

Staff Summary Report



Hearing Officer Hearing Date: November 18, 2008

Agenda Item Number: 4

SUBJECT: This is a public hearing for a request by the CORNEJO RESIDENCE (PL080401) located at 2004 East La Vieve Lane for two (2) use permits and one (1) variance.

DOCUMENT NAME: 20081118dssd01

PLANNED DEVELOPMENT (0406)

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for a request by the CORNEJO RESIDENCE (PL080401) (Cesar Cornejo, applicant/property owner) located at 2004 East La Vieve Lane in the AG, Agricultural District for:

ZUP08167 Use permit to allow an accessory building (fireplace ramada).

ZUP08168 Use permit to allow an accessory building (spa ramada).

VAR08022 Variance to reduce the west side yard setback from twenty (20) feet to six (6) feet.

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

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

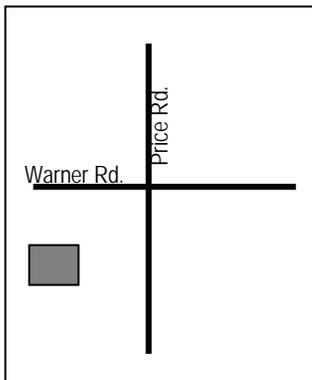
LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval subject to Conditions

ADDITIONAL INFO: The Cornejo Residence is requesting a variance to reduce the west side yard setback from twenty (20) feet to six (6) feet and a use permit for an existing ramada. Mr. Cornejo is also requesting a second use permit for an existing fireplace ramada. The existing ramada was built around 15 years ago by a previous homeowner. Mr. Cornejo purchased this property about a year ago, and assumed both ramadas had obtained city approvals. Staff recommends approval of the variance due to 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 October 14, 2008; no neighbors were able to attend but five (5) neighbors' submitted letters in favor of the variance and use permits to keep the ramadas. Staff has received no opposition to this case.



PAGES:

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

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
3. Letter of Intent
4. Neighborhood Meeting Letter
5. Site plan
- 6-7. Elevations
- 8-12. Letters of Support
- 13-14. Applicant's Photographs
15. Staff Photograph(s)

COMMENTS:

The Cornejo Residence is requesting a variance to reduce the west side yard setback from twenty (20) feet to six (6) feet and a use permit for an existing spa ramada. Mr. Cornejo is also requesting a second use permit for an existing fireplace ramada. The existing ramada was built around 15 years ago by a previous homeowner. Mr. Cornejo purchased this property about a year ago, and assumed both ramadas had obtained city approvals. Mr. Cornejo submitted for a Building Permit to renovate the main residence, during this review the Building Safety Plan review staff noticed no permit history for the two (2) ramadas. The Cornejo's immediately started to work with planning and building safety staff for all required permits. If the variance and use permits are approved, then Building Safety can issue the necessary building permits to make both ramadas legal.

Staff recommends approval of the variance, due to special circumstances or evidence indicating potential loss of substantial property rights. The ramadas were constructed about fifteen (15) years ago and are compatible with the remainder of residence and do not detract from the character of the neighborhood. The ramada's provide additional shaded to the Cornejo's rear yard and ultimately reduces the amount of summer heat gain, which is a goal listed in General Plan 2030.

Neighborhood Meeting

Applicant held the Neighborhood Meeting on October 14, 2008 at 6:30 PM. No neighbors were able to attend the meeting, but five (5) neighbors did submit letters of support.

Variance

The Zoning and Development Code requires a variance to reduce the side yard setback from twenty (20) feet to six (6) feet in the AG, Agricultural 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 fifteen (15) years ago 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 twenty (20) feet to six (6) feet for the existing ramada is necessary for enjoyment of substantial property rights. The ramadas provide shade to the rear yard which is a goal of General Plan 2030.

Use Permit

The Zoning and Development Code requires a use permit for any, single family residence to add accessory buildings. The use permits requested meets all applicable tests in the following manner:

Evaluating the use permit, the proposal appears to pass the use permit test 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 existing ramadas are similar to others within the neighborhood; there should be no nuisances. Staff accounted for 9-10 other homes in the neighborhood with large ramadas in the rear yards.
- 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 proposal 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. The requested use permit will not be detrimental to the surrounding area, but will further the General Plan Land Use Element Goals and Strategies.
- d. Compatibility with existing surrounding structures and uses;
 - The proposed use appears to be compatible with surrounding uses

Conclusion

Staff recommends approval of the variance and use permits, subject to conditions of approval.

REASON(S) FOR APPROVAL:

1. The carport was constructed fifteen (15) years ago and matches the existing residence.
2. There appears to be a demonstrated need for the existing ramadas at the residence.
3. Many neighbors support the variance; they feel the ramadas add value to the residence and the neighborhood.

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 1981

November 17, 2006

IP060267: Building Safety Division issued a courtesy notice on August 29, 2008 to obtain a building permit and zoning approvals for the ramadas.

