



MEMORANDUM Transportation & Development – BA Memo No. 11-012

DATE: OCTOBER 28, 2011
TO: BOARD OF ADJUSTMENT
THRU: R.J. ZEDER, TRANSPORTATION & DEVELOPMENT DIRECTOR
JEFF KURTZ, PLANNING ADMINISTRATOR
KEVIN MAYO, PLANNING MANAGER
FROM: BILL DERMODY, SENIOR CITY PLANNER
SUBJECT: VAR11-0007 LAMBERTO RESIDENCE

Request: Variance from the Zoning Ordinance to allow encroachment into the minimum side and rear yard setbacks for existing accessory buildings and to allow more than one accessory building to remain
Applicant: Sara Lamberto
Location: 2008 N. El Dorado Court, north and west of Warner and Dobson Roads
Existing Use: Single-Family Home
Zoning: Single-Family District (SF-8.5)

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 more than one accessory building to remain (three total), and for two of the three accessory buildings to encroach into the minimum setbacks. The property, which contains a 1,926 (livable) square foot single-family home constructed in 1986, is located within the Orange Tree subdivision zoned SF-8.5. Lots in the area range from approximately 7,300 to 17,000 square feet, with most lots between 7,300 and 9,000 square feet in size. The lot is a typically pie-shaped cul-de-sac lot with

alley access in its northwest portion. The lot is among the largest in the subdivision at 15,538 square feet.

The subject site contains a house, a pool, and three accessory buildings. For ease of reference, the accessory buildings have been labeled "1", "2", and "3" on the attached site plan according to the order they were constructed. The Zoning Code allows for only one accessory building. Accessory Building #1 abides by the minimum setbacks, but #2 and #3 do not.

A series of building permits from 2003 to 2005 allowed for remodeling/expansion of the house and construction of a garage (Accessory Building #1). The building was found to be under construction illegally prior to permits being obtained, but it did end up receiving those permits and passed its final inspection. Accessory Building #1 is approximately 750 square feet in size, 15' high, and set back 5' from the side property line. An awning was illegally added to Accessory Building #1 in late 2005 that appears in even the most recent aerial photographs, but was recently torn down. In its current state, Accessory Building #1 conforms to the minimum setbacks.

Accessory Building #2 is a large shed that was constructed in 2003 at about the same time as #1. Accessory Building #2 is approximately 150 square feet in size and 10' tall, which is too big to be considered a "storage shed" according to the Zoning Code (maximum 120 square feet in size and 7' in height). It is located approximately 1' from the rear property line, which violates the minimum 10' rear yard setback for accessory buildings.

Accessory Building #3 is a second detached garage that was constructed illegally in 2007. It is approximately 450 square feet in size, 12' high, set back 7' from the side property line, and set back 6' from the rear property line. Though it appears to abide by the minimum 5' side yard setback, it violates the minimum 10' rear yard setback.

The house used to contain an illegal plumbing business that was operated out of the accessory buildings. That business was operated by the applicant's ex-spouse, who no longer lives at the property.

The application refers to the accessory buildings currently being used for a business. However, there is no legal business being operated from the property. The City of Chandler does allow for certain home-based businesses to be operated from a single-family residence, but that would require an application to be filed with the city and approved, which has not yet occurred and will be necessary regardless of the outcome of this variance application.

CODE REQUIREMENTS

The allowed uses in the Orange Tree subdivision are established by the SF-8.5 zoning district, which in turn refers to the SF-10 zoning district:

35-601.1. Uses permitted.

- (2) One (1) accessory building as defined by Article II.

Setbacks in the Orange Tree subdivision are established by the SF-8.5 zoning district:

35-703. Height and area regulations.

(3) *Side yards:*

(a) *Interior lots (having alley access):* For dwellings, no side yard shall be less than five (5) feet, and the total of both side yards shall not be less than fifteen (15) feet. For other principal buildings, no side yard shall be less than twenty-five (25) feet.

(4) *Rear yard:* No rear yard shall be less than ten (10) feet.

Per Section **35-2202 Accessory Buildings**, accessory buildings are to meet the minimum side and rear yard setbacks for the district in which they are located.

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 15,538 square foot lot is one of the largest in the neighborhood. The lot's pie-shaped nature is typical for a cul-de-sac lot. The house is laid out on the lot in a typical manner. The fact that a past resident actually completed the work does not absolve the property owner from responsibility. 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 1986 on land zoned for single-family homes. It is not a property right to build multiple accessory buildings or accessory buildings that violate 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 accessory buildings that do not abide by zoning regulations. The buildings in question have in fact been the subject of neighbor complaints. 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, stating that this is too many big buildings on a normal residential lot. A different neighbor logged a complaint with the Code Enforcement Division that started the city's investigation.

