

**Marked Agendas  
Approved Minutes  
Approved Reports**

# BURDEN OF ADJUSTMENT REPORT



Meeting Date: 2/7/2018  
Item No.: 3

## ACTION

**3420 N. 62<sup>nd</sup> Place Garage**  
**8-BA-2017**

**Request to consider the following:**

1. Approve a request by owner for a variance to the City of Scottsdale Zoning Ordinance, Section 5.504.E.1, pertaining to the required front yard setback for a property with Single-family Residential (R1-7) zoning, located at 3420 N. 62<sup>nd</sup> Place.

## OWNER

Josh Wein  
480-432-4771

## LOCATION

3420 N. 62<sup>nd</sup> Place

## BACKGROUND

### History

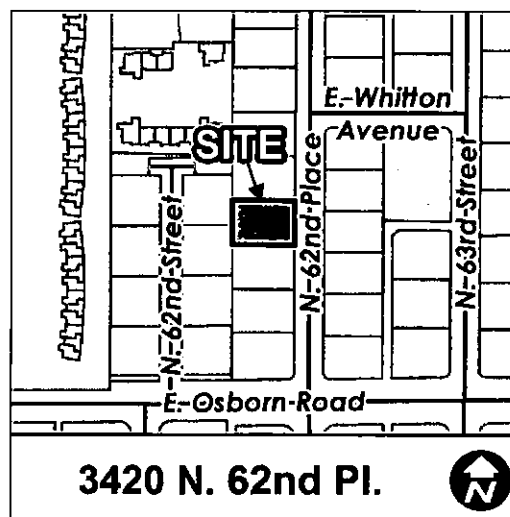
The property is Lot 45 of the Country Estates subdivision, which was annexed into the City of Scottsdale, zoned R1-7, and platted in 1957. The existing home on the property was also built in 1957. The original carport appears to have been enclosed for livable space, but a permit could not be found within the City of Scottsdale records department.

### Zoning/Development Context

The site is zoned Single-family Residential (R1-7) district and is located south of the southwest corner of E. Indian School Road and N. 62<sup>nd</sup> Place, on the west side of N. 62<sup>nd</sup> Place.

### Adjacent Uses and Zoning

- North Country Estates subdivision, zoned Single-family Residential district (R1-7); existing single-family residences.



- South Country Estates subdivision, zoned Single-family Residential district (R1-7); existing single-family residences.
- East N. 62<sup>nd</sup> Place and farther Country Estates subdivision, zoned Single-family Residential district (R1-7); existing single-family residences.
- West Arcadia Ridge subdivision, zoned Single-family Residential district (R1-7); existing single-family residences.

### **Zoning Ordinance Requirements**

Pursuant to Section 5.504.E.1 of the City of Scottsdale Zoning Ordinance, pertaining to the front yard setback: Each lot shall have a front yard with a minimum depth of twenty (20) feet.

*The applicant is requesting a variance of twenty (20) feet, which would reduce the required front yard setback for this parcel from twenty (20) feet to zero (0) feet along the N. 62<sup>nd</sup> Place frontage.*

### **Code Enforcement Activity**

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

### **Community Input**

Notification was sent to properties within 750 feet of the site. Staff has received one email in opposition to this request, citing the request not meeting the variance criteria (Attachment 7).

### **Discussion**

The applicant is proposing to construct a garage within the required front yard. The proposed addition would span eighteen (18) feet along the existing front of the house and would be as close as zero (0) feet to the front property line. The zoning requirements currently restrict covered parking within the required front yard to carports, setback ten (10) feet from the front property line, with the face of the entrance perpendicular to the street, and the front of the structure to be a minimum twenty-five (25) percent open per section 5.504.H.3. Enclosed garages must be setback the minimum depth of twenty (20) feet.

## **VARIANCE CRITERIA ANALYSIS**

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 that the neighboring properties are of similar size, but have ample covered parking and the right-of-way is unevenly burdening the west twenty-five-foot half-street with a 10-foot separation between the street curb and the property line. Building a carport or garage to the front property line would be the simplest design solution to gain covered parking.

Staff Analysis: The property is 8,258 square feet; the district minimum lot size is 7,000 square feet and the average size lot of the 10 properties on the west side of N. 62<sup>nd</sup> Place

between E. Indian School Road and E. Osborn Road is 8,372 square feet in size. The site has similar shape and topography to other properties within the R1-7 district. The twenty-five-foot right-of-way half-street is a common residential right-of-way width found throughout the R1-7 zoning district and street curbs are commonly not at the property lines. The distance between the street curb and the property line varies greatly within the R1-7 zoning district and is as great as a twenty (20) foot difference in some location.

- 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 there are other properties within a half-mile of the property that have covered parking within the front yard setback and that granting the variance for covered parking would not be a special privilege. The current conditions do not grant them the same safety and security that other properties in the neighborhood have and the lack of protection of our vehicles poses a threat.

Staff Analysis: Homes within this subdivision were built in the late 1950's, were commonly built at the 20-foot front setback line, and often included a carport on the site. There are alternative locations and designs that would allow covered parking to be placed on the property that could meet the current setbacks. The R1-7 zoning district allows the primary use as a single-family residence. Regardless of the outcome of this variance request, the existing structure can continue to function as a single-family residence. The dozen photo examples of other properties within a half-mile provided by the applicant include covered parking situations that vary from unpermitted construction, legal non-conforming, allowed corner lot setbacks, properties crossing the jurisdiction boundary line with Phoenix, and an approved 8-foot variance (5-BA-2012) to allow a garage setback at twelve (12) feet from the front property line. None of the examples provided included a zero (0) foot setback as the applicant infers.

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

The applicant states that the circumstances are not self-imposed, having recently purchased the property in November 2017.

Staff Analysis: The decision was made by a previous property owner to enclose the carport on the property. The property is of similar size, shape, and topography of other properties in the district.

- 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 that he has the support of ten of his immediate neighbors and granting the variance will not have a negative impact on the surrounding neighborhood.

Staff Analysis: One intent of maintaining front yard setbacks is to create uniformity within a district. The applicant's request of a variance of twenty (20) feet would eliminate the front yard setback on the property and alter the pattern of development on the street.

## **SUMMARY**

---

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, topography, and configuration of the property are not unique or applicable. Further, the applicant's proposed variance does 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

---



Ben Moriarity, Report Author  
480-312-2836, bmoriarity@scottsdaleaz.gov

11/12/18

Date



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

1.12.2018

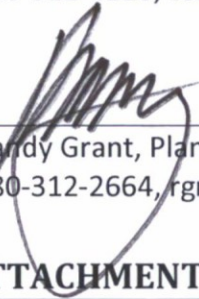
Date



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

1/19/2018

Date



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

1/22/18

Date

## ATTACHMENTS

---

1. Project Description / Justification
2. Context Aerial
3. Aerial Close-Up
4. Zoning Map
5. Site Photographs
6. Proposed Site Plan and Floor Plan
7. Citizen Input

## Narrative for Variance at 3420 N 62<sup>nd</sup> Place

I am requesting a variance be granted on my property to allow me to construct covered parking for both of my motor vehicles. My ideal preference would be a two-car garage, and my second choice would be a two-car carport. The structure would be attached to the existing home structure with compatible materials and the roof line would be combined with the structure to flow with what is already in place. Specifically, what needs to be varied is that the structure would have eastern access instead of the approved northern access, and would not be permanently opened on two sides, but instead have either just one permanently opened side, either with a garage door on it, or nothing at all. This structure would prove to be the most functionally efficient and visually stimulating solution.

1) The majority of my neighbors currently have similarly sized lots and ample covered parking for their motor vehicles. Several owners before I purchased the property enclosed the original carport to make it a part of the interior living space. This space has been functionally dedicated to be a living room, and therefore it is not an option to be converted back into a carport without jeopardizing the flow, functionality and value of the home. The existing two approved solutions for covered parking are not viable options to solve my problem, and there are two additional factors preventing me from being able to construct covered parking like my neighbors.

First, the R1-7 Standard Mid-Block Parcel Carport Addition in Side Yard is not possible because my neighbors to the south of me will not provide the necessary 5-foot non-buildable easement to the city to offset building the proposed carport to my property line.

Second, the R1-7 Standard Mid-Block Parcel Front Carport Addition is functionally, economically and physically obsolescence. Building a structure like this would be economically obsolescence because it would require a full reconstruction of the driveway, front walk and front yard, all of which were just improved by the previous owner prior to selling, and served as selling features to me when I purchased the property. The previous owner improved the lot by professionally installing pavers, curbing, grass, and irrigation. My neighbor at 3514 N 62nd Place, which is just a few doors north of me, installed this carport and proved it is functionally and physically obsolescence as well. They are unable to fully park either of their two vehicles under the approved front carport. They always have one vehicle partially parked under the new structure and the other car is just parked in the driveway separate from the carport and other vehicle. Because of the angle that I would have to enter this carport to make the entrance perpendicular to the street, it would not be possible for both cars to fit into the structure. This structure makes their property look like a valet parking drop off, because cars are always being moved around, and it is physically detrimental to their property. The ideal covered parking structure would allow vehicles to just drive

Third, the neighbors to the south of my property have a very large pine tree that hang over into my property and driveway, which drips sap onto my vehicles because they are not covered. This

is causing me to have to clean my vehicles more than I ever have in the past to prevent damaging the paint.

Fourth, the property right across the street, 3407 N 62nd Place, just sold for \$490,000 on 9/9/2017. That home has 4 bedrooms, 2 bathrooms, a 2-car garage, a pool, and is 1,841 sqft on a 7,451 sqft lot. My property has 4 bedrooms, 3 bathrooms, a pool, is 1,680 sqft on a 8,266 sqft lot, which I purchased for \$399,000 with \$9,000 of seller contributions towards my closing costs on 11/3/2017. Both of our homes are updated and according to my appraiser are very comparable, the only real difference is the garage. The property at 3408 N 63rd Street has very similar specs and no pool, but has a two-car garage, and that property sold for \$508,000 earlier in 2017. These numbers prove that not having a garage is also very detrimental to my property value.

2) The authorization of the variance is also necessary for the preservation of privileges and rights enjoyed by most of my neighbors, since almost all of them have covered parking available to them. especially since the west side (my side) of 62nd Place is at a large disadvantage compared to the east side of 62nd Place to solving this dilemma, because it is 5 feet closer to the center of the street. The driveways on the east side of 62<sup>nd</sup> Place have much longer driveways and front yard square footage as a result. This is problematic for me because the city's Right of Way half street is the first 25 feet from the center of the street. Because of this, I have much less room to work with in attempting to find a solution to provide covered parking to both of my vehicles. This leaves me with exactly 20 feet from the beginning of my property line to the existing house to build something. I am proposing a zero foot setback and 20 foot variance to the front yard setback set forth in section 5.504.E.1 in order to cover and protect both of my vehicles. There are a number of properties in my immediate neighborhood with single family homes that have zero-foot setbacks that allow those properties to have covered parking in the form of a garages and carports (see photo evidence).

3) The special circumstances at my property were applicable to me when I purchased the property because as I stated earlier, a previous owner decided to enclose the original carport and make it part of the living area of the home, this circumstance was not self-imposed by me. Just because one of the previous owners didn't value covered parking for his vehicles, does not mean that I should have to park my cars out in the open. In addition, during the first few weeks living at this property we have already had our vehicles broken into twice, and some irreplaceable items were stolen. There has been an issue of on-going theft on our street/in our area, that multiple neighbors have approached us about, which tells me that this was not an isolated incident. The lack of protection of our vehicles poses a threat to me and my family, and as a result I have had to install a home security system to ensure that at least the inside of the home is protected. A garage would not only provide protection from outdoor elements, but it would also provide protection from theft.

4) Neither a garage nor a carport would be considered materially detrimental to my neighbors. I have gone around to all of the immediate neighbors on my street and personally handed them a letter with my intentions and have had conversations with all of the neighbors I was able to

Speak with face to face. I have gotten written support from over 10 of those immediate neighbors. They are giving me permission to construct a structure that will provide me with covered parking because they see the functionality and purpose behind it and believe it will improve my property's curb appeal and the overall appearance and value of the neighborhood.

14 N 62<sup>nd</sup> Pl - Non-Functional Carport



8-BA-2017

3514 N. 62<sup>nd</sup> Pl - Non-Functional Carport





5520 N. 62<sup>nd</sup> Pl - Carport within 10ft of setback





3520 N. 62<sup>nd</sup> Pl



6332 E. Earl Rd. - carport within 10 feet of street



332 E. Earll Rd.





3335 N. Rose Circle - 2 car carport within setback



3335 N. Rose Circle



3339 N. Rose Circle - 3 car garage within setback





3513 N. 63<sup>rd</sup> Pl - Carport within 10 feet of setback



3513 N. 63<sup>rd</sup> Pl





3137 N. 63<sup>rd</sup> Pl - Carport within 10 feet of setback



32 N. 63<sup>rd</sup> Pl - Huge carport within 10 feet of setback



232 N. 63<sup>rd</sup> Pl





307 N. 62<sup>nd</sup> St



3307 N. 62nd St

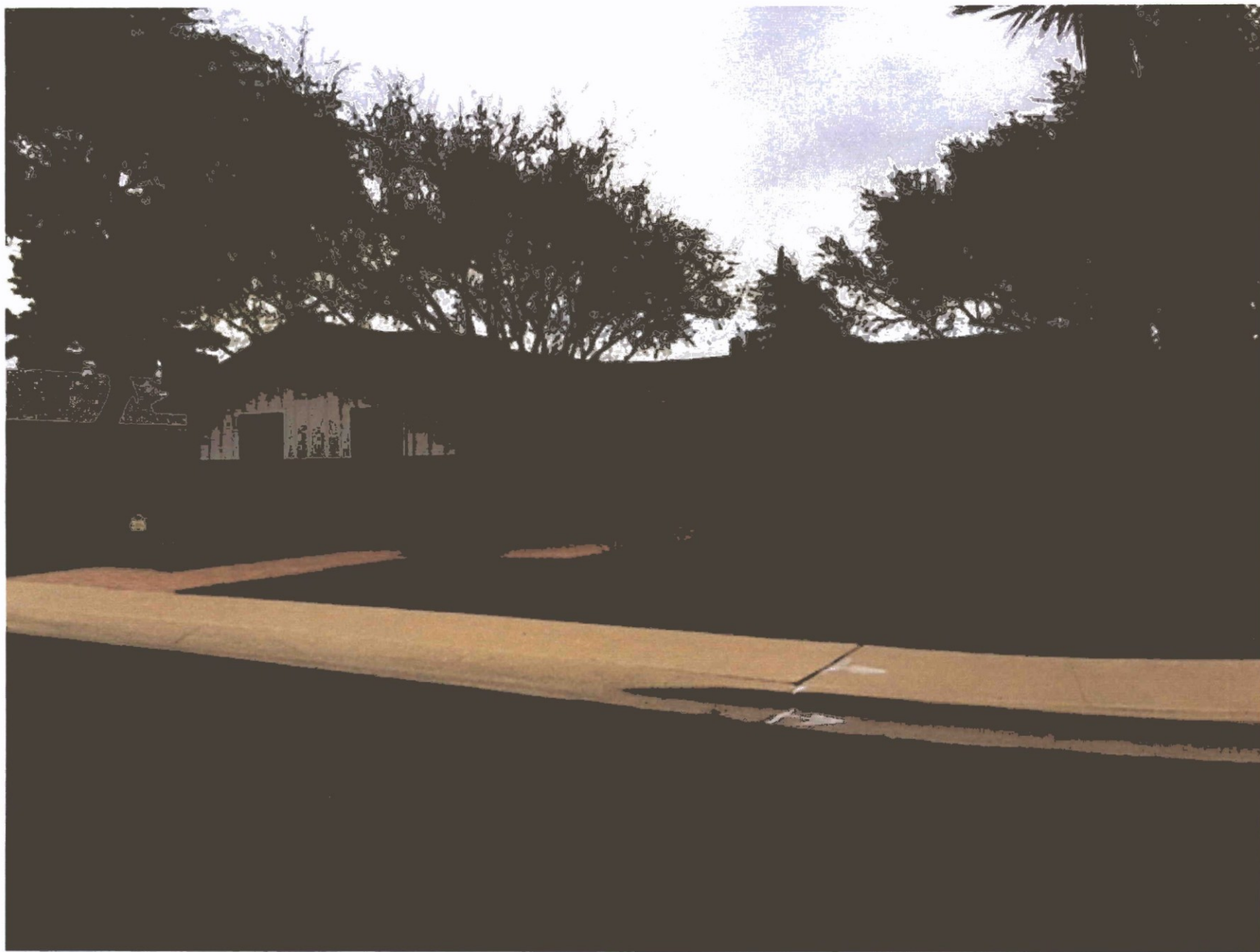




3307 N. 62<sup>nd</sup> St - 2 car garage within 10 ft of setback



226 E. Monterey Way



6226 E. Monterey Way - Carport within 10 feet of Setback







3418 N. 62<sup>nd</sup> Pl - Full remodel & addition





6343 E. Euclid Rd - Under Construction



6337 E. Earll Rd - Under construction





3643 N. 60<sup>th</sup> St. - Remodel



3643 N. 60th St - Remodel



3344 N. 62<sup>nd</sup> St - Remodel & Garage Addition





3350 N. 63<sup>rd</sup> Pl - New Build





501 N. 63<sup>rd</sup> Pl - New Build



3444 N. 60<sup>th</sup> St - Tear down



3444 N. 60<sup>th</sup> St - Tear down



Date	Property Address	Signature
12/11	3426 N. 62 <sup>nd</sup> Place	May Zuck
12/11	3508 N 62 <sup>nd</sup> Place	Joe Thomas
12/11	3519 N. 62 <sup>nd</sup> Place	Joe Collier
12/11	3431 N 62 <sup>nd</sup> Place	(Tom Nelson)
12/12	3413 N 62 <sup>nd</sup> Pl	Jim & Laurie Valby
12/12	3408 N 62 <sup>nd</sup> Pl	Valby
12/16	3425 N 62 <sup>nd</sup> Pl	Valby
12/16	3419 N. 62 <sup>nd</sup> Pl.	Valby
1/7/18	3414 N 62 <sup>nd</sup> Pl	Blackledge
1/7/18	3401 N. 62 <sup>nd</sup> Place	FW





