BOARD OF ADJUSTMENT REPORT



Shirt=

E Cholla Dr

Meeting Date: 7/6/2022

ACTION

Childs' Variance Requests 4-BA-2022

Request to consider the following:

- 1. Request by owner for a variance to the City of Scottsdale Zoning Ordinance, Section 5.204.E.1.a, pertaining to the required front yard (east) setback from forty (40) feet to thirty-three (33) feet with a 25' public right-of-way dedication for a property located at 11850 N. 76th Place with Single-family Residential (R1-35) zoning.
- Request by owner for a variance to the City of Scottsdale Zoning Ordinance, Section 5.204.E.3, pertaining to the required rear yard (west) setback from thirty-five (35) feet to fifteen (15) feet for a property located at 11850 N. 76th Place with Single-family Residential (R1-35) zoning.
- 3. Request by owner for a variance to the City of Scottsdale Zoning Ordinance, Section 5.204.G, pertaining to the allowable wall height within a required front yard setback from three (3) feet to seven (7) feet for a property located at 11850 N. 76th Place with Single-family Residential (R1-35) zoning.

OWNER / APPLICANT

Steven Childs 602-369-8164

LOCATION

11850 N. 76th Place

BACKGROUND

History

The subject site was annexed into the City of Scottsdale

in 1962 through Ordinance No. 165 and the R1-35 City of Scottsdale zoning was applied. The parcel is considered a metes-and-bounds lot with no associated subdivision, or recorded plat. According to aerial imagery, the existing main residence was constructed sometime between 1971-72. New residential development started to occur around the subject site shortly

thereafter (Attachment 9). To the west, two neighboring lots were constructed with private access easements through the subject site before the Las Sombras II subdivision constructed N. 76th Court. To the south, several new homes were constructed and provided right-of-way dedications contributing to the extension of N. 76th Place and E. Cortez Street (Attachment 10). Between 1982-1984, the residence located directly to the east of the subject site was constructed with their respective right-of-way dedication occurring in 1978. The subject site's existing detached garage was approved in 2009 (Attachment 11) with a sewer tap later installed in 2021 (Attachment 12).

Zoning/Development Context

The subject site is zoned Single-family Residential (R1-35) and is surrounded by other single-family detached homes. Access to the lot is served exclusively from N. 76th Place to the east. Prior to the extension of N. 76th Place southwards, the lot was likely considered a north-facing lot since the road originally terminated at the northern property line (Attachment 10). The existing paved road section of N. 76th Place adjacent to the subject site is not within the dedicated right-of-way. The City of Scottsdale Transportation Department is requiring a 25' public right-of-way dedication from the subject property to capture the existing road. This anticipated right-of-way dedication will reduce the front yard area of the lot and place the existing home within the required front yard setback (Attachment 7).

Zoning Ordinance Requirements

1. Pursuant to Section 5.204.E.1.a of the City of Scottsdale Zoning Ordinance, pertaining to the required front yard setback: each lot shall have a front yard with a minimum depth of forty (40) feet.

The owner is requesting a variance of seven (7) feet, which would reduce the required front yard (east) setback on the parcel from forty (40) feet to thirty-three (33) feet, after a 25 foot public right-of-way dedication, to allow the existing home to conform from the new front property line.

2. Pursuant to Section 5.204.E.3 of the City of Scottsdale Zoning Ordinance, pertaining to the required rear yard setback: each lot shall have a rear yard with a minimum depth of thirty-five (35) feet.

The owner is requesting a variance of twenty (20) feet, which would reduce the required rear yard (west) setback on the parcel from thirty-five (35) feet to fifteen (15) feet to bring the existing home into conformance.

3. Pursuant to Section 5.204.G of the City of Scottsdale Zoning Ordinance, pertaining to walls, fences, and landscaping within the required front yard setback: each lot shall be allowed a maximum wall height of 3-feet within the required front yard setback.

The owner is requesting a variance of four (4) feet, which would increase the maximum wall height allowed within a required front yard setback from three (3) feet to seven (7) feet to bring the existing wall into conformance.

Code Enforcement Activity

No code enforcement activity is present on the subject site.

Community Input

City of Scottsdale hearing postcards were sent to property owners within 750 feet of the subject site. As of the date of this report, no public comments regarding the variance requests have been received.