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 accessory buildings, or to limit the property to one (1) accessory building are not hardships for this property. The property has been substantially developed, with its property owners enjoying development rights since 1986 with the home's original construction.

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

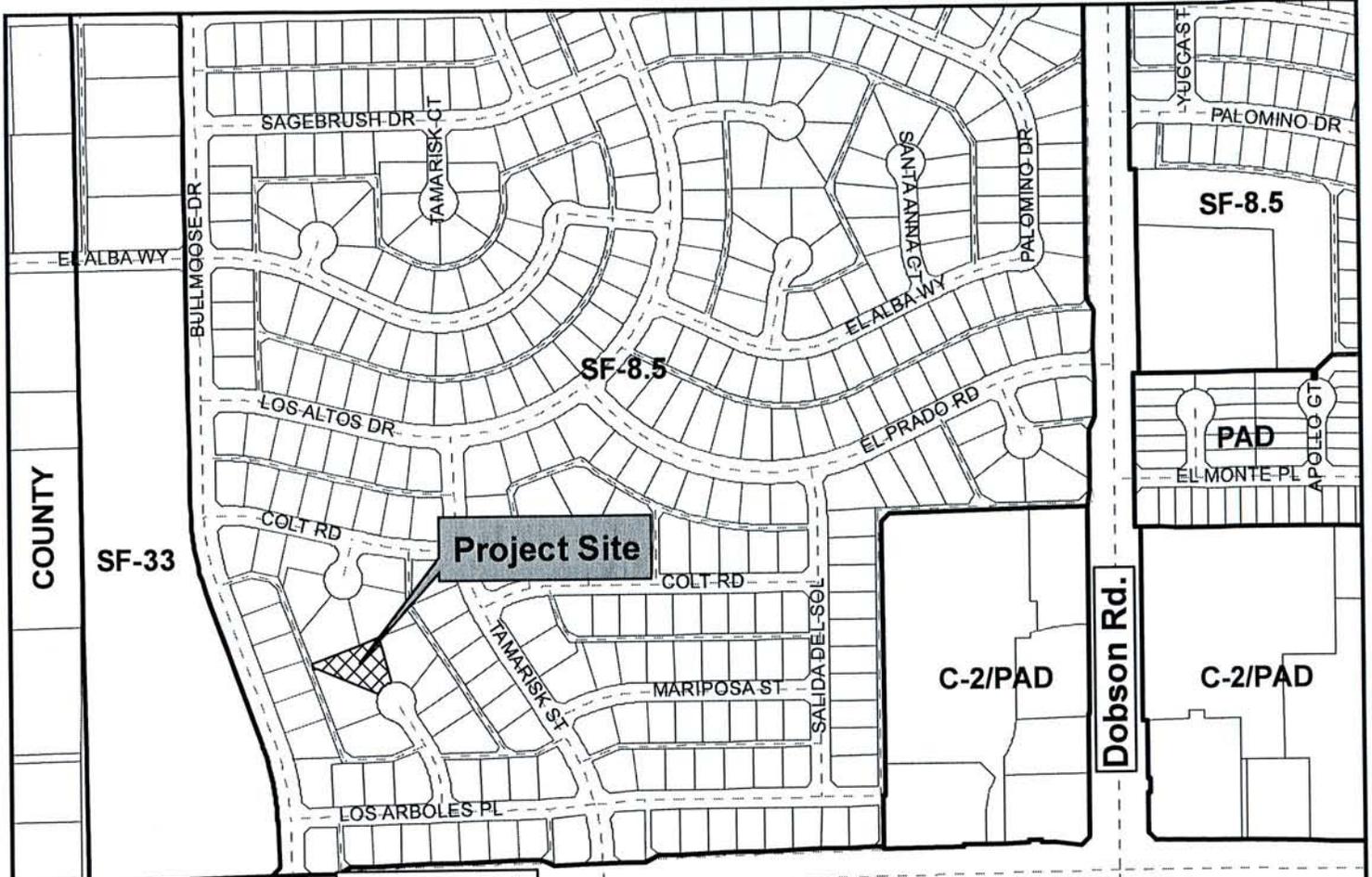
Staff recommends denial of this request.

