

Staff Summary Report



Hearing Officer Hearing Date: August 19, 2008

Agenda Item Number: 4

SUBJECT: This is a public hearing for a request by the **MUILENBERG RESIDENCE (PL080250)** located at 1101 East Warner Road for one (1) use permit and two (2) variances.

DOCUMENT NAME: 20080819dssl02

PLANNED DEVELOPMENT (0406)

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for a request by the **MUILENBERG RESIDENCE (PL080250)** (Eric Muilenberg, applicant/property owner) located at 1101 East Warner Road, No. 132, in the R1-15, Single Family Residential District for:

ZUP08119 Use permit to allow an accessory structure (Ramada).

VAR08018 Variance to reduce the rear yard (east) setback from thirty (30) feet to fifteen (15) feet six (6) inches.

VAR08019 Variance to reduce the south side yard setback from fifteen (15) feet to seven (7) feet six (6) inches.

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

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

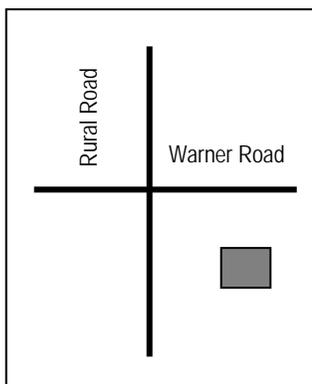
LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff –Approval subject to Conditions

ADDITIONAL INFO:

The Muilenberg Residence is requesting a use permit for a detached accessory building (Ramada) and two variances to reduce the rear yard setback from fifteen (30) feet to fifteen feet six inches (15'-6") and the side yard setback from fifteen (15) feet to seven feet six inches (7'-6"). Staff recommends approval of the use permit for a detached accessory building (Ramada); it is compatible with the existing residence and complies with the approval criteria for a use permit. Staff recommends approval of the variances to reduce the rear and side yard setbacks; special circumstances exist relevant to this request which warrants support for the variances. In accordance with the Zoning and Development Code, the applicant held a neighborhood meeting on August 3, 2008 and has submitted a petition with twelve (12) citizens in support, three (3) letters in support and a letter of approval from the Las Estadas Architectural Committee. To date, staff has received no opposition to this request.



- PAGES:**
1. List of Attachments
 2. Comments; Reasons for Approval
 3. Conditions of Approval; 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. Neighborhood Meeting Minutes
 7. Petition of Support
 - 8-10. Letters of Support
 11. Letter from Las Estadas Architectural Committee
 - 12-14. Applicant's Photographs – Neighborhood Comparison
 - 15-16. Applicant's Photographs – Project Depiction
 17. Staff Photograph(s)

COMMENTS:

The Muilenberg Residence is seeking approval of a use permit for an accessory building (Ramada) and two setback variances to reduce the rear yard setback from thirty (30) feet to fifteen feet six inches (15'-6") and the side yard setback from fifteen (15) feet to seven feet six inches (7'-6") . The Ramada is sixteen (16) feet by twenty-two (22) feet or three hundred fifty-two (352) square feet in area and designed to complement the existing dwelling. The structure was built to conform to accessory structure requirement at approximately eight (8) feet in height; unfortunately the overall area of the Ramada exceeds the ordinance requirement of two hundred (200) square feet thus requiring the use permit and variances.

Use Permit

The Zoning and Development Code requires a use permit for a detached accessory buildings that exceed eight (8) feet in height and/or two hundred (200) square feet in area. The applicant is proposing to construct a 352 sf. structure with a height of approximately 8' feet. The structure will be compatible with the existing residence and complies with the approval criteria for a use permit.

Variance

The Zoning and Development Code requires the setback for accessory buildings constructed in the R1-15, Single Family Residence District, to be located fifteen (15) feet from the side property line and thirty (30) feet from the rear property lines. The ZDC allows accessory "structures" i.e. Ramadas, small sheds, etc to encroach into the setbacks; if the structures are eight (8) feet in height and/or less than two hundred (200) square feet in area. The proposed Ramada meets the height requirement to be considered an "accessory structure" but exceeds the area. The proposed structure at approximately eight (8) feet in height will not be imposing on the surrounding properties for which the "accessory building" setback requirements were created; a majority of the structure's area is located toward the interior of the property. According to the applicant's letter of explanation; the structure placement is optimum for the use of their property. If the structure was located further west and north on the property (to meet the setbacks); the structure would encroach on the pool and may not meet UBC requirements for separation to the main dwelling.

Public Input

The applicant held a neighborhood meeting on August 3, 2008 and from the meeting provided a petition with signatures and letters in support of the Ramada with the reduced setback variances. In addition, a letter of approval was provided from the La Estadas Architectural Committee.

Conclusion

Staff recommends approval of the use permit and variances to reduce the rear and side yard setback; special circumstances exist relevant to the height of the structure .The applicant held a neighborhood meeting in accordance with the Zoning and Development Code. A petition of support was submitted with the application; including signatures from the adjacent neighbors most impacted by the variance.

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

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 Building Safety Division.
2. Use Permit and Variances are valid for plans as submitted within this application.

HISTORY & FACTS:

June 6, 2005. The Hearing Officer approved the following for the Francis Residence located at 9320 South Lakeshore Drive, in the R1-15, Single Family Residence District.

- a. Use permit to allow an accessory building.
- b. Variance to reduce the rear yard setback from 30 feet to 14 feet.

April 18, 2006 The Hearing Officer approved the following for the Detrick Residence located at 32 West Krista Way in the R1-15, Single Family Residential District:

- a. Use permit standard to reduce the east side yard setback by 20% from 15 feet to 12 feet.
- b. Variance to reduce the west side yard setback from 15 feet to 8 feet.

October 2, 2007. The Hearing Officer approved the following for the Immaneni Residence located at 1225 East Warner Road, Unit 6, in the R1-15, Single Family Residential District for:

VAR07023 Variance to reduce the west side yard setback from fifteen (15) feet to seven (7) feet.

DESCRIPTION:

Owner – Eric Muilenberg
Applicant – Eric Muilenberg
Existing Zoning – R1-15, Single Family Residential District
Lot Size- 19643.45 s.f.
Net Acre- . 451
Existing residence building area- 4183 s.f.
Proposed building area- 352 s.f.
Lot coverage allowed- 45%
Lot Coverage (proposed) - 23%
Required side yard setback- 15'
Proposed front yard setback- 7'6"
Required rear yard setback- 30 '
Proposed front yard setback- 15'-6"

**ZONING AND
DEVELOPMENT
CODE REFERENCE:**

Zoning & Development Code:
Part 3, Chapter 4, Section 3-401
Part 4, Chapter 2, Section 4-202.
Part 6, Chapter 3, Section 6-308 and Section 6-309



MUILENBERG RESIDENCE (PL080250)

July 15, 2008

City of Tempe
Development Services
31 E. Fifth Street
Tempe, AZ 85280-5002

Re: **PF080274** Muilenberg, 1101 E. Warner Road #132, Parcel 308-02-101

To Whom It May Concern:

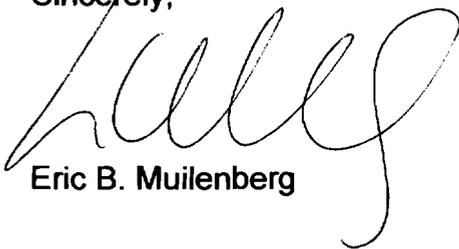
We would like to request a use permit and variance for our shade structure located in our backyard.

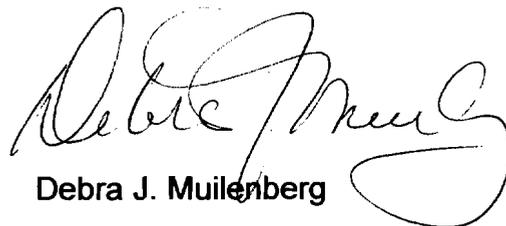
We are requesting a use permit for a shade structure to be used for the outdoor enjoyment of our family. We want to increase the outdoor living space so as to create more value in the property. There is no impact on the surrounding areas greater than any other family activity. It will enhance the quality of life that we enjoy while improving ours and the neighborhood's home values. The structure's architecture and craftsmanship is consistent with the homes in our neighborhood.

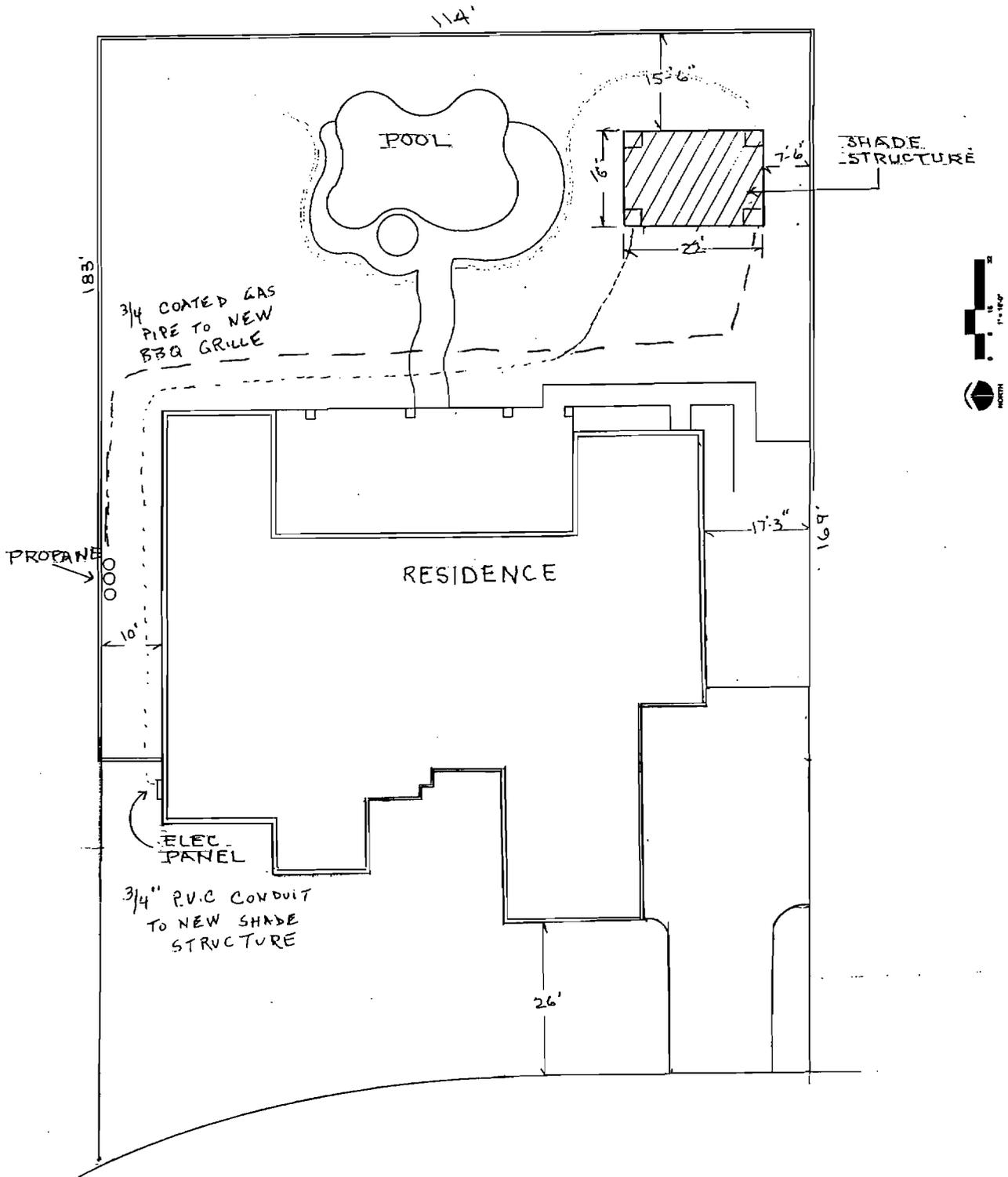
We are requesting a variance in the setbacks for our zoning. Our zoning is R1-15. The rear setback per the Code is 30 feet. We would like a variance to reduce it to 15 feet. The side setback per the Code is 15 feet, though we have noticed homes in our neighborhood are at 10 feet. We would like a variance to reduce the side setback for our shade structure to 7 feet. It is our understanding that if our structure was less than 200 square feet it would not require a variance or use permit. We would be able to place it closer to the side and rear property lines than we are requesting. Although our structure is over 200 square feet, by placing it where it is we have taken up more of our usable yard while keeping it away from the adjoining properties. We believe that this location of the shade structure is necessary to gain the most enjoyment and value from our home.

Thank you for your time and consideration.

Sincerely,

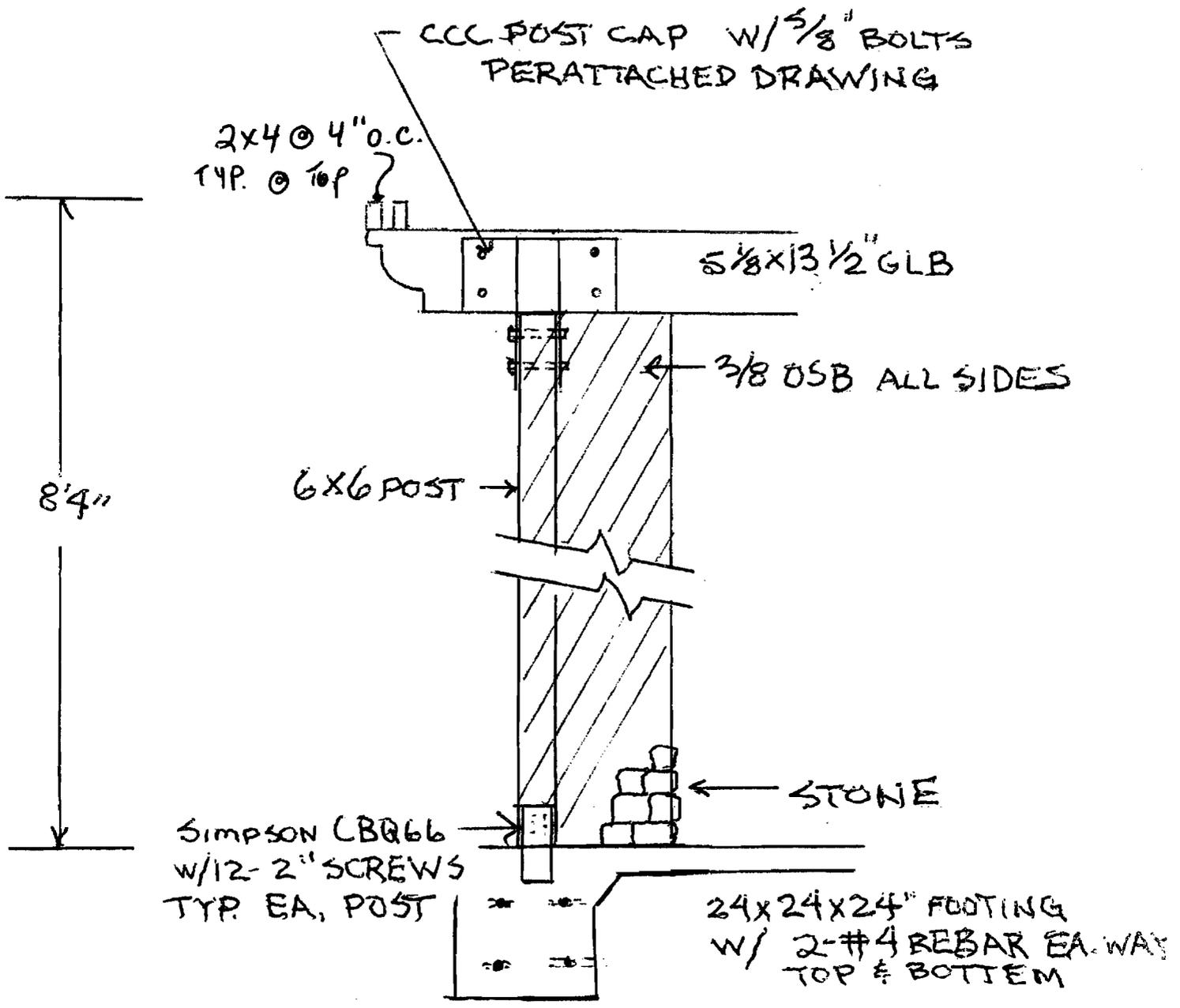

Eric B. Muilenberg


Debra J. Muilenberg



ERIC MUILENBERG
 1101 E. WARNER RD, LOT 132
 TEMPE, AZ
 TYPE V CONSTRUCTION
 OCCUPANCY TYPE "U" SCALE: 1/16

JUN 23 2008



SHADE STRUCTURE - SECTION @ CORNER

MULLENBERG RESIDENCE

1101 E. WARNER RD. LOT 132

TEMPE, AZ

SCALE: 1/2"

August 3, 2008

City of Tempe
Development Services
31 E. Fifth Street
Tempe, AZ 85280-5002

Re: **PL080250** Muilenberg Neighborhood Meeting

To Whom It May Concern:

We just concluded our meeting at 6:25pm on Sunday August 3. It began at 5:00pm. It was held at our home.

We were able to show the attendees the shade structure in our backyard and explain the setbacks to them. We answered any questions they had. All expressed how wonderful the project was. Some stated that it blended well with the house and neighborhood as far as construction and aesthetics.

In attendance were:

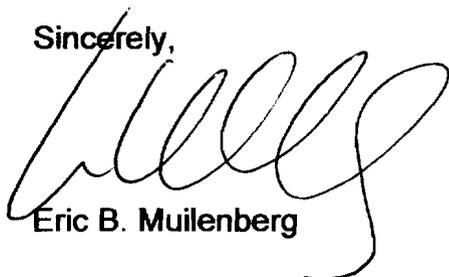
James & Connie Contes	1101 E. Warner Road #131 Tempe
Phillip & Karen Fargotstein	1101 E. Warner Road #141 Tempe
Ray & Kelly Leppien	1101 E. Warner Road #139 Tempe
Raj & Sarita Maini	1101 E. Warner Road #133 Tempe
Garry & Karen Mion	1101 E. Warner Road #135 Tempe
Eric & Debbie Muilenberg	1101 E. Warner Road #132 Tempe
Lee & Norma Nelms	1101 E. Warner Road #119 Tempe
Dell & Denise Vance	1101 E. Warner Road #134 Tempe

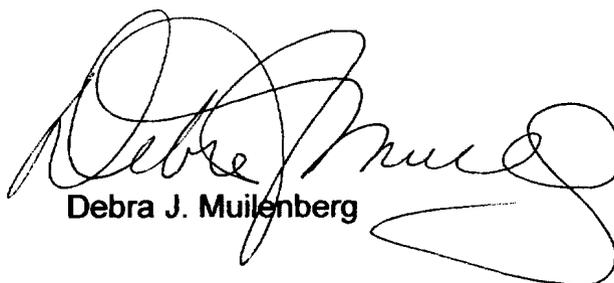
Within the names above, Kelly Leppien and Garry Mion are on the Architectural Committee and Sarita Maini, Karen Mion, Norma Nelms, and Denise Vance are on the Las Estadas HOA Board.

Again, everyone felt the project enhanced the neighborhood.

Thank you for your time and consideration.

Sincerely,


Eric B. Muilenberg


Debra J. Muilenberg

August 3, 2008
Neighborhood Meeting re: PL080250 Muilenberg Residence

This is to inform our neighbors that we are requesting a Use permit to allow our shade structure to be larger than 200 square feet and a Variance to reduce the rear yard setback to 15 feet 6 inches and the side yard setback 7 feet 6 inches.

We would like the support of our neighbors by signing below to help us get our use permit and variance from the City. If you have no objection to our project, please sign below.

Thank you for your support and for signing below.

Printed Name

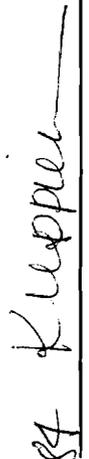
Address

Signature

GARY + KAREN MEUN 1101 E WARNER RD #135 TEMPE, AZ 85287 

Jim + Connie Cantos 1101 E WARNER RD, #131 Tempe AZ 

Phillip + Karen Faygotskin 1101 E WARNER RD #141 Tempe AZ 

KELLY + RAY LEPPEN 1101 E WARNER RD #139 TEMPE 85284 

Della Denise Vance 1101 E WARNER #134 Tempe AZ 85281 

LEE + NORMAN NEUMS 1101 E WARNER #119 

City of Tempe
Development Services
31 E. Fifth Street
Tempe, AZ 85280-5002

Re: **PL080250** Muilenberg, 1101 E. Warner Road #132

To Whom It May Concern:

We are aware of the variance and use permit request being submitted by Eric and Debbie Muilenberg. Our house is adjacent to the Muilenbergs. We also own the lot directly across the street from the Muilenbergs. We have reviewed and seen the shade structure's placement and have no objection to it.

