

# BOARD OF ADJUSTMENT REPORT



Meeting Date: 4/7/2021

## ACTION

**Danny and Cindy Vice Variance**  
**22-BA-2020**

### Request to consider the following:

1. Request by applicant for determination of material change to prior application, pursuant to the Rules of Procedure for the Board of Adjustment, Rule 406, to resubmit a new variance application previously decided by the Board of Adjustment on February 3, 2021, for a property with Single Family (R1-7) zoning located at 7138 E. Orange Blossom Lane.

## OWNER

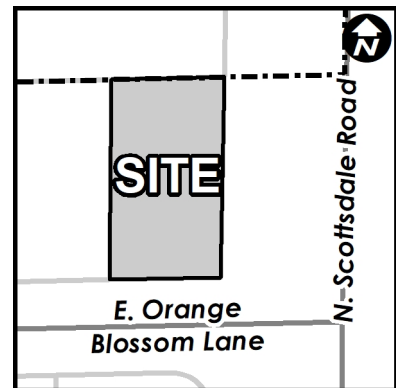
Danny and Cindy Vice  
(951) 837-0097

## APPLICANT CONTACT

Vito Dascoli  
(480) 241-5180

## LOCATION

7138 E Orange Blossom Ln



## RESUBMITTAL CRITERIA

Pursuant to Rule 406 of the Rules of Procedure for the Board of Adjustment, no adjustment or appeal of a decision or interpretation that has been denied shall be further considered by the filling of a new application for one year **unless the new application contains a material change in the nature of the case.**

If a material change is claimed by the applicant, **the board shall first hear the applicant on the issue of the materiality of said change** before allowing the Secretary of the Board to post the required notices for a hearing on the merits of the case.

## **BACKGROUND**

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### **Zoning Ordinance Requirements for Previous Variance Application**

Pursuant to Article V, Section 5.504.E.5, “A corner lot shall have a front yard with a minimum depth of twenty (20) feet on the shorter street frontage, and a yard with a minimum depth of five (5) feet on the longer street frontage.”

### **Previous Proposal**

The applicant requested a variance of five (5) feet to reduce the required setback from the longer street frontage to zero (0) feet. The request was denied on February 3, 2021 by a motion for denial with a four (4) to three (3) vote (see attachment # 1).

### **Previous Board Discussion**

The stated reasons for the denial expressed by Board members were generally related to criterion 4 of the variance criteria established by Article I, section 1.804.A. Criterion 4 states “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 primary reasons for denial included concerns that an addition built on the lot line would cause stormwater runoff onto City property and that such an addition could impact the City’s ability to access and maintain existing infrastructure in the right of way between the sidewalk and the subject property. There was also discussion by the Board of the visual impact of a zero lot line addition and the potential detrimental impact it could have on the neighborhood.

## **NEW PROPOSAL**

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The applicant’s new proposal is for a variance from section 5.504.E.5 of two (2) feet, to reduce the required setback from the longer street frontage from five (5) feet to three (3) feet.

If the Board deems the new application to contain a material change from the previous case, the revised request for variance will be brought back to the Board at a future meeting (within one year) for consideration of the merits of the request, based on the four criteria.

**APPROVED BY**

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Omar Smailbegovic, Report Author  
480-312-3087, osmailbegovic@scottsdaleaz.gov

3/15/2021

Date



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

3/15/2021

Date



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

3/19/2021

Date



For

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

3/19/2021

Date

**ATTACHMENTS**

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1. Approved Minutes from the February 3, 2021 Board of Adjustment Hearing
2. Applicant Narrative
3. Previous Site Plan, Floor Plan, and Elevation
4. New Site Plan, Floor Plan, and Elevation



**SCOTTSDALE BOARD OF ADJUSTMENT  
REMOTE ELECTRONIC MEETING  
WEDNESDAY, FEBRUARY 3, 2021**

**\*SUMMARIZED MEETING MINUTES\***

**PRESENT:**

Brian Kaufman, Chair  
Matt Metz, Vice Chair  
Jason Chocron, Board Member  
Joseph Dawson, Board Member  
Gary Donahoe, Board Member  
Jay Leopold, Board Member  
Michael Gonzalez, Board Member

**ABSENT:**

None

**STAFF:**

Bryan Cluff  
Desirae Mayo  
Omar Smailbegovic  
Nate Tonnemacher  
Margaret Wilson  
Bronte Ibsen  
Chad Sharrad  
Randy Grant  
Karen Hemby

**CALL TO ORDER**

The regular meeting of the Scottsdale Board of Adjustment was called to order by Chair Kaufman at 5:02 pm.

**ROLL CALL**

A formal roll call confirmed all members present as stated above.

**BOARD MEMBER GONZALEZ JOINED THE CALL AT 5:16 PM**

\* Note: These are summary action minutes only. A complete copy of the meeting audio is available on the Board of Adjustment page on ScottsdaleAZ.gov, search "Board of Adjustment".

**ADMINISTRATIVE REPORT**

1. Identify supplemental information, if any, related to the February 3, 2021 Board of Adjustment agenda items, and other correspondence.

**APPROVAL OF MINUTES**

2. Review and possible approval of January 6, 2021 Board of Adjustment Regular Meeting Minutes.

**VICE CHAIR METZ MADE A MOTION TO APPROVE THE JANUARY 6, 2021 BOARD OF ADJUSTMENT MEETING MINUTES, 2ND BY BOARD MEMBER CHOCRON. THE MOTION CARRIED UNANIMOUSLY IN FAVOR BY CHAIR KAUFMAN, VICE CHAIR METZ, BOARD MEMBER CHOCRON, BOARD MEMBER DAWSON, BOARD MEMBER LEOPOLD, AND BOARD MEMBER DONAHOE WITH AN AYE VOTE OF SIX (6) TO ZERO (0).**

**REGULAR AGENDA**

3. [17-BA-2020 \(Garcia Wall\)](#)  
Request by owner for a variance to the City of Scottsdale Zoning Ordinance, Section 5.504.G. pertaining to wall height within the required front yard setback for a property with Single-Family Residential (R1-7) zoning located at 8637 E Starlight Way  
8637 E Starlight Wy

**BOARD MEMBER DONAHOE MADE A MOTION TO DENY 17-BA-2020, 2ND BY BOARD MEMBER CHOCRON. THE MOTION CARRIED UNANIMOUSLY IN FAVOR BY CHAIR KAUFMAN, VICE CHAIR METZ, BOARD MEMBER CHOCRON, BOARD MEMBER DONAHOE, BOARD MEMBER DAWSON, BOARD MEMBER LEOPOLD, AND BOARD MEMBER GONZALEZ WITH AN AYE VOTE OF SEVEN (7) TO ZERO (0).**

4. [19-BA-2020 \(Sherwood Heights Appeal\)](#)  
(Sherwood Heights Appeal) Appeal of the Zoning Administrator's written interpretation, dated October 19, 2020, as supplemented; related to Section 7.201.A. Adjustment of front yard requirements, as applicable to a corner lot within the R1-10 PRD Zoning District, including the method of calculation for the front yard setbacks.  
5925 E Wilshire Dr

**BOARD MEMBER DONAHOE MADE A MOTION IN FAVOR OF THE BOARD'S JURISDICTION OVER THE ZONING ADMINISTRATOR'S DECISION RELATED TO SECTION 7.201A., (60<sup>TH</sup> STREET) INCLUDING METHOD OF FRONT YARD SETBACK CALCULATION (WILSHIRE DRIVE); AND CLARIFYING THE BOARD DOES NOT HAVE JURISDICTION OVER THE LOT SPLIT, 2<sup>ND</sup> BY VICE CHAIR METZ. THE MOTION CARRIED UNANIMOUSLY IN FAVOR BY CHAIR KAUFMAN, VICE CHAIR METZ,**

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BOARD MEMBER CHOCRON, BOARD MEMBER DONAHOE, BOARD MEMBER DAWSON, BOARD MEMBER LEOPOLD, AND BOARD MEMBER GONZALEZ WITH AN AYE VOTE OF SEVEN (7) TO ZERO (0).

