

Staff Summary Report



Hearing Officer Hearing Date: July 7, 2009

Agenda Item Number: 4

SUBJECT: This is a public hearing for a request by the **ALLISON RESIDENCE (PL090157)** located at 9338 South Dateland Drive for one (1) use permit and two (2) variances.

DOCUMENT NAME: 20090707dssl01 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Hold a public hearing for the **ALLISON RESIDENCE (PL090157)** (James Allison, applicant/property owner) located at 9338 South Dateland Drive in the R1-15, Single Family Residential District for:

ZUP09070 Use permit to allow a detached accessory building (garage).

VAR09004 Variance to reduce the rear yard setback from thirty (30) feet to eight (8) feet.

VAR09009 Variance to reduce the south street side yard setback for a lot adjacent to a key lot from thirty (30) feet to twenty (20) feet.

PREPARED BY: Sherri Lesser, Senior Planner (480-350-8486)

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

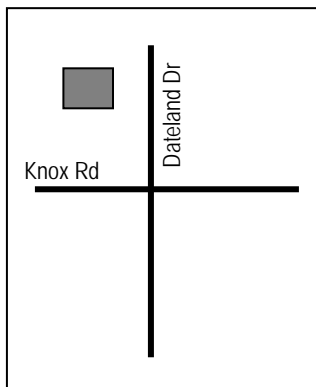
LEGAL REVIEW BY: N/A

DEPARTMENT REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval, subject to conditions

ADDITIONAL INFO:



The Allison Residence is seeking a use permit and two variances to construct a detached garage. The proposed structure is approximately one thousand (1000 s.f.) square feet in area and sixteen (16') feet in height. The building materials will be slump block exterior with a tile roof to match the existing residence. Staff supports the use permit for the detached structure with the finding that the proposal meets the criteria to warrant support of a use permit. Staff supports a modified setback variance for rear yard due to special circumstances relating to the lot configuration and house placement. Staff does not support the street side yard setback variance as proposed but supports a reduction consistent with ZDC use permit standard reductions allowed. The applicant held a neighborhood meeting in compliance with the Zoning and Development Code. To date, staff received three letters in opposition to the request and several calls from surrounding neighbors in opposition to portions of the request.

PAGES:

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

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
3. Letter of Intent
4. Site plan
5. Elevation
6. Original Site Plan
7. Neighborhood meeting summary
- 8-11. Letters of Opposition
- 12-13. Staff Photograph(s)
- 14-17. Applicant Photograph(s)

COMMENTS:

The Allison Residence is proposing to construct a freestanding building (garage) on the west side of their property. The proposed structure is 1000 s.f. in area and 16 feet (16') in height. The structure is designed with slump block and a tile roof to complement the existing house. The structure will have minor electrical and no plumbing fixtures. The applicant is seeking a use permit for the detached structure and two setback variances. The proposed variances are to reduce the rear yard setback from thirty feet (30) to eight feet (8) and the street side yard setback from thirty feet (30) to twenty feet (20). This case was continued from the June 2nd Hearing Officer meeting; when staff determined that the street side yard setback was thirty (30) feet due to the lot location adjacent to a "key" lot. The applicant designed their plans to conform to the standard street side yard setback for R1-15 Zoning District which is twenty (20) feet; while not aware of the adjacent to a "key" lot requirement. Through research of the original site plan; staff determined the required thirty (30) foot setback. A previous variance was granted to subdivision developer to reduce the street side yard setback from 30' to 25', but the home was never constructed and the variance approval lapsed after one year.

Public Input

The applicant held a neighborhood meeting on May 16, 2009. A summary of the meeting was provided by the applicant. To date, staff has received three letters in opposition of the request. Staff has received numerous telephone inquiries regarding the request. A majority of the callers have expressed concern with the size of the structure and the proposed location. The street side yard setback variance has received the most opposition. A modified rear yard setback variance is more acceptable.

Use Permit

The Zoning and Development Code requires a use permit for an accessory structure in the Single-Family, R1-15 zoning district. Evaluating the use permit, the proposal appears to pass the use permit test listed below pending final location of the structure.

- a. Any significant increase in vehicular or pedestrian traffic in adjacent areas;

- There will be no significant increase in vehicular or pedestrian traffic in adjacent areas.

- b. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;

- This use, with conditions, should not create nuisances within the residential area.

- c. Contribution to the deterioration of the neighborhood or to the downgrading of property values which is in conflict with the goals, objectives or policies for rehabilitation, redevelopment or conservation as set forth in the City's adopted plans, or General Plan;

- The proposed accessory building would not contribute to neighborhood deterioration or downgrade property values.

- d. Compatibility with existing surrounding structures and uses;

- The proposed accessory building use appears to be compatible with surrounding uses. The requested use permit will not be detrimental to the surrounding area.

Staff notes that the structure may not exceed the height of the existing residence and a condition will be imposed that the applicant provide information in the site data identifying the existing building height and the proposed building height.

