



BOARD OF ADJUSTMENT

MEETING AGENDA

Thursday, December 12, 2024

4:30 p.m.

- *Pledge of Allegiance*
- *Roll Call*

Regular Agenda Items

1. **Minutes: October 24, 2024**

2. **File BOA 2024-05:**

The Weber County Planning Office has received a request for a variance from public/private street and access easement minimum width standards to access a potential 3-lot subdivision. The approximate address of the property in question is 4680 E 2650 N, Eden, UT, 84310, in the AV-3 zone. There will be a public meeting of the Weber County Board of Adjustment on Thursday, December 12, 2024, at 4:30 p.m. in the Weber County Commission Chambers, located at 2380n Washington Blvd., 1st Floor Commission Chambers, Ogden UT, 84401.

Planner: Tammy Aydelotte

3. **File No. BOA2024-08:**

Request for a 7' variance to the minimum 20' side setback standard in the FV-3 zone.

Planner: Tammy Aydelotte

4. **File No. BOA 2024-09:**

Consideration and action on a request for a variance to the west side yard, and north rear yard setbacks, for the construction of a home within lot 144 of the Summit Eden Phase 1C Amendment 7 Subdivision.

Planner: Felix LLeverino

Adjournment

The Board of Adjustments meeting will be held in the Weber County Commission Chambers, in the Weber Center, 1st Floor, 2380 Washington Blvd., Ogden, Utah

In compliance with the Americans with Disabilities Act, persons needing auxiliary services for these meetings should call the Weber County Planning Commission at 801-399-8374

October 24, 2024

Minutes of the Board of Adjustments meeting of October 24, 2024, held in the Weber County Commission Chamber, 2380 Washington Blvd. Floor 1, Ogden UT at 4:30 pm.

Member Present Laura Warburton – Acting Chair
 Rex Mumford
 Marshall McGonegal

Staff Present: Charlie Ewert, Long Range Planner; Tammy Aydelotte, Planner; Lauren Thomas, Legal Counsel; Tiffany Snider, Secretary

- Roll Call
- Pledge of Allegiance
- Laura Warburton verified if any public was present (no public present)

1. Minutes: August 8, 2022. Approved as presented

2. BOA 2024-06:

Consideration and action on a request for a 7.11 foot variance to the front yard setback in the FR-1 zone, to facilitate the construction of an attached awning to an existing water treatment facility for Pineview Water, located at approximately 880 Ogden Canyon Rd, Ogden, UT, 84401.

Tammy Aydelotte cites ordinance for projections (LUP108-7-2) but indicates the variance is still required as the request projects 2 feet beyond what ordinance allows.

Questions for Tammy Aydelotte:

Q: Rex Mumford asks if there is an additional rear lot setback variance request and if any other portion of the building or buildings will require an awning.

A: Tammy Aydelotte has stated the only variance requested is for the front lot line and only the portion outlined on the site plan will require an awning.

Q: Are the small squares in the site plan toward the south supports for the awning? Does LUP108-7-2 (ordinance) allow for support structures within the projections?

A: Question is deferred to Ogden City representative regarding site plan. Footings are not allowed into projections.

Q: Laura Warburton asks about a government entity requesting a variance and the lack of similar requests to compare this to. She feels this should be a Planning Commission decision instead of the BOA. Because this doesn't have residences close, she wants to know why the BOA wouldn't approve it.

A: Each zone has its own development standards based on the zone, not the use. This request is for a main use building. Regardless if it is a residence or another main building the development standards are the same. Government agencies and utility companies are not exempt and are held to the same standards as anyone else in that zone.

Q: Rex Mumford asks if the development standards are for all structures within a zone and there are no exceptions, regardless of government agency or personal use.

A: Charlie Ewert verified what Tammy Aydelotte said with the exception that public utilities have some different setbacks for the side lot lines only.

Q: LW looking for reasons to approve this request based on most recent training.

A: TA offers LW the reasons stated in ordinance to approve variance.

October 24, 2024

Representative Brady Herd from Ogden City Water

Stated this request does not negatively impact the General Plan. Ogden City Water serves 90,000 people daily. The building in question is a critical part of the water infrastructure and the ability to produce clean water to Ogden City. The main reason for the request is for the safety of the workers. It will prevent the necessity of backing a large truck into a structure lined with heavy equipment. Instead the trucks can stay under the canopy. It also will aid with snow removal challenges.

Q: LW asks if the variance request is granted, will the canopy inhibit snow removal for the state on Ogden Canyon road.

A: BH states it will not.

Q: How long will the truck sit under the canopy?

A: It depends on how quickly the waste water gets processed.

Q: Where are the support beams?

A: Up against the grassy area. The roof projection will be 1' 2".

Q: How big is the awning?

A: 39'6"x32'

Q: Can the city build a permanent structure there in the future?

A: They would have to apply to build for a different use. Be specific in the motion.

Q: What are the materials of the building and the pitch of the roof?

A: Steel. 1.50 x 12

Q: How long has the building been there?

A: 10 years

Q: Will you be able to run two trucks.

A: Depending on production, yes.

Q: Were neighbors notified? Was the meeting posted?

A: No neighbors to notice. The meeting was posted.

Discussion:

Rex Mumford: Not uncomfortable with request due to lack of neighbors, no comparable, functionality makes sense, safety is a good reason. Special circumstances attached to the property. Is there a concern for precedence?

Lauren Thomas: There is a five part criteria for approval. Consider code.

LW: Does not go against the General Plan.

RM: Makes a motion to approve BOA 2024-06 in the FR-1 zone a request for a 7.11 foot variance based on:

- Not self-imposed
- Not against general plan
- Does alleviate a hardship
- Special circumstances geographically with property due to location of the river to the north.
- Not contrary to public interest.
- Limited to the existing awning as proposed

Motion draws a 2nd.

Marshall McGonegal Aye

Marshall McGonegal: Aye

Rex Mumford: Aye

Motion carries (3-3)

Rex Mumford questions if we should select a vice chair. Cannot because it wasn't noticed.

Adjourned

October 24, 2024

**Respectfully Submitted,
Tiffany Snider**



Staff Report to the Weber County Board of Adjustment

Weber County Planning Division

Synopsis

Application Information

Application Request: Consideration and action on a request for a variance from street and access easement width standards, located at approximately 4680 E 2650 N, Eden, UT, 84310.

Agenda Date: Thursday, November 07, 2024

Applicant: Kody Holker

File Number: BOA 2024-05

Property Information

Approximate Address: 4680 E 2650 N, Eden, UT, 84310

Project Area: 9.68 acres

Zoning: Agricultural Valley (AV-3) Zone

Existing Land Use: Vacant

Proposed Land Use: Vacant Residential (3-lot subdivision)

Parcel ID: 22-040-0037

Township, Range, Section: T7N, R1E, Section 33, NE qtr & Section 28, SE qtr

Adjacent Land Use

North: Vacant	South: Agricultural
East: Commercial	West: Agricultural

Staff Information

Report Presenter: Tammy Aydelotte
 tayelotte@webercountyutah.gov
 801-399-8794

Report Reviewer: FL

Applicable Codes

- Title 102 (Administration) Chapter 3 (Board of Adjustment)
- Title 104 (Zones) Chapter 2 (Agricultural Zone AV-3)

Development History

The applicant is requesting a variance to public and private right-of-way minimum width standards, as well as minimum width standards to a private access easement. The applicant’s narrative and site plan are included as **Exhibit A**.

County records indicate the following relevant development history. This history indicates that the hardship stated by the applicant may have begun with the division of land executed by the current owner (applicant), back in 2021.

2019 – Ownership changed to current owner.

2021 – Current owner deeded off parcel 22-407-0001 (parcel directly east of subject parcel) and sold to Noal Holdings LLC.

4/8/2024 – Subdivision application submitted to Weber County. Application deemed incomplete by Weber County, and access issues noted that could prevent approval of the subdivision.

9/13/2024 – Application to the Board of Adjustment, for a variance request was accepted by Weber County.

Background and Project Summary

The applicant is requesting the variance to allow for possible approval of a three-lot subdivision on the subject parcel. The parcel is accessed off of Clark Land (2650 North Street), a dedicated public right-of-way. 2650 North Street is a 60’ wide right-of-way. However, as this public street approaches the applicant’s property, the dedicated width changes. The developer of the parcel directly east of the subject parcel did not own to the centerline of the roadway. As such, the County can only ask for dedication of property that is owned by the developer. The right-of-way width as it approaches the subject parcel varies from 16’ to 19.68’ wide. This width does not meet the minimum width standard for access to the parcel. Per Weber County LUC 106-2-2.010 **Public Street Requirement** “The standard method of ensuring ease of access, efficient mobility, reduced response time for first responders, effective emergency management, strong neighborhood relationships through

interconnectivity, and a more equitable means of access to community opportunities, is by requiring Public Streets and Public Street connectivity at the time new development is proposed. As such, the default requirement for each subdivision Lot is to provide Lot Frontage on a street dedicated to the County as a public right-of-way and thoroughfare.

- (a) **Public Street dedication.** Each street in a subdivision shall be dedicated to the county as a Public Street, except when a Private Street is allowed or required as provided in this Section 106-2-2.
- (b) **Standard street cross-sections.** All proposed Public Streets shall conform to the county street cross-section standards, unless explicitly specified otherwise. "

Typical right-of-way width for a public roadway required by Weber County, is between 60' and 66'. Applicant cannot meet this requirement.

Weber County LUC 106-2-2.020 **Private Street Option.** In some cases, the County may find benefit from a street being temporarily or permanently private. However, an applicant is not entitled to make a street private. The Land Use Authority has full discretion, subject to regulations in the ordinance, to allow a street to be private. According to the street standards enforced by Weber County Engineering, 50' is the narrowest width permitted by the County Engineer, for a potential private right-of-way. This standard is below the norm typically requested by County Engineering. However, the applicant cannot meet this requirement.

Weber County LUC 106-2-2.030 **Shared Private Lane Option** This option is only permitted in areas where no public streets are planned. While there is no connection shown in the Ogden Valley General Plan, development is ongoing to the west and will necessitate connectivity to 2650 North Street. However, the minimum standards for a shared private lane cannot be met. The following standards apply to a shared private lane, Weber County LUC 106-2-2.030 states:

“(a) Shared private lane design, configuration, and construction requirements. A shared private lane shall be:

1. ***Design.*** Designed and constructed to have a minimum right-of-way width of 24 feet, with a minimum improved surface width of 20 feet. A greater right-of-way width may be required by the County Engineer for a cross-slope easement.
2. ***Configuration.*** Configured and constructed so that any curve will safely facilitate the turning radius and weight of the Fire Authority’s largest fire apparatus.”

Summary of Board of Adjustment Considerations

LUC §102-3 states that one of the duties and powers of the Board of Adjustment is to hear and decide variances from the requirements of the Weber County Land Use Code. For a variance to be granted it must be shown that all of the following criteria have been met:

- a. *Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Land Use Code.*
 1. *In determining whether or not literal enforcement of the land-use code would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship unless the alleged hardship is located on or associated with the property for which the variance is sought, and comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.*
- b. *In determining whether or not literal enforcement of the land-use code would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic. There are special circumstances attached to the property that do not generally apply to other properties in the same zone.*
- c. *In determining whether or not there are special circumstances attached to the property, the appeal authority may find that special circumstances exist only if the special circumstances relating to the hardship complained of, and deprive the property of privileges granted to other properties in the same zone.*
- d. *Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.*
- e. *The variance will not substantially affect the general plan and will not be contrary to the public interest.*
- f. *The spirit of the land use ordinance is observed and substantial justice is done.*

Staff Analysis

Listed below is staff's analysis:

- a. Literal enforcement of the ordinance would prevent a subdivision going in at this time, until the required roadway width can be secured. This is not a variance to setbacks or the stream corridor setback standards, this is a request to bypass County standards related to safe access to property.
- b. This may fall under a self-imposed hardship, as the current owner divided their land in such a way as to limit access to their parcel.
- c. County staff have encouraged the applicant to work with adjacent land owners in order to secure the required access for a subdivision. As such, the property right sought by the applicant may not necessarily be enjoyed by the property owner at this time, unless the Board finds special circumstances that would allow them to grant a variance to these street standards.
- d. Approval of this variance request may compromise safety standards, unless a solution can be reached by the applicant and the County to mitigate any detriment.

Conformance to the General Plan

Single-family dwellings are allowed as permitted use in the AV-3 zone. If the variance request is granted, it may not have a negative impact on the goals and policies of the Ogden Valley General Plan.

