



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 10 foot variance to the front yard setback in the FR-3 Zone.
Agenda Date: Thursday, March 23, 2017
Applicant: Augie and Lauren Carton, Owner
Authorized Representative: Carson Young
File Number: BOA 2017-01

Property Information

Approximate Address: 6784 Aspen Dr,
Project Area: 0.20 acres
Zoning: Forest Residential Zone (FR-3)
Existing Land Use: Vacant
Proposed Land Use: Residential
Parcel ID: 22-110-0004
Township, Range, Section: T7N, R1E, Section 1

Adjacent Land Use

North: Residential	South: Unimproved Road
East: Vacant	West: Vacant

Staff Information

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

Applicable Codes

- Weber County Land Use Code Title 102 (Administration) Chapter 3 (Board of Adjustment)
- Weber County Land Use Code Title 104 (Zones) Chapter 17 (Forest Residential FR-3 Zone)

Background

The applicant is requesting a variance for a reduction to the front yard setback in the Forest Residential FR-3 Zone. The front yard setback for the FR-3 Zone is 25 feet. The applicant is proposing to build a home 15 feet to the front lot line; this would require an approval of a 10 foot variance to the standard. The application and an explanation of the request, along with a site plan and pictures have been prepared by the applicant (Exhibit A).

The subject property is Lot 35 in the Powder Mountain West Subdivision Phase 2. This lot is in a remote area of the county surrounded by the Powder Mountain Ski Resort. Aspen Drive is an unimproved and unmaintained private road which for many months is snowbound, causing owners to have to ski or snowmobile to their properties from the resort's parking area.

Lots in the FR-3 Zone are often small in area, having a minimum lot area of 6,000 square feet for a single family home. Likely due to the slope and remote location, Lot 35 has an area of 9,004 square feet. The FR-3 Zone also requires that lots maintain a minimum of 40 % of the lot area as open green space per The Uniform Land Use Code of Weber County, Utah (LUC) §104-17-5(g). This requirement can impact the potential building envelope on lots.

In considering the special circumstances of the property, the applicant has indicated on the application that a rock outcropping exists toward the front of the lot, which restricts the building envelope on this lot. The applicant has also stated that the slope of the lot is a special circumstance and has provided pictures showing that the north side of Alpine Drive adjacent to lot 35 rises 10 feet from Aspen Drive to the south property line of the lot. Lastly, the applicant has

indicated that the ski easement at the back of the lot is as wide as 25' 5" and protrudes into the building envelope of the lot.

Lot 42-R, located to the west of lot 35, received a variance to the front yard setback of the FR-3 zone, due to the ski easement protruding into the property's buildable area.

Summary of Board of Adjustment Considerations

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

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

Staff's analysis and findings are discussed below:

- a. Literal enforcement of the Land Use Code would require an undesirable result. Because of the characteristics of the lot, including rock outcropping, slope, and the ski easement, literal enforcement of the 25 foot setback would create a limited area within which to build on the lot. The special circumstances attached to this property are not self imposed or economic.
- b. Other properties within this zone and area are not impacted in the same way as Lot 35. Other lots in this zone are larger and do not have as wide of a ski easement affecting the property. Therefore granting of the variance preserves the rights intended for this property. The additional area requested by the variance fall in line with the building envelopes of similar properties in the subdivision.
- c. Granting the variance would allow the owner of lot 35 to build a home within an area not affected by easements, slope, or rock outcroppings.
- d. The General Plan indicates that this area should be developed as is planned and zoned; thereby the variance and development is not contrary to any public interest.
- e. This variance request is not an attempt to avoid or circumvent the requirements of the County Land Use Code, but provide justified compensation to the building envelope allowing for the single family dwelling to be built.

Conformance to the General Plan

Single-family dwellings are allowed as a permitted use in the FR-3 Zone and granting this request will not increase the number of existing dwelling units in the area. If the requested variance is granted, it will not have a negative impact on the goals and policies of the Ogden Valley General Plan.

