



BOARD OF ADJUSTMENT

AMENDED MEETING AGENDA

**Thursday, March 18, 2021
4:30 p.m.**

Join Zoom Meeting

<https://us02web.zoom.us/j/86800507848>

Meeting ID: 868 0050 7848

One tap mobile

+12532158782,,86800507848# US (Tacoma)

+13462487799,,86800507848# US (Houston)

- *Pledge of Allegiance*
- *Roll Call*

Regular Agenda Items

1. Minutes: Approval of the February 11, 2021 meeting minutes.

2. BOA2021-02: Consideration and action on a request for a 20-foot variance to the front yard setback for a future residential dwelling in the FR-3 zone at approximately 6706 E 6675 N, Eden (Powder Mountain West).

Applicant: James DePiano. **Staff Presenter:** Scott Perkes

3. BOA2021-03: Consideration and action on a request for a 5 foot variance to the front yard setback and a 10 foot variance to the rear yard setback to facilitate the construction of a single-family

Applicant: Joseph Draves, **Staff Presenter:** Steve Burton

4. Rules of Order: Approval of Rules of Order

Adjournment

*The Board of Adjustments meeting will be held in the Breakout Room, in the Weber Center, 1st Floor,
2380 Washington Blvd., Ogden, Utah.*

&

Via Zoom Video Conferencing at the link listed above.

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 February 11, 2021, held in the Weber County Commission Chamber, 2380 Washington Blvd. Floor 1 Ogden UT at 5:00 pm & via Zoom Video Conferencing

Members Present: Laura Warburton – Chair
Rex Mumford
Jannette Borklund
Kevyn Grimes

Members excused: Bryce Froerer
Neal Barker
Nathan Buttars

Staff Present: Steve Burton, Principle Planner; Scott Perkes, Planner III, Chris Crockett, Legal Counsel; Brandan Quinney, Legal Counsel; Marta Borchert, Secretary

1. Minutes: Approval of the October 22, 2020 meeting minutes. Minutes were approved as presented.

2. BOA2021-01: Consideration and action on a request for a 20-foot variance to the 50' natural ephemeral stream corridor setback for property located at 3488 N. Elk Ridge Trail in Eden. Staff Presenter: Scott Perkes; Applicant: Dennis Barrett

Scott Perkes states that this is an application is a request for consideration and action on a 20-foot variances to the 50 ft. natural ephemeral screen recorder setback for a lot in the Elkhorn Subdivision at approximately 3488 north Oakridge trail. The project areas here under half an acre. It is located in the R-E-15 zone. The subdivision was plated in July of 1996. This lot has sat vacant, as a developable lot until recently where the applicant is looking to build a single-family home on the lot. The sensitive lands ordinance that contains the setback requirements for ephemeral streams, was adopted in 2005. The subdivision predates that ordinance by nine years. The requirements of this ordinance came into play, nine years after this lot was designed. It has caused an encumbrance on the rear property where if the 50 ft. setback was adhered would create quite a bit of a hindrance to the development of a lot as well originally intended by the subdivision plat. The applicant is requesting a 20-foot variance to setback which means that the structure, could be as close as 30 feet to the high watermark of this stream, and in the neighborhood. In this subdivision, the majority of the lots have already been built there are only two homes that have not already been built. Many of them were built before the ordinance going into place. Most of them have the encumbrance but were not required to adhere to the ephemeral stream setbacks, whether because they go before the ordinance when they take place or because of the time the ordinance wasn't being enforced. The drainage channel runs through the backyards of some of the lots. In speaking with the Engineering department, this is a natural drainage that doesn't run with water for the majority of the year but is it's manipulated by various catch basins and control devices. There's a project from the Engineering to-do list just to the south, whereby they intend to have another detention basin, with a control device that will ensure that during high storm events that the water that has been released from the snow basin remains consistent. He notes that based on this they don't anticipate the high watermark in this natural stream varying very much at all. There are a couple of criteria points that were required for review the projects against there are five of them in the ordinance workers and staffs analysis is shown there is a hardship that the lot does have. He notes that the variance requirements have been met and the applicant is going through the appropriate channels to request a variance.

Jannette Borklund states that there was a similar item presented in the fall. She asks if this is the same property. Mr. Perkes states that it is a different property same principle. Staff is looking at some exception language to try and alleviate some of these types of requests. He notes that it keeps coming up as they enforce the ordinances there are a lot of lots of record that existed before the ordinance.

Mr. Mumford asks what the width of the easement is. Mr. Perkes states that it does not call out the width, but it is not as wide as the 50 ft. setback. The home as proposed stays out of the detention basin easement as required. Looking at the watermark it takes up quite a bit of the developable area. Mr. Mumford asks if they were to grant the 15 ft. foot variance would they be interfering with the detention basin easement. Mr. Perkes states this is correct. He would like to clarify that the agenda had a typo stating that the variance request was for 15 ft. the request is actually for 20 ft., and the staff report was correct. He notes that the edge of the

deck would be outside to the center line and it represents a 20 ft. variance. Mr. Mumford asks if the edge of the deck would be on the edge of the easement. Mr. Perkes states that it would be right on the easement. The detention basin easement does not encroach. The detention basin easement is not trespassed the structure stays outside of it. Mr. Mumford asks if Mr. Perkes has visited the site. Mr. Perkes states that he has not but he had a discussion with the engineers, and they did clarify that this is a natural drainage easement. Everyone in the area has been able to build as a normal lot. He adds that this is a hardship, enforcing the ordinance the restrictions are more restrictive for the applicant than others that have built prior.

Chair Warburton asks if there are any questions from the Board members. There are none.

Chair Warburton asks if the applicant Dennis Barrett has anything to add. Dennis Barrett states that they purchased the ground two years ago knowing that it was a building lot. He notes that they were not aware of the 50 ft. watermark. Starting from the front 30 ft requirement they can't build what they want to build without having the easement.

MOTION: Rex Mumford moves to approve BOA2021-01: Consideration and action on a request for a 20-foot variance to the 50' natural ephemeral stream corridor setback for property located at 3488 N. Elk Ridge Trail in Eden. Based on the information provided by Scott Perkes and the analysis listed in the staff report. Jannette Borklund adds that she feels that there is a special circumstance and the lot was created before the ordinance. It is consistent with the General Plan and there is a hardship on the lot. She notes that the State's law regulations are satisfied. Jannette Borklund seconds. Motion carries (4-0)

Chair Warburton states that this is a grandfathering issue. This lot was created before the new ordinance and the new ordinance put a burden on the owner. She adds that she feels that the request is reasonable.

3. Election: Election for Chair and Vice-Chair 2021

MOTION: Chair Warburton moves to nominates Jannette Borklund as Chair. Motion Carries (4-0) Jannette Borklund will be the Chair for the Board of Adjustments for 2021

MOTION: Chair Warburton moves to nominates Kevyn Grimes as Vice-Chair. Motion Carries (4-0) Kevyn Grimes will be the Vice Chair for the Board of Adjustments for 2021

4. Schedule & Information: 2021 Meetings. Chair Warburton asks much longer meetings will be held via Zoom. She adds that she misses meeting face to face. Mr. Burton states that the Commission Chamber seating is close and would make it difficult for a larger group of Board members to social distance. He notes that if the Board would like to meet in person, he is happy to have that discussion with Director Grover. He notes that Planning Staff will continue to have the meeting in person at the Commission Chamber and via Zoom because there is a requirement for the anchor location. Board member Rex Mumford is present in person. He notes that this is an option for the Board members.

5. Rules of Order: Approval of Rules of Order. Mr. Quinney states that he is happy to go over the changes in the Rules of Order. Chair Warburton states that she has a lot of questions. Mr. Quinney states that the changes are up for discussion and the Board can table them for a future agenda. Chair Warburton states that she would rather discuss the changes in person.

MOTION: Rex Mumford moves to table the Approval of the Rules of Order until they can meet in person and that it will be scheduled within a month. Chair Warburton seconds. Motion carries (4-0)

6. Review of Open Meetings Act - Brandan Quinney. Mr. Quinney reviews the Open and Public Meetings Act with the Board members.

Chair Warburton states that concerning ex parte communications if members of the Board of Adjustments or the Planning Commission meet outside of the regularly scheduled meeting to discuss and make decisions, this would be Ex parte Communication and breaking the public's trust. Mr. Quinney agrees and states that if they were planning to not just act but to discuss a matter over which the public body has jurisdiction and turn even a chance encounter into a public meeting, they have to be careful and if they want to do business. The safe practice is to wait until it can be put on an agenda. Ms. Borklund adds that for it to be a meeting there needs to be a quorum present. Mr. Quinney agrees and adds that there is a prerequisite to being able to act in the first place. Speaking as two board members there is no quorum there is no authority to speak on behalf of the Board. Chair Warburton states

that Ex Parte Communication especially on the Board of Adjustments talking to one other person or discussing it with an applicant. She notes that when people go to a public meeting they are assuming that the Board Members or the Planning Commission are 100 percent unbiased. She notes that if it is a legislative issue it is a little bit different.

Rex Mumford asks if there is an item and they have a question, if there is an issue contacting the Staff Presenter. Mr. Quinney states that there is no problem with this. There is a distinction between administrative high functions and the acting capacity of the Board and this is more administrative. He states that procedural questions are ok to discuss. Jannette Borklund states that Board members should direct the public to the Planning Staff with their questions. Mr. Quinney states that it can be a muddy issue, whether something is considered a meeting and should be open to the public with the proper meeting requirements. If there is ever any doubt best practice is to not engage. He adds that staff is available to answer questions as well.

Chair Warburton asks if Mr. Quinney can discuss the difference between a public meeting and a public hearing. Mr. Quinney states that a public hearing triggers a different act, it is not covered in the open and public meetings act. Mr. Crockett states that a public hearing is when by code they are required to take comments. This can be seen a lot during legislative, where they are passing a new ordinance by law they need to take public comment. Several land-use actions require public comment. If it is a public meeting the decision to take public comment rests within the discretion of the Board to make that determination. If it is a public hearing it will need to be noticed differently, and there are specific rules, it may need to publish the notice in the newspaper and it is going to be more than 24 hours, but the public will need an opportunity to speak on the matter being presented. Chair Warburton states that the public might feel defensive when they attend the meetings and they assume that they will be lied to. She notes that it is different with the Board of Adjustments than it was with the Planning Commission. In the Board of Adjustments even though it is not a public hearing she always allows the public to speak. She also likes explains to them they the Board is not required to follow their advice, the Board can take it in and public comment is appreciated. Mr. Quinney asks if there has been a situation where the Board of Adjustments would have to hold a public hearing. Mr. Crockett states not specifically in the ordinance, but with quasi-judicial matters, the board needs to be mindful of people's due process rights. This allows an applicant if they are appealing a land-use decision to speak to that and anyone who can demonstrate that they have a property right or an interest in the item, it would be worthwhile to allow them to speak. There are no set rules for public hearings, for a Board of Adjustments but there might be due process considerations. Mr. Quinney states that they would have to take into account certain individuals that may be affected by the decision and allow them to make the comments for due process, he adds that notice requirements change, it has to be categorized as a public hearing. If they don't foresee a situation where it would have to be a public hearing they would just follow the notice of requirements. Chair Warburton asks if those notices would be determined by code. Mr. Burton states that they do send out notices for the Board of Adjustments for example notices were sent out for the item that was on the agenda. Mr. Burton states that it is a notification that is sent out as a courtesy to let people know that something is going on. He adds that for appeals or variances they do send notices out to people at about 500 ft. on the parcel for which the request has been made. Mr. Crockett states that legally it is not required to take the comment, and in the statutes of the ordinance they would look to see if it uses the term hearing to determine whether a public comment is required. Allowing public comment allows people to express an opinion and a lot of the issues can be resolved very quickly during the meeting. It is important to keep the comments germane and the public in check because once the public comment is allowed and the item is not something that the public is not allowed to weigh in on, they cannot allow opinion to guide their decision it has to be based on substantial evidence that is in the record. There is a delicate balance. Chair Warburton states that it is important for the public to have a voice but it is also important for the Board to understand what they should base their decisions on and it is not always the public's voice and their opinions. Mr. Quinney states that the important part of the act is the notice and that the public is given notice that the meeting exists. How the public is received, their comments, and how they are allowed to address the Board are all procedural decisions. This is something that the Board can establish through the Rules of Order. Jannette Borklund states that the important thing is that even though the Board might not be able to do what they want they are not being ignored.

Mr. Quinney states that the Open and public meetings act is a minimum requirement, If the Board feels that they need to make anything more restrictive or add they have something that they want to add. As long as it doesn't conflict with the minimums they are well within their authorities.

Mr. Crockett states that concerning closed sessions it is important to keep in mind that a court could order that everything is disclosed. It is important to be mindful when they go into a closed meeting to stay on topic not just because of the criminal penalties, everything discussed could come out. In the last couple of years, there was a United States supreme court case was on

this topic and they order disclosure of everything. It was not just the community; it was the entire nation. It is something that needs to be kept in mind. The closed meeting provision is the only one that carries a criminal penalty. Mr. Quinney states that the criminal penalty has a mental requirement it is called mens rea this means knowingly or intentionally violating the closed meeting provision. If it is done negligently there could be some protection from the criminal violations. Mr. Crockett states that he has never witnessed an open meetings violation with this Board. He adds for example there was some confusion with the notices and everyone was present at 4:30 and the notices said 5:00. Everyone waited until 5:00. He notes that it is that important to make sure that the public can listen in to matters that are being discussed. He adds that he appreciated everyone's patience. Chair Warburtons states that she is grateful that Mr. Burton said at the beginning of the meeting that they needed to wait until 5:00 pm because of the confusion with the notices. It is really important to back each other up.

Jannette Borklund moves to adjourn. Motion carries.

Adjournment 6:20 pm

Respectfully submitted,

Marta Borchert

DRAFT



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 20' variance to the front yard setback to facilitate the construction of a single-family residence at 6706 E 6675 N, Eden.

Agenda Date: Thursday, March 18, 2021

Applicant: James DePiano, Owner

File Number: BOA2021-02

Property Information

Approximate Address: 6706 E 6675 N, Eden (Powder Mountain West)

Project Area: .22 acres

Zoning: Forest Residential (FR-3)

Existing Land Use: Vacant

Proposed Land Use: Residential

Parcel ID: 22-110-0011

Township, Range, Section: T8N, R1E, Section 36, SE 1/4

Adjacent Land Use

| | | | |
|---------------|-------------|---------------|-------------|
| North: | Residential | South: | Residential |
| East: | Residential | West: | Forest |

Staff Information

Report Presenter: Scott Perkes
sperkes@co.weber.ut.us
801-399-8772

Report Reviewer: SB

Applicable Codes

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

Background

The applicant is requesting a 20-foot variance to the minimum front yard setback required in the FR-3 Zone (25 feet) leaving a 5-foot setback from the front lot line. The applicant feels that a variance is necessary to build their desired home. The applicant cites peculiar circumstances that constrain the lot's buildable area and reduces their ability to build a reasonable home that would match development within the neighborhood (see **Exhibit A**).

Planning staff has provided two site plan exhibits to help visualize applicable setbacks and peculiar encumbrances to the property. **Exhibit C** depicts the minimum zoning setbacks along with the applicable encumbrances. **Exhibit D** depicts the site should a 20-foot variance be granted in relation to the proposed single-family residence footprint.

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.*

Staff Analysis

The list below are points taken from the applicant's narrative as compared to the above listed point of BOA consideration (see **Exhibit A** for the full narrative):

- a. The applicant's narrative states that literal enforcement of the setbacks substantially reduces the buildable area and makes it unreasonable to build a home similar to other homes in the Powder Mountain/Summit area.
- b. The applicant states that the special circumstances that exist are the size of the lot, slope of the lot (see **Exhibit B**), and the encroachment of Slow Poke Trail along the rear third of the property. All of which restricts the buildable footprint.
- c. The applicant's narrative indicates that granting a variance is needed in order to enjoy a substantial property right that is possessed by other properties in the area.
- 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 not adversely affect the neighbors and will not crowd the existing Aspen Road.
- e. The applicant has taken the appropriate measures to submit for a variance request and is looking to preserve the existing ski easement along the rear of their property while still requesting that substantial justice be considered by allowing their home to be built closer to the front property line.

As depicted in **Exhibit XX**, the existing zoning setbacks coupled with the site's unique encumbrance (Slow Poke trail and steep slope), have created a reduced buildable area for this parcel of approximately 2,880 square feet. The footprint of the applicant's proposed dwelling is approximately 1,900 square feet.

Conformance to the General Plan

Single-family dwellings are allowed as a permitted use in the FR-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.

Staff Recommendation

Staff recommends the Board of Adjustment review staff's analysis and compare the applicant's request against the five points of consideration listed in LUC §102-3-4(b)(2) (presented above). If the Board finds that the applicant's request meets the criteria, a 20-foot variance to the front yard setback could be granted.

Exhibits

- A. Applicant-written variance request
- B. Lot Topography Map
- C. Site plan showing FR-3 zone setbacks
- D. Site plan showing a 20' variance to the front-yard setback
- E. 2021 Recorder's plat
- F. Property Location Aerial Photo
- G. Proposed Building Plans

Exhibit A: Applicant Narrative

We want to build a single family home on our lot at Powder Mountain. However, there are circumstances making this difficult to do without a variance from the county. We are requesting a variance due to the following circumstances:

- The lot itself is very steep and very small; measuring only .21 acres / 9505 sq. ft.
- Powder Mountain Ski Resort has an easement through our property for a ski trail (Slow Poke). This reduces our buildable area by about 1/3, forces us to build on the south side of Slow Poke and significantly limits the type of structure we can build within the current setback requirements.
- Slow Poke is constructed outside of the designated easement, encroaching on the south side of our lot. Without the mountain making changes to the way the trail is constructed, our buildable area is reduced even further.
- Aspen Road is constructed to the north of the original design easement, putting the road further from our property line and consequently, increasing the actual physical setback from our lot and buildable area.

We are requesting a five foot variance from our property line; the same variance that has been granted to some of the homes up at Summit Mountain. With a five foot variance, our home will still be approximately 15+ feet from the road due to Aspen Drive running north of the original design plans.

We have included our site and building plans and two topography maps. Both topography maps show Slow Poke and Aspen Drive as currently constructed versus where the road and trail should be as well as our property line and the requested five foot setback. We've also provided a photo overlooking the majority of our association with our lot indicated with a red box for visual reference.

We appreciate your consideration.

Jimmy DePiano

Exhibit B: Site Topography Map

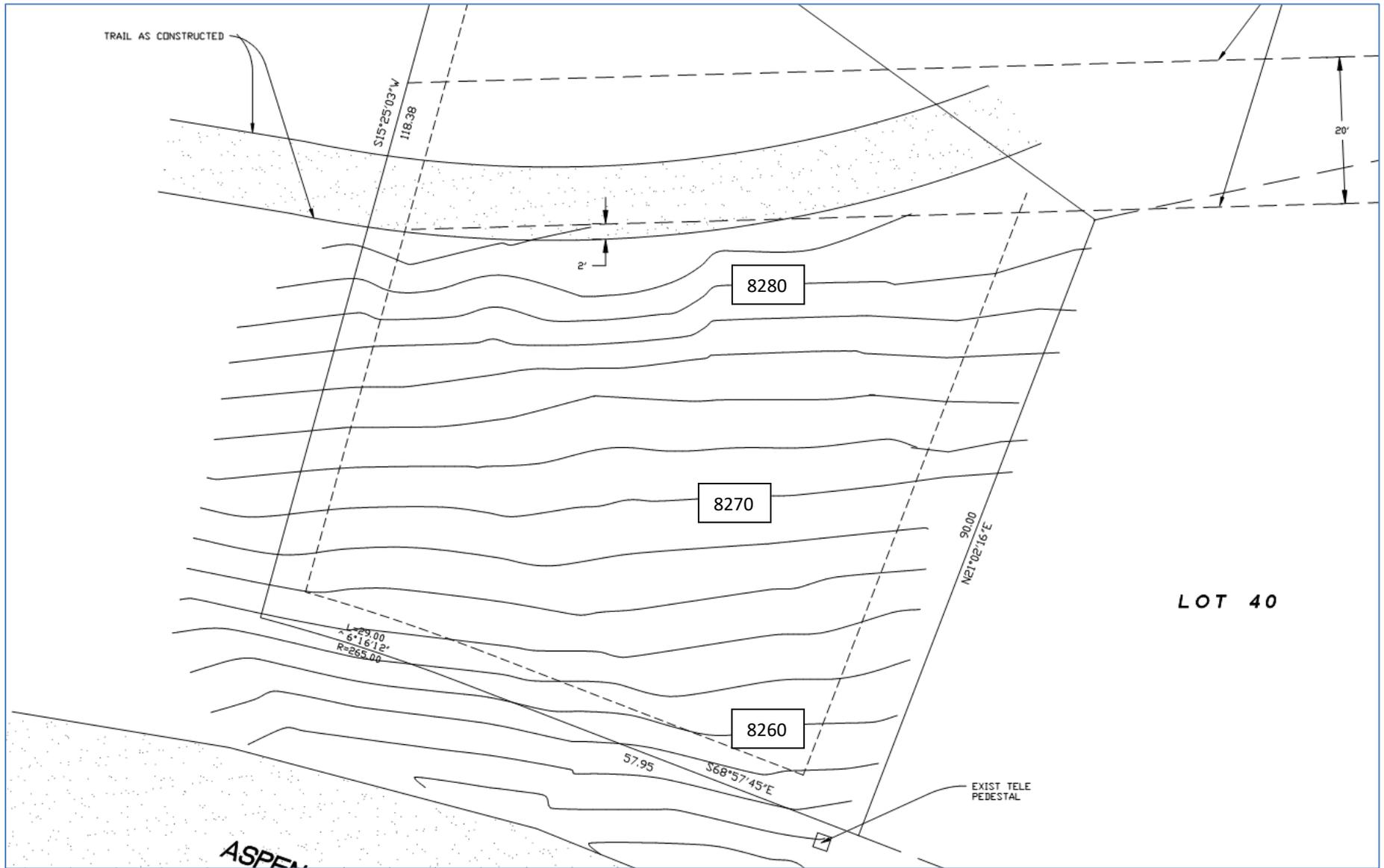


Exhibit C: Existing Setbacks and Encumbrances

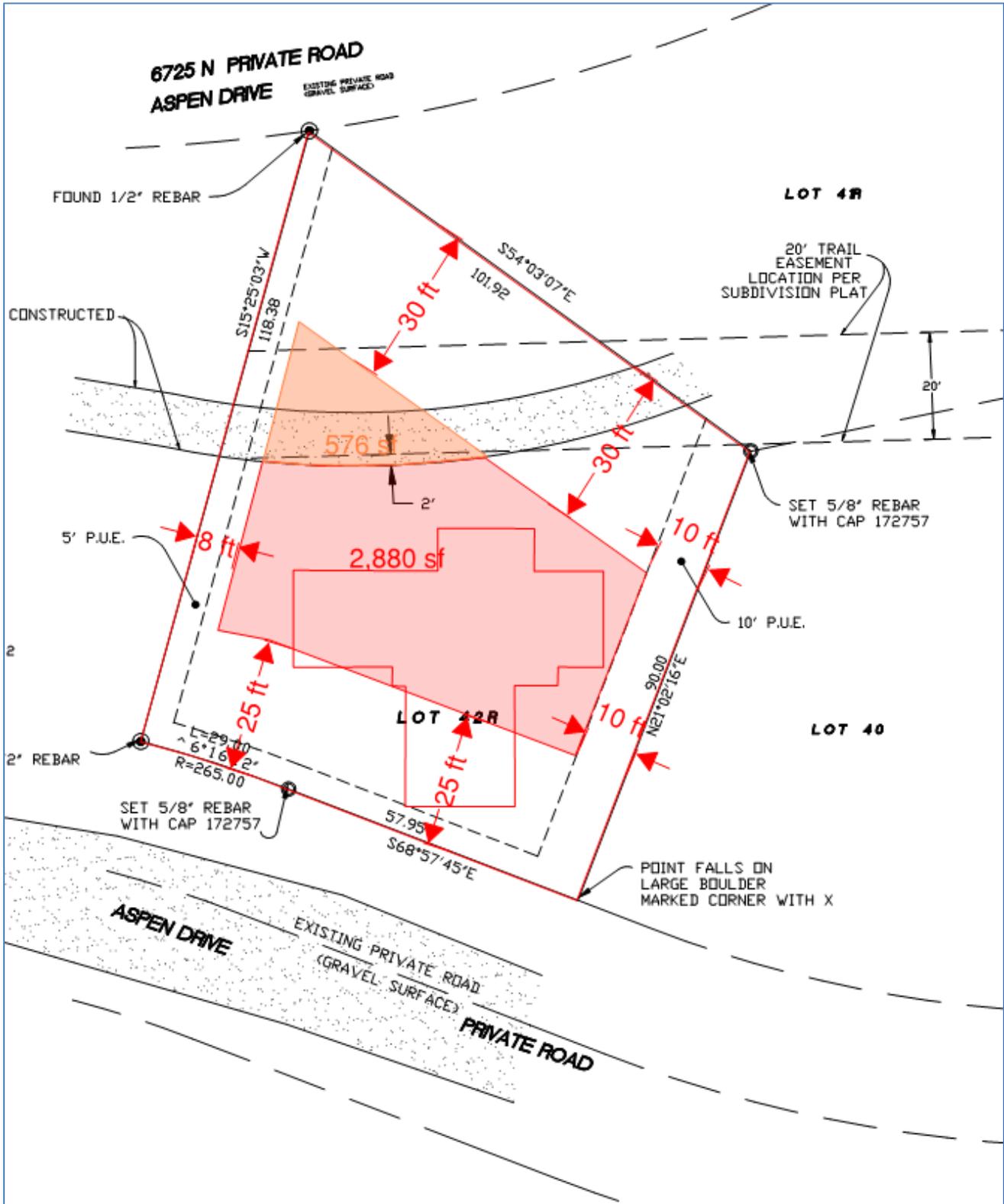


Exhibit E: 2021 Recorders Plat

PART OF SEC. 1, T.7N., R.1E., & SEC. 36, T.8N., R.1E., S.L.B.& M.
POWDER MOUNTAIN WEST SUBDIVISION – PHASE 2

IN WEBER COUNTY

TAXING UNIT: 90

SCALE 1" = 60'

SEE BOOK 23
PAGE 85

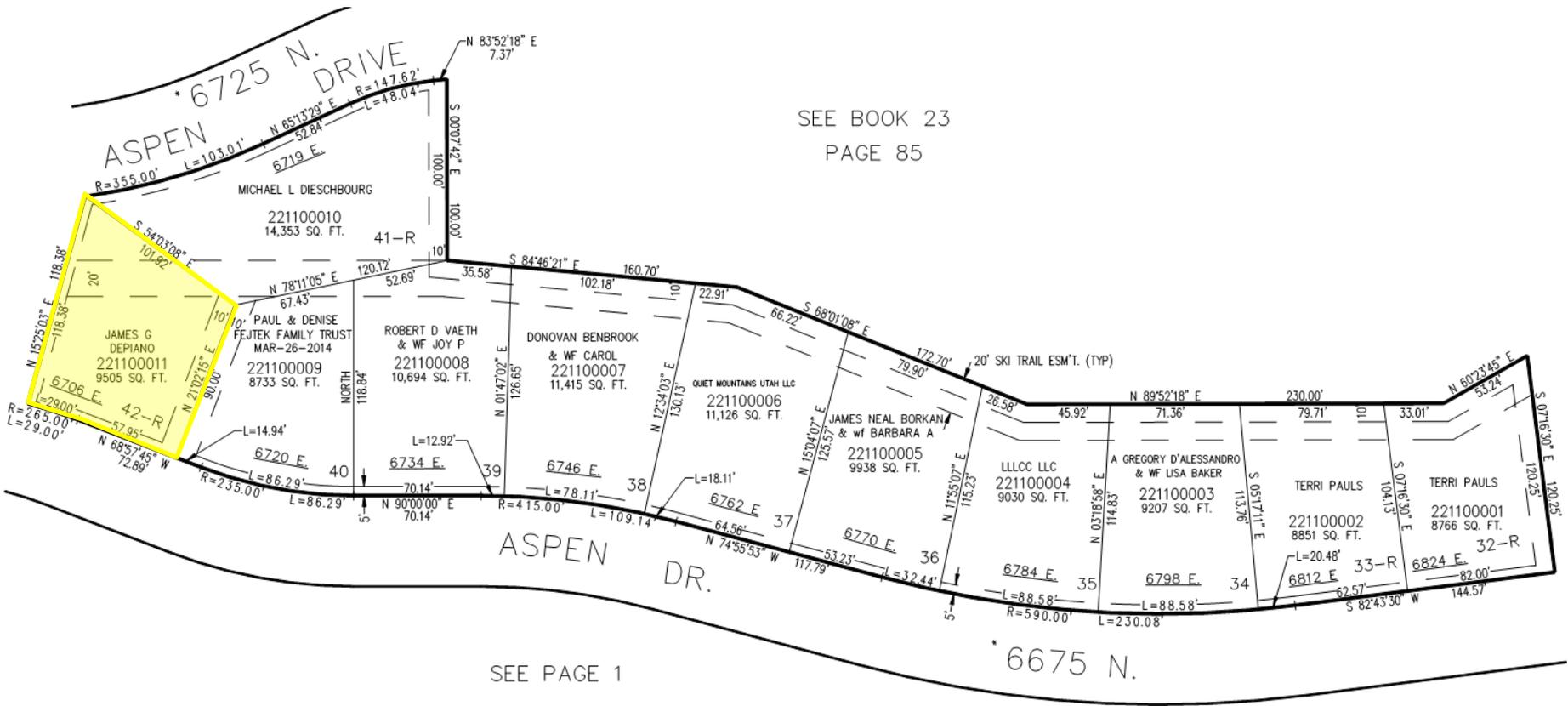


Exhibit F: Property Location Aerial Photo



Project: Residence for Jimmy & Ally DePiano

Lot #2 Powder Mountain West
6706 East 6675 North
Eden, Utah
Contact: Tyson DeMeyer
801 725-5132

ALL WORK SHALL COMPLY WITH THE FOLLOWING CODES:

2018 EDITION OF THE INTERNATIONAL BUILDING CODE (IBC), TO INCLUDE APPENDIX J, ISSUED BY THE INTERNATIONAL CODE COUNCIL

2017 EDITION OF THE NATIONAL ELECTRIC CODE (NEC), ISSUED BY THE NATIONAL FIRE PROTECTION ASSOCIATION

2018 EDITION OF THE INTERNATIONAL PLUMBING CODE (IPC), ISSUED BY THE INTERNATIONAL CODE COUNCIL

2018 EDITION OF THE INTERNATIONAL MECHANICAL CODE (IMC), ISSUED BY THE INTERNATIONAL CODE COUNCIL

2018 EDITION OF THE INTERNATIONAL RESIDENTIAL CODE (IRC), ISSUED BY THE INTERNATIONAL CODE COUNCIL

2018 EDITION OF THE INTERNATIONAL ENERGY CONSERVATION CODE (IECC) ISSUED BY THE INTERNATIONAL CODE COUNCIL

2018 EDITION OF THE INTERNATIONAL FUEL GAS CODE (IFGC), ISSUED BY THE INTERNATIONAL CODE COUNCIL

2018 EDITION OF THE INTERNATIONAL FIRE CODE

SHEET INDEX:

G101 - TITLE PAGE

S101 - SITE PLAN

A101 - MAIN FLOOR PLAN
A102 - LOWER FLOOR PLAN

A201 - EXTERIOR ELEVATIONS
A202 - EXTERIOR ELEVATIONS

A301 - CROSS SECTION

E101 - MAIN FLOOR ELECTRICAL PLAN
E102 - LOWER FLOOR ELECTRICAL PLAN

SQUARE FOOTAGE INDEX:

MAIN LEVEL: 1408 SQ FT
UPPER LEVEL: 152 SQ FT
LOWER LEVEL: 1048 SQ FT
GARAGE: 416 SQ FT
PORCH: 258 SQ FT

GENERAL NOTES

1. THE GENERAL CONTRACTOR, ALL SUPPLIERS AND SUBCONTRACTORS WILL FOLLOW THE DIRECTION OF THE OWNER TO MAINTAIN UNDISTURBED AREAS OF THE SITE THAT ARE OUTSIDE THE PROJECT LIMIT LINE.
2. THE PURPOSE OF THE CONTRACT DOCUMENTS IS TO DESCRIBE THE DESIGN INTENT OF THE PROPOSED IMPROVEMENTS. IN ORDER TO FULLY UNDERSTAND THE SCOPE OF THE WORK INVOLVED THE GENERAL AND SUB CONTRACTORS ARE RESPONSIBLE FOR VISITING THE SITE AND STUDYING THE CONTRACT DOCUMENTS PRIOR TO BIDDING OR COMMENCING WORK. THE GENERAL AND SUB CONTRACTORS WILL BE RESPONSIBLE FOR PROVIDING ALL WORK AND MATERIALS RELATED TO THE CONSTRUCTION DESCRIBED, WHETHER FULLY SPECIFIED OR NOT, SUCH AS FASTENERS, CONNECTORS, CAULKING, HARDWARE, FINISHES AND OTHER SUCH WORK THAT WOULD CONSTITUTE A COMPLETE APPLICATION
3. THE CONTRACTOR AND SUB CONTRACTORS SHALL VERIFY ALL DIMENSIONS AND CONDITIONS AT THE SITE AND WORK PERFORMED BY OTHER TRADES. DO NOT SCALE DRAWINGS, IF DIMENSIONS ARE IN QUESTION THE CONTRACTOR OR SUB CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING CLARIFICATION FROM THE DESIGNER PRIOR TO CONTINUING CONSTRUCTION OF THE AREA IN QUESTION.
4. DIMENSIONS ARE TO THE CENTERLINE OF STEEL, THE NOMINAL FACE OF CONCRETE OR MASONRY AND THE FACE OF STUDS, UNLESS OTHERWISE NOTED.
5. ALL DETAILS, SECTIONS AND NOTES SHOWN ON THE DRAWINGS ARE INTENDED TO BE TYPICAL AND SHALL APPLY TO SIMILAR SITUATIONS ELSEWHERE UNLESS NOTED OR SHOWN OTHERWISE. NOTES AND DETAILS ON DRAWINGS SHALL TAKE PRECEDENCE OVER THESE GENERAL NOTES. IF GENERAL NOTES AND SPECIFICATIONS APPEAR TO BE IN CONFLICT CONTACT DESIGNER FOR CLARIFICATION BEFORE PROCEEDING WITH CONSTRUCTION.
6. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST ADOPTED VERSION OF THE INTERNATIONAL BUILDING CODE, ANY LOCAL AMMENDMENTS TO IT, AND ALL OTHER APPLICABLE CODES, REGULATIONS AND STANDARDS.
7. ALL ASTM DESIGNATIONS SHALL BE AS AMENDED TO DATE, UNLESS NOTED OTHERWISE.
8. MANUFACTURER'S SPECIFICATIONS SHALL BE FOLLOWED FOR INSTALLATION OF ALL MATERIALS.
9. THE CONTRACTOR SHALL BE RESPONSIBLE FOR SAFETY AND PROTECTION IN AND AROUND THE JOB SITE AND/OR ADJACENT PROPERTIES.
10. THE CONTRACTOR SHALL BE RESPONSIBLE TO PROVIDE ALL DESIGN AND ENGINEERING OF THE FOLLOWING SUB TRADES: ELECTRICAL, PLUMBING, HVAC. PREPARE AND SUBMIT ALL ADDITIONAL DRAWINGS AND SPECIFICATIONS NECESSARY TO OBTAIN RELATED PERMITS.
11. DURING AND AFTER CONSTRUCTION THE CONTRACTOR AND/OR OWNER SHALL KEEP THE LOADS ON THE STRUCTURE WITHIN THE LIMITS OF THE DESIGN LOADS.
12. ALL WORKMANSHIP ON THE PROJECT SHALL CONFORM TO THE BEST QUALITY OF THE TRADE.
13. PATCH AND REPAIR ALL FINISHED SURFACES DAMAGED BY CONSTRUCTION TO THE SATISFACTION OF THE OWNER.
14. "TYP" OR "TYPICAL", AS USED IN THESE DOCUMENTS, MEAN THAT THE CONDITION IS THE SAME OR REPRESENTATIVE FOR ALL SIMILAR CONDITIONS UNLESS OTHERWISE NOTED. DETAILS ARE USUALLY KEYED AND NOTED "TYPICAL" ONLY WHEN THEY FIRST OCCUR AND ARE REPRESENTATIVE FOR SIMILAR CONDITIONS THROUGHOUT, UNLESS NOTED OTHERWISE.
15. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE TO PLACE PROTECTIVE AND DUST BARRIERS AND TO KEEP EXISTING FINISHED AREAS CLEAN AND UNOBSTRUCTED AT ALL TIMES.
16. BEFORE STARTING A PROPOSAL, ALL BIDDERS SHALL CAREFULLY EXAMINE THE DRAWINGS, SPECIFICATIONS AND OTHER CONTRACT DOCUMENTS; SHALL VISIT THE SITE OF THE WORK; SHALL FULLY INFORM THEMSELVES AS TO ALL EXISTING CONDITIONS AND LIMITATIONS AND SHALL INCLUDE IN THE PROPOSAL THE COST OF ALL ITEMS INCLUDED IN THE CONTRACT AND APPERTANCES REQUIRED TO CONSTITUTE A COMPLETE INSTALLATION.
17. FURNISH EVERYTHING NECESSARY AND INCIDENTAL FOR PROPER AND SATISFACTORY COMPLETION OF ALL WORK SPECIFIED, INDICATED OR SHOWN IN THE CONTRACT DOCUMENTS.
18. ALL EXPOSED SURFACES THAT HAVE BEEN MODIFIED, INSTALLED OF AFFECTED BY THE CONSTRUCTION PROCESS SHALL BE CLEANED, VACUUMED OR DUSTED IN ORDER TO LEAVE THE PREMISES READY FOR OCCUPANCY WITH NO FURTHER CLEANING NECESSARY BY THE OWNER.
19. COORDINATE WITH THE OWNER TO SCHEDULE UTILITY DOWNTIMES. PROVIDE 48 HOURS MINIMUM NOTICE PRIOR TO ARRANGING FOR DOWNTIMES.
20. CONTRACTOR PARKING, DELIVERIES, AND STORAGE: THE GENERAL CONTRACTOR SHALL COORDINATE WITH THE OWNER FOR APPROVED LOCATIONS FOR PARKING, DELIVERIES, AND MATERIAL STORAGE, AND SHALL NOTIFY ALL SUPPLIERS AND SUB CONTRACTORS OF REQUIREMENTS. PARKING AND STORAGE ARE NOT TO DAMAGE EXISTING LANDSCAPE OR TERRAIN.
21. AT THE COMPLETION OF EACH WORK DAY CLEAN THE SITE OF ALL DEBRIS AND WASTE. INSTALL NECESSARY SAFETY BARRIERS, AND STORE TOOLS OUT OF THE WAY.
22. THE GENERAL CONTRACTOR IS RESPONSIBLE FOR PROTECTION AND SECURITY OF THE PROJECT, SUBCONTRACTORS ARE RESPONSIBLE FOR PROTECTION, SECURITY AND WEATHER PROTECTION OF THE PROJECT AS IT RELATES TO THE PERFORMANCE OF THEIR TRADE FROM WEATHER, DEMOLITION, CONSTRUCTION, THEFT, VANDALISM, ETC. WHEN ANY PORTION OF THE ROOF IS REMOVED THE CONTRACTOR PERFORMING SUCH ROOF WORK WILL BE FULLY RESPONSIBLE FOR COMPLETE PROTECTION FROM INCLEMENT WEATHER.
23. THE GENERAL CONTRACTOR ASSUMES FULL LIABILITY FOR ANY PROBLEMS THAT MAY ARISE DUE TO POTENTIAL ERRORS, OMISSIONS, AND/OR CONFLICTS ON THESE PLANS. IF ANY SUCH ERRORS ARE FOUND CONTACT THE DESIGNER FOR CLARIFICATION AS NEEDED,
24. THE GENERAL AND SUB CONTRACTORS MUST SUBMIT A WRITTEN REQUEST FOR, AND OBTAIN, THE DESIGNERS WRITTEN PRIOR APPROVAL FOR ALL CHANGES, MODIFICATIONS AND/OR SUBSTITUTIONS, IF NOT THE CONTRACTOR WILL BE RESPONSIBLE TO BEAR ALL LIABILITY AND COSTS ASSOCIATED WITH SUCH CHANGES.

Homeowner:
Jimmy & Ally DePiano

General Contractor:
Peterson Builders
Tyson DeMeyer

DePiano Residence
Lot #42 Powder Mountain West
6706 East 6675 North
Eden, Utah

SHEET NO:
G101

DESCRIPTION:
TITLE PAGE

Scale: 1/4" = 1 Foot

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Deplano Residence
 Parcel #221100011
 Lot #42-R Powder Mountain West
 6706 East 6675 North
 Eden, Utah

Area: 9,505 Sq. Ft.
 .21 Acres
 Scale: 1" = 8'

Property Line
 Building Setbacks

Zone FR-3

Main Building
 Front Setback: 25'
 Side Setback: 8' min 10' total
 Rear Setback: 30'
 Max Height: 35'

Accessory Building
 Side Setback: 8' (or 1' if 6' behind main building)
 Rear Setback: 1'
 Max Height: 25'

Note: All storm water and dirt will be kept on site during construction until final landscaping is done.

Note: Surface drainage shall be diverted to a storm sewer conveyance or other approved point of collection so as to not create a hazard. Lot shall be graded so as to drain surface water away from foundation walls. The grade away from the foundation walls shall fall a minimum of 6 inches within the first 10 feet (min. 5% slope.)

Note: The grade adjacent to all foundation walls shall fall a minimum of 6 inches within the first 10 feet (5% slope). R401.3 Landings, ramps, patios, porches or decks, which are required to be level or can have a maximum slope of 1/4" per foot. All other impervious surfaces within 10 feet of the foundation walls must slope a minimum of 1/4" per foot away from walls.

Note: Street, curb, and gutter will be inspected and cleaned of all mud and dirt at the end of every day.

Note: Gravel bags (or equivalent BMP) to be placed and maintained around any storm drain inlet adjacent to or immediately downstream from site during construction.

Note: Berms or swales may be required along property lines to prevent storm water flow onto adjacent lots. Final grading shall blend with adjacent lots.

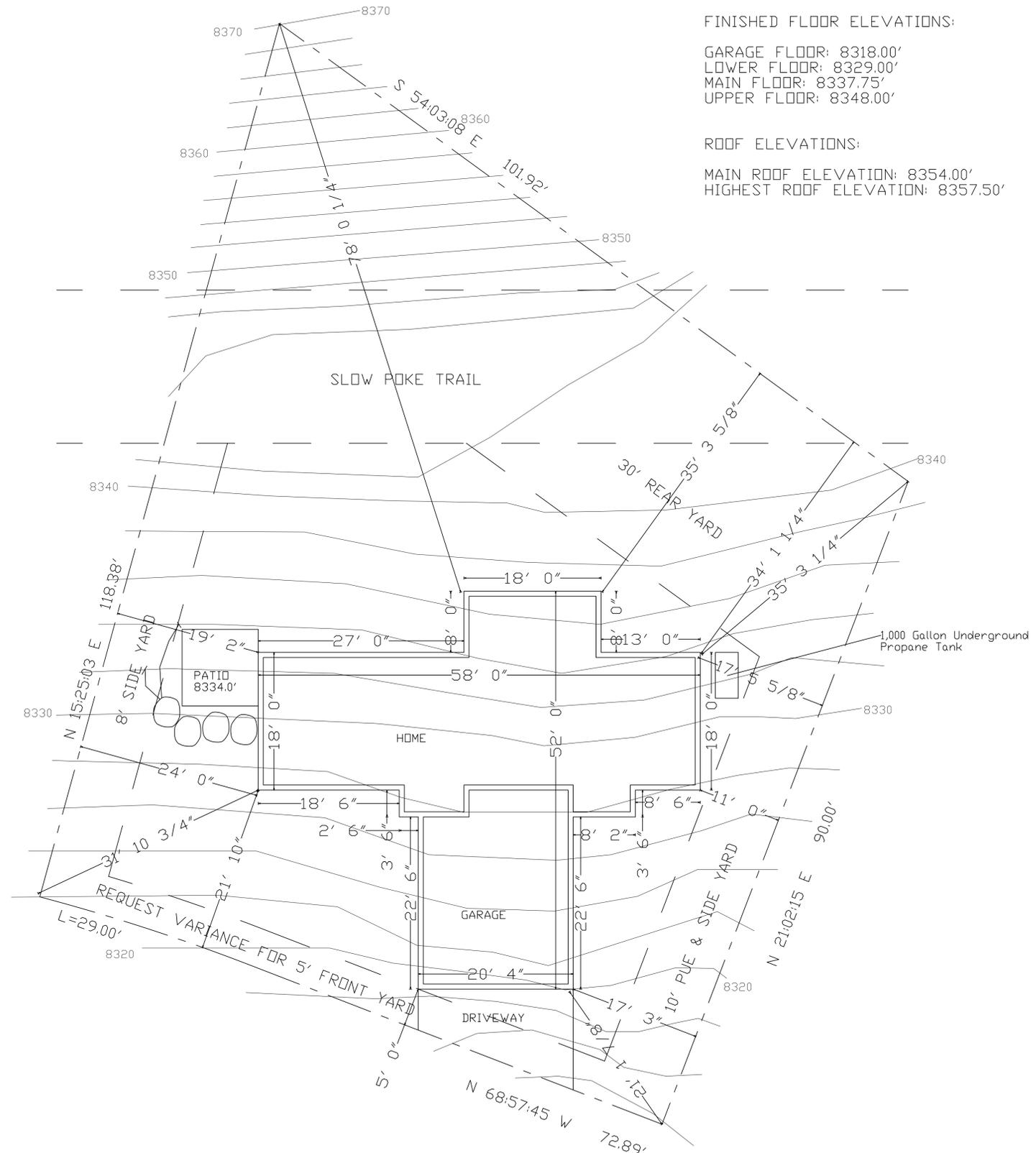
Note: A lined concrete washout area must be provided at the site for all concrete, paint, stucco, or masonry work. Washout on the ground is prohibited.

FINISHED FLOOR ELEVATIONS:

GARAGE FLOOR: 8318.00'
 LOWER FLOOR: 8329.00'
 MAIN FLOOR: 8337.75'
 UPPER FLOOR: 8348.00'

ROOF ELEVATIONS:

MAIN ROOF ELEVATION: 8354.00'
 HIGHEST ROOF ELEVATION: 8357.50'



Homeowner:
 Jimmy & Ally DePiano

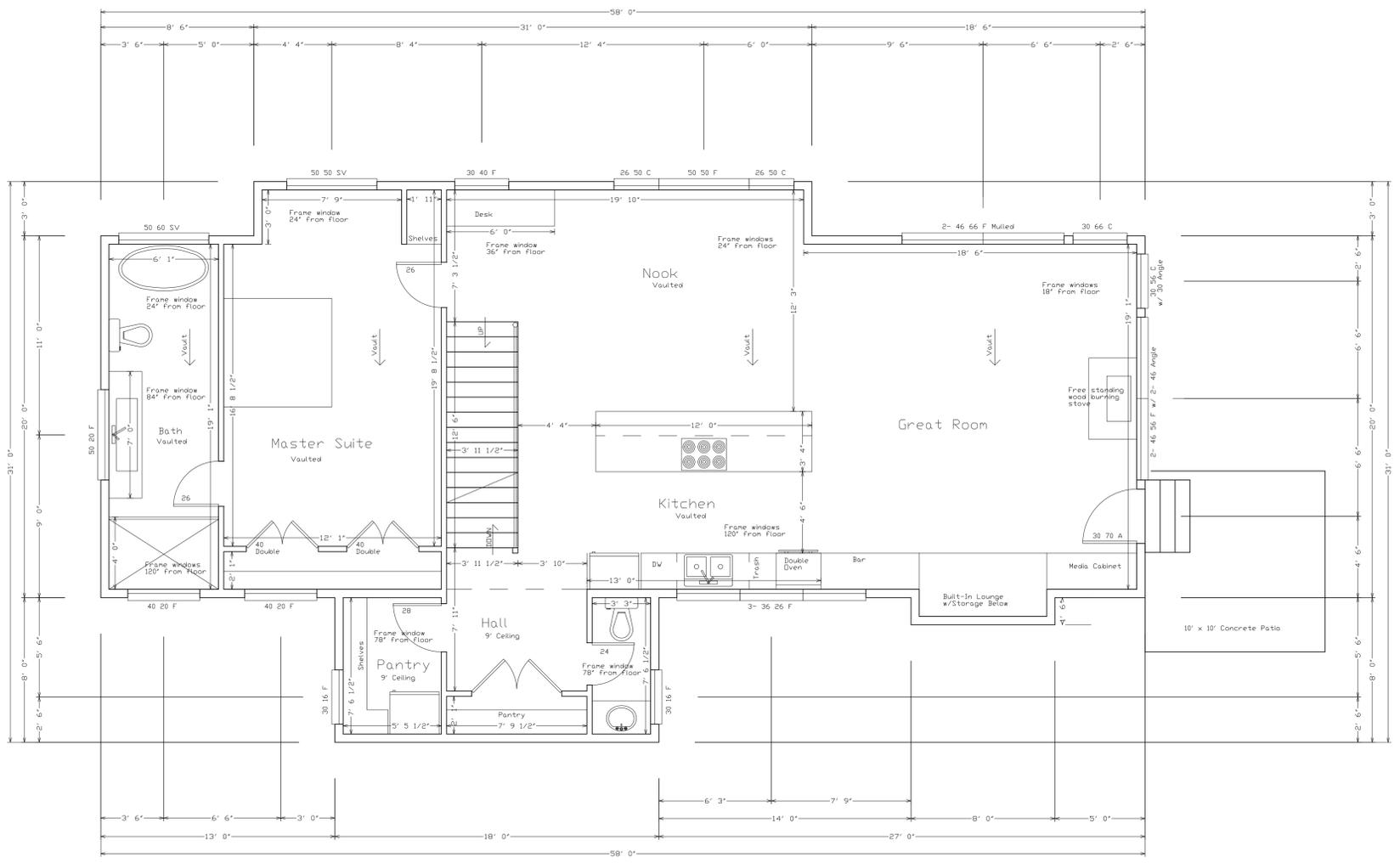
General Contractor:

DePiano Residence
 Lot #42 Powder Mountain West
 6706 East 6675 North
 Eden, Utah

SHEET NO:
 S101
 DESCRIPTION:
 SITE PLAN

Scale: 1/8" = 1 Foot

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Main Floor Plan Main Floor: 1408 Sq. Ft.

Homeowner: Jimmy & Ally DePiano

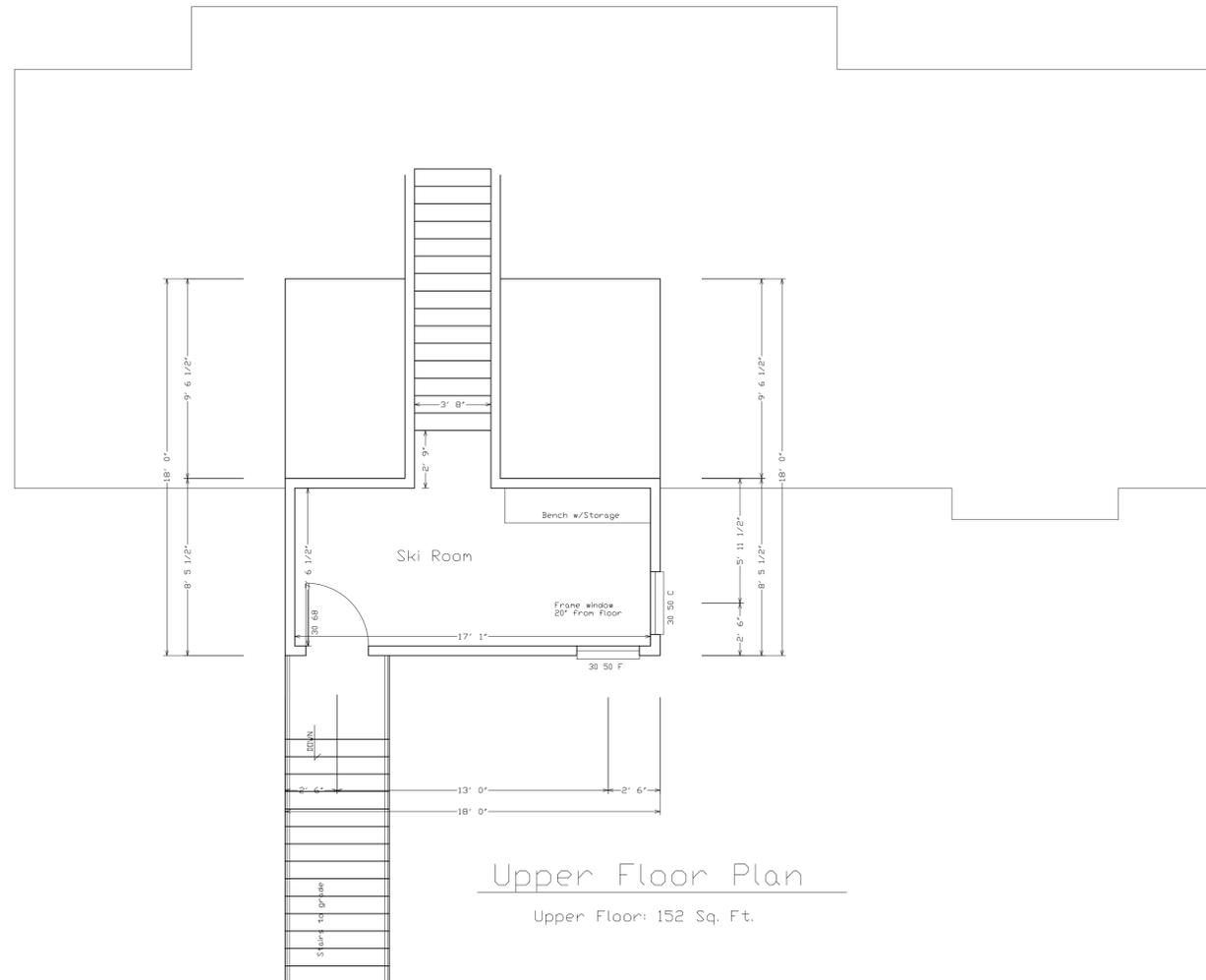
General Contractor: Peterson Builders Tyson DeMeyer

DePiano Residence Lot #42 Powder Mountain West 6706 East 6675 North Eden, Utah

SHEET NO: A101 DESCRIPTION: MAIN FLOOR PLAN

Scale: 1/4" = 1 Foot

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Upper Floor Plan
 Upper Floor: 152 Sq. Ft.

Homeowner:
 Jimmy & Ally DePiano

General Contractor:
 Peterson Builders
 Tyson DeMeyer

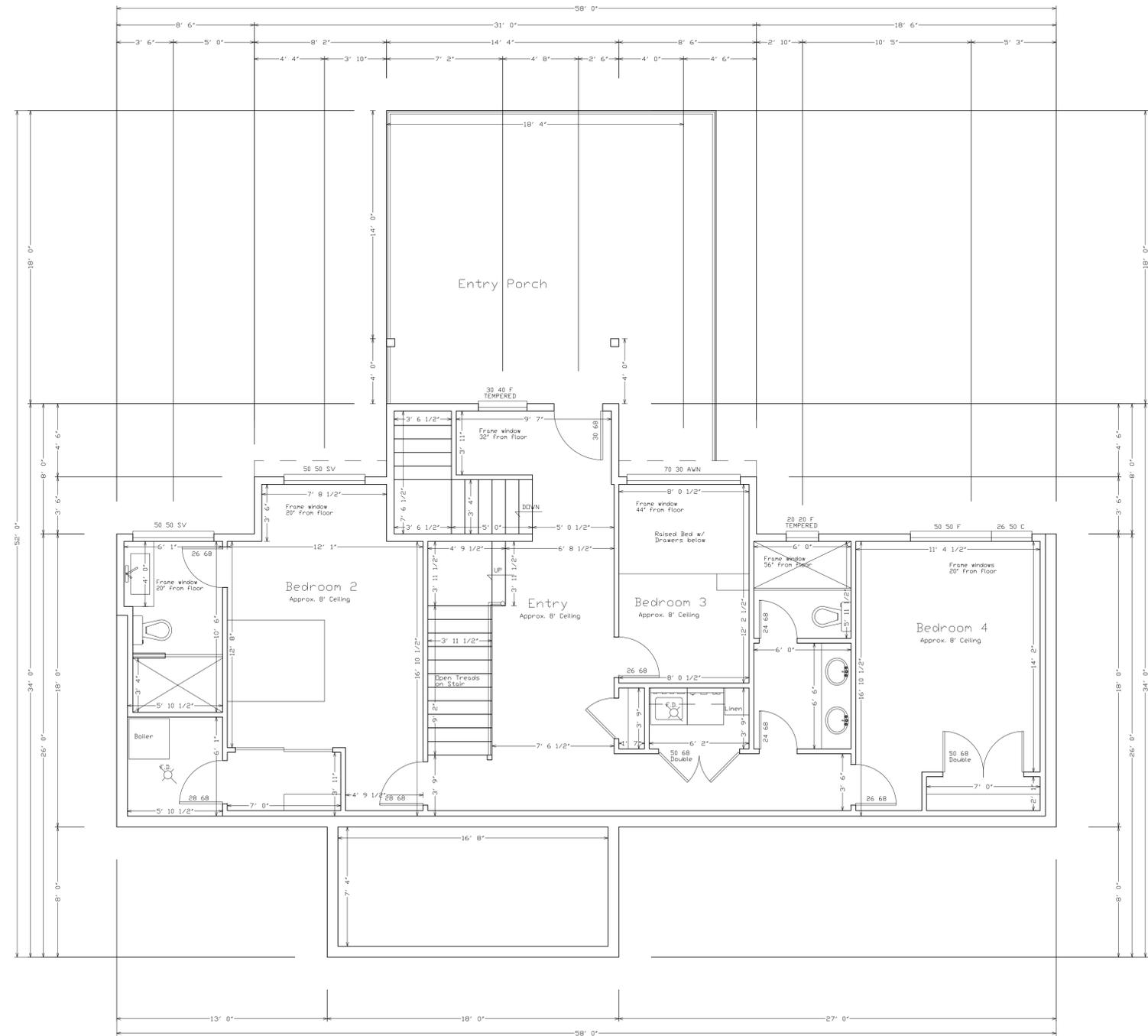
DePiano Residence
 Lot #42 Powder Mountain West
 6706 East 6675 North
 Eden, Utah

SHEET NO:
 A102

DESCRIPTION:
 UPPER FLOOR PLAN

Scale: 1/4" = 1 Foot

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Lower Floor Plan

Lower Floor: 1048 Sq. Ft.

Homeowner:
Jimmy & Ally DePiano

General Contractor:
Peterson Builders
Tyson DeMeyer

DePiano Residence
Lot #42 Powder Mountain West
6706 East 6675 North
Eden, Utah

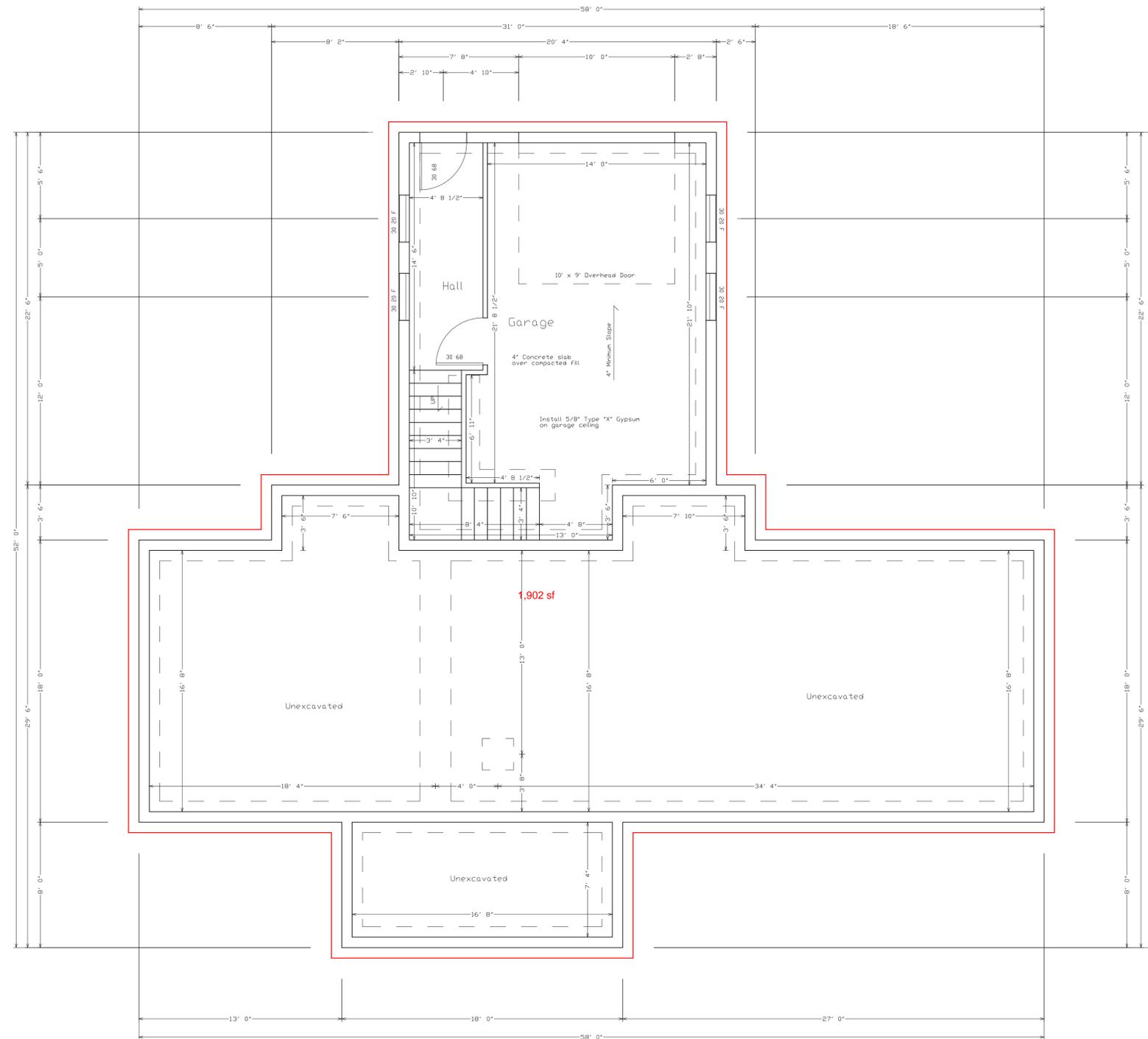
SHEET NO:
A102

DESCRIPTION:
MAIN FLOOR PLAN

Scale: 1/4" = 1 Foot

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Garage Floor Plan

Garage: 462 Sq. Ft.

Homeowner:
Jimmy & Ally DePiano

General Contractor:
Peterson Builders
Tyson DeMeyer

DePiano Residence
Lot #42 Powder Mountain West
6706 East 6675 North
Eden, Utah

SHEET NO:
A104

DESCRIPTION:
GARAGE FLOOR PLAN

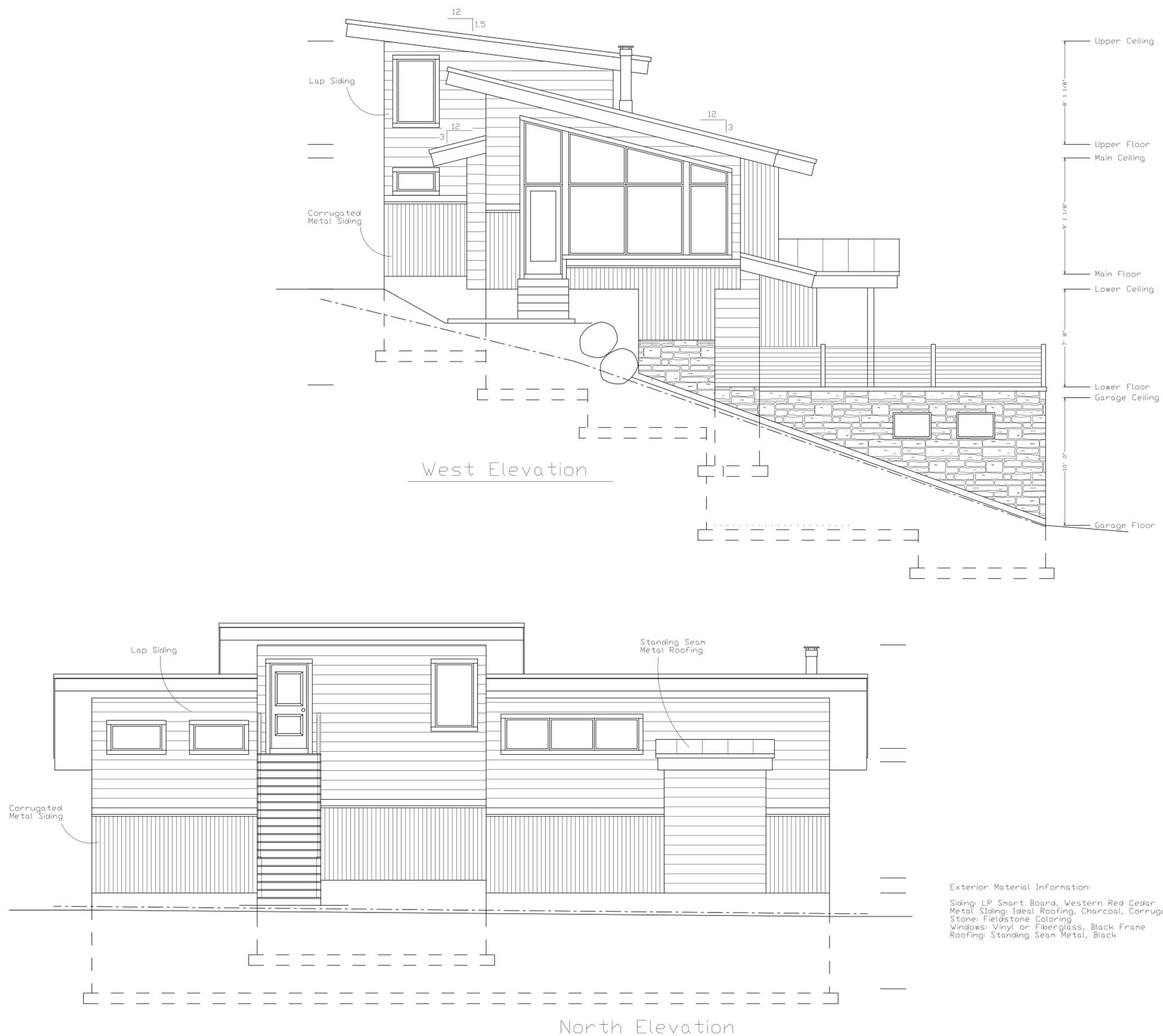
Scale: 1/4" = 1 Foot

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Exterior Material Information:
 Siding: LP Smart Board, Western Red Cedar
 Metal Siding: Ideal Roofing, Charcoal, Corrugated
 Stone: Fieldstone Coloring
 Windows: Vinyl or Fiberglass, Black Frame
 Roofing: Standing Seam Metal, Black

Homeowner:
 Jimmy & Ally DePiano

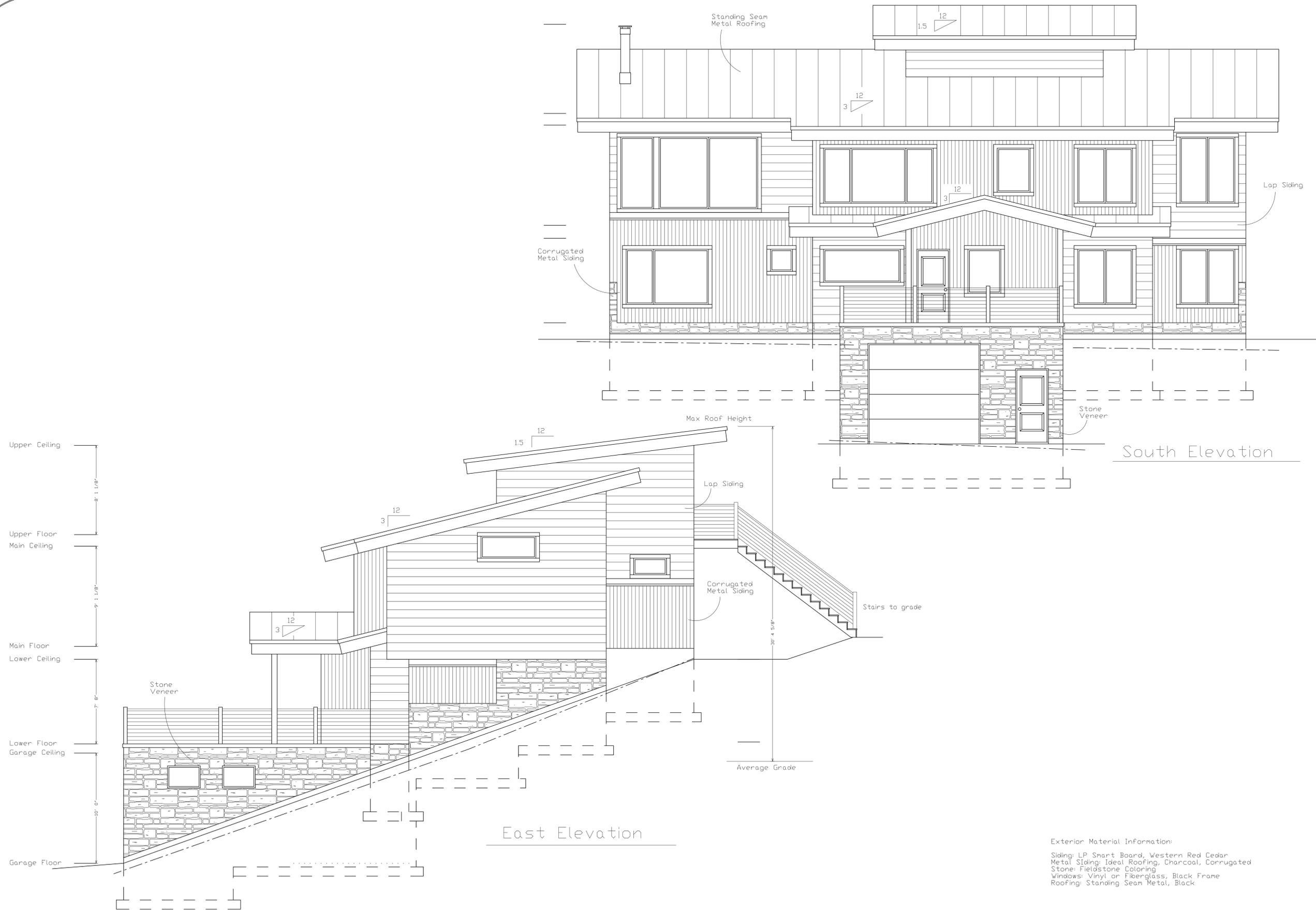
General Contractor:
 Peterson Builders
 Tyson DeMeyer

DePiano Residence
 Lot #42 Powder Mountain West
 6706 East 6675 North
 Eden, Utah

SHEET NO:
 A201
 DESCRIPTION:
 EXTERIOR ELEVATIONS

Scale: 1/4" = 1 Foot

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Homeowner:
Jimmy & Ally DePiano

General Contractor:
Peterson Builders
Tyson DeMeyer

DePiano Residence
Lot #42 Powder Mountain West
6706 East 6675 North
Eden, Utah

SHEET NO:
A202
DESCRIPTION:
EXTERIOR ELEVATIONS

Scale: 1/4" = 1 Foot

Exterior Material Information:
Siding: LP Smart Board, Western Red Cedar
Metal Siding: Ideal Roofing, Charcoal, Corrugated
Stone: Fieldstone Coloring
Windows: Vinyl or Fiberglass, Black Frame
Roofing: Standing Seam Metal, Black

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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 5 foot variance to the front yard setback and a 10 foot variance to the rear yard setback to facilitate the construction of a single-family residence at 6743 Chaparral Drive, Eden

Agenda Date: Thursday, March 18, 2021

Applicant: Joseph Draves

File Number: BOA2021-03

Property Information

Approximate Address: 6743 Chaparral Drive, Eden (Powder Mountain West)

Project Area: .15 acres

Zoning: Forest Residential (FR-3)

Existing Land Use: Vacant

Proposed Land Use: Residential

Parcel ID: 23-086-0010

Township, Range, Section: T8N, R1E, Section 36, SE 1/4

Adjacent Land Use

| | | | |
|---------------|-------------|---------------|-------------|
| North: | Residential | South: | Residential |
| East: | Residential | West: | Forest |

Staff Information

Report Presenter: Steve Burton
sburton@co.weber.ut.us
801-399-8766

Report Reviewer: RG

Applicable Codes

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

Background

The applicant is requesting a 5 foot variance to the minimum front yard setback required in the FR-3 Zone (25 feet) leaving a 20 foot setback from the front lot line. The applicant is also requesting a 10 foot variance to the rear yard setback (30 feet) leaving a 20 foot setback to the rear lot line. The applicant feels that a variance is necessary to build their desired home. The applicant explains that the current zoning setbacks create a small buildable triangle with a potential of constructing an 850 square foot home with a less than ideal garage orientation. The applicant's narrative is included as **Exhibit A**.

The applicant has provided several site plan exhibits to help visualize applicable setbacks and encumbrances to the property. The first page of **Exhibit B** shows a triangle with the required rear setback of 30 feet, 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.*
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.*

Staff Analysis

The list below are points taken from the applicant's narrative as compared to the above listed point of BOA consideration (see **Exhibit A** for the full narrative):

- a. The applicant's narrative states that literal enforcement of the setbacks creates a small triangular buildable footprint, that would make it difficult to achieve coherent aesthetics and home size standards of other dwellings in the neighborhood.
- b. The applicant states that the special circumstances that exist are the size and shape of this lot.
- c. The applicant's narrative indicates that granting a variance is needed in order to enjoy a substantial property right that is possessed by other properties in the area.
- 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 more coherent to the neighborhood.
- 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 shape of the lot.

Conformance to the General Plan

Single-family dwellings are allowed as a permitted use in the FR-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.

Staff Recommendation

Staff recommends the Board of Adjustment review staff's analysis and compare the applicant's request against the five points of consideration listed in LUC §102-3-4(b)(2) (presented above). If the Board finds that the applicant's request meets the criteria, the requested variance to the front yard and rear yard setback could be granted.

Exhibits

- A. Applicant-written variance request
- B. Site plans, showing existing and proposed setback
- C. Powder Mountain West Subdivision plat showing lot 16.

Weber County Planning Board

Friday, March 5, 2021

To whom it may concern-

I purchased parcel 23086001, 6743 Chaparral Drive in the summer of 2018 and hope to start building in the next year. The lot was surveyed and staked in October 2020. In talking with the HOA architectural board, they are asking that I pursue a variance with the goal of designing a house more consistent with the aesthetic of the neighborhood.

The lot is the Northwest Corner lot where Aspen Drive turns onto Chapparal. The driveway is to be located along Chaparral Drive. This dictates the Front-Side-Rear designations for site development setbacks.

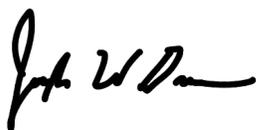
The standard setbacks in the building code are shown on the attached drawings. These setbacks yield a small triangular buildable footprint. While it may be possible to fit a house fully within the triangle, it would be difficult to achieve coherent aesthetics and minimum size standards of other homes in PMWLOA (Powder Mountain West Landowner's Association). I designed several houses to fit within the triangle and topped out at 850sqft footprint with a less than ideal garage orientation.

In talking with Steve Burton, he said that the corner lot is a likely candidate for a variance. The existing setback definitions call for a Rear setback of 30ft. However, this "back" line is the "side" edge of Lot 19.

With a change from 30ft to 20ft on the rear edge, the house can change from a modern sculptural pyramid shape into something more coherent with the neighborhood. The plan is to build a 1050sqft plan, three-story home with walk out ground level garage. It will be a two-slope roof with square downhill face / windows / deck. This style of architecture is prevalent at PMWLOA.

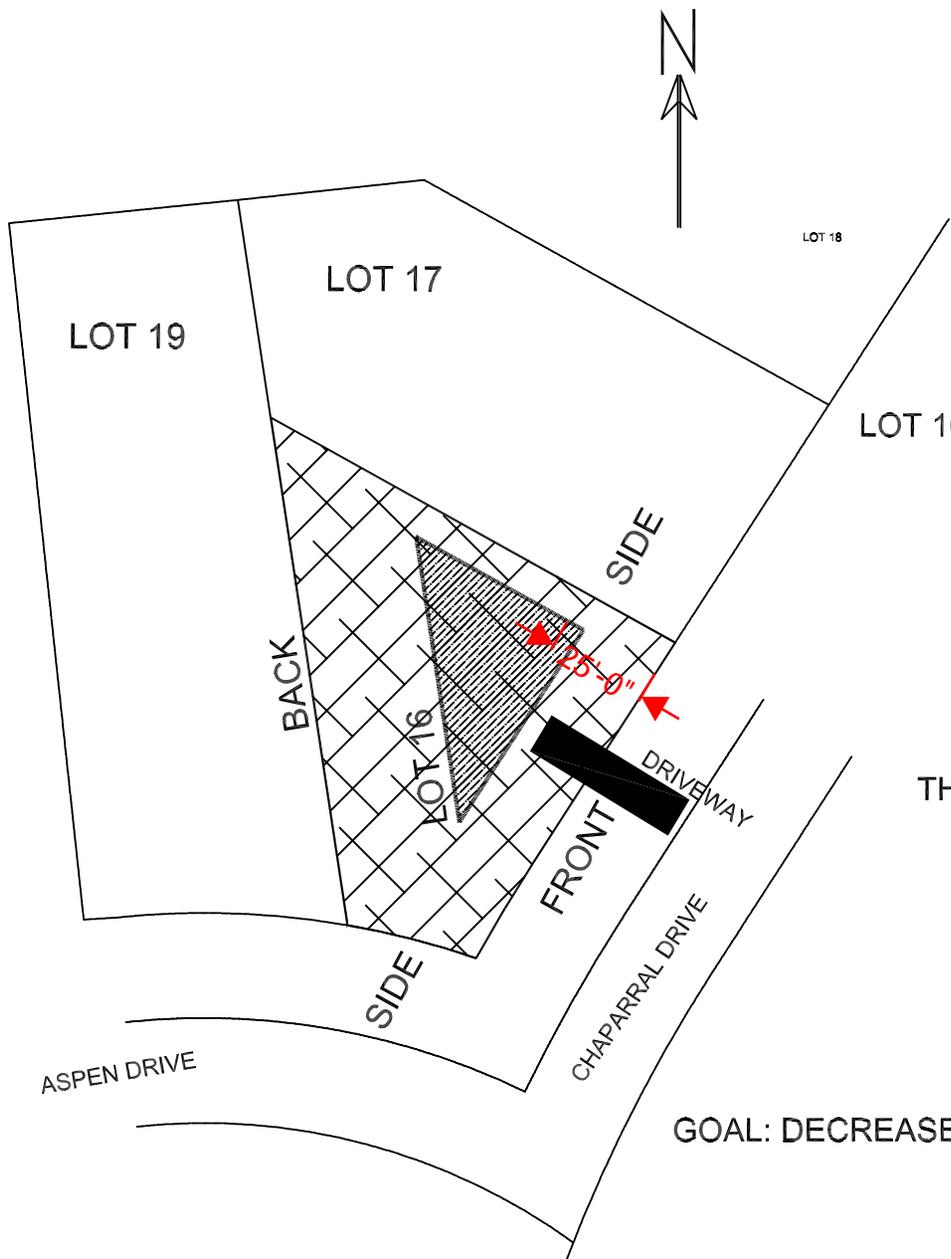
Attached are AutoCAD plan views to better understand the challenges with the existing setbacks. My architect and structural engineer are waiting to hear about the variance before commencing final design so I do not have any 3D renderings of the concept.

Please let me know what else you may need. Thanks for your consideration.



Joseph Draves

303-249-3724



LOT 16 TOPO/ STAKED CORNERS OCTOBER 2020
 WILLIS LONG, LAYTON SURVEYS
 LOT 19 IS BUILT. LOT 17 IS EMPTY.

LOT 16 ADDRESS IS 6743 CHAPARRAL DR.
 THIS DICTATES THE FRONT-SIDES-BACK
 BASED ON A DRIVEWAY FROM CHAPARRAL.

THE "BACK" LINE IS THE "SIDE" LINE OF LOT 19.

EXISTING SETBACKS
 8FT FROM SIDES
 20FT FROM ROAD FRONT
 30FT FROM REAR

GOAL: DECREASE THE REAR SETBACK FROM 30FT TO 20FT

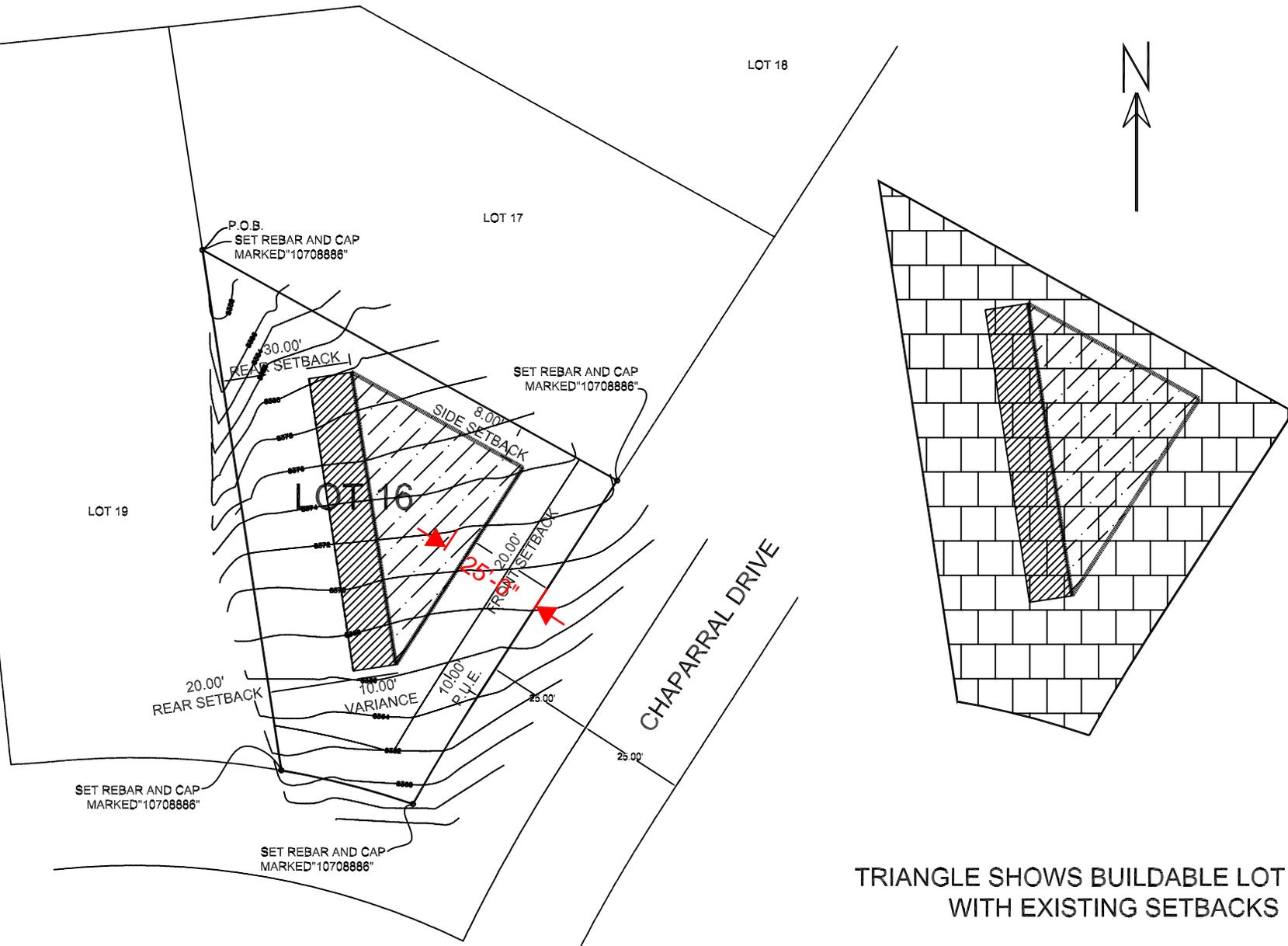
VARIANCE APPLICATION

SITE LAYOUT

POWDER MOUNTAIN WEST
 6743 CHAPARRAL DRIVE - LOT #16

JOSEPH DRAVES
 303-249-3724

SHEET 1 OF 4



TRIANGLE SHOWS BUILDABLE LOT WITH EXISTING SETBACKS

- VARIANCE OF 10FT TOWARDS REAR OF LOT
- * MORE COHERENT ARCHITECTURE WITH PMWLOA
- * LESS SITE IMPACT NOT BUILDING TRIANGLE HOUSE TO SOUTHERN POINT
- * GARAGE CAN BE EAST-WEST VS. NORTH-SOUTH WITH SMALLER DRIVEWAY

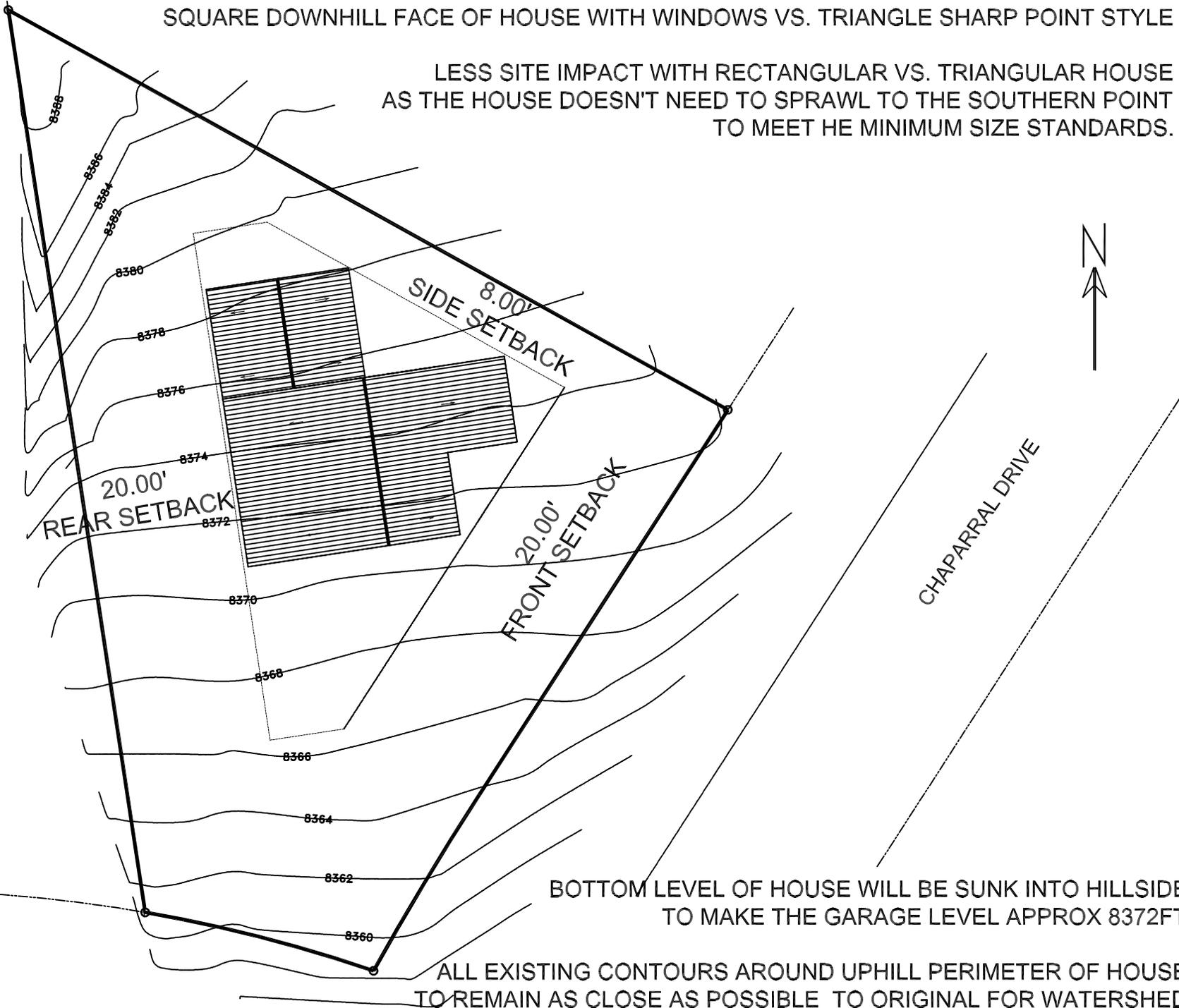
POWDER MOUNTAIN WEST
 6743 CHAPARRAL DRIVE - LOT #16
 JOSEPH DRAVES
 303-249-3724

SITE LAYOUT

1050 SQFT PLAN WITH ORTHOGONAL CORNERS TO MATCH PMWLOA

SQUARE DOWNHILL FACE OF HOUSE WITH WINDOWS VS. TRIANGLE SHARP POINT STYLE

LESS SITE IMPACT WITH RECTANGULAR VS. TRIANGULAR HOUSE AS THE HOUSE DOESN'T NEED TO SPRAWL TO THE SOUTHERN POINT TO MEET HE MINIMUM SIZE STANDARDS.



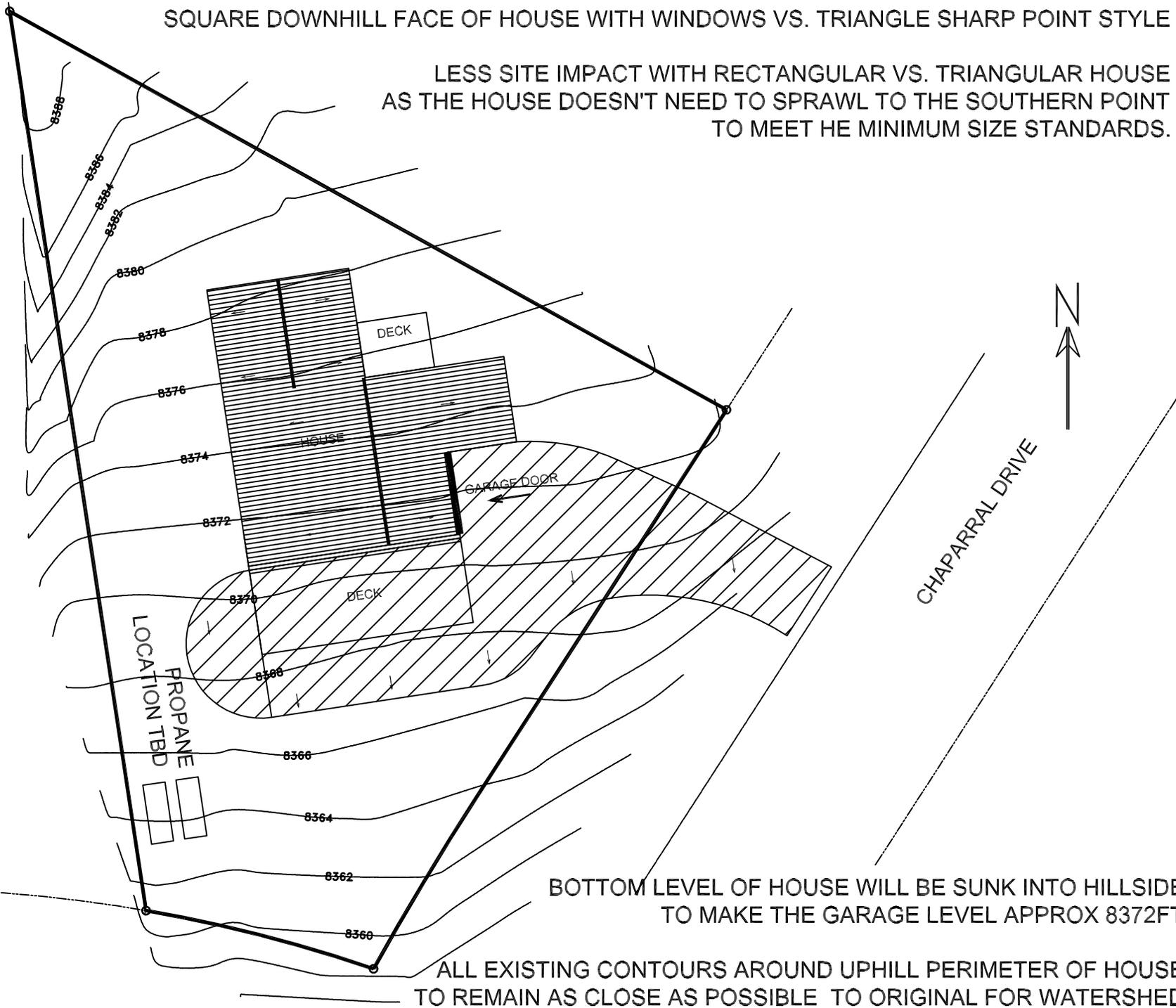
POWDER MOUNTAIN WEST
 6743 CHAPARRAL DRIVE - LOT #16
 JOSEPH DRAVES
 303-249-3724

COVERED BUILD AREA

1050 SQFT PLAN WITH ORTHOGONAL CORNERS TO MATCH PMWLOA

SQUARE DOWNHILL FACE OF HOUSE WITH WINDOWS VS. TRIANGLE SHARP POINT STYLE

LESS SITE IMPACT WITH RECTANGULAR VS. TRIANGULAR HOUSE AS THE HOUSE DOESN'T NEED TO SPRAWL TO THE SOUTHERN POINT TO MEET HE MINIMUM SIZE STANDARDS.

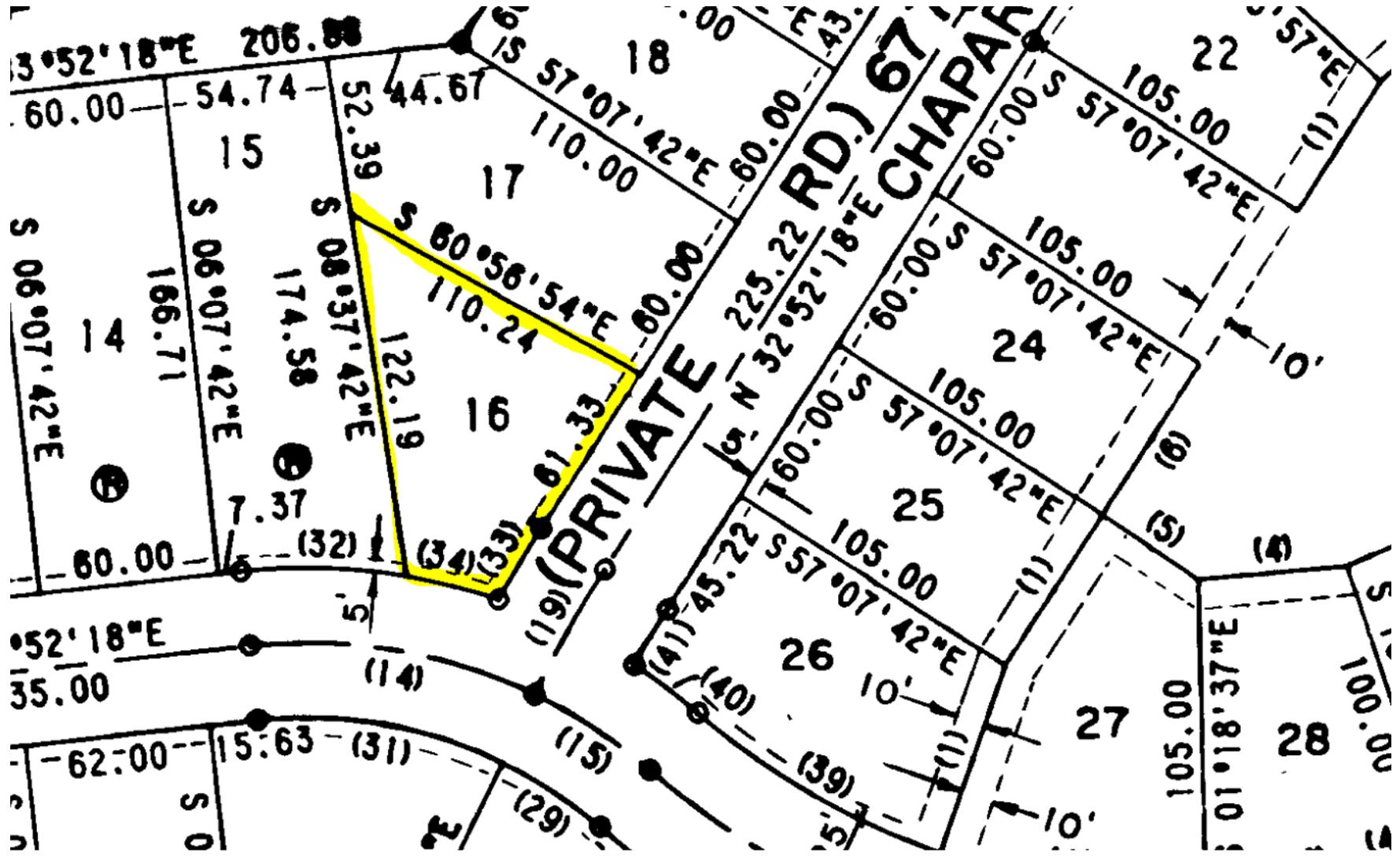


BOTTOM LEVEL OF HOUSE WILL BE SUNK INTO HILLSIDE TO MAKE THE GARAGE LEVEL APPROX 8372FT

ALL EXISTING CONTOURS AROUND UPHILL PERIMETER OF HOUSE TO REMAIN AS CLOSE AS POSSIBLE TO ORIGINAL FOR WATERSHED

POWDER MOUNTAIN WEST
6743 CHAPARRAL DRIVE - LOT #16
JOSEPH DRAVES
303-249-3724

SITE DEVELOPMENT



**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 annually elect a Chair and Vice Chair from its membership. Each officer shall hold office for a one-year period and not longer than two years consecutively. The Chair 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 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 and Place of Meetings

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. Special Meetings

A special meeting may be called at any time by the Chair or by a majority vote of the Board at any regular meeting. Notice shall be given to each Board member of the time and purpose of every special meeting of the Board at least twenty four (24) hours prior to such meeting. Such notice shall be delivered to each member of the Board personally, by telephone, or by United States Mail, directed to the Board member to be notified, at the member's residence, and mailed not less than three (3) days prior to the time fixed for such special meeting. It is specifically provided, however, that any member may, in writing, waive prior notice of the time, place, and purpose of such meeting; and such waiver, if made, shall be deemed a waiver of prior notice of the time and purpose thereof.

D. Work Sessions

Work sessions may be held as part of a regular Board meeting or called in the same manner as a special meeting in order for the Board to discuss matters at greater length or to obtain additional background information. The Board shall take no vote during such work session, except to give directions to Staff regarding the presentation of options for future consideration.

E. Length of Meetings

At 8:30 p.m., the Board of Adjustment will finish the item presently being considered. All items remaining to be heard will be forwarded to the next agenda for consideration.

FC. Meetings Open to the Public

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

GD. 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.

Electronic Meeting Requirements. The Board of Adjustment will only hold an electronic meeting in the following circumstances:

1. a matter coming before the Board requires prompt attention;
2. 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
3. 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.

Anchor Location. 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.

Notice. In accordance with state law, public notice shall be given as required for a regular meeting, including posting written notice in the Weber Center, on the Utah Public Notice Website, and to at least one newspaper of general circulation within Weber County or a local media correspondent. 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.

HE. Order of Business

The order of business shall be:

1. Chair opens the meeting and welcomes those in attendance
2. Pledge of Allegiance
3. Roll call. At all meetings before proceeding to business, the roll of the Board members shall be taken and the names of those present and those absent shall be entered on the record.
4. Approval of minutes of prior meetings
5. Director of Planning reads opening meeting statement
6. Chair asks Board members if there are any exparte communications or conflicts of interest to disclose

- 7. Consent Agenda
- 8. Petitions, Applications and Public Hearings
 - a. Administrative Items
 - i. Old Business
 - ii. New Business
 - b. Legislative Items
 - i. Old Business
 - ii. New Business
- 9. Public Comment for Items not on the Agenda
- 10. Board Member Remarks
- 11. Planning Director Report
- 12. Legal Counsel Remarks
- 13. Chair Adjourns Meeting

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

On a motion supported by a majority of the members present, tThe 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.

IF. Approval of Minutes from Prior Meetings

Approval of Minutes In-Person. The Chair shall ask the Board if they have had the opportunity to read the minutes and if there are any additions or corrections. Upon hearing from the Board, the Chair shall declare the minutes approved either as presented or amended. If the Board has not had an opportunity to review the minutes, approval shall be postponed to the next meeting.

Approval of Minutes through Email. As an alternative procedure, the Board may approve minutes through email communication, when requested by staff or by any member of the Board. When such a request is made, the Secretary shall send the draft minutes to all Board members. After all members who were present at the meeting have responded, and after a majority of those members have given their approval, the Chair may declare the minutes approved. Otherwise, the minutes shall be placed on the

next meeting agenda for approval. If minutes get approved through email communication, the approval shall be stated on the record at the next meeting.

J. Order of Consideration of Items

Any person may appear in person, by agent or attorney at any meeting of the Board of Adjustment

The following procedure will normally be observed in a public hearing or other matter before the Board of Adjustment; however, it may be rearranged by the Chair for individual items, if necessary, for the expeditious conduct of business:

1. Chair introduces item;
2. Abstentions, conflicts of interest and challenges are entertained and any declaration of conflicts of interest and ex parte contacts;
3. Staff makes a presentation on the criteria, standards, and recommendations;
4. Applicant or applicant's agent presents evidence for the proposal;
5. Any opponents and/or proponents may comment;
6. Board members may question staff, applicant, or opponents on all the above;
7. Applicant's rebuttal if requested;
8. Closing of the public hearing, if applicable;
9. Concluding comments of Staff or Staff summary and recommendations;
10. Motion is made and seconded; the Board discusses the item and votes. Members are allowed to openly discuss the proposal and may further question any party appearing for or against the proposal as necessary, but generally questions should be asked while the public hearing is open. The Chair outlines possible actions: approval, disapproval, continue, or approval with conditions.

K. Procedure of Motions

Making of Motions. Upon review of the full public record on a request and due deliberation among the members of the Board of Adjustment, any Board member, except for the Chair, may make a motion; however, any Board member may second a motion. The motion shall include not only the direction of the motion, but shall also include the recitation of specific findings of fact supporting such motion. A second shall be required for each motion citing compatible findings. Other members of the Board may support the motion adding compatible findings. A motion shall die in the absence of a second. Discussion of the motion

should not take place until it has been seconded and the Chair has stated the motion and called for discussion.

Withdrawing or Modifying a Motion. When a motion has been made but not yet stated by the Chair, whether or not it has been seconded, it can be withdrawn or modified by the mover if the member simply says, “Chair, I withdraw the motion.” If the mover wishes to modify his/her motion, he/she should specify the modification. Any member may suggest that the mover withdraw or modify his/her motion, but only the mover may do so. If a motion is modified before being stated by the Chair, the second may withdraw his/her second. After the Chair states a motion, it is the property of the Board. It can be withdrawn or modified at any time before final voting by a majority vote to withdraw or modify.

Motions in Order During Debate. When a question is under debate, no motion shall be received except:

1. To fix the time to adjourn;
2. To adjourn;
3. To continue, table, or postpone indefinitely to a specified time;
4. To amend; to substitute;
5. Refer to committee;
6. Previous question (immediately close debate);
7. Limit or extend limits of debate;
8. Take a recess;
9. Call for orders of the day;
10. Suspension of the rules;
11. Appeal rulings by the Chair; or
12. Reconsider an undebatable motion.

Motion must be Germane. No motion or proposition on a subject different from that under consideration is in order and no such motion or proposition shall be admitted under color of amendment.

Motions to Deny. Where a motion to deny a request has been defeated, a Board member shall make another motion to dispose of the issue.

Substitute Motions. A motion to amend by striking out an entire section or paragraph of a main motion and inserting a different section or paragraph is called a motion to substitute. Substitute motions shall supersede the main motion upon receiving the approval of a majority vote.

Amendments. All amendments must relate to the same subject as the original motion, resolution, proposition or ordinance. All amendments to the main motion require a second. If any amendment is offered, the question shall be first upon the amendment. An amendment may be tabled without prejudice to the main motion or question. When an amendment is proposed to any pending measure shall be laid on the table, such action shall not carry with it or prejudice such measure. If any amendment be offered, the question shall be first upon the amendment.

Friendly Amendments. A Board member may make a friendly amendment without a formal motion with unanimous consent of the members present. Typically, such motions are appropriate for clean-up items or an issue discussed but inadvertently neglected by the maker of the motion.

L. Procedure for Reconsiderations

A motion to reconsider a motion must be made in the same meeting as the motion that was voted on. It can only be made by a member who voted on the prevailing side and must be seconded. Any Board member, regardless of vote on the main motion, may second the motion. It is a debatable motion. It can be made to a vote that was either affirmative or negative. This type of motion proposes no specific change in a decision but simply proposes that the original question be reopened. It requires a majority vote and cannot be reconsidered.

M. Procedure for Debates

No member of the Board shall interrupt or question another Board member without obtaining the other Board member's consent. To obtain such consent, the Chair shall be addressed requesting to interrupt or ask a question; e.g., "Chair (name) I would like to ask Board member (name) a question or make a comment." The Board member speaking has the discretion to allow an interruption.

N. Voting

Deciding Votes. 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.~~

Commission Members Required to Vote - Late Voting. No member may abstain from voting unless there is a conflict of interest or the member has not been present during the discussion of any matter and feels he/she has insufficient information on which to act may abstain. A member entering the Chamber after the question is put and before it is decided, may have the question stated, record his/her vote, and be counted. If one or more members lawfully abstain from voting, then an affirmative vote of the majority of voting members present at the meeting shall decide all matters under consideration.

Roll Call on Final Passage. The vote upon the final passage of all business shall be by aye (yeses) and nay (no's) given by members of the Board by voice vote. In recording votes on roll call, the Secretary shall record and report those absent or not voting. The Chair shall announce the result.

Changing Vote Before Decision Announced. Any member may change his/her vote before the decision of the question has been announced by the Chair, unless another member objects to the change, then the voting member must obtain the permission of the Board of Adjustment by general consent or motion.

Changing Vote After Decision Announced. When a vote is taken on roll call on any question, no member shall be permitted to vote or to change his/her vote after the decision is announced by the Chair.

Tie Votes. If a motion regarding any matter before the Board receives an equal number of votes in the affirmative and in the negative, the motion fails. The Board shall continue to make motions until a majority vote is obtained. The option of continuing an item with the possibility that an odd number of members of the Board would be at a subsequent meeting may be considered.

Explaining Vote. After the vote is taken, any member of the Board desiring to explain his/her vote shall be allowed an opportunity to do so.

Not to Vote Unless Present. No member of the Board may vote on any question unless the member is present when the vote is taken and when the result is announced. No member may give his/her proxy to any persons whomsoever.

O. 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.

P. Time Limits

The Chair may impose equitable time limits if deemed necessary for the expeditious conduct of the public

hearing.

Q. Conduct of Persons Before the Board of Adjustment

Proceedings shall at all times be orderly and respectful. The Chair may refuse to recognize or exclude from the hearing anyone who:

1. Is disorderly, abusive, or disruptive;
2. Takes part in or encourages audience demonstrations such as applause, cheering, display of signs, or other conduct disruptive to the hearing;
3. Comments without first receiving recognition from the Chair and stating his/her full name and residence; or
4. Presents irrelevant, immaterial, or repetitious evidence.

Persons making presentations or providing comments to the Board of Adjustment shall address the Board from the podium or microphone and not from the audience; shall address all comments to the Board; and may not directly question or interrogate other persons in the audience.

R. Document of the Board of Adjustment

All materials submitted to the Board of Adjustment regarding a request shall be entered into the public record by the Chair by indicating that the material is "accepted for the record;" provided, however, that a staff report submitted to the Board as part of the agenda shall automatically become part of the public record. All notices, agendas, requests, agency or consultant letters or reports, staff reports, minutes of meetings, and resolutions of record shall constitute the documents of the Board of Adjustment and shall be indexed as public record.

SG. Parliamentary Procedure

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

TH. Suspension of Rules

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

U. 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.

VJ. Preparing the 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.

WK. 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. Meeting 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 meeting 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.~~

IV

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: February _____, 2021