

# BOARD OF ADJUSTMENT REPORT



Meeting Date: 11/2/2016  
Item No.: 2

## ACTION

### Amato Residence Variance 12-BA-2016

#### Request to consider the following:

1. Approve a variance request to the City of Scottsdale Zoning Ordinance, Section 5.304.E.1.a. to reduce the required front yard setback from thirty-five (35) feet to twenty-eight (28) feet; for the property located at 5038 N. Chiquita Lane with Single-family Residential (R1-18) zoning.
2. Approve a variance request to the City of Scottsdale Zoning Ordinance, Section 5.304.E.2. to reduce the required side yard setback along the north property boundary from ten (10) feet to three (3) feet; for the property located at 5038 N. Chiquita Lane with Single-family Residential (R1-18) zoning.
3. Approve a variance request to the City of Scottsdale Zoning Ordinance, Section 5.304.E.3. to reduce the required rear yard setback from thirty (30) feet to thirteen (13) feet; for the property located at 5038 N. Chiquita Lane with Single-family Residential (R1-18) zoning.

## OWNER/APPLICANT CONTACT

Ryan Amato  
602-751-8971

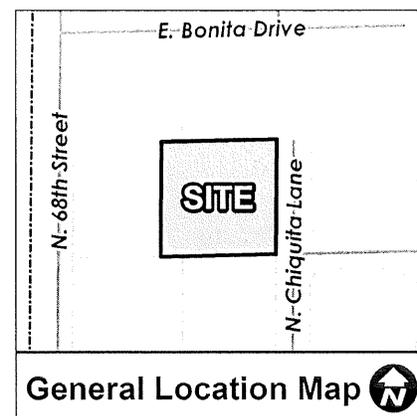
## LOCATION

5038 N. Chiquita Lane

## BACKGROUND

### History

The Maricopa County Assessor's records identify the existing home on the subject parcel was constructed in 1958. The area north of E. Chaparral Road and east of N. 68<sup>th</sup> Street was annexed into the City of Scottsdale on June 5<sup>th</sup> 1979, under Ordinance No. 1213. Following that action,



the City of Scottsdale Single-family Residential (R1-18) zoning was applied to that annexed area on February 19<sup>th</sup> 1980, under Ordinance No. 1275. The footprint of the home on the property still exists today in its original configuration.

### **Zoning/Development Context**

The subject site is zoned Single-family Residential (R1-18) and is located north of E. Chaparral Road and east of N. 68<sup>th</sup> Street, at the termination of N. Chiquita Lane.

### **Adjacent Uses and Zoning**

- North: Arcadia Square II subdivision, zoned Single-family Residential (R1-18); existing single-family residences.
- South: Arcadia Vista Unit No. 2 subdivision, zoned Single-family Residential (R1-18); existing single-family residences.
- East: N. Chiquita Lane abuts the property to the east. Arcadia Vista Unit No. 2 subdivision, zoned Single-family Residential (R1-18); existing single-family residences located further east.
- West: Arcadia Vista Unit No. 2 subdivision, zoned Single-family Residential (R1-18); existing single-family residences.

### **Zoning Ordinance Requirements**

Pursuant to Section 5.304.E.1.a. of the City of Scottsdale Zoning Ordinance, pertaining to the front yard setback: Each lot shall have a front yard having a depth of not less than thirty-five (35) feet.

*The applicant is requesting a variance of seven (7) feet which would reduce the required front yard setback for this parcel from thirty-five (35) feet to twenty-eight (28) feet.*

Pursuant to Section 5.304.E.2. of the City of Scottsdale Zoning Ordinance, pertaining to the side yard setback: Each lot shall have a side yard on each side of a building having a width of ten (10) feet.

*The applicant is requesting a variance of seven (7) feet which would reduce the required side yard setback along the north property boundary for this parcel from ten (10) feet to three (3) feet.*

Pursuant to Section 5.304.E.3. of the City of Scottsdale Zoning Ordinance, pertaining to the rear yard setback: Each lot shall have a rear yard having a depth of not less than thirty (30) feet.

*The applicant is requesting a variance of seventeen (17) feet which would reduce the required rear yard setback for this parcel from thirty (30) feet to thirteen (13) feet.*

Pursuant to Section 1.1304 of the City of Scottsdale Zoning Ordinance, pertaining to the expansion of Non-Conforming structures: Structural enlargements, extensions, reconstruction or modifications to dwellings are permitted if:

- a) The enlargement, extension, reconstruction or modification is made to the ground level story;
- b) The height of any portion of the dwelling is not increased;

- c) The total of the initial and any subsequent enlargement, extension, reconstruction or modification constitutes less than fifty (50) percent of the gross floor area of the existing dwelling; and
- d) The dwelling enlargement, extension, reconstruction, or structural modification conforms to all of the regulations specified by this ordinance for such district in which the dwelling is located.

*The existing structure is considered legal non-conforming as its originally permitted location is encroaching seven (7) feet into the front yard setback and seventeen (17) feet into the rear yard setback currently required by the R1-18 zoning district. Under legal non-conforming status, a structure may only be modified subject to the provisions of Section 1.1304.*

### **Code Enforcement Activity**

There has been no recent code enforcement activity at the subject site.

### **Community Input**

The applicant mailed out notification letters to surrounding property owners within 750 feet of the subject parcel.

The City has sent out hearing postcards to properties within 750 feet of the subject site and posted a sign at the subject site. Staff has not received any comments at the time of writing this report.

### **Discussion**

The existing structure is considered legal non-conforming as its originally permitted location is encroaching six (6) feet and six (6) inches into the front yard setback and encroaching sixteen (16) feet and nine (9) inches into the rear yard setback currently required by the R1-18 zoning district. Under legal non-conforming status, a structure may only be modified subject to the provisions of Section 1.1304.

The applicant is requesting a variance of seven (7) feet which would reduce the required front yard setback for this parcel from thirty-five (35) feet to twenty-eight (28) feet and a variance of seventeen (17) feet which would reduce the required rear yard setback for this parcel from thirty (30) feet to thirteen (13) feet to bring the existing legal non-conforming structure into conformance so that it can be allowed the same rights and privileges that other properties in the R1-18 zoning district have. This would allow the possibility of future expansions for the home, should the owner choose to do so.