Exhibits

- A. 2024 Recorder's Plat
- B. Variance Application and Narrative
- C. Site Plan

Area Map

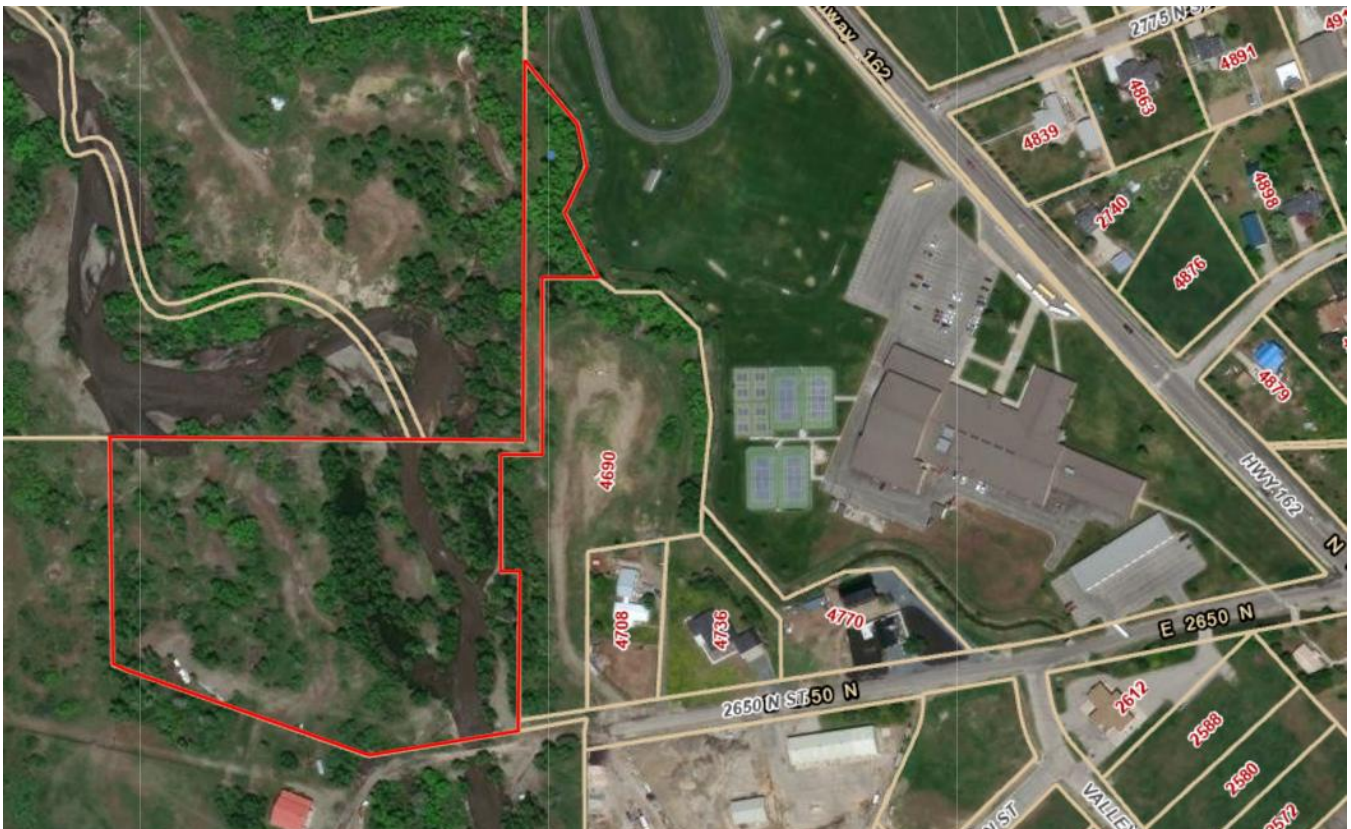


Exhibit A - 2024 Recorder's Plat

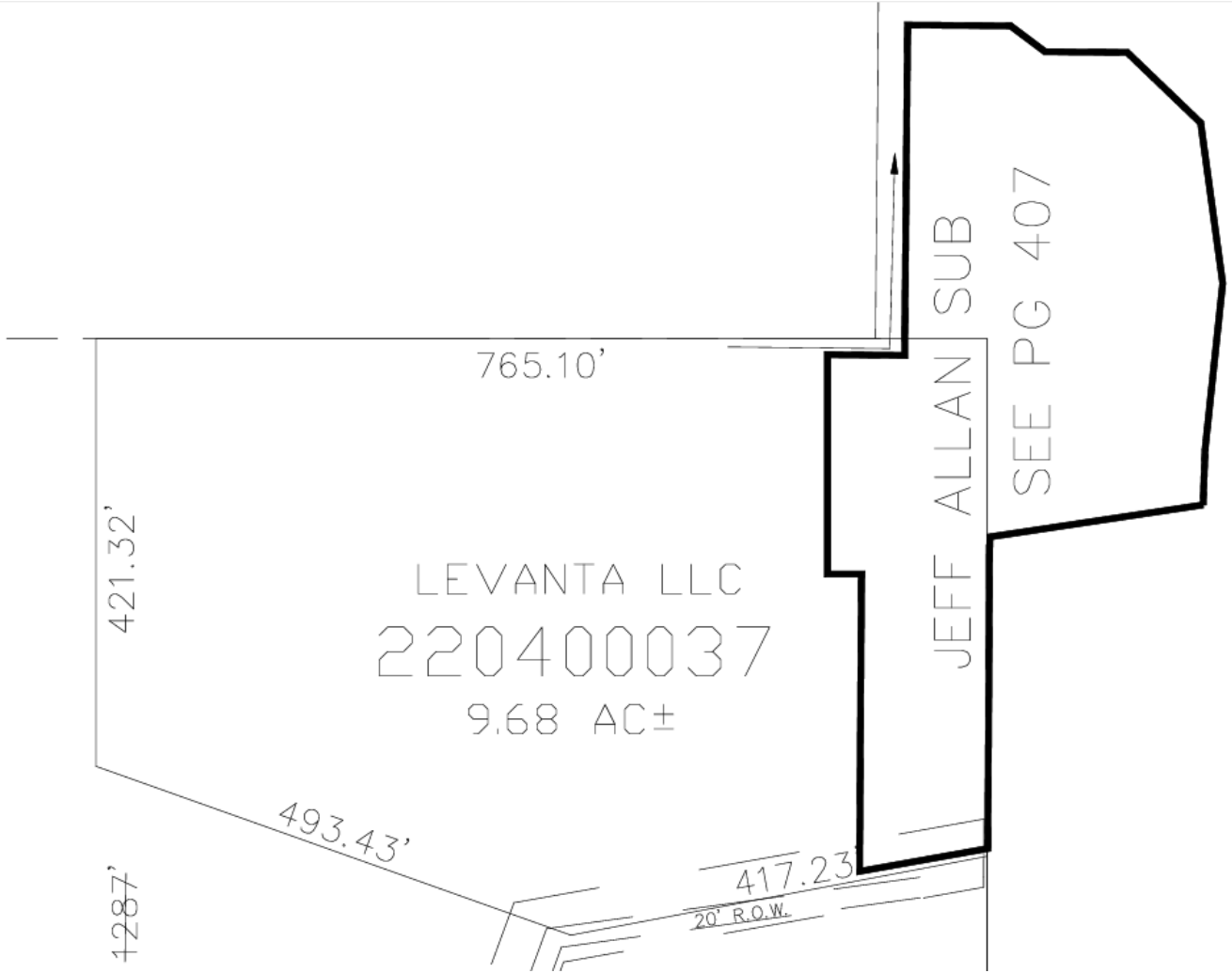


Exhibit B – Variance Application and Narrative

Holker-Kody-Board of Adjustment

[+ Add Follower](#)[✎ Change Status](#)[✎ Change Review Due Date](#)[✎ Edit Project](#)

Address: Addresses TBD Parcel ID: 220400037, Eden, UT, 84310
Maps: [County Map](#), [Google Maps](#)
Project Type: Board of Adjustment
Sub Type: Board of Adjustment
Created By: [Kody Holker](#)
Created On: 9/3/2024

Project Status: Accepted
Status Date: 9/13/2024
File Number: BOA 2024-05
Project Manager: [Tammy Aydelotte](#)

[Application](#)[Documents](#) 3[Comments](#) 1[Reviews](#) 1[Followers](#) 10[History](#)[Reminder](#) 0[Payments](#) 1[Internal](#) 0

Application

[+ Add Building](#)[+ Add Parcel](#)[+ Add a Contractor](#)[✎ Edit Application](#)[Print](#)[Building Permit](#)

Project Description

Holker Haven Estates is a 3 lot subdivision from a 10 acre parcel. This application is for a variance on specific code requirements that are impossible in the given situation.

Property Address

Addresses TBD Parcel ID: 220400037
Eden, UT, 84310

Property Owner

Kody Holker
612-518-7629

Kody@holkerlawoffices.com

Representative

Luke Kennard
385-321-0570
luke@mccleerycompany.com

Accessory Dwelling Unit

False

Current Zoning

AV-3

Subdivision Name

Holker Haven Estates

Number of new lots being created

3

Lot Number

3

Lot Size

3 acres

Frontage

160 ft

Culinary Water Authority

Eden Water Company

Secondary Water Provider

Wolf Creek Irrigation Company

Sanitary Sewer Authority

Health Department (Septic)

Nearest Hydrant Address

4770 E 2650 N, Eden, UT, 84310

Signed By

Representative, Luke Kennard

Parcel Number

[✕ Remove](#) 220400037 - [County Map](#)

To: Board of Adjustments

Subject: **Variance Request for Private Street and Easement Width Requirements**

Dear Members of the Board,

We are thankful for the opportunity to apply for this variance, and for your service to the community in considering our variance request.

Specific Codes from Which We Seek a Variance:

- Street Width Requirement (Sec 106-2-1 and Sec 106-2-2):

The land use code mandates that streets, whether public or private, maintain certain width standards to ensure safety and access. The minimum requirement for a public street is a 60-foot right-of-way. For shared private lanes, the requirement is a minimum improved surface width of 20 feet on a 24-foot right-of-way. Our current access point bottlenecks to approximately 16 feet in width, making compliance with these requirements impossible.

The ordinance does not state specifically what road width standard is required under Sec 106-2-2.020 for a Private Street Option. The ordinance is clear that an applicant is not entitled to make a street private, however an option does exist for the Land Use Authority (LUA) to allow or require a street to be made private. While seeking this solution does not constitute a variance in the typical sense, in the alternative to a variance to the Private Lane Option (Sec 106-2-2.030), we would ask the LUA to consider utilizing Sec 106-2-2.020 as a solution should the LUA deem it a better solution. If in fact it is determined that the same road with standards apply to both options, then we would likewise seek a variance of the Private Lane Option road width requirements.

- Easement Width for Future Public Street (Sec 106-2-2.030(b)):

According to this section, a shared private lane must include a recorded easement of at least 60 feet in width to allow for future conversion into a public street. Given the physical constraints of the property, particularly due to the presence of a river that limits available land for expansion, providing a 60-foot easement is not possible. This point is mitigated by the reality that Clark Lane is already set on its current trajectory, with curb and gutter already required to be installed at the 16 foot mark under the Development Agreement, which makes the need for additional land beyond the 16 foot mark illogical at best, or capricious and overly onerous at its worst. Absolutely no justification exists to require Clark Lane to widen beyond the current width of the public easement as required under the existing Development Agreement, for if a justification did exist, the County would have required it under the Development Agreement. The County only requested/required a 16 foot public access easement because that is what was required to keep the Clark Lane on the same Vector as it presently sits.

Efforts to Obtain Easements for Access:

Over the past several months, we have actively sought solutions with neighboring property owners, EJ and Jeff, to obtain a wider access easement, understanding that this would likely provide the best overall solution for the development.

- Engagement with EJ:

EJ owns the land directly to the West and the South of our property. We discussed possible easement options with EJ, but the current bridge, which he recently improved, does not meet the necessary capacity for a public road or a bridge that would comply with existing ordinances, particularly those regarding weight requirements of 75,000 pounds.

- Engagement with Jeff:

Jeff, the neighbor to the northeast, has been unresponsive to all our attempts to negotiate an easement, despite persistent efforts through various methods.

The river to the north of our property also blocks access, leaving EJ and Jeff as the only possible parties from which to obtain additional land or easements. Unfortunately, neither option has proven viable, which leaves us with no other option than to apply for this variance.

Justification for the Variance:

- Unreasonable Hardship:

Literal enforcement of the ordinance creates an unreasonable hardship. Our property has unique geographical constraints due to its location near a river, proximity to a neighbor's bridge, and only 16 feet of public access to the property. The 16 foot public access easement was arrived at through a Development Agreement with the County that is recorded with the County. While Utah State law grants, by operation of law, a private easement of access to their property across the public easement (Gilmer v. Wright, 850 P.2d 431, 437 (Utah 1993)), the public easement reserved in favor of the County under the Development Agreement only reserved a 16 foot public access, which access under the ordinance, is inadequate for a Shared Private Lane, and presumably for a Private Street Option. Given that no surrounding neighbor is allowing additional easement access, the project cannot meet the width and easement requirements. Given the involvement of the County in arriving at the 16 foot public easement under the Development Agreement, it seems to be an unreasonable hardship for the County to now deny access across the public easement, which is why a variance is necessary. Likewise, under Carrier v. Lindquist, 2001 UT 105, landowners whose property abuts public streets, alleys and public ways that appear on a plat map are entitled to a private easement over those public ways. The 16 foot public easement appears on the plat map. These constraints are specific to our property and do not generally apply to other properties in the same zone.

- Special Circumstances:

The presence of the river and the resulting limited space for road construction are special circumstances that do not apply to other properties. These natural barriers prevent us from meeting the standard road width and easement requirements. The County involvement in the Development Agreement, wherein the 16 foot easement was arrived at, also gives rise to Special Circumstances that are unique and particular to this property. The fact that a public easement exists to the property, however the public easement is in itself inadequate, creates Special Circumstances that create the need for a variance.

- Public Interest and General Plan:

Granting the variance will not negatively affect the public interest or the general plan. In fact, our proposed solution, which includes widening the road where possible and providing bump-outs every 150 feet as requested by the Fire Marshal, maintains safety and access for emergency services while accommodating the unique constraints of our site. Additionally, we agree to dedicate a portion of our land along the same trajectory as Clark Lane for a public right-of-way, allowing for the future extension of the road.

In the converse, the public is not benefited by having the land sit dormant and inaccessible, nor would the public be served in spending time and resources sorting the matter out in Federal Court. It is in the public interest to allow access to the property, so that a family can build a home on the property.

- Substantial Property Right:

The variance is essential for the enjoyment of a substantial property right possessed by other property owners in the same zone. Without the variance, we cannot proceed with the development, which would deny us the same opportunities enjoyed by neighboring properties. Furthermore, under the terms of the development agreement for the five acres to the east of our property, curb and gutter are set to be installed at the 16-foot mark. Extending the private easement beyond this point would be illogical, as curb and gutter belong at the edge of the street, not in the middle. Therefore, a 16-foot-wide road variance is the only solution that is consistent with the existing development agreement on record with the county.

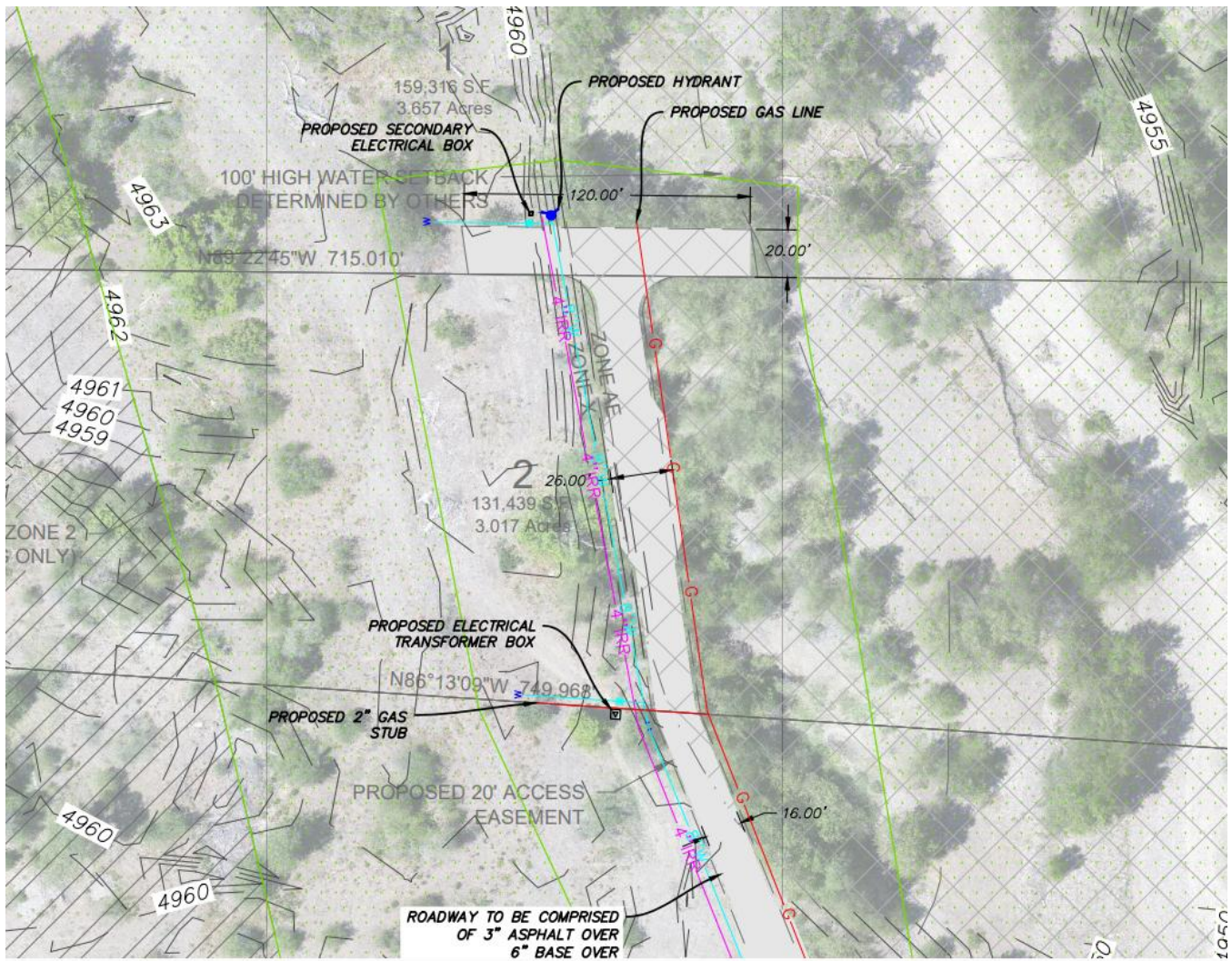
We appreciate your consideration of this variance request and believe that granting it aligns with the spirit of the land use ordinance and ensures substantial justice is done. In the alternative, should the Land Use Authority deem it appropriate, we would welcome the opportunity to accomplish the same outcome of obtaining access to the property by way of the Private Street Option, if required by the LUA.

Sincerely,

Kody Holker, President of Levanta, LLC
Property Owner
612-518-7629
kody@holkerlawoffices.com

Exhibit C – Site Plan







Staff Report to the Weber County Board of Adjustment

Weber County Planning Division

Synopsis

Application Information

Application Request: Consideration and action on a request for a 7 foot variance to the 20 foot side yard setback, in the FV-3 zone. This request comes from a lot of record located at 4116 East, 4100 North, Liberty, UT, 84310.

Agenda Date: Thursday, December 12, 2024

Applicant: Robert Heslop

File Number: BOA 2024-08

Property Information

Approximate Address: 4116 East 4100 North, Liberty, UT, 84310

Project Area: 1.40 acres

Zoning: Forest Valley (FV-3)

Existing Land Use: Vacant

Proposed Land Use: Residential

Parcel ID: 22-015-0084

Township, Range, Section: T7N, R1E, Section 21, NW 1/4

Adjacent Land Use

North: Residential	South: 4100 North St
East: Vacant	West: Forest

Staff Information

Report Presenter: Tammy Aydelotte
 tayelotte@webercountyutah.gov
 801-399-8794

Report Reviewer: FL

Applicable Codes

- Title 102 (Administration) Chapter 3 (Board of Adjustment)
- Title 104 (Zones) Chapter 17 (Forest Residential Zone FR-3)

Background

In September of 2022, this parcel was deemed a lot of record. A document was recorded to title reflecting this determination.

The applicant is requesting a 5' 8" variance to the minimum 20-foot side yard setback required in the FV-3 Zone, leaving a 14'4" foot setback from the east side lot line. The applicant feels that a variance is necessary to build their desired home. The applicant explains that the current zoning setbacks, and the seasonal stream that runs through a portion of the lot, make it difficult to construct a single-level, ADA compliant home. The applicant's narrative is included as **Exhibit B**.

The applicant is also requesting a 25-foot variance to the 50' stream corridor setback. The County Engineer, who determines the high water mark of these stream corridors, has outlined suggestions for the applicant to help mitigate concerns from the County Engineer regarding this variance request. These include locating the home right to the front setback line (30'), to avoid additional encroachment into the stream setback, a front-facing garage, to avoid having a portion of the driveway encroach into the stream setback, as well as fill and retaining walls. If the applicant follows suggestions from County Engineering, then there are no concerns from the County Engineer.

The applicant has provided a site plan to help visualize applicable setbacks and encumbrances to the property. The second page of **Exhibit B** shows encroachment of the proposed building, by , side setback of 8 feet, side adjacent to a street of 20 feet, and a front setback of 20 feet. It should be noted that on the first page of Exhibit B, the front setback should be shown at 25 feet, further reducing the area within the triangle. Pages 3 and 5 of Exhibit B show where a 1050 square foot house could be located on the lot, should the BOA grant the variance.

Summary of Board of Adjustment Considerations

LUC §102-3 states that one of the duties and powers of the Board of Adjustment is to hear and decide variances from the requirements of the Weber County Land Use Code. For a variance to be granted it must be shown that all of the following criteria have been met:

- a. *Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Land Use Code.*
 1. *In determining whether or not literal enforcement of the land-use code would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship unless the alleged hardship is located on or associated with the property for which the variance is sought, and comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.*
- b. *In determining whether or not literal enforcement of the land-use code would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic. There are special circumstances attached to the property that do not generally apply to other properties in the same zone.*
 1. *In determining whether or not there are special circumstances attached to the property, the appeal authority may find that special circumstances exist only if the special circumstances relating to the hardship complained of, and deprive the property of privileges granted to other properties in the same zone.*
- c. *Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.*
- d. *The variance will not substantially affect the general plan and will not be contrary to the public interest.*
- e. *The spirit of the land use ordinance is observed and substantial justice is done.*

Staff Analysis

Below is staff analysis:

- a. Literal enforcement would prevent the property owner from enjoying a substantial property right and developing this parcel in accordance with the Ogden Valley General Plan.
- b. Special circumstances surrounding this lot of record include a stream runoff area that cuts across the lot. The location of this stream, the configuration of this lot, and the setbacks standards for the FV-3 zone, create a unique challenge in developing this lot.
- c. The applicant's narrative indicates that granting a variance is needed in order to enjoy a substantial property right that includes construction of a home that meets unique needs.
- d. The General Plan indicates that this area should be developed as is planned and zoned. The applicant states that a variance to the setback will allow the construction of a home that is coherent to the neighborhood, and will not be a detriment to adjacent property owners.
- e. The applicant is exhausting their remedies, under the land use code, for the potential of a lesser setback and is requesting that substantial justice be done, considering the unique conditions of the lot.

Conformance to the General Plan

Single-family dwellings are allowed as a permitted use in the FV-3 zone. If the requested variance is granted, it will not have a negative impact on the goals and policies of the Ogden Valley General Plan.

Exhibits

- A. 2024 Recorder's Plat
- B. Applicant-written Narrative and Site Plans

Area Map



Exhibit A - Recorder's Plat

5/9.11

ROBERT HESLOP ET 220150083 7,860 SQ FT

426.00'

155.00'

ROBERT HESLOP &
ALEXIS HESLOP

4116 E
155.00'

220150084 1.40 AC±

426.00'

550.00

Exhibit B- Application and Request

Heslop -Robert -Board of Adjustment

[+ Add Follower](#)[Change Status](#)[Change Review Due Date](#)[Edit Project](#)

Address: 4116 E 4100 N , Liberty , UT, 84310
Maps: [County Map](#), [Google Maps](#)
Project Type: Board of Adjustment
Sub Type: Board of Adjustment
Created By: [robert heslop](#)
Created On: 10/25/2024

Project Status: Accepted
Status Date: 10/30/2024
File Number: BOA-2024-08
Project Manager: [Tammy Aydelotte](#)

[Application](#)[Documents 6](#)[Comments 1](#)[Reviews 1](#)[Followers 9](#)[History](#)[Reminder 0](#)[Payments 1](#)[Internal 0](#)

Application

[+ Add Building](#)[+ Add Parcel](#)[+ Add a Contractor](#)[Edit Application](#)[Print](#)[Building Permit](#)

Project Description Single Family Dwelling Unit

Property Address 4116 E 4100 N
Liberty , UT, 84310

Property Owner Robert Heslop
801-430-1456
robert@all-proelectric.net

Accessory Dwelling Unit	False
Current Zoning	R-1-10
Subdivision Name	
Number of new lots being created	0
Lot Number	
Lot Size	1.5 acre
Frontage	155'
Culinary Water Authority	Health Department (Well)
Secondary Water Provider	
Sanitary Sewer Authority	Health Department (Septic)
Nearest Hydrant Address	41.333487,-111.849290
Signed By	Owner, Robert Heslop

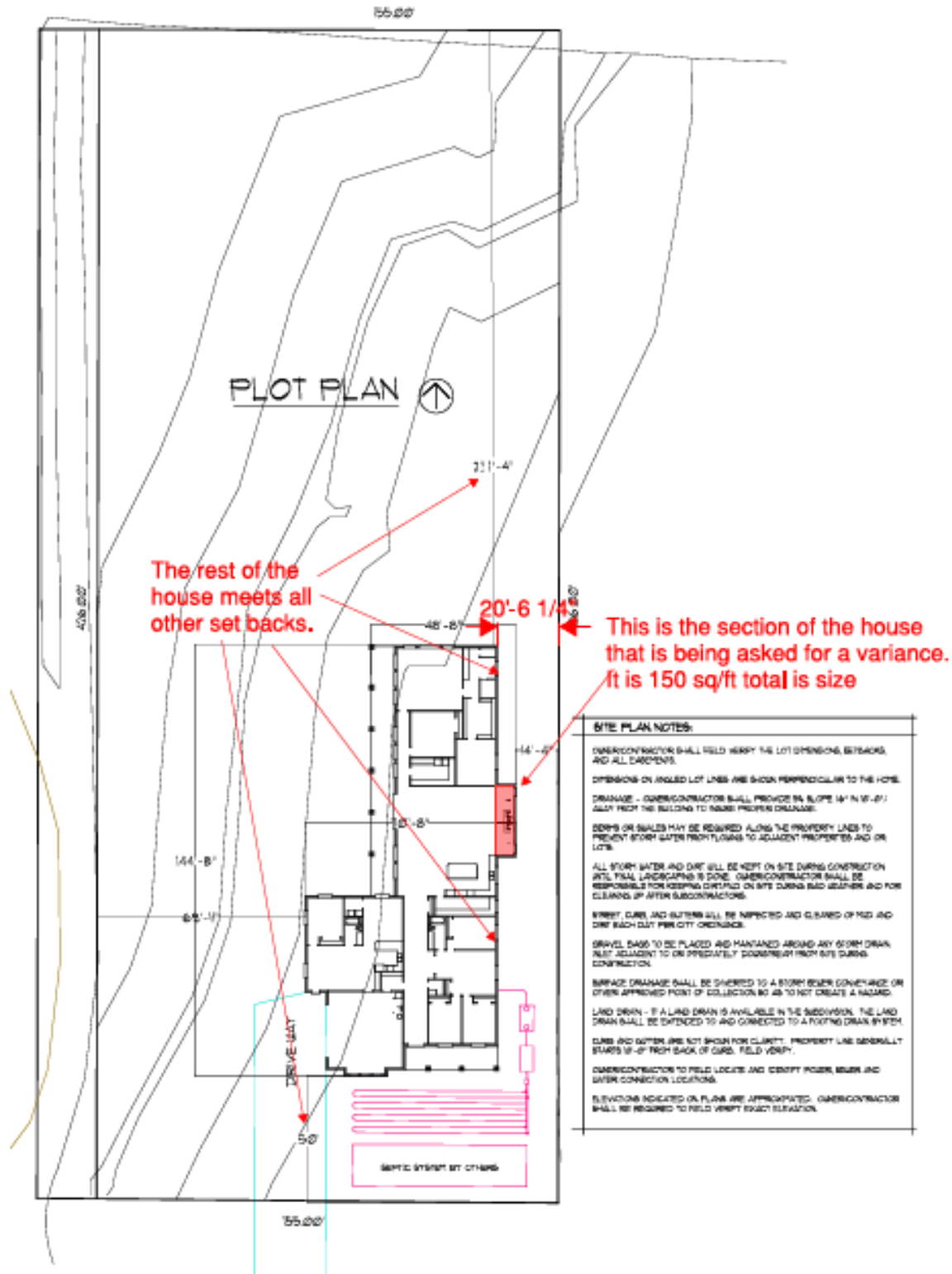
Parcel Number

[Remove](#) 220150084 - [County Map](#)

Heslop Residence Narrative

The purpose of this narrative is to explain the reason a variance is being requested for Parcel #220150084 located in the Ogden Valley. If you refer to the provided documents you will see that there is a seasonal run off stream that divides this parcel into 2. Because of this run off stream and the set back requirements of it, it has made it difficult to place a residence to meet all required set backs. To add to the difficulty of the design I had to make it ADA compliant (single level) since the purpose of the residence is to not only house my family but also my wifes elderly mother. Our intent is to have a single level house that also fits the surrounding appearance of the neighboring houses. We added the small additional space to the living area to give dimension to the east side of the house. Our intent of this is that it would help break up the long straight wall and add an extra focal point so the roof isn't all one plane. We understand that our distant neighbor to the east will have to look at this side of our roof line and wall side and wanted something more appealing. I would simply shift the house to the west 6' and avoid this set back issue but we are already more limited that way and as close to the run off stream as we can be. For the majority of the house we are right at the set back requirements as you can see in the additional documents.

The Parcel to the east and north (220150085, 220150036) are owned by the same person. The one to the east is a 1.4 Acre lot and the one north is 2 Acre. The lot to the north has an existing home on it while the one to the east has only ever been open field. It is my understanding that the lot to the east isn't a building lot and could only ever be used for livestock or possibly an outbuilding. Also if the lot to the east was sold separately from the one to the north, it doesn't meet the required 3 acre minimum to become a building lot.



The rest of the house meets all other set backs.

This is the section of the house that is being asked for a variance. It is 150 sq/ft total in size

SITE PLAN NOTES:	
OWNER/CONTRACTOR SHALL FIELD VERIFY THE LOT DIMENSIONS, SETBACKS, AND ALL EASEMENTS.	
DIMENSIONS ON ANGLED LOT LINES ARE SHOWN PERPENDICULAR TO THE HOME.	
DRAINAGE - OWNER/CONTRACTOR SHALL PROVIDE 5% SLOPE 1/4" IN 10'-0" GUT FROM THE BUILDING TO MAINTAIN PROPER DRAINAGE.	
SEDS OR SAILS MAY BE REQUIRED ALONG THE PROPERTY LINES TO PREVENT STORM WATER FROM FLOWING TO ADJACENT PROPERTIES AND ON LOTS.	
ALL STORM WATER AND DIRT WILL BE KEPT ON SITE DURING CONSTRUCTION UNTIL FINAL LANDSCAPING IS DONE. OWNER/CONTRACTOR SHALL BE RESPONSIBLE FOR KEEPING COURTYARD ON SITE DURING BAD WEATHER AND FOR CLEANING UP AFTER SUBCONTRACTORS.	
SPRINKLERS, CURBS AND GUTTERS SHALL BE INSTALLED AND CURED OF MUD AND DIRT EACH DAY PER CITY ORDINANCE.	
GRAVEL BAGS TO BE PLACED AND MAINTAINED AROUND ANY STORM DRAIN, JUST ADJACENT TO OR PROXIMATELY DOWNSTREAM FROM SITE DURING CONSTRUCTION.	
SURFACE DRAINAGE SHALL BE DIRECTED TO A STORM SEWER CONVEYANCE OR OTHER APPROVED POINT OF COLLECTION SO AS TO NOT CREATE A HAZARD.	
LAND DRAIN - IF A LAND DRAIN IS AVAILABLE IN THE SUBDIVISION, THE LAND DRAIN SHALL BE EXTENDED TO AND CONNECTED TO A FOOTING DRAIN SYSTEM.	
CURBS AND GUTTERS ARE NOT SHOWN FOR CLARITY. PROPERTY LINE GENERALLY STARTS 18"-0" FROM BACK OF CURB, FIELD VERIFY.	
OWNER/CONTRACTOR TO FIELD LOCATE AND IDENTIFY POLES, SEWER AND WATER CONNECTION LOCATIONS.	
ELEVATIONS INDICATED ON PLANS ARE APPROXIMATE. OWNER/CONTRACTOR SHALL BE REQUIRED TO FIELD VERIFY EXACT ELEVATION.	

