



Minutes - Final

Board of Adjustment

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

Wednesday, September 1, 2021

5:30 PM

Council Chambers

1. CALL TO ORDER

2. ROLL CALL

Present 5 - Boardmember Priti Kaur
Boardmember Jon Newman
Boardmember Hope Ozer
Boardmember Rohan Sahani
Chairperson Quinn Williams

Absent 1 - Boardmember Robert Brown

3. EXECUTIVE SESSION

4. STUDY SESSION ITEMS

5. PUBLIC HEARINGS

- A. [21-273](#) Baiamonte Variance - 5740 E Via Los Ranchos (APN 168-57-013)
Request for Setback Encroachment. Case No. BA-21-06
- A request by Michael Baiamonte and Su-shien Cho, property owners of 5740 E. Via Los Ranchos; for a variance from the Zoning Ordinance: 1) Article X, Height and Area Regulations, to allow: i. an attached garage addition and ii. a bedroom/hallway addition to house to encroach into the setbacks; and 2) Article V, (R-43) Single-Family Residential District and Article X, Height and Area Regulations, to allow a pickleball court and court light fixture to encroach into the setbacks.
- George Burton, Senior Planner, explained the main goal for this item was to review and take action on requests to allow additions to the house to encroach into the side yard setbacks and to allow the pickleball court and one court light to encroach into the side yard setback. He noted that Town Code requires a 20-foot setbacks on side yards and the proposal was for a 10-foot setback for a garage addition on the west side and 6-foot setback to accommodate a bedroom/hallway addition on the east side. He

clarified that the applicant was also proposing a 5 foot to 40-foot setback on the pickleball court when the Town Code calls for a 32-foot setback for the court and a 10-foot setback instead of a 20-foot setback for the court lights. He presented the findings in favor which included alleviating property hardship, meeting the intent of the code, limited amount of encroachment, and would not obstruct any views. He shared the findings opposed which included the request was self-imposed, did not meet intent of the code, proximity of the court may bring more noise and light into the neighboring property.

Mr. Burton reviewed the public comments received concerning this time. He noted one neighbor spoke in support of the application and two expressed concerns about setback encroachments. He indicated that one neighbor express concern about potential drainage issues associated with the garage encroachment, but noted all improvements needed to comply with the Town's storm drainage design manual.

Michael Baiamonte, Applicant, noted that his home was smaller than most houses in the area and was limited in how he could make the desired additions without encroachments. He explained that altering the proposed location of the garage would not create the desired look he wants for his home. He indicated the proposed location for the pickleball court was the best spot since it did not disturb the landscaping and would not fit to the west of the pool. He remarked that the buildable area on his lot was significantly less than others' properties in the area. He pointed out that even though the pickleball court was a significant reduction in setback it was only at one point and diminished rapidly.

Board Member Hope Ozer recognized there was indeed hardships with the property. She pointed out the alternate layout for the garage on page 30 which would allow for more car space and the same orientation of the garage without the encroachment.

Mr. Baiamonte expressed that option was less desirable since the garage would be smaller than what he is proposing.

Board Member Emily Kile indicated she was concerned with how they would get a car in the proposed garage with a small space between the edge of the garage and the trees and property line.

Mr. Baiamonte stated the trees would be moved so the driveway would come along the property line.

Board Member Ozer inquired if neighbors to the east had any concerns about the pickleball court.

Mr. Baiamonte remarked that he was unaware of any.

Board Member Ozer stated she did not have an issue with the court or light if the neighbors did not. She asked if the applicant would be amenable to pushing the bedroom/hallway addition further back toward the pool, as shown in figure 10, so there was less of an encroachment into the setback.

Board Member Kile commented that she would not be opposed to allowing the bedroom/hallway setback as proposed by the homeowner.

Sean McCarihan, 5745 East Via Los Ranchos, indicated he was the neighbor to the southeast of the subject property. He indicated that he and his wife were concerned about how close the bedroom/hallway addition got to their property line and would obstruct their open view space looking out to the west and expressed concerns about the pickleball court.

Mayor Shanken and his wife Sharon Lewis commented that they lived on the property immediately to the west of the subject site. He indicated that he would be flexible with the extension of the garage going a foot or two into the setback but was uncomfortable with it going 10 feet into the side yard setback. He noted that much of the existing shrubbery between the properties would be eliminated as well if the applicant is allowed to move forward with their plan.

Mr. Baiamonte requested feedback on proposal four for the garage that only makes a five-foot encroachment into the setback.

Board Member Ozer remarked that she could not support a variance for the garage that infringed on the west setback.

