

March 16th, 2022

**Board of Adjustment
City of Sunset Valley**

**Encroachment setback variance request for construction of a pool at 1052
Sunflower Trail, Villas Subdivision.**

We are seeking a variance approval for a swimming pool that would encroach the 5-foot side yard and 15-foot rear setback.

This project was initially approved by City Hall, and we were granted a permit. The permit was subsequently revoked when staff reviewed again and found the application to be deficient for administrative approval.

Our home is in the Villas which is known for having smaller lots than those at old town and the Meadows. Our yard backs up to the AISD football stadium and a city-owned greenspace on one side. We have situated the pool to be in the corner that maximizes distance from any resident's sight line and it will not be near any other neighbor's yard.

The pool will not impact any neighbors since there is a green belt behind our backyard and the pocket-park to the left which are the only two areas where the setbacks are being encroached. Additional landscaping will also be added between the pool and all areas of the fence line.

We have signed letters of support from both adjacent neighbors and have received support from other neighbors as well. We have not received any negative feedback from anyone in our neighborhood.

The pool does not contribute to blocking visibility, sunlight or facilitate flooding. If this rule has a place in Sunset Valley, we do wonder why as it seems to have been broken throughout all of the neighborhoods in our City? We have counted more than 15 homes that have encroaching structures in their setbacks that are visibly obtrusive and many that are likely to facilitate flooding, or that obstruct or encroach all the way to the property line and often with neighbors immediately adjacent. Examples of structures in side and back setbacks that are visible from the public streets include: playgrounds, sheds, horse stalls, fences, and fountains, decks. The variance, if approved, for our home would not have any of those negative impacts or risks

We believe we have unique circumstances in our lot that make the request of this variance necessary for the reasonable use and enjoyment of our private property. We see no development reason that justifies denying our variance. We kindly ask for your support.

Project Background

We are new residents in Sunset Valley. We moved to the United States last summer and to 1052 Sunflower Trl. in October 2021 with our three kids ages 8, 6 and 4. We love our neighbors already and truly enjoy this wonderful community. We do not want to upset our neighbors which is why we have carefully discussed this matter with our immediate neighbors and have the written support of other neighbors in the Villas.

Before buying the property, we went to City Hall and asked if building a pool was feasible on this lot and we were told that the only restriction might be the impervious cover but that it was doable. It was later confirmed that we did have sufficient impervious cover remaining for our lot. We were also willing to remove additional impervious cover if necessary. With these discussions and affirmations from City Hall, we purchased the home.

We then started the project with Cody Pools, a reputable and longstanding contractor in this area. They sent all the requested information regarding our project to City Hall and on February 7th we were informed that our project had been revised and approved both by city hall and by the outside inspector: McComis Inspections Inc; hence our permit was granted. The construction layout started days later.

We needed to remove a tree to build the pool, so it was only after inquiring about a tree removal permit some weeks later that we got a call from City Hall saying that our permit was now being revoked. We were told that the setback revision had been lacking and that we were encroaching the side and rear setbacks. Reviewing this newly received information with Cody Pools, they did not see much of an issue since the setback requirements in Austin and San Antonio only applied for structures from the ground and above and the setback for pools in those cities is only 8 in. However, we were later told of the setback requirements by Sunset Valley and realized they were different and more punitive even if not equally applied throughout the City. We were then informed that a Board of Adjustments meeting was necessary to ask for a variance.

