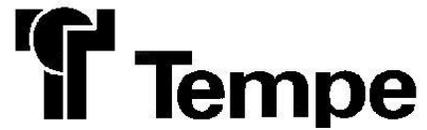


Staff Summary Report



Hearing Officer Hearing Date: 7/19/11

Agenda Item Number: 11

SUBJECT: This is a public hearing for a request by the **BROWN RESIDENCE** located at 12244 South 71st Street for one (1) variance.

DOCUMENT NAME: 20110719cdsl09 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Request by the **BROWN RESIDENCE (PL110239)** (Douglas Brown, applicant and property owner) located at 12244 South 71st Street, in the AG, Agricultural District for:

VAR11004 Variance to reduce the street side yard setback from 30 ft. to 0 ft. for a detached accessory building (garage).

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

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

LEGAL REVIEW BY: N/A

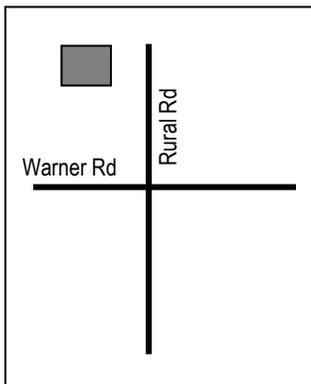
DEPARTMENT REVIEW BY: Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

SEA

FISCAL NOTE: There is no fiscal impact to City funds.

RECOMMENDATION: **Staff – Denial**

ADDITIONAL INFO:



The Brown Residence is seeking a variance to construct a detached garage. The proposed structure is approximately two thousand nine hundred and ten (2910 s.f.) square feet in area and sixteen (16') feet in height. The building materials will be split face CMU with exterior stucco surface designed to complement the house. Staff does not support the street side yard setback variance as proposed but supports a reduction consistent with ZDC use permit standard reductions allowed for a standard street side yard (not adjacent to a key lot). Simply we would recommend support for a twenty foot (20) setback. The applicant held a neighborhood meeting in compliance with the Zoning and Development Code. To date, staff received one letter in opposition to the request and numerous calls from surrounding neighbors, one expressed support of 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)
- 3-4. Letter of Intent
5. Site plan
6. Applicant aerial exhibit
7. Meeting summary
- 8-9. Opposition email

COMMENTS:

The Brown Residence is proposing to construct a freestanding building (garage) on the south side of their property. The proposed structure is 2910 s.f. in area and 16 feet (16') in height. The structure is designed with block stucco finish to complement the existing house. The applicant is seeking a street side yard setback variances. The proposed variance is to reduce the street side yard setback from thirty feet (30) to zero (0). In 1996, the applicant was granted two variances by the Hearing Officer. The first variance was granted to orient the setbacks on the lot so that the front yard was on the 71st St side and the Warner Road side would become the street side yard. The new orientation of the setbacks created a lot adjacent to a "key" lot requiring a 10' additional setback on the street side yard. The required street side yard was 35 feet which included the 10' additional feet required adjacent to a key lot. A second variance was granted to reduce the street side yard setback from 35' to 30'.

Public Input

The applicant held a neighborhood meeting on July 2, 2011. A summary of the meeting was provided by the applicant. To date, staff has received one letter in opposition of the request. Staff has received numerous telephone inquiries regarding the request; only one expressed support of proposed street side yard reduction.

Variance

The Zoning and Development Code requires the setbacks for structures, in the AG Agricultural District, to be located Twenty five (25) feet from street side yard property line with an additional ten (10) foot setback if the lot is adjacent to a "key" lot. The premise for the additional setback is that the side of the structure will align with the front yard setback of house for which the lot abuts. This property is located within the Tally Ho Farms Subdivision. Tally Ho Farms Subdivision is a unique residential development that is characterized by large lots and custom homes. The Brown Residence lot is typical of the lots within the subdivision in shape and size with a majority of the lots. The house placement is toward the "front of the lot" on the 71st Street frontage.

Since this lot is adjacent to a key lot, due to the reorientation of the lot through a variance, the existing setback is thirty feet (30) from the Warner Road property line. There is approximately twenty feet (20) of right of way between the south wall and the curb along Warner Road. In a field visit, staff observed the pattern established of the existing dwellings to the west along Warner Road. There exists a pattern of structures closer to Warner Road than the existing 30' setback. The structure setbacks vary from 10' to 40' for several properties to the west. A structure placed at a zero setback is not supportable. A provision exists within the ZDC which allows all setbacks within the AG- Agricultural District to be considered for a reduction by 20% through a use permit standard process; when the standard is applied to this request the street side yard may be reduced to twenty four (24) feet (if approved by use permit). Staff does not support the street side yard setback variance as proposed but supports a reduction consistent with ZDC use permit standard reductions allowed for a "standard" street side yard (not adjacent to a key lot). Simply we would recommend support for a twenty foot (20) setback. Should the Hearing Officer concur with staff findings for an alternative concession to reduce the setback; a different variance may be granted by condition of approval.

Per the Zoning and Development Code variance(s) shall not be authorized unless the decision-making body finds upon sufficient evidence of the following:

1. That special circumstances are applicable to the property, including its size, shape, topography, location, or surroundings; and
Although this property is slightly smaller than one acre; it is not substantial enough to not comply with the setbacks.
2. The strict application of this Code will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district; and
During a windshield survey of the area; staff did not locate a similar building or situation with a zero setback on a major arterial within AG Zoning Classification.
3. The adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located; and
May be considered a special privilege inconsistent with other AG zoned properties.
4. A variance may not be granted if the special circumstances applicable to the property are self-imposed by the property owner.
May be considered a self-imposed hardship since it was a vacant lot prior to 1996.

Conclusion

Staff recommends denial of the street side yard setback as proposed in this application. Staff recommends support of a modified setback variance reduction similar to what could be granted with a use permit on a standard street side yard In AG-Agricultural District.

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

CONDITION(S) OF APPROVAL:

1. Modify the street side yard setback to twenty (20) feet.
2. Obtain all necessary clearances and permits from Building Safety and Engineering.

HISTORY & FACTS:

July 10, 1996- The Hearing Officer approved two variances for the Brown Residence located at 12244 South 71st Street in the AG- Agricultural District

- a. Variance to allow the legal front lot line to be adjacent to and parallel with 71st St.
- b. Variance to reduce the required street side yard setback if a. above is approved to 30' (key lot) to 30'.

DESCRIPTION:

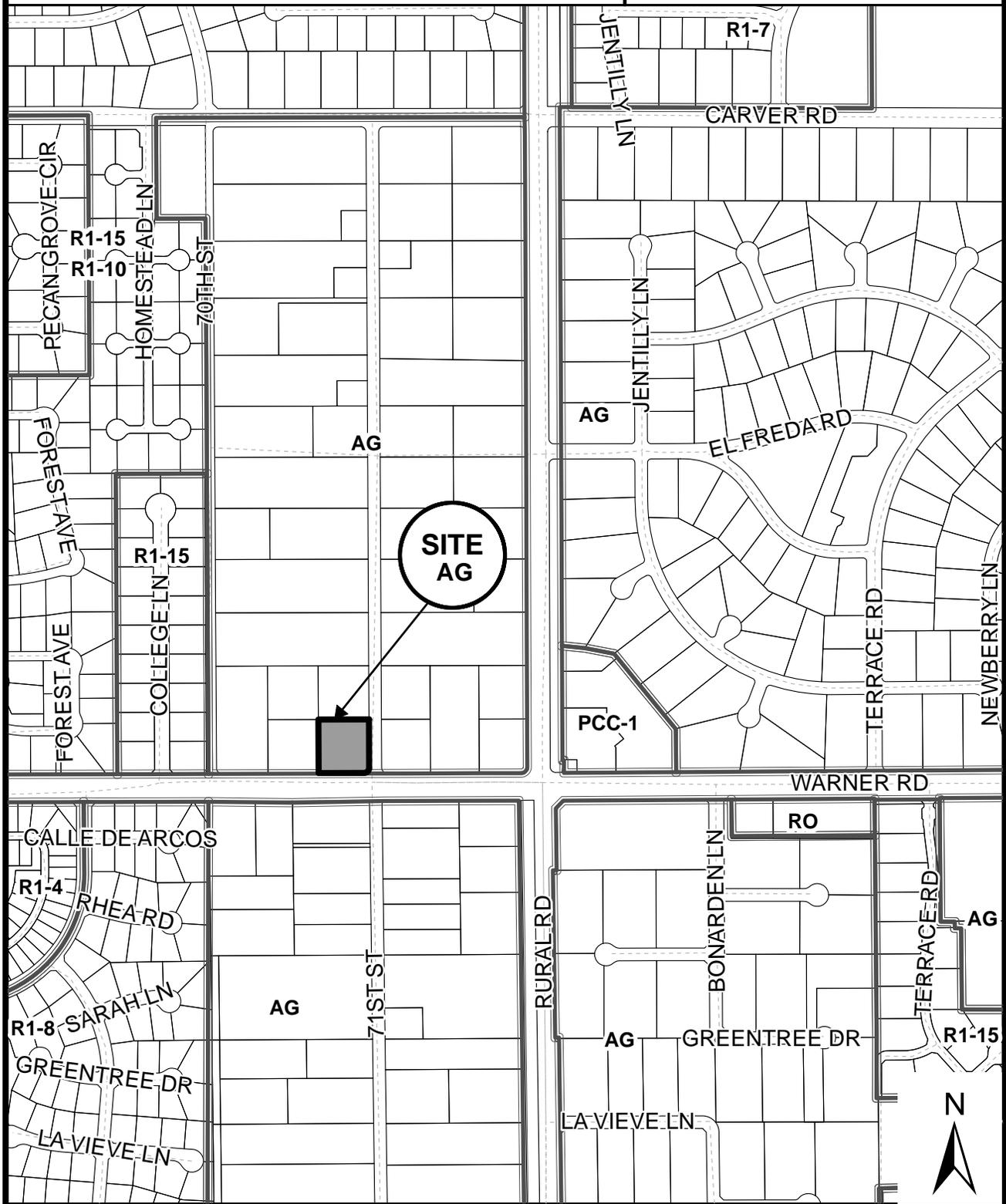
Owner – Douglas Brown
Applicant – Douglas Brown
Existing Zoning – AG, Agricultural District
Existing Lot Size-42100 safe
Proposed Accessory Building- 2910 safe
Existing Street side yard setback- 30'
Proposed street side yard setback- 0'

ZONING AND DEVELOPMENT CODE REFERENCE:

Part 4, Chapter 2, Section 4-202 – Single Family Development Standards
Part 6, Chapter 3, Section 6-309- Variances

BROWN RESIDENCE

PL110239



Location Map



BROWN RESIDENCE (PL110239)

June 20, 2011

Hearing Officer
City of Tempe
Development Services
31 East Fifth Street
Tempe, Arizona 85280-5002

Ref: **Letter of Justification for Variance Request**
Brown Residence
12244 S. 71st Street
Tempe, Arizona 85284

Sirs,

In 1996 we met with the City of Tempe's planning staff and requested several variances for our lot, in anticipation of building our new home. At that time I informed them I planned to build a garage and shop in the future and I sited the future garage against Warner Road. I was informed that I would need an additional variance for this garage, but must request it at the time I intended to build the garage. They saw no reason the request would not be granted, due to my location adjacent to a major street. With this assurance, we finished our home design and incorporated only a two-car garage into the house. The time has arrived to build this additional garage for the storage and protection of our autos.

We would like to formally request a variance to our side yard setback on Warner Road from 30 feet to 0 feet to build a multi-car garage and a gardening room. As part of our original house construction, we built a curved 8-foot high split-face block site wall against Warner Road. We built this wall with the anticipation of incorporating it into the design of the future garage. The curved site wall, at its south most tangent point, is located on the south property line and from this point it curves away from the property line, to approximately 3 feet north of the property lines. Thus, the majority of the garage would be in fact be 3 feet from the south property line. (See the attached plans.)

Special Circumstance:

When we bought the property, in the mid 90's, Warner Road was a lightly used street and the road noise was bearable. The explosion of development in south Tempe and Chandler during the last 15 years has created a constant source of unwanted noise, far greater than we could have imagined when we bought the land. This new building will help deflect a great deal of the noise from our back yard.

Although we have a large property, we are the smallest of the lots in our neighborhood. We located our home as far as possible to the north, away from the Warner and to integrate with the neighborhood. This left a great deal of unused land on the south third of our property. We have filled a portion of this land with a garden and orchard at the southwest corner of the site. And now we would like to build our garage in the remainder of the south frontage.

Preservation and Enjoyment:

The requested variance will allow us to enjoy the full extent of our property.

The only reasonable function for this area of the site is for vehicle parking and storage. Thus, we are currently parking several vehicles in this area. Unfortunately, they have been vandalized on several occasions in this location. This garage will allow us to securely store these vehicles and protect them from vandalism and the elements.

As mentioned above, the amount of traffic noise generated by this major thoroughfare is deafening at times. We originally designed the house in such a way as to help protect the home's patio area from road noise. But once we are away from the protection of the house structure, in the lawn area of our back yard, we are subjected to the full impact of the road noise. We are hoping this additional structure will help deflect a greater portion of this noise away from the yard.

Not Detrimental:

We do not have any neighbors with properties that look upon this area of our site. The only persons that see this portion of our property are driving past at 45 miles an hour. This structure will have no impact on the uses or views on Warner Road.

As mentioned above, we currently store several of our vehicles in this area and persons can see these vehicles from 71st Street. By allowing us to build this garage, these vehicles will be out of sight to the neighborhood.

The requested variance will not make any changes in the uses and densities permitted in our zoning. The variance is not to rectify any conditions that we have created. It will not afford us relief from any item expressly prohibited by ordinance.

If you have any questions or need additional information please contact me.

Thank you,

A handwritten signature in black ink, appearing to read 'DRB', with a long horizontal line extending to the right.

Douglas R. Brown

Attachments:

Site Plan; Floor Plan; Elevations



Lesser, Sherri

From: Doug Brown <dougbrown@architekton.com>
Sent: Wednesday, July 06, 2011 8:49 AM
To: Lesser, Sherri
Subject: Brown Residence Case PL110239

Sherri,

Wanted to let you know the posted sign blow away last night in the storm. It's probably in someone's pool.

We had our neighborhood meeting on Saturday and only had one person attend, the gentleman across the street. He has no objection to the project.

I spoke to my adjacent neighbors and all have offered their support. The only adjacent neighbor I was unable to talk to is directly to the west. The house is up for sale and he has taken a job in Oakland, Ca.

Thanks

Douglas R. Brown AIA CSI LEED AP
architect *principal*

ARCHITEKTON

464 S Farmer Ave, Suite 101, Tempe, AZ 85281
T 480 894 4637 F 480 894 4638 C 480 229 4237
www.architekton.com

Lesser, Sherri

From: Alan <bartretd@cox.net>
Sent: Wednesday, July 13, 2011 10:05 AM
To: Lesser, Sherri
Subject: Case PL110239 protest revised

July 13, 2011

To: Sherri Lesser

Re: Case # PL110239, Brown Residence

As we have been out of town, it has belatedly come to our attention that the Doug & Dorothy Brown family at 12244 S. 71st Street, on the northwest corner of the intersection of 71st Street and Warner Road, is asking for a variance **to reduce the setback requirements for a building on their lot from 30 feet to O (zero) feet.**

What is intended is a building **16 ft. tall, 97 ft. long, by 30 feet wide (figures obtained from the Tempe hearing officer).** This means, should a variance be granted for this building, it would stretch about 20 to 30 ft. along the 8 1/2 foot wall that is there now, and would stick approximately 8 ft. above it. Then it would continue to run about 60 or more feet along a 6 foot high wall and would stick 10 feet above that wall. It would have a 30 foot end facing 71st Street, going from the wall toward the house. This building would sit just 20 to 22 feet (depending which wall you are considering) off the edge of Warner Road.

Our stated distances here are estimates taken with a tape measuring from Warner Road. We cannot tell from the picture supplied us exactly where the building starts relative to the two differing outside walls and the oblong shown for the building. **In any case, there would be a building sticking from 8 to 10 feet above the existing fence running along the Brown property for 97 feet to be seen off Warner Road, with a 30 foot end facing 71st St.**

Tally Ho Farms--71st Street, is a residential-agricultural street. We do not know what the use of the large building will be. If it is for animals, there are rules for the number of farm animals allowed per available land. The rules for housing farm animals also carries required distances the buildings must be set back from the lot line.

Regardless of the building's use, we feel that such a large building this close to Warner Road at the neighborhood's entry corner constitutes a threat to the desired aesthetics of our agricultural/ residential neighborhood. For many of us this is our largest lifetime investment as well as it is our loved neighborhood for over 45 years.

We feel that having such a large building butted right up against the wall and showing 8 to 10 feet above the wall would detract from the general area. The houses across Warner road would have it to look at and it would be an obvious sight to those traveling that section of Tempe's Warner road. This would include those residents of College Lane, Greystone, Warner Ranch, etc.

Tally Ho Farms is an old neighborhood. It is one of the last pieces Tempe has of Old Kyrene. We have lots of joggers, walkers, bicycle riders and families come along our street every day to see the animals, the fruit growing on the trees, the irrigation running, what a tractor looks like and to enjoy the country setting the street provides. We are often told how much they like coming and seeing the farm street. To have such a large

building, running 97 feet and sticking up 16 feet, right at the beginning of our street would look like a barricade and detract from the neighborhood's open rural character.

There are good reasons for setback restrictions. Tempe has setback limits for purposes, such as separation between properties and maintenance of rights of way. **The fact that this building would require a variance says that Tempe's regulations have already determined that a building there, so close to Warner Road, needs to be set back a minimum of 30 feet from the property line.**

It would seem to us there is nothing in this request that merits a change in requiring a 30 foot setback which has already been set by Tempe. And we feel there is much that would have negative impact if a variance were to be allowed.

If the owners want such a building on their property, we ask that they comply with Tempe's setback laws and any attending restrictions without any variance and put it 30 foot inside their line as now required.

Alan & Vanice Bartlett
12209 South 71st Street
Tempe, AZ 85284

ACB
It's a dry heat!