



City of Scottsdale
Board of Adjustment
Regular Meeting

Notice and Agenda

6:00 p.m., Wednesday, September 7, 2016
City Hall Kiva
3939 N. Drinkwater Blvd

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES

1. Review and possible approval of July 13, 2016 Board of Adjustment Special Meeting Minutes

REGULAR AGENDA

2. 10-BA-2016 (70th & Earll Townhomes Variances),

Request by owner for variances to the City of Scottsdale Zoning Ordinance, Section 5.704.B.2 pertaining to the restriction in building height to one (1) story adjacent to a single-family residential district, and Section 5.704.D.1 pertaining to relief from the building setback abutting a R-1 district, for a property located at 3106 N. 70th Street with Medium Density Residential (R-3) zoning.

Located at 3106 N 70Th Street
Steven Bruckal, applicant, Bonnie Griffing, owner
Ben Moriarity, coordinator

3. 11-BA-2016 (Behar Residence),

Request by owner for variances to the City of Scottsdale Zoning Ordinance, Section 5.204.E.1.a and Section 5.204.E.1.c, pertaining to relief from the front yard setback for a property located at 8011 E. Larkspur Drive with Single-family Residential (R1-35) zoning.

Located at 8011 E Larkspur Drive
Tyler Green, applicant, Ben Middlemiss & Mary Behar, owner
Ben Moriarity, coordinator

4. 9-BA-2016 (Green Bee Produce ZA Appeal)

Request by applicant for an Appeal of Zoning Administrator's written decision dated June 30, 2016 regarding special event signage for Green Bee Produce, a temporary mobile farmer's market.

Located at 16116 N. McDowell Mountain Ranch Rd.
Green Bee Produce, applicant Aaron Shearer
Cheryl Sumners, Coordinator

ADJOURNMENT

Board of Adjustment consists of:

Matt Metz, Chair

Paul Garry, Vice Chair

Alper Adli, Board Member

Gary Donahoe, Board Member

Dana Belknap, Board Member

Sergio Martinez, Board Member

Greg Mona, Board Member



Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting Casey Steinke at 480-312-2611. Requests should be made as early as possible to allow time to arrange accommodations. For TTY users, the Arizona relay service (1-800-367-8939) may contact Casey Steinke at 480-312-2611.



ZONING ORDINANCE VARIANCE

Board of Adjustment Decision

Variance Request

Case Numbers: 287-PA-2016 / 11-BA-2016

Project Name: Behar Residence

Location: 8011 E. Larkspur Drive

Single-Family Residential Multi-Family Residential Commercial Industrial

Section of the Zoning Ordinance to be varied: 5.204.E.1.a. and 5.204.E.1.c.

Scottsdale Ordinance Requires: Section 5.204.E.1.a.: There shall be a front yard having a depth of not less than forty (40) feet. Section 5.204.E.1.c.: On a corner lot, the required front yard of forty (40) feet shall be provided on each street. No accessory buildings shall be constructed in a front yard. Exception: On a corner lot which does not abut a key lot or an alley adjacent to a key lot, accessory buildings may be constructed in the yard facing the side street.

Applicant's Request: Request by owner for variances to the City of Scottsdale Zoning Ordinance, Section 5.204.E.1.a. and Section 5.204.E.1.c., pertaining to relief from the front yard setback for a property located at 8011 E. Larkspur Drive with Single-family Residential (R1-35) zoning.

Amount of Variance: Twenty-eight (28) feet

Board of Adjustment Decision

Hearing Date: September 7, 2016

- Approved
- Denied
- Other:
- Approved with Stipulation(s):
- Continued to:


Chair Signature

BOARD OF ADJUSTMENT REPORT



Meeting Date: 9/7/2016
Item No.: 3

ACTION

Behar Residence
11-BA-2016

Request to consider the following:

Approve variance requests to the City of Scottsdale Zoning Ordinance, Section 5.204.E.1.a and Section 5.204.E.1.c, pertaining to relief from the front yard setback for a property located at 8011 E. Larkspur Drive with Single-family Residential (R1-35) zoning.

OWNER

Ben Middlemiss & Mary Behar

APPLICANT CONTACT

Tyler Green
Tyler Green Architect
480-348-2691

LOCATION

8011 E Larkspur Drive



BACKGROUND

History

The subject property is Lot 13 of the Stoneridge Estates subdivision which was platted in 1976. The Maricopa County Assessors' records identify the existing home on the property was permitted and constructed in 1978. The accessory structure on the property was permitted and constructed in 2011. The existing house would appear to be setback thirty-six (36) feet from the north property line, legal non-conforming and subject to Section 1.1300 of the City of Scottsdale Zoning Ordinance, pertaining to nonconforming uses and structures.

Zoning/Development Context

The subject site is zoned Single-family Residential (R1-35) and is located on the southeast corner of N. Hayden Road and E. Larkspur Drive.

Adjacent Uses and Zoning

- North Stoneridge Estates subdivision, zoned Single-family Residential district (R1-35); existing single-family residences.
- South Stoneridge Estates subdivision, zoned Single-family Residential district (R1-35); existing single-family residences.
- East Stoneridge Estates subdivision, zoned Single-family Residential district (R1-35); existing single-family residences.
- West Buenavante subdivision, zoned Single-family Residential Planned Community district (R1-35 PCD); existing single-family residences.

Zoning Ordinance Requirements

Pursuant to Section 5.204.E.1.a. of the City of Scottsdale Zoning Ordinance, pertaining to front yard setback: there shall be a front yard having a depth of not less than forty (40) feet.

Pursuant to Section 5.204.E.1.c of the City of Scottsdale Zoning Ordinance, pertaining to front yard setback: On a corner lot, the required front yard of forty (40) feet shall be provided on each side. No accessory buildings shall be constructed in a front yard. *Exception:* On a corner lot which does not abut a key lot or an alley adjacent to a key lot, accessory buildings may be constructed in the yard facing the side street.

The applicant is requesting a variance of twenty-eight (28) feet which would reduce the required front yard setback for this parcel from forty (40) feet to twelve (12) feet along the E. Larkspur Drive frontage.

Code Enforcement Activity

Code Enforcement received a complaint in 2013 for dangerous RV gate access. The RV gate was permitted and constructed in 2011 in accordance with the approved plans and the complaint was closed because no code violation was found.

Community Input

The applicant sent a notification letter and site plan to properties within 750 feet of the subject site. City of Scottsdale hearing postcards were also sent to properties within 750 feet of the subject site. As of the writing this report, the applicant has received a verbal okay and five emails in support of the proposal. Staff has also received two phone calls and an email opposed to the proposal siting that it would create dangerous egress, be out of context with the neighborhood and encroach too much towards the street at the entrance to the subdivision.

Discussion

The applicant is proposing to construct an attached garage addition to the north of the existing house which would encroach twenty-eight (28) feet into the currently required front yard setback along E. Larkspur Drive. The zoning requirements currently restrict the main building

and additions to the main building for the first forty (40) feet of the property along both street frontages of a corner lot. The existing home is located approximately forty (40) feet from the N. 80th Place frontage and thirty-six (36) feet from the E. Larkspur Drive frontage. A four (4) foot variance would be required to bring the existing house into conformance. Section 5.204.E.1.c of the City of Scottsdale Zoning Ordinance includes provisions that allow for detached accessory buildings to be constructed in the yard facing the side street, where a corner lot does not abut a key lot or an alley adjacent to a key lot.

VARIANCE CRITERIA ANALYSIS

1. **That 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:**

The applicant states a hardship is created on this property by the three frontages. The three frontages prevent any possible garage due to forty (40) foot setbacks on three sides

Staff Analysis: The subject property is similar in size, shape, and topography to other three frontage properties within the R1-35 zoning district. Twelve (12) properties within ½ mile of the property have similar configuration with three frontages. These similar properties appear to adhere to the City of Scottsdale Zoning Ordinance Section 5.204.E.1.c.

Because the subject lot is not adjacent to a key lot, the accessory structure exception provisions identified in the Zoning Ordinance allow for the existing detached accessory structure that is within the required front yard setback on the longer street frontage along E. Larkspur Drive.

2. **That the authorization of the variance is necessary for the preservation of privileges and rights enjoyed by other property of the same classification in the same zoning district, and does 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:**

The applicant states all other properties in the subdivision have a carport or garage. This will also allow a driveway in line with the street address.

Staff Analysis: Of the other 67 properties within the subdivision 66 do appear to have carports or garages, but they are also adhering to the zoning setback standards. The R1-35 zoning district allows for primary use as a single-family residence. The existing setback of thirty-six (36) feet from the north property line would appear to be legal non-conforming and subject to Section 1.1300 of the City of Scottsdale Zoning Ordinance, pertaining to nonconforming uses and structures. A four (4) foot variance would be required to bring the existing house into conformance. Regardless of the outcome of this variance request, the existing structure can continue to function as a single-family residence.

3. That the special circumstances applicable to the property were not self-imposed or created by the owner or applicant:

The applicant states improvements on the property have not changed since the current owners have owned the home.

Staff Analysis: The proposal to add a garage encroaching further into the front yard setback is self-imposed. The existing house setback thirty-six (36) feet from the property line appears to be a condition created upon the original construction of the home.

4. That authorization of the variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general:

The applicant states granting of a variance in order to build a new garage addition will improve safety by clearing cars from parking on E. Larkspur Drive where cars enter quickly from N. Hayden Road. The applicant also included five letters in support.

Staff Analysis: The property currently has two driveways along E. Larkspur Drive, one that accesses the driveway parking area in front of the house and one that accesses a gate to the backyard. Generally more driveways do not add to traffic safety including the proposed new 35' wide driveway in addition to the two existing driveways along E. Larkspur Drive

The mass of the proposed garage would be similar to the detached accessory structure on the property, but would be three feet closer to the property line along E. Larkspur Drive and would be inconsistent with the neighborhood that consistently observes the 40-foot front setback. Staff has received two phone calls and an email from neighbors in opposition of the request.

SUMMARY

Based on the facts presented by the applicant, the evidence would support a finding that the property may not have special circumstances that would warrant relief from the strict application of the Zoning Ordinance requirements. The size, shape, or configuration of the property is not unique and applicable. Further, the applicant's proposed variance does appear that it may be detrimental to persons residing or working in the surrounding neighborhood. However, the decision about whether the criteria have been met is for the Board to make after hearing all the evidence at the hearing.

APPROVED BY



Ben Moriarity, Report Author

8/22/2016

Date



Brad Carr, AICP, Board of Adjustment Liaison
480-312-7713, bcarr@scottsdaleaz.gov

8.22.2016

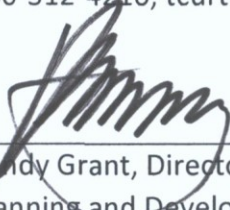
Date



Tim Curtis, AICP, Current Planning Director
480-312-4210, tcurtis@scottsdaleaz.gov

8/23/2016

Date



Randy Grant, Director
Planning and Development Services
480-312-2664, rgrant@scottsdaleaz.gov

8/23/16

Date

ATTACHMENTS

1. Project Description
2. Applicant Justification
3. Context Aerial
4. Aerial Close-Ups
5. Zoning Map
6. Site Photographs
7. Proposed Site Plan and Rendering
8. Neighborhood Correspondence

The Behar Residence

8011 E. Larkspur Drive

Design Narrative

This application is for a setback variance for the above home. We are requesting a 12' setback from the north property line where 40' is required. The existing home was built 36' from the north property line and the variance would bring this into conformance. The home does not have a garage and there are no appropriate areas that meet setback requirements. The home was configured like this when the current owner purchased the home. A hardship is created by the three street frontages. This hardship prevents this site from being used as all of the other sites in the neighborhood are used.



Board of Adjustment Variance Project Narrative

This document will be uploaded to a Case Fact Sheet on the City's web site

The Board of Adjustment may not authorize a zoning ordinance variance unless four (4) members affirm that ALL of the following criteria are met. Please provide justification to the four (4) criteria set forth in Section 1.804 of the Zoning Ordinance; you may attach a separate sheet if you need more room.

Type of variance requested, section(s) of the Zoning Ordinance to be varied:

VARIANCE TO ALLOW GARAGE TO BE BUILT TO WITHIN 12' FROM TO NORTH PROPERTY LINE WHERE 40' IS REQUIRED IN A R-35 ZONE. ALSO A VARIANCE FOR THE EXISTING RESIDENCE THAT WAS ORIGINALLY BUILT AT 36' FROM THE NORTH PROPERTY LINE

1. That 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:

A HARDSHIP IS CREATED ON THIS PROPERTY BY THE 3 STREET FRONTAGES. THE 3 FRONTAGES PREVENT ANY POSSIBLE GARAGE DUE TO 40' SETBACKS ON 3 SIDES.

2. That the authorization of the variance is necessary for the preservation of privileges and rights enjoyed by other property of the same classification in the same zoning district, and does 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:

ALL PROPERTIES ON N. BOTH PLACE IN THE VICINITY OF THE PROPERTY AND IN THE SAME NEIGHBORHOOD HAVE ATTACHED 2 OR 3 CAR GARAGES. THIS WILL ALSO ALLOW A DRIVEWAY AND FRONTAGE IN LINE WITH THE STREET ADDRESS. IT WILL NOT CONSTITUTE A SPECIAL PRIVILEGE.

3. That the special circumstances applicable to the property were not self-imposed or created by the owner or applicant:

THE CIRCUMSTANCES WERE NOT SELF IMPOSED AS THE IMPROVEMENTS HAVE NOT CHANGED SINCE THE CURRENT OWNERS HAVE OWNED THE HOME.

4. That authorization of the variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general:

THE VARIANCE WILL IMPROVE SAFETY AS IT WILL CLEAR CARS FROM PARKING ON LARKSPUR WHERE CARS ENTER QUICKLY FROM HAYDEN ROAD. LETTERS OF SUPPORT FROM THE NEIGHBORS ARE INCLUDED.

Planning, Neighborhood & Transportation Division

7447 E. Indian School Road, Suite 105, Scottsdale, AZ 85251 • Phone: 480-312-2500 • Fax:

11-BA-2016
8/4/2016



Q.S.
31-47

Google Earth Pro Imagery

Behar Residence

11-BA-2016



ATTACHMENT #4

Behar Residence

11-BA-2016



Single-Family Residential

N. Hayden Road

Single-Family Residential

Site

Single-Family Residential

E. Larkspur Drive

N. 80th Place

Single-Family Residential



Q.S.
31-47

Google Earth Pro Imagery

Behar Residence

11-BA-2016



Behar Residence

11-BA-2016