBLIC BODY REPORTS

None.

10. FUTURE AGENDA ITEMS

Mr. Burton indicated that there were no items for the December 1, 2021 and the December meeting has been canceled due to lack of agenda items.

11. ADJOURNMENT

Motion to adjourn the meeting at 6:58 pm.

This matter was meeting be adjourned

Aye: 6 - Boardmember Brown, Boardmember Kaur, Boardmember Newman, Boardmember Ozer, Boardmember Sahani and Chairperson Williams

Town of Paradise Valley Board of Adjustment

By: George Burton
George Burton, Secretary