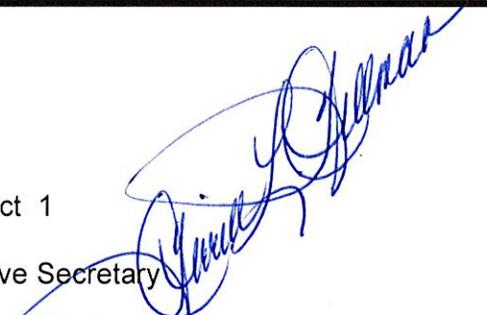




MEMORANDUM

DATE: October 27, 2014

TO: BOARD OF ADJUSTMENT, District 1

FROM: Terrill L. Tillman, Assistant Executive Secretary 

SUBJECT: **Co10(1)14-03 O'BRIEN MICHEAL P & JANICE L TR – EAST CERRADA DE PROMESA**
Scheduled for public hearing on November 3, 2014

LOCATION:

The subject property is located on the southeast corner of Cerrada de Promesa and Camino Escalante.

SURROUNDING ZONING / LAND USES:

North	CR-1	Residential
South	CR-1	Vacant Residential/Residential
East	CR-1	Residential
West	CR-1	Residential

PUBLIC COMMENT:

2 Letters of Protest to the Modification of Setback Request (MSR) and 1 Letter of Support were received.

PREVIOUS CASES ON PROPERTY:

MSR Co28(1)14-15 (same request)

When a protest to a MSR is received, the applicant may apply to the Board of Adjustment for relief.

REQUEST:

The applicant requests a variance to reduce the minimum rear yard setback to 25 feet for a proposed garage/storage building addition in the CR-1 zone. Section 18.21.030 of the Pima County Zoning Code requires a minimum rear yard setback of 40 feet.

TRANSPORTATION AND FLOOD CONTROL REPORT:

Flood Control will review the proposed addition at the time of permitting. This request does not require transportation review.

BACKGROUND:

The subject property is located in the Catalina Foothills. The property is a .95 acre parcel of land platted within the Catalina Foothills Estates subdivision No. 5, Lot 149. The properties in the immediate and nearby vicinity are all part of the larger Catalina

Foothills Estates subdivisions 1-10. Assessor records indicate that the house was built in 1961. No additions to the site have since been done. The site contains slightly sloping topography from the highest elevation on the northern property boundary sloping down to the lowest elevation on the southeast corner of the property. The property contains mature desert vegetation with some saguaros. There is a small wash located to the rear of the single family residence running from the northeast to the southwest making a largely unsuitable area for development. The proposed location for the garage is in a previously disturbed, flat area well suited for development. If the property owner were to locate the garage in a location other than planned, the amount of cut/fill and clearing of vegetation may have negative effects to the neighborhood.

The two letters of objection to the MSR state that their property values and view would be significantly impacted. One of the letters protesting the MSR was submitted by the property owner to the south who has an out of state address. The property is currently undeveloped. It is staff's opinion that an obstructed view shed or loss of value have not been established by the owner of the vacant piece of land. The second letter of protest comes from an adjacent property owner to the southwest. The corner of the properties abut each other. Additional concerns were cited that the amount of privacy they currently enjoy will be decreased. The existing elevation of the subject property is approximately 2 feet higher than that of the neighbor and the orientation of the neighboring house is away from the subject property. It is staff's opinion that a garage will not decrease the amount of privacy because of the location of the subject property's existing house and will provide a location for vehicles and outside storage to be placed.

RECOMMENDATION:

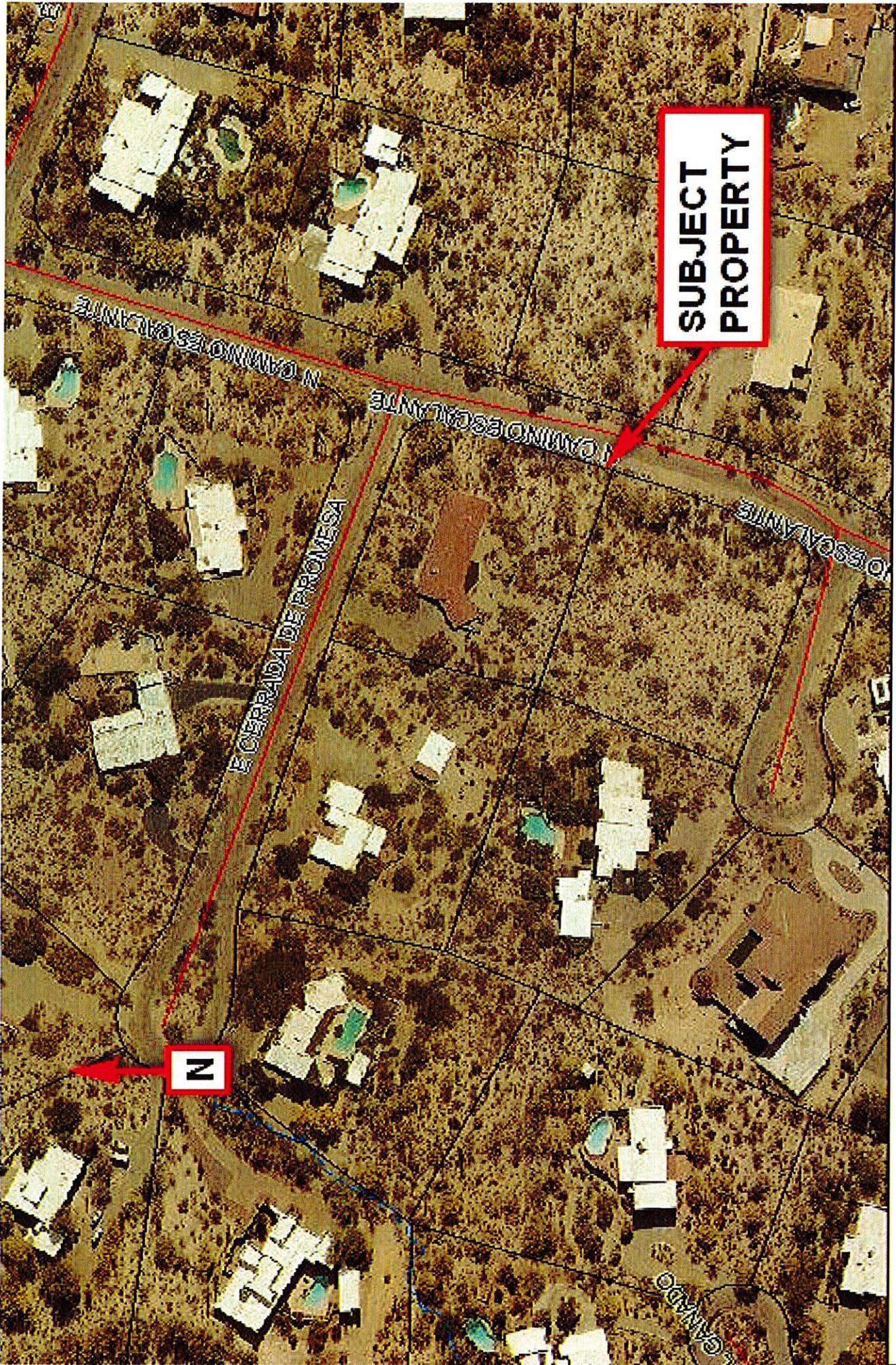
Staff recommends **APPROVAL WITH CONDITIONS** of the variance request. Due to the topography of the site, the strict application of the code would appear to work an unnecessary hardship and arises from a physical condition that is somewhat unusual or peculiar to the property. If approved, staff recommends the addition of the following condition to ensure that the visual impact is limited by the development of the garage/storage building.

1. The garage/storage building height may not exceed the height of the existing single family residence.

Standards that must be considered by a board of adjustment when considering a variance request include:

1. The strict application of the provision would work an unnecessary hardship;
2. The unnecessary hardship arises from a physical condition that is unusual or peculiar to the property and is not generally caused to other properties in the zone;
3. The unnecessary hardship does not arise from a condition created by an action of the owner of the property;
4. The variance is the minimum necessary to afford relief;
5. The variance does not allow a use which is not permitted in the zone by the Code;
6. The variance is not granted solely to increase economic return from the property;
7. The variance will not cause injury to or adversely affect the rights of surrounding property owners and residents;
8. The variance is in harmony with the general intent and purposes of the Code and the provision from which the variance is requested;

9. The variance does not violate State law or other provisions of Pima County ordinances;
10. The hardship must relate to some characteristic of the land for which the variance is requested, and must not be solely based on the needs of the owner;
11. If the variance is from a sign or advertising structure area limitation, no reasonable use of the property can be made unless the variance is granted;
12. If the variance is from a height limitation, no reasonable use of the property can be made unless the variance is granted.



**SUBJECT
PROPERTY**

N

Co10(1)14-03 O'Brien Micheal P & Janice L TR - East Cerrada de Promesa Variance Request

September 14, 2014

Pima County Development Services
201 North Stone Avenue
Tucson, AZ 85701

RE: 2432 East Cerrada De Promesa
Request for Variance

For your consideration we request a variance to reduce the back yard setback from 40 feet to 25 feet for a proposed garage and storage building.

The house at 2432 Cerrada De Promesa was built in 1961 for a couple that would be in residence 4-6 months a year and has been owned by the same family until we purchased the property this past July.

