



## **Notice of Public Hearing of the Hearing Officer of the**

### **City of San Luis**

# **AGENDA**

## **HEARING OFFICER MEETING SAN LUIS COUNCIL CHAMBERS**

**1090 E. Union Street  
San Luis, AZ 85349**

**Wednesday, July 5, 2017, 4:00 P.M.**

Pursuant to A.R.S. §38-431.02, notice is hereby given to the general public that the Hearing Officer will hold a meeting open to the public on July 5, 2017 at 4:00 p.m. at the City Council Chambers, 1090 E. Union Street.

Notice is hereby given that pursuant to A.R.S. §1-602.A.9, subject to certain specified statutory exceptions, parents have a right to consent before the State or any of its political subdivisions make a video or audio recording of a minor child. Meetings of the Hearing Officer are audio and/or video recorded, and as a result, proceedings in which children are present may be subject to such recording. Parents in order to exercise their rights may either file written consent to Department of Development Services to such recording, or take personal action to ensure that their child or children are not present when a recording may be made. If a child is present at the time a recording is made, the City will assume that the rights afforded parents pursuant to A.R.S. §1-602.A.9 has been waived.

- 1. CALL TO ORDER**
- 2. ITEMS TO BE CONSIDERED** – the Hearing Officer will be considering a vote or action on the following cases. Any vote or action will be considered separately for each case.
  - 2. A.** Discussion and possible action on any and all matters regarding Minor Variance Case No. 2017-0431. A request by A and F Home Builders LLC, property owner, for a minor variance to reduce both side yard setback from 7 feet to 6 feet 7.5 inches west side and 6 feet 8 inches on the east side. This request is to allow the construction of a new residence. The property is located at 3429 E. Emalie Street, San Luis, Arizona.
- 3. ADJOURNMENT**

In accordance with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, the City of San Luis does not discriminate on the basis of disability in the admission of or access to, or treatment or employment in, its programs, activities, or services. For information regarding rights and provisions of the ADA or Section 504, or to request reasonable accommodations for participation in City programs, activities, or services contact: ADA/Section 504 Coordinator, City of San Luis Human Resources Department, 1090 E. Union Street, P. O. Box 1170, San Luis, AZ 85349; (928) 341-8520.



## HEARING OFFICER AGENDA ITEM REVIEW FORM

### Hearing Officer Agenda

2.A.

**Meeting Date:** 07/05/2017

**Submitted By:** Jose A. Guzman, Acting Planning & Zoning Director, Planning & Zoning Department

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#### ITEM:

Discussion and possible action on any and all matters regarding Minor Variance Case No. 2017-0431. A request by A and F Home Builders LLC, property owner, for a minor variance to reduce both side yard setback from 7 feet to 6 feet 7.5 inches west side and 6 feet 8 inches on the east side. This request is to allow the construction of a new residence. The property is located at 3429 E. Emalie Street, San Luis, Arizona.

#### SUMMARY:

The purpose of the minor variance procedure is to allow for up to a maximum twenty percent (20%) variation from a development standard or dimension requirement of the zoning code where a practical difficulty, unnecessary hardship, or a result inconsistent with the general purposes of the rezoning code would occur from its strict, and literal interpretation, and enforcement.

The property is located at Bienestar Estates No. 9B Subdivision, the lot has an area of 6,099.08 sq. ft. The reason for this request is that the applicant is ready to submit plans for a building permit.

#### AGENCY REVIEW:

City staff explained to the applicant the requirements and procedure of a Minor Variance. It was verified that the property-owner would be able to request a Minor Variance and that it would not need to go before the Board of Adjustment.

As part of the review process, all land use cases are reviewed by various City and outside agencies. We have received comments from the following agencies:

1. City of San Luis Fire Department (6-21-17)

The City has not received any other significant concerns or objections from the various review agencies.

The Planning and Zoning Department has reviewed the request and has the following comments/corrections:

1. Provided on the City of San Luis Zoning Regulations Section 152.090- Multiple Residence Zoning Districts- Table No. 5. The side setback require for R-2 Zoning District is 7 feet.

#### ANALYSIS:

A variance is not a right. It may be granted to an applicant only if the applicant establishes compliance with all of the hardship criteria established in A.R.S. §9-462.6 and in Section 152.045(C) of the Zoning Regulations.

Pursuant to State Statues, the Board may not:

1. Make any changes in the uses permitted in any zoning classification or zoning district.
2. Grant a variance if the special circumstances applicable to the property are self-imposed by the

property owner.

