

Board of Adjustment Regular Meeting

November 8, 2023 | 6:00 p.m.
Chandler City Council Chambers
88 E. Chicago Street, Chandler AZ



Board Members

Dean Ouellette
Dan Henderson
Jim Ryan
Chad Wakefield
Manuel Ramirez
Iliamari Vaquez-Houston
Timothy Phillips

Pursuant to Resolution No. 4464 of the City of Chandler and to A.R.S. § 38-431.02, notice is hereby given to the members of the Board of Adjustment and to the general public that the Board of Adjustment will hold a REGULAR MEETING open to the public on Wednesday, November 8, 2023, at 6:00 p.m., at City Council Chambers, 88 E. Chicago Street, Chandler, AZ.

Persons with disabilities may request a reasonable modification or communication aids and services by contacting the City Clerk's office at (480) 782-2181(711 via AZRS). Please make requests in advance as it affords the City time to accommodate the request.

Agendas are available in the Office of the City Clerk, 175 S. Arizona Avenue.

Board of Adjustment

Regular Meeting Agenda - November 8, 2023

Call to Order/Roll Call

Scheduled/Unscheduled Public Appearances

Members of the audience may address any item not on the agenda. State Statute prohibits the Board or Commission from discussing an item that is not on the agenda, but the Board or Commission does listen to your concerns and has staff follow up on any questions you raise.

Consent Agenda

Items listed on the Consent Agenda may be enacted by one motion and one vote. If a discussion is required by members of the Board or Commission, the item will be removed from the Consent Agenda for discussion and determination will be made if the item will be considered separately.

1. **December 14, 2022, Board of Adjustment Meeting Minutes**

Move Board of Adjustment approve Board of Adjustment Regular Meeting Minutes of December 14, 2022.

Action Agenda

2. **Election of Officers**

Move Board of Adjustment elect a Chair and Vice Chair of the Board of Adjustment.

3. **PLH23-0054 Berglund Residence, located at 2310 E Folley St., generally located 1/2 mile south and east of Chandler Boulevard and Cooper Road**

Move Board of Adjustment approve/deny the variance request to allow encroachments into the required setbacks, PLH23-0054 Berglund Residence, as recommended by Planning staff.

Discussion

Member Comments/Announcements

Calendar

4. Meetings will be scheduled as needed and are held the second Wednesday of the month at 6:00 p.m., unless advertised differently.

Adjourn



Board of Adjustment Development Services Memo No. BOA 23-002

Date: 11/08/2023
To: Board of Adjustment
Thru: Kevin Mayo, Planning Administrator
From: Julie San Miguel, Senior Administrative Assistant
Subject: December 14, 2022, Board of Adjustment Meeting Minutes

Proposed Motion:

Move Board of Adjustment approve Board of Adjustment Regular Meeting Minutes of December 14, 2022.

Attachments

December 14, 2022 Regular Meeting Minutes

Meeting Minutes

Board of Adjustment

Regular Meeting

December 14, 2022 | 6:00 p.m.
Chandler City Council Chambers
88 E. Chicago St., Chandler, AZ



Call to Order

The meeting was called to order by Chairman Vasquez at 6:00 p.m.

Roll Call

Board Member Attendance

Chairman Vasquez
Board Member Ramirez
Board Member Wakefield
Board Member Ryan
Board Member Henderson

Staff Attendance

David de la Torre, Planning Manager
Harley Mehlhorn, City Planner
Darsy Olmer, Associate Planner
Thomas Allen, Assistant City Attorney
Julie San Miguel, Clerk

Absent

Vice Chairman Ouellette
Board Member Vasquez Houston

Pledge of Allegiance

The Pledge of Allegiance was led by Board Member Ryan.

Scheduled and Unscheduled Public Appearances

Members of the audience may address any item not on the agenda. State Statute prohibits the Board or Commission from discussing an item that is not on the agenda, but the Board or Commission does listen to your concerns and has staff follow up on any questions you raise.

Consent Agenda and Discussion

1. Regular Meeting Minutes of April 13, 2022, Board of Adjustment

Move Board of Adjustment approve Board of Adjustment Regular Meeting Minutes of April 13, 2022.

CHAIRMAN VASQUEZ confirmed there were no questions or comment from the Board Members.