Thank you for your time and consideration.

Sincerely,



James Contes
1101 E. Warner Road #131
Tempe, AZ 85284

City of Tempe
Development Services
31 E. Fifth Street
Tempe, AZ 85280-5002

Re: **PL080250** Muilenberg, 1101 E. Warner Road #132

To Whom It May Concern:

We are aware of the variance and use permit request being submitted by Eric and Debbie Muilenberg. Our house is immediately behind the Muilenbergs. We have reviewed and seen the shade structure's placement and have no objection to it.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brion Bowden', written in a cursive style.

Brion Bowden
9250 S. Stanley Place
Tempe, AZ 85284

City of Tempe
Development Services
31 E. Fifth Street
Tempe, AZ 85280-5002

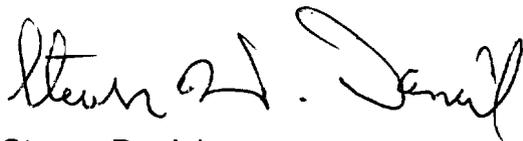
Re: **PL080250** Muilenberg, 1101 E. Warner Road #132

To Whom It May Concern:

We are aware of the variance and use permit request being submitted by Eric and Debbie Muilenberg. Our house is behind the Muilenbergs. We have reviewed and seen the shade structure's placement and have no objection to it.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink that reads "Steven Daniel". The signature is written in a cursive style with a large, looped initial 'S'.

Steven Daniel
9228 S. Stanley Place
Tempe, AZ 85284

Las Estadas Homeowners' Association

August 4, 2008

To Whom it May Concern:

The Las Estadas Architectural Committee has reviewed the Gazebo erected on Lot 25 (house number 132) and has approved its placement and construction under the Las Estadas Design Guidelines, Section A "*Architectural Design Standards*."

This approval is contingent on the approval by the City of Tempe confirming that it meets all required zoning regulations for such a structure and compliance with any other applicable legal requirements.

Please feel free to contact me with any questions you may have.

Sincerely,

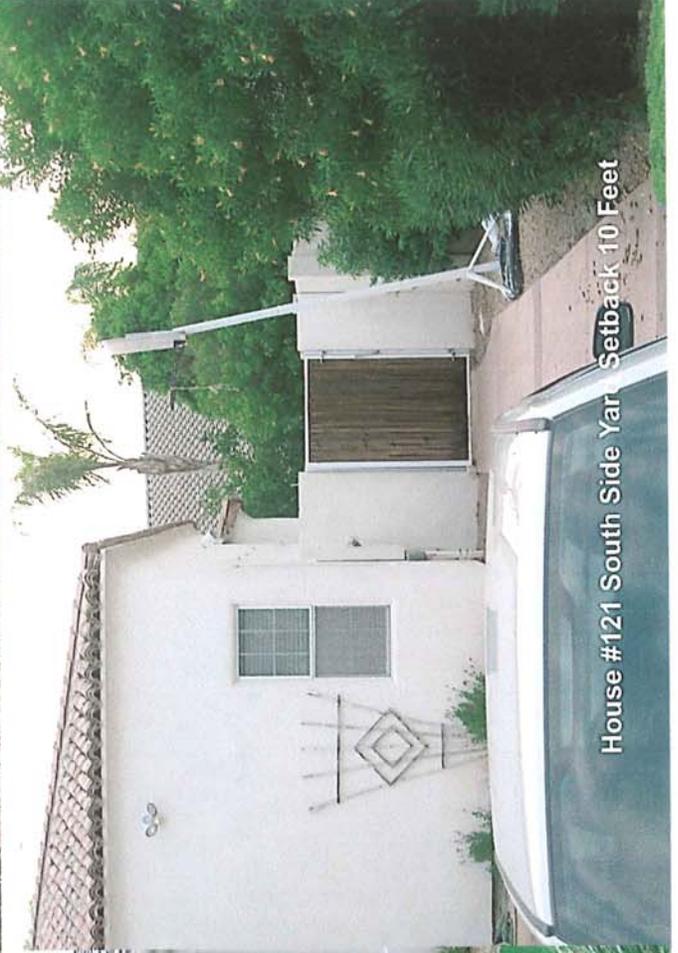
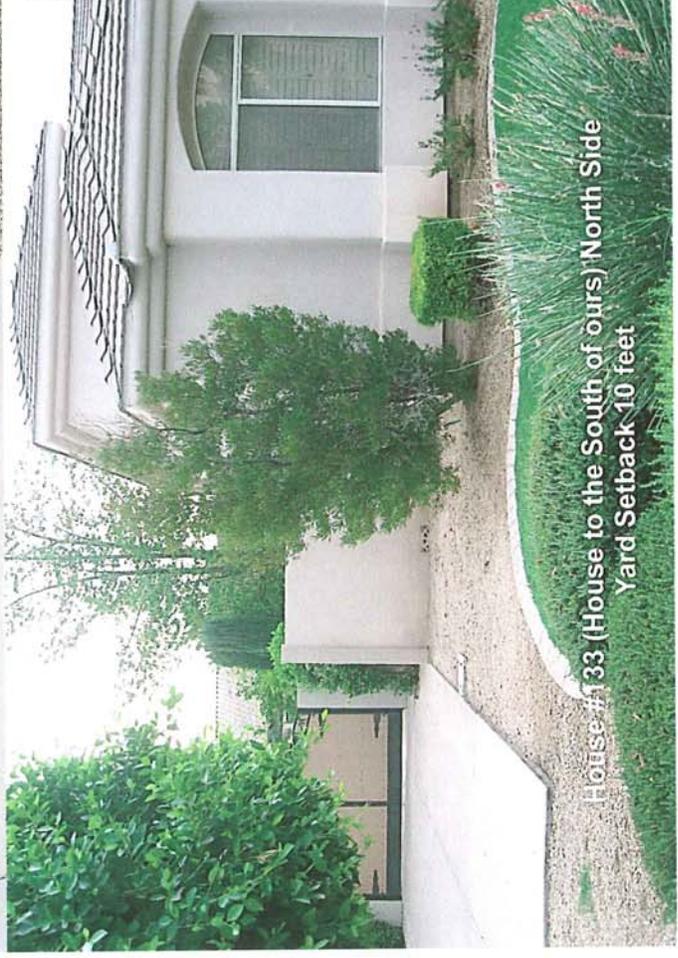


