

# Staff Summary Report



Hearing Officer Hearing Date: January 20, 2009

Agenda Item Number: 2

**SUBJECT:** This is a public hearing for a request by **DENGLER RESIDENCE (PL080434)** located at 1658 East Del Rio Drive for two (2) variances.

**DOCUMENT NAME:** 20090120dssd01

**PLANNED DEVELOPMENT (0406)**

**SUPPORTING DOCS:** Yes

**COMMENTS:** Hold a public hearing for a request by the **DENGLER RESIDENCE (PL080434)** (Sean Dengler, applicant/property owner) located at 1658 East Del Rio Drive in the R1-6, Single Family Residential District for:

- VAR08025** Variance to reduce the east side yard setback from five (5) feet to zero (0) feet.
- VAR08026** Variance to reduce the west side yard setback from five (5) feet to three (3) feet.

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

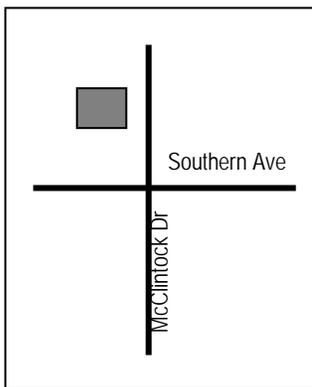
**REVIEWED BY:** Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

**LEGAL REVIEW BY:** N/A

**FISCAL NOTE:** N/A

**RECOMMENDATION:** Staff – Approval of east and west side yard variance, subject to conditions.

**ADDITIONAL INFO:** The Dengler Residence is requesting two variances; the first to reduce the east side yard setback from five (5) feet to zero (0) feet for an existing carport and the second is to reduce the west side yard setback from five (5) to three (3) feet for an existing covered porch. The existing carport and covered porch were constructed in 1989 by a previous homeowner. Staff supports the approval of the east side and west side yard variances. In accordance with the Zoning and Development Code, the applicant held a neighborhood meeting on November 4, 2008. Mr. Dengler presented staff with seven (7) letters of support from the neighborhood supporting the variance requests.



**PAGES:**

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

**ATTACHMENTS:**

1. Location Map(s)
2. Aerial Photo(s)
3. Letter of Intent/Neighborhood Meeting Letter
- 4-6. Neighborhood Meeting Minutes
- 7-12. Letters of Support
13. Site plan
14. West Side Yard Plan
15. Front Elevation
16. Applicant Photograph of Neighboring Home (Original Layout)
- 17-19. Staff Photograph(s)

## COMMENTS:

The Dengler Residence is requesting two variances; the first to reduce the east side yard setback from five (5) feet to zero (0) feet for an existing carport and the second is to reduce the west side yard setback from five (5) to three (3) feet for an existing covered porch. The existing carport and covered porch were constructed in 1989 by a previous homeowner. Mr. Dengler purchased the home in 2000 and assumed the home had received all permits and clearances through the City of Tempe. A complaint was filed with the Building Safety Division and the inspections division issued a courtesy notice to obtain a building permit for the carport and west covered porch.

The single family home was built in 1968 and in 1977 a previous homeowner applied and received a building permit to enclose the original carport to living space, eliminating the one required covered parking space from the residence. According to some long time neighbors, around 1989 the previous homeowner constructed a new carport at the east side of the home and a covered porch on the west side of the home. The carport was constructed to provide shade for the vehicles, driveway and east side of the existing home. The covered porch was built to provide shade to the west side of the home and to protect lawn equipment and other miscellaneous outdoor household items.

Staff recommends approval of the east and west side yard variances, due to special circumstances or evidence indicating potential loss of substantial property rights. The City of Tempe Building Safety Division issued permits in 1977 to enclose the existing carport to livable space, thus eliminating the required covered parking from this lot. As a result of this 1977 building permit, a later property owner constructed a new carport in 1989 to add a covered parking back to the property. The subject carport was constructed twenty (20) years ago and is compatible with the remainder of residence and does not detract from the character of the neighborhood. The carport provides shade for the driveway and east side of the home and helps reduce the amount of summer heat inside the residence which is consistent with the goals and objectives of General Plan 2030.