In conjunction with resolving the nonconformities of the existing house, the applicant is requesting a variance of seven (7) feet to the required side yard setback along the north property boundary which would reduce that setback for this parcel from ten (10) feet to three (3) feet to allow for the placement of a future garage on the property in a location selected based on the configuration of the existing home and porte-cochere orientation while utilizing access from the existing driveway.

In initial discussions between staff and the applicant, the idea of abandoning a portion of the N. Chiquita Lane right-of-way was discussed but, based on the limited width that could be supported for abandonment, it was determined not to be a likely solution as it would not achieve the needed six (6) feet and six (6) inches of relief to bring the existing structure into conformance with the current front yard setback requirement. Additionally the abandonment would not address relief on the side or rear yard setbacks as requested in this application. Also discussed was the Minor Amendment process, which would allow for the request of a maximum setback reduction of 10%, which too would not resolve the non-conformity and would not achieve the desired relief to any of the setbacks as requested with this application.

## **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 identifies in their narrative that this home was built in 1958. At that time, public rights-of-way were dedicated at approved alignments, but over time as homes were built and lots were developed along Chiquita Lane they deviated from the original master subdivision plan. This led to a distinctive condition where Chiquita Lane resulted in a dead end street without a cul-de-sac, which simply terminates at the rear yard of a residence. As a result of the design of the street, any vehicles which attempt to cut through the neighborhood and unknowingly turn down Chiquita Lane end up at a dead end with no way to easily turn around. Vehicles either have to reverse back down the street or turn into the subject property's north driveway to initiate a 3 point maneuver. This happens quite often and throughout both day and night. Routine trash/recycle service, daily mail delivery, meter readers, general maintenance services and neighborhood events are impacted by the design of the street as all of these vehicles must reverse down the street in order to exit the area. The front yard of this home faces the neighbor's side yard to the east. This issue is exclusive to the property as the dead end condition exists only in front of the subject property. Direct visibility of the proposed garage from any direction will not be impactful given the layout and topography.

Without a side yard variance, a fully enclosed garage would have to be constructed so close to the existing carport that the angle of the carport would be a hindrance and would not allow enough room for vehicles to exit the property by circling the driveway and would result in the elimination of the north driveway. Maneuverability out of the driveway could then only be achieved by reversing vehicles down the south driveway and into Chiquita Lane where other vehicles are frequently reversing simultaneously. This would result in a problematic and chronic safety issue. The north property boundary is unique in that it is also the rear yard of the neighbor to the north. The required 10 foot side yard setback exists to prevent homes and/or structures being constructed too close to each other. Given that this is the neighbor's rear yard, there would still remain approximately 63 feet of

separation between the rear of their home and the proposed garage and approximately 50 feet of separation between their garage and the proposed garage. This neighbor also has a row of 15-20 foot tall oleanders that border this property line which mitigate visual impacts to their property.

There are two older septic tanks on the property which limit the locations where a garage could be proposed on the property. The first septic tank is located just north of the home with a 4 inch PVC pipe that runs approximately 25 feet to the northwest into a seepage pit and is original to the home. The second septic tank is located on the southern part of the home and is designed differently than the first. It includes an underground 4 inch perforated pipe that runs approximately 40 feet to the south of the septic tank into a leach field. This tank is approximately 25 years old. Any heavy compacting of the earth over the distribution lines or leach field will negate its effectiveness. Both septic tanks are constructed of concrete and are not rated to be built upon or to handle the weight of vehicular traffic.

After realizing the home was built within the current setbacks, the property owners initially submitted an application to discuss a partial abandonment of Chiquita Lane. After meeting with the City of Scottsdale, the information received was that an abandonment would not be sufficient to correct all of the non-conformance issues regarding the front and rear yard setbacks. Another process for Minor Amendments was discussed which allows a 10% setback reduction that would grant 3.5 feet of variance to the front yard setback but that doesn't fix the rear yard setback and neither does the abandonment process. The comprehensive variances requested, cover all issues and is the most complete solution.

Staff Analysis:

Variance #1:

Front yard setback: The existing house on the subject site was constructed in 1958, prior to annexation into the City of Scottsdale in 1979, and is considered legal non-conforming as its originally permitted location is encroaching six (6) feet and six (6) inches into the thirty-five (35) foot front yard setback currently required by the R1-18 zoning district and is restricted by the provisions of Section 1.1304 of the Zoning Ordinance. Pursuing a partial right-of-way Abandonment or Minor Amendment approval would not yield sufficient relief to resolve the existing setback encroachments on the property.

Variance #2:

Side yard setback: The subject property is similar in size, shape, and topography as other properties in the neighborhood and within the R1-18 zoning district. The existing side yard along the northern boundary of the subject property directly abuts the rear yard of the neighboring property to its north, as opposed to the typical side yard to side yard abutment which occurs along the southern boundary of the subject property. Detached accessory structures located between the front and rear plane of a main structure are required to adhere to the side yard setback required by the zoning district.

Variance #3:

Rear yard setback: The existing house on the subject site was constructed in 1958, prior to annexation into the City of Scottsdale in 1979, and is considered legal non-conforming as its originally permitted location is encroaching sixteen (16) feet and nine (9) inches into the thirty (30) foot rear yard setback currently required by the R1-18 zoning district and is restricted by the provisions of Section 1.1304 of the Zoning Ordinance.

- 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 identifies in their narrative that the majority of the neighboring homes were originally built during the same time frame and appear to have been built to a different set of development standards which do not comply with Scottsdale's current development standards, making them similarly non-conforming. Every other home on Chiquita Lane, except for one, has enclosed garages. The majority of the immediate neighboring homes had their garages originally built at a 20 foot front yard setback. The neighbor at 5024 N. Chiquita Lane has a garage built at a 20 foot front yard setback, the neighbor at 5020 N. Chiquita Lane has a garage built at an 18 foot front yard setback, and the neighbor at 6812 E. Chaparral Road has a garage built at a 27 foot front yard setback. The neighbor at 6850 E. Pasadena Avenue has a home built at a 2 foot rear yard setback. This request is to be able to enjoy the same rights and privileges that the majority of the neighbors have and as such this would not be providing special privilege. Similar to this request, the neighbor at 6833 E. Pasadena Avenue was granted a similar variance in 2013.

