



# Board of Adjustment Regular Agenda

COUNCIL CHAMBERS BUILDING  
CONFERENCE ROOM B-3  
JANUARY 8, 2015  
4:00 P.M.

One or more members of the Board of Adjustment may be unable to attend the Board Meeting in person and may participate telephonically, pursuant to A.R.S. § 38-431(4).

- I. CALL TO ORDER
- II. ROLL CALL
- III. APPROVAL OF MINUTES: November 13, 2014 Regular Meeting

***AGENDA ITEMS MAY BE TAKEN OUT OF ORDER AT THE BOARD'S DISCRETION***

- IV. WITHDRAWALS AND CONTINUANCES
- V. PUBLIC HEARING ITEM
  1. **VAR14-08:** A request by Mauricio de la Cruz to allow a reduction of the west side yard setback to 6 feet where 15 feet is required in the R-2 zoning district to allow an addition to an existing single-family residence. The site is located at 5419 West Orangewood Avenue in the Ocotillo District. Staff contact: Tom Dixon, CPM, Senior Planner.
- VI. OTHER BUSINESS FROM THE FLOOR
- VII. PLANNING STAFF REPORT
- VIII. BOARD COMMENTS AND SUGGESTIONS
- IX. NEXT MEETING: February 12, 2015
- X. ADJOURNMENT

**FOR SPECIAL ACCOMMODATIONS**



Please contact Diana Figueroa at (623) 930-2808 or [dfigueroa@glendaleaz.com](mailto:dfigueroa@glendaleaz.com) at least three working days prior to the meeting if you require special accommodations due to a disability. Hearing impaired persons should call (623) 930-2197.

After 5:00 p.m. on Monday, prior to the meeting, staff reports for the above referenced cases will be available online at <http://www.glendaleaz.com/planning/boardsandcommissions.cfm>. If after reviewing the material you require further assistance, please call the staff contact listed for each application at (623) 930-2800.

Upon a public majority vote of a quorum of the Board of Adjustment, the Board may hold an executive session, which will not be open to the public, regarding any item listed on the agenda but only for the following purpose:

- (i) discussion or consultation for legal advice with the city's attorneys (A.R.S. § 38-431.03(A)(3)); or

Confidentiality Requirements Pursuant to A.R.S. § 38-431.03(C)(D): Any person receiving executive session information pursuant to A.R.S. § 38-431.02 shall not disclose that information except to the Attorney General or County Attorney by agreement of the Board of Adjustment, or as otherwise ordered by a court of competent jurisdiction.

**MEETING MINUTES  
CITY OF GLENDALE  
BOARD OF ADJUSTMENT**

**COUNCIL CHAMBERS BUILDING  
CONFERENCE ROOM B-3  
5850 WEST GLENDALE AVENUE  
GLENDALE, ARIZONA 85301**

**THURSDAY, NOVEMBER 13, 2014  
4:00 P.M.**

I. CALL TO ORDER

Chairperson Toops called the meeting to order at approximately 4:00 pm.

II. ROLL CALL

Board members Blakely, Feiner, Dietzman and Chairperson Toops were in attendance.

Board member Vescio was absent.

CITY STAFF

Tabitha Perry, Assistant Planning Director, Thomas Ritz, AICP, Senior Planner, Russ Romney, Deputy City Attorney and Diana Figueroa, Recording Secretary

III. APPROVAL OF THE MINUTES

Chairperson Toops called for the minutes from the previous meetings.

**Board member Feiner made a MOTION to APPROVE the Minutes of the July 10, 2014 Regular Meeting. Board member Blakely SECONDED the motion. The motion was approved unanimously.**

**Board member Feiner made a MOTION to APPROVE the Minutes of the August 14, 2014 Regular Meeting. Board member Blakely SECONDED the motion. The motion was approved unanimously.**

IV. WITHDRAWALS AND CONTINUANCES

Chairperson Toops asked staff if there were any requests for withdrawals or continuances. There were none.

V. PUBLIC HEARING ITEMS

Chairperson Toops called for the public hearing item.

**VAR14-07:** A request by Jeff Shelton for James and Tricia Saunders to reduce the side yard setback to 20 feet where 50 feet is required, reduce the front yard setback to 50 feet where 75 feet is required, and increase the maximum percentage lot coverage to 20 percent where 10

percent is the maximum percentage lot coverage in the A-1 (Agricultural District). The site is at 6008 West Cortez Street and in the Barrel District.

