

Board of Adjustment

Staff Report

CASE NUMBER: BA16-013 (PLN2016-00202)
STAFF PLANNER: Lisa Davis, Planner II
LOCATION/ADDRESS: 3530 N Hawes Rd #6
COUNCIL DISTRICT: 5
OWNER/APPLICANT: Paul Zonneveld
REQUEST: Requesting a Variance to encroach into the required minimum side yard setback in the RS-35 PAD zoning district.

SUMMARY OF APPLICANT'S REQUEST

The applicant is requesting a variance to allow a detached garage to encroach into the required minimum 10' side yard setback. The proposed 667 square feet, 16' high detached garage would encroach 6'-6" into the required 10' side yard.

STAFF RECOMMENDATION

Staff recommends **approval** of case BA16-013, *conditioned upon the following.*

1. *Compliance with the site plan submitted expect as modified by conditions below.*
2. *The detached garage shall remain a minimum of 6' from the existing house.*
3. *Compliance with all requirements of the Development Services Department with regard to the issuance of building permits.*

SITE CONTEXT

CASE SITE: Single Residence – Zoned RS-35-PAD
NORTH: Single Residence – Zoned RS-35-PAD
EAST: Vacant Single Residence – Zoned RS-35-PAD
WEST: Vacant Single Residence – Zoned RS-35-PAD
SOUTH: Vacant parcel not within City limits- Zoned R1-35 Maricopa County Zoning Designation

STAFF SUMMARY

The subdivision is located in the general area of Hawes Road, south of Thomas Road, and specifically identified as lot 6 of Overlook subdivision. The Overlook subdivision was initially zoned and began development in 1986 in Maricopa County. During development, in order to obtain utilities, the property was annexed into the city limits in 1988 and subsequently zoned RS-35-PAD (zoning case Z88-014). No deviations from zoning standards, including setbacks, were established, therefore the current RS-35 development standards, are required, including the 10' minimum side yard setback with a total of 30' side yard aggregate.

The house was built on lot 6 in 1996 and the current owner purchased the property in 2010. The applicant is requesting a variance to allow a detached garage to encroach 6'-6" into the required minimum 10' side yard setback. The detached garage is proposed to be placed at 3'-6" from the east property line adjacent to a vacant lot 7. As discussed above, the minimum aggregate total of the two sides is required at 30' with a minimum of 10' on one side. Currently the existing house is 36'-4" from the east property line and 67'-6" from the west property line. The large 35,841 square feet (SF) lot does have an existing drainage easement/wash that starts at the northeast corner of the lot and extends in a southwest direction at a diagonal across the lot. It appears the house

was built at over 100' setback from the front property line to accommodate the existing drainage easement/wash.

Utilizing the aerial of the property the building coverage area for the existing house, garage, patios and porches is about 3,200 SF. The RS-35 district allows for a maximum of 35% of the lot coverage. With the addition of the 667 SF detached garage it would put the building coverage of the lot at 3,867 SF, approximately 11% of the lot, which is significantly less than is allowed. In addition, the size of the detached garage at 667 SF is much less than is allowed at 100% of the dwelling unit for building coverage of detached buildings within the RS-35 district.

As proposed, the construction of the detached garage would require the granting 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.*

As justification for the requested variance regarding the detached garage encroaching into the required side yard, the applicant has noted: 1) the drainage easement/natural wash the runs through the front portion of the lot indicating that the wash with the slopes encompasses about 35% of the lot; 2) lot 6 is unique compared to all other lots in the 14 lot subdivision; 3) the drainage easement/wash was in place when the lot was developed and prior to the current owner; and 4) because of the placement of the drainage easement/wash there is a limited amount of space that can accommodate any construction, 4) allowing this detached garage is not creating special circumstances as other properties in Outlook have 4+ car garages.

ANALYSIS

The subject parcel is consistent in size and shape to surrounding parcels within the neighborhood. However, the lot does have a large drainage easement that runs diagonal across the entire lot. The existing house was constructed at over 100' from the front property to accommodate for the drainage easement. Evaluating the side yard setbacks for the existing house at 67'-6" from the west property line 36'-4" from the east property line, the existing setbacks far exceed minimum requirements. A variance is required to accommodate the proposed detached garage to be placed 3'-6" from the east property line. The placement is within the portion of the lot that was previously disturbed for driveway and access to the backyard. In addition, there is a significant, 2'-3' grade difference of between lots 6 and 7. Lot 6 is lower than lot 7 and at this time, lot 7 is vacant. Pictures 9 through 11 provided in the justification statement illustrates this grade difference.

The height of the proposed garage is 16' in overall height. However because of the grade difference between the two lots the height of the structure would be perceived to be at 13' in height. The garage is also proposed at 149' from the front property line and 36' from the rear property line, which exceeds the 30' rear yard setback requirement. The proposed detached garage will be required to be placed 6' from the existing house. Lot 13 of the Overlook subdivision did receive and approval of a PAD amendment to allow an attached garage to encroach into the rear yard setback, ZA95-115.

Staff believes that the applicant has provided sufficient justification to support the requested variance.

FINDINGS:

- 1.1** The house was built in the 1996 and the current owner purchased the property in 2010.
- 1.2** The lot does have unusual topography that creates difficult conditions for constructing a typical buildings.
- 1.3** The large drainage easement/wash that extends from the northeast corner of the lot at a southwest diagonal direction for the entire width of the lot encompasses about 35% of the lot.
- 1.4** Building coverage for the lot with the proposed detached garage is 11% which is far below the allowed the 35% building coverage.
- 1.5** There is a 2-3' grade change from lot 7 to lot 6. Lot 6 is much lower than lot 7.
- 1.6** The proposed detached garage is proposed to be setback 149' from the front property line. The existing house is setback over 100' from the front property line.
- 1.7** The existing house is 67'-6" from the western property line. The proposed detached garage is proposed at over 135' from the western property line.
- 1.8** The detached garage will be placed in an area that has been previously disturbed.
- 1.9** There is not sufficient access or area available for the lawful construction of a useable detached garage without the variance.
- 1.10** The applicant has provided sufficient justification related to the physical constraints of the land, which would justify the degree of the requested variance.
- 1.11** Further, strict compliance with Code would deprive the property of the ability to construct a detached building in the rear portion of the lot.

ORDINANCE REQUIREMENTS:

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

RS-35 District – Front Yard: 22' Minimum to enclosed Livable Areas, Porches, Porte Cocheres; Front Yard: 30' Minimum front yard to garage and carports; Rear Yard 30' minimum; Side Yard: minimum one side 10' and both sides must total 30', maximum building coverage 35% (paraphrased from table found in Sec. 11-5-3)

Zoning Ordinance Sec. 11-80-3: Required Findings:

A variance shall not be granted unless the Zoning Administrator, when acting as a Hearing Officer, or Board of Adjustment shall find upon sufficient evidence make a determination:

- A. There are special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, and
- B. That such special circumstances are pre-existing, and not created by the property owner or appellant; and
- C. 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; and
- D. Any variance granted will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.