



**Chandler · Arizona**  
Where Values Make The Difference

B.



**MEMORANDUM                      Transportation & Development – BA Memo No. 12-004**

**DATE:**            JUNE 1, 2012

**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:**      VAR12-0001 PHAN RESIDENCE

**Request:**        Variance from the Zoning Ordinance to allow encroachment into the minimum side yard setback for an existing roof structure attached to the house

**Applicant:**     Linh Tran

**Location:**      713 N. Washington Street

**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 a roof structure attached to the house to extend all the way to the south property line, representing a 7' encroachment into the minimum 7' side yard setback. The roof structure, which was constructed some time prior to 1996 according to historical aerial photos, is approximately 9' wide by 85' long, running the entire length of the house along its south side. According to the application, the roof structure has been in place for more than 20 years. Code Enforcement recently filed a notice of violation on the structure.

The property, which contains a single-family home, is located in the Lundquist Manor subdivision zoned SF-8.5. Nearby lots range from approximately 9,000 to 10,650 square feet in size. The typically sized and shaped rectangular lot of 10,637 square feet contains a 1,655 (livable) square foot house built in 1946. An alley runs behind the subject property and all of its neighbors.

### **CODE REQUIREMENTS**

The minimum setbacks for the SF-8.5 Single-Family District are established by the Zoning Code:

#### **35-703. Height and area regulations.**

##### *(3) (a) Interior lots*

1. *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.

Since the house has alley access and an 8' setback from the north side property line, then the south side requires a 7' minimum setback in order for the side yards to total 15'.

### **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 10,637 square foot lot is a typical size and shape for the neighborhood. The fact that the roof has been there for many years is not a special circumstance. 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 on land zoned for single-family homes since 1946. It is not a property right to build a roof structure that violates minimum setbacks. Shade could legally be provided by trees or a structure that abides by setback regulations. 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 structures 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.

At the time of this writing, Staff is not aware of any opposition to the request.

**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 is not a hardship for this property. The property has been substantially developed since the home's original construction in 1946.

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**

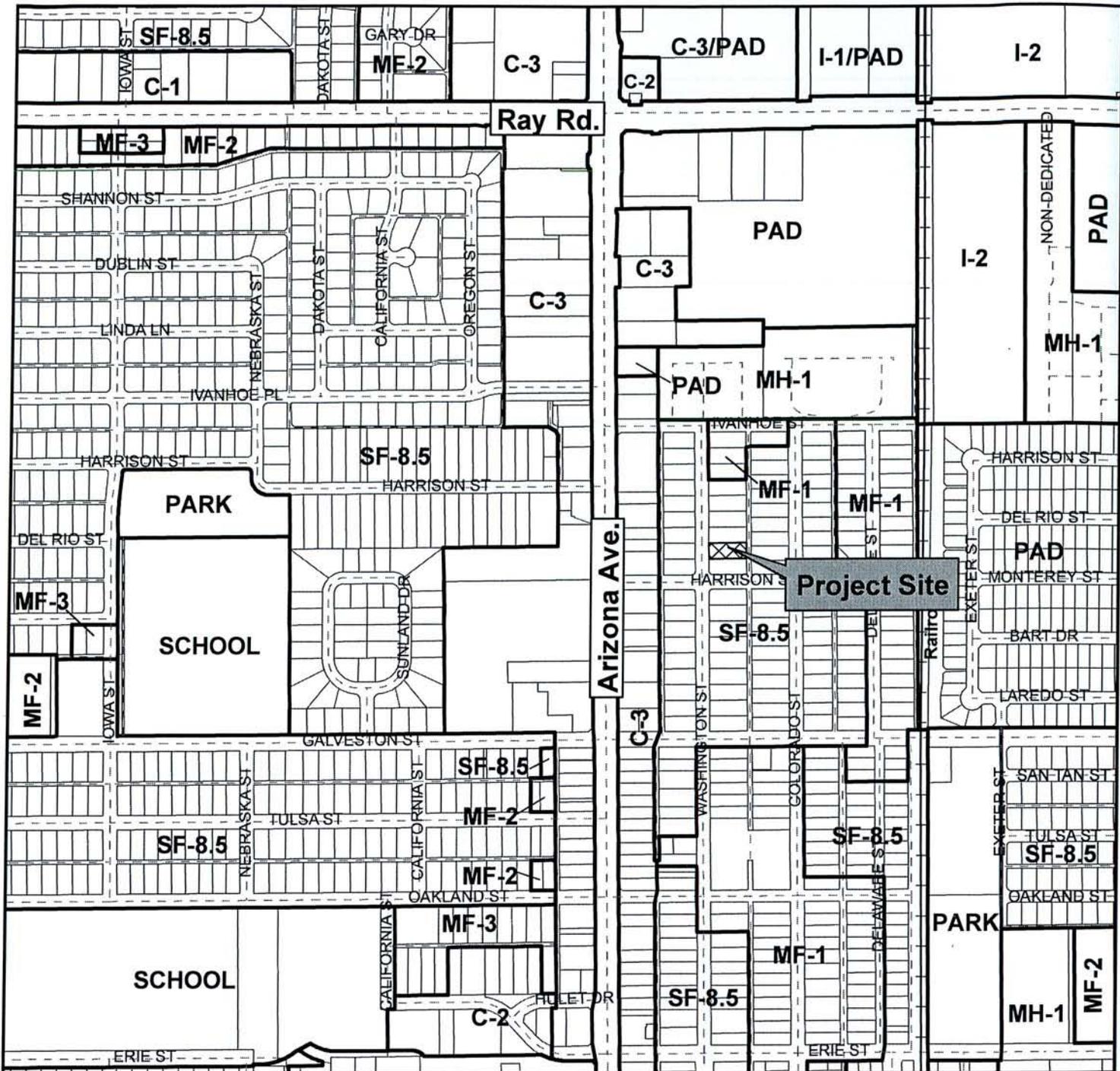
Staff recommends denial of this request.

