

# BOARD OF ADJUSTMENT REPORT



Meeting Date: 9/7/2016  
Item No.: 3

## ACTION

**Behar Residence**  
**11-BA-2016**

### Request to consider the following:

Approve variance requests to the City of Scottsdale Zoning Ordinance, Section 5.204.E.1.a and Section 5.204.E.1.c, pertaining to relief from the front yard setback for a property located at 8011 E. Larkspur Drive with Single-family Residential (R1-35) zoning.

## OWNER

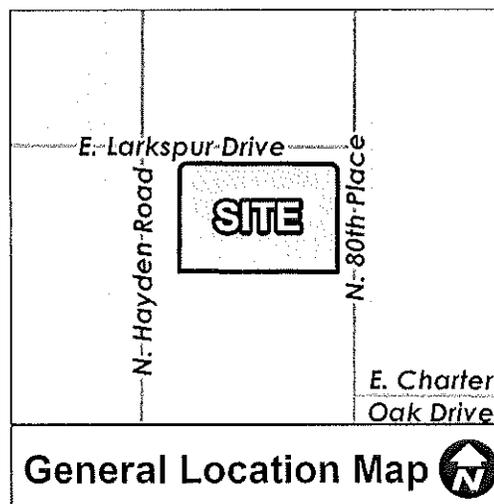
Ben Middlemiss & Mary Behar

## APPLICANT CONTACT

Tyler Green  
Tyler Green Architect  
480-348-2691

## LOCATION

8011 E Larkspur Drive



## BACKGROUND

### History

The subject property is Lot 13 of the Stoneridge Estates subdivision which was platted in 1976. The Maricopa County Assessors' records identify the existing home on the property was permitted and constructed in 1978. The accessory structure on the property was permitted and constructed in 2011. The existing house would appear to be setback thirty-six (36) feet from the north property line, legal non-conforming and subject to Section 1.1300 of the City of Scottsdale Zoning Ordinance, pertaining to nonconforming uses and structures.

### **Zoning/Development Context**

The subject site is zoned Single-family Residential (R1-35) and is located on the southeast corner of N. Hayden Road and E. Larkspur Drive.

### **Adjacent Uses and Zoning**

- North Stoneridge Estates subdivision, zoned Single-family Residential district (R1-35); existing single-family residences.
- South Stoneridge Estates subdivision, zoned Single-family Residential district (R1-35); existing single-family residences.
- East Stoneridge Estates subdivision, zoned Single-family Residential district (R1-35); existing single-family residences.
- West Buenavante subdivision, zoned Single-family Residential Planned Community district (R1-35 PCD); existing single-family residences.

### **Zoning Ordinance Requirements**

Pursuant to Section 5.204.E.1.a. of the City of Scottsdale Zoning Ordinance, pertaining to front yard setback: there shall be a front yard having a depth of not less than forty (40) feet.

Pursuant to Section 5.204.E.1.c of the City of Scottsdale Zoning Ordinance, pertaining to front yard setback: On a corner lot, the required front yard of forty (40) feet shall be provided on each side. No accessory buildings shall be constructed in a front yard. *Exception:* On a corner lot which does not abut a key lot or an alley adjacent to a key lot, accessory buildings may be constructed in the yard facing the side street.

*The applicant is requesting a variance of twenty-eight (28) feet which would reduce the required front yard setback for this parcel from forty (40) feet to twelve (12) feet along the E. Larkspur Drive frontage.*

### **Code Enforcement Activity**

Code Enforcement received a complaint in 2013 for dangerous RV gate access. The RV gate was permitted and constructed in 2011 in accordance with the approved plans and the complaint was closed because no code violation was found.

### **Community Input**

The applicant sent a notification letter and site plan to properties within 750 feet of the subject site. City of Scottsdale hearing postcards were also sent to properties within 750 feet of the subject site. As of the writing this report, the applicant has received a verbal okay and five emails in support of the proposal. Staff has also received two phone calls and an email opposed to the proposal siting that it would create dangerous egress, be out of context with the neighborhood and encroach too much towards the street at the entrance to the subdivision.

### **Discussion**

The applicant is proposing to construct an attached garage addition to the north of the existing house which would encroach twenty-eight (28) feet into the currently required front yard setback along E. Larkspur Drive. The zoning requirements currently restrict the main building

and additions to the main building for the first forty (40) feet of the property along both street frontages of a corner lot. The existing home is located approximately forty (40) feet from the N. 80<sup>th</sup> Place frontage and thirty-six (36) feet from the E. Larkspur Drive frontage. A four (4) foot variance would be required to bring the existing house into conformance. Section 5.204.E.1.c of the City of Scottsdale Zoning Ordinance includes provisions that allow for detached accessory buildings to be constructed in the yard facing the side street, where a corner lot does not abut a key lot or an alley adjacent to a key lot.