Consent Agenda Motion and Vote

BOARD MEMBER RYAN moved to approve the Consent Agenda of the April 13, 2022, Board of Adjustment Regular Meeting; Seconded by BOARD MEMBER WAKEFIELD.

Motion carried unanimously (5-0).

Action Agenda Item No. 2 and Discussion

2. PLH22-0042 HAUBOLD RESIDENCE

DARSY OMER, ASSOCIATE PLANNER presented details regarding the request for a variance from Zoning Ordinance to allow encroachment into the required setbacks on property located at 171 S. Willow Creek Street, generally located north of Frye Road and approximately ¼ mile west of Cooper Road

THOMAS HAUBOLD, APPLICANT introduced himself and stated the request for variance is for a standalone pergola located in the back yard that is not attached to the house or block wall. He stated the pergola is 1.5-feet away from the house, 1.2-feet away from the rear wall, is 31-feet wide and stands at 8 feet tall. He explained that the pergola is not a hazard to his or the adjacent properties and is not detrimental to any other property, person, or welfare of the community. He presented an aerial image of the property, presented statements regarding the dimensions of the property and stated the setbacks for the property are 5-feet on the side and 10-feet on the rear. He explained that the reason for the setbacks are for health and safety and to create open space between structures. He presented statements regarding setbacks he found online, however upon showing these to staff, they stated that these setbacks do not apply to his property. He pointed out there are no ordinances in Chandler that list the minimum setbacks for single family residential and that the Chandler Residential Standards adopted May 23, 2002 does not apply to his property because the property was built prior to these standards and the size does not meet the minimum size requirements listed. He asked why the City does not have a single ordinance for single family residential setbacks if they are required for the health and safety and to establish open air space between buildings. He stated that something so crucial should be applied to all single-family residential developments across the board and this is not the case as many new communities only have 7-feet between them on the sides and 10-feet in

the rear. He asked what would the setback be in such a small space. He stated that staff provided him the ordinance for detached buildings and structures in residential zoning districts and read it aloud to the Board Members. He stated based on this ordinance he could have several pergolas no larger than 150-square feet if they were 1-foot away from each other and have a 5-foot setback. He stated there is no rhyme or reason and nothing seems to be consistent with Chandler's regulations. He stated the properties east and west have no issues with the pergola and they have been resold several times and this has not affected their property value. He stated the property south of the house is zoned AG-1 and the pergola was built prior to the property being sold and developed, it is his understanding if he was against an open field or a street there would not be a 10-foot setback requirement and emphasized as the pergola was built prior to the development this should be the case. He presented images of the property south of his, the pergola, and backyard. He explained the space consists of an outdoor cooking area seating and dining area, that can be used all year round. He stated this area is used by their son who cannot be in public due to health conditions and a meeting place for the nonprofit Under The Shied which provides necessary services to first responders and their families. He presented images of the shade value if the pergola met the setbacks and stated it would not be worth having a pergola as they would lose half of the shade. He explained that he tried to explore other options and asked staff if he could use fabric for the shade structure instead and he was told fabric would still count as a structure. He pointed out that newer builds that have smaller setbacks and spaces between the houses and questioned why the City is not consistent. He stated the granting of this variance is necessary for the preservation and enjoyment of his property rights and by granting this variance there would not be materially detrimental to persons, property, or the public welfare of the community. He asked the Board to grant his variance for these reasons and stated there are three neighbors present and eight letters in support of this case.

BOARD MEMBER RYAN pointed out that the Applicant mentioned that when the pergola was built, that the setback was different because of what is on the other side of the fence, he asked if staff looked into this issue.

DAVID DE LA TORRE, PLANNING MANAGER stated the structure would not have met setback requirements and it would not have been in compliance. He explained the section of the code that the Applicant is referring to states if you have a ramada that is 150 square feet or less and there is a private or public open space on the other side of that property line; it can be at zero setback. He further explained, the issue is there was never a public or private open space, and the area was a privately owned property that did not have anything built on it. He clarified it was not designated as private or public open space, therefore, that portion of the code does not apply, and it was never in compliance.

BOARD MEMBER RYAN asked the Applicant what is unique about the property that does not also apply to the houses on your left or your right, he further asked if there were any special circumstance that applied to the property.

