



City of Apache Junction

Development Services Department



BOARD OF ADJUSTMENT AND APPEALS PUBLIC HEARING STAFF REPORT

DATE: March 20, 2024

TO: Board of Adjustment and Appeals

THROUGH: Rudy Esquivias, Development Services Director
Sidney Urias, Planning Manager

FROM: Erika Hernandez, Associate Planner

CASE NUMBER: P-24-10-BA

SUBJECT: A request by Judy Cook for a variance to deviate from the standard "RS-GR" front yard setback of forty (40) feet to twenty-eight (28) feet for a future main structure.

BACKGROUND

The subject property is identified as APN 103-02-050A, located near the southwest corner of Hilton Road and Cactus Wren Street. The property is zoned "RS-GR" (General Rural Low Density Single-Family Residence), which normally has a minimum parcel size requirement of at least a minimum of 1.25 acres. Judy Cook, the owner of this property, proposes to install a manufactured home, which is allowed in the RS-GR zoning district.

On October 10, 2023, an application was made for a building permit (paid on October 25, 2023) to install a 2023 Cavco Manufactured Home, along with two (2) awnings measuring twelve (12) feet by fifty-six (56) feet. Staff completed the first review on October 26, 2023 (Exhibit 1), wherein the site plan showed that the northern half of the manufactured home and the awning locations would not meet main structure front setbacks RS-GR required by § 1-5-2 Residential Bulk Regulations (Exhibit 2), which are as follows:

- Front = 40 feet
- Side = 20 feet
- Rear = 40 feet

In early November, Staff spoke to the installer, to explain that even though the existing manufactured home has been on the property since at least before the City's 1985 Zoning Ordinance, the new installation would need to meet the current setback regulations.



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The installer stated that he could modify the site plan to show that the manufactured home installation would meet setbacks, however, the second and third site plan submissions still did not meet setbacks.

Mrs. Cook spoke with Staff to determine why there had been a delay in the approval for her new home. Staff explained the situation and she understood, but she expressed her frustration, as reorientating the home meant she would lose her view of the Superstition Mountains and she would incur the cost of at least one (1) new slab so that she could continue her daily exercises on the patio.

November 28, 2023, Judy Cook contacted City officials, to discuss her concerns about the additional cost of having to install the home to meet the required setbacks while ensuring it is accessible, as she uses a walker, and to request an exemption.

Staff was asked to revisit the details of the application and the property to decide if there were any accommodations Mrs. Cook's property may qualify for in facilitating the building permit process.

PROPOSAL DESCRIPTION

After discussing the options with City Staff, Judy Cook has decided to request a variance from the Board of Adjustment and Appeals (Exhibit 3).

Case P-24-10-BA is a request to the Board of Adjustment and Appeals to grant a variance to deviate from the standard RS-GR front yard setback of forty (40) feet to twenty-eight (28) feet in order to allow the development of the property as proposed in Exhibit 4 titled "Proposed Site Plan".

PUBLIC NOTIFICATION

Case P-24-10-BA public hearing was advertised in the newspaper, a sign was posted on the subject site, and notices were mailed out to property owners within three hundred (300) feet.

Dave McMurrer, owner of 325 North Hilton Road, contacted Development Services to inform Staff that he had no objections about Mrs. Cook's request.

STAFF ANALYSIS AND FINDINGS

According to the City's own Geographic Information Systems (GIS) map that depicts aerial imagery of the property, the existing manufactured home was installed on the property since before 1985 (Exhibit 5). A raised slab for the eastern awning was poured in such a manner to accommodate the elevation change and stairs and a ramp were installed to allow ease of access.



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Prior to the Zoning Ordinance update in 2014, GR properties with less than 20,000 square feet were allowed a reduction in front setbacks from forty (40) feet to twenty (20) feet; This was not carried over into the new Zoning Ordinance and Staff are unsure of why. As a result, Staff has granted this allowance for undersized RS-GR properties which satisfy the above requirement as a policy since on rare occasions.

The subject property is substandard in size (0.62 acres) for the RS-GR zoning district, which requires a minimum of 1.25 acres. Additionally, this property has two (2) thirty-three-foot (33') Federal Patent Easements (FPE), reducing the buildable area by 10,890 square feet (Exhibit 6). Although the western FPE is extinguished (shown in red) and is not a buildable area, extinguished FPEs are still calculated in the net acreage. The gross square footage of the property (27,007.2) minus the northern FPE (5,445 square feet) brings the net square footage of Mrs. Cook's property to a total of 21,562.2. Therefore, the property exceeds the threshold, disqualifying it from a reduction in setbacks.