There is minimal storage space and no secure automobile storage, the carport is wide open to both weather and animals. We would like to construct a garage for both auto storage as well as personal belongings. The area we have designated as the best and least intrusive building site is in an area we feel is the least conspicuous from our neighbors on Cerrada De Promesa and is on the back side of the lot from neighbors living on Camino Escalante.

To acquire the square footage needed we are asking to modify the rear yard setback requirement. Approximately 120 square feet of the 30' HOA setback would be encroached upon. We do not think that this is going to adversely affect any views of mountains or city lights by any of the adjacent home owners, in fact we have taken this into serious consideration during the plan development as we value these as well.

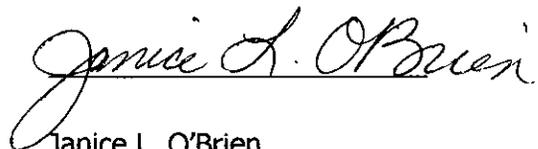
This additional building on our lot will add value to this property which is adding value to the neighborhood. At our additional expense we have planned that the building's exterior finish will be of the same material as the existing residence and we feel will be an asset to the neighborhood's character.

Submitted by,



Michael P. O'Brien

Date 9-19-14

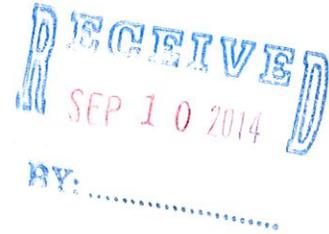


Janice L. O'Brien

Date 9/14/14

September 7, 2014

Eva Pedrego
Pima County Development Services
201 N. Stone Avenue
Tucson, AZ 85701



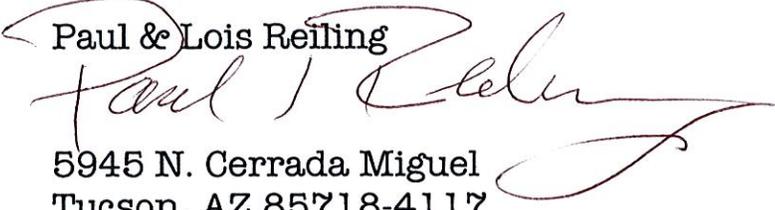
Lois and I are not in favor (ie protest) the request to reduce the rear yard setback to twenty five feet for any reason. They should honor the existing CR-1 zoning regulations, as well as the CCR'S of Cat 5.

Some, but not all of our objections include.

1. The lot size is large enough to place the garage outside (North) of the forty foot setback, if they desire.
2. The CCR'S for Cat 5 do not permit stand alone structures , which this appears to be.
3. The decrease in setback would not only degrade our sight lines, but decrease the value of the property including the lot to the South (5955 Cerrada Miguel) of the proposed set back change, which we are in the process of acquiring.
4. The decrease in set back would also reduce the amount of privacy that we have enjoyed as residents of this area for Forty years.

Submitted for your consideration,

Paul & Lois Reiling


5945 N. Cerrada Miguel
Tucson, AZ 85718-4117

Case# Co28(1)14-15)'Brien-E. Cerrada De Promesa

205 Leyden St.
Denver, CO 80220
September 15, 2014

Pima County Development Services
Public Works Building
201 N. Stone Ave.
Tucson, AZ 85701-1207

Sirs,

I am writing in reference to your letter of September 5, 2014 concerning an application for a change in setback requirements for a property at 2432 E. Cerrada de Promesa.

Please do not modify the setback requirement because the proposed building would obstruct the view from Lot 148 toward the Catalina Mountains per the enclosed schematic drawing. The setback requirements are in place for everyone.

Yours truly,



Sara G. Zimmerman

Enc.

Co28(1) 14-15

RECEIVED
SEP 22 2014

BY:

Co28(1)14 T

CALL & NICHOLAS, INC.

2475 N. Coyote Drive
Tucson, Arizona 85745 U.S.A.

Principals
P. F. Cicchini, P.E.
T. M. Ryan, P.E.
R. C. Barkley, P.E.

Tel: 520.670.9774
Fax: 520.670.9251
E-Mail: cni@cnitucson.com

Sept. 16, 2014

Elva Pedrego
Pima County Development Services
201 N Stone Avenue
Tucson AZ 85701

I received the notice regarding the application for a modification of the Setback Requirement for the property located at 2432 East Cerrada de Promesa, Tucson, 85718, in the CR-1. My property, 6035 N Camino Escalante, is located directly north of 2432 E. Cerrada de Promesa.

After review of the plan (attached) I have no issue with the modification to the setback requirement and the location of the proposed new building. Thank you for the notice.

Regards,



Thomas Ryan, P.E.

6035 N Camino Escalante

Tucson AZ 85718

520-529-9292

RECEIVED
SEP 22 2014

BY: