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JUL 11 2012

Chandler

All-America City

2010

Chandler · Arizona

Where Values Make The Difference

MEMORANDUM **Transportation & Development – BA Memo No. 12-007**

DATE: JUNE 27, 2012

TO: BOARD OF ADJUSTMENT

THRU: R.J. ZEDER, TRANSPORTATION & DEVELOPMENT DIRECTOR RJZ
JEFF KURTZ, PLANNING ADMINISTRATOR
KEVIN MAYO, PLANNING MANAGER KM

FROM: BILL DERMODY, SENIOR CITY PLANNER BD

SUBJECT: VAR12-0005 PETERSON RESIDENCE

Request: Variance from the Zoning Ordinance to allow encroachment into the minimum side yard setback

Applicant: Sarah Peterson

Location: 599 N. Sunland Drive, north and west of Galveston Street and Arizona Avenue

Existing Use: Single-Family Home

Zoning: Single-Family District (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 a reconstructed carport to encroach into the minimum side yard setback. The property, which contains a 1,432 (livable) square foot single-family home constructed in 1951, is located on the corner of Sunland Drive and Galveston Street within the Sunland Estates subdivision zoned SF-8.5. Sunland Estates includes eight (8) lots along Galveston Street and 36 lots to the north on the looped Sunland Drive. Lots in the subdivision vary widely with a range of approximately 6,000 to 18,900 square feet in size. The subject lot is one of two that side up to Galveston Street and front on Sunland Drive. The lot is a typical rectangular shape and is 8,587 square feet in size. The

house is located off-center to the northern portion of the lot and its driveway leads to covered parking (two carports) attached to the northern part of the house. One of the carports, apparently built illegally decades ago, extends to the northern property line. The application proposes converting one of the carports to living space and reconstructing the other (northernmost) carport so that it is closer to abiding by the minimum setback in that direction.

The application requests an encroachment of 1'-6" into the minimum 5' side yard setback on the property's north side, leaving a setback of 3'-6". However, Staff has discovered that there is a 4'-wide utility easement on that side of the property, which will probably limit any setback encroachment to only 1' in order to maintain the easement (unless express permission to build within the easement is granted by all relevant utility companies). If a variance is granted, therefore, the carport plans will most likely have to be adjusted accordingly so as to maintain the 4' easement and also provide the required 9'-wide covered parking space. It would seem that this is plausible to achieve by slightly reducing the size of the proposed living space in order to allow the covered parking area to be shifted southward out of the easement.

Staff has determined that only one (1) covered parking space is required for this property of a minimum size of 9' x 19' and, therefore, no associated parking variance is necessary (nor requested) at this time. Staff notes that the Zoning Code ordinarily requires two (2) covered parking spaces per single-family residence. It is also noted that the site currently contains two (2) covered parking spaces. However, the northernmost carport was not legally built according to any zoning regulations in place since the house's construction in 1951. To put it another way, there is only one legally constructed carport on the property. Notably, no covered parking spaces were required prior to 1983 for single-family homes, at which time the current regulation of two (2) covered spaces came into being. City practice with regard to such legal nonconforming ("grandfathered") parking situations is that any carport/garage conversions to living space must provide the same number of covered parking spaces (whether 1 or 2) elsewhere on the property so as to bring the property no further from compliance. In this case, in order to allow its conversion to living space, the one (1) legally existing carport must be replaced by one (1) legally permitted covered parking space, a concept that the applicant agrees to.

The street has rolled curbs in front of the subject property, which allows flexibility in driveway location.

CODE REQUIREMENTS

Minimum setbacks in the Sunland Estates 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. The interior side yard shall be a minimum of five (5) feet. For nonresidential uses, no side yard shall be less than twenty-five (25) 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 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 8,587 square foot rectangular lot is typically sized and shaped for the neighborhood. Though an engineer has recommended that the proposed room addition align with the existing carport roof (see application materials), this structural situation would appear to be present for any carport-to-living conversion and is therefore not a special circumstance.

   Also, the site does not have a special circumstance related to the lack of space for a carport along the side of the house. In reviewing aerial photographs, it appears that only seven (7) of the subdivision's 44 lots could possibly accommodate a 9'-wide carport beside the house that uses an existing driveway and still abide by the minimum 5' side yard setback. Thus, the subject site is one of 37 lots in the subdivision that cannot legally accommodate a new side yard carport that uses an existing driveway.

   The one special circumstance that could more plausibly be applied to this property is that it is a corner lot that abuts Galveston Street (one of two such lots). However, there is no prohibition on either the carport or a building addition being placed in the southern side yard along Galveston Street, so long as it maintains a 12'-6" setback in that direction (currently at about 25') and abides by all city codes. Therefore, Staff finds that the lot's special circumstance has no bearing on the variance request.

   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 1951 on land zoned for single-family homes. It is not a property right to violate the minimum setbacks. Also, Staff notes that there is space on the property to accommodate room additions to the east and south that abide by 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 carports 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.

At the time of this writing, Staff is not aware of any opposition.

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 is not a hardship for this property that would prevent the enjoyment of substantial property rights. The property has been substantially developed, with its property owners enjoying development rights since 1951 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

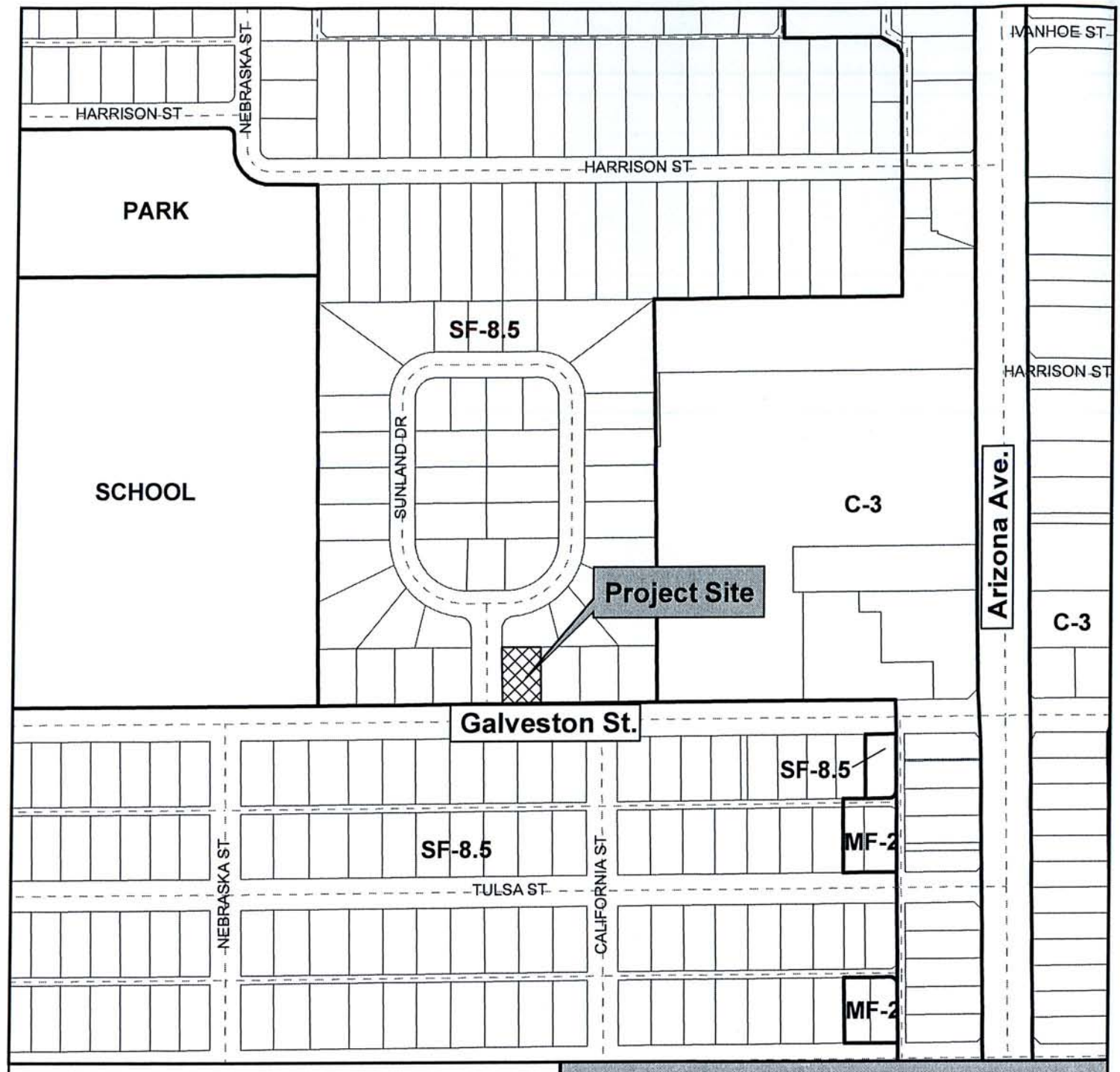
Staff recommends denial of this request.

PROPOSED MOTION

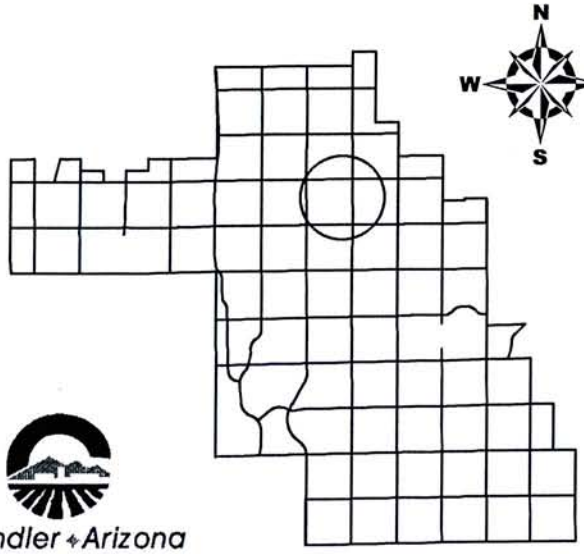
Move to deny variance request VAR12-0005 PETERSON RESIDENCE, as recommended by Staff.

Attachments

1. Vicinity Maps
2. Site Plan (2 pages)
3. Aerial Close-up
4. Application and Justification
5. Letter from Structural Engineer
6. Applicant's Photos of Subject Site
7. Applicant's Photo Survey of the Neighborhood (Titled "Galveston Street + Sunland Drive")
8. Sunland Estates Subdivision Plat
9. Powers and Duties



Vicinity Map

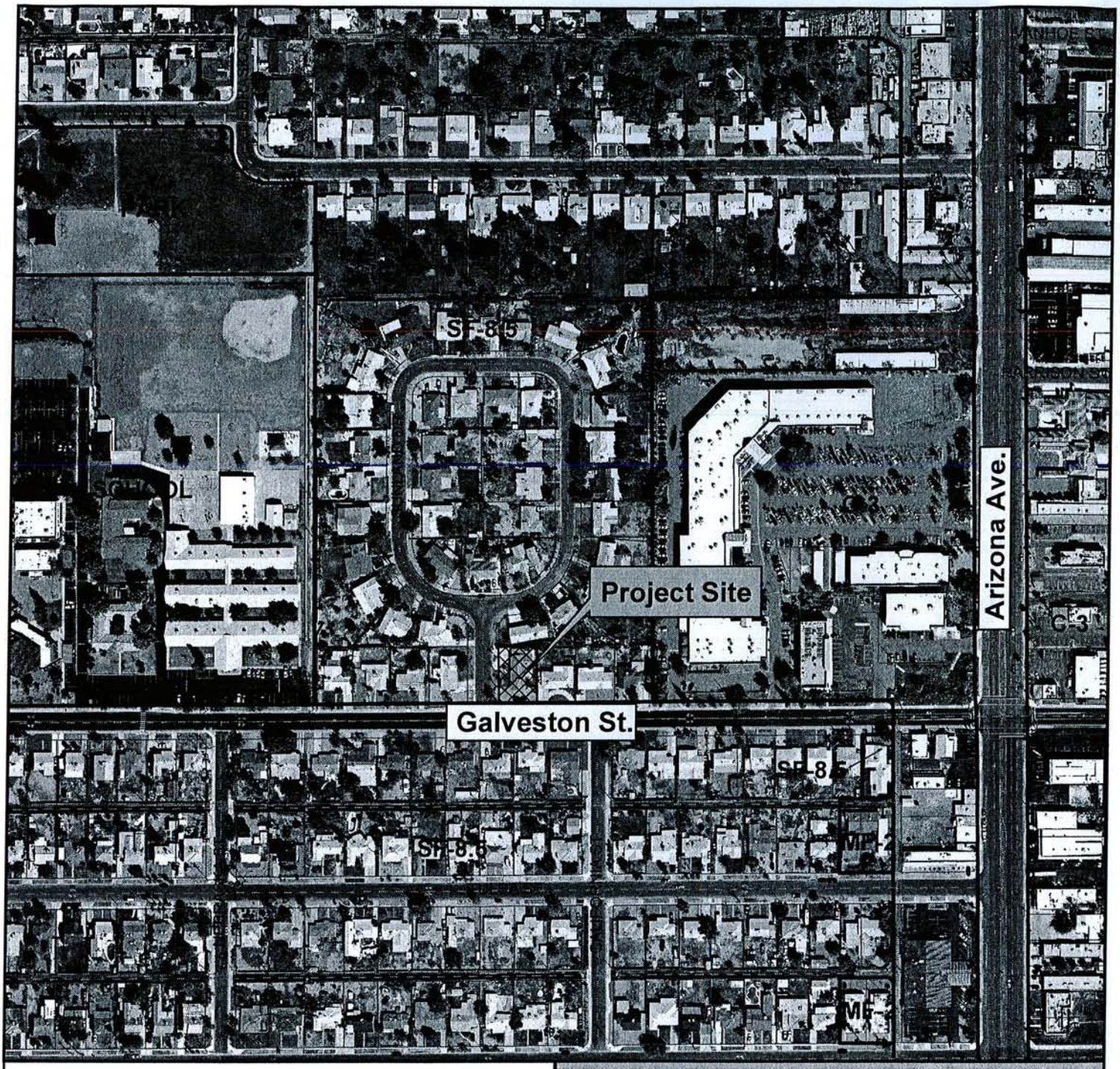


VAR12-0005

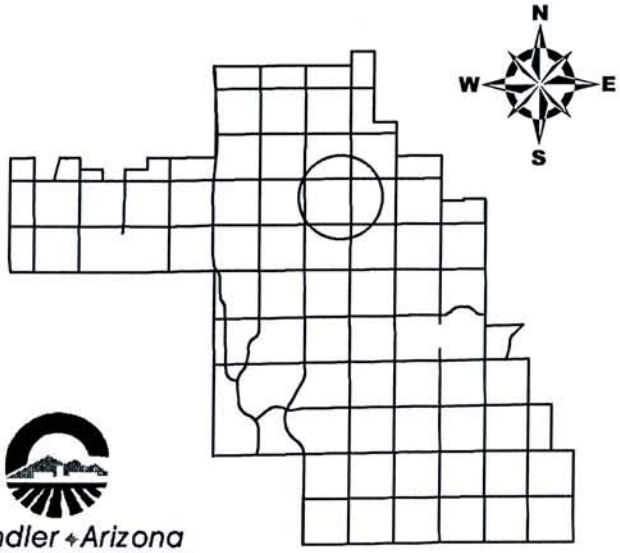
Peterson Residence
599 N. Sunland Dr.

Chandler Arizona
Where Values Make The Difference

CITY OF CHANDLER 6/19/2012



Vicinity Map

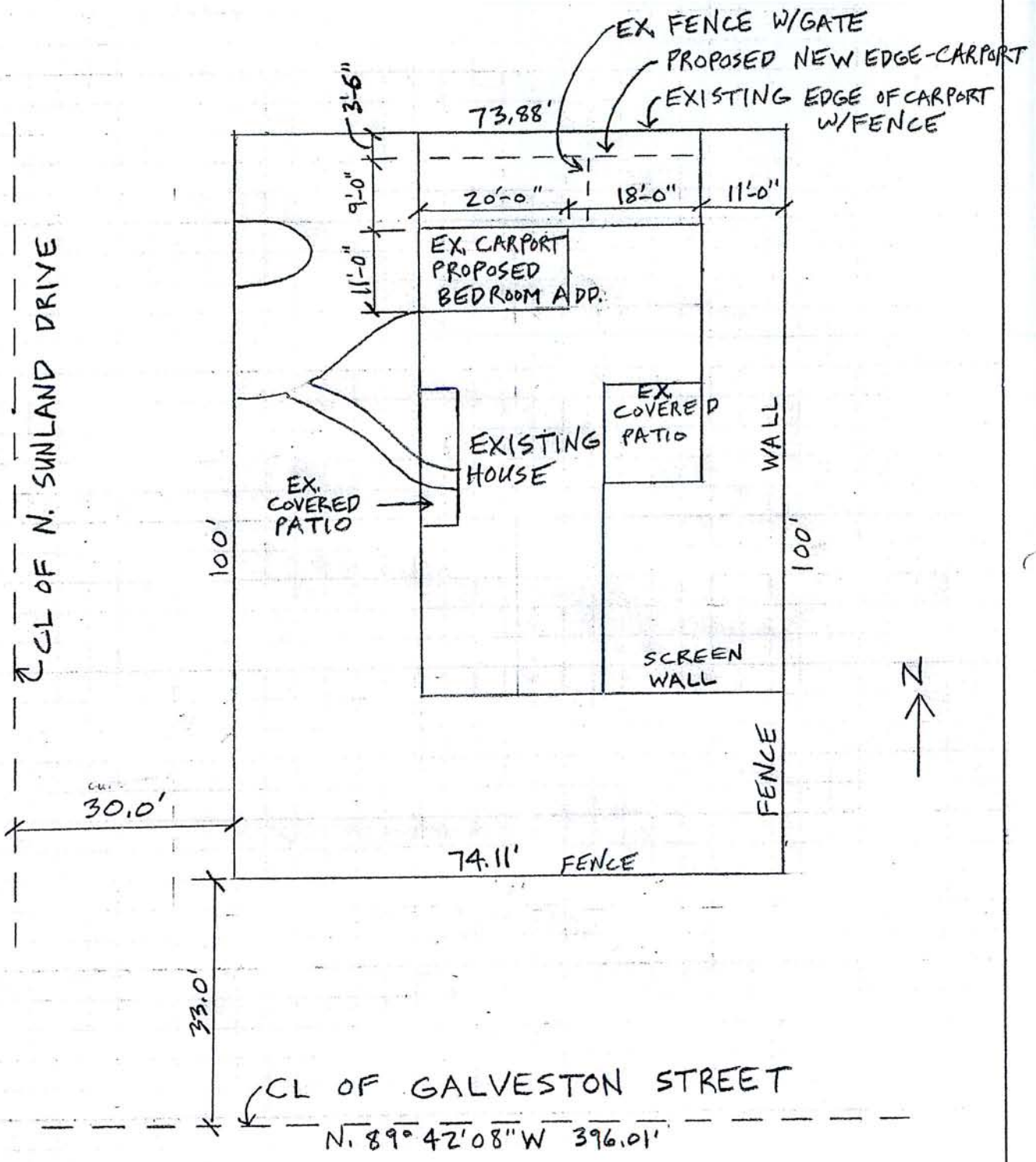


Chandler Arizona
Where Values Make The Difference

VAR12-0005

Peterson Residence
599 N. Sunland Dr.

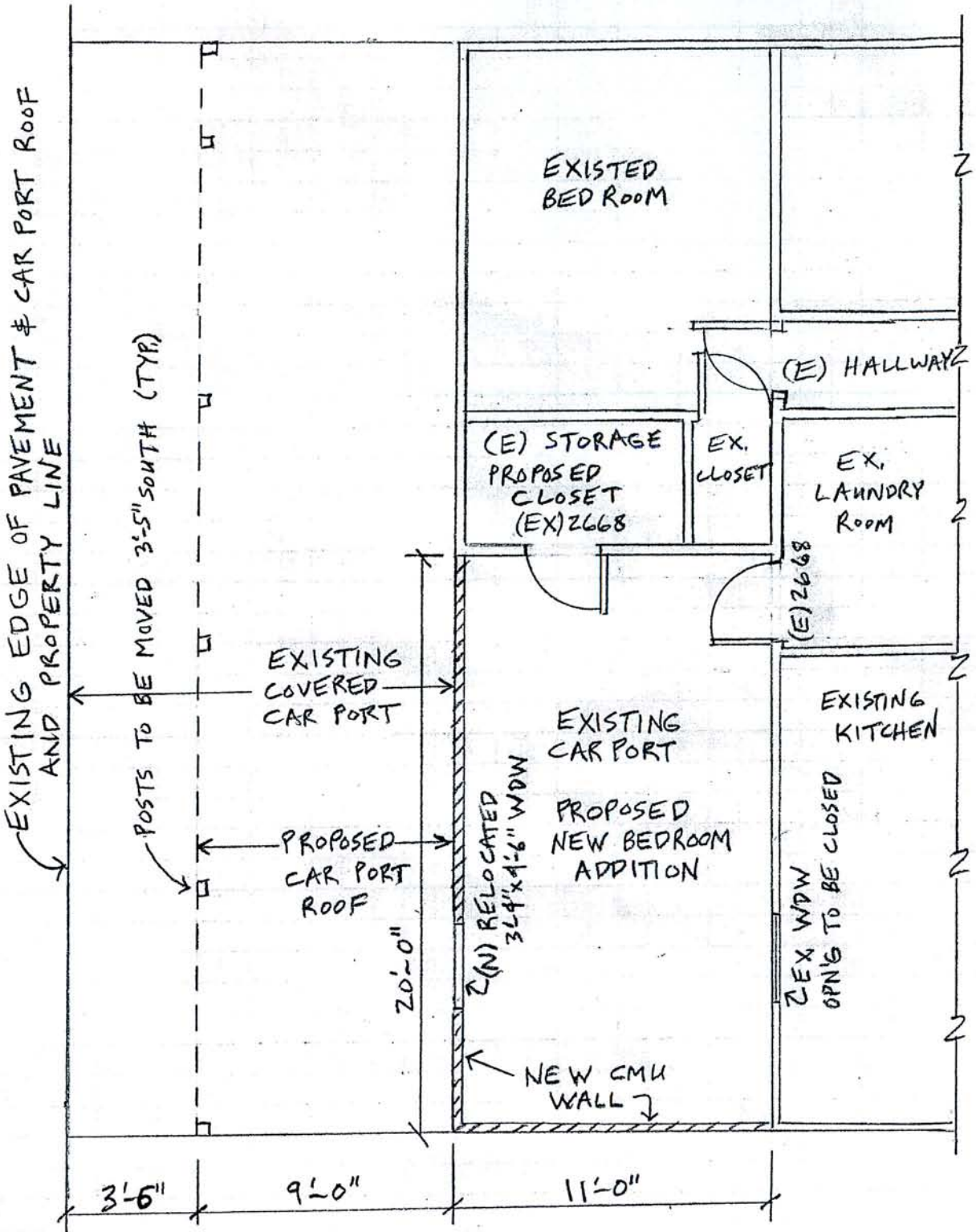
CITY OF CHANDLER 6/19/2012



SITE PLAN
Scale: 1" = 20'-0"

Zoning District No. 13
Parcel No. 302-57-028, Lot. No 28
MCR 047-043, 1951 SUBDIVISION OF SUNLAND ESTATES
Address: 599 N. Sunland Drive, Chandler, AZ. 85225

TOPS 35502

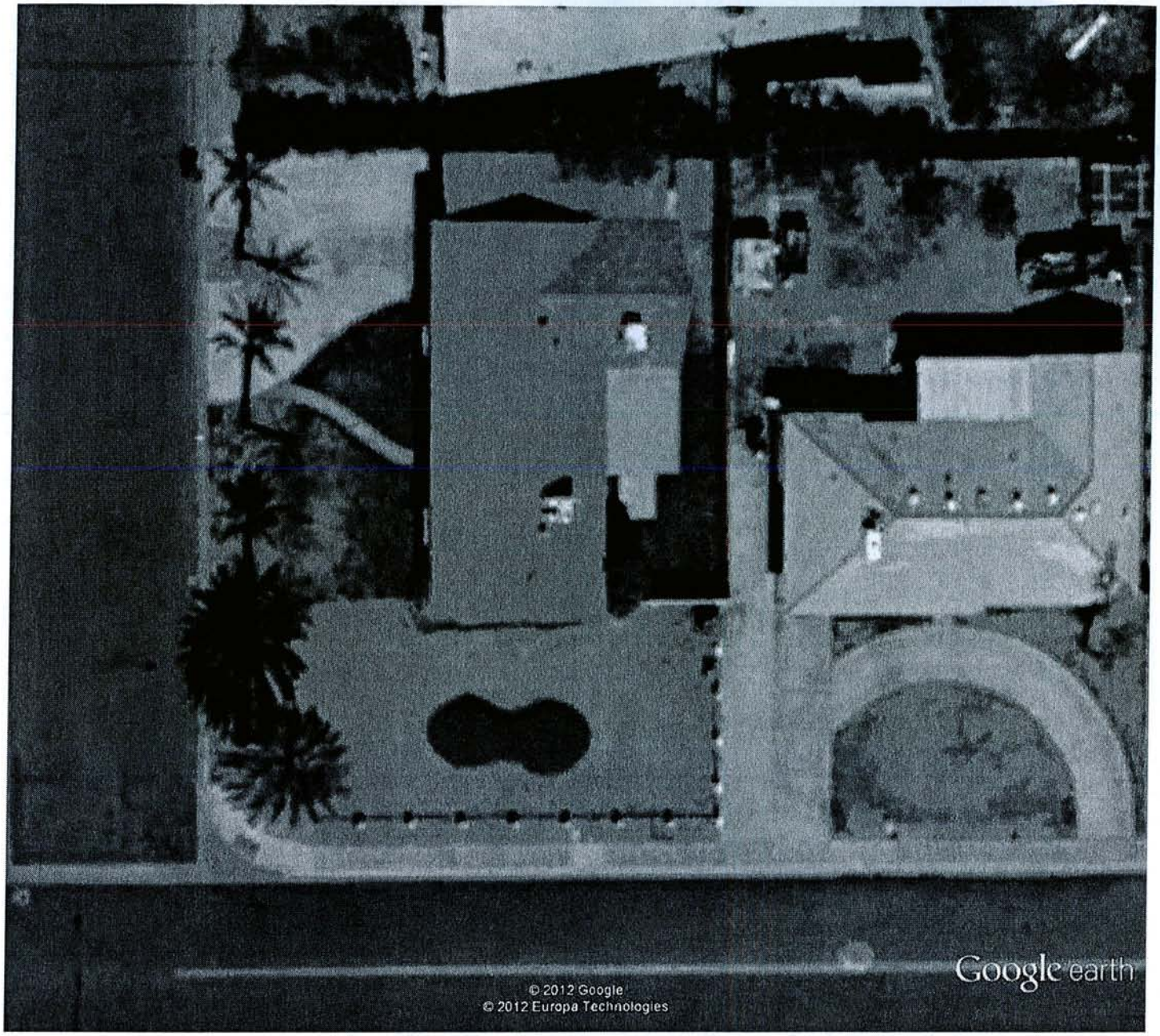


PARTIAL ARCHITECTURAL PLAN

Scale: 3/16" = 1'-0"

BEDROOM ADDITION at
599 N. Sunland Drive
Chandler, AZ. 85225

TOPS 35502



Google earth

feet 100
meters 30

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Where Values Make The Difference

RECEIVED
JUN 15 REC'D
By

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: Peterson residence	
Property Location/Address: 599 N Sunland Dr	City, State, Zip Code: Chandler, AZ 85225

Type of Variance (waiver) from the Zoning Code you are requesting:

We are requesting a setback variance of 1'-6", from the 5' outlined in 35-703(3) a(2) down to 3'-6".

