



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 12-foot ~~20-foot~~ variance to the front yard setback to facilitate the construction of a single-family residence at 6706 E 6675 N, Eden.

Agenda Date: Thursday May 13, 2021 ~~Thursday, March 18, 2021~~

Applicant: James DePiano, Owner

File Number: BOA2021-02

Property Information

Approximate Address: 6706 E 6675 N, Eden (Powder Mountain West)

Project Area: .22 acres

Zoning: Forest Residential (FR-3)

Existing Land Use: Vacant

Proposed Land Use: Residential

Parcel ID: 22-110-0011

Township, Range, Section: T8N, R1E, Section 36, SE 1/4

Adjacent Land Use

North:	Residential	South:	Residential
East:	Residential	West:	Forest

Staff Information

Report Presenter: Scott Perkes
sperkes@co.weber.ut.us
801-399-8772

Report Reviewer: SB

Applicable Codes

- Title 102 (Administration) Chapter 3 (Board of Adjustment)
- Title 104 (Zones) Chapter 17 (Forest Residential Zone FR-3)

Background

The applicant is requesting a 12-foot ~~20-foot~~ variance to the minimum front yard setback required in the FR-3 Zone (25 feet) leaving a 13-foot ~~5-foot~~ setback from the front lot line. The applicant feels that a variance is necessary to build their desired home. The applicant cites peculiar circumstances that constrain the lot's buildable area and reduces their ability to build a reasonable home that would match development within the neighborhood (see **Exhibit A**).

The applicant initially submitted a variance request for a 20-foot setback. This request was reviewed by the BOA during their March 18th, 2021 meeting. However the Board did not believe a variance of this size allowed for adequate separation of the home and potential improvements within the adjacent right-of-way. As such, the Board voted to table the item to allow the applicant to explore options for repositioning or redesign of the proposed home that could allow for additional separation and a larger setback. The applicant revised their plans and have resubmitted for an increased setback (12-foot variance equating to a 13-foot setback) as compared to the original request (20-foot variance equating to a 5-foot setback) (see **Exhibit G**).

Planning staff has provided three site plan exhibits to help visualize applicable setbacks and peculiar encumbrances to the property. **Exhibit C** depicts the minimum zoning setbacks along with the applicable encumbrances. **Exhibit D** depicts the site should a 12-foot ~~20-foot~~ variance be granted in relation to the proposed single-family residence footprint.

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. 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 relating 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 is done.*

Staff Analysis

The list below are points taken from the applicant's [resubmitted](#) narrative as compared to the above listed point of BOA consideration (see **Exhibit A** for the full narrative):

- a. The applicant's narrative states that literal enforcement of the setbacks substantially reduces the buildable area and makes it unreasonable to build a home similar to other homes in the Powder Mountain/Summit area.
- b. The applicant states that the special circumstances that exist are the size of the lot, slope of the lot (see **Exhibit B**), and the encroachment of Slow Poke Trail along the rear third of the property. All of which restricts the buildable footprint.
- c. The applicant's narrative indicates that granting a variance is needed in order to enjoy a substantial property right that is possessed by other properties in the area.
- d. The General Plan indicates that this area should be developed as is planned and zoned. The applicant states that a variance to the setback will not adversely affect the neighbors and will not crowd the existing Aspen Road.
- e. The applicant has taken the appropriate measures to submit for a variance request and is looking to preserve the existing ski easement along the rear of their property while still requesting that substantial justice be considered by allowing their home to be built closer to the front property line.

As depicted in **Exhibit C**, the existing zoning setbacks coupled with the site's unique encumbrance (Slow Poke trail and steep slope), have created a reduced buildable area for this parcel of approximately 2,880 square feet. The footprint of the applicant's proposed dwelling is approximately 1,900 square feet.

Conformance to the General Plan

Single-family dwellings are allowed as a permitted use in the FR-3 zone. 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 the Board of Adjustment review staff's analysis and compare the applicant's request against the five points of consideration listed in LUC §102-3-4(b)(2) (presented above). If the Board finds that the applicant's request meets the criteria, a ~~12-foot~~ **20-foot** variance to the front yard setback could be granted.

Exhibits

- A. [Applicant-written variance request \(Newly Submitted\)](#)
- B. [Lot Topography Map](#)
- C. [Site plan showing FR-3 zone setbacks \(Updated Building Footprint\)](#)
- D. [Site plans showing a 12-Foot Vs 20-Foot variance to the front-yard setback](#)
- E. [2021 Recorder's plat](#)
- F. [Property Photos \(Newly Submitted\)](#)
- G. [Proposed Building Plans \(Newly Submitted\)](#)

Area Map



**DePiano Variance Request
Lot 42 Aspen Drive**

A.

We want to build a single family home on our lot at Powder Mountain. However, there are hardships making this difficult to do without a variance from the county. In particular, the steepness of the lot, the ski trail easement that goes through our buildable area and that the actual ski trail itself encroaches over the easement, reducing the buildable area even further.. We have revised our original request for a 5' set back and are requesting a 13' front setback from the property. Please note, we were approved for a 12' set back in 2016.

B.

With the minimum 25' setback requirement from the front property line plus the additional 20' from the actual road, the house would be 45' from the road. With the distance from the property line and the rise that occurs in the grade, we could not put in a safe, functional driveway. If we can bring the house down and sink the home, the driveway grade will be 12% grade. While this is steep, it is manageable.

In this particular area of the association the distance from the property line to the actual edge of the road is further than the typical average distance for other lots. The distance is almost 20'. Weber County Planning has mentioned that the front setback is to assist and allow for off street parking besides those areas enclosed. With 20' in front of the lot and another 13' front setback, there will be 33' of off street parking.

Powder Mountain Ski Resort has an easement through our property for a ski trail (Slow Poke). This reduces the depth of the allowable buildable area by about 1/3. Strict adherence to the 25' front setback in this area with the ski run in the rear would limit the depth of the house, preventing a decent home depth.

The grading, as the ski run has been built up causes additional drainage and retention issues for the home. The smaller setback allows the home space for drainage and retention to occur away from the home.

The ski run is not self imposed. Slow Poke encroaches beyond the easement, encroaching on the south side of our lot. Consequently our buildable area is reduced even further. We are the only lot in the association who has the ski run cutting through 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 and have enough depth for the home in the standard buildable area.

C.

The lot itself is very steep and very small; measuring only .21 acres / 9505 sq. ft. Most important though, no other lots 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 the rear setback, not affecting their buildable area.

D.

With the 20' of land between the road and the front property line, plus the 13' setback, there will be 33' between the front of the house and the road. The house will be further from the road than the majority, if not all, other houses in the area.

E.

We are applying for a variance. We are looking to preserve the existing ski trail that is to the rear of our property while still requesting that substantial justice be considered by allowing our home to be built closer to the front property line.

