



BOARD OF ADJUSTMENT AGENDA

**BOARD OF ADJUSTMENT
PUBLIC HEARING
THURSDAY DECEMBER 19, 2019
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 19, 2019 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.

CALL TO ORDER

I. ATTENDANCE

Members

Stephen Silvernale	Raymond Everett
Paddie Braden	Tony Teeters, Chair
Johnnie Forquer	Jerry Kaufman
Larry Meads, Vice Chair	

II. MINUTES

Approve the minutes of the November 21, 2019 meeting.

III. PUBLIC HEARING ITEMS

1. VAR19-004, Variance to Article 3, Section 3.4.3. (Single Family-18/Minimum Setbacks) of the Land Development Code (LDC) to allow a reduction in the required 15' rear yard setback by 7' to allow for a rear setback of 8' to accommodate the construction of a covered patio. [Zoning: SF-18(PAD); Property Owner: J. Doran Greenberg; APN 107-24-054]. Location: 1520 Cougar Trail, Prescott, AZ 86303.

IV. ADJOURNMENT

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 13th at 10:30am in accordance with the statement filed with the City Clerk's Office.


Sarah Siep, City Clerk

THE CITY OF PRESCOTT ENDEAVORS TO MAKE ALL PUBLIC MEETINGS ACCESSIBLE TO PERSONS WITH DISABILITIES. With 72 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.



BOARD OF ADJUSTMENT MINUTES

**BOARD OF ADJUSTMENT
PUBLIC HEARING
THURSDAY, November 21, 2019
9:00 AM**

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

CALL TO ORDER – Chair Teeters called the meeting to order at 9:00am.

I. ATTENDANCE

Members	
Jerry Kaufman	Ray Everett (Absent)
Paddie Braden	Stephen Silvernale (Absent)
Johnnie Forquer	Tony Teeters, Chair
Larry Meads, Vice Chair	
Staff	
Bryn Stotler, Community Development Director	Tammy DeWitt, Community Planner
George Worley, Planning Manager	Michelle Chavez, Recording Secretary
Council	
Steve Sischka	

II. MINUTES

Approve the minutes of the September 19, 2019 meeting.

Member Kaufman made a motion to approve the September 19, 2019 minutes. The motion was seconded by Member Forquer and the motion passed unanimously.

III. PUBLIC HEARING ITEM

1. **VAR19-003**, Variance to Article 3, Section 3.5.3.F.1 (Single Family-9/Minimum Setbacks) of the Land Development Code (LDC) to allow a reduction in the required 25' front yard setback by 16'9" to allow for a front setback of 8'3" to accommodate the construction of a covered porch. [Zoning: SF-9; Property Owner: Paul Garrow; APN 110-01-077]. Location: 235 S. Mount Vernon Avenue, Prescott, AZ 86303.

Tammy DeWitt gave a brief overview of the request for a Variance at 235 S. Mount Vernon Avenue. She shared aerial views of the property, site plan, rendering and views from the street from various directions.

Applicant Tom Terry the architect spoke to the board and appealed to them to approve the project.

Citizen Ralph Rodarte spoke in support of the project and indicated that almost all the homes on Mount Vernon have porches.

Member Kaufman made a motion to approve VAR19-003. This motion was seconded by Member Braden. The motion passed unanimously.

IV. ADJOURNMENT

Meeting adjourned at 9:10am

Michelle Chavez, Recorder

Tony Teeters, Chairman



BOARD OF ADJUSTMENT

MEETING DATE: 12/19/19

DEPARTMENT: Community Development

AGENDA ITEM: VAR19-004, Variance to Article 3, Section 3.4.3. (Single Family-18/Minimum Setbacks) of the Land Development Code (LDC) to allow a reduction in the required 15' rear yard setback by 7' to allow for a rear setback of 8' to accommodate the construction of a covered patio. [Zoning: SF-18(PAD); Property Owner: J. Doran Greenberg; APN 107-24-054]. Location: 1520 Cougar Trail, Prescott, AZ 86303.

Approved By:

Date:

Director:	Bryn Stotler	<i>Bryn Stotler</i>	<i>12-12-19</i>
Planning Manager:	George Worley	<i>G. Worley</i>	<i>12/12/19</i>
Community Planner:	Tammy DeWitt	<i>Tammy DeWitt</i>	<i>12-12-19</i>

REQUEST AND JUSTIFICATION:

The applicant is requesting a Variance to allow a reduction in the required 25' rear yard setback by 16'9" to allow for a rear setback of 8'3" accommodating the construction of a 40' by 12' covered porch in a Single-family 9 (SF-9) zoning district.

The applicant's proposed covered porch is along the back of the house over an existing paved patio that is a secondary access out of the home. The home is set back on the property due to large granite boulders and existing Ponderosa Pine trees throughout the property. In looking at the site plan, the house was placed at an angle and leaves little room on that side of the house to add the covered patio over that access.

Staff worked with the applicant to try to determine if there was enough slope to reduce the rear setback as a Topographic Exemption, which requires a slope of 20%. Due to the leveling of the pad for the house and other remedies to alleviate drainage issues, there is no longer the capability to get the slope requirement for the Exemption. A Variance was the last option to reduce the setback to allow for the covered patio.

COMPLIANCE WITH ZONING CODE AND ARS 9-462.06: Yes

APPLICABLE ZONING CODE: LDC Section 3.4 Single-family-18 (SF-18), and 9.13

AGENDA ITEM: VAR19-004, Variance to Article 3, Section 3.4.3. (Single Family-18/Minimum Setbacks) of the Land Development Code (LDC) to allow a reduction in the required 15' rear yard setback by 7' to allow for a rear setback of 8' to accommodate the construction of a covered patio. [Zoning: SF-18(PAD); Property Owner: J. Doran Greenberg; APN 107-24-054]. Location: 1520 Cougar Trail, Prescott, AZ 86303.

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:

Hidden Valley Ranch was platted as a PAD (Planned Area Development) which allows for flexibility in lot sizes, setbacks, and other development criteria to preserve trees and other geologic features. The development has areas that are platted as townhomes with 0 foot side setbacks and minimal rear setbacks.

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 property is impacted by large granite boulders which required the house to be positioned to the back of the property at an angle with limited area to create a covered area over the secondary egress out of the 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 in the area, or to the City in administering this Code.

Staff Comments: The proposed reduced rear 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.

AGENDA ITEM: VAR19-004, Variance to Article 3, Section 3.4.3. (Single Family-18/Minimum Setbacks) of the Land Development Code (LDC) to allow a reduction in the required 15' rear yard setback by 7' to allow for a rear setback of 8' to accommodate the construction of a covered patio. [Zoning: SF-18(PAD); Property Owner: J. Doran Greenberg; APN 107-24-054]. Location: 1520 Cougar Trail, Prescott, AZ 86303.

- 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 Hidden Valley Ranch Architectural Committee wrote that they have allowed for deck extensions and roof lines to extend half way into the 15 foot setback for a setback of 7 feet 6 inches. The applicant is requesting a setback of 8 feet which is within this allowance.

- 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 house was constructed in 1990 and the current owner purchased the home in 2002. As constructed, the house meets the required setbacks but a patio cover is not a requirement of a residential structure.

- 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 applicant states that this is the secondary exit from the property in an emergency and that side of the house is exposed to the elements..

NEIGHBORHOOD COMMENTS:

Staff has received 1 anonymous letter with concerns that this request will set a precedent, will impact the serene forest setting, and the owner has not submitted plans for approval to the HOA at this time.

Attachments:

- 1. Location/Aerial Map**
- 2. Application**
- 3. Site Plan**
- 4. Staff photographs of site**
- 5. Comments from Hidden Valley Ranch Architectural Committee**
- 6. Anonymous Letter of Concern**

AGENDA ITEM: VAR19-004, Variance to Article 3, Section 3.4.3. (Single Family-18/Minimum Setbacks) of the Land Development Code (LDC) to allow a reduction in the required 15' rear yard setback by 7' to allow for a rear setback of 8' to accommodate the construction of a covered patio. [Zoning: SF-18(PAD); Property Owner: J. Doran Greenberg; APN 107-24-054]. Location: 1520 Cougar Trail, Prescott, AZ 86303.

SUGGESTED MOTION:

Move to Approve/Deny VAR19-004, to reduce the rear yard setback to 8' to allow the addition of a covered patio to the house.



Subject
Property

An aerial photograph of a residential neighborhood. A blue river flows from the top left towards the bottom center. To the left of the river is a large building with four tennis courts. A road curves along the river. A red-outlined polygon highlights a specific property at the center of the image. Two blue callout boxes with white text point to the 'Subject Property' and an 'Area of Encroachment' on the right side of the red-outlined property. Other houses with addresses like 1500, 1520, 1530, and 1040 are visible in the area.

Area of
Encroachment

SF-18 (PAD)

Subject Property



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.

Initially the lot on which my house is situated would have had an average 20 degree slope. However, after the pad was leveled for construction that average was reduced despite the fact that there are steep drops in the terrain. The house placement also was limited by extremely large granite boulders and Ponderosa pine trees. The number of those pine trees subsequently has been decreased as a result of the Bark Beetle infestation.

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.

I purchased my house as built, and had no involvement in the design process. If I had, I would not have situated the house so close to the setbacks. These slanted setbacks now are preventing me from constructing a patio roof extension that would protect my house from the elements.

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).

Health concerns factor into my request for a variance. When I purchased my home 17 years ago, I was more physically able than I am currently. I now find shoveling snow much more strenuous, and help is not always available. Consequently, it is difficult for me to clear snow from my driveway and entry sidewalk, as well as the back patio, and puts considerable strain on my well-being.

Safety is the second key reason I need to cover the patio area. Covering the back patio is critical because it has the only exit door on that side of the house. If there were an emergency, and I had to use that door, I would not be able to do so if there were snow as the current 2' roof overhang is insufficient to prevent a build-up.

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.

There would be no special privilege attached to allowing a setback variance in this area. It is a relatively minimal variance that only affects one small area of open space between lots.

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

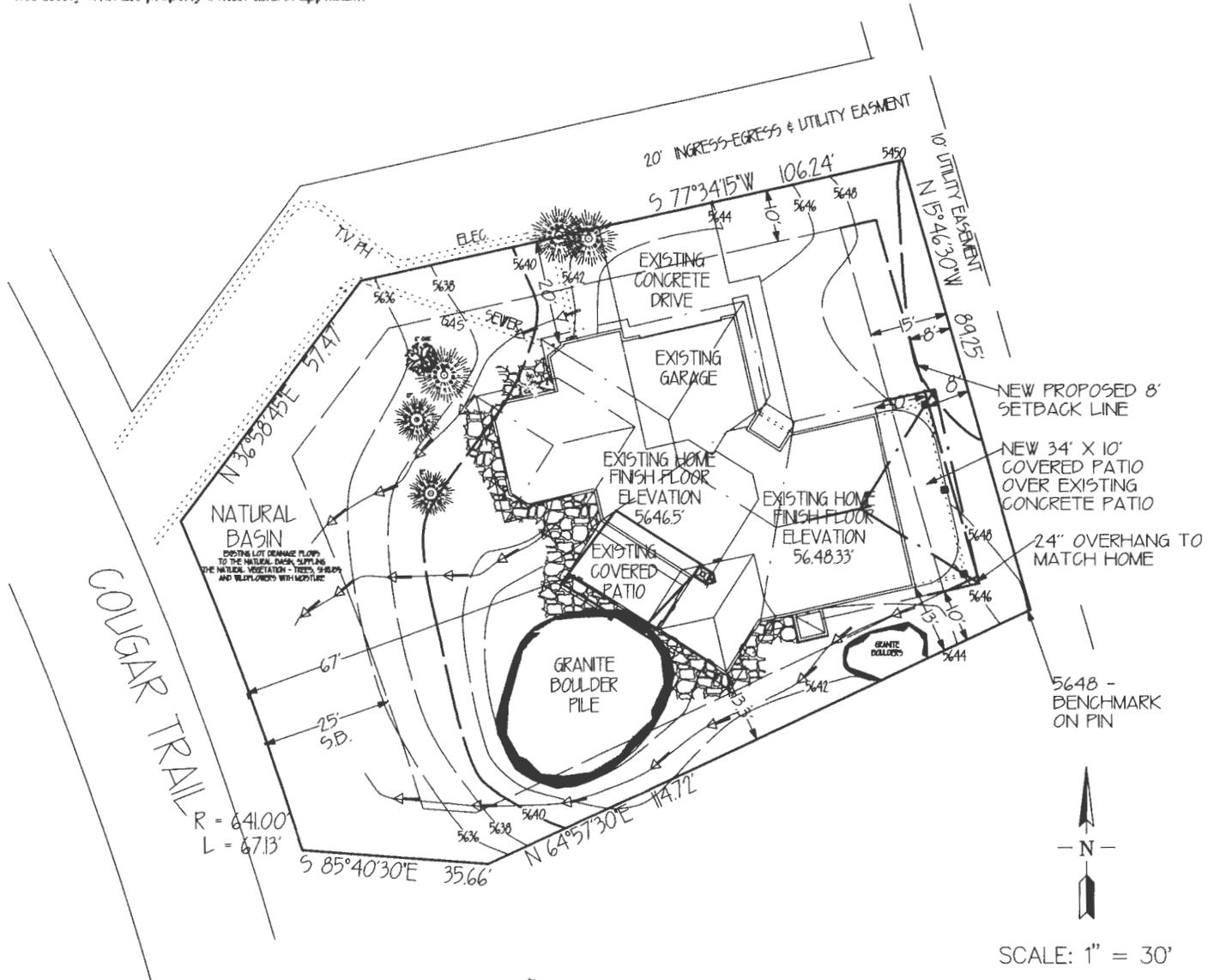
Reducing the existing setback from 15' to 8' in order to cover the existing concrete patio would not encroach into my closest neighbor's property any further than the present patio. The roof line would be a continuation of the current angle. The permanent upright support posts only would be 10' out from the house with a 2' roof overhang.

This project faces the open space of my northeast neighbor's property and will be separated from their house by their driveway and parking area. It will be quite a distance from my other two immediate neighbors to the north and south, who only will have limited visibility.

CITY OF PRESCOTT
 COMMUNITY DEVELOPMENT DEPARTMENT
 BUILDING SAFETY DIVISION
PLOT PLAN SKETCH

Building Permit #:		Job Address:	
Scale: 1 inch = _____ ft.		Assessor's Parcel Number (s):	
City of Prescott Building Division APPROVED	City of Prescott Planning & Zoning APPROVED	City of Prescott Engineering APPROVED	City of Prescott Fire Department APPROVED

1. It is the responsibility of the owner or contractor to field verify ALL UTILITY MAINS prior to construction.
 2. Any improvement in City right-of-way requires permit issued by City Engineering Department per Ordinance #1338.
 3. No structure shall encroach onto any easement or right-of-way. Driveway entrance may require dip section or minimum 12 inch corrugated metal pipe.
 4. **DO NOT ALTER SIDEWALK. SIDEWALK MUST MEET AMERICANS WITH DISABILITIES ACT (ADA) STANDARDS.**
- All mailbox installations must be to City of Prescott standard detail 1-08. Any deviation must be specially permitted by the Engineering Department.
6. Approval of the Planning & Zoning Department is subject to all other easements, encumbrances, etc. or restriction 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 the burden to comply with such restrictions lies solely with the property owner and/or applicant.



I, _____, the owner's agent or the owner of record, for the structure to be located at: _____, parcel number _____, do certify that the structure will meet all required setbacks, the property corner pins are correct and the footings are excavated upon the property as shown on the City approved site plan. If for any reason any deviation from the approved site plan becomes necessary, a revised site plan will be submitted for approval before any additional construction takes place.

Owner/Contractor Signature _____

Date _____



View of House from Cougar Trail

City of Prescott
Variance
Application
VAR19-004
1510 Cougar Trail
Prescott, AZ 86301
Public Hearing



Open Space across the street to the West



Subject Property

Shared Driveway



Adjacent house to the east
and back of property

Subject Property



Adjacent neighbor to the south and side of property

Area of Encroachment



South side of house

Area of Encroachment



Area of Encroachment

A photograph of a residential property. In the foreground, there is a low wall made of large, grey, irregular stones. To the right of the wall is a gravel path that leads towards a house. The house has light-colored siding and a dark roof. The background is filled with tall, thin trees, likely pines, under a bright blue sky with some clouds. The sun is visible in the upper center, creating a lens flare effect. A yellow rectangular text box is overlaid in the center of the image, containing the text "Area of Encroachment".

Area of Encroachment

Main Access to House



Dewitt, Tammy

From: J.D. Greenberg [REDACTED]
Sent: Sunday, December 8, 2019 4:46 PM
To: Dewitt, Tammy
Subject: Hidden Valley Ranch Architectural Committee Communication

Tammy,

Here is the communication I received from Darlene Locke who is the co-chair, along with Carole Mastio, of the Hidden Valley Ranch Architectural Committee. She and another member of the Committee came out to my house in October to see what I hoped to do to cover my existing concrete patio.

After the Board of Adjustment decision on Thursday, December 19, 2019, I then will have to submit plans to the HVR AC for approval before obtaining a building permit.

Sure hope everything falls into place. Everything would have been much easier if I had been involved in the original design of the house.

Thank you for your assistance.

J.D.

On Friday, October 18, 2019, 8:24:43 AM MST, Darlene Locke [REDACTED] wrote:

Judy,

I'm glad Mikki and I were able to stop by, it was nice talking to you about your upcoming plans for your house. I found out that the setback is 15 feet in the back. **In the past we have allowed encroachments for deck extensions and roof lines to extend half way into the setback. In the back it would be 7 1/2 ft.** Nothing in the setback should be permanent. **It appears you may have been given an allowance in the past since your concrete patio is there. The roof overhang should be okay,** after you have everything drawn up please submit your paperwork to the Architectural Committee for review.

Thanks, have a good weekend!

Darlene

Darlene Locke
HomeSmart
Real Estate Made Easy
480-209-3322 cell
602-507-3201 fax

Date: Sun, Dec 8, 2019 at 4:06 PM

Subject: Re: Project Update

To: J.D. Greenberg

Cc: Carole Mastio

Hi Judy,

The Architectural Committee has been informed of a City of Prescott Public Hearing Notice concerning a variance on the back setback of your property. We just wanted to remind you that any and all exterior changes to your home needs to be approved by the Hidden Valley Ranch Architectural Committee prior to work being started. As of today, we have not received any written request. If you do get a variance from the city that does not necessarily guarantee that it will be approved by the Hidden Valley Architectural Committee.

Darlene Locke
AC co-chair

Notice of Public Hearing
Board of Adjustment
J.Doran Greenburg APN 107-24-054
1520 Cougar Trail, Prescott AZ 86303

To Whom It May Concern:

As members in good standing of the Hidden Valley Ranch Homeowners Association (HVA) please accept these comments in the variance request of J. Doran Greenburg, APB 107-24-054 1520 Cougar Trail, Prescott, AZ 86303.

- Changing this variance will set a precedent within our Association and could adversely impact adjacent properties.
- Building so close to neighbors' property lines will negatively impact the serene forest setting
- Hidden Valley Ranch CC&Rs require written approval for any alteration to the exterior of the property. This has not been done nor have architectural plans submitted.

Thank you,

Concerned Residents