



## BOARD OF ADJUSTMENT AGENDA

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**BOARD OF ADJUSTMENT  
PUBLIC HEARING  
THURSDAY, APRIL 15, 2010  
9:00 AM**

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

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The following agenda will be considered by the **BOARD OF ADJUSTMENT** at its **PUBLIC HEARING** to be held at **9:00 AM** on **APRIL 15, 2010**, 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, Vice Chairman	Tom Kayn
Johnnie Forquer	Ken Mabarak
Calvin Fuchs	William Warren

**III. REGULAR AGENDA**

1. **Approve the minutes** of the March 18, 2010 public hearing.
2. **V09-006, 1373 Dalke Point.** APN: 113-10-312 and totaling ± 0.73 acre. *Land Development Code, Section 3.3.3.F.* Zoning is Single-Family 35 (SF-35). Request is for a variance to reduce side yard setbacks. Owner/applicant is Hehlen Family Trust--Rob & Susie Hehlen. Community Planner is Steve Gaber (928) 777-1206.

*(Continued from the March 18, 2010 public hearing).*

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.

**IV. REVIEW ITEM**

- 3. Request for extension V08-001, 324 S. Mt. Vernon. APN: 110-03-021.  
Zoning is Single Family 9 (SF-9). Historic Preservation District #12.  
BOA Approved 08-29-08.**

*(Continued from the March 18, 2010 public hearing).*

**V. SUMMARY OF CURRENT OR RECENT EVENTS**

**VI. ADJOURNMENT**

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**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 April 6, 2010 at 3:00 PM in accordance with the statement filed with the City Clerk's Office.

  
Kathy Dudek, Administrative Assistant  
Community Development Department

BOARD OF ADJUSTMENT  
PUBLIC HEARING  
MARCH 18, 2010  
PRESCOTT, ARIZONA

MINUTES OF THE PUBLIC HEARING OF THE BOARD OF ADJUSTMENT held on  
MARCH 18, 2010 in CITY COUNCIL CHAMBERS, CITY HALL located at 201 S.  
CORTEZ STREET, Prescott, Arizona.

I. CALL TO ORDER

Chairman Klein called the public hearing to order at 9:00 AM.

II. ATTENDANCE

**MEMBERS PRESENT**

Mike Klein, Chairman  
Duane Famas, Vice Chairman  
Johnnie Forquer  
Tom Kayn  
Ken Mabarak  
William Warren

**OTHERS PRESENT**

George Worley, Asst. Community Development Director  
Steve Gaber, Community Planner  
Kathy Dudek, Recording Secretary

**COUNCIL PRESENT**

Steve Blair, Councilman

**MEMBERS ABSENT**

E. Calvin Fuchs

III. REGULAR AGENDA

1. **Approve the minutes** of the February 18, 2010 public hearing.

Mr. Kayn, **MOTION: to approve the minutes** of the February 18, 2010 public hearing. Mr. Warren, 2<sup>nd</sup>. **Vote: 6-0.**

2. **Request to reconsider V09-006** at the April 15, 2010 public hearing. **1373 Dalke Point.** APN: 113-10-312 and totaling ± 0.73 acre. *Land Development Code, Section 3.3.3.F.* Zoning is Single Family 35 (SF-35 District), per changes made by owner/applicant is Hehlen Family Trust--Rob & Susie Hehlen. Community Planner is Steve Gaber (928) 777-1206.

Mr. Gaber reviewed the request to reconsider V09-006 which was denied at the February 18, 2010 public hearing, and noted:

- the initial request was based on three separate setback variances being required;
- the applicant is requesting a reconsideration of a revised plan;
- legal noticing will be required for the April 15, 2010 public hearing if the Board decides to reconsider V09-006 on that date.

Chairman Klein explained that the item on the agenda today is to reconsider bringing the request before the Board of Adjustment at the April 15, 2010 public

hearing; consequently, the Board is not to go into discussion of the details of the revision at today's meeting.

Mr. Robert Hehlen, applicant, 1380 E. Valley View Road, Prescott, briefly outlined the proposed changes to: 1) the garage (including front setback); 2) the east side overhang; 3) change in dimension of garage to preserve boulders; 4) north side reduction of setback required; 5) length of garage being determined by vehicles presently owned.

Board members queried and remarked on:

- re-orienting the car orientation; and,
- not debating inches at the previous month's hearing, rather debating the large amount of footage being requested, and whether that will change any of the members' votes.

Mr. Hehlen cited:

- the issues were not necessarily the boulders;
- the concerns were with the zero property line;
- setting a precedent in granting the variance that might result in 72 more requests;
- many of the lots will *not* need variances, perhaps only two or three lots; and,
- he shouldn't be punished because he is the first person to build in the subdivision.

Further remarks from the Board included:

- still having encroachment on the house side [Mr. Hehlen: yes, only the overhang is encroaching by 3 feet, so a 1-foot adjustment is being looked at];
- does code allow overhang going into the setback [Mr. Gaber: the code allows for a setback to be measured to the wall with 2-feet of architectural appurtenance into the side yard. The Hehlen's overhang extends 3 feet from the wall];
- a technical legal issue with granting the variance [Mr. Gaber: Mr. Fuchs indicated that this is a self-induced hardship at the last hearing];
- the entire rear-yard lot line is not shown on the site plan [Mr. Gaber: the rear lot extends 80-to-90 feet and is not shown on the site plan];
- requesting to have pictures of the location of the adjoining lots at next month's hearing if the vote to reconsider passes.

Mr. Famas, **MOTION: to reconsider V09-006** at the April 15, 2010 public hearing. Ms. Forquer, 2<sup>nd</sup>. **Vote: 5-1** (Mabarak).

#### IV. REVIEW ITEM

3. **Request for extension V08-001, 324 S. Mt. Vernon.** APN: 110-03-021. Zoning is Single Family 9 (SF-9). Historic Preservation District #12. **BOA Approved 08-29-08.**

Mr. Worley commented:

- that variances are initially granted for 18 months;
- the applicant has submitted a request for an indefinite extension;
- staff would recommend either a 6- or 12-month extension;
- the applicant would have to come back at the end of each extension if another extension would be requested;

- the building codes are in effect for the period of variance granted; and,
- if an extension is granted, the building codes at the time of extension are in effect.

Board members queried and remarked on:

- if an extension is denied, would the applicant have to restart the variance process and pay fees [Mr. Worley: yes];
- could the fees be reduced for restarting a lapsed variance [Mr. Worley: no, not to his knowledge];
- the last time the neighbors did not object, and maybe that has changed;
- economic conditions do not fall within the purview of the Board; and,
- the need for the applicant to be present to answer questions.

Mr. Warren, **MOTION: to defer consideration of extending V08-001** to the April 15, 2010 public hearing at 9:00 am in Council Chambers, and notifying the applicant and/or designated agent to appear at the public hearing. Ms. Forquer, 2<sup>nd</sup>. **Vote: 6-0.**

#### IV. SUMMARY OF CURRENT OR RECENT EVENTS

None.

#### V. ADJOURNMENT

Chairman Klein adjourned the meeting at 9:32 AM.

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Michael Klein, Chairman

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Kathy Dudek, Recording Secretary &  
Administrative Assistant  
Community Development Department



The set back set measured from the property line to the wall of a structure. Additionally there is an allowance for roof eaves and similar architectural features to project up to 2 feet into the setback area (LDC Section 2.7.3.D.8.a.).

3. The previous request also included a request to reduce the setback associated with the residence along the westerly property line. The plan has been modified and the structure will meet the set back along this property line.

### **VARIANCE CRITERIA**

A Variance may be granted by the Board of Adjustment when they find that the strict enforcement of the Code would create a substantial hardship to the applicant by virtue of unique special conditions not generally found within the vicinity, and that the granting of the Variance would preserve the spirit and intent of the Ordinance, would serve the general interests of the public and the applicant, and would preserve public health, safety, and welfare may be secured and substantial justice done.

### **VARIANCE CRITERIA, LDC 9.13**

The Board of Adjustment shall consider the following specific criteria (standard text lists code criteria, italic text provides staff comments).

#### **1. Extraordinary Conditions**

There are extraordinary or special conditions affecting the land involved such that strict application of the provisions of the code will deprive the applicant of the reasonable use of his land.

