



Board of Adjustment

Staff Report

CASE NUMBER: BA14-048 (PLN2014-00399)
STAFF PLANNER: Wahid Alam, AICP
LOCATION/ADDRESS: 1954 East Huber Street
COUNCIL DISTRICT: Council District 1
OWNER/ APPLICANT: John & Amanda Sohn

REQUEST: *Requesting a variance to allow a garage to encroach into the required side setback of an existing home in the RS-9 zoning district.*

SUMMARY OF APPLICANT'S REQUEST

Requesting a variance to allow an encroachment into the required side yard and build additional living space by enclosing an existing patio located at the rear of the home at Gilbert and Brown (west of Gilbert and north of Brown) in the RS-9 zoning district.

STAFF RECOMMENDATION

Staff recommends denial of case BA14-048.

SITE CONTEXT

CASE SITE: Existing home – zoned RS-9
NORTH: Existing home - zoned RS-9
EAST: (across Gilbert Road) Existing home – zoned RS-9
SOUTH: (across Hubert Street) – Existing home – zoned RS-9
WEST: Existing home – zoned RS-9

STAFF SUMMARY AND ANALYSIS

The property is zoned RS-9 located at the Northwest corner of Gilbert Road and Huber Street. The setbacks are as follows:

Front	Garages & Carport	25' (enclosed livable areas including porches 15')
Rear		25'
Interior side		7'
Street side		10'
Aggregate of two sides		17'
Maximum building/roof coverage		45% of lot

The proposal is being requested to create attached additional enclosed garage space (1,728 sq. ft.) in front of the existing house (3,193 sq. ft.). This would also allow the conversion of the carport into a garage (20' wide by 28' deep for approximately 461 sq. ft.). The proposed garage addition projects out more than 24 feet from the existing home's primary wall facing the street. Section 11-5-3 E a Building Form, Garage Frontage and Location requires that garages oriented parallel or within 10 degrees of parallel to the front of the lot, shall be located at least 3 feet behind the primary wall facing the street, and never less than the required garage setback. The existing house has a two car side entry garage (580 sq. ft.).

There is an 8' PUE along the north property line and 10' required setback along Gilbert Road to the east, but only 6' 6" provided, which means an encroachment of 3' 6" into the required side yard. The existing six feet high screen wall along the Gilbert Road encroaches approximately 10 feet into the R.O.W.

The applicant has provided a Justification and Compatibility Statement for this request indicating the following: 1) the new garage will accommodate 10 cars for restoration projects. The home owner restores cars for their own family recreational use; 2) Currently the home owner works on car restoration projects in the backyards behind the 6 feet high screen wall under the open sky; 3) The proposal would allow to work on cars protected from the elements in an indoor space; 4) the location is preferred because it allows the home owner to have the maximum back yard space for the family to enjoy; 5) storing two cars in the backyard last summer allowed many critters like black widows to live there; 6) the proposed addition would allow car storage inside the house besides being somewhat of an eyesore.

Staff is concerned with the encroachments into the street side yard and bringing the garage addition 24 feet in the front from the primary wall of the house. The neighboring houses along Huber Street do not have any houses with garage door closer to the street than the front wall of the house. More over the houses immediately to the west and south of this property all have side entry garage and the house just south across Huber Street has a detached garage addition approximately 30 feet behind the front of the house. This lot is approximately 120' by 140'. The lots in this subdivision are larger than typical RS-6 lots with 6000 sq. ft.

Staff is confident that an alternative design could accommodate additional garage space and meet current code to have the garage door 3 feet behind the primary front wall of the existing house. Current code allows enclosed livable areas including porches with only 15 feet setback from the front property line unlike 25 feet for garages.

Staff feels that the justification for a variance to build an additional approximately 1700 sq. ft. of garage space more than 24 feet in front of the primary wall of the existing home would constitute a special privilege unavailable to other properties in the vicinity and zoning district of the subject property.

