Report to the Board of Adjustment

Prepared by the Maricopa County Planning and Development Department

Case: BA2006030	Variance
Hearing Date:	May 10, 2006 (Continued from April 12, 2006)
Agenda Item:	7
Supervisorial District:	5

*Indicates new or revised information since the report of April 12, 2006.

Applicant / Owner: Michael Fitton

Request:

Variances to permit:

1) A proposed single-family residence to setback 10 feet from the side (west) property line where 30 feet is the minimum required; and

2) A proposed single-family residence to setback 73 feet from the street side (east) property line where 75 feet is the minimum required in the Rural-43 zoning district.

These variances are requested from the following Zoning Ordinance Section(s):

1) Section 503, Article 503.4.2
2) Section 503, Article 503.4.1.a

Site Location: 4305 W. Ivanhoe Street – 51st Avenue and Ray Road (Laveen area)

Site Size: 50,214 square feet (1.16 acres)

Existing Zoning: Rural-43

Current Use: Vacant

Citizen Support / Opposition: None known

Staff Recommendation: **Approve** with stipulations

Existing On-Site and Surrounding Zoning:

1. On-site: Rural-43
   North: Rural-43
   South: Rural-43
   East: RE-35 H.P. (City of Phoenix)
   West: Rural-43

Existing On-Site and Surrounding Land Use:

2. On-site: Vacant
   North: Single-family residence
   South: Single-family residence
   East: City of Phoenix Mountain Preserve
   West: Vacant

Background:

3. **June 14, 2005:** The owner took possession of the parent parcel via a Warranty Deed recorded under docket number **05-0805721**.

4. **October 12, 2005:** The owner split the parent parcel into two smaller parcels. The owner conveyed the subject site to himself via a Warranty Deed recorded under docket number **05-1518434**.

5. **November 4, 2005:** The owner applied for a building permit (**B200515755**) for a single-family residence on the subject site.

6. **March 6, 2006:** The owner applied for these variance requests.

*7. **April 12, 2006:** This case was forwarded to the May 10, 2006 hearing date due to a lack of quorum.

Findings:

8. **Maricopa County Department of Transportation:** Has limited the requested waiver of the 43rd Avenue alignment to only five (5) feet. Recommends that applicant proceed with the proposed variances (see attached correspondence).

9. **Flood Control District:** No response at the time this report was written.

10. **Environmental Services Department:** No response at the time this report was written.

11. **Drainage Administration:** There is a wash system that appears to be just to the south of the proposed structure. No encroachment will be allowed into this wash without engineered grading and drainage plans.

12. **City of Phoenix:** No comments at this time (see attached letter).

Site Analysis:

13. The subject site is a rectangular shaped lot measuring approximately 165 feet in width and 303 feet in depth for a total area of 50,124-sq. ft. The site is currently vacant; however, the applicant is proposing to construct a 6,317-sq. ft., single-family residence. The site is level and appears free from physical hardships. There is a moderate wash feature that crosses the site from the central eastern portion of the site to the southwest corner. The majority of the site appears to have been cleared of most vegetation some time ago; however, vegetation still remains around the wash area.

14. The 43rd Avenue alignment is present along the eastern 55 feet of the subject site. This right-of-way has not been dedicated to the County at this point; however, the reservation is called out as a requirement in the Zoning Ordinance. Access is taken from Ivanhoe Street which borders the northern property line of the subject site.

15. The following table is included to illustrate and contrast the standards for the underlying zoning district with those proposed by the applicant.

Standard	Rural-43 Zoning District	Proposed Standard
Front Yard Setback	40-feet	62-feet
Rear Yard Setback	40-feet	142.65-feet
Side Yard Setback	30-feet	**10-feet**
Street Side Setback	75-feet**	**73-feet**
Maximum Height	30-feet/2 stories	26-feet/1 story
Minimum Lot Area	43,560-sq. ft.	50,214-sq. ft.
Minimum Lot Width	145-feet	165.24-ft.
Lot Coverage	15%	12.6%

*Standards indicated in **bold** do not meet minimum base zoning standards.
**Includes 55-foot right-of-way for 43rd Avenue.

View looking south across subject site.

View looking east towards Phoenix Mountain Preserve

Land Use Analysis:

16. The subject site is located in a remote portion of the County sandwiched between the Phoenix Mountain Preserve to the north and east and the Gila River Native American Community to the south and west. The Vee Quiva casino is located a short distance south and west of this area. The proposed Loop 202 alignment parallels the southwestern boundary of this area, though this may be subject to change.

17. Uses in this area are almost exclusively residential in nature. Vee Quiva casino is a notable exception to this, though it is located within the Gila River Native American Community limits. Some agricultural uses are present within the general area, though there are none in the immediate area. Development in this area is through the lot splitting process and consists primarily of single-family residences on acre or larger lots. Housing is eclectic in this area and ranges from old manufactured homes and small ranch style houses to large custom homes.

18. Terrain in the area is mostly level though there is some change in elevation to the north and scattered washes throughout the area. Vegetation has mostly been cleared in this area for residential development. Creosote, Mesquite, Palo Verde and Saguaro species are present within the adjacent Phoenix Mountain Preserve. Staff research revealed one other variance request within this area. This case is described below:

    - **BA81-97:** This case was to permit an addition to an existing single-family residence to setback 17 feet from the rear (south) property line where 40 feet is the minimum required in the Rural-43 zoning district. This site is located at 4543 W. Ivanhoe, approximately ¼-mile west of the subject site. The Board approved this request by a vote of 3-0.

Plan Analysis:

19. This is a request for two variances for side yard setbacks for a proposed single-family residence. The first request is to permit a proposed single-family residence to setback 10 feet from the side (west) property line where 30 feet is the minimum required. The proposed residence is approximately 81.5 feet in width and would typically be able to meet both side setbacks on a lot of this size; however, the presence of the 55-foot wide arterial right-of-way reservation reduces the building envelope from 105 feet to only 50 feet.

20. The second request is similar to the first and involves the east side setback requirement. This request is to permit a proposed single-family residence to setback 73 feet from the side (east) property line where 75 feet is the minimum required. The excessive setback requirement in this request is created by the presence of a section-line alignment for 43rd Avenue. Although this road does not exist at this time, the Zoning Ordinance requires that an additional setback be provided to allow for future right-of-way requirements. In this case, an additional 55 foot setback is typically required; however, MCDOT has consented to waive five (5) feet of the proposed alignment so that only 50 feet will be required for reservation.

View looking north along 43rd Avenue alignment.

View looking south across subject site.

21. A site inspection revealed that although an arterial roadway alignment is present, it will probably not be developed due to the existing geographical constraints in the area. The Phoenix Mountain Preserve is located directly to both the north and east along the axis of the alignment and the Gila River Native American Community is located to the south. At best, this alignment would provide local service to the immediate area and act only as a minor collector. The eastern 55-feet of the alignment could not be provided as it lies within the Phoenix Mountain Preserve. The applicant had previously sought a waiver from MCDOT to eliminate or reduce the right-of-way to allow the proposed residence to meet setbacks. As stated previously, MCDOT has only consented to waiving five feet of the existing 55-foot right-of-way reservation.

22. Although the size of the proposed residence is quite large, staff is of the opinion that there is a hardship in this instance. The right-of-way reservation for 43rd Avenue reduces the building envelope enough to impede development of this site. If this lot were not subject to right-of-way reservation requirements, the proposed residence could have been built without the need for these variances. Further discussions with MCDOT staff indicate that the 50 feet of remaining right-of-way on the subject site may be utilized to provide a local collector road along the 43rd Avenue alignment. This creates a physical hardship that is beyond the applicant's control. Staff recommends approval of these requests as outlined below.

Recommendation: (BA2006030)

23. Staff recommends **approval** of these variance requests based on the following:

- The relief requested is the minimum required necessary to provide the applicant with full use and enjoyment of the property.
- The request does not conflict with the intent of the Zoning Ordinance.
- The presence of the 43rd Avenue alignment creates a physical hardship.

Subject to the following stipulations:

a) General compliance with the site plan dated received March 7, 2006.
b) The applicant shall obtain all necessary permits prior to commencing construction.

24. If the Board finds that a reasonable use of the property can be made without these variances, then these requests should be denied.

clh

Attachments: Case Map BA2006030
Zoning Map
Assessor Map
Site Plan
Application
Supplemental Questionnaire
City of Phoenix Memo
MCDOT Waiver Memo
MCDOT Memo
MCDOT E-mail