Exhibit B: Site Topography Map

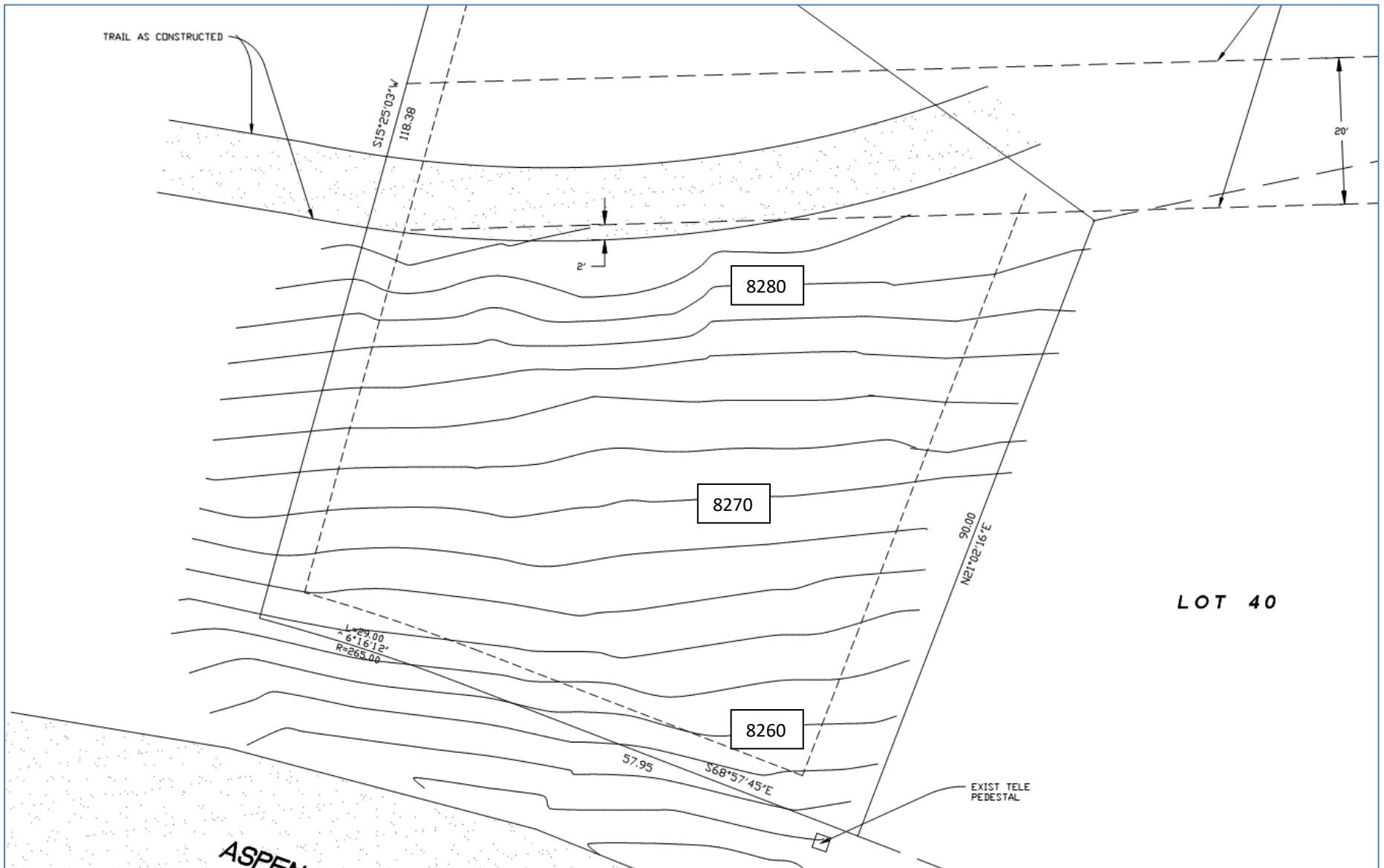


Exhibit C: Existing Setbacks and Encumbrances (UPDATED BUILDING FOOTPRINT)

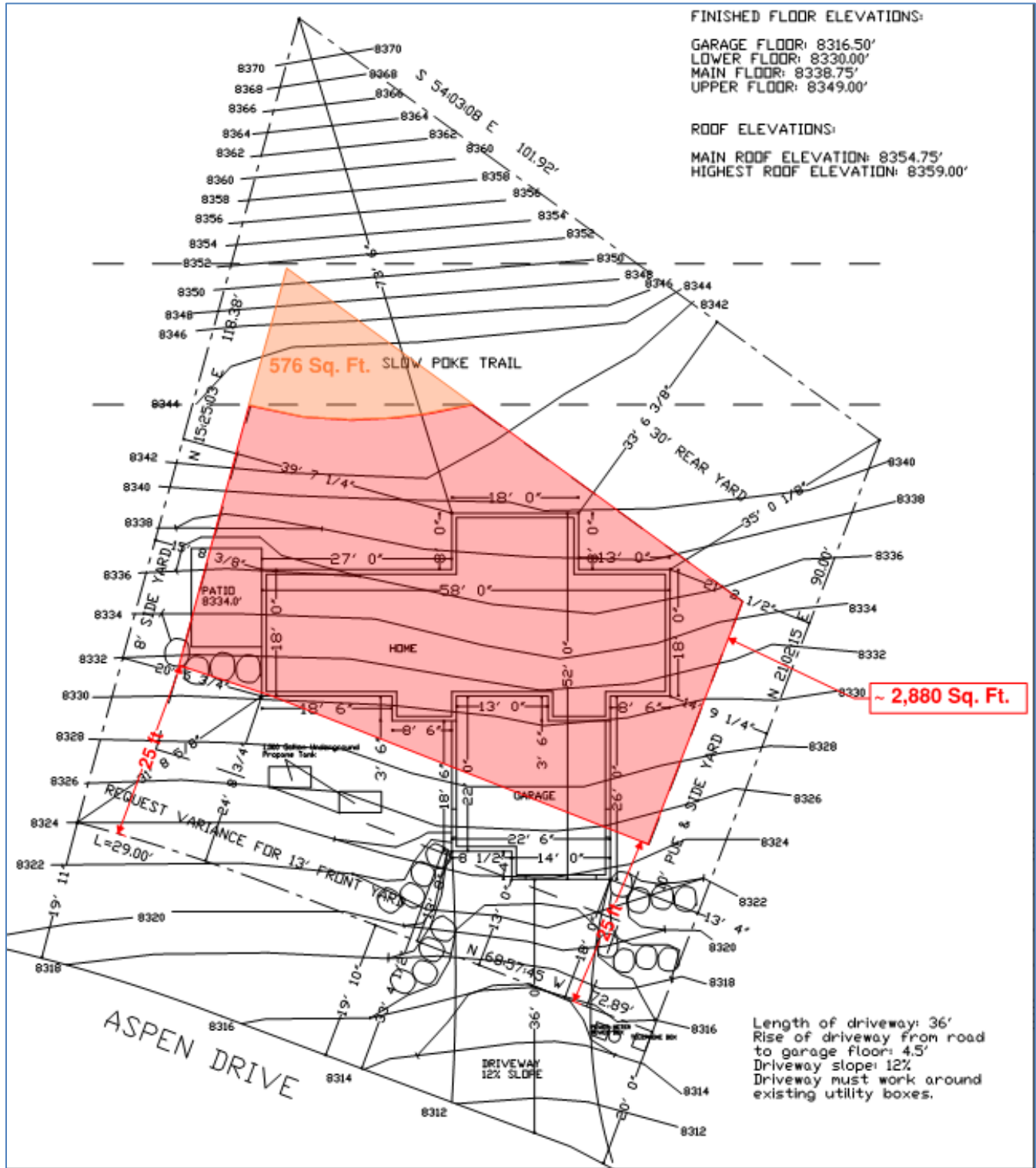


Exhibit D: 20-Foot Variance to Front Yard Setback (ORIGINAL REQUEST)

