

# TOWN *Of* PARADISE VALLEY



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## STAFF REPORT

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**TO:** Chair and Board of Adjustment

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

**DATE:** May 3, 2023

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

**AGENDA TITLE:**

**Pavio/Meyer Variance - Variance to allow an addition to the primary residence to exceed the allowable floor area ratio limit**

**Case No. BA-23-02. 4502 E. Moonlight Way (APN 169-11-932)**

This application is a variance request to allow a guest suite addition to the main house to exceed the 25% maximum allowable floor area ratio limit.

**RECOMMENDATION**

Motion For Denial

It is recommended that the Board of Adjustment **[deny]** Case No. BA-23-02, a request by property owners Laynie Pavio and Patrick Meyer; for a variance from the Zoning Ordinance, Article X, Height and Area Regulations, to allow an addition to the primary residence to exceed the 25% maximum floor area ratio limit.

Reasons For Denial:

Staff finds that there are no property hardships that warrant the request for floor area ratio encroachment and staff believes that the request does not meet all three variance criteria.

**BACKGROUND/DISCUSSION**

Scope of Request

Section 1001 of the Zoning Ordinance allows a maximum floor area ratio (FAR) of 25% of the net lot size. The applicant is proposing to add a guest suite addition to the home with a proposed FAR of 26.4% (11,937 square feet). The home is currently under construction and has an existing FAR of 25% (11,297 square feet). The guest suite addition will meet all setbacks, height, and hillside requirements.

Below is a comparison of the Zoning Ordinance requirements and proposed addition.

<b>Zoning Ordinance</b>	<b>Proposed Addition</b>
25% Maximum FAR (11, 297 sq ft)	26.4% FAR (11,937 sq ft)

#### Lot History

The subject property is uniquely situated in which the owners have two abutting lots, one lot in the Town of Paradise Valley and the adjoining lot in Maricopa County. The house is located on the Town of Paradise property and is accessible via the Maricopa County lot (which has the driveway and auto court).

On October 7, 2020, the Board of Adjustment granted the following three variances:

1. Article X, Height and Area Regulations, to allow a new single-family residence to encroach into the front setback.
2. Article XXII, Hillside Development Regulations, to allow a new single-family residence to encroach into Mountain Top Ridge Line limits.
3. Article XXIV, Walls and Fences, to allow retaining walls to encroach into setbacks.

Historically, the subject property was originally an un-platted property located in Maricopa County and then annexed into the Town in 1963. After receiving the variances in 2020, the owners combined the property with a remanent parcel to the north of the subject lot in 2021 (both lots are in the Town of Paradise Valley). The subject property is currently Lot 1 of Clearwater Hills 3 subdivision and the southern property which provides access to the home is still located in Maricopa County. The new home is currently under construction in accordance with the previously approved variances. The applicant is now requesting another variance to allow a guest suite addition to exceed the 25% FAR limitation. The following is a chronological history of the property:

December 17, 1980	Building permit for a single-family residence
April 27, 1981	Building permit for a pool and spa
April 18, 1986	Building permit for addition to residence
February 10, 1997	Building permit for detached storage building
September 30, 2021	Demo permit to remove house and pool
November 10, 2021	Building permit for new single-family residence
March 22, 2022	Building permit for pool

#### Lot Conditions

The property is zoned R-43 Hillside and is 45,186 square feet in size (1.04 acres). The property is rectangular in shape, is accessible from an adjoining property to the south (the adjoining/southern parcel is located in Maricopa County), and has an approximate building pad slope of 12.74%.

## 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:

There are no property hardships that warrant the request for FAR encroachment. The property is not undersized for its zoning classification and is slightly over one acre in size at 45,186 square feet. Also, the new home which is currently under construction has utilized the maximum allowable amount of FAR (at 11,297 square feet).

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 request to exceed the 25% floor area ratio limit is self-imposed since there are no property hardships that warrant the request. The property is zoned R-43, which identifies that the lot should have a minimum size of one net acre. The subject property is over one acre in size and the request for additional square footage appears to be design hardship. The lot is not undersized for its zoning classification and the shape and topography of the lot do not affect floor area ratio.

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:

There are no property hardships that warrant the variance request and the Zoning Ordinance does not deprive this lot of privileges enjoyed by other R43 zoned properties. The R-43 zoning district limits lots to a maximum floor area ratio of 25% and all other properties in the area must meet requirements outlined in the Town Zoning Ordinance.

The subject home is not undersized and is utilizing the maximum allowable floor area ratio limit of 25%. According to the building permit, the subject home will have approximately 8,300 square feet of livable space. Per the Maricopa County website, the neighboring homes in the Town have a livable space which varies in size from 3,974 square feet to 9,999 square feet (with an approximate/average livable space of 7,000 square feet).

### **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. Deny the variance request.
2. Approve the variance request, subject to the following stipulations:
  - a. The improvement shall be in compliance with the submitted plans and documents:
    - i. 4502 E Moonlight Way Variance Request Plan Sheet 4 -12 prepared by Cosan Studio.
  - b. The applicant must obtain the required building permits and inspections from the Building Department.
3. Continue the application for further review.

### **COMMENTS**

Staff received two inquiries about the request, but neither neighbor identify support or opposition to the requested variance.

**COMMUNITY IMPACT:** None.

**CODE VIOLATION:** None.

### **ATTACHMENTS**

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