PROPOSED MOTION

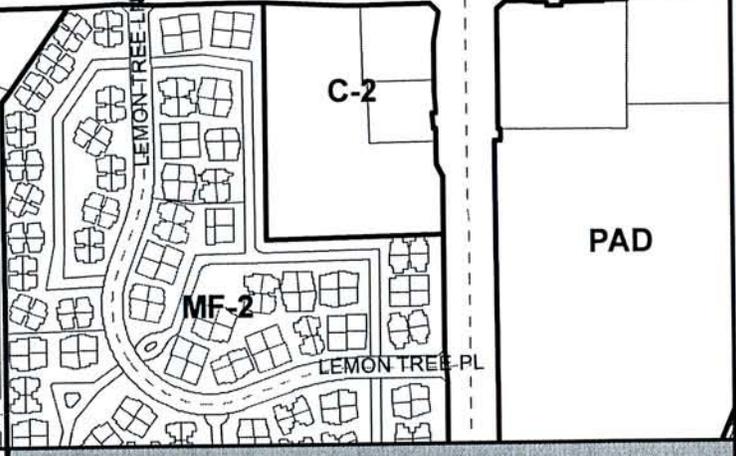
Move to deny variance request VAR11-0007 LAMBERTO RESIDENCE, as recommended by Staff.

Attachments

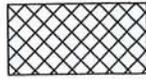
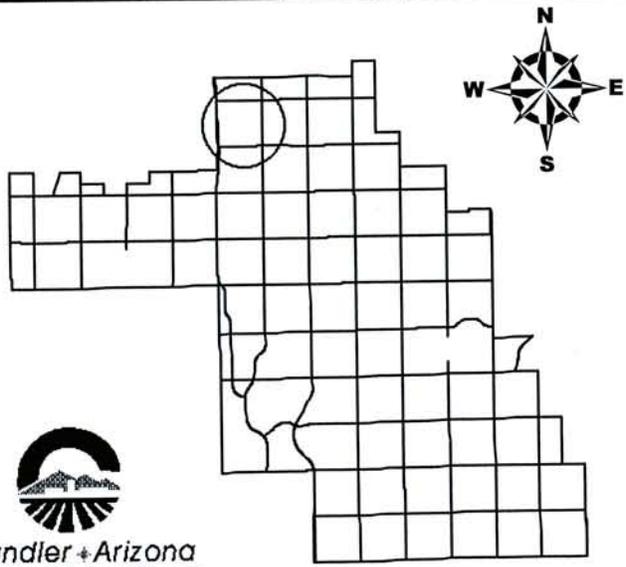
1. Vicinity Maps
2. Site Plan/Aerial Close-up
3. Application and Narrative
4. Powers and Duties



Warner Rd.



Vicinity Map

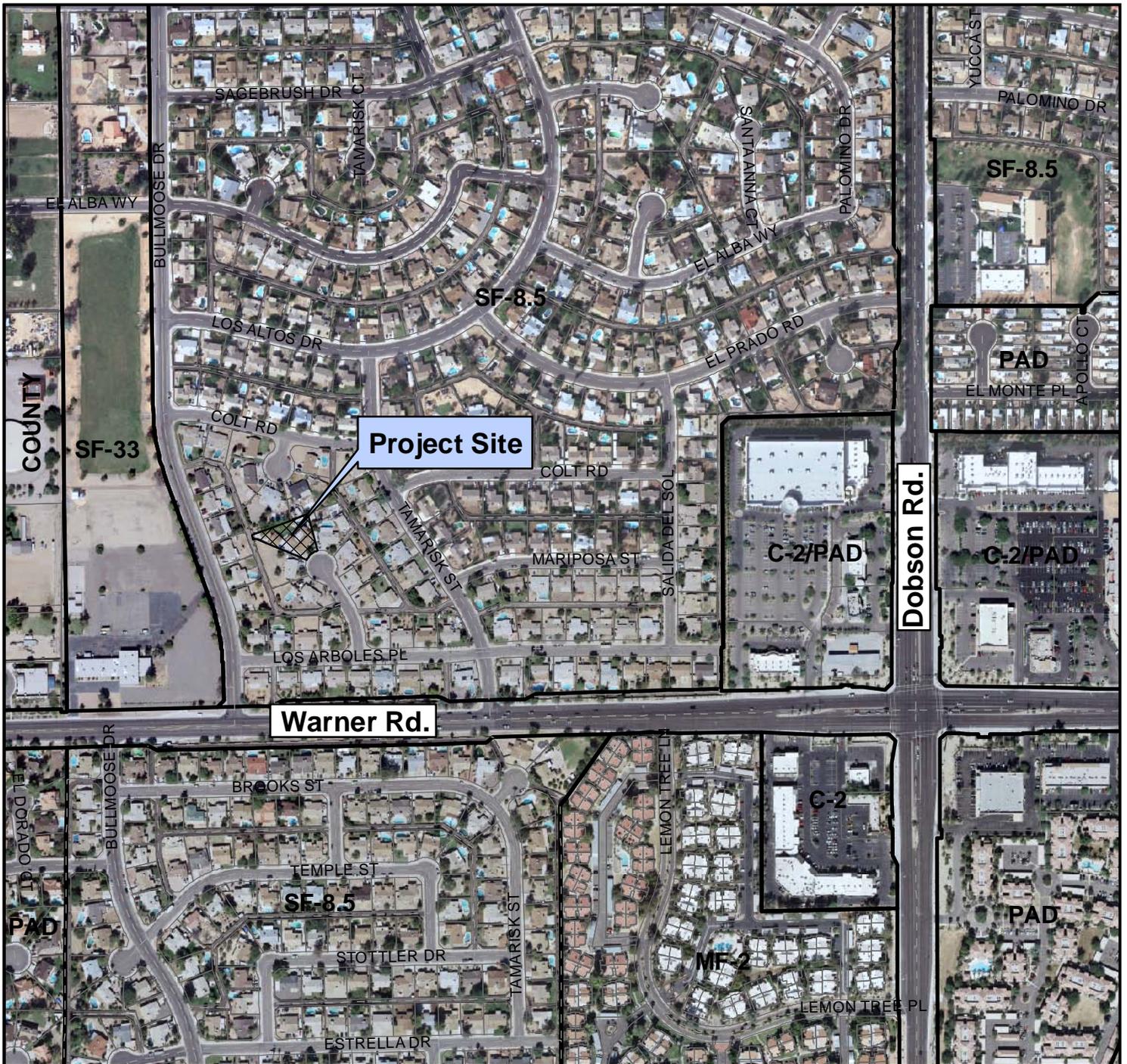


VAR11-0007

**Lamberto Residence
2008 N. El Dorado Ct.**



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Where Values Make The Difference

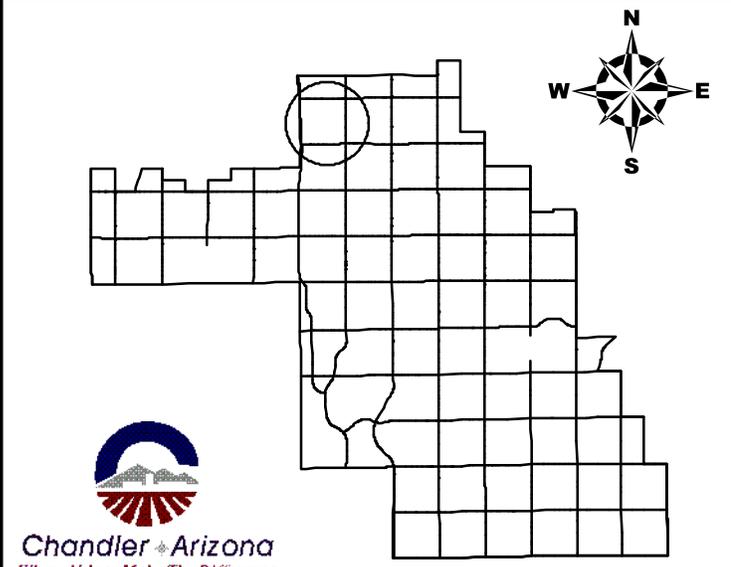


Project Site

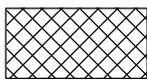
Warner Rd.

Dobson Rd.

COUNTY



Vicinity Map



VAR11-0007

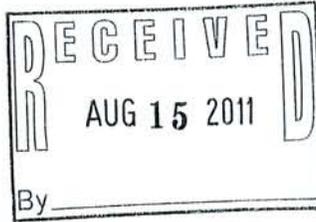
**Lamberto Residence
2008 N. El Dorado Ct.**







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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 <i>Sara Lamberto</i>	
Property Location/Address <i>2008 N. El Dorado Ct.</i>	City, State, Zip Code <i>Chandler, Az. 85224</i>
Type of Variance (waiver) from the Zoning Code you are requesting: <i>Waiver to keep the two accessory structures.</i>	
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 checked="" type="checkbox"/> No: <input type="checkbox"/> If yes, please attach a copy of the notice/letter.	
Property Owner Name <i>Sara Lamberto</i>	
Mailing Address <i>2008</i>	Phone Number <i>480-821-5014</i>
City, State, Zip Code <i>Chandler, Az. 85224</i>	Fax Number
Applicant/Representative Name	
Mailing Address	Phone Number
City, State, Zip Code	Fax Number
Property Owner or Representative Signature <i>Sara Lamberto</i>	Date <i>8/15/2011</i>
For City Use	
Date Filed <i>8-15-11</i>	Development No. <i>VAR11-0007</i>
Planner	

Mailing Address:
P.O. Box 4008, MS 105
Chandler, Arizona 85244-4008

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

Telephone: (480) 782-3000
Fax: (480) 782-3075
www.chandleraz.gov

Form No.: UDM-63
Rev: 1-28-2011



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Variance Request Letter of Authorization

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

Assessor's Parcel Number(s):

Said property is owned by:

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.

Applicant Signature Date

SARA LAMBERTO 8/15/2011
Property Owner Name Printed Date

Sara Lambert 8/15/2011
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.

I am requesting a waiver for the 2 accessory structures as they were built by Luigi Lamberto (my X husband) 8-10 yrs. ago. Luigi being a licensed contractor had built the structures for housing his business equipment (Res - Com Plumbing). As we are divorced now, I currently use it for my business.

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

It is necessary to house my business so the property always appears maintained and in great standing.

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.

The two structures have been there for several years without harm to anyone, and are a necessity for my business.

In all the years that they have been there no one has ever complained.

They are not an eye sore & well maintained.



City of Chandler, Maricopa County, State of Arizona
Neighborhood Resources
Code Enforcement
Warning Notice

This notice is not a ticket or citation.

Occurred	Date observed (Mo/Day/Yr) 07-20-11	Time of day 9:55	<input checked="" type="checkbox"/> AM <input type="checkbox"/> PM	<input type="checkbox"/> OV <input checked="" type="checkbox"/> C	Case Number 11-07-0163
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Location	Address 2008 N. EL DORADO CT	City Chandler	State Arizona	Zipcode
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Responsible Party	Name SARA LAMBERTO	<input type="checkbox"/> Unknown	Type <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Renter <input type="checkbox"/> Manager <input type="checkbox"/> Employee	Phone
	Address SAA		City	State Zipcode

The City of Chandler needs the help of each citizen to maintain it as the community in which we are all proud to live. We request your cooperation by keeping your property, alley, or adjoining right-of-way clean and safe. To help us in this effort, please note the following item(s) that need your attention.

Violation and corrective action needed			
Chapter 35	Section 304	CORRECTIVE ACTION PLAN OPTION <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	Description of violation "Land use"
Specific Location <input type="checkbox"/> Front Yard <input type="checkbox"/> Side Yard <input checked="" type="checkbox"/> Rear Yard <input type="checkbox"/> Alley <input type="checkbox"/> Other:			Two Accessory STRUCTURES
How to resolve Remove 1 structure reduce			BOTH NOT MEETING SETBACKS
THE OTHER REMAIN VARIANCE			
Chapter	Section	CORRECTIVE ACTION PLAN OPTION <input type="checkbox"/> YES <input type="checkbox"/> NO	Description of violation
Specific Location <input type="checkbox"/> Front Yard <input type="checkbox"/> Side Yard <input type="checkbox"/> Rear Yard <input type="checkbox"/> Alley <input type="checkbox"/> Other:			
How to resolve			
Chapter	Section	CORRECTIVE ACTION PLAN OPTION <input type="checkbox"/> YES <input type="checkbox"/> NO	Description of violation
Specific Location <input type="checkbox"/> Front Yard <input type="checkbox"/> Side Yard <input type="checkbox"/> Rear Yard <input type="checkbox"/> Alley <input type="checkbox"/> Other:			
How to resolve			

Please correct these item(s) by 08-03-11. The City will re-inspect this property to insure compliance. **This notice is not a ticket or citation.** However, should the problem(s) still exist upon re-inspection, a notice or citation will be issued that may result in municipal court action. If you are unable to correct a specific problem by the date listed, you may request a "Corrective Action Plan" by calling (480) 782-4320 or logging on to www.chandleraz.gov/code where the form is available. A "Corrective Action Plan" gives you additional time to correct the problem.

If you have any questions or desire additional information, you may contact the Code Enforcement Inspector. You can call Monday through Friday, between 8:00 A.M and 5:00 P.M. Leave a message if the inspector is not available. *We appreciate your cooperation in this matter.*

Inspector 	ID Number H/07	Phone Number (480) 782-4329
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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.