



# BOARD OF ADJUSTMENT AGENDA

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**BOARD OF ADJUSTMENT  
PUBLIC HEARING  
THURSDAY, JUNE 19, 2014  
9:00 AM**

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

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The following agenda will be considered by the BOARD OF ADJUSTMENT at its PUBLIC HEARING to be held at 9:00 AM on June 19, 2014, in COUNCIL CHAMBERS, CITY HALL, 201 S. CORTEZ STREET, PRESCOTT, ARIZONA. Notice of this meeting is given pursuant to Arizona Revised Statutes, Section 38-431.02.

**I. CALL TO ORDER**

**II. ATTENDANCE**

**Members**

Mike Klein, Chairman	Phil King
George Wiant	Richard Rosa
Johnnie Forquer	Mike First
James DiRienzo	

**III. REGULAR AGENDA / PUBLIC HEARING ITEMS**

1. Approval of May 15, 2014 meeting minutes.
2. V14-005, Request to reduce rear yard setback from 25 feet to 4 feet 11 inches at 7 Perkins Drive to permit attachment of an existing free standing garage to the existing home. APN is 102-07-073A. Zoning is Single-family, SF-9. Owner/Applicant is Michael Willinger. Project Planner is George Worley.

**IV. REVIEW ITEMS**

**V. SUMMARY OF CURRENT OR RECENT EVENTS**

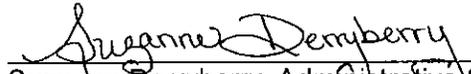
**VI. ADJOURNMENT**

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.

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### CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at Prescott City Hall and on the City's website on June 12, 2014 at 2:00 PM in accordance with the statement filed with the City Clerk's Office.

  
Suzanne Derryberry, Administrative Specialist  
Community Development Department



# BOARD OF ADJUSTMENT AGENDA

**BOARD OF ADJUSTMENT  
PUBLIC HEARING  
THURSDAY, MAY 15, 2014  
9:00 AM**

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

MINUTES OF THE PUBLIC HEARING OF THE BOARD OF ADJUSTMENT held on May 15, 2014 in Council Chambers, City Hall, located at 201 S. Cortez Street, Prescott, Arizona 86303.

## I. CALL TO ORDER

Chairman Klein called the meeting to order at 9:00 a.m.

## II. ATTENDANCE

### Members

<i>MEMBERS</i>	<i>STAFF PRESENT</i>
Michael Klein, Chairman	George Worley, Planning Manager
Johnnie Forquer	Suzanne Derryberry, Administrative Specialist
Phil King	Matt Podracky, Assistant City Attorney
James Di Rienzo	<i>COUNCIL PRESENT</i>
George Wiant	
Richard Rosa	
Mike First	

## III. REGULAR AGENDA / PUBLIC HEARING ITEMS

1. Approval of the February 20, 2014 meeting minutes.

Mr. Wiant, MOTION to approve the February 20, 2014 meeting minutes. Mr. Di Rienzo, 2<sup>nd</sup>. VOTE 6-0; passed.

2. V14-002-Request to reduce rear yard setback from 30 feet to 10 feet at 897 Downer Trail to permit construction of a single-family home. APN 111-10-018. Zoning is Single-family SF-35. Owner is Tony and Michele Hamer. Applicant is Marc VanWormer.

Mr. Worley reviewed the staff report and indicated that the request was for a variance for the rear setback of the property for the construction of a house. He noted that the applicant was proposing the construction of a house on the site in the rear quarter of the lot due to rock outcroppings throughout the site.

Mr. Worley displayed the site plan on the overhead projector and discussed the placement of the house. The proposal was to reduce the rear setback from the required 30 feet down to 10 feet in order to fit the house into the proposed area of construction.

Mr. Worley indicated that the applicants and prospective property owners were present for any questions. He also noted that a letter of objection had been received from the adjacent property owner.

Commission discussions were related to elevation differences between the two lots and self imposed hardships.

