



Report to the Board of Adjustment

Prepared by the Maricopa County Planning and Development Department

Case: BA2019055 – LaCasse Property

Hearing Date: February 20, 2020 (continued from January 23, 2020)

Supervisor District: 4

* Denotes changes from the January 23, 2020 staff report.

Applicant/Owner: Robert LaCasse

Request: **Variance to the development standard of the Maricopa County Zoning Ordinance to permit:**

- 1) Proposed front setback of 14' where 20' is the minimum permitted per MCZO Article 503.4.1.a

Site Location: APN 232-20-172 @ 15014 W. Heritage Drive. – 151st Ave. & Heritage Dr., in the Sun City West area

Site Size: 9,000 sq. ft.

Current Use / Zoning: Single-family residence / R1-7 SC

Open Violation: **No Violation on property**

Citizen Support/Opposition: No known opposition

Findings: **The request fails to meet the statutory test for variance approval**

Background:

1. **March 9, 1989:** Sun City West Unit 44 Subdivision plat was recorded by the County Assessor.
2. **Circa 1991:** The single-family residence was constructed.
3. **December 12, 1994:** The current owner took possession of the subject property via a Warranty Deed under **180822404**.
4. **December 18, 2019:** The subject variance request was submitted.
5. * **January 23, 2020:** The Board voted 3-0 to continue the case to the February 20th hearing to provide the applicant additional time to work on a solution.
6. * **January 23, 2020:** Area of interest email sent to PORA for comment.
7. * **January 31, 2020:** Staff contacted PORA to inquire if there was a response to the email sent January 23, 2020. Informed that PORA does not review variances requests any longer. Contact for Recreation Activities & CC&R was provided.
8. * **February 3, 2020:** Staff contacted Recreation Activities & CC&R Manager James Riley. Case material was emailed for comment. No response received at the time of writing the staff report.

Reviewing Agencies Comments:

9. **Engineering (Transportation, Drainage, and Flood Control):** No objection to the request, see attached memo dated December 31, 2019.
10. **Environmental Services Department (MCESD):** No objection to the request, see attached memo dated December 31, 2019.

Existing On-Site and Surrounding Zoning/Land Use:

11. On-site: R1-7 SC / Single-family residence
North: R1-7 SC / Single-family residence
South: Rural-43 / Single-family residence
East: R1-7 SC / Single-family residence
West: R1-7 SC / Single-family residence

Site Analysis:

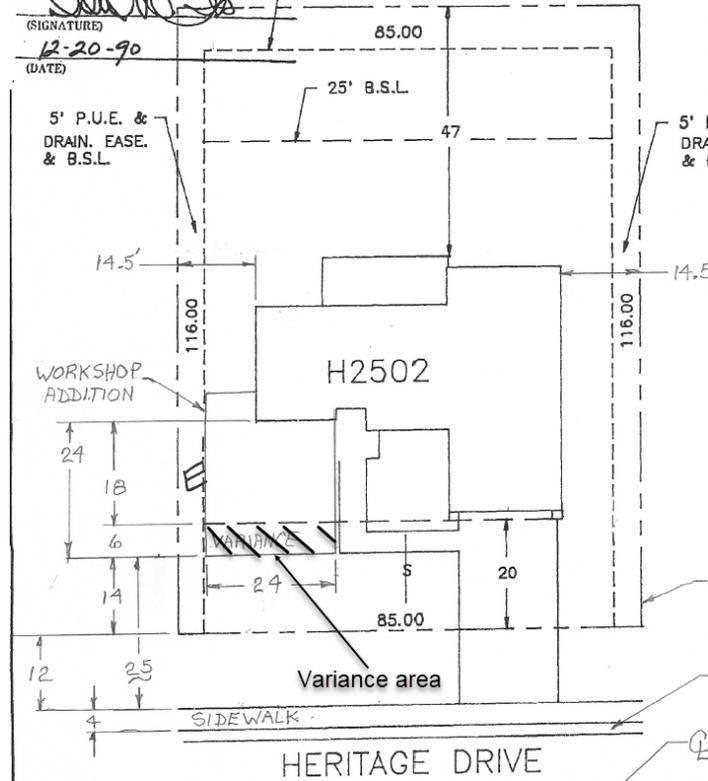
12. The subject site is located within Unit 44 subdivision in the Sun City West area and was developed as a single family residence neighborhood in 1989. The subject site is Lot 170 zoned R1-7 SC. It fronts onto Heritage Dr. to the south. The property contains a 1,269 sq. ft. residence. The site is a rectangular 9,000 sq. ft. lot surrounded by similar lots. The topography of the site is small, flat with trees at the rear of the residence and is otherwise unremarkable.
13. The applicant proposes, a workshop/car restoration area at the front of the residence with a front setback of 14' where 20' is required by the Ordinance. The neighborhood has

lots appearing to have the similar configurations as requested. The request cannot be supported by staff because the applicant hasn't provided a hardship nor peculiar circumstance. However, a condition to address reduced setback has been included for Board consideration.

Aerial photo of subject site & surrounding environs



Proposed site plan



14. The following table is included to illustrate and contrast the standards for the underlying zoning district with those proposed by the owner (Note: changes to proposed standards are indicated in bold).

Standard	R1-7 Zoning District	Proposed Standard
Front Yard Setback (residence to south property line)	20-feet	14-feet
Rear Yard Setback (residence to north property line)	25-feet	47-feet
Side Yard Setback (residence to west property line)	5-feet	n/a
Maximum Height	30-feet	n/a
Minimum Lot Area	9,000-sq. ft.	9,000-sq. ft.
Minimum Lot Width	85-feet	85-feet
Lot Coverage	45%	15.7%

Note: Standards indicated in **bold** do not meet base zoning standards

ARS § 11-816.B.2 and MCZO Article 303.2.2 states the Board of Adjustment may, "Allow a variance from the terms of the ordinance if, owing to peculiar conditions, a strict interpretation would work an unnecessary hardship and if in granting the variance the general intent and purposes of the zoning ordinance will be preserved."

State Statute / County Zoning Ordinance Tests:

15. **Statutory Test -1 Peculiar condition** – Discuss and explain what is/are the peculiar condition facing the property and include reference to the Maricopa County Zoning Ordinance Regulation or Development Standard to be varied. Explain the proposed use of the property with the variance request. Identify and explain all peculiar conditions on your property in regard to the following areas: slope, narrowness, shallowness, irregular shape, location, washes, vegetation, and easements, etc. Explain how enforcement of the Zoning Regulation or Development Standard would impose a hardship on the property.

"Adding workshop/garage space for auto restoration. Building an 18' by 24' creates an accessibility issue; with a front door the building is not deep enough and with a side door it will be difficult to enter through the existing driveway".

16. **Statutory Test 2 – Unnecessary Hardship** – Explain the unnecessary hardship the peculiar condition on the site created with respect to existing Regulation and Standard of the Maricopa County Zoning Ordinance. Please discuss and explain that the unnecessary hardship facing the property is not self-created in the line of title.

"When purchasing the home I was told by both the real estate agent and the local Property Owners and Residence Association what the guidelines for setbacks were. After checking with the county for clarification, the guidelines were incorrect. This hardship was created primarily due to PORA's lack of knowledge of the correct property setback lines."

17. **Statutory Test 3 – General Intent and Purpose of the Zoning Ordinance** - Discuss and explain how the granting of the requested variance would not cause a negative impact on the general intent and purpose of the Zoning Ordinance.

"The curvature of the street minimizes the visual effect of the additional 6' into the 20' setback. Because of the siting on this street the setback is in addition to the 12' easement making the total setback actually 32'."

18. **Per MCZO – Evidence of the ability and intention of the applicant to proceed with construction work within 120 days after variance decision by the Board of Adjustment.**

Provide evidence of the ability and intention to proceed with construction work within 120 days (4 months) after Board of Adjustment decision. Discuss if there are building permit or as-built permit currently filed with Planning and Development Department and the current review status. Specify the permit number. If no permit have been filed, please provide a timeline for building permit submittal and projected timeframe for construction. Conversely, indicate if the variance request is/are not related to a specific development proposal.

"No permits have been requested prior to the approval of a variance. Design work has started and can be completed with 30 days. Once design is complete bids will be requested in anticipation of approval of the variance request. Once permits are approved construction can start within 120 days of this variance request".

Findings:

19. The applicant has the burden of proving that, in accordance with ARS §11-816.B.2 and MCZO, Art. 303.2.2, the property is entitled to receive a variance. To do so, the applicant must present evidence that, due to a peculiar condition related to the land, that being something that is not a common condition of other properties, applying the requirement of the MCZO as written to this particular property would work an undue hardship on the property. In addition, the applicant must demonstrate that the granting of the variance would preserve the general intent and purpose of the MCZO.

Based upon what the applicant has submitted and the staff analysis in this report, staff offers the following findings:

- The applicant has failed to demonstrate that there is a peculiar condition facing the property because the single family residence was constructed to the requirements of the Ordinance.
- The applicant has failed to demonstrate that the strict application of the MCZO to the applicant's property has caused undue physical hardship that prevents the development of the property. There are alternatives available to the property, such as extend the workshop addition on the west, toward the rear side of the residence, thus variance is not warranted.
- The applicant has failed to demonstrate the peculiar condition / physical hardship is not self-created in the line of title in that in that subject lot was platted in its current Configuration and the residence constructed to the Ordinance requirements.

20. However, if the Board finds that the applicant has proven entitlement to the variance; then, the Board must state on the record the basis for that determination with findings and conclusion in a motion to grant the relief sought.

In such event staff would offer the Board the following Conditions of Approval:

- a) General compliance with the site plan stamped received December 18, 2019.

- b) All required building permit for proposed development shall be applied for within 120 days of the hearing date unless otherwise directed by the Board. Failure to apply for any required building permit within the specified time, or to complete necessary construction within one year from the date of approval, shall negate the Board's approval.
- c) Approval of this variance for a reduced front yard setback of 14' shall apply to encroachment of the workshop addition only. All livable spaces of the residence including any future expansions within the front of the lot shall meet the underlying R1-7 SC zoning district standard of 20'.
- d) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

Presented by: Eric R. Smith, Planner
Reviewed by: Darren V. Gerard, AICP, Planning Manager

Attachments: Case Map (1 page)
Application / Supplemental Questionnaire (3 pages)
Site Plan (1 page)
Engineering Comments (1 page)
MCESD Comments (1 page)
Email to PORA (1 page)
Email to Recreation Activities & CC&R Manager (1 page)