

Mark Speno, Concerned Resident
8647 E. Davenport Drive
Scottsdale, AZ 85260
480-694-6300
markspeno@cox.net

July 29, 2022

Via U.S. mail and email to:

Bryan Cluff, Variance Liaison
BCluff@Scottsdaleaz.gov
City of Scottsdale
7447 E. Indian School Road
Scottsdale, AZ 85251

Cc: Jeff Barnes, Jason Chocron, Conan Deady, Michael Gonzalez, Brian Kaufman, Matt Metz, Ryan Wagner, Scottsdale Mayor David Ortega

Re: **Objection to Variance Case #544-PA-2020**
Address: 13647 N. 87th Street, Scottsdale, Arizona

Dear Mr. Cluff:

I strongly object to the above referenced Application to reduce the lot size and setbacks, paving the way for the construction of an albatross of a structure and setting a precedence for a wave of lot splits and construction of similar oddball structures in our community. I bring to your attention the vast number of letters that are now in the record and available for your review, from neighbors within the McDowell Shadows Estates community objecting to what the Applicant is attempting to do. The Applicant proposes to construct a two-story home in a neighborhood where no two-story homes exist, require a major reduction in setbacks that would eliminate the back yard and situate the house up against the sound wall, require the destruction of a water retention area, provide no visibility of a front entrance, with zero curb appeal and no place for guests to park.

After reviewing the Petition for Variance dated May 24, 2022 and submitted to you by Mr. Timothy A. La Sota, PLC I wish to address many of the false assertions and material inaccuracies made by the Applicant and his representatives.

CRITERIA 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 would like you to believe that, if not for a simple zoning obstacle, this lot is no different than any other in the neighborhood. One would only have to visit the lot in person to see that the subject lot IS NOT similar in size, shape, topography, location or surroundings of any other developed lot in our neighborhood.

Applicant provides Exhibit #03 to show that there are four other lots out of a total of 35 within the McDowell Shadows community that are of similar lot size. But the shape, topography, location and surroundings of his lot inherently deprive it of every other privilege enjoyed by every other property in the development:

- a) The shape and location of the lot does not provide for any street frontage or curb appeal. Any structure built on the site will be hidden behind another home thus denying it all visibility from the street. THIS WOULD BE THE ONLY RESIDENCE IN THE NEIGHBORHOOD WHERE THE FRONT DOOR IS NOT VISIBLE FROM THE STREET. No other home in the neighborhood has this limitation.
- b) The topography prohibits development due to a water retention area existing at the entrance and, by the Applicant's own admission at the City Counsel hearing, requires a "bridge" to be constructed in order to create access. Any bridge would be a first of its kind within our neighborhood and at the very least will require ANOTHER APPLICATION FOR VARIANCE to either build his bridge or for permission to abandon the water retention area altogether.
- c) The surroundings of this lot will create perhaps the biggest inconvenience on the Applicants neighbors. This lot has zero street frontage. The only part of this lot that actually touches the street is the 24 foot driveway entrance. On either side of that you are standing in a neighbors front yard. Every other lot in McDowell Shadows Estates has room for guests to park several cars in the front without encroaching on its neighbors. No other lot, out of the 35 homes in our community, have this limitation.

Summary: This is a textbook example of an undersized, odd shaped, remnant lot that will only become a viable homesite if it is allowed to become an albatross and eyesore to the rest of the community. Applicant states *"The only possible use for the lot is as a residence..."* This statement is false. This lot could easily be combined with any one of three adjacent properties to create an expanded back yard. At least one neighbor has expressed an interest in doing so but Applicant has refused to consider. Several times in its Variance Narrative the Applicant refers to "similar lots in this neighborhood". **Because of this lots shape, location, topography and surroundings, there are no similar lots.**

CRITERIA 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.

Applicant stretches the facts to accommodate special privileges and rights not enjoyed by other property owners.

- a) This lot is not compatible or comparable to any other in our development: A discussion of lot size is misleading when you take into consideration its limitations due to its unusual shape, topography, location and surroundings.
- b) Water retention tracks: The water retention tracks referred to in Exhibit #04 are not a proper comparison. Those tracks run the length of 87th Street and, even with the paved access to those homes, the water retention areas remain intact and continue to serve their intended purpose. If the Applicant paves over his retention area he would be ELIMINATING THIS WATER RETENTION AREA IN ITS ENTIRETY.
- c) Adjacent nonconforming lots are currently being occupied in their highest and best use : Interesting the Applicant refers to adjacent nonconforming lots that are similar to his as “illegitimate”. Those lots are being put to their highest and best use as extensions to the lots of adjacent properties. Something I discussed in my final paragraph in CRITERIA 1 above.
- d) Fair attempt to rectify the conflict: The Applicant, Mr. Koo, makes a stunning admission here that I believe disqualifies him from bringing this matter to this Board of Adjustment. At the most recent City Council meeting in which the Applicant was denied his rezone request, the neighbors made a request to disqualify his application because he had already been in front of the City Council for the same in 2013. The Applicant, Mr. Koo, objected saying that wasn’t possible because he didn’t come into ownership of the property until 2017 and that he had no previous involvement in attempts to develop the lot. In Exhibit #09 and by his own admission in referring to himself as the “applicant has offered the surrounding property owners to re-plot the subdivision...” demonstrates that he was in fact the one leading the charge in 2013. He may not have been on title as the owner of record, but he was certainly acting as the de-facto owner.

