

Weber County Planning Division webercountyutah.gov/planning 2380 Washington Blvd., Suite 240 Ogden, Utah 84401 Voice: (801) 399-8374

Fax: (801) 399-8862

Board of Adjustment Review

The Board of Adjustment convenes as necessary to review applications for variances, deviations, interpretations, and appeals as outlined below.				
A pre-application meeting is required prior to application submittal; please call (801) 399-8374 to make an appointment. Date of pre-application review meeting: Time:				
Staff member assigned to process application:				
APPLICATION DEADLINE: Thirty (30) days prior to the applicable Board of Adjustment meeting				
The Board of Adjustment meets on the 2 nd and 4 th Thursdays of the month as needed.				
Application Submittal Checklist				
The Planning Division will only accept complete applications with supporting documents as outlined below. Submitting an application does not guarantee that your application will be placed on the next Board of Adjustment agenda. The following is required as part of the application form submittal:				
☐ Complete Application Form				
☐ A non-refundable fee made payable to Weber County (see <i>Fee Schedule</i> below)				
\square Obtain signature of the owner(s) on the application and any authorized representatives				
All documents submitted in the application shall be accompanied by a PDF file of the respective document. All				
plans (including but not limited to site plans, architectural elevations/renderings, etc), and subsequent submittals and revisions, shall be accompanied by a full scale set of PDF files of the respective plans.				
A narrative explaining your request. If your request is for a variance please explain how the request meets the requirements for: (see <i>Review Criteria</i>).				
Fee Schedule				
Property Zoning Fee Required				
• Appeal \$500				
• Variance \$600				
Duties and Powers of the Board of Adjustment				
 To act as the appeal authority from decisions applying and interpreting the Weber County Land Use Code and Zoning Maps. 				
2. To hear and decide variances from the requirements of the Weber County Land Use Code.				



Procedure

The Board of Adjustment shall adopt rules and regulations, consistent with Utah state code and Weber County ordinances, for conducting its business and may amend such rules from time to time. Such rules may include policies and procedures for the conduct of its meetings, the processing of applications, the handling of conflict of interest and any other purpose considered necessary for the functioning of the board.

1. Application and Notice.

- A. Any person or entity wishing to petition the Board of Adjustment for an appeal or interpretation of the Land Use Code or Zoning Maps, or for a variance from the requirements of the Land Use Code may commence such action by completing the proper application and submitting it to the Weber County Planning Division office. Applications must be submitted at least 30 days prior to the date of the meeting at which the application will be considered. The application must clearly explain the appeal, interpretation, or variance being requested, and must be accompanied by the required fee and applicable supporting information.
- B. After a complete application has been submitted and accepted, the Planning Division shall prepare a staff report to the Board of Adjustment, schedule a meeting of the Board, and send notice to property owners within 500 feet of the parcel on which the request has been made. Notice may be sent to other interested persons or organizations upon written request.

2. Meeting.

A. The Board of Adjustment shall hold a public meeting to decide upon the appropriate action to be taken on an appeal, variance, or interpretation request. The concurring vote of at least three (3) of the five (5) Board members is required to decide in favor of the request.

3. Decision and Minutes.

- A. After the Board of Adjustment has made a decision, a notice of decision shall be prepared by the Planning Division, signed by the Board of Adjustment Chair or the Chair's designee, and sent to the appellant in accordance with Chapter 31 Section 4 of the Weber County Land Use Code. This notice acts as the Board's written decision for an appeal, variance, or interpretation request. Decisions of the Board of Adjustment shall be final at the time a notice of decision is issued.
- B. The minutes of all meetings of the Board of Adjustment shall be prepared and filed in the Weber County Planning Division office. The minutes shall be available for public review and access in accordance with the Government Records and Access Management Act.

4. Expiration.

- A. If the Board has decided in favor of a variance request, the approval is valid for a period of 18 months. If an approved variance request has not been acted upon within this time frame, the approval shall expire and become void.
- B. If the Board has made an interpretation to the Zoning Map or Land Use Code, the interpretation is valid until an amendment to the Zoning Map or Land Use Code is made which changes the conditions upon which the interpretation or decision was made.