Discussion

The owner is seeking to increase the height and expand the floor area of the existing main residence. However, the main residence does not currently conform to the zoning district's required rear yard (west) setback. Additionally, the site is required to dedicate twenty-five (25) feet of public right-of-way along its frontage resulting in an anticipated front yard (east) setback encroachment of the main home. Based on aerial imagery and timing of the right-of-way dedications, the existing site was likely developed as a north-facing lot and did not have frontage along N. 76th Street. After the extension of N. 76th place as a public right-of-way, the lot's configuration became east-facing, thereby turning the west side of the lot into a rear yard and creating a legal non-conforming structure. Modifications made to a legal non-conforming structure are limited under the provisions of ZO Sec. 1.1304.B.1. The owner is a requesting a variance to the required front (east) and rear (west) setbacks with a 25' public right-of-way dedication to bring the existing residence into conformance. Additionally, the owner is requesting a variance to the zoning district's wall height allowance within a required front yard setback to bring an existing wall into conformance. No additional wall improvements are proposed with this request.

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:

Applicant Statement:

The owner states that the pattern of development has changed since the home was originally constructed resulting in stricter development standards under the City's current requirements.

Staff Analysis:

Variance #1 and #2: The R1-35 zoning district has a minimum lot size of 35,000 square feet. The subject property is approximately 54,616 square feet in size and is similar in size and topography to the surrounding properties. The lot's shape at the street frontage is nearly 50% longer than its depth. After the anticipated 25' public right-of-way dedication along the site's frontage, the lot's depth will become further reduced at the front (east) area.

Variance #3: Interior lots within the R1-35 zoning district are allowed to have walls within the required front yard setback, but no taller than three (3) feet in height. The existing wall was constructed when the lot was considered a north-facing interior lot and did not have right-of-way adjacent to the east property line. After the dedication of N. 76th place as a public right-of-way, the lot's configuration became an east-facing interior lot and the wall no longer complied with ordinance requirements.

2. That the authorization of the variance is necessary for the preservation of privileges and rights enjoyed by other properties 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:

Applicant Statement:

The owner states that the required setbacks impose a much narrower building envelope which limits the property from consistently matching the pattern of growth in the neighborhood.

Staff Analysis:

Variance #1 and #2: The authorization of the requests would increase the building envelope size in the front (east) and rear (west) areas of the site to bring the existing home into conformance and allow for future expansions within the wider building envelop. The expanded building envelop would be more consistent with other R1-35 lots that have their street frontage on the narrow side of the lot. Without the variances, future expansions to the existing home would still be allowed within the current building envelope, but those modifications would be subject to the legal non-conforming provisions of ZO Sec. 1.1304.B.1.

Variance #3: The authorization of the request would increase the allowable wall height of the existing non-conforming wall from three (3) feet to seven (7) feet. All interior lots within the R1-35 zoning district are subject to the maximum wall height allowance of three (3) feet within a required front yard setback. The owner is not proposing to construct new walls within the required front yard setback with this request.

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

<u>Applicant Statement:</u>

The owner states that the changing pattern of development created the special circumstances applicable to the property.

Staff Analysis:

Variance #1-3: The existing residence and front yard wall were both constructed under a north-facing lot configuration. After the dedication of N. 76th place as a public right-of-way, the lot's configuration became east-facing causing the existing home and front wall to

become non-conforming. With the anticipated 25' public right-of-way dedication along the site's frontage, the building envelope will become further reduced at the front (east) area. The first right-of-way dedication (1980's) for N. 76th Street was made by the neighboring property to the east, at the request of the City. The additional 25' right-of-way that is to be dedicated is being required by the City to own, build, and maintain N. 76th Street. The owner is not proposing to construct new walls with this request.

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:

Applicant Statement:

The owner states that the existing residence and front yard wall have been in existence since the original development of the lot and will have no negative impacts to the neighborhood.

Staff Analysis:

Variance #1-2: The authorization to reduce the required front (east) and rear (west) yard setbacks may not be materially detrimental to the neighbors, or public in general as it will be allowing the existing home to remain, which has existed on the subject site for nearly thirty (30) years. Future expansions on the west side of the home would be consistent with the side yard requirement (15-feet) of the R1-35 district which is typical along an interior lot line on the longer side of a lot.

Variance #3: The existing wall has been in place for nearly 30 years. Although the intent of limiting wall heights within the front yard setback area is to maintain an open character along street frontages, the configuration and orientation of several other lots along N. 76th Street to the south has allowed construction of many other tall walls along the street. The requested variance would allow the existing wall to remain, which may not be materially detrimental to the neighbors, or public in general. The owner is not proposing to construct new walls with this request.

SUMMARY

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 shape and configuration of the property is unique and applicable. Further, the owner's proposed variance requests do not appear to 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

Wayland Barton, Report Author
480-312-2817, wbarton@scottsdaleaz.gov

6/14/2022

Bryan Cluff, Board of Adjustment Liaison
480-312-7713, bcarr@scottsdaleaz.gov

6/20/2022

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

6/20/2022

Date

06/21/2022

Erin Perreault, AICP, Interim Executive Director
Date

ATTACHMENTS

- 1. Context Aerial
- 2. Aerial Close-Up
- 3. Zoning Map
- 4. Project Description

Planning, Economic Development, and Tourism 480-312-7093, eperreault@scottsdaleaz.gov

- 5. Justification
- 6. Site Photographs
- 7. Existing Site Plan

Board of Adjustment Report | 4-BA-2022

- 8. Proposed Site Plan
- 9. Pattern of Development
- 10. Right-of-Way Dedication History
- 11. Detached Garage Approval PC: 4726-09
- 12. Sewer Tap Approval PC: 1876-21





ATTACHMENT 2



Zoning Variance Request - Narrative

Background:

The current residence at 11850 N. 76th Place was built in 1971. The lot was formatted (along with the 3 lots directly to the west) as a north facing building site. No additions have been added to the home and it still falls within the building envelop approved at the time. Nancy Seifried and Steven Childs purchased the home in in 2004 and have lived in it continuously since. They have made a number of improvements to the property, including a beautifully landscaped rear pool/yard area. The home owners now wish to remodel the home to better fit their needs. This remodel would include expanding the home to the north as well as increasing the low ceiling/roof heights. The plans would maintain all of the other current features of the property. These plans will still fall withing the original building envelope and will not further encroach on the east or west setbacks.

Current Situation:

Recently, the City of Scottsdale determined that the property is an east facing lot, and as a result changed the building setbacks. Accordingly, the current home is no longer in compliance with the lot's new building envelope on the east and west sides. Thus, any remodeling of the current residence will be subject to the "existing but not in compliance" regulations. These guidelines prevent the owners from increasing the low ceiling/roof heights as well as restrict a number of other features of their remodeling goals.

A substantially more costly alternative would be to tear down the entire house and start with new construction. Unfortunately, even that would not be an attractive option. Given the new property setbacks, the new building envelope is approximately 300' wide and 65' deep. The resulting house layout would be awkward at best. It would be long and shallow, with large side yard spaces and minimal front and rear yard spaces. More importantly, it would erase a number of the features of the property that they value.

Request for Variance:

The zoning variances requested are:

- 1. Reduce the rear yard setback from 35' to 15'.
- 2. Reduce the front yard setback from 40' to 33'.
- 3. Increase the front wall/fence height from 3' to 7'.

Approving these three variances will allow the homeowners to remodel the existing residence (adding space to the north and increasing the roof heights) while keeping the original layout of the property. It will not reduce the front and rear yard setbacks beyond what has been in place for over 50 years.

Effect on Neighbors:

The zoning variance and planned remodel will have little/no negative effect on the neighbors and neighborhood. The current home has been in place since 1971, longer than any directly neighboring home. The only older, adjacent property was directly to the west. It is currently being demolished, with a 8500 (livable) square foot home with 24' roof height approved to begin construction. Over the past few years there have been numerous remodels and additions conducted in the neighborhood. All with significantly larger square footage and/or higher rooflines than the variance request property. Some examples within 750' include:

- 1. 11801 N. 76th Place -Tear-down with new construction
- 2. 11835 N. 76th Place Remodel with addition
- 3. 12120 N. 76th Place Remodel with addition (underway)
- 4. 7627 E. Sunnyside Tear-down with new construction (underway)

Thus, granting the variance will have little/no negative effect on the neighborhood. Once completed, the remodeled home will fit better (cosmetically) with the homes in the neighborhood as well as add property value to the homes around it.

Summary:

The property owners of 11850 N. 76th place are requesting a building variance to the east and west sides of their property so that they may conduct a remodel to add square footage to the north side of the home and increase the ceiling/roof height. These changes fall within the original setbacks of the property before the city changed its perspective on the layout of the lot. None of the changes proposed would reduce the current east and west setbacks of the home.

Board of Adjustment

Justification for Variance

Type of Variance Requested, sections of the zoning ordinance to be varied:

- A variance to reduce the required rear yard setback from thirty-five (35) to fifteen (15) feet.
- 2. A variance to reduce the required front yard setback from forty (40) to thirty-three (33) feet.
- 3. A variance to increase the wall/fence height in the required front yard from three (3) to seven (7) feet.