*The Hehlen's cite the rock out croppings and boulders that cover their property as extraordinary conditions.*

- *They want to protect a large boulder outcropping south of the proposed garage.*
- *It is their intent, to the extent possible, to build around the rocks and to fit the home into the rock formations.*
- *Their design saves "boulder gardens" within the lot.*
- *The location of the proposed structures and the setback adjustments are located in a manner to reduce impacts to the adjoining lots. Most of the affected area of the adjoining lot will be driveway rather than building site.*

#### **2. Substantial Detriment**

Granting of 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.

*The Hehlen's have provided two letters with their application. Both letters are from Gary Schnell who represents Enchanted Canyon LLC (the developer) and the Enchanted Canyon Home Owners Association (HOA). Enchanted Canyon LLC owns the adjoining lot to the east (Lot 61) and supports this request for a Variance. The Enchanted Canyon HOA approves the variance request along with the modifications to the building envelope.*

*The earlier Public Hearing Notice resulted in a phone call form Marcia Stafford who along with her husband own the property to the west (Lot 72). Ms. Stafford does not object to the request. While there is no longer a request for a variance associated with the property line*

*separating the Hehlen property from the Stafford property, The Hehlen's believe that Mrs. Stafford's suggestions are still appropriate. The suggestions are;*

- 1. That drainage control measures occur to insure runoff from the Hehlen's roof and property does not impact the adjoining properties.*
- 2. That the trees that are located adjacent to the property lines not be removed, and that any required trimming of the trees to meet Fire Wise requirements be as minimal as possible.*

### **3. Special Privileges**

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 the property is located.

*Staff believes that this Variance can be approved and that such an approval will not be granting a special privilege to the Hehlens. The Board has approved a variety of setback adjustments for other properties that include significant rocks and boulders.*

### **4. Self-Induced Hardship**

*The Hehlen's recognize that their development plan and their property are outside of the "norm". They believe that the rocks and boulders that make up their lot are a topographic hardship. These features do provide a challenge in terms of locating the structure. Staff does not believe that this application includes a self-induced hardship*

### **5. General Plan**

*The General Plan Land Use Map acknowledges this area as low to medium residential density. This request can be viewed as consistent with the General Plan.*

### **6. Utilization**

Because of special circumstances applicable to the property, including size, shape topography, location or surroundings, the strict application of the ordinance will deprive such property of privileges enjoyed by other property of the same zoning district.

*As previously described in this report, the special circumstances associated with this property are the rock formations and boulders that make up the lot.*

## **RECOMMENDATION**

Having discussed this variance with the Hehlen's, and acknowledging the support of their immediate neighbors, staff supports the issuance of this variance with the conditions associated with drainage and vegetation as described above.

## **SUGGESTED MOTION**

Move to approve Variance Application V 09-006 with the following conditions.

1. That drainage control measures occur to insure runoff from the Hehlen's roof and property does not impact the adjoining lots.
2. That the trees that are located along the easterly and westerly property lines not be removed, and that any required trimming of the trees to meet Fire Wise Requirements be as minimal as possible.

## Hehlen Variance

Rob Hehlen [prescottrob@qwest.net]

