



MEMORANDUM **Planning Division – BA Memo No. 15-001**

DATE: APRIL 8, 2015
TO: BOARD OF ADJUSTMENT
THRU: JEFF KURTZ, PLANNING ADMINISTRATOR
 KEVIN MAYO, PLANNING MANAGER *KM*
FROM: SUSAN FIALA, CITY PLANNER *SF*
SUBJECT: VAR15-0001 COLBY RESIDENCE

Request: Variance from the Zoning Ordinance to allow a home addition to encroach into the minimum rear yard setback

Applicant: Gary Colby

Location: 4743 East Firestone Drive, north and west of the northwest corner of Hunt Highway and Val Vista Drive

Existing Use: Single family home

Zoning: Planned Area Development (PAD)

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 home addition to encroach into the minimum rear yard setback [Zoning Code Section 35-1706]. The property is located at 4743 East Firestone Drive, north and west of the northwest corner of Hunt Highway and Val Vista Drive. The property is located in the Sun Groves master planned community which was developed under the jurisdiction of the City of Chandler. Zoning was approved in 1999 for the 643-acre community containing 22 parcels designated for traditional single family neighborhoods, cluster homes, an elementary school, a commercial site, a church, and a well. Three types of traditional single family neighborhoods, each with specific development standards are within Sun Groves. The subject property is located in parcel 19.

The approximate 12,500 sq. ft. property is located on a corner and is one of the larger lots in the subdivision. Lot sizes range from about 8,000 sq. ft. to 19,000 sq. ft. and average approximately 9,900 sq. ft. in parcel 19. The lot is somewhat pie shaped with the front property line about 60 ft. less than the rear property line of 112 ft. Additionally, the front property line is curved in a manner that follows the curvilinear street. The pie shape configuration and curved front property line are common to homes in the area due to the curvilinear street system.

The home was constructed and purchased in 2004 by the current owner. There is approximately 1,895 sq. ft. of livable area with a total building area of about 2,419 sq. ft. A pool is located in the rear yard and there are no other structures on the property.

The subject of this variance is to allow a home addition to encroach 5 ft. into the required 20 ft. minimum rear yard setback. The owner proposes to construct an addition to the home containing an office, entertainment room, and patios. The approximate 1,600 sq. ft. addition would be constructed on the north side of the home.

If approved, the design of the home addition is to be architecturally integrated with the primary structure and building permit submittal is required.

CODE REQUIREMENTS

The regulations for setbacks in the Sun Groves subdivision, Parcel 19, are established through the approved PAD zoning and Preliminary Development Plan:

35-1706. Description of preliminary development plan (to accompany a PAD).

(5) If the City Council approves the PAD zoning designation, the Official Zoning Map shall be so changed by ordinance. The Council may, as necessary, attach conditions to the PAD approval, which may include but are not limited to the following:

(d) Setback and height of buildings.

According to the development standards, the minimum rear yard setback is 20 ft. for one story homes. The minimum corner side yard setback is 15 ft., interior side yard is 5 ft., and front yard is 18 ft. Maximum lot coverage is 38 percent.

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. property is one of the larger lots in the neighborhood thereby allowing sufficient space to construct the addition elsewhere on the property or reduce the floor area of the addition. The pie shaped nature of the property does not

restrict the rear yard setback. There are no special circumstances that apply to the property which do not apply equally to other properties in the neighborhood. 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 home 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 2004. There appears to be adequate available land to construct the addition. It is not a property right to build an addition and violate the minimum rear yard setback requirement. 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 an addition that does 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.
- Planning Staff received two phone calls from property owners. One call was to obtain additional information on the request and the other call was from the HOA indicating the request has not been reviewed by the HOA design committee.
- As of the writing of this memo, Planning Staff is not aware of opposition to the request.

SUMMARY

Planning 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 abide by the minimum setbacks for a house addition is not a hardship for this property. The property has been substantially developed, with its property owner enjoying development rights since the owner purchased the home in 2004.