Thomas Ritz, AICP, Senior Planner, began his presentation by stating VAR14-07 is a request by Jeff Shelton for James and Tricia Saunders to reduce the side yard setback to 20 feet where 50 feet is required, reduce the front yard setback to 50 feet where 75 feet is required, and increase the maximum percentage lot coverage to 20 percent where 10 percent is the maximum percentage lot coverage in the Agricultural District. He said the site is at 6008 West Cortez Street and is in the Barrel District.

Mr. Ritz stated that in summary this variance is because the applicant is requesting a variance to add an outside stairwell to the front of the house to provide access to the basement, construct an addition to the master bathroom, and relocate the laundry room in front of the garage. He said the property is located within the Del Rey Farms subdivision, north of the northwest corner of Cholla Street and 59th Avenue. The lot dimensions are approximately 172 feet wide and 314 feet deep, and the property is approximately 55,000 sq. feet in size.

Mr. Ritz stated that on October 3, 2014, notification letters were mailed to adjacent property owners and interested parties. He noted the applicant indicated they had spoken to three of their neighbors who supported their project and desired the remodeling be completed. He said that Planning received a response from a neighbor who opposed the request. He explained the neighbor indicated the request sounded like the sort of addition which would convert the house into something other than a single family residence. He added that Planning received a second response from a neighbor who opposed the request, as well as a call from a third neighbor. The third caller was not opposed to the variance request, however, he expressed concern that the house had been under construction for two years, and had concerns about what the house could be turned into. Mr. Ritz indicated that the property is not within a homeowners association or registered neighborhood.

Mr. Ritz reviewed each of the four findings:

- 1. There are special circumstances or conditions applicable to the property, including size, shape, topography, location or surroundings, which were not self-imposed by the owner.**

The lot width is 172 feet, a lot depth of 314 feet, and a lot size of 55,000 feet with an A-1 (Agricultural) zoning district classification creates a special circumstance not self-imposed by the property owner. The construction of an outside stairwell to the front of the house to provide access to the basement, construction of an addition to the master bathroom, and relocating the laundry room in front of the garage requires some level of relief based on the setback and lot coverage requirements. A 50 foot side yard and 75 foot front yard setback requirement would prohibit the construction of the desired room additions. The surrounding neighborhood was developed with a variety of side yard and front yard setbacks, few of which meet the current A-1 front and side yard requirements.

- 2. Due to the special circumstances, the strict application of the Zoning Ordinance would deprive the property of privileges enjoyed by other properties in the same classification in the same zoning district.**

The strict application of the Zoning Ordinance would prohibit an addition to the front of the existing front face of the home and in line with the existing side of the house. The surrounding properties have setbacks that are similar to those proposed by the applicant. In this situation, the strict application of the Zoning Ordinance would not allow the property the same privileges as its neighbors.

- 3. The variance requested is the minimum necessary to alleviate the property hardships.**

The request side yard and front yard setbacks are the minimum necessary to construct the proposed additions on the lot. The requested lot coverage is also required to construct the room additions on the lot. No other relief from the zoning requirement is proposed as a part of this variance request.

- 4. Granting the variance will not have a detrimental effect on the property, adjoining property, surrounding neighborhoods or the city in general.**

The request building setbacks and lot coverage are consistent with other properties in the surrounding area and will not detrimentally affect any neighboring properties. The surrounding neighbors have side yard and front yard setbacks that are similar to what is being requested.

Mr. Ritz stated the variance request appears to meet all four findings and should be approved. If the Board decides to grant the variance, it should be subject to the following stipulations listed in the staff report. He concluded his presentation and stated he was available for questions.

Chairperson Toops asked if the Board had any questions.

Board member Dietzman asked if the property and zoning will remain constant for this single family home. Mr. Ritz replied yes.

Chairperson Toops called for the applicant to make a presentation.

Jeff Shelton, the applicant's representative, stated that Mr. Ritz had explained in detail the project and had nothing further to added. He noted he agreed with the stipulations set forth by staff.

Chairperson Toops opened the public hearing.

Lois G. McLean, a Glendale resident, stated her objection to the application. She said she was afraid the home might become a group home. She added she was fearful they will remodel the home only to sell it.

John and Barbara Jacobs, Glendale residents, expressed their concern on the amount of time the house had been under construction. They worried what the house and its use could potentially become.

