

City of Prescott

Board of Adjustment



June 20, 2024 | 9:00 AM
201 N. Montezuma Street
Council Chambers, 3rd Floor
Prescott, AZ 86301

AGENDA

The following Agenda will be considered by the **Board of Adjustment** at their meeting to be held **June 20, 2024**. Notice of this meeting is given pursuant to Arizona Revised Statutes, Section 38-431.02.

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **DISCUSSION & ACTION ITEMS**
 - A. Approval of the April 18, 2024 Board of Adjustment Meeting Minutes.
Recommended Action: MOVE to approve minutes as presented
 - B. **V24-003:** Variance to Article 3, Section 3.6.3.F (SF-9/Minimum Setbacks) of the Land Development Code (LDC) Allowing a Reduction of the Required 7' Side Setback by 4.5' to Allow for a 2.5' Side Setback for an Existing Carport on a 0.15 Acre Parcel. Zoning: SF-9 (Single-Family-9 Density). Property Owner & Applicant: Brandi Tara Allman Living Trust. Location: APN 116-17-062, 731 Flora St.
Recommended Action: MOVE to approve V24-003 per the site plan submitted
4. **STAFF UPDATES**
5. **ADJOURNMENT**

Upon a public majority vote of a quorum of the Board, the Board may hold an executive session, which will not be open to the public, regarding any item listed on the agenda but only for the following purposes:

- (1) Discussion or consideration of personnel matters (A.R.S. §38-431.03(A)(1));
- (2) Discussion or consideration of records exempt by law (A.R.S. §38-431.03(A)(2));
- (3) Discussion or consultation for legal advice with the city's attorneys (A.R.S. §38-431.03(A)(3));
- (4) Discussion or consultation with the city's attorneys regarding the city's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation, or in settlement discussions conducted in order to avoid litigation (A.R.S. § 38-431.03(A)(4));
- (5) Discussion or consultation with designated representatives of the city to consider its position and instruct its representatives regarding negotiations with employee organizations

(A.R.S. §38-431.03(A)(5));

(6) Discussion, consultation or consideration for negotiations by the city or its designated representatives with members of a tribal council, or its designated representatives, of an Indian reservation located within or adjacent to the city (A.R.S. §38-431.03(A)(6));

(7) Discussion or consultation with designated representatives of the city to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property (A.R.S. §38-431.03(A)(7)).

CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at Prescott City Hall on 6/13/24 at 2:00 p.m. in accordance with the statement filed by the Prescott City Council with the City Clerk.



Sarah M. Siep, City Clerk



TO: MAYOR AND CITY COUNCIL
AGENDA: June 20 Board of Adjustment Meeting
DATE: June 20, 2024
DEPT: Community Development
ITEM #: 3.A
SUBJECT: Approval of the April 18, 2024 Board of Adjustment Meeting Minutes.

ITEM SUMMARY

This item is for the approval of the April 18, 2024 Board of Adjustment meeting. Staff recommends approval of the minutes as presented.

BACKGROUND

None.

FINANCIAL IMPACT

There is no fiscal impact at this time.

RECOMMENDED ACTION

MOVE to approve minutes as presented

ATTACHMENTS

1. April 18, 2024 BOA Meeting Minutes



City of Prescott

Board of Adjustment

April 18, 2024 | 9:00 AM
201 N. Montezuma Street
Council Chambers, 3rd Floor
Prescott, AZ 86301

MINUTES

1. CALL TO ORDER

Chair Lamerson called the meeting to order at 9:00 a.m.

2. ROLL CALL

Jim Lamerson, Chair
Tony Teeters, Vice Chair
Tom Davis, Member
Mary Frederickson, Member
Miriam Haubrich, Member
Mark Hokeness, Member
Tom Hutchinson, Member (Absent)

3. DISCUSSION & ACTION ITEMS

Councilman Ted Gambogi addressed the audience to thank them for their conduct at the past meetings.

A. Approval of the March 21, 2024 Board of Adjustment Meeting Minutes.

MOTION BY MEMBER DAVIS TO APPROVE THE MARCH 21, 2024 MINUTES; SECONDED BY MEMBER FREDERICKSON: (6 - 0)

B. **CUP23-006:** Land Development Code (LDC) Sections 4.8 and 9.3. Request for a Conditional Use Permit for Quik Trip Fueling Station & Convenience Store. Zoning: BR (Business Regional). Location: APN 112-05-058b, 2280 E State Route 69 Prescott, AZ 86301. Property Owner: Sarti Properties Limited. Applicant: Kimley Horn and Associates & QuikTrip Corp. Staff: Kaylee Nunez, Community Planner.

Kaylee Nunez, Planner, introduced the topic for discussion. She displayed site plan overlay maps of the proposed gas station that included two site plan options being considered. She also showed landscape plans, viewshed renderings to show examples of how the building would look from different angles nearby. Both site plans meet requirements per land development code.

Member Frederickson asked if the Prescott Canyon Drive was private, county or city.

Member Hokeness asked if QuikTrip had a preference for site plan number one or number two.

Ms. Nunez responded that site plan one was the original idea.

Daniel Chambers, QuikTrip representative, responded that he received information that the Prescott Canyon Estates HOA voted and prefers site plan one.

Member Hokeness clarified that the HOA and QuikTrip worked together and reviewed details of site plan one with the QuikTrip representative.

Mr. Chambers commented that they are providing extra landscaping to establish a buffer on the back side of the gas station and shielding on the lighting.

Member Hokeness asked if the approval would include the additional landscaping agreement.

Ms. Nunez recommended the landscaping plan be tied to the site plan number one.

Member Davis clarified that the applicant prefers site plan one.

Chair Lamerson asked if the project meets all requirements but the city rejects it, would it be considered a taking.

Matt Podracky, Deputy City Attorney, responded not under these conditions, they are applying for a conditional use permit. He added that as long as the Land Development code criteria is adhered to and conditions are reasonable to ameliorate impacts to the development it will be copasetic.

Member Davis asked about the hours of operation, preservation of open space north of the gas station.

Member Frederickson asked If the Board were to incorporate conditions into any approval of the conditional use permit, would it lend extra weight to those conditions, considering they have already been applied by the Planning and Zoning Commission.

Mr. Podracky responded if the Board applies it as part of the conditions of the conditional use permit, then if they deviate from that, the conditional use permit is revoked, so they no longer have the right to operate. Yes, it will give a little extra weight.

Mr. Chambers, provided a presentation. QuikTrip is excited to come to the area and provide jobs. They are also a safe place for children to come any time of day or night. He showed the security plan for an example of a station, covered 100 percent in video coverage. He displayed a color rendering with landscaping with mature trees separating the neighborhood and the station.

Member Hokeness asked Mr. Chambers what the schedule is for start and completion of the project.

Mr. Chambers responded that with all the different phases of the project they are

still a few years out for completion.

Member Hokeness asked about the timing of the Highway 69 road expansion.

Mr. Chambers stated they would like to time their construction as best they can but it also takes a while to produce the project plans.

Ms. Nunez added in reference to the timeline, the project still needs to go before the Water Issues Subcommittee and City Council so about a month to a month and a half before QuikTrip can submit for permits.

Mayor Goode commented on the plans of widening Highway 69. He stated that bids will be opened tomorrow and construction is expected to begin July 2024.

Karen Monks, Prescott Canyon Estates HOA President, they continue to oppose the gas station. Did work in good faith for separate access with the gas station. She urged the Board to deny the application due to non-compliance. Gas station is near a water flow area that flows to Watson Lake. Request to not have explosives used in the construction process, and requested business and delivery hours of 6 a.m. to 9 p.m.

Acacia Koa, neighborhood resident, commented that there is a need to address the issue of water, how much will be used in the course of business for the gas station. How much money will this bring the City, understands it will bring in revenue but believes there is a better location elsewhere.

Pat Mathews, neighborhood resident, spoke as the first home directly behind the proposed gas station. She is concerned with the effect on the environment, damage to homes from construction process, who would be responsible for the possible damage.

Roger Mathews, neighborhood resident, commented that the city will not see additional revenue, just taking revenue from existing sources. He is concerned about environmental damage, increased traffic and requested the Board to deny the project.

Leigh Mckinsey, neighborhood resident, commented that the creek runs in front of her house and she lives downhill from the proposed station, that waterway is important part of the upper Granite Creek. She believes this is not the right project for the location, potential for damage is enormous, and manmade systems fail. Requested the board to impose conditions on the project if they do not deny it.

Kellie Rutherford, neighborhood resident, stated that she is concerned about water, traffic, and safety, the gas station is better off somewhere else. She feels the neighborhood will depreciate if the gas stations is built and requested the board to not approve the conditional permit for the people.

