

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, July 25, 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 July, 2012 at 3:30 p.m.

Dated this 18th day of July, 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 June 27, 2012.
5. **REPORTS:**
 - a. Chairperson's Report:
 - b. Staff Report:
6. **NEW BUSINESS**
7. **PUBLIC HEARING:** Variance request to reduce the 20-foot front setback requirement, involving parcel number 406-26-281 in the Town of Clarkdale. This parcel is located at 380 Celestial Drive in Clarkdale and zoned R-4, Manufactured Home Residential. The variance request is to reduce the required 20-foot setback from the front property line to 10 foot 9.5 inches to allow for a front porch addition.
 - 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, JUNE 27, 2012, 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, June 27, 2012, at 6:00 p.m. in the Men's Lounge of the Clarkdale Memorial Clubhouse, 19 N. Ninth Street, Clarkdale, AZ.

Board of Adjustment:

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

Staff:

Senior Planner Beth Escobar

Others in Attendance: Caryn Grasso, applicant.

- 1. AGENDA ITEM: CALL TO ORDER:** The Chairperson called the meeting to order at 6:01 p.m.
- 2. AGENDA ITEM: ROLL CALL:** The Senior Planner called roll.
- 3. AGENDA ITEM: MINUTES: Consideration of the Regular Meeting Minutes of October 26, 2011.** Board Member Backus motioned to approve the Regular Meeting Minutes of October 26, 2011. Board Member Cure seconded the motion. The motion passed unanimously.
- 4. AGENDA ITEM: REPORTS:**

Chairperson's Report:

None

Staff Report:

None

- 5. 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.**

NEW BUSINESS

6. **AGENDA ITEM: 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. The Chairperson opened the public hearing.
- b. Senior Planner Escobar provided a summary of the staff report:

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 are 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 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.

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.

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."

Applicant Presentation:

Caryn Grasso, applicant, had no formal presentation.

Invite Public to Speak:

Chairman Daniels opened the hearing to the public. There was no public comment.

CLOSE Public Hearing:

The Chairperson closed the Public Hearing.

Questions May Be Directed to Staff / Applicant:

Board Member Cure asked if the patio area would need to be removed to accommodate the pool. Ms. Grasso stated yes, the plan is to remove this area and place decking around the pool.

The Board discussed the required fencing for a pool. Senior Planner Escobar informed the board that the current fencing at the property does not comply with the requirements for pools, and if the variance was granted the applicant would have to modify this fencing.

Board Member Cure asked any input was received from the property owners of lots 146 and 149. Per Senior Planner Escobar, no comments were received from these property owners and no mail has been returned.

Discussion:

Board Member Cure moved to approve the variance request based on the following findings:

That special circumstances exist on this property because of the orientation of the house and the rectangle shape of the property, and the fact that it was developed as a model home.

ACTION: Board Member Backus seconded the motion. The motion passed unanimously.

7. AGENDA ITEM: FUTURE AGENDA ITEMS:

An application for a variance from front setback requirements has been received and is scheduled to be heard by the Board on July 25, 2012 one at this time.

8. AGENDA ITEM: ADJOURNMENT: Board Member Cure motioned to adjourn the meeting. Board Member Backus seconded the motion. The motion passed unanimously. The meeting adjourned at 6:23 p.m.

APPROVED BY:

SUBMITTED BY:

Lee Daniels
Chairperson

Beth Escobar
Senior Planner



Staff Report

BOARD OF ADJUSTMENT

Agenda Item: Variance request to reduce the 20-foot front setback requirement, involving parcel number 406-26-281 in the Town of Clarkdale. This parcel is located at 380 Celestial Drive in Clarkdale and zoned R-4, Manufactured Home Residential. The variance request is to reduce the required 20-foot setback from the front property line to 10 foot 9.5 inches to allow for a front porch addition.

Staff Contact: Beth Escobar

Meeting Date: July 25, 2012

Background:

Charles Paceley, the applicant and property owner of 380 Celestial Drive is requesting a variance to reduce the required front setback to allow for a front patio.

The subject property is located in the Mingus Shadows Unit 3 subdivision. There is an affixed mobile home at this property that was set in 1999. There is an approximately 500 square foot garage in the rear of the property.

The subject property is zoned R4 – Manufactured Home Residential. The front setback requirement for this zoning district is 20 feet.

In early 2011, the property owner submitted a permit for a front porch on the existing mobile home. The permit was denied by the Community Development Department because the porch as design infringed on the required 20-foot front setback. Upon a visit to the property, the Town's Building Official noted that footings with anchor straps had been poured and a ledger was attached to the front of the home. The property owners assured the Building Official that the ledger, since it was part of the patio structure, would be removed.

On June 6, 2012, the Building Official was in the Mingus Shadows neighborhood conducting an inspection at another property, and noted a completed porch cover at 380 Celestial Drive.

The Building Official sent a notice of violation letter to the owners regarding construction of the porch cover without a permit and violation of the 20-foot front setback requirement. The property owner responded within the required time period, and filed a variance request application to reduce the required 20-foot setback. Although the plot plan submitted with the variance application indicates that the setback from the front property line to the front edge of the patio post is 12 feet, 6 inches, a field measurement by the Building Official indicates the actual measurement from the front of the post to the edge of the sidewalk, which is the front property line, is actually 10 feet, 9.5 inches.



Staff Report

BOARD OF ADJUSTMENT

Staff Comments:

The applicant mentions in his application letter that 'other properties have been allowed to have structures within 20 feet of the road'. Staff would point out that the side setback requirement in this zoning district is 10 feet, so it is possible that other porches and covered patios in this neighborhood are closer to the road than 20 feet because they are on the side of the home.

Subsequent to the filing of the variance, the Building Official conducted a drive through of the Mingus Shadows neighborhood and was not able to identify any other properties with visible code violations regarding setbacks. Staff has informed the applicant that we would investigate any specific property if given an address. The possibility that other code violations in this subdivision may exist does not impact the findings listed below that the Board must use to make a determination on this variance request.

A front setback is defined in the Town's zoning code as:

The minimum distance from the front lot line to the nearest point of the allowable principal building measured to the front lot line.

A building is defined as:

Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal process, equipment, goods or materials of any kind.

Additionally, Section 4-10, a copy of which is attached with this report, allows for various yard (or setback) encroachments for architectural features and uncovered porches. None of these exemptions apply to the subject property.

A reduction of the required 20-foot front setback to 10 feet, 9.5 inches is a reduction of 55 percent.

If the variance is approved, the applicant will be required to submit a permit application and a double permit fee would be applied since it is an after-the-fact permit. If the Board was to deny the variance request, the applicant would be required to remove the existing porch structure. A demolition permit would be required for this removal.

Board Responsibilities:

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:



Staff Report

BOARD OF ADJUSTMENT

"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: Staff does not believe there are any special circumstances that apply to the subject property.

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: Staff has not identified any undue hardship related to this property. The applicant's desire to provide shade to the front of the house could have been achieved with a roll out window shade. Rain gutters and swales could be used to direct rainwater away from the property.

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 existing porch does not have a negative impact on public health and safety.

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.



Staff Report

BOARD OF ADJUSTMENT

Staff Comment: Not applicable.

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 orientation of the home and the drainage plan for the property existed prior to the applicant's purchase of the home.

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).

Staff comment: This is not a use variance request.

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 responses have been received and are attached to the end of this report.

Attachments:

1. Applicant's letter of intent
2. Site pictures
3. Site plan for porch placement
4. Code enforcement letter from Clarkdale Building Official
5. Letters from surrounding property owners

BOARD OF ADJUSTMENTS FORM

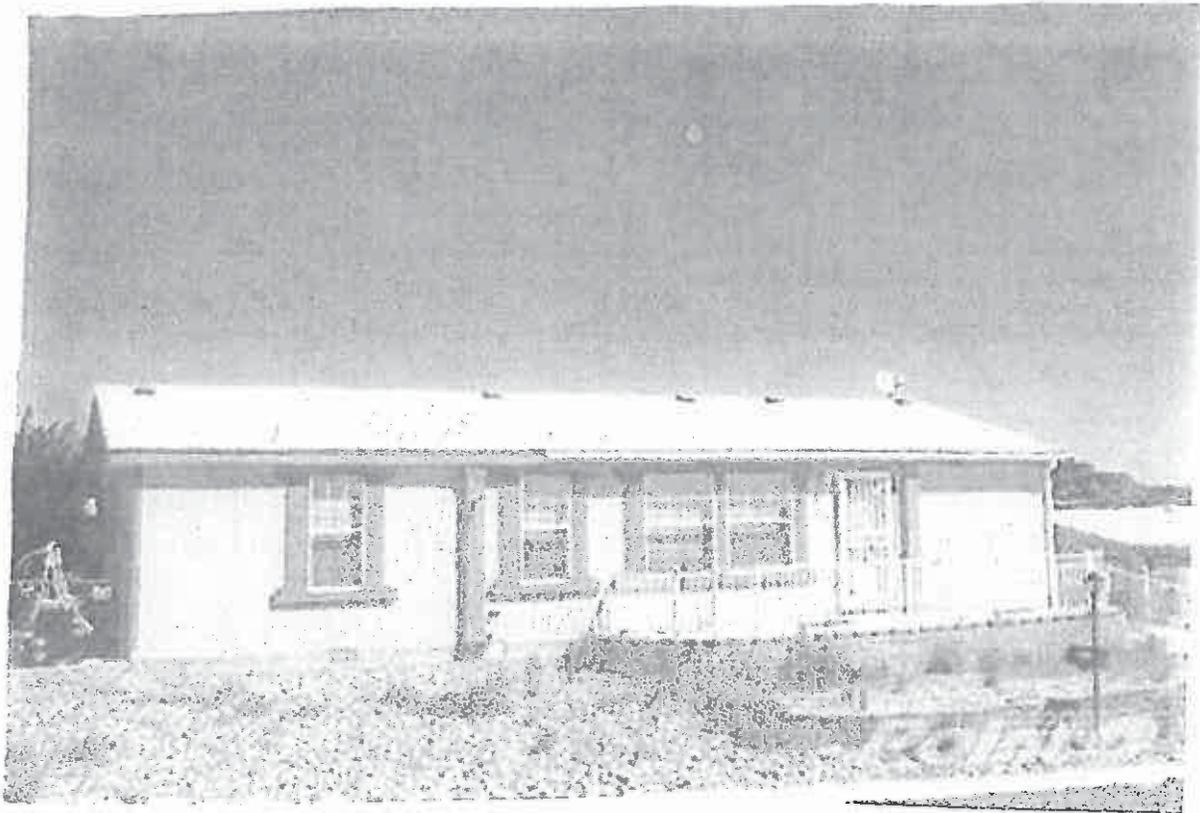
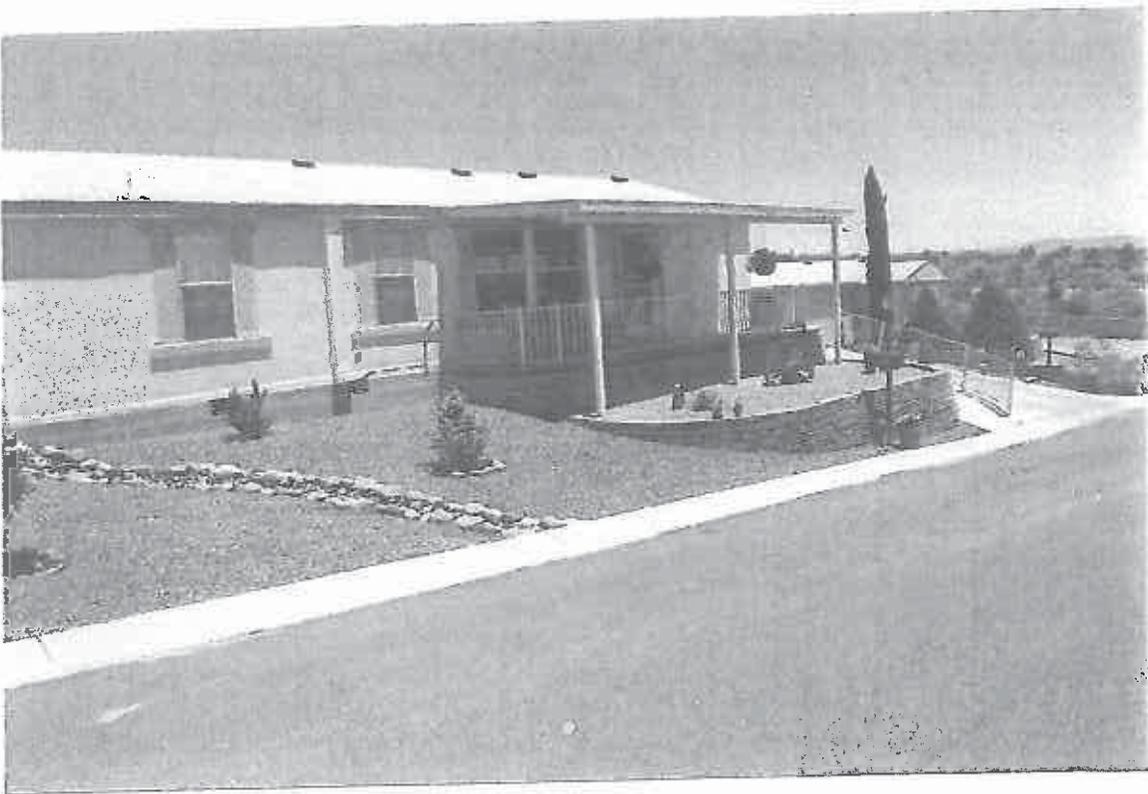
PART D WE INTEN TO SHOW WERE
OTHER PROPERITES HAVE BEEN
ALLOWED TO HAVE STRILCTURES
WITHIN 20' OF THE ROAD, WE
NEED THIS VARIANCE.

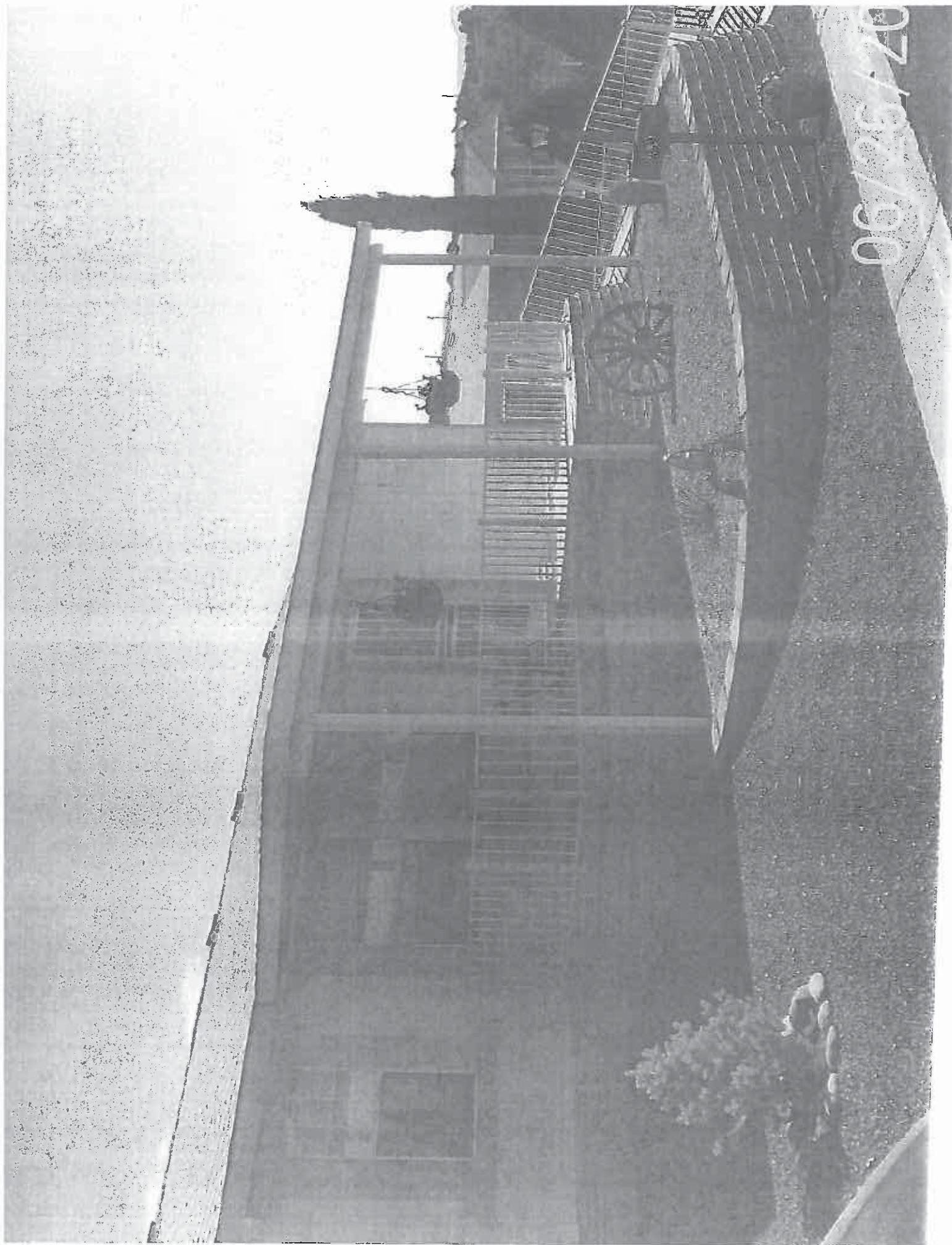
1. SPECIAL CIRCUMSTANCE "TOPOGRAPHY"
LOCATION OF HOME, AS PLOT SHOWES
FACES SOUTH SUN HITS FRONT OF
HOME ALL DAY; CALLSEING A/C
TO RUN MOST OF THE DAY.
AREA UNBEARABLE / UNLISABLE

2. UNLIE HARDSHIP
EXISTING SLAB SLOPES TOWARD
HOME ALLOWING RAIN WATER TO
RUN INSIDE HOME.

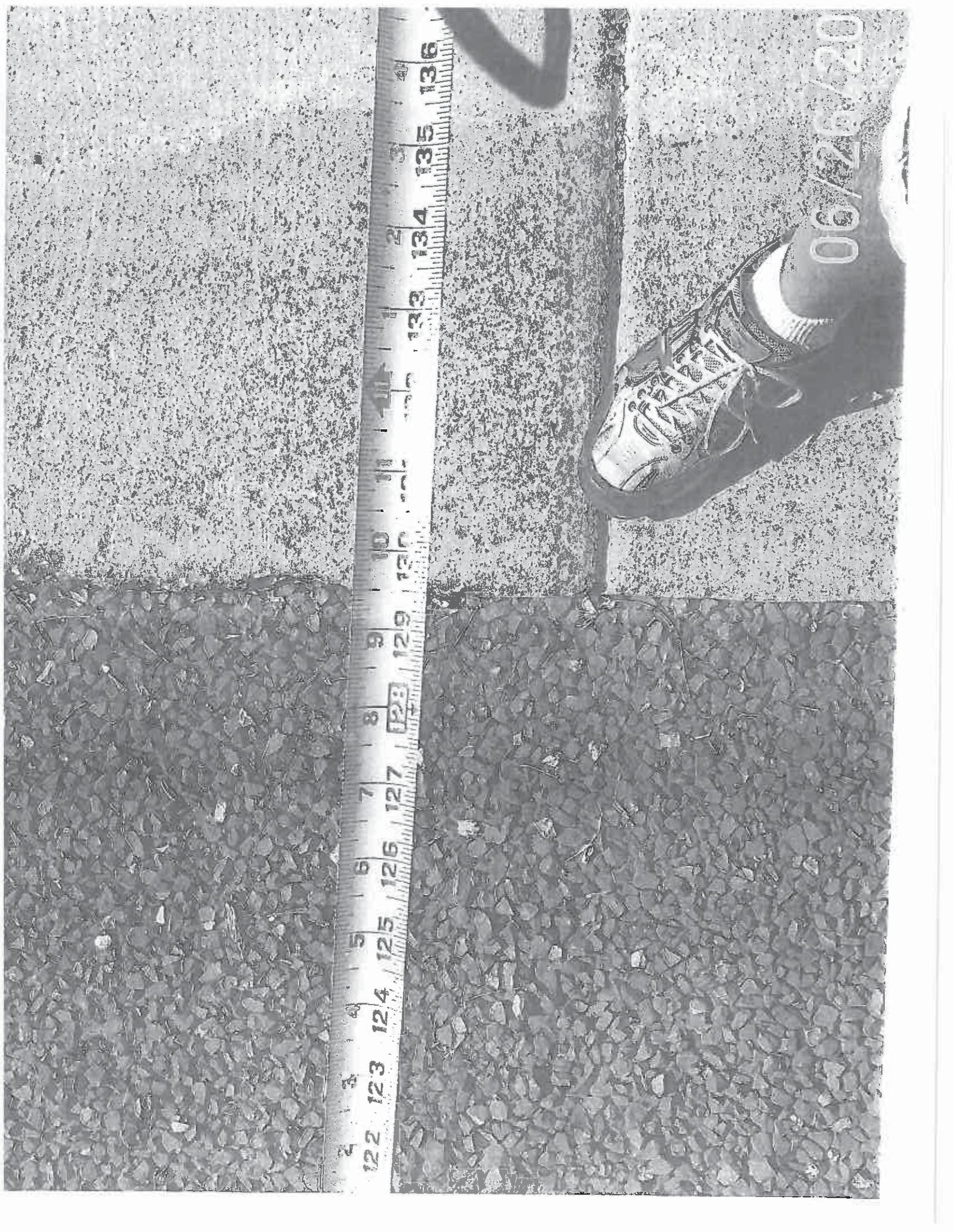
DECLARATION OF CONDITIONS

1. PURPOSE OF THESE RESTRICTIONS
STATES ATTRACTIVE RESIDENTIAL AND FULL
BENEFIT AND ENJOYMENTS OF HIS LOT
AND HOME WITH NO GREATER
RESTRICTIONS THAN NECESSARY



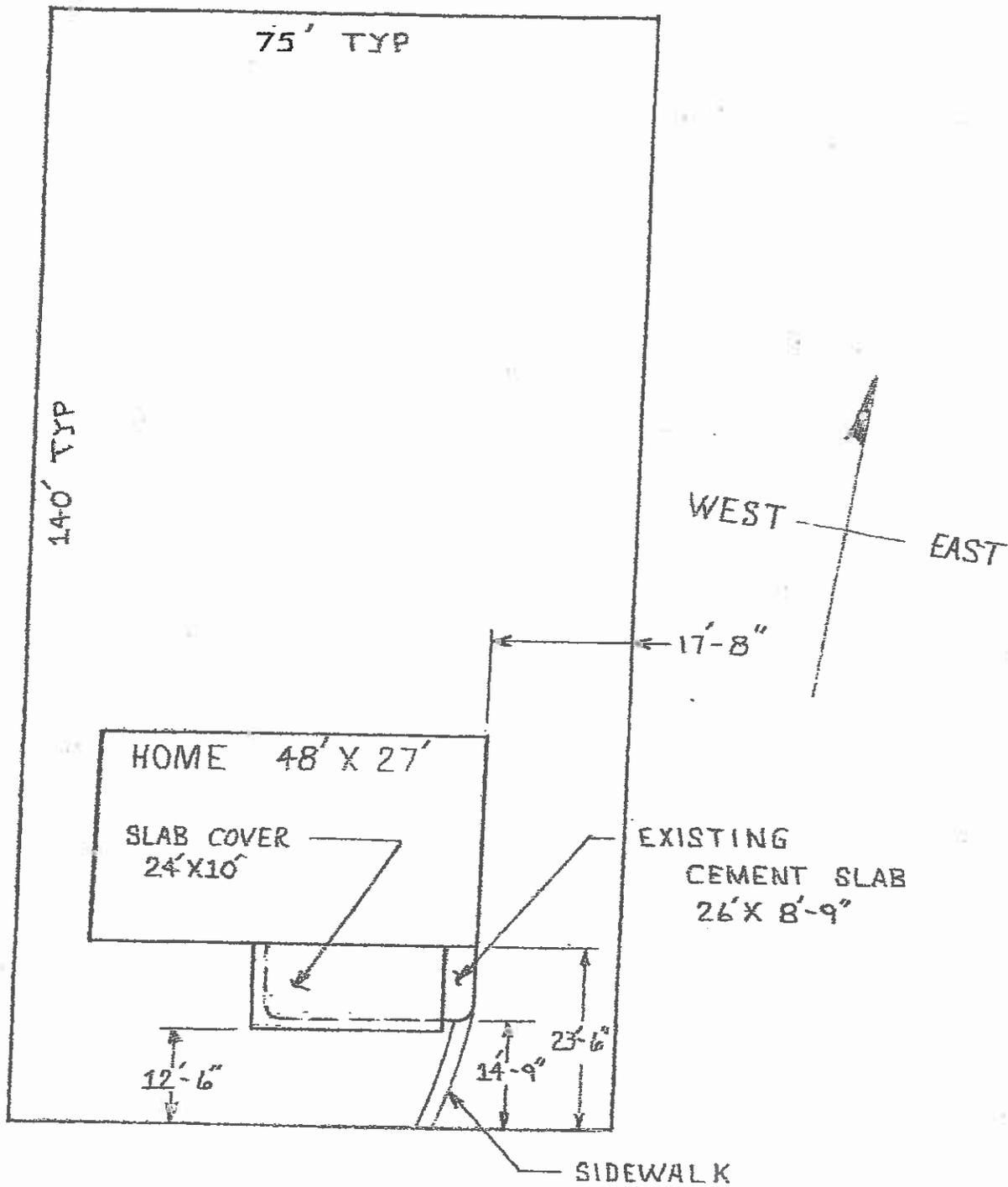


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06/26/20



PLOT PLAN
G. L. PAGELEY

TOWN OF CLARKDALE
COMMUNITY DEVELOPMENT DEPARTMENT

6/7/2012

Re: 380 Celestial Drive
Clarkdale, AZ 86324
Parcel # 406-26-281

Mr. Charles Paceley
MS. Mary Stoffer,

As you recall, early last year a building permit was applied for for a front porch at the above address. At that time it was determined that the setback requirements would not allow a structure of any kind to be added onto the area in question.

Recently, I was nearby doing an inspection and it was quite easy to see that the porch had been constructed, even though this department made it quite clear that the setback requirements prohibited such an addition.

You have 2 options; either remove the front porch roof structure completely, or apply to the Board of Adjustment (B of A) who have specific criteria that must be met. If in fact the B of A finds that you do not meet the criteria, a demolition permit will be issued, and you must remove the roof structure completely.

Contact this office no later than 6/18/2012 to resolve this matter.



Paul Grasso
Building Official

Cc: Jonathan A. Millet / Town Attorney
Ccc: Jodie Filardo / Community Development Director



TOWN OF CLARKDALE
COMMUNITY DEVELOPMENT DEPARTMENT
P.O. Box 308, Clarkdale, Arizona 86324
Community Development: 928-639-2500 FAX: 928-639-2519

July 2, 2012

**RE: Variance Request for 380 Celestial Drive
Assessor's Parcel Number 406-26-281**

Dear Property Owner:

This letter is to notify you of an upcoming public hearing regarding the above referenced parcel. Your property is within 300 feet of the subject property.

The applicant is requesting a variance of the required 20-foot front-yard setback.

The Board of Adjustment will review this application at their July 25, 2012 Public Hearing.

Feel free to contact me if you would like to discuss this matter. You may provide written comments by mail, or by email to: beth.escobar@clarkdale.az.gov.

Sincerely,

Beth Escobar
Senior Planner

enclosure

*Beth,
The place next door looks nice.
I have no complaints.*

Phyllis

July 9, 2012

Town of Clarkdale
Community Development Department
Board of Adjustment

RE: Parcel Number 406-26-281
380 Celestial Drive
Clarkdale, AZ 86424

During the 2 years that the above named home sat empty and for sale, the yard needed a lot of attention and the house was falling into a state of disrepair. We were concerned.

We hoped that the new family moving in across the street from us would take pride in their home and yard (as we do). Chuck and Mary have proved to be those kind of people and we welcome them to our neighborhood.

There are other properties in the subdivision that have been built closer to the property line, but pose no problem. The cover was built well and improves the looks, as well as being functional.

We have found the City of Clarkdale to be fair and understanding in our dealings with them and hope the variance request for a cover to their existing front porch will be approved.

Sincerely, *Donald Haralson*
& Cheryl Haralson

Donald and Cheryl Haralson
381 Celestial Drive
Clarkdale, AZ 86324

TOWN OF CLARKDALE
RECEIVED

JUL 19 2012

COMMUNITY DEVELOPMENT DEPARTMENT