

TOWN
Of
PARADISE VALLEY



STAFF REPORT

TO: Chair and Board of Adjustment

FROM: Jill B. Keimach, Town Manager
Lisa Collins, Community Development Director
George Burton, Senior Planner

DATE: February 3, 2021

DEPARTMENT: Planning Department
George Burton, 480-348-3525

AGENDA TITLE:
McCarihan Variance – 5745 E Via Los Ranchos (APN 168-57-014)
Case No. BA-21-01

MOTIONS

A. MOTION FOR APPROVAL

I move for **[approval]** of Case No. BA-21-01, a request by Sean and Yuli McCarihan, property owners of 5745 E. Via Los Ranchos; for a variance from the Zoning Ordinance, Article X, Height and Area Regulations, to allow a detached accessory structure/pool house to encroach into the setback. The variance shall be subject to the following stipulations:

1. The improvement shall be in compliance with the submitted plans and documents:
 - a. The Narrative, pages 1 – 9, prepared by AMC Construction & Design, Inc and dated January 6, 2021;
 - b. The “Proposed Zoning Adjustment for 5745 East Via Los Ranchos” plans and exhibits, pages 1 – 13, prepared by AMC Construction & Design, Inc and dated December 18, 2020; and
 - c. Pool House Site Plan, Sheet B-0, prepared by AMC Construction & Design, Inc and dated November 11, 2020;

Reasons for Approval:

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

B. MOTION FOR DENIAL

I move for **[denial]** of Case No. BA-21-01, a request by Sean and Yuli McCarihan, property owners of 5745 E. Via Los Ranchos; for a variance from the Zoning Ordinance,

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Article X, Height and Area Regulations, to allow a detached accessory structure/pool house to encroach into the setback.

Reasons for Denial:

I find that the variance requested does not meet the variance criteria.

BACKGROUND

Request

The applicant requests a variance to allow a detached pool house to encroach into the rear yard setback. The pool house will be setback approximately 15' from the rear/east property line (with the overhang setback approximate 14'6" from the rear property line). Section 1001 of the Zoning Ordinance requires a 20' rear yard setback measured from the property line to vertical plane of the structure and an 18' setback measured to the overhang for detached accessory structures.

The pool house has a total floor area of 1,732 square feet, in which 341 square feet of the pool house will encroach into the rear yard setback. The pool house is 16' tall, will be finished to match the house, and will increase the floor area ratio (FAR) of the property from 14.7% to 18.9% (which is below the maximum FAR of 25%).

The following is a comparison of the proposed pool house with the Town Zoning Ordinance requirements:

Accessory Structure Requirements		
	Pool House	Zoning Ordinance
Front Setback	180'	60'
Side Setback	70'	20'
Rear Setback	15'	20'
Height	16'	16'

Lot Conditions

The property is zoned R-43 and is approximately 41,705 square feet in size (0.95 acres in size). The lot is pie shaped, has a drainage swale along the north/side property line, and a drainage easement at the northeast corner of the property.

Lot History

The subject property is Lot 10 of the Via Los Ranchos subdivision, which was platted in 1972. The following list of permits is a chronological history of the subject property:

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September 5, 1972	Building permit for a new single-family residence
April 29, 1975	Building permit for a fence
May 2, 1986	Building permit for a pool
June 23, 1988	Building permit for a remodel/addition
April 26, 1996	Building permit for a pool
July 10, 2008	Demolition permit for partial interior/exterior walls and partial roof/slab
August 1, 2008	Building permit for addition

DISCUSSION/ FACTS:

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 findings with regard to such 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).

Findings in Favor (FIFs):

The applicant is trying to utilize existing conditions to maintain the mountain views and work with the existing layout of the house and pool. Also, the property is slightly undersized for its zoning classification at 41,705 sq. ft. (instead of 43,560 sq. ft) and the triangular shape of the lot creates an unusual building envelope.

Findings Opposed (FOPs):

Arizona Revised Statutes and the Town Zoning Ordinance do not require the most optimal or profitable use of a property. Although not ideal, the applicant may reconfigure the shape of the pool house and/or relocate it at the southeast part of the property in order to bring the pool house into setback compliance.

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

FIFs:

The hardship is not out of mistake or misunderstanding. The shape of the lot is the result of how the property was originally platted and the placement of the existing house and the pool further limit the amount and location of buildable area.



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FOPs:

The applicant should be aware of all special circumstances on the property and plan any designs accordingly.

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).*

FIFs:

The intent of the Zoning Ordinance is to preserve the visual openness with height and setback requirements. The request meets the intent of the Zoning Ordinance since the pool house should not block any views. Only 341 sq. ft. of the pool house encroaches into the setback and the pool house is screened from view by existing vegetation along the east and south property lines.

FOPs:

The variance does not meet the intent of the Zoning Ordinance since other alternatives exist. The pool house can be redesigned and/or relocated to bring it into setback compliance. A minimum separation of 3' is needed between the primary residence and accessory structure. As a result, the pool house can be reconfigured and brought closer to the house to bring it into setback compliance. Also, the pool house may be relocated towards the southeast part of the lot to achieve setback compliance.

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).*

FIFs:

The request is not self-imposed. The applicant is trying to utilize existing conditions in order to maintain the mountain views. The placement of the existing house and the pool further limit the amount and location of buildable area.

FOPs:

The request is self-imposed. The applicant should be aware of all special circumstances on the property and plan any designs accordingly. Although not ideal, the pool house may be redesigned, reconfigured, and/or relocated to a different part of the property to meet the 20' rear and side yard setbacks.

5. *Because of special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of the Zoning*



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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)).

FIFs:

The shape of the property, the existing drainage easement at the northeast corner of the lot, and the location of the house and pool limit the amount of buildable area. The applicant is trying to place the pool house in a location which utilizes existing conditions and maintains mountain views.

FOPs:

There are no property hardships that prevent compliance. This appears to be a design hardship rather than a property hardship since other options exist. The applicant is building at the widest part of the property. At the 20' rear yard setback, the lot is approximately 300' wide and Town Code requires a minimum lot width of 165' when platting a property. Alternatives include: 1) redesigning and reconfiguring the pool house to meet the 20' rear yard setback near its current/proposed location and/or 2) relocating the pool house towards the southeast or northeast parts of the property in order to meet setback requirements.

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)).*

FIFs:

The applicant is trying to utilize existing conditions in order to maintain the mountain views and work with the existing layout of the house and pool. The pool house should have limited visibility due to the small amount of encroachment of 341 sq. ft. and the screening by the vegetation along the east and south property lines. Also, setback encroachments are not atypical for this neighborhood. The applicant identified six neighboring properties in the area which have structures which encroach into the setbacks (see Exhibits 1 - 6 in the applicant's narrative).

FOPs:

The request is a grant of special privilege since code compliant alternatives exist. Arizona Revised Statutes and the Town Zoning Ordinance do not require the most optimal or profitable use of a property. As a result, the Town Code does not guarantee a location based upon views and/or design. The pool house may be redesigned, reconfigured, and/or relocated to meet setbacks. Also, all other properties in the area must meet requirements outlined in the Town Zoning Ordinance.

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COMMENTS: Staff received no inquiry nor comments regarding this request.

COMMUNITY IMPACT: None.

FISCAL IMPACT: None.

CODE VIOLATIONS: None.

ATTACHMENTS:

- A. Staff Report
 - B. Vicinity Map & Aerial Photo
 - C. Application
 - D. Narrative & Plans
 - E. Notification Materials
- C: Lisa Allan (Applicant)
Case File BA-21-01