

Staff Summary Report



Hearing Officer Hearing Date: January 3, 2008

Agenda Item Number: 8

SUBJECT: This is a public hearing for a request by the **RICHARDS RESIDENCE (PL070501)** located at 1031 West Fremont Drive for one (1) variance.

DOCUMENT NAME: 20080103dssd03

PLANNED DEVELOPMENT (0406)

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for a request by the **RICHARDS RESIDENCE (PL070501)** (John Richards, applicant/property owner) located at 1031 West Fremont Drive in the R1-6, Single Family Residential District for:

VAR07031 Variance to reduce the west side yard setback from five feet (5') to three feet (3').

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

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

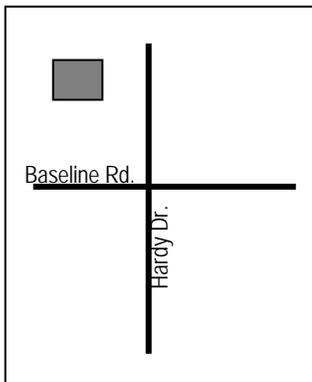
A handwritten signature in black ink, appearing to read 'SEA'.

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Denial

ADDITIONAL INFO: The Richards Residence is requesting a variance to reduce the west side yard setback from five (5) feet to three (3) feet for an existing awning. The existing awning was built without homeowner's understanding it required city approvals and currently extends to the west property line. Staff recommends denial of the variance owing to lack of hardship, special circumstances or evidence indicating potential loss of substantial property rights. In accordance with the Zoning and Development Code, the applicant held a neighborhood meeting on December 3, 2007; four neighbors attended the meeting and staff has received three (3) letters of support.



PAGES:

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

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
3. Letter of Intent
- 4-5. Neighborhood Meeting Letter, Sign in sheet.
6. Site plan
7. Enlarged Awning Area
- 8-10. Letters of Support
- 11-12. Staff Photograph(s)

COMMENTS:

The Richards Residence is requesting a variance to reduce the west side yard setback from five (5) feet to three (3) feet for an existing awning. The existing awning was built without the homeowner understanding it required city approvals. The awning currently extends to the west property line. The property is located at 1031 West Fremont Drive in the R1-6, Single Family Residential District. The Zoning and Development Code requires that side yard setbacks in the R1-6 zoning district be 5'-0". The applicant is requesting a variance from this standard so as to be allowed to encroach approximately two (2) foot into the required side yard setback. The applicant's letter states that the variance is necessary for their enjoyment of property rights, and to provide shade on the west side of the house. Analysis of this request finds there are no special circumstances or conditions affecting this building, land, or use to warrant approval of the variance.

The applicant held the neighborhood meeting on December 3, 2007; four neighbors attended the meeting. Staff has received three (3) letters of support.

Variance

The Zoning and Development Code requires a variance to reduce the side yard setback from five feet (5') to three feet (3') in the R1-6, Single Family Residential District

Evaluating the variance, the proposal does not appear to 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;
 - The applicant has indicated that the special circumstance is to provide shade on the west windows of the house. There is no other 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 five feet (5') to three feet (3') for awning 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 adding the awning that encroaches into the required side yard setback by two feet (2'); therefore, this is self-imposed condition.

Conclusion

Staff recommends denial of the variance

REASON(S) FOR DENIAL:

1. No special circumstances or conditions applying to the land, building or use exist.
2. The authorizing of the variance is not necessary for the preservation and enjoyment of substantial property rights.
3. Authorization of the variance(s) will may 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.

HISTORY & FACTS:

House built in 1979

DESCRIPTION:

Owner – John Richards
Applicant – John Richards
Existing Zoning – R1-6, Single Family Residential District
Lot Area – 7,352 s.f. / .17 acres
Main Residence Area – 2,144 s.f.
Awning Area – 270 s.f.
Required Side Yard setback: 5'-0"
Proposed Side Yard setback: 3'-0"

