



Chandler • Arizona
Where Values Make The Difference

A.

APR 14 2010

MEMORANDUM Planning and Development – BA Memo No. 10-005

DATE: APRIL 1, 2010
TO: BOARD OF ADJUSTMENT
THRU: PATRICK MCDERMOTT, ASSISTANT CITY MANAGER
 JEFF KURTZ, ASSISTANT PLANNING AND DEVELOPMENT DIRECTOR *JK*
 KEVIN MAYO, PLANNING MANAGER *KM*
FROM: BILL DERMODY, SENIOR CITY PLANNER *BD*
SUBJECT: VAR09-1006 ALLSHOUSE RESIDENCE

Request: Variance from the Zoning Ordinance to allow encroachment into the minimum side and rear yard setbacks for an accessory structure
Applicant: David J. Allshouse
Location: 315 W. Marlboro Drive, south and west of Elliot Road and Arizona Avenue
Existing Use: Single-Family Home
Zoning: Single-Family Residential (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 structure to encroach 2' into the minimum 10' side yard setback and 9' into the minimum 10' rear yard setback, leaving setbacks of 8' on the side and 1' in the rear. The property, which contains a single-family home, is located on a corner lot (southeast corner of Nebraska Street and Marlboro Drive) within the Dave Brown Unit Two subdivision zoned SF-8.5. It has a slightly angled rear lot line and a visibility triangle cut out of its northwest corner, but is still generally rectangular. Most lots in the subdivision range from approximately 6,909 to 9,300 square feet in size, with a few larger lots (up to 16,000 square feet) on cul-de-sacs. The typically sized lot of 9,535 square feet contains a 1,814 square foot house constructed in 1980. A 16'-wide alley is located south of the property adjacent to the rear yard.

The requested variance would allow for an approximately 576 square foot shade structure, defined as an accessory building due to its size, to be constructed in the southwestern portion of the rear yard. The Zoning Code limits accessory buildings to 15' in height – the subject structure will abide by that maximum. It will have metal posts and a cloth top. The structure's primary purpose would be to shade an RV. The structure is planned to be on wheels for occasional relocation to the pool area closer to the house, abiding by the minimum setbacks. The Zoning Administrator has determined that an accessory structure on wheels, such as proposed, must meet minimum setbacks wherever it is placed. Building Code regulations will require the structure to be secured to the ground by chains affixed to a concrete-encased anchor or by some other manner.

A metal RV shade structure was recently removed from the property. It was in a similar location as to what is proposed for the new structure. The structure was built without proper permits, reportedly in 2009, and was the subject of a neighbor complaint that prompted city enforcement action.

CODE REQUIREMENTS

Setbacks in the Dave Brown Unit Two subdivision are established by the SF-8.5 zoning district:

35-703. Height and area regulations.

(3) *Side yards:*

(b) *Corner lots:* For residential purposes, the street side yard shall be not less than one-half (1/2) as required for a front yard for the abutting street.

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

The minimum side yard setback is 10' because the minimum front yard setback for the abutting street is 20'. Per Section **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 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 9,535 square foot lot is a typical size for the neighborhood. The slightly skewed rear property line is not unique to the neighborhood and does not negatively affect the ability to meet setbacks in the property's southwestern portion. 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 1980 on land zoned for single-family homes. It is not a property right 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.

Four neighbors have contacted Staff in opposition to the request due to the structure's appearance and proximity to the property lines. One of the neighbors added that the variance is poor precedent and would constitute special treatment.

