A.

JUN 1 0 2009

Chandler • Arizona
Where Values Make The Difference

MEMORANDUM **Planning and Development – BA Memo No. 09-011**

DATE: JUNE 1, 2009

TO: BOARD OF ADJUSTMENT

THRU: JEFF KURTZ, ACTING PLANNING AND DEVELOPMENT DIRECTOR
KEVIN MAYO, ACTING PLANNING MANAGER KM

FROM: BILL DERMODY, SENIOR CITY PLANNER BD

SUBJECT: VAR09-0007 RICH RESIDENCE

Request: Variance from the Zoning Ordinance to allow a carport to be constructed that encroaches into the side yard minimum setback

Applicant: David B. Rich

Location: 348 S. Oregon Street, south of Frye Road and west of Arizona Avenue

Existing Use: Single-Family Home

Zoning: Medium-Density Residential District (MF-1)

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 carport to be constructed adjacent to an existing single-family house. The 9'-wide structure would encroach approximately 3'-6" into the minimum 9' setback on the south side of the house, leaving a setback of 5'-6". The house does not currently have a carport or garage, but it does have a concrete driveway leading back to where the carport is proposed.

The property, which contains a single-family home, is located south of Historic Downtown Chandler in an area that is predominantly zoned Medium-Density Residential District (MF-1) and contains many older single-family homes. The subject home was built in 1989, more recently than most in the area. Three neighboring homes, including two to the immediate north

and one to the immediate south, are owned by the City of Chandler and were built in 1996 or more recently. Most but not all homes in the area have carports or garages, many of them closer than 5' to the side property lines and therefore likely illegal structures.

As noted in the application, the livable portion of the house is located closer to the street (about 20' closer) than most houses on its side of the street on this block. The subject house's existing front setback of 22' exceeds the minimum front yard setback of 20', but it does not allow sufficient space for a new carport to be placed there.

Most area residential properties are between 4,686 and 5,009 square feet in size, though many are significantly smaller or larger (including those across the street from the subject site). At 5,009 square feet, the rectangular subject property is typically sized and shaped for the area.

CODE REQUIREMENTS

Setbacks in the Medium-Density Residential (MF-1) District are established by the Zoning Code:

35-803. Height and area regulations.

(3) *Side yards.*

(a) *Interior lots*: For single-family, two-family, and multi-family dwellings, no side yard shall be less than five (5) feet in width, except for dwelling units constructed with common or party wall, the total of both side yards shall not be less than 15 feet.

Since the property's north side maintains a 6' setback from the property line, the south side requires a 9' minimum setback (15 minus 6).

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 5,009 square foot lot is a typical size and shape for the neighborhood. However, the livable portion of the house is built more closely to the street than others in the area. Staff is of the opinion that this criterion has indeed 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 owner has enjoyed substantial property rights since the house's construction in 1989. It is not a property right to build a carport that violates the minimum setback. Though

carports are common in the area, this is not the only property to lack one (it is one of four on its block without a carport). Additionally, a carport could be placed in the rear of the property that meets minimum setbacks and is accessed by an extension of the existing driveway. 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 a carport that does not meet minimum setbacks. 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.

As of this writing, Staff is unaware of any opposition.

