



MEMORANDUM Transportation & Development – BA Memo No. 13-010

DATE: DECEMBER 11, 2013
TO: BOARD OF ADJUSTMENT
THRU: R.J. ZEDER, TRANSPORTATION & DEVELOPMENT DIRECTOR
 JEFF KURTZ, PLANNING ADMINISTRATOR
 KEVIN MAYO, PLANNING MANAGER
FROM: SUSAN FIALA, CITY PLANNER
SUBJECT: VAR13-0007 WILSON RESIDENCE

Request: Variance from the Zoning Ordinance to allow encroachment into the minimum side and rear yard building setbacks and allow more than one accessory building to remain
Applicant: Hal and Jan Wilson
Location: 707 West Temple Street, east of Alma School Road and south of Warner Road
Existing Use: Single-Family Home
Zoning: Single-Family District (SF-8.5)

RECOMMENDATION

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

BACKGROUND

The applicant requests a variance from the zoning ordinance to allow encroachment into the minimum side and rear yard building setbacks [Zoning Code Section 35-703] and allow more than one accessory building to remain [Zoning Code Section 35-200]. The property is located at 707 W. Temple Street, east of Alma School Road and south of Warner Road.

The subject property is located in the Warner Park subdivision. The subdivision was developed in the City of Chandler. Lot sizes in the subdivision range between approximately 6,600 to 16,000 square feet (sq. ft.). The approximate 12,500 sq. ft. pie-shaped lot is larger than the

typical sized lot for the subdivision. The lot is located on a cul-de-sac and has a 16 ft. wide alley along the west and south property lines.

The single-family home was constructed in 1980 and has approximately 1,740 sq. ft. of livable area. The property owners purchased the home in 1987.

The subject of this variance is three accessory buildings located in the rear yard. The accessory buildings were installed in May of 2010. The accessory buildings were installed without verification of zoning requirements, without building permits, and do not match the building materials and style of the principal dwelling. The structures in the rear yard include: one storage shed and three accessory buildings consisting of two shipping containers and one auto shelter.

The two shipping containers are: 8 ft. in width x 20 ft. in length x 8.5 ft. in height (w/l/h). The metal containers are rented by the property owner and used for storage of personal items. The 10 ft. x 15 ft. x 8 ft. (w/l/h) auto shelter is a portable structure used to store an automobile. The auto shelter has a steel frame with a polyethylene cover. None of these structures are permanently affixed to the ground. The structures do not meet the required minimum side yard and rear yard setbacks of the SF-8.5 zoning district. The storage shed is 10 ft. x 10 ft. x 7 ft. (w/l/h), 100 sq. ft. in area and complies with the minimum required side and rear yard setbacks.

Building permits are required for accessory buildings. No building permits were submitted by the applicant. Accessory buildings are required to be architecturally integrated with the primary structure (the house). Since the two shipping containers are rented and the auto shelter is steel with a polyethylene cover, it is unlikely that this requirement can be met through the addition of stucco and roof elements.

The City of Chandler Code Inspector issued a courtesy verbal notice of violation based on a complaint. No formal notice was issued.

CODE REQUIREMENTS

The regulations for accessory buildings and setbacks are established in the following sections of the Zoning Code:

35.200. Definitions.

Accessory building: One (1) which is subordinate and customarily incidental to and on the same lot with a main building, including a private garage but not involving any activity used for commercial purposes.

Setbacks for this property are established by the SF-8.5 zoning district:

35-703. Height and area regulations.

(3) Side yards:

(a) 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.

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

35-2202. Accessory Buildings. Accessory buildings are to meet the minimum side and rear yard setbacks for the district in which it is 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 Planning Staff's italicized responses. The applicant's written narrative answering the following criteria is included as an attachment.

