



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 13 foot variance to the front yard setback in the FR-3 Zone.

Agenda Date: Thursday, April 28, 2016

Applicant: Joe Sadler, agent; Joe DePiano, owner

File Number: BOA 2016-02

Property Information

Approximate Address: 6706 East 6675 North

Project Area: 0.22 acres

Zoning: Forest Residential Zone (FR-3)

Existing Land Use: Vacant

Proposed Land Use: Residential

Parcel ID: 22-110-0011

Township, Range, Section: T8N, R1E, Section 36

Adjacent Land Use

North: Ski Trail	South: Private Roadway
East: Residential	West: Ski Resort

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 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 new single family dwelling 12 feet to the front lot line; this would require an approval of a 13 foot variance to the standard. The application and an explanation of the request have been prepared by the applicant (Exhibit A). A proposed site plan and building elevations for the home have also been provided (Exhibit B).

The subject property is Lot 42 R 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. Lot 42 R is at the far western part of the subdivision where the road (Aspen Drive) switches back up the hill and partly behind the lot. 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 resorts parking area. Lot 42 R was deemed a "Restricted Lot" during subdivision review due to its slope, and will be required to undergo a Hillside Review.

Lots in the FR-3 Zone are often small in area, having a minimum lot area of 6,000 square feet for a single home. Likely due to the slope and remote location, Lot 42 has an area of 9,505 square feet. The FR-3 Zone also requires that lots have 40 % of its area left as open green space (104-17-5-g). This requirement can impact the potential building envelope on lots.

A unique occurrence is found in this subdivision (Powder Mountain West – Phase 2) as it is surrounded by the ski resort, and has a 20 foot wide ski easement for a ski trail running through the rear of the lots. By being at the end of the subdivision, Lot 42 R is impacted the most by the easement by extending beyond the typical 30 foot rear yard setback in the FR-3 Zone. This further reduces the potential building envelope on Lot 42 R as shown below.

	<u>Building Envelope area</u>
Lot 42 R	9,505 sq. ft.
Lot 42 R – 40%	5,703 sq. ft.
After setbacks	3,507 sq. ft.
With setbacks & easement	3,006 sq. ft.
Proposed w/ variance	3,900 sq. ft.

As staff discussed with the applicant the issues with Lot 42 R; there were concerns for placing the home too close to the right of way, some of which are:

- Sight visibility for traffic on Aspen Drive.
- Sight visibility for traffic pulling out of the garage and onto Aspen Drive.
- The proximity to other homes nearby.
- The ability for off street parking in the driveway.

The applicant has made modifications to the plan to address and incorporate those concerns into the design. The applicant has moved the home back as far as possible and rotated the direction of the home slightly to accommodate for traffic visibility both for the public and the owners. This also allowed space for a driveway for additional off street parking if needed.

It should be noted that an additional minor modification should be made and addressed during the Hillside Review, requiring that no portion of the retaining walls for the driveway be within the private right of way. As was suggested in the engineer's review, this can be achieved by addressing the slope on the western side of the drive.

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. Literal enforcement of the Land Use Code would require an undesirable result. As is suspected by the photos of this property the ski trail may extend beyond the provided easement. This request is the best scenario to address the unique circumstances of this lot avoiding impacts to the slope and ski trail.
- b. The special circumstances attached to this property are not self imposed or economic. The placement of the described easement and elevation of ski trail are the cause of the hardship.

- c. Other homes within this Zone and area are not impacted in the same way as Lot 42 R regarding slope and easements. 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.
- 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.

Conditions of Approval

- Meet all other applicable review agency requirements.

Staff Recommendation

Staff recommends *approval* of the variance for Lot 42 R in the Powder Mountain West Subdivision Phase 2 for a reduction of 13 feet to the front yard setback. This recommendation is based on compliance with the applicable variance criteria discussed in this staff report.

Exhibits

- A. Application
- B. Site Plan and Building Elevations

Location Map



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 3/7/16	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) Jim & Ally Depiano		Mailing Address of Property Owner(s) 97 WEST RIDGE ROAD STOWE, UT 84672	
Phone	Fax		
Email Address alibb797@gmail.com, jimdepiano@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) JOE SADVIR		Mailing Address of Authorized Person 1523 E SKYLINE DR. SUITE B OGDEN UT 84405	
Phone 801-476-1860	Fax		
Email Address joe@habitationsrdg.com		Preferred Method of Written Correspondence <input checked="" type="checkbox"/> Email <input type="checkbox"/> Fax <input type="checkbox"/> Mail	

Appeal Request

- 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
- 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
- Other: _____

Property Information

Approximate Address 6706 E. 6675 N. EDEN		Land Serial Number(s) 22-110-0011	
Current Zoning			
Existing Measurements		Required Measurements (Office Use)	
Lot Area 9,505 SQ FT	Lot Frontage/Width ~87'	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 24 COMB 10 MIN	Side Yard Setback ←	Side Yard Setback (Office Use)	Side Yard Setback (Office Use)

Applicant Narrative

Please explain your request.

WE ARE REQUESTING A 12' FRONT SETBACK FROM THE PROPERTY LINE DUE TO A HARDSHIP ON THE LOT OF A STEEP SLOPE AND MOST IMPORTANTLY THERE IS A TRAIL/SKI RUN EASEMENT CROSSING THE LOT WHICH REALLY CREATES AN ISSUE WITH BOTH THE DEPTH OF THE ALLOWABLE BUILDABLE AREA, THE GRADING, AS THE SKI RUN HAS BEEN BUILT UP & CAUSES ADDITIONAL DRAINAGE ISSUES FOR THE HOME. WE ARE REQUESTING A SHALLOWER FRONT SETBACK TO ALLOW THE HOME TO DRAIN, BE A DECENT DEPTH HOME & GIVE US A BIT OF SPACE OFF OF THE SKI RUN BUFFER.

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.

IN THIS PARTICULAR AREA THE DISTANCE FROM THE PROPERTY LINE FORWARD TO THE EDGE OF THE ROAD IS FURTHER THAN TYPICAL, AVG. APPX. 15' WEBER COUNTY PLANNING HAS MENTIONED THE FRONT SETBACK IS TO ASSIST & ALLOW FOR OFF STREET PARKING BESIDES THOSE AREAS ENCLOSED. WITH 15' IN FRONT OF THE PL & ANOTHER 12' FRONT SETBACK WE WILL HAVE ~ 27' OF OFF STREET/DRIVEWAY PARKING.

STRICT ADHERANCE TO THE FRONT SETBACK IN THIS AREA W/ THE SKI RUN IN THE REAR WOULD LIMIT THE DEPTH OF THE HOME TO APPX 30' WHICH REALLY DOESN'T ALLOW FOR A DECENT HOME DEPTH. THE STEEP SLOPE OF THE LOT ALSO CREATES A PARTICULAR HARDSHIP AS WE PUSH TO THE 25' FRONT SETBACK WE ARE AT ~ 16' ABOVE THE ELEVATION OF THE ROAD. IF WE CAN BRING THAT DOWN & SINK THE HOME OUR DRIVEWAY GRADE IS STEEP BUT MANAGEABLE. AS THE HOME GOES BACK THE SKI RUN CLIMBS STEEPER IN ELEVATION & CAUSES ADDITIONAL ISSUES W/ DRAINAGE & GRADING & BUFFER FROM SKIERS. ALLOWING THE SMALLER SETBACK ALLOWS THE HOME SPACE FOR DRAINAGE & RETENTION TO OCCUR AWAY FROM THE HOME.

WITH THE HOME BACK 25' ON THE STD. SETBACK & ANOTHER 15' FROM THE ROAD WE AT 40' FROM THE ROAD COULD GET A DRIVEWAY TO FUNCTION WITH THE 16' OF RISE THAT OCCURS IN THE GRADE.

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.

VERY STEEP GRADE BUT MOST IMPORTANTLY NONE OF THE OTHER PROPERTIES HAVE THE SKI RUN CUTTING RIGHT THROUGH THEIR BUILDABLE AREA. ALL OTHER PROPERTIES CONTAINING THE EASEMENT FOR THE SKI RUN CONTAIN THE RUN INSIDE OF THEIR REAR SETBACK NOT AFFECTING THEIR BUILDABLE AREA.

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.

PREVIOUSLY STATED W/ THE SKI RUN EASEMENT & ENCROACHMENT PROVIDING THE GREATEST AMOUNT OF HARSHIP SPECIFICALLY & INDIVIDUALLY WITH THIS LOT.

Variance Request (continued...)

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

THE SKI RUN IS DEFINITELY NOT SELF IMPOSED & ACTUALLY ENCR OACHES BEYOND ITS EASEMENT TOWARDS THE BUILDABLE AREA. WERE THE SKI RUN SIMILAR IN ITS POSITION TO THE OTHER LOTS BEING WITHIN THEIR REAR SETBACKS WE COULD COMPLY WITH THE CURRENT FRONT SETBACK & HAVE ENOUGH DEPTH FOR THE HOME IN THE STANDARD BUILDABLE AREA.

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)

Variance Request (continued...)

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

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), James Depiano, the owner(s) of the real property described in the attached application, do authorized as my (our) representative(s), Joe Sada and/or Carson Yeung, 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.

James Depiano
(Property Owner)

(Property Owner)

Dated this 26th day of Feb, 2016, personally appeared before me James G. Depiano, the signer(s) of the Representative Authorization Affidavit who duly acknowledged to me that they executed the same.

Auisan O Kaiser
my term expires 2/19/2019
(Notary)

SITE PLAN

POWDER MOUNTAIN WEST PHASE 2
EDEN CITY, WEBER COUNTY, UTAH

SCALE: 1" = 10'-0"
AREA: 0.945 AC. ± • 0.22 ACRES

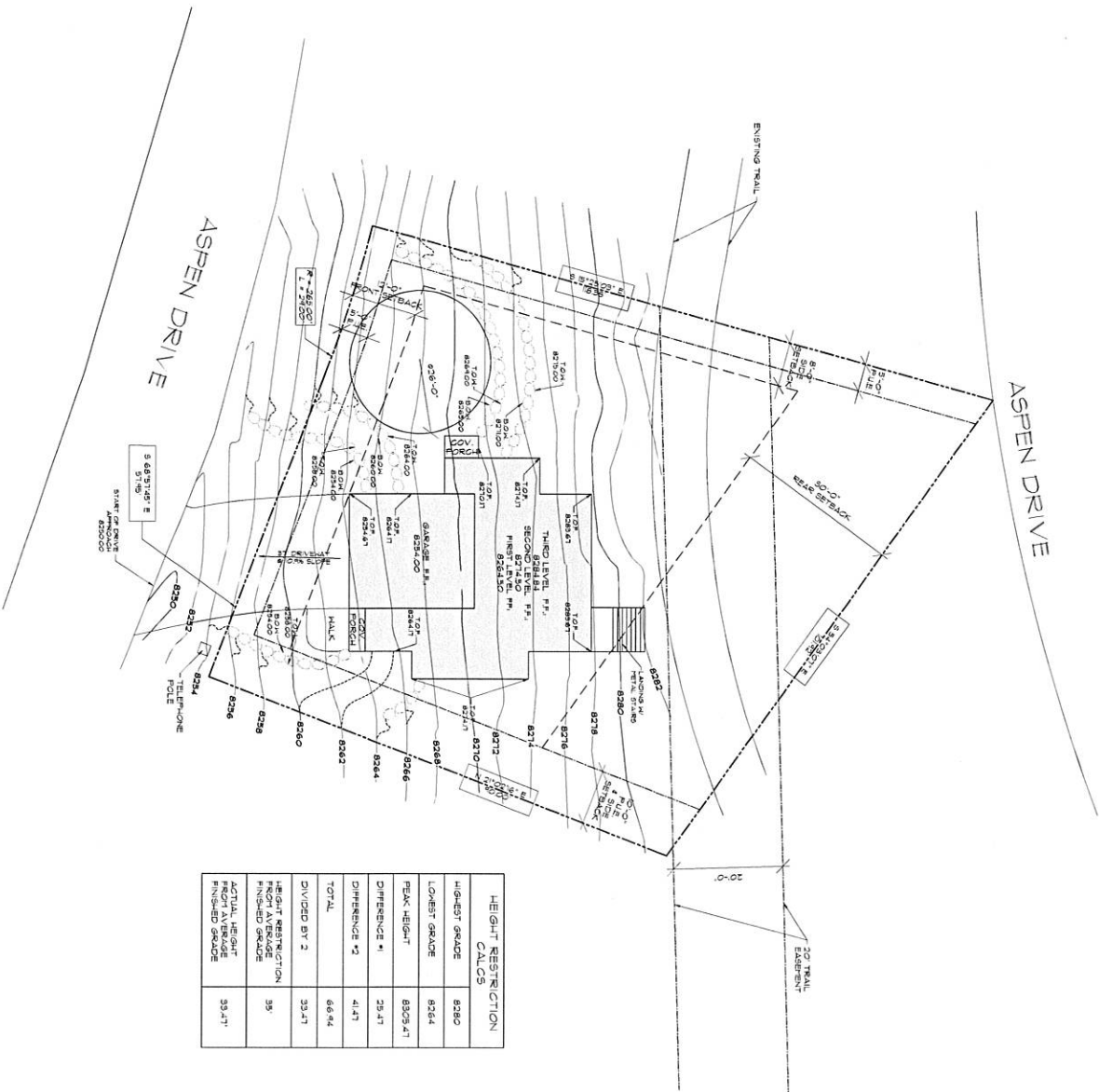


- PLEASE NOTE:**
- 1. THIS SITE PLAN IS SHOWN FOR INFORMATION ONLY. OWNER, CONTRACTOR SHALL HAVE RESPONSIBILITY TO DETERMINE GRADES AND FINAL ELEVATIONS FOR COMPLIANCE WITH ALL STATE, NATIONAL, AND LOCAL BUILDING CODES & ORDINANCES.
 - 2. THIS SITE PLAN IS A REPRESENTATION OF CONCRETE FOUNDATIONAL BUILDING FOOTPRINT ONLY. ALL SETBACK INFORMATION SHOWN IS TO THE CENTER OF FOUNDATION UNLESS OTHERWISE NOTED. THE LOCATION OF ROOF OVERHANGS OR CANTILEVERS, BALCONIES OR FLOOR OVERHANGS OR OTHER ARCHITECTURAL ELEMENTS THAT MAY PERTAIN TO THE PROPERTY SETBACKS OR EASEMENTS, THE PLAN SHALL NOT BE USED TO DETERMINE CONSTRUCTION OF SUCH FEATURES. ELEVATION DETAILS ETC. IN CONSTRUCTION DRAWINGS SHALL IDENTIFY ANY PROPOSED WALL CANTILEVERS OR OTHER FEATURES THAT MAY ENCRoACH INTO SETBACKS AND SHALL REPORT ANY CONCERNS TO THE DESIGNER PRIOR TO EXCAVATION AND/OR CONSTRUCTION.

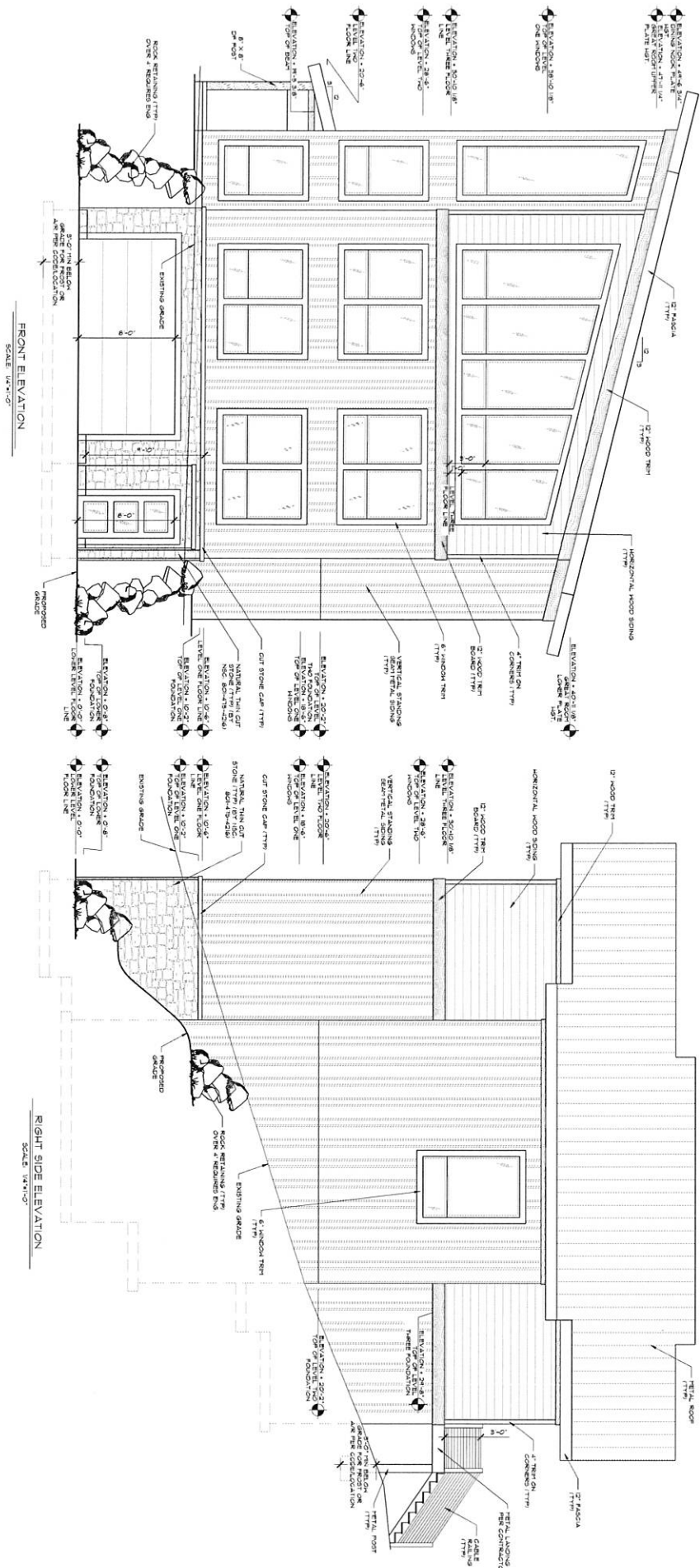
LINE TYPE LEGEND

--- (dashed line)	PROPERTY LINE
--- (dash-dot line)	SETBACK LINE
--- (dotted line)	EASEMENT LINE
--- (long-dashed line)	HOME FOOTPRINT
--- (short-dashed line)	PROPOSED CONT.
--- (dash-dot-dot line)	1" CONT. LINE
--- (long-dash-dot line)	2" CONT. LINE
→ (arrow)	DIRECTIONAL DRAINAGE ARROWS

- 1. ALL STORM WATER AND DIRT WILL BE KEPT ON SITE DURING CONSTRUCTION UNTIL FINAL LANDSCAPING IS DONE.
- 2. ALL EXISTING AND PROPOSED FOUNDATION WALLS SHALL HAVE A MINIMUM OF 8 INCHES WITHIN THE STREET CURB AND GUTTER SHALL BE IMPACTED AND CLEARED OF ALL H/D AND DIRT AT THE STREET MOUNTED, OR EQUIVALENT TO BE MAINTAINED AND MAINTAINED AROUND ANY STREET DRAIN.
- 3. ALL EXISTING AND PROPOSED FOUNDATION WALLS SHALL BE MAINTAINED AND MAINTAINED AROUND ANY STREET DRAIN.
- 4. ALL EXISTING AND PROPOSED FOUNDATION WALLS SHALL BE MAINTAINED AND MAINTAINED AROUND ANY STREET DRAIN.
- 5. ALL EXISTING AND PROPOSED FOUNDATION WALLS SHALL BE MAINTAINED AND MAINTAINED AROUND ANY STREET DRAIN.
- 6. ALL EXISTING AND PROPOSED FOUNDATION WALLS SHALL BE MAINTAINED AND MAINTAINED AROUND ANY STREET DRAIN.
- 7. ALL EXISTING AND PROPOSED FOUNDATION WALLS SHALL BE MAINTAINED AND MAINTAINED AROUND ANY STREET DRAIN.
- 8. ALL EXISTING AND PROPOSED FOUNDATION WALLS SHALL BE MAINTAINED AND MAINTAINED AROUND ANY STREET DRAIN.



HEIGHT RESTRICTION CALL OUT	RESTRICTION
HIGHEST GRADE	8280
LOWEST GRADE	8264
PEAK HEIGHT	8325.47
DIFFERENCE #1	39.47
DIFFERENCE #2	41.47
TOTAL	86.94
DIVIDED BY 2	39.47
HEIGHT RESTRICTION	39
ACTUAL HEIGHT	39.47
HEIGHT RESTRICTION	39



FRONT ELEVATION
SCALE: 1/4" = 1'-0"

RIGHT SIDE ELEVATION
SCALE: 1/4" = 1'-0"

0' 1" = 1'-0"
0' 2" = 2'-0"
0' 4" = 4'-0"
0' 8" = 8'-0"

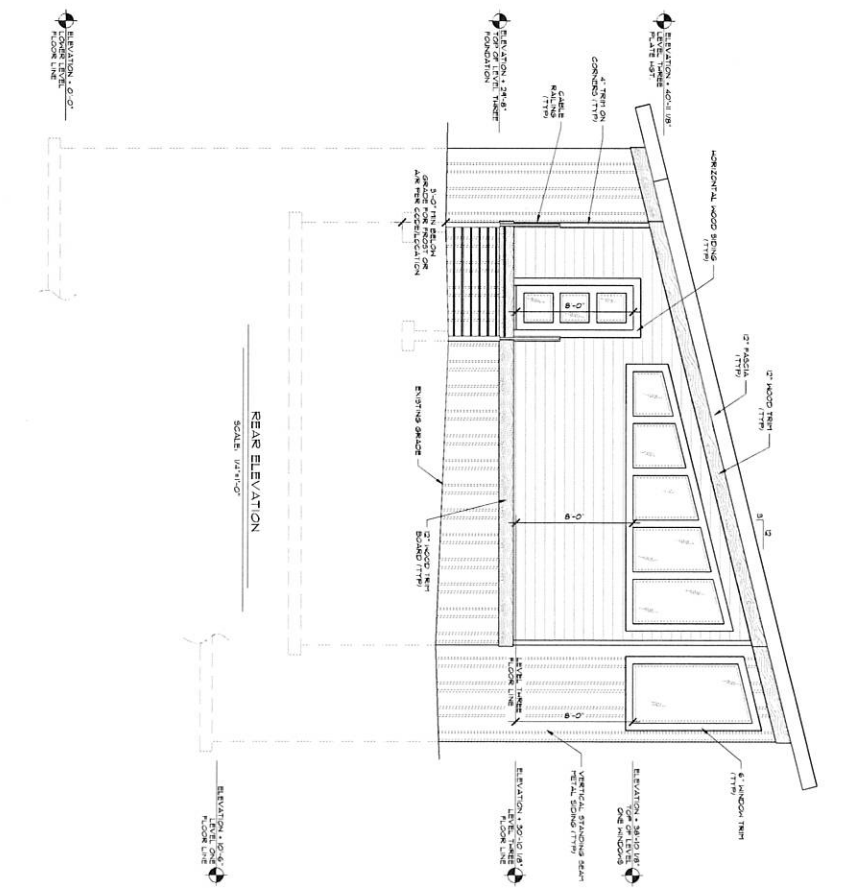
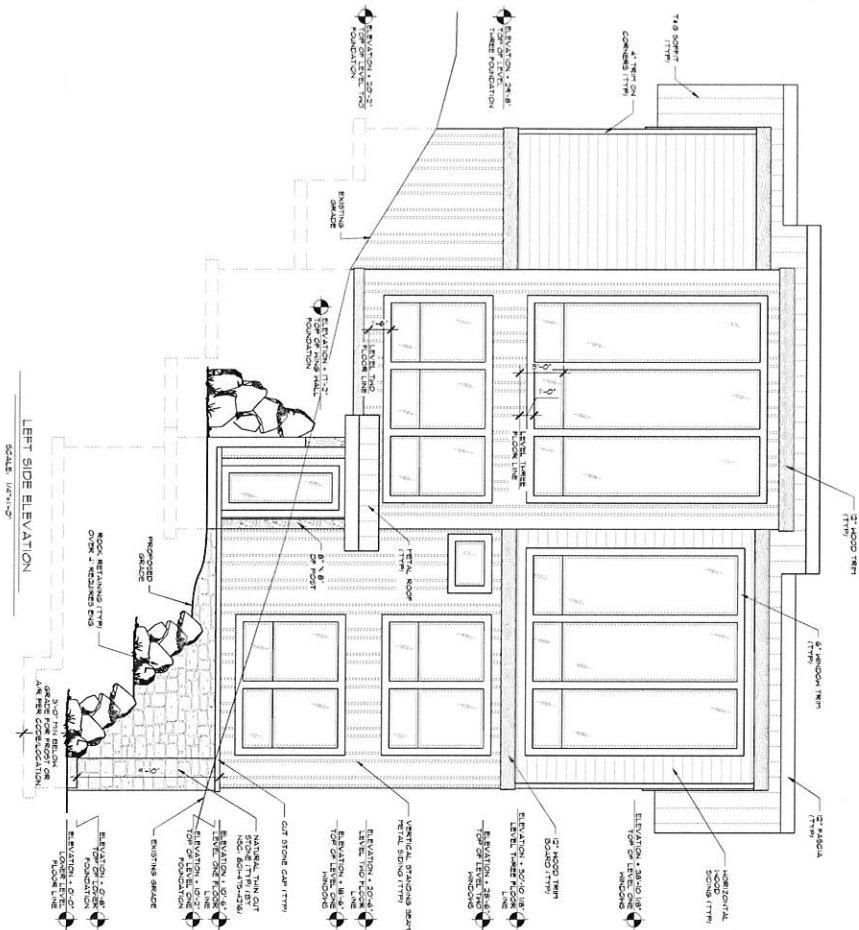
0' 1" = 1'-0"
0' 2" = 2'-0"
0' 4" = 4'-0"
0' 8" = 8'-0"

SHEET TITLE
FRONT / RIGHT SIDE ELEVATIONS

CONTRACTOR
M. STEELE
OWNER
XXXXXX
DATE
XX/XX/2016
DRAWN BY
XXXXXX
CHECKED BY
XXXXXX
SCALE: 1/4" = 1'-0"

VOICE: 80-476-8660
FAX: 80-476-8288
HABITATIONS
RESIDENTIAL DESIGN GROUP

CONTRACTOR SHALL VERIFY ALL DIMENSIONS, CONDITIONS AND REQUIREMENTS AT THE JOB SITE PRIOR TO CONSTRUCTION. THIS PLAN IS THE EXCLUSIVE PROPERTY OF HABITATIONS AND SHALL NOT BE REPRODUCED OR COPIED IN ANY MANNER WITHOUT THE EXPRESS WRITTEN PERMISSION OF HABITATIONS. ANY PARTIAL REVISIONS TO THIS PLAN SHALL BE THE PROPERTY OF HABITATIONS AND SHALL BE SUBJECT TO THE APPROVAL OF THE ARCHITECT. ANY PARTIAL REVISIONS TO THIS PLAN SHALL BE SUBJECT TO THE APPROVAL OF THE ARCHITECT. ANY PARTIAL REVISIONS TO THIS PLAN SHALL BE SUBJECT TO THE APPROVAL OF THE ARCHITECT. ANY PARTIAL REVISIONS TO THIS PLAN SHALL BE SUBJECT TO THE APPROVAL OF THE ARCHITECT.



DRAWN BY: [Name]
 CHECKED BY: [Name]
 DATE: [Date]
 PROJECT: [Project Name]
 SHEET: 394406
 OF 19

SHEET TITLE: REAR / LEFT SIDE ELEVATIONS
 SCALE: 1/4" = 1'-0"

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 VOICE 80-476-8660
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