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, VAR15-0001 COLBY RESIDENCE, as recommended by Planning Staff.

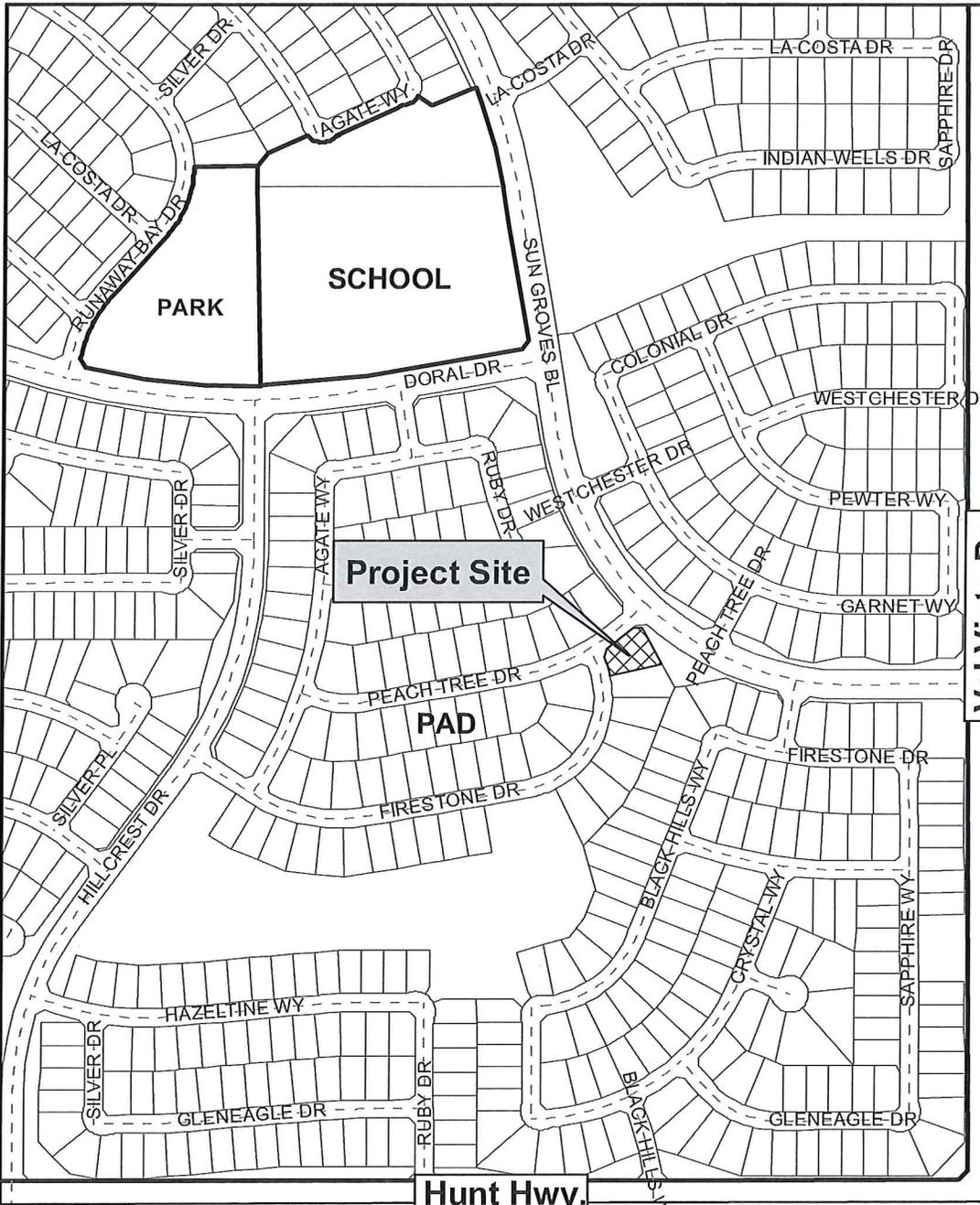
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Attachments

