

Board of Adjustment

Staff Report

CASE NUMBER: BA15-043
STAFF PLANNER: Mike Gildenstern
LOCATION/ADDRESS: 3852 North Hawes Road
COUNCIL DISTRICT: Council District 5
OWNER/ APPLICANT: Matt and Lisa Wiley

REQUEST: *Requesting a variance to allow a detached accessory structure to be constructed in front of the front line of the primary dwelling in the RS-90 zoning district. (PLN2015-00379)*

SUMMARY OF APPLICANT'S REQUEST

The applicant is requesting a variance to allow for a detached accessory structure to be placed in front of the front line of the home. The detached accessory structure would serve as a garage to accommodate the required two covered parking spaces because applicant has begun the conversion of the existing garage to livable space without the benefit of a building permit.

STAFF RECOMMENDATION

Staff recommends **approval** of case BA15-043, *conditioned upon the following:*

1. *Compliance with the site plan and elevations submitted, except as modified by the conditions listed below.*
2. *Compliance with all requirements of the Development Services Division with regard to the issuance of building permits.*
3. *The east wall of the detached garage shall be located no more than 8'-2" in front of the home.*

SITE CONTEXT

CASE SITE: Existing single residence – Zoned RS-90
NORTH: Existing single residence – Zoned RS-15 PAD
EAST: (Across Hawes Road) Vacant lot – Zoned RS-90
SOUTH: Vacant lots – Zoned RS-15 PAD and RS-90 PAD
WEST: Vacant lots – Zoned RS-15 PAD

STAFF ANALYSIS

Although the applicant has begun the conversion of modifying the existing garage to livable space without the benefit of a building permit, the requested deviation is required to be reviewed as plan on paper, with no benefit or penalty attached to the existing work. The garage addition meets the 30' front setback requirement. However, it does not meet the development standard set forth in the Zoning Ordinance that requires detached accessory buildings to be placed behind the front line of the home.

As justification for the requested variance, the applicant has noted:

- 1) The home was built in 1976, and sited only 70' from the rear property line, making it very difficult to site a large detached garage in the rear yard in compliance with setback requirements for detached accessory buildings;

2) The home is located between two culvert-fed washes that are located 20' from the north face of the home, and 15' from the south face of the home, prohibiting construction of a garage on either side in compliance with Zoning Ordinance requirements specifying that a garage be sited least 3' behind the front face of the primary livable structure. Because of these natural conditions associated with the site, in order for the garage to comply with Zoning Ordinance standards, the proposed structure would have to be sited in the direct line of the culvert-fed wash;

3) The property was granted a Variance in 2000 (Case ZA00-096) to construct a garage in front of the existing front face of the primary structure. The structure approved with that variance is proposed to be converted to livable space, and the proposed new 4-car garage will take the place of the existing garage structure; and

4) The home located two parcels south of the subject property at 3756 N. Hawes Rd. was constructed with a garage in front of the front line of the home.

As proposed, the encroachment of the garage being placed in-front of the front line of the home requires the issuance of a variance. The Board of Adjustment must find the following items are present to approve a variance:

- a) *There are special conditions that apply to the land or building.*
- b) *The special condition was pre-existing and not created by the property owner.*
- c) *That strict compliance with the Code would deprive the property of privileges enjoyed by other properties in the same zoning district.*
- d) *The variance would not constitute a special privilege unavailable to other properties in the vicinity and zoning district of the subject property.*

There are special conditions that apply to the land or building and the special condition was pre-existing and not created by the property owner:

The home is located on the property between two active washes. The north face of the home is 20' away from the northern wash, and 15' from the southern wash. The home is sited roughly 70' from the rear property line. The proposed garage is approximately 62'x30' and would not easily fit in the rear and if it were to be placed in a more standardized siting 3' behind the front face of the home, and on the side, it would be placed in to a culvert-fed wash. The way that the garage is currently proposed does not encroach into any required setback, the only deviation from Code is to construct a detached accessory structure in front of the front face of the house. There are other homes in the area, such as the property two parcels to the south, that have a garage in front of the front face of the primary livable structure.