Staff reviewed the application materials and visited the site and determined that the property would have significant hardship in meeting standard setback requirements due to significant elevation changes due to swales on the easterly and southerly sides of the home. A considerable amount of grading, concrete removal, and the pouring of new concrete would need to take place for the home to meet the east-west orientation required to satisfy setbacks (Exhibit 5).

Additionally, in order to meet the minimum ten-foot (10') separation requirement from the septic system, at least one (1) Saguaro cactus would need to be removed, transplanted to another location, or destroyed—all of which can be costly (Exhibit 8).

Per the requirements of the Apache Junction Zoning Ordinance, § 1-16-14 Board of Adjustment and Appeals (Exhibit 9), a variance may only be granted "because of special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of the Zoning Ordinance will result in unnecessary property hardships, result in serious impairment of substantial property rights and deprive such property of privileges enjoyed by other property of the same classification in the same zoning district" (§ 1-16-4 C.2.) and as long as the proposed modifications are not a use variance or if the special circumstances applicable to the property are not self-imposed by the property owner (§ 1-16-4 D).

Staff finds that:

- The 'special circumstances' of the subject site, namely the substandard size of the lot, the topography, the amount of concrete work required to accommodate Mrs. Cook's needs, the arrangement of



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the FPEs, and the separation requirement from the septic system satisfies the hardship requirement for a variance (§ 1-16-4 C.2).

- The requested variance is not contrary to the public interest.
- The requested variance does not constitute a grant of special privileges inconsistent with the limitations upon other similar properties in the vicinity and zone in which such property is located.
- The variance shall cause the minimum possible interference with the general purposes and intent of the Zoning Ordinance.
- No modifications to the uses permitted in the zoning district are requested (§ 1-16-4 D.1).
- The 'special circumstances' are not considered a self-imposed hardship, as any accommodations made for the existing manufactured home took place at least before a Zoning Ordinance was implemented.

PLANNING DIVISION RECOMMENDATION

Planning Staff recommends in favor of Judy Cook's request to the Board of Adjustment for a variance to reduce the front yard setback of forty (40) feet to twenty-eight (28) feet.

The Board is respectfully reminded that they must cite findings of fact to support their decision of approval or denial. If the Board desires to approve the applicant's request, they may do so with conditions. Separately, recommended motions for approval with conditions or denial are included below.

RECOMMENDED MOTION FOR APPROVAL

I move that Case P-24-10-BA, a request by Judy Cook for the Board of Adjustment and Appeals to grant a variance of Section 1-5-2 Residential Bulk Regulations requesting a deviation for the main structure front setback in the RS-GR zoning district for the property identified as Parcel Number 103-02-050A, be APPROVED, subject to the following conditions:

1. The main structure front setback (includes awning) shall be reduced to twenty-eight feet.
2. That all future construction of accessory structures on the property continue to be properly permitted and comply with normal setback regulations.

Findings of Fact:

1. There are special circumstances or conditions applicable to the property referred to in this application which do not prevail on other similar properties in that zone or immediate area. Those special circumstances include:
 - a. The property is a substandard size.



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- b. The property has significant elevation changes, preventing the east-west orientation of a new manufactured home without significant grading and concrete work, and the removal, transplantation, or destruction of at least one (1) saguaro cactus.
- c. The property is bordered by Federal Patent Easements on two sides, which further limits the amount of buildable area.

RECOMMENDED MOTION FOR DENIAL

I move that Case P-24-10-BA, a request by Judy Cook for the Board of Adjustment and Appeals to grant a variance of Section 1-5-2 Residential Bulk Regulations requesting a deviation for the main structure front setback in the RS-GR zoning district for the property identified as Parcel Number 103-02-050A, be DENIED.

Findings of Fact:

1. There are no special circumstances or conditions applicable to the property referred to in this application which do not prevail on other similar properties in that zone or immediate area.
2. The strict application of the regulations does not constitute an unnecessary hardship and the granting of the application is not necessary for the preservation and enjoyment of substantial existing property rights.

[Any person aggrieved by any decision of the Board of Adjustment may at any time within thirty days of said decision file a complaint for special action in Superior Court to review any Board decision pursuant to the Arizona Revised Statutes, Section 9-462.06]

Attachments:

- Exhibit 1: 1st Review Planning Comments
- Exhibit 2: § 1-5-2 Residential Bulk Regulations
- Exhibit 3: Project Narrative
- Exhibit 4: Proposed Site Plan
- Exhibit 5: 1985 Aerial Imagery
- Exhibit 6: Federal Patent Easement Map
- Exhibit 7: Site Photos
- Exhibit 8: East-West Orientated Site Plan
- Exhibit 9: § 1-16-4 Board of Adjustment and Appeals
- Exhibit 10: Arizona Revised Statutes, Section 9-462.06