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MEMORANDUM **Planning and Development – BA Memo No. 12-006**

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: VAR12-0003 ZADEL RESIDENCE

Request: Variance from the Zoning Ordinance to allow encroachment into the minimum side yard setback for a new accessory building and to allow more than one accessory building in the backyard

Applicant: Robert Zadel

Location: 2402 W. Galveston Street, ½ mile west of Dobson Road

Existing Use: Single-Family Home

Zoning: Single-Family Residential (SF-33)

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 property, which contains a single-family home, is part of the Central Ridge Estates subdivision on the north side of Galveston Street. The subdivision contains lots ranging from approximately 33,000 to 39,000 square feet, with the six lots fronting Galveston Street each at about 33,000 to 33,500 square feet. A 16'-wide alley runs along the east and north sides of the subject property. The lot north of the property, beyond the alley, is vacant. The rectangular, 33,580 square foot property is a typical size and shape for the subdivision and contains a 3,137 (livable) square foot house built in 1994.

The application requests a setback variance to allow for an approximately 1,500 square foot accessory building (RV garage) to be constructed in the eastern portion of the rear yard only 3' from the side property line, which is a 12' encroachment into the minimum 15' side yard

setback. The application also requests a variance to allow a second accessory structure, since there is already an accessory structure existing on the property. The RV garage would be accessed by an existing driveway and RV gate.

The submitted site plan shows the existing accessory building as being 40' from the rear property line, which is the minimum setback in that direction. However, the existing accessory building is only 14' from the rear property line. A variance was granted in 1994 to allow this deviation after the structure was partially built.

There are numerous existing accessory buildings in the subdivision that do not meet the Zoning Code minimum setbacks, including those on the neighboring properties to the east and north and three (3) of the five (5) other lots fronting Galveston Street. The city does not keep building permit records far enough in the past to verify compliance with codes – only one of them received a variance.

A nearby property in the same subdivision at 2412 W. Galveston Street was denied a variance request in 2009 to exceed the maximum number of accessory buildings.

CODE REQUIREMENTS

Accessory building limitations and minimum setbacks in the Central Ridge Estates subdivision are established by the SF-33 zoning district:

35-501. Uses permitted.

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

35-503. Height and area regulations.

- (3) *Side yards:*

- (b) *Interior lots:* For residential purposes, no side yard shall be less than fifteen (15) 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 rectangular 33,580 square foot lot is a typical size and shape for the neighborhood. The adjacent alley is not unique to this property. 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 1994 on land zoned for single-family homes. It is not a property right to build a second accessory building or to build an accessory building that violates 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. 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 contacted staff in opposition to the request for more than one accessory structure because of possible negative precedent allowing other backyards to be filled with unlimited structures. He is not necessarily opposed to the setback deviations.

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 requirements to abide by minimum setbacks and the maximum number of accessory buildings are not hardships for this property. The property has been substantially developed, with its property owners enjoying development rights since 1994 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

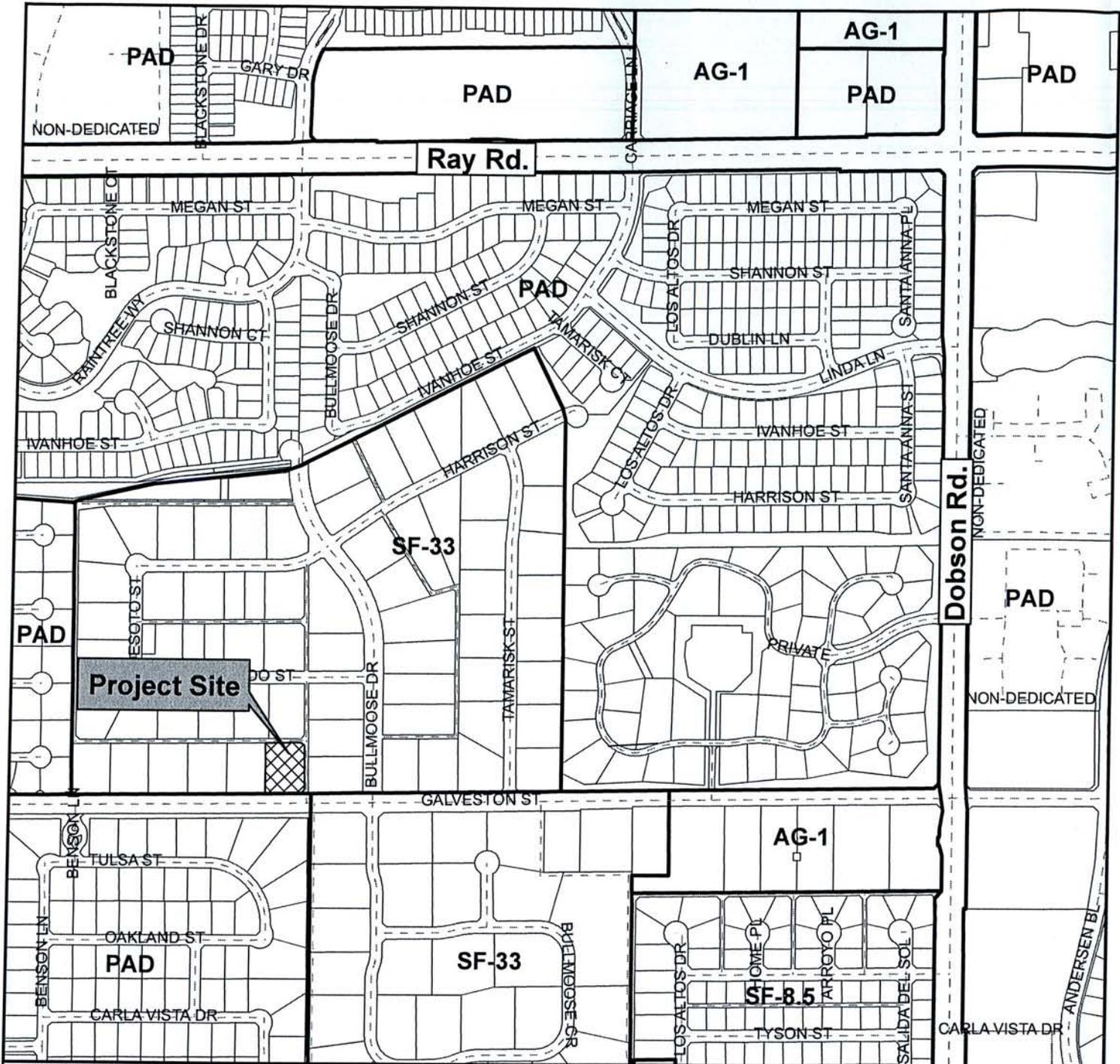
Staff recommends denial of this request.

PROPOSED MOTION

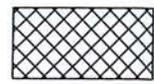
Move to deny variance request VAR12-0003 ZADEL RESIDENCE, as recommended by Staff.

Attachments

1. Vicinity Map
2. Aerial Close-ups
3. Site Plan
4. Application and Narrative
5. Powers and Duties



Vicinity Map

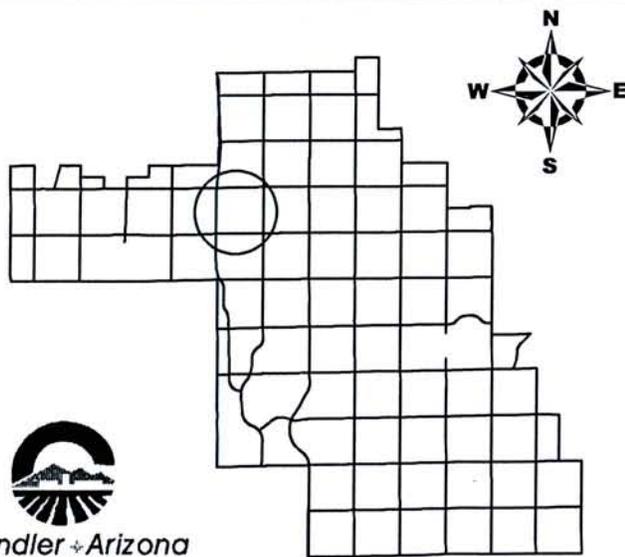


VAR12-0003

**Zadel Residence
2402 W. Galveston St.**



Vicinity Map



VAR12-0003

**Zadel Residence
2402 W. Galveston St.**



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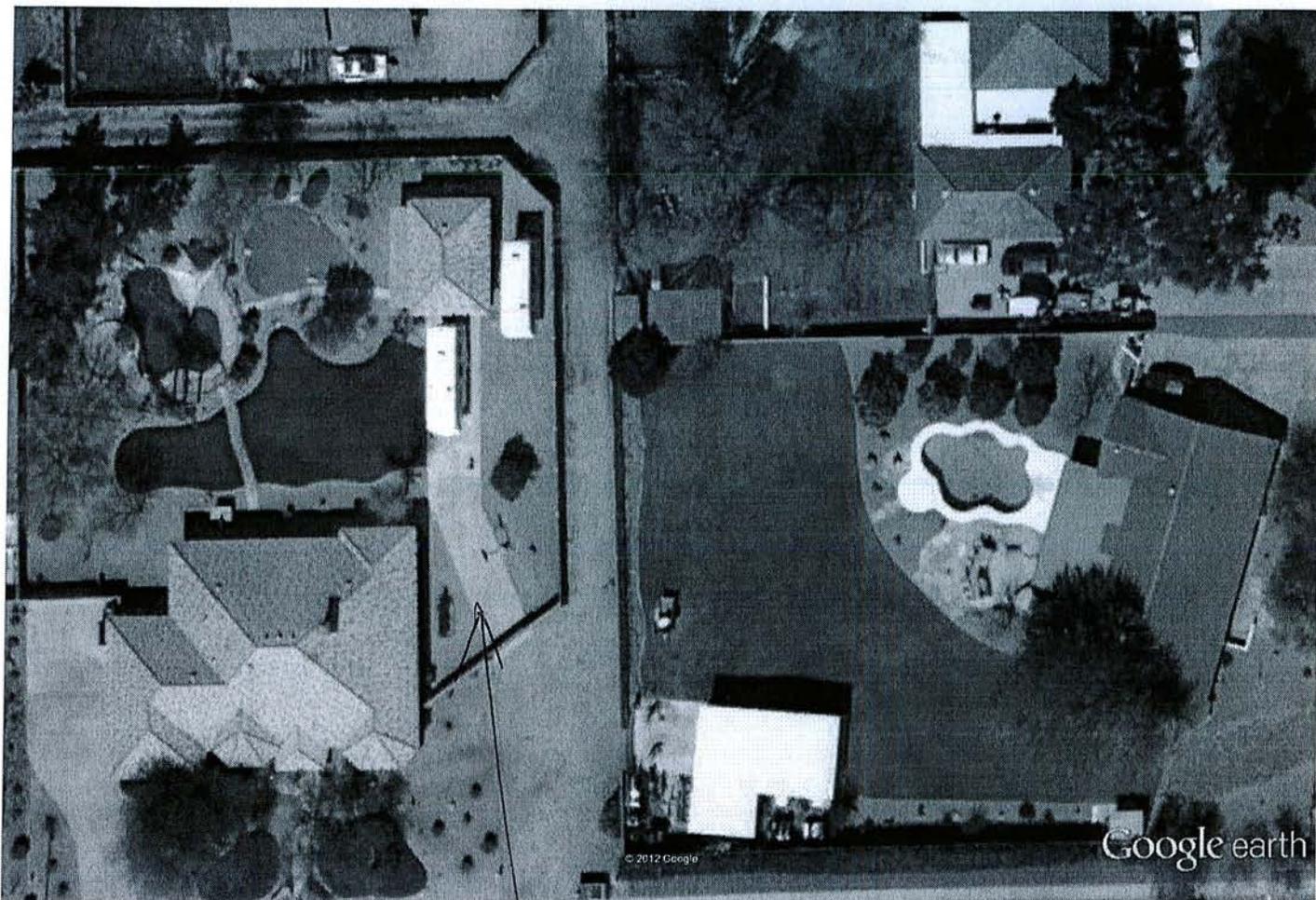
Google earth

feet
meters



Property
2402 W GRAVESTAN



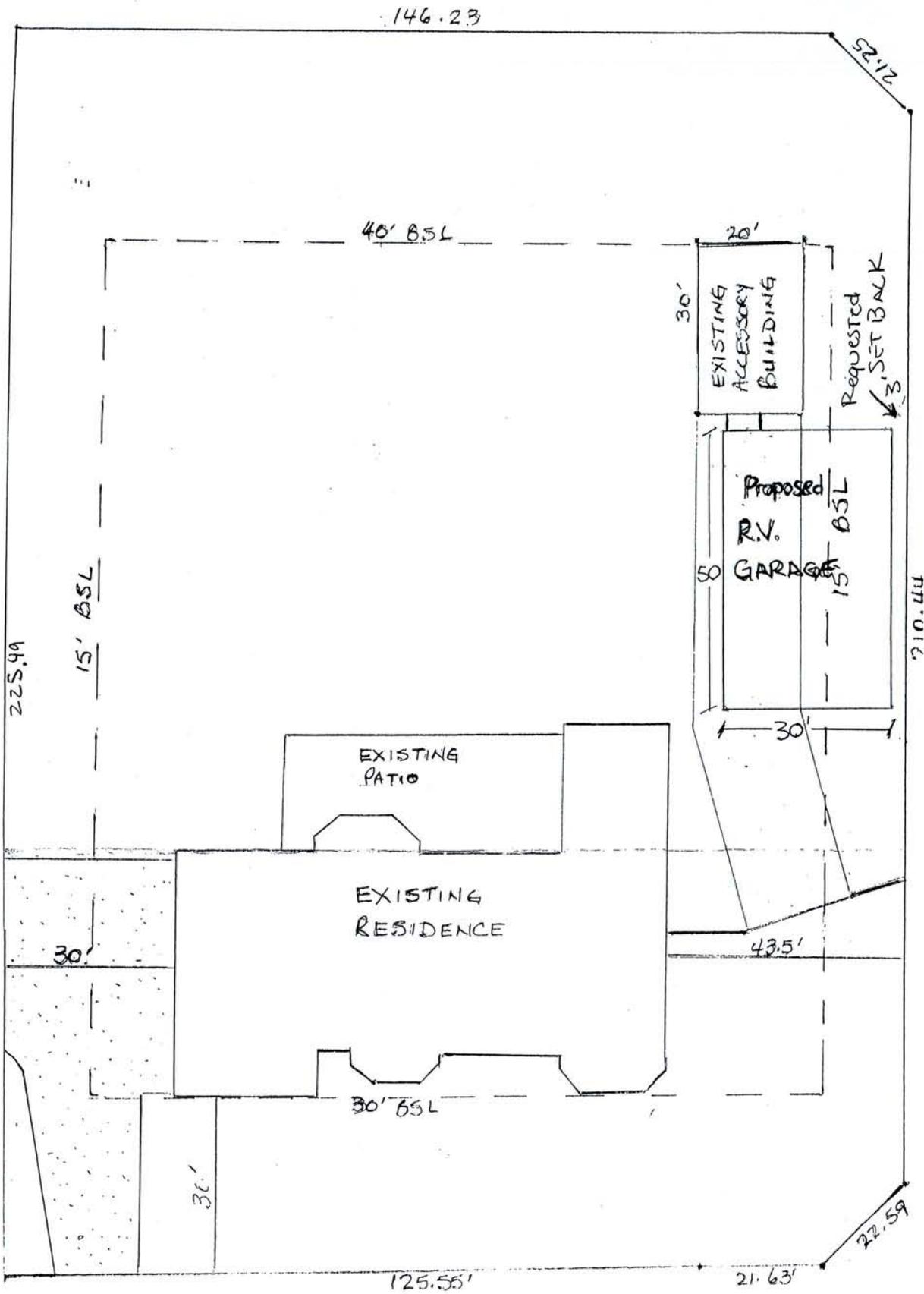


Google earth

feet
meters



2402
W GALVESTON



SITE PLAN
 LOT 6 CENTRAL RIDGE ESTATES
 2402 W GALVESTON ST.
 CHANDLER AZ

↑
 N
 SCALE
 1" = 20'



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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 ROBERT + BARB ZADEL		
Property Location/Address 2402 W. GALVESTON ST, CHANDLER 85224		City, State, Zip Code CHANDLER, AZ, 85224
Type of Variance (waiver) from the Zoning Code you are requesting: SIDE SET BACK - REQUESTING 3 FEET OFF EAST PROPERTY WALL FOR NEW RV GARAGE		
Is this variance for an existing structure (e.g. fence, pool, etc.)? Yes: <input type="checkbox"/> No: <input checked="" 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 ROBERT + BARB ZADEL		
Mailing Address 2402 W. GALVESTON ST		Phone Number 602-321-8460 602-321-2406
City, State, Zip Code CHANDLER, AZ, 85224		Fax Number 480-659-3636
Applicant/Representative Name ROBERT ZADEL		
Mailing Address 2402 W. GALVESTON ST		Phone Number 602 321 2406
City, State, Zip Code CHANDLER AZ 85224		Fax Number 480 659-3636
Property Owner or Representative Signature Robert Zadel		Date 5-1-12
For City Use		
Date Filed 5/14/12	Development No. VAR12-0003	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



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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 EAST PROPERTY LINE IS BORDERED BY A VALLEY. BARB AND I WOULD LIKE TO MAXIMIZE OUR USABLE SPACE TO BUILD AN RV GARAGE. SEVERAL PROPERTIES IN THE COMMUNITY HAVE CONSTRUCTED BUILDINGS AT SIMILAR SET BACKS THAN WHAT WE ARE REQUESTING.

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

MAINTAINING THE REQUIRED SET BACK WOULD ~~REMOVE~~ ^{CREATE} A SPACE THAT IS COMPLETELY UNUSEABLE. IF THE 3 FOOT SET BACK IS APPROVED IT WILL AVOID SUBSTANTIAL DEMOLITION COST OR EXISTING LANDSCAPE REMOVAL + REPLACEMENT

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 EAST PROPERTY LINE BORDERS AN ALLEY AND IS LOCATED A SIGNIFICANT DISTANCE FROM THE NEAREST NEIGHBOR. THE DESIGN OF OUR STRUCTURE WILL BE COORDINATED WITH OUR EXISTING HOME AND LOOK A LOT BETTER THAN LOOKING AT TWO RVs.

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.