BOARD MEMBER DONAHOE MADE A MOTION IN FAVOR THAT THE APPELLANTS AND ANDERSON (OWNERS OF PARCEL 106A AND 106B) HAVE STANDING, 2<sup>ND</sup> BY VICE CHAIR METZ. THE MOTION CARRIED UNANIMOUSLY IN FAVOR BY CHAIR KAUFMAN, VICE CHAIR METZ, BOARD MEMBER CHOCRON, BOARD MEMBER DONAHOE, BOARD MEMBER DAWSON, BOARD MEMBER LEOPOLD, AND BOARD MEMBER GONZALEZ WITH AN AYE VOTE OF SEVEN (7) TO ZERO (0).

BOARD MEMBER DONAHOE MADE A MOTION TO ADJOURN TO EXECUTIVE SESSION (7:28 PM), 2<sup>ND</sup> BY BOARD MEMBER DAWSON. THE MOTION CARRIED UNANIMOUSLY IN FAVOR BY CHAIR KAUFMAN, VICE CHAIR METZ, BOARD MEMBER CHOCRON, BOARD MEMBER DONAHOE, BOARD MEMBER DAWSON, BOARD MEMBER LEOPOLD, AND BOARD MEMBER GONZALEZ WITH AN AYE VOTE OF SEVEN (7) TO ZERO (0).

THE BOARD RECONVENED TO THE REGULAR MEETING AT 8:02 PM.

VICE CHAIR METZ MADE A MOTION TO UPHOLD THE DECISION OF THE ZONING ADMINISTRATOR'S CALCULATION OF THE FRONT YARD SETBACK ALONG WILSHIRE, OF 40.7 FEET, FINDING HIS DECISION WAS NOT ARBITRARY, CAPRICIOUS OR AN ABUSE OF DISCRETION, 2<sup>ND</sup> BY BOARD MEMBER DONAHOE. THE MOTION CARRIED UNANIMOUSLY IN FAVOR BY CHAIR KAUFMAN, VICE CHAIR METZ, BOARD MEMBER CHOCRON, BOARD MEMBER DONAHOE, BOARD MEMBER DAWSON, BOARD MEMBER LEOPOLD, AND BOARD MEMBER GONZALEZ WITH AN AYE VOTE OF SEVEN (7) TO ZERO (0).

BOARD MEMBER DONAHOE MADE A MOTION TO UPHOLD THE DECISION OF THE ZONING ADMINISTRATOR'S DETERMINATION REGARDING APPLICATION OF SECTION 7.201.A ALONG 60<sup>TH</sup> STREET FINDING THAT HIS DECISION WAS NOT ARBITRARY, CAPRICIOUS OR AN ABUSE OF DISCRETION. THE MOTION CARRIED UNANIMOUSLY IN FAVOR BY CHAIR KAUFMAN, VICE CHAIR METZ, BOARD MEMBER CHOCRON, BOARD MEMBER DONAHOE, BOARD MEMBER DAWSON, BOARD MEMBER LEOPOLD, AND BOARD MEMBER GONZALEZ WITH AN AYE VOTE OF SEVEN (7) TO ZERO (0).

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5. [22-BA-2020 \(Danny and Cindy Vice Variance\)](#)

Request for a variance from the City of Scottsdale Zoning Ordinance, section 5.504.E.5, pertaining to the required setback from the longer street frontage on a corner lot for a property with Single Family (R1-7) zoning located at 7138 E. Orange Blossom Lane.  
7138 E Orange Blossom Ln

**BOARD MEMBER CHOCRON MADE A MOTION TO DENY 22-BA-2020, 2<sup>ND</sup> BY BOARD MEMBER LEOPOLD. THE MOTION CARRIED IN FAVOR BY VICE CHAIR METZ, BOARD MEMBER CHOCRON, BOARD MEMBER LEOPOLD, BOARD MEMBER GONZALEZ, WITH AN AYE AND CHAIR KAUFMAN, BOARD MEMBER DONAHOE, BOARD MEMBER DAWSON DISSENTING, THE MOTION PASSED WITH A VOTE OF FOUR (4) TO THREE (3).**

6. [23-BA-2020 \(Sundown Ranch Acres Lot 16 Variance\)](#)

Request by owner for a variance to the City of Scottsdale Zoning Ordinance Section 5.204.E.2. pertaining to the required side yard setback for a property with Single-Family Residential (R1-35) zoning located at 10629 N. 83rd Street.  
10629 N 83rd St

**VICE CHAIR MADE A MOTION TO CONTINUE CASE 23-BA-2020 TO THE MARCH 3, 2021 MEETING PER APPLICANT REQUEST, 2<sup>ND</sup> BY BOARD MEMBER CHOCRON. THE MOTION CARRIED UNANIMOUSLY IN FAVOR BY CHAIR KAUFMAN, VICE CHAIR METZ, BOARD MEMBER CHOCRON, BOARD MEMBER DONAHOE, BOARD MEMBER DAWSON, BOARD MEMBER LEOPOLD, AND BOARD MEMBER GONZALEZ WITH AN AYE VOTE OF SEVEN (7) TO ZERO (0).**

7. [24-BA-2020 \(Coleman Residence\)](#)

Request for a variance from the City of Scottsdale Zoning Ordinance, section 5.304.E.2 as amended in Zoning Case 5-ZN-1996, pertaining to the required setbacks for a property with Single Family Residential with Planned Residential Development overlay (R1-18 PRD) zoning located at 11194 E North Lane.  
11194 E North Ln

**BOARD MEMBER DONAHOE MADE A MOTION TO DENY CASE 24-BA-2020, 2<sup>ND</sup> BY VICE CHAIR METZ. THE MOTION CARRIED UNANIMOUSLY IN FAVOR BY CHAIR KAUFMAN, VICE CHAIR METZ, BOARD MEMBER CHOCRON, BOARD MEMBER DONAHOE, BOARD MEMBER DAWSON, BOARD MEMBER LEOPOLD, AND BOARD MEMBER GONZALEZ WITH AN AYE VOTE OF SEVEN (7) TO ZERO (0).**

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**ADJOURNMENT**

With no further business to discuss, the regular session of the Board of Adjustment adjourned at 10:07 PM.