At the December 16, 2008 hearing officer meeting Mr. Dengler asked the Hearing Officer if he would support a modification of the east side yard variance to zero (0) feet. Mr. Dengler had previously requested a variance to reduce the east side yard from five (5) feet to three (3) setback. The Hearing Officer was in support of this change, but wasn't able to approve this modification without re-advertising of this case. Case has been re-advertised for the January 20, 2009 Hearing Officer agenda.

### Neighborhood Meeting

Applicant held the Neighborhood Meeting on November 4, 2008 at 6:00PM. Eight (8) neighbors attended the meeting and all were in support of the variance to keep the carport and west porch. Mr. Dengler presented staff with seven (7) letters of support from the neighborhood.

### Variance

The Zoning and Development Code requires a variance to reduce the side yard setback from five (5) feet to three (3) feet on the west and zero (0) foot on the east in the R1-6, Single Family Residential District.

Evaluating the variance, the proposal does 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 that the carport was built twenty (20) years ago, which was needed because the original carport was converted to livable in 1977, which could be viewed as evidence of special circumstance.
- 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 (5) feet to three (3) feet for the existing carport is necessary for enjoyment of substantial property rights. The main residence original carport was converted to livable in 1977. Without a carport the main portion of the driveway would be uncovered, thus exposing vehicles, driveway and the east side of the home to summer heat. The carport covers the east side of the home and provides a shaded driveway, thus helping to insulate the home from summer heat.

## Conclusion

Staff recommends approval of the east and west variance, subject to the conditions of approval.

## REASON(S) FOR APPROVAL:

1. The carport and was constructed twenty (20) years ago and matches the existing residence.
2. There appears to be a demonstrated need for the existing carport and covered awning at the residence.
3. Many neighbors support of variance; they feel the carport adds value to the neighborhood.
4. Majority of the homes in the neighborhood have a covered carport or garage at the side of the residence.
5. The carport and covered awning provides shade for the driveway and east and west side of the home and helps reduce the amount of summer heat inside the residence which is consistent with the goals and objectives of General Plan 2030.

**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 variance is valid for the plans as submitted to and approved by the Hearing Officer.
2. Obtain all necessary clearances from the Building Safety Division.

## HISTORY & FACTS:

Home built in 1968

September 9, 1977      BP18381: Building Permit issued to enclose original carport to living room.

July 15, 2008      IP080157: Building Safety Division issued a courtesy notice to obtain a building permit for the existing carport and west porch.

December 16, 2008      Mr. Dengler requested to modify the east side yard setback request from five (5) feet to zero (0) foot setback. Modification couldn't be approved at the hearing without re-advertisement of this case.

## DESCRIPTION:

Owner – Sean Dengler  
Applicant – Sean Dengler  
Existing Zoning – R1-6, Single Family Residential District  
Lot Area – 6,183 s.f. / .14 acres  
Total Square feet under roof – 1,750 s.f.  
Maximum Lot Coverage – 45%  
Proposed Lot Coverage– 29%

