



BOARD OF ADJUSTMENT A G E N D A

BOARD OF ADJUSTMENT
PUBLIC HEARING
THURSDAY, JUNE 18, 2009
9:00 AM

COUNCIL CHAMBERS / CITY HALL
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 on **June 18, 2009**, in **COUNCIL CHAMBERS**, in **CITY HALL**, located at **201 S. CORTEZ STREET**. Notice of this meeting is given pursuant to Arizona Revised Statutes, Section 38-431.02.

I. CALL TO ORDER

II. ATTENDANCE

MEMBERS

Michael Klein, Chairman
Duane Famas, Vice Chairman
E. Calvin Fuchs
Johnnie Forquer

Tom Kayn
Ken Mabarak
Bill Warren

III. REGULAR AGENDA

1. **Approve the minutes of the May 21, 2009 meeting.**
2. **Reconsideration of V09-003, 319 S. Mt. Vernon Street.** APN: 110-03-034 and totaling \pm 0.17 acre. LDC Section 3.6.3.D. Zoning is Single-Family 9 (SF-9). Request variance to increase lot coverage to 46% where 40% is allowed for a free-standing garage and reduce the corner lot setback from 15-feet to 7-feet which would be compatible and in line with the existing 7-foot corner lot setback of the home. Owner is Warren C. Kuhles. Applicant/agent is Robert Burford, Robert Burford Architects. Community Planner is Mike Bacon (928) 777-1360.

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.

3. **CUP09-002, 648 Cherry Road.** APN: 108-09-027 and totaling ± 0.46 acre. *LDC* Section 2.5.6 and Table 2.3. Zoning is Single-Family 18 (SF-18). Request conditional use permit for a detached guesthouse. Owner/Applicant is Gary Stogsdill. Community Planner is Steve Gaber (928) 777-1207.
4. **V09-004, 1102 Iron Springs Road.** APN: 115-09-057A and totaling ± 7840 square feet. *LDC Table 6.12.5A & 6.12.5B and Section 6.12.8.A.* Zoning is Business General (BG). Request variance to relocate the existing free-standing sign to the roof of Lloyd's Liquors. Owner is Don Moon. Applicant/agent is Otwell and Associates Architects. Community Planner is Mike Bacon (928) 777-1360.

IV. REVIEW ITEMS

5. **Staff review and update of V07-009, 128 S. Mt. Vernon Avenue**
Variance, V07-009 was approved to allow an accessory building at 25 feet 8 inches (20 feet permitted) and lot coverage of 45.9% (40% permitted). The city has been informed that the property owner, Belveal Trust, will not proceed with this project. No action by the Board is required.
6. **Staff review and update on CUP06-003, 2001, 2015, 2023, 2027, 2039 Willow Lake Road.** APNs: 106-13-025P, 025Q, 025R, 025S, 025T. This conditional use permit was approved to allow the owner, Fred Brown, to convert the "Green Acres Apartments" to offices. The conversion has been slowed for a variety of reasons. At this time, one unit is occupied as an office, several units are residentially occupied and several units are vacant. No action by the Board is required.

V. SUMMARY OF CURRENT OR RECENT EVENTS

VI. 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 June 2, 2009 at 11:30 AM in accordance with the statement filed with the City Clerk's Office.

Kathy Dudek, Administrative Assistant
Community Development Department

**BOARD OF ADJUSTMENT
PUBLIC HEARING
MAY 21, 2009
PRESCOTT, ARIZONA**

MINUTES OF THE PUBLIC HEARING OF THE BOARD OF ADJUSTMENT held on **MAY 21, 2009** in **COUNCIL CHAMBERS, CITY HALL** located at **201 S. CORTEZ STREET**, Prescott, Arizona.

I. CALL TO ORDER

Chairman Klein called the public hearing to order at 9:00 AM.

II. ATTENDANCE

MEMBERS PRESENT	OTHERS PRESENT
Michael Klein, Chairman	Richard Mastin, Development Services Director
E. Calvin Fuchs	Mike Bacon, Community Planner
Johnnie Forquer	Kelly Sammeli, Recording Secretary
Tom Kayn	
Ken Mabarak	
Bill Warren	
MEMBERS ABSENT	
Duane Famas	

III. REGULAR AGENDA

1. Approve the minutes of the March 19, 2009 and the April 16, 2009 public hearing.

Mr. Fuchs, **MOTION: to approve** the minutes of the March 19, 2009 public hearing.

Ms. Forquer, 2nd. **VOTE: 6-0.**

Mr. Mabarak, **MOTION: to approve** the minutes of the April 16, 2009 public hearing.

Mr. Warren, 2nd. **VOTE: 4-0-2.**
(Abstention due to absence, E. Calvin Fuchs, Tom Kayn).

2. V09-003, 319 S. Mt. Vernon Street. APN: 110-03-034 and totaling ± 0.17 acre. LDC Section 3.6.3.D. Zoning is Single-Family 9 (SF-9). Request a variance to increase lot coverage to 46% where 40% is allowed for a free-standing garage and reduce the corner lot setback from 15-feet to 7-feet which would be compatible and in line with the existing 7-foot corner setback of the home. Owner is Warren C. Kuhles. Applicant/agent is Robert Burford, Robert Burford Architects. Community Planner is Mike Bacon (928) 777-1360.

Mike Bacon, Community Planner reported that the variance request was for an increase in the maximum lot coverage from 40% to 46%, and to reduce the corner lot setback from 15 feet to 7 feet. The property is located on the corner of S. Mount Vernon and Oak Street which is within a Historical District. Mr. Bacon placed a map

of the location on the overhead and indicated that the owner has been before the Historic Preservation Commission on two separate occasions to seek support for the variance request. Mr. Bacon reported that the Preservation Commission voted 6:0 to support the variance for maximum lot coverage at the March 8, 2009 meeting, and voted 5:1 to support the variance for the corner lot setback at the April 10, 2009 meeting with conditions which include; 1) Substantial conformance with the site plan dated March 8, 2009; 2) A building permit may be obtained if the Variance is granted by the Board of Adjustment, if the garage architecture is not changed and the observation deck was noted on the notices sent out for the BOA hearing. Mr. Bacon further reported that all the conditions were complied with. Mr. Bacon noted that the garage will be located so the entrance will be off of the alley and will meet the rear setback requirement of 6 feet. Mr. Bacon indicated that several years ago a variance was granted to allow for a covered porch to encroach into the same side setback as requested today, and the applicant is seeking the reduced setback to maintain the compatibility of the porch and deck area of the new garage. Mr. Bacon placed photographs of the property on the overhead projector and noted the area where the garage would be located, the alley access, the rear yard, and an accessory structure that will need to be removed, if the Board approves the variance. Mr. Bacon reviewed the variance criteria and reported that staff recommended approval of the variance request with the conditions noted; 1) the development is to be in substantial conformance with the attached Exhibit "A4"; 2) the garage architecture is not to be changed; and, 3) the accessory building along the north property line in the rear yard is to be removed prior to the issuance of a Building Permit. Mr. Bacon noted that both the applicant and the owner were present to answer any questions that the Board might have.