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## ***Narrative***

To:

Board of Adjustment

Request for:

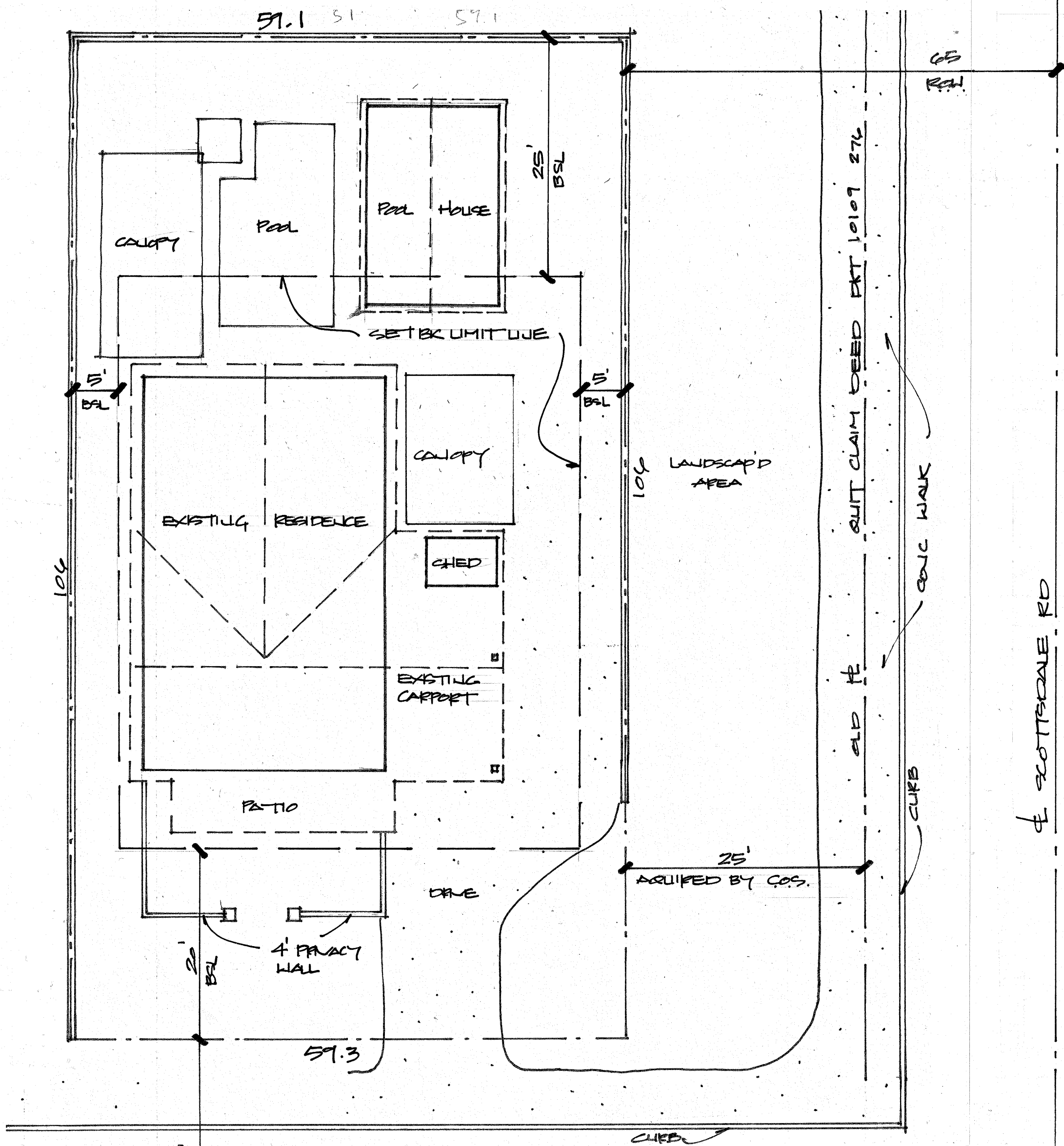
Reconsideration of a material change to the presentation/application from February's agenda

This is a continuation of the previous variance application requesting a modification to the street/side yard setback. The board was in agreement that this lot, located at 7138 E Orange Blossom, is indeed a legal non-conforming lot due to the acquisition of 2,650 square feet from an existing 8,900 square foot lot by the City of Scottsdale for road improvements.

We are requesting a reconsideration of the proposed material change to the current variance request. The previous proposal illustrated a request for a '0' setback to the west side of the property facing Scottsdale Road. The Board's concern was the impact of roof water runoff into the City of Scottsdale's retention area which wouldn't be acceptable to the civil engineering department due to storm water calculations that do not account for the private run off. In this request, we are asking the Board for a three-foot side yard setback which will allow the storm water runoff to remain on the owner's property. Another option would be to change the proposed roof line from a hip to a gable end however, all concerned agreed that the hip roof, as proposed, was a far more aesthetic advantage to the community.

In summary, we are asking the Board of Adjustments to accept this application as a material change to the variance application and approve the three-foot setback versus the five-foot setback as required by City of Scottsdale's zoning ordinance.





#### Scope

- Interior remodel
- Carport conversion
- Addition to north & east sides of carport
- Extended roof for new carport

#### SITE PLAN EXISTING CONDITIONS

#### ZONING REGULATIONS 178-22-048A

##### ZONE RI-7

SETBACKS		
FRONT	20'	25'
REAR	25'	25'
SIDE	5'	5'

LOT SIZE	6,000	LEGAL MIN. LOT SIZE
LOT COVERAGE	1.14	CONFORMING
MIN. LOT SIDE	7,000	5,994 PRIOR TO SUT CLAIM
		14/1973

#### BUILDING DATA

AREA	EXISTING	PROPOSED	
INABLE	1,092	NORTH ADDITION (A)	
		EAST ADDITION (B)	
		CURRENT CARPORT (C)	
	1,092	321	14-13 TOTAL INABLE
CARPORT	240	NEW ADDITION CARPORT (D)	
	240	11,430	
		245	
FRONT PATIO	143	NA	
SHED	72	NA	
POOL HOUSE	308	NA	
TOTAL UNDER ROOF	1,783	2,125	

