

Cochise County Board of Adjustment, District 1

Cochise County Regional Service Center
Conference Room
4001 E. Foothills Drive
Sierra Vista, Arizona 85635

**Regular Meeting
August 22, 2018**

6:00 p.m.

AGENDA

1. **CALL TO ORDER**
2. **ROLL CALL** (Introduce Board members and explain quorum and requirements for taking legal action).
3. **APPROVAL OF PREVIOUS MINUTES**
 1. Approve minutes of April 26, 2017.
4. **CALL TO THE PUBLIC** – Pursuant to A.R.S . § 38-431.01 (H) this is an opportunity for the public to comment. Individuals are invited to address the Board on any issue within the Board's jurisdiction. Since Board members may not discuss items that are not specifically identified on the agenda, Board action taken as a result of public comment will be limited to directing staff to study the matter, responding to any criticism or scheduling the matter for further consideration and decision at a later date.
5. **ACTION**
6. **PUBLIC HEARING**
 1. BA1-18-01 (Perez) The Applicant is requesting a Variance to Section 704.03 of the Zoning Regulations, which requires that all structures in an R-36 Zoning District be set back no less than 20 feet from all property lines.
7. **PLANNING DIRECTOR'S REPORT, INCLUDING PENDING, RECENT AND FUTURE AGENDA ITEMS AND BOARD OF SUPERVISORS' ACTIONS.**
8. **CALL TO BOARD ON RECENT MATTERS.**
9. **ADJOURNMENT**

BOA 1 Agenda Template

3. 1.

Meeting Date: 08/22/2018

Minutes of the April 26, 2017 Meeting

Submitted By: Robert Kirschmann, Community Development

Department: Community Development

Presentation: No A/V Presentation

**NAME
of PRESENTER:**

**TITLE
of PRESENTER:**

Agenda Item Text:

Approve minutes of April 26, 2017.

Background:

Attachments

Draft Minutes



Cochise County
Community Development
Planning, Zoning and Building Safety Division

Public Programs...Personal Service
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TO: Board of Adjustment, District 1
FROM: Robert Kirschmann, Planner II
For: Dan Coxworth, AICP, Development Services Director
SUBJECT: Minutes of the Regular Meeting of April 26, 2017
DATE: August 14, 2018

Members Present:

Grady Butler, Member
Kristin Gregan, Member

Staff Present:

Peter Gardner, Planner II
Robert Kirschmann, Planner II

Others Present:

Mike Gallagher - Applicant

These minutes for the BA1 meeting held on April 26, 2017 are complete only when accompanied by the memoranda for said meeting dated April 26, 2017.

Call to Order / Roll Call:

Acting Chairman Robert Kirschmann called the meeting to order at 6:00 p.m. at the Cochise County Service Center Conference Room in Sierra Vista. He noted that he present, and Members Grady Butler and Kristin Gregan were present, establishing that the Board had a Quorum and could proceed. Mr. Kirschmann stated that there were no Board members present from the previous meeting.

NEW BUSINESS

Item 1 Election of Officers (Page 1) – The Board determined that the election of officers would be more appropriate with a full board. Chairman Kirschmann moved to continue the item to the next scheduled meeting, Member Gregan seconded. The vote was unanimous.

Planning, Zoning and Building Safety

1415 Melody Lane, Building E
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Highway and Floodplain

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floodplain@cochise.az.gov

Item 2 (Page 1) – Introduce Docket and advise public who the Applicants are.

Docket BA1-17-01 (SBA Thorneydale): The Applicant is requesting a Variance from Section 1813.04 requiring all structures at a Wireless Communications Facility to be setback a minimum distance from all property lines equal to the height of the tallest structure. The proposed tower is 195' tall, and is set back less than 50' from the west property line, and S. Thorneydale Lane, and less than 100' from the east and south property lines, including E. Hereford Road. The subject parcel, APN 104-05-053L, is located on at 7169 S. Thorneydale Lane in Hereford. The Applicant is SBA/Wireless Resources.

Applicant: SBA Wireless

Acting Chairman Kirschmann called for the Planning Director's report.

Planner II Peter Gardner delivered the report on behalf of the Planning Director, illustrating the facts of the case, as well as the staff recommendation, utilizing photos, maps and other visual aids. He explained the background of the case and the circumstances surrounding the Variance request under consideration. He concluded by offering factors in favor and against approval.

Acting Chairman Kirschmann declared the Public Hearing open, and then called for the Applicant's statement. Mr. Cottingham asked the Applicant if there was additional information he wished to present. The Applicant stated that he did not. Chairman Cottingham noted there were no other members of the public present and called the Public Hearing closed and called for Board discussion. There was no further discussion and Chairman Cottingham asked for Staff's recommendation. Mr. Kirschmann explained that Staff's recommendation was Approval.

Mr. Gallagher, the Applicant spoke on behalf of the application stating that the project was designed under previous regulations, under which the tower complied as is.

Mr. Gardner presents Staff's recommendations for approval.

Mr. Butler makes a motion recommendation approval. Motion failed due to lack of second.

Ms. Greagan makes a substitutive motion recommending approval of the request, with the condition of moving the tower as close to the eastern property line as possible. A discussion commenced regarding moving the tower and where the tower could fall.

Mr. Butler seconded and the motion passed 2 – 0.

Planning Director's Report:

There being no business to report, Mr. Kirschmann adjourned at 6:31 p.m.

BOA 1 Agenda Template

6. 1.

Meeting Date: 08/22/2018

BA1-18-01 (Perez)

Submitted By: Robert Kirschmann, Community Development

Department: Community Development

Presentation: No A/V Presentation

NAME Robert Kirschmann
of PRESENTER:

TITLE Planner II
of PRESENTER:

Agenda Item Text:

BA1-18-01 (Perez) The Applicant is requesting a Variance to Section 704.03 of the Zoning Regulations, which requires that all structures in an R-36 Zoning District be set back no less than 20 feet from all property lines.

Background:

The Applicant seeks to construct a concrete slab with an above ground pool and storage sheds approximately 3 feet from the south and east property line.

The subject parcel (Parcel # 105-41-002Z) is located 2162 E Moon Rise Trail in Hereford, AZ. It is further described as being situated in Section 02 of Township 23 South, Range 20 East of the G&SRB&M, in Cochise County, Arizona. The Applicants are Jose and Mary Perez.

Attachments

Staff Report

Application, Site Plan and Maps



Cochise County
Community Development
 Planning, Zoning and Building Safety Division
Public Programs...Personal Service
 www.cochise.az.gov

MEMORANDUM

TO: Cochise County Board of Adjustment, District 1
FROM: Robert Kirschmann, Planner II
FOR: Daniel Coxworth, AICP, Development Director
SUBJECT: Docket BA1-18-01 (Perez)
DATE: August 9, 2018 for the August 22, 2018 Meeting

APPLICATION FOR VARIANCE

Docket BA1-18-01 (Perez):

The Applicant is requesting a Variance to Section 704.03 of the Zoning Regulations, which requires that all structures in an R-36 Zoning District be set back no less than 20 feet from all property lines. The Applicant seeks to construct a concrete slab with an above ground pool and storage sheds approximately 3 feet from the south and east property line.

The subject parcel (Parcel # 105-41-002Z) is located 2162 E Moon Rise Trail in Hereford, AZ. It is further described as being situated in Section 02 of Township 23 South, Range 20 East of the G&SRB&M, in Cochise County, Arizona. The Applicants are Jose and Mary Perez.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES

Site Size: 1.66-acres (51,451-square feet)
Zoning: R-36 (Single Family Residential, one dwelling per 36,000 square feet) and RU-2 (Rural one single family home per 2 acres)
Growth Area: Category B (Community Growth Area)
Plan Designation: Neighborhood Conservation
Area Plan: None
Existing Uses: Single Family Residential
Proposed Uses: Same, with additional accessory structure and pool

Surrounding Zoning and Uses

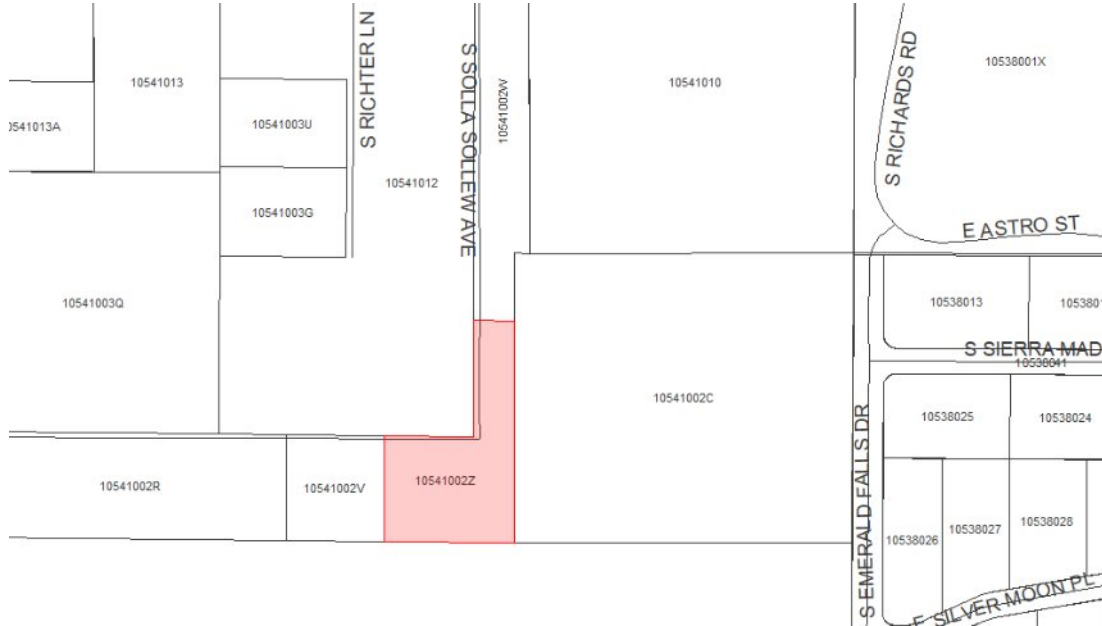
Relation to Subject Parcel	Zoning District	Use of Property
North	R-36	Single Family Dwellings
South	R-36	Vacant State Land
East	RU-2	Vacant
West	R-36	Single Family Dwelling

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 highway@cochise.az.gov
 floodplain@cochise.az.gov

II. SITE HISTORY

- 2004– Permit for home and septic issued
- 2011– Permit for Patio cover issued



Above: Location Map.

III. PROJECT DESCRIPTION

The Applicant proposes to construct a 31 foot by 42 foot concrete slab and place two 12 foot by 30 foot sheds and an above ground pool on it. The slab will be three feet from the east and south property lines.



IV. ANALYSIS OF IMPACTS

The project site is within a low density residential neighborhood. Many of the surrounding parcels have a variety of accessory structures in addition to the dwellings. The parcel located to the south is State Land and will not have a negative impact on anyone. Particularly since parcel to west has several structures

which also encroach into the setbacks, as is visible on the aerial photo above. The parcel to the East is privately owned RU-2. They were sent notice of the proposed application and no response has been received. Therefore, staff is comfortable recommending approval of the request.

In addition, there are existing site constraints, including a natural wash, as pictured to the right. The wash, existing vegetation, and existing structures limit the area available for construction and provides additional justification for the request.

V. PUBLIC COMMENT

The Department mailed notices to neighboring property owners within 300-feet. Staff posted the property on August 7, 2018 and published a legal notice in the *San Pedro Valley Sun-News* on August 1, 2018. To date, the Department has received no responses from neighboring property owners within the 300-foot radius.



Right View of the wash that crosses the property



Left, view of proposed location of slab, pool and shed

VI. SUMMARY AND CONCLUSION

Factors in Favor of Approving the Variances

1. Approving the Variance would not substantially impact neighboring properties due to the configuration of the surrounding properties and streets; and
2. The site has an existing wash which limit areas where structures can be placed
3. Both directly impacted parcels are vacant and the southern parcel is State Land.
4. No objections to the request have been received.
5. Adjacent property has structures encroaching into setbacks.

Factor Against Approving the Variances

1. Approving the request would allow sheds to be constructed three feet from the property line.

VII. RECOMMENDATION

Based on the Factors in Favor of Approval as Findings of Fact, Staff recommends **approval** of the Variances as requested.

Sample Motion: Mr. Chairman, I move to approve Docket BA1-18-01, granting the Variances as requested by the Applicant, the Factors in Favor of approval constituting the Findings of Fact. Furthermore, the Variances shall apply to any current of future permitted use.

VIII. ATTACHMENTS

- A. Variance Application



Cochise County
Community Development
Development Services

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APPLICATION FOR VARIANCE

DESIRING A VARIANCE FROM THE TERMS OF THE COCHISE COUNTY ZONING REGULATIONS:
TO THE HONORABLE BOARD OF ADJUSTMENT, DISTRICT BA#1.

I (we), the undersigned, hereby petition the Cochise County Board of Adjustment, District _____
to grant a variance from the terms of the Cochise County Zoning Regulations as follows:
(Note: Complete all the following items. If necessary, attach additional sheets.)

1. Parcel Number: 10541002Z
2. Address of parcel: 2162 East Moon Rise Trail, Hereford, AZ 85615
3. Area of Parcel (to nearest tenth of an acre): 1.62 acres
4. Zoning District designation of Parcel: R-36
5. Describe existing uses of the parcel and the size and location of existing structures and buildings on it.

Residential parcel with a site-built home sized approximately 1,800 sq. ft., a site built 400 sq. ft. workshop, chicken coop, fire pit, and a small temporary storage structure

6. Describe all proposed uses or structures, which are to be placed on the property.
(1) A concrete pad approximately 31' x 42' to be used to emplace a (2) 12 by 30 storage shed and (3) 21' foot diameter above ground pool
7. State the specific nature of the variance or variances sought.

I am requesting a 3 foot set back variance from the current 20 foot set back distance for structures. The area in question abuts state land on the south, and private land on the east. It affects those areas for only a 42 foot segment to the south and 31 foot segment to the east.

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8. A variance may be granted only when, due to any peculiar situation surrounding a condition of a specific piece of property, including unusual geographic or topographic conditions, strict application of the Zoning Regulations would result in an unnecessary hardship to the property owner. In granting variances, however, the general intent & purpose of the Zoning Regulations will be preserved (See attached Section 2103.02 on variances). Describe the reasons for requesting the variance and attach any documents necessary to demonstrate compliance with the provisions cited above.

The county specifies that permanent structures are set back 20 feet from property boundaries. Due to high excavation costs and the location of existing structures and creek areas, the most suitable location for the proposed structures require a distance variance. A reduction from the existing 20 foot set-back to allow a concrete pad to be built as close as 3 feet from the property boundaries would ameliorate excessive cost and placement challenges.

9. State why the variance would not cause injury to or impair the rights of surrounding property owners. Identify conditions you propose, if any, to minimize the impact on surrounding properties. It shall be the responsibility of the Applicant to submit any studies and/or data necessary to demonstrate the effectiveness of the alternative conditions.

The location of the proposed structures is hidden from view from the surrounding property owners due to existing trees and structures on our property. Two adjoining properties are also uninhabited: state land on the south, and private land to the east.

10. List the name and address of all owners of the Parcel(s) for which the variance is sought.

<u>PROPERTY OWNER</u>	<u>MAIL ADDRESS</u>
<u>AP Lenders LLC</u>	<u>23614 S. Rosecrest Drive, Sun Lakes, AZ 85248</u>
<u>Reece, Victor & Marie D.</u>	<u>6101 S Solla Sollew Ave., Hereford, AZ, 85615</u>
<u>Mendoza, Robert F Jr. Maria A.,</u>	<u>1010 N. Kevins PL. Coolidge, AZ, 85128</u>
<u>Chandler, Vernon E. & Martha</u>	<u>6110 S. Richter LN, Hereford, AZ, 85615</u>
<u>Richter, George H & Susan A</u>	<u>6116 S. Richter LN, Hereford, AZ, 85615</u>
<u>Kolar, Billy Joe & Donna L.</u>	<u>2120 E. Moon Rise Trail, Hereford, AZ, 85615</u>

The undersigned hereby certifies and declares that to the best of his/her knowledge and belief the data submitted on and attached to this application for a variance from the terms of the Cochise County Zoning Regulations are true and correct.

<u>SIGNATURE OF PETITIONER</u>	<u>ADDRESS</u>	<u>DATE</u>
	<u>2120 E. Moon Rise Trail, Hereford, AZ, 85615</u>	

APPLICANT'S PHONE NUMBER 520-234-4436

APPLICANT'S EMAIL ADDRESS joeperez22@gmail.com

Note: Each application shall be accompanied by an accurate site plan showing the parcel of land and the existing and proposed structures and buildings on it, and shall be accompanied by a check in the amount of three hundred dollars (\$300) payable to the Cochise County Treasurer. Return to the Cochise County Planning Department, 1415 Melody Lane, Building E, Bisbee, Arizona, 85603.

2103.02 Variances

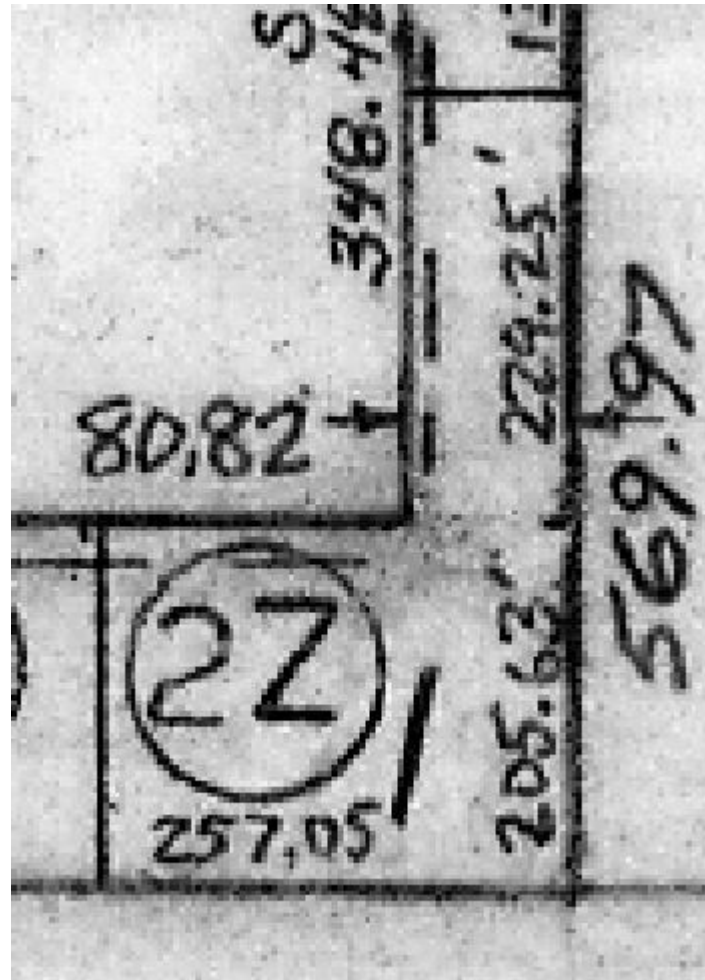
The Board of Adjustment may grant a variance from the terms of these Zoning Regulations when, owing to peculiar conditions, a strict interpretation would work an unnecessary hardship, if in granting such variance the general intent and purposes of the Zoning Regulations will be preserved. It shall be the responsibility of the applicant to submit any studies and/or data necessary to demonstrate the effectiveness of the alternative conditions.

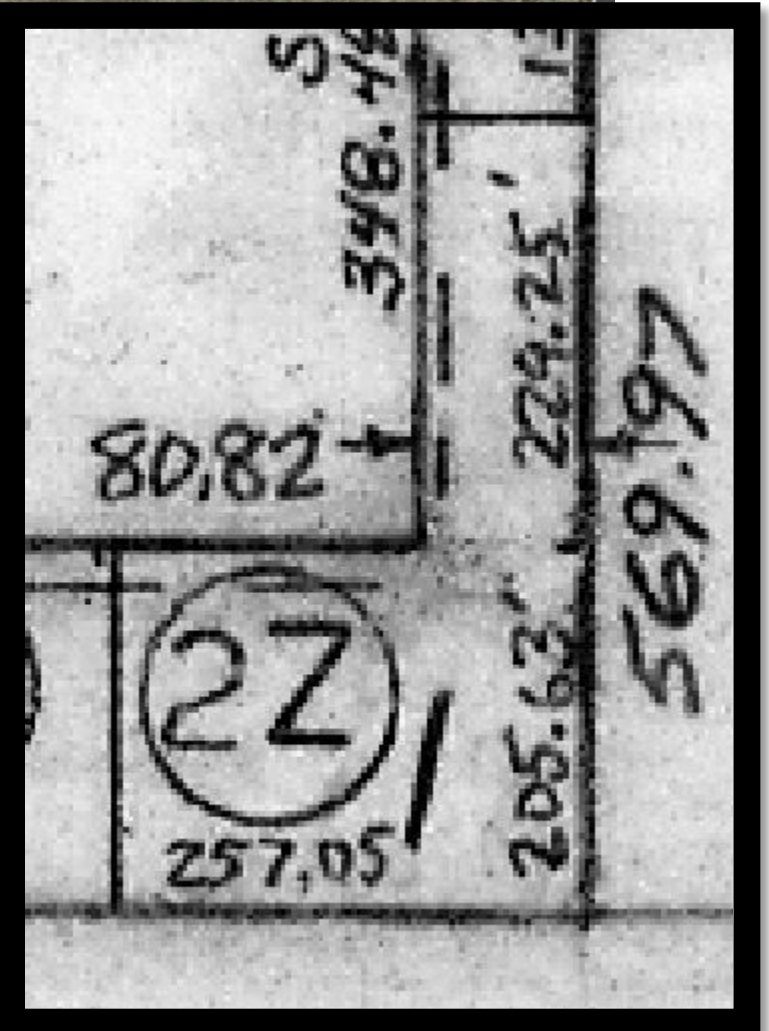
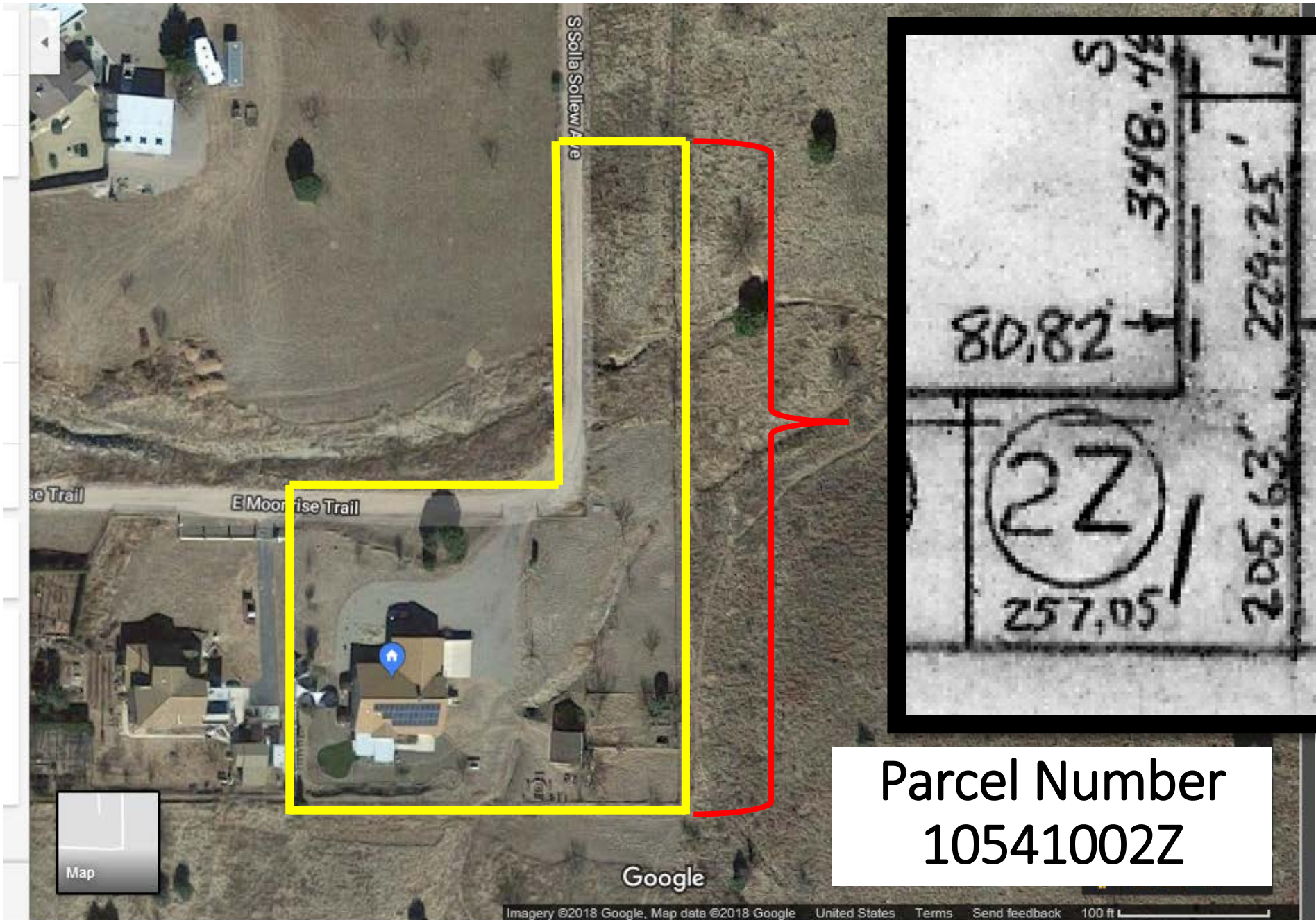
These zoning regulations are generally intended to yield results that are in compliance with all other applicable laws. A request for a "reasonable accommodation" in these regulations, pursuant to any federal or state housing law or other similar legislation, as may be necessary to afford an equal opportunity to housing under any such law, shall be considered to be an appropriate condition for a variance from the strict application of these zoning regulations. The Board of Adjustment is authorized to grant any such variance, to the extent that any such accommodation is required pursuant to any applicable state or federal law.

Any decision of the Board of Adjustment allowing a variance shall be considered for revocation by the Board of Adjustment if substantial construction, in accordance with the plans for which such variance was granted, has not been initiated within 12 months of the date of approval, building permit issuance, or if judicial proceeding to review the Board of Adjustment's decision has been instituted, 12 months from the date of entry of the final order in such proceedings, including appeals. Additionally, if any of the conditions of the variance approval are not complied with within 12 months or within the time period set by the Board, it shall be revoked after 30 days notice to the owner and applicant, unless a request for a review hearing before the Board of Adjustment is made by the applicant within this 30 day appeal period. The Board of Adjustment may grant reasonable extensions to the time limits upon a hearing pursuant to a timely written request by the applicant.

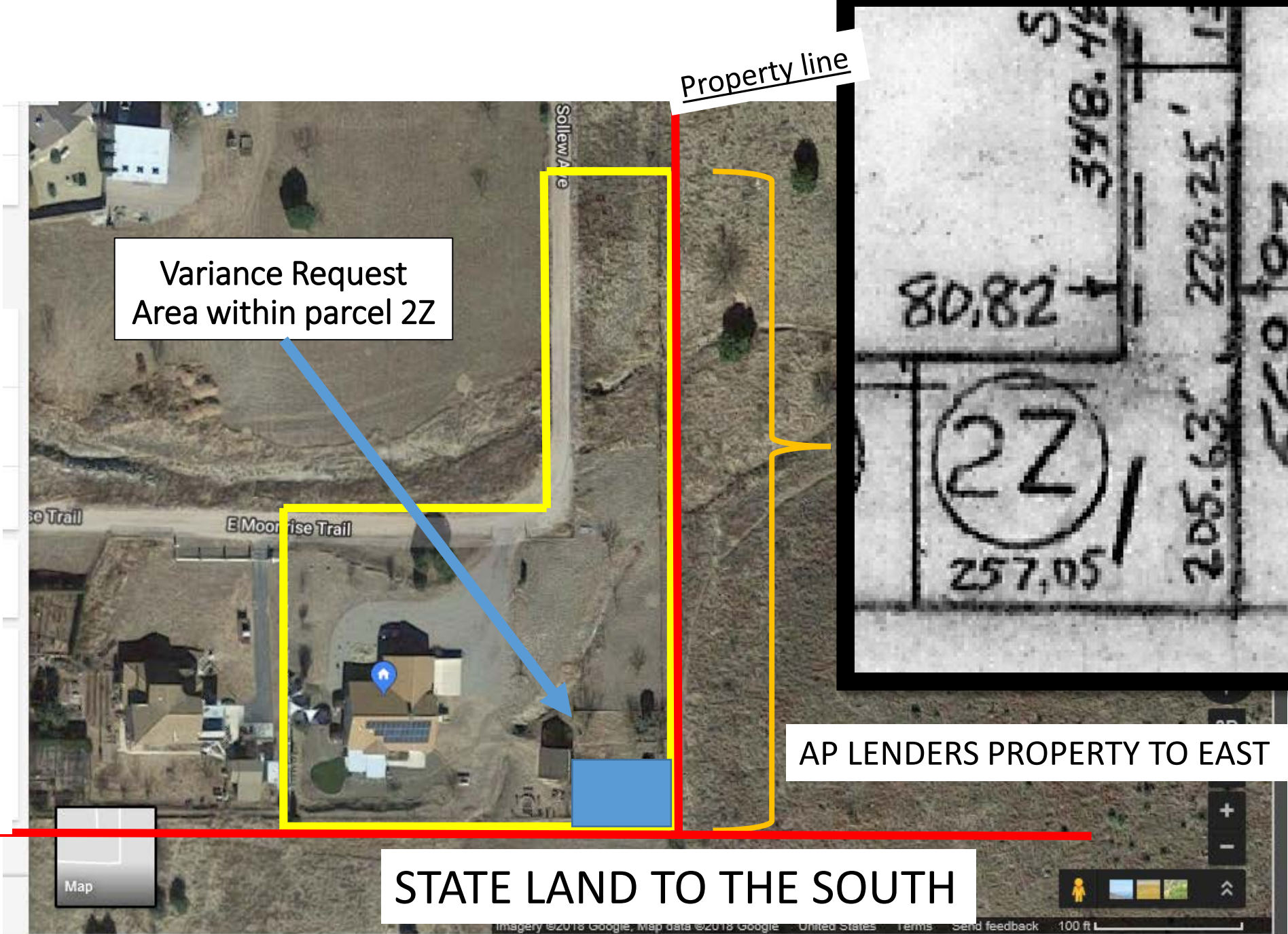
Variance Request Images for Perez Residence

