



# BOARD OF ADJUSTMENT AGENDA

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**BOARD OF ADJUSTMENT  
PUBLIC HEARING  
THURSDAY, October 17, 2013  
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 October 17, 2013, 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	Phil King
Greg Lazzell, Vice Chairman	Richard Rosa
Johnnie Forquer	George Wiant
James DiRienzo	

**III. REGULAR AGENDA / PUBLIC HEARING ITEMS**

1. Approval of the July 18, 2013 meeting minutes.
2. V13-006, 1165 Trinity Court. APN: 106-20-248 totaling 0.21 acres. LDC Section 9.13. Zoning is Single-Family 6. Request is to reduce side yard setback from 9' 6" to 6' 8" for an existing carport. Owners are Robert and Andrea Weedon. Community Planner is Ruth Traxler (928) 777-1319.

**IV. REVIEW ITEMS**

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

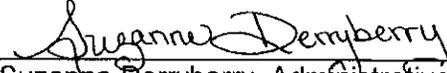
**VI. ADJOURNMENT**

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.

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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 October 11, 2013 at 1:00 PM in accordance with the statement filed with the City Clerk's Office.

  
Suzanne Derryberry, Administrative Specialist  
Community Development Department



# BOARD OF ADJUSTMENT AGENDA

**BOARD OF ADJUSTMENT  
PUBLIC HEARING  
THURSDAY, JULY 18, 2013  
9:00 AM**

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

MINUTES OF THE PUBLIC HEARING OF THE BOARD OF ADJUSTMENT held on July 18, 2013 in Council Chambers, City Hall, located at 201 S. Cortez Street, Prescott, Arizona 86303.

## I. CALL TO ORDER

Chairman Klein called the meeting to order at 8:59 a.m.

## II. ATTENDANCE

### Members

<i>MEMBERS</i>	<i>STAFF PRESENT</i>
Michael Klein, Chairman	George Worley, Planning Manager
Greg Lazzell, Vice Chairman	Ryan Smith, Community Planner
Phil King	Jon Paladini, City Attorney
James Di Rienzo	Suzanne Derryberry, Administrative Specialist
Richard Rosa	
George Wiant	<i>COUNCIL PRESENT</i>
Johnnie Forquer	Charlie Arnold

## III. REGULAR AGENDA / PUBLIC HEARING ITEMS

1. Approval of the April 18, 2013 meeting minutes.

Mr. Rosa, MOTION to approve the April 18, 2013 minutes. Mr. Di Rienzo, 2<sup>nd</sup>. VOTE 6-0-1 (Mr. King abstained from voting)

2. CUP13-003, 400 N. Washington Ave. APN: 114-02-070 and totaling ± 0.34 acres. Zoning is Industrial Transition (IT). LDC Section 9.3 and Table 2.3. Request conditional use permit to allow for the operation an artesian/craft distillery. Owner is James Bacigalupi, 400 N. Washington Ave., Prescott, AZ 86305. Applicant is Scott Holderness, 1321 Paradise Valley Rd., Prescott, AZ 86303. Community Planner is Ryan Smith (928) 777-1209.

Mr. Smith reviewed the staff report and indicated that the building was located on the corner of North Washington and Muller Street and it was also located in an Industrial Transition zoning district.

Mr. Smith stated that distilleries are not addressed in the Land Development Code; the closest fit which was found in the use table was a cross between a brewery and a chemical manufacturing facility.

Mr. Smith continued by discussing the conditional use criteria and noted that the site appeared to have adequate parking and should have a minimal impact to the neighborhood. In addition, it was compatible with the surrounding area, there would be no infrastructure impacts and the request was consistent with the General Plan.

Mr. Smith stated that the Public Works department would be requiring a treatment sampling and a wastewater treatment plan which would be required on an ongoing basis. The Fire Department had approved the storage of spirits using the control areas but they were asking for an alarm system. Mr. Smith concluded that staff had suggested approval of the Condition Use Permit with the conditions of approval being based on the treatment plan and the alarm system.

Mr. Wiant discussed parking anticipations; Mr. Smith stated that staff felt parking was adequate for its use.

