

HISTORIC LANDMARK COMMISSION STAFF REPORT



Planning Division
Department of Community &
Economic Development

Keyes Fence and Retaining Wall Minor Alteration Petition No. PLNHLC2010-00267 233 E 4th Avenue December 1, 2010

Applicant:

Brett Keyes

Staff:

Michael Maloy AICP at
michael.maloy@slcgov.com or
(801) 535-7118

Tax ID:

09-31-335-024

Current Zone:

SR-1 Special Development Pattern
Residential District

Master Plan Designation:

Avenues Master Plan

Council District:

Council District 3 Stan Penfold

Lot Size:

0.08 ± of an acre (or 3,484 ± square
feet)

Current Use:

Single-family residential

Applicable Land Use Regulations:

- 21A.34.020 H Historic
Preservation Overlay District

Notification:

- Notice mailed on November 18,
2010
- Sign posted on November 18, 2010
- Agenda posted on the Planning
Division and Utah Public Meeting
Notice websites November 18,
2010

Attachments:

- A. Site Plan & Elevation Drawings
- B. Historic Documentation
- C. Property Photographs
- D. Neighborhood Photographs
- E. Department Comments
- F. Additional Applicant Information

Request

This is a request by Brett Keyes for a minor alteration of property located at 233 E 4th Avenue. The proposal includes construction of a new cedar fence and a reinforced concrete retaining wall. This request is before the Historic Landmark Commission because the proposed minor alteration is located within the local Avenues Historic District.

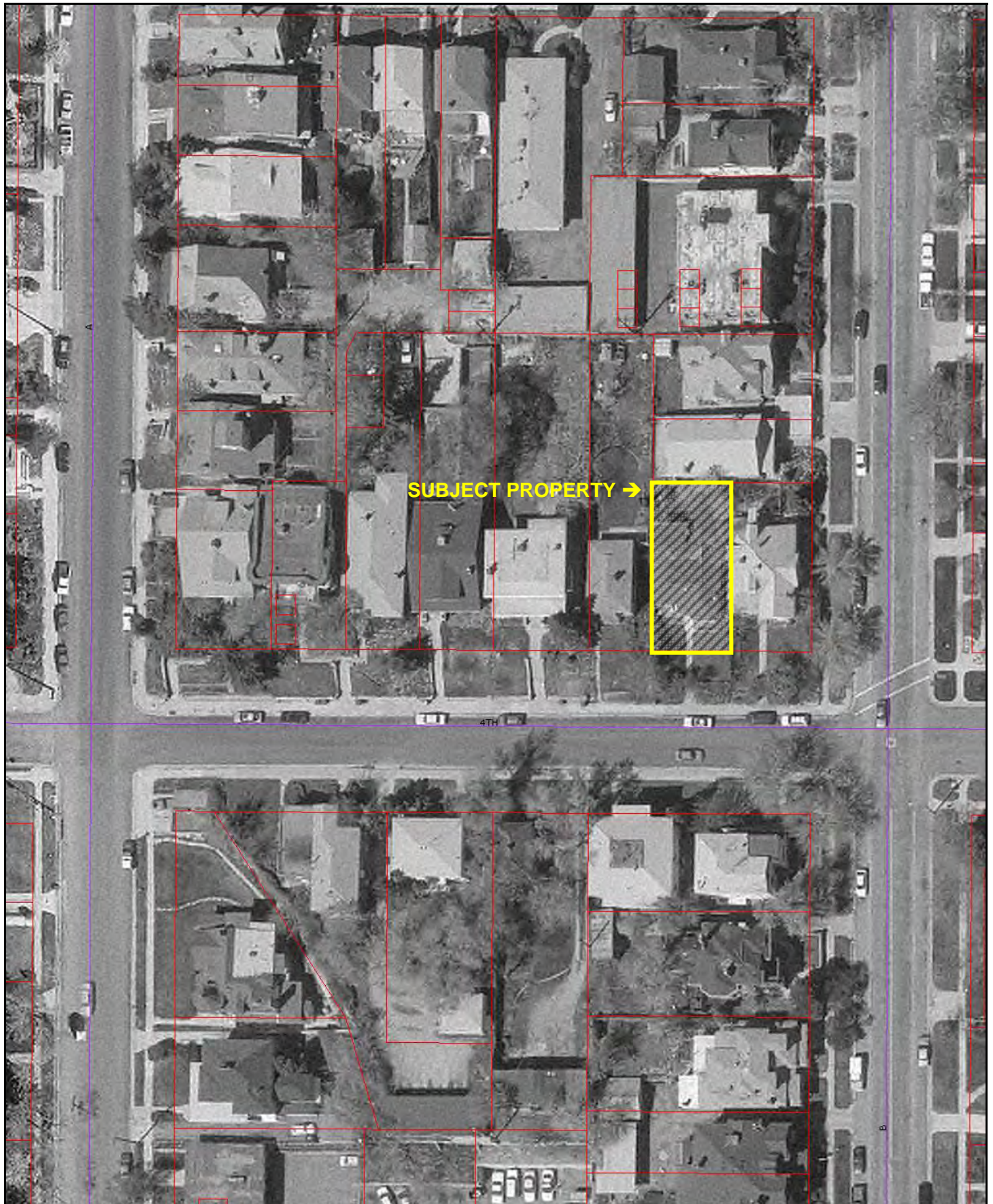
Staff Recommendation

Table

Based upon the analysis and findings contained within the staff report, and upon testimony received from the applicant and the public, I motion to table Petition PLNHLC2010-00267 for construction of a new 4'-0" tall cedar fence and a 5'-6" tall concrete retaining wall located within the public right-of-way at approximately 233 E 4th Avenue in order to allow the applicant additional time to respond to the following direction:

- Applicant should amend project to comply with all applicable standards, including those found within the *Design Guidelines for Residential Historic Districts in Salt Lake City* as discussed within the staff report.

Vicinity Map



Background

Project Description

The subject property is situated on the north side of 4th Avenue, which street is approximately equivalent to 200 North. The property contains a single-family dwelling and measures 3,484 ± square feet, or 0.08 of an acre. The property is zoned SR-1 Special Development Pattern Residential District, and is within an H Historic Preservation Overlay.

Based on a survey conducted in behalf of Salt Lake City on March 2, 1979, the subject property has been classified as a “contributing structure” in the Avenues Historic District. The existing brick dwelling—which is described as “a one-story Victorian home with a truncated hip roof and a projecting bay”—was originally constructed in 1897 (see Attachment B – Historic Documentation).

In 2002 the applicant, Brett Keyes, removed a front yard wood fence that parallels 4th Avenue and replaced it—without a permit—with a new cedar fence. The new fence is technically located within the public right-of-way, but is setback approximately 17'-0" from the edge of the public sidewalk. The height of the new fence is approximately 4'-0".

More recently, the applicant raised the grade of the southeast corner of the front yard by 3'-6" and constructed a new concrete retaining wall that also parallels 4th Avenue. Like the fence, the retaining wall is located within the public right-of-way and is setback approximately 5'-6" from the edge of the public sidewalk. Due to the natural slope of the site, the height of the retaining wall varies, but the maximum height of the wall is 5'-6" (see Attachment A – Site Plan & Elevation Drawings).

On July 14, 2009, Luann Calfa, Salt Lake City Building Inspector I, informed the applicant that the aforementioned construction activities were not permitted by the City and was subject to compliance with City Code. Following a series of meetings between the applicant and the City, the applicant submitted the following two petitions in an effort to resolve the matter:

- Petition PLNHLC2010-00267 Minor Alteration of a Contributing Structure; and
- Petition PLNBOA2010-00268 Special Exception for Grade Change and Retaining Wall.

Comments

Public Comments

No public comment regarding this application has been received prior to publication of this staff report.

Department Comments

Staff submitted the petition to the Salt Lake City Development Review Team (DRT) for review and comment, which review was completed on October 27, 2010 (see Attachment E – Department Comments).

Analysis and Findings

Options

Approval: If the Commission finds that the proposed project meets the standards of the ordinance the application should be approved provided the structure conforms to the requirements of the Uniform Building Code and all other applicable City ordinances.

Denial: If the Commission finds that the proposed project does not meet the standards of the ordinance the application should be denied.

Continue: If the Commission finds that additional information is needed, the Commission may postpone the decision with specific direction as to the additional information required.

Findings

As specified in Chapter 21A.34.020—which is entitled H Historic Preservation Overlay District—of the Salt Lake City Code, in considering an application for a certificate of appropriateness for alteration of a landmark site or contributing structure, the Historic Landmark Commission shall find that the project substantially complies with all of the following general standards that pertain to the application and that the decision is in the best interest of the city:

Standard 1. A property shall be used for its historic purpose or be used for a purpose that requires minimal change to the defining characteristics of the building and its site and environment;

Analysis: No changes are proposed to the structure or use of the residential building. According to City records, the property has historically had a short picket style fence located within the front yard. With regard to installation of a retaining wall, six of eight parcels on the block face have retaining walls.

Finding: The project is consistent with this standard.

Standard 2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

Analysis: As stated previously, no changes are proposed to the structure or use of the residential building. According to the applicant, the previous fence was constructed of painted wood pickets and replaced with a stained cedar fence. Whereas alteration of the front yard grade is consistent with the existing development pattern of the block face, construction of a retaining wall adjacent to the public sidewalk does not significantly alter the historic character of the property.

Finding: The project is consistent with this standard.

Standard 3. All sites, structures and objects shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create a false sense of history or architecture are not allowed;

Analysis: As noted previously, the front yard fence is made of wood, which material is common to the past and present century. The retaining wall is constructed of reinforced concrete, which product is commonly used in modern construction.

Finding: Whereas this project does not involve alterations that seek to create a false sense of history, the project is consistent with this standard.

Standard 4. Alterations or additions that have acquired historic significance in their own right shall be retained and preserved;

Analysis: This project does not involve any alterations or additions that have acquired historic significance in their own right.

Finding: The project is consistent with this standard.

Standard 5. Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved;

Analysis: This project does not involve the removal of any distinctive features, finishes, construction techniques or examples of craftsmanship that characterize the historic property.

Finding: The project is consistent with this standard.

Standard 6. Deteriorated architectural features shall be repaired rather than replaced wherever feasible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other structures or objects;

Analysis: As stated previously, the applicant has already removed and replaced the wood fence. As such repair of “deteriorated architectural features” is no longer feasible. Although the new fence is also made of wood, according to photographic records the new fence does not match the original composition, design, texture and other visual qualities of the previous fence.

Finding: The project is not consistent with this standard.

Standard 7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible;

Analysis: No chemical or physical treatments are proposed as part of this request.

Finding: The project is consistent with this standard.

Standard 8. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant cultural, historical, architectural or archaeological material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment;

Analysis: The pattern of the original fence is commonly known as “Virginia Picket Spaced”—which is constructed of scalloped wood pickets with a large separation between each picket (see property photograph within Attachment B – Historic Documentation). The pattern of the replacement fence is commonly referred to as “Dogear Overlap Picket” or “Cedar Board on Board”—which is constructed using off-setting or overlapped cedar boards that have clipped corners along the top of the fence (see current photographs within Attachment C – Property Photographs).

The concrete retaining wall includes a single stairway with several steps and a “nook” or recessed area intended for storage of garbage cans. The retaining wall has been finished with thin lightly textured cement. The wall does not include any decorative stone, pillars, or cap, which architectural features are common along the block face (see Attachment D – Neighborhood Photographs).

Finding: Consistent with previous conclusions, the project does not alter or “destroy significant cultural, historical, architectural or archaeological material.” However, the design of the fence and retaining wall is not compatible with the “material and character” of the neighborhood.

Standard 9. Additions or alterations to structures and objects shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired. The new work shall be differentiated from the old and shall be compatible in massing, size, scale and architectural features to protect the historic integrity of the property and its environment;

Analysis: The fence and retaining wall—if removed—would not change the integrity of the structure, however the original front yard grade would need to be restored. Although staff finds the new retaining wall compatible in massing, size, and scale, staff does not find the architectural features of the project compatible with the historic integrity of the property or its environment.

Finding: The project is not consistent with this standard.

Standard 10. Certain building materials are prohibited including the following:

- a. Vinyl or aluminum cladding when applied directly to an original or historic material, and
- b. Any other imitation siding material designed to look like wood siding but fabricated from an imitation material or materials;

Analysis: As discussed previously, the project incorporates the use of natural cedar wood and concrete for site improvements only. The proposal does not include demolition, addition, or repair of the historic home.

Finding: The project is consistent with this standard.

Standard 11. Any new sign and any change in the appearance of any existing sign located on a landmark site or within the H historic preservation overlay district, which is visible from any public way or open space shall be consistent with the historic character of the landmark site or H historic preservation overlay district and shall comply with the standards outlined in Part IV, Chapter 21A.46, Signs;

Analysis: Signage is not a component of this project.

Finding: The project is consistent with this standard.

Standard 12. Additional design standards adopted by the historic landmark commission and city council.

Analysis: The following additional design standards from *Design Guidelines for Residential Historic Districts in Salt Lake City* are applicable in this case:

Standards for Site Features.

Fences 1.1 Preserve historically significant site features. These may include historic retaining walls, irrigation ditches, gardens, driveways and walkways. Fences and street trees are also examples of original site features that should be preserved. Sidewalks, parkways, planting strips, street trees and street lighting are examples of historic streetscape elements that should be considered in all civic projects.

Fences 1.2 Preserve original fences. Replace only those portions that are deteriorated beyond repair.

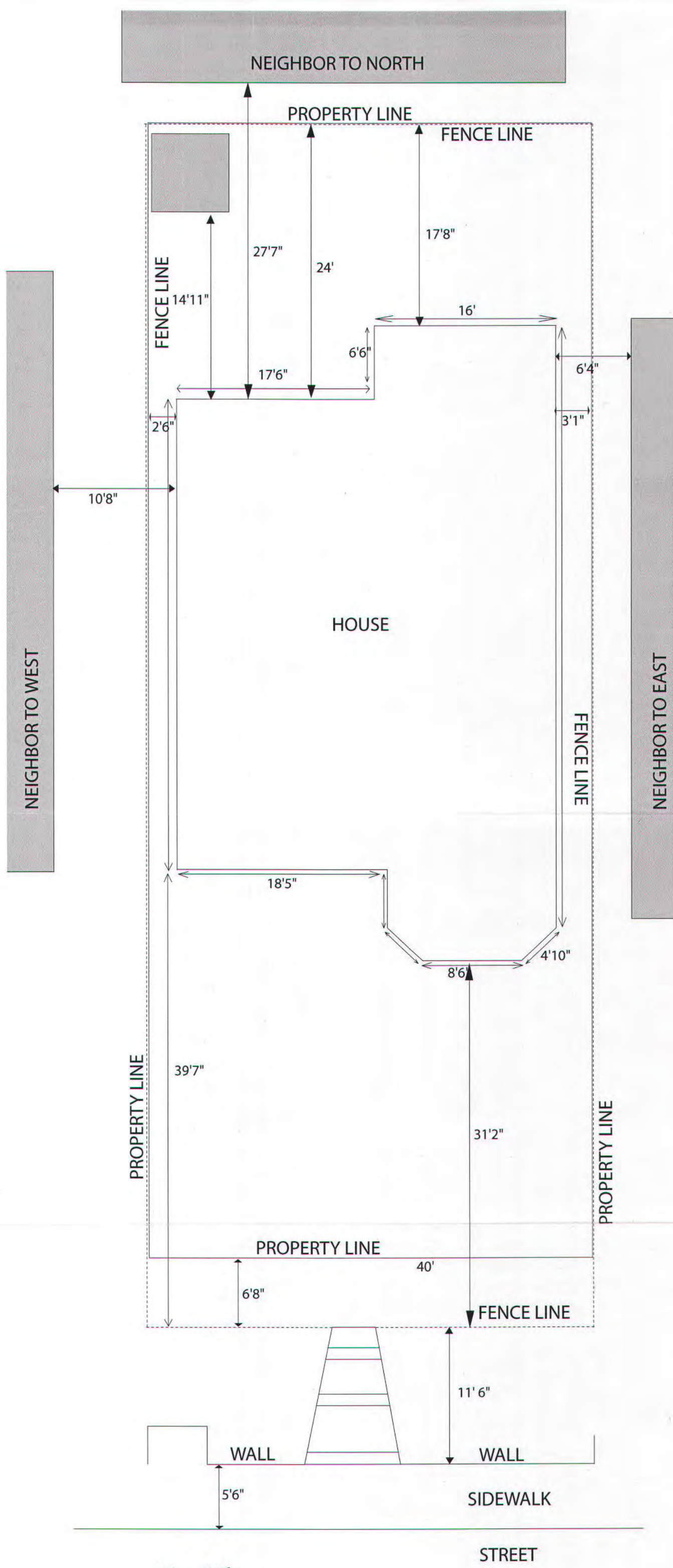
Fences 1.3 For a replacement fence, use materials that appear similar to that of the original. A painted wood picket fence is an appropriate replacement in most locations. A simple metal fence, similar to traditional "wrought iron" or wire, also may be considered. In all cases, the fence components should be similar in scale to those seen historically in the neighborhood.

Fences 1.4 A replacement fence should have a "transparent" quality, allowing views into the yard from the street. Using a solid fence, with no spacing between the boards, is inappropriate in a front yard. Chain link is not allowed as a fence material where it would be visible from the street. Vinyl fencing is reviewed on a case by case basis. In some instances, it is allowed if it is not seen from the street, if the style of the fence is compatible with the house and if the vinyl fence is not replacing a historic fence or landscape feature.

Fences 1.8 Preserve the historic grading design of the site. Altering the overall appearance of the historic grading is inappropriate. While some changes may be considered, these should remain subordinate and the overall historic grading character shall be preserved.

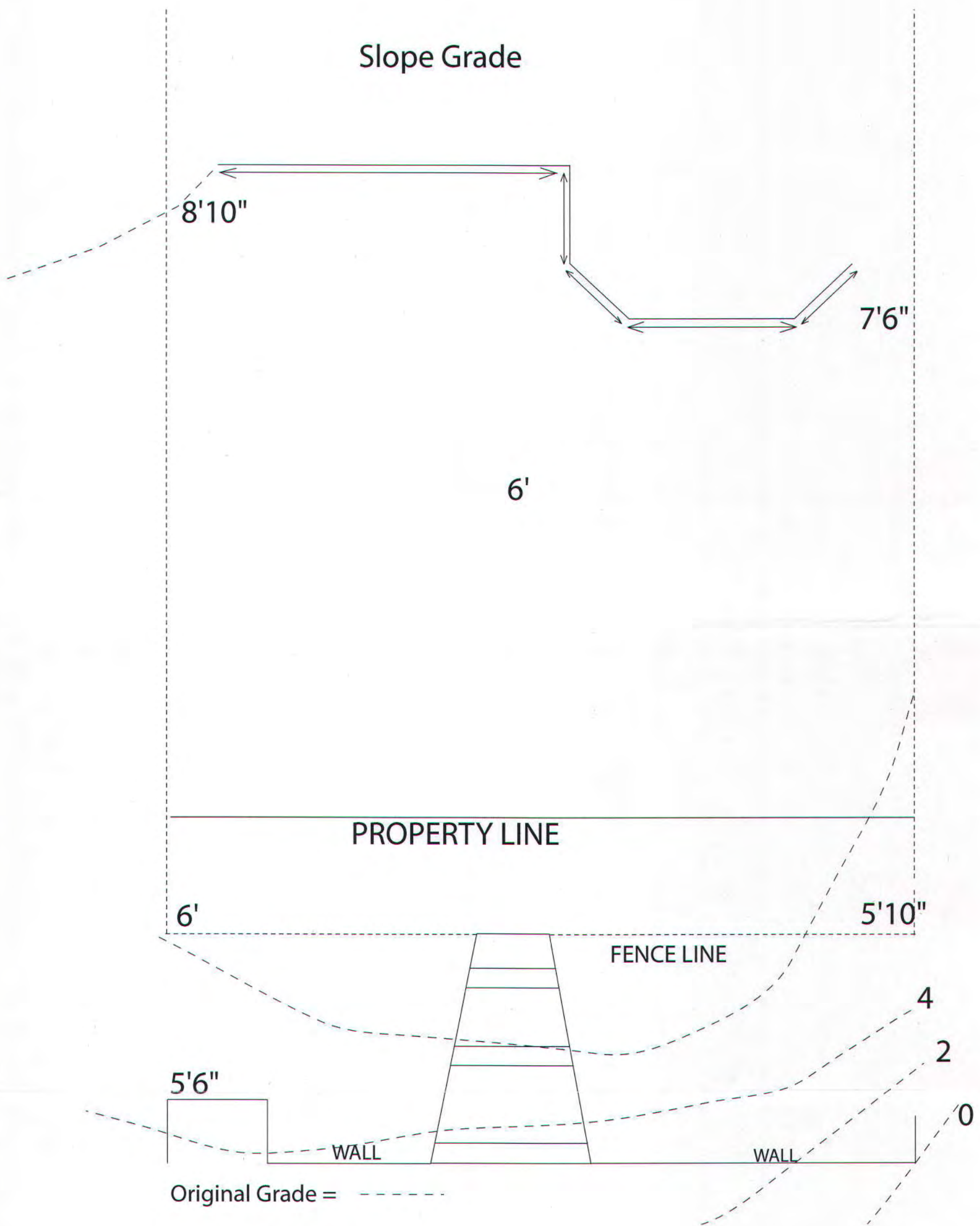
Finding: The project is not consistent with additional design standards as adopted by the Historic Landmark Commission and City Council.

Attachment A – Site Plan & Elevation Drawings

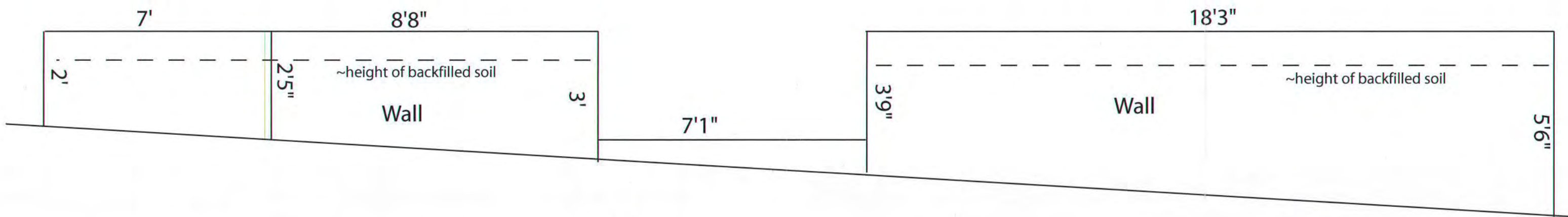
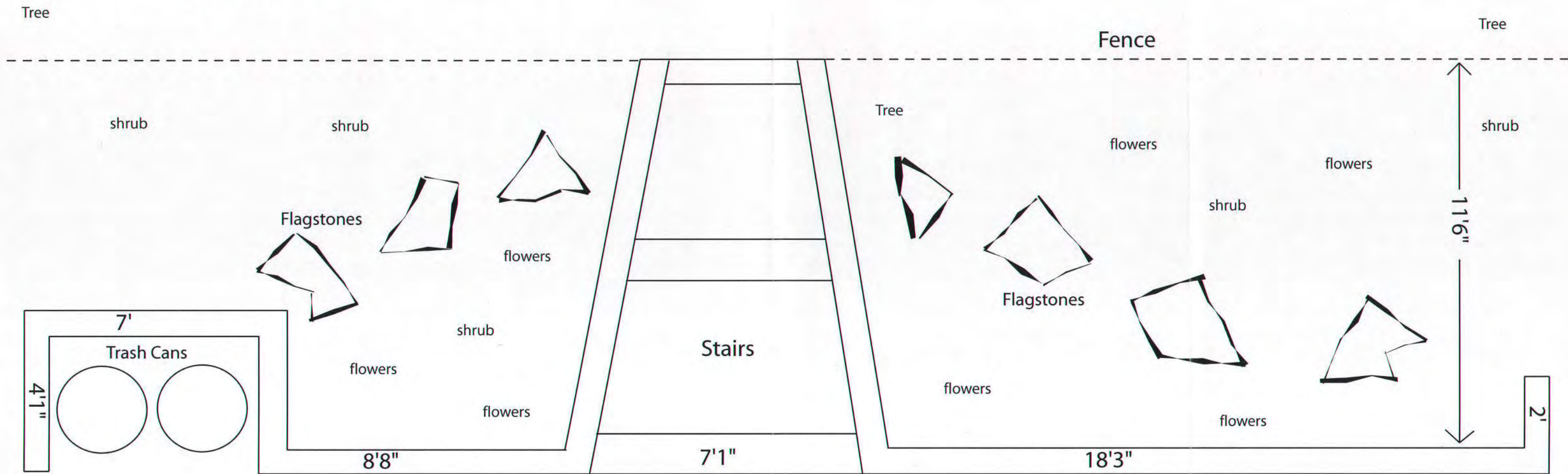


1in = 2.5ft

Slope Grade

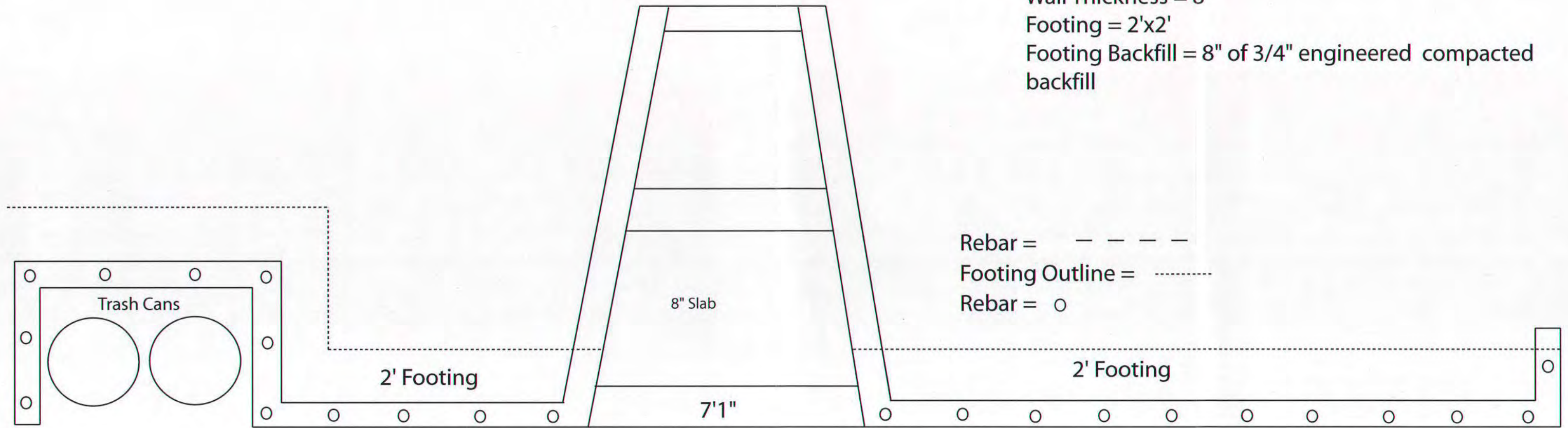


Wall Dimensions and landscaping details Top and Front View

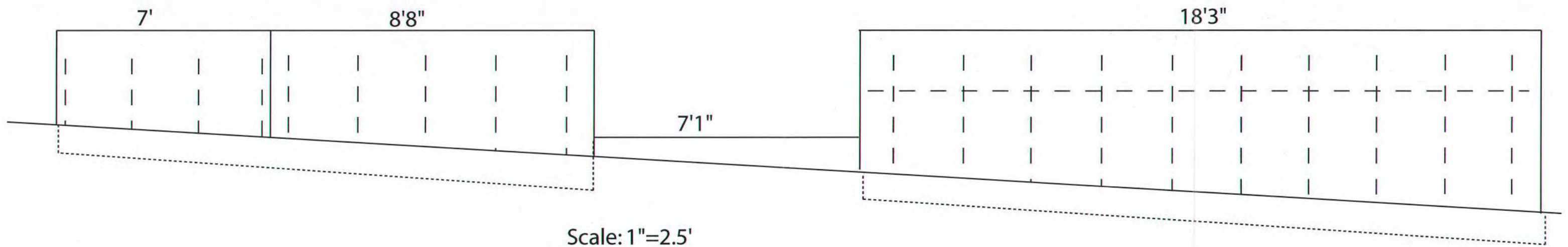


1"=2.5'

Materials = Reinforced Concrete
 Wall Thickness = 8"
 Footing = 2'x2'
 Footing Backfill = 8" of 3/4" engineered compacted backfill

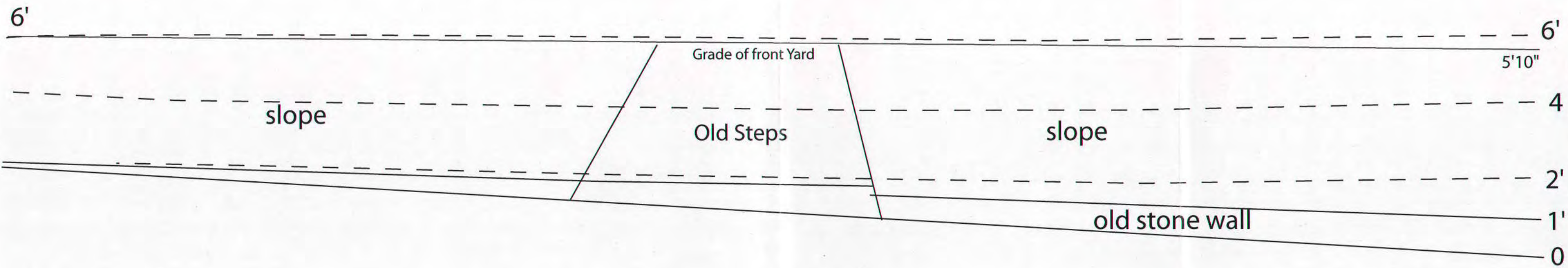


Rebar = - - - -
 Footing Outline =
 Rebar = ○



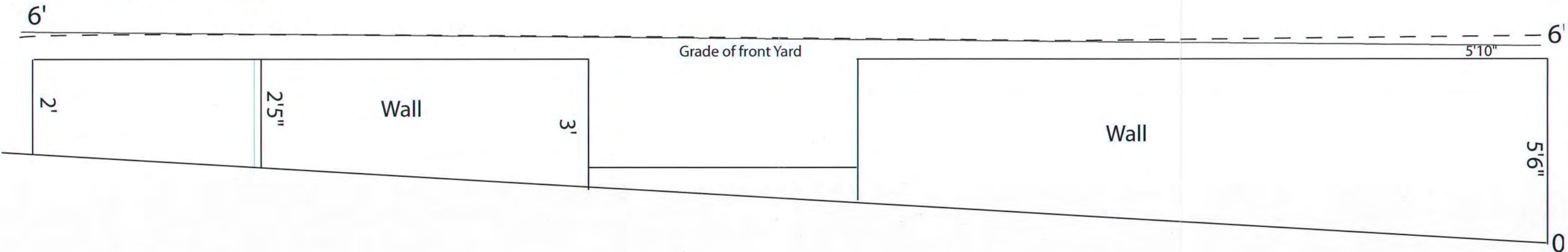
Scale: 1"=2.5'

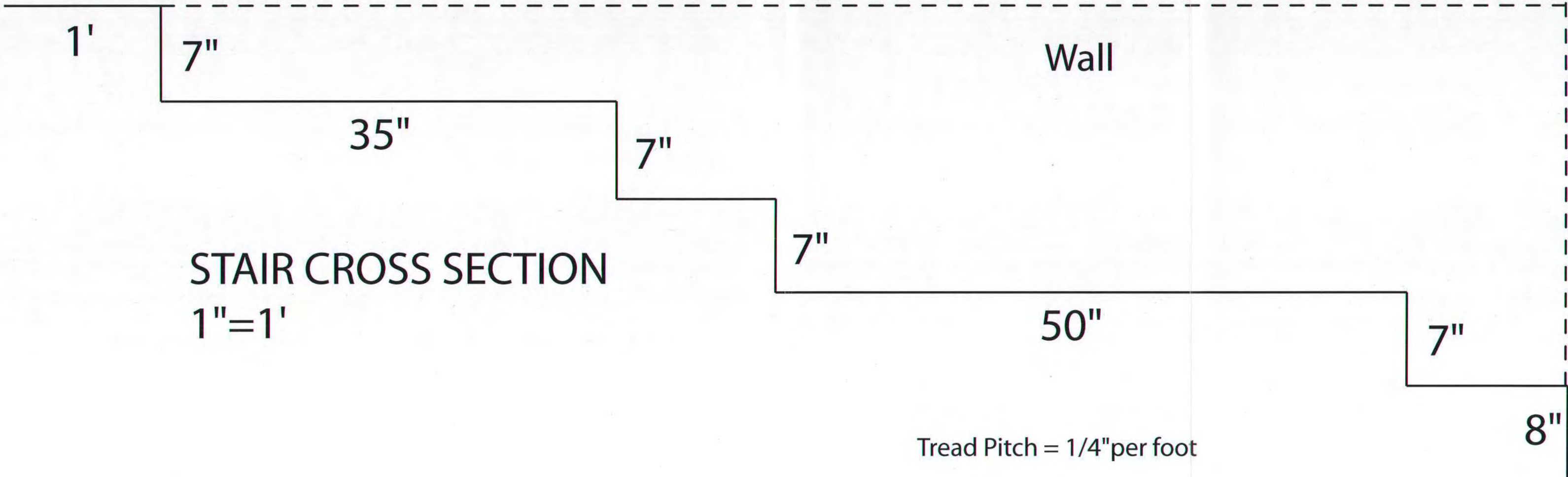
Original Site Grade



Maximum Grade change of 4'6"

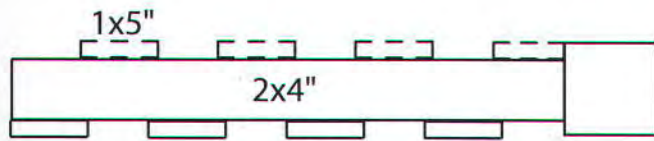
New Site Grade



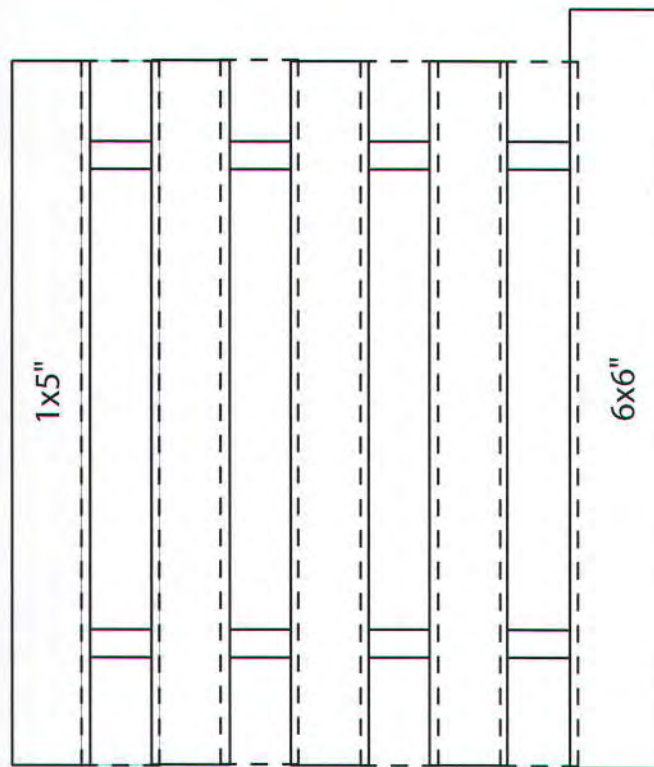
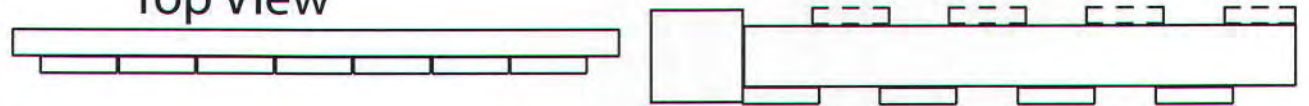


Fence Details

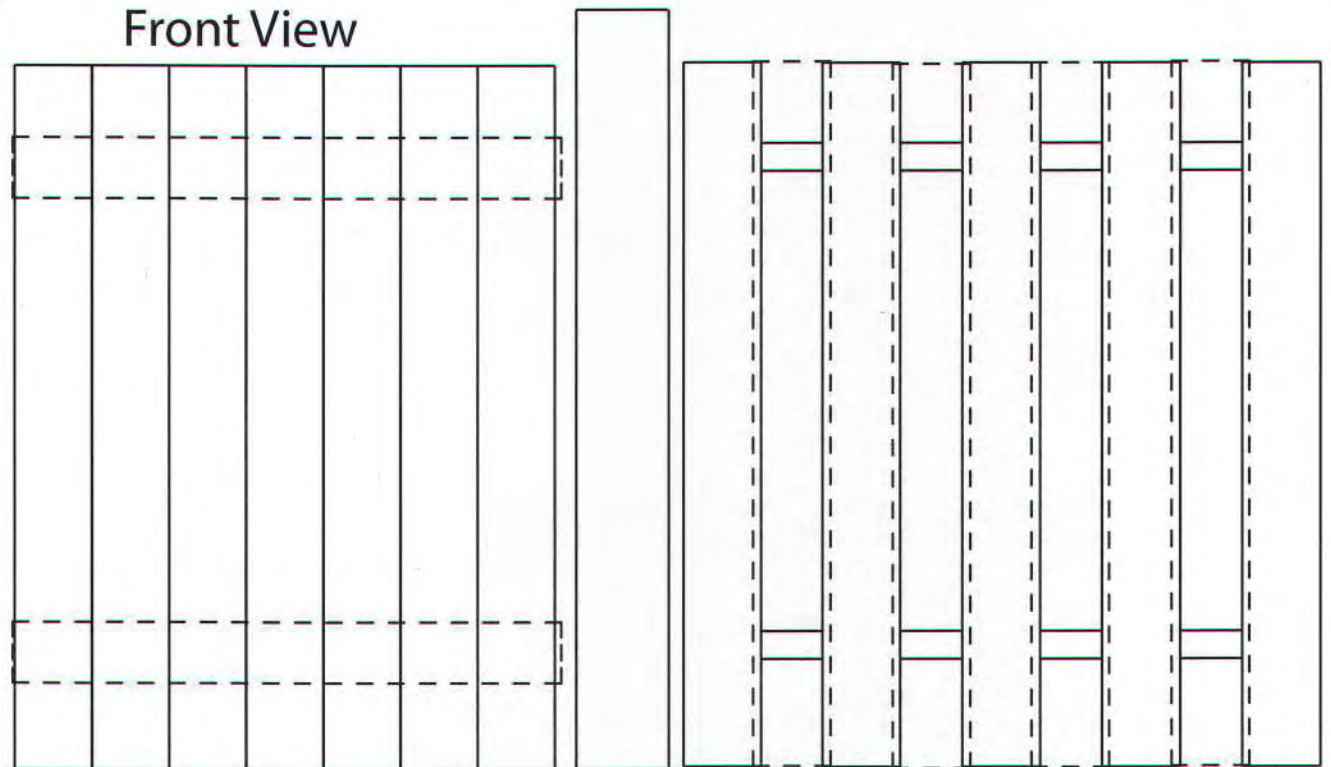
Materials = Cedar w/ stain



Top View



Front View



Scale: 1"=1'

Attachment B – Historic Documentation





AFTER









AFTER

Attachment C – Property Photographs

233 4th Ave



Researcher: Kathryn MacKay
Date: March 2, 1979

Site No. _____

Utah State Historical Society
Historic Preservation Research Office
Structure/Site Information Form

1
IDENTIFICATION

Street Address: 233 4th Avenue Plat D Bl.69 Lot 1
Name of Structure: T. R. S.
Present Owner: Emrazian, Leon & Melva UTM:
Owner Address: Tax #:

2
AGE/CONDITION/USE

Original Owner: Ernest F. Schettler Construction Date: 1897 Demolition Date:
Original Use: single family
Present Use: Occupants:
 Single-Family Park Vacant
 Multi-Family Industrial Religious
 Public Agricultural Other
 Commercial
Building Condition: Integrity:
 Excellent Site Unaltered
 Good Ruins Minor Alterations
 Deteriorated Major Alterations

3
STAT.

Preliminary Evaluation: Final Register Status:
 Significant National Landmark District
 Contributory National Register Multi-Resource
 Not Contributory State Register Thematic
 Intrusion

4
DOCUMENTATION

Photography: Date of Slides: 5/77 Date of Photographs:
Views: Front Side Rear Other Views: Front Side Rear Other
Research Sources:
 Abstract of Title City Directories LDS Church Archives
 Plat Records Biographical Encyclopedias LDS Genealogical Society
 Plat Map Obituary Index U of U Library
 Tax Card & Photo County & City Histories BYU Library
 Building Permit Personal Interviews USU Library
 Sewer Permit Newspapers SLC Library
 Sanborn Maps Utah State Historical Society Library Other

Bibliographical References (books, articles, records, interviews, old photographs and maps, etc.):

Polk, Salt Lake City Directory, 1898-.
Salt Lake City building permit, August 18, 1910, #3131 ; #2307, April 3, 1897.

Architect/Builder:

Building Materials: brick

Building Type/Style: Victorian eclectic

Description of physical appearance & significant architectural features:

(Include additions, alterations, ancillary structures, and landscaping if applicable)

This is a one-story Victorian home with a truncated hip roof and a projecting bay that has a segmental hip roof. Windows have arched tops, and the two larger front windows have transoms. The original wooden front porch columns have been replaced with wrought iron ones. A picket fence with a gate runs along the street.

--Thomas W. Hanchett



Statement of Historical Significance:

- | | | | |
|---|---|--|---|
| <input type="checkbox"/> Aboriginal Americans | <input type="checkbox"/> Communication | <input type="checkbox"/> Military | <input type="checkbox"/> Religion |
| <input type="checkbox"/> Agriculture | <input type="checkbox"/> Conservation | <input type="checkbox"/> Mining | <input type="checkbox"/> Science |
| <input type="checkbox"/> Architecture | <input type="checkbox"/> Education | <input type="checkbox"/> Minority Groups | <input type="checkbox"/> Socio-Humanitarian |
| <input type="checkbox"/> The Arts | <input type="checkbox"/> Exploration/Settlement | <input type="checkbox"/> Political | <input type="checkbox"/> Transportation |
| <input type="checkbox"/> Commerce | <input type="checkbox"/> Industry | <input type="checkbox"/> Recreation | |

The Victorian Style, materials and massing of this home contribute to the architectural character of the Avenues.

This home was built by Ernest F. Schettler (1872-1969) one of the sons of Bernard A. and Mary Morgan Schettler. The Schettler family built several homes in this lot (1). Ernest's brother Cornelius built and lived in the home next door at 237 4th Avenue.

Ernest did not live in this house until 1904, but continued until then to live in the family home at 359 E. S. Temple. This home was maintained as rental. He had worked at his father's bank, but in 1904 the year after he married Emily Davis (-1967), the year he moved into this home, he joined the Intermountain Electric Company. The Schettlers lived here until 1920 when they bought and moved into the home at 203 4th Avenue. They maintained this home as rental until 1943 when they sold it to H. Frederick Davis and their daughter Marianne Emily Schettler Davis. The Davis' lived here only a few years. Davis was a vocal teacher. Other members of the Schettler family had also lived in the home at various times. In 1950 the Davises sold the home to Nelden and Mildred Needun who sold it to Elmer R. Smith who sold it in 1951 to Hito and Hana Okada who then moved into the house. Hito was a special agent for the Occidental Life Insurance Company of California.

Property Type: 111

BATCH KEY
1804043604

Structure/Site Information Form

1
IDENTIFICATION

Street Address: 00233 FOURTH AV

UTM: 12720 12721

Name of Structure:

T. 01.0 N R. 01.0 E S. 31

Present Owner: EMRAZIAN, LEON & MELVA
233 4TH AVE

Owner Address: SLC, UTAH

84103

Year Built (Tax Record): 1900

Effective Age: 1920

Tax #: 04 1047

Legal Description

01 Kind of Building: RESIDENCE

COM 2.5 RDS W FR SE COR LOT 1 BLK 69 PLAT D SLC SUR W 2.5 RDS N 88 FT E 2.5 RD
S S 88 FT TO BEG

2
STATUS/USE

Original Owner:

Construction Date:

Demolition Date:

Original Use:

Present Use:

Building Condition:

Integrity:

Preliminary Evaluation:

Final Register Status:

- | | | | | | | |
|---------------------------------------|--------------------------------|--|---|-------------------------------------|--|---|
| <input type="checkbox"/> Excellent | <input type="checkbox"/> Site | <input type="checkbox"/> Unaltered | <input type="checkbox"/> Significant | <input type="checkbox"/> Not of the | <input type="checkbox"/> National Landmark | <input type="checkbox"/> District |
| <input type="checkbox"/> Good | <input type="checkbox"/> Ruins | <input type="checkbox"/> Minor Alterations | <input type="checkbox"/> Contributory | Historic Period | <input type="checkbox"/> National Register | <input type="checkbox"/> Multi-Resource |
| <input type="checkbox"/> Deteriorated | | <input type="checkbox"/> Major Alterations | <input type="checkbox"/> Not Contributory | | <input type="checkbox"/> State Register | <input type="checkbox"/> Thematic |

3
DOCUMENTATION

Photography: Date of Slides: Slide No.: Date of Photographs: Photo No.:

Views: Front Side Rear Other

Views: Front Side Rear Other

Research Sources:

- | | | | |
|--|---|--|---|
| <input type="checkbox"/> Abstract of Title | <input type="checkbox"/> Sanborn Maps | <input type="checkbox"/> Newspapers | <input type="checkbox"/> U of U Library |
| <input type="checkbox"/> Plat Records/Map | <input type="checkbox"/> City Directories | <input type="checkbox"/> Utah State Historical Society | <input type="checkbox"/> BYU Library |
| <input type="checkbox"/> Tax Card & Photo | <input type="checkbox"/> Biographical Encyclopedias | <input type="checkbox"/> Personal Interviews | <input type="checkbox"/> USU Library |
| <input type="checkbox"/> Building Permit | <input type="checkbox"/> Obituary Index | <input type="checkbox"/> LDS Church Archives | <input type="checkbox"/> SLC Library |
| <input type="checkbox"/> Sewer Permit | <input type="checkbox"/> County & City Histories | <input type="checkbox"/> LDS Genealogical Society | <input type="checkbox"/> Other |

Bibliographical References (books, articles, records, interviews, old photographs and maps, etc.):

Researcher:

Date:

Attachment D – Neighborhood Photographs

Petition No. PLNHLC2010-00267 – Neighborhood Photographs







223 4th Avenue

Attachment E – Department Comments

Address: 233 East 4th Avenue
Project Name: Keyes Residence
Contact: Mike Maloy 801 535-7118
Date Reviewed: October 27, 2010
Zone: SR-1

The Development Review Team (DRT) is designed to provide PRELIMINARY review to assist in the design of the complete site plan. A complete review of the site plan will take place upon submittal of the completed site plan to the Permits Counter.

Project Description: Retaining wall encroachment into public way.

Ken Brown/Zoning:

The Development Review Team has consistently told property owners that storage of trash cans, dumpsters, etc. in the public way is not allowed (may require a public review process). Generally a building & zoning review along with structural review would need to be accomplished to legalize the retaining wall, steps & fence which have already been constructed and address the grade changes that have occurred. Once all issues have been addressed, a Revocable Permit will need to be addressed through SLC Property Management.

Barry Walsh/Transportation:

Need building permit to verify no impact to pedestrian sidewalk. No railing projections, drainage, etc.

Ted Itchon/Fire:

No issues.

Jason Brown/Public Utilities:

Plans need to be submitted to Public Utilities, showing the location of the meter in relation to the wall & fence. Meter may need to be raised to grade. Show property line, curb & gutter, and sidewalk on plans.

Randy Drummond/Engineering:

Public Way Permit is required for wall construction approval & residential revocable permit issuance. Licensed, bonded and insured Contractor to obtain permit to install or repair required public way improvements. Approved site plan required, showing wall construction. Submit approved site plan to Engineering Permits Office @ 349 South 200 East. (Contact George Ott @ 801-535-6396 for Permit information).

Attachment F – Additional Applicant Information

Letter of Permit Request

Property:
233 4th Avenue
Salt Lake City, UT 84103

To Whom It May Concern:

I am submitting this letter per the requirements of the 'Application for Residential Revocable Permit.'

As I have been informed, I must also submit a request for HLC Minor Alterations to the SLC Planning Division as well as a Variance Request to the SLC Buzz Center. After a long and detailed discussion with Ken Brown, I was advised to start with the Residential Revocable Permit. I realize this is a somewhat circular situation where different departments may want to see that other departments have approved or denied a request. I hope that starting here per Mr. Brown's suggestion is the correct thing to do.

There are three items of concern on the 233 4th Av property:

- A newly installed reinforced concrete wall within the public right of way
- Trash cans stored on the street
- A cedar fence

I have been informed that all three items are not permitted in my residential location. However, it was the installation of the concrete wall that led to the cascade of other infractions – infractions that I have been unknowingly in violation of since taking ownership of the home in 2001.

I hereby request that I be permitted for all three items. Included with this document are all supporting drawings and information requested. Please review and let me know what additional steps are needed.

Thanks.

Brett Keyes
233 4th Avenue
SLC, UT 84103
801-633-2235

Variance Questionnaire

Brett Keyes
233 4th Avenue
SLC, UT 84103

Summary of items: There are 3 current issues I am working to resolve for the above property. The first and primary issue is a concrete wall and steps that border the front (south) edge of the lot and abut the sidewalk. The new wall and steps were installed in 2008 to replace an old defunct set of steps and poorly maintained stone wall. The second issue is a cedar wood fence that separates the main front yard from the planting areas just south of the fence. The third issue is the location of trash and recycling cans placed within an inset of the new wall (previously located on the sidewalk—now off of the sidewalk, but still on city property). I address all three issues below as they are listed above—issues #1, #2, and #3.

Question #1

Describe your proposed construction and specifically how it would not meet zoning ordinance.

#1 My understanding is that the wall's primary zoning infraction is that it exists on city property. Secondly, the highpoint of the southeast corner stands at 5' 6". There was a grade change from the original site of ~3'6". I believe that the Historic District also takes issue with the new run and rise of the steps that do not mimic the original run and rise of the non-original but older concrete steps that existed prior to their replacement.

#2 The cedar construction of the fence is what I understand to be the infraction.

#3 The trash cans are placed on city property.

Question #2

Site the zoning ordinance that prevents your proposed construction from meeting the zoning requirements.

#1 Wall on city property. Grade change in access of 4'. Maximum wall height of greater than 4'.

#2 Inappropriate materials.

#3 Trash and recycle cans stored on city property.

Question #3

What special circumstances associated with the subject property prevent you from meeting the zoning requirements?

#1 Wall is in place.

#2 Fence is in place.

#3 Trash cans are not easily moved up and down the front stairs. (For the record, I purchased the home in 2002. Then and now, all the residents on the north side of 4th Avenue between A and B Streets store their trash cans on the sidewalk due to the grade of the slope that leads up to each individual home and the undo burden that would be associated with pulling heavy cans up and down the staircase. I was unaware that this was a violation of city zoning until the time of this Variance process.)

Question #4

Explain how the literal enforcement of this Zoning Ordinance causes an unreasonable hardship that is not necessary in carrying out the general purpose of this Zoning Ordinance.

#1 Nearly every home on the north side of 4th Avenue between A and B streets is bordered by a retaining wall that helps separate the steep slope of the hillside from the public right of way along the sidewalk and street. My intention with replacing the old steps and stone wall was to simply better establish this 'natural' boundary between sidewalk and the city property that each home owner is responsible for preserving. Prior to the new wall our hillside was continually eroding down onto the sidewalk. As well, the lower height of the wall along such a busy sidewalk led to numerous occasions where people and/or pets would trample any landscaping put in place. We commonly had decorative solar lights stolen from the area south of our fence, between the fence and sidewalk. Given the slope of the property and busy use of the sidewalk, it is unreasonable to not allow property owners to clearly establish a 'retained' boundary that helps maintain landscaping features and prevents unapproved public intrusion onto cared-for landscaping that is in place to help improve the overall look and feel of the home and as well as the neighborhood as a whole.

#2 Given the rate of crime along our street (well documented via continuous police reports filed by residents of the area due to numerous and repetitive car and home break-ins, it is unreasonable to disallow property owners from installing fencing that helps deter would-be thieves/criminals. Cedar wood is a common and appropriate material used for outside fencing.

#3 Moving heavy trashcans up and down staircases is an unreasonable burden placed on homeowners along steeply sloped hillsides with no off-street parking.

Question #5

Explain what special circumstances exist on the subject property, which do not generally apply to other properties in the same zoning district. The law requires that the Board of Adjustment identify a property-related hardship before granting a variance. For example, size, grade of lot, etc.

#1 Grade of slope between property and sidewalk requires some kind of retaining structure or the slope would eventually overtake the sidewalk. Our street is a main thoroughfare to and from Memory Grove Park (due to the staircase at the end of 4th Ave a block away). People and pet traffic is heavy and continuous. Not having an established boundary invites constant foot and paw damage onto owner-maintained property.

#2 Street crime and animal traffic along our street makes having a fence and/or wall almost mandatory to maintain privacy and safety.

#3 There is no off-street parking along 4th avenue between A and B street. Storage of trashcans along the sidewalk is the only reasonable place given the steep slopes leading to and from each individual home along this street.

Question #6

Explain how this variance will be essential to the enjoyment of a substantial property right possessed by other properties in the same zoning district.

#1 Ability to contain slope and maintain a planting/landscape zone that is not actually owner's property, but that is maintained and cared for by adjoining property owners.
Ability to separate public traffic from cared-for space.

#2 Protection and privacy of property.

#3 Reasonable access to trash pickup site.

Question #7

Would the variance uphold the general zoning plan and not negatively affect the public interest?

#1 In my opinion Yes, the variance would uphold the general zoning plan in this area. The retaining wall is no different than the other 80% of the street where one exists. Its presence is not 'out of the ordinary' or unique to this zoning area.

#2 There was a very similar fence in place when I purchased the home. It was obviously a very old fence and was in need of repair. I simply brought it back to an acceptable level of repair and improved the overall curb appeal.

#3 Yes, from what I can tell, residents on this particular section of neighborhood have for many years stored their cans on the street. I have actually created a situation where, unlike other residents on the street who's cans impede public walkway, my cans are now stored in an inset of the wall and eliminate any blockage along the sidewalk.

Question #8

Explain how this variance will observe the spirit of this Zoning Ordinance and City Master Plan.

#1 Allowing the wall to remain would be well within the spirit of the ordinance given the overall aesthetic of the wall and the job it does in containing the gentle slope as well as how it creates a nice planting area that can not be easily disturbed by foot and animal traffic.

#2 Fencing within the Avenues is widespread. My particular fence is not unique in material or construction. It is well maintained and provides a needed boundary that helps keep the property safe.

#3 Easy access to the trash pickup site is a must.