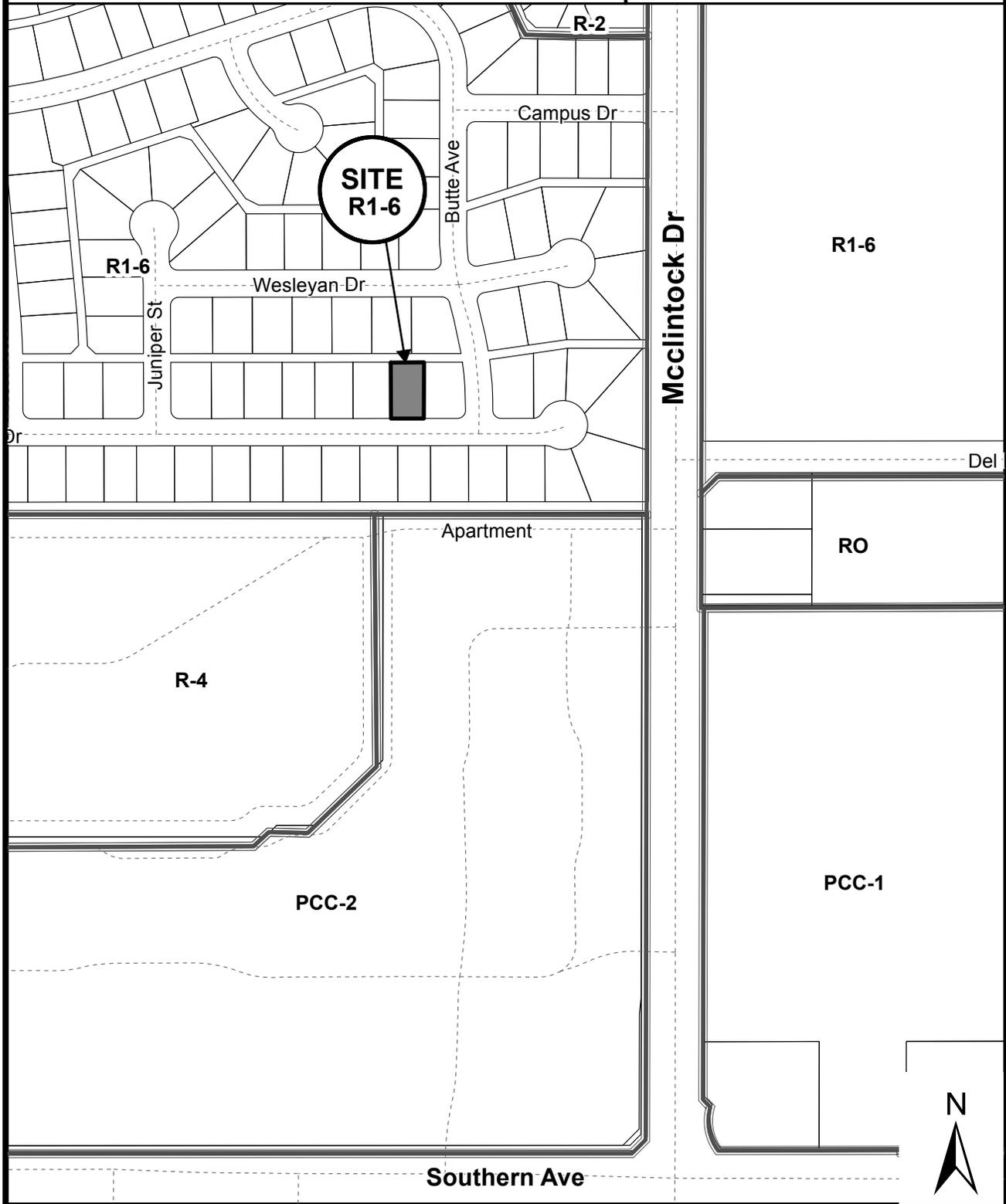
ZONING AND  
DEVELOPMENT  
CODE REFERENCE:

Part 4, Chapter 2, Section 4-202.

Part 6, Chapter 3, Section 6-309

**DENGLER RESIDENCE**

**PL080434**



**Location Map**



**DENGLER RESIDENCE (PL080434)**

OPEN HOUSE MEETING  
Request for Variance

16 Oct 2008

Where: 1658 E. Del Rio Dr.  
Tempe AZ 85282

Who: Sean and Kasia Dengler  
480-628-2821

Subject: Notification of an Open House Meeting at the above address to discuss a  
request for variance.

When: Tuesday, 4 November 2008 at 6pm.

Hello neighbor,

Thank you in advance for your time.

My name is Sean Dengler. I am a proud member of the Del Rio Dr. community. It has recently come to my attention that I have a problem with the construction of my home.

After over 8 years of owning this property, it has come to my attention that the previous owner had extended the eastern roof to cover the car port 19 years ago, in 1989, without receiving a permit from the city. Unfortunately, due to my inexperience with home buying, I was unaware of this problem until 8 years after I purchased the home.

After a lengthy conversation with the City of Tempe's Building Codes and Zoning departments, we have come up with a solution to this problem but it will require a minor variance to the set-back zoning code.

In order to solve this problem in the shortest time and with the least amount of construction, the City and myself have come up with a plan that would require changing my side set-back from 5' to 3' (currently my roof is all the way to the property line) After this car port cover is moved to the new 3' set back, the overhang of the roof will be fire proofed and a new security fence will be installed.

It is in my interest to complete these repairs in a timely and attractive manor to help keep all of our property values in the neighborhood as high as possible.

