

**PARK CITY MUNICIPAL CORPORATION
BOARD OF ADJUSTMENT
445 MARSAC AVENUE
CITY HALL COUNCIL CHAMBERS
April 17, 2018**



AGENDA

MEETING CALLED TO ORDER - 5:00 PM

ROLL CALL

ADOPTION OF MINUTES OF February 27, 2018

PUBLIC COMMUNICATIONS – *Items not scheduled on the regular agenda*

STAFF AND BOARD COMMUNICATIONS/DISCLOSURES

REGULAR AGENDA – *Discussion, possible public hearing, and possible action as outlined below*

341 Ontario Avenue – Applicant is requesting a variance to Section 15-2.2-3 (E) (Front Yard Setbacks), Section 15-2.2-5 (Building Height), and Section 15-2.2-5 (A) Building Height of the Park City Land Management Code (LMC) for the purpose of constructing a single-car garage addition to a “Significant” historic house with living space and decks. PL-16-03138 15

*Planner
Grahn*

Quasi-Judicial hearing and possible action.

ADJOURN

***Parking validations will be provided for Board of Adjustment meeting attendees that park in the China Bridge parking structure.**

PARK CITY MUNICIPAL CORPORATION
BOARD OF ADJUSTMENT
MINUTES OF FEBRUARY 27, 2018

BOARD MEMBERS IN ATTENDANCE: Ruth Gezelius – Chair; Hans Fuegi, Jennifer Franklin, David Robinson, Mary Wintzer,

EX OFFICIO: Planning Director Bruce Erickson, Anya Grahn, Planner; Polly Samuels McLean, Laura Newberry

ROLL CALL

Chair Gezelius called the meeting to order at 5:00 p.m. and noted that the Board did have a quorum.

ADOPTION OF MINUTES

November 28, 2017

Board Member Franklin referred to page 8, paragraph 4, and comments by the applicant Mr. Pyper regarding hardship. She noted that Mr. Pyper had stated that it was not a hardship, but later in the meeting asked to correct that statement. She asked if the two statements should be closer together in the Minutes. Ms. Franklin was concerned that people would not know that Mr. Pyper corrected his statement if they did not continue reading through the Minutes.

City Attorney McLean stated that since it was part of the same item the assumption is that people would read it all. She noted that the Minutes are chronological to the meeting, and Mr. Pyper did not correct his statement until the end. She appreciated Ms. Franklin's concern for the public, but the Minutes should reflect when it was actually said.

Board Member Fuegi referred to page 4, "Chair Gezelius opened the public hearing subject to re-opening if necessary". He corrected the sentence to say "**closed** the public hearing subject to re-opening if necessary".

Board Member Fuegi referred to page 6, "Board Member Fuegi understood the need to talk about lot line adjustments, but the ultimate purpose of the variance is to accommodate the addition. He agreed with Ms. Wintzer that because they do know what the addition will look like, it is difficult to determine whether or not the variance is fair." He corrected do know to correct read, **do not know**.

MOTION: Board Member Fuegi moved to APPROVE the Minutes of November 28, 2017 as corrected. Board Member Wintzer seconded the motion.

VOTE: The motion passed.

PUBLIC COMMUNICATIONS

There were no comments.

STAFF/BOARD MEMBERS COMMUNICATIONS AND DISCLOSURES

Planning Director Erickson apologized for the Board having to move to the Executive Conference room due to a scheduling conflict in the Council Chambers.

REGULAR MEETING – Discussion, Public Hearing and Possible Action

1090 Norfolk Avenue – Applicant is requesting a variance to Section 15-2.2-3 (1)(2) (Side Yard Setback Exceptions) to reduce the side yard setback from 5 feet to 3 feet along a platted un-built right-of-way and Section 15-2.2-3(1)(2) Management Code (LMC) for the purpose of a chimney encroaching into a side yard setback. (Application PL-17-03735)

Planner Anya Grahn reviewed the application requesting two variances. The first is a side yard setback exception. Planner explained that corner lots are required to have a 5-foot side yard setback along the right-of-way. The applicant was requesting to reduce the setback to 3-feet. She stated that the Staff supported the variance request for reasons that she would explain later in her presentation.

Regarding the second request, Planner Grahn stated that typically on a lot that has a 5-foot setback, the chimney is allowed to encroach up to 2-feet into the setback for a width of the chimney being 5-feet in length. The applicant was requesting to put the chimney in the proposed 3-foot setback, creating a 1-foot setback from the right-of way. The Staff could not support this variance because the proximity of the chimney to the right-of-way could impede future maintenance or expansion of utilities located in the right-of-way.

Planner Grahn noted that the property runs along Norfolk Avenue and 11th Street. The 11th Street right-of-way to the north of this property is unbuilt but not undeveloped. The road is not paved but there are both above ground and below ground utilities inside the right-of-way. There is a City staircase opposite the lot line of this property.

Planner Grahn reviewed the criteria of the variance. The first criteria is that literal enforcement of the LMC would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the LMC. Planner Grahn stated that in this case, literal enforcement means that this lot would have to have a 5-foot increase side yard setback because it is on a corner lot. She explained that the purpose of the increased setback is provide a clear view of the

intersection, snow storage, and utilities. Right-of-ways are a critical infrastructure route even when there is not a paved street. Planner Grahn stated that the City currently does not have plans to develop the 11th Street right-of-way as a paved street on this location; however, future expansion or maintenance of utilities might require the City to excavate the street or do additional maintenance. Planner Grahn remarked that the 3-foot reduced side yard setback provides sufficient separation. It is the typical setback on a lot up to 37.5 feet in width, which is a lot and a half of the basic 25' x 75' lot. The Staff found that the reduced setback would not necessarily impact the standard lot in this case, because it is being treated the same as any other Old Town lot, with the exception of corner lots.

Planner Grahn explained that the Staff objected to the request for the chimney because if the City were to excavate into the right-of-way at a future time, the one foot of separation between the chimney and the right-of-way would not be sufficient to allow for necessary work, and it could impede and damage the chimney in the future.

Planner Grahn reported that the second criteria is that there are special circumstances attached to this property that do not generally apply to other properties in the same zone. She explained that the special circumstance for this property is that it is a standard size lot and a corner lot. The 5-foot setback would reduce the building pad from 1,045 square feet to 935 square feet. The footprint remains the same at 844 square feet regardless of the setback because that is tied to the lot size rather than setbacks. Planner Grahn remarked that when there is a building footprint there is articulation, setback changes, and other changes in the walls, etc. She pointed out that the increased setback makes it more difficult to achieve the 744 square feet of footprint. It also shrinks the house size from 19 feet down to 17 feet, which makes the pedestrian entrance more subordinate to the garage. The garage should not be a focal point in Old Town.

Planner Grahn stated that she looked at every corner lot in Old Town measuring 25' x 75'; as well as every lot measuring up to 37-1/2 feet. She reported that there were a total of 28 standard lots and six 1-1/2 lot combinations. Of those seven lots were developed with the 5-foot setback. Eight lots received variances for the side yard setback along the platted right-of-way. Twelve lots were incorrectly approved to develop with a 3-foot setback. Sevens lot have not yet been developed. Planner Grahn noted that her study included historic and non-historic houses. Because historic buildings that do not meet setbacks are valid comply structures, she actually looked at the addition to the historic house rather than the historic house itself.

Chair Gezelius thanked Planner Grahn for providing the information regarding precedence. It is important because some historic homes do not meet this

criteria. The rules have changed over time, but it was helpful to know what direction they went on other properties.

Planner Grahn stated that the Staff found that 58.8% of standard and 1-1/2 lot combinations have actually been approved either correctly, incorrectly, or through a variance to encroach up to 3-feet of the right-of way. She thought that was important to note because it is a substantial property right that was granted to other properties in the H zones; and it creates a hardship for this particular property.

Planner Grahn reiterated that the Staff did not support the variance request for the chimney because of how it could impede on future work in the right-of-way.

The third criteria is that granting the variance is essential to the enjoyment of a substantial property right possessed by other properties in the same zone. She reported that the Staff had done an analysis and found nine similar variances. Planner Grahn explained that the number changed from eight to nine for this criteria because 364 Park Avenue is a unique situation. It had a variance granted in 1997 and at the time it faced 4th Street. The owner wanted to add a garage and was granted a reduced side yard setback. Planner Grahn stated that granting the reduced side yard setback is essential to the property rights enjoyed by 58.8% of corner lot owners on lots up to 37-1/2 feet in the H Districts.

Again, the Staff felt that the chimney did not meet this criteria, primarily because it would not provide sufficient separation between the chimney and the right-of-way.

Planner Grahn reported that the fourth criteria is that the variance would not substantially affect the General Plan and will not be contrary to public interest. She remarked that in this case the General Plan promotes smaller house sizes in Old Town, and it talks about lot combinations. Planner Grahn noted that the applicant was not asking for anything more than what a standard Old Town has. They were only asking for a reduction of the setback that is typical for a corner lot. The footprint would remain at 844 square feet. The setbacks would be 3', the same as a typical 25' x 75' lot. It would not allow for a larger house than what is normally seen in the District.

For this criteria the Staff found that the chimney would be contrary to public interest because it impedes on development in the right-of-way.

Planner Grahn read Criteria 5, "The spirit of the Land Management Code is observed and substantial justice is done". Planner Grahn reiterated that the hardship comes from being a corner lot and the increased setback having an impact on the development.

For this criteria, the Staff once again found that the chimney could infringe on future development within the right-of-way.

Planner Grahn reviewed the applicant's survey to orient the Board with the property and the surrounding area. She indicated the location of the 3-foot setback, and noted that the house would have to be reduced by 2 feet if the variance is not granted. She pointed to the chimney that is one-foot from the right-of-way.

Board Member Franklin asked if the fencing was around both Lots 17 and 18. Planner Grahn answered yes. Assistant City Attorney McLean noted that the site plan says that 11th Street is vacated, but that is incorrect.

Planner Grahn reported that the applicant was working with Rocky Mountain Power to shift the power line. However, there were no plans to shift existing sewer and water lines that are buried below ground in the right-of-way.

Jamie Thomas, representing the applicant, thought the chimney was a great opportunity to add to the fabric of Old Town. He noted that most of the old chimneys were removed or lost through renovation and demolition. Mr. Thomas believed the chimney was an opportunity to contextually contribute to the fabric of Old Town. It could be brick and they could do it in the old style with tie joints that emulate the historic flavor.

Regarding the utility question, Mr. Thomas stated that the power lines trespass on Lot 17. It is a notorious trespass, and the owner has the burden to take care of it. Rocky Mountain Power gave them a contract and the owner will pay to relocate those lines anywhere in the right-of-way that works for the City and for Rocky Mountain Power. Mr. Thomas thought the utilities could be completely mitigated working with the Planning Department and the City Engineer. He stated that for all construction in Old Town, the contractor, owner, or representative signs an agreement with the City because it is an encroachment in the City right-of-way. The agreement says that the City will allow them to build driveways, hard surfaces, and to do landscaping from the property line to the curb, because it is the City right-of-way. Mr. Thomas stated that it is an instrument already in place and used on every project in Old Town. The owner signs the contract upfront, and a Certificate of Occupancy is not issued until the Engineering Department does a public improvement inspection.

Mr. Thomas thought it would be a shame to forgo an opportunity to do a nice chimney, and it would make for better space inside. They do not need the entire 3-feet; or even 2-feet. They were only asking for something that would allow them to place the fireplace someplace where it does not encroach on an already narrow house. He emphasized that they would be missing an opportunity to do something nice and visually favorable in Old Town.

Board Member Wintzer believed the Staff felt badly that this was overlooked. However, the owner and the architect also had the responsibility to know that a 5' setback is required on a corner lot. Ms. Wintzer thought the owner should bear the burden for the mistake. She views rights-of-ways as the citizens' property for open space and view corridors; as well as being needed for utilities. The only hardship she could see was one that was created by an error by all parties because they did not read the Code. Ms. Wintzer found it hard to find a case for hardship based on human error by the owner and his architect, and that the error was not caught by the City. She struggled with granting a variance for either variance request.

Board Member Franklin concurred with Board Member Wintzer. Having been a downhill neighbor of this home at one time and understanding the walkways and the utility easements, she thought it was important to have a little extra space in between the units in this area.

Board Member Robinson struggled with the precedent issue in terms of what has been granted in the past and what was approved in the past; regardless of whether or not they might have been mistakes. As he looked at the property and went up the stairway, he found various encroachments and variances that were made. Mr. Robinson stated that he was inclined to be in favor of the setback variance but not the fireplace variance. He agreed with the Staff's recommendation for not granting the variance for the fireplace; particularly given the changing nature of the utilities over time.

Board Member Fuegi did not see the fireplace as being a hardship. He understood that it would be nice for the owner to have more space in the house, but he would not consider it a hardship situation. Mr. Fuegi agreed with Board Member Robinson regarding the variance for the setback. He understood that the likelihood of this ever being a road was not high. He was conflicted because a lot of precedent has been set; however, if they approve this variance they would be setting a precedence for the remaining lots to come before the Board with the same argument. Mr. Fuegi could see a hardship for the setback issue because other property owners have been granted the same rights. He was leaning towards approving the setback variance, but not the variance for the fireplace.

Chair Gezelius concurred with Board Members Fuegi and Robinson. She did not think precedent was set by individual decisions. There are unique sites in town, which is why they have the Board of Adjustment and Staff review. Chair Gezelius stated that considering the majority of people who have similarly sized and located property have been granted a variance for whatever reason, she could justify the 2' sideyard setback. She also knows how difficult it is to live in a 19' house versus a 17' house. Extra room is required for a bed big enough to sleep in or a table that can seat six people. There are issues with every inch lost in a house in Old Town. Chair Gezelius stated that if the goal is to encourage

people to live in homes in Old Town, they have to allow the home to be big enough for a family. Otherwise, they will become nightly rentals. Chair Gezelius could not justify the fireplace setback. From her personal experience living in Old Town, and for public access and safety, losing two feet in the right-of-way is unnecessary considering the vast array of wall heating options that are available now that were not available in the past when people had to use large stone fireplaces or potbelly stoves. Since it is not a historic home, she stated that adding a feature like brick is unnecessary for enhancing the Historic District. Chair Gezelius concurred with the Staff recommendation to approve the setback variance and to deny the variance for the fireplace.

Board Member Fuegi clarified that if a road was there and the house would create visibility problems around the corner, he would not be in favor of the variance. However, given the fact that it is a stairway and a utility easement, he could find reason to support it. Chair Gezelius pointed out that there is other right-of-way running the length as well.

Chair Gezelius opened the public hearing.

There were no comments.

Chair Gezelius closed the public hearing.

MOTION: Board Member Fuegi moved to support the Staff recommendation to APPROVE the requested variance reducing the setback from 5' to 3'; and to DENY the requested variance for the chimney as recommended by the Staff, based on the Findings of Fact, Conclusions of Law and the Order. Board Member Robinson seconded the motion.

VOTE: The motion passed 3-2. Board Members Franklin and Wintzer voted against the motion.

Findings of Fact – 1090 Norfolk

1. The property is located at 1090 Norfolk Avenue in the Historic Residential (HR-1) District. It's legal description is Lot 17, Block 9 Snyders Addition to Park City.
2. The HR-1 zone is characterized by historic and contemporary homes and condominiums on one (1) to two (2) lot combinations.
3. The property is a Standard Lot measuring 25 feet by 75 feet. It is currently a vacant lot.
4. The property is vacant and therefore not designated as historic by the Historic Sites Inventory.
5. The property fronts Norfolk Avenue to the west and the 11th Street right-of-way to the north. No paved street exists in the 11th Street ROW, though there are City stairs on the north side of the ROW and underground utilities.
6. On June 6, 2017, the Planning Department received a Historic District Design

Review (HDDR) application for a new single-family dwelling to be constructed on a vacant lot at 1090 Norfolk Avenue; the application was approved on August 1, 2017.

7. On December 7, 2017, the Planning Department received a variance request for a reduced side yard setback from 5 feet to 3 feet on the Corner lot, abutting the 11th Street right-of-way to allow for a new single-family house with a chimney encroaching into the side yard.

8. 11th Street is a platted ROW, although it is inbuilt as a paved road west of Woodside Avenue. At this time, there are no plans to develop a paved street within the 11th Street ROW. There are already City stairs constructed on the north side of the ROW and utilities located within the ROW.

9. Land Management Code (LMC) 15-2.2-3(E) requires a minimum front yard setback of 10 feet; however, LMC 15-2.2-3(H)(2) allows for the minimum Side Yard that faces a side Street or platted Right-of-Way to be 5 feet.

10. On non-corner lots, the minimum side yard setback is 3 feet for a lot this size and lot width.

11. LMC 15-2.2-3(I)(2), allows for Chimneys not more than 5 feet wide projecting not more than 2 feet into the Side Yard to encroach into side yard setbacks measuring a minimum of 5 feet.

12. The HR-1 district requires a minimum 3-foot side yard setback for a single family house on a standard 25 foot by 75-foot lot. The HR-1 zone regulations permit a 19-foot-wide building pad on 25-foot-wide lots.

13. Application of the required setbacks would result in a 17-foot-wide building pad due to the required 5-foot side yard setback on a corner lot.

14. Literal enforcement of the LMC would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the LMC. The purpose of the increased side yard setback on Corner lots is to allow for a clear view of the intersection, yard area, and snow storage; Under the 2011 Traffic and Transportation Plan, the City does not anticipate further developing this right-of-way as a public paved street and a current public staircase is already on the north side of the platted ROW. Because of this, literal enforcement is not necessary to carry out the general purpose of the zoning code.

15. A 3-foot side yard setback along the 11th Street ROW provides sufficient separation between development on this property and any new or expanded development within the ROW. The reduced side yard setback of three feet (3') would not significantly impede the City from maintaining or expanding underground utilities or developing the ROW in the future.

16. Chimneys are not required elements and the reduced setback of the chimney to one foot (1') from the property line could impede future development in the ROW. The City Engineer finds that the location of the chimney could impede existing and future utilities within the ROW as the reduced setback for the chimney brings these two uses into closer proximity. Excavation to maintain or expand existing utilities within the ROW could cause soil erosion issues on this property at the time of construction. The reduced setback of the chimney also provides less separation between the house and any new development in or of the 11th Street ROW.

17. There are special circumstances attached to this Property that do not generally apply to other Properties in the same zone. This lot has a standard lot size of 25 feet by 75 feet. The typical side yard setbacks of 3 feet permit a maximum building width of 19 feet; however, the location of the platted, 11th Street ROW to the north requires a 5-foot side yard setback along the north property line for a corner lot such as this. The increased setback reduces the size of the Building Pad from 1,045 square feet to 935 square feet on Corner Lots, though the footprint remains the same.

18. The majority of Standard Lots that meet the definition of a Corner Lot have been permitted to maintain a 3-foot side yard setback from the ROW, instead of the required five foot (5') setback. Of the 29 Standard Old Town Lots in HR-1 abutting a ROW surveyed, 9 have received variances for a reduced side yard setback, 9 have been approved in error to have a 3-foot side yard setback, 4 have observed the required 5-foot setback, and 7 have not yet been developed or contain a historic house that has not been added on to. This deprives the Property of privileges granted other Properties in the same zone and creates a hardship for this property.

19. Granting the variance is essential to the enjoyment of a substantial Property right possessed by other Property in the same zone. The variance will not allow a greater building area or a larger structure than is currently allowed on any other 25 foot by 75-foot lot in the HR-1 district. All other requirements of the LMC will be met, including but not limited to setbacks, maximum heights, parking, utilities, footprint, and Historic District Design Guidelines. As 18 of 29 properties have been permitted to have a reduced side yard setback abutting a ROW, granting this variance permits essential enjoyment of a substantial Property right possessed by other Property in the same zone.

20. By allowing the chimney to encroach up to one foot (1') from the property line, there is insufficient separation between the chimney and any existing or future development in the ROW.

21. The variance will not substantially affect the General Plan and will not be contrary to public interest. The variance will not obstruct the use of the pedestrian staircase within the 11th Street ROW, the placement of utilities, nor will it utilize the City-owned property for private benefit. The General Plan encourages smaller, compact development on single lots that contribute to the overall character and integrity of the Mining Boom Era Residences Thematic District by reflecting the historic mass and scale.

22. The City Engineer believes that the one foot (1') separation of the chimney from the ROW due to the applicant's request for a reduced setback will impede the City's use of the ROW. Limiting the maintenance and/or expansion of utilities, snow storage, and the potential to develop 11th Street into a paved road are contrary to public interest

23. The spirit of the Land Management Code is observed and substantial justice is done. The reduced side yard setback along the 11th Street ROW will not allow a greater building area or larger structure than is currently allowed on any other 25 foot by 75-foot lot in the HR-1 district. All other requirements of the LMC requirements will be met, including but not limited to setbacks, maximum

footprints, maximum heights, parking, utilities, and compliance with the Historic District Design Guidelines. The ROW provides additional side yard setback and separation between buildings.

24. The spirit of the LMC is not observed by allowing the chimney a reduced setback of only one foot (1'). The LMC currently allows chimneys to encroach into five foot (5') side yard setbacks for a maximum of two feet (2'), leaving three feet (3') of separation between the chimney on the lot line. In this case, the property abuts a ROW and the City Engineer finds that the reduced setback of the chimney could infringe on future developments within this ROW.

25. Ability to construct and maintain utilities within the ROW will not be impacted by approving the variance to reduce the required side yard setback from five feet (5') to three feet (3') along the 11th Street ROW.

26. All findings in the Analysis section are incorporated herein.

Conclusion of Law – 1090 Norfolk

Variance Request 1: Reduced Side Yard Setback

1. Literal enforcement of the HR-1 District requirements for this property causes an unreasonable hardship that is not necessary to carry out the general purpose of the zoning ordinance.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same district.
3. Granting the variance is essential to the enjoyment of substantial property right possessed by other property owners in the same district.
4. The proposal is consistent with the General Plan.
5. The spirit of the zoning ordinance is observed by this application.
6. It can be shown that all of the conditions justifying a variance, pursuant to LMC §15-10-9, have been met.

Variance Request 2: Chimney

1. Literal enforcement of the HR-1 District requirements for this property does not cause an unreasonable hardship that is not necessary to carry out the general purpose of the zoning ordinance.
2. There are not special circumstances attached to the property that do not generally apply to other properties in the same district.
3. Granting the variance is not essential to the enjoyment of substantial property right possessed by other property owners in the same district.
4. The proposal is not consistent with the General Plan.
5. The spirit of the zoning ordinance is not observed by this application.
6. It cannot be shown that all of the conditions justifying a variance, pursuant to LMC § 15-10-9, have been met.

Order

1. A variance to LMC Section 15-2.2-3(H)(2) to the required side yard setback for Corner Lots is hereby granted to reduce the setback from 5 feet to 3 feet. The variance run with the land

Board of Adjustment Meeting
February 27, 2018

2. A variance to LMC Section 15-2.2-3(1)(2) to allow a Chimney not more than 5 feet wide projecting not more than 2 feet into the Side Yard is hereby denied.

Chair Gezelius asked about future agendas. Planner Grahn reported on a request from 341 Ontario, which the BOA heard in June and continued to a date uncertain. The Staff has been talking with the applicant; however, a date had not been set as to when it would come back to the Board of Adjustment. She anticipated possibly in April or May.

Chair Gezelius adjourned the meeting at 5:40 p.m.

Approved by _____
Ruth Gezelius, Chair
Board of Adjustment

PENDING APPROVAL



Board of Adjustment Staff Report

Application #: PL-17-03538
Subject: 341 Ontario Avenue
Author: Anya Grahn, Historic Preservation Planner
Date: April 17, 2018
Type of Item: Variance

Summary Recommendations

Staff recommends that the Board of Adjustment (BOA) review, conduct a public hearing, and consider granting the applicants' request for three (3) variances to the Land Management Code (LMC) as follows: (1) Section 15-2.2-3 (E) Front Yard Setbacks, (2) Section 15-2.2-5 Building Height above Existing Grade, and (3) Section 15-2.2-5 (A) interior Building Height as described in this report for the purpose of constructing an addition to a historic structure which includes a new single-car garage with living space and decks above.

During the last BOA meeting on June 20, 2017, the BOA continued this item to a date uncertain, directing the applicant to bring forth a more detailed explanation and justification for the variance application, and if possible, address the issues of scale and mass within the five variance criteria. The applicant has not revised his plans but is prepared to discuss how this design is the best scenario for this site.

Description

Applicants: Matthew and Marissa Day, Sparano + Mooney Architects
Location: 341 Ontario Avenue
Zoning: Historic Residential (HR-1) District
Adjacent Land Uses: Residential single family homes
Reason for Review: Variances require Board of Adjustment approval

Proposal

The applicant proposes to construct an addition to a historic house, designated as Significant on the Park City Historic Sites Inventory (HSI). The new addition includes a garage along Ontario Avenue and lower levels that connect to the historic house. Because of the steepness of the slope on the downhill (west) side of Ontario Avenue and limited parking on the street, the applicant has requested three (3) variances in order to construct the proposed addition, which contains an attached garage. The applicant is requesting a variance to reduce the front yard setback requirement, from Ontario Avenue, for the proposed addition so that the addition, and particularly the garage, can be constructed at the street level (variance #1). The applicant also seeks a variance to the required exterior building height of 27 feet above Existing Grade (variance #2), and a variance to the maximum interior height of 35 feet measured from the lowest finished floor plane to the point of the highest wall top plate that supports the ceiling joists and rafters (variance #3).

The Board of Adjustment (BOA) reviewed this application on June 20, 2017 [[Staff Report](#) (starting page 17) + [Minutes](#) (starting page 3)], and continued the item to a date uncertain so that the applicant could return with additional documentation and analysis.

Variances requested:

- #1: A variance to LMC Section 15-2.2-3 (E) to the required ten foot (10') front yard setback exception to allow for an addition to be constructed at the front of the lot; the addition includes a one-car garage on the top level, adjacent to Ontario Avenue.
- #2: A variance to LMC Section 15-2.2-5 to the maximum building height of 27 feet above Existing Grade.
- #3: A variance to LMC Section 15-2.2-5 (A) to the required maximum height of 35 feet measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters.

The applicants believe that unique conditions exist with the property to warrant granting of a variance to the required front yard setback, maximum building height and the required maximum interior height.

Purpose

The purpose of the Historic Residential (HR-1) District is to:

- A. Preserve present land Uses and character of the Historic residential Areas of Park City,
- B. Encourage the preservation of Historic Structures,
- C. Encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods,
- D. Encourage single family Development on combinations of 25' x 75' Historic Lots,
- E. Define Development parameters that are consistent with the General Plan policies for the Historic core, and
- F. Establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment.

Background

The background of this application was documented in the [June 20, 2017 staff report](#) (starting page 17) and [Minutes](#) (starting page 3). The Historic District Design Review (HDDR) application for this project was complete in September 2015, and staff has been working with the applicant continuously since that time to guide the design to LMC and Design Guideline compliance. Staff had finally recommended that the applicant seek the variances requested for the development.

During the June BOA meeting, staff explained the unique conditions of this site. These included the lack of parking along Ontario Avenue, the steepness and narrowness of the road, as well as the difficulty constructing an addition to the historic house that would be accessible at street level due to the steep 36-foot drop from the road to the location of the historic house. The lot line for this property is setback approximately 13 to 17 feet back from the edge of Ontario Avenue pavement, increasing from north to

south. The historic house is setback about 21 feet from the front lot line, and within this area, the hillside slope is about 61.6%. From the edge of road on Ontario Avenue to the back of the historic house, the grade drops approximately 36 feet with an overall slope of 61.8%. The historic house directly abuts the canyon wall, with a portion of the house buried in the hillside.

The applicant requested a variance for a reduced front yard exception from the required 10 feet to 4.5 feet to accommodate a single-car garage along Ontario Avenue. The proposed front of the garage is located 4.5 feet back from the front property line and an increasing distance from north to south of 18 feet 4 inches to 19 feet 4 inches from the edge of road on Ontario Avenue. The driveway will be a bridge, spanning the area from the edge of road to the garage. The slope of the driveway will be about 8%. [LMC 15-3-3\(A\)\(4\)](#) permits a maximum driveway slope of 14%.

The applicant also requested a variance to [LMC 15-2.2-5 Building Height](#) which says that no structure shall be erected to a height greater than 27 feet from Existing Grade. The applicant has requested a maximum height of up to 35 feet above Existing Grade due to the steepness of the lot between Ontario Avenue and the location of the existing historic house.

The third variance request is to [LMC 15-2.2-5\(A\)](#) which states that a Structure shall have a maximum height of 35 feet measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters. Because the site of the historic house is some 36 feet below Ontario Avenue, the applicant is proposing a maximum interior height of 39 feet 6 inches.

The table below outlines the LMC requirements and the variances the applicant is requesting:

	LMC Requirement	Proposed
Variance #1: Setbacks Front/Rear Yard	10 feet/20 feet total	4'6" front yard/10 ft. rear yard 14'6" total Distance from edge of road increases from north to south of 18' 4" to 19'4"
Variance #2: Building (Zone) Height	27 ft. maximum	35 ft. above Existing Grade
Variance #3: Lowest Finished Floor Plane to Highest Wall Top Plate	35 ft. maximum measured from the lowest finished floor plane to the point of the highest wall top plate	39' 6" measured from lowest finished floor plane to the point of the highest wall top plate

During the BOA's discussion in June, the BOA expressed concerns about mass and

scale. They feared that the proposed variances would permit a much larger structure that would detract from the small, 480 square foot historic house. Members of the BOA found that the Planning Commission and City Council had amended the LMC in order to reduce mass and scale in the Historic Districts and prevent 4-story houses; they believed granting the variance would permit a 4-story house that would not honor those LMC amendments. They determined that the houses on either side of this site had been built prior to those LMC amendments and had likely inspired LMC amendments to reduce mass and scale. The BOA also worried that some of the rooms were larger in size than was necessary, which also contributed to the bulk of the structure; they wanted to see the ceiling heights reduced to 8 feet rather than the 9 to 10 foot ceilings that had been proposed.

The BOA continued the item to a date uncertain to allow the applicant time to address their concerns about mass and scale. The BOA requested the following:

- Additional evidence as to the unique conditions of the site.
- Detailed explanation and justification for the variances requested, with special consideration of mass and scale.
- Thorough presentation by the applicant to support why the applicant believes the proposed design is the only option.

Finally, the BOA requested that staff remove Condition of Approval #3 stating “The garage interior shall be used for parking. Limited storage is permitted to the extent that it does not preclude parking of a vehicle. Trash and recycling bins may be stored in the garage.” The BOA found that the Condition not enforceable.

On March 6, 2018, the applicant submitted additional information for the BOA to consider in their continued review of the variance application. These materials are included in this staff report as Exhibit A.

Analysis

As the applicant has not amended his design, staff’s analysis of the variance request is unchanged from the analysis presented in the [June 20, 2017 staff report](#) (starting page 17).

During the June 20, 2017, meeting, the BOA discussed this variance request in regards to the spirit of the LMC. Several board members expressed concerns regarding the bulk, mass, and scale of the proposed addition. They found that the addition doubled the square footage of the 480 square foot historic house. They worried that some of the rooms in the addition were larger than what was necessary, contributing to the increased mass and scale of the house. In particular, they were apprehensive that the LMC had been modified to include provisions regulating the interior height to 35 feet to prevent four-story buildings, and the proposed addition was four-stories in height.

Other board members found that this site had unique challenges because the historic house was at the bottom of a hill, more than 35 feet below the elevation of the road. They found that reducing the mass and scale of the proposed addition could create a garage that no longer functioned; this would defeat the purpose of having a garage as it

would no longer provide off-street parking. Further, they believed that even with the proposed four-story addition, the house would be smaller in scale than the two neighboring houses. Some argued that a flat roof parking pad along Ontario Avenue would create construction issues for the house below.

Because the board was divided in their opinions, they directed the applicant to review his request again. They requested additional evidence to the unique conditions of the lot. They asked the applicant to demonstrate that by granting the variance, they were not granting additional height, bulk, and mass because that would be contrary to the spirit of the LMC. They directed the applicant to address issues regarding the mass and scale, if possible. Finally, they requested a more thorough presentation to support why the applicant believed the design proposed was the only option.

Staff has reviewed the applicant's updated submittal that includes further analysis supporting this design. The LMC puts the burden on the applicant to demonstrate that they have met the hardship criteria, and staff finds that the applicant has. As outlined further in the applicant's updated submittal materials (Exhibit A), the location of the historic house 36 feet below the road and at the bottom of a steep hillside has made development on this lot difficult. In the past, the applicant did propose detaching the garage from the house; however, his proposal included shared walls and deck spaces that then attached the house to the garage. These attachments precluded the garage from being a detached structure. Staff finds that the design presented to the BOA in June 2016 has not changed and the same conditions are present.

Staff would also like to make the following clarifications regarding the Applicant's recent submittal:

- The applicant references the project at 422 Ontario Avenue as being the same request as his. 422 Ontario Avenue is located on an uphill lot; whereas, 341 Ontario Avenue is a downhill lot. The applicants at 422 Ontario Avenue were able to hide a significant amount of their increased mass and bulk below grade in the hillside so that above grade, the addition to the historic house only appeared to be 2 stories tall. A garage door in a retaining wall at the street provided access to the underground garage. The BOA approved the variance request in June 2016 [[Staff Report](#) (starting page 41) and [Minutes](#) (starting page 6)].

Staff finds that the BOA reviews the variance criteria in terms of whether the specific site has unique conditions. If two sites have the same exact conditions or reasons, it would be unfair to apply the criteria differently to one site versus another. Staff finds that 422 Ontario Avenue and 341 Ontario Avenue are not identical sites, and the BOA needs to review this application independent of determinations made at 422 Ontario Avenue. 341 Ontario Avenue has its own unique site conditions that have been outlined above.

- The applicant also references a recent Planning Commission approval for a height exception at 352 Woodside Avenue based on [LMC 15-2.2-5 \(D\)\(4\)](#). The project at this location is a downhill lot. The applicant was proposing to

construct a new single-family dwelling with a two-car tandem garage along the street. This development was required to provide 2 parking spaces on-site, which they chose to do in a tandem garage. [[Planning Commission Staff Report](#) (starting page 122) and [Minutes](#) (starting page 6).]

- Legal opinion from Par Brown Gee & Loveless provides additional analysis of how they find the applicant complies with the variance criteria. Additionally, they provide a legal opinion regarding the BOA establishing precedent. They argue that the BOA should grant the same variance to all similarly situated properties and they find that there was not any substantive difference between the conditions justifying the 341 Ontario Avenue variance and the variances granted at 422 Ontario Avenue. [See [BOA Staff Report](#) (starting page 41) and [Minutes](#) (starting page 6).] As previously stated, staff finds that the BOA needs to review this application independently of the variances granted at 422 Ontario Avenue; 422 Ontario Avenue is an uphill lot and 341 Ontario is a downhill lot, a condition that impacts how the design impacts the bulk and mass of the proposed additions.

The applicant has provided additional analysis that has been included in Exhibit A. Staff recommends that the BOA review the applicant's analysis.

Future Process

Approval of these variances by the Board of Adjustment constitutes Final Action that may be appealed following the procedures found in LMC § 15-10-13. Approval of a Historic District Design Review (HDDR) for the design of the garage structure/addition is necessary prior to the issuance of a building permit. Standards for new construction as listed within the Historic District Design Guidelines will apply. HDDR's are an administrative approval and are processed by the Planning Staff. A steep slope Conditional Use Permit, issued by the Planning Commission, is required because the new addition will exceed 200 square feet in area on an area with a slope of greater than 30%.

Department Review

This project has gone through an interdepartmental review. No further issues were brought up at that time.

Notice

On April 3, 2018, the property was posted and notice of the variance request was mailed to property owners within 300 feet of the property in accordance with requirements of the Land Management Code. Legal notice was published in the Park Record on March 31, 2018, according to requirements of the Code.

Public Input

No public input was received at the time of writing this report. During the last BOA meeting, public comment expressed concern about the bulk and mass of the new development that this variance would permit and recommended design solutions that could assist applicant.

Alternatives

- The Board of Adjustment may grant the variance requests according to the findings of fact, conclusions of law and conditions of approval drafted below and/or as amended; or
- The Board of Adjustment may deny the variance requests and direct staff to make findings of fact to support this decision; or
- The Board of Adjustment may continue the discussion and request additional information on specific items.

Significant Impacts

There are no significant fiscal or environmental impacts from this application.

Consequences of not taking the Suggested Recommendation

The property would remain as is and no construction of the proposed garage addition could take place. Should the BOA not grant a variance (#1) to reduce the front yard setback from 10 feet to 4 feet 6 inches, the applicant will not be permitted to construct an attached garage and addition as proposed. Should the BOA not grant the variance (#2) to the required exterior height from 27 feet to 35 feet and the variance (#3) to the interior height from the lowest finish floor plane to the point of the highest wall plat from 35 feet to 39 feet 6 inches, the applicant will have to reduce the overall height of the addition above existing grade and will not be able to provide an attached garage along Ontario Avenue.

Recommendation

Staff recommends that the Board of Adjustment review the proposed variance requests:

- A variance to LMC Section 15-2.2-3 (E) to the required ten foot (10') front yard setback exception to allow for a single-car garage to be constructed along Ontario Avenue.
- A variance to LMC Section 15-2.2-5 Building Height above Existing Grade.
- A variance to LMC Section 15-2.2-5 (A) to the required maximum height of 35 feet measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters.

The BOA should conduct a public hearing and consider granting the variances based on the following findings of facts and conclusion of law.

TO APPROVE THE VARIANCE REQUEST:

Findings of Fact for Approval

1. The property is located at 341 Ontario Avenue in the Historic Residential (HR-1) District.
2. The HR-1 zone is characterized by historic and contemporary homes on one (1) to two (2) lot combinations.
3. The property consists of all of Lot 1 of the Ontario Avenue Subdivision, recorded on December 18, 2014.
4. There is an existing 483 square foot historic house on the property. It is designated as Significant on the City's Historic Sites Inventory.

5. The existing historic house is setback from the front property line by 31.5 feet. It will have a distance of approximately 47 feet from the edge of asphalt on Ontario Avenue.
6. There currently is no vehicular access that can be attached to the existing historic house without the need of variances being granted. As existing, there is currently only a pedestrian easement, and it is located on the east edge of Marsac-facing properties to the west of the 341 Ontario Avenue lot.
7. The applicant is requesting a variance to LMC Section 15-2.2-3(E) to reduce the required ten foot (10') front yard setback to 4 feet 6 inches to allow for a new addition that includes a single-car garage to be constructed along Ontario Avenue. The proposed garage door would be setback a distance of 18 feet 4 inches to 21 feet 4 inches to edge of pavement.
8. The applicant is requesting a variance to LMC Section 15-2.2-5 Building Height above Existing Grade from 27 feet to 35 feet above Existing Grade. The increased building height is consistent with the height exception permitted by LMC 15-2.2-5(D)(4).
9. The applicant is requesting a variance to LMC Section 15-2.2-5(D) to the required maximum height of 35 feet measured from the lowest finished floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters; the applicant requests a variance to allow an interior height of 39 feet 6 inches.
10. The applicant is requesting the three (3) variances in order to construct a new addition to the historic house that includes a single-car garage accessible from Ontario Avenue.
11. Literal enforcement of the LMC would not allow for construction of a code compliant attached garage with access to the street that meets required setbacks, building height, and driveway slope requirements due to the steep slope of the lot and location of the historic house.
12. The steepness of the lot, the distance between the front property line and paved Ontario Avenue, and the location of the historic house at the downhill side of the lot are unique to this property.
13. Literal enforcement of the required 10 foot front yard setback is not necessary to carry out the general purpose of the Land Management Code, as the proposed addition will be setback from the existing edge of curb by a distance of 18 feet 4 inches to 21 feet 4 inches due to the distance between the property line and the street. Had the addition been located 10 feet west of the property line, it would have increased the bulk and mass of the addition due to the steep grade of the site and decreased the physical and visual separation between the historic house and its new addition.
14. The proposed exterior height of 35 feet above Existing Grade is consistent with the LMC height exception granted by the Planning Commission for a downhill garage providing tandem parking. The interior height of 39 feet 6 inches has largely been driven by the steepness of the slope and the location of the historic house on the downhill lot.
15. There are special circumstances attached to this property that do not generally apply to other Properties in the same zone. This house is one of the few properties along Ontario Avenue that have preserved its original grade and

maintained the original placement of the historic house which was constructed on an elevation 36 feet below the existing road.

16. This property is unique in that paved Ontario Avenue is about 14 to 18 feet to the west of the front property line and is one of the steepest sloped streets in this part of town. In this area paved Ontario Avenue is located a greater distance to the east of its platted right-of-way than it is in other areas.
17. This section of paved Ontario Avenue is characterized by its steepness and limited width.
18. This site was historically accessed by pedestrians from the west side of the property; while this pedestrian path off of Shorty's Stairs has been maintained, there is no formal easement granting these owners access to their property from the path.
19. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone. Granting the variances allows the property owner to construct an attached garage at the street level without severely impacting existing grade, while also alleviating congestion and safety concerns on Ontario Avenue by providing off-street parking.
20. The variance will not substantially affect the General Plan and will not be contrary to public interest. It is within the public interest to reduce vehicle conflicts on Ontario Avenue. Parked cars are a safety hazard to other cars, delivery vehicles, emergency vehicles, pedestrians, and cyclists utilizing Ontario Avenue.
21. A reduction to the front yard setback will allow a garage and front entrance to be constructed along Ontario Avenue, providing both vehicular and pedestrian access to the site.
22. In order to construct a garage that meets the required front yard setback, the garage would need to be a completely detached building. The proposed addition would need to shrink considerably in size and height in order to comply with the LMC and would likely not be as visually separated from the historic house as currently proposed. If the garage were constructed to comply with the LMC as part of the addition, it would not meet the intent of the General Plan.
23. The spirit of the Land Management Code is observed and substantial justice is done. The variance will preserve the historic character of the site by allowing the historic structure to be visually separated from its new addition and maintain its orientation facing town.
24. The proposed variances will create an accessible attached garage and alleviate parking congestion along Ontario Avenue.
25. All other LMC related site and lot criteria, including the other setbacks, height, building footprint, parking, design, uses, etc. will be met.

Conclusion of Law

1. Literal enforcement of the HR-1 District requirements for this property causes an unreasonable hardship that is not necessary to carry out the general purpose of the zoning ordinance.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same district.
3. Granting the variance is essential to the enjoyment of substantial property right possessed by other property owners in the same district.

4. The proposal is consistent with the General Plan.
5. The spirit of the zoning ordinance is observed by this application.
6. It can be shown that all of the conditions justifying a variance, pursuant to LMC § 15-10-9, have been met.

Order for Approval

1. A variance is granted to LMC Section 15-2.2-3 (E) to the required front yard setback exception from 10 feet to 4 feet 6 inches in order to allow for an addition to be constructed along Ontario Avenue.
2. A variance is granted to LMC Section 15-2.2-5 Building Height above Existing Grade from 27 feet to 35 feet.
3. A variance is granted to LMC Section 15-2.2-5 (A) to the required maximum height of 35 feet to 39 feet 6 inches measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters.
4. The variances run with the land.

Conditions of Approval

1. The variances are granted for the construction of an addition that will include a single-car garage, as indicated on the plans submitted with this application.
2. No portion of the garage shall be used for additional living space.
3. Any parking in the drive will not be considered private parking.
4. All legal parking must be provided on-site and shall not encroach into the City's right-of-way.
5. The City Engineer will require an Encroachment Agreement for the proposed bridged driveway to be executed and recorded prior to issuance of a building permit.

TO DENY THE VARIANCE REQUEST:

Findings of Fact for Approval

1. The property is located at 341 Ontario Avenue in the Historic Residential (HR-1) District.
2. The HR-1 zone is characterized by historic and contemporary homes on one (1) to two (2) lot combinations.
3. The property consists of all of Lot 1 of the Ontario Avenue Subdivision, recorded on December 18, 2014.
4. There is an existing 483 square foot historic house on the property. It is designated as Significant on the City's Historic Sites Inventory.
5. The existing historic house is setback from the front property line by 31.5 feet. It has a distance of approximately 47 feet from the edge of asphalt on Ontario Avenue.
6. There currently is no vehicular access that can be attached to the existing historic house. As existing, there is currently only a pedestrian easement, and it is located on the east edge of Marsac-facing properties to the west of the 341 Ontario Avenue lot.

7. The applicant is requesting a variance to LMC Section 15-2.2-3(E) to reduce the required ten foot (10') front yard setback to 4 feet 6 inches to allow for a new addition that includes a single-car garage to be constructed along Ontario Avenue. The proposed garage door would be setback a distance of 18 feet 4 inches to 21 feet 4 inches to edge of pavement.
8. The applicant is requesting a variance to LMC Section 15-2.2-5 Building Height above Existing Grade from 27 feet to 35 feet above Existing Grade. The increased building height is consistent with the height exception permitted by LMC 15-2.2-5(D)(4).
9. The applicant is requesting a variance to LMC Section 15-2.2-5(D) to the required maximum height of 35 feet measured from the lowest finished floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters; the applicant requests a variance to allow an interior height of 39 feet 6 inches.
10. The applicant is requesting the three (3) variances in order to construct a new addition to the historic house that includes a single-car garage accessible from Ontario Avenue.
11. Literal enforcement of the LMC would make it impossible to construct a code compliant attached garage with access to the street that meets required setbacks building height, and driveway slope requirements due to the steepness of the street, steep slope of the lot, and location of the historic house.
12. The steepness of the lot, the distance between the front property line and paved Ontario Avenue, and the location of the historic house at the downhill side of the lot are not unique to this property.
13. Literal enforcement of the required 10 foot front yard setback is necessary to carry out the general purpose of the Land Management Code, as the setbacks and height requirements of the LMC were created to reduce the mass, scale, and bulk of structures. Increasing the mass, scale, and bulk would be contrary to the spirit of the LMC and create development that is not compatible to the mass and scale of historic structures.
14. The proposed exterior height of 35 feet above Existing Grade is not consistent with the LMC height exception granted by the Planning Commission for a downhill garage providing tandem parking. The exterior height increases the bulk, mass, and scale of the structure.
15. There are not special circumstances attached to this property that do not generally apply to other Properties in the same zone. There are a total of 7 historic structures on the downhill side of Ontario Avenue; of these, 6 houses have not been renovated to include new additions at the street level.
16. This site was historically accessed by pedestrians from the west side of the property; while this pedestrian path off of Shorty's Stairs has been maintained, there is no formal easement granting these owners access to their property from the path.
17. Granting the variance is not essential to the enjoyment of a substantial property right possessed by other property in the same zone. Granting the variances increases the bulk and mass of the structure from the cross canyon view, which is contrary to the spirit of the Land Management Code.

18. The variance will substantially affect the General Plan and will be contrary to public interest. It is within the public interest to maintain and preserve the City's historic sites and districts. The mass and scale of the proposed addition detracts from the historic integrity of the site and the district as a whole.
19. In order to construct a garage that meets the required front yard setback, the garage would need to be a completely detached building. The proposed addition would need to shrink considerably in size and height in order to comply with the LMC and could be redesigned to be as visually separated from the historic house as currently proposed.
20. The spirit of the Land Management Code is not observed and substantial justice is not done. The variance will not preserve the historic character of the site as the historic structure will be consumed by the mass and scale of the new addition. The LMC has provided interior and external height requirements in order to limit the bulk of structures in Old Town and maintain the historic scale of the urban fabric. By allowing the variances, the integrity of the historic site is diminished and the proposed addition is contrary to the intent of the LMC to reduce mass and scale.
21. All other LMC related site and lot criteria, including the other setbacks, height, building footprint, parking, design, uses, etc. can be met by redesigning.

Conclusion of Law

1. Literal enforcement of the HR-1 District requirements for this property does not cause an unreasonable hardship that is not necessary to carry out the general purpose of the zoning ordinance.
2. There are not special circumstances attached to the property that do not generally apply to other properties in the same district.
3. Granting the variance is not essential to the enjoyment of substantial property right possessed by other property owners in the same district.
4. The proposal is not consistent with the General Plan.
5. The spirit of the zoning ordinance is not observed by this application.
6. It can be shown that all of the conditions justifying a variance, pursuant to LMC § 15-10-9, have not been met.

Order for Approval

1. A variance is denied to LMC Section 15-2.2-3 (E) to the required front yard setback exception from 10 feet to 4 feet 6 inches in order to allow for an addition to be constructed along Ontario Avenue.
2. A variance is denied to LMC Section 15-2.2-5 Building Height above Existing Grade from 27 feet to 35 feet.
3. A variance is denied to LMC Section 15-2.2-5 (A) to the required maximum height of 35 feet to 39 feet 6 inches measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters.
4. The variances run with the land.

Exhibits

Exhibit A – Applicant's statement, received March 6, 2018

BOARD OF ADJUSTMENT PRESENTATION FOR: 341 ONTARIO AVENUE

OWNER STATEMENT

Contents

1. Owner Statement
 - a. Design History
 - b. Precedent BOA decision – 422 Ontario Ave.
 - c. Follow-up answers to questions from the BOA at the last meeting
 - d. Criteria 1 through 5

Appendix A – BOA Materials for 341 Ontario Ave. Variance Request (June 20, 2017)

Appendix B – BOA Minutes for 341 Ontario Ave. Variance Request (June 20, 2017)

Appendix C – BOA Materials for 422 Ontario Ave. Variance Request (June 21, 2016)

Appendix D – BOA Minutes for 422 Ontario Ave. Variance Request (June 21, 2016)

Appendix E – Ordinance 13-48 (11/21/2013)

Appendix F – Ordinance 2016-44 (9/15/2016)

Appendix G – Legal Opinion (Parr Brown Gee & Loveless)

Appendix H – 341 Ontario Architectural Plans being submitted at this BOA meeting

BOARD OF ADJUSTMENT PRESENTAION FOR: 341 ONTARIO AVENUE

OWNER STATEMENT

This submission to the board of adjustment is for the purposes of providing additional information to the board and to clarify outstanding questions of the board from the last meeting (**April 19th, 2017**)

We, the Applicant, request three variances that are related to building a single car wide garage, on a downhill lot, with living space and balconies underneath the garage, that will connect to a historic house at the bottom of the lot:

1. Section 15-2.2-3 (E) (Front Yard Setbacks)
2. Section 15-2.2-5 (Maximum Zone Height – “Height above existing grade”)
3. Section 15-2.2-5 (A) (Maximum Height – “Interior height, measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters”)

At the last Board of Adjustment meeting, the board asked the applicant to come back with answers to the following clarifications, before it could rule on our application.

CLARIFICATIONS:

1. Provide a more detailed explanation and justification for the variance application and show you have done all that you can do to find an architectural solution that would make a height variance unnecessary.
2. Address the questions regarding what is the Board of Adjustment’s obligation to follow its previous decisions, and clarify why the variances granted to 422 Ontario are so substantially similar that they ought to be followed in this case.
3. Other Questions/comments from the BOA that the applicant was not able to respond to at the time:
 - i. The cross-valley view provided by the Applicant is now out of date – Chair Gezelius
 - ii. How special must a “special circumstance” be to satisfy Criteria 2 and how widespread must a “right” be, to comply with the Criteria 3? – Board Member Wintzer & Board Member Franklin
 - iii. Was the reason the Planning Commission changed the height limits in 2013, to eliminate 4 story houses from the cross-valley view – Board Member Wintzer.
4. Please provide more detail that shows how the project meets Criteria 1 to 5 of the variance requirements.

CLARIFICATION 1:

Provide a more detailed explanation and justification for the variance application, and show you have done all that you can do to find an architectural solution that would make a height variance unnecessary. This followed a comment from an audience member that “creative architecture” might solve the height problem.

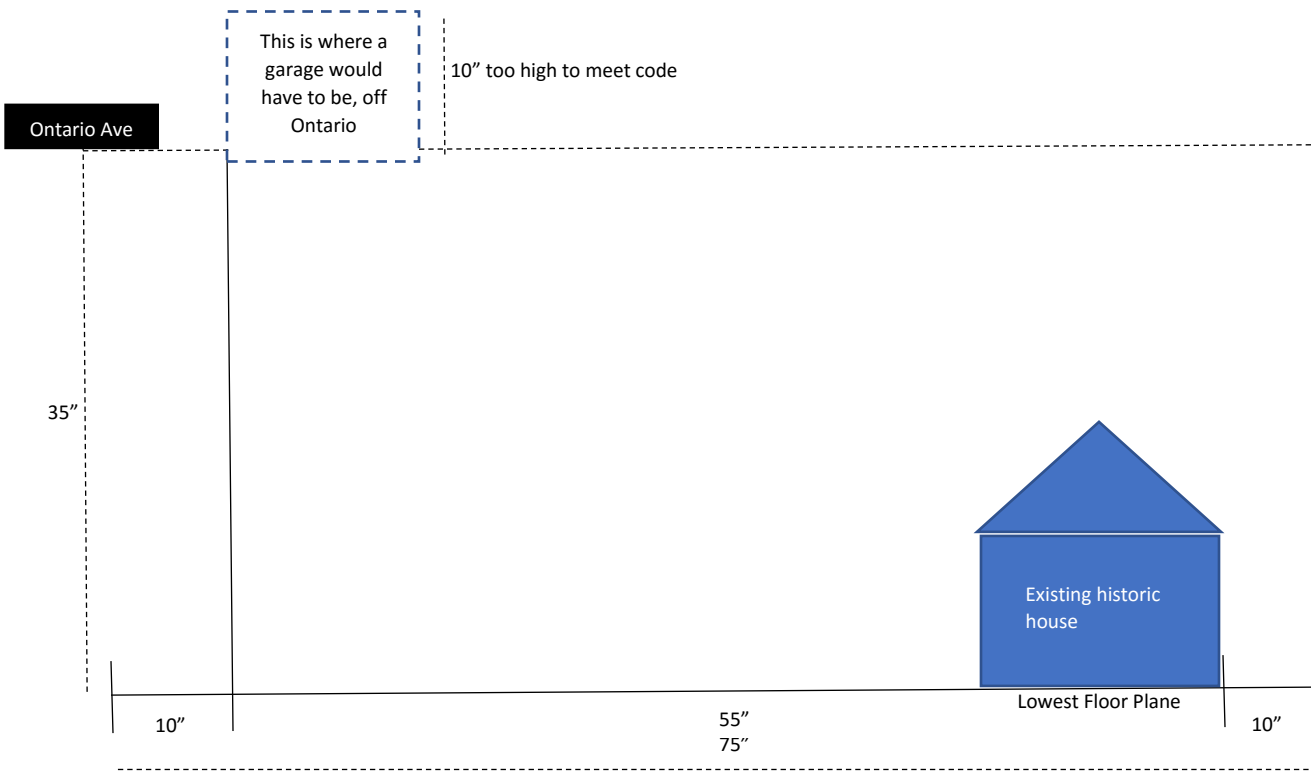
At the last meeting, the Board of Adjustment did not have the benefit of seeing the various “creative architectural” iterations that the Applicant and city staff have been worked through over the last four years.

The goal of this section is to level set and explain the height problem, and then summarize some of “architecturally creative” solutions that have been designed and submitted over the years.

1. Situation Summary – 341 Ontario is a mathematically impossible lot

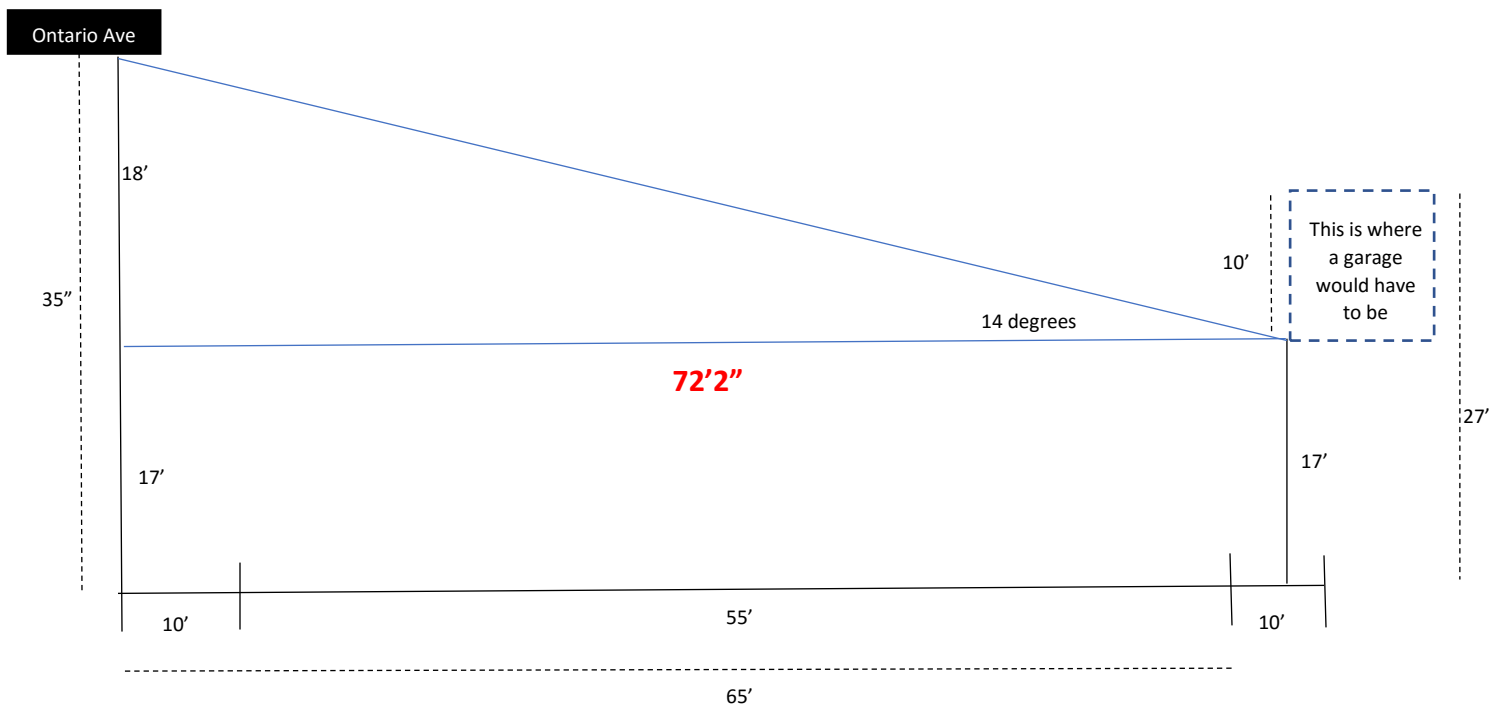
1.1 It is impossible that a garage at street level can comply with the 35’ height rule

- The lowest floor plane of the existing historic house is 35’ below Ontario Ave
- The maximum height allowable under the code is 35’
- Therefore, it is mathematically impossible to put a connected-garage at Ontario street level and stay under the 35’ limit



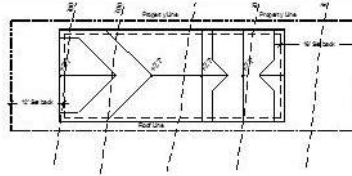
1.2 It is impossible to extend the driveway in order to comply with the 27" zone height rule

- The board asked if there might be a solution to the height by extending the driveway.
- Unfortunately, there is not.
- The maximum slope of a driveway under the code is 14 degrees.
- If the road is 35' above the lowest floor plane, then the driveway would have to drop to a max of 27' above grade.
- At a 14 degree slope, the driveway would need to be 72'2" long to drop a 10' high garage (with a flat roof) under the 27' zone height. And it would still need to be 17' up in the air to achieve this.
- After setbacks there is only 65' of lot depth to build on
- So, it is mathematically impossible that a driveway can be 72'2" long and solve the height issue



1.3 With the geometry of the lot making it mathematically impossible to build a connected-garage at street level, or solve the issue with a long driveway, we turn to the code.

- 35' Height Rule - The LMC limits the building height of a structure to 35' from lowest floor plane to highest supporting top plate.
- 27' Zone Height Rule - The LMC limits the height above existing grade to 27'
- However, the LMC contemplates this exact situation in Section (LMC Section 15-2.2-5 (D)(4) "Garages on a Downhill Lot"). This section provides an exception to the 35' rule for Garages on a Downhill Lot and allows the Planning Commission to grant additional Interior Height (no limit) so long as the structure does not exceed a maximum Zone Height of 35'. above existing grade.



4. Accessory Structures may be below the required seven: twelve (7:12) roof pitch.

D. BUILDING HEIGHT EXCEPTIONS. The following height exceptions apply:

1. Antennas, chimneys, flues, vents, or similar Structures, may extend up to five feet (5') above the highest point of the Building to comply with International Building Code (IBC) requirements.
2. Water towers, mechanical equipment, and associated Screening, when enclosed or Screened, may extend up to five feet (5') above the height of the Building.
3. **ELEVATOR ACCESS.** The Planning Director may allow additional height to allow for an elevator compliant with American Disability Act (ADA) standards. The Applicant must verify the following:
 - a. The proposed height exception is only for the Area of the elevator. No increase in square footage is being achieved.
 - b. The proposed option is the only feasible option for the elevator on the Site.
 - c. The proposed elevator and floor plans comply with the American Disability Act (ADA) standards.
4. **GARAGE ON DOWNHILL LOT.** The Planning Commission may allow additional Building Height (see entire Section 15-2.2-5) on a downhill Lot to accommodate a single car wide garage in a Tandem Parking configuration; to accommodate circulation, such as stairs and/or an ADA elevator; and to accommodate a reasonably sized front entry area and front porch that provide a Compatible streetscape design. The depth of the garage may not exceed the minimum depth for internal Parking Space(s) as dimensioned within this Code, Section 15-3. The additional Building Height may not exceed thirty-five feet (35') from Existing Grade.

Adopted by Ord. 00-15 on 3/2/2000

Amended by Ord. 06-56 on 7/27/2006

Amended by Ord. 09-10 on 3/5/2009

Amended by Ord. 09-14 on 4/9/2009

Amended by Ord. 09-40 on 11/5/2009

Amended by Ord. 13-48 on 11/21/2013

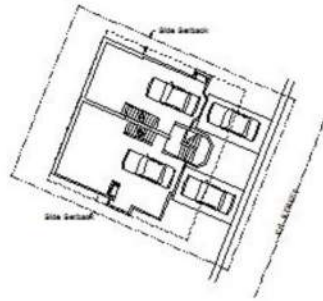
Amended by Ord. 2016-44 on 9/15/2016

Amended by Ord. 2017-59 on 11/9/2017

- Our plans **would comply** with the height exceptions allowed for garages on a downhill lot, and we and the staff moved forward on this assumption.
- However, after all the plans were complete and agreed to by city planning staff, the city lawyer questioned whether our tandem parking plan meets the strict definition of “tandem parking” (Section 15-15-1.274). In our plan the second (tandem) car would technically park across the lot line slightly. We pointed out that this wouldn’t have any practical effect, because the lot line is unusually far from the road (18’ from the road)

See clause below:

1.274 **TANDEM PARKING.** A parking design which allows parking one (1) vehicle behind another. Such parking may not include more than two (2) cars in depth, and may not require occupants of separate Dwelling Units to park behind one another.



- While it does not say in the clause anywhere that the second car can't cross the lot line, staff construed from the picture that both cars must be wholly within the owner's lot.
- So technically, even though the exception drafted into the LMC "garages on a downhill lot" was written to address this exact circumstance, a technicality in the parking definition prevents us from using it.
- As such, in order to get to the same place as the code intended with (LMC Section 15-2.2-5 (D)(4) "Garages on a Downhill Lot"), we are seeking building height variances to remedy the matter.

1.4 Having established that it is mathematically impossible to comply with the 35' rule, but that the code intended to provide an exception in this circumstance, we have then set about designing a house that minimizes mass and volume, and is in keeping with the neighborhood.

Below is the history of the design process where we worked closely with city staff, over 4 years, to explore "architecturally creative" options for the house.

Timeline

2014 – February

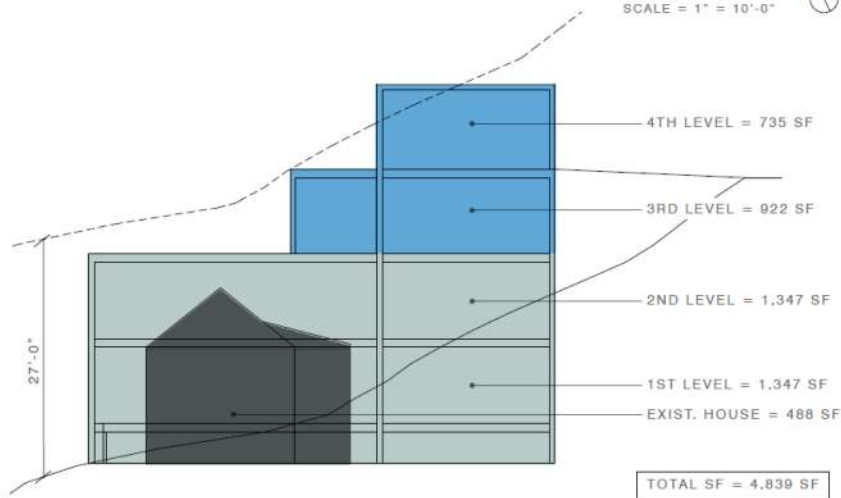
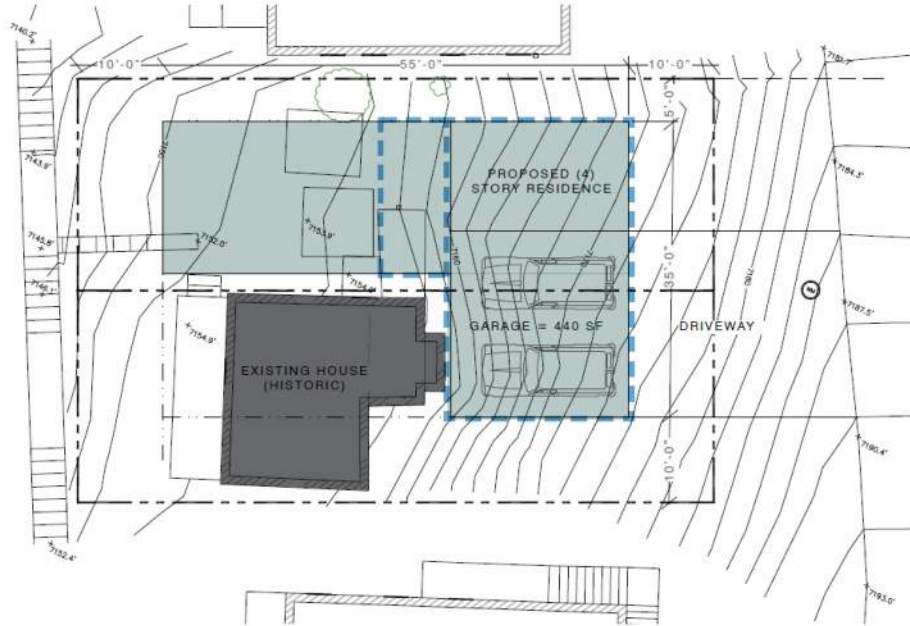
- The property (consisting of 2 lots) is purchased
- Conversations with city staff begin immediately, and an application was made to combine the 2 lots into 1 lot shortly thereafter.

2014 – October

- The two lots are combined into a single lot
- Thereby reducing future congestion and mass that would have resulted from 2 buildings being constructed - one on each lot.

2014 – December

- Initial plan taken to city staff.
- Informed that under the Historic District Design Guidelines we cannot have a two-car garage in Old Town
- Note that under this original plan the building foot print took up most of the lot with no green space



LOT SUMMARY - HR1 ZONING

LOT SF	=	3,750 SF
BLDG. PAD ALLOWABLE	=	2,200 SF
MAX FOOTPRINT	=	1,519 SF
PARKING STALLS REQ'D	=	2

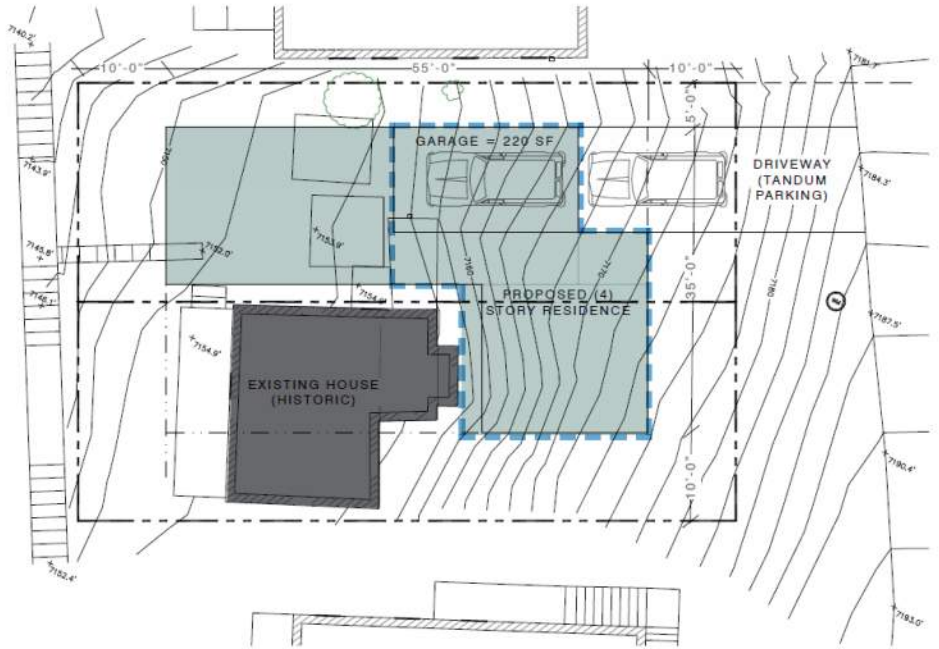
CONCEPT SECTION

DAY RESIDENCE

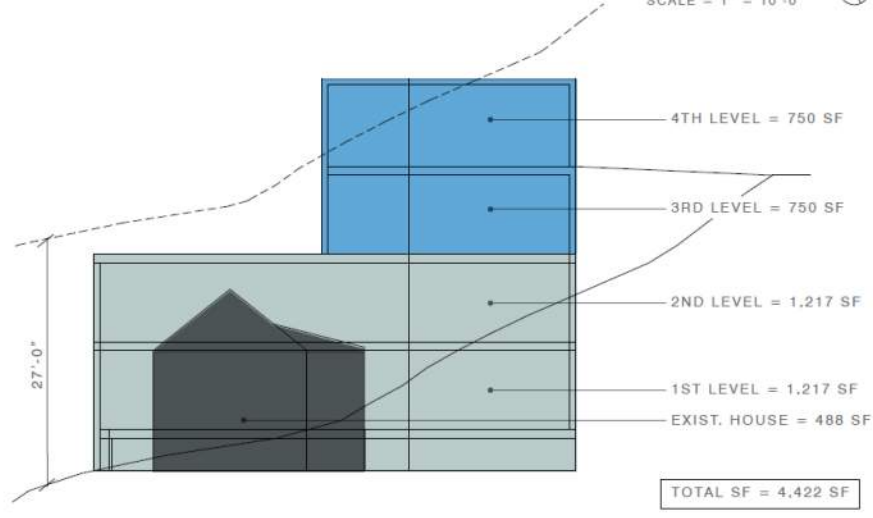
SPARANO + MOONEY
ARCHITECTURE SMA

2015 – January

- Revised concept taken to staff
- Staff welcomes the new tandem parking concept
- But we are informed that staff disagree with our reading of the height limits in the code and that they believe the design exceeds 35' total height from the lowest floor pane of the existing historic house.



CONCEPT SITE PLAN
SCALE = 1" = 10'-0"



TOTAL SF = 4,422 SF

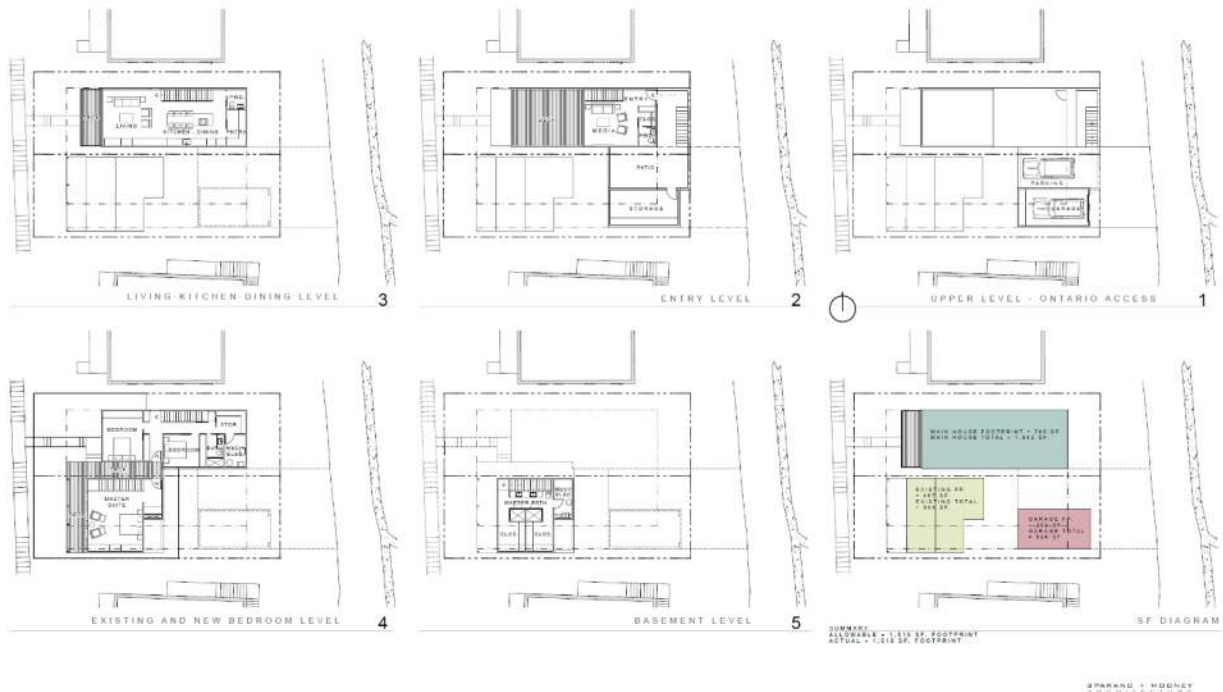
LOT SUMMARY - HR1 ZONING	
LOT SF	= 3,750 SF
BLDG. PAD ALLOWABLE	= 2,200 SF
MAX FOOTPRINT	= 1,519 SF
PARKING STALLS REQ'D	= 2

CONCEPT SECTION

2015 – March

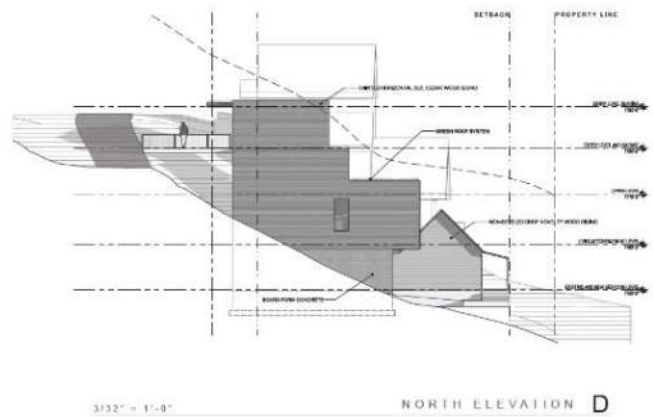
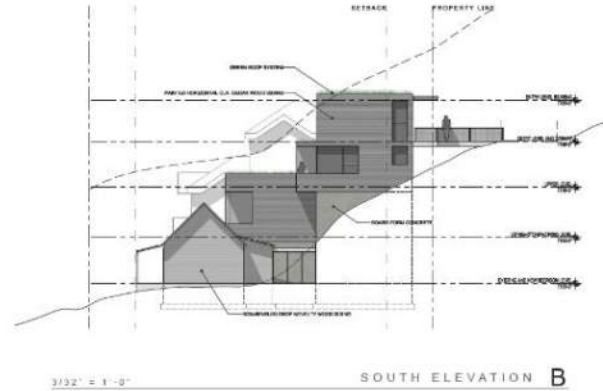
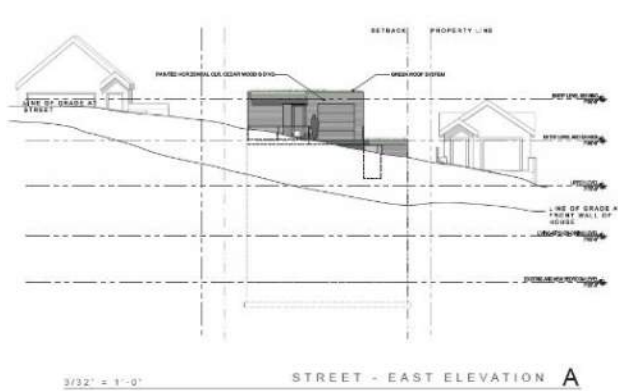
- We presented a revised plan which replatted the lots back into the original 2 lots and put the main new residence on one lot and the “accessory building” (the detached garage) and the historic house on the other lot.
- This solution dealt with the issue of the lowest floor pane of the historic house being already 35’ below the street.
- Because the new garage would not ascend from the same low point as the cottage (as it is now detached) in theory it could be **27’ above Ontario Ave.**
- However, our solution was rejected by the city engineer who felt that the new residence and the “accessory building” (the detached garage) was still effectively a single building because we had joined them with stairs, a path and a deck.

- In the last hearing Board Member Fuegi asked why we hadn’t tried to build a separate garage. As seen below we did go down this path but it was rejected.
 - o In all fairness a detached garage isn’t an ideal outcome on such a steep lot as access between the garage and house would have to be down very steep outdoor stairs (that apparently can’t actually join with the house).
 - o Also, the garage would be up to 27’ above Ontario Ave, making it over 12’ higher than the current proposal.



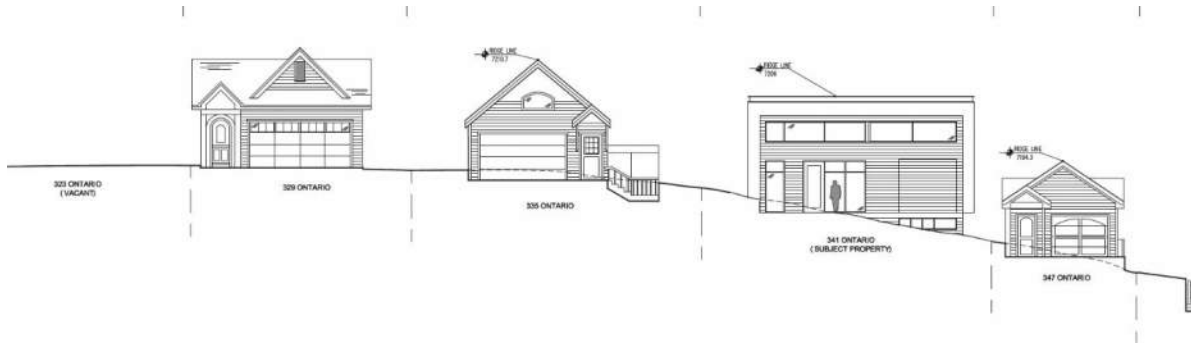
2016 – May

- A new design is brought to the city staff
- This design pulled a lot of mass back from the canyon side of the house and created a large garden – this was appreciated by the staff
- We kept the single car garage – this was appreciated by the staff
- We made the building have a flat roof to reduce height and cut the width of the garage floor so that it created a flat part at street level.
 - o However, the staff determined that they did not want a flat green-roof building. At the time there was some consternation in planning circles about “party roof decks”.
 - o The staff also took the view that the cut out on the right of the top floor was not in-keeping with a double wide block and wouldn’t match the streetscape, and looked strange on the cross-canyon view.



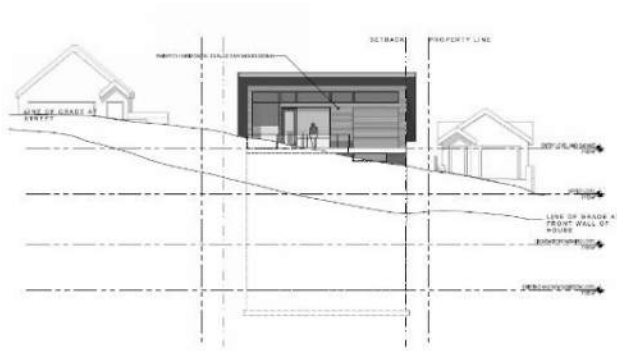
2016 – June

- A new design was taken to the City Staff
- This design did away with the flat green roof and replaced it with a sloping roof following grade
- However, this version was rejected because staff took the view that the Ontario street façade had too much mass relative to the neighbors.
- Notwithstanding the front mass, staff reiterated that we need to continue to pursue the sloped roof design, rather than the flat roof.

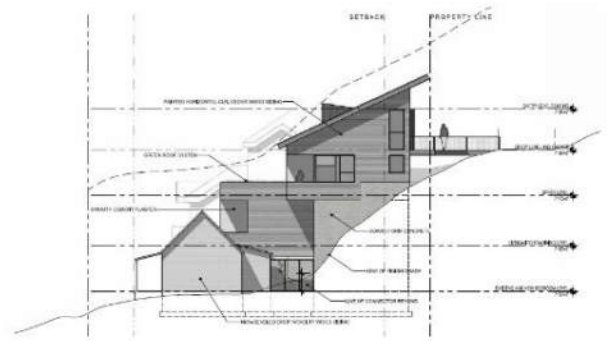


2016 – July

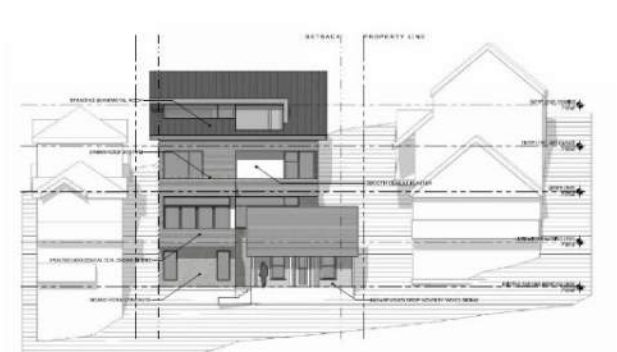
- A new design was taken to staff
- We reduced the height of the front façade as much as possible (limited by still keeping the minimum roof pitch allowed in the code) and brought in the awnings somewhat to reduce the front mass. This also reduced the appearance of the roof face on the cross-canyon view.
- We dropped the garage entrance as low as possible (limited by the maximum allowable pitch of the driveway – 14 degrees).
- Staff ultimately concluded that while the front façade is possibly acceptable, and the cross-valley appearance of the roof had been reduced, the cross-valley view of the long style roof was still not ideal and asked us to go back and explore more traditional peaked roof solutions



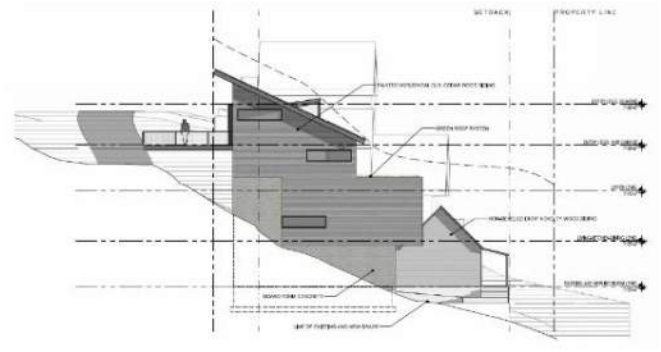
21322' x 1'-0" STREET - EAST ELEVATION A



21322' x 1'-0" SOUTH ELEVATION B



21322' x 1'-0" STREET - WEST ELEVATION C

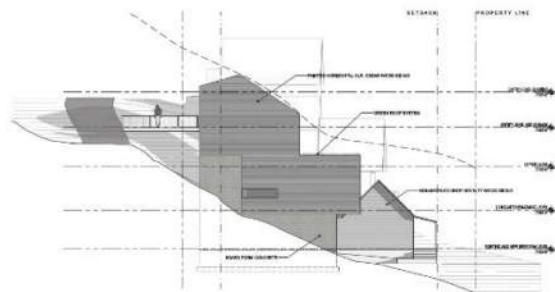
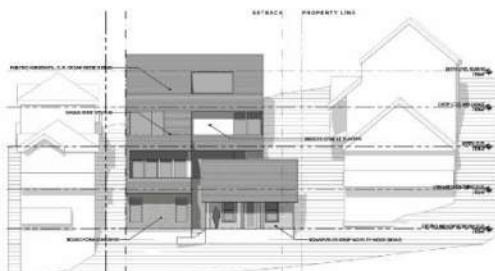
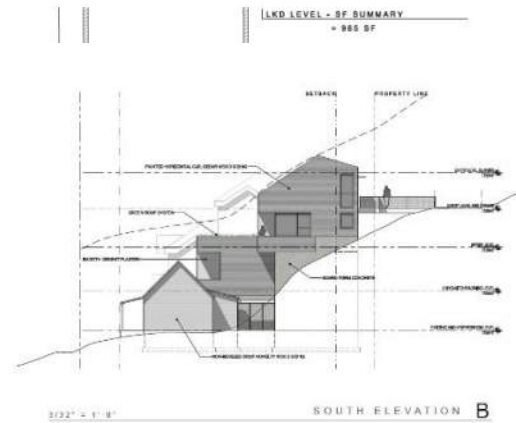
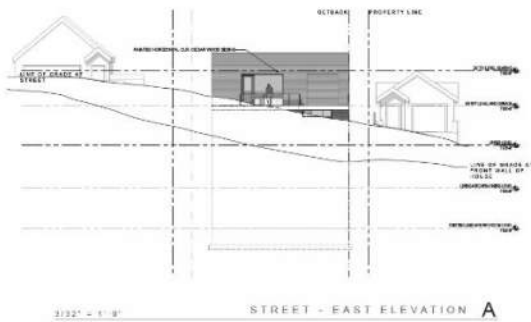
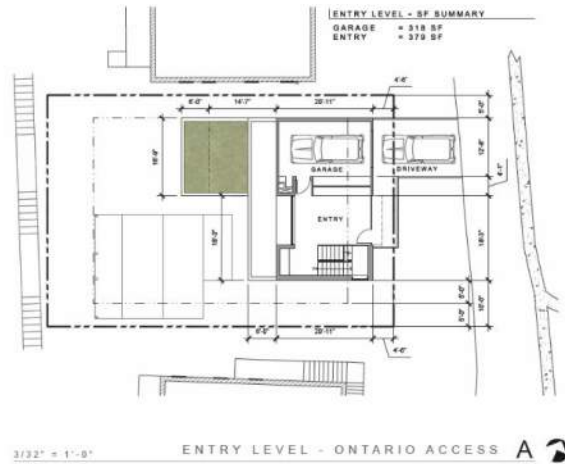


21322' x 1'-0" NORTH ELEVATION D

2016 – September

- A new design was presented to staff
- In this design we took a more conventional roof pitch. We shrunk the entrance façade even further to the minimum height allowable. We removed awnings completely to reduce mass.
- Staff were happy with this approach and the considerable reduction in cross-valley view mass.
- But staff asked us to go back and try to find a way to avoid the asymmetrical roof pitch.

Floor Plans / Perspectives



2017 – February

- A new plan was brought to staff
- This design found inspiration in the many historic barns around Park City, particularly the simple symmetrical building on Park Avenue, Old Town that now houses the Harvest Coffee Shop.
- Staff appreciated and approved the traditional peaked roofline, based on the considerable reduction in mass from both Ontario and the cross-valley view.
- However, staff asked us to move the garage to the other side of the building so we could reduce the height even further by about 1.5 feet, and asked us to further reduce the roof pitch to the minimum allowed under the code.



RENDERING - FRONT VIEW



RENDERING - BACK VIEW

2017 – March

- A new design was brought to staff
- We made the changes that staff had requested and staff accepted that this was the lowest this house could ever be, whilst still having a garage and a pitched roof.
- Staff then asked us to work with them on the windows (size, shape and window:wall ratio) and shadow creation to ensure the cross-valley view of the house was in keeping with the historic nature of the town.



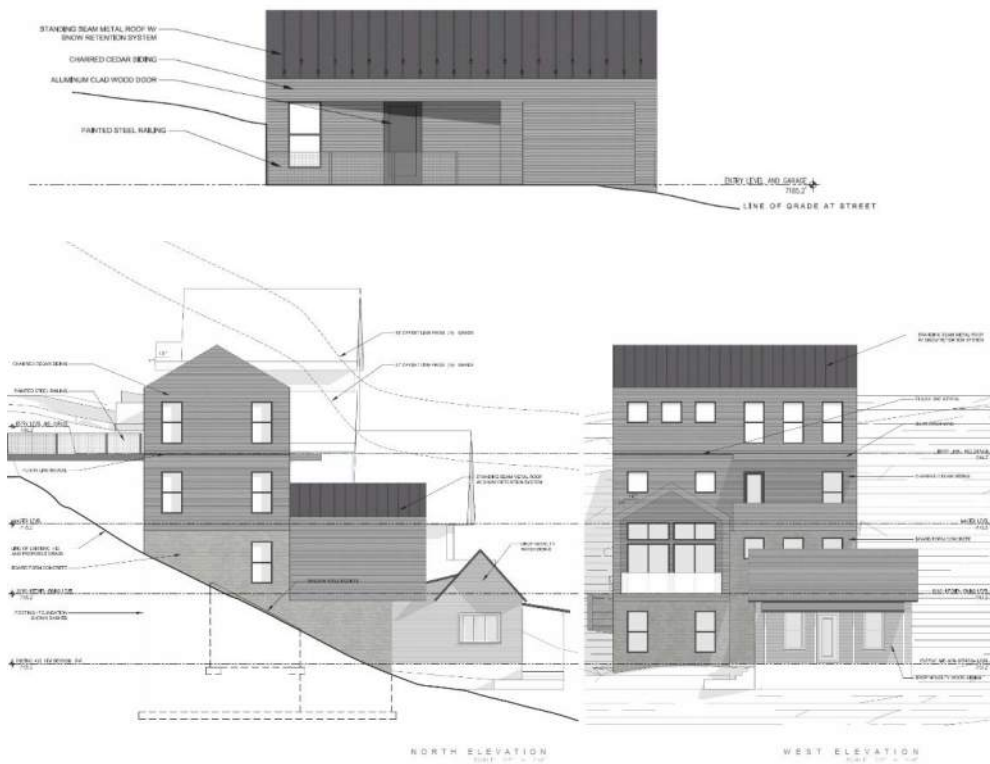
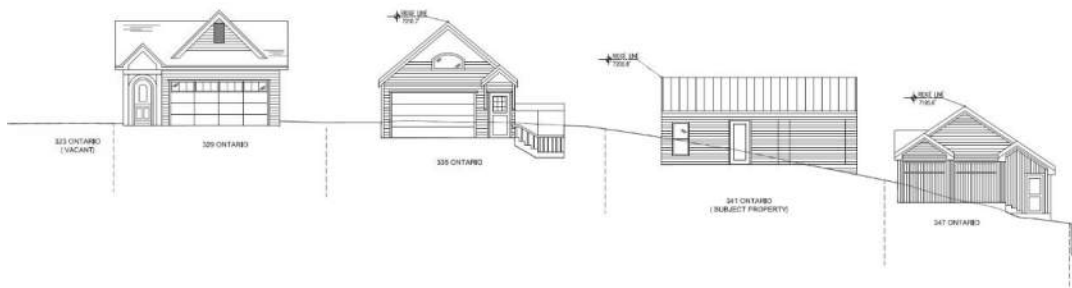
RENDERING - FRONT VIEW



RENDERING - BACK VIEW

2017 – Late March

- After countless conversations, emails and meetings in March we settled on a design that had met all the historic guidelines for windows, and window:wall ratio, and shadow.
- The final design was as low as possible on the Ontario street scape, was as low and unobtrusive as possible on the cross-valley view, has the correct window:wall ratio, created mass-breaking shadow, preserved a very significant green space garden, embedded most of the mass into the hill and kept a traditional pitched roof modelled off historic Park City buildings.
- At this point the Staff were ready for us to move forward for approvals, having exhausted every possible design over a four-year period of working together.
- It should be noted that at no time in the 4 years was there ever a problem with the design and preservation plans for the historic portion of the house and all parties have worked productively for 4 years to find a way to preserve it through this renovation project.



2017 – April

- We brought the request for variances covering height and setback to the board of adjustment
- The board heard the case and voted to continue the hearing to give the Applicant time to respond to several clarifications and comments.
- Due to the birth of our first child we took some time off from this building process. But with our son now 6 months old, we are re-engaging with this clarifying submission to the Board of Adjustment in the hope we can finally build our family home in Park City.

CLARIFICATION 2:

Address the questions regarding what is the Board of Adjustment's obligation to follow its previous decisions, and clarify why the variances granted to 422 Ontario are so substantially similar that they ought to be followed in this case.

At the last BOA meeting there was questioning regarding whether the BOA must follow the precedent of decisions at previous board meetings.

The Assistant City Attorney McLean:

"explained that the BOA looks at the variance criteria in terms of whether the specific site is unique. However, if two sites have the same exact conditions or reasons, it would be unfair to apply the criteria differently to one site versus another." (pg 16 of the minutes of the last meeting).

As there seemed to be some confusion over this issue, the Applicant engaged Parr Brown Gee and Loveless, the leading law firm in Utah in the land use and administrative law field, to provide an answer to this question.

Please see Appendix G for the full legal opinion provided from Parr Brown Gee and Loveless on this and other issues.

In summary Parr Brown Gee & Loveless concluded:

"We are not able to identify any substantive difference between the conditions justifying the 341 Variance and those found to exist with respect to the variances granted to 422 Ontario. Accordingly, unless the BOA identifies substantive reason specifically related to the ordinance based variance conditions they are called upon to determine that justifies a different outcome with respect to the 341 Variance, the 341 Variance should be granted. This outcome is dictated, not because a "legal precedent" has been established, but rather because the BOA is applying the same variance conditions to two sets of fact that are so substantially similar that they dictate the same outcome. To reach a different outcome would suggest that the BOA is applying the variance conditions to substantially similar factual scenarios in an arbitrary and capricious manner."

See Appendix G for the full legal opinion

Relevant Precedent BOA Decision

Application #: PL-16-03138

Subject: 422 Ontario Avenue

Date: June 21, 2016

In June, 2016, the owners of 422 Ontario, submitted their plans to the board of adjustment to build a garage and a significant extension behind their historic miners cottage. In order to build their extension, the owners of 422 Ontario, requested several variances relating to height and setbacks, which were all granted by the BOA on June 21, 2016.

Before beginning this section the Applicant wants to make clear that the Applicant supports our neighbor's right to build their home and for the record we love what they did. The following comparison simply seeks to show that the situations are very similar, our design complies even more stringently to the historic design guideline than 422 Ontario, and therefore if the BOA ruled in favor of the 422 Ontario variances, we respectfully submit that the 341 Ontario variances ought to also be accepted.

Neighbors on the same street and roughly the same historic cottage:

422 Ontario is located on the same street at the Applicant's property (only 7 houses down from 341 Ontario Avenue). Just like the applicant, 422 Ontario was currently occupied by a historic miner's cottage at the front of the lot. Both cottages on 422 Ontario and 341 Ontario are classed as historically "significant".



Height

The submission for 422 Ontario involved a significant addition to the existing historic house. They asked for a variance to allow the total height of the building to be 41 ft.

By comparison, the applicant has asked for a slightly less, but similar variance of up to 39 ft. 6 inches.



422 Ontario – Historic Cottage

422 Ontario - Approved

Setbacks

422 Ontario requested a variance to its front yard setback to allow a 0 ft setback. 341 Ontario has requested a variance to allow only a 4'6" ft setback to its front yard.

The lot line of 422 Ontario is 12' from the road. This means that post-construction, the garage of 422 Ontario will be 12' from the road and this was deemed sufficient.

By comparison the lot line of 341 Ontario is unusually far from the road, and post-construction the garage of 341 Ontario will be 18 ft 4 inches to 19 ft 9 inches from the road (varies from one side of the garage to the other)

422 Ontario requested, and was granted, a variance to the side yard setback to allow a 3 ft setback. 341 Ontario has requested no side yard setback.

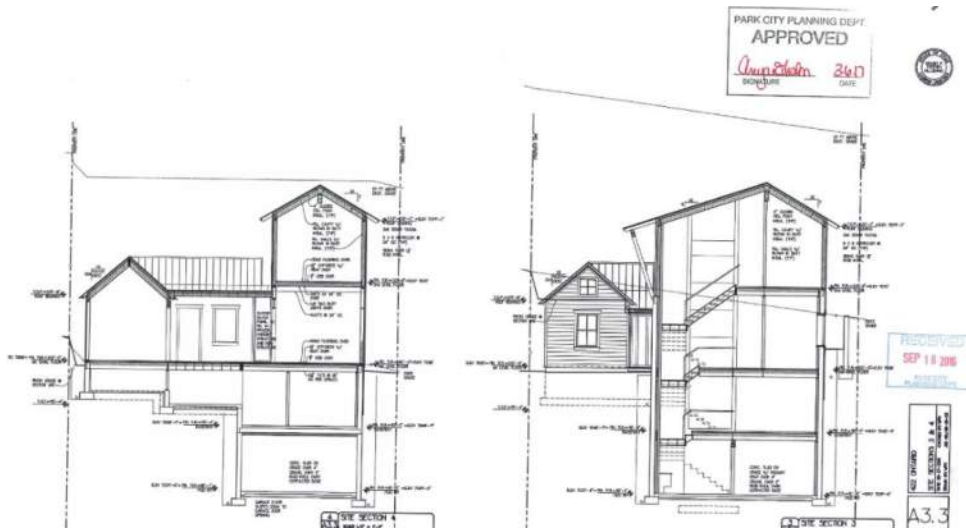
Four Floors

There was some debate about whether four floors are allowed. Under the code there is no limit on the number of floors a building can have – only a height limit.

See Section 3.3, where we discuss the history of the code as it relates to the number of floors.

The BOA granted 422 Ontario a height variance, even though it was a plan for a 4-story house.

As with the Applicant's proposal for 341 Ontario, the steepness of the lot on 422 Ontario necessitated that the house be 4 stories.



Lot Steepness

The BOA acknowledged that 422 Ontario was unusually steep (which we agree it is) and this was a special circumstance that made building a garage in a structure under 35' impossible.

341 Ontario is the steepest lot on Ontario Ave. and has a total elevation of 48 feet, vs. the total elevation of only 40 feet at 422 Ontario.



Street Scope

422 Ontario Streetscape



341 Ontario Streetscape



422 Ontario sits on a double lot. While it is clearly considerably larger in mass and scale than its neighbors, it was determined by the BOA that its mass and scale was acceptable for a double lot.

As you can see from the image, 422 Ontario uses more of its double lot and is actually wider than the proposed addition at 341 Ontario.

Note that both lots are the same width double lots. However, 422 Ontario builds out to a 3' side setback. Whereas 341 Ontario has larger 5' and 9' side setbacks.

By comparison, the simple single-story street view of 341 Ontario seems diminutive compared to 422 Ontario.

Cross Canyon View

422 Ontario sits at the high side of Ontario. 341 Ontario sits on the low side of Ontario. This means 422 Ontario is just as, if not more, visible on a cross canyon view than the proposed project at 341 Ontario.

Below is a rendering of the cross-canyon views with both houses included.

You will see that 341 Ontario has less mass and is less imposing from a cross canyon view than 422 Ontario.



422 Ontario

341 Ontario

**Wide, higher, and
more mass cross-valley**

Summary Chart

Below is a comparison of the two similar situations:

	422 Ontario Ave (Variances Granted)	341 Ontario Ave
Street	Ontario Ave	Ontario Ave
Historic Status of house	“Significant”	“Significant”
Number of variances requested	3	3
Max Interior Height Requested	41 ft.	39 ft. 6 inches
Max Zone Height Requested	No variance required	35 ft.
Side Yard Setback Requested	3 ft.	No variance required
Front Yard Setback Requested	0 ft.	4 ft. 6 inches
Actual distance of garage from Ontario asphalt road after project completion	12 ft.	18 ft 4 inches to 19 ft 9 inches
Current Pedestrian Access	Yes	None from Ontario Ave.
Trash and recycling services	Available	Impossible/dangerous on narrow side of Ontario ROW
Current Parking Situation	Limited Street parking in ROW	Zero parking adjacent to lot
Were it not for the tandem parking definition, would the LMC have allowed for the additional height now being requested?	No	Yes

Criteria for Variances Comparison

Criteria	422 Ontario Ave (Variances Granted)	341 Ontario Ave
Criteria 1 – Unreasonable Hardship	A garage is a necessity on Ontario Ave	A garage is a necessity on Ontario Ave
	The lot is so steep that it makes keeping under the 35’ limit impossible	The lot is so steep that it makes keeping under the 35’ limit impossible
	Could build a 27’ detached garage instead. The attached proposal is much lower	Could build a 27’ detached garage instead. The attached proposal is much lower
	The front setback allows more of the building to be buried into the hill	The front setback allows more of the building to be buried into the hill
		The lot is unusually far from the paved surface of the road so even after the front yard setback the garage is still 18 to 19’ from the road

		There is no pedestrian access from Ontario Avenue
		Pedestrian access is via a dangerous unmaintained path
		There is no easement for the entire path
		No access to trash collection as road is too narrow and lot too steep - dangerous
Criteria 2 – Special Circumstances	One of few historical houses left on Ontario where the house has preserved location and grade.	One of few historical houses left on Ontario where the house has preserved location and grade.
	Could build a 27' detached garage instead. The attached proposal is much lower	Could build a 27' detached garage instead. The attached proposal is much lower
	It is one of the steepest lots on Ontario, making building a garage under 35' impossible	It is <u>the</u> steepest <u>lot</u> on Ontario making building a garage under 35' impossible
	Narrow dangerous section of Ontario	<u>More</u> narrow and <u>even more</u> dangerous section of Ontario
	Limited Street parking in ROW	Zero parking adjacent to lot
Criteria 3 – Substantial Property Right	Most of the houses on Ontario have off-street parking and a garage. They only have off-street parking in the ROW	Most of the houses on Ontario have off-street parking and a garage. They currently have <u>NO</u> off-street parking in the ROW
		The property sits in Old Town for planning but outside Old Town for resident parking permits. So they can't even get a resident pass for China Bridge Garage (this is now charging and enforcing)
Criteria 4 – Not Substantially effect the General Plan	Not contrary to public interest	Not contrary to public interest
	Eliminate congestion on Ontario	Eliminate congestion on Ontario
	Parked cars in the ROW are a safety hazard	Parked cars in the ROW are a safety hazard
	Eliminate pedestrian traffic on Ontario	Eliminate pedestrian traffic on Ontario
	The garage will flow better with the existing Ontario streetscape	The garage will flow better with the existing Ontario streetscape
	Architecturally compatible with the streetscape	Architecturally compatible with the streetscape

		Reduced Front set back allows the addition to be set further back from the historic house – encouraged by the Design Guidelines for Historic District Sites
		Reduced front set back makes the addition not block the valley views of the neighbors
Criteria 5 – Spirit of the LMC	Variances allow the addition to be buried into the hillside	Variances allow the addition to be buried into the hillside
	Reduce congestion and increase off-street parking	Reduce congestion and increase off-street parking
		Ordinance 2016-44 (2016) is documented evidence that the LMC intended to grant height variances for this exact situation

We respectfully submit that:

- The facts are the same
- The variances are either the same or slightly less significant at 341 Ontario
- The criteria evidence for the variances are either the same or even more compelling at 341 Ontario

So, because *“the two sites have the same exact conditions or reasons, it would be unfair to apply the criteria differently to one site versus another.”*

CLARIFICATION 3

Other Questions/comments from the BOA that the applicant was not able to respond to at the time:

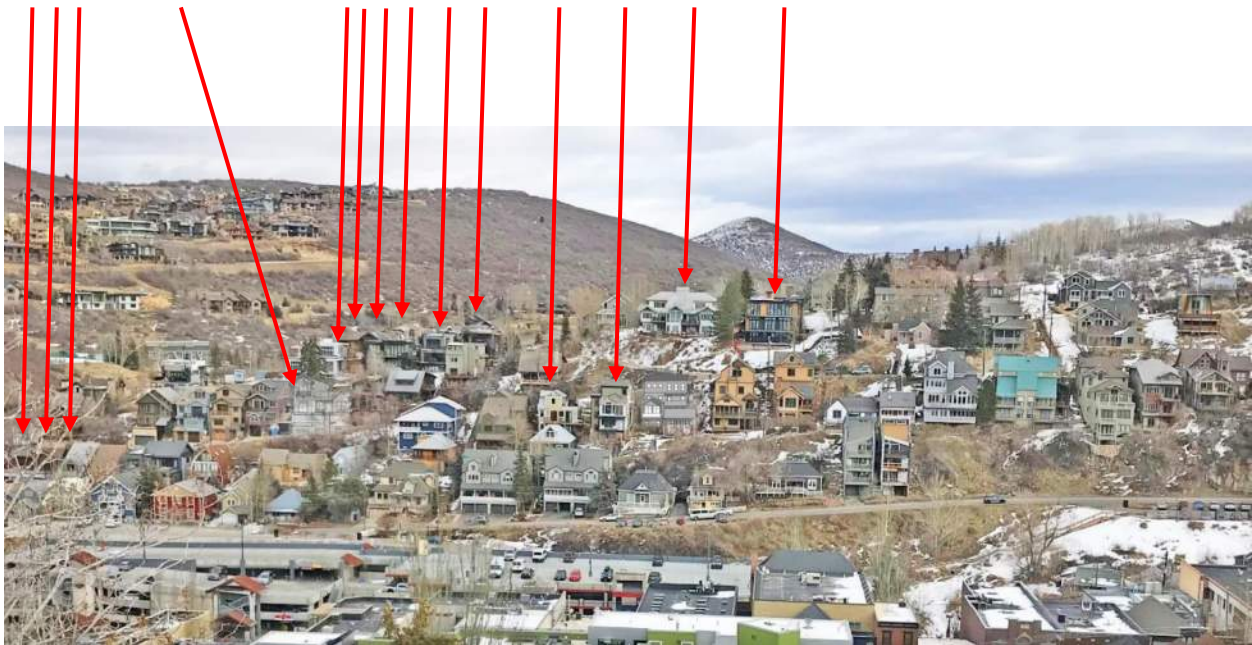
- i. The cross-valley view provided by the Applicant is now out of date – Chair Gezelius
- ii. How special must a “special circumstance” be to satisfy Criteria 2 and how widespread must a “right” be to comply with the Criteria 3? – Board Member Wintzer & Board Member Franklin
- iii. Was the reason the Planning Commission changed the height limits in 2013 to eliminate 4 story houses from the cross-valley view – Board Member Wintzer.

Clarification 3.1

Updated Cross Valley View

At the last BOA meeting, Chair Gezelius commented that the cross-canyon view we had provided was now dated and that there had been development since this photo was taken.

As such we have updated the cross-valley view and also included projects that have been approved but are not yet completed. The arrows represent the new construction since the first cross-valley photo presented at the last BOA.



As you can see, there has been a great deal of construction on the hillside and several buildings (including/especially 422 Ontario) are considerably more massive than the proposed project.

Clarification 3.2

How special must a “special circumstance” be to satisfy Criteria 2 and how widespread must a “right” be to comply with the Criteria 3?

At the last BOA meeting Board Member Wintzer commented that there were other “historic houses to the south” on Ontario and questioned whether the existence of these similar properties make the Applicant’s situation unique.

As this question is really a question of the legal interpretation of the terminology used in the criteria, the Applicant was not qualified to give a definitive answer. Accordingly, the Applicant engaged Parr Brown Gee and Loveless to answer this question from a legal perspective.

Parr Brown Gee & Loveless addressed the relevant general law and confirmed that:

“there is no requirement under Utah law that the circumstances be so peculiar that the lot for which the variance is requested is the only lot in the zoning district or neighborhood that has the peculiar hardship. In fact, such a position is country to the findings in [Sprecht v. Big Water Town (2017)]”

Condition 2 - “Special Circumstance”

Ontario Avenue has 56 houses. Other than the Applicant’s lot, only 2 other lots have a historic house, located at the bottom of a downhill lot, where they have no garage on Ontario.

However, unlike 341 Ontario, both the other lots have parking available in the ROW on Ontario opposite their lot.

It was already established that not having a garage is a hardship that satisfies Condition 1, and that it is a “right” under Condition 3, in the BOAs ruling on 422 Ontario.

The question now is whether 3 of 56 houses sharing this similar hardship disqualifies it. Par Brown Gee and Loveless clarified:

“There is no support in Utah law for the proposition that one, two or several other properties out of many may have similar “special circumstances” disqualifies any of them from receiving a variance....the fact that 341 Ontario Avenue is one of only three houses (out of a total of 52 on Ontario Avenue) having no garage and with a historic home located on the downhill side of a steep lot, certainly supports a finding of “special circumstances”.”

Condition 3 – “Substantial Property Right”

Similar to Condition 2, it follows then that if 53 of 56 neighbors are able to have a garage on their property, it satisfies the “substantial property right” test. Par Brown Gee and Loveless clarified:

“This situation [the characteristics of the lot and the height rule] gives rise to the need for the 341 Variance and is similar in type to those conditions found by Utah courts to constitute a “property right possessed by others.”

See entire Par Brown Gee and Loveless legal opinion in Appendix G.

Clarification 3.3

Wasn't the reason the Planning Commission changed the height limits, to eliminate 4 story houses from the cross-valley view?

At the last BOA meeting Board Member Wintzer asked for clarification as to whether the LMC was changed (in 2013) in order to get rid of 4 story houses.

The answer is no.

The change in 2013 (Ordinance 13-48) was not drafted to eliminate 4-story houses. It was drafted to eliminate a loophole being exploited by developers.

Prior to the Ordinance 13-48, the height of a building was limited to "3 stories". However, to get around this limit, developers were building "half floors", allowing them to get up to 5 and 6 floors with no height limit at all.

The Planning Commission clarified that the using floors as a proxy for height was ineffective and the wrong approach. The problem wasn't 4 floor houses, it was that the houses were too tall.

Accordingly, the LMC was changed to remove the 3-floor limit and replace it with a maximum 35' height limit, with clearly defined exceptions – including garages on a downhill lot.

Ordinance 13-48 (2013) demonstrates that the number of floors is not relevant to the issue of height under the current code.

It is important to note that in that same ordinance in 2013, even then, there was an exception to the height limit for "Garages on a Downhill Lot". The LMC has always contemplated an exception for the situation of 341 Ontario, and this was in fact reaffirmed in 2016 in ordinance 2016-44 where they expanded it even further.

The 2016 ordinance was written to make it clear that the height variance applies to both "zone height" and "total height", and it further expanded the exception to include entrances, elevators, storage, stairs etc.

In the last BOA meeting the comment was made that BOA should observe and uphold what the Planning Commission intended regarding mass and scale and if that has changed, the Planning Commission should change the code. The 2016 ordinance is evidence of that clear intention. The Planning Commission updated the code to make it clear that under this specific circumstance of a garage on a downhill lot, that it intends for properties to be allowed more mass and scale to address that specific hardship.

See Appendix E for Ordinance 13-48

See Appendix F for Ordinance 2016-44

CLARIFICATION 4:

Please provide more detail that shows how the project meets Criteria 1 to 5 of the variance requirements.

Criteria 1. Literal enforcement of the LMC would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the LMC. In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under Subsection 15-10-9(C)(1), the BOA 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. In determining whether or not the enforcement of the LMC would cause unreasonable hardship the BOA may not find an unreasonable hardship if the hardship is self-imposed or economic.

1.1 The applicant argues that the site is steeply sloped downhill from Ontario Avenue. In order to construct a garage that meets the required front yard setbacks, and height rules, the garage would need to be a detached building. By doing so, the applicant would be permitted to build a much higher building than what is proposed in this application. The applicant argues that this would have a greater negative impact on the neighborhood, detract from the look and feel of the street, and also be less serviceable to the applicant than the proposed attached, street-level garage. The applicant maintains that the garage, as proposed, is more in keeping with the Design Guidelines for Historic Sites. By burying the bulk and mass below grade, the garage is less visible from the street and mitigates negative impacts on the neighborhood. To accommodate a garage, the applicant is requesting a reduced front yards setback from 10 feet to 4 feet 6 inches . As proposed, the new front wall of the garage will be setback be 18 ft 4 inches to 19 ft 9 inches (18'4" to 19'9") from the paved edge of Ontario Avenue.

The applicant argues that the attached garage is necessary. By locating it directly above the residence, there is little impact to existing streetscape along Ontario Avenue. The connection of the garage to the house benefits the owner as it will be accessible to living areas via the proposed stairway. In addition to removing parking from an already congested street, the attached garage will permit pedestrian access between the garage and the house, which is a safer alternative to pedestrians exiting the garage into the right-of-way.

Because of the significant grade change from Ontario Avenue to the location of the existing historic house, the applicant is also requesting an exception to LMC 15-2.2- 5(A). As currently designed, the applicant's proposal requires 39 feet 6 inches of height from the lowest finished floor plane to the point of the highest wall top plate; LMC 15-2.2-5(A) currently requires 35 feet.

Also, because of the significant grade change from Ontario Avenue to the location of the existing historic house, the applicant is also requesting an exception to LMC 15-2.2- 5(A). As currently designed, the applicant's proposal requires a max 35' of "Zone height" (height above grade); LMC 15-2.2-5(A) currently requires 27 feet.

The applicant argues that granting the variance will allow the new addition to have a lower roof elevation than if the variance were not granted. If the variance is not granted, the applicant could construct a detached garage at the top of the hill to as much as 27 feet in height above existing grade. The applicant argues that the addition would then appear much more massive in volume and scale than as currently proposed because of its location on the hill, looming over Ontario Avenue and Marsac Avenue.

Applicant finds that literal enforcement of the LMC would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the LMC. There are circumstances peculiar to this property that are unique and are not conditions that are general to the neighborhood, such as the existing, steepness and topography of the slope along Ontario Avenue, and the distance of the front property line from paved Ontario Avenue. Applicant finds that literal enforcement of the required 12 foot front yard setback is not necessary to carry out the general purpose of the Land Management Code, as the proposed garage will be setback from the existing edge of curb by a distance of between 18 ft 4 inches to 19 ft 9 inches (18'4" to 19'9") due to the distance between the property line and the street.

1.2 Pedestrian Access Only on a dangerous path



The path from Shorty's Stairs is the only access to the house.

Can you imagine trying to get a stroller, with a 6-month old baby, up and down this each day in the winter...?

Unlike any other house on Ontario Avenue, the Applicant's lot also has no pedestrian access from Ontario whatsoever. The only way the Applicant can access the lot is on foot via a dangerous unmaintained path, that runs off the middle of Shorty's stairs. The city has refused to maintain the path, citing that it is on private land. The Ontario neighbors also do not maintain the path because they all have access to their houses via Ontario Avenue and don't need the path in the winter. See 1.3 below for why the Ontario neighbors have no obligation to maintain the path going forward either.

1.3 Access to the house via other people's properties

The only access to the house is via a private path off the middle of Ontario Ave.

The path sits on land that is not owned by the Ontario residents, but is actually owned by the Marsac residents. For this reason, the Ontario residents will never have an obligation to maintain it. While the Marsac owners technically own the path, they do not maintain it as they don't ever use it (it is behind their house).

Other than one lot (310 Marsac), there are no easements shown on the plats for the other houses over which the boardwalk runs.

The city has confirmed to the Applicant that: If there is no easement identified on the plat/survey there is no legal easement in existence – the Applicant has confirmed this is the case.

What this all means is that the only access we have to our house is to cross other people's land.

We are very concerned about the potential liability for accidents on this unmaintained path and who's responsibility it is to maintain it, not to mention that we are forced to trespass onto our neighbors' properties daily.

Further, the idea that the residents of Marsac will just give away rights to a piece of their land for free, is not a realistic outcome or solution to the issue.

1.4 No Access to Basic Municipal Services (Trash and Recycling)

Because the road is so narrow opposite the Applicant's lot, and the grade drops off the road like a cliff, if the Applicant leaves out trash cans for collection, cars crash into them and send the trash cans rolling down the hill toward our house. If you visit the lot, you will currently see one of the trash cans stuck in a tree... This is obviously dangerous for drivers and the Applicant.

For the sake of public safety (and our own), for the last several years, each week we have had to haul our trash and recycling down Shorty's Stairs and put it in our truck and dump it off site. To add insult to injury, it's impossible to opt out of trash collection services – so we have been paying for these municipal services that we can't get access to.

The proposed design adds a driveway where the applicant can safely leave the trash cans out for collection.

Criteria 2. There are special circumstances attached to the Property that do not generally apply to other Properties in the same zone. In determining whether or not there are special circumstances attached to the Property the BOA may find that special circumstances exist only if the special circumstances relate to the hardship complained of and deprive the Property of privileges granted other Properties in the same zone.

2.1 The applicant argues that there are special circumstances attached to this property that do not apply to other properties in the same zone. The applicant argues that this property is one of only a few actual historic residences left in this section of Ontario

The applicant contests that this is one of the few properties along Ontario Avenue that have preserved its original historic grade and relationship to the street. The applicant finds this is substantiated by the existing deciduous tree in front of the house which testifies to the longevity and historic nature of the existing hillside. Moreover, there is photographic evidence that demonstrates how the majority of the grade on the neighborhood's block has been altered from its historic grade and has lost its relationship with the edge of road. As previously mentioned, the garage will have to be detached and could be set higher on Ontario if the variance is not granted, thus (1) increasing the height of the structure, (2) increasing the amount of excavated materials, and (3) increasing the length of the driveway. Other properties do not have the same increased distance between the edge of curb and property line because Ontario Avenue is located closer to the platted ROW in those cases.

Applicant finds that there are special circumstances attached to this property that do not generally apply to other properties in the same zone. The parcel of land in question has characteristics and features that result in conditions that are not general to the neighborhood, but are unique to this property due to the location of paved Ontario Avenue and steepness of the slope in the rear yard area. The steepness of the lot, conservation of its original grading, and the location of Ontario Avenue relative to the platted ROW create special circumstances attached to this property that do not generally apply to other properties in the area. This section of paved Ontario Avenue is characterized by its steepness and limited width. (It is difficult for two cars to pass on this steep street and any parked cars cause safety issues.) Granting the variance to permit garage construction would be beneficial to the street as a whole as it would allow the Applicant's cars to not be parked on Ontario Avenue, reducing parking congestion and provide a safe alternative for off-street parking.

Criteria 3. Granting the variance is essential to the enjoyment of a substantial Property right possessed by other Property in the same zone. LMC 15-2.2-4 states that Historic Structures that do not comply with Building Setbacks, Off-Street parking, and driveway location standards are valid Complying Structures. Additions to Historic Structures are exempt from Off-Street parking requirements provided the addition does not create a Lockout Unit or an Accessory Apartment.

3.1 The applicant argues that most of the houses on Ontario and within the HR-1 zone have a garage and off-street parking. The applicant believes most of these homes were constructed within the last 30 years, prior to adoption of LMC 15-2.2-5 (A), which requires that a Structure have a maximum height of thirty five feet (35') measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters. (This change was adopted in 2013.)

Garages are necessary along Ontario Avenue to alleviate parking and prevent parked cars on a steep and narrow road. Due to the fact that there is little to no on-street parking nearby this property, parking within the garage will be utilized for the associated single-family home. Parking during the winter months on Ontario Avenue is difficult due to snow accumulation at the street's end and resident/guest parking.

Applicant finds that granting the variance is essential to the enjoyment of a substantial Property right possessed by other Property in the same zone. Granting the variance will allow a garage at the street front where it and the addition above will have a lesser impact on the existing topography; this honors the intent of the LMC and allows for a better design of the proposed addition. The garage will also create an interior connection to the house and provide off-street parking. This would be a benefit to the street as a whole as it would alleviate on-street parking demands and limit pedestrians from entering the Ontario Avenue right-of-way.

3.2 The Applicant's property is in the Old Town Planning District, but it is outside the Old Town Parking Zone. This means the Applicant can't even get a 24-hour parking permit for China Bridge Garage. Their only option when street parking on Ontario isn't available is to park overnight at the Sandridge Lot (a good 10 minutes walk with groceries and kids in the snow...).

Criteria 4. The variance will not substantially affect the General Plan and will not be contrary to the public interest.

4.1 The applicant finds that the variance will not substantially affect the General Plan and will not be contrary to public interest. The applicant argues that it is within the public interest to eliminate congestion on Ontario Avenue, which is a narrow and steep street and, at times, difficult to navigate in passing another vehicle. Parked cars are a safety hazard to other cars, delivery vehicles, emergency vehicles, pedestrians, and cyclists utilizing Ontario. The applicant also ascertains that the attached garage will eliminate unnecessary pedestrian traffic along the street, which, according to the applicant, causes additional safety concerns. Finally, the applicant finds that by allowing the new garage addition to have a 6 foot, 4 inch front yard setback, the new garage will flow with the existing historic character of the street scape (rather than the gaping exposed unsafe cliff that is currently there). Further, the perceived front yard setback would be consistent with the requirements of the LMC—ten (10) feet.

Applicant also finds that the variance will not substantially affect the General Plan for the following reason: One of the goals identified in the current General Plan is to ensure that the character of new construction is architecturally-compatible to the existing historic character of Park City. The variance allows a design with an internal connection that meets the Historic District Design Guidelines. Granting the variance will also improve off-street parking opportunities for the existing historic house and adjacent neighborhood. As previously noted, eliminating off-street parking areas will reduce traffic congestion on this narrow and steep section of Ontario Avenue while improving safety.

4.2 By allowing the new garage addition to have a 4'6" front yard setback, the addition can be set further back from the historic house, in accordance with the Design Guidelines for Historic District Sites. This also means the addition will mostly sit behind the valley side of our neighbors house and not block their views, up or down the valley - which we assume would be welcomed.

Criteria 5. The spirit of the Land Management Code is observed, and substantial justice done.

5.1 The applicant argues that the variance to the front yard setback as well as the interior height, and zone height, will allow much of the addition to be buried into the hillside, and the garage height minimized at the Ontario Avenue Level. Applicant argues that this has been allowed on other projects in the HR-1 zone, with similar circumstances. The applicant also finds that by granting the variance, the BOA is achieving the greater goal of preserving the historic character of the street by maintaining the hillside and reducing the overall height of the addition.

Again, the applicant argues that their proposed design of burying the addition into the hillside will reduce the overall bulk and mass of the new addition as well as its height above grade. A detached garage addition would have a greater impact on the street than the design as proposed. The applicant finds that substantial justice is achieved by approving this variance as it will allow the house, and specifically the garage addition, to be accessible.

The applicant finds that the variance will improve the overall character and nature of the project rather than compromise the intentions of the regulations. Applicant finds that the spirit of the Land Management Code is observed and substantial justice is done. Granting the variance will allow the applicant to construct a garage for the historic house that will be setback from the edge of curb by be 18 ft 4 inches to 19 ft 9 inches (18'4" to 19'9"), consistent with the required front yard setback outlined in 15-2.2-3 (E). The variance permits the owner to increase off-street parking in the neighborhood.

5.2 As recent as September 2016, the Planning Commission amended the LMC with Ordinance 2016-44, to ensure situations like this, where there are garages proposed on a downhill lot, can get a height variance in order to be built.

This variance request simply effectuates the actual, documented, intention of the LMC evidenced in Ordinance 2016-44.

5.3 In August 2017 the Planning Commission heard the first submission after the ordinance was clarified (PL-17-03535 352 Ontario Avenue) – 352 Woodside Ave.

It ruled in favor of granting an 8 foot interior height exception and an 8 foot zone (grade) height exception.

Much of the debate was around the interpretation of "tandem garage". The applicant requested a garage that fits 2 cars under roof. Some of the commission members argued that based on the picture in the LMC, one car should be outside. Ultimately, they allowed the double depth garage, but it was clear that they would prefer a single car garage with another car outside in tandem configuration, as that would reduce the mass.

The applicant in this case has designed the preferred single car garage configuration, thereby reducing the mass even further than had the applicant built and internal tandem garage – which is what the Planning Commission has deemed acceptable under this section of the LMC.

Below is an image of the front and back of the approved design of 352 Woodside Ave:



1. VIEW OF PROPOSED STRUCTURE FROM NORTH WEST CORNER / STREET



2. VIEW OF PROPOSED STRUCTURE FROM SOUTH EAST REAR

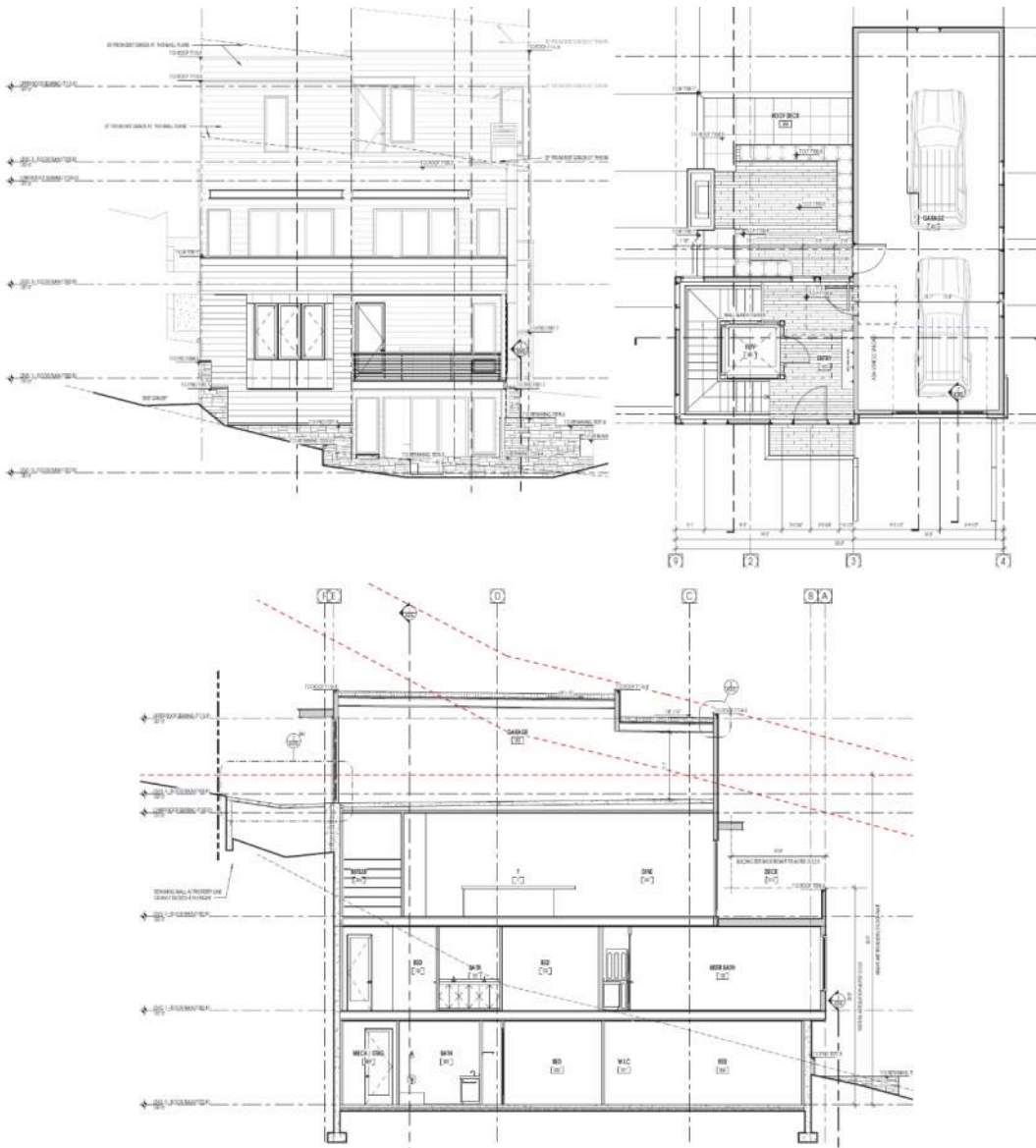
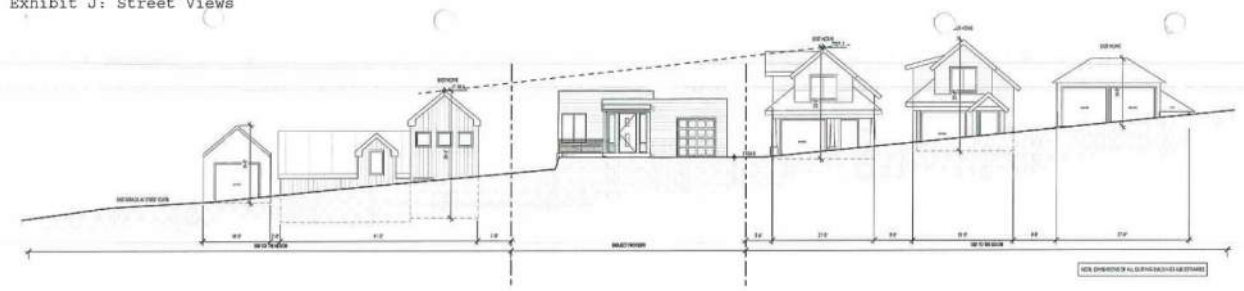


Exhibit J: Street Views



- Below is a summary of the design relative to the proposed design at 341 Ontario Ave

	352 Woodside Ave (Variances Granted)	341 Ontario Ave
Street	Woodside Ave	Ontario Ave
Width of street face	same	same
Max Interior Height Requested	43 ft.	39 ft. 6 inches
Max Zone Height Requested	35 ft.	35 ft.
Tandem Garage	2 cars inside	1 car inside
Roof Style	Flat	Pitched (historically compatible)
Current Pedestrian Access	Yes	None from Ontario Ave.
Trash and recycling services	Available	Impossible/dangerous on narrow side of Ontario ROW
Current Parking Situation	Limited street parking in ROW	Zero parking adjacent to lot

Future Process

Approval of these variances by the Board of Adjustment constitutes Final Action that may be appealed following the procedures found in LMC § 15-10-13, however this project still needs approval of a Historic District Design Review (HDDR) for the design of the garage structure and addition is necessary prior to the issuance of a building permit.

Standards for new construction as listed within the Historic District Design Guidelines will apply. HDDR's are an administrative approval and are processed by the Planning Staff. Because this site is designated as Significant on the Historic Sites Inventory, the proposal also requires a Material Deconstruction Review by the Historic Preservation Board for any removal of historic material. A steep slope Conditional Use Permit, issued by the Planning Commission, is required because the new addition will exceed 200 square feet in area on an area with a slope of greater than 30%.

To be clear, an affirmative BOA ruling does not grant the Applicant approval to immediately start building the proposed design. The BOA is being asked to rule on whether the project meets the requirements for the requested variances. The BOA is not being asked to take a view on the mass, scale or design of the house. Those are relevant issues that will be addressed by the appropriate administrative committees and boards governing the HDDR process, the MDR process and the Planning Commission at the CUP process.

APPENDIX A
BOARD OF ADJUSTMENT
341 ONTARIO AVE – VARIANCE REQUEST & MATERIALS – JUNE 20, 2017

**PARK CITY MUNICIPAL CORPORATION
BOARD OF ADJUSTMENT
445 MARSAC AVENUE
CITY HALL COUNCIL CHAMBERS
June 20, 2017**



AGENDA

MEETING CALLED TO ORDER - 5:30 PM

ROLL CALL

ADOPTION OF MINUTES OF May 16, 2017

PUBLIC COMMUNICATIONS – *Items not scheduled on the regular agenda*

STAFF AND BOARD COMMUNICATIONS/DISCLOSURES

CONTINUATIONS

569 Park Avenue – Appeal of Historic Preservation Board determination that the structures should be designated as “Significant” on the City’s Historic Sites Inventory (HSI). <i>Public hearing and continuation to August 15, 2017</i>	PL-16-03120 <i>Planner Grahn & Tyler</i>	16
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REGULAR AGENDA – *Discussion, possible public hearing, and possible action as outlined below*

341 Ontario Avenue – Applicant is requesting a variance to Section 15-2.2-3 (E) (Front Yard Setbacks), Section 15-2.2-5 (Building Height), and Section 15-2.2-5 (A) Building Height of the Park City Land Management Code (LMC) for the purpose of constructing a single-car garage addition and with living space and decks below to a “Significant” historic house. <i>Public hearing and possible action</i>	PL-17-03538 <i>Planner Grahn</i>	17
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ADJOURN

A majority of Board of Adjustment members may meet socially after the meeting. If so, the location will be announced by the Chair person. City business will not be conducted.

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the Park City Planning Department at (435) 615-5060 24 hours prior to the meeting.



Board of Adjustment Staff Report

Application #: PL-17-03538
Subject: 341 Ontario Avenue
Author: Anya Grahn, Historic Preservation Planner
Date: June 20, 2017
Type of Item: Variance

Summary Recommendations

Staff recommends that the Board of Adjustment (BOA) review, conduct a public hearing, and grant the applicants' request for three (3) variances to: (1) Section 15-2.2-3 (E) Front Yard Setbacks, (2) Section 15-2.2-5 Building Height above Existing Grade, and (3) Section 15-2.2-5 (A) interior Building Height of the Park City Land Management Code (LMC) as described in this report for the purpose of constructing an addition to a historic structure which includes a new single-car garage with living space and decks above.

Description

Applicant: Matthew and Marissa Day, Sparano + Mooney Architects
Location: 341 Ontario Avenue
Zoning: Historic Residential (HR-1) District
Adjacent Land Uses: Residential single family homes
Reason for Review: Variances require Board of Adjustment approval

Proposal

The applicant proposes to construct an addition to a historic house, designated as Significant on the Park City Historic Sites Inventory (HSI). The new addition includes a garage along Ontario Avenue and lower levels that connect to the historic house. Because of the steepness of the slope on the downhill (west) side of Ontario Avenue and limited parking on the street, the applicant has requested three (3) variances in order to construct the proposed addition. The applicant is requesting a variance to reduce the front yard setback requirement, from Ontario Avenue, for the proposed addition so that the addition, and particularly the garage, can be constructed at the street level (variance #1). The applicants also seek a variance to the required exterior building height of 27 feet above Existing Grade (variance #2), and a variance to the maximum interior height of 35 feet measured from the lowest finished floor plane to the point of the highest wall top plate that supports the ceiling joists and rafters (variance #3).

Variances requested:

- #1: A variance to LMC Section 15-2.2-3 (E) to the required ten foot (10') front yard setback exception to allow for an addition to be constructed at the front of the lot; the addition includes a one-car garage on the top level, adjacent to Ontario Avenue.
- #2: A variance to LMC Section 15-2.2-5 to the maximum building height of 27

feet above Existing Grade.

- #3: A variance to LMC Section 15-2.2-5 (A) to the required maximum height of 35 feet measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters.

The applicants believe that unique conditions exist with the property to warrant granting of a variance to the required front yard setback and required maximum interior height.

Purpose

The purpose of the Historic Residential (HR-1) District is to:

- A. Preserve present land Uses and character of the Historic residential Areas of Park City,
- B. Encourage the preservation of Historic Structures,
- C. Encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods,
- D. Encourage single family Development on combinations of 25' x 75' Historic Lots,
- E. Define Development parameters that are consistent with the General Plan policies for the Historic core, and
- F. Establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment.

Background

On April 19, 2017, the Planning Department received an application for a variance request to the minimum front yard setback, building height, as well as the maximum interior height of the building. The application was deemed complete on May 9, 2017.

The property is located at 341 Ontario Avenue. At this location, Ontario Avenue is a narrow and sloped street with limited to no parking. The purpose of the variance is to allow a reduced front yard setback as well as an increase to the maximum exterior and interior heights for the construction of a proposed addition to the existing historic house, including a new one-car garage at the top-level with living space and decks below it that connect to the historic house.

The existing 483 square foot historic house is designated as "Significant" on the City's Historic Sites Inventory (HSI). The historic house currently does not have a driveway or garage from Ontario Avenue, and the applicants park their vehicles in the Sandridge Parking Lot and walk to the house. There is no existing parking for this property. The house currently is not accessed from Ontario Avenue, but must be accessed from a path on the downhill side of the lot accessed from Shorty's Stairs. The owner proposes to construct a new one-car garage in order to provide a driveway and off-street parking for a single car. Only the garage parking space would be considered legal parking based on the requirements of the LMC as the second parking spot would be placed on the City right-of-way and would not be considered legal parking.

The LMC requires a 10 foot front yard setback to the property line and the applicant is requesting a 4 foot 6 inch setback to accommodate the new addition, which includes the

one-car garage. The applicant will construct a bridge for the driveway that spans from the garage to Ontario Avenue; the bridge would be subject to an encroachment agreement with the City Engineer.

Almost immediately to the west of Ontario Avenue, the grade drops steeply so that there is a change in grade of approximately 36 feet before the lot flattens out. The historic house was constructed against the wall of the canyon and on the flat portion of the lot. The required maximum building height allowed by the zone is 27 feet above Existing Grade; however, the applicant has requested a height variance allowing building height to be 35 feet above Existing Grade.

This is consistent with the height exception permitted by LMC 15-2.2-5(D)(4) which allows the Planning Commission to allow additional Building Height on a downhill Lot to accommodate a single car wide garage in a Tandem Parking configuration; to accommodate circulation, such as stairs or an ADA elevator; and to accommodate a reasonably sized front entry area and front porch that provide a Compatible streetscape design. Per this exception in the code, the additional Building Height may not exceed 35 feet from Existing Grade.

The applicants do not qualify for this exception as they are not providing two legal parking spaces in a tandem configuration. The exterior parking space is not located entirely on the applicants' lot and extends over into the City right-of-way. This spot is not a legal parking space. Further, all parking for this property must be located on the property and cannot encroach into the City's right-of-way.

Because of the steepness of the lot, it was challenging for the applicants to design an addition that provides access to Ontario Avenue while also connecting to the historic house that sits on grade 36 feet below the street. LMC 15-1.2-5(A) requires that a Structure have a maximum height of 35 feet measured from the lowest finished floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters. The applicant has requested a variance from this provision to allow for a maximum interior height of 39 feet 6 inches in order to accommodate the single-car garage and entry area accessible from Ontario Avenue.

The existing house is setback from the front property line along Ontario Avenue by approximately 32 feet and setback from the edge of asphalt on Ontario by 47 to 49 feet. The historic house sits on a flat portion of the lot which is located approximately 36 feet below the elevation of the street. The lot slopes dramatically away from Ontario Avenue, towards the northwest.

In February 2014, the Planning Department received the first Historic District Design Review Pre-Application from these applicants for the proposed renovation of the historic house and construction of a new addition at 341 Ontario Avenue. A Historic District Design Review (HDDR) application was submitted on September 3, 2015, and deemed complete on September 22, 2015. Staff has been working with the applicants for almost two years through the HDDR process in order to develop a design that complies with the Land Management Code and Design Guidelines. The applicants requested that the

review be put on hold in 2016 while staff amended the height exceptions allowed by LMC 15-2.2-5. The amended LMC provided a height exception for houses on a downhill lot and was passed as [Ordinance 2016-44](#).

Any development of the site will require compliance with the Design Guidelines for Historic Districts and Historic Sites. As the applicant is also proposing to construct more than 200 square feet on a slope of 30% or greater, a Steep Slope Conditional Use Permit (CUP) application reviewed by the Planning Commission will also be required. The applicant has chosen to move forward with the variance prior to staff processing the HDDR and Steel Slope CUP applications.

Analysis

The property is located within the HR-1 District and consists of Lot 1 of the 341 Ontario Avenue Subdivision, recorded on December 18, 2014. The site is currently occupied by a historic house. The current footprint on the lot is 483 square feet and based on the size of the lot, the applicant is permitted to construct a maximum footprint of 1,519 square feet.

This site is listed on Park City's Historic Sites Inventory (HSI) and is designated as historically Significant. The property was built circa 1900 during the Mature Mining Historic Era (1894-1930).

Currently, the house is accessible from a pathway off of Shorty's Stairs, which connect Marsac and Ontario Avenues. Like many houses on the west side of the canyon, the house was constructed to face Main Street instead of Ontario Avenue. There is no pedestrian access from Ontario Avenue and the house is accessed by a pedestrian path that runs across the downhill side of the lot and connects to Shorty's Stairs. According to the applicant, there is no easement for the pedestrian path and because there is no easement, the applicant is concerned about the legal liability this may represent as they must trespass across their neighbors property to access the house. Staff has researched this and found that the 310 Marsac Place plat amendment identifies the 10 foot wide access easement for use; it was recorded in 1981.

Variance #1: The applicant is proposing to construct an addition containing a one (1)-car garage that would have vehicular access from Ontario Avenue at the property line. The proposed addition will have a 4 foot 6 inch front yard setback, and have a distance of 18 feet 4 inches to 19 feet 4 inches from paved Ontario Avenue, increasing to the south. If the addition were to be moved further to the west, in order to meet the required 10 foot front yard setback, it would increase the overall mass and volume of the house and decrease the separation between the historic house and addition. Further, the addition would create a taller wall on the west elevation and there would be no break in the mass; staff finds this design would not be compatible with the Historic District and significantly overwhelm the historic house. The need for a single-car garage also dictated placing the new addition closer to the front of the property. By locating the addition as proposed, the design is able to step down the hillside in volumes that are compatible with the historic house and a portion of the mass is buried in the hillside (Exhibit C).

Variance #2: Because of the significant grade change from Ontario Avenue to the location of the existing historic house, the applicants are also requesting a variance to LMC 15-2.2-5 Building Height which states that no structure shall be erected to a height greater than 27 feet from Existing Grade. As previously described, the Planning Commission may allow additional Building Height up to 35 feet from Existing Grade on a downhill lot to accommodate a single car wide garage in a Tandem Parking configuration. The applicant does not qualify for this exception as the second exterior parking space in the driveway is not a legal parking space as it extends over the front property line and into the City right-of-way. Nevertheless, their request for additional height up to 35 feet is consistent with the height exemption granted by the zone.

Variance #3: The steepness of the lot and the location of the existing historic house has also led the applicants to request a variance to LMC 15-2.2-5(A) which states that a Structure shall have a maximum height of 35 feet measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters. As the site of the historic house is some 36 feet below Ontario Avenue. The applicant is proposing a maximum interior height of 39 feet 6 inches.

The following outline the requirements needed for the variance

	LMC Requirement	Proposed
Variance #1: Setbacks Front/Rear Yard	10 feet/20 feet total	4'6" front yard/10 ft. rear yard 14'6" total
Variance #2: Building (Zone) Height	27 ft. maximum	35 ft. above Existing Grade
Variance #3: Lowest Finished Floor Plane to Highest Wall Top Plate	35 ft. maximum measured from the lowest finished floor plane to the point of the highest wall top plate	39' 6" measured from lowest finished floor plane to the point of the highest wall top plate

LMC Review Criteria for a Variance

In order to grant the requested variances to the aforementioned code sections, the Board of Adjustment must find that all five (5) criteria located in LMC § 15-10-9 are met. The applicant bears the burden of proving that all of the conditions justifying a variance have been met (see Exhibit D).

Criteria 1. Literal enforcement of the LMC would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the LMC. *In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under Subsection 15-10-9(C)(1), the BOA 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. In determining*

whether or not the enforcement of the LMC would cause unreasonable hardship the BOA may not find an unreasonable hardship if the hardship is self-imposed or economic.

The applicant argues that the steepness of the slope makes it impossible to construct a garage in any location on the site, except for Ontario Avenue where the grade is closest to the road. As the house is already 36 feet above the lowest floor plane of the house, a variance is necessary to meet the required interior height of 35 feet.

The applicant argues that the other houses along Ontario Avenue have a pedestrian access from the street. This house's only access is along the pedestrian path on the east side of the lot. The applicant is not required to provide parking as the site is historic, and they could build a set of stairs from Ontario to connect to the historic house if they desired.

The applicant argues that the reduced front yard setback is necessary as it will reduce the zone height of the addition by further burying the bulk and mass of the new addition into the hillside. The current design also provides sufficient separation between the historic house and new addition, as required by the Design Guidelines for Historic District Sites. Due to the steepness of the lot and the current location of the historic house, it has been difficult to develop a design that provides an attached garage while still providing visual separation between the historic house and the new addition. Additionally, the steepness of the hillside and the historic house's location against the hillside has made it challenging to create a design that does not appear to loom over the historic house due to the height of the new addition.

The applicant also argues that the proposed driveway leading to the garage will be located on one of the narrowest points of the road, with the steepest drop off the edge. In the past, the applicant has not been able to put their trash in front of the house because it is often knocked over by passing cars due to the narrowness of the road. To avoid this, the applicant has had to haul their trash down across the pedestrian path, down Shorty's Stairs and drive it off site each week.

Because of the significant grade change from Ontario Avenue to the location of the existing historic house, the applicant is also requesting an exception to LMC 15-2.2-5 and LMC 15-2.2-5(A). As currently designed, the applicant's proposal is consistent with the allowed 35 foot height above Existing Grade for downhill garages proposing a tandem parking configuration for two vehicles as outlined in LMC 15-2.2-5(D)(4); the applicant will only be providing one legal parking space in the garage through this variance. As currently designed, the applicant's proposal requires an Interior Height of 39 feet 6 inches of height from the lowest finished floor plane of the historic house to the point of the highest wall top plate; LMC 15-2.2-5(A) currently requires 35 feet.

The applicant argues that literal enforcement of the LMC would cause unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the LMC. There are circumstances peculiar to this property that is unique only to this property. The lot is setback some 14 to 17 feet from the edge of paved Ontario Avenue,

and the proposed garage will be setback approximately 18 feet 4 inches to 21 feet 4 inches from the edge of paved Ontario Avenue. There is a lack of pedestrian access to the lot and the narrowness of Ontario Avenue in front of the lot makes street parking impossible.

Staff finds that literal enforcement of the LMC is not necessary to carry out the general purpose of the LMC. The applicants have argued that there is no pedestrian access to the site from Ontario Avenue; however, an exterior staircase could be constructed. The proposed addition will be distanced from the existing edge of curb by a distance of approximately 18 to 21 feet.

As previously described, staff finds the steepness of the lot and the location of the historic house some 36 feet below the street make it impossible to connect the house to the street through the addition while complying to the height restrictions of 27 feet above Existing Grade on the exterior and 35 feet on the interior measured from the lowest finished floor plate of the historic house to the top of the wall plate of the new addition (garage). The proposed exterior height of 35 feet above Existing Grade is consistent with the LMC height exception granted by the Planning Commission for a downhill garage providing tandem parking. The interior height of 39 feet 6 inches has largely been driven the steepness of the slope and the need to attach the garage to the historic house which sits some 36 feet below the existing street.

Additionally, the location of the proposed addition has been further dictated by the placement of the historic house at the lowest point of the lot and adjacent to the canyon wall. The applicant has not requested that the historic house be relocated, and staff finds that it would be difficult to comply with [LMC 15-11-13](#) as the house is not threatened by demolition in its current location, there are no hazardous conditions that are endangering the historic building, and any relocation would detract from the historic character and setting of the site.

Criteria 2. There are special circumstances attached to the Property that do not generally apply to other Properties in the same zone. *In determining whether or not there are special circumstances attached to the Property the BOA may find that special circumstances exist only if the special circumstances relate to the hardship complained of and deprive the Property of privileges granted other Properties in the same zone.*

The applicant argues that there are special circumstances attached to this property that do not apply to other properties in the same zone. The applicant argues that this property is one of only a few actual historic residences left in this section of Ontario Avenue. (There are a total of 13 houses listed on the HSI that are located on Ontario Avenue.) The applicant finds that this is one of the few properties along Ontario Avenue that have preserved its original historic grade and location far below the street. Additionally, other properties do not have the same increased distance between the edge of curb and property line because Ontario Avenue is located closer to the platted ROW in those areas.

Staff finds that there are special circumstances attached to this property that are unique and do not apply to other properties in the same zone. The steepness of the lot and the location of the historic house some 36 feet below the street make it impossible to connect the house to the street through the addition while complying to the height restrictions of 27 feet above Existing Grade on the exterior and 35 feet on the interior measured from the lowest finished floor plate of the historic house to the top of the wall plate of the new addition (garage). The location of the lot is also significantly distanced 14 to 18 feet from the paved Ontario Avenue. This section of paved Ontario Avenue is also characterized by its steepness and limited width. Granting the variance will relieve parking demands by locating a single car on site and in the garage.

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

The applicant argues that most of the houses on Ontario Avenue and within the HR-1 zone have a garage and off-street parking. The applicant believes most of these houses were constructed within the last 30 years, prior to the recent revisions of the LMC which requires that the Structure have a maximum interior height of 35 feet. (This provision was added in 2013 through [Ordinance 2013-48](#).) The applicant argues that garages are necessary along Ontario Avenue to alleviate parking and prevent parked cars on a steep and narrow road. As there is little to no off-street parking immediately adjacent to the property that are available to these property owners, the applicants argue that providing parking on-site will alleviate existing traffic issues on Ontario Avenue removing cars from the street, especially during the winter months when there is limited on-street parking due to snow accumulation and storage.

The applicant has demonstrated that the proposed design will alleviate parking congestion on Ontario Avenue. The steepness of the lot and the location of the existing historic house has largely dictated the placement of the garage on the site. As proposed, the applicant will require variances to the required exterior and interior building heights in order to build a structure up to 35 feet above Existing Grade and 39 feet 6 inches from the lowest finished floor plane of the historic house to the height of the tallest wall plate of the new addition.

While the proposed solution will result in the loss of one (1) public parking space along Ontario Avenue, staff finds that granting the variance is essential to the enjoyment of a substantial Property right possessed by other Property in the same zone. By providing off-street parking on this site, the applicant will provide a pedestrian entrance to the site and provide parking for one car in the proposed single-car garage. As existing, there is no on-street parking in this location for the applicant and the limited width of the road makes it difficult for two cars to pass. The steepness of the lot and location of the historic house have made it impossible for an attached garage to be constructed while still complying with the required interior and exterior height requirements of the HR-1 zone.

The City Engineer has argued that the driveway will remove one public parking space from Ontario Avenue for the purposes of creating private parking. The loss of this parking space has not been mitigated.

Criteria 4. The variance will not substantially affect the General Plan and will not be contrary to the public interest.

The applicant finds that the variance will not substantially affect the General Plan and will not be contrary to public interest. The applicant argues that it is within the public interest to eliminate congestion on Ontario Avenue, which is a narrow and steep street, and difficult to navigate at times when two cars are passing. The applicant argues further that parked cars are a safety hazard to other cars, delivery vehicles, emergency vehicles, pedestrians, and cyclists using Ontario Avenue. The applicant also ascertains that the attached garage will eliminate unnecessary pedestrian traffic along the street, which, according to the applicant, causes additional safety concerns. Finally, the applicant finds that by allowing the new garage addition to have a 4 foot 6 inch front yard setback, the addition can be further separated from the historic house in accordance with the Design Guidelines for Historic Sites.

Staff finds that the variance will not substantially affect the General Plan. Goal 15 of the General Plan seeks to preserve the integrity, mass, scale, compatibility, and historic fabric of our nationally and locally designated historic resources and districts for future generations. By placing the garage further east at the front of the lot, the applicant has provided greater separation between the historic house and new addition; the applicant has also broken up the mass of the new addition by creating volumes reflective of the size of the historic house and burying the bulk of the structure in the steep hillside. Though significantly larger than the historic house, the applicant will maintain the character, context, and scale of the historic district with compatible infill. The historic structure will be restored as part of this proposed development of the site.

The General Plan also encourages pedestrian-oriented development that minimizes the visual impacts of automobiles and parking on Historic Buildings and Streetscapes. Staff finds that by locating the garage along Ontario Avenue, which is already characterized by street-facing garages, the integrity of the historic house is further preserved as it will maintain its orientation facing town and be visually buffered from any automobiles. On the Ontario Avenue façade, the applicant has provided a pedestrian entrance. The applicant seeks to construct a new addition that is a Modern-interpretation of the historic style that will reflect the volume and massing of the historic house while also being visually separated from it. This will prevent the much larger and taller new addition from swallowing the historic house.

Criteria 5. The spirit of the Land Management Code is observed and substantial justice done.

The applicants argue that the requested variances will allow the garage and new addition to be further buried into the grade of the downhill lot, minimizing the visibility of its bulk. The applicants argue that variances have been granted at other properties with similar circumstances, including the uphill lot 422 Ontario Avenue, in order to alleviate congestion along Ontario Avenue. The applicant argues that by granting the variances, the BOA is achieving the greater goal of preserving the historic character of the street by maintaining the hillside and reducing the overall height of the addition, and creating a clearer separation between the historic house and new addition.

The applicant further argues that the proposed design buries much of the mass and bulk of the new addition into the hillside, preventing the new addition from overwhelming the historic house. The applicant finds that substantial justice is achieved by approving this variance as it will allow the house and the garage addition to be accessible for pedestrian access along Ontario Avenue; the applicant will no longer rely on the pedestrian path accessible from Shorty's Stairs.

Staff finds that the spirit of the LMC is observed and substantial justice is done. The LMC requires a front yard setback of 10 feet. Typically, the lot would be adjacent to the edge of the paved street; however, Ontario Avenue was actually built to the east of this lot. The existing front property line is 14 to 18 feet west of the edge of the street. As the applicant is requesting a reduced front yard setback of 4 feet 6 inches, it will result in a building that is setback 18 to 21 feet from the edge of the road. As previously described, the exterior height exception is consistent with the 35 foot height exception that the Planning Commission can grant to downhill garages providing parking in a tandem configuration. Additionally, the interior height is largely dictated by the location of the historic house on the lowest elevation of the property, which is some 36 feet below the road grade.

Future Process

Approval of these variances by the Board of Adjustment constitutes Final Action that may be appealed following the procedures found in LMC § 15-10-13. Approval of a Historic District Design Review (HDDR) for the design of the garage structure/addition is necessary prior to the issuance of a building permit. Standards for new construction as listed within the Historic District Design Guidelines will apply. HDDR's are an administrative approval and are processed by the Planning Staff. A steep slope Conditional Use Permit, issued by the Planning Commission, is required because the new addition will exceed 200 square feet in area on an area with a slope of greater than 30%.

Department Review

This project has gone through an interdepartmental review. No further issues were brought up at that time.

Notice

On June 6, 2017, the property was posted and notice of the variance request was mailed to property owners within 300 feet of the property in accordance with requirements of the Land Management Code. Legal notice was published in the Park Record on June 3, 2017, according to requirements of the Code.

Public Input

No public input was received at the time of writing this report.

Alternatives

- The Board of Adjustment may grant the variance request according to the findings of fact, conclusions of law and conditions of approval drafted below

- and/or as amended; or
- The Board of Adjustment may deny the variance request and direct staff to make findings of fact to support this decision; or
 - The Board of Adjustment may continue the discussion and request additional information on specific items.

Significant Impacts

There are no significant fiscal or environmental impacts from this application.

Consequences of not taking the Suggested Recommendation

The property would remain as is and no construction of the proposed addition could take place. Should the BOA not grant a variance (#1) to reduce the front yard setback from 10 feet to 4 feet 6 inches, the applicant will not be permitted to construct an attached garage and addition as proposed. Should the BOA not grant the variance (#2) to the required exterior height from 27 feet to 35 feet and the variance (#3) to the interior height from the lowest finish floor plane to the point of the highest wall plat from 35 feet to 39 feet 6 inches, the applicant will have to reduce the overall height of the addition above existing grade and may not be able to provide a garage along Ontario Avenue.

Recommendation

Staff recommends that the Board of Adjustment review the proposed variance requests:

- A variance to LMC Section 15-2.2-3 (E) to the required ten foot (10') front yard setback exception to allow for a single-car garage to be constructed along Ontario Avenue.
- A variance to LMC Section 15-2.2-5 Building Height above Existing Grade.
- A variance to LMC Section 15-2.2-5 (A) to the required maximum height of 35 feet measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters.

The BOA should conduct a public hearing and consider granting the variances based on the following findings of facts and conclusion of law.

Findings of Fact

1. The property is located at 341 Ontario Avenue in the Historic Residential (HR-1) District.
2. The HR-1 zone is characterized by historic and contemporary homes on one (1) to two (2) lot combinations.
3. The property consists of all of Lot 1 of the Ontario Avenue Subdivision, recorded on December 18, 2014.
4. There is an existing 483 square foot historic house on the property. It is designated as Significant on the City's Historic Sites Inventory.
5. The existing historic house is setback from the front property line by 31.5 feet. It will have a distance of approximately 47 feet from the edge of asphalt on Ontario Avenue.
6. There currently is no vehicular access that can be attached to the existing historic house without the need of variances being granted. As existing, there is currently only a pedestrian easement, and it is located on the east edge of the

Marsac-facing properties to the west of the 341 Ontario Avenue lot.

7. The applicant is requesting a variance to LMC Section 15-2.2-3(E) to reduce the required ten foot (10') front yard setback to 4 feet 6 inches to allow for a new addition that includes a single-car garage to be constructed along Ontario Avenue.
8. The applicant is requesting a variance to LMC Section 15-2.2-5 Building Height above Existing Grade from 27 feet to 35 feet above Existing Grade. The increased building height is consistent with the height exception permitted by LMC 15-2.2-5(D)(4).
9. The applicant is requesting a variance to LMC Section 15-2.2-5(D) to the required maximum height of 35 feet measured from the lowest finished floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters; the applicant requests a variance to allow an interior height of 39 feet 6 inches.
10. The applicant is requesting the three (3) variances in order to construct a new addition to the historic house that includes a single-car garage accessible from Ontario Avenue.
11. Literal enforcement of the LMC would make it impossible to make the garage accessible from the street given the required setbacks, interior building height requirements, and steep slope of the lot.
12. The steepness of the lot, the distance of the front property line from paved Ontario Avenue, and the location of the historic house at the downhill side of the lot are unique to this property.
13. Literal enforcement of the required 10 foot front yard setback is not necessary to carry out the general purpose of the Land Management Code, as the proposed addition will be setback from the existing edge of curb by a distance of 18 feet 4 inches to 21 feet 4 inches due to the distance between the property line and the street. Had the addition been located 10 feet west of the property line, it would have increased the bulk and mass of the addition due to the steep grade of the site and decreased the physical and visual separation between the historic house and its new addition.
14. The proposed exterior height of 35 feet above Existing Grade is consistent with the LMC height exception granted by the Planning Commission for a downhill garage providing tandem parking. The interior height of 38 feet 6 inches has largely been driven by the steepness of the slope and the location of the historic house on the downhill lot.
15. There are special circumstances attached to this property that do not generally apply to other Properties in the same zone. This house is one of the few properties along Ontario Avenue that have preserved its original grade and maintained the original placement of the historic house which was constructed on an elevation 36 feet below the existing road.
16. This property is unique in that paved Ontario Avenue is about 14 to 18 feet to the west of the front property line and is one of the steepest sloped streets in this part of town.
17. This section of paved Ontario Avenue is characterized by its steepness and limited width.
18. This site was historically accessed by pedestrians from the west side of the

property; while this pedestrian path off of Shorty's Stairs has been maintained, there is no formal easement granting these owners access to their property from the path.

19. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone. Granting the variances allows the property owner to construct an attached garage at the street level without severely impacting existing grade, while also alleviating congestion and safety concerns on Ontario Avenue by providing off-street parking.
20. The variance will not substantially affect the General Plan and will not be contrary to public interest. It is within the public interest to reduce vehicle conflicts on Ontario Avenue. Parked cars are a safety hazard to other cars, delivery vehicles, emergency vehicles, pedestrians, and cyclists utilizing Ontario Avenue.
21. A reduction to the front yard setback will allow a garage and front entrance to be constructed along Ontario Avenue, providing both vehicular and pedestrian access to the site.
22. In order to construct a garage that meets the required front yard setback, the garage would need to be a detached building. The proposed addition would need to shrink considerably in size and height in order to comply with the LMC and would likely not be as visually separated from the historic house as currently proposed. If the garage were constructed to comply with the LMC as part of the addition, it would not meet the intent of the General Plan.
23. The spirit of the Land Management Code is observed and substantial justice is done. The variance will preserve the historic character of the site by allowing the historic structure to be visually separated from its new addition and maintain its orientation facing town.
24. The proposed variances will create an accessible attached garage and alleviate parking congestion along Ontario Avenue.
25. All other LMC related site and lot criteria, including the other setbacks, height, footprint, parking, design, uses, etc. will be met.

Conclusion of Law

1. Literal enforcement of the HR-1 District requirements for this property causes an unreasonable hardship that is not necessary to carry out the general purpose of the zoning ordinance.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same district.
3. Granting the variance is essential to the enjoyment of substantial property right possessed by other property owners in the same district.
4. The proposal is consistent with the General Plan.
5. The spirit of the zoning ordinance is observed by this application.
6. It can be shown that all of the conditions justifying a variance, pursuant to LMC § 15-10-9, have been met.

Order

1. A variance to LMC Section 15-2.2-3 (E) to the required front yard setback exception from 10 feet to 4 feet 6 inches in order to allow for an addition to be constructed along Ontario Avenue.

2. A variance to LMC Section 15-2.2-5 Building Height above Existing Grade from 27 feet to 35 feet.
3. A variance to LMC Section 15-2.2-5 (A) to the required maximum height of 35 feet to 39 feet 6 inches measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters.
4. The variances run with the land.

Conditions of Approval

1. The variances are granted for the construction of an addition that will include a single-car garage, as indicated on the plans submitted with this application.
2. No portion of the garage shall be used for additional living space.
3. The garage interior shall be used for parking. Limited storage is permitted to the extent that it does not preclude parking of a vehicle. Trash and recycling bins may be stored in the garage.
4. Any parking in the drive will not be considered private parking.
5. All legal parking must be provided on-site and shall not encroach into the City's right-of-way.
6. The City Engineer will require an Encroachment Agreement for the proposed bridged driveway.

Exhibits

- Exhibit A – Applicant's statement
- Exhibit B – Existing Conditions Survey
- Exhibit C – Proposed plans

EXHIBIT

341 Ontario Avenue Variance Request

WRITTEN STATEMENT OF HARDSHIP:

The LMC states that variances only be granted if all of the following five conditions are met:

1. Literal enforcement of the LMC would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the LMC
2. There are special circumstances attached to the Property that do not generally apply to other Properties in the same zone.
3. Granting the variance is essential to the enjoyment of a substantial Property right possessed by other Property in the same zone.
4. The variance will not substantially affect the General Plan and will not be contrary to the public interest.
5. The spirit of the Land Management Code is observed and substantial justice done.

We, the applicant request 3 variances that are related to building a single car wide garage, in a tandem configuration, on a downhill lot, with living space and balconies underneath the garage, that will connect to a historic house at the bottom of the lot:

1. Section 15-2.2-3 (E) (Front Yard Setbacks)
2. Section 15-2.2-5 (Maximum Zone Height – “Height above existing grade”)
3. Section 15-2.2-5 (A) (Maximum Height – “Interior height, measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters”)

The design of the project on 341 Ontario meets the intention of the Land Management Code. Literal enforcement of the following provisions would cause an unreasonable hardship for the Applicant and the result would either have no visible effect on the project except to create a hardship on the Applicant:

- a. We are requesting setback and height variances so that we can have both vehicular and pedestrian access to the project from Ontario Avenue (neither of which would be possible without the variance).

Hardship: The site slopes steeply downhill from Ontario Avenue. The historic house sits at the bottom of the lot. There is currently no pedestrian or vehicular access to the house from Ontario Avenue. The distance between the lowest floor plane of the house and the surface of the Ontario Avenue asphalt is 35 ft. This obviously makes it impossible to build any garage or entrance from the street and keep the building under 35ft.

In other words a literal interpretation of the LMC would force us, the applicant, to abandon the project, and continue to have no vehicular or pedestrian access to our lot from Ontario as the height limits would make it technically impossible.

Proposed Solution: We would like to build a garage at Ontario street level. Underneath the garage will be living space and balconies and the structure would connect to the historic house at the bottom of the lot, still keeping a significant portion of the lot for a yard and green space.

Criteria 1. Literal enforcement of the LMC would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the LMC.

The site is steeply sloped downhill from Ontario Avenue. The historic house that sits on the site sits on the flat bottom area of the lot. The height from the lowest floor plant of the house to the asphalt on Ontario Avenue is 35 ft. It is therefore impossible to build a street level garage and still stay under the 35 ft. interior height rule.

Secondly, the lot is the steepest lot on Ontario. Even if the project was only 10' above grade at the Ontario Avenue road level, as the project was built down the hill, the grade is so steep that very quickly the project would be over the Zone Height rule of 27 ft. above existing grade.

The LMC had contemplated this exact situation in Section (LMC Section 15-2.2-5 (D)(4) "Garages on a Downhill Lot". This section provides an exception for Garages on a Downhill Lot and allows the Planning Commission to grant additional Interior Height (no limit) so long as the structure does not exceed a maximum Zone Height of 35 ft. above existing grade.

Our plans would comply with the height exceptions allowed for garages on a downhill lot. However, this exception also requires the provision of tandem parking. It is staff's interpretation of the definition of Tandem Parking (Section 15-15-1.274) that the second parking spot in the tandem parking requirement must be wholly within the owner's lot.

Our plans would result in our second car, that is parked in the driveway, being parked over the lot line. Given this, despite the heights complying with the existing exception, we cannot utilize this exception in Section 15-2.2-5 (D)(4) and therefore must ask for this variance.

Accordingly, we are seeking building height variances to remedy the matter. Without these variances we will suffer significant hardship as it will be impossible to build an addition that provides vehicular and pedestrian access to our lot.

Pedestrian Access & Liability Risk

Unlike any of the other houses on Ontario Avenue, our lot also has no pedestrian access from Ontario whatsoever. The only way we can access the lot is on foot via an unmaintained path, that runs off the middle of Shorty's stairs. The path sits on land that is technically owned by the houses on Marsac Avenue. The city does not maintain it and nor do the Marsac owners. The houses on Ontario do not maintain it as they all have access their their houses from Ontario Avenue. We are not aware of any official easement being granted between the owners of the land and the Ontario Avenue users of it. This means the only access we have it across other people's land. We are concerned about the potential liability for accidents on this unmaintained path and who's responsibility it is to maintain it.

The applicant argues that the reduced front yard setback is necessary as it will reduce the zone height of the addition by further burying the mass into the hill, as well as increasing the separation of old and new, between the historic house and the addition as suggested by the Design Guidelines for Historic District Sites.

Dangerously Narrow Road

The area of Ontario Avenue in front of our lot is one of the most narrow on Ontario. On the downhill side the asphalt rolls right off down our lot. If we park on Rossie Hill (which is not very rare due to more demand for parking up there from new construction) we must walk down Ontario Avenue, where there is no footpath, along what is essentially a cliff into our lot, hope there is no car coming past, then walk down to Shorty's stairs, go down the stairs, then walk all the way back up the lane to get to the house.

Cars regularly have to stop and maneuver around each other to get past this part of the road. This is not safe for our family to regularly have to walk through that.

No Access to Basic Municipal Services (Trash and Recycling)

Because the road is so narrow if we leave our trash cans out for collection, cars bump into them and send the trash cans go rolling down the hill toward our house. So, for the sake of public safety (and our own), for the last three years, each week we have had to haul our trash and recycling down Shorty's Stairs and put it in our truck and dump it off site. All this while we have been paying for these municipal services that we can't get access to.

Criteria 2. There are special circumstances attached to the Property that do not generally apply to other Properties in the same zone.

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

Our property is one of only a few historic residences left in this section of Ontario and one of only a handful of properties along Ontario Avenue that have preserved its original historic location (at the bottom of the lot). You can tell by the large deciduous tree in front of the house which testifies to the longevity and historic nature of the existing hillside grade, as well as original neighborhood plans and photographs circa 1900 that show the house in the same location. Because the location of the historic house has not been moved, and the lot is so steep, it means there is greater than 35' between the original historic house bottom floor planes and the road surface. This makes building a garage, and staying under 35 feet, impossible, unless you moved the historic house (which is not permitted).

Most other properties do not have huge distance between the road and the lot line. The distance from the road to our lot line is 13'-4" on the downhill side and 17'-6" on the uphill side. Even after the requested front yard variance, our proposed garage will be 18 feet 4 inches from the road, at its nearest point. This is farther back from the road than most all houses in Old Town.

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

Most of the houses on Ontario and within the HR-1 zone have a garage and off-street parking. Most of these homes were constructed within the last 30 years, prior to the adoption of LMC 15-2.2-5 (A) – the 35' maximum height rule which was adopted in 2013.

Garages are necessary along Ontario Avenue to alleviate parking congestion and prevent parked cars on a steep and narrow road. Parking during the winter months on Ontario Avenue is near impossible due to snow accumulation on the street.

Our house is in the Old Town Planning District, but it is outside the Old Town Parking Zone. This means we can't even get a 24 hour parking permit for China Bridge Garage. Our only option when street parking on Ontario isn't available is to park overnight at the Sandridge Lot (a good 10 minutes walk with groceries and kids in the snow...).

The proposed garage would also benefit the street as a whole as it would alleviate on-street parking demands and limit pedestrians from walking down the dangerous Ontario Avenue right-of-ways.

As discussed in Criteria 1, all other houses on Ontario are able to get pedestrian access from Ontario Avenue and get the benefit of municipal trash and recycling pickups without the danger of trash cans being hit by cars and rolling down the lot toward their house.

Criteria 4. The variance will not substantially affect the General Plan and will not be contrary to the public interest.

The variance will not substantially affect the General Plan and will not be contrary to public interest. It is within the public interest to eliminate congestion on Ontario Avenue, which is a narrow and steep street and, at times, difficult to navigate in passing another vehicle.

Parked cars are a safety hazard to other cars, delivery vehicles, emergency vehicles, pedestrians, and cyclists utilizing Ontario.

The proposed garage will eliminate unnecessary pedestrian traffic along the street as we have to walk down the street to Shorty's stairs in order to get access to the lot – this causes additional safety concerns.

By allowing the new garage addition to have a 4"6' front yard setback, the addition can be set further away from the historic house, in accordance with the Design Guidelines for Historic District Sites. As an aside it means the project will not block the views of our immediate neighbors, up or down the valley, which we assume will be welcomed.

As we understand it, one of the goals identified in the current General Plan is to ensure that the character of new construction is architecturally-compatible to the existing historic character of Park City. Our project is in line with historic architecture of the neighborhood and substantially restores and preserves the historic structure of the property. The variance we are requesting allows a design that is most compatible with the Historic District Design Guidelines.



Criteria 5. The spirit of the Land Management Code is observed and substantial justice done.

The variance to the front yard setback as well as the zone height and interior height, will allow the garage to be buried further into the grade of the downhill lot. This has been allowed on other projects in the HR-1 zone, with similar circumstances (see below "Recent Precedents").

By granting the variance, the BOA is achieving the greater goal of preserving the historic character of the street, and our Historically Significant house by reducing the overall height of the addition, burying the bulk and mass of the addition further into the hillside, and creating a clear separation between the historic house and the new addition, as prescribed by the Design Guidelines for Historic District Sites.

Substantial justice is achieved by approving this variance as it will allow the house, and specifically the garage addition, to be accessible for pedestrian access, improving the safety of drivers and pedestrians on Ontario Avenue.

We have worked productively with the City Staff for some time and we want this project to be an example of what can be achieved when the intent of the LMC and the general plan is followed. This includes HDDR, Steep Slope CUP and this variance request – which we believe will improve the overall character and nature of the project rather than compromise the intentions of the regulations.



Precedent Decision

While we understand every situation is different, we do respectfully submit that a recent decision of the BOA could be instructive as you consider our application.

Relevant Precedent BOA Decision

Application #: PL-16-03138

Subject: 422 Ontario Avenue

Date: June 21, 2016

This involved the application for variances relating to front and side yard setbacks, as well as height limits, for the addition of a garage and living space, to an historic house, on the uphill side of Ontario Avenue, just down the street from our house.

The requested variances were all granted by the BOA on June 21, 2016.

We absolutely support the variance granted to our neighbors on Ontario and we feel that our situation is very similar. We would argue that our lot suffers from all of the hardships recognized in this case, plus some more. Notwithstanding this we are able to request more minor variances to address these hardships. A comparison of the two situations is illustrative:

	341 Ontario Ave	422 Ontario Ave (Variances Granted)
Historic Status of house	"Significant"	"Significant"
Current Parking Situation	Zero parking adjacent to lot	Limited Street parking in ROW
Current Pedestrian Access	None from Ontario Ave.	Yes
Front Yard Setback requirement	10 ft.	12 ft.
Front Yard Setback Requested	4 ft. 6 inches	0 ft.
Actual distance of garage from Ontario asphalt road after project completion	18 ft 4 inches to 19 ft 9 inches	12 ft.
Side Yard Setback Request	No variance required	3 ft.
Max Interior Height Request	39 ft. 6 inches	41 ft.
Max Zone Height Request	35 ft.	No variance Required
Trash and recycling services	Impossible/dangerous on narrow side of Ontario ROW	Available
Were it not for separate parking requirements, would the LMC specifically have allowed for the additional height now being requested?	Yes	NA

We respectfully submit that the facts pertaining to our application are very similar to that of 422 Ontario, and that we ought to be considered for similar variances to remedy our hardships.



**APPENDIX B
BOARD OF ADJUSTMENT
341 ONTARIO AVE – MINUTES – JUNE 20, 2017**

PARK CITY MUNICIPAL CORPORATION
BOARD OF ADJUSTMENT
MINUTES OF JUNE 20, 2017

BOARD MEMBERS IN ATTENDANCE: Ruth Gezelius – Chair; Hans Fuegi, Jennifer Franklin, David Robinson, Mary Wintzer

EX OFFICIO: Planning Director Bruce Erickson, Anya Grahn, Planner; Polly Samuels McLean, Louis Rodriguez

ROLL CALL

Chair Gezelius called the meeting to order at 5:01 p.m. and noted that all Board Members were present. She welcomed Stephanie Wilson as the new Alternate Member, and noted that Ms. Wilson was observing the meeting from the audience this evening because the Board had a full quorum present.

Stephanie Wilson introduced herself and provided a brief background. She has lived in Park City for 20 years. She has worked at the US Bank in Park City for 16 years. As the Market President she manages a team of commercial lenders and bankers in both Park City and the St. George area. She loves to ski and bike and hike with her dogs, and she likes to be outside.

ADOPTION OF MINUTES OF MAY 16, 2017.

Board Member Franklin referred to page 15, Conclusions of Law #6, and thought there was a double negative. “Not” was added as the third word, and another “not” as the final word. She asked if that negates the purpose of the sentence.

Chair Gezelius thought it was redundant to have the last four words of the Conclusion. Ms. Franklin believed the words were unnecessary. She thought it was sufficient to end with 15-10-9. Chair Gezelius suggested rewording Conclusion of Law #6 to say, “All the conditions have not been met to justify a variance, pursuant to Land Management Code 15-10-9. Ms. Franklin concurred.

Board Member Wintzer had recused herself, but she noticed from reading the Minutes that several of the neighbors’ name were confused and misspelled. She noted that every place that said Morgan Hull should be corrected to Morgan **Hole**. On page 10, third paragraph, “He indicated the lot line that extends to the rear and noted that the house owns that lot that goes all the way back”. Ms. Wintzer thought it was confusing. She was unsure whether Mr. Hole was referring to Mr. Dennis or Mr. Kaplan. After reading the entire paragraph, she suggested that perhaps he meant the Dennis house owns that lot.

Ms. Franklin asked if Mr. Hole was saying that the lot line extends to the rear all the way back to the open space. Ms. Wintzer replied that he was, but she believed he was referring to Mr. Dennis' house. Board Member Franklin did not think the Board could speculate on meaning.

Assistant City Attorney McLean stated that the Board should request verification with the recording.

Board Member Wintzer referred to page 6, second paragraph, referring to Mr. Axtell and added the word so to correctly read, "He noted that two years ago the City repaved and added curb and gutter on both sides of the roads, even though the neighbors tried to stop the City from doing **so**."

The fourth paragraph on page 6, "Herb Armstrong stated that his lot cross the road in that area over Mike Constable's lot". She thought should say Michael Kaplan, because the Constable lot is across the street. Ms. Wintzer clarified that it should either be David Constable or Michael Kaplan. Since Mr. Armstrong's property is on the same side as the property that was under discussion, she thought it should be Michael Kaplan's lot. However, rather than speculating, she asked that it be verified with the recording.

Board Member Wintzer referred to page 5, first paragraph, Mary Erdos was changed to correctly read **Matey Erdos**.

Director Erickson stated that the Board could APPROVE the Minutes this evening with the corrections, and the Staff would review the questionable sections.

MOTION: Board Member David Robinson moved to APPROVE the minutes of May 17, 2017 as amended this evening, and with any corrections pending verification with the recording. Board Member Hans Fuegi seconded the motion.

VOTE: The motion passed. Mary Wintzer abstained.

PUBLIC COMMUNICATIONS

There were no comments.

STAFF/BOARD MEMBERS COMMUNICATIONS AND DISCLOSURES

Director Erickson welcomed Stephanie Wilson, and he congratulated David Robinson and Jennifer Franklin on becoming full members of the Board.

Director Erickson stated that the Board of Adjustment could potentially need to meet on August 15, 2017. The Board of Adjustment would not have a meeting in July.

CONTINUATIONS – Public Hearing and Continue to date specified

569 Park Avenue – Appeal of Historic Preservation Board determination that the structures should be designated as “Significant” on the City’s Historic Sites Inventory (HSI). (Application PL-16-03120)

Chair Gezelius opened the public hearing. There were no comments. Chair Gezelius closed the public hearing.

MOTION: Board Member Robinson moved to CONTINUE 569 Park Avenue to August 15, 2017. Board Member Franklin seconded the motion.

VOTE: The motion passed unanimously.

REGULAR MEETING – Discussion, Public Hearing and Possible Action

341 Ontario Avenue – Applicant is requesting a variance to Section 15-2.2-3 (E) (Front Yard Setbacks), Section 15-2.2-5 (Building Height), and Section 15-2.2-5 (A) Building Height of the Park City Land Management Code (LMC) for the purpose of constructing a single-car garage addition and with living space and decks below to a “Significant” historic house. (Application PL-17-03538)

Planner Grahn stated that the applicants, Matthew and Marissa Day, and their architect, Phillips from Sparano Mooney Architects were present to answer questions.

Planner Grahn remarked that the first variance was the reduction to the front yard setback. The required front yard setback would be ten feet. The applicant was asking for 4’6”. The proposed addition would be approximately 18’4” to 19’4” from paved Ontario. She noted that Ontario Avenue is not paved in its right-of-way. It is pushed over slightly, which is not uncommon, but it is unique.

Planner Grahn stated that reducing the front yard setback results in more separation between the historic house at the lower level at the lot, and allowing for a one-car addition at the top along Ontario Avenue. The single car garage would be accessible from Ontario Avenue, and also provide a pedestrian entrance off of Ontario.

Planner Grahn remarked that the second variance was to the required 27’ above existing grade. This is a very steep lot and it slides down very quickly from Ontario to a low point where the historic house is located. Planner Grahn noted that the applicant was requesting a height exception to 35’ above grade. The 35’ height exception is consistent with what the Planning Commission can grant for two cars in a tandem configuration. However, in this case there will only be one legal parking spot on the property. A legal parking spot means that the

dimensions of that parking space are within the property boundaries. It does not encroach on to the right-of-way.

Planner Grahn stated that the third variance was to the interior height. Currently, the requirement is a height of 35' from the lowest finished floor plane to the top of the tallest wall plate. One issue with this lot is that the steepness of the grade and the location of the historic house prevents access to Ontario Avenue without exceeding that 35'. Therefore, the applicant was requesting a height exception to 39'6".

Planner Grahn reviewed the LMC criteria outlined in the Staff report. The first criteria is that the literal enforcement of the Land Management Code would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the LMC. She explained that the steepness of the site and where the historic house is located on the lower level of the lot makes it difficult to get access on to Ontario Avenue and add the addition with a one-car garage. The lot is peculiar because of how it is pushed back from paved Ontario Avenue. Typically, in Old Town they see the paved edge of road being right at the lot line. In this case, the lot line is over towards the west. Planner Grahn remarked that the 35' being requested is consistent with the Planning Commission height exception. She clarified that the applicant was asking for additional height, however, it is not beyond what is already allowed in the LMC for other provisions.

Planner Grahn stated that the second criteria is that there are special circumstances attached to this property that do not generally apply to other properties in the same zone. She believed the circumstances were the steepness of the lot and how the hillside falls away from Ontario Avenue, the location of the historic house on the lowest part of the lot, and that it is located right up against the canyon wall. Another factor is the location of the lot from paved Ontario.

Planner Grahn remarked that Criteria 3 states that granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone. She stated that Ontario Avenue is a narrow street and there are limited opportunities for off-street parking due to the narrowness and steepness of the road, as well as being a curvy road. Planner Grahn noted that the steepness of the lot and where the applicant was proposing to put the garage has dictated the placement of the addition on the lot, as well as creating a separation between the historic house and the new addition. If the applicant had moved the addition back to 10' from the property line, it would have created a wall effect and the house would be engulfed by the addition because they would have lost the separation that was proposed.

Planner Grahn stated that Criteria 4 states that the variance will not substantially affect the General Plan and will not be contrary to public interest. She noted that

the General Plan encourages finding a way to adaptively reuse the historic buildings while preserving and maintaining the Local and National Register Historic Districts. The historic house is deemed as Significant on the Historic Sites Inventory. Planner Grahn did not believe the house would meet the criteria in the LMC to be relocated and relocating the house would disturb its integrity. Trying to find the best place to add the addition and still maintain the integrity of the historic house and the streetscape was a challenge, but she thought the applicants had found a good solution.

Planner Grahn stated that the General Plan also encourages pedestrian oriented development and wants to minimize the appearance of automobiles and parking. In many ways the historic integrity of the house is going to be maintained. It is currently accessible from a path off of Shorty stairs. By orienting the garage along Ontario Avenue, it does not detract from the historic house and actually pushes the automobiles away from it.

Planner Grahn noted that the last criteria is that the spirit of the Land Management Code will be observed and substantial justice will be done. The Staff found this was a good project. The LMC requires a front yard setback of 10'. The applicant was proposing 14' to 18' feet off the paved edge of road, even though they were asking for a reduced front yard setback. The other issue is that the height exception from 35' to 39'6" on the interior is being dictated by the placement of the historic house on the lowest portion of the lot. The height exception from the required 27' on the exterior was being dictated primarily because of the steepness. Planner Grahn stated that the applicant worked within the LMC the best they could and they were before the Board of Adjustment requesting a variance.

The Staff recommended that the Board of Adjustment conduct a public hearing and approve the variance request.

Board Member Wintzer asked for clarification on the point Planner Grahn was making on Criteria 2 regarding the internal height. Planner Grahn explained that there were two unique criteria. One was that the height could only be 27' above existing grade, but because of how the hillside drops off that height is difficult to achieve while adding an addition and stepping it down.

Commissioner Wintzer realized that Planner Grahn was talking about the exterior height. She originally thought it was the interior height, which led to her question for clarification. Planner Grahn pointed out that the applicant was requesting a height exception for both the exterior and interior height. For the exterior, the request to go up to 35' is consistent with what the Planning Commission can grant as a height exception for a tandem parked two-car garage or a two-car parking situation. Planner Grahn clarified that the requested exception did not exceed what the Code allows, except they were not providing tandem parking on the lot.

Board Member Franklin referred to the table on page 21 of the Staff report and asked if that outlined the LMC requirement versus the proposed. Planner Grahn answered yes. She asked if that was the best visual for the Board to look at those two pieces. Planner Grahn thought the table should help them understand the variances, the LMC requirements, and what the applicant was actually proposing.

Chair Gezelius asked for the degree of steepness on the lot. Planner Grahn recognized that she had not included the grade in the Staff report. She would try to measure it and provide an answer.

Board Member Robinson assumed that the 35' exception was to encourage off-street tandem parking. In this case there was not room or a design for the tandem configuration, and he asked if the Staff found that to be an issue. Planner Grahn stated that historic houses are not required to provide parking per the LMC. By providing one on-site parking spaces helps to alleviate a parking situation on Ontario. She noted that Mr. Robinson was correct in assuming that the tandem parking configuration is to help alleviate off-street parking demands. She believed another purpose was to try and maintain the integrity of the District, because two cars parked in a tandem configuration is more sympathetic to the Historic District than two cars parked side by side taking up more space.

Director Erickson stated that after visiting the site, he thought the steepness of the slope ranges between 30% and approaching 100%, which is a 45-degree slope. It is a steep lot, and more constrained by the desire to protect the historic home. It is a two-part issue for the applicant; the steepness of the slope and the need to protect this historic home in its current location.

Planner Grahn stated that in looking at the average lot and roughing it out, it looked like the steepness is 66-67% steepness. Chair Gezelius pointed out that the lot was significantly over the percentage of a typical steep slope.

Board Member Wintzer referred to page 45 of the Staff report showing a small car in the drawing. She asked for the distance from the garage door to the street. She questioned whether there was even room for a car in the driveway. Planner Grahn stated that based on the measurements of the scaled drawings, the edge of the wall to the paved street was approximately 14' up to 18' on one side. The car shown on page 45 would be illegally parked because it was not completely contained within the lot lines. The other car would be in the garage.

Board Member Wintzer commented on the internal height. She understood that the reason the Planning Commission changed to that height was to prevent cross canyon views that look like four-stories. Planner Grahn agreed. She thought the mass of this project would have a four-story look from across the canyon. Planner Grahn replied that she was correct. She reviewed the side elevation

which illustrated the massing and the stories. Chair Gezelius stated that from the vantage points across the hill this historic home is virtually invisible. She remarked that in talking about the sightline, unless someone is walking up Shorty stairs this would appear to be three stories; and it is not dissimilar to the adjoining properties. Ms. Wintzer believed that only a small segment of the population would see this house.

Director Erickson noted that the applicant did not have a presentation for the Board, but they were available to answer questions.

Board Member Wintzer asked Planner Grahn about the snow plow plan. Planner Grahn pulled up the site plan. She noted that bridge was only covering a portion of it. She indicated a concrete pad and assumed it would be plowed into the side yards.

Matthew Day noted that a bridge goes from the road to the house because the house is 20' away from the road. There is a cliff that drops off. He indicated the driveway where the car comes in and a small area along the front with the big drop in between. All of the snow would be pushed off the edge of that cliff and into their lot. Board Member Wintzer asked for the width that would be left on the lot to hold the snow. Mr. Day replied that there is no side variance so it would be a 5' side setback. It is basically half the lot to the right-hand side. He pointed out that it was a double-lot. Therefore, it would be the size of a full Old Town lot that would catch all the snow. Mr. Day noted that the roof has snow catchers along it.

Board Member Fuegi understood the hardship of not having a garage access to the property. He was trying to understand why they were looking at this 483 square foot house and building a new house that is double the size of what exists. He asked if the applicant had looked at a solution to only solve the access problem. Mr. Fuegi understood that the purpose of these variances was to allow better access to the existing structure, but in the same process they were looking at a new structure twice the size. He was unsure whether he understood the argument of scale and that it would look worse if they just built the garage. He requested that the applicant demonstrate that a little better.

Mr. Day stated that they have been working with the Staff on this project for almost three years. He commented on the number of scenarios they went through before achieving the one presented. Mr. Day thought the issue was that the lowest floor plane of the historic house is literally 35 feet below. If the maximum height is 35', it would be impossible to build a garage without an exception. He stated that there was no way to have a separate garage because other rules deemed it to be a separate structure and it would not meet the requirements. The only way to make the garage work was to connect the house. Mr. Day also pointed out their desire to have a house larger than 400 square feet. He referred to LMC 15-2.2-5D, which has a section that addresses garages on a downhill lot. This issue has come up before and the LMC tries to resolve

that issue. Mr. Day remarked that if it were not for the parking line, they would not have to request a variance because it satisfies all the other rules. The extra car sits over the parking line, which meant they could not use that exception. He clarified that they were not asking for anything unusual. They were only asking that the exceptions in the LMC be applied as adjustments.

Mr. Day commented on the hardships with parking. He noted that the only access to the lot is via Shorty stairs to the lane and into their property. As far as he knew, the lane is owned by the houses on Marsac and they could not find any appropriate easements that were granted in the past. Mr. Day clarified that the only way to access their house is to walk across someone else's property. No one maintains that path because all the other houses along that street have parking. There is no pedestrian access from the street. If they park up there they have to walk down Ontario, down the stairs and come back around. Mr. Day remarked that the street is so narrow that it is dangerous to park there. The only other option for parking is in the parking lots at the bottom. However, even though their property is in Old Town for planning purposes, it is not in Old Town for parking purposes. Therefore, they are not able to get a resident parking permit at the China Bridge garage. Mr. Day remarked that because it is so narrow at the top, there is no room to put their trash can and they have to haul off their own trash. Mr. Day noted that his wife is pregnant. For all the reasons stated, they moved out of their house and were currently living in Summit Park because it was easier for his wife.

Board Member Fuegi noted that based on the Staff report he understood that there was actually a legal easement in place to access their property. Planner Grahn replied that there is a legal easement but it is only on the 310 Marsac plat amendment. By looking at some of the plat maps, it looked like some of their other neighbors to the west along Marsac have not been through the plat amendment process, which is why the pathway has not been memorialized. Board Member Fuegi asked if the City was considering doing away with the easement. Planner Grahn stated that since it was memorialized by the 310 Marsac plat, it would probably stay in place. As those other properties come in they will realize that the path is on their property and they will probably look at easements at that point in order to be consistent.

Mr. Day stated that in terms of general size and scale, all the other houses on the street have used the entire lot. He recognized that those houses were built before the LMC was changed, and some of those houses sparked the change. His lot is a double lot, which means they have more area to work with, but he believed their design leaves a significant amount of green space on the lot.

Board Member Wintzer stated that coming down Ontario one or two houses have stairways down to their houses. However, off the trail just beyond the Day's property, are those are small houses similar to the house owned by the Day's. She did not believe those houses had garages either and were in a similar

situation. Mr. Day replied that there are a couple of houses that do not have garages, but they have stairs coming from Ontario for pedestrian access. In addition, there is parking along the other side of that road. Mr. Day pointed out that even if he put in stairs they would still not have street parking. Because of the new developments up above there is much more demand for parking.

Chair Gezelius opened the public hearing.

Ruth Meintsma, 305 Woodside, referred to the diagrams on pages 49 and 50 of the Staff report where it shows the height from grade. She noted that it shows the structure is below 27', but the applicant was asking for a variance that surpasses the 27'. She noted that the red line was existing grade and the green line is 27'.

Phillip Dimick, the project architect, stated that the green line for all elevations was drawn at the south edge of the property line. If they cut a section and drew a grade line for the north end of the property, it would be substantially lower. Planner Grahn stated that whenever it is difficult to tell how the grade is changing, the Staff looks at a roof over topo to determine the grade.

Ms. Meintsma asked if there was a visual that actually shows where it exceeds the 27' from grade by 8'.

Planner Grahn was unsure if it was in the elevation drawings, but she thought it could be seen in the slide she presented. She pointed out that the ridge is the tallest portion of the structure. The elevation height of the ridge was subtracted against the topo lines, which is where they start to see the 32, 30.8, 28.8 and so forth.

Ms. Meintsma asked if it was possible to show where that 8' pops over the 27'.

Planner Grahn thought they would need a section drawing to show that and she did not have one available.

Ms. Meintsma stated that she had looked at the different variances and the criteria, and she thought the front yard setback makes a lot of sense because it places the addition away from the historic structure and into the hillside. The lot is so far from the street that it seems to work perfectly. However, on Criteria 1 there are three hardships; the parking issue, the trash issue, and pedestrian access. She had personally done some creative designing, and it she thought all three of those hardships could be mitigated or solved with mass reduction. She presented illustrations to support her comment. There were compromises, but in the end it makes a less massive structure on the side of the hillside. She is across canyon when she looks at the images, the height is quite excessive. Ms. Meintsma stated that the 8' variance from existing grade plus the interior height of 4-1/2 feet makes it very large. She showed the west elevation and pointed to

the structure faded in the background. The first alternative she designed was a parking pad as opposed to a garage. Ms. Meintsma remarked that many historic houses in Old Town have off street parking that do not have garages because a garage creates too much impact on the structure. Those houses accomplished a parking pad to give them the parking to mitigate the parking issues. She believed a parking pad on this property would solve the parking problems exactly as it would a garage, and it would reduce the upper floor. Ms. Meintsma stated that the floors are 10' with 9' ceilings and she had reduced them to a standard 8' ceiling. That brings everything down including the entry, and much of the mass is eliminated. She believed that a parking pad would reduce the mass and resolve the hardships.

Ms. Meintsma looked at another alternative to keep the garage. The Code says that a tandem garage could only be 20' deep. The minimum interior space for a garage is 11'x 20'. She thought they were looking for a minimum. They need to resolve the problems but minimize the mass wherever possible. In her design she had moved the wall over a little towards the entry and reduced the width of the garage. She stated that the width is a large mass that adds to the floor that exceeds the height. Ms. Meintsma believed the massing should be eliminated wherever possible while still solving all of the hardship problems.

Ms. Meintsma commented on entry. When there is a garage on a downhill lot and there is accommodation for breaking the 27' height level to make it work, the Code says, "To accommodate a single car wide garage". She noted that a single car wide is 11'. She noted that the tandem variance or allowance for breaking the 27' height to 35' height, the Code says, "It also allows for circulation such as stairs, elevator or to accommodate a reasonably sized front area." Ms. Meintsma pointed out that the applicant was proposing a 9' x 13' entry, which is very large. She thought the entry could be reduced significantly and still work. On the top story that needs to break in such an excessive amount, which is 8' and 4-1/2' on the interior, would break the envelope that is meant to address height and mass. She reiterated that the mass should be reduced wherever possible. A garage to accommodate one car is all that should be there. Ms. Meintsma pointed out that the front of the structure could step back into the entry. She reiterated that the top story, even with the garage, could be redesigned to greatly reduce the mass on that top story. A parking pad would solve the parking and trash issues, as well as pedestrian access.

Ms. Meintsma noted that it is a narrow road and a steep lot. Creative designing solves the problems of Criteria 2, special circumstances. The parking pad or the reduction of the mass on the top story addresses Criteria 3, essential enjoyment. She referred to Criteria 4, whether it affects the General Plan. Where it talks about height and mass, she stated that the current proposal does not accommodate or speak the language of the General Plan as much as the reduction of the mass. Ms. Meintsma read from the General Plan, "Seeks to preserve the integrity. Mass, scale, compatibility". She did not believe the

proposed plan does that as effectively as a creative re-design to reduce that mass. The reduction of the mass does a better job of falling in line with what the General Plan wants to accomplish.

Ms. Meintsma referred to Criteria 5, the Spirit of the LMC. She first started getting involved with Planning and Code in 2008 and she recalled that in 2008 they already had footprint accomplished and the 27' from grade. The intent was to prevent massing overbuilding. As it progressed, she was involved after 2009 when the footprint was eliminated and eliminated the 27' from grade because it still did not accomplish what they wanted. The language used at the Planning Commissioner was "houses are crawling up the hillside", and they had to do something to get that under control. The first thing was to limit it to three stories. However, projects came in where they were stepped or split levels and a three-story looked like a 3-1/2 levels. Ms. Meintsma stated that the Code was changed to 35' to prevent homes from crawling up the side of the hill. She believed that with this proposal the house will be crawling up the side of the hill, particularly in relationship to the small historic home.

Ms. Meintsma understood that everything needed to be resolved and she believed it could be with creative designing.

Chair Gezelius closed the public hearing.

Chair Gezelius stated that a 483 square feet home might have worked 150 years ago, but it is evident that people find it difficult to live in homes that small; otherwise they would not have the 100+ requests to remodel and revise these historic homes in a way that allows people to preserve them and still live there. In this particular situation it might seem like a lot of trouble to go through to save a home that not everyone can see, but it is still part of the fabric of the community and she believes it is worth the effort. Ms. Gezelius has walked on this easement area and it is slippery and dangerous. From the standpoint of health and safety, it is not the best situation to access this home on a snow covered path.

Ms. Gezelius commented on the issue of how to connect the house to a parking place or a garage. The danger of making garages too small is that if the house is too small the garage is used is used for everything but a car. That is currently an issue throughout Old Town. She remarked that reducing the size of the garage to make it dysfunctional defeats the purpose of having parking. It also decreases the livability of a home not to have a garage by today's standards, but one that does not conflict with the historic home. She pointed out that this garage is away from the historic home and it does not compete with the architecture or the design or integrity of the historic home. Ms. Gezelius stated that the fact that this was a 50' lot instead of a 25' lot creates the opportunity for snow storage and open space. She respected all the work and efforts of the applicant, the project

architect and the Staff to come up with a solution to save one more historic home on a very steep and hardship encumbered special exception lot.

Board Member Wintzer stated that she was all for working to save historic homes, but she recalled years ago when Dina Blaes, the former historic consultant, said that the greatest danger to Park City losing its history was the mass and scale issue. Ms. Wintzer felt that in this case, the effort to save that home was being done to the detriment of the mass and scale issue. She appreciated the history that Ms. Meintsma gave of how this evolved through the Planning Commission. She had forgotten the steps that were taken, but she knows that the Commissioners felt strongly about the 35' interior height to help prevent the four-story effect. Ms. Wintzer stated that if mass and scale is no longer an issue, then they need to change the Code if they do not intend to observe and uphold what the Planning Commission did to get the Code provision in place.

Chair Gezelius stated that she has heard in Planning Commission discussions that the rules are always changing. There are always different ideas and decisions cannot be made on rules that do not exist. Chair Gezelius agreed that they have to deal with the current Code. She pointed out that changing the Code was outside of the purview of the BOA and was not an issue for discussion.

Board Member Wintzer stated that when she read the Staff report she did not have the ability to analyze it as well as Ms. Meintsma had presented, but she could tell by the dimensions that some of the rooms were quite luxurious in size. Chair Gezelius reminded Ms. Wintzer that this was a 50' lot, which allows a larger house. Ms. Wintzer asked if this lot had the larger side yards. Planner Grahn answered yes. Chair Gezelius clarified that it was a 5' side yard setback and the applicant can get a larger home on a 50' lot. Ms. Wintzer stated that she was intrigued by the idea that it would be possible to reduce the mass and scale and not require these variances.

Board Member Fuegi understood the hardships and he would like to see a solution to allow decent access. He also understood that living in a 480 square foot home is difficult. He was concerned about the mass. Mr. Fuegi recognized that other surrounding homes in that area have that same mass, but he was unsure whether they needed to add another house with that massing. He thought the house looked extremely massive, but he was unsure whether that was enough reason to counter the Staff recommendation to approve the variances.

Board Member Robinson referred to page 54 of the Staff report and asked if the rendering represented what the mass would be. Mr. Day answered yes. Mr. Robinson had a hard time seeing the mass of the proposed property even closely approaching the other mass on the hillside. He thought it looked quite a bit smaller than the two homes to the south. Mr. Robinson personally did not see a

conflict with the massing in relation to the hillside, as well as the fact of being able to maintain the historic nature of the house.

Board Member Wintzer understood what Mr. Robinson was saying; however, the larger homes he referenced were the specific reason why the Planning Commission made the changes to the LMC. Chair Gezelius pointed out that it was not in the evidence that they needed to consider. She noted that the picture was inaccurate because now there is a significantly larger home on the ridgeline.

Board Member Franklin read Criteria 3, Essential to the enjoyment of substantial property right possessed by other properties in the same zone. She noted that in the cross canyon view they were looking at some larger properties in the same zone, but also nestled along the walkway are a number of smaller Mature Mining Era homes that also have pedestrian access that do not have garages and other things that are challenges living in Old Town. Ms. Franklin was split on the idea of properties in the same zone. She keeps circling back to the LMC and the purpose of the HR-1 District. Ms. Franklin stated that the first three criteria talk about the essential character of historical residences and the preservation of these historic structures. She struggled with Criteria 3, 4 and 5 as they apply to all three variances. Ms. Franklin recognized that this was a complicated and complex site and district.

Chair Gezelius referred to the Condition of Approval and noted that Condition #3 states that, "The garage interior shall be used for parking. Limited storage is permitted to the extent that does not preclude parking a vehicle". She felt that sentence was odd since it was something that is not enforced. People are not required to park in their garages, and she could not imagine that the City would start enforcing that anytime soon. Chair Gezelius was opposed to a condition that was not enforceable. She further read, "Trash and recycling bins may be stored in the garage." As she mentioned previously, the dimensions of many of the garages and the size of the trash and recycling bins are such that you cannot get a car and these items in the garage at the same time. Chair Gezelius reiterated that she did not see the City being in the enforcement business in that regard. She did not believe this property would be treated fairly if they added those two sentences since it does not apply to other properties in town.

Planner Grahn was not opposed to removing that condition of approval. Chair Gezelius thought the first sentence of the condition that the garage interior shall be used for parking was an admirable goal, but the remainder of that condition was unenforceable.

Chair Gezelius asked if the Board was ready to make a motion to either continue this item for revisions, or vote to approve or deny the requested variances.

Board Member Fuegi thought an alternative option was to Continue and give the applicant the opportunity to address the concerns regarding the mass and scale.

He personally did not want to deny the variance, but he was concerned about the size. Mr. Fuegi agreed that there was hardship with the lot and the access and parking needed to be addressed. His only issue was reducing the mass if possible.

Chair Gezelius stated that a Continuance was a legitimate motion, assuming that the applicants would consider relooking at the mass and scale to see if they could design a better project that was more acceptable. Board Member Fuegi clarified that this was a good project and he was not looking to make it better. He was not opposed to adding additional living space, but he was unsure whether it needed to be as massive as what was proposed.

Board Member Wintzer favored a continuance. She has lived in Old Town and she passes this house on a daily basis and knows the area. Ms. Wintzer stated that in her opinion, a steep lot in Old Town is not a hardship. As she studied the plans in the Staff report, it occurred to her that a variance should never be strictly to achieve a desired ceiling height. Many homes, including her own, have eight foot ceilings. Ms. Wintzer remarked that the purpose of a variance is not to get the very best house. Those types of houses need to be on a flat lot. Ms. Wintzer echoed Board Member Fuegi's idea if the applicant was willing to relook at the design.

Board Member Wintzer asked Chair Gezelius if her comments about removing part of Condition #3 also included removing Condition #2 stating that the garage could not be used for additional living space. Chair Gezelius clarified that she was only referring to the last two sentences of Condition #3 and the language about limiting the storage space in the garage. She believed that Condition #2 was a standard condition of approval.

Assistant City Attorney McLean understood from the discussion that the Board was having issues with Criteria 5, The spirit of the LMC is observed and substantial justice done. In addition, there were concerns with Criteria 4 in terms of the massing. She clarified that the Board was asking the applicant to come back with something that is more aligned with the Land Management Code and the General Plan.

Mr. Day explained that he was requesting the variances in order to build a livable space, not necessarily to achieve the best house possible. In terms of ceiling heights, he noted that on Ontario the grade height above grade is only 8'. He agreed that some of the floors below are 9' ceilings, but that was necessitated by the location of the road. He clarified that it was designed to the absolute minimum at the grade level.

Mr. Day referred to the suggestion during public comment to drop the house further down. He explained that it could not be dropped because of the steepness of the driveway. They were already at the maximum steepness of the

driveway, and the house was already as low as it could go given how far away it is from the road. Mr. Day remarked that they intentionally put the driveway at the lower end. A previous plan put it on the other side, but that plan was rejected by Staff because it was 3' higher.

Mr. Day responded to the helipad parking idea. They had already discussed it with Staff and the Staff did not believe it was consistent with the HDDR, and it did not fit with the streetscape of the road. He commented on a house that had used the helipad and how it made the house look more massive. Mr. Day understood the concerns regarding mass and scale; which is why they tried to make this house as low as physically possible. He pointed to other houses and commented on the scale of the houses moving up the hill. He pointed out a house on the lower side that is the same height as theirs. Mr. Day remarked that if they went lower the hillside would go up, drop, and then go up again, which would not fit with the streetscape. He explained that they tried to fit the line of the hill going exactly with the rooflines, keeping the roofline as low as possible.

Board Member Franklin noted that Mr. Day talked about the driveway on different sides. She pointed out that Rossi Hill makes the curve directly across from the Day's lot, and she asked what that looked like when they were looking at the driveway. Board Member Franklin stated that when Mr. Day talked about the helipad on another home, she asked if it was the pale gray home that was three homes to the downhill side. Mr. Day answered yes.

Mr. Day responded to the question regarding the curve. He explained that because the road curves, putting the house lower avoids having to pull out into the intersection. Mr. Day noted that the Board of Adjustment heard an application in June 2016 on exactly the same situation at 422 Ontario. They had a Significant structure on the upside hill and was granted the same variances he has requested, as well as a side setback. Mr. Day believed his lot has more hardships than the lot at 422 Ontario. In addition, the LMC addresses garages on a downhill lot. The lot at 422 Ontario was an uphill lot, which was not addressed in the LMC at the time. Mr. Day compared the variance requests for both his lot and 422 Ontario to point out that he was requesting less than what was granted for 422 Ontario. He stated that the actual distance after the setback reduction for his property would be 18' from the house. The actual distance for from the house for 422 Ontario was 12'. In terms of the maximum interior height, he was requesting 39' and 422 Ontario was granted 41'. Mr. Day remarked that 422 Ontario had parking in front of their house but he does not have parking.

Board Member Wintzer clarified that when the BOA makes a decision it does not set a precedent for future applications. She would have to re-read the Staff report for 422 Ontario to recall why the BOA voted to approve. Ms. Wintzer stated that whenever the Board is concerned about setting a precedent, they are told that each site is looked at on an individual basis.

Assistant City Attorney McLean agreed. She explained that the BOA looks at the variance criteria in terms of whether the specific site is unique. However, if two sites have the same exact conditions or reasons, it would be unfair to apply the criteria differently to one site versus another. Ms. McLean remarked that they should be looking at the specifics of each site to make their determination.

Board Member Wintzer noted that the historic houses to the south may submit the same variance requests. She felt like they were at a juncture and if they allow mass and scale to save this historic house, they would be casting the die to do the same for those other houses. She was concerned that because they are similar downhill lots and historic houses, the BOA could fall into a precedent situation. Assistant City Attorney McLean stated that the Board needs to look at the criteria. It goes to the criteria of special circumstances attached to the property that do not generally apply to other properties in the same zone.

Board Member Franklin noted that Ms. Wintzer had used the language, "to save this home". She was curious about how they were saving this home. Ms. Wintzer agreed that Ms. Franklin was correct because it is a historic structure and the owner could not tear it down.

Chair Gezelius pointed out that they could have demolition by neglect and the house could become uninhabitable or fall down. The purpose is to allow these homes to be upgraded and remodeled and maintained as a dwelling. Ms. Wintzer thought the City no longer allowed demolition by neglect.

Director Erickson explained that demolition by neglect is a prohibited act. There is a way to have a Certificate of Appropriateness for Demolition, which would allow the house to come down. He believed they were characterizing the saving of the house by allowing additional development on the site.

Board Member Robinson understood from the applicant that the revisions proposed by Ruth Meintsma during public comment to reduce the ceiling height and floors does not work in terms of the garage. If they lower the house the driveway is too steep. Mr. Day replied that he was correct. Mr. Robinson thought it might be a good option to ask the applicant to look at other revisions.

Director Erickson clarified that Board Member Robinson was asking the applicant to add evidence to the unique character of this lot, and that the application of the rules would not allow for the use of the property in accordance with the criteria. He asked if Mr. Robinson wanted the applicant to do additional study to prove that X, Y and X would take place.

Board Member Fuegi pointed out that the massing does not just go one way. Other than height, it could also be width. He asked if reducing the width would eliminate the massing issues. He agreed that it was not feasible to put the garage any lower than proposed. Director Erickson stated that the question is

whether applying the variance grants additional mass to the building. He thought they were asking the applicant to demonstrate that by granting the variance, they were not granting additional height, bulk and mass because it would be contrary to the spirit of the LMC.

Mr. Dimick noted that they were not asking for a variance on footprint or other things they complied with in the Code, and the width is based on footprint allowed. Regarding reducing the top width for a landing pad, he thought it would present a number of technical architectural issues in terms of weatherproofing and insulation that would impact the floors below. Mr. Dimick stated that they tried to do a conditional use permit with a creative design solution that met all the needs; however, that design did not meet the Historic Design Guidelines. He pointed out that the more creative they get the more it tends to push towards a house that is not contextual in terms of the Historic District.

Mr. Day stated that it is a simple design from the front. They tried to avoid the modern creative design elements and keep it simple and traditional.

Director Erickson stated that the Staff would support a continuance to give the applicant the opportunity to consider the comments of the Board. Planner Grahn suggested that they continue to a date uncertain and when the applicant is ready to come back to the Board of Adjustment, the Staff would schedule it on an agenda. She preferred to give the applicant whatever time they needed to work on the issues rather than rush them with a date certain.

Mr. Day was unsure what more the Board wanted them to do. They have gone through nearly 50 iterations and have worked with the City Staff for three years to figure out how to make the house fit on the lot. He did not believe there were other design options left. Mr. Day was willing to go back and explain what they did and why they did it. He believed the only way to reduce the mass was to go to a flat vegetated roof, but he did not believe that would meet Design Review criteria.

Director Erickson referred to page 48 of the Staff report and noted that the roof orientation was opposite to the street, which lengthens the width of the building. It is Code compliant but it results in being visually more massive on the street. Director Erickson commented on the cross canyon view and stated that while the house is less mass than the neighbors it is horizontal. Instead of being gable ends facing across the valley the shed roof is seen across the valley. Director Erickson remarked that from that perspective it is not as broken up as the gable end across valley. He thought the applicant needed to look at the garage elevation and not worry as much about the other bulk and mass. Director Erickson remarked that the conditions of coming off the road at maximum grade and trying to reach the grade at the bottom of the lot requires a larger floor to floor elevation.

Chair Gezelius stated there is always a fine line for the Board between reviewing the completed application before them and trying to redesign the project, which is not under their purview. She remarked that the applicant is entitled to an answer when they bring their application before the Board.

Board Member Fuegi clarified that he was trying to avoid denying the application at this point and give the applicant another opportunity to address their concerns.

Assistant City Attorney McLean stated that the applicant has a due process right to have a decision; however, he might also want to consider the direction the decision was going based on their comments. Ms. McLean clarified that the applicant was entitled to a vote if he wanted one this evening.

Board Member Wintzer asked if some lots have to be deemed unbuildable in town, or whether every lot that is available can be built on with variances and other concessions. Assistant City Attorney replied that it was a difficult question. For example, certain lots do not have access. She stated that with the application before them this evening, a home already exists on the lot. Ms. Wintzer asked from a legal standpoint whether the City is required to torque the Code so that every lot is buildable; or whether some lots within the City are simply unbuildable.

Chair Gezelius requested that the Board members focus the discussion on the application before them. She suggested that the Board could schedule a work session to discuss Ms. Wintzer's question at another meeting if the Board was in agreement.

Mr. Day was comfortable with a continuance if the Board preferred.

MOTION: Board Member Fuegi moved to CONTINUE 341 Ontario Avenue to a date uncertain for further review and request that the applicant bring forth more detailed explanation and justification for the variance application; and if possible, address the issues of scale and mass within the five criteria and the Land Management Code as it addresses the issue of the driveway access and steepness. When the applicant is ready to come back to the Board of Adjustment he will contact Staff to get it scheduled on the agenda.

Board Member Wintzer stated that it would help her significantly if the applicant could provide a more thorough presentation to support why they believe the design proposed is the only option. It would help in her decision-making.

Board Member Wintzer seconded the motion.

VOTE: The motion passed unanimously.

Board of Adjustment Meeting
June 20, 2107

Chair Gezelius adjourned the meeting at 7:12 p.m.

Approved by _____
Ruth Gezelius, Chair
Board of Adjustment

APPROVED

APPENDIX C
BOARD OF ADJUSTMENT
422 ONTARIO AVE – VARIANCE REQUEST & MATERIALS – JUNE 21, 2016



AGENDA

MEETING CALLED TO ORDER - 5:00 PM

ROLL CALL

ADOPTION OF MINUTES OF May 24, 2016

PUBLIC COMMUNICATIONS – *Items not scheduled on the regular agenda*

STAFF AND BOARD COMMUNICATIONS/DISCLOSURES

REGULAR AGENDA – *Discussion, possible public hearing, and possible action as outlined below*

2389 Doc Holiday Drive – Applicant is requesting a variance to Land Management Code Section 15-2.11-3 (I) (2) to construct an addition to connect a single-family dwelling to a detached garage. If connected, the entire structure would no longer meet required side and rear yard setbacks of ten feet (10').

PL-16-03106 13
Planner
Scarff

Quasi-Judicial hearing

422 Ontario Avenue – Applicant is requesting a variance to Section 15-2.2-3 (E) (Front Yard Setbacks), Section 15-2.2-3(H) (Side Yard Setbacks), and Section 15-2.2-5 (A) Building Height of the Park City Land Management Code (LMC) for the purpose of constructing a basement garage addition and new above grade addition to a “Significant” historic house.

PL-16-03138 41
Planner Grahn

Quasi-Judicial hearing

ADJOURN



Board of Adjustment Staff Report

Application #: PL-16-03138
Subject: 422 Ontario Avenue
Author: Anya Grahn, Historic Preservation Planner
Date: June 21, 2016
Type of Item: Variance

Summary Recommendations

Staff recommends that the Board of Adjustment review, conduct a public hearing, and grant the applicants' request for a three (3) variances to: (1) Section 15-2.2-3 (E) (Front Yard Setbacks), (2) Section 15-2.2-3(H) (Side Yard Setbacks), and (3) Section 15-2.2-5 (A) Building Height of the Park City Land Management Code (LMC) as described in this report for the purpose of constructing a new single-car garage with living space and decks above.

Description

Applicant: Hamilton and Barbara Easter, represented by Architect William Mammen
Location: 422 Ontario Avenue
Zoning: Historic Residential (HR-1) District
Adjacent Land Uses: Residential single family homes
Reason for Review: Variances require Board of Adjustment approval

Proposal

The applicants propose to construct a new single-car garage that will replace an existing 14 foot tall retaining wall along Ontario Avenue; the front elevation, or façade, of the garage will serve as a retaining wall for the hillside above. The purpose of this variance is to reduce the front yard setback requirement for the proposed addition so that the garage may replace the existing wall. Further, the applicant also seeks a variance to the required maximum interior height of 35 feet measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists and rafters.

Variances requested:

- A variance to LMC Section 15-2.2-3 (E) to the required twelve foot (12') front yard setback exception to allow for a two-car tandem garage to be constructed behind an existing retaining wall.
- A variance to LMC Section 15-2.2-3(H) to the required five foot (5') side yard setback along the north property line to allow for construction of the garage.
- A variance to LMC Section 15-2.2-5 (A) to the required maximum height of 35 feet measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters.

The applicants believe that unique conditions exist with the property to warrant granting

of a variance to the required front yard setback and required maximum interior height.

Purpose

The purpose of the Historic Residential (HR-1) District is to:

- (A) Preserve present land Uses and character of the Historic residential Areas of Park City,
- (B) Encourage the preservation of Historic Structures,
- (C) Encourage construction of Historically Compatible Structures that contribute to the character and scale of the Historic District and maintain existing residential neighborhoods,
- (D) Encourage single family Development on combinations of 25' x 75' Historic Lots,
- (E) Define Development parameters that are consistent with the General Plan policies for the Historic core, and
- (F) Establish Development review criteria for new Development on Steep Slopes which mitigate impacts to mass and scale and the environment.

Background

On April 11, 2016, the Planning Department received an application for a variance request to the minimum front and side yard setbacks as well as the maximum interior height of the building. The application was deemed complete on April 19, 2016.

The property is located at 422 Ontario Avenue. At this location, Ontario Avenue is a narrow and steeply sloped street with limited parking. The purpose of the variance is to allow reduced front and side yard setbacks as well as an increase to the maximum interior height for construction of a proposed addition to the existing historic house, including a new two-car tandem garage at the basement-level with living space and decks above it.

There is an existing boulder and concrete retaining wall that runs parallel to Ontario Avenue. The applicants believe this wall was constructed by the City as part of the Ontario Avenue street improvements that occurred in the late-1990s; however, staff has since found recorded documents (Exhibit F) showing that the wall was constructed c. 2008 when the previous owner, Ella Sorensen entered into an Agreement and Notice of Interest with her neighbors to the north, Elevator Properties, LLC. Elevator Properties constructed the wall at 422 Ontario, arranging for all the necessary approvals and permits; the wall was not constructed by the City. The poured concrete and boulder retaining wall replaced an existing railroad tie retaining wall that was failing. The Planning Department approved the new wall to have a 0 foot front yard setback as it replaced the existing railroad tie retaining wall and the work was considered minor routine maintenance and construction.

The existing 837.25 square foot historic house is designated as "Significant" on the City's Historic Sites Inventory (HSI). The historic house currently does not have a driveway or garage from Ontario Avenue. The owner currently parks in an asphalt parking pad parallel to Ontario Avenue and accesses the house via stairs and paths (Exhibit C). This space is not approved private parking for 422 Ontario Avenue, but is in the City right-of-way and is public parking. The owner proposes to construct a new

garage in order to provide a driveway and off-street parking for two (2) vehicles in tandem configuration; the façade of the new garage will also serve as a retaining wall for the site. The proposed garage will eliminate the public parking available on this site in order to create a driveway into the new garage.

The LMC requires a 12 foot front yard setback to the property line and the applicant is requesting a 0 foot setback to accommodate the garage, allowing the front wall of the garage to maintain the location of the existing concrete and boulder retaining wall. The retaining wall is located 13 to 16 feet from the edge of paved Ontario Avenue, and 5 to 0 feet from the right-of-way. The east edge of Ontario Avenue is constructed approximately 11 feet west of the east edge of paved Ontario Avenue.

Any new construction above the garage will comply with the required 12 foot front yard setback. Similarly, the applicant is also requesting a variance to the required side yard setback, reducing it from 5 feet to 3 feet in order to accommodate the new garage; any new construction above the garage will comply with the required 5 foot side yard setback.

The applicant is proposing to construct two (2) additional levels above the proposed garage. These levels will comply with the required front and side yard setbacks. From the garage, these levels will be accessible from the interior through an elevator and staircase. The second level of the new addition will be above ground and at the same floor level as the one-story historic house. Similarly, the LMC requires a maximum height of 35 feet measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters. The applicant is also requesting a variance to this LMC provision as the current proposal has an interior height of 41 feet from the lowest finished floor plane to the point of the highest wall top plate of the proposed new addition.

The existing house is setback from the front property line by 9 to 10 feet and setback from the edge of asphalt on Ontario by 21 to 22 feet. The house is located between 13.9 and 19.9 feet above the elevation of the street, which steadily increases from north to south. The existing retaining wall along Ontario Avenue varies in height from about 14 feet to about 5 feet from north to south as the grade on Ontario rises uphill; the wall is setback from the edge of asphalt on Ontario Avenue between 13 and 16 feet, increasing from south to north.

On June 16, 2015, the Planning Department received a Historic District Design Review Pre-Application (Pre-app) for the proposed renovation of the historic house and construction of a new addition at 422 Ontario Avenue; no Historic District Design Review (HDDR) application has yet been submitted for the proposed work. Any development of the site will require compliance with the Design Guidelines for Historic Districts and Historic Sites. The removal of any materials or additions on the historic house will also require a Material Deconstruction Review by the Historic Preservation Board (HPB). As the applicant is also proposing to construct more than 200 square feet on a slope of 30% or greater, a Steep Slope Conditional Use Permit (CUP) application reviewed by the Planning Commission will also be required. The applicant has chosen

to move forward with the variance request prior submitting the HDDR or Steep Slope CUP applications.

Analysis

The property is located within the HR-1 District and consists of the north one-half of Lot 5, all of Lot 6, the south one-half (approx.) of Lot 7, and a portion of Lots 26, 27, and 28, Block 58 of the Park City Survey. On December 3, 2015, City Council approved a plat amendment at this location to create the Sorensen Plat Amendment; this plat amendment has not yet been recorded. The site is currently occupied by a historic house and historic shed. The current footprint on the lot is 823.5 square feet and based on the size of the lot, the applicant is permitted to construct a maximum footprint of 1,736 square feet.

This site is listed on Park City's Historic Sites Inventory (HSI) and is designated as historically Significant. The property was built circa 1904 during the Mature Mining Historic Era (1894-1930). The historic structure was built over two (2) property lines.

Currently, the house is accessible from a stairway off of Ontario Avenue. The house historically had an unapproved vehicular access from Rossi Hill Drive, which was unimproved but located immediately east of the property. The applicant claims that the Sorensens, who previously owned this property for 50 years, parked their car without permission above the house on the east side, or rear yard, and accessed the house from the backyard. There was no prescriptive right to this access as a prescriptive right could not be achieved as the unapproved road crossed railroad-owned property. The current owners met with the owner/developer of the Echo Spur Subdivision to obtain an easement for vehicular access from the new Echo Spur Road; however, the new owner was not interested in permitting vehicular access to this property through his.

The applicant is proposing to construct an attached two (2)-car tandem garage that would have vehicular access from Ontario Avenue at the property line. The applicant will replace the c.2008 boulder retaining wall with a new garage; the façade of the garage will serve as a retaining wall for the hillside above. The proposed garage will have a 0 foot front yard setback along platted Ontario Avenue, a twelve foot (12') setback from paved Ontario Avenue, and a three foot (3') side yard setback to the north. The applicant argues that if the garage were to be moved further to the south, in order to meet the required 5 foot side yard setback, it would change the location of the garage door. If the north garage wall were to comply with setbacks, there would only be 8 inches of clearance within the garage on the north side, not providing sufficient space for the driver to exit the vehicle. The requested reduced side yard setback provides additional space for maneuvering within the garage. Burying the garage within the hillside reduces its mass and bulk, as seen in the proposed plans (Exhibit D).

Because of the significant grade change from Ontario Avenue to the location of the existing historic house, the applicant is also requesting an exception to LMC 15-2.2-5(A) which states that a structure shall have a maximum height of 35 feet measured from the lowest finish floor plane to the point of the highest wall top that supports the ceiling joists or roof rafters. As currently designed, the applicant's proposal requires 41 feet of

interior height in order to accommodate an addition that is two (2) stories above existing grade on the flat, uphill portion of the lot. (The basement addition will be one (1) story in height and contain the tandem two-car garage and interior circulation space.)

The following are the minimum lot, site, and height requirements per Land Management Code Section 15-2.2-3 for development within the HR-1 zoning district for a lot of this size, 1,736 square feet:

	LMC Requirement	Proposed
Setbacks		
Front/Rear Yard	12 feet/25 feet total	0 ft. front yard/12 ft. rear yard
Side Yard	5 feet	5 feet
Minimum Lot Size	1,875 sf. Minimum	4,464 sf.
Building Footprint	1,736 sf. Maximum	1,431.2 sf.
Building (Zone) Height	27 ft. maximum	Average of 18' above grade
Lowest Finished Floor Plane to Highest Wall Top Plate	35 ft. maximum measured from the lowest finished floor plane to the point of the highest wall top plate	41 ft.

LMC Review Criteria for a Variance

In order to grant the requested variances to the aforementioned code sections, the Board of Adjustment must find that all five (5) criteria located in LMC § 15-10-9 are met. The applicant bears the burden of proving that all of the conditions justifying a variance have been met (see Exhibit D).

Criteria 1. Literal enforcement of the LMC would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the LMC. *In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under Subsection 15-10-9(C)(1), the BOA 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. In determining whether or not the enforcement of the LMC would cause unreasonable hardship the BOA may not find an unreasonable hardship if the hardship is self-imposed or economic.*

The applicant argues that the site is steeply sloped uphill from Ontario Avenue. In order to construct a garage that meets the required side and front yard setbacks, the garage would need to be a detached building. By doing so, it would be carved into the hill deeper than the proposed garage and require greater excavation to accommodate an uphill driveway. The applicant argues that this would have a greater negative impact on the neighborhood, detract from the look and feel of the street, and also be less serviceable to the applicant than the proposed attached, basement-level garage.

The applicant maintains that the garage, as proposed, is more in keeping with the Design Guidelines for Historic Sites. By burying the bulk and mass below grade, the

garage is less visible from the street and mitigates negative impacts on the neighborhood. To accommodate a garage that will replace the existing retaining wall, the applicant is requesting a reduced front yard setback from 12 feet to 0 feet and reduced side yard setback from 5 feet to 3 feet. As proposed, the new front wall of the garage will be setback twelve feet (12') from the paved edge of Ontario Avenue. The applicant argues that the reduced side yard setback is necessary in order to place the single-car garage door at a point in the wall where it will create sufficient interior height while also allowing a small amount of maneuvering around the car when it is parked in the garage.

The applicant argues that the attached garage is necessary. By locating it directly below the residence, there is little impact to existing grade along Ontario Avenue. The connection of the garage to the house benefits the owner as it will be accessible to living areas via the proposed stairway and elevator. In addition to removing parking from an already congested street, the attached garage will permit pedestrian access between the garage and the house, which is a safer alternative to pedestrians exiting the garage into the right-of-way.

Because of the significant grade change from Ontario Avenue to the location of the existing historic house, the applicant is also requesting an exception to LMC 15-2.2-5(A). As currently designed, the applicant's proposal requires 41 feet of height from the lowest finished floor plane to the point of the highest wall top plate; LMC 15-2.2-5(A) currently requires 35 feet. As proposed, the majority of the project has a roof elevation significantly lower than the allowed 27 feet above existing grade, averaging about 18 feet above existing grade; the uphill portion (rear elevation) of the new addition is only 10 feet above existing grade.

The applicant argues that granting the variance will allow the new addition to have a lower roof elevation than if the variance were not granted. If the variance is not granted, the applicant could construct the addition at the top of the hill to as much as 27 feet in height above existing grade. The applicant argues that the addition would then appear much more massive in volume and scale than as currently proposed because of its location on the hill, looming over Ontario Avenue.

Staff finds that literal enforcement of the LMC would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the LMC. There are circumstances peculiar to this property that are unique and are not conditions that are general to the neighborhood, such as the existing setbacks of the existing concrete and boulder retaining wall, steepness and topography of the slope along Ontario Avenue, and the distance of the front property line from paved Ontario Avenue. Staff finds that literal enforcement of the required 12 foot front yard setback is not necessary to carry out the general purpose of the Land Management Code, as the proposed garage will be setback from the existing edge of curb by a distance of twelve feet (12') due to the distance between the property line and the street. By reducing the required side yard setback from five feet (5') to three feet (3'), the applicant is able to construct a tandem two-car garage that will be largely buried below the existing grade and be visually minimized on the street.

Criteria 2. There are special circumstances attached to the Property that do not generally apply to other Properties in the same zone. *In determining whether or not there are special circumstances attached to the Property the BOA may find that special circumstances exist only if the special circumstances relate to the hardship complained of and deprive the Property of privileges granted other Properties in the same zone.*

The applicant argues that there are special circumstances attached to this property that do not apply to other properties in the same zone. The applicant argues that this property is one of only a few actual historic residences left in this section of Ontario (Staff has found that there are currently thirteen (13) houses listed on the City's Historic Sites Inventory (HSI) that are accessible from Ontario Avenue.) The majority of these structures are located to the south of 422 Ontario on the section of the road that flattens out and several are located on the downhill side of Ontario Avenue, allowing for a rear addition that directly accesses Ontario Avenue.

The applicant contests that this is one of the few properties along Ontario Avenue that have preserved its original historic grade and relationship to the street. The applicant finds this is substantiated by the existing evergreen tree in front of the house which testifies to the longevity and historic nature of the existing hillside. The existing hillside staircase, while new, is in the same location as the original stairs to the house and further depicts the original grade of the site. Moreover, there is photographic evidence that demonstrates how the majority of the grade on the neighborhood's block has been altered from its historic grade and has lost its relationship with the edge of road.

As previously mentioned, the garage will have to be pushed further into the hill if the variance is not granted, thus (1) increasing the height and unsightliness of retaining walls, (2) increasing the amount of excavated materials, and (3) increasing the length of the driveway. Other properties do not have the same increased distance between the edge of curb and property line because Ontario Avenue is located closer to the platted ROW in those cases.

The applicant argues that this property was also historically accessed by vehicles from the uphill side of the lot. The creation of Echo Spur Subdivision relocated the existing road and eliminated access to this property from the uphill side of the property. As previously noted, there was no prescriptive right to this access; a prescriptive right could not be achieved as the unapproved road crossed railroad-owned property.

Staff finds that there are special circumstances attached to this property that do not generally apply to other properties in the same zone. The parcel of land in questions has characteristics and features that result in conditions that are not general to the neighborhood, but are unique to this property due to the location of paved Ontario Avenue and steepness of the slope in the front yard area. The steepness of the lot, conservation of its original grading, and the location of Ontario Avenue relative to the platted ROW create special circumstances attached to this property that do not generally apply to other properties in the area. This section of paved Ontario Avenue is characterized by its steepness and limited width. (It is difficult for two cars to pass on

this steep street and any parked cars cause safety issues.) Granting the variance to permit garage construction would be beneficial to the street as a whole as it would allow other vehicles to pass without the obstruction of cars in the roadway as well as provide a safe alternative for off-street parking.

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

LMC 15-2.2-4 states that Historic Structures that do not comply with Building Setbacks, Off-Street parking, and driveway location standards are valid Complying Structures. Additions to Historic Structures are exempt from Off-Street parking requirements provided the addition does not create a Lockout Unit or an Accessory Apartment.

The applicant argues that most of the houses on Ontario and within the HR-1 zone have a garage and off-street parking. The applicant believes most of these homes were constructed within the last 30 years, prior to adoption of LMC 15-2.2-5 (A), which requires that a Structure have a maximum height of thirty five feet (35') measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters. (This change was adopted in 2013.) Garages are necessary along Ontario Avenue to alleviate parking and prevent parked cars on a steep and narrow road. Due to the fact that there is little to no on-street parking nearby this property, parking within the garage will be utilized for the associated single-family home. Parking during the winter months on Ontario Avenue is difficult due to snow accumulation at the street's end and resident/guest parking.

Staff finds that granting the variance is essential to the enjoyment of a substantial Property right possessed by other Property in the same zone. Granting the variance will allow a garage at the street front where it and the addition above will have a lesser impact on the existing topography; this honors the intent of the LMC and allows for a better design of the proposed addition. The basement garage will also create an interior connection to the house and provide off-street parking. This would be a benefit to the street as a whole as it would alleviate on-street parking demands and limit pedestrians from entering the Ontario Avenue right-of-way.

Criteria 4. The variance will not substantially affect the General Plan and will not be contrary to the public interest.

The applicant finds that the variance will not substantially affect the General Plan and will not be contrary to public interest. The applicant argues that it is within the public interest to eliminate congestion on Ontario Avenue, which is a narrow and steep street and, at times, difficult to navigate in passing another vehicle. Parked cars are a safety hazard to other cars, delivery vehicles, emergency vehicles, pedestrians, and cyclists utilizing Ontario. The applicant also ascertains that the attached garage will eliminate unnecessary pedestrian traffic along the street, which, according to the applicant, causes additional safety concerns. Finally, the applicant finds that by allowing the new

garage addition to have a 0 foot front yard setback, the front wall of the garage will replicate that of the existing retaining wall; the new garage will maintain the existing historic character of the street. Further, the perceived front yard setback would be consistent with the requirements of the LMC—twelve (12) feet.

Staff also finds that the variance will not substantially affect the General Plan. One of the goals identified in the current General Plan is to ensure that the character of new construction is architecturally-compatible to the existing historic character of Park City. The variance allows a design with an internal connection that meets the Historic District Design Guidelines. Granting the variance will also improve off-street parking opportunities for the existing historic house and adjacent neighborhood. As previously noted, eliminating off-street parking areas will reduce traffic congestion on this narrow and steep section of Ontario Avenue while improving safety. While it is not in the interest of the public to eliminate public parking in Old Town, staff finds that there is greater benefit of eliminating this public parking space in order to create improved off-street parking for two (2) vehicles.

Criteria 5. The spirit of the Land Management Code is observed and substantial justice done.

The applicant finds that the variance to the front and side yard setbacks as well as the interior height will allow the garage to be buried below grade. They argue that this has been allowed on other projects in the HR-1 zone, with similar circumstances. The applicant also finds that by granting the variance, the BOA is achieving the greater goal of preserving the historic character of the street by maintaining the hillside and reducing the overall height of the addition.

Again, the applicant argues that their proposed design of burying the garage below grade will reduce the overall bulk and mass of the new addition as well as its height above grade. A detached garage addition would have a greater impact on the street than the design as proposed. The applicant finds that substantial justice is achieved by approving this variance as it will allow the house, and specifically the garage addition, to be accessible. The applicant finds that the variance will improve the overall character and nature of the project rather than compromise the intentions of the regulations.

Staff finds that the spirit of the Land Management Code is observed and substantial justice is done. Granting the variance will allow the applicant to construct a garage for the historic house that will be setback from the edge of curb by twelve feet (12'), consistent with the required front yard setback outlined in 15-2.2-3 (E). The variance permits the owner to increase off-street parking in the neighborhood while reducing the impact of a long driveway, higher retaining walls, and greater excavation of the existing hillside. All other LMC related site and lot criteria, including the other setbacks, height, footprint, parking, design, uses, etc. will be met.

Future Process

Approval of these variances by the Board of Adjustment constitutes Final Action that may be appealed following the procedures found in LMC § 15-10-13. Approval of a

Historic District Design Review (HDDR) for the design of the garage structure and addition is necessary prior to the issuance of a building permit.

Standards for new construction as listed within the Historic District Design Guidelines will apply. HDDR's are an administrative approval and are processed by the Planning Staff. Because this site is designated as Significant on the Historic Sites Inventory, the proposal also requires a Material Deconstruction Review by the Historic Preservation Board for any removal of historic material. A steep slope Conditional Use Permit, issued by the Planning Commission, is required because the new addition will exceed 200 square feet in area on an area with a slope of greater than 30%.

Department Review

This project has gone through an interdepartmental review. No further issues were brought up at that time.

Notice

On June 7, 2015, the property was posted and notice of the variance request was mailed to property owners within 300 feet of the property in accordance with requirements of the Land Management Code. Legal notice was published in the Park Record on June 4, 2015, according to requirements of the Code.

Public Input

No public input was received at the time of writing this report.

Alternatives

- The Board of Adjustment may grant the variance request according to the findings of fact, conclusions of law and conditions of approval drafted below and/or as amended; or
- The Board of Adjustment may deny the variance request and direct staff to make findings of fact to support this decision; or
- The Board of Adjustment may continue the discussion and request additional information on specific items.

Significant Impacts

There are no significant fiscal or environmental impacts from this application.

Consequences of not taking the Suggested Recommendation

The property would remain as is and no construction of the proposed garage addition could take place. Should the BOA not grant a variance to reduce the front yard setback from 12 feet to 0 feet and the side yard setback from 5 feet to 3 feet, the applicant will not be permitted to construct a garage as proposed. The existing retaining walls and public parking space would remain along Ontario Avenue. Should the BOA not grant the variance to the required height from the lowest finish floor plane to the point of the highest wall plat from 35 feet to 41 feet, the applicant will have to reduce the overall height of the addition above existing grade.

Recommendation

Staff recommends that the Board of Adjustment review the proposed variance requests:

- A variance to LMC Section 15-2.2-3 (E) to the required twelve foot (12') front yard setback exception to allow for a two-car tandem garage to be constructed behind an existing retaining wall.
- A variance to LMC Section 15-2.2-3(H) to the required five foot (5') side yard setback along the north property line to allow for construction of the garage.
- A variance to LMC Section 15-2.2-5 (A) to the required maximum height of 35 feet measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters.

The BOA should conduct a public hearing and consider granting the variances based on the following findings of facts and conclusion of law.

Findings of Fact (for Approval)

1. The property is located at 422 Ontario Avenue in the Historic Residential (HR-1) District.
2. The HR-1 zone is characterized by historic and contemporary homes on one (1) to two (2) lot combinations.
3. The property consists of all of Lot 5, all of Lot 6, the south one-half (approx.) of Lot 7, and a portion of Lots 26, 27, and 28, Block 58 of the Park City Survey. On December 3, 2016, City Council approved a plat amendment at this location to create the Sorensen Plat Amendment; this plat amendment has not yet been recorded.
4. There is an existing 837.25 square foot historic house on the property. It is designated as Significant on the City's Historic Sites Inventory.
5. The existing historic house is setback from the front property line by 9 to 10 feet. It is setback from the edge of asphalt on Ontario Avenue by 21 to 22 feet, decreasing in setback from north to south.
6. There is an existing retaining wall along the front property line that varies in height from about 14 feet to about 15 feet from north to south as the grade on Ontario rises uphill. The retaining wall has a length of about 26 feet.
7. The owner currently parks in an asphalt parking pad parallel to Ontario Avenue and accesses the house via stairs and paths. This space is not an approved private parking for 422 Ontario Avenue, but, rather, it is in the City right-of-way and is public parking.
8. The City approved construction of the existing concrete and boulder retaining wall in 2008.
9. The applicant is requesting a variance to LMC Section 15-2.2-3(E) to reduce the required twelve foot (12') front yard setback to 0 feet to allow for a two-car tandem garage to be constructed behind an existing retaining wall.
10. The applicant is requesting a variance to LMC Section 15-2.2-3(H) to reduce the required five foot (5') side yard setback to three feet (3') along the north property line to allow for construction of the proposed garage.
11. The applicant is requesting a variance to LMC Section 15-2.2-5(A) to the required maximum height of 35 feet measured from the lowest finished floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters; the applicant requests a variance to allow an interior height of 41 feet.

12. The applicant is requesting the variances in order to construct a new two-car tandem garage behind the existing retaining wall.
13. Literal enforcement of the LMC would make it impossible to make the garage accessible from the street given the required setbacks, interior building height requirements, and steep slope of the lot. The steepness of the lot and the distance of the front property line from paved Ontario Avenue are unique to this property. Staff finds that literal enforcement of the required 12 foot front yard setback is not necessary to carry out the general purpose of the Land Management Code, as the proposed garage will be setback from the existing edge of curb by a distance of twelve feet (12') due to the distance between the property line and the street.
14. There are special circumstances attached to this property that do not generally apply to other Properties in the same zone. This house is one of the few properties along Ontario Avenue that have preserved its original grade; only along the retaining wall has grade been altered to accommodate the right-of-way. This property is also unique in that paved Ontario Avenue is about 12 feet to the west of the front property line and is one of the steepest sloped streets in this part of town. This section of paved Ontario Avenue is characterized by its steepness and limited width. Finally, this site was historically accessed by vehicles from the east or rear property line and that access is no longer an option.
15. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone. Granting the variance allows the property owner to construct an attached garage at the street level without severely impacting existing grade, while also alleviating congestion and safety concerns on Ontario Avenue by providing off-street parking.
16. The variance will not substantially affect the General Plan and will not be contrary to public interest. It is within the public interest to reduce vehicle conflicts on Ontario Avenue. Parked cars are a safety hazard to other cars, delivery vehicles, emergency vehicles, pedestrians, and cyclists utilizing Ontario Avenue. A reduction to the front and side yard setbacks will allow the façade of the garage to maintain the appearance of a retaining wall and have limited impacts to existing grade. One of the goals of the General Plan is to ensure that the character of new construction is architecturally-compatible to the existing historic character of Park City and this variance will permit a design that largely masks the mass and bulk of the addition by burying it underground. While it is not in the interest of the public to eliminate public parking in Old Town, there is a greater benefit of eliminating this single public parking space in order to create two (2) off-street parking spaces.
17. In order to construct a garage that meets the required side and front yard setbacks, the garage would need to be a detached building. By doing so, it would be carved into the hill deeper than the proposed garage and require greater excavation to accommodate an uphill driveway. If the garage were constructed to comply with the LMC, it would not meet the intent of the General Plan.
18. The spirit of the Land Management Code is observed and substantial justice is done. The variance will preserve the historic character of the street by maintaining the hillside and reducing the overall height of the addition. It will create an accessible attached garage and alleviate parking congestion along Ontario Avenue.
19. All other LMC related site and lot criteria, including the other setbacks, height, footprint, parking, design, uses, etc. will be met.

Conclusion of Law (for approval)

1. Literal enforcement of the HR-1 District requirements for this property causes an unreasonable hardship that is not necessary to carry out the general purpose of the zoning ordinance.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same district.
3. Granting the variance is essential to the enjoyment of substantial property right possessed by other property owners in the same district.
4. The proposal is consistent with the General Plan.
5. The spirit of the zoning ordinance is observed by this application.
6. It can be shown that all of the conditions justifying a variance, pursuant to LMC § 15-10-9, have been met.

Order (for approval)

1. A variance to LMC Section 15-2.2-3 (E), to the required twelve foot (12') side yard setbacks to allow a zero foot (0') setback to the front property line, is hereby granted.
2. A variance to LMC Section 15-2.2-3 (H), to the required five foot (5') side yard setbacks to allow a three foot (3') setback to the north property lines, is hereby granted.
3. A variance to LMC Section 15-2.2-5 (A) to the required maximum height of thirty five feet (35') to allow a maximum height of forty-one feet (41') measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters is hereby granted.
4. The variances run with the land.

Conditions of Approval

1. The variances are granted for the construction of an underground basement garage, as indicated on the plans submitted with this application.
2. No portion of the garage shall be used for additional living space.
3. The garage interior shall be used for parking. Limited storage is permitted to the extent that it does not preclude parking of a vehicle. Trash and recycling bins may be stored in the garages.
4. Recordation of the plat amendment is required prior to issuance of a building permit for the new construction.

Exhibits

Exhibit A – Applicant's statement

Exhibit B – Proposed site plan

Exhibit C – Existing Conditions Survey

Exhibit D – Proposed plans

Exhibit E – Current photographs of the site

Exhibit F – 2008 Agreement and Notice of Interest and Planning Department approvals

422 Ontario Variance Request

Written Statement of Hardship:

The LMC states that variances shall only be granted if all of the following five conditions are met:

1. Literal enforcement of the LMC would cause and unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the LMC;
2. There are special circumstances attached to the property that do not generally apply to other properties in the same district;
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;
4. The variance will not substantially affect the General Plan and will not be contrary to the public interest;
5. The spirit of the LMC is observed and substantial justice done.

We, the applicant are requesting 2 variances that are related to each other:

- a. Locate the garage within the front yard setback
- b. Locate the garage lower than 35 ft below the highest roof wall plate.

Both these issues are discussed in relation to the 5 conditions above.

1. The design of the project at 422 Ontario meets the intention of the Land Management Code. Literal enforcement of the following provisions would cause an unreasonable hardship for the Applicant and the result would either have no visible effect on the project except to create a hardship on the Applicant:

- a. We are requesting that the garage entrance be located so that that garage would be located within the required front yard setback.

Hardship: The site is steeply sloped uphill from Ontario Ave. To set the garage back the required distance would not only change the feel of the street, it would mean that the only way the house could meet the requirements of the Steep Slope Conditions would be to have a detached garage. In other words literal enforcement of the LMC would force the Applicant to create a project that has more negative impact on the neighborhood and would also be less serviceable to the Applicant.

Proposed Solution: The applicant would like to install the garage entrance in the existing retaining wall at the property line. The garage would be buried completely to maintain the existing hillside. Further the Applicant proposes to add stone veneer that fits the historic feel of Park City to cover the existing concrete retaining wall that was installed by the city as part of the Ontario Ave street improvements a few years ago. The garage structure below grade would

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actually also be less than 5 feet from the sideyard setback but this is allowed in the LMC. The variance request is for the below grade setback to be in the front yard setback as well as within 3 ft of the side yard.

b. We are requesting a variance from the 35 ft maximum elevation between the lowest floor level and the highest wall plate as required by the LMC in a Steep Slope Conditional Use Permit.

Hardship: If we have a detached garage then the lowest floor level of the garage would not be counted in the floor to plate height calculation of the residential structure. The applicant wants to make the house universally accessible so the garage is attached to the residence above with a stair and elevator structure that is totally buried under the residence and out of sight. Literal enforcement of the LMC would make it impossible to make the structure accessible from the street.

Proposed Solution: The garage is located below the new residence. There is proposed a stairway and elevator that serves all floor levels of the house making it completely accessible. Because the garage is directly below the residence there is no impact to the street. The garage benefits the neighborhood by taking congestion off the street. The connection of the garage to the house benefits the owner of course but also has benefits to the neighborhood as it removes pedestrian traffic on a street that is very dangerous for pedestrians. The granting of a variance will actually allow the house to have a lower roof elevation than if a variance were not granted.

The LMC allows the house to be a maximum of 27 ft above the undisturbed natural grade. The proposed project has the roof elevation for almost the entire project significantly lower than 27 ft. The uphill portion of the new structure is only 10 ft above existing grade. The average roof height is about 18 ft above natural grade. If the variance were not granted the garage would have to be dug back into the site and the addition would have to be taller as it would have to be located even farther up the hill.

2. This property has special circumstances attached to it that do not generally apply to other properties in the neighborhood.

a. The residence on the property is one of only a few actual historic residences left on Rossi Hill. The applicant intends to fully restore the original residence to its original exterior condition.

b. The hillside site is one of a few that have the original historic grade and relationship to the street. This is evidenced by the existence of an evergreen tree that is as old as the house. The tree in front of the house is within the street right of way and not on the applicants property but it testifies to the longevity and historic nature of the existing hillside. The photos show clearly how most of the rest of the block has been greatly altered from the historic nature of the street.

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c. The property was historically accessed by vehicles from the uphill side of the lot. The creation of the Echo Spur Subdivision, approved by the city, actually relocated the existing road and eliminated access from the uphill side of the property.

d. There are existing stairs from the street to the historic home within the street right of way. While the existing stairs were installed just a few years ago, they are in the historic location of stairs that have been in the exact same location for over 100 years. The applicant would like to maintain this historic connection of the house to the street.

3. Granting these variances is essential to the enjoyment of substantial property rights possessed by other property in the same zone and in the immediate vicinity of the applicant.

a. Almost every house within the zone has a garage.

b. Most of the homes constructed within the last 30 years were able to be built without any concern of floor to top wall plate height. This has created a design concern in that new construction does not look or feel like the historic hillside development. Literal enforcement of the LMC in this case would create similar disturbance to the hillside. The variance will help the hillside be preserved which is the original intent of the regulations.

c. Granting these variances actually honor the intent of the LMC and help encourage improved the design quality of future homes within the zone.

4. The variances requested will not substantially affect the General Plan and will not be contrary to the public interest.

a. It is totally within the public interest to get parking congestion off of Ontario Ave. The street is narrow and steep. Cars parked along the street are a safety hazard to other cars, pedestrians and cyclists.

b. Having the garage attached further promotes the public interest by eliminating unnecessary pedestrian traffic along the street.

c. Allowing the front door of the garage to be located in the existing retaining wall location is within the public interest as it tends to maintain the historic character of the street and helps preserve the established existing large tree.

5. The spirit of the Land Management Code is observed and substantial justice will be done by approving this request.

a. The variance to locate the garage buried below grade within the front and side yard setbacks is something that has been allowed on many projects within and outside of the HR-1 zone. It is something that can be approved with no need for a variance if it is a joint neighbor project. By allowing it in this circumstance the greater goal of preserving the historic quality of the street will be achieved. The overall height of the project will be lowered.

b. The variance in the 35 ft steep slope height would not be an issue if the garage were not attached. We propose to make the garage appear to be

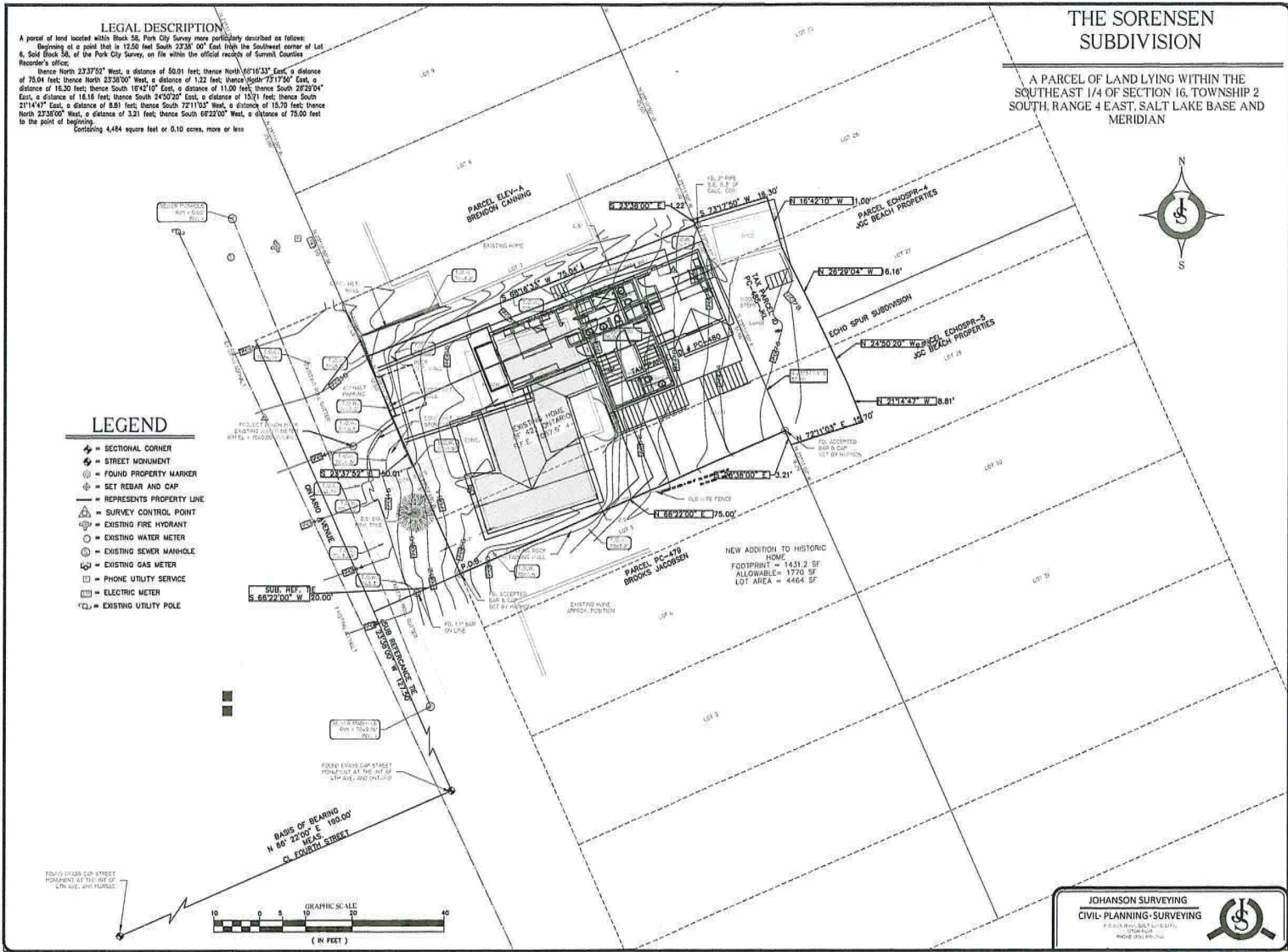


detached. The only attachment would be below grade and invisible to the street. We want to totally honor the intention of the 35 ft height restriction but to actually meet it would create more impact on the street than allowing the garage floor level to match the existing grading of the street. The justice in this approval is that because the goal is to make the house universally accessible, a rare opportunity to provide justice to a segment of society that is excluded from most of the historic district is achieved. The applicant does not mind having the variance approved on condition that the elevator be included. The overall height of the project will be lower if the variance is granted.

c. The applicant wants this project to be an example of what can be achieved when the intent of the LMC and the General Plan is followed. This includes the Historic District Design Guidelines and the Steep Slope Conditional Use Permit. The variances we request help the applicant to improve the overall character and nature of the project rather than compromise the intentions of the regulations.



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DRAWING TITLE

RECORD OF SURVEY

WILLIAM MAMMEN
1-435-649-8868

A PARCEL OF LAND LYING WITHIN THE
SOUTHEAST 1/4 OF SECTION 16, TOWNSHIP 2
SOUTH, RANGE 4 EAST, SALT LAKE BASE AND
MERIDIAN

PROPERTY DESCRIPTION

PARCEL 1: The South one-half of Lot 5 and all of Lot 6, BLOCK 58, PARK CITY SURVEY, according to the official plat thereof and record in the Summit County Recorder's Office

PARCEL 2: Beginning at the Northwest corner of Lot 6, BLOCK 58, PARK CITY SURVEY; according to the official plat thereof and record in the Summit County Recorder's Office; thence running North 27°39'00" West 11.20 feet; thence North 56°16'11" East 72.04 feet; thence South 27°00' East 10 feet to the Northeast corner of said Lot 6, Block 58, Park City Survey; thence South 67°39' West along the Northern line of said Lot 6, Block 58, Park City Survey; 73.00 feet to the point of beginning.

PARCEL 3: A portion of Lots 26, 27, 28 of BLOCK 58, PARK CITY SURVEY; according to the official plat thereof and record in the Summit County Recorder's Office; lying and situate in Section 16, Township 2 South, Range 4 East, Salt Lake Base and Meridian, Summit County, Utah; being more particularly described as follows:

Beginning at a point on the common line between Lot 28 and Lot 5 of said Block 58, being North 27°39'00" West 9.20 feet from the Southeast corner of said Lot 28 and running thence partially along a fence North 77°11'00" East 15.70 feet to a fence corner thence along said fence North 21°14'47" West 88.1 feet; thence along said fence North 48°30'39" West 157.1 feet; thence along said fence North 36°29'04" West 16.31 feet to a shed corner; thence along said shed North 16°42'49" West 11.00 feet to a shed corner; thence partially along said block South 72°17'27" West 16.00 feet to a point on the common line between Lots 26 and Lot 7 of said Block 58; thence along said common line, South 27°00' East 23.18 feet to the point of beginning.

SURVEYOR'S NARRATIVE

This survey was performed at the request of William Mammen, for the purpose to locate boundaries in relation to existing improvements and a consolidation of parcels into a single lot V.L.A. a Subdivision plat.

The basis of bearing was derived from the found street monuments along Fourth Street of the Park City Town Hall survey, and called on this survey as North 11°07' East 100.00 feet to the corner of the Subdivision, which closely coincides with area Survey markings. Note: There are several surveys recorded in the area which calls record bearing lines of 67°22'00" which after careful review of field measurements it has been concluded that the bearing line of 67°22'00" was not used in the position of area survey marking.

Boundaries on said fence and shed shown on this survey was found to be corresponding to neighboring lots in a survey performed by Jack Johnson in 2006. Since then a settlement agreement was entered for the resolution of this fence line by dividing the enclosed area (shed and fence) to the Southwest (this parcel survey). The legal description calls a closed figure that does not V.L.A. descriptive calls does not match actual field measurements. Adjustments in this "Settlement Agreement" Parcel has been made to fit accurate calls to the deed. The adjusted legal description Subdivision was recorded in 2014 which does not call any of the existing improvements and is located only by record descriptive calls. Some site work may be needed to verify these findings.

NOTE:

1. Surveyor has made no investigation or independent search for encumbrances or record encumbrances restrictive covenants (excepting title evidence, or any other facts, conflicts, or discrepancies which may be disclosed by the details of a current title insurance policy).
2. See city and county planning and zoning maps for information regarding setback, side yard, and rear yard lotlines as well as other building, use restrictions, and requirements.
3. Utility pipes, wires etc. may not be shown on this map; contractors builders and excavators shall verify the location of all existing utilities prior to construction, under excavation. Contact blue stakes and refer to utility maps for additional information.
4. This is not a boundary survey; no corners have been set; this plat is intended for design review and approval purposes.
5. Subdivision plat notes, pertaining to this lot and other restrictions obligations, covenants etc. that may affect the design and use of this lot, see subdivision.
6. Views to landmarks are for reference only and should not be relied upon as exact ones; all views are effected from position of view, and eye of the beholder. All interests in adjacent lots/correlates must be asked out on site field review, prior to any construction.

SURVEYOR'S CERTIFICATE

I, Shane Johnson, do hereby certify that I am a Professional Land Surveyor, holding certificate No. 705314 as prescribed under the laws of the State of Utah, and that I have made a survey of the described tract of land as shown on this plan and that this survey extends to lines and may have adjusted said lot lines to coincide with found evidence and other interpretation based from ground measurements and found records. Furthermore I recognize that other parties' rights of ownership or lines of possession may exist, I do not imply to certify any of these rights, unless agreed upon by the appropriate parties.



JOHANSON SURVEYING
SURVEYING • SEPTIC • PLANNING

REG. 6761006
SALT LAKE CITY, UTAH 84143
www.johanson-surveying.com

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DATE: APR 11 2016

PROJECT NO: 16-001

DRAWN BY: SHANE JOHNSON

CHECKED BY: SHANE JOHNSON

DATE: APR 11 2016

PROJECT NO: 16-001

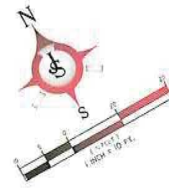
DATE: APR 11 2016

PROJECT NO: 16-001

STATE OF UTAH
SHANE JOHNSON
PROFESSIONAL LAND SURVEYOR
SURVEY-001

LEGEND

- SECTIONAL CORNER
- STREET MONUMENT
- FOUND PROPERTY MARKER
- SET REBAR AND CAP
- REPRESENTS PROPERTY LINE
- SURVEY CONTROL POINT
- EXISTING FIRE HYDRANT
- EXISTING WATER METER
- EXISTING WATER MASHOLE
- EXISTING GAS METER
- PHONE UTILITY SERVICE
- ELECTRIC METER
- EXISTING UTILITY POLE



Number	SLOPE LEGEND		Color
	Minimum Slope	Maximum Slope	
1	0.00%	30.00%	Light Blue
2	30.00%	> 30.00%	Yellow

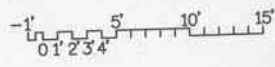
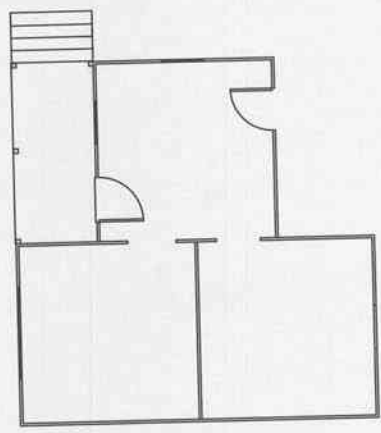
FIELD NOTES: SEE SURVEYOR'S NARRATIVE FOR DETAILS OF THIS SURVEY.



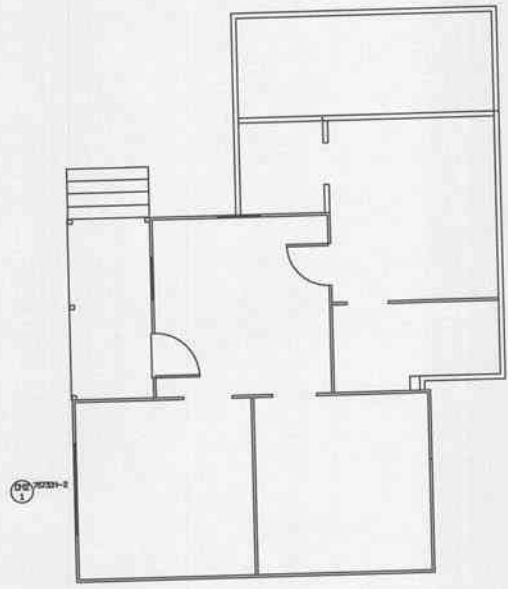
Division of Planning
for the City of Philadelphia



Exhibit D
2008 Land Use
Plan
10th Edition
City of Philadelphia
PA 19107-0001



2 HISTORIC FLOOR PLAN
X1.1 SCALE 1/8" = 1'-0"



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JAN 11 2018
CITY OF PHILADELPHIA

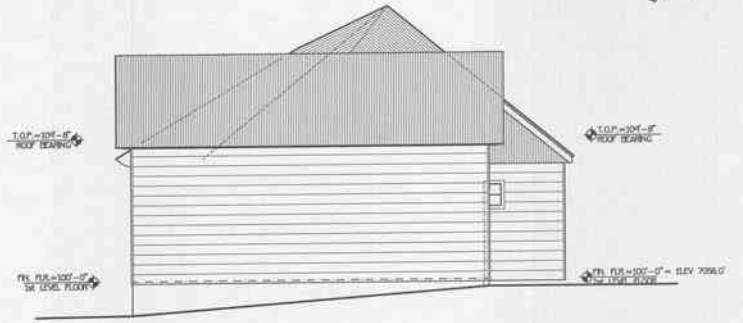
1 EXISTING FLOOR PLAN
X1.1 SCALE 1/8" = 1'-0"

EASTER RESIDENCE TWO
EXISTING FLOOR PLAN
DATE: 01-11-18
DRAWN BY: VPM
CHECKED BY: VPM
JOB NO: 100-20-00

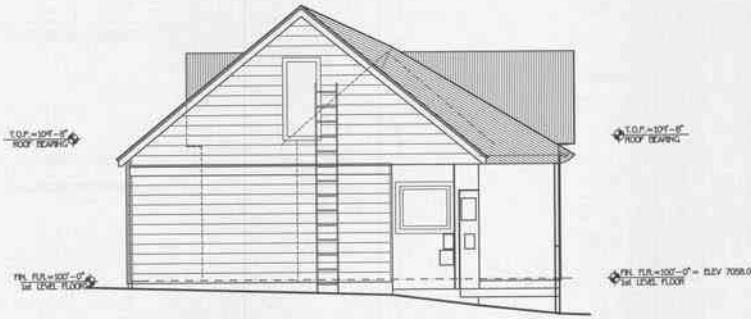
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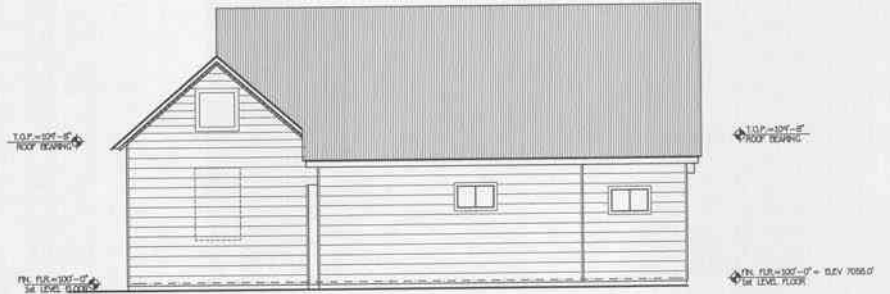
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A2.1 SCALE 1/8" = 1'-0"



1 SOUTH ELEVATION
A2.1 SCALE 1/8" = 1'-0"



1 NORTH ELEVATION
A2.2 SCALE 1/8" = 1'-0"



2 EAST ELEVATION
A2.2 SCALE 1/8" = 1'-0"

William T. Brennan
Architectural Firm
for the Administration
of Indianapolis



10010 Lakeside Ave.
North West City
INDIANAPOLIS, IN 46240
TEL: 317-546-1000


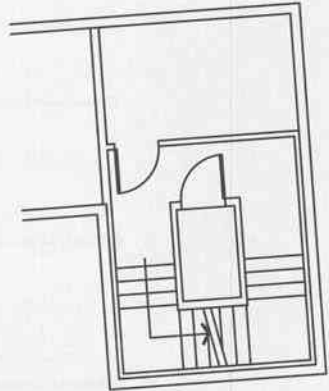


EASTER RESIDENCE TWO
EXISTING ELEVATIONS
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DATE: 04-14-18
CHECKED BY: WTB
JOB NO.: 18-05-03

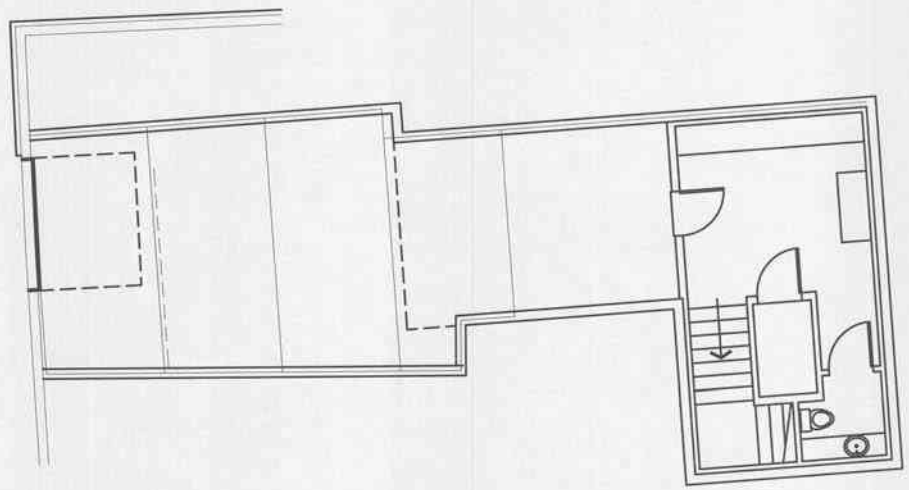
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JAN 11 2018
ARCHITECTURAL FIRM

X2.1

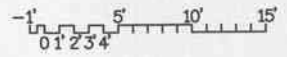
William T. McLaughlin Inc.
 Architects Inc.
 2005 Leslie Ave.
 Unit 101, Markham, ON
 L3R 9V7
 Tel: 416-947-8888
 Fax: 416-947-8889

2 INTERMEDIATE PLAN
 PRI SCALE 1/4"=1'-0"



GARAGE FLOOR AREA = 858 SF FTL FLOOR AREA = 388 SF



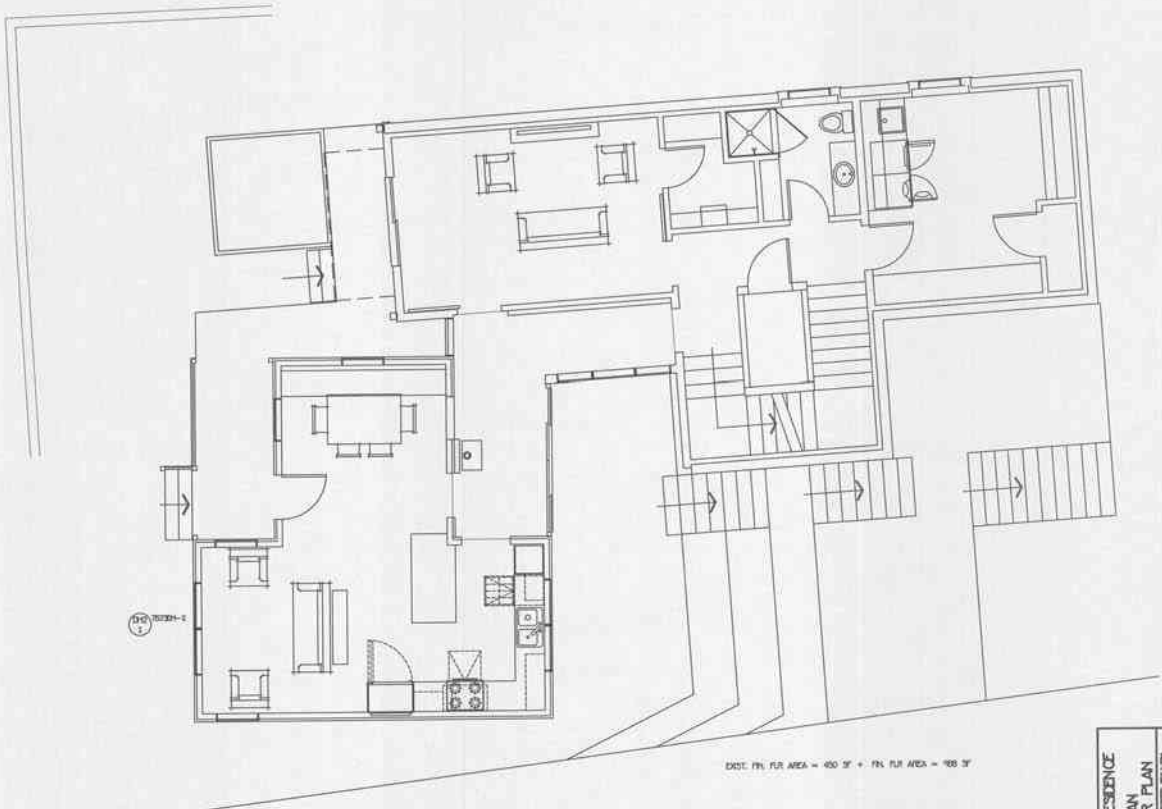
RECEIVED
 JAN 11 2018
 - 2018/01/11

1 BASEMENT FLOOR PLAN
 PRI SCALE 1/4"=1'-0"

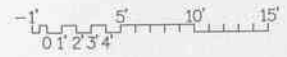
422 ONTARIO RESIDENCE
 PRELIMINARY PLAN "A"
 BASEMENT FLOOR PLAN
 DRAWN BY: VTY
 CHECKED BY: VTY
 DATE: 12-1-15
 JOB NO.: 05-15-03

PRI

William J. Brennan
Architects Inc.
1000 Lakeshore Blvd.
West, Suite 200
Oakville, Ontario
L6M 4K9
Tel: 905-882-8888



EXT. FIN. FLOOR AREA = 450 SF + FIN. FLOOR AREA = 188 SF



RECEIVED
JAN 1 2018
/ 2018/01/01

1 1st LEVEL FLOOR PLAN
PR2 SCALE 1/8" = 1'-0"

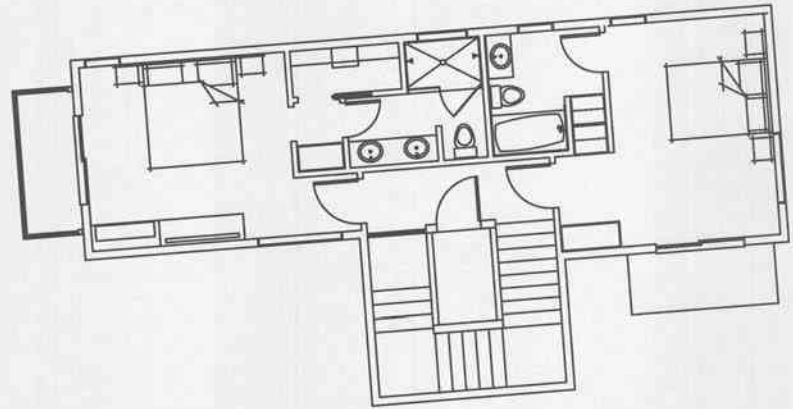
422 ONTARIO RESIDENCE
PRELIMINARY PLAN
1st LEVEL FLOOR PLAN
DATE: 08-24-17 CHECKED BY: VPT
DRAWN BY: VPT JOB NO: 08-17-03

PR2

William T. Huggins
Architects Inc.
1500 Park City
1000 West 100th
St. Louis, MO 63141
Tel: 636-353-8888



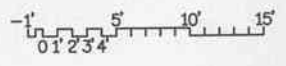
1500 Park City
1000 West 100th
St. Louis, MO 63141
Tel: 636-353-8888



TOTAL FLOOR AREA = 885 SF



RECEIVED
JAN 11 2018
ST. LOUIS, MO



1 2nd LEVEL FLOOR PLAN
PR3 SCALE 1/8" = 1'-0"

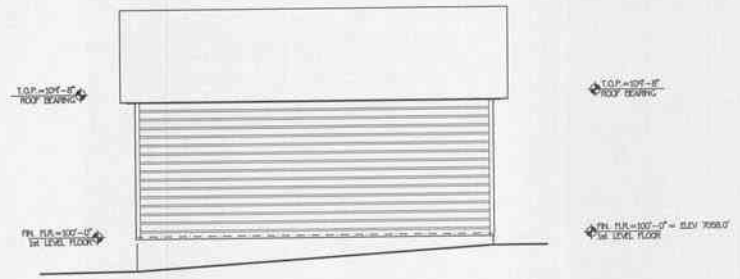
422 ONTARIO RESIDENCE
PRELIMINARY PLAN
2nd LEVEL FLOOR PLAN
DRAWN BY: VMT
CHECKED BY: VMT
DATE: 08-14-15
JOB NO: 08-05-03

PR3

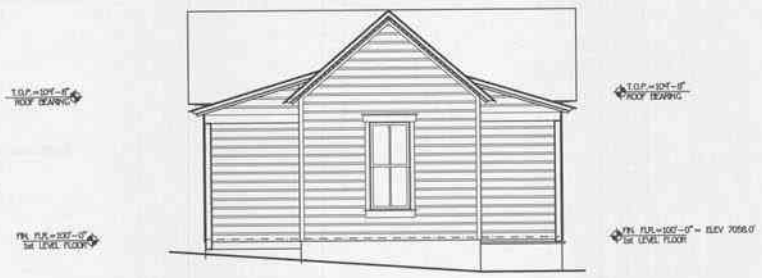
Volume 17 Materials for the Rehabilitation of Residential
1001 Lincoln Ave.
Boonville, Pa. 17008
1-800-448-8888
PA 64-0000



2 WEST ELEVATION
A2.1 SCALE 1/8" = 1'-0"



1 SOUTH ELEVATION
A2.1 SCALE 1/8" = 1'-0"



1 NORTH ELEVATION
A2.2 SCALE 1/8" = 1'-0"



2 EAST ELEVATION
A2.2 SCALE 1/8" = 1'-0"

RECEIVED
JAN 11 2018
VALLEY FORGE SURVEY
NO. 130440

EASTER RESIDENCE TWO
HISTORIC ELEVATIONS
TO BE PRESERVED & RESTORED
DATE: 04-14-18
DRAWN BY: VPT
CHECKED BY: VPT
JOB NO.: 04-18-03

A2.1

Division 7 - Mechanical
Installation for
the Addition of
an Attachment



3000 Lumber Sales
3000 Park City
1000 Main Street
Park City, UT 84302
Tel: 435-266-2000



1 SOUTH ELEVATION
A2.2 SCALE 1/8" = 1'-0"

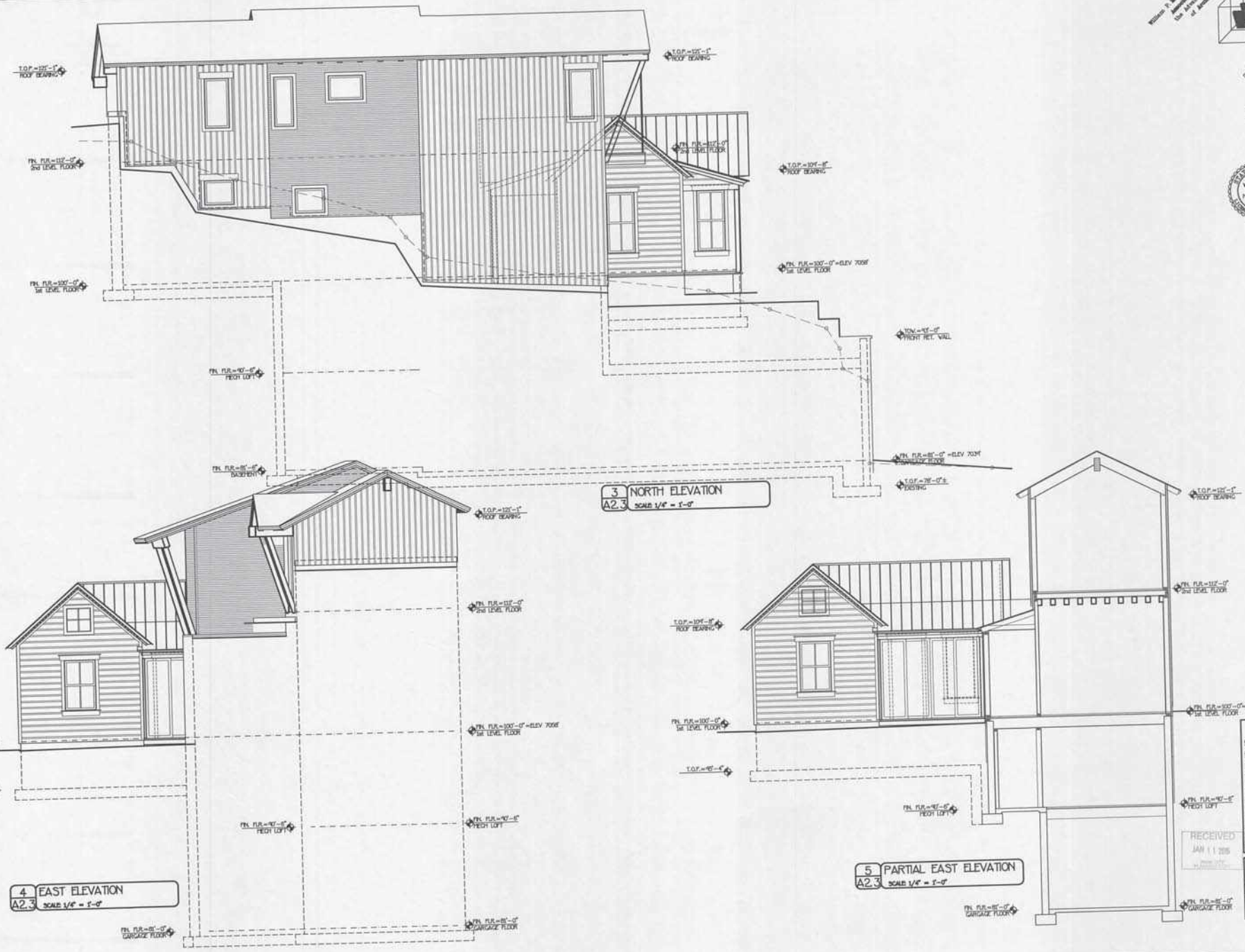


2 WEST ELEVATION
A2.2 SCALE 1/8" = 1'-0"

RECEIVED
JAN 11 2018
CITY OF PARK CITY
PLANNING DEPT.

EASTER RESIDENCE TWO
NEW EXTERIOR ELEVATIONS
WEST & SOUTH
DATE: 01-01-18
DRAWN BY: LHM
CHECKED BY: VPT
JOB NO: 18-01-18

A2.2



3 NORTH ELEVATION
A2.3 SCALE 1/8" = 1'-0"

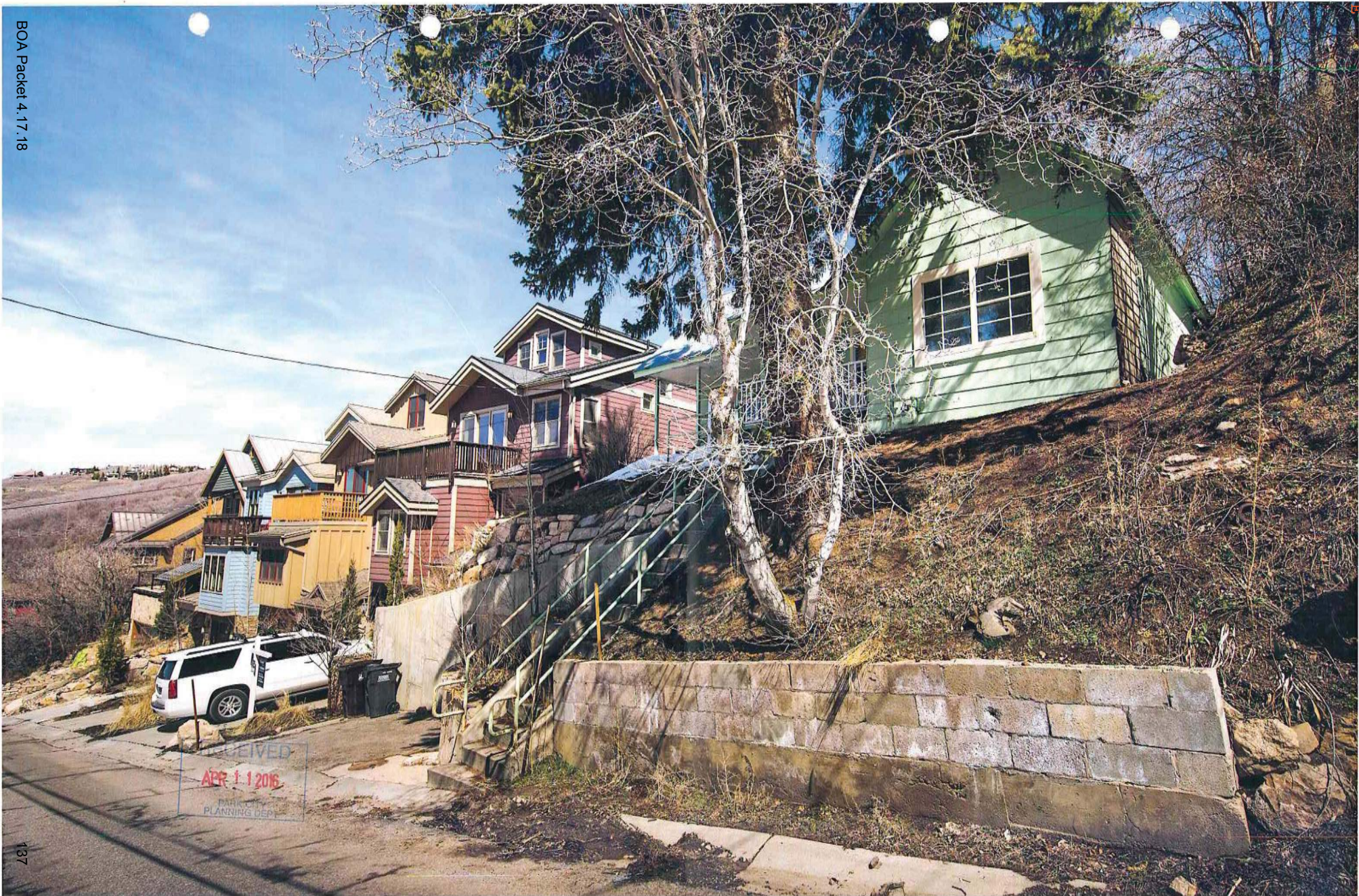
4 EAST ELEVATION
A2.3 SCALE 1/8" = 1'-0"

5 PARTIAL EAST ELEVATION
A2.3 SCALE 1/8" = 1'-0"

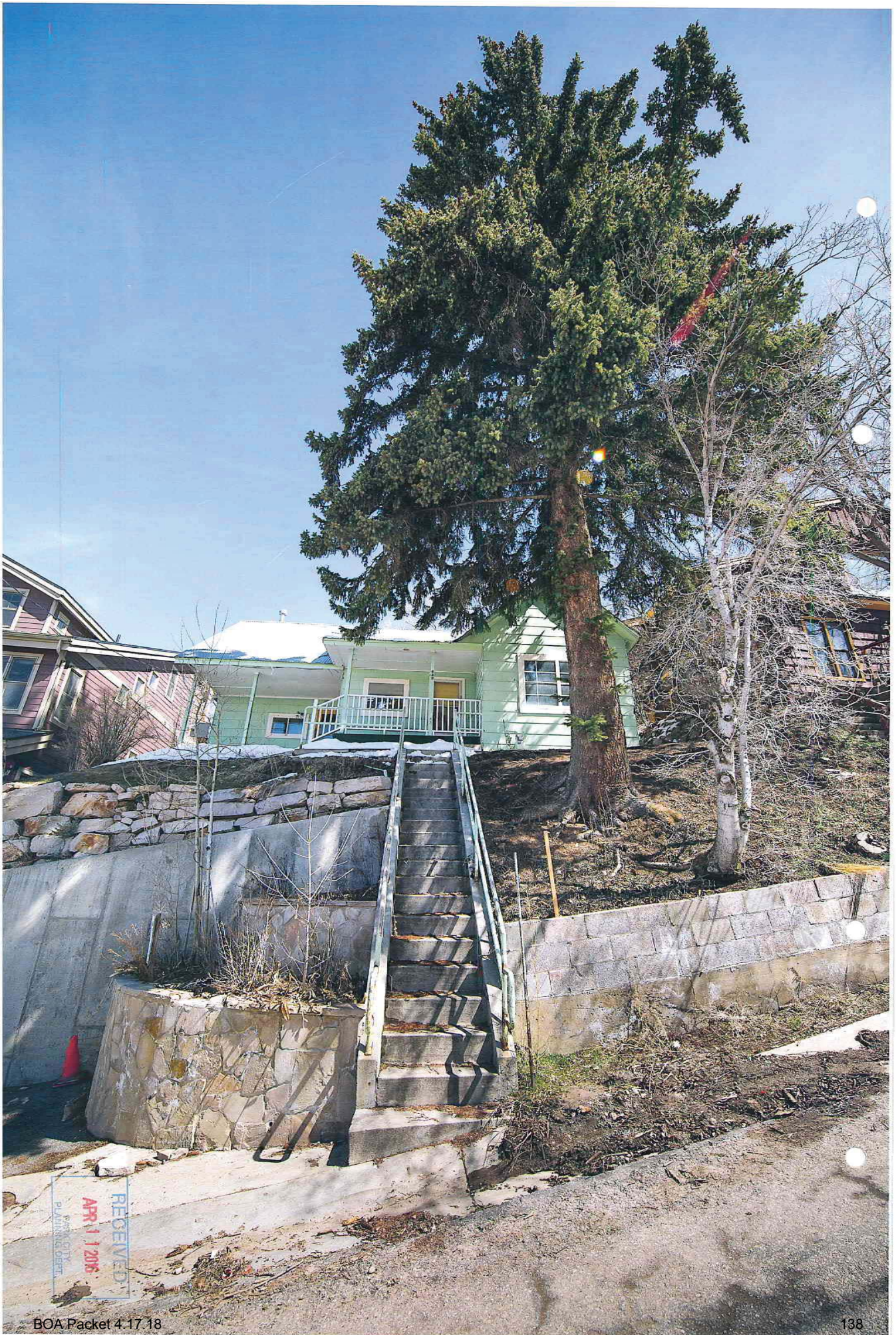
RECEIVED
JAN 11 2018
BY: [Signature]

**EASTER RESIDENCE TWO
NEW EXTERIOR ELEVATIONS
NORTH & EAST**
DATE: 01-31-18
DRAWN BY: VPM
CHECKED BY: VPM
JOB NO: 16-04-07-03

A2.3



BOA Packet 4.17.18



RECEIVED
APR 11 2018
PLANNING DEPT.

APPENDIX D
BOARD OF ADJUSTMENT
422 ONTARIO AVE – VARIANCE MINUTES – JUNE 21, 2016

PARK CITY MUNICIPAL CORPORATION
BOARD OF ADJUSTMENT
MINUTES OF JUNE 21, 2016

BOARD MEMBERS IN ATTENDANCE: Ruth Gezelius – Chair; Hans Fuegi,
David Robinson, Mary Wintzer

EX OFFICIO: Planning Director Bruce Erickson, Anya Grahn, Ashley Scarff,
Polly Samuels McLean, Louis Rodriguez

ROLL CALL

Chair Gezelius called the meeting to order at 5:01 p.m. and noted that the Board did have a quorum.

ADOPTION OF MINUTES OF May 24, 2016.

MOTION: Board Member Hans Fuegi moved to APPROVE the minutes of May 24, 2016 as written. Board Member Wintzer seconded the motion.

VOTE: The motion passed unanimously.

PUBLIC COMMUNICATIONS

There were no comments.

STAFF/BOARD MEMBERS COMMUNICATIONS AND DISCLOSURES

Director Erickson reported that they were still waiting to hear from the State Ombudsman regarding 569 Park Avenue. He anticipated that it would be several months before they heard back.

REGULAR MEETING – Discussion, Public Hearing and Possible Action

1. 2389 Doc Holiday Drive – Applicant is requesting a variance to Land Management Code Section 15-2.11-3 (1) (2) to construct an addition to connect a single-family dwelling to a detached garage. If connected, the entire structure would no longer meet required side and rear yard setbacks of ten feet (10'). (Application PL-16-03106)

Planning Tech, Ashley Scarff, reviewed the request for a variance to reduce the minimum required rear and side yard setbacks of 10' each to 9.25 feet and 5.25 feet respectively. The property in question is Lot 16 of the Prospector Park Subdivision Phase I. The lot currently contains the applicant's single-family dwelling and detached garage, and both meet the minimum required setbacks for

10. The applicant has the ability to build an addition onto the main single-family structure in a manner that decreases the distance between the main and accessory structures, thus, providing the connecting walkway with more cover from the elements in winter months.

11. The variance is not necessary for the property owner to update or remodel their home.

12. The variance would not substantially affect the General Plan, but would be contrary to public interest by setting a precedent for reduced rear and side yard setbacks, which are enforced in the name of the public interest.

13. The spirit and intent of the LMC would be observed with the addition, as long as the current use of the garage structure is maintained.

Conclusions of Law – 2389 Doc Holiday Drive

1. Literal enforcement of the Land Management Code for this property would not cause an unreasonable hardship that is not necessary to carry out the general purpose of the zoning ordinance.

2. There are no special circumstances attached to the property that do not generally apply to other properties in the same district.

3. Granting the variance is not essential to the enjoyment of substantial property right possessed by other property owners in the same district.

4. The variance will not substantially affect the General Plan but will be contrary to the public interest.

5. The spirit of the Land Management Code will be observed.

Order

1. The variance to LMC §15-2.11-3(I) reducing the minimum rear yard setback of ten feet (10') to 9.25 feet (9.25') and the minimum side yard setback of ten feet (10') to 5.25 feet (5.25') to connect a single-family dwelling to a detached accessory building--is hereby denied.

2. 422 Ontario Avenue – Applicant is requesting a variance to Section 15-2.2-3 (E) (Front Yard Setbacks), Section 15-2.2-3(H) (Side Yard Setbacks), and Section 15-2.2-5 (A) Building Height of the Park City Land Management Code (LMC) for the purpose of constructing a basement garage addition and new above grade addition to a “Significant” historic house. (Application PL-16-03138)

Planner Anya Grahn provided a brief background on the site at 422 Ontario Avenue. This portion of Ontario is very steep and narrow and it is difficult for two cars to pass. An existing 14' boulder and concrete retaining wall was constructed by the neighbor in 2008. It was to improve the hillside along the road and hold it back. Planner Grahn reported that the previous owner, LS Sorensen, entered into an agreement with the neighbors for that wall, and it was built legally. The historic house is designated as Significant on the Historic Sites Inventory, and historically the Sorensen's accessed the property from the back where Echo Spur is now. However, when this applicant met with the developer of Echo Spur, Echo Spur was not interested in entering into any kind of vehicular access. Planner Grahn stated that there is no prescriptive right for that access because the access occurred over a property that was owned by the railroad and it could not be granted. She noted that currently the owners park along Ontario Avenue, which is public parking space in the public right-of-way. The LMC requires a 12' front yard setback, and the wall is setback approximately 12'. Planner Grahn explained that the wall is built right on the front property line, but front property line is 12' back from the paved Ontario Avenue because Ontario Avenue was not built within its platted right-of-way.

Bill Mammen, the project architect, discussed the quirks of the site and his approach to designing it. Mr. Mammen stated that they could build a garage 12' back from the front property line, but it would be buried because the grade at that point is 18' above the floor of the garage. He thought that would be visually be more harmful to the street than just having the garage at the retaining wall. Mr. Mammen noted that the plan is to use the existing retaining wall as the garage door. They would re-establish the historic grades after the garage is built.

Mr. Mammen commented on the height and noted that the steep slope requires 35' from the lowest floor entrance to the top plate. The City is counting the entrance to the garage door as that lowest point. Mr. Mammen stated that the plan is to build a separate structure that is only attached by a minimal connection to the historic house. The historic house stands alone, and any addition would stand alone as a new addition. Mr. Mammen stated that the plan is to come up from the garage with an elevator and stairway to make the house totally accessible and livable, which is rare in this part of Park City. Mr. Mammen remarked that some of the hardship is created once they build the structure. If they put the garage where it belongs it hurts everyone, and that is the biggest hardship.

Planner Grahn reviewed the criteria and the Staff findings as outlined in the Staff report.

Chair Gezelius asked Planner Grahn to clarify the size of the lot. Planner Grahn stated that the minimum lot size is 1875, which is a traditional 25' x 75' lot. The applicant had gone through the plat amendment process and they were working

through the redlines. The plat amendment had not yet been recorded. The proposed lot size would be 4,464 square feet.

Board Member Wintzer understood that the house was over three stories on one elevation. Mr. Mammen replied that the house would end with the garage and two stories. The two finished floor levels would be the existing floor of the house and one story above that.

Planner Grahn pulled up the east elevation that Ms. Wintzer was referring to. Ms. Wintzer asked if the applicant was proposing a height of 41' rather than 35'. Planner Grahn replied that she was correct. Mr. Mammen explained that the 41' was measured from the garage door entrance. Ms. Wintzer asked if measuring from the garage floor accounted for the space for the roof. Mr. Mammen replied that it was 41' from the garage floor to the top plate. He noted that stacking it reduces the overall height. He stated that the addition would only be 800 square feet. They were adding two bedrooms and two bathrooms. Ms. Wintzer stated that if they were adding 800 square feet, the total size would be 1600 square feet.

Barbara Easter, the owner, believed the proposed drawing showed a total of 2300 square feet including the original house. Chair Gezelius clarified that it was on a 4464 square foot lot. Mr. Mammen stated that the footprint is 1400 square feet. The total square footage of the house was 2300 square feet.

Chair Gezelius stated that the rules are written for flat lots, and then written for a certain slope. She pointed out that this was an unusual lot in terms of its setback, the slope, and its location. The idea of keeping the historic home instead of building a gigantic home on this parcel, made her much more receptive to the issue of a height exception based on the very steep slope. Chair Gezelius thought the request was reasonable for a smaller than a potential sized home. Saving the historic home and getting a functional home at the same time made her think differently because the size of the site justified extenuating circumstances. Having been a pedestrian on this street, she realized how dangerous it can be when cars back in and out, or try to pass each other, or trucks come and go. Chair Gezelius stated that her thinking changed as she kept reading the Staff report.

Board Member Wintzer referred to the west elevation on page 66 of the Staff report. She had concerns with the mass and scale appearing to be considerable with the small house. Mr. Mammen reviewed the plans to help Ms. Wintzer understand the mass and scale of the proposal. They really wanted to let old home shine, and the intent was to expose the actual T house that was built in 1905. The walls are very distinct. Chair Gezelius asked if that was the reason for changing the siding from the horizontal on the old house to the vertical in the back. Mr. Mammen pointed out that the 3-foot link will be all glass. He pointed to the original back porch on the original house, the T, the front porch and the

back porch. He noted that they were re-establishing the back porch and enclosing it with glass, and that would connect the old house to the new house.

Ms. Easter remarked that the plan is connected to the garage. If they could not put the garage in the hill, they would be forced to build a much larger structure on top of the hill, and it would overwhelm Shorty's house. It is a tiny house and putting an addition on to the side of it will allow the house to be used. It would also help to restore the historic house.

Mr. Mammen explained the dimensions of the garage and noted that it would be a two-car tandem garage.

Board Member Wintzer commented on the two public parking spaces that would be given up. She asked if the applicant would be using public property. Planner Grahn answered yes. She reviewed the site plan and indicated the area in front of the house that is within the public right-of-way that is currently available for public parking. Rather than be public parking it would now be the access into the tandem garage. Ms. Wintzer asked if the public parking spaces would remain if the variance was not granted. Planner Grahn replied that she was correct. If the variance was not granted they would be unable to construct the underground garage, and the two spaces would remain. Mr. Mammen pointed out that it was only one space; not two. Ms. Easter agreed that it was only one space, and it has always been used by whoever lives in the house. Chair Gezelius noted that that the parking space is challenged because the snow storage from the street is piled up on the site because there is no storage along this street.

Board Member Fuegi asked Mr. Mammen if he had any drawings showing the height at 35'. Mr. Mammen stated that there was no way to have a second floor and keep within 35'. Without the variance, they would be restricted to one level and would have to increase the 1400 square feet footprint. Mr. Mammen stated that they could lower the addition floor and add a second floor, but it would require changing the historic grade.

Board Member Fuegi understood historic grade, but there is also an existing Code. He thought it was a hard argument to swallow when on one hand Mr. Mammen needs a variance for the height, but they are going to build it up. It did not make sense until Mr. Mammen explained the historic grade.

Director Erickson asked if Planner Grahn had done an analysis of the alternatives before coming in with the Staff recommendation. Planner Grahn explained that the applicant had submitted a pre-Historic District Design Review application. They were only at the pre-app stage, because without a variance the design would change drastically and she did not want the applicant to submit the full HDDR. Planner Grahn stated that if the variance is granted, or even if not, they would likely need a steep slope conditional use permit that would go through and be approved by the Planning Commission. Something new to the Planning

Department is that last December the City Council required that the HPB start looking at material deconstruction applications. The HPB will be required to review the work that is being proposed on this house, as well as the demolition of the addition to the north that the Staff does not believe is historic or original to the building.

Planner Grahn outlined the options. If the variance is granted and the applicant was allowed to put in the basement garage addition, the height of the addition overall would have to be reduced. If the garage was not to be constructed, historic structures are exempt from parking and they could continue to park on the street. They would probably have the opportunity to keep the height but the basement floor would have to be raised.

Chair Gezelius wanted to know how high they could build if a house was built on the top of the lot. Planner Grahn replied that it would be 27' above the indicated line. She was only talking about height above grade and not the interior. Mr. Mammen stated that if the Board of Adjustment did not grant the variance for the garage, the only option for the garage would be to push it back 12', and it would obliterate the historic house. He thought the BOA needed to weigh which was more important.

Planner Grahn indicated on the site plan where the garage would line up if it was pushed back 12'. The amount of required excavation would probably not meet the design guidelines and a garage would not be accomplished.

Board Member Robinson understand that Mr. Mammen was proposing to connect the historic house with the new structure. He referred to the first level floor plan on page 63 and asked if it included the existing structure. Mr. Mammen reviewed the plans showing the existing historic structure, and the existing historic porch.

Chair Gezelius stated that was not unprecedented in this general area and that at least two historic homes were connected to additions behind or beside them. It is a way to save some element of the historic structures and provide enough living space for today's standards for a family. Chair Gezelius remarked that it is a challenged, steep site, and she rarely favors a height exception. However, she believes that saving the home and building correctly make it a good neighbor to have its own parking, and it becomes a much more functional home with the garage. She thought the applicant presented a garage that fits the direction of planning with a single car garage and tandem instead of two garage doors on the street. Chair Gezelius believed it fits with what has been done in this area planning-wise to save the historic structures that are left. She would be sad to see a big new house 27' high at the top of this hill. Height variation in the neighborhood is good and this comes in under other structures that were built. She considers that to be a neighborhood benefit.

Board Member Fuegi clarified that this historic house could not be torn down because it is on the HSI. Director Erickson stated that they have HPB review and material deconstruction. The Board is not happy about doing that to houses, and the Planning Department is very vigilant about protecting that house. Director Erickson remarked that the excavation required if the variance is not granted would put the Significant house at much more risk during construction, even if it was raised. He noted that part of the variance request is to do additional protection of the historic home.

Chair Gezelius asked if the Board was ready to make a motion. Board Member Wintzer stated that she was still struggling with the General Plan and the size and the mass and scale. She would not be making the motion.

Chair Gezelius stated that the motion should be to APPROVE the request at 422 Ontario for the variances as outlined on page 41 of the Staff report. The first variance is to the required 12' front yard setback; the second variance is to the required 5' side yard setback on the north property line for the construction of the garage; the third variance is for the maximum height to be increased to the 41' as outlined in the conditions, subject to the Findings of Fact, Conclusions of Law and Conditions of Approval and the Order as written.

MOTION: Board Member Robinson moved to APPROVE the variances requested for 422 Ontario, per the language stated by Chair Gezelius.

Board Member Fuegi asked for additional discussion on the motion.

Board Member Fuegi was uncomfortable with the height variance. He wanted to make sure they explored all the possibilities and alternatives. He liked the idea of the garage and the idea of maintaining the house. However, he thought they needed to further explore the possibilities of staying within the height restriction.

Mr. Mammen stated that if they only did an addition, the addition would be 18 feet taller than what is proposed. He felt like they were being penalized by the 35' height restriction because they want to build the garage right off the street. If they pushed the garage back, they are restricted by a 14% slope. If they did a 14% slope off the street and went 23 back from the back curb, it would be 3.8'. Mr. Mammen believed they were really only asking for 18" from a strict interpretation of the rule. The applicant was also cutting a story off of the house in order to get a garage. He thought it was a quid pro quo.

Ms. Easter stated that without the variance she would have to decide how to make this house livable for someone and just maintain the parking spot off the street that is public space. Ms. Easter noted that she could build an additional four-bedroom house above it that is 18" taller than this one, and not have to ask for a variance.

Board Member Wintzer could not reconcile the variance request with the five criteria.

Chair Gezelius suggested that the Board discuss each of the criteria.

Criteria 1. Literal enforcement of the LMC would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the LMC.

Chair Gezelius believed the Board members agreed with the applicant that the site is steeply sloped uphill.

Board Member Wintzer stated that in terms of an unreasonable hardship, this was a hardship that many homes in Old Town have faced or still face.

Chair Gezelius pointed to the photos of the surrounding structures and noted that the new homes were allowed to build underground garages and build higher. She stated that her issue since the 28' height was imposed on people who had not demolished their historic homes, is that the next door neighbor could build a new house at a taller height, but the historic house needs to remain lower. She thought it was grossly unfair and creates a hardship for people trying to maintain a historic home at a size that is livable for a family. From a planning standpoint, Ms. Gezelius thought the restrictions were punitive and penalize people who wish to follow the new rule. It made it difficult to accomplish the goal to maintain historic structures. She believed that granting the variance was a much better alternative than having the applicant build a much taller structure at the top. It would also save this historic home. Chair Gezelius commented on the hardship of trying to maintain a historic home on an extremely steep lot. She thought the excavation consideration to put a garage further back was not a good scenario for soils stability and the homes adjacent to it, as well as the back hillside. In her opinion, it did not make sense.

Board Member Wintzer stated that when the City did the Visioning people brought in pictures of houses they were upset about. This was occurring all over Old Town and she assumed the 27' rule was changed because they were seeing too much mass and height. She thought it was unfortunate and agreed that it is not always fair. However, when she reads the General Plan, the goal is to maintain the fabric of the community, and felt this variance request was a stretch to meet that goal.

Chair Gezelius pointed out that the purpose of the Board of Adjustment is to address the unusual and the hardships. The lots that were left are the hardest lots to build on. She remarked that if they could not have exceptions or the opportunity to maintain the historic structures they would be lost. Chair Gezelius gave Mr. Mammen a lot of credit for his design solution on a difficult site. She was amazed that he could envision a way to utilize the site and save the home.

Mr. Mammen remarked that this has been a work in progress for over a year and it was not approached lightly. He presented a picture of a structure that legally meets the LMC, even though it completely obliterates the street and the house is 27' above existing grade. Chair Gezelius thought it was questionable whether that home contributed to the Historic District. Mr. Mammen argued that this house and most of the other houses on the street have no place in the Historic District, and they should have never been built. He explained that Ms. Easter's house is 3 feet below the 27' height limit at its highest point. The ground keeps going up from there and the height is below 27' at the back of the house. Mr. Mammen agreed that too much bulk and mass was built in the Historic District years ago. He believed the Code was fine but too many things were allowed to slip by through misinterpretation of the Code.

Ms. Easter understood the concerns about massing, but her house would be nothing compared to the addition on McHenry and the new enormous glass house. Her house would be setback so far that it would be less visible from the street and very low in comparison to the hill. She intended to make Shorty's house stand out and that is what will be seen as the mass.

Board Member Wintzer referred to the criteria regarding public interest. She asked if the City makes the judgement call when it gives up public spaces, and whether there is a balance or always a price that the applicant or developer has to pay. Director Erickson stated that in the public interest portion, the BOA gets to decide whether the benefits to preserving this house and the reduction in overall height, warrants taking one publicly available parking space out of the system that may or may not be useful during the winter. The plan would eliminate one parking spot, but gain two parking spots, and protect the historic house. The Staff believes that is a quid pro quo; but the Board of Adjustment makes that decision.

Board Member Robinson understood from the Staff report that was one of 13 houses listed on the Historic Sites Inventory. However, this is the only historic house that has this very unique situation because most of the other houses are further down on Ontario where the road flattens out. Those homes do not have to deal with a severe slope and most of the access is to the rear of those properties. He believed this was a very unique situation for that reason. Mr. Robinson stated that another important issue is that the Historic Design Review still needed to take place, and he assumed the review team would look closely at the design elements of the house, along with the material deconstruction. Rather than the BOA getting involved in the design aspect, Mr. Robinson thought the idea of granting a variance to go from 35' to 41', but actually ending up with less mass than what could occur if they do not grant this variance, would act in favor of the applicant's request.

Board Member Wintzer asked the Staff if it was a definite fact that if the BOA grants this variance, they would end up with a house that is less than what could otherwise be built. Planner Grahn answered yes. Ms. Wintzer asked if that needed to be part of the motion to approve the variance. Chair Gezelius stated that it was outlined sufficiently in the Findings and did not need further clarification.

Assistant City Attorney McLean noted that Condition of Approval #1 states, "The variances are granted for the construction of an underground basement garage as indicated on the plans submitted with this application". Ms. McLean noted that the HDDR has not taken place and there might be some changes. She thought Condition #1 was clear that the variance was only for that underground basement garage. However, they could revise the language to indicate that the variance is granted only for that purpose.

Chair Gezelius suggested wording, stating that, "The variance for the height exception is granted on the understanding and condition that the finished height of the project could not exceed 18 feet at the top". Ms. McLean and the Board members were comfortable with that wording. Mr. Mammen suggested that they could go further and specify an elevation. Planner Grahn thought it should read "top wall plate" to match the LMC.

Chair Gezelius did not believe they needed to establish the actual elevation. She suggested language stating, "...from the lowest finished floor plane to the top of the highest wall top plate shall not exceed 41' per the applicant's request". She stated that if the applicant, the Planning Commission or the HPB wants something different, it would have to come back to the BOA.

Based on their comments, Planner Grahn drafted Condition #5 to read, "The variance for the interior height exception is granted and conditioned so that the lowest finished floor plane to the highest wall plate does not exceed 41 feet as per the variance requested, which will result in a structure that is lower in height and elevation than could be built on the site without the variance".

To address additional concerns regarding the height, Director Erickson suggested adding another sentence stating, "The height of the new structures shall not exceed 18' at the highest portion of the site to the top sill plate above existing grade." Planner Grahn suggested "to the roof height" instead of "the sill plate". Director Erickson suggested adding Condition #6, stating that while the height exception runs with the land, it is limited to the proposed drawings contained in the Staff report. If there is concern about vesting future height exception rights, it should be limited to this particular plan. If a future owner wants something different they would have to go through the variance process.

After further wordsmithing, Condition #5 was revised to read, "The variance for the interior height exception is granted and conditioned so that the lowest

finished floor plane to the highest wall plate does not exceed 41 feet as per the variance requested which will result in a structure that is lower in height above existing grade than what would otherwise be permitted. The height of the new structure shall not exceed 18 feet above existing grade from the tallest elevation of the site". Condition #6 would read, "The variance for height and setbacks is limited to the building plans submitted as part of this variance application."

Mr. Mammen asked if the applicant would have to come back to the Board of Adjustment if changes were made during the HDDR. Planner Grahn replied that it would only be in relation to the height and the variance granted. For example, if they needed 42' of interior height they would have to come back. If the setback changes for the garage, they would also come back to the BOA. Otherwise, the remainder of the house follows the normal LMC requirements.

Director Erickson suggested revising Condition #6 to read, "The variance for height and setbacks is limited to the building plans submitted as part of this variance application and subsequent to the Historic District Design Review (HDDR)".

MOTION: Board Member Robinson moved to Approve the requested variance as stated in his previous motion with the amendment to add Conditions Approval #5 and #6, subject to the Findings of Fact, Conclusions of Law and Conditions of Approval as amended. Board Member Fuegi seconded the motion.

VOTE: The motion passed unanimously.

Findings of Fact – 422 Ontario Avenue

1. The property is located at 422 Ontario Avenue in the Historic Residential (HR-1) District.
2. The HR-1 zone is characterized by historic and contemporary homes on one (1) to two (2) lot combinations.
3. The property consists of all of Lot 5, all of Lot 6, the south one-half (approx.) of Lot 7, and a portion of Lots 26, 27, and 28, Block 58 of the Park City Survey. On December 3, 2016, City Council approved a plat amendment at this location to create the Sorensen Plat Amendment; this plat amendment has not yet been recorded.
4. There is an existing 837.25 square foot historic house on the property. It is designated as Significant on the City's Historic Sites Inventory.
5. The existing historic house is setback from the front property line by 9 to 10 feet. It is setback from the edge of asphalt on Ontario Avenue by 21 to 22 feet, decreasing in setback from north to south.

6. There is an existing retaining wall along the front property line that varies in height from about 14 feet to about 15 feet from north to south as the grade on Ontario rises uphill. The retaining wall has a length of about 26 feet.
7. The City approved construction of the existing stone retaining wall in 2008.
8. The applicant is requesting a variance to LMC Section 15-2.2-3(E) to reduce the required twelve foot (12') front yard setback to 0 feet to allow for a two-car tandem garage to be constructed behind an existing retaining wall.
9. The applicant is requesting a variance to LMC Section 15-2.2-3(H) to reduce the required five foot (5') side yard setback to three feet (3') along the north property line to allow for construction of the proposed garage.
10. The applicant is requesting a variance to LMC Section 15-2.2-5(A) to the required maximum height of 35 feet measured from the lowest finished floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters; the applicant requests a variance to allow an interior height of 41 feet.
11. The applicant is requesting the variances in order to construct a new two-car tandem garage behind the existing retaining wall.
12. Literal enforcement of the LMC would make it impossible to make the garage accessible from the street given the required setbacks, interior building height requirements, and steep slope of the lot. The steepness of the lot and the distance of the front property line from paved Ontario Avenue are unique to this property.
13. There are special circumstances attached to this property that do not generally apply to other Properties in the same zone. This house is one of the few properties along Ontario Avenue that have preserved its original grade; only along the retaining wall has grade been altered to accommodate the right-of-way. This property is also unique in that paved Ontario Avenue is about 12 feet to the west of the front property line. Finally, this site was historically accessed by vehicles from the east or rear property line.
14. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone. Granting the variance allows the property owner to construct an attached garage at the street level without severely impacting existing grade, while also alleviating parking congestion on Ontario Avenue by providing off-street parking.
15. The variance will not substantially affect the General Plan and will not be contrary to public interest. It is within the public interest to eliminate parking

congestion on Ontario Avenue. Parked cars are a safety hazard to other cars, pedestrians, and cyclists utilizing Ontario Avenue. A reduction to the front and side yard setbacks will allow the façade of the garage to maintain the appearance of a retaining wall and have limited impacts to existing grade. One of the goals of the General Plan is to ensure that the character of new construction is architecturally-compatible to the existing historic character of Park City and this variance will permit a design that largely masks the mass and bulk of the addition by burying it underground.

16. The spirit of the Land Management Code is observed and substantial justice is done. The variance will preserve the historic character of the street by maintaining the hillside and reducing the overall height of the addition. It will create an accessible attached garage and alleviate parking congestion along Ontario Avenue.

17. The enclosed garages will help ensure that at least one vehicle for each dwelling unit can be parked off the street. The other parking space for each dwelling unit would be on the remaining area of the parking pads, as uncovered spaces.

18. Granting of the variance allows to the applicant the same rights as other property owners in the district. Most properties have enclosed parking in garages that discourage public from parking within/or behind them. This is not the case with the subject property parking pads, which are often utilized by trail users, resident guests, and other users as mistaken “on-street” parking.

Conclusions of Law – 422 Ontario Avenue

1. Literal enforcement of the HR-1 District requirements for this property causes an unreasonable hardship that is not necessary to carry out the general purpose of the zoning ordinance.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same district.
3. Granting the variance is essential to the enjoyment of substantial property right possessed by other property owners in the same district.
4. The proposal is consistent with the General Plan.
5. The spirit of the zoning ordinance is observed by this application.
6. It can be shown that all of the conditions justifying a variance, pursuant to LMC § 15-10-9, have been met.

Order

1. A variance to LMC Section 15-2.2-3 (E), to the required twelve foot (12’) side yard setbacks to allow a zero foot (0’) setback to the front property line, is hereby granted.

2. A variance to LMC Section 15-2.2-3 (H), to the required five foot (5') side yard setbacks to allow a three foot (3') setback to the north property lines, is hereby granted.
3. A variance to LMC Section 15-2.2-5 (A) to the required maximum height of thirty-five feet (35') to allow a maximum height of forty-one feet (41') measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters, is hereby granted.
4. The variances run with the land.

Conditions of Approval – 422 Ontario Avenue

1. The variances are granted for the construction of an underground basement garage, as indicated on the plans submitted with this application.
2. No portion of the garage shall be used for additional living space.
3. The garage interior shall be used for parking. Limited storage is permitted to the extent that it does not preclude parking of a vehicle. Trash and recycling bins may be stored in the garages.
4. The area underneath the garages shall not be enclosed for use as habitable living space.
5. Recordation of the plat amendment is required prior to issuance of a building permit for the new construction.
6. The variance for the interior height exception is granted and conditioned so that the lowest finished floor plane to the highest wall plate does not exceed 41 feet as per the variance requested which will result in a structure that is lower in height above existing grade than what would otherwise be permitted. The height of the new structure shall not exceed 18 feet above existing grade from the tallest elevation of the site.
7. The variance for height and setbacks is limited to the building plans submitted as part of this variance application and the subsequent Historic District Design Review (HDDR).

Chair Gezelius adjourned the meeting at 6:39 p.m.

Approved by _____
Ruth Gezelius, Chair

Board of Adjustment Meeting
June 21, 2016

Board of Adjustment

APPENDIX E
ORDINANCE 13-48 (11/21/2013)

AN ORDINANCE AMENDING THE LAND MANAGEMENT CODE OF PARK CITY, UTAH, REVISING SECTIONS 15-2.1-5, 15-2.2-5, 15-2.3-6, 15-2.16-5(L), & 15-2.16-5(M) REGARDING BUILDING HEIGHT IN THE HRL, HR-1, HR-2, & RC DISTRICTS.

WHEREAS, the Land Management Code was adopted by the City Council of Park City, Utah to promote the health, safety and welfare of the residents, visitors, and property owners of Park City; and

WHEREAS, the Land Management Code implements the goals, objectives and policies of the Park City General Plan to maintain the quality of life and experiences for its residents and visitors; and to preserve the community's unique character and values; and

WHEREAS, the City reviews the Land Management Code on an annual basis and identifies necessary amendments to address planning and zoning issues that have come up in the past year, and to address specific LMC issues raised by Staff and the Commission, to address applicable changes to the State Code, and to align the Code with the Council's goals; and

WHEREAS, the City's goals include preservation of Park City's character regarding Old Town improvements, historic preservation, sustainability, affordable housing, and protecting Park City's residential neighborhoods and commercial districts; and

WHEREAS, the City's goals include maintaining effective transportation and parking, maintaining the resort community regarding architectural consistency and excellent design and enhancing the economic viability of Park City's Main Street Business Districts; and

WHEREAS, Chapters 2.1, 2.2, and 2.3 Historic Residential Districts (HRL, HR-1, and HR-2) and Chapter 2.16 Recreation Commercial (RC) District, provide a description of requirements, provisions and procedures specific to these zoning districts that the City desires to clarify and revise. These revisions concern existing historic structures and building height; and

WHEREAS, the Planning Commission held work session discussions on August 22, 2012, September 12, 2012, January 9, 2013, and February 13, 2013 and provided input and direction during their regular meetings on September 26, 2012, November 28, 2012, May 8, 2013, and June 26, 2013 and discussed the proposed LMC amendments as outlined in this report; and

WHEREAS, the Planning Commission duly noticed and conducted public hearings at the regularly scheduled meeting on October 17, 2013, and forwarded a positive recommendation to City Council; and

WHEREAS, the City Council duly noticed and conducted a public hearing at its regularly scheduled meeting on November 21, 2013; and

WHEREAS, it is in the best interest of the residents of Park City, Utah to amend the Land Management Code to be consistent with the Park City General Plan and to be consistent with the values and identified goals of the Park City community and City Council to protect health and safety, maintain the quality of life for its residents, preserve and protect the residential neighborhoods, preserve historic structures, promote economic development within the Park City Historic Main Street business area, and preserve the community's unique character.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 2- Sections 15-2.1, 15-2.2, 15-2.3, and 15-2.16. The recitals above are incorporated herein as findings of fact. Chapter 15-2.1, 15-2.2, 15-2.3, and 15-2.16 of the Land Management Code of Park City are hereby amended as redlined (see Attachment 1).

SECTION 2. EFFECTIVE DATE. This Ordinance shall be effective upon publication.

PASSED AND ADOPTED this 21 day of November, 2013

PARK CITY MUNICIPAL CORPORATION



Liza Simpson, Mayor Pro Tem

Attest:



Marci S. Heil, City Recorder

Approved as to form:



Mark Harrington, City Attorney



Attachment 1

Chapter 2.1 - Historic Residential-Low Density (HRL) District

15-2.1-5. BUILDING HEIGHT.

No Structure shall be erected to a height greater than twenty-seven feet (27') from Existing Grade. This is the Zone Height. Final Grade must be within four vertical feet (4') of Existing Grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and a garage entrance. The following height requirement must be met:

(A) ~~A Structure may have a maximum of three (3) stories. A basement counts as a Story within this zone. A Structure shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters. Atties that are not Habitable Space do not count as a Story.~~

(B) ~~A ten foot (10') minimum horizontal step in the downhill façade is required for a third (3rd) Story of a Structure unless the First Story is located completely under the finish grade on all sides of the Structure. On a Structure in which the First Story is located completely under finish grade, a side or rear entrance into a garage which is not visible from the front façade or Street Right of Way is allowed. The horizontal step shall take place at a maximum height of twenty three feet (23') from where the Building Footprint meets the lowest point of existing Grade. Architectural features, that provide articulation to the upper story façade setback, may encroach into the minimum ten foot (10') setback but shall be limited to no more than twenty five percent (25%) of the width of the building encroaching no more than four feet (4') into the setback, subject to compliance with the Design Guidelines for Historic Sites and Historic Districts.~~

(C) **ROOF PITCH.** ~~The primary Rroof pitch must be between seven:twelve (7:12) and twelve:twelve (12:12). A Green Roof or a roof which is not part of the primary roof design may be below the required 7:12 pitch. A Green Roof may be below the required 7:12 roof pitch as part of the primary roof design. In addition, a roof that is not part of the primary roof design may be below the required 7:12 roof pitch.~~

(1) ~~A Structure contain a flat roof shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the highest wall top plate that supports the ceiling joists or roof rafters. The height of the parapets, railings, or similar features shall not exceed twenty four inches (24") above the highest top plate mentioned above.~~

(D) **BUILDING HEIGHT EXCEPTIONS.** The following height exceptions apply:

(1) Antennas, chimneys, flues, vents, or similar Structures, may extend up to five feet (5') above the highest point of the Building to comply with International Building Code (IBC) requirements.

(2) Water towers, mechanical equipment, and associated Screening, when Screened or enclosed, may extend up to five feet (5') above the height of the Building.

(3) **ELEVATOR ACCESS.** The Planning Director may allow additional height to allow for an elevator compliant with American Disability Act (ADA) standards. The Applicant must verify the following:

(a) The proposed height exception is only for the Area of the elevator. No increase in square footage of the Building is being achieved.

(b) The proposed option is the only feasible option for the elevator on the Site.

(c) The proposed elevator and floor plans comply with the American Disability Act (ADA) standards.

(4) **GARAGE ON DOWNHILL LOT.** The Planning Director may allow additional height on a downhill Lot to accommodate a single car garage in a tandem configuration. The depth of the garage may not exceed the minimum depth for an internal Parking Space as dimensioned within this Code, Section 15-3. Additional width may be utilized only to accommodate circulation and an ADA elevator. The additional height may not exceed thirty-five feet (35') from Existing Grade.

Chapter 2.2 - Historic Residential (HR-1) District

15-2.2-5. BUILDING HEIGHT.

No Structure shall be erected to a height greater than twenty-seven feet (27') from Existing Grade. This is the Zone Height. Final Grade must be within four vertical feet (4') of Existing Grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and a garage entrance. The following height requirement must be met:

~~(A) — A structure may have a maximum of three (3) stories. A basement counts as a First Story within this zone. A Structure shall have a maximum height of thirty five feet (35') measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters. Attics that are not Habitable Space do not count as a Story.~~

(B) A ten foot (10') minimum horizontal step in the downhill façade is required ~~for a third (3rd) Story of a Structure~~ unless the First Story is located completely under the finish Grade on all sides of the Structure. ~~On a Structure in which the First Story is located completely under finish Grade, a side or rear entrance into a garage which is not visible from the front façade or Street Right of Way is allowed. The horizontal step shall take place at a maximum height of twenty three feet (23') from where the Building Footprint meets the lowest point of existing Grade. Architectural features, that provide articulation to the upper story façade setback, may encroach into the minimum ten foot (10') setback but shall be limited to no more than twenty five percent (25%) of the width of the building encroaching no more than four feet (4') into the setback, subject to compliance with the Design Guidelines for Historic Sites and Historic Districts.~~

(C) **ROOF PITCH.** ~~The primary R~~roof pitch must be between seven:twelve (7:12) and twelve:twelve (12:12). ~~A Green Roof or a roof which is not part of the primary roof design may be below the required 7:12 pitch. A Green Roof may be below the required 7:12 roof pitch as part of the primary roof design. In addition, a roof that is not part of the primary roof design may be below the required 7:12 roof pitch.~~

~~(1) A Structure contain a flat roof shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the highest wall top plate that supports the ceiling joists or roof rafters. The height of the parapets, railings, or similar features shall not exceed twenty four inches (24") above the highest top plate mentioned above.~~

~~(AD)~~ **BUILDING HEIGHT EXCEPTIONS.** The following height exceptions apply:

(1) Antennas, chimneys, flues, vents, or similar Structures, may extend up to five feet (5') above the highest point of the Building to comply with International Building Code (IBC) requirements.

(2) Water towers, mechanical equipment, and associated Screening, when enclosed or Screened, may extend up to five feet (5') above the height of the Building.

(3) **ELEVATOR ACCESS.** The Planning Director may allow additional height to allow for an elevator compliant with American Disability Act (ADA) standards. The Applicant must verify the following:

(a) The proposed height exception is only for the Area of the elevator. No increase in square footage is being achieved.

(b) The proposed option is the only feasible option for the elevator on the Site.

(c) The proposed elevator and floor plans comply with the American Disability Act (ADA) standards.

(4) **GARAGE ON DOWNHILL LOT.** The Planning Director may allow additional height on a downhill Lot to accommodate a single car garage in a tandem configuration. The depth of the garage may not exceed the minimum depth for an internal Parking Space as dimensioned within this Code, Section 15-3. Additional width may be utilized only to accommodate circulation and an ADA elevator. The additional height may not exceed thirty-five feet (35') from Existing Grade.

Chapter 2.3 - Historic Residential (HR-2) District

15-2.3-6 BUILDING HEIGHT.

No Structure shall be erected to a height greater than twenty-seven feet (27') from Existing Grade. This is the Zone Height.

Final Grade must be within four vertical feet (4') from Existing Grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and a garage entrance. The Planning Commission may grant an exception to the Final Grade requirement as part of a Master Planned Development within Subzone A where Final Grade must accommodate zero lot line Setbacks. The following height requirements must be met:

(A) ~~A Structure may have a maximum of three (3) stories. A basement counts as a First Story within this zone. A Structure shall have a maximum height of thirty five feet (35') measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters. Attics that are not Habitable Space do not count as a Story.~~ The Planning Commission may grant an exception to this requirement as part of a Master Planned Development within Subzone A for the extension of below Grade subterranean HCB Commercial Uses.

(B) A ten foot (10') minimum horizontal step in the downhill façade is ~~required for a third (3rd) Story of a Structure~~ unless the First Story is located completely under the finish Grade on all sides of the Structure. The Planning Commission may grant an exception to this requirement as part of a Master Planned Development within Subzone A consistent with MPD requirements of Section 15-6-5(F). ~~On a Structure in which the First Story is located completely under finish Grade, a side or rear entrance into a garage which is not visible from the front façade or Street Right-of-Way is allowed. The horizontal step shall take place at a maximum height of twenty three feet (23') from where Building Footprint meets the lowest point of existing Grade. Architectural features, that provide articulation to the upper story façade setback, may encroach into the minimum ten foot (10') setback but shall be limited to no more than twenty five percent (25%) of the width of the building encroaching no more than four feet (4') into the setback, subject to compliance with the Design Guidelines for Historic Sites and Historic Districts.~~

(C) **ROOF PITCH.** ~~The primary R_{roof} pitch must be between seven:twelve (7:12) and twelve:twelve (12:12). A Green Roof or a roof which is not part of the primary roof design may be below the required 7:12 pitch. A Green Roof may be below the required 7:12 roof pitch as part of the primary roof design. In addition, a roof that is not part of the primary roof design may be below the required 7:12 roof pitch.~~

(1) ~~A Structure contain a flat roof shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the highest wall top plate that supports the ceiling joists or roof rafters. The height of the parapets, railings, or similar features shall not exceed twenty four inches (24") above the highest top plate mentioned above.~~

(D) **BUILDING HEIGHT EXCEPTIONS.** The following height exceptions apply:

(1) An antenna, chimney, flue, vent, or similar Structure, may extend up to five feet (5') above the highest point of the Building to comply with International Building Code (IBC) requirements.

(2) Water towers, mechanical equipment, and associated Screening, when enclosed or Screened, may extend up to five feet (5') above the height of the Building.

(3) **ELEVATOR ACCESS.** The Planning Director may allow additional height to allow for an elevator compliant with American Disability Act (ADA) standards. The Applicant must verify the following:

(a) The proposed height exception is only for the Area of the elevator. No increase in square footage of the Building is being achieved.

(b) The proposed option is the only feasible option for the elevator on the Site.

(c) The proposed elevator and floor plans comply with the American Disability Act (ADA) standards.

(4) **GARAGE ON DOWNHILL LOT.** The Planning Director may allow additional height on a downhill Lot to accommodate a single car garage in a tandem configuration. The depth of the garage may not exceed the minimum depth for an internal Parking Space as dimensioned within this Code, Section 15-3. Additional width may be utilized only to accommodate circulation and an ADA elevator. The additional height may not exceed thirty-five feet (35') from existing Grade.

15-2.16-5. SPECIAL REQUIREMENTS FOR SINGLE FAMILY AND DUPLEX DWELLINGS.

[...]

(L) **BUILDING HEIGHT.** No Single Family or Duplex Dwelling Structure shall be erected to a height greater than twenty-seven feet (27'). This is the Zone Height for Single Family and Duplex Dwellings. Final Grade must be within four vertical feet (4') of Existing Grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and a garage entrance. The following height requirements must be met:

(1) ~~A structure may have a maximum of three (3) stories. A basement counts as a First Story within this zone. A Structure shall have a maximum height of thirty five feet (35') measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters. Atties that are not Habitable Space do not count as a Story.~~

(2) A ten foot (10') minimum horizontal step in the downhill façade is ~~required for a third (3rd) Story of a Structure~~ unless the First Story is located completely under the finished Grade on all sides of the Structure. ~~On a structure in which the first Story is located completely under finished Grade, a side or rear entrance into a garage which is not visible from the front façade of Street Right of Way is allowed. The horizontal step shall take place at a maximum height of twenty three feet (23') from where Building Footprint meets the lowest point of existing Grade. Architectural features, that provide articulation to the upper story façade setback, may encroach into the minimum ten foot (10') setback but shall be limited to no more than twenty five percent (25%) of the width of the building encroaching no more than four feet (4') into the setback, subject to compliance with the Design Guidelines for Historic Sites and Historic Districts.~~

(3) Roof Pitch. ~~The primary R~~roof pitch must be between seven:twelve (7:12) and twelve:twelve (12:12). ~~A Green Roof or a roof which is not part of the primary roof design may be below the required 7:12 pitch. A Green Roof may be below the required 7:12 roof pitch as part of the primary roof design. In addition, a roof that is not part of the primary roof design may be below the required 7:12 roof pitch.~~

(a) ~~A Structure contain a flat roof shall have a maximum height of thirty five feet (35') measured from the lowest floor plane to the highest wall top plate that supports the ceiling joists or roof rafters. The height of the parapets, railings, or similar features shall not exceed twenty four inches (24") above the highest top plate mentioned above.~~

(M) **BUILDING HEIGHT EXCEPTIONS.** The following height exceptions apply:

- (1) Antennas, chimneys, flues, vents, and similar Structures, may extend up to five feet (5') above the highest point of the Building to comply with International Building Code (IBC) requirements.
- (2) Water towers, mechanical equipment, and associated Screening, when Screened or enclosed, may extend up to five feet (5') above the height of the Building.
- (3) Elevator access. The Planning Director may allow additional height to allow for an elevator compliant with the American Disability Acts standards. The Applicant must verify the following:
 - (a) The proposed height exception is only for the Area of the elevator. No increase in square footage is being achieved.
 - (b) The proposed option is the only feasible option for the elevator on the site.
 - (c) The proposed elevator and floor plans comply with the American Disability Act (ADA) standards.
- (4) Garage on Downhill Lot. The Planning Director may allow additional height on a downhill Lot to accommodate a single car garage in a tandem configuration. The depth of the garage may not exceed the minimum depth for an internal Parking Space as dimensioned within this Code, Section 15-3. Additional width may be utilized only to accommodate circulation and an ADA elevator. The additional height may not exceed thirty-five feet (35') from Existing Grade.

APPENDIX F
ORDINANCE 2016-44 (9/15/2016)

AN ORDINANCE AMENDING THE LAND MANAGEMENT CODE OF PARK CITY, UTAH, REVISING CHAPTER 1 GENERAL PROVISIONS AND PROCEDURES; CHAPTER 2 ZONING DESIGNATIONS (2.1 HRL, 2.2 HR-1, 2.3 HR-2, 2.4 HRM, 2.5 HRC, 2.7 ROS, 2.8 POS, 2.9 E-40, 2.10 E, 2.11 SF, 2.12 R-1, 2.13 RD, 2.14 RDM, 2.15 RM, 2.16 RC, 2.17 RCO, 2.18 GC, 2.19 LI, 2.22 PUT, and 2.23 CT); CHAPTER 6 MASTER PLANNED DEVELOPMENTS; CHAPTERS 7 AND 7.1 SUBDIVISIONS, CHAPTER 11 HISTORIC PRESERVATION AND CHAPTER 15 DEFINED TERMS

WHEREAS, the Land Management Code was adopted by the City Council of Park City, Utah to promote the health, safety and welfare of the residents, visitors, and property owners of Park City; and

WHEREAS, the Land Management Code implements the goals, objectives, and policies of the Park City General Plan to maintain the quality of life and experiences for its residents and visitors; and to preserve the community's unique character and values; and

WHEREAS, the City reviews the Land Management Code on a regular basis and identifies necessary amendments to address planning and zoning issues that have come up; to address specific LMC issues raised by Staff, Planning Commission, and City Council; and to align the Code with the State Code and Council's goals; and

WHEREAS, Chapter 1 provides a description of general provisions and procedures of the Park City's land development and management code that the City desires to revise. These revisions are specifically related to the appeals process, vesting of applications, notice requirements, standards of review for applications regarding the General Plan, exactions, and other procedures and requirements; and

WHEREAS, Chapters 2.1 Historic Residential-Low Density District (HRL), 2.2 Historic Residential (HR-1), 2.3 Historic Residential 2 (HR-2), 2.4 Historic Medium Density (HRM), 2.5 Historic Recreation Commercial (HRC), 2.7 Recreation Open Space (ROS), 2.8 Protected Open Space (POS), 2.9 Rural Estate (E-40), 2.10 Estate (E), 2.11 Single Family (SF), 2.12 Residential (R-1), 2.13 Residential Development (RD), 2.14 Residential Development Medium Density (RDM), 2.15 Residential Medium Density (RM), 2.16 Recreation Commercial (RC), 2.18 General Commercial (CG), 2.19 Light Industrial (LI), 2.22 Public Use Transition (PUT) and 2.23 Community Transition (CT) provide a description of requirements, provisions and procedures specific to these zoning district that the City desires to revise. These revisions concern consistent requirements for screening of mechanical equipment (HR2, HRC, RC, GC, LI, PUT and CT); common wall development (HR-1, HR2, HRM, HRC, R-1, SF, RD, RDM, RM, RC, GC, LI and CT); building footprint and height exceptions for historic structures (HRL, HR1, HR2, HRM, HRC, and RC); height exceptions for garages on downhill lots (HRL, HR-1, HR-2, and RC), provisions for barrel roof form (HRC, POS, ROS, E-40, E, SF, R-1, RD, RDM, RM, RC, GC, LI, PUT, and CT), in Districts as identified; and

WHEREAS, Chapter 6 provides a description of requirements, provisions and procedures specific to Master Planned Developments (MPD). These revisions relate to requiring information on Historic Structures and Sites for MPD applications, as well as standards of review regarding the General Plan; and

WHEREAS, Chapter 7 provides a description of requirements, provisions and procedures specific to Subdivisions. These revisions relate to vacations, alterations, and amendments to Subdivisions; classification of Subdivisions; required signatures and recordation of Subdivision plats and other items for consistency with the amended Utah State Code; and

WHEREAS, Chapter 11 provides a description of requirements, provisions, and procedures specific to Historic Preservation. These revisions concern the criteria and process for designating sites to the Park City Historic Sites Inventory; and

WHEREAS, Chapter 15 provides a description of defined terms used in the Land Management Code and the City desires to revise for clarity and/or add various definitions related to the above identified code amendments; and

WHEREAS, the Planning Commission conducted work sessions to discuss the Land Management Code on March 23rd and April 13th and 27th, 2016; and

WHEREAS, the Planning Commission duly noticed and conducted public hearings at the regularly scheduled meetings on June 22, 2016 and August 10, 2016, and unanimously forwarded a positive recommendation to City Council; and

WHEREAS, the City Council duly noticed and conducted a public hearing at its regularly scheduled meeting on September 15, 2016; and

WHEREAS, it is in the best interest of the residents of Park City, Utah to amend the Land Management Code to be consistent with the State of Utah Code and the Park City General Plan and to be consistent with the values and goals of the Park City community and City Council, to protect health and safety, to maintain the quality of life for its residents, to preserve and protect the residential neighborhoods, to ensure compatible development, to preserve historic resources, to protect environmentally sensitive lands, and to preserve the community's unique character.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Park City, Utah as follows:

SECTION 1. AMENDMENTS TO TITLE 15 - Land Management Code Chapter One (General Provisions and Procedures). The recitals above are incorporated herein as findings of fact. Chapter 1 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit A).

SECTION 2. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 2.1 (Historic Residential Low Density (HRL)). The recitals above are incorporated herein as findings of fact. Chapter 2.1 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit B-1).

SECTION 3. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 2.2 (Historic Residential (HR-1)). The recitals above are incorporated herein as findings of fact. Chapter 2.2 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit B-2).

SECTION 4. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 2.3 (Historic Residential 2 (HR-2)). The recitals above are incorporated herein as findings of fact. Chapter 2.3 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit B-3).

SECTION 5. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 2.16 (Recreation Commercial (RC)). The recitals above are incorporated herein as findings of fact. Chapter 2.16 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit B-4).

SECTION 6. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 2.18 (General Commercial (GC)). The recitals above are incorporated herein as findings of fact. Chapter 2.18 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit B-5).

SECTION 7. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 2.19 (Light Industrial (LI)). The recitals above are incorporated herein as findings of fact. Chapter 2.19 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit B-6).

SECTION 8. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 2.23 (Community Transition (CT)). The recitals above are incorporated herein as findings of fact. Chapter 2.23 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit B-7).

SECTION 9. AMENDMENTS TO TITLE 15- Land Management Code Chapter 2 (various sections for barrel roof provisions, mechanical screening, common wall development, and historic structures as identified above). The recitals above are incorporated herein as findings of fact. These Sections of Chapter 2 of the Land Management Code of Park City are hereby amended as redlined (see Exhibit B-8)

SECTION 10. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 6 (Master Planned Developments). The recitals above are incorporated herein as findings of fact. Chapter 6 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit C).

SECTION 11. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 7 (Subdivisions- Chapters 7 and 7.1)). The recitals above are incorporated herein as findings of fact. Chapters 7 and 7.1 of the Land Management Code of Park City are hereby amended as redlined (see Exhibit D).

SECTION 12. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 11 (Historic Preservation). The recitals above are incorporated herein as findings of fact. Chapter 11 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit E).

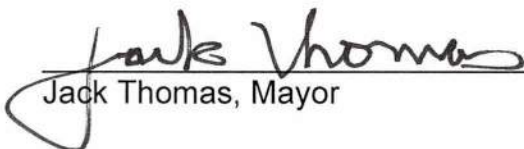
SECTION 13. AMENDMENTS TO TITLE 15 - Land Management Code Chapter 15 (Defined Terms). The recitals above are incorporated herein as findings of fact. Chapter 15 of the Land Management Code of Park City is hereby amended as redlined (see Exhibit F).

SECTION 14. EFFECTIVE DATE. This Ordinance shall be effective upon publication.

PASSED AND ADOPTED this 15th day of September, 2016

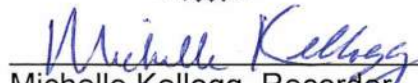


PARK CITY MUNICIPAL CORPORATION



Jack Thomas, Mayor

Attest:



Michelle Kellogg, Recorder

Approved as to form:



Mark Harrington, City Attorney

Exhibits (Redlines of specific LMC Sections)

- Exhibit A – LMC Chapter One- General Provisions and Procedures
- Exhibits B1-B8 – LMC Chapter Two Zoning Districts
- Exhibit C – LMC Chapter Six- Master Planned Developments
- Exhibit D – LMC Chapter Seven- Subdivisions (7.0 and 7.1)
- Exhibit E – LMC Chapter Eleven- Historic Preservation
- Exhibit F – LMC Chapter Fifteen- Defined Terms

TITLE 15 - LAND MANAGEMENT CODE

CHAPTER 2.3 - HISTORIC RESIDENTIAL (HR-2) DISTRICT

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(7) Hard-Surfaced Parking Areas subject to the same location requirements as a detached Accessory Building.

(8) Mechanical equipment (which must be screened), hot tubs, or similar Structures located at least three feet (3') from the Rear Lot Line.

(9) Fences or walls not more than six feet (6') in height or as permitted in Section 15-4-2.

(10) Patios, decks, steps, pathways, or similar Structures not more than thirty inches (30") above Final Grade.

(11) Pathways or steps connecting to a City staircase or pathway.

(H) **SIDE YARD.**

(1) The minimum Side Yard is three feet (3'), but increases for Lots greater than thirty-seven and one-half feet (37.5') in width, as per Table 15-2.3 above.

(2) On Corner Lots, the minimum Side Yard that faces a side Street or platted Right-of-Way is five feet (5').

(3) A Side Yard between connected Structures is not required where Structures are designed with a common wall on a Property Line, each Structure is located on an

individual Lot, the Lots are burdened with a party wall agreement in a form approved by the City Attorney and Chief Building Official, all applicable Building and Fire Code requirements are met, and the Use is an Allowed or Conditional Use in the Zoning District.

Exterior Side Yards shall be based on the required minimum Side Yard for each Lot; however the Planning Commission may consider increasing exterior Side Yards during any required Conditional Use Permit review to mitigate potential impacts on adjacent Property. Side Yard exceptions continue to apply.

Building Footprint shall be based on the total lot Area of the underlying Lots. The Planning Commission may consider decreasing Building Footprint during Conditional Use Permit review to mitigate potential impacts on adjacent Property.

(I) **SIDE YARD EXCEPTIONS.** The Side Yard must be open and free of any Structure except:

(1) Bay Windows not more than ten feet (10') wide, and projecting not more than two feet (2') into the Side Yard.¹²

(2) Chimneys not more than five

¹² Applies only to Lots with a minimum Side Yard of five feet (5')

feet (5') wide projecting not more than two feet (2') into the Side Yard.¹²

(3) Window wells or light wells projecting not more than four feet (4') into the Side Yard.¹²

(4) Roof overhangs or eaves projecting not more than two feet (2') into the Side Yard. A one foot (1') roof or eave overhang is permitted on Lots with a Side Yard of less than five feet (5').¹²

(5) Window sills, belt courses, trim, cornices, exterior siding, or other ornamental features projecting not more than six inches (6") into the Side Yard.

(6) Patios, decks, pathways, steps, or similar Structures not more than thirty inches (30") in height from Final Grade.

(7) Fences or walls not more than six feet (6') in height or as permitted in Section 15-4-2.

(8) Driveways leading to a garage or Parking Area.

(9) Pathway or steps connecting to a City staircase or pathway.

(10) Detached Accessory Buildings not more than eighteen feet (18') in height, located a minimum of five feet (5') behind the front facade of the Main Building, maintaining a minimum Side Yard

Setback of three feet (3').

(11) Mechanical equipment (which must be screened), hot tubs, or similar Structures located at least three feet (3') from the Side Lot Line.

(J) **SNOW RELEASE**. Site plans and Building designs must resolve snow release issues to the satisfaction of the Chief Building Official.

(K) **CLEAR VIEW OF INTERSECTION**. No visual obstruction in excess of two feet (2') in height above Road Grade shall be placed on any Corner Lot within the Site Distance Triangle. A reasonable number of trees may be allowed, if pruned high enough to permit automobile drivers an unobstructed view. This provision must not require changes in the Natural Grade on the Site.

(L) **MASTER PLANNED DEVELOPMENTS**. The Planning Commission may increase or decrease Setbacks in Master Planned Developments in accordance with Section 15-6-5 (C); however the above Grade spacing between houses shall be consistent with the spacing that would result from required Setbacks of the Zone and shall be Compatible with the historic character of the surrounding residential neighborhood. The Planning Commission may increase or decrease Maximum Building Footprint in Master Planned Developments in accordance with Section 15-6-5 (B).

(Amended by Ord. Nos. 06-56; 09-10; 10-14; 15-35)

15-2.3-5. EXISTING HISTORIC STRUCTURES.

Historic Structures that do not comply with Building Setbacks, Building Footprint, Building Height, Off-Street parking, and driveway location standards are valid Non-Complying Structures. Additions to Historic Structures are exempt from Off-Street parking requirements provided the addition does not create a Lockout Unit or an Accessory Apartment. Additions must comply with Building Setbacks, Building Footprint, driveway location standards and Building Height.

(A) **EXCEPTION**. In order to achieve new construction consistent with the Design Guidelines for Park City’s Historic Districts and Historic Sites, the Planning Commission may grant an exception to the Building Setbacks, and driveway location standards for additions to Historic Buildings, including detached single car Garages:

(1) Upon approval of a Conditional Use permit, and

(2) When the scale of the addition, ~~Garage, and/or driveway location is~~ Compatible with the ~~historic character of the surrounding residential neighborhood and the existing~~ Historic Structure, and

(3) When the ~~new Construction~~ addition complies with all other provisions of this Chapter, and

(4) When the ~~new Construction~~ addition complies with the ~~Uniform~~ adopted Building

and Fire Codes ~~and snow shedding and snow storage issues are mitigated and~~

(5) When the addition complies with the Design Guidelines for Historic Districts and Sites.

15-2.3-6 BUILDING HEIGHT.

No Structure shall be erected to a height greater than twenty-seven feet (27') from Existing Grade. This is the Zone Height.

Final Grade must be within four vertical feet (4') from Existing Grade around the periphery of the Structure, except for the placement of approved window wells, emergency egress, and a garage entrance. The Planning Commission may grant an exception to the Final Grade requirement as part of a Master Planned Development within Subzone A where Final Grade must accommodate zero lot line Setbacks. The following height requirements must be met:

(A) A Structure shall have a maximum height of thirty five feet (35') measured from the lowest finish floor plane to the point of the highest wall top plate that supports the ceiling joists or roof rafters. The Planning Commission may grant an exception to this requirement as part of a Master Planned Development within Subzone A for the extension of below Grade subterranean HCB Commercial Uses.

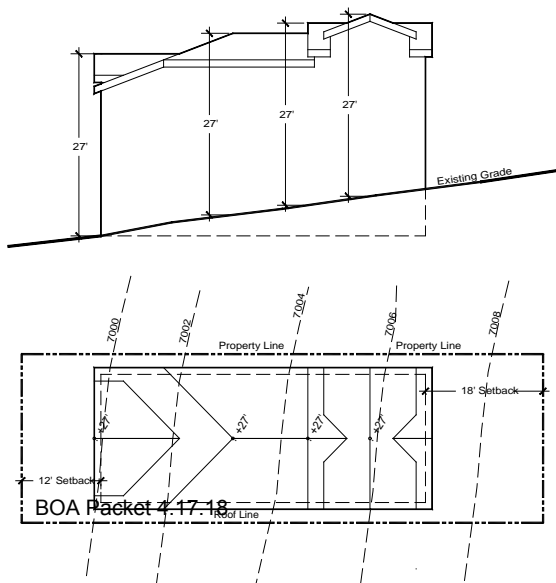
(B) A ten foot (10') minimum horizontal step in the downhill façade is required unless the First Story is located completely under the finish Grade on all sides of the Structure. The Planning Commission may grant an

exception to this requirement as part of a Master Planned Development within Subzone A consistent with MPD requirements of Section 15-6-5(F). The horizontal step shall take place at a maximum height of twenty three feet (23') from where Building Footprint meets the lowest point of existing Grade.

Architectural features, that provide articulation to the upper story façade setback, may encroach into the minimum ten foot (10') setback but shall be limited to no more than twenty five percent (25%) of the width of the building encroaching no more than four feet (4') into the setback, subject to compliance with the Design Guidelines for Historic Sites and Historic Districts.

(C) **ROOF PITCH.** The primary roof pitch must be between seven:twelve (7:12) and twelve:twelve (12:12). A Green Roof may be below the required 7:12 roof pitch as part of the primary roof design. In addition, a roof that is not part of the primary roof design may be below the required 7:12 roof pitch.

(1) A Structure containing a flat roof shall have a maximum height of thirty five feet (35') measured from



the lowest floor plane to the highest wall top plate that supports the ceiling joists or roof rafters. The height of the Green Roof, including the parapets, railings, or similar features shall not exceed twenty four (24') above the highest top plate mentioned above.

(D) **BUILDING HEIGHT EXCEPTIONS.** The following height exceptions apply:

- (1) An antenna, chimney, flue, vent, or similar Structure, may extend up to five feet (5') above the highest point of the Building to comply with International Building Code (IBC) requirements.
- (2) Water towers, mechanical equipment, and associated Screening, when enclosed or Screened, may extend up to five feet (5') above the height of the Building.
- (3) **ELEVATOR ACCESS.** The Planning Director may allow additional height to allow for an elevator compliant with American Disability Act (ADA) standards. The Applicant must verify the following:

(a) The proposed height exception is only for the Area of the elevator. No increase in square footage of the Building is being achieved.

(b) The proposed option is the only feasible option for the elevator on the Site.

(c) The proposed elevator and floor plans comply with the American Disability Act (ADA) standards.

(4) **GARAGE ON DOWNHILL LOT.** The Planning ~~Director~~ Commission may allow additional Building Height (see entire Section 15-2.3-6) on a downhill Lot to accommodate a single car wide garage in a Tandem configuration; to accommodate circulation, such as stairs and/or an ADA elevator; and to accommodate a reasonably sized front entry area and front porch that provide a Compatible streetscape design. The depth of the garage may not exceed the minimum depth for ~~an~~ internal Parking Space (s) as dimensioned within this Code, Section 15-3. ~~Additional width may be utilized only to accommodate circulation and an ADA elevator.~~ The additional Building Height may not exceed thirty-five feet (35') from existing Grade.

(Amended by Ord. Nos. 06-56; 09-10; 09-14; 09-40; 10-14; 13-48)

15-2.3-7. DEVELOPMENT ON STEEP SLOPES.

Development on Steep Slopes must be environmentally sensitive to hillside Areas,

carefully planned to mitigate adverse effects on neighboring land and Improvements, and consistent with the Design Guidelines for Park City's Historic Districts and Historic Sites, and Chapter 5.

(A) CONDITIONAL USE

(1) A Steep Slope Conditional Use permit is required for construction of any Structure with a Building Footprint in excess of two hundred square feet (200 sq. ft.) if said Building Footprint is located ~~upon~~ or projecting over an existing Slope of thirty percent (30%) or greater.

(2) A Steep Slope Conditional Use permit is required for construction of any addition to an existing Structure, when the Building Footprint of the addition is in excess of two hundred square feet (200 sq. ft.), if the Building Footprint of the addition is located ~~upon~~ or projecting over an existing Slope of thirty (30%) or greater.

(3) A Steep Slope Conditional Use permit is required for any Access driveway located ~~upon~~ or projecting over an existing Slope of thirty percent (30%) or greater.

(B) For the purpose of measuring Slope, the measurement shall include a minimum horizontal distance of fifteen feet (15') measured perpendicular to the contour lines

(I) Parking on-Site is required at a rate of one (1) space per rentable room. If no on-Site parking is possible, the Applicant must provide parking in close proximity to the inn. The Planning Commission may waive the parking requirement for Historic Structures, if the Applicant proves that:

(1) no on-Site parking is possible without compromising the Historic Structures or Site, including removal of existing Significant Vegetation, and all alternatives for proximate parking have been explored and exhausted; and

(2) the Structure is not economically feasible to restore or maintain without the adaptive Use.

(J) The Use complies with Section 15-1-10, Conditional Use review.

15-2.3-13. MECHANICAL SERVICE.

No free standing mechanical equipment is allowed in the HR-2 zone with the exception of individual residential mechanical units serving Single family and Duplex Dwelling units within the HR-2 District, subject to the Lot and Site Requirements of Section 15-2.3-4. The Planning Department will review all Development Applications to assure that all Mechanical equipment attached to or on the roofs of Buildings is Screened so that it is not open to view and does not exceed the allowable decibel levels of the City's Noise Ordinance from nearby residential Properties.

Mechanical equipment in the HR-2 zone must be Screened to minimize noise infiltration to adjoining Properties and to mitigate visual impacts on nearby Properties and general public view. All mechanical equipment must be shown on the plans prepared for Conditional Use Permit and/or architectural review.

All Structures must provide a means of storing refuse generated by the Structure's occupants. All refuse storage facilities must be shown on the plans prepared for Conditional Use Permit and/or architectural review. Refuse storage must be Screened, enclosed, and properly ~~Refuse collection and storage Areas must be fully enclosed and properly~~ ventilated so that a nuisance is not created by odors or sanitation problems.

The loading and unloading of goods must take place entirely on the Site. Loading areas must be Screened from general public view. All loading areas shall be shown on the plans prepared for Conditional Use Permit and/or architectural review.

(Amended by Ord. Nos. 06-56; 10-14)

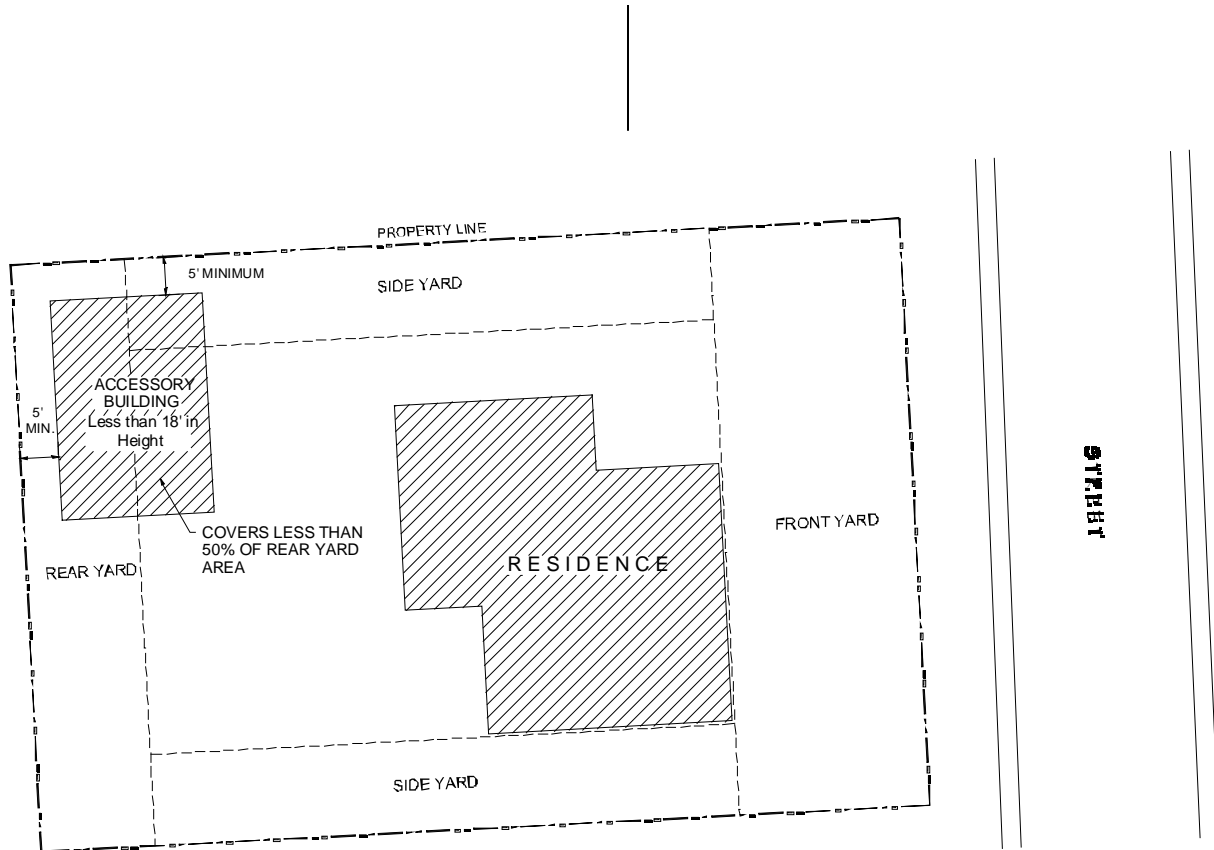
15-2.3-14. GOODS AND USES TO BE WITHIN ENCLOSED BUILDING.

(A) **OUTDOOR DISPLAY OF GOODS PROHIBITED.** Unless expressly allowed as an Allowed or Conditional Use, all goods, including food, beverage and cigarette vending machines, must be within a completely enclosed Structure. New construction of enclosures for the storage of goods shall not have windows and/or other fenestration that exceeds a wall to window

TITLE 15 - LAND MANAGEMENT CODE

CHAPTER 2.16 - RECREATION COMMERCIAL (RC) DISTRICT

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(7) Hard-Surfaced Parking Areas subject to the same location requirements as a detached Accessory Building.

(8) Mechanical equipment (which must be screened), hot tubs, or similar Structures located at least three feet (3') from the Rear Lot Line.

(9) Fences and walls as permitted in Section 15-4-2, Fences and Walls.

(10) Patios, decks, pathways, steps, and similar Structures not

more than thirty inches (30") above Final Grade.

(11) Pathways and steps connecting to a City staircase or pathway.

(H) **SIDE YARD.**

(1) The minimum Side Yard is three feet (3'), but increases for Lots greater than thirty-seven and one-half feet (37.5') in Width, as per Table 15-2.16 above.

(2) Site plans and Building

APPENDIX G

Legal opinion of Par Brown Gee and Loveless

Robert A. McConnell
Attorney at Law
rmccconnell@parrbrown.com

March 5, 2018

Matthew Day
240 East 2nd Avenue
Salt Lake City, Utah 84103

Re: Request for Variances—341 Ontario Avenue, Park City, Utah

Dear Matthew:

Pursuant to your request, we have reviewed the file materials pertaining to the requested variances for 341 Ontario Avenue, Park City, Utah (collectively, the “**341 Variance**”). In connection with that review, we provide the following summary of applicable Utah law pertaining to the 341 Variance and the Park City Board of Adjustment’s review of the same.

Section 10-9a-702 of the Utah Municipal Land Use Development Management Act (“**LUDMA**”), provides the baseline standards that a municipality must apply in evaluating and approving a variance request. Park City has replicated the substantive conditions for granting a variance found in Section 10-9a-702 of LUDMA in Section 15-10-8 of the Park City Land Management Code (the “**LMC**”). Because those substantive conditions are correctly stated in the file materials, we have not replicated them in their entirety here. Rather, we have addressed below only those conditions about which the Park City Board of Adjustment (the “**BOA**”) either expressed concern or requested additional information in connection with their analysis of those conditions in connection with the 341 Variance.

As an initial matter, we note that the Office of the Utah Real Property Ombudsman (the “**Ombudsman**”) has provided the following useful definition of a variance:

A variance is a modification of a zoning requirement made necessary because some unique aspect of a parcel makes the requirement burdensome or unfair. Variances may be granted to adjust such zoning standards as setbacks or height limitations. The Utah Code authorizes local governments to grant variances.

The variance mechanism allows a local government to have a zoning ordinance which applies to all properties, while providing the flexibility to adjust the zoning regulations for a specific property when necessary.¹

¹ Office of the Utah Real Property Ombudsman, “Variances” (<https://propertyrights.utah.gov/variances/>).

While the Ombudsman is clear that a variance “must arise from conditions unique to the property” and cannot “be self-imposed or purely economic,”² the foregoing definition clearly states that the BOA should be concerned about whether the 341 Variance presents a unique set of circumstances that makes the application of the LMC’s requirements to 341 Ontario “burdensome or unfair.” In the context of that general framework, we address Conditions 1 and 2 below.

Condition 1: Literal enforcement of the Land Management Code would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the Land Management Code. . . .

In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship under Subsection 15-10-9(C)(1), the Board of Adjustment 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.

In determining whether or not enforcement of the Land Management Code would cause unreasonable hardship under Subsection 15-10-9(C)(1), the Board of Adjustment may not find an unreasonable hardship if the hardship is self-imposed or economic.

Condition 1 and the related clarifying standards set forth in Subparagraph D of Section 15-10-9(C)(1) of the LMC are addressed together. In Sprecht v. Big Water Town (2017 UT App 75), the Utah Court of Appeals upheld the Town of Big Water’s grant of a rear-yard set-back variance in order to “ameliorate the steep downhill grade from the cul-de-sac to their lot and to provide room to install a septic tank.”³

With respect to Condition 1, *Sprecht* indicated that the “question of peculiarity is viewed in the context of the zoning district or neighborhood, not one street.”⁴ Accordingly the Town’s finding that “enforcing the setback requirements would create an unreasonable hardship and that the hardship arose from the circumstances peculiar to the property was supported by substantial evidence.”⁵ Importantly, the court noted that the Town’s finding that “most of the lots” in the applicable zoning district did not suffer from the same hardship was sufficient to support the Town’s finding of hardship.⁶ In other words, there is no requirement under Utah law that that the circumstances be so peculiar that the lot for which the variance is requested is the only lot in the zoning district or neighborhood that has the peculiar hardship. In fact, such a position is contrary to the court’s findings in *Sprecht*.

² *Id.*

³ Sprecht v. Big Water Town (2017 UT App 75), at 2.

⁴ *Id.* at 17.

⁵ *Id.*

⁶ *Id.*

We also note that *Sprecht* looked to the combination of circumstances in upholding the Town's finding of unreasonable hardship and peculiarity, noting that various factors and characteristics associated with the lot supported the Town's decision to grant the variance (i.e. smaller lot, steep topography, and limited access).⁷ Similarly, 341 Ontario Avenue is characterized by a variety of factors and characteristics that support a finding of unreasonable hardship and peculiarity (i.e. steep topography, unusual extension of street right-of-way into the lot in relationship to street improvements, pre-existing historical structure, and no adjacent on-street parking on Ontario Avenue). In fact, we cannot identify a significant distinguishing factor between the substantive application of the analysis of the variance conditions in *Sprecht* and their substantive application with respect to the 341 Variance.

Condition 2: There are special circumstances attached to the Property that do not generally apply to other Properties in the same zone.

Addressing Condition 2, the *Sprecht* found that the pre-existence of conditions when a property is acquired should not be considered in the evaluation of "special circumstances." The court stated such pre-existence "had no bearing on satisfying the second condition."⁸ *Sprecht* upheld the Town's finding of "special conditions" on the basis that the lot had limited access, was lower than other lots in relation to the public right-of-way, was smaller in size and that it "'needed [a] septic system, too."⁹ Similarly, the BOA should not look to the fact that the special circumstances associated with 341 Ontario Avenue were present when you acquired the property to negatively impact their consideration of the 341 Variance.

In connection with their evaluation of Condition 2, *Sprecht* also noted that "[w]ithout a variance, the [property owner] would have been deprived of similar privileges" enjoyed by "[o]ther property owners" in the district (i.e. "easy access to their lots, as well as ample space to install septic systems").¹⁰ Neither the Town nor the court in *Sprecht* found that the lot for which the variance was granted was the *only* lot with such special circumstances. Rather, it looked only to the deprivation of rights or privileges enjoyed by others, *but not all others* in the relevant district or neighborhood. The BOA should, likewise, not allow the fact that a few other homes in the district may not be allowed to have a garage (assuming they never apply for or receive a variance) to suggest that Condition 2 cannot be satisfied with respect to the 341 Variance.

There is no support in Utah law for the proposition that one, two or several other properties out of many may have similar "special circumstances" disqualifies any of them from receiving a variance. While Utah jurisprudence does not establish a "bright line" test in this regard, the fact that 341 Ontario Avenue is one of only three houses (out of a total of 52 on Ontario Avenue) having no garage and with a historic home located on the down-hill side of a steep lot, certainly supports a finding of "special

⁷ Id. at 16-17.

⁸ Id. at 18.

⁹ Id.

¹⁰ Id.

circumstances” and is consistent with the approach taken in *Sprecht*. This is particularly true given the fact that the other two homes have off-street parking in the Ontario Avenue right-of-way, which 341 Ontario Avenue does not. Stated differently, 341 Ontario Avenue has “special circumstances” because it has “physical conditions unique to the property which relate to the hardship, and make compliance [with the LMC] difficult or impossible.”¹¹ Condition 2 is clearly established with respect to the 341 Variance and the 341 Variance should be granted.

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

A basic principal of Utah land use and zoning law is that “. . . zoning ordinances are in derogation of a property owner’s common-law right to unrestricted use of his or her property . . . , [and accordingly,] provisions therein restricting property uses should be strictly construed, and provisions permitting property uses should be liberally construed in favor of the property owner.”¹² The ability of a property owner to develop her property without restriction, therefore, provides the basic foundation upon which the BOA’s evaluation of Criteria 3 should be premised. The BOA should not, in other words, narrowly construe the “Property right” requirement in Condition 3 to suggest that the construction of a garage is privilege that the City can grant or deny on a whim.

Attached garages are clearly a common feature of single family residential homes in Park City and garages are specifically contemplated in the HR-1 and HR-2 Districts.¹³ The application materials indicate that the vast majority of homes on Ontario Avenue enjoy a garage and the ability to access that garage without an unusually steep driveway, and we assume this circumstance is generally true in the historic district generally as well. The “Situation Summary” section of the application materials indicates that with respect to 341 Ontario, the 35’ height rule cannot be complied with and still maintain compliance with the maximum allowable driveway slope of 14 degrees. This situation gives rise to the need for the 341 Variance and is similar in type to those conditions found by Utah courts to constitute a “property right possessed by others.”

While Utah case law addressing Condition 3 is sparse, *Sprecht* identifies, as a “property right possessed by others,” the fact that “other owners . . . were able to construct homes on single lots of a smaller size, without being forced to construct unreasonably steep driveways,” as well as the fact that such owners had the ability to construct a septic tank¹⁴. This finding is consistent with the court’s earlier

¹¹ Office of the Utah Real Property Ombudsman, “Variances” (<https://propertyrights.utah.gov/variances/>).

¹² *Rogers v. West Valley City*, 2006 UT App 302, ¶ 15, 142 P.3d 554 (quoting *Brown v. Sandy City Bd. of Adjustment*, 957 P.2d 207, 210 (Utah Ct. App. 1998) (quoting *Patterson v. Utah County Bd. of Adjustment*, 893 P.2d 602, 606 (Utah Ct. App. 1995))); *Carrier v. Salt Lake County*, 2004 UT 98, ¶ 31, 104 P.3d 1208 (“Since zoning ordinances are in derogation of a property owner’s use of land, we are also cognizant that any ordinance prohibiting a proposed use should be strictly construed in favor of allowing the use.”).

¹³ See, e.g., LMC §15-2.2-3(c) and §15-2.3-4(D).

¹⁴ *Sprecht*, 2017 UT App 75 at pp. 18-19.

finding that “[w]ithout a variance, the [property owner] would have been deprived of similar privileges” enjoyed by “[o]ther property owners” in the district.¹⁵ The findings in *Sprecht* clearly suggest an interpretation of Condition 3 that favors the property owner’s use of their land in a manner typical to the neighborhood or zone. Under this standard Condition 3 is easily satisfied with respect to the 341 Variance, particularly given the general permissibility of garages under the LMC.

Precedent

The BOA declined to give precedential effect to its prior decision to grant similar variances with respect to 422 Ontario Avenue. As a formal matter, the BOA does not have the ability to establish “legal precedent,” which generally refers to the establishment of a legal rule or principal by a court of appeal having the authority to hear and overturn the decision of a lower court that is subject to the rulings of the higher court. With respect to BOA decisions, therefore, “precedent” is, at best, a somewhat informal notion that if the BOA reasonably and fairly permits ‘Activity A’ on Whiteacre, the BOA should also allow ‘Activity A’ on Blackacre, assuming Whiteacre and Blackacre are similarly situated in all material respects, including the underlying zoning district, etc. Stated differently, the notion that the BOA should endeavor to act reasonably in its decision making and to uniformly apply the variance conditions to the properties with respect to which it is called upon to act, is a very important component in a municipality’s overall regime for land use administration.

In determining whether to grant a variance, the BOA is acting in an administrative capacity and rendering an “administrative decision.”¹⁶ That administrative decision requires them to analyze a particular set of facts in the context of a definitive legal standard, which they are charged to apply uniformly and correctly. In this regard, “it is axiomatic that a statute should be given a reasonable and sensible construction and that the legislature did not intend an absurd or unreasonable result.”¹⁷

Accordingly, to the extent that the BOA determines that the required conditions to grant a variance are satisfied with respect to any given property, they should grant the same variance to all similarly situated properties. Each variance should be considered on the merits in accordance with the applicable legal requirements, but the BOA should approach each application fairly even though there are inevitable nuances in the facts that will be presented to the BOA as it considers and evaluates each variance application.

As noted by the Ombudsman, while “[a] variance is not an ‘escape clause’ allowing an owner to disregard zoning regulations,” it is “a mechanism to adjust zoning requirements when necessary, so that all property owners may be treated with fairness.”¹⁸ This standard of “fairness” articulated by the

¹⁵ *Id.* at 18.

¹⁶ See *Wells v. Board of Adjustment of Salt Lake City Corp.*, 936 P.2d 1102 (Utah App. 1997).

¹⁷ *State ex rel. Div. of Consumer Protection v. GAF Corp.*, 780 P.2d 310, 313 (Utah 1988).

¹⁸ Office of the Utah Real Property Ombudsman, “Variances” (<https://propertyrights.utah.gov/variances/>).

Ombudsman, and the more formal review standard of “correctness” applied by Utah courts in evaluating an appeal authority’s decision to grant or deny a variance, should be applied by the BOA without regard to the precedential effect of a given variance. Otherwise, the BOA will be subjected to claims that its decisions are “arbitrary and capricious” or that the BOA failed to “correctly” apply the law as set forth in LUDMA and the LMC.¹⁹ Stated differently, the BOA’s obligation is to act without arbitrariness or capriciousness as it seeks to correctly apply the variance conditions set forth in the LMC to the facts before it, regardless of the informal precedential effect of its decisions. While the BOA’s decisions are afforded “some level of non-binding deference” in this regard²⁰, attempts to modify or unduly constrain or expand those conditions would, from our perspective, not survive judicial scrutiny.

Applying the foregoing standards to the 341 Variance, we are not able to identify any substantive difference between the conditions justifying the 341 Variance and those found to exist with respect to the variances granted to 422 Ontario.²¹ Accordingly, unless the BOA identifies a substantive reason specifically related to the ordinance based variance conditions they are called upon to determine that justifies a different outcome with respect to the 341 Variance, the 341 Variance should be granted. This outcome is dictated, not because a “legal precedent” has been established, but rather, because the BOA is applying the same variance conditions to two sets of fact that are so substantively similar that they dictate the same outcome. To reach a different outcome would suggest that the BOA is applying the variance conditions to substantively similar factual scenarios in an arbitrary and capricious manner.

Deemed Non-Buildability

We noted that in the discussion of the 341 Variance in the Minutes of the BOA’s meeting of June 20, 2017, there was a brief discussion of whether “the City is required to torque the Code so that every lot is buildable, or whether some lots are simply unbuildable?” That of course, is a broader question than the question at hand; namely, are the conditions for granting a variance outlined in the LMC established with respect to the 341 Variance? From our perspective, based upon the submission materials you have provided and our review of the variance granted for 422 Ontario, the 341 Variance should be granted. Assuming the BOA reaches the same conclusion, it should not let broader concerns regarding permissible building standards and lot requirements in the City (even as moderated by the statutorily prescribed variance process) lead it to deny the 341 Variance. Such concerns are outside of the scope of the BOA’s role in reviewing and determining whether the variance conditions are satisfied for the reasons stated above.

¹⁹ See, e.g., Save Our Canyons v. Board of Adjustment of Salt Lake County, 2005 UT App 285, page 4.

²⁰ *Id.*

²¹ We have not detailed those similarities here because of their thorough treatment in your other submission materials, of which we understand this letter will be a part.

Matthew Day
March 5, 2018
Page 7

We hope the foregoing information is helpful. If there are any other issues that you would like us to address, or if there items discussed above with respect to which you would like additional detail, please do not hesitate to contact us.

Sincerely,

A handwritten signature in blue ink, appearing to read "Joseph A. McConell". The signature is fluid and cursive, with a large initial "J" and "M".

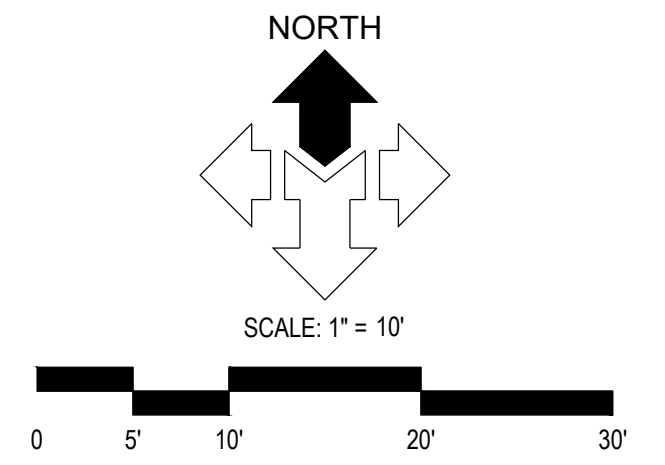
Parr Brown Gee & Loveless

4850-0785-6734, v. 4

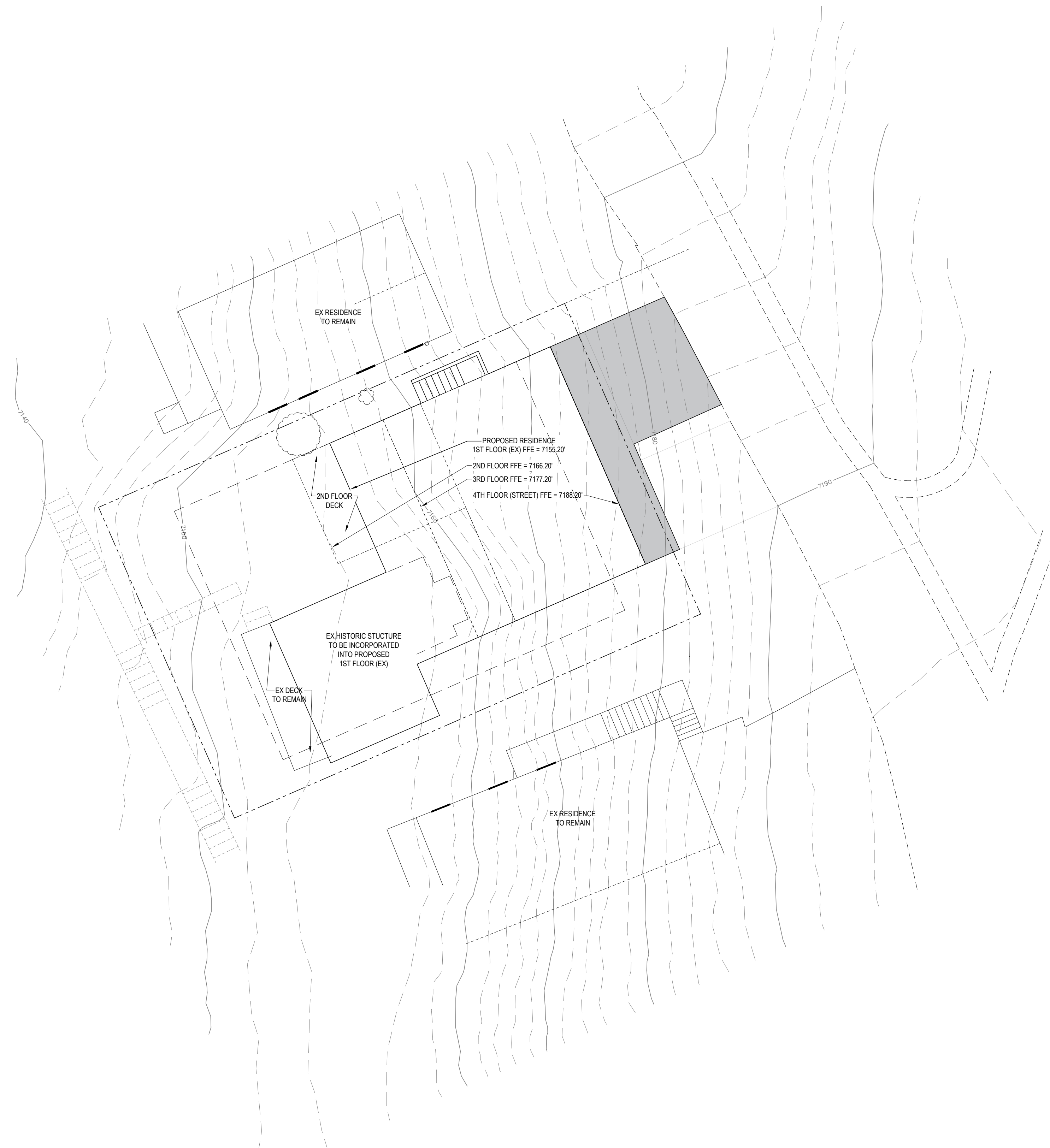
APPENDIX H
341 ONTARIO ARCHITECTURAL PLANS

CONSTRUCTION PLANS

SPARANO AND MOONEY ARCHITECTURE
341 ONTARIO AVE. PARK CITY, UTAH 84060



SITE
VICINITY MAP
N.T.S.



DRAWING INDEX

SHEET	DESCRIPTION
C0.00	CIVIL COVER SHEET
C0.01	GENERAL NOTES, LEGEND, AND ABBREVIATIONS
C1.01	GRADING, DRAINAGE, AND UTILITY PLAN
C1.02	EROSION CONTROL PLAN
C2.01	MISCELLANEOUS SITE DETAILS

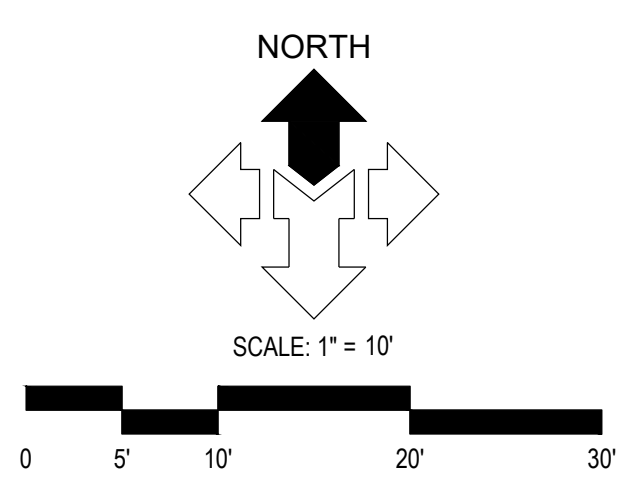
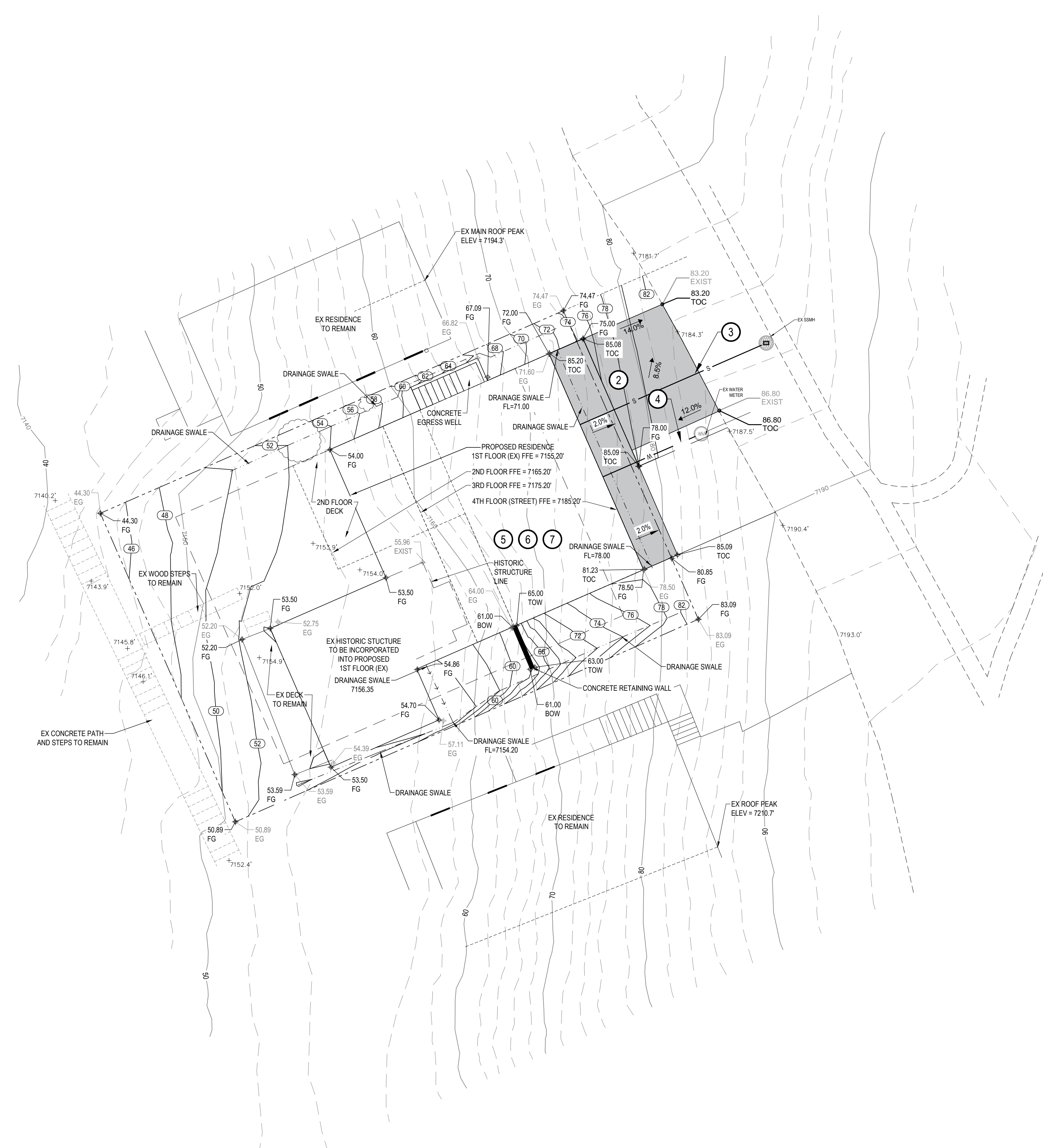
ALL WORK AND MATERIALS FOR WATER MUST CONFORM TO PARK CITY WATER PROVIDER STANDARDS AND SPECIFICATIONS

ALL WORK AND MATERIALS FOR SEWER MUST CONFORM TO PARK CITY STANDARDS AND SPECIFICATIONS

ALL WORK AND MATERIALS MUST CONFORM TO PARK CITY STANDARDS AND SPECIFICATIONS

ARCHITECT
SETH STRIEFEL
SPARANO AND MOONEY ARCHITECTURE
801-746-0234
511 WEST 200 SOUTH STUDIO 130
SALT LAKE CITY, UT 84101

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Structural Engineering • Land Surveying & HDS



GENERAL NOTES:
 SITE GRADING SHALL BE PERFORMED IN ACCORDANCE WITH THESE PLANS AND THE RECOMMENDATIONS SET FORTH IN THE SOILS REPORT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR REMOVING AND REPLACING ALL SOFT, YIELDING OR UNSUITABLE MATERIALS AND REPLACING WITH SUITABLE MATERIALS AS SPECIFIED IN THE SOILS REPORT. ALL EXCAVATED OR FILLED AREAS SHALL BE COMPACTED TO 95% OF MODIFIED PROCTOR MAXIMUM DENSITY PER ASTM TEST D-1557 EXCEPT UNDER BUILDING FOUNDATION WHERE IT SHALL BE 98% MIN. OF MAXIMUM DENSITY. MOISTURE CONTENT AT TIME OF PLACEMENT SHALL NOT EXCEED 2% ABOVE NOR 3% BELOW OPTIMUM. CONTRACTOR SHALL SUBMIT A COMPACTION REPORT PREPARED BY A QUALIFIED REGISTERED SOILS ENGINEER, VERIFYING THAT ALL FILLED AREAS AND SUBGRADE AREAS WITHIN THE BUILDING PAD AREA AND AREAS TO BE PAVED, HAVE BEEN COMPACTED IN ACCORDANCE WITH THESE PLANS AND THE RECOMMENDATIONS SET FORTH IN THE SOILS REPORT.

THE CONTRACTOR IS TO USE BEST MANAGEMENT PRACTICES FOR PROVIDING EROSION CONTROL FOR CONSTRUCTION OF THIS PROJECT.

EXISTING UNDERGROUND UTILITIES AND IMPROVEMENTS ARE SHOWN IN THEIR APPROXIMATE LOCATIONS BASED UPON RECORD INFORMATION AVAILABLE AT THE TIME OF PREPARATION OF PLANS. LOCATIONS MAY NOT HAVE BEEN VERIFIED IN THE FIELD AND NO GUARANTEE IS MADE AS TO ACCURACY OR COMPLETENESS OF THE INFORMATION SHOWN. IT SHALL BE RESPONSIBILITY OF THE CONTRACTOR TO DETERMINE THE EXISTENCE AND LOCATION OF THOSE UTILITIES SHOWN ON THESE PLANS OR INDICATED IN THE FIELD BY LOCATING SERVICES. ANY ADDITIONAL COSTS INCURRED AS A RESULT OF CONTRACTOR'S FAILURE TO VERIFY LOCATIONS OF EXISTING UTILITIES PRIOR TO BEGINNING OF CONSTRUCTION IN THEIR VICINITY SHALL BE BORNE BY THE CONTRACTOR AND ASSUMED INCLUDED IN THE CONTRACT.

CONTRACTOR IS TO COORDINATE ALL UTILITIES WITH MECHANICAL DRAWINGS.

ALL NEW WATER CONSTRUCTION TO BE DONE IN ACCORDANCE WITH PARK CITY MUNICIPAL WATER IMPROVEMENT DISTRICT STANDARDS & SPECIFICATIONS.

ALL NEW SANITARY SEWER CONSTRUCTION TO BE DONE IN ACCORDANCE WITH SNYDERVILLE BASIN IMPROVEMENT DISTRICT STANDARDS & SPECIFICATIONS.

CONTRACTOR IS TO COORDINATE LOCATIONS OF NEW TELEPHONE SERVICE TO BUILDING WITH QWEST. A PVC CONDUIT, PLYWOOD BACKBOARD, AND GROUND WIRE IS REQUIRED FOR SERVICE THROUGH PROPERTY, COORDINATE SIZES AND LOCATION WITH QWEST.

CONTRACTOR IS TO SUBMIT SITE PLAN TO QWEST GAS FOR DESIGN OF GAS LINE SERVICE TO BUILDING. CONTRACTOR TO COORDINATE WITH QWEST GAS FOR CONTRACTOR LIMITS OF WORK VERSUS QWEST GAS LIMITS.

LOCATION OF ALL UNDERGROUND UTILITIES SHOWN ARE APPROXIMATE LOCATIONS. CONTRACTOR IS TO VERIFY CONNECTION POINTS WITH EXISTING UTILITIES. CONTRACTOR IS RESPONSIBLE FOR ANY DAMAGE CAUSED TO EXISTING UTILITIES AND UTILITY STRUCTURE THAT ARE TO REMAIN.

UTILITY ALERT PHONE NUMBERS
 WATER - PARK CITY MUNICIPAL CORPORATION
 SEWER - SNYDERVILLE BASIN SEWER IMPROVEMENT DISTRICT
 NATURAL GAS - QWESTAR GAS
 ELECTRICAL POWER - ROCKY MOUNTAIN POWER
 TELEPHONE - CENTURY LINK

KEYED NOTES:
 PROVIDE, INSTALL AND/OR CONSTRUCT THE FOLLOWING PER THE SPECIFICATIONS GIVEN OR REFERENCED AND THE DETAILS NOTED AND AS SHOWN ON THE CONSTRUCTION DRAWINGS:

- ① GRADE SITE TO ELEVATIONS AND CONTOURS SHOWN ON PLAN.
- ② CONCRETE PAVEMENT WITH UNTREATED BASE COURSE PER DETAIL 'C1', SHEET C5.01.
- ③ 4" PVC SDR-35 SANITARY SEWER LATERAL, INCLUDING NEW CLEANOUTS AT 100-FOOT MAXIMUM SPACING. SEE CLEANOUT DETAIL 'D3', SHEET C2.01. TRENCHING AND ASPHALT REPAIR PER CITY STANDARDS.
- ④ NEW 1/2" TYPE K COPPER SERVICE LATERAL FROM EXISTING WATER METER TO NEW PROPOSED RESIDENCE PER PARK CITY MUNICIPAL CORPORATION STANDARDS AND SPECIFICATIONS. TRENCHING AND ASPHALT REPAIR PER CITY STANDARDS.
- ⑤ NATURAL GAS LINE. CONTRACTOR TO COORDINATE LOCATION, SIZE, DESIGN AND INSTALLATION BY QWESTAR GAS WITH OTHER CONSTRUCTION.
- ⑥ TELEPHONE LINE. CONTRACTOR TO PROVIDE TRENCHING 30" DEEP X 24" WIDE FOR CENTURY LINK AND THEN BACKFILL AS REQUIRED.
- ⑦ COORDINATE NEW ELECTRICAL SERVICE WITH ROCKY MOUNTAIN POWER. CONTRACTOR IS TO SUBMIT SITE PLAN TO ROCKY MOUNTAIN POWER FOR DESIGN OF POWER SERVICE TO BUILDING.

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DAY RESIDENCE
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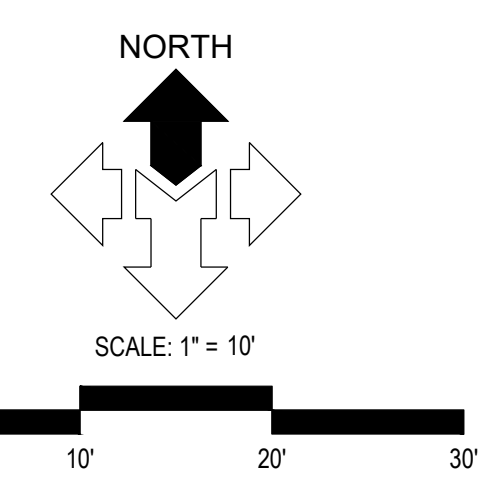
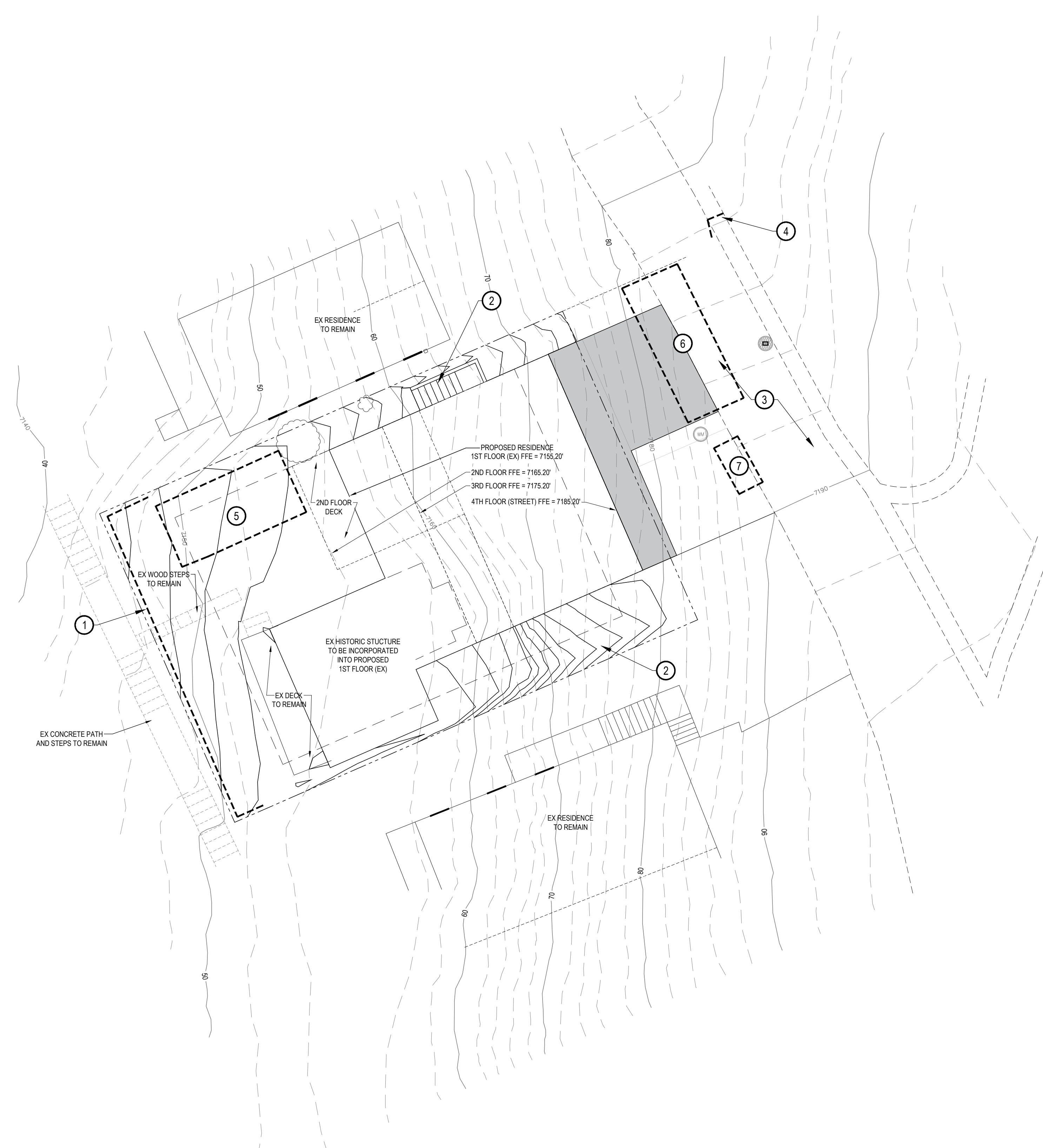
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 DRAWN BY: DJC
 CHECKED BY: RJP
 DATE: 02-21-17

AVOID CUTTING UNDERGROUND UTILITIES. IT'S COSTLY.

Call
 BEFORE YOU
Dig
 1-800-662-4111

NOTICE!
 THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE LOCATION, PROTECTION, AND RESTORATION OF ALL BURIED OR ABOVE GROUND UTILITIES, SHOWN OR NOT SHOWN ON THE PLANS.

GRADING, DRAINAGE, AND UTILITY PLAN
C1.01



GENERAL NOTES:
 THE CONTRACTOR IS TO USE BEST MANAGEMENT PRACTICES FOR PROVIDING EROSION CONTROL FOR CONSTRUCTION OF THIS PROJECT. SPECIFIC BMP'S AND DETAILS SHOWN ON THIS SHEET AND SHEET C2.01 SHALL BE USED IN COMBINATION WITH OTHER ACCEPTED LOCAL PRACTICES.

ALL MATERIALS AND WORKMANSHIP SHALL CONFORM TO THE LOCAL AGENCY'S EROSION CONTROL STANDARDS AND SPECIFICATIONS AND ALL WORK SHALL BE SUBJECT TO INSPECTION BY THE AGENCY HAVING JURISDICTION. ALSO INSPECTORS WILL HAVE THE RIGHT TO CHANGE THE FACILITIES AS NEEDED.

THE CONTRACTOR SHALL BE RESPONSIBLE FOR FIELD VERIFYING THE LOCATIONS OF ALL EXISTING UTILITIES. IF CONFLICTS OCCUR, THE CONTRACTOR SHALL NOTIFY THE ENGINEER PRIOR TO CONSTRUCTION TO DETERMINE IF ANY FIELD ADJUSTMENTS SHOULD BE MADE.

THE CONTRACTOR SHALL PROVIDE ADEQUATE DUST CONTROL.

THE CONTRACTOR SHALL MODIFY EROSION CONTROL MEASURES TO ACCOMMODATE PROJECT PLANNING.

MAINTENANCE:
 THE OWNER'S REPRESENTATIVE SHALL MAKE ROUTINE CHECKS ON ALL EROSION CONTROL MEASURES TO DETERMINE IF REPAIRS OR SEDIMENT REMOVAL IS NECESSARY DUE TO CONDITIONS THAT MAY ARISE IN THE FIELD. ADDITIONAL CONTROL MAY BE DETERMINED TO BE NECESSARY.

SILT FENCE BARRIERS SHALL BE INSPECTED IMMEDIATELY AFTER EACH RAINFALL AND AT THE LEAST DAILY DURING PROLONGED RAINFALL.

CLOSE ATTENTION SHALL BE PAID TO THE REPAIR OF DAMAGED SILT FENCES, END RUNS, AND UNDERCUTTING BENEATH SILT FENCING.

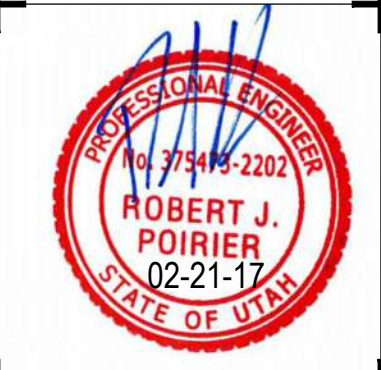
NECESSARY REPAIRS TO BARRIERS OR REPLACEMENT OF SILT FENCING SHALL BE ACCOMPLISHED PROMPTLY.

SEDIMENT DEPOSITS SHOULD BE REMOVED AFTER EACH RAINFALL. THEY MUST BE REMOVED WHEN THE LEVEL OF DEPOSITION REACHES APPROXIMATELY ONE-HALF THE HEIGHT OF THE BARRIER.

KEYED NOTES:
 PROVIDE, INSTALL AND/OR CONSTRUCT THE FOLLOWING PER THE SPECIFICATIONS GIVEN OR REFERENCED AND THE DETAILS NOTED AND AS SHOWN ON THE CONSTRUCTION DRAWINGS:

- ① SILT FENCE AS SHOWN ON PLAN. INSTALL SILT FENCE ON DOWNHILL SIDE OF PROPERTY TO CAPTURE SEDIMENT FROM BEING TRANSPORTED OFF SITE. WRAP FENCE ONTO SIDE YARDS TO INCREASE CAPTURE AREA. SEE DETAIL 'A', SHEET C2.01.
- ② ALL AREAS OUTSIDE THE BUILDING FOUNDATION AND SLAB ON GRADES SHALL BE PERMANENTLY PROTECTED FROM EROSION BY THE USE OF EROSION-RESISTANT GROUND COVER INCLUDING MULCHES AND DEEP ROOTED NATIVE PLANTS. SEE LANDSCAPE PLANS FOR DETAILS (DEFERRED SUBMITTAL).
- ③ MUD SHALL BE KEPT OUT OF THE PUBLIC RIGHT-OF-WAY DURING CONSTRUCTION. ALL DELIVERY VEHICLES SHALL REMAIN ON THE ASPHALT. ANY MUD TRACKED ONTO THE STREET SHOULD BE SWEEP IMMEDIATELY.
- ④ PLACE FILTER SOCK IN GUTTER AS SHOWN TO CAPTURE SEDIMENT FROM BEING TRANSPORTED IN THE GUTTER.
- ⑤ MATERIAL STORAGE AND STOCK PILE AREA
- ⑥ CONSTRUCTION PARKING
- ⑦ 6 C.Y. CONSTRUCTION DUMPSTER. CHECK LEVEL DAILY. LEGALLY DISPOSE OF WHEN FULL.

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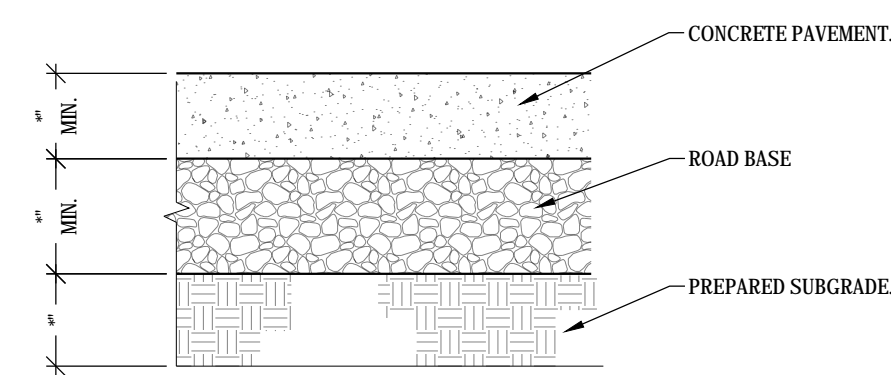
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EROSION CONTROL PLAN
C1.02

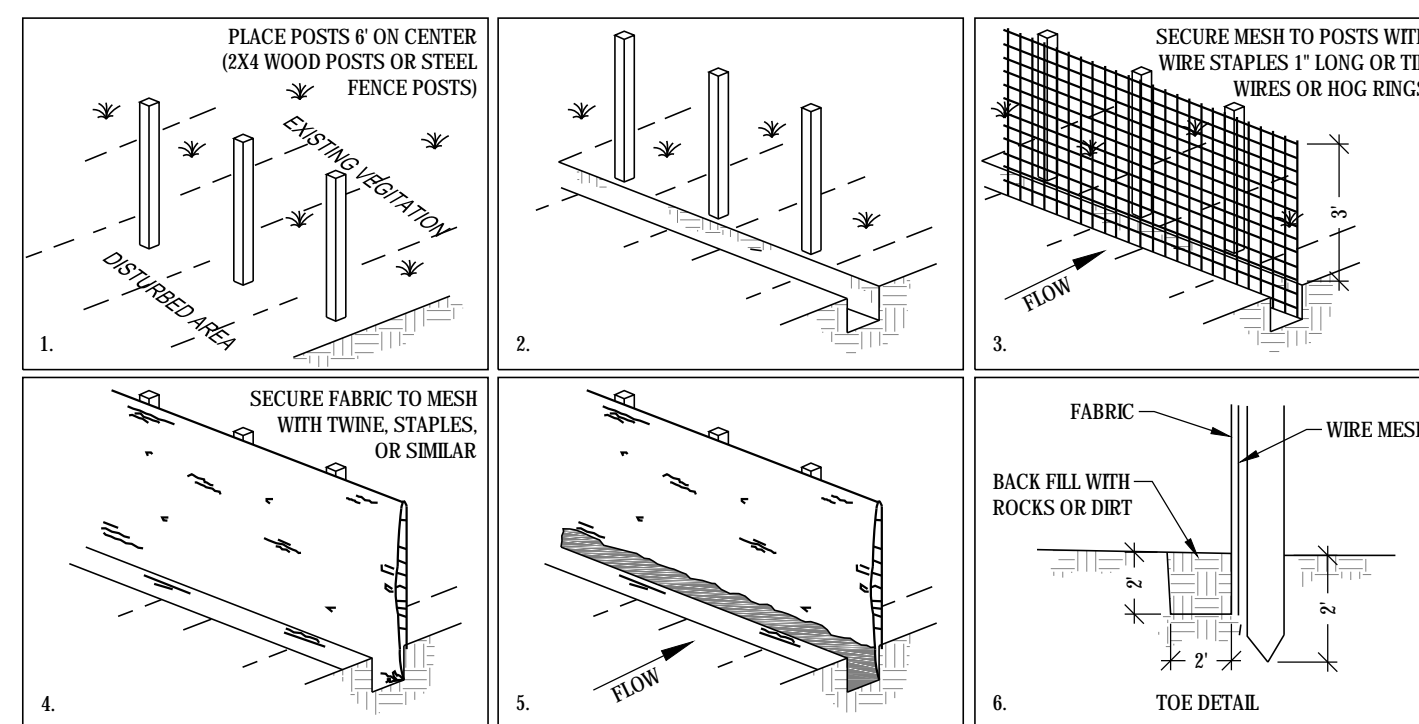


	STANDARD	HEAVY
CONCRETE	6"	8"
ROAD BASE	4"	6"

NOTE:
REFER TO SOILS REPORT FOR PROJECT SECTION SOILS REPORT OVERIDES.

CONCRETE PAVEMENT SECTION
SCALE: N.T.S.

C1



OBJECTIVES

- HOUSEKEEPING PRACTICES
- CONTAIN WASTE
- MINIMIZE DISTURBED AREA
- STABILIZE DISTURBED AREA
- PROTECT SLOPES/CHANNELS
- CONTROL SITE PERIMETER
- CONTROL INTERNAL EROSION

TARGETED POLLUTANTS

- SEDIMENT
- NUTRIENTS
- TOXIC MATERIALS
- OIL & GREASE
- FLOATABLE MATERIALS
- OTHER WASTE
- HIGH IMPACT
- MEDIUM IMPACT
- LOW OR UNKNOWN IMPACT

IMPLEMENTATION REQUIREMENTS

- CAPITAL COSTS
- O & M COSTS
- MAINTENANCE
- TRAINING
- HIGH MEDIUM LOW

DESCRIPTION:
A TEMPORARY SEDIMENT BARRIER CONSISTING OF ENTRENCHED FILTER FABRIC STRETCHED ACROSS AND SECURED TO SUPPORTING POSTS.

APPLICATIONS:

- PERIMETER CONTROL: PLACE BARRIER AT DOWNGRADE LIMITS OF DISTURBANCE.
- SEDIMENT BARRIER: PLACE BARRIER AT TOE OF SLOPE OR SOIL STOCKPILE.
- PROTECTION OF EXISTING WATERWAYS: PLACE BARRIER AT TOP OF STREAM BANK
- INLET PROTECTION: PLACE FENCE SURROUNDING CATCH BASINS

INSTALLATION/APPLICATION CRITERIA:

- PLACE POSTS 6 FEET APART ON CENTER ALONG CONTOUR (OR USE PRE-ASSEMBLED UNIT) AND DRIVE 2 FEET MINIMUM INTO GROUND. EXCAVATE AN ANCHOR TRENCH IMMEDIATELY UPGRADIENT OF POSTS
- SECURE WIRE MESH (1/4 GAGE MIN. WITH 6 INCH OPENINGS) TO UPSLOPE SIDE OF POSTS. ATTACH WITH HEAVY DUTY 1 INCH LONG WIRE STAPLES, TIE WIRES OR HOG RINGS.
- CUT FABRIC TO REQUIRED WIDTH. UNROLL ALONG LENGTH OF BARRIER AND DRAPE OVER BARRIER. SECURE FABRIC TO MESH WITH TWINE, STAPLES, OR SIMILAR, WITH TRAILING EDGE EXTENDING INTO ANCHOR TRENCH.
- BACKFILL OVER FILTER FABRIC TO ANCHOR.

LIMITATIONS:

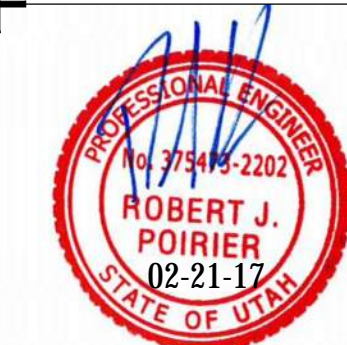
- RECOMMENDED MAXIMUM DRAINAGE AREA OF 0.5 ACRE PER 100 FEET OF FENCE.
- RECOMMENDED MAXIMUM UPGRADIENT SLOPE LENGTH OF 150 FEET.
- RECOMMENDED MAXIMUM UPSLOPE GRADE OF 2:1 (50%).
- RECOMMENDED MAXIMUM FLOW RATE OF 0.5 CFS.
- FONDING SHOULD NOT BE ALLOWED BEHIND FENCE.

MAINTENANCE:

- INSPECT IMMEDIATELY AFTER ANY RAINFALL AND AT LEAST DAILY DURING PROLONGED RAINFALL.
- LOOK FOR RUNOFF BYPASSING ENDS OF BARRIERS OR UNDERCUTTING BARRIERS.
- REPAIR OR REPLACE DAMAGED AREAS OF THE BARRIER AND REMOVE ACCUMULATED SEDIMENT.
- REANCHOR FENCE AS NECESSARY TO PREVENT SHORTCUTTING.
- REMOVE ACCUMULATED SEDIMENT WHEN IT REACHES 1/2 THE HEIGHT OF THE FENCE.

SILT FENCE
SCALE: N.T.S.

A1



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PARK CITY, UTAH

REV	DATE	DESCRIPTION

PROJECT NO:	15464
DRAWN BY:	DJC
CHECKED BY:	RJP
DATE:	02-21-17

CIVIL
DETAILS
C2.01

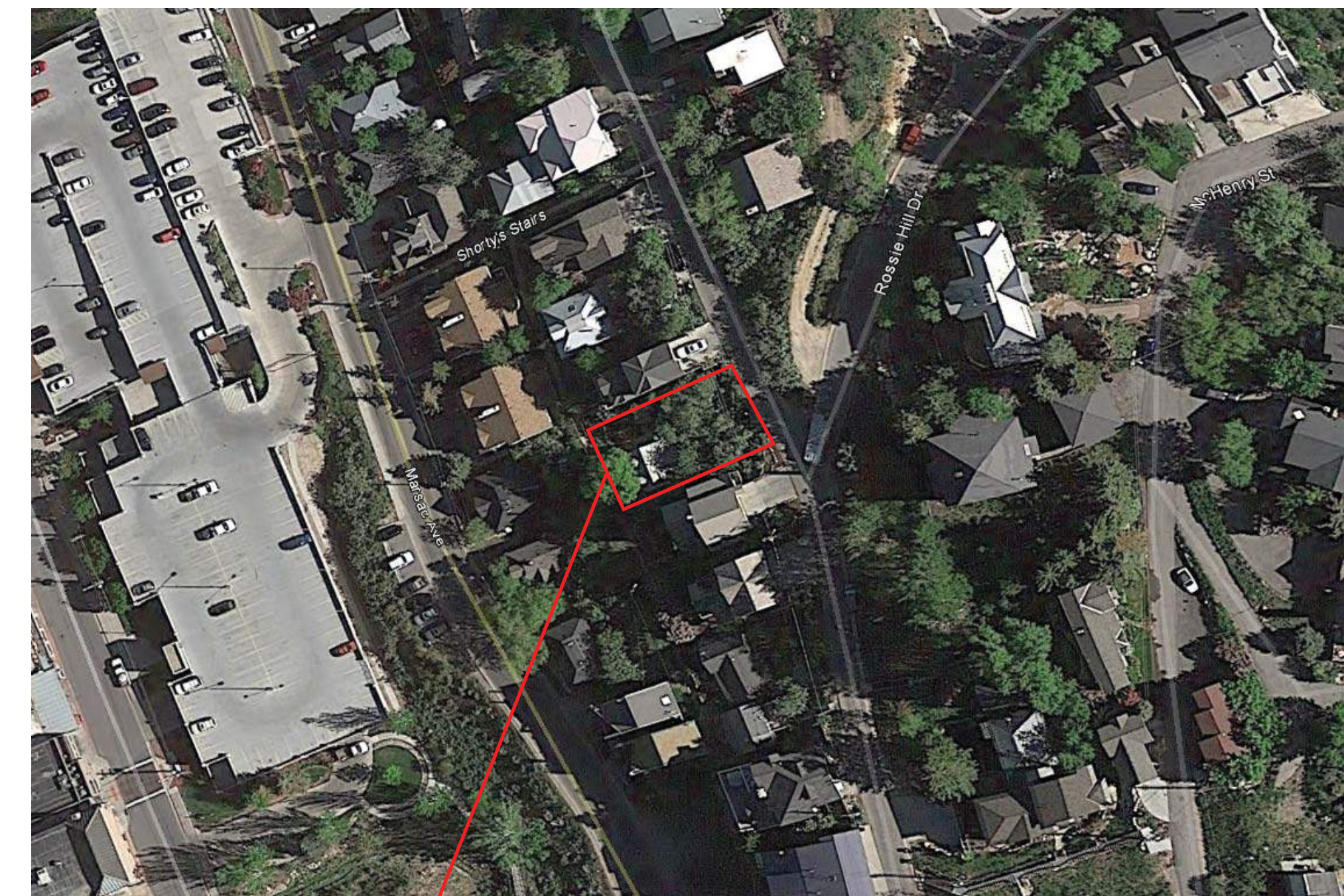
BOA Exhibit 4.17.18



NEIGHBORING STRUCTURES
& SURROUNDING CONTEXT



SUBJECT PROPERTY
WEST VIEW 341 ONTARIO



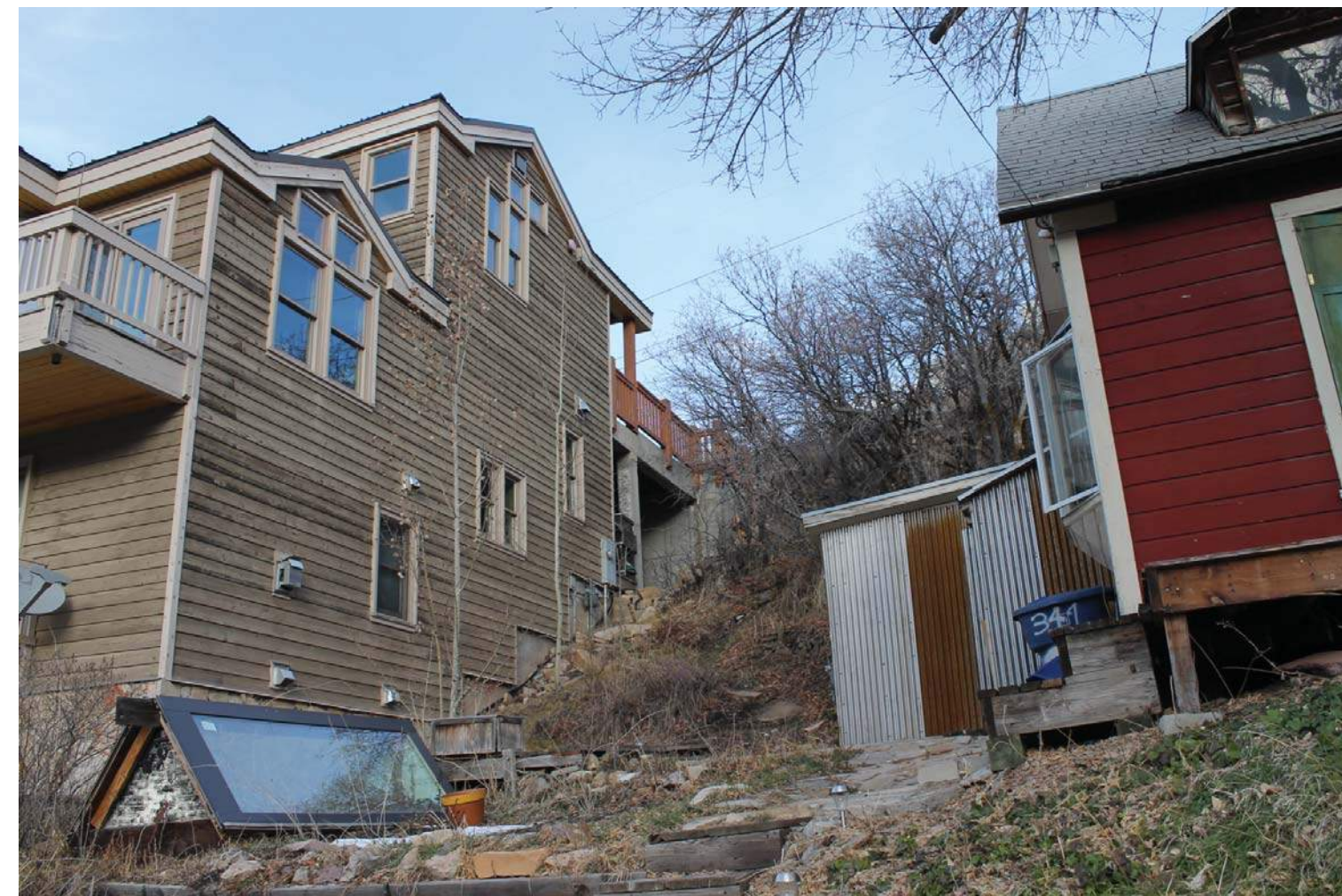
SUBJECT PROPERTY
341 ONTARIO AVENUE



NORTH VIEW
SHORTY'S STAIRS



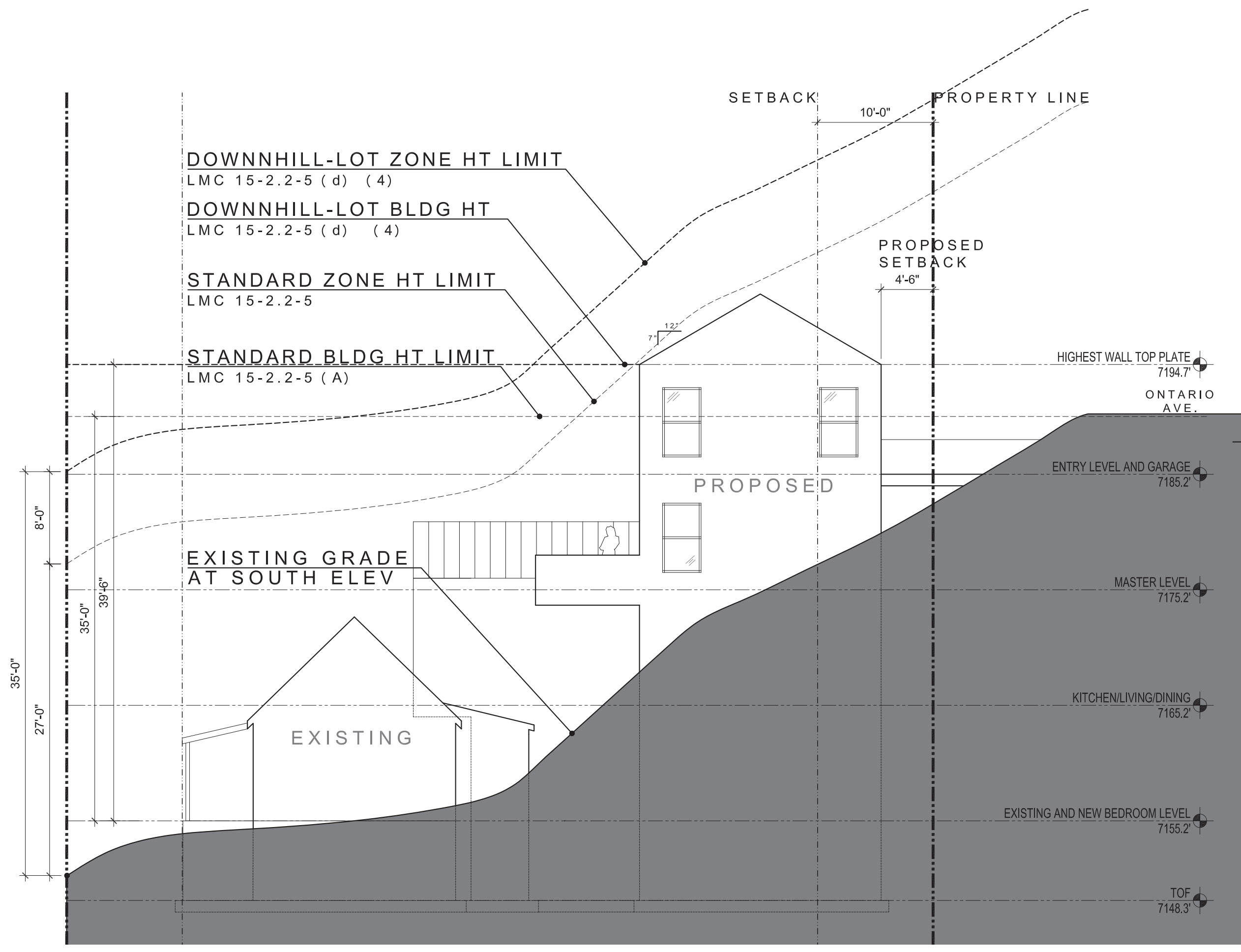
SOUTHEAST VIEW
EXISTING RESIDENCE



EAST VIEW



SOUTHEAST VIEW
ACROSS ONTARIO



SECTION DIAGRAM
SCALE 1" = 10'-0"

BASIC ZONING REVIEW

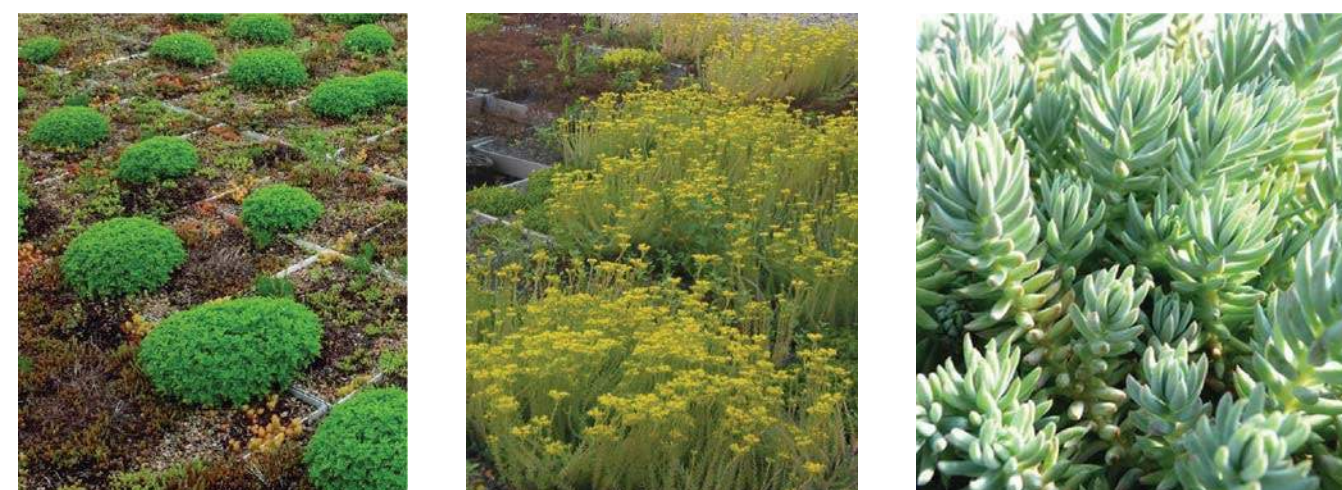
- 2.2 Zoning District:** HR-1
- 15-2.2-2 Uses:** Allowed Uses: Single Family Dwelling (allowable use per 15-2.2-2(A))
- 15-2.2-3 Lot and Site Requirements**
 - 15-2.2-3(A) Minimum Area: 1,875 sf (3,750 sf provided)
 - Minimum Width: 25'-0" (50'-0" provided)
- 15-2.2-3(B) Building Envelope / Building Pad**
 - 15-2.2-3(C) 5'-6" encroachment on the rear yard setback beyond the established building pad.
- 15-2.2-3(D) Building Footprint**
 - MAXIMUM FP = (A/2) X 0.9
 - Lot Area = 3,750 sf therefore,
 - Maximum FP=1,519 sf (1,519 sf footprint provided)
- Table 15-2.2 Minimum Yard Requirements:**
 - Side Yards: 5 ft. Min. 10 ft. total for lot width 50'-0"
 - Bldg. Pad sf: 2,200 sf max.
 - Max. Bldg. Footprint: 1,519 (see calculations 15-2.2-3(D))
- Table 15-2.2a**
 - Front Yard: 10'-0" *Variance request: for reduced 4'-6" setback*
 - Rear Yard: 10'-0"
- 15-2.2-5 Building Height:**
 - Zone Height: 27'-0" *Variance requested: 35'-0"*
 - 15-2.2-5(A) Building Height: 35'-0" *Variance requested: 39'-6"*

BUILDING FOOTPRINT SUMMARY	
EXISTING FOOTPRINT	= 483 SF
PROPOSED FOOTPRINT	= 1036 SF
ALLOWABLE FOOTPRINT	= 1519 SF
OVERALL FOOTPRINT	= 1519 SF

SQUARE FOOTAGE SUMMARY	
FINISHED SF	= 3,581 SF
GARAGE SF	= 347 SF
TOTAL	= 3,928 SF



SITE PLAN
SCALE 1/8" = 1'-0"



SEDUM MIX: SEDUM KAMTSCHATICUM, SEDUM REFLEXUM, SEDUM FLORIFERUM 'WEIHENSTHÄNER GOLD'



CALAMAGROSTIS X ACUTIFLORA 'KARL FOERSTER' - FEATHER REED GRASS)

POPULUS TREMULOIDES ASPEN



AGASTACHE RUPESTRIS - SUNSET HYSSOP



CENTRANTHUS RUBER - JUPITERS BEARD



PENSTEMON EATONII - FIRECRACKER PENSTEMON



MONARDELLA ODORATISSIMA - MOUNTAIN BEEBALM



GERANIUM VISCOSISSIMUM - STICKY GERANIUM

CONCRETE DRIVEWAY

NATIVE LANDSCAPE ON FRONT AND SIDE YARDS

(2) ZONE LANDSCAPE IRRIGATION CONTROL BOX (MOUNTED IN GARAGE)

IRRIGATION SYSTEM NOTES: PERENNIAL AREAS TO HAVE NETAFIM OR SIMILAR DRIP IRRIGATION SYSTEM

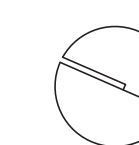
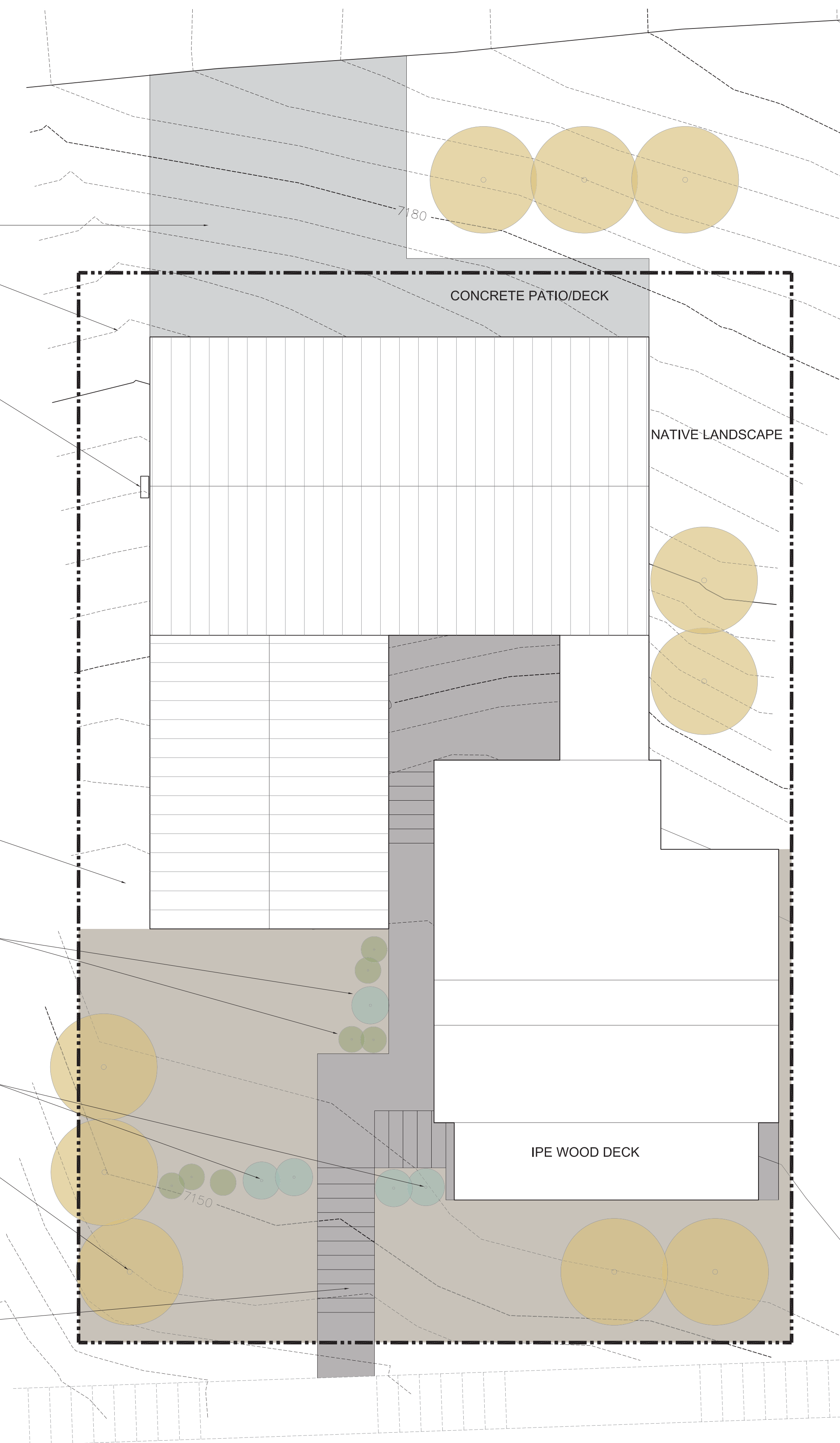
LANDSCAPE BASE: 3" BARK MULCH OVER 6" TOP SOIL

NATIVE AND DROUGHT TOLERANT PERENNIALS (1 AND 2 GALLON) :
- AGASTACHE RUPESTRIS - SUNSET HYSSOP (QTY: 4)
- CENTRANTHUS RUBER - JUPITERS BEARD (QTY: 3)
- MONARDELLA ODORATISSIMA - MOUNTAIN BEEBALM (QTY: 2)
- PENSTEMON EATONII - FIRECRACKER PENSTEMON (QTY: 3)
- GERANIUM VISCOSISSIMUM - STICKY GERANIUM (QTY: 2)

(2) GALLON CALAMAGROSTIS X ACUTIFLORA 'KARL FOERSTER' - FEATHER REED GRASS (QTY: 4)

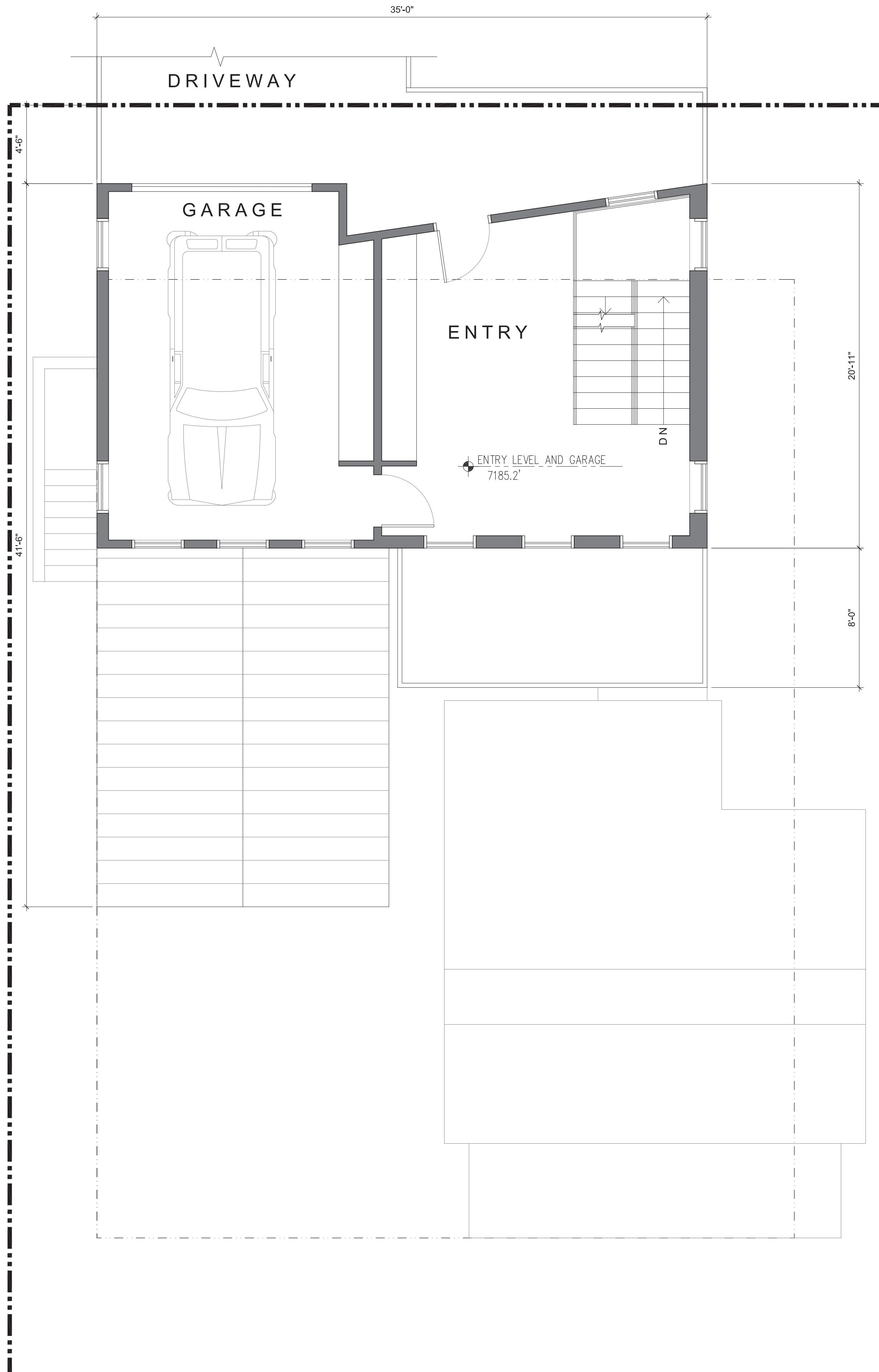
POPULUS TREMULOIDES 'ASPEN' (QTY: 10)

CONCRETE SIDEWALK



LANDSCAPE PLAN
SCALE 3/16" = 1'-0"

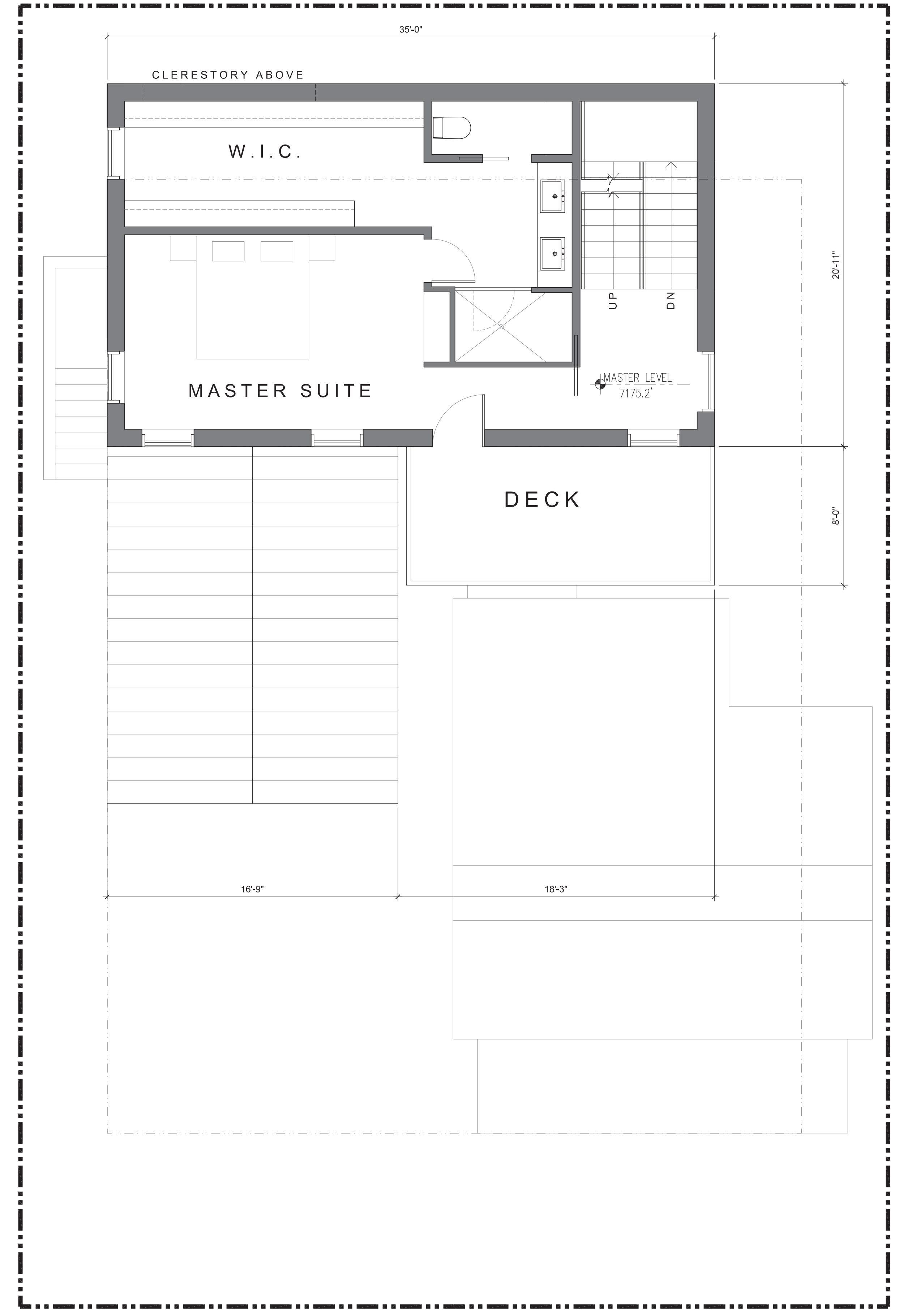
BOA Permit 4.17.18



ENTRY LEVEL - SF SUMMARY

GARAGE	= 347 SF
ENTRY	= 354 SF

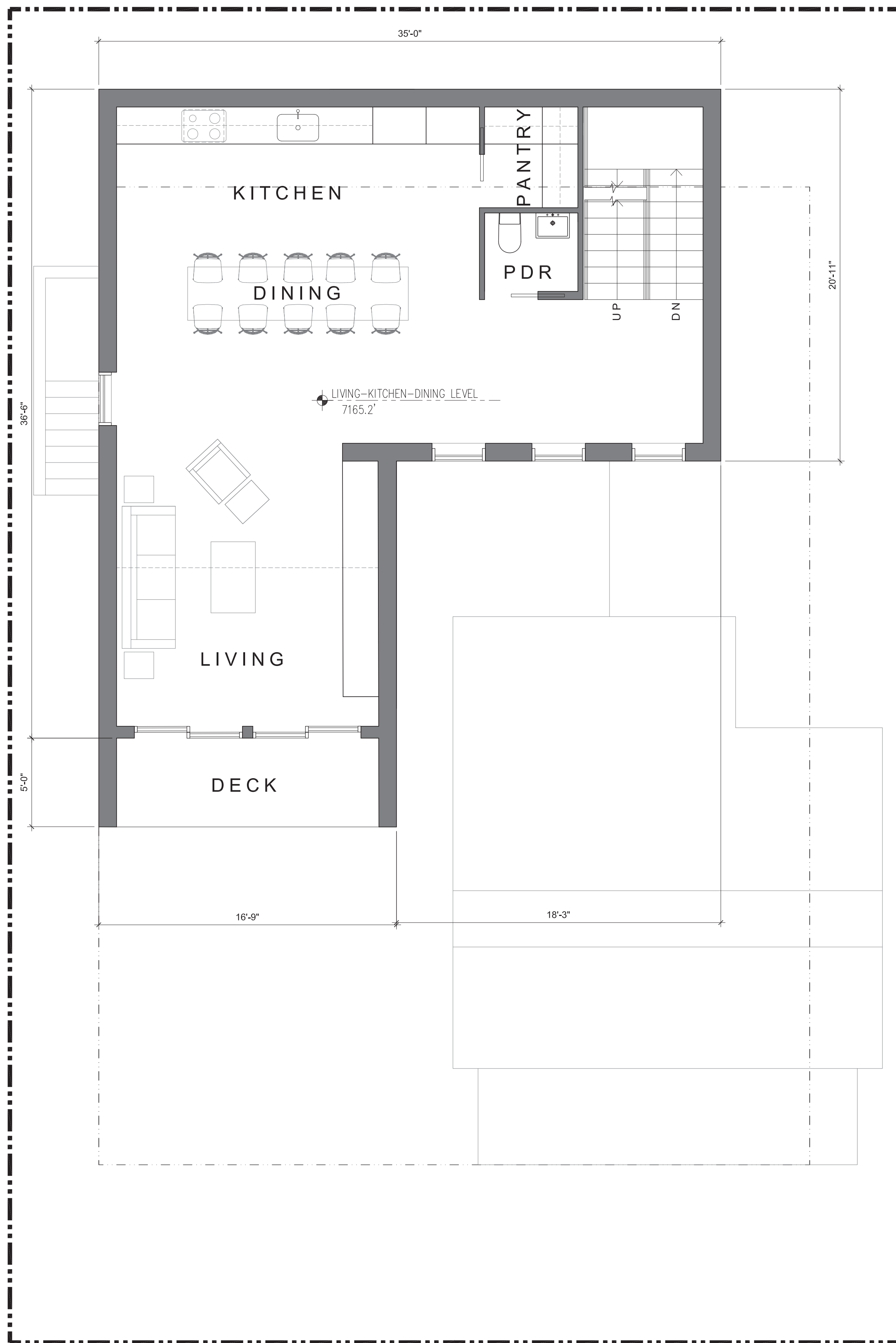
ENTRY LEVEL AND GARAGE PLAN
SCALE 1/4" = 1'-0"



MASTER LEVEL - SF SUMMARY

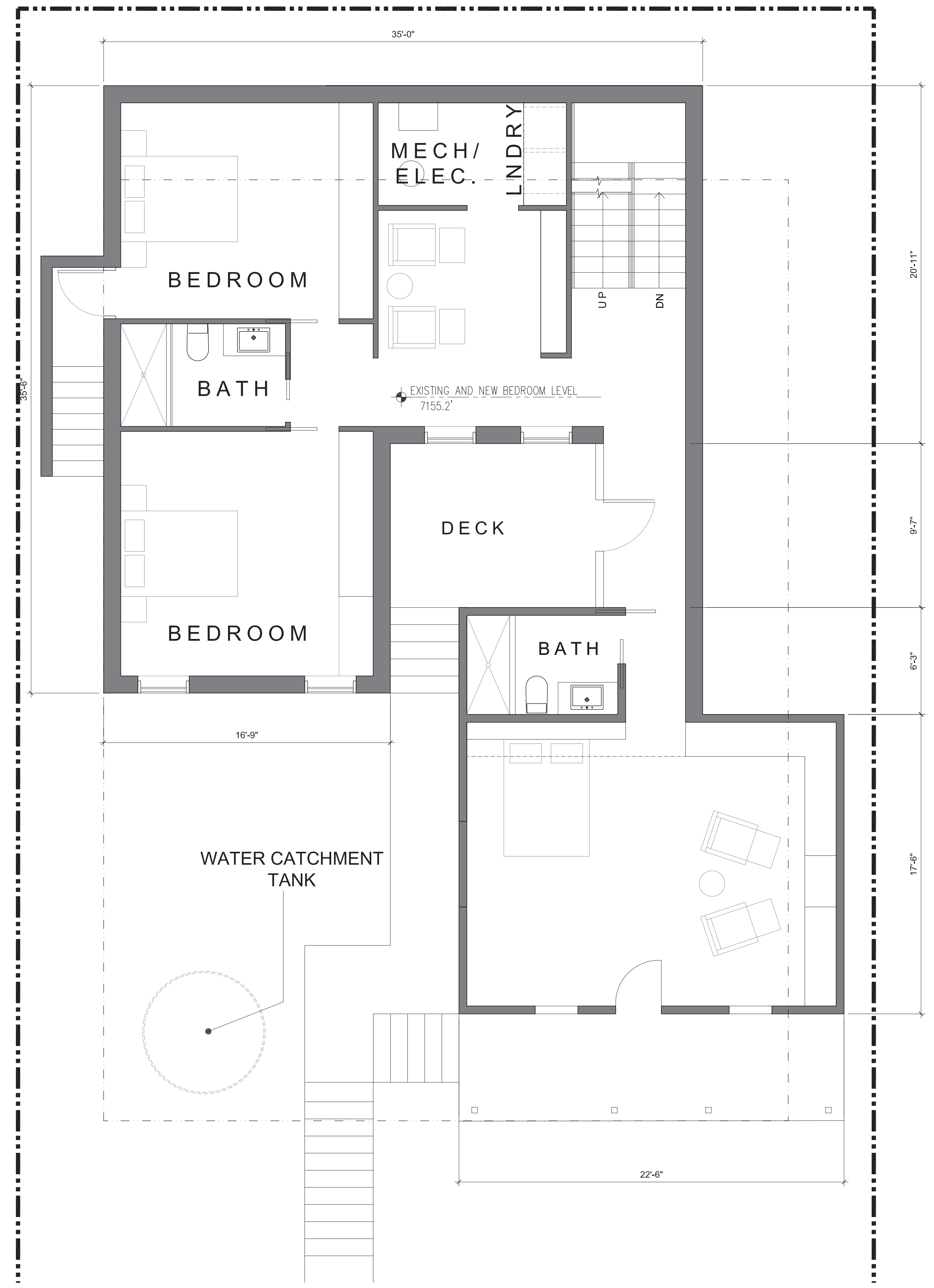
MASTER LEVEL	= 732 SF
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UPPER LEVEL PLAN
SCALE 1/4" = 1'-0"



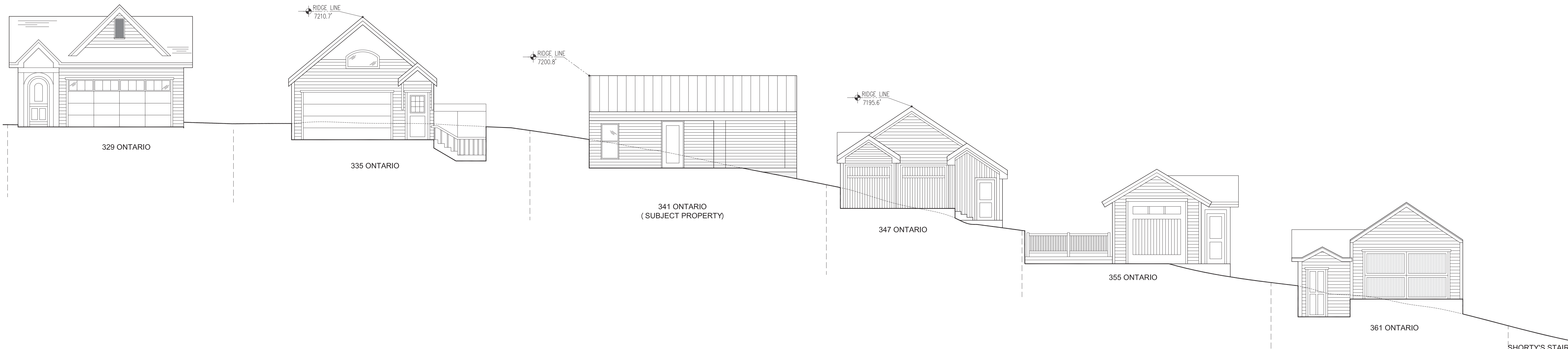
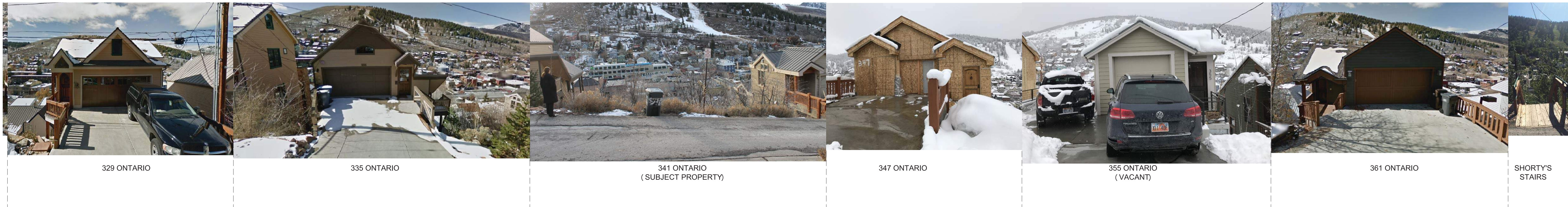
LKD LEVEL - SF SUMMARY
= 976 SF

 LIVING KITCHEN DINING LEVEL PLAN
SCALE 1/4" = 1'-0"

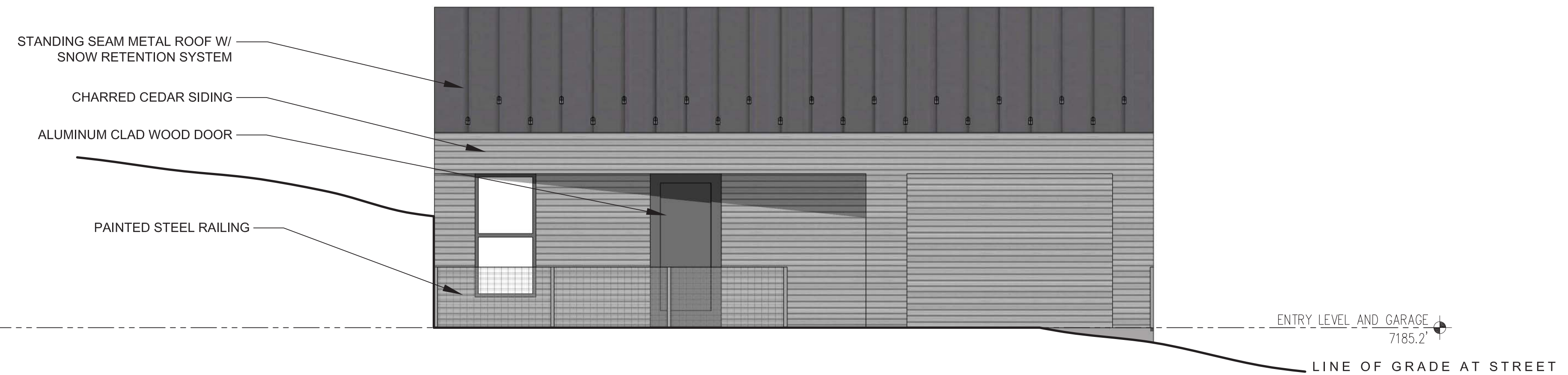


EXISTING / NEW BR LVL - SF SUMMARY
= 1,519 SF

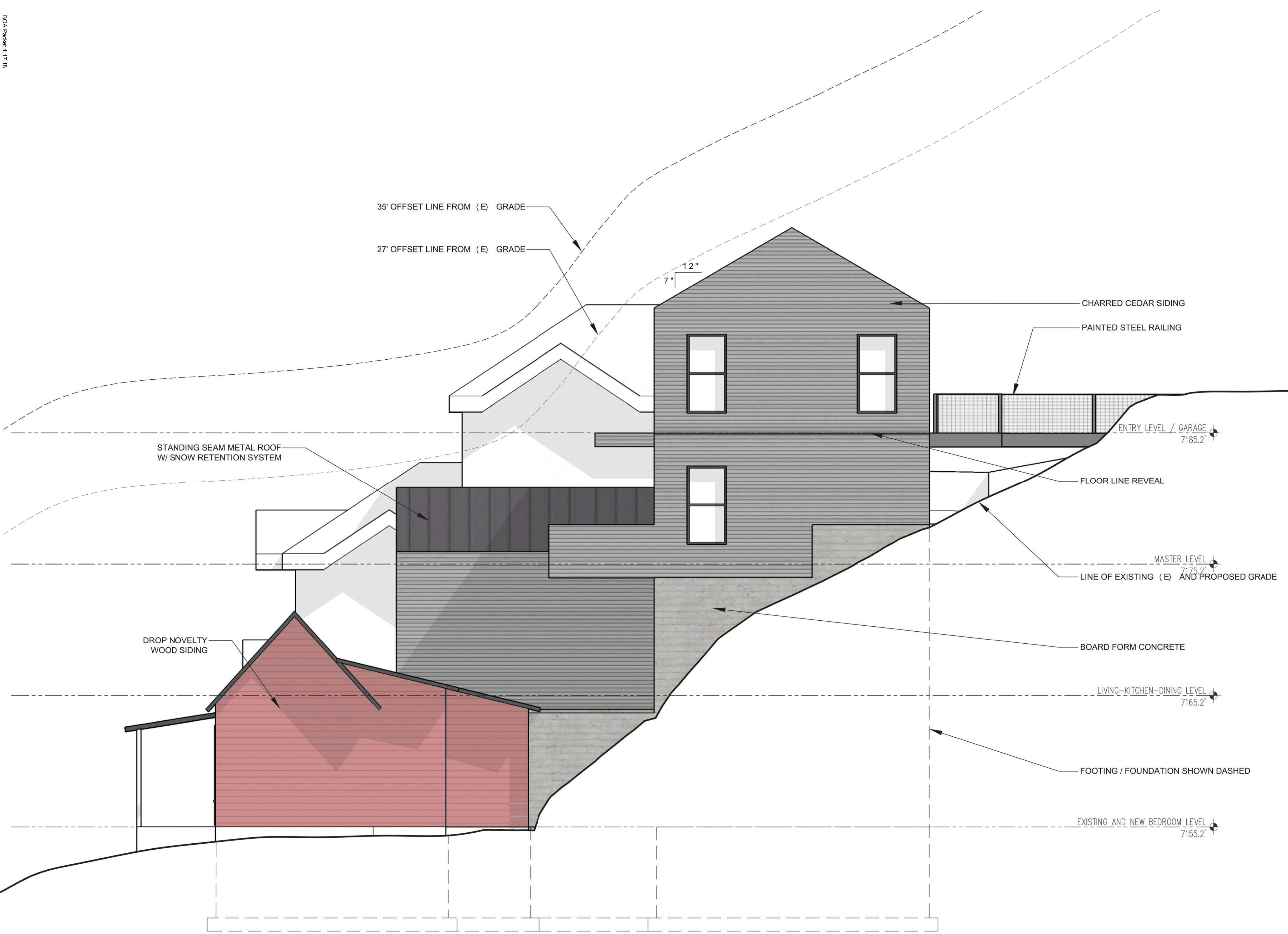
 EXISTING AND NEW BEDROOM LEVEL
SCALE 1/4" = 1'-0"



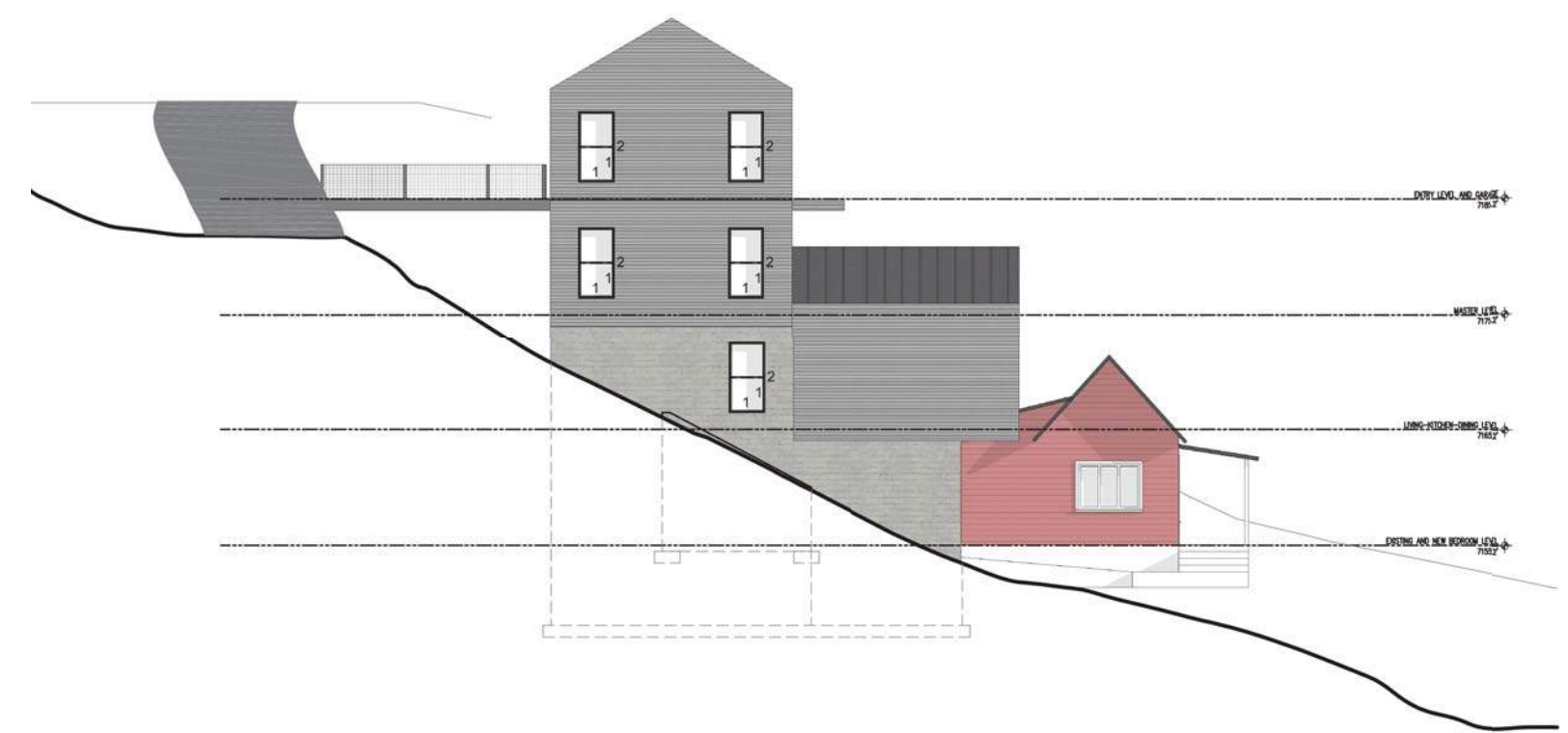
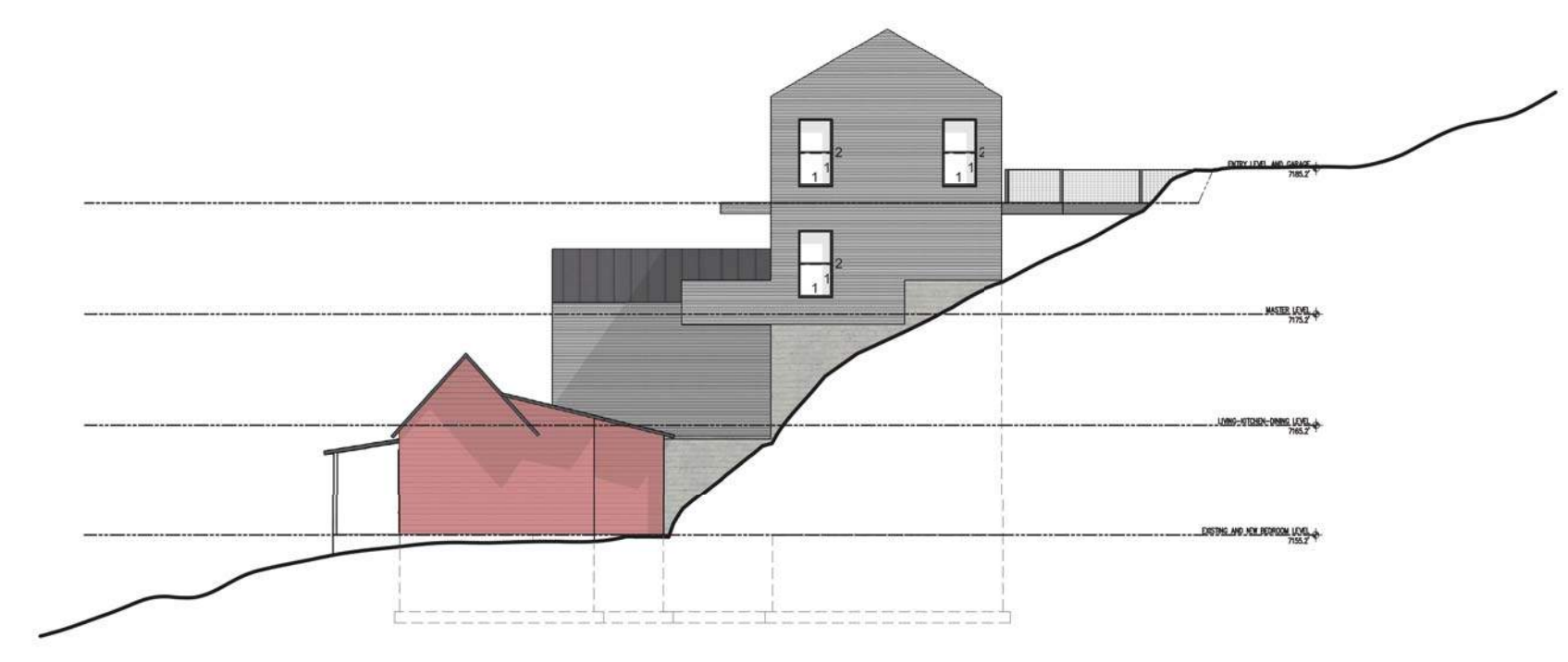
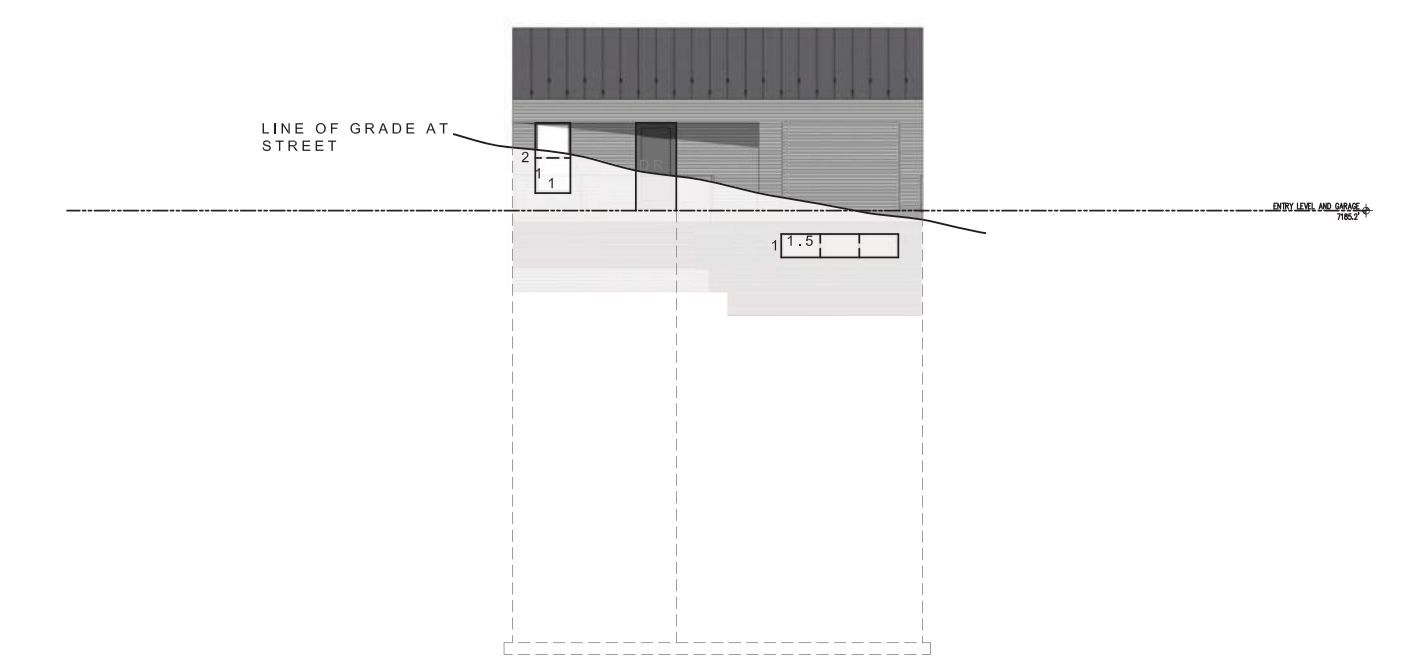
STREETSCAPE ELEVATION
SCALE 1/8" = 1'-0"



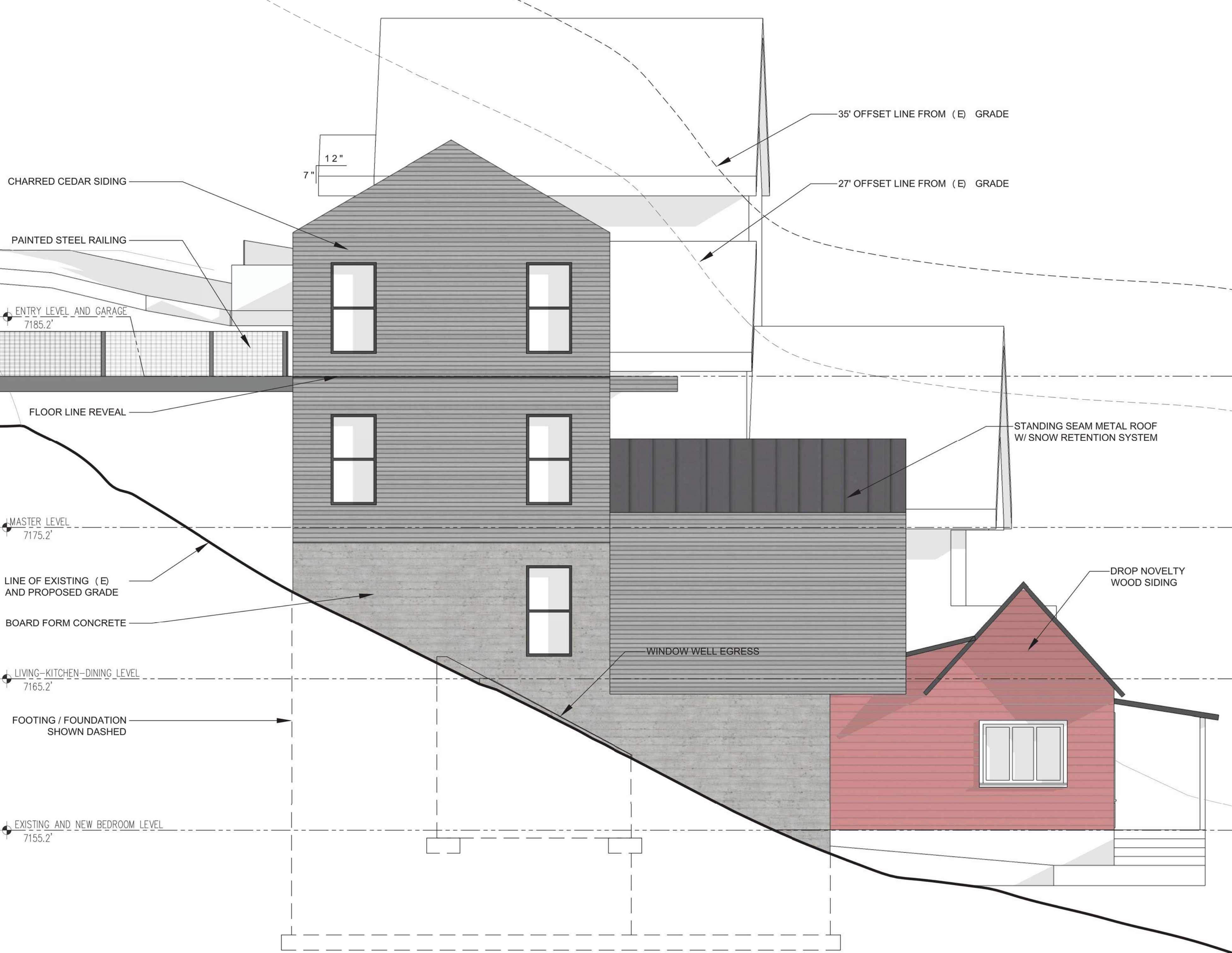
EAST / ONTARIO ELEVATION
SCALE 1/4" = 1'-0"



SOUTH ELEVATION
SCALE 1/4" = 1'-0"



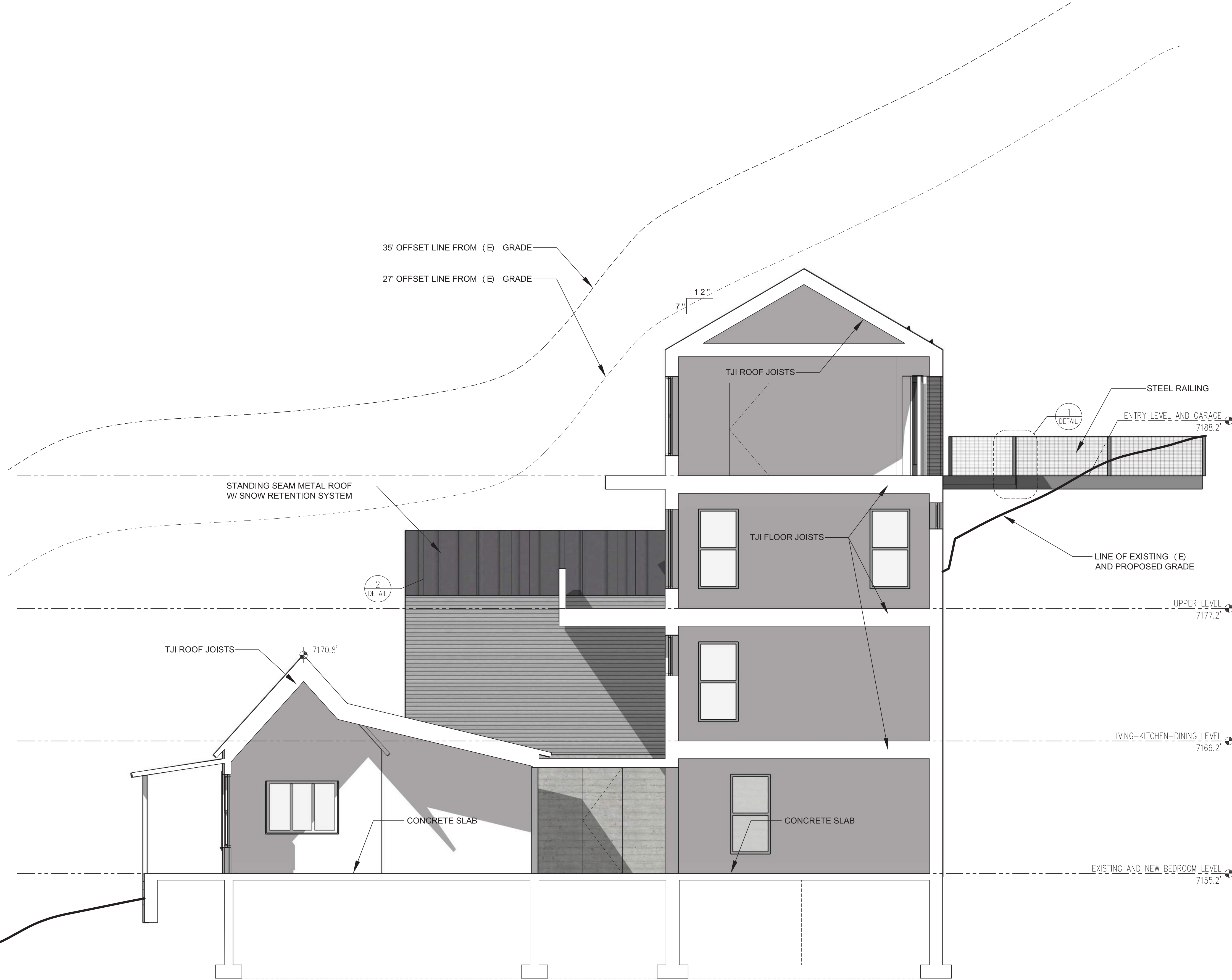
WINDOW RATIO DIAGRAMS
SCALE 1/16" = 1'-0"



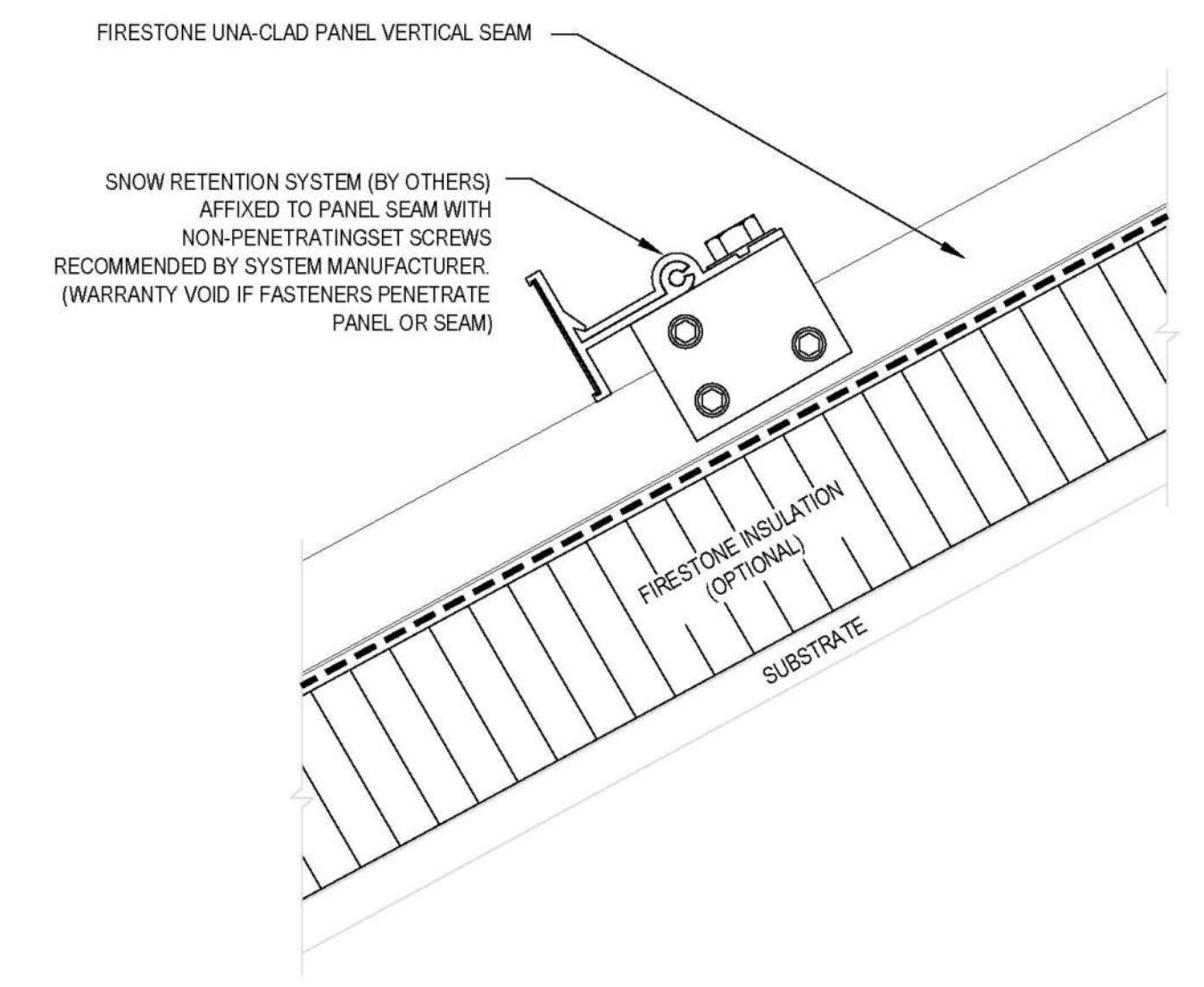
NORTH ELEVATION
SCALE 1/4" = 1'-0"



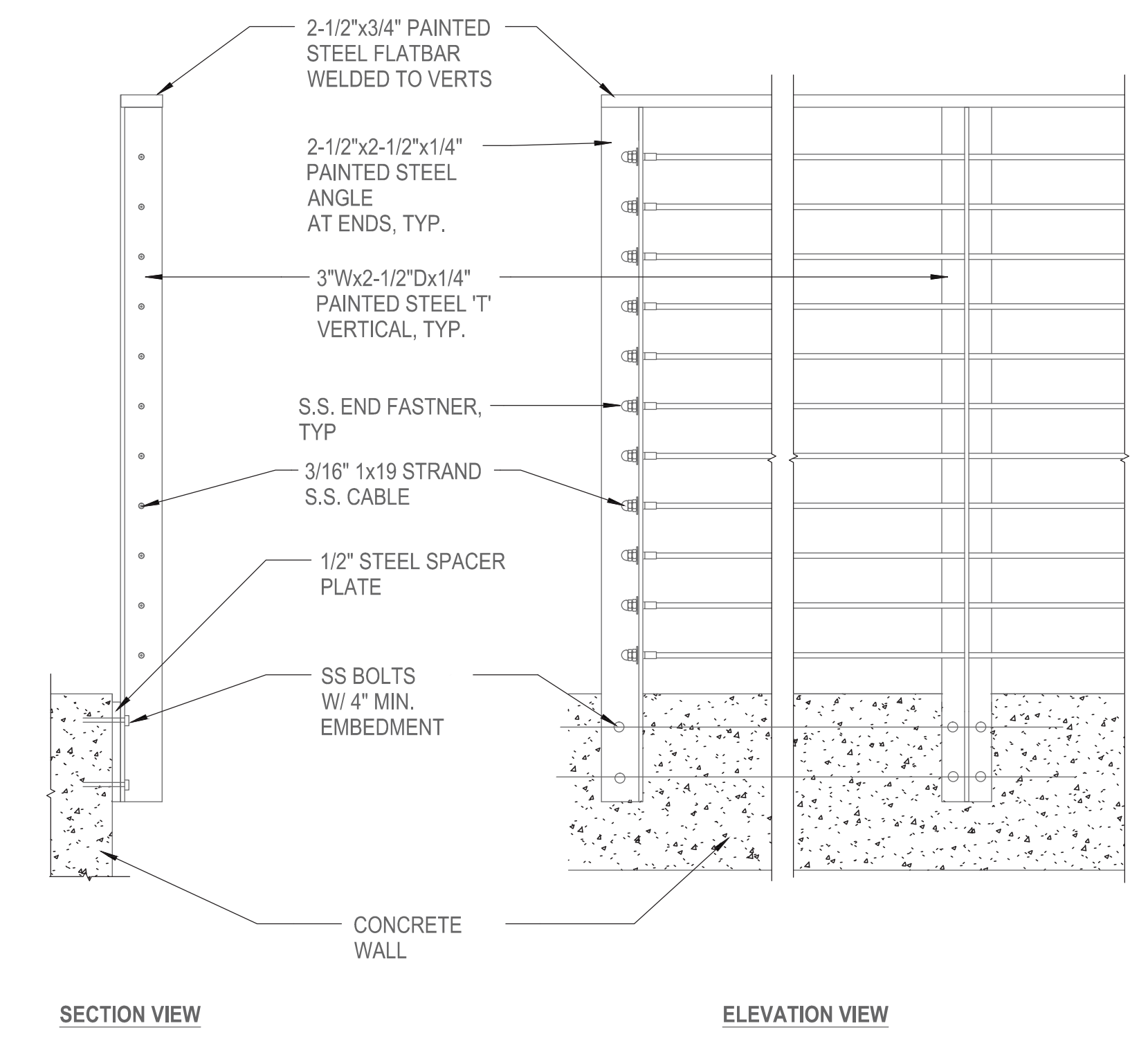
WEST ELEVATION
SCALE 1/4" = 1'-0"



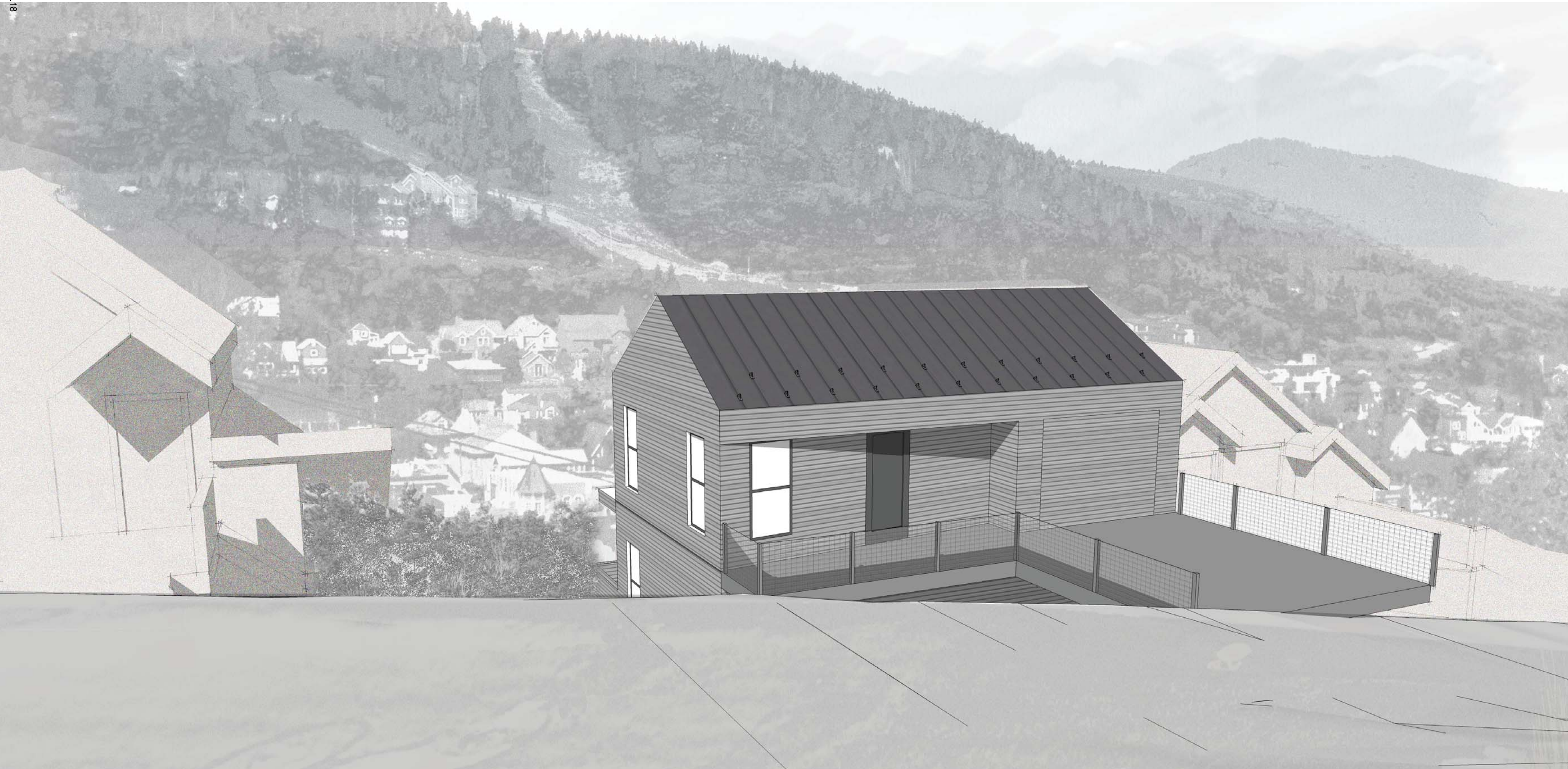
BUILDING SECTION
SCALE 1/4" = 1'-0"



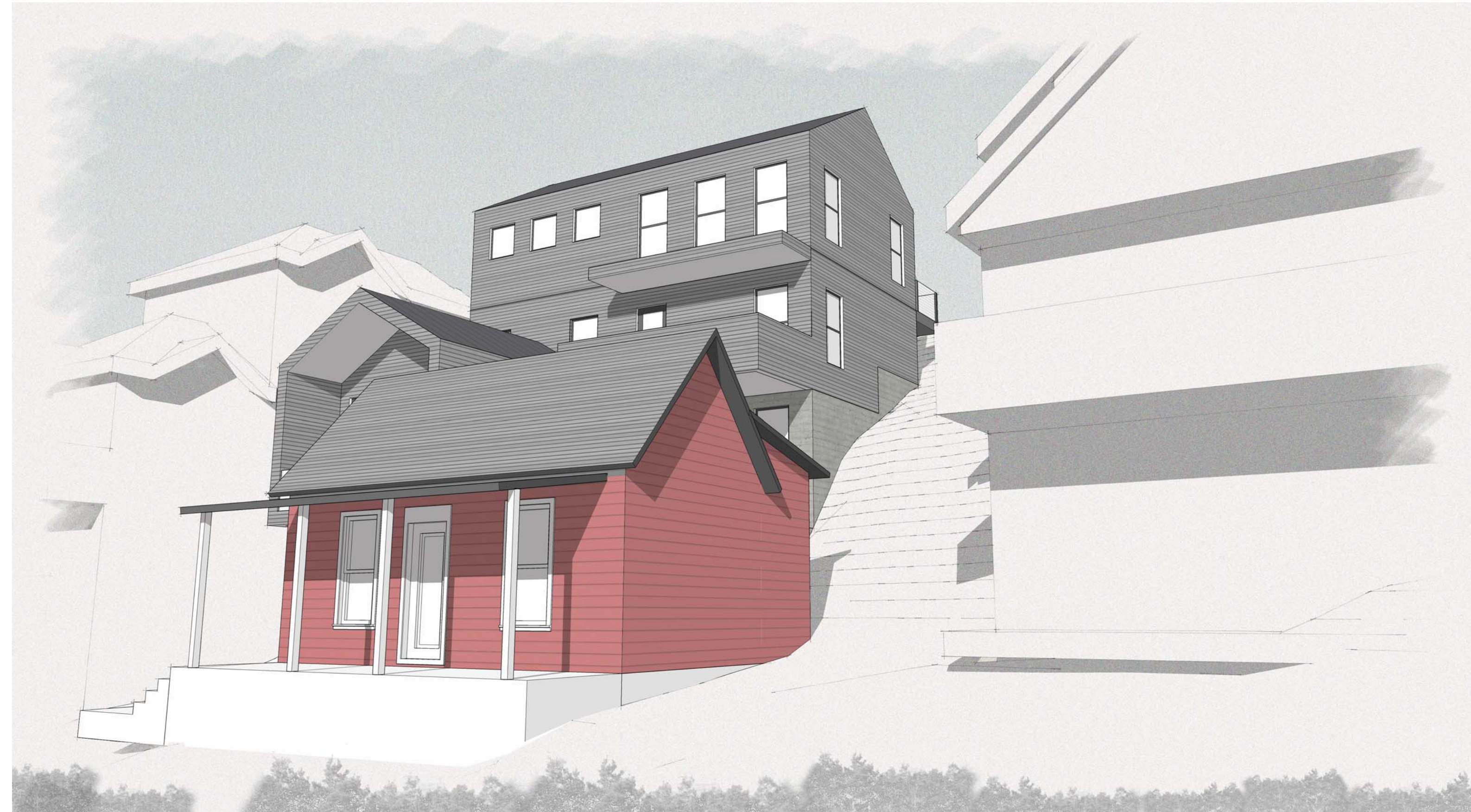
DETAIL 2 - SNOW RETENTION
SCALE 3" = 1'-0"



DETAIL 1 - STEEL HANDRAIL
SCALE 1-1/2" = 1'-0"



RENDERING - FRONT VIEW



RENDERING - BACK VIEW



CHARRED CEDAR SIDING



BOARD FORM CONCRETE



STANDING SEAM METAL ROOF

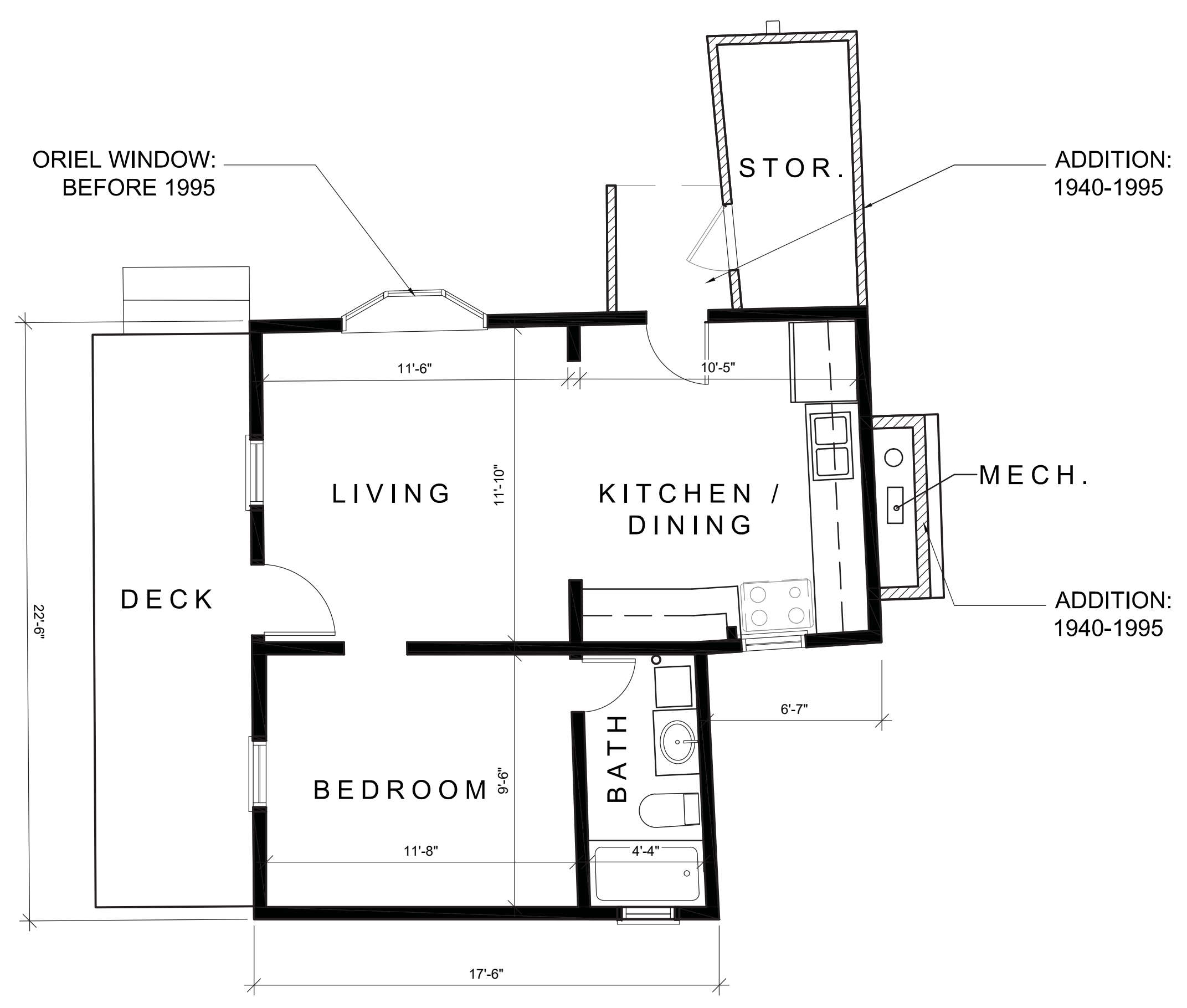
SUBJECT PROPERTY



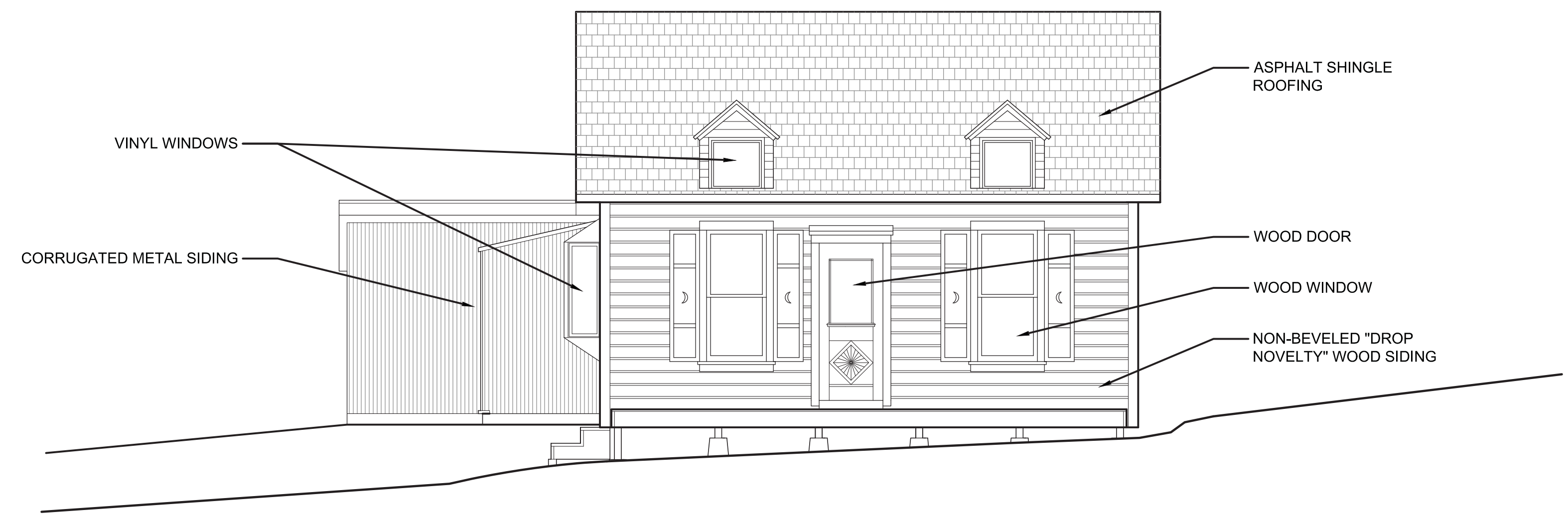
CROSS CANYON RENDERING

AS-BUILT DRAWINGS

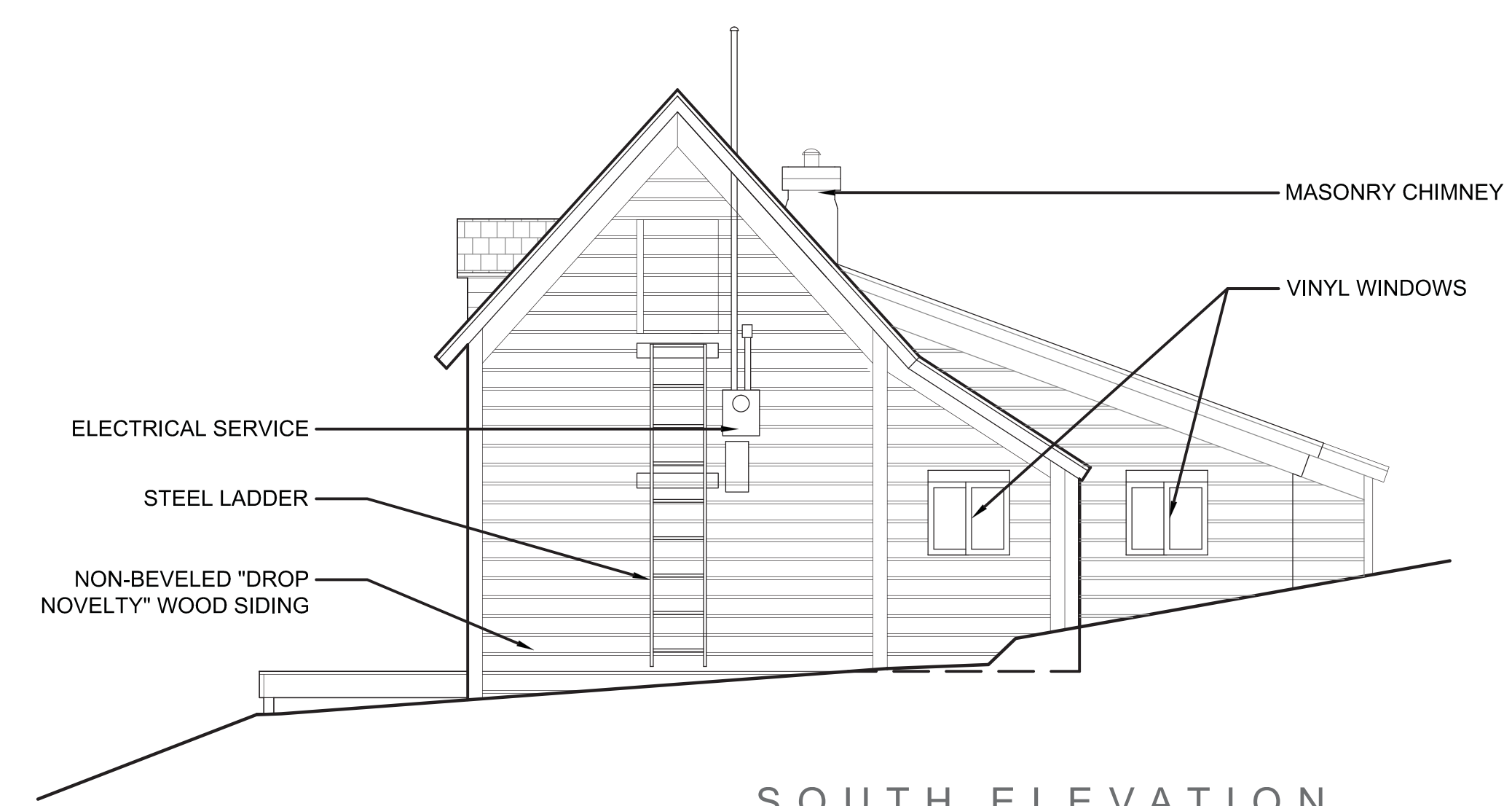
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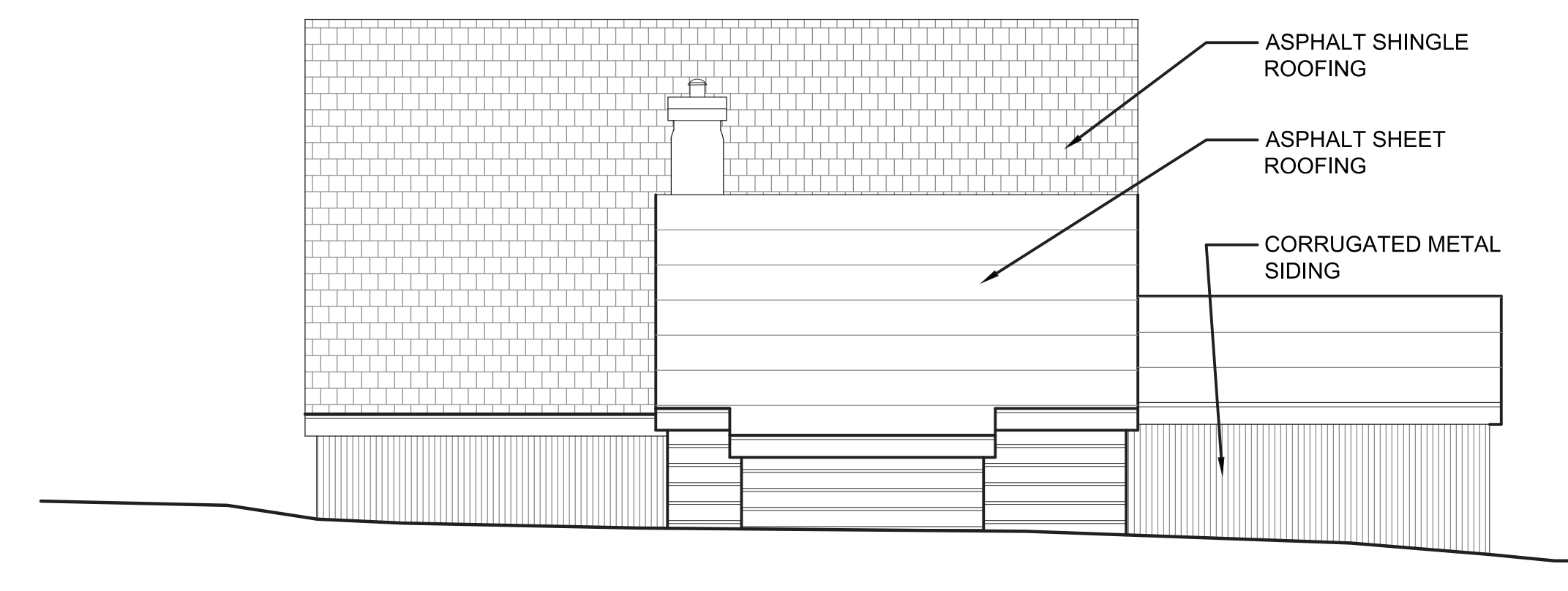
FLOOR PLAN
SCALE 1/4" = 1'-0"



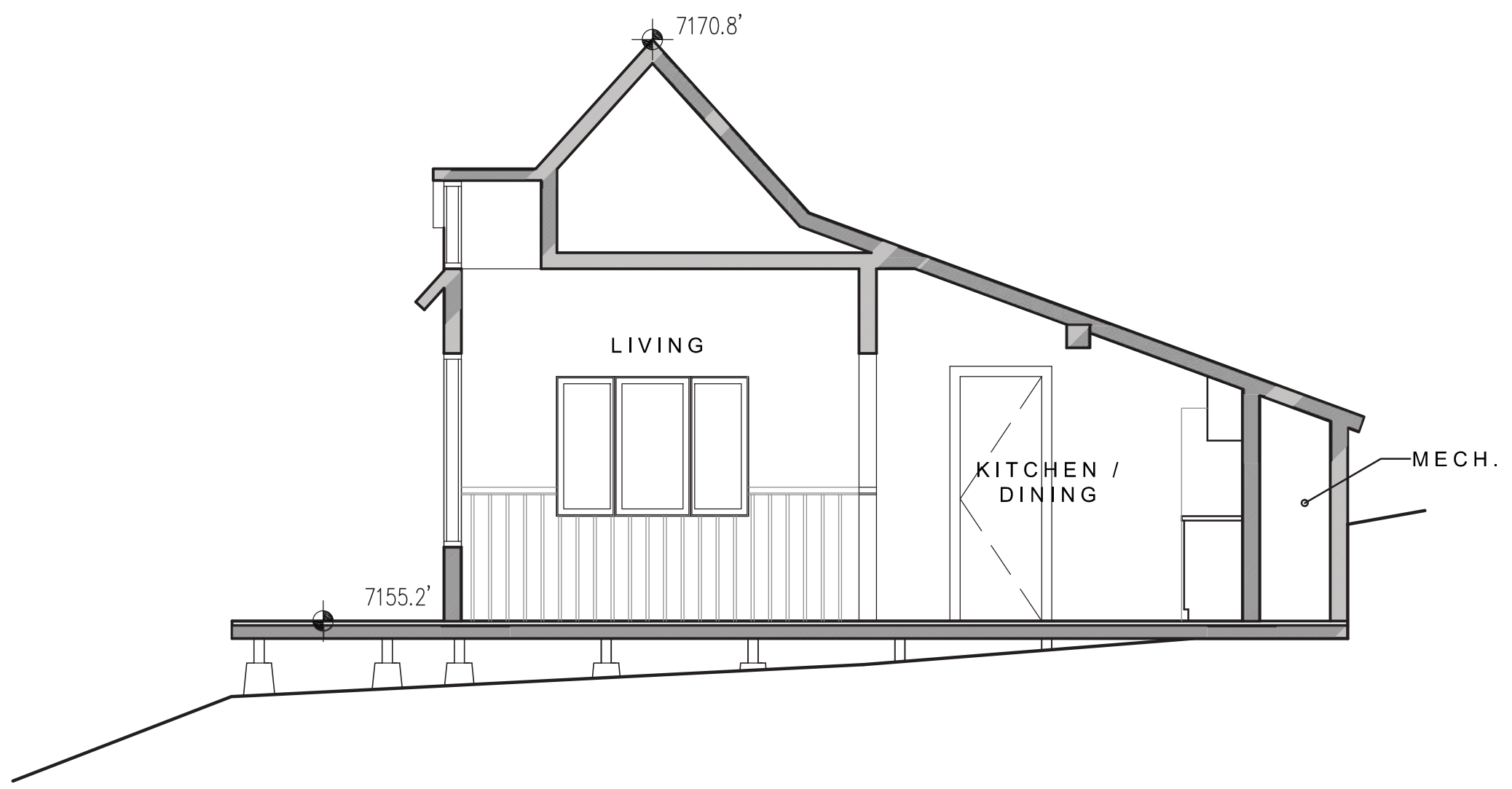
WEST ELEVATION
SCALE 1/4" = 1'-0"



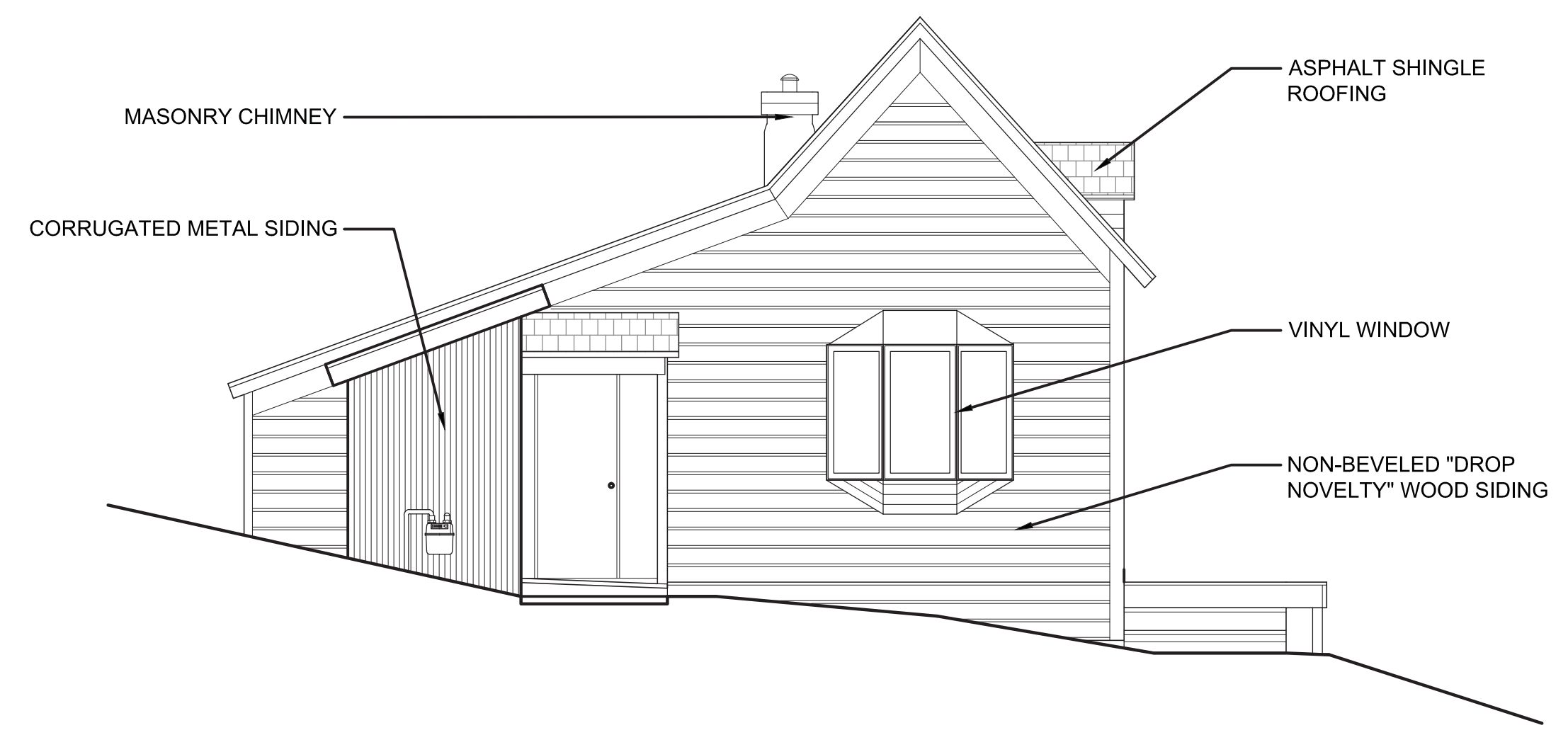
SOUTH ELEVATION
SCALE 1/4" = 1'-0"



EAST ELEVATION
SCALE 1/4" = 1'-0"



BUILDING SECTION
SCALE 1/4" = 1'-0"



NORTH ELEVATION
SCALE 1/4" = 1'-0"