



Legislation Details (With Text)

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File created: 10/29/2020 **In control:** Board of Adjustment
On agenda: 11/4/2020 **Final action:** 11/4/2020
Title: Case No. BA-20-05 (Rattai Variance)
6950 E. Orange Blossom Lane (APN:173-21-058)

Sponsors:

Indexes:

Code sections:

Attachments: 1. A - Staff Exhibit A and B, 2. B - Vicinity Map & Zoning Map, 3. C - Application, 4. D - Narrative & Plans, 5. E - Notification Materials, 6. F - Public Comment

Date	Ver.	Action By	Action	Result
11/4/2020	1	Board of Adjustment	Denied	Pass

TO: Chair and Board of Adjustment

FROM: Paul Michaud, Planning Manager
George Burton, Senior Planner
Loras Rauch, Special Project Planner

DATE: November 4, 2020

DEPARTMENT: Community Development

AGENDA TITLE:

**[Rattai Variance - 6950 E. Orange Blossom Lane (APN: 173-21-058).
Case No. BA-20-05**

A. MOTION FOR APPROVAL

I move for **[approval]** of Case No. BA-20-05, a request by Shawn and Monica Rattai, for a variance from the Zoning Ordinance Article X, Height and Area Regulations, to allow a new single-family residence to encroach into the rear yard setback.

The variance shall be in compliance with the submitted plans and documents:

1. The Zoning Adjustment Case Narrative, prepared by Tiffany & Bosco and dated Resubmitted September 30, 2020;
2. Exhibit 3 - Site Plan, prepared by NVK LLC dated September 20, 2020.
3. Exhibit 4 - Exterior Elevations, prepared by NVK LLC dated September 20,2020.

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-20-05, a request by Shawn and Monica Rattai of Mazray Homes LLP, for a variance from the Zoning Ordinance Article X, Height and Area Regulations, to allow a new single-family residence to encroach into the rear yard setback.

Reasons for Denial:

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

BACKGROUND:

Request

The applicant is seeking a variance to allow a new single-family residence to encroach into the rear yard setback. The applicant is requesting a ten (10') foot setback from the east property line instead of a thirty-five (35') foot setback as required by the Zoning Ordinance.

Lot History & Conditions

The Orange Valley Estates No. 3 subdivision was platted in May 1958 and the homes were generally built in 1960 under Maricopa County regulations. It wasn't until May 1975 that this subdivision was annexed into the Town of Paradise Valley.

Lot 107, Orange Valley Estates No. 3, is 21,864 square feet (per County records). The lot was cleared of a previous residence in 2007 through a demolition permit issued by the Town and has been vacant ever since except for sparse vegetation that has grown along the perimeter of the lot. In April 2008 a building permit for a single-family residence was issued by the Town however the home was never constructed. The property is zoned R-18A which requires the following zoning standards:

District	Min. Lot Size	Min. Front Setback	Min. Side Setback	Min. Rear Setback	Max. FAR	Min Floor Area sf	# of Stories
R-18A	18,000	35	10	35	25%	1,500	1

Due to the shape of the lot and the orientation of the front yard, the rear yard adjoins the north and east property lines. Per Section 201 of the Zoning Ordinance, a rear yard is defined as ***"...being at the opposite end of the lot from the front yard"***.

Neighborhood History

Orange Valley Estates No. 3 along with Grosse Pointe and Grosse Point 2 subdivisions were platted between December 1957 and September 1958 and the homes in these three subdivisions were built in 1960 under Maricopa County regulations. The two Grosse Pointe subdivisions were annexed into Paradise Valley May 1961.

The Quail Vista Subdivision was likewise annexed into the Town in May 1961 however the subdivision wasn't platted until November 1977 and the homes generally were built in 1979 under Town regulations.

These four (4) neighboring subdivisions comprise the "R-18 A" zoning for the Town of Paradise Valley. These subdivisions have similar street and corner lot configurations. The two (2) exhibits labeled "Staff Exhibit A" and "Staff Exhibit B" show the relationship of these four R-18A subdivisions.

Further, the staff exhibits show information on several of the lots that, like the applicant's lot, have two (2) rear yards due to the street/corner lot configuration. The exhibits also show the four (4) lots directly adjacent to the applicant's lot.

The information provided and highlighted in the two (2) staff exhibits are:

- (year home was built)
- Square footage of existing residence (livable SF)
- Square footage of the lot itself (□).

The home on the lot highlighted in Staff Exhibit A (Grosse Pointe Subdivision - aka 7001 E. Balfour Road) backs up to the subject property and has two (2) rear yards (west and south) like the applicant's lot. The home on this lot was constructed in 2018 in adherence of the thirty-five (35') foot setback requirements. The home on the lot highlighted in Staff Exhibit B (Grosse Pointe 2 Subdivision - aka 5201 N. Quail Run Place) was constructed in 2006 and adheres to the 35-foot setback requirements of the ordinance (with 2 front yards and 1 rear yard). These two highlighted lots appear to be the newest homes constructed in the neighborhood and serve as examples of adherence to the R-18A zoning standards.