Therefore, you are invited to attend my open house meeting to discuss this repair and see the plans designed by myself and the City of Tempe to complete the job.

Thanks again for you time!

Sean Dengler  
480-628-2821

Feel free to call me if needed.

10/30/08  
Sean!  
FOR OUR CONVERSATION  
A FEW DAYS AGO I HAVE  
ABSOLUTELY NO PROBLEMS WITH  
YOUR VARIANCE REQUEST  
Good Luck!  
LARRY BENNETT  
1708 E WESLEY

1658 E. DEL RIO DR.  
Variance Meeting Minutes

4 Nov 2008

Meeting Time: 6:00pm, 4 Nov 2008

Meeting Place: 1658 E. Del Rio Dr.

Meeting Subject: Neighborhood Meeting for Variance to property 1658 E. Del Rio Dr.

Requested Variance: To reduce the side setbacks from 5' to 3'

Meeting began promptly at 6pm

First Order of Business: All Sign-in. It was noted at this time by Sean Dengler that Kent Ostertag and Larry Bennett came by prior to the meeting to give approval to the Variance. Both people looked at plans and signed a document stating this approval. (see attached)

Second Order of Business, go over Background for the Variance. The following was covered:

- Back in 1989, 19 years ago, the previous owner of property 1658 E. Del Rio Dr. built covered overhangs to the house well into 5' side setbacks on both the east and west side of the house.
- In 2000, Sean Dengler purchased the property without knowledge of this side setback condition.
- It was over 8 years after this purchase that the side setback problem was brought to the attention of Sean Dengler.
- After sitting down with personnel from the City of Tempe Zoning and Building Codes, (Shawn Daffara and Michele Lorange respectively) on 17 Oct 2008, a plan was agreed upon to correct the side setback issue.
- It was agreed at that meeting that the easiest and most efficient way to satisfy the City of Tempe and fix the side set back issue was to do a Variance to the Side Set Backs from 5' to 3' with all fireproofing of roof overhangs completed.

Third Order of Business, Show to all present the agreed upon plan between Sean Dengler and the City of Tempe.

- Drawn out plans were laid on the table for all to see.
- Michael Caul asked where the fire proofing would be done and what thickness of fireproof drywall would be used.  
*ANSWER – The fireproof drywall would be 5/8" thickness and include the 6" outer edge and 1' of the inner part of the roof on both sides of the house.*
- At this time all other present looked at drawings – No other questions were asked.

1658 E. DEL RIO DR.  
Variance Meeting Minutes

4 Nov 2008

Forth Order of Business – Vote to approve Variance.

A vote was taken, yea or ney, as to whether the Variance was approved by the neighbors at this meeting.

**RESULTS: Unanimous Approval.**

All present signed a document (see attached) stating Variance Acceptance.

Meeting as adjourned at 6:46pm.

Sean Dengler - home owner  
480-628-2821

4 Nov '08

1658 E. Del Rio Dr.

Variance Meeting Minutes

Sigh-In Sheet

In attendance

1. Sean Dengler
2. Kent Oster + ag
3. Larry Bennett
4. COSMIN PATULEA
5. MICHAEL CAUL
6. SUSAN TOWNSEND
7. EMILIA MOSQUERA
8. CARLOS SUAREZ

To: City of Tempe

4 Nov 2008

I SUSAN TOWNSEND do not have any issues with the proposed variance for property: 1658 E. Del Rio Dr. Tempe AZ 85282 and approve the plan moving forward.

Please approve this variance

SUSAN TOWNSEND

1659 E. DEL RIO DR

TEMPE, AZ 85282

Address

Susan Townsend  
Name

11-04-08  
date

To: City of Tempe

4 Nov 2008

I CARLOS JUAREZ do not have any issues with the proposed variance for property: 1658 E. Del Rio Dr. Tempe AZ 85282 and approve the plan moving forward.

Please approve this variance

1635 E. del Rio Dr.  
Tempe, AZ 85282

Address

Carlos Juarez 11/4/08  
Name date

To: City of Tempe

4 Nov 2008

I MICHAEL CAUL do not have any issues with the proposed variance for property: 1658 E. Del Rio Dr. Tempe AZ 85282 and approve the plan moving forward.