Mark VanWormer, 11130 Williamson Valley Ranch Rd, stated that there was a 24 foot elevation change between the proposed home and the existing adjacent home. He noted that the closest distance between the two homes would be 62 feet and that it was important to understand that the proposed house could be constructed within the 30 foot setbacks but then distance would be reduced to approximately 40 feet between the two homes.

Mr. VanWormer stated that the goal was not to decrease the privacy for either homeowner and because of that they felt the proposed location on the property would best achieve the maximum amount of privacy.

Tony Hammer, 3015 Pamela St, stated that he was in the process of purchasing the lot and they had a series of meetings with Mr. Faulkner to discuss the home design and the possible options pertaining to that lot. He went on to discuss the difficulties of building on the parcel due to the rocky nature of the site, as well as privacy issues as suggested by Mr. Faulkner.

Mr. King wanted to know why the code should be changed to accommodate the house rather than the house accommodating the lot. Mr. Hammer stated that it was a very peculiar lot which created various difficulties in attempting to design a home for that parcel of land.

Mr. Wiant stated that he felt it was a self induced hardship; therefore, he was having a difficult time entertaining the idea of approving the variance request.

Mr. Rosa discussed his concerns related to the self induced hardship as well as elevation variations between the two lots.

Discussions took place regarding the proximity of the two parcels of property as well as privacy concerns.

Mr. VanWormer pointed out that the driving force behind the variance request was not associated with a financial hardship, rather just the most logical place to construct the home with the least amount of privacy issues.

Continued discussions took place regarding the deck, elevations and structure setbacks. Mr. Klein questioned whether the applicant would consider constructing the deck as uncovered. Mr. Hammer stated that if it would be a requirement of the variance then he would certainly consider it.

Carlos Leyva, 2075 Gunsite Rd, discussed the footprint of the house design and the boulder locations on the property.

Mr. Di Rienzo discussed the placement of the home and various options to adjustment the proposed placement.

Joanne Frerking, 129 Apollo Heights Dr, stated that she was the current owner of the lot. She went on to discuss the uniqueness and beauty of the piece of property. She also explained the difficulties associated with the placement of a home on the property and that the proposed plan would not cause any privacy impacts to the adjoining property owner.

Robert Israel, 1904 Larchwood Cir, discussed topics related to the proposed design, privacy concerns, and the layout of the lot.

Dan Faulkner, 1344 Gifford Dr, neighboring property owner, discussed concerns regarding the proposed placement of the home, setbacks, and privacy. He also noted that he was not objecting to the construction of the deck.

Michelle Hammer, 3015 Pamela St, discussed the design of the home and concerns related to privacy issues.

Discussions took place to table the issue until the following hearing. Mr. Worley pointed out that the actions of the Board of Adjustment are considered quasi judicial with appeals of the action of the board being sent to the court system.

Mr. Di Rienzo, MOTION to table the agenda item V14-002 one month to allow the applicant and adjoining homeowner time to come to a consensus. Mr. Wiant, 2<sup>nd</sup>. VOTE 5-2; MOTION Failed.

Mr. Rosa, MOTION to deny V14-002, request to reduce rear setback from 30 feet to 10 feet to permit the construction of a house. Mr. King, 2<sup>nd</sup>. VOTE 5-2 (First and Klein Opposed); MOTION passed.

3. V14-003-Request to permit recreational vehicle to be used as a caretaker residence on residential property at 910 Country Park Drive. APN is 116-01-043. Zoning is Single-family SF-35. Owner/Applicant is Juliana Hutchins Greer.

Mr. Worley reviewed the staff report and indicated that the request for the use of a recreational vehicle to be used on a residential lot as a caretaker residence for the care of the applicants elderly mother.

Continued discussions were related to the City Code and Land Development Code.

Mr. Worley concluded by stating that a letter of opposition was received from a nearby property owner and that the applicant was available for any questions.

Mr. Wiant discussed having a time limit placed upon the variance.