Dana Murdock, 18925 N Lower Territory Rd, stated that they would be making vodka, gin and whiskey. She indicated that she had been working with Dave Mecca from the Prescott Fire Department and she was aware of the 2012 building and fire codes. She also noted that once the alcohol comes out of the still it is diluted down to 80 proof and once it's stored in oak barrels it no longer constitutes a flammable liquid. Ms. Murdock continued by discussing their plans on the aging of the whiskey.

Mr. Rosa wanted to know Ms. Murdock's background and if they had any association with the distillery in Kingman. Ms. Murdock stated that she had a food background and would be working closely with a retired physician with a background in chemistry as well as a retired electrical contractor.

Mr. Di Rienzo discussed the fire system and the international fire codes. Ms. Murdock stated that they had already discussed those issues with the fire inspector and that any storage of alcohol products would be placed in a control area surrounded by a fire wall.

Mr. Lazzell inquired about having an annual inspection from the Fire Department. Mr. Smith stated that they would be required to have regular inspections by both the Fire Department and the County Health Department.

Mr. Wiant, MOTION to approve CUP13-003 with the following conditions of approval:

1. A pre-treatment survey will be required for this project prior to any building permits being issued. A sampling station and adequately sized and constructed interceptor and pretreatment per City Code Section 2-1-40 thru Section 2-1-47 in accordance with Chapter 10 of the 2006 International Plumbing Code will be required for this project.
2. Building will require control areas for product storage and an up-graded fire alarm system along with fire extinguishers.

Mr. Rosa, 2<sup>nd</sup>. VOTE 7-0; passed.

3. V13-005, 1695 Constable St. APN: 106-18-372 and totaling ± 0.19 acres. Zoning is Multi-family Medium Density Planned Area Development (MF-M PAD). LDC Section 3.9 and 9-13. Request a variance to allow for a reduced front setback from 20' to 15' and a reduced side setback from 5' to 3'6". Owner/Applicant is Steve Davis of Dorn Homes Inc., 3950 S. Camino Del Heroe, Green Valley, AZ 85614. Community Planner is Ryan Smith (928) 777-1209.

Mr. Smith reviewed the staff report and indicated that the variance request was for a front yard reduction in setbacks from 20' to 15' as well as a reduction in side yard setbacks from 5' to 3'6" which consequently had caused a reduction in the separation between the houses.

Mr. Smith noted that the property was located on the South end of Constable Street. He presented a site plan which had been provided by the applicant displaying the approved location of the home versus the actual location of the home and noted that it was the covered porch which intruded into the side yard setback.

Mr. Smith continued by reviewing the variance criteria and stated that granting the variance would not be a detriment to the public. In addition, the Board of Adjustment would be responsible for determining whether this item was a special privilege as the hardship was the result of the builder placing the home too close to the front and side property lines. He also noted that the structure and its use were in conformance with the General Plan and there were no unique circumstances which would create a limited building envelope on that piece of property.

Mr. Smith stated that a letter had been included in the board member's packets from a neighbor regarding the 12' separation requirement between homes and felt that not granting the variance could possibly affect the resale of the house. Mr. Smith also pointed out that the Home Owner's Association had expressed that the variance be approved by the board. He concluded by stating that staff did not have a recommendation for the variance but provided the three possible outcomes for the boards review.

Mr. Wiant discussed setbacks.

Mr. Lazzell inquired as to how long the house had been fully constructed. Mr. Smith stated it had been very recent; approximately one month.

Mr. King stated that the house had not been built in accordance with the site plan. He also discussed the possibility of creating precedence by approving the variance.

Mr. Paladini stated that the Board of Adjustment does not create legal precedent and that every case is determined on its own merits, there would be no legally binding precedent being set, however, it could be possible for someone to use this case as an example in a future case, but again, every case would be determined on its own merits. Mr. Paladini continued by discussing special privilege.

Mr. Rosa wanted to know what would happen if the request was denied. Mr. Smith stated that it would be left up to the developer and the buyer of the house to decide how they would like to proceed.

Mr. Wiant wanted to know if the Fire Department would have proper access to the back of the residence due to the air conditioning unit being so close to the house and the wall. Mr. Smith stated the Fire Department had not commented that there were any access issues.

He also noted that there was space between the air conditioning unit and the wall but it was just difficult to see the space in the photo provided.

Various members of the board discussed potential problems with selling the property in the future.

Steven Davis, 18843 N 47<sup>th</sup> Drive, Glendale, AZ, Dorn Homes, stated that there was no threat to the health or safety of individuals and that he was aware of the setback issues and he was working with the homeowner to help resolve those issues. He continued by discussing setbacks throughout the neighborhood and noted that there were many setbacks in the nearby vicinity which varied greatly.

Mr. Wiant wanted to know how this could happen and why it was not caught before the home had been fully completed. Mr. Davis stated that it was probably due to an incorrect survey of the lot. Mr. Guice stated that it is often very difficult, if not impossible, to determine the property setbacks and that it is a responsibility which is placed on the builder or developer to ensure the setback requirements are met. Mr. Smith stated that the original site plan did not show a covered porch, it was a change which had not been approved on the site plan.

Mr. Di Rienzo wanted to know if Mr. Davis had ever been in front of the Board of Adjustment for any similar issues; Mr. Davis stated that he had not.

Mr. Klein called for any other questions from the applicant; there were none.

Tom Coe, 1697 Constable St., stated he was the next door neighbor to the property in question. He continued by discussing setbacks and the distance between the two houses. He indicated that it was his request that the board approve the variance so his home would not be affected in a negative manner.

Donald Couture, 1695 Constable St., stated he was the homeowner of home in question. He discussed setbacks and pointed out the varying setbacks found in that same neighborhood. He also discussed his concerns regarding the steepness of the driveway and stated that they had come to a resolution with Dorn Homes regarding that issue.

Various discussions took place regarding escrow on the house. Mr. Klein stated that if Mr. Couture was the owner of the property, then the variance they were permitting was not necessarily a self imposed hardship, it was something where he was subject to the hardship, but the hardship was actually created by the builder, not the owner.

Mr. King discussed setback issues. Mr. Paladini stated that the request was essentially for two separate variances and the board's sole decision was to grant the variances either with or without conditions. The board did not have any authority or power to determine a remedy if it chose to deny the variance requests. In addition, the statutory language stated that the Board of Adjustment may not grant a variance if the special circumstances affecting the property were self imposed by the property owner. So the question to the board should be if these special circumstances were these created by property owner.

Mr. Couture stated that if the variance requests were denied it would ruin his life since he loved his home and had already moved in. He stated that he strongly requested to have the board approve the variances and stated that he would work with Dorn Homes to improve the driveway issue.

Bryn Stotler, 539 Mesa Dr, Community Manager for Prescott Lakes, stated that the association had not received any negative communications regarding the variance request and for clear and concise records regarding the property in question, they were in support of approval of the variance requests.

Mr. Lazzell, MOTION to approve V13-005, reducing the required front yard setback from 20' to 15' and reducing the side yard setback from 5' to 3'6" allowing for the subsequent reduction in separation between houses.

Mr. Rosa, 2<sup>nd</sup>. VOTE 3-4; failed (Forquer, Di Rienzo, Wiant, King opposed)

Mr. Di Rienzo, MOTION to approve V13-005, reducing the required front yard setback from 20' to 15' only.

Mr. King, 2<sup>nd</sup>. VOTE 5-2; passed (Klein, Lazzell opposed)

Mr. Worley discussed the possibility of granting an administrative adjustment in regards to the side yard setback issue and it was suggested to the applicant and the owner to meet with the Planning and Zoning staff to discuss other possible remedies.

**I. REVIEW ITEMS**

None

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

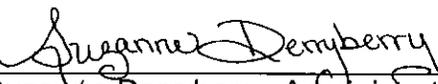
None

**III. ADJOURNMENT**

Chairman Klein adjourned the meeting at 10:07 a.m.

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Mike Klein, Chairman

  
Suzanne Derryberry, Administrative Specialist  
Community Development



The owners scheduled a meeting with planning staff, where it was discovered that the site plan submitted was inaccurate in respect to the side yard setback. The carport and shed were determined to be 6'8" from the property line (Attachment 3).