As a result of vehicles often ending up in the driveway at night, there is an inherent risk of theft to this property and the neighborhood. In 2009, there was an attempted home invasion at the subject property. The responding police officers explained that the unique characteristics and design of the dead end street may have contributed to the break in attempt due to very limited neighbor visibility. A detached garage would allow for the storage of vehicles in a safe and secure structure. The immediate neighbor to the south rents their home on a short term rental website called "Airbnb". This neighborhood has experienced many problems with transient short term renters. Given the size of the homes in this neighborhood, many short term, transient renters host large parties that frequently consist of more than 30+ cars being parked in the dead end as well as up and down the street. The applicant identifies in their narrative that the Scottsdale Police Department has responded to this home 3 times in the last 60 days. With the passage of SB 1350 there will be potential for any neighbor to open their homes to short term transient renters, further requiring the need to enclose vehicles and property for safety and security purposes.

In their narrative the applicant identifies that the proposed location of the garage is the only functional location on the property and that enclosing the existing carport is not a practical solution for the following reasons:

- Enclosure would require eliminating the front door to the residence.
- Constructing the required walls and doors would not allow a minimum depth in order to park vehicles within the existing parameters of the structure.
- Enclosure would present the maneuverability and egress issues by reversing vehicles out of the south driveway entry and into the dead end of Chiquita Lane where other vehicles are frequently reversing simultaneously.
- Due to the location of the carport within relation to the layout of the existing home, enclosing the carport in the middle of the front yard would be impractical.

Staff Analysis:

Variance #1:

Front yard setback: The existing house on the subject site was constructed in 1958 and is considered legal non-conforming. The R1-18 zoning district allows for primary use as a single-family residence, however modifications to the home are largely prohibited without a variance due to the non-conforming status. Regardless of the outcome of this variance request, the existing structure can continue to function as a single-family residence.

Variance #2:

Side yard setback: The existing configuration of the home and associated improvements on this property may limit the functional location of a proposed garage addition on the subject property. The R1-18 zoning district allows for primary use as a single-family residence. Regardless of the outcome of this variance request, the existing main residence structure can continue to function as a single-family residence and the adjacent carport can still be utilized. The existing carport on the subject site could be enclosed provided the non-conforming status of the existing home is remedied through the granting of front yard and rear yard setback variances.

Variance #3:

Rear yard setback: The existing house on the subject site was constructed in 1958 and is considered legal non-conforming. The R1-18 zoning district allows for primary use as a single-family residence, however modifications to the home are largely prohibited without a variance due to the non-conforming status. 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 identifies in their narrative that this existing home was originally built in 1958 and was annexed from Maricopa County by the City of Scottsdale in 1979. In 1980 the City of Scottsdale changed the zoning to R1-18, per ordinance 1275. Research did not lead to the previous Maricopa County zoning but it can be assumed that the design guidelines and setback restrictions were different at that time. The home was purchased by the current owner in 2007.

Staff Analysis:

Variance #1:

Front yard setback: The house on the subject site was constructed in 1958, prior to annexation into the City of Scottsdale in 1979. Staff was not able to identify the applicable County property development standards that would have applied to the property prior to annexation by the City.

Variance #2:

Side yard setback: The subject property is similar in size, shape, and topography as other properties in the neighborhood and within the R1-18 zoning district. The side yard along the northern boundary of the subject property directly abuts the rear yard of the neighboring property to its north, as opposed to the typical side yard to side yard abutment which occurs along the southern boundary of the subject property. Detached accessory structures located between the front and rear plane of a main structure are required to adhere to the side yard setback of the zoning district. Staff was not able to identify the applicable County property development standards that would have applied to the property prior to annexation by the City. The existing carport on the subject site could be enclosed provided the non-conforming status of the existing home is remedied through the granting of front yard and rear yard setback variances.

Variance #3:

Rear yard setback: The house on the subject site was constructed in 1958, prior to annexation into the City of Scottsdale in 1979. Staff was not able to identify the applicable County property development standards that would have applied to the property prior to annexation by the City.

**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 identifies in their narrative that in an effort to ensure the requested side yard variance would not be detrimental to or adversely impact the neighbor living to the north, the property located at 6815 E. Bonita Drive, they proactively engaged in several discussions with said neighbors as well as many others in the neighborhood. It is clear the north property would be most impacted by the proposed side yard variance as the side yard of the subject property is also the rear yard of the north property. A written statement of support from those owners (Craig and Susan Harris) was included with the application, along with several other letters of support from surrounding neighbors. The construction of the proposed garage will match the integrity of the existing house and will be done in such a manner as to enhance the existing home.

Staff Analysis:

Variance #1:

Front yard setback: The building footprint on the subject property appears to still exist in its original configuration, and granting the requested variance would allow it to be brought into conformance with the zoning requirements. The proposed garage addition does not extend closer to the property frontage than the existing porte-cochere. There are no known neighborhood objections to this variance request as of the writing of this report.

The intent of the required setbacks along street frontages is to create an open residential character, to establish view corridors, and to maintain uninterrupted visual continuity with adjacent lot setbacks for main buildings. The other three properties, to the south of the subject property, along the west side of N. Chiquita Lane have existing homes which also encroach into the currently required thirty-five (35) foot front yard setback. In 2013 the property located at 6833 E. Pasadena Avenue, along the east side of N. Chiquita Lane, was granted a variance to the required front yard setback to resolve its originally constructed non-conformity.

Variance #2:

Side yard setback: The intent of the required side yard setbacks is to create an open residential character, to establish view corridors, and to maintain uninterrupted visual continuity with adjacent lot setbacks for main buildings. The proposed northern side yard setback of the subject property combined with the required thirty (30) foot rear yard setback of the adjacent property to its north combine to create a larger buffer than the typical ten (10) foot side yard setback adjacent to ten (10) foot side yard setback that occurs along the southern boundary of the subject property. There are no known neighborhood objections to this variance request as of the writing of this report.