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 are 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):

(Per the Applicant) The property is not a standard rectangular or square lot but rather an extreme wedge shape which forces development closer to the southern boundary and the dual rear setbacks further diminish the potential buildable area. The reduced buildable area negatively impacts the design and location of any potential development.

Findings Opposed (FOPs):

Instead of requesting a variance the applicant could design a home that is different in shape and/or layout. The applicant could also build a smaller home that is more in keeping with the size of the homes in the surrounding neighborhood. The applicant is proposing to build a home with a livable area of 3,984 square feet and a total floor area of 5,387 square feet on a lot that is 21,864 square feet in size and in a floor area ratio of 24.6%. The "Staff Exhibits A and B" illustrate the livable size of other homes with similar lot configuration. This request appears to be a case of too much home for the lot size and/or the wrong home design for the lot. New homes have been built in the neighborhood and others remodeled, under the same lot configurations, under the same R-18A zoning requirements, and without the need for a variance.

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:

(Per the Applicant) “The hardship created by the property’s irregular, small, peculiar, and wedge-shaped size did not arise out of a misunderstanding or mistake. Instead, the property’s size is directly attributed to its initial platting. The restriction forces the development of significantly smaller homes than exist in the majority of the Town, cutting against the Town’s well-known reputation for prestige and luxury.”

FOPs:

The applicant might consider other alternatives such as a different home design and/or orientation on the lot to better fit within the required setbacks. The R-18A zoning regulations are well known and documented, and the subdivision has existed since 1960. The maximum lot coverage is 25% and the proposed home is at 25%. A home of this size could fit on this lot without the need for a variance if a different home design was considered.

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:

(Per the Applicant) “...the Town’s General Plan seeks to “preserve those elements or features which contribute to the Town’s quality of life and character as a premier residential community”. The applicant’s site plan as proposed, treating the northern perimeter as the rear setback and the eastern perimeter as a side yard setback, will maintain the visual openness and view corridors contemplated by the Town Zoning Ordinance.”

FOPs:

The request does not meet the intent of the Zoning Ordinance. The designation of the rear yard adjoining the north and east property lines are consistent with the neighboring lots (e.g. the rear yards of the row of lots to the west of this property adjoin their north property lines and the rear yards of the row of lots to the south of this property adjoin their east property lines). Also, Arizona Revised Statutes and the Town Zoning Ordinance do not require the most optimal or profitable use of a property. The property is a clean, flat piece of very developable property without any physical restrictions or topographic issues. Other alternatives exist such as designing a different layout or a smaller home that fits within the setback per the Zoning Ordinance requirements.

4. *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:

(Per the Applicant) The hardship is not self-imposed because the hardship is directly contributed to the Property’s zoning designation and how the property was originally platted.

Other properties in older neighborhoods of Paradise Valley have been developed, torn down and rebuilt with larger more updated homes. This applicant is seeking approval to build a larger home than typically found in this older neighborhood.

FOPs:

Some of the homes in this neighborhood that were built in 1960, under Maricopa County regulations, are considered legal non-conforming. The two newer homes built in this R-18A district have adhered to the current setback requirements (illustrated on Staff Exhibit A and B).

The home directly to the east of this property has the same setbacks requirements and the same building envelope with two rear yards as the subject property. That home was built without a variance in 2018 and is 797 square feet smaller (livable) on a lot that is 3,437 square feet smaller than the applicant's lot.

Other older homes involved in teardowns/rebuilds and remodels in Town are happening in neighborhoods that are zoned R-43 not R-18A as this neighborhood is zoned.

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)).*

FIFs:

Other properties in older neighborhoods of Paradise Valley have been developed, torn down and rebuilt with larger more updated homes. This applicant is seeking approval to build a larger home than typically found in this older neighborhood.

The strict application of the zoning ordinance on the front setback will not allow the owners to construct a home on the property of the same size and caliber of homes in the surrounding neighborhood, depriving the owners the ability to develop the property in the same zoning district and surrounding neighborhood.

FOPs:

All other properties in the R-18A district must meet the current setback requirements. This is the second largest lot in the subdivision and is proposing the largest home (by 967 SF) livable square foot in the subdivision. Also, the property is not undersized for its zoning classification and there are no adverse topographical features that prohibit setback compliance.

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:

Other properties in older neighborhoods of Paradise Valley have been developed, torn down and rebuilt with larger more updated homes. The setback encroachment is not atypical for this area as the applicant, in their Exhibit 7, has identified four (4) homes that appear to encroach into the setbacks.

FOPs:

All other properties in the R-18A district must meet the current setback requirements. This applicant is seeking approval to build a larger home than typically found in this older neighborhood

COMMENTS: Staff received two (2) letters in opposition to the variance from neighbors. Staff also received two (2) phone inquiries regarding this request.

COMMUNITY IMPACT: None.

FISCAL IMPACT None.

CODE VIOLATIONS: None.

ATTACHMENTS

A - Staff Exhibits A and B

B.- Vicinity Map & Zoning Map

C - Application

D - Narrative & Plans

E - Notification Materials

F - Public Comment