

Staff Summary Report



Board of Adjustment Hearing Date: February 27, 2008

Agenda Item Number: 2

SUBJECT: This is a public hearing for the appeal of the December 4, 2007 Hearing Officer's decision to deny a request by the **LEWIS PROPERTY** located at 241 East 15th Street for two (2) variances.

DOCUMENT NAME: 20080227dssd01

PLANNED DEVELOPMENT (0406)

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for an appeal of the December 4, 2007 Hearing Officer's decision to deny a request by the **LEWIS PROPERTY (PL070403/VRA07003/VRA08001)** (Joseph Lewis, applicant/property owner) located at 241 East 15th Street in the R1-6, Single Family Residential District for:

VAR07024 Variance to reduce the front yard setback from twenty (20) feet to ten (10) feet four (4) inches.

VAR07025 Variance to reduce the required driveway from twenty (20) feet to ten (10) feet four (4) inches.

PREPARED BY: Shawn Daffara, Planner II (480-858-2284)

REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

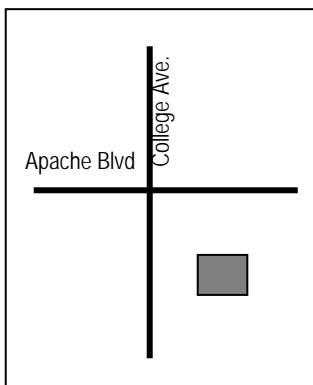
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LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval of the Appeal, subject to conditions 1-3

ADDITIONAL INFO: The Lewis Residence is requesting two (2) variances; one to reduce the front yard setback from twenty (20) feet to ten (10) feet, four (4) inches and a second variance to reduce the required driveway length from twenty (20) feet to ten (10) feet, four (4) inches for a proposed garage addition. Staff recommends approval of both variances in that the right-of-way along 15th Street is not equitable. It would qualify as a hardship by creating special circumstances in which ten feet (10') of the right-of-way encroaches into the front yard, indicating potential loss of substantial property rights. Typical single family districts (R1-6) do not have right-of-way that encroaches beyond the back edge of sidewalk. In accordance with the Zoning and Development Code, the applicant held a neighborhood meeting on October 9, 2007. To date staff has received one (1) letter of support and a petition signed by thirteen (13) neighbors supporting this request.



PAGES:

1. List of Attachments
2. Comments;
3. Reason for Approval; Conditions of Approval; History & Facts
4. Description; Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
3. Letter of Intent
4. Neighborhood Meeting Letter
- 5-6. Neighborhood Minutes/ Attendance Roster
7. Site plan
8. Floor Plan/Elevations
- 9-10. Staff Photograph(s)
- 11-13. Letter of Support/ Petition
- 14-15. December 4, 2007 Hearing Officer Minutes.
16. Appeal Letter from Mr. Lewis
17. Applicant's Appeal Photograph(s)

COMMENTS:

The Lewis Residence is requesting two (2) variances; one to reduce the front yard setback from twenty (20) feet to ten (10) feet, four (4) inches and a second variance to reduce the required driveway length from twenty (20) feet to ten (10) feet, four (4) inches for a proposed garage addition. The neighborhood street has a thirty (30) foot half width right-of-way. 15th Street has been designed differently along the north and south side. On the north side of 15th Street the right-of-way extends to the back edge of the sidewalk. On the south side of 15th Street, the right-of-way extends ten (10) feet beyond the sidewalk. Therefore, the properties along the south side of 15th Street have a portion of the front yard that can't be developed equally compared to the properties along the north side of 15th Street. Typical single family districts (R1-6) do not have right-of-way that encroaches beyond the back edge of the sidewalk. If the variances for the proposed garage addition were approved, this new garage would be located twenty feet, four inches (20'-4") from the back edge of the sidewalk.

The Hearing Officer, at the November 6, 2007 hearing, requested the applicant provide additional information on existing neighborhood setbacks. Staff conducted field measurements and found the average residence in the neighborhood to be thirty-five feet (35) from the back edge of sidewalk, which would be twenty-five feet (25) from the property line.

At the Hearing, three (3) neighbors spoke in support of Lewis's variance request. The neighbors felt the addition would enhance the property and the neighborhood and would prevent cars from parking in the street. If the garage is approved the Lewis's would have a true garage to park their vehicles. One (1) neighbor was in opposition to the request; the neighbor felt the new garage addition would block view corridors on 15th street. The Hearing Officer at the December 4, 2007 hearing denied the variance(s) stating that there was technically no hardship in this situation, and that the request would create a negative situation for the neighborhood, as it would be too much building mass so close to the street.

Neighborhood Meeting

The applicant had his required neighborhood meeting on Tuesday, October 9, 2007 at 6:00 PM. Two (2) neighbors were in attendance and were in support of the request.

Variance

The Zoning and Development Code Development Standards requires the front setback for dwellings, in the R1-6 Single Family Residential District, to be located twenty (20) feet from the front property line. The ZDC also requires on site driveways to be twenty (20) feet in length.

Analysis of this request, result in findings that there are special circumstances or conditions affecting the proposed building, land, or use to warrant approval of the variance. The property is rectangular in shape and is consistent with other properties on this block. The thirty (30) foot half width right-of-way along the south side of 15th Street (Lewis Residence) extends ten (10) feet beyond the back edge of the sidewalk. The north side of 15th Street, the thirty (30) foot right-of-way extends to the back edge of the sidewalk. The properties along the south side have ten (10) feet of there front yard that is unusable, creating a hardship for property owners along the south side of 15th street. Given the right of way discrepancy, the proposed garage would "appear visually" to be twenty feet, four inches (20'-4") from the back edge of the sidewalk.

Conclusion

Staff recommends approval of the appeal, thus approving the variances as proposed.

**REASON(S) FOR
APPROVAL:**

1. Special circumstances or conditions applying to the land, building or use exist.
2. The authorizing of the variance is necessary for the preservation and enjoyment of substantial property rights.
3. Authorization of the variance(s) will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general.

SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.

**CONDITION(S)
OF APPROVAL:**

1. Obtain all necessary clearances from the Building Safety Division.
2. The proposed structure shall match the existing residence in materials, color and design.
3. The north elevation of the garage shall have address numbers, visible from 15th Street.

HISTORY & FACTS:

May 23, 1990	<u>BA900093:</u> The Hearing Officer denied two variances for the Posten Residence at 125 East 15 th Street. a) Variance to reduce front yard setback from 25' to 12' for a proposed carport. b) Variance to reduce side yard setback from 7' to 3' for proposed carport.
September 27, 2000	<u>BA000251:</u> The Hearing Officer approved a variance for the Furnish Residence at 212 East 14 th Street to reduce east side yard setback from 7' to 3'
November 19, 2002	<u>BA020287:</u> The Hearing Officer approved three variances for the Trick Residence located at 304 East 15 th Street. a) Variance to reduce east side yard setback from 7' to 3' for a detached carport b) Variance to reduce eave overhang from 3' to 2' for a detached carport. c) Variance to allow the proposed carport to encroach into the front half of the lot.
November 6, 2007	<u>PL070403:</u> The Hearing Officer continued this request until the December 4 Hearing. The Hearing Officer requested additional information on neighborhood setbacks.
December 4, 2007	<u>PL070403:</u> The Hearing Officer denied the variances for the Lewis Residence, stating that there was technically no hardship in this situation, and that the request would create a negative situation for the neighborhood, as it would be too much building mass so close to the street.

DESCRIPTION:

Owner – Joseph Lewis
Applicant – Joseph Lewis
Existing Zoning – R1-6, Single Family Residential District
Lot Size– 33,186 s.f. / .76 acres
Existing Residence Area – 4,381 s.f.
Proposed garage area – 830 s.f.
Lot coverage allowed- 45%
Lot Coverage (proposed)- 15.7 %
Required front yard setback- 20'
Proposed front yard setback- 10'- 4"