Variance #3:

Rear yard setback: The building footprint on the property appears to still exist in its original configuration, granting the requested variance would allow it to be brought into conformance with the zoning requirements. There does not appear to be any other homes in the immediate area that have a similar rear yard encroachment. There are no known neighborhood objections to this variance request as of the writing of this report.

## SUMMARY

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Variance #1:

Front yard setback: Based on the facts presented by the applicant, the evidence would support a finding that the property may have special circumstances that would warrant relief from the strict application of the Zoning Ordinance requirements. The configuration of the existing improvements on the subject property and the improvements of surroundings properties are unique and applicable. Further, the applicant's proposed variance does not appear that it would

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.

Variance #2:

Side yard setback: Based on the facts presented by the applicant, the evidence would support a finding that the property may have special circumstances that would warrant relief from the strict application of the Zoning Ordinance requirements. The configuration of the existing improvements on the subject property and the improvements of surrounding properties are unique and applicable. Further, the applicant's proposed variance does not appear that it would 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.

Variance #3:

Rear yard setback: Based on the facts presented by the applicant, the evidence would support a finding that the property may have special circumstances that would warrant relief from the strict application of the Zoning Ordinance requirements. The configuration of the existing improvements on the subject property and the improvements of surroundings properties are unique and applicable. Further, the applicant's proposed variance does not appear that it would 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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\_\_\_\_\_  
Jeff Barnes, Report Author

10/6/16  
\_\_\_\_\_  
Date

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

10.13.2016  
\_\_\_\_\_  
Date

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

10/19/2016  
\_\_\_\_\_  
Date

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

10/20/16  
\_\_\_\_\_  
Date

**ATTACHMENTS**

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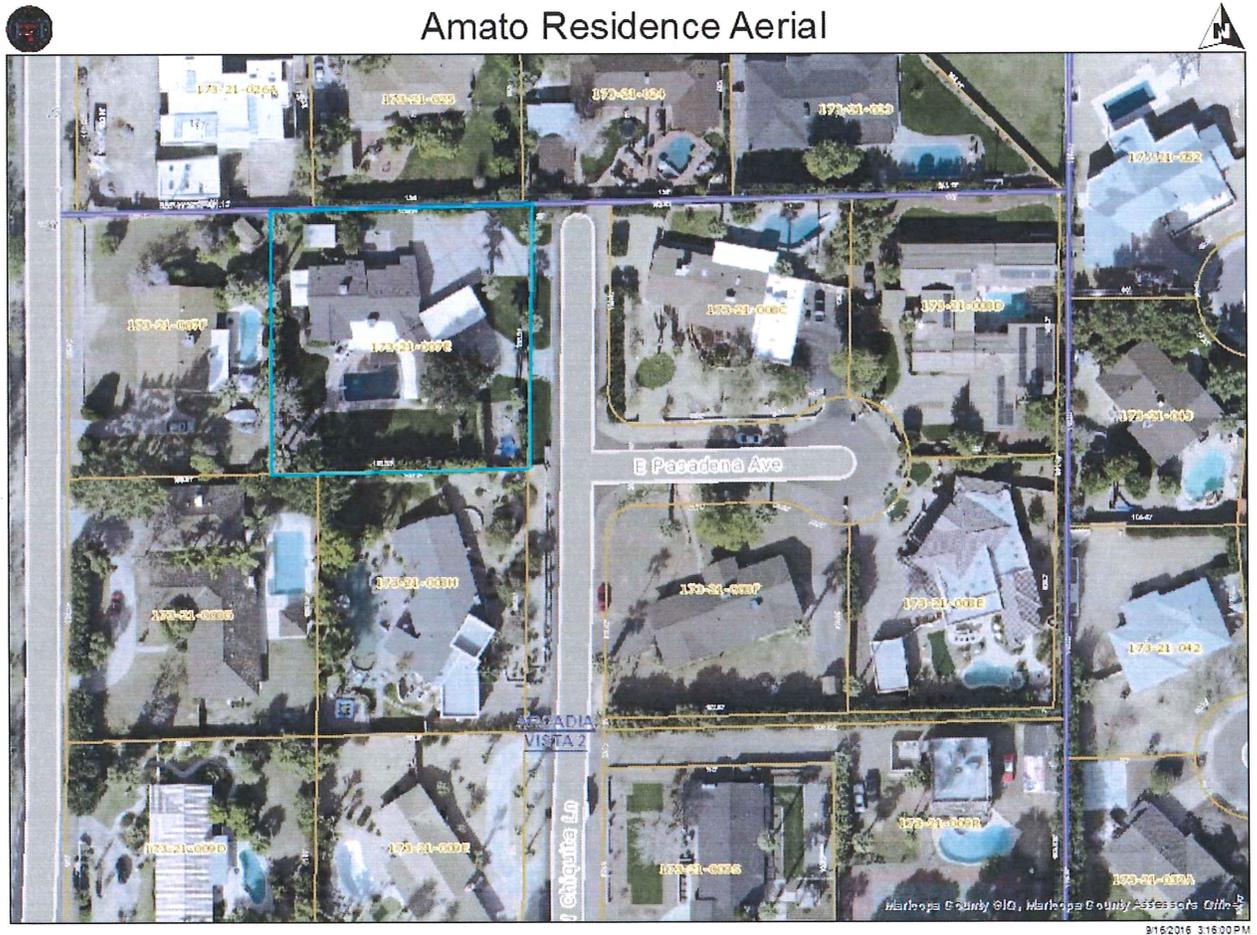
- 1. Project Narrative
- 2. Context Aerial
- 3. Aerial Close-Up
- 4. Aerial Close-Up (rotated)
- 5. Zoning Map
- 6. Proposed Site Plan

# NARRATIVE REPORT

## A Variance Request for Ryan and Laurie Amato

Location: 5038 N Chiquita Lane  
Paradise Valley AZ 85253

Project: 678-PA-2016



### **Purpose of Request;**

This is a variance request to bring the existing home located at 5038 North Chiquita Lane also known as Maricopa County Assessor's Parcel Number 173-21-007 E, into compliance with front and rear yard setbacks and a variance for the side yard setback to the north property boundary in order to construct a detached garage.

