



May 2, 2022

Zoning Hearing Officer
City of Phoenix, Planning and Development Department, 200 West Washington Street, Second
Floor
Phoenix, Arizona 85003

Re: **ZA-100-22** – 4202 N. 58th Street, Phoenix, AZ 85018, Variance Request

Dear Sir or Madam:

On behalf of the ACMNA, the Arcadia Camelback Mountain Neighborhood Association **opposes the variance request** to reduce the current side yard (North) setback to 8 feet (10 feet required) and to reduce the current front yard (East) setback to 32 feet (32'5" required). The Applicant would like to replace an existing non-conforming detached garage and game room by expanding and converting it into a livable guest house and garage. Our opposition is based on the site plan and architectural plans provided to us by the applicant's architect, Natasha Hartrick, on 4/18/2022.

The existing non-conforming garage/game room was permitted in 1977-78, constructed in 1979 & was intended to be constructed 10' from the north property line per the site plan accompanying the permit. The builders apparently only relied on the north fence line (\approx 2 feet north of the property line) & constructed the garage just over 8' from the North property line and which is also taller than 8'.

ACMNA took the following into consideration:

1. The proposed plan identifies a guest house, which includes a bedroom, closet, bathroom, living area, kitchen, office, mud room, covered patio & garage and this property is not zoned for a guest house/Accessory Dwelling Unit.
 - a. The prospect of allowing this guest house and possibly a rental is of great concern to ACMNA.
 - b. For the past several years, Arcadia neighbors have been coming to ACMNA regularly for help and relief regarding a substantial rise in short-term rental properties and the excessive noise/traffic/trash and other negative effects created by these properties.
 - c. It appears the current homeowner is intending to utilize the guest house as a secondary dwelling unit. The City of Phoenix is unable to "keep watch/ monitor" its usage now and/or through subsequent homeowners.

Arcadia Camelback Mountain Neighborhood Association 4340 E. Indian School Road, Suite 21-293, Phoenix, AZ 85018

d. If this variance is approved, a precedence will be set for all homeowners to create guest houses excessively close to property lines - despite lot size and zoning restrictions, thus exacerbating the short-term rental issues which are already creating negative outcomes and undue hardships on existing stakeholders within the neighborhood.

2. Currently, the City of Phoenix code allows free-standing guest houses on many properties throughout Arcadia with specific building codes - including a maximum square footage of 900 sq. ft. under roof, unless the property is greater than one acre which allows for a larger guest house. The applicant has a R-24 lot at .55 acre, or 24,097 sq. ft. and is requesting variance allowing a new livable guest house @ 1,236 sq. ft. plus a 183 sq. ft. non-livable covered porch which far exceeds the 900 sq. ft. maximum for lots which are approved for guest houses. More importantly, no guest houses are allowed on R-24 lots.

3. Another code requirement for guest houses is providing one (and only one) designated parking space. AND, parking must be from the same curb (driveway) as the primary dwelling unit, or a permitted paved alley. The proposed detached guest house garage @ 635 sq. ft (over a 25' x 25' garage) does not meet this code requirement.

With respect to the four conditions, ACMNA finds as follows:

Condition One: There are special circumstances or conditions applying to the land, building or use which do not apply to other similar properties in the same zoning district.

Condition 1 is not met. Although the non-conforming detached garage was permitted & built in 1978-79 within 8' of the north property line (10' required), part of the variance request is to allow the pre-existing use & setbacks to be grandfathered in as well as encroaching 2.75" into the front yard setback. However, R-24 properties are simply not zoned to allow a guest house.

Condition Two: The special circumstances or conditions described above were not created by the applicant or owner. The property hardship cannot be self-imposed.

Condition 2 is Not Met – The owner wants to create an ADU with amenities the City of Phoenix defines as a guest house: 1. A shower or bath; 2. A commode; 3. Space for sleeping; and 4. Cooking faculties or space and plumbing and electrical wiring which can be legally accessed and connected without the requirement of a permit issued by the City and which reasonably capable of accommodation of cooking facilities.

Condition Three: The authorization of a variance is necessary for the owner or applicant to enjoy reasonable and substantial property rights.

Condition 3 is not met. The applicant seeks to convert a game room into an expanded guest house by grandfathering in setbacks from an existing structure. They are currently enjoying the use of the existing, nonconforming detached structure.

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

Condition 4 is not met. Please see above paragraphs 1 (a-e), 2 & 3 for ACMNA's concerns.

For these reasons ACMNA opposes the variance requested by the applicant.

Respectfully,

Tom Thomas

ACMNA Board Member, www.acmna.org