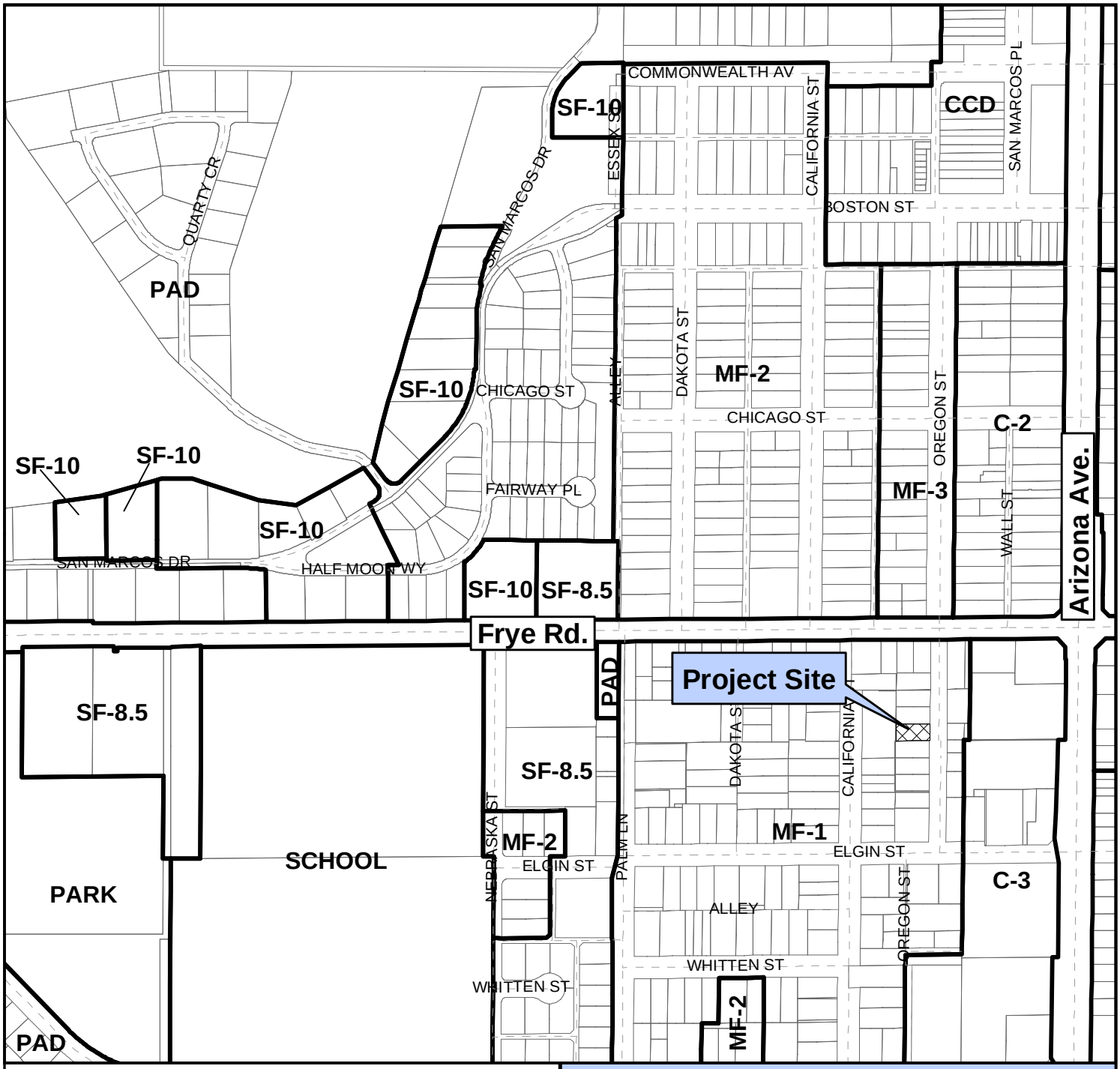
SUMMARY
Staff does not support this request. Though the property has a special circumstance related to the house's placement on the lot and corresponding inability to place a carport in front, the variance is not necessary to enjoy substantial property rights. The requirement to meet the minimum side yard setback is not a hardship for this property. Not all houses in the area have carports, and this property could accommodate a carport in the rear yard. The property has been substantially developed, with the property owner enjoying development rights since 1989 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. The property can be enjoyed without a variance.

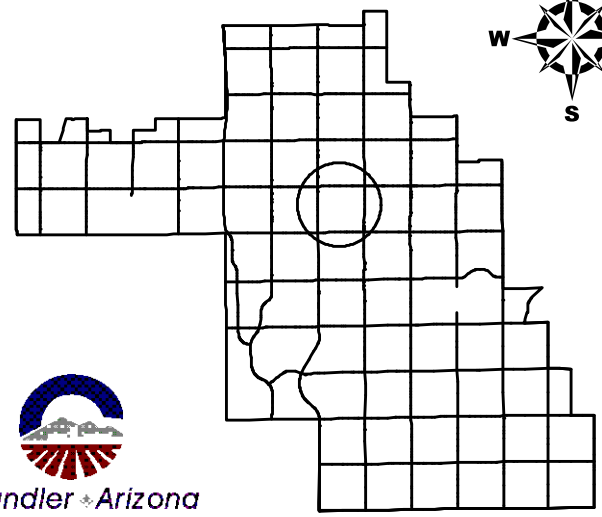
RECOMMENDED ACTION
Staff recommends denial of this request.

PROPOSED MOTION
Move to deny Variance request VAR09-0007 RICH RESIDENCE, as recommended by Staff.