Via this application I am requesting a variance from Section 5.304.E.1.a (front yard), 5.304.E.2 (side yard), and 5.304.E.3 (rear yard) of the City of Scottsdale Zoning Ordinance.

In particular, I am requesting to bring the encroachment of the front and rear of the home, as it was originally constructed in 1958, into compliance. The leading edge of the homes carport was originally constructed at a 28.5' setback (35' required) and the rear of the home was originally constructed at a 13.97' setback (30' required). I am requesting a variance to allow a reduction of the side yard setback on the north property boundary to 3' (10' required).

### **Description of Project**

Proposed detached garage on the north side of a residential property in Arcadia Estates 2.

### **Relationship To and Character Of Surrounding Properties**

This property is surrounded on all sides by similar residential parcels that are also in the R1-18 zoning district. The surrounding properties can be generally characterized as an established residential area with homes that are well maintained. Considering the age of the neighborhood (1950's era) it remains vibrant and stable. It is apparent that the majority of the lots within Arcadia Vista 2 do not comply with Scottsdale's current development standards for setbacks.

### **Special Circumstances and Conditions**

This property has special circumstances and conditions that provide appropriate rationale and justification for approving the variances as requested. Those special circumstances and conditions are presented as follows:

1. Regarding the request to allow a reduction of the side yard setback on the north property boundary to 4':

**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, I offer the following reasons:**

- This home was built in 1958. At that time, public rights-of-ways were dedicated at approved alignments. Over the years as homes were built and lots developed, it appears that at some point, construction of Chiquita Lane deviated from the original master subdivision plan and was built as a dead end street without a cul de sac. This distinctive condition resulted in a road that simply terminates at the rear yard of a residence. As a result of the design of the

street, any vehicles which attempt to cut through the neighborhood and unknowingly turn down Chiquita Lane end up at a dead end with no way to easily turn around. Vehicles either have to reverse back down the street or turn into the subject property's north driveway to initiate a 3 point maneuver. This happens quite often and throughout both day and night. Routine trash/recycle service, daily mail delivery, meter readers, general maintenance services and neighborhood events are impacted by the design of the street as all of these vehicles must reverse down the street in order to exit the area.

The front yard of the home faces the neighbor's side yard. This issue is exclusive to the property as the dead end condition exists only in my front yard. Line of sight visibility to the proposed garage from any direction is very limited given the layout and topography.



Without a side yard variance, a fully enclosed garage would have to be constructed so close to the existing carport that the angle of the carport would be a hindrance and would not allow enough room for vehicles to exit the property by circling the driveway and would result in the elimination of the north driveway. Maneuverability out of the driveway could only be achieved by reversing vehicles down the south driveway and into Chiquita Lane where other vehicles are frequently reversing simultaneously, which would result in a problematic and chronic safety issue.

- The proposed variance is for the north *side yard* of the subject property. The north property boundary is unique in that it is also the *rear yard* of the neighbor (Craig and Susan Harris /

6815 E Bonita) to the north. The required 10' side yard setback exists to prevent homes and/or structures being constructed too close to each other. Given that this is the neighbor's rear yard property boundary, there would remain approximately 63' of separation between the rear of their home and the proposed garage and approximately 50' of separation between their garage and the proposed garage. Additionally, this neighbor has a row of 15-20' high oleanders that border this property line.

- Once again, the north property boundary is unique in that it is also the *rear yard* of the neighbor (Dr Seth and Allison Oesch / 6823 E Bonita) to the north. Given that this is the neighbor's rear yard property boundary, there would remain approximately 40' of minimum separation between the garage in their rear yard and my proposed garage.



- There are two older septic tanks on the property which preclude the construction of a detached structure on top of or directly adjacent to them. The first septic tank is located just north of the home with a 4 inch PVC pipe that runs approximately 25' to the northwest into a seepage pit. The second septic tank is located on the southern part of the home and is designed differently than the first. It includes an underground 4" perforated pipe that runs approximately 40' to the south of the septic tank into a leach field. Any heavy



**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 I offer the following reasons:**

- The majority of homes in the neighborhood were originally built during the same time frame and were built to a different set of development standards making them similarly non-conforming. By way of example;
- Neighbor at 5024 Chiquita Ln has a fully enclosed garage built to a 20' front yard setback
- Neighbor at 5015 Chiquita Ln has a fully enclosed garage built to a 7' side yard setback.
- Neighbor at 5025 Chiquita Ln has a fully enclosed garage built to a 5' side yard setback.
- Neighbors to the north have fully enclosed garages in the rear yard within the required rear yard setback.
  
- Every home on Chiquita Lane with the exception of only one, have fully enclosed garages.
  
- In 2009, there was an attempted home invasion at the subject property. The responding police officers explained that the unique characteristics and design of the dead end street may have contributed to the break in attempt due to very limited neighbor visibility. A detached garage would allow for the storage of vehicles in a safe and secure structure.
  
- The immediate neighbor to the South rents their home on a short term rental website called "Airbnb" which is currently in violation of the City of Scottsdale R1-18 zoning code. However, the recent passage of Senate Bill 1350 will allow this use in residential zoning districts commencing Jan 1, 2017. My neighborhood has experienced many problems with transient short term renters. Given the size of the homes in this neighborhood, many short term, transient renters host large parties that frequently consist of more than 30+ cars which often times end up parking in the dead end as well as up and down the street. As of the date this narrative was written, the Scottsdale Police Department has responded to this home three times in the last sixty days. The passage of this bill will allow for any neighbor to open their homes to short term transient renters, further requiring the need to enclose vehicles and property for safety and security purposes.

I am asking to be able to enjoy the same rights and privileges that the majority of my neighbors have and as such do not believe this would provide me with special privilege.

**That the special circumstances applicable to the property were not self-imposed or created by the owner or applicant I offer the following reasons:**

- This existing home was originally built in 1958 and was annexed from Maricopa County by the City of Scottsdale in 1979; in 1980 the City of Scottsdale changed the zoning to R1-18, per ordinance 1275. Research did not lead to the previous zoning so it is assumed that the design guidelines and setback restrictions were different at that time. The home was purchased by the current owner in 2007.