Chairman Kline inquired if a variance was previously granted, if it obligated the Board to grant the current variance request.

Mr. Bacon indicated no however, it did provide a basis that there was other reduced corner yard setbacks in the area.

Mr. Fuchs asked Mr. Mastin if there were any concerns with the garage placement blocking the line of sight for traffic coming in or out of the alley.

Mr. Mastin, Development Services Director noted that the garage would be located out of the line of sight area.

Chairman Klein inquired about the six foot setback for the garage.

Mr. Bacon reported that for a detached garage, if the garage door faces the alley, the setback requirement is six feet however, if the garage door faces off of the alley the setback would only be four feet.

Mr. Mabarak inquired about the 5' 6" setback that was noted for the building on the site plan.

Mr. Bacon reported that the measurement is from the eve which can encroach into the required setback area.

Mr. Warren noted that the staff report indicated that there were other properties that have encroachments into the setbacks and inquired how many other locations there were.

Mr. Bacon reported that as part of the application, there was a list provided that was taken in 2007, of the immediate area reflecting the corner lot setbacks, and it was included in the staff report.

Chairman Klein invited the owner or applicant to the podium to speak to the Board.

Mr. Robert Burford, Architect, 339 S. Cortez Street indicated that the variance request was previously reviewed and supported by the Preservation Commission. The Commission helped to finalize where the garage, which is being moved from another historical district location, would best be located on the property. Mr. Burford noted that the list of other properties with reduced setbacks that was submitted as part of the application was provided from a visual inventory and from the county recorders, which indicates that most of the properties were developed prior to the new zoning requirements. Mr. Burford added that there are many detached garages or carriage houses within this neighborhood, and that this property does not have a garage. Mr. Burford indicated that is why they are requesting to have this relocated garage placed on the property although it will be above the allowed lot coverage.

Mr. Fuchs asked Mr. Burford if he could explain why there was one dissenting vote from the Preservation Commission against the corner lot setback.

Mr. Burford noted that he thought the concern was the roof deck sight lines and how it would impact the neighboring property.

Mr. Bacon reiterated that one Board member was concerned about the deck and the privacy of the neighbors. Mr. Bacon explained that the Commissioner felt that observers on the deck would have direct view of the neighbors' rear yard, and that is why the roof deck was advertised as part of the variance request. Mr. Bacon further explained that it would be no different than any house having a deck at a higher elevation having the same effect.

Mr. Fuchs inquired if there had been any objections from the adjoining property owner.

Mr. Bacon reported that he had received only one phone call regarding the variance request, and that was for information about the variance.

Chairman Klein inquired why the applicant was asking for a reduced setback.

Mr. Burford indicated that they wanted to move the garage further over so that the roof deck would not be looking right on the neighbor's yard and to give their property some rear yard by locating the garage as a buffer.

Mr. Warren Kuhles, 319 S. Mt. Vernon inquired if they could keep the Conex box in the rear yard to keep the tools in during the initial construction and remove the box when the garage was finished.

Mr. Bacon reported that there would only be a final inspection to close the permit, not on the garage itself. However, it would be up to the Board.

Mr. Kayn inquired about the parking of the vehicles on the gravel area in the alley and asked if they belonged to Mr. Kuhles.

Mr. Kuhles indicated that the concrete parking in the alley belongs to the apartment complex on Virginia Street but they park in the alley location on occasion.

Mr. Kayn inquired if parking would be allowed in the alley.

Mr. Mastin reported that the alley is considered a public right of way and short term parking is allowed however, if parking is continuous it becomes a police matter.

Chairman Klein called for other questions from the Board hearing none, called for a Motion.

Mr. Kayn, **MOTION: that the Board approve Variance request V09-003, to allow the maximum lot coverage to be increased not to exceed 46% of the area of the lot itself, and the Variance to include reducing the corner lot setback from 15' to 7' allowing for the garage to be located there with the following conditions: 1) the development be in substantial conformance with the attached Exhibit "A4"; 2) the garage architecture is not to be changed; 3) the accessory building along the north property line in the rear yard is to be removed prior to the final building inspection.**

Mr. Warren, 2nd.

Chairman Klein noted that there was a motion and a 2nd and inquired if there were any further comments.

Mr. Mabarak indicated that he questioned the portion of the motion regarding the architecture as the Board did not review any portion of the architecture and further added that it might be better to **amend the motion to reflect that the garage architecture to be in compliance with the Historic Preservation Commission.**

Mr. Kayn accepted the amendment.

Mr. Warren amended his 2nd.

Chairman Klein indicated that he had concerns with not removing the container until after the final inspection because they have granted conditional approvals in the past and the containers do not get removed. Chairman Klein further indicated that he feels that overall, the applicant is asking for a variance to conditions that have been created by the applicant.

Mr. Kayn mentioned that one of the positive things with the placement of the garage at the requested location is that it keeps the visual line of the buildings in tact and that the Preservation Commission may have considered that.

Mr. Fuchs indicated that he concurred with Chairman Klein with respect to the accessory structure being removed and that there is a better possibility that the structure would be removed with the condition attached to the issuance of the building permit.

Mr. Kayn noted that he would add a time element of sixty days to his motion.

Mr. Bacon noted that the motion indicates prior to the final building inspection and it is not determined when that will occur.

Mr. Kayn inquired if the applicant could address the amount of time that may be needed to remove the container after the permit was issued.

Chairman Klein asked if the applicant would like to address the container.

Mr. Kuhles noted that ninety days from the issuance of the permit would be enough time to remove the container.

Mr. Kayn amended the motion: **that the accessory building along the north property line in the rear property line is to be removed within ninety days of the issuance of the building permit.**

Mr. Warren amended his 2nd again and asked the secretary to read the motion back.

Ms. Sammeli, recording secretary read the motion as stated and modified. Motion: **that the Board approve Variance request V09-003, to allow the maximum lot coverage to be increased not to exceed 46% of the area of the lot itself, and the Variance to include reducing the corner lot setback from 15' to 7' allowing for the garage to be located there with the following conditions: 1) the development be in substantial conformance with the attached Exhibit "A4"; 2) that the garage architecture should be in compliance with the Historic Preservation Commission; 3) that the accessory building along the north property line in the rear is to be removed within ninety days of the issuance of the building permit.**

Mr. Mabarak inquired about the purpose of the storage container.