DESCRIPTION:

Owner – Cesar Cornejo
Applicant – Cesar Cornejo
Existing Zoning – AG, Agricultural District
Lot Area – 38,925 s.f. / .89 acres
Main Residence – 4,687 s.f.
Fireplace Ramada – 320 s.f.
Spa Ramada – 324 s.f.
Maximum Lot Coverage – 25 %
Proposed Lot Coverage– 13 %

**ZONING AND
DEVELOPMENT**

CODE REFERENCE:

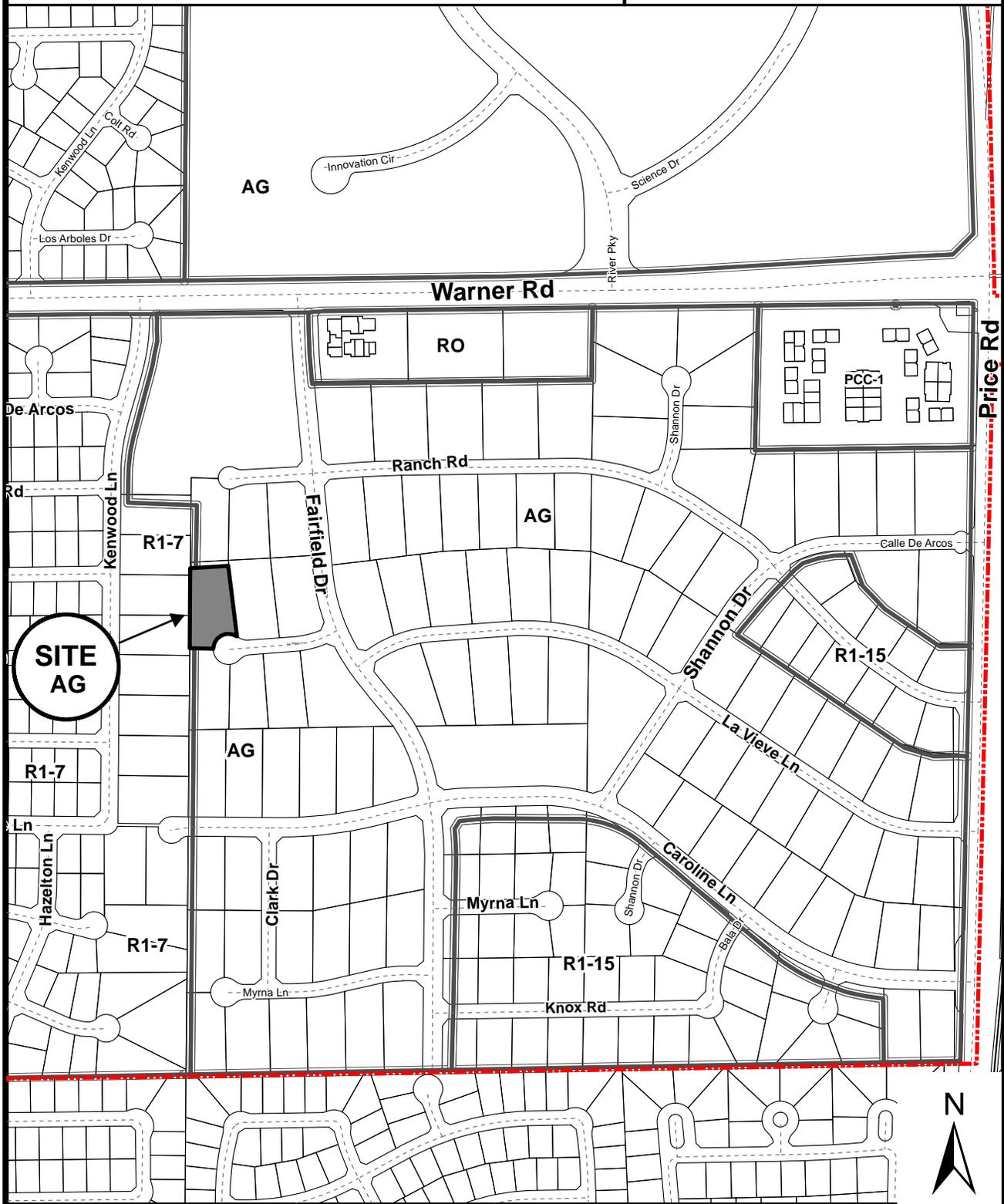
Part 4, Chapter 2, Section 4-202
Development Standards for Residential Districts.