**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:**

- In an effort to ensure the requested side yard variance would not be detrimental to or adversely impact the neighbor living to the North at 6815 E Bonita, I have proactively engaged in several discussions with said neighbors (Craig and Susan Harris) as well as many other neighbors. It is clear the Harris' property would be most impacted by the proposed side yard variance as the side yard of the subject property line is also the Harris' rear yard property line. In addition, a written statement of Craig and Susan Harris' support is also included with this application along with other letters of support.
- The construction of the proposed garage will match the integrity of the existing house and will be done in such a manner as to enhance the existing home.

2. Regarding the request to bring the existing encroachment of the home in the front yard setback currently constructed at 28.5' (35' required) and the existing encroachment of the home in the rear yard setback currently constructed at 13.97' (30' required) into compliance, I offer the following reasons.

**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 I offer the following reasons.**

When I realized the home was built within the current setbacks, I initially submitted a pre application for a partial abandonment of Chiquita Lane. I met with the City of Scottsdale during the pre-application meeting and realized that an abandonment was not enough to correct all of the non-conformance issues regarding the front and rear yard setbacks. Scottsdale code allows a 10% minor variance process that would grant 3.5' of variance to the front yard setback but that doesn't fix the rear yard setback and neither does the abandonment process. The comprehensive variance that I am requesting however, encompasses all issues and is the most complete if you approve it.

**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 I offer the following reasons:**

- The majority of my neighbor's homes were originally built during the same time frame and were built to a different set of development standards and do not comply with Scottsdale's current development standards, making them similarly non-conforming. Every other home on the street except for one, have enclosed garages. In fact, the majority of my immediate neighbors built their garages to a 20' front yard setback and currently remain at 20'. By way of example; Neighbor at address 5024 Chiquita has a garage built at 20' front yard setback. Neighbor at 5020 Chiquita Lane has a garage built at 18' front yard setback. Neighbor at 6812 Chaparral has a garage built at 27' front yard setback. Neighbor at address 6850 Pasadena has a home built at 2' rear yard setback. Neighbor at 6833 E Pasadena (Project # 256-PA-2013) was granted a similar variance in 2013. I am asking to be able to enjoy the

same rights and privileges that the majority of my neighbors have and as such do not believe this would provide me with special privilege.

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

- This existing home was originally built in 1958 and was annexed from Maricopa County by the City of Scottsdale in 1979; in 1980 the City of Scottsdale changed the zoning to R1-18, per ordinance 1275. Research did not lead to the previous zoning so it is assumed that the design guidelines and setback restrictions were different at that time. The home was purchased the current owner in 2007.

**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:**

- In an effort to ensure the requested side yard variance would not be detrimental to or adversely impact the neighbor living to the North at 6815 E Bonita, I have proactively engaged in several discussions with said neighbors (Craig and Susan Harris) as well as many other neighbors. It is clear the Harris' property would be most impacted by the proposed side yard variance as the side yard of the subject property line is also the Harris' rear yard property line. In addition, a written statement of Craig and Susan Harris' support is also included with this application along with other letters of support. At the time of this submittal I have not been made aware of any neighbor opposition.
- The construction of the proposed garage will match the integrity of the existing house and will be done in such a manner as to enhance the existing home.

The special circumstances and conditions that justify granting the requested variances were not created by the owner. The dynamic of the situation is a result of decades of historic lot development and home construction. In some cases, these deviations have been formally permitted by the City of Scottsdale via its plan review/ approval process. Accordingly, I simply want to enjoy the same property use as the other homeowners in Arcadia Vista 2.

Without the granting of the requested variances, I will not be able to enjoy my reasonable and substantial property rights to use and improve this property - like many other dwellings existing in the area. Enforcement of the current building setbacks would not allow me to effectively use my property. Authorization of this variance request will not be materially detrimental to persons in the vicinity, adjacent homes, the neighborhood, or adversely impact the public welfare. This parcel is surrounded by many existing residential properties that do not consistently conform to the City of Scottsdale standards for building setbacks.

Additionally, the aforementioned nonconformance of existing homes in Arcadia Vista 2 has not negatively impacted the neighborhood. I would note that Arcadia Vista 2 is one of the most well maintained and vibrant residential neighborhoods in the City of Scottsdale. Stable/increasing property values and ongoing investment in these existing homes are a clear indicator that prior reductions in building setbacks has not been detrimental in any form.

Exhibit A  
Aerials / Photographs



# 5038 N Chiquita Lane Aerial

Subject Property overview

5038 N Chiquita Ln

Google earth

© 2016 Google



100 ft











Exhibit C  
Neighbor Mailer

Dear Neighbor,

Project: 678-PA-2016

The purpose of this letter is to inform you that my wife and I, Ryan and Laurie Amato will be submitting a variance request to the Board of Adjustment with the City of Scottsdale in order to construct a detached garage. Part of this process requires me to send you this letter of notification. My home is located at 5038 North Chiquita Lane, Paradise Valley, AZ 85253.

Variance Requests:

- Proposed front and rear yard setback variance. The home was built in 1958 and is currently legal non-conforming due to a change in the setbacks since the time the home was built. The purpose of this variance is to allow the existing structure to become compliant.
  
- Proposed side yard variance. The purpose of this variance is to allow for the required area to construct a garage due to special circumstances with respect to existing structures on the property as well as the ability to construct a garage with a functional standard depth.

A hearing date has not yet been set. The City will notice you by mail once the date is known. You are welcome to contact me at any time to discuss further via email or phone.

Ryan / Laurie Amato  
5038 N Chiquita Lane  
PV AZ 85253

[wamato@sprynet.com](mailto:wamato@sprynet.com)  
602 751 8971

**Exhibit D**  
**Letters of Support**

Craig and Susan Harris  
6815 E Bonita Dr  
Paradise Valley 85253

September 12, 2016

To City of Scottsdale Board of Adjustment:

I am a neighbor of Ryan and Laurie Amato. They have met with us and shared their thoughts in regard to having a side yard variance and a front and rear yard setback variance. Our property is directly North of their side yard and would be considered to be the property most affected by their variance request(s). I am in full support of these requests and do not feel this would be granting them special privilege nor do I feel this would be detrimental to my property in any way.

