

MODIFICATION OF SETBACKS OR LOT COVERAGE (MSR) PROCESS

I WHAT IS THE MODIFICATION OF SETBACKS OR LOT COVERAGE APPLICATION PROCESS?

The Modification of Setback Requirements or Lot Coverage (MSR) allows a reduction to front yard setbacks when the setback is not reduced to less than twenty feet, setbacks for side and rear yards and reductions to distances between structures. In addition, increase in lot coverage limits by accessory structures or accessory buildings required by this code may be modified as expressed in the Pima County Zoning Code, Chapter 18.07.070. Surrounding property owners are notified of the proposed reduction in setbacks/lot coverage increase. If there are no protests from the property owners, the Zoning Inspector may grant the MSR without a public hearing. In the event of written protests, or if a zoning enforcement violation is received against the property, the Zoning Inspector may deny the modification, and the applicant may apply for a variance, with a public hearing before the Board of Adjustment.

II HOW DO I APPLY FOR A MODIFICATION OF SETBACK REQUIREMENTS?

- A. Complete the application. **DO NOT USE PENCIL;**
- B. The applicant may either:
 1. Obtain signatures from all adjacent property owners to submit with this application;
 2. **OR**, after receiving the complete application, the staff will mail out a notification, with a description of the applicant's request and the submitted sketch plan to the adjacent property owners.

III WHAT DO I HAVE TO SUBMIT AS PART OF THE APPLICATION?

- A. Complete the attached application. Be sure to complete all questions, and to use complete sentences. **DO NOT USE PENCIL;**
- B. If you are an agent or representative for the property owner, you will need a **signed letter of authorization with an original* signature** from the property owner of record;
- C. Include a sketch plan on 8½" by 11" paper (see attached example). **DO NOT USE PENCIL;**
- D. **Written consent, with original* signatures**, from adjacent property owners if desired. Some signatures can be included and staff will send notices only to the properties that signatures were not provided;
- E. **Fee of \$279.00** (This fee is not refundable if MSR is not approved).

INCOMPLETE APPLICATIONS WILL NOT BE PROCESSED

(If additional information is needed, staff will inform the applicant. If no response is received in a timely manner, the case will be closed.)

IV HOW WILL THE MSR APPLICATION BE REVIEWED?

The Planning staff will review the application to ensure that the standards for the MSR can be met. The standards as outlined in the Pima County Zoning Code include:

- A. The reduced setback will not substantially reduce the amount of privacy that would be enjoyed by nearby residences;
- B. Significant views of prominent landforms, unusual stands of vegetation, or parks from nearby properties will not be obstructed any more than would occur if the setback was not modified;
- C. Traffic visibility on adjoining streets will not be adversely affected;
- D. Drainage from proposed buildings and structures will not adversely affect adjoining properties and public right-of-ways;
- E. Proposed building and structures will not interfere with the optimum air temperature/solar radiation orientation of buildings on adjoining properties;
- F. The location of proposed buildings and structures, and the activities to be conducted therein, will not impose objectionable noise levels or odors on adjacent properties.

Revised 07/01/2015

If one or more of these standards cannot be met, the Zoning Inspector may deny the application. The applicant may appeal the Zoning Inspector’s decision to the Board of Adjustment for consideration at a public hearing.

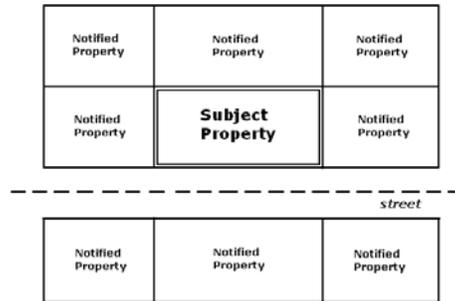
V WHAT IF MY NEIGHBORS HAVE NO OBJECTIONS TO MY PROJECT?

If the applicant submits signatures from all property owners of record adjacent to the subject property as well as those properties within 100 feet if separated by a road or common area, the Zoning Inspector may waive the notification process described below.

LOTS NOTIFIED:

(Pima County Zoning Code Chapter 18.07.070.C.1:

- a. Property owners adjacent to the applicant’s property,
- b. Property owners within 100 feet of the applicant’s property line but separated by public or private road or private common area, and
- c. Property owners determined by the zoning inspector to be affected by the request.

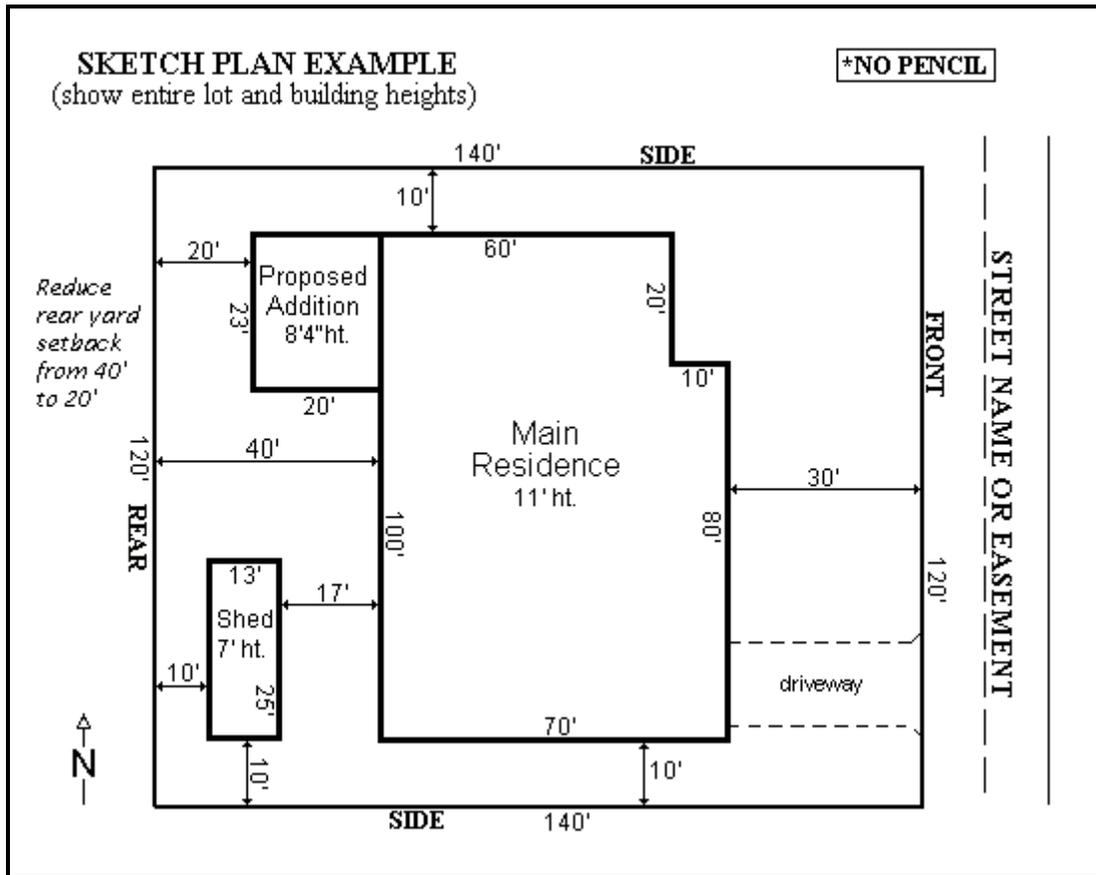


VI WHAT IF I AM UNABLE TO OBTAIN SIGNATURES?

The Zoning Inspector sends notification of the Modification of Setback Requirements application to all adjacent property owners and owners within 100 feet when separated by a road or common area. These property owners have 15 days, from the date the notifications are sent, to file a written protest with the Zoning Inspector. Notices will only be sent to property owners whose signature was not provided.

- If no protests are received within 15-day review period and the Zoning Inspector has determined that the application meets all of the standards, the applicant is notified that the Modification of Setback Requirements has been approved, and may apply for a building permit as allowed by the modification.
- If a written protest is received within 15 days, the MSR process is concluded. The applicant may submit a variance application for the next available Board of Adjustment meeting for consideration at a public hearing. **There is an additional fee of \$805.00 for the hearing would be required.**

VII SKETCH PLAN



These features **MUST** be shown on the sketch plan (8½" x 11" preferred*):

- Entire lot with proportionate dimensions;
- North direction arrow;
- Labeled streets and easements (access, utility, etc.);
- Access (i.e. driveway) and parking (if applicable);
- All existing and proposed structures with accurate dimensions;
- Distances from structures to property lines;
- Distances between structures;
- Labeled property lines including "front" property line.

