



## BOARD OF ADJUSTMENT

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### MEETING AGENDA Thursday, August 20, 2015 4:30 p.m.

*\*Pledge of Allegiance*

**Regular Agenda Items**

1. BOA 2015-06 Consideration and action on a request for a 25 foot variance from the required 50 foot stream corridor setback along a natural ephemeral stream. Property is located in the Forest Valley-3 (FV-3) Zone at approximately 1537 S 8900 E, Huntsville UT (Brian D. Wilson, Applicant)
2. BOA 2015-07 Consideration and action on a request for a 28 foot variance to the 40 foot side yard setback standard for large accessory buildings. Property is located in the Agricultural-2 (A-2) Zone at approximately 6681 W 200 N, Warren UT (Jason Kelley, Applicant)
3. Adjournment:

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



*(In compliance with the Americans with Disabilities Act, persons needing auxiliary services for these meetings should call the Weber County Planning Commission 24 hours in advance of the meeting at 801-399-8791)*

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# Staff Report to the Weber County Board of Adjustment

Weber County Planning Division

## Synopsis

### Application Information

**Application Request:** Consideration and action on a request for a 25 foot variance from the required 50 foot stream corridor setback along a natural ephemeral stream.

**Agenda Date:** Thursday, August 20, 2015

**Applicant:** Brian D. Wilson

**Authorized Agent:** Jed Slama

**File Number:** BOA 2015-06

### Property Information

**Approximate Address:** 1537 South 8900 East, Huntsville

**Project Area:** 3.5 Acres

**Zoning:** FV-3

**Existing Land Use:** Residential/Agricultural

**Proposed Land Use:** Residential/Agricultural

**Parcel ID:** 21-035-0011

**Township, Range, Section:** T6N, R2E, Section 21

### Adjacent Land Use

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

### Staff Information

**Report Presenter:** Ronda Kippen  
rkippen@co.weber.ut.us  
801-399-8768

**Report Reviewer:** JG

## Applicable Codes

- Title 101, Chapter 1, General Provisions, Section 7, Definitions
- Title 102, Administration, Chapter 3, Board of Adjustment
- Title 104, Chapter 14, Forest Valley Zone (FV-3)
- Title 104, Chapter 28, Ogden Valley Sensitive Lands Overlay District

## Background

The applicant has submitted a request for a 25 foot variance from the required 50 foot stream corridor setback along a natural ephemeral stream as identified in the Ogden Valley Sensitive Lands Stream Corridors map (see Exhibit A for the application and Exhibit B for Ogden Valley Sensitive Lands Stream Corridors map). The subject property is located at approximately 1537 South 8900 East Huntsville, UT and identified on the Weber County records as a 3.5 acre parcel (see Exhibit C). The improvements on the property include a single family dwelling and multiple out buildings that were constructed prior to the adoption of Ordinance 2005-19 "River and Stream Corridor Setbacks". Currently all structures are located to the east of the seasonal creek known as "Bally Watts Creek". The applicant would like to construct a new storage building on his parcel and has identified the location of the proposed structure 25 foot away from a protected stream corridor (see Exhibit D).

The purpose and intent of the Ogden Valley Sensitive Lands Overlay Districts as identified in the Uniform Land Use Code of Weber County (LUC) §104-28 reads:

*(a) As directed by the Ogden Valley general plan, the purpose and intent of this chapter is to identify and coordinate the application of natural and scenic resource protection guidelines and standards; protect the health, welfare, and safety of Weber County citizens; and minimize the potential degradation of natural and humanmade resources by identifying the cumulative impact on known sensitive areas. This chapter is specifically applicable to new land uses, new structures, and new land development (including amendments to existing developments) in Ogden Valley. This chapter describes mitigation methods that may either be required or recommended. These mitigation methods apply*

specifically to new land uses, new structures and new land development (including amendments to existing developments). This chapter will apply to all zoning designations in the Ogden Valley.

(b) It is intended that the proposed development can be accomplished without substantial interference with or significant adverse effects upon identified sensitive or unique natural or ecological features, important wildlife habitats, or cultural and historic resources.

(c) The Ogden Valley Sensitive Lands Maps are available from Weber County

The development standards as identified in §LUC 104-28-2(b) for all areas within the Ogden Valley Sensitive Lands Overlay Districts are:

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

a. *Structures, accessory structures, roads, or parking areas shall not be developed or located within 100 feet on both sides of the North Fork, South Fork, and Middle Fork of the Ogden River, from the high water mark of the river.*

b. *Structures, accessory structures, roads, or parking areas shall not be developed or located within 75 feet on both sides of year-round streams, as determined from the high water mark of the stream.*

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

d. *Structures, accessory structures, roads, or parking areas shall not be developed or located within 100 feet on all sides of Pineview Reservoir, as determined from the high water mark of Pineview Reservoir.*

(2) *Exceptions.*

a. *Bridges or stream alterations approved by the Army Corps of Engineers and state department of natural resources, division of water rights.*

b. *Trails built in conformance to chapter 40, Ogden Valley Pathways, of the Land Use Code.*

c. *The Ogden River below Pineview Reservoir.*

d. *All existing structures, accessory structures, roads, or parking areas prior to the adoption of Ordinance No. 2005-19 River and Stream Corridor Setbacks.*

## Analysis

The request for a 25 foot variance from the required 50 foot stream corridor setback along a natural ephemeral stream as identified in the Ogden Valley Sensitive Lands Stream Corridors map has been reviewed against the following criteria:

- a. Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Land Use Code: The applicant owns a 3.5 acre parcel that is relatively flat (see Exhibit D). The area of the applicants property located to the east of the Bally Watts Creek has significant improvements including a single family home and multiple outbuildings. The area of the applicants property located to the west of the Bally Watts Creek can be accessed by a bridge over Bally Watts Creek and has been maintained as agricultural property.

The applicant has deemed the agricultural portion of the property unbuildable due to the use of flood irrigation. During discussions with the applicant, staff has recommended building up the area around the proposed structure to eliminate irrigation water from entering the new structure. When discussing alternative locations on the east side of the Bally Watts Creek, the applicant claims that if the proposed storage building is located in an area that adheres to the yard and stream corridor setbacks, the new structure will block the entrance to the existing storage building that was built next to the creek before the adoption of the development standards for areas within the Ogden Valley Sensitive Overlay District. Staff feels that there is adequate area on the 3.5 acre parcel to construct a storage building without entering into any of the required yard or stream corridor setbacks or block the entrance to any of the existing structures on the site; therefore, staff feels that the literal enforcement of the ordinance would not cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Land Use Code.

- b. There are special circumstances attached to the property that do not generally apply to other properties in the same zone: The subject property is located in an area where the parcels range in size from 3 acres to 20 acres. Although the applicant's property is one of the smallest properties in area, the property meets the minimum area

required in the FV-3 zone and is similar in nature with the surrounding properties as well as other properties in the FV-3 zone. The property does not have topographical features that would hinder development on the parcel and the subject property is not in a flood zone as identified by FEMA that is known to have a high risk of annual flooding. Staff feels that there are not special circumstances attached to the property that do not generally apply to other properties in the same zone.

- c. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone: Accessory structures are considered a permitted use in the FV-3 zone. Staff feels that there adequate area on the applicant's property to construct another accessory structure without varying any of the County ordinances. Staff feels the variance is not essential for the property owners to enjoy their property in a similar fashion as the adjacent property owners.
- d. The variance will not substantially affect the general plan and will not be contrary to the public interest: The Ogden Valley residents have solidified their desire to protect the stream corridors throughout the Ogden Valley by adding the goals and policies identified in the Ogden Valley General Plan to the Uniform Land Use Code of Weber County as a Sensitive Lands Overlay District; therefore, the variance will substantially affect the general plan and will be contrary to the public interest.
- e. The spirit of the land use ordinance is observed and substantial justice done: By granting the requested variance, substantial justice will not be done and the land use ordinance would not be observed by allowing the property owner to construct an accessory structure in an area that has been identified as an area that should be preserved and "maintained in a manner that protects the quality of water in the stream and the habitat of native vegetation and wildlife along the stream" (LUC §104-28-2-(b)(1)).

## Summary of Board of Adjustment Considerations

The LUC §102-3-3 states that the Board of Adjustments shall "hear and decide variances from the requirements of the Land Use Code". The LUC §102-3-4(b) outlines the decision criteria and standards for which variances from the requirements must be reviewed. The Board of Adjustments can grant a variance only if the following five criteria are met:

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

## Conformance to the General Plan

The Ogden Valley General Plan states: "In addition to the safety issues surrounding development along stream corridors, Ogden Valley residents desire to see these areas protected for aesthetic, wildlife habitat, and water quality reasons."

Accessory structures are allowed as a permitted use in the FV-3 Zone. By granting the variance for an accessory structure in the proposed location, the purpose and intent of the Ogden Valley Sensitive Lands Overlay District as well as the Ogden Valley General Plan would not be upheld.

## Staff Recommendation

Staff recommends denial of the request for a 25 foot variance from the required 50 foot stream corridor setback along a natural ephemeral stream as identified in the Ogden Valley Sensitive Lands Stream Corridors map. This recommendation for denial is based on the following findings:

1. There are various developable areas on the applicant's property to locate the proposed structure without varying the County development standards.
2. The literal enforcement of the ordinance would not cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Land Use Code.
3. There are not special circumstances attached to the property that do not generally apply to other properties in the same zone.
4. The variance is not essential for the property owners to enjoy their property in a similar fashion as the adjacent property owners.
5. The variance will substantially affect the general plan and will be contrary to the public interest.
6. The spirit of the land use ordinance would not be observed and substantial justice would not be done.

## Exhibits

- A. Application
- B. Section Plat Map
- C. Site Plan
- D. US topography map

## Map 1



Weber County Board of Adjustment Application			
Application submittals will be accepted by appointment only. (801) 399-3791. 2380 Washington Blvd. Suite 240, Ogden, UT 84401			
Date Submitted / Completed 7-22-15	Fees (Office Use) \$225.00	Receipt Number (Office Use)	File Number (Office Use)
Property Owner Contact Information			
Name of Property Owner(s) BRIAN D WILSON		Mailing Address of Property Owner(s) P.O. Box 121 HUNTSVILLE UTAH 84317	
Phone 801 745-9506	Fax		
Email Address WILSON DODGE @ DIGIS - NET		Preferred Method of Written Correspondence <input type="checkbox"/> Email <input type="checkbox"/> Fax <input checked="" type="checkbox"/> Mail	
Authorized Representative Contact Information			
Name of Person Authorized to Represent the Property Owner(s) JES STAMA		Mailing Address of Authorized Person 1245 S 8400 E Huntsville UT 84317	
Phone 801-430-6622	Fax 801-745-2512		
Email Address JES@JSC-BUILDERS.COM		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	
Appeal Request			
<input type="checkbox"/> A hearing to decide appeal where it is alleged by appellant that there is an error in any order, requirement, decision or refusal in enforcing of the Zoning Ordinance <input checked="" type="checkbox"/> A variance request: __ Lot area    __ Yard setback    __ Frontage width <input checked="" type="checkbox"/> Other: <u>Minimum setback to Spring Drainage Ditch.</u> <input type="checkbox"/> A Special Exception to the Zoning Ordinance: __ Flag Lot    __ Access by Private Right-of-Way    __ Access at a location other than across the front lot line <input type="checkbox"/> An Interpretation of the Zoning Ordinance <input type="checkbox"/> An Interpretation of the Zoning Map <input type="checkbox"/> Other: _____			
Property Information			
Approximate Address 1537 S 8900 E Huntsville UT 84317		Land Serial Number(s) 210350011	
Current Zoning FV-3			
Existing Measurements		Required Measurements (Office Use)	
Lot Area 3.5 Acres	Lot Frontage/Width 153.5'	Lot Size (Office Use)	Lot Frontage/Width (Office Use)
Front Yard Setback	Rear Yard Setback 300' +	Front Yard Setback (Office Use)	Rear Yard Setback (Office Use)
Side Yard Setback 20'	Side Yard Setback 20'	Side Yard Setback (Office Use)	Side Yard Setback (Office Use)

**Applicant Narrative**

Please explain your request.

MY REQUEST IS TO ALLOW ME A VARIANCE TO BUILD A BARN TWENTY FIVE FEET CLOSER TO THE SEASONAL RUNOFF DITCH, THAN THE ORDINANCE ALLOWS OF FIFTY FEET.

**Variance Request**

Explain how the variance will not substantially affect the comprehensive plan of zoning in the County and that adherence to the strict letter of the ordinance will cause unreasonable hardships, the imposition of which upon the petitioner is unnecessary in order to carry out the general purpose of the plan.

THE VARIANCE WILL NOT SUBSTANTIALLY AFFECT THE COMPREHENSIVE PLAN OF ZONING BECAUSE, WHILE THE ZONING IS IN PLACE TO KEEP STRUCTURES AWAY FROM RIVERS AND STREAMS, THIS SEASONAL RUNOFF DITCH IS DRY MOST OF THE YEAR. ADHERENCE TO THE ORDINANCE WILL REMOVE OVER ONE HUNDRED AND TWENTY FEET OF DEPTH ACROSS MY ENTIRE PROPERTY, NOT ALLOWING ME FULL USE OF IT. ALLOWING ME TO BUILD MY BARN TWENTY FIVE FEET FROM THE DITCH INSTEAD OF FIFTY FEET IS NOT NECESSARY TO KEEP THE GENERAL PLAN INTACT. IT ALLOWS PROPERTY OWNERS SUCH AS MYSELF, WHO HAVE OWNED THE PROPERTY SINCE BEFORE THE ORDINANCE WAS INACTED, BETTER USE OF THEIR PROPERTY. BY STAYING OUTSIDE OF A FIFTY FEET DISTANCE, I CAN NOT HAVE THE FULL USE OF A VERY LARGE SECTION IN THE CENTER OF MY PROPERTY.

Variance Request (continued...)

List the special circumstances attached to the property covered by the application which do not generally apply to the other property in the same zone.

1. NOT ALL PROPERTIES HAVE A SEASONAL RUNOFF DITCH IN THE CENTER OF THEIR PROPERTY.
2. THE DITCH ON THIS PROPERTY RUNS AT AN ANGLE, NOT ALLOWING ANY STRUCTURE TO SQUARE UP TO THE DITCH, PUSHING ANY STRUCTURE EVEN FURTHER AWAY.
3. PROPERTY IS A LONG NARROW PIECE. WHILE MAINTAINING THE TWENTY FEET SIDE YARD SETBACK, IT DOES NOT ALLOW MUCH ALTERNATIVE FOR PLACEMENT OF THE STRUCTURE.

Based upon the previously stated special circumstances, clearly describe how the property covered by this application is deprived of privileges possessed by other properties in the same zone; and that the granting of the variance is essential to the enjoyment of a substantial property right possessed by other properties in the same zone.

1. MOST PROPERTIES IN THE SAME ZONE DO NOT HAVE A SEASONAL DITCH THAT RUNS THROUGH THE CENTER OF THE PROPERTY.
2. OF THE FEW PROPERTIES THAT DO SHARE THE SAME DITCH, IT RUNS PERPENDICULAR TO THE PROPERTY, WHILE IT CROSSES MINE AT AN ANGLE.
3. OTHER PROPERTIES DO NOT LOSE WELL OVER ONE HUNDRED TWENTY FEET THROUGH THE CENTER OF THEIR PROPERTY BECAUSE OF A SEASONAL DITCH.
4. THE FEW PROPERTIES THAT DO SHARE THE SAME DITCH HAVE STRUCTURES MUCH CLOSER THAN FIFTY FEET FROM THE DITCH.





Variance Request (continued...)

Explain how the previously listed special circumstances are not considered to be economic or self-imposed hardships.

THE SPECIAL CIRCUMSTANCES HAVE ZERO IMPACT ECONOMICALLY BECAUSE IT BEARS NO WEIGHT ON MY FINANCIAL WELL BEING. IT IS NOT SELF IMPOSED AS I DID NOT PUT THE DITCH IN MY PROPERTY TO BEGIN WITH, AND I HAVE OWNED THE PROPERTY WITH THE INTENT TO BUILD THE STRUCTURE PRIOR TO THE ORDINANCE TAKING EFFECT.

Property Owner Affidavit

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

Brian D. Wilson  
(Property Owner)

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

Subscribed and sworn to me this 23rd day of July, 2015.

Melissa Cohen  
(Notary)



Authorized Representative Affidavit

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

Brian D. Wilson  
(Property Owner)

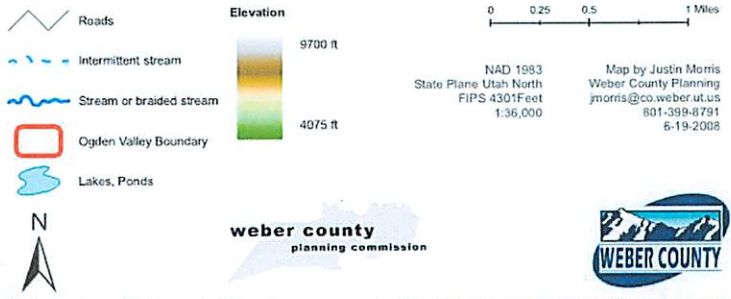
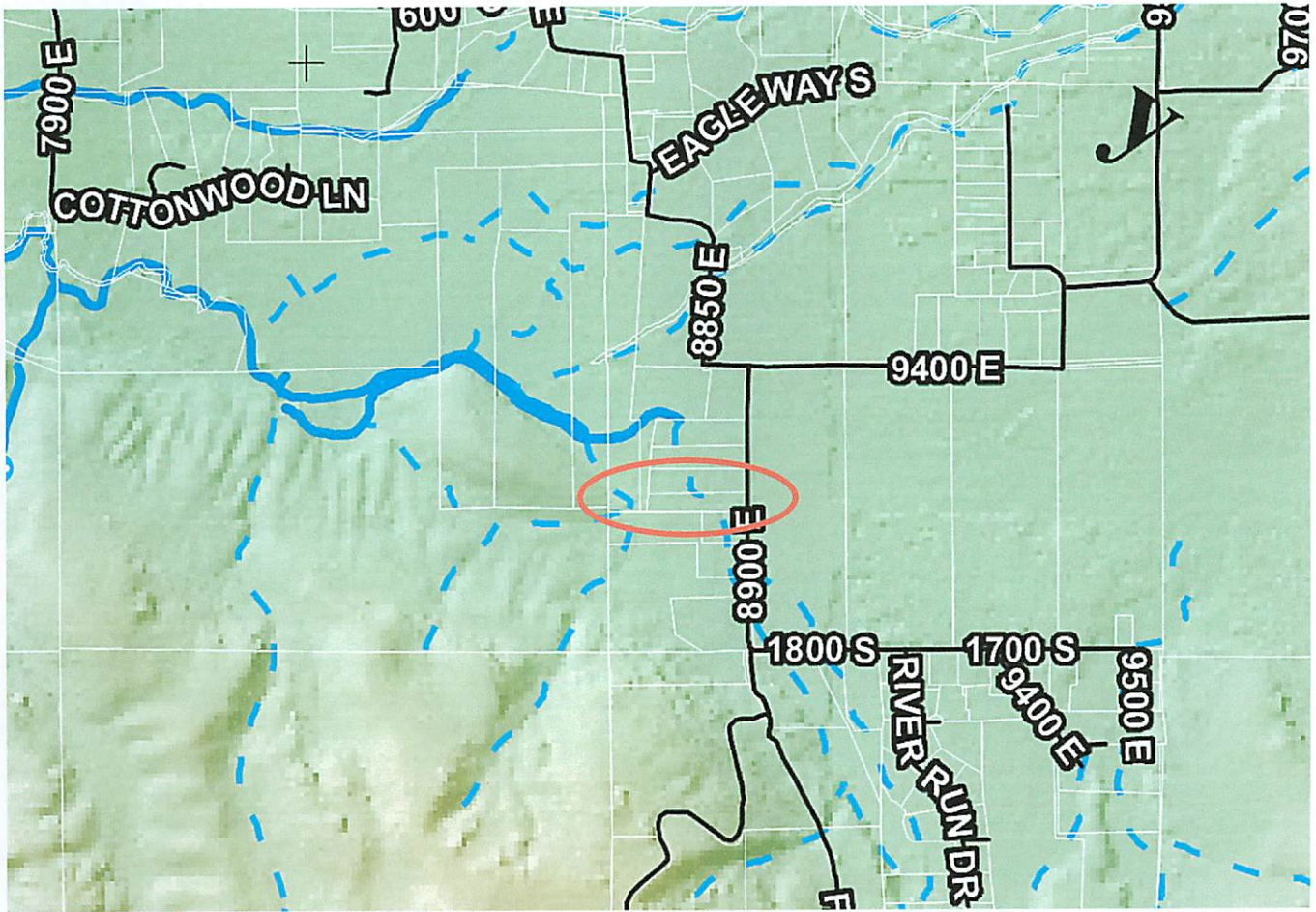
Jed Slama  
Representative

Dated this 23rd day of July, 2015, personally appeared before me Jed Slama the signer(s) of the Representative Authorization Affidavit who duly acknowledged to me that they executed the same.



Melissa Cohen  
(Notary)

Exhibit B-Ogden Valley Sensitive Lands-Stream Corridor Map



This is not an official map but for reference use only. The data was compiled from the best sources available, so various errors from the sources may be inherent on the map. All boundaries and features therein should be treated as such. For official boundary information, the pertinent County department or Municipality should be contacted. This map is a representation of ground features and is not a legal document of their locations. The scale represented is approximate, nonexistent or has been changed, so this is NOT a Survey or Engineering grade map and should by no means be used as such. This map is not intended for all uses. Weber County is not responsible or liable for any derivative or misuses of this map.

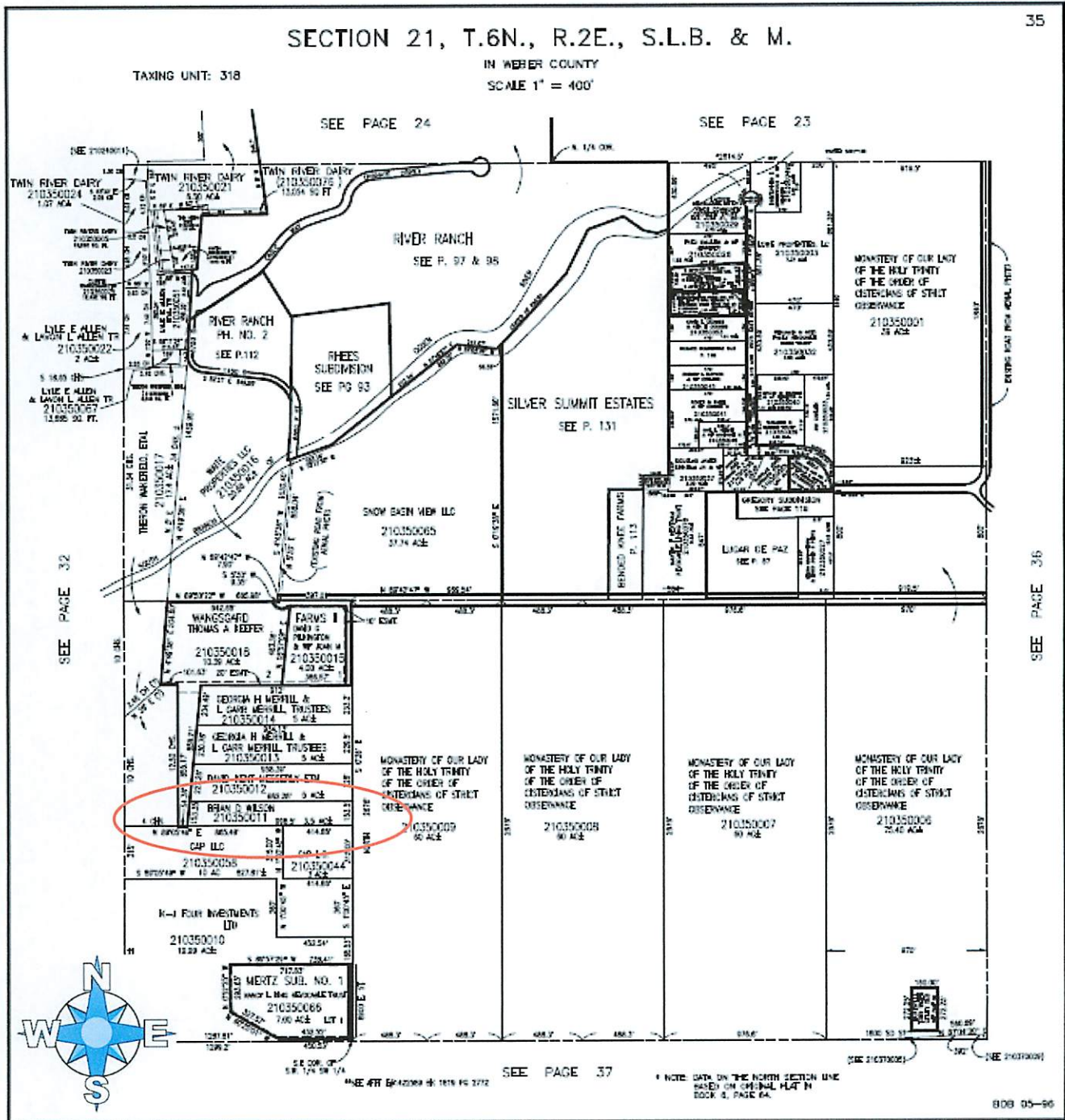
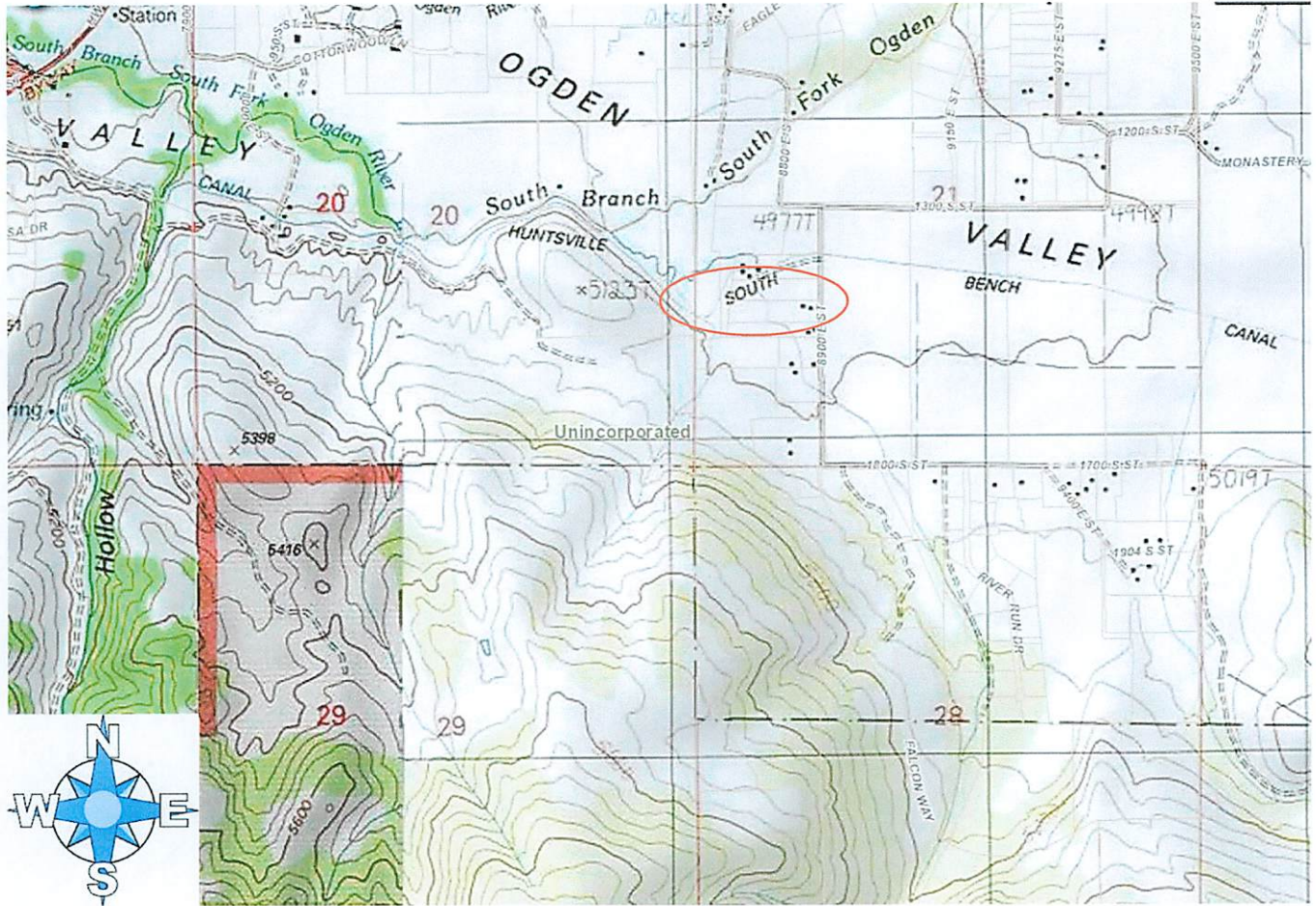




Exhibit E-US Topography Map





# Staff Report to the Weber County Board of Adjustment

Weber County Planning Division

## Synopsis

### Application Information

**Application Request:** Consideration and action on a request for a 28 foot variance to the 40 foot side yard setback standard for large accessory buildings.

**Agenda Date:** Thursday, August 20, 2015

**Applicant:** Jason Kelley

**File Number:** BOA 2015-07

### Property Information

**Approximate Address:** 6681 West 200 North, Warren UT

**Project Area:** 0.99 acres

**Zoning:** Agricultural Zone (A-2)

**Existing Land Use:** Residential

**Proposed Land Use:** Remain as existing

**Parcel ID:** 10-110-0001

**Township, Range, Section:** T3N, R3W, Section 13

### Adjacent Land Use

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

### Staff Information

**Report Presenter:** Ben Hatfield  
bhatfield@co.weber.ut.us  
801-399-8766

**Report Reviewer:** JG

## Applicable Codes

- Weber County Land Use Code Title 102 (Administration) Chapter 3 (Board of Adjustment)
- Weber County Land Use Code Title 104 (Zones) Chapter 8 (Agriculture A-2 Zone)
- Weber County Land Use Code Title 108 (Standards) Chapter 7 (Supplemental and Qualifying Regulations)

## Background

The applicant is requesting a 28 foot variance to the standard of 40 feet for side yards on a large accessory building. In applying for a building permit for an additional detached large garage, the applicant's site plan proposed setbacks that did not conform to standards of the Land Use Code. The following are those standards. In essence for large garages such as this they are to be 40 feet from the front lot line and for corner lots, 40 feet from the side lot line bordering a street.

### Sec. 108-7-16. - Large accessory buildings (1,000 square feet or larger).

- (a) Accessory buildings 1,000 square feet or larger in area that accommodate uses meeting zoning requirements shall:
- (1) Be located at least six feet from the rear of a dwelling in the residential estates zones and at least ten feet from the rear of a dwelling in the agricultural and forest zones.
  - (2) Have a side yard setback of at least ten feet on an interior lot and 40 feet on a corner lot where the side property line is adjacent to a street.
  - (3) Have a maximum height of 25 feet.

Exceptions. The side yard may be reduced to three feet (except in a forest zone) and the height increased to 35 feet if the accessory building is located at least 100 feet from a property line adjacent to a street and at least 40 feet from a dwelling on an adjacent lot.

- (b) One accessory building which is subordinate to the dwelling in area and height may be located in front or to the side of the dwelling provided:
- (1) It is located not less than 40 feet from any property line adjacent to a street.

- (2) The large accessory building conforms to the dwelling in architectural style and materials on all sides of the building and the roof. Large accessory buildings on agricultural parcels containing at least 5.25 acres and a single-family dwelling shall be exempt from this requirement provided that the accessory building is located at least 100 feet from a property line adjacent to a street.
- (3) It meets the side yard requirement for a main building in the zone in which the building is located, and it is located at least 40 feet from a dwelling on an adjacent parcel.
- (4) In no case shall the front yard setback be less than the required front yard setback for a main building in the zone in which the building is located.
- (c) Accessory buildings that exceed the dwelling in area by more than double as measured by the footprint of the dwelling shall require approval by the planning commission as a design review.
- (d) Accessory buildings used for the keeping of animals and fowl shall also meet the requirements of [section 108-7-8](#). Accessory buildings shall also meet the requirements of [section 108-7-4](#)

The application and an explanation of the request have been prepared by the applicant and included as Exhibit A. Exhibit B is a site plan from the applicant. Exhibit C is the subdivision plat for the lot. Exhibit D are photos of the neighbor's garage which is an example of what the applicant would like to build.

As stated by the applicant, in the request, the building would be 12 feet from the property line. The applicant's plan for the property is to have the rear area continue to be flood irrigated and be a pasture for his livestock. The property also has a septic system and drain field behind the home limiting a buildable location in that area. The existing property has landscaping that would be impacted if an increased setback were to be required.

The applicant's request for the 28 foot variance to build the garage near the roadway is based on the following items:

- The property is flood irrigated and the placement of a garage in that area would disrupt the flow of water through the property.
- A septic system and drain field currently exists utilizing some of the lot's buildable area.
- Existing landscaping would be impacted.

## Summary of Board of Adjustment Considerations

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

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

Staff's analysis and findings are discussed below:

- a. The hardship caused by the literal enforcement of the standard would not be considered unreasonable. There are many other locations on the lot in which the building can comply with the code standards. An alteration in the building's design would also alleviate any setback difficulties. This property is similar to one acre lots through the county which also may be flood irrigate, have septic systems, or be on corner lots. There is nothing peculiar to this

property or this circumstance. The site conditions listed by the applicant are in whole self-imposed specifically the layout and placement of buildings and other uses and features within the property. All were created by the owner or a previous owner and not dictated by unusual natural topography.

- b. Again, there are no special circumstances attached to this property. The lot standards for the A-2 Zone are the same as other zones which are a majority of lots within unincorporated Weber County. The standards which are requested to be varied apply to all properties regardless of the zone it is in. Therefore, everybody else is subject to this same standard.
- c. Although other nearby properties can enjoy the additional benefit of a detached garage, they can easily do so because of the design and placement of improvements on their property. No essential right of enjoyment is harmed in this case by the enforcement of the code. Again there are other areas within the property to place a building. By reducing the size of the building below 1,000 square feet the setback standards would also be reduced allowing for this right.
- d. The codes are based on the direction of the General Plan and therefore by the public's interest, a variance would be contrary to that interest. The request of 12 feet from the right of way of 6700 west would result in an unsafe and undesirable condition. 6700 West has been planned as major roadway in the General Plan requiring an 80 foot width right of way (40 foot half width). Homes along 6700 West are required to have a setback of 30 feet. Placing the proposed garage only 12 feet from the property line narrows the field of vision for drivers and would partially block the intersection of 200 North and 6700 West.
- e. This variance request is an attempt to avoid the requirements of the County Land Use Code. Granting the request would serve as a substantial injustice to other land owners who have complied with the standards causing themselves additional expense and hardship.

### Conformance to the General Plan

Standards for Large Accessory Buildings have been established in the Weber County Land Use Code due to the public's request and follow the goals and policies of the Western Weber and Ogden Valley General Plans.

### Conditions of Approval

- Not applicable

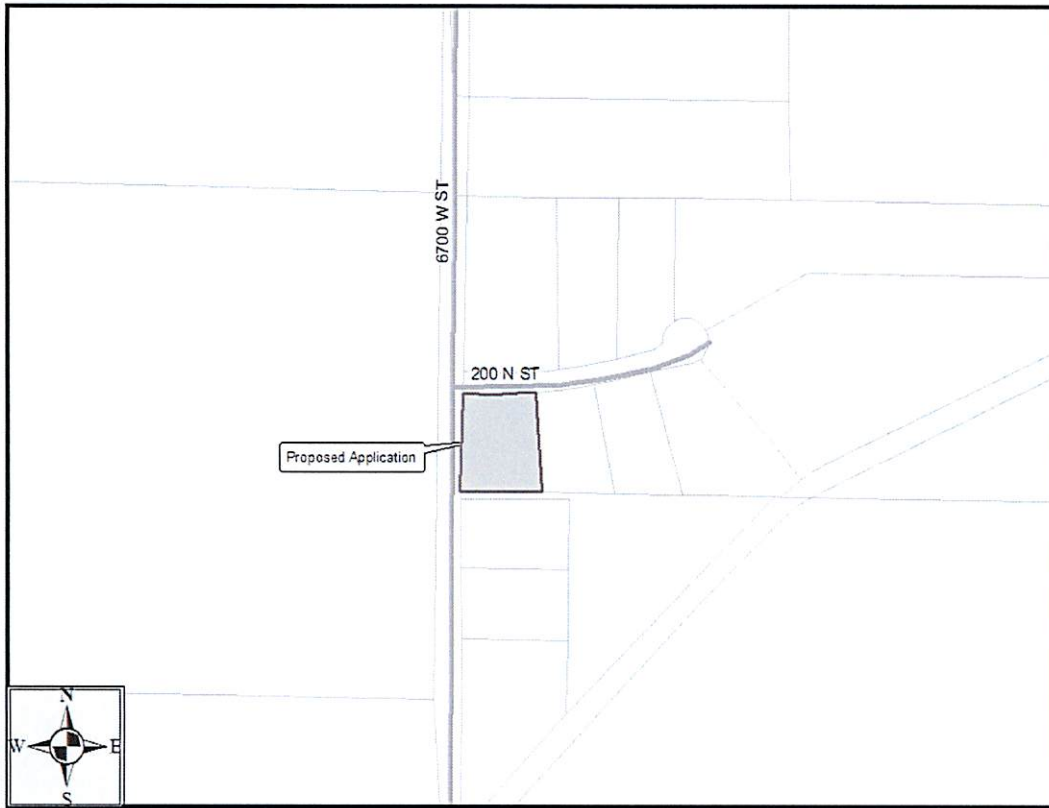
### Staff Recommendation

Staff recommends *denial* of the variance for a 28 foot variance to the side yard setback for a larger accessory building based on its inability to comply with the applicable variance criteria discussed in this staff report.

### Exhibits

- A. Application and narrative
- B. Applicants site plan
- C. Subdivision plat
- D. Examples of the proposed garage





## Weber County Board of Adjustment Application

Application submittals will be accepted by appointment only. (801) 399-8791. 2380 Washington Blvd. Suite 240, Ogden, UT 84401

Date Submitted / Completed <b>7/27/15</b>	Fees (Office Use)	Receipt Number (Office Use)	File Number (Office Use)
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### Property Owner Contact Information

Name of Property Owner(s) <b>Jason and Jana Kelley</b>		Mailing Address of Property Owner(s) <b>6681 w 200 n Warren Ut 84404</b>	
Phone <b>801-706-8915</b>	Fax		
Email Address <b>jason84404@gmail.com</b>		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	

### Authorized Representative Contact Information

Name of Person Authorized to Represent the Property Owner(s)		Mailing Address of Authorized Person	
Phone	Fax		
Email Address		Preferred Method of Written Correspondence <input type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	

### Appeal Request

A variance request:

Lot area   
  Yard setback   
  Frontage width   
  Other: \_\_\_\_\_

An interpretation of the Zoning Ordinance

An interpretation of the Zoning Map

A hearing to decide appeal where it is alleged by appellant that there is an error in any order, requirement, decision or refusal in enforcing of the Zoning Ordinance

Other: \_\_\_\_\_

### Property Information

Approximate Address <b>6681 w 200 n Warren Utah 84404</b>		Land Serial Number(s) <b>101100001</b>	
Current Zoning <b>Agricultural C3</b>			
<b>Existing Measurements</b>		<b>Required Measurements (Office Use)</b>	
Lot Area <b>43466 SQ/ft</b>	Lot Frontage/Width <b>166 ft</b>	Lot Size (Office Use)	Lot Frontage/Width (Office Use)
Front Yard Setback	Rear Yard Setback	Front Yard Setback (Office Use)	Rear Yard Setback (Office Use)
Side Yard Setback	Side Yard Setback	Side Yard Setback (Office Use)	Side Yard Setback (Office Use)

Exhibit A-1

**Applicant Narrative**

Please explain your request.

We would like to build a new steel building located behind our house on north west side of house(see overhead plot map)

Current zoning says we need to be off of our west property line 40 ft. In addition to the county easement of an additional 40 ft we would have to start our our building almost 80 ft off the road. The west side of our property is the most logical place to build a new building. Our goal is to preserve as much pasture as possible. The property has a water share and flood irrigation is used to maintain crops. The natural drainage of property flows to the north west.

I would like to request a varriance that would allow us to build at a minimum of 12 ft distance from our west property line also taking in to consideration existing county easement.

See Attachment 1 flow of flood irrigation

**Variance Request**

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

1. Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Zoning Ordinance.
  - a. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship unless the alleged hardship is located on or associated with the property for which the variance is sought, and comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
  - b. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.

The enforcement of the ordinance would cause a hardship for applicant that is not nessessesary for general purpose. This will always be a side yard of a property and should not be considered any different than if there was another property located on my west property border.

Following 40 ft set back would also cause planned building to be built over top of septic tank. Relocating the building any other place on property would limit livestock grazing on property and would also make flood irrigation located on south east of property un useable.

Exhibit A-2

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

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

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

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

There are two special circumstances that do not generally apply to other properties in the same zone. We are part of a 9 house subdivision unlike any subdivision in area, we flood irrigate our pastures with water shares obtained from a canal. It is illegal to flood across the septic and/or leach field. Also this property lot is at the end of the secondary irrigation system and it is necessary to open head gates and drain underground plumbing for winterization. The topography of this lot makes it so that I am the only house in this subdivision with a overflow drain ditch to drain water out. Due to topography it would be impossible to change the natural directional flow of water. (See Attachment 1 head gate, water flow, and septic tank location) Relocation of building site to another location with in the property will impede in the ability to flood irrigate and use land for it's intended agricultural use

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

By granting a variance and allowing us start building at 12 ft off property line it will allow us to use the land for the purposes of horses and livestock and growing crops.

Under the Weber County Code we are allowed the right to build a building 1000 square ft or under and place it off of property line 20 ft. This would be the equivalent of a 48x20 building. Is there really a major difference between that and a 48x48 building. The impact from the street side would be exactly the same.

The extra square footage would be to the east behind the house.

In our area there are several buildings and houses close to the property line and it has not changed the impact in our area.

Exhibit A-3

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

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

The building would not affect any long term growth of the area. The building is going to be located behind our house. I am how ever willing to build the building with similar colors and materials as the house. By improving the esthetics of the building to look more like the house it will not affect the general plan and it should look good to the public and their interests.

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

This area is an agricultural and farming community. By granting the land use variance it will allow for maximum distance between our house and the residence to the south of us and will allow us to preserve as much pasture ground as possible. Our intent is to use building materials to try and match our house closely and to landscape with with trees to create a natural screen for the property.

**Property Owner Affidavit**

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

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

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

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

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

**Authorized Representative Affidavit**

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

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

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

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

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

Exhibit A-4

DRAIN DITCH

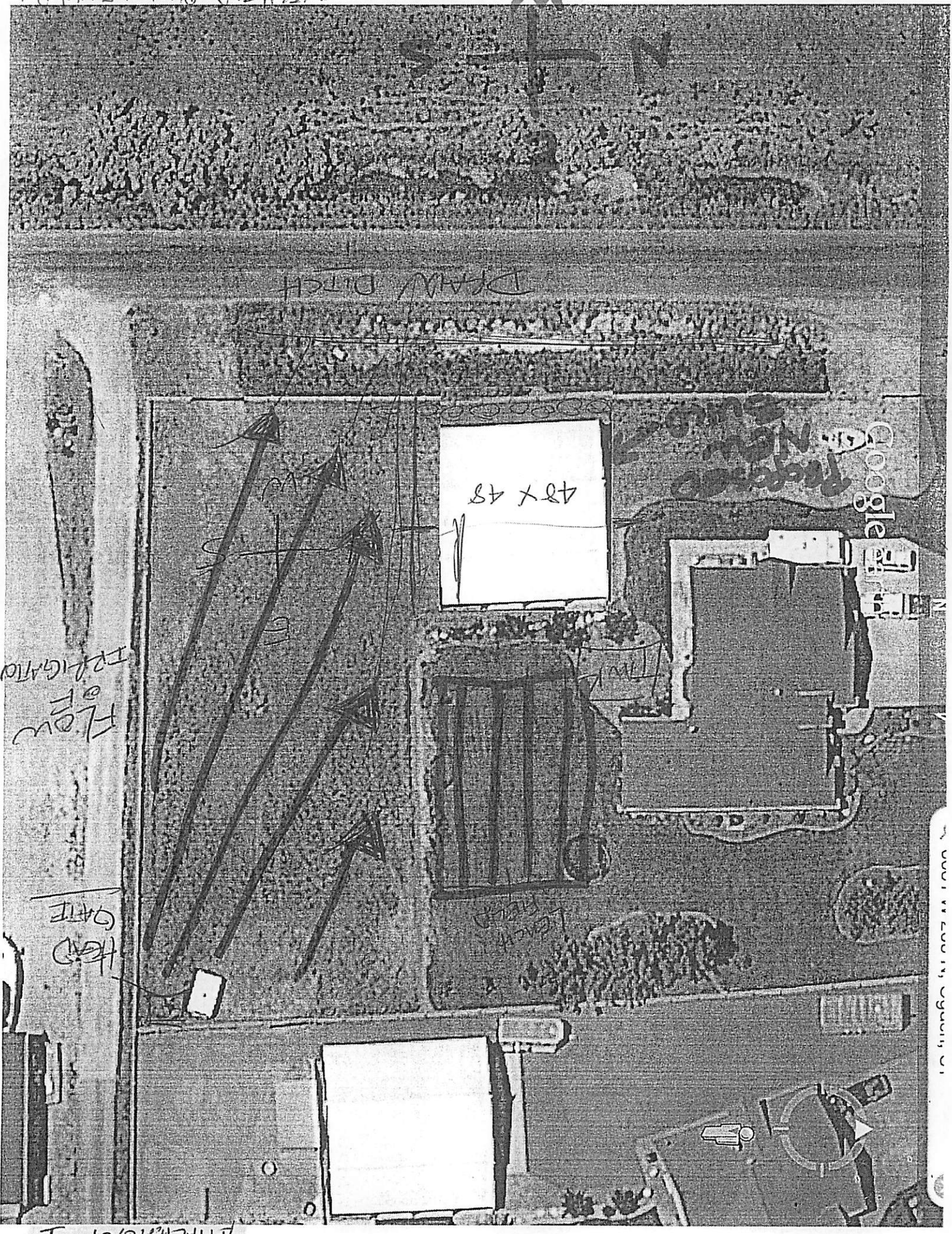
48 x 48

Google

Flow of Irrigation

HEAD GATE

GRAVEL





12 FT

FROM  
PROPERTY LINE

NO ROAD

100

10-12

48

48

10-12

52

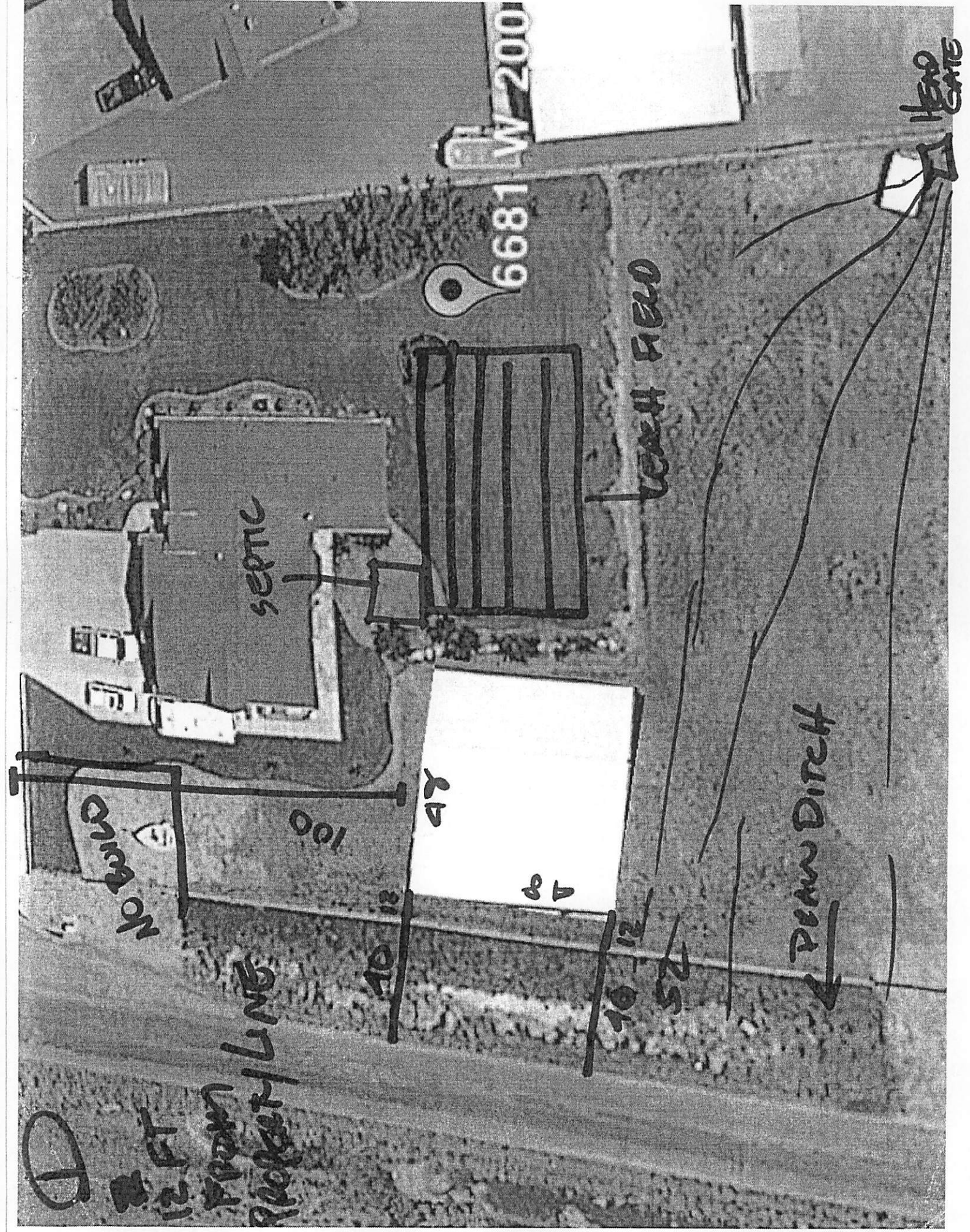
6681 W-200

SEPTIC

LEACH FIELD

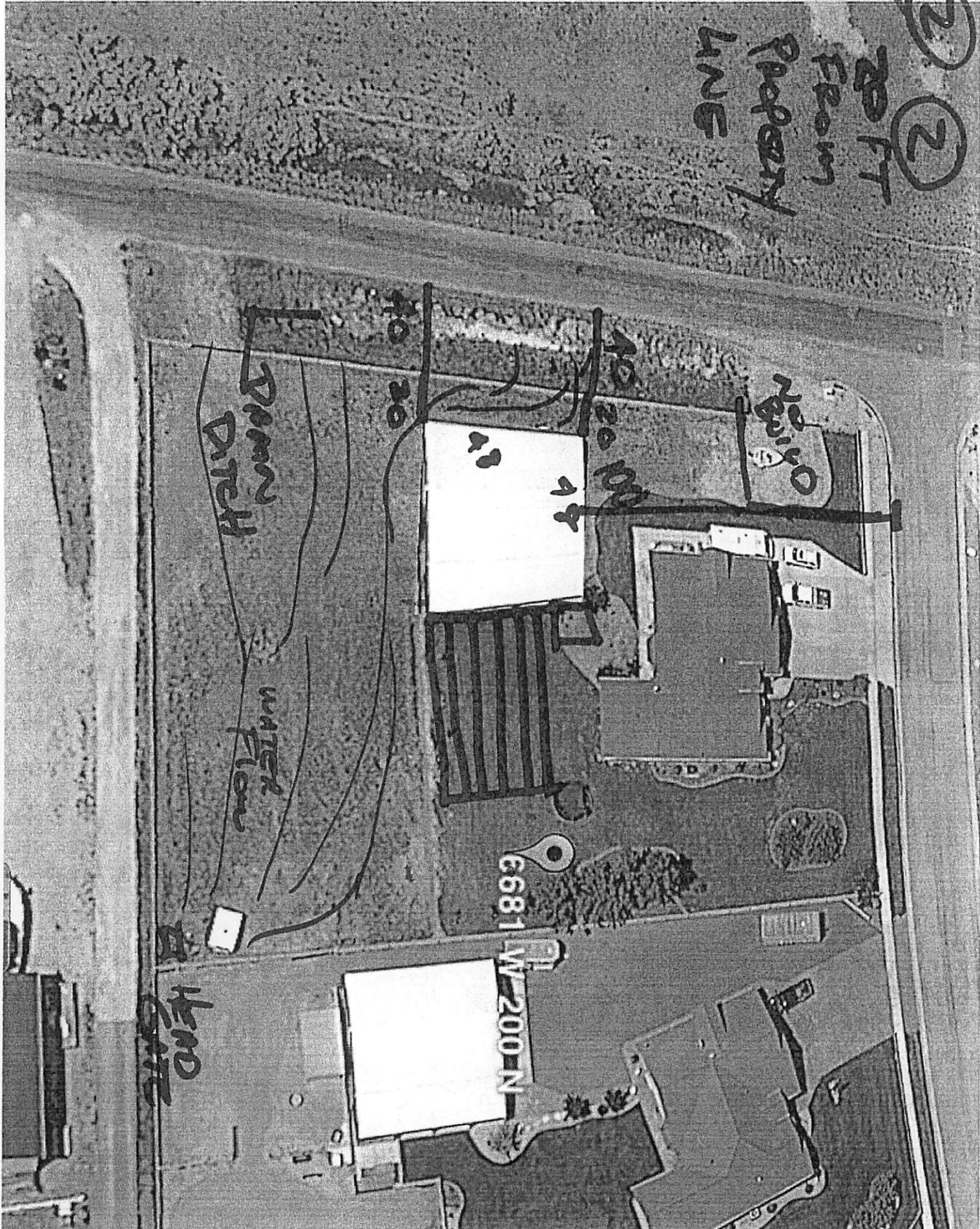
PEAN DITCH

LEACH FIELD GATE



② ②

20 FT  
From  
Property  
LINE



6681 W 200 N

DRAIN DITCH

WATER FLOW

Newly

48

48

WIND SHED



3

40 FT

FROM PROPERTY NO OWN LINE



DRAIN DITCH



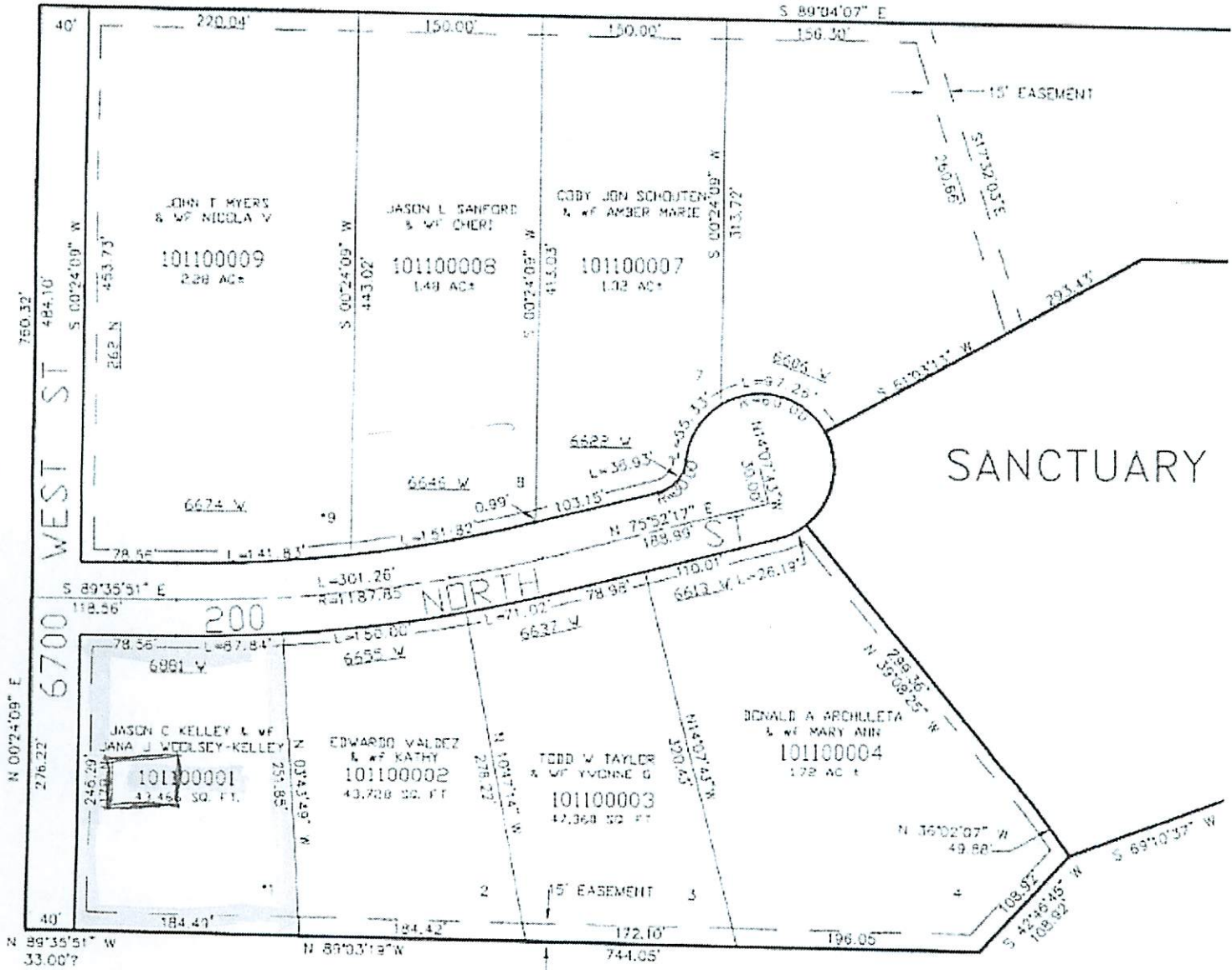
LEACH FARM

66881

W 200 N

HEAD GATE

SEE PAGE 35



SEE PAGE 35

S 89°04'07"E

Exhibit C-1

N 0°24'09" E

276.22'

6700

40.00'

40.00'

S 89°35'51" E

118.56'

200

30 0' 30 0'

T=1

246.29'

178 North

Non-Buildable  
Area Below  
Elev 4215

6681 West

78.56'

(10)

43,466 sq. ft.

43,109 sq. ft. Buildable  
(Above Elev. 4215)

1

251.85'

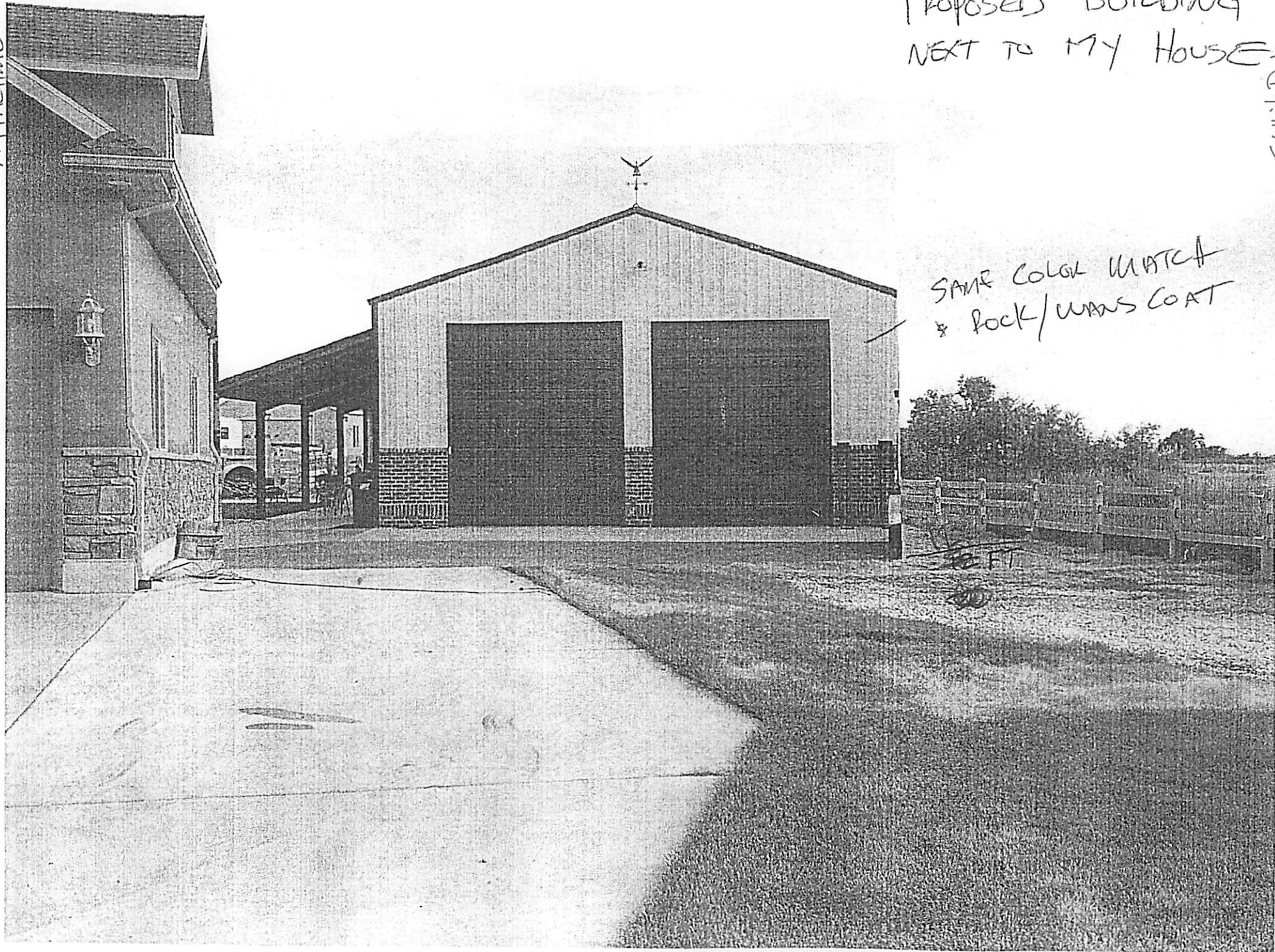
Found Rebar & Cap  
"Hansen & Assoc."  
on Property line

Exhibit C-2

ATTACHMENT 6

PROPOSED BUILDING  
NEXT TO MY HOUSE

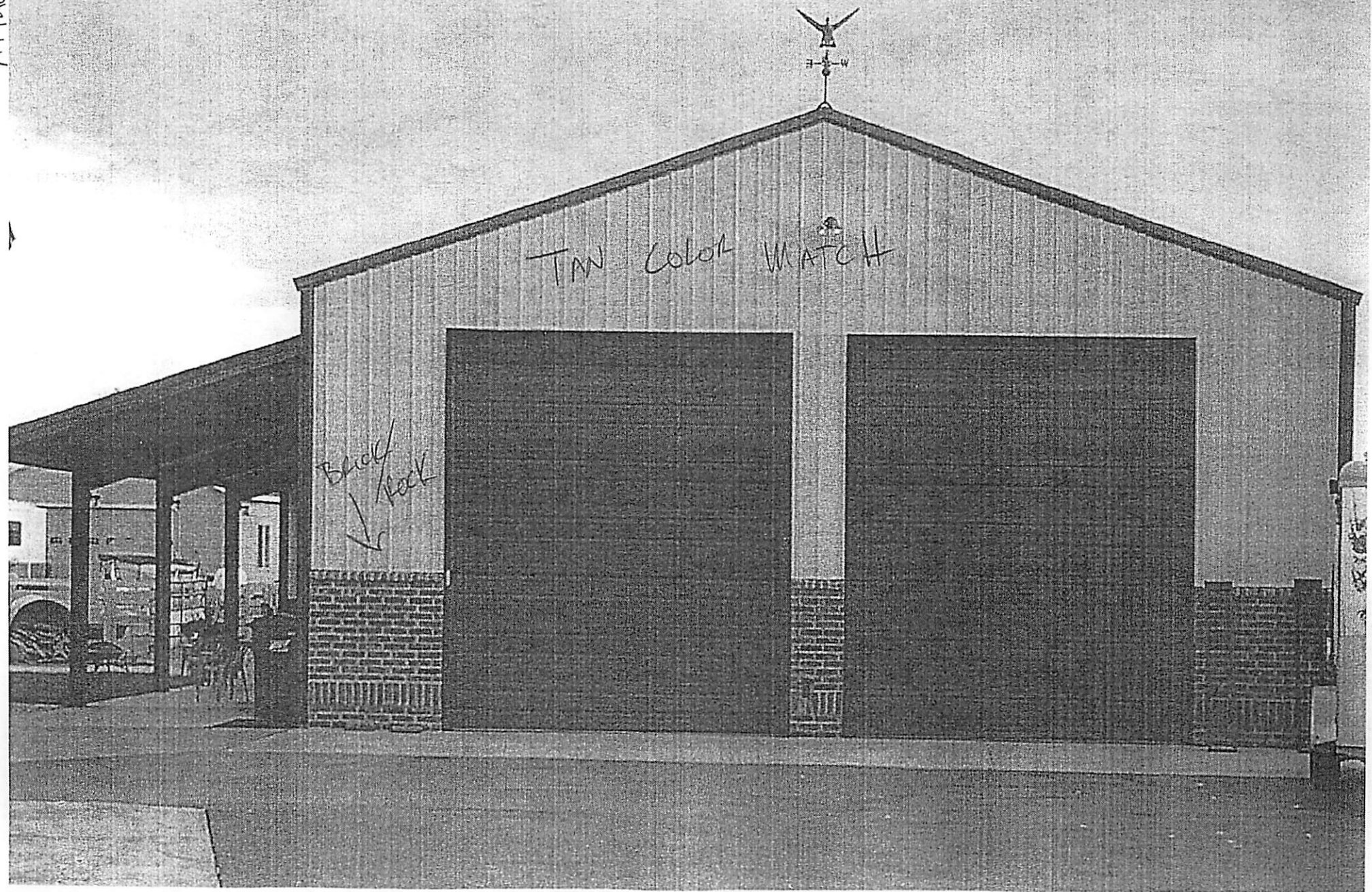
Exhibit D-1



SAME COLOR MATCH  
& ROCK/WALLS COAT

ATTACHMENT 5

Exhibit D-2



TAN COLOR MATCH

Black  
Rock  
↓

**Jason Kelley - Fwd: Building code**

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**From:** Jason Kelley <jason84404@gmail.com>  
**To:** Jason Kelley <jasonk@superiorwaterandair.com>  
**Date:** 7/21/2015 10:15 AM  
**Subject:** Fwd: Building code

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Jason Kelley  
Superior Water and Air  
801-706-8915

Begin forwarded message:

**From:** Jana Woolsey <jwool z@hotmail.com>  
**Date:** June 18, 2015 at 8:11:35 AM MDT  
**To:** Jason Kelley <jason84404@gmail.com>, Daddy <wool z@comcast.net>  
**Subject:** Building code

So if I am understanding this correctly, it's 40 ft from the street?

**23-16 Large Accessory Buildings (1,000 Square Feet or Larger)**

1. Accessory buildings 1,000 square feet or larger in area, that accommodate uses meeting zoning requirements shall:
  1. Be located at least 6 feet from the rear of a dwelling in the Residential Estates Zones and at least 10 feet from the rear of a dwelling in the Agricultural and Forest Zones.
  2. Have a side yard setback of at least 10 feet on an interior lot and 40 feet on a corner lot where the side property line is adjacent to a street.
  3. Have a maximum height of 25 feet.
  4. Exceptions: The side yard may be reduced to 3 feet (except in a forest zone) and the height increased to 35 feet if the accessory building is located at least 100 feet from a property line adjacent to a street and at least 40 feet from a dwelling on an adjacent lot.

Sent from my iPad

Exhibit D-3