Mr. Kuhles indicated that the container was brought in when the remodel of the house was taking place and it was left there for outside storage for yard tools. Mr. Kuhles further indicated that the container would be left on the property long enough to keep the construction tools in it as they placed the garage and then it would be removed.

Mr. Mabarak suggested that the storage container should be removed immediately as it should have been removed a long time ago.

Mr. Kayn noted that he would like to know how the other Board members felt about the removal before the motion was amended.

Chairman Klein called on the members for their comments regarding the container.

Mr. Fuchs concurred with Mr. Mabarak noting that container should be removed prior to the issuance of the building permit.

Ms. Forquer indicated that she felt the container could be used during construction as long as it was removed when the garage was placed.

Chairman Klein indicated that he thought the container should be removed prior to the issuance to the building permit and that he still has concerns with the whole request because, he feels that this is a self imposed condition, there is room for the garage to be placed at the required setback of 15' and the lot increase is also self imposed.

Mr. Mabarak indicated that he agrees with Chairman Klein that the storage container should be removed immediately, that the garage is being placed for the benefit of the applicant, and he has concerns with crowding the corner.

Mr. Warren indicated that he did not like storage containers either and that by placing a time limit on the use of container should resolve that matter. Mr. Warren further indicated that he also has concerns that the request is because of a self imposed condition. Mr. Warren added that because the property is in an historical area and the garage will be in character with the other area residences he would be supportive of the request.

Chairman Klein noted that there was a motion on the floor which includes the ninety days for the accessory structure.

Mr. Fuchs indicated for the record he felt that it was the duty of the Board to enforce the zoning unless there was a specific good reason to grant a variance such as this. Mr. Fuchs further indicated that he did not have a problem with the lot coverage in the area however, he felt the corner setback request was for a self imposed hardship.

Chairman Klein asked Ms. Forquer if she would like to add anything with regard to the structures.

Ms. Forquer indicated no.

Mr. Kayn asked Mr. Bacon how far the garage would have to be moved back to be in compliance.

Mr. Bacon reported that in 2007, the applicant submitted evidence to the Board of Adjustment that he would be denied a similar privilege that was enjoyed by others in the area if he was not granted the reduced setback and that the information was provided in the staff report for this request and that is the basis of the granting of the variance. Mr. Bacon added that the garage would have to go back an additional 8' to meet the current setback requirements for the area.

Chairman Klein noted that he thought the deck was already covered when the request was brought before the Board in 2007.

Mr. Bacon reported that the deck was there but it was not a porch.

Mr. Kuhles indicated that the deck was open.

Mr. Kayn indicated that he thought that the Board should not require the garage to be in full compliance of the setbacks because, it would eliminate the usable yard space on the property and nothing would be gained except the argument that it is a self imposed hardship. Mr. Kayn further indicated that the Preservation Commission found reason to support the request and that the Board should take that into consideration and support the request as purposed.

Mr. Mabarak indicated that he recalls the last request for this property and he based his decision on the fact that the porch did not appear close to the street and he liked the architectural elements for the porch. Mr. Mabarak further noted that the current request to place the garage with a seven foot setback is different because it will place a structure that is 20' in height close to the street and visually box the property in and it will not be visually appealing to the neighborhood.

Chairman Klein asked Mr. Kuhles if he thought the two separate requests for the variance had to both be approved in order to make the garage work at the location.

Mr. Kuhles indicated that he felt that the two requests were married because the site characteristics have to be carried through and if the garage has to be moved it will distort the architectural design of the house and the property, and reflect that it was added on. Mr. Kuhles added that by locating the garage any where else on the property would throw off the aesthetics of the house and the entire property.

Mr. Burford reminded the Board that due to the topography of the lot, the garage would be approximately one level lower than the house.

Chairman Klein called for other comments or questions from the Board, hearing none called for vote on the motion as it was read and amended.

VOTE: 3-3.

Motion was denied.

Board of Adjustment member(s) voting against:

E. Calvin Fuchs, Mike Klein, Ken Mabarak.

Board of Adjustment member(s) voting for:

Johnnie Forquer, Tom Kayn, Bill Warren.

IV. REVIEW ITEMS

None.

IV. SUMMARY OF CURRENT OR RECENT EVENTS

None.

VI. ADJOURNMENT

Chairman Klein adjourned the meeting at 10:00 AM.

Michael Klein, Chairman

Kelly Sammeli
Recording Secretary

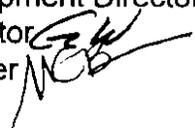
V09-003

VARIANCE

Agenda # 2

Reconsideration of May 21, 2009 Board Denial

COMMUNITY DEVELOPMENT - PLANNING & ZONING DIVISION
BOARD OF ADJUSTMENT
STAFF REPORT
Meeting Date: 6/11/09

TO: Board of Adjustment Members
FROM: Tom Guice, Community Development Director
George Worley, Assistant Director
Mike Bacon, Community Planner 
DATE: 6/10/09

Location: 319 S. Mt. Vernon St. **Zoning:** SF-9 **Parcel Number:** 110-03-034
Applicant/Agent: Robert Burford, 339 S. Cortez St., Prescott, AZ
Owner: Warren Kuhls, 319. S. Mt. Vernon St., Prescott, AZ 86303

REQUEST. The applicant has submitted the attached letter requesting reconsideration by the Board of its denial of May 21 of his requested variance. This variance was to increase the lot coverage from 40% to 46% to accommodate a 480 sq. ft. detached garage with recreational roof-top deck that is being relocated from another location to this site.

At the May 21 Board meeting the applicant stated that both of his requested variances (corner yard setback and maximum lot coverage) could not be considered separately. The applicant has changed his mind and is willing to have the Board consider only the variance for the maximum lot coverage.

Because the Board vote was split 3:3, the request was denied. According to *Robert's Rules of Order*, a member of the prevailing opinion who voted for denial may make a motion to bring the item back for reconsideration.

If the Board votes to bring this item back, the applicant has requested that it be scheduled for the August 20 meeting, because he will be on vacation in July.

SUGGESTED MOTION:
MOVE TO RECONSIDER VARIANCE 09-003 for maximum lot coverage and reschedule the Variance for Public Meeting for August 20, 2009.

CONDITIONAL USE PERMIT CRITERIA, LDC 9.3.5

A Conditional Use Permit may be granted by the Board of Adjustment when the application is found to meet the following criteria, code provisions are shown in regular text, staff comments are provided in italic text.

1. **Effect on Environment.**

The location, size, design and operation characteristics of the proposed use shall not be detrimental to the health, welfare and safety of the surrounding neighborhood or its occupants, nor be substantially or permanently injurious to neighboring property.