*Use of graph paper is highly recommended to ensure accuracy.

APPLICATION FOR MODIFICATION OF SETBACK REQUIREMENTS

Property Owner: _____ Phone: _____
Owner's Mailing Address: _____ City: _____ Zip: _____
Authorized Representative: _____ Phone: _____
Rep's Mailing Address: _____ City: _____ Zip: _____
Property Address: _____ City: _____ Zip: _____
Tax Code: _____ Zone: _____
Contact Email Address: _____

Specify the setback modification request (identify structure and the proposed setback in feet):

I, the undersigned represent that all the facts in this application are true to the best of my knowledge. I am aware that application for building permits must be made within nine months of approval of the Modification of Setback Requirements and that failure to apply for building permits within that time renders the modification approval null and void. I have read and understood the Modification of Setback Requirements guidelines and standards.

Signature of Owner or Representative _____ Date _____

Email Address of Owner or Representative _____

The following documents are attached:	<u>NO PENCIL</u>
<input type="checkbox"/> Sketch plan [size 8½" x 11" preferred, maximum 11" x 17"]; <input type="checkbox"/> Letter of authorization for Representative to apply (original signature of owner is required); <input type="checkbox"/> Appropriate fee of \$279.00; <input type="checkbox"/> Standards Evaluation Form; <input type="checkbox"/> Original signatures of owner or representative (two signatures).	

If the Owner or Applicant is submitting signatures of neighboring property owners, please check the appropriate box that best describes the signatures that are provided;

- Applicant is submitting neighbor's signatures and believes all applicable property owners have signed.
- Applicant is submitting neighbor's signatures for some of the required property owners. The applicant understands that property owners whose signature has not been provided will be noticed by Pima County and provided 15 days to protest the MSR.

----- OFFICE USE ONLY -----
P _____ <small>(Last name - Direction, Street Name)</small>
Date Received: _____ Received by: _____ <small>(planner's initials)</small>
Affected section of code(s): _____

MODIFICATION OF SETBACK REQUIREMENTS STANDARDS EVALUATION

In the spaces provided below, please explain how the proposed setback modification meets each of the six standards listed in Chapter 18.07.070D of the Pima County Zoning Code. The application cannot be processed without this information. **Answer each question using full sentences.** You may attach a separate sheet if necessary. **DO NOT USE PENCIL.**

1. Describe how the proposed reduction of setback affects the amount of privacy that would be enjoyed by nearby residences:

2. Explain how significant views from nearby properties of prominent landforms, unusual stands of vegetation, or parks would not be affected by this request:

3. Explain how traffic visibility on adjoining streets will not be affected by this request:

4. Describe how drainage from proposed buildings and structures affects adjoining properties and public rights-of-way:

5. Describe in detail the use of structures involved in this request:

6. Explain how the location of proposed buildings and structures, and the activities to be conducted therein, will not impose objectionable noise levels or odors on adjacent properties:

Arizona Revised Statutes § 11-1604 (Prohibited acts by county and employees; enforcement; notice) provides:

A. A county shall not base a licensing decision in whole or in part on a licensing requirement or condition that is not specifically authorized by statute, rule, ordinance or delegation agreement. A general grant of authority does not constitute a basis for imposing a licensing requirement or condition unless the authority specifically authorizes the requirement or condition.

B. Unless specifically authorized, a county shall avoid duplication of other laws that do not enhance regulatory clarity and shall avoid dual permitting to the maximum extent practicable.

C. This section does not prohibit county flexibility to issue licenses or adopt ordinances or codes.

D. A county shall not request or initiate discussions with a person about waiving that person's rights.

E. This section may be enforced in a private civil action and relief may be awarded against a county. The court may award reasonable attorney fees, damages and all fees associated with the license application to a party that prevails in an action against a county for a violation of this section.

F. A county employee may not intentionally or knowingly violate this section. A violation of this section is cause for disciplinary action or dismissal pursuant to the county's adopted personnel policy.

G. This section does not abrogate the immunity provided by section 12-820.01 or 12-820.02.