Juliana Hutchins, 75 Oakmont Street, discussed the need for her brother to be able to stay on the property to care for their elderly mother who has medical conditions.

Mr. Wiant wanted to know if Ms. Hutchins would be willing to agree to a time limitation. Ms. Hutchins stated that she would not have any issue with such conditions of the variance and that once her mother no longer resides at the address that she would provide notice to the city.

Christina Zepeda, 2320 Cyclorama, stated that she specifically purchased the property based on the fact that the zoning did not allow for such proposed uses. She continued by

discussing other aspects related to the proposal and concluded by requesting the variance not be granted.

Mr. Di Rienzo, MOTION to approve V14-003 with the following condition:

The variance would only be active and effective up until the time Margaret Hutchins either moves to another location, or the situation changes, at which time the city must be notified and the variance would then immediately become void. Mr. Wiant, 2<sup>nd</sup>. VOTE 7-0; passed.

Mr. Klein called for a 10 minute recess.

4. V14-004-Request to reduce side yard setbacks from 7 feet to 4 feet at 143 S Alarcon to permit the construction of a garage in the rear of the existing home. APN is 109-01-050. Zoning is Multifamily MF-M. Owners are Daniel and Antoinette Zorich. Applicant is Bill Otwell.

Mr. Worley reviewed the staff report and indicated that the lot was particularly narrow which was not often seen in the downtown area. Because of that, it would be difficult to meet the side yard setback. He indicated that the request was to allow the construction of a garage in the rear portion of the existing house.

Daniel Zorich, 143 S Alarcon, discussed the issue of water runoff and stated that he had added gutters to the house to mitigate the problem.

Molly Clark, 304 E Goodwin, stated that that her property would be the one most affected and that she felt the construction of the garage would improve the neighborhood as well as helping to get vehicles off the street.

Mr. Wiant, MOTION to approve V14-004, request to reduce both side setbacks from 7 feet to 4 feet to permit the construction of a garage, with the understanding that an water runoff must be taken care of. Mr. Rosa, 2<sup>nd</sup>. VOTE 7-0; passed

#### **IV. REVIEW ITEMS**

Mr. Klein discussed the compliance meeting and wanted further clarification regarding site visits. Mr. Podracky said he would look into it and would place it on the next agenda.

#### **III. SUMMARY OF CURRENT OR RECENT EVENTS**

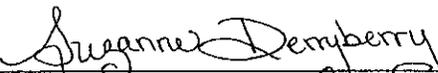
None

#### **IV. ADJOURNMENT**

Chairman Klein adjourned the meeting at 10:33 a.m.

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Mike Klein, Chairman

  
Suzanne Derryberry, Administrative Specialist  
Community Development

**VAR # V14-005**

**VARIANCE**  
**Reduce Rear Yard Setback**  
**7 Perkins Drive**

COMMUNITY DEVELOPMENT – PLANNING AND ZONING DIVISION  
BOARD OF ADJUSTMENT MEETING FOR **June 19, 2014**

**STAFF REPORT**

**TO:** Board of Adjustment

**FROM:** Tom Guice, Community Development Director   
George Worley, Planning Manager 

**Date:** June 16, 2014

**Location:** 7 Perkins Drive

**Parcel No:** 102-07-073A

**Zoning:** SF-9

**Owner:** Michael Willinger  
7 Perkins Drive  
Prescott, AZ 86301

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**REQUEST:**

This is a request for a variance to reduce the rear yard setback of this parcel from 25 feet to 4 feet, 11 inches, to allow for the attachment of an existing detached utility building to the principal building.

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

**ZONING CODE REQUIREMENT:** LDC Section 3.6

**PAST BOARD OF ADJUSTMENT ACTIONS:** None

**BACKGROUND:**

The applicant owns a Single-family residential property containing a home and a utility building. Setbacks for the home are 25 feet front and rear, and 7 feet on the sides. The existing home meets all of these requirements. Setbacks for the detached utility building are 25 feet front, 4 feet rear, and 7 feet sides. The applicant desires to attach the utility building to the home, making it an integral structure. This results in the currently compliant home now being only 4 feet, 11 inches from the rear property line.

