

Staff Summary Report

Development Review Commission Date: 11/18/08

Agenda Item Number: ____

SUBJECT: Hold a public hearing for a use permit appeal for COLEMAN RESIDENCE located at 5426 South College Avenue.

DOCUMENT NAME: DRCr_ColemanResidenceAppeal_111808

SUPPORTING DOCS: Yes

COMMENTS: Request an Appeal of the September 16, 2008 Hearing Officer decision to deny one (1) use permit for **COLEMAN RESIDENCE (PL080305)** (Steven Coleman, applicant/property owner), located at 5426 South College Avenue in the R1-6, Single Family Residential District. The request includes the following:

UPA08007 – Appeal of the Denial of (ZUP08132) use permit an accessory building

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

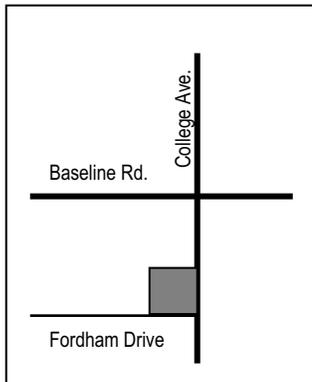
REVIEWED BY: Lisa Collins, Development Services Planning Director (480-350-8989) 

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval of the appeal, subject to conditions

ADDITIONAL INFO: Lot Size – 8,137 s.f.
Lot coverage existing – 26.9% approx.
Lot coverage proposed – 29.2% approx. (45% Max.)
Accessory Building Height – 13'-7"
Accessory Building Area – 186 s.f.
Street side setback (corner lot) – 10' (1' per variance)
Existing setback of building – 1'-6"



A neighborhood meeting is not required with this application (appeal).

The Coleman Residence is requesting an appeal of the Hearing Officer's decision on September 16, 2008 to deny the use permit request for an existing freestanding accessory building. The building was constructed without a building permit in 2004 and is located at 5426 South College Avenue in the R1-6, Single Family Residence District. The approximate size of the building is one hundred eighty-six square feet (186 s.f.) and thirteen feet seven inches (13'-7") in height. To date, staff has received four (4) letters of support and a petition signed by fourteen (14) neighbors supporting the original request.

Staff recommends approval of the appeal, thus overturning the Hearing Officer's decision. The use permit complies with the Zoning and Development Code criteria for granting approval. In accordance with the Zoning and Development Code, the applicant held a neighborhood meeting on August 30, 2008 and no opposition has been received on this request.

- PAGES:**
1. List of Attachments
 2. Comments; Reason for Approval;
 3. Conditions of Approval; History & Facts, 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
 12. Hearing Officer Denial Letter
 13. Hearing Officer Minutes September 16, 2008
 14. Letter of Appeal
 - 15-18. Letters of Support
 19. Acknowledgement Letter of Appeal (October 1, 2008)
 20. Board of Adjustment Approval Letter (October 27, 2008)
 21. Board of Adjustment Approval Letter MODIFIED (November 3, 2008)

COMMENTS:

The Coleman Residence is requesting an appeal of the Hearing Officer's decision on September 16, 2008 to deny the use permit request to allow an existing freestanding accessory building.

The subject property is located at the northwest corner of Fordham Drive and College Avenue. The accessory building is approximately 13'-7" in height and is located in the (south) street side yard setback of a typical rectangular corner lot, approximately 1'-6" from the property line. The rear and side yards are surrounded by a 6'-0" masonry wall. 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.

A use permit and variance was denied by the Hearing Officer at its September 16, 2008 meeting. The Hearing Officer's decision for the variance was appealed to the Board of Adjustment and was approved on October 22, 2008 with a 6-0 vote. In both instances staff recommended denial due to lack of evidence of hardship for the variance criteria. Staff is supportive of a use permit for an accessory building.

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 meets 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;
 - 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;
 - The proposed development would not contribute to neighborhood deterioration or downgrade property values. This use permit request is consistent with the General Plan 2030's Land Use Element.
- d. Compatibility with surrounding structures and uses;
 - The proposed use appears to be compatible with surrounding uses as many adjacent properties also utilize accessory buildings for storage.
- e. Adequate control of disruptive behavior both inside and outside the premises, which may create a nuisance to the surrounding area or general public;
 - The proposed accessory building will be utilized for storage and should not create nuisance to the surrounding area or general public.