THOMAS HAUBOLD, APPLICANT stated the property to the east is a two-story home with a larger backyard, so they could build a 150 square foot pergola and comply with the setbacks but his property is unique because of the size of his yard. He further stated the house on the other side has a similar build to his house.

BOARD MEMBER RYAN explained in order to be granted a variance the three criteria must be met; 1) A special circumstance or condition that applies to the property and is not self-imposed. 2) The variance is necessary for the preservation and enjoyment of substantial property rights. 3) The variance will not materially be detrimental to persons, property, or the public welfare of the community. He emphasized that the request does not have a special circumstance or condition that applies to the property.

THOMAS HAUBOLD, APPLICANT asked why the City does not have one setback across the board for all single-family residences.

BOARD MEMBER RYAN asked staff where can setback requirements be found.

DAVID DE LA TORRE, PLANNING MANAGER stated that setbacks are found in the PAD Zoning documents.

BOARD MEMBER RYAN asked if they can be found in the City Code.

DAVID DE LA TORRE, PLANNING MANAGER stated this cannot be found in the code as PADs are similar to custom zoning districts with different setbacks

CHAIRMAN VAZQUEZ asked if anyone from the audience would like to speak and invited them to come forward.

TRACY HAUBOLD, APPLICANT stated when the pergola was built there was an open field and asked why the pergola was not in compliance.

DAVID DE LA TORRE, PLANNING MANAGER stated the pergola was not compliant because the zoning code mentioned applies to public or private open space and the space behind the property was not designated as open space, it was private owned property that was not developed.

CHAIRMAN VAZQUEZ confirmed there were no further questions or comments from the Board Members.

Action Agenda Item No. 2 Motion and Vote

BOARD MEMBER RYAN moved to deny PLH22-0042, a request for variance from Zoning Ordinance to allow encroachment into the required setbacks on property located at 171 S. Willow Creek Street; Seconded by BOARD MEMBER HENDERSON.

Motion carried unanimously (5-0)

THOMAS HAUBOLD, APPLICANT asked if he has any recourse in regarding to the decision made this date.

CHAIRMAN VASQUEZ stated there is an appeals process.

DAVID DE LA TORRE, PLANNING MANAGER stated he will talk to the Applicant after the meeting to let him know about the appeals process and his options.

Member Comments/Announcements

None.

Calendar

Meetings will be scheduled as needed and are held the second Wednesday of the month at 6:00 p.m., unless advertised differently.

Adjourn

The meeting was adjourned at 6:34 p.m.



Kevin Mayo, Secretary

Chairman



Board of Adjustment Development Services Memo No. BOA 23-003

Date: 11/08/2023
To: Board of Adjustment
Thru: Kevin Mayo, Planning Administrator
From: Julie San Miguel, Senior Administrative Assistant
Subject: Election of Officers

Proposed Motion:

Move Board of Adjustment elect a Chair and Vice Chair of the Board of Adjustment.



Board of Adjustment Development Services Memo No.

Date: 11/08/2023
To: Board of Adjustment
Thru: Kevin Mayo, Planning Administrator
 David de la Torre, Planning Manager
From: Mikayela Liburd, Associate Planner
Subject: PLH23-0054 Berglund Residence

Request: Variance from Zoning Ordinance to allow encroachments into the required side yard setbacks.

Location: 2310 E Folley St, generally located 1/2 mile south and east of Chandler Boulevard and Cooper Road.

Applicant: Vicki Berglund

Proposed Motion:

Move Board of Adjustment approve/deny the variance request to allow encroachments into the required setbacks, PLH23-0054 Berglund Residence, as recommended by Planning staff.

Background/Discussion

The variance request is for a proposed structure to encroach into the 5-foot side yard setback on the west side of the property as well as an existing structure that is currently encroaching into the 10ft side yard setback to remain on the east side of the property. Both the proposed and existing structures are non-compliant with the side yard setbacks. Additionally, the existing structure to the east was never permitted through the City of Chandler and was recently brought to staff's attention through staff review of the variance for the proposed structure.

PROPERTY INFORMATION

Subdivision	Colonia Coronita Unit Four
Lot Number	586

Lot Size (New)	Approximately 11,014 Square Feet
Lot Size (Previous)	Approximately 8,023 Square Feet
Year of Construction	1985
Zoning	SF-8.5 Single Family District

SETBACKS

	Required Minimum Setbacks	Requested Setbacks Variance
Front Yard Setback	20'	No change
Side Yard Setbacks	5' and 10'	0' (west) and 2' (east)
Rear Yard Setback	10'	No change

REQUESTED VARIANCE

This variance is requesting deviation from the Zoning Code by the encroachment of two additions into the side yard setbacks. The side yards must maintain a minimum of 5' on the west side of the property and 10' to the east. The proposed structure would encroach 5' into the western side of the property, there would be no setback between the building and the property line. The existing illegal structure encroaches into the eastern side yard by approximately 8' offering 2' between the property line and the structure.

The code requires additions to comply with the same setbacks as the principle structure. The proposed and existing structure do not meet this requirement.

APPROVAL CRITERIA AND STAFF FINDINGS:

The following approval criteria are provided by Chandler City Code (Section 35-2502.6) for the Board of Adjustment to hear and decide variance requests. Following each criterion are Planning staff's responses. The applicant's written narrative answering the following criteria is included as an attachment.

A variance shall not be granted unless the Board of Adjustment shall find upon sufficient evidence that:

Criterion 1: "There are special circumstances or conditions that apply to the land, building, or use referred to in the application."

Staff Finding: There is ample room to relocate the structure on-site such as on the northeast side of the property just behind the principal structure or to the northwest portion of the property. 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 satisfied.

Criterion 2: "The granting of the variance is necessary for the preservation and enjoyment of substantial property rights."

Staff

Finding: The existing home demonstrates that the property has been allowed to develop, and

the property owner has enjoyed substantial property rights. Additionally, applicant has absorbed parts of the alley to the west and north of the property as of August 2023. Other lots located on the north side of the same street were only able to absorb the alley to the north side of their properties. As such, the subject lot has more space on its side yards than the other lots on the same street, providing more area to comply with side yard setbacks. It is not a property right to build an addition and violate the minimum side yard setback requirements. Planning staff is of the opinion that this criterion has not been satisfied.

Criterion 3: "The granting of the variance will not materially be detrimental to persons, property, or the public welfare of the community."

Staff Finding: The west side of the subject property adjoins a city public park. Allowing a variance to build an addition to the house that is setback zero feet from the western property line would in staff's opinion be detrimental to the community by allowing such a structure to visibly impose onto the public open space.

The Board of Adjustment may not:

Criterion

4: "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."

Staff finding: Planning staff finds no changes in the uses permitted are requested and will not be granted with the requested variance.

Criterion 5: "Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner."

Staff Finding: Planning staff finds that the hardship is self-imposed due to the availability of space for such additions elsewhere on the same property as well as

there being no changes in the requirements since its initial subdivision and construction in 1980's.

Criterion 6: "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."

Staff Finding: The variance would be a special privilege that neighboring properties do not legally enjoy due to the zoning regulations. Planning staff is of the opinion that this criterion has not been satisfied.

PUBLIC/NEIGHBORHOOD NOTIFICATION

- This request was notified in accordance with the requirements of the Chandler Zoning Code.
- An 11x17 inch Notice of Public hearing placard sign was posted at the subject site 15 days prior to the hearing.
- Notification post cards were sent out to property owners within a 600' radius of the subject site 15 days prior to the hearing.
- Planning staff has received three (3) general inquiries regarding the request, the inquirers were neutral on the request and were only seeking information not providing input.

RECOMMENDED ACTION

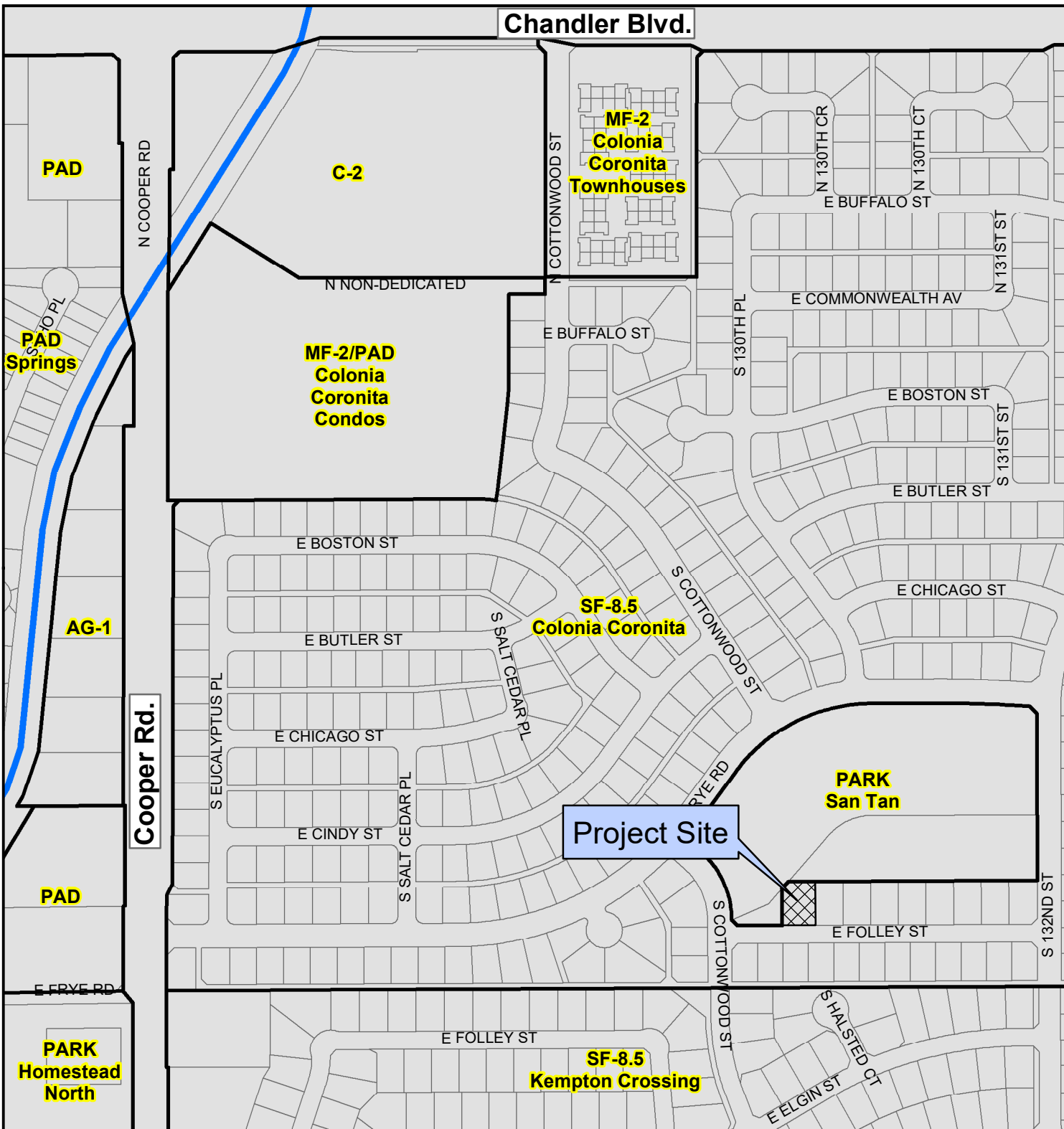
Planning staff finds that the requested variance does not meet the approval criteria and therefore recommends denial.

Attachments

Vicinity Maps

Applicant Justification

Exhibits-PLH23-0054



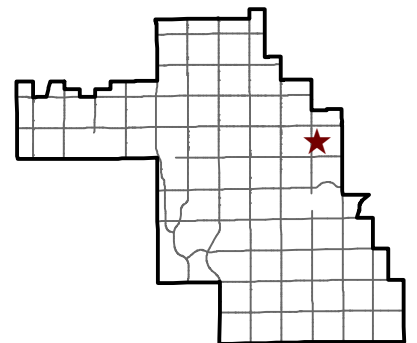
PLH23-0054 Berglund Residence



Proposed Project Details
2310 E. Folley St.
Variance



City of Chandler Planning Division
chandleraz.gov/planning
For more information visit:
<https://gis.chandleraz.gov/planning>



Letter of Intent
In Support of Request for Variance
2310 E Folley St. Chandler AZ 85225

This letter of Intent is in support of my request for a variance to the side yard located at 2310 E Folley St Chandler AZ 85225.

We are in a very UNQUIE situation. Our property is in a neighborhood that was built in the 1980's, that doesn't have an HOA and that is next to an open area (San Tan Park) all around us except for one neighbor to the east of us. (Please see attached documentation).

We would like to build a garage to the west of us with the width of a standard two car garage with enough room for us to enter/exit our vehicles.

We have already gone through the process through the City of Chandler, and they have vacated the alley and deeded it to us. (See attached documents)

Since the property is right next to San Tan Park and with no neighbors to the North or West of us it would NOT cause any undue burden to any neighboring residences. The structure will also tie into the existing style of the home.

We are in a situation (not self-imposed) with climbing interest rates and high inflation and the combination makes it impossible to purchase a house that will fit our needs. With this new garage it will allow us to turn the existing garage into living quarters for our aging 80-year-old Father so we can make sure all of his medical needs are met in a loving environment so he can age in place.

We have submitted all necessary documents and look forward to hearing from you.

Thank you for your consideration.

Respectively submitted,

Donald & Vicki Berglund 480-710-6642

LEGEND

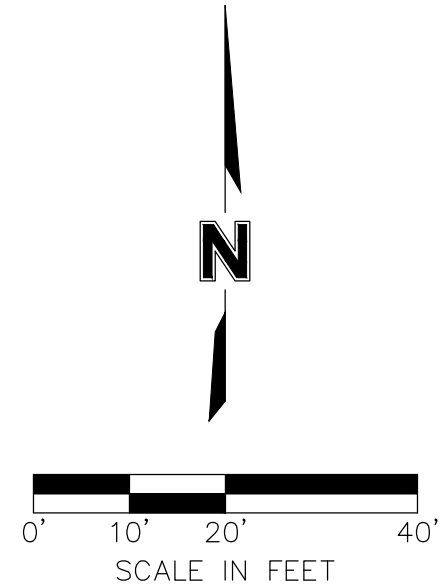
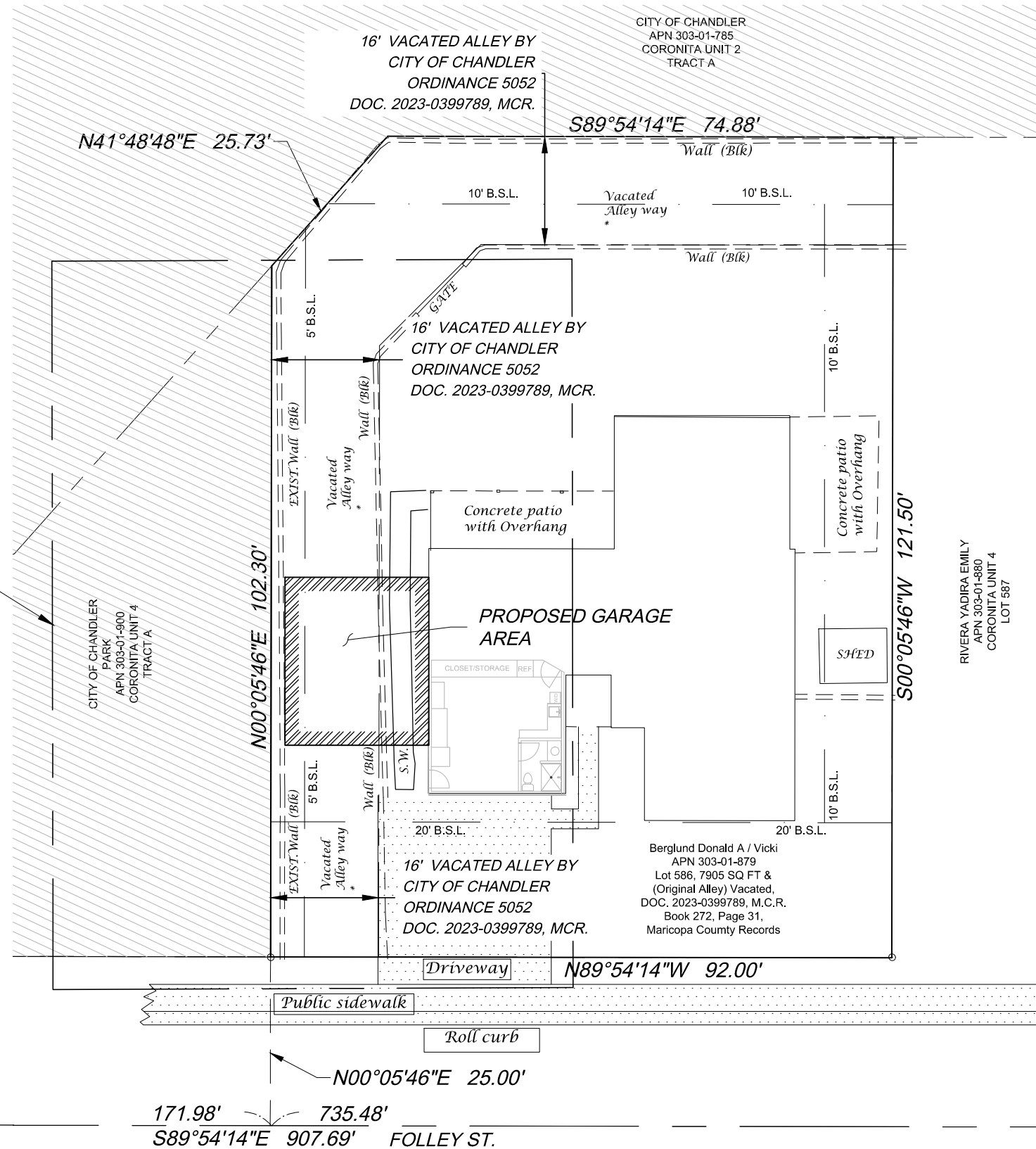
- PROPERTY LINE
- ADJOINING PROPERTY LINE
- OLD PROPERTY LINE
- PROPOSED GARAGE
- BLOCK WALL
- RIGHT-OF-WAY
- SET BACK LINE
- EXISTING STRUCTURE
- PARK

* = FINAL PLAT " COLONIA
CORONITA UNIT 4
BK. 272, PG. 31

SHEET 1 SITE PLAN
SHEET 2 VARIANCE REQUEST

DETAIL "A"
VARIANCE DETAILS
(SHEET 2)

FND 3" BRASS CAP FLUSH
AT THE INTERSECTION
OF FOLLEY ST. AND
COTTONWOOD ST.



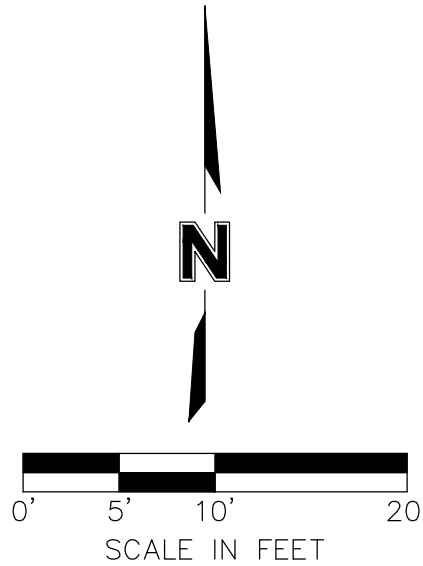
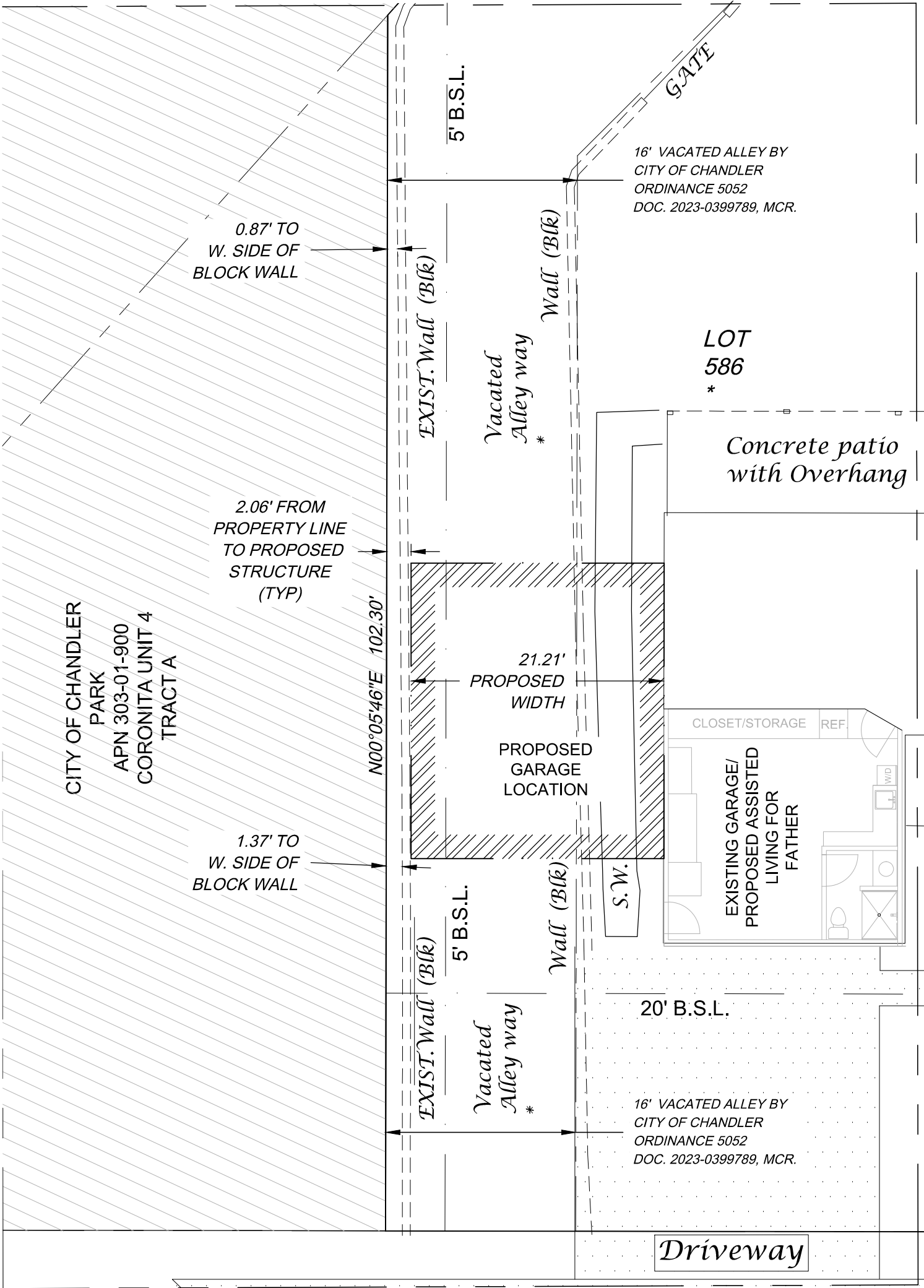
FND 3" BRASS CAP FLUSH
AT THE INTERSECTION
OF FOLLEY ST. AND
132 ST.

PROJECT NO: V-001
DRAWN BY: D. BERGLUND
DATE: 9.14.2023

EXISTING CONDITIONS SITE PLAN
CHANDLER, AZ., MARICOPA COUNTY

Donald A Berglund
2310 E FOLLEY ST
Chandler, AZ 85225

TEL 480.710.2701
love3dcad@gmail.com



DETAIL "A"

LEGEND

- PROPERTY LINE
- ADJOINING PROPERTY LINE
- OLD PROPERTY LINE
- PROPOSED GARAGE
- BLOCK WALL
- RIGHT-OF-WAY
- SET BACK LINE
- EXISTING STRUCTURE
- PARK

* = FINAL PLAT " COLONIA
CORONITA UNIT 4
BK. 272, PG. 31

NOTE: THE WEST BUILDING LINE OF THE PROPOSED GARAGE IS TO BE BUILT ± ALONG THE EAST FACE OF THE EXISTING BLOCK WALL, BEING 2.06 EAST OF THE WEST BOUNDARY LINE OF LOT 586 , RECORDED IN BOOK 272, PAGE 31, M.C.R. AND 16 FOOT VACATED ALLEY WAY, ORDINANCE 5052, DOC. 2023-0399789, M.C.R.

UPON APPROVAL OF THIS VARIANCE, THE EXISTING GARAGE ATTACHED TO THE HOME WILL BE CONVERTED INTO AN ADDITIONAL ROOM FOR ASSISTED LIVING PURPOSES FOR THE FATHER OF THE OWNER TO RESIDE IN, THE OWNER IS CURRENTLY LIVING IN THE HOME.