## **VARIANCE CRITERIA ANALYSIS**

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- 1. That because of special circumstances applicable to the property including its size, shape, topography, location, or surroundings, the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district:**

The applicant states a hardship is created on this property by the three frontages. The three frontages prevent any possible garage due to forty (40) foot setbacks on three sides

**Staff Analysis:** The subject property is similar in size, shape, and topography to other three frontage properties within the R1-35 zoning district. Twelve (12) properties within ½ mile of the property have similar configuration with three frontages. These similar properties appear to adhere to the City of Scottsdale Zoning Ordinance Section 5.204.E.1.c.

Because the subject lot is not adjacent to a key lot, the accessory structure exception provisions identified in the Zoning Ordinance allow for the existing detached accessory structure that is within the required front yard setback on the longer street frontage along E. Larkspur Drive.

- 2. That the authorization of the variance is necessary for the preservation of privileges and rights enjoyed by other property of the same classification in the same zoning district, and does 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:**

The applicant states all other properties in the subdivision have a carport or garage. This will also allow a driveway in line with the street address.

**Staff Analysis:** Of the other 67 properties within the subdivision 66 do appear to have carports or garages, but they are also adhering to the zoning setback standards. The R1-35 zoning district allows for primary use as a single-family residence. The existing setback of thirty-six (36) feet from the north property line would appear to be legal non-conforming and subject to Section 1.1300 of the City of Scottsdale Zoning Ordinance, pertaining to nonconforming uses and structures. A four (4) foot variance would be required to bring the existing house into conformance. Regardless of the outcome of this variance request, the existing structure can continue to function as a single-family residence.

**3. That the special circumstances applicable to the property were not self-imposed or created by the owner or applicant:**

The applicant states improvements on the property have not changed since the current owners have owned the home.

**Staff Analysis:** The proposal to add a garage encroaching further into the front yard setback is self-imposed. The existing house setback thirty-six (36) feet from the property line appears to be a condition created upon the original construction of the home.

**4. That authorization of the variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general:**

The applicant states granting of a variance in order to build a new garage addition will improve safety by clearing cars from parking on E. Larkspur Drive where cars enter quickly from N. Hayden Road. The applicant also included five letters in support.

**Staff Analysis:** The property currently has two driveways along E. Larkspur Drive, one that accesses the driveway parking area in front of the house and one that accesses a gate to the backyard. Generally more driveways do not add to traffic safety including the proposed new 35' wide driveway in addition to the two existing driveways along E. Larkspur Drive

The mass of the proposed garage would be similar to the detached accessory structure on the property, but would be three feet closer to the property line along E. Larkspur Drive and would be inconsistent with the neighborhood that consistently observes the 40-foot front setback. Staff has received two phone calls and an email from neighbors in opposition of the request.

## **SUMMARY**

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Based on the facts presented by the applicant, the evidence would support a finding that the property may not have special circumstances that would warrant relief from the strict application of the Zoning Ordinance requirements. The size, shape, or configuration of the property is not unique and applicable. Further, the applicant's proposed variance does appear that it may be detrimental to persons residing or working in the surrounding neighborhood. However, the decision about whether the criteria have been met is for the Board to make after hearing all the evidence at the hearing.

**APPROVED BY**

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Ben Moriarity, Report Author



Date



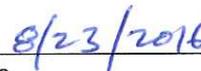
Brad Carr, AICP, Board of Adjustment Liaison  
480-312-7713, bcarr@scottsdaleaz.gov



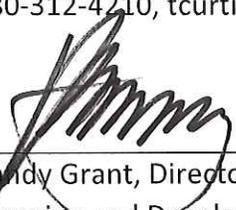
Date



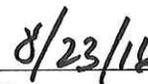
Tim Curtis, AICP, Current Planning Director  
480-312-4210, tcurtis@scottsdaleaz.gov



Date



Randy Grant, Director  
Planning and Development Services  
480-312-2664, rgrant@scottsdaleaz.gov



Date

**ATTACHMENTS**

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1. Project Description
2. Applicant Justification
3. Context Aerial
4. Aerial Close-Ups
5. Zoning Map
6. Site Photographs
7. Proposed Site Plan and Rendering
8. Neighborhood Correspondence

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## **The Behar Residence**

**8011 E. Larkspur Drive**

### **Design Narrative**

This application is for a setback variance for the above home. We are requesting a 12' setback from the north property line where 40' is required. The existing home was built 36' from the north property line and the variance would bring this into conformance. The home does not have a garage and there are no appropriate areas that meet setback requirements. The home was configured like this when the current owner purchased the home. A hardship is created by the three street frontages. This hardship prevents this site from being used as all of the other sites in the neighborhood are used.



# Board of Adjustment Variance Project Narrative

This document will be uploaded to a Case Fact Sheet on the City's web site

The Board of Adjustment may not authorize a zoning ordinance variance unless four (4) members affirm that ALL of the following criteria are met. Please provide justification to the four (4) criteria set forth in Section 1.804 of the Zoning Ordinance; you may attach a separate sheet if you need more room.