The applicant expresses a need for additional storage and workshop space. He sought options for additional space at the west end of his property where some space is available. However, that portion of his lot is historically subjected to considerable storm water flows during rainy periods. Design and construction of workshop space would be difficult, and reasonable access to the structure would be impractical.

The applicant's residence adjoins the golf course along the entirety of his rear property line. The applicant has gated the space between the home and the utility building to shield view of the area. From the perspective of any neighboring properties, the building already appears to be attached. The shielded space is not considered an attachment and is not enclosed, as defined by the LDC. No adjoining or nearby residential property owners would be adversely affected by this request.

STAFF ANALYSIS AND RECOMMENDATION:

The staff analysis and recommendation is based on a review of the request's consistency with the 2003 General Plan, and consistency with neighborhood characteristics, as well as the variance requirements of LDC Section 9.13.4.

COMPATIBILITY WITH THE NEIGHBORHOOD:

The area is a Residential neighborhood. The proposed garage is accessory to a single-family home and would be compatible with the surrounding uses.

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

VARIANCE CRITERIA:

1. **Extraordinary Conditions.** 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.

*Other available space on the applicant's lot is subject to significant limitations caused by storm water flows that render it impractical for use. Attaching the existing utility building to the principal residence appears to be the only reasonable solution.*

2. **Substantial Detriment.** It will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area.

*There are no apparent detriments to the public health or safety resulting from this request.*

3. **Special Privileges.** 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.

*The variance requested would not grant a special privilege to the applicant other than reduced setback. Other properties in the vicinity are not affected by the constraints placed upon this property by storm water runoff. Granting this variance would not grant a privilege inconsistent with limitations upon other properties in the vicinity.*

4. **Self-induced Hardship.** The hardship is not the result of the applicant's own actions.

*The hardship is directly related to the inability to reasonable use a portion of the applicants' lot resulting from storm water flows outside of the control of the applicant.*

5. **General Plan.** It will be in substantial compliance with the General Plan or other relevant area plans or neighborhood plans.

*The site is designated residential on the General Plan Land Use Map. The proposed attachment of the utility building does not change the principal use of the property. The property would remain in conformance 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.

*The applicant has based his request upon the inability to place a structure on the only other available space on the lot. The limitation is not the result of actions by the applicant. Strict application of the zoning ordinance would deprive the applicant of privileges enjoyed by other properties in the same district.*

**NEIGHBORHOOD COMMENTS:**

Staff has received no comments from the public regarding this request.

**STAFF RECOMMENDATION:**

Based upon the above findings, staff recommends approval of variance request V14-005.

**SUGGESTED MOTION:**

Move to Grant Variance #V14-005, a request to reduce the rear yard setback from 25 feet to 4 feet, 11 inches, to permit the attachment of the existing utility building to the existing home.

Parcel Report for APN 102-07-073A

Site Address: 7 PERKINS DR

Owner  
WILLINGER MICHAEL THOMAS  
7 PERKINS DR  
PRESCOTT AZ 86301

Subdivision Name: ANTELOPE HILLS AMENDED

Max. Lot Coverage: 40%  
Max. Bldg Height: 35 ft  
Setbacks  
Front: 25 ft  
Side: 7 ft  
Rear: 25 ft  
Corner: 15 ft