**Sent:** Wednesday, April 07, 2010 7:05 AM

**To:** Gaber, Steve

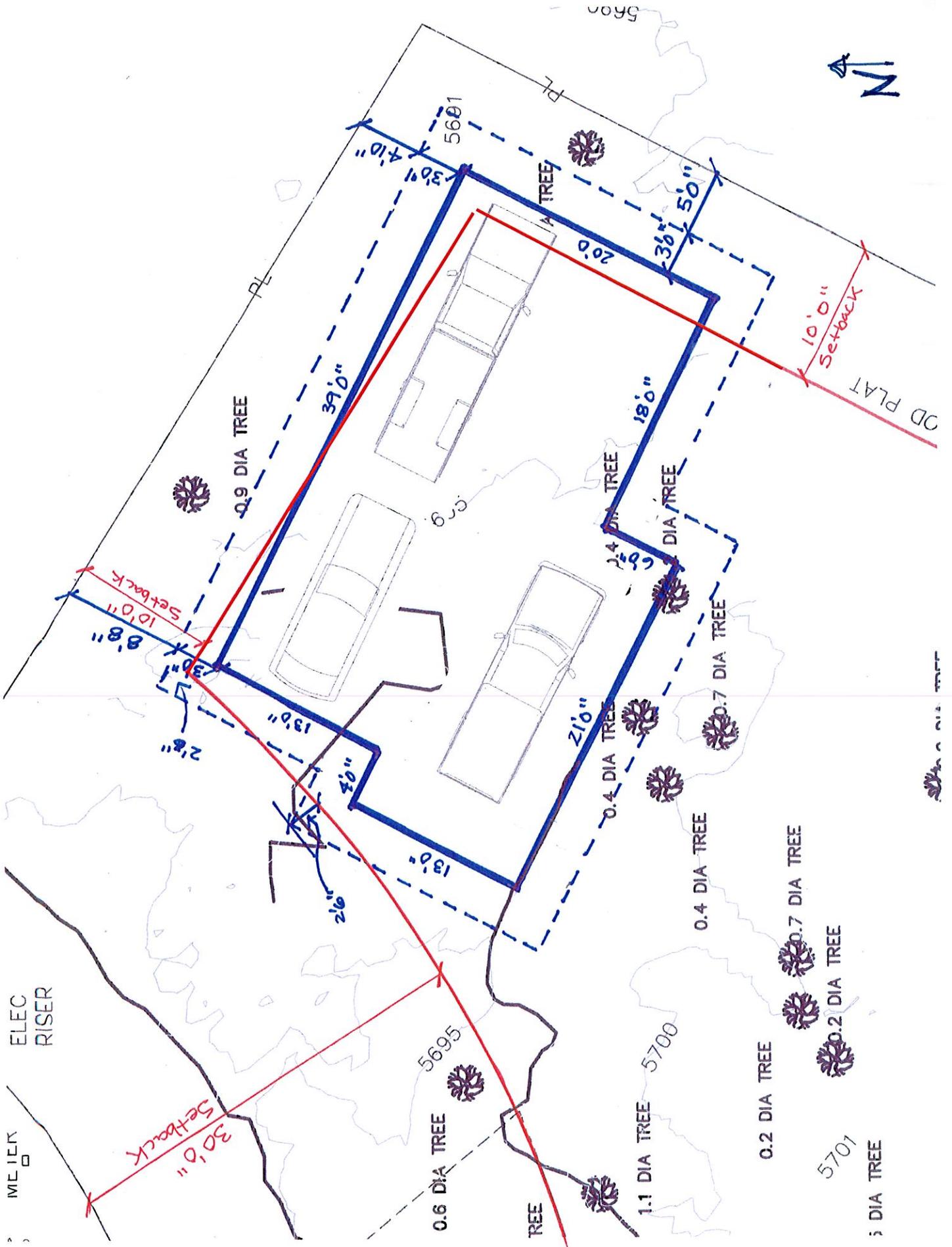
**Attachments:** Garage Design.pdf (395 KB)

Hi Steve,

Attached is the plan for the garage. It's the same as the reconsider meeting, so we will be asking for a setback adjustment on two sides of the garage. We left the house out of the equation. We are requesting reducing the setback on the north side from 10 feet to 4'10" and on the east side from 10 feet to 5 feet. I will put together a powerpoint presentation detailing all the information why this is what we are requiring.

Call if you have any questions.

