



# BOARD OF ADJUSTMENT

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## AMENDED MEETING AGENDA

Thursday, February 27, 2020  
4:30 p.m.

*\*Pledge of Allegiance*

### Regular Agenda Items

1. Minutes: Approval of the October 24, 2019 meeting minutes.
2. BOA 2020-01 - Consideration and action on a request for a 15-foot variance to the 50' stream corridor setback.  
*Applicant: Michael Randy, Staff Presenter: Felix Lleverino*
3. Election: Election for Chair and Vice Chair 2020
4. Schedule & Information: 2020 Meetings and Information List
5. Rules of Order: Approval of Rules of Order
6. Review of Open Meetings Act-Chris Crockett
7. Adjournment

*The regular meeting will be held in the Weber County Commission Chambers, in the Weber Center, 1<sup>st</sup> Floor, 2380 Washington Blvd., Ogden, Utah.*

*Please enter the building through the front door on Washington Blvd. if arriving to the meeting after 5:00 p.m.*

*In compliance with the Americans with Disabilities Act, persons needing auxiliary services for these meetings should call the Weber County Planning Commission at 801-399-8791*

**Minutes of the Board of Adjustments meeting of October 24, 2019, held in the Weber County Commission Chambers, 2380 Washington Blvd. Floor 1, Ogden UT at 4:30 p.m.**

**Members Present:** Bryce Froerer-Chair  
Laura Warburton- Vice Chair  
Phil Hancock  
Rex Mumford  
Nathan Buttars

**Staff Present:** Rick Grover, Planning Director; Tammy Aydelotte, Planner; Chris Crockett, Legal Counsel; Marta Borchert, Secretary

- Pledge of Allegiance
- Roll Call

Chair Froerer states that legal staff has some issues to address. Mr. Crockett states that he would like to provide some guidelines on how the procedure works for a land-use appeal to the Board of Adjustments. The Board of Adjustments are reviewing is a review of the record. Since there is an actual record with minutes from the administrative decision; the Board is confined to reviewing what is in the record. Once that is reviewed the standard of review, the burden is cast upon the appellant to show how it is not in compliance, and how the authority erred. In order to uphold the land use authorities' decision, there has to be substantial evidence to support that decision. Mr. Crockett reads the definition of substantial evidence. "Substantial evidence is defined as quantum and quality of relevant evidence that is adequate enough to convince a reasonable mind to support a conclusion. A determination of whether there is substantial evidence considers all evidence on the record. Favorable and unfavorable." He adds that after the conclusion of the presentation of evidence if the Board wishes to close the meeting so that they may deliberate in private they can announce the decision in the closed meeting. If the Board wants to go back and deliberate and discuss the case they are welcome to do so, they would just need a motion to close the meeting. He asks if there are any questions about the procedure.

**1. Minutes: Approval of July 11, 2019 meeting minutes.**

**MOTION:** Phil Hancock moves to approve minutes as presented. Rex Mumford. Seconds. Motion carries (5-0) Minutes were approved as presented.

**2. BOA 2019-03- Consideration and action on an appeal of an administrative decision, made by the Weber County Planning Division, to grant an approval of an Access Exception (AAE#2019-04) for access to a rear lot in a future two-lot subdivision. Applicant: Kristen Zaugg, Represented by Zane Froerer; Staff Presenter, Tammy Aydelotte**

Chair Bryce Froerer recused himself as he is a law partner of the applicant's representative. Vice-Chair Laura Warburton was appointed Chair for the remainder of the meeting.

Mr. Crockett notes that the previous version of the packet indicated that Mr. Crockett was the attorney that advised Director Grover. This was not the case, the attorney that advised Director Grover was Matthew Wilson. Ms. Aydelotte states that an amended packet was sent out and posted on the State website and County site.

Tammy Aydelotte explains that the item before the Board is an appeal on an administrative decision made on September 4<sup>th</sup>, 2019 by the Weber County Planning Director acting on the Land Use Authority on an application for alternative access or an access exception. She notes that she included the section in the Land Use code that explains how and why access exception is approved.

Mr. Mumford asks if Ms. Aydelotte has the dimensions of the subject property. Ms. Aydelotte states that the lot width is 163 ft. the length of the access is 269 ft.

Mr. Buttars asks is if the 3975 West street the private road, and the 4000 roads the public road.

Ms. Aydelotte states that this is correct.

Mr. Hancock asks if it is a 1-acre parcel. Ms. Aydelotte states that it is 2 and a half-acre parcel.

Mr. Buttars asks if it is common for a County to make these kinds of decisions before a subdivision has been approved. Ms. Aydelotte states that in order for a subdivision to be approved there has to be recognized legal access or frontage to each lot. The reason that the access was approved before the subdivision was that the legal access is approved through an administrative decision. They can be run concurrently; there is nothing in the land-use code that states order of operations other than there needs to be legal access for each lot in the subdivision.

Mr. Mumford asks if the frontage for lot 1 and 2 become temporary access. Ms. Aydelotte states the frontage for lot 1 is along the private road. She adds that the requirement is for lot width, not frontage. In the land-use code in the A-1 zone, there are standards of development. One of them is lot size, which is in the A-1 Zone. The minimum lot size is 40,000 sq. ft. The lot width is 150 ft you can measure that from the front yard setback. Both of the lots have the required width. When there is no frontage available but they do have access by a private right of way access easement they may use a private right of way or access easement as the primary access. She adds that the burden of proof is on the applicant to explain why it is not feasible to put in a road there.

Mr. Buttars asks where the northern waterway is. Ms. Aydelotte states that it is along the eastern boundary. Mr. Buttars asks what kind of a waterway it is. Ms. Aydelotte states that it is an open irrigation canal.

Mr. Mumford asks if both lots share the access. He states that on Exhibit B the hammerhead drawing shows that the access is flared to where it accesses both lots. Ms. Aydelotte states that this something that is required by the fire district, it is fire access for both lots.

Mr. Buttars asks if the access goes all the way to the canal. Ms. Aydelotte states that this is how they have demonstrated it, but it does not have to go all the way back to the canal. The easement hasn't been recorded.

Mr. Froerer states that he is representing Kelly and Kristen Zaugg. There is no subdivision and no lot in place, therefore the County should not proceed with granting alternate access in this application. He adds that what is being asked is to be granted access to a lot that does not exist and may never exist and for which an application has not been filed. Under the law, while there may not be a specific ordinance that states that you cannot apply under the law the rights in the prospective subdivision do not vest. They are not created until an application is filed. The County is correct you can file an access request along with a subdivision application but you can't have the alternate access request by itself. In the land-use code there a section that lists all the standards, nothing in the County's staff report addresses any of the standards. The County cannot grant rights unless it complies with all the regulations. It is under a land-use permit unless it complies with all the regulations under that permit. The County can't say we are going to grant this application believing that another application that does cover the standards will be filed. If both applications had been filed at once it could be dealt with in a different manner. The County has

given final approval to alternative access for a lot that doesn't exist in a lot that hasn't been applied for. There are two ways that a lot that doesn't have frontage can gain access. The Planning staff didn't go through any of the standards. One of them is the flag lot, which the County did address. You have to have three acres, there has to be an access strip which is part of the lot. In this situation we're dealing with an access easement as part of that. According to the land-use code 108-7-32, "It shall be demonstrated that appropriate and legal access exists due to historic use, court decree, or the execution of an easement, right-of-way, or other instrument capable of conveying or granting such right." In this case there is nothing that demonstrated this. There has to be a subdivision first, then the access easement and then decide if it is going to be adequate access to make sure that the lot won't have to be accessed over the frontage or the front lot line. The statute states that the lot has to be accessed over the front lot line unless it complies with 108-7-32. At this point there is no lot to evaluate whether that should apply. It was stated that the easement goes all the way back. At this point the easement can't go back. There is no subdivision, there is unity of ownership it is one lot. There can be no easement that exists accessing half of one lot to the back of one lot. If you have an easement between two lots and you combine 2 parcels the easement disappears. The reverse is true, you cannot create an easement to a lot that doesn't exist. Nothing has been recorded there are no specifications or parameters. It is very speculative at this point. Another thing that needs to be required is an actual easement. What was presented was a proposed easement. In all three statutes and all three ordinances 29 section 30, section 31, and 32 the applicant is required to demonstrate special or unique boundary, topographical or other physical conditions which would cause an undesirable or dangerous condition to be created for a property access across the frontline, or based on substantial evidence it shall be shown to be unfeasible or impractical to extend the street. The staff report which was prepared for the administrative review meeting states the correct and the need to have substantial evidence. There was no soil testing, no surveying, no analysis of where things are located. There is no subdivision so it's really difficult to assess if the lot can be accessed when there is no lot. The statute refers to access to a lot using a private right of way or access easement. (Lots/parcels that do not have frontage on the street) the current lot does have frontage. This application should be presented in conjunction with a subdivision application but not by itself. They are applying for the whole lot which does have frontage, which makes it disqualified for alternative access. The County should not vest rights in a prospective lot for an application that has not been filed. According to the notice of decision the conditions or findings, "the recommendation is based on the following findings, the proposed subdivision conforms to the Western Weber General Plan." He asks how the County can decide that when there is no subdivision. He adds that under CLUDMA the rights don't even vest in the subdivision until there is an application. In their decision, the County is saying that a subdivision that has not been applied for qualifies as a legitimate subdivision. The proposed subdivision complies with the applicable County ordinances. The staff report states that the recommendation is based on the following findings. Even if it was conditioned, and they get carried through, under the law you cannot have conditional final approval. It's either final or it's conditional. If the County wants to give them a conditional approval it can't say they have final approval. He adds that he feels that the County got ahead of itself. They should have required a subdivision application, to be filed contemporary with the application. They then should have gone through all the requirements, all the standard and criteria, before granting the alternate access. At this point, the County cannot grant alternate access. He states that once the subdivision application has been submitted they can figure out if the alternate access meets the standards.