Summary: The Applicant is clearly requesting a “special privilege” to build a house on a lot that bares no resemblance to what it used to be.

CRITERIA 3

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

Fwy 101 development is a non-issue: Occurred years before the Applicant purchased the lot and does not constitute “special circumstances”.

Applicant was completely aware of the latent hardship: The applicant was completely aware of the potential for legal conflict four years before he purchase the lot. I, along with dozens of my fellow neighbors, were in attendance of the meeting in front of the lot in 2013 where we overwhelmingly voiced our objection to its development. To further prove my point is the Applicant’s own admission above in his “Fair attempt to rectify the conflict” in 2013, long before he purchased the property. The Applicant, Mr. Koo, is an architect and real estate speculator. **He**

purchased this lot for a purported \$20,000 with the full knowledge of its limitations and the neighborhoods overwhelming objections to its development.

Applicant concludes this section by incorrectly citing case law referring to an Arizona Supreme Court ruling, *Pawn 1st, LLC v. City of Phoenix*, suggesting that he should not be limited by any special circumstances that existed prior to acquiring the lot. A very strong argument can be made that this case does not have the slightest bearing on this situation and I ask that you not give any weight to this argument without a proper and unbiased legal analysis.

CRITERIA 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.

- a) The proposed structure will reduce property values in the neighborhood. Reduced footprint, no backyard, sunlight blocked from a 15' tall sound wall, no street frontage, second story with a view of the freeway, no street parking. These are all factors that will undoubtedly put downward pressure on the proposed home as well as the immediate neighborhood. The Applicant fails to provide appraisal to support his bold claims that he will improve the property values in the area.
- b) There are not now and never have been any environmental health and safety issues with this lot. Applicant fails to provide any real evidence of this fact.
- c) The proposed development threatens to be a nuisance to the public welfare. If developed, the highest and best use of this site is as a short term rental. No one believes that Mr. Koo is building this home to be his primary residence. He and his family currently live in a luxury view home up on McDowell Mountain. The idea that he wants to live in a neighborhood that's been fighting him since 2013 and move into an inferior structure that is up against a sound wall with no back yard, overlooking the freeway, no street frontage or curb appeal, etc. Currently there are several short term rental party houses within the McDowell Shadow Estates community that are already a nuisance to our community. The adjacent neighbor to the south is currently a care home with several elderly residents. If this residence is turned into a short term rental (which is very likely) it will threaten to disturb the peace long into the future.

Everything this Applicant is attempting to do will come at great expense to our community. We have been fighting the Applicant since 2013. The City of Scottsdale Planning Commission overwhelmingly voted it down, the Scottsdale City Council overwhelmingly voted it down and we are simply asking you to observe and follow the common sense of those before you who have looked carefully at the facts surrounding Application and the objections by the residents of our community.

Respectfully submitted,

Mark Speno
8647 E. Davenport Drive
Scottsdale, AZ 85260
(480) 694-6300

Mark Preul, Concerned Resident
8628 E. Davenport Drive
Scottsdale, AZ 85260
480-518-0945
mpreul@cox.net

July 29, 2022

Bryan Cluff, Variance Liaison
BCluff@Scottsdaleaz.gov
City of Scottsdale
7447 E. Indian School Road
Scottsdale, AZ 85251

Cc: Jeff Barnes, Jason Chocron, Conan Deady, Michael Gonzalez, Brian Kaufman, Matt Metz, Ryan Wagner, Scottsdale Mayor David Ortega

Re: **Objection to Variance Case #544-PA-2020**
Address: 13647 N. 87th Street, Scottsdale, Arizona

Dear Mr. Cluff:

I object to the application for lot variance or to rezone the above referenced lot to alter the lot size and setbacks necessary to develop a structure that does not conform to current lot setbacks and zoning in the neighborhood.

The Petition for Variance May 24, 2022 submitted for the applicant Mr. Koo by Mr. Timothy A. La Sota, PLC which contains false assertions and material inaccuracies.

I do not understand another attempt at application for variances when Mr. Koo was denied the variances in 2013, has recently been denied application for rezoning by the City Planning Commission, then also denied the same by the City Council, both votes overwhelmingly against. It seems to me we have been down the road of variance application, and in the meantime the Applicant sought an even greater change in rezoning which was denied, but here we are back at a variance application again.

As you know, the administrative provisions governing the Board of Adjustment, also known as the Zoning Ordinance of the City of Scottsdale provides that a variance from the provisions of this Zoning Ordinance shall not be authorized unless the Board shall find upon sufficient evidence that four Criteria are met:

CRITERION 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 suggests that this property is the result of some zoning obstacle that can easily be changed and that this lot is no different than any other in the neighborhood. This lot is miniscule compared to others in the neighborhood and its location and surroundings are as well different.

Applicant states that privilege enjoyed by every other property in the development is denied to his lot. The Applicant purchased the lot knowing full well of the limitations of the lot, or should have known these. Nothing has been foisted upon him to change the situation by the neighborhood. These are inherent limitations to the lot.