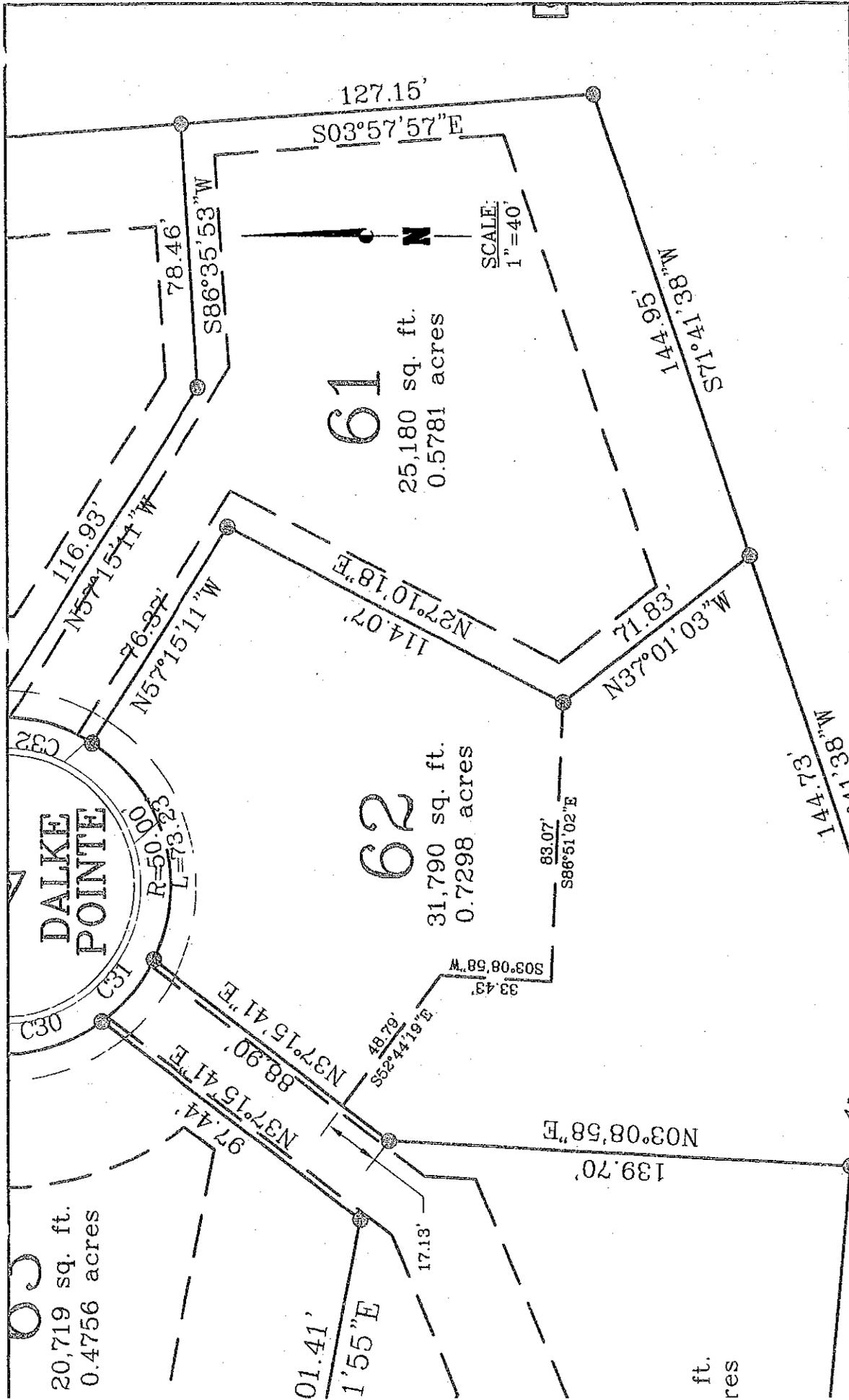
Thanks,  
Rob



Revised Plan for Garage

4/7/10





LOT 62 SLOPE ANALYSIS			
Layer	Color	Range Beg.	Range End Percent
0-20% SLOPES	■	0.00	20.00
20-30% SLOPES	■	20.01	30.00
30-40% SLOPES	■	30.01	40.00
40-50% SLOPES	■	40.01	50.00
50-100% SLOPES	■	50.01	AND ABOVE
TOTAL AREA:			1
			2.52

20,719 sq. ft.  
0.4756 acres

01.41'  
1'55"E

**62**  
31,790 sq. ft.  
0.7298 acres

**61**  
25,180 sq. ft.  
0.5781 acres

ft.  
res



# MEMORANDUM

Community Development Department

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April 9, 2010

*Review Item Update:*

**V08-001, 324 S. Mt. Vernon.** APN: 110-03-021. Zoning is Single-Family 9 (SF-9). Historic Preservation District #12. BOA Approved 08-29-08. Request for an extension of the variance. George Worley, Assistant Community Development Director.

This item was continued from the March 18, 2010 public hearing.

At this time, the City has not been able to contact the owner. The agent, Steve Adams, is out of town due to a family emergency.

Staff is requesting a continuation of Item V08-001 to the May 20, 2010 public hearing.

A handwritten signature in black ink, appearing to be "RW", with an arrow pointing from the signature to the word "hearing" in the previous block.