REASONS FOR APPROVAL OF THE APPEAL:

1. Traffic generated by this use should not be excessive.
2. There will be no apparent damage or nuisance arising from noise, smoke, odor, dust, vibration or illumination.
3. The use appears to be compatible/ancillary to the single family residence.

CONDITIONS OF APPROVAL:

EACH NUMBERED ITEM IS A CONDITION OF APPROVAL. THE DECISION-MAKING BODY MAY MODIFY, DELETE OR ADD TO THESE CONDITIONS.

1. All required permits and clearances shall be obtained from the Building Safety Division.
2. Accessory Building shall be painted to match main residence.
3. One (1) 24" box tree shall be planted in the front yard east of the existing accessory building to screen the view from College Avenue.

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
February 3, 1977	808 Zoning Code in effect
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
September 16, 2008	Hearing Officer: #080305 use permit denial for accessory building and variance denial to reduce side yard setback from 10' to 1'
October 22, 2008	Board of Adjustment: #080305 appeal of September 16, 2008 Hearing Officer decision to deny the variance (reduce side yard setback from 10' to 1') approved, thus overturning the Hearing Officer decision and approved the requested variance

ZONING AND DEVELOPMENT CODE REFERENCE:

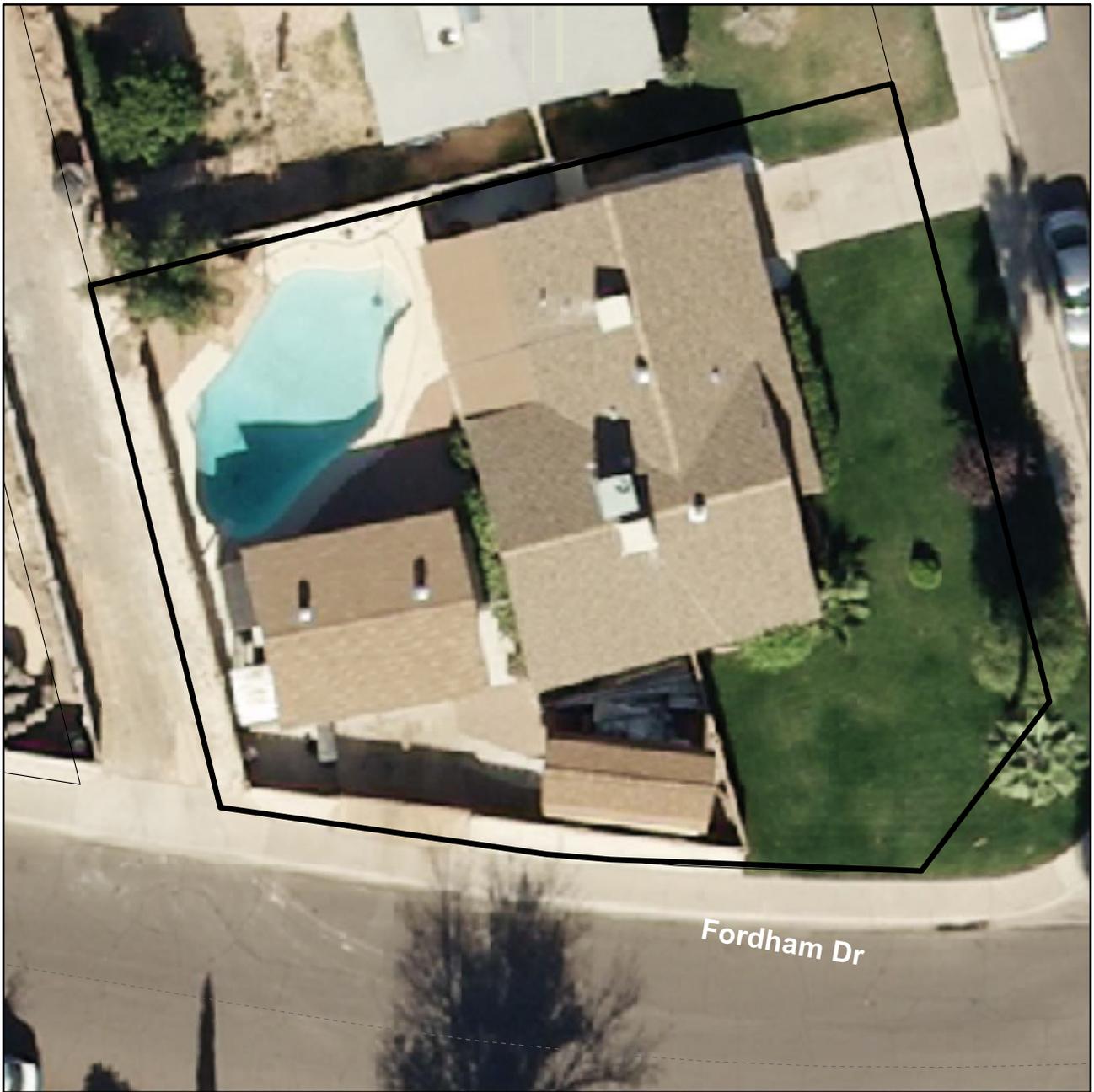
- Part 3, Chapter 4, Section 3-401 – Accessory Buildings, Uses and Structures
- Part 4, Chapter 2, Section 4-202 – Development Standards for Residential Districts
- Part 6, Chapter 3, Section 6-308 – Use Permit
- Part 6, Chapter 3, Section 6-309 – Variances

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 ^{48" x 15"} 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.

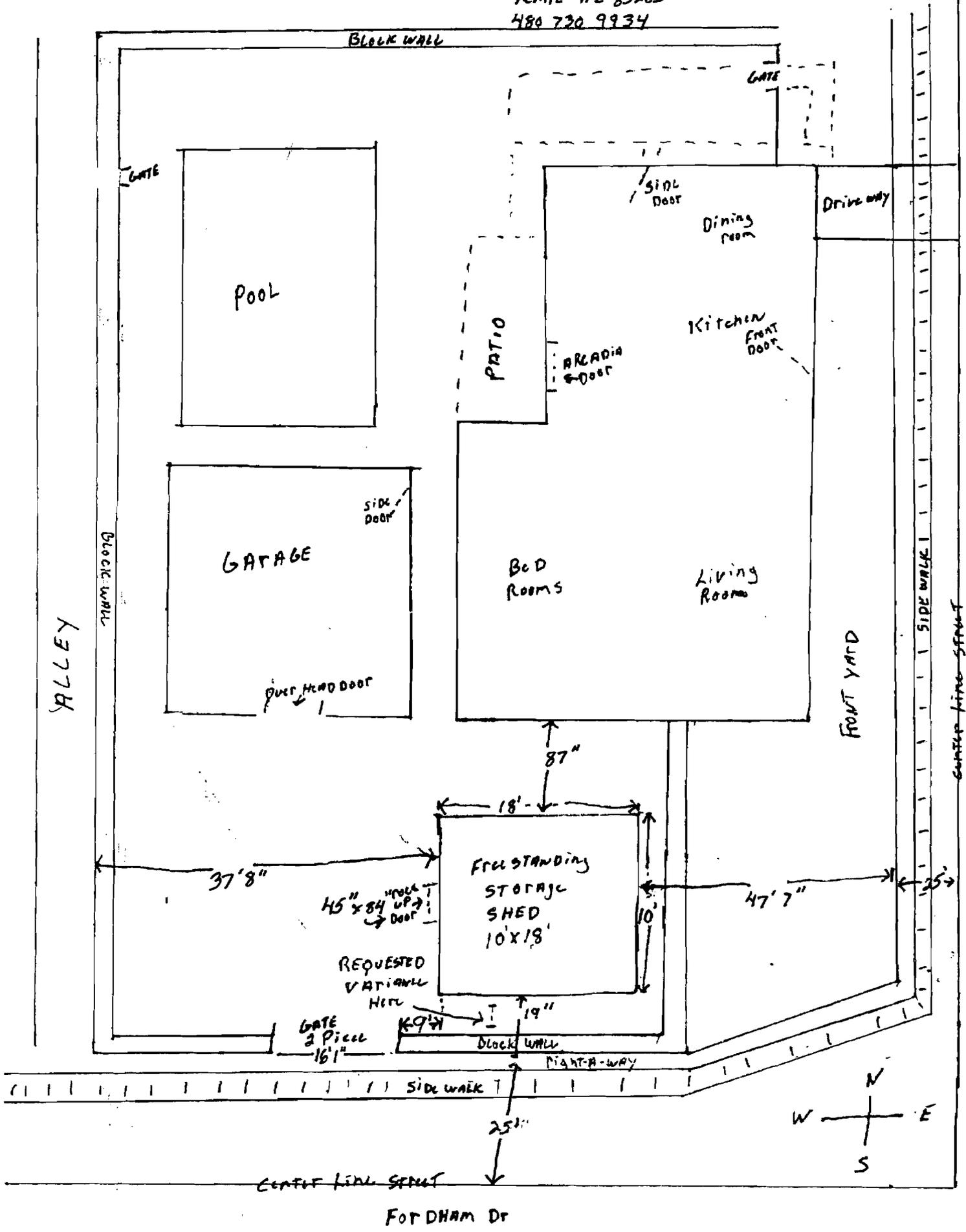
The storage shed has no utilities, vinyl siding, shingled roof, pavers around it & no vegetation growing around it. It's not obstructing views.

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

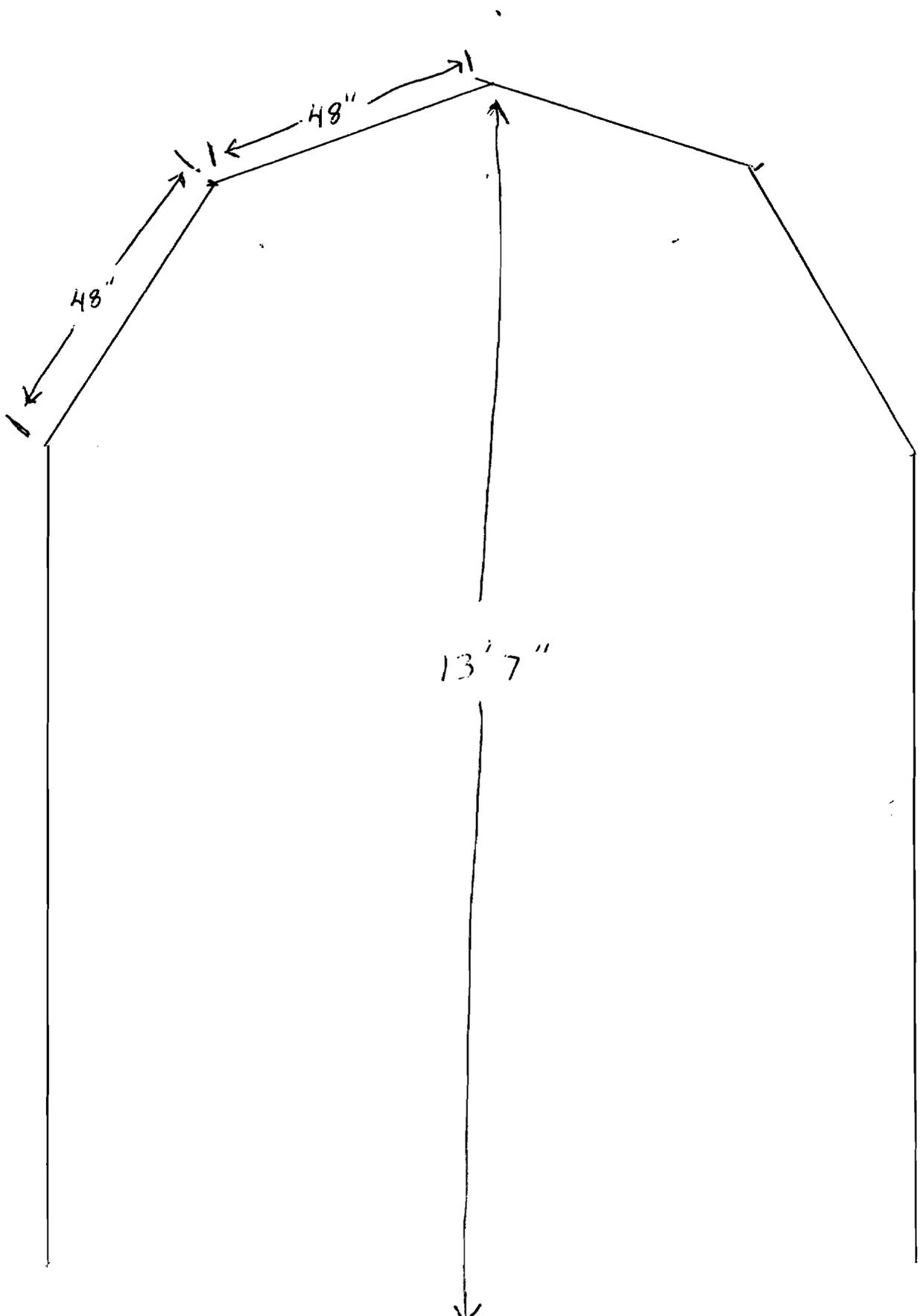
PARCEL 30 80-081

STEVEN GRIMMAN
5426 S COLLEGE AVE
TEMPE AZ 85283
480 720 9934



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**

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	

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 Hosten 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	

Development Services
Department

(480) 350-8331 (Phone)

September 19, 2008

FILE COPY

Mr. Steve Coleman
5426 South College Avenue
Tempe, Arizona 85283

RE: **COLEMAN RESIDENCE**
PL080305 / ZUP08132 / VAR08020

Dear Mr. Coleman:

You are hereby advised that at the hearing held September 16, 2008, the Hearing Officer of the City of Tempe, acting in accordance with Section 1-305, Paragraphs C and D, of the Zoning and Development Code:

Denied the 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.

An appeal of this Hearing Officer's decision must be made to the Board of Adjustment within fourteen (14) days of the hearing. You have until **September 30, 2008** to file a formal appeal in writing to the Board of Adjustment if you so desire. Should you decide to submit this written appeal, the appropriate fee must be paid. If your appeal is received by Wednesday, September 24, 2008 it can be placed on the October 22, 2008 Board of Adjustment hearing.

Sincerely,



Derek Partridge
Planner I

DP:dm

cc: File

5. 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.

Mr. Steve Coleman was present to represent this case. He stated that he had built the building four (4) years ago and has had no complaints regarding the structure, which is 13 feet 7 inches high. It is just storage – there are no windows and no electricity or water to the building. He cannot obtain the use permit to allow the storage building without also getting a variance. The carport had been enclosed to become a room and a two car garage is also located on the property. He has lived in this residence since 2000.

Derek Partridge, staff planner, gave an overview of this case, and stated that no additional public input or information had been received since the staff report had been issued. He noted that 14 signatures of support had been received at the neighborhood meeting as well as letters and e-mails in support of this project.

Mr. John Arthurs, resident of Tempe, Arizona spoke in support of this request. He owns the residence to the north of the Coleman Residence.

Mr. Abrahamson noted that the original home was constructed in 1971 and a building permit was issued for the garage in 1975.

Mr. Partridge explained in response to a question from Mr. Williams that according to the Zoning and Development Code, if this structure was less than 200 s.f. and under 8 feet in height it would not require a variance.

Ms. Lesser stated that if a storage building meets the above criteria it can be located in the rear yard setback; the resident cannot exceed 45% total lot coverage per the ZDC. Any structure would be required to meet Building Code regulations such as distance of separation between structures.

It was noted that the wall could be moved to allow a larger rear yard as long as the wall did not exceed six (6) feet in height. Applicant was instructed to meet with staff with sketches and information on any proposed changes.

Mr. Williams noted that this structure was quite visible from the street due to the height, and did not meet the tests to allow for a variance as defined by the Zoning and Development Code rules and requirements.

DECISION:

Mr. Williams denied PL080305/ZUP08132/VAR08020.

Sept 20, 08
BOA Appeal

To Whom It Concerns,

I am filing ~~an~~ appeal on the denial of a variance & user permit for a portable storage shed which has been in the same place for 4 years. I had a neighborhood meeting Sept 16, '08 & obtained 14 signatures from close neighbors stating they have no objections & the building is in good taste & doesn't diminish the integrity of the neighborhood. Since the denial on the 16th I have obtained 4 letters & can get more if necessary, from close homeowners requesting the approval of the variance & permit.

The denial was only due to the height of the storage building, not the location. The portable shed height is lower than the house. Since there is less than 45% of property under roof there is room to cut top off & place it on ground for ~~an~~ additional storage. I prefer not to do this as ~~neighbors~~ neighbors letters state I take a lot of pride in my property keeping it looking quite nice & the only place I could place the roof section is in my side front yard. This would be outside our back yard fenced area.

There are no obstructed views, as far as the neighbors are concerned, due to the portable building.

Thank you for your time.

Sincerely
Steve Cohen

Partridge, Derek

From: felicia.leduc-ochoa@pni.com
Sent: Friday, September 12, 2008 8:32 AM
To: Partridge, Derek
Subject: Shed At 5426 S. College Ave.

I am writing in regards to the shed that Steve Coleman has in his backyard at 5426 S. College Ave. My Family & I have no issues with the shed being placed in his backyard. Nor do we have any issue with the height of the structure. It is well-built, and aesthetically appealing to the eye.

Steve Coleman keeps his yard clean and immaculate. His home & property bring pride to the neighborhood. My husband and I also take pride in our home. We always speak about how we wished that more neighbors were like Steve Coleman! We are surrounded by homes that have overgrown weeds, dirt in the front yard, and a few renters who don't care at all. Our neighbor next door has had a dead palm tree in the front yard for the past 3 years that pigeons nest in. They don't trim their many palm trees in the backyard. Every storm that comes, dumps a huge amount of refuse in our yard. On the North end of College from us, we have neighbors that have no shingles on their roof & cars/trucks everywhere. There are several homes in the neighborhood that are filthy & a disgrace. These issues are of greater concern to me than a well-built, attractive shed structure that is in Steve Coleman's backyard.

Derek, I don't know if I'll be able to make it to the hearing on Tuesday, Sept. 16th, because I am an Outside Sales Executive for the AZ Republic. My work schedule is pretty hectic. **I would like this e-mail to serve as my petition to have the shed stay where it is & at the height that it is.** If you would like to reach me in person, call me at 602-318-0545. Have a great Friday!

Check out [azcentral.com](http://best.azcentral.com)'s Best -- your guide to the Valley's top shopping, dining, e
<http://best.azcentral.com>

Partridge, Derek

From: Mike Ochoa [MOchoa@tdcinteriors.com]
Sent: Friday, September 12, 2008 9:46 AM
To: Partridge, Derek
Subject: Mr. Steve Coleman Residence @ 5426 S. College Ave Tempe AZ

Hello, Mr. Partridge, I am e-mailing you to let you know about my neighbor Mr. Steve Coleman at 5426 S. College Ave. I feel that the erected storage shed that Mr. Coleman has in place is not an nuisance to me and was designed and built in very good taste as far as making it appealing and blending with his home.

If any City Of Tempe Official or just an Individual looking into the neighborhood or surrounding homes, they would notice that Mr. Coleman's residence is one of the most well kept homes in the area. I feel Mr. Coleman's home and home improvements such as the shed he has built adds and gives a positive feedback to my/our neighborhood. I only wish that other surrounding residence would take pride in the upkeep of their properties like Mr. Coleman does! I am not trying to overcome or ignore a violation that City Ordinance's has put into place for keeping our city nice looking and safe keeping and many other good reasons that we can list, however I feel that this particular instance is NOT one of them. There are many other violations in my immediate surrounding neighborhood that need much greater notice and attention for violations than this case, such as neighbors with very tall Palm Trees that need serious upkeep and even a very tall Dead Palm tree that's truly a hazard on several levels! Our Alleyways are another Issue that need much attention, they either need to be grated, paved, or a very good cleaning at the very least! I and other also felt that the alleys are a health and safety issue concern.

As for Mr. Coleman's storage shed, the City OF Tempe and fellow residence, I hope all can make a positive and easy resolution for this case.

I hope you can take these facts and thoughts into consideration, and I thank you for your time.

Respectfully Yours,
Mr. Michael Ochoa
5427 S. College Ave
Tempe Az, 85283

Partridge, Derek

From: t miranda [happygrl3142@yahoo.com]
Sent: Tuesday, September 16, 2008 9:23 AM
To: Partridge, Derek
Subject: Steve Coleman - Hearing today RE: Structure

Mr. Partridge,

My name is Tina. I am a neighbor of Steve Coleman and am writing to let you know he is an asset to our community. He is hard working and always keeps his home and yard immaculate. He obviously cares about our community and the neighborhood appearance.

I understand there is some issue with the storage building he built in his back / side yard. If my opinion counts, I want you to know I have no issue with the structure. It does not detract for the aesthetic appeal on College Ave. It is not an " eyesore ". Steve built the unit with materials that blend with the surroundings and the structure is well maintained.

I work full time as an insurance agent for Progressive Auto Insurance, so will not be able to attend the hearing. I hope this email gets to you in time to consider the information for the hearing.