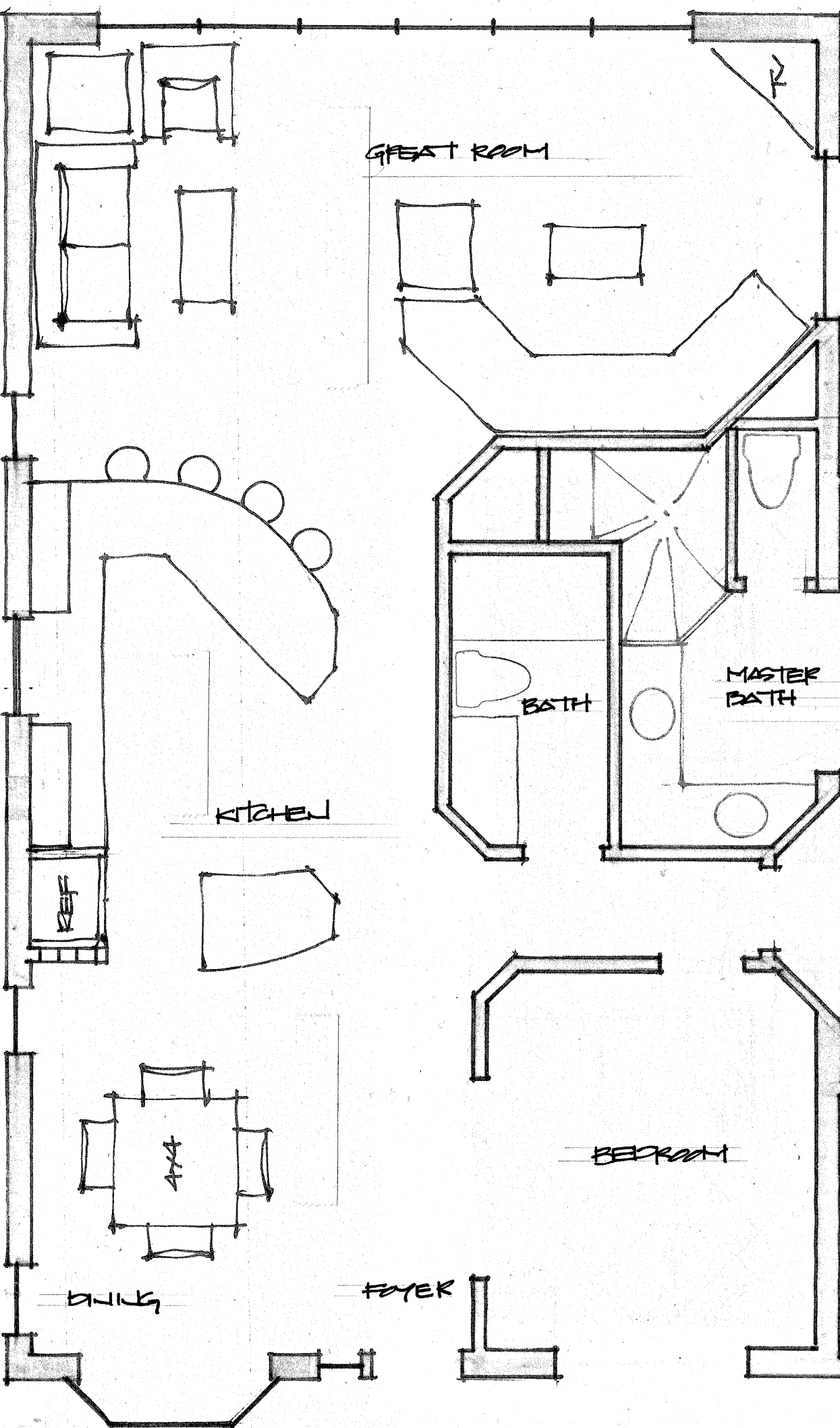
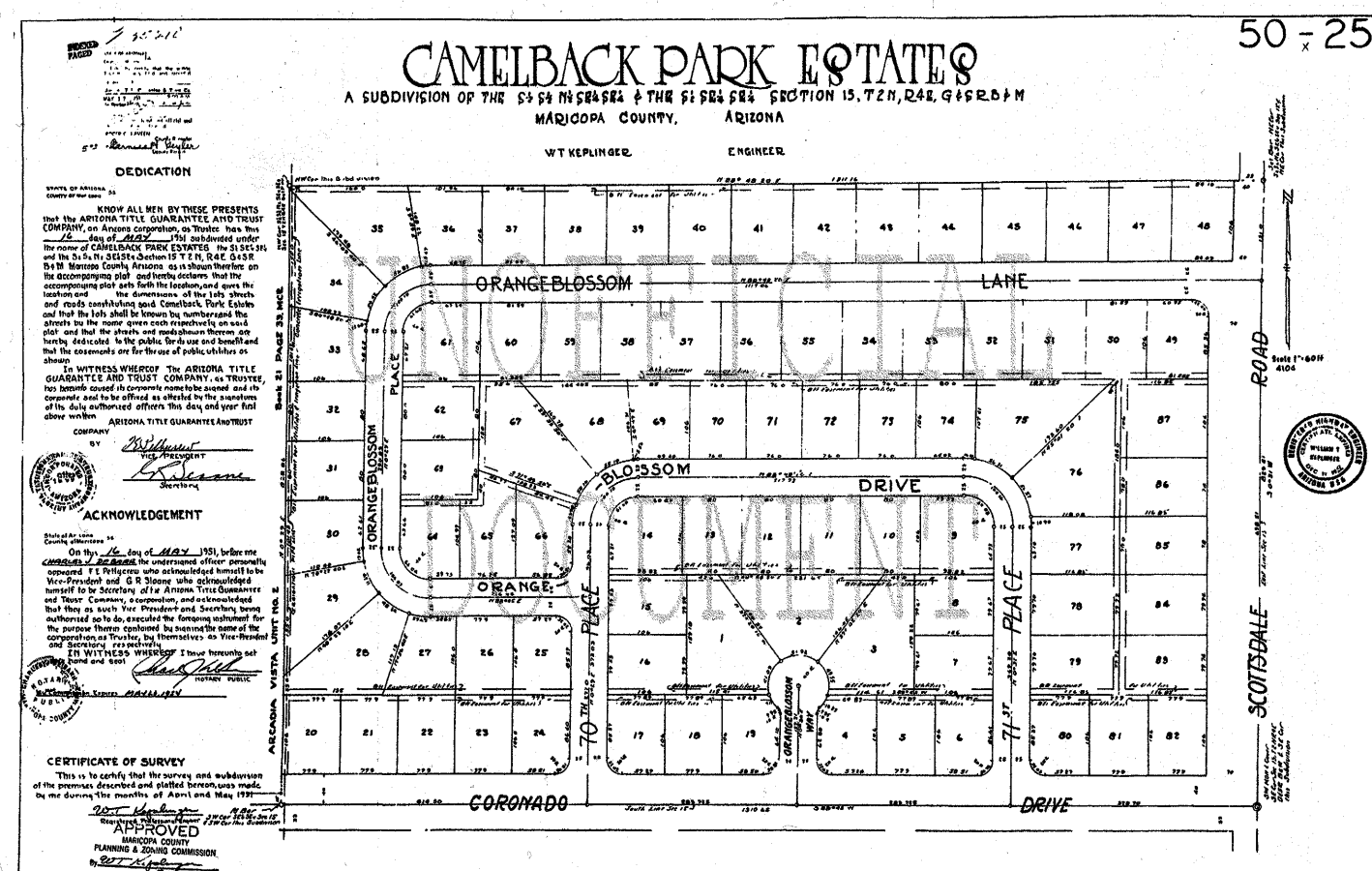
COM #	MAP #	INDEX	PUL #	SUFFY	PUL DATE
04502	040	130	7.30.05	1495	X
					7.30.05

This property is a legal, non-conforming use. The city of Scottsdale acquired 25 feet of an existing 8,900 sq. foot lot in 1973. This action resulted in reducing the lot size 6,000 sq. feet, which is below the 7,000 sq. foot minimum as per City of Scottsdale zoning ordinance.

We are requesting a reduction in the street side set back requirement of five feet to zero feet. This would apply to the carport only, not the residence. In an attempt to ensure good curb appeal facing Scottsdale Road, we have proposed a hip roof on the east end of the carport.

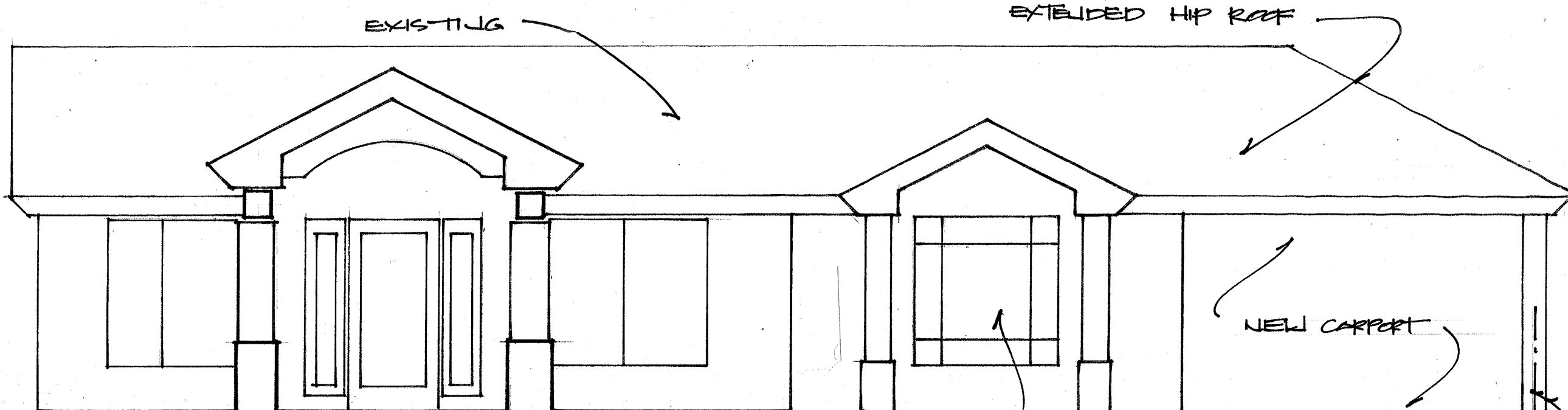
#### SITE PLAN PROPOSED

SCALE 1"=10'-0"



#### FLOOR PLAN DESIGN

SCALE 1/4"=1'-0"



#### ELEVATION SCALE

SCALE 1/4"=1'-0"

#### Unofficial Document

19/30420\_UK1\_TU109\_2/0

STATE OF ARIZONA  
County of MARICOPA  
In and for the County of MARICOPA, Arizona  
I, the undersigned, being duly qualified and sworn, do hereby certify that the within instrument was duly and lawfully recorded in the Office of the County Clerk of Maricopa County, Arizona, on the 27th day of April, 2013, at the request of the City of Scottsdale, Arizona.

Witness my hand and official seal.  
Notary Public  
PAUL N. MARSTON  
By: Cindy Nguyen  
City Clerk

#### Quit-Claim Deed

For the consideration of Ten Dollars, and other valuable consideration, I or we, IRENE PRINCE DAVIS, a widow

hereby quit-claim to THE CITY OF SCOTTSDALE, ARIZONA, a municipal corporation

all right, title, or interest in the following real property situated in: MARICOPA County, Arizona:

The East twenty-five (25) feet of lot 48, CAMELBACK PARK ESTATES, a subdivision recorded in Book 50 of Maps, Page 25, MCR, Maricopa County, Arizona.

#### FOR PUBLIC ROADWAY PURPOSES

With the provision that the City of Scottsdale grant a building permit to the grantor of the 25 ft for the purpose of building a residence on the remaining property of lot 48 Camelback Park Estates. Otherwise grant shall revert to grantor automatically.

Dated this 24th day of April, 2013. D. 19

#### OWNER / JOB SITE

DANNY & CINDY VICE  
7138 E ORANGE BLOSSOM LN  
SCOTTSDALE AZ  
P 951-837-0097

#### DRAWING

SITE PLANS • FLOOR PLAN • ELEVATION

DATE DEC 7 2020  
REVISIONS Attachment 3

#### SHEET

41 of ONE

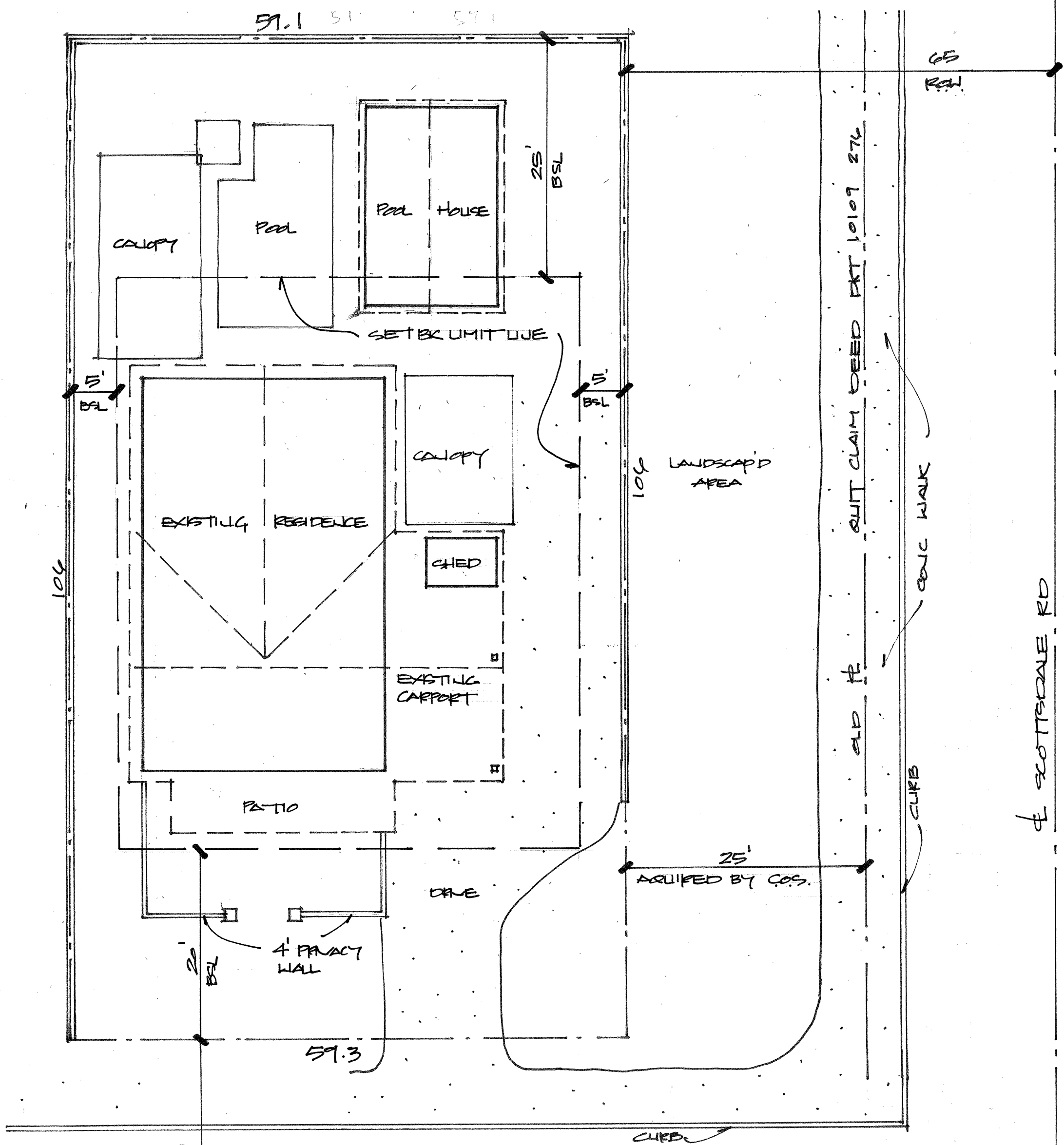
#### PLANNING & DESIGN

AN INTIMATE APPROACH...

...to design construction VITO DASCALI JR.

P 480-241-5180 E. VITO DASCALI JR. VITO DASCALI CONSULTING

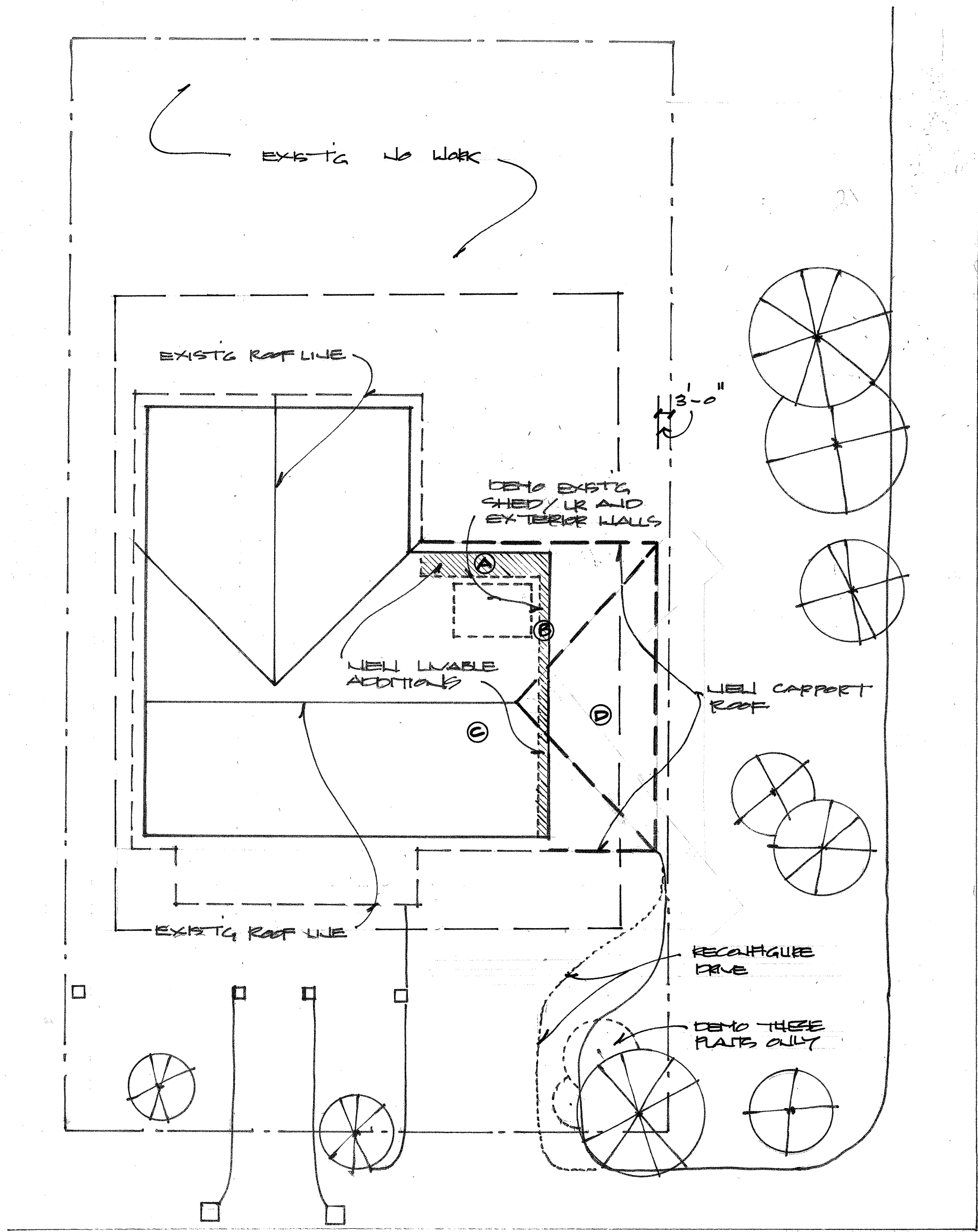




#### Scope

- Interior remodel
- Carport conversion
- Addition to north & east sides of carport
- Extended roof for new carport

#### SITE PLAN EXISTING CONDITIONS



#### SITE PLAN PROPOSED

SCALE 1" = 10'-0"

#### ZONING REGULATIONS 173-22-048A

##### ZONE RI-7

SETBACKS  
FRONT 25' 25'  
REAR 25' E' NA  
SIDES 5/8 0' STREET SIDE  
BOA APPLICATION

LOT SIZE 6 NA  
LOT COVERAGE NA  
MIN LOT SIZE 7000 NA  
CONFORMING  
8994 PRIOR TO QUIT  
CLAIM DEED  
IN 1973

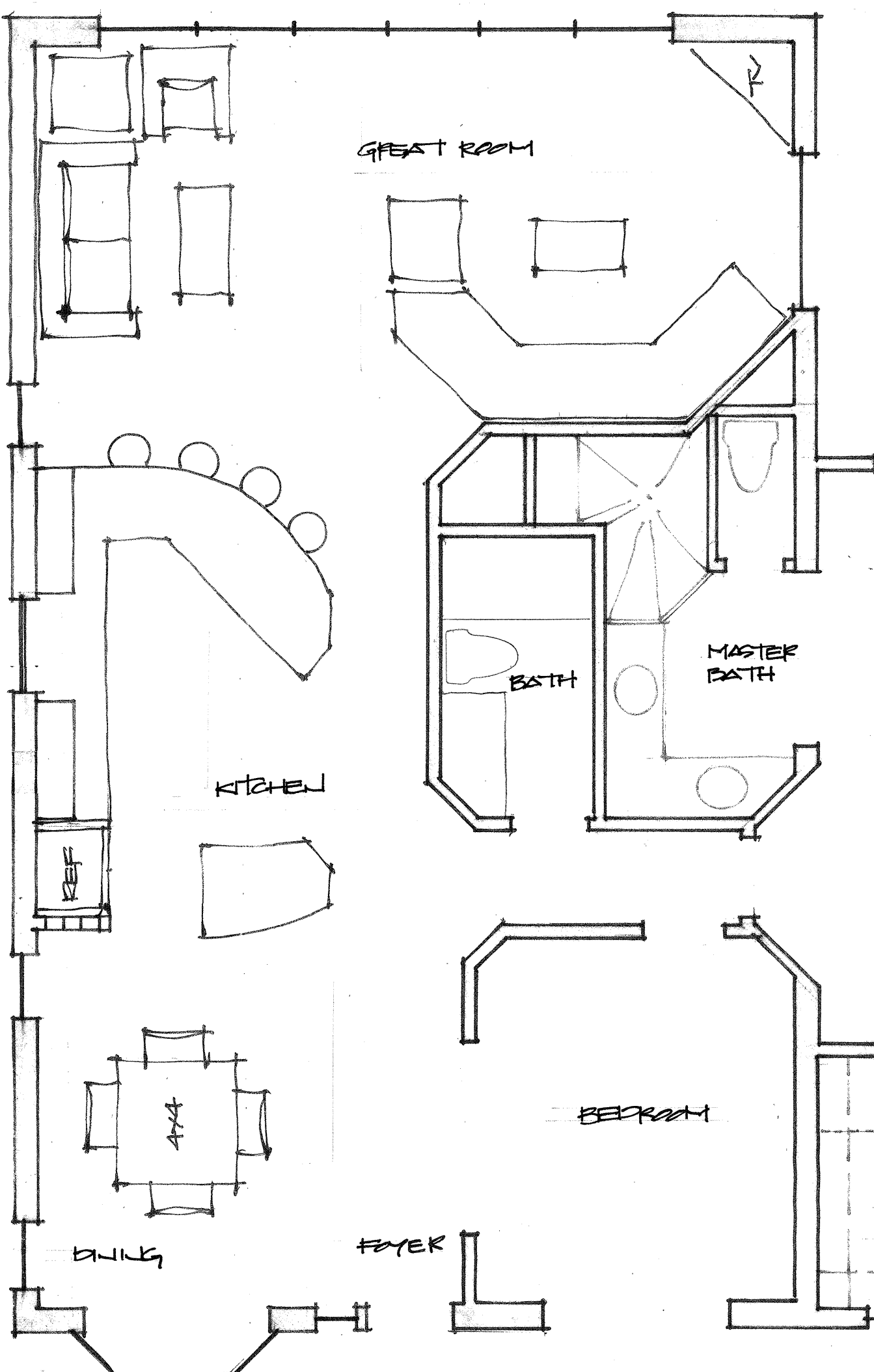
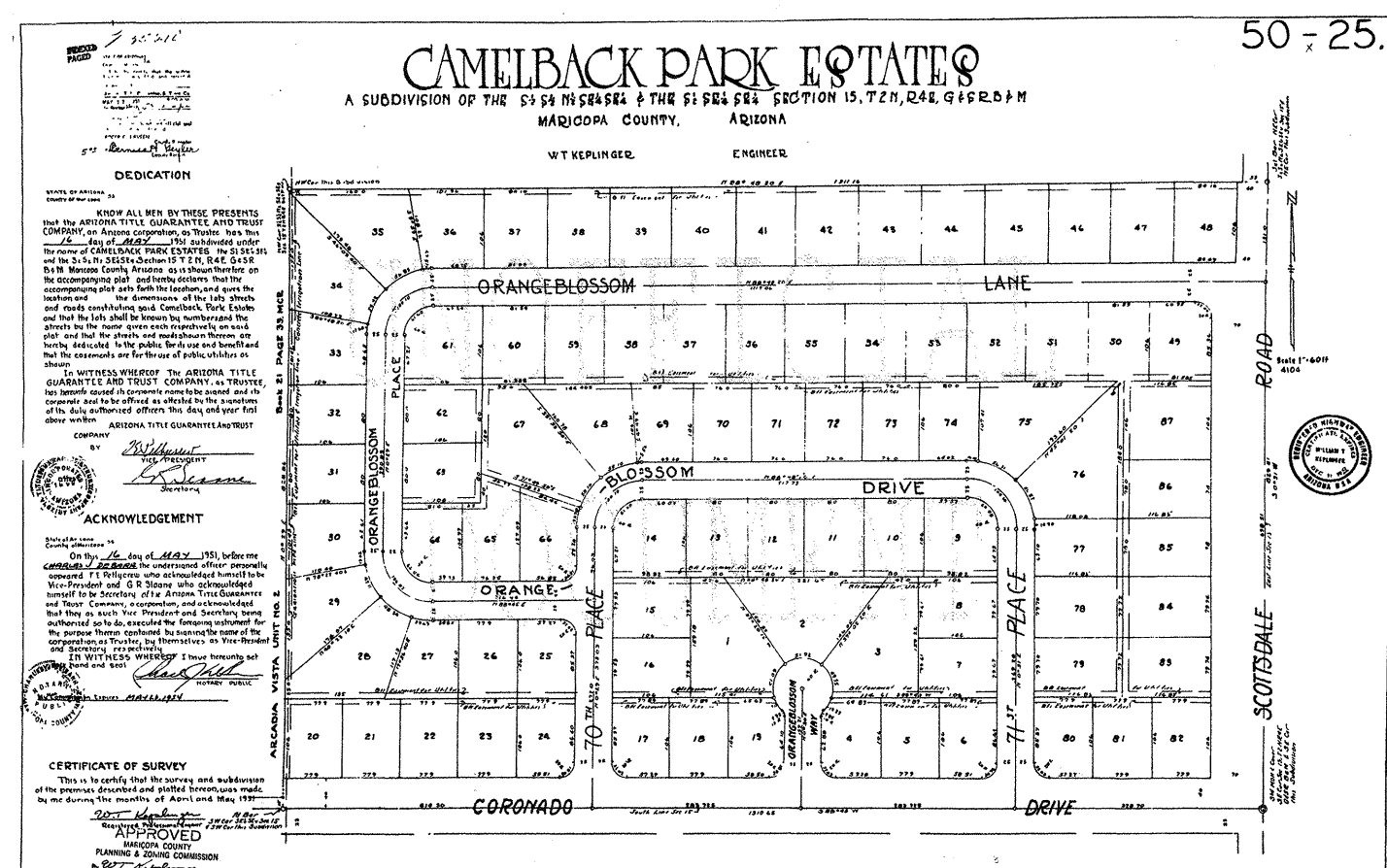
#### BUILDING DATA

