

Town of Oro Valley
Community and Economic Development Department – Planning Division
Board of Adjustment

Request for Variance

We are the homeowners at 1751 E. Anza Way, Oro Valley. This is a request for a variance involving the recent room addition to the property and the installation of a mini-HVAC system to service that room that has an outdoor compressor now located on the south side of the property.

We understand from our contractor representative (Jean Thomas, via letter of authorization, see attached) that the situation with the mini-HVAC unit located on the south side of the house will require a minimum four (4) foot solid wall based on the current zoning code (Oro Valley Zoning Code, Chapter 23, Zoning Districts, Section 23.6, A.6.a. – Property Development Standards for Single-Family Residential Districts), regarding mechanical equipment such as air conditioners.

The current code states:

Mechanical Equipment Such as Air Conditioners and Pool Pumps

Mechanical equipment shall be screened by a minimum four (4) foot solid wall except when located:

- a. Inside a yard that is screened by a minimum four (4) foot solid wall and placed no further than ten (10) feet from the screen wall.*
- b. Greater than forty (40) feet from the property line and indiscernible to an adjacent neighbor due to opaque vegetation or topography.*

Pursuant to our situation, the code states mechanical equipment shall be screened by a minimum 4' solid wall, except when located in "... a. Inside a yard that is screened by a minimum four (4) foot solid wall and placed no further than ten (10) feet from the screened wall. ...".

You state in your email to Jean on September 21, 2023, 8:58 am, that the new (mini-HVAC) unit has to comply with the current code. You also indicated a solid wall does not have to be a masonry wall with footings that will create a large ground disturbance. In addition, you stated in your email that a wood or metal fence type of screening may be used that may allow existing bushes to stay in place.

Upon discussion with Jean, to install a stucco (i.e., masonry solid wall) wall would likely force removal of one or more existing bushes. Construction of a solid wall, including wood or metal fencing, per the code requirement size, might also impede the water flow down that side swale shared between our residence and the adjacent neighbor immediately to the south.

We believe effective visual screening could be provided by the addition of bush(s) placed strategically near the unit, that would be indiscernible to the adjacent neighbor or from

street view. Construction of a solid wall (stucco, wood, or metal) is expensive and makes little sense to interject an artificial structure to visually screen another artificial structure (mini-HVAC). The planting of additional bush(s) would be environmentally consistent with the landscape, economically efficient, and we believe, still meet the intention of the code regulatory requirements (mainly visual screening). In fact, in part b. of the subject code, it appears to allow opaque vegetation or topography to suffice code requirements on larger properties (greater than 40' feet from the property line).

In fact, the mini-HVAC unit is only 23" high and is already indiscernible to our next-door neighbor due to existing vegetation and the presence of their garage that has no windows on the side facing the mini-HVAC. The nearby presence of pre-existing unscreened large HVAC units is also inconsistent with the current code requirements.

Five findings –

1. That there are special circumstances or conditions applying to the property strictly related to its size, shape, topography, location or surroundings which do not ally to other properties in the district, Existing building configuration shall be included only when constrained by the special circumstances or conditions of the property.

A: Based on the size, shape, topography, and the location of the mini-HVAC unit (see pictures provided) we believe the requirement of a solid wall fence would constrain water flow down the drainage swale between properties and prove difficultly in servicing the unit should the mini-HVAC need servicing or replacement due to the limited area. Per the IRC M1305.1 it is required to have a working space not less than 30" deep and 30" wide to service the unit. This requirement places the footer for the solid wall in the swale location and close to the neighboring property line.

2. That the special circumstances or conditions as defined in subsection C.1 of this section were not created by a previous or current owner.

A: The conditions as defined in subsection C.1. of this section were not created by a previous or current owner. The side swale shared between the subject residence and the adjacent neighbor immediately to the south was not created by the new room addition, but existed since the Sun City development was first developed.

3. The authorizing of the variance is necessary to the preservation of privileges and rights enjoyed by other properties of the same classification in the same zoning district.

A: The granting of a variance for the installation of strategically placed bush(s) will meet the intent of requirements of Section 23.6. A.6. to screen mechanical equipment and enhance protection and preservation of the privileges and rights to other similarly classified properties. Due to the short distance to the adjacent property line, the building of a solid wall fence or any other artificial barrier may cause the public to trespass on the adjacent owner's property when accessing the backyard (s). The granting of a variance to allow the planting of a bush(s) at selected locations will not impact the privileges or rights of other classified properties in the same zoning district.

4. That any variance granted is subject to such conditions as will assure that the authorizing of the adjustment shall 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.

A:Residences in this area of Sun City Development do not have screening around their HVAC units as this was not a requirement at the time the land was developed. The Sun City HOA does require screening of Mini-Split systems and allow for the screening to be plantings/bushes. They do not allow wooden fences in the development. A metal screened fence would create the same issues with swale and access to back yard(s) as a solid wall.

5. The authorizing of the variance will not be materially detrimental to persons residing in the vicinity, or adjacent property, in the neighborhood, to the public welfare in general.

A:The adjoining neighbor can not visually see the mini-HVAC from inside their house due to large bushes and the presence of their garage which does not have any windows. The addition of one appropriately placed bush will provide sufficient visual screening from any street views and will not be detrimental to the adjacent property, neighborhood or general public welfare.

We understand the Oro Valley codes are developed to enhance the safety and living conditions of the residents. This subject code requirement does not appear to be a safety issue or a noise issue. We request the granting of a variance to the existing code due to our unique situation and allow for the planting of a bush(s) to meet the intent of code screening requirements.

Thank you for your time and consideration. Should you have any questions, please contact Jean Thomas, at 520 268-0938.

Sincerely,

Rob & Diane Coleman
1751 E. Anza Way,
Oro Valley, AZ 85755