Toni Perry, neighborhood resident, spoke to appeal to the board to deny the gas station. This will affect the peace of the neighborhood and home values that they

are relying on. Project does not blend into the current neighborhood and cannot recoup financial loss from diminished home values.

Michael Calder, neighborhood resident, spoke as a biochemical scientist for over 40 years, gas stations always leak, referenced recent gas station leak, once gas leaks into the ground it is permanent, off gassing and fumes will be constant, and chemically gasoline is dirty.

Craig Skiera, neighborhood resident, spoke as an environmental engineer with 30 years of experience regarding gas station exposure and health threats. He commented that many US Cities have adopted a minimum 500 feet public health safety zone for placement of gas stations away from residential areas.

John Sirochman, neighborhood resident, wondered why the gas station needed so many parking spots compared to other gas stations not having that many.

Andrea Anton, neighborhood resident, spoke to the concern of health and safety of the neighborhood being effected by a 24 hour gas station. She is also concerned wildlife will be scared away, and noise disruption will affect the neighborhood residents sleep which is very important for health.

Mike Sarti, property owner, pointed out that the location is a commercial property and in a high traffic corridor.

Dennis Anton, neighborhood resident, asked what the property owner has to gain.

Member of the public Deanne Martin spoke regarding her parents' property in the neighborhood and the pride of ownership shown throughout the neighborhood. She is concerned with the loss of property value, hoping a better location can be found for the gas station.

Will Monks, neighborhood resident, spoke regarding the landscape proposal, he believes there is more to the pictures that are shown in the renderings, please do not pass the proposal.

Sonia Clark, neighborhood resident, requested Mr. Sarti wait for a better opportunity for the property, and requested that it please not a gas station.

Member Frederickson asked the QuikTrip representative what the delivery hours usually are.

Mr. Chambers responded they could control the QuikTrip delivery hours, but cannot control the third party vendor delivery hours as well as gas delivery which is subject to the route.

Member Haubrich thanked the community for coming out.

Vice Chair Teeters asked how restricted delivery hours would affect the QuickTrip.

Mr. Chambers responded it would have a negative impact.

Member Davis commented that this is a challenging decision related to zoning and land development and added that the zone in question is very permissive, allowing for various uses without additional permits. The board must consider the broader context outlined in the zoning code and aim to mitigate any concerns raised by adding conditions.

Member Hokeness asked staff how long the current zoning has been in place at the property location.

Ms. Nunez responded that it predates the current 2003 code.

Chair Lamerson asked for a motion.

Member Davis asked what the next step would be if the applicant or neighbors wanted to appeal a decision made.

Attorney Podracky responded the next move would be an aggrieved person has the right to file a special action in Superior Court challenging the decision within 30 days.

MEMBER FREDERICKSON MOVED TO APPROVE CUP23-006 WITH MODIFICATIONS, SITE PLAN ONE (1), INCORPORATING THE LANDSCAPE PLAN AND SHIELDED LIGHTS, LIMITING DEVELOPMENT OF THE NORTH SIDE OF THE PROPERTY TO KEEP AS OPEN SPACE AND REQUIRING A SIX (6) FOOT WALL ALONG THE NORTH SIDE OF THE DEVELOPED PORTION OF THE PROPERTY; SECONDED BY MEMBER HOKENESS.

Ms. Nunez clarified and restated the motion as move to approve CUP23-006 as tied to site plan number one (1), which includes the landscape plan and reinforcing the condition for the 6 foot wall set forth by the Planning and Zoning Commission.

Attorney Podracky asked for clarification on the conditions, one condition of limiting development of the back half or others.

Member Frederickson responded there was the condition of the six foot wall along the north edge and leaving the north portion of the property open.

Member Davis asked if the members making the motions would consider the limitation of hours from 6 a.m. to 10 p.m.

Member Frederickson and Member Hokeness said that is not part of their motion but another motion could be made.

MOTION BY MEMBER FREDERICKSON TO APPROVE CUP23-006 WITH CONDITIONS AS TIED TO SITE PLAN NUMBER ONE (1) AND REINFORCING THE PLANNING AND ZONING COMMISSION'S CONDITIONS TO PRESERVE

THE UNDISTURBED PORTION OF THE PROPERTY NORTH OF THE DEVELOPED SITE AND TO REQUIRE A SIX FOOT WALL NORTH OF THE SITE; SECONDED BY MEMBER HOKENESS: PASSED (5 - 1) MEMBER DAVIS DISSENTING

4. STAFF UPDATES

None.