AREA	EXISTING	PROPOSED
LIVABLE	1092	NORTH ADDITION (A) 325 sq ft EAST ADDITION (B) 411 sq ft CARPORT CONVERT (C) 240 sq ft 321 sq ft TOTAL LIVABLE
CARPORT	240 sq ft	NEW ADDITION CARPORT CONVERT 116,130 sq ft 245 sq ft
FRONT PATIO	145 sq ft	NA
SHED	72 sq ft	NA
POOL HOUSE	308 sq ft	NA
TOTAL UNDER ROOF	1783 sq ft	2128 sq ft

COM #	MAP #	INDEX	FILE #	SUPPLY	FILE DATE
04502	04013C	9.30.05	1095	X	9.30.05

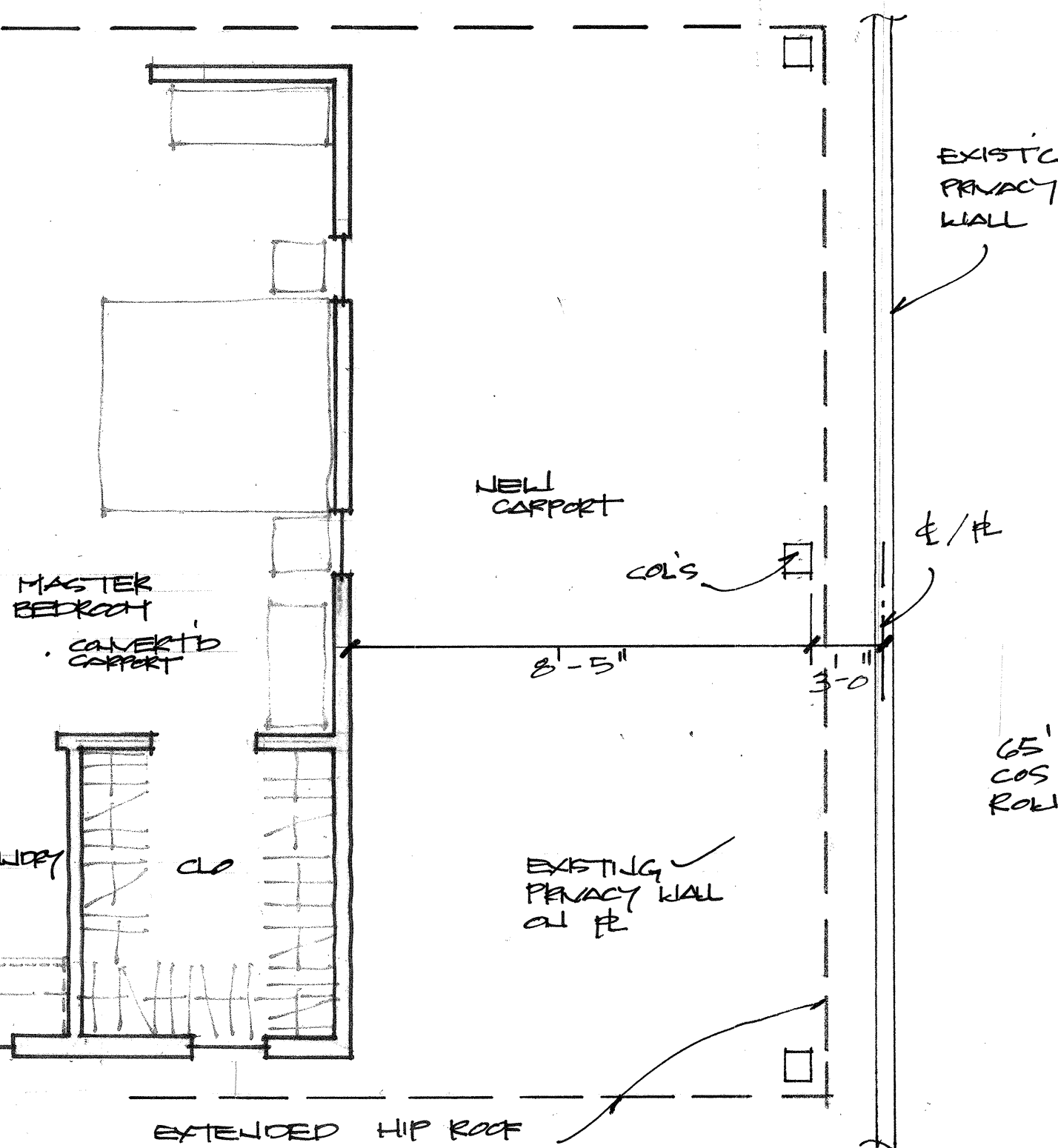
This property is a legal, non-conforming use. The city of Scottsdale acquired 25 feet of an existing 8,900 sq. foot lot in 1973. This action resulted in reducing the lot size 6,000 sq. feet, which is below the 7,000 sq. foot minimum as per City of Scottsdale zoning ordinance.

We are requesting a reduction in the street side set back requirement of five feet to 3' feet. This would apply to the carport only, not the residence. In an attempt to ensure good curb appeal facing Scottsdale Road, we have proposed a hip roof on the east end of the carport.



#### FLOOR PLAN DESIGN

SCALE 1/4" = 1'-0"



#### ELEVATION SCALE

SCALE 1/4" = 1'-0"

#### Unofficial Document

STATE OF ARIZONA  
County of MARICOPA  
In Book 101059, Page 276  
I hereby certify that the within instrument was filed and recorded in the Public Records of the County of Maricopa, Arizona, on April 26, 1973, at the request of the City of Scottsdale.  
Witness my hand and official seal.  
Paul H. Marston  
City Recorder  
Scottsdale, AZ 85251

Quit-Claim Deed  
PARCEL 173-22-48  
For the consideration of Ten Dollars, and other valuable consideration, I or we,  
IRENE PRINCE DAVIS, a widow

THE CITY OF SCOTTSDALE, ARIZONA, a municipal corporation  
all right, title, or interest in the following real property situated in Maricopa County, Arizona:  
The East twenty-five (25) feet of lot 48, CAMELBACK PARK ESTATES, a subdivision recorded in Book 50 of Maps, Page 25, MCR, Maricopa County, Arizona.

#### FOR PUBLIC ROADWAY PURPOSES

With the provision that the City of Scottsdale grant a building permit to the grantor of the 25 ft for the purpose of building a residence on the remaining property of lot 48, Camelback Park Estates. Otherwise grant shall revert to grantor automatically.

Dated this 24th day of April, 1973. D. 1973

#### OWNER / JOB SITE

DANNY & CINDY VICE  
7138 E ORANGE BLOSSOM LN  
SCOTTSDALE AZ  
P 481-837-0097

#### DRAWING

SITE PLANS • FLOOR PLAN •  
• ELEVATION

DATE DEC 7 2020 Attachment 4  
REVISIONS FEB 23 2021

#### SHEET

41  
of  
ONE

#### PLANNING & DESIGN

AN INTIMATE APPROACH...  
...to design & construction  
VITO DASCALI JR.  
P 480-241-5180  
E. VITO@DASCALI.COM