Donald Peper, a Glendale resident, stated his support of the application. He noted he was a neighbor and friend of the family. He said he was glad someone had finally stepped up and did something with the property and invested time and money. He hopes to see the area and property values improve.

Chairperson Toops asked Mr. Shelton if he had any closing comments.

Mr. Shelton explained the proposed layout of the house. However, for the most part, the structure will remain the same. He reiterated the applicant's request for construction of an outside stairwell to the front of the house to provide access to the basement, construction of an addition to the master bathroom, and relocating the laundry room in front of the garage which will all be ADA code compliant. He indicated that the applicants had no plans to turn this into a group home. However, if that were true, they would still have to come before a panel and get approval.

Tabitha Perry, Assistant Planning Director, stated that for clarification, the decision for the case before them should be made based on the four findings as it relates to the standards presented before them in staff's presentation. She explained as far as the group home argument, that was a totally different process that has to go through the State of Arizona as well as adhere to distance requirements. She indicated that process will have to occur if the applicant decides to go in that direction.

Chairperson Toops closed the public hearing. He asked the Board for any further questions.

Chairperson Toops called for Mr. Russ Romney, Deputy City Attorney, to provide the next step in the legal process.

Mr. Romney interjected when Board members made comments pertaining to the group home when commencing their vote. He stated that the Board of Adjustment was to decide whether cases meet certain setback requirements. He noted that uses of the property are not the province of the Board of Adjustment and beyond the scope of their authority to make a decision based on either a fear or potential use of a property. He explained that the Board should analyze the factors that are given regarding the lot size and the privileges enjoyed by other properties as listed in the statute. The Board is then to make a decision based on the facts in evidence before them.

Based on the facts and evidence presented, Mr. Romney requested a vote from the Board. He read each finding and waited as the Board responded.

**Finding One. Chairperson Toops called for a voice vote on Finding One. The Board responded with a 4-0 vote.**

**Finding Two.** Chairperson Toops called for a voice vote on Finding Two. The Board responded with a 4-0 vote.

**Finding Three.** Chairperson Toops called for a voice vote on Finding Three. The Board responded with a 4-0 vote.

**Finding Four.** Chairperson Toops called for a voice vote on Finding Four. The Board responded with a 4-0 vote.

Mr. Romney asked that if based on the findings, does the Board wish to grant variance VAR14-07, subject to the stipulations set forth by the Planning Division.

Chairperson Toops called for a motion.

**Board member Blakely made a MOTION to APPROVE VAR14-07 subject to the stipulations in the staff report. Board member Feiner SECONDED the motion.**

**The MOTION was APPROVED with a vote of 4 to 0.**

Chairperson Toops stated the decision from the Board is to grant the variance. He said anyone wishing to appeal the action will need to file a motion in Superior Court.

VI. OTHER BUSINESS FROM THE FLOOR

Chairperson Toops asked staff if there was other business from the floor. There was none.

VII. PLANNING STAFF COMMENTS AND SUGGESTIONS

Ms. Perry announced there are no items for the December 11, 2014 meeting. She recommended the Board vacate the December 11 meeting.

Chairperson Toops asked for a motion.

**Board member Feiner made a MOTION to VACATE the December 11, 2014 meeting. Board member Blakely SECONDED the motion, which passed unanimously.**

VIII. BOARD COMMENTS AND SUGGESTIONS

Chairperson Toops asked for Board Comments and Suggestions. There were none.

IX. ADJOURNMENT

**Board member Dietzman made a MOTION to ADJOURN the meeting. Board member Blakely SECONDED the motion. With no further business, the meeting adjourned at 4:53pm.**

Next meeting: January 8, 2015



# Planning Staff Report

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**DATE:** January 8, 2015 **AGENDA ITEM: 1**

**TO:** Board of Adjustment

**FROM:** Tabitha Perry, Assistant Planning Director

**PRESENTED BY:** Tom Dixon, CPM, Senior Planner

**SUBJECT:** **VARIANCE (VAR) APPLICATION VAR14-08: DE LA CRUZ VARIANCE – 5419 WEST ORANGEWOOD AVENUE**

**REQUEST:** To reduce the west side yard setback to 6 feet where 15 feet is required in the R-2 (Multiple Residence) zoning district.

**APPLICANT/OWNER:** Mauricio de la Cruz

**REQUIRED ACTION:** The Board must consider the facts and determine that the findings required to grant a variance have been met. The Board may condition a variance to ensure that it will not grant special privileges inconsistent with the limitation of other similarly zoned properties. The Board must deny the request if the required findings have not been met.

