

Regular Meeting
November 12, 2013

**MINUTES OF A REGULAR MEETING OF THE CASA GRANDE BOARD
OF ADJUSTMENT HELD ON TUESDAY, NOVEMBER 12, 2013 AT 6:00
P.M. IN THE COUNCIL CHAMBERS LOCATED AT CITY HALL, 510 E.
FLORENCE BOULEVARD, CASA GRANDE, ARIZONA**

I. Call to Order and Pledge:

Vice-Chairman Garcia called the meeting to order at 5:57 p.m.

II. Roll Call:

Members Present:

Member Clarence Martin
Member Lyle Riggs
Member Charles Wright
Member Gordon Beck
Member Mark Zeibak
Vice-Chairman Rueben Garcia

Members Absent:

Member Harold Vangilder

City Staff Present:

Paul Tice, Planning and Development Director
Laura Blakeman, Planner
Melanie Podolak, Administrative Assistant

III. Approval of Minutes:

November 13, 2012

Member Wright made a motion to approve the minutes dated November 13, 2012. Member Zeibak seconded the motion. A voice call vote was called, majority of members present were in favor.

IV. Elections:

Chairman
Vice-Chairman

Vice-Chairman Garcia opened elections for Chairman. Member Beck nominated Rueben Garcia as Chairman; Member Zeibak seconded the motion, with no further

nominations Member Wright moved to close nominations, Member Zeibak seconded. Vice-Chairman Garcia closed the nominations.

Rueben Garcia was elected as the new Board of Adjustment Chairman.

Chairman Garcia then called for nomination for Vice-Chairman. Member Beck nominated Mark Zeibak as Vice-Chairman: Member Wright seconded the motion, with no further nominations Member Wright motioned to close the nominations, Member Beck seconded. Chairman Garcia closed the nominations.

Mark Zeibak was elected as the new Board of Adjustment Vice-Chairman.

V. Changes to the Agenda:

Director Tice stated there are no changes to report.

VI. New Business:

A. Request by Tod A. Miller, for the following land use request on .13 acres located at 114 N. Morrison Avenue, APN 507-06-101:

1. DSA-13-00130: Variance from the following City Code Provisions:

- a. Section 17.20.140A: To have a Minimum Lot Area of 5,600 square feet, whereas the minimum lot area is 7,000 square feet
- b. Section 17.20.140B: To have a "Minimum Lot Width" of 40', whereas the minimum lot width is 70'.

Laura Blakeman, Planner, came forward to present a brief overview of the case as stated in the Staff Report. Ms. Blakeman noted a correction to the acreage on the agenda; it should read .13 acres not 1.3 acres. She then continued with her overview and the history of the project, pointing out that in 1992 the owner of the lot did a lot split without the city's knowledge. This split created substandard parcels in width and area on two of the three lots. Ms. Blakeman stated that the Variance request is not about increasing the density or adding more development rights than what currently is allowed. She mentioned that at the time the lots were split each lot contained a single family home so there were no building or zoning code issues that would have required a building permit, which would have brought the issues to the attention of staff. Subsequently the home located at 114 N. Morrison Avenue, was demolished. Ms. Blakeman stated the applicant can not obtain a building permit to construct a single family residence on the lot because of its substandard area and width; therefore if the Variance is not granted it will prevent the home owner from using the lot and would deprive the owner reasonable use of their land. Ms. Blakeman noted staff received a phone call from a property owner adjacent to this site. The property owner expressed their concern with the blighted property and questioned whether the home would be rented or owner occupied. It was explained to the resident that the city has no zoning regulations regarding owner occupied or residential status.

Member Wright questioned if the access to the carport will be from the alley, and if so will this create a dust hazard.

Ms. Blakeman confirmed that the access to the carport will be through the alley. She pointed out that the home to the north also uses the alley to access their home.

Vice-Chairman Zeibak questioned if the city has any issues with the reconfiguration that was done in 1992.

Ms. Blakeman stated in 1992 all the lots had homes, so there were no issues brought before the city because no permits were required.

Member Beck questioned whose responsibility is it to make sure something like this does not happen.

Director Tice explained in Pinal County anyone can go to the county recorders office and record deeds for new properties such as lot splits with no oversight. The recorders office does not question if the city approved the deed or subdivision split. Director Tice stated this split clearly violated a provision of city code, and typically the way it is discovered is at the time of building permit issuance. When a request comes in for a building permit staff checks the legal description, lot area, and whether or not the created parcel is legal. This is how this problem was caught, the property owner came in for a building permit and the lot was checked for compliance.

