



Board of Adjustment



BOA25-00395

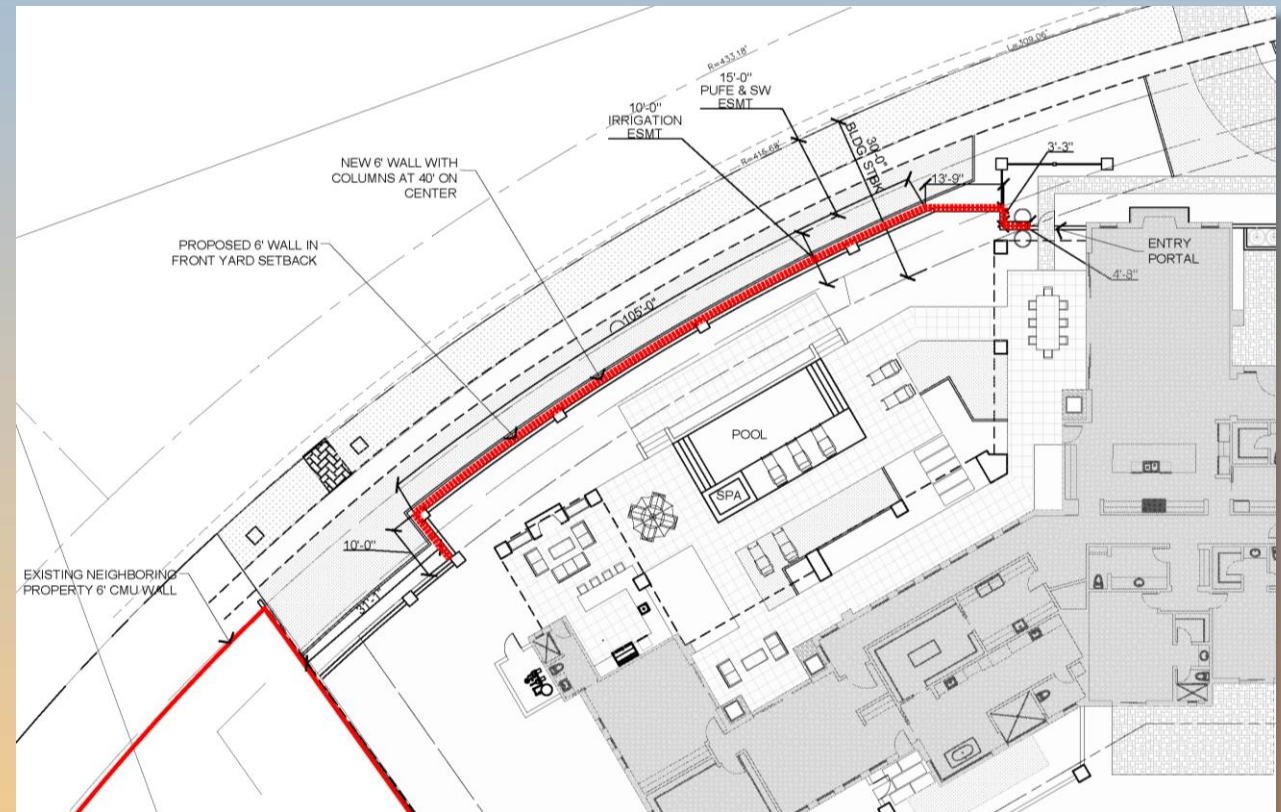
Noah Bulson, Planner I

August 6, 2025



Request

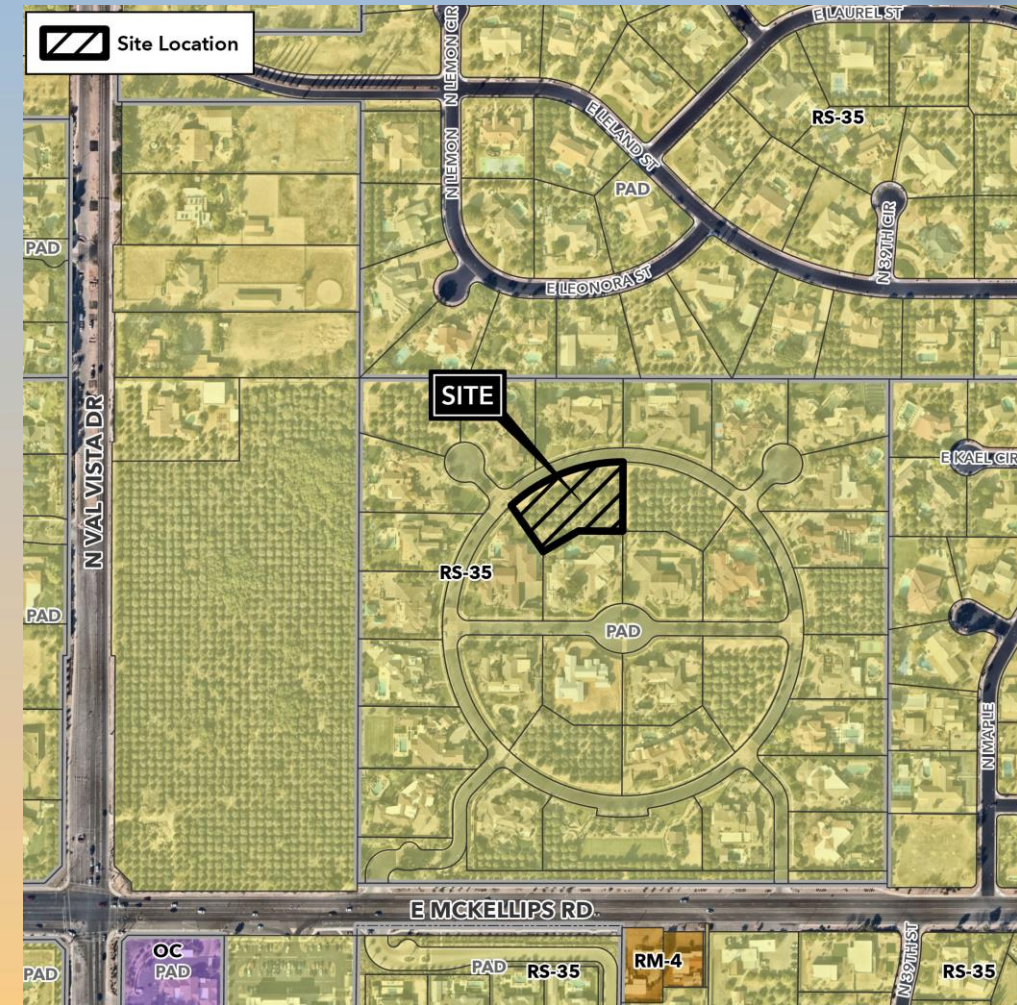
- Variance to allow for an increase to the maximum fence height in the required front yard.





