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Winning Concepts

July 28, 2021

Community Development Department
6401 E. Lincoln Dr.
Paradise Valley, Az 85253

Re: Thomas Residence
5301 E. Paradise Canyon Road
Paradise Valley, Az 85253

To whom it may concern,

The owner of this lot is seeking a variance from Zoning Ordinance, Article XXVIII, section 2307 to maintain the existing nonconforming building footprint which encroaches the East required side yard building setback by 0'-6" and the West required side yard setback by a varying 3'-10" to 6'-4" and modified by increasing the building height from 11'-0" to 14'-2". The need for the variance was triggered by the towns discovery of the unpermitted remodel of the existing residence completed in 2020, with the discovery of the unpermitted work the Town has requested the current design of the home be submitted for approval thru the Hillside Review committee and Building Department. In the Pre-Application meeting for the Hillside review, it was made evident that we would need to pursue a variance in order to keep the existing building footprint intact. The remodel of the home included a new roof structure and replacement of electrical, mechanical, installation of fire sprinklers(previously not installed) and replacement of existing plumbing fixtures. While the need for the variance arose from the unpermitted remodel which increased building height, a variance would always have been required given the existing building footprint not meeting the required building setbacks.

The existing home was permitted and constructed in 1974 prior to Town annexation of the property in 1982. When the property was annexed to the Town all plans and permits were forwarded to the Town. If the Town does not have any records for the property, we can only surmise that the existing building met county development requirements given it was allowed to be occupied by the original home owner. The remodel of the home was kept within the original footprint previously approved by the county.

- 1) "Such a variance...will serve not merely as a convenience to the applicant, but [is] necessary to alleviate some demonstrable hardship or difficulty so great as warrant a variance under the circumstances."

- a) Without approval of the variance the owners would be required to demolish portions of the existing building footprint that have been non-conforming since the annexation of the property into the Town. The demolishing of the existing walls could require the removal of the roof section at the south encroachment, removal of this roof section would also impact portions of the home that are currently within the required setback. Modification/removal of this roof could potentially trigger reconstruction of the southwest portion of the existing home, this additional reconstruction and expenditure is a hardship financially that is triggered from the non-conforming building footprint that existed since annexation.
- 2) The "special circumstances, hardship, or difficult [do not] arise out of misunderstanding or mistake.."
 - a) The original home was permitted and constructed in 1974 prior to Town annexation, the new owners were not made aware of any outstanding complaints for setback encroachment.
- 3) "Such variance from...the strict application of terms of[the Zoning Ordinance]...are in harmony with its general purposes and intents..."
 - a) The existing foot print outside of the required setbacks is less than 133 sq. ft. of enclosed building. This equates to roughly 1.6% of the building not meeting the required side yard setbacks. In addition the remodeled nonconforming areas did not increase disturbance, please reference Site plan diagrams and Grading plan outlining existing disturbance. In addition the existing building height is well under the maximum height allowed per hillside zoning ordinance, please reference provided historical aerial which overlays the historical topography over the existing site. In this diagram the predominant natural grade height over the residence is 1520, which would allow a maximum building height of 1544, the height of the nonconforming portion of the residence is 1524.17 +/- . In addition there is not exposed face of the structure the exceeds the 24'-0" maximum allowed. If approval of variance is granted, owners will commence the hillside review process to certify the remaining portion of the existing development meets all zoning requirements and will pursue lot development that will revegetate 2,087 Sq. Ft. of previously disturbed hillside and provide retention basins to minimize storm runoff from the existing property.
- 4) "The special circumstances, hardship or difficulty applicable to the property are [not] self-imposed by the property owner, or predecessor..."
 - a) As previously noted the footprint of the existing residence was permitted and constructed under county jurisdiction prior to annexation to the Town. The established existing footprint did not meet Town Zoning requirements at the time of annexation and it is the encroaching footprint that requires the variance to be allowed to remain as originally developed prior to annexation. In addition the current owner did remove 275 sq. ft. of carport structure that previously encroached the East side yard setback bringing the home more in-line with required zoning ordinance.
- 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."
 - a) If the required side yard setbacks are enforced and the existing building must be brought into compliance, the only way this is possible would be to demolish the existing portions of the home

which will require removal of existing roof over the western portion of the home rendering the home uninhabitable to the owners.

- 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."
 - a) The authorization of this variance will not constitute special privilege given that the neighboring hillside properties on Paradise Canyon Rd., also appear to have encroachments into the required building setbacks. Please see enclosed exhibits "A-D" which depict aerial view of the encroachments on neighboring lots.