4100 NORTH STREET

SCALE 1" = 30' 476 EAST

TYPE B GRADING 5% GRADE 10' AWAY FROM HOUSE



Parcel #220150036
Thomas Hannum
2 Acre Lot

Parcel #220150085
Thomas Hannum
1.4 Acre Lot

RIVER DR

4301

4301

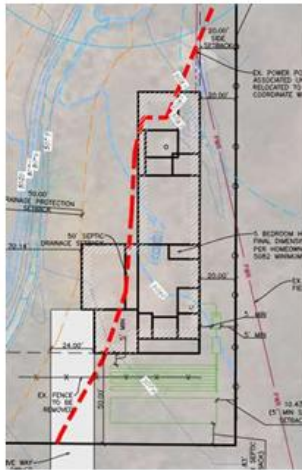
4116

In addition to the variance for the east side property boundary we are requesting that the stream set back on the west of the residence be changed from 50' to 25'. This is not needed for the whole west side but for certain areas (see below). This stream is a season run off stream and is only affected from the snow run off. I have done a study on this stream and in the 100 year data pulled it shows this stream to have a flow of less than 180 cubic feet per second (1346 gallons per second). After discussing this with a civil engineer he said a 24" culvert pipe would be a sufficient size pipe to handle that size flow. He also said that with at least a 10% grade from the high water mark to the top of foundation that I would be out of the 100 year flood path and that is why he didn't have a problem designing the site plot plan and septic system the way that he did it.

I also believe that the existing high water mark to be a faults indication of how this stream flows under normal or even flood conditions. I know in the past there have been some concerns that this area has high water problems. I believe these problems are due to clogged culverts and water backing up not natural forces. I have attached some images of these issues so that you can see the reason the high water mark is so high is due to puddling and that if these issues were fixed water would flow like it should.

Thank You and I hope you take all of this into consideration for you decision.

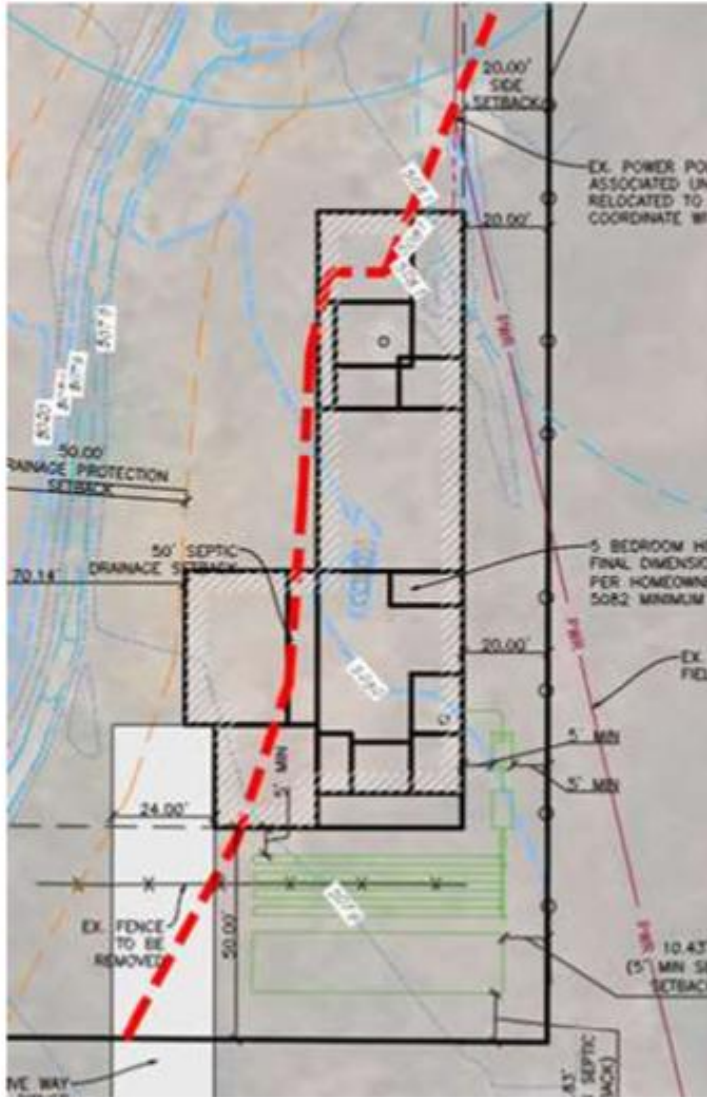
The red dotted line is the 50' set back. This shows the area of the residence affected.



These 2 images show the 36" culvert going under the street to the south. As you can see it is more than half full and is causing the water back up and even eventually overflow over the road. I believe this is giving a faults high water mark up stream.

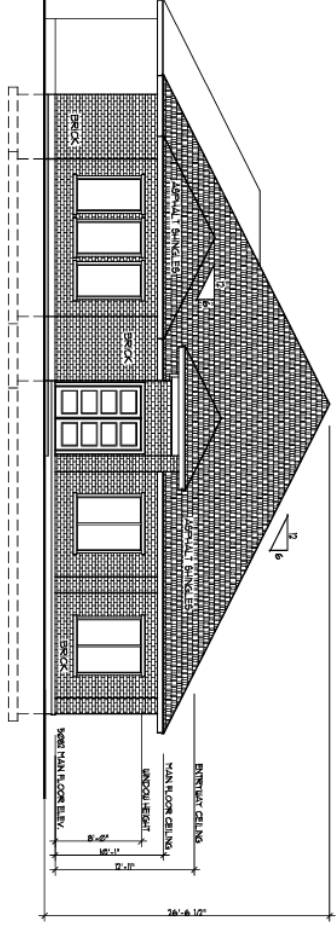


The red dotted line is the 50' set back. This shows the area of the residence affected.





FRONT ELEV. VIEW





Staff Report to the Weber County Board of Adjustment

Weber County Planning Division

Synopsis

Application Information

Application Request: BOA 2024-09 - Consideration and action on a request for a variance to the west side yard, and north rear yard setbacks, for the construction of a home within lot 144 of the Summit Eden Phase 1C Amendment 7 Subdivision.

Agenda Date: Thursday, December 12, 2024

Applicant: Graham Brindle, Representative

File Number: BOA 2024-09

Property Information

Approximate Address: 8428 E Copper Crest Rd, Eden Utah

Project Area: 20255 SF

Zoning: Destination Recreation Resort (DRR-1)

Existing Land Use: Residential

Proposed Land Use: Residential

Parcel ID: 23-156-0001

Township, Range, Section: T7N, R2E, Section 8

Adjacent Land Use

North: Vacant	South: Residential
East: Open Space	West: Residential

Staff Information

Report Presenter: Felix Lleverino
flleverino@co.weber.ut.us
801-399-8767

Report Reviewer: TA

Applicable Codes

- Title 102 (Administration) Chapter 3 (Board of Adjustment)
- Title 104 (Zones) Chapter 29 (Destination Recreation Resort-1 Zone)

Development History

This parcel of land was platted as a subdivision lot on August 23, 2018.

Background

The applicant is requesting variances to the side and rear yard minimum setbacks. This variance would bring the home within two feet of the west side yard and within eight feet of the north rear yard. The residential structure will conform to the remaining setbacks of the DRR-1 zone and the building height will remain below the 35' maximum threshold. The vacant parcel west of this lot will remain vacant for the purpose of open space.

The applicant has provided a detailed narrative with exhibits to help inform the board's decision. See Exhibit A.

Summary of Board of Adjustment Considerations

LUC §102-3 states that one of the duties and powers of the Board of Adjustment is to hear and decide variances from the requirements of the Weber County Land Use Code. For a variance to be granted it must be shown that all of the following criteria have been met:

- a. *Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Land Use Code.*
 1. *In determining whether or not literal enforcement of the land-use code would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship unless the alleged hardship is located on or associated with the property for which the variance is sought, and comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.*
 2. *In determining whether or not literal enforcement of the land-use code would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.*
- b. *There are special circumstances attached to the property that do not generally apply to other properties in the same zone.*
 1. *In determining whether or not there are special circumstances attached to the property, the appeal authority may find that special circumstances exist only if the special circumstances relating to the hardship complained of, and deprive the property of privileges granted to other properties in the same zone.*
- c. *Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.*
- d. *The variance will not substantially affect the general plan and will not be contrary to the public interest.*
- e. *The spirit of the land use ordinance is observed and substantial justice is done.*

The list below are points taken from the applicant's narrative:

- a. The applicant's narrative states that literal enforcement of the setbacks and the public utility easement add the to limited building area available.
- b. The applicant states that the lot configuration and size are special circumstances that do not generally apply to other properties in the same zone.
- c. The applicant's narrative argues that granting a variance is essential to enjoy a substantial property right possessed by other properties in the same zone due to the amount of buildable area the other lots in the subdivision enjoy.
- d. The variance will not substantially affect the general plan and will not contradict the public interest. The applicant reasons that there will be no added visual impacts and granting this variance avoids extra grading and earthwork which will scar the site.
- e. The applicant explains that the impact on the neighboring properties is minimal, and is in the public interest because the open space parcel to the west will remain vacant.

Staff recommends the board review the variance request in Exhibit A.

Exhibits

- A. Applicant's Narrative

Area Map



**8428 E Copper Crest Rd
Weber County Variance Request
11/08/2024**

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Brandon Richardson

Sheet Name:

Project Address:

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Powder Mountain, Eden, Utah, 84310**

REVISION DATE:

11.08.2024

TITLE:

**Richardson Residence
Variance Request**

SCALE:

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Property Address: 8428 E Copper Crest Rd, Eden, UT 843310
Planning Zone: DRR-1 – Ogden Valley Destination and Recreation Resort
Powder Mountain District: Village House
Powder Mountain Lot: 144

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site aerial

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A2



open space

SUMMIT PASS

lot 144

COPPER CREST RD

SPRING PARK RD

This property sits at the tip of a wedge-shaped block of land. The parcels get smaller as they move towards the west. Resulting in our plot which is the smallest in the neighborhood.

The property is also unique because it has no adjoining neighbor on the west side of the property. This is open land, that is too narrow to be developed. There will be no house or building on the adjacent parcel.

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site lot

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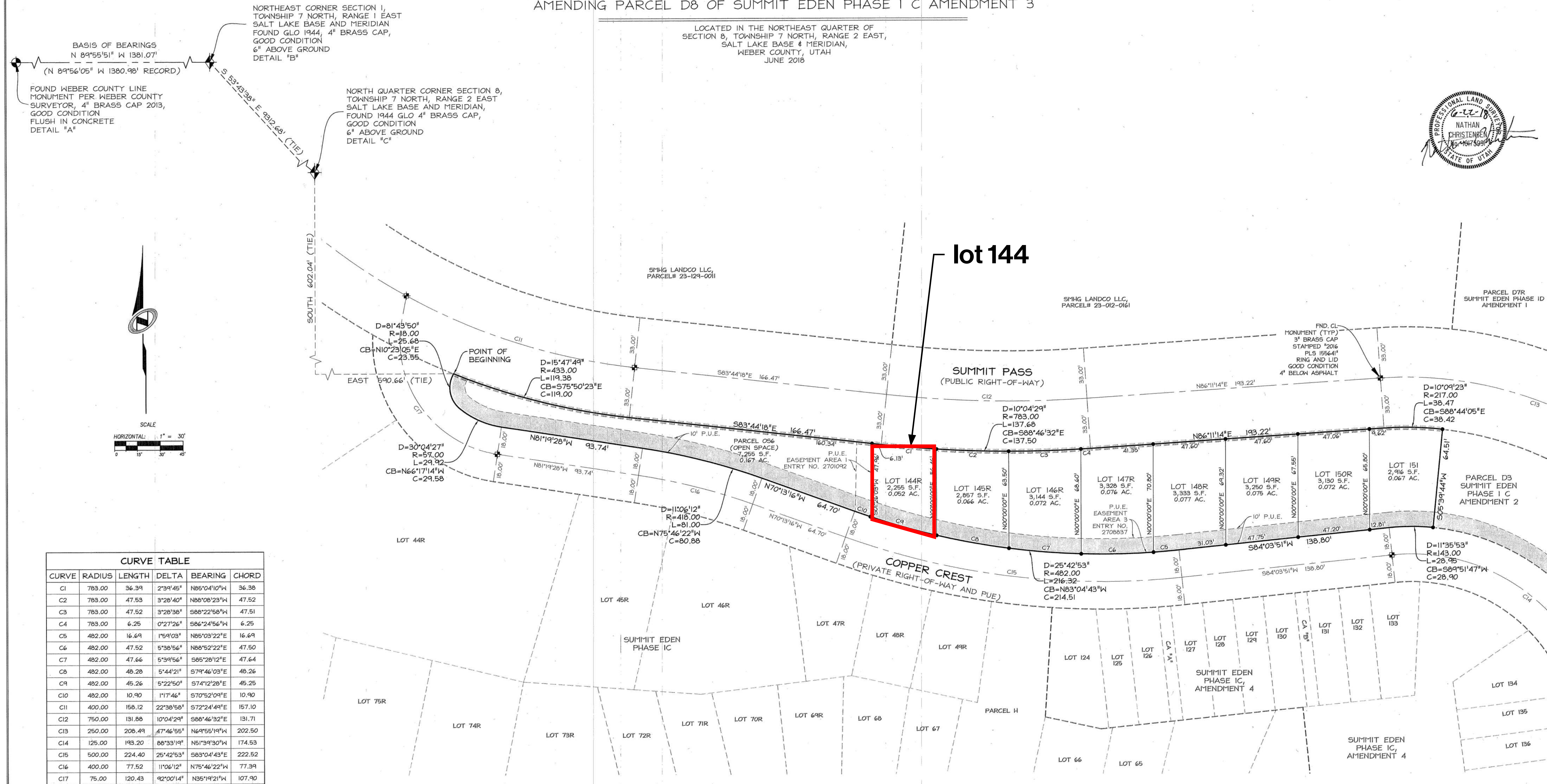
TITLE:
**Richardson Residence
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SCALE:

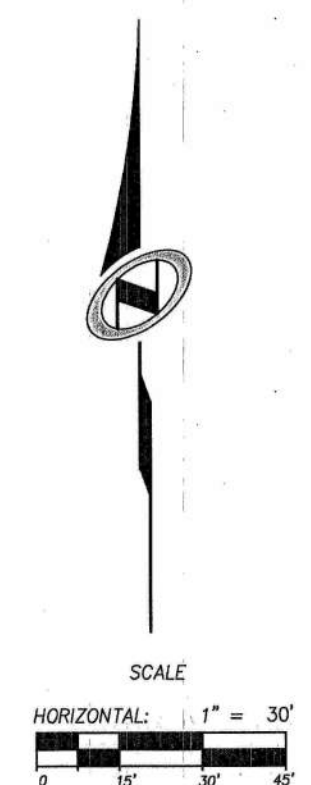
PAGE NO.
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SUMMIT EDEN PHASE 1C AMENDMENT 7
AMENDING PARCEL D8 OF SUMMIT EDEN PHASE 1 C AMENDMENT 3

LOCATED IN THE NORTHEAST QUARTER OF SECTION 8, TOWNSHIP 7 NORTH, RANGE 2 EAST, SALT LAKE BASE & MERIDIAN, WEBER COUNTY, UTAH JUNE 2018

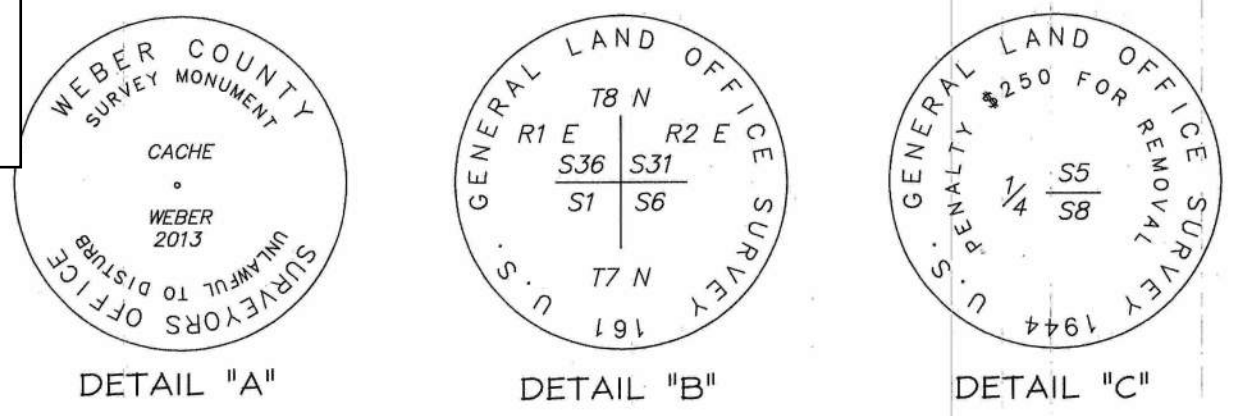


CURVE	RADIUS	LENGTH	DELTA	BEARING	CHORD
C1	783.00	36.39	2°34'45"	N85°04'10"W	36.39
C2	783.00	47.53	3°28'40"	N88°08'23"W	47.52
C3	783.00	47.52	3°28'38"	S88°22'58"W	47.51
C4	783.00	6.25	0°27'26"	S86°24'56"W	6.25
C5	482.00	16.69	1°59'03"	N85°03'22"E	16.69
C6	482.00	47.52	5°38'56"	N88°52'22"E	47.50
C7	482.00	47.66	5°39'56"	S85°28'12"E	47.64
C8	482.00	48.28	5°44'21"	S79°46'03"E	48.26
C9	482.00	46.26	5°22'50"	S74°12'28"E	46.25
C10	482.00	10.90	1°17'46"	S70°52'09"E	10.90
C11	400.00	158.12	22°38'58"	S72°24'49"E	157.10
C12	750.00	131.88	10°04'29"	S88°46'32"E	131.71
C13	250.00	208.49	47°46'55"	N69°55'19"W	202.50
C14	125.00	193.20	88°33'19"	N51°39'30"W	174.53
C15	500.00	224.40	25°42'53"	S83°04'43"E	222.52
C16	400.00	77.52	11°06'12"	N75°46'22"W	77.39
C17	75.00	120.43	92°00'14"	N35°19'21"W	107.90



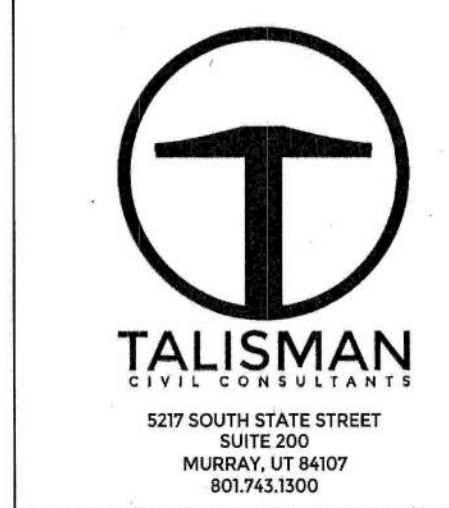
The parcel is 600 s.f. smaller than any of the nearby properties. Our lot also has the smallest width and depth of all the lots in this row.

SMHG PHASE I, LLC.
3632 N. WOLF CREEK DR.
EDEN, UT, 84310



- LEGEND**
- BOUNDARY LINE
 - - - SECTION LINE
 - - - ADJOINER DEED LINES
 - - - RIGHT-OF-WAY LINE
 - - - ROAD CENTERLINE
 - ■ ■ ■ ■ NO ACCESS LINE
 - ◆ SECTION CORNER AS NOTED
 - ⊕ FOUND CL MONUMENT
 - SET NO. 5 X 24" LONG REBAR WITH PLASTIC CAP STAMPED "TALISMAN"

LOT #	STREET ADDRESS
144	8426 EAST COPPER CREST
145	8434 EAST COPPER CREST
146	8442 EAST COPPER CREST
147	8448 EAST COPPER CREST
148	8454 EAST COPPER CREST
149	8462 EAST COPPER CREST
150	8470 EAST COPPER CREST
151	8476 EAST COPPER CREST



Sheet 2 of 2

RECORDED #
STATE OF UTAH, COUNTY OF WEBER,
RECORDED AND FILED AT THE
REQUEST OF SMHG PHASE I
ENTRY NO. 298717
DATE: 08-06-24 TIME: 2:43
BOOK: 83 PAGE: 85 of 86
FEE \$ 69
LEANN H KILTS
WEBER COUNTY RECORDER

83-86

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OWNER:
Brandon Richardson

Sheet Name:
site lot

Project Address:
**8428 E Copper Crest Ridge,
Powder Mountain, Eden, Utah, 84310**

REVISION DATE:
11.08.2024

TITLE:
**Richardson Residence
Variance Request**

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lot 144

The Village House neighborhood has steeply sloping lots. Each house is oriented towards the primary southern view, which is visible above the roofs of the downhill neighboring houses.

Powder Mountain guidelines restrict these Village Houses to 3 stories, and 2,500sq.ft. max.

Due to the current setbacks we are only able to fit 2,000 sf of interior space on this lot. The neighborhood allows for 2,500 sf max interior space, which the other adjacent lots can accomodate.

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OWNER:

Brandon Richardson

Sheet Name:

site aerial - perspective

Project Address:

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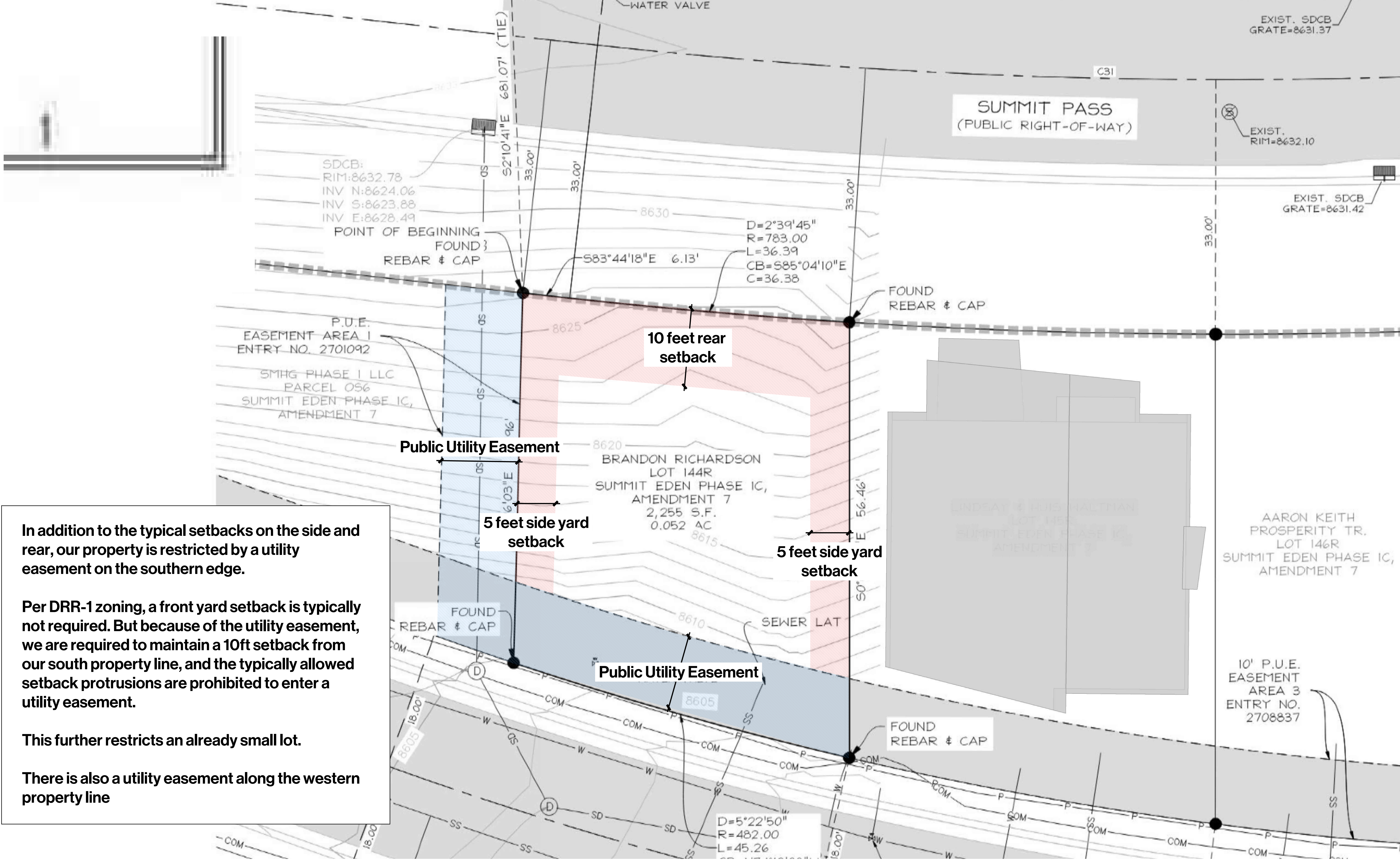
TITLE:

Richardson Residence
Variance Request

SCALE:

PAGE NO.

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In addition to the typical setbacks on the side and rear, our property is restricted by a utility easement on the southern edge.

Per DRR-1 zoning, a front yard setback is typically not required. But because of the utility easement, we are required to maintain a 10ft setback from our south property line, and the typically allowed setback protrusions are prohibited to enter a utility easement.

This further restricts an already small lot.

There is also a utility easement along the western property line

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Sheet Name:
site location diagram

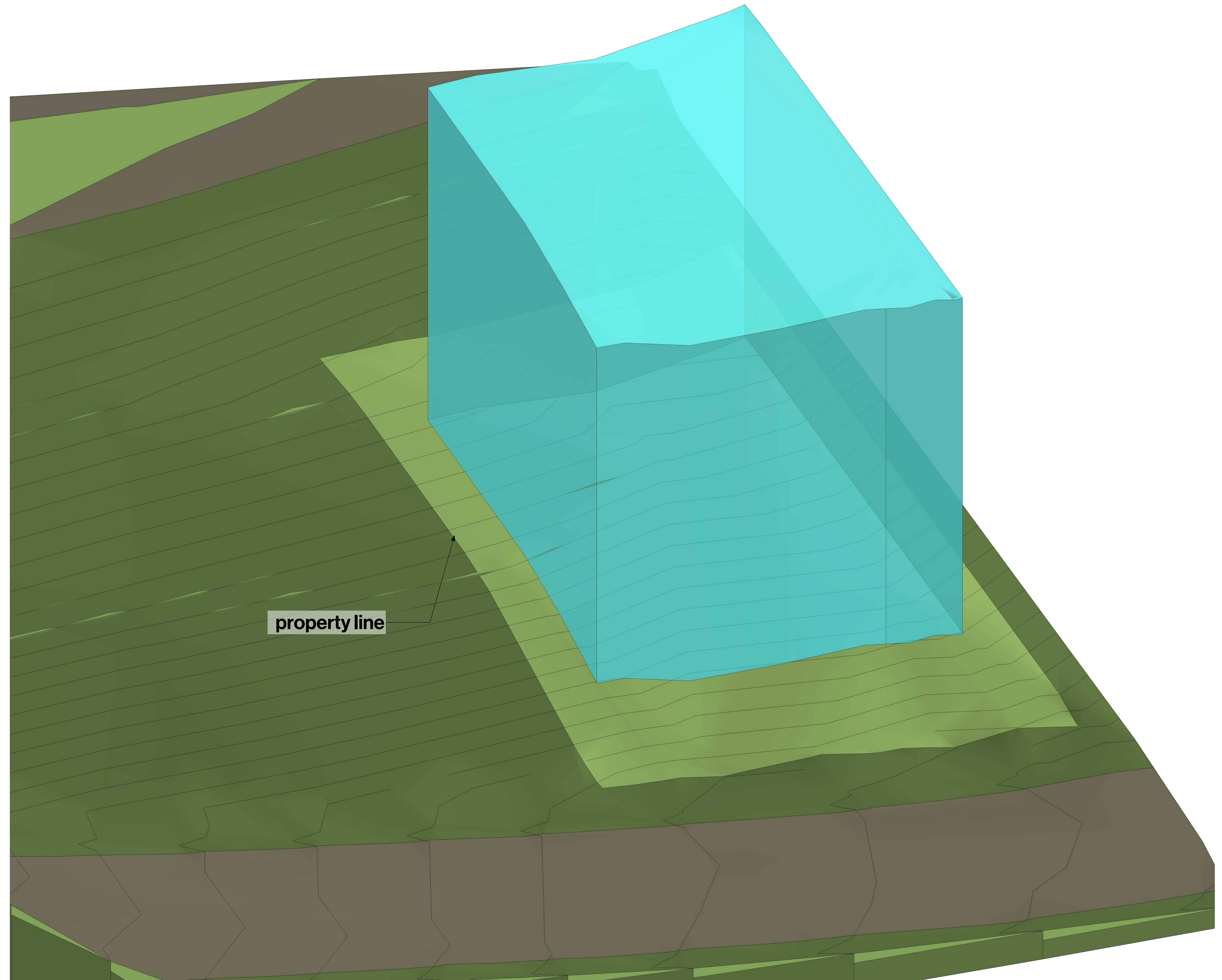
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The blue volume represents the buildable envelope for the lot.

