

Oro Valley Board of Adjustment Variance Request Criteria

1. There are special circumstances or conditions applying to the property referred to in the application including its size, shape, topography, location or surroundings which do not apply to other properties in the district.

- a. The term property in this criteria is understood to be real property. ("The legal definition of [real property](https://www.legalmatch.com/law-library/article/legal-definition-of-real-property.html) is land, and anything growing on, affixed to, or built upon land. This also includes man-made buildings as well as crops." Source: <https://www.legalmatch.com/law-library/article/legal-definition-of-real-property.html>) The phrase, "including its size, shape, topography, location or surroundings" is not an all-inclusive list.
- b. This property was built by a famous local architect, Thomas Gist, in 1959. From the Tucson Historic Preservation Foundation web site (www.preservetucson.org), "Tom Gist was a custom home designer/builder prominent in Tucson from the mid-1950's through late 1970's. His unique design aesthetic, along with a problem-solving approach to custom home design and superb building skills, created many superior examples of mid-century modern design with a Tucson flair. His homes of burnt adobe with Catalina view-facing window walls and sumptuous mahogany interior woodwork embodied Gist's concept of 'gracious natural living at its best.'" (Slides 3, 4)
- c. Michael Fassett, president of the Tucson Historic Preservation Foundation is in the final stages of producing a large format book on the work of Thomas Gist. (slide 28)
- d. This historic property has been kept structurally intact with modern upgrades to electrical, plumbing and HVAC while preserving the original exterior (and interior) with the architecture and footprint that was the vision of Thomas Gist in 1959.
- e. This property is historic. Our goal is to build an enclosed garage away from the front wall so as not to destroy or impact the historical significance of the home. The garage will be situated approximately 5 feet from the home and attached at the roof to allow for drainage and to meet the zoning code R1-36 requiring structures in front of the main home to be attached (OVZC 23.6.A2.b). (slide 10)
- f. The National Register Multiple Property Documentation Form (MPDF) <http://npshistory.com/newsletters/crm/crm-v19n9s.pdf>, <https://www.nps.gov/subjects/nationalregister/upload/NRB16B-Complete.pdf> documents groups of thematically related properties. This form defines and describes one or more historic contexts, describes associated property types related to the historic context(s) and establishes significance and integrity requirements for nominating properties to the National Register. There is a current draft of an MPDF for Thomas Gist properties in the works at the state

level that includes our home. The MPDF draft is under review by the State Historic Preservation Office (SHPO) <https://azstateparks.com/shpo> and the Historic Sites Review Committee (HSRC) <https://azstateparks.com/historic-sites-review-committee-hsrc#:~:text=The%20Historic%20Sites%20Review%20Committee,as%20mandated%20by%20the%20Arizona>. If/when this document is approved, we (or the Town of Oro Valley) may nominate our property for review and approval through the HSRC.

- g. The University of Arizona College of Architecture, Planning and Landscape Architecture created a project to preserve the legacy of Thomas Gist and his impact and influence on mid-century modern architecture. Part of that project included cataloging Gist properties, including this one, to assure his buildings remain true to their original design intent. (slide 27)
- h. We hired a well-known local historical preservation architect, Jon Mirto of Poster Mirto McDonald, (www.pmm.design) to design the garage to preserve the look and feel of our Thomas Gist home. (slide 8)
- i. Jon Mirto designed the garage in conformance with the Secretary of the Interior Standards as it relates to additions and changes to historic properties. Specifically, the house has high integrity as historic and the addition will be compatible but differentiated from historic so that it does not give the illusion that it is part of the original architecture. Building the garage away from the home will strengthen this concept.
- j. The Town of Oro Valley's Historic Preservation Commission requested this home be one of the first additions of a private residence to be listed on the Town of Oro Valley historic registry. We worked with the HPC on their desire to maintain the historical integrity of the home when designing the garage. We have obtained personal support from commissioners on the HPC. (slides 25, 26)
- k. Conclusion: This well preserved 1959 historic Thomas Gist home creates a special circumstance for the property which by definition includes the land and attached structure. No other preserved Gist homes exist in Oro Valley. An attached garage would significantly and irrevocably alter the historic nature of the home, thus rendering it no longer historic. By moving the garage forward and away from the home by 5 feet, the property will remain unaltered and its historical significance will be preserved for the future.

2. Special circumstances were not created by the owner or applicant.

- a. This is an historic property. Through Gist's vision, this home was situated, and custom built specifically for this piece of land overlooking the 18th fairway of Oro Valley Country Club with magnificent Pusch Ridge views behind it. Its location and position were intentional. The home is part of the property. The location of this immovable structure of this property, the design and shape of the lot, coupled with the original and still existing setbacks to the front, side, rear and golf course dictated where the home could be built.

- b. The carport structure is part of the original building from 1959. It is rotten and poses a safety risk. It must be removed. (slide 20)
- c. As the current owners of this property, we did not create the special circumstances of this of a mid-century modern home overlooking the golf course and Catalina mountains. Gist's vision did that. We are merely benefitting from Gist's style and design and we consider ourselves fortunate to live here now. Building an enclosed garage away from the main home will maintain the elements of a Thomas Gist style of architecture while preserving the historical value of the property.
- d. Replacing the carport with an enclosed garage is a reasonable expectation for a circumstance that was not created by the current owner.
- e. Conclusion: Gist designed this custom home and built it on this specific lot in its exact location to fulfill his vision for mid-century modern living in the desert. The original carport is rotting and poses a safety hazard. It must be removed. Locating a new structure away from the historic property maintains its historical significance and preserves it for the future. Building an enclosed garage to replace the carport is a reasonable expectation for a circumstance not created by the current homeowner.

3. The authorizing of the variance is necessary for the preservation and enjoyment of substantial property rights.

- a. In later years, Thomas Gist and other similar architects did design homes with garages once automobile ownership became more mainstream in the mid-century era. His garage designs featured a garage door opening adjacent to the front door of the home, not facing the street. See Gist context study-excerpts pdf attached (Section E, page 10, paragraph 6). Consequently, the addition of a garage designed in a complementary style will not detract from the historical significance of the home provided it is kept away from the structure so as not to imply that it was part of the original design. (slide 22)
- b. The original existing carport is in disrepair. It poses a safety hazard and must be removed. (repeat slide 20)
- c. It is reasonable to replace a carport with an enclosed garage to provide security for vehicles and provide shelter for vehicles from weather, theft, vandalism and damage from animals.
- d. It is a substantial property right for the preservation and enjoyment of a home of this value to have an enclosed garage. The vast majority of homes in this neighborhood have enclosed garages. This garage is of modest size to accommodate two vehicles and a golf cart designed to compliment Gist's style of architecture.
- e. Other locations on the property do not accommodate a garage. (slide 14)

- i. Right (south) side of home does not have enough space for a garage due to side setback zoning laws. Additionally, there is no access to the home on this side where the bedrooms are located.
 - ii. Left (north) side of home would encroach far into the HOA golf course setback rules, as well as not meet the side yard zoning setback laws. This location has been denied a variance by the HOA.
 - iii. A detached garage in the rear of the property is not a design feature found in Gist architecture. Especially where it would block the view he had so thoughtfully preserved.
 - iv. The rear of the property would place the garage at a considerable distance (more than 150 feet) from the home without access through any opening in the original burnt adobe walled in backyard. This would create a hardship in daily life to access, park, load, unload vehicles with no easy, direct entrance to the house.
 - f. Conclusion: Gist designed homes with garages in later years. The existing carport is in disrepair, causes a safety hazard and must be removed. An enclosed garage provides protection for vehicles from weather, theft, vandalism and animals. An enclosed garage is a reasonable expectation and substantial property right for preservation and enjoyment of a home of this value. There is no other practical location on the property to put a garage.
- 4. Any variance granted imposes 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. We are requesting a variance of a maximum 2.5-foot encroachment into the front street setback to locate the street side wall of an enclosed garage. (slide 6)
 - b. Currently, the zoning setback is 30 feet from the property line, which we understand to begin 15 feet from the edge of the road. Under these conditions, a structure must be 45 total feet from the road edge. We are asking for the equivalent of a 27.5-foot setback from the front property line which makes a 42.5-foot setback from the road edge. (slide 7, 15)
 - c. This variance is not precedent setting in the vicinity. Other, newer properties in the neighborhood appear to have been granted a zoning variance to the front setback. These are a sampling of the properties in the area that appear to be built within the 30-foot setback. (slide 23)
 - i. 415 W Golf View Dr
 - ii. 475 W Golf View Dr
 - iii. 565 W Golf View Dr
 - d. OVCC Estates HOA requires a 50-foot setback from the golf course. We did request permission from the HOA to build the garage on the golf course side which would require approval of a substantial variance into the golf course

property line. It was denied. However, we did obtain permission to build the garage in the footprint of the carport and privacy wall to include a variance for a 5-foot encroachment into the golf course setback. (slides 11, 12, 13)

- e. There are multiple zoning laws applicable in the neighborhood of Oro Valley Country Club Estates. The zoning law pertaining to our property requires a greater setback than zoning laws along other roads in the same neighborhood which allow for structures to be closer to the road. Granting a 2.5-foot exception on our property for a structure should not be considered a special privilege based on the other inconsistent zoning laws in the area. (slide 24)
 - f. Conclusion: A 2.5-foot front setback variance will not grant a special privilege that has not already been given to other homes on the same road. Other zoning laws in the same neighborhood allow for structures to be set closer to the road. Abnormal zoning laws exist within this neighborhood. There is no other place on the property to locate a garage that will conform with Oro Valley and HOA side yard and golf course setback rules.
- 5. The authorizing of the variance will not be materially detrimental to persons residing in the vicinity, to adjacent property, to the neighborhood or the public welfare in general.**
- a. The enclosed garage will essentially replace the footprint of the existing carport and privacy wall by moving the building toward the road by 5 feet to keep the original property preserved in its original state, thus maintain its historic significance. The garage will enhance the property and its curb appeal by replacing the existing carport that is in disrepair and the existing privacy wall. (slides 16, 17, 21)
 - b. The current design of the garage will incorporate similar burnt adobe bricks and ribbon windows in keeping with the original style of the house. The roofline will be flat with overhanging eaves complementing the original roof and overhang. (slide 9)
 - c. A garage located in the place of a carport will not stand out as an unusual structure.
 - d. The majority of homes in this neighborhood have enclosed garages which provide security and protection of vehicles from theft, property damage, rodents, adverse weather, etc.
 - e. Many homes in this neighborhood have free standing buildings including garages, outbuildings and living quarters. A garage attached at the roofline will not look out of place on this property.
 - f. Golf View Drive curves away from the property in both directions. There is no traffic safety concern that a building in the footprint of the carport/privacy wall will create. (slides 18, 19)

- g. Conclusion: An enclosed garage will enhance the property and replace the carport in disrepair without creating a traffic safety concern. It will not adversely impact residents or property in the vicinity or public welfare in general.

Summary

We have two equally important goals for our request of a 2.5-foot variance to the front setback. Something must be done with the original carport that is rotting and in disrepair. It is a safety hazard and must be removed. One goal is to build an enclosed garage to replace the carport. The second goal is just as important as the first, and that is to preserve the historic significance of our Thomas Gist home by building the garage away from the front wall. (slides 5, 29, 30)

Based on the answers and explanations provided, we are confident each of the five criteria have been met. We believe this variance request should be approved. We encourage each of you to vote to preserve history by approving this request. Thank you.