1. Vicinity Maps
2. Aerial
3. Applicant Justification
4. Site Plan
5. Applicant Photos
6. Applicant Neighborhood Petition
7. BOA Powers and Duties



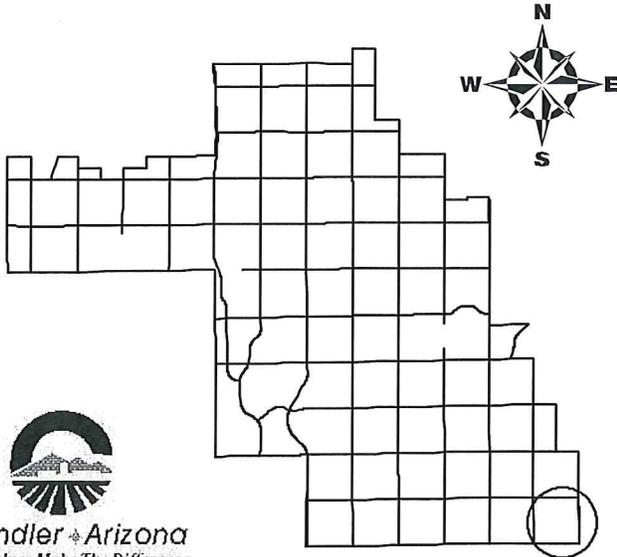
Val Vista Dr.

Town of Gilbert

Gila River Indian Community

Hunt Hwy.