The size of the property, the location of the guest house in the rear yard and the distance to adjoining properties will minimize adverse impacts upon the surrounding area. The guest house is located 53 feet from the south property line, 30 feet from the north property line and 55 feet from the west (rear) property line. The posting and mailing of the public notice resulted in a conversation with two neighboring property owners. Ms. Romie Haberle who owns the property immediately to the north had questions about the location of the guest house and how it might affect her privacy. She also requested information about the potential for the guest house becoming a rental. Mrs. Joan Heffelfinger the owner across the street also raised the question of the rental possibilities. LDC Section 2.5.6. C. and F prohibit the rental of units of this type. The discussions with these neighbors did not result in objections to the request.

2. **Compatible with Surrounding Area.**

The proposed site plan, circulation plan and schematic architectural designs shall be harmonious with the character of the surrounding area with relationship to landscaping, scale, lot coverage and the like.

The use will occupy a small area of the back yard of this property. The proposed guest house can be considered to be compatible in terms of scale, density and lot coverage.

3. **External Impacts Minimized.**

The proposed use shall not have negative impacts on existing uses in the area and in the City through the creation of noise, glare, fumes, dust, smoke, vibration, fire hazard, or other injurious or noxious impact.

There are no known nuisances.

4. **Infrastructure Impacts Minimized.**

The proposed use shall not have negative impacts on existing uses in the area and in the City through impacts on public infrastructure such as roads, parking facilities and water and sewer systems, and on public services such as police and fire protection and solid waste collection, and the ability of existing infrastructure and services to provide services adequately.

The proposed guest house will not have adverse impact upon existing infrastructure and services. The Guest house will share utilities with the primary residence per LDC Section 2.5.6.E.

5. **Consistent with General Plan and Code.**

The proposed use will be consistent with the purposes of the Land Development Code, the General Plan, Area Plans and any other statutes, ordinances or policies that may be

applicable, and will support rather than interfere with the uses permitted outright in the zone, there must be substantial reason for locating the use in an area where it is only conditionally allowed.

This guest house is considered to be consistent with the LDC and the General Plan. A Conditional use Permit is required for all detached guest quarters in all of the single family zoning districts.

PAST BOARD OF ADJUSTMENT ACTIONS

A view of the aerial photography of this neighborhood shows many properties with a variety of accessory buildings. These buildings serve a variety of uses including guest houses. Many of these date back to the 1930's and 40's. The Board did approve a CUP for a guest house at 609 Cypress (located west of the subject property) in 1993.

HISTORIC PRESERVATION

The property is not located with in a Prescott Preservation or National Register District.

RECOMMENDATION

Staff recommends approval of the Conditional Use Permit for this detached guest house.

SUGGESTED MOTION

MOVE to approve Conditional Use Permit Application CUP 09-002 for a detached guest house at 648 Cherry Drive, subject to it being constructed in substantial conformance to the site plan dated June 10, 2009.

Information provided by Mr. Stopdill with his application

RE: Conditional Use Permit for 108-09-027-4

I would like to build a solar guest house in my backyard at 648 Cherry Drive. I have a ½ acre lot with a large backyard. My primary purpose for the guest house is to provide a residence for my elderly mother, who is currently 82. My step-father is in deteriorating health, and in the event of his passing I want to have a facility for my mother to spend her last days. My secondary purpose for the guest house (if not occupied by my mother) is to be able to accommodate guests without having to put them up in my small 900-square-foot house.

My proposed guest house will have both passive and active solar heating as well as solar panels for electricity. I've designed the guest house to be the maximum 20-foot height from ground to top of roof in order to utilize both passive and active solar. Part of this height will be a second story living space, but most of this height will be for passive solar windows and for higher active solar panels on the roof. In my neighbor's yard to the south of me, there are several very tall pine trees that will totally shade the lower level of passive solar windows for the critical months of December and January, and would cause reduced active solar gain during these months because of shading of a lower roof. Without the proposed 20-foot height, I would need to plan something other than solar heating and solar electricity.

This 20-foot height is compatible with the surrounding area because the house directly to the west of my lot is 2 stories, as is the house adjacent to the north of that one, as is the house adjacent to the north of that one. All 3 of these 2-story houses are on higher ground than my proposed guest house, so the height of my roof will not be conspicuous. In addition, my proposed guest house will be approximately 70 feet away from my neighbor's house to the north and approximately 90 feet away from my neighbor's house to the south, so the 20-foot height of my guest house (which is only 26 ½ feet long) should not have a significant impact on their view.

My proposed guest house is further compatible with the surrounded area because every backyard I can see from my lot has at least one free-standing structure in it. One of the closest of these neighboring structures to my backyard is a guest house in the backyard of the lot to the northwest of me.

Emergency services will have full access to my proposed guest house. I do have a fence around my backyard, but at the top of my driveway there is a 12-foot gate in this fence. This 12-foot gate, which is never locked, will allow emergency vehicle access, as well as construction vehicle access, directly to the guest house. Whoever will be staying in my guest house will have side-by-side parking available at the top of my driveway, as I have only one vehicle.

Finally, the city sewer main runs through my backyard and will be approximately 13 feet from the guest house. I know exactly where this sewer main is because I had to replace my house line a few years ago and saw the sewer main myself. My proposed guest house will not change the current easy access by city vehicles to the sewer main.

108-09-027-4

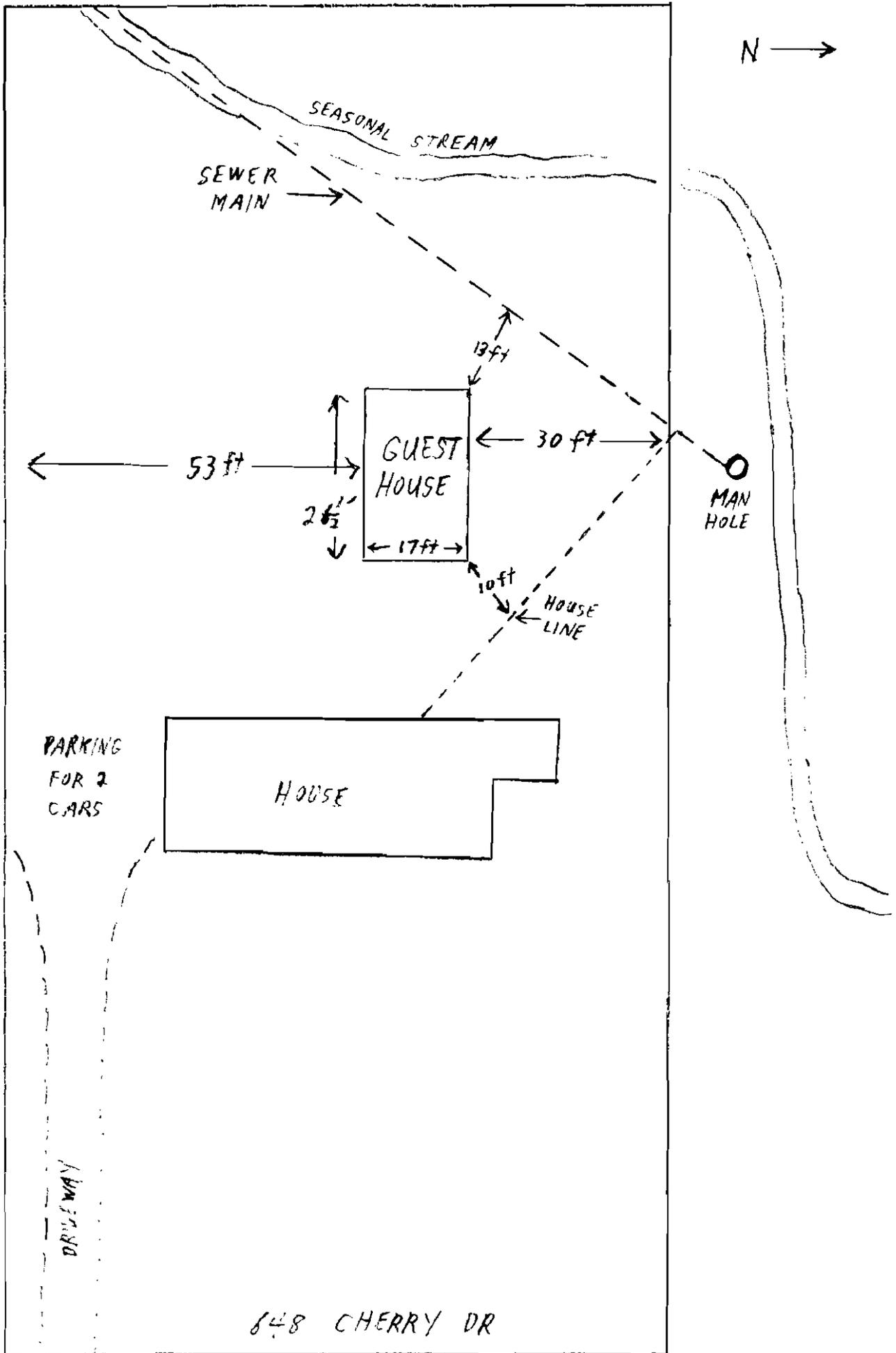
SITE PLAN

SCALE: 1 in = 20 ft

SF-18 z

6/19/09

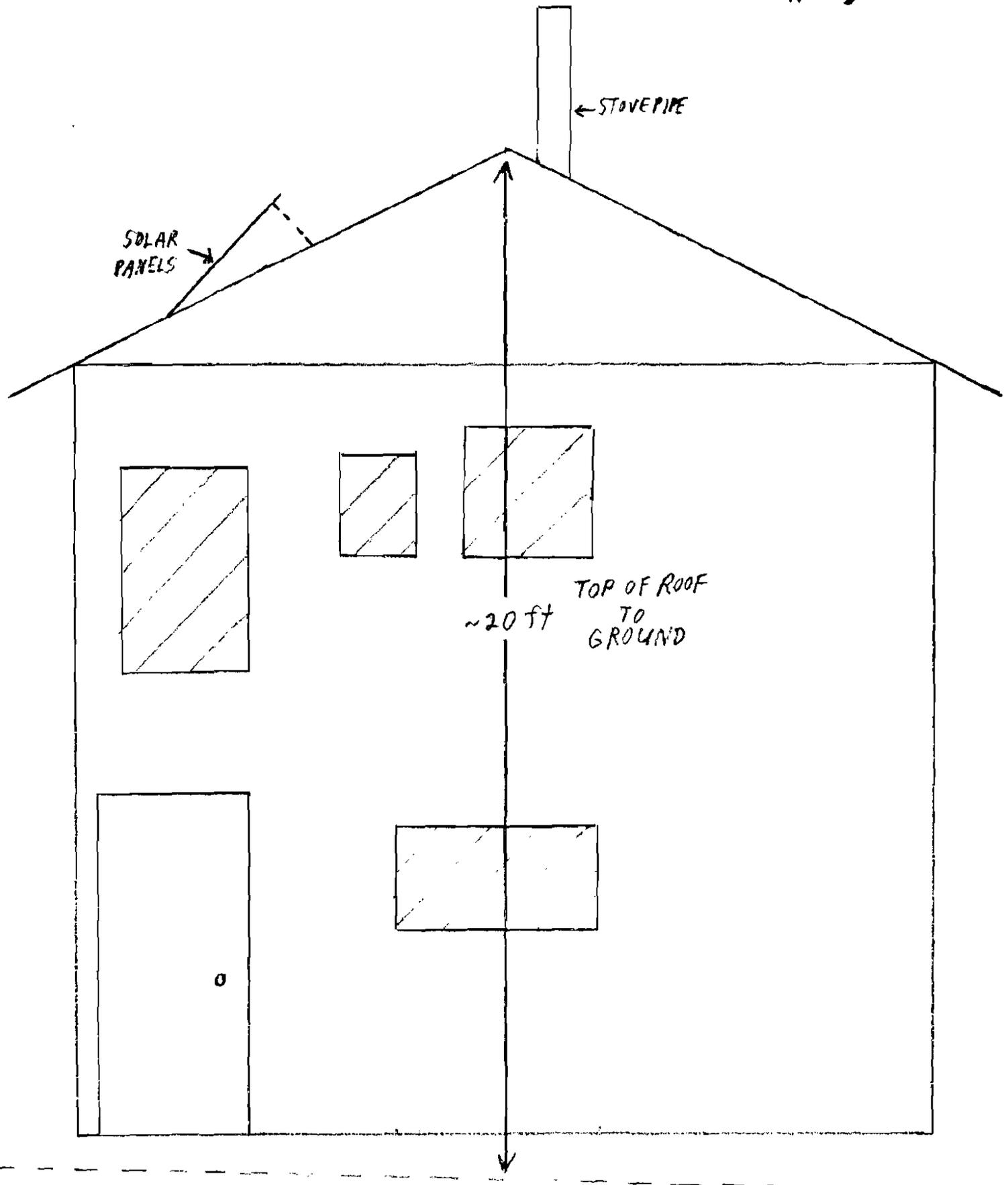