Sincerely,

Craig Harris



480-746-7706

James and Kathryn Heffernan  
5025 North Monte Vista Drive  
Scottsdale, Arizona 85253

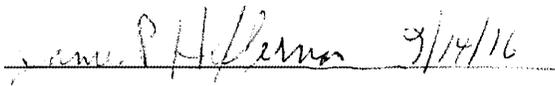
September 14, 2016

To City of Scottsdale Board of Adjustment:

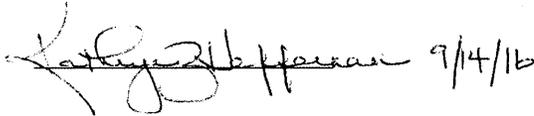
We are neighbors of Ryan and Laurie Amato. Our home is to the southwest of their property, and we share a short common side-yard property line. Ryan has described the proposed side yard variance and a front and rear yard setback variance. We do not believe that our property would be in any way affected by their variance request(s). I am in full support of these requests and do not feel this would be granting them special privilege nor do I feel this would be detrimental to my property in any way.

Sincerely,

James Heffernan

 James Heffernan 9/14/16

Kathryn Heffernan

 Kathryn Heffernan 9/14/16

**Ryan Amato**

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**From:** Rocco Bianchi <xroccox@yahoo.com>  
**Sent:** Friday, September 16, 2016 4:25 PM  
**To:** Ryan Amato  
**Subject:** Rocco  
**Attachments:** Blank.pdf; Untitled attachment 00071.txt

Hi Ryan,

This is the first time I've used this program on my iPad. Let me know that this came through OK.

9/16/2016

To: City of Scottsdale

Re: Amato Variance

I am a neighbor of Ryan and Laurie Amato. I met with Ryan recently to look at his proposed project. I feel the variances requested would not have a negative impact on our neighborhood. I would be in support of granting his requested variances and feel this would be an overall positive for the surrounding homes.

Best regards,

Rocco Bianchi  
5015 N. Chiquita Lane  
Paradise Valley, AZ 85253  
480-239-7958

Paul & Susan Leonard  
6834 E Pasadena Ave  
Paradise Valley 85253

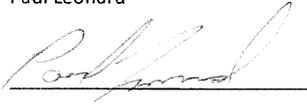
September 12, 2016

To City of Scottsdale Board of Adjustment:

I am a neighbor of Ryan and Laurie Amato. They have met with us and shared their thoughts in regard to having a side yard variance and a front and rear yard setback variance. Our property is east of Ryan's and Laurie's property. I am in full support of these requests and do not feel this would be granting them special privilege nor do I feel this would be detrimental to my property in any way.

Sincerely,

Paul Leonard

A handwritten signature in cursive script, appearing to read "Paul Leonard", is written over a horizontal line.

Alfredo and Jennifer Dreyfus  
6850 E. Pasadena Ave  
Paradise Valley 85253

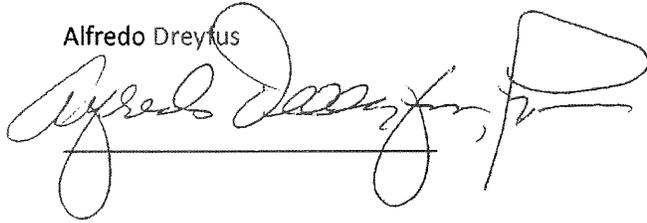
September 26, 2016

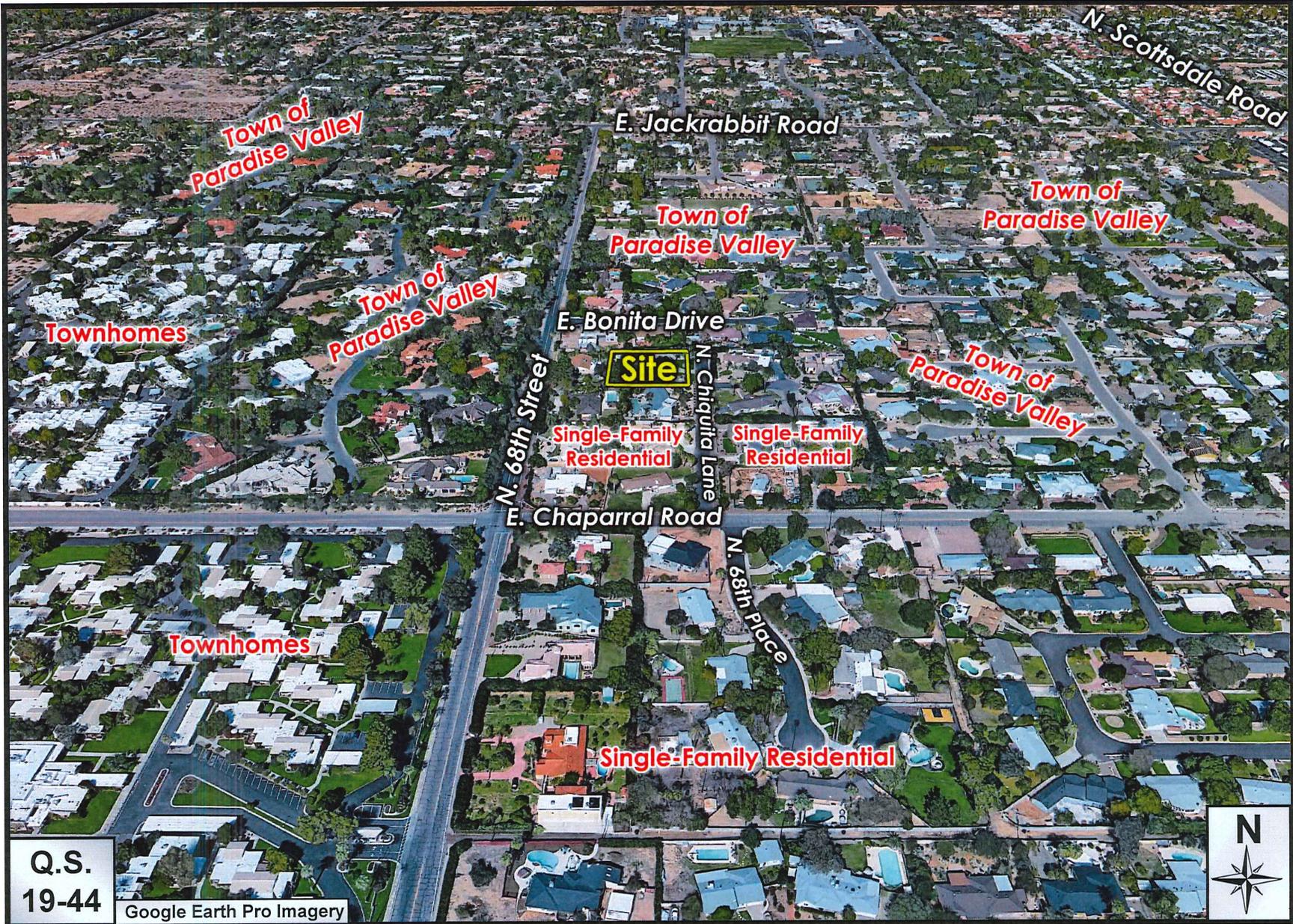
To City of Scottsdale Board of Adjustment:

My wife and I are neighbors of Ryan and Laurie Amato. They have met with us and shared their thoughts in regard to having a side yard variance and a front and rear yard setback variance. Our property is just East of their yard and would be considered a property potentially affected by their variance request(s). I am in full support of these requests and do not feel this would be granting them special privilege nor do I feel this would be detrimental to my property in any way. Please feel free to reach out to me if you'd like to discuss at further length, Cell 480-861-0420.

Thank you,

Alfredo Dreyfus

A handwritten signature in black ink, appearing to read "Alfredo Dreyfus", with a horizontal line drawn underneath it. The signature is stylized and includes a large loop at the end.



Q.S.  
19-44

Google Earth Pro Imagery

# Amato Residence Variance

Attachment #2

**12-BA-2016**

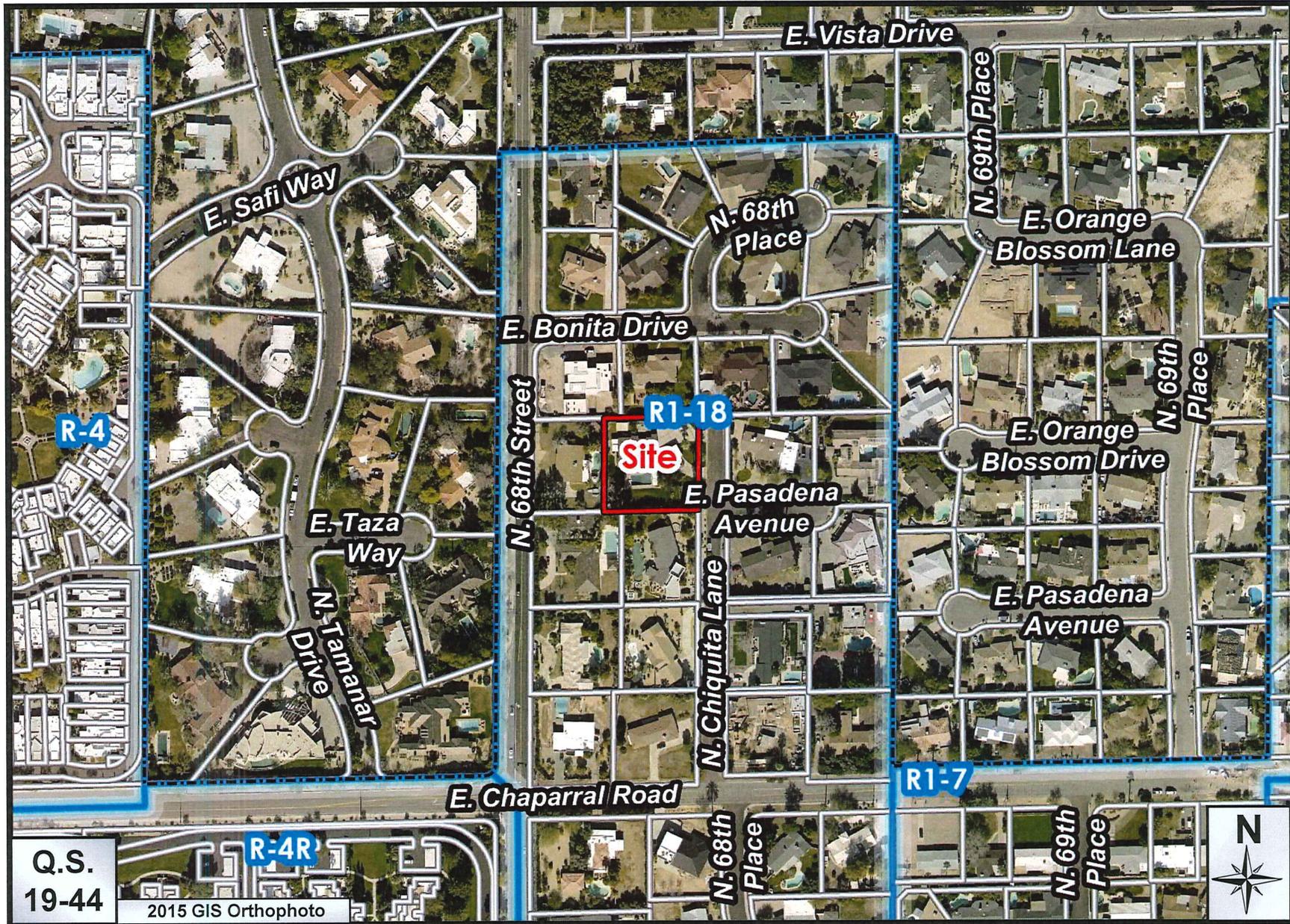


Amato Residence Variance

Attachment #3

12-BA-2016





Q.S.  
19-44

2015 GIS Orthophoto

# Amato Residence Variance

Attachment #5

12-BA-2016