Is this variance for an existing structure (e.g. fence, pool, etc.)? Yes: X No: x

Has the City issued a Notice of Violation? Yes: ____ No: X If yes, please attach a copy of the notice/letter.

Property Owner Name: Sarah A Fowler (aka Peterson)	
Mailing Address: same as above	Phone Number: 602.300.0078
City, State, Zip Code:	Fax Number:

Applicant/Representative Name: Sarah Peterson	
Mailing Address: same as above	Phone Number: same as above
City, State, Zip Code:	Fax Number:

Property Owner or Representative Signature: Sarah Peterson	Date: June 15, 2012

For City Use

Date Filed	Development No.	Planner
6/15/12	VAR12-0005	

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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.

Please see attached document.

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

Please see attached document.

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.

Please see attached document.

JUSTIFICATION FOR VARIANCE REQUEST
submitted by Sarah (Fowler) Peterson on 06/15/20

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.

We would like to enclose one of our current carports to create a room. Our zoning district SF 8.5 requires that a Single Family home have one carport that is built to code (9' wide by 19' deep). The current measurement from our house to the property line is 23'-6". The first 11' of this is the carport that we want to convert into a room. The load bearing beams are also at 11'. There is a back part of our house whose wall aligns with the carport and roof at 11' as well. We have been advised by a structural engineer that moving the wall in by 1'-6" would render our roof structurally unsound (please see attached letter). Doing so would also go against regulations in the Chandler *Homeowner Building Permit Manual* that states that a conversion "must be structurally integrated with the existing residence" (pg 8), whose wall is currently at the 11' mark. The remaining 12'-6" is currently covered parking that was there when we moved in. The carport blends in with the area but we would like to rebuild it to code at 9' wide instead of being on our property line at 12'-6", however this would only leave 3'-6" of setback. This is why we would like to request a variance of 1'-6" in our setback.

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

Substantial property rights include the right to choose the use of one's resource. In our case, we want to convert our one existing 11' wide carport into a room and to use the remaining space to build a carport that meets city code. Approval of the variance of 1'-6" is necessary to allow us to use our resource of home and land as we choose. This is our substantial property right.

The granting of this variance will be enjoyable to us as it improves our home, its value, our community, and the community property values.

Approval will also allow us to enjoy the new room and carport with the peace of mind that we have followed the right channels of approval and have abided by the law, appreciating living in a house that has the approval of the city.

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

This variance will not be cause material, visual, or auditory detriment to persons, property, or the welfare of our community. We have spoken to our neighbors whose property line would be affected by this variance. They agreed that a change of 1'-6" in the setback would not make a difference in their privacy or comfort. In fact, changing our carport to meet code will move the second existing carport further from their home then it already is now. This was structure was already existent when we purchased the home. The change will not harm our property but will improve what is already there.

As for our community, the variance of 1'-6" will not cause our home to stand out in this community but will actually blend in with the majority of homes in our area. Most homes in our community (22.8%) do not meet code or zoning requirements and many are inhibited from doing so by their small lot size (please see attached report). Some are also inhibited by of changes that were made before they owned the property, under different codes or without going through the proper channels. Granting the variance will allow people to see and know that they can go through the proper channels and receive approval to improve their homes rather than improving it without permission when the guidelines are impossible to abide by for some. Our hope is that by going to the city and receiving approval, and our neighbors being made aware of this by the public notice, others in our neighborhood will be encouraged to also partner with the city for positive change.

We would like to point out that other property owners in our area are enjoying their property rights by making their own home improvements. Being in an older neighborhood, there is sometimes physically no space for certain building codes, or codes have changed after alterations were made. So, people here have exercised their property rights by building a shady place for their car, expanding their homes for their families, or

creating privacy by building all sorts of different (not to code) structures (please see attached report). We want to preserve our rights as well to build a room and a carport and go through the proper channels to ensure the safety of our home and the upholding of city code and zoning requirements.

ETHOS
ENGINEERING,LLC

June 06, 2012

Mr. and Mrs. Dane Peterson
599 N Sunland Drive
Chandler, AZ 85244

RE: Room Addition

Mr. and Mrs. Peterson,

Upon your request, I visited your home on Friday June 01, 2012 to evaluate the addition of a room under your existing carport. The results of my initial investigation indicate that the wood roof trusses above the existing carport are supported by a wood bearing beam located along the front face of your home. It is my recommendation that the length of your new wall for this addition matches the length of the existing wood bearing beam in order for the new wall to support all of the wood trusses. This would facilitate construction, create a better look for your addition and maintain the original structural design.

As per our conversation, my recommendation will not be feasible if the City code setback requirements are enforced. Therefore, you may want to consider asking the City for a variance of the setback requirement from 5'-0" to 3'-6". Once you obtain the decision from the City we will know how to proceed.

Sincerely,

Sergio E. Oliden

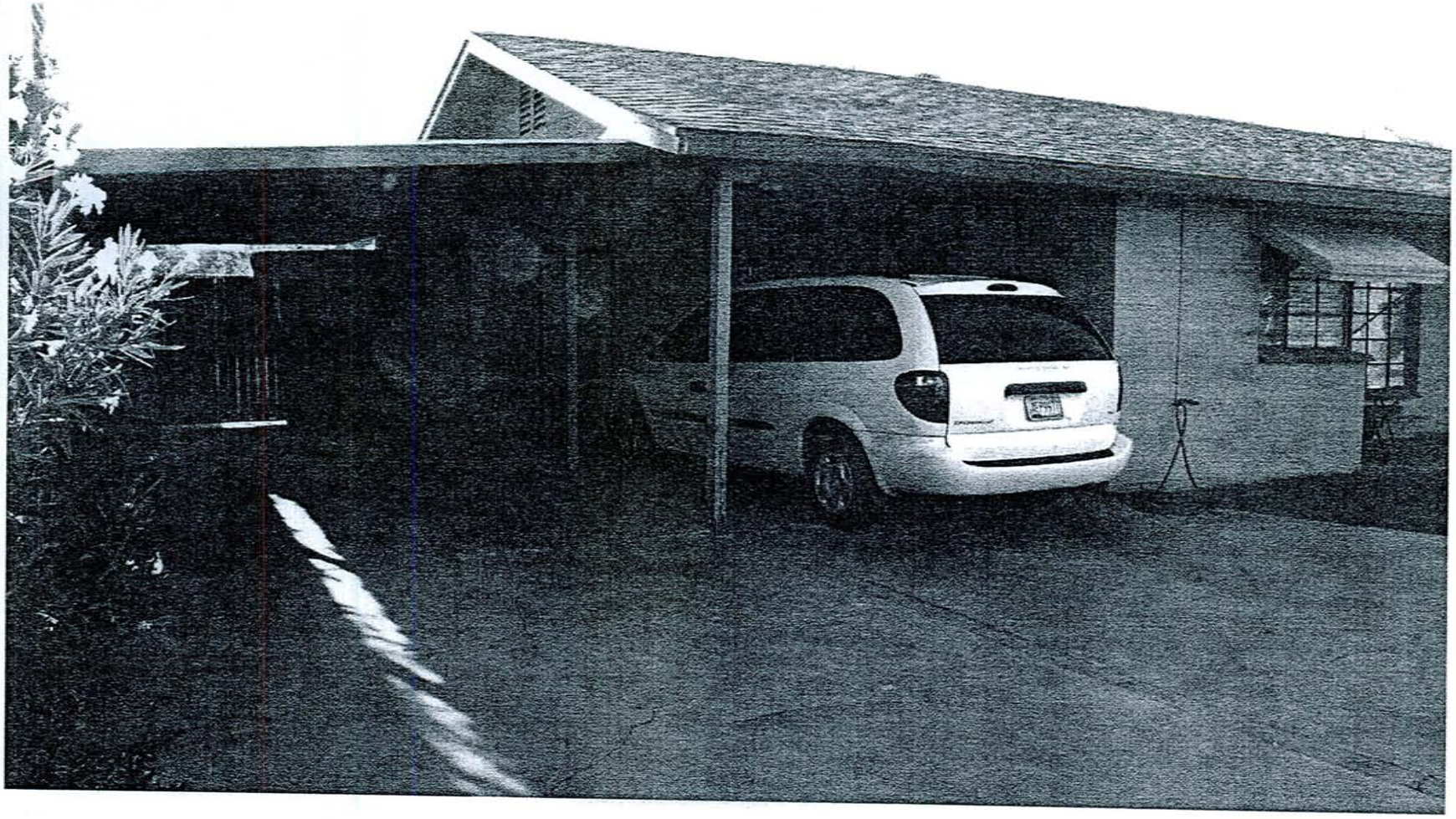
CC: Marvin Ruppelt, S.E.; file

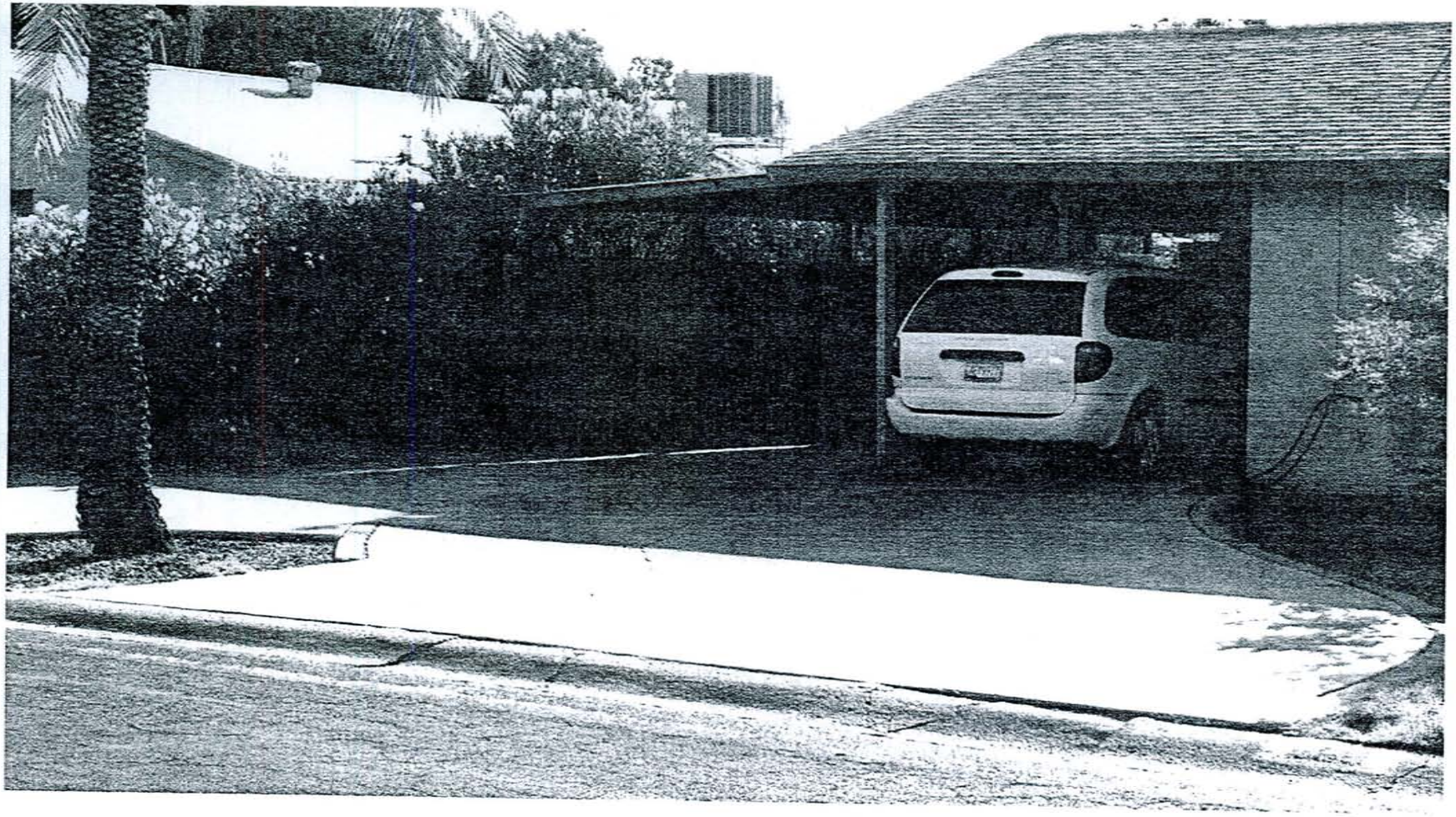
Registered Professional Engineer (Civil)
CERTIFICATE NO.
39510
SERGIO ERNESTO
OLIDEN
Date Signed 6/06/12
ARIZONA, U.S.A.

