



# BOARD OF ADJUSTMENT AGENDA

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**BOARD OF ADJUSTMENT  
PUBLIC HEARING  
THURSDAY, OCTOBER 18, 2018  
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 18, 2018, 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**

James DiRienzo, Chairman	Raymond Everett
Paddie Braden	Stephen Silvernale
Johnnie Forquer	Tony Teeters
Larry Meads	

**III. REGULAR AGENDA**

1. Approval of the July 19, 2018 Minutes

**IV. PUBLIC HEARING ITEMS**

1. VAR18-009, Variance to Article 3, Section 3.6.3.F.1 Single-family 9 (SF-9). A proposed change to allow a reduction in the front yard setback to accommodate the construction of an addition to a single-family home. Property Owner: Dennis Bennett, Site APN is 111-09-164. Location: 1504 Oregon Avenue

**V. 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 October 4, 2018 at 5:00 p.m. in accordance with the statement filed with the City Clerk's Office.

\_\_\_\_\_  
Maureen Scott, City Clerk

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**THE CITY OF PRESCOTT ENDEAVORS TO MAKE ALL PUBLIC MEETINGS ACCESSIBLE TO PERSONS WITH DISABILITIES. With 48 hours advanced notice, special assistance can be provided for sight and/or hearing-impaired persons at this meeting. Reasonable accommodations will be made upon request for persons with disabilities or non-English speaking residents. Please call the City Clerk (928) 777-1272 to request an accommodation to participate in this public meeting. Prescott TDD number is (928) 445-6811. Additionally, free public relay service is available from Arizona Relay Service at 1-800-367-8939 and more information at [www.azrelay.org](http://www.azrelay.org).**



# BOARD OF ADJUSTMENT MEETING MINUTES

**BOARD OF ADJUSTMENT  
PUBLIC HEARING  
THURSDAY, July 19, 2018  
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 May 17, 2018 in Council Chambers, City Hall, located at 201 S. Cortez Street, Prescott, Arizona 86303.

**I. CALL TO ORDER** - Chairman DiRienzo called the meeting to order at 9:00 a.m. He thanked Councilman Lamerson for attending.

**II. ATTENDANCE**

<b>MEMBERS</b>	<b>STAFF PRESENT</b>
James Di Rienzo, Chairman	Katie Peterson, Community Planner
Johnnie Forquer	Matt Podracky, Assistant City Attorney
Paddie Braden	George Worley, Planning Manager
Ray Everett	Darla Eastman, Recording Secretary
Stephen Silvernale	
Tony Teeters	<b>COUNCIL PRESENT</b>
Bryn Stotler - Absent	James Lamerson, Councilman

**III. REGULAR AGENDA**

**1. Approval of the May 17, 2018 Minutes**

**Mr. Silvernale, MOTION to approve the May 17, 2018 minutes. Ms. Forquer, 2<sup>nd</sup>.  
VOTE 6-0; passed.**

**VI. PUBLIC HEARING ITEMS**

**1. VAR18-007, Variance to Article 6, Section 6.4.4. Fence and Wall Location and Height. Zoning: Industrial Light (IL) and Natural Open Space (NOS). Request to allow a 10' wall surrounding the APS substation site. Property Owner: Arizona Public Service Company. Site APNs: 113-14-056C and 113-14-058C. Location: 300 N Granite Street**

Katie Peterson presented the project and stated that Arizona Public Service (APS) Company is requesting a Variance from the maximum wall heights of 6 feet for NOS and 8 feet for IL zones, to allow a 10 foot wall on a site in the Natural Open Space and Industrial Light zoning districts. She said that the proposed wall exceeds the allowed 6 foot and 8 foot wall height for the NOS and IL zoning districts. The proposed 10 foot wall is the height necessary to screen the electrical equipment from view and protect the public from electrical hazards, as well as protect the equipment from vandalism. This site is adjacent to one other industrially zoned lot that is surrounded by commercial and open space zones. Ms. Peterson said that the Land Development Code allows a wall height of up to 8 feet in industrial zones; however, the property owner is requesting a 10 foot fence as an additional safety measure which is one of the criteria for a Variance.

Ryan Weed, 455 12<sup>th</sup> North St, Phoenix, said that we assist Arizona Public Service (APS) in these types of hearings and Variance requests. He said that the deterrent on the top of the fence looks like little pyramids or triangles and they stick up about 2", sharp and pointed, bolted to the wall, and they are not visible from the ground level given the height of the fence. The deterrents surround the perimeter of the wall are a preventive measure.

John Cradel, 1828 Senora, Prescott stated that his concern is that we already have an industrial presence with all the fencing around the APS building and that APS has not been a good neighbor. APS owns a large parcel and no maintenance has been done to it and the parcel has become essentially a haven for the homeless because of the lack of visibility. Mr. Cradel said that he resists the idea of further industrializing the area because it looks like a prison. He said that he heard the safety concern from the group, but hasn't heard of any problems with the height of the fence now or any breaches of security.

Mr. Weed said that there is an existing retaining wall close to the creek's floodplain. It was to secure the wall and not for public security purposes. He said that the plan is to remove the existing chain link and wire fence and replace it with the new fence. Mr. Weed said that we looked at the site earlier and did not see any homeless; however, there could be homeless that are living east of the substation. He said that the Company believes the fence to be esthetically pleasing.

Mr. Silvernale said that he feels the 10 foot fence is necessary to keep people out for their own safety.

**Mr. Silvernale MOTION to approve VAR18-007, request to allow a 10' wall surrounding the APS substation site. Ms. Forquer, 2<sup>nd</sup>. VOTE 6-0; passed.**

**2. VAR18-008, Variance to Article 3, Section 3.4.3.F.1 (Single-family-18 Minimum Setback) A proposed change to allow a reduction in the front yard setback to accommodate the construction of a single-family home. Property Owner: Cheryl and Luis Fernandez Site APN is 105-08-366. Location: 151 E Soaring Avenue**

Katie Peterson presented the project and stated that the applicant is requesting a Variance from the minimum rear yard setback requirement of 25 feet to 14 feet. She said that this will allow an approximately 2,500 square foot single-family house on a buildable pad in the single-family 18 zoning district. She said that the proposed building pad encroaches 11 feet into the rear yard setback area on the west side of the house. The central/eastern portion of the lot features a drainage easement from north to south and a drainage, slope and utility easement along the south and east lot lines. The majority of structures within the neighborhood are constructed in compliance with the established setbacks.

Ms. Peterson said that typically, a reduced setback may be of concern in considering compatibility; however, this lot is located in a cluster of lots along Soaring Avenue that vary in their dimensions and feature drainage and access easements. She said that the proposed reduced rear yard setback would still allow adequate space for emergency access, and there are no other detrimental effects with regard to public health, safety, or welfare on other properties in the area.

Chairman Di Rienzo made a comment and stated that homeowners cannot adjust an easement on their property and a homeowner cannot block up an easement to defer water to another neighbor. So if a homeowner has an issue with their site plan where the drainage is interfering with building a home, the homeowner can bring the issue to the Board of Adjustment to resolve because this is the type of project a Variance is designed for.

Tom Terry, Architect, Distinctive Homes, PO Box 3988, Prescott, stated that they plan to build up the house to create a level pad a little higher near the back of the property. Mr. Terry said that the plans are just a little tight and if we could have a little relief on the back side, it would help a lot.

**Mr. Silvernale MOTION to approve VAR18-008, a proposed change to allow a reduction in the front yard setback to accommodate the construction of a single-family home. Ms. Forquer, 2<sup>nd</sup>. VOTE 6-0; passed.**

**V. ADJOURNMENT**

Chairman Di Rienzo adjourned the meeting at 9:30 a.m.



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Darla Eastman, Recording Secretary

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James Di Rienzo, Chairman



**BOARD OF ADJUSTMENT**

**MEETING DATE: 10/18/18**

**DEPARTMENT: Community Development**

**AGENDA ITEM:** VAR18-009, Variance to Article 3, Section 3.6.3.F.1 (Single-family 9/Minimum Setbacks) of the Land Development Code (LDC) to allow a reduction in the front yard setback to accommodate an addition to a single-family house. [Zoning: SF-9; Property Owner: Dennis Bennett; APN 111-09-164]. Location: 1504 Oregon Ave., Prescott, AZ 86305.

**Approved By:**

**Date:**

<b>Director:</b>	Bryn Stotler	<i>BS</i>	10/10/18
<b>Planning Manager:</b>	George Worley	<i>GW</i>	10/10/18
<b>Community Planner:</b>	Katie Peterson	<i>KP</i>	10/10/18

**REQUEST AND JUSTIFICATION:**

The applicant is requesting a Variance from the minimum front yard setback requirement (25 feet) to 17.1 feet to allow an addition on the side of a single-family house in a Single-family 9 (SF-9) zoning district.

The applicant's proposed building pad encroaches 7.9 feet into the front yard setback area on the east side of the house, facing the street. The western portion of the lot features boulder formations. The existing house is also situated at a slight angle in relation to the front lot line, with the western end of the house further from the front than the eastern end of the house. The applicant has indicated in the Variance application the intent to acquire land from the adjacent parcel to the north, which will provide additional land area and compliance with the rear setback for the rear portion of the proposed addition. The applicant is requesting a reduced front yard setback, beyond the existing legal non-conforming setback line, to accommodate the front east corner of the proposed building addition. (See Attachments 1-3, and 4.)

**COMPLIANCE WITH ZONING CODE AND ARS 9-462.06:** Yes

**APPLICABLE ZONING CODE:** LDC Section 3.6/Single-family 9 (SF-9), and 9.13 Variances

**AGENDA ITEM:** VAR18-009, Variance to Article 3, Section 3.6.3.F.1 (Single-family 9/Minimum Setbacks) of the Land Development Code (LDC) to allow a reduction in the front yard setback to accommodate an addition to a single-family house. [Zoning: SF-9; Property Owner: Dennis Bennett; APN 111-09-164]. Location: 1504 Oregon Ave., Prescott, AZ 86305.

**PAST BOARD OF ADJUSTMENT ACTIONS:** None

**STAFF ANALYSIS AND RECOMMENDATION:**

The staff analysis and recommendation is based on a review of the request's consistency with the 2015 General Plan, and consistency with neighborhood characteristics, as well as the Variance requirements of LDC Section 9.13.4.

**COMPATIBILITY WITH THE NEIGHBORHOOD:**

The majority of structures within the neighborhood are constructed with varying setbacks to the front lot lines. Typically, a reduced setback may be of concern in considering compatibility; however, many lots in this neighborhood feature boulder formations, a creek, and houses with varying orientations on the lots to accommodate the formations and creek. The proposed size and style of house would also be consistent with the character of the houses on Oregon Avenue.

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

**COMPLIANCE WITH REQUIRED VARIANCE CRITERIA:**

1. **Extraordinary Conditions (LDC Section 9.13.4.A.1).** 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. For example, a Variance may be justified because of topography, or size, shape, intrusive off-site impacts, or other special conditions unique to the property and development involved.

**Staff Comments:** The boulder formations on the western portion of the subject lot prevent construction on that side of the existing house. The existing house has legal, non-conforming setbacks of 22 feet on the westernmost end and 18.3 feet on the easternmost end. The requested setback would allow an addition that complies with the eastern side setback requirement, but encroaches into the required front yard setback area by nearly a foot more than the existing house.

2. **Substantial Detriment (LDC Section 9.13.4.A.2).** Granting the Variance will not be detrimental to the public health, safety, or welfare, or injurious to other property

**AGENDA ITEM:** VAR18-009, Variance to Article 3, Section 3.6.3.F.1 (Single-family 9/Minimum Setbacks) of the Land Development Code (LDC) to allow a reduction in the front yard setback to accommodate an addition to a single-family house. [Zoning: SF-9; Property Owner: Dennis Bennett; APN 111-09-164]. Location: 1504 Oregon Ave., Prescott, AZ 86305.

in the area, or to the City in administering this Code.

**Staff Comments:** The proposed reduced front yard setback would still allow adequate space for emergency access, and there are no other detrimental effects with regard to public health, safety, or welfare on other properties in the area.

- 3. Special Privileges (LDC Section 9.13.4.A.3).** 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 such property is located.

**Staff Comments:** The subject lot features boulders that are prominent throughout the neighborhood, and a reduced setback, surrounded by lots with houses with widely varying setbacks due to the rock formations and creek. The proposed addition would result in a house size that falls within the range of house sizes in surrounding lots.

- 4. Self-induced Hardship (LDC Section 9.13.4.A.4).** The hardship is not the result of the applicant's own actions.

