



Legislation Details (With Text)

File #: 19-352 **Version:** 1 **Name:**
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File created: 9/23/2019 **In control:** Board of Adjustment
On agenda: 10/2/2019 **Final action:** 10/2/2019
Title: Case No. BA-19-07 (Yearly Variance). Request by the owner of 6067 N. Paradise View Drive (APN: 164-04-074) for a variance from Article XXII of the Zoning Ordinance for unscreened roof mounted solar panels.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Vicinity Map & Aerial Photo, 2. Application & Narrative, 3. Plans, 4. Notification Materials

Date	Ver.	Action By	Action	Result
10/2/2019	1	Board of Adjustment	Approved Subject to Stipulations	Pass

TO: Chair and Board of Adjustment

FROM: Jeremy Knapp, Community Development Director
Paul Michaud, Senior Planner
George Burton, Planner

DATE: October 2, 2019

CONTACT:

George Burton, 480-348-3525

AGENDA TITLE:

Yearly Variance - 6067 N. Paradise View Drive (APN: 164-04-074)
Case No. BA-19-07

A. MOTION FOR APPROVAL

I move for **approval** of Case No. BA-19-07, a request by 6067 N. Paradise View Drive LLC (represented by Member Frank Yearly), property owner of 6067 N. Paradise View Drive; for a variance from the Zoning Ordinance, Article XXII, Hillside Development Regulations, to allow for unscreened roof mounted solar panels. The variance shall be in compliance with the submitted plans and documents:

1. The Variance Criteria Narrative, prepared by Sun Valley Solar Solutions LLC;
2. Sheet PV1, Site Plan, prepared by Sun Valley Solar Solutions LLC; and dated April 18, 2019;
3. Sheet PV2, Roof Plan, prepared by Sun Valley Solar Solutions LLC; and dated April 18, 2019; and
4. Sheet E1, 3-Line, prepared by Sun Valley Solar Solutions LLC; and dated April 18, 2019.

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-19-07, a request by 6067 N. Paradise View Drive LLC (represented by Member Frank Yearly), property owner of 6067 N. Paradise View Drive; for a variance from the Zoning Ordinance, Article XXII, Hillside Development Regulations, to allow for unscreened roof mounted solar panels.

Reasons for Denial:

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

BACKGROUND

Request

The applicant is proposing to place unscreened roof mounted solar panels on the house. 3 arrays (which consists of 9 solar panels) will be placed on the house. The house has a flat roof and Section 2207.II.E of the Town Zoning Ordinance requires all solar panels to be hidden from the same or lower elevation:

Section 2207.II.E. Solar panels may be allowed if they are integrated into the building design and hidden from view when viewed from the same or a lower elevation and approved by the Hillside Building Committee by a Combined Review. Solar panels may be allowed on pitched roofs when screened from the same or a lower elevation by the adjoining hillside or hillside cut and approved by the Hillside Building Committee by a Combined Review.

Stealth solar technology may also be used on roofs and may not be required to be hidden from view. Stealth solar technology shall be limited to solar shingles and solar tiles that are integrated to blend in with the building design, do not have a shiny metallic finish, have a light reflective value of 38% or less, and must be approved by the Hillside Building Committee by a Combined Review.

The applicant is seeking a variance request to place unscreened solar panels to reduce the cost of electricity at the home and to optimize the efficiency of the system.

Lot Conditions

The property is zoned R-43 Hillside and is approximately 43,956 square feet in size (1.01 acres). The property is relatively square in shape with topography sloping downward in a southern direction.

Lot History

The subject property is Lot 14 of the Paradise Mansion Estates subdivision. The subdivision was platted in in the Town of Paradise Valley in 1983. The following is a chronological history of the property:

- January 22, 1993. Building permit issued for a new residence.
- April 27, 1993. Building permit issued for a pool and spa.
- May 20, 2003. Building permit issued to remodel the house.
- July 31, 2005. Building permit issued for water features.

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):

Placing a screen around the solar panels will shade the panels and reduce the efficiency of the system.

Findings Opposed (FOPs):

There is no property hardship that warrants the request. The size, shape, and topography of the lot do not prevent the solar panels from being screened. The house has a flat roof and the solar panels may be screened by raising the height of the parapets or by placing screens near the solar panels.

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:

There is no mistake or misunderstanding. The property is designated as a hillside lot, which requires the roof mounted solar panels to be screened from the same elevation or lower.

FOPs:

The applicant should be aware of all special circumstances on the property and plan any designs accordingly. Although not ideal, the flat roof of the house can accommodate parapets or screens which will bring the proposed solar panels into compliance with the Town Zoning Ordinance.

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 hillside ordinance is to minimize the amount of disturbance to the hillside and to preserve the visual openness and the natural features of the mountain. The request meets the intent of the hillside ordinance since the roof mounted solar panels will not increase the amount of disturbance, will not obstruct views, and has limited off-site visibility. Since the house is situated above the street, the panels should have limited off-site visibility.

FOPs:

The request does not meet the intent of the code since other alternatives exist. Although not

ideal, the flat roof can accommodate parapets that will screen the solar panels in accordance with the code. The applicant may also use ground mounted solar panels as an alternative for roof mounted solar.

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:

Since the house is situated above the street, the panels should have limited visibility. Also, placing screens or parapets near the arrays may cast a shadow on the panels and reduce the efficiency of the system.

FOPs:

Arizona Revised Statutes and the Town Code do not require the most optimal or profitable use of a property. The request is self-imposed since the applicant can meet the code and since other options exist. The flat roof of the house can accommodate parapets or screens that will hide the solar panels from the same elevation or lower (which will bring the roof mounted solar into zoning compliance). The applicant may also use ground mounted solar panels instead of roof mounted panels.

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:

The topography and location of the house on the hillside helps the solar panels meet the intent of the code. Since the house is situated above the street, the solar panels should have limited off-site visibility.

FOPs:

There is no property hardship that warrants the request. The size, shape, and topography of the lot do not prevent the applicant from screening the solar panels in accordance with the code or using other code compliant options such as ground mounted solar panels.

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 request meets the intent of the hillside ordinance to minimize the amount of disturbance to the hillside and to preserve the visual openness and the natural features of the mountain since roof mounted solar panels do not increase the amount of disturbance to the hillside.

FOPs:

There are no property hardships that prevent the roof mounted solar panels from being screened in accordance with the code. Since the house has a flat roof, parapets or screens

may be placed around the roof or solar panels to screen them in accordance with the code.

Also, unscreened solar panels are not consistent with the neighborhood. In 2015, two homes in the area received Hillside Building Committee approval for roof mounted solar panels that were screened in accordance with the code.

COMMENTS: Staff received no comments regarding this request.

COMMUNITY IMPACT: None.

FISCAL IMPACT None.

CODE VIOLATIONS: None.

ATTACHMENTS

Vicinity Map & Aerial Photo
Application & Narrative
Plans
Noticing Materials

C: Kaleina Eden (Applicant)
Case File BA-19-07