**RECOMMENDATION:** Staff recommends approval subject to three stipulations.

**PROPOSED MOTION:** Move to approve VAR14-08 subject three stipulations.

**SUMMARY:** The applicant is requesting a variance to reduce the side yard setback to allow an addition to an existing single-family residence.

**BOARD ACTION:** Board member \_\_\_\_\_ **MADE** a **MOTION** to \_\_\_\_\_  
Case No. VAR14-08, subject to staff report stipulations. Board member \_\_\_\_\_  
**SECONDED** the **MOTION**. The **MOTION** was \_\_\_\_\_ with a vote of \_\_\_\_\_ to \_\_\_\_\_

## **DETAILS OF REQUEST:**

### **General Plan Designation:**

5 – 8 du/acre (Medium-High Density Residential 5 – 8 du/acre).

### **Property Location and Size:**

The property is located on the south side of Orangewood Avenue, mid-block between 54<sup>th</sup> and 55<sup>th</sup> Avenues. Across the street is a City of Glendale park. The lot dimensions of the subject property are 50 feet wide by 133.83 feet deep and the property contains approximately 6,691.5 square feet.

### **Zoning Ordinance Requirements:**

Section 5.420 - R-2 (Multiple Residence) Table 2:  
Minimum perimeter yard setback: 15 feet.

### **Surrounding Land Use and Zoning:**

North: City of Glendale park  
East: Single-Family Residence, zoned R-2  
South: Undeveloped lot, zoned R-2  
West: Single-Family Residence, zoned R-2

## **CITIZEN PARTICIPATION TO DATE:**

### **Applicant's Citizen Participation Process:**

On October 9, 2014, the applicant mailed notification letters to adjacent property owners and interested parties. The applicant did not receive any response regarding the request. Planning staff, to date, has received no inquiries regarding the request. The applicant's Citizen Participation Final Report is attached.

### **Board of Adjustment Public Hearing Notification:**

A Notice of Public Hearing was published in *The Glendale Star* on December 18, 2014. Notification postcards of the public hearing were mailed to adjacent property owners and interested parties on December 22, 2014. The property was posted by staff on December 19, 2014.

## **STAFF FINDINGS AND ANALYSIS:**

The Board of Adjustment must analyze four findings based on the evidence in the record prior to granting a variance. Each finding is presented below along with staff's analysis.

- 1. There are special circumstances or conditions applicable to the property including its size, shape, topography, location, or surroundings, which were not self-imposed by the owner;**

A lot width of 50 feet creates a special circumstance not self-imposed by the property owner. The strict application of the 15-foot perimeter setback would limit a new home on

this lot to a 20-foot width. Since the existing home is only six feet from the west property line, its building line was established when original construction occurred. This created a unique condition that necessitates relief from the required setback if an addition, as proposed, follows the primary building line. Granting the exception to the setback standard is a reasonable method to address this circumstance. This finding is satisfied.

- 2. Due to the special circumstances, the strict application of the Zoning Ordinance would deprive the property of privileges enjoyed by other properties of the same classification in the same zoning district;**

The portion of the City of Glendale bounded by West Oranewood Avenue on the north, North 54<sup>th</sup> Avenue on the east, West State Avenue on the south, and North 55<sup>th</sup> Avenue to the west is within the R-2 zoning district. It contains 50 developed residences and one or two vacant lots. An aerial photographic examination of this section of the City reveals that at least 80% of all lots fail to satisfy the 15-foot perimeter setback at some portion of their development. The requested variance is therefore compatible with the manner and location of other residential structures in the area and will not create a situation that is inconsistent with the surrounding neighborhood character. This finding is satisfied.

- 3. The variance is the minimum necessary to alleviate the property hardship; and**

The requested side yard setback for the addition follows the building line of the existing residence. The most feasible and logical manner to add to the home would be to permit the addition to line up with what is already built. To apply a 15-foot setback to the addition would add unnecessary cost and would not provide any reasonable benefit to surrounding properties. This finding is satisfied.

- 4. Granting the variance will not have a detrimental effect on the property, adjoining property, the surrounding neighborhood, or the city in general.**

The requested variance will not have a detrimental effect on the community; in fact, it likely will be a benefit. The residence is presently a vacant, two-bedroom home in an older section of Glendale. Adding two more bedrooms to the residence and providing a larger home will allow the residence to be occupied and integrated back into the neighborhood. This finding is satisfied.