5. ADJOURNMENT

There being no further business to discuss, Chair Lamerson adjourned the meeting at 10:32 a.m.

Jim Lamerson, Chair

ATTEST:

Torey Dawson, Deputy City Clerk



TO: MAYOR AND CITY COUNCIL
AGENDA: June 20 Board of Adjustment Meeting
DATE: June 20, 2024
DEPT: Community Development
ITEM #: 3.B
SUBJECT: **V24-003:** Variance to Article 3, Section 3.6.3.F (SF-9/Minimum Setbacks) of the Land Development Code (LDC) Allowing a Reduction of the Required 7' Side Setback by 4.5' to Allow for a 2.5' Side Setback for an Existing Carport on a 0.15 Acre Parcel. Zoning: SF-9 (Single-Family-9 Density). Property Owner & Applicant: Brandi Tara Allman Living Trust. Location: APN 116-17-062, 731 Flora St.

ITEM SUMMARY

The applicant is requesting a Variance to allow for a decrease in the side setback to allow for an existing detached carport next to the house. The applicant states that they hired a contractor who told them a permit was not required and constructed the carport. The applicant came in after to permit the carport and a shed that the contractor built without permits. Staff has been working with the property owner to get the structure permitted.

BACKGROUND

STAFF ANALYSIS AND RECOMMENDATION:

The staff analysis and recommendation is based on a review of the request's consistency with the 2015 General Plan, and consistency with neighborhood characteristics, as well as the Variance requirements of LDC Section 9.13.4.

COMPATIBILITY WITH THE NEIGHBORHOOD:

In review, Staff does note other Variances have been approved in the neighborhood. In driving down the street, it was noted that there are other residences with carports or attached garages that appear to be up to the side property lines.

VARIANCE REQUIREMENTS:

Variances may be granted only if, because of special and unusual circumstances applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of the zoning code will deprive such property of privileges enjoyed by other properties in the district. Such Variance shall not constitute a grant of special privileges inconsistent with other properties in the vicinity or be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.

COMPLIANCE WITH REQUIRED VARIANCE CRITERIA:

1. **Extraordinary Conditions (LDC Section 9.13.4.A.1).** There are extraordinary conditions affecting the land involved such that strict application of the provisions of this Code will deprive the applicant of the reasonable use of his land. For example, a Variance may be

justified because of topography, or size, shape, intrusive off-site impacts, or other special conditions unique to the property and development involved.

Staff Comments: The applicant states that the contractor they hired stated that permits were not required for the carport. Once notified about the encroachment, the property owner has been working with staff to get it legal and permitted.

2. Substantial Detriment (LDC Section 9.13.4.A.2). Granting the Variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area, or to the City in administering this Code.

Staff Comments: The proposed garage will not affect any of the neighboring properties and the applicant has obtained letters of support from neighboring properties.

3. Special Privileges (LDC Section 9.13.4.A.3). Granting of a Variance shall be subject to such conditions as will assure that the adjustment authorized shall 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.

Staff Comments: The requested carport does not grant the applicant special consideration and is consistent with other properties in the area. As such, no special privilege would be conferred on the applicant by the granting of this request.

4. Self-induced Hardship (LDC Section 9.13.4.A.4). The hardship is not the result of the applicant's own actions.

Staff Comments: The property owner hired a contractor who stated a permit was not required. After the fact, the owner applied for a permit for a shed and the carport under consideration. Staff has been working with the owner to get the carport permitted.

5. General Plan (LDC Section 9.13.4.A.5). It will be in substantial compliance with the General Plan or other relevant area plans or neighborhood plans.

Staff Comments: The proposed Variance is on an existing residential lot and is, therefore, in compliance with the General Plan.

6. Utilization. Because of special circumstances applicable to the property, 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.

Staff Comments: In the request, the applicant states there is no other location for a carport.

NEIGHBORHOOD COMMENTS:

Staff has not received any comments from the public, but the applicant has obtained letters of support from adjacent neighbors that have no concern with the structure.

FINANCIAL IMPACT

There is no fiscal impact associated with this item.

RECOMMENDED ACTION

MOVE to approve V24-003 per the site plan submitted

ATTACHMENTS

1. V24-003_VARIANCEQUESTIONNAIRE

2. Maps and Pictures
3. Carport Support Letters

VARIANCE QUESTIONNAIRE

All questions must be answered prior to acceptance of the application.