Part 6, Chapter 3, Section 6-308
Use Permit

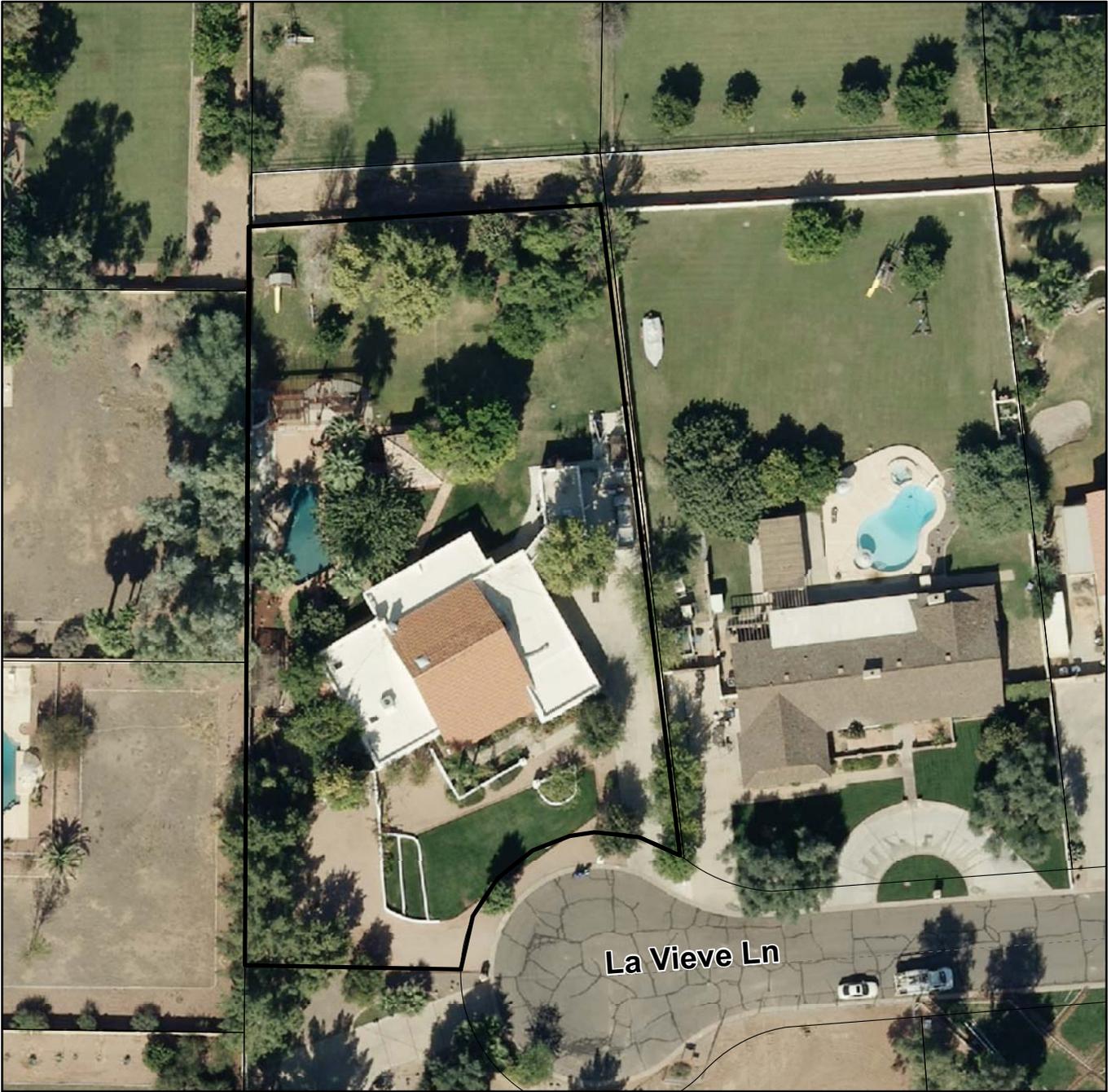
Part 6, Chapter 3, Section 6-309
Variance

CORNEJO RESIDENCE

PL080401



Location Map



CORNEJO RESIDENCE (PL080401)

October 20, 2008

Mr. Shawn Daffara
City of Tempe Development Services

Dear Mr. Daffara:

Re: Ramada variance change and ramada use permit.

The purpose of this letter is to request the approval of the Ramada variance change due to set back limits and use permit.

I bought this house a couple of months ago. I was completely unaware that there was a complaint with this property until the city of Tempe brought this situation to our attention. I have followed all the steps that you have indicated to bring my property into compliance.

I kindly request that my request be approved. As you will see in the three attached letters from close by neighbors they do not have any issues with the ramada or how and where it is built. My next-door neighbor to the east, Mr. Frank Huppenthal, verbally confirmed to me that he has no issues whatsoever with the ramada and that he supports our petition. Mrs. Jill Clark, our neighbor to our west south side also said the same thing and in addition she wrote a letter that I am including for your review.

Furthermore, I would like to reiterate that the ramada complements very nicely our backyard and is very well built. When we bought this property this was one of the features that we really liked and once more I have no fault regarding the lack of permit to build it.

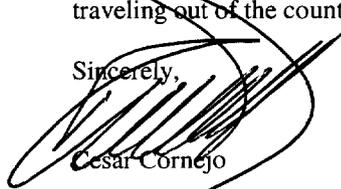
Based on our meeting and your guidance on how to proceed on the above-mentioned issues please find attached the following items:

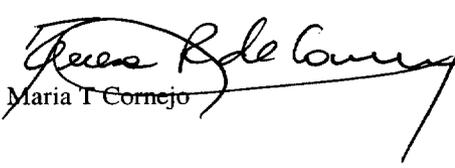
- 1- Picture of the sign posted in front of the property from September 30 through October 15, 2008
- 2- Copy of the letter, including the pictures sent to all our neighbors as indicated on the list that you gave us, explaining the reasons for the meeting and our request for the variance change. We invited all of them to the neighbors meeting held on October 14 at 6.30pm at our property.
- 3- Three letters from neighbors supporting our request. Two of them own properties very close to ours.
- 4- Elevation of the two ramadas. One for the variance approval and the for the use permit.
- 5- Copies of all the stamped envelopes mailed according to the list that you gave us.
- 6- Project Submittal Application completed and signed

We thank you in advance for your kind assistance and look forward to receiving a favorable resolution to my petition for the reasons mentioned above.

If you need any other information please do not hesitate to contact me at your convenience. I will be traveling out of the country between October 28 and November 15, 2008.

Sincerely,


Cesar Cornejo


Maria T Cornejo

2004 E La Vieve Ln
Tempe, AZ 85284

Office phone 480-753-1333 Ext 101

cell# 480-205-7202

September 29, 2008

Mr. and Mrs. Frank Huppenthal
2008 E La Vieve Ln
Tempe, AZ 85284

Dear Mr. and Mrs. Huppenthal:

Our names are Cesar and Teresa Comejo and we are your new neighbors at 2004 E. La Vieve Ln

We bought this house about two months ago. The City of Tempe has brought to our attention that there is an outstanding complaint against this property related to the set back of the lattice ramada over a jacuzzi on the west side of the property. It appears that when this open roof was built the owners, at that time, did not seek the proper permit.

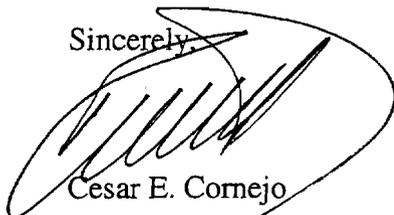
When we bought our new home we were not aware of this situation. It is our desire to solve this outstanding complaint. The City of Tempe has advised us to seek a variance to allow for this open structure, which by the way is very well built and looks very nice, to remain as it is.

We are including a couple of pictures of the actual ramada for your review. We will have an open meeting in our property on October 14 at 6.30 pm so you may see on site the ramada. At that time we will be happy to provide you with any additional information that you deem necessary.

We are looking forward to meeting you and kindly ask for your support in obtaining this variance that will preserve the beauty and harmonious lay out of our back yard.

We thank you in advance for your time and consideration.

Sincerely,



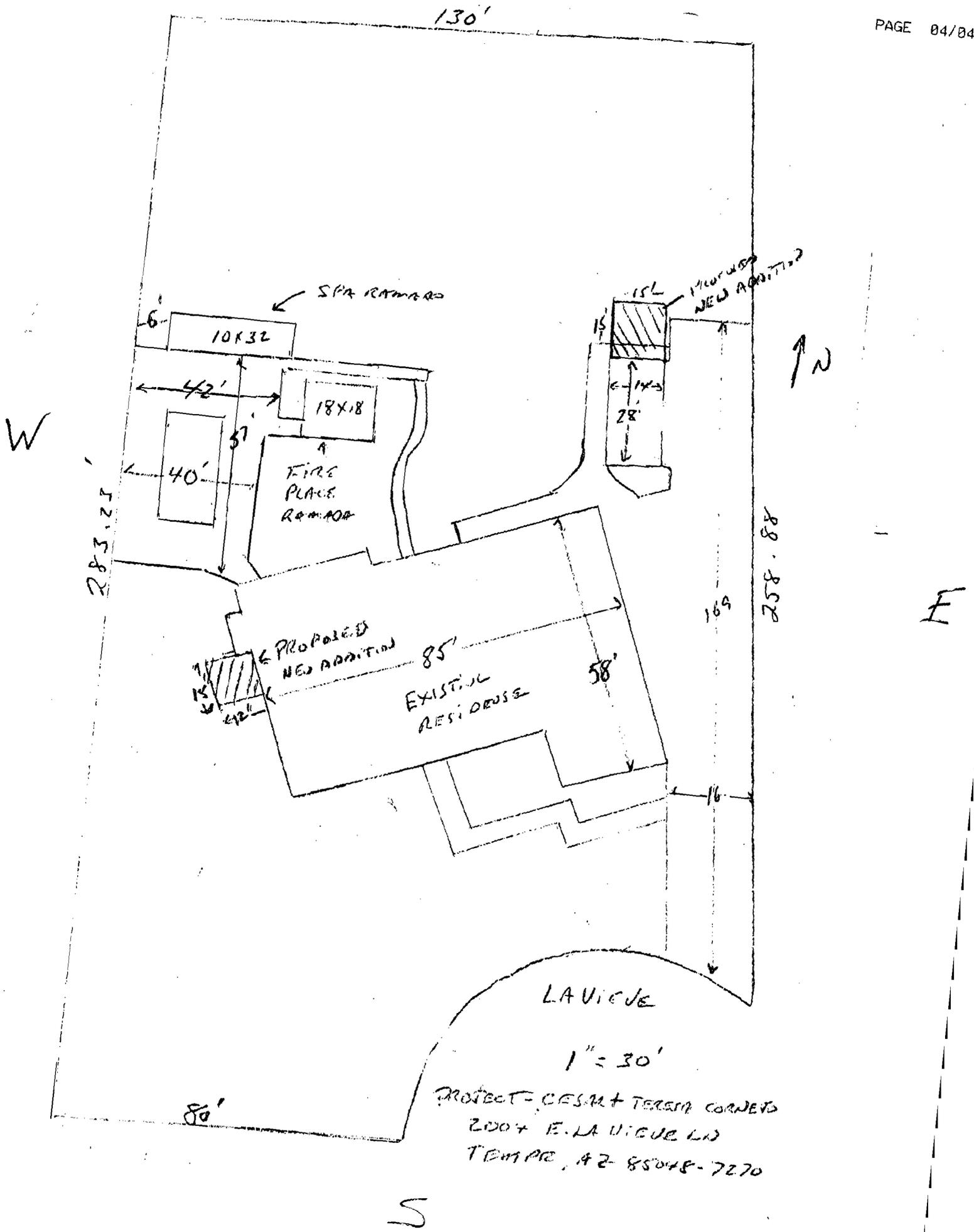
Cesar E. Comejo

2004 E. La Vieve Ln
Tempe, AZ 85284

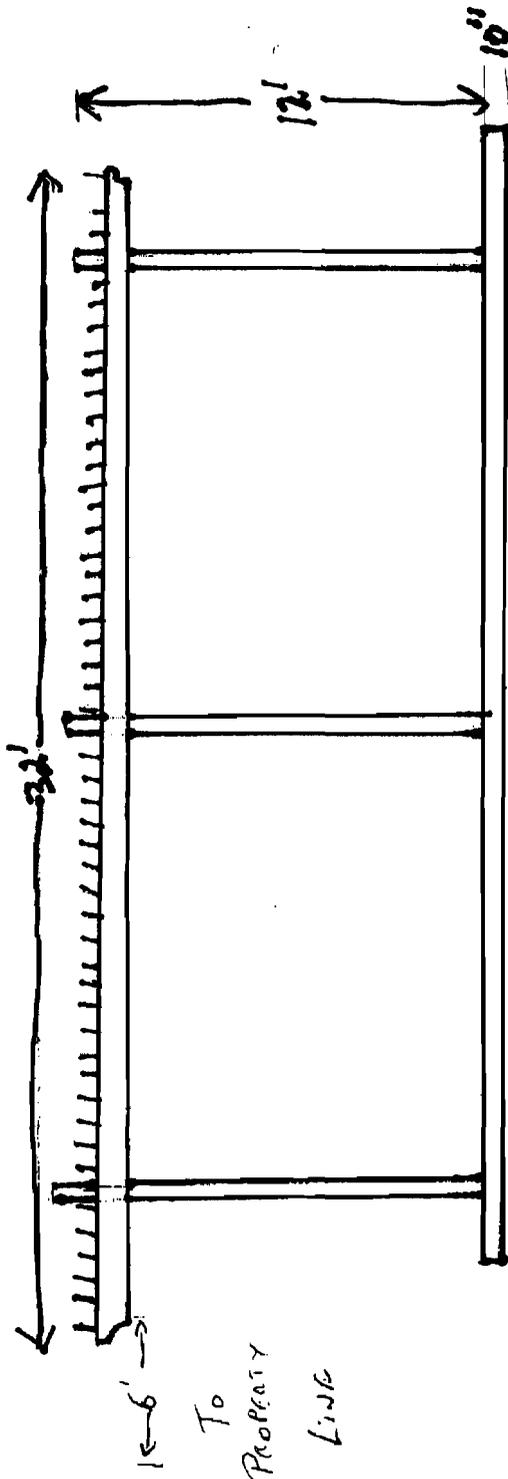
Cell 480-205-7202



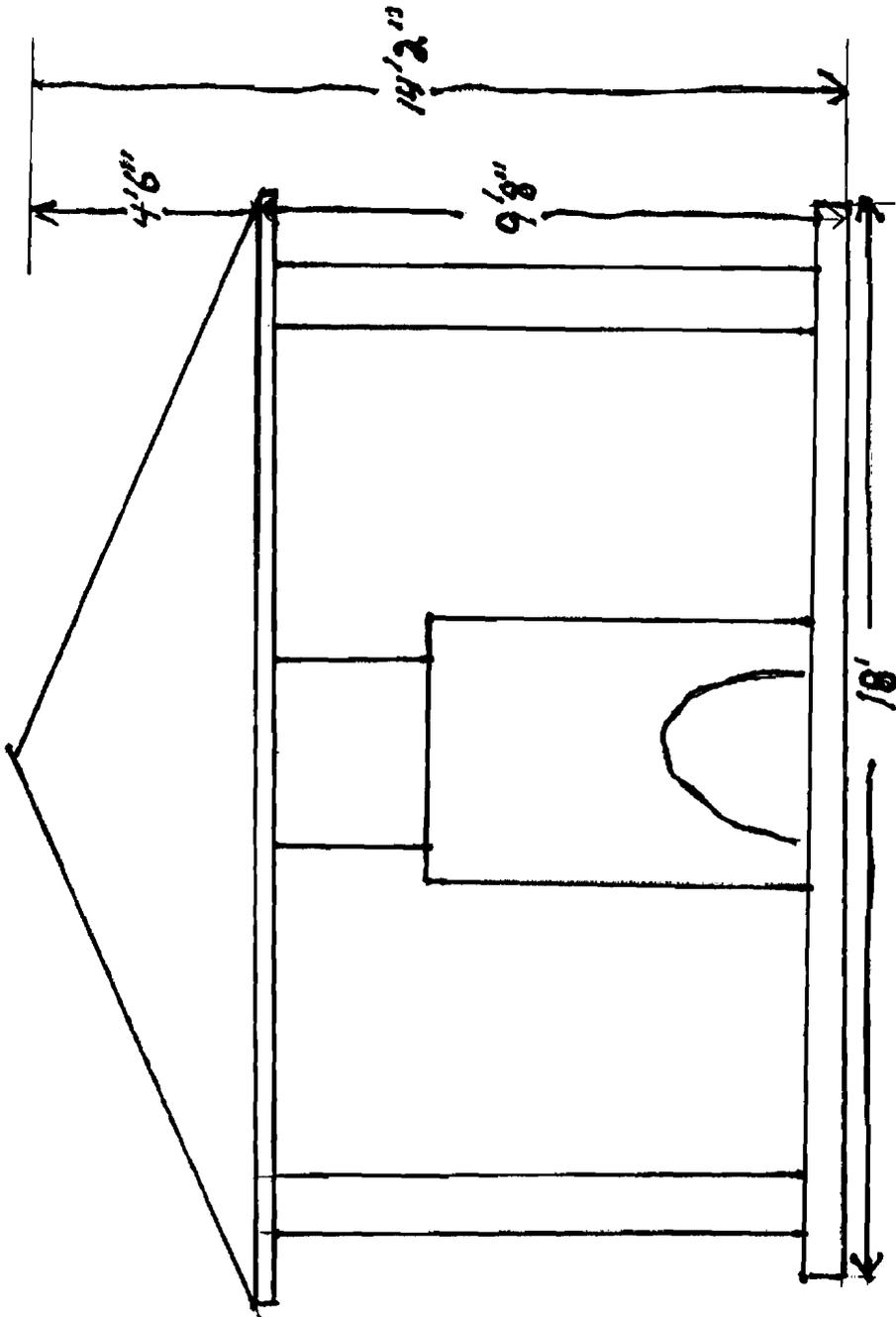
Maria T. Comejo



SPA RAMADA



1"=5'



FIRE PLACE RAMADA



Alta Mira Neighborhood Association

YOUR MEANS TO IMPROVE ALTA MIRA

David Richardson
1905 E Caroline
Tempe, AZ 85284

October 13, 2008

Mr. & Mrs. Cesar E. Cornejo
2004 E. La Vieve Ln
Tempe, AZ 85284

RE: Letter Dated September 29, 2008

Mr. & Mrs. Cesar E. Cornejo,

I received your letter about the lattice ramada in you backyard and the outstanding complaint registered with the City of Tempe. The Alta Mira Neighborhood Association is not a homeowners association, and as a loosely organized group of homeowners we do not and cannot act of City of Tempe code violations, nor do we have any authority to take any legal action against our homeowners.

As the co-chairman of the Alta Mira Neighborhood Association I often do receive complaints about various aspects of the Alta Mira Neighborhood. The complaints range from issues about the park, City of Tempe code violation, and how the neighborhood should be improved. Over the last 6 years I have directed my neighbors to the correct City of Tempe agency responsible for the issue that they are calling about. In that time I have never received any complaints about your property or about any property in the Circle G Ranches Neighborhood.

I hope that you are able to quickly resolve this issue with the City of Tempe.

Sincerely,

David Richardson
Alta Mira NA Co-chairman

MICHAEL R. ROONEY

2011 East LaVieve Lane, Tempe, Arizona 85284 (480-425-2604 - office) (480-838-4473 - home)

October 8, 2008

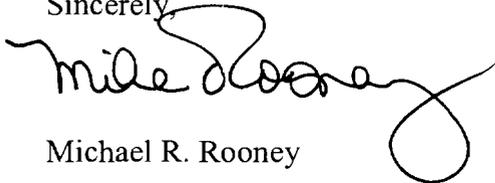
Mr. and Mrs. Cesar E. Cornejo
2004 E. LaVieve Lane
Tempe, Arizona 85284

Dear Cesar and Maria:

Thank you for your letter of September 29, 2008 and pictures of your lattice ramada over your jacuzzi. Please advise the City of Tempe Planning Department that I have no problem with the variance that you are seeking. I live at 2011 E. LaVieve Lane, which is cattycorner from your property but in the same cul-de-sac. I support your request for a variance and I would like the City planners and officials to know this.

Best of success.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael R. Rooney". The signature is fluid and cursive, with a large loop at the end.

Michael R. Rooney

MRR/pt

Stephen & Jill Clark

2003 E. La Vieve Lane

Tempe, AZ 85284

480-730-8822

1 Oct 2008

Teresa & Cesar Cornejo

2004 E. La Vieve Lane

Tempe, AZ 85284

Dear Teresa & Cesar,

Thank you for the invitation to the open meeting on the 14th. Steve and I will both be flying, and regret that we will not be there for any assistance or at least some moral support regarding some "complaint".

We are thrilled to have you as our new neighbors, and equally thrilled to see the amount of immediate renovations taking place! We are also sad to hear the City is giving you unwarranted flak regarding an existing lattice structure which looks great (in our opinion), but unfortunately was built without permit by a previous owner.

A complaint about something, such as your arbor, in our one-acre yards with privacy fencing, is pretty pathetic at best, and your structure is invisible except for looking out from an upper story (in the NEXT NEIGHBORHOOD!), or shimmying up and looking over your cinderblock fence, is shameful.

If the city or our Circle G Architectural Committee try to curtail your upgrade efforts on your new back yard, it is a real shame on them for the unnecessary hassle which has been left for you to deal with.

Anything we can do to support you, please let us know. Good luck with the remainder of the projects.

Again, welcome to the neighborhood!

Sincerely,

Handwritten signatures of Jill and Steve Clark. The signature on the left is a large, stylized 'J' with a loop, and the signature on the right is a smaller, more compact signature.

Jill & Steve Clark

cc Circle G Architectural Committee, Bill Knoche
City of Tempe Building Safety Department, Steve Hart

Daffara, Shawn

From: billy chaps [wjchap1@yahoo.com]
Sent: Monday, November 10, 2008 6:14 PM
To: Daffara, Shawn
Cc: wjchap1@yahoo.com
Subject: Cornejo Residence