Parcel Number: 10541002Z



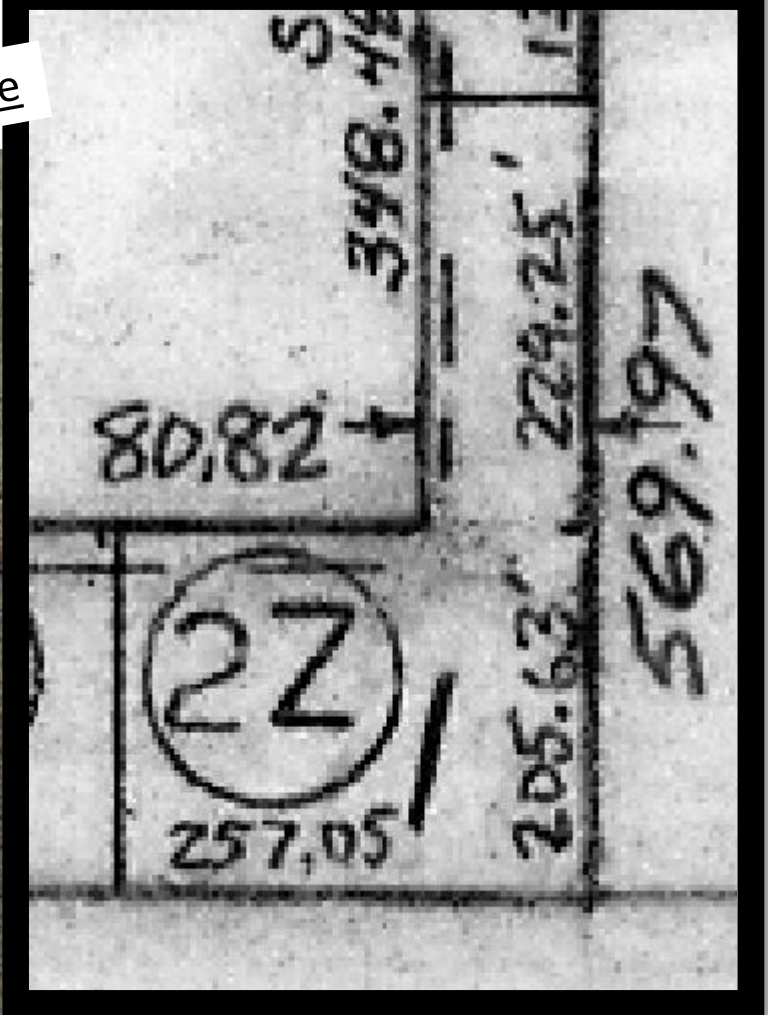


Parcel Number
10541002Z



Variance Request Area within parcel 2Z

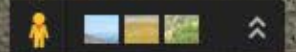
Property line



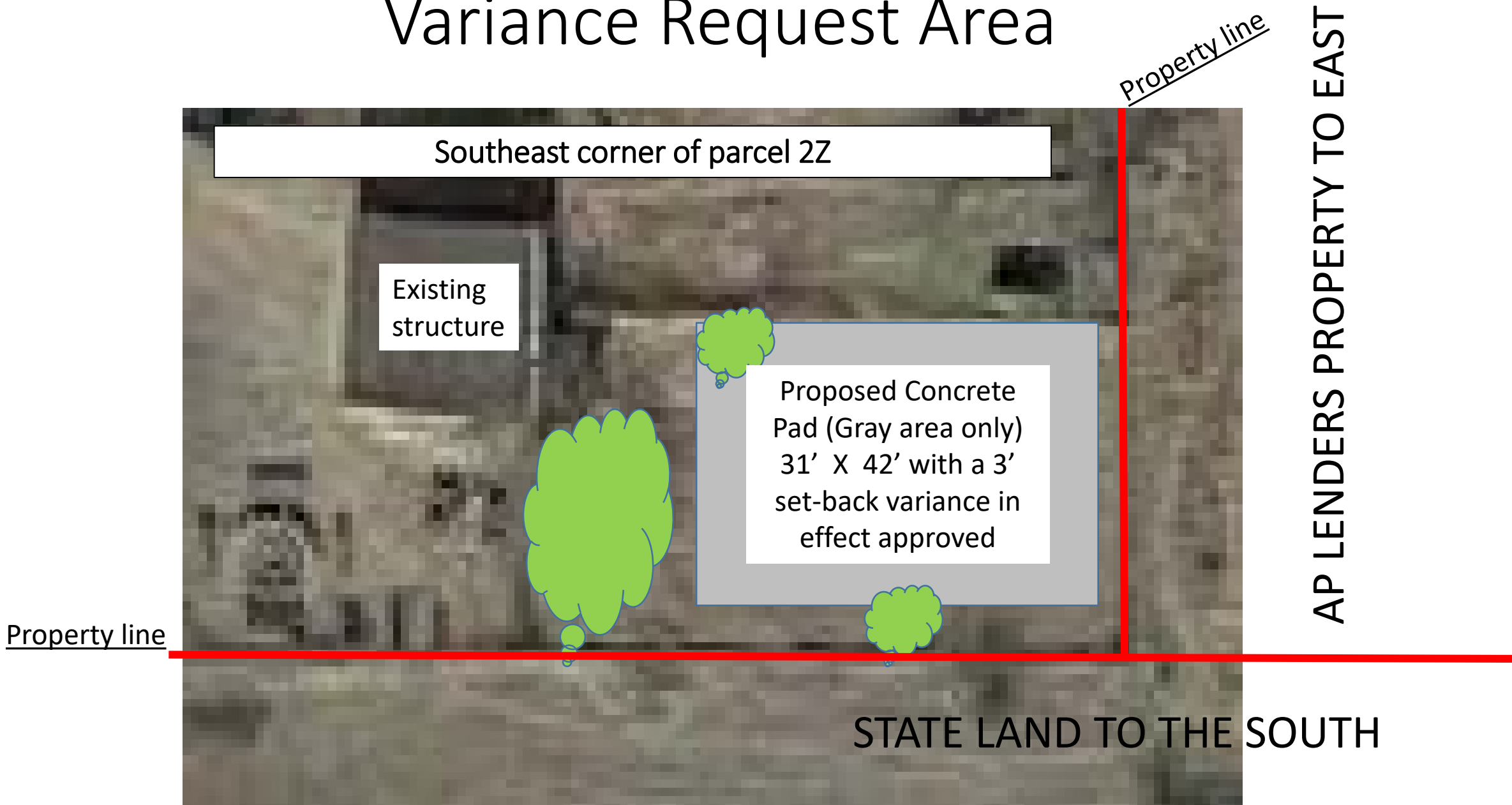
AP LENDERS PROPERTY TO EAST

Property line

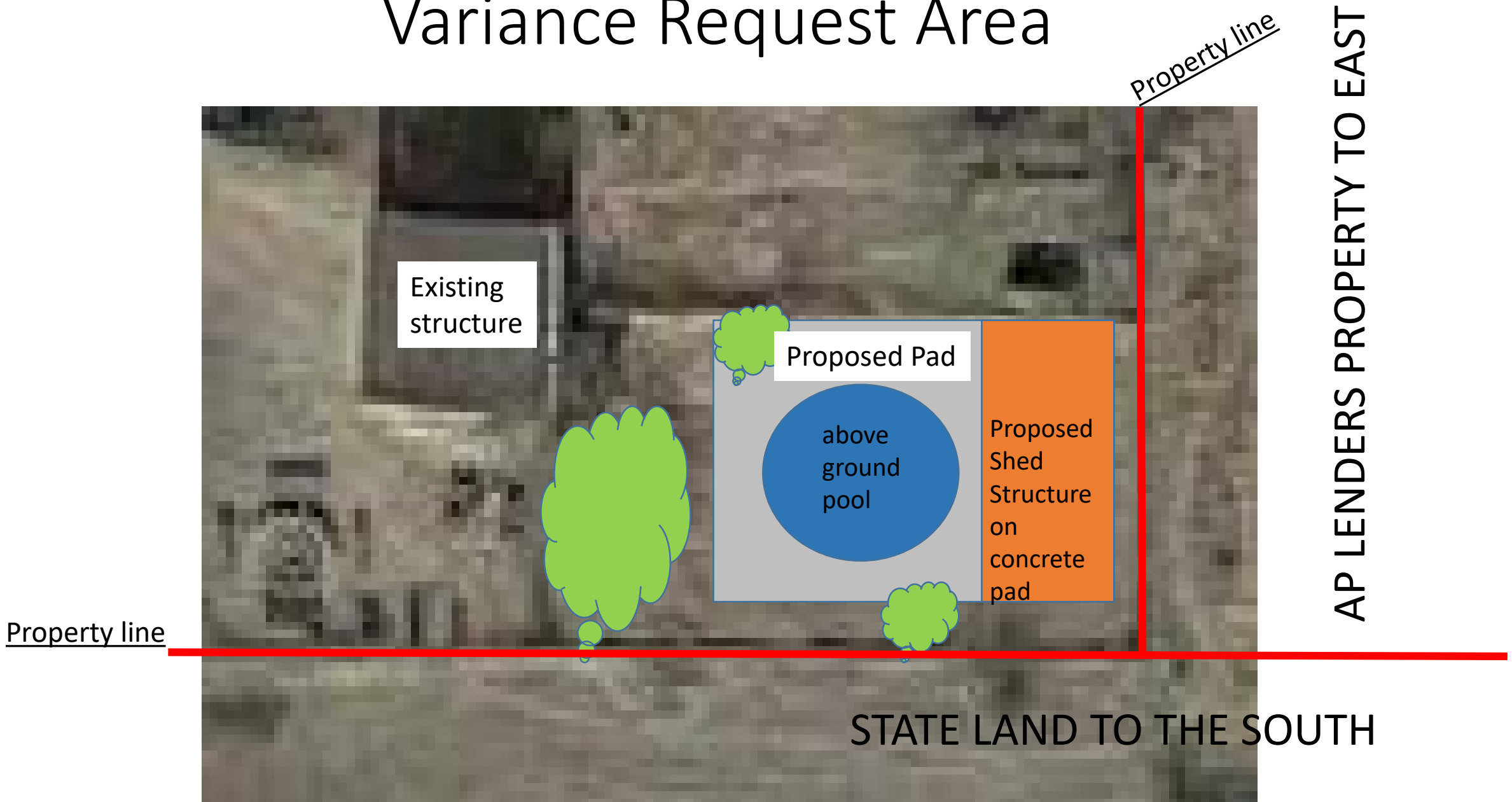
STATE LAND TO THE SOUTH



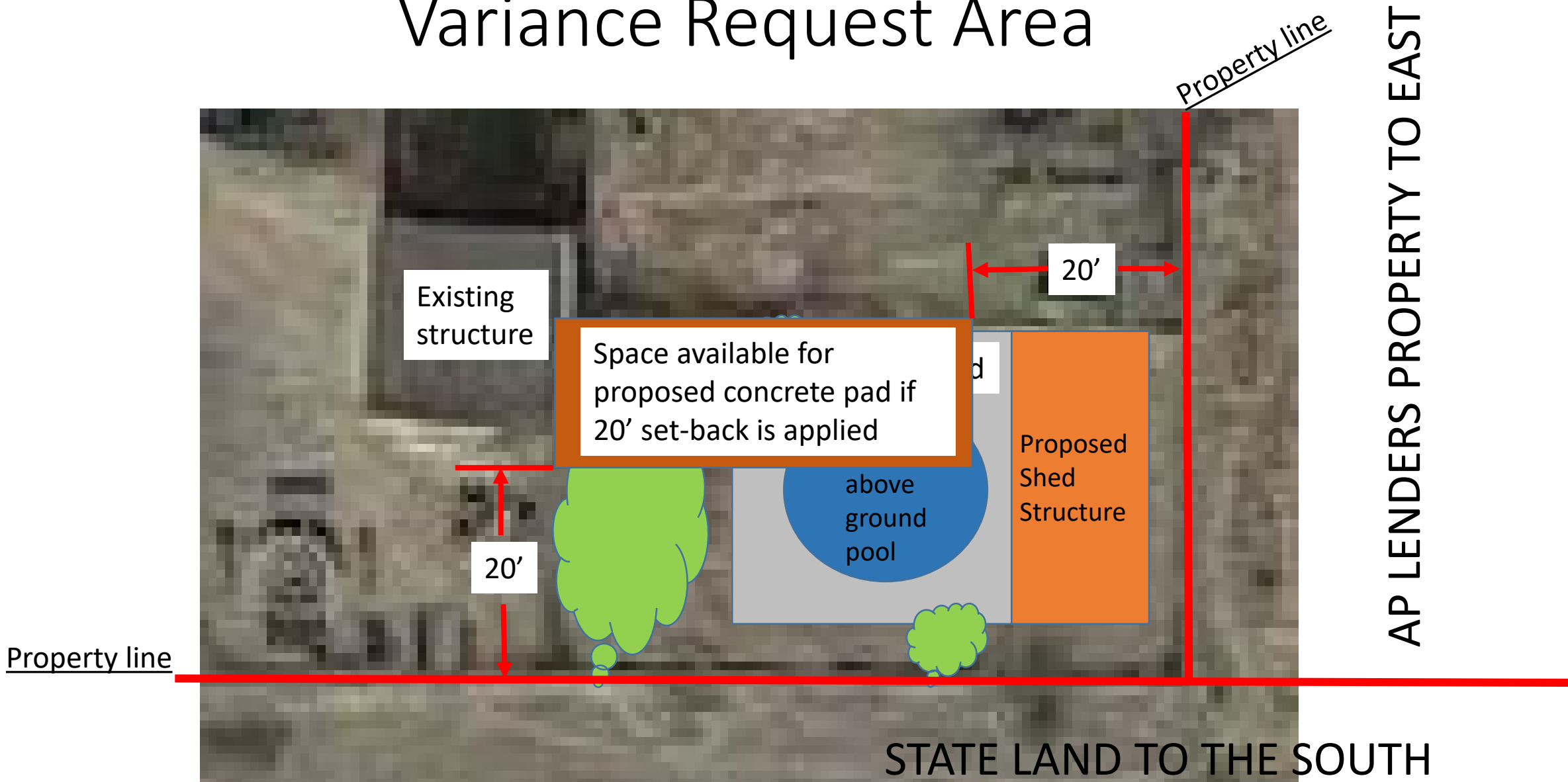
Variance Request Area



Variance Request Area



Variance Request Area





E Moonrise Trail

E Moonrise Trail

S Richter Ln

S Richter Ln

S Richter Ln

S Solla Sollew Ave

S Solla Sollew Ave

S Solla Sollew Ave

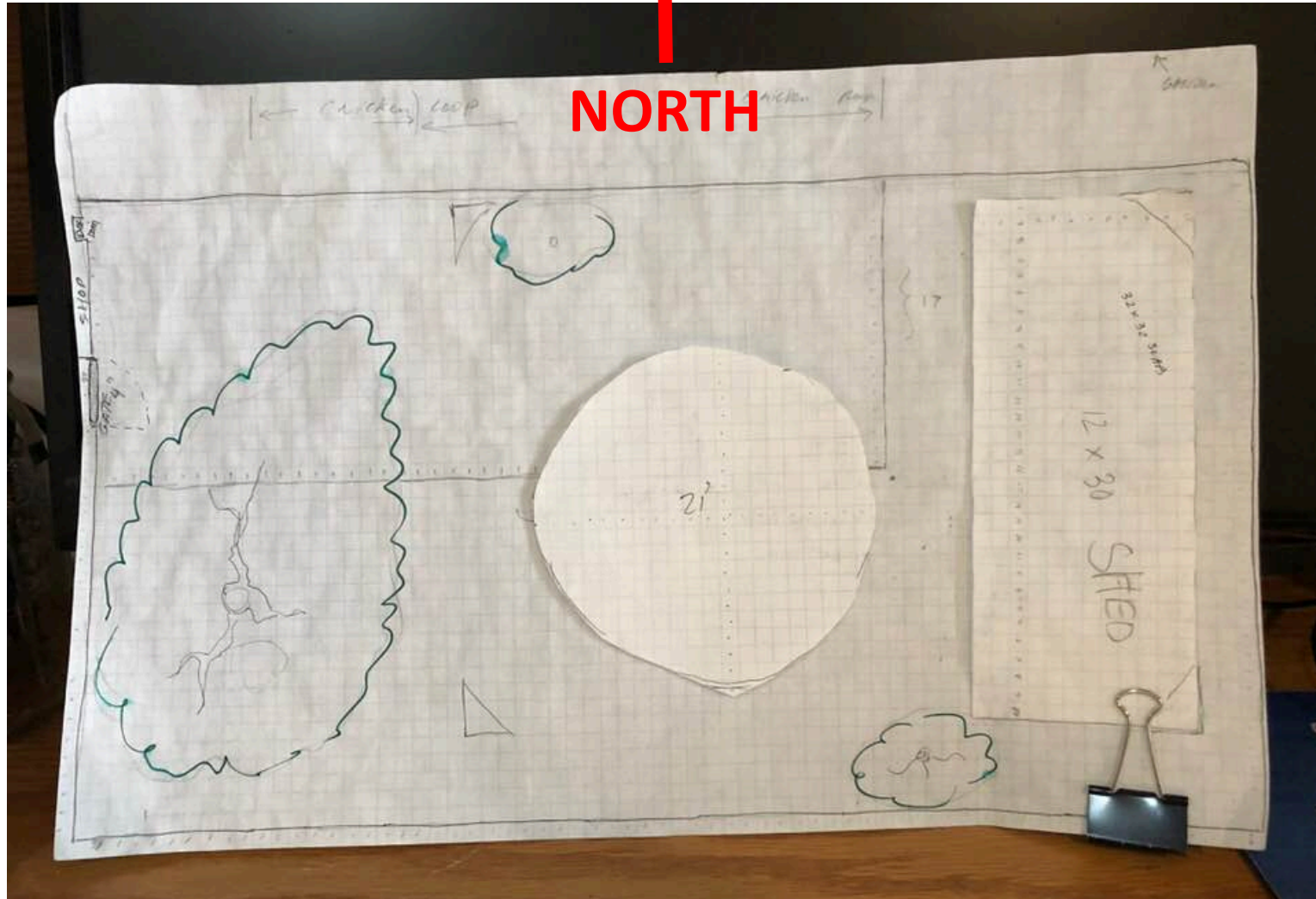
E Apache Pointe Rd

NORTH

Google

Map

Variance Request Area Sketch



Factors for Requesting Variance for Parcel Number 10541002Z

- Additional hardship incurred if strict interpretation of zoning is followed, in the form of:
 - Additional substantial excavation costs
 - Limited space options for proposed structure anywhere on property
- Reasonable accommodation would result in no impact to neighboring properties