**VARIANCE REVIEW CRITERIA:** The Board of Adjustment shall consider the following criteria in its review:

- 1) **Extraordinary conditions:** *There are extraordinary conditions affecting the land involved such that strict application of the provisions of this Code will deprive the applicant of the reasonable use of his land.*

The lot is triangular in shape, with limited frontage along the street. There is an existing driveway along the north. The area directly to the south and east of the manufactured home is a drainage area. It would be difficult to locate the carport and shed in another area of the property that would give reasonable covered access into the home.

- 2) **Substantial detriment:** *It will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area.*

There are no aspects of the project that would be detrimental to public health or safety. The structures are located outside required easements and drainage areas.

- 3) **Special privileges:** *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.*

Adjacent properties are subject to the same side yard setback requirement; 10% of the average lot width. However, the properties directly to the north have lots that are substantially narrower and are subject to side yard setbacks of approximately 6'6".

- 4) **Self-induced hardship:** *The hardship is not the result of the applicant's own actions.*

The property owners did not verify that the original site plan was accurate. However, there remain other constraints on the lot that are not a result of the owners' actions.

- 5) **General Plan:** *It will be in substantial compliance with the General Plan or other relevant area plans or neighborhood plans.*

The use is residential, in conformance with the General Plan Land Use Map's designation for that area.

- 6) **Utilization:** *Because of special circumstances applicable to the property, 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.*

The application of the required setbacks would require relocation or removal of the carport and shed. Many lots in the area have lesser setbacks, and the majority of lots in the area have carports. It is reasonable for the property owners to request covered parking adjacent to the home.

**PUBLIC COMMENT:** A property owner in the vicinity called to advise staff that he had no concerns regarding the variance request. No other public comment has been received.

**STAFF RECOMMENDATION:** Staff recommends approval of V13-006. The recommendation is made not on the basis of the complexities caused by the original (inaccurate) site plan, but on the constraining features of the lot and comparable setbacks in the area.

**Attachments:**

- 1) Willow Lake Estates Unit 3 subdivision plat
- 2) Site plan (August 10, 1984)
- 3) Site plan (September 17, 2013)
- 4) Site photos
- 5) Variance questionnaire

**SUGGESTED MOTION:** Move To Approve V13-006, a Variance to reduce the 9'6" side yard setback to 6'8" for a carport and shed.

1011  
1514

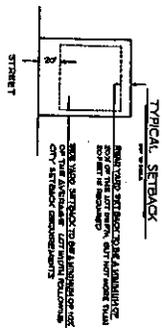
22-51

(GRANITE BELLS ROAD)