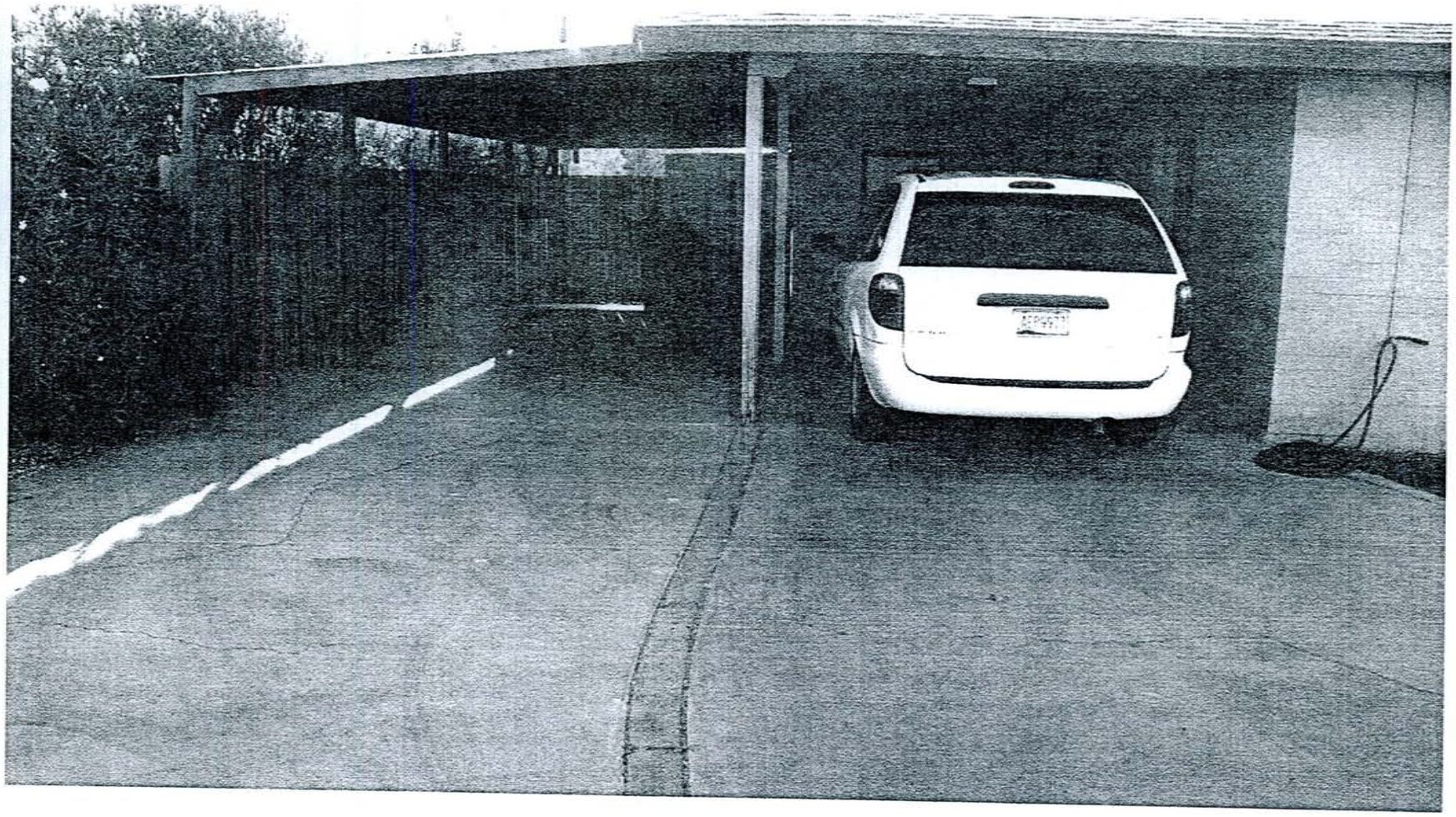
Expires 09/30/12

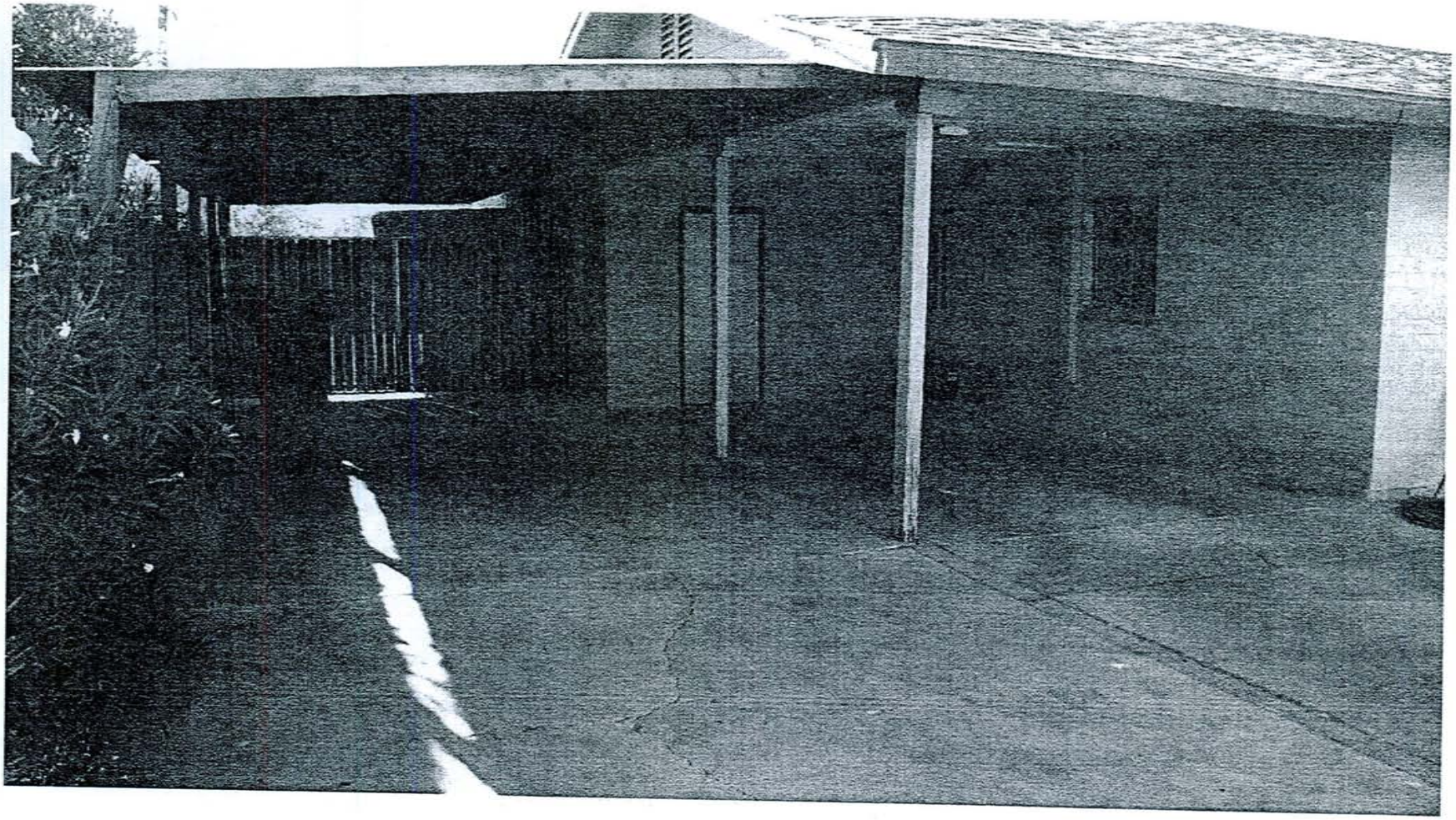
Our Property:

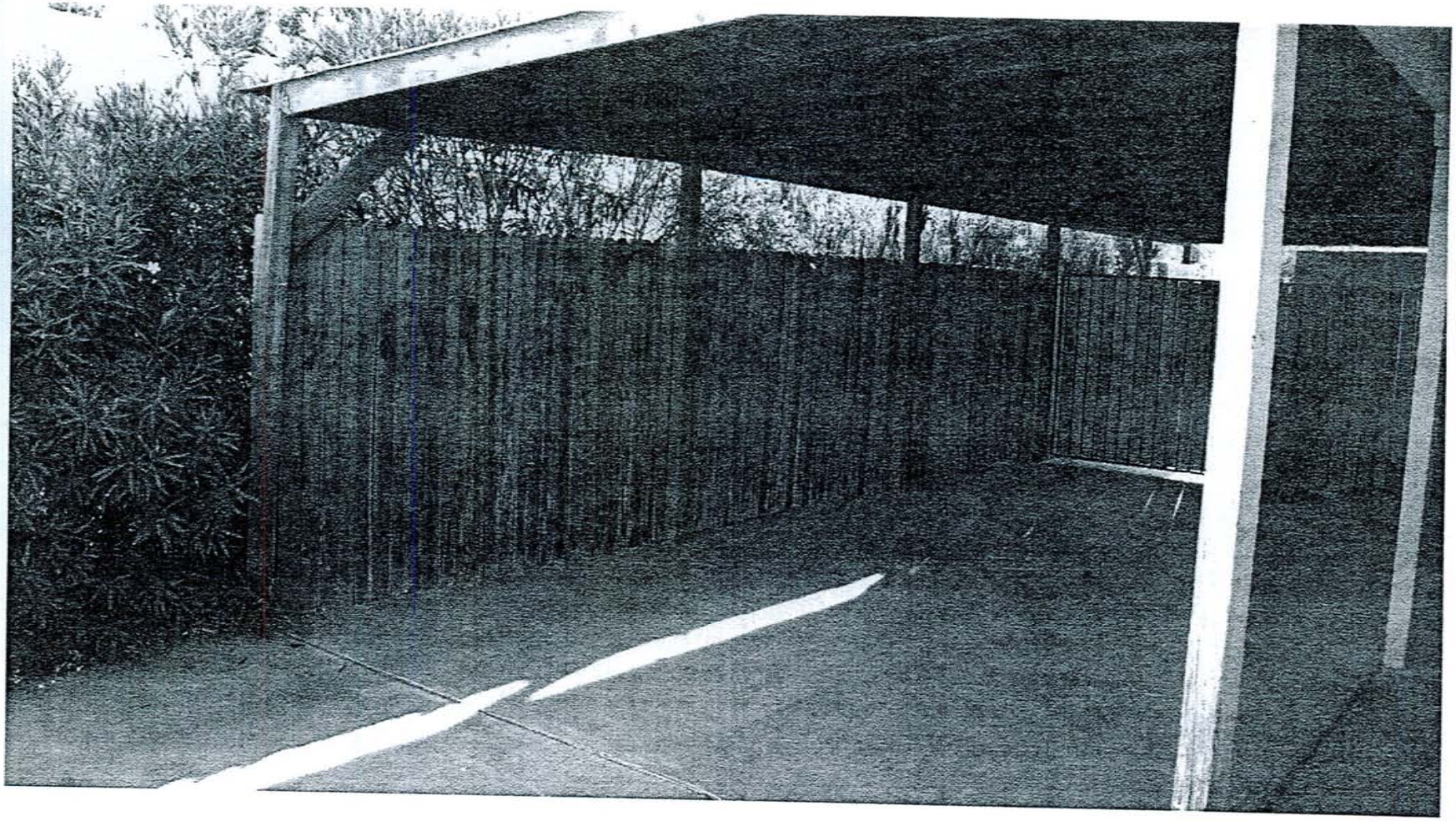
599 N Sunland Drive

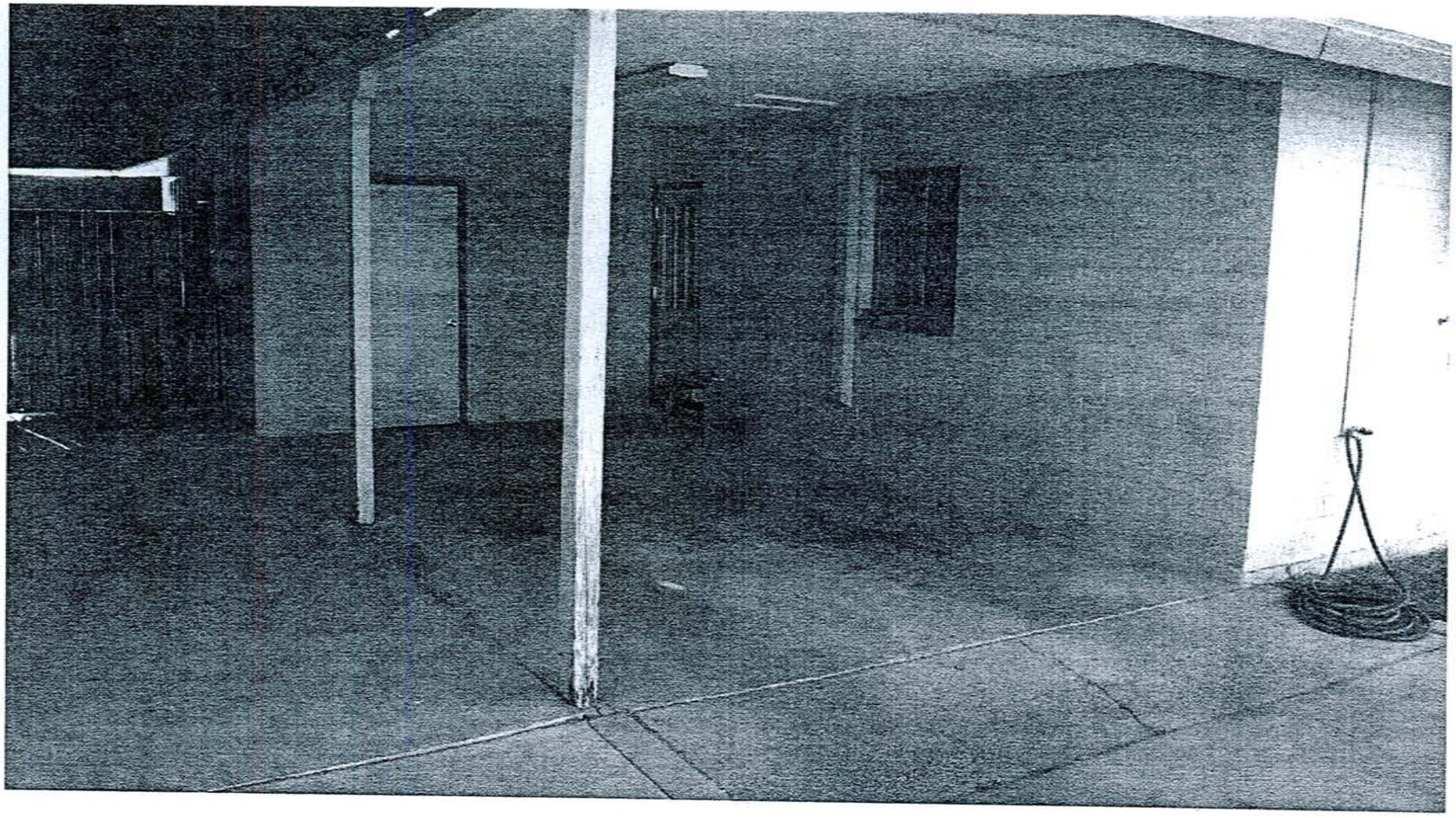


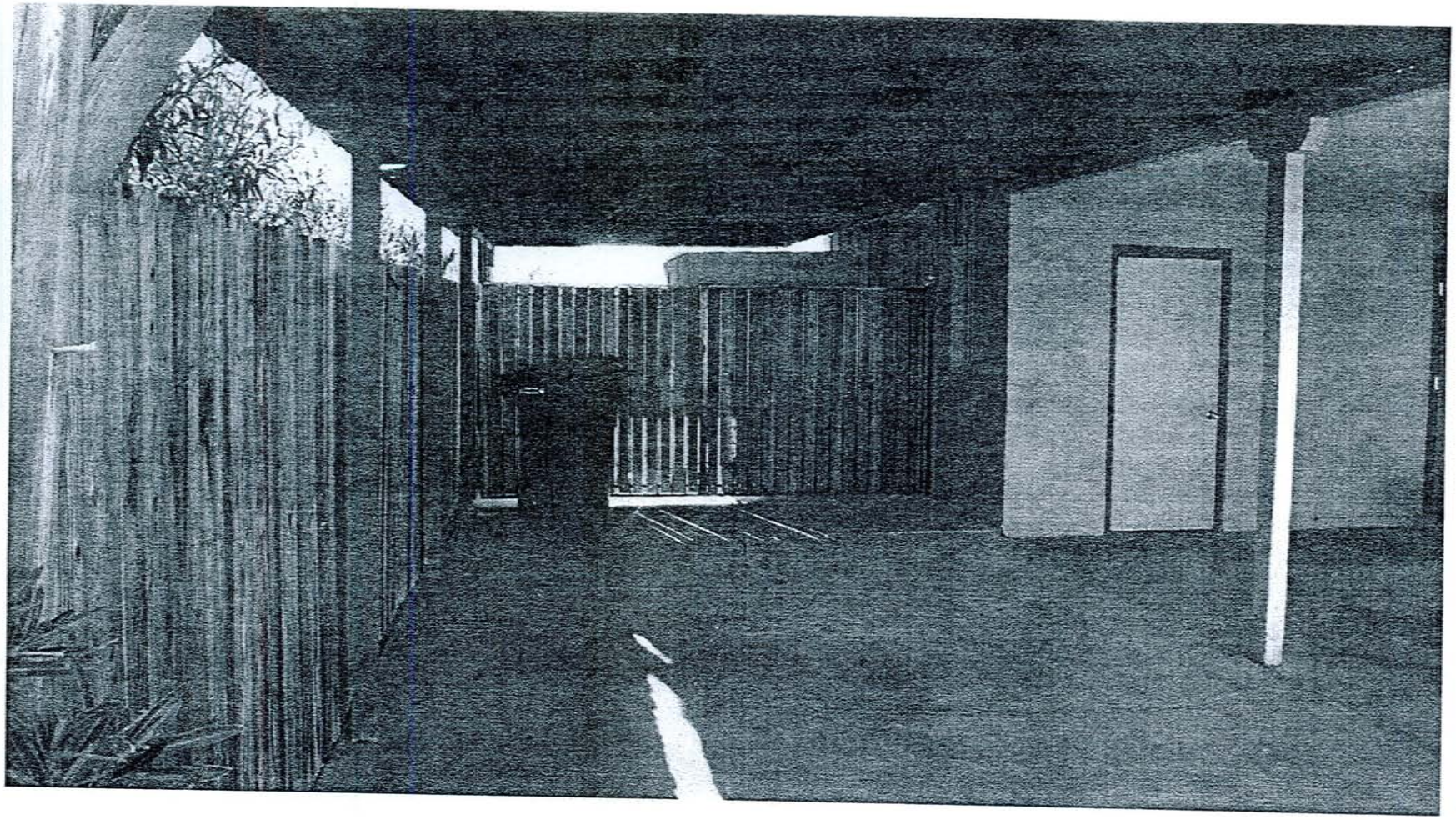


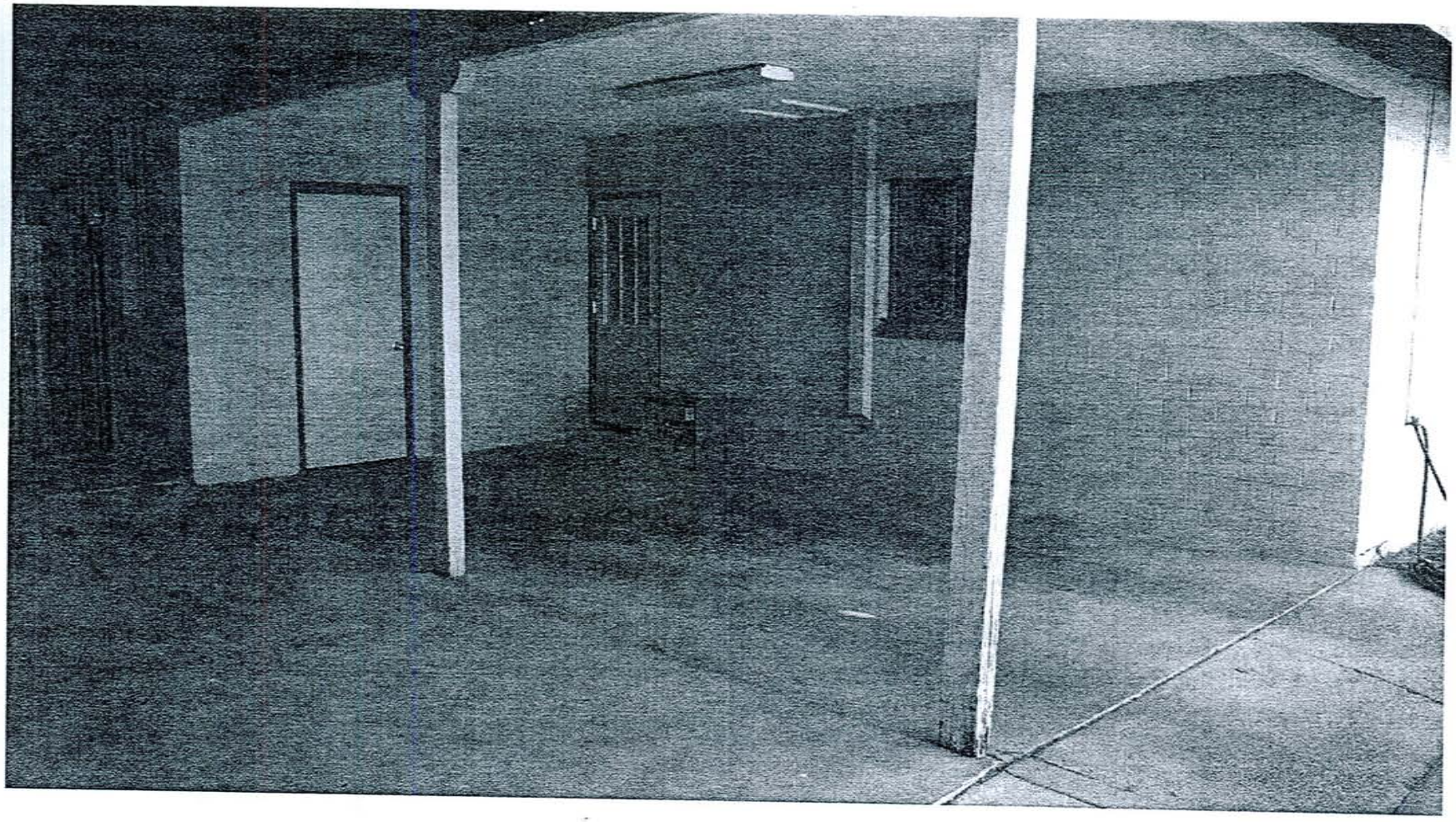


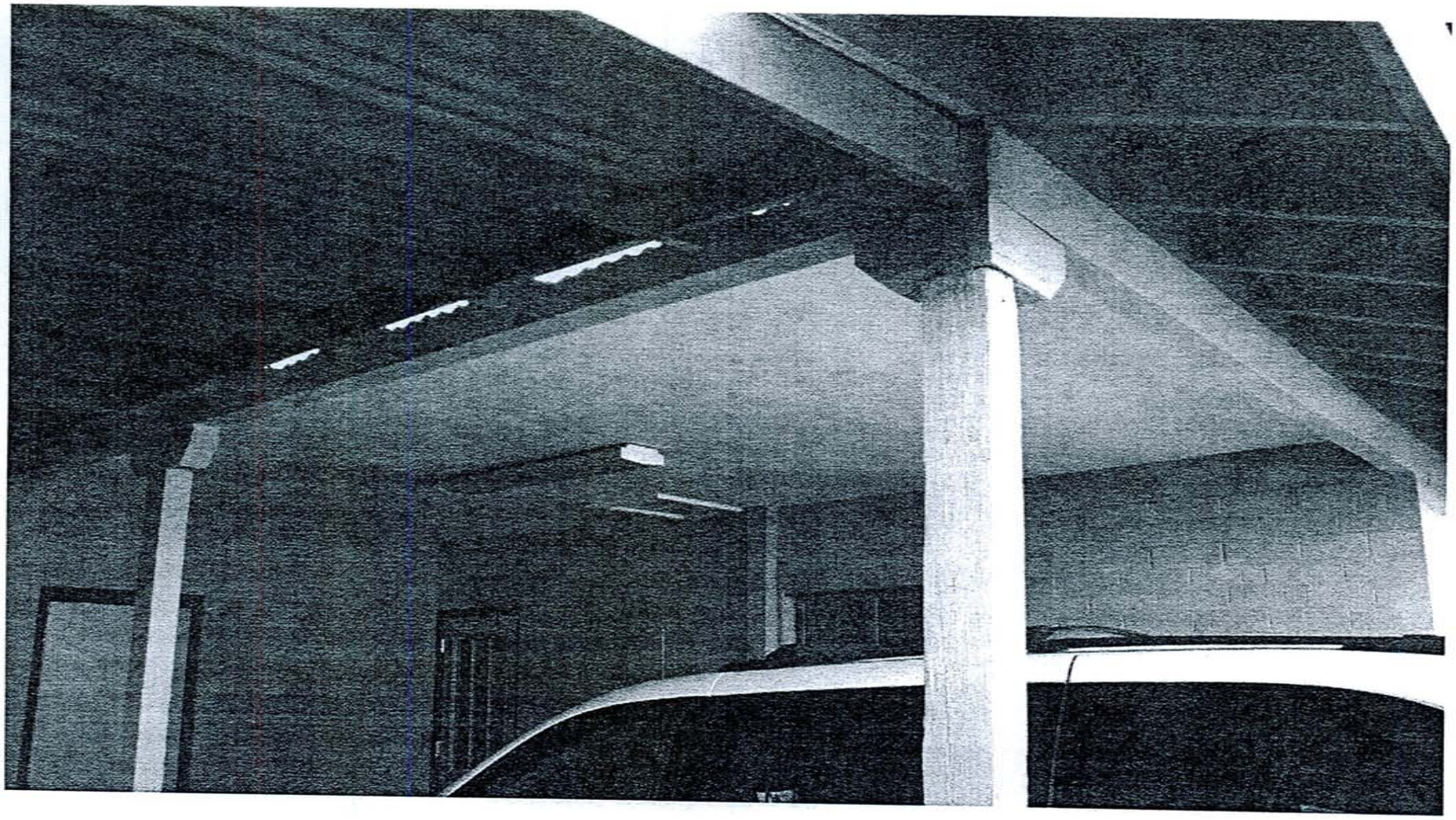




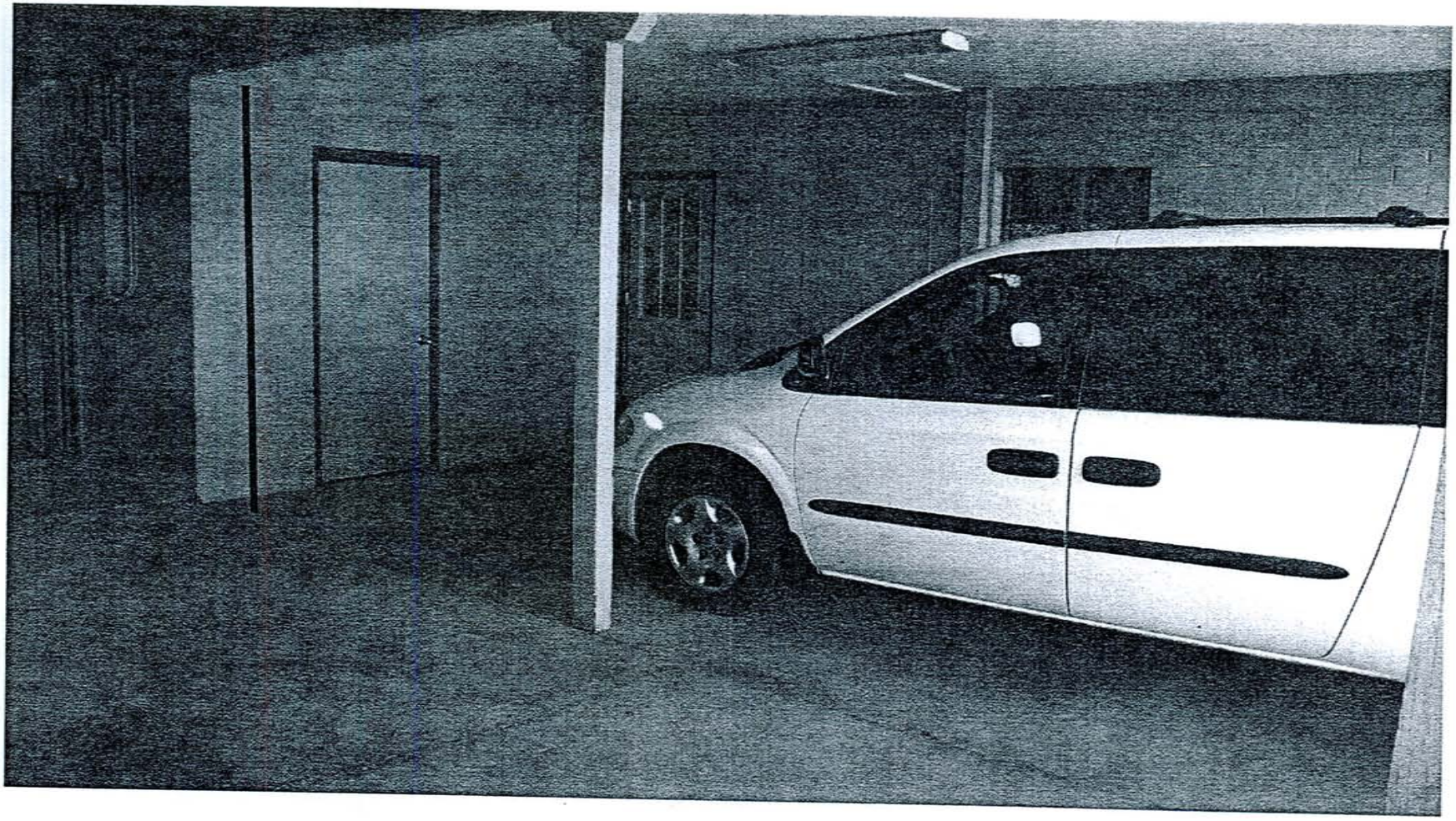


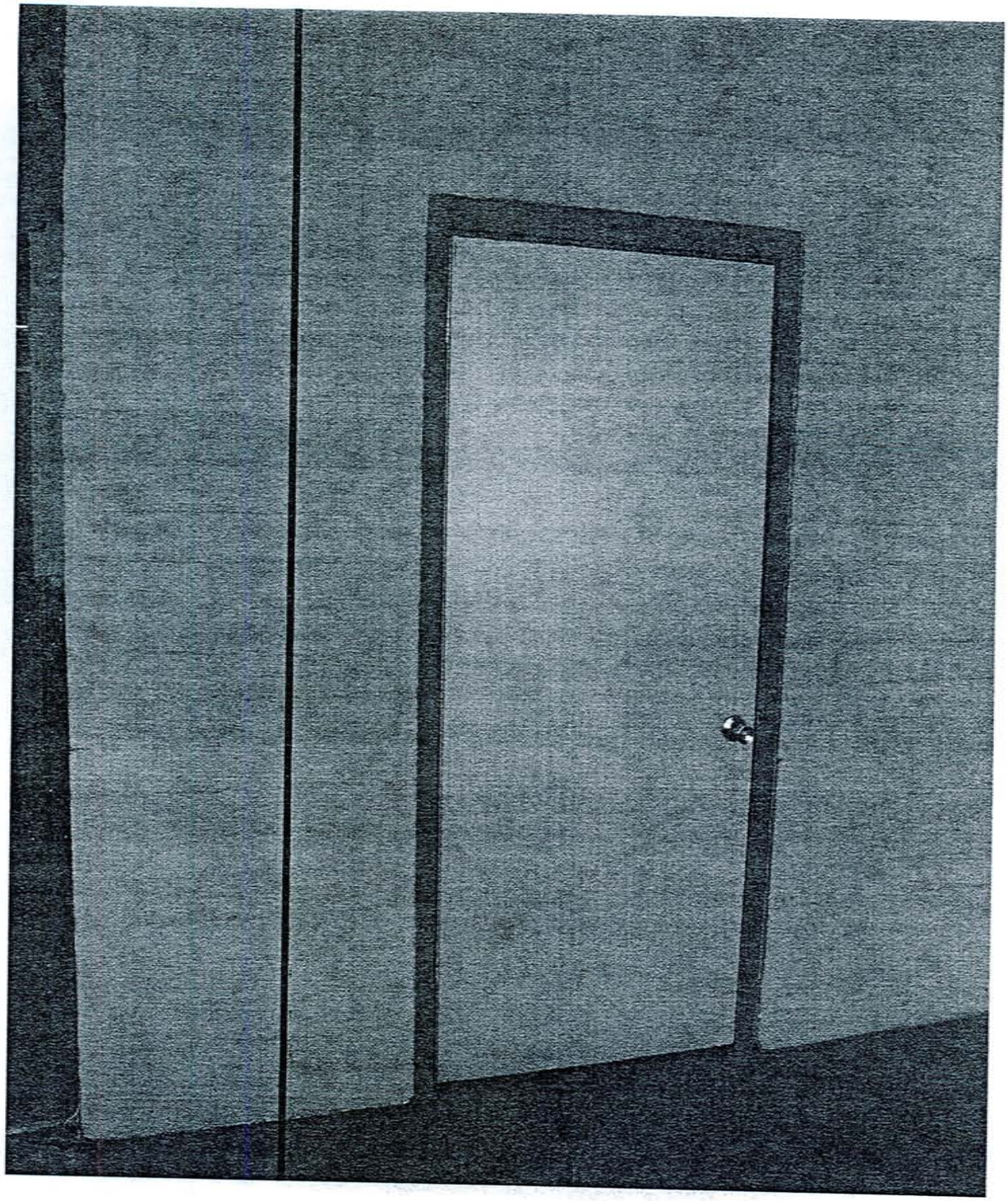






The lines in the following slides show where we would have to move the load bearing wall if we were not granted the variance. This would cause the roof to become unsound.





GALVESTON STREET + SUNLAND DRIVE

TO CODE?

NOT TO CODE?

NO ROOM FOR CODE?

GALVESTON STREET

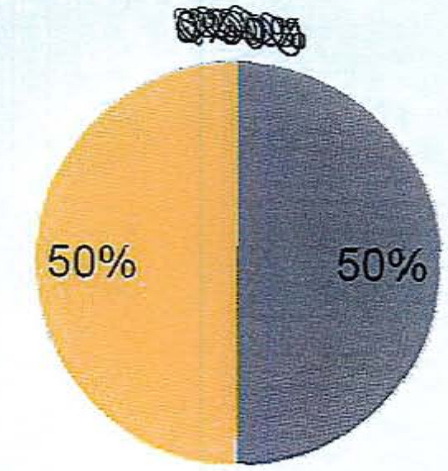
Only **22.8%**