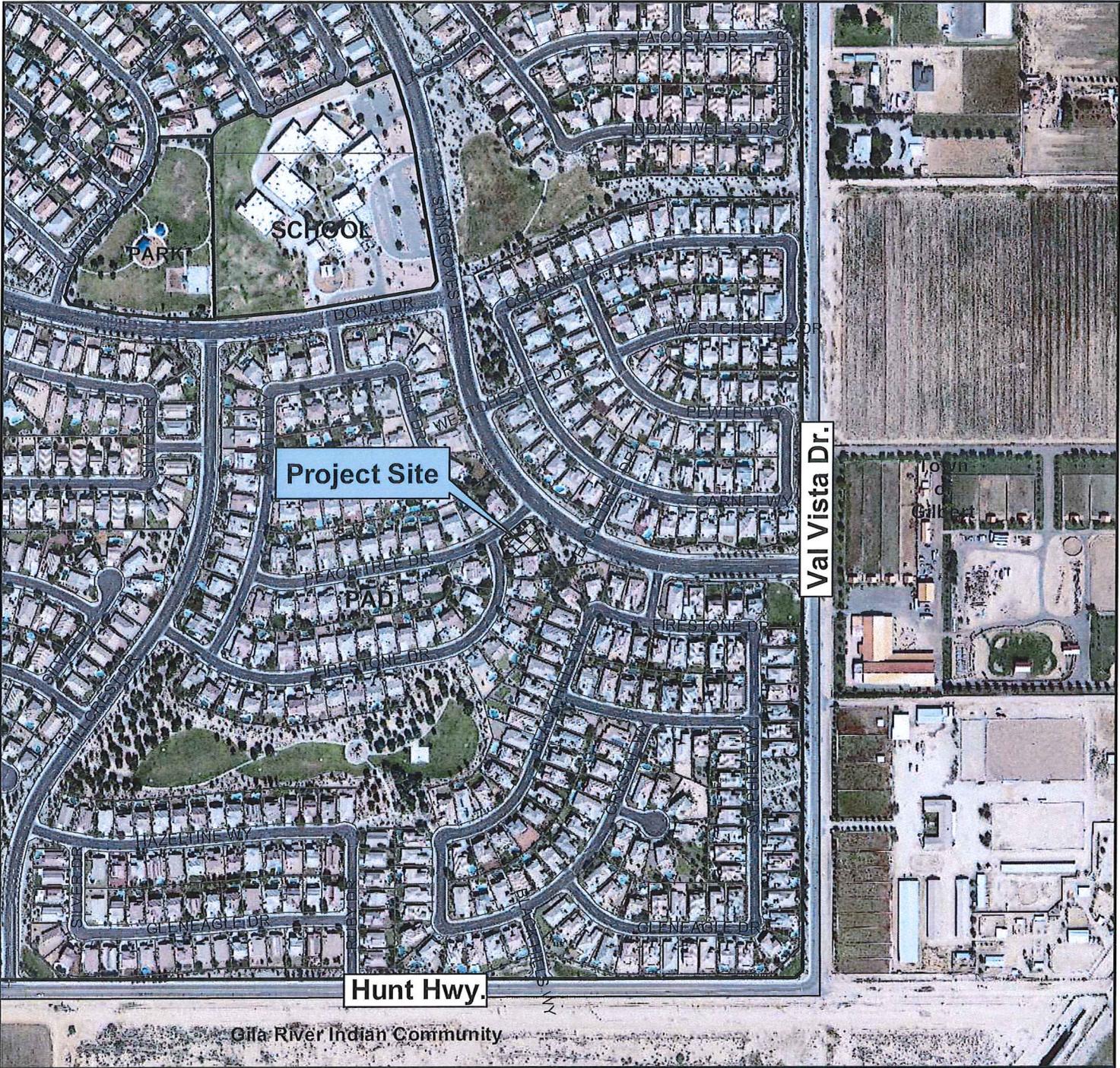
Vicinity Map



VAR15-0001

Colby Residence
4743 E. Firestone Dr.





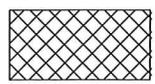
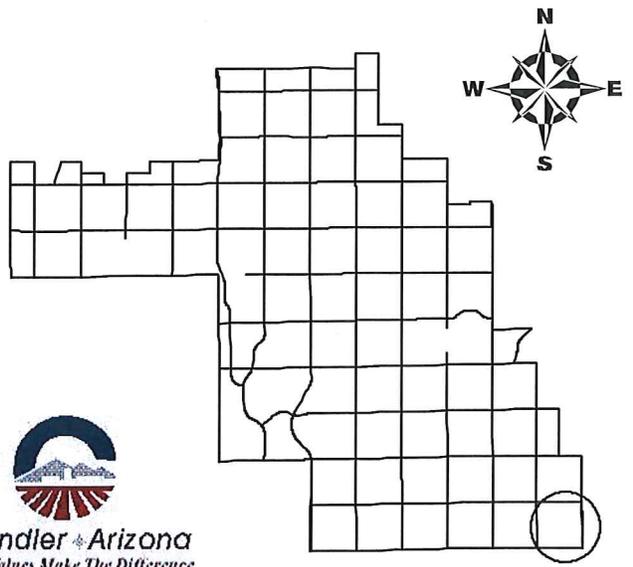
Project Site

Vai Vista Dr.

Hunt Hwy.

Gila River Indian Community

Vicinity Map

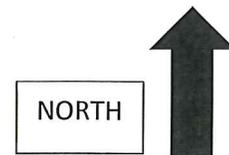


VAR15-0001

**Colby Residence
4743 E. Firestone Dr.**



AERIAL
COLBY RESIDENCE
4743 E. FIRESTONE DR.





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.