Vice-Chairman Zeibak commented that normally in an alley north/south it is the location where all the trash is picked up, he questioned if this will create an issue with the trucks being able to pick-up the trash. He also questioned the gas lines and if there are any easements concerns.

Ms. Blakeman stated she is not aware of any issues with the trash service. She confirmed that Southwest Gas has a gas line easement running north/south in the alley and this request will not change any current conditions.

Chairman Garcia commented on the two alleys in there area, one running from Second Street north and south and the other one that comes off of Morrison Avenue and in and ties into the alley on Second Street; he questioned if this is normal having two alleys in the same area.

Ms. Blakeman stated it is common for this area; it can be seen in the original 1920, Myers Addition Plat for the area.

Member Wright questioned if there is a time limit on the construction if the Variance is approved.

Ms. Blakeman replied that the Variance runs with the property.

Director Tice stated there is not a time limit unless the Board chooses to impose one.

Member Wright commented that the applicant can address their time schedule. He stated he did not want to see the approval open-ended.

Member Riggs questioned Member Wright's concern of the Variance being open ended. He stated the Variance becomes part of the property rights.

Member Wright stated he wants to see the property improved and taken care of.

Todd Miller, 1786 N. Wildflower Lane, Casa Grande, applicant, came forward to address the Commission.

Member Wright asked Mr. Miller if they had a timeframe for the project.

Mr. Miller stated the owner is contemplating a number of options, all of which concern building on the lot. He stated the owner is deciding if he is going to build the home for himself, or build the home and sell it. Mr. Miller stated the owner's decision will be based on his finances and the cost of construction.

Member Wright questioned if the plan that was presented is just an example.

Mr. Miller stated the plan is the one that will be constructed. He noted the plan was very limited due to the width and area of the lot, but feels they came up with a very creative solution and plan.

Vice-Chairman Zeibak questioned what the plans for the property were when they purchased it in 2008.

Mr. Miller stated at that time there was a home on the property, but was depilated and subsequently demolished.

Chairman Garcia made a call to the public; no one came forward.

Member Wright stated this is a good project and staff has done a good job in trying to work with the applicant to make this a usable piece of property. He commented he does not like the rear garage entrance, but would like to see the home constructed; it would be an advantage to the neighborhood.

Member Wright made a motion to approve case DSA-13-00130 for Variances:

- a. Section 17.20.140A: To have a Minimum Lot Area of 5,600 square feet, whereas the minimum lot area is 7,000 square feet
- b. Section 17.20.140A: To have a "Minimum Lot Width" of 40', whereas the minimum lot width is 70'

With the added condition that "the home be completed within two years, or the variance is null and void".

Vice-Chairman Zeibak seconded the motion.

Member Riggs commented that if a time limit is placed on the request we run the risk of creating a disincentive. If we do not approve the Variance and they do not build it, it stays the same, but if it is approved with the time limit and they do not build it, it stays the same. He stated we are trying to impose a condition on someone that could be affected by economic conditions or their situation may change. Giving them a two year limit will not accomplish anything, if they do not build within the two years they will just have to come back to the Board and make the same request again. Member Riggs stated he is opposed to placing a time limit on this request. He then stated the Board should approve the Variance which will increase the value of the property; if the property owner can not build on the lot then they can resell it with the approved Variance and the next person can build on it.

Member Beck agreed with Member Riggs.

Director Tice commented staff can not control how long it takes to complete a project, so if the Variance were to be approved with the condition that the home must be completed within two years, staff would like that the conditions read that the building permit must be pulled within two years, which staff can control.

Member Wright amended his motion to "The building permit must be obtained within two years of the Variance approval".

The following roll call vote was recorded:

Member Martin	Nay
Member Riggs	Nay
Member Wright	Aye
Member Beck	Nay
Vice-Chairman Zeibak	Nay
Chairman Garcia	Nay

The motion failed 5 – 1.

Member Riggs made a motion to approve as submitted by Staff, case DSA-13-00130 for Variances:

- a. Section 17.20.140A: To have a Minimum Lot Area of 5,600 square feet, whereas the minimum lot area is 7,000 square feet
- b. Section 17.20.140A: To have a "Minimum Lot Width" of 40', whereas the minimum lot width is 70'

Member Beck seconded the motion.

The following roll call vote was recorded:

Member Martin	Aye
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Member Riggs	Aye
Member Wright	Nay
Member Beck	Aye
Vice-Chairman Zeibak	Aye
Chairman Garcia	Aye

The motion passed 5 – 1.

VII. Call to the Public:

There were no comments received from the public

VIII. Report by Planning Director:

Director Tice stated at the December 10th, meeting there may or may not be any action items, but the City Attorney has agreed to attend the meeting to brief the Board on legal matters regarding the Boards decision making process, including open meeting laws, ex-parte communications, A.R.S. limitations on Variances and city code Variance criteria. The presentation will be discussed in open session, so it can be interactive.

Member Riggs stated the minutes that were approved tonight were a year old and he did not vote because he had no way of knowing whether they reflected what happened a year ago or not. He would like to ask the City Attorney with regards to approval of minutes if there is a way that the minutes can be approved if there is not going to be a meeting for several months.

Director Tice stated we can ask the City Attorney. He then stated if there are no cases we can hold a quarterly meeting to approve meeting minutes.

Chairman Garcia welcomed the new Board Members, Mr. Martin and Mr. Riggs.

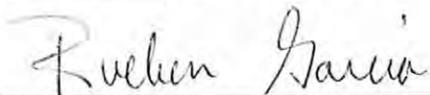
IX. Adjournment:

Member Wright motioned for adjournment, Member Riggs seconded, a voice call vote was called and all were in favor.

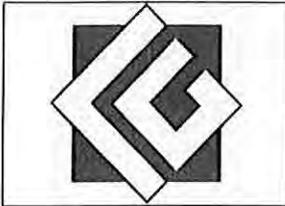
Chairman Garcia called for adjournment at 6:32 p.m.

Submitted this 18th day of November, 2013 by Melanie Podolak, Administrative Assistant to the Casa Grande Board of Adjustment, subject to the Board's approval.

Approved this 14 day of Jan, ²⁰¹⁴~~2013~~ by the Casa Grande Board of Adjustment.



Chairman Garcia



**Board of Adjustment
STAFF REPORT**

AGENDA

TO: CASA GRANDE BOARD OF ADJUSTMENT

FROM: Laura Blakeman, City Planner

MEETING DATE: November 12, 2013

REQUEST

Request by Tod A. Miller, for the following land use request for R-1 zoned property located at 114 N. Morrison Avenue, APN 507-06-101:

1. **DSA-13-00130:** Variance from the following City Code Provisions:
 - a. Section 17.20.140A: To have a Minimum Lot Area of 5,600 square feet, whereas the minimum lot area is 7,000 square feet
 - b. Section 17.20.140B: To have a "Minimum Lot Width" of 40', whereas the minimum lot width is 70'.

APPLICANT/OWNER

Tod A. Miller, Architect
 Clear Blue Services
 1101 S. 48th Street, #210
 Phoenix, AZ 85044
 P: 602-426-9500
 Email: todmiller@clearblueservices.com

Linn Ballard
 705 E. Melrose Drive
 Casa Grande, AZ 85122
 P: 610-585-6628

HISTORY

February 24, 1920 - The final plat was recorded for the Myers Addition to Casa Grande.

June 1948 – The site was zoned Class B Residence

May 1969 – The site was zoned R-3 (Multiple Family).

April 1975 – The site was zoned R-2 (Two-four family).

November 16, 1987 - The site received official zoning of R-1 (Single-family residential) with the adoption of the Zoning Ordinance and map.

October 2002: Code Enforcement case: Illegal dumping in alley of site.

July 2008:

Code Enforcement case: Abandoned building – unsecured, broken windows, dead grass and weeds.

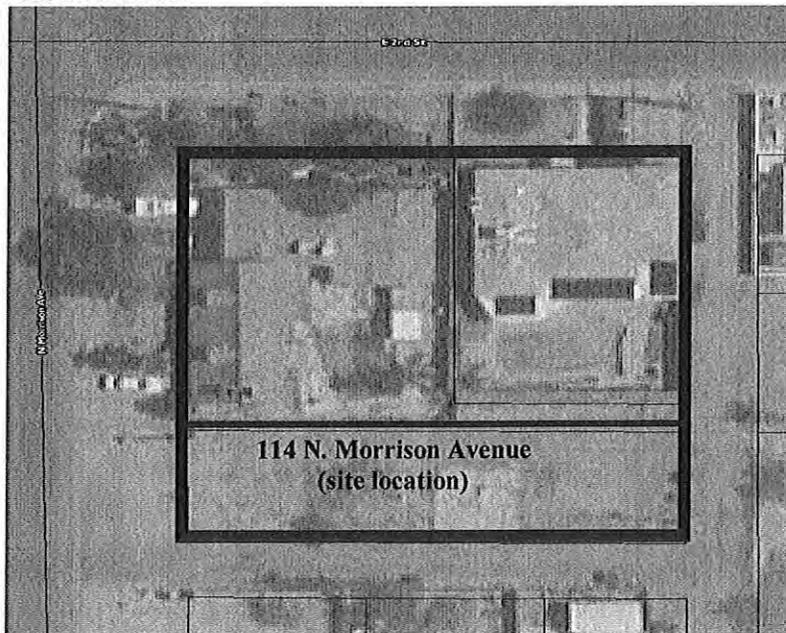
Surrounding Area Land Use and Zoning

Direction	General Plan Designation	Existing Zoning	Current Uses
North	<i>Community Center</i>	R-1 (Single-family residential)	Residential
South	<i>Community Center</i>	R-1 (Single-family residential)	Residential
East	<i>Community Center</i>	R-1 (Single-family residential)	Residential
West	<i>Community Center</i>	R-1 (Single-family residential)	Residential

Overview

The applicant, representing the owner is applying for a lot width and lot area variance since the owner's parcel is substandard in both of these conditions. This situation is apparently the result of a lot reconfiguration that occurred in 1992 prior to the current owner's purchase of the property in 2008. The owner desires to construct a new modest single family home on this parcel but a building permit cannot be issued due to the fact that the parcel does not meet the minimum lot area, nor lot width required in the R-1 zone district. Without variance relief the property will remain unbuildable. Greater detail regarding this situation is provided in the review criteria section of the Staff Report.

Aerial of site:



In December of 1998, Elroy Investments purchased the property and at the time the property had a residence located on it. According to Pinal County Records, the property was designated as "rental residential" which is considered property that is leased or rented for residential purposes. In July of 2008, the property was cited by Code Enforcement for the building being abandoned and unsecured. The property was unsightly with uncut dead grass, weeds and the back yard was covered with debris. Shortly after, the property was sold to Linn Rene Ballard and a demolition permit was obtained from the city to tear down the house.

Presently the property is vacant and is a common dumping ground for trash and weeds (see the picture below).



The property owner is proposing to build a new 2-story 1,452 square foot single family residence. The exterior of the residence will complement the existing neighborhood homes with painted stucco exterior, wood trim, shingle roof and anodized aluminum windows.

The site is zoned R-1 single family residential. The R-1 Zoning allows single family

detached dwellings with a minimum of 7,000 square foot lot area and a minimum lot size of 70' x 100'.

The table below lists the R-1 zoning code requirements and the requested deviations from the code per this variance request.

R-1 Zoning:	Proposed Development:
Minimum Lot Area – 7000 sq. ft	Minimum Lot Area - 5,600 sq. feet (17.20.140A)
Minimum Lot Size: Width – 70' Depth - 100'	Minimum Lot Size: Width – 40' (17.20.140B) Depth - 140'
Setbacks: Front – 20' Rear - 20' Sides – 5' & 10'	Setbacks: Front – 20' Rear - 20' Sides – 5' & 10'
Building height: 28' maximum	Building Height – 25' 4" to top of ridge

As shown in the table above the applicant is asking for a Variance of Section 17.20.140A: to have a minimum lot area of 5,600 square feet and a Variance of Section 17.20.140B: to have a "Minimum Lot Width" of 40'.

The Non Conforming Uses City Code Section 17.64.030 Applicability to existing lots states the following:

- A. At the time of enactment of this title, if any owner of a plot of land consisting of one or more adjacent lots in a subdivision of record does not own sufficient contiguous land to enable him/her to conform to the minimum lot width requirements or does not have sufficient lot width to conform to the minimum lot width requirements, **such plot of land may nevertheless be used as a building site.** The dimensional requirements of the district in which the piece of land is located **may be reduced by the smallest amount that will permit a structure of acceptable size to be built upon the lot, such reduction to be determined by the board of adjustment.**

1. In the UR, R-1, RF-1a and R-4 Zones, the reduction shall permit only a single-family residence.

According to City Code 17.54. 010, the board of adjustment may allow a departure from the terms of these zoning regulations pertaining to height or width of structures or the size of yard and open spaces where such departure will not be contrary to the public interest, and where, owing to conditions peculiar to the property because of its size, shape or topography, and not as a result of the action of the applicant, the literal enforcement of this title would deprive the owner of the reasonable use of the land and/or building involved.

Upon Staff's research, it was determined that the current owner was not associated with the original lot splits and if the Variance is granted, the property owner's next step is to apply for a building permit.

CONFORMANCE WITH THE VARIANCE CRITERIA:

The Board, in reviewing a Variance request, shall find that the request satisfies the considerations listed below.

The applicant provided a Justification Statement (Exhibit B) that presents how they believe their request meets the criteria. Staff's analysis is as follows:

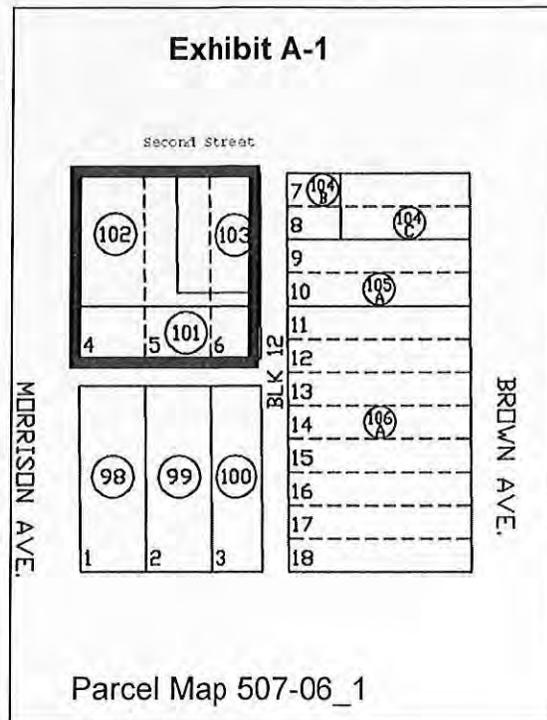
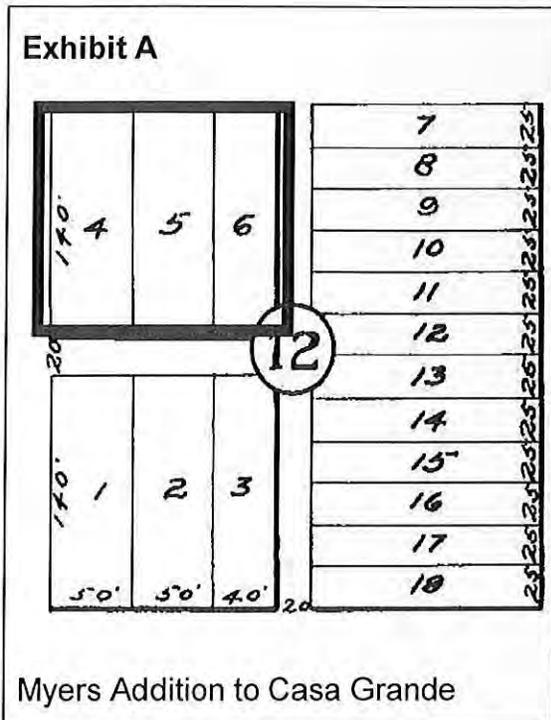
A. That there are special circumstances or conditions applicable to the property referred to in the application which do not prevail on other property in that zone;

At the time the Myers Addition to Casa Grande Final Plat was recorded in the 1920's, Lots 4, 5 were platted as 50' foot wide lots with 7,000 square feet of lot area and Lot 6 was platted as a 40 foot wide lot with 5,600 square feet of lot area (see Exhibit A). At the time the City first zoned these lots in 1948, as Class B Residence which required a minimum lot area of 5,800 square feet, Lot 6 was classified as legal non-conforming in terms of lot area. When the City rezoned all three lots in 1964 into the R-3 zone district with a minimum lot width of 60 feet, all three lots became legal non-conforming as to lot width.

