



MEMORANDUM Planning Division – BA Memo No. 14-002

DATE: OCTOBER 8, 2014
TO: BOARD OF ADJUSTMENT
THRU: JEFF KURTZ, PLANNING ADMINISTRATOR
KEVIN MAYO, PLANNING MANAGER
FROM: SUSAN FIALA, CITY PLANNER
SUBJECT: VAR14-0005 JOHNSTON RESIDENCE

Request: Variance from the Zoning Ordinance to allow a new wall located in the rear yard to exceed the maximum permitted height
Applicant: Danielle Johnston
Location: 488 North Washington Street, north and east of the northeast corner of Arizona Avenue and Chandler Boulevard
Existing Use: Single Family Home
Zoning: Single Family Residential (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 a new wall located in the rear yard to exceed the maximum permitted height [Zoning Code Section 35-2204]. The property is located at 488 North Washington Street, north and east of the northeast corner of Arizona Avenue and Chandler Boulevard. The property is located in the Greater Chandler Addition and was developed within the jurisdiction of the City of Chandler.

The approximate 8,000 sq. ft. rectangular shaped lot is a typical sized lot for the subdivision, 50 feet wide by 160 feet in depth. An alley is to the west of the property and used by the residential properties located to the east side of the alley and by commercial businesses, located on the west side of the alley. Commercial parking spaces and auto service bays are accessed via this alley.

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Immediately to the west of the subject property is an automotive repair shop with several service bays. A bar is to the northwest of the property. There is no existing screening or solid walls on either side of the alley to buffer the dis-similar land uses.

The single-family home was constructed in 1964 and has approximately 1,129 sq. ft. of livable area. The property contains an accessory structure in the rear yard. The current property owner purchased the home in March 2014.

The subject of this variance is a request for approval to construct an eight foot high concrete block wall which would exceed the maximum permitted height of seven feet in the rear yard. The eight foot high wall would be built along the rear property line. The applicant is also proposing to build six foot high concrete masonry walls along the side yards to replace existing chain-link fencing.

Building permits are required for fences and walls greater than seven feet in height.

CODE REQUIREMENTS

The regulations for fences and walls are established in the following section of the Zoning Code:

35-2204. General.

(8) (a) ... no fence or wall located in the rear yard and/or side yard(s) shall exceed a height of seven (7) feet.

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 8,000 square foot lot is a typical sized lot for this neighborhood and is rectangular in shape. The special circumstance is the adjacency of the lot to an automotive repair business, a bar, and other commercial businesses. The property is zoned for single-family uses (SF-8.5) and is directly east of Regional Commercial (C-3) zoned properties. A seven foot high wall is allowed with a building permit. The applicant seeks one additional foot in wall height, to eight feet, for noise buffering and visual screening. 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 been partially 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 current property owner has enjoyed substantial property rights since the home was

purchased in March 2014. It is not a property right to build a wall and violate the maximum height requirements. Planning 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 walls in the rear yard 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 not received any phone calls or correspondence from property owners. There is no known opposition to the request.

SUMMARY

Planning Staff does not support this request. Although this lot is adjacent to commercial and automotive businesses, a seven foot high wall is allowed without a variance. An eight foot high wall is a self-imposed condition applicable to this property that does not apply equally to similar properties in the surrounding area. The requirement to meet the wall height regulation is not a hardship for this property that would prevent the enjoyment of substantial property rights. The property has been substantially developed and enjoying development rights since the owner purchased the home in March 2014.

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. The unique condition to this location is the adjacency to the commercial businesses, however, not all criteria is met that would support a finding in favor of this application.