**ZONING AND
DEVELOPMENT**

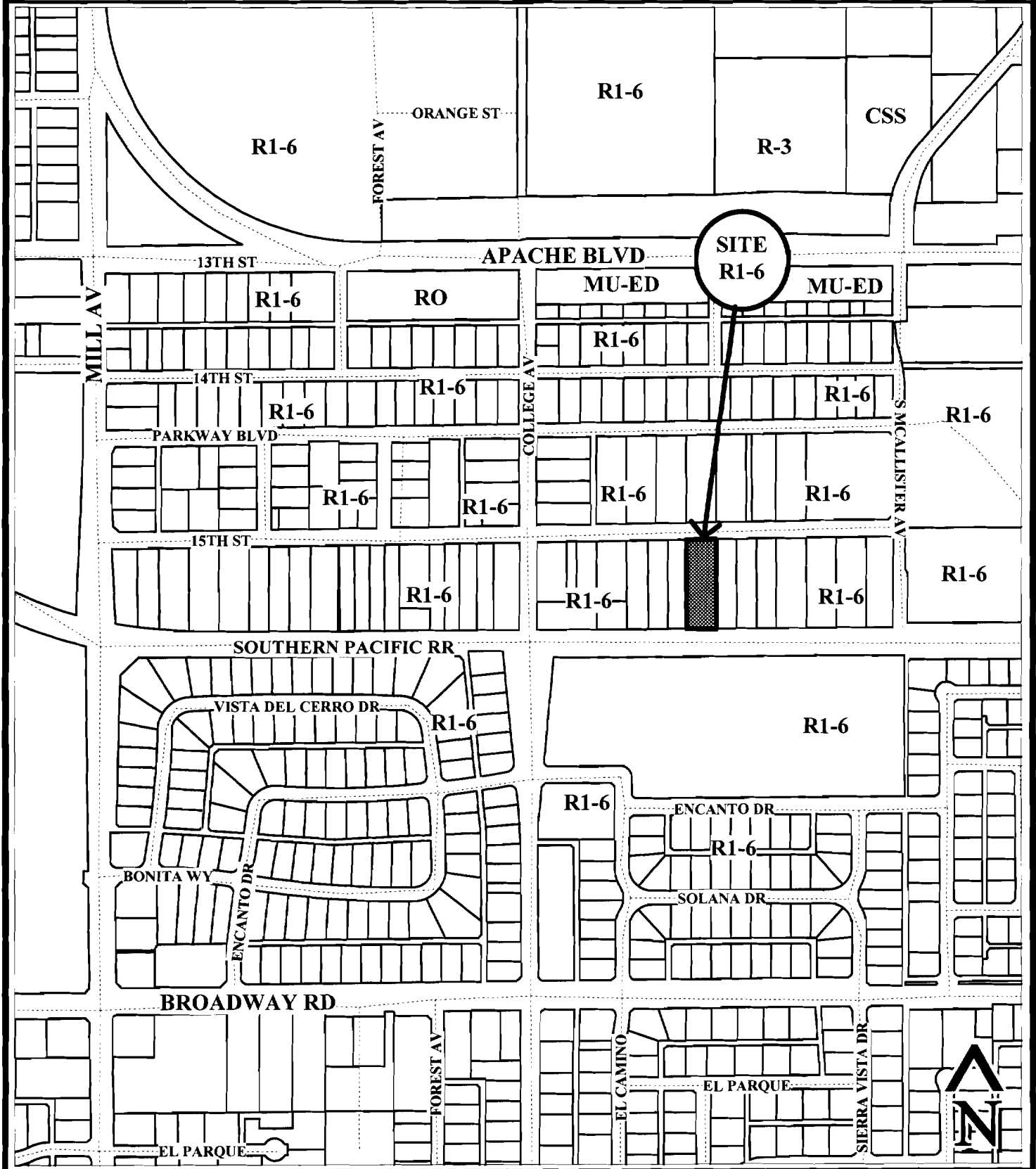
CODE REFERENCE:

Citations of Code Requiring Residential Setbacks & Variance(s):

Zoning & Development Code:
Part 4, Chapter 2, Section 4-202.
Part 6, Chapter 3, Section 6-309

LEWIS PROPERTY

PL070403





PL070403 - Right of Way Aerial
LEWIS RESIDENCE

September 5, 2007

City of Tempe
Board of Adjustment / Hearing Officer

Site Address: 241 E. 15th St. Tempe, AZ 85281

I hereby request a Use Permit to allow for a two car garage to extend into the setback.
Please note the justification bellow for approval.

1. The garage is remaining a two car garage and therefore will not cause "significant vehicular or pedestrian traffic...."
2. The garage is to be extended to allow vehicles to fit inside thus eliminating the nuisance of parking on the street.
3. The garage extension will enhance the neighborhood for the reason stated in number two.
4. The design remains compatible with the surrounding structures.
5. The proposed use permit will not disrupt the general public or the surrounding area.

Thank you, for your consideration.



Joseph Lewis
241 E. 15th St.
Tempe, AZ 85281
602-740-3916

September 20, 2007

FILE COPY

Dear Neighbor:

We have submitted plans to the City of Tempe to extend our garage approximately fifteen feet towards the street. As part of the application process we have been asked to hold a neighborhood meeting so that we may answer and questions that you may have. This meeting will be held on October 9th at 6:00 pm at 241 E. 15th St. Tempe, AZ 85281.

If you have any questions prior to the meeting please feel free to give Joseph Lewis a call at 602-740-3916.

Sincerely Yours,

The Lewis Family

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TEMPE PLANNING & DEVELOPMENT
SERVICES DEPARTMENT

RECEIVED
07 SEP 26 PM 1:32
TEMPE PLANNING & DEVELOPMENT
SERVICES DEPARTMENT

RECEIVED

Neighborhood Meeting Notes
Extension of garage 15' towards the street.
TEMPORARY DEVELOPMENT
SERVICES DEPARTMENT

October 9, 2007 6:00 PM

Mr. Lewis began the meeting by giving a history of why the request was being made to extend the garage. He stated that in the two years that the Lewis's have lived on 15th Street that one vehicle has been stolen from the driveway and the other one has been broken into on three occasions by breaking the windows. Mr. Lewis then when on to open the garage door and point out that there is currently not the depth to park a vehicle within the garage.

Mary Trick asked if there was a way to bring the autos around the side of the house? Mr. Lewis pointed out that the house was built approximately 7ft from the lot line on either side and that it would not be practical to park the cars on either side of the house. Mr. Hertenstein stated that he had the same problem and wished that the City would improve the alley on the S side of 15th St. homes.

Mary Trick also asked about the design of the garage. Mr. Lewis said that the design would follow the same lines and materials as the existing garage. He said that he wanted the garage addition to "look like it had always been there".

The meeting ended at approximately 6:15 pm

Marsh Creek or Martin
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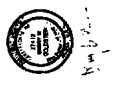
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LAND-DEVELOPMENT
SERVICES DEPARTMENT

CARL & CONCHA HERTENSTEIN

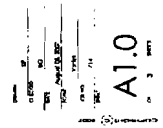
REVISIONS

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VINCENT I. GOLDSTEIN
ARCHITECTS

Lewis Addition
241 East 15th Street, Tempe, AZ 85282
Site Plan



PROJECT INFORMATION

PROJECT NAME: LEWIS ADDITION
PROJECT ADDRESS: 241 EAST 15TH STREET, TEMPE, AZ 85282
OWNER: [REDACTED]
DESIGNER: VINCENT I. GOLDSTEIN ARCHITECTS
DATE: 11/15/2011
SHEET NO.: 1 OF 1

GENERAL INFORMATION

CONTRACT NO.: 11789
CONTRACT DATE: 11/15/2011
SHEET INDEX: 1 OF 1
PROJECT NO.: 11789

SYMBOLS LEGEND

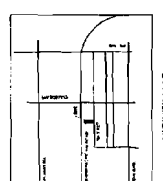
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WINDOW ELEVATION
WINDOW TYPE
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FINISH ELEVATION
FINISH TYPE
FINISH NUMBER



NOTES

1. ALL DIMENSIONS ARE IN FEET AND INCHES. DIMENSIONS ARE GIVEN TO THE CENTERLINE OF THE ROAD OR TO THE FACE OF THE CURB, UNLESS OTHERWISE NOTED.

2. THE PROPOSED IMPROVEMENTS SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE ARIZONA STANDARD SPECIFICATIONS FOR HIGHWAY CONSTRUCTION AND THE ARIZONA STANDARD SPECIFICATIONS FOR PUBLIC WORKS.

3. THE PROPOSED IMPROVEMENTS SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE ARIZONA STANDARD SPECIFICATIONS FOR HIGHWAY CONSTRUCTION AND THE ARIZONA STANDARD SPECIFICATIONS FOR PUBLIC WORKS.

ITEM	QUANTITY	UNIT	PRICE	TOTAL
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2.000	2.000	2.000	2.000	2.000
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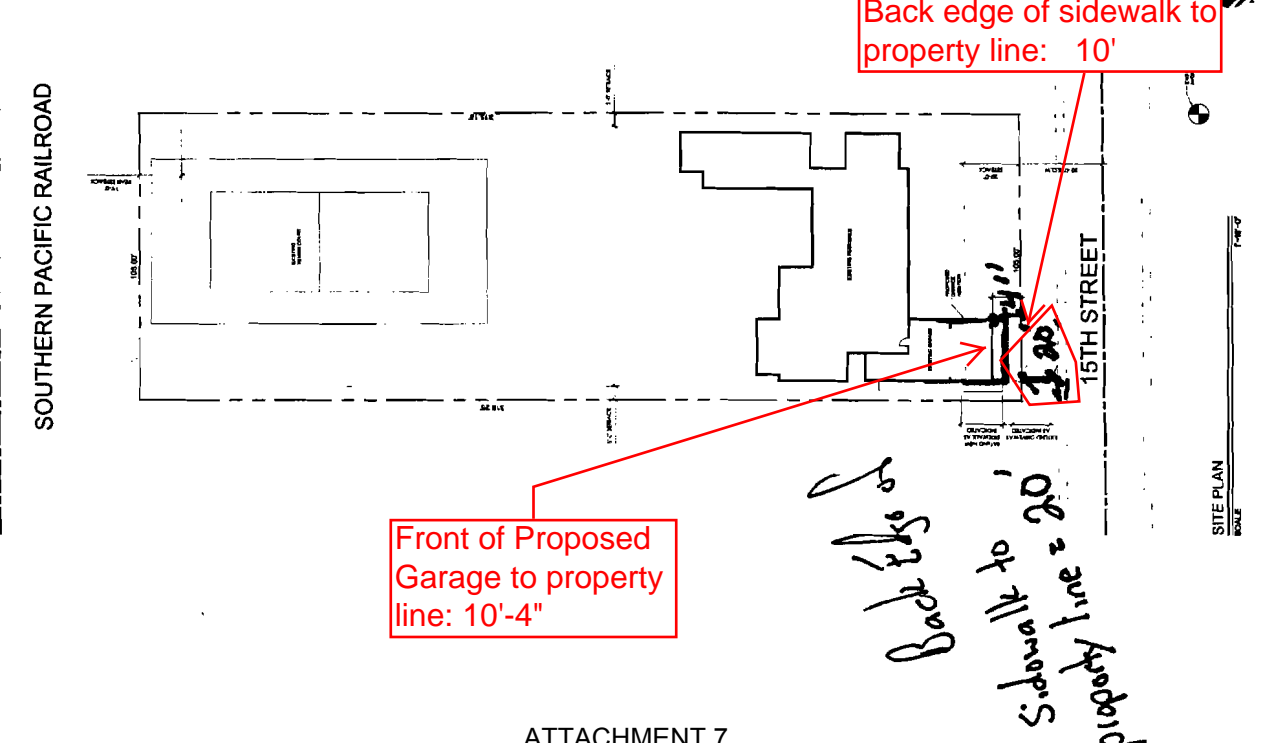
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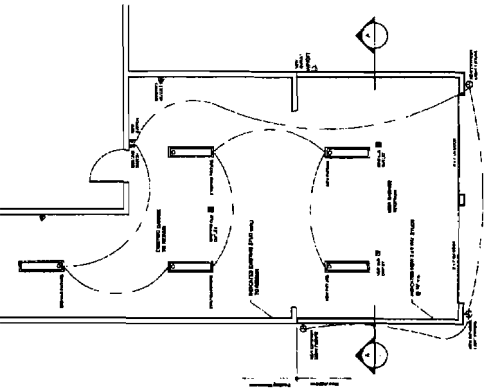
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VINCENT I. GOLDSTEIN
ARCHITECTS
1000 N. 10TH AVENUE, SUITE 100
DENVER, CO 80202
TEL: 303.733.1000
WWW.VIGOLDSTEIN.COM

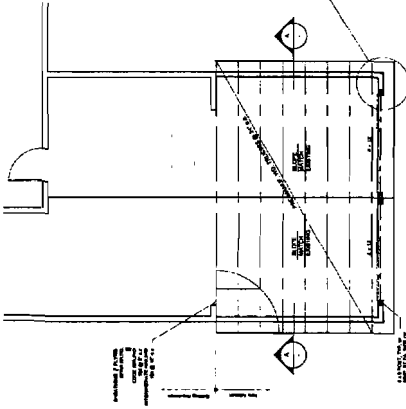


GENERAL NOTES

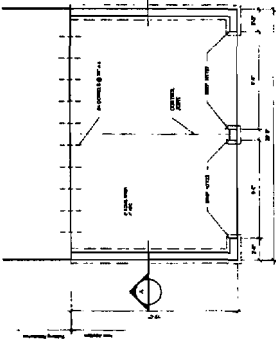
1. REFER TO EXISTING PLANS FOR ALL INFORMATION NOT SHOWN HEREIN.
2. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL RESIDENTIAL CODE BOOK (IRC) AND THE INTERNATIONAL BUILDING CODE (IBC).
3. ALL MATERIALS SHALL BE OF QUALITY AND SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTRUCTIONS.
4. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL RESIDENTIAL CODE BOOK (IRC) AND THE INTERNATIONAL BUILDING CODE (IBC).
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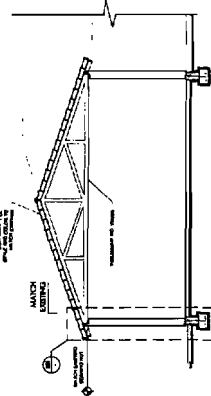
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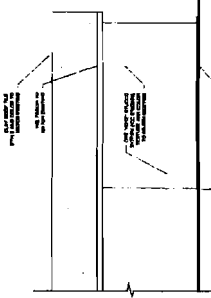
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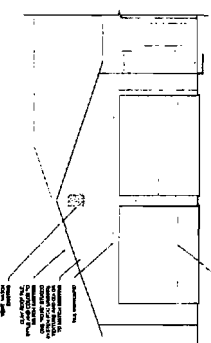
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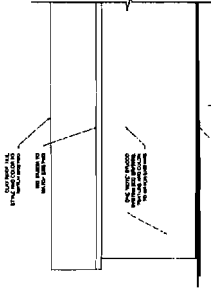
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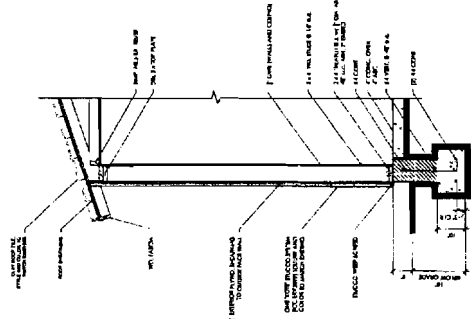
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NORTH ELEVATION
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WEST ELEVATION
SCALE: 1/8"=1'-0"



WALL SECTION 1
SCALE: 1/8"=1'-0"

Lewis Addition
241 East 15th Street, Tempe, AZ 85282
Garage Sheet

A2.0



LEWIS RESIDENCE

241 E 15TH ST

PL070403

FRONT OF RESIDENCE: VIEW TO SOUTH



LEWIS RESIDENCE

241 E 15TH ST

PL070403

DRIVEWAY: VIEW TO SOUTH

November 16, 2007

To: Steve Abrahamson
City of Tempe

From: Robert Trick
304 East 15th St
Tempe, AZ 85281

Re: Lewis Residence
241 East 15th St
Tempe, AZ 85281
PL070403

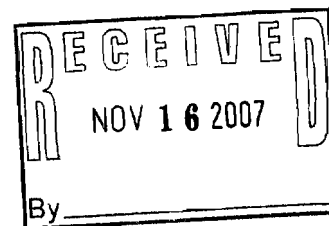
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TELECOMMUNICATIONS DEPARTMENT

Mr. Abrahamson,






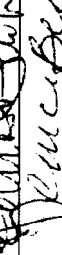
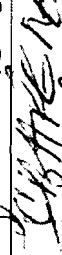



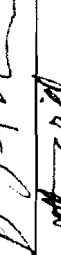
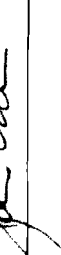

There have been some negative comments about the Lewis' proposed garage extension. I live nearly directly across the street from Joseph Lewis and I support his proposal to extend his garage so he may remove his cars from the street.

I have known Joseph for more than twenty years and trust he will construct an addition of appealing architecture that will match the existing building. Our 15th street is well known for a diverse range of building styles and the Lewis' plan expand their garage will in no way disrupt the visual beauty of 15th street and in no way will reduce our property values.

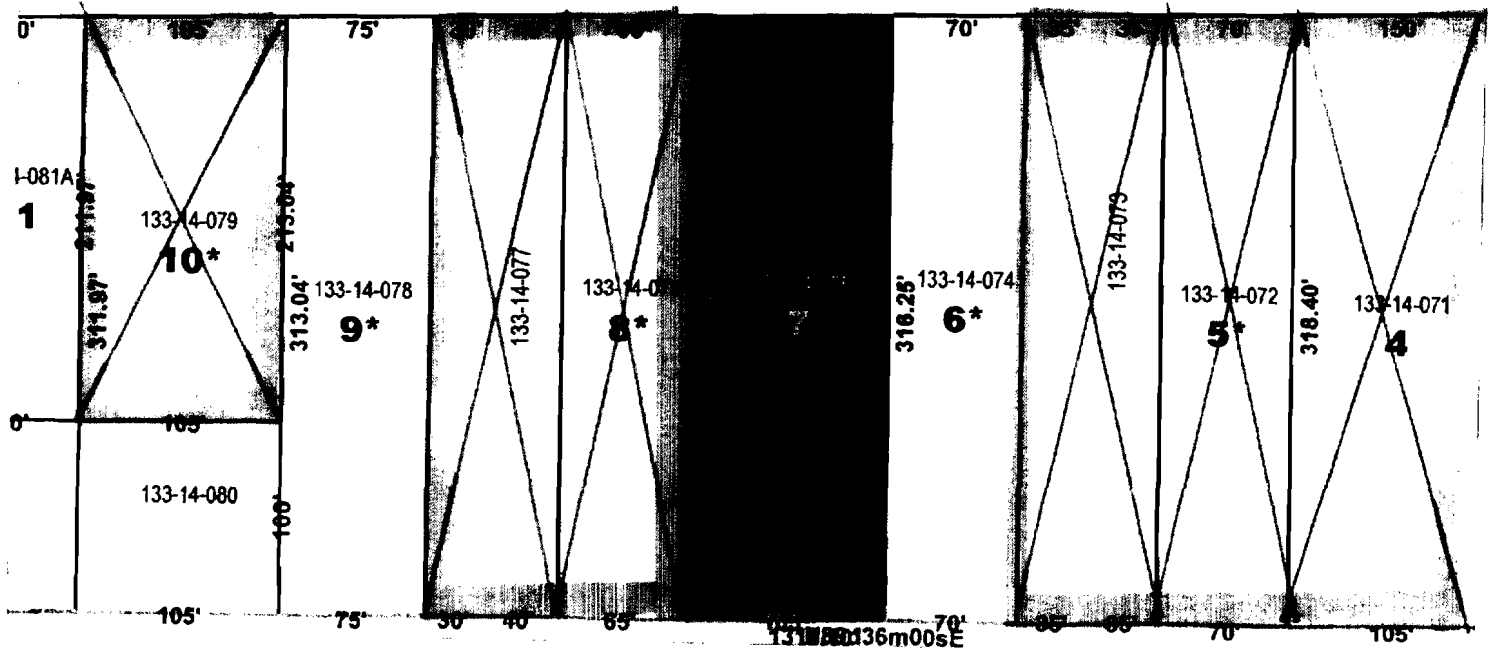
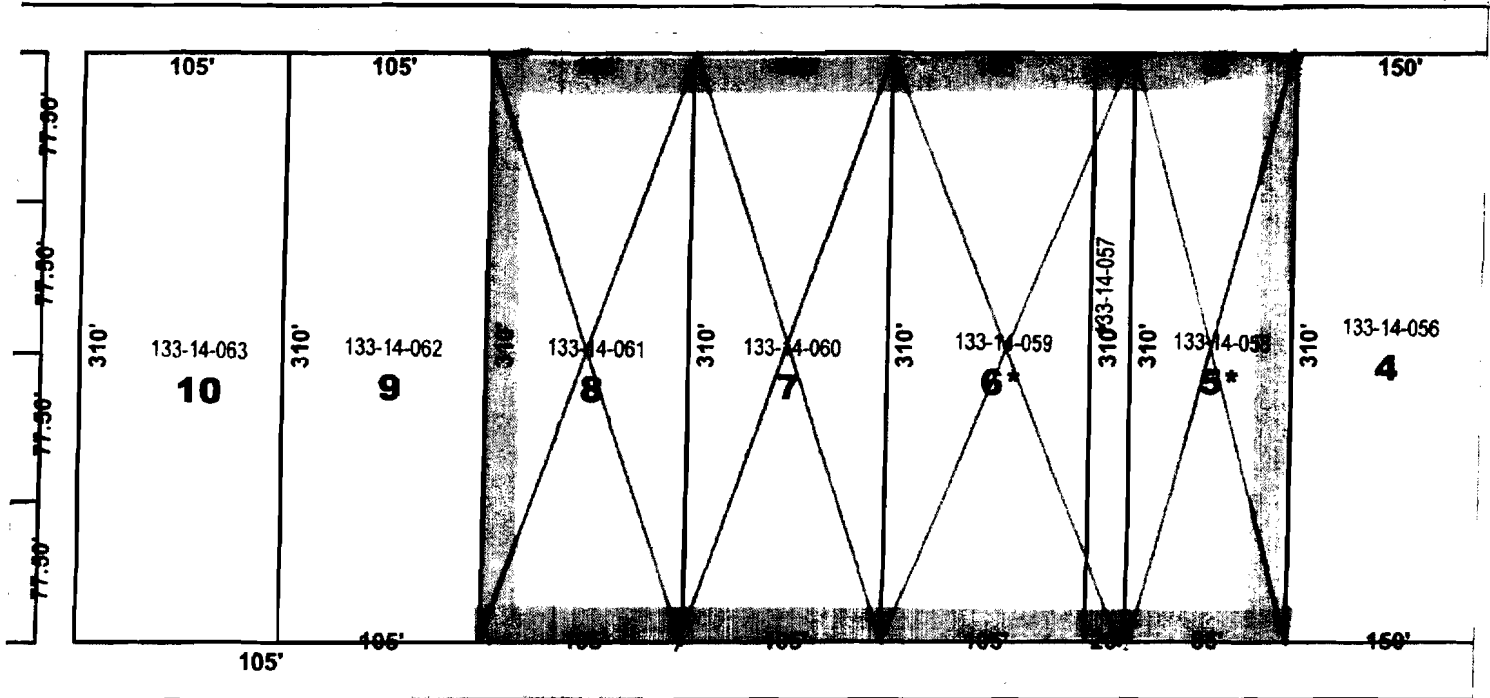
Sincerely, Robert Trick



I support variance request #VAR7024 & #VAR07025 for the LEWIS Property located at 241 E. 15th Street. Variance to reduce the front yard setback from twenty (20) feet to ten (10) feet two inches. Variance to reduce the required driveway from twenty (20) feet to ten (10) feet two (2) inches.

DATE	PRINT NAME	ADDRESS	SIGNATURE
10-6-07	Dave Cling	309 E 15 th St	
11-6-07	Elizabeth Cling	309 E 15th St	
11-6-07	Robert Lewis	313 E. 15 th St	
11-6-07	Robert Trick	301 E. 15 th St	
11-6-07	Robin Trick	301 E 15 th St	
11-07-07	JOHN PENTON	244 9. 15 th ST. TEMPE	
11-7-07	Emice Benton	244 E. 15th St. Tempe	
11-7-07	Gindy Bargnesi	241 E. 15th St Tempe	
11-7-07	John Bargnesi	221 E. 15th St Tempe	
11-7-07	John Bargnesi	221 E. 15th St Tempe	
11-7-2007	Bruce Cameron	235 E. 15th Tempe	
11-8-07	David Richardson	234 E. 15th Tempe	
11-8-07	Don Gillan	306 E. 15 th Street Tempe	

SUPPORT FOR VARIANCES #VAR7024 & VAR07025
AS OF NOV 8/07



**Minutes
HEARING OFFICER
DECEMBER 4, 2007**

Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

Present:

David Williams, Hearing Officer
Steve Abrahamson, Planning and Zoning Coordinator
Sherri Lesser, Senior Planner
Jon Christopher, Planner II
Shawn Daffara, Planner II
Alan Como, Planner II
Derek Partridge, Planning Intern

Number of Interested Citizens Present: 26

Meeting convened at 1:30 PM and was called to order by Mr. Williams.

1. Mr. Williams continued the consideration of the Hearing Officer Minutes for November 20, 2007 to the December 18, 2007 Hearing Officer hearing.

2. Mr. Williams noted that the following case(s) had been continued:

- Hold a public hearing for a request by **CENTRAL PLAZA - FOOD CITY NO. 96 (PL070481)** (M. Brennan Ray/Burch & Cracchiolo, applicant; Bashas Inc., property owner) located at 1338 East Apache Boulevard in the CSS, Commercial Shopping and Services District for:

ZUP07174 Use permit to allow outdoor retailing (outdoor roasting/retail food productions).
CONTINUED TO THE DECEMBER 18, 2007 HEARING OFFICER HEARING

- Hold a public hearing for a request by the **FITZHUGH RESIDENCE (PL070485)** (Edward Fitzhugh, applicant/property owner) located at 2059 East La Vieve Lane in the AG, Agricultural District for:

ZUP07177 Use permit standard to reduce the west side yard setback by twenty percent (20%) from twenty feet (20') to sixteen feet (16').
CONTINUED TO THE DECEMBER 18, 2007 HEARING OFFICER HEARING

3. Hold a public hearing for a request by the **LEWIS PROPERTY (PL070403)** (Joseph Lewis, applicant/property owner) located at 241 East 15th Street in the R1-6, Single Family Residential District for:

VAR07024 Variance to reduce the front yard setback from twenty (20) feet to ten (10) feet ~~two (2)~~ **four (4)** inches.

VAR07025 Variance to reduce the required driveway from twenty (20) feet to ten (10) feet ~~two (2)~~ **four (4)** inches.

Joseph Lewis was present to represent this case.

Shawn Daffara indicated that no new public input had been received regarding this case.

Mr. Lewis discussed his neighbors support and clarified the hardship in this case.

The following citizens spoke regarding this case:

Bob Trick, 304 E. 15th St. – in support and feels the structure will enhance the property and neighborhood.

Bruce Cormier, 235 E. 15th St. – in support to reduce the number of cars parked on the street.

Carl Hertenstein, 301 E. 15th St. – next door neighbor, opposed due to the garage wall which will be facing and visible to his property.

DECISION:

Mr. Williams denied PL070403/VAR07024/VAR07025, stating that there was technically no hardship in this situation, and that the request would create a negative situation for the neighborhood, as it would be too much building mass so close to the street.

4. Hold a public hearing for a request by the **FRANZ RESIDENCE (PL070471)** (Kathleen Franz, applicant/property owner) located at 1128 East Concorda Drive in the R1-6, Single Family Residential District for:

VAR07028 Variance to reduce the front yard setback for an open structure (carport) from fifteen feet (15') to seven feet (7').

Kathleen Franz was present to represent this case.

Sherri Lesser indicated that she received a call in support of this request from James Hill who resides at 1108 E. Concorda Drive. Helen Boring, another neighbor, sent a letter of support.

Mrs. Franz spoke to clarify her situation and request.

Sherri Lesser indicated that there had been a complaint lodged against this property that prompted this applicant's request. Mr. Williams stated he would move this case ahead in the agenda in order to allow Ms. Lesser time to obtain more information on this complaint.

When Ms. Lesser returned, she advised that the complaint was not specifically placed against this property, but was part of a group of several complaints received by the Building Safety Division by a concerned citizen. Building Safety staff then determined that the existing carport was built without building permits.

Mr. Williams expressed concern about the material being stored in the carport. He indicated that the carport was not to be used for storage of any type. Existing materials must be removed by December 19, 2007.

December 10, 2007

Reference: VAR07024 & VAR07025

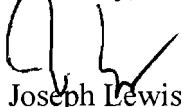
Board of Adjustment:

We would like to appeal the Board of Adjustment Hearing Officer's denial of the two variances listed above. Reasons for the appeal are as follows.

1. A hardship exists: The setback on the South side of 15th Street is 20' greater than the North side of the street where the subject property is located.
2. "Preservation and enjoyment of substantial property rights" can not be obtained with out the variances per number 1.
3. Zoning and Development codes which requires a 20ft driveway will not be violated
4. Proposed garage extension is not visible by neighbors to the East or to the West.
5. Variances are supported by ALL of the neighbors with the exception of one who would not be able to see the proposed extension.
6. Approval of the variances' will reduce on street parking which is strongly supported by the neighborhood.
7. The property is sufficiently narrow enough not to allow for side yard parking.
8. Hearing Administrators denial of the variances appeared to stem from a personal design point of view and not the facts specific to this case.
9. City of Tempe staff supports the requested variances. Please see Reasons For Approval 1-3 Staff Hearing Officer Summary Report

The current garage is not deep enough to allow for vehicle parking do to a previous owners remodel. Our request for an extension to the garage comes on the heels of a stolen car and multiple vehicle break-ins.

Sincerely,



Joseph Lewis
Applicant



Looking East from subject property.



Looking West from property to the East of subject property