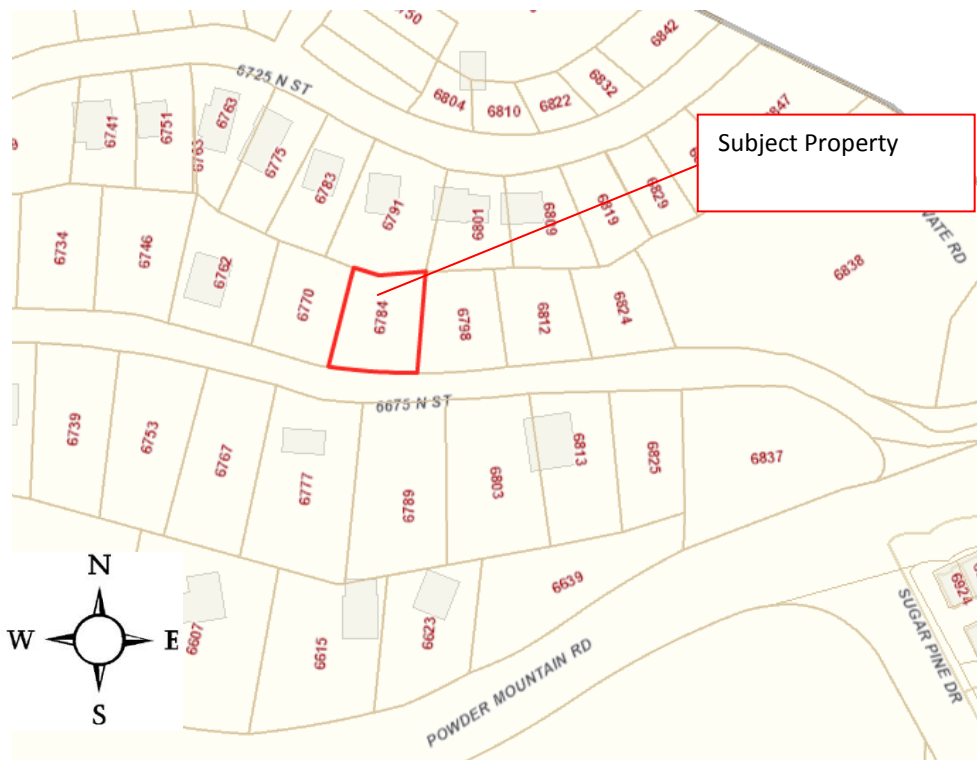
Staff Recommendation

Staff recommends approval of the variance for Lot 35 in the Powder Mountain West Subdivision Phase 2 for a reduction of 10 feet to the front yard setback. This recommendation is based on compliance with the applicable variance criteria discussed in this staff report and conditioned upon meeting all other applicable review agency requirements.

Exhibits

- A. Application and Site Plan

Location Map 1



Location Map 2





Weber County

Incoming Application Processing Form

Project Name: Carton Residence variance to the
Date Submitted: 2-16-2017 Zoning: FR-3 Received by: Felix

Project Type:

- Alternative Access
- Board of Adjustment
- Building Parcel Designation
- Conditional Use Permit
- Design Review
- Hillside Review
- Land Use Permit
- Subdivisions:
 - Subdivision (Small/Amendment)
 - Subdivision-(Prelim/Final)
 - Subdivision-Cluster
- Zoning Text Amendment
- Zoning Map Amendment
- Zoning Development Agreement
- Vacation
- Other _____

Project Description: A variance application to reduce the front yard set-back from 25' to 15'.

Applicable Ordinances:

- Accessory Apartments
- Airport Zones and Height Regulations
- Cluster Subdivision
- Design Review
- Drinking Water Source Protection
- Hillside Development Review and Procedures and Standards
- Home Occupation
- Land Use Permit, Building Permit and Certificate of Occupancy
- Natural Hazards Overlay Districts
- Nonconforming Buildings, Uses and Parcels
- Ogden Valley Architectural, Landscape and Screening Standards
- Ogden Valley Lighting
- Ogden Valley Pathways
- Ogden Valley Sensitive Lands Overlay District
- Ogden Valley Signs
- Parking and Loading Space, Vehicle Traffic and Access Regulations
- Petitioner Requirements-Rezoning Procedure Development Agreement
- Planned Residential Unit Development
- Public Buildings and Public Utility Substations and Structures
- Signs
- Standards for Single Family Dwellings
- Supplementary & Qualifying Reg
- Time Share
- Zones & Districts

Weber County Review Agencies:

- Weber-Morgan Health Department-Drinking Water Division
- Weber-Morgan Health Department-Waste Water Division
- Weber County Animal Services
- Weber County Assessor's Office
- Weber County Board of Adjustment
- Weber County Building Inspection
- Weber County Commission
- Weber County Economic Development Partnership
- Weber County Engineering Division
- Weber County GIS
- Weber County CED
- Weber County Planning Division
- Weber County Recorder's Office
- Weber County Recreation Facilities
- Weber County Roads Division
- Weber County School District-Transportation Division
- Weber County Sheriff
- Weber County Special Events
- Weber County Surveyor's Office
- Weber County Treasurer's Office
- Weber Fire District
- Other _____

Outside Review Agencies:

- Bona Vista Water Improvement District
- Causey Estates Lot Owners Assoc.
- Central Weber Sewer Improvement
- Cole Canyon Water Company
- Eden Irrigation Company
- Hooper Irrigation Company
- Hooper Water Improvement District
- Nordic Mountain Water Inc.
- Ogden Valley Starry Nights
- Powder Mountain Water & Sewer District
- Questar Gas Company
- QWEST
- Rocky Mountain Power
- Taylor Geotechnical
- Taylor-West Weber Water District
- Uintah Highlands Water & Sewer District
- US Forest Service
- Utah Department of Transportation
- Utah Division of Air Quality
- Utah Division of Drinking Water
- WC3
- Weber Pathways
- West Warren-Warren Water & Sewer
- Wolf Creek Water and Sewer Improvement District
- Centurylink
- Other _____

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	Fees (Office Use) \$225.00	Receipt Number (Office Use)	File Number (Office Use)
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Property Owner Contact Information

Name of Property Owner(s) AUGIE AND LAUREN CARTON		Mailing Address of Property Owner(s) 62 TAN VAT ROAD RUMSON, NJ 07760	
Phone (917) 445-6193	Fax		
Email Address AUGIELAND@GMAIL.COM, LAKLAIN@HOTMAIL.COM		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) CARSON YOUNG		Mailing Address of Authorized Person SOLITUDE BUILDERS PO Box 529 Eden, UT 84310	
Phone (801) 452-5020	Fax		
Email Address CWY185@HOTMAIL.COM		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	

Appeal Request

A variance request:

Lot area
 Yard setback
 Frontage width
 Other: _____

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

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 6784 ASPEN DRIVE LOT 35 - POWDER MOUNTAIN WEST	Land Serial Number(s) 22-110-0004
Current Zoning FR-3	

Existing Measurements		Required Measurements (Office Use)	
Lot Area 9004 SQ. FT.	Lot Frontage/Width 87'-7"	Lot Size (Office Use)	Lot Frontage/Width (Office Use)
Front Yard Setback 25'-0" PER ZONING	Rear Yard Setback 30'-0"	Front Yard Setback (Office Use)	Rear Yard Setback (Office Use)
Side Yard Setback 9'-0"	Side Yard Setback 9'-0" (8'-0" MIN., 18'-0" TOTAL SIDE	Side Yard Setback (Office Use)	Side Yard Setback (Office Use)

Applicant Narrative

Please explain your request.

We are requesting a front setback variance from 25'-0" feet to 15'-0" feet.

PLEASE SEE ATTACHED SITE PLAN AND SITE PHOTOS, SHEET A-2.1

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.

We believe that this request will not substantially affect the comprehensive plan of zoning in Weber County. We are simply requesting a 15'-0" foot front setback (reduced from 25'-0" per the FR3 zone district) which will allow for a home to be built on the rocky site without excessive excavation or blasting.

We believe that the imposition of the 25'-0" setback is unnecessary to carry out the general purpose of the comprehensive plan.

PLEASE SEE ATTACHED SITE PLAN AND SITE PHOTOS, SHEET A-2.1

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.

