

Staff Summary Report



Hearing Officer Hearing Date: September 16, 2008

Agenda Item Number: 4

SUBJECT: This is a public hearing for a request by the **COLEMAN RESIDENCE (PL080305)** located at 5426 South College Avenue for one (1) use permit and one (1) variance.

DOCUMENT NAME: 20080916dsdp01

PLANNED DEVELOPMENT (0406)

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for a request by the **COLEMAN RESIDENCE (PL080305)** (Steven Coleman, applicant/property owner) located at 5426 South College Avenue in the R1-6, Single Family Residential District for:

ZUP08132 Use permit to allow an accessory building.

VAR08020 Variance to reduce the south street side yard setback from ten (10) feet to one (1) foot.

PREPARED BY: Derek Partridge, Planner I (480-350-8867)

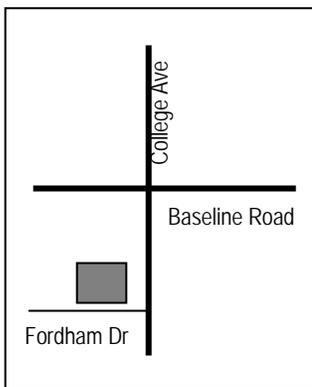
REVIEWED BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Denial of Use Permit and Variance

ADDITIONAL INFO: The Coleman Residence is seeking approval of an existing freestanding accessory building; a barn-type structure utilized as storage space through a request for a use permit and a variance. The accessory building was built without a building permit in 2004 and is located at 5426 South College Avenue in the R1-6, Single Family Residence District. The accessory building is approximately one hundred eighty-six square feet (186 s.f.) and thirteen feet seven inches (13'-7") in height. Staff is recommending denial of the use permit and variance. To date, no public input has been submitted for this request.



PAGES:

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

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
- 3-4. Letter of Intent
5. Site plan
6. Elevation
7. Applicant Photograph
- 8-9. Staff Photograph(s)
- 10-11. Neighborhood meeting signatures of support

COMMENTS:

The Coleman Residence is seeking approval of a use permit and a variance to allow for an existing, non-conforming accessory building comprised of approximately 186 s.f. of storage space.

The building is located in the (south) street side yard setback of a typical rectangular corner lot. The subject property is located at the northwest corner of Fordham Drive and College Avenue. The rear and side yards are surrounded by a 6'-0" masonry wall. The adjacent property owner to the south has direct visibility of the building, as it is seven feet, seven inches (7'-7") over the existing wall – with a total height of thirteen feet, seven inches (13'-7"). A use permit is required for any accessory building exceeding two-hundred square feet (200 s.f.) in area and/or eight (8') feet in height. However, the building must meet all required setbacks and since the property currently comprises of an accessory garage and pool, the applicant is unable to meet these requirements.

The variance is required for the applicant's accessory building because it is located within the required 10'-0" street side yard setback, 1'-6" from the property line. It was constructed without a building permit, use permit or variance. The Coleman residence was cited by Code Enforcement as it was found to be a non-compliant building. The need for use permit and variance could potentially be negated if the building was reduced to a height of eight feet (8'-0"), since the building is under 200 s.f. in area. The applicant is encouraged to follow this option as the building is unable to be located within the required setbacks.

The applicant held a neighborhood meeting on August 30, 2008, at which 14 signatures of support were obtained for the request from neighbors in the immediate area.

Use Permit

The Zoning and Development Code requires a use permit for accessory buildings that exceed 8 feet in height and/or 200 square feet in area in all zoning districts.

Evaluating the use permit, the proposal does not meet the use permit criteria listed below:

- 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;
 - If the height of the building is reduced to 8', the use should not create any nuisances.
- 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;
 - If the height of the building was reduced from 13'-7" to 8'-0" the proposed development would not contribute to neighborhood deterioration or downgrade property values. This use permit request would be consistent with the General Plan 2030's Land Use Element if the height of the building was reduced.
- d. Compatibility with surrounding structures and uses;
 - The proposed use appears to be compatible with surrounding uses, but not compatible with other accessory structures.

Variance

The Zoning and Development Code requires a variance to reduce the side yard setback in the R1-6, Single Family Residential District.

Evaluating the variance, the proposal does not meet the criteria for approving the variance:

- a. There are special circumstances or conditions applying to the land, building, or use referred to in the application;
 - There is no evidence of special circumstance keeping with the land, building or use.
- b. That authorizing the variance is necessary for the preservation and enjoyment of substantial property rights;
 - A reduction of the required side yard setback from ten (10) feet to one (1) foot for an accessory building is not necessary for enjoyment of substantial property rights.
- c. A variance may not be granted if the special circumstances applicable to the property are self-imposed by the property owner.
 - The owner has created a need for this variance by constructing an illegal non-conforming building without permit that encroaches into the required side yard setback and exceeds height limitations set forth by the Zoning and Development Code; therefore, this is self-imposed by the owner.

Conclusion

Staff recommends denial of the use permit and variance in that they fail to meet approval criteria tests.

REASON(S) FOR DENIAL:

1. No special circumstances or conditions applying to the land, building or use exist.
2. The authorizing of the variance and use permit are not necessary for the preservation and enjoyment of substantial property rights.
3. Authorization of the variance and use permit may be materially detrimental to persons residing in the vicinity, to adjacent property or to the neighborhood.

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

CONDITION(S) OF APPROVAL:

1. All required permits and clearances shall be obtained from the Building Safety Division.
2. Accessory Building shall be painted to match main residence.

HISTORY & FACTS:

October 5, 1971	Building Permit: #29614 for new single family dwelling
April 30, 1975	Building Permit: #43525 for new garage (accessory building)
June 17, 1975	Building Permit: #44026 for swimming pool
October 28, 1977	Building Permit: #50843 for study room, enclose carport with masonry walls
August 4, 2008	Code Enforcement: #CE085267 for unpermitted detached storage shed

DESCRIPTION:

Owner – Steve Coleman
Applicant – Steve Coleman
Existing Zoning – R1-6, Single Family Residential District
Side Yard Setback Existing – 10'
Side Yard Setback Proposed – 1'

**ZONING AND
DEVELOPMENT**

CODE REFERENCE:

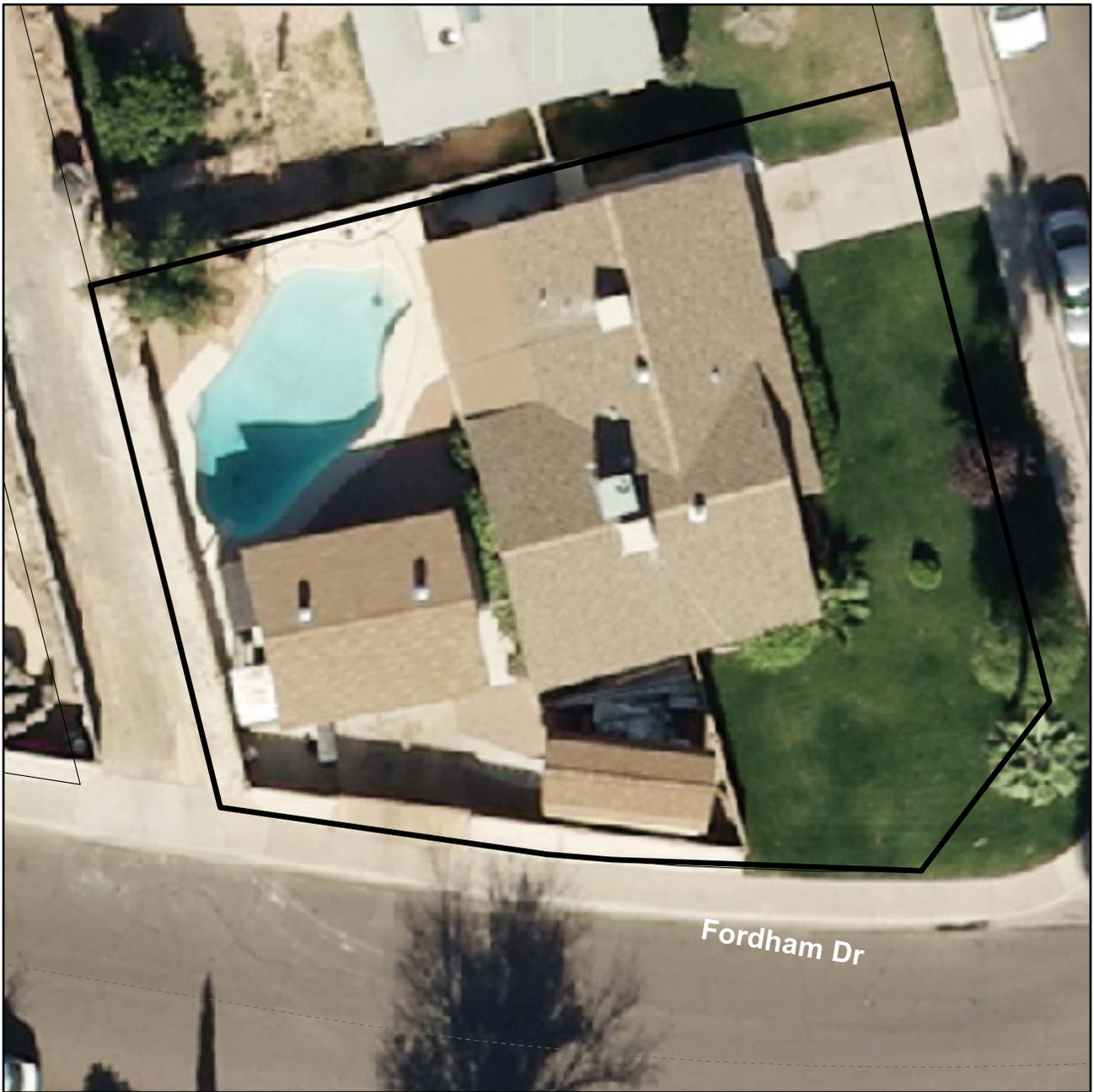
Part 3, Chapter 4, Section 3-401 – Accessory Buildings, Uses and Structures
Part 4, Chapter 2, Section 4-202 – Development Standards for Residential Districts
Part 6, Chapter 3, Section 6-308 – Use Permit
Part 6, Chapter 3, Section 6-309 – Variances

COLEMAN RESIDENCE

PL080305



Location Map



COLEMAN RESIDENCE (PL080305)

To Whom It May Concern

I Steve Coleman am applying for a variance for property at 5426 S College Ave. Tempe, Az 85283, parcel 301-80-081. A variance from zoning setback specifications from 10' to 1'6" for a free standing storage shed.

The shed is used for personal storage. It has no windows, one door, 3'9" x 7' & no electricity. There are two vents on west end, one on east end & one on north side. Also an 18' roof peak vent across top.

The free standing shed measures 10'2 1/2" x 18'3" x 13'7" & sets at back of side yard on Fordham. It is 47'7" from front setback on College Ave., 37'8" from alley setback & 1'6" from side yard setback on Fordham. The building has no over hang & water shed is on property.

Free Standing shed was built using screws for all lumber with vinyl siding & aluminum trim. It sets on four concrete slabs 4" x 8" x 18". Floor is framed with treated lumber 4" x 8" x 18" on each side & 2" x 6" x 112" across 16" on center with 3/4 OSB sheathing walls. 2" x 4" on 24" center with 1/2 OSB sheathing on outside of roof. 2" x 4" with 48" x 48" Pctek ^{48x15} rafters ~~have~~ have 1/2 OSB screwed to both sides at all three joints areas. Has a shingled roof.

I will hold a neighbor hood meeting two weeks prior to public hearing.

Sincerely, Steve Coleman

To Whom It May Concern,

Starting in July of 2004 some neighbors helped me start building a portable storage shed. I had been told without a permanent foundation a permit wasn't needed.

The storage shed was built to store household, outdoor goods & holiday decorations. The house has no storage & no attic storage.

The ~~shed~~ which the shed is on is narrower in the back than the front. The back yard has a large pool & a car garage leaving the side the only place for the shed. The garage has my wife's 1st car, she's 55 & I work ~~in~~ the other side.

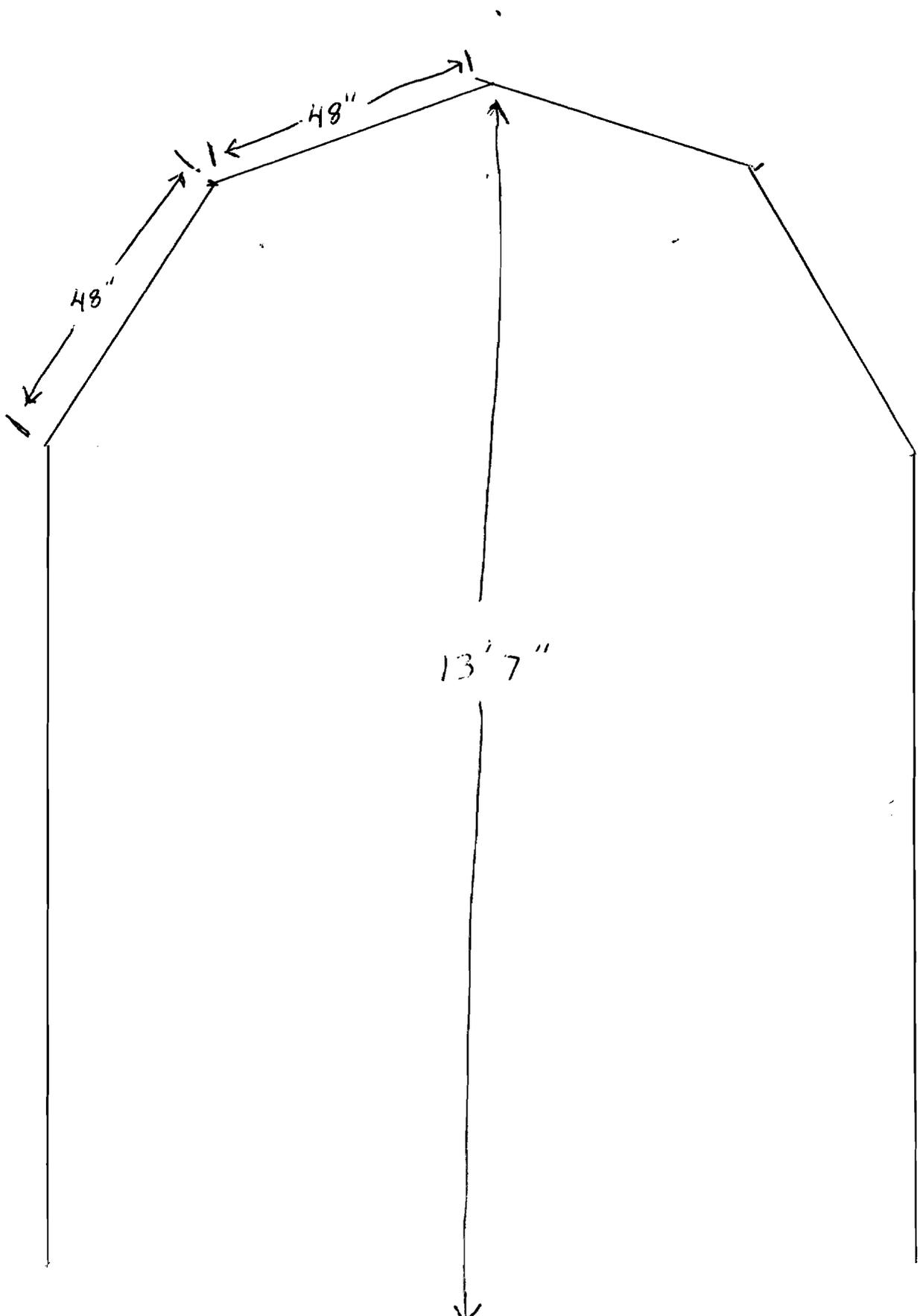
The storage shed has no utilities, vinyl siding, shingled roof, pavers around it & no vegetation growing around it. It's not obstructing views.

I had a neighborhood meeting Aug 30 & have 14 signatures from close neighbors who have no objection to the shed.

PLANNING DEPARTMENT
08 SEP - 4 AM 8:25

PARCEL 301-80-081

STEVEN COLEMAN
5426 S COLLEGE AVE
TEMPE AZ 85283
480-730-9934





ATTACHMENT 7



COLEMAN RESIDENCE

5426 SOUTH COLLEGE AVENUE

PL080305

FRONT OF RESIDENCE



COLEMAN RESIDENCE

5426 SOUTH COLLEGE AVENUE

PL080305

**EXISTING ACCESSORY BUILDING –
VIEW TO NORTHWEST**

STEVE COLEMAN
STORAGE SHED
5426 S COLLEGE AVE

neighborhood meeting

NO OBJECTION	I OBJECT
JOHN ARTHURS 5422 S. COLLEGE 85283	5422 S COLLEGE
Phil NETTLES 232 E FORDHAM Cir TEMPE AZ 85283	
KEVIN & KIRSTEN WHIPPS 5419 S. COLLEGE AVE. TEMPE, AZ. 85283	
Sandy & Ron Johnson 5445 S College Ave Tempe 85283	
MIKE LEE 224 E. FORDHAM TEMPE, AZ 85283	
MICHAEL & FELICIA OCHOA 5427 S. COLLEGE AVE TEMPE, AZ	
MR & MRS COSTA 5448 S EL CAMINO DR Tempe AZ 85283	
Robert & Teresa Alonzo 236 E. Fordham Cir Tempe Az 85283	<p>RECEIVED SERVICENETWORKS 08 SEP 14 11:08:25</p>
SCOTT MOCH 243 E FORDHAM DR TEMPE AZ 85283	

NO OBJECTION	I OBJECT
ENRIQUE C RIVERA 5433 S. College Ave Tempe, AZ 85283	
JAMES L. ELLIOTT 226 G. FORDHAM DR. TEMPE AZ 85285	
Edward N. Lundy 247 E Fordham Dr Tempe AZ 85283	None
BARBARA S. STAGNER 221 E. FORDHAM DR. TEMPE, AZ. 85283	
John K. Winters 227 E. Fordham Dr. Tempe, AZ 85283	