



Notice of Public Hearing of the Hearing Officer of the

City of San Luis

AGENDA

HEARING OFFICER MEETING

SAN LUIS CITY HALL COUNCIL CHAMBERS

1090 E. Union Street
San Luis, AZ 85349
Thursday, April 9, 2019, 5:00 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 April 9, 2019 at 5:00 p.m. at the San Luis City Hall Council Chambers, 1090 E. Main 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. 2019-0162. A request by Rene and Lye Lara, property owner, for a minor variance to reduce the side yard setback from 7-feet to 6-feet. This request is to allow the construction of a carport on property located at 455 N. Ismael Solorio Court, 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: 04/09/2019

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

ITEM:

Discussion and possible action on any and all matters regarding Minor Variance Case No. 2019-0162. A request by Rene and Lye Lara, property owner, for a minor variance to reduce the side yard setback from 7-feet to 6-feet. This request is to allow the construction of a carport on property located at 455 N. Ismael Solorio Court, San Luis, Arizona.

SUMMARY:

The property is located at Bienestar Estates No. 9B Subdivision, the lot has an area of 6,902 square feet. The reason for this request is that the applicant wants to build a carport on the side of the property at a distance of 6-feet from the property line instead of the 7-feet required by the City Code.

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.

GENERAL PLAN:

This area is designated as Neighborhood in the City of San Luis 2020 General Plan. The Neighborhood land use designation allows all types of residential development.

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. Yuma County Development Services Department (3-29-19)
2. City of San Luis Fire Department (4-2-19)

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 Code Zoning Regulations Table No. 2, the required side setback for R1-6 Zoning District is 7 feet. However, 5 feet setback is permitted in a R1-6 Zoning District where the construction beyond a 7 foot setback are constructed with no less than two hour fire resistive construction.

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 City Code §152.045(C).

Pursuant to State Statutes, 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 §152.045(C) of the City Code, 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 or 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 and carports. As mentioned by the applicant the reason for the variance request is for aesthetic and functionality reasons.

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.*

Aesthetics is not considered a hardship circumstance or condition. If the carport is build at the required 7 feet, it will be interfere with the gate's radius swing; this circumstance was self imposed by installing the gate in that location. The conditions creating the request were created by the property owner and should be corrected through redesign of the carport, fire resistive construction, or relocation of the gate.

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 carport with reduced setback is necessary for the preservation of substantial property rights. Without the variance the property can still be used as a dwelling unit with a carport.

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. The City allows reduction of setbacks from 7 feet to 5 feet if 2 hour fire resistive construction material is used, otherwise is a potential fire hazard and detrimental to the adjacent property. 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 six (6) signatures of adjacent property owners.

STAFF RECOMMENDATION:

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

Staff recommends DENIAL of Minor Variance Case No. 2019-0162, a request by Rene and Lye Lara, property owner, to reduce the side yard setback from 7-feet to 6-feet on property located at 455 N. Ismael Solorio Court, San Luis Arizona.

RECOMMENDED MOTION:

I MOVE TO DENY MINOR VARIANCE CASE NO. 2019-0162

Attachments

Location Map

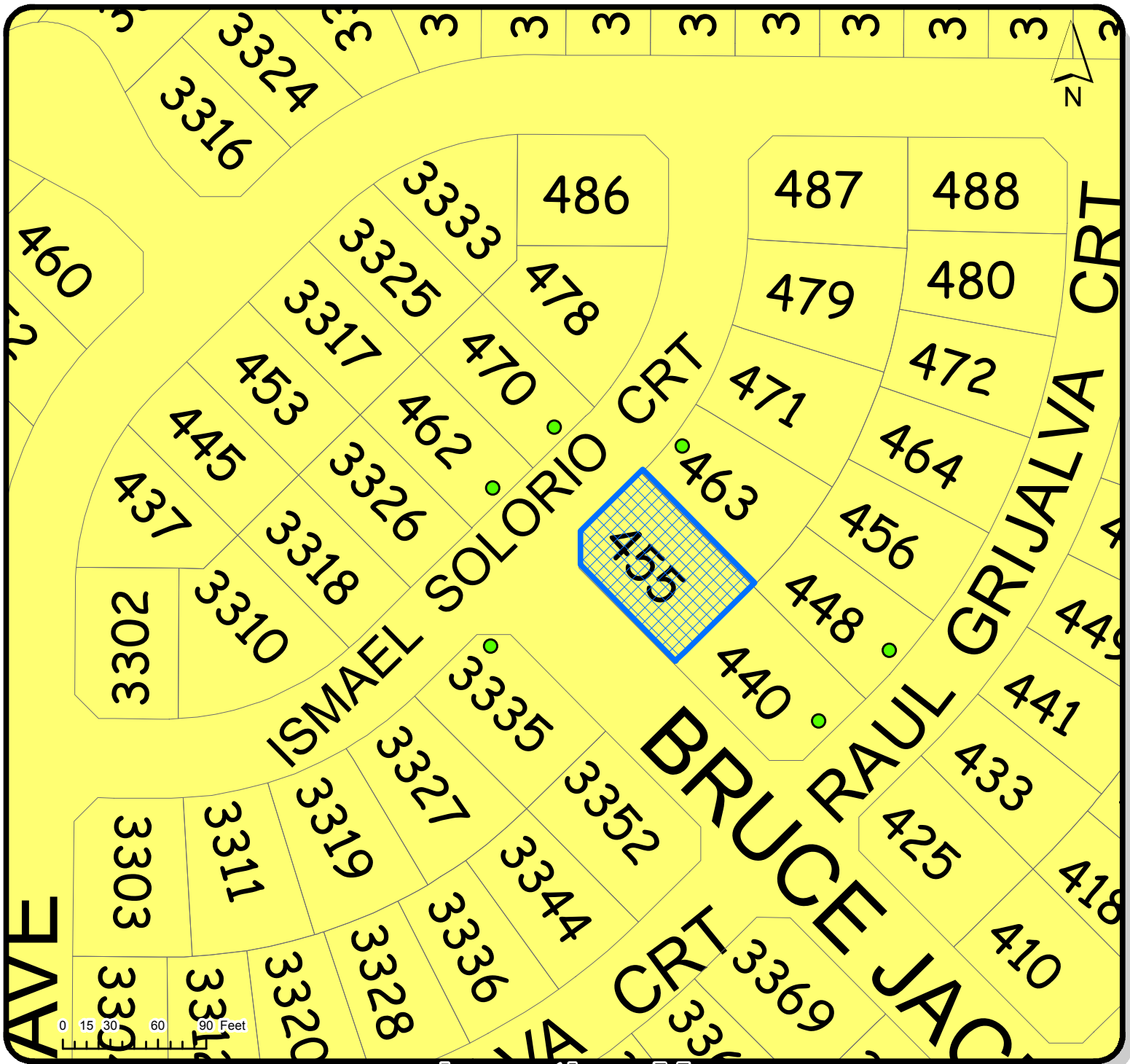
Site Plan

Pictures of Location

Letter of request from applicant

Yuma County Development Services comments (3-29-19)

City of San Luis Fire Department comments (4-2-19)




LOCATION OF SUBJECT PROPERTY

Location Map

MINOR VARIANCE

 455 N ISMAEL SOLORIO CRT
Assessor's Parcel No. 77751223

Zoning Legend

SINGLE RESIDENCE ZONING DISTRICTS
 R1-8

 ADJACENT PROPERTY OWNERS

Date:
3/28/2019

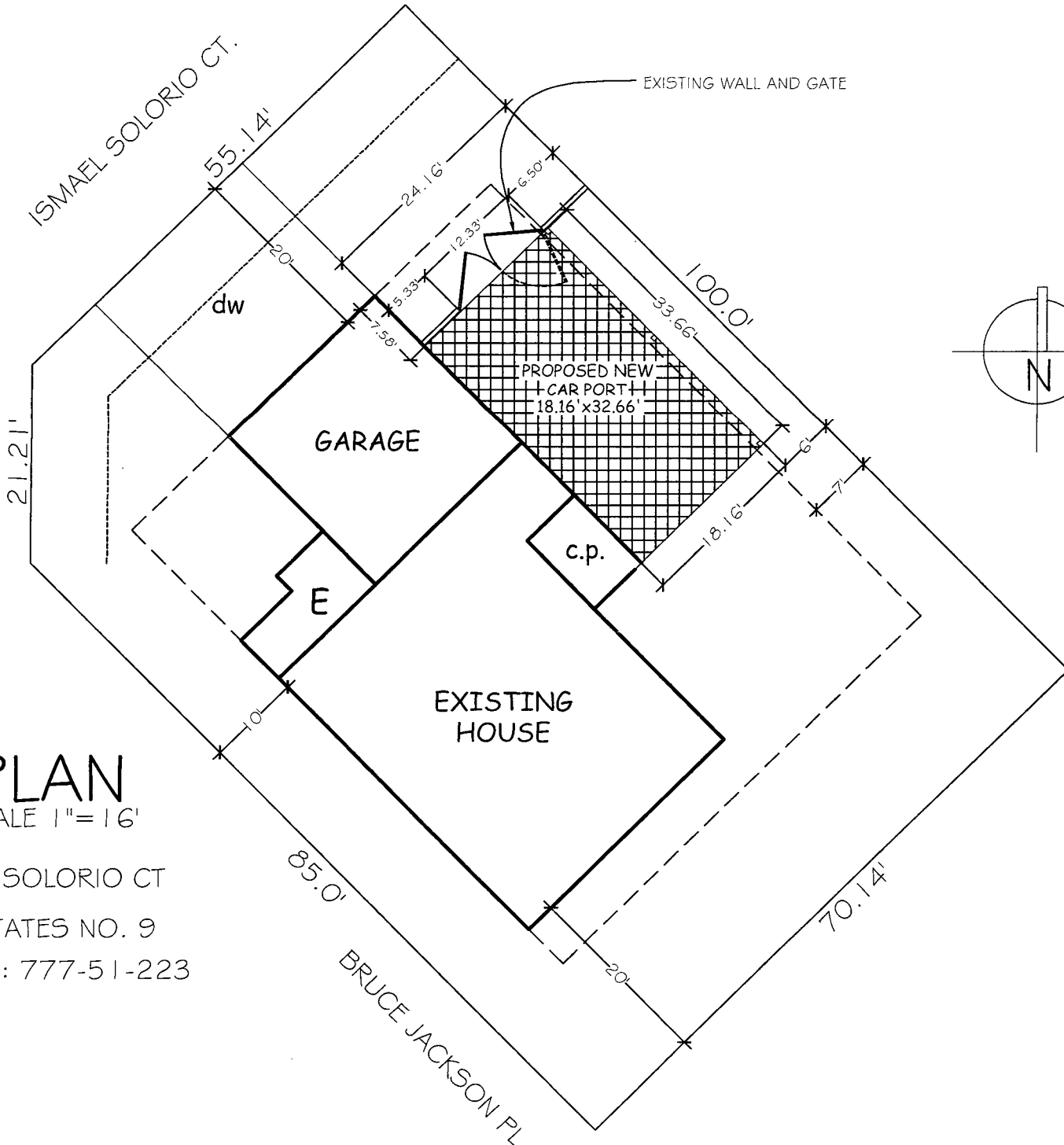
Checked By:
ROMAN PACHECO



Prepared By:
ISAAC GUTIERREZ

APPROVED BY:
JOSE A. GUZMAN

Case No.:
2019-0162



SITE PLAN

SCALE 1"=16'

455 N ISMAEL SOLORIO CT
 BIENESTAR ESTATES NO. 9
 LOT: 223 APN: 777-51-223





Proposed Carport

Subject Property

RAUL GRIJALVA CRT

BRUCE JACKSON PL

RAUL GRIJALVA CRT

ISMAEL SOLORIO CRT

ISMAEL SOLORIO CRT



Subject Property

Proposed Carport

ISMAEL SOLORIO CRT

ISMAEL SOLORIO CRT

BRUCE JACKSON PL

RAUL GRIJALVA CRT

BRUCE JACKSON PL

RAUL GRIJALVA CRT

NARRATIVE STATEMENT

Dear madam or Sir,

- a) *"There exist special circumstances or condition regarding the land or building referred to in the application, which do not apply to other properties in the zoning district"*

There are not existing circumstances applicable to my land or building, that make the circumstances of my property special or unique from any other properties around it. However, I would like to have the same privileges as other properties in my area. The property with address 463 N. Ismael Solorio Ct. (located north of my parcel) for instance does not have a perceivable special circumstance, but does have an approved variance for a setback reduction from the rear property line that allowed the construction of a pergola. Furthermore, in my neighborhood there are about 8 to 10 properties that have existing attached shade structures that are zero-lot-line or that encroach into the required setbacks.

- b) *"The above special circumstance or conditions are preexisting and are not created or self-imposed by the owner or applicant"*

Based on the statement above, existing circumstances (if any) are preexisting to my parcel and all the parcels in my area, and were not created or self-imposed.

- c) *"The variance is necessary for the preservation of substantial property rights. Without a variance the property cannot be used for purposes otherwise allowed in this zoning district."*

Without the variance I can still improve the property with an even more aggressive setback reduction, since the proposed attached carport can be as close as 5 feet with a 1-hour fire rate. The only reason the variance will be requested is for aesthetic and functionality reasons.

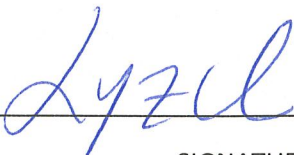
Aesthetics, because the proposed post elements and beams of the proposed structure will need to be plastered with stucco to achieve the 1-hour fire rate, and won't be pleasing to see, more of an eyesore. And functionally since, by allowing a 6-foot setback the proposed vertical elements will be out of an existing gate's radius swing.

- d) *"The authorizing of the variance will not materially detrimental to persons residing or working in the vicinity, to adjacent property, or the neighborhood or the public welfare"*

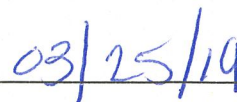
In no way, the proposed carport will have a detrimental effect to people, adjacent properties. Or neighbors. The proposed structure will meet all required building codes and zoning regulations (hence the seeking of this variance) therefore, will enhance the aesthetics in the neighborhood as well as preserve public safety and welfare.

The proposed carport will be design in a way be proportionally correct to the existing home and built with similar materials as the existing home.

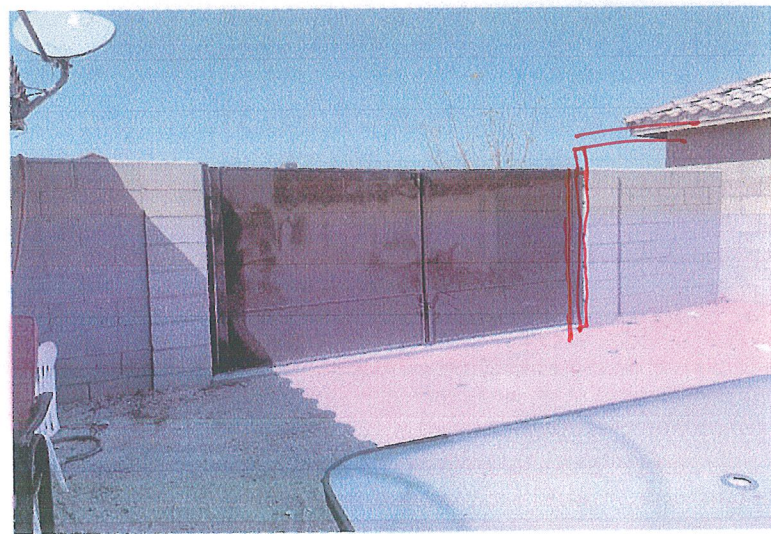
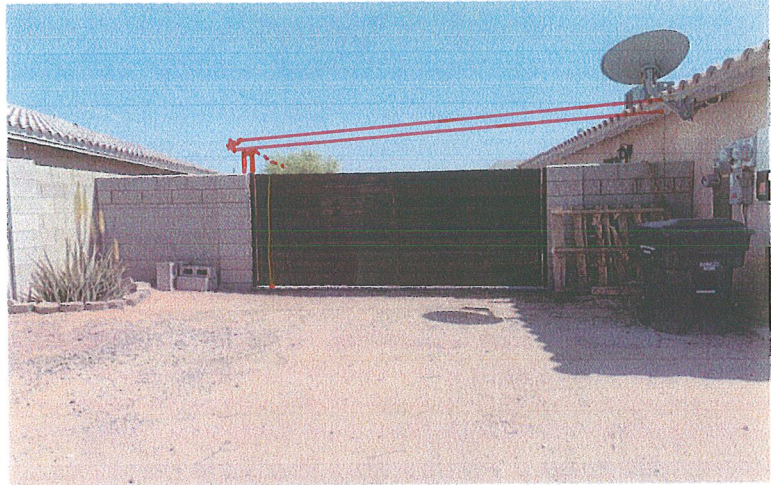
Sincerely,



SIGNATURE



DATE





March 28, 2019

MINOR VARIANCE CASE NUMBER: 2019-0162

CASE SUMMARY: This is a request by Rene and Lye Lara, property owner, for a minor variance to reduce the side yard setback from 7-feet to 6-feet to allow the construction of a carport in the Medium Density Residential (R1-6) Zoning District, Assessor’s Parcel Number 777-51-223. The property is located at 455 N. Ismael Solorio Court, San Luis, Arizona.

HEARING OFFICER MEETING: April 9, 2019

COMMENTS DUE: April 3, 2019

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 the Planning and Zoning Department at 928-341-8563, or at P&Z@cityofsanluis.org .

Thank you,

Jose A. Guzman
Director of Planning and Zoning

Attachment: Location Map, and Site Plan



COMMENTS NO COMMENTS

Enter Comments below:

This variance request meet several County's criteria that could justify granting the variance; -the strict application of the Zoning Ordinance deprives such property of privilege enjoyed by other property owners in the zoning district (aerial photography shows that there are several properties already enjoying like structures). -There is a hardship imposed from existing conditions (existing gate and wall). -Adverse effect on public health and safety or welfare are not expected. -If granted, this variance does not confere a special privilege not already enjoyed by others in the zoning district, or have a negative impact on the neighborhood (aerial photography shows that there are several properties already enjoying like structures). However, if this project were to be in Yuma County’s jurisdiction, the variance won’t be needed since, pursuant to Section 1102.02 -Setback Exceptions (E) - Terraces, patio covers, awnings, carports, platforms and ornamental features may project into any required side yard, provided such features shall be distant at least three feet (3’)

from any lot line or setback line. At 3 feet distance of a property line the Fire Code 2003 will require the structure to be a 1-hour fire rate. If carport is placed at 5 feet distance from property line, no fire rate is required.

Date:

03-29-2019

Agency:

Development Services

Phone:

(928) 817-5000

Return to: rpacheco@cityofsanluis.org



March 28, 2019

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Thank you,
Jose A. Guzman
Director of Planning and Zoning

Attachment: Location Map, and Site Plan

COMMENTS NO COMMENTS

Enter Comments below:

This request for a minor variance does not appear to preserve the side yard set-back requirements within subdivision regulation. 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 Development Services Department.

Date:

04/02/2019

Agency:

The City of San Luis Fire Department

Phone:

928/341-8550

Return to: rpacheco@cityofsanluis.org