This lot has several special circumstances:

- a. Lot 35 has a rock outcropping on the west side near Alpine Drive that would be difficult to excavate. Because of this rock outcropping, we are planning to locate the new home on the other (east) side of the lot.
- b. The north side of Alpine Drive adjacent to the Lot 35 rises 10 feet from Aspen Drive to the south property line of Lot 35. The significant grade change of this hillside occurs in the right-of-way of Aspen Drive. Note that the edge of Aspen Drive is 10 to 14 feet from the south property line of Lot 35. It appears that the road was aligned to stay below this rocky hillside.
- c. Lot 35 is a shallow lot in the north-south direction, which is additionally encumbered by the ski easement, which turns to the east on Lot 35. The ski easement becomes very wide in location, as wide as 25'-5" at the turn. The ski easement protrudes into the buildable area of the lot on the north side where there is a 30'-0" rear setback.

PLEASE SEE ATTACHED SITE PLAN AND SITE PHOTOS, SHEET A-2.1

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.

The rock outcropping, the steep hillside rising above Aspen Drive in the right-of-way, and the wide ski easement on the north side of the lot make for a limited area within which to build on Lot 35. This is a deprivation of the privileges in that it severely limits the buildable area on the lot. Granting a front setback variance is essential to allowing this lot to be buildable in a similar way to surrounding lots in the subdivision.

PLEASE SEE ATTACHED SITE PLAN AND SITE PHOTOS, SHEET A-2.1

Variance Request (continued...)

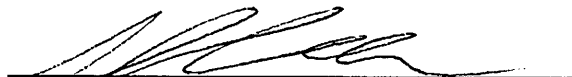
Explain how the previously listed special circumstances are not considered to be economic or self-imposed hardships.


The aforementioned special circumstances are a result of the platting of Lot 35 and the construction of Aspen Drive on the far south side of the right of way. These are not economic or self-imposed hardships, rather they are physical challenges that create hardship for building a single-family home.

PLEASE SEE ATTACHED SITE PLAN AND SITE PHOTOS, SHEET A-2.1

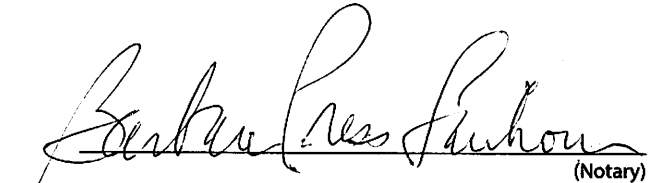
Property Owner Affidavit

I (We), AUGIE and LAUREN CARTON, 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)

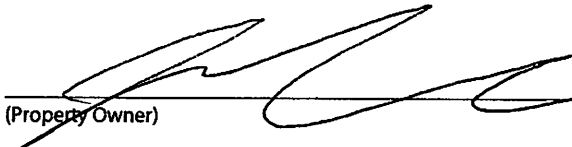

(Property Owner)

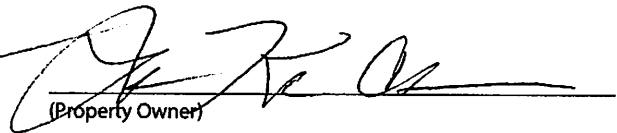
Subscribed and sworn to me this 13th day of February, 20 17.


(Notary)

Authorized Representative Affidavit

I (We), AUGIE and LAUREN CARTON, the owner(s) of the real property described in the attached application, do authorized as my (our) representative(s), CARSON YOUNG, 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 13th day of February, 20 17, personally appeared before me _____ the signer(s) of the Representative Authorization Affidavit who duly acknowledged to me that they executed the same.

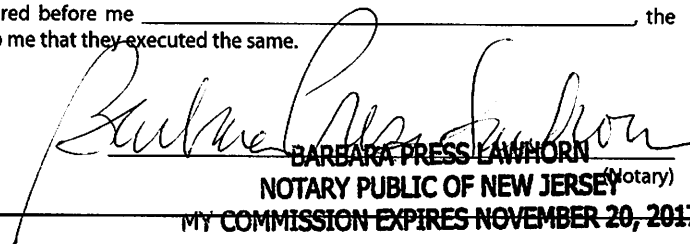
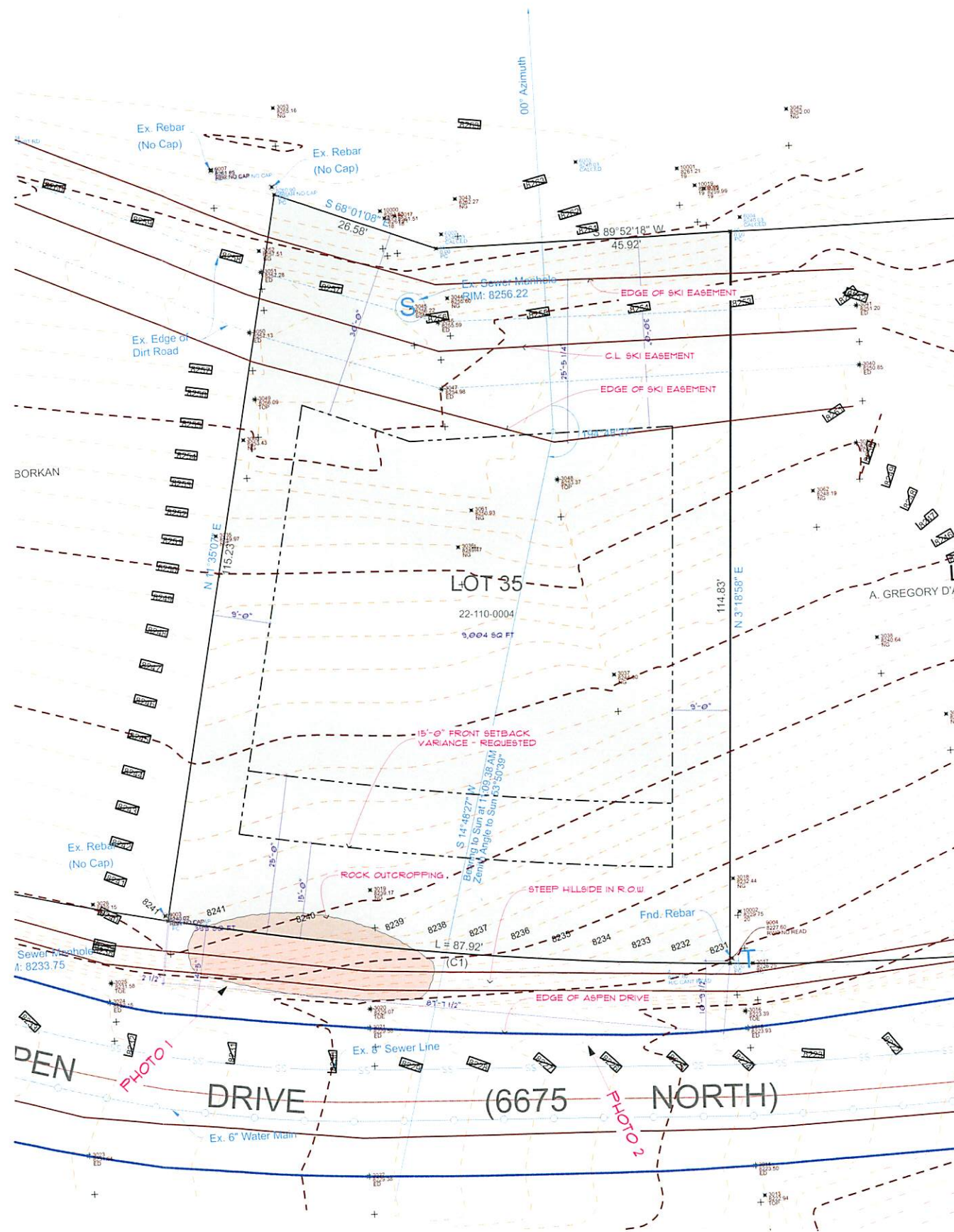

BARBARA PRESS LAWHORN
NOTARY PUBLIC OF NEW JERSEY
(Notary)
MY COMMISSION EXPIRES NOVEMBER 20, 2017



PHOTO 1
SCALE: 1:4.88



PHOTO 2
SCALE: 1:4.94



1 SITE PLAN
SCALE: 1" = 10'

CARTON RESIDENCE
@ POWDER MOUNTAIN
LOT 35, POWDER MOUNTAIN WEST- PHASE 2
WEBER COUNTY, UTAH

MARK	DATE	DESCRIPTION
	2.3.2017	FRONT SETBACK