



**Chandler · Arizona**  
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**MEMORANDUM                      Transportation & Development – BA Memo No. 11-011**

**DATE:**            JULY 29, 2011

**TO:**                BOARD OF ADJUSTMENT

**THRU:**            R.J. ZEDER, TRANSPORTATION & DEVELOPMENT DIRECTOR *RJZ*  
                           JEFF KURTZ, PLANNING ADMINISTRATOR *JK*  
                           KEVIN MAYO, PLANNING MANAGER *KM*

**FROM:**            BILL DERMODY, SENIOR CITY PLANNER *BD*

**SUBJECT:**        VAR11-0006 SHANNON RESIDENCE

**Request:**            Variance from the Zoning Ordinance to allow encroachment into the minimum side yard setbacks for a house expansion

**Applicant:**        Anthony P. Bukovec

**Owner:**            Steve Shannon

**Location:**        1752 E. Augusta Avenue, south and west of Riggs and Cooper Roads

**Existing Use:**     Single-Family Home

**Zoning:**            Planned Area Development (PAD)

**RECOMMENDATION**

Staff, upon finding the need for a variance to be self-imposed and the criteria by which all variances are reviewed to not be satisfied, recommends denial of the requested variance.

**BACKGROUND**

The application requests a variance from the zoning requirements to allow a house addition to encroach 2'-6" into the minimum 4' side yard setback on both sides of the home, which will result in a setback of 1'-6" on each side. The property, which backs up to Riggs Road and contains a single-family home, is located within the Sunbird Golf Resort Phase 1A subdivision zoned PAD. Lots in the area range from approximately 2,100 to 3,600 square feet, with most

lots between 2,100 and 3,100 square feet in size. The lot is rectangular on three sides, with an angled front property line due to the meandering nature of Augusta Avenue. The typically sized and shaped lot of 2,897 square feet contains an approximately 1,270 square foot manufactured home placed on the lot in the late 1980s. The house, like most in the subdivision, is placed right at the minimum 4' side yard setbacks. The subdivision contains a golf course, but the subject property is not adjacent to it.

The requested variance would allow for a series of room additions to the rear portion of the lot. Most of the added space would be toward the rear lot line and would abide by the minimum 9' setback in that direction. However, encroachments into the minimum side yard setbacks are also proposed that are approximately 2'-6" x 19' in size on the northwest side of the house and 2'-6" x 25' on the northeast side of the house. All of the work is proposed to occur at the same time and is part of a coordinated effort to upgrade the house.

The Zoning Code allows for certain architectural features, such as bay windows or eaves, to project into the minimum setback area up to 2', but still leave a minimum of 3' separation from the property line. As a matter of practice, these projections have been limited to about 6' in length to avert abuse of the regulation (e.g. an entire 20' stretch called an "architectural feature" by the homeowner). This provision would not apply to the subject proposal as currently designed.

The subject house and all houses in the subdivision are manufactured homes that did not require city building permits for their initial construction. However, all building additions must receive permits through the normal city process.

### **CODE REQUIREMENTS**

Setbacks in the Sunbird Golf Resort Phase 1A subdivision are established through the guidelines established by its approved Planned Area Development (PAD) zoning and associated Preliminary Development Plan:

#### **35-1706. Description of preliminary development plan (to accompany a PAD).**

(5) If the City Council approves the PAD zoning designation, the Official Zoning Map shall be so changed by ordinance. The Council may, as necessary, attach conditions to the PAD approval, which may include but are not limited to the following:

(d) Setback and height of buildings.

According to the development representation and Council approved conditions, the minimum side yard setbacks are to be 4' each.

### **FINDINGS**

Below is a list of the criteria that the Board of Adjustment must use to review each variance request. Following each criterion are Staff's italicized responses. The applicant's written narrative answering the following criteria is included among the memo attachments.

- 1. Explain the special circumstances or conditions that apply to the land, building, or use referred to in the application. The special circumstances cannot be self-imposed by the property owner.**

*The 2,897 square foot lot is a typical size and shape for the neighborhood. The house is laid out on the lot in a typical manner. There are no special circumstances that apply to the property which do not apply equally to other properties in the neighborhood. Staff is of the opinion that this criterion has not been satisfied.*

- 2. State why the granting of this variance is necessary for the preservation and enjoyment of substantial property rights.**

*The existing house demonstrates that the property has been allowed to develop and the property owners have enjoyed substantial property rights since the late 1980s on land zoned for single-family homes. It is not a property right to build an addition that violates minimum setbacks. Additionally, a smaller addition is possible that could abide by the minimum setbacks. Staff is of the opinion that this criterion has not been satisfied.*

- 3. Explain why this variance will not materially be detrimental to persons, property, or the public welfare of the community.**

*The variance would be a detriment to neighboring properties as they do not legally enjoy, nor have been granted approval to construct building additions that do not abide by zoning regulations. Staff is of the opinion that this criterion has not been satisfied.*

#### **PUBLIC/NEIGHBORHOOD NOTIFICATION**

This request was noticed in accordance with the requirements of the Chandler Zoning Code.

One neighbor has called in opposition to the request, fearing that it would be precedent for others in this subdivision where all the homes are very similar. A couple other neighbors called to make sure that the homeowner goes through the proper review channels with the HOA.

#### **SUMMARY**

Staff does not support this request. There are no special circumstances applicable to this property that do not apply equally to similar properties in the surrounding area. The requirement to meet minimum setbacks for a building addition is not a hardship for this property. The property has been substantially developed, with its property owners enjoying development rights since the 1980s with the home's original placement on the lot.

Granting a variance for this property would, in Staff's opinion, constitute a special privilege inconsistent with the limitations placed upon other similar properties. There are no unique conditions to this location that would support a finding in favor of this application.

**RECOMMENDED ACTION**

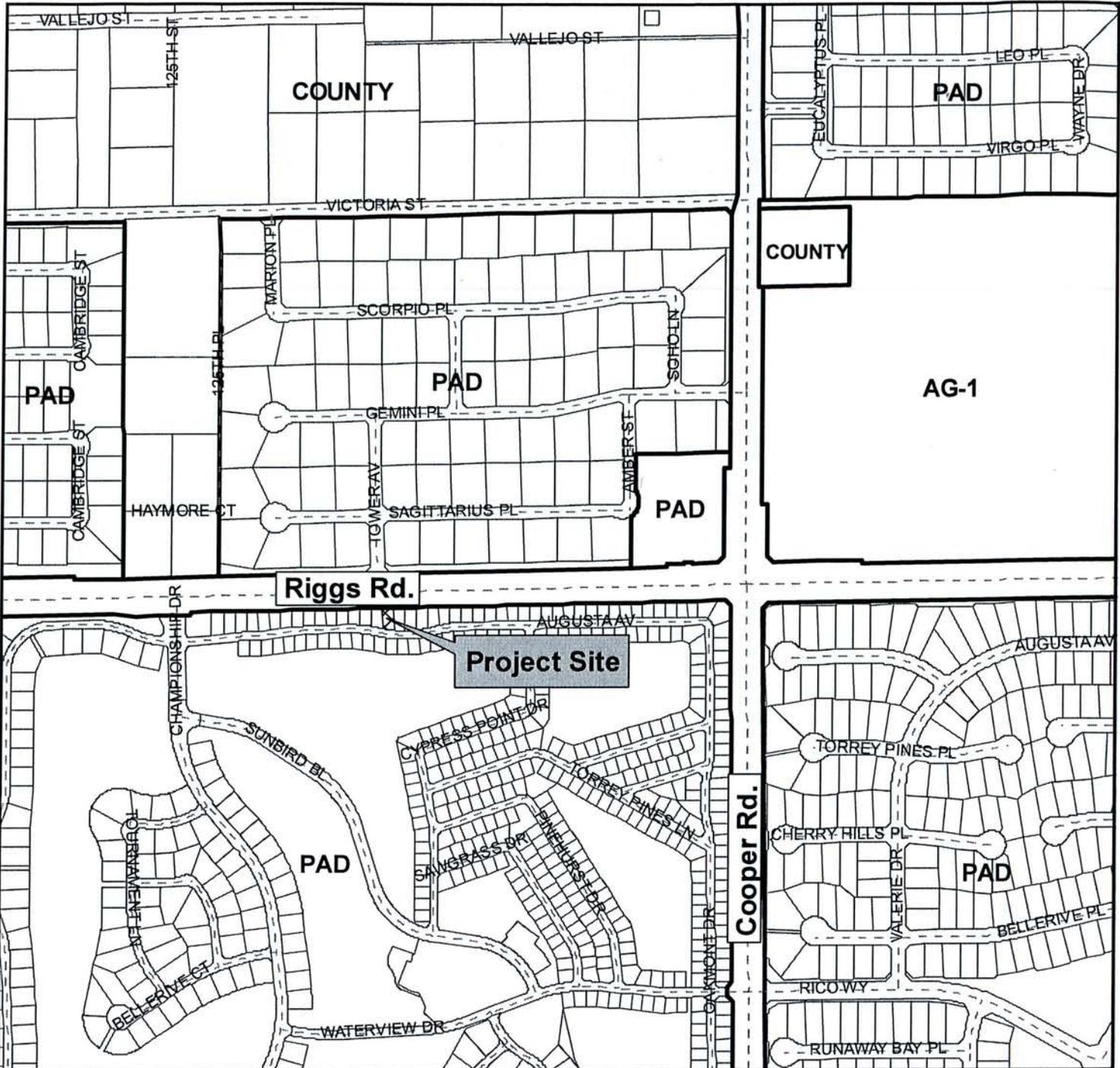
Staff recommends denial of this request.

**PROPOSED MOTION**

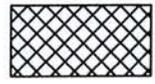
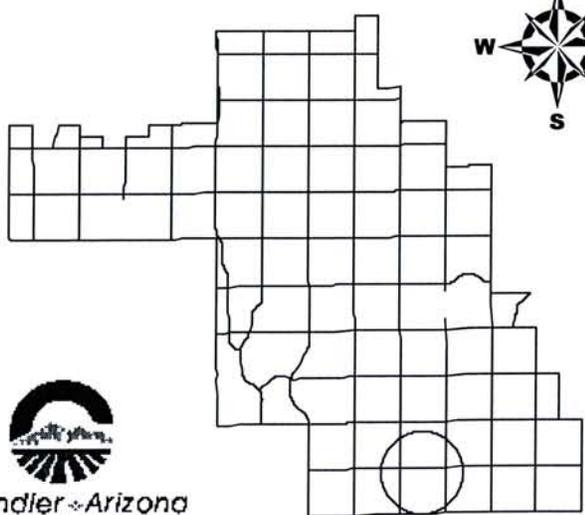
Move to deny variance request VAR11-0006 SHANNON RESIDENCE, as recommended by Staff.

**Attachments**

1. Vicinity Maps
2. Aerial Close-up
3. Application and Narrative
4. Powers and Duties
5. Applicant's Photos
6. Site Plan



## Vicinity Map

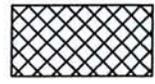


VAR11-0006

**Shannon Residence  
1752 E. Augusta Ave.**



## Vicinity Map



VAR11-0006

**Shannon Residence  
1752 E. Augusta Ave.**

# County Parcels





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# Variance Request Application

If the property owner is not filing the application, please fill out the attached Letter of Authorization for an applicant or project representative to file the application.

Project or Owner Name <b>STEVE SHANNON</b>		
Property Location/Address <b>1752 B. AGUSTA AVE</b>	City, State, Zip Code <b>CHANDLER AZ 85249</b>	
Type of Variance (waiver) from the Zoning Code you are requesting: <b>SIDE SBT RACKS</b>		
Is this variance for an existing structure (e.g. fence, pool, etc.)? Yes: <input checked="" type="checkbox"/> No: <input type="checkbox"/>		
Has the City issued a Notice of Violation? Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/> If yes, please attach a copy of the notice/letter.		
Property Owner Name <b>STEVE SHANNON</b>		
Mailing Address <b>1752 B. AGUSTA AVE</b>	Phone Number <b>480-277-3723</b>	
City, State, Zip Code <b>CHANDLER AZ 85249</b>	Fax Number	
Applicant/Representative Name <b>ANTHONY P. BUKOVEC</b>		
Mailing Address <b>2011 B. VIRGO PLACE</b>	Phone Number <b>480-258-1377</b>	
City, State, Zip Code <b>CHANDLER AZ 85249</b>	Fax Number <b>480-624-4384</b>	
Property Owner or Representative Signature <b>STEVE AUTHORIZATION LETTER</b>	Date <b>7-18-2011</b>	
<b>For City Use</b>		
Date Filed <b>7-18-11</b>	Development No. <b>VAR11-0006</b>	Planner

Mailing Address:  
P.O. Box 4008, MS 401  
Chandler, Arizona 85244-4008

**Transportation and Development Department**  
**Planning Division**  
215 E. Buffalo St., Chandler Arizona 85225

Telephone: (480) 782-3000  
Fax: (480) 782-3010  
[www.chandleraz.gov](http://www.chandleraz.gov)  
Form No: UDM-063/Planning  
Rev: 6-6-11



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# Variance Request Letter of Authorization

Please accept an application for a Variance for property located at:

1752 E. <sup>AUGUSTA</sup> AGUSTA AVE  
CHANDLER AZ 85249

Assessor's Parcel Number(s):

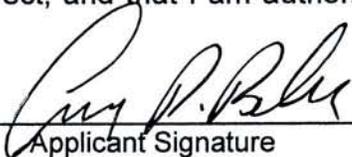
303 57 034

Said property is owned by:

STEVE SHANNON

Who hereby authorizes me to file this application on his/her behalf.

I certify that the above information is correct, and that I am authorized to file an application on said property on behalf of the owner.

 7-18-2011  
Applicant Signature Date

STEVE SHANNON 7/18/11  
Property Owner Name Printed Date

 7/18/11  
Property Owner Signature Date



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## Justification for Variance Request

Please answer the following questions fully in order to prove your case to the Board.

1. Explain the special circumstances or conditions that apply to the land, building, or use referred to in the application. The special circumstances cannot be self-imposed by the property owner.

WOULD LIKE TO STAY IN HOME, NEED MORE LIVING SPACE,  
LARGER KITCHEN, FAMILY ROOM, LAUNDRY ROOM, AND GET  
BOTH CARS UNDER ROOF, UPGRADE PROPERTY AND ALL AC, BLINDS  
ALSO, BOTH BATHS

2. State why the granting of this variance is necessary for the preservation and enjoyment of substantial property rights.

HOUSE VERY SMALL INSIDE, WANT TO STAY IN THE AREA  
AND AROUND PEOPLE WE KNOW

## Justification for Variance Request (Cont'd)

3. Explain why this variance will not materially be detrimental to persons, property, or the public welfare of the community.

DOES NOT AFFECT ANYONE LEADING CONDITIONS OR  
LOOK OF HOME.

## **BOARD OF ADJUSTMENT**

### **CHAPTER 35**

#### **35-2502. Powers and duties.**

The Board of Adjustment shall have the following powers and duties:

- (1) Adopt rules of procedure not inconsistent with the provisions of this Code for the conduct of its business and procedure.
- (2) Hear and decide all appeals that may be taken by any person or any Officer, Department, Board or Division of the City when there is an alleged error in any such order, requirement or decision made by the Zoning Administrator in the enforcement of the provisions of this Code.
- (3) Reverse or affirm in whole or in part or modify the order or decision as ought to be made, and [to] that end shall have the powers of the officer for whom the appeal is taken.
- (4) Determine and establish the true location of district boundaries in any disputed case.
- (5) Interpret any provision of the Zoning Code as it relates to a specific use of land or structure.
- (6) In specific cases, authorize upon request such variances from the provisions of this Code that will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions of this Code would result in unnecessary property hardships. A variance shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and district in which such property is located.
  - (a) A variance shall not be granted unless the Board of Adjustment shall find upon sufficient evidence:
    1. There are special circumstances or conditions applying to the land, building or use referred to in the request;
    2. The granting of the variance is necessary for the preservation and enjoyment of substantial property right; and
    3. The granting of the variance will not materially be detrimental to persons, property or to the public welfare of the community.
  - (b) The Board of Adjustment may not:
    1. Make any changes in the uses permitted in any zoning classification or zoning district, or make any changes in the terms of the zoning code provided the restriction in this paragraph shall not affect the authority to grant variances pursuant to this article.
    2. Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.



















