

Staff Summary Report



Hearing Officer Hearing Date: September 4, 2007

Agenda Item Number: 3

SUBJECT: This is a public hearing for a request by the **ROWLEY RESIDENCE (PL070041)** located at 948 South Ash Avenue for one (1) use permit and two (2) variances.

DOCUMENT NAME: 20070904dssl01

PLANNED DEVELOPMENT (0406)

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for a request by the **ROWLEY RESIDENCE (PL070041)** (Steve Briggs/TEBO LLC, applicant; Chris Rowley, property owner) located at 948 South Ash Avenue in the R-3, Multi-Family Residential Limited District for:

ZUP07016 Use permit to allow tandem parking for a multi-family project.

VAR07006 Variance to reduce the north side yard setback from 10 feet to 3 feet.

VAR07007 Variance to reduce the west rear yard setback from 15 feet to 4 feet.

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

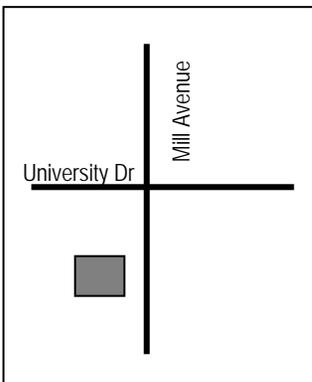
REVIEWED BY: Steve Abrahamson, Planning and Zoning Coordinator (480-350-8359)

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Denial

ADDITIONAL INFO: The Rowley Residence is requesting approval of two (2) setback variances, from the side and rear property lines, for a detached two story addition and a use permit to allow tandem parking on the site (the Zoning and Development Code requires multi-family sites to obtain a use permit to tandem park on the site). This request was previously approved, on appeal, by the Board of Adjustment on November 21, 2005. The applicant received Design Review approval on June 5, 2006 and submitted for building permits on October 5, 2006, but did not successfully complete the plan check process; as required by condition of approval. All previous approvals for variances and use permit have lapsed. Staff does not support variances and use permit as requested in this application. To date, staff has received two (2) letters in opposition to this request. In accordance with the Zoning and Development Code requirements, the applicant held a neighborhood meeting on March 5, 2007. The Hearing Officer continued this request and directed the applicant to continue through the building plan review process until the building permit was ready to issue. The building permit is pending Planning approval which is dependant upon the outcome of this request.



PAGES:

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

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
- 3-4. Letter of Intent
5. Site plan
6. Floor Plan
- 7-9. Applicant Photograph(s)
- 10-12. Staff Photograph(s)
- 13-15. Letters of Opposition

COMMENTS:

The applicant is seeking approval of two (2) setback variances and use permit for the property located at 948 S. Ash Avenue. This request was previously approved, on appeal, by the Board of Adjustment on November 21, 2005. The applicant received Design Review approval on June 5, 2006 and submitted for building permits on October 5, 2006, but did not successfully complete the plan check process; as required by condition of approval. All previous approvals for variances and use permit have lapsed.

The setback variances and use permit are for a two story structure with two dwelling units on the second floor and a double car garage and carport on the first floor. The first floor of the structure was constructed, in 1963, as a detached double garage and carport. The second story addition was constructed in 2004 without prior approvals from the Planning and Zoning and Building Safety Division, subsequently, a stop work order was issued to the property owner.

Variance

The first story of the structure, the garage/carport, was constructed legally with building permits and had a legal non-conforming setbacks of five feet one inch (5'-1") from the north side property line and eight feet six inches (8'-6") from the west rear property line. The setbacks for the garage, at the time of permitting, were consistent with setbacks for other detached structures in the vicinity. The second story addition further reduces the rear and side yard setbacks for an exterior staircase on west elevation and vertical support structures.

Staff has concerns with the massing of the expansion and the proximity to the side and rear property lines. The two story structure, adjacent to the rear and side property lines, is out of character with the surrounding area and is imposing on the neighboring properties. We do not support the variances in this application. The legal non-conforming setbacks for the detached single level garage and carport were compatible with other existing structures in the neighborhood. The second story addition expanded the structure beyond what is permitted to maintain the legal non-conforming status, thus, the new construction must comply with current ordinance standards. In applying tests for approval of variances; we do not find evidence to support the variances requested. There are no special circumstances or conditions affecting this building land or use to warrant approval of these variances; the authorizing of the variance(s) is not necessary for the enjoyment of substantial property rights; authorizing of the variance(s) may be materially detrimental to the surrounding area.

Use Permit

They are also seeking a use permit to allow tandem parking on the site (the Zoning and Development Code requires multi-family sites to obtain a use permit to tandem park). In general, tandem parking by use permit in low density multi-family projects is compatible. Tandem parking fits the single family character of the surrounding area. However, we do not support the use permit as requested in this application because the tandem parking solution is an integral part of the project design, and is not approvable without support of the project as a whole.

Public Input

To date, staff received one (1) inquiry in by telephone regarding this project and two (2) letters of opposition.

Conclusion

Staff recommends denial of the setback variances and use permit.

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) could 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. The driveway to be a minimum of seventeen (17) feet width to accommodate two parking spaces (8.5' x 18' standard). Locate all parking spaces behind the front yard and street side yard setbacks.
2. Obtain all necessary clearances from Design Review and Building Safety Division.

HISTORY & FACTS:

June 4, 1963. The subject property was issued a building permit for a double garage and carport.

May 25, 2004. A notice to comply was issued to the subject property for illegal construction of a second story addition.

September 20, 2005. The Hearing Officer continued this case to the October 5, 2005 agenda.

October 5, 2005. The Hearing Officer denied the request for two (2) variances and use permit for the Rowley Residence.

November 21, 2005. The Board of Adjustment approved the appeal of the Hearing Officer decision and approved two setback variances and use permit for the Rowley Residence subject to the following conditions:

1. The driveway to be a minimum of seventeen (17) feet width to accommodate two parking spaces (8.5' x 18' standard). Locate all parking spaces behind the front yard and street side yard setbacks.
2. Obtain all necessary clearances from Design Review and Building Safety Division within ninety days, by **01/05/06**.

April 3, 2007 The Hearing Officer continued the request for two (2) variances and a use permit for the Rowley Residence with direction to the applicant to make progress in obtaining the building permit for the structure.

DESCRIPTION:

Owner – Chris Rowley
Applicant – Steve Briggs/TEBO LLC
Existing zoning – R-3, Multi-Family Residential Limited District
Lot Size- .27 net acres
Existing Dwelling- 3004 s.f.
Proposed Addition- 2709 s.f
Lot Coverage- 47%
Number of Dwelling Units Allowed- 3
Number of Dwelling Units Proposed- 5
Parking Required- 7 spaces
Parking Provided-7 spaces

**ZONING AND
DEVELOPMENT**

CODE REFERENCE:

Citations of Code Requiring Use Permit(s) & Variance(s):
Part 4, Chapter 2, Section 4-202B.
Part 6, Chapter 3, Section 6-308 and Section 6-309

ROWLEY RESIDENCE

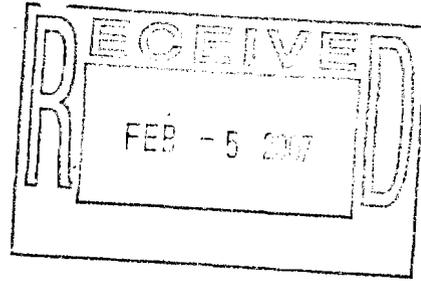
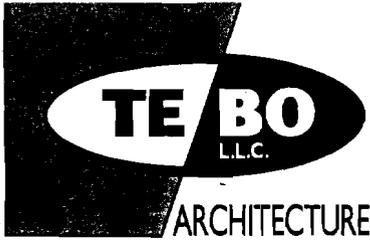
PL070041



Location Map



ROWLEY RESIDENCE (PL070041)



1-31-06
City of Tempe
Re: Rowley Residence Addition
948 South Ash
TEBO Job Number 0477

Narrative of Design Rationale

This project is an addition of a second floor on an existing detached garage structure. The original one story garage was built with a permit in 1963. This second floor addition was built without a permit and has a stop work notice currently in effect. This project has been approved through the variance process and we are now ready for the design review application.

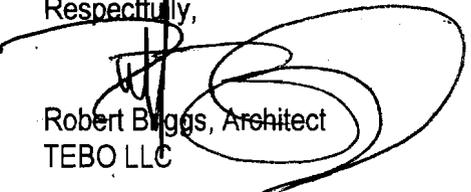
This residence is one of Tempe's nicest well preserved historic residences in the older part of town. The property under its current ownership received a Home Beautification award in 2002 from the City of Tempe. Like most of the older properties this house has undergone several remodels and additions over the many years of its existence. The detached garage is one of these additions. The position of the addition to this structure is a natural area for this improvement to happen. The surrounding properties are both of two story configuration and this structure helps to provide privacy to this residence. The addition was done tactfully without mimicking the historic residence.

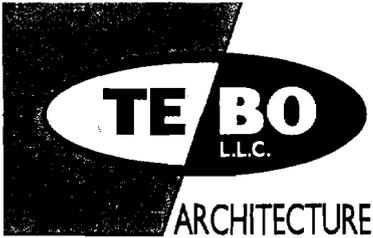
The materials used are wood siding and trim. The detail of the windows and color of the addition match the historic residence.

We have received approval from the board of adjustment for these requests last year. Due to our inability to secure the building permits within the 6 month period our approval has lapsed. No changes to the site have happened since our last approval.

Our property owner has submitted to the entire review process as an attempt to bring his addition current to all codes and ordinances while maintaining historic character and minimal impact. This property owner is also active in the Maple Ash Neighborhood and a volunteer for neighborhood beautification project. If there are any questions related to this rationale, please feel free to contact me for further information.

Respectfully,


Robert Briggs, Architect
TEBO LLC



1-31-07

Re: Rowley Residence Addition
948 South Ash Avenue
BA050078

Dear Neighbor,

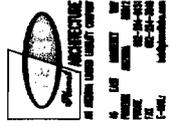
As you are aware, the property listed above has been through the City process for Use Permit and Variance. We were granted both after appealing the Hearing Officer's decision to the Board of Adjustment. Our approval at the Board of Adjustment was for a period of 6 months. Due to our inability to obtain the building permits within that period of time, the approvals have lapsed. We are required to re-submit for the use permit and variance to the Hearing Officer.

The new Hearing is will be held in the Council Chambers, 31 East Fifth Street, on Tuesday, **March 6, 2007** at 1:30 P.

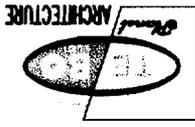
There will be a neighborhood meeting at 948 South Ash Avenue on Monday **February 19, 2007** at 5:30 pm. If you have questions about the case, or wish to discuss the City requirements, you may also contact me at 602-254-0151.

Respectfully,


Robert Briggs Architect
TEBO LLC



ROWLEY RESIDENCE ADDITION

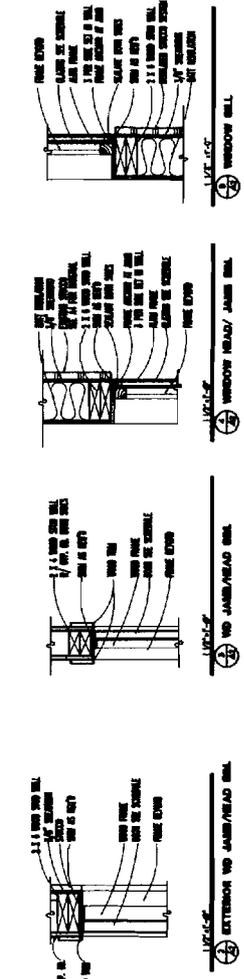
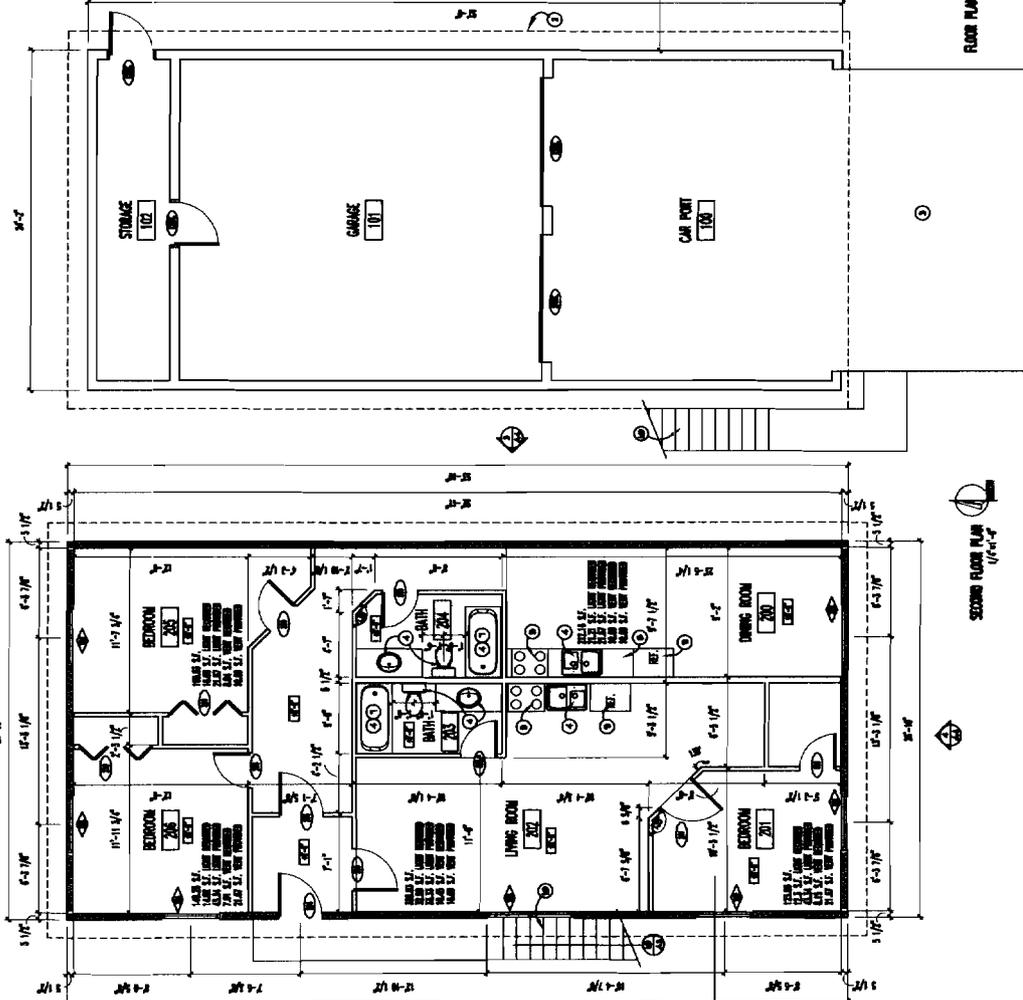


PRO NUMBER: 1-20-07
DATE: 1-20-07
CONTENTS: FLOOR PLANS

A-2

- KEY NOTES**
1. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2006 INTERNATIONAL RESIDENTIAL CODE.
 2. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2006 INTERNATIONAL ENERGY EFFICIENCY CODE.
 3. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2006 INTERNATIONAL PLUMBING CODE.
 4. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2006 INTERNATIONAL MECHANICAL AND ELECTRICAL CODE.
 5. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2006 INTERNATIONAL FIRE AND SAFETY CODE.
 6. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2006 INTERNATIONAL BUILDING DEPARTMENT CODE.
 7. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2006 INTERNATIONAL SCHEDULING CODE.
 8. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2006 INTERNATIONAL CONTRACT DOCUMENTS.

- SYMBOL LEGEND**
- WALL TYPES
 - DOOR TYPES
 - WINDOW TYPES
 - STAIRS
 - ELEVATION TO FINISH



NO.	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
1	2x4 STUDS	100	LF	1.50	150.00
2	2x6 STUDS	50	LF	2.00	100.00
3	2x8 STUDS	20	LF	2.50	50.00
4	2x10 STUDS	10	LF	3.00	30.00
5	2x12 STUDS	5	LF	3.50	17.50
6	2x14 STUDS	2	LF	4.00	8.00
7	2x16 STUDS	1	LF	4.50	4.50
8	2x18 STUDS	1	LF	5.00	5.00
9	2x20 STUDS	1	LF	5.50	5.50
10	2x22 STUDS	1	LF	6.00	6.00
11	2x24 STUDS	1	LF	6.50	6.50
12	2x26 STUDS	1	LF	7.00	7.00
13	2x28 STUDS	1	LF	7.50	7.50
14	2x30 STUDS	1	LF	8.00	8.00
15	2x32 STUDS	1	LF	8.50	8.50
16	2x34 STUDS	1	LF	9.00	9.00
17	2x36 STUDS	1	LF	9.50	9.50
18	2x38 STUDS	1	LF	10.00	10.00
19	2x40 STUDS	1	LF	10.50	10.50
20	2x42 STUDS	1	LF	11.00	11.00
21	2x44 STUDS	1	LF	11.50	11.50
22	2x46 STUDS	1	LF	12.00	12.00
23	2x48 STUDS	1	LF	12.50	12.50
24	2x50 STUDS	1	LF	13.00	13.00
25	2x52 STUDS	1	LF	13.50	13.50
26	2x54 STUDS	1	LF	14.00	14.00
27	2x56 STUDS	1	LF	14.50	14.50
28	2x58 STUDS	1	LF	15.00	15.00
29	2x60 STUDS	1	LF	15.50	15.50
30	2x62 STUDS	1	LF	16.00	16.00
31	2x64 STUDS	1	LF	16.50	16.50
32	2x66 STUDS	1	LF	17.00	17.00
33	2x68 STUDS	1	LF	17.50	17.50
34	2x70 STUDS	1	LF	18.00	18.00
35	2x72 STUDS	1	LF	18.50	18.50
36	2x74 STUDS	1	LF	19.00	19.00
37	2x76 STUDS	1	LF	19.50	19.50
38	2x78 STUDS	1	LF	20.00	20.00
39	2x80 STUDS	1	LF	20.50	20.50
40	2x82 STUDS	1	LF	21.00	21.00
41	2x84 STUDS	1	LF	21.50	21.50
42	2x86 STUDS	1	LF	22.00	22.00
43	2x88 STUDS	1	LF	22.50	22.50
44	2x90 STUDS	1	LF	23.00	23.00
45	2x92 STUDS	1	LF	23.50	23.50
46	2x94 STUDS	1	LF	24.00	24.00
47	2x96 STUDS	1	LF	24.50	24.50
48	2x98 STUDS	1	LF	25.00	25.00
49	2x100 STUDS	1	LF	25.50	25.50
50	2x102 STUDS	1	LF	26.00	26.00
51	2x104 STUDS	1	LF	26.50	26.50
52	2x106 STUDS	1	LF	27.00	27.00
53	2x108 STUDS	1	LF	27.50	27.50
54	2x110 STUDS	1	LF	28.00	28.00
55	2x112 STUDS	1	LF	28.50	28.50
56	2x114 STUDS	1	LF	29.00	29.00
57	2x116 STUDS	1	LF	29.50	29.50
58	2x118 STUDS	1	LF	30.00	30.00
59	2x120 STUDS	1	LF	30.50	30.50
60	2x122 STUDS	1	LF	31.00	31.00
61	2x124 STUDS	1	LF	31.50	31.50
62	2x126 STUDS	1	LF	32.00	32.00
63	2x128 STUDS	1	LF	32.50	32.50
64	2x130 STUDS	1	LF	33.00	33.00
65	2x132 STUDS	1	LF	33.50	33.50
66	2x134 STUDS	1	LF	34.00	34.00
67	2x136 STUDS	1	LF	34.50	34.50
68	2x138 STUDS	1	LF	35.00	35.00
69	2x140 STUDS	1	LF	35.50	35.50
70	2x142 STUDS	1	LF	36.00	36.00
71	2x144 STUDS	1	LF	36.50	36.50
72	2x146 STUDS	1	LF	37.00	37.00
73	2x148 STUDS	1	LF	37.50	37.50
74	2x150 STUDS	1	LF	38.00	38.00
75	2x152 STUDS	1	LF	38.50	38.50
76	2x154 STUDS	1	LF	39.00	39.00
77	2x156 STUDS	1	LF	39.50	39.50
78	2x158 STUDS	1	LF	40.00	40.00
79	2x160 STUDS	1	LF	40.50	40.50
80	2x162 STUDS	1	LF	41.00	41.00
81	2x164 STUDS	1	LF	41.50	41.50
82	2x166 STUDS	1	LF	42.00	42.00
83	2x168 STUDS	1	LF	42.50	42.50
84	2x170 STUDS	1	LF	43.00	43.00
85	2x172 STUDS	1	LF	43.50	43.50
86	2x174 STUDS	1	LF	44.00	44.00
87	2x176 STUDS	1	LF	44.50	44.50
88	2x178 STUDS	1	LF	45.00	45.00
89	2x180 STUDS	1	LF	45.50	45.50
90	2x182 STUDS	1	LF	46.00	46.00
91	2x184 STUDS	1	LF	46.50	46.50
92	2x186 STUDS	1	LF	47.00	47.00
93	2x188 STUDS	1	LF	47.50	47.50
94	2x190 STUDS	1	LF	48.00	48.00
95	2x192 STUDS	1	LF	48.50	48.50
96	2x194 STUDS	1	LF	49.00	49.00
97	2x196 STUDS	1	LF	49.50	49.50
98	2x198 STUDS	1	LF	50.00	50.00
99	2x200 STUDS	1	LF	50.50	50.50
100	2x202 STUDS	1	LF	51.00	51.00









ROWLEY RESIDENCE

948 S ASH AVE

PL070041

SIDE OF HOUSE: VIEW TO THE WEST



ROWLEY RESIDENCE

948 S ASH AVE

PL070041

FRONT OF GARAGE: VIEW TO THE NORTH



ROWLEY RESIDENCE

948 S ASH AVE

PL070041

FRONT OF GARAGE: VIEW TO THE NORTH

February 24, 2007

To the City of Tempe Hearing Officer

RE: Public Hearing Notice
Rowley Residence (PL070041)
Chris Rowley, Property Owner

I am unable to attend the meeting on March 6, 2007 due to the fact that I cannot leave my employment.

I am a neighbor directly behind the property at 948 S. Ash Ave. When the Rowley's decided to add a huge upper floor to their garage, they did not get a permit nor did they ask neighbors if this unsightly addition would be acceptable. Since the addition was built, it blocks by view and as I mentioned before, very unsightly.

I vehemently oppose the addition of these variances. This neighborhood is becoming unsightly with all of the "junk" people are adding and the changes to this neighborhood.

Again, as a homeowner next door to this property, I am opposed to permitting the permits and variances to this property.

Sincerely,



Katherine Barnett
942 S. Ash Avenue, #101
Tempe, Az. 85281

RECEIVED
07 FEB 26 AM 9:44
TEMPERITLY ALLOCATION
SERVICES DEPARTMENT

26 February 2007

City of Tempe Board of Adjustment Hearing Officer
P.O. Box 5002
Tempe, Arizona 85280-5002
Hand delivered

RE: Public Hearing # PL 070041 Rowley Residence 948 S. Ash Ave Tempe, AZ.

Hearing Officer;

The City of Tempe - Zoning and Development Code and the ARIZONA REVISED STATUTES both agree: "variances shall **NOT**: Be for the purpose of rectifying a special circumstance, which is **SELF-IMPOSED** by the property OWNER or applicant;"

The City of Tempe - Zoning and Development Code, "Approval Criteria", also states:
" 2. That authorizing the variances 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," as a condition of approval.

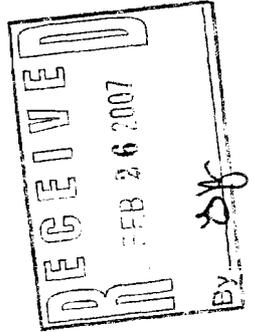
The owners had full knowledge that a "Development Process" including Zoning review & building permits were required **PRIOR** to the start of ANY structural modifications to the existing detached garage to which they further attached the second story addition at issue.

(Chris Rowley, an owner, is listed as General Contractor for the new commercial building, permit application, that his company, North Star Pipelines Inc., constructed @ 508 West 1st Ave., Tempe, AZ., a few years ago, filed at the City of Tempe.)

(The owners made their own decisions; NO PERSON, NO CIRCUMSTANCE, "forced" them to build in violation of City of Tempe codes.) The owners made their "choices", deliberately, with forethought, and ignored the correct/legal course of action.

Their "self-imposed", illegal, actions have placed them before the Board of Adjustment - Hearing Officer, needing these variances to "legitimize" their illegally built structure.

RECEIVED
07 FEB 26 AM 10:05
TEMPE DEVELOPMENT
SERVICES DEPARTMENT



An "existing structure" IS NOT a "special circumstance", nor does its presence dictate, or force owners to build onto it.

Unfortunately, few others, (including the Tempe Board of Adjustment), realize the significance of this case to the "public welfare".

People who take positions of being "above the law", DO NOT deserve relief from the laws that we are ALL suppose to live by.

I hope that you will respect & obey the (ARS) Statutes and disregard the "support smokescreens", to DENY this application in total.

This letter to request Denial is submitted by:

Rick D. Hondorp Principal/Architect Hondorp Design Studio LTD.

For: My Private Residence @ 275 West 9th St. Tempe, AZ. 85281 &
Lots 1-7 of Sienna Court Lofts @ 920 - 932 South Ash Ave. Tempe, AZ. 85281
Owner: Rhombus LLC

ALL properties are within 300' of subject property.