Sincerely,
Tina Miranda
480-220-6698

Partridge, Derek

From: Arthursk7wp@aol.com
Sent: Saturday, September 13, 2008 12:03 PM
To: Partridge, Derek
Subject: Steve Coleman Property/Hearing

Dear Mr. Partridge,

This letter comes to you in support of Steve Coleman and his request to maintain the structure that is currently in question.

I own the property north and immediately next door to the Colemans' at 5422 S. College. Steve always takes pride in the looks of his property, and even has mowed other neighbors lawns when they looked bad at his own time and expense. He is constantly trying to improve the looks of his home and landscape...in fact he is currently stuccoing and painting his exterior fence walls. In other words, I feel he would not intentionally put up something that he felt was a detriment to the neighborhood.

I have found him to be a great neighbor, and I want to be a good neighbor as well by supporting him in his request for variance.

The structure in question is no bother to me at all.

Thanks for your consideration,

John Arthurs
Arthurs Investments LLC
5422 S. College
Tempe, AZ 85283
602-531-7094

Pssst...Have you heard the news? [There's a new fashion blog, plus the latest fall trends and hair styles at StyleList.com.](#)

Development Services
Department

(480) 350-8331 (Phone)

October 1, 2008

FILE COPY

Mr. Steve Coleman
5426 South College Avenue
Tempe, Arizona 85283

**RE: COLEMAN RESIDENCE
PL080305 / ZUP08132 / VAR08020 / VRA08004**

Dear Mr. Coleman:

Your appeal of the September 16, 2008 Hearing Officer decision to deny the 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 a setback variance to reduce the south street side yard setback from ten (10) feet to one (1) foot has been received.

This appeal is scheduled to be heard at the **October 22, 2008** Board of Adjustment hearing which will be held at 6:00 PM in the Council Chambers at 31 East Fifth Street. A study session begins at 5:30 PM in the Council Chambers. The Board of Adjustment reserves this study session time to discuss informally any item(s) appearing on the Regular Hearing Agenda, including questions/answers. Only procedural decisions will be made in the Study-Session.

Should the Board of Adjustment approve this variance request, an appeal to September 16, 2008 Hearing Officer's denial of the use permit will need to be processed by the Development Review Commission.

If you have any questions, please contact me at 480-350-8867.

Sincerely,



Derek Partridge
Planner I

DP:dm

cc: File

City of Tempe
P.O. Box 5002
31 East Fifth Street
Tempe, AZ 85280
480-350-8872 (FAX)



Development Services
Department

(480) 350-8331 (Phone)

October 27, 2008

FILE COPY

Mr. Steve Coleman
5426 South College Avenue
Tempe, Arizona 85283

RE: **COLEMAN RESIDENCE**
PL080305 / ZUP08132 / VAR08020 / VRA08004

Dear Mr. Coleman:

Your appeal of the September 16, 2008 Hearing Officer decision to deny the 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 a setback variance to reduce the south street side yard setback from ten (10) feet to one (1) foot was heard by the Board of Adjustment on October 22, 2008.

At that time, the Board approved this variance subject to the following conditions 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.
3. Development Review Commission approval of the use permit for an accessory building as required.

If you have any questions, please contact me at 480-350-8867.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Derek Partridge'.

Derek Partridge
Planner I

DP:dm

cc: File

Development Services
Department

(480) 350-8331 (Phone)

~~October 27, 2008~~ November 3, 2008

MODIFIED
To include COA #4

Mr. Steve Coleman
5426 South College Avenue
Tempe, Arizona 85283

RE: **COLEMAN RESIDENCE**
PL080305 / ZUP08132 / VAR08020 / VRA08004

Dear Mr. Coleman:

Your appeal of the September 16, 2008 Hearing Officer decision to deny the 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 a setback variance to reduce the south street side yard setback from ten (10) feet to one (1) foot was heard by the Board of Adjustment on October 22, 2008.

At that time, the Board approved this variance subject to the following conditions 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.
3. Development Review Commission approval of the use permit for an accessory building as required.
4. **One (1) 24" box tree shall be planted in the front yard east of the existing accessory building to screen the view from College Avenue. ADDED BY BOARD OF ADJUSTMENT**

If you have any questions, please contact me at 480-350-8867.

Sincerely,



Derek Partridge
Planner I

DP:dm

cc: File

FILE COPY