Attachments
1. Vicinity Map
2. Aerial Close-up
3. Site Plan
4. Applicant Photo Index
5. Applicant Photos
6. Application and Narrative
7. Powers and Duties



Vicinity Map

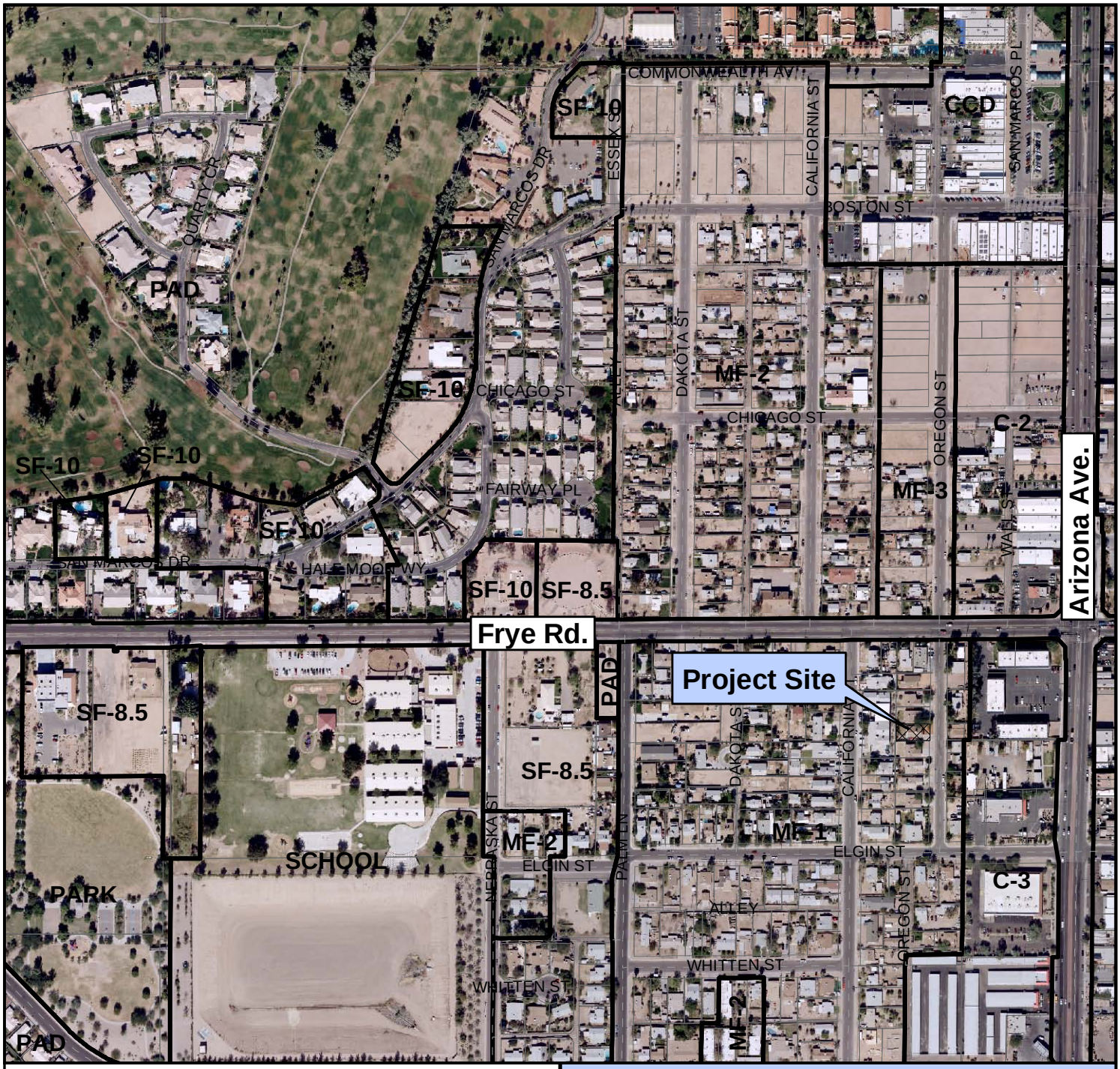


VAR09-0007