of the houses on Galveston street have carports that are to code.*

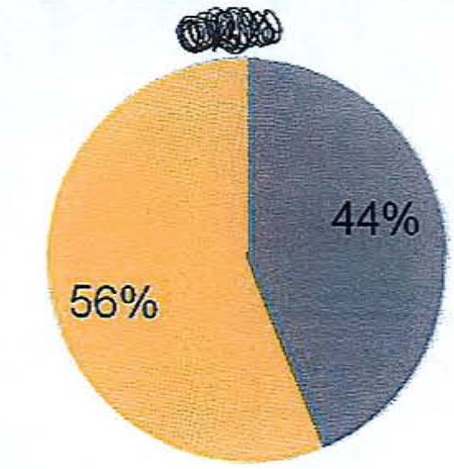
*that meet the city code for carport dimensions and setback requirements

GALVESTON STREET

43%
Houses with a carport



57%
Houses without a carport**



*On property line/less than 5ft setback

**The zoning for this neighborhood requires that every home have 1 carport. (46% of houses on this street don't have a carport)

GALVESTON STREET

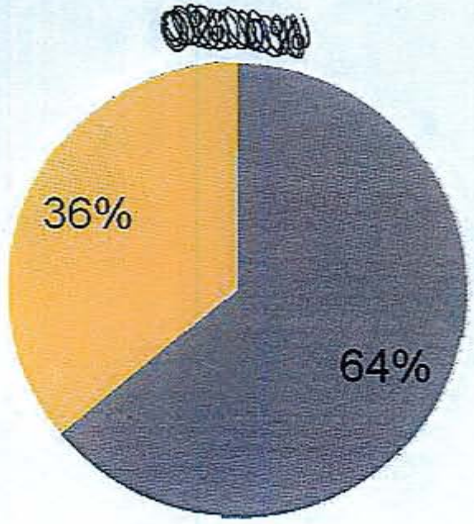
Only **48.8%**

of the houses on Galveston street have carports that are to code.*

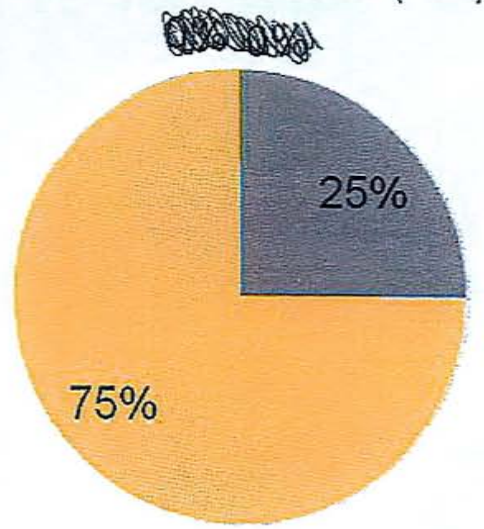
*that meet the city code for carport dimensions and setback requirements

