



BOARD OF ADJUSTMENT / APPEALS REGULAR MEETING

October 28, 2021 // 7:00 p.m. // Town Hall
301 Walnut Street, Windsor, CO 80550

AGENDA

- A. CALL TO ORDER
 - 1. Roll Call
 - 2. Review of Agenda by the Board and Addition of items of New Business to the Agenda for Consideration by the Board
 - 3. Reading of the statement of the documents to be entered into the record:
I enter into the record the Town's Comprehensive Plan, the Town's Zoning Ordinance, the staff report regarding the action items of this hearing, and all of the testimony received at this hearing.
- B. CONSENT CALENDAR
 - 1. Approval of the September 23, 2021 minutes.
- C. BOARD ACTION
 - 1. Public Hearing – Variance of Municipal Code Section 16-1-40(b) of the Municipal Code pertaining to lot development standards in the Single-Family (SF-1) Zone District – Town of Windsor Subdivision, Lot 5, Block 16 (110 Elm Street) – Angela Keeton, Property Owner; and Rachel Lacerte, Applicant
 - a. Motion to open public hearing to receive evidence and comment regarding the variance request and second
 - b. Presentation of variance request by applicant
 - c. Receipt of any comments from the public regarding the variance request
 - d. Staff report and Recommendation
 - e. Questions and answers to/from BOA members to/from applicant, public, staff, legal counsel
 - f. Motion to close public hearing and second
 - g. Motion on variance and second
 - h. Board discussion
 - i. Board action on variance request

D. COMMUNICATIONS

1. Communications from the Board Members
2. Communications from staff
 - a. Decide and vote on if Thursday, December 16th works for the combined November/December BOA meeting.

E. ADJOURN

STATE LAW DICTATES THAT A FAVORABLE VOTE OF 4 OUT OF 5 MEMBERS OF THE BOARD OF ADJUSTMENT IS REQUIRED TO GRANT ANY VARIANCE.

A SIMPLE MAJORITY VOTE IS NOT SUFFICIENT.

NOTE TO APPLICANTS: This agenda is considered tentative and may be revised at any time prior to the meeting. Applicants are advised to be present at 7:00 p.m. Final agendas will be available at the meeting.

Applicants may discuss the requests and the recommendations with staff during normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, except holidays. For the convenience of the applicants, appointments are recommended.

Upcoming Meeting Dates

Thursday, October 28, 2021	7:00 P.M.	Regular Board of Adjustment Meeting*
Thursday, November 25, 2021	7:00 P.M.	CANCELED DUE TO HOLIDAY*
Thursday, December 16, 2021	7:00 P.M.	Tentative Regular BOA Meeting *
Thursday, January 27, 2022	7:00 P.M.	Regular Board of Adjustment Meeting*

* All regular and special meetings of the Board of Adjustment are subject to the receipt of an item of business to be placed on the meeting agenda.



BOARD OF ADJUSTMENT / APPEALS REGULAR MEETING

September 23, 2021 // 7:00 p.m. // Public Services Campus
922 North 15th Street, Windsor, CO 80550

MINUTES

A. CALL TO ORDER

Chairman Horner called the meeting to order at 7:00 p.m.

1. Roll Call

The following members were present:

Chairman Danny Horner
Vice-Chair Stacey Shea
Jeffrey Gelvin
James Penfold
Don Threewitt

Zoom Alternate

Absent

Shawn Wherry
Patrick Miller

Senior Planner
Deputy Town Clerk

David Eisenbraun
Trisha Conway

2. Review of Agenda by the Board and Addition of items of New Business to the Agenda for Consideration by the Board of Adjustment / Appeals

There were no changes to the agenda.

3. Reading of the statement of the documents to be entered into the record:

I enter into the record the Town's Comprehensive Plan, the Town's Zoning Ordinance, the staff report regarding the action items of this hearing, and all of the testimony received at this hearing.

B. CONSENT CALENDAR

1. Approval of the minutes from August 26, 2021

Ms. Shea moved to approve the consent calendar as presented; Mr. Penfold seconded the motion. Roll call on the vote resulted as follows; Yeas – Horner, Shea, Gelvin, Penfold, Threewitt; Nays – None; Motion carried.

C. BOARD ACTION

1. Public Hearing – Variance of Municipal Code Section 16-3-10 pertaining to location of an accessory structure on a residential lot in the Estate Residential (ER) Zone District – Providence Subdivision, Lot 2 (635 Southwood Lane) – Joseph and Amanda Kingry, Property Owners; and Stan Everitt, Applicant.

Mr. Eisenbraun reported the applicant, Mr. Stan Everitt, is requesting a variance from Municipal Code Section 16-3-10 of the Municipal Code pertaining to location of accessory buildings on residential lots, in the Estate Residential (ER) Zone District.

Municipal Code Section 16-3-10 states the following: "No accessory building, regardless of its size, shall be located any closer to the front property line than the rear corners of the principal building; that is, accessory buildings are only allowed in rear yards."

The applicants are proposing an accessory structure on the northern side of the property, 635 Southwood Lane, which is adjacent to the front property line and therefore, the front yard. The principal structure (single-family home) is situated on the southern portion of the lot, the rear yard. Floodplain also traverses the southern portion of the property. The accessory structure, which would be constructed to match the features and colors of the main house, will need building permits. The accessory building will adhere to the setback requirements of the zone code.

The neighborhood is characterized with estate residential lots, agricultural uses, and a bible college with dormitories. Beginning with the Providence Farm Annexation (2014), which included 629 Southwood Lane, accessory structures were built closer to the street with the primary structure built closer to the floodplain and view corridor. As part of the annexation agreement for 629 Southwood Lane, the accessory structure (barn) was permitted to be built first (2016), followed by construction of the home (2018). This property set the character of the home locations along the southern side of Southwood Lane, which overlook the floodplain.

The proposed location of the accessory structure is the result of several site factors.

- The character of the neighborhood:
 - Principal structures (single-family residential homes) are located closest to the rear property line;
 - Portions of rear yards in this neighborhood are within the floodplain and homes overlook floodplain; and
 - It is impractical to locate accessory structures in the rear yard
 - The front yard provides access to the principal structure and would provide access to the accessory structures. An access point from the rear property is not an option due to physical constraints associated with the floodplain and the lot configuration.

The proposed locations for the accessory structures are outside of the floodplain and consistent with and compatible with other accessory structure locations in this neighborhood. Based on the lot configuration and principal structure orientation within this subdivision, largely due to the floodplain, front yard's function similar to backyards of typical residential developments.

Analysis

Municipal Code Section 14-2-150 (Major Variance) states the following:

Major Variances are intended to alleviate practical difficulties or hardship arising from the strict application of the provisions of Chapters 15 and 16 of

this Code to a specific property. Variances address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission. A variance, if granted, will constitute a change in the zoning provisions of Chapter 15 or Chapter 16 of this Code as distinct from a conditional use grant which allows for inclusion within the zones established by this Code for certain anticipated uses of a unique nature or character justified by temporary conditions

Section 14-2-150(c) Review Criteria. The Zoning Board of Adjustment may grant a Major Variance only when it is demonstrated that:

- (1) Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property;
- (2) The applicant cannot derive beneficial use of the property without the variance;
- (3) The purpose and intent behind the regulation would be maintained by granting the variance;
- (4) Granting the variance will not be detrimental to any adjacent properties or the surrounding area;
- (5) Granting the variance will not be detrimental to public health, safety, or welfare;
- (6) Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable;
- (7) Granting the variance will not create a building or fire code violation or other safety hazard;
- (8) The need for the variance is not created by a self-imposed hardship;
- (9) A variance shall allow only the least deviation from the standard that will afford relief; and

(d) Conditions on granting variances. In granting any variance, the Board of Adjustment may impose such conditions and requirements with respect to location, construction, maintenance and operation in addition to any which may be stipulated by this Chapter as deemed necessary for the protection of the adjacent properties and the public interest and welfare. Violation of such conditions and requirements, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Code. Any variance approval with conditions requiring affirmative action by the applicant prior to the variance becoming effective shall remain valid for a period of eighteen (18) months from the date the Board of Adjustment approves the variance and imposes the conditions requiring affirmative action. It shall be the sole responsibility of the applicant to satisfy all such conditions of approval within the eighteen-month period, or the grant of variance shall be deemed null and void.

Staff has analyzed the major variance criteria as follows:

- (1) Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property;

Staff comment: Based on the subdivision layout and lot configuration within the constraints of the floodplain, the proposed placement of these accessory structures is in line with the intent of how this lot was designed to be used and compatible with the building placement of surrounding properties. With the rear

yard encumbered by floodplain and primary structure adjacent to the floodplain, placement of accessory structures is limited and impractical. Strict application of the development code would result in practical difficulties

(2) The applicant cannot derive beneficial use of the property without the variance;

Staff comment: The property has use in its current condition; however, physical constraints associated with the lot limit the development opportunities that would otherwise be possible if developing on a standard estate residential lot.

(3) The purpose and intent behind the regulation would be maintained by granting the variance;

Staff comment: The purpose and intent behind the regulation is to require principal buildings to front the street where they are located to provide for an attractive and pedestrian-oriented streetscape and restrict accessory buildings from the front yards of residential development. The subject lot layout is atypical, consistent with the joining estate lots.

(4) Granting the variance will not be detrimental to any adjacent properties or the surrounding area;

Staff comment: The essential character of the surrounding neighborhood would not be altered. The proposed accessory building locations are consistent with the neighboring properties.

(5) Granting the variance will not be detrimental to public health, safety, or welfare;

Staff comment: The building locations would not negatively impact public safety and welfare. The building locations would not encroach into the floodplain, easements or building setbacks.

(6) Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable;

Staff comment: There are no other procedures such as alternative compliance that would provide compliance with standards.

(7) Granting the variance will not create a building or fire code violation or other safety hazard;

Staff comment: Granting the variance will not create a building or fire code violation or other safety hazard.

(8) The need for the variance is not created by a self-imposed hardship;

Staff comment: The layout and character of the neighborhood was not created by the applicant. The applicant would have been able to building the principal home closer to the street; however, it would not have led to practical use of the property or been consistent with the layouts of the adjacent lots to the east and west.

- (9) A variance shall allow only the least deviation from the standard that will afford relief; and

Staff comment: The variance will allow the least deviation from the standard to afford relief, allowing a comparable development opportunity to that of adjacent lots to the east and west.

Recommendation

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship as defined by the Municipal Code and outlined above. Therefore, staff is recommending approval of the variance request with the following conditions:

1. The accessory structures are to be designed in a manner compatible with the principal structure; and
2. The applicant obtains building permits for the proposed accessory structures.

Since all motions are to be made in the affirmative, staff recommends that the following motion, second and action on the petition be made as follows:

1. A motion to approve the request for a variance from Section 16-3-10 with the two conditions recommended by staff.
2. A second; and
3. The Chair calling for the vote as follows: All members in favor of the variance vote "yes"; all opposed to the variance request vote "no", with a minimum of four "yes" votes required to approve the variance request.

Furthermore, staff recommends the following findings of fact:

1. Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property, in this case.

Should the BOA be inclined to approve the variance request, findings of fact supporting the decision are required.

Notification

September 3, 2021, development sign posted on the subject property.

September 10, 2021, public hearing notice published in the paper.

September 9, 2021, letters mailed to neighboring residents (150')

September 7, 2021, public hearing notice published on Town website.

Chairman Horner opened the meeting for questions and answers to/from the BOA members, to/from applicant, public, staff, legal counsel.

Vice-Chair Shea asked Mr. Eisenbraun about a flood plain this parcel.

Mr. Eisenbraun reported the flood plain in not inhibiting these particular structures.

Board Member Gelvin asked Mr. Eisenbraun for clarification on the identification of the out building, and to specify there are no living quarters in this plan review.

Mr. Eisenbraun reported the applicant is calling it a barn, and living quarters have not been proposed in this narrative or development plan review.

Board Member Penfold asked Mr. Eisenbraun about the parcels being the last available dwelling units in this subdivision.

Mr. Eisenbraun reported; correct every time there are sequential variance request we review the code, and there is no other estate lots currently available that would have these same types of unique hardships.

Ms. Shea moved to close the public hearing; Mr. Penfold seconded the motion. Roll call on the vote resulted as follows: Yeas – Horner, Shea, Gelvin, Penfold, Threewitt; Nays – None; Motion carried.

Chairman Horner opened the meeting for Board discussion to which there was none.

Mr. Gelvin moved to approve the Variance of Municipal Code Section 16-3-10 pertaining to location of an accessory structures on a residential lot in the Estate Residential (ER) Zone District, Providence Subdivision, Lot 2 (635 Southwood Lane); Mr. Penfold seconded the motion. Roll call on the vote resulted as follows: Yeas – Horner, Shea, Gelvin, Penfold; Recluse – Threewitt; Nays – None; Motion carried.

D. COMMUNICATIONS

1. Communications from the Board Members

- Chairman Horner asked Mr. Eisenbraun about a meeting for next month. Mr. Eisenbraun reported we have a potential sign variance, and a lot variance for a building addition.
- Vice-Chair Shea asked Mr. Eisenbraun about a December meeting since the November meeting is canceled due to the holiday. Mr. Eisenbraun reported there will be discussion about a December meeting due to the holiday, but today board members agree to host the meeting on Christmas Eve.

2. Communications from staff

- Mr. Eisenbraun reported he will be at a conference next meeting.

E. ADJOURN

Upon a motion duly made, the meeting was adjourned at 7:28 p.m.

Trisha Conway, Deputy Town Clerk



Variance Request:

110 Elm Street

Block 16, Lot 5

Town of Windsor Sub.

Allowance pertaining to lot development standards

Board of Adjustment – October 28, 2021

Variance Request

Variance of Municipal Code Section 16-1-40(b) of the Municipal Code pertaining to lot development standards:

“Table 16-1-40(b): SF-1 District Lot Development Standards”

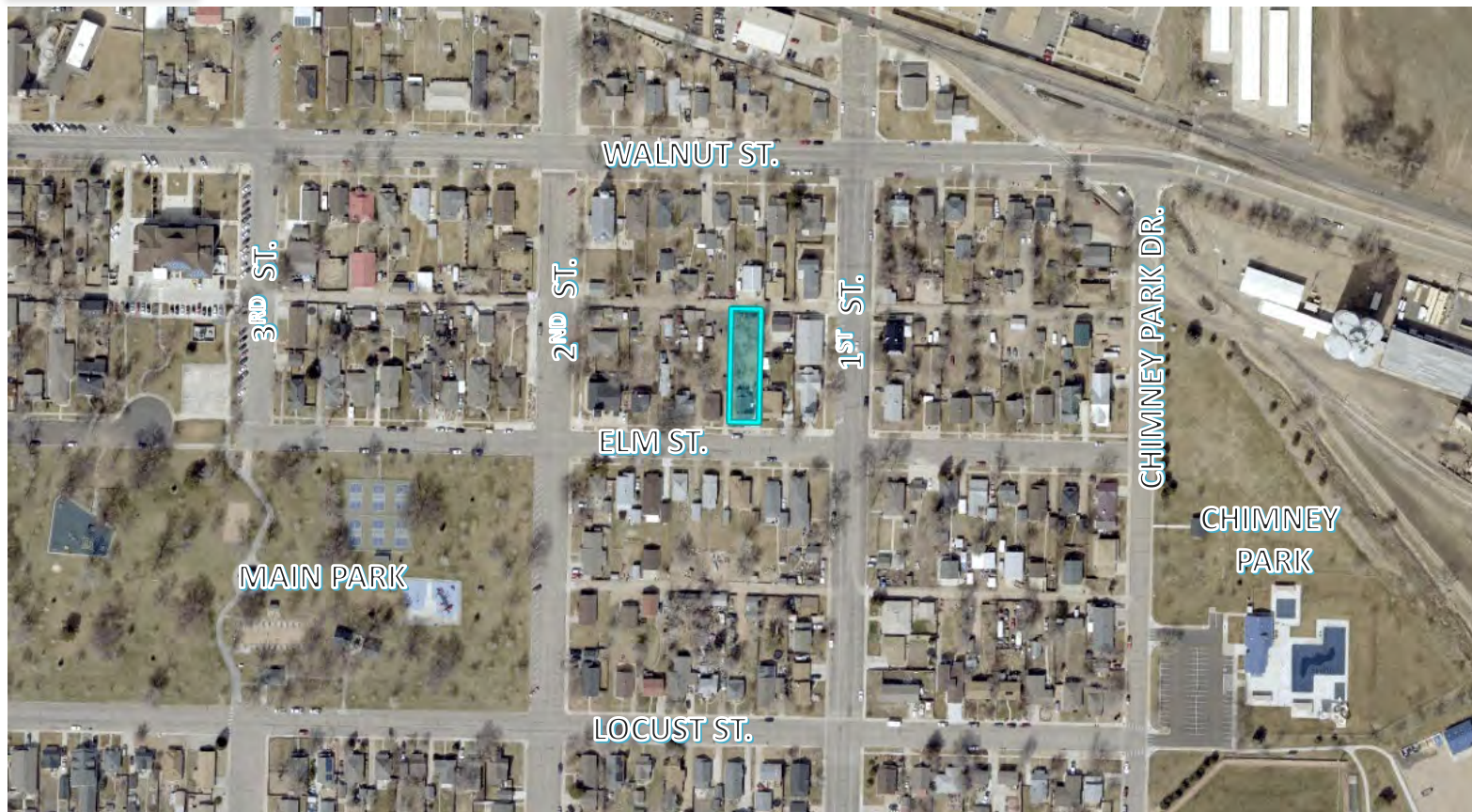
Minimum Setbacks	
Front	20’
Side	5’
Rear	10’
Rear Abutting Alley	5’



110 Elm Street

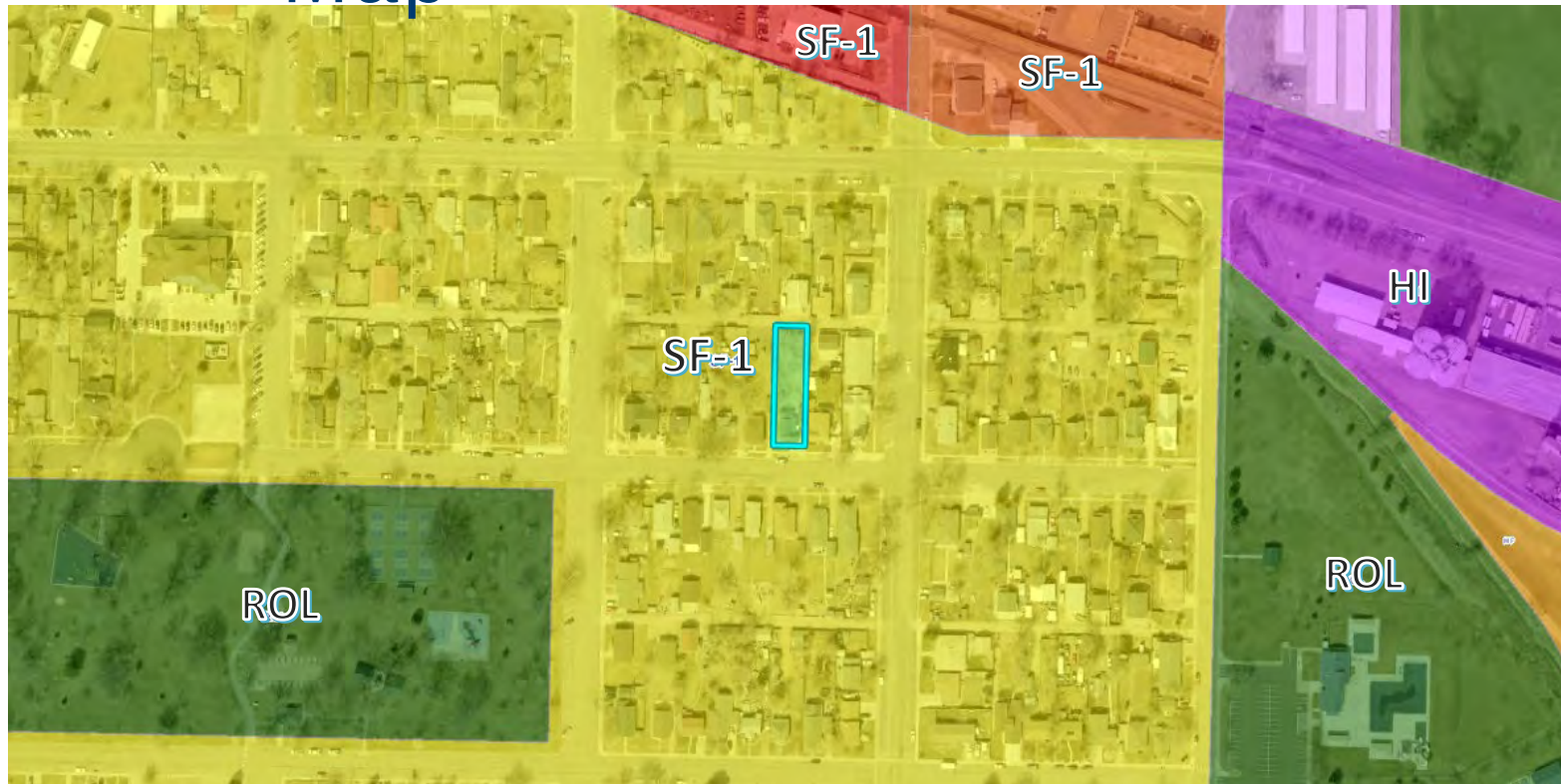
Town of Windsor Board of Adjustment – October 28, 2021

Site Vicinity Map





Zoning Map





Neighborhood Compatibility

116 Elm St: $\pm 20'$ Front Setback



112 Elm St: $\pm 10'$ Front Setback



Neighborhood Compatibility

124 Elm St: $\pm 20'$ Front Setback

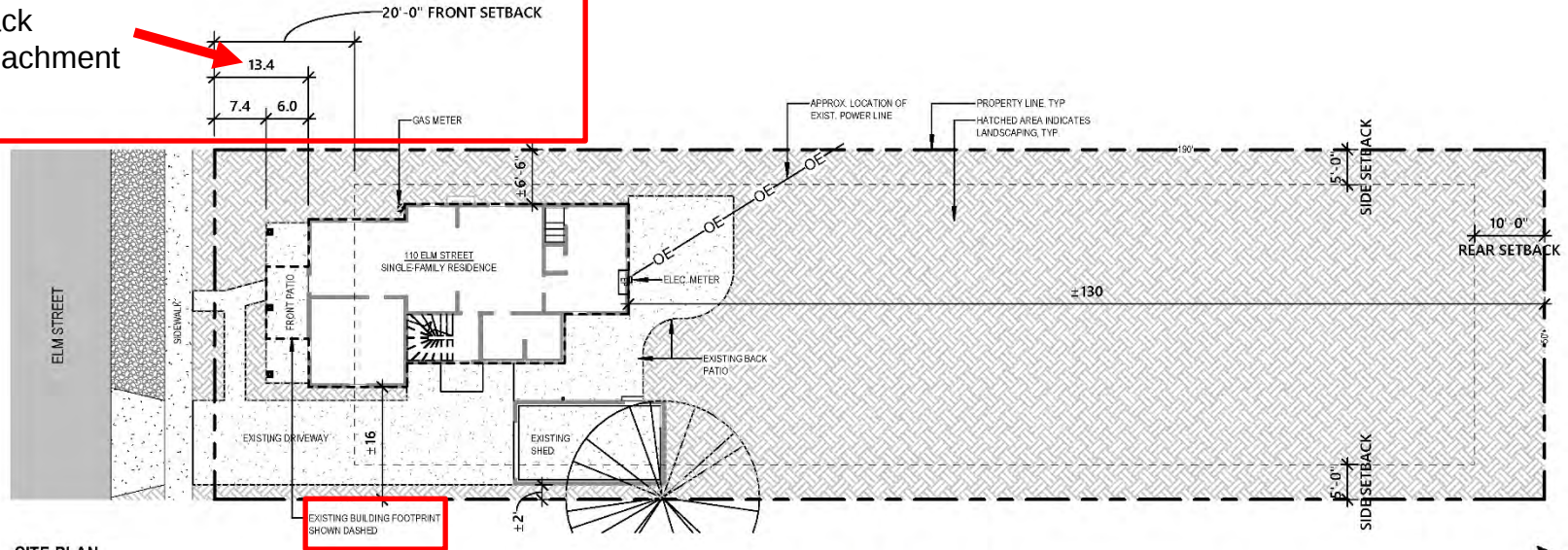


120 Elm St: $\pm 45'$ Front Setback



Site Concept Plan

Proposed Front
Setback
Encroachment

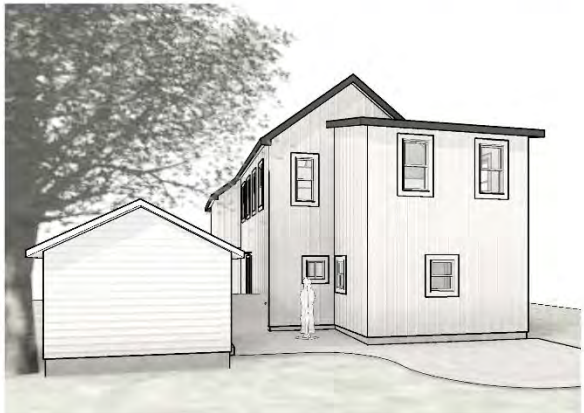


SITE PLAN

1/16" = 1'-0"



Site Concept Plan



Site Concept Plan



Municipal Code Section 14-2-150 (Major Variance) states the following:

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110 Elm Street

Town of Windsor Board of Adjustment – October 28, 2021

Section 14-2-150(c) Review Criteria. The Zoning Board of Adjustment may grant a Major Variance only when it is demonstrated that:

- (1) Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property;*
- (2) The applicant cannot derive beneficial use of the property without the variance;*
- (3) The purpose and intent behind the regulation would be maintained by granting the variance;*
- (4) Granting the variance will not be detrimental to any adjacent properties or the surrounding area;*
- (5) Granting the variance will not be detrimental to public health, safety, or welfare;*
- (6) Adequate relief cannot be reasonably obtained through a different procedure,*



110 Elm Street

Town of Windsor Board of Adjustment – October 28, 2021

Section 14-2-150(c) Review Criteria. The Zoning Board of Adjustment may grant a Major Variance only when it is demonstrated that (cont.):

(7) Granting the variance will not create a building or fire code violation or other safety hazard;

(8) The need for the variance is not created by a self-imposed hardship;

(9) A variance shall allow only the least deviation from the standard that will afford relief; and



110 Elm Street

Town of Windsor Board of Adjustment – October 28, 2021

Section 14-2-150(c) Review Criteria. The Zoning Board of Adjustment may grant a Major Variance only when it is demonstrated that (cont.):

*(d) **Conditions on granting variances.** In granting any variance, the Board of Adjustment may impose such conditions and requirements with respect to location, construction, maintenance and operation in addition to any which may be stipulated by this Chapter as deemed necessary for the protection of the adjacent properties and the public interest and welfare. Violation of such conditions and requirements, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Code. Any variance approval with conditions requiring affirmative action by the applicant prior to the variance becoming effective shall remain valid for a period of eighteen (18) months from the date the Board of Adjustment approves the variance and imposes the conditions requiring affirmative action. It shall be the sole responsibility of the applicant to satisfy all such conditions of approval within the eighteen-month period, or the grant of variance shall be deemed null and void.*



110 Elm Street

Town of Windsor Board of Adjustment – October 28, 2021

Analysis

- Would not create negative impacts to public safety and welfare.
- The character of the surrounding neighborhood would not be negatively altered.
- Granting the variance will not create a building or fire code violation or other safety hazard.
- The physical constraints associated with the lot and its configuration were not created by the applicant.
- The variance will allow the least deviation from the standard to afford relief, allowing a comparable development opportunity to that of a standard residential lot.



110 Elm Street

Town of Windsor Board of Adjustment – October 28, 2021

Variance Request

Staff requests that the following be entered into the record:

- Application and supplemental materials
- Staff memorandum and supporting documents
- All testimony presented during the public hearing
- Recommendation



110 Elm Street

Town of Windsor Board of Adjustment – October 28, 2021

Recommendation

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship or a practical difficulty, and therefore, is recommending approval of the variance request, based on the following findings of fact:

1. Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property, in this case.

With the following recommended conditions of approval:

1. The Board consider a motion to approve a variance to include the proposed covered patio (7.4' setback of existing enclosed porch); OR
2. The Board consider an alternative motion to, at a minimum, approve a variance to accommodate the existing structure (13.4' existing setback of house).



110 Elm Street

Town of Windsor Board of Adjustment – October 28, 2021



MEMORANDUM

Date: October 28, 2021
To: Board of Adjustment
From: Carlin Malone, Chief Planner
Re: Public Hearing – Variance of Municipal Code Section 16-1-40(b) of the Municipal Code pertaining to lot development standards in the Single-Family (SF-1) Zone District – Town of Windsor Subdivision, Lot 5, Block 16 (110 Elm Street) – Angela Keeton, Property Owner; and Rachel Lacerte, Applicant
Item #: 1

Background

The applicant, Ms. Lacerte, is requesting a variance from Municipal Code Section 16-1-40(b) of the Municipal Code pertaining to lot development standards in the Single-Family (SF-1) Zone District.

Municipal Code Section 16-1-40(b) states the following in a table:

Minimum Setbacks	
Front	20'
Side	5'
Rear	10'
Rear Abutting Alley	5'

"Front yard setback shall be a minimum of 20'."

The applicants are proposing to remodel an existing home at 110 Elm Street including the addition of a second story and converting an existing front patio to a covered porch. The principal structure (single-family home) is situated on the southern portion of the lot, which already encroaches into the front yard setback, as it pre-dates the code. This is a common issue in older parts of the Town where homes were built closer to the sidewalk or street than would typically be allowed today. The remodel, which would be constructed to compliment the features and colors of the existing house, will need building permits. The proposed second story structure will not cause the primary house to encroach into the front yard setback requirements any further than what exists today. Similarly, the front porch remodel will change the architecture style, but does not propose to increase the existing setback encroachment.

The neighborhood is characterized with single family residential lots and a church. Over half of the homes situated on the block do not comply with our current zoning code development standards. The average setback along this block face of the residential properties is 15'.

The existing remodel has two different components:

1. The addition of a second story to the home, which adds overall square footage to the

- encroachment, but does not propose to extend any further into the front or side setbacks. It will keep the existing structure at a 13.4' front yard setback.
2. The front covered patio, replacing the existing enclosed porch is proposed to have a slightly larger overall footprint, but does not seek to further encroach into the setback, keeping the existing front yard setback at 7.4'.

Analysis

Municipal Code Section 14-2-150 (Major Variance) states the following:

Major Variances are intended to alleviate practical difficulties or hardship arising from the strict application of the provisions of Chapters 15 and 16 of this Code to a specific property. Variances address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission. A variance, if granted, will constitute a change in the zoning provisions of Chapter 15 or Chapter 16 of this Code as distinct from a conditional use grant which allows for inclusion within the zones established by this Code for certain anticipated uses of a unique nature or character justified by temporary conditions.

Section 14-2-150(c) Review Criteria. The Zoning Board of Adjustment may grant a Major Variance only when it is demonstrated that:

- (1) *Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property;*
 - (2) *The applicant cannot derive beneficial use of the property without the variance;*
 - (3) *The purpose and intent behind the regulation would be maintained by granting the variance;*
 - (4) *Granting the variance will not be detrimental to any adjacent properties or the surrounding area;*
 - (5) *Granting the variance will not be detrimental to public health, safety, or welfare;*
 - (6) *Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable;*
 - (7) *Granting the variance will not create a building or fire code violation or other safety hazard;*
 - (8) *The need for the variance is not created by a self-imposed hardship;*
 - (9) *A variance shall allow only the least deviation from the standard that will afford relief;*
- and

(d) Conditions on granting variances. *In granting any variance, the Board of Adjustment may impose such conditions and requirements with respect to location, construction, maintenance, and operation in addition to any which may be stipulated by this Chapter as deemed necessary for the protection of the adjacent properties and the public interest and welfare. Violation of such conditions and requirements, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Code. Any variance approval with conditions requiring affirmative action by the applicant prior to the variance becoming effective shall remain valid for a period of eighteen (18) months from the date the Board of Adjustment approves the variance and imposes the conditions requiring affirmative action. It shall be the sole responsibility of the applicant to satisfy all such conditions of approval within the eighteen-month period, or the grant of variance shall be deemed null and void.*

Staff has analyzed the major variance criteria as follows:

- (1) Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property;

Staff comment: Based on the subdivision layout and lot configuration within the constraints of the original Town of Windsor subdivision, the proposed remodel is in line with the intent of how this lot was designed to be used and compatible with the building placement of surrounding properties. Strict application of the development code would result in practical difficulties.

- (2) The applicant cannot derive beneficial use of the property without the variance;

Staff comment: The property has use in its current condition; however, physical constraints associated with the lot limit the development opportunities that would otherwise be possible if developing on a standard single family residential lot.

- (3) The purpose and intent behind the regulation would be maintained by granting the variance;

Staff comment: The purpose and intent behind the regulation is to require the 20' setback, however, the home and enclosed porch already encroach into it and the proposal doesn't further that violation.

- (4) Granting the variance will not be detrimental to any adjacent properties or the surrounding area;

Staff comment: The essential character of the surrounding neighborhood would not be altered. The proposed remodel and visual impact is consistent with the neighboring properties.

- (5) Granting the variance will not be detrimental to public health, safety, or welfare;

Staff comment: The remodel would not negatively impact public safety and welfare.

- (6) Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable;

Staff comment: There are no other procedures such as alternative compliance that would provide compliance with standards.

- (7) Granting the variance will not create a building or fire code violation or other safety hazard;

Staff comment: Granting the variance will not create a building or fire code violation or other safety hazard.

- (8) The need for the variance is not created by a self-imposed hardship;

Staff comment: The layout and character of the neighborhood was not created by the applicant. The applicant is only trying to further their use and viability of the existing home and does not intend to create new variance requests outside of the existing character.

- (9) A variance shall allow only the least deviation from the standard that will afford relief; and

Staff comment: The variance will allow the least deviation from the standard to afford relief.

Recommendation

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship as defined by the Municipal Code and outlined above. Therefore, staff is recommending approval of the variance request with the following conditions:

1. The Board consider a motion to approve a variance to include the proposed covered patio (7.4' setback of existing enclosed porch); OR
2. The Board consider an alternative motion to, at a minimum, approve a variance to accommodate the existing structure (13.4' existing setback of house) for purposes of a second story remodel.

Since all motions are to be made in the affirmative, staff recommends that the following motion, second and action on the petition be made as follows:

1. A motion to approve the request for a variance from Section 16-1-40(b) with either the first or second condition recommended by staff.
2. A second; and
3. The Chair calling for the vote as follows: All members in favor of the variance vote "yes"; all opposed to the variance request vote "no", with a minimum of four "yes" votes required to approve the variance request.

Furthermore, staff recommends the following findings of fact:

1. Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property, in this case.

Should the BOA be inclined to approve the variance request, findings of fact supporting the decision are required.

Notification

October 12, 2021, development sign posted on the subject property.

October 15, 2021, public hearing notice published in the paper.

October 14, 2021, letters mailed to neighboring residents (150')

October 15, 2021, public hearing notice published on Town website.

Attachments

Application materials

Presentation

Copy: Angela Keeton, Property Owner
Rachel Lacerte, applicant

Variance Application



(Please see the Town of Windsor Fee Schedule for Application Fees)

1

Please review Sec. 14-2-140 and 14-2-150 of Chapter 14 of the Town of Windsor Municipal Code for variance requirements and procedures.

Variance requests are considered by the Board of Adjustment, which meets on the fourth Thursday of every month.

Prior to submitting an application, a pre-application meeting with Planning Department staff is required. In order for an item to be placed on a given month's agenda, a complete application and fee must be received no later than the 1st day of that month. Incomplete applications will not be scheduled for consideration.

Scaled drawings necessary for the proper consideration of this variance shall be submitted with this application. With new construction projects, building additions or remodels, you must contact SAFEbuilt Colorado, Inc. (970-686-7511) to determine compliance with applicable building codes.

2

A request is hereby made for a variance of the Town of Windsor ordinances due to special conditions where a literal enforcement of the ordinance would result in unnecessary hardship.

Property Address: 110 Elm St.

Lot: 5 Block: 16 Subdivision:

A variance is being requested from the following Municipal Code section(s):

3

Owner

Name(s): Angela Kulton

Address: 110 Elm St.

Phone #: 970.290.4550 Email: angela89co@gmail.com

Applicant or Representative:

Name: Rachel Lacerte CORAC Designs

Address:

Phone #: 970.581.0242 Email: rachel.lacerte@gmail.com

4

Municipal Code Section 14-2-150(a) states, in part:

Variances are intended to alleviate practical difficulties or hardship arising from the strict application of the provision of Chapters 15 and 16 of the Municipal Code to a specific property. Variances address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission.

Unnecessary hardship is defined by the Municipal Code as enumerated in items 1-9 below. Please describe how each item is met in the space provided. Applications will be deemed complete once *all* criteria have been addressed. You may attach additional sheets if necessary.

1. Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property.

The existing foundation was set prior to
current set back guidelines

Variance Application

4

2. The applicant cannot derive beneficial use of the property without the variance.

Current house is 2 bdrm 1 bath
needing addtl bath and 2 addtl bedrooms
to accommodate ~~owner~~ and her families needs
owner

3. The purpose and intent behind the regulation would be maintained by granting the variance.

Property will not protrude or be egregious in any
way. The variance will allow for a modest esthetically
fitting home.

4. Granting the variance will not be detrimental to any adjacent properties or the surrounding area.

will not encroach on any adjoining property
will not create privacy ^{15'} or intrude in any way

5. Granting the variance will not be detrimental to public health, safety, or welfare.

No detrimental factors

6. Adequate relief cannot be reasonably obtained through a different procedure, such as a waiver or alternative compliance standards, if applicable.

No alternative to be reasonably ~~obtained~~
obtained through other procedures

7. Granting the variance will not create a building or fire code violation or other safety hazard.

No - all will be built to code, fire and
all other safety guidelines

8. The need for the variance is not created by a self-imposed hardship.

This is not self imposed

Variance Application

9. A variance shall allow only the least deviation from the standard that will afford relief.

Correct - we are asking as minimal a
deviation as possible

5

I hereby depose and state under the penalties of perjury that all statements, proposals, and/or plans submitted within this application are true and correct to the best of my knowledge.

Signature:

Angela Kelton

Date:

10.7.21

(Proof of owner's authorization is required with submittal if signed by Applicant)

Print Name:

Angela Kelton

Submitted On:

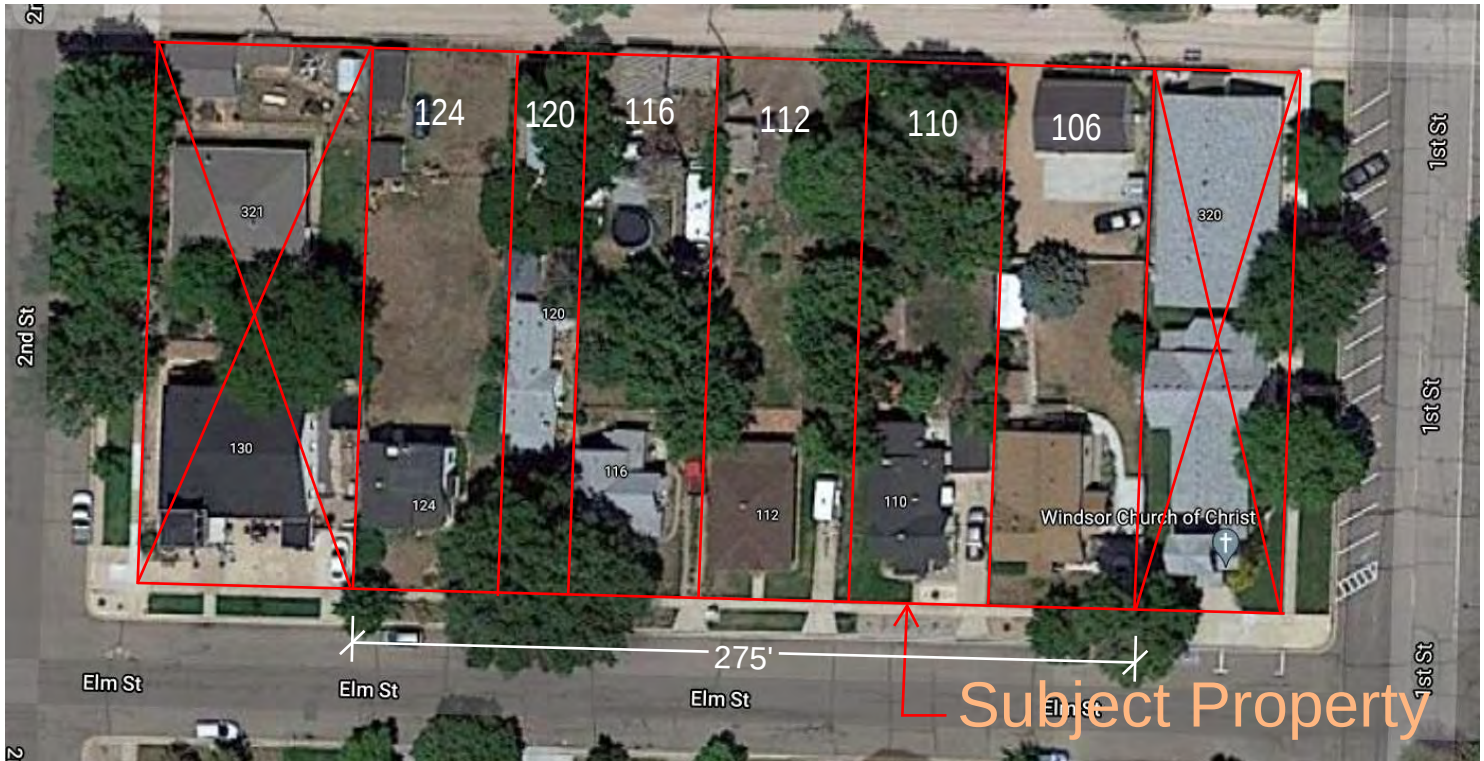
(Please email completed application and materials to planningtechs@windsorgov.com)

Neighboring Setback Study

110 Elm Street Concept Review Application

The following study uses approximations of neighboring setbacks taken from the north side of Elm Street between 1st and 2nd. 130, 321 and 320 Elm Street were excluded as they do not have similar use. Over 50% of the lots on this block are developed with dwellings, and none are vacant.

North side of Elm St. between 1st and 2nd



AVERAGE SETBACK CALCULATION 1

There are 6 lots on this block which are developed with dwellings, 5 of the 6 are 50' wide, while 1 of the 6 is only 25' wide, for a total of 275' of dwelling frontage. The average calculation below is per foot of frontage which accounts for the varying neighbor's lot sizes.

TOTAL DWELLING FRONTAGE = 275 sq.ft.

150 ft. = 10 ft Setbacks

100 ft. = 20 ft Setbacks

25 ft. = 45ft Setbacks

$$\begin{aligned}\text{AVG. SETBACK} &= [150(10) + 100(20) + 25(45)] / 275 \\ &= (1500 + 2000 + 1125) / 275 \\ &= 4625 / 275 \\ &= \mathbf{16.8' \text{ Average}}\end{aligned}$$

AVERAGE SETBACK CALCULATION 2

Alternatively, excluding the outliers when calculating the mean average could be seen as appropriate since 120 Elm has over twice the setback required by the Town and is half the size of the other lots. The average calculation, excluding the outliers, is provided below.

120 Elm = ±45' Setback (excluded)

124 Elm = ±20' Setback

116 Elm = ±20' Setback

112 Elm = ±10 Setback

110 Elm = ±10' Setback

106 Elm = ±10' Setback (excluded)

Total = 60 / 4

= **15' Average**

124 Elm St: $\pm 20'$ Front Setback



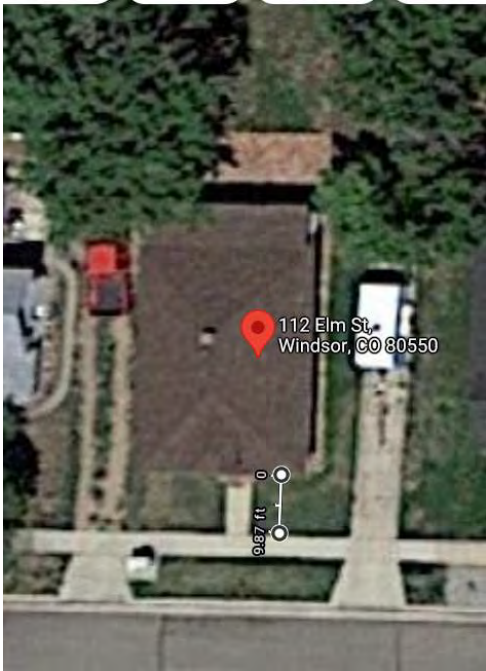
120 Elm St: $\pm 45'$ Front Setback



116 Elm St: ±20' Front Setback



120 Elm St: ±10' Front Setback

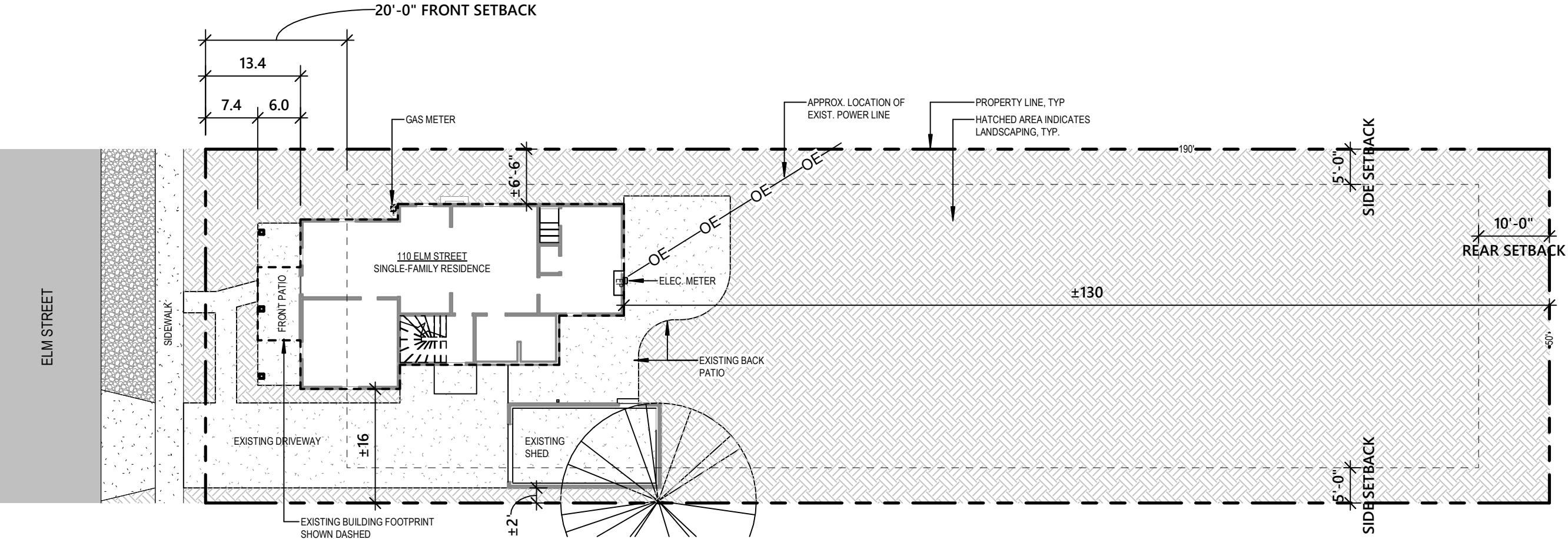


110 Elm St: ±10' Front Setback

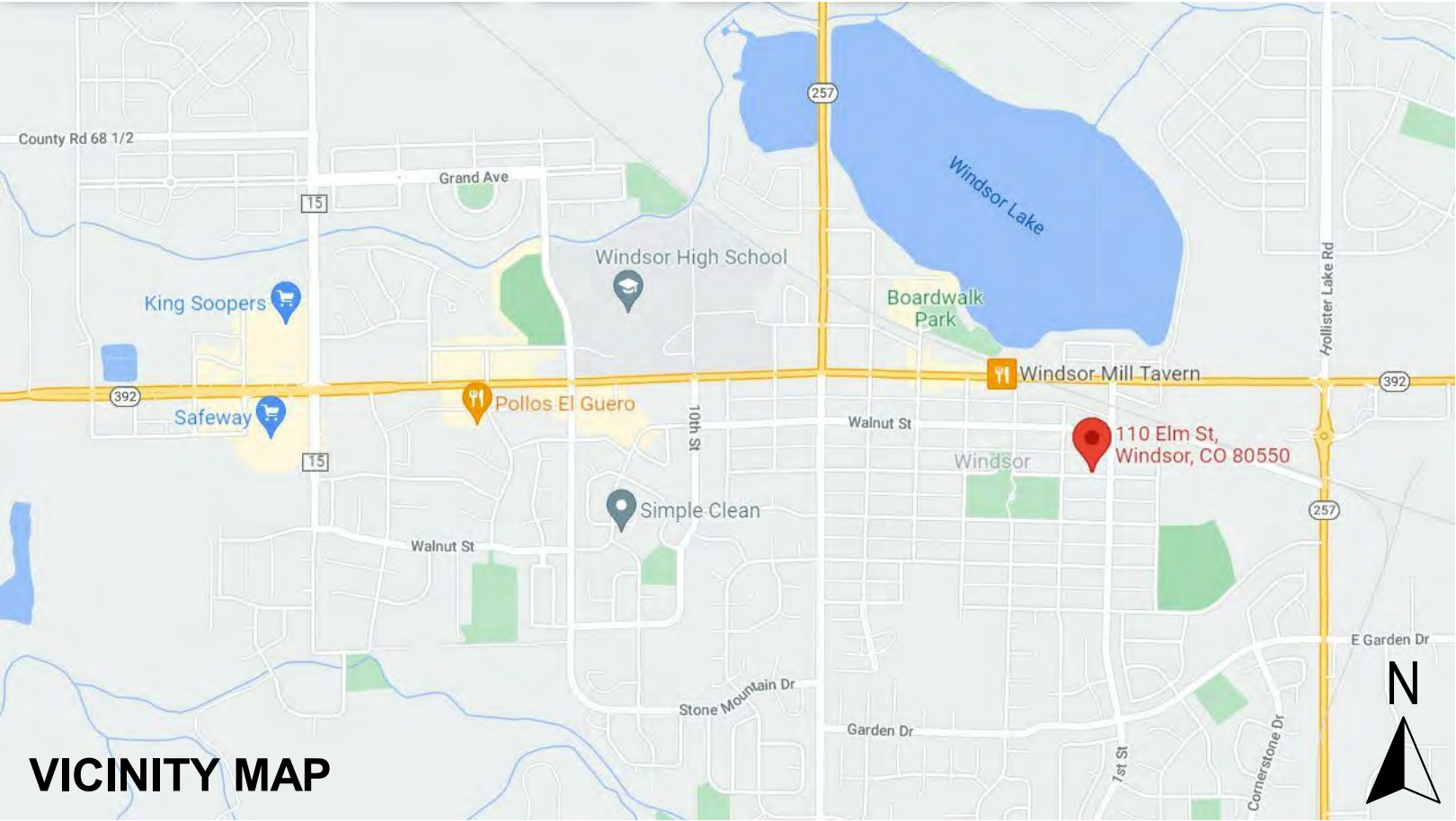


106 Elm St: ±10' Front Setback