Location

- 3747 E Kael St
- East of N Val Vista Dr
- North of E McKellips Rd





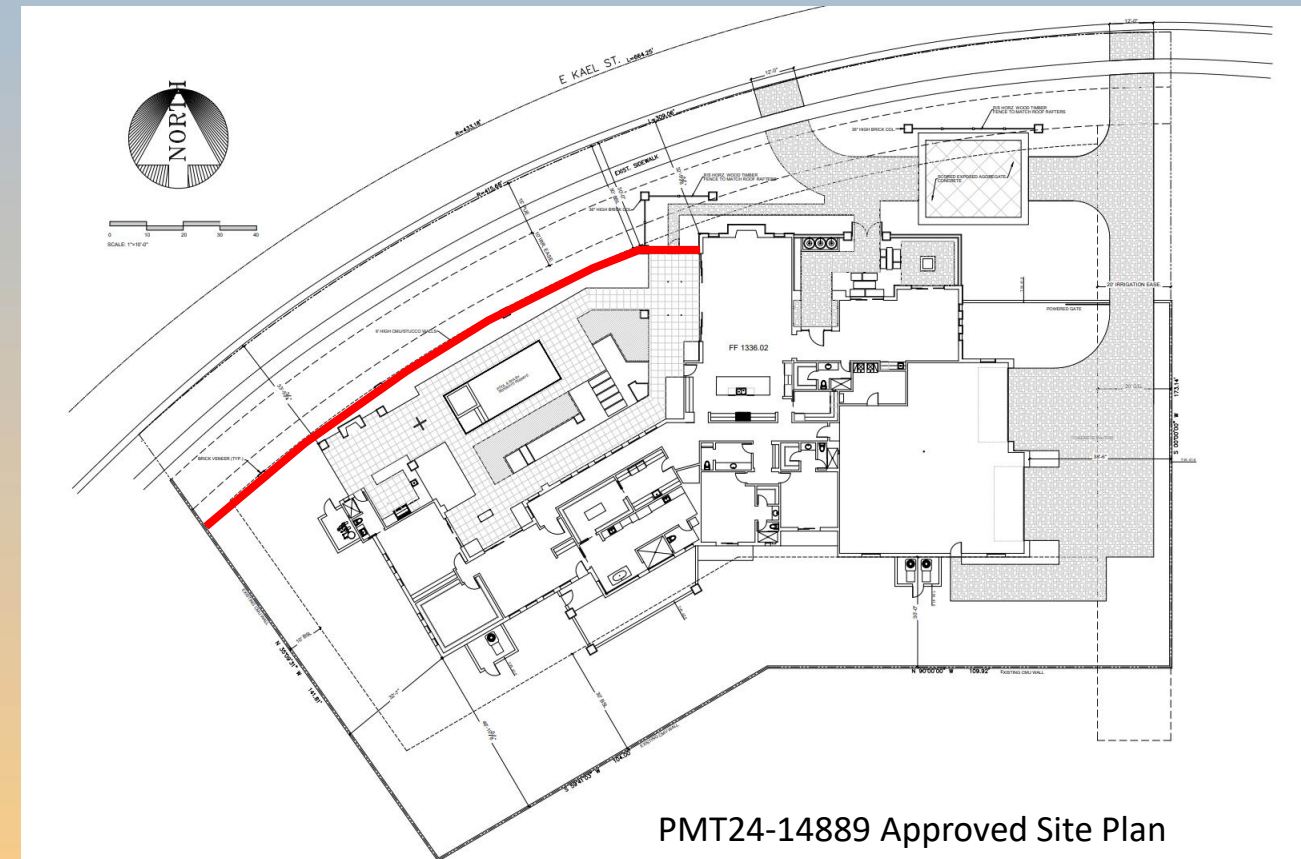
General Plan

- Large lot, single-family residential developments, and agricultural uses
- Single-Family Residential is a principal land use



Approved Site Plan

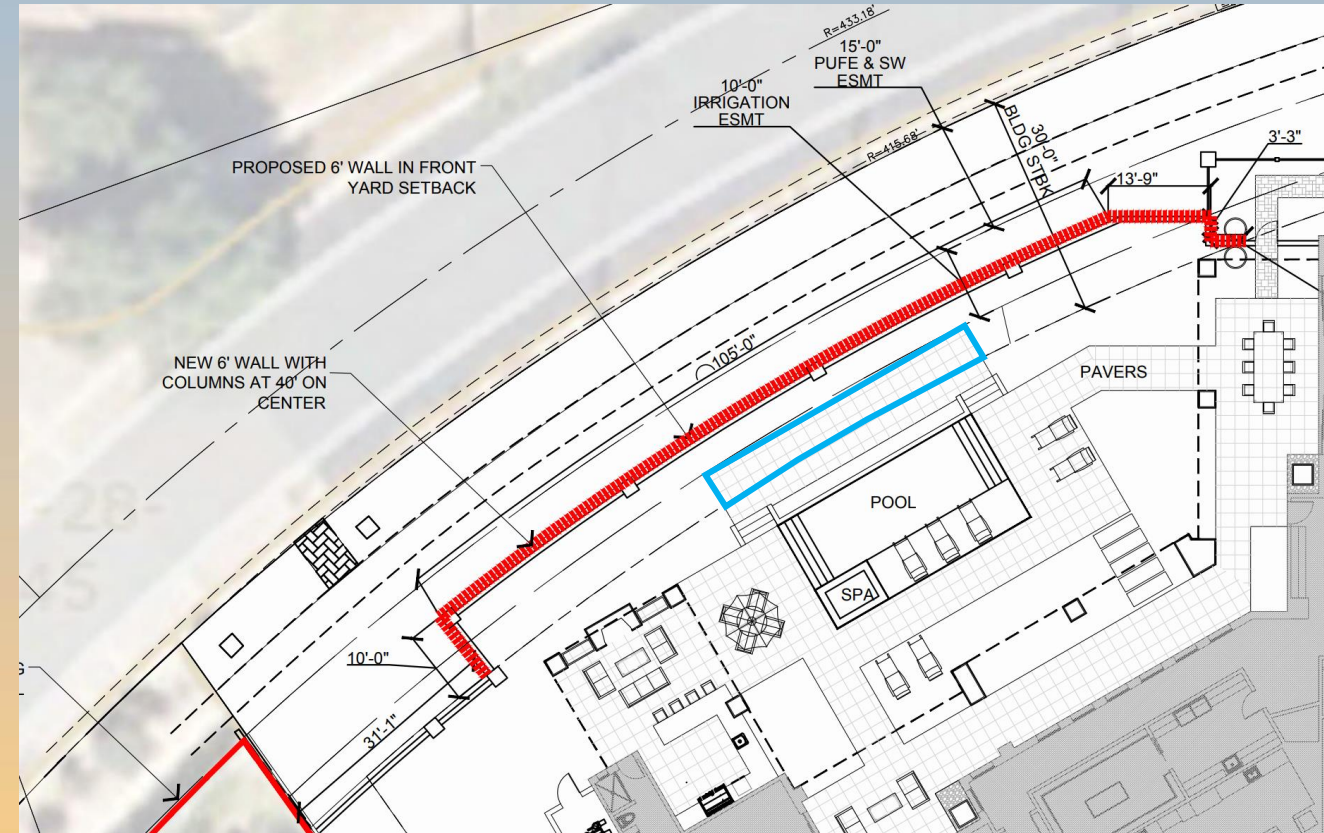
- A 6,568sf single residence home is currently being constructed on the subject property (PMT24-14889)
- The approved construction plans show a 6' tall wall along the front yard setback line, positioned in front of the proposed pool area (shown in red)
- The placement of this wall complies with current MZO fence/wall requirements





Proposed Site Layout

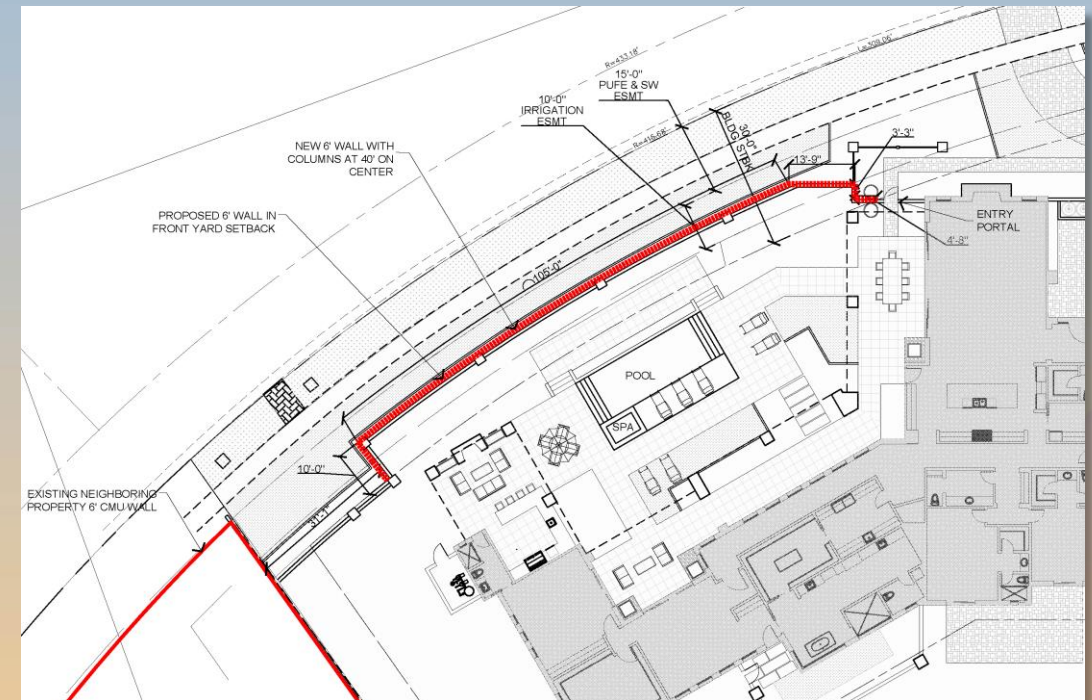
- Additional hardscape improvements surrounding the pool area have been incorporated into the project scope (shown in blue)
- As a result, the property owner proposes relocating part of the 6-foot-tall wall within the required front yard setback (shown in red)





Variance Request

- Required: Per MZO Section 11-30-4.A, no fence or wall within the required front yard shall exceed a height of 3.5 feet, or 4.5 feet with the topmost 1.5 feet being visually transparent and not opaque.
- Proposed: The applicant is requesting to allow a 6-foot-tall wall within the required 30-foot front setback.





