



## Legislation Text

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**File #:** 19-144, **Version:** 1

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**TO:** Chair and Board of Adjustment

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

**DATE:** April 3, 2019

**CONTACT:**

George Burton, Planner, 480-348-3525

**AGENDA TITLE:**

Schick Residence - 6318 N 52<sup>nd</sup> Place (APN 169-27-033)

Case No. BA-19-04 a variance to Article X of the Town of Paradise Valley Zoning Ordinance to allow for an addition that does not meet the rear setback

**A. MOTION FOR APPROVAL**

I move for **[approval]** of Case No. BA-19-04, a request by Richard and Janelle Schick, property owners of 6318 N 52<sup>nd</sup> Pl.; for a variance from the Zoning Ordinance, Article X, Height and Area Regulations, to allow an addition to an existing residence to encroach into the rear yard setback. The variance shall be in compliance with the submitted plans and documents:

1. The Variance Criteria Narrative, prepared by Richard and Janelle Schick
2. Site Plan, Sheet C, prepared by Dimension 4 Design, dated 2/11/19; and
3. Architectural Plans, Sheets A-2 and A-5, prepared by Dimension 4 Design.

**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-19-04, a request by Richard and Janelle Schick, property owner of 6318 N 52<sup>nd</sup> Pl.; for a variance from the Zoning Ordinance, Article X, Height and Area Regulations, to allow an addition to an existing residence to encroach into the rear yard setback.

**Reasons for Denial:**

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

**BACKGROUND**

**Lot Conditions**

The property is zoned R-43 and is approximately 34,731 square feet in size (0.80 acres). The property is a rectangular shaped lot and is bisected by a wash on the eastern half. The eastern property line adjoins 52<sup>nd</sup> Place, while the north, south, and western property lines adjoin other single-family residences zoned R-43.

### Lot History

The subject property is Lot 11 of the Macdonald Acres subdivision. The subdivision was platted in 1949 and annexed into the Town in 1961. The existing home was built within Maricopa County in 1949 prior to being annexed into the Town of Paradise Valley.

- October 6, 1980      Building permit issued for a pool
- April 1, 1981        Building permit issued for an addition
- May 5, 1986         Building permit issued for an addition
- February 29, 1996   Building permit issued for an addition
- April 19, 1997       Building permit issued for an addition
- February 16, 2016   Property Owner Grants Town Drainage Easement
- March 9, 2016        Grading permit for wash maintenance

There is no building permit on file for the original construction of the house as it was built in Maricopa County prior to annexation into the Town.

### Request

The applicant is proposing to add an 11'-4" tall addition to the rear of the existing nonconforming home for a study. A large portion of the existing residence is 22' from the rear property line and encroaches into the rear yard setback and the proposed addition is 16'-2". Of the 519 square foot addition, 434 square feet is more nonconforming than the existing structure. Additionally, an overhang is proposed, bringing the edge of the roof overhang to 13' from the rear property line. Finally, 5' tall wing walls are proposed along the western side of the home to screen mechanical equipment, they range in setback from 23' to 26'. However, the Town Zoning Ordinance requires a rear yard setback of 40'.

The applicant requests a variance from Article X of the Zoning Ordinance, Height and Area Regulations, Section 1001, District Regulations, determines minimum lot size, building area, width, story, and setback limitations for zoning districts within the Town of Paradise Valley. Table 1001-A1 requires lots within the R-43 District to have a minimum rear yard setback of 40'. Below is Table 1001-A1 of the Zoning Ordinance:

Table 1001-A1 Primary Building Area, Width, Story, and Setback Limitations

District	Minimum Lot Size, sq ft	Minimum Lot Width, ft	Minimum Front Setback, ft	Minimum Side Setback, ft	Minimum Rear Setback, ft	Minimum Side/Rear with Frontage	Maximum Floor Area Ratio	Minimum Floor Area, sq ft <sup>1</sup>	Number of Stories
R-175 with a Primary Building built prior to June 13, 1991	175,000	165	40	20 <sup>2</sup>	40	40	25%	2,000	2
R-175 with no Primary Building built prior to June 13, 1991	175,000	165	100	20 <sup>2</sup>	100	100	25%	2,000	2
R-43	43,560	165	40	20	40	40	25%	2,000	2
R-35	35,000	150	40	20 <sup>3</sup>	40	40	25%	1,800	2
R-35A	35,000	150	40	15 <sup>3</sup>	40	40	25%	1,800	1
R-18	18,000	120	40	20	40	40	25%	1,500	1
R-18A	18,000	120	35	10	35	35	25%	1,500	1
R-10	10,000	100	20 <sup>4</sup>	7 <sup>4</sup>	25 <sup>4</sup>	20 <sup>4</sup>	None	1,500	1

**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 code requires that R-43 lots have a minimum lot size of 43,560 square feet. This particular lot was created in the county prior to annexation within the Town of Paradise Valley and only has a lot size of 34,731 square feet, therefore the hardship was placed on the property when the R-43 District was applied after the property was created and the home was built. In addition, a wash bisects the property rendering parts of the buildable area unbuildable

due to protection of the wash. The homeowner is trying to improve the existing house on site by adding a study.

**Findings Opposed (FOPs):**

The size, shape, and topography of the property do not prevent the owner from designing an addition on a different area of the lot that could meet the required setbacks.

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 reduced building area of this lot and the existing encroachments into the rear yard setback are not the result of any misunderstanding or mistake.

**FOPs:**

The applicant should be aware of all zoning requirements 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 Town Zoning Ordinance is to provide visual openness, limit visual impact to the natural landscape, and maintain view corridors. This is met by proposing a one story addition that is on the rear of the existing home, therefore not visible from the street, and the addition is within an area previously enclosed by a 6' tall wall, so a majority of the addition will be screened from view by the neighboring properties. Additionally, existing and proposed landscaping will help screen the addition from view.

**FOPs:**

The request does not meet the intent of the code since other alternatives exist. Although not ideal, an addition could be constructed on the southeast corner of the home and meet the required setbacks.

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 as the lot was created prior to annexation into the Town of Paradise Valley and a natural wash exists on the property that limits the amount of buildable area.

**FOPs:**

The request is self-imposed since the applicant wishes to do an addition on the western side of the existing structure.

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 hardship is the reduced size of the property, 34,731 square feet and the location of the wash on the site.

**FOPs:**

Although not ideal, the owner could propose the addition on another portion of the lot to comply with the requirements of the Zoning Ordinance.

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:**

Similarly platted and aged homes within the “bulb” of 52<sup>nd</sup> Place have reduced front or rear yard setbacks due to smaller lot size and age of the structures.

**FOPs:**

All other properties in the area must meet the setbacks requirements outlined the Zoning Ordinance.

**COMMENTS:** Staff received no comments regarding this request.

**COMMUNITY IMPACT:** None.

**FISCAL IMPACT** None.

**CODE VIOLATIONS:** None.

**ATTACHMENTS**

Vicinity Map & Aerial Photo  
Application  
Narrative and Plans  
Noticing Materials

C: Richard and Janelle Schick (Applicant)  
Case File BA-19-04