N →



EAST WALL WITH HEIGHT

SCALE: 1cm = 1ft

N →

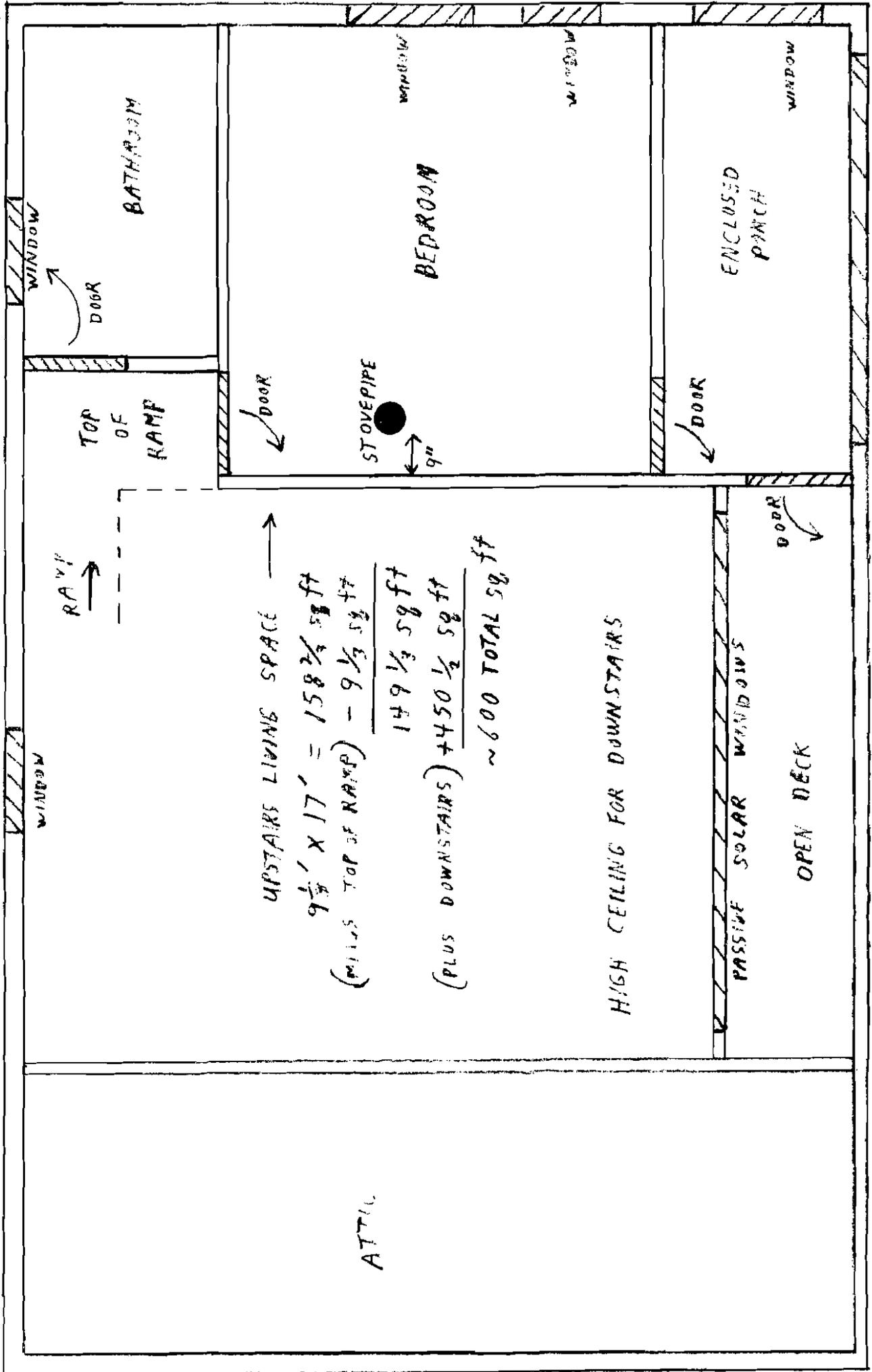


UPSTAIRS

SCALE 1/4" = 1' - 0"



UPSTAIRS LIVING SPACE

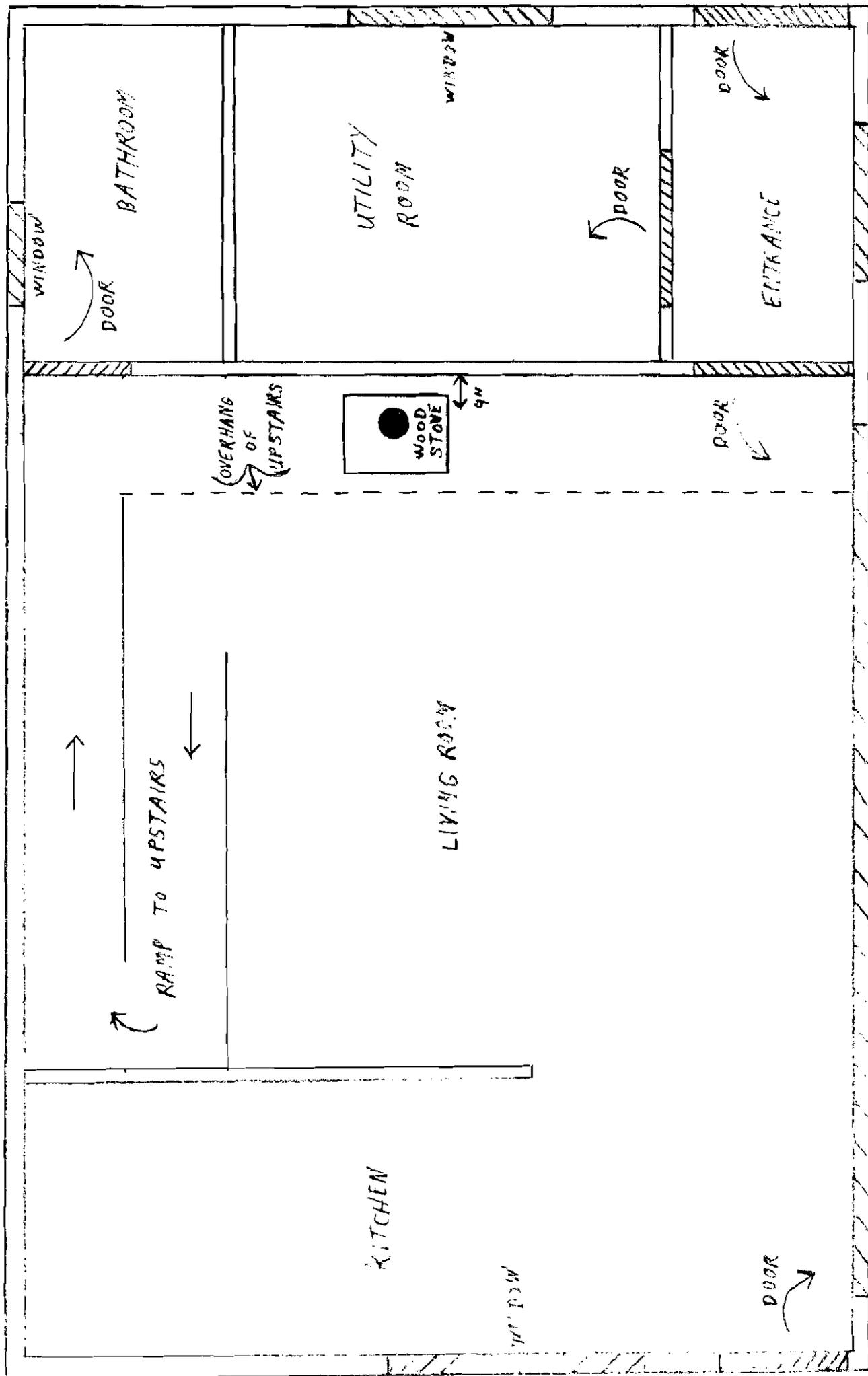


DOWNSIDE

26 1/2' x 17' = 450 1/2 sq ft

N ↑

SCALE: 1cm = 1ft



PASSIVE SOLAR WINDOWS

WINDOW

CYPRESS DR

MIDDLE

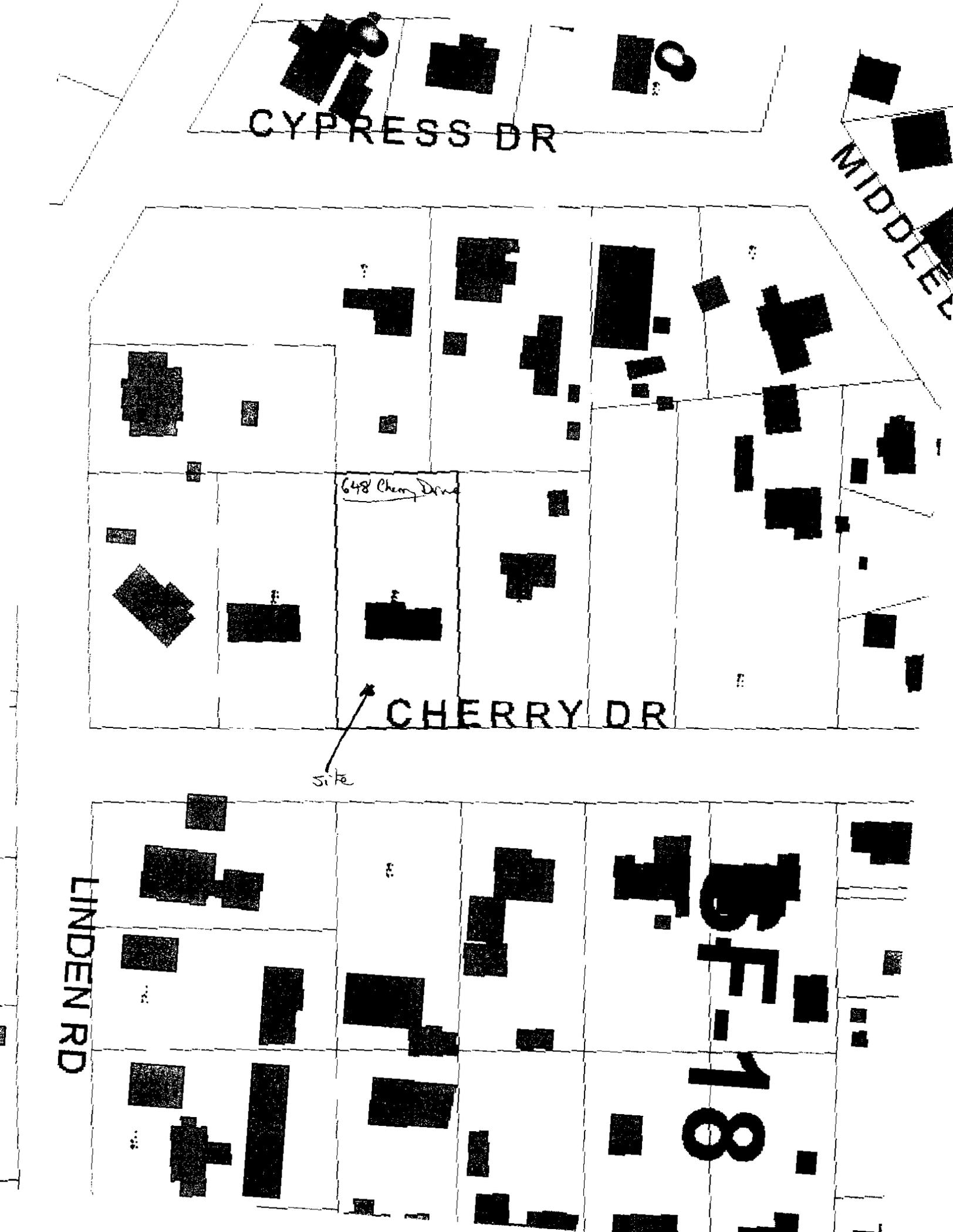
648 Cherry Drive

CHERRY DR

Site

LINDEN RD

BF-18



COMMUNITY DEVELOPMENT - PLANNING & ZONING DIVISION
BOARD OF ADJUSTMENT
STAFF REPORT
Meeting Date: 6/18/09

TO: Board of Adjustment Members
FROM: Tom Guice, Community Development Director
George Worley, Assistant Director *GW*
Mike Bacon, Community Planner *MB*
DATE: 6/10/09

Location: 1102 Iron Springs Road **Zoning:** BG **Parcel Number:** 115-09-057A
Applicant/Agent: Otwell and Associates Architects, 121 E. Goodwin St., Prescott, AZ
Owner: Don Moon, P.O. Box 1513, Prescott, AZ 86302

REQUEST. This is a request to move the existing, iconic, free-standing Lloyd's Liquor sign to the roof and to exceed the maximum 50 sq. ft. allowed for signage. In order to improve the safety of the driveway into Lloyd's Liquors site, certain changes are being proposed to the property and the building. The sign is located on a pole in front (west) of the outer post supporting the porte cochere (see drawing A1.1, Existing Site). The proposal is to move the porte cochere further to the east so that there is more maneuvering and stacking room for the drive-up window and to also move the window further to the east. The owner desires to keep and recycle the existing signage, including the neon-lighted "barrel" and to relocate that sign to the top of the building (see drawing A1.3, Proposed Site).

PRESCOTT PRESERVATION COMMISSION. The Prescott Preservation Commission voted 6:0 to support a variance for a roof-top sign because of the historic nature of this iconic neon sign.

STAFF ANALYSIS.

Lot Size: ±7840 sq. ft.)

Land Development Code Requirement: Table 6.12.5A & 6.12.5B and Section 6.12.8.A

Compliance with Zoning Code and ARS 9-462.06: Yes

Neighborhood Residents Concerns: As of this date, no comments or phone calls have been received from any area residents.