The applicant has completed the required neighborhood notification for the hearing. Staff has received an inquiry and e-mail from Tim R Nelsen, Architect representing Nielsen Family Trust, 1918 E Huber Street just two lots west of the subject property regarding the proposal. The e-mail expressed some concerns (a copy of the e-mail is included with the Board of Adjustment case # BA14-048 hearing package for your review).

The Board of Adjustment must find the following items are present to approve a variance:

- a) *There are special conditions that apply to the land or building.*
- b) *The special condition was pre-existing and not created by the property owner.*
- c) *That strict compliance with the Code would deprive the property of privileges enjoyed by other properties in the same zoning district.*
- d) *The variance would not constitute a special privilege unavailable to other properties in the vicinity and zoning district of the subject property.*

FINDINGS

1. The applicant is proposing to build additional garage spaces in front of the house. The existing house has approximately 40 feet front setback, where as the proposed garage will have only 24 feet setback making it closer to the street than the primary wall of the house.
2. The existing house setback along Gilbert Road, east property line is only 6'-6" when 10 feet is required. Also there is a 10 feet P.U.E along east property line/R.O.W.
3. The existing house encroaches 3' 6" into the required side yard and P.U.E.
4. The existing 6' tall screen wall along Gilbert encroaches into the R.O.W.
5. The original house was constructed in 1977. Historical aerials indicate the screen wall may have been installed some time after 2011.
6. The interior side yard along the west property line is 7' (7 feet required), where the setback along the east property line is 6'-6" (10 feet required). The front setback of existing house is approximately 42 feet (25 feet required). The rear setback of the existing house is 25 feet (25 feet required).
7. The strict application of the Zoning Ordinance will not deprive the property owner of privileges enjoyed by other properties within the same subdivision of the same zoning district to build approximately additional garage space half the size of the existing house, since there are options/ alternative to build additional garage space per current zoning code.

ORDINANCE REQUIREMENTS

Zoning Ordinance, Sec & Table 11-5-3: Development Standards-Residential Single Dwelling Districts

RS-6 District – Minimum Lot Area: 6000 sq. ft.; Minimum lot width: 55 feet; Minimum lot depth: 90 feet; Maximum building height: 30 feet, Minimum setbacks: front and rear-20 feet, street side-10 feet, interior side-5 feet, aggregate of two sides 15 feet; maximum roof coverage: 50%.

Zoning Ordinance, Sec 11-80-3: Required Findings

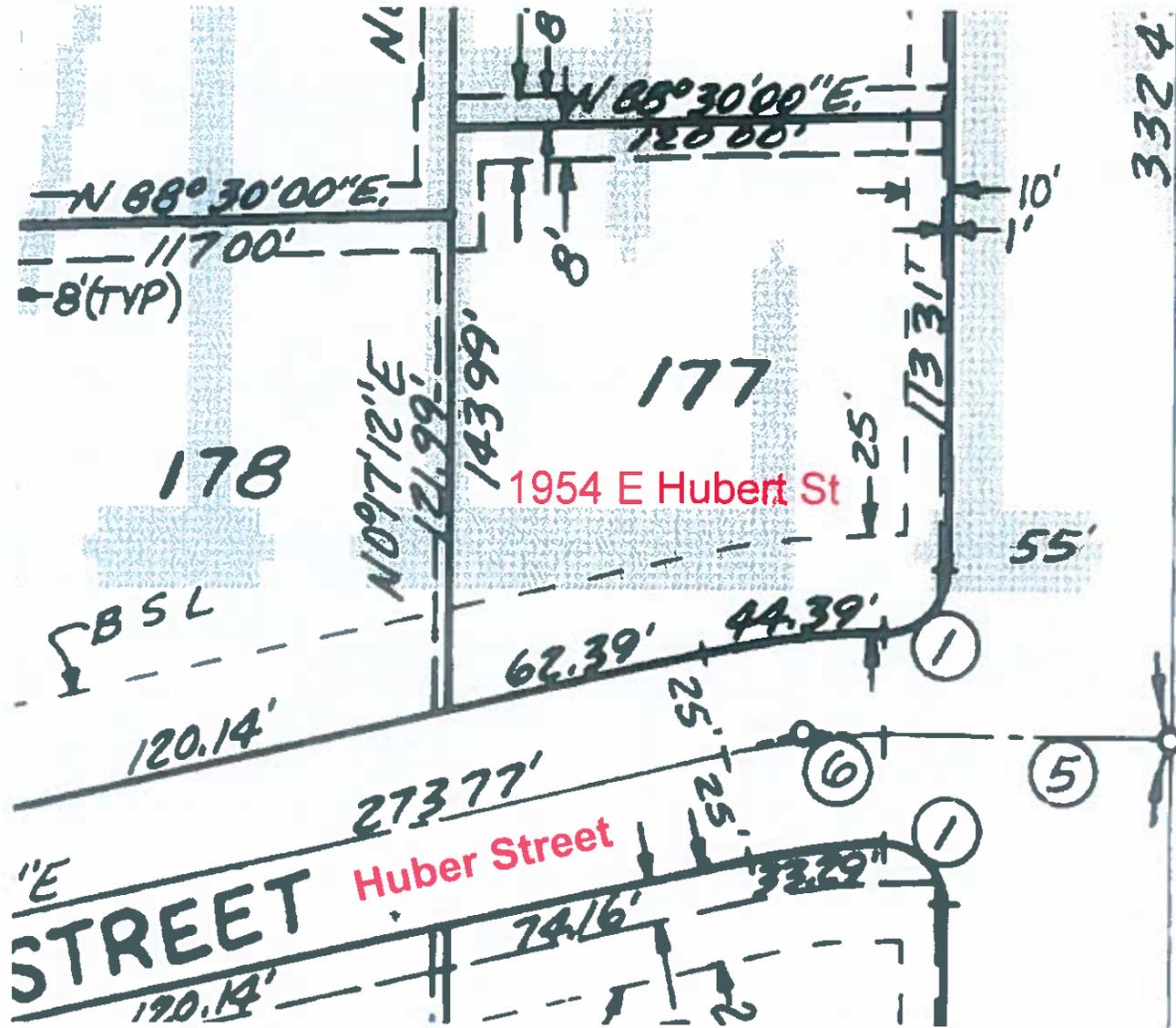
A variance shall not be granted unless the Zoning Administrator, when acting as a Hearing Officer, or Board of Adjustment shall find upon sufficient evidence make a determination:

- A. There are special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, and
- B. That such special circumstances are pre-existing, and not created by the property owner or appellant; and
- C. 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; and
- D. Any variance granted 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.

BA14-048



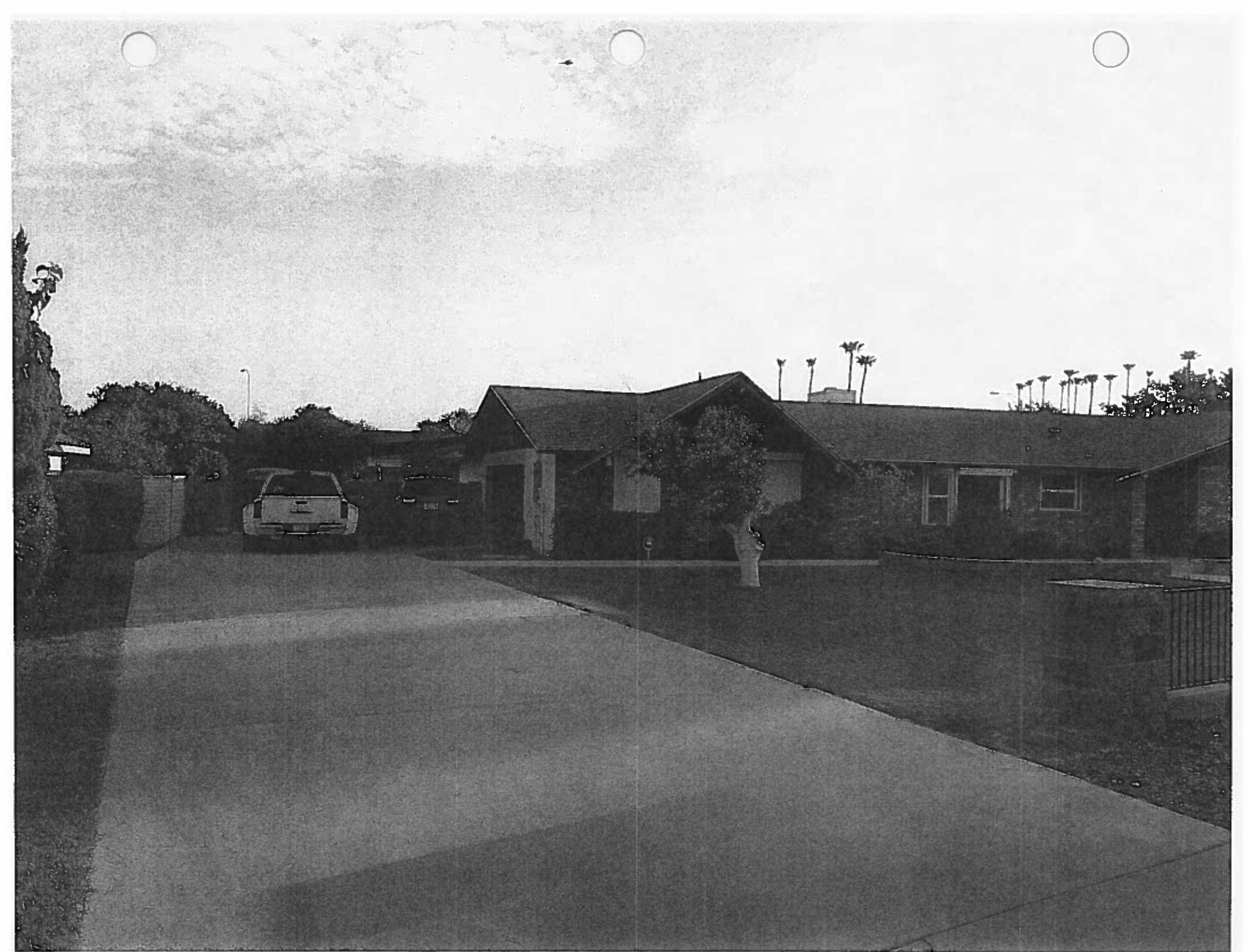
BA14-048



Gilbert Road

North ↑

120









Wahid Alam

From: Tim Nielsen <trn.arch@gmail.com>
Sent: Monday, August 25, 2014 10:29 AM
Subject: Wahid Alam
BA-14-048, Sohn Residence

Dear Mr. Alam:

I am writing for the Nielsen Family Trust, 1918 E Huber St., 2 lots West of the Subject Property.

Although I am sympathetic to this Homeowner's plight I believe there are some design considerations, that if approved, should be engaged in its development.

1. The garage addition is far too imposing as an addition closer to the street. The RV door and lack of articulation to the elevation is too flat and "Industrial" looking for 1/3 acre lots.

2. There is a lack of information in the letter received describing the conditions for the variance.....such as a Site Plan with dimensions although we did receive an aerial photo.

3. I believe there is a State Law on the books about Developer Imposed Hardships which this would not qualify.

Until this applicant can show some sensitivity to an imposing addition, particularly on the corner lot abutting Gilbert Rd, we regret to not support this variance request.

Respectfully,


Tim R Nielsen, Architect