

Staff Summary Report



Hearing Officer Hearing Date: June 22, 2010

Agenda Item Number: 3

SUBJECT: This is a public hearing for a request by the **LOWRANCE RESIDENCE** located at 965 East Vaughn Street for one (1) variance.

DOCUMENT NAME: 20100622dsr101 **PLANNED DEVELOPMENT (0406)**

COMMENTS: Request by the **LOWRANCE RESIDENCE (PL100112)** (John Lowrance, applicant/property owner) located at 965 East Vaughn Street in the R1-8, Single Family Residential District for:

VAR10006 Variance to reduce the east side yard setback from 9ft to 0ft for a 15ft tall existing accessory building.

PREPARED BY: Ryan Levesque, Senior Planner (480-858-2393)

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

LEGAL REVIEW BY: N/A

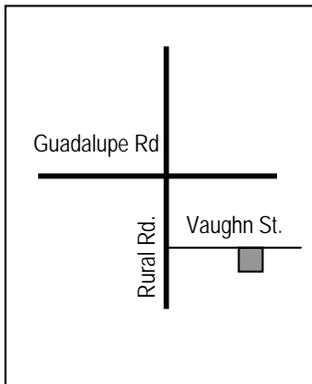
DEPARTMENT REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Denial

ADDITIONAL INFO:

This request was originally presented to the City from a building code complaint for a structure constructed without any City permits. The resident desires to keep the existing accessory building in place, requiring a variance for accessory building setbacks and additional modifications for building code compliance. The applicant conducted a neighborhood meeting on May 17, 2010, as required by the Zoning and Development Code. There were 5 residents in attendance including 2 City staff members. The applicant received both positive and negative feedback on the variance request and existing accessory building.



PAGES:

1. List of Attachments
- 2-3. Comments / Reasons for Denial
4. Conditions of Approval / History & Facts / Description / ZDC Reference

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
- 3-4. Letter of Intent
- 5-9. Neighborhood Meeting Summary & attendance list
10. Letter from Resident
11. Site Data
12. Site Plan
13. Floor Plan
14. North Elevation (front)
15. West Elevation (side)
16. East Elevation (property wall side)
17. Building Section
- 18-21. Staff Photograph(s)
22. Previous Street View (before height increase)

COMMENTS:

The request is located southeast of Rural Road and Guadalupe Road, on the south side of Vaughn Street off of Rural. The applicant, in response to a violation notice received by Code Compliance, has submitted a variance request for an existing accessory building (under construction) to reduce the required side setback for a 15-foot (14'-8") tall structure from 9'-0" to zero (0) feet. The existing structure varies in distance from the centerline of the side property wall from 8 inches at the front, to up to approximately 3 feet separation at the rear of the building. The east property line is positioned at a slight angle from the street, which is perpendicular with the curving street right-of-way. This property has comparable width dimension for properties in the neighborhood, almost 79 feet, (typical 80 feet) but with a wider rear yard dimension. The standard side yard setback for the main building in the R1-8 zoning is 7 feet.

Prior to the complaint, the original structure was approximately 8'-0" in height, with no record of permits. The resident described that that structure was raised from its original height to approximately 15' in height applying the same materials from the original construction. The southern portion of the structure remains at the original height. See Attachment 22 for photo of the previous structures height. As previously designed and because of a structure over 200 sf. in area, the building would require a minimum 3'-0" setback from the side yard. A portion of the building was in compliance, but would require a variance for the northern-most portion. Currently what is not completed from the drawings is the front street elevation, proposed to be a vertical roll-up door with matching material and an exhaust vent at the top.

The desired height for this structure is requiring the greater setback (9'-0") based on the adopted standards for accessory buildings. As a result, the side yard adjacent to the home is not a permissible area for a structure of this size and height.

The applicant will also have to address Building Code requirements, meeting required separations. A preliminary review meeting has been held with the applicant and Building Safety staff to discuss compliance. Of those include the following: Structures within 5'-0" of property line requiring fire resistive construction (the current materials are not in compliance); 3'-0" building separations required from main residence electrical service panels; and as designed, the entire membrane of corrugated siding, including roof, would need to meet the minimum fire resistive rating. If the Building Code requirements can be addressed, the structure would take on a different appearance than how it is currently constructed.

Neighborhood Meeting / Public Input

The applicant held a neighborhood meeting for the variance request on May 17, 2010 @ 6 PM at the Pyle Adult Recreation Center. Two members of City staff were in attendance including the applicant and his wife, and five residents from the neighborhood. Mr. Lowrance and his wife provided a presentation of the request for the variance, including background information. At the meeting residents spoke both in support and in opposition for the request. Comments from one neighbor said that if the next door neighbor is okay with it then she wouldn't object and would be in support of the request. The next person that spoke was the next door neighbor who was aware of the proposed project early on from conversations with Mr. Lowrance. He supports the request and the buildings location. He thinks it looks nice and provides his home with some shade. Another resident spoke in opposition to the request. She lives across the street and can see it from her backyard. Another couple in attendance also not in support of the building was concerned that it does not match the main residence and is out of place. They are concerned that if this one is granted that there may be three or four more of these pop up and would make the neighborhood look terrible. The couple resides on the south side of the street that is behind the Lowrance residence, which they stated they can see the building. Staff at the meeting clarified the process and next steps. Advised the residents they may contact the City for any additional comments or speak at the hearing. Notice will be provided at least 15 days prior to the hearing. Meeting adjourned at approximately 6:40 PM.

A letter from a neighbor was also provided by the applicant who noticed the neighborhood meeting sign, writing a letter of support, see Attachment 10. At this time, staff has received no additional public input since the neighborhood meeting.

Variance

The request requires a variance, as identified within the Zoning and Development Code, to reduce the required side yard setback for an accessory building 14'-1" to 15' in height from 9'-0" setback to zero (0) feet. The existing building varies in distance from the side property line from approximately 0'-8" from the centerline of the wall to approximately 3'-0".

A *variance* from the terms of the Zoning and Development Code shall not be authorized unless the decision-making body finds upon sufficient evidence of the following:

- a. That special circumstances are applicable to the property, including its size, shape, topography, location, or surroundings: *The shape of the property has an irregular shaped side yard which expands in width from the typical width of other lots in the area; and*
- b. 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: *There are no other apparent structures in the area with the same classification and similar privileges, including its size, height and appearance, located on the side of a property; and*
- c. 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: *If authorized the adjustment would be inconsistent with the limitations of other properties in the zone. Additionally, there are no apparent residential homes in the area that have been granted relief for the standard required setback; and*
- d. A variance may not be granted if the special circumstances applicable to the property are self-imposed by the property owner: *As a result of constructing the structure without first approval for permits the necessary steps may have been mitigated to ensure compliance with applicable codes.*

Conclusion

Staff recommends denial of the proposed request, based on the criteria for evaluating a variance. Although the structure at its current appearance is newly constructed, the approval criteria required for granting relief through a variance has not been satisfied. Constructing the structure with increased height prior to receiving permits has created a self-imposed circumstance. Staff has received some public input not in favor of the request. Although most of the comments have been centered on visibility of the structure, if the height of the structure was in compliance with the required setbacks, the building would not be located on the side of the home. Although the Section 3-401 allows accessory buildings up to 15'-0" in height, the building must also comply with the required setbacks for the building. A more appropriate structure height within this area would be an 8'-0" building as previously designed.

REASON(S) FOR

DENIAL:

1. The special circumstance identified for this request is the alignment of the eastern lot line.
2. There appears to be no other properties within the area that enjoy the same setback privileges of the same district.
3. The adjustment if authorized would be inconsistent with other properties in the vicinity and zone.
4. The variance is self-imposed by the property owner without proper awareness of code regulations.

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 applicable only to the proposed accessory building located on the east side of the property.
2. Obtain all necessary permits and clearances from the Building Safety Division prior to any further construction.
3. Provide a Palo Verde tree in the front yard near the side of the accessory building to allow additional screening.
4. Paint the accessory building to match a color consistent with the existing residence.

HISTORY & FACTS:

March 25, 2010 City received complaint for building code investigation.

April 9, 2010 Building Code complaint forwarded to Code Compliance Division for accessory building setback violation. Resident was informed of compliance requirements.

May 3, 2010 Application received for a variance to reduce the required side yard setback for an accessory building.

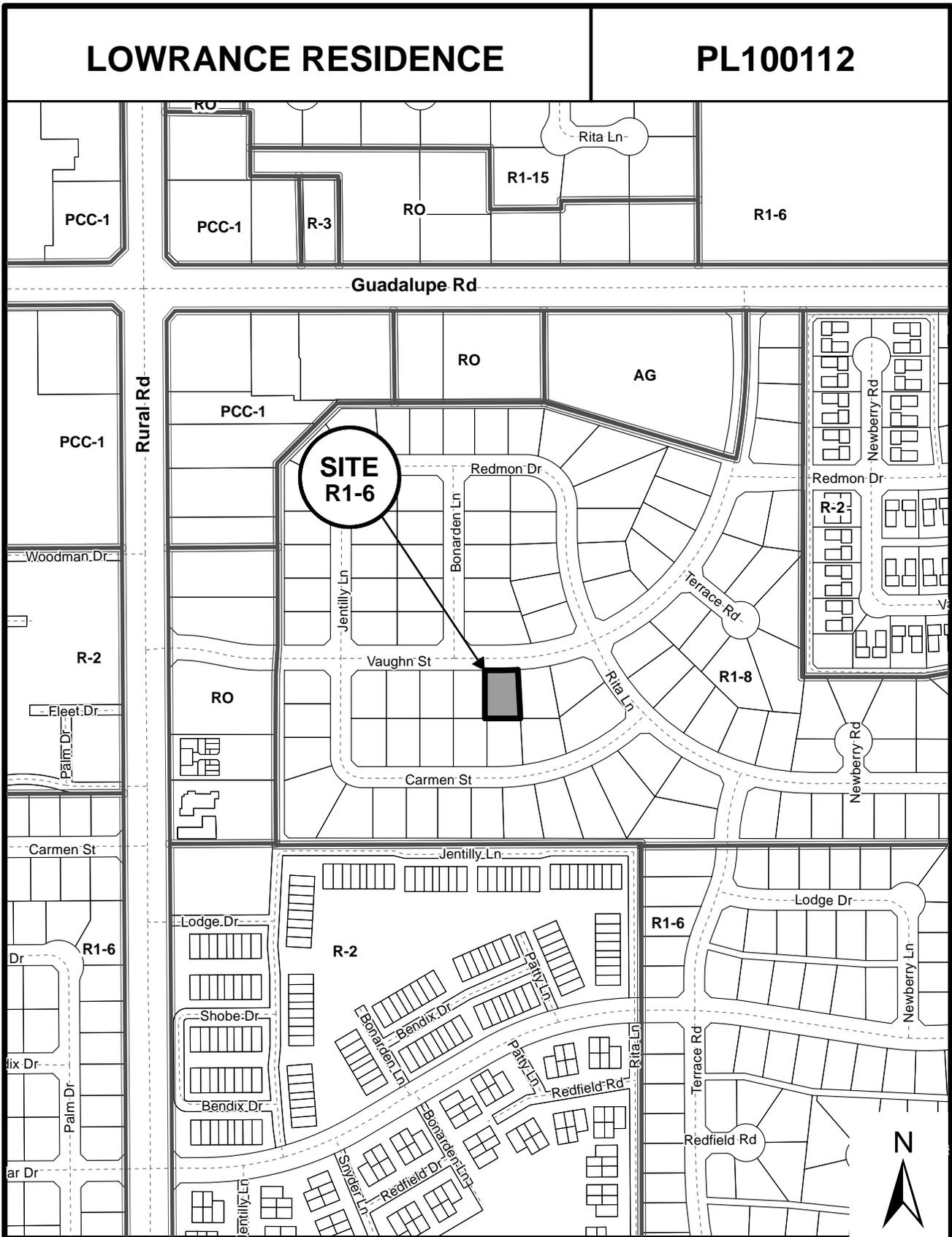
May 17, 2010 Applicant held a neighborhood meeting in compliance with the Zoning and Development Code for variance requests.

DESCRIPTION:

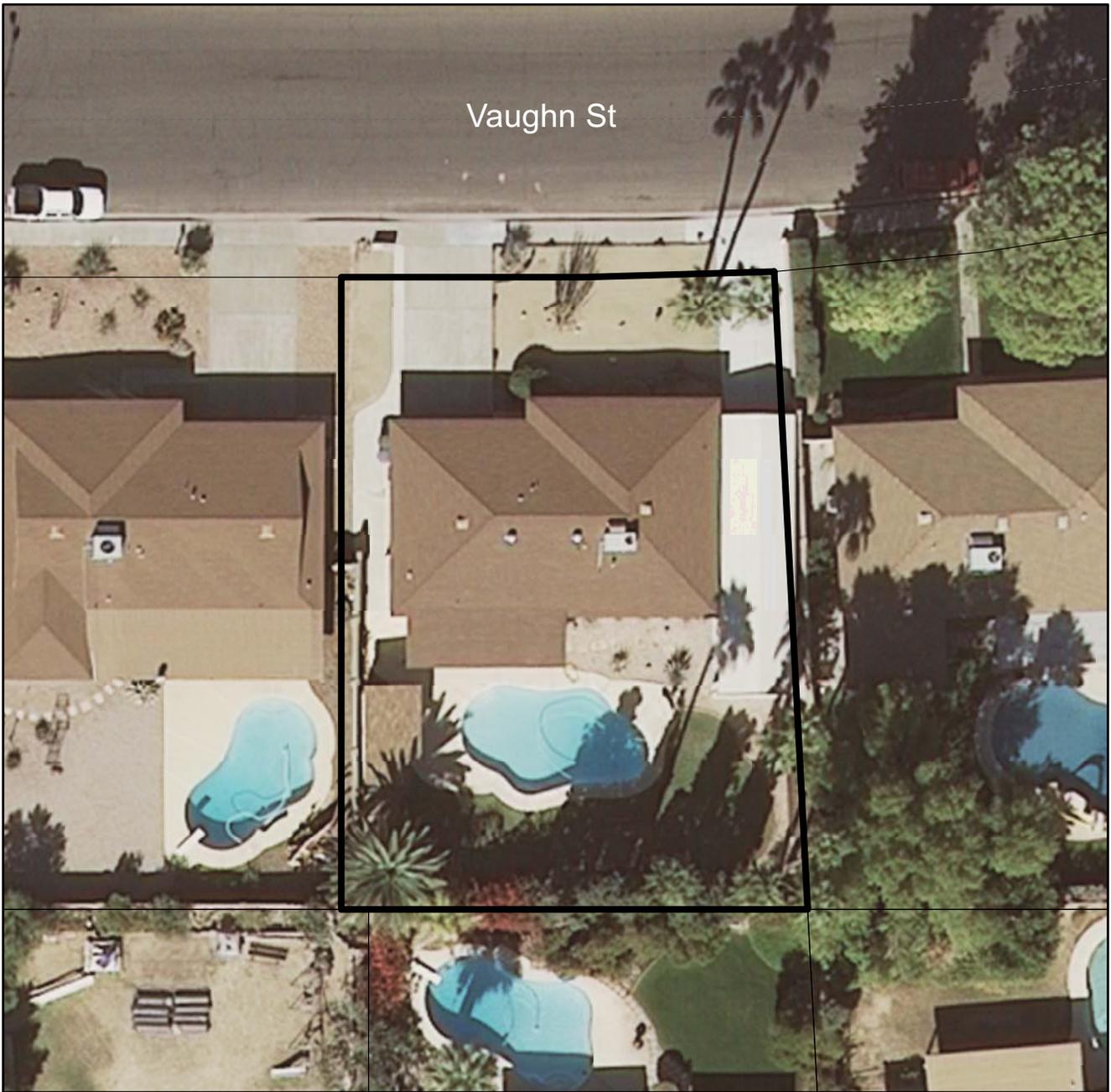
Owner – John (Ed) Lowrance
Applicant – John Lowrance
Existing Zoning – R1-8, Single-Family Residential District

**ZONING AND
DEVELOPMENT
CODE REFERENCE:**

Section 6-309, Variances



Location Map



LOWRANCE RESIDENCE (PL100112)

5/3/2010

Re: Lowrance Residence Project
965 E. Vaughn St
Tempe, AZ 85283
602-909-7362

To: Tempe Hearing Officer

Sir or Madam,

The issue being placed before the Tempe Hearing Officer is a variance request to reduce the required side yard setback for a 15-foot tall accessory building from nine (9) feet to zero (0) feet.

The primary reason for authorizing a variance request is that the increase in height of the existing building was accomplished to install a personal vehicle lift to accommodate multiple vehicle storage; to essentially keep the vehicles out of the driveways, off the street, and behind closed doors.

1. By referring to the site plan it can be determined that the subject eastern property line causes the lot to be laid out in such a way as to create a slight pie shape of the lot (narrowing toward the street); constituting a non self-imposed special circumstance. To meet code requirements by narrowing the existing structure would mean the new decreased width of the building would no longer bear on the concrete footer designed to support the outside bearing wall. Relative to its height this could cause the building to become un-stable, unusable, and possibly un-safe.

2. The building is located inconspicuously between two residential homes with less than approximately 10% viewable

from the street (reference pictures from East and West). Were the building to be dismantled and moved to the back yard of the property to meet all normal building code requirements it would present an unreasonable financial hardship in the form of physical labor, palm tree removal, pool pump and associated plumbing relocation and a new concrete slab. Being "out of place" in the back yard it would then adversely effect the preservation and enjoyment of the area surrounding the swimming pool for the family of the current property owner, any future property owners and five home owners which would then have an unobstructed and unsightly view of the building.

3. Other properties in the area have similar buildings constructed right against the property line. In their case however the property backs up to an alley and city code allows one half of the alley to be considered when measuring for setback requirements. My property does not have an alley on any side. Differentiating between the properties in this regard constitutes inconsistent privileges relative to limitations over which the property owner has no control.

4. The special circumstances referenced in paragraph #1 above have not been self-imposed by the property owner, but by the original developer of the sub-division.

Based on the information provided above as well as the entire variance package, I respectfully request the noted variance be granted.