Existing Conditions.

The square footage (48.5 sq. ft.) of the freestanding sign currently on the site exceeds the allowable 24 sq. ft. allowed under the current Land Development Code, but is grandfathered in.

Land Development Code. The Code prohibits roof mounted signs. By allowing the requested freestanding sign to be moved onto the roof, the sign can be then be considered

a "new" sign and exceed the maximum 50 sq. ft. of signage allowed for the site. No calculations were submitted which indicate the present amount of signage on site—but the neon sign appears to exceed code in size.

National Register Status. This property is not listed in the National Register of Historic Places.

Historic Preservation Master Plan. The Historic Preservation Master Plan does not address this location.

Photos. See attached full-sized plan for photos described in this report.

Variance Criteria (LDC Section 9.13).

The Board of Adjustment shall consider the following specific criteria (*Italicized text indicates staff comments*).

1. Extraordinary Conditions.

There are extraordinary or special conditions affecting the land involved such that strict application of the provisions of the code will deprive the applicant of the reasonable use of his land. *Due to the widening of Iron Springs Road several years ago, the front of the building, the porte cochere and drive-up window are closer to the street than prior to the widening. This has created a very unsafe condition due to the location of the pole-mounted sign, the narrowness of the driveway, the closeness of the porte cochere and its supporting CMU posts to the street and the lack of stacking room (see drawings A1, 2, 3 & 4, Proposed Site on the full-sized plan).*

The amount of signage is currently grandfathered in.

2. Substantial Detriment.

Granting of 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. *There are no detriments.*

3. Special Privileges.

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 the property is located. *No other similar variances have been applied for in the surrounding neighborhood area.*

4. Self-Induced Hardship.

The hardship is not the result of the applicant's own actions. *Although the proposal to move the sign is of the applicants own action, his action is mitigated by the special circumstances of the City widening of Iron Springs Road which has reduced the size of his property.*

5. General Plan.

Granting of the Variance would be in substantial compliance with the General Plan or

other relevant area plans or neighborhood plans.

General Plan Consistency. *The project area is designated as "Commercial" on the 2003 General Plan Land Use Map. Applicable 2003. The project is consistent with the General Plan.*

6. Utilization.

Because of special circumstances applicable to the property, including size, shape topography, location or surroundings, the strict application of the ordinance will deprive such property of privileges enjoyed by other property of the same zoning district.

A. Surroundings. Prescott is noted for its historic districts (13 National Register Districts and 15 Local Preservation Districts) with their tourist appeal and sustaining or improving of neighborhood property values. The community's character and preservation of its cultural and natural resources resulted in its designation as a "Preserve America Community" by Laura Bush in 2004.

National Park Service Preservation Bulletin #25 addresses the preservation of historic signs. The Lloyd's sign dates from the early 1970s. Although this sign is not 50 years old, and therefore is not technically a "historic sign", it is a unique sign in Prescott and represents a time period in Prescott when creative neon signs were a signature of the community. Today, very few of those signs remain. Bulletin #25 states, in part, "historic signs give continuity to public spaces, becoming part of the community memory. Furthermore, in an age of uniform franchise signs and generic plastic 'box' signs, historic signs often attract by their individuality. . .". Bulletin #25 further states: "signs often become so important to a community that they are valued long after their role as commercial markers has ceased. They become landmarks . . . ". In these cases, signs transcend their conventional role as vehicles of information, as identifiers of something else. When signs reach this stage, they accumulate rich layers of meaning. They are valued in and of themselves."

The City of Prescott has a list in the Land Development Code of signs which have reached the "icon" stage. This list (Section 4.4.9.G), however, is for signs only in the downtown area). Although the Lloyd's Liquors sign is not on this list (nor are other signs outside of the downtown area) it could be argued that it has reached the "icon" stage as it is the only sign of its type in Prescott and is the only long-standing sign in that area of Iron Springs Road.

B. The widening of Iron Springs Road has impacted the site (See #1 above).

C. The recognition and support of the Prescott Preservation Commission for the historic nature of this iconic signage.

D. The overall height of the sign will not be increased by it's placement on the building roof; in fact, visual observation on-site and the photos reveal that the sign will be somewhat lower that it currently is as a free-standing sign.

E. The architect has explained to Staff that relocating the sign pole on site is not feasible.

F. By allowing the sign on the roof, the relocated sign could possibly be interpreted as a "new" sign and affect the overall sign square footage. Approval of a variance for relocating this sign will also allow it to exceed the presently allowed 24 sq. ft. of permitted signage (currently grandfathered in) and address this technicality of the code.

STAFF RECOMMENDATION. Staff recommends approval of this variance requests for reasons stated in #6 Utilization above.

SUGGESTED MOTION:

MOVE TO APPROVE VARIANCE #09-004 in accordance with attached site plan dated April 20, 2009.



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

VARIANCE APPLICATION

V# 09-004

Property Address: 1102 Iron Springs Road

Assessor's Parcel Number (s)(APN): 115-09-057A

Township _____ Section _____ Range _____ Current Zoning: BG

Subdivision Name: _____

		<i>For Staff Use Only</i>
Owner Name & Address: <u>Don Moon</u> <u>PO Box 1513</u> <u>Prescott, AZ 86302</u> Phone: <u>828 778-7934</u> Fax: <u>donbmoon@yahoo.com</u> Email: _____		Date Received: <u>5/19/09</u> Taken In By: <u>MBB</u> Assigned To: _____ Date Application Complete: _____
Applicant/Agent Name & Address (If different than property owner, Agent letter must accompany submittal): <u>Otwell Associates Architects</u> <u>121 E. Goodwin Street</u> <u>Prescott, AZ 86303</u> Phone: <u>928 445-4951</u> Fax: <u>928 778-6120</u> Email: <u>bill@otwell-architects.net</u>		Fees & Charges: _____ Receipt #/Date: _____ PAC Date: _____ BOA Date: _____

Description of Request: Relocate the original sign to the roof of the building to allow removal of the post impeding traffic and allow for relocation of the drive-up window to the north. This will allow additional stacking distance to prevent patrons vehicles from blocking traffic.

Scott Westbrook [Signature] 5.18.09
 Name Signature Date

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.

The post supporting the sign is a traffic hazard, limiting the ability to turn into the drive-thru.

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.

The sign is unique and considered a cultural artifact.

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).

The sign post causes traffic to back up on Iron Springs Road.

~~This is not a self-imposed hardship. This issue was created by the widening of Iron Springs Road.~~

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.

Removing the sign from the post and installing it on the roof will make Iron Springs Road traffic flow better and be safer.

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

Granting the variance will improve traffic and business access for the neighboring properties. By removing the post we can also relocate the drive-up window to the north to allow for more stacking distance for patrons.