Board Member Ozer motioned to deny the application for a variance on the portion addressing the garage addition since the applicant could accomplish close to close to what they wish without creating a hardship or intrusion on his neighbor.

Board Member Sahani seconded the motion.

Denied

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

Absent: 1 - Boardmember Brown

Approval of Pickle Ball Court Setback Encroachment and Court Light Setback Encroachment.

Board Member Kile pointed out that the pickleball court could be loud but was flat so would not affect the sightline. She indicated that she was in support of the variance with the hope that the property owners would be sensitive to the times that they are using the court.

Board Member Ozer expressed her main concern was having adequate screening for the proposed light going in.

Mr. Baiamonte suggested that there should not be an issue with light going into the neighbor's yard since the light is pointed down and the court and the block wall would shield them from any light reflected off the court.

Chairperson Williams motioned to approve the setback as requested for the pickleball court and the light.

Board Member Sahani seconded the motion.

Approved

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

Absent: 1 - Boardmember Brown

Continuance of Bedroom/Hallway Addition Setback Encroachment to October 6, 2021 Meeting.

Board Member Kile indicated she was sensitive to the neighbor's concern about how close the building would be to their property line and would be more supportive of an alternate plan such as the option shown in figure 10.

Chairperson Williams motioned to continue the portion of the case on the bedroom/hallway addition to October 6, 2021.

Board Member Ozer seconded the motion.

Continued

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

Absent: 1 - Boardmember Brown

B. [21-280](#)

Behshad Variance - 5709 E Arroyo Road (APN 169-55-034A)
Request for Unscreened Solar Panels. Case No. BA-21-07

A request by Keramat and Parvin Behshad, property owners of 5709 E. Arroyo Road; for 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.

Mr. Burton introduced the variance request for approximately 42 unscreened solar panels on the south and west sides of an existing house on a hillside property. He showed a site and roof plan which offered further detail on the location of the solar panels. He reviewed the findings in favor which included alleviating property hardships, meeting intent of hillside code, limited impact and no disturbance to the hillside. He shared the findings opposed which included elements not meeting the intent of the code and other alternatives. He noted no public comments had been previously submitted.

Board Member Sahani inquired why the applicant did not want to put the panels on the flat portion of the roof.

Mr. Burton indicated it was due to efficiency.

Board Member Ozer commented that she was unsure if they could provide a variance when the code says the panels needed to be screened from the same elevation and lower.

Mr. Burton explained that the variance could still be given if the Board felt the applicant met the six criteria for a variance.

Chairperson Williams asked if the applicant would like to speak and if there were any public comments.

Thomas Campbell commented that he could see the subject property from his front yard. He noted hillside properties were visible for many blocks and sometimes miles away. He explained the code was there to minimize visible impacts from hillside. He indicated there were other options including solar shingles which created a less intrusive design and minimized the impact on neighbors. He also questioned if not having solar panels qualified as a hardship.

Board Member Kile remarked that she agreed with Mr. Campbell and did not believe that saving money on their power bill met the six criteria for allowing a variance.

Chairperson Williams expressed concern that the applicant was not there to speak for their case and did not believe the proposal met the intent of the code.

Board Member Sahani motioned for denial.

Board Member Ozer seconded the motion.

Denied

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

Absent: 1 - Boardmember Brown

6. ACTION ITEMS

7. CONSENT AGENDA

A. [21-281](#) Approval of the June 2, 2021 Board of Adjustment Meeting Minutes
Chairperson Williams motioned to approve the June 2, 2021, meeting minutes.

Board Member Sahani seconded the motion.

Approved the Consent Agenda

Aye: 5 - Boardmember Kaur, Boardmember Newman, Boardmember Ozer, Boardmember Sahani and Chairperson Williams

Absent: 2 - Boardmember Brown and Kile

8. STAFF REPORTS

Mr. Burton announced that next Friday at 9:00 am there would be an orientation for the Board and Commission. He indicated it would be via Zoom and that information would be sent out shortly.

9. PUBLIC BODY REPORTS

None.

10. FUTURE AGENDA ITEMS

Mr. Burton stated there are two items scheduled for the next meeting which is the continuance on 5740 E. Via Los Ranchos bedroom/hall addition and a variance at 5301 Paradise Canyon. There may be a third item if it is submitted by the required deadline.

11. ADJOURNMENT

Chairperson Williams motioned to adjourn the meeting at 7:04 p.m.

Board Member Sahani seconded the motion.

This matter was Approved

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

Absent: 1 - Boardmember Brown

Paradise Valley Board of Adjustment

By: 

George Burton, Secretary