Regards,
John "Ed" Lowrance



LOWRANCE NEIGHBORHOOD MEETING
MAY 17, 2010 AT 6:00 P.M.
MINUTES

Reason for meeting: Verbal Complaint pertaining to height of accessory building.
Purpose of meeting: (Note: Height found in compliance.) Discuss variance request to City of Tempe to allow encroachment onto east property line.
Agenda: Discussion, field questions, present submittal package, address concerns.

The meeting was called to order at 6:15PM. Present were six (6) neighbors and two (2) City of Tempe representatives. An explanation was given by Ed Lowrance regarding verbal complaint that was called in to the City. This complaint concerned only the height of the building. Ed further explained that the height was confirmed by the City of Tempe building dept representatives to be within current city ordinance requirements.

A variance request is being submitted for the accessory building being too close to the eastern most property line and therefore Ed will be following City guidelines to request and obtain this variance. There will be a hearing on June 22, 2010 before the Tempe Hearing Officer regarding this issue. This neighborhood meeting was part of the process to obtain the variance.

Pros: The adjacent neighbor on the east side is very supportive. He felt that property values would be negatively affected were the Lowrance's to move if the variance was not granted. He also expressed that all the materials for the project were bought in the city of Tempe and so Ed Lowrance was keeping everything local and contributing to the local economy.

Another neighbor two doors down to the west was also supportive. "It keeps cars off the street and adds to the value of the property and thus the neighborhood."

Cons: Neighbor on Carmen Street said that they could see the building from the backside. This again is a height complaint only and not relevant to the property line variance request. Ed Lowrance did comment that there are two story apartments behind noted resident. Resident stated they have landscaping to act as a blind to the apartments view. Ed Lowrance subsequently offered to plant landscape to blind noted building as a courtesy even though height is not an issue for the City.

Neighbor across the street and one property to the east (whose home does not face the Lowrance property) did not like the visual impact from her back yard.

Ed reassured both neighbors that the finished product would have the same appearance as the house and that trees could be planted to keep the view more concealed.

The meeting ended with the City Representatives offering phone numbers and reassuring all present that the appropriate steps would be taken to follow the variance guidance materials.

RESPONDING TO POSTED NEIGHBORHOOD MEETING SIGN (received no invitation letter)

| NAME | ADDRESS |
|----------------|---------|
| RIM LINSQUE | COT. |
| STEVE ABRAMSON | " |
| | |
| | |
| | |
| | |

| NAME | ADDRESS |
|---------------------|--------------------------------|
| DANIEL J. RETTINGER | 857 W. DUKE DR. TEMPE AZ 85283 |
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✓ LOWRIE GEORGE/VERNETTE
1819 E DESERT LN
PHOENIX, AZ 85042 USA
Parcel: 301-48-282

✓ ST MICHEL TERRIE L/FOERST ANGELIKA
6527 S BONARDEN LN
TEMPE, AZ 85283 USA
Parcel: 301-48-292

✓ HANSEN HUNTER C
1001 E CARMEN ST
TEMPE, AZ 85283 USA
Parcel: 301-48-323

✓ WILSON JAMES LEE
6609 S RITA LN
TEMPE, AZ 85283 USA
Parcel: 301-48-245

✓ SMITH JASON/MCCLURE SHANNAN
6527 S RITA LN
TEMPE, AZ 85283 USA
Parcel: 301-48-264

✓ MOULTON TIMOTHY L/TANYA D
953 E VAUGHN ST
TEMPE, AZ 85283 USA
Parcel: 301-48-304-A

✓ AMBROSE TONY
6518 S RITA LN
TEMPE, AZ 85283 USA
Parcel: 301-48-299

✓ MACRAE GENE A/PATRICIA L
6523 S JEN TILLY LN
TEMPE, AZ 85283 USA
Parcel: 301-48-283

✓ CRAWFORD BEVERLY M
2033 E RIVIERA DR
TEMPE, AZ 85282 USA
Parcel: 301-48-313-A

✓ HILL CHRISTINE M
17736 E CANYON WAY
GILBERT, AZ 85297 USA
Parcel: 301-48-310-A

✓ BRISTOL STANLEY D & ELAINE M
6603 S RITA LN
TEMPE, AZ 85283 USA
Parcel: 301-48-246

✓ CORDOVA BRENDA
947 E VAUGHN ST
TEMPE, AZ 85283 USA
Parcel: 301-48-303-A

✓ NELSON BRIAN C/WAKAO AKIKO
6602 S RITA LN
TEMPE, AZ 85282 USA
Parcel: 301-48-308-A

✓ KUCERNAK FRANK FRANTISEK/ASSIA Z
948 E CARMEN ST
TEMPE, AZ 85283 USA
Parcel: 301-48-314-A

Janyr Mowerton

O KEEFE PATRICK
941 E VAUGHN ST
PHOENIX, AZ 85283 USA
Parcel: 301-48-302-A

BERTOLA MICHAEL A/KATHLEEN A TR
1029 E CARMEN ST
TEMPE, AZ 85283 USA
Parcel: 301-48-328

STEGMULLER CHARLES D/SHIRLEY S
PO BOX 86
BONSALL, CA 92003 USA
Parcel: 301-48-326

PFANNENSTEIN TIMOTHY/ANGELA/EUGENE/LORETTA
6530 S RITA LN
TEMPE, AZ 85283 USA
Parcel: 301-48-301

MELLODY SEAN
1011 E CARMEN ST
TEMPE, AZ 85283 USA
Parcel: 301-48-325

TANG JOHN
6515 S BONARDEN LN
TEMPE, AZ 85283 USA
Parcel: 301-48-294

HARTHUN JACK E & MARY L
1023 E CARMEN ST
TEMPE, AZ 85283 USA
Parcel: 301-48-327

6522 S BONARDEN LANE LLC/LAWSON JOHN E JR TR
6522 S BONARDEN LN
TEMPE, AZ 85283 USA
Parcel: 301-48-290

BUSH DUANE B TR
6516 S BONARDEN LN
TEMPE, AZ 85283 USA
Parcel: 301-48-289

LOWRANCE JOHN E/PATRICIA J
965 E VAUGHN ST
TEMPE, AZ 85283 USA
Parcel: 301-48-306-A

KELTNER DANIEL R & HELEN C TR
945 E CARMEN ST
TEMPE, AZ 852830000 USA
Parcel: 301-48-321

STIREWALT ROBERT C/REED TIMI M TR
1007 E CARMEN ST
TEMPE, AZ 85283 USA
Parcel: 301-48-324

CRUZ AGUSTIN/SUSANA
971 E VAUGHN ST
TEMPE, AZ 85283 USA
Parcel: 301-48-307-A

DEIN ANNA C
6608 S RITA LN
TEMPE, AZ 85283 USA
Parcel: 301-48-309-A

Michael + Kathleen Bertata

Angela Pfannenst

Robert Howard Tim Reed
Angela Cruz

5-17-2010

To residents at:
965 E. Vaughn
Tempe AZ, 85283

Dear Sir or Madam:

The other day I was driving through your neighborhood on the way to visit my son and saw that you had a notice of neighborhood meeting posted in your yard. I am writing this letter in reference to your erecting a secondary building and needing a variance due to property line encroachment. I am not able to attend your scheduled meeting so I hope this letter will sufficiently represent my thoughts on the matter.

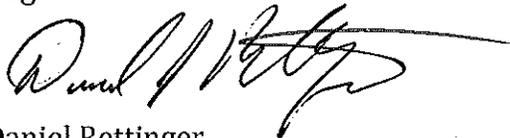
If it wasn't for your sign in your yard I would not have even noticed your new building while driving down the road as it looks very professionally constructed and aesthetically pleasing to the eyes. The colors blend very well with your existing home and with its location I only notice it driving from west to east on Vaughn.

I have seen that some of your neighbors have erected secondary structures in your neighborhood but they appear to have been done without thought to the materials used or how they match the homes where they reside. I also notice all kinds of other cars, boats and ATVs but it appears that your neighbors make no attempt to enclose them in a proper shed or garage.

If your issue is the proper line encroachment and how it looks I think you have done the best job possible and I don't see it as a problem. I applaud your efforts in enclosing your vehicles, boat, workshop or whatever you plan to house inside your new structure, it is a shame that others in your area can't follow your example. If I were your neighbor I would gladly look at your new building rather than having a visual eyesore of items that other residents have needlessly parked in their front yards.

I hope this letter helps you in your effort to achieve your goal and thank you for trying to make your neighborhood look pleasing in everyone's eyes.

Regards



Daniel Rettinger
857 W. Duke Dr.
Tempe Arizona, 85283

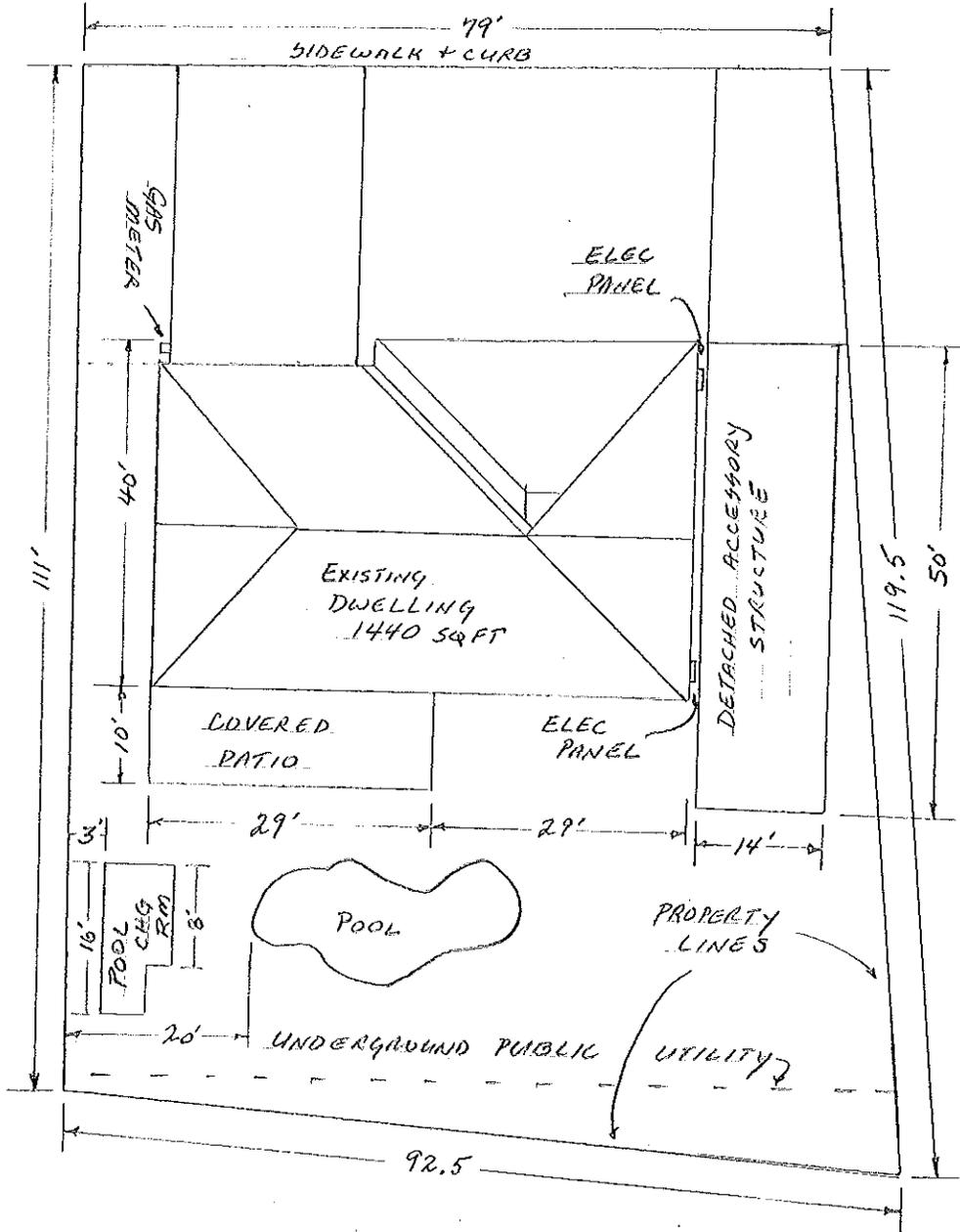
4/30/2010

Site Data:

1. Submitted by: John "Ed" Lowrance
965 E. Vaughn St
Tempe, AZ 85283
602-909-7362
2. Lowrance Residence Project
3. Site Address: Same as above
4. Scale: 1" = 20'
5. Location Map: See attached #136
6. See sheet # RES - 02
7. Legal Description: *301-48-306A*
8. Detached Residential Accessory Structure
9. Zoning: Residential *R1-~~8~~ 8*
10. Parcel Size: See #6
11. Building Area: 700 sq ft
- 11a. Height: 14'6" (30 linear ft) and 8'6" (20 linear ft)
- 11b. One story
12. 2" x 3" Galvanized Steel Supports covered with
3' x 16' corrugated sheet metal
13. Use: Motor Vehicle Storage/Work Shop
14. Variance requested to reduce the required side yard setback for
a 15-foot tall accessory building from nine (9) feet to one (1) foot.
15. Closest fire hydrant: corner of Vaughn and Carmen

1100 sq. ft.