Strict compliance with the Code would deprive the property of privileges enjoyed by other properties in the same zoning district:

By its design, the RS-90 zoning district tends to encourage the development of large homes, often built with large garages, porte-cocheres, and 'auto courts'. The location of the two washes creates difficulties in developing adequate design solutions to build detached accessory structures in areas that would otherwise permit the construction of such buildings. The washes, theoretically, could be rerouted to the perimeter of the site. Doing this would create more developable land on the site and limit potential flooding of the detached garage. However, such work is typically discouraged by policy design in the Desert Uplands sub-area, and it tends to be quite expensive.

The variance would not constitute a special privilege unavailable to other properties in the vicinity and the zoning district of the subject property:

Homes in this zoning district, and in the general vicinity of this case site are characteristically large, and with large carports/garages. There are several homes in the area that feature 4-car garages, so the request is not an excessive accommodation that is uncharacteristic of the area. In addition, the property slopes from east to west, so the garage will be below street-level, providing partial screening of the proposed structure when viewed from Hawes Road. The site plan provided in the packet shows the plot plan of the original, the proposed garage conversion to livable space, and the proposed new garage addition.

Staff is supportive of the variance request due to the placement of the home being a preexisting condition, and the topographical nature of the site being bordered by two washes depriving the owner of developable space that other lots in the area enjoy.

FINDINGS

1. The existing home and garage are located within the boundaries of two washes on the north and south sides of the property. Building the proposed garage behind the front face of the primary structure would create a situation where the structure would encroach into a wash regardless of what side of the property that the structure is sited.
2. The home was sited in a manner that does not allow enough clearance to accommodate the proposed garage to be sited behind the front face of the primary structure on either the north or south side of the lot.
3. Strict compliance with development standards would deprive the property owner of a privilege enjoyed by surrounding property owners.
4. As proposed, the property will not receive a special privilege due to other lots in the general area usually being able to accommodate a garage with 4 bays.
5. The property was previously granted a variance (ZA00-096) for a similar request based on the current site constraints.

ORDINANCE REQUIREMENTS

Zoning Ordinance, Sec 11-5-3: Development Standards for the RS District

RS-90 Setbacks – Front -22', Garage/Carport-30', Sides -20' each, and Rear-30'

Zoning Ordinance, Parking Spaces Requirements (summarized from Sec. 11-32-3)

D. Covered Spaces. Covered parking spaces shall be provided as follows:

1. Single-residences shall provide a minimum of 2 covered parking spaces per unit.

Zoning Ordinance, Parking Area Design (summarized from Sec. 11-32-4)

F. Minimum Dimensions for Residential Enclosed Garages. Enclosed garages serving residential uses shall be constructed to meet the following minimum inside dimensions.

1. A single-car garage shall be at least 10 feet wide and 22 feet long.
2. A double-car garage shall be at least 20 feet wide and 22 feet long.
3. A garage for tandem parking shall be at least 10 feet wide and 44 feet long.

Zoning Ordinance, Building Form (summarized from Sec. 11-5-3)

E. Building Form- Garage Frontage and Location:

1. Where garage doors are oriented parallel or within 10 degrees of parallel to the front property line of the lot, the aggregate width of garage doors attached to a primary residence and facing the front of the lot shall not exceed 50 percent of the aggregate width of those elevations of the building that face the front of the lot. Garages oriented parallel or within 10 degrees of parallel to the front of the lot, shall be located at least 3- Where garage doors are oriented parallel or within 10 degrees of parallel to the front property line of the lot, the aggregate width of garage doors attached to a primary residence and facing the front of the lot shall not exceed 50 percent of the aggregate width of those elevations of the building that face the front of the lot. Garages oriented parallel or within 10 degrees of parallel to the front of the lot, shall be located at least 3-feet behind the primary wall facing the street, and never less than the required garage setback.