The property is an oversized but awkward shaped lot. When the home was built, due to the offsets required between neighboring homes, the home was placed all the way to the northern most corner of the lot. With the home being in this location and the angle of the lot on the north side of the home it makes much of the land rendered useless with the current 20' offsets on both the north side and east side. The variance that is being asked for will make the property more useful to build an additional room. With this variance the structure will still have 15' to the property line and with the unique landscape behind the home, 75' to the street behind the home. The special circumstance of the awkward location of the home on the lot and with no neighbor, structure, park or habitable area behind the home a 5' variance would not have a negative effect and will make the property useful for the owner. The new structure will also not impede on the maximum allowed percentage of building structure for the lot

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

The variance is necessary so the home on the property can be expanded for the growth of the family. The property should be used to allow for this. Without the variance the home cannot have a useful addition that the family can use. Different ways of using the property have been explored by professional architects and with the current 20' offsets on 2 sides of the property nothing can be built that would have useful results. This variance is needed for the family growth so the family can not be uprooted and have to move to accommodate the growth

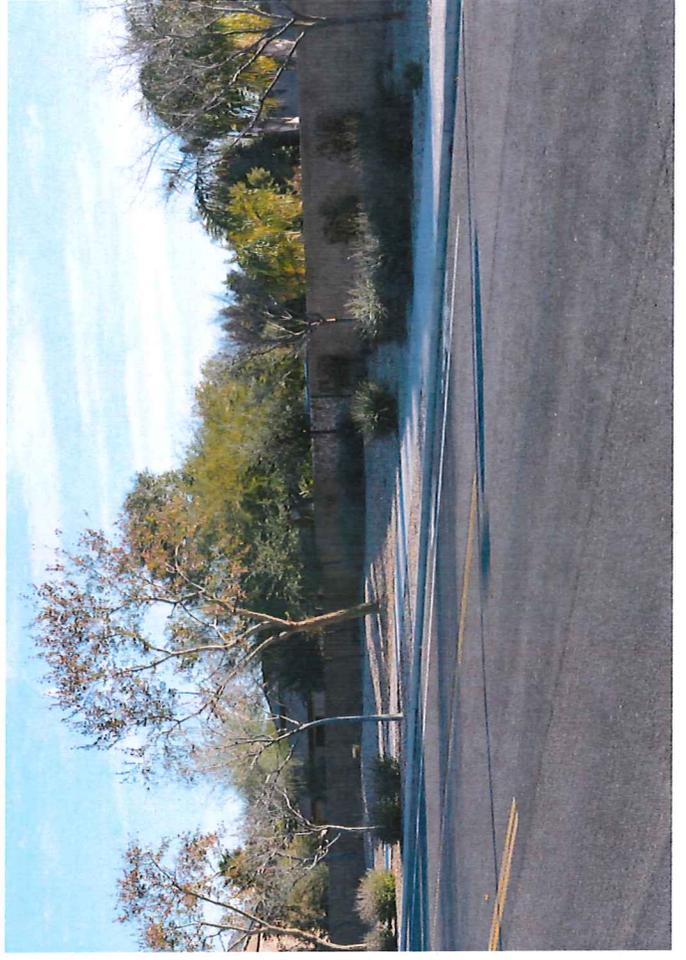
Justification for Variance Request (Cont'd)

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

The variance will not have a negative effect on any person, property of public in any way. The variance will allow for the expansion of the home, that will be professionally built according to all HOA rules and regulations, increasing the property value and effecting the value of the other homes in the area in a positive way. The addition will be built on the Northeast side of the property where it is not near any neighbors homes or lots. This will **not** create a situation that will effect the view or infringe on the natural surroundings of any neighbors. The expansion will still be a far enough from the property line that it will not create any unpleasant appearances or block any views to the public. By allowing the variance, this will allow for the expansion that will also keep well established community members in the community.



