



# BOARD OF ADJUSTMENT STAFF REPORT

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**Date**                    **May 9, 2023**

**To**                        **Board of Adjustment**

**From**                    **Chris Jasper**  
Senior Planner

**Subject**                **East and West Monroe Street**  
9002 W Monroe Street

## ***REQUEST***

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The applicant is seeking two variances from the Mobile Home Subdivision (RMH-1) development standards as follows:

1. Property #1: A reduction of the required rear yard setback from thirty (30) feet to sixteen (16) feet, six (6) inches; and
2. Property #2: A reduction of the required rear yard setback from thirty (30) feet to twelve (12) feet, six (6) inches

### **PURPOSE OF THE REQUEST:**

The requested modifications to the rear yard setback would facilitate the applicant's plans to construct a total of two (2) custom single-family residential homes on two (2) lots.

## ***LOCATION AND CONTEXT***

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### **SUBJECT SITES**

The sites are generally located at 9002 W. Monroe Street, which is within the Alta Loma Trailer Park subdivision, as shown in **Exhibit 2**.

### **CONTEXT**

The two subject lots are generally bound by mobile home residential uses within the Alta Loma Trailer Park subdivision to the north, 90<sup>th</sup> Avenue to the east, Monroe Street to the south, and 90<sup>th</sup> Drive to the west. (**Exhibits 1 and 2**)

The easternmost lot, Property #1, is approximately 6,435 square feet in area and is located at the northwest corner of Monroe Street and 90<sup>th</sup> Avenue. The westernmost lot, Property #2, is 5,265 square feet in area and is located at the northeast corner of 90<sup>th</sup> Drive and Monroe Street. The subject properties share a common property line, and both properties are corner lots that are roughly rectangular in shape, though a chamfer has been dedicated on the respective corners of each property, which will be discussed in greater detail in this staff report.

***APPLICATION / PROPERTY INFORMATION***

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<b>Applicant</b>	Dora Castillo of RD Design Team
<b>Property Owner(s):</b>	Cristian Botiller, Jesus Botiller, Tommy Leyva
<b>Location:</b>	Property #1: NWC of 90 <sup>th</sup> Avenue and W Monroe Street Property #2: NEC of 90 <sup>th</sup> Drive and W Monroe Street
<b>Lot Size:</b>	Property #1: 6,435 Square Feet Property #2: 5,265 Square Feet
<b>Existing Use:</b>	Vacant
<b>Proposed Uses:</b>	One single-family residential home on each lot
<b>Proposed Building Size(s)</b>	Property #1: 2,261 square feet Property #2: 2,261 square feet

***APPLICANT'S PROPOSAL***

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The applicant is requesting a variance to reduce the minimum required rear yard setback for two single-family residential structures. The relevant setbacks and other development standards are detailed within Section 21-435 of the City of Peoria Zoning Ordinance. The specific requests are as follows:

1. Minimum rear yard setback on Property #1: Reduce from thirty (30) feet to sixteen (16) feet, six (6) inches; and
2. Minimum rear yard setback on Property #2: Reduce from thirty (30) feet to twelve (12) feet, six (6) inches

Per the attached Narrative (**Exhibit 6**), property owners state that they have submitted the Variance request to construct a single-family residential building on each of the two subject parcels.

## **STAFF ANALYSIS**

### ***ZONING***

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The zoning designation for the subject site is Mobile Home Subdivision (RMH-1), as shown in **Exhibit 3**.

### **PROPERTY HISTORY**

On March 22, 1960, the City Council adopted Ordinance 42 to annex the subject property and several acres of surrounding land. On October 13, 1964, the City Council adopted Ordinance 53, which permitted the placement of mobile homes, then known as "trailers," within the City of Peoria.

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The Alta Loma Trailer Park subdivision was established in December of 1964, creating the subject lots, and the subdivision was populated with mobile home and manufactured home products.