#### **RECOMMENDATION:**

The variance request appears to meet all four findings and should be approved. If the Board decides to grant the variance, it should be subject to the following stipulations:

1. Development shall be in conformance with the site plan and floor plan, date-stamped December 30, 2014.
2. All mechanical equipment shall be ground mounted.

3. All utilities less than 69kV shall be placed underground.

**ATTACHMENTS:**

1. Site Plan, date stamped December 30, 2014.
2. Floor Plan, date stamped December 30, 2014.
3. Applicant's Narrative, date stamped December 30, 2014.
4. Citizen Participation Final Report, approved December 30, 2014.
5. Vicinity Zoning Map.
6. Aerial Photograph, dated November 2012.

**PROJECT MANAGER:**

Tom Dixon, CPM, Senior Planner (623) 930-2553  
[tdixon@glendaleaz.com](mailto:tdixon@glendaleaz.com)

**REVIEWED BY:**

  
\_\_\_\_\_  
Planning Director

TD/df

  
\_\_\_\_\_  
Development Services Department Director





To whom it may concern, The property on 5419 W Oranewood Ave Glendale, Az 85301, will be remodeled for my Daughter, a single mother to help her with a place to live. She will occupy this home with her child I will still be the owner and I will assume the responsibilities on the home.

Sincerely, Mauricio De La Cruz

PLANNING DEPARTMENT APPROVAL	
SIGNATURE:	<u>Jim Dixon</u>
DATE:	<u>30 December 2014</u>
PROJECT #:	<u>VAR 14-08</u>

**Final  
Citizen  
Participation  
Plan  
Report  
VAR14-08**

PLANNING DEPARTMENT APPROVAL
SIGNATURE: <u>Tom Dixon</u>
DATE: <u>30 December 2014</u>
PROJECT #: <u>VAR 14-08</u>

De La Cruz Variance  
5419 W ORANGEWOOD DR  
Glendale, Arizona 85301

**Prepared By:  
Jimmy De La Cruz**

**Citizen Comment Expiration Date:**

**12/01/2014**

### **PROJECT DESCRIPTION**

I am proposing to add a 630.22 square foot room additions to a 6,704.0 square foot lot located at 5419 W Orangewood drive, Glendale, Arizona 85301. The property is situated within the Sugar Addition Amended Subdivision. The property is a flat rectangular shaped lot. It is approximately 50 feet wide and 500.58 feet deep and the lot fronts onto a public alley way.

I am requesting a variance to allow a decrease in setbacks that would permit the construction of the room additions. I am requesting a variance to allow a twelve (12) foot side yard setback on the north and a 8 foot side yard setback on the south and a 10 foot rear yard setback, where a twenty (20) foot setback is required in the R-3, Multiple Residence Zoning District.

### **ELEMENTS OF CITIZEN PARTICIPATION PLAN**

The City of Glendale Planning Department specified the notification area. It was determined that a notification letter was the most appropriate public notification technique for this project. A plat map outlining the notification area was included. Also provided in the plan was a listing of property owners, other homeowners associations, interested parties, and additional notification individuals.

### **NOTIFICATION DATES**

The notification letter was mailed on October 9, 2014. Since the mailing of the letters, there was one phone call to me in support of the variance.

### **NOTIFICATION AREA**

A plat map with an outline of the notification area as determined appropriate by the Planning Department is included on the following page. All property owners and other interested parties within this notification area were notified by First Class Mail.

### **INDIVIDUALS NOTIFIED**

The following individuals comprised of residents, property owners, interested parties, and additional notifications received public notification letters:

**MEETING DATES/LOCATION**

It was determined that it was unnecessary to schedule a neighborhood meeting to discuss the proposal.

**INDIVIDUALS NOTICED**

A total of sixty (65) individuals included in the Ocotillo District. One notified property owner called, Johnny Almanza Jr. who lives at 6645 North 55<sup>th</sup> Avenue voiced his support of the variance.

**PROJECT CONCERNS**

During the fifteen (15) day citizen input period, no project concerns, issues, or problems were raised.

**PUBLIC NOTIFICATION LETTER**

Attached please find a copy of the public notification letter. No additional notification techniques were deemed appropriate.

**MAILING LIST**

A complete mailing list for each individual notified pursuant to the Citizen Participation plan is attached.



