

TOWN *Of* **PARADISE VALLEY**



STAFF REPORT

TO: Chair and Board of Adjustment

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

DATE: June 1, 2022

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

AGENDA TITLE:
Caskey Variance – 7602 N Moonlight Lane (APN 169-11-004C)
Case No. BA-22-05

This application includes a variance from the Zoning Ordinance, Article XXII, Hillside Development Regulations, to allow development for a new single family residence to exceed the allowable amount of disturbed area and to exceed the maximum cut height. Staff recommends approval of this variance request.

RECOMMENDATION

Motion For Approval

It is recommended that the Board of Adjustment **[approve]** Case No. BA-22-05, a request by Michael and Michelle Caskey, property owners of 7602 N Moonlight Lane; for a variance from the Zoning Ordinance, Article XXII, Hillside Development Regulations, to: 1) allow a new single-family residence and the development of the property to exceed the allowable disturbed area; and 2) exceed the maximum allowed hillside cut height.

Reasons For Approval:

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

BACKGROUND

Lot Conditions

The property is zoned R-43 Hillside and is approximately 142,335 sq. ft. square feet (SF) or 3.267 acres in size. The property is semi-rectangular in shape and measures approximately 200' wide and 706' on the south property line and 980' on the north property line measuring a median of approximately 858.17 feet in depth. The property is very steep as the very back end crosses a ridge. The slope of the lot on average is about 46% and most of the lot is steeper.

This property has remained vacant/undeveloped while all adjacent parcels have been

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developed. As the adjacent properties have developed a utility waterline was dug creating 1,408 S.F. of disturbance. Approximately 788 S.F. of this disturbance will be restored. The site steepness and access point require the home to be located at the lowest (eastern side) of the property to be accessed from the south portion of N. Moonlight Lane off of E. Moonlight Way.

The front yard for this lot that adjoins N Moonlight Lane on the southeast corner of the lot is approximately 50' adjacent to the right-of-way. However, only approximately 14' of the lot is accessible from the street and has been partially disturbed by the adjacent property entrance (436 SF). This property and the adjacent lot at 7600 N Moonlight Lane were both owned by Mr. Lowry at the time he built his home at 7600 N Moonlight Lane in 1974. When Mr. Lowry built his home at 7600 N Moonlight Lane the driveway slope cut is partially on this property creating 1,005 S.F. of disturbance.

Fire Requirements

The proposed development requires access by a firetruck. Initially, the applicants were directed to create street improvements in the form of a cul-de-sac. This improvement had not been required when the adjacent lots developed but was required as this is the final lot to be developed on this dead-end street. The cul-de-sac would have created a lot of disturbance for the adjacent lots resulting in a 14' cut on the west and 12' of retaining wall on the east. The alternative was to integrate a firetruck turn-around driveway design. The onsite accessible driveway for a fire truck requires a disturbance of approximately 4,939 SF. The location of the driveway can only be accessed from the 436 SF of the pre-existing disturbance on the southeast near the neighbor's driveway. This access and topography required placing the driveway in a "Modified hammerhead" turn-around design which was approved by the Fire Official.

The onsite accessible driveway for a fire truck creates an additional disturbance of 1,894 SF which pushes the disturbance above the allowed by about 932 SF. The requirement for this driveway design also forces the placement of the home to be higher on the lot and cut more into the hillside.

Residence/Design

The building has been positioned within the buildable area of the lot at approximately the 34.4% slope line. In order to accommodate the firetruck turn around driveway the building is elongated across the lot from the side yard setback to side yard setback and approximately at the same "front" alignment as the neighboring homes to the north and south. Due to site constraints the home and exterior living areas are limited to a smaller footprint in comparison to the adjacent properties along the south side of Moonlight Lane per the provided *Diagram K Adjacent Lots*. The maximum height of the building is approximately 23' from the highest point of the building to the lowest point of natural grade. The proposed project meets the overall height of 40'. In order to accommodate the development the overall cut height on the hillside increased to approximately 41'0". This cut height was amended from an earlier Geotechnical survey with a taller cut and greater bolder roll disturbance.

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DISTURBANCE CALCULATIONS:

Permitted Disturbance: Slope Category 34.4% allows for 10.04%
Lot size 142,335 S.F. the allowed disturbance is **14,290 S.F.**
Proposed Disturbance 15,222 S.F. over by 932 S.F.

Gross Proposed Disturbance: **24,298 S.F.**

Restored and revegetated area:
Revegetated areas R1-4 (Diagram E) 6,026 S.F.
Waterline disturbance to be restored 788 S.F.
Total: **6,814 S.F.**

Building Footprint Area: **5,111 S.F.**

Proposed Net Disturbance: **12,373 S.F.**

<u>+ Pre-Existing Disturbance:</u>	
Slope cut of the neighboring driveway	1,005 S.F.
Lot access on the south property line (14 linear feet)	436 S.F.
Existing waterline	1,408 S.F.
	2,849 S.F.

Total Net Disturbance: 15,222 S.F.

Request

The applicant requests a variance from the Zoning Ordinance, Article XXII, Hillside Development Regulations, Section 2207 III Land Disturbance Standards to allow a new single-family residence and the development of the property to exceed the allowable disturbed area by 932 S.F. (0.65%) from the allowed 14,290 S.F. (10.04%) to 15,222 S.F. (10.7%) and exceed the maximum allowed hillside cut face from the allowed 30' to 41'.

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. *"Such variance... will serve not merely as a convenience to the applicant, but [is] necessary to alleviate some demonstrable hardship or difficulty so great as to warrant a variance under the circumstances."* (Town Code Section 2-5-3(C)2).

Staff Analysis:



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The hardship is the result of the rugged terrain and steep slope of the lot (averaging 46%) which limits the total cut height and amount of disturbance permitted. The residence is proposed in the most buildable/ shallow portion of the lot, in-line with the adjacent homes and cut into the hillside rather than built on top of the hillside. The property is narrower with a higher slope as the lots on either side of it and is proposing a lesser gross disturbance as shown in the adjacent property comparisons submitted by the applicant. The requirement for a firetruck turn around is obligatory to comply with fire safety codes. This has pushed the placement of the home further up the property into the rising slope which conduced to a taller cut. Hence, the variance request for an 11' increase in the allowed cut face in the hillside which would address the need to relocate the home to a higher, steeper location on the property. The sharp slope, limited access from N. Moonlight Lane, and existing disturbance requires extra disturbance for the fire truck turn around driveway. The pre-existing disturbance on the property alone limits the allowed disturbance and greatly contributes to the hardship.

2. *The “special circumstances, hardship, or difficulty [do not] arise out of misunderstanding or mistake...” (Town Code Section 2-5-3(C)4(b)).*

Staff Analysis:

The hardship is not out of mistake or misunderstanding. The steepness of the lot and the existing disturbance are the result of how the property was originally platted and constructed upon by the previous owner and the utility water line. Access to the lot is limited as the road easement was not enforced to connect to the north section of N. Moonlight Lane. The requirement for a cul-de-sac as shown in Exhibit C would make the adjacent uphill property inaccessible and would lead to the creation of an unsightly 14 foot cut on the west properties and a 12 foot retaining wall on the lower east properties. The applicant chose to incorporate a fire truck turn around into the lot as this would cause the least amount of disturbance for neighboring properties despite the hardships it cause in relation limiting the disturbed area envelope and cut face requirements. The applicant is trying to utilize existing conditions by placing the residence in the most buildable portion of the lot while still adhering to rest of the Hillside Development Regulations.

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3. *"Such variance from ... the strict application of the terms of [the Zoning Ordinance] ... are in harmony with its general purposes and intents ..."* (Town Code Section 2-5-3(C)2).

Staff Analysis:

The intent of the Hillside Development Regulations is to preserve the visual presence of the surrounding mountain preserves, prevent unnecessary grading, preserve drainage patterns, and require re-vegetation to maintain the natural landscape environment. The request meets this intent as it complies with the requirements for emergency vehicle access and storm water drainage on this steep site. The home is built into the hillside to reduce the amount of grading and designed with a modest outdoor living area that follows the linear profile of the elongated home to further minimize visibility of the cut and reduce disturbance to the site. Approximately 80% of the lot will remain completely untouched.

4. *"The special circumstances, hardship or difficulty applicable to the property are [not] self-imposed by the property owner, or predecessor..."* (Town Code Section 2-5-3(C)4) (Arizona Revised Statutes 9-462.06(H)(2)).

Staff Analysis:

The request is not self-imposed. The property conditions on this lot make it a difficult lot to build on. The applicant is utilizing the existing site conditions by placing the building in the most buildable location and utilizing engineering and building design and techniques to further reduce the geotechnical cut height required and the site disturbance. This proposal is more modest in size and greatly reduces the outdoor living area in order fit within the cut as compared to adjacent properties. The proposed development mitigates existing disturbances on site and proposes to restore and replant to the furthest extent possible.

5. *Because of special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of the Zoning Ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district."* (Arizona Revised Statutes 9-462.06(G)(2)).

Staff Analysis:

The strict application of the Hillside Development Regulations greatly reduces the development on this lot as its narrow shape and location is perpendicular to the steep topography on the mountain. The lot follows a steep slope on average 46% which would allow for a land disturbance of 9.30% or approximately 13,237 S.F.

The steep aspect of the lot requires a large cut for rock cut stability and bolder roll



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protection. The prescribed cut by the Geotechnical engineer created a disturbance of 4,204 S.F. for the cut face and boulder zone. The obligatory emergency vehicle turnaround amplifies the limitations of working with a narrow property as it requires an additional 1,894 S.F. from the normal driveway. The overall driveway takes up a lot of the disturbance that could have been allotted for outdoor living areas 4,939 S.F. In addition, to limiting the allowed disturbed area this pushes the home's location to a steeper part of the property that will require taller cuts in the hillside. Creating a cut that conforms to the code and enables a sizeable home that would meet all other height requirements is difficult.

6. *The variance would not "constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located." (Arizona Revised Statutes 9-462.06(G)(2)).*

Staff Analysis:

This does not constitute a grant of special privilege, but rather would allow this property to offer the homeowner and family similar opportunity to enjoy typical privileges that adjacent hillside properties also have in enjoying a comparatively smaller outdoor living area for swimming pool, deck, BBQ while enjoying the views. The firetruck requirement, existing disturbance, and steep slope of the property results in a very limited amount of available disturbance. A strict enforcement of the cut height would greatly limit the placement and height of the development on the lot. The building envelope would potentially be more obtrusive to the adjacent properties as the home would stand out as opposed to the current proposal which tucks the home lower on the slope of the property and lower from the adjacent grade. The proposed development would be similar in scale to the properties in the vicinity.

REQUIRED ACTION

The Board must consider the facts and determine if the variance requests meet all six 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 and G&D Plans, prepared by David Dick Architect ; and Land Development Group provided on April 26, 2022.
 - b. The applicant must obtain the required building permits and inspections from the Building Department.
3. Continue the application for further review.

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COMMENTS: Staff received two inquiries from neighbors directly adjacent to this lot, but no comments regarding this request. One neighbor at 7600 N Moonlight provided a letter of support.

COMMUNITY IMPACT: None

CODE VIOLATIONS: None

ATTACHMENTS:

- A. Staff Report
- B. Vicinity Map & Aerial Photo
- C. Application
- D. Narrative & Plans
- E. Exhibit Diagrams
- F. Notification Materials