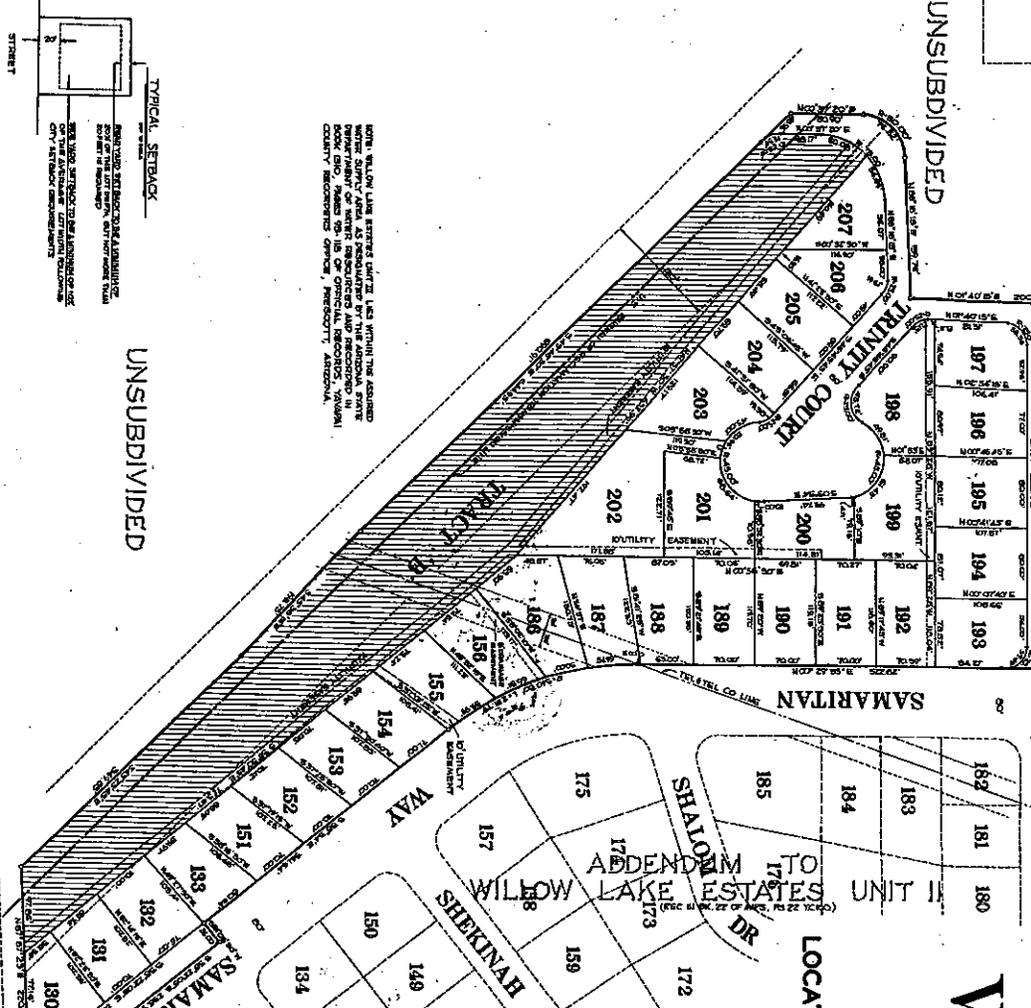
WILLOW LAKE ROAD

UNSUBDIVIDED

UNSUBDIVIDED



NOTE: WILLOW LAKE RESERVÉ UNIT I, LOTS WITHIN THE ASSIGNED WILLOW LAKE RESERVÉ UNIT I, AS DESIGNATED BY THE ARIZONA STATE DEPARTMENT OF HEALTH RECORDS AND RECORDED IN THE COUNTY RECORDS OFFICE, PINAL COUNTY, ARIZONA.



# WILLOW LAKE ESTATES

UNIT III

LOCATED IN A PORTION OF THE NE 4 OF SEC 15  
T14N-R2W-G&SR-B&M,  
YAVAPAI COUNTY, ARIZONA

### DEDICATION

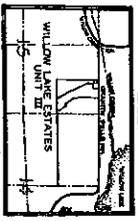
NOTY BEING BY THESE PRESENTS, THAT WILLOW LAKE ESTATES, A PARTNERSHIP, COMPOSED OF ROBERT L. WILSON AND JOHN W. BROWN, HAS HEREBY DEDICATED TO THE PUBLIC THE SHALOM, SAMARITAN, SHEKINAH, AND WILLOW LAKE ESTATES UNIT II, UNIT III, AND UNIT IV, ALL BEING MORE PARTICULARLY DESCRIBED IN THE ATTACHED MAP, AND HEREBY REQUESTS THAT THE PUBLIC BE KEPT OPEN TO THE PUBLIC FOR USE AS SUCH, THE STREETS SHOWN ON THIS MAP BEING IN THE POSSESSION OF THE PARTNERSHIP OF WILLOW LAKE ESTATES, A PARTNERSHIP, AND THAT THE PUBLIC BE KEPT OPEN TO THE PUBLIC FOR USE AS SUCH, THE STREETS SHOWN ON THIS MAP BEING IN THE POSSESSION OF THE PARTNERSHIP OF WILLOW LAKE ESTATES, A PARTNERSHIP, AND THAT THE PUBLIC BE KEPT OPEN TO THE PUBLIC FOR USE AS SUCH, THE STREETS SHOWN ON THIS MAP BEING IN THE POSSESSION OF THE PARTNERSHIP OF WILLOW LAKE ESTATES, A PARTNERSHIP.

### ACKNOWLEDGEMENT

THE PUBLIC, AND OF THE PARTNERSHIP OF WILLOW LAKE ESTATES, A PARTNERSHIP, HAS HEREBY REQUESTED THAT THE PUBLIC BE KEPT OPEN TO THE PUBLIC FOR USE AS SUCH, THE STREETS SHOWN ON THIS MAP BEING IN THE POSSESSION OF THE PARTNERSHIP OF WILLOW LAKE ESTATES, A PARTNERSHIP, AND THAT THE PUBLIC BE KEPT OPEN TO THE PUBLIC FOR USE AS SUCH, THE STREETS SHOWN ON THIS MAP BEING IN THE POSSESSION OF THE PARTNERSHIP OF WILLOW LAKE ESTATES, A PARTNERSHIP.

### APPROVALS

APPROVED BY THE BOARD OF THE CITY OF PHOENIX  
 [Signature]  
 [Signature]  
 [Signature]

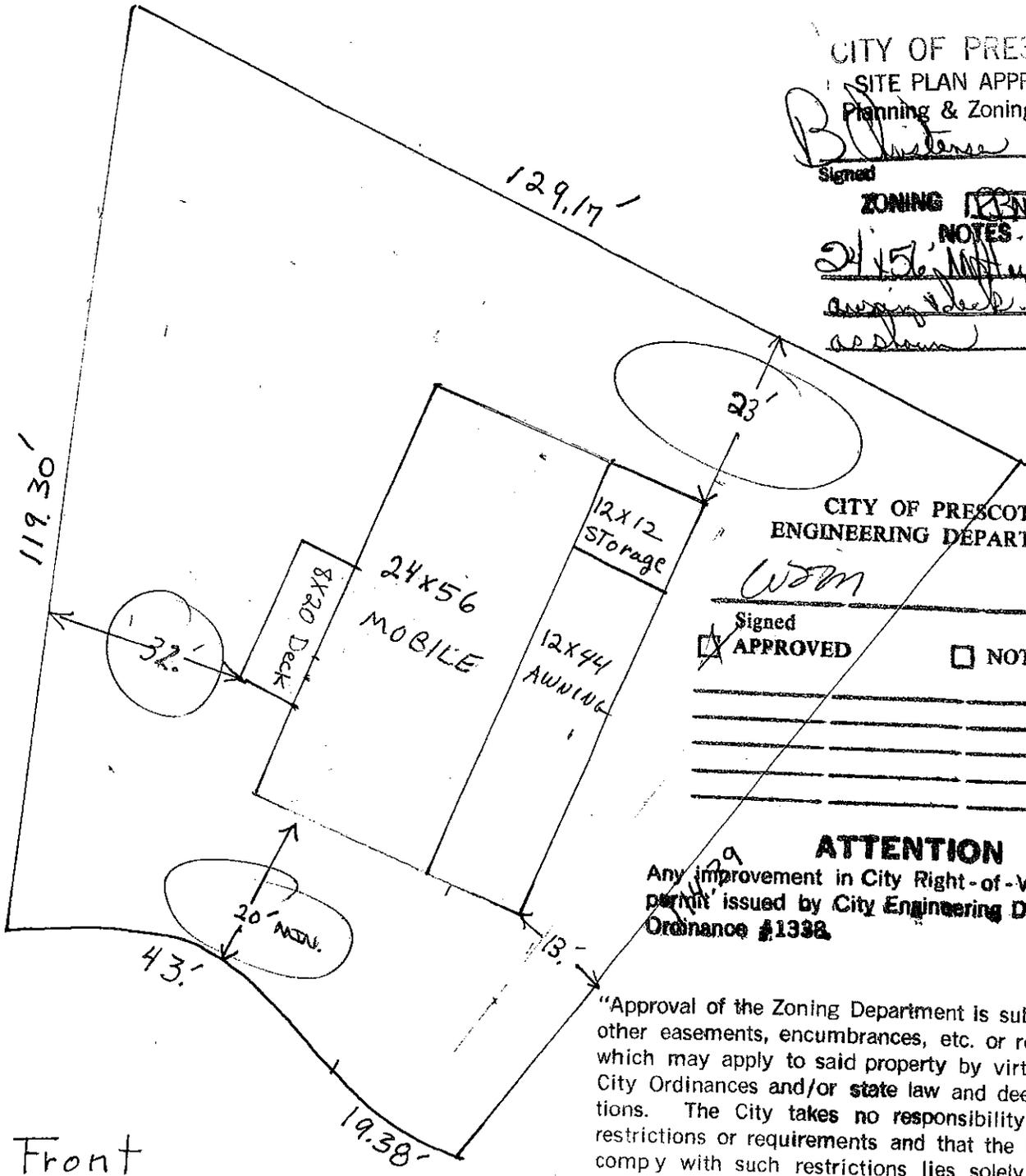


SCALE: 1" = 400'

UNCOVER AND PLATED UNDER MY DIRECTION.  
 [Signature]  
 [Signature]

SET-UP  
 D. & K. Mobile Home Service  
 3175 Shekinah Dr.  
 Prescott, AZ 86301  
 Lic.# 5052 Phone: 778-7191

Lot-#203 Unit III  
 Willow Lake Estates  
 1165 Trinity Court  
 24' x 56' Mobile  
 Owner: Bob Pennington



CITY OF PRESCOTT

SITE PLAN APPROVED  
 Planning & Zoning Dept.

*B. Whistler*  
 Signed \_\_\_\_\_ Date 8-10-88

ZONING  R-1

NOTES

*24' x 56' Mobile Home Storage  
 Awning Deck Approved  
 as shown*

CITY OF PRESCOTT  
 ENGINEERING DEPARTMENT

*W. J. M.*  
 Signed \_\_\_\_\_

8-10-88  
 Date

APPROVED  NOT APPROVED

**ATTENTION**

Any improvement in City Right-of-Way requires a permit issued by City Engineering Department Ordinance #1338.

"Approval of the Zoning Department is subject to all other easements, encumbrances, etc. or restrictions which may apply to said property by virtue of any City Ordinances and/or state law and deed restrictions. The City takes no responsibility for said restrictions or requirements and that the burden to comply with such restrictions lies solely with the property owner and/or applicant.

Trinity Court

awning 528 @ 6.50 = 3,432.00  
 storage shed 144 @ 11.50 = 1,656.00  
 deck 160 @ 6.50 = 1,040.00  
 \$6,128.00  
 permit \$ 65.50

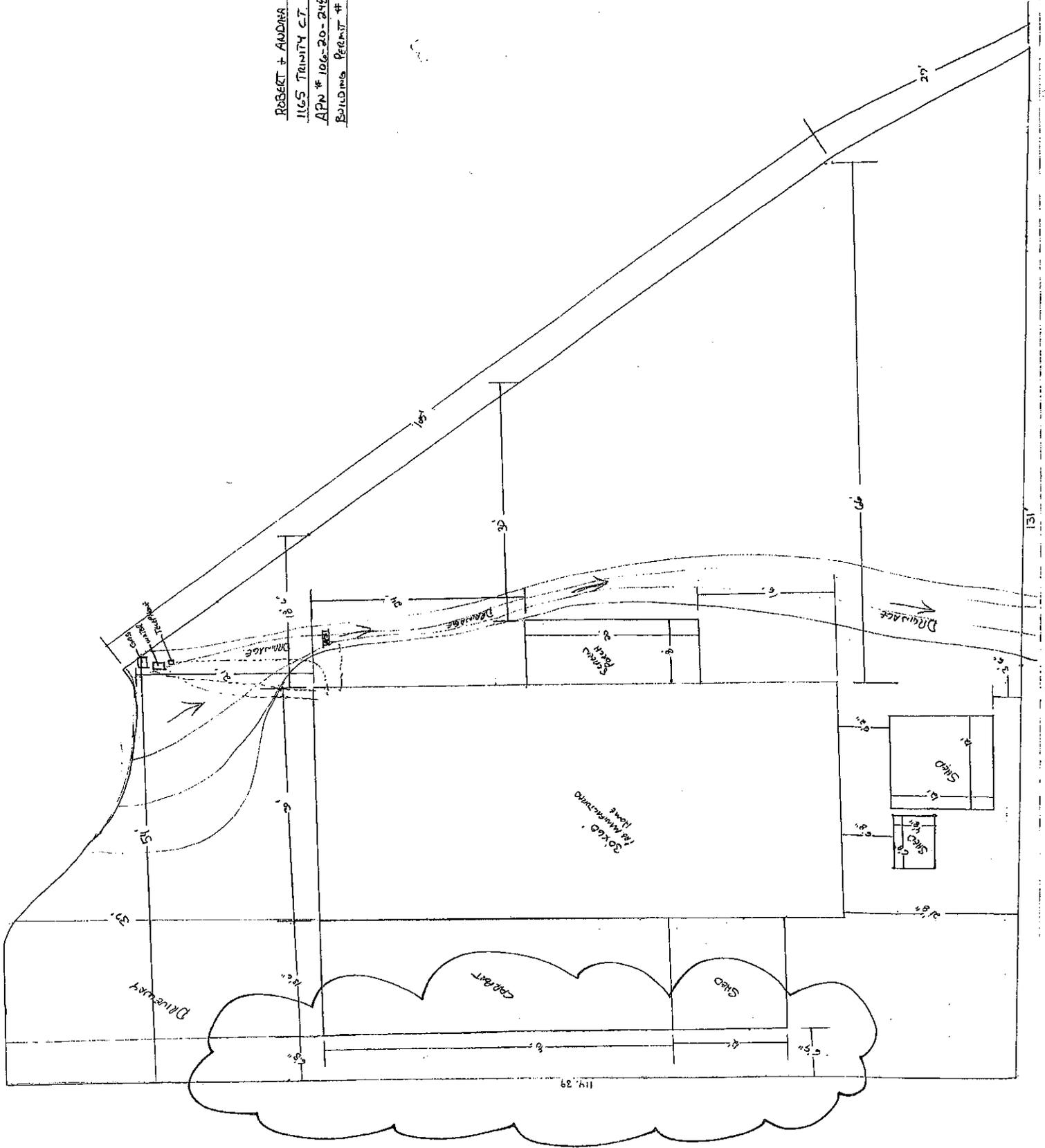
IT IS THE RESPONSIBILITY OF THE OWNER/CONTRACTOR TO FIELD RIFY ALL UTILITY MAINS PRIOR TO CONSTRUCTION.

Scale: 1 Inch = 20 Feet

*One OK For us  
 8/16/88*

ROBERT + ANDREA WIEDEN  
1165 TRINITY CT. PASADENA, CA  
APN # 106-20-248  
BUILDING PERMIT # B-1308-023

SCALE 3/4" = 5'





Original manufactured home and carport



New manufactured home and carport

## 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.

LACK OF ACCESSIBILITY DUE TO THE UNUSUAL SHAPE OF OUR LOT AND THE LOCATION OF THE UTILITIES AND DRAINAGE ISSUES DOES NOT ALLOW FOR THE RE-LOCATION OF OUR CARPORT AND STORAGE ROOM TO THE OPPOSITE SIDE OF OUR HOME.

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.

WE ARE REQUESTING REASONABLE ACCESS TO COVERED PARKING. ALL NEIGHBORING LOTS HAVE AN AVERAGE 6.5 FEET SETBACK ON THE SIDES AS DOES OUR LOT. 1135 Trinity Court, 1145 Trinity Court & 1155 Trinity Court

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).

COVERED PARKING WOULD REDUCE CAR INSURANCE PREMIUMS. IN ADDITION, REDUCTION IN THE WIDTH OF THE CARPORT WOULD CAUSE DIFFICULTY IN ENTERING AND EXITING VEHICLES. ALSO, THE CARPORT ALLOWS FOR EASY ACCESS TO THE HOME SINCE THE FRONT DOOR IS ON THE OPPOSITE SIDE OF THE HOUSE.

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 OTHER LOTS IN THIS DISTRICT (AREA) ALREADY HAVE CARPORTS WITH THE SAME 6.5 FT SIDE SETBACKS THAT WE ARE REQUESTING. OUR PREVIOUS HOME IN THIS LOCATION HAD THIS SAME 6.5 FT SIDE SETBACK FOR THIRTY YEARS.

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

ALL OTHER LOTS IN THIS AREA ALREADY HAVE THIS 6.5 FT. SIDE SETBACK. OUR REQUEST WILL NOT BE TAKING ANYTHING AWAY FROM OTHER OWNERS AND WILL NOT BE GIVING US ANYTHING THE OTHER OWNERS DON'T ALREADY HAVE.