**REQUEST**

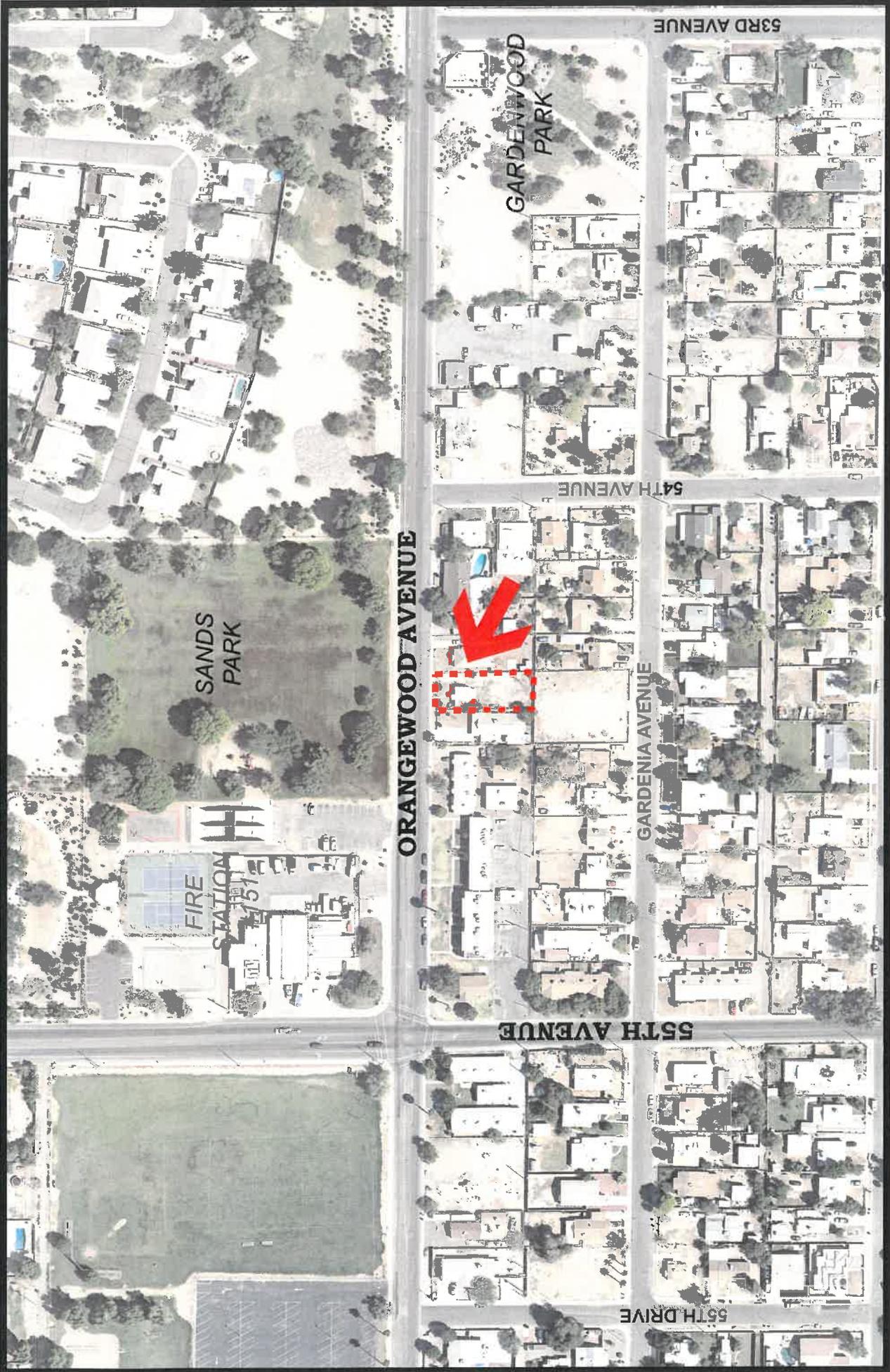
A VARIANCE TO REDUCE THE WEST SIDE YARD SETBACK TO 6' WHERE 15' IS REQUIRED IN THE R-2 (MIXED RESIDENCE) ZONING DISTRICT.



**CASE NUMBER**  
VAR14-08

N

**LOCATION**  
5419 W. ORANGEWOOD AVENUE



AERIAL DATE: NOVEMBER 2012



**CASE NUMBER**  
**VAR14-08**