965 E. VAUGHN STREET

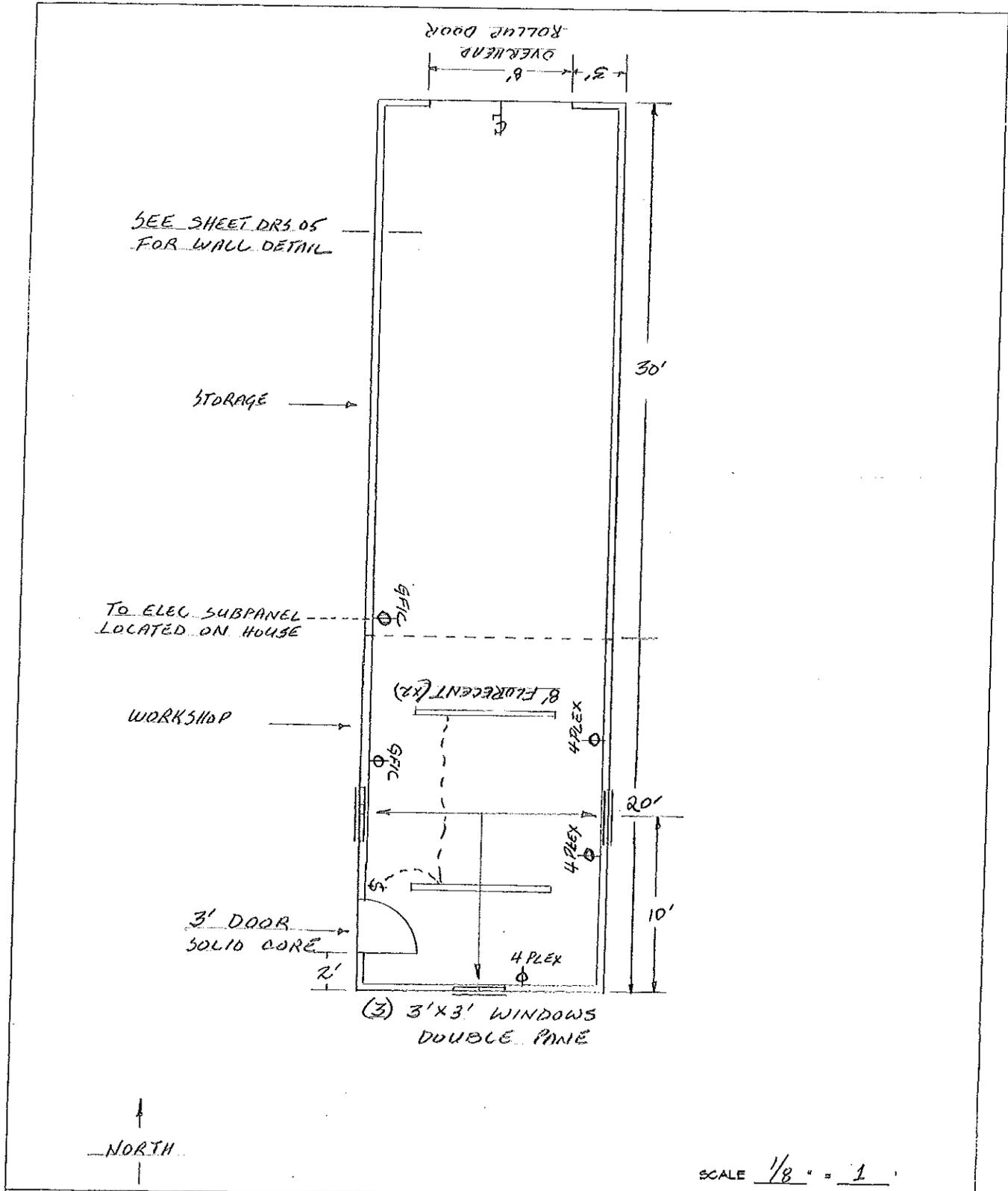


NORTH

SCALE 1" = 20'

Residential Structures

| | |
|-----------|-----------|
| Title | Site Plan |
| Sheet No. | RES - 02 |



SEE SHEET DRS 05
FOR WALL DETAIL

STORAGE →

TO ELEC. SUBPANEL
LOCATED ON HOUSE

WORKSHOP →

3' DOOR
SOLID CORE

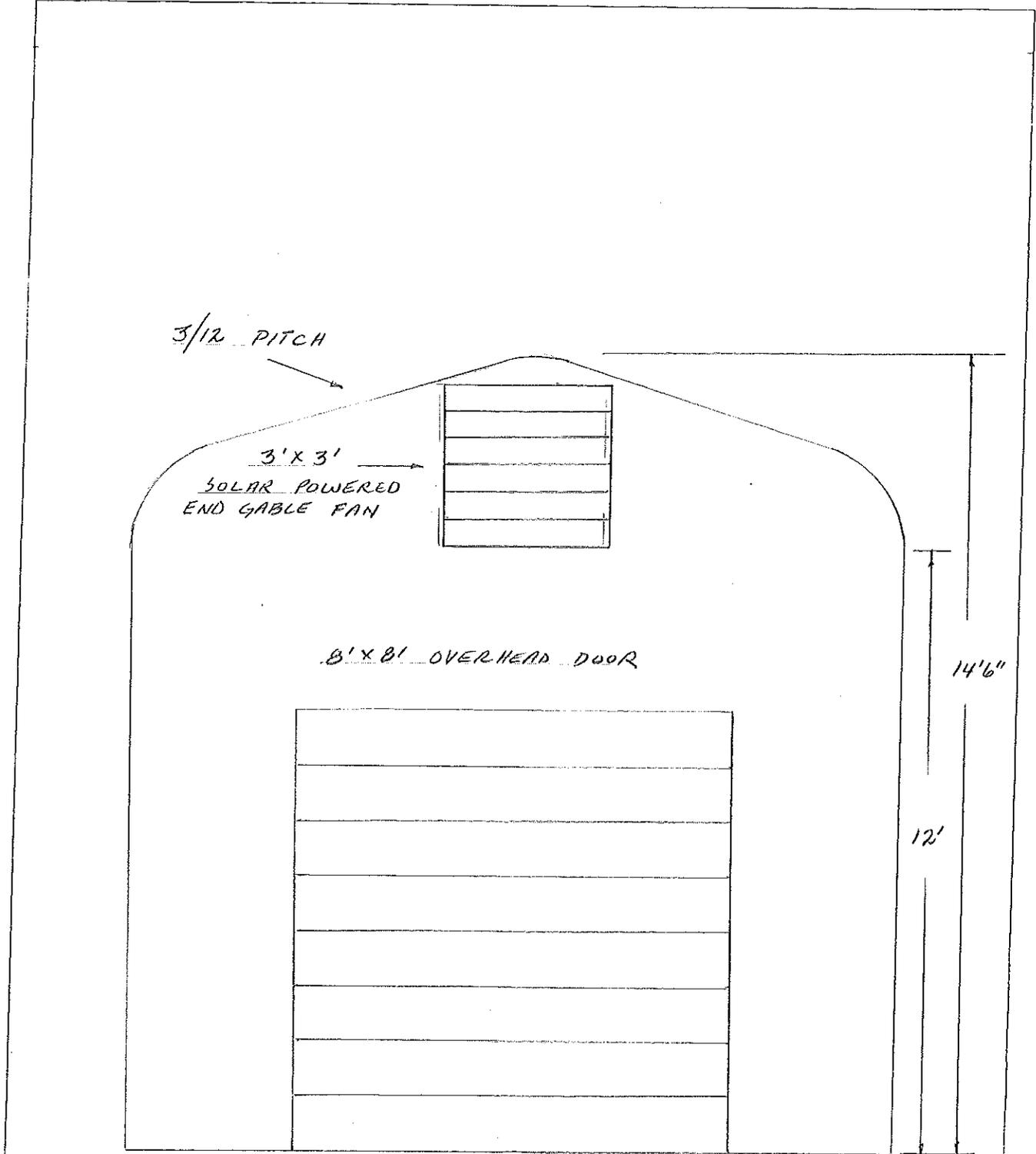
(3) 3'x3' WINDOWS
DOUBLE PANE

NORTH ↑

SCALE 1/8" = 1'

DETACHED ACCESSORY STRUCTURE

| | |
|-----------|------------|
| Title | FLOOR PLAN |
| Sheet No. | DRS-04 |

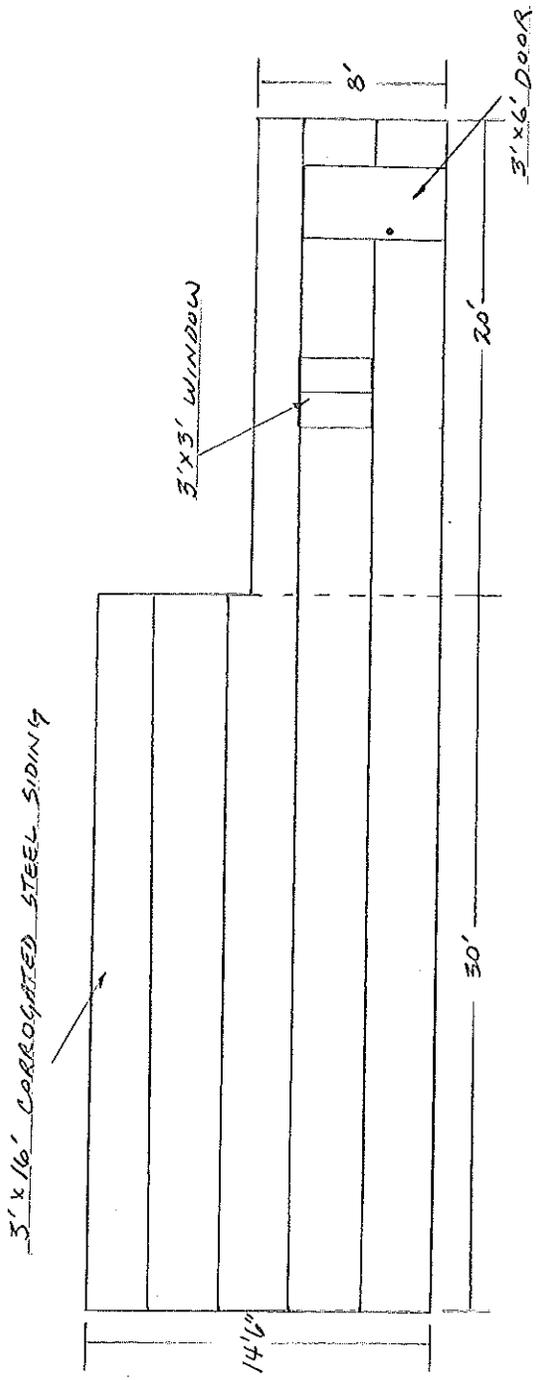


FRONT ELEVATION LOOKING SOUTH

SCALE 3/8" = 1'

DETACHED ACCESSORY STRUCTURE

| | |
|-----------|--------------------|
| Title | ELEVATION - 1 OF 2 |
| Sheet No. | DR3-06 |

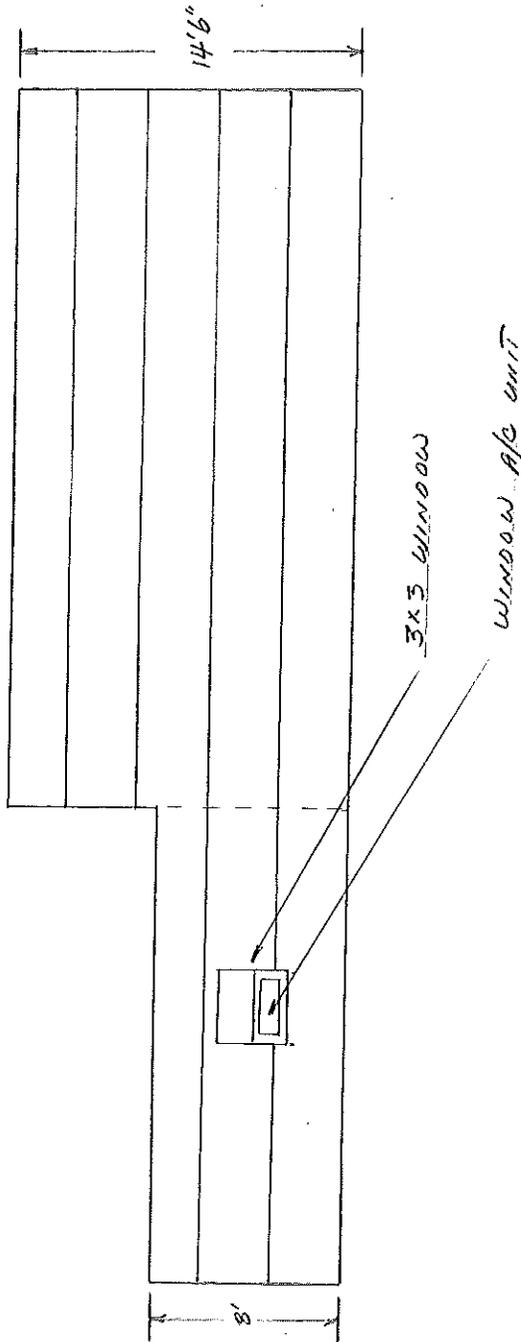


SIDE ELEVATION LOOKING EAST

SCALE 1/8" = 1'

DETACHED ACCESSORY STRUCTURE

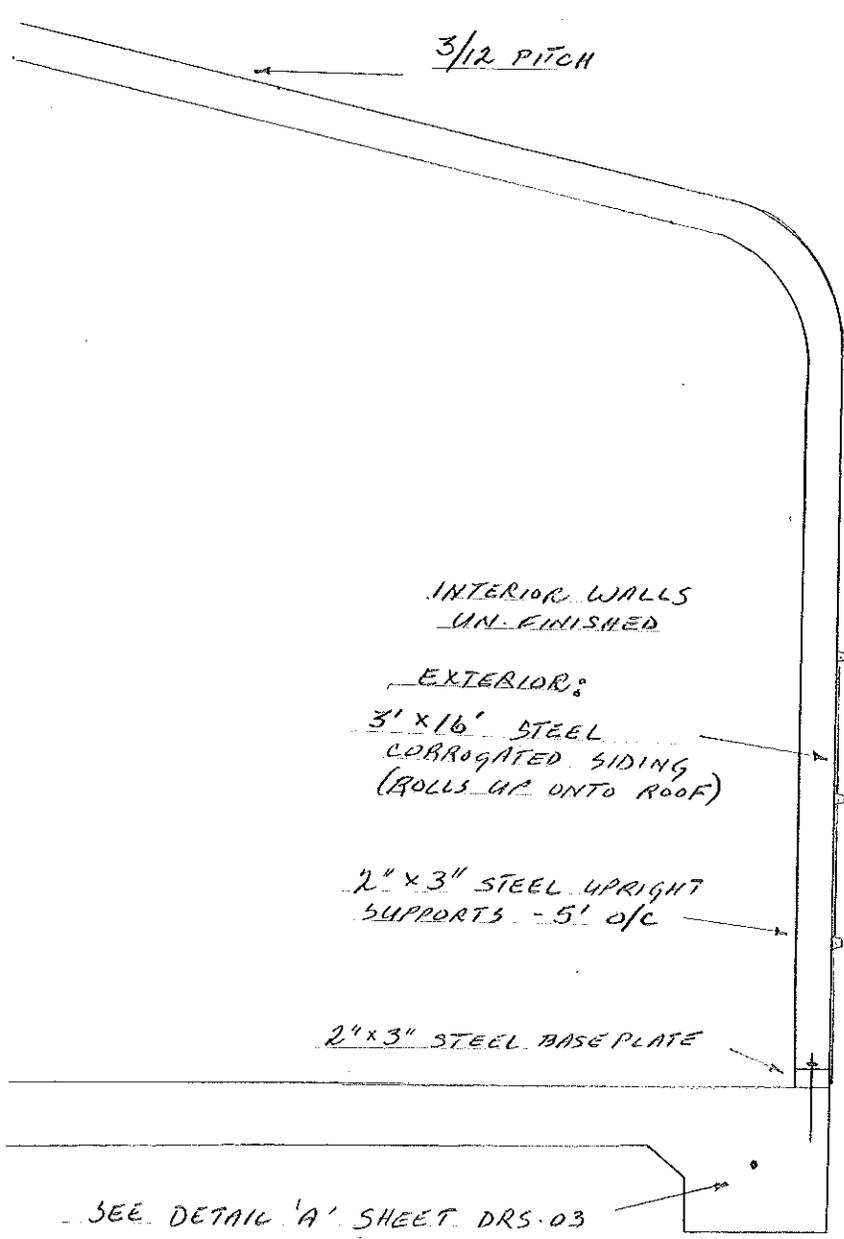
Title
ELEVATION - 2 OF 2
Sheet No.
DRS-07



SCALE $\frac{1}{8}'' = 1'$

Title
EAST ELEVATION

Sheet No.
DRS-08



SCALE $\frac{3}{4}'' = 1'$

DETACHED ACCESSORY STRUCTURE

| | |
|-----------|-------------------|
| Title | STEEL WALL DETAIL |
| Sheet No. | DRS-05 |



LOWRANCE RESIDENCE

965 EAST VAUGHN STREET

PL100112

FRONT OF RESIDENCE











Address 965 E. Vaughn Street

LOWRANCE RESIDENCE (previous street view)