1. Describe the special or unique conditions and circumstances which are peculiar to the land (e.g. large trees, rocks, outcrops, washes, steep topography, etc), structure or building, which are not applicable to other lands, structures or buildings in the same zoning district in other locations.

There are no unique conditions or circumstances that are peculiar to the land, other than this is the only space for parking on my property. The circumstance is my builder said a permit was not needed and consequently this heavy duty parking structure was built without permits & zoning approval. The structure was built with an unapproved setback reduction.

2. Indicate how the literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance. If citing other properties, their addresses must be given.

Not being able to have a covered carport that provides protection from the elements on our vehicles.

3. Describe how the alleged hardships caused by the literal interpretation of the provisions of the Zoning Ordinance include more than personal inconvenience and financial hardship, which do not result from the actions of the applicant(s).

Due to this being the only space for parking on my property, I am asking to be afforded relief and be allowed to maintain the structure, which will move forward with this variance request.

4. Indicate why granting the requested variance will not confer upon the applicant any special privilege that is denied by the Land Development Code to other owning lands, structures or buildings in the same district.

I am asking for a Zoning Variance to deviate from current zoning requirements on setbacks. The setbacks are inconsistent with the covered carport that I am desiring to keep. I understand, if granted, this variance permits me to retain the already built structure - I am not requesting a change in the zoning law, but a specific waiver.

5. Indicate why granting the variance will not interfere with or injure the rights of other properties in the same district.

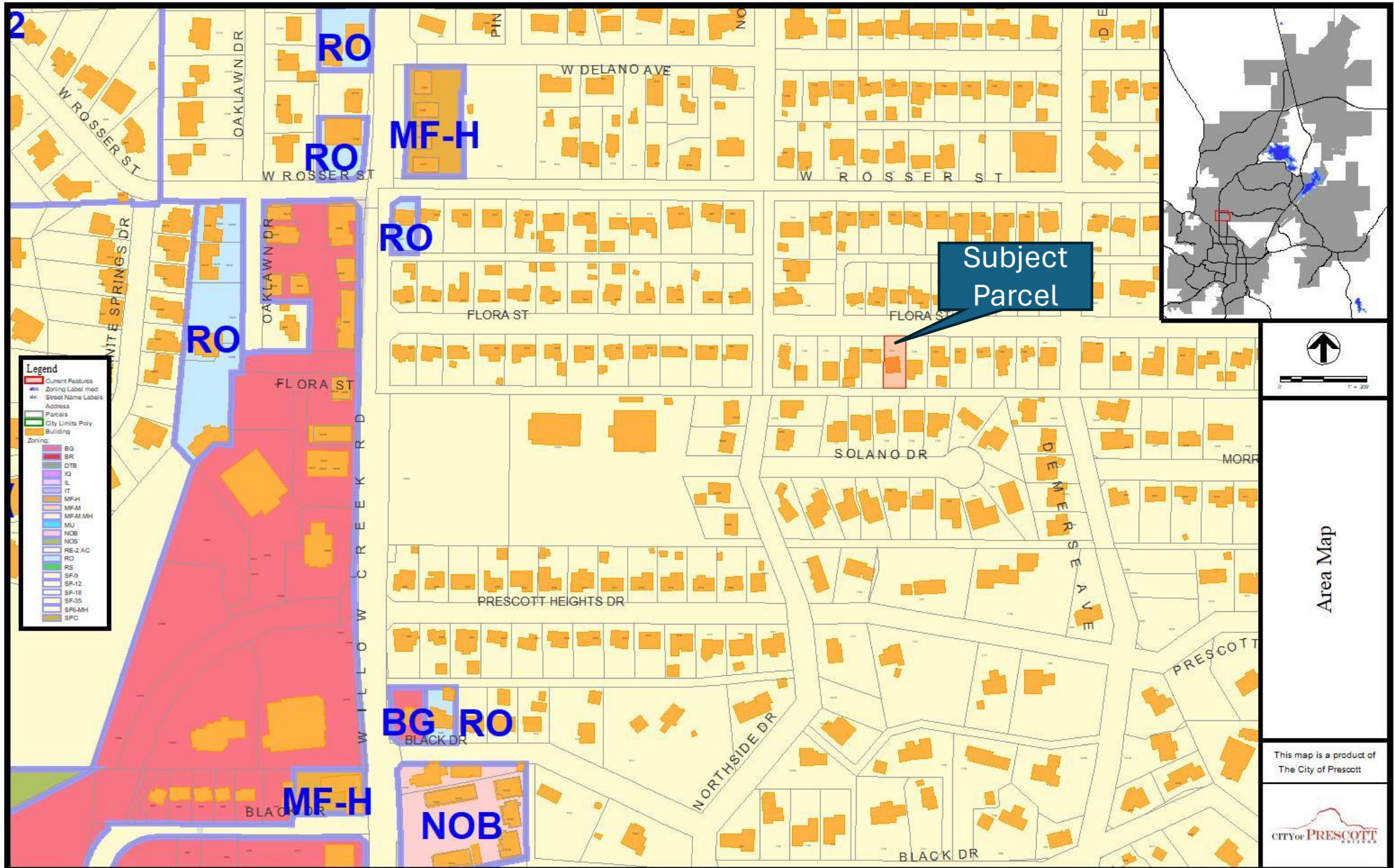
The structure was built without a permit, which, if required, will go through the permit process. I understand I have a nonconforming use. My surrounding neighbors are in support of my variance and the structure.