**Staff Comments:** The limited buildable area of this lot, due to natural features (boulder formations) and the non-conforming setback of the existing house, is not the result of the applicant's own actions.

- 5. General Plan (LDC Section 9.13.4.A.5).** It will be in substantial compliance with the General Plan or other relevant area plans or neighborhood plans.

**Staff Comments:** The proposed Variance is on an existing lot with no change of use and is, therefore, in compliance with the General Plan.

- 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.

**Staff Comments:** The boulder formations located on the western portion of the subject lot and the legal non-conforming reduced front yard setback create a challenge for construction on that portion of the lot. The buildable area on the lot is located on the eastern portion, leaving limited space for a building addition. The requested setback reduction would allow the property owner to develop an addition to the home.

**NEIGHBORHOOD COMMENTS:**

Staff has not received any public comments regarding this variance request.

**AGENDA ITEM:** VAR18-009, Variance to Article 3, Section 3.6.3.F.1 (Single-family 9/Minimum Setbacks) of the Land Development Code (LDC) to allow a reduction in the front yard setback to accommodate an addition to a single-family house. [Zoning: SF-9; Property Owner: Dennis Bennett; APN 111-09-164]. Location: 1504 Oregon Ave., Prescott, AZ 86305.

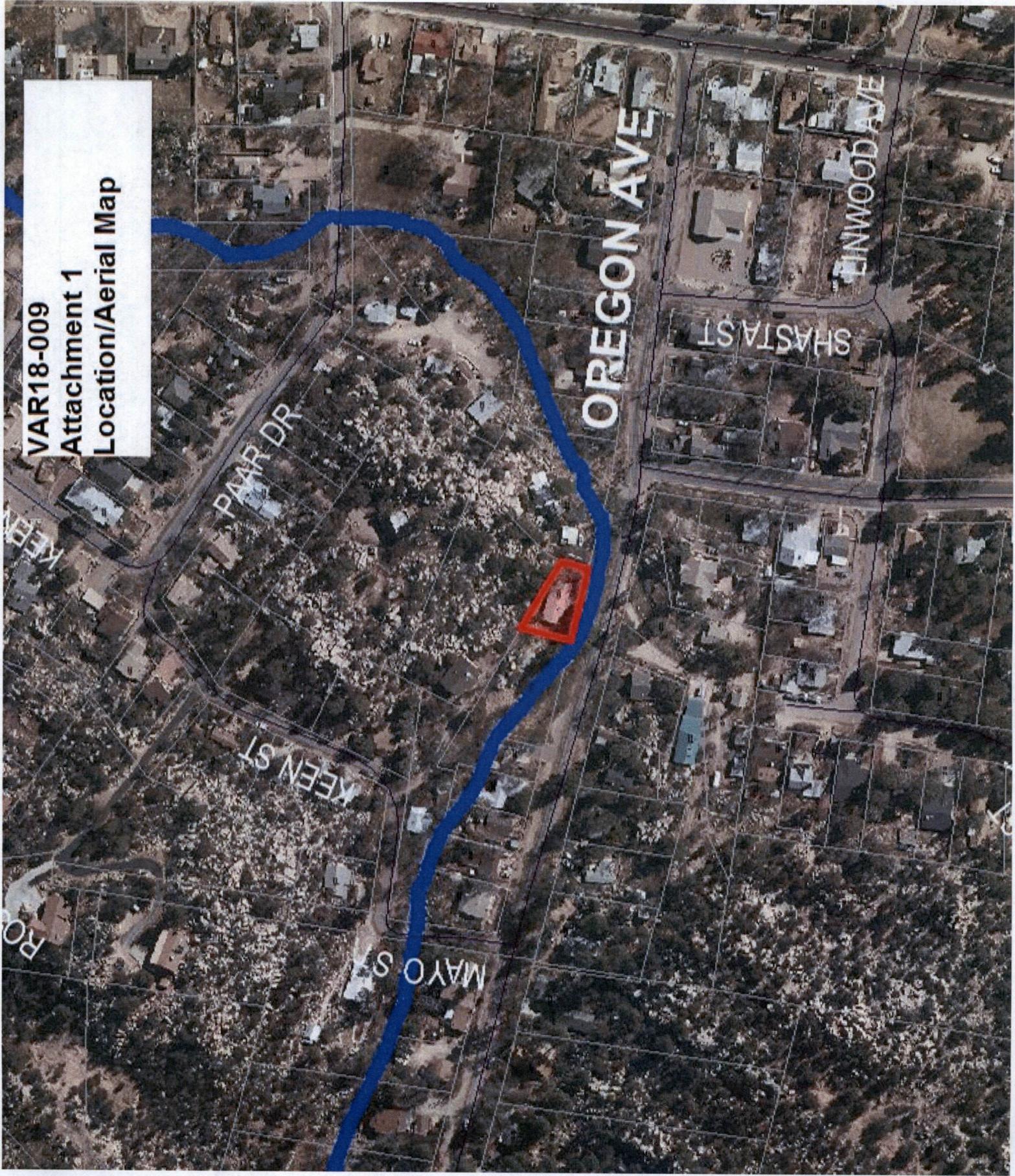
**Attachments:**

1. **Location/Aerial map**
2. **Aerial view of site**
3. **Site Plan indicating location of proposed house**
4. **Applicant responses to application questions**
5. **Staff photographs of site**

**SUGGESTED MOTION:**

Move to Approve/Deny VAR18-009, to reduce the front yard setback to 17.1 feet to allow the construction of an addition to a single-family house on a lot with boulders and legal non-conforming front yard setback, under the condition to add and record with Yavapai County the additional 1842 square feet of land area to the existing lot, as shown on the map included in the application.

VAR18-009  
Attachment 1  
Location/Aerial Map



VAR18-009  
Attachment 2  
Aerial View

1504



2018-0023736

BALANCE AREA IN 111-09-156D = 27,779 S.F.

APN 111-09-156D

AREA TO BE ADDED = 1842 S.F.

RECORD OF SURVEY AND  
LOT LINE ADJUSTMENT FOR A  
PORT. OF LOT 12, SEC. 32,  
T14N-R2W, G&SRB&M,  
YAVAPAI COUNTY, ARIZONA

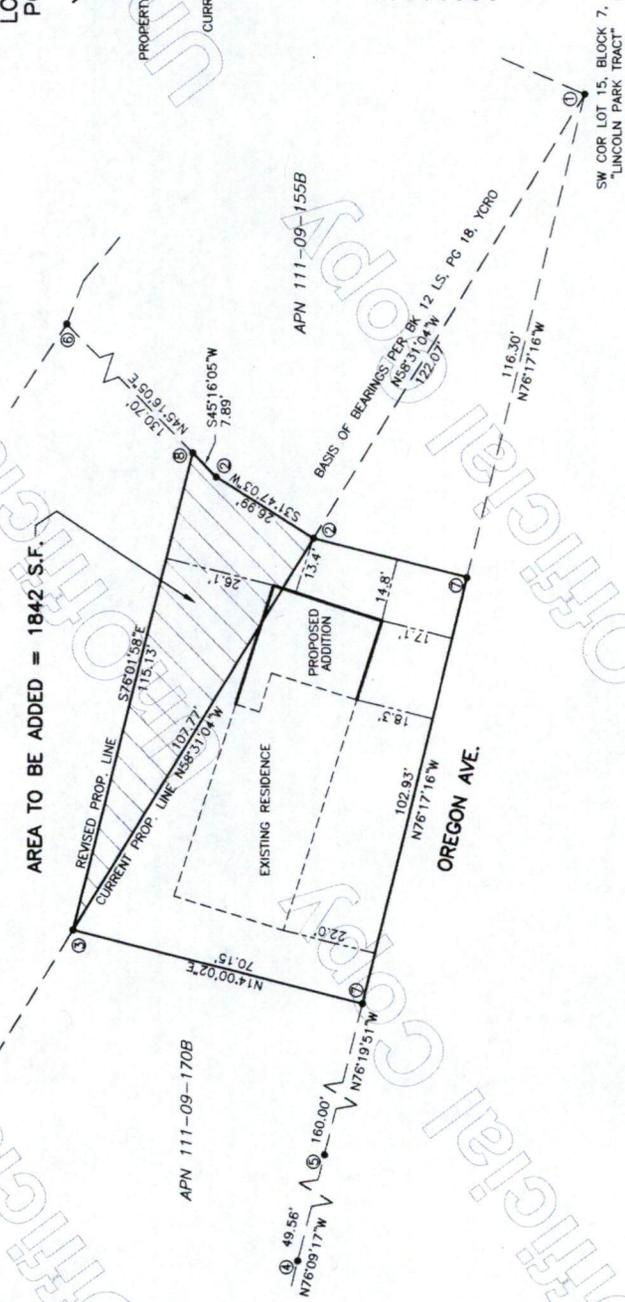
PROPERTY DEED RECORDED IN INSTRUMENT 2016-0048183 WD

CURRENT APN: 111-09-164

CURRENT ZONING: SF-9 (SINGLE FAMILY 9000 S.F. MIN.)

DENNIS & MICHELE BENNETT  
1504 OREGON AVE.  
PRESCOTT, AZ 86301

- ① = FOUND 1/2" REBAR W/CAP "LS233382"
- ② = FOUND 1/2" REBAR W/ CAP "LS12005"
- ③ = FOUND 3/4" IRON PIPE W/TAG "LS15331"
- ④ = FOUND 3/4" IRON PIPE W/TAG "LS23383"
- ⑤ = FOUND 3/4" IRON PIPE, NO CAP/TAG.
- ⑥ = FOUND "++" ON ROCK.
- ⑦ = SET 1/2" REBAR W/CAP "LS13941"
- ⑧ = SET "++" ON ROCK.



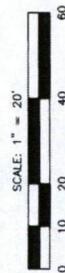
I, G. MICHAEL HAYWOOD, DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR IN THE STATE OF ARIZONA; THAT THIS PLAT REPRESENTS A SURVEY MADE UNDER MY DIRECTION DURING THE MONTH OF MAY, 2018; THAT THE SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF; THAT THE BOUNDARY FORMS A MATHEMATICALLY CLOSED FIGURE; AND, THAT ALL MONUMENTS SHOWN EXIST AS OF THE DATE HEREOF AND ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.



G. MICHAEL HAYWOOD - AZ R.L.S. No. 13941

LOT LINE ADJUSTMENT APPROVED BY THE CITY OF PRESCOTT

AUTHORIZED SIGNATURE: *G. Haywood* DATE: 5/5/18



24 X 18

(RECORDER'S DATA) Filed and recorded at the request of NEXUS SOUTHWEST, LLC	
2018-0023736 05/05/2018 12:04:57 PM OFFICIAL RECORDS OF YAVAPAI COUNTY \$24.00 NEXUS SOUTHWEST, LLC	Page 1 of 1
NEXUS SOUTHWEST, LLC REGISTERED LAND SURVEYORS 212 S. MARINA STREET PRESCOTT, AZ 86303 (928) 778-5101	
JOB NO: 18-194	DRAWN: GMH
CREW: RRY/CM	DATE: 5-4-18
CLIENT: D. BENNETT	CHECKED: GMH
SCALE: 1" = 20'	DATE: 5-7-18



CITY OF PRESCOTT  
 COMMUNITY DEVELOPMENT DEPARTMENT  
 PLANNING DIVISION  
 201 S. Cortez, Prescott, AZ 86301 (928) 777-1207

VAR18-009  
 Attachment 4  
 Applicant Responses to Questions

VARIANCE APPLICATION

V# VAR-18-009

Property Address: 1504 OREGON AVE PRESCOTT AZ

Assessor's Parcel Number (s)(APN): 111-09-164

Township \_\_\_\_\_ Section \_\_\_\_\_ Range \_\_\_\_\_ Current Zoning: SF9

Subdivision Name: \_\_\_\_\_

	For Staff Use Only
<b>Owner Name &amp; Address:</b> <u>DENNIS BENNETT</u> <u>1504 OREGON AVE</u> <u>PRESCOTT AZ</u>  <b>Phone:</b> <u>480 201 1762</u> <b>Fax:</b> _____ <b>Email:</b> <u><del>DD</del> DDENNIS@GMAIL.COM</u>	Date Received: _____  Taken In By: _____  Assigned To: _____  Date Application Complete: _____
<b>Applicant/Agent Name &amp; Address</b> (If different than property owner, Agent letter must accompany submittal): _____ _____ _____  <b>Phone:</b> _____ <b>Fax:</b> _____ <b>Email:</b> _____	Fees & Charges: _____  Receipt #/Date: _____  PAC Date: _____  BOA Date: _____

Description of Request: REQUEST A VARIANCE BE MADE MADE  
OF THE REQUIRED 25', FOR AN PROPOSED ADDITION

DENNIS BENNETT Name                      [Signature] Signature                      1/4/18 Date

1300  
1508

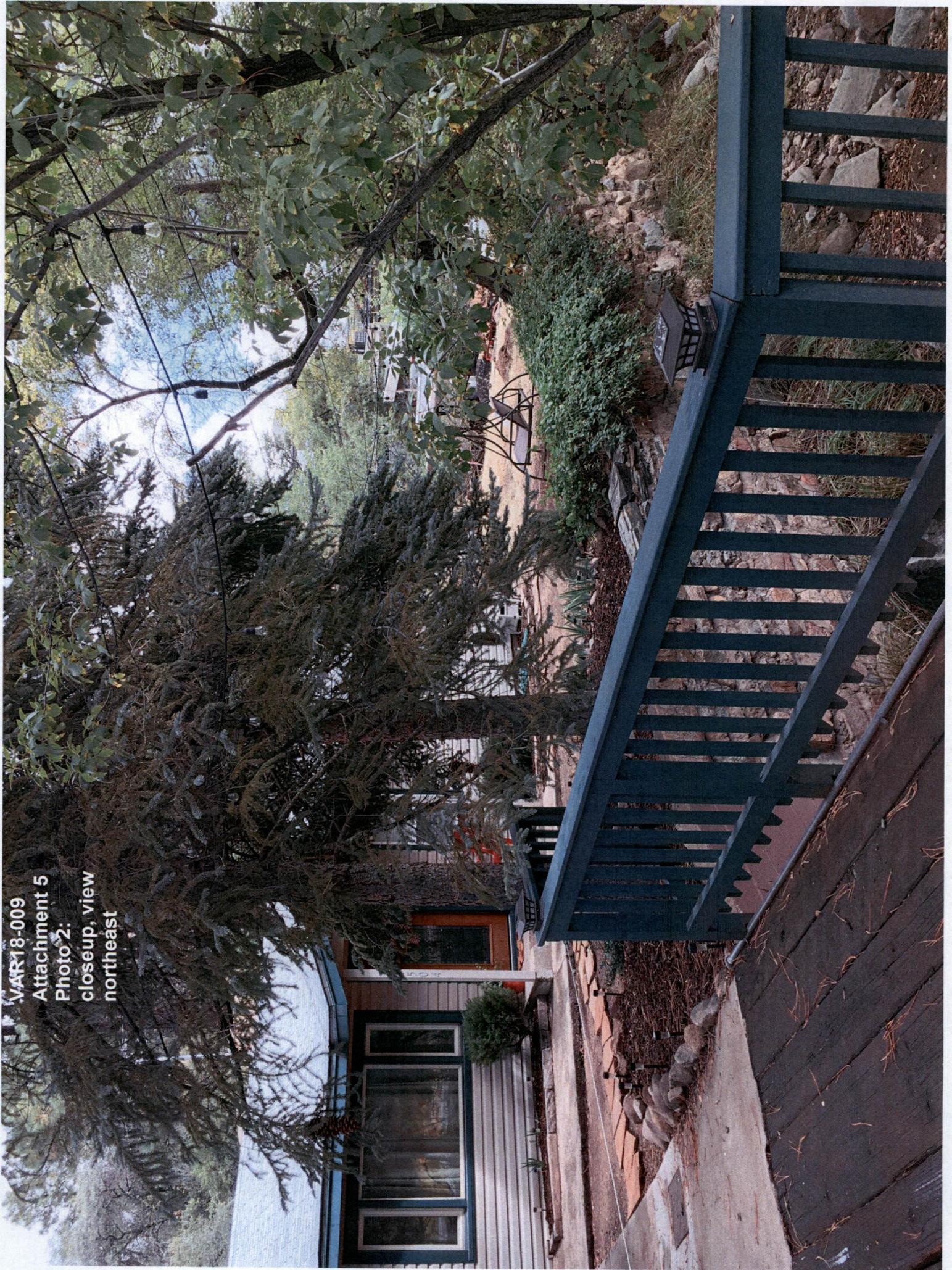
VAR18-009

Attachment 5

Photo 1: front, view northeast



VAR18-009  
Attachment 5  
Photo 2:  
closeup, view  
northeast



VAR18-009

Attachment 5

Photo 3: Front view  
northwest