RECOMMENDED ACTION

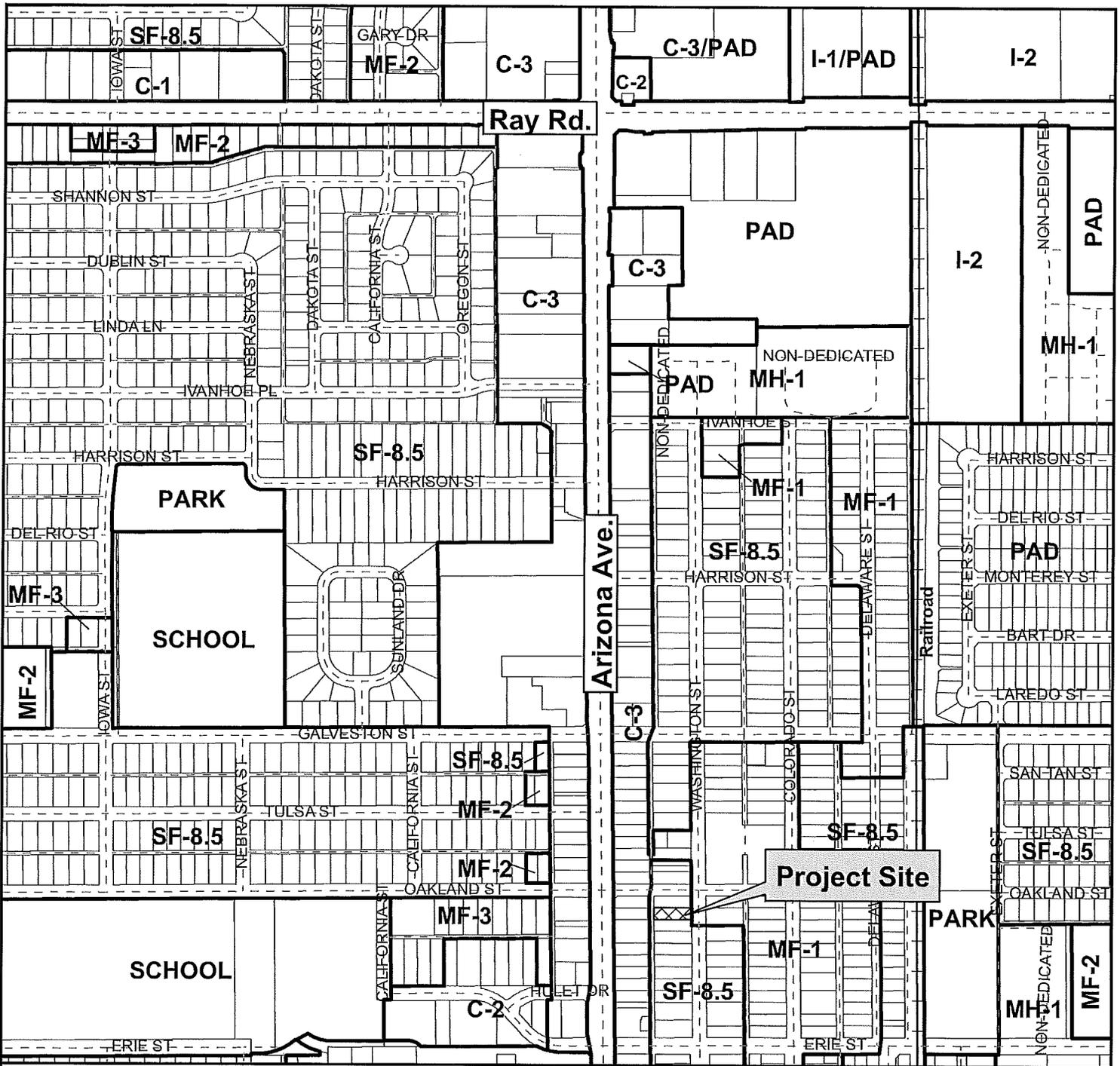
Planning Staff recommends denial of this request.