This is a request for a dimensional variance. By approving the setback variance, this does not alter the essential character of the neighborhood, nor substantially or permanently impair the appropriate use or development of my neighbor.

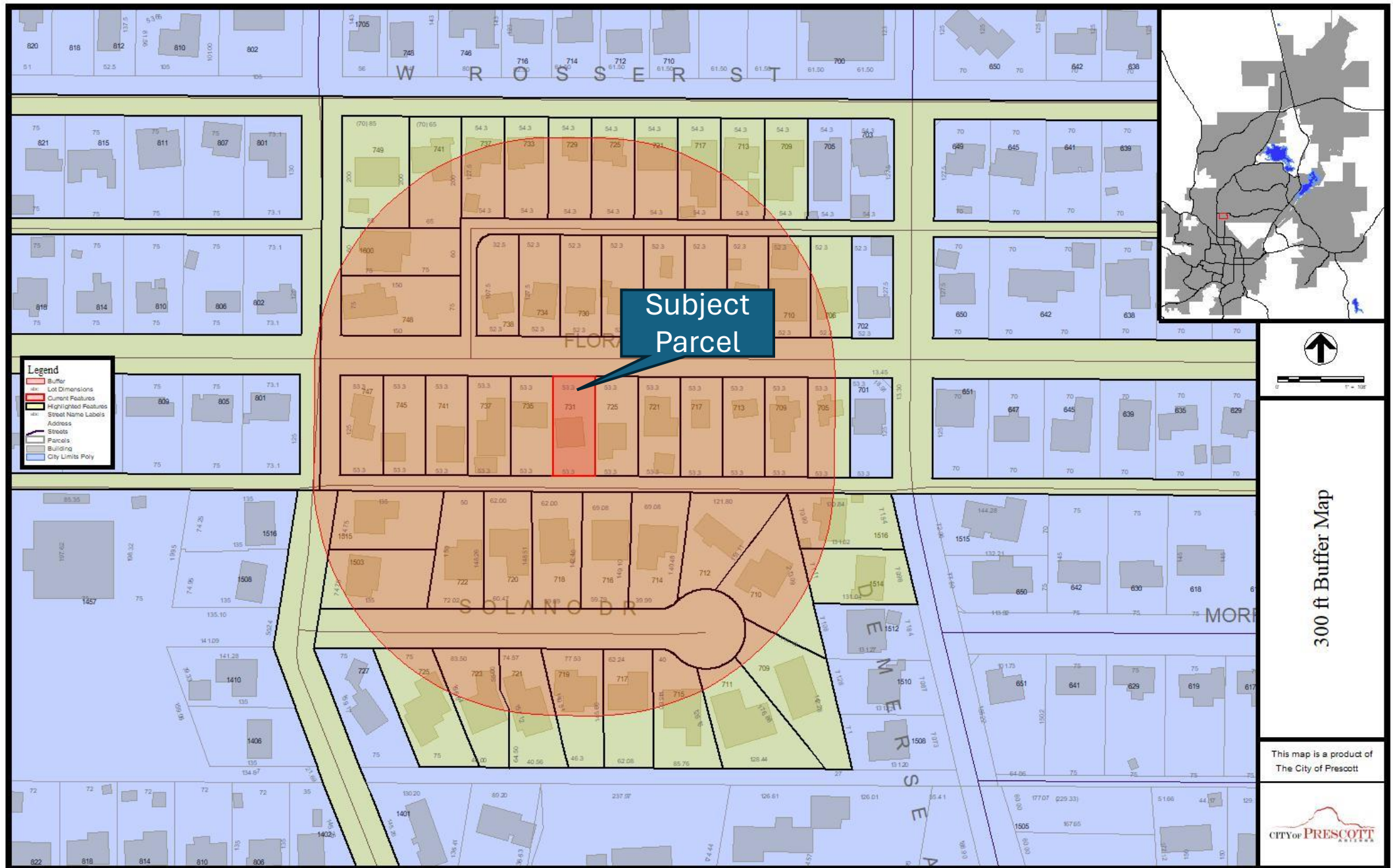
This structure is not detrimental to the public welfare.