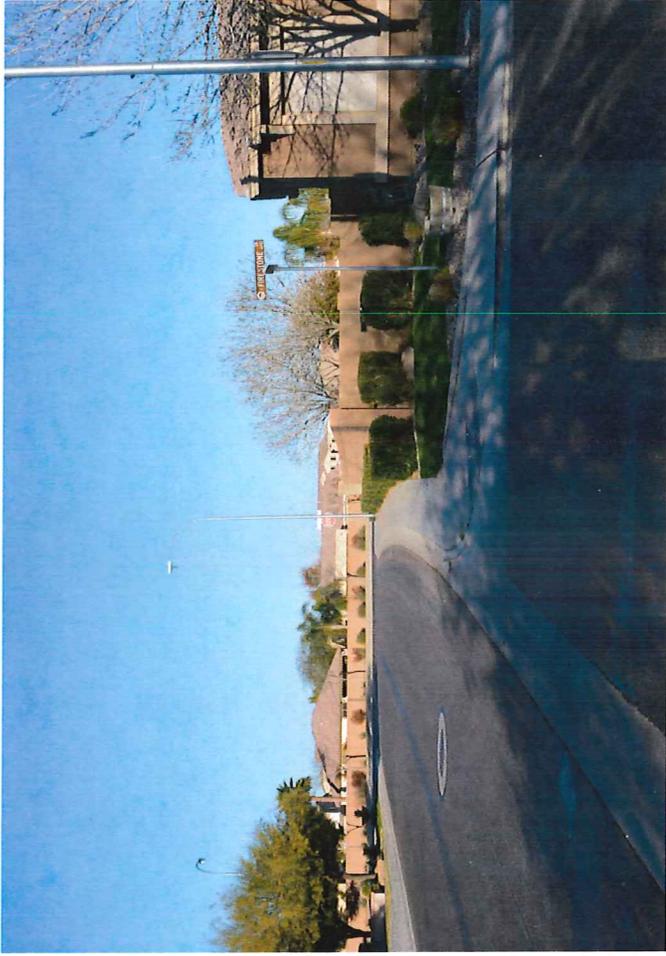
AREA NORTH OF HOME



NORTHEAST CORNER



NORTHEAST CORNER



FRONT NW CORNER



NORTH SIDE



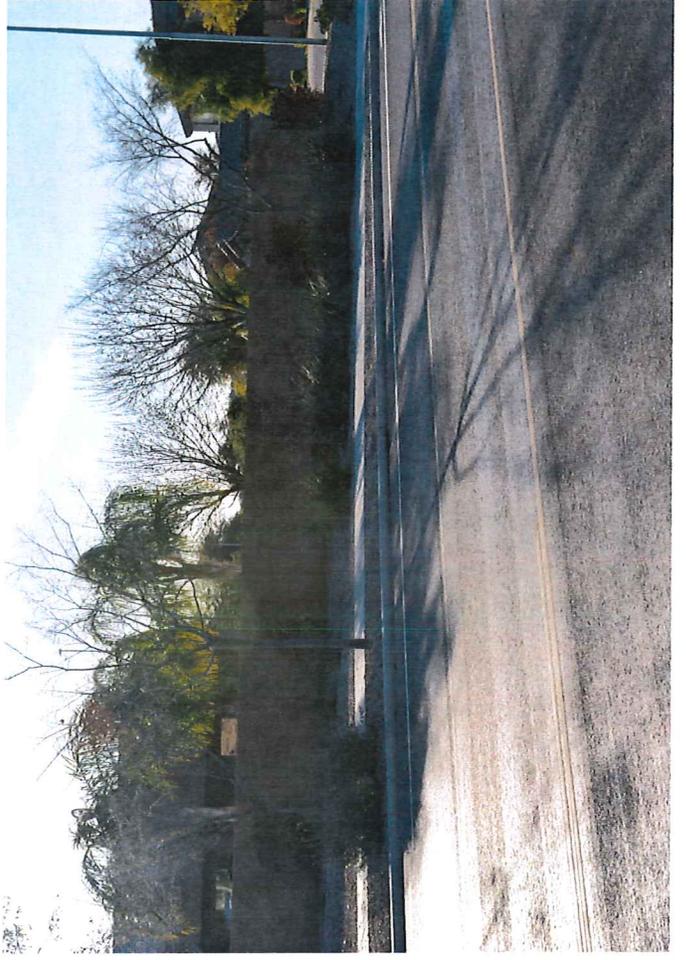
NORTH SIDE



ADDITION LOCATION



BACKSIDE OF HOME (COMMON AREA)