5. Appeal of Decision.

A. Appeals from decisions of the Board of Adjustment are made directly to the District Court as designated in Utah state code.

Decision Criteria and Standards

- 1. Appeals from decisions applying and interpreting the Weber County Land Use Code and Zoning Maps
 - A. The Board of Adjustment shall determine the correctness of a decision of the land use authority in its interpretation and application of the Weber County Land Use Code and Zoning Maps.
 - B. The Board of Adjustment may hear only those decisions in which the land use authority has applied the Weber County Land Use Code or Zoning Maps to a particular application, person, or parcel.
 - C. The appellant has the burden of proof that the land use authority erred.
 - D. All appeals to the Board of Adjustment shall be filed with the Planning Division not more than 15 calendar days after the date of the written decision of the land use authority.
 - E. Appeals to the Board of Adjustment shall consist of a review of the record. In cases where there is no record to review, the appeal shall be heard de novo.
- 2. Variances from the requirements of the Weber County Land Use Code
 - A. Any person(s) or entity desiring a waiver or modification of the requirements of the Weber County Land Use Code as applied to a parcel of property that they own, lease, or in which they hold some other beneficial interest may apply to the Board of Adjustment for a variance from the terms of the Land Use Code.
 - B. The Board of Adjustment may grant a variance only if the following 5 criteria are met:
 - 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 Land Use Code.
 - 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.
 - 2. There are special circumstances attached to the property that do not generally apply to other properties in the same zone.



- a. 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.
- 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 use ordinance is observed and substantial justice done.
- C. The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
- D. Variances run with the land.
- E. The appeal authority may not grant a use variance.
- F. In granting a variance, the appeal authority may impose additional requirements on the applicant that will:
 - 1. Mitigate any harmful effects of the variance; or
 - 2. Serve the purpose of the standard or requirement that is waived or modified.

For Your Information

Copies of the applicable Weber County Land Use Code, this application, and other helpful information are also available at this web site. webercountyutah.gov/planning

Weber County Board of Adjustment Application Application submittals will be accepted by appointment only. (801) 399-8374. 2380 Washington Blvd. Suite 240, Ogden, UT 84401				
Property Owner Contact Info	ormation	L		
Name of Property Owner(s)		Mailing Address of Property Owner(s)		
A. Gregory D'Alessandr	o & Lisa B. D'Alessandro	2 N. Finley Avenue		
Phone	Fax	Basking Ridge, NJ 079	920	
(908)766-5400	(908)766-6158			
Email Address	,	Preferred Method of Written Corresp	oondence	
gd@dalessandrolaw.coi	m	Email Fax Mail		
Authorized Representative				
Name of Person Authorized to Represe	ant the Property Owner(s)	Mailing Address of Authorized Pers	on	
Carson Young - Solitude E		Solitude Builders		
Phone Phone		PO Box 529		
(801)452-5020	Fax	Eden, UT 84310		
Email Address		·	aandanaa	
		Preferred Method of Written Corresp Email Fax Mail		
cwy185@hotmail.com				
Appeal Request				
Lot area	g Ordinance		of 15' where 25' required	
Property Information				
Approximate Address 6798 E 6725 N (Aspen Drive) Lot 34 Powder Mountain West		Land Serial Number(s) Parcel # 22-110-0003		
Current Zoning FR-3				
Existing Measurements		Required Measurements (Office Use)		
Lot Aroa	Lat Frantago /Width	Lot Size (Office Use)	Lat Frantage Midth (Office Hee)	
Lot Area	Lot Frontage/Width	Lot Size (Office Use)	Lot Frontage/Width (Office Use)	
9,207 SQ. FT.	88.58 (ARC)	Front Vard Cothacl: /Office Use)	Pour Vard Cathault (Office Use)	
Front Yard Setback 25'-0" required	Rear Yard Setback	Front Yard Setback (Office Use)	Rear Yard Setback (Office Use)	
Side Yard Setback	30'-0" required Side Yard Setback	Sida Vard Sathank (Office 11-1)	Sida Vard Sathmal (Office Hee)	
8'	alt 10' (combined 18')	Side Yard Setback (Office Use)	Side Yard Setback (Office Use)	