- a) The shape and location of the lot denies nearly any street frontage or curb appeal. The entire structure will be hidden behind another home thus denying it all visibility from the street. Such a structure would be akin to homes such as in San Diego, California that are built nearly compacted upon one another, behind other homes on extremely small lots. No other lot or home in the neighborhood would have this configuration.
- b) Water retention and management is a serious issue for this lot. The Applicant in his rezoning application proposed building a bridge from the street to the lot allowing water retention management, but no firm plans were obvious. It would be the only property in the area with a bridge going from the street into the lot.
- c) Street frontage is a mere 15 feet or less, which includes driveway width. Where will cars park for this home?

This lot is a remnant. The Applicant's proposal will be for a structure slammed into a miniscule lot and will be completely out of place and character compared to the other homes of the neighborhood. The Applicant could easily have sold the property to a west neighbor who has offered to buy the lot.

CRITERION 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 stretches the facts to accommodate special privileges and rights not enjoyed by

other property owners. The Applicant purchased the property as is. He knew or should have known the limitations of the lot. In plain language, the Applicant purchased the property for \$20,000 and probably believed, given that minor cost for a lot in the neighborhood, that he would achieve a windfall profit on sale or investment.

CRITERION 3

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

This criterion is no different than criterion #2. The 101 freeway claim is irrelevant in that it occurred years before the Applicant purchased the lot and does not constitute “special circumstances.” The Applicant knew or should have known the limitations for construction on the property. These limitations were not self-imposed or created by the Applicant, but they were plainly obvious at the time of purchase. The neighborhood and City are not responsible to rectify poor or unprofitable decisions made by persons purchasing property and the neighborhood should not have to alter its character to accommodate such. Applicant cites case law referring to an Arizona Supreme Court ruling, *Pawn 1st, LLC v. City of Phoenix*, suggesting that he should not be limited by any special circumstances that existed prior to acquiring the lot. This case has no bearing on this situation and I ask that you not give any weight to this argument without a proper unbiased legal analysis. If one purchases a small lot that requires variances or rezoning for construction, there is no inherent right that the lot character has to be altered for you. If that were true, logically managed construction and neighborhood integrity would cease to exist. Cities would be total chaos. There would be no need for planning commissions or boards to decide variances. There are any number of lots in Scottsdale that the Applicant could have purchased and that would not have encumbered complicated and long drawn out petitions for variances and rezonings.

CRITERION 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.

A large number of letters exists in the files from 2013 through the present that record from neighbors within the McDowell Shadows Estates community their objections to what the Applicant is attempting to do. These should be part of the file supporting a decision. The Applicant proposes to construct a two-story home in a neighborhood where no two-story homes exist, require a major reduction in setbacks that would virtually eliminate the back yard and situate the house merely a few feet from a freeway sound wall and other property walls, require the destruction of a water retention area, no visibility of a front entrance, zero curb appeal and no place for guests to park.

Applicant is attempting to profit at the expense of our community. During a neighborhood meeting at the lot led by Mr. Richert, Mr. Koo’s consultant for the rezoning application,

incredulously stated to the group, “Well he’s bought the lot, so you have to let him do something with it.” Mr. Koo is an architect and well-known designer and real estate professional. If anyone should have known the inherent problems with construction on the property, it would be he. We have been fighting his attempts since 2013 when a variance petition to the city was denied. The City of Scottsdale Planning Commission overwhelmingly denied rezoning, the Scottsdale City Council overwhelmingly denied rezoning. But, it seems we are now going backwards in process to a variance petition, when this has been decided previously.

We are requesting you to observe and follow the common sense of those before you who have looked carefully at the facts surrounding Application and the wishes of the residents of our community. We want to preserve the character of our beautiful older Scottsdale neighborhood. Scottsdale’s philosophy puts its neighborhoods in primacy – that’s what makes Scottsdale great.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Mark C. Preul".

Mark C. Preul
8628 E. Davenport Drive
Scottsdale, AZ 85260
(480) 518-0945

From: [Cluff, Bryan](#)
To: [Barnes, Jeff](#)
Subject: FW: Board of Adjustment Public Comment
Date: Monday, August 1, 2022 12:49:39 PM
Importance: High

From: WebServices <WebServices@scottsdaleaz.gov>
Sent: Monday, August 1, 2022 11:55 AM
To: Board Of Adjustment <BCADJUST@Scottsdaleaz.gov>; Projectinput <Projectinput@Scottsdaleaz.gov>; Cluff, Bryan <BCluff@Scottsdaleaz.gov>
Subject: Board of Adjustment Public Comment
Importance: High

Name: Barbara Cowdery
Address: 8644 E. Sutton Dr., Scottsdale, AZ 85260
Email: bcowdery1@gmail.com
Phone: (480) 998-6033

Comment:

Case Number: 5-BA-2022. This case has drag on way to long and the applicant keeps changing his request to try and get it through the city. I am vehemently opposed to this request as it changes the neighborhood by adding a house where it doesn't belong. Essentially it builds a house in his backyard. This lot is a remnant from the 101 and was not designed for a house. It could be used for storage but not a house. Our neighborhood has large houses on large lots and to squeeze a house on this lot does not fit the neighborhood. Please deny this request and put this issue to rest permanently.

From: [WebServices](#)
To: [Board Of Adjustment](#); [Projectinput](#); [Cluff, Bryan](#)
Subject: Board of Adjustment Public Comment
Date: Tuesday, August 2, 2022 2:14:02 PM
Importance: High

Name: Eric Rodriguez
Address: 13670 N. 87th St. Scottsdale, AZ 85260
Email: ericrodriguez99@mac.com
Phone: (602) 790-7104

Comment:

I'm writing this letter today to voice my objection to the application for lot variance or rezoning at 13647 N. 87th St., Scottsdale, AZ proposed by Mr. Timothy A. La Sota, PLC for Mr. Koo (Variance Case #544-PA-2020). This lot is in the cul-de-sac directly across the street from my home. It is a very small lot with very little access to the street. If a house is built on this lot, it would have to be much smaller than the other homes in the neighborhood, the structure itself would necessarily almost abut the property lines on all sides, and it would be mostly hidden from the street (built mostly behind another home). In addition, I understand that the proposed home would be two stories. Currently, there are no two story homes in the neighborhood. The home that Mr. Koo suggests building on this lot would be wholly and completely inappropriate and incongruous with our neighborhood and would likely decrease the values of the all the other homes in the area. Please consider the overall aesthetic of the area, the value of the other homes, and the rights of the home owners to have everyone play by the same rules. Thank you, Eric Rodriguez 13670 N. 87th St. Scottsdale, AZ 85260 ericrodriguez99@mac.com

From: [WebServices](#)
To: [Board Of Adjustment](#); [Projectinput](#); [Cluff, Bryan](#)
Subject: Board of Adjustment Public Comment
Date: Tuesday, August 2, 2022 1:29:59 PM
Importance: High

Name: Kristine Rodriguez
Address: 13670 N 87th St Scottsdale, AZ 85260
Email: kmrphoenix6@mac.com
Phone: (602) 790-7106

Comment:

Dear sirs, my comment is regarding my objection to Variance Case #544-PA-2020.
Address: 13647 N. 87th St Scottsdale, AZ. I object to to Mr. Koo attempting to force this freakish anomaly into our neighborhood yet again! The lot, the structure and the setting are all incongruous with the essence and character of our beloved neighborhood. Since Mr Koo was denied his previous applications in 2013, it feels very aggressive and hostile that he is back at it again. My home is directly across from the lot in question and I am very concerned it will affect us in terms of where cars will park for this “home”, in front of my house? No thank you! I am also terribly concerned about the value of my home being negatively affected, as well as that of all homes in our neighborhood. Please, please do not allow this kind of underhanded and unwanted practice to be permitted.

From: [WebServices](#)
To: [Board Of Adjustment](#); [Projectinput](#); [Cluff, Bryan](#)
Subject: Board of Adjustment Public Comment
Date: Monday, August 1, 2022 7:13:41 PM
Importance: High

Name: Nan

Address: 8618 E. Voltaire Avenue, Scottsdale, AZ 85260

Email: nanner8618@yahoo.com

Phone: (480) 483-2644

Comment:

Re-BA-2022 Public Hearing Notification Objection to Variance Case # 544-PA-2020

Address: 13647 N. 87th Street, Scottsdale, AZ 85260 I object to the request of the lot owner at the above address to build on the property. All the reasons I oppose are well stated to you in an email or letter from Mark Speno. He has expressed the concerns of me and many others. I live just a couple of blocks away from the parcel in question. All of us are very tired of the owner's perseverance after the City Planning Commission and the City Council turned it down. I would appreciate your voting to object to the variance.
Very Sincerely, Nan Currie-White

From: [Cluff, Bryan](#)
To: [Barnes, Jeff](#)
Subject: FW: Board of Adjustment Public Comment
Date: Tuesday, August 2, 2022 1:57:33 PM
Importance: High

From: WebServices <WebServices@scottsdaleaz.gov>
Sent: Tuesday, August 2, 2022 1:30 PM
To: Board Of Adjustment <BCADJUST@Scottsdaleaz.gov>; Projectinput <Projectinput@Scottsdaleaz.gov>; Cluff, Bryan <BCluff@Scottsdaleaz.gov>
Subject: Board of Adjustment Public Comment
Importance: High

Name: Kristine Rodriguez
Address: 13670 N 87th St Scottsdale, AZ 85260
Email: kmrphoenix6@mac.com
Phone: (602) 790-7106

Comment:

Dear sirs, my comment is regarding my objection to Variance Case #544-PA-2020. Address: 13647 N. 87th St Scottsdale, AZ. I object to to Mr. Koo attempting to force this freakish anomaly into our neighborhood yet again! The lot, the structure and the setting are all incongruous with the essence and character of our beloved neighborhood. Since Mr Koo was denied his previous applications in 2013, it feels very aggressive and hostile that he is back at it again. My home is directly across from the lot in question and I am very concerned it will affect us in terms of where cars will park for this "home", in front of my house? No thank you! I am also terribly concerned about the value of my home being negatively affected, as well as that of all homes in our neighborhood. Please, please do not allow this kind of underhanded and unwanted practice to be permitted.

From: [WebServices](#)
To: [Board Of Adjustment](#); [Projectinput](#); [Cluff, Bryan](#)
Subject: Board of Adjustment Public Comment
Date: Monday, August 1, 2022 11:54:45 AM
Importance: High

Name: Barbara Cowdery
Address: 8644 E. Sutton Dr., Scottsdale, AZ 85260
Email: Bcowdery1@gmail.com
Phone: (480) 998-6033

Comment:

Case Number: 5-BA-2022. This case has drag on way to long and the applicant keeps changing his request to try and get it through the city. I am vehemently opposed to this request as it changes the neighborhood by adding a house where it doesn't belong. Essentially it builds a house in his backyard. This lot is a remnant from the 101 and was not designed for a house. It could be used for storage but not a house. Our neighborhood has large houses on large lots and to squeeze a house on this lot does not fit the neighborhood. Please deny this request and put this issue to rest permanently.

From: [WebServices](#)
To: [Board Of Adjustment](#); [Projectinput](#); [Cluff, Bryan](#)
Subject: Board of Adjustment Public Comment
Date: Monday, August 1, 2022 2:31:46 PM
Importance: High

Name: Bennett Beaudry
Address: 8714 East Voltaire Avenue
Email: bennett.beaudry@cox.net
Phone: (480) 980-1084

Comment:

Case Name: Koo Variance Request, **Case Number:** 5-BA-2022 **Hearing Date is August 3, 2022 @ 6:00P.M.** **To:** Board of Adjustment The purpose of this letter is to inform you that I am totally against the variance request effort of the vacant lot at 13647 N. 87th Street. This property is a remnant created by the State of Arizona during the construction of the North 101. These parcels were sold off to property owners following their use as marshaling yards for construction materials and vehicle storage during the construction process. I believe there are no compelling reasons for supporting this application in the General Plan. The efforts and statements of Mr. Reichert's and his clients' propositions are a stretch and clearly an attempt to divert from the main subjects of requirements for rezoning and not within the character of the surrounding homes. For example, the public safety problem he mentions is not a problem because Mr. Koo owns the lot and he's has to maintain it. There have never been any safety problems with his lot that is bordered on 4 sides by walls with only limited access to the street. Because of the reduced size and "flag type" configuration of the lot, any home built on this site will not be commensurate with the architecture of the neighborhood. Their plan will not provide a home of similar value and size to those in the immediate and surrounding area. His plan is to build a two-story ultra-modern home (in a neighborhood where no 2-story homes exist) with less than 15 foot of street frontage and even the front door will not be seen from the street. This odd shaped lot that was never configured to be built on, will in our opinion, place downward pressure on property values and serve as a potential eyesore for decades to come. In 2013, Mr. Koo applied to the city for a variance to build a home on this site and our community at the time overwhelmingly objected and the City Council agreed by voting it down. However, not to be deterred by what's in the best interest of McDowell Shadow homeowners, this time Mr. Koo has hired ex-City Planner and heavyweight David Richert for his experience and influence to push this zoning change through the process. Bottom line is that Mr. Koo could have gone just about anywhere in Scottsdale and found a bigger, appropriate lot, but at \$20,000, this sliver of a property was too enticing to ignore for an assumed easy windfall. The situation wasn't appropriate for the building/planning commission previously to allow variances, and nothing has changed, except the push for a more serious change to the neighborhood with a precedent-setting attempt at rezoning. This is how neighborhood character gets destroyed. Hopefully the City of Scottsdale Board of Adjustment votes to preserve its philosophy of preservation of neighborhoods.

From: [WebServices](#)
To: [Board Of Adjustment](#); [Projectinput](#); [Cluff, Bryan](#)
Subject: Board of Adjustment Public Comment
Date: Monday, August 1, 2022 2:33:45 PM
Importance: High

Name: Bennett Beaudry
Address: 8714 East Voltaire Avenue, Scottsdale AZ 85260
Email: bennett.beaudry@cox.net
Phone: (480) 980-1084

Comment:

Case Name: Koo Variance Request, Case Number: 5-BA-2022 Hearing Date is August 3, 2022 @ 6:00P.M. **To:** Board of Adjustment The purpose of this letter is to inform you that I am totally against the variance request effort of the vacant lot at 13647 N. 87th Street. Can you include all the previous correspondence from us on this topic - this should include the files from the Planning Commission and city Council hearing that have our correspondence in them – when you provide your update to the Board of Adjustment members. Could you provide a written response that this will occur?
Bennett Beaudry 8714 East Voltaire Avenue Scottsdale, AZ 85260 Cell: 480-980-1084
Home: 480-922-9166

From: [WebServices](#)
To: [Board Of Adjustment](#); [Projectinput](#); [Cluff, Bryan](#)
Subject: Board of Adjustment Public Comment
Date: Monday, August 1, 2022 2:35:13 PM
Importance: High

Name: Bennett Beaudry

Address: 8714 East Voltaire Avenue, Scottsdale AZ 85260

Email: bennett.beaudry@cox.net

Phone: (480) 980-1084

Comment:

Case Name: Koo Variance Request, **Case Number:** 5-BA-2022 **Hearing Date is August 3, 2022 @ 6:00P.M.** **To:** Board of Adjustment The purpose of this letter is to inform you that I am totally against the variance request effort of the vacant lot at 13647 N. 87th Street. I agree with Mr. Zahn comments below. **Subject:** 5-BA-2022 Public Hearing **Notification Date:** Wed, 22 Jun 2022 14:02:36 -0700 **From:** BernieLindaZahn **To:** Barnes, Jeff I am the owner of the property which shares the back wall of the property in question. A variance application was first requested in August of 2012 and was turned down by the Planning Commission. (Brad Carr, AICP LEED AP-planning Services). During this past year Mr. Koo, has requested re-zoning and has been turned down by the Commission and The City Council. It seems now that Mr. Koo, as last-ditch effort, is asking for variance changes. My community neighbors have written to you with their objections so I will not reiterate them. I want to be on record that oppose his request. In addition, I don't want the property used to conduct any business operation by building and renting the home. He purchased this property well knowing it's limitations. Please uphold our other agencies denials. Bernard Zahn 8764 E Celtic Dr , 85260 Bennett Beaudry 8714 East Voltaire Avenue Scottsdale, AZ 85260 Cell: 480-980-1084 Home: 480-922-9166

From: [WebServices](#)
To: [Board Of Adjustment](#); [Projectinput](#); [Cluff, Bryan](#)
Subject: Board of Adjustment Public Comment
Date: Monday, August 1, 2022 2:36:36 PM
Importance: High

Name: Bennett Beaudry
Address: 8714 East Voltaire Avenue. Scottsdale, AZ 85260
Email: bennett.beaudry@cox.net
Phone: (480) 980-1084

Comment:

Case Name: Koo Variance Request, **Case Number:** 5-BA-2022 **Hearing Date is August 3, 2022 @ 6:00P.M.** **To:** Board of Adjustment The purpose of this letter is to inform you that I am totally against the variance request effort of the vacant lot at 13647 N. 87th Street. I agree with Mr. Speno comments below. **From:** Mark Speno **Subject:** Fwd: 5-BA-2022 Public Hearing Notification **Date:** June 22, 2022 at 10:30:55 AM MST **To:** mpreul , Louis Palmieri Let the four criteria below serve as a blueprint for our argument. Because of the nuances of the site, even with the variance, this lot will never have 1) "the privileges enjoyed by other property of the same classification in the same zoning district; and" 2) "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; and" (like access without a bridge and damage to a water retention area, street frontage, modified setbacks that will all but eliminate the back yard, etc) 3) "special circumstances applicable to the property were not self-imposed or created by the owner or applicant" (b.s., Koo's decision to buy this lot with full knowledge of its limitations were self-imposed) and 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. (we have to get to the adjacent neighbors to write up their objection to this one. The highest and best use of this property will be as a short term rental, we've brought this up in the past and note that Koo has not offered a deed restriction prohibiting this thing from becoming another party house. The neighbor to the south is a care home with several elderly residents. You think they want to be calling the police each time the noise kicks up every night?) **Mark Bennett Beaudry 8714 East Voltaire Avenue Scottsdale, AZ 85260 Cell: 480-980-1084 Home: 480-922-9166**

From: [WebServices](#)
To: [Board Of Adjustment](#); [Projectinput](#); [Cluff, Bryan](#)
Subject: Board of Adjustment Public Comment
Date: Monday, August 1, 2022 2:37:49 PM
Importance: High

Name: Bennett Beaudry
Address: 8714 EAst Volatire Avenue, Scottsdale, AZ 85260
Email: bennett.beaudry@cox.net
Phone: (480) 980-1084

Comment:

Case Name: Koo Variance Request, **Case Number:** 5-BA-2022 **Hearing Date is August 3, 2022 @ 6:00P.M.** **To:** Board of Adjustment The purpose of this letter is to inform you that I am totally against the variance request effort of the vacant lot at 13647 N. 87th Street. I agree with Mr. Preul's comments below. Jeff We appreciate your information on this situation. I think you can understand our perspective and why we are so concerned about this as a neighborhood. With regard to the points that are criteria for the BOA. Here are my responses to the points that the BOA should assess, I assume others on this email thread will have their opinions as well. 1. Applicant is an architect and thus is quite familiar with variances, rezoning, parcel and building requirements. Applicant should have done due diligence before purchasing the property with regard to variances or zoning requirements — especially for this remnant small lot. The bottom line is that the lot was purchased for \$20,000 and applicant believed he would make a windfall profit. The variances and zoning required do not fit in any prior circumstance within the neighborhood. 2. Special privileges as what is being sought and has been sought have not been sought for any such property in the neighborhood. This situation is unique. The rezoning was denied, as discussed in the planning commission and city council hearings, to a great degree based on potential for precedent for any property owner in the area to rezone lots into smaller parcels, thus damaging the long-established character of the neighborhood. 3. The circumstances are self-imposed by Applicant—he purchased the property, his actions, he knew or should have known what would be required to accomplish his construction plans before purchase, and certainly as he has been denied variance and rezoning applications. The neighborhood has not imposed anything on him. Applicant is responsible for due diligence. 4. The lot will be detrimental in not fitting within the character of the neighborhood. The home will appear rammed into the parcel, it is planned for 2 stories (no other homes are 2 stories), it will be only a few feet away from a freeway sound wall and other walls, frontage is only a few feet, drainage issues are pertinent, etc. The neighborhood has a right to maintain its character as promoted by the City of Scottsdale which states its neighborhoods are paramount. There are a myriad of Scottsdale properties that applicant could have purchased that would not have involved the many issues encountered with this property and its circumstances with the neighborhood. His problem of an easy-appearing investment gain that has involved property problems is not and should not continue to have a life as our problem. His consultant Mr. Richert was insulting at a neighborhood meeting in telling all who gathered, "Well he's bought it [the property], so you have to let him do something with it." I don't believe that is how the system works. Sincerely, Mark Preul 8628 E. Davenport Dr. Bennett Beaudry 8714 East Voltaire Avenue Scottsdale, AZ 85260 Cell: 480-980-1084 Home: 480-922-9166