* Please see attached photos of the construction of the structure and letters of support.

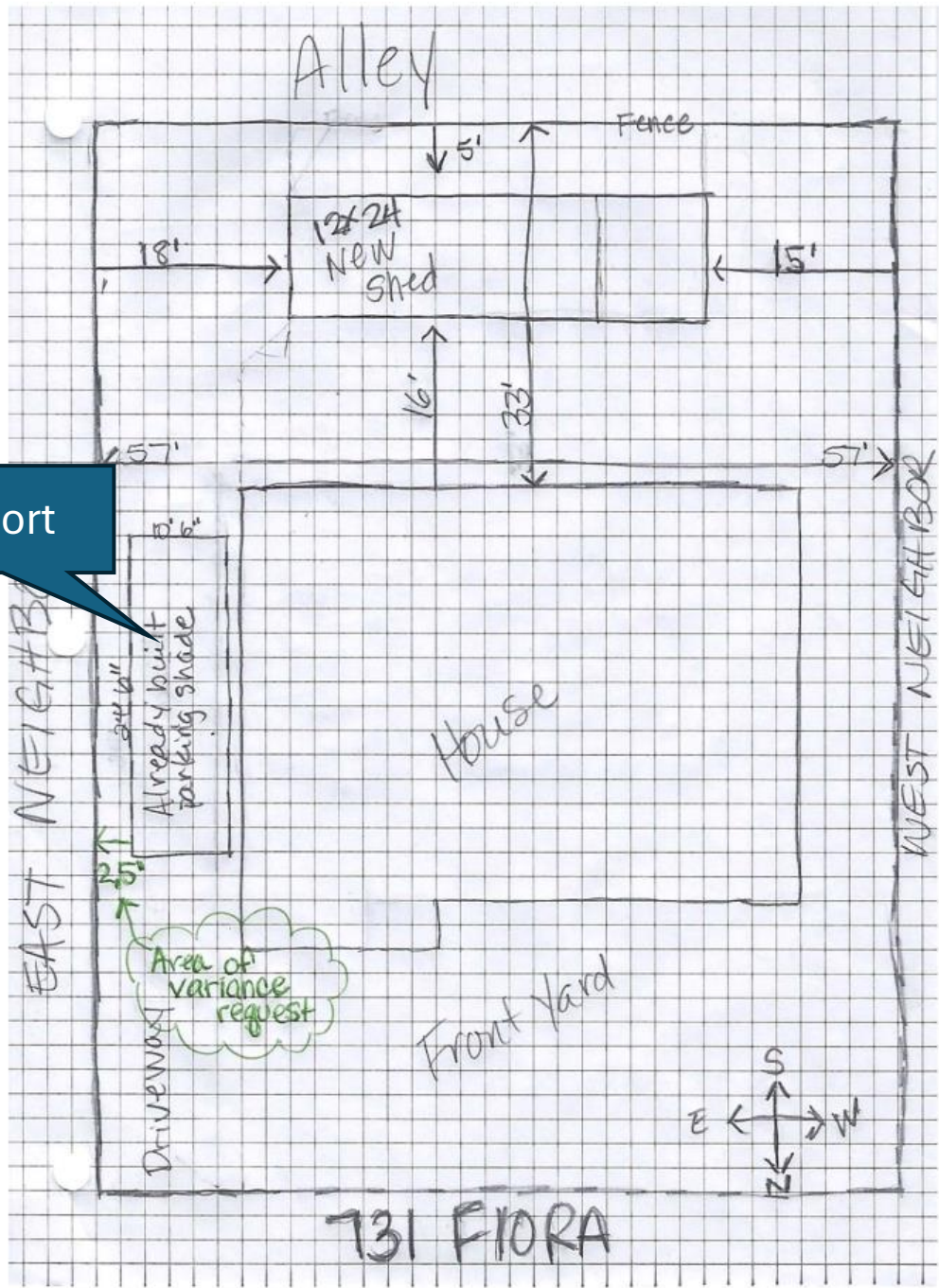
Thank you!







Carport





Carport in
question



- Examples adjacent of subject parcel of other side setback encroachments.

04/03/2024

To Whom it May Concern:

Regarding the carport located at 731 Flora St next to my house located at 725 Flora St in Prescott, AZ, the owner Brandi Allman reached out as apparently the structure is not within setback requirements. We are the home to the east of Brandi. Was my mom's, however, it is now my home as she added me to the title. Personally happy about the structure as it provides shade on that side of our house and is very attractive aesthetically. Have no issues with Brandi requesting and receiving the variance needed.

I may be reached at 928.642.0940

Best Regards,


Julia A Ruttle



To Whom it May Concern,

I (We), Heather Herman / Brandon Becker,
am (are) a neighbor of Brandi Allman. I would like to express my
support in Brandi filing for a variance for her existing parking
structure at 731 Flora St, Prescott, AZ. I have been informed that
it is outside of the required setback requirements and have no
objection to the structure or where it is built.

My (Our) address:

716 Solano Dr. Prescott, AZ. 86301

My (Our) phone number:

805-796-3242 / 805-630-6100

To Whom it May Concern,

I (We), Heuer Michel,
am (are) a neighbor of Brandi Allman. I would like to express my support in Brandi filing for a variance for her existing parking structure at 731 Flora St, Prescott, AZ. I have been informed that it is outside of the required setback requirements and have no objection to the structure or where it is built.

My (Our) address:

748 Flora St

My (Our) phone number:

928-713-3999

To Whom it May Concern,

I (We), Derrick Davis,
am (are) a neighbor of Brandi Allman. I would like to express my support in Brandi filing for a variance for her existing parking structure at 731 Flora St, Prescott, AZ. I have been informed that it is outside of the required setback requirements and have no objection to the structure or where it is built.

My (Our) address:

731 Flora Street

My (Our) phone number:

928-499-0041

To Whom it May Concern,

I (We), Michael Gunnel
am (are) a neighbor of Brandi Allman. I would like to express my support in Brandi filing for a variance for her existing parking structure at 731 Flora Street, Prescott, AZ. I have been informed that it is outside of the required setback requirements and have no objection to the structure or where it is built.

My (Our) address:

730 Flora St Prescott Az 86301

My (Our) phone number:

928-308-9070

To Whom it May Concern,

I (We), Evelyn Parker
am (are) a neighbor of Brandi Allman. I would like to express my support in Brandi filing for a variance for her existing parking structure at 731 Flora Street, Prescott, AZ. I have been informed that it is outside of the required setback requirements and have no objection to the structure or where it is built.

My (Our) address:

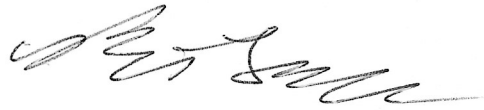
726 Flora St

My (Our) phone number:

928 273 2138

03-5-2023

To Whom it May Concern,



I (We), Patrick Flores,
am (are) a neighbor of Brandi Allman. I would like to express my
support in Brandi filing for a variance for her existing parking
structure at 731 Flora St, Prescott, AZ. I have been informed that
it is outside of the required setback requirements and have no
objection to the structure or where it is built.

My (Our) address:

718 Flora

My (Our) phone number:

928 582 0590

3/5/2023

To Whom it May Concern,

I (We), Richard Dominguez,
am (are) a neighbor of Brandi Allman. I would like to express my
support in Brandi filing for a variance for her existing parking
structure at 731 Flora St, Prescott, AZ. I have been informed that
it is outside of the required setback requirements and have no
objection to the structure or where it is built.

My (Our) address:

721 Flora St Prescott, AZ 86301

My (Our) phone number:

928) 379-2285

3/5/2023

To Whom it May Concern,

I (We), Gretchen Butts,
am (are) a neighbor of Brandi Allman. I would like to express my
support in Brandi filing for a variance for her existing parking
structure at 731 Flora St, Prescott, AZ. I have been informed that
it is outside of the required setback requirements and have no
objection to the structure or where it is built.

My (Our) address:

735 Flora, Prescott, AZ 86301

My (Our) phone number:

907 - 388 - 1174