Justification for Variance:

 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 special circumstance key to this property variance request is that when the existing home (and the 3 other homes to the west of the property), were permitted and built, they were laid out as north facing homes. Since that time, the City of Scottsdale dedicated 76th place as a road along the east boundary of the property. As a result, the changing pattern of development now considers the property as an east facing home. Accordingly, the home no longer complies with the current setbacks on both the east and west sides.

The property owner now wishes to remodel the existing home by adding square footage directly north of the existing home along with raising the roof line to no more than 30 feet. No changes would be made that would reduce the current east and west setbacks. The original layout of the site, pool, gazebo, landscaping, yard, fencing, etc. would remain the same.

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 limitation upon other properties in the vicinity and zone in which such property is located.

This variance request is necessary to maintain the privileges enjoyed by this lot since its origination in 1971. The current property owners have lived in the home continuously for over 17 years and simply wish to update the home to better fit their changing needs as they grow older. This variance request will re-align the property with the same rights enjoyed by its neighbors. By not granting a variance, the property owners would be forced to maintain the existing home "as is" or remodel it within a drastically different

building envelope. This new envelop would most likely result in an awkward design "at best" and significantly reduce the property's value.

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

The special circumstances were created when the changing pattern of development went from a north facing home to an east facing home. The special circumstances are in no part imposed or created by property owner.

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 authorization of the variance will not be materially detrimental to the area since th home has been in this place for over 50 years, longer than any adjacent neighboring properties. The variance would allow no construction closer to the west or east (roadway) property lines than the current residence. As a result, granting of the variance will not have a material effect to neighbors, the neighborhood or the public welfare in general.