Acres: sq.ft.  
Square Ft: T15 R2 S36  
TP's

DOF Usage Code Residential  
Description: 0130-SFR-AVERAGE/AVERAGE PLUS

**Zoning Information**

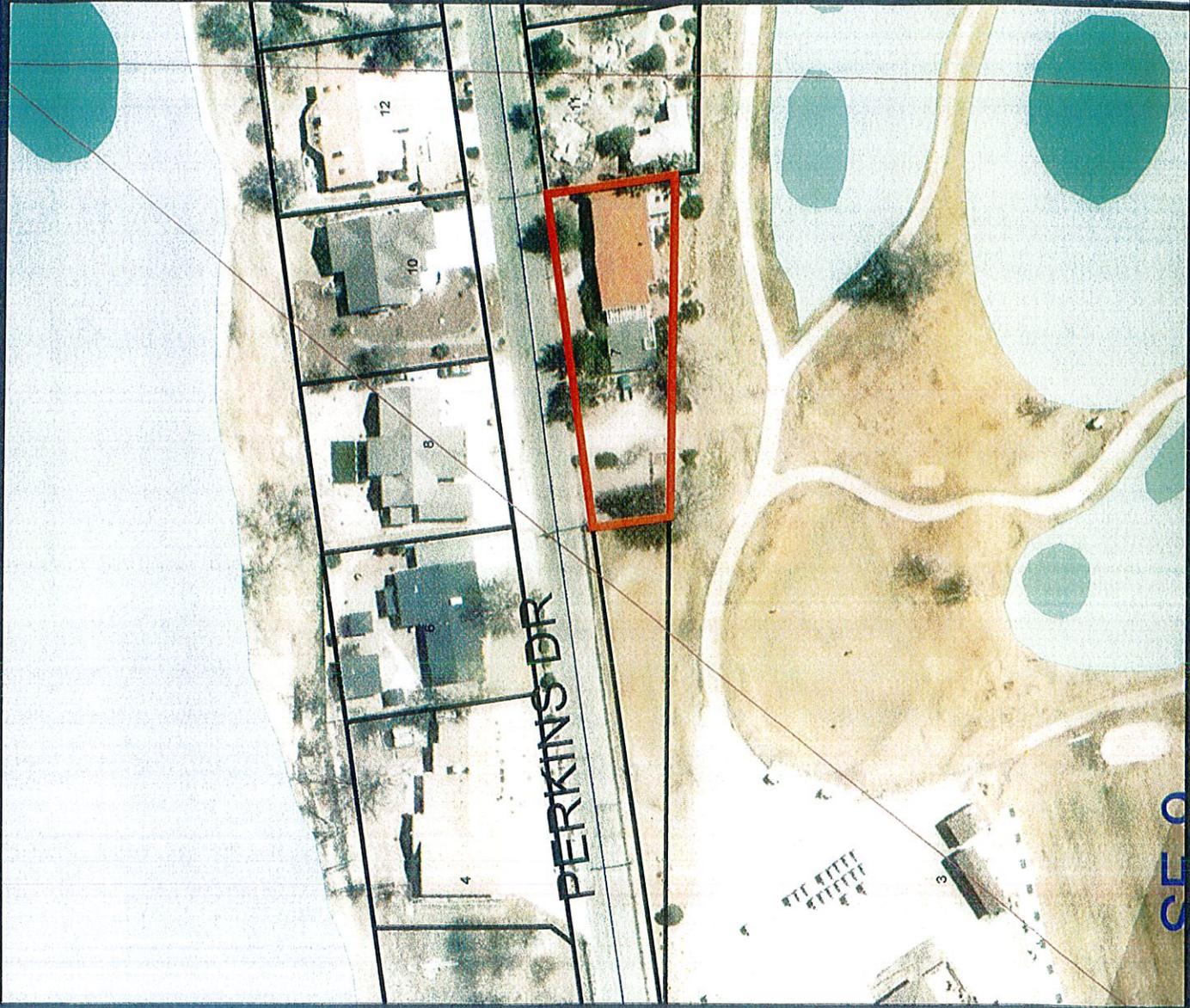
Zoning: SF-9

Flood Zone: X;  
FIRM Panel: 04025C1695G

**Overlay District Information**

HPD District: Outside  
NR District: Outside  
Yellow Creek District: Outside  
Whipple-Luma District: Outside  
Hwy 69 District: Outside  
Prescott East Area Plan: Outside  
Prescott Enterprise: Inside  
Airport Noise District: Outside  
Wildlife Urban Interface: Outside

**Planner's Actions:**



7 PERKINS DR



This map is a product of The City of Prescott



This document is a graphic representation only of best available courses. The City of Prescott assumes no responsibility for any errors.

