



Staff Report

PLANNING DIVISION

DEPARTMENT of COMMUNITY and NEIGHBORHOODS

To: Salt Lake City Planning Commission
From: Caitlyn Tubbs, Principal Planner, caitlyn.tubbs@slcgov.com or 801-535-7706
Date: December 16, 2021
Re: Variance (PLNPCM2021-00873)

Variance

PROPERTY ADDRESS: 1022 South Windsor Street
PARCEL ID: 16-08-304-023-0000
MASTER PLAN: Central Community Master Plan
ZONING DISTRICT: R-1-5,000 Residential

REQUEST: Matt and Kathleen Wilson own the property located at 1022 South Windsor Street and they are requesting the approval of a variance to allow the expansion of the living area in the house's attic, within the required side yard setbacks.

VARIANCE RECOMMENDATION: Planning staff finds the project generally meets the applicable standards of approval for a variance and recommends the Appeals Hearing Officer approve the requested variance.

ATTACHMENTS:

- A. [Vicinity Map](#)
- B. [Site Photos](#)
- C. [Applicant Materials](#)
- D. [Variance Standards](#)
- E. [Public Process & Comments](#)
- F. [Department Review Comments](#)

PROJECT DESCRIPTION:

The subject property is a detached single-family home within the R-1-5,000 Residential Zoning District. The property owners seek to increase the amount of overall living space within their home and are seeking a variance to allow knee walls and dormers to encroach into the side yard setbacks.

The Applicants' property is located in a zone where properties are required to be a minimum size of 5,000 square feet and provide a minimum of fifty feet (50') of frontage along the street. The Applicants' property was legally platted as part of the Miller and Miller subdivision (Lot 24) but is only 3,920 square feet in size and twenty-five feet (25') in width which restricts their ability to construct a ground-level addition to increase their living area. Lot coverage maximums in the R-1-5,000 zoning district allow up to 40% of the lot size; a 5,000 square foot lot would be permitted 2,000 square feet of building envelope while the Applicants' lot is only allowed up to 1,568 which reduces the permitted building area by nearly a quarter.

The Applicant has proposed the addition of living space in the area currently occupied by the home's attic. Buildings in the R-1-5,000 with a pitched roof may be built to an overall height of twenty-eight feet (28'). The maximum wall height in the R-1-5,000 zoning district is twenty feet (20') at the required setbacks; the existing home is built nearly to the southern property line and is within the ten

foot (10') northern setback. The Applicants have proposed the construction of dormers within these areas to maximize the amount of living space in the attic. These dormers would encroach into both side yard setbacks (shown in the diagram to the right).

VARIANCE STANDARDS OF REVIEW:

Standards of review for variances are very strict, both in Salt Lake City's ordinances and within Utah State Statute. A full analysis of each of the standards of review for variances may be found in Attachment D.

In the consideration of variances the first requirement is that the requested variance is not prohibited, meaning the variance:

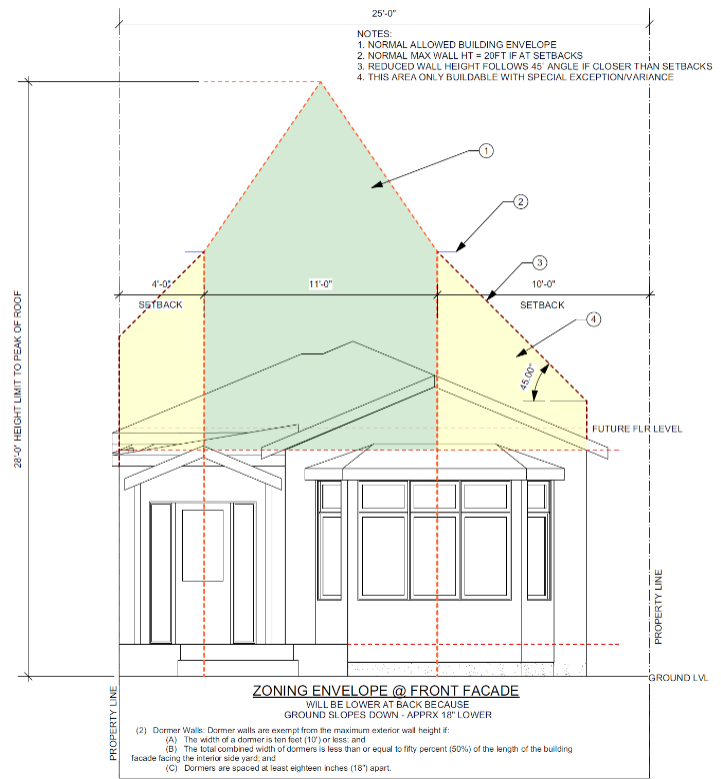
- Cannot be of a temporary nature; all relief given must be for a permanent solution,
- Cannot be greater than the minimum amount of relief needed to address the hardship, and
- Cannot be a "use" variance.

The proposed variance is permanent in nature because the homeowners are looking to construct additional living space in the current attic area. The Applicants are asking for the minimal amount of relief in that they are asking to be allowed to have dormer windows which will project into the required 10' and 4' side yard setbacks (see rendering to the right). The entirety of the construction is not going to take place within the setback, only the projection of the dormer windows and the slope of the roof. Finally, the request is not for a use variance because the owners are looking to increase the size of an existing (and permitted) land use within the R-1-5,000 zoning district.

The following are the remaining standards for approval of a variance. Staff's analysis and findings related to these standards is located in Attachment D

- Literal enforcement of this title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of Title 21,
- There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district,
- Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district,
- The variance will not substantially affect the general plan of the city and will not be contrary to the public interest, and
- The spirit of this title is observed and substantial justice done.

The general purpose of Title 21 of Salt Lake City's ordinances is to protect the public health, safety, and welfare as well as to guide the development of the built environment. Literal



enforcement of the side yard setback standards is unnecessary because the existing single-family dwelling already projects substantially into the setbacks. The underlying zoning district (R-1-5,000) requires a minimum lot size of 5,000 square feet and fifty feet (50') of lot width and frontage but the property does not meet these minimum dimensional requirements. Although these requirements aren't met the lot is a legal building lot recorded in the Miller & Miller subdivision (Lot 24). Other lots in the surrounding neighborhood meet the minimum dimensional standards and would be able to fit additional living space onto the lot without needing relief.

The R-1-5,000 zoning district also has a maximum lot coverage of 40%; lots meeting the minimum dimensional standards would be allowed approximately 25% more building space than the subject property qualifies for. The Applicant has submitted an opinion from the Utah State Ombudsman that developing or improving upon one's property is a substantial property right and the owners assert without the granting of a variance this right would be infringed upon.

In determining whether a hardship or a peculiar situation exists on the property the following standards apply:

- The alleged hardship is related to the size, shape or topography of the property for which the variance is sought, and
- The alleged hardship comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.

The Applicant is asking for relief from the side yard setback requirements which are directly affected by the lot's narrow width and small size. While the subject property certainly isn't the only property in the R-1-5,000 zoning district or the greater neighborhood to be smaller than the minimum lot size it is an uncommon occurrence. The homeowners' asserted hardship is not economic (cost-prohibitive or unaffordable) in nature nor is it self-imposed; the lot existed in its current size and shape prior to the owners' purchase.

APPEALS HEARING OFFICER NEXT STEPS:

Granting of Variance

If the requested variance is granted the homeowners will be able to proceed through the building permit process to add additional living space to their home within the side yard setbacks.

Denial of Variance

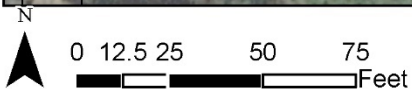
If the requested variance is denied the Applicants would need to modify their additional living space design or would not be able to proceed with making the proposed improvements to their home.

ATTACHMENT A – VICINITY MAP

Vicinity Map



Salt Lake City Planning Division 11/29/2021



ATTACHMENT B – SITE PHOTOGRAPHS



Figure 1: View of subject property looking west from Windsor Street.



Figure 2: View of neighboring properties looking northeast from Windsor Street.



Figure 3: View of neighboring properties looking northwest from Windsor Street.



Figure 4: View of neighboring properties looking southeast from Windsor Street.



Figure 5: View of neighboring property looking southwest from Windsor Street.

ATTACHMENT C – APPLICANT MATERIALS

Wilson Variance Application

1. Project Description

Our project would change our roof line to allow for attic living space. To develop and improve our house, we have designed dormers to provide functional living space. These dormers do not exceed 10' in length, nor do they exceed 50% of the length of the structure. The premise was to create usable space in the roof and only ask for the minimum of a variance. We used dormers because they are allowed some flexibility in the code while keeping the scale down. We meet all the height requirements for building and for wall heights.

2. Variance information

- a. Project description, specifically how it does not meet requirements: The walls of the dormers that we designed do not meet the setback requirements (10' and 4' from neighboring property). In addition, there are some low knee walls that fall under the roof slope that do not meet the setbacks. These walls do meet the 45 degree height reduction called out in the code.
- b. The ordinance referencing setbacks: *21A.24.070: R-1/5,000 SINGLE-FAMILY RESIDENTIAL DISTRICT:E. Minimum Yard Requirements:3. Interior Side Yard:b. Interior lots: Four feet (4') on one side and ten feet (10') on the other.*
We do meet overall building height as well as exterior wall height requirements.
- c. Our lot is 25' wide and only 3925 SF in area. In addition, the maximum lot coverage of 40% would only allow us an addition at ground level of 80 SF based on the current footprint of the house, shed, and garage. This is not practical.
- d. Our case relies, in part, on the assumption that the following is true, "As for substantial property rights, the right to develop and install improvements on your property is a quintessential property right, so if other properties in your neighborhood have a right to add to their homes, and the only reason why you cannot do the same is some unique characteristic of your property..." (Richard Plehn, Utah State Ombudsman). The Zoning Ordinance assumes a typical lot is 50' wide. The literal reading of the setback rule prohibits any substantive change to our property for the purpose of improving our house, limiting us to an 11' wide corridor of space in which to build. This limitation can be considered denying a "substantial property right," because other properties with similarly narrow lots on our block have made the type of improvements we are seeking to make (1023 S 800 E and 1025 S 800 E). Understanding that a variance should only be granted if "it is not greater than the minimum variation necessary to relieve the unnecessary hardship demonstrated by the applicant," we have prioritized

staying within the allowable building envelope, asking only for a setback variance related to the construction of dormers which we submit is part of our “right to develop and install improvements on (our) property”. Again, our neighbors have been approved for similar projects.

- e. Our lot is 25’ wide. We are not the only lot less than 50’ in our zoning area however, several of these other houses have made improvements similar to the ones we are proposing. These referenced improvements had city approval in the past (I can provide stamped plans from neighbors who are pertinent to our case).
- f. Similarly narrow neighboring properties have made improvements similar to what we are proposing.
- g. We are not asking for a variance in wall or building height. The facade and character of our house will remain in keeping with the other houses on our street and, after sharing our plans with each adjacent neighbor, we have their support to proceed (Exhibit A).
- h. The spirit of the zoning ordinances and the City Master Plan is that building construction in the relevant zone “(is) intended to be compatible with the existing scale and intensity of the neighborhood. The standards for the district are intended to provide for safe and comfortable places to live and play, promote sustainable and compatible development patterns and to preserve the existing character of the neighborhood.”(21A.24.070: R-1/5,000 SINGLE-FAMILY RESIDENTIAL DISTRICT:) Our proposed project is compatible with the scale and intensity of the neighborhood. We understand this also to prioritize minimizing the negative impact on neighboring properties by limiting exterior wall height and height of the overall structure. Our project adheres to these limits and also complies with the language regarding dormers:
“(2) Dormer Walls: Dormer walls are exempt from the maximum exterior wall height if:
 - (A) The width of a dormer is ten feet (10') or less; and
 - (B) The total combined width of dormers is less than or equal to fifty percent (50%) of the length of the building facade facing the interior side yard; and
 - (C) Dormers are spaced at least eighteen inches (18") apart.”(21A.24.070: R-1/5,000 SINGLE-FAMILY RESIDENTIAL DISTRICT:)

Exhibit A-1

To be signed by neighbors to the North, South, East and West:

To whom it may concern,

I/We have reviewed the plans for the Wilson remodel and give my/our support for their project to go ahead with no concerns.

Printed name: Pamela Stone

Address: 1018 So. Windsor St. SLC, UT 84105

Signature: Pamela Stone

Exhibit A-2

To be signed by neighbors to the North, South, East and West:

To whom it may concern,

I/We have reviewed the plans for the Wilson remodel and give my/our support for their project to go ahead with no concerns.

Printed name: Maria Estrada R.

Address: 1024 Windsor Street . SLC. UT 84105

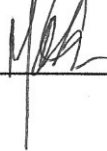
Signature: 

Exhibit A-3

To be signed by neighbors to the North, South, East and West:

To whom it may concern,

I/We have reviewed the plans for the Wilson remodel and give my/our support for their project to go ahead with no concerns.

Printed name: Annie Keller - Miguel, esq.

Address: 1019 S. Windsor St, SLC, UT 84105

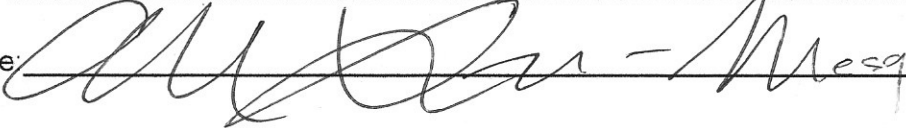
Signature:  - Mesq

Exhibit A-4


To be signed by neighbors to the North, South, East and West:

To whom it may concern,

I/We have reviewed the plans for the Wilson remodel and give my/our support for their project to go ahead with no concerns.

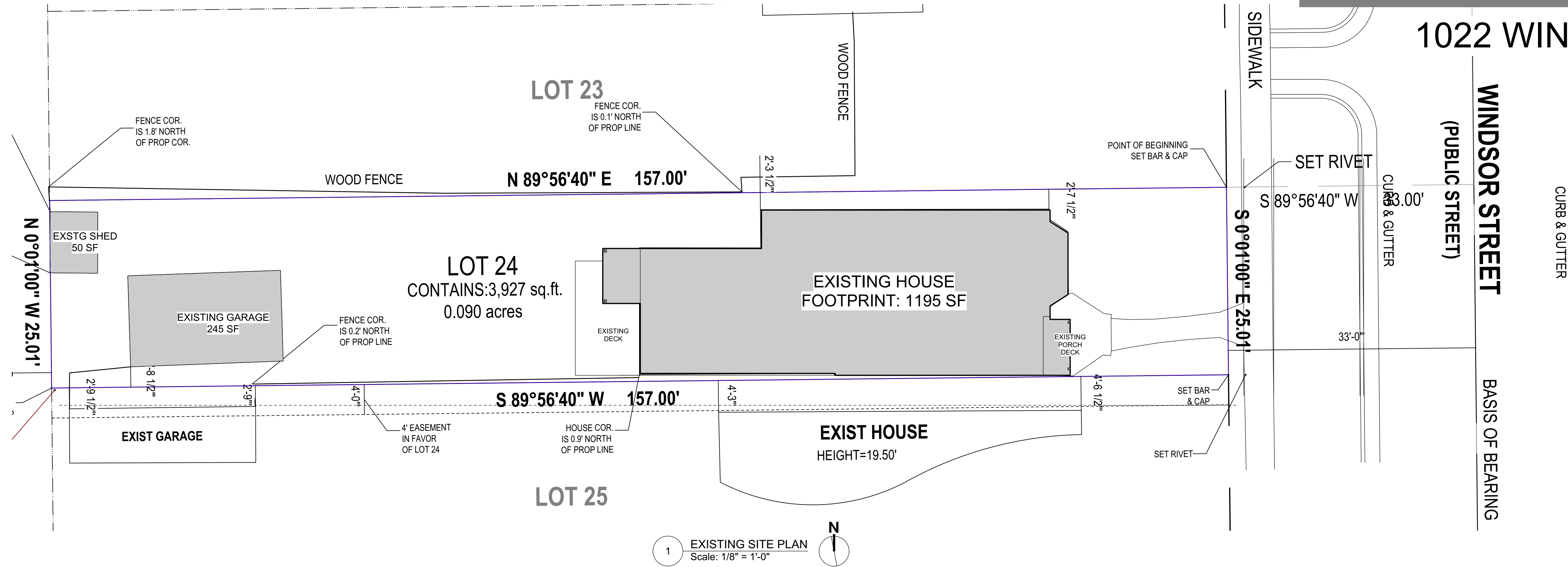
Printed name: NATALIE J. ANNEN

Address: 1023 S. BOOKE. SLC. UT 84105

Signature: 

WILSON ATTIC REMODEL

1022 WINDSOR, SLC, UT



ZONING

R-1-5000

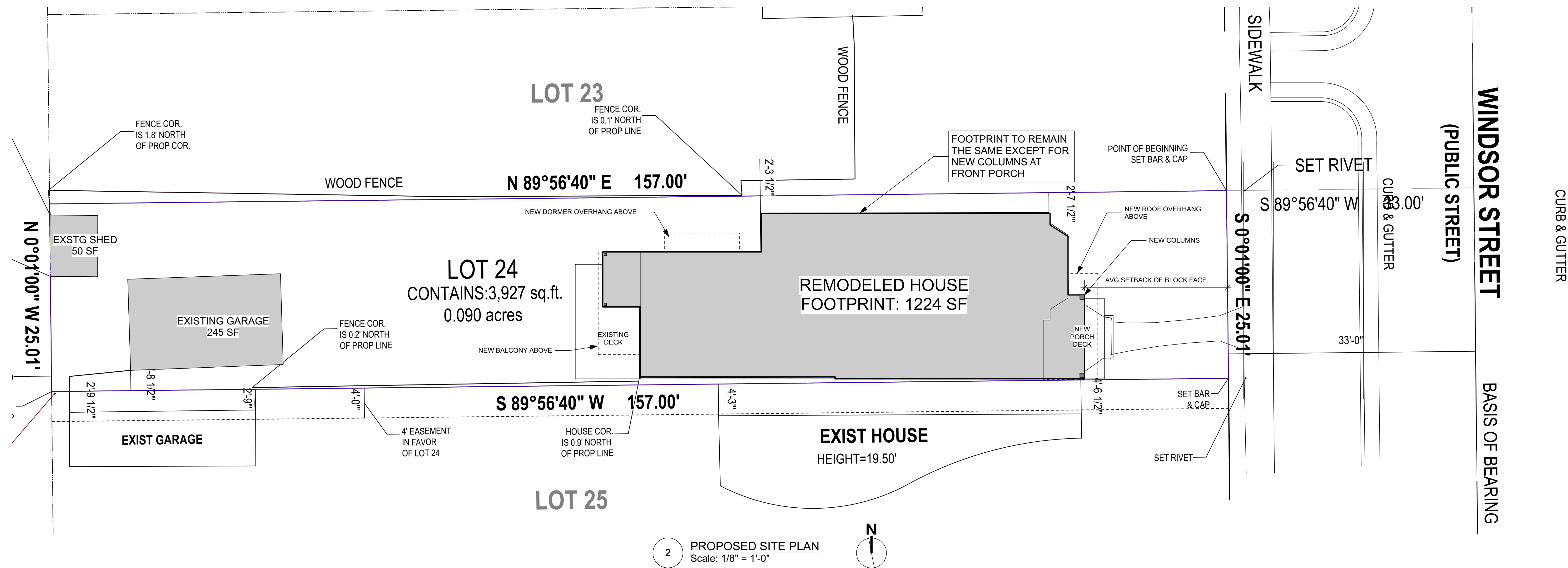
SETBACKS:
SIDE: 4FT, 10FT
FRONT: AVERAGE OF BLOCK FACE
REAR: 20FT

MAX ROOF HEIGHT: 28FT

MAX LOT COVERAGE: 40%

157 x 25 = 3925 SF
40% MAX LOT COVERAGE = 1570 SF

HOUSE: 1195
GARAGE: 245
SHED: 50
TOTAL = 1490 SF
REMAINDER = 80 SF



SHEET INDEX (VARIANCE REQUEST)

- A101 SITE PLANS
- A102 PARAMETERS AND EXISTING ELEVS
- A103 PROPOSED FLOOR PLANS
- A104 PROPOSED ELEVATIONS
- A105 SECTIONS
- A106 RENDERINGS



No.	Date	Revision Notes	Zone	Approvals	No.	Date	Issue Notes

Design Firm
NEWELL STUDIO, INC.
1234 S 900 E
SALT LAKE CITY UT 84105
P:801.842.7375 john@newellstudio.net

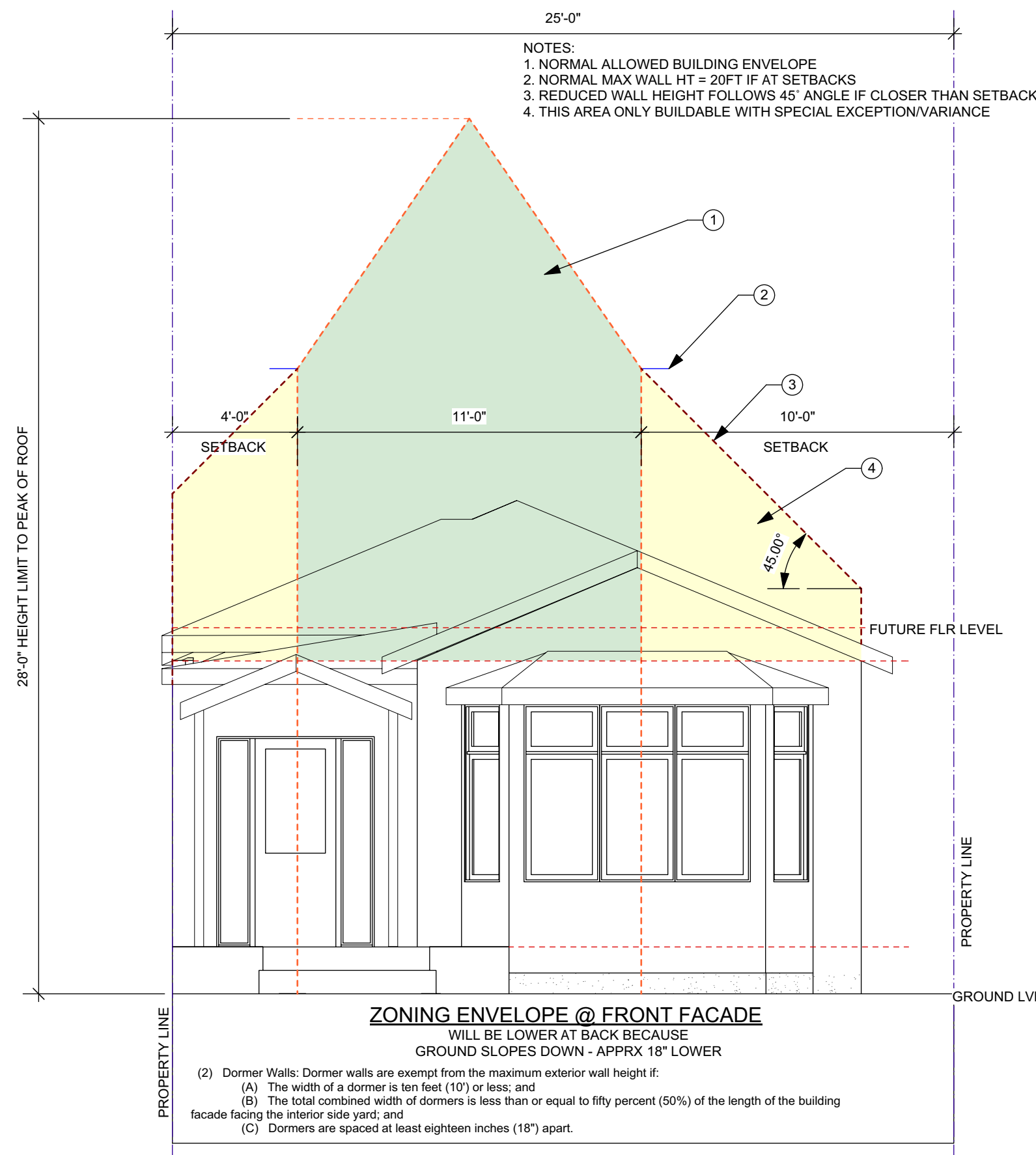
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WILSON REMODEL
1022 S WINDSOR
SLC, UT

Drawing Title
VARIANCE REQUEST

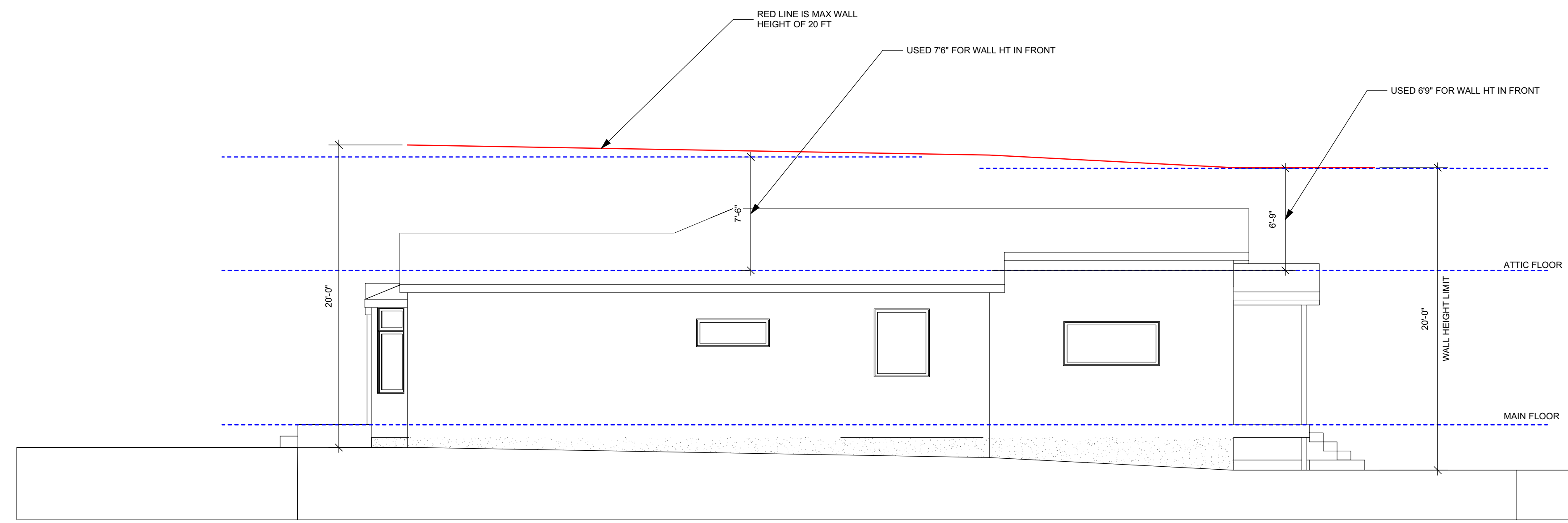
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Reviewed By
Date
7.14.21
CAD File Name

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Drawing No.
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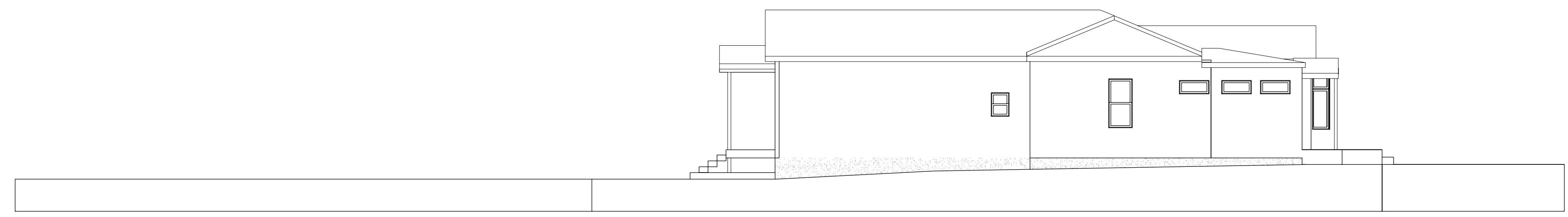
1 ZONING ENVELOPE
 Scale: 1/4" = 1'-0"



2 ESTABLISHING NEW WALL HEIGHTS
 Scale: 3/16" = 1'-0" NORTH ELEVATION

1. PROPOSED ATTIC WALLS AT SETBACKS OF 4FT AND 10FT WERE ESTABLISHED TO HAVE TWO DIFFERENT WALL HEIGHTS THAT MEET THE 20FT MAXIMUM. 6'9" AT THE REAR OF THE HOUSE AND 7'6" AT FRONT OF THE HOUSE
2. KNEE WALLS UNDER THE ROOFS FOLLOWED A 45 DEGREE REDUCTION TO ESTABLISH THEIR HEIGHTS. SEE ALSO 4/A105
3. DORMER WALLS ARE EXEMPT FROM MAXIMUM WALL HEIGHT IF FOLLOWING THE THREE PARAMETERS IN THE CODE WHICH WE DO FOLLOW

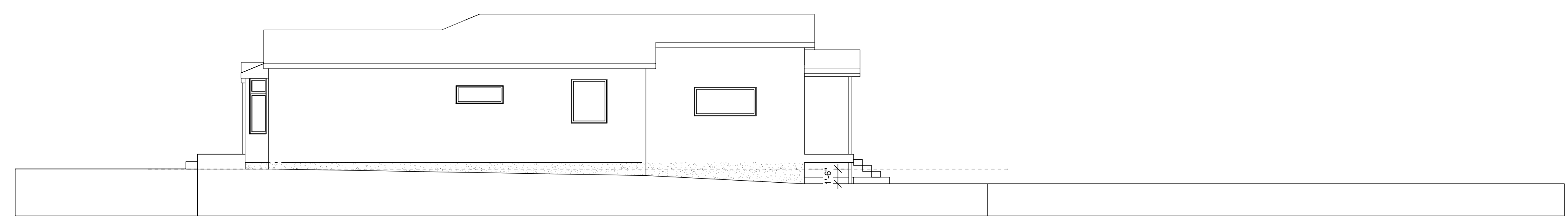
MORE DETAILED INFORMATION WILL BE PROVIDED AT TIME OF BUILDING PERMIT APPLICATION TO PROVE WE MEET THESE GUIDELINES.



3 EXISTING SOUTH ELEVATION
 Scale: 1/8" = 1'-0"



4 EXISTING EAST ELEVATION
 Scale: 1/8" = 1'-0"



5 EXISTING NORTH ELEVATION
 Scale: 1/8" = 1'-0"



6 EXISTING WEST ELEVATION
 Scale: 1/8" = 1'-0"



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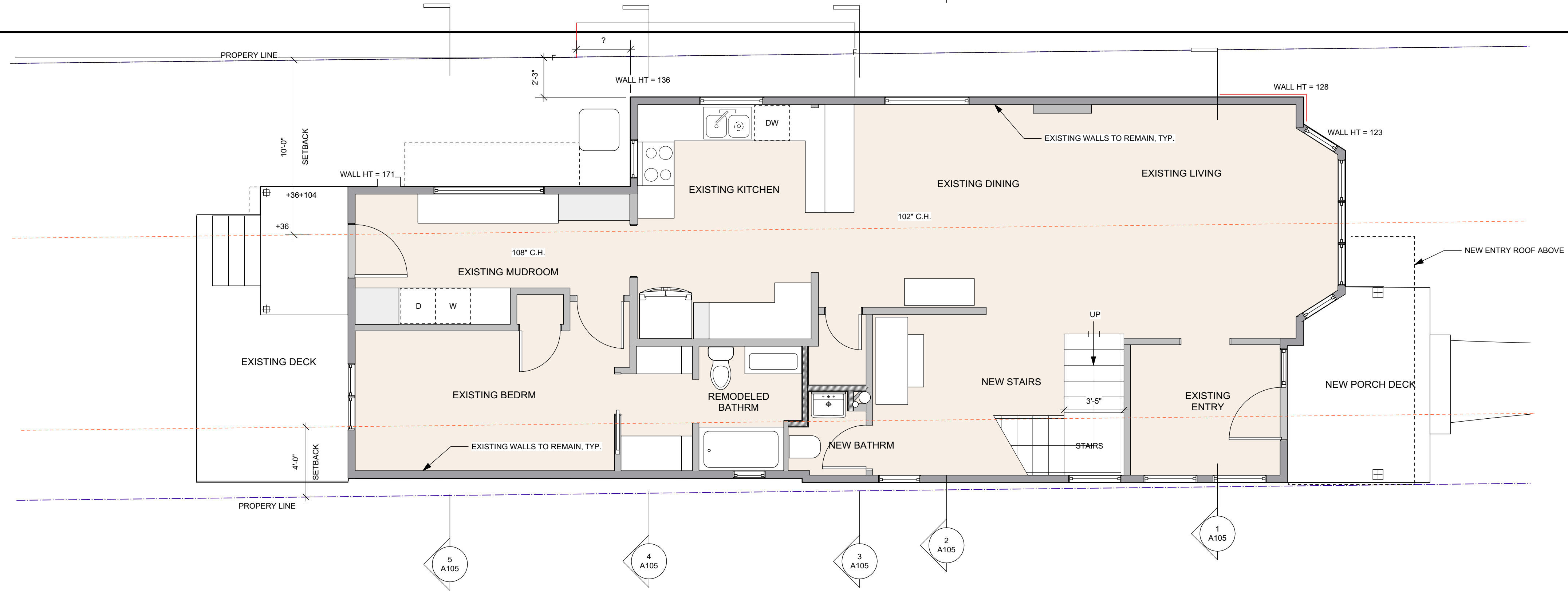
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WILSON REMODEL
 1022 S WINDSOR
 SLC, UT

Drawing Title
VARIANCE REQUEST

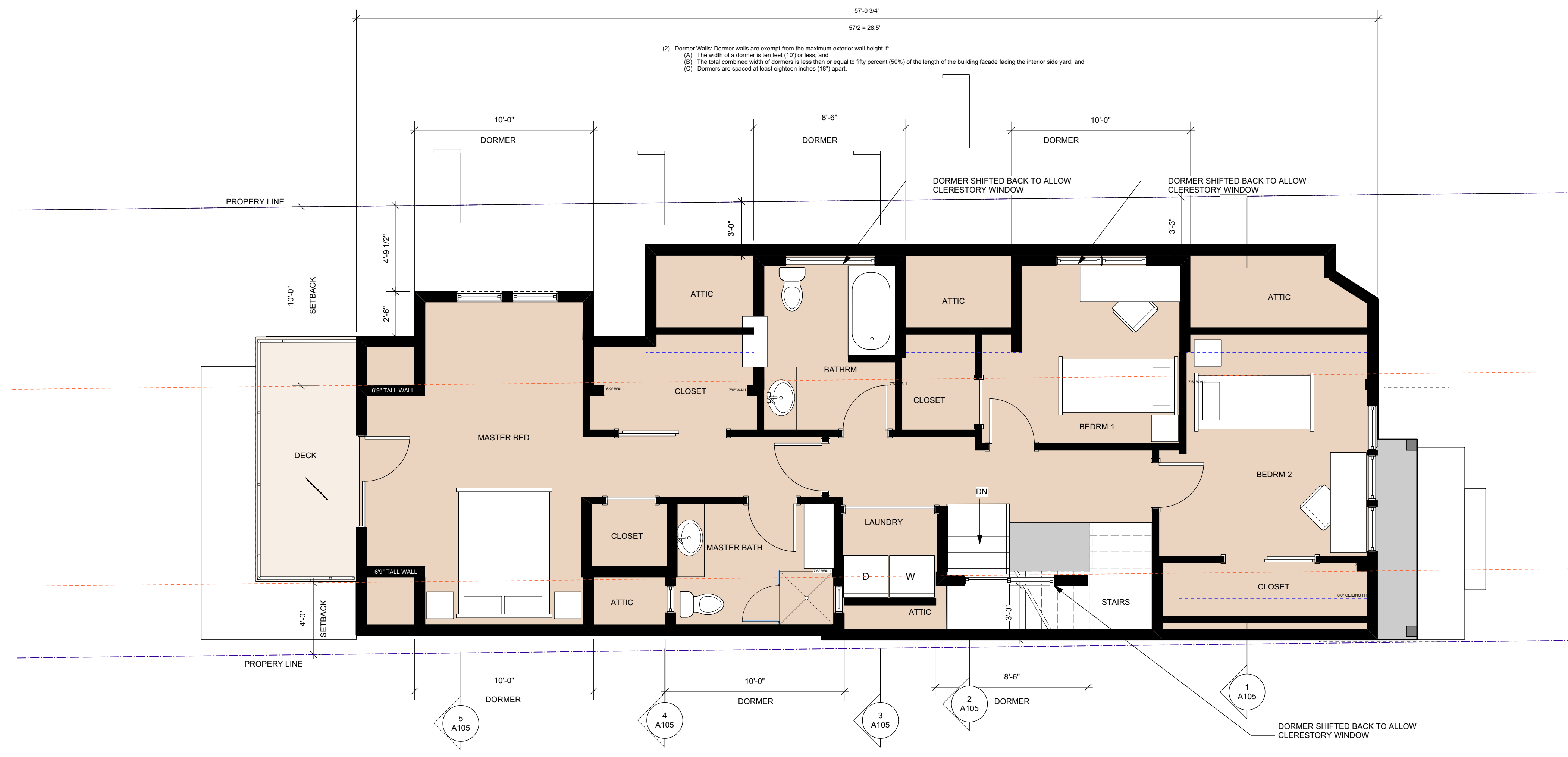
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 Date
 7.14.21
 CAD File Name

Scale
 Drawing No.
A102

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1 PROPOSED MAIN LEVEL
Scale: 1/4" = 1'-0"



2 PROPOSED ATTIC LEVEL
Scale: 1/4" = 1'-0"



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 Consultant

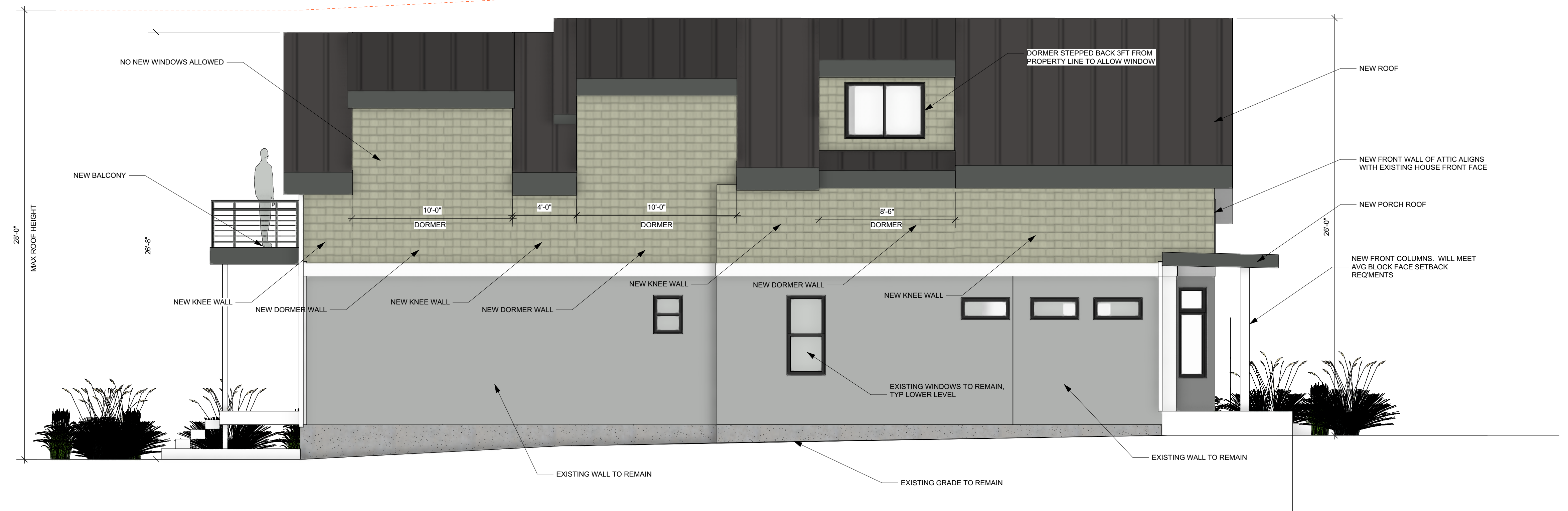
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WILSON REMODEL
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VARIANCE REQUEST

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A103
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 Drawing No.

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1 PROPOSED EAST ELEVATION
Scale: 1/4" = 1'-0"



2 PROPOSED SOUTH ELEVATION
Scale: 1/4" = 1'-0"



3 PROPOSED NORTH ELEVATION
Scale: 1/4" = 1'-0"



4 PROPOSED WEST ELEVATION
Scale: 1/4" = 1'-0"



No.	Date	Revision Notes	Zone	Approvals	No.	Date	Issue Notes

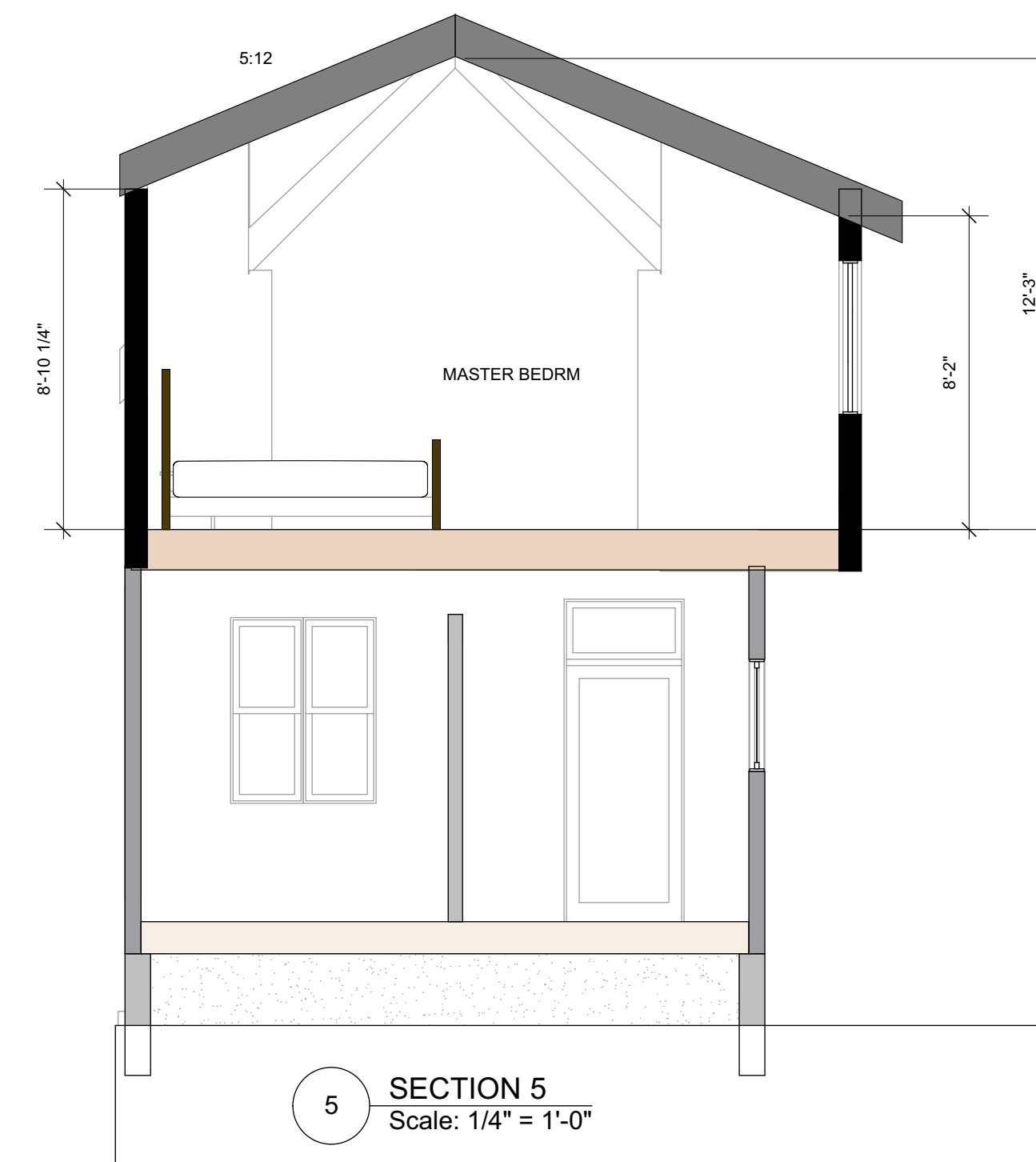
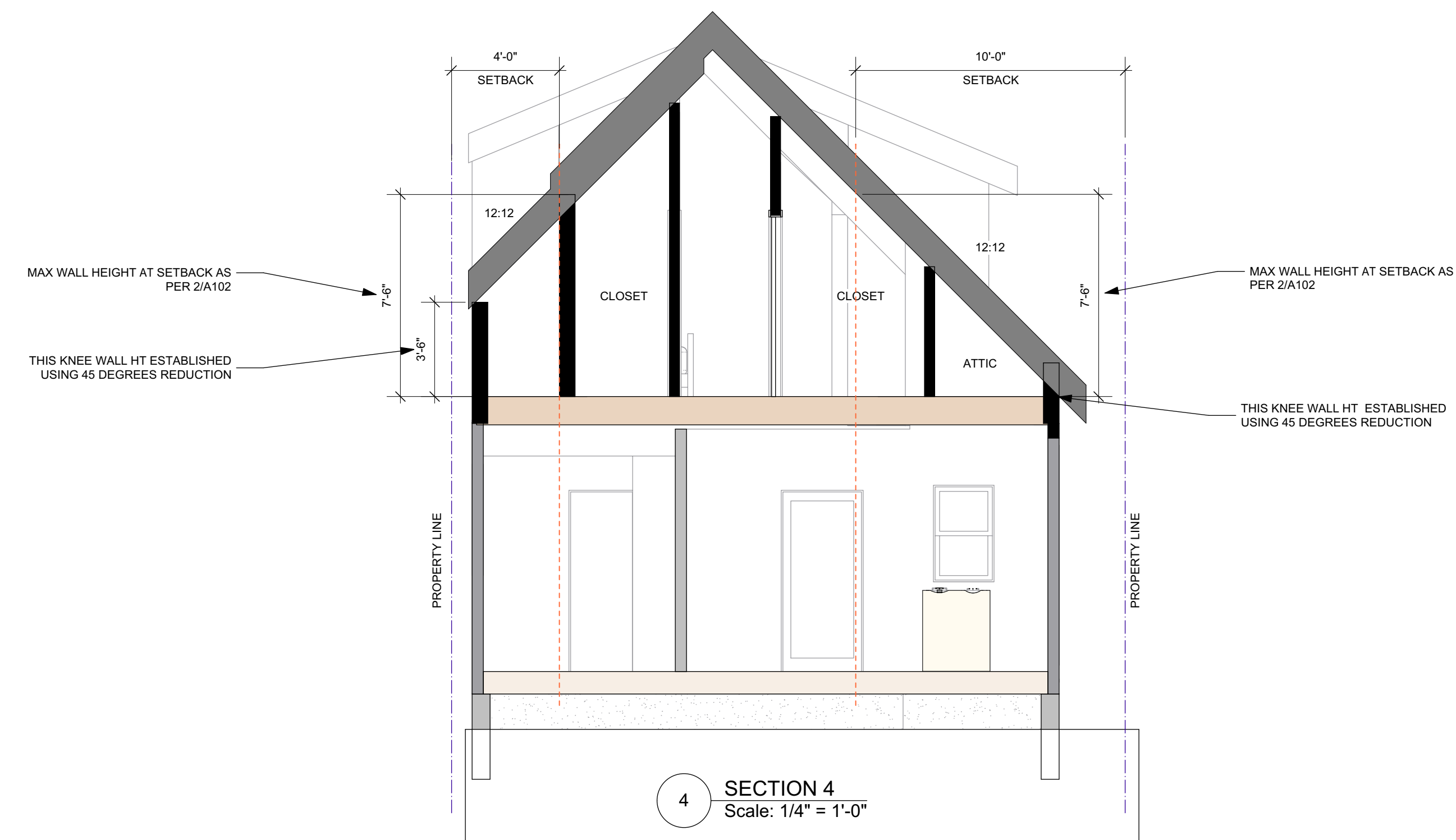
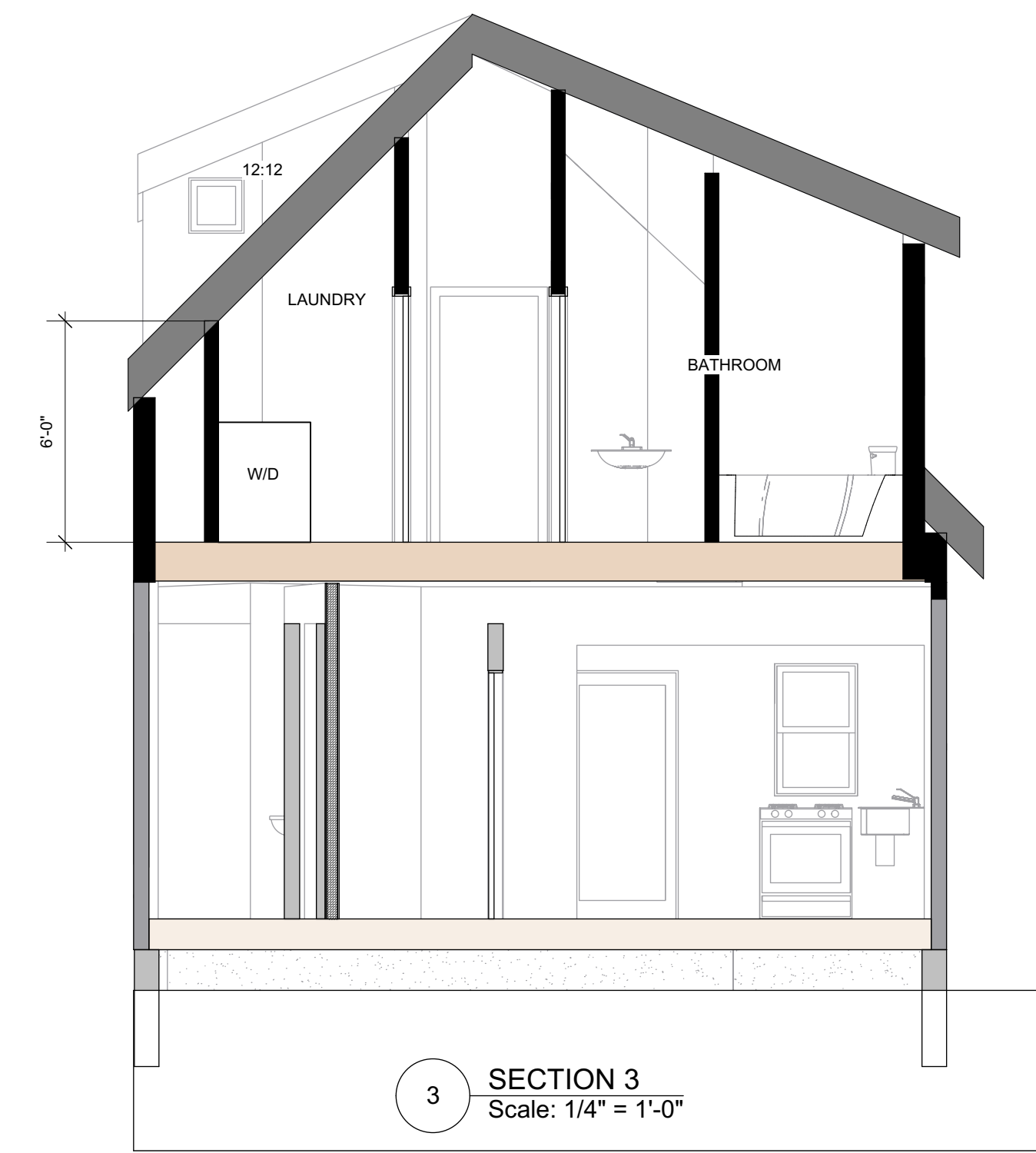
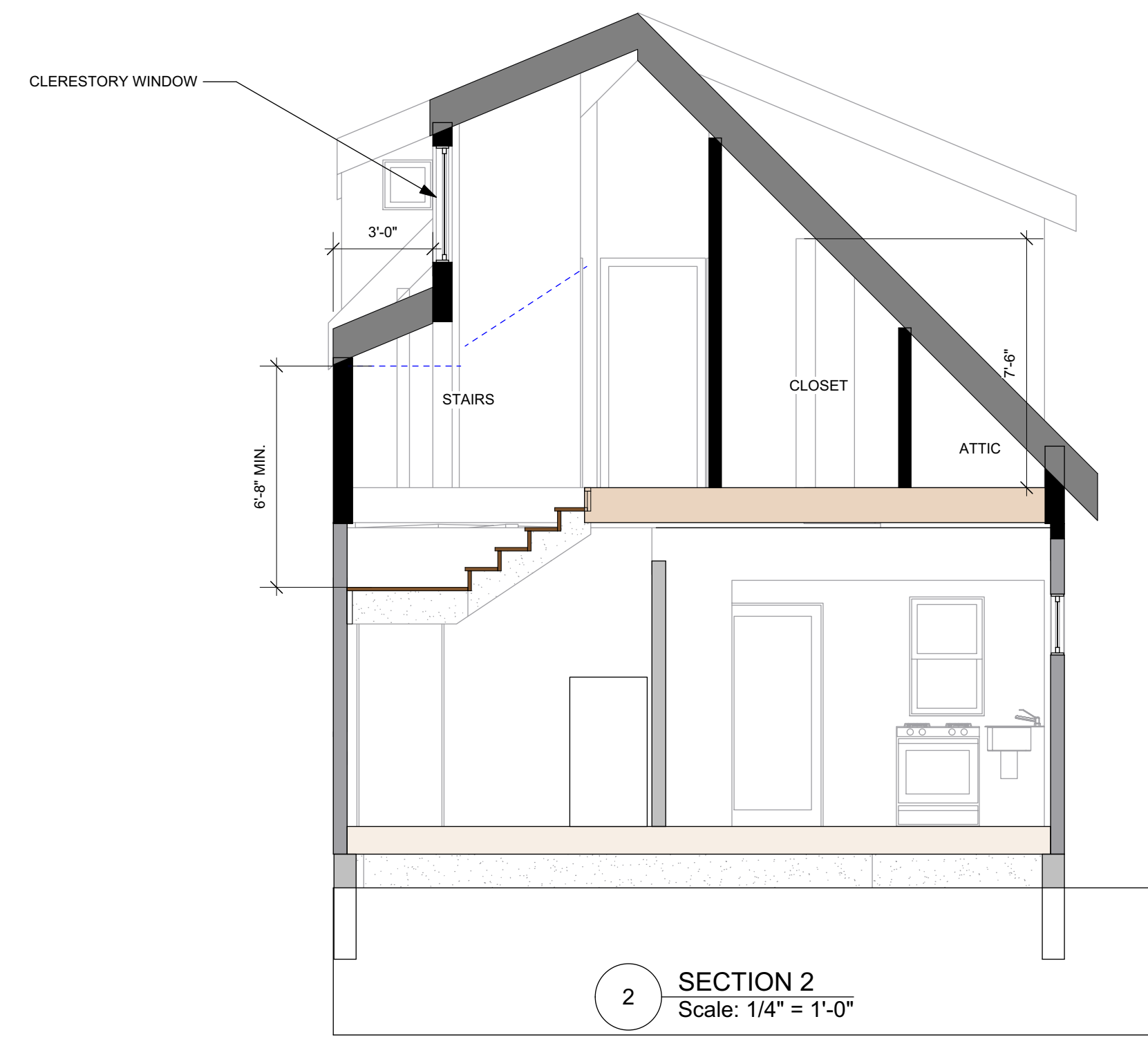
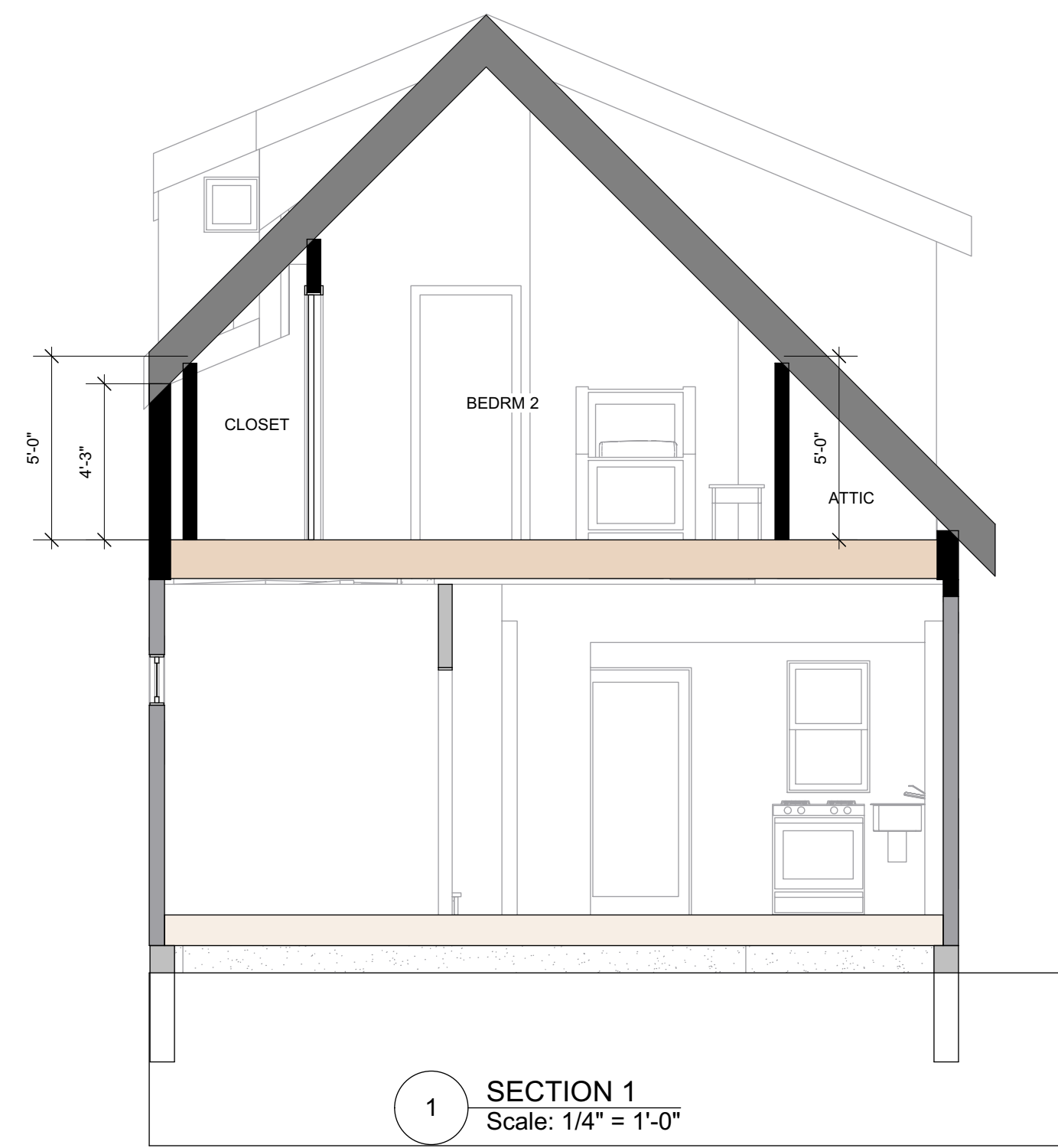
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Project Title
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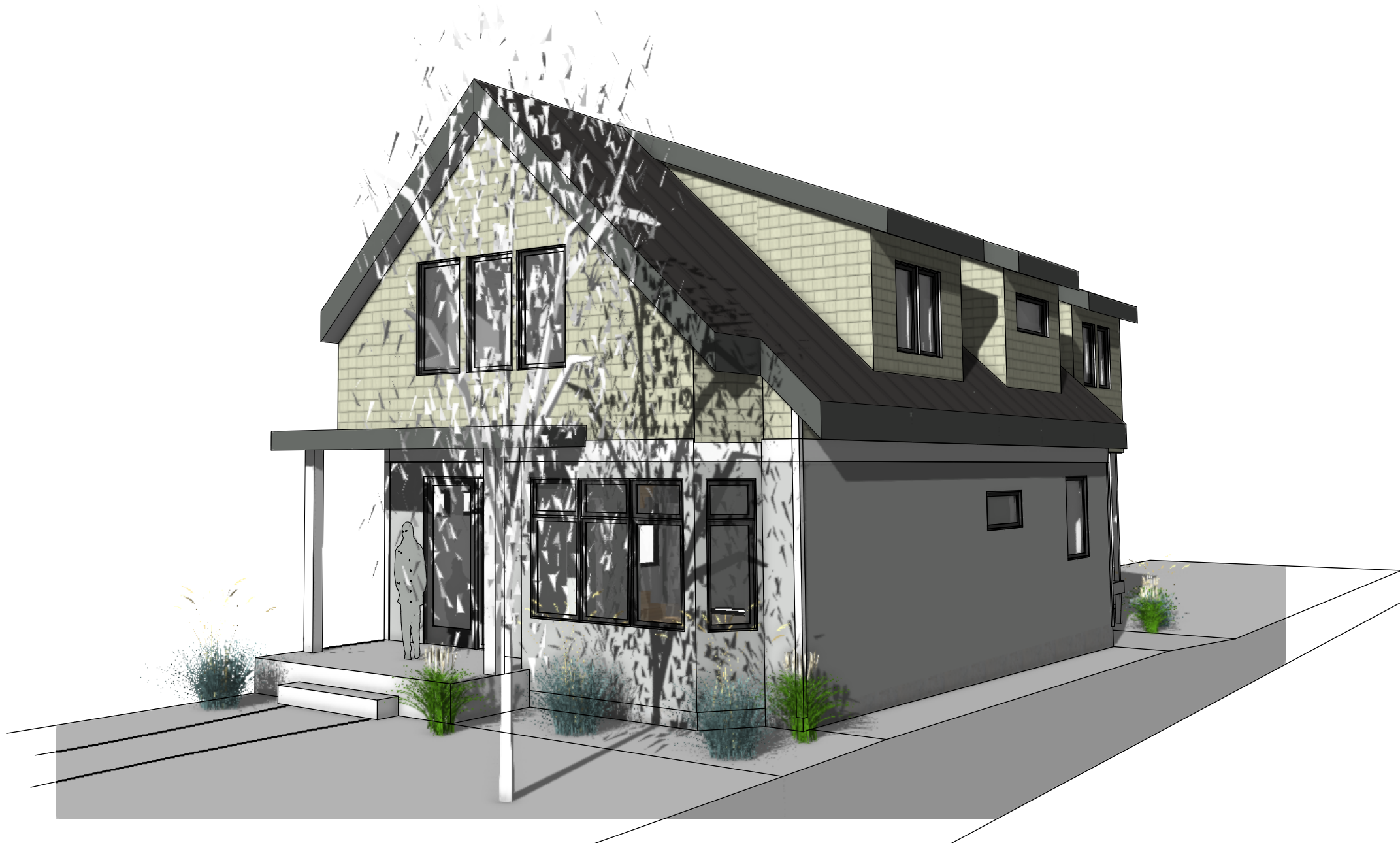
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VIEW FROM SOUTH EAST



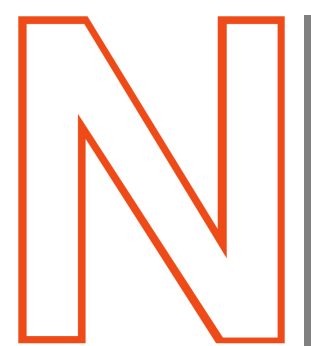
VIEW FROM NORTH EAST



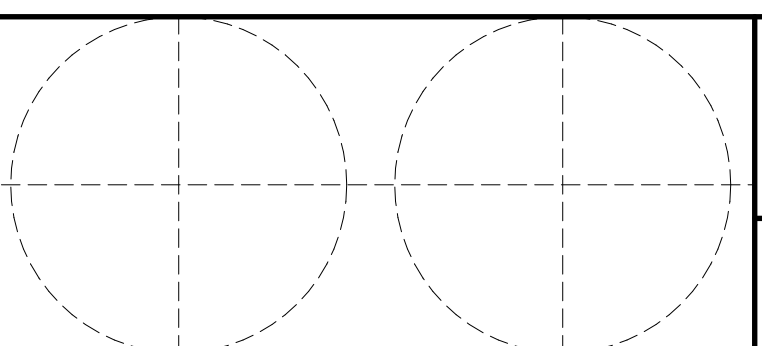
VIEW FROM NORTH WEST



VIEW FROM SOUTH WEST



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A106

ATTACHMENT D – VARIANCE STANDARDS

21A.18.050 Prohibited Variances: Subject to the prohibitions set forth in section [21A.18.050](#) of this chapter, and subject to the other provisions of this chapter, the appeals hearing officer may grant a variance from the terms of this title only if:

Standard	Finding	Rationale
A. Is intended as a temporary measure only	Complies	If the variance is granted the homeowners would undertake permanent alterations and renovations to their home.
B. Is greater than the minimum variation necessary to relieve the unnecessary hardship demonstrated by the applicant;	Complies	The Applicant is only asking for the granting of a variance in the northern and southern side yards where the home already encroaches.
C. Authorizes uses not allowed by law (i.e., a "use variance").	Complies	The proposed variance includes the expansion of the size of a single-family dwelling home, which is recognized as a permitted use in the underlying R-1-5,000 zoning district.

21A.18.060: Standards for Variances: Subject to the prohibitions set forth in section [21A.18.050](#) of this chapter, and subject to the other provisions of this chapter, the appeals hearing officer may grant a variance from the terms of this title only if:

A. General Standard	Finding	Rationale
1. Literal enforcement of this title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this title;	Complies	Title 21 of Salt Lake City's ordinances was adopted to promote the health, safety, and welfare of the public as well as to promote the development of the built environment in a healthy and safe manner. The existing single-family dwelling already projects into the side yard setbacks required by ordinance so literal enforcement of the title would be unreasonable and have little substantial effect.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district;	Complies	The underlying zoning district requires fifty feet (50') of lot frontage and a minimum of 5,000 square feet in size for a single-family lot; the subject property is 3,920 square feet in size and the lot only has twenty-five feet (25') of frontage. Although the lot does not comply with the existing zoning standards it is a legal lot and was included in an approved subdivision. While the subject property's minimal size and width is not entirely unique within the R-1-5,000 zoning district it is not generally found in other areas under the same designation.
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;	Complies	The Applicants have submitted an opinion by the Utah Property Rights Ombudsman that improving property is a substantial property right. Other homes in the R-1-5,000 zoning district and in the surrounding neighborhood have

		multiple floors and the Applicants assert other homes in the neighborhood on similar lots have made comparable improvements to their structures.
4. The variance will not substantially affect the general plan of the city and will not be contrary to the public interest; and	Complies	The variance, if approved, would allow the homeowners to build additional living space in their attic which would encroach in some parts into the required 10' and 4' side yard setbacks; the existing single-family dwelling already projects into these areas. The land use of the property would not change and the expansion of living space in this dwelling would not impose on the public interest.
5. The spirit of this title is observed and substantial justice done.	Complies	The homeowners' plan to add living space to the existing attic would be required to go through the building permitting process and must comply with all adopted building and fire codes. The ultimate purpose of Title 21 is to protect the public health, safety, and welfare of Salt Lake City's inhabitants and the requested variance would not detract from that.
B. Circumstances Peculiar To Property: In determining whether or not enforcement of this title would cause unreasonable hardship under subsection A of this section, the appeals hearing officer may not find an unreasonable hardship unless:		
1. The alleged hardship is related to the size, shape or topography of the property for which the variance is sought; and	Complies	The requested variance is related to the overall size of the property.
2. The alleged hardship comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.	Complies	The alleged hardship is the overall size and width of the subject property; setbacks in the ordinance were determined based off of the 5,000 square foot minimum size and fifty feet (50') of lot width/frontage. The subject property, while not unique in the R-1-5,000 zoning district is highly uncommon.
C. Self-Imposed Or Economic Hardship: In determining whether or not enforcement of this title would cause unreasonable hardship under subsection A of this section, the appeals hearing officer may not find an unreasonable hardship if the hardship is self-imposed or economic.	Complies	The alleged hardship is not economic in nature and has not been self-imposed by the homeowners. Their property is a lot in a legal subdivision (Miller & Miller, Lot 24) and the structure is already projecting into both required side yard setbacks.
D. Special Circumstances: In determining whether or not there are special circumstances attached to the property under subsection A of this section, the appeals hearing officer may find that special circumstances exist only if:		
1. The special circumstances relate to the alleged hardship; and	Complies	The alleged hardship is the small size of the property and the special circumstances the

		homeowners are requesting relief from are the side yard setbacks.
<p>2. The special circumstances deprive the property of privileges granted to other properties in the same zoning district.</p>	<p>Complies</p>	<p>The Applicants have provided an opinion from the Utah State Ombudsman indicating improving or developing upon property is a substantial property right. Other properties in the same neighborhood and zoning district are not the same size as the subject property and are able to easily meet the adopted setback requirements. The side yard setbacks impacting the homeowners' proposed improvements are a direct result of the nonconforming lot size and width/frontage.</p>

ATTACHMENT E – PUBLIC PROCESS & COMMENTS

Notice of the public hearing for the proposal included:

Public hearing notice mailed on December 3, 2021.

Public notice posted on City and State websites and Planning Division list serve on December 3, 2021.

Public hearing notice sign posted on December 3, 2021.

To date no public comments have been received regarding this project. As part of their submittal materials the Applicant has provided notes of support from their immediate neighbors.

ATTACHMENT F – DEPARTMENT REVIEW COMMENTS

Building – Jason Rogers: “Property line side – IRC Fire wall assembly all the way up with 4 ft up the rake of the roof (yellow section) . Design as proposed is ok to review for permit. Watershed into neighboring property is an issue and will need a design proposal during review to show how this will be protected.”

Fire – Ed Itchon: No comments