**PROPOSED MOTION**

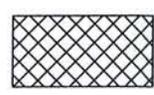
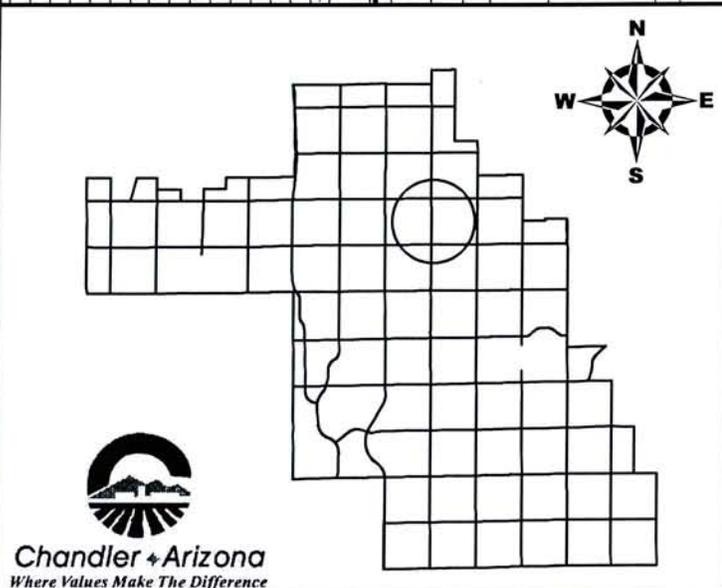
Move to deny variance request VAR12-0001 PHAN RESIDENCE, as recommended by Staff.

**Attachments**

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



## Vicinity Map



VAR12-0001

**Phan Residence  
713 N. Washington St.**



## Vicinity Map



VAR12-0001

Phan Residence  
713 N. Washington St.

N WASHINGTON ST

37

302-66-055

27

302-66-056

30 Ft

18

302-66-057

10

301-66-058

10 Ft





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FEB 24 REC'D

# 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<br><i>DHAN</i>   |                                      |  |
| Property Location/Address<br><i>713N WASHINGTON STREET</i>   |                                      | City, State, Zip Code<br><i>CHANDLER, AZ 85225</i> |
| Type of Variance (waiver) from the Zoning Code you are requesting:<br><i>WE WOULD LIKE TO APPLY FOR THE VARIANCE OF THE ROOF THAT COVERED OVER SIDE YARD OF THE HOUSE.</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<br><i>LINH THI THUY PHAN.</i>  |                                      |  |
| Mailing Address<br><i>951 S COPPER KEY COURT</i>   |                                      | Phone Number<br><i>602-561-3573</i>                |
| City, State, Zip Code<br><i>GILBERT, AZ 85233</i>  |                                      | Fax Number<br><i>602-774-4352</i>                  |
| Applicant/Representative Name<br><i>LINH TRAN</i>  |                                      |  |
| Mailing Address<br><i>951 S. COPPER KEY COURT</i>  |                                      | Phone Number<br><i>602-561-3573</i>                |
| City, State, Zip Code<br><i>GILBERT, AZ 85233</i>  |                                      | Fax Number<br><i>602-774-4352</i>                  |
| Property Owner or Representative Signature<br><i>[Signature]</i>   |                                      | Date<br><i>02/24/2012</i>                          |
| For City Use   |                                      |  |
| Date Filed<br><i>2-24-12</i>   | Development No.<br><i>VAR12-0001</i> | 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:

713 N. WASHINGTON STREET CHANDLER, AZ 85225

Assessor's Parcel Number(s):

302 - 66 - 057

Said property is owned by:

LINH THI THUY PHAN

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.

*[Signature]* 02/24/2012  
Applicant Signature Date

LINH THI THUY PHAN 02/24/2012  
Property Owner Name Printed Date

*[Signature]* 02/24/2012  
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.

THE ROOF COVERED OVER THE SIDE YARD WHICH WAS  
 BUILT OVER 20 YEARS TO THE PROPERTY SIDE FENCE.

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

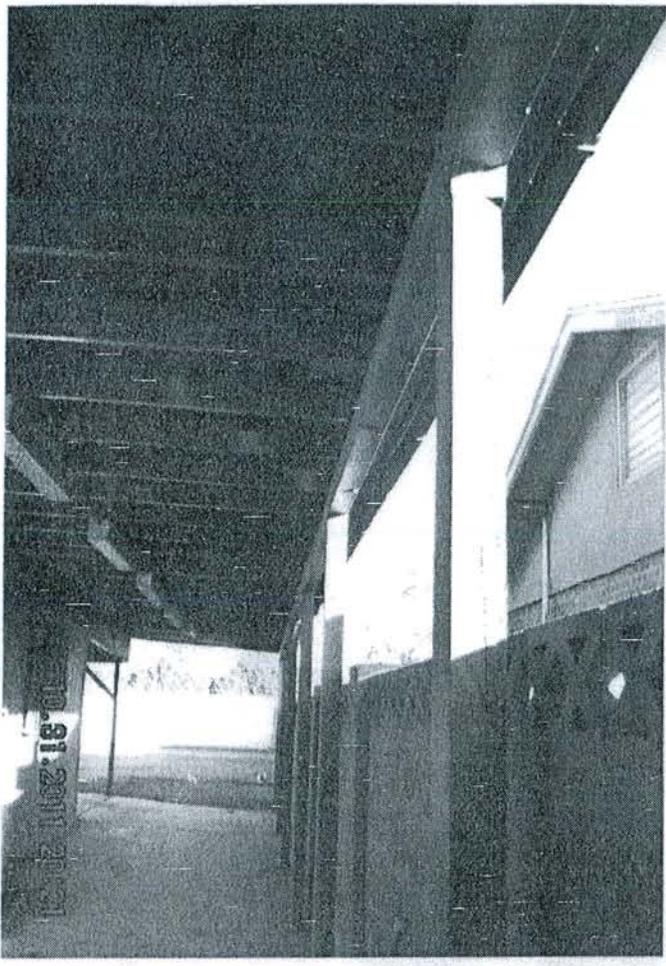
THE ROOF IS VERY BENEFIT AND ENJOYMENT FOR KIDS  
 TO PLAY OUTDOOR AND VERY HELPFUL TO COOL OFF  
 THE HOUSE IN SUMMER HEAT OF ARIZONA.

## Justification for Variance Request (Cont'd)

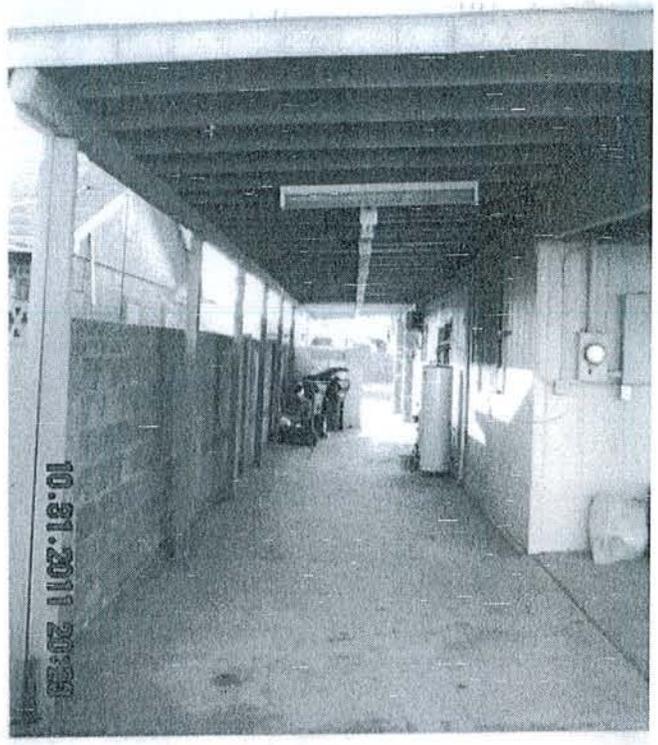
3. Explain why this variance will not materially be detrimental to persons, property, or the public welfare of the community.

WE WOULD LIKE TO HAVE YOUR CONSIDERATION TO GIVE  
US FOR OUR ROOF THAT WAS BULDED LONG TIME AGO

FROM FRONT AND UNDER ROOF



FROM THE REAR AND UNDER THE ROOF.



THE VIEW WAS TAKEN FROM THE FRONT SIDE YARD

# **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.