Type of variance requested, section(s) of the Zoning Ordinance to be varied:

VARIANCE TO ALLOW GARAGE TO BE BUILT TO WITHIN 12' FROM TO NORTH PROPERTY LINE WHERE 40' IS REQUIRED IN A R-35 ZONE. ALSO A VARIANCE FOR THE EXISTING RESIDENCE THAT WAS ORIGINALLY BUILT AT 36' FROM THE NORTH PROPERTY LINE

1. That because of special circumstances applicable to the property including its size, shape, topography, location, or surroundings, the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district:

A HARDSHIP IS CREATED ON THIS PROPERTY BY THE 3 STREET FRONTAGES. THE 3 FRONTAGES PREVENT ANY POSSIBLE GARAGE DUE TO 40' SETBACKS ON 3 SIDES.

2. That the authorization of the variance is necessary for the preservation of privileges and rights enjoyed by other property of the same classification in the same zoning district, and does 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:

ALL PROPERTIES ON N. 80TH PLACE IN THE VICINITY OF THE PROPERTY AND IN THE SAME NEIGHBORHOOD HAVE ATTACHED 2 OR 3 CAR GARAGES. THIS WILL ALSO ALLOW A DRIVEWAY AND FRONTAGE IN LINE WITH THE STREET ADDRESS. IT WILL NOT CONSTITUTE A SPECIAL PRIVILEGE.

3. That the special circumstances applicable to the property were not self-imposed or created by the owner or applicant:

THE CIRCUMSTANCES WERE NOT SELF IMPOSED AS THE IMPROVEMENTS HAVE NOT CHANGED SINCE THE CURRENT OWNERS HAVE OWNED THE HOME.

4. That authorization of the variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood or to the public welfare in general:

THE VARIANCE WILL IMPROVE SAFETY AS IT WILL CLEAR CARS FROM PARKING ON LARKSPUR WHERE CARS ENTER QUICKLY FROM HAYDEN ROAD. LETTERS OF SUPPORT FROM THE NEIGHBORS ARE INCLUDED.

Planning, Neighborhood & Transportation Division

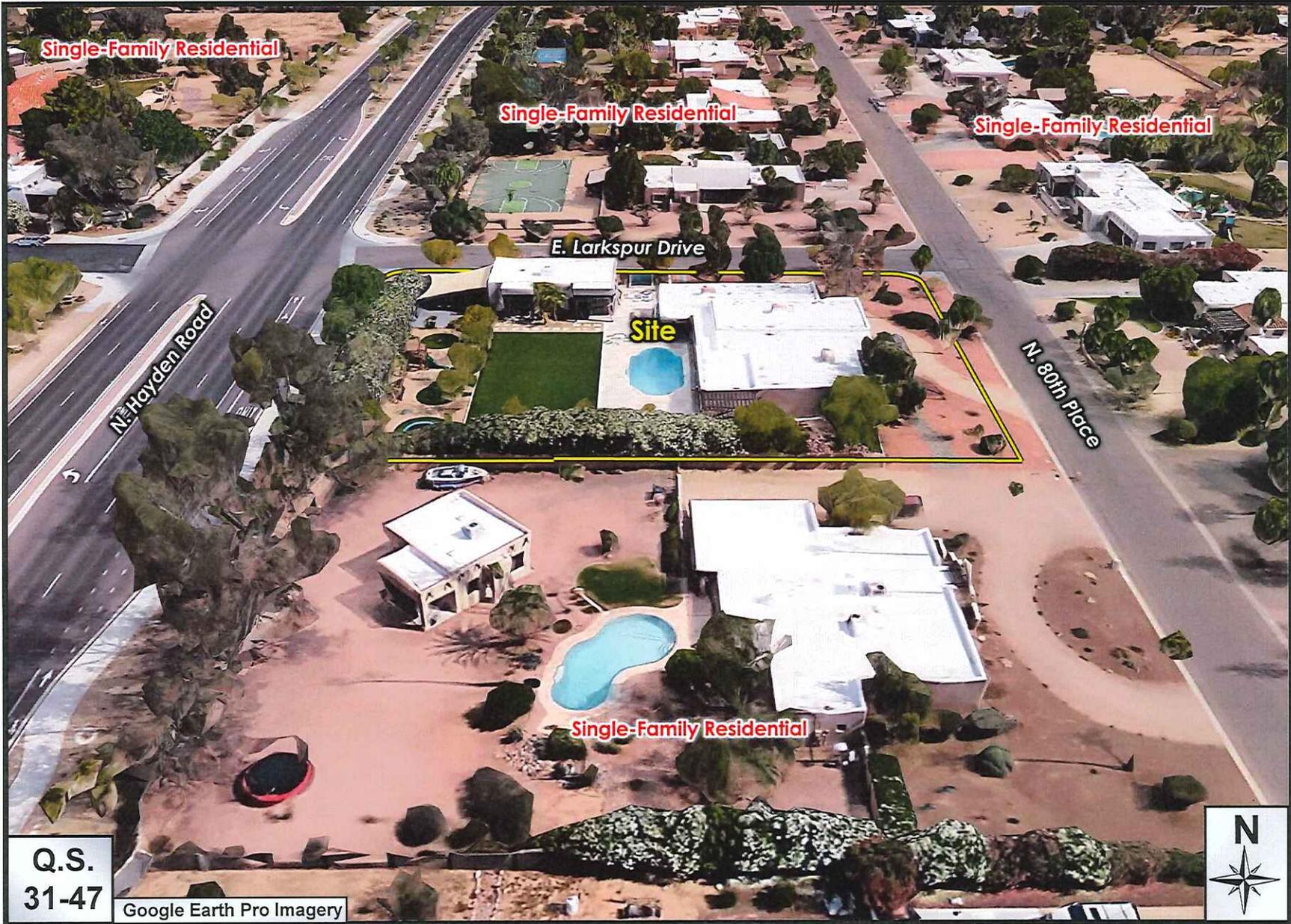
7447 E. Indian School Road, Suite 105, Scottsdale, AZ 85251 ♦ Phone: 480-312-2500 ♦ Fax

11-BA-2016  
8/4/2016



Behar Residence

11-BA-2016



Single-Family Residential

Single-Family Residential

Single-Family Residential

E. Larkspur Drive

N. Hoyden Road

Site

N. 80th Place

Single-Family Residential

Q.S.  
31-47

Google Earth Pro Imagery



ATTACHMENT #4

Behar Residence

11-BA-2016

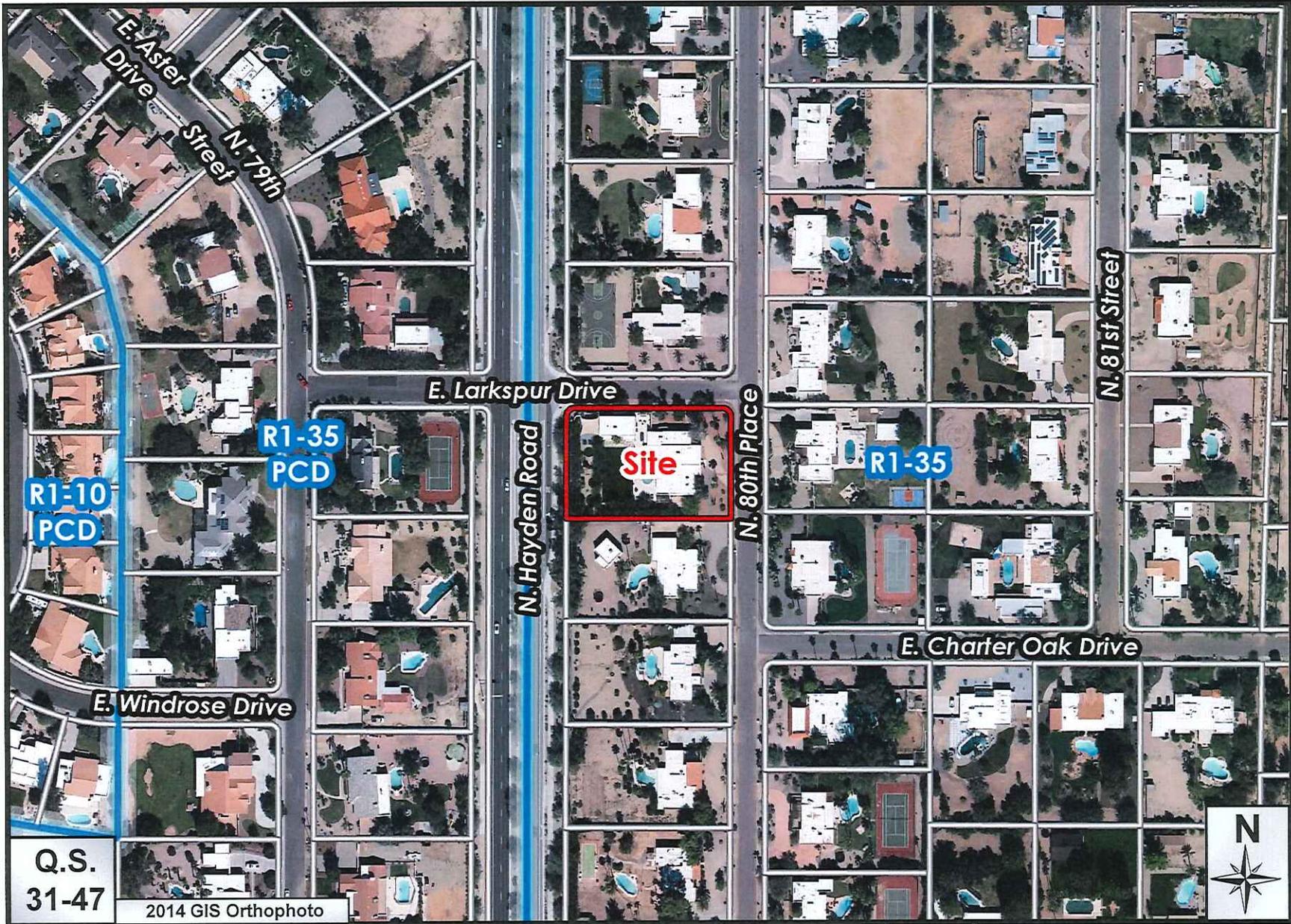


Q.S.  
31-47

Google Earth Pro Imagery

Behar Residence

11-BA-2016