PROPOSED MOTION

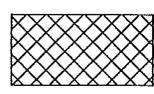
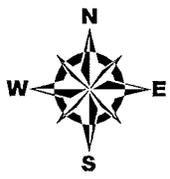
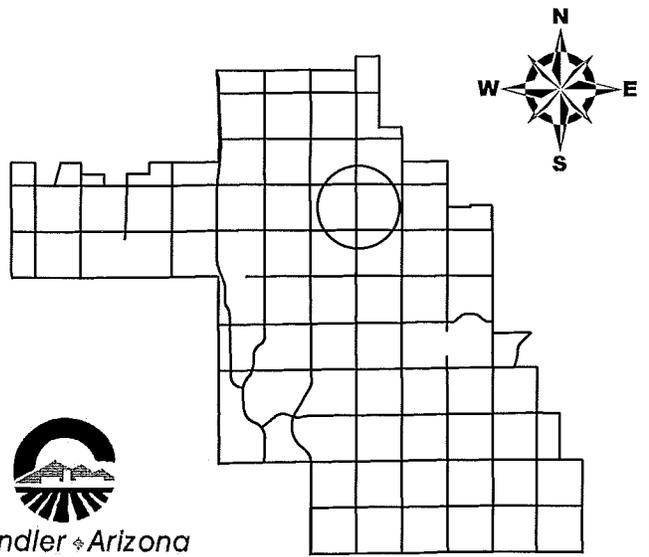
Move to deny the variance request VAR14-0005 JOHNSTON RESIDENCE, as recommended by Planning Staff.

Attachments

1. Vicinity Maps
2. Aerial
3. Wall Elevation Details
4. Applicant's Justification
5. Site Plan
6. Applicant's Photos
7. BOA Powers and Duties



Vicinity Map

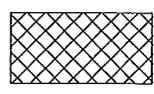
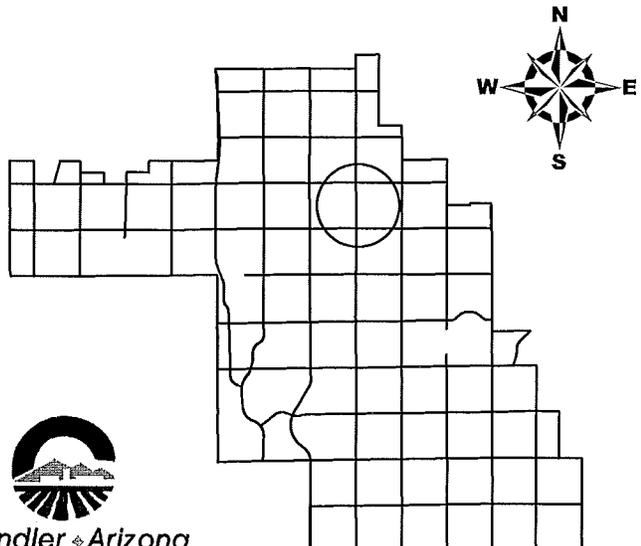


VAR14-0005

**Johnston Residence
488 N. Washington St.**



Vicinity Map

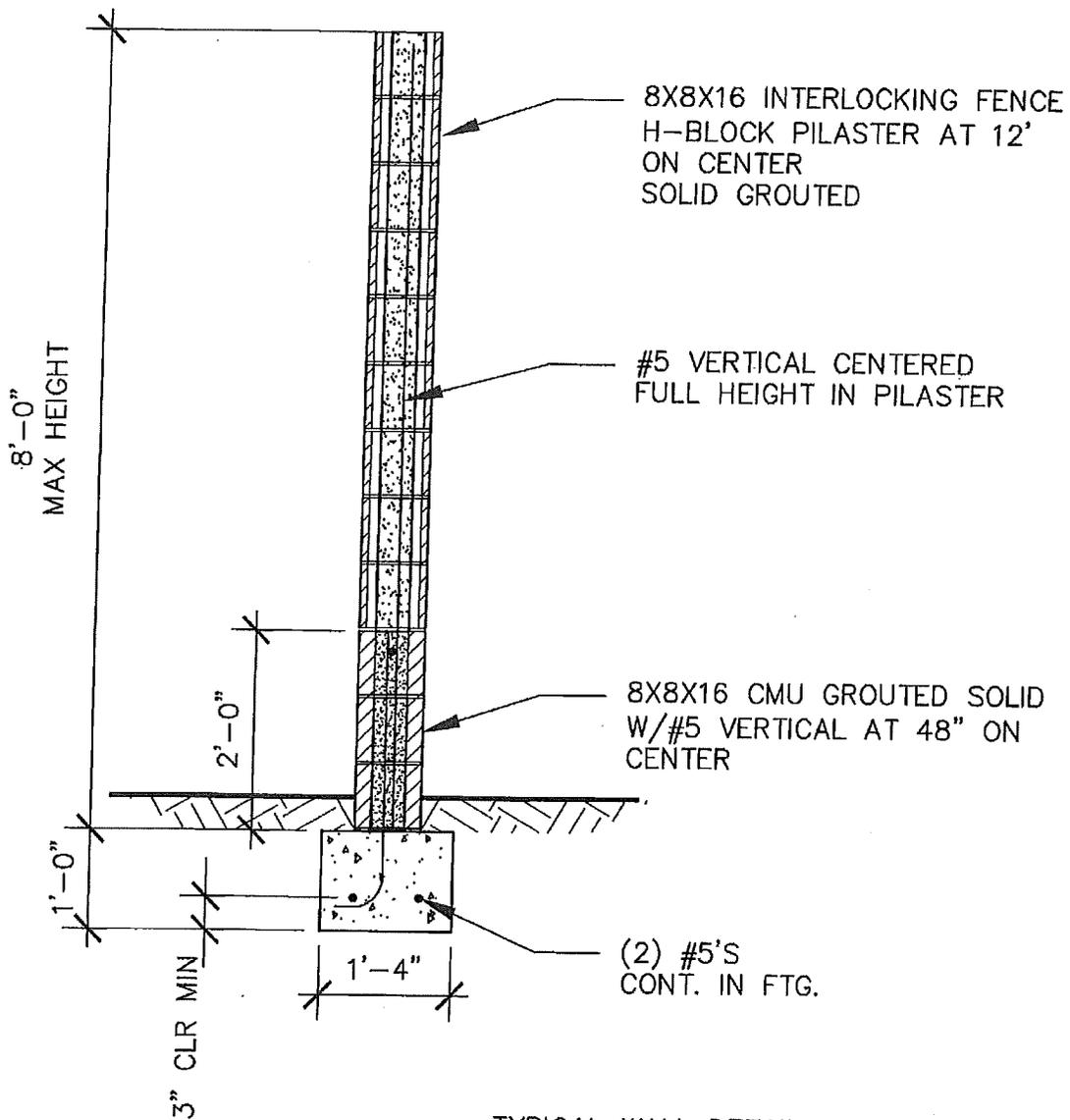


VAR14-0005

Johnston Residence
488 N. Washington St.

AERIAL

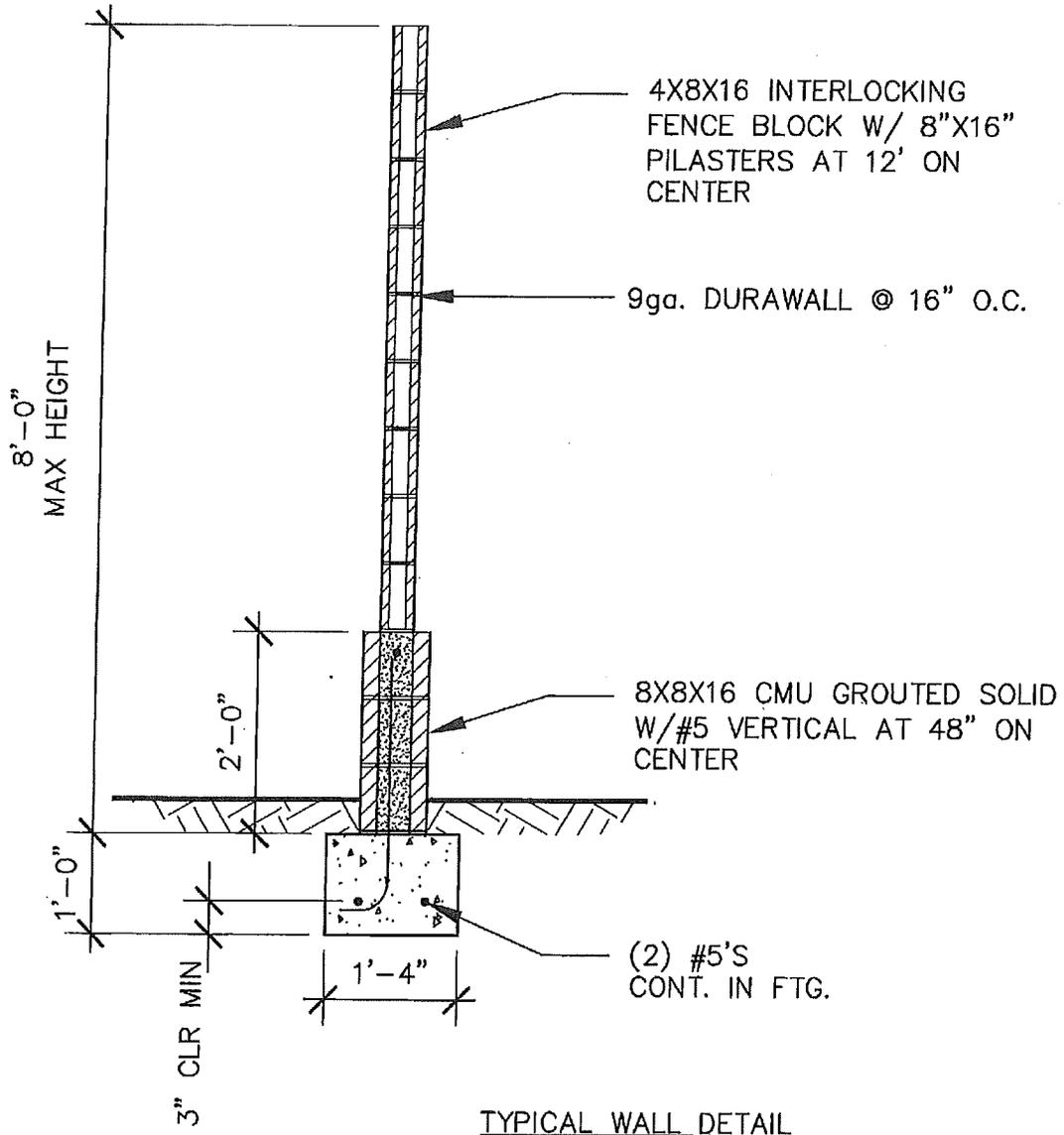




TYPICAL WALL DETAIL

BLOCK ASTM C90
 CONCRETE: $F'_c = 2000$ PSI
 GROUT: $F'_c = 2000$ PSI
 STEEL: A615 GR 40 MIN

PROJECT TITLE: Johnston Residence		 <p>ISE Incorporated Structural Engineers</p> <p>3470 W. Jasper Drive Chandler, Arizona 85226 PHONE: 602-403-8614 www.ise-inc.biz</p>	 <p>PRELIMINARY UNLESS SIGNED</p>
PROJECT LOCATION: 488 N. Washington St Chandler, AZ 85225			
DRAWING TITLE: Fence Wall Pilaster Detail			
DATE: May 01, 2014	ISE PROJECT #:		
SHEET:	SCALE:	N/A	



BLOCK ASTM C90
 CONCRETE: $F'_c = 2000$ PSI
 GROUT: $F''_c = 2000$ PSI
 STEEL: A615 GR 40 MIN

PROJECT TITLE: Johnston Residence

PROJECT LOCATION: 488 N. Washington St
 Chandler, AZ 85225

DRAWING TITLE: Fence Wall Detail

DATE: May 01, 2014

ISE PROJECT #:

SHEET:

SCALE:

N/A



ISE Incorporated
 Structural Engineers

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 Chandler, Arizona 85226
 PHONE: 602-403-8614
 www.ise-inc.biz



PRELIMINARY UNLESS SIGNED



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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 home is currently boarded by a chain link fence. The backyard is against an alleyway shared by a bar and an auto repair shop along Arizona Ave. Both the bar and repair shop bring a lot of traffic through the alleyway for access to their business.