This petition is for the surrounding neighbors to 4743 E. Firestone Dr., Chandler 85249 to express their support to gain approval to the add-on to the home. This structure will be built to the approval of the HOA of Sun Groves by-laws and approved and inspected by the City of Chandler. By signing this petition in no way affects or limits the rights of the signee to express or discuss any concerns they may have at the scheduled city hall meeting. Signing this petition simple expresses support without concern for the structure.

Name	Address	signature	date
Matt Rados	4493 E County Down Dr.	Matt Rados	2-10-15
Susan McCurnutt	4894 E Palm Beach Dr	Susan McC	2-10-15
Kate McLaughlin	4894 E Palm Beach Dr	Kate McC	2-10-15
Bryan Jones	4737 E Firestone Dr	Bryan Jones	2-10-15
Korri Voss	4733 E Firestone Dr.	Korri V	2-10-15
Jenise Sackett	4723 E. Firestone Dr.	Jenise Sackett	2-10-15
Sherry Towns	4713 E Firestone Dr	Sherry Towns	2-10-15
Robert Towns	4713 E Firestone Dr	Robert Towns	2-10-15
Derek Towns	4713 E. Firestone Dr	Derek Towns	2-10-15
Joe DiGerolamo	4673 E Firestone Dr.	Joe DiGerolamo	2-10-15
Larry Goodson	4672 E Firestone Dr.	Larry Goodson	2-10-15
Deek Thropi	4692 E Firestone Dr	Deek Thropi	2/10/15
Terry Domino	4712 E FIRESTONE DRIVE	Terry Domino	2/10/15
Zyan Willis	4742 E FIRESTONE	Zyan Willis	2/10/15
Rick Johnson	4701 E. Peach Tree Dr	Rick Johnson	2/10/15
M. J. McArthur	4681 E. Peach Tree Dr.	M. J. McArthur	2/10/15
Brent Schube	4660 S Peach Tree Rd	Brent Schube	2/10/15
Felicia Schube	4710 Peach Tree Rd	Felicia Schube	2-10-15

Name	Address	signature	date
Ayeshah Ansari	6708 S. Garnet way Chandler, AZ 85249	Ayeshah	02/14/15
Ryanne Dear	6718 S. Garnet way	YMe	2/14/15
Randy Kams	6697 S. Garnet way	Randy Kams	2/14/15
Melanie Saborn	6657 S. Garnet way	Melanie	2/14/15
Charles Schmitt	6627 S. Garnet way	Charles Schmitt	2/14/15
VICTOR TINABLO	6607 S. GARNET WAY	VICTOR TINABLO	2-14-15
Chris Gitsch	6636 S. GARNET WAY	Chris Gitsch	02/14/15
Larry Jensen	6637 S. Garnet way	Larry Jensen	2/14/15
Theresa Gomez	6658 S. Garnet way	Theresa Gomez	2/14/15
Tommy Casanova	6587 S. GARNET WAY	Tommy Casanova	2/14/15
Quenne Jean	65505 Penster way	Quenne Jean	2/14/15
Adam Benson	6670 S. Penster Way	Adam Benson	2-14-15
Kera Renaud	6700 S. Penster Way	Kera Renaud	2-14-15
Sigmak Dychebi	4740 E. PEACH TREE DR.	Sigmak Dychebi	2.09.2015
Zivka Popper	4720 E Peach Tree Dr	Zivka Popper	2/14/15
Jennifer Burczyk	4661 E. Peach Tree Dr	Jennifer Burczyk	2/14/15
Ben Kieckhefer	6782 S. Black Hills Way	Ben Kieckhefer	2/15/15

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.