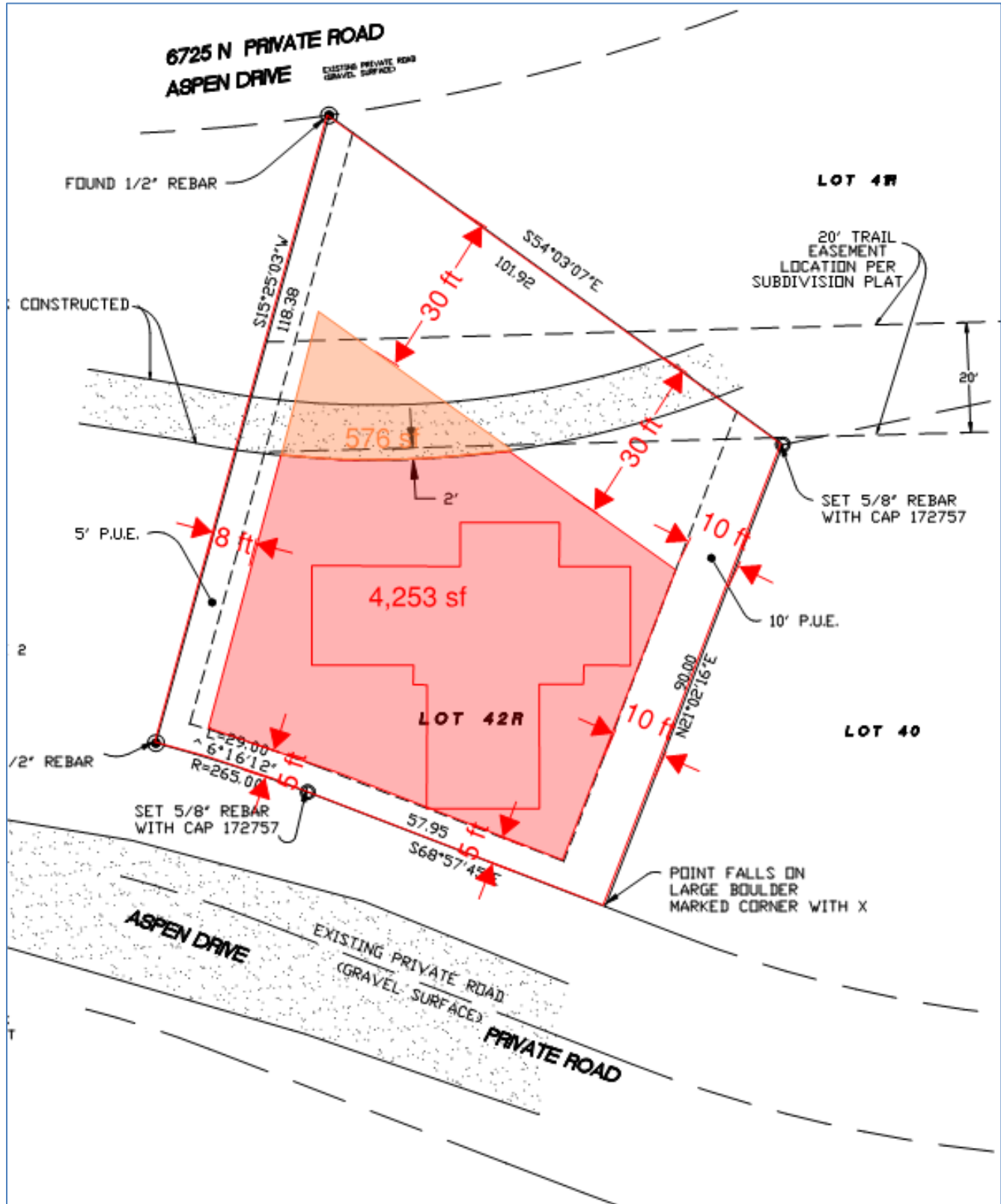


Exhibit D: 12-Foot Variance to Front Yard Setback (UPDATED REQUEST)

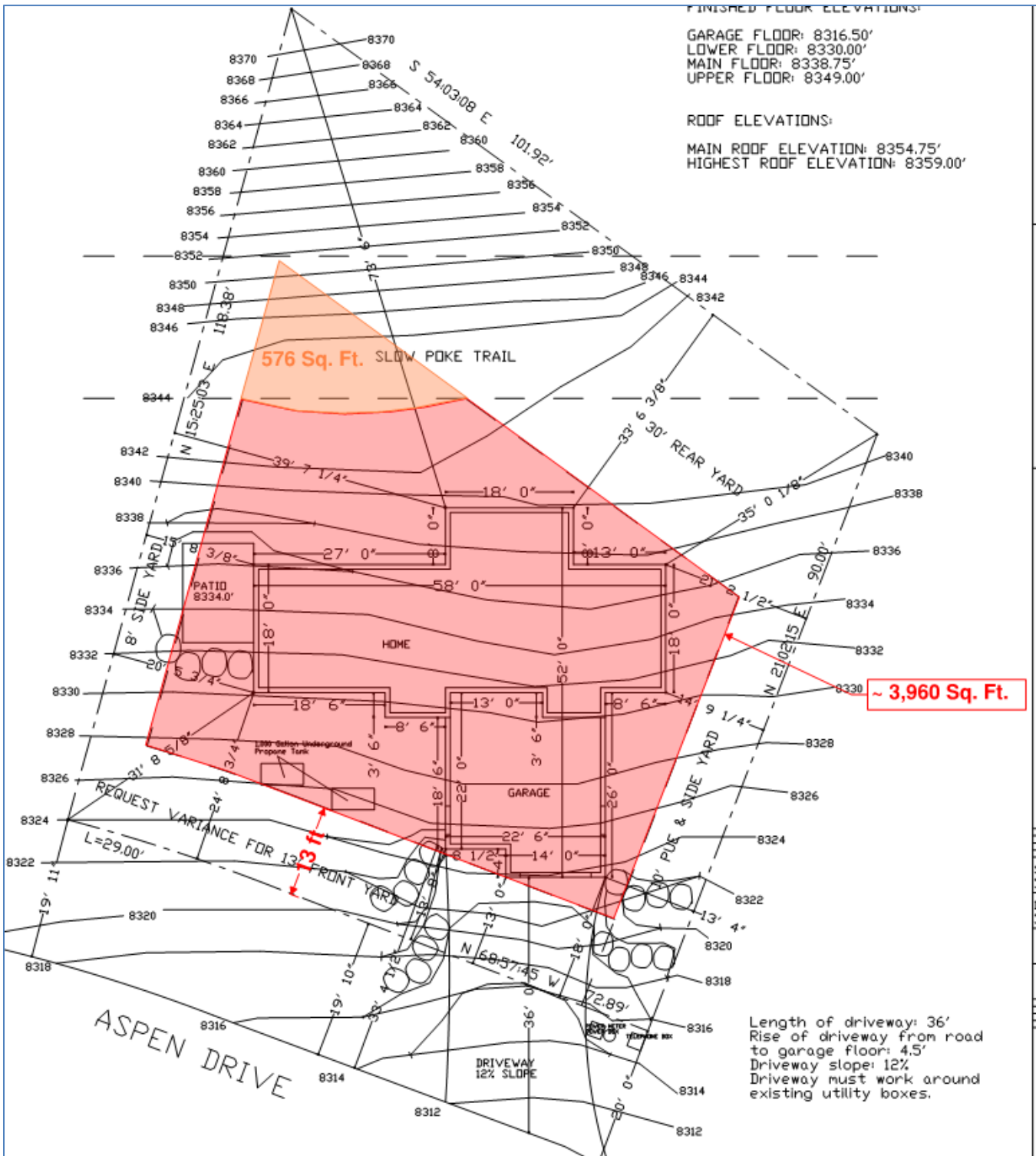


Exhibit E: 2021 Recorders Plat

PART OF SEC. 1, T.7N., R.1E., & SEC. 36, T.8N., R.1E., S.L.B.& M.
POWDER MOUNTAIN WEST SUBDIVISION – PHASE 2

IN WEBER COUNTY

TAXING UNIT: 90

SCALE 1" = 60'