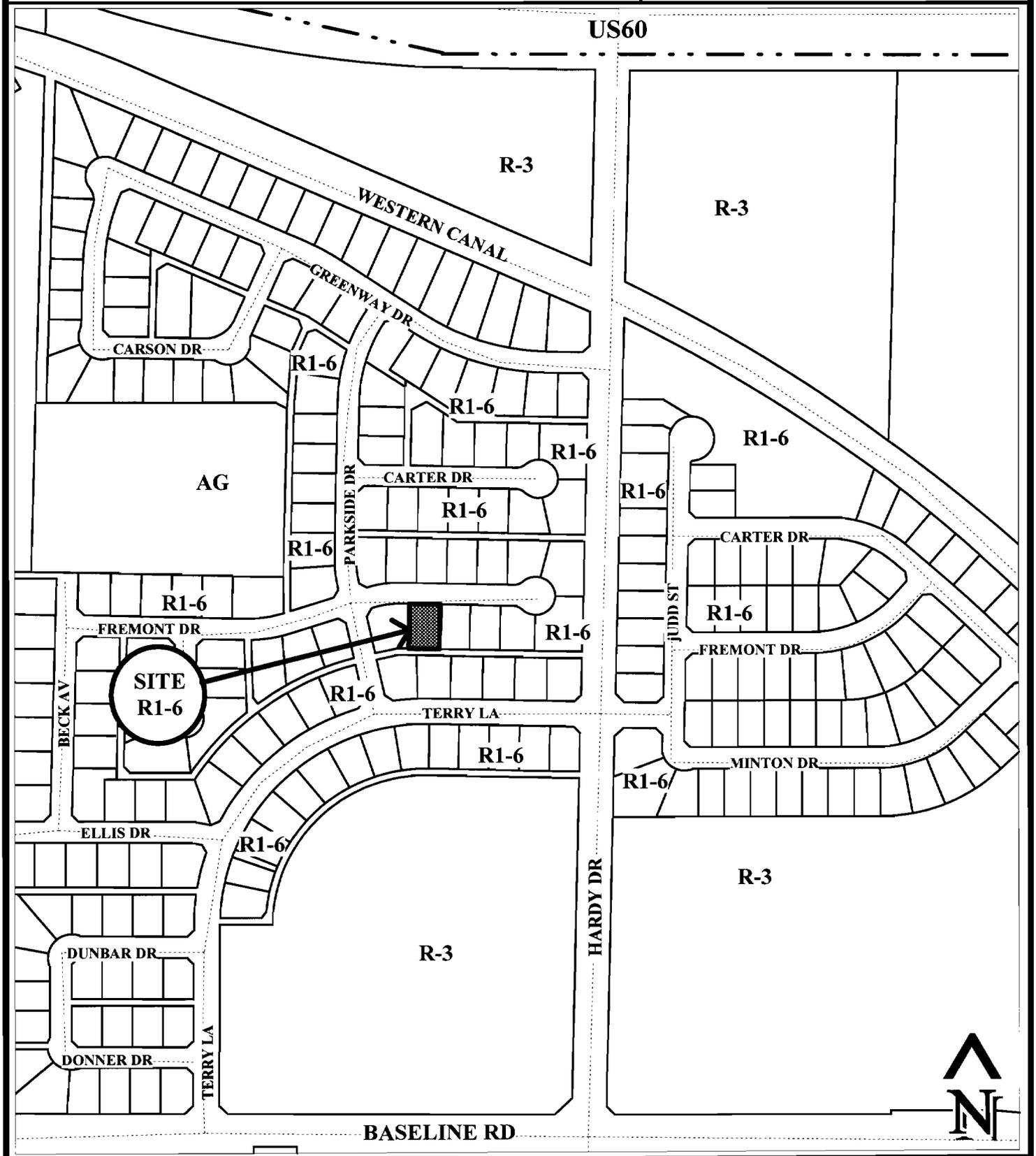
**ZONING AND
DEVELOPMENT
CODE REFERENCE:**

Citations of Code Requiring Use Permit(s) & Variance(s):

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

RICHARDS RESIDENCE

PL070501





RICHARDS RESIDENCE (PL070501)

November 20, 2007

John & Blanca Richards
1031 West Fremont Drive
Tempe, AZ 85282

Letter of Explanation

We have an aluminum patio awning, erected 5 years ago, which is located and attached to the western exposure of the house. The awning covers 30 feet x 9 feet between the house and the property line.

We are requesting a variance in the location of the support columns of the existing awning by reducing the distance required from 5 feet -0" to 0 feet -0" from the property line.

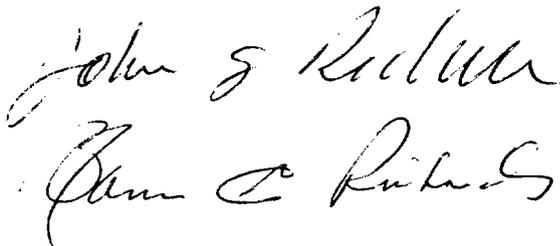
We will make whatever modifications to the existing patio awning to comply with the approval.

We believe that the existing patio awning enhances the property and is a visual improvement to the neighborhood.

The existing/modified awning is not detrimental to any property or person in the vicinity, and provides a needed weather protection to that side of the house.

Thank you for your consideration on this matter.

John & Blanca Richards

Handwritten signatures of John & Blanca Richards in cursive script.

John & Blanca Richards
1031 West Fremont Drive
Tempe, AZ 85282

LETTER OF NOTIFICATION OF NEIGHBORHOOD MEETING

November 20, 2007

Dear Neighbors,

A neighborhood meeting is required for variances, when the property is located within 300 feet of a residential use.

The property in question is located at 1031 West Fremont Drive.

We have been notified by the city of Tempe that the existing patio awning, covering 9 feet from the house to the property line is not in compliance with the property line setback. The awning is located on the western side of the house and was erected 5 years ago.

The code requires the support columns be placed not less than 5 feet from the property line.

The variance request is for continued use of the existing aluminum patio awning with the following modifications: which is to place the columns ^{OR} 0 feet from the property line.

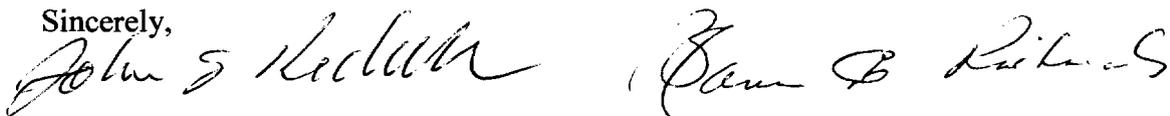
We believe that the existing patio awning enhances the property and is a visual improvement.

The meeting date, time, and location are:

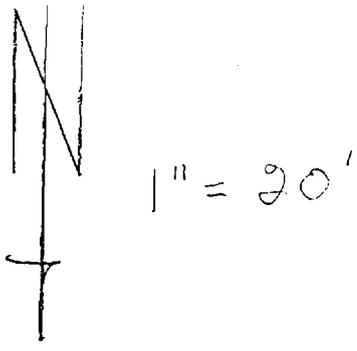
Monday December 03, 2007
7:00 pm
1031 West Fremont Drive
Tempe, AZ 85282
480-831-8055
jgrichards49@yahoo.com

All questions and concerns can be presented at the neighborhood meeting. Thank you for your consideration of this variance request.

Sincerely,

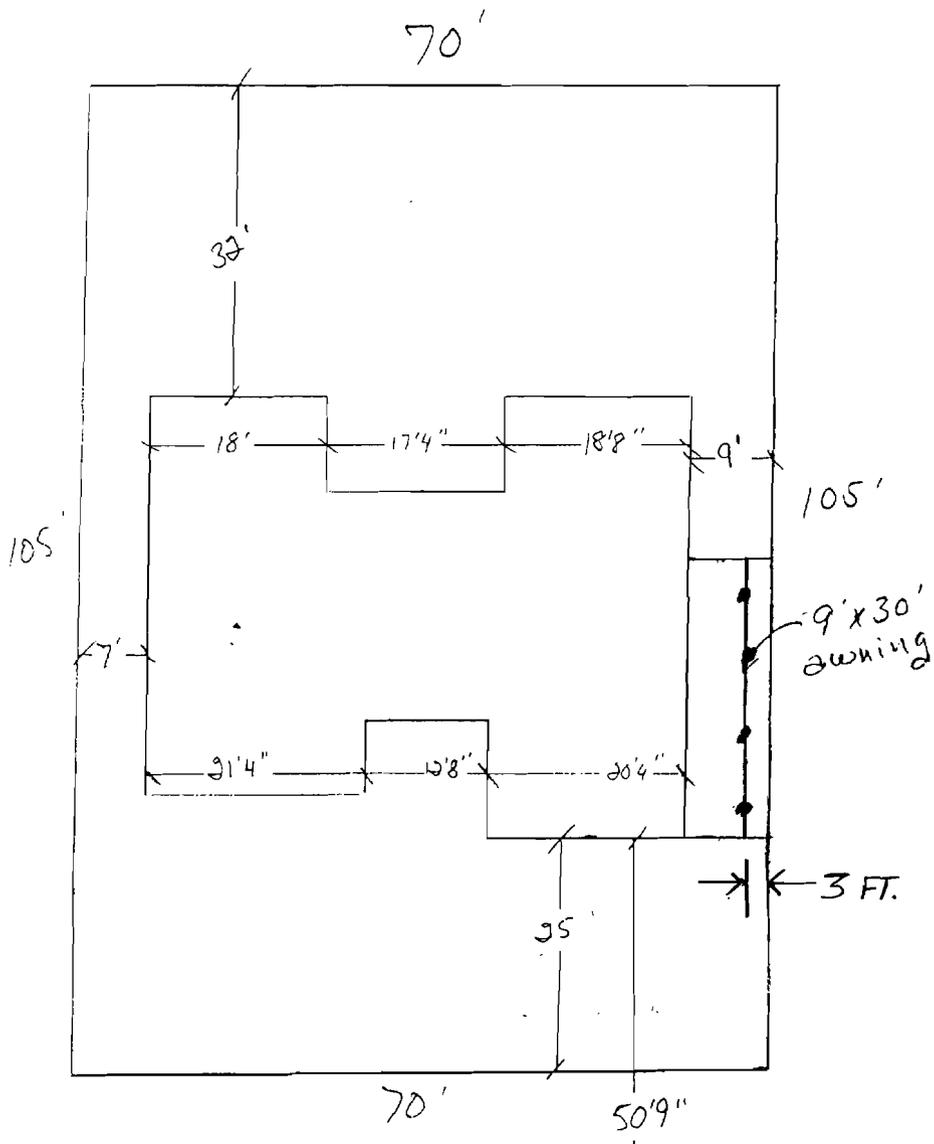
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John & Blanca Richards

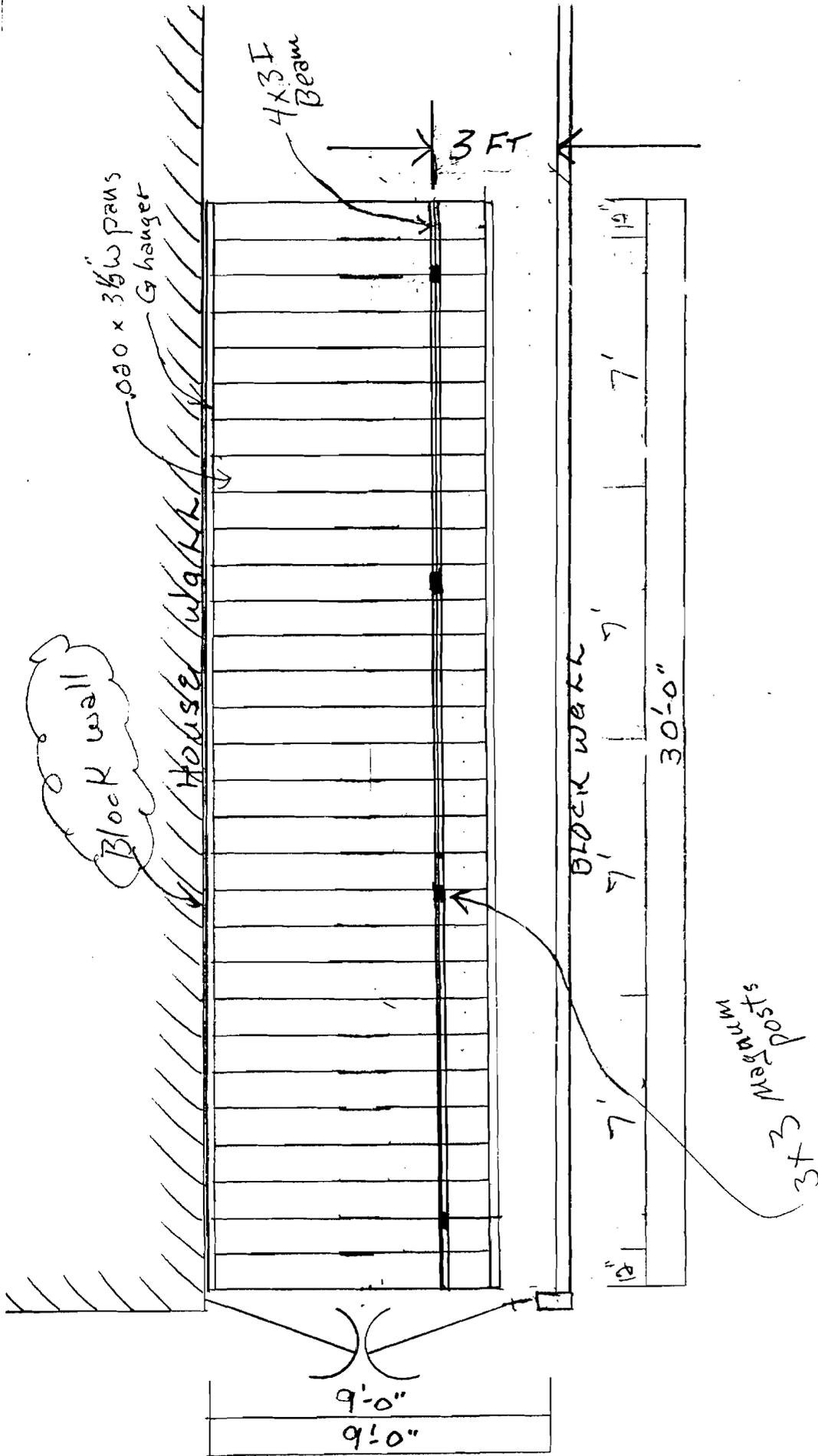


John Richards
 1031 W. Fremont Dr
 Tempe Az. 85282
 602 321-9529

Lot size: 7350 sq.ft
 House coverage 2144 sq.f
 Additional coverage 570 SF
 Total lot coverage 2414.51
 Percentage of lot coverage . 32.8



1031 W. Fremont Dr. center line



Project: John Richards

December 6, 2007

RE: Variance Request for 1031 W. Fremont Drive - Tempe

To Whom It May Concern:

I am the owner of two homes (1012 and 1018) on the subject block and I am in complete support of the requested variance. Please call if you have any questions or concerns.

**Burton Cagen
CC & Properties, Inc
480-897-2500**

Dec. 3, 2007

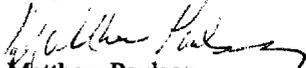
Dear John and Blanca,

Due to work and prior commitments, Matthew and I are unable to attend the Dec. 3 meeting regarding the variance for your property at 1031 West Fremont Drive.

Living at 1030 West Fremont Drive - right across the street from said property and with the patio awning in plain view - we have NO problem with the structure in question.

We are in favor of your continued use of the existing aluminum patio awning as is.

If anyone from the city of Tempe wishes to contact us, they can call us at home: (480) 820-5303, or at the Tribune: Matthew Paulson (480) 898-6523; Billye Jill Paulson (480) 898-6862.


Matthew Paulson


Billye Jill Paulson
1030 West Fremont Drive
Tempe, AZ 85282

December 16, 2007

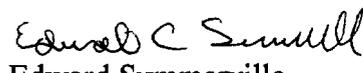
To Whom it May Concern:

We are writing in reference to the patio awning in question at 1031 West Fremont Drive. We live diagonally across the street from the Richards residence and see no reason for the awning to be an issue. It has been there for five years and is a necessity for the homeowners since the setting sun can be very hot and blinding. Without it they will not be able to enjoy that side of the house without suffering heat stroke.

The awning does not impose on any other neighbor. It enhances and improves the appearance of the home. The awning helps keep the home cooler, reducing electricity use for cooling and also protects the house from the brutal drying sun which can be a fire hazard. We believe there is no reason for the awning to be changed or removed and it is in no way a fire hazard since it is aluminum and does not endanger anyone's property.

In summary, we support the Richards and we are happy to have them as our neighbors. For anyone to have an issue with this awning is utterly ridiculous. Thank you for your consideration of this matter.

Sincerely,


Edward Summerville


Joy Saltsman

1040 W. Fremont Drive
Tempe, AZ 85282



RICHARDS RESIDENCE

1031 W FREMONT DR

PL070501

FRONT OF RESIDENCE



RICHARDS RESIDENCE

1031 W FREMONT DR

PL070501

WEST SIDEYARD: EXISTING AWNING