

Request for Variance – 171 S. Willow Creek St, Chandler, AZ 85225

I received a notice of violation from the City of Chandler Code Enforcement, case #22-02-0785. The violation listed is City Ordinance: 30-17(A) Deteriorated Building, Structures, and Fences. The corrective Action listed stated to contact Development Services 480-782-3000 for information for the structure built in the back yard regarding a possible permit required. Follow Development Services requirements that may be to possibly to remove/reduce the structure.

I contacted Chandler City Planner Ben Cereceres and learned that the reason for the violation was probably due to my existing pergola. Mr. Cereceres informed me that the property setbacks for my property are set at 15 feet for the front, 5 feet for both sides, and 10 feet for the rear of the property. Mr. Cereceres stated that the property setbacks were established by the builder when the plans for the Single-Family Residential Development were initially submitted to the City of Chandler. Mr. Cereceres said the purpose of setbacks were due to health and safety and to establish open space between buildings.

Mr. Cereceres provided me with a copy of the City of Chandler zoning codes for detached buildings & structures in residential zoning districts. Based on this document I am authorized to have an open-air structure (pergola) not more than 150 square feet measured from edge of roof, which includes roof overhang/eave/edge of beam. The maximum height is 10 feet measured to the grade to very top of pitched roof or flat roof. Setback distance from side and rear property lines state five (5) feet rear and side property lines as measured from edge of roof/cover. If rear yard abuts an alley or public/private common open space (not a street) then no rear setback is required. There is no limit to the number of each type of structure permitted on the lot.

Restrictions and other information states that it can be located in the side yard or rear yard. Must comply with Lot Coverage of underlying zoning district (**Mr. Cereceres stated this does not apply to my property**). The structure is open on the sides and supporting a roof or lattice-type cover primarily for the purpose of providing shade in conjunction with a recreational activity, i.e. pool, spa, sitting area. If more than one ramada then each structure must be separated by a minimum of 1-foot at roof edge.

This request for Variance is for the property commonly known as: 171 S Willow Creek St, Chandler, AZ 85225-5779, located in The Springs Unit 2 Amended, lot 109, parcel 303-69-117. I am requesting a variance for a stand-alone pergola in the backyard on my property located behind my house.

According to the Maricopa County Assessors website the size of the property is listed as 46' feet by 100' feet. I have not been able to find any information or map on the internet that shows what the property setbacks are for this property.

I am requesting a variance for a stand-alone pergola in the backyard on my property located behind my house. The pergola is 9 feet deep and is not attached to the house or the rear cement block wall at the property line. There is approximately 1.5 feet between the house and the pergola and there is also approximately 1.5 feet between the rear cement wall and the pergola. The pergola is approximately 30 feet wide and is approximately 7 feet from the east cement block wall and 7 feet from the west cement block wall. The open space between the pergola and the houses located to the east and west of my property is greater than the open space that is available between the actual houses. The pergola does not constitute a health or safety risk to any adjacent property.

The granting of this variance will not be materially detrimental to any person, property, or the public welfare of the community. The property located south (to the rear) of my property is 1750 E. Fry Road, Chandler, AZ 85225, an acre property zoned AG-1. This property and the properties directly east of it sat vacant for many years and were not even listed for sale. My pergola was built prior to these properties being sold and occupied.

On the south side of the cement block wall that separates my rear yard and the rear of property at 1750 E. Fry Road, is a small open canal that runs east/west across the entire property and all the other acre properties in that area of Fry Road. The canal is located approximately 5 feet south of the cement block wall and is approximately 5 feet wide. There is a metal shade structure located approximately 5 feet south of the canal that extends to the south covering livestock corrals on this property. The closest building other than the corral on that property is located approximately 45 feet east and 100 feet south of the cement block wall at my property line. The pergola did not affect the property value when this property was purchased.

The location of my pergola is unique because of the canal and its location. Nothing can be built in the area between the canal and the cement block wall essentially establishing an additional area of open space. The location and size of my pergola does not constitute a health or safety concern and is not materially detrimental to a person, property, or the public welfare of the community.

The property located on the west side of my property is 175 S Willow Creek St, Chandler, AZ 85225. The open space between the two houses is approximately 12 feet. The west side of the pergola is located 7 feet east of the cement block wall between the houses and it meets the side yard setbacks requirements. This property has been sold a total of three (3) times since the pergola has been built and it has not affected the property value.

The property located on the east side of my property is 167 S Willow Creek St, Chandler, AZ 85225. The open space between the two houses is also approximately 12 feet. The west side of the pergola is located 7 feet east of the cement block wall between the houses and it meets the side yard setbacks requirements. This property has been sold a total of four (4) times since the pergola has been built and it has not affected the property value.

The variance is necessary for the preservation and enjoyment of property. The pergola serves as an outdoor living space that consists of a cooking area, a seating/entertainment area, and a dining area. With the use of outside coolers this area can be used all year long.

The area is mainly used by my adult son (24 years old) with autism who also suffers from an autoimmune disorder which limits his ability to be outside the residence in populated areas. When He gets exposed to a virus, the antibodies his body produce pass through the blood brain barrier and attack the frontal lobe of his brain. The affects he experiences from this are similar to what a person who suffers from a stroke experience. His recovery time period ranges from one to two years. This provides him with a safe place to be outside and not just be restricted to being mostly indoors.

I work for a non-profit called Under the Shield Inc., which offers mental wellness and stress coaching for Police, Fire, and Military personnel. I also use this outdoor area to host diners and small group meetings for some of our first responders because of its relaxing and stress-free environment. This organization was extremely important to Chandler Police Officer Christopher Farrar who was killed in the line of duty

on 4/30/2021. Under the Shield Inc. first worked with Officer Farrar 9 years ago when was personally struggling from the effects of his job. Officer Farrar became a Stress Coach for Under the Shield Inc. so he could assist other first responders get through difficult times like he experienced. His family is now part of Under the Shield Inc. to honor his legacy and occasionally use this space to meet with first responders.

I was able to find limited documentation regarding property setbacks for property located in the City of Chandler. On website [LRP_SECAP_CH_II.pdf \(chandleraz.gov\)](#), I located a document titled, Southeast Chandler Area Plan, Chapter II – Single-Family Residential Development Standards. In Section B - PAD Development Standards, paragraph 5 states: When backing onto an arterial street, the rear yard setback for a two-story elevation shall be a minimum of 40 feet, a minimum of 30 feet for a one-story elevation. A covered patio may be considered a single-story element and may extend into the rear setback by no more than ten feet. Side yards shall be a minimum of 10 feet on each side, with a minimum 20 feet separation between homes. Nowhere in the document does it discuss what the setbacks are for a property that doesn't back onto an arterial street. **According to Mr. Cereceres this document does not apply to my property.**

I also located website [Code of Ordinances | Chandler, AZ | Municode Library](#) which is the Code of Ordinances for the City of Chandler. Nowhere in this ordinance does it define what the minimum setbacks must be for Single-Family Residential Developments. **The information in this ordinance only establishes what the minimum size of yards shall be.**

Part VI. – Planning / Chapter 35 – Land Use and Zoning / Article VII – SF-8.5 – Single-Family District, 35-700 Height and Area Regulation states:

- (1) Height regulations: Same as AG-1 District. (2) Front yard: Same as AG-1 District. (3) Side yards: (a) 1. Interior lots (having alley access): For dwellings, no side yard shall be less than five (5) feet, and the total of both side yards shall not be less than fifteen (15) feet. For other principal buildings, no side yard shall be less than twenty-five (25) feet.
2. Interior lots (without alley access): For dwellings, no side yard shall be less than five (5) feet. One (1) side yard shall not be less than ten (10) feet and said ten (10) feet shall be clear from any projections from the dwelling or other appurtenances attached thereto. The total of both side yards shall not be less than fifteen (15) feet. For other principal buildings, no side yard shall be less than twenty-five (25) feet.
- (b) Corner lots: For residential purposes, the street side yard shall be not less than one-half ($\frac{1}{2}$) 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.
- (4) Rear yard: No rear yard shall be less than ten (10) feet.

All the information in this ordinance ARTICLE VII. - SF-8.5—SINGLE-FAMILY DISTRICT applies to the size of yards and does not address what the setbacks must conform to. If the setback standards found in document, Southeast Chandler Area Plan, Chapter II – Single-Family Residential Development Standards are the standards set by the City of Chandler and approved by the Chandler City Council, they are not followed in all Single-Family Residential Developments located in Chandler. **A document titled RESIDENTIAL DEVELOPMENT STANDARDS CHANDLER, ARIZONA, adopted May 23, 2002, also does not**

apply to my property because my property was built prior to these standards and the size of my property does not meet the minimum lot size requirements.

It appears there is not one setback standard that applies to all Single-Family Residential Developments. Without a minimum established setback standard that all Single-Family Residential Developments must adhere to, then there must be no minimum health and safety standards for developments that must be followed either.

Since the depth of my rear yard is only 12 feet 5 inches from the rear of my house to the cement block fence, the pergola provides the best possible way to get the most use out of the rear yard. I feel that the location of the canal and the fact that it creates a unique open space, a variance for the 10-foot rear setback requirement should be granted. The pergola does not constitute a hazard to any adjacent property or to my property. The pergola also is not materially detrimental to any person, property, or the public welfare of the community.

Based on the above listed information, I request that I be granted a variance for the pergola in my rear yard.

Sincerely,

Thomas Haubold