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 for a house addition is not a hardship for this property. The property has been substantially developed, with its property owners enjoying development rights since 1980 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

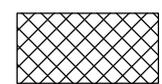
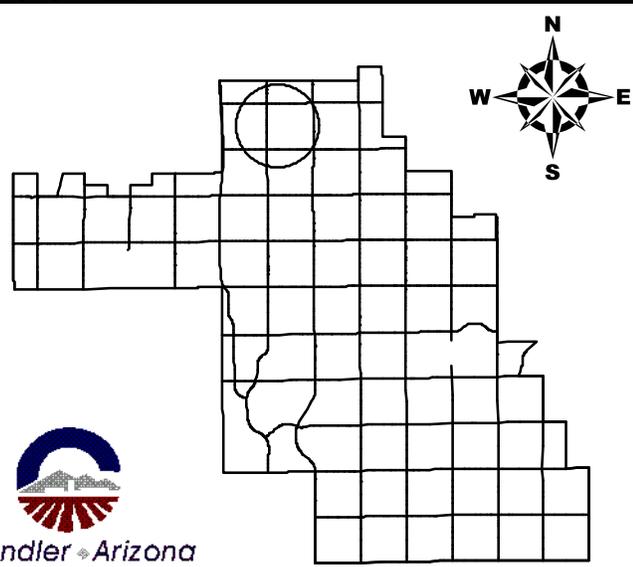
Move to deny variance request VAR09-1006 ALLSHOUSE RESIDENCE, as recommended by Staff.

Attachments

1. Vicinity Map
2. Aerial Close-up
3. Site Plan
4. Photo of Proposed Shade Structure
5. Application and Narrative
6. Powers and Duties



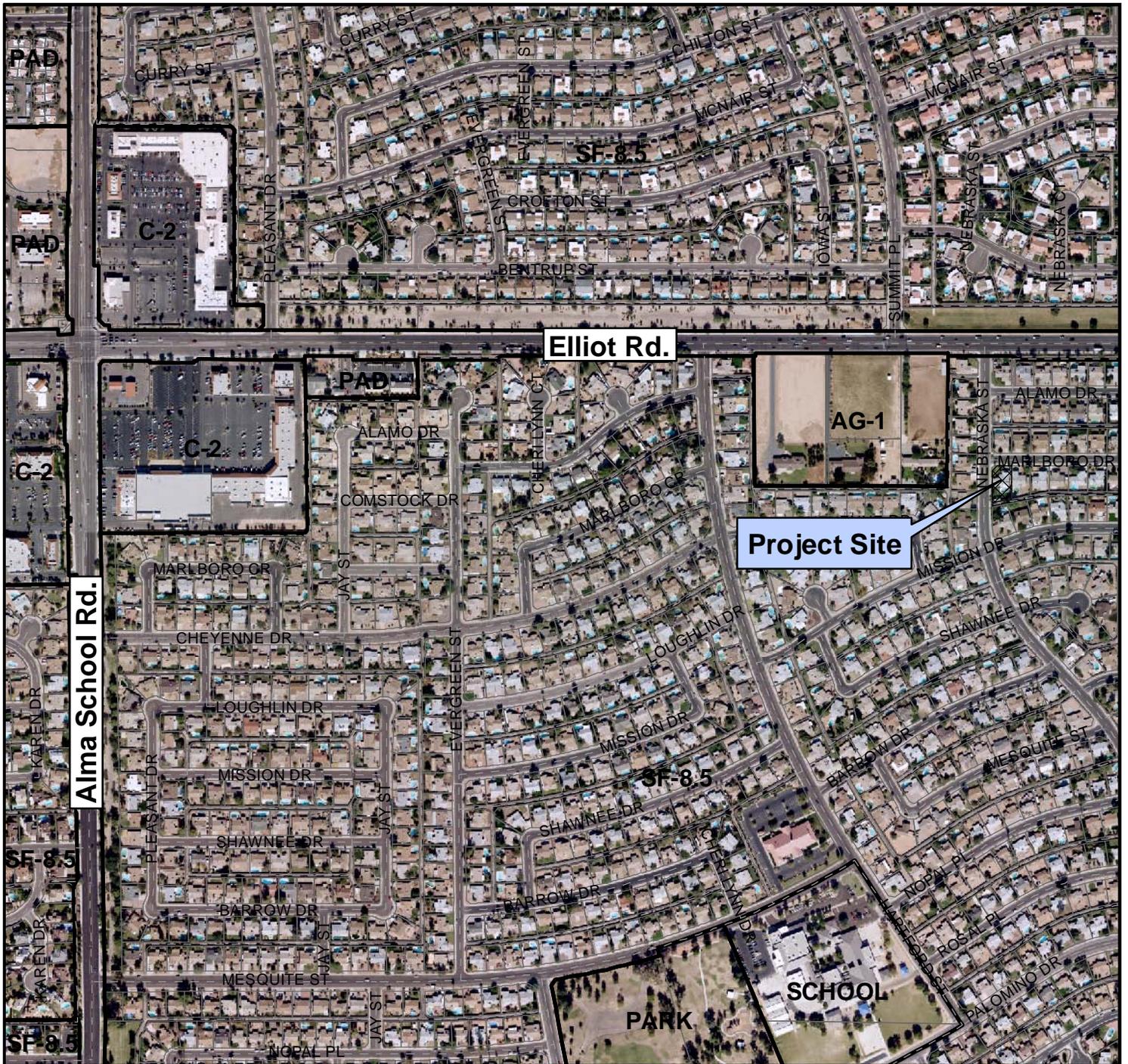
Vicinity Map



VAR09-1006

**Allshouse Residence
315 W. Marlboro Dr.**



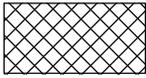
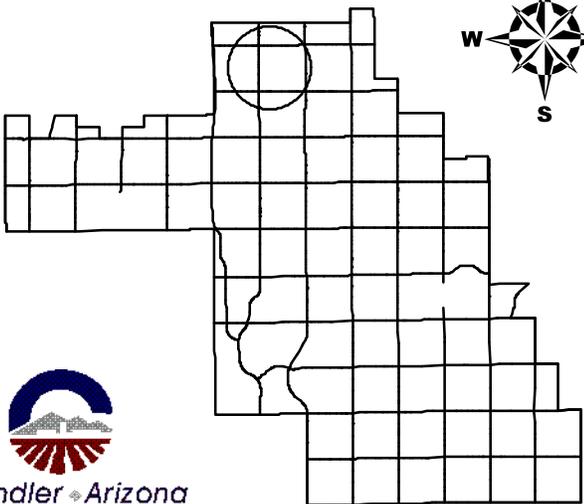


Elliot Rd.

Project Site

Alma School Rd.

Vicinity Map



VAR09-1006

Allshouse Residence
315 W. Marlboro Dr.



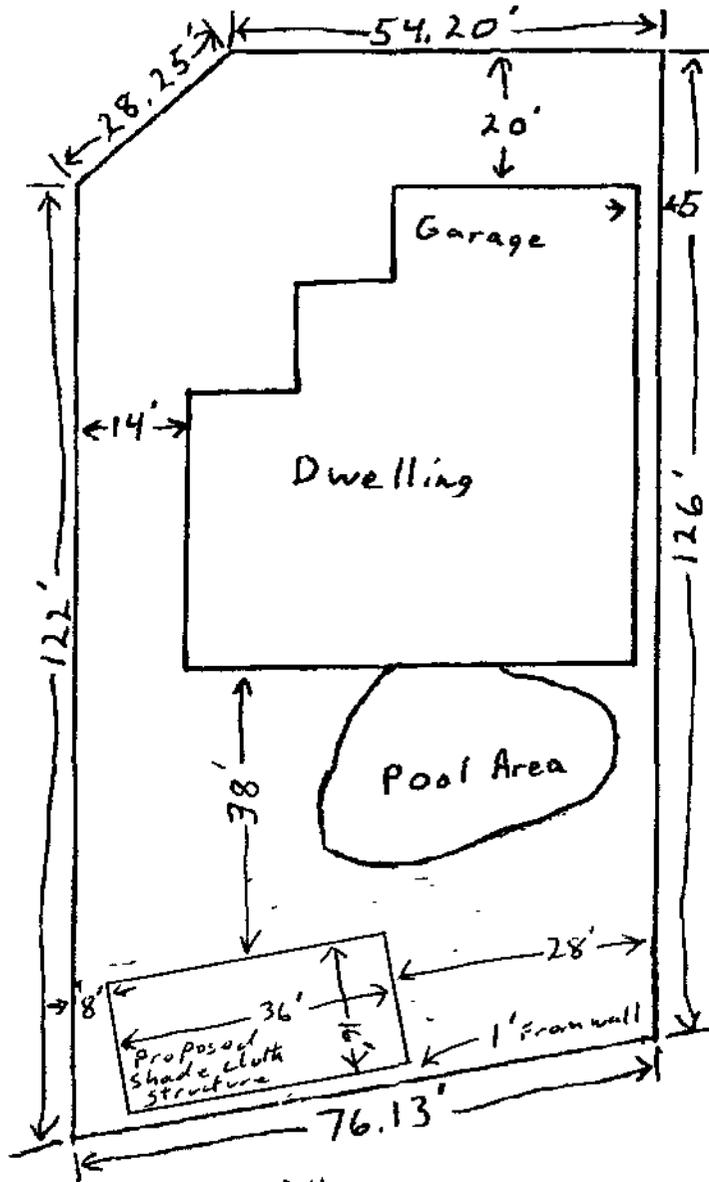
County Parcels



Proposed Shade Cloth Structure

Marlboro Drive

Nebraska St.



Surrounding Land is Single Family

Alley
16' wide

Albums

Automotive

Car Wash / Auto Body

Covered Parking

Hospital / Clinic / Retail

Marked and Retention

Images in Album

Album Info



Car Wash / Auto Body

Car Wash / Auto Body Shop Gallery

Image Viewer



June 10 21

Car Wash - Coral Springs Florida

Shade Cloth Color IS TAN



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Variance Request Application

If the property owner is not filing the application, please fill out the attached letter authorizing an applicant or project representative to file the application.

Project or Owner Name <i>David + Candace Allhouse</i>		
Property Location/Address <i>315 West Marlboro Drive</i>		City, State, Zip Code <i>Chandler, AZ 85225</i>
Type of Variance (waiver) from the Zoning Code you are requesting: <i>Movable Cloth Shade Structure in Setback</i>		
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 <i>David + Candace Allhouse</i>		
Mailing Address <i>315 West Marlboro Drive</i>		Phone Number <i>480-497-4555</i>
City, State, Zip Code <i>Chandler, AZ 85225</i>		Fax Number —
Applicant/Representative Name <i>David Allhouse</i>		
Mailing Address <i>315 West Marlboro Drive</i>		Phone Number <i>480-861-8023</i>
City, State, Zip Code <i>Chandler, AZ 85225</i>		Fax Number —
Property Owner or Representative Signature <i>[Signature]</i>		Date <i>3-25-2010</i>
For City Use		
Date Filed	Development No.	Case Planner

Mailing Address
P.O. Box 4008, MS 105
Chandler, Arizona 85244-4008

Planning and Development Department
Current Planning Division
215 E. Buffalo St., Chandler Arizona 85225

Telephone: (480) 782-3000
Fax: (480) 782-3075
www.chandleraz.gov

Form No. UDM-63
Rev. 7-1-09



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Variance Request Letter of Authorization

Please accept an application for a Variance for property located at:

315 West Marlboro Drive

Chandler, AZ 85225

Assessor's parcel number(s):

302-26-601

Said property is owned by:

David + Candace Allshouse

Who hereby authorizes me to file this application on his/her behalf.

I certify that the above information is correct, and that I am authorized to file an application on said property on behalf of the owner.

[Signature] 3-25-10
Applicant Signature Date

[Signature] 3-25-10
Property Owner Signature Date

C. L. Allen 3-25-10
Property Owner Signature Date

Property Owner Signature Date



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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 proposed shade cloth structure will be on wheels so that it can be used as sun shade for our grandchildren by the pool and/or shade our motor home when parked in the southwest corner of our property.

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

Granting this variance would allow us to build a movable shade cloth structure to provide much needed shade for our grandchildren, who are fair skinned, when they are playing in and around the pool area. When not being used by the pool area the shade cloth structure could be moved so that it would also provide shade for our motor home.

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.

Our motor home has been parked in this area for the last 15 years with no covering. Adding a movable cloth shade structure over the motor home and/or pool area will enhance our property while also showing that the neighborhood is still on an upward climb in property value and appeal.

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.