

BOARD OF ADJUSTMENT AGENDA

**BOARD OF ADJUSTMENT
PUBLIC HEARING
THURSDAY, DECEMBER 20, 2012
9:00 AM**

**COUNCIL CHAMBERS
201 S. CORTEZ STREET
PRESCOTT, ARIZONA
(928) 777-1207**

The following agenda will be considered by the BOARD OF ADJUSTMENT at its PUBLIC HEARING to be held at 9:00 AM on December 20, 2012, in COUNCIL CHAMBERS, CITY HALL, 201 S. CORTEZ STREET, PRESCOTT, ARIZONA. Notice of this meeting is given pursuant to Arizona Revised Statutes, Section 38-431.02.

I. CALL TO ORDER

II. ATTENDANCE

Members

Mike Klein, Chairman	Duane Famas
Greg Lazzell, Vice Chairman	Richard Rosa
Johnnie Forquer	George Wiant
James DiRienzo	

III. REGULAR AGENDA / PUBLIC HEARING ITEMS

1. Approval of the November 15, 2012 minutes will be deferred to the next meeting.
2. V12-009, 215 South Marina Street. APN: 109-01-090 totaling 0.11 acre. LDC Section 3.10.3.F. Zoning is Multi-Family High Density. Request is for a reduced sideyard setback from 7 feet to 1 foot to permit the construction of a carport. The Owner is Bob Dittberner, 215 South Marina Street, Prescott 86303. Planner is Ryan Smith (928) 777-1209.
3. V12-010, 335 South Montezuma Street. APN: 109-03-023 totaling 0.33 acre. LDC Section 4.8.3.F. Zoning is Business Regional. Request is for a reduced front yard setback from 10 feet to 2 feet 4 inches to permit the construction of a frame and fabric roof over an existing handicapped ramp. The Owner is Shed FLP Family Partnership, 2088 Yampa Drive, Prescott 86305. Planner is George Worley (928) 777-1287.

IV. REVIEW ITEMS

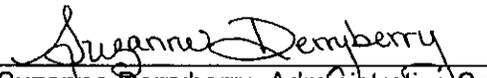
V. SUMMARY OF CURRENT OR RECENT EVENTS

VI. ADJOURNMENT

THE CITY OF PRESCOTT ENDEAVORS TO MAKE ALL PUBLIC MEETINGS ACCESSIBLE TO PERSONS WITH DISABILITIES. WITH 48 HOURS ADVANCE NOTICE, SPECIAL ASSISTANCE CAN BE PROVIDED FOR SIGHT AND/OR HEARING IMPAIRED PERSONS AT PUBLIC MEETINGS. PLEASE CALL 777-1272 OR 777-1100 (TDD) TO REQUEST AN ACCOMMODATION TO PARTICIPATE IN THIS MEETING.

CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at Prescott City Hall and on the City's website on December 14, 2012 at 1:00 PM in accordance with the statement filed with the City Clerk's Office.


Suzanne Derryberry, Administrative Specialist
Community Development Department

Variance Request

V12-009

Reduction of the required side yard setback to construct a carport.

COMMUNITY DEVELOPMENT – PLANNING AND ZONING DIVISION
BOARD OF ADJUSTMENT MEETING FOR December 20, 2012.

STAFF REPORT

TO: Board of Adjustment

FROM: Tom Guice, Community Development Director *TG*
George Worley, Planning Manager *GW*
Ryan Smith, Community Planner *RS*

Date: December 13, 2012

Parcel Number: 109-01-090

Location: 215 S Marina St.

Zoning: MF-H (Multi-Family High Density)

Owner/Applicant/Agent: Robert Dittberner
215 S Marina St.
Prescott, AZ 86305

REQUEST:

The applicant is seeking a variance approval to reduce the required side yard setback from 7' to 1' for the construction of a carport.

BACKGROUND:

The applicant is proposing to build a carport toward the rear of the property while retaining an existing nearby shed. The width of this lot width is 31 feet which creates a narrow useable building area. The property in question is near the Prescott Library where several nearby lots have reduced widths. The required setbacks for a detached residential carport structure within the MF-H zoning district is 20' front, 7' side and 6' rear.

PAST BOARD OF ADJUSTMENT ACTIONS: A 1987 variance was denied on this property requesting a reduced parking requirement for a professional office. A 1999 variance was granted on the adjacent property to the south allowing for a 0' side setback for a carport. Several other variances exist in the vicinity allowing for relief from various code requirements.