- 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 approximate 12,500 sq. ft. lot is larger than the typical sized lot for this neighborhood and is pie-shaped. There are no special circumstances that apply to the property which do not apply equally to other properties in the neighborhood. The metal shipping containers and the auto shelter were installed without verification of zoning requirements. The lot has no physical constraints that restrict the property's use as planned or zoned. Planning Staff is of the opinion that this criterion has not been fully 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 it was purchased in 1987. It is not a property right to have more than one accessory building and violate minimum setbacks. There is adequate space on the property to meet the setback regulations and construct one accessory building that complies with zoning 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 have more than one accessory building in the rear area that do not abide by zoning regulations. Planning 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, Planning Staff has received one telephone call and email from a neighbor who is in opposition to the request, see attachment.

SUMMARY

Planning Staff does not support this request. There are no special circumstances applicable to this property that does not apply equally to similar properties in the surrounding area. The

requirements to meet minimum setbacks for accessory buildings or to limit the property to one accessory building are not hardships for this property. The property has been substantially developed, with its property owners enjoying development rights since the owners purchased the home in 1987.

Granting a variance for this property would, in Planning 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

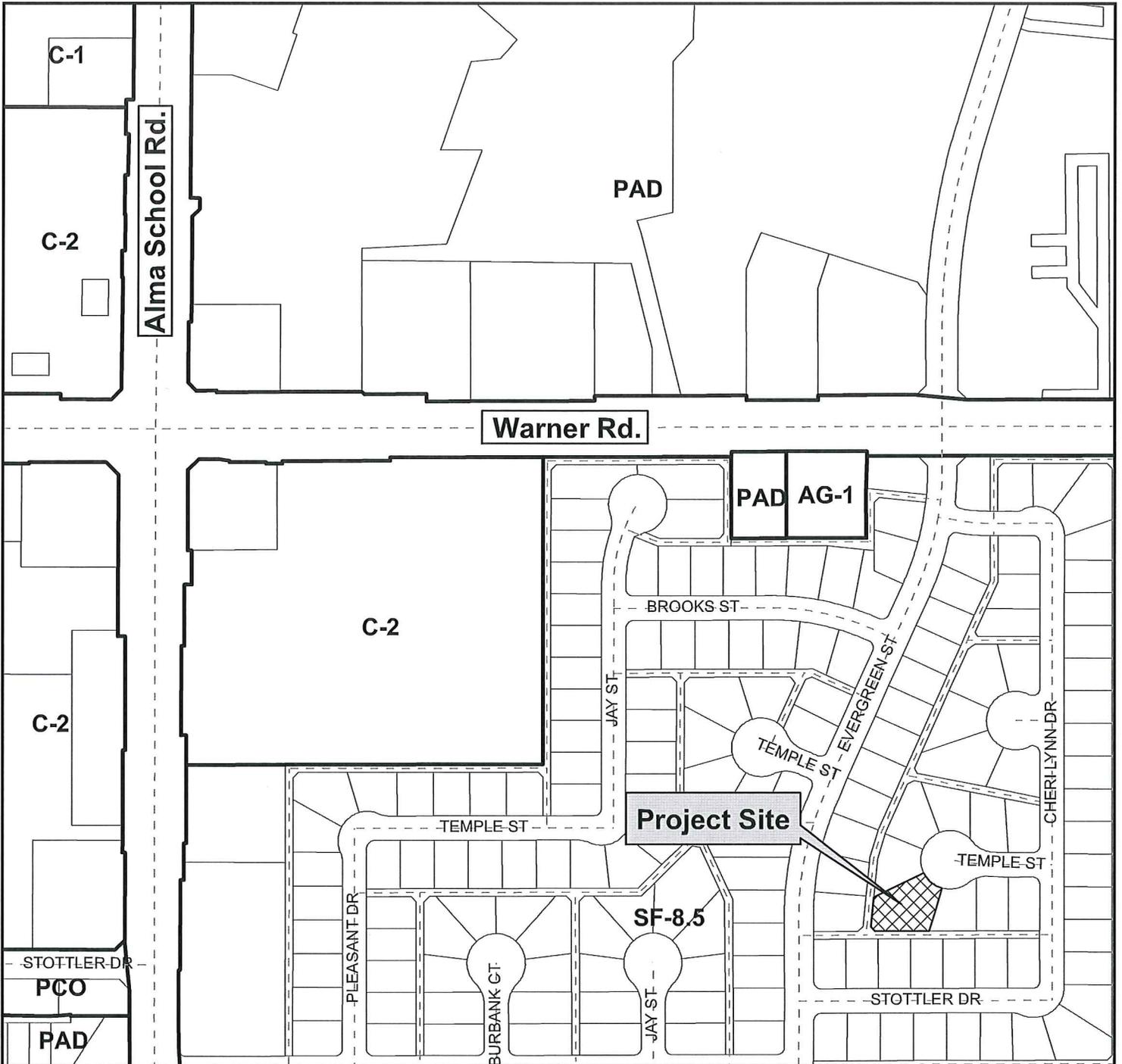
Planning Staff recommends denial of this request.

