

A.



Chandler · Arizona
Where Values Make The Difference



MEMORANDUM

Transportation & Development – BA Memo No. 12-005

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: VAR12-0002 MORENO RESIDENCE

Request: Variance from the Zoning Ordinance to allow encroachment into the minimum side yard setback for an existing accessory building

Applicant: Hilario Moreno

Location: 465 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 an accessory building used for storage to extend 2' into the minimum 5' side yard setback, leaving a setback of 3'. The 20' x 13' (260 square foot) structure was mostly completed when the applicant received a violation notice. The structure replaced two smaller storage sheds and is used to store pool chemicals associated with the applicant's job. The smaller sheds were removed and construction on the subject structure commenced in late 2011 or 2012.

The property, which contains a single-family home, is located in the "Greater Chandler Addition Blocks 1-6" subdivision zoned SF-8.5. Nearby lots range from approximately 8,000 to 16,000 square feet in size, with most lots in the 8,000-12,000 square foot range. The typically sized and shaped rectangular lot of 9,592 square feet contains a 1,206 (livable) square foot house built in 1942. 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.

The structure must abide by the same setbacks as the main dwelling, which per above requires 5' separation from the closest side property line.

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 9,592 square foot lot is a typical size and shape for the neighborhood. 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 1942. It is not a property right to build an accessory structure that violates minimum setbacks. There is plenty of space on the property to meet the 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 1942.

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

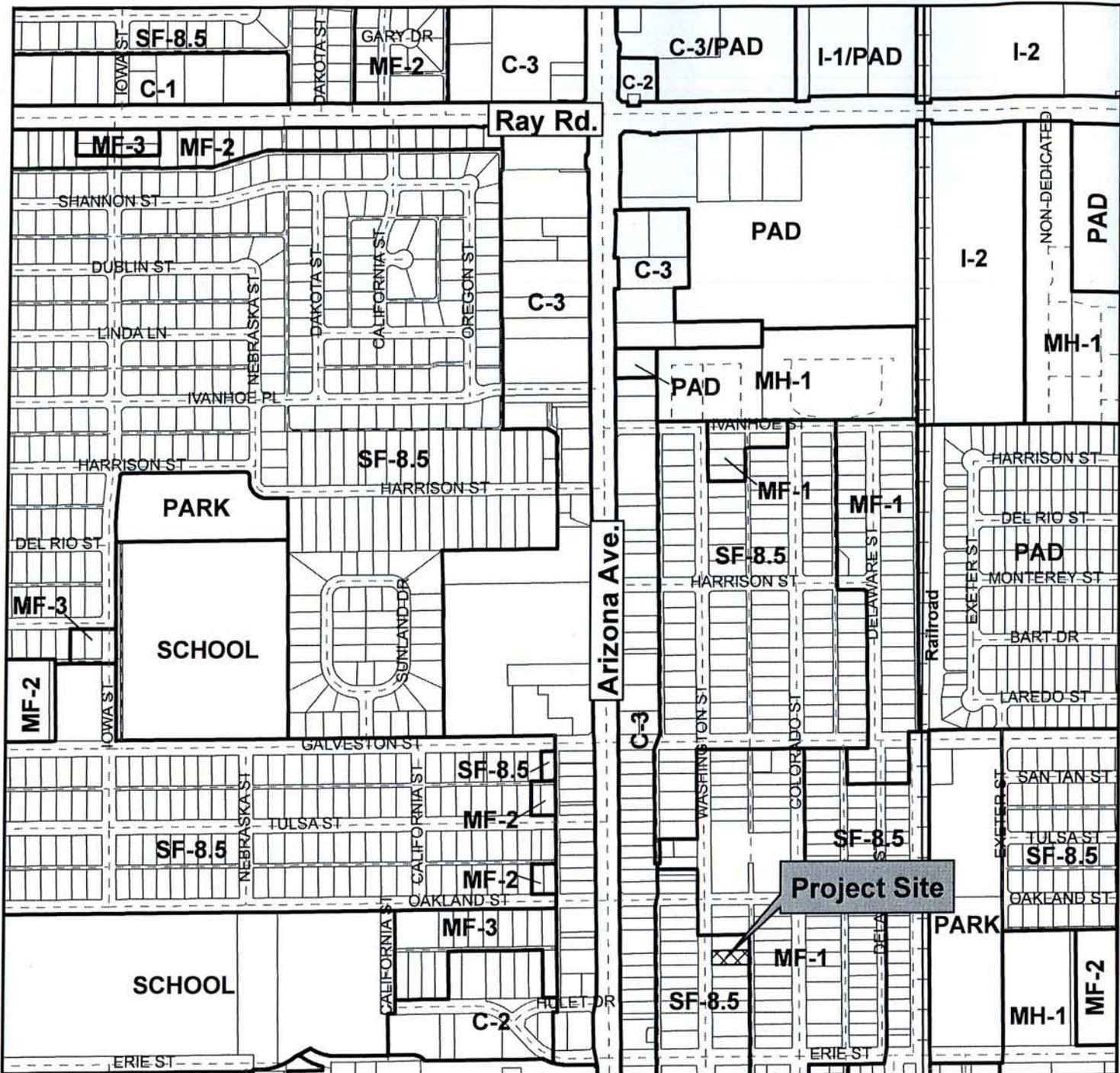
Staff recommends denial of this request.

PROPOSED MOTION

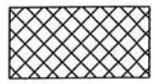
Move to deny variance request VAR12-0002 MORENO RESIDENCE, as recommended by Staff.

Attachments

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

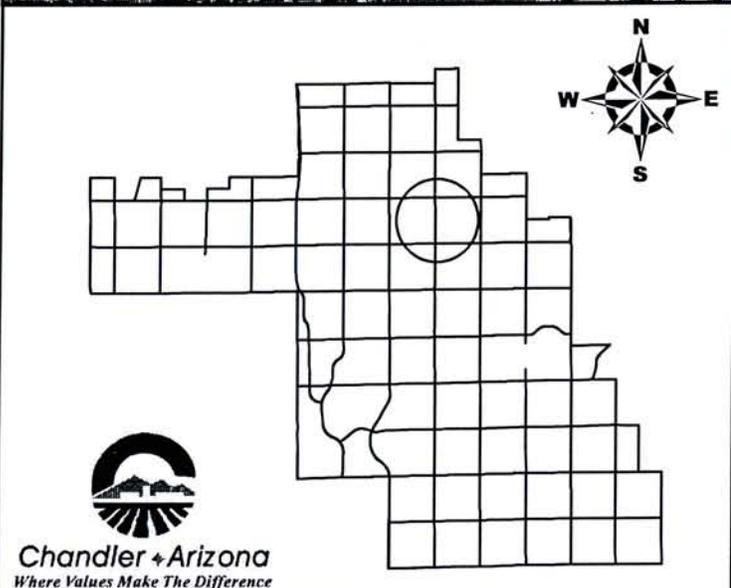


Vicinity Map



VAR12-0002

**Moreno Residence
465 N. Washington St.**



Vicinity Map



VAR12-0002

Moreno Residence
465 N. Washington St.



WELCOME TO

Chandler

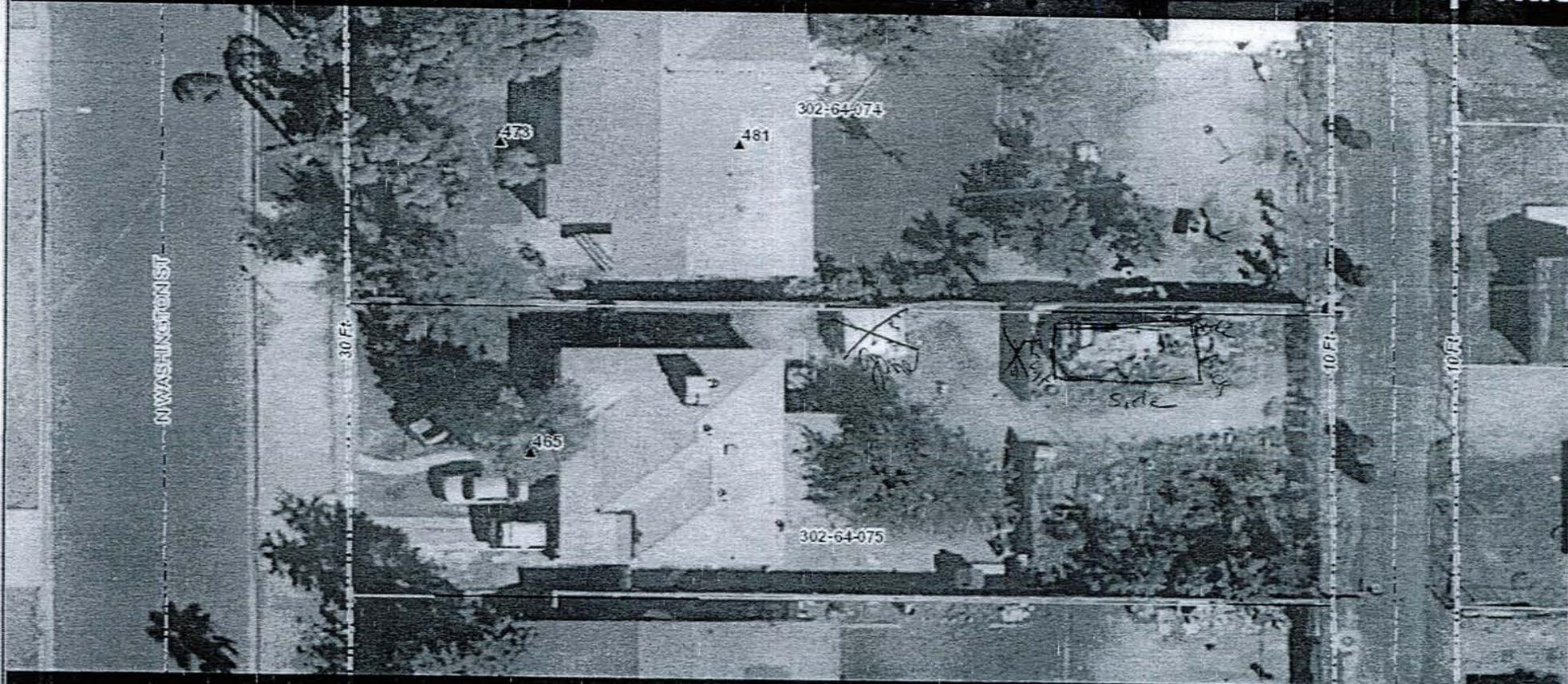
Theme: COC GIS Portal

Aerial: 2010

Map

Aerial

Map Title

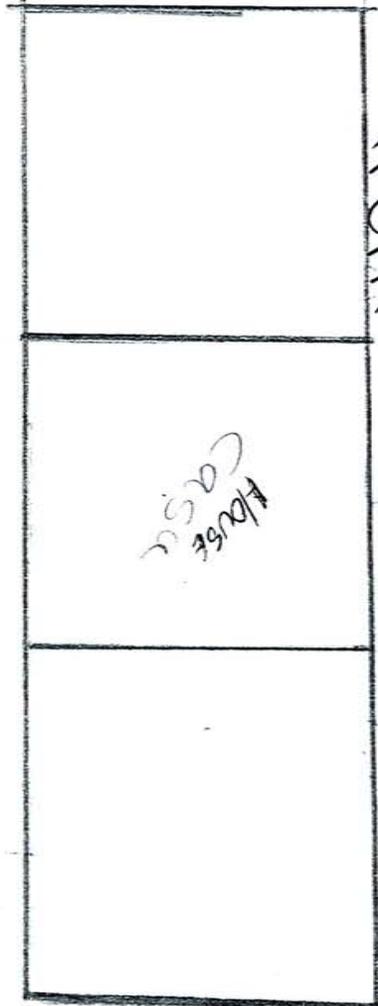


The City of Chandler IT Division makes no warranties, written or implied, regarding the information on this map. This map is a user generated static output from the City of Chandler GIS Portal and is for general reference only. Data layers that appear on this map may not be accurate, current, or otherwise reliable.

Type your comments here...

Washington St.

FRONT



42 ft

45

9.5 ft
1/4 in

13 ft

8.5 ft
1/4 in

20 ft

New

left side neighbor
3 ft

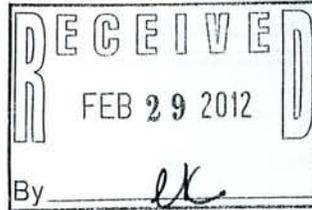
15 ft

Alley





Chandler • Arizona
Where Values Make The Difference



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 Hilario Moreno		
Property Location/Address 465 N. Washington St.		City, State, Zip Code Chandler, AZ 85225.
Type of Variance (waiver) from the Zoning Code you are requesting: Build a Storage unit in rear yard set back 15 ft from back yd fence. 3 ft away from left-side neighbor's fence. 20 x 13 and 8 1/2 ft + 9 1/2 ft tall. No elec. No water.		
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 Hilario Moreno		
Mailing Address 465 N. Washington St.		Phone Number (480) 659-7445
City, State, Zip Code Chandler AZ 85225.		Fax Number
Applicant/Representative Name Hilario Moreno		
Mailing Address 465 N. Washington St.		Phone Number (480) 659-7445
City, State, Zip Code Chandler, AZ 85225		Fax Number
Property Owner or Representative Signature Hilario Moreno		Date 2/20/12
For City Use		
Date Filed 2-29-12	Development No. VARI-0002	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
Form No: UDM-063/Planning
Rev: 6-6-11



Chandler - Arizona
Where Industry Make The Difference

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 building is bigger than a normal Storage shed and the property set backs are under by two feet from the other property. There also was two shed on the property they were both knocked down to build one big one.

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

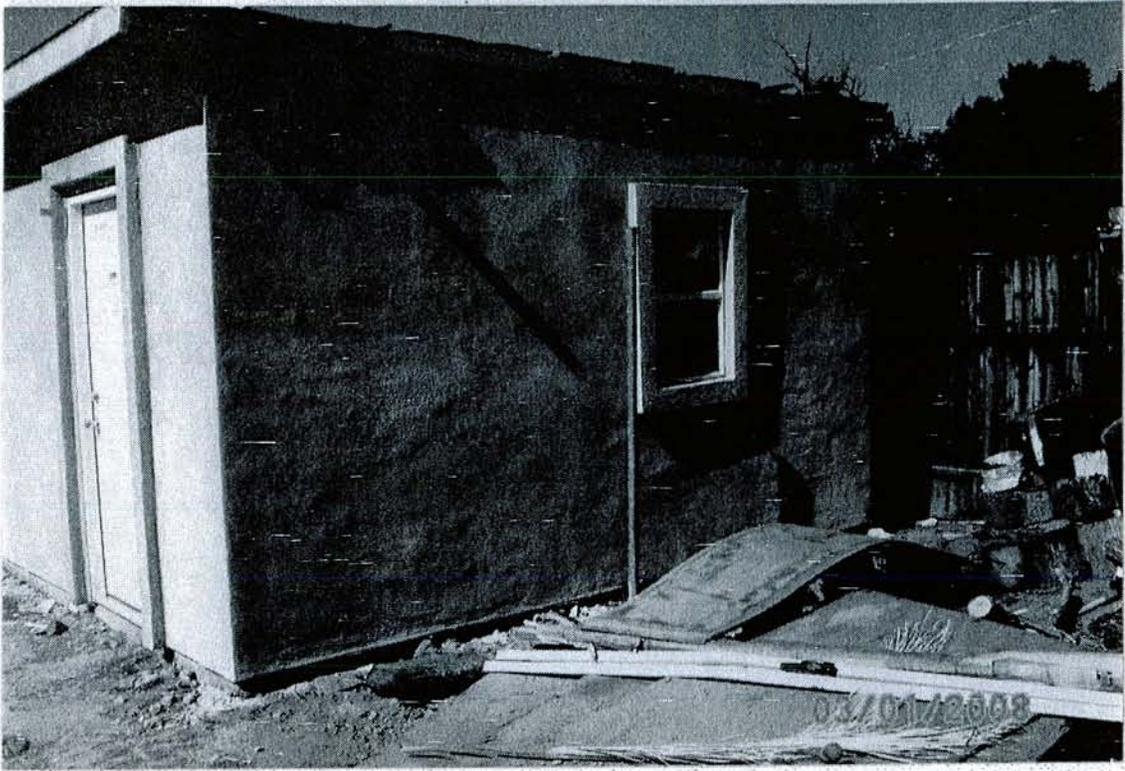
The structure is necessary because its needed to keep harmful ^{chemicals} stored and locked away for the safety of the children in the main home and any that live in the area that come an viste. The ^{chemicals} are pool supplies. I'm the home owner. I am a pool man.

