



Staff Report

PLANNING DIVISION

To: Salt Lake City Appeals Hearing Officer
From: Trevor Ovenden, Associate Planner, trevor.ovenden@slcgov.com, (801) 535-7168 or
Date: October 19, 2023
Re: PLNZAD2023-00552 –615 E 7th Ave Variance

Variance

PROPERTY ADDRESS: 615 E 7th Ave
PARCEL ID: 09-32-160-017-0000
MASTER PLAN: SR-1A, Special Development Pattern Residential District
ORDINANCE SECTION: [21A.36.020B.3](#)
ZONING DISTRICT: David Richardson, representing the property owner

REQUEST:

The applicant is requesting to build a carport or garage (an accessory building) on a parking pad that is partially behind the house (primary structure) at 615 E 7th Ave. Accessory buildings are required to be entirely behind primary structures by provision [21A.36.020.B.3](#) of the City's zoning ordinance.

RECOMMENDATION:

Based on the analysis and findings in this staff report, Planning Staff is of the opinion that this application does not meet the standards for approval for the variance request in petition PLNZAD2023-00552 to build an accessory structure that is not *wholly behind the primary structure* as required by [21A.36.020B.3](#). Therefore, it is recommended that the Appeals Hearing Officer deny the proposed variance request based on the findings in this Staff report.

ATTACHMENTS:

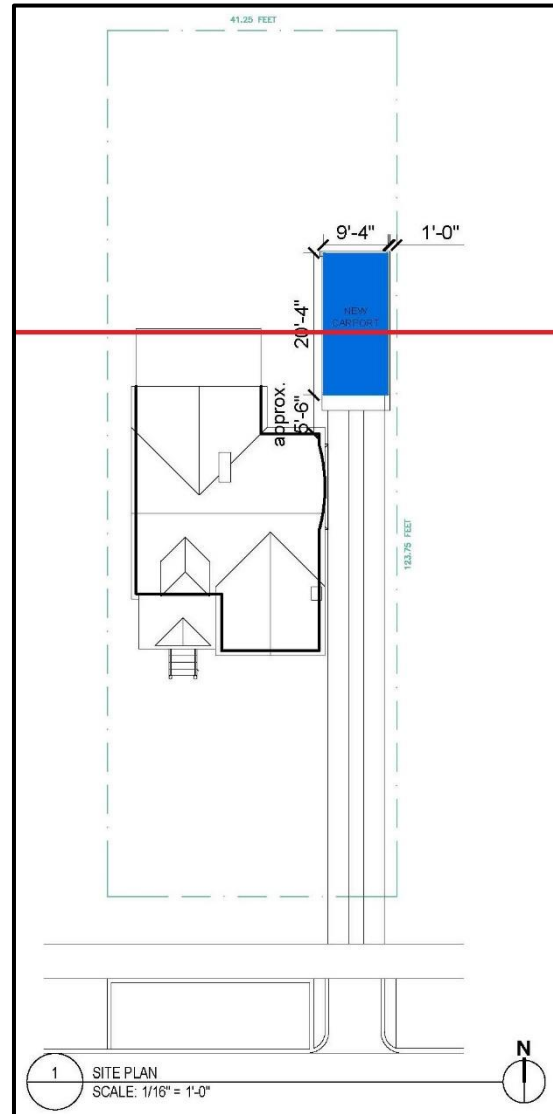
- A. [ATTACHMENT A: Vicinity Map](#)
- B. [ATTACHMENT B: Site Photos](#)
- C. [ATTACHMENT C: Submitted Materials](#)
- D. [ATTACHMENT D: Variance Standards](#)
- E. [ATTACHMENT E: Public Comments](#)
- F. [ATTACHMENT F: Department Review Comments](#)
- G. [ATTACHMENT G: Applicable 1993 Zoning Provision](#)

PROJECT DESCRIPTION

David Richardson, representing the property owner, Wayne Rossberg, is requesting a variance from provision [21A.36.020.B.3](#) of the City's zoning ordinance, which requires accessory buildings in side yards to *be located wholly behind the primary structure on the property*. The applicant is proposing to build a carport or garage (an accessory building) in a side yard that would be partially behind the house (primary structure). The proposed accessory building would be approximately 11' from the house on the abutting property to the east.

The project history began in 1992, when Mr. Rossberg sought several Variances to create an off-street parking space at this property. The first variance request was for a detached garage in the front yard, which was denied. After that request was denied, Mr. Rossberg requested a second variance to create a hard surfaced parking area in the required front yard which was also denied. After the second denial, Mr. Rossberg requested a third variance to construct a parking pad "within 15 feet of an adjacent dwelling", which was approved on December 19th, 1993 with a condition that required a building permit to be taken out or an extension granted within six months. He soon after submitted for a building permit for the parking pad as well as grade changes requiring retaining walls (building permit BLD1994-84766). Since the permit was issued, Mr. Rossberg slowly proceeded with the work and requested several time extensions, but has kept a building permit active for the project until it was completed in 2016 (BLD2016-00120). Mr. Rossberg completed a permitted brick retaining wall in 2016, which includes footings intended to support a future carport or garage. This retaining wall would need to be demolished to relocate the proposed accessory building.

According to the applicant, Mr. Rossberg was given verbal confirmation during a Board of Adjustment hearing in 1993 that a carport or garage could be built on the approved parking pad, although there is no written record of this. Additionally, zoning regulations in 1993 would have required a garage in a side yard to be located at least 10' from the house at this property and at least 15' from the house on the abutting property (see [Attachment G](#)). The location of the proposed accessory building does not appear to comply with these requirements.



Site plan provided by the applicant. The proposed accessory structure is required to be entirely behind the red line.

APPROVAL PROCESS AND APPEALS HEARING OFFICER AUTHORITY

The standards required for granting a variance are set forth in Utah Code [10-9a-707](#) and Salt Lake City Code [21A.18.060](#). A full analysis of each of the standards or review for variances can be found in [Attachment D](#). An appeals hearing officer may only grant a variance if the request meets all of the standards.

STAFF RECOMMENDATION

Planning Staff finds this proposal does not meet the standards for granting a variance. The subject site slopes to the north which makes it difficult to relocate the proposed carport or garage approximately 15' to the north to be wholly behind the principal building as required by code, but it is possible. Similar circumstances generally apply to other properties in the same zoning district and granting the variance is not essential to the enjoyment of a substantial property right possessed by other property in the same district.

NEXT STEPS

Approval of the Variance Request

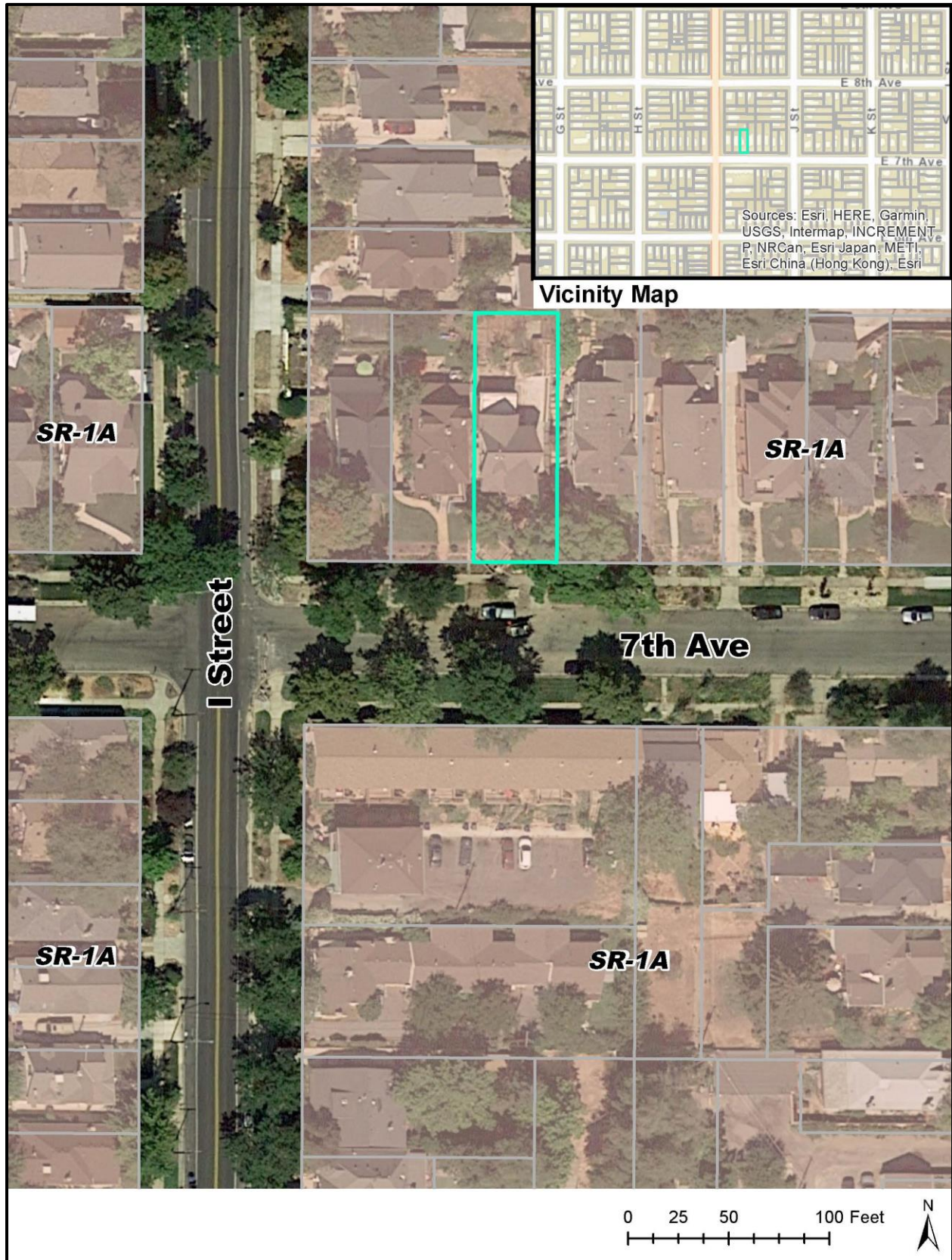
If the requested variance is approved, the applicant could move forward with constructing a carport or garage in the proposed location.

Denial of the Variance Request

If the variance request is denied, the applicant would need to redesign the project to comply with [21A.36.020.B.3](#), which would require the proposed carport or garage to be relocated entirely behind the house at this property.

Any person adversely affected by a final decision made by the appeals hearing officer can be appealed to Third District Court within 30 days after the decision is rendered.

ATTACHMENT A: Vicinity Map



ATTACHMENT B: Site Photos



Subject site, facing north. The location of the proposed accessory structure is highlighted in yellow.



Brick retaining wall completed in 2016. This wall would need to be demolished to relocate the proposed accessory structure.



Subject site from 7th Ave

ATTACHMENT C: Submitted Materials

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Variance

SALT LAKE CITY PLANNING

OFFICE USE ONLY

Project #:	Received By:	Date Received:	Zoning:

Project Name:

PLEASE PROVIDE THE FOLLOWING INFORMATION

Request:
Variance for carport

Address of Subject Property:
615 7th Ave

Name of Applicant: David Richardson	Phone: 801-243-0043
Address of Applicant: 814 E 100 S	
E-mail of Applicant: davidr@chcslc.com	Cell/Fax:

Applicant's Interest in Subject Property:

Owner Contractor Architect Other:

Name of Property Owner (if different from applicant):
Wayne Rossberg

E-mail of Property Owner: mach1@xmission.com	Phone:
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➔ **Please note** that additional information may be required by the project planner to ensure adequate information is provided for staff analysis. All information required for staff analysis will be copied and made public, including professional architectural or engineering drawings, for the purposes of public review by any interested party.

AVAILABLE CONSULTATION

Planners are available for consultation prior to submitting this application. Please email zoning@slcgov.com if you have any questions regarding the requirements of this application.

WHERE TO FILE THE COMPLETE APPLICATION


Apply online through the Citizen Access Portal. There is a step-by-step guide to learn how to submit online.

REQUIRED FEE

- ➔ Filing fee of \$428
- ➔ Plus additional fee for required public notices.

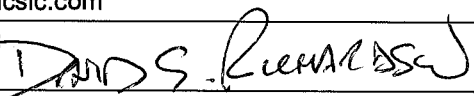
SIGNATURE

➔ If applicable, a notarized statement of consent authorizing applicant to act as an agent will be required.

Signature of Owner or Agent: 	Date: 7/12/2023
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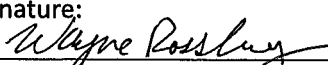
ACKNOWLEDGEMENT OF RESPONSIBILITY

This is to certify that I am making an application for the described action by the City and that I am responsible for complying with all City requirements with regard to this request. This application will be processed under the name provided below. By signing the application, I am acknowledging that I have read and understood the instructions provided by Salt Lake City for processing this application. The documents and/or information I have submitted are true and correct to the best of my knowledge. I understand that the documents provided are considered public records and may be made available to the public. I understand that my application will not be processed until the application is deemed complete by the assigned planner from the Planning Division. I acknowledge that a complete application includes all of the required submittal requirements and provided documents comply with all applicable requirements for the specific applications. I understand that the Planning Division will provide, in writing, a list of deficiencies that must be satisfied for this application to be complete and it is the responsibility of the applicant to provide the missing or corrected information. I will keep myself informed of the deadlines for submission of material and the progress of this application. I understand that a staff report will be made available for my review prior to any public hearings or public meetings. This report will be on file and available at the Planning Division and posted on the Division website when it has been finalized.

APPLICANT SIGNATURE	
Name of Applicant: David Richardson	Application Type:
Mailing Address: 814 E 100 S	
Email: davidr@chcslc.com	Phone: 801-243-0043
Signature: 	Date: 7/12/2023

AFFIRMATION OF SUFFICIENT INTEREST

I hereby affirm that I am the fee title owner of the below described property or that I have written authorization from the owner to pursue the described action.

FEE TITLE OWNER SIGNATURE	
Legal Description of Subject Property:	
Name of Owner: Wayne Rossberg	
Mailing Address: 814 E 100 S	Street Address: 615 7th Ave
Signature: 	Date: 12-JUL-2023

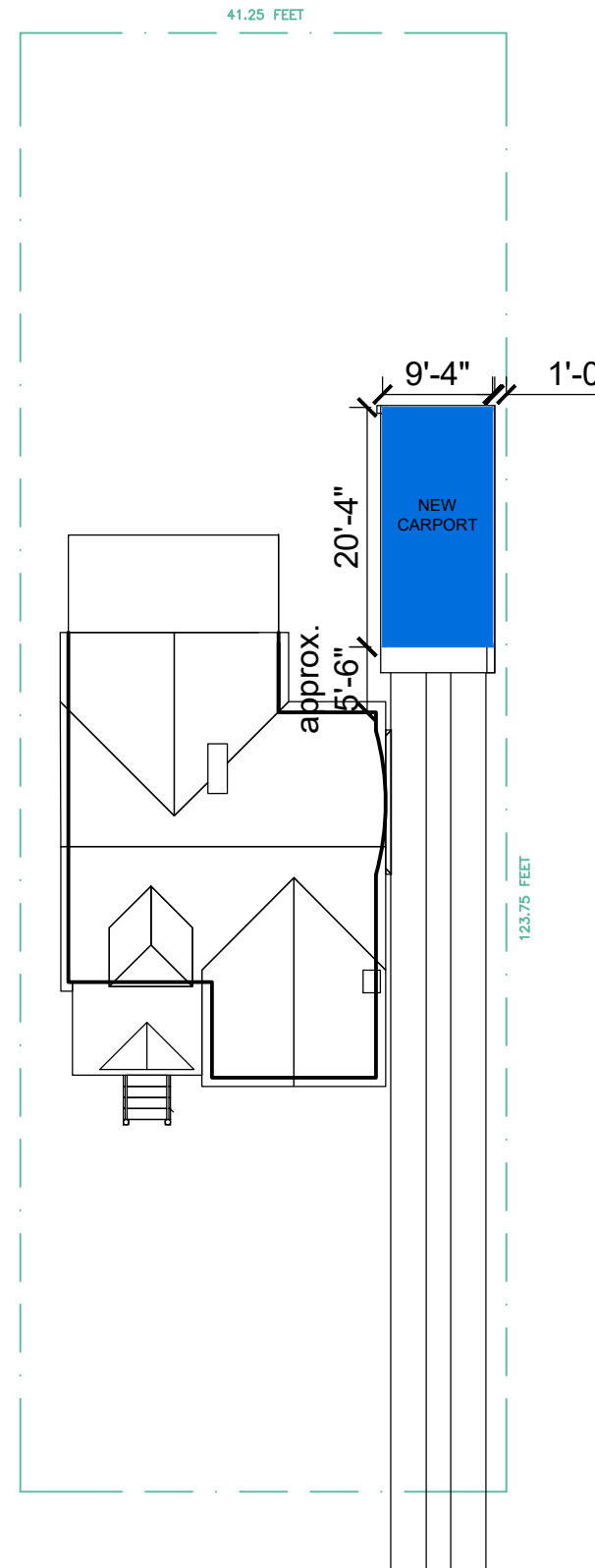
The following shall be provided if the name of the applicant is different than the name of the property owner:

1. If you are not the fee owner attach a copy of your authorization to pursue this action provided by the fee owner.
2. If a corporation is fee titleholder, attach copy of the resolution of the Board of Directors authorizing the action.
3. If a joint venture or partnership is the fee owner, attach a copy of agreement authorizing this action on behalf of the joint venture or partnership
4. If a Home Owner's Association is the applicant than the representative/president must attach a notarized letter stating they have notified the owners of the proposed application. A vote should be taken prior to the submittal and a statement of the outcome provided to the City along with the statement that the vote meets the requirements set forth in the CC&Rs.

Be advised that knowingly making a false, written statement to a government entity is a crime under Utah Code Chapter 76-8, Part 5. Salt Lake City will refer for prosecution any knowingly false representations made pertaining to the applicant's interest in the property that is the subject of this application.

Carport project

615 EAST 7TH AVE
SALT LAKE CITY, UT



1 SITE PLAN
SCALE: 1/16" = 1'-0"



PROJECT DATA

Project Name: CARPORT
Project Address: 614 EAST 7TH AVE
SALT LAKE CITY, UT
Project Description: NEW CARPORT
ON EXISTING PAD
Area of Work: 190 S.F.

ZONING ANALYSIS

Parcel: 09-32-160-017-0000
Zone: SR-1
Lot: 5105 S.F.
Max Coverage: 40% = 2042 S.F.
Existing House Coverage: 1240 S.F. (INCLUDES DECK)
Proposed Carport: 190 S.F.
Accessory Building Setbacks:
Minimum 1 ft from side/rear property lines
Minimum 4 ft from home

Proposed Alterations:
NEW CARPORT ON EXISTING PAD

CODE ANALYSIS

2018 IRC with state amendments
Occupancy: Single Family Residence

SHEET INDEX

ARCHITECTURAL	
A0.1	Title Sheet & Site Plan
A1.1	Floor Plan & Roof Plan
A1.2	Column Details
A1.3	Section
A1.4	Section Details

GENERAL NOTES

- Construction shall not commence until contractor has contacted Blue Stakes of Utah (801) 208-2101 to verify location of underground utilities.
- Contractor is to abide by the following Utah Division of Air Quality Requirements:
R307-309 for dust control.
R307-801 for asbestos control
R307-840 for lead control

Refer to
www.rules.utah.gov/publicat/code.htm
or contact the Utah Division of Air Quality at (801) 536-4000
- Contractor to contact Public Utilities for any utility permit and inspections - 1530 S West Temple - (801) 483-6727.
- Contractor to protect all existing elements and portions of the existing house and site unless noted otherwise.
- Contractor shall verify all dimensions and conditions prior to beginning work, and shall report to architect any errors, omissions or inconsistencies.

Richardson Quann
Associates

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e: dsr@caphillcon.com
w: www.caphillcon.com

DESIGN TEAM
ARCHITECT
CONSULTANT

STAMP

PROJECT
NAME / ADDRESS

DATE
DATE

REVISIONS

SHEET
NUMBER

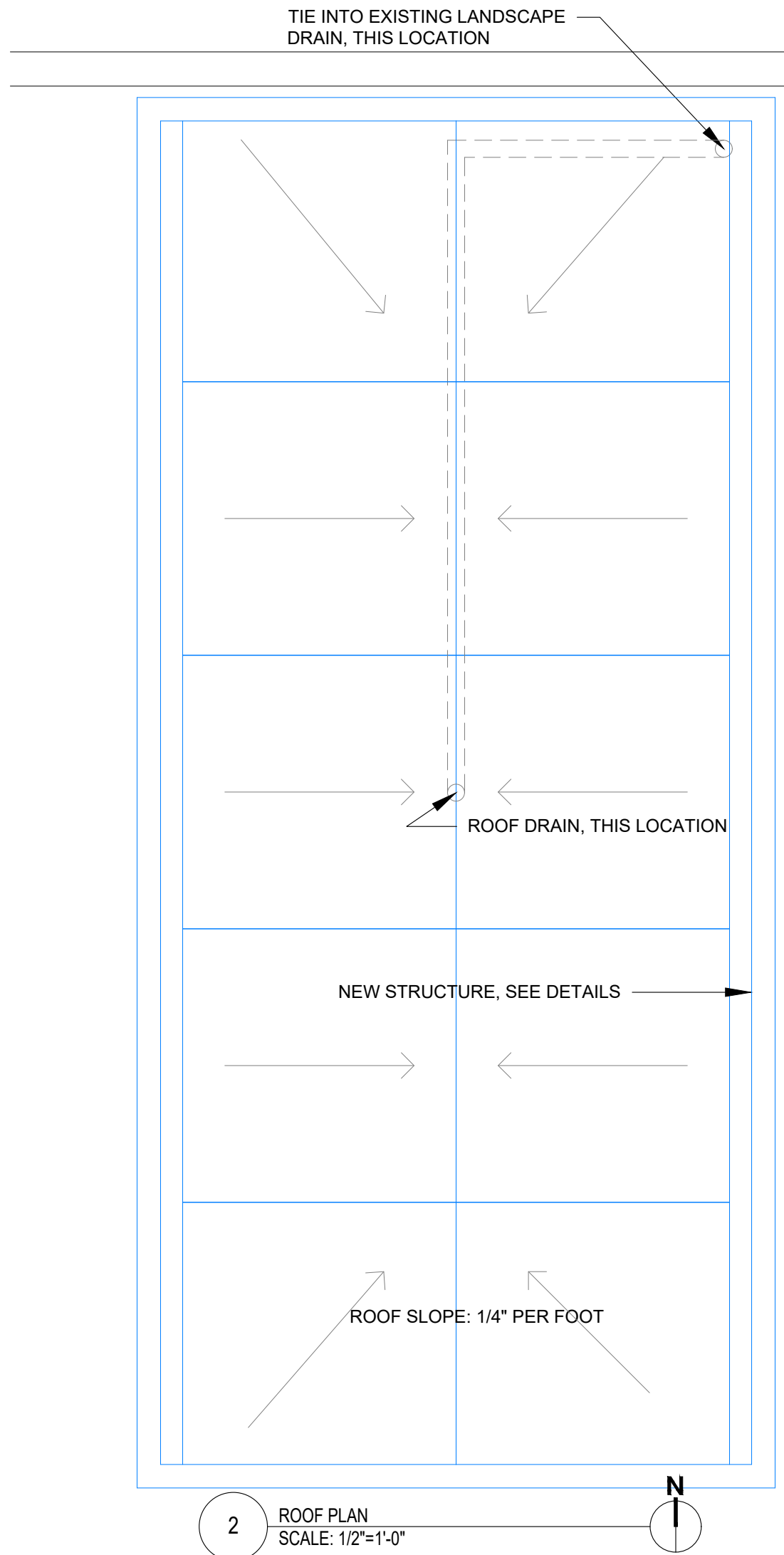
ROSSBERG CARPORT
615 EAST 7TH AVE
SALT LAKE CITY, UT

13 OCT 22

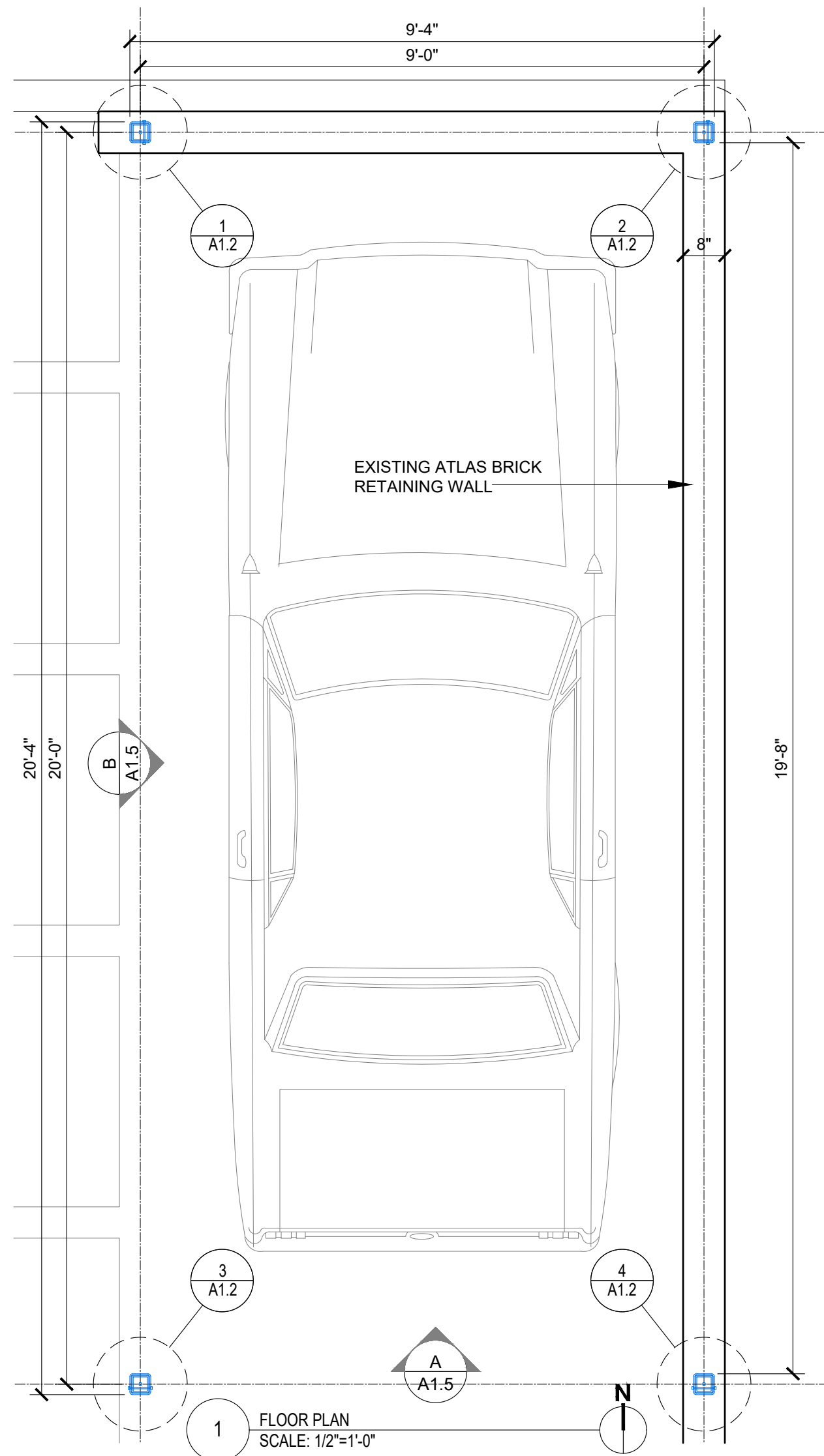
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COVER SHEET
& SITE PLAN
A0.1

SUBMITTAL: PERMIT SET



2 ROOF PLAN
SCALE: 1/2"=1'-0"



1 FLOOR PLAN
SCALE: 1/2"=1'-0"

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DESIGN TEAM

ARCHITECT

CONSULTANT

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PROJECT

DATE

REVISIONS

SHEET

NUMBER

NAME / ADDRESS

DATE

FLOOR AND
ROOF PLAN

A1.1

ROSSBERG CARPORT
615 EAST 7TH AVE
SALT LAKE CITY, UT

13 OCT 22

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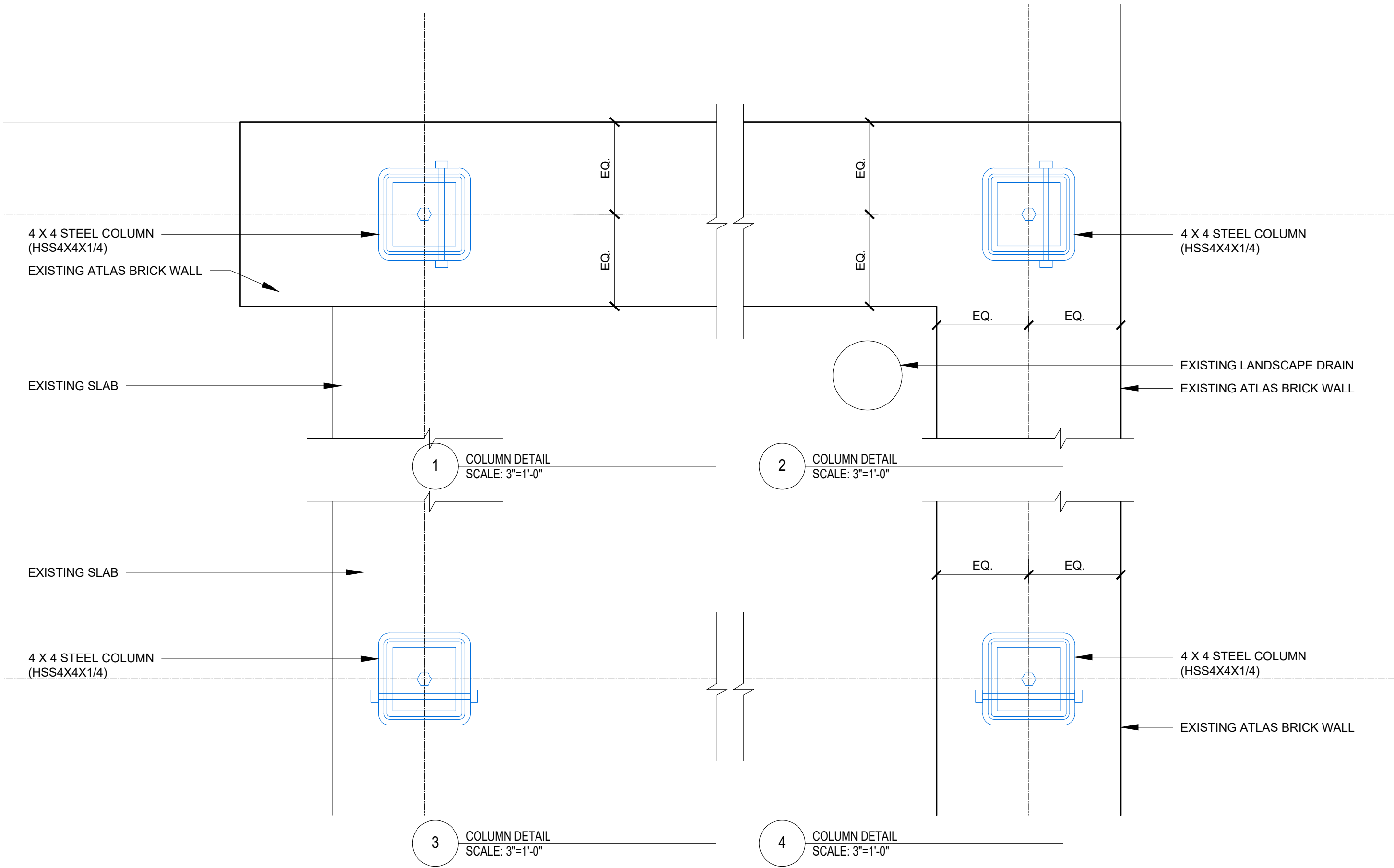
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SALT LAKE CITY, UT

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COLUMN DETAILS
A1.2

SUBMITTAL: PERMIT SET



1 COLUMN DETAIL
SCALE: 3"=1'-0"

2 COLUMN DETAIL
SCALE: 3"=1'-0"

3 COLUMN DETAIL
SCALE: 3"=1'-0"

4 COLUMN DETAIL
SCALE: 3"=1'-0"

ROSSBERG CARPORT
615 EAST 7TH AVE
SALT LAKE CITY, UT

13 OCT 22

SECTION
A1.3

SUBMITTAL: PERMIT SET

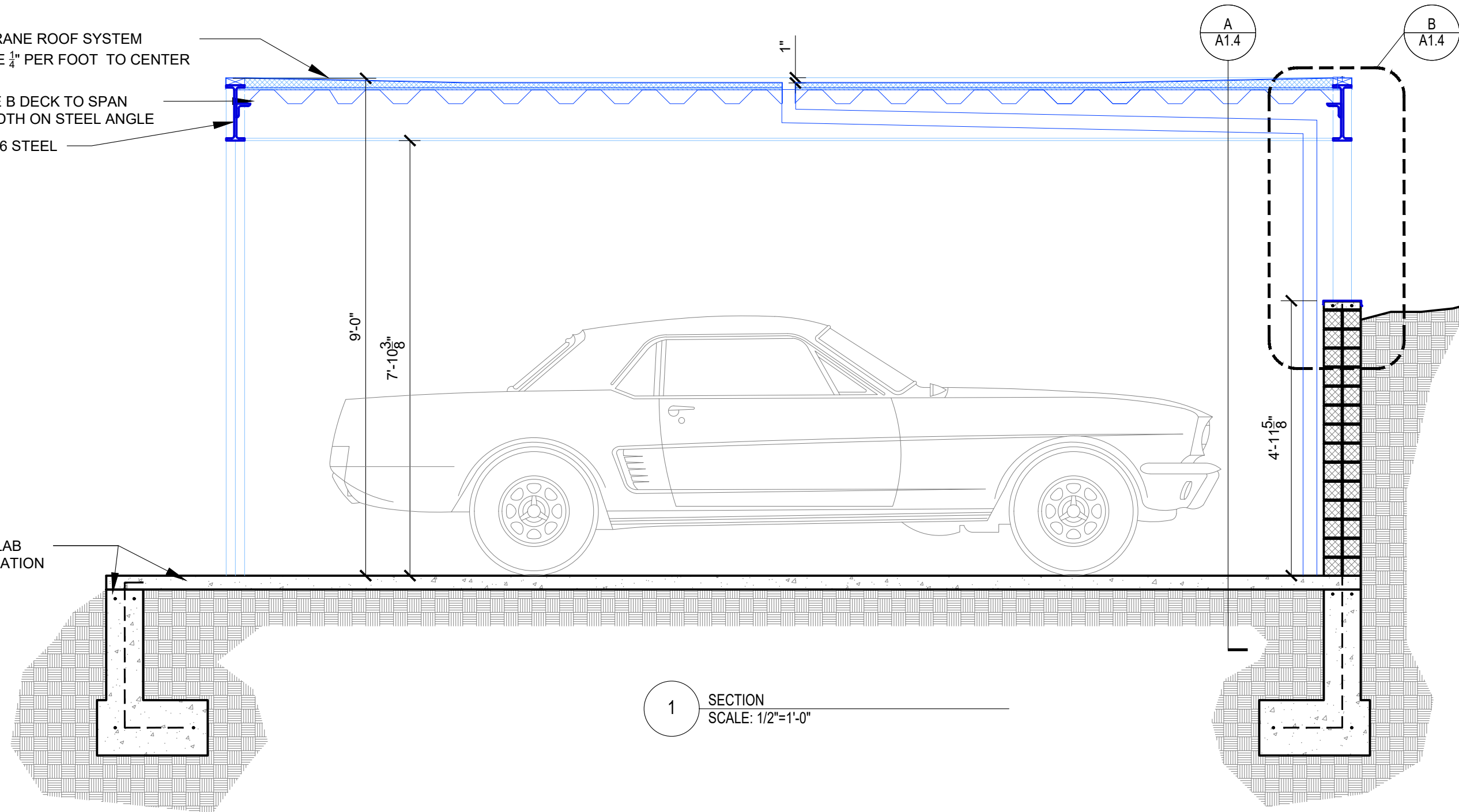
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NEW MEMBRANE ROOF SYSTEM
ROOF SLOPE $\frac{1}{4}$ " PER FOOT TO CENTER

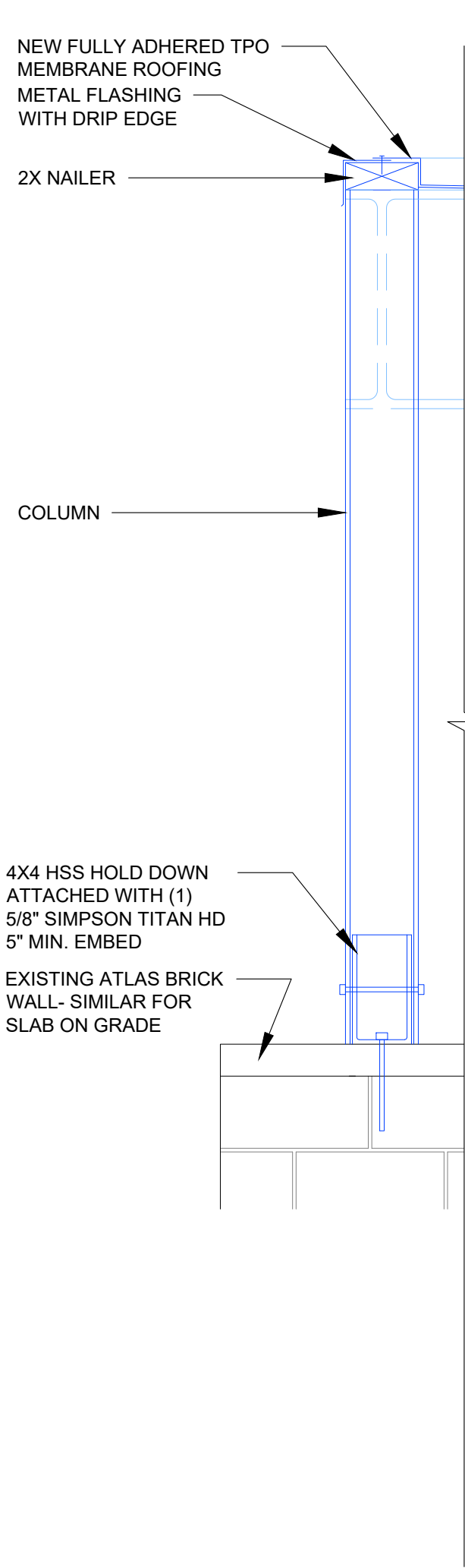
3" 20 GAUGE B DECK TO SPAN
GARAGE WIDTH ON STEEL ANGLE

W12x16.5 A36 STEEL

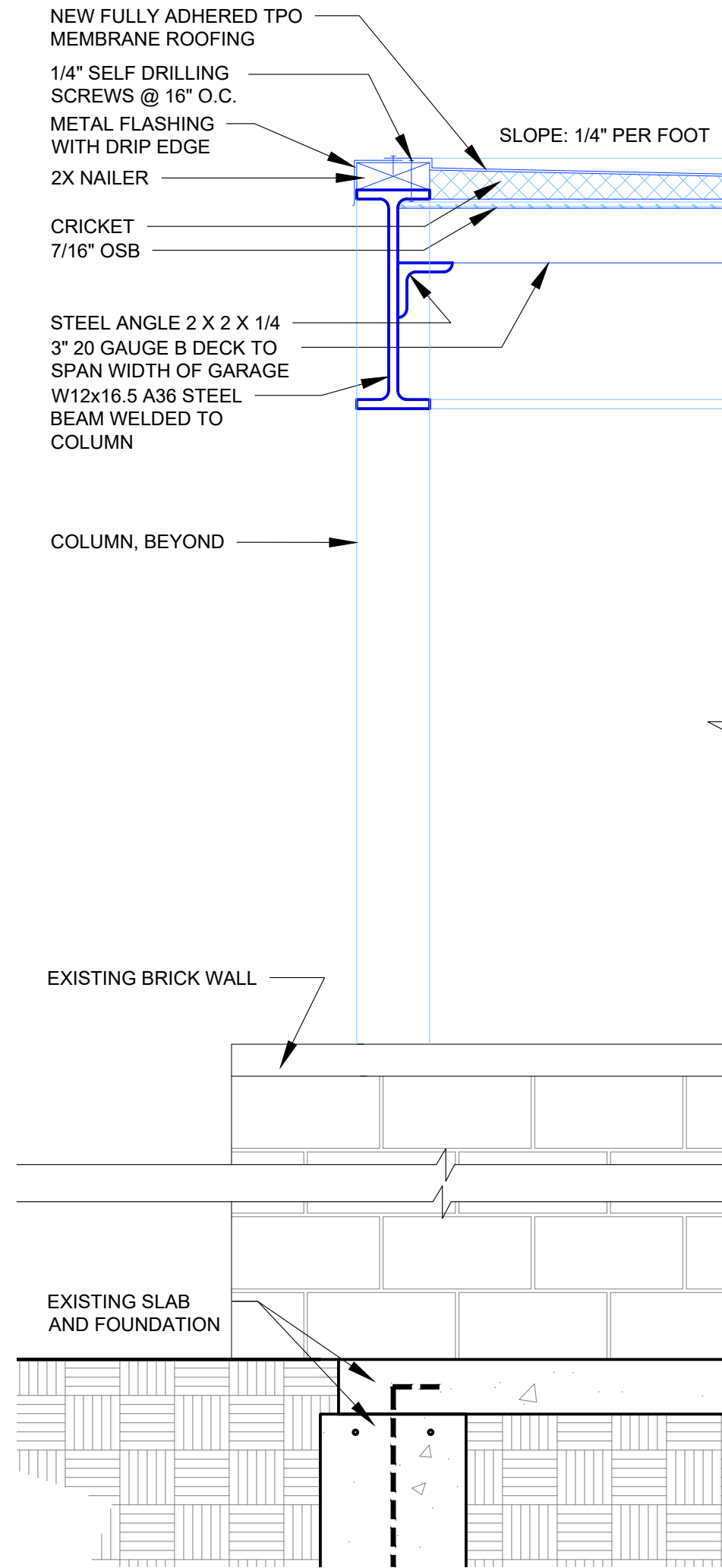
EXISTING SLAB
AND FOUNDATION



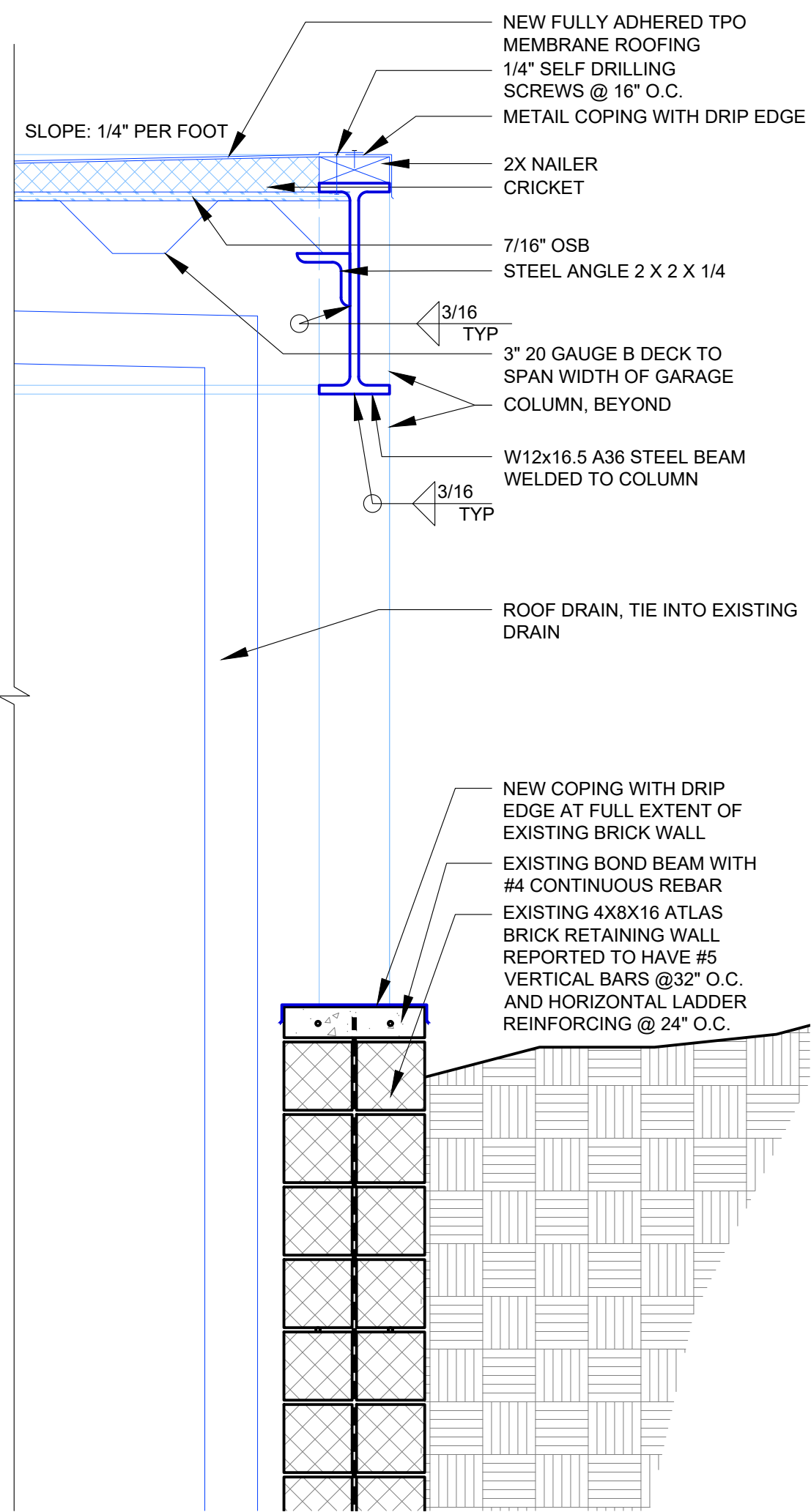
1 SECTION
SCALE: 1/2"=1'-0"



C COLUMN DETAIL
SCALE: 1 1/2" = 1'-0"



A SECTION DETAIL
SCALE: 1 1/2" = 1'-0"



B SECTION DETAIL
SCALE: 1 1/2" = 1'-0"

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DESIGN TEAM ARCHITECT
CONSULTANT

PROJECT NAME / ADDRESS
ROSSBERG CARPORT
615 EAST 7TH AVE
SALT LAKE CITY, UT

DATE 13 OCT 22

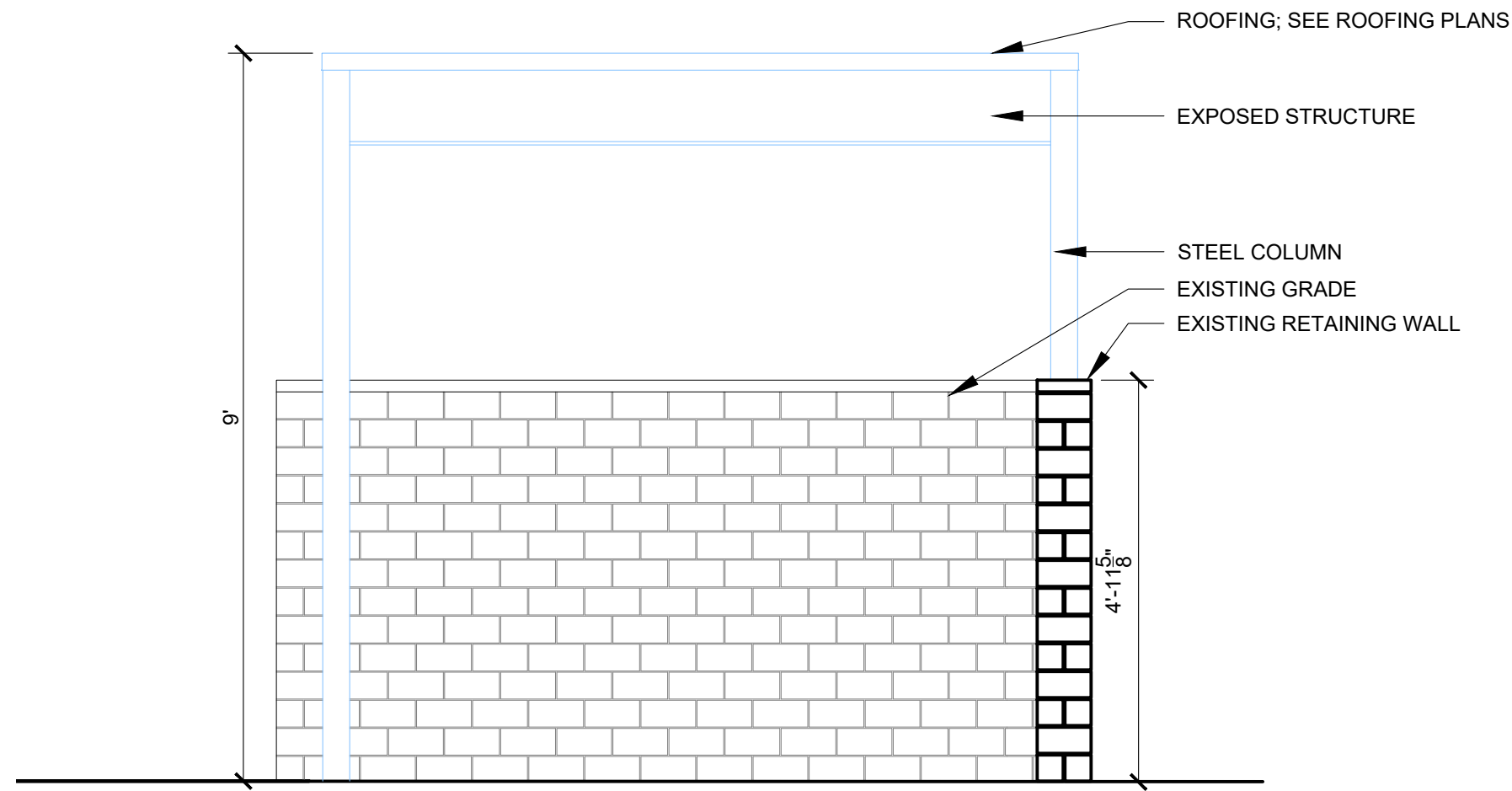
REVISIONS

SHEET NUMBER
SECTION DETAILS A1.4

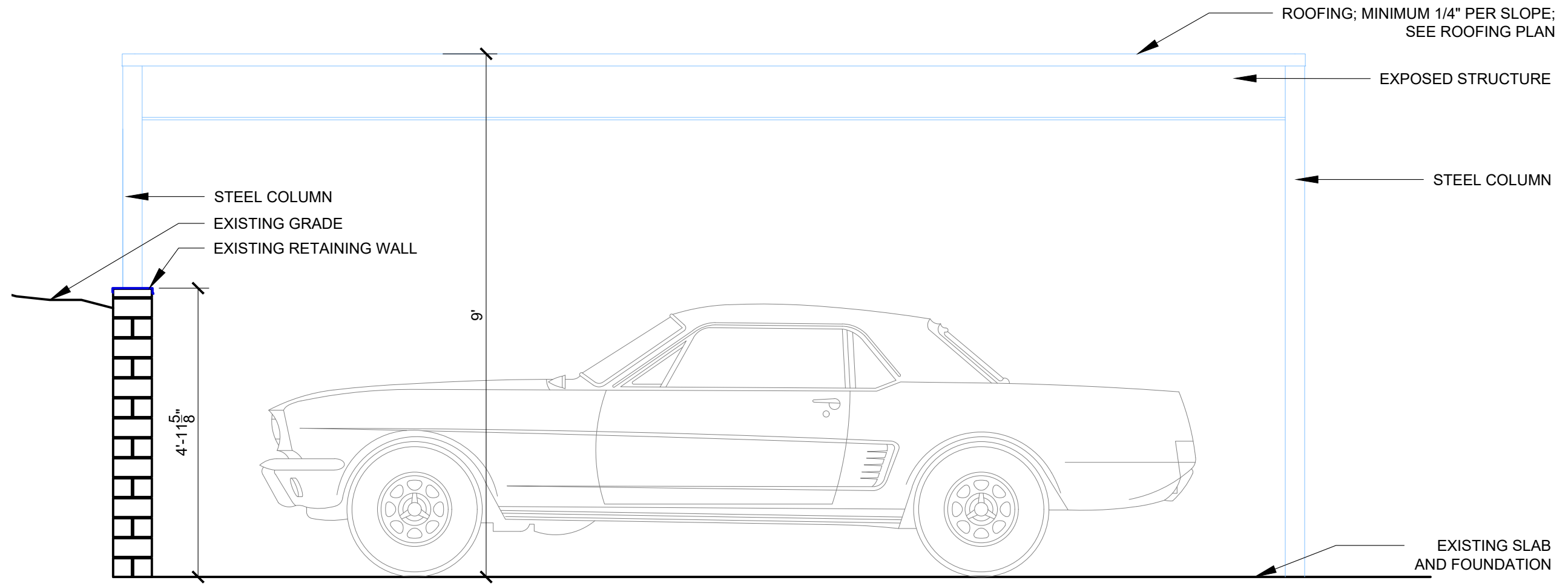
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SUBMITTAL: PERMIT SET

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A FRONT ELEVATION
SCALE: 1/2"=1'-0"



B SIDE ELEVATION
SCALE: 1/2"=1'-0"

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ARCHITECT

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NUMBER

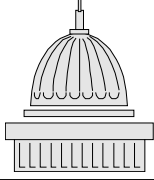
ROSSBERG CARPORT
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SALT LAKE CITY, UT

13 OCT 22

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ELEVATIONS
A1.5

SUBMITTAL: PERMIT SET



Capitol Hill Construction, Inc

814 East 100 South, Salt Lake City, UT 84102

facsimile 801-801-539-0641

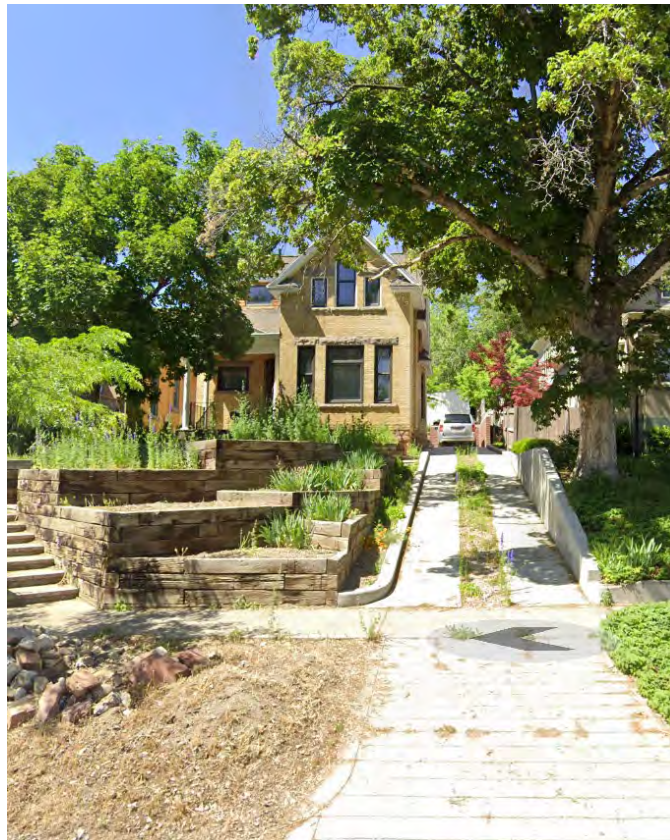
telephone 801-533-0204

Salt Lake City Planning Division
451 S. State Street
Salt Lake City, Utah 84111

July 2023

RE: 615 Seventh Avenue
Variance Request for carport or garage on existing parking pad:

This request is for a variance with regards to the location of a carport or garage at 615 E Seventh Ave.



This project has a long history in which, in 1993, the owner, Wayne Rossberg, had to seek a variance to move his garage from the rear of his lot. This was due to several hardships including sections of very steep driveway, little usable space in his backyard, and a length of drive that caused difficulties with snow management in the winter. In late 1993, after several different options were considered, Mr. Rossberg was granted a variance for a parking pad closer to the primary residence. This was determined during the hearing for Board of Adjustment Case #1961-B and finalized through Zoning Administrator Case #644. During that administrative process, Mr. Rossberg was verbally told a carport or garage would be allowed in the same location as the approved parking pad. Since this was determined administratively, there does not appear to be any written record of this assurance. The variance was issued in late 1993 and a permit was issued in early 1994. This permit also included other site items such as some grading changes to make the remaining driveway less steep and more manageable. Mr. Rossberg has proceeded with the work slowly since then, always keeping his permit up to date and regularly inspected. Believing the variance included the assurance of a carport or garage, Mr. Rossberg included footings and structural walls in the building of the parking pad with the hopes of eventually adding a future carport or garage. The parking pad, with footings and structural retaining walls ready to receive a carport or garage, was completed in 2016. Ironically, the parking pad would not have required a variance at the time of completion in 2016 as its location would now be in compliance without the need for a variance.

ZONING ADMINISTRATOR CASE # 644
BOARD OF ADJUSTMENT
FINDINGS AND ORDER

This is a request by Wayne Rossberg at 615 Seventh Avenue for a variance to construct a detached parking pad within 15 feet of the adjacent dwelling for a single dwelling in an R2 historic zone.

FINDINGS: The proposed pad will be located in the rear yard about 10 feet 2 inches from the adjacent dwelling to the east. The lot is very narrow and ascends toward the rear of the property. Abutting property owners have signed a statement of approval. These signatures are on file in the case. The spirit and intent of the zoning ordinance and the master plan of the city will be upheld and substantial justice done if the variance is granted. If the provisions of Section 21.20.010 (k) of the zoning ordinance are literally enforced the applicant will suffer an unnecessary hardship.

ORDER: After a field inspection and a review of the proposed plans, the Zoning Administrator finds that the proposed parking pad is in harmony with the character of the neighborhood. Therefore, the Zoning Administrator grants the variance for a detached parking pad within 15 feet of the adjacent dwelling subject to the following conditions:

CONDITIONS: If any aggrieved party contests the decision the case will be taken to the full Board of Adjustment. The construction plans will conform to the requirements of the Uniform Building Code.

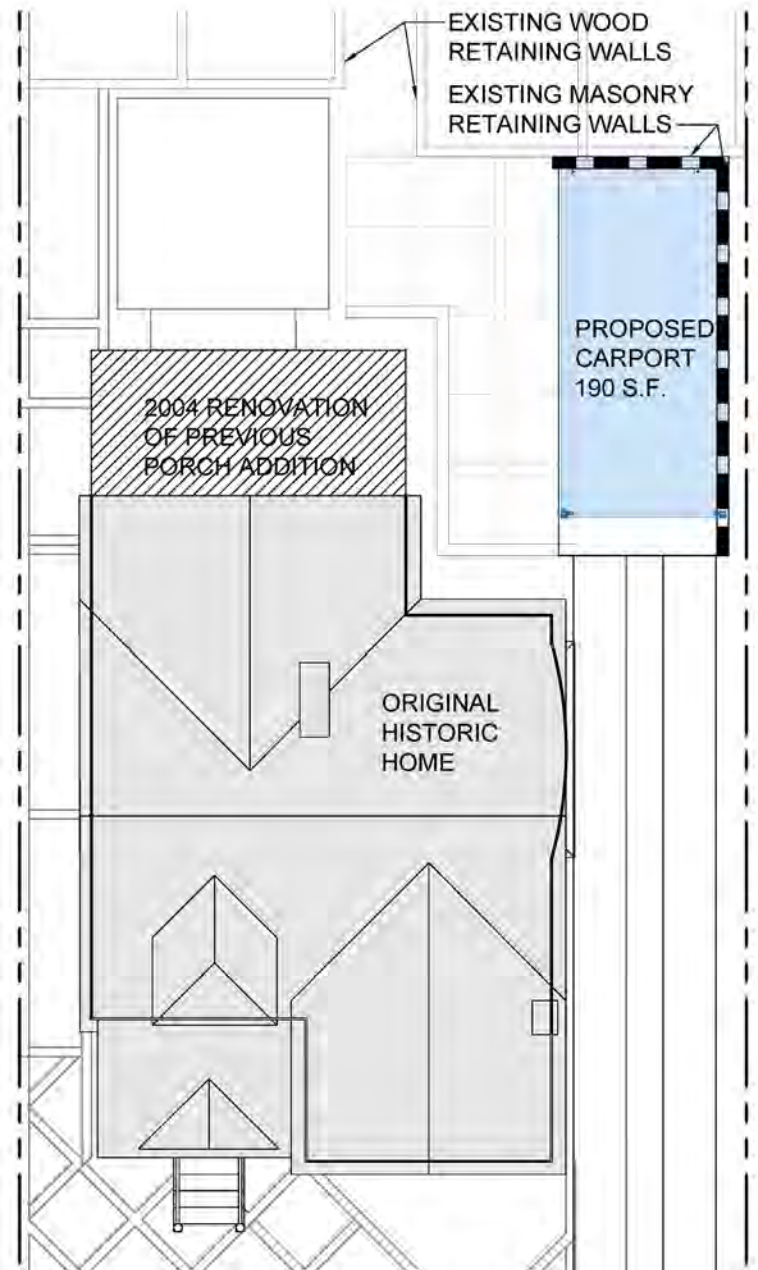
THE FAILURE OF THE APPLICANT TO ABIDE BY THE CONDITIONS OF THIS ORDER SHALL CAUSE IT TO BECOME NULL AND VOID, WHICH IN EFFECT IS THE SAME AS IT HAVING BEEN DENIED. THE VARIANCE SHALL EXPIRE IF A PERMIT HAS NOT BEEN TAKEN OUT OR AN EXTENSION GRANTED WITHIN SIX MONTHS FROM THIS DATE OF THIS ORDER.

Dated in Salt Lake City, Utah this 29th day of December, 1993



Merrifill Nelson Zoning Administrator

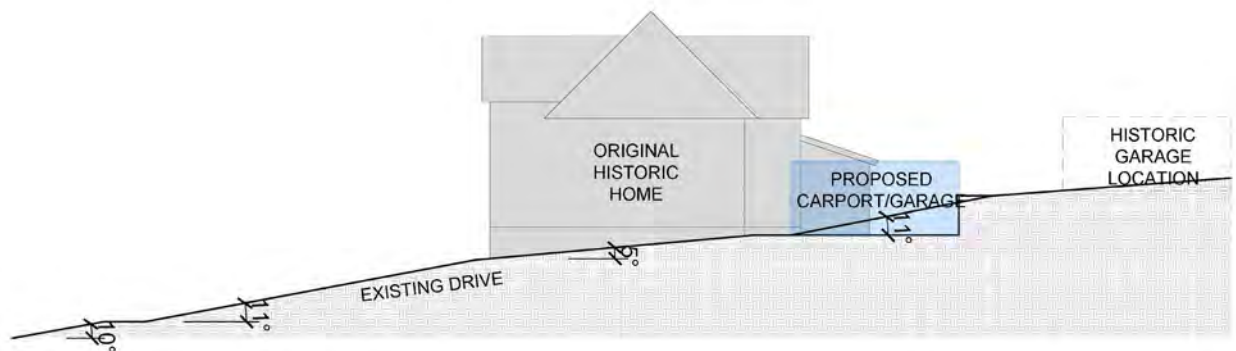
Mr. Rossberg requests that he be allowed to continue with a carport or garage at the location of his existing parking pad, rather than having to move it ~10 ft further back on his lot to meet the requirement of it being 'wholly behind the primary residence'. Proposed plan shown below:



Mr. Rossberg seeks this variance due to the assurance he received during his Zoning Administrator Case, because the hardships presented during that case still apply, and because this same proposed condition already exists in his neighborhood and on his street. We have attempted to outline these items below:

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

The lot for 615 7th Ave is south facing and, while not completely uncommon in the avenues, has a very steep slope on the site. From front to back, the site has approx. 20 ft of elevation change. The location of the parking pad from the 1993 variance allowed for *some* improvement of the driveway slope. However, even with those improvements, the driveway still has a slope of 11 degrees (~20% incline) and, while allowed, far exceeds the recommended slope of 5 degrees (~9% incline). To move the carport/garage wholly behind the primary residence, approx. 10 ft further back, would potentially require another section of steep slope at approximately 11 degrees (~20% incline), before reaching a relatively flat area where a garage historically stood.



Besides several sections of steep slope, the length of the driveway to the existing parking pad also makes for an extremely long driveway- at approximately 90 linear feet. Adding a minimum of 10 additional ft, so the carport/garage can sit wholly behind the residence, adds more than 10% to the total length of an already very long driveway.

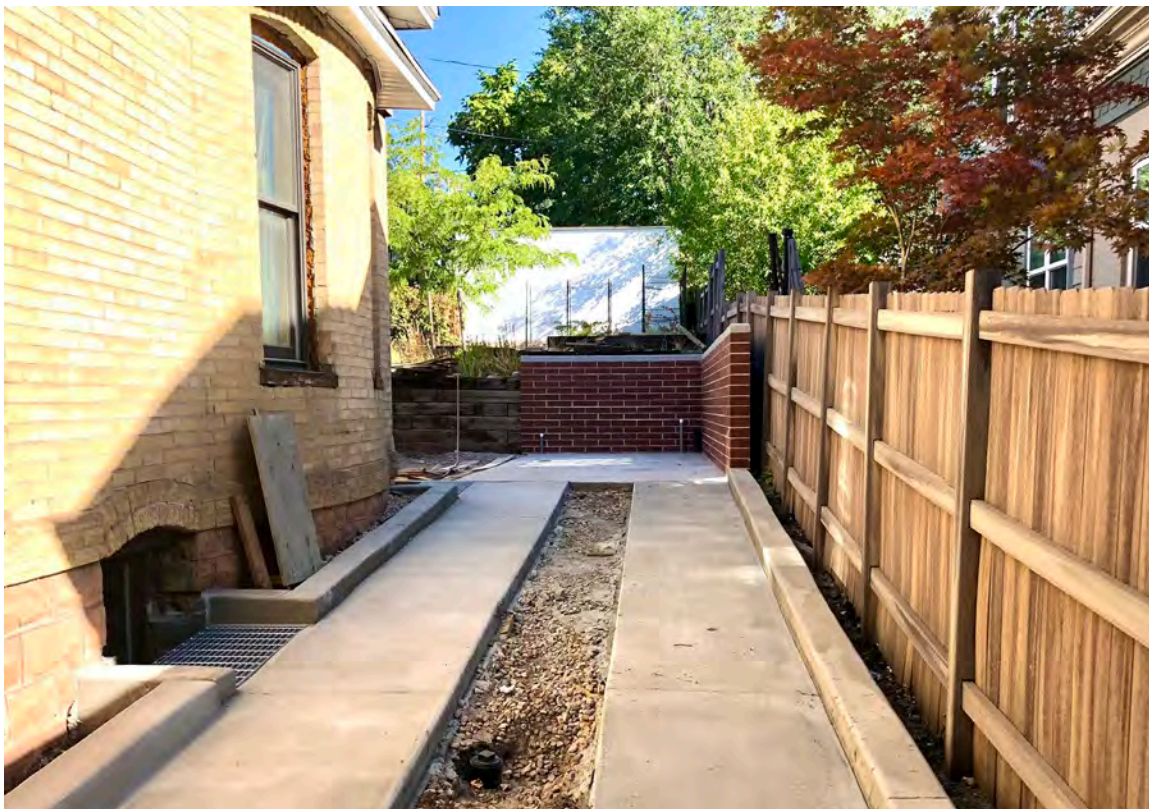
Extra length and additional steep slopes make it difficult for homeowners to age in place. The added distance and potential slope only makes a long and steep driveway even more dangerous, increasing the potential for injury through falling or areas of ice, regardless of age.

The existing 90 ft of driveway is also sandwiched between two houses for approx. 30 ft. This makes snow removal tricky as there is literally no place to put it. And where the driveway opens up to the front yard, the slope of the driveway makes it precarious to pile snow. Adding 10 more ft to this driveway means more snow removal, with the only realistic option being to move it uphill into the backyard, including the potential of snow to build up in front of the back door from the residence, again increasing risk from ice.

Lastly, the desire to have a carport or garage in the existing parking pad location is also due to the small yard and the relatively large footprint the garage would take up. At minimum, moving the garage fully behind the primary residence results in it taking up a minimum of 10% of the small 1700 s.f. rear yard, but would more likely take up to 30% with extra driveway and access paths.

There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district;

Unlike other properties in this district, Mr Rossberg has spent a great deal of time trying to address his need for a usable and safe garage on his property. Through variance applications, as well as his Administrator Case, he has proposed many different solutions and attempted to meet city requirements while also meeting his needs. He was previously denied his preferred solutions but believed they had come to a mutual agreement with the location of the parking pad and potential to add a carport or garage at a later date. Though Mr Rossberg had to go through this process, and perhaps in part because he and others had sought such variances, requirements were changed such that a variance was no longer needed for the parking pad he spent a great deal of time arguing for. However, over the years he has proceeded in good faith that his variance allowed him a future garage or carport at the approved parking pad location. Keeping his building permit active, and open, he made sure his parking pad was designed appropriately to accommodate a future structure- including turn down footings and oversized retaining walls capable of holding a garage or carport structure. These items were completed in 2016 from the original 1994 permit and are existing on his property at this time. The proposed carport or garage would utilize these existing elements in its design.



Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;

Many surrounding houses enjoy garages and uninterrupted backyards. Several houses also have garages not fully behind their homes, either through prior lack of restrictions, or additions that came after the garages. A handful of examples are shown below, including a neighbor just two doors down.

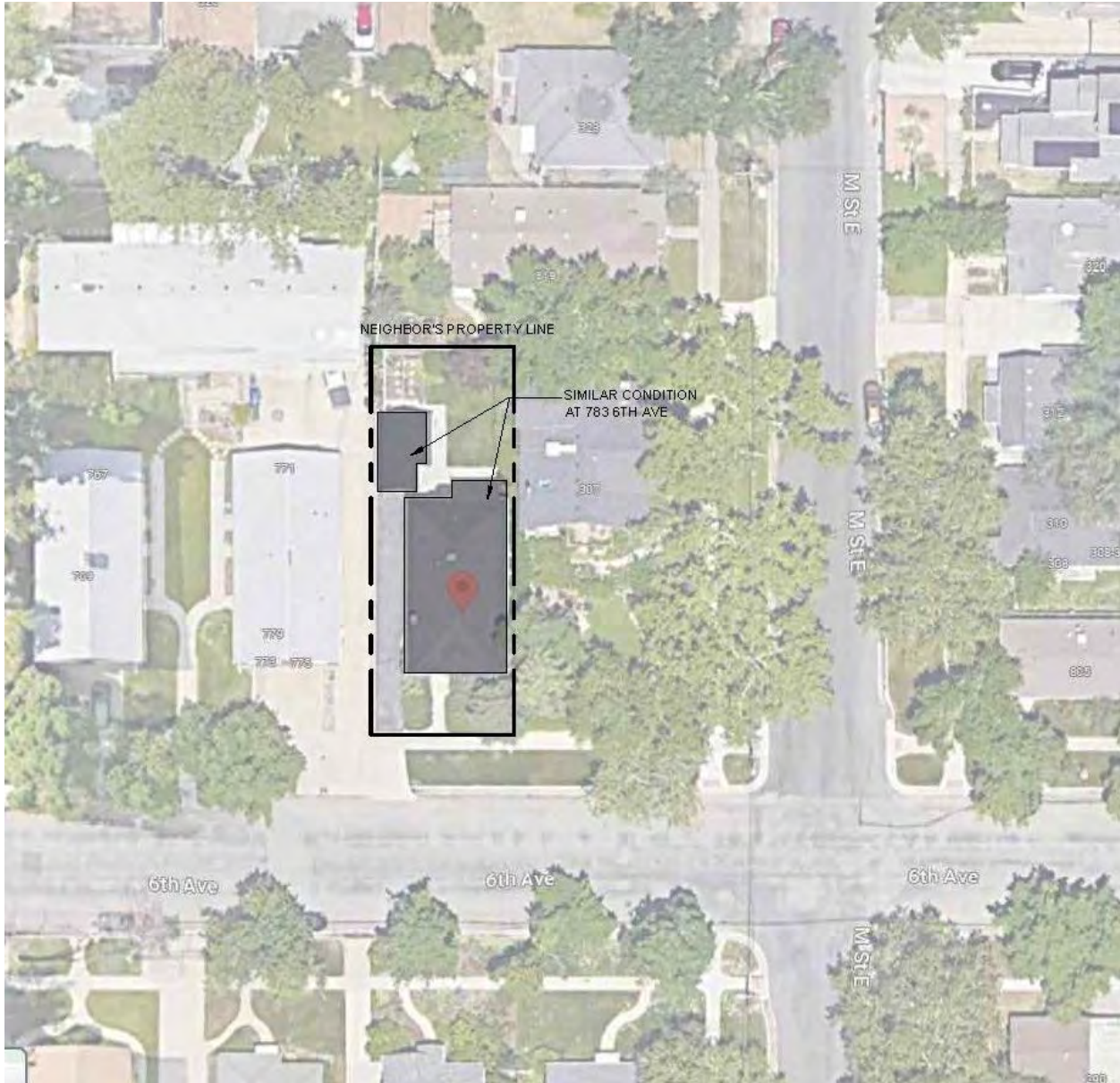
623 7th Ave

Just two doors down from Mr Rossberg, there is a condition very similar to what an approved variance would allow. In this case, we believe the garage was in place when an addition was added to the primary residence, making the garage no longer comply with being 'wholly behind the primary residence.' Mr Rossberg's home has a similar addition, although his existed prior to the request for a carport or garage, although the result comes to the same.



783 6th Ave

A couple of blocks over, and one block down, sits another home with a similar situation. We would hypothesize that, once again, an existing garage was in place when an addition was added to the primary residence such that the garage would no longer sit 'wholly behind the primary residence.' Once again, the result is the same although Mr Rossberg's addition came before the garage.



360 G Street

A third example at 360 G street, a couple blocks over in the other direction, sits another home with a similar situation. Sitting on a very large lot, they added a very large addition such that their garage would no longer sit 'wholly behind the primary residence.' Once again, the result is the same despite them having a much larger lot with more options for expansion.



These are examples we found in just a few blocks radius. There are certainly more egregious garages in the avenues and these solutions do not detract from neighborhood street views. They also add value to beautiful old homes by adding the practical use of a garage as well as adding additional space to small historic homes.

The variance will not substantially affect the general plan of the city and will not be contrary to the public interest; and

As the 1993 Variance stated with regards to the parking pad location, having a car parked in this location does not substantially affect the general plan of the city and will not be contrary to public interest. As outlined above, this condition already exists in the neighborhood without detriment. The proposed carport/garage location adds value to the residence for usability and any carport or garage will be equally visible whether located as proposed, or moved 10 ft further back to meet the current requirement. It is hardly more visible than a parked car in the same location.



The spirit of this title is observed and substantial justice done-

As the 1993 Variance also stated with regards to the location, and as outlined above, allowing a carport or garage as proposed is in the spirit of this title and substantial justice done.

We have also included an addendum with the owner's thoughts and understanding of these items.

Thank you for your consideration on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "David S. Richardson". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

David S. Richardson, AIA, PE
Capitol Hill Construction, Inc
www.caphillcon.com
801-243-0043 cell

Variance Request

Wayne Rossberg

July 5, 2023

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1 History

The existing parking pad was permitted on January 14, 1994 following a Board of Adjustment hearing (Case #1961-B, held at the end of 1993), in which a proposed parking pad in the front yard was denied. During the boards “executive” session (held in the presence of the owner and all other participants in attendance at the hearing), the members of the board and the city representative (Mr. Nelson) determined the position of the parking pad (i.e., the ultimately permitted location) that would minimize the length of the driveway. One member of the board (Mr. Willey, the newest member) asked the other members to clarify whether a future carport or garage would be permitted at that same location. Mr. Nelson assured the members of the board that it would be.

In response to the Board’s discussion, the owner revised the plans accordingly and submitted them for a permit. At that time, Mr. Nelson observed that the parking pad position was only 10’ from the neighboring structure, not the 15’ required by the ordinance at that time. An administrative variance (Case #644) was issued and the permit was granted.

2 Request

It is requested that a 9’ × 20’ accessory structure (i.e., carport or garage) be allowed on the site of the existing parking pad (see Figure 1), in accordance with the assurance of the city representative given during the 1993 Board of Adjustment hearing. The proposed structure would utilize the existing East and North retaining walls of the parking pad for those respective sides.

This property sits above 7th Avenue on a steep slope. The proposed accessory structure is accessed via a steep driveway with existing retaining walls to the east and north. Figure 1 shows the existing profile through the site. Also shown is the profile as it existed at the time the 1994 permit was issued (see Section 1) and the profile of the neighboring property as it exists today—it was altered during a remodel of the neighboring home undertaken around 2011.

In 2004 a small (10’ × 17’-3”) wood frame addition was constructed at the rear of the historic masonry home to replace a slightly smaller (9’ × 16’)

previously existing wood frame addition at the same location. The proposed structure will sit 5'-4" to the rear of the closest face of the primary structure and 9'-6" from the flanking face of the primary structure.

3 Standards Compliance

3.1 Unreasonable Hardship—21A.18.060A1

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;

Recognizing the judgement of the members of the 1993 Board and city representative, for the proposed accessory structure to be sited in the rear yard, behind the 2004 addition, substantial earthwork and new retaining walls would be required.

The requested variance is consistent with the purpose and intent of Title 21A as expressed in section 21A.02.030 as follows:

A. Lessen congestion in the streets or roads;

The proposed structure does not increase congestion.

B. Secure safety from fire and other dangers;

The proposed structure is constructed largely of noncombustible materials (i.e., steel, aluminum, glass, and masonry) and would pose minimal, if any, increased fire danger over and above that presented by the open-air parking afforded by the existing parking pad.

C. Provide adequate light and air;

The proposed structure is considerably shorter than the surrounding structures. It would only extend approximately 1' above the neighbors' fence and is surrounded by significant open space, thus would not substantially affect any existing views, the free flow of air, nor significantly alter the amount of light.

D. Classify land uses and distribute land development and utilization;

The proposed structure would not alter land use and utilization.

E. Protect the tax base;

The proposed structure would increase the property value and thus the tax base.

F. Secure economy in governmental expenditures;

The proposed structure would not alter governmental expenditures;

G. Foster the City's industrial, business and residential development; and

The requested variance certainly fosters development of this residential property.

H. Protect the environment. (Ord. 26-95 §2(1-3), 1995)

The requested variance protects the environment, consistent with Section 21A.44.010E, by eliminating the need to pave yet more land for an extended driveway, which extension would increase runoff and local atmospheric heating over and above that for the existing parking pad. It would also eliminate the need to remove at least one well established tree and would avoid the generation of waste (i.e., timbers, pavers, bricks, concrete, rebar, and irrigation system) resulting from the removal of the existing landscaping.

3.2 Special Circumstances—21A.18.060A2

There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district;

This site has a 19' elevation gain from 7th Avenue to the rear property line (see Figure 1), making it steeper than many neighborhood properties. This, and other factors (see attached copy of the 1993 Request for Variance), where the impetus for the members of the Board of Adjustment and the city representative to spend time during the 1993 hearing (see Section 1) to find an appropriate way to replace the historic parking pad at the back of the site with one that mitigated the steepness of the site and the other recognized factors. This resulted in the now existing parking pad.

Recognizing the judgement of the members of the 1993 Board and city representative, to place a parking area further north than the existing parking

pad is not practical without significant earthwork. Thus, considerably more earthwork will be involved to create a similar accessory structure than many of the properties in the same zoning district and also would be at odds with one of the stated intents, 21A.02.030H, of Title 21A.

3.3 Enjoyment of Property Rights—21A.18.060A3

Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;

Garages and covered parking are common in this neighborhood with many neighbors able to enjoy this property right (e.g. 623 E 7th Ave, shown in Figure 2 and others shown in Figure 3). Of the eight properties on the north side of 7th Avenue between I and J Streets, five have garages. All of the neighboring properties on the same block to the north along I Street also have garages or covered parking.

3.4 Public Interest—21A.18.060A4

The variance will not substantially affect the general plan of the city and will not be contrary to the public interest; and

From the street, the location of the proposed accessory structure would not appear substantially different than if it were set back 15' or more (see Figures 4 and 5). Furthermore, the proposed structure would appear to be similarly situated behind the primary structure as other properties (e.g. 623 and 627 7th Ave) because the 2004 addition is not visible from the street (see Figure 3) due to the neighboring house and fence.

The proposed structure is considerably shorter than the surrounding structures. It would only extend approximately 1' above the neighbors' fence, thus would not substantially affect any existing views, air flow, and light.

The proposed structure is constructed largely of noncombustible materials (i.e., steel, aluminum, glass, and masonry) and would pose minimal, if any,

increased fire danger over and above that presented by the open-air parking afforded by the existing parking pad.

Granting this variance would not substantially affect the general plan of the city and will not be contrary to the public interest.

3.5 Spirit and Justice—21A.18.060A5

The spirit of this title is observed and substantial justice done.

The requested variance is consistent with the purpose and intent of Title 21A as expressed in section 21A.02.030 (see Section 3.1 above).

As an interesting note, it is permitted to remove the 2004 addition. The proposed accessory structure would then be permitted under the current Title 21A (see Table 21A.36.020B) because it would then be in the side yard, but entirely behind the back face of the house. The proposed structure would also be at least 4' away from the house in all respects (see Section 21A.40.050A.4.b). Then, it is permitted to restore the 2004 addition because Section 21A.40.050A.3 states:

If an addition to a residential building results in an existing accessory building being located in a side yard, the existing accessory building shall be permitted to remain, subject to maintaining a four foot (4') separation from the side of the accessory building to the side of the residential building, as required in subsection A.4.b of this section.

The 9'-6" separation between the proposed accessory structure and the 2004 addition meets this criterion.

This situation—where Title 21A both permits and disallows the proposed accessory building—shows, at the very least, the title is logically inconsistent. One can only infer there is nothing about the proposed structure location that is intrinsically problematic.

In light of all of the above, and particularly the planning, personal labor, and money expended by the property owner upon the assurances of a City

representative at the time the existing parking pad was permitted, granting this variance would be equitable and do substantial justice.

4 Drawings and Exhibits

4.1 Notes

The following notes apply to the drawing in Figure 1.

4.1.1 General

G01 —All dimensions are in inches.

G02 —All drawings are to scale, but the scale is indeterminate.

4.1.2 Site

S01 —House.

S02 —Existing concrete parking pad with North and East masonry retaining walls.

S03 —Current site profile at Section A-A.

S04 —Pre-1994 site profile at Section A-A.

S05 —East neighboring site profile at property line.

S06 —Proposed accessory structure.

S07 —Maple.

S08 —Japanese maple.

S09 —Locust.

S10 —Ornamental pear.

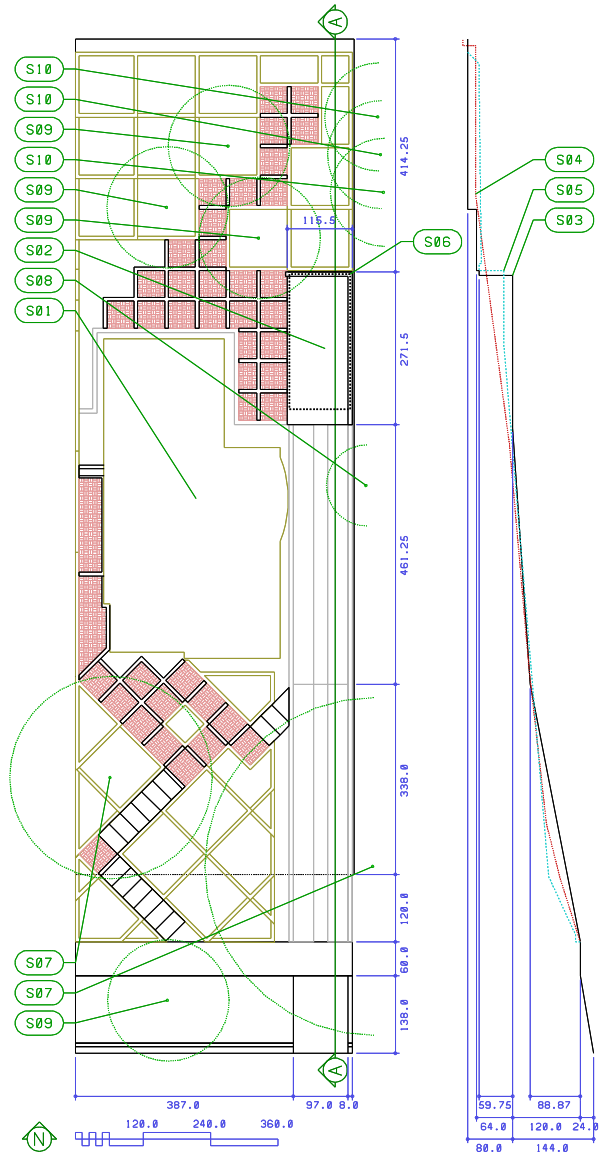


Figure 1: Site Plan and Profile

Lookup Map
This Zoning Map for Salt Lake City. You can use this map to find zoning for property in Salt Lake City.

Zoning codes define land uses in the community, whether they are residential, commercial, or industrial.

Zoning standards for land use are set by the community by ordinance.

For more information about zoning in Salt Lake City, you can be sent to [SLC](#)

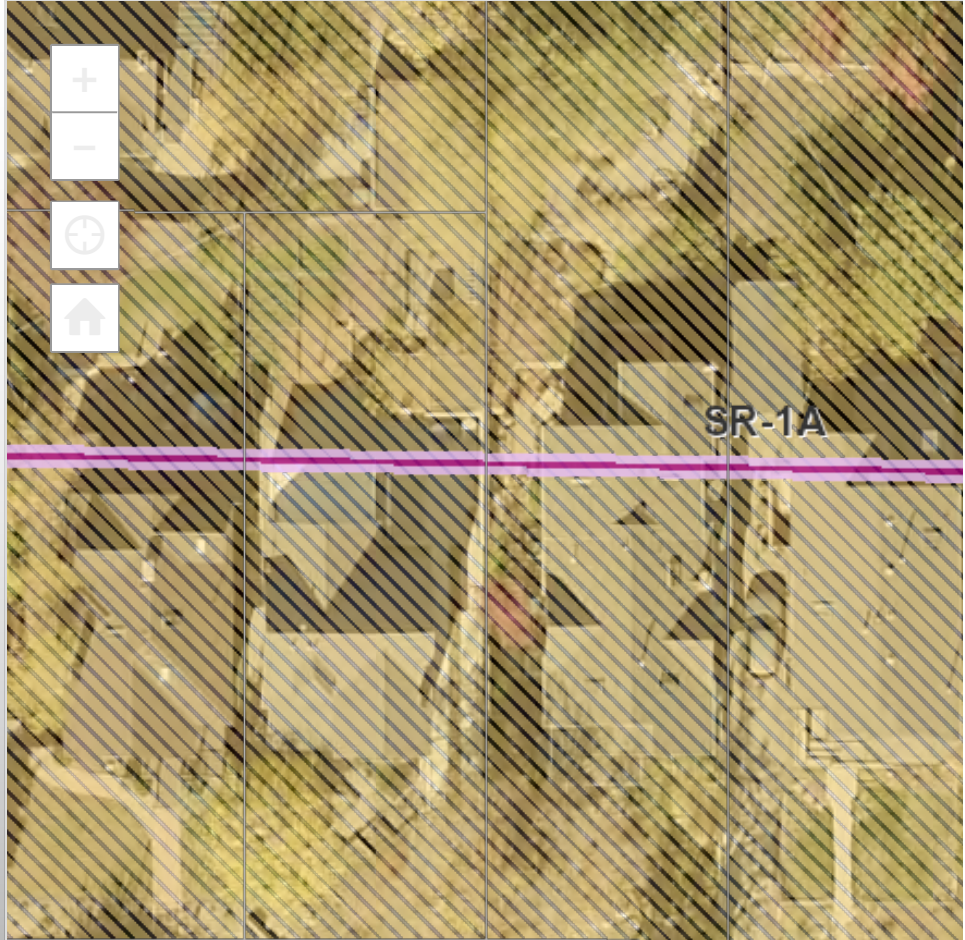


Figure 2: SLC Zoning Map (partial)



Figure 3: Google Maps

Imagery ©2023 Maxar Technologies, State of Utah, Map data ©2023 Google 20 ft

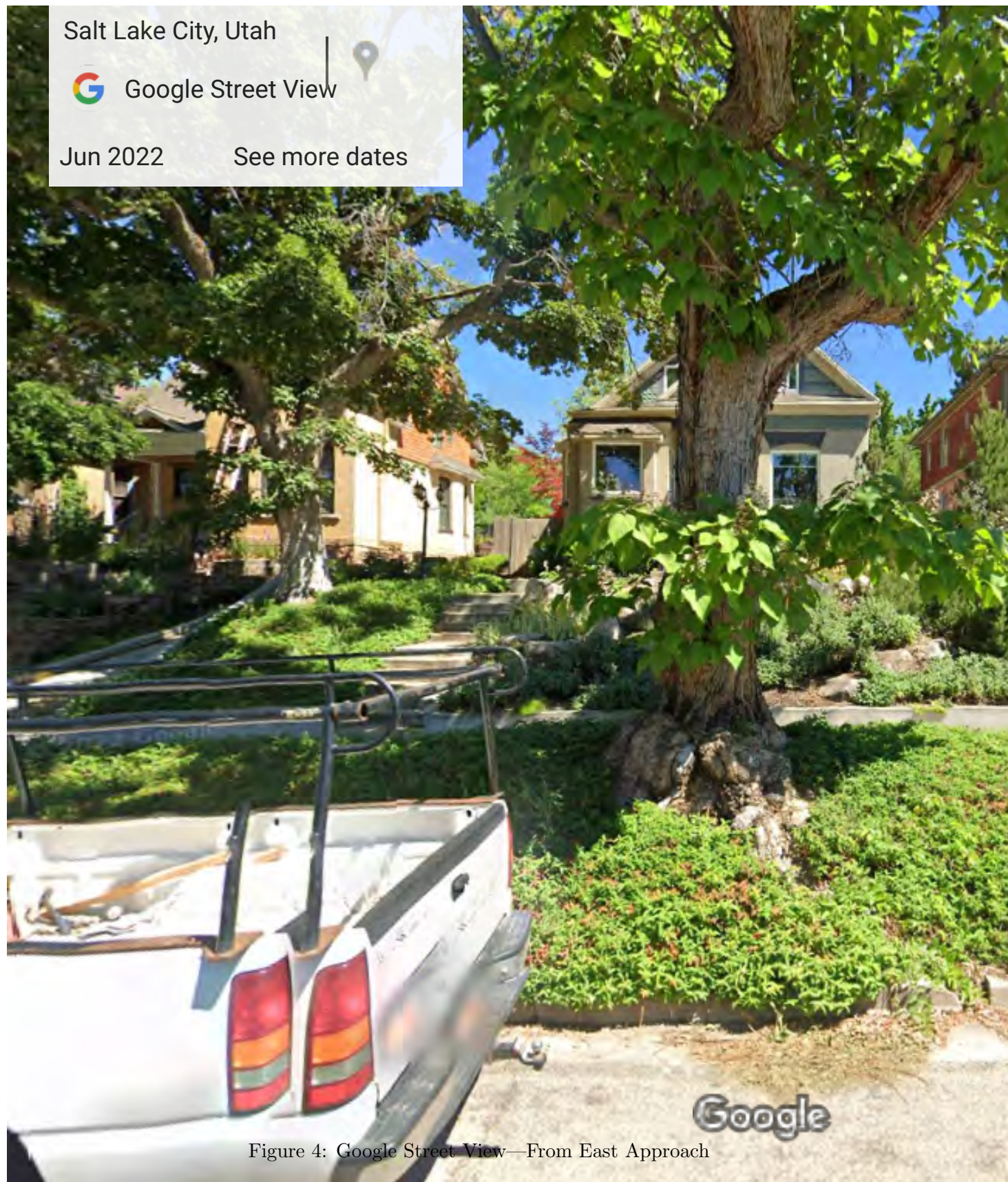
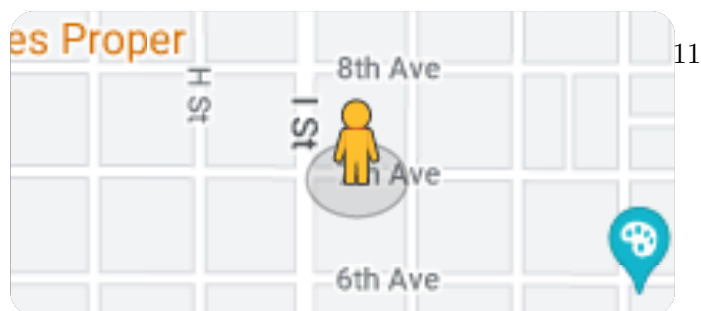


Figure 4: Google Street View—From East Approach

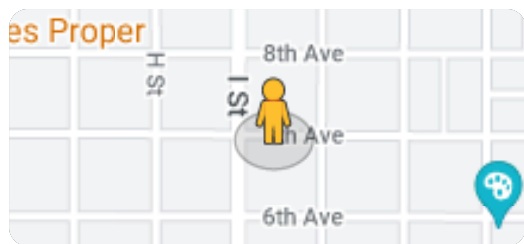




Salt Lake City, Utah
Google Street View
Jun 2022 See more dates

Figure 5: Google Street View—615 E 7th Ave.

Image capture: Jun 2022



Variance Request

Wayne Rossberg

September 15, 1993

1 Identification

Date:	September 15, 1993
Applicant:	Wayne Rossberg
Applicant's Address:	615 East 7th Avenue Salt Lake City, UT 84103
Applicant's Phone:	(801) 532-1421
Owner's Address:	615 East 7th Avenue Salt Lake City, UT 84103
Variance Address:	615 East 7th Avenue Salt Lake City, UT 84103
Send Notice To:	Wayne Rossberg 615 East 7th Avenue Salt Lake City, UT 84103
Legal Description of Lot	BEG 2.5 RDS W FR SE COR LOT 2, BLK 108, PLAT D, SLC SUR; W 2.5 RDS; N 7.5 RDS; E 2.5 RDS; S 7.5 RDS TO BEG 4636-1443
Zoning:	Residential
County Tax Parcel Number:	09-32-160-017-0000

2 Adjacent Property Owners

North:	Sonia Couillard 372 North 'I' Street Salt Lake City, UT 84103
East:	Mary Beckerle 619 East 7th Avenue Salt Lake City, UT 84103
West:	David and Heidi McMillan 609 East 7th Avenue Salt Lake City, UT 84103
South: (Across 7th Avenue)	Rocky Mountain Trading Inc. 2763 South State Street Salt Lake City, UT 84115

3 Proposal

The proposed construction consists of a driveway extending from the front sidewalk to the front of the house and accompanying landscaping in the form of a series of terraces with new stairs and walk. Materials to be used are timbers for the terraces with brick pavers and timbers used as paving for the driveway and walks.

The proposed construction does not meet the requirements of the Zoning Ordinance of Salt Lake City in that the proposed driveway requires parking in the front yard, several small areas in the terraced landscape require a grade change which exceeds 2', and the hard area of the landscaping exceeds 10% of the landscaped area.

4 Justification

Section 21.02.020 of the Salt Lake City code states:

This title is designed and enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Salt Lake City, including among other things:

- A. The lessening of congestion in the streets or roads;
- B. Securing safety from fire and other dangers;
- C. Providing adequate light and air;
- D. Classification of land uses and distribution of land development and utilization;
- E. Protection of the tax base;
- F. Securing economy in governmental expenditures; and
- G. Fostering the city's industrial, business and residential development.

Clearly the proposed project lessens congestion in the street by providing off-street parking for the single car owned by the resident. It also does not introduce any fire or other safety hazard. The proposal does not impact upon the quantity or quality of light or air. Neither does it alter the classification or distribution of land uses. The project protects the tax base by enhancing the appearance of the property and thus the surrounding neighborhood. It secures economy in governmental expenditures by making street maintenance (snow removal) easier and by greatly reducing runoff from the site.

The size, orientation, and slope of the lot makes conformance to the off-street parking regulations onerous. In order to accommodate the required parking for two cars—a space 20' by 22'—without requiring excavation in excess of 2' below grade and still provide adequate maneuvering space for access, the required space would need to be located at the extreme rear of the lot as shown by Sheet 4. This would require the indicated, steeply slopping (approximately 2:10 or 20% grade) driveway (see Sheet 5) that is not suitable for any auxiliary purpose (i.e., not suitable as a patio or for any form of recreation). In fact, the driveway would technically be unsuitable as a pedestrian ramp since such ramps are limited to a slope of not more than 1:12.

The lot is 41.25' wide by 123.75' deep—approximately 5000 sq. feet. The house occupies 1060 sq. feet of the site and the west side yard, which is only 4' wide and thus by Section 21.80.180 of the Salt Lake City Code does

not constitute open space, occupies an additional 180 sq. feet leaving 3760 sq. feet in the various other yards as potential open space. The entire area of the site covered by the required parking area and the driveway would be 1600 sq. feet—nearly 43% of the potential open space and 32% of the entire lot—1100 sq. feet of which is driveway that due to its slope is unusable for any purpose except transporting cars and collecting and channeling runoff to the street. The creation of such runoff does not seem to aid in “securing economy in governmental expenditures” nor does the reduction of usable open space (Section 21.80.180 of the Salt Lake City Code excludes off-street parking and driveways as usable open space) seem to be in keeping with the recognition that landscaped space is a benefit to the residents of the city (see Section 21.80.180, 21.80.190, 21.80.200, and 21.80.220 among others).

The house is set back 34' from the front property line and there is another 8' from the property line to the sidewalk. Thus, the length of the driveway, shown in Sheet 4, is in excess of 120' from the street to the start of the parking area with 75% of its length being at slopes ranging from approximately 2:10 (20% grade) to 3:10 (30% grade)—such slopes being necessitated by the shallow foundation of the house and neighboring landscaping (i.e., a large maple tree located near the property line in the neighbors yard). The remaining 25% is confined between the house and the neighbors 6' high fence. This makes snow removal extremely difficult.

Consider the winter of 1992–1993. During that winter approximately 3' to 4' feet of snow fell and remained on the ground. At 10 pounds per cubic foot, the total weight of snow which would have to be removed from such a required driveway is from 20 to 27 tons of which from 5 to 6 tons would have to be hauled from between the house and the neighbor's fence. It might be suggested that powered snow removal equipment might be used, but in the confined segment of the driveway, the snow would need to be blown toward the front of the house. It would then have to be removed from the steep front segment of the driveway where doing so would be made dangerous because of the inability to maintain adequate footing. A similar condition would exist for the segment between the back of the house and the parking area. This does not seem to “promote ... health, safety, ..., convenience, ... and welfare” of the property owner—an “inhabitant of the city.” This chore of snow removal is so burdensome as to make the use of the driveway virtually impossible during 3 to 4 months of each year.

All of the above problems stem from the orientation of the lot relative to the street. With the narrow dimension toward the street, a very long driveway is required to meet the off-street parking requirement. Corner lots or lots with the long dimension toward the street have less difficulty meeting the requirements since the parking requirements recognize the constraints of shallow lots. Corner lots also have access from the side street and thus access to the back yard is easily achieved without the excessive paving required for the narrow, deep lots. In cases of new development, there is more freedom in placing and orienting the elements on the site. In the Avenues, the majority of yards were not planned for off-street parking, and certainly not for off-street parking for two cars.

Of the other lots in the same block fronting on the North side of 7th Avenue, only 2 have driveways. Both of these driveways lead to single car garages partially excavated into the slope of the back yards. While these driveways are still long because of the same orientation situation as the site under consideration in this proposal, they are still shorter and the two lots are both 33% larger (6800 sq. feet). As a result, the portion of these lots under pavement is considerably less than 43% (only approximately 15%). The third large lot on the North side of the 7th Avenue has no off-street parking at all.

The issue of excess hard paving in the required landscaped area of the front yard is inescapable. If there were no driveway on the site, a single, straight 4' wide walk leading from the sidewalk to the house would occupy 10% of the 40' wide front yard. With a 10' wide driveway the required landscaped area is then only 30' wide and a 4' walk is then in excess of the 10% restriction. The intent of Section 21.80.200 is clearly aimed at providing an attractive front yard. The presence of excess pavement is deemed to adversely impact the appearance. The proposed landscaping has been carefully planned to minimize the view of the pavement—both walks and stairs—and the materials—timbers and brick pavers—have been chosen to provide a softer, less formal appearance.

The few areas of the landscaping which extend more than 2' above or below the existing grade do so because of the current steep slope extending from the sidewalk up to an elevation of 4' or because of a major excavation of a portion of the front yard performed by a previous owner. The heights of the new terraces are governed largely by the rise of the stairs. In order to hide the stairs from view, the terraces are designed to extend above the

paving—both stairs and walks—by at least 6". To most closely match the grade of the neighboring yard, the terraces were restricted to extend no more than 18" above the grade of the neighboring yard. The terraces bordering the driveway are designed to extend no more than 18" above the first 20' of the drive to provide an unobstructed view of the sidewalk while backing a car out of the driveway.

5 Observations

The requirement for off-street parking in the rear yard does not logically follow from the stated purposes of the code given in section 21.02.020. Presumably the notion of hiding parked cars comes from the general perception that the car adversely affects the quality of life. This perception however comes primarily from the pollution caused by the operation of cars (parked cars contribute very little to pollution) and the amount of surface area which must be devoted to their operation and storage. In this latter regard, it would seem counter productive to require each homeowner to install and maintain a private street for the sole purpose of moving a car from the public street where it is operated to the rear yard for storage. Indeed, in the case of this proposal, such a requirement would be contradictory to one of the stated purposes of the ordinance—that is, the securing of economy in governmental expenditure. For such a private street—over 120' long and 10' wide—will produce significant runoff which the city will need to pay to collect and channel to storm sewers. The proposal all but eliminates runoff by terracing and landscaping 80' of side and rear yard rather than making a large collector. The porous paving of the remainder of the proposed driveway further reduces or eliminates runoff in all but the most severe storms.

In addition to the general problems of private streets, allowing parking in the front yard can actually contribute to at least one of the stated purposes of the ordinance—it can aid in securing a degree of safety. The presence of a car in the driveway gives a strong indication that the residents are home. This can discourage theft and vandalism.

The proposed driveway has been designed to provide significant screening of the parked car by depressing the drive slightly and raising the landscaping. The existing landscaping in the neighboring yard already provides an effective screen. These measures are completely effective at obscuring the

car from either end of the block and provide significant effect at shorter distances.

Notwithstanding the provisions of the ordinance, the proposed driveway is very much in keeping with the character of the neighborhood. It is a common practice for residents of the area to park their cars in their driveways near the front of their houses. One might assume that a large portion of the residents are not as offended by the sight of a parked car as the framers of the ordinance. In fact, it is probably true that most residents of the avenues are not even aware of the provisions of the ordinance and one might wonder what their collective reaction might be if they were informed of the contents of the ordinance and that many of their chosen parking configurations are illegal. Does it not seem odd that the people for whom the ordinance presumably is written seem not to support the assumptions made by their elected officials any their appointees?

With regard to the point of the general views of the residents, if asked, most would probably give preference to landscaping their yards rather than paving them over. Indeed, landscaping surrounding a car is more pleasant to behold than a ribbon of vacant concrete or asphalt leading to the rear yard. The need for off-street parking is clear and the immediate benefits to the residents and the city at large are also clear. Does it not seem odd to take such an extreme position—one which very few residents are likely to accept voluntarily—over one which achieves all of the most tangible benefits—reduced congestion of the streets and less pavement and runoff—and is already accepted by a large number of residents in the neighborhood? Are residents—many of whom greatly desire off-street parking for their cars—rushing to obtain permits to pave their yards in concrete or asphalt? Might it not better serve all involved to permit less extreme solutions to the Avenues parking problem? Might the extreme position of the ordinance be responsible, in part, for the stagnation and decline of Avenues property values? Might it not also contribute to the large number of homes for sale in the area and the length of time required to sell such property? Are these effects in keeping with the stated purposes of the zoning ordinance given in Section 21.02.020?

6 Examples

The following is a list of other lots in the neighborhood which have off-street parking in the front yard or which have terracing similar to that proposed.

- 646 7th Avenue—parking in front yard resulting from conversion of garage to living space.
- 659/661 7th Avenue—parking in front yard resulting from conversion of garage to living space.
- 679 7th Avenue
- 831 6th Avenue—carport in side yard.
- 317 N Street—parking in front and side yard.
- 319 M Street—parking in side yard.
- 789 8th Avenue—parking in side yard from side street.
- 382 L Street—parking in front yard resulting from conversion of garage to living space.
- 387 8th Avenue—parking in side yard resulting from conversion of garage to living space.
- 373 J Street—parking in side yard resulting from placement of new patio obstructing drive in back yard.
- 453 8th Avenue—parking in front yard resulting from conversion of garage to living space.
- 422 8th Avenue—parking in front yard.
- 403 8th Avenue—parking/garage in front yard.
- 383 9th Avenue—parking in front yard.
- 482 9th Avenue—parking in front yard.
- 517 9th Avenue—parking in front yard resulting from conversion of garage to living space.

- 601 9th Avenue—ties used as retaining wall.
- 653 9th Avenue—parking in side yard off side street.
- 724 9th Avenue—parking in side yard.
- 736 9th Avenue—parking in front yard.
- 425 L Street—parking in front yard.
- 766 9th Avenue—parking in front yard most likely resulting from conversion of garage to living space.
- 474 L Street—parking in front yard resulting from conversion of garage to living space.
- 684 10th Avenue—parking in front yard for basement apartment.
- 661 10th Avenue—massive parking in front yard.
- 612 10th Avenue—parking in front yard along side of the driveway.
- 559 10th Avenue—timbers used for retaining walls and terraces.
- 474 G Street—parking in front and side yards.
- 364 10th Avenue—parking in front and side yards resulting from the conversion of a garage to other uses.
- 340 11th Avenue—parking in side yard resulting from conversion of garage to living space.
- 433 11th Avenue—parking in side yard.
- 468 11th Avenue—parking in front yard next to driveway.
- 328 H Street—parking in front and side yard.
- 564 6th Avenue—parking in front yard.
- 566 6th Avenue—parking in front yard.
- 234 I Street—parking in front and side yards resulting from new deck in the side yard.
- 627 5th Avenue—parking in front and side yard.

- 531 5th Avenue—parking in front yard with new curb.
- 483 5th Avenue—parking in front yard resulting from conversion of garage to living space.
- 217/219 F Street—parking in side yard.
- 211/213 F Street—parking in side yard.
- 174 F Street—parking in front yard where large side and back yards exist.
- 127 F Street—parking in side yard.
- 119 F Street—parking in side yard.
- 147 7th Avenue—new single car garage.
- 133 I Street—parking in side yard.

7 Drawings

The following drawings are provided:

7.1 Sheet 1—Proposed Site Plan

This drawing shows the plan of the proposed front and side yards along with the location and size of the neighboring lots.

7.2 Sheet 2—Perspective of Proposed Site

This drawing is a perspective of the proposed project. To facilitate clarity, the view is taken from above and none of the flora are shown.

7.3 Sheet 3—Section A-A

This drawing is a section taken through the site, as proposed, from front to back as indicated in Sheet 1.

7.4 Sheet 4—Required Site Plan

This drawing shows the plan of the site which would be required to conform to the off-street parking provision of the ordinance.

7.5 Sheet 5—Section B-B

This drawing is a section taken through the site, as required for conformance to the off-street parking provisions of the ordinance, from front to back as indicated in Sheet 4.

7.6 Sheet 6—Superimposed Model

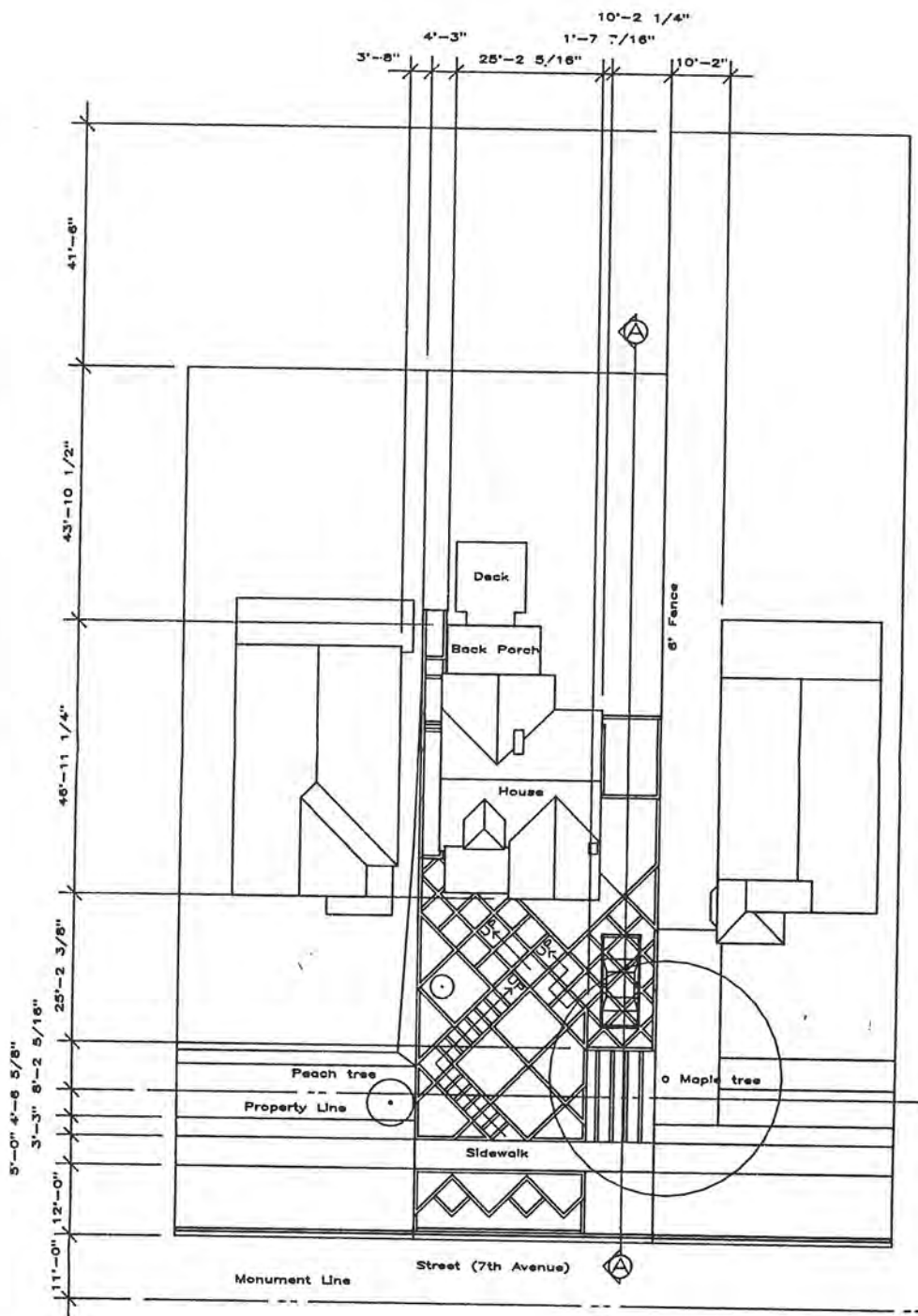
This drawing shows a perspective view of the proposed project superimposed upon a model of the existing site. It shows the relationship of the new elements with the existing grade of the site.

7.7 Sheet 7—Superimposed Model: +2'

This drawing shows a perspective view of the proposed project superimposed upon a model of the existing site which has been raised 2' above its actual elevation. The portions of the proposed elements which are visible are those which extend more than 2' above the existing grade.

7.8 Sheet 8—Superimposed Model: -2'

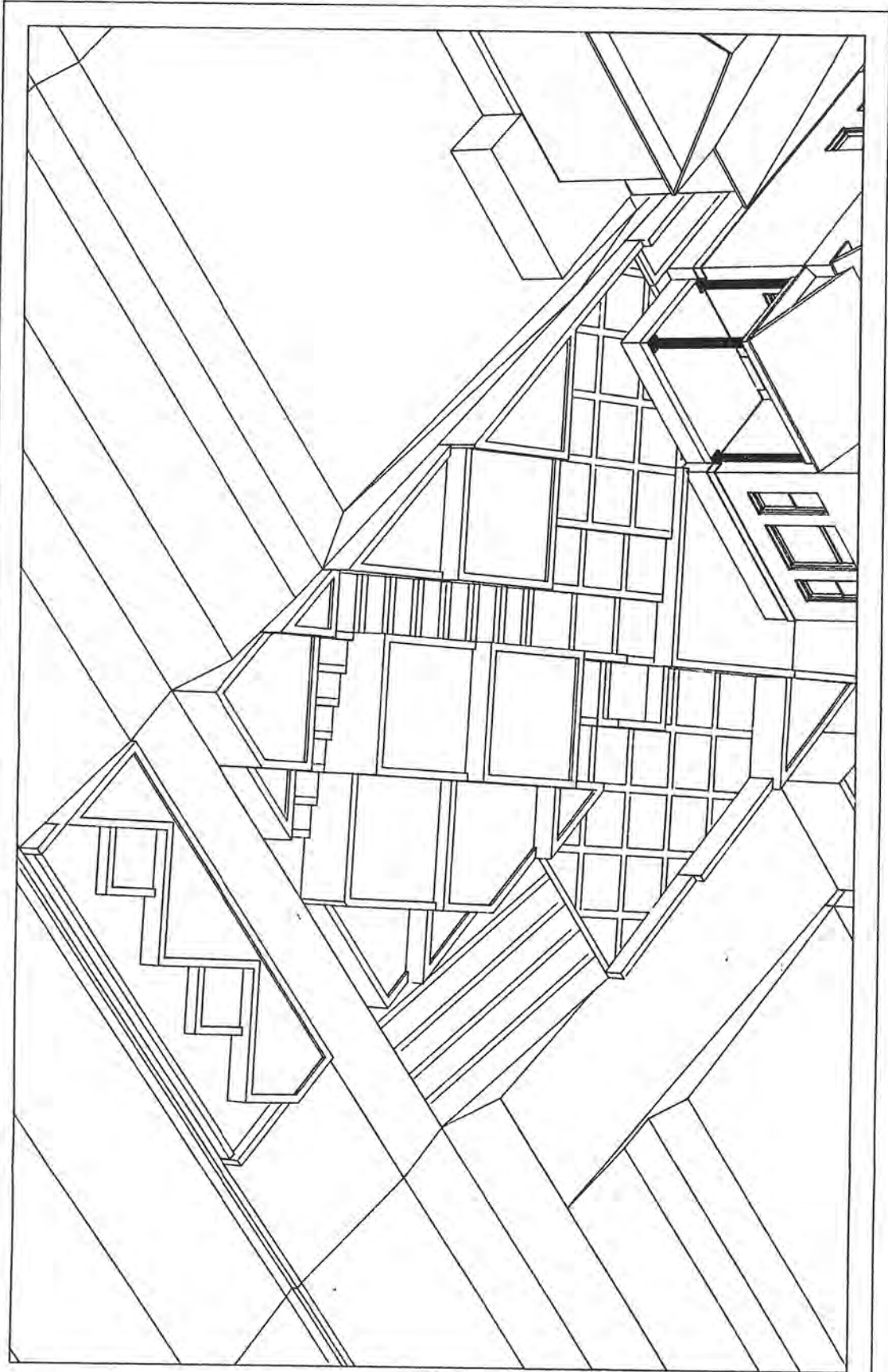
This drawing shows a perspective view of the proposed project superimposed upon a model of the existing site which has been lowered 2' below its actual elevation. The portions of the existing site model which are visible are those areas where the grade of the proposed project extends more than 2' below the existing grade.



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Proposed Site Plan

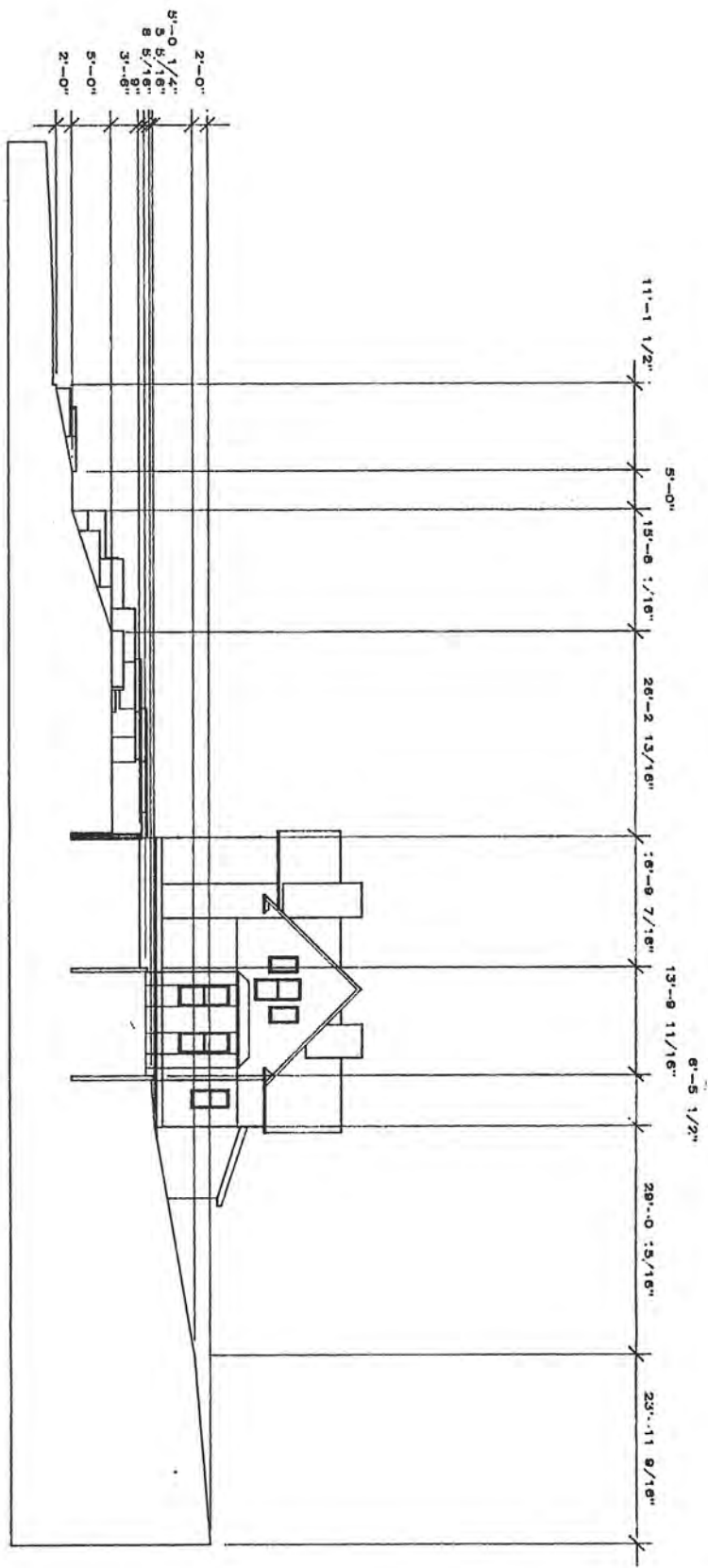
Scale: 1" = 20'-0"



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Perspective of Proposed Site
(No Scale)

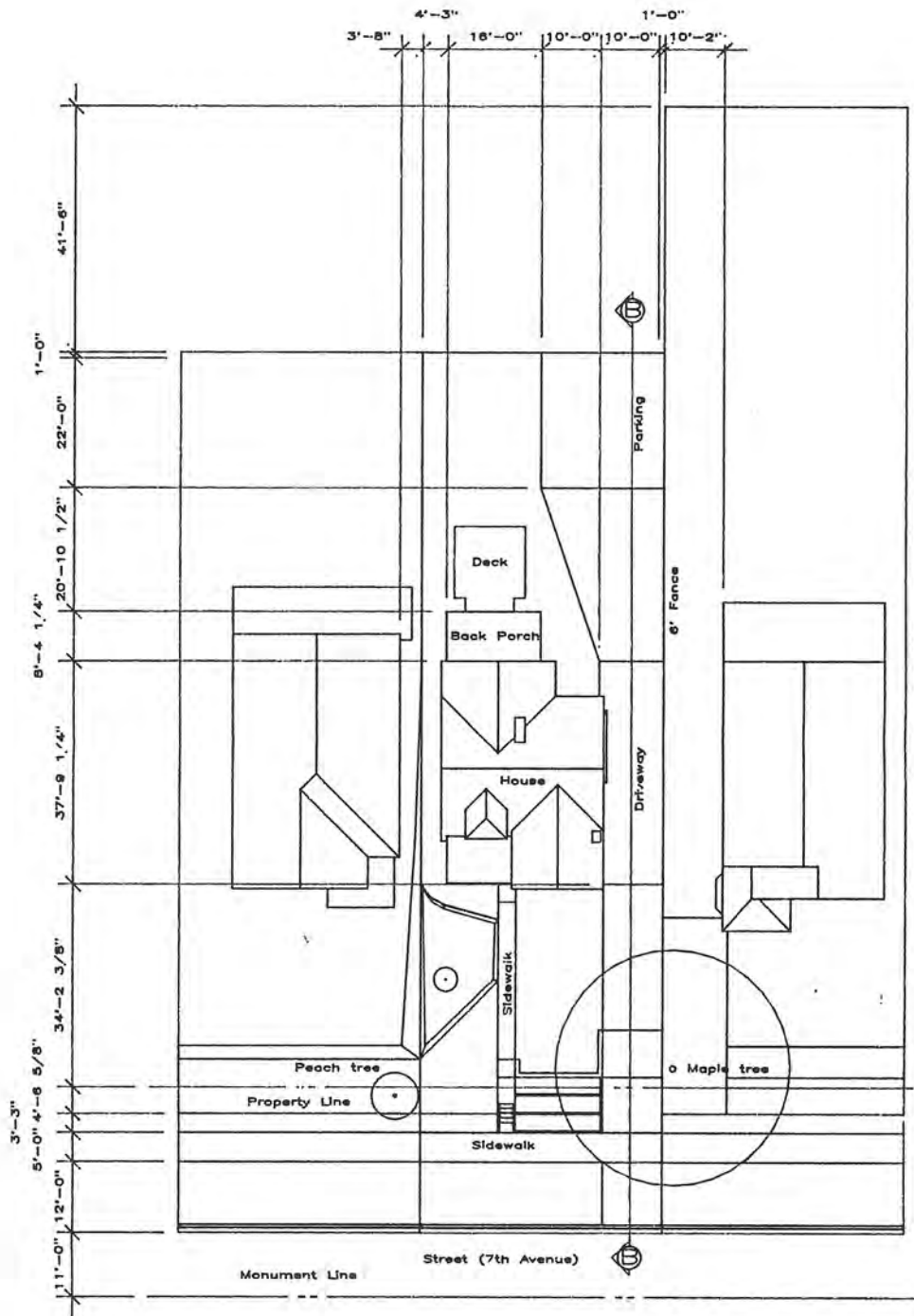
2



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Section A-A
 Scale: 1" = 15'-0"

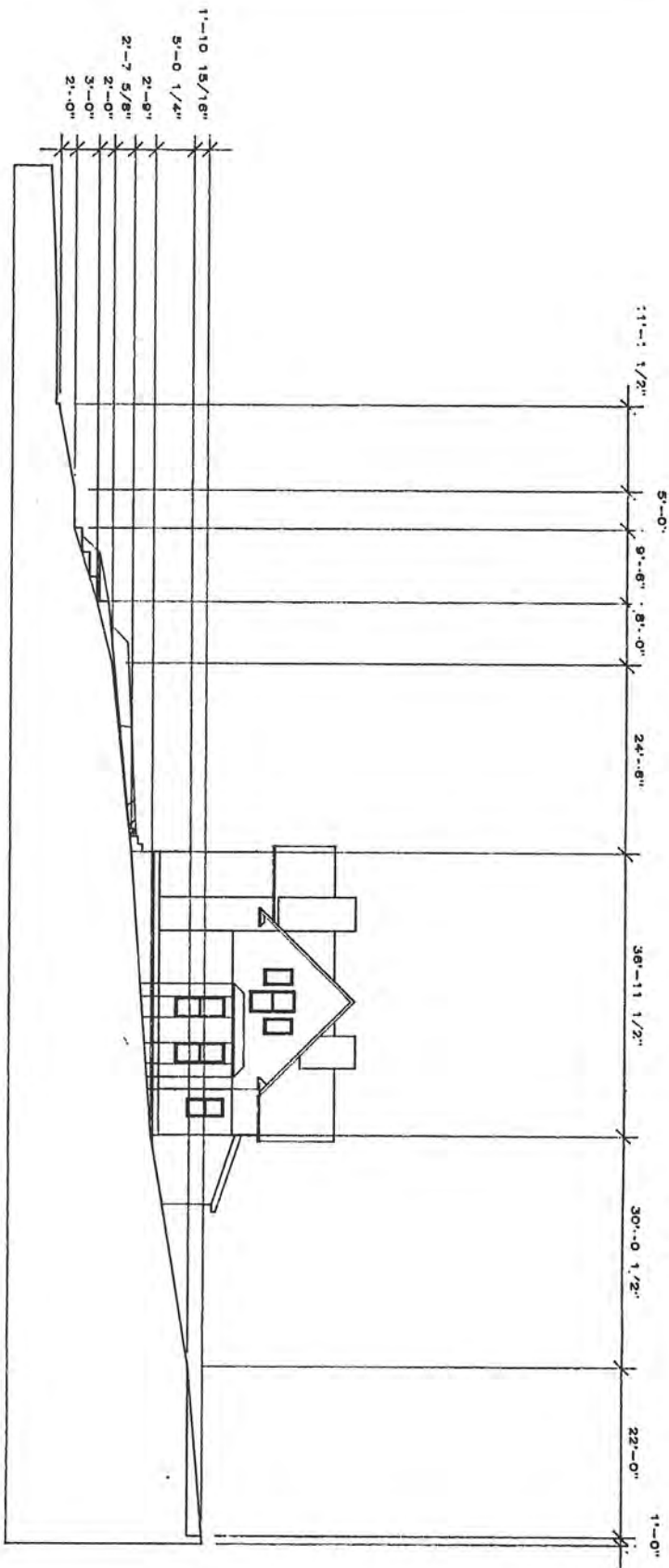
3



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Required Site Plan
 Scale: 1" = 20'-0"

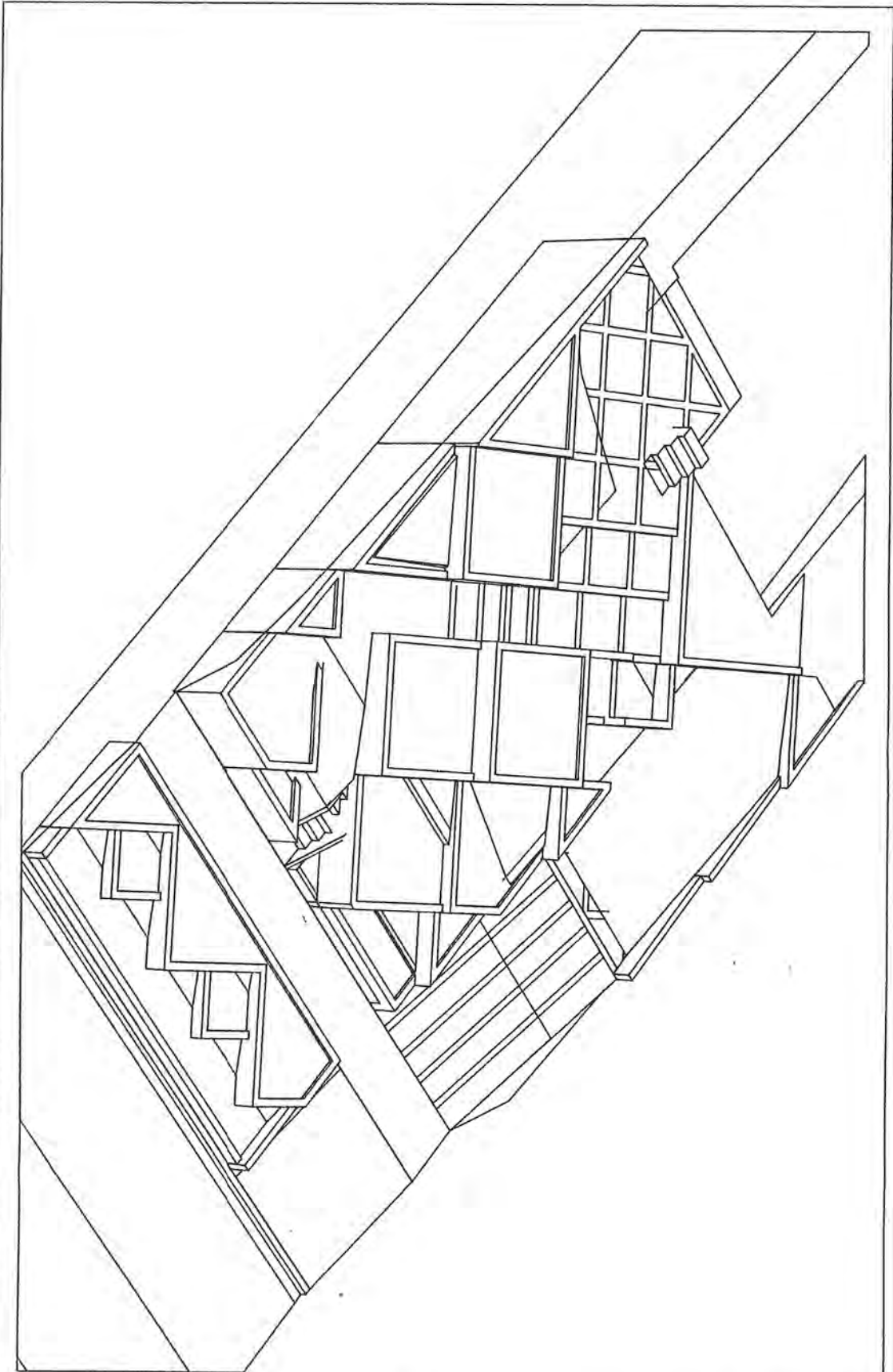
4



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Section B-B
 Scale: 1" = 15'-0"

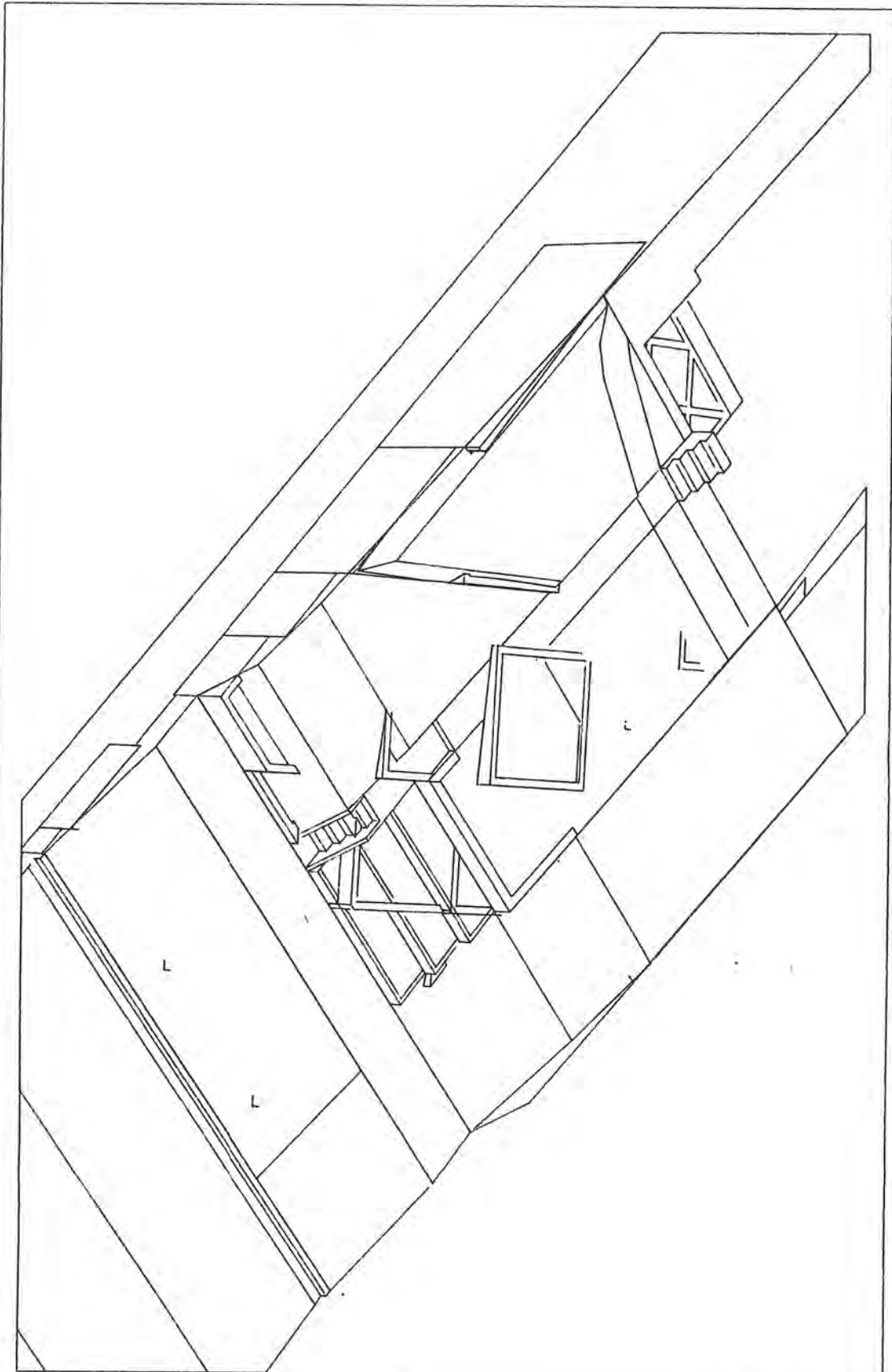
5



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Superimposed Model
(No Scale)

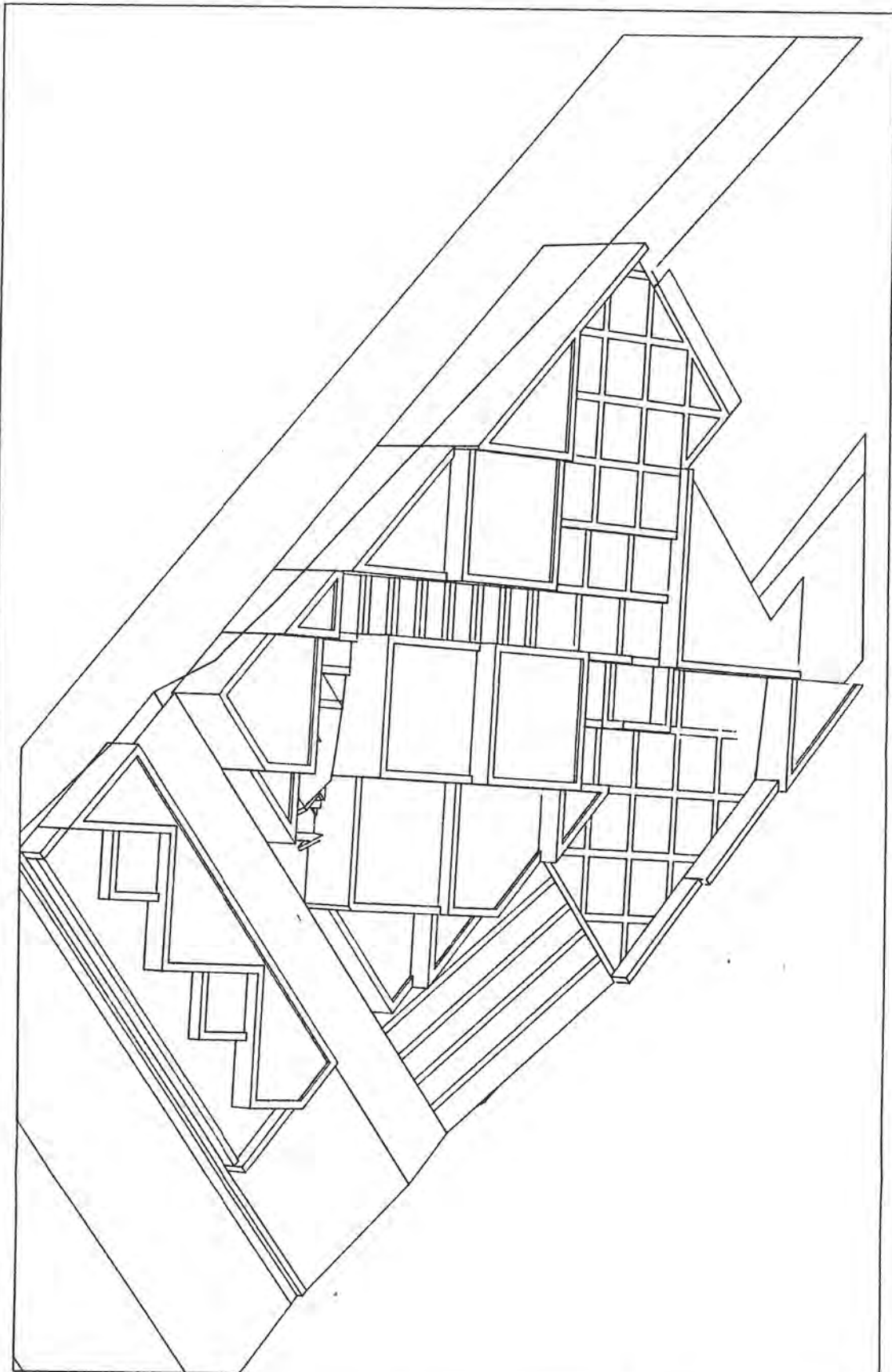
6



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Superimposed Model: +2'
(No Scale)

7



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Superimposed Model: -2'
(No Scale)

8

ATTACHMENT D: Variance Standards

The Finding for each standard is the recommendation of the Planning Division based on the facts associated with the proposal, the discussion that follows, and the input received during the engagement process. Input received after the staff report is published has not been considered in this report.

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 cannot grant a variance that:

A. Is intended as a temporary measure only
Discussion: This request is not intended as a temporary measure. An approved variance would run with the land. The proposed carport or garage would be constructed as a permanent addition to the property.
Finding: Complies
B. Is greater than the minimum variation necessary to relieve the unnecessary hardship demonstrated by the applicant
Discussion: Allowing a garage or carport (accessory structure) to be built in the location proposed by the applicant is the minimum variation necessary to relieve the unnecessary hardship claimed by the applicant.
Finding: Complies
C. Authorizes uses not allowed by law (i.e., a "use variance").
Discussion: Accessory structures are allowed uses as stated in Chapter 21A.33 of the Zoning Ordinance.
Finding: Complies

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 Standards
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;
Finding: Does Not Comply
<p>Discussion: 21A.18.060.B states that the appeals hearing officer may not find an unreasonable hardship unless:</p> <ol style="list-style-type: none"> 1. The alleged hardship is related to the size, shape or topography of the property for which the variance is sought; and 2. The alleged hardship comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood. <p>The alleged hardship is related to the topography of the site, which satisfies standard B.1. However, this circumstance is not peculiar to the property and can be found on many south-facing properties in this neighborhood. As standard B.1 has not been satisfied, General Standard A.1 has also not been satisfied.</p>
Condition(s): n/a
2. There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district;
Finding: Does Not Comply
<p>Discussion: As stated above, the sloping topography found at this site can be found on many south-facing properties in the SR-1A zoning district in the Avenues neighborhood. Staff finds that this circumstance generally applies to other properties in the same zoning district.</p>
Condition(s): n/a
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district.
Finding: Does Not Comply
<p>Discussion: Garages and covered parking are common throughout the SR-1A zoning district. The applicant provided several examples of garages in the area that are not located wholly behind the principal building. These structures may have been built at a time when this was allowed by zoning. It would be possible for the applicant to build a carport or garage without variance approval to enjoy this property right by relocating it approximately 15' to the north.</p>
Condition(s): n/a
4. The variance will not substantially affect the general plan of the city and will not be contrary to the public interest; and
Finding: Does Not Comply
Discussion:

From the public right of way, the location of the proposed accessory structure would appear essentially the same if it were located wholly behind the principal building as required by ordinance. However, the proposed location may create additional impact on the abutting property to the east. The house to the east is approximately 11' from the proposed structure. The location of the proposed accessory structure is within a required side yard, which must be free of obstructions with few exceptions listed in 21A.36.020B. A carport or garage is not a permitted obstruction in a required side yard. Relocating the structure to a permitted location wholly behind the house would create additional space between the proposed structure and the house on the abutting property. Staff finds that this request does not substantially affect the general plan of the City, but may be contrary to the public interest by allowing a garage in a location that creates an impact on the abutting property greater than what is allowed by zoning.

Condition(s): n/a

5. The spirit of this title is observed, and substantial justice done.

Finding: Does Not Comply

Discussion:

The purpose of setback or yard regulations is to ensure that new development is compatible with the existing development patterns of a neighborhood. Relocating the proposed accessory building wholly behind the house to comply with zoning would not impact the streetscape, but it would provide additional separation between the house on the abutting property and the proposed carport or garage. As discussed above, staff finds that the requested zoning relief does not meet variance standards 1-4. As the request is not compliant with all of the variance standards, the spirit of the zoning ordinance has not been observed.

Condition(s): n/a

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

Finding: Complies

Discussion:

As discussed above, the alleged hardship is related to the topography of the site. The site slopes to the north with an elevation gain of approximately 17' from the front property line to the rear property line. Excavation and new retaining walls would be required to relocate the proposed accessory structure wholly behind the house.

Condition(s): n/a

2. The alleged hardship comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.

Finding: Does Not Comply

Discussion:

As discussed above, similar topography can be found on many south-facing properties in the Avenues neighborhood. These conditions are general to the neighborhood.

Condition(s): n/a
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.
1. The hearing officer may not find an unreasonable hardship if the hardship is self-imposed or economic.
Finding: Does Not Comply
Discussion: The hardship is economic. The topography of the site does not prohibit the construction of an accessory building in a permitted location wholly behind the house as required by ordinance.
Condition(s): n/a
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;
Finding: Complies
Discussion: As stated previously, the special circumstances attached to this property are related to topography. This site slopes to the north with an elevation gain of approximately 17' from the front property line to the rear property line.
2. The special circumstances deprive the property of privileges granted to other properties in the same zoning district.
Finding: Does Not Comply
Discussion: The topography of the site makes it difficult to relocate the proposed carport or garage approximately 15' to the north to be wholly behind the principal building as required by code, but it is possible. Staff finds that the special circumstances related to topography at this site do not deprive the property of privileges granted to other properties in the same zoning district.
Condition(s): n/a

ATTACHMENT E: Public Comments

Staff has received no comments from the public.

ATTACHMENT F: Department Review Comments

This proposal was reviewed by the following departments. Any requirement identified by a City Department is required to be complied with.

Engineering (Scott Weiler/scott.weiler@slcgov.com):

No objections

Fire (Douglas Bateman/douglas.bateman@slcgov.com):

This proposal will be reviewed for fire code compliance through the building permit approval process.

Transportation (Jena Carver/jena.carver@slcgov.com):

No transportation issues.

Public Utilities (Andrea Osojnak/andrea.osojnak@slcgov.com):

Public Utilities has no issues with the proposed accessory structures to be entirely behind principal structures.

Urban Forestry (Rick Nelson/rick.nelson@slcgov.com):

Urban Forestry has no concerns with this proposal.

Building Services (Heather Gilcrease/heather.gilcrease@slcgov.com):

This proposal will be reviewed for building code compliance through the building permit approval process.

ATTACHMENT G: Applicable 1993 Zoning Provision

21.80.120 Side yards—Permitted projections and obstructions.

The area of a required side yards shall be open and unobstructed except for the following:

A. The ordinary projections of windowsills, belt courses, cornices and other ornamental features, to the extent of not more than four inches;

B. The projection of a cornice or eave not more than two feet;

C. The projection of a step not over two feet;

D. Awnings projecting over doorways and windows not more than three feet;

E. A bay window or chimney not over ten feet long projecting not more than two feet, provided such extension maintains the minimum side yard allowable for the smallest side yard in that district;

F. A light or window well not over two feet in width;

G. Fences, walls or other similar structures as provided elsewhere by this chapter.

H. A driveway leading to a properly located garage or parking area; however, a side yard cannot be used for a parking area except as hereinafter provided, nor for storage, nor can it be hard-surfaced in such a way as to make possible the parking of automobiles or other vehicles unless it is a driveway that leads to a garage or a properly located parking area in the rear yard;

I. A detached garage may be located in a side yard, provided said garage is at least fifteen feet from a dwelling on an adjoining lot and at least ten feet measured laterally from the dwelling to which it is accessory, and at least sixty feet back from the front property line. If the garage is placed in such position, the area between the garage and the dwelling shall be open to the sky, with no type of covering being allowed;