SUNLAND DRIVE

Houses with a carport



Houses without a carport**



*On property line/less than 5ft setback

**The zoning for this neighborhood requires that every home have 1 carport.

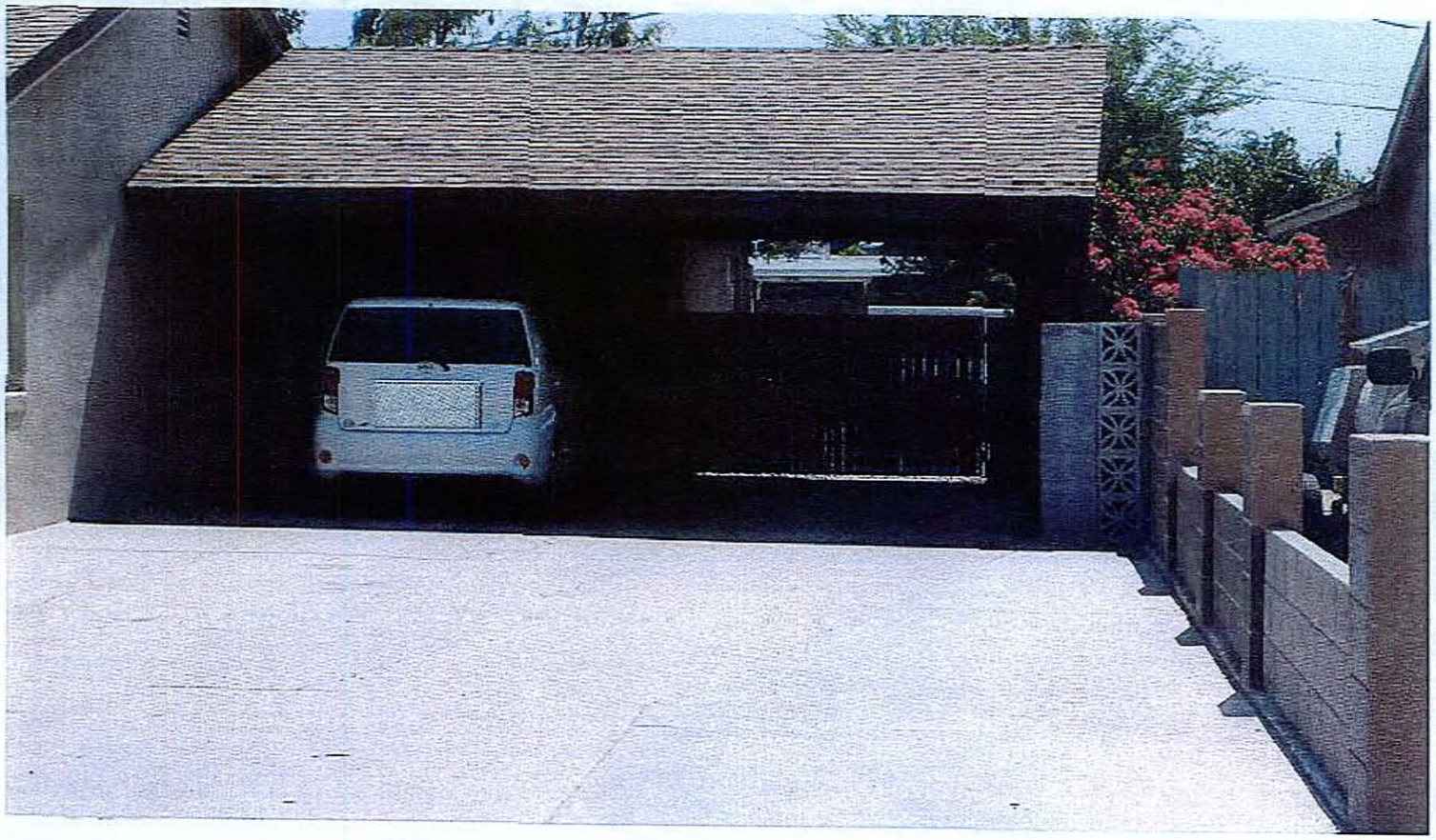
CARPORT ON PROPERTY LINE -SUNLAND DRIVE-

On property line

Not to code, no room for code

On property line

Not to code
(no room for code)

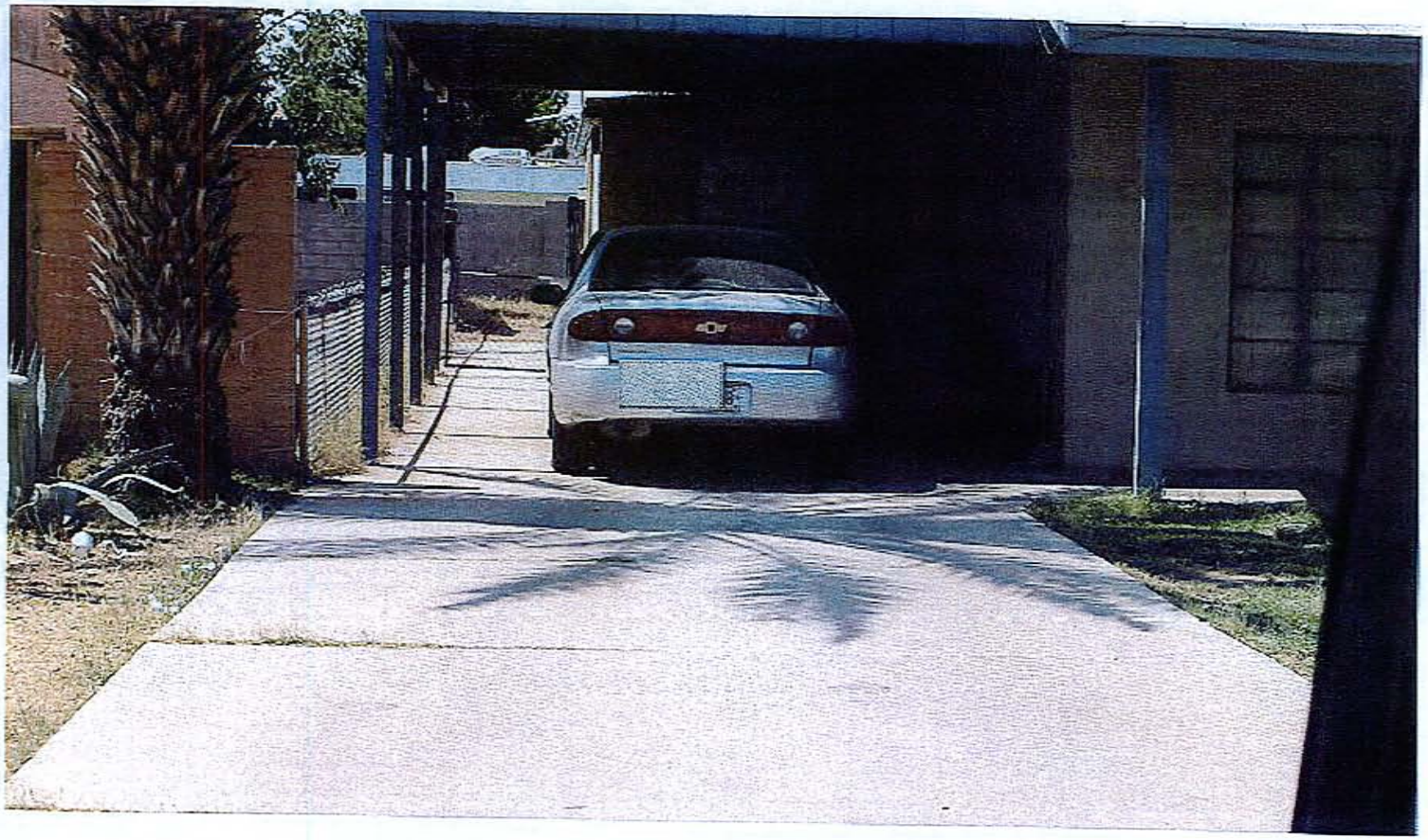


On property line

On property line

On property line

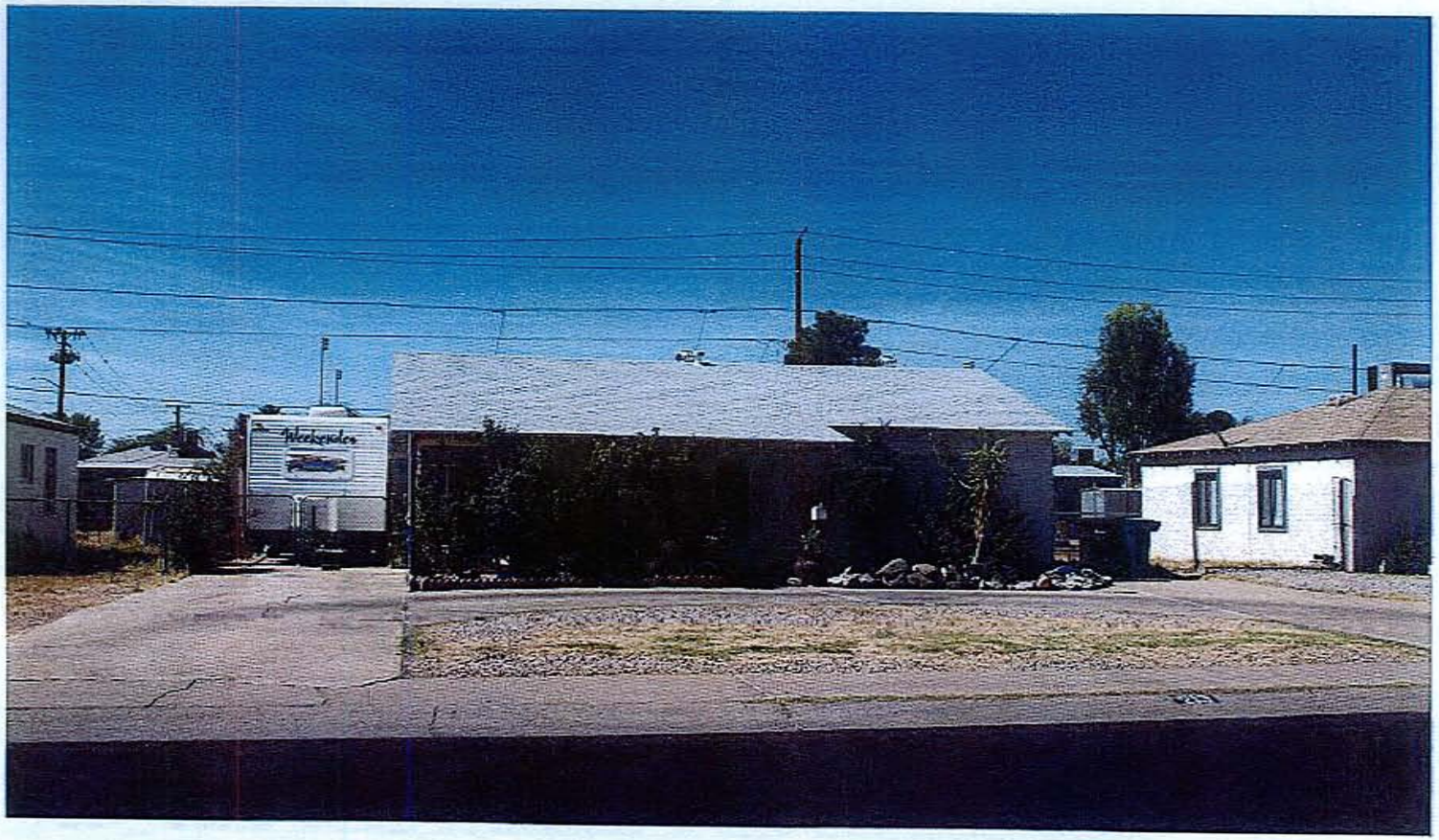
CARPORT ON PROPERTY LINE -GALVESTON ST-



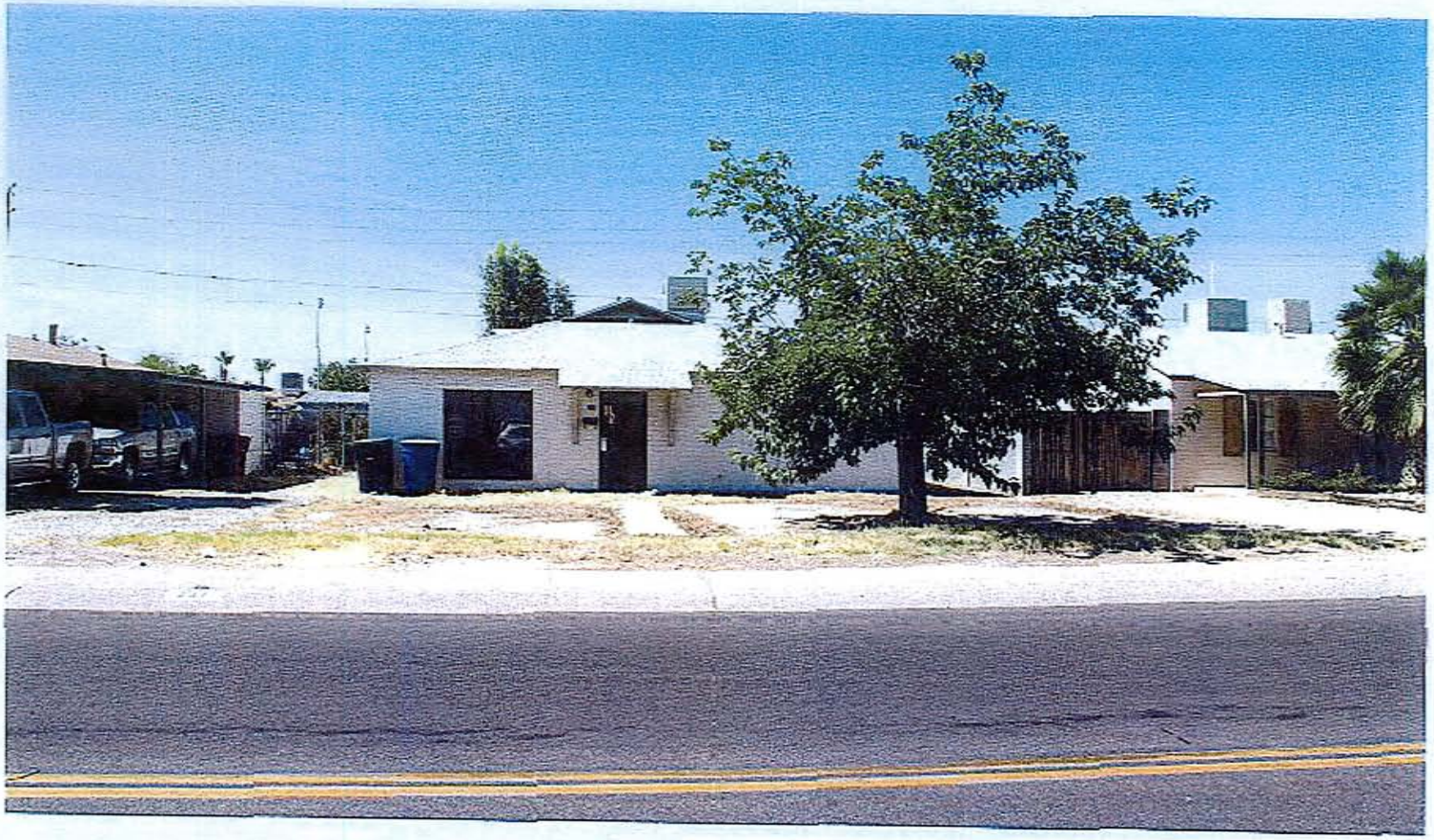
No carport, no room for code

No carport, no room for code

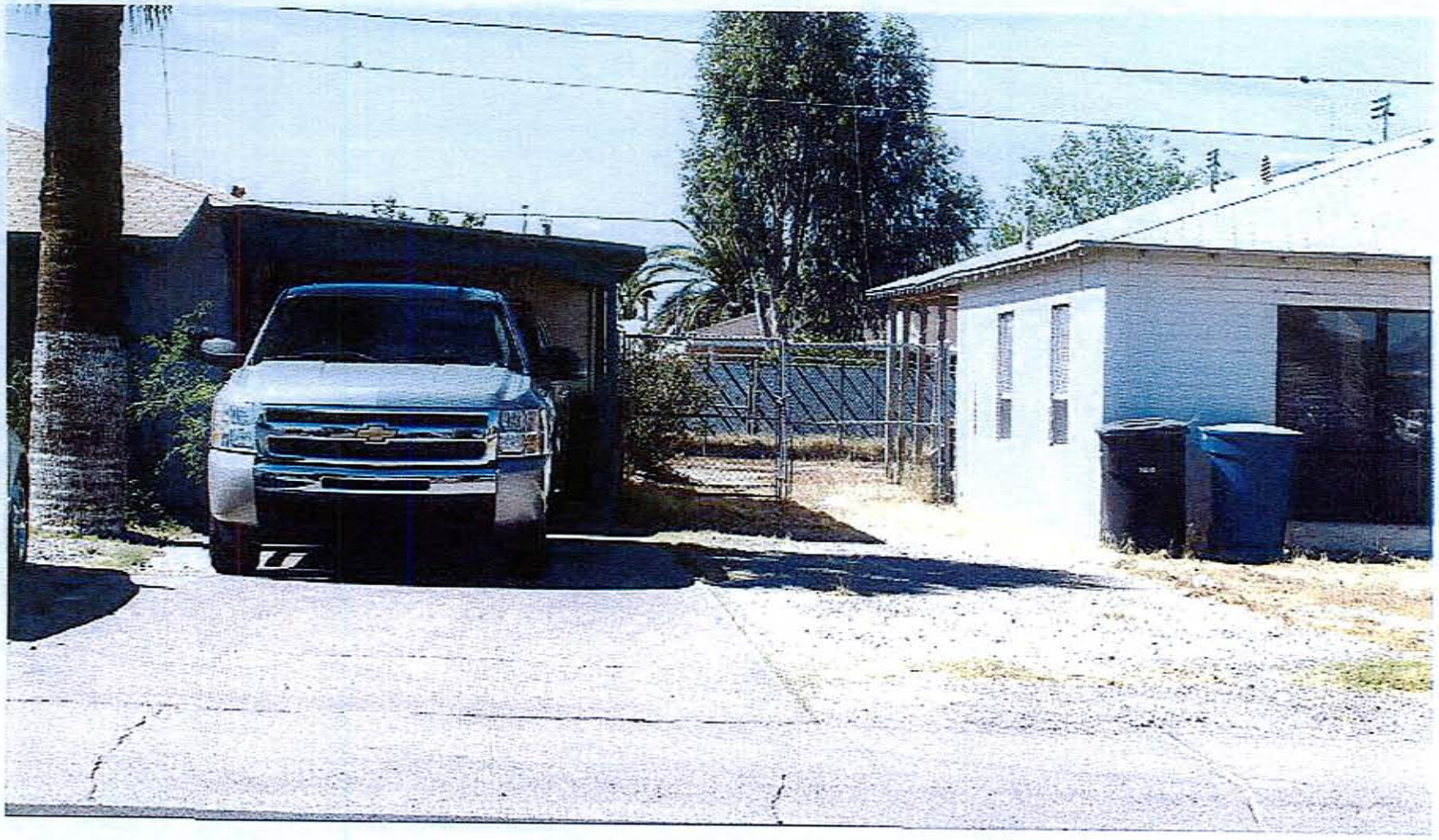
On property line



No carport



No room for code



On property line

← On property line

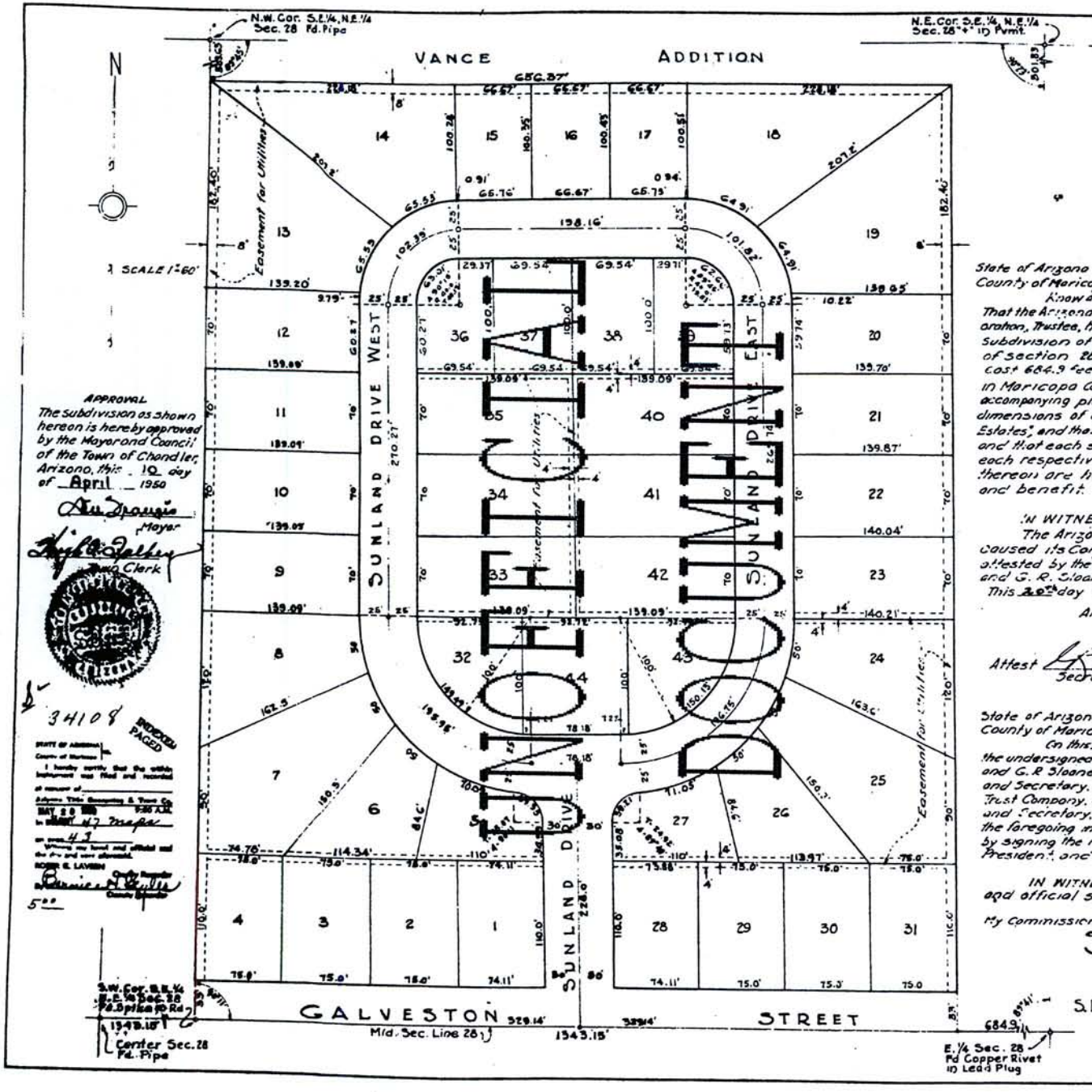
No carport →
(room for code)

On property line

No room for code

No room for code.

47-43



This is to certify that the survey and subdivision of the premises described and plotted hereon were made under my direction during the month of March, 1950.

Johannessen & Girard
Registered Civil Engineers

State of Arizona } SS
County of Maricopa }

Know all men by these Presents:

That the Arizona Title Guarantee And Trust Company, an Arizona Corporation, Trustee, has subdivided under the name of Sunland Estates a subdivision of the south 815.4 feet of the S.E. ¼ of the N.E. ¼ of Section 28 T.1 S., R.5 E. G. & S. R. B. & M. except the east 684.9 feet and except the south 33 feet, located in Maricopa County, Arizona, and hereby declares that the accompanying plat sets forth the location and gives the dimensions of each lot and street constituting said "Sunland Estates", and that each lot shall be designated by the number, and that each street shall be known by the name given to each respectively on said plat, and that all streets shown thereon are hereby dedicated to the Public for its use and benefit. Easements are dedicated to the use shown.

IN WITNESS WHEREOF:

The Arizona Title Guaranty And Trust Company, has caused its Corporate seal to be affixed, and the same to be attested by the signatures of F. E. Pettycrew its Vice President and G. R. Sloane, its Secretary there unto duly authorized This 20th day of MAY 1950

Arizona Title Guarantee And Trust Company

F. E. Pettycrew
Vice President

Attest G. R. Sloane
Secretary

State of Arizona } S.S.
County of Maricopa }

On this 20 day of MAY 1950, before the undersigned officer, personally appeared F. E. Pettycrew and G. R. Sloane who acknowledged themselves to be the Vice President and Secretary, respectively of the Arizona Title Guarantee And Trust Company, a corporation, and that they, as Vice President and Secretary, respectively, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the Corporation, by themselves as Vice President and Secretary, respectively.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

Notary Public

My Commission expires: 2-9-51

APPROVAL

The subdivision as shown hereon is hereby approved by the Mayor and Council of the Town of Chandler, Arizona, this 10 day of April 1950

Mayor

Town Clerk

$ 34108

INDEXED PAGED

STATE OF ARIZONA, County of Maricopa, ss. I hereby certify that the within instrument was filed and recorded at request of Arizona Title Guaranty & Trust Co. MAY 20 1950 9:30 A.M. in Book 47 Maps on page 43. Witness my hand and official seal the day and year aforesaid. ROBERT E. LAVEEN, County Recorder, By Bernice H. Phillips, Deputy Recorder

5.00

SUNLAND ESTATES

A SUBDIVISION OF PART OF THE S.E.¼, N.E.¼ SEC. 28, T.1S., R.5E. G.&S.R.B.&M. Maricopa County, Arizona.

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.