Applicant Narrative
Please explain your request.
See Attached Statement
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 special circumstance attached to this property are not self-imposed or economic. Existing circumstances include:
See Attached Statement

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: See Attached Statement			
 Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone. See Attached Statement 			

Variance Request (continued)	
4. The variance will not substantially affect the general plan and will not be contrary See Attached Statement	to the public interest.
5. The spirit of the land use ordinance is observed and substantial justice done.	
See Attached Statement	
Property Owner Affidavit	
I (We), A. Gregory & Lisa B. D'Alessandro, depose and say that I (we) am (are) th statements herein contained, the information provided in the attached plans and of knowledge.	
(Property Owner) A. Gregory D'Alessandro	(Property Owner) Lisa B. D'Alessandro
Subscribed and sworn to me this 9 day of March 20 21	C Bul
	CHRISTINA BRAMEL (Notary) A NOTARY PUBLIC OF NEW JERSEY MY COMMISSION EXPIRES DECEMBER 4, 2024
Authorized Representative Affidavit	
I (We), A. Gregory D'Alessandro & Lisa B. D'Alessandro (our) representative(s), Carson Young to my (our) behalf before any administrative or legislative body in the County considering to the attached application.	represent me (us) regarding the attached application and to appear on
(Property Owner)	Property Owner)
Dated thisday ofdarch, 20	before me, the
signer(s) of the Representative Authorization Affidavit who duly acknowledged to me	that they executed the same.
	CHRISTINA BRAMEL (Notary) A NOTARY PUBLIC OF NEW JERSEY A NOTARY PUBLIC OF NEW JERSEY A NOTARY PUBLIC OF NEW JERSEY
	A NOTARY PUBLIC OF NEW JERSEY MY COMMISSION EXPIRES DECEMBER 4, 2024

D'Alessandro - Variance Application - Lot 34 Powder Mountain West

Explain your request.

The Applicants are requesting a variance to reduce the FR-3 front yard setback requirement.

The current required setback for the FR-3 zone is 25 feet. The Applicants propose building a home approximately 15 feet to the front property line; this would require a 10-foot variance to the required setback.

A similar variance has been granted to neighboring lots:

- Lot 35 (immediately adjacent to the west) was granted a variance allowing for a 15-foot front yard setback.
- Lot 50R (immediately across the street to the south) was granted a variance allowing for a 12-foot front yard setback.
- Lot 51-R (across the street to the south) was granted a variance allowing for a 10-foot front yard setback.

Multiple other lots on 6675 North Street (Aspen Drive) have also been granted a variance for relief from the front yard setback requirements.

Granting the relief requested will allow the Applicants to reduce their driveway's steepness and construct a dwelling with a two-car garage with safe and functional access.

Granting the relief requested will also minimize the adverse impact to Applicants from the existing structure on adjoining lot 35. The Board granted Lot 35 a variance allowing a 15-foot front yard set back. Thereafter, Lot 35 constructed a large home located very close to Applicant's southeast property corner that significantly impacts the view from Applicants' lot and otherwise creates a hardship if Applicants are not granted a similar variance.

Strict enforcement of a 25-foot setback is not required to carry out the zoning plan's general intent and purpose. Granting Applicants' request will not adversely affect adjoining property owners.

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.

Strict enforcement of a 25-foot setback will result in a hardship to Applicants. The subject property is impacted by the following existing/special conditions which are unique to this property are not self-imposed or economic:

- <u>Lot's Steep Slope</u>: Elevations on the lot range from 8,277 feet in the Southeast Corner to 8,317 in the Northwest corner. Aspen Drive rises 8,277 feet to 8,285 feet along the front of the lot. The lot also rises steeply within the 25-foot setback area (8' to 9'). This will result in an unnecessarily steep driveway (grade of 34% rising approximately 8.5 feet over a length of 25 feet) that is less safe and less functional than if a variance is granted.
- <u>Ski Trail Easement</u>: There is a 20-foot wide ski trail easement restricting the northern portion of the lot, thereby reducing the size of the effective building envelope.
- <u>Variance granted to Lot 35</u>. Lot 35 was granted a front yard set back variance allowing for a 15-foot setback. As a result, there is now a large home (one of the biggest in the neighborhood) on the adjoining lot within the standard front yard setback and less than 4' from the subject lot's western property line. This existing dwelling significantly impacts views from the Applicants' lot to the southwest. These views would not be as limited if the home on lot 35 was constructed within the standard front yard and side yard setbacks. This condition requires a similar variance to be granted to the subject lot to enjoy the same views.
- 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:

The above circumstances are unique to the subject lot and are not common to all lots within the FR-3 zone. Most lots in the FR-3 zone are NOT:

- Subject to a ski trail easement, which reduces their effective building envelope.
- So steep that a safe driveway cannot be constructed.
- Negatively impacted by a variance granted to the adjoining lot and an existing structure that dramatically limits the views, and deprives the property owner of privileges granted to other properties in the same zone.

Strict enforcement of the setback will impose an undue hardship to Applicants because viable access to the property would be limited. Unless a variance is granted, the parcel will be burdened by a steep, unsafe, and impractical driveway. Additionally, the prior variance granted to lot 35 (and resulting dwelling) directly impact the views from Applicants' lot and creates a genuinely unique hardship that is not self-imposed.

The subject lot requires the same relief given to Lot 35, or it will be adversely and unfairly impacted.

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

Other properties in the FR-3 zone are not impacted in the same way as lot 34. As set forth above, the existing ski trail, steep slope, and existing structure on adjoining lot 35 all uniquely impact the subject lot.

Lot 35 and many other lots on Aspen drive have previously been granted a variance for relief from the FR-3 front yard setback requirements. The Applicant does <u>not</u> dispute that a variance <u>should</u> have been given to lot 35 and the other nearby lots (for many of the reasons set forth herein). However, if not granted a similar variance, Applicants will be deprived of substantial rights that would not otherwise have occurred if the variance was not granted to Lot 35.

Because of the variance granted to lot 35, the existing structure on lot 35 is <u>now</u> 10 feet closer to the road and substantially impacts Applicants' lot views. If the relief requested is granted, the views from Applicants' lot will be restored to a level similar to if lot 35 was not granted a variance. Granting of the requested variance will also allow Applicants to construct a safe and functional driveway.

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

The intent of the FR-3 zone is to provide for "permanent home ownership... in mountain locations, in areas associated with major recreational resorts". Consistent with the general plan is to provide safe vehicular access to mountain homes in the zone.

The subject property (Lot 34) is in the Powder Mountain West Subdivision Phase 2, which is in a remote area of Weber County located at approximately 8,300 feet elevation on a steep slope and slightly above and close to the Powder Mountain Ski Resort Timberline Parking Lot. The subject lot receives over 500" of snow per year. The subject lot fronts on 6675 North Street (Aspen Drive), which is currently not plowed in the winter, requiring snowmobile/hike/ski access to the lot from the resort's Timberline parking lot.

There are approximately 53 lots in the Powder Mountain West Subdivision, all of which currently park their vehicles on adjoining lands (not on their lots or within the subdivision) during the winter months. During peak periods, this is already resulting in a parking shortage. At full build-out (only 25 homes have been build to date), this is not sustainable. Powder Mountain

West needs to plan for vehicles to park within its subdivision and lot owners to park within their lots.

While complexities due to the slope, elevation, heavy snow, drifting, existing roadway, and existing structures present challenges to plowing Aspen Drive during winter months, it is possible to plow Aspen Drive. Other roads at a higher elevation, with equal or greater snow drifting, are currently being plowed and providing home access in the winter months at Powder Mountain Resort. Thus, with proper planning, Aspen Drive can also be plowed in the future, such that homes in Powder Mountain West Subdivision can have winter vehicular access, and homeowner vehicles can be parked and garaged within each lot.

The Applicants are proposing to build a home with an HOA-compliant two-car garage. Applicant seeks a front yard setback variance to have a less steep, more safe, and functional driveway. Even with the reduced setback, there will be sufficient space between the road (Aspen Drive) and the dwelling so as not to impede efforts to plow the road in the winter and allow adequate space to park vehicles in the driveway. Without relief from the setback requirements, the lot will have a driveway that is too steep and presents safety issues, and will require additional snow from a longer driveway to be removed and placed elsewhere.

Reducing the front yard setback requirement will not negatively impact the lots to the rear (north) as this will put more distance between the dwelling on the subject lot and the existing dwellings to the rear. It will also lower the overall height of the proposed dwelling by moving the dwelling forward 10 feet. This will minimize the impact of the proposed dwelling upon the views of existing dwellings to the rear. While a reduced setback will make the dwelling on the subject lot closer to the dwellings on the southern side of Aspen drive, their views will generally not be impacted as their primary view is to the south, looking down the canyon. Most existing homes have very few windows on their north side.

The 25-foot setback is not practically suited to the subject lot; what is most suitable a short driveway that is less steep and more functional.

It should be noted that the DRR-1 Zone (Ogden Valley Destination and Recreation Resort Zone), applicable to most of the Powder Mountain area, has a 0-foot front set back requirement.

The General plan promotes development for single-family mountain homes with safe vehicular access and vehicles being parked and garaged on within each lot (and not on property outside the subdivision). Granting the variance will:

- Provide for a highly functional driveway with safe vehicular access to the garage,
- Allow for the future plowing of Aspen Drive
- Minimize the amount of snow to be moved to clear the driveway.
- Undue the adverse impact to subject lot from the variance granted to lot 35.

Allowing for safe vehicular access and parking of vehicles within each lot will ultimately reduce the parking shortage at Powder Mountain, which benefits the general plan and the public interest.

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

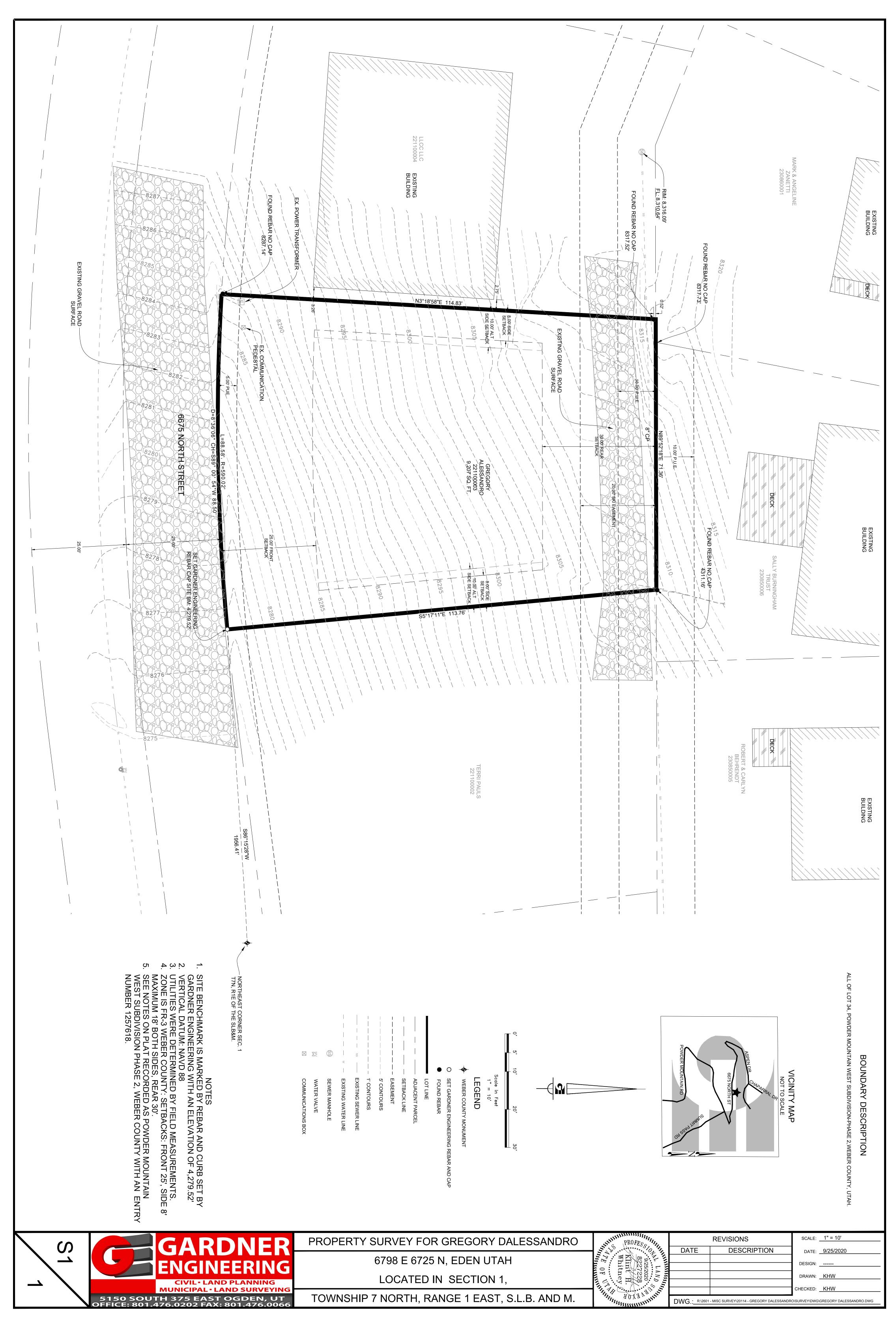
The proposed relief provides for better and safer access and does not negatively impact adjoining properties.

Unique factors such as the lot's steepness, existing ski trail easement, and existing structures warrant granting the relief requested. The proposed variance will further provide just compensation for the negative impact to the subject property resulting from the prior variance granted to lot 35 and the resulting deprivation of views caused by the existing dwelling on lot 35.

Granting the relief requested will not harm the goals and policies of the Ogden Valley General plan.

Exhibits

- 1. Survey of subject lot 34. The existing dwelling on lot 34 is also depicted on the survey.
- 2. Site plan of proposed dwelling to be built by Applicant. Side yard setbacks are approximate and informational only. Dwelling to be located within required side yard setbacks as later determined by site conditions. Applicant reserves the right to build a different dwelling that is otherwise conforming except for the requested front yard setback relief.
- 3. View from Summit Pass Road looking up to the subject lot (red x). Existing dwelling on lot 35 immediately left of the red x
- 4A Google Earth image of the subject lot 34 (red box).
- 4B Google Earth image of the subject lot and adjoining areas, including Powder Mountain Timberline Parking Lot.
- 5A View of subject lot (red x) lot from east.
- 5B View of subject lot (red x) lot from east.
- 6A Closeup view of lot 35 dwelling and subject lot (red x) from east.
- 6B Closeup view of lot 35 dwelling and subject lot (red x) from west.
- 7A Closeup of lot 35 driveway.
- 7B Closeup of lot 35 driveway.
- 8A Photo of approximate westerly property line lot 34 (red line) and proximity of lot 35 existing dwelling.
- 8B Close up of lot 34 & lot 35
- 9 Front Elevation of proposed dwelling to be constructed by Applicant. Applicant reserves the right to build a different dwelling that is otherwise conforming except for the requested front yard setback relief.
- 10 Side Elevation of proposed dwelling to be constructed by Applicant. Applicant reserves the right to build a different dwelling that is otherwise conforming except for the requested front yard setback relief.
- 11 Side Elevation of proposed dwelling to be constructed by Applicant. Applicant reserves the right to build a different dwelling that is otherwise conforming except for the requested front yard setback relief.
- 12 Rear Elevation of proposed dwelling to be constructed by Applicant. Applicant reserves the right to build a different dwelling that is otherwise conforming except for the requested front yard setback relief.



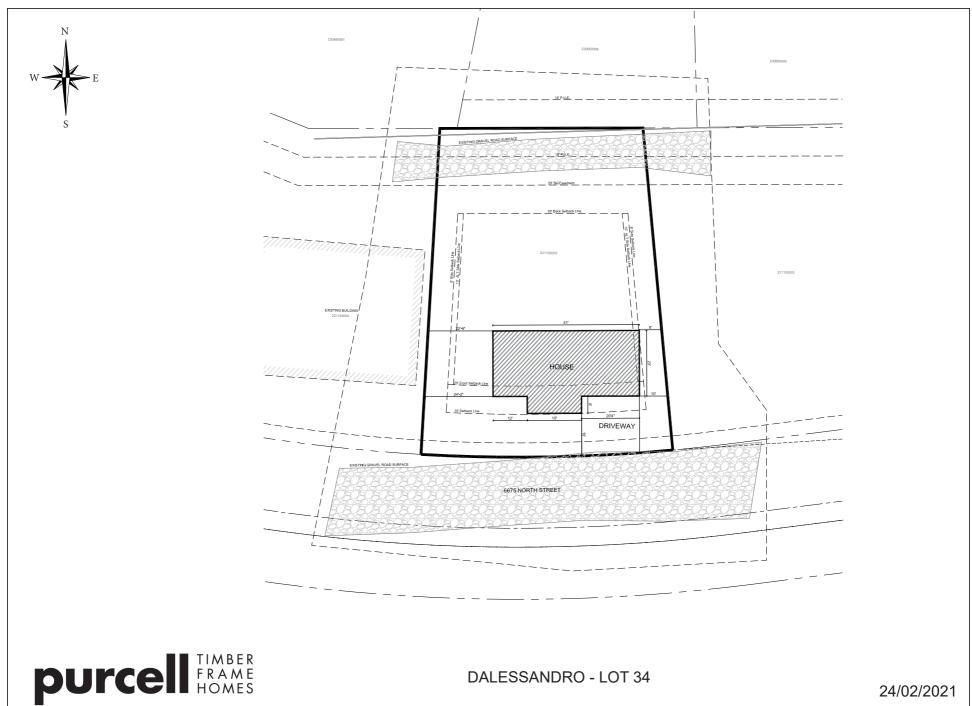


EXHIBIT 2

24/02/2021





EXHIBIT 4A



EXHIBIT 4B

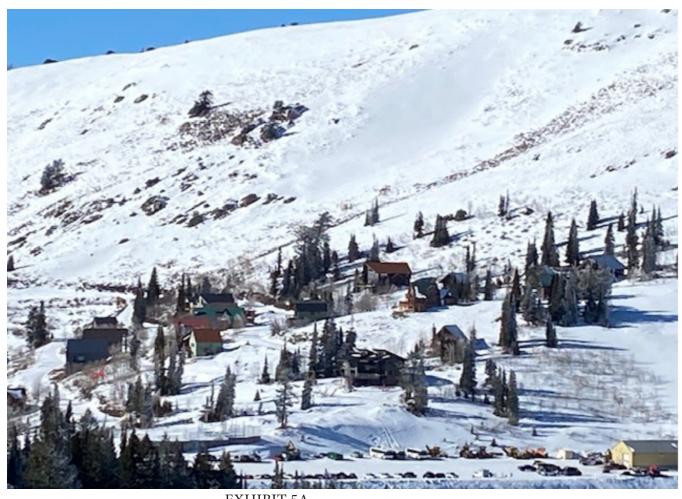


EXHIBIT 5A



EXHIBIT 5B





EXHIBIT 6B



EXHIBIT 7A



EXHIBIT 7B





EXHIBIT 8B