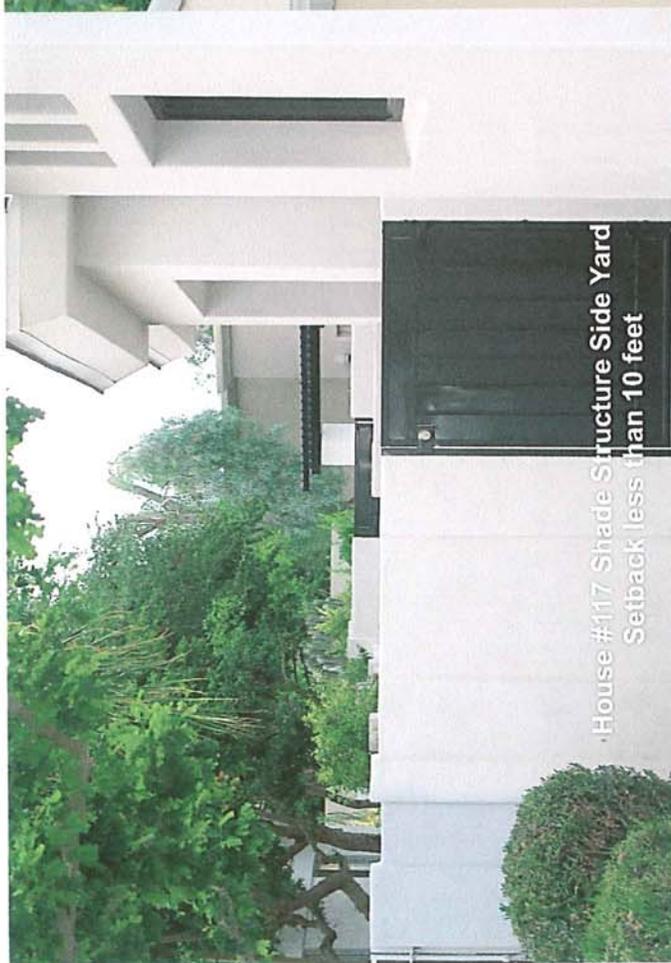
**Larry N. Heywood, CPM®
Property Supervisor**

**cc: File
Board**

1101 East Warner Road, Tempe, Arizona

**Managed by Heywood Realty & Investment, Inc., 42 South Hamilton Place, Suite 101, Gilbert, Arizona 85233
480.820.1519 Fax 480.820.1722**

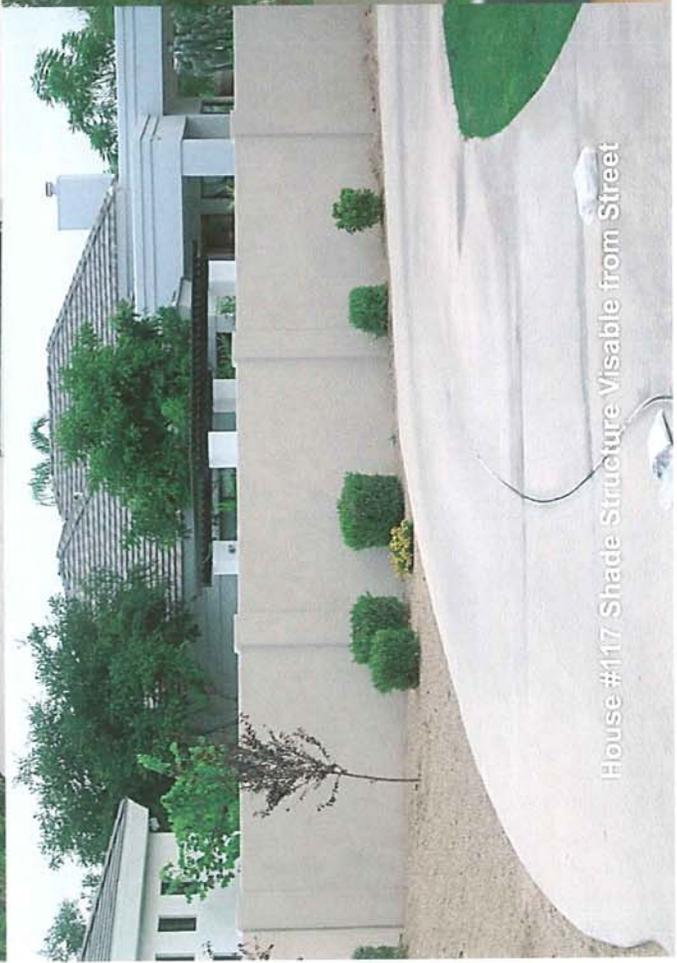




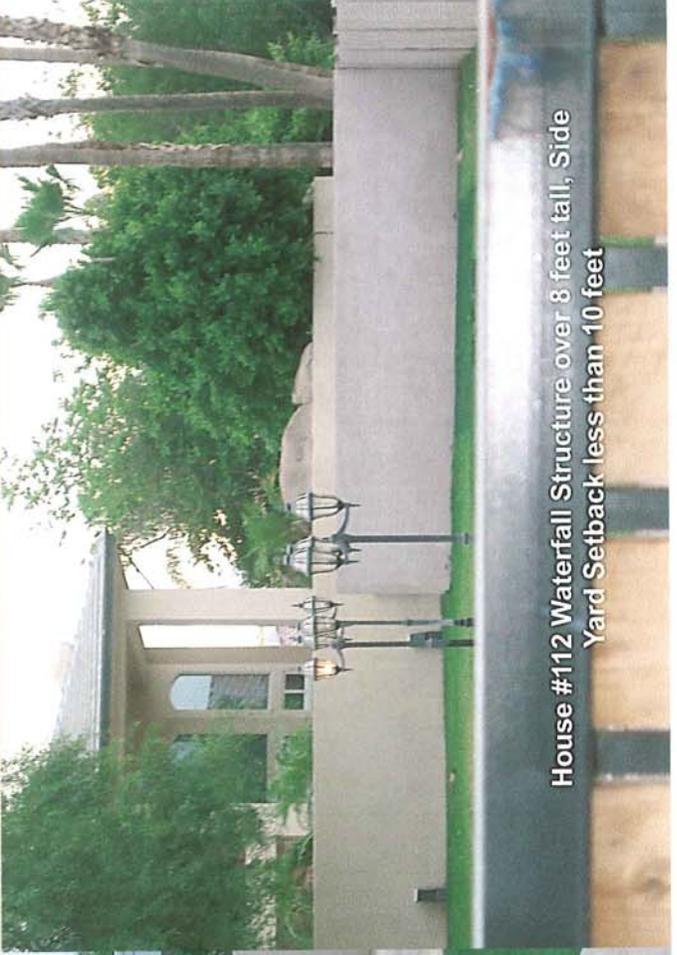
House #117 Shade Structure Side Yard
Setback less than 10 feet



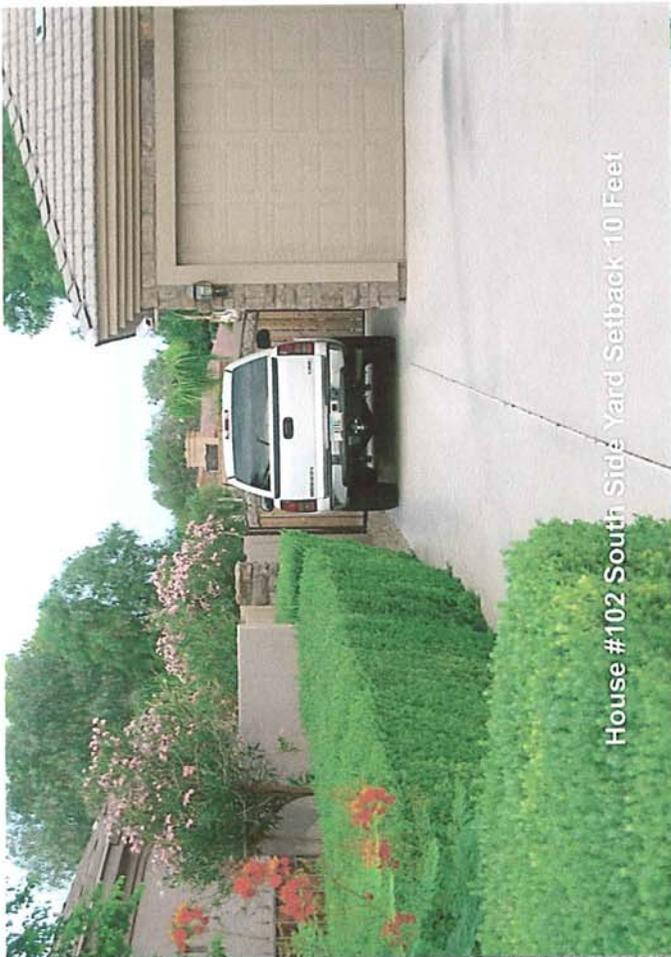
House #112 Waterfall Structure over 8 feet tall, Rear
Setback less than 10 feet



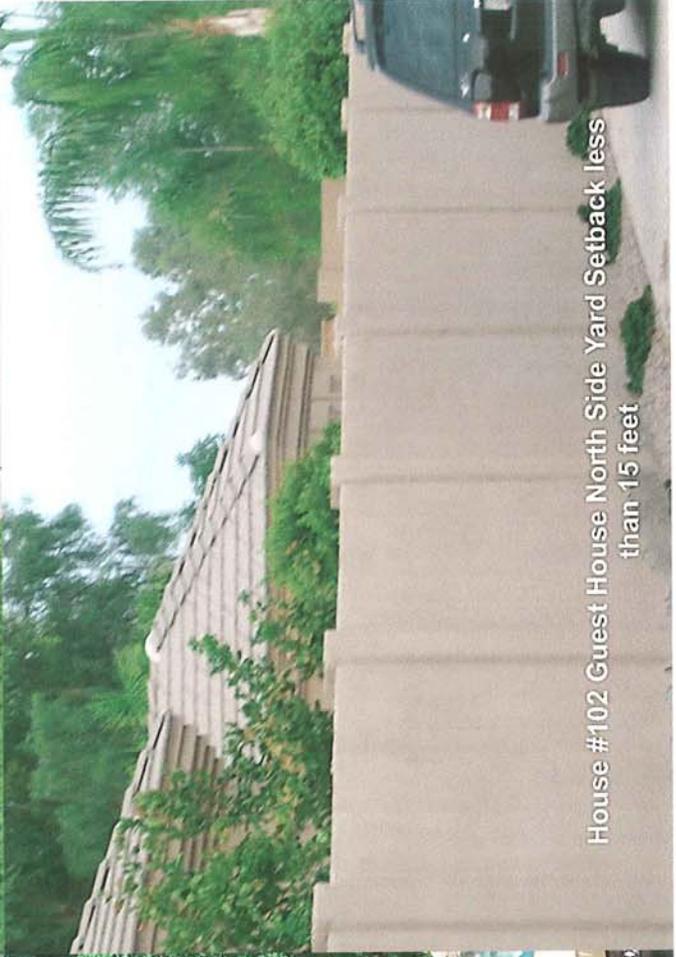
House #117 Shade Structure Visible from Street



House #112 Waterfall Structure over 8 feet tall, Side
Yard Setback less than 10 feet



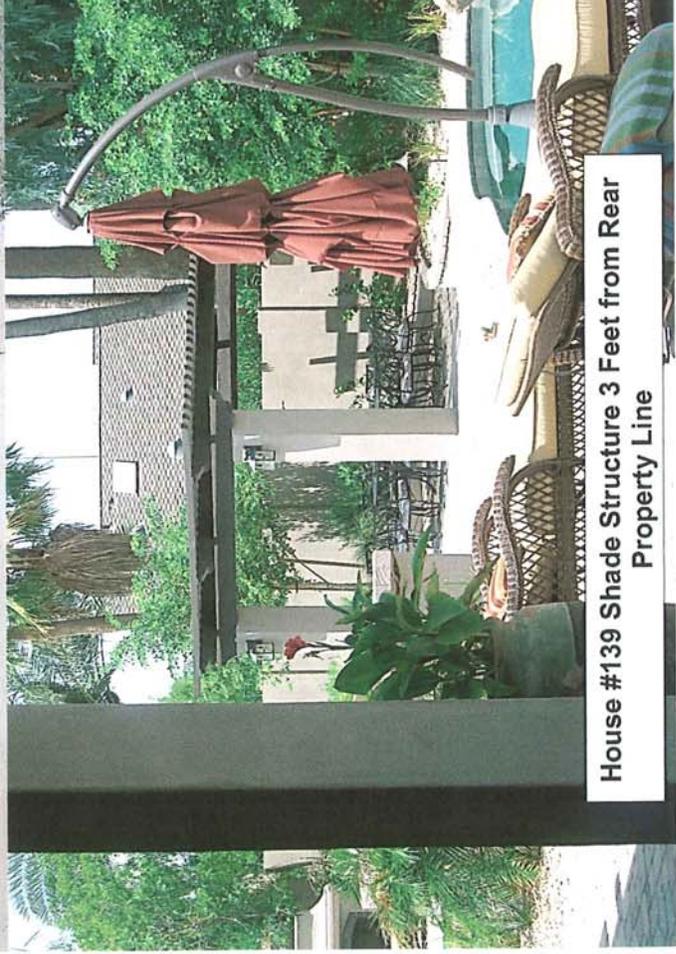
House #102 South Side Yard Setback 10 Feet



House #102 Guest House North Side Yard Setback less than 15 feet



House #108 Recent Addition Side Yard Setback 10 Feet



House #139 Shade Structure 3 Feet from Rear Property Line







MUILENBERG RESIDENCE

1101 EAST WARNER ROAD, NO. 132

PL080250

FRONT OF RESIDENCE – VIEW TO EAST