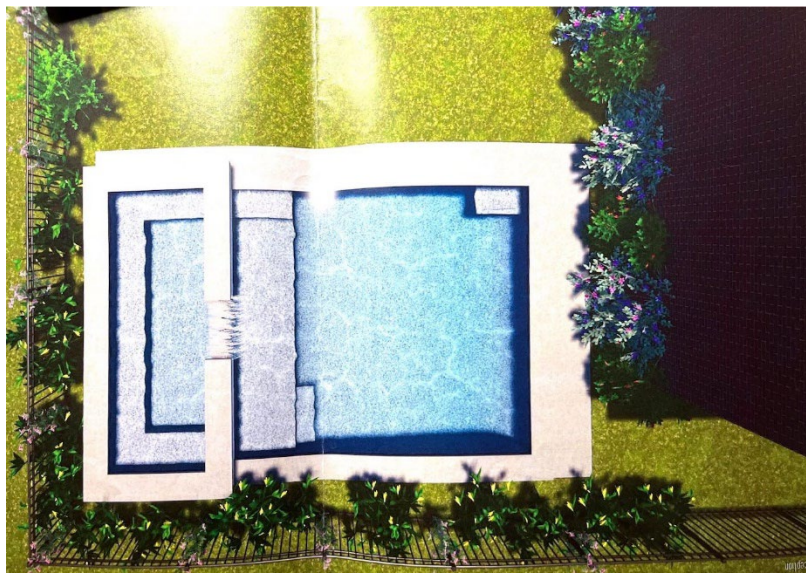
In order to find that a variance can be granted the following 10 conditions must be met:

- 1. Special circumstances or conditions exist such that requiring compliance with the provisions of the applicable zoning provisions of the Code will cause significant practical difficulties to the applicant. Pecuniary hardship to the applicant, standing alone, shall not be deemed to constitute practical hardship.**

If we have a setback of 15ft on the rear and 5ft from the house, there are only 9ft left for the swimming pool including coping. This would make the pool unfeasible. The backyard as it is does not allow for a big pool (our project contemplates a pool half the size of a regular pool), we had a hard time designing a pool that would be worth building in such a small space and this is without taking into consideration the required setbacks.

We believe setback requirements in Sunset Valley were established for lots that used to be bigger than the lots being constructed today, leaving very little space to make use of it. Moreover, in many cities, setbacks are established for structures constructed above ground that could interfere or obstruct visibility and sunlight and also for flooding reasons. Sunset Valley is a place to be known for “where the yards are wide”, “large lot ownership” and lots were known to be like farmlands. However, the new developments have made lots much smaller finding it hard to fully use one’s land, especially since these setbacks that were established for much bigger lots must be applied to these smaller ones.

We had already submitted all the required information and had been granted the permit. It has been our family’s dream to have a pool and it was a requirement our family in purchasing a home; we clearly and repeatedly communicated this with City Hall before we purchased this property. We also took the time before buying to ask City Hall about the process and requirements to build a pool, and we were told we could. Initially the greatest concern was impervious cover but we do have square feet available for this project.

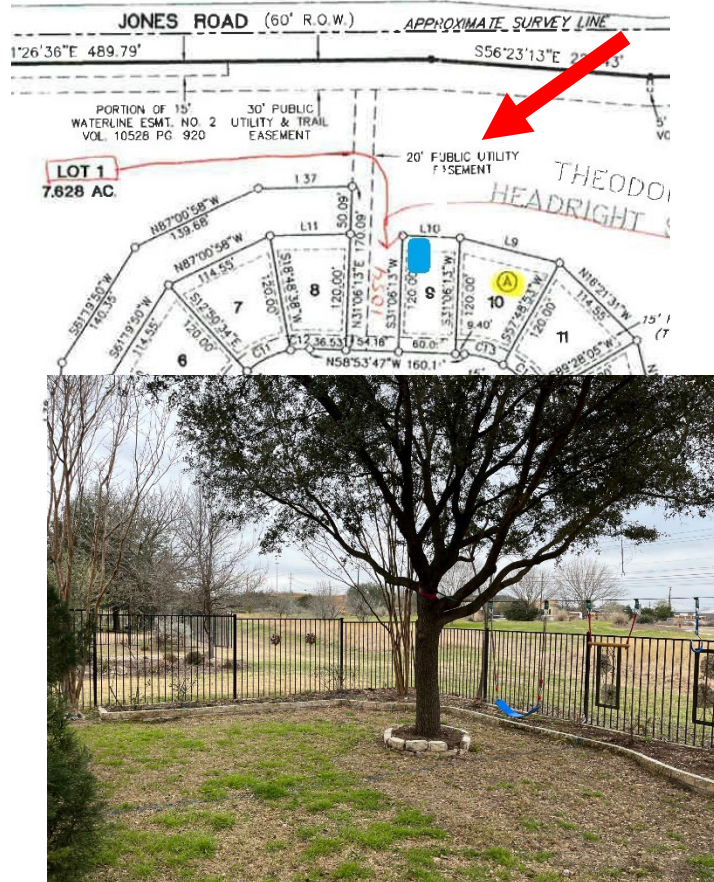


2. Special circumstances or conditions affecting the parcel of land exist such that requiring strict compliance with the provisions of this Code will result in one or more of the following:

- a. Depriving the applicant of the reasonable use of his land;

A pool should be a reasonable use of our land, we should be able to build one since we have sufficient impervious cover. There is no other place in our lot to build it. We believe building a pool will maximize the use we can give our backyard considering we have 3 little kids and that they love swimming.

It is also important to mention there are no neighbors at all to the north (buffer to street and stadium noise and light), nor to the west (city greenspace), and there will never be, so we would not be bothering anyone at all. We would not be impacting anyone. Moreover, a pool does not disrupt or obstructs visibility or sunlight. In fact, it improves or current back yard view which is a busy public road and a giant football stadium



- b. Significant or unreasonable disruption of the natural terrain; or
- c. Significant or unreasonable destruction of the existing flora.

3. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;

We feel is necessary for the wellbeing of our family to have a pool. We have 3 kids that love swimming. During summer they did not want to leave the house due to hot weather. Having a pool will allow them to spend less time inside the house and away from any sort of electronic devices. The pool will also be heated allowing the kids to use it in winter too. We believe this project will optimize the use of our backyard and improve our quality of life.

From a quick drive around the neighborhood, we see houses that have playsets, fountains, sheds, and horse stalls encroaching the setbacks. The house across the street from our house which just got sold very recently has a big pond and rock structures that encroach the setbacks; no neighbors in the Villas have an issue with this yard. There are other examples in our neighborhood of similar decks, structures and internal fences that are in these setbacks but not bothering or offending other residents.



4. There is no practical alternative to the requisite variance that will alleviate the difficulty or hardship complained of or the requisite enhances the quality of the project as a whole and would result in a better project than requiring strict compliance with the provisions of the Code;

The size of the backyard is small as it is and fitting a pool was challenging. We went to City Hall before buying the house because we saw that the patio was small and wanted to make sure that we could fit a pool there in the first place. The pool cannot be built in any other location of the house. It was very difficult to decide to use most of our backyard in a pool as it is, but we believed it would be the best way for our kids to enjoy the patio. Making it smaller would no longer

make it feasible due to the existing size of the backyard and moving it would either compromise other areas of the patio making them useless or would require demolition of other areas of the house making it more complicated. We are trying to maximize the use of our backyard.

5. The variance will be no greater than the minimum required to alleviate the difficulty or hardship complained of;

We are trying to maximize the small space available in the backyard. Pool by code is required to be 5 ft from residential structure, leaving it impossible to have the 15 ft setback on the rear of the house. If variance is not granted the pool is unfeasible and cannot be constructed. If the side setback is not removed, the areas left after building the pool in the setback will be left unusable and compromised. Having the pool in the encroachment of setbacks allows the (very little) rest of the backyard to be usable. The pool we have designed is a moderate size and appropriate for the size of the yard—it is about half the size of what would be ideal for the family and the size of the home and occupancy.

6. The granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to other property or improvements in the area.

It will not be detrimental. As stated before, there are no neighbors or property owners on either side of the encroachments, having no damage to anyone or anything. There is only flatwork in the project, and nothing will be built from the ground up. Between the pool and the fence there will be plants to prevent the water from spilling to the outside of the property. This will improve the immediate property value and the value and welfare of the neighborhood. The Villas needs to have more outdoor amenities for the neighbors and children to enjoy.

7. The granting of the variance will not have the effect of preventing the orderly use of other land in the area in accordance with the provisions of this Code.

Granting this variance will not affect any other lot/land use. The structure is well within the defined property lines.

We have signed letters of support from our neighbors to the right and to the left, since they are the ones that could be impacted by the project even though they will be not. We have also talked to some other neighbors, and they all have mentioned their support and agreement.

8. The variance is in harmony with the intent of the Code's zoning provisions and with the goals, standards and policies of the City's Comprehensive Plan.

It is in harmony. It does not deviate from the City's Comprehensive Plan. We are not contrary to does goals, we would be utilizing the pool for the joy and fun of our family. There are many homes in the City with structures in similar or worse positioning to neighbors. Pools and outdoor enjoyment are in harmony with the City and its history of promoting community enjoyment and private property rights.

9. The granting of the variance will not cause an unreasonable obstruction of direct sunlight to adjacent property; and

It does not. It is flatwork only.

10. The proposed variance prescribes only conditions deemed necessary to or desirable in the public interest

Yes. It allows for the use and enjoyment of our private property in a way that is not unusual and common throughout the City. It increases the quality of life of the residents involved and for the other children and neighbors in the Villas. Sunset Valley's interest is to "preserve and protect quality of life". It will guarantee my kids spend more time outdoors, exercising and utilizing our home and yard. Who doesn't like to hear the laughter of kids playing? It also increases the value of land and eventually hopefully the neighborhood and improves the current bare sightline with nothing but a road, football stadium and highway for us to look out to from our home

We believe that our application fully demonstrates that our variance request is justified and appropriate. We kindly ask for your approval. We ask for the exemption taking also into consideration the unique circumstances about our property.

Thanks for your time and consideration,

Respectfully,

Natalia J. Martinez

Jorge Hagg

March 13, 2022

Board of Adjustments

City of Sunset Valley

I live at 1046 Sunflower Trail and have been made aware of Jorge and Natalia Hagg's desire to have a small pool in their backyard at 1052 Sunflower Trail. As a neighbor I have no objection to their project and see no reason they should not be granted their variance. Their lot has greenbelt on the two sides on which the pool will be located and should present no issues with their neighbors. Additionally, in my opinion, I believe the setbacks are much too restrictive for the Villas, especially for a pool. With a 15 foot setback, there are few houses in the Villas that would be able to have a pool or anything else without getting a variance.

Respectfully,

A handwritten signature in cursive script that reads "Michael Moore". The signature is written in black ink and is positioned above the printed name.

Michael Moore

1046 Sunflower Trail

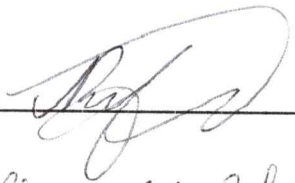
March 2022

Board of Adjustments

City of Sunset Valley

I live in Sunset Valley at 1050 Sunflower Trl. I am aware of the pool project that my neighbors, Jorge and Natalia, at 1052 Sunflower Trl. are planning to do. I wanted to let you know that I have no inconvenience of them encroaching the setbacks in their backyard to accomplish their project. I am supportive of them getting the respective variance and building their pool.

Respectfully,



Rifka Abdheith

1050 Sunflower Trl


March 2022

Board of Adjustments

City of Sunset Valley

This letter is to let you know that I am ok with the project that my neighbor at 1052 Sunflower Trl is working on in its current form. The project at the writing of this has the pool equipment slated for the east side of the property away from my fence. The pool itself is on the west side of the yard closer to my yard but as long as the spa features are not loud, I'm ok with the variance for the encroachment of the setback. Should any of the currently planned features change I will need to reconsider.

Sincerely,



Ryan Afonso

1056 Sunflower Trl