As previously mentioned, in 1992 a prior owner of these three lots (4, 5 & 6) split and reconfigured them into three new parcels (see Exhibit A-1). One of the reconfigured parcels (APN 507-06-102) did comply with both the lot area and lot width requirements of the current R-1 zone district while the other two (APN's 507-06-101 & 506-07-103) did not.

This prior lot split was done without any City review or oversight as there is no record of a re-subdivision process, which would have been required per the City Code.

However, since all three of these parcels contained single family homes at the time of the lot reconfiguration no building nor zoning issues came to light. Subsequent to this lot reconfiguration the structure on the subject property (114 N. Morrison Avenue) was demolished. At this point and time, the applicant cannot obtain a building permit to construct a new single family home on this lot due to it's substandard lot width and lot area condition.



B. That the strict application of the regulations would work an unnecessary hardship and that the granting of the application is necessary for the preservation and enjoyment of substantial existing property rights

- The applicant is seeking to construct a single family residence on the lot. If the variance is not permitted it would prevent the homeowner from using the lot to construct a single family residence. Without the variance there is no economic use for the property. The enforcement of the City Code requirements would deprive the owner of the reasonable use of the land.

C. That the granting of such application will not materially affect the health or safety of persons residing or working in the neighborhood and will not be materially detrimental to the public welfare or injurious to property or improvements of the neighborhood.

- The surrounding area is residential in nature and development of this site will improve the existing conditions of the site that is currently blighted with weeds and trash.
- Staff finds that the proposed development of a single family residence will improve the property's appearance and will be compatible with the existing land uses in the area.
- Staff does not find any potential negative impacts to the affect the health or safety of persons residing or working in the neighborhood and will not be materially detrimental to the public welfare or injurious to property or

improvements of the neighborhood.

Public Notification

Public hearing notification efforts for this request meet the requirement set out by City Code:

- A notice was published in the Casa Grande Dispatch on October 25, 2013
- A notice was sent to all property owners within 200 ft. of the subject site on October 21, 2013.
- A public hearing sign was posted by the applicant on the subject site on October 25, 2013.

Inquiries/Comments

City Staff received a phone call from a property owner to the north. The resident was concerned with the blighted property and questioned whether the residence would be rented or owner occupied.

STAFF RECOMMENDATION

Staff recommends the Board approve DSA-13-00130, the Variance from Section 17.20.140A, minimum lot area (5,600 sq. ft. minimum) and 17.20.140B, minimum lot width (40' ft. minimum).

Exhibits:

Exhibit B - Applicant's Justification Statement

Exhibit C - Site Plan

Exhibit D - Elevations

Exhibit B



Date: 13 September 2013

RE: Variance Justification Letter
Pinon Residence
114 N. Morrison Ave.
Casa Grande, Arizona 85122

Ms. Blakeman:

We are requesting a change in the zoning for the above referenced site from an R-1 Zone to an R-2 Zone.

This lot is currently located in an R-1 Zone in an existing neighborhood. The R-1 Classification has a minimum lot size of 7,000s.f., and due to previous parcel splits, this lot has resulted with a lot size that does not conform to the minimum lot size, but has a lot size of 5,600s.f. The lots adjacent to this property do not have this issue and have structures already in place, and therefore this rezoning would not prevail upon the adjacent properties.

The current lot cannot be built upon as it does not conform. Therefore this lot sits empty and is being utilized as a common dumping ground for plant debris and trash. Keeping this lot in it's current zone will prevent any improvements and result in substantial financial loss to the owner as it becomes unusable.

Rezoning this parcel to an R-2 Zone would enable this property to be built upon, thus ensuring the enjoyment and substantial property rights of the owner. Rezoning will also enable the improvement of the overall public health environment of the neighborhood as it would eliminate the dumping ground. It would also serve the local neighborhood by improving the overall value of the adjacent properties and the general neighborhood.

Thank you for your time and consideration. Please call anytime with any questions, comments or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tod A. Miller', is written over a horizontal line.

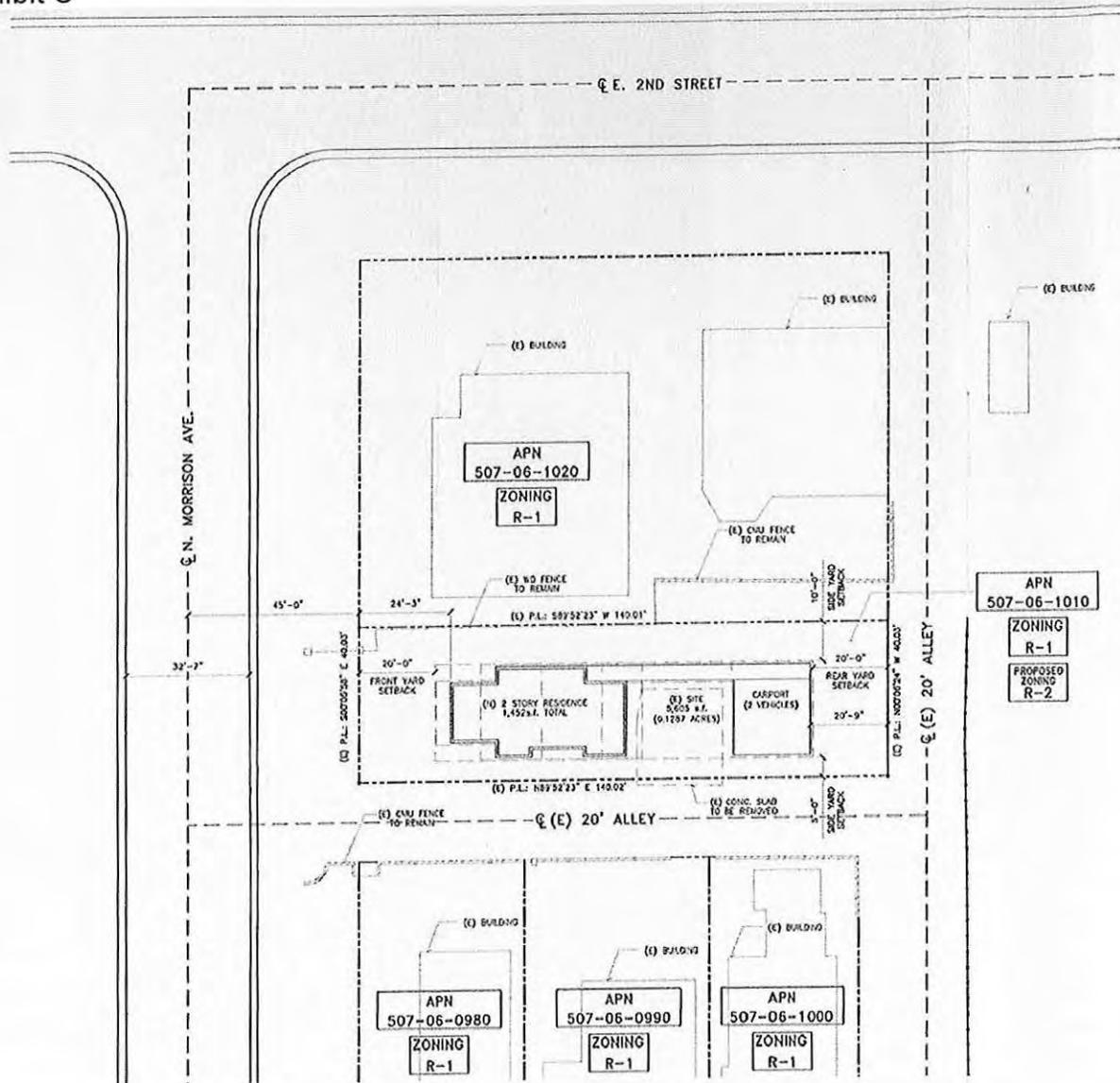
Tod A. Miller
Project Architect, RA
602 426 9500, x119

Encl.:
Variance Justification Letter
Construction Drawings

cc: File

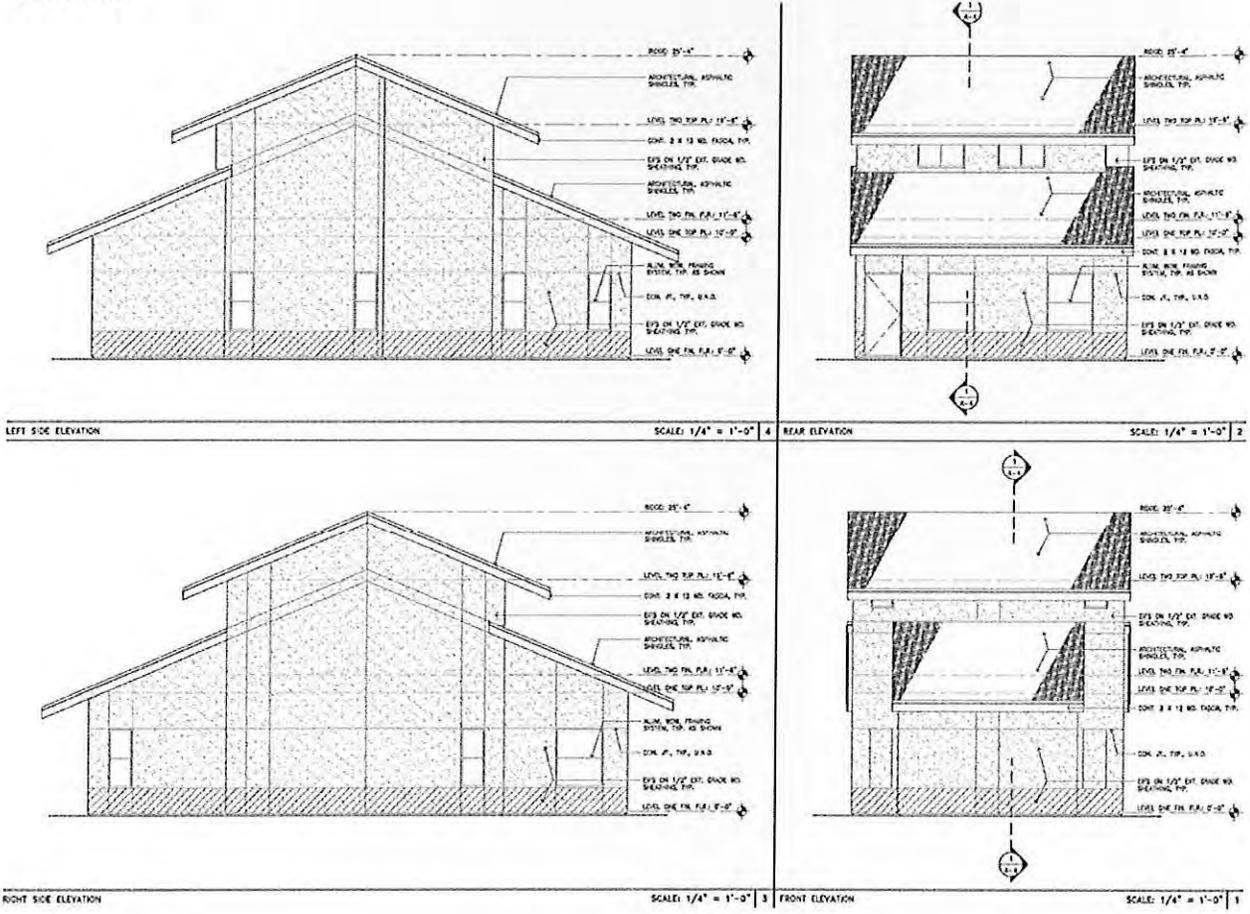
11011 South 48th Street Suite 210 • Phoenix, AZ 85044
602-426.9500 phone • www.clearblueservices.com

Exhibit C



JURISDICTION:	CITY OF CASA GRANDE
ASSESSORS PARCEL NUMBER:	507061010
PROPOSED USE:	RESIDENCE
EXISTING LOT AREA:	5,600s.f.
EXISTING LOT SIZE:	40' X 140'
CURRENT ZONING:	R-1
MINIMUM LOT AREA:	7,000s.f.
MINIMUM LOT SIZE:	70' X 100'
SETBACKS:	FRONT: 20' REAR: 20' SIDES: 5'/10' MIN. ONE SIDE
BUILDING HEIGHT:	28'-0" MAX.
ZONING ANALYSIS	

Exhibit D



LEFT SIDE ELEVATION

SCALE: 1/4" = 1'-0"

REAR ELEVATION

SCALE: 1/4" = 1'-0"

RIGHT SIDE ELEVATION

SCALE: 1/4" = 1'-0"

FRONT ELEVATION

SCALE: 1/4" = 1'-0"