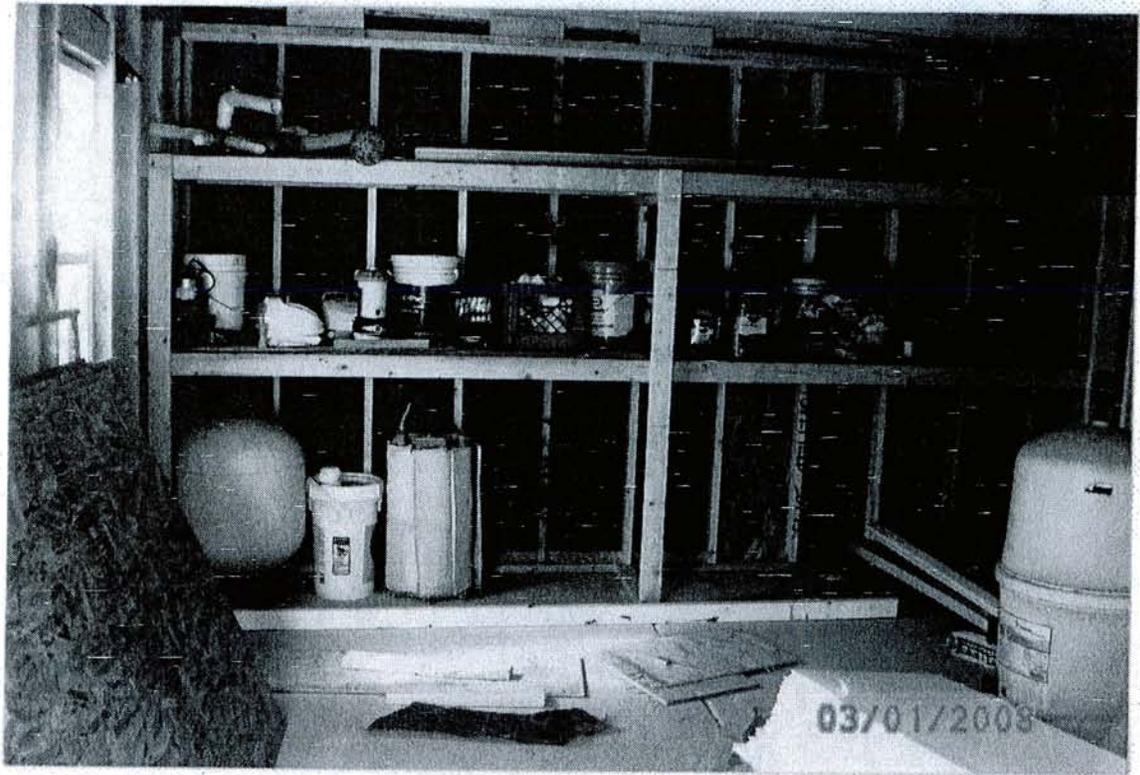
Justification for Variance Request (Cont'd)

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

NO complaints from adjacent neighbors or persons in my neighborhood. Need approval for permit.

Thanks





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.