Please approve this variance

1653 E. DEL RIO DR.

TEMPE, AZ 85282

Address

Michael Caul

Name

11-4-08

date



To: City of Tempe

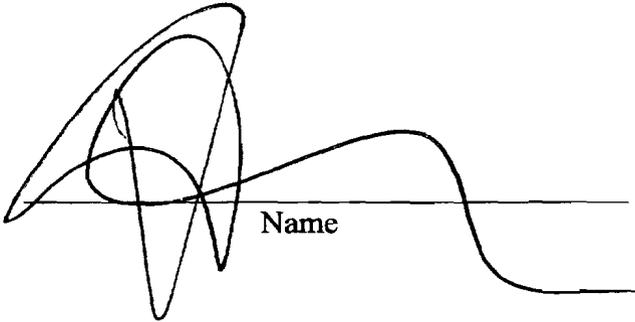
4 Nov 2008

I Kent Esteras do not have any issues with the proposed variance for property: 1658 E. Del Rio Dr. Tempe AZ 85282 and approve the plan moving forward.

Please approve this variance

1664 E. Del Rio  
Tempe AZ 85282

Address

  
Name

11.4.08  
date

To: City of Tempe

4 Nov 2008

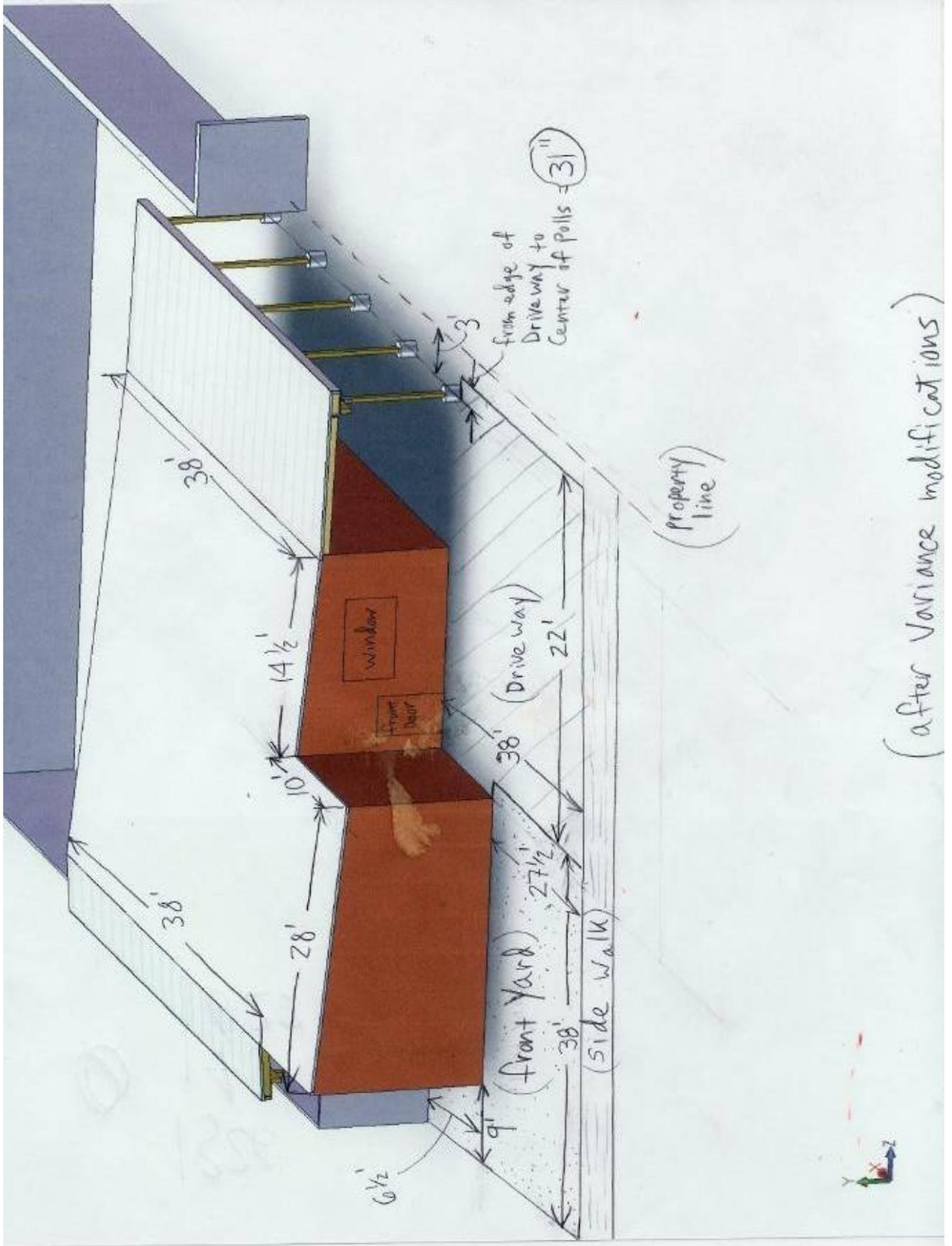
I Emilia Mosquera do not have any issues with the proposed variance for property: 1658 E. Del Rio Dr. Tempe AZ 85282 and approve the plan moving forward.

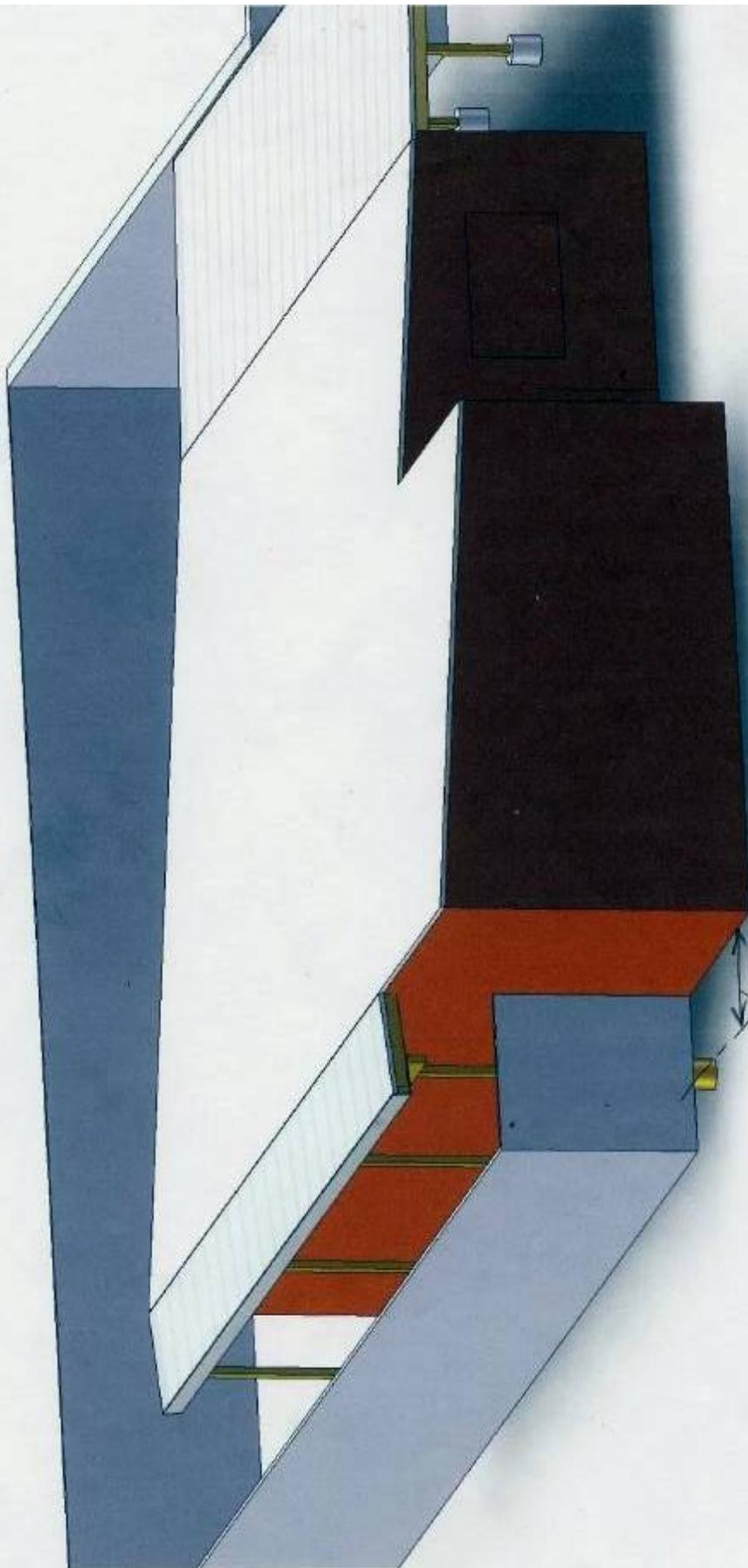
Please approve this variance

1628 E. del Rio Dr.  
Tempe, AZ 85282

Address

Emilia Mosquera 11/4/08  
Name date



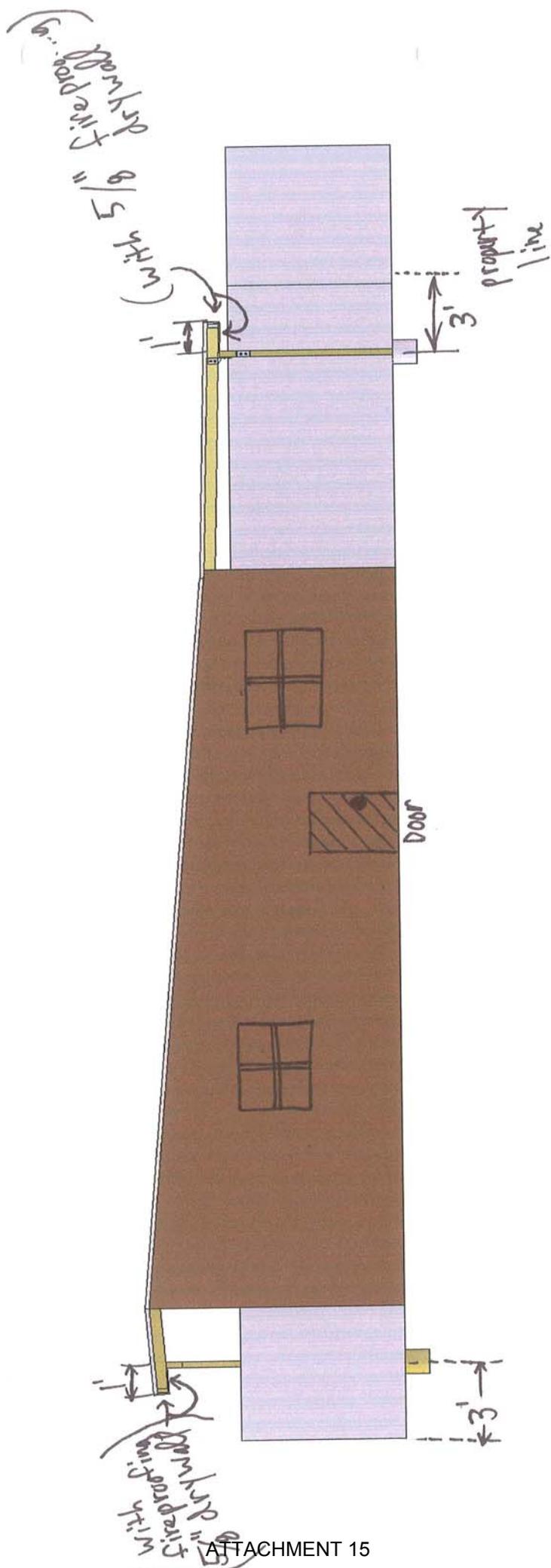


(after variance mods)

3' 9"  
(distance from  
house to polls)



1658 E. Del Rio Dr  
(after modifications)



West side

east side



**House Similar to 1658 E Del Rio Dr - see carport in the middle.**



# **DENGLER RESIDENCE**

**1658 EAST DEL RIO DRIVE**

**PL080434**

**WEST SIDE OF RESIDENCE**





# **DENGLER RESIDENCE**

**1658 EAST DEL RIO DRIVE**

**PL080434**

**FRONT OF RESIDENCE**





**DENGLER RESIDENCE**

**1658 EAST DEL RIO DRIVE**

**PL080434**

**EAST SIDE OF RESIDENCE**