From: [WebServices](#)
To: [Board Of Adjustment](#); [Projectinput](#); [Cluff, Bryan](#)
Subject: Board of Adjustment Public Comment
Date: Monday, August 1, 2022 2:42:19 PM
Importance: High

Name: Benentt Beaudry
Address: 8714 EAst Voltaire Avenue, Scottsdale, AZ 85260
Email: bennett.beaury@cox.net
Phone: (480) 980-1084

Comment:

Case Name: Koo Variance Request, Case Number: 5-BA-2022 Hearing Date is August 3, 2022 @ 6:00P.M. To: Board of Adjustment The purpose of this letter is to inform you that I am totally against the variance request effort of the vacant lot at 13647 N. 87th Street. I agree with Mr. Speno comments below. **Case Name: Koo Variance Request, Case Number: 5-BA-2022 Hearing Date is July 6, 2022 @ 6:00P.M. To: Board of Adjustment** The purpose of this letter is to inform you that I am totally against the variance request effort of the vacant lot at 13647 N. 87th Street. I agree with Mr. Speno comments below. Mark Speno, Concerned Resident 8647 E. Davenport Drive Scottsdale, AZ 85260 480-694-6300 markspeno@cox.net July 29, 2022 Via U.S. mail and email to: Bryan Cluff, Variance Liaison BCluff@Scottsdaleaz.gov City of Scottsdale 7447 E. Indian School Road Scottsdale, AZ 85251 Cc: Jeff Barnes, Jason Chocron, Conan Deady, Michael Gonzalez, Brian Kaufman, Matt Metz, Ryan Wagner, Scottsdale Mayor David Ortega Re: Objection to Variance Case #544-PA-2020 Address: 13647 N. 87th Street, Scottsdale, Arizona Dear Mr. Cluff: I strongly object to the above referenced Application to reduce the lot size and setbacks, paving the way for the construction of an albatross of a structure and setting a precedence for a wave of lot splits and construction of similar oddball structures in our community. I bring to your attention the vast number of letters that are now in the record and available for your review, from neighbors within the McDowell Shadows Estates community objecting to what the Applicant is attempting to do. The Applicant proposes to construct a two-story home in a neighborhood where no two-story homes exist, require a major reduction in setbacks that would eliminate the back yard and situate the house up against the sound wall, require the destruction of a water retention area, provide no visibility of a front entrance, with zero curb appeal and no place for guests to park. After reviewing the Petition for Variance dated May 24, 2022 and submitted to you by Mr. Timothy A. La Sota, PLC I wish to address many of the false assertions and material inaccuracies made by the Applicant and his representatives. Page 1 of 4 **CRITERIA 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 would like you to believe that, if not for a simple zoning obstacle, this lot is no different than any other in the neighborhood. One would only have to visit the lot in person to see that the subject lot IS NOT similar in size, shape, topography, location or surroundings of any other developed lot in our neighborhood. Applicant provides Exhibit #03 to show that there are four other lots out of a total of 35 within the McDowell Shadows community that are of similar lot size. But the shape, topography, location and surroundings of his lot inherently deprive it of every other privilege enjoyed by every other property in the development: The shape and

location of the lot does not provide for any street frontage or curb appeal. Any structure built on the site will be hidden behind another home thus denying it all visibility from the street. **THIS WOULD BE THE ONLY RESIDENCE IN THE NEIGHBORHOOD WHERE THE FRONT DOOR IS NOT VISIBLE FROM THE STREET.** No other home in the neighborhood has this limitation. The topography prohibits development due to a water retention area existing at the entrance and, by the Applicant's own admission at the City Counsel hearing, requires a "bridge" to be constructed in order to create access. Any bridge would be a first of its kind within our neighborhood and at the very least will require **ANOTHER APPLICATION FOR VARIANCE** to either build his bridge or for permission to abandon the water retention area altogether. The surroundings of this lot will create perhaps the biggest inconvenience on the Applicants neighbors. This lot has zero street frontage. The only part of this lot that actually touches the street is the 24 foot driveway entrance. On either side of that you are standing in a neighbors front yard. Every other lot in McDowell Shadows Estates has room for guests to park several cars in the front without encroaching on its neighbors. No other lot, out of the 35 homes in our community, have this limitation. Summary: This is a textbook example of an undersized, odd shaped, remnant lot that will only become a viable homesite if it is allowed to become an albatross and eyesore to the rest of the community. Applicant states "The only possible use for the lot is as a residence..." This statement is false. This lot could easily be combined with any one of three adjacent properties to create an expanded back yard. At least one neighbor has expressed an interest in doing so but Applicant has refused to consider. Several times in its Variance Narrative the Applicant refers to "similar lots in this neighborhood". Because of this lots shape, location, topography and surroundings, there are no similar lots. Page 2 of 4 **CRITERIA 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. Applicant stretches the facts to accommodate special privileges and rights not enjoyed by other property owners. This lot is not compatible or comparable to any other in our development: A discussion of lot size is misleading when you take into consideration its limitations due to its unusual shape, topography, location and surroundings. Water retention tracks: The water retention tracks referred to in Exhibit #04 are not a proper comparison. Those tracks run the length of 87th Street and, even with the paved access to those homes, the water retention areas remain intact and continue to serve their intended purpose. If the Applicant paves over his retention area he would be **ELIMINATING THIS WATER RETENTION AREA IN ITS ENTIRETY**. Adjacent nonconforming lots are currently being occupied in their highest and best use : Interesting the Applicant refers to adjacent nonconforming lots that are similar to his as "illegitimate". Those lots are being put to their highest and best use as extensions to the lots of adjacent properties. Something I discussed in my final paragraph in **CRITERIA 1** above. Fair attempt to rectify the conflict: The Applicant, Mr. Koo, makes a stunning admission here that I believe disqualifies him from bringing this matter to this Board of Adjustment. At the most recent City Council meeting in which the Applicant was denied his rezone request, the neighbors made a request to disqualify his application because he had already been in front of the City Council for the same in 2013. The Applicant, Mr. Koo, objected saying that wasn't possible because he didn't come into ownership of the property until 2017 and that he had no previous involvement in attempts to develop the lot. In Exhibit #09 and by his own admission in referring to himself as the "applicant has offered the surrounding property owners to re-plat the subdivision..." demonstrates that he was in

fact the one leading the charge in 2013. He may not have been on title as the owner of record, but he was certainly acting as the de-facto owner. Summary: The Applicant is clearly requesting a “special privilege” to build a house on a lot that bares no resemblance to what it used to be. I will submit second part next

From: [WebServices](#)
To: [Board Of Adjustment](#); [Projectinput](#); [Cluff, Bryan](#)
Subject: Board of Adjustment Public Comment
Date: Monday, August 1, 2022 2:44:46 PM
Importance: High

Name: Bennett Beaudry
Address: 8714 East Voltaire Avenue, Scottsdale, AZ 85260
Email: bennett.beaudry@cox.net
Phone: (480) 980-1084

Comment:

Case Name: Koo Variance Request, **Case Number:** 5-BA-2022 **Hearing Date is August 3, 2022 @ 6:00P.M. To:** Board of Adjustment The purpose of this letter is to inform you that I am totally against the variance request effort of the vacant lot at 13647 N. 87th Street. I agree with Mr. Speno comments below. **Case Name:** Koo Variance Request, **Case Number:** 5-BA-2022 **Hearing Date is July 6, 2022 @ 6:00P.M. To:** Board of Adjustment The purpose of this letter is to inform you that I am totally against the variance request effort of the vacant lot at 13647 N. 87th Street. I agree with Mr. Speno comments below. Mark Speno, Concerned Resident 8647 E. Davenport Drive Scottsdale, AZ 85260 480-694-6300 markspeno@cox.net July 29, 2022 Via U.S. mail and email to: Bryan Cluff, Variance Liaison BCluff@Scottsdaleaz.gov City of Scottsdale 7447 E. Indian School Road Scottsdale, AZ 85251 Cc: Jeff Barnes, Jason Chocron, Conan Deady, Michael Gonzalez, Brian Kaufman, Matt Metz, Ryan Wagner, Scottsdale Mayor David Ortega Re: Objection to Variance Case #544-PA-2020 Address: 13647 N. 87th Street, Scottsdale, Arizona Second Part CRITERIA 3 That the special circumstances applicable to the property were not self-imposed or created by the property owner. Fwy 101 development is a non-issue: Occurred years before the Applicant purchased the lot and does not constitute "special circumstances". Applicant was completely aware of the latent hardship: The applicant was completely aware of the potential for legal conflict four years before he purchase the lot. I, along with dozens of my fellow neighbors, were in attendance of the meeting in front of the lot in 2013 where we overwhelmingly voiced our objection to its development. To further prove my point is the Applicant's own admission above in his "Fair attempt to rectify the conflict" in 2013, long before he purchased the property. The Applicant, Mr. Koo, is an architect and real estate speculator. He Page 3 of 4 purchased this lot for a purported \$20,000 with the full knowledge of its limitations and the neighborhoods overwhelming objections to its development. Applicant concludes this section by incorrectly citing case law referring to an Arizona Supreme Court ruling, Pawn 1st, LLC v. City of Phoenix, suggesting that he should not be limited by any special circumstances that existed prior to acquiring the lot. A very strong argument can be made that this case does not have the slightest bearing on this situation and I ask that you not give any weight to this argument without a proper and unbiased legal analysis.

From: [WebServices](#)
To: [Board Of Adjustment](#); [Projectinput](#); [Cluff, Bryan](#)
Subject: Board of Adjustment Public Comment
Date: Monday, August 1, 2022 2:46:07 PM
Importance: High

Name: Bennett Beaudry
Address: 8714 East Voltaire Avenue, Scottsdale, AZ 85260
Email: bennett.beaudry@cox.net
Phone: (480) 980-1084

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before you who have looked carefully at the facts surrounding Application and the objections by the residents of our community. Respectfully submitted, Mark Speno 8647 E. Davenport Drive Scottsdale, AZ 85260 (480) 694-6300 Page 4 of 4