Variance

The Zoning and Development Code requires the setbacks for structures, in the R1-15 Single Family Residential District, to be located twenty (20) feet from street side yard property line with an additional ten (10) foot setback if the lot is adjacent to a "key" lot. The premise for the additional setback is that the side of the structure will align with the front yard setback of house for which the lot abuts. The rear yard setback in the R1-15 district requires a thirty (30) foot setback. This property is located within the Dusk Fire II Subdivision. The Dusk Fire II Subdivision is a unique residential development that is characterized by large lots and custom homes. The Allison Residence lot is one of the lots within the subdivision that does not have a substantial rear yard. The house placement is "squarely" in the middle of the lot. According to the original site plan; the house was constructed thirty-eight (38) feet from the rear property line. The required R1-15 setback at thirty (30) feet limits the building area to an eight (8) foot expansion. Staff finds the limited setback a disadvantage which is unique to this lot that does not apply to the other lots within the subdivision; thus a reduction of the setback through a variance is warranted. Staff supports a variance to reduce the rear yard setback to fifteen (15) feet. The applicant requested eight (8) feet but after evaluating existing patterns for dwelling placement within the neighborhood; staff believes that a 15' setback is consistent with the side yard setbacks established with the lots to the west. Since this lot is adjacent to a key lot; a pattern

has been established to keep this dwelling setback from the street to align with the front yards along Knox Road. It is consistent that the area between structures would not be disrupted or detrimental with a fifteen (15) foot setback. As stated previously, the pattern exists to support the rear yard variance; conversely it is that same established pattern that staff finds reason not to support the street side yard setback variance. The additional ten foot was required to create a setback pattern which wraps the corner. A structure jutting ten (10) feet into the setback is not supportable. A provision exists within the ZDC which allows all setbacks within the R1-15, Single Family Residence district to be considered for a reduction by 20% through a use permit standard process; when the standard is applied to this request the street side yard may be reduced to twenty four (24) feet (if approved by use permit). The overwhelming input from the neighbors has been to maintain the thirty (30) foot setback; staff believes a supportable concession would be to reduce the setback by 10% or to twenty seven (27) feet and save the applicant the process to reapply for a use permit standard reduction. This concession keeps the house in seemingly alignment with the other houses on Knox Rd and gives the applicant a little more buildable area on the lot.

Conclusion

Staff recommends approval of the use permit for the detached accessory building; approval of the variances with modified setbacks; 15' rear setback and 27' street side yard setback.

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. Provide a set of plans for the file with site data listing the height of existing dwelling and the proposed accessory building. The height of accessory building not to exceed the height of existing residence.
2. The rear yard setback variance to be modified to fifteen (15) foot setback minimum.
3. The street side yard setback variance to be modified to a twenty seven (27) foot setback minimum.
4. Obtain all necessary permits and clearances from the Building Safety Division.
5. The accessory building to match the existing residence in color and material.

HISTORY & FACTS:

April 2, 1990. The Board of Adjustment approved a variance for James Hold/Duskfire II Developer for the following located a 9338 S. Dateland Drive in the R1-15 Single Family Residential District:

- a. variance to reduce the front yard setback from 35' to 25'
- b. variance to reduce the street side yard setback from 30' to 25'.

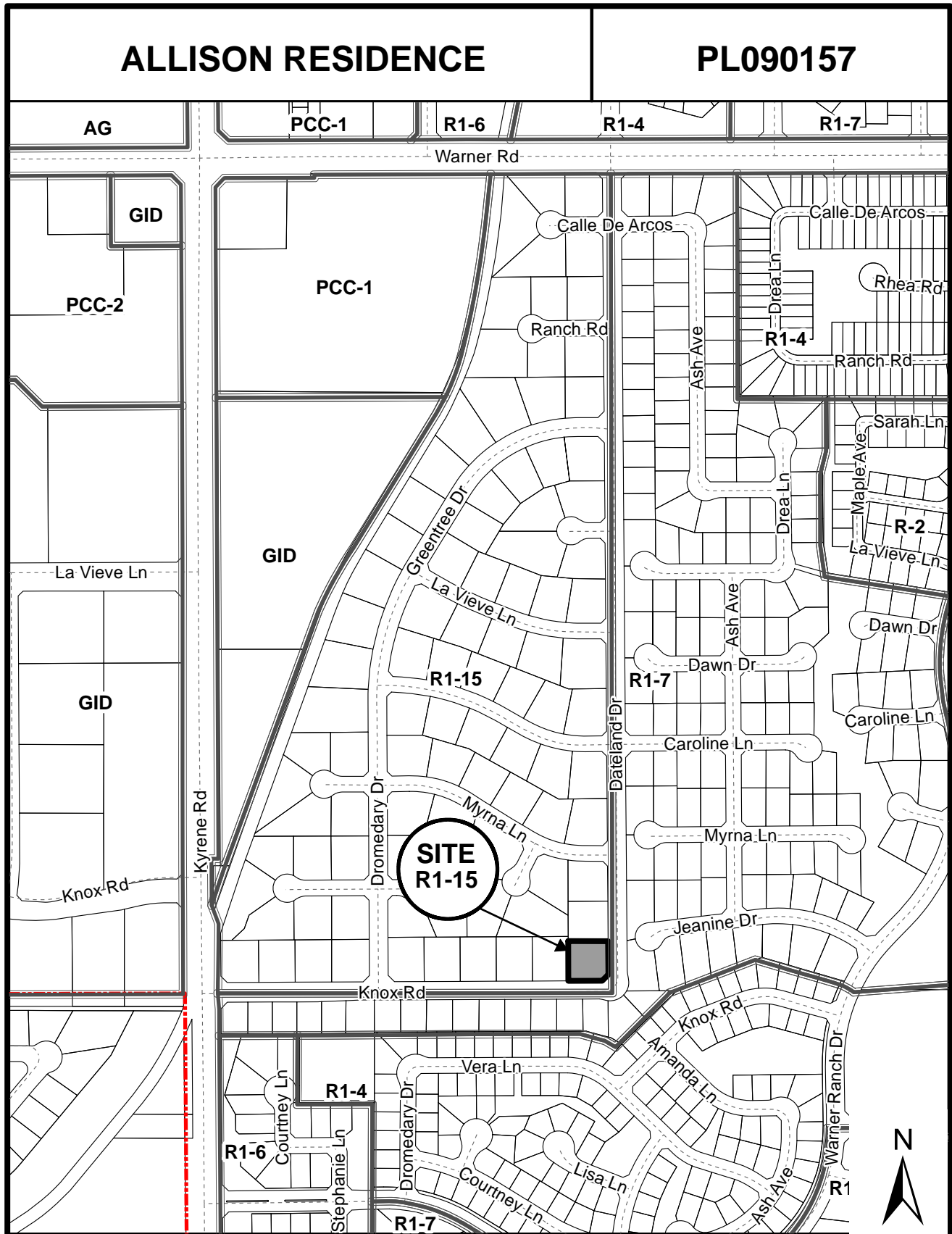
Note: these variance approvals lapsed due to no construction activity within one year of approval.

DESCRIPTION:

Owner – James Allison
Applicant – James Allison
Existing Zoning – R1-15, Single Family Residential District
Existing Lot Size-16,139 s.f.
Proposed Accessory Building- 1000 s.f.
Existing Street side yard setback- 30'
Proposed street side yard setback- 20'
Existing rear yard setback- 30'
Proposed rear yard setback- 8'

**ZONING AND
DEVELOPMENT
CODE REFERENCE:**

Part 3, Chapter 1, Section 3-102 – Permitted Uses in Residential Districts
Part 3, Chapter 4, Section 3-401 – Accessory Buildings, Uses and Structures
Part 6, Chapter 3, Section 6-308 – Use Permit
Part 4, Chapter 2, Section 4-202 – Single Family Development Standards
Part 6, Chapter 3, Section 6-309- Variances



Location Map



ALLISON RESIDENCE (PL090157)

Jim & Gail Allison
9338 S. Dateland Drive
Tempe AZ, 85284
(480) 656-7974
jimngail@cableone.net

April 29, 2009

Project: New garage
9338 S. Dateland Drive
Tempe AZ, 85284

Letter of Explanation

Request: To construct a detached garage and come within 8 ft of the rear property line where 30 ft set back is required.

A. There are special circumstances or conditions applying to the land, building or use referred to in the application.

The special circumstances are that even though the lot is over 1/3 acre under the R1-15 zoning the only garage that could be constructed in compliance would be less than 10 ft wide and 32 ft long.

B. That authorizing of the variance is necessary for the preservation and enjoyment of substantial property rights.

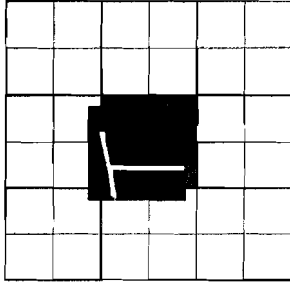
The construction of this building will allow for concealed parking of autos and trailers that would otherwise would be parked in the same area, and would not be concealed and therefore an annoyance to the neighborhood.

C. That authorizing of the application will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or the public welfare in general.

As stated previously the project will enhance the property as well as the neighborhood.

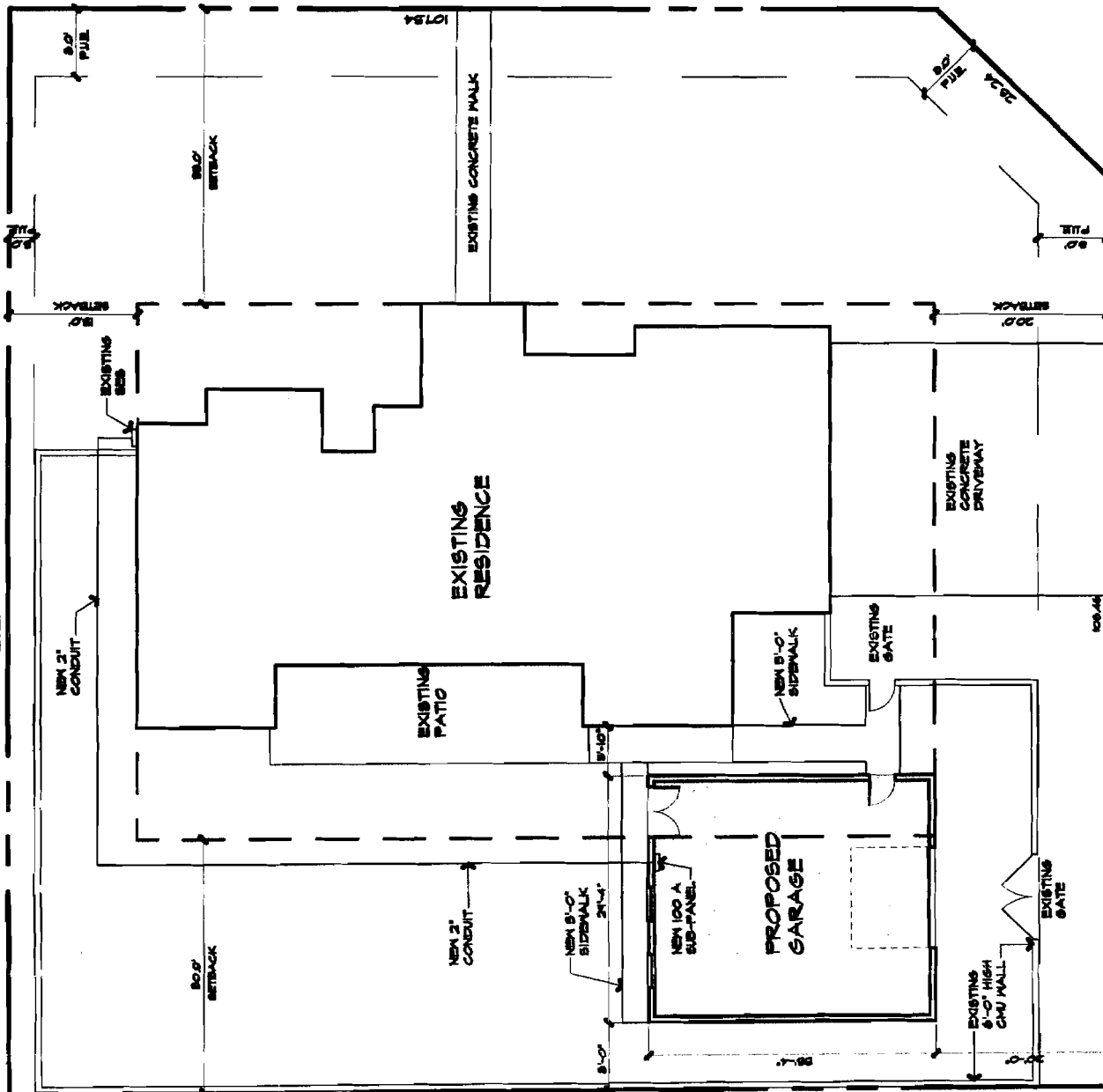
D. Make any changes in the uses and densities permitted in any zoning classification or zoning district.

Adding the garage will not make any changes in the uses or densities permitted in this zoning district.



118 South Pleasant Street
Prescott, Arizona 86303
Phone 928-445-0828
Fax 928-445-6810
Date 4/28/2009
Job No.
Revisions

DATELAND DRIVE



KNOX ROAD

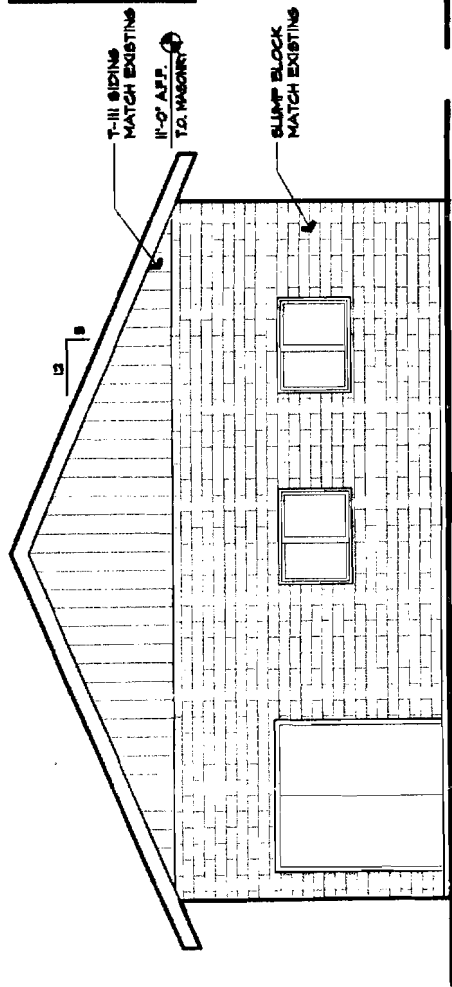
SITE PLAN
SCALE: 1" = 20'

A NEW GARAGE FOR

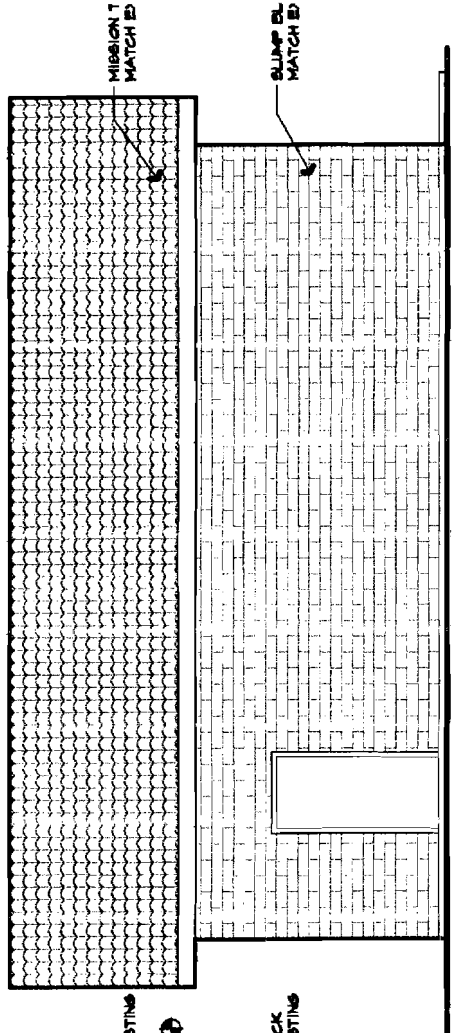
JIM AND GAIL ALLISON

4338 S. DATELAND DRIVE,

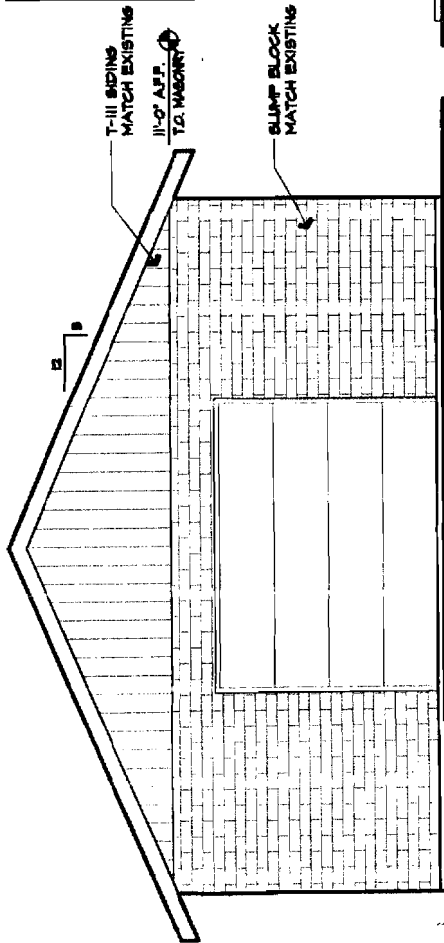
TEMPE, AZ



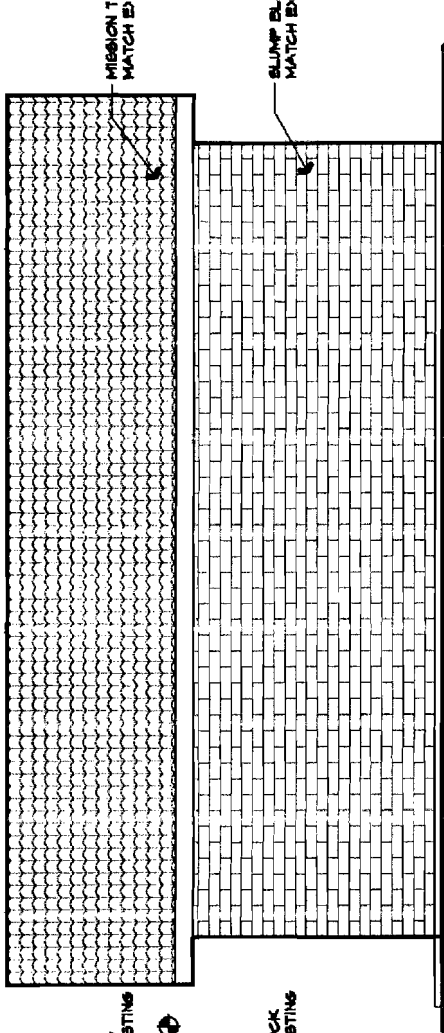
NORTH ELEVATION
SCALE: 1/8" = 1'-0"



EAST ELEVATION
SCALE: 1/8" = 1'-0"

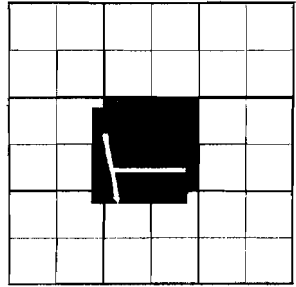


SOUTH ELEVATION
SCALE: 1/8" = 1'-0"



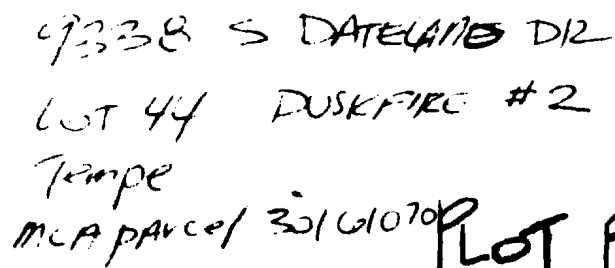
WEST ELEVATION
SCALE: 1/8" = 1'-0"

TAYLOR
ARCHITECTS



118 South Pleasant Street
Prescott, Arizona 86303
Phone 928-445-0626
Fax 928-445-6810
Date 4/28/2009
Job No.
Revisions

A NEW GARAGE FOR
JIM AND GAIL ALLISON
4330 S. DATELAND DRIVE, TEMPE, AZ



 NORTH

ATTACHMENT 6

Lesser, Sherri

From: Jim & Gail Allison [jimngail@cableone.net]
Sent: Thursday, May 28, 2009 8:17 AM
To: Lesser, Sherri
Subject: Neighborhood Meeting Summary

Sherri: The required neighborhood meeting was conducted Saturday May 16th at 3:00 PM. The owners of eleven properties attended. Site plans and elevations were viewed, and the proposed garage was staked out in the back yard so people could see exactly where the building would be placed. Responses were generally favorable. Four owners were very positive, four didn't express opinions and three had concerns. The concerns were as follows: One owner was opposed to building a garage on the lot because "once you let one garage be built then everyone will want one". Two were concerned about the 20 foot set back not aligning with the rest of the houses on the street. A sign sheet was used, if you would like a copy I could fax it to you.

Jim Allison
9338 S. Dateland Drive
Tempe, Az 86304
928-778-4766
Cell 928-899-0796

05/29/2009

ATTACHMENT 7

**GOOD AFTERNOON, COUNCIL.
THANK YOU FOR YOUR TIME THIS AFTERNOON.
MY NAME IS TOM REYNOLDS.
I HAVE LIVED IN TEMPE FOR 25 YEARS; 20 YEARS
AT 216 W KNOX RD AND 5 YEARS ON FOREST AV ALSO
IN TEMPE.
THIS IS IN REGARDS TO THE PROPOSED GARAGE AT
9338 S DATELAND; CASE NUMBER PL090157.
QUIET ENJOYMENT OF MY PROPERTY.
I WANT TO BE CLEAR WE IN THE NEIGHBORHOOD DO
NOT WANT A GARAGE ON THIS PROPOSED SITE.
WHEN I LOOK OUT OF MY 2 FRONT BEDROOMS AND
MY FRONT LIVING ROOM WINDOW I WILL BE SEEING
THIS GARAGE.
CAN YOU PLEASE ASK MR. ALLISON TO PUT HIS
GARAGE TO THE REAR OF HIS PROPERTY NOT THE
FRONT OF HIS PROPERTY.
AS A GOOD NEIGHBOR I WILL PAY MR. ALLISON
\$500.00 FOR NEW SOD IN HIS BACKYARD.
MR. ALLISON IS JUST THINKING OF HIMSELF NOT THE
GOOD OF NEIGHBORHOOD.
THE SOLUTION IS TO PUT THE GARAGE IN THE REAR
OF HIS PROPERTY.
IN SUMMARIZING:
1. THE VIEW
2. GARAGE IS TOO HIGH.
3. ALMOST IN MY FRONT YARD.
4. CANNOT SEE CORNER FROM ALL OF MY FRONT
WINDOWS IN THE FRONT OF MY HOUSE.
5. PROPERTY VALUE GOING DOWN.
6. EYE SORE WHEN YOU TURN THE CORNER FROM
DATELAND ONTO KNOX RD. IT WOULD BE A DRIVING
HAZARD WHEN TURNING THE CORNER GOING SOUTH
ON DATELAND TURNING ONTO KNOX. ALSO WOULD
BE A HAZARD TURNING FROM KNOX RD TO
DATELAND.
I ALSO HAVE PICTURES TO SHOW YOU AND AGAIN
THANK YOU FOR YOUR TIME.**

Lesser, Sherri

From: John L. Rucker, MAI [rucker@viewptgroup.com]
Sent: Monday, June 01, 2009 11:50 AM
To: Lesser, Sherri
Subject: PL090157 Allison Residence Variance Request

Hi Sherri,

I enjoyed speaking with you about the Allison variance request this morning. As I mentioned, I own a residence at 221 W. Knox Road about four lots away from this property and in direct view of the back of property. As we discussed, the placement of the house is unusual in that about five houses faces or have views of the Allison rear yard. The size and placement of a large structure in a relatively open back yard in plain view would be of great concern.

I am looking at this issue, both as a nearby homeowner, but also from the perspective of a commercial and residential real estate appraiser with over 25 years of experience. I believe the Allison request to be highly unusual, noting that the homeowner is requesting a variance to both the rear yard and side yard setbacks. For a homeowner to receive approval, I think there has to be some evidence that there would be no harm or reduction in value to the nearby homes.

I was initially against any variances being allowed for this property, but after speaking with you, I understand your point about the rear yard setback. I took a look at the aerials and the placement of the Allison and Reynolds residences on their respective properties. I am requesting that the city enforce the 30 foot setback from Knox Road, which would coincide with a front setback if the house were facing Knox Road. All of the homes along the north side of Knox meet the 30 foot setback. A structure encroaching into the 30 foot setback area, especially on such an unusual corner lot, would literally "stick out like a sore thumb", and would reduce the visual appeal of the homes on our street. I am against the city even conceding to a 25 foot setback from Knox.

A 15 foot rear yard setback from the west property boundary, which would coincide with a side yard setback of 15 feet, if the house were to face Knox, seems reasonable, as long as the 30 foot setback is enforced. If any additional concession were to be made, I would prefer that the 30 foot Knox Road setback be enforced first. I don't think it would be reasonable, however, to allow a reduction of the rear yard setback to less than 12 feet.

Thank you for speaking with me and considering my concerns. Please confirm via e-mail that you received this correspondence.

Thanks,

John L. Rucker, MAI
Vice President
Lefevers Viewpoint Group, Inc.
2048 North 44th Street, Suite 100
Phoenix, Arizona 85008
(602) 956-1988, xt. 30
rucker@viewptgroup.com

06/01/2009

ATTACHMENT 9

Lesser, Sherri

From: Dawn [dbulriss@cox.net]
Sent: Thursday, June 25, 2009 1:58 PM
To: Lesser, Sherri
Cc: Hort, Jan
Subject: Objection to Case # PL090157, Allison Residence, hearing date 7/7/09

To: City of Tempe Planning Board and Hearing Officer

From: Randy and Dawn Bulriss
 9326 S. Dateland Drive, Tempe, AZ 85284 (Land Parcel #301-61-071)

Re: Case # PL090157, Allison Residence, 9338 S. Dateland Drive (Land Parcel #301-61-070)

Hearing Date currently scheduled for Tuesday, July 7, 2009 (case continued from 6/2/09)

We have resided in our current residence in Duskfire II for almost 13 years now. Our house is next door to the North side of the Allison residence. We recently saw the plans for the garage that is being planned. Although we are not in any way opposed to a small additional storage building, or even the addition of another bay to the existing 3 car garage, we have significant concerns over the garage that is currently planned. It is simply too large and will take up too much of the back yard with "unlivable" square footage to be seen as adding value to the lot or neighborhood. Future demand for this property will be impacted negatively by the reduction in the yard size as a result of such a large storage building/garage, as well as a smaller pool of buyers who would want a property with a separate garage building beyond the already large 3-car garage. Even though a building can increase the value of a property, we believe that this will be more than offset by the reduction in future interested buyers, resulting in a loss of value that will impact the entire neighborhood.

Additionally, we believe that an additional building placed where requested will crowd the neighbors to the west and will detract from the current look and feel of the neighborhood and will not be compatible with the residential nature of our development.

We love this semi-custom neighborhood and only want the best for our neighbors. We recently completed a very large remodeling and home expansion, which included shipping roof tiles from Washington and having them hand-painted in order to retain a natural consistent feel to our home and neighborhood. Therefore, keeping home values up in this decreasing economy is a very real concern to us. We believe that there are better approaches for adding the storage space desired by the homeowners and would like to see other options, such as remodeling/enlarging the existing garage thoroughly researched, rather than approving the current variance request and use permit.

Please deny these requests (ZUP09070, VAR09004, and VAR09009) for the good of the neighborhood.

In summary, our concerns are:

- 1) Negative impact to property values due to fewer buyers interested in lot with 1/3 back yard replaced by significantly excessive garage space.**
- 2) Change to low density neighborhood look and feel by overcrowding lot directly west.**

Sincerely,
Randy and Dawn Bulriss



ALLISON RESIDENCE

9338 SOUTH DATELAND DRIVE

PL090157

FRONT OF RESIDENCE





ALLISON RESIDENCE

9338 SOUTH DATELAND DRIVE

PL090157

REAR YARD



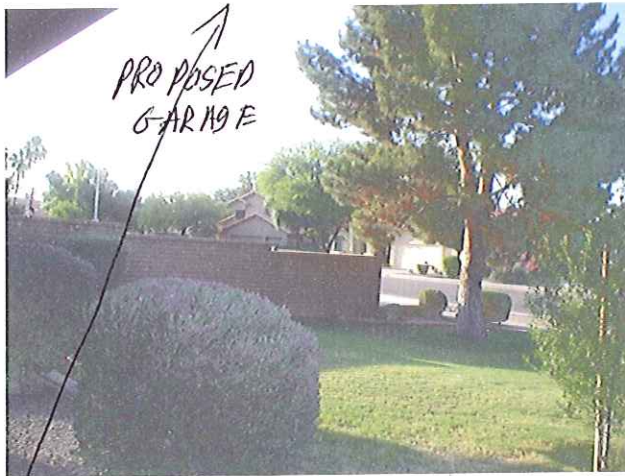
FRONT OF HOUSE 216 W. KNOT



FRONT OF HOUSE 216 W. KNOT

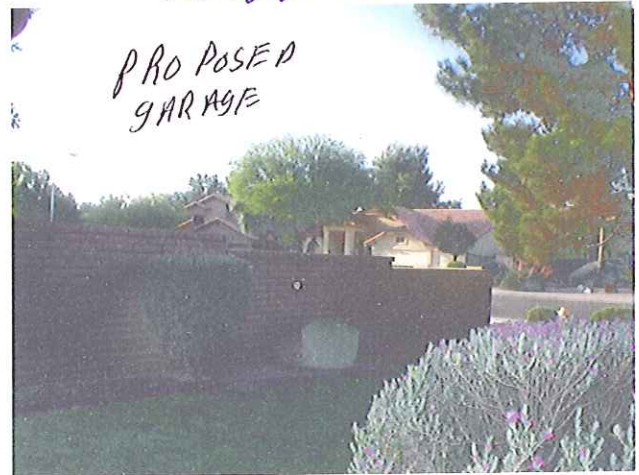


900 sq ft Garage



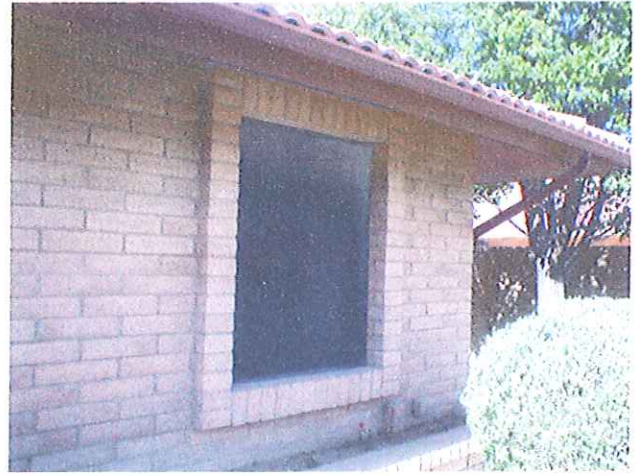
900 sq ft Garage

PROPOSED
GARAGE

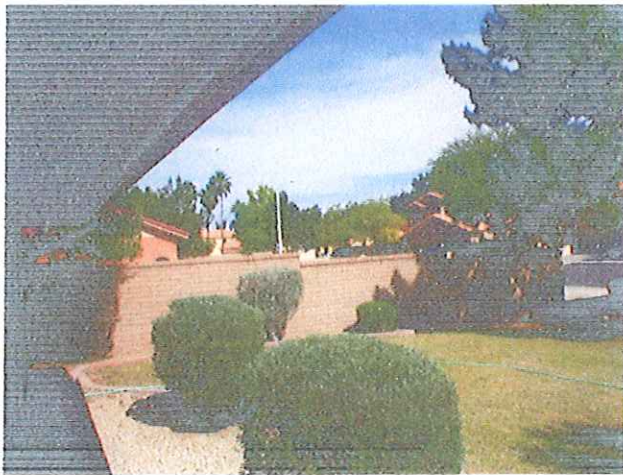




1ST BED ROOM



2ND Bedroom



DISTORTED VIEW
1ST Bedroom



DISTORTED VIEW
2ND BED ROOM

TOM REYNOLDS HOUSE
AT 216 W. KNOT RD.
TEMPE AZ 85284

NEXT DOOR TO PROPOSED GARAGE
AT 9338 DATELAND DRIVE.



PROPOSED
GARAGE



TOM REYNOLDS
216 W. KNOX
TEMPE AZ 85284

I LIVE NEXT

DOOR TO 9338 S. PATELAND
DRIVE

TEMPE ARIZ
85284

WILL NOT

LOOK GOOD

FOR THE

NEIGHBORHOOD

IT WILL MAKE
THE VALUE OF
MY HOUSE GO DOWN.
IT IS DOWN FAR
ENOUGH AS IT IS.

MR. ALLISON'S BACK YARD
GARAGE CAN GO HERE



MR. ALLISON'S BACK YARD
GARAGE CAN GO HERE



FRONT OF PROPOSED GARAGE



FRONT OF PROPOSED GARAGE

TOM REYNOLDS
FRONT OF MY HOUSE 216 W KNOX



HAZARD DRIVING DOWN KNOX