Shawn,

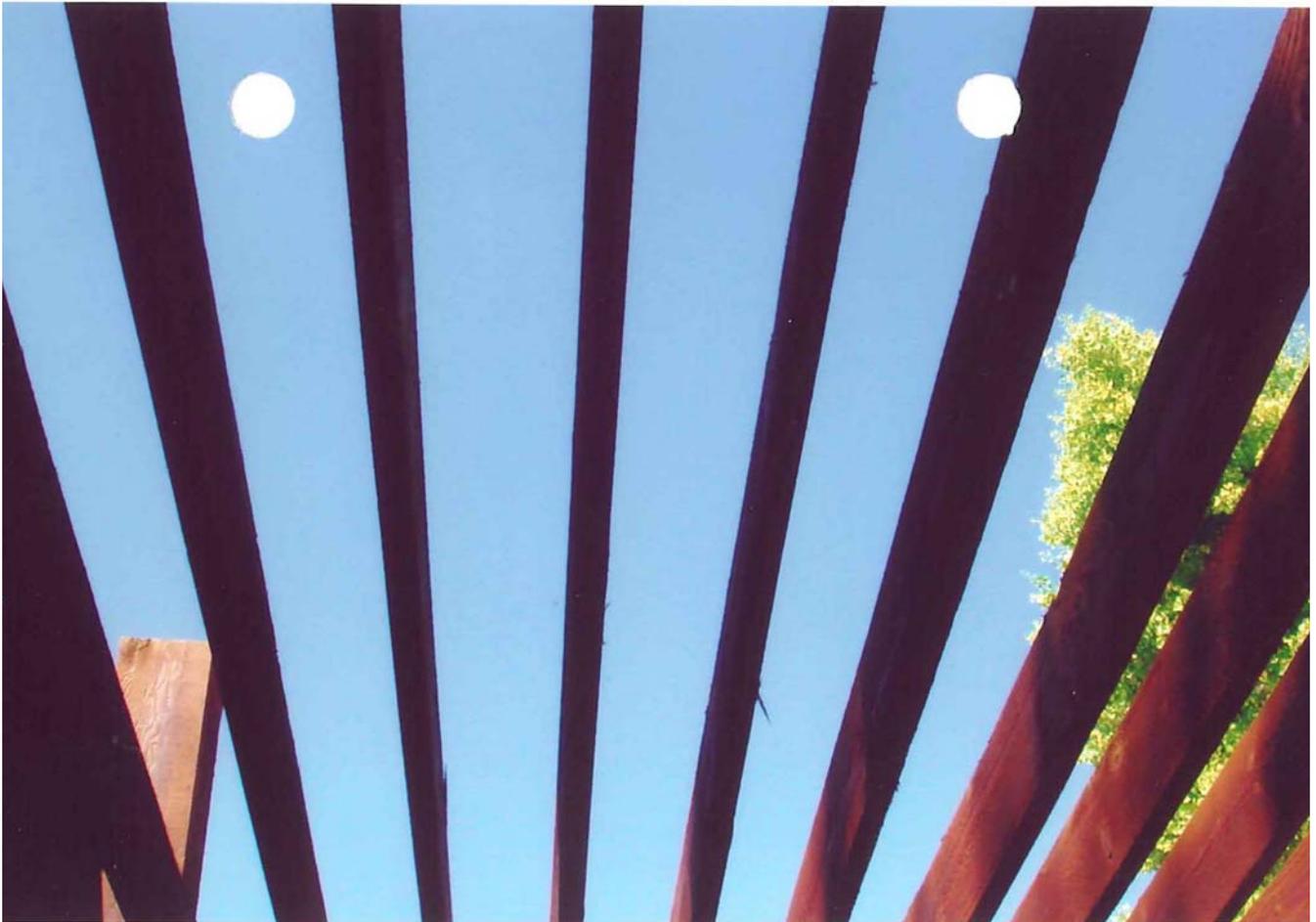
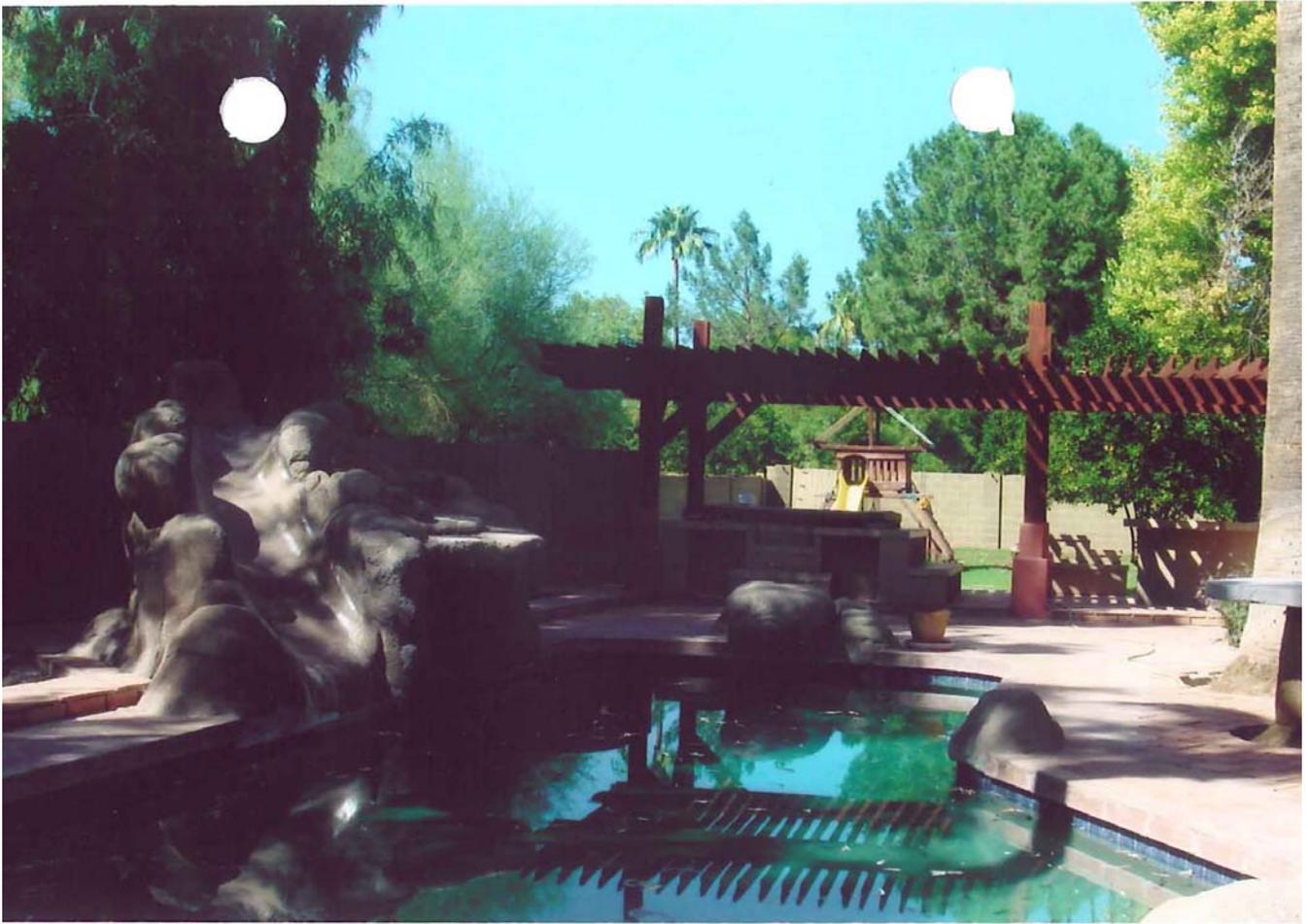
I will not be able to attend this meeting but I did want to say that I have no problem with the layout of the property the way it is.

Please allow the applicant to reduce the variance of the west side yard setback to 6 feet and allow the two use permits for the fireplace ramada and spa ramada.

If you have any further questions please feel free to contact us.

Bill and Trupti Chapman
8929 S. Kenwood Lane
Tempe, AZ 85284
4807533567







CORNEJO RESIDENCE

2004 EAST LA VIEVE LANE

PL080401

FRONT OF RESIDENCE