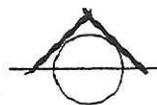
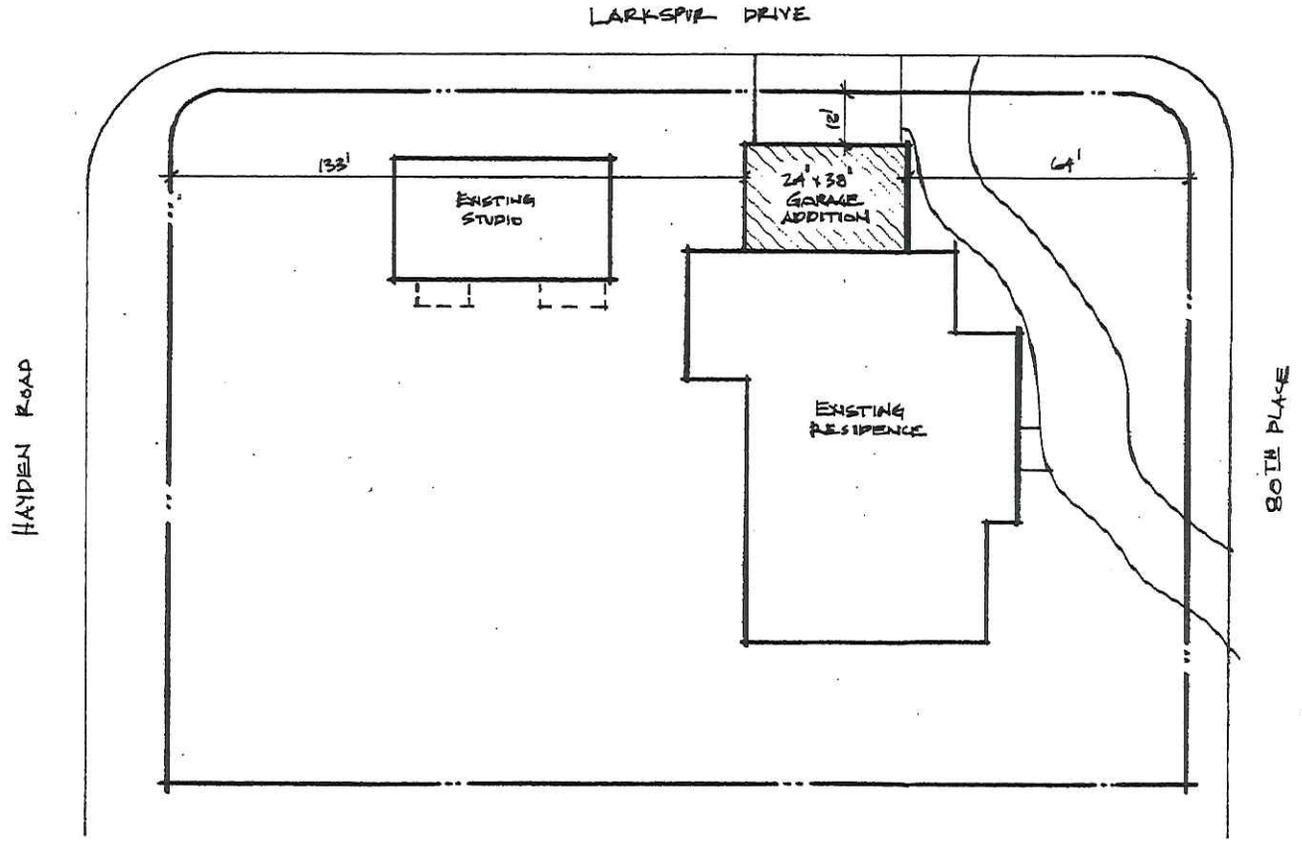
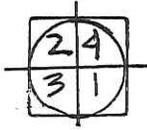
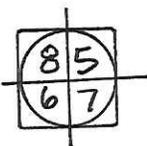
Q.S.  
31-47

2014 GIS Orthophoto

Behar Residence

11-BA-2016

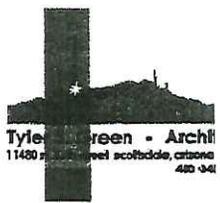
ATTACHMENT #6



site plan  
1" = 20'

PHOTO KEY

**The Behar Residence**  
Garage Addition  
8011 E Larkspur Drive  
Scottsdale, Arizona



Date: 8-3-16  
Revisions:

11-BA-2016  
8/4/2016



2



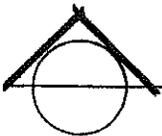
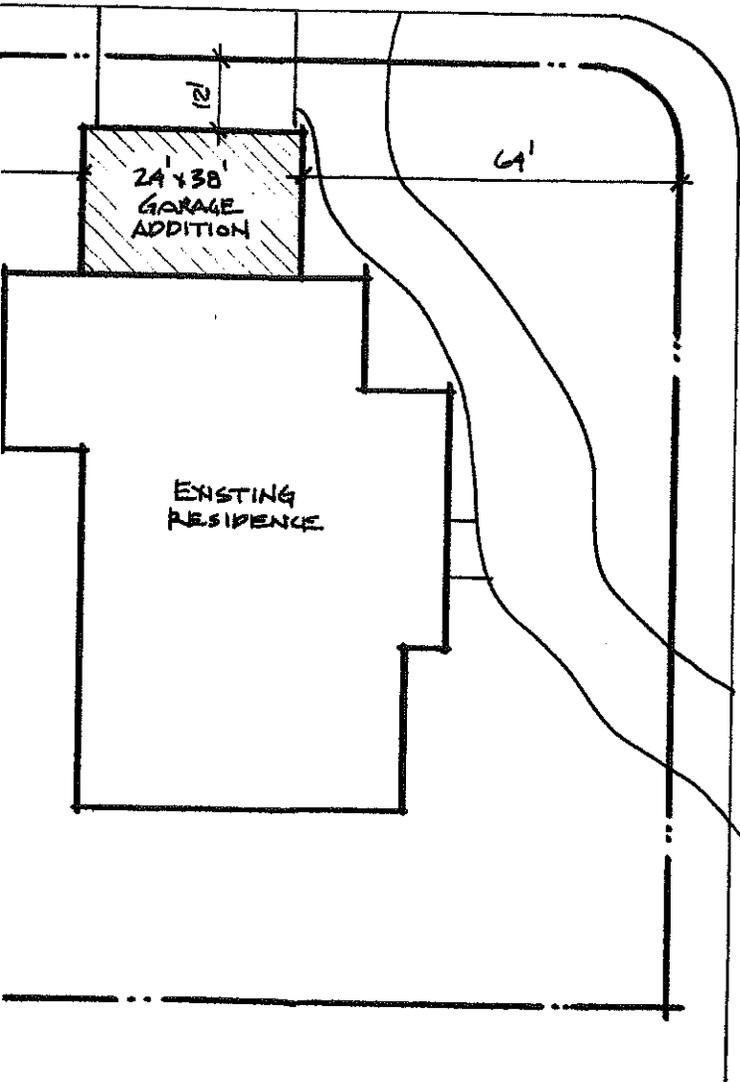
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4



DRIVE



**site plan**

1" = 20'

**The Behar Residence**  
**Garage Addition**  
**8011 E. Larkspur Drive**  
**Scottsdale, Arizona**



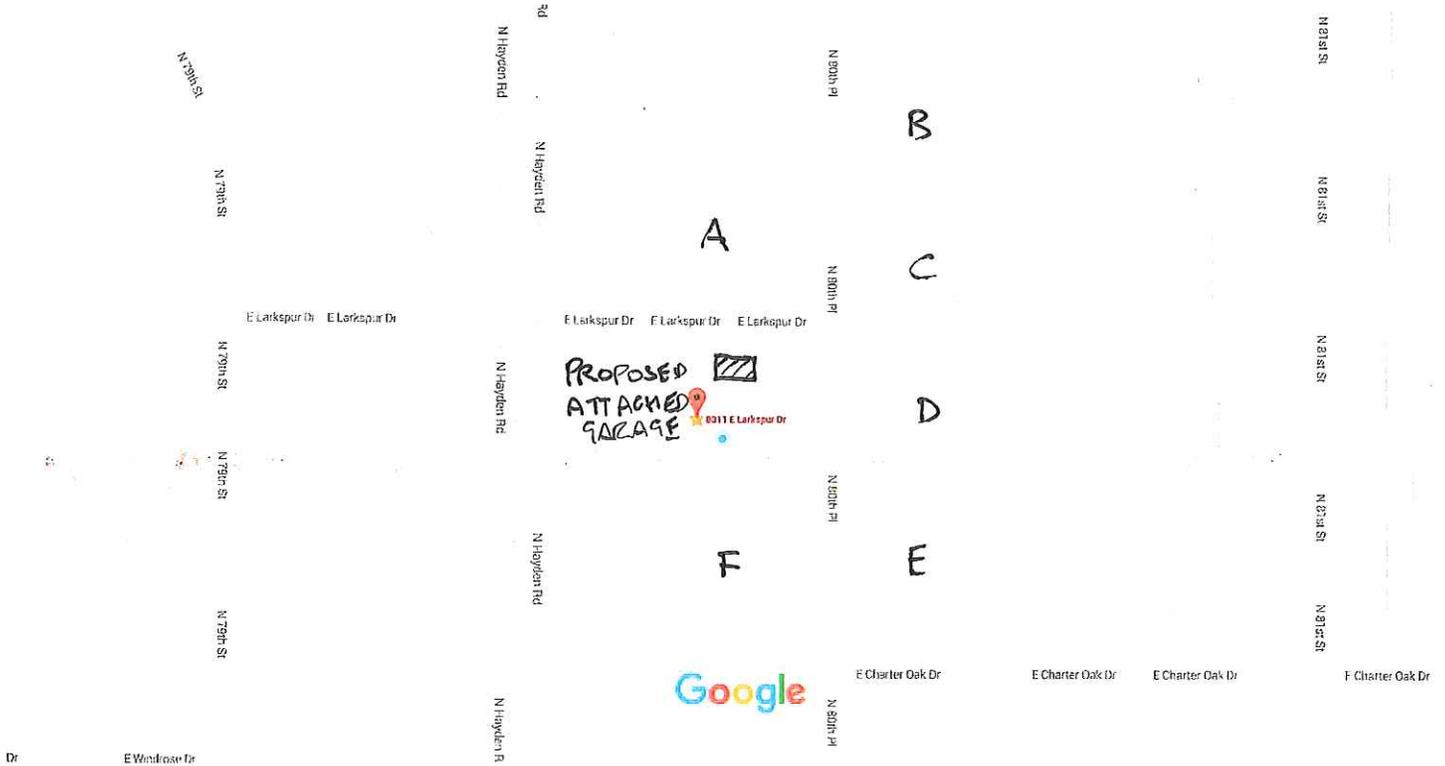
Date: 8-3-16

Revisions:



11-BA-2016  
8/4/2016

# Google Maps 8011 E Larkspur Dr



8011 E Larkspur Dr  
Scottsdale, AZ 85260



Map data ©2016 Google 50 ft

APPROVAL FROM SURROUNDING NEIGHBORS

- A: RECEIVED VERBAL OK ALWAYS OUT OF TOWN NO EMAIL YET.
- B: MARGARET GOODERHAM
- C: JADE & ADAM IZZETT
- D: EDWARD & RUTH PLOTKIN
- E: JORDAN & CHRISSEY GEOTAS
- F: MIKE & YVETTE PETERSON



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Folders (86)

- 518 11th st
- 80th PL redo
- AAA
- AHA
- Aircraft insurance etc
- Alberto condolences
- Alberto estate settl...
- Alberto photos
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- APS
- Arizona
- ATT
- Basis
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- Chase Visa
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- chimera design
- Commune
- contacts
- Cox
- Deleted Messages
- design source
- Direct to UK
- Drafts
- Fencing
- Financial details an...
- funny
- Geus
- health
- helping hubbie
- HOA
- Home insurance
- Home receipts
- House purchase
- household

Re: Construction Approval (2)

EGooder@aol.com

Feb 11 at 2:33 PM

To beharmary@yahoo.com

To Whom It May Concern:

My name is Margaret Gooderham. I reside at 12621 N. 80th Place , Scottsdale, AZ. 85260.

I have no objection to the construction of a garage that Mary Behar is planning. Good Luck and Blessings.

Sincerely,  
Marge



Reply, Reply All or Forward | More

Mary Behar <beharmary@yahoo.com>

Feb 11 at 3:27 PM

To EGooder@aol.com

Thank you so much  
Kindest regards

Mary Behar  
Sent from my iPhone

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- funny
- Geus
- health
- helping hubbie
- HOA
- Home insurance
- Home receipts
- House purchase
- household
- i-tunes

Garage

Jd <jdizzett@yahoo.com>  
To Beharmary@yahoo.com

Jan 24 at 4:12 PM

To whom it may concern

I approve of the garage to be built at the Behar residence. I live at 12609 N 80th pl  
Scottsdale, AZ 85260

Thank you,

**Jade Izzett**  
Regional Practice Manager  
ZELTIQ  
(602) 621-0489 Cell  
[\(888\) 935-8471](tel:8889358471) Customer Care

[www.coolsculpting.com](http://www.coolsculpting.com)



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80th PL redo

AAA

AHA

Aircraft insurance etc

Alberto condolences

Alberto estate settl...

Alberto photos

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APS

Arizona

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Commune

contacts

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Deleted Messages

design source

Direct to UK

Drafts

Fencing

Financial details an...

funny

Geus

Your proposed garage

People

Edward Plotkin <elplotkin@gmail.com>  
To beharmary@yahoo.com

Jan 24 at 2:49 PM

Mary,

We support your application to obtain a permit in order to add an enclosed garage to your home.

Regards,

Edward & Ruth Plotkin  
12473 N. 80th Place  
Scottsdale, AZ 85260  
(480) 250-1384

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beharmary



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chimera design

Commune

contacts

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Deleted Messages

design source

Direct to UK

Drafts

Fencing

Financial details an...

funny

Geus

### Three Car Garage

Jordan Geotas <jordan@geotas.net>  
To beharmary@yahoo.com

Jan 24 at 4:30 PM

Hi Mary,

We wholeheartedly support your three car attached garage on Larkspur. Thank you.

Regards,

Jordan Geotas  
12461 North 80<sup>th</sup> Place  
Scottsdale, Arizona 85260  
Email: [Jordan@Geotas.net](mailto:Jordan@Geotas.net)  
Phone: 602.708.3232; Fax: 480.452-1155



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- Fencing
- Financial details an...
- funny
- Geus
- health
- helping hubbie
- HOA
- Home insurance
- Home receipts
- House purchase
- household
- i-tunes

### Garage approval

People

**Yvette** <ypete01@gmail.com>  
To Beharmary@yahoo.com

Today at 10:57 AM

I approve of the garage addition that is being requested by Mary Behar.

Mike and Yvette Peterson  
Neighbors to the South of Behar residence.