HISTORIC PRESERVATION:

The subject property is within the South Prescott National Register District; however, a rear carport toward the alley will not impact the Historic status of this property.

VARIANCE CRITERIA:

Extraordinary Conditions:

Variances may be granted for special and unique circumstances to the property. There are topographic conditions present on the property. A steep slope somewhat constrains development toward the front of this property.

Substantial Detriment:

There will not be detrimental effects to the public health safety and welfare or be materially injurious to nearby properties. Impacts are expected to be minimal to nearby properties.

Special privilege:

The proposed project is consistent with other properties in the area. Many examples exist of pre-existing and approved variance encroachments into the modern setback requirement. Other structures on the street are close to the side property line. Granting the variance will not constitute a special privilege.

Self-induced hardship:

The proposed hardship is not a result of the applicant's actions.

General Plan:

The structure and use is in conformance with the General Plan.

Utilization:

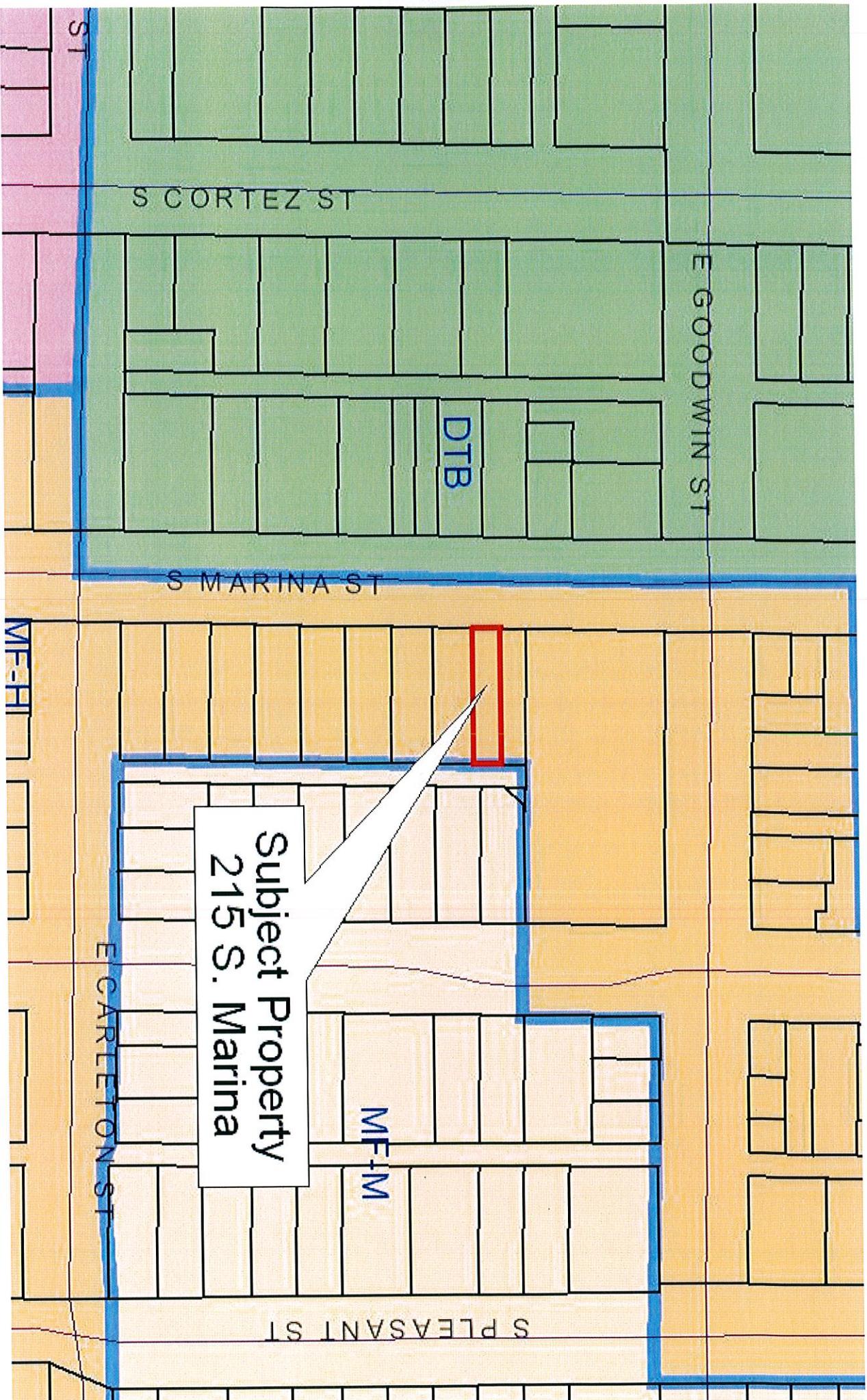
Variances may be granted for extraordinary conditions affecting the land such as size and shape, and strict application of the code will deprive the applicant of the reasonable use of his land. A unique circumstance exists due to the narrow lot width combined with the current required setbacks, which creates a limited building envelope.