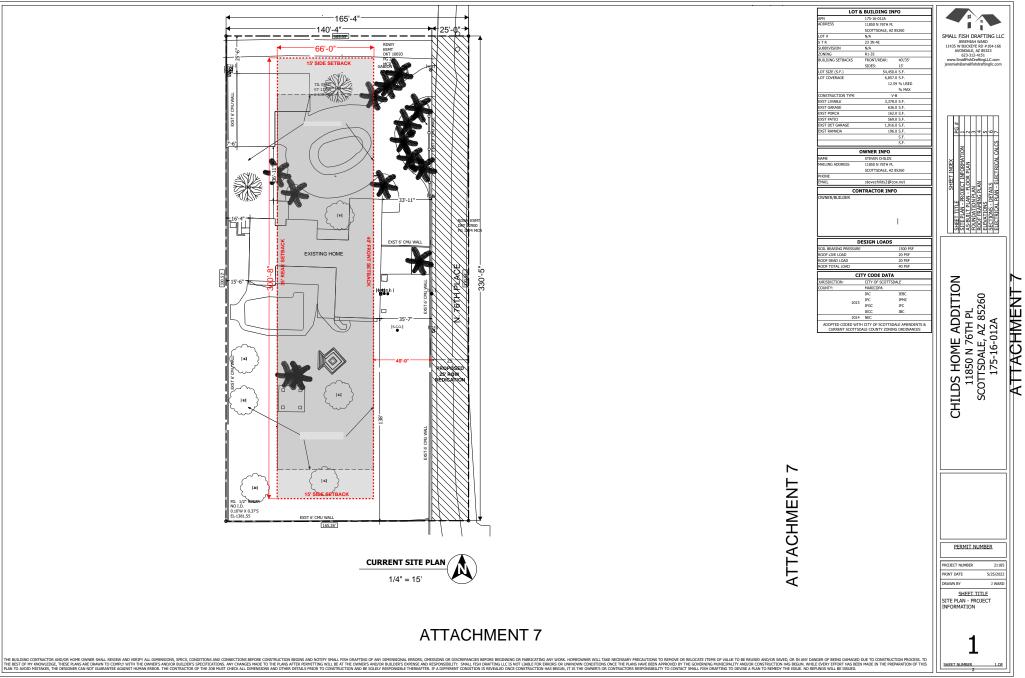


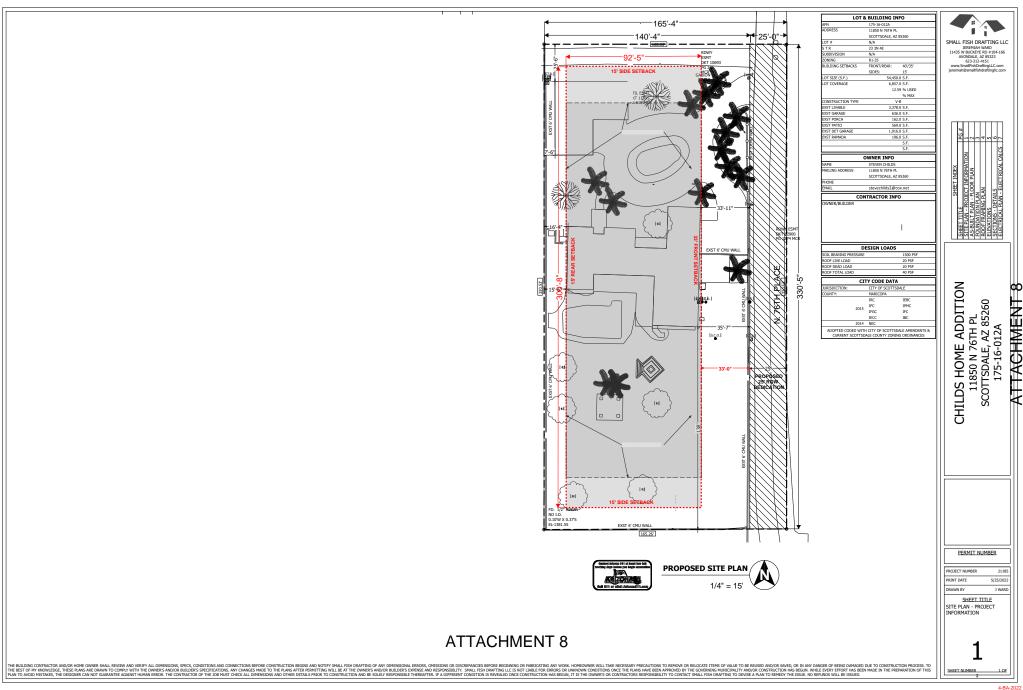






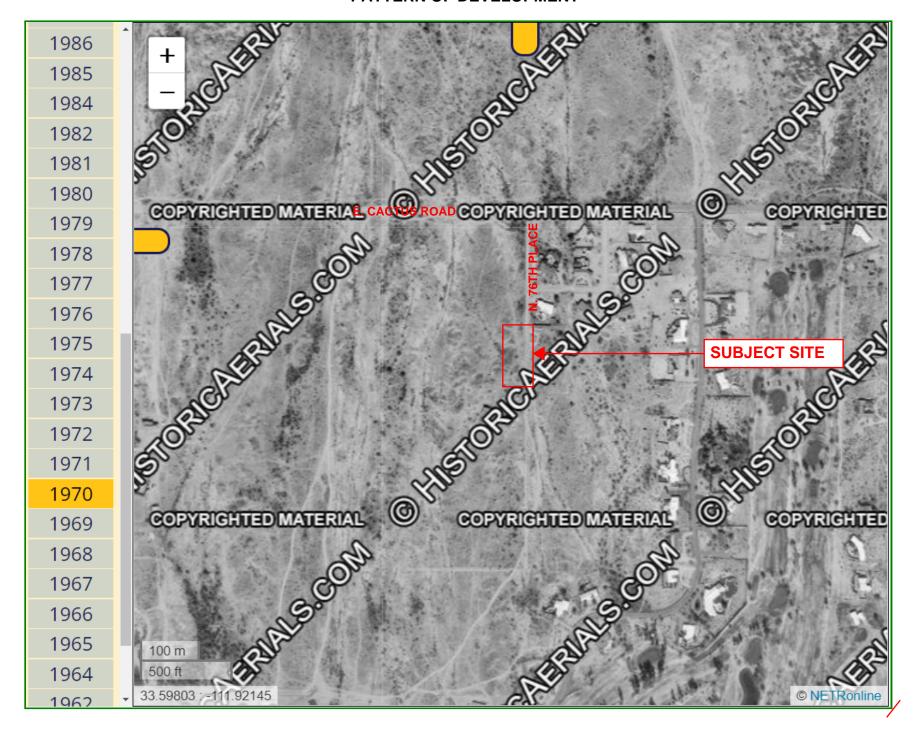






4-BA-2022 5/27/2022



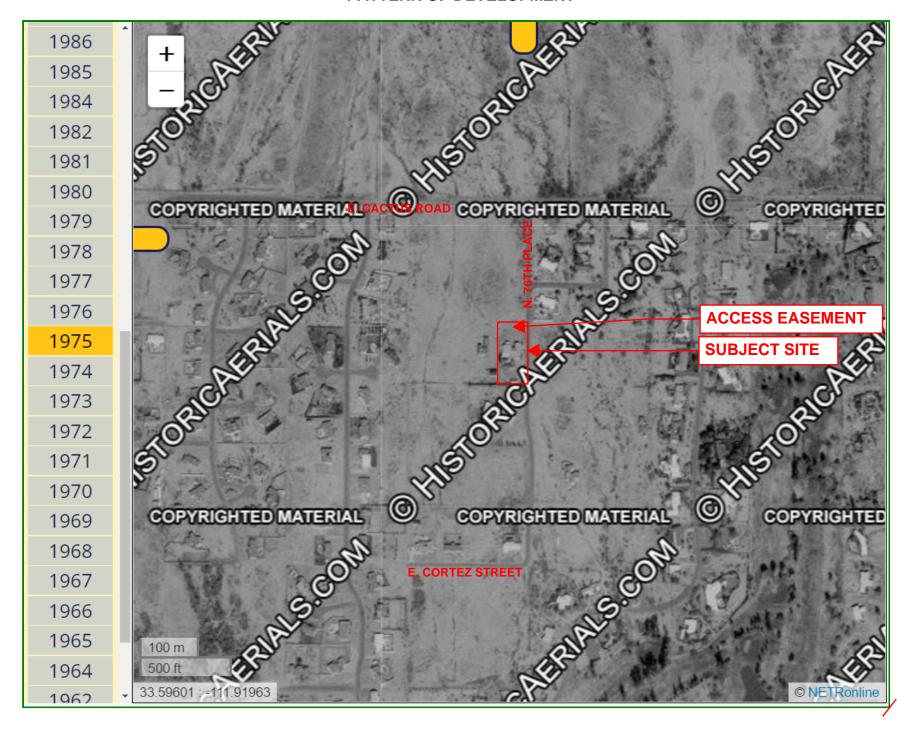








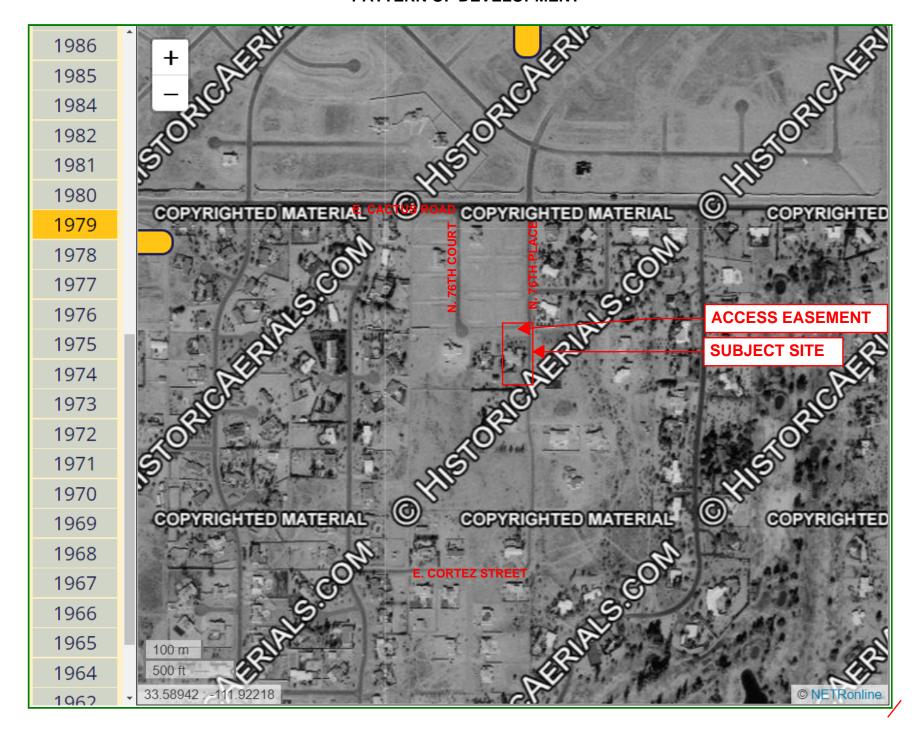


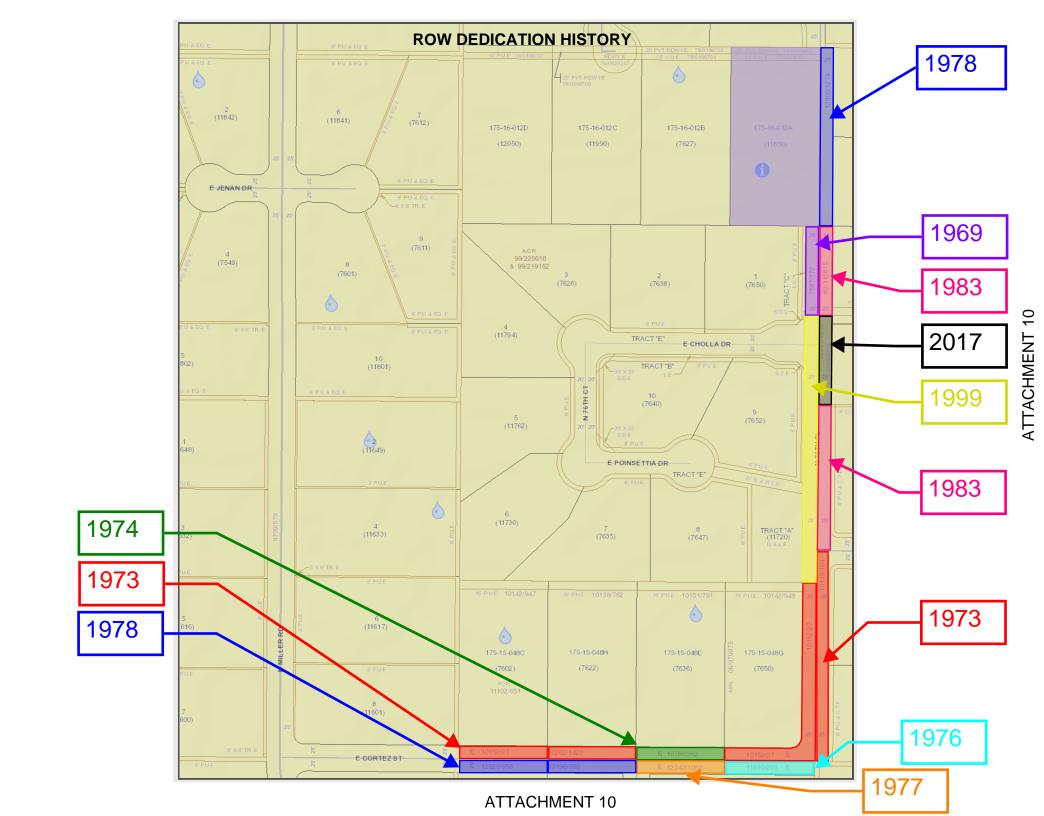


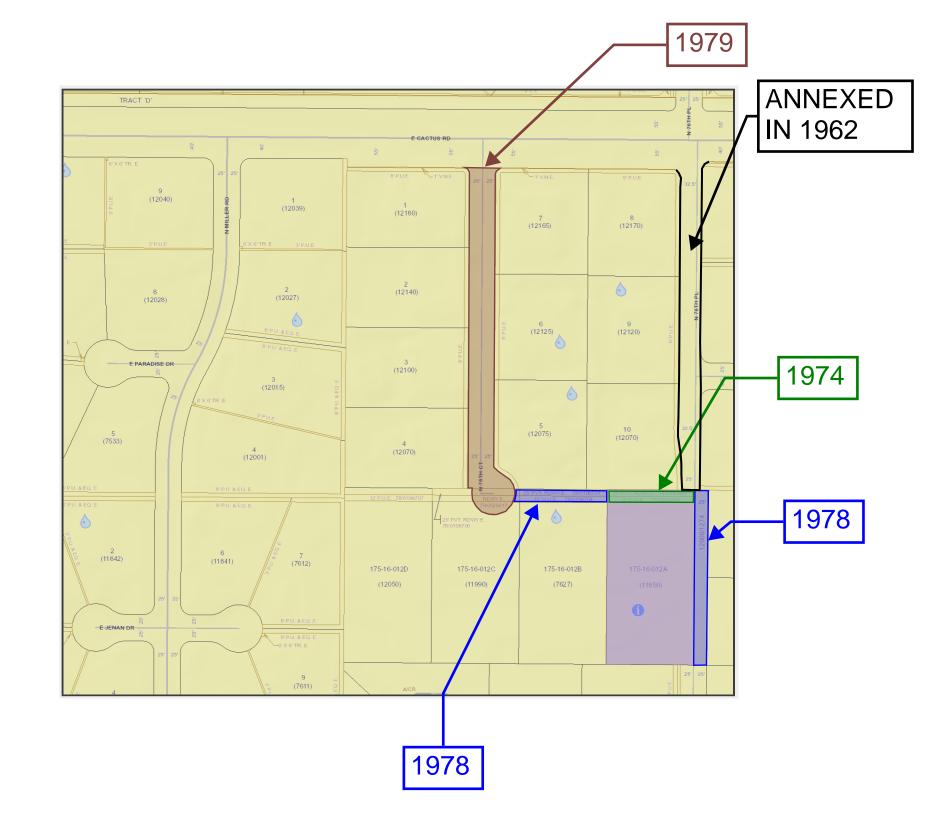












NEW GARAGE FOR STEVE CHILDS 11850 N. 76th PL., SCOTTSDALE, AZ.

EXISTING RESIDENCE

GARAGE

-25'-0" DRIVEWAY EASEMENT

113'-5%

-12'-O" P.U.E.

11850 N.70 30-46 Let Gara 191

ш

ESIGN 5 Δ 불

ATTACHMENT

FEMA BLOCK

FLOOD INSURANCE RATE MAP (FIRM) INFORMATION

COMMUNITY NUMBER	PANEL NUMBER	PANEL DATE	8uffi×	FIRM DATE	FIRM ZONE	BASE FLOOD ELEVATION
045012	1685	9/30/05	F	9/30/05	×	NA .

ENGINEER'S CERTIFICATION:

The loses: Floor elevation(s) and/or Flood-proofing elevation(s) on the pile are sufficiently light to provide protestion from flooding caused by a one hundred legistering and en accordance sufficiently of some hundred legistering and entire accordance sufficiently of Engoldage services of the control of the

· PLEASE NOTE ·

FROM THE CODE OF FEDERAL RULES-44CFR 65.2 CERTIFICATION OF DATA IS A STATEMENT THAT THE DATA IS ACCURATE TO THE BEST OF THE CERTIFIERS KNOWLEDGE.

- CERTIFICATION ANALYSIS IS A STATEMENT THAT THE ANALYSIS HAVE BEEN PERFORMED CORRECTLY AND IN ACCORDANCE WITH SOUND ENGINEERING PRACTICES.
- CERTIFICATION OF STRUCTURAL WORKS IS A STATEMENT THAT THE WORKS ARE DESIGNED IN ACCORDANCE WITH SOUND ENGINEERING PRACTICES, TO PROVIDE PROTECTION FROM THE BASE FLOOD.
- CERTIFICATION OF "AS BUILT" CONDITIONS IS A STATEMENT THAT THE STRUCTURE(S) HAS BEEN BUILT ACCORDING TO THE PLANS BEING CERTIFIED IS IN PLACE AND IS FULLY FUNCTIONING.



EXISTING RESIDENCE

SYMBOLS KEY

EXISTING ELECTRICAL	
EXISTING WATER	$-\mathtt{w}\!-\!\mathtt{w}\!-\!\mathtt{w}\!-\!\mathtt{w}\!-\!\mathtt{w}\!-\!$
EXISTING SEWER	-s-s-s-s-
EXISTING GAS	-g-g-g-g-

SITE DATA:

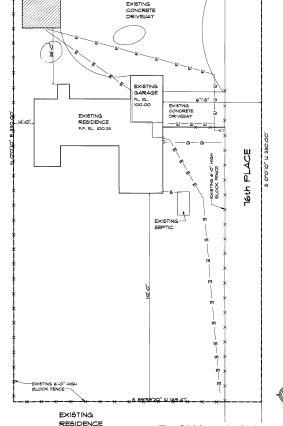
PARCEL NUMBER: ZONING DISTRICT: SITE ADDRESS:

175-16-012-A R1-35 1850 N 76th PLACE SCOTTSDALE, ARIZONA 54,450 SQ. FT. 3378 SQ. FT.

1924 SQ. FT.

LOT AREA: EXISTING RESIDENCE AREA: NEW GARAGE AREA:

NOTE: NO NATIVE PLANTS WILL BE AFFECTED DURING CONSTRUCTION.



SHEET INDEX:

- AL SITE PLAN, VICINITY MAP, SITE DATA
- A2 FLOOR PLAN, GENERAL SPECIFICATIONS,

2 VICINITY MAP AI NO SCALE

- A3 FOUNDATION PLAN AND DETAILS
- A4 ROOF FRAMING PLAN, SECTIONS AND DETAILS
- A5 ELEVATIONS
- EI ELECTRICAL PLAN

SITE PLAN