Citizen Participation

- Notified property owners within 150 feet
- No feedback has been received





Required Findings

Section 11-80-3 Required Findings:

- ✓ There are special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, and
- ✓ That such special circumstances are pre-existing, and not created by the property owner or appellant; and
- x 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
- x 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.



Required Findings

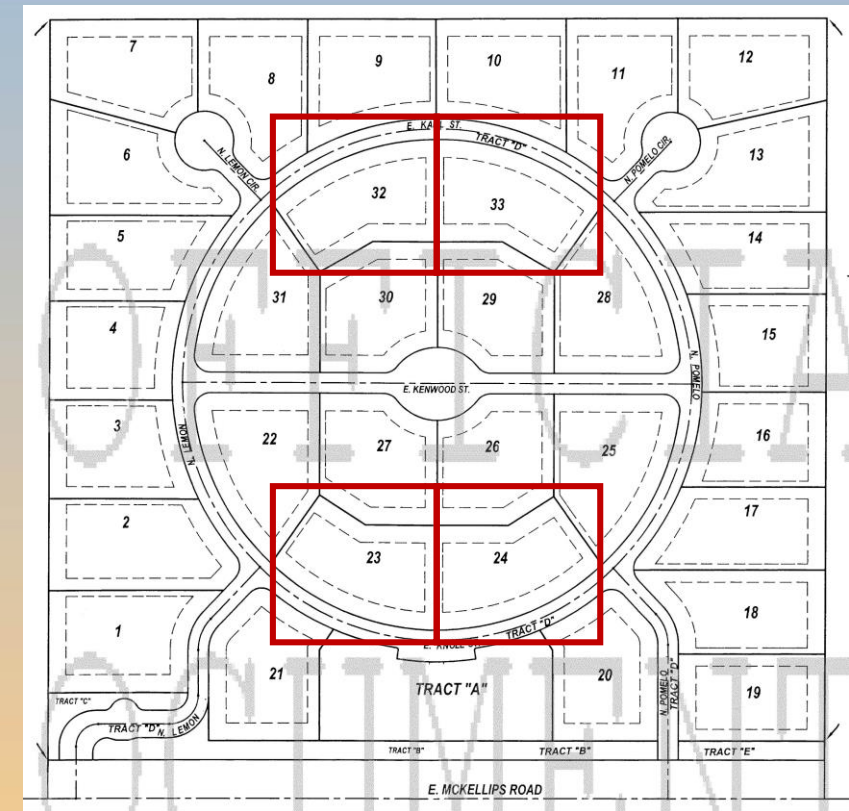
Staff Findings:

- ✓ Special Circumstances are Applicable to the Property
 - The subject property has a unique shape created by the circular lot layout within the subdivision. The entire front property line, which is approximately 310 feet in length, is curved, creating a unique relationship with the private road frontage.
 - Although a special circumstance that could justify a variance may generally exist, it is not the type of special circumstance that supports the variance requested by the applicant - specifically, it does not contribute to the need for additional fence height in the front yard. Also, the special circumstance is not unique to the subject lot within the subdivision. A total of four lots (Lots 23, 24, 32 & 33) share the same configuration within the Villa Tuscano subdivision, only one of which is developed, and that lot did not request relief from the MZO.



Subdivision Plat

- Highlighted with red boxes are the lots within the Villa Tuscano Subdivision that share the same configuration as the project site (Lot 32).





Required Findings

Staff Findings:

- ✓ The Special Circumstances are not Created by the Property Owner/Applicant
 - The property was platted in 2003, and the property was purchased by the current owner in 2025 in its original and current configuration.