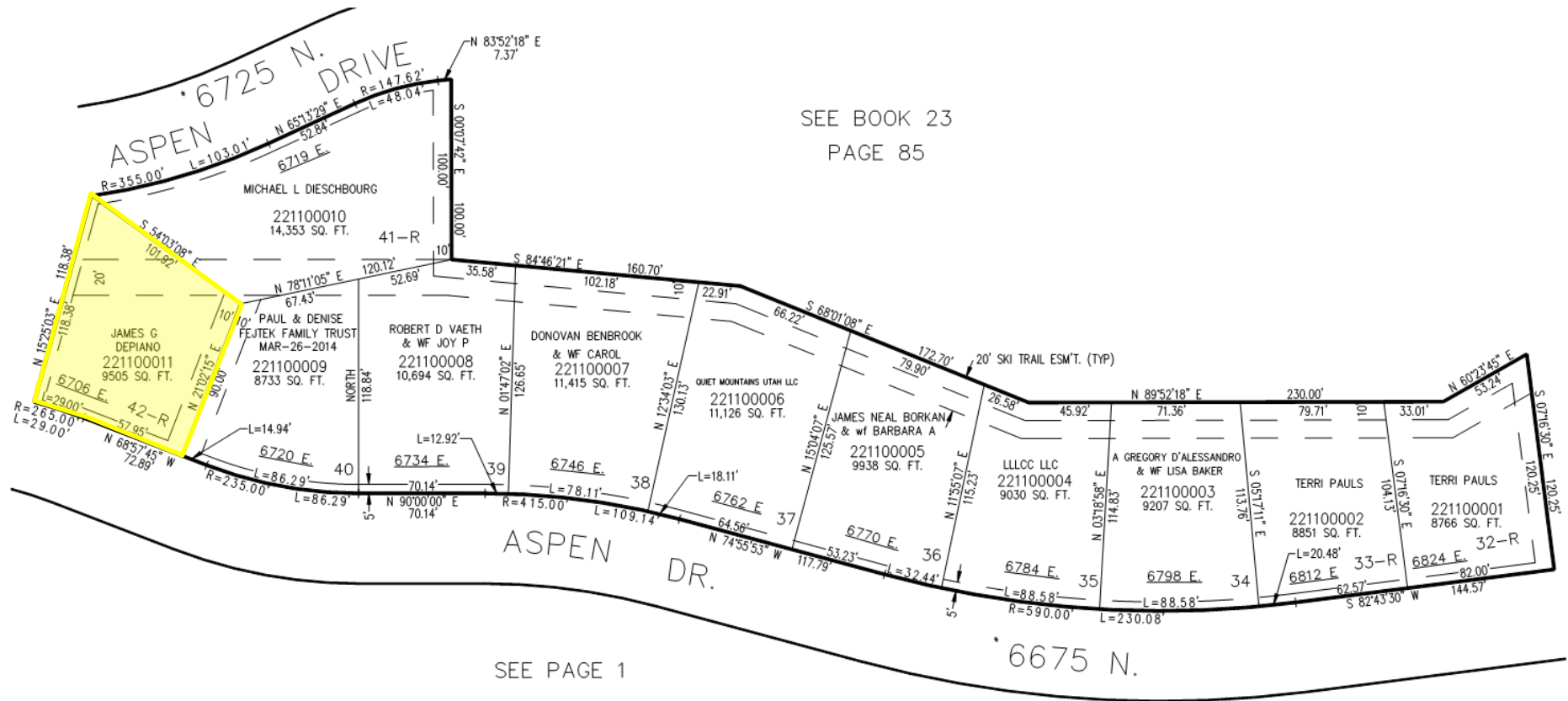


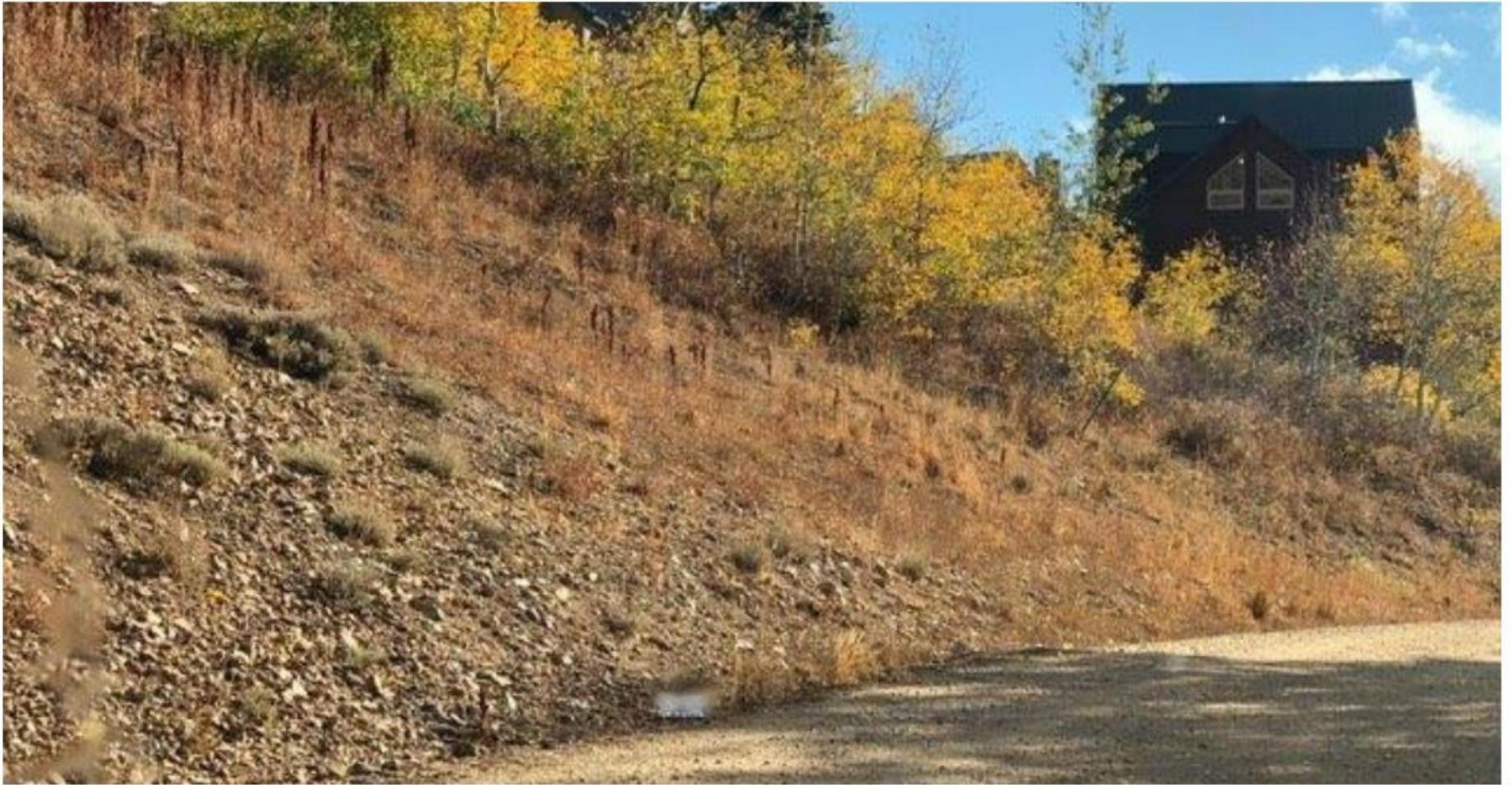
Exhibit F: Property Location Aerial Photo





Slow poke (ski trail only, not a road)

Aspen Drive



Lot 42 looking East from Aspen Drive



Slope and electric meter on eastern corner of lot



Lot 42 looking East

Slow Poke

Aspen Drive



House directly to the east of lot 42. Example of snow load on north side during heavy snow year.

Deplano Residence
 Parcel #221100011
 Lot #42-R Powder Mountain West
 6706 East 6675 North
 Eden, Utah

Area: 9,505 Sq. Ft.
 .21 Acres
 Scale: 1" = 8'

Property Line
 Building Setbacks

Zone FR-3

Main Building
 Front Setback: 25'
 Side Setback: 8' min 10' total
 Rear Setback: 30'
 Max Height: 35'

Accessory Building
 Side Setback: 8' (or 1' if 6' behind main building)
 Rear Setback: 1'
 Max Height: 25'

Note: All storm water and dirt will be kept on site during construction until final landscaping is done.

Note: Surface drainage shall be diverted to a storm sewer conveyance or other approved point of collection so as to not create a hazard. Lot shall be graded so as to drain surface water away from foundation walls. The grade away from the foundation walls shall fall a minimum of 6 inches within the first 10 feet (min. 5% slope).

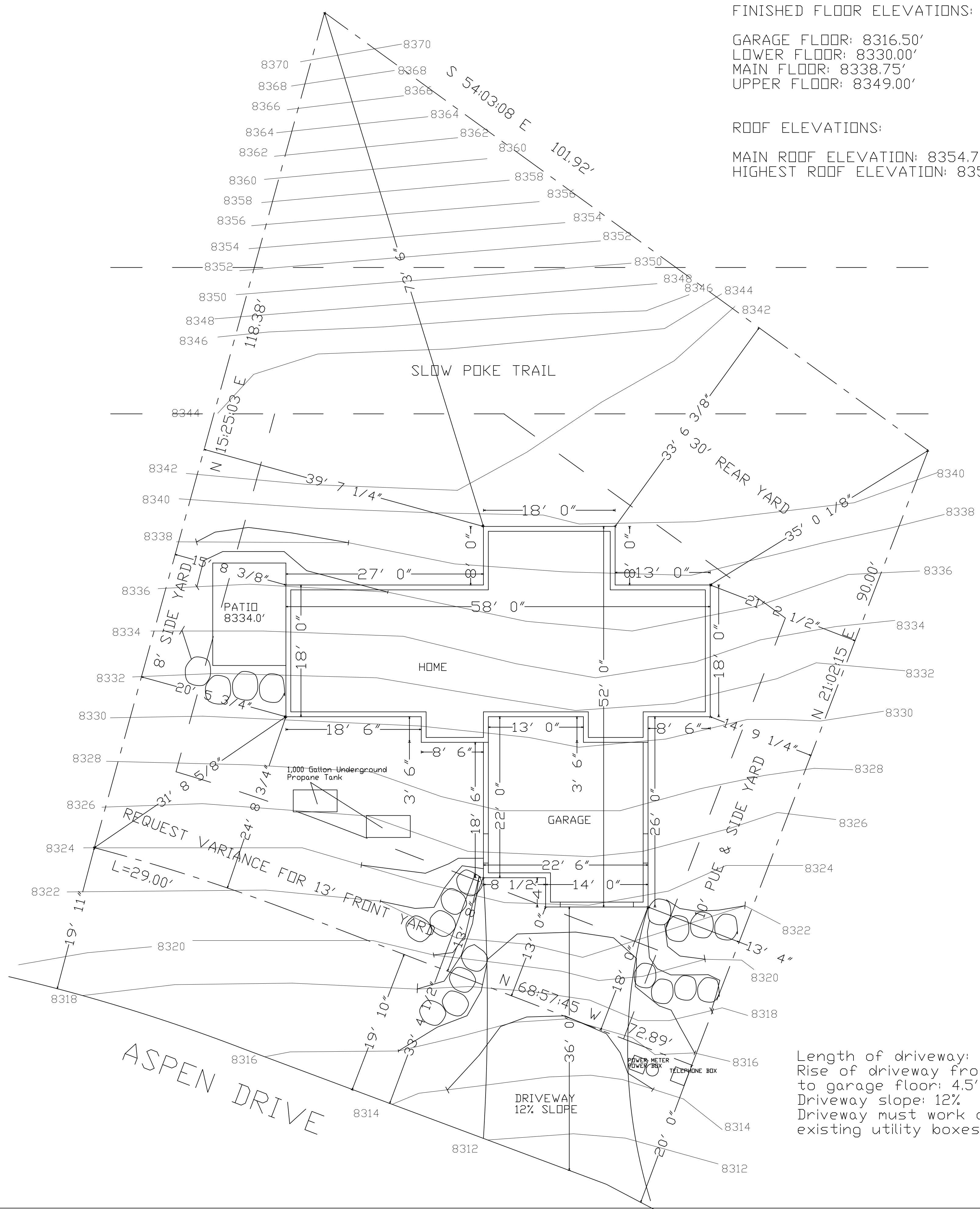
Note: The grade adjacent to all foundation walls shall fall a minimum of 6 inches within the first 10 feet (5% slope). R401.3 Landings, ramps, patios, porches or decks, which are required to be level or can have a maximum slope of 1/4" per foot. All other impervious surfaces within 10 feet of the foundation walls must slope a minimum of 1/4" per foot away from walls.

Note: Street, curb, and gutter will be inspected and cleaned of all mud and dirt at the end of every day.

Note: Gravel bags (or equivalent BMP) to be placed and maintained around any storm drain inlet adjacent to or immediately downstream from site during construction.

Note: Berms or swales may be required along property lines to prevent storm water flow onto adjacent lots. Final grading shall blend with adjacent lots.

Note: A lined concrete washout area must be provided at the site for all concrete, paint, stucco, or masonry work. Washout on the ground is prohibited.



FINISHED FLOOR ELEVATIONS:

GARAGE FLOOR: 8316.50'
 LOWER FLOOR: 8330.00'
 MAIN FLOOR: 8338.75'
 UPPER FLOOR: 8349.00'

ROOF ELEVATIONS:

MAIN ROOF ELEVATION: 8354.75'
 HIGHEST ROOF ELEVATION: 8359.00'

Length of driveway: 36'
 Rise of driveway from road to garage floor: 4.5'
 Driveway slope: 12%
 Driveway must work around existing utility boxes.

Homeowner:
 Jimmy & Ally DePiano

General Contractor:

DePiano Residence
 Lot #42 Powder Mountain West
 6706 East 6675 North
 Eden, Utah

SHEET NO:
 S101

DESCRIPTION:
 SITE PLAN

Scale: 1/8" = 1 Foot

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 Custom Home Solutions
 CreativeLinePlans.com
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 801 628-7041

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 Parcel #221100011
 Lot #42-R Powder Mountain West
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 Eden, Utah

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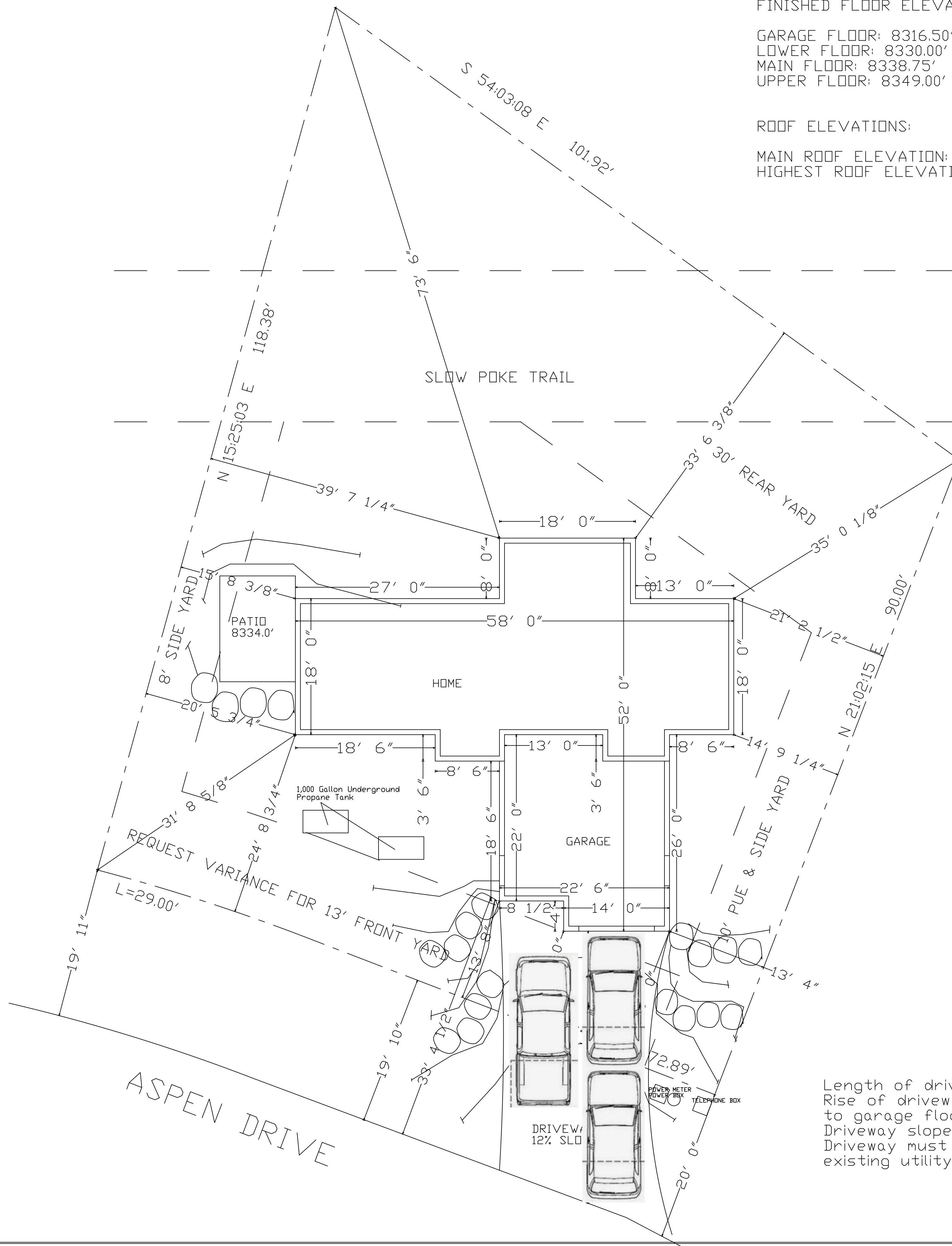
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 HIGHEST ROOF ELEVATION: 8359.00'



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 Rise of driveway from road to garage floor: 4.5'
 Driveway slope: 12%
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Homeowner:
 Jimmy & Ally DePiano

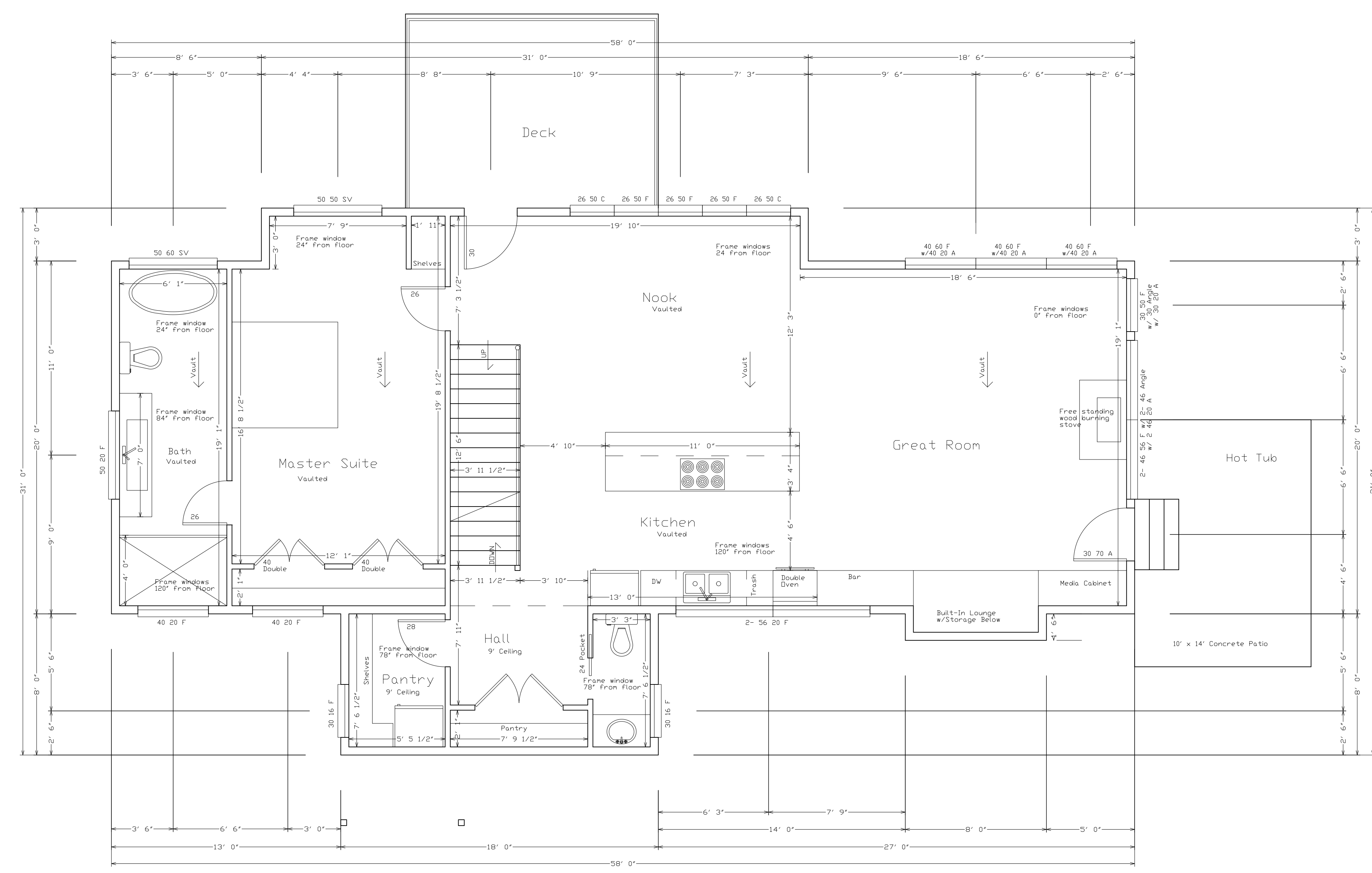
General Contractor:

DePiano Residence
 Lot #42 Powder Mountain West
 6706 East 6675 North
 Eden, Utah

SHEET NO:
 S101
 DESCRIPTION:
 SITE PLAN

Scale: 1/8" = 1 Foot

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Main Floor Plan Main Floor: 1408 Sq. Ft.

Homeowner:
Jimmy & Ally DePiano

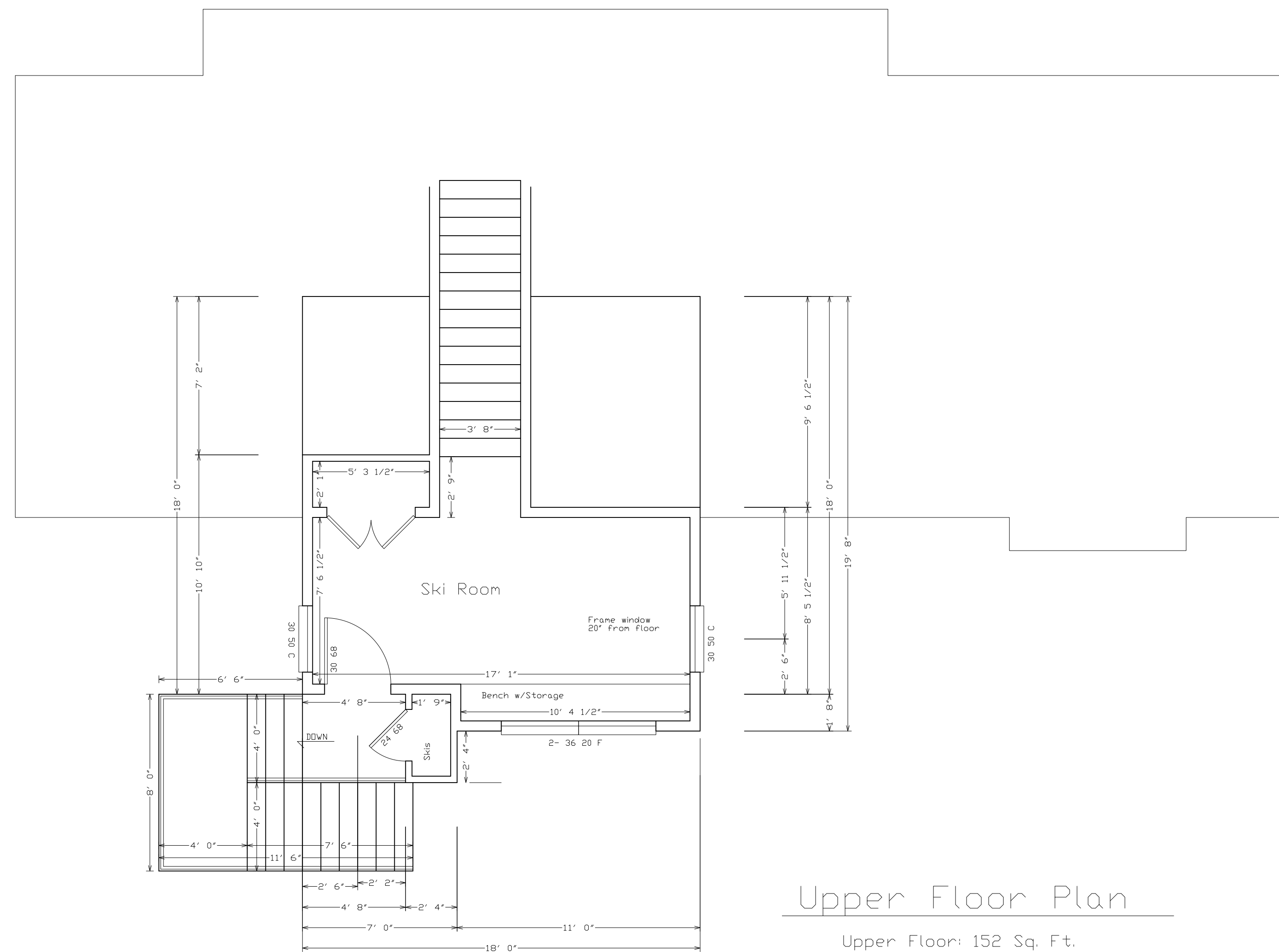
General Contractor:
Peterson Builders
Tyson DeMeyer

DePiano Residence
Lot #42 Powder Mountain West
6706 East 6675 North
Eden, Utah

SHEET NO:
A101
DESCRIPTION:
MAIN FLOOR PLAN

Scale: 1/4" = 1 Foot

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Upper Floor Plan
Upper Floor: 152 Sq. Ft.

Homeowner:
Jimmy & Ally DePiano

General Contractor:
Peterson Builders
Tyson DeMeyer

DePiano Residence
Lot #42 Powder Mountain West
6706 East 6675 North
Eden, Utah

SHEET NO:
A102

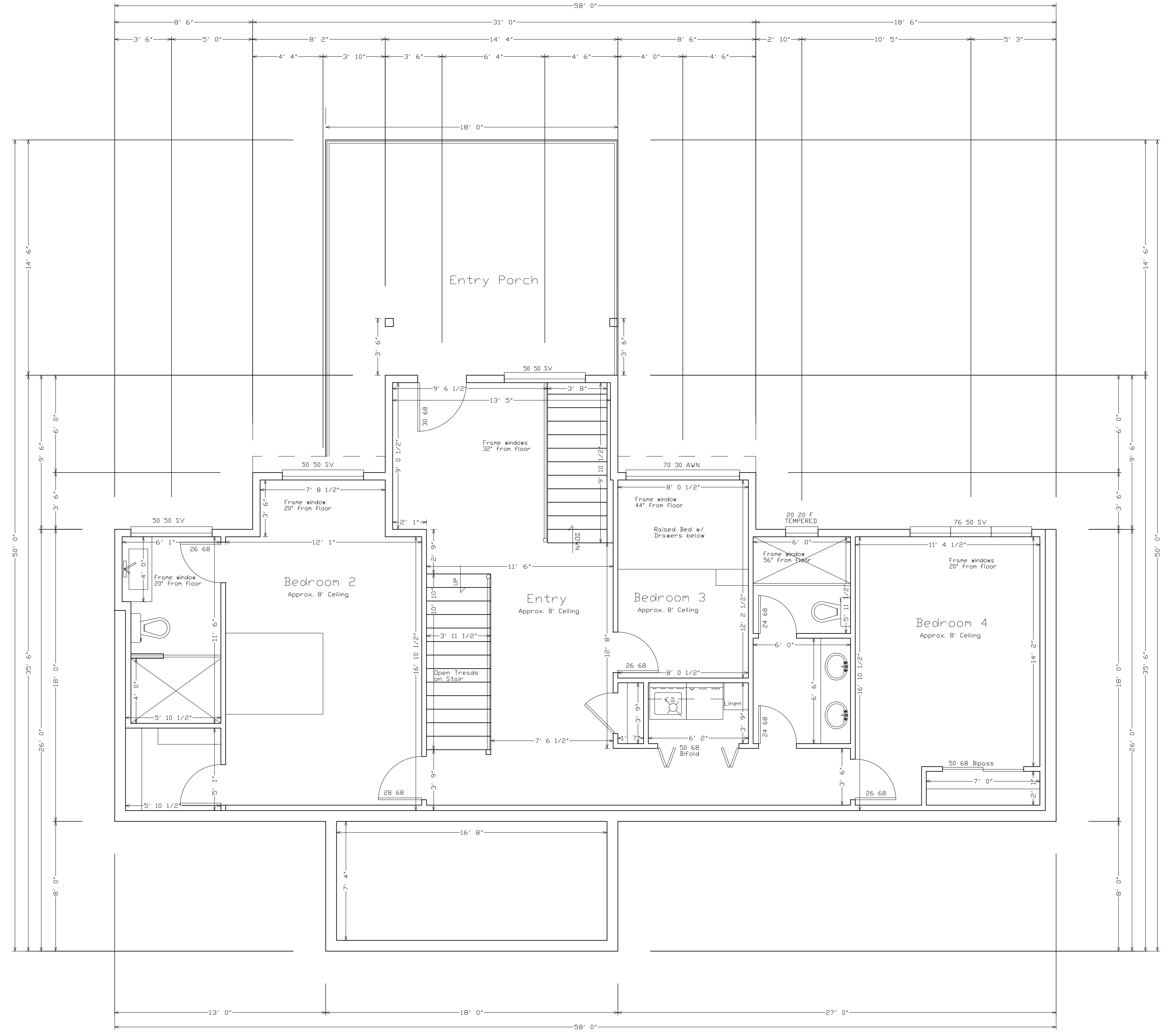
DESCRIPTION:
UPPER FLOOR PLAN

Scale: 1/4" = 1 Foot

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Lower Floor Plan Lower Floor: 1168 Sq. Ft.

Homeowner:
Jimmy & Ally DePiano

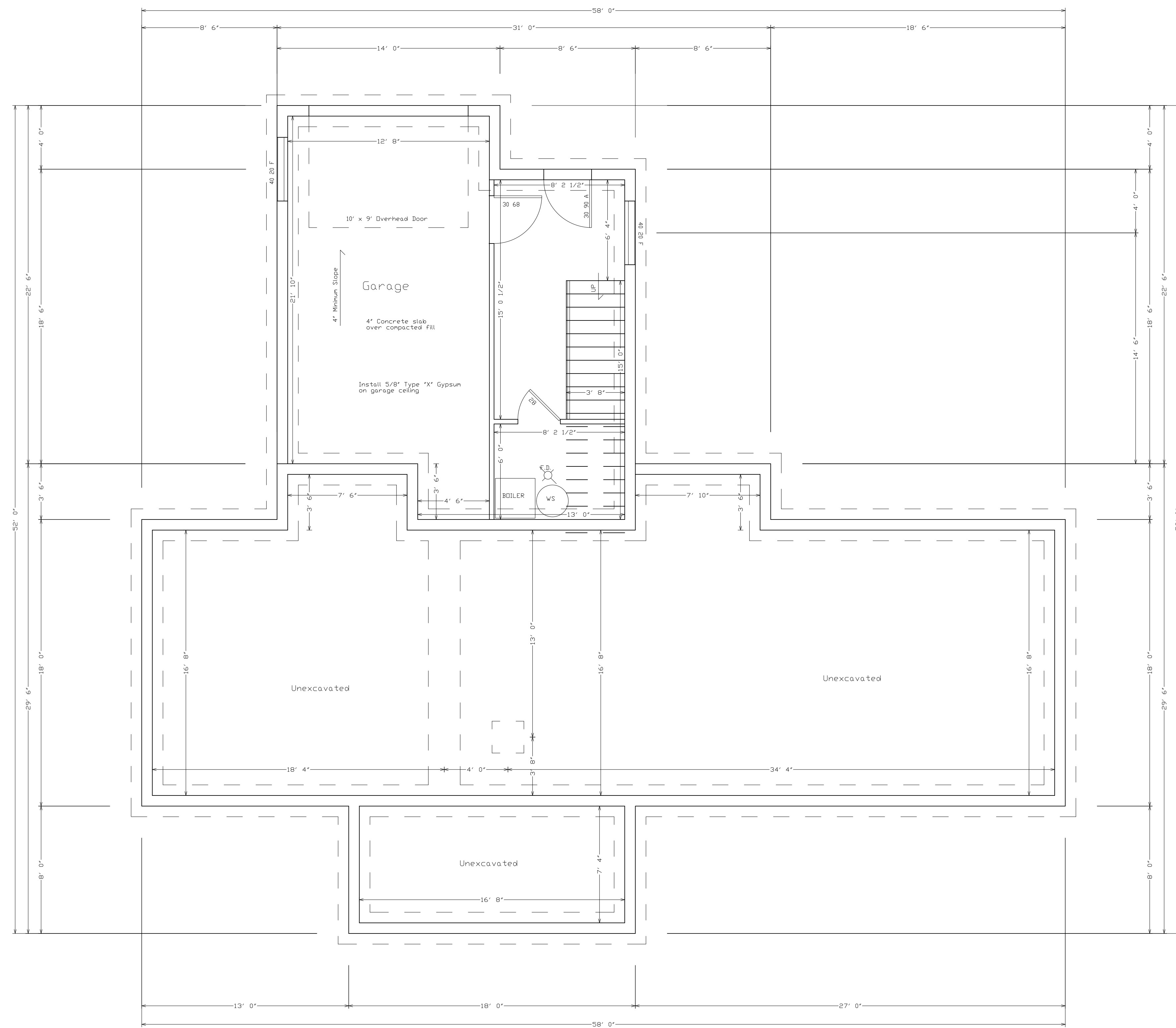
General Contractor:
Peterson Builders
Tyson DeMeyer

DePiano Residence
Lot #42 Powder Mountain West
6706 East 6675 North
Eden, Utah

SHEET NO:
A102
DESCRIPTION:
MAIN FLOOR PLAN

Scale: 1/4" = 1 Foot

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Garage Floor Plan Garage: 474 Sq. Ft.

Homeowner:
Jimmy & Ally DePiano

General Contractor:
Peterson Builders
Tyson DeMeyer

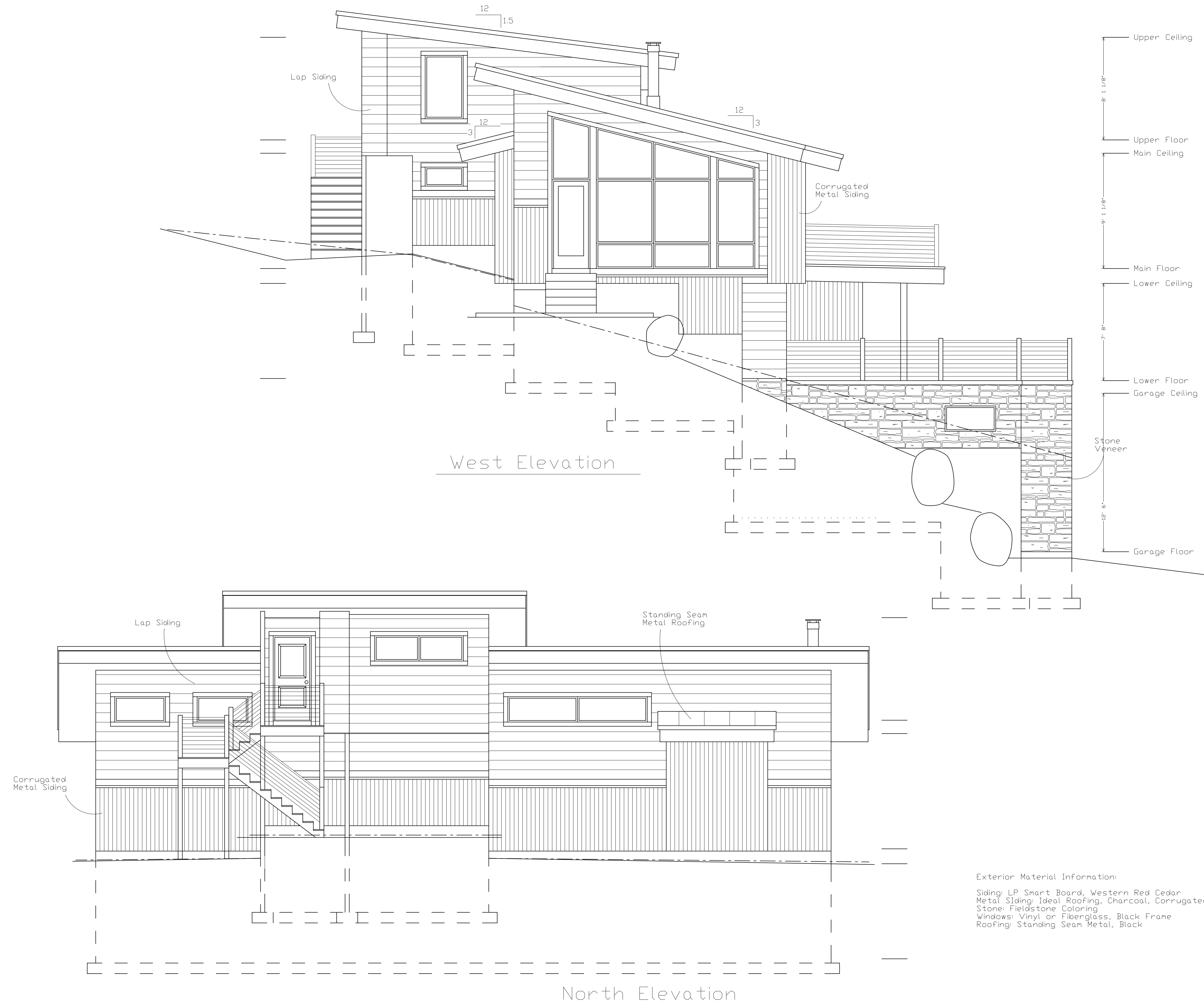
DePiano Residence
Lot #42 Powder Mountain West
6706 East 6675 North
Eden, Utah

SHEET NO:
A104
DESCRIPTION:
GARAGE FLOOR PLAN

Scale: 1/4" = 1 Foot

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Homeowner:
Jimmy & Ally DePiano

General Contractor:
Peterson Builders
Tyson DeMeyer

DePiano Residence
Lot #42 Powder Mountain West
6706 East 6675 North
Eden, Utah

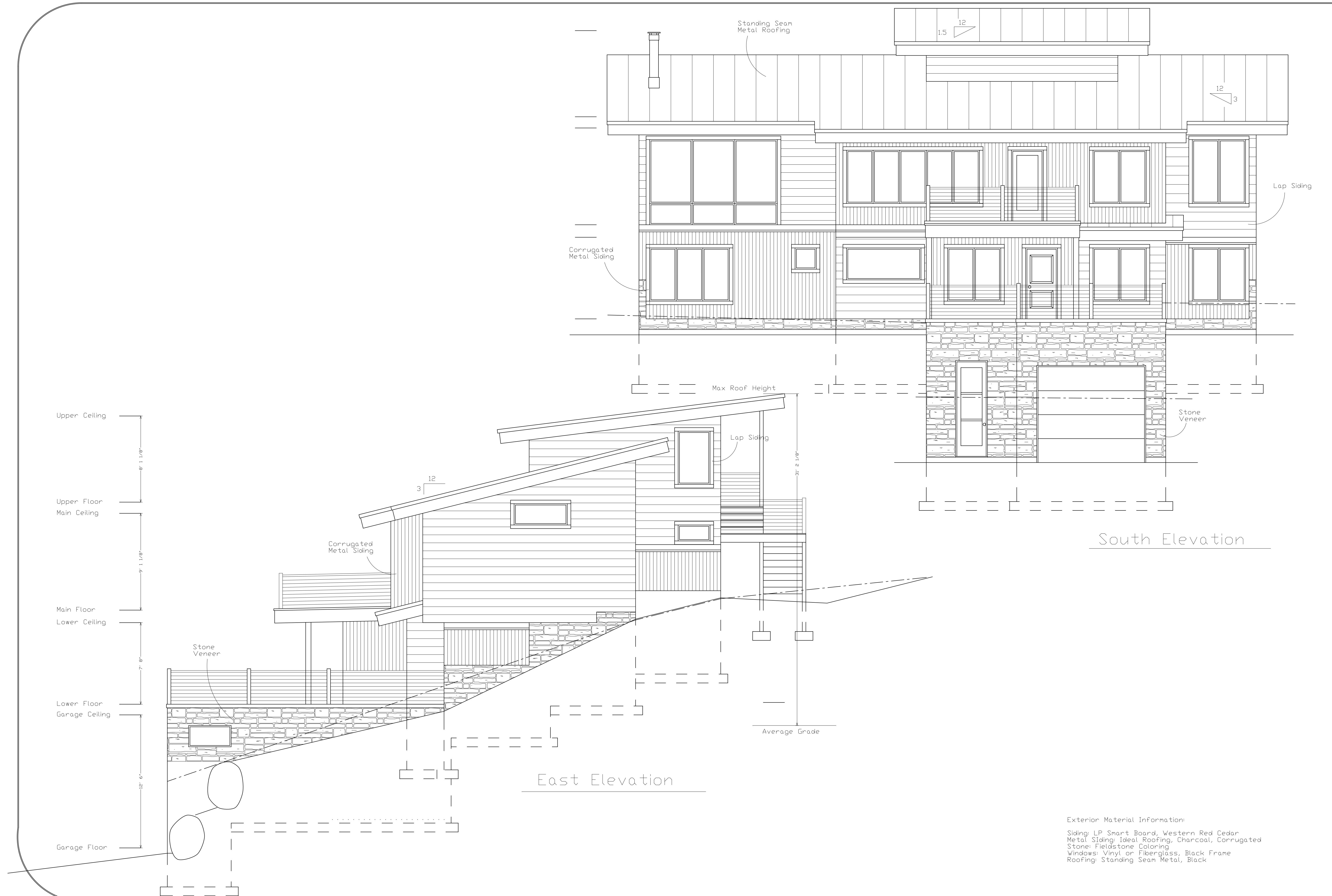
SHEET NO:
A201
DESCRIPTION:
EXTERIOR ELEVATIONS

Scale: 1/4" = 1 Foot

Exterior Material Information:
Siding: LP Smart Board, Western Red Cedar
Metal Siding: Ideal Roofing, Charcoal, Corrugated
Stone: Fieldstone Coloring
Windows: Vinyl or Fiberglass, Black Frame
Roofing: Standing Seam Metal, Black

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Homeowner:
Jimmy & Ally DePiano

General Contractor:
Peterson Builders
Tyson DeMeyer

DePiano Residence
Lot #42 Powder Mountain West
6706 East 6675 North
Eden, Utah

SHEET NO:
A202
DESCRIPTION:
EXTERIOR ELEVATIONS

Scale: 1/4" = 1 Foot

Exterior Material Information:
Siding: LP Smart Board, Western Red Cedar
Metal Siding: Ideal Roofing, Charcoal, Corrugated
Stone: Fieldstone Coloring
Windows: Vinyl or Fiberglass, Black Frame
Roofing: Standing Seam Metal, Black

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