PROPOSED MOTION

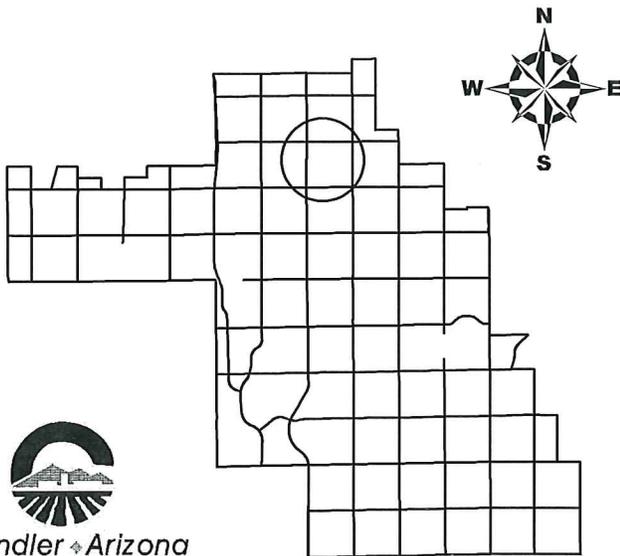
Move to deny the variance request, VAR13-0007 WILSON RESIDENCE, as recommended by Planning Staff.

Attachments

1. Vicinity Maps
2. Aerial
3. Applicants Justification
4. Site Plan
5. Photos
6. Citizen correspondence
7. Powers and Duties