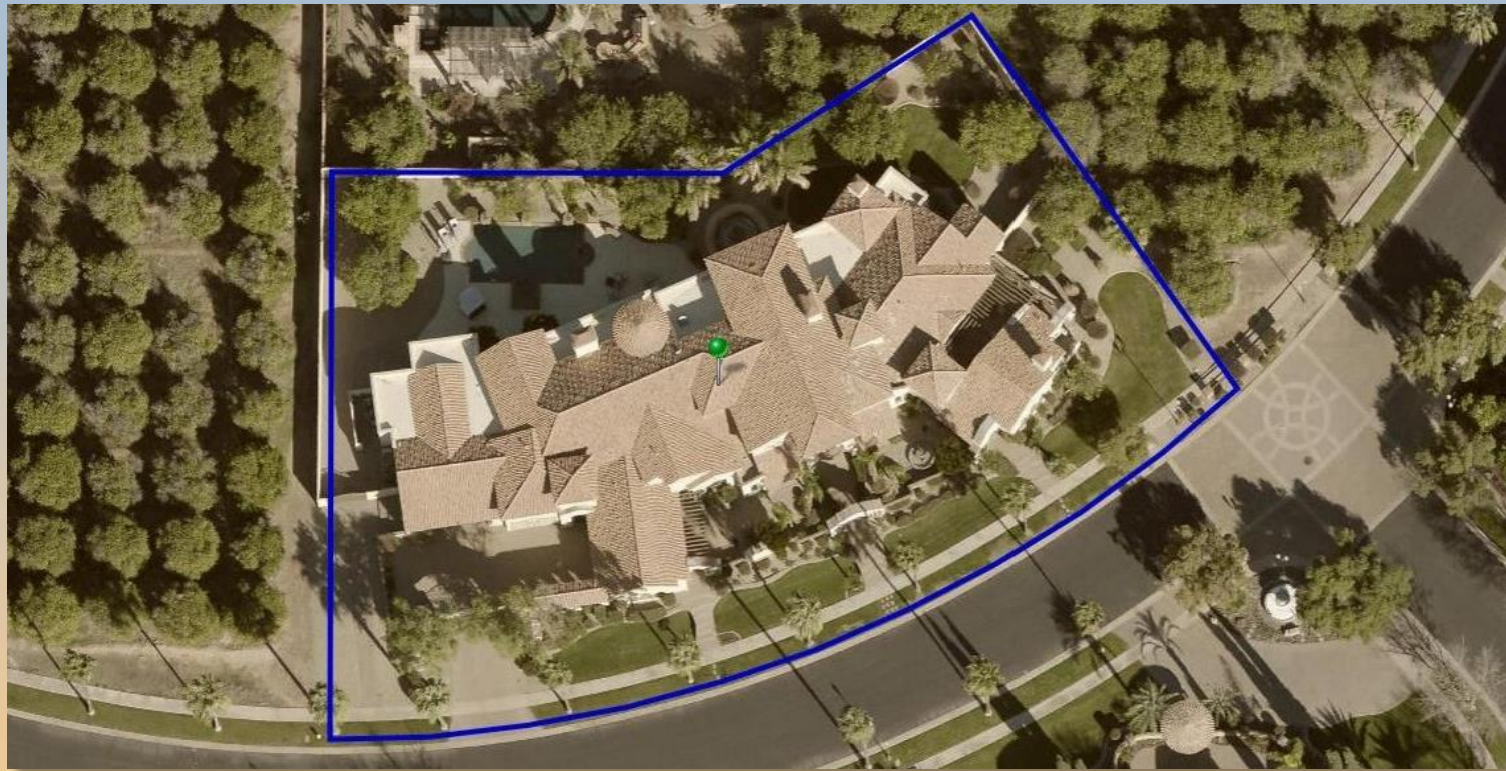
Required Findings

Staff Findings:

- x Strict Application of the Zoning Ordinance Will Not Deprive the Property
 - Enforcing the fencing allowances as defined by the MZO would still allow the applicant to develop the property in a manner consistent with properties of the same classification in the same zoning district and would still allow the applicant to construct a fence in the required front yard, just not of the requested height. Even within the same subdivision, lot 24 has the same configuration and was developed without constructing a fence in the front setback.
 - Alternatives are available to the applicant to achieve the same goals within MZO requirements. The applicant can pull the fence back to the setback line to create a smaller private yard or use landscaping instead of a 6-foot fence to increase the yard's privacy.



Photo of Neighboring Site



County Aerial of 3810 E Knoll St (Lot 24)



Required Findings

Staff Findings:

- x The Variance Would Constitute a Grant of Special Privileges.
 - Approval of the variance will grant special privileges beyond those available to other properties in the same zoning district. Four lots (Lots 23, 24, 32 & 33) with the same configuration exist within the Villa Tuscano subdivision, and one of these has already been developed without requesting relief from the MZO.
 - MZO requirements did not drive the decision to move the building to the rear of the lot. The request for variance was made after the permits for the home had been approved. A variance granted in this instance would ensure that this lot follows a pattern of development distinctly different than lots 23, 24, and 33, from what is otherwise allowed in the MZO, and from what has already proven to be a workable design standard for the one developed lot.



Recommendation

- x Does not meet the required findings for a Variance in Section 11-80-3 of the MZO

Based on the preceding analysis, Staff recommends denial of the requested variance.



Board of Adjustment