NEIGHBORHOOD COMMENTS:

No comments or inquiries have been received as of this writing.

STAFF RECOMMENDATION: Staff recommends approval of Variance V12-009. The request is consistent with variance provisions contained in the Land Development Code as expressed above.

Attachments: Site Plan
 Vicinity & Zoning Map
 Applicant response to variance Questionnaire



Subject Property
215 S. Marina

S CORTEZ ST

E GOODWIN ST

DTB

S MARINA ST

MF-H

E CARLETON ST

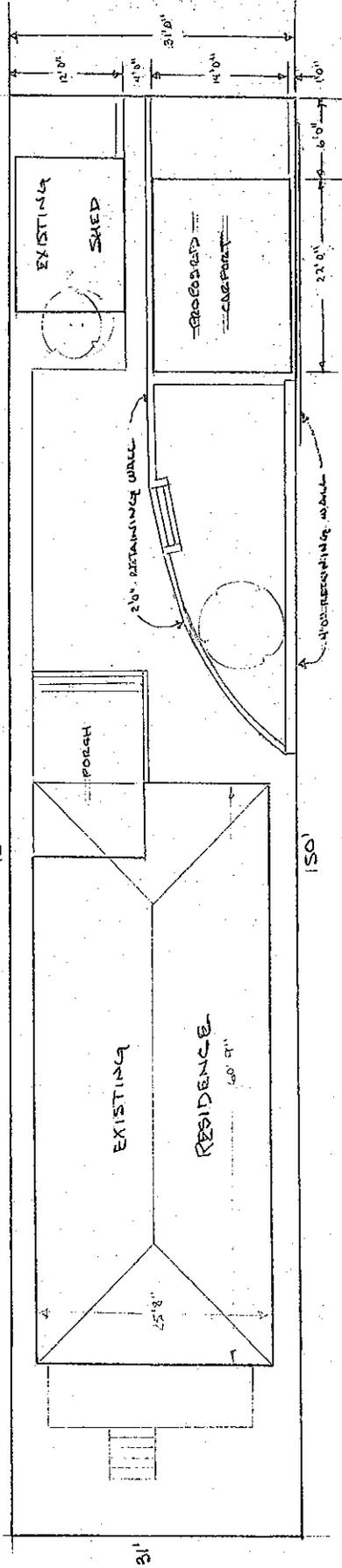
MF-M

S PLEASANT ST

NORTH



150'



218 S. MARINA STREET
PARCEL 109-01-090

DITTBENER CARPORT	
SCALE: 1/8" = 1'-0"	DRAWN BY: RAD
DATE: 10/19/12	REVISED
SITE PLAN	
DRAWING NUMBER	

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.

MY EXTRAORDINARY CONDITION IS THE WIDTH OF MY LOT.

THE LOT IS VERY NARROW, 31 FEET.

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.

THE LITERAL INTERPRETATION OF THE ZONING ORDINANCE FOR

SIDE YARD SET BACK WOULD RESULT IN A VERY

NARROW CARPORT, 9 FEET.

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).

THE LITERAL INTERPRETATION OF THE ZONING ORDINANCE

WOULD DEPRIVE MY PROPERTY OF PRIVILEGES ENJOYED BY

MOST OTHER PROPERTIES IN MY ZONING DISTRICT.

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.

ALL PROPERTIES ON MY BLOCK EXCEPT MINE AND MY NEIGHBOR

AT 213 S. MARINA COULD UTILIZE THEIR PROPERTIES IN A SIMILAR

WAY WITHOUT ASKING FOR A VARIANCE.

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

GRANTING THIS VARIANCE WILL PRESERVE THE SPIRIT AND

THE INTENT OF THE ORDINANCE AND BE CONSISTENT WITH

OTHER PROPERTIES IN THE NEIGHBORHOOD.

DEC 2011

DESCRIPTION OF THE REQUEST

RAD 10/19/12

This is a variance request to reduce the side lot set back from 5 feet to 1 foot.

ANSWERS TO VARIANCE QUESTIONNAIRE

#1 My extraordinary condition or circumstance is that the width of my lot is very narrow, 31 feet. I live in an older home (built in 1914) which includes a shed in back. I would like to build a covered carport AND I would like to retain and maintain the historic character of my property, including my shed and the adjacent sidewalk/retaining wall, as much as possible. These conditions and circumstances seem to create a conflict with the Zoning Ordinance for side yard set back.

#2 The literal interpretation of the Zoning Ordinance for side yard set back would result in a very narrow carport as measured from the inside of the upright post to the inside of the opposing upright post, i.e.:

Lot width	31 feet	
Existing shed	12 feet	minus
Existing sidewalk/retaining wall	4 feet	minus
Side Yard set back	5 feet	minus
Upright posts (4'x6') width	1 foot	minus
Maximum Compliant Width	9 feet	equals

I am herewith requesting a variance from this Ordinance because of my extraordinary circumstance. Other properties in my zoning district are generally not constrained by the extremely narrow lot width of 31 feet.

#3 Because of this narrow width, the side yard set back requirement of this Ordinance would deprive my property of privileges enjoyed by most other properties of the same classification in my zoning district.

#4 Granting this requested variance will not confer any special privilege. To the contrary, all properties on my block except mine and my neighbor (at 213 S Marina) could utilize their property in a similar way without asking for a variance. My neighbors' property (at 213 S Marina) with a similar extraordinary circumstance already has a large garage structure in place.

#5 Granting this requested variance will not be detrimental or injurious to other property in the area. It would preserve the spirit and the intent of the Ordinance and be consistent with and compliant with other properties in the neighborhood.

VAR # V12-010

VARIANCE
Front Reduction
335 S. Montezuma Street

COMMUNITY DEVELOPMENT – PLANNING AND ZONING DIVISION
BOARD OF ADJUSTMENT MEETING FOR **December 20, 2012**

STAFF REPORT

TO: Board of Adjustment

FROM: Tom Guice, Community Development Director 
George Worley, Planning Manager 

Date: December 14, 2012

Location: 335 S. Montezuma Street

Parcel No: 109-03-023

Zoning: Business Regional (BR)

Owner: Shed FLP Family Ltd. Partnership
2088 Yampa Drive
Prescott, Arizona 86305

REQUEST:

This is a request for a variance to decrease the front yard setback to permit the addition of a awning over an existing handicapped ramp. The zoning district setback is 10', however this property is also subject to the Major Street setback requirements of LDC 2.7.3.D.9 requiring a 25' front setback. The request is to reduce that setback to 2' 4".

COMPLIANCE WITH ZONING CODE AND ARS 9-462.06: Yes

ZONING CODE REQUIREMENT: LDC Section 4.8

PAST BOARD OF ADJUSTMENT ACTIONS: None

BACKGROUND:

The property has an existing nonconforming structure with a covered deck on the front that encroaches into the Major Street setback approximately 19 feet. A handicapped access ramp added later encroaches further into the setback, but such ramps are specifically exempted by the LDC from setback requirements. The applicant wishes to place an awning over the ramp

to protect it from the elements. The awning is not exempted by the LDC and thus requires a variance to allow it to be placed within the required setback.

The proposal is for a cloth awning cover which will be designed to meet building codes and match or compliment the awning cover existing over the deck. The proposed awning cover will extend beyond the existing handicapped ramp several inches to provide sufficient coverage from rain, snow and ice.

The site is on a portion of Montezuma Street that has a significant parkway between the property lines and the curb. This condition reduces or eliminates concerns that encroachments into front setbacks could cause visibility problems for drivers or pedestrians. The applicant has provided both a site plan and a photo rendering for the Board's consideration.

STAFF ANALYSIS AND RECOMMENDATION:

The staff analysis and recommendation is based on a review of the request's consistency with the 2003 General Plan, and consistency with neighborhood characteristics, as well as the variance requirements of LDC Section 9.13.4.

COMPATIBILITY WITH THE NEIGHBORHOOD:

The site is within a commercial zoning district. The surrounding businesses generally meet the district front setback requirement of 10 feet and some meet the Major Street setback of 25'. While this proposal encroaches further into the front setback than nearby properties, it is not inherently incompatible with surrounding development.

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 property in the district. Such variance shall not constitute a grant of special privileges inconsistent with other properties in the vicinity or will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.

VARIANCE CRITERIA:

1. Extraordinary Conditions.

The current ramp is exposed to the weather in all seasons. Rain, snow and ice are all hazards to persons using the ramp. However, these hazards universally affect the entire property and the surrounding district. The parking lot, sidewalks and the route to the ramp will experience the adverse weather conditions even if the ramp is covered.

2. Substantial Detriment.

Accumulation of snow or ice on the handicapped access ramp would constitute a detriment to handicapped customers of this business.

3. Special Privileges.

The encroachment into the front setback by the cover is affected by the placement of the ramp. Due to prior modifications to the building and the site by the applicant, alternative locations for the ramp are no longer feasible.

4. Self-induced Hardship.

The applicant has a hardship not entirely of his own creation in that the ramp is permitted to encroach into the setback, but the cover is not. However, the applicant's desire to provide an overhead cover is entirely discretionary.

5. General Plan.

The General Plan designates this area for business uses, but has no other impact upon this request.

6. Utilization.

This request is to permit the utilization of the applicant's handicapped access ramp in all weather conditions.

NEIGHBORHOOD COMMENTS:

Staff has received no comments from the public regarding this request.

STAFF RECOMMENDATION:

Based upon the findings above, it is not clear to staff that this request meets all of the necessary criteria for obtaining a Variance. Specifically, staff believes this is a self imposed hardship and as a result, is not eligible for this variance.

SUGGESTED MOTION:

Move to deny the request for Variance #V12-010, to reduce the front yard setback to 2' 4" to permit the construction of an awning cover over an existing handicapped ramp.

VARIANCE QUESTIONNAIRE

DATE: November 19, 2012
PROJECT: BILL'S GRILL
ADDRESS: 335 S. MONTEZUMA APN: 109-03-023

1. Describe the special or unique conditions...

In this area, Montezuma Street has a wide planting strip (14 feet +/-) adjacent to the curb, a 5 foot wide sidewalk and another planting area (2 feet +/-) before the property line. The 10 foot required front setback would then place a structure approximately 26 feet from the street curb.

2. Indicate how the literal interpretation of the Zoning Ordinance...

Existing properties in the 400 and 500 blocks of South Montezuma Street in the same zoning district have differing curb to building conditions. Either the planting strip adjacent to the curb is narrower or nonexistent or the planting strip between the sidewalk and property line is narrower or nonexistent. In addition several properties in the 400 and 500 blocks appear to have 0 setback to structures (401, 415, 438, 440, 442, 503, 505, 511, 535, 510, 512, 514 Montezuma and 125 W. Carleton). Structures at 448 and 404 Montezuma have fabric awnings that appear to encroach into the front setback. The roof overhang at 401 Montezuma actually overhangs the sidewalk. Other properties appear to encroach into the 10 foot required setback with structure (walls, and roof). This is a partial list to indicate the conditions nearby and no doubt most or all are grandfathered in as existing conditions.

3. Describe how the alleged hardships caused by the literal interpretation...

The access ramp was required during the previous remodel of the property to allow for handicap access and required egress from the restaurant. This ramp encroaches into the required setback to within approximately 2.33 feet of the property line. The proposed awning covering will help protect this ramp from rain, snow and ice. This is required by the IBC to make safe this access. Note that this request is for an awning only and no walls or barriers are proposed for the ramp under this request.

4. Indicate why granting the requested variance will not confer upon the...

The proposed awning will have slender support columns and no wall structure allowing for better vision through the structure to other properties and signage near this site. The increased planting strip areas provides a buffer from the street that is greater, even with the variance, than similar business properties in the 400 and 500 blocks of south Montezuma as built. (See number 2 above).

5. Indicate why granting the variance will not interfere with or injure the rights...

This request is for an awning structure to provide protection to the previously required access ramp to the business. The proposed awning is not adjacent to either side property line and presents a minimum profile and sight blockage to the street and sidewalk. The materials and colors will match those of the existing awning structure and not include any signage or advertising.