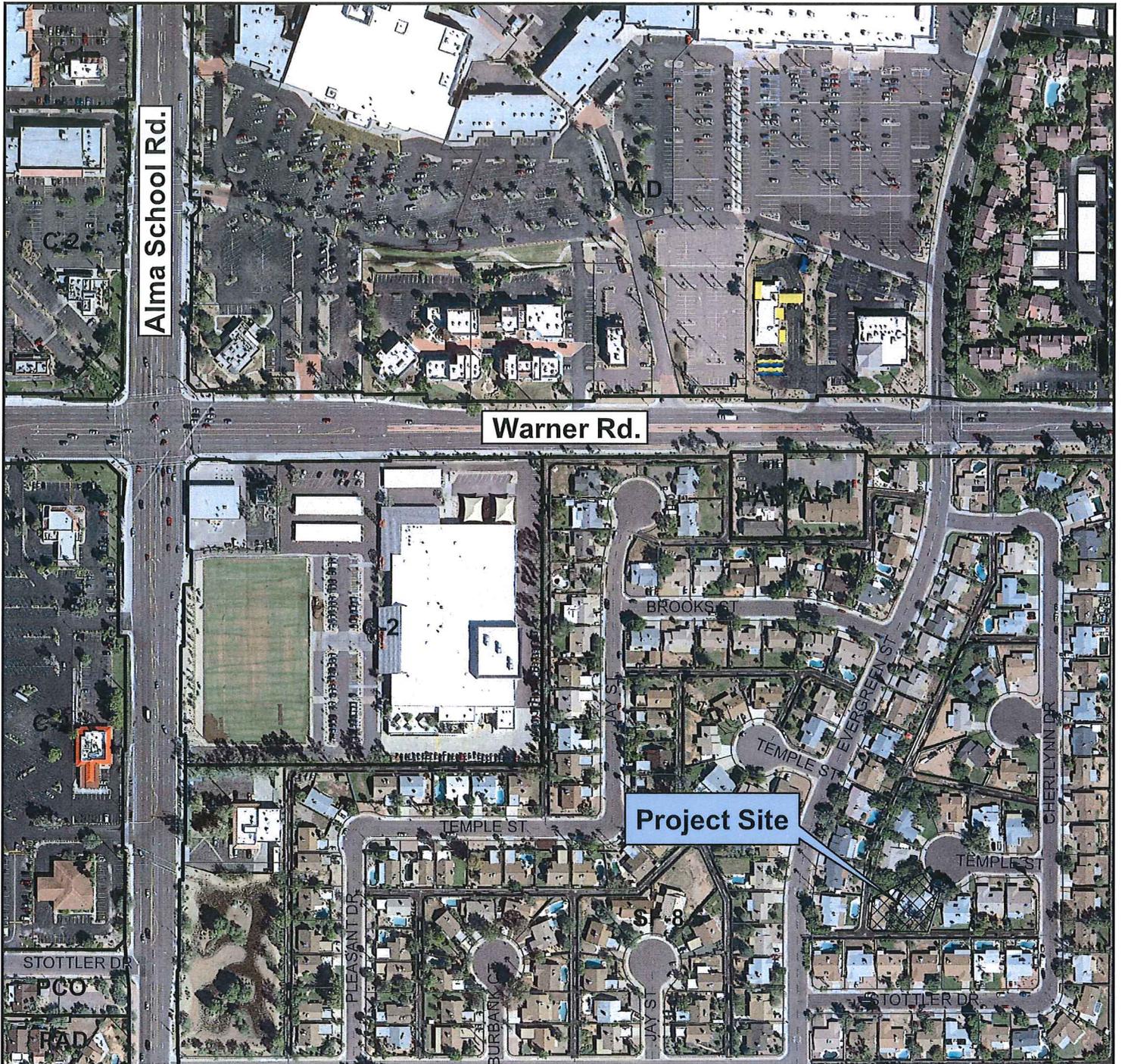


Vicinity Map



VAR13-0007

**Wilson Residence
707 W. Temple St.**

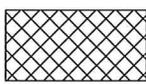
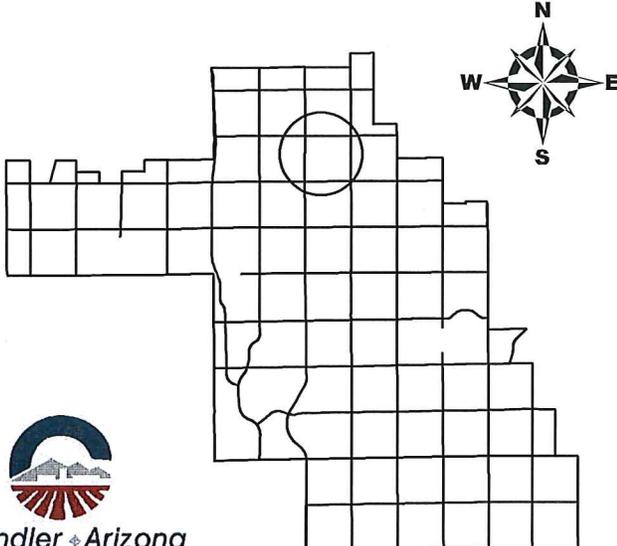


Warner Rd.

Alma School Rd.

Project Site

Vicinity Map



VAR13-0007

**Wilson Residence
707 W. Temple St.**

AERIAL
WILSON RESIDENCE





Chandler • Arizona
Where Values 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.

This Back yard is A Large corner lot in the Back of a Cul-de-sac. Because of this, there is substantial Room to House Several Structures without To much difficulty. The 3 "structures" in Question are 2 x 8' x 20' shipping containers, painted and in Good shape. The other "Structure" is a Tent style car garage, 10' x 20'. None of the "structures" Have Foundations, Plumbing or Electrical. These "structures" are all for the Purpose of Personal storage and are not used for a Business use or purpose.

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

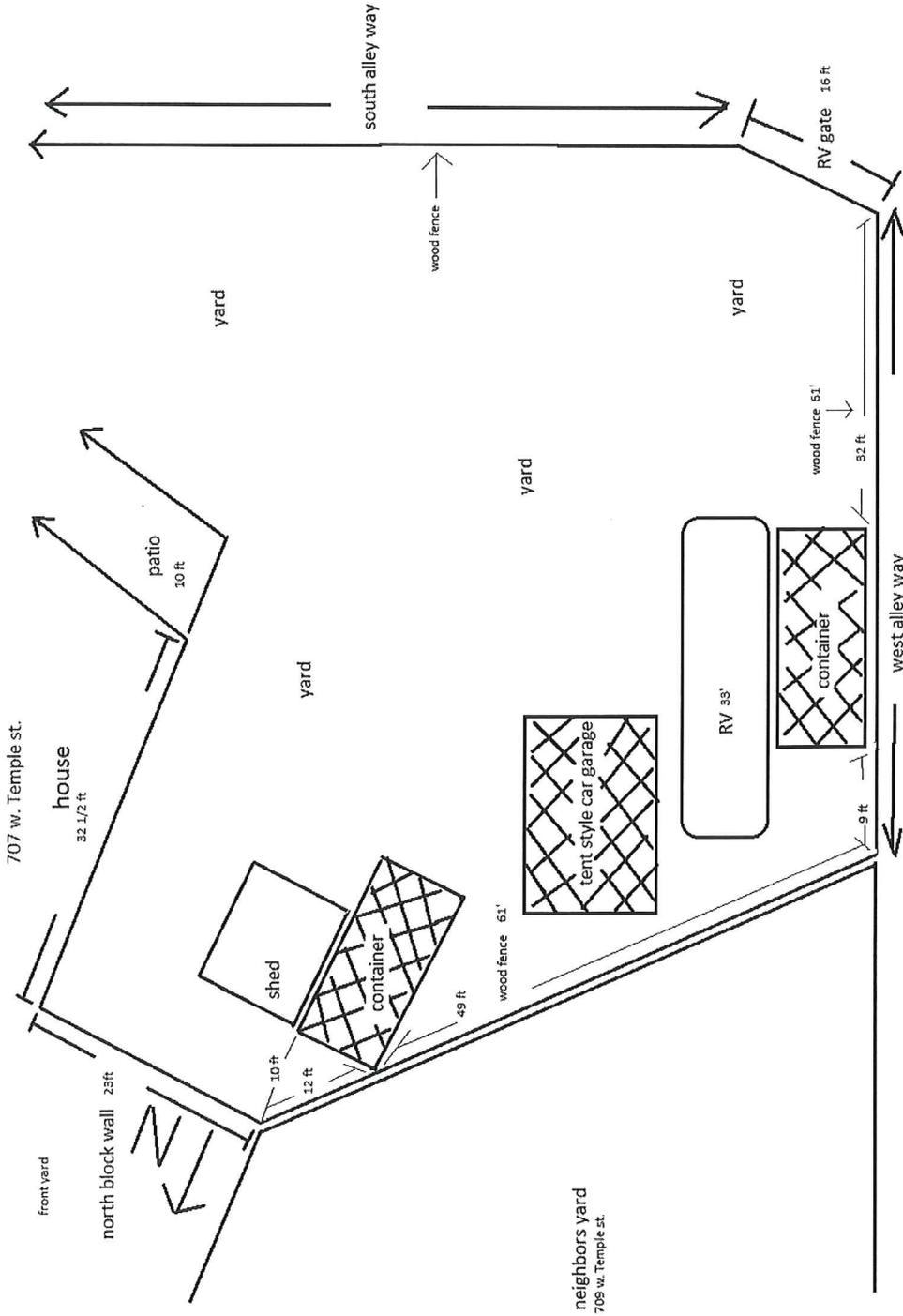
Our son, Seft, moved in with us 3 1/2 yrs ago to Help us out with Financial + Health Issues. The Two Containers in Question contain all His Belonging, Furniture & such, The Tent garage is needed To House His custom Pick up which will not fit in the House garage, But needs To Be kept somewhat protected from the Elements. This variance is needed in order to keep our way of Life from changing. without Our Son Here, we could not keep the property or House upkeep in order or Have The financial means To Remain in the House.

