



# Staff Report to the Weber County Board of Adjustment

Weber County Planning Division

## Synopsis

### Application Information

**Application Request:** Consideration and action on a variance request for a detached garage to encroach 25 feet into the 30 foot rear yard setback on property located at 962 Ogden Canyon in the Wilcox Camping and Boating Resort area of the Ogden Canyon.

**Agenda Date:** Thursday, February 25, 2016

**Applicant:** Rick Golde

**File Number:** BOA 2016-01

### Property Information

**Approximate Address:** 962 Ogden Canyon

**Project Area:** 8,276 square feet

**Zoning:** Forest F-40 Zone

**Existing Land Use:** Dwelling

**Proposed Land Use:** Adding a garage

**Parcel ID:** 200190009

**Township, Range, Section:** T6N, R1E, Section 16

### Adjacent Land Use

<b>North:</b> Residential	<b>South:</b> Residential
<b>East:</b> Vacant USA property	<b>West:</b> Residential

### Staff Information

**Report Presenter:** Jim Gentry  
jgentry@co.weber.ut.us  
801-399-8767

**Report Reviewer:** SM

## Applicable Land Use Codes

- Weber County Land Use Code, Title 102 Administration, Chapter 3 Board of Adjustment
- Weber County Land Use Code, Title 104 Zones, Chapter 9 Forest Zones F-5, F-10, and F-40
- Weber County Land Use Code, Title 108 Standards, Chapter 12 Non-complying Structures, Non-Conforming Uses, and Non-conforming Lots

## Background

The applicant is requesting a variance to allow a 26 foot by 20 foot garage to encroach 25 feet into the 30 foot rear yard setback located at 962 Ogden Canyon in the Wilcox Camping and Boating Resort area of the Ogden Canyon (see exhibit A for location map). The property is zoned Forest F-40 which requires 40 acres and 660 feet of frontage. The applicant's property is created and occupied by a single family dwelling, was prior to zoning, and is significantly smaller; however, is consider (legal) non-conforming. A non-conforming lot that has a smaller width than is required for the zone in which it is located may be developed in a manner that does not exceed the allowed reduction in side yard setbacks (the reduce side yard setback is five feet on one side and eight feet on the other). The proposed garage will meet the allowed reduce yard setbacks.

If the applicant pushes the structure towards the front of the property, the structure would encroach into the 75 foot stream corridor setback, drain field, septic taken, and the driveway access to the lot (See exhibit C for site plan showing existing home, stream setback, septic and drain fields and access). The applicant's property is located between Wheeler Creek in the front of the property and the road which serves other lots to the rear of the property. The applicant would like to keep the structure out of the stream corridor setback and therefore is requesting this variance. The encroachment will be no farther than the access road. Many of the other existing structures in this subdivision encroach into the required setbacks.

## Summary of Board of Adjustment Considerations

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 Codes. Weber County Land Use Code, Section 102-3-4 states that *“the Board of Adjustment may grant a variance only if the following 5 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 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.*
  2. *In determining whether or not 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.*

The applicant has submitted a narrative addressing the above criteria, which is attached as Exhibit B. The Planning Staff's analysis and findings are provided below:

## Conformance to the General Plan

Single-family dwellings are allowed as a permitted use in the Forest F-40 Zone. If the requested variance is granted, it will not affect the goals and policies of the Ogden Valley General Plan.

## Conditions of Approval

- Meeting the requirements of applicable County review agencies.
- Obtaining a land use permit and a building permit prior to construction.
- Submitting and completing one lot subdivision application combining the applicant's two (legal) non-conforming lots into one lot prior to the construction of the garage.

## Staff Recommendation

Staff recommends approval of the variance request for a garage to encroach 25 feet into the required 30 foot rear yard setback, based on its compliance with the applicable variance criteria:

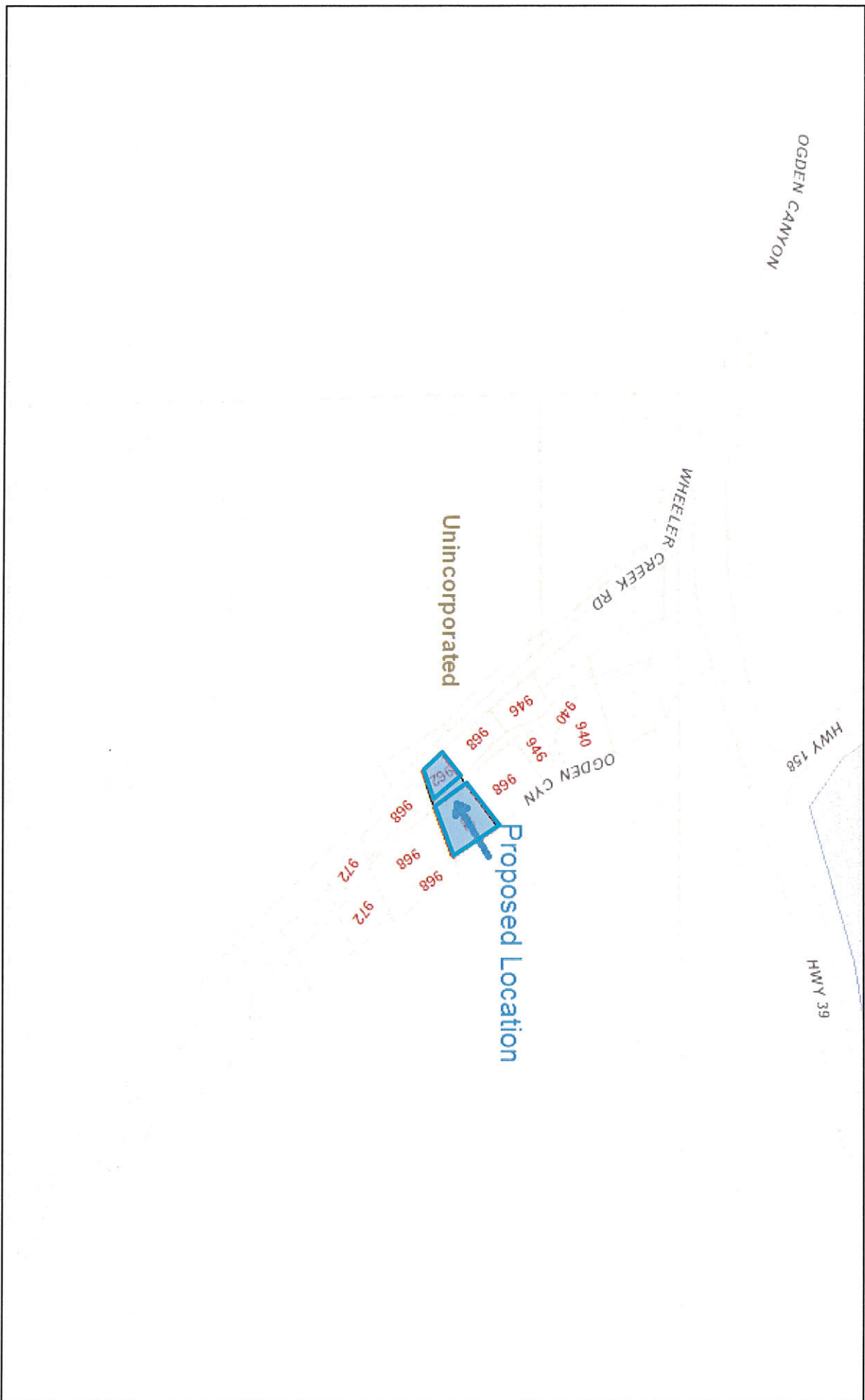
- Based on the location of the property and the physical characteristics (e.g. steep slopes to the east, stream to the west) of Wilcox Camping and Boating Resort area and having the drain field, septic tank, and access in the rear of the lot it would be difficult for the garage to be moved to meet the 30 foot setback; and enforcement of the land use ordinance would cause unreasonable hardship..
- This lot has 8,276 square feet and is a (legal) non-conforming lot, meaning that an existing house could be rebuilt on the parcel if all building requirements could be met. The 25 foot encroachment will have no impact on any of the surrounding lots. Many of the surrounding lots have structures that encroach into the setbacks.

- The circumstances attached to this property are special and do not generally apply to other properties in the same zone. There are physical characteristics of the lot such as the size, the stream, the road, and the fact that the lot was created prior to zoning.
- Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone. The applicant would like a place to store vehicles, equipment, and other personal items in a secure location.
- If the variance is granted it will not affect the goals or objectives as outlined in the Ogden Valley General Plan.
- If granted, the variance will maintain a 75 foot setback from the stream corridor. There is already an access road through part of the rear of the property and the proposed structure will encroach no farther than the access road. This variance will provide relief from the physical hardships associated with the property.

## Exhibits

- A. Location Map
- B. Applicant's Application and Narrative
- C. Site Plan

# Location Map

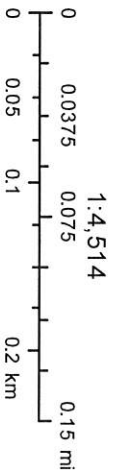


February 11, 2016

Street Labels

Parcel Address

City Labels



## Weber County Board of Adjustment

Variance Request for Frederick (Rick) and Deborah Golde,  
962 Ogden Canyon, Ogden, Utah 84401  
Parcel # 20-019-0009, .18 acre, Tax Unit 317

### Introduction:

Insofar as the purpose of the F-40 Forest Zone lot requirements (shown in Weber County Wiki site 8-1) are designated to permit development compatible to the preservation of the areas and the objectives of establishing the forest zones to promote use of land and provide areas for homes, summer homes and summer camp sites and (8-2) permit uses including (4) home occupations.

Based on this purpose and these objectives, we respectfully request a variance adjustment approval from the Weber County Board of Adjustment for the property we own in Ogden Canyon (Wheeler Canyon, Parcel #20-019-0009, Lot 10 and part of Lot 11 as described in attachments). These variance requests are based on F-40 lot setback calculations provided by Weber County planners on March 1, 2013 which are shown pictorially on the attached Site Plan (Figure ). Additional information on the description, intent and purpose for the variance request are also shown in attachments.

### F-40 Setback Requirements 29-4 (2.B 1.a.) and (2.B.1.b.):

A garage to be located on southeast corner of property is required to properly and safely store personal property required by property owners as this will become their primary residence in the near future. A single variance request applies to the 30 foot setback required at the rear (eastern boundary) of the property). We respectfully request a variance of 25 feet into the 30 foot setback to allow the garage to be located in a suitable location on the lot and in regards to both the living space in the existing housing footprint and the adjacent access road / driveway at the rear of the property (near parallel to the rear property line). See Figure 8 for details.

The hardship to property owners should the variance not be granted would be to deny adequate, lockable storage for personal property required for a reasonable year-round living experience on the property and the inability to protect same personal property from theft and degradation from the elements. The ability to build an adequate size garage on the southeast corner of the property within the high water and rear property setbacks will also enhance the aesthetics and usefulness of the property for the owners. Without the garage the alternative will require the use of tarps and other much less attractive storage solutions.

The hardship is not self-imposed as the high water mark (Wheeler Creek) is a fixed natural feature on the property with a fixed relationship of position to the existing housing structure and the associated rear property line. In short, there isn't any other location on the property where a small garage would properly fit. The contour of the property on the eastern border increases in slope toward the southern end of the lot, and the gently sloping northern area of the lot is where the driveway access is the flat portion of the property. The suggested position for the garage will not create any entrance/exit issues for the adjacent property owners since the garage will be located well off the rear property boundary by at least 5 feet from the access road itself. This plan has been reviewed and agreed to with the adjacent property owner (Michael Sherman).



**Decision Criteria and Standards: (Section 102-3-4 (b)(2):**

**a). Literal enforcement of the ordinance (Five criteria)**

29-4 (2.B.2.a.):

The special circumstances for this property is the location of Wheeler Creek on the western boundary of the property and the access road and eastern property line and the available space between these two boundaries and the existing structure (cabin) in between these two features.

- a.) Other properties in the same area (Wheeler canyon) have similar property setbacks in place; structures north of this property are as close (if not closer) to property lines and the eastern access road than this proposal. Not having the ability to build a garage for storage in the location noted would cause a hardship for the property owners who wish to habitate on the property full time and year round.

(2.B.3.):

Granting this variance is indeed essential for the property owner to fully enjoy the full benefits of property ownership and to take advantage of similar property rights possessed by other property owners in the same area (primarily the ability to safely store and protect personal property and have it conveniently available on the property).

(2.B.4.):

Granting of this variance will not substantially (negatively) affect the general plan (of the Wheeler Canyon residential area) and will not be contrary to the public interest; in fact, we believe that granting this variance will allow a pleasant structure (garage) and remodeled home to be built that will allow for personal property storage out of public view and will enhance the neighboring property owners living experience.

(2.B.5.):

The spirit of the land use ordinance will be observed and substantial justice will be done. Adjacent property owners have offered enthusiastic support for this proposal. In addition, we the property owners, are excited about making a significant enhancement to the overall aesthetics of this piece of property as well as the surrounding area in Wheeler Canyon. We wish to make a lasting contribution to the adjacent residential community through the significant upgrade of this property.

● Key points we would like to point out:

- 1.) Encroachment on Wheeler Creek watershed will not be affected by the house (location grandfathered) nor the proposed garage/outbuilding.
  - a. House boundary on the creek side will stay as is (will not move closer to creek but foundation may be set parallel to the property boundary).
  - b. Proposed garage location does not threaten or affect watershed (outbuilding only – no plumbing)
- 2.) Current dwelling is extremely energy inefficient and potentially unsafe for full-time occupation (snow load on roof).
  - a. Proposed remodel would provide owners with a safe, durable, energy efficient dwelling for primary residence and should be an enhancement to the Wheeler Creek area.

- 3.) Location of proposed garage does not detract from adjacent property owners use, view or utility.
- 4.) Significant investment in fresh-water well and delivery system with associated water rights has already been made to property.

**Variations Requested:**

- 1.) Garage setback from eastern (rear) property line (see Figure 8)
  - a. Current requirement: 30 feet
  - b. Requested setback: 5 feet (25 foot variance)

We thank you for your time and consideration of this variance request.

Respectfully;

Rick and Debbie Golde  
4783 Panorama Drive  
Ogden. Utah 84403

**• Supporting Information:**

- Lot Location (Wheeler Canyon)





• Plot Plan / House and Garage Location



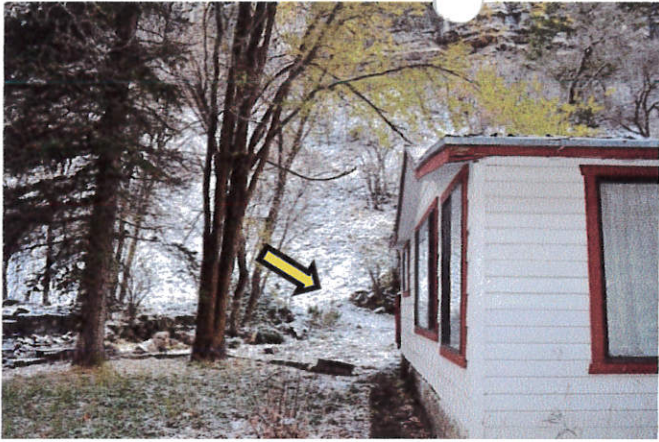
• Property Lines / House and Garage Locations are approximate and shown for reference

Figures 1a and 1b: Property location southwest of Pineview Dam



Figures 2a and 2b: Existing Cabin on property (circa 1930s), Front of property (left), Rear of property (right). Note driveway slope.





**Fig. 3a:** North end of lot (gently sloping entrance /driveway) **Fig. 3b:** South end of lot showing steep, rocky inclined area

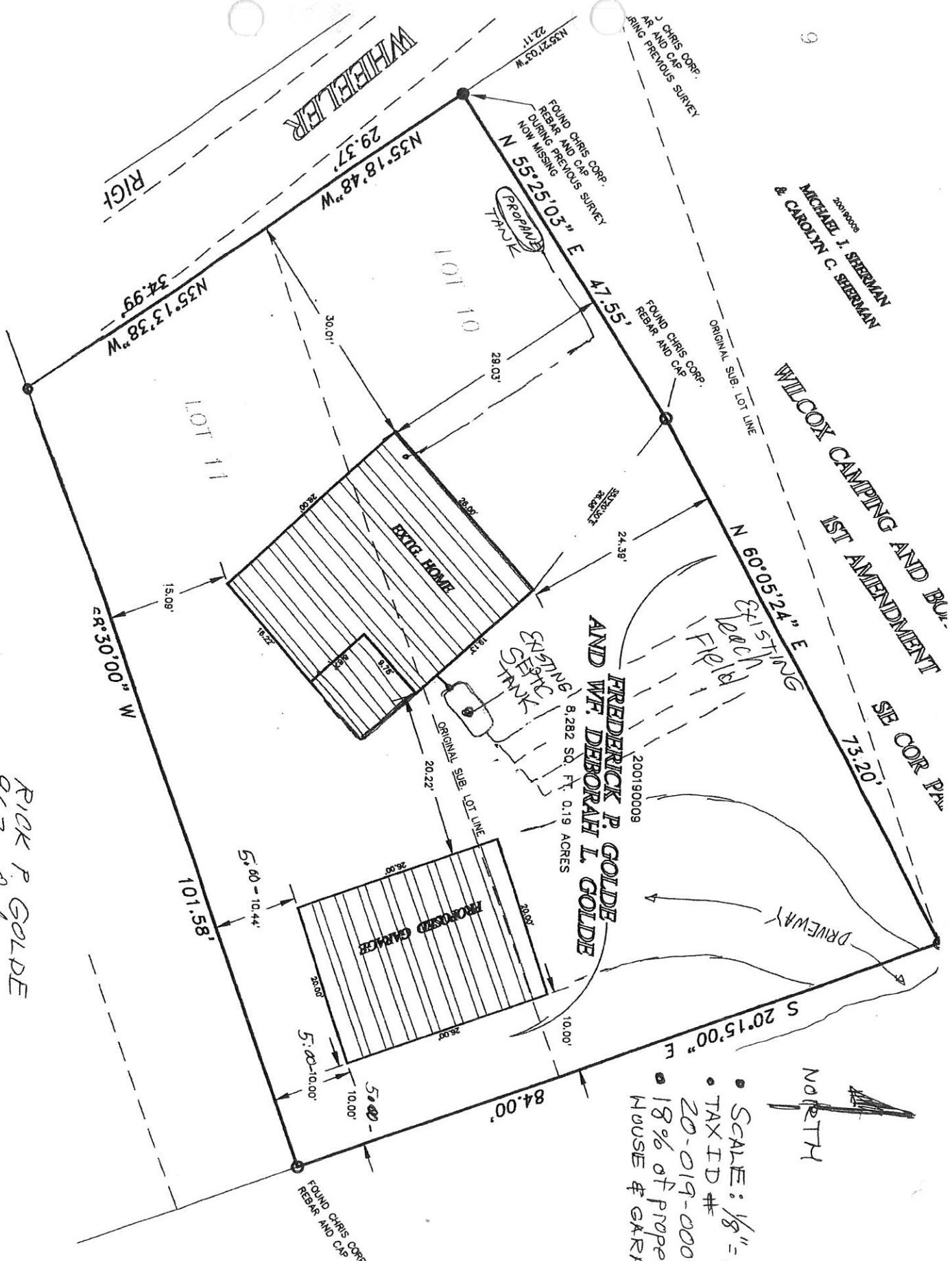


**Figure 4:** Artist rendition of planned remodel of existing structure (on same footprint)

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20110008  
 MICHAEL J. SEERMAN  
 & CAROLYN C. SEERMAN

WILCOX CAMPING AND BU-  
 1ST AMENDMENT  
 SE COR PA



RIK P. GOLDE  
 962 Ogden Canyon  
 Ogden, UT 84401

SCALE: 1/8" = 2.0 FT BOUNDARY (AS SUR)  
 TAX ID # 20-019-0009  
 18% of property = HOUSE & GARAGE



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