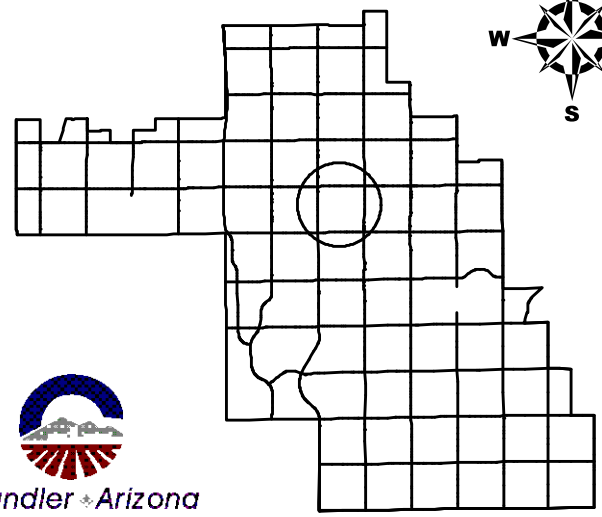
Rich Residence
348 S. Oregon St.

Chandler Arizona
Where Values Make The Difference

CITY OF CHANDLER 5/13/2009



Vicinity Map



VAR09-0007

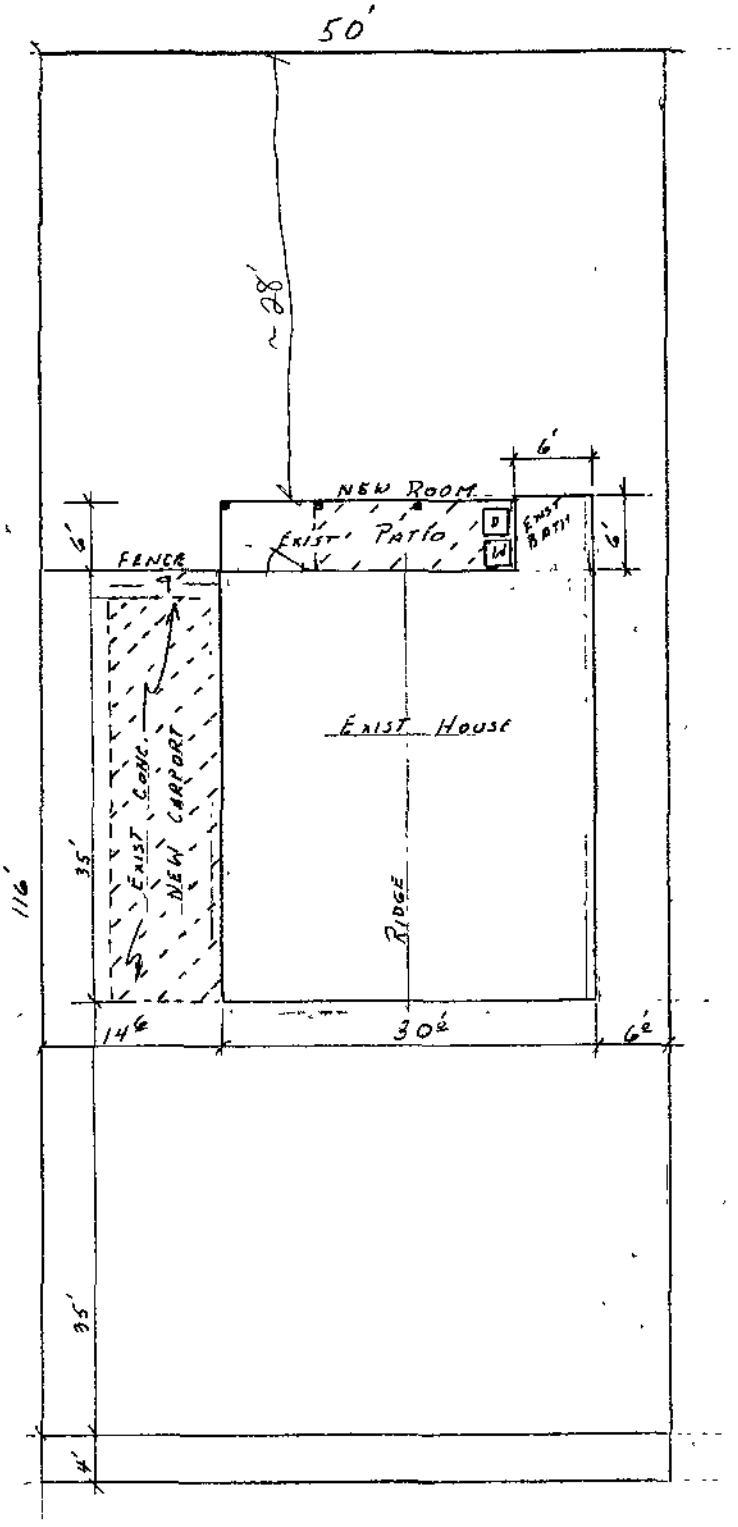
Rich Residence
348 S. Oregon St.

Chandler Arizona
Where Values Make The Difference

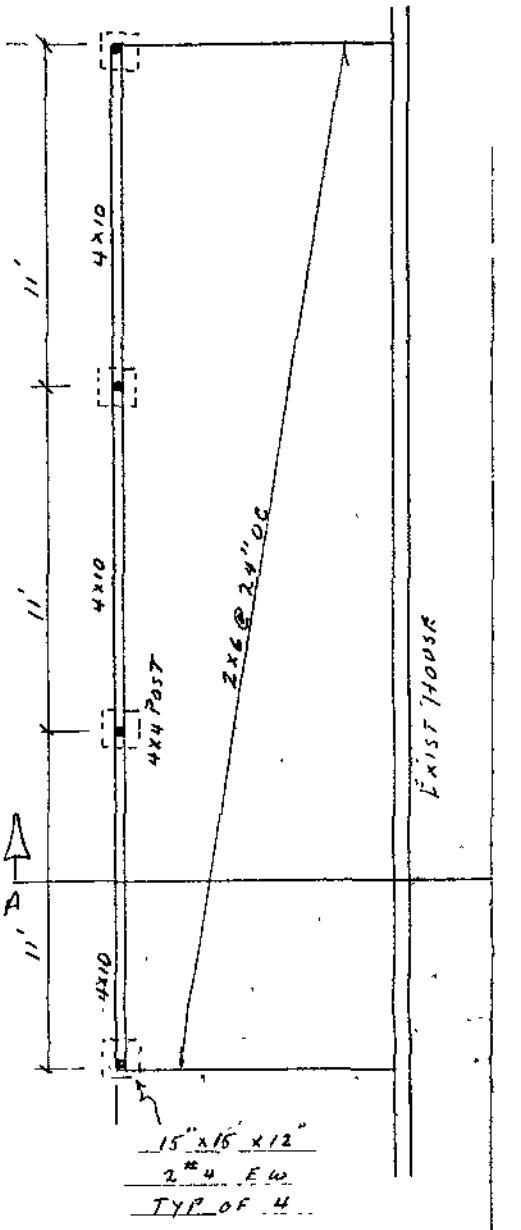
CITY OF CHANDLER 5/13/2009

348 S. Oregon St.

N



EXIST. PLOT PLAN
SCALE 1"=10'



NEW CARPORT
SCALE 1/4" = 1'-0"

NOTE
TIE INTO EXIST.
HVAC SYSTEM

PICTURE INDEX

1 SUBJECT PROPERTY AND NEIGHBOR TO THE SOUTH

2 NEIGHBOR ACROSS STREET - EAST OF

3 OTHER NEIGHBOR ACROSS STREET - EAST

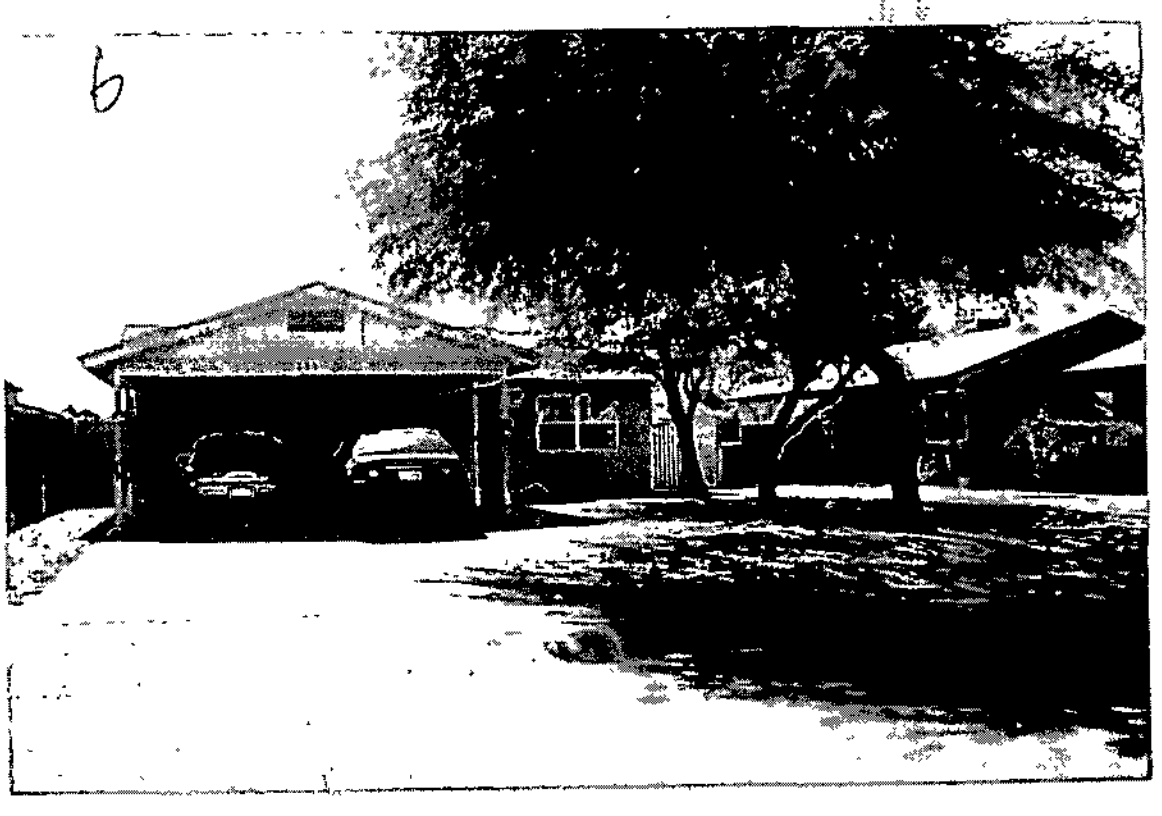
4 NEIGHBORS TO THE NORTH OF SUBJECT PROPERTY

5 NEIGHBORS S OF SUBJECT PROPERTY

6 ~~NE~~ NEIGHBORS S of SUBJECT PROPERTY

3

5


6

Chandler · Arizona
Where Values Make The Difference

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 DAVID B RICH	
Property Location/Address 348 S OREGON	City, State, Zip Code CHANDLER AZ 85225

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

ALLOW A 9' WIDE CARPORT BE BUILT ON THE SOUTH SIDE OF MY HOME, there is AN EXISTING CONCRETE SLAB

Is this variance for an existing structure (e.g fence, pool, etc.)? Yes: _____ 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 DAVID B RICH	
Mailing Address 817 N GREGORY PL	Phone Number 480-961-1004
City, State, Zip Code CHANDLER AZ 85226	Fax Number 480-961-0650
Applicant/Representative Name SAME AS PROPERTY OWNER	
Mailing Address	Phone Number
City, State, Zip Code	Fax Number
Property Owner or Representative Signature [signature]	Date 5/11/09

For City Use

Date Filed	Development No	Case Planner
05-11-09	VA1209-0007	

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.

See Attached

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

See Attached

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.

See Attached

Justification for variance request

1. Currently this property already has a concrete slab where the proposed carport would be built. It is the only house on my side of the street that does not have a carport. This is the only home that is built more forward on the land and so the carport must be built on the side. The other homes on my side of the street have the carport in front of the homes because they sit further back on the land so my home is unique in that way. Homes across from my home have carports that so not have the 15 foot total setbacks are required by code. I have hired a licensed bonded contractor to build the carport to meet all other aspects of the code.

2. Since mine the only home that does not have a carport it lessens the value of my home. It also does not allow me to protect my vehicle from the Arizona sun and the monsoon season. All my other neighbors have carports so as such I am at a disadvantage.

3. Granting the variance will actually improve the neighborhood as it will be built by a license contractor and painted to match the home. It will meet code in every other aspect of construction so as to improve the physical appearance of the neighborhood. It will not encroach on my neighbors in any way. It most likely will increase the value of the other homes in the neighborhood. This home is in the Chandler Redevelopment District and would be the most improved home on the street. With the addition of the carport it would demonstrate how people are putting money into these areas. The building of this carport affects no one in the neighborhood but myself but it will improve the overall appearance of the block.

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.