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.

These 3 "structures" have already been in place and in use for the past 3 1/2 years without any issue or complaint. They are not an eyesore nor reflect anything negative against the public welfare of the community. When any neighbor is asked about the "structures" in the yard, nobody cares one bit. The complaint made by the anonymous person is completely unjustified and of false content. The code enforcement person, Don, has inspected the yard and found all accusations to be false and unsubstantiated. However, it was at that time that he mentioned the "structures" that were in violation. To remove or combine the "structures" would cause great financial burden to this family's well-being. This variance will harm no one ~~other than~~ and will allow us to continue to live as we have for the past 3 1/2 years without incident.

Legend	
2 - containers	8' x 20'
1 - shed	10' x 10'
1 - Tent style garage	10' x 20'
	west wood fence 61'
	angled wood fence 61'



Parcel # 302-42-141













Var13-0007 Wilson Residence at 707 W. Temple St.

Susan Montoya

to:

susan.fiala

12/03/2013 02:58 PM

Hide Details

From: Susan Montoya <suema5512@gmail.com>

To: susan.fiala@chandleraz.gov

This e-mail is a follow up to our telephone conversation regarding a variance application at 707 W. Temple St.

I understand the hearing is scheduled for December 11, 2013. While I would like to be there in person, I am concerned about exposing my identity at an open hearing. Please redact my personal information for the hearing.

I have several concerns regarding this variance:

1. Safety....The homes in this area are over 30 years old and many have wooden fences that are dry as kindling. 707 W. Temple has 3 vehicles stored in the backyard that leak oil and gasoline. When the winds shifts it smells like a junkyard. One spark could send fire spreading to at least 5 connected homes in the cul-de-sac.
2. Legality....Almost all of the stuff in the backyard is owned by the homeowner's son; not the homeowners. If they are requesting the variance, shouldn't it be for their stuff and not their grown son's?
3. Slippery Slope.....There is no HOA in the neighborhood and the city's statutes and regulations are all we have to protect the quality of our properties. If one variance is granted, where does it end? Those rules were put in place for a reason.
4. Hardship....I understand that if this variance is granted, it will be permanent. That would drop our property values as well as costing all of us lawyers fees to try to get it reversed in the future. (I have been told the son plans on living there after his elderly parents move to assisted living.)

Most of us on this street are long time residents and pretty much keep to ourselves. We wave at each other during our comings and goings. Not many parties or problems. But I felt I had to speak up when I learned of this issue. We neighbors tolerated the trickle of storage containers, vehicles, and motor homes to try to be empathetic of our neighbor's age and health. I now know it was wrong to let it get this far. If this variance is granted, it will become an issue the rest of us will be dealing with for years to come.

Thank you for your assistance.

Susan Montoya

706 W. Temple St.

Chandler, AZ 85225

602-552-5305

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.