3420 N. 62nd Place Garage

8-BA-2017





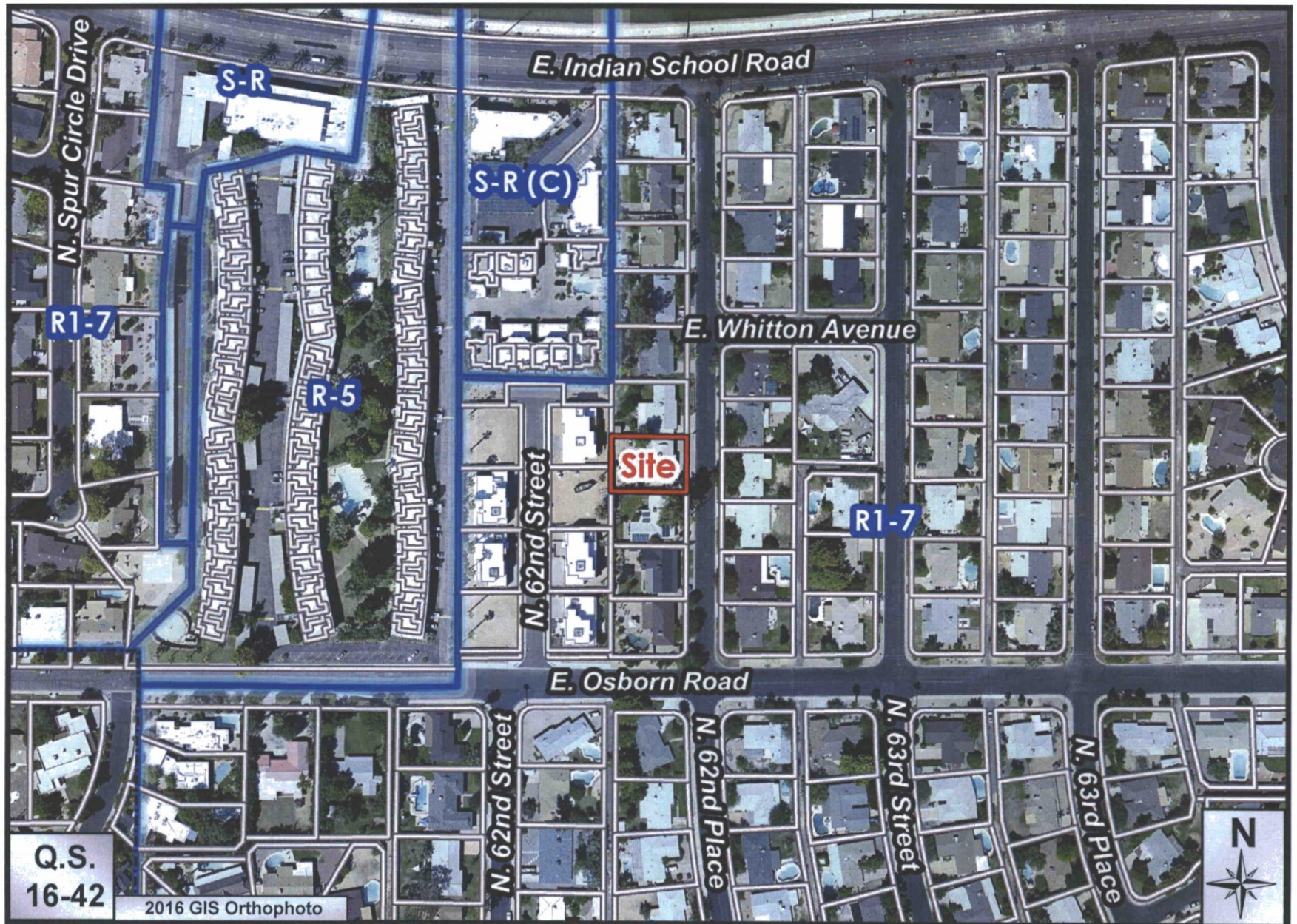
Q.S.  
16-42

Google Earth Pro Imagery

3420 N. 62nd Place Garage

8-BA-2017





3420 N. 62nd Place Garage

8-BA-2017



3420 N. 62<sup>nd</sup> Place



8-BA-2017  
12/1/17

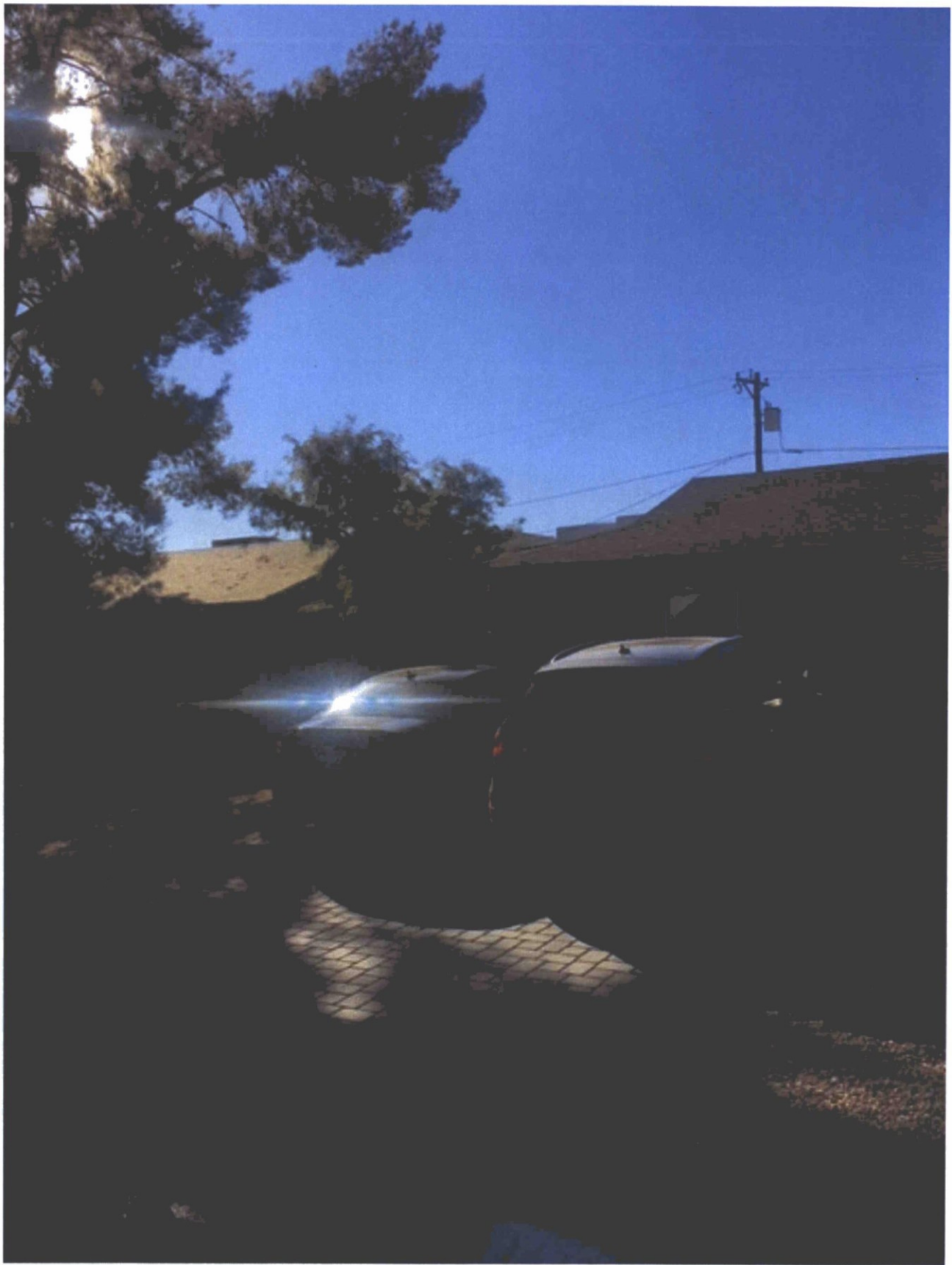




8-BA-2017

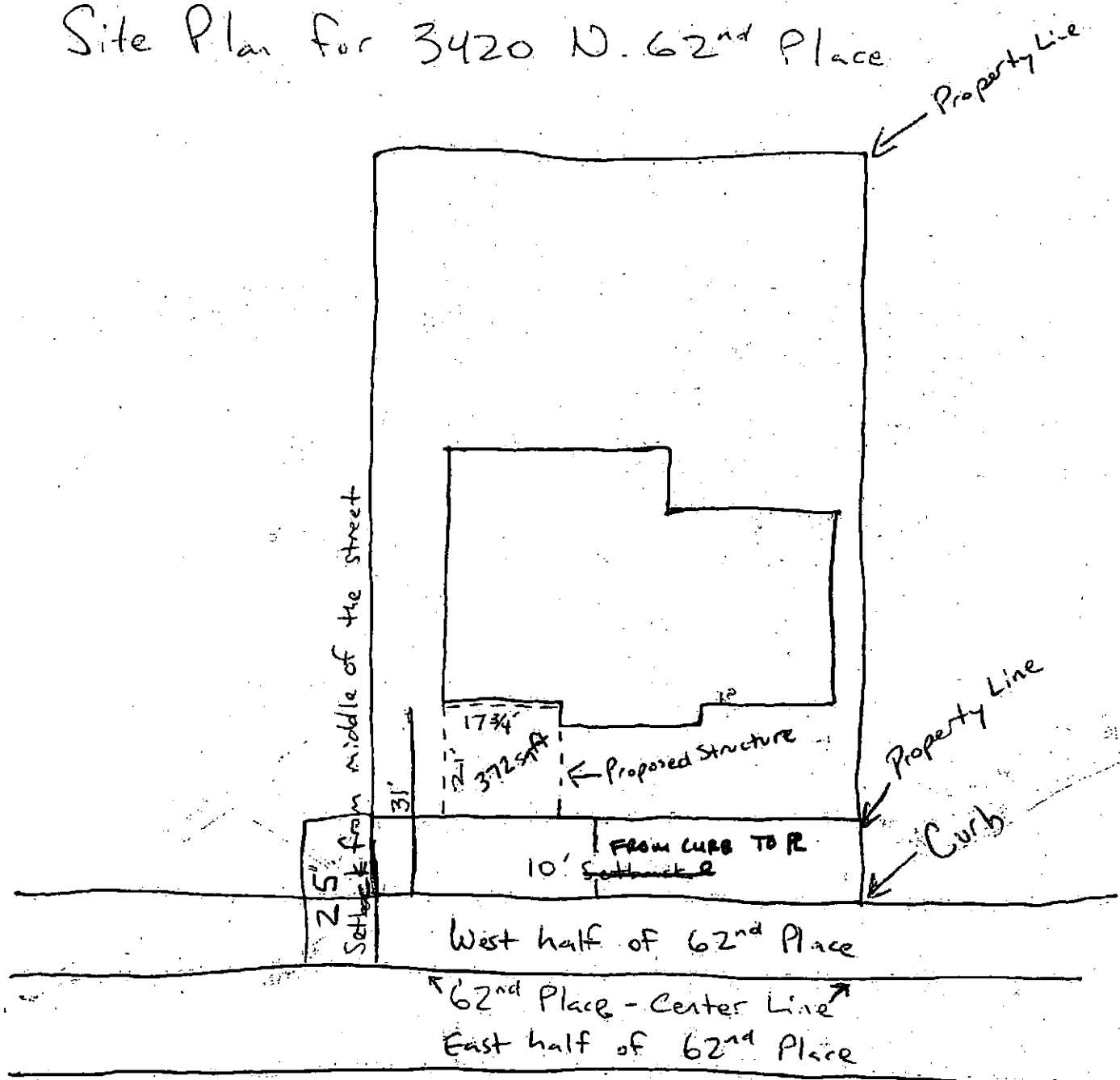
12/1/17

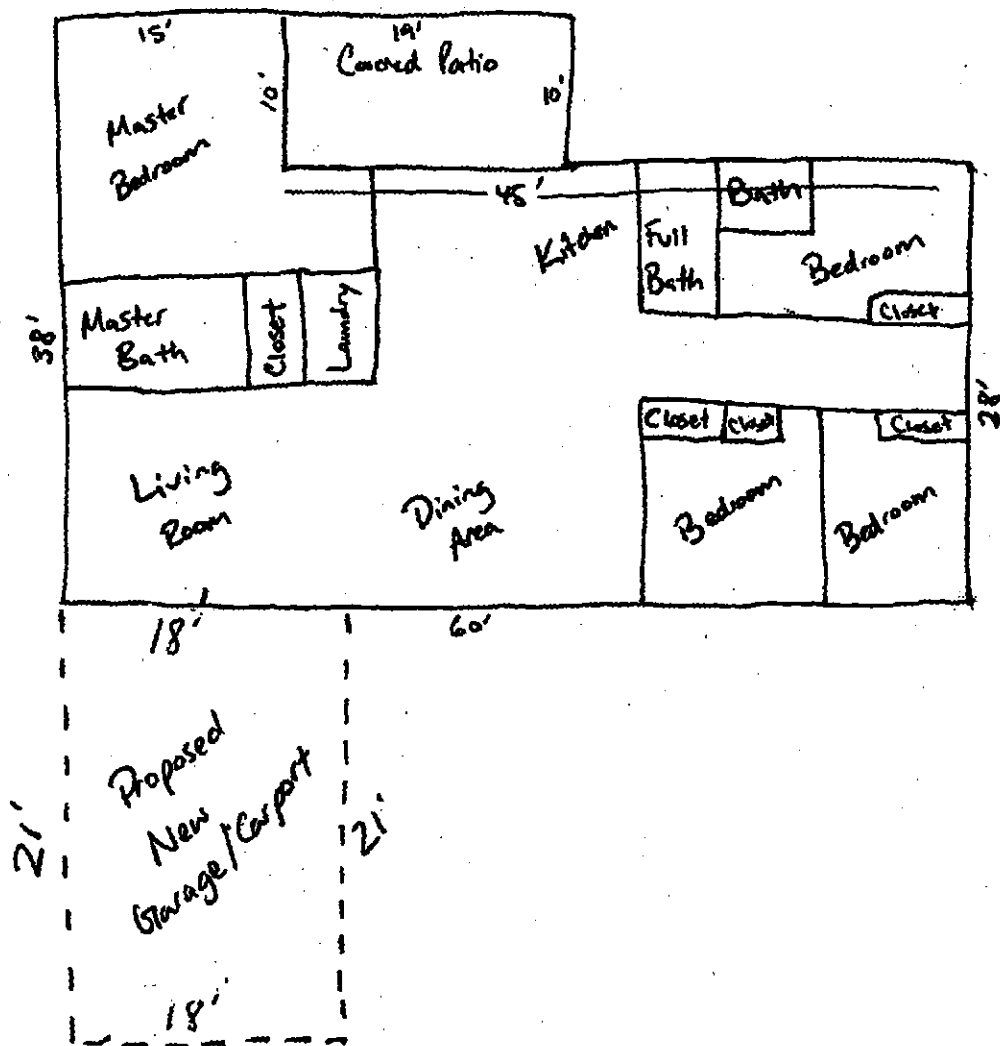






# Site Plan for 3420 N. 62<sup>nd</sup> Place





## **Moriarity, Ben**

---

**From:** Diana Kaminski <dianakaminski@cox.net>  
**Sent:** Tuesday, December 05, 2017 7:39 PM  
**To:** Moriarity, Ben  
**Subject:** Variance case for 3420 N 62nd Place

The applicant is a realtor who purchased the property 11/17; he knew the home that it did not have covered parking. He probably has no intention of living in the home, but rather is planning to flip the property. The criteria for a variance are not met by the justification; his home is not unique, the other homes have the same size lots, same setback, and same restrictions. Their homes are smaller because they did not enclose the carport. He is asking for special privilege without hardship. The street size is not excessively large, this is standard for this area. What is proposed would change the character of the neighborhood, reduce the front yard setback to 50% less (10') and block views down the street which help with natural surveillance of the area for crime prevention. Why should an investor enjoy modifying the standards for financial gain that the residents around will have to live with?