The Zoning Administrator or Hearing Officer, upon finding that the variance request does not exceed a twenty percent (20%) reduction or increase in a development standard or dimension required by this code and can determine that the request complies with the four (4) hardship criteria established in Section 152.045(C) of the Zoning Regulations, may approve the minor variance.

In the event the Zoning Administrator or Hearing Officer approves, approves with conditions or denies an application for a minor variance filed pursuant these regulations any person may appeal that decision in writing, including any required appeal fee, within fifteen (15) days of the decision and request that the minor variance be placed on the agenda of the next regularly scheduled Board of Adjustment meeting.

In all cases, the review shall address all of the following hardship criteria:

1. There exist special circumstances or conditions regarding the land or building referred to in the application, which do not apply to other properties in the zoning district.

*Staff does not find that there are any special circumstances or conditions relating to this request. Bienestar 9B subdivision was designed as a curvilinear subdivision making the majority of lots in this subdivision have an odd configuration but with a generous size to construct a house.*

2. The above special circumstances or conditions are preexisting and are not created or self-imposed by the owner or applicant.

*There are no special circumstances or conditions. The conditions creating the request were created by the property owner and should be corrected through redesign of the plans.*

3. The variance is necessary for the preservation of substantial property rights. Without a variance the property cannot be used for purposes otherwise allowed in the zoning district.

*Staff does not find that the construction of this dwelling with reduced setback is necessary to the preservation of substantial property rights. The lot has generous size to construct a house.*

4. The authorizing of the variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, or to the neighborhood or the public welfare.

*Any reduction of setbacks, even though some changes are minimal, increases the potential fire spread between structures. As required by the Zoning Regulations, written acknowledge from each adjacent property owner of the requested minor variance is necessary. City staff requested a total of four (4) signatures of adjacent property owners, the applicant submitted two (2) signatures and the other two (2) lots are vacant lots.*

#### **STAFF RECOMMENDATION:**

The applicant has provided information and materials necessary for review of the request.

Staff recommends DENIAL of Minor Variance Case No. 2017-0431, a request by A and F Home Builders LLC, property owner, to reduce both side setbacks from 7 feet to 6 feet 7.5 inches and 6 feet 8 inches. The property is located at 3429 E. Emalie Street, San Luis, Arizona.

#### **RECOMMENDED MOTION:**

**I MOVE TO DENY MINOR VARIANCE CASE NO. 2017-0431**

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#### **Attachments**

Location Map

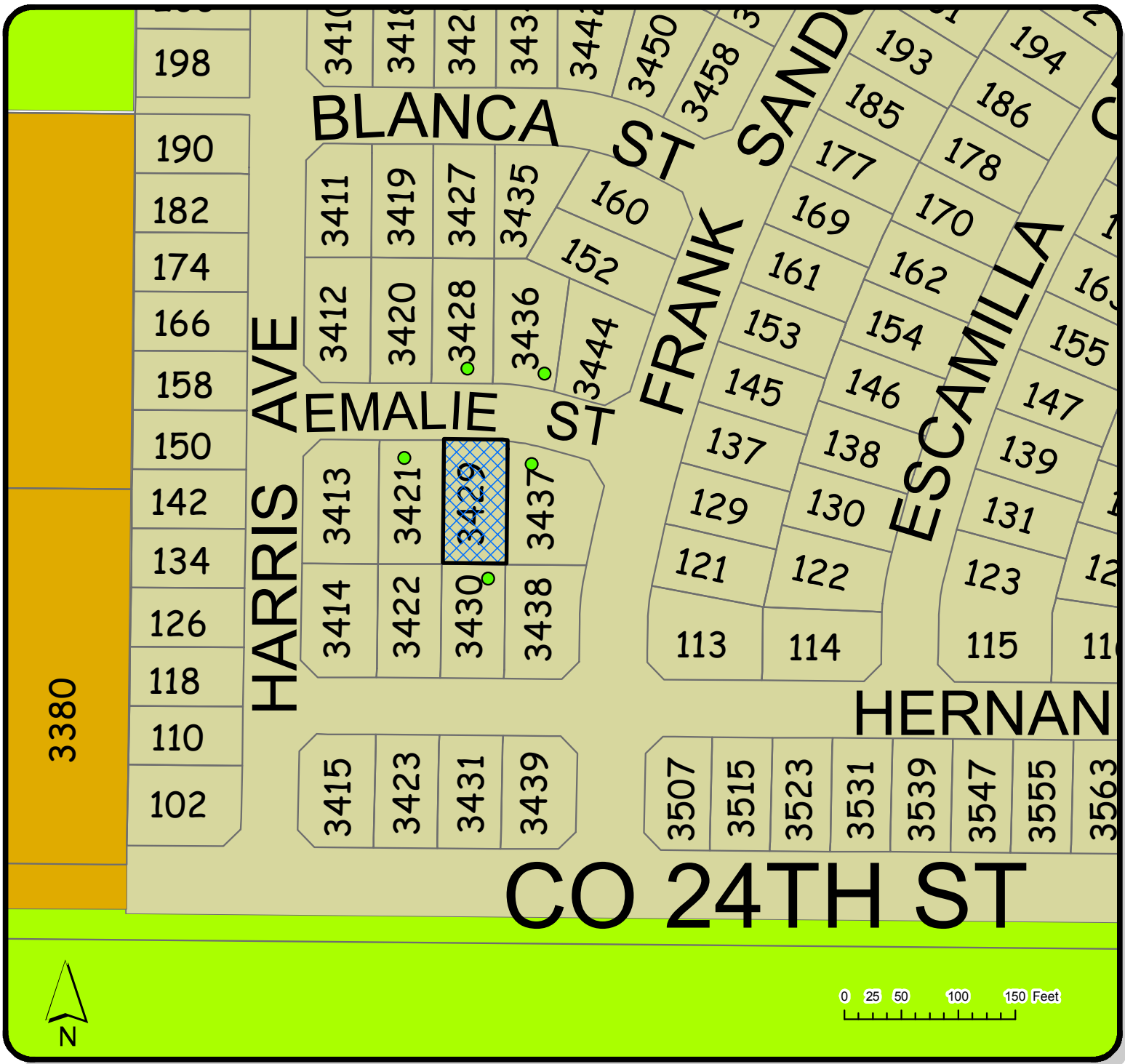
Site Plan

Picture of Location

Signatures from adjacent property owners

Fire Department Comments (6-21-17)

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# Location Map

**MINOR VARIANCE**

**LOCATION OF SUBJECT PROPERTY**

3429 E EMALIE ST

ADJACENT PROPERTY OWNERS

**Zoning**

**MULTIPLE RESIDENCE ZONING DISTRICTS**

R-2

R-3

**SINGLE RESIDENCE ZONING DISTRICTS**

RA-10

**Date:** 6/20/2017

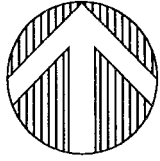
**Checked By:**  
ROMAN PACHECO



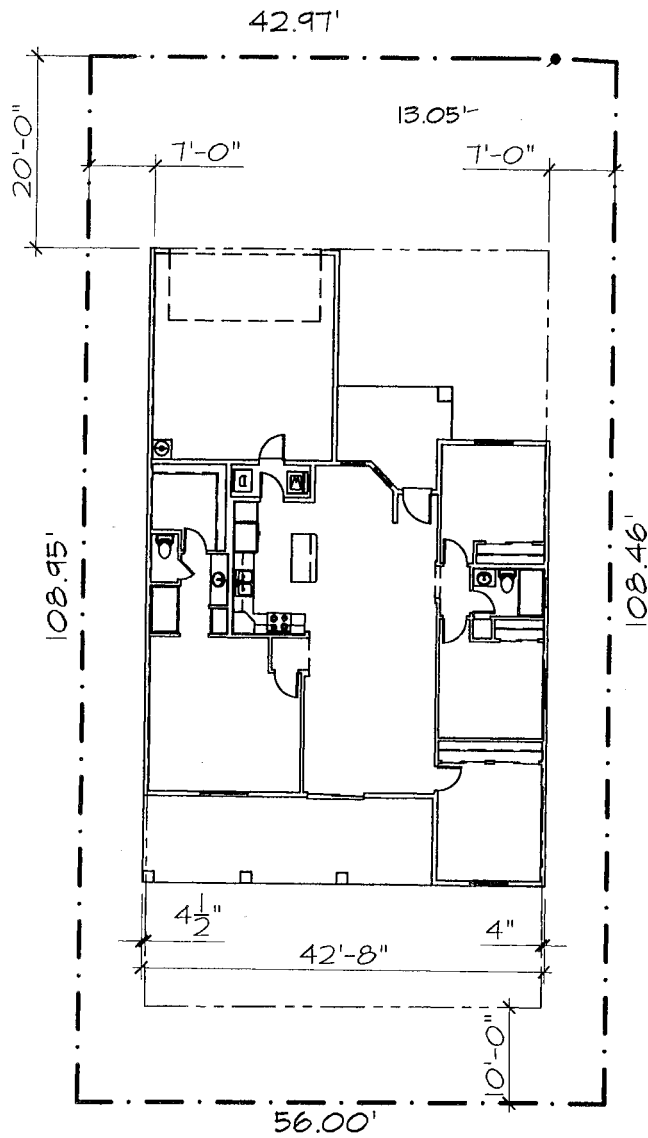
**Prepared By:**  
IG

**APPROVED BY:**  
JOSE A. GUZMAN

**Case No.**  
2017-0431



3429 E Emalie St  
Lot # 475, San Luis, Az.



# SITE PLAN

MODEL 1614

SCALE: 1" = 20'-0"





## Minor Variance Acknowledgment Form

As provided in section 3.8-B.4, "Written acknowledgment to the notification of the requested minor variance(s) from each adjacent property owner, even if separated by a public right of way." The adjacent property owners must sign that they understand the variance request.

I, A and F Home Builders, LLC, own the property located at 3429 E. Emalie St.

I am requesting a Minor Variance for the following: \_\_\_\_\_  
building new house. Im requesting to reduce  
set backs from 7' to 6'8" on ~~one~~ sides and  
4 1/2" on the other side.

A site plan is attached for review by the adjacent property owners.

**Adjacent Property Owners**  
 We the undersigned adjacent property owners understand the variance requested  
 by A and F Home Builders as described above.

Name: _____ Address: <u>3421 E. Emalie St.</u> Comments: <u>Empty Lot</u> Date: _____ Signature: _____	Name: _____ Address: <u>3428 E. Emalie</u> Comments: <u>empty lot</u> Date: _____ Signature: _____
Name: <u>SAMUEL GARCIA</u> Address: <u>3437 E. Emalie St</u> Comments: <u>agree</u> Date: <u>6-3-17</u> Signature: <u>[Signature]</u>	Name: _____ Address: _____ Comments: _____ Date: _____ Signature: _____
Name: <u>Pedro Flores</u> Address: <u>3430 E. Hernandez St.</u> Comments: <u>agree</u> Date: <u>06-02-2017</u> Signature: <u>Pedro Flores</u>	Name: _____ Address: _____ Comments: _____ Date: _____ Signature: _____

I, Claudia Nunez, verify that I have discussed this proposal with my neighbors, above, and that they acknowledge this request.

[Signature]  
 Signature

6/3/2017  
 Date



June 21, 2017

**MINOR VARIANCE CASE NUMBER: 2017-0431**

**CASE SUMMARY:** This is a request by A and F Home Builders LLC, property owner, for a minor variance to reduce both side yard setback the west side from 7-feet to 6’7 ½” and east side to 6’8”to build a new residence in the Medium-High Density Residential (R-2) Zoning District, Assessor’s Parcel Number 777-59-475. The property is located at 3429 E. Emalie Street, San Luis, Arizona.

**HEARING OFFICER MEETING: June 29, 2017**

**COMMENTS DUE: June 26, 2017**

Your comments on this case will help us prepare an accurate and timely staff report. Your comments on this case will be inserted “as is” into the staff report with your name, department, and telephone number, should the applicant have any questions. Your comments are a public record and will be available to the public, media, and the applicant, in addition to the Hearing Officer hearing this case. Please complete the section below and return via e-mail. For additional information please contact me at 928-341-8563, extension 2014, or at [Jaguzman@cityofsanluis.org](mailto:Jaguzman@cityofsanluis.org).

Thank you,  
Jose A. Guzman  
Acting Planning & Zoning Director  
Attachment: Location Map, and Site Plan

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  COMMENTS       NO COMMENTS     

**Enter Comments below:**

The City of San Luis Fire Department cannot support this request. Set-backs are established to minimize the spread of fire from one structure across lot lines to a neighboring structure. Permanent structures represent permanent exposures and permanent avenues for fire spread beyond property lines. While the City of San Luis Fire Department believes set-back requirements protect adjacent property and property owners, enforcement and/or final decisions, regarding this request, are best made by the Planning and Zoning Department.

**Date:**  
06/21/17  
**Agency:**  
The City of San Luis Fire Department

**Phone:**  
928/341-8550

**Return to:** [rpacheco@cityofsanluis.org](mailto:rpacheco@cityofsanluis.org)