Mr. Buttars states that regarding 18 of 19 exhibit A, Director Grover listed 11 conditions. Do the conditions listed assuage what Mr. Zane Froerer's client is trying to do. Mr. Froerer states at this point he does not have enough information to answer that question fairly. He adds that the analysis that needs to go into alternate access is independent of the subdivision access. It can together but findings and substantial evidence have to support both land-use decisions.

Mr. Hancock asks if the access is approved and the subdivision doesn't materialize, who is harmed. Mr. Froerer states that the question isn't who is harmed. The question is did they follow the land use regulations when they approve the access, they did not, they ignored section 29. Nobody would really be harmed, but it is hard to speak

to that when the review of land-use is meant to ensure due process for all interested parties. Mr. Hancock asks if his client's only concern is due process. Mr. Froerer states that his client does not want the lots subdivided. He asks if that is a fair thing to ask of her at this point if the application has not been filed for a subdivision. He adds that she doesn't even get a chance to address those issues, because that application has not been filed. Mr. Hancock asks if there might be an opportunity at a later point in time for her to address her concerns. Mr. Froerer states that she might but the final decision states that the subdivision is all good. Mr. Hancock states that he disagrees, the application filed does not address subdivision approval. Mr. Froerer states that he agrees that it doesn't address final approval but the final decision says that the approval based upon those findings and that the subdivision is proper within the County's greater western plan. He states that when the application is filed his client will have the opportunity to review and determine whether it is consistent with the County ordinances. However, that does not affect this decision. This is the final decision. The alternate access is granted, it was not granted consistent with the ordinances for the lot and it should be reversed. Whether or not they can do the subdivision in the future is different. He adds that they are not looking at this as a mechanism to prevent the subdivision. There is a mechanism by which the subdivision and the application for an alternative access can be dealt with in an appropriate way. Had the County gone through and addressed all the standards the County would be on better footing. They would still have to explain how they are granting access to a lot that doesn't exist.

Mr. Hancock states that not very long ago there was a similar case before the Board of Adjustments. Mr. Crockett states that there was a similar discussion, but way he reads the law, this is an individual land use application and in order to uphold the land use application according to *108.7.31 (1) (C) Based on substantial evidence, it shall be shown that it is unfeasible or impractical to extend a street to serve such lot/parcel. Financial adversity shall not be considered; however, circumstances that may support approval of a private right-of-way/access easement as access to a lot/parcel may include but not be limited to unusual soil, topographic, or property boundary conditions.* Mr. Crockett states that in the review of the record there has to be enough information that there is substantial evidence to uphold that finding. Mr. Hancock notes that they don't accept that it is the same owner from both lots and they have the legal right to request that subdivision. Mr. Froerer states that he feels they have the right to request the subdivision. It would be a good thing and they should apply for a subdivision. The County can then evaluate whether the subdivision is appropriate. At this point, his client wants to make sure that there is an orderly process on how subdivision and access to lots in her community are granted by the County and that there is a safe and orderly manner in doing those subdivisions.

Chair Warburton asks if there are any more questions for Mr. Froerer.

Mr. Buttars asks that Mr. Froerer address the concern regarding the private road where there is frontage. Mr. Froerer states that the County does not define the street. It refers to the street in this application, record, and ordinance. The County doesn't define it as a private or public street. It should be read broadly and be given its regular use. When an ordinance refers to frontage to a street it should be interpreted as a frontage to a private street or a public street. Under the statute a public street is defined. Under the ordinances in 101-1-6 the term street is not specifically defined by the Weber County Ordinances it must be given the broadest definition possible. The public street is specifically defined under Utah Code under CLUDMA that governs it. The ordinance does not specifically refer to frontage on a public street it shouldn't be read to limit frontage to being only on a public street. There may an issue that was not addressed. What is being done is they are tacking on a private access easement to a private street that goes to a public road and there may be some issues that the fire marshall has with the distance between the public street and the lot. They are piggybacking off of a private street. This was not addressed in the application.

Chair Warburton asks if there are any more questions. There are none.

Chair Warburton asks if Ms. Aydelotte would like to address the issues brought up by Mr. Froerer. Ms. Aydelotte states that the reason that some of the recommendations were not addressed at the time of the application is that they are typically addressed at subdivision approval. This is why it is more expensive to file a subdivision application because it pays for everyone's review. At an access exception staff looks at the standards listed and the Planning Director ensures that everything meets code. There were several additional conditions added, that he wanted to make sure were specifically addressed when the subdivision application is filed. Chair Warburton states that if staff is looking at conditions or looking at applying conditions, it does not mean that approval has been granted it means that those conditions need to be addressed before the application can be approved. Ms. Aydelotte states that it is considered final approval as long as the conditions have been met. Chair Warburton points out that it is a possible subdivision; at this point, it is only a right to access. Mr. Crockett states that in his legal opinion he does not see how it can be final when those conditions have not been addressed. It makes more sense to do them in conjunction. At this point they seem too distanced. Chair Warburton states that when she saw Ms. Zauggs compliant there wasn't anything that was connected to what Mr. Froerer brought up. Chair Warburton states that she feels there are two different things going on. She adds that she does not want to take away someone's property rights and cost them more time and money, based on a technicality. Mr. Crockett states that the Board of Adjustment's decision doesn't have the authority to adjudicate someone's property rights. This is something that is addressed through a judicial body. Chair Warburton asks if the Board is quasi-judicial. Mr. Crockett states that as far as whether there is legal access to go in there the Board does not have the ability to say yes or no, or take away their legal access.

Chair Warburton asks if there are any more questions for staff.

Mr. Buttars states that regarding Director Grover's decision on page 14, it states *"I recommend approval based on the findings outlined in the staff report. That is based on substantial evidence; it has been found that it is unfeasible or impractical to extend the street to serve such lot or parcel. Based on the topography of the property boundary conditions, which limits typical access requirements in a unique way. This has to do with the waterway in this situation. This stands approved based on specific conditions."* Mr. Buttars states that he is trying to understand how the waterway meets the unfeasible and impractical requirement if it is the back of the lot. He asks if Director Grover wants to speak to this. Director Grover states that in this situation the waterway makes it difficult for the street to extend back through that area. Bodies of water it is more difficult for developers to cross those areas. In this situation, he felt that it was because of the canal and there are homes on the other side where it is difficult to develop and make a street connection through that area. Mr. Buttars states that the access may not even go to the canal. Director Grover states that typically when they look at streets they look at connectivity. They don't typically have a sub street, they like to have through streets going to another possible development in the future. In this situation it is impractical. Mr. Buttars asks if this is the case even when there is special access. Director Grover states that is why that provision is there is to look at the special access options. He adds that in his opinion this section of code should be amended in the future, but it is in the code at this point in time. For this reason the waterway was a hindrance to future development.

Chair Warburton asks if there are any more questions. There is none.

Chair Warburton asks if she can open the meeting for public comment. Mr. Crockett states that he recommends that it is not opened, because the meeting is for a review of the record. He adds that the only thing that the Board is allowed to consider is what is in the record.

Chair Warburton states that if the public has any comments they are welcome to send them or speak to Tammy Aydelotte at the office.

**MOTION:** Nathan Buttars moves to close the meeting to deliberate the case. Rex Mumford seconds.

Phil Hancock-Aye; Rex Mumford-Aye; Nathan Buttars-Aye; Chair Laura Warburton-Aye.  
Motion carries (4-0)

**MOTION:** Rex Mumford moves to reopen the meeting. Nathan Buttars seconds. Motion carries (4-0)

**MOTION:** Nathan Buttars moves to reverse Access Exception AAE# 2019-04 for access to rear lot in a future two – lot subdivision , because it doesn't meet LUC §108-7-31(1)(C) in that the record does not reflect substantial evidence to support the unfeasibility or impracticability to extend to a street to serve such lot/ parcel. The Board of Adjustments does not find that the County did anything illegal in their actions, only that the Board of Adjustments didn't find the quantum & quality of relevant evidence that is adequate enough to convince a reasonable mind to support the conclusion. Rex Mumford Seconds. Motion carries (4-0)

### **3. Review and Approval of the Board of Adjustment's Rules of Order.**

Mr. Crockett states the change added to the Rules of Order was based on a suggestion from the Board of Adjustments at the July 11, 2019 meeting. The change was regarding the number of times the Board has to meet. On page 2 there is a section referencing that the Board is meant to meet once per quarter to review minutes. He notes that he removed that part so that the Board of Adjustments only has to meet in an as-needed basis. There was another change on the bottom of page 3 going to the top of page 4, which would authorize the approval of minutes via email which would be coordinated through the chair. Chair Warburton asks if there is any more discussion. There is none.

**MOTION:** Rex Mumford moves to approve changes to the Rules of Order. Nathan Buttars seconds. Motion Carries (4-0) Rules of Order changes are approved as presented.

**Adjournment-** Nathan Buttars moves to adjourn the meeting, Rex Mumford Seconds. Meeting adjourned at 6:15 pm.



# 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 15-foot variance to the 50' stream corridor setback.

**Agenda Date:** Thursday, February 27, 2020

**Applicant:** Michael Roundy, Owner

**File Number:** BOA 2020-01

### Property Information

**Approximate Address:** 595 North 5150 East Eden, Utah

**Project Area:** 1.37 acres

**Zoning:** Forest Valley (FV-3)

**Existing Land Use:** Residential

**Proposed Land Use:** Residential

**Parcel ID:** 20-046-0005, 20-046-0006

**Township, Range, Section:** T6N, R1E, Section 10

### Adjacent Land Use

<b>North:</b>	Residential	<b>South:</b>	Residential
<b>East:</b>	Residential	<b>West:</b>	Forest

### Staff Information

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

**Report Reviewer:** SB

## Applicable Codes

- Title 102 (Administration) Chapter 3 (Board of Adjustment)
- Title 104 (Zones) Chapter 5 (Forest Valley 3 Zone)
- Title 104 (Zones) Chapter 28 (Ogden Valley Sensitive Lands) Section 2 (Stream Corridors, Wetlands, and Shorelines)

## Development History

On July 13, 1972, Pine View West Subdivision No.2 plat was recorded.

On May 2, 2019, Michael Roundy was approved for a Building Parcel Designation. Which allows for the owner of two adjacent parcels to build an accessory structure on the neighboring vacant parcel.

This request to the Board of Adjustment was submitted on February 4, 2020.

## Background

The applicant is requesting a 15-foot variance to the required 50-foot stream corridor setback for the placement of a 1,360 sq. ft. pole structure. The unique circumstance on this property is a seasonal stream running through the parcel, shown as a drainage easement on the Pine View West Subdivision plat included as Exhibit H to this staff report. The Land Use Code (Sec. 104-28-2, states the following regarding stream corridor setbacks:

*No structure, accessory structure, road, or parking area shall be built within the required setback from a river or stream as measured from the high water mark of the river or stream. The high water mark shall be determined by the Weber County engineer. The areas within the setback shall be maintained in a manner that protects the quality of water in the river or stream and the habitat of native vegetation and wildlife along the river or stream...*

*C. Structures, accessory structures, roads, or parking areas shall not be developed or located within 50 feet from the high water mark of a natural ephemeral stream.*

## 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. In order 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 relate 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 done.*

Listed below is staff's analysis:

- a. Literal enforcement of the 50-foot stream corridor set-back would increase the incumbrance that already exists as depicted on the dedication plat. Due to the location of the stream in relation to the parcel boundaries, the applicant would have very limited area to place an accessory building of the proposed size.
- b. The special circumstance that exists on the property is the location of the seasonal stream and its 50 ft corridor.
- c. Granting the variance would allow the owner of the parcel to build an accessory storage structure in a location that would utilize the limited buildable space within lot 13.
- d. The General Plan indicates that this area should be developed as is planned and zoned; thereby the variance and development is not contrary to any public interest.
- e. This variance request is not an attempt to avoid or circumvent the requirements of the County Land Use Code. The applicant has gone through the proper channels in applying for a variance. The proposal still observes the 35 ft setback from the drainage, as shown on the subdivision plat.

## Conformance to the General Plan

Page four of the Ogden Valley General Plan state the importance of preserving open view corridors by placing development in unobtrusive locations. The owner's desired location for the structure is behind a line of trees that will obscure it from the road.

## Staff Recommendation

Staff recommends approval of a 15-foot variance to the 50-foot stream corridor setback, as stated in the application. This recommendation is based on compliance with the applicable variance criteria discussed in this staff report and conditioned upon meeting all other applicable review agency requirements.

## Exhibits

- A. Application with Narrative
- B. Rattlesnake Drainage
- C. Rattlesnake Drainage Culvert
- D. Rattlesnake Drainage Photos
- E. Site plan showing set backs
- F. Building Plans
- G. Written variance request from applicant
- H. Pine View West No 2 Dedication plat
- I. Recorder's plat showing drainage path
- J. Stream Corridor map

## Area Map



<b>Weber County Board of Adjustment Application</b>			
<b>Application submittals will be accepted by appointment only. (801) 399-8791. 2380 Washington Blvd. Suite 240, Ogden, UT 84401</b>			
Date Submitted / Completed <b>1/31/2020</b>	Fees (Office Use)	Receipt Number (Office Use)	File Number (Office Use)
Property Owner Contact Information			
Name of Property Owner(s) <b>Michael H Roundy</b>		Mailing Address of Property Owner(s) <b>P.O. Box 563 Eden, UT 84310</b>	
Phone <b>801-888-4417</b>	Fax <b>none</b>	Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	
Email Address <b>bplevi@relia.net</b>			
Authorized Representative Contact Information			
Name of Person Authorized to Represent the Property Owner(s)		Mailing Address of Authorized Person	
Phone	Fax	Preferred Method of Written Correspondence <input type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	
Email Address			
Appeal Request			
<input checked="" type="checkbox"/> A variance request: <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <span>___ Lot area</span> <span>Yard setback</span> <span>Frontage width</span> <span>Other: <b>Reduction in ephemeral easement consideration</b></span> </div> <input type="checkbox"/> An Interpretation of the Zoning Ordinance <input type="checkbox"/> An Interpretation of the Zoning Map <input type="checkbox"/> A hearing to decide appeal where it is alleged by appellant that there is an error in any order, requirement, decision or refusal in enforcing of the Zoning Ordinance <input type="checkbox"/> Other: _____			
Property Information			
Approximate Address <b>595 North 5150 East Eden, UT</b>		Land Serial Number(s) <b>200460006 200460005</b>	
Current Zoning <b>FV-5</b>			
Existing Measurements		Required Measurements (Office Use)	
Lot Area <b>1.37 Acre</b>	Lot Frontage/Width <b>218'</b>	Lot Size (Office Use)	Lot Frontage/Width (Office Use)
Front Yard Setback <b>167'</b>	Rear Yard Setback <b>84'</b>	Front Yard Setback (Office Use)	Rear Yard Setback (Office Use)
Side Yard Setback <b>99'</b>	Side Yard Setback <b>46'</b>	Side Yard Setback (Office Use)	Side Yard Setback (Office Use)

**Applicant Narrative**

Please explain your request.

Word doc. attached separately

**Variance Request**

The Board of Adjustment may grant a variance only if the following five criteria are met. Please explain how this variance request meets the following five criteria:

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 Zoning Ordinance.

a. In determining whether or not enforcement of the land use ordinance 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 enforcement of the land use ordinance would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.

The unreasonable hardship is inherent to the ephemeral drainage itself to which an excessive easement has been attached. A previous Zoning Ordinance was adequate to enjoy better use of the property..

**Variance Request (continued...)**

2. There are special circumstances attached to the property that do not generally apply to the other properties in the same zone.

a. In determining whether there are special circumstances attached to the property, the appeal authority may find that special circumstances exist only if the special circumstances relate to the hardship complained of, and deprive the property of privileges granted to other properties in the same zone.

Please describe the special circumstances attached to the property that do not generally apply to the other properties in the same zone:

A swale or small ravine cuts the property in half with accompanying ephemeral drainage easement. Other properties in the same zone are not so encumbered.

**A swale or small ravine cuts the property in half with its accompanying ephemeral drainage easement. Other properties in the same zone are not generally so encumbered.**

3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.

**A variance would improve somewhat the same property right possessed by others in the same zone.**

**Variance Request (continued...)**

4. The variance will not substantially affect the general plan and will not be contrary to the public interest.

**A variance will not effect the general plan. Other secondary structures exist in the zone with no public interest affected.**

5. The spirit of the land use ordinance is observed and substantial justice done.

**A variance would allow slightly better land use.**

**Property Owner Affidavit**

I (We) Michael H. Roundy, depose and say that I (we) am (are) the owner(s) of the property identified in this application and that the statements herein contained, the information provided in the attached plans and other exhibits are in all respects true and correct to the best of my (our) knowledge.

Michael H. Roundy  
(Property Owner)

\_\_\_\_\_  
(Property Owner)



Subscribed and sworn to me this 31<sup>st</sup> day of January, 2020

Sonya W Coy  
(Notary)

**Authorized Representative Affidavit**

I (We) \_\_\_\_\_, the owner(s) of the real property described in the attached application, do authorized as my (our) representative(s) \_\_\_\_\_, to represent me (us) regarding the attached application and to appear on my (our) behalf before any administrative or legislative body in the County considering this application and to act in all respects as our agent in matters pertaining to the attached application.

\_\_\_\_\_  
(Property Owner)

\_\_\_\_\_  
(Property Owner)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me \_\_\_\_\_, the signer(s) of the Representative Authorization Affidavit who duly acknowledged to me that they executed the same.

\_\_\_\_\_  
(Notary)

# Rattlesnake Drainage



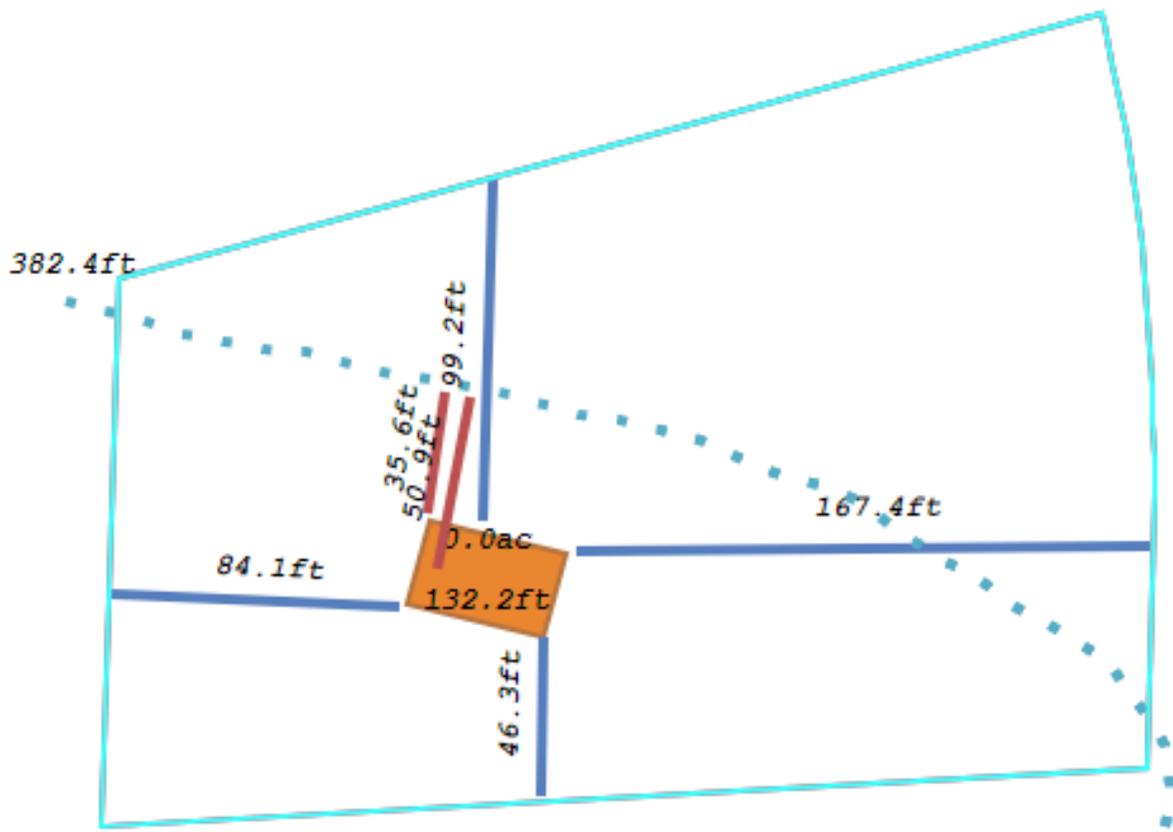
# Rattlesnake drainage culvert



Rattlesnake drainage after flowing diagonally across lot 200460006's deep swale changes direction abruptly at upper X and flows down a simple 2 foot deep roadside swale or ditch passing through 14" culverts (see arrow pointing to culvert opening and second X entry) under 5 additional driveways on its way to a culvert under SR-158 where it fans out into a field. 5150 East aka Radford Lane runs down hill to SR-158 allowing runoff to run rapidly and safely not pool or dam up. No further easement is indicated after the drainage reaches 5150 East and high water is only about 6 inches. Thus my request to reduce the easement across 200460006 to 35' seems justified.







DESIGN ACCORDING TO THE 2018 IBC.  
FOR SPECIFICATIONS NOT SHOWN REFER TO THE 2018 IBC.

DESIGN CATEGORY:  
RISK CATEGORY I - LOW RISK

SEISMIC CRITERIA:  
DESIGN CATEGORY D  
SOIL SITE CLASS D (ASSUMED)  
R = 2.5 (LIGHT-FRAME WALLS WITH SHEAR PANELS OF ALL OTHER MATERIALS)  
SS= 0.0g, S1= 0.0g; SDS= 0.0g; SD1= 0.0g  
ANALYSIS PROCEDURE: EQUIVALENT LATERAL FORCE  
BASE SHEAR= 000 LBS

WIND LOAD:  
ULTIMATE WIND DESIGN SPEED: 105 MPH 3 SEC. GUST  
(RISK CATEGORY I, 2018 IBC FIGURE 1609.3(4))  
TERRAIN EXPOSURE C

SNOW LOAD:  
SITE ELEVATION: 5090 FT  
GROUND SNOW LOAD: 43 PSF  
ROOF DESIGN SNOW LOAD: 30 PSF

DEAD LOADS:  
ROOF STRUCTURE 4 PSF  
WALLS 4 PSF  
ROOF LIVE LOAD: 20 PSF  
FROST DEPTH: 40 IN

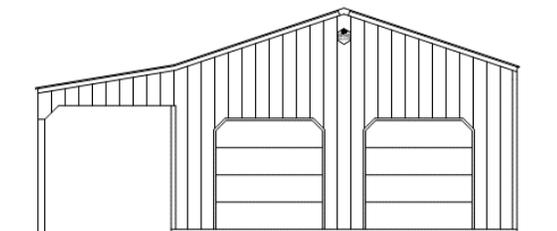
- CONCRETE FOUNDATION NOTES:
- 28 DAY STRENGTH (F'C) W/ NORMAL 145 PCF DENSITY: FOOTINGS: 3000 PSI
  - SLABS ON GRADE: 3000 PSI REQUIRED, 3500 PSI RECOMMEND
  - ALL SLABS: PROVIDE A MIN. THICKNESS OF 4" W/ 4" DEEP MIN. CRUSHED GRAVEL BASE.
  - CONTRACTION/CONTROL JOINTS SHALL BE INSTALLED IN SLABS ON GRADE SO THE LENGTH TO WIDTH RATIO OF THE SLAB IS NO MORE THAN 1.5:1. CONTROL JOINT SPACING SHALL NOT EXCEED 30 TIMES THE SLAB THICKNESS IN ANY DIRECTION, UNLESS OTHERWISE NOTED.
  - CONTROL JOINTS SHALL BE COMPLETED WITHIN 6-18 HOURS OF CONCRETE PLACEMENT.
  - CONTROL JOINTS SHALL BE TOOLED OR SAWED TO THE GREATER DEPTH OF 1" DEEP OR 1/4 THICKNESS OF CONCRETE SLAB.

- SOILS AND EXCAVATION:
- NO SOILS REPORT PROVIDED - STABLE SOIL CHARACTERISTICS ASSUMED. ALL DESIGN WAS BASED ON STABLE SOIL CHARACTERISTICS. GEOTECHNICAL HAZARDS FOUND ON OR AROUND THE SITE, INCLUDING EXPANSIVE CLAYS, OR SOILS FOUND AT THE SITE WHILE EXCAVATION OCCURS WHICH DIFFERS FROM THOSE ASSUMED SHOULD BE BROUGHT TO THE ATTENTION OF THE BUILDING OFFICIAL AND ENGINEER.
  - ALLOWABLE BEARING PRESSURE: 1500 PSF
  - NATIVE MATERIAL SURROUNDING FOOTING TO BE DISTURBED MINIMALLY DURING EXCAVATION.
  - FOOTINGS SHALL BE PLACED ENTIRELY IN UNDISTURBED NATIVE SOILS OR STRUCTURAL FILL WHICH IS BEARING ON UNDISTURBED NATIVE SOILS AND IS COMPACTED TO 95% OF THE MODIFIED PROCTOR DENSITY.

- GENERAL
- PLEASE REFER TO THE STRUCTURAL CALCULATIONS FOR ALL SPECIFICATIONS AND DESIGN CRITERIA NOT LISTED HERE. WHERE DETAILS ARE NOT SPECIFIED, TYPICAL DETAILS AS SPECIFIED ON PLANS AND ON THE STRUCTURAL DETAILS SHEET SHALL APPLY.

# BEEHIVE BUILDINGS

## MIKE ROUNDY BUILDING



### BUILDING INFORMATION

SITE INFORMATION:  
ADDRESS:  
559 N 5150 E  
EDEN, UTAH

BUILDING INFORMATION:  
DIMENSIONS: 25' x 40'  
TOTAL SQUARE FOOTAGE: 1400 S.F.  
MAIN BUILDING: 1000 S.F.  
LEANS: 400 S.F.

### CONTACTS

CONTRACTOR:  
BEEHIVE BUILDINGS  
CONTACT: GARRETT NICHOLS  
PHONE: 801-529-4222

DRAFTING AND ENGINEERING:  
  
CONTACT: DEREK LLOYD  
DEREK@MOUNTAINPOINTENGINEERING.COM  
PHONE: 801-450-5332

### DRAWING INDEX

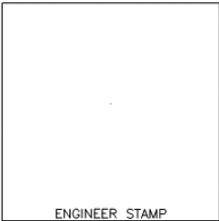
SHEET	DESCRIPTION
00	COVER SHEET
01	FOUNDATION PLAN
02	FLOOR PLAN
03	ROOF PLAN
04	GIRT PLAN
05	ELEVATIONS
06	PANEL LAYOUT
07	DETAIL SHEET
08	DETAIL SHEET
09	DETAIL SHEET

**PRELIMINARY  
NOT FOR PERMIT**

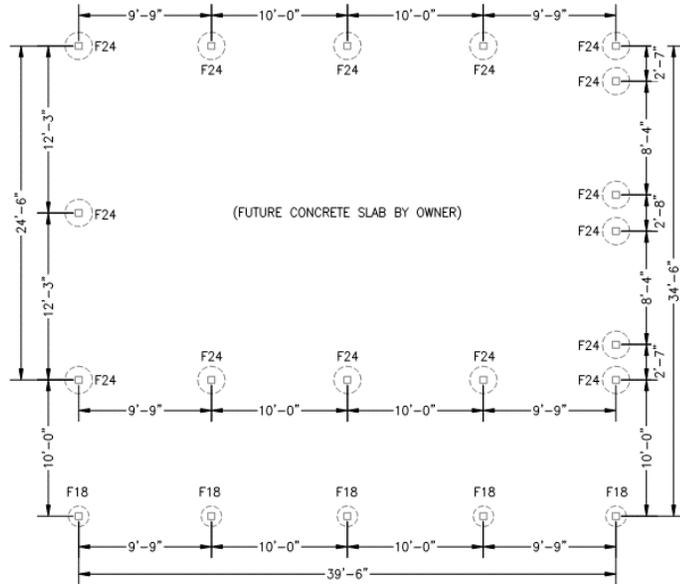
ENGINEER STAMP

DATE  
**01/21/2020**

NORTHEAST



NORTHWEST



SOUTHEAST

SOUTHWEST

FOUNDATION PLAN

MIKE ROUNDY BUILDING  
EDEN, UTAH

- PIERS:
1. F18: 18" DIA X 40" DEEP CONCRETE PIER
  - 1.1. 24" DIA OK
  2. F24: 24" DIA X 40" DEEP CONCRETE PIER

PROJECT  
B104

SCALE  
1/8" = 1'-0"

DATE  
01/21/2020

SHEET  
01

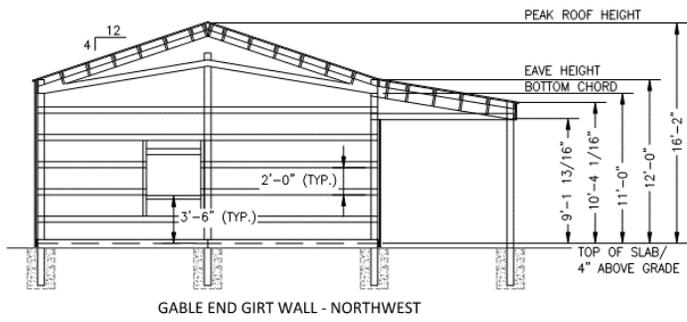


ENGINEER STAMP

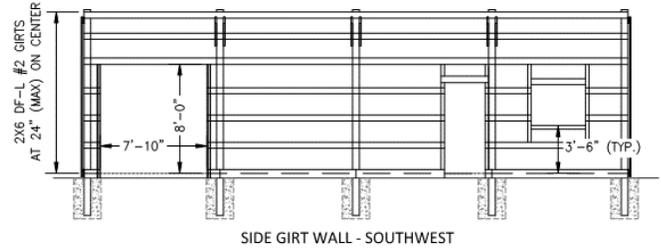
GIRT PLAN

MIKE ROUNDY BUILDING  
EDEN, UTAH

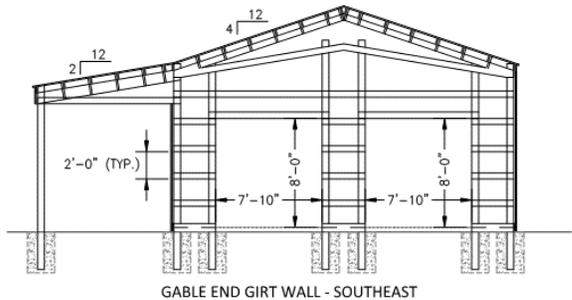
PROJECT  
B104  
SCALE  
1/8" = 1'-0"  
DATE  
01/21/2020  
SHEET  
04



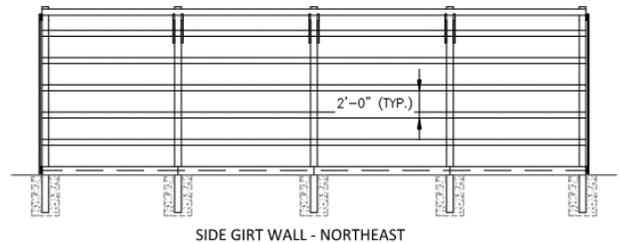
GABLE END GIRT WALL - NORTHWEST



SIDE GIRT WALL - SOUTHWEST



GABLE END GIRT WALL - SOUTHEAST



SIDE GIRT WALL - NORTHEAST

ENGINEER STAMP



ELEVATIONS

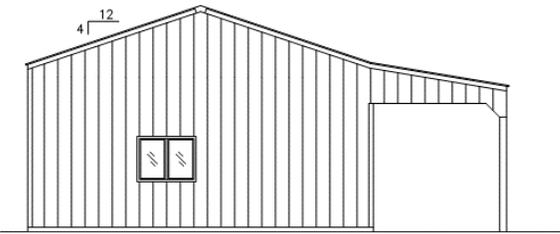
MIKE ROUNDY BUILDING  
EDEN, UTAH

PROJECT  
B104

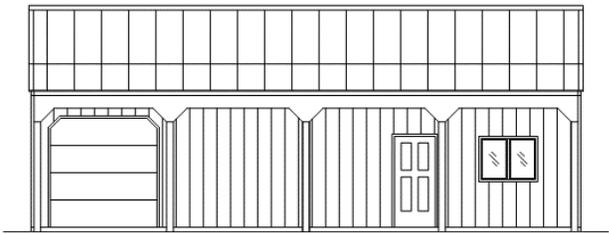
SCALE  
1/8" = 1'-0"

DATE  
01/21/2020

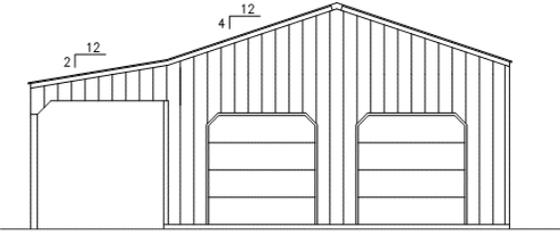
SHEET  
05



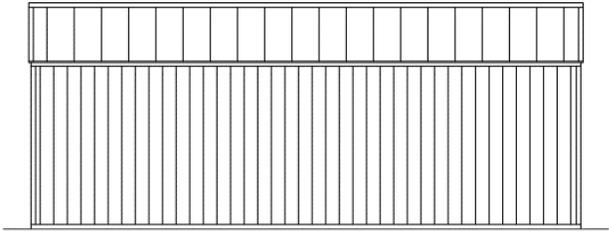
GABLE END ELEVATION - NORTHWEST



SIDE ELEVATION - SOUTHWEST



GABLE END ELEVATION - SOUTHEAST



SIDE ELEVATION - NORTHEAST

Ref. the vacant lots of record 200460006, ( PV-13), and my existing residence 200460005 (PV-12). I've received a Building Parcel Designation BPD2019-01 which combines the two adjacent lots (lots 12 & 13 of Pineview West Subdivision No. 2) to allow construction of a pole barn subject to: 1) Land use permit required for building permit. 2) Development shall not occur within existing drainage easement (which occurs corner to corner or laterally across lot 13). For the record I have owned both properties for 30 years, thus have observed for such length of time, ephemeral conditions pertinent to the easement . My desire for this variance request is to restore the original 35' drainage which is entirely adequate considering ephemeral drainage known as Rattlesnake does not flow every year, flows a rather small stream, and is in a ravine. Later amended easement of 50' is overkill for this drainage *and* all easement consideration disappears when Rattlesnake drainage meets 5150 East (Radford Lane) and adequately runs down a roadside swale or ditch through five drive way culverts until it meets Hwy 158. A variance to original 35' easement would allow me to locate the pole barn as close to the edge of an open field shared by lots PV 12 and PV 13 as allowed by *safe* ephemeral drainage easement requirements for three reasons. 1) to attempt to locate the structure on PV-13 somewhat behind exiting foliage to hide somewhat from road view. 2) maintain as much as possible what would be left of the open space in the shared open field which is a feeding and migration zone of sorts for primarily deer and lesser extent to moose and turkey feeding in and moving through to other feed and water elsewhere. 3) Better mitigate rain and snow melt runoff from pole barn roof toward the drainage ravine.

This, again, would allow more aesthetic location of the structure and more reasonable use of the shared open field.

See several [photos](#) and other [attachments](#) for clarification :

The ephemeral drainage known as Rattlesnake runs diagonally across PV-13 as shown in PDF attached titled "[Rattlesnake Drainage](#)", which is deceiving as the drainage appears flat but in reality is a swale or ravine and drains the small Rattlesnake draw and only flows in early April only on years of above average snows. That is, it's dry most years of average snowfall.

["Plat of Pineview Subdivision No.2"](#) with explaining verbiage included and stream flow indicated by blue dots.

[Rattlesnake drainage Culvert](#)" PDF with verbiage further showing the roadside swale and culverts through which Rattlesnake Drainage easily flows with apparently no further easement requirements.

["Rattlesnake Drainage high water cat 1 and Rattlesnake Drainage high water cat 1.2"](#) JPG photos. Photos show high water on a typical year when the drainage *does* run. Note extensive hydraulic loading through the ravine *and* the "high water" condition shown even runs clear.

["Pole barn placement and measurements, and setbacks svg"](#) for some clarification relative to Rattlesnake Drainage on PV-13, 200460006.

["Pole Barn plans"](#) PDF for consideration.

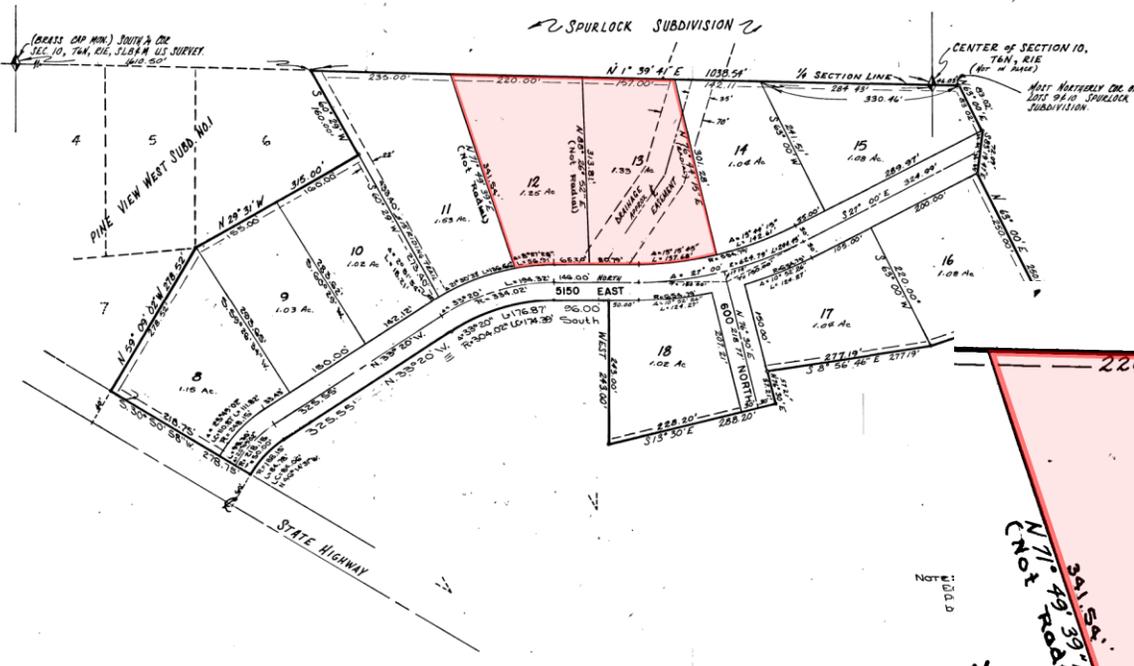
CS - 11

# PINE VIEW WEST SUBDIVISION NO. 2

A PART OF THE EAST 1/2 OF SECTION 10, T6N, R1E, SLB&M U.S. SURVEY  
WEBER COUNTY, UTAH



**SURVEYOR'S CERTIFICATE**  
I, Jay R. Anderson, a registered land surveyor in the State of Utah, do hereby certify that this plat of Pine View West Subd. No. 2 in Weber County, Utah, has been correctly drawn to the design-  
ated scale and is a true and correct representation of the following description of lands included in said subdivision, based on data compiled from records in the Weber County Recorder's Office, and of a survey made on the ground.  
Signed this 22<sup>nd</sup> day of April, 1972  
Jay R. Anderson  
Licenses No. 2450 Signature



**OWNER'S DEDICATION**  
We the undersigned owners of the herein described tract of land, hereby set apart and subdivide the same into lots and streets as shown on this plat and name said tract Pine View West Subdivision No. 2 and hereby dedicate, grant and convey to Weber County, Utah, all those parts or portions of said tract of land designated as streets, the same to be used as public thoroughfares forever, and also dedicate to Weber County those certain strips or assessments for public utility and drainage purposes as shown hereon, the same to be used for the installation, maintenance, and operation of public utility service lines and drainage as may be authorized by Weber County.  
Signed this 22<sup>nd</sup> day of April, 1972

*Eugene Edward Radford* MILDRED L. RADFORD  
EUGENE EDWARD RADFORD  
AKA EDWARD E. RADFORD

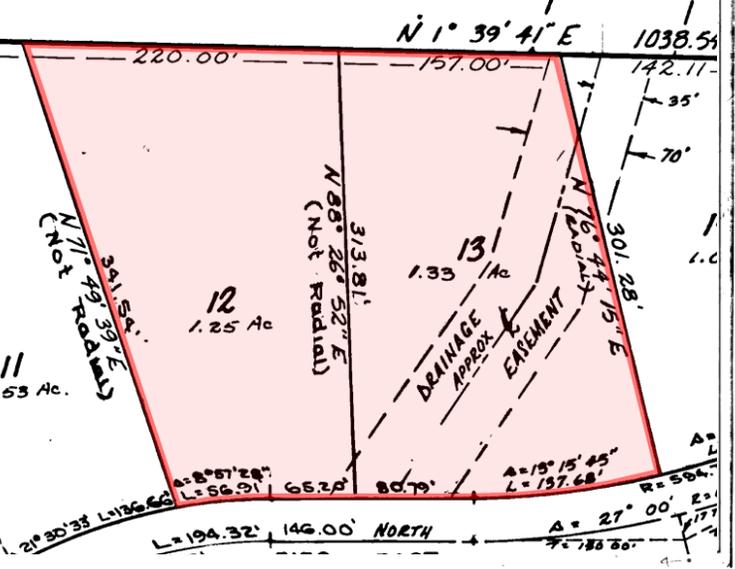
*Gerald N. Engstrom* A PARTNERSHIP  
GERALD N. ENGSTROM & N. W. LEATHAM

**ACKNOWLEDGEMENT**  
State of Utah  
County of Weber  
I, the undersigned, do hereby acknowledge the foregoing as the true and correct copy of the original as recorded in my office on the 22<sup>nd</sup> day of April, 1972.

**COUNTY ATTORNEY**  
I have examined the proposed plat of Pine View West Subdivision No. 2 and in my opinion it conforms with the County Ordinance applicable thereto and herein force and effect.  
Date June 7, 1972  
*Dwight J. Beeson*  
Weber County Attorney

**COUNTY ENGINEER**  
I hereby certify that I have carefully investigated the lines of survey of the foregoing plat and legal description of the land embraced therein, and find them to be correct and to agree with the lines and monuments on record in this office.  
Signed this 22<sup>nd</sup> day of June, 1972  
*Fred W. Miller*  
Signature

**COUNTY ENGINEER**  
This is to dedication of ad and acqui of WEBER 1972 day of June  
Attest  
Title

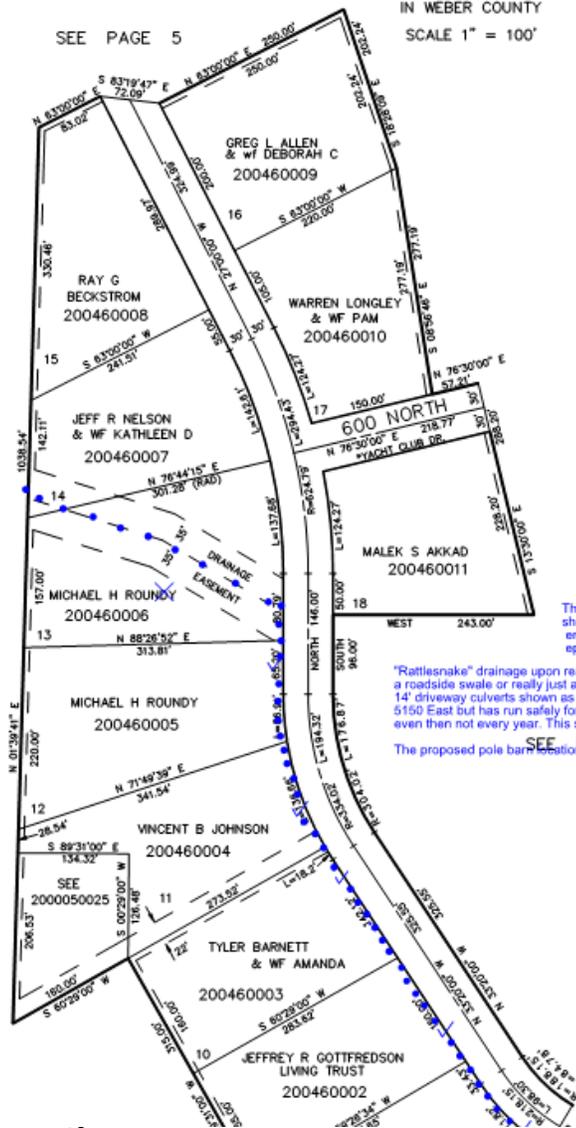


PREPARED BY:  
GREAT BASIN ENGINEERING & SURVEYING INC.  
CIVIL ENGINEERS LAND SURVEYORS  
Ogden, Utah

TAXING UNIT: 28  
PART OF THE EAST 1/2 OF SEC. 10, T.6N., R.1E., S.L.B. & M.  
PINE VIEW WEST SUBDIVISION NO. 2  
IN WEBER COUNTY  
SCALE 1" = 100'

SEE PAGE 5

SEE PAGE 7



The current plat for Pineview West Subdivision No.2 as evidenced by all property owners shown being current as of 1/26/2020. Drainage easement is shown as 35' which is entirely adequate and safe, however I have been informed actual easements for ephemeral are 50' which is a bit excessive per the following, and other examples:

"Rattlesnake" drainage upon reaching 5150 East (AKA Radford Lane) turns abruptly and enters a roadside swale or really just a ditch where it can run rather rapidly down grade passing under 14' driveway culverts shown as checkmarks. No further drainage easement is indicated after reaching 5150 East but has run safely for the 30 years I have observed in April only for up to two weeks and even then not every year. This same flow is visually indicated in PDF attachment "Rattlesnake drainage culvert".

The proposed pole barn location is approx shown by X, but dimensions/setbacks shown in another attachment.

SEE PAGE 5-1

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SEE PAGE 5-1

The proposed pole barn location is approx shown by X, but dimensions/setbacks shown in another attachment.



# 2020

## JANUARY

S	M	T	W	T	F	S
			1	2	3	5
5	6	7	8	9	10	12
13	14	15	16	17	18	19
19	20	21	22	23	24	25
26	27	28	29	30	31	

## FEBRUARY

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23	24	25	26	27	28	29

## MARCH

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15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

## CALENDAR KEY :

	Western Weber County Planning Commission
	Ogden Valley Planning Commission (1 <sup>st</sup> Tues. Work Session)
	Board of Adjustment (Scheduled only if a case is received)
	WACOG
	County Holidays
	PC/BOA Annual Dinner
	Administrative Review Meeting (ADM)
	Agency Review Committee (ARC)
	ELECTIONS
	Paydays
	Payday/Holiday

>

## APRIL

S	M	T	W	T	F	S
			1	2	3	4
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12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

## MAY

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17	25	26	27	28	29	30

## JUNE

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21	22	23	24	25	26	27
28	29	30				



# 2020

JULY						
S	M	T	W	T	F	S
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19	20	21	22	23	24	25
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AUGUST						
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30	31					

SEPTEMBER						
S	M	T	W	T	F	S
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6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

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	Agency Review Committee (ARC)
	ELECTIONS
	Paydays
	Holiday/Payday

OCTOBER						
S	M	T	W	T	F	S
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4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

NOVEMBER						
S	M	T	W	T	F	S
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15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

DECEMBER						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		



**WEBER COUNTY BOARD OF ADJUSTMENT  
RULES OF PROCEDURE AND ETHICAL CONDUCT**

A Board of Adjustment shall be governed by the provisions of all applicable Statutes, County Ordinances and these rules.

**I**

**MEMBERS**

The Board of Adjustment shall each consist of five voting members, and two alternates, all of whom shall be citizen members appointed by the County Commission in accordance with the provisions of Utah Code Annotated and Weber County Ordinances.

**II**

**OFFICERS AND DUTIES**

**A. Chair and Vice Chair**

The Board of Adjustment shall elect annually, during the first regularly scheduled meeting in January, a Chair and Vice Chair who may be elected to succeed themselves for one additional term only. The Chairman shall be elected from the voting members of the Board of Adjustment by a majority of the total membership. The Chair, or in his/her absence or incapacity, the Vice Chair, shall preside over all meetings and hearings of the Board of Adjustment and shall execute all official documents and letters of the Board of Adjustment.

**B. Secretary**

The Director of Planning or his/her designated Staff member shall be the Secretary of the Board of Adjustment.

**III**

**MEETINGS**

**A. Quorum**

Three (3) or more members shall constitute a quorum for the transaction of business and the taking of official action; however, in the case of only three members in attendance, a unanimous vote shall be required to approve or deny an application.

**B. Time of Meeting**

Regular meetings shall be held on the second and fourth Thursdays of each month, as needed, or at the call of the Chair, at a time to be scheduled by Staff in the Weber County Commission Chambers of the Weber Center, 2380 Washington Blvd., Ogden. The date of the regular meeting may be changed by the majority of the total membership of the Board of Adjustment provided at least one week notice is given each member of the new date of a regular meeting.

**C. Meetings Open to the Public**

All regular or special meetings of the Board of Adjustment shall be open to the public.

**D. Electronic Meeting Option**

The Utah Open and Public Meetings Act allows public bodies to hold electronic meetings, subject to certain requirements. The Board of Adjustment hereby adopts the following rules to allow electronic meetings and govern their use. If future changes in state law conflict with these rules, the conflicting provisions of the new state law shall be automatically incorporated into these rules by reference, superseding the conflicting provisions of these rules, until the rules can be amended to conform to the new state law.

1. The Board of Adjustment will only hold an electronic meeting in the following circumstances:
  - a. a matter coming before the Board requires prompt attention;
  - b. the Secretary of the Board determines that there will not be a quorum present for the next meeting unless the Board allows one or more members to attend electronically;  
and
  - c. the Chair, or the Vice Chair in the absence of the Chair, determines that all items on the proposed agenda are appropriate for discussion and action in an electronic meeting.
2. Electronic meetings will originate from an "anchor location," as required by state law. The anchor location will be the regular meeting location in the Weber Center, 2380 Washington Blvd., Ogden, Utah. As with regular meetings, interested persons and members of the public may attend and monitor the open portions of the meetings at that location.
3. In accordance with state law, public notice shall be given as required for a regular meeting, including posting written notice in the Weber Center. This public notice shall be given no less than 24 hours before the meeting. Notice of the electronic meeting shall also be given to

members of the Board at least 24 hours before the meeting and shall include a description of how the members will be connected to the electronic meeting.

**E. Order of Business**

The order of business shall be:

1. Approval of the minutes of previous meeting
2. Petitions for Variance, Special Exceptions or other applicable matters.
3. Other Business
4. Adjournment

The Board of Adjustment may change the order of business or consider matters out of order for the convenience of the applicants or other interested persons.

**F. Voting**

An affirmative vote of the three (3) or more of the voting members present at the meeting shall decide all matters under consideration by the Board of Adjustment unless otherwise provided for in these rules.

Voting shall be by voice vote. The Chair votes on all questions unless the Chair has declared a conflict of interest on a specific issue under consideration before the Board of Adjustment. No voting member of the Board shall be allowed to abstain from voting on any matter under consideration by the Board, unless that member has declared a conflict of interest on the matter under consideration before the Board of Adjustment.

**G. Parliamentary Procedure**

Parliamentary procedure in Board of Adjustment meetings shall be governed by Robert's Rules of Order, as revised.

**H. Suspension of Rules**

The Board of Adjustment may suspend any of these rules by a majority vote of the entire Board.

**I. Record of Meetings**

The Secretary of the Board of Adjustment shall keep an accurate record of the proceedings and perform other duties as the Board of Adjustment may determine. The Secretary shall also prepare and post written minutes of meetings in accordance with the time requirements set forth in Utah Open and Public Meetings Act. Upon completion of draft minutes, the Secretary shall circulate copies to the members of the Board of Adjustment for review. To expedite the approval of minutes, members of the Board of

Adjustment are authorized to recommended corrections and approve minutes through email correspondence coordinated by the Chair.

**J. Meeting Agenda**

The Planning Director or his designated Staff member shall review items proposed for the Board of Adjustment meeting agenda to determine whether all requirements necessary for Board of Adjustment consideration have been complied with. The Board shall establish reasonable deadlines for submission of applications and other items for Board of Adjustment consideration prior to a Board of Adjustment meeting to allow sufficient time for staff and agency review.

**K. Non Performance or Misconduct - Removal from Office**

In the event any member of the Board of Adjustment shall fail to attend more than seventy percent of the Board of Adjustment meetings held during any one year, the member may be removed from office by an affirmative vote of the majority of the County Commission. Any member of the Board of Adjustment may be removed for cause, upon written charges, by an affirmative vote of the majority of the County Commission. The member shall be provided a Public Hearing, if requested.

**IV**

**CONSIDERATION OF APPLICATIONS**

**A. Hearing Procedure**

Any person may appear in person, by agent or attorney at any meeting of the Board of Adjustment. The order of procedure in the hearing of each application shall be as follows:

1. Presentation by the Planning Staff of the application, including staff recommendation.  
Presentation shall include the reading of pertinent written comments or reports concerning the application.
2. Additional presentation by applicant or his/her agent.
3. Public comments in favor of application.
4. Public comments against application.
5. Rebuttals by invitation of the Chair.

**B. Decisions**

Decisions and/or recommendations of the Board of Adjustment shall be final at the end of the meeting at which the matter is decided. The Board of Adjustment Staff shall send a Letter of Decision to the applicant, his/her attorney or agent.

**V**

**RULES OF ETHICAL CONDUCT FOR A BOARD OF ADJUSTMENT MEMBER**

**Preamble**

1. Ethical practice has special relevance to all people who are charged with responsibilities in public service. Board members, whose decisions and actions have long-range consequences for later generations, must be keenly concerned to adhere to ethical principles.
2. Codes of ethics, as commonly adopted, present a catalog of temptations that are prohibited. It cannot be an exhaustive catalog: human imagination is sufficiently rich to discover new variations of old temptations. The existence of a code simply puts a challenge, to some, to find a gap or loop-hole. Emphasis must be put not on the letter of prohibition but on the spirit of observance. A performance standard of ethical behavior will be superior to a specification standard.

**A. Conflict of Interest**

A Board of Adjustment member to whom some private benefits may come as the result of a Board of Adjustment action should not be a participant in the action.

1. The private benefit may be direct or indirect, create a material, personal gain or provide a distinct advantage to relations or to friends or to groups and associations which hold some share of a person's loyalty. However, mere membership itself in a group or organization shall not be considered a conflict of interest as to Board of Adjustment action concerning such groups or associations unless a reasonable person would conclude that such membership in itself would prevent an objective consideration of the matter.
2. A Board member experiencing, in his/her opinion, a conflict of interest, should declare his/her interests publicly, abstain from voting on the action, and may excuse himself/herself from the room during consideration of the action. He/she should not discuss the matter privately or with any other Board member. The vote of a Board member experiencing a conflict of interest who fails to disqualify himself shall be disallowed.

3. A conflict of interest may exist under these rules although a Board member may not believe he/she has an actual conflict; therefore, a Board member who has any question as to whether a conflict of interest exists under these rules should raise the matter with the other Board members and the County Attorney's representative in order that a determination may be made as to whether a conflict of interest exists.
4. No Board of Adjustment member should engage in any transaction in which he/she has a financial interest, direct or indirect, with the agency or jurisdiction that he/she serves unless the transaction is disclosed publicly and determined to be lawful.
5. The Board members that the County Commission, in making appointments to the Board of Adjustment, not attempt to exclude whole categories or associations of business, professional, or other persons in anticipation of conflict of interest problems. The service of competent people of good character need not be sacrificed. Their withdrawal from participation in planning matters is necessary only in those specific cases in which a conflict of interest arises.

**B. Gifts and Favors**

Gifts, favors or advantages must not be accepted if they are offered because the receiver holds a position of public responsibility.

The value of a gift or advantage and the relation of the giver to public business should be considered in determining acceptability. Small gifts that come in the form of business lunches, calendars or office bric-a-brac are often, not always, acceptable. In cases of doubt, refuse. In cases of marginal doubt, refuse.

**C. Treatment of Information**

It is important to discriminate between information that belongs to the public and information that does not.

1. Reports and official records of a public agency must be open on an equal basis to all inquiries. Advice should not be furnished to some unless it is available to all.
2. Information on private affairs that is learned in the course of performing planning duties must be treated in confidence. Private affairs become public affairs when an official action -- such as an application for Variance or Special Exception -- is requested with respect to them. Only then is a disclosure of relevant information proper.

3. Information contained in studies that are in progress should not be divulged except in accordance with established agency policies on the release of its studies.
4. Prearranged private meetings between a Board of Adjustment member and applicants, their agents, or other interested parties are prohibited. Partisan information on any application received by a Board of Adjustment member whether by mail, telephone, or other communication should be made part of the public record.

**D. Political Activity**

Membership in a political party and contributions to its finances or activities are matters of individual decision that should neither be required of nor prohibited to Board of Adjustment members.

1. The extent of participation in political activities should be governed by professional judgment as well as limited by any applicable civil service law or regulation.
2. The powers of the Board of Adjustment must not be exercised, nor their duties performed, in any way that will create special advantages for a political party. The special position of a Board of Adjustment member should not be used to obtain contribution or support for a political party and should not be used to obtain partisan favors.
3. Partisan debate of a community's planning program and the consideration of planning in a party's platform is proper. Planning Officials should, however, give political parties equal access to information.

Procedures Approved on: