

NOTICE OF A REGULAR MEETING
OF THE BOARD OF ADJUSTMENT OF THE TOWN OF CLARKDALE

In accordance with Resolution #215 of the Town of Clarkdale, and Section 38-431.02, Arizona Revised Statutes,

NOTICE IS HEREBY GIVEN THAT THE Board of Adjustment of the Town of Clarkdale will hold a REGULAR Meeting on WEDNESDAY, June 27, 2012, at 6:00 p.m., in the Men's Lounge of the Clark Memorial Clubhouse, 19 N. Ninth Street, Clarkdale.

The undersigned hereby certifies that a copy of this notice was duly posted on the Town Hall bulletin board, located at 890 Main Street, Clarkdale, Arizona on the 18th day of June, 2012 at 3:30 p.m.

Dated this 18th day of June, 2012, by:

Vicki McReynolds

Vicki McReynolds
Administrative Assistant II

ALL ITEMS ON THIS AGENDA ARE SCHEDULED FOR DISCUSSION AND POSSIBLE ACTION, UNLESS OTHERWISE NOTED

1. **CALL TO ORDER:**
2. **ROLL CALL:**
3. **PUBLIC COMMENT** – The Board of Adjustment invites the public to provide comments at this time. Action taken as a result of public comment will be limited to directing staff to study the matter, or scheduling the matter for further consideration and decision on a later agenda, as required by the Arizona Open Meeting Law. Each speaker is asked to limit his or her comments to FIVE minutes.
4. **MINUTES:** Consideration of the Regular Meeting Minutes of October 26, 2011.
5. **REPORTS:**
 - a. Chairperson's Report:
 - b. Staff Report:
6. **NEW BUSINESS**
7. **PUBLIC HEARING:** Discussion/possible action regarding a variance request to reduce the 10-foot setback requirement for placement of a pool, involving parcel number 406-58-022 in the Town of Clarkdale. This parcel is located at 2220 Gerry Sue Drive in Clarkdale and zoned R-1 Single-Family Residential. The variance request is to reduce the required 10-foot setback from property lines for a pool, per Section 4-6 of the Town of Clarkdale Zoning Code, to four feet from the side and rear lines of the property.

- a. OPEN Public Hearing:**
- b. Staff Report:**
- c. Applicant Presentation:**
- d. Invite Public to speak:**
- e. CLOSE Public Hearing:**

8. FUTURE AGENDA ITEMS:

9. ADJOURNMENT:

Reasonable accommodations may be requested by contacting the town hall at 634-9591 (TTY: 1-800-367-8939) at least 72 hours in advance of the meeting.

MINUTES OF A REGULAR MEETING OF THE BOARD OF ADJUSTMENT OF THE TOWN OF CLARKDALE HELD WEDNESDAY, OCTOBER 26, 2011, IN THE MEN’S LOUNGE OF THE CLARK MEMORIAL CLUBHOUSE, 19 N. NINTH STREET, CLARKDALE, AZ.

A **REGULAR Meeting** of the Board of Adjustment of the Town of Clarkdale was held on Wednesday, October 26, 2011, at 6:00 p.m. in the Men’s Lounge of the Clark Memorial Clubhouse, 19 N. Ninth Street, Clarkdale, AZ.

Board of Adjustment:

Chairperson	Lee Daniels	Present
Vice Chairperson	Pete Cure	Present
Board Members	Rick Morris	Present
	Aaron Midkiff	Present
	Craig Backus	Absent

Staff:

Building Inspector	Paul Grasso
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Others in Attendance: None.

AGENDA ITEM: CALL TO ORDER: The Chairperson called the meeting to order at 6:00 p.m.

AGENDA ITEM: ROLL CALL: The Building Official called roll.

AGENDA ITEM: PUBLIC COMMENT: The public is invited to provide comments at this time on items that are not on this agenda. Action taken as a result of public comment will be limited to directing staff to study the matter, or scheduling the matter for further consideration and decision on a later agenda, as required by the Arizona Open Meeting Law. Each speaker is asked to limit his or her comments to FIVE minutes. **There was no public comment.**

AGENDA ITEM: MINUTES: **Consideration of the Special Meeting Minutes of November 30, 2010.** Vice Chairperson Cure motioned to approve the Special Meeting Minutes of November 30, 2010. Board Member Morris seconded the motion. The motion passed unanimously.

AGENDA ITEM: REPORTS:

Chairperson’s Report: None.

Staff Report: None.

NEW BUSINESS

AGENDA ITEM: WELCOME NEW BOARD MEMBER: Aaron Midkiff.

The Chairperson welcomed Aaron Midkiff to the Board of Adjustment.

AGENDA ITEM: ELECTIONS: CHAIRPERSON and VICE CHAIRPERSON.

Board Member Cure made a motion to elect Board Member Daniels as Chairperson. Board Member Morris seconded the motion. Board Member Daniels accepted the nomination and was elected unanimously.

Board Member Morris made a motion to elect Board Member Cure as Vice Chairperson. Board Member Daniels seconded the motion. Board Member Cure accepted the nomination and was elected unanimously.

AGENDA ITEM: BOARD OF ADJUSTMENT INFORMATION / ROLE MEMBERS PLAY

-Staff went over the handouts the Board Member's received in their packets. It was explained by the Staff the importance of adhering to the six "Criteria" outlined in Section 17-2-2 Powers. Other handouts included Section 112, Board of Appeals from the International Building Code-2006 and Legal Aspects of Code Administration pages 52-58.

-Staff explained the types of applications that usually come before the Board, i.e., boundary discrepancies, extension for a non-conforming use, applicant feeling there may be a misinterpretation of the Zoning Code and variance requests.

-The Chairperson explained to the members that the Staff in the Community Development Department provides packets with all the information regarding an application request the week prior to the meeting. This allows Board Members time to review the information, contact staff if necessary and go out to look at the site in question.

This being for discussion only, there were no actions taken.

AGENDA ITEM: FUTURE AGENDA ITEMS: None at this time.

DRAFT

**BOARD OF ADJUSTMENT
OCTOBER 26, 2011**

AGENDA ITEM: ADJOURNMENT: Chairperson Daniels motioned to adjourn the meeting. Board Member Morris seconded the motion. The motion passed unanimously. The meeting adjourned at 6:20 p.m.

APPROVED BY:

SUBMITTED BY:

Lee Daniels
Chairperson

Paul Grasso
Building Official



Staff Report

BOARD OF ADJUSTMENT

Agenda Item: Variance request to reduce the 10-foot setback requirement for placement of a pool, involving parcel number 406-58-022 in the Town of Clarkdale. This parcel is located at 2220 Gerry Sue Drive in Clarkdale and zoned R-1 Single-Family Residential. The variance request is to reduce the required 10-foot setback from property lines for a pool, per Section 4-6 of the Town of Clarkdale Zoning Code, to four feet from the side and rear lines of the property.

Staff Contact: Beth Escobar

Meeting Date: June 27, 2012

Background:

Caryn Grasso, the applicant and property owner of 2220 Gerrysue Drive, would like to construct a pool in the backyard of the subject property, in the northwest corner.

The subject property is located in the Haskell Springs, Phase 1 subdivision. The single-family home, approximately 2,300 square feet, was constructed in 2000 and purchased by the applicant in 2006. The subject property is approximately 12,600 square-feet and located at the northwest corner of the intersection of Black Hills Drive and Gerrysue Drive.

The subdivision plat for Haskell Springs, Phase 1 was recorded in 1996. The subject property is lot number 148 in the subdivision. According to the recorded plat, there is a non-vehicular access easement along the south property line of this lot, adjacent to Black Hills. This made it mandatory for the driveway access for this lot to be from Gerrysue Drive.



Per the applicant, this property was originally developed as the model home for the subdivision.



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Per Section 4-6 of the Town of Clarkdale Zoning Code, swimming pools are a permitted use in a Residential District and:

4. *Shall be located no nearer than ten (10) feet to any property line.*

The property is not connected to the Town's wastewater system and has a traditional septic system located on the property.

The applicant wishes to place a pool in the backyard of the subject property. However, due to the narrow area available for pool placement, and the required minimum five-foot setback from a septic system, the pool cannot be placed in the yard and comply with the 10-foot property line setback. The applicant is requesting a variance to reduce the required side and rear setback to four feet.

Staff Comments:

The Board of Adjustment shall have the powers and duties as prescribed by law and ordinance including, according to Town Code, Section 17-2-2 C:

“To hear and decide on requests for variances from the strict application of the Zoning Code as adopted by the Town of Clarkdale where by reason of exceptional narrowness, shallowness, shape, or topography, or a property’s location and surroundings the strict application of said standards will deprive the subject property of privileges lawfully permitted other properties in the same zone district or immediate vicinity. Decisions shall be based upon a review of the application in conformance with the following criteria:

1. **SPECIAL CIRCUMSTANCES:** There are special circumstances attributable to the property which is not applicable to other properties in the area or within the same zone district. The special circumstances must be related to the physical characteristics of the property including its shape, size, topography, location or surroundings and may not be related to the personal circumstances of the property owner or applicant.

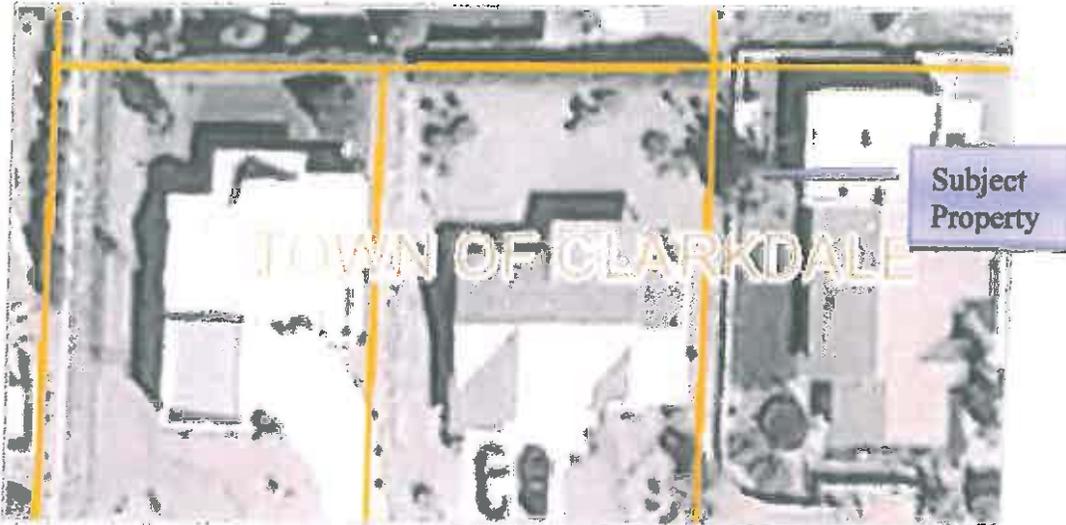
Staff comment: The placement of the residence on a northwest axis, driven by the requirement to have driveway access to Gerrysue Drive and the fact that the parcel is a rectangle, with longer sides on the east and west and shorter sides on the north and south, created a small backyard area. The non-vehicular access easement that crosses the southern property boundary of the subject property also crosses Lots 149 and 150, the two lots to the west of the subject property. The plat shows a shared driveway for these two lots, however, this is not how the property developed. These two lots were able to



Staff Report

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develop on an east west axis, with the homes fronting Black Hills Drive. With this orientation, these two homes have a wider backyard area.



- 2. UNDUE HARDSHIP:** If special circumstances attributable to the property exist, they must be of such a nature that the strict application of the development standards will result in an undue hardship. An undue hardship exists when the strict application of the Zoning Code is so unreasonable that it renders the property unusable without the granting of a variance. Hardship relates to the physical characteristics of the property, not the personal circumstances of the property owner or applicant.

Staff comment: The design of the plat for Haskell Springs, Phase I created a special circumstance for this property that limited the size of the backyard area. Since the parcel was developed as the model home for the subdivision, careful consideration for the long term residential use of the property may have been lacking.

- 3. PUBLIC HEALTH, SAFETY AND WELFARE:** A variance may be granted only if it can be done without substantial detriment to public health, safety or welfare and without substantial departure from the intent of the standard from which relief is requested.

Staff comment: If this variance was granted, the new pool would be constructed in full compliance with the building code and state and federal requirements for pools and security fencing.

- 4. ADEQUATE FINANCIAL RETURN:** The applicant's need for an adequate financial return on investment shall not be considered justification for the granting of a variance.



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Staff Comment: As stated in the applicant's letter of intent, the Grasso family desires to place the pool for the enjoyment of their children and does not view the pool as a property investment.

5. **SELF-IMPOSED SPECIAL CIRCUMSTANCES:** A variance shall not be granted when the special circumstances, from which relief is requested, have been self-imposed by a current or former property owner or applicant.

Staff Comment: The special circumstance that impacts this property was created when the subdivision was platted and when the model home was constructed.

6. **USE VARIANCE:** A use variance may not be granted. (A use variance is one which would allow, as an example, a retail commercial establishment in a single family residential zone district).

The Board must consider the findings listed above in any variance approval, and must be able to make the findings that are required by law.

Also, according to ARS 9-462.06, "Any variance granted is subject to such conditions as will assure 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."

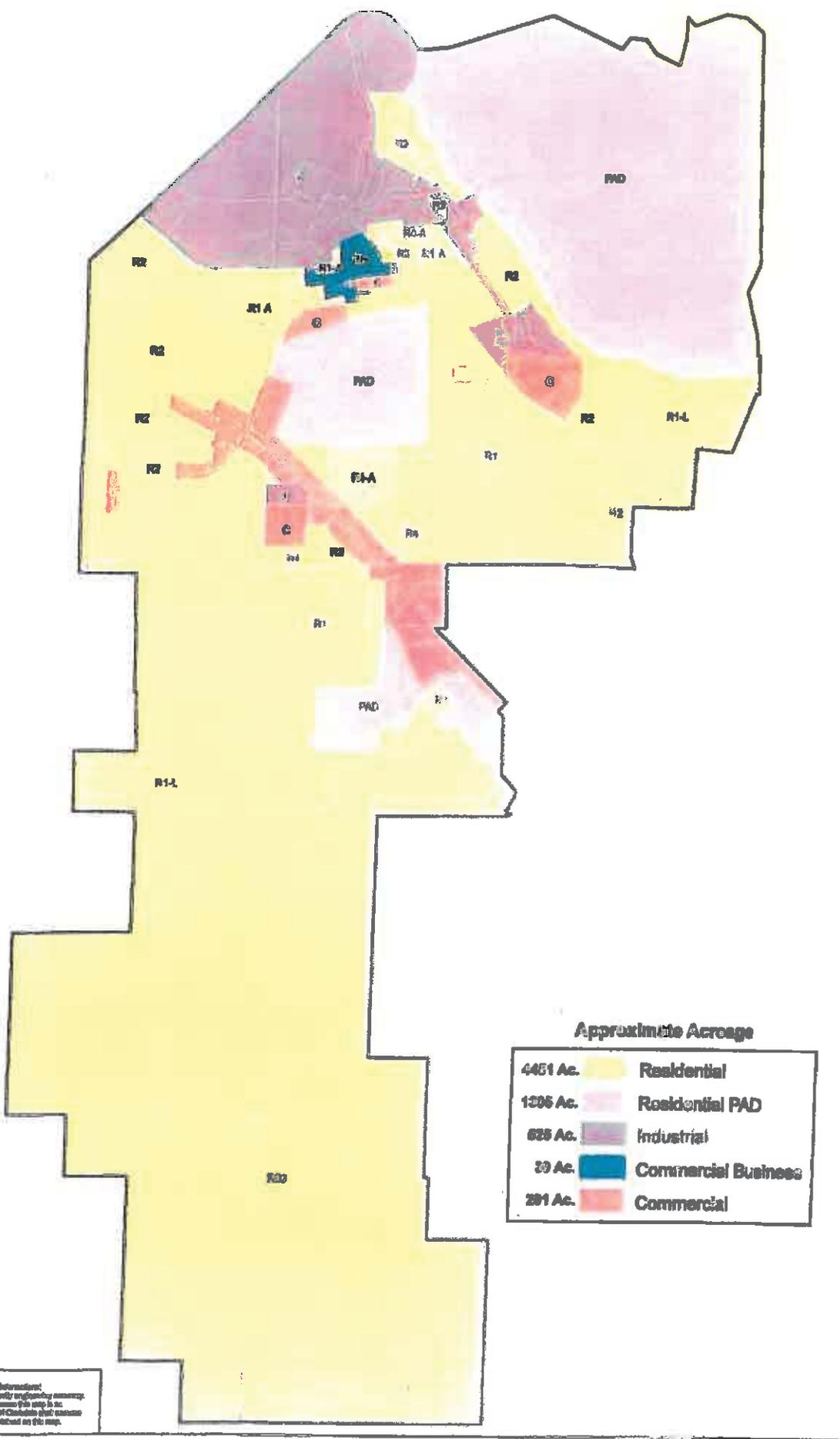
Summary:

Staff notified property owners within 300 feet of the subject property regarding the requested variance. Two property owners contacted the office by phone with questions regarding fencing for the pool. They were advised that fencing would have to meet all safety code requirements.

The neighbors directly to the north of the subject property at 2210 Gerrysue, Fred and Diana Martin, have submitted a letter stating that they have no objections to the granting of this variance.

Attachments:

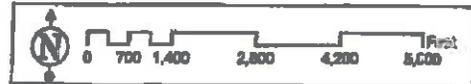
1. Applicant's letter of intent
2. Site pictures
3. Site plan for proposed pool placement



Information has been provided for informational purposes only and is not intended to constitute an offer of insurance. The State of Florida does not regulate insurance. The State of Florida does not regulate insurance. The State of Florida does not regulate insurance.

The State of Florida
 Department of Banking and Finance
 1901 North Bay Street
 Tallahassee, FL 32304
 www.dbf.com

Land Use Aggregate Map



February 23, 2012
 2012-131

To the Board of Adjustment:

Thank you for hearing our case. I'm hoping to answer the questions posed on the application with enough clarity to warrant a decision.

#1. Special circumstances: The lot that our home is on is shaped unlike any other in the area. It is much longer, but not as deep. The prior use of this lot was as the temporary sales office for the Haskell Springs development. This is pertinent because of the location of the septic tank, and leech lines. Many homes in the neighborhood have the septic system located in the front yard, freeing up the rear yard to be used as they wish. The septic system was installed for the temporary sales office, but sized to be used for a single family home. When the sales office was removed, the septic system was deemed OK for the new home.

#2 Undue Hardships: In order for the setbacks of the Town Code to be implemented, the home and garage had to be situated as it currently is. The area that is usable for a swimming pool is located at one end, and would be the only area for such a use (see drawing). We feel that the 10' setback requirement limits the use of this property to the same extent as the surrounding properties.

#3 Public Health, Safety, and Welfare: As situated, this area of our property is shielded from the three neighbors. Also, it would not affect the surrounding area as far as the health, safety, or welfare of any surrounding property owners, or members of the public.

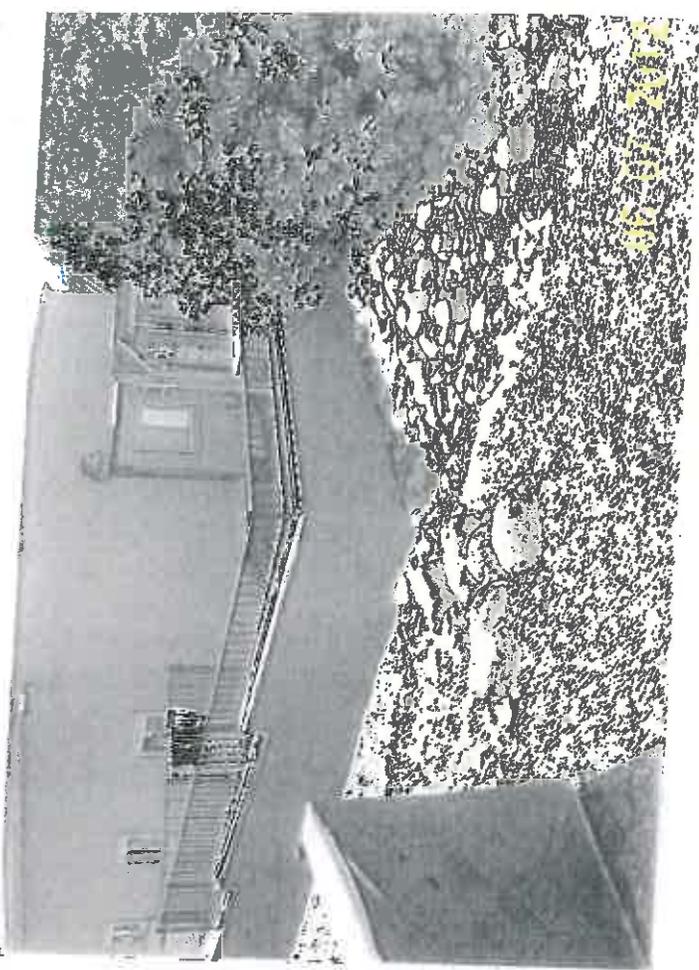
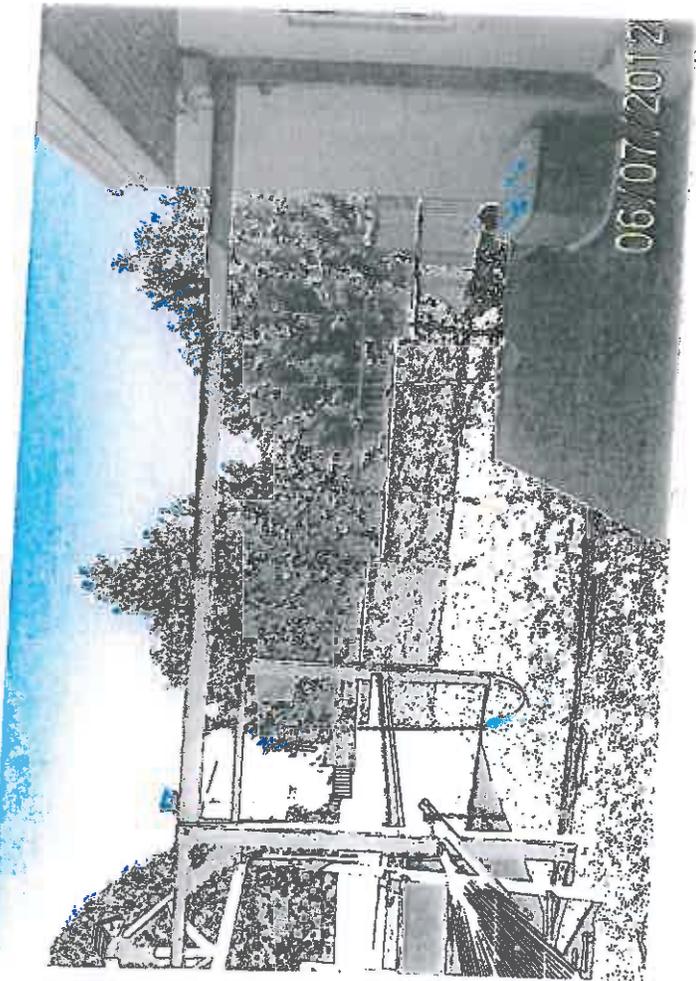
#4 Adequate Financial Return: My family and I plan on living in this home for many years to come, and do not look at the pool as a financial investment.

#5 Self Imposed special circumstances: Since the lot was platted on this development before the 10' setback rule was in place, we feel that there are no self-imposed special circumstances.

#6 Use Variance: N/A

Respectfully,

Camp Mussio



HIGH POINT
OF LOT

LOW POINT
OF LOT

PL. NO. 53 OF E. 4'

Proposed 13' x 28'
pool

OFFICE 208
50 FT

30' x 30'
RM. OFFICE

EXISTING POOL
~2228 SQ. FT.

133'

POOL FENCE

CONCRETE

POOL FENCE

POOL FENCE

SLOPE

Scale: 1" = 4'

GENEYSSA DR

Parcel # 1016-59-022
4077148

BUCK HILLS DR

99-86'

PL. 1157 OF 254'

114'