The buildable envelope takes into account the setbacks, utility easements, and height limit which follows the slope of the land.

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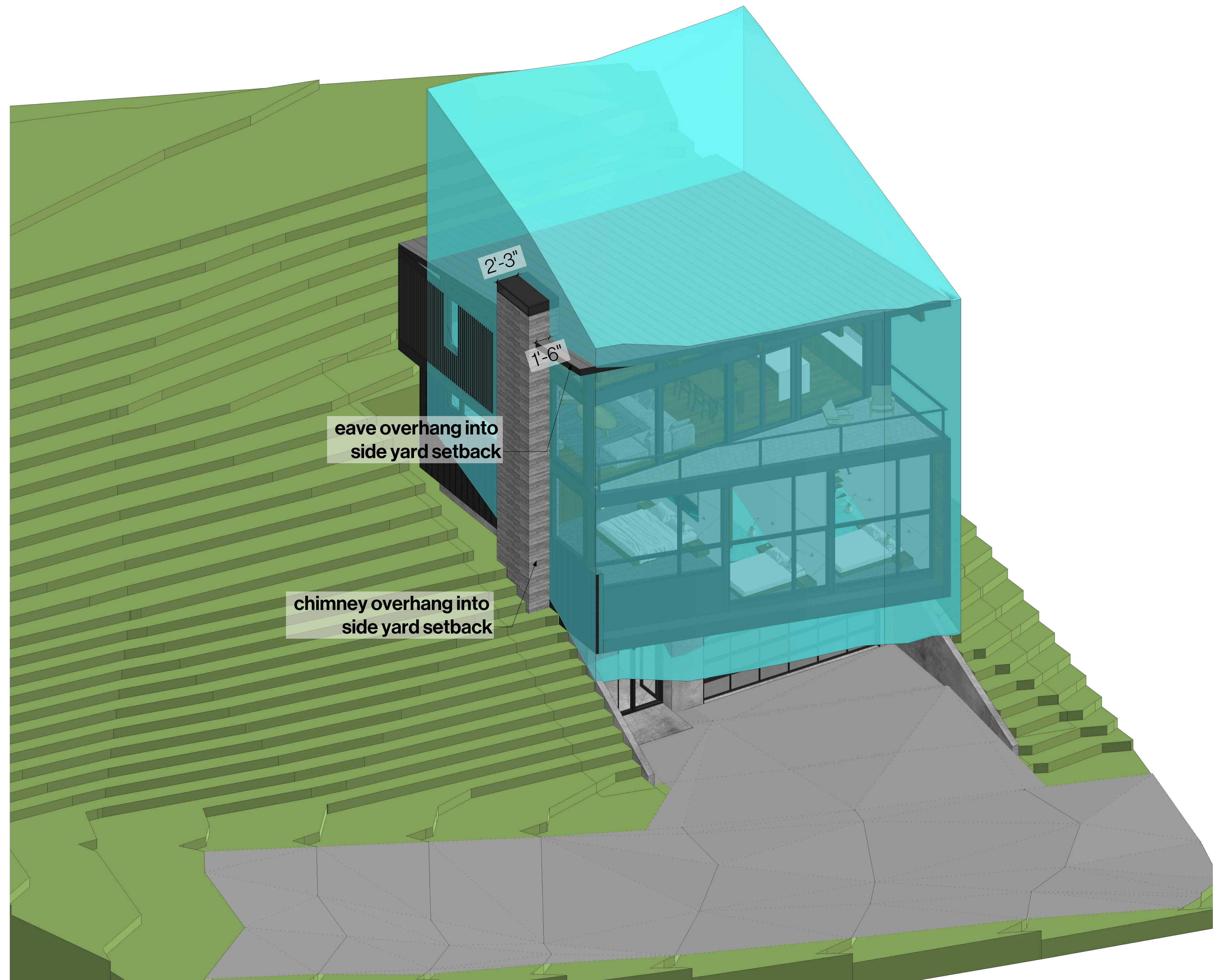
Sheet Name:
buildable envelope

Project Address:
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TITLE:
**Richardson Residence
Variance Request**

REVISION DATE:
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We have designed a house to fit within the buildable envelope.

We are protruding through the buildable envelope where allowed in order to maximize the usable space of this small lot.

Chimneys, roof eaves, and covered balconies all project outside our buildable envelope as permitted by 'Sec 108-7-2 Projections'

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OWNER:
Brandon Richardson

Sheet Name:
buildable envelope

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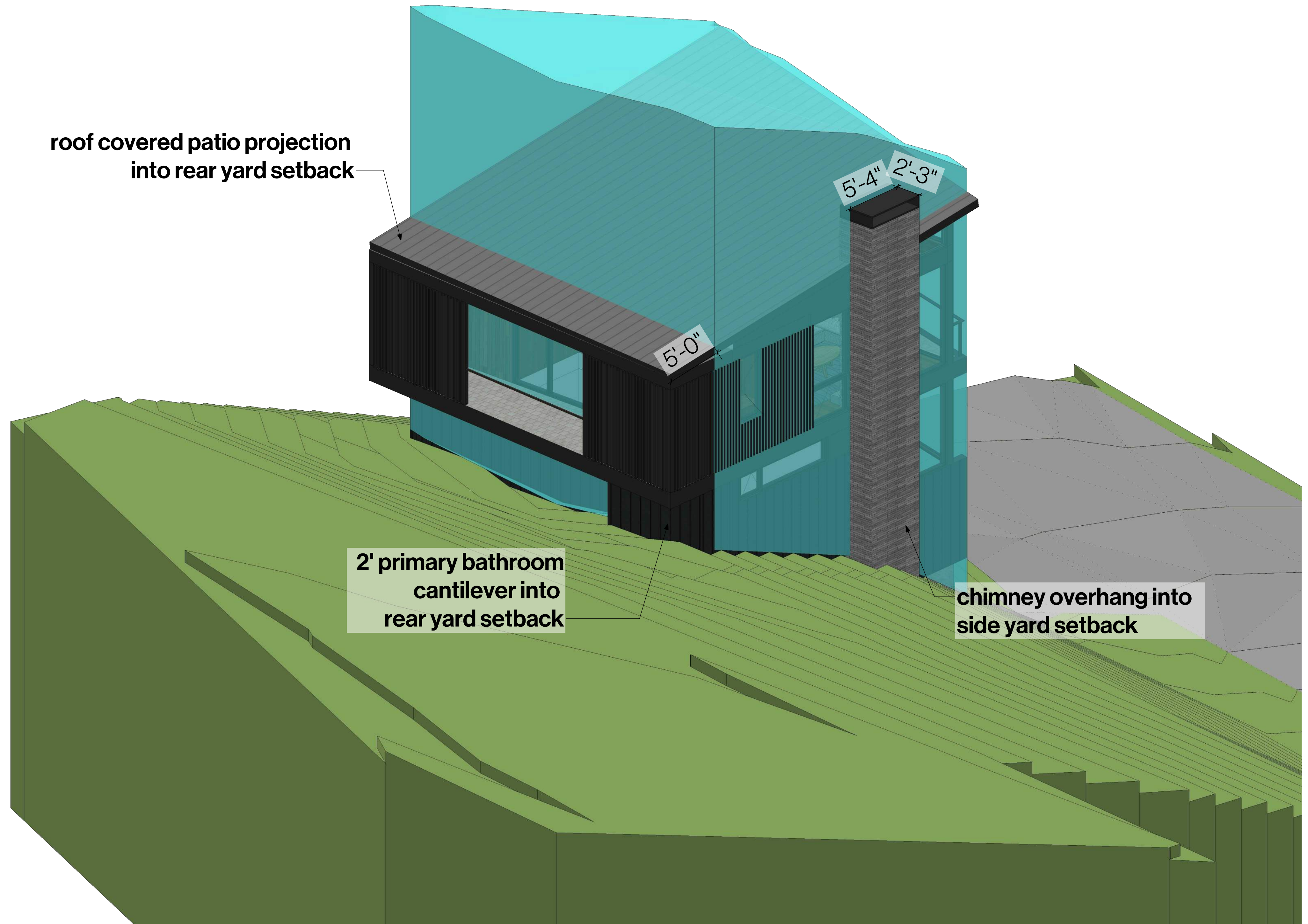
REVISION DATE:
11.08.2024

SCALE:
PAGE NO.
A8

We have designed a house to fit within the buildable envelope.

We are protruding through the buildable envelope where allowed in order to maximize the usable space of this small lot.

Chimneys, roof eaves, and covered balconies all project outside our buildable envelope as permitted by 'Sec 108-7-2 Projections'



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OWNER:
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Sheet Name:
buildable envelope

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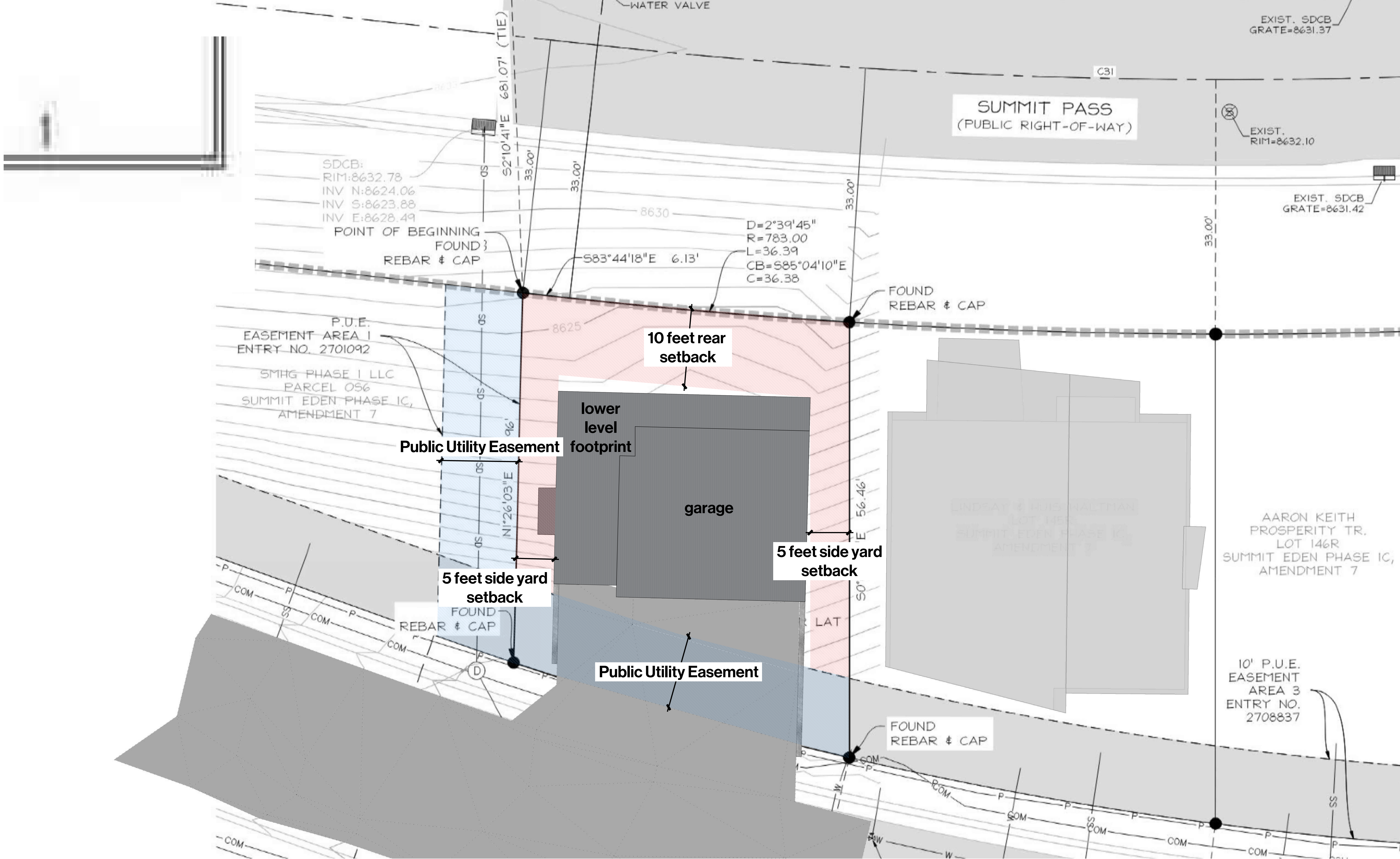
We are applying for the following variances to the Weber County Zoning:

VARIANCE #1

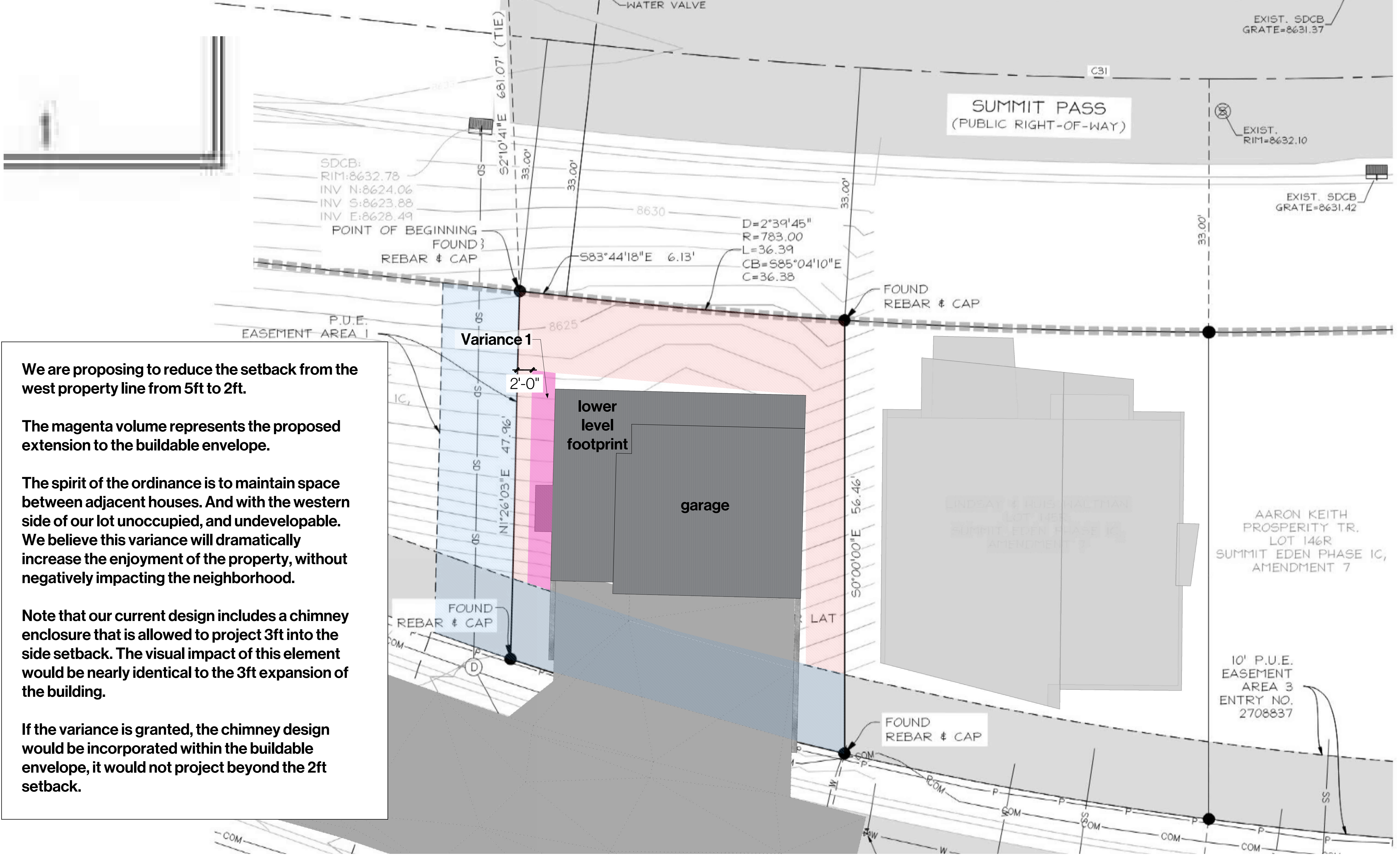
**Sec 104-29-2: Item (h)-(3): requires a 5ft side yard setback for a single-family dwelling
We are requesting a variance to reduce this side yard setback to 2ft.**

VARIANCE #2

**Sec 108-7-2: Item 5: permits a 2ft cantilever into a rear yard setback.
We are requesting a variance to expand the building 2ft into the rear yard setback, without a cantilever.**



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	<p>TITLE: Richardson Residence Variance Request</p>	<p>SCALE:</p>	<p>PAGE NO. A11</p>	



We are proposing to reduce the setback from the west property line from 5ft to 2ft.

The magenta volume represents the proposed extension to the buildable envelope.

The spirit of the ordinance is to maintain space between adjacent houses. And with the western side of our lot unoccupied, and undevelopable. We believe this variance will dramatically increase the enjoyment of the property, without negatively impacting the neighborhood.

Note that our current design includes a chimney enclosure that is allowed to project 3ft into the side setback. The visual impact of this element would be nearly identical to the 3ft expansion of the building.

If the variance is granted, the chimney design would be incorporated within the buildable envelope, it would not project beyond the 2ft setback.

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OWNER:
Brandon Richardson

Sheet Name:

site location diagram

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TITLE:
**Richardson Residence
Variance Request**

REVISION DATE:
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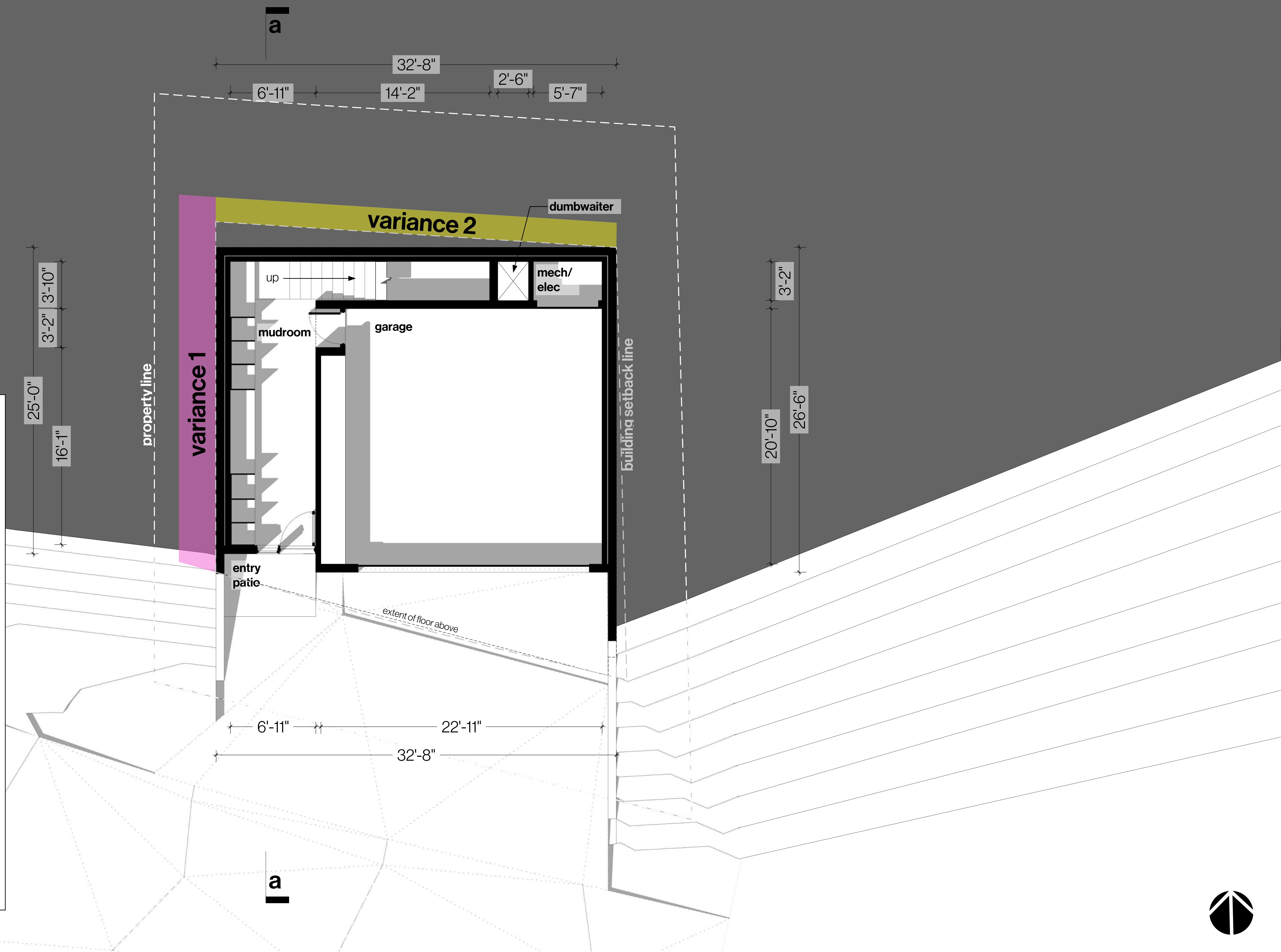
Due to the small size of the buildable envelope, we are only able to fit a 2,000 sf house. While the neighborhood allows for a maximum floor area of 2,500 sf.

Because of the limited depth of this particular property, our bedrooms must be arrayed E-W. Neighboring houses are able to layout bedrooms N-S, allowing for a larger number of bedrooms and larger sized bedrooms.

Our property is only able to fit three small bedrooms, with a minimum width of 9ft.

Without the variance the house has small and constrained spaces on all levels. Especially on level 2 where the owner is left with impractical and small bedrooms, or fewer bedrooms.

The variance would allow us to expand the width of each bedroom to a comfortable dimension.



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Sheet Name:

lower level plan

Project Address:
**8428 E Copper Crest Ridge,
Powder Mountain, Eden, Utah, 84310**

TITLE:
**Richardson Residence
Variance Request**

REVISION DATE:
11.08.2024

SCALE: scale: 1/4" = 1'-0"
0 2 4 8

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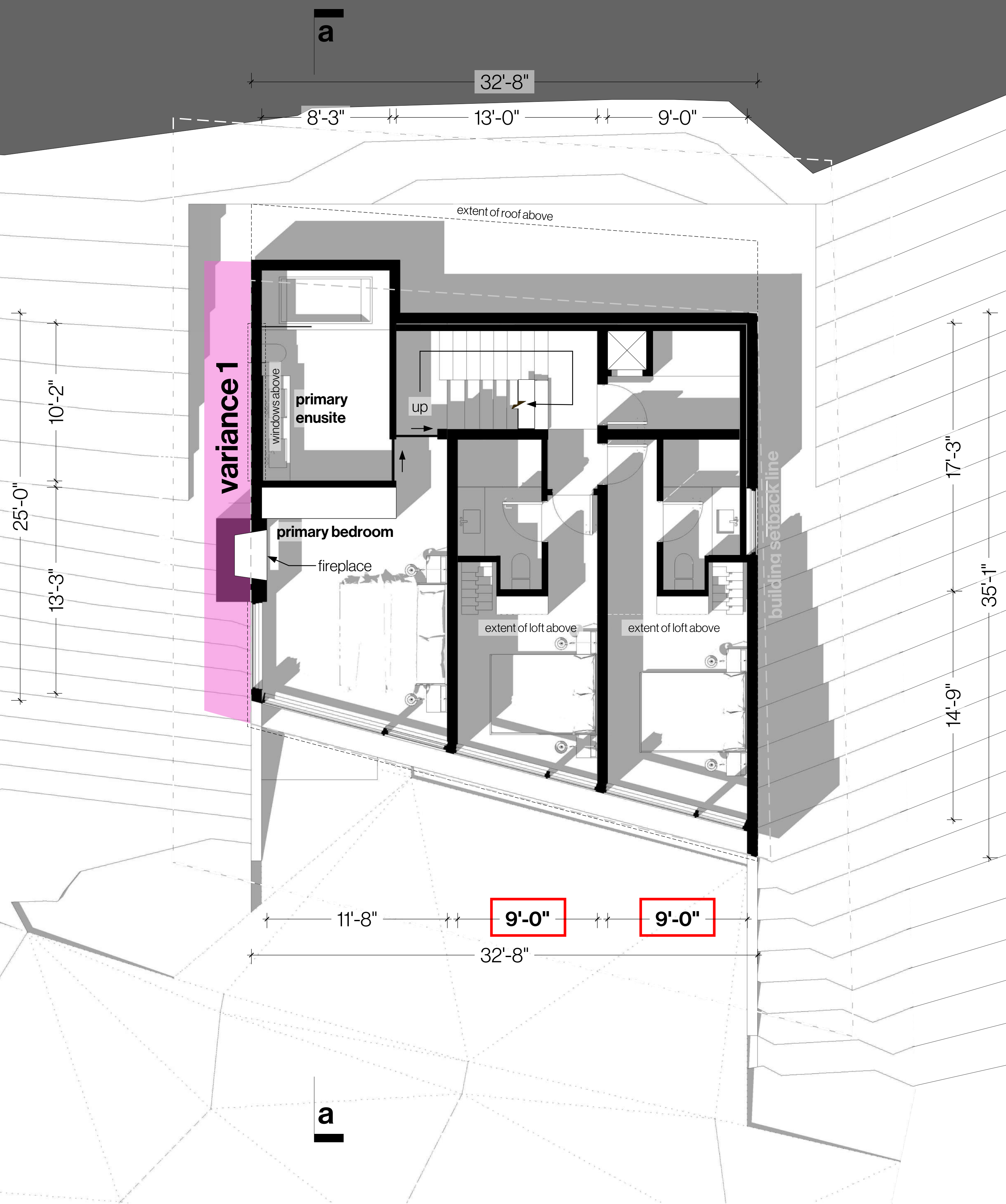
Due to the small size of the buildable envelope, we are only able to fit a 2,000 sf house. While the neighborhood allows for a maximum floor area of 2,500 sf.

Because of the limited depth of this particular property, our bedrooms must be arrayed E-W. Neighboring houses are able to layout bedrooms N-S, allowing for a larger number of bedrooms and larger sized bedrooms.

Our property is only able to fit three small bedrooms, with a minimum width of 9ft.

Without the variance the house has small and constrained spaces on all levels. Especially on level 2 where the owner is left with impractical and small bedrooms, or fewer bedrooms.

The variance would allow us to expand the width of each bedroom to a comfortable dimension.



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OWNER:
Brandon Richardson

Sheet Name:
main level plan

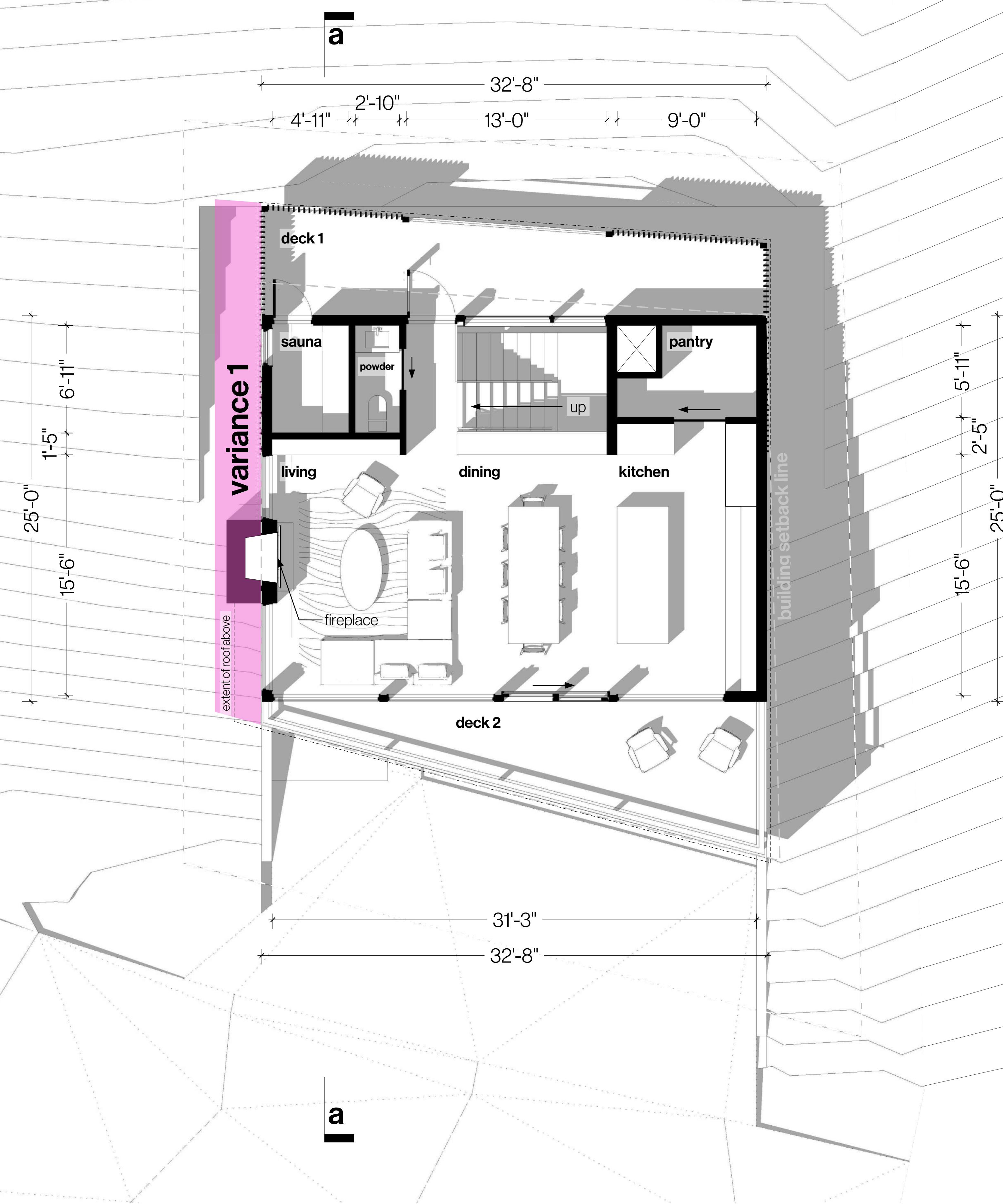
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0' 2' 4' 8'

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Due to the small size of the buildable envelope, we are only able to fit a 2,000 sf house. While the neighborhood allows for a maximum floor area of 2,500 sf.

Because of the limited depth of this particular property, our bedrooms must be arrayed E-W. Neighboring houses are able to layout bedrooms N-S, allowing for a larger number of bedrooms and larger sized bedrooms.

Our property is only able to fit three small bedrooms, with a minimum width of 9ft.

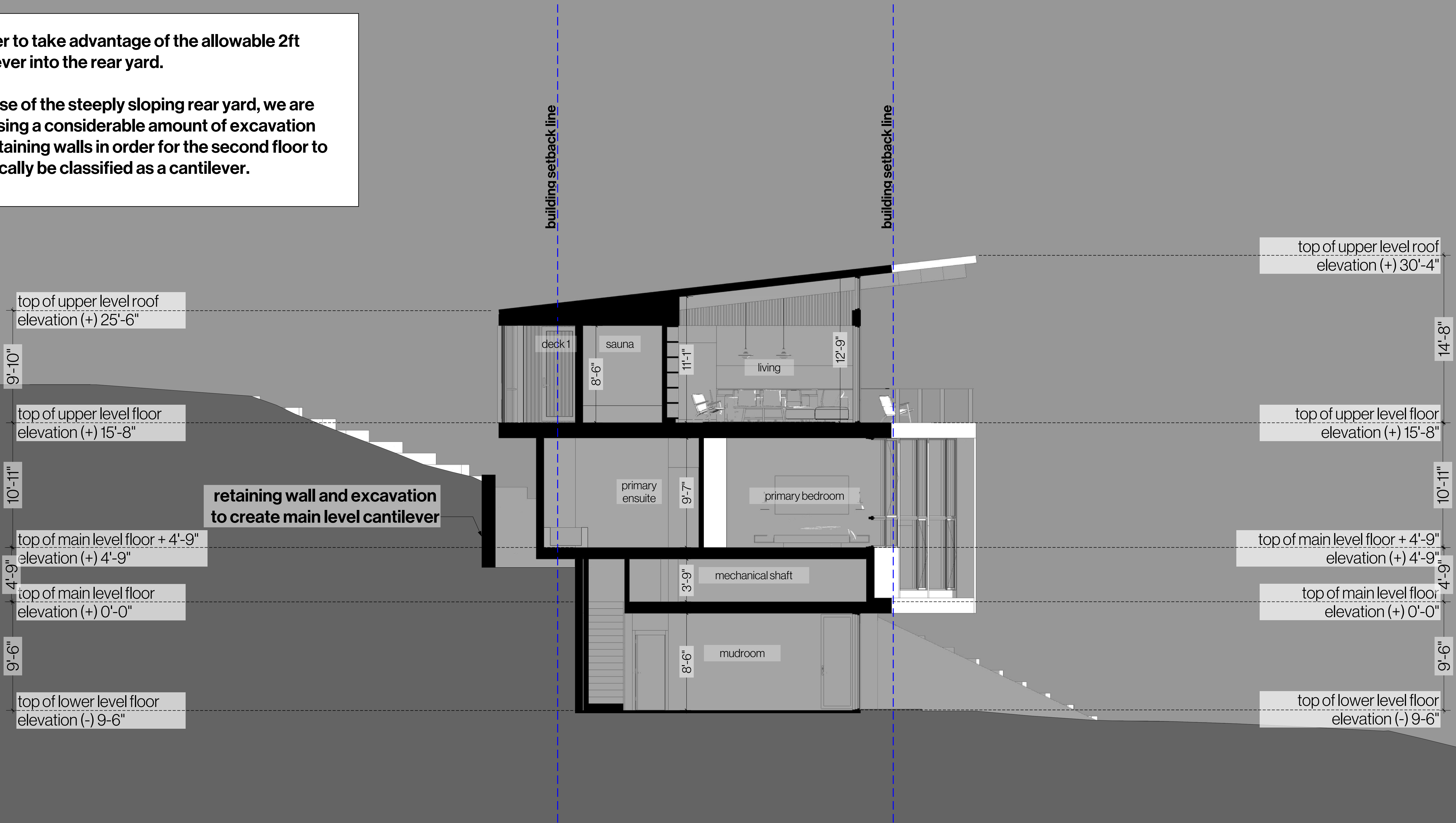
Without the variance the house has small and constrained spaces on all levels. Especially on level 2 where the owner is left with impractical and small bedrooms, or fewer bedrooms.

The variance would allow us to expand the width of each bedroom to a comfortable dimension.



In order to take advantage of the allowable 2ft cantilever into the rear yard.

Because of the steeply sloping rear yard, we are proposing a considerable amount of excavation and retaining walls in order for the second floor to technically be classified as a cantilever.



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OWNER:
Brandon Richardson

Sheet Name:
current section design

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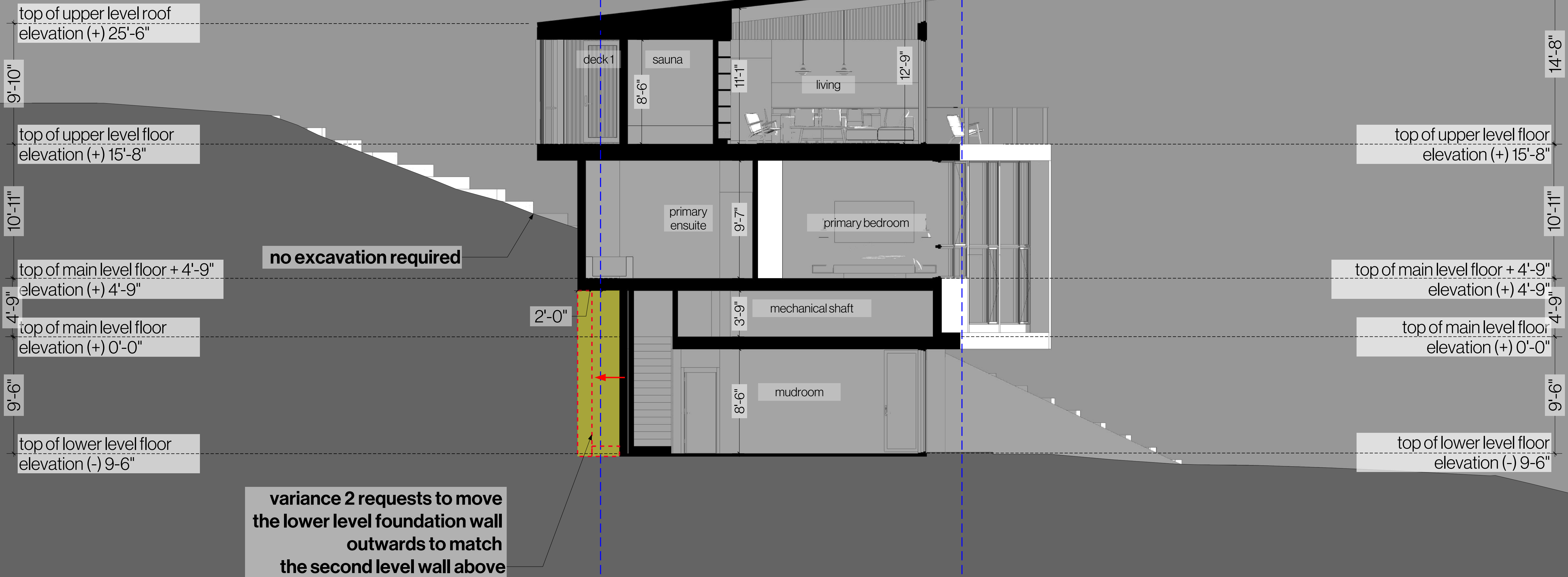
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Our request is to simply align the basement wall this second floor projection. So that it is no longer a cantilever, but simply a 2ft projection of interior space into the rear yard setback.

This would allow us to respect the spirit of the ordinance, avoid all the additional grading work that would disrupt the site.

And this modification would have no visible impact to the size of the building.



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OWNER:
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Sheet Name:
section design with variance 2

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OWNER:
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Sheet Name:
south elevation

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OWNER:
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Sheet Name:
north elevation

Project Address:
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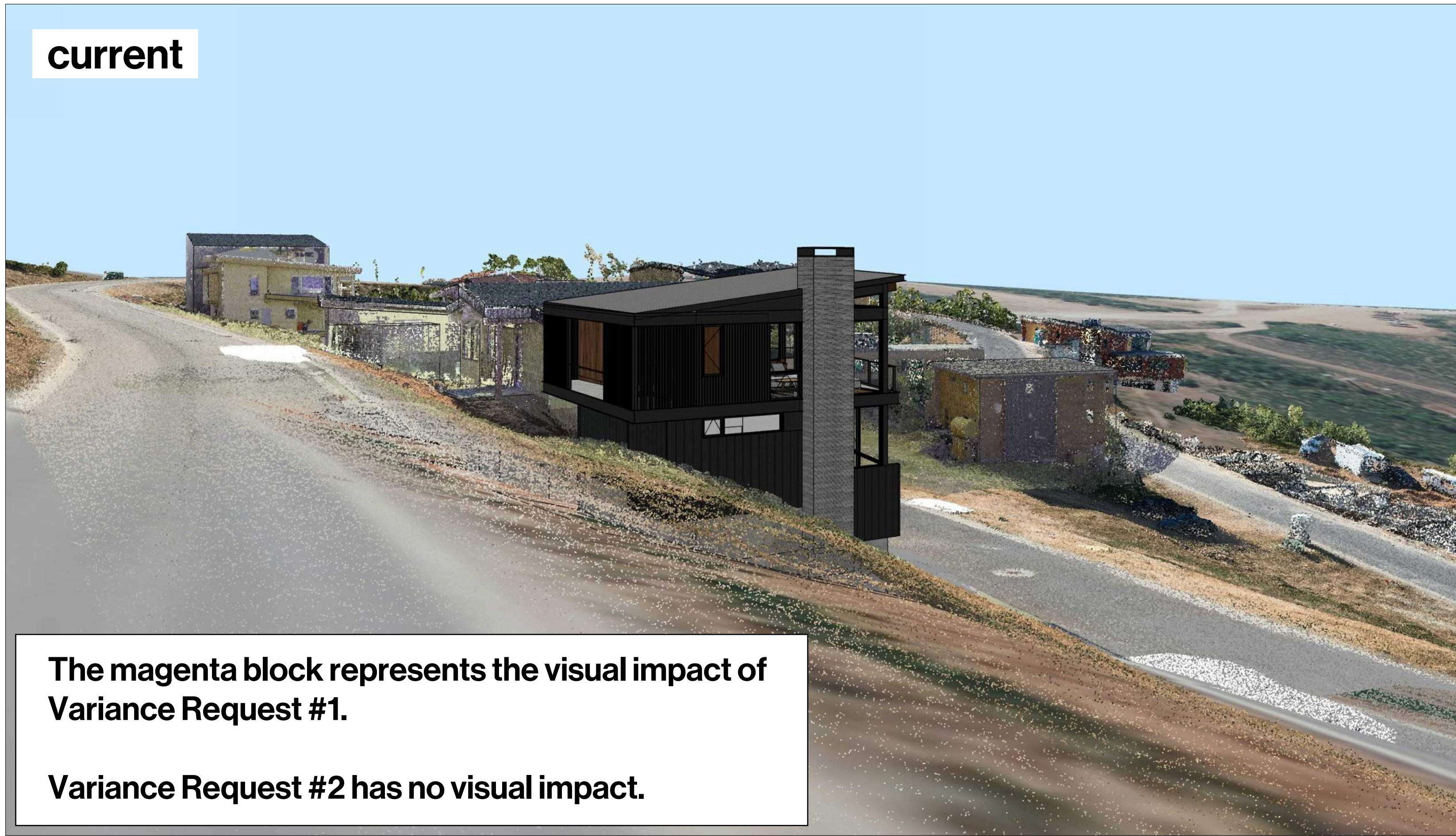
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current



The magenta block represents the visual impact of Variance Request #1.

Variance Request #2 has no visual impact.

proposed



current



proposed



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OWNER:
Brandon Richardson

Sheet Name:

exterior views

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current



proposed



current



proposed



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OWNER:

Brandon Richardson

Sheet Name:

exterior views

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VARIANCE #1

Sec 104-29-2: Item (h)-(3): requires a 5ft side yard setback for a single-family dwelling

We are requesting a variance to reduce this side yard setback to 2ft.


1. Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Land Use Code.
Enforcing the full western setback, creates an incredibly small and restrictive site. The applicant is left with constrained space on all levels. Especially on level 2, the owner has to choose between impractical small bedrooms, or fewer bedrooms.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same zone.
Due to the wedge-shaped block of land, we have the smallest lot within the Village House neighborhood. Our lot is also unique because it does not have a western neighbor, and sits next to an open and undevelopable piece of land.
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.
The lot is so small that we are not able to fit the allowable square footage. Neighboring lots can accommodate the full allowable square footage, and have the depth to accommodate a greater number of bedrooms, and reasonably sized bedrooms.
4. The variance will not substantially affect the general plan and will not be contrary to the public interest.
The visual impact of the increased buildable envelope, is identical to the visual impact of the chimney enclosure which is already allowed to occupy this space. There is no neighboring building on the west side of our parcel.
5. The spirit of the land use ordinance is observed and substantial justice done.
The intent of this ordinance is to separate houses. There is an open and undevelopable plot beside us. We believe that the reduction of the setback along this edge respects the spirit of the ordinance, and increases the enjoyment of the property.

VARIANCE #2

Sec 108-7-2: Item 5: permits a 2ft cantilever into a rear yard setback.

We are requesting a variance to expand the building 2ft into the rear yard setback, without a cantilever.

1. Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Land Use Code.
Requiring the 2ft protrusion to be a cantilever creates undue hardship due to the steeply sloping site. We will be required to do extensive earthwork and retaining walls in order to treat the second floor protrusion as a cantilever.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same zone.
Due to the wedge-shaped block of land, we have the smallest lot within the Village House neighborhood. Because of the small size of the parcel, we would like to take advantage of the allowable 2ft cantilevers. Cantilevers are not permitted into the front yard because of the utility easement. And cantilevers into the rear yard are extremely difficult due to the steeply sloping site.
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.
This is the smallest parcel in the Village House neighborhood. We are not able to fit our allowable square footage. And we are further restricted by multiple utility easements.
4. The variance will not substantially affect the general plan and will not be contrary to the public interest.
There is no visual impact that results from this variance. This variance will allow us to avoid extra grading and earthwork which will scar the site.
5. The spirit of the land use ordinance is observed and substantial justice done.
This variance would allow for greater enjoyment of the property, with no visual impact. And would allow us to avoid intrusive additional earthwork.

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			<small>TITLE:</small> Richardson Residence Variance Request	<small>SCALE:</small>	<small>PAGE NO.</small> A22