## 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 lot is located at the low point in the road and subsequently the storm sewer in the road is adjacent to the property. The property owner is to provide drainage from the street across the property to the Antelope Hills South Golf Course, where it is then carried past the back of this property to a wash. The storm sewer drainage has been provided by the homeowner. Two unique conditions manifested after the home was built that rendered the West end of the property unsuitable for use by the owner. First, construction of the South Antelope Hills Golf Course adjacent to the property changed the drainage dynamics with adjacent higher elevations sending additional water towards the property; and secondly, the street curbing across the front of the property of approximately 200 feet was deteriorated to the point that storm water would breach the curb and flood the property. Attachment A shows photographs of a typical storm and the resultant impact of water flowing into the yard from Perkins Drive from both directions.**

**In an attempt to mitigate the water on the property, in the late 1990's the owner and the Golf Course partnered to improve the drainage. The owner at his expense increased the size of the underground storm sewer culvert under the drive way through the property to a tee in a culvert installed by the golf course. Since the owner was having water reach the house, a breezeway was created with a new pitched concrete floor added that would allow excess water to drain through the breezeway in lieu of the water resting against the North side of the house. This level of mitigation did not alter the flooding issue. Note: The photographs in Attachment A were taken within the last two years.**

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 owner, unlike others in the area has been severely restricted in use of the available property. In particular, it was impossible to consider creating a wood shop, either by adding one, or converting the garage to a wood shop and adding another garage at the West end of the property. As a result to pursue further personal use of the property a separate wood shop (shed, as shown by the building permit) was added behind the house and in compliance with setback requirements for an unattached structure.**

**The home owner was unable to find a suitable construction area to permit use of the property other than where ultimately used, but is limited by setback issues when contemplating a change to improve the woodshop area.**

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 property owner, as a result of these conditions has been restricted in use of approximately 30% of the property and required to make property use decisions accordingly. The flooding issues were not a result of actions by the homeowner.**

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.

**The location of the existing structure does not infringe on any other property owner in the Antelope Hills Subdivision. The Western and Southern adjacent properties are part of the South Golf Course. An easement and surface drainage area are adjacent to the property and part of the City/Golf Course property to the South.**

**The Eastern property created a unique condition of its own as the prior owner constructed a building to overlook the golf course. Reference is made to a structure added to the adjacent property (11 Perkins Dr.) where the prior owner, without variance approval, infringed on the City/Golf Course easement. This structure was added ten years before the woodshop. Attachment B shows a photograph of this structure extending approximately fifteen feet beyond the woodshop into the easement.**

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

**The changes to the woodshop will not extend any further toward the golf course. The Southern elevation will remain unchanged. Attachment B shows the proximity of the woodshop to the Antelope Hills South Golf Course.**

**Attachment A**



**Storm water breaches curb at front of home.**



**View to the East in front of house.**

**(1 of 3)**



**Water flows from street to driveway and garage on West side.**



**View from garage looking West towards golf course.**



**Flooding in garage from storm water  
(Wooden boat project shown in upper left corner)**

**Attachment B (1of 2)**



**View of South end of owner's structure towards golf course.  
The distance from back of structure to cart path is 45 ft.**



**View East shows the structure on the adjacent lot extending into the golf  
course easement. The adjacent structure extends approx. 15 ft beyond owner's  
structure.**

Attachment B (2of 2)



**Area owner wishes to enclose – removing lower deck, with matching siding and identical roof pitch. For appearance, shop was constructed identical to house, gluelam beams, T111 siding, matching doors and windows.**

## Addendum



**Storm surface water as it begins to drain through the golf course easement from the West End of the property and from the golf course area to the West. The culvert from Perkins Drive and the golf course storm drains is located directly below the surface drainage shown in the photo.**