On March 24, 1970, the City Council adopted Ordinance 89 to establish the R-3 Mobile Home zoning district, which was later partitioned into the RMH-1 and RMH-2 zoning districts for mobile home subdivisions and mobile home parks, respectively. As detailed in the ordinance, the development standards for what would become the Mobile Home Subdivision (RMH-1) zoning district refer directly to the development standards for single-family residential uses, reflecting the zoning district's intent to promulgate a residential character and promote compatibility with adjacent residential zoning districts. Because the Alta Loma Trailer Park subdivision occurred nearly 6 years prior to the adoption of Ordinance 89, it was not laid out or populated with these development standards in mind, and all properties within the subdivision became exceedingly difficult to develop.

In 1970, a previous property owner placed a mobile home unit on the site that traversed the shared property line between the two lots. After the applicant team purchased both of the subject lots in January 2022, they demolished the non-conforming structure, and site is currently vacant.

### **APPLICABLE DEVELOPMENT STANDARDS**

Each zoning district establishes an exclusive set of permissible land uses and development standards to ensure a cohesive and compatible pattern of land uses throughout the City. Accordingly, all buildings, structures, uses, lots, and developments are required to comply with the requirements of the zoning district in which they are located unless otherwise approved through the Variance or Administrative Relief process, as applicable.

The subject site is within the Mobile Home Subdivision (RMH-1) Zoning District, which principally allows for mobile homes on individually owned lots. The development standards for the Mobile Home Subdivision (RMH-1) Zoning District, including relevant setback requirements, are detailed in Section 21-435 of the Zoning Ordinance and are listed as follows:

- Minimum lot size: 7,000 square feet
- Minimum lot width: 60 feet
- Minimum front setback: 20 feet
- Minimum rear setback: 30 feet
- Minimum side yard setback: 4 feet
- Total side yard setbacks: 13 feet

### **PROPOSED DEVELOPMENT STANDARDS**

The applicant is seeking a reduction to the required rear yard setback in the Mobile Home Subdivision (RMH-1) zoning district on two properties in order to construct a total of two (2) single-family residential homes that are, respectively:

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- Property #1: 16 feet, 6 inches away from the rear property line; and
- Property #2: 12 feet, 6 inches away from the rear property line.

### ***DEVELOPMENT PROPOSAL AND APPLICANT CLAIMS***

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The applicant team, represented by Dora Castillo of RD Design Team on behalf of property owners Cristian Botiller, Jesus Botiller, and Tommy Leyva, state that the Variance request is necessary due to the size of the subject lots (**Exhibit 6**). The development plans for the site, demonstrated in **Exhibit 7**, include an approximately 2,261 square foot, single-story home to be placed on each of the subject lots.

The applicant team requested a preliminary application meeting to discuss the proposed layout and discuss the Variance process. The meeting was held on December April 12, 2022, at which time staff provided comments related to the development plan and presented information on the Variance process (**Exhibit 8**). Additional staff comments related to parking requirements and the location of the required setbacks.

The applicant team subsequently submitted the Variance request on January 30, 2023. The applicant team then submitted construction documents under case numbers #2300288 and #2300289 to build a custom home on the eastern lot and western lot, respectively. Due to the unique physical constraints of the lots, staff recommended and the applicant concurred with conducting a formal review of the construction documents to identify all regulatory compliance issues before scheduling the Variance request for a Board of Adjustment hearing.

Typically, the City requires that all modifications to entitlements for a property, including Variance requests, be completed prior to the submittal of construction documents or civil improvement plans. An exception was granted in this instance to give the applicant team an opportunity to address any issues that could necessitate modifications to the final placement of the proposed buildings on their respective lots. Corrective measures deemed necessary to meet regulatory requirements, such as the City's building or engineering standards, more than likely would impact the specifics of each variance request. For example, Planning staff noted during its formal review that the front building setback on Property #2 was measured incorrectly from the chamfer at the southwest corner. Identification of this issue led the applicant to revise the site plan to comply with the front setback requirement, thereby shifting the building to the north. This modification also resulted in a design that better satisfies the Traffic Department's site visibility concerns. Thus, the applicant team then revised the Variance request to account for the encroachment into the required rear yard area for both properties.

### ***VARIANCE***

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In accordance with the Zoning Ordinance, the Board of Adjustment is the decision making authority for a Variance request.

### REVIEW CRITERIA

Section 21-323.G.3 of the Peoria Zoning Ordinance outlines the applicable criteria for evaluating a Variance request. The Zoning Ordinance prescribes five (5) criteria, all of which must be met to qualify the request for a variance. The criteria are as follows, with the applicant provided responses in **Exhibit 6** quoted below. Staff's analysis is presented in italics:

1. Special circumstances or conditions exist on the subject property that does not exist on other property in that zoning district.

*Applicant: "These two infill lot are small, the west lot has 5,265 square feet, it's 50 feet wide by 104 feet long; the east lot has 6,435 square feet, and it's 59.99 feet wide by 104 feet long. They are both RMH-1, and R1-8 zoning is permitted. Developing a single family residence will required a reduction of the rear setback to fit a medium sized home."*

*Staff: The two lots that are the subject of the Variance requests are non-conforming in size according to the current development standards associated with the Mobile Home Subdivision (RMH-1) zoning district, detailed above. Neither of the two lots as platted meet the minimum required width of 60 feet, nor do they comply with the minimum required lot area specified within the Zoning Ordinance (Minimum 7,000 square feet required versus 5,265 and 6,435 square feet, respectively, in actuality). In addition to these sub-standard dimensions, a prior owner of Property #2 dedicated a 15-foot by 15-foot chamfer at the southwest corner of the lot in 1989 in accordance with City of Peoria Engineering requirements. A similar, smaller, chamfer is also present on Property #1. Neither chamfer was anticipated when the subdivision was laid out and were the result of regulations established at a later date. These dedications further reduce the total developable area available on both Properties and represent a relatively unique condition not present on most other properties within the zoning district.*

*It is also noteworthy that due to the subdivision's age, nearly every single lot within the Alta Loma Trailer Park subdivision fails to meet the RMH-1 zoning district's minimum development standards. As such, similar Variance requests have been granted within the subdivision in the past, and such requests will likely be necessary for future development on other lots within the subdivision and zoning district.*

*Due to the conditions present on the site, staff believes this criterion is satisfied.*

2. The literal interpretation of the provisions of this Ordinance would deprive the appellant of rights commonly enjoyed by other properties in the same zoning district.

*Applicant: "The small size of the lots limits the space to build a new single family home."*

*Staff: A strict interpretation of the Zoning Ordinance would functionally render the entirety of the Alta Loma Trailer Park subdivision more or less undevelopable, as the subdivision was not laid out to accommodate the front setback, rear setback, or lot size required by the RMH-1 Zoning District. Consequently, the development standards applied subsequent to the Alta Loma Trailer Park subdivision failed to meet its stated purpose and intent to "promulgate a residential character and promote compatibility with adjacent residential*

*zoning districts”, which is further evidenced by the haphazard development within the subdivision through the years.*

*In reviewing the surrounding development pattern, this particular subdivision has also been populated by a number of mobile homes and related residential uses, some of which have been constructed within the past decade under the current regulatory environment. One such property developed more recently has also been granted a Variance by the City to reduce its respective required rear setback to facilitate the development of a new home.*

*To deny the applicant the ability to reasonably develop the site as proposed would effectively deprive them of rights enjoyed by other property owners within the Zoning District. As such, the applicant has demonstrated that this criterion has been satisfied.*

3. The alleged hardship caused by literal interpretation of the provisions of this Ordinance includes more than personal inconvenience and financial hardship and is not the result of actions by the appellant.

*Applicant: “The lots were bought as is by the current owner this year, this was not self-imposed and the proposed development will not create any financial hardship to the neighbors.”*

*Staff: As detailed above, the subject lots were created through a subdivision process that occurred prior to the adoption of the zoning district’s current development standards, which rendered nearly all of the lots within the district nearly undevelopable when applying a strict interpretation of the Zoning Ordinance.*

*Both of the subject sites were further reduced in developable area due to the dedication of chamfers on the southwest corner of Property #2 and the southeast corner of Property #1, respectively. None of these regulatory restrictions (and subsequent application of engineering standards) are the result of the property owner’s actions. Instead, the conditions are a direct result of well-intentioned but ill-applied development standards created after the subdivision’s creation that disregarded the physical conditions and actual constraints on the properties themselves. A continued literal interpretation of the Zoning Standards applied to non-conforming lots would compound the disparity. Alternatively, granting the Variance request would increase the total developable area on the subject lots to approximately 48% on each lot, as shown in **Exhibit 5**, which is generally consistent with the City’s residential zoning district development standards.*

*Requiring that the subject lots develop in strict accordance with the existing development standards would likely result in hardships beyond those of a personal and financial nature. As such, staff believes this criterion has been satisfied.*

4. Granting the variance will not confer upon the applicant any special privilege that is denied by this Ordinance to other land, parcels, structures, or buildings in the same zoning district.

Applicant: “Granting this variance won’t result in any special privileges, the zoning allows for a single family residence to be built, and taking the maximum potential out of the land will, on the other hand, benefit the neighborhood and bring value to adjacent properties.”

Staff: *After a review of the historical record of the Alta Loma Trailer Park subdivision and the Mobile Home Subdivision (RMH-1) zoning district, it is staff’s opinion that the zoning district was intended to mirror the development standards of single-family residential zoning districts such as R1-6. When the development standards associated with those zoning districts were modernized in 1989 and 1993, which respectively reduced the rear setbacks of single-family residential properties to their current 15 feet and established the Single-Family Residential R1-6 zoning district, the RMH-1 zoning district was left unchanged. This has resulted in relatively stringent setback requirements that are rarely found elsewhere in the City and impede potential development specifically within the RMH-1 zoning district on the subject properties.*

*Accordingly, there exists a consistent and demonstrated need for relief from the Zoning Ordinance within the surrounding area, and in the Alta Loma Trailer Park subdivision in particular, such that granting a Variance for rear setbacks is unlikely to create a special privilege that is denied to other properties. More specifically, until such time as the RMH-1 development standards are refined or adjusted to more closely align with other residential districts as was originally intended, staff is likely to support similar requests on similar properties within the zoning district. Lastly, the Board of Adjustment has previously approved a similar variance request within the Alta Loma Trailer Park subdivision, which reduced the rear setback from 30 feet to 15 feet to accommodate the development of a residential building. As such, staff believes this criterion has been satisfied.*

5. Granting the variance will not interfere with or substantially or permanently injure the appropriate use of adjacent conforming properties in the same zoning district.

Applicant: “Granting of the variance will not interfere or injure the rights of the other properties, no alternation to the lots will be done, and the development will bring a lot of value, enhancement, and curb appeal, to the neighborhood and to the neighboring properties.”

Staff: *The requested reduction in the required minimum rear setback is not anticipated to interfere with or otherwise injure the appropriate use of adjacent conforming properties. The City of Peoria has established that a sufficient rear setback for single-family residential districts is 15 feet – nearly all of the existing Single Family Residential zoning districts, including the R1-6, R1-7, R1-8, R1-10, R1-12, and R1-18 zoning districts, require just such a setback. As a point of comparison, the only zoning district in the City, other than RMH-1, that requires a 30-foot rear yard setback is Single Family Residential R1-43, which also requires a minimum lot size of 1 acre.*

*As such, a reduction of the rear setback of Property #1 to 16 feet, 6 inches, is not anticipated to injure or otherwise interfere with adjacent uses, and is consistent with surrounding similar uses.*

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*The building proposed on Property #2 would encroach farther into this required setback area to meet the front setback requirements, which are uniquely restrictive due to the presence of a chamfer required by the City's Engineering standards for sight visibility. While this encroachment extends a bit farther into the typical required rear yard, the northern open space area within each of the subject lots is also more akin to a side yard condition, as the front door faces 90<sup>th</sup> Avenue and 90<sup>th</sup> Drive on Property #1 and Property #2, respectively, as shown in **Exhibit 7**. Outdoor activity in those areas is therefore anticipated to be limited and unlikely to result in a nuisance or injury to adjoining properties. As such, staff believes that this criterion has been satisfied.*

### COMMUNITY INVOLVEMENT

#### *Public Noticing*

The application was properly noticed pursuant to Section 21-315 of the Peoria Zoning Ordinance, which includes a Notice of Hearing to all property owners within 300 feet of the site and registered HOAs within one (1) mile, posting of a sign on the site, and placing an ad in the Peoria Times at least 15 days prior to the Public Hearing.

#### *Support / Opposition*

At the time of this writing, no correspondence has been received in support or opposition to this request.

### BOARD OF ADJUSTMENT ACTION

In the event that the Board of Adjustment determines that the applicant demonstrates compliance with the variance criteria, the Board may approve or conditionally approve the variance(s) with an affirmative vote of the majority of the Board members present. In approving or conditionally approving the variance(s), the Board shall find that:

1. The reasons set forth in the appeal justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; and
2. Granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

### KEY FINDINGS

1. The applicant's proposal meets the Variance requirements, identified within Section 21-323.G of the Zoning Ordinance, and as demonstrated in this report, and summarized below:

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- a. The two lots were rendered existing non-conforming when the existing RMH-1 Zoning Ordinance development standards were originally adopted and applied. Application of these standards did not consider or provide mitigation measures to address the physical constraints present on the subject properties;
  - b. The non-conformity was further compounded with the addition of chamfers at each of the respective intersections on both properties to meet the City's Engineering standards;
  - c. The applicant has adjusted the proposed layout of the homes to better meet City Engineering and Traffic concerns, while also minimizing the requested deviation from applicable existing development standards. The result design is also consistent in character with the surrounding community and presents the potential for minimal impacts to adjoining neighbors;
  - d. The required thirty (30) foot rear setback is inconsistent with all other residential zoning districts, save the R1-43 zoning district, which is applied to lots approximately seven times greater than the size of the subject properties;
  - e. Similar variance requests have been granted within the community to address the existing disparity created by a literal application of the Zoning Ordinance regulations; therefore, granting these requests is consistent with past evaluations of other similarly zoned properties within the area; and
2. The Variance request is consistent with the City of Peoria Zoning Ordinance and is compatible with the uses in the surrounding area; and
  3. The applicant has submitted a signed and notarized Proposition 207 waiver, which will be recorded with the conditions outlined below.

### ***PROPOSITION 207***

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The voters of Arizona approved Proposition 207, which among other things requires municipalities to compensate property owners for actions, which have the effect of diminishing the value of property. The City Attorney's Office has drafted an agreement, which waives the applicant's rights to future Proposition 207 claims against the City. Accordingly, the applicant has furnished a signed and notarized Proposition 207 Waiver.

### ***RECOMMENDATION***

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Staff recommends that the Board of Adjustment take the following action:

**Approve the applicant's request for a Variance under Case V23-02, subject to the following conditions:**

1. The rear setback of Property #1 (APN: 142-39-050) shall be sixteen (16) feet, six (6)

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inches as measured from the rear property line.

2. The rear setback of Property #2 (APN: 142-39-051) shall be twelve (12) feet, six (6) inches as measured from the rear property line.

### ***STAFF CONTACT***

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