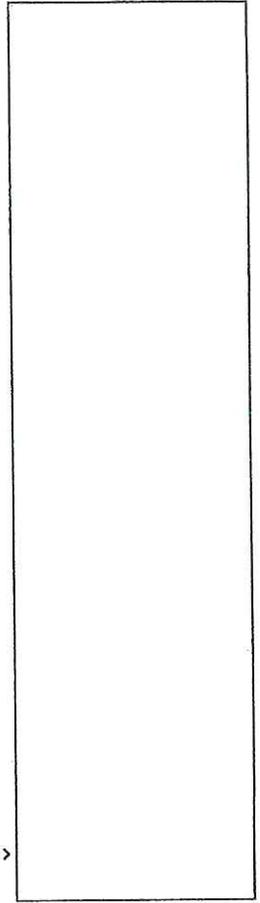
Sent from my iPhone

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F



## Moriarity, Ben

---

**From:** Ruenger, Jeffrey  
**Sent:** Friday, August 12, 2016 11:18 AM  
**To:** McCleary, Rita; Moriarity, Ben  
**Subject:** RE: Report Code Violations (response #592)

Ben, Please see below. Thanks

---

**From:** McCleary, Rita  
**Sent:** Thursday, August 11, 2016 7:44 AM  
**To:** Ruenger, Jeffrey  
**Subject:** FW: Report Code Violations (response #592)

Jeff, not sure if this should be placed with the planning approval. Please advise. Thanks, Rita

---

**From:** Schwandt, Melanie  
**Sent:** Thursday, August 11, 2016 6:59 AM  
**To:** Chalene, Diana; McCleary, Rita; Urias, Katrina M  
**Subject:** FW: Report Code Violations (response #592)

Hi Ladies;

I'm forwarding this complaint to your attention.

Thanks,  
Melanie

---

**From:** Code Enforcement Mail  
**Sent:** Wednesday, August 10, 2016 5:21 PM  
**To:** Code Enforcement Mail  
**Subject:** Report Code Violations (response #592)

## Report Code Violations (response #592)

### Survey Information

Site:	ScottsdaleAZ.gov
Page Title:	Report Code Violations
URL:	<a href="http://www.scottsdaleaz.gov/service-request/report-code-violations">http://www.scottsdaleaz.gov/service-request/report-code-violations</a>
Submission Time/Date:	8/10/2016 5:20:21 PM

### Survey Response

Date:	Wednesday, August 10, 2016
-------	----------------------------

Property address where the violation is located:	8011 E. Larkspur 85260
Please Select Type of Violation:	<div data-bbox="573 243 1222 342" style="border: 1px solid black; padding: 5px;">Other Code/Zoning Violations - Explained in Comments</div> <div data-bbox="573 348 1222 384" style="border: 1px solid black; height: 17px;"></div> <div data-bbox="573 390 1222 426" style="border: 1px solid black; height: 17px;"></div> <div data-bbox="573 432 1222 468" style="border: 1px solid black; height: 17px;"></div> <div data-bbox="573 474 1222 510" style="border: 1px solid black; height: 17px;"></div> <div data-bbox="573 516 1222 552" style="border: 1px solid black; height: 17px;"></div> <div data-bbox="573 558 1222 594" style="border: 1px solid black; height: 17px;"></div> <div data-bbox="573 600 1222 636" style="border: 1px solid black; height: 17px;"></div> <div data-bbox="573 642 1222 678" style="border: 1px solid black; height: 17px;"></div> <div data-bbox="573 684 1222 720" style="border: 1px solid black; height: 17px;"></div> <div data-bbox="573 726 1222 762" style="border: 1px solid black; height: 17px;"></div>
<b>HELP US SERVE YOU BETTER</b>	
<p>If you selected "Graffiti" as a violation type, Surface Locations must be listed or request can not be processed without this information: (on East Block Wall, on Utility Box in front yard, on Stop Sign at NEC corner, etc.) Thank you.</p>	
<p>If you selected "Other Code/Zoning Violations" as a violation type, please explain below:</p>	<p>Hello, I was informed that the resident on the corner of Larkspur and 80th Place is requesting to modify her setback to accommodate a new garage structure she wants to build. The neighbors located near her have received letters from the builder for this request. I know several residents have requested setback changes and the city has taken a firm stance. I hope you will continue to hold people to their current setbacks, and not allow this to pass.</p>
<p>Optional Information If you would like to be contacted regarding the outcome of this complaint, please leave your name and a telephone number where you can be reached between the hours of 8:00 a.m. - 9:30 a.m. and /or 4:00 p.m. - 6 p.m.</p>	
<p>Would you like a member of our staff to contact you?</p>	<div data-bbox="573 1772 716 1835" style="border: 1px solid black; padding: 5px; display: inline-block;">No</div>
<p>Best time to call:</p>	<p>if you need to follow up with me call my cell 480-273-7136</p>

Name:	Neil Wargo
Email Address:	<a href="mailto:ngwargo@gmail.com">ngwargo@gmail.com</a>
Telephone:	480-273-7136
Address:	8147 E. Carol Way