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

Granting this variance for an 8' block fence would provide a much needed barrier between my home and the two businesses stated above. It would bring an extra element of safety to my home from vehicles driving through and from patrons that will be leaving the bar late at night. The 8' wall would also help keep my yard and home in a cleaner environment. The fumes from the repair shop would be kept, somewhat, at bay with the additional height the variance is granting.

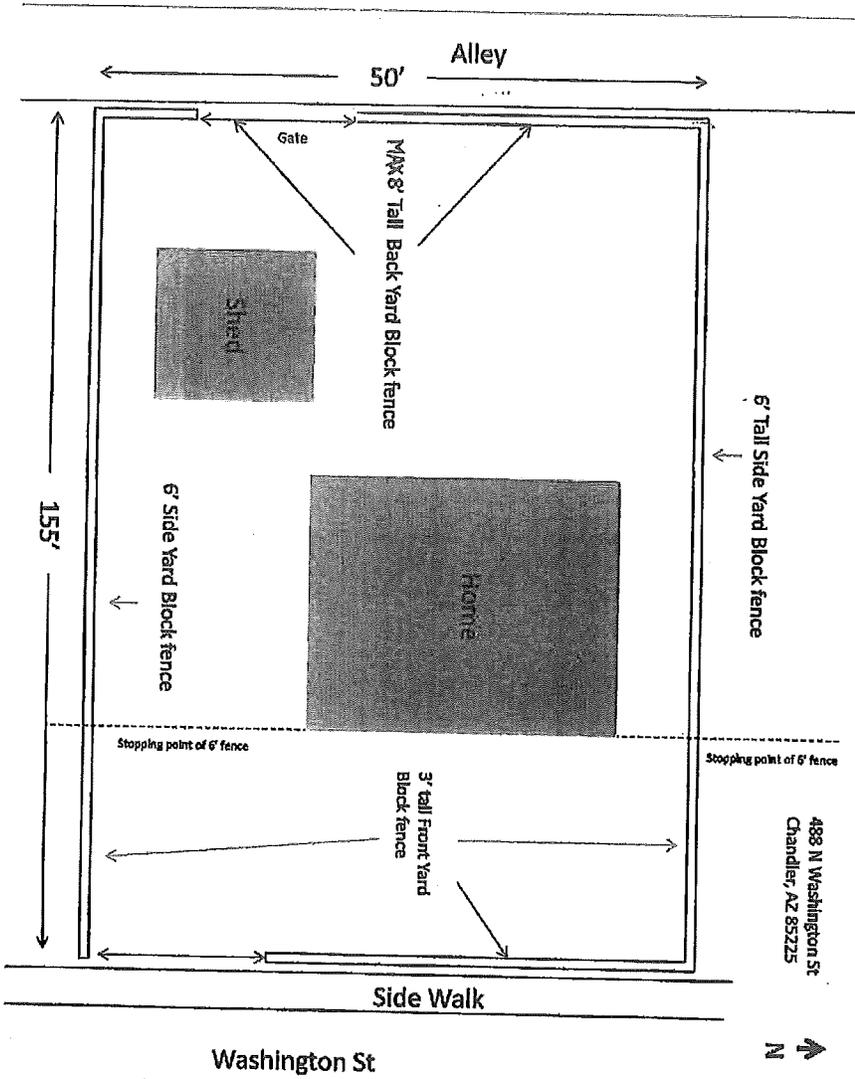
Justification for Variance Request (Cont'd)

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

I do not foresee any instances where this variance could be detrimental to the property itself or more importantly the community.

I see the wall being a welcomed sound barrier for my home and the homes located East of this property.

In addition it would add value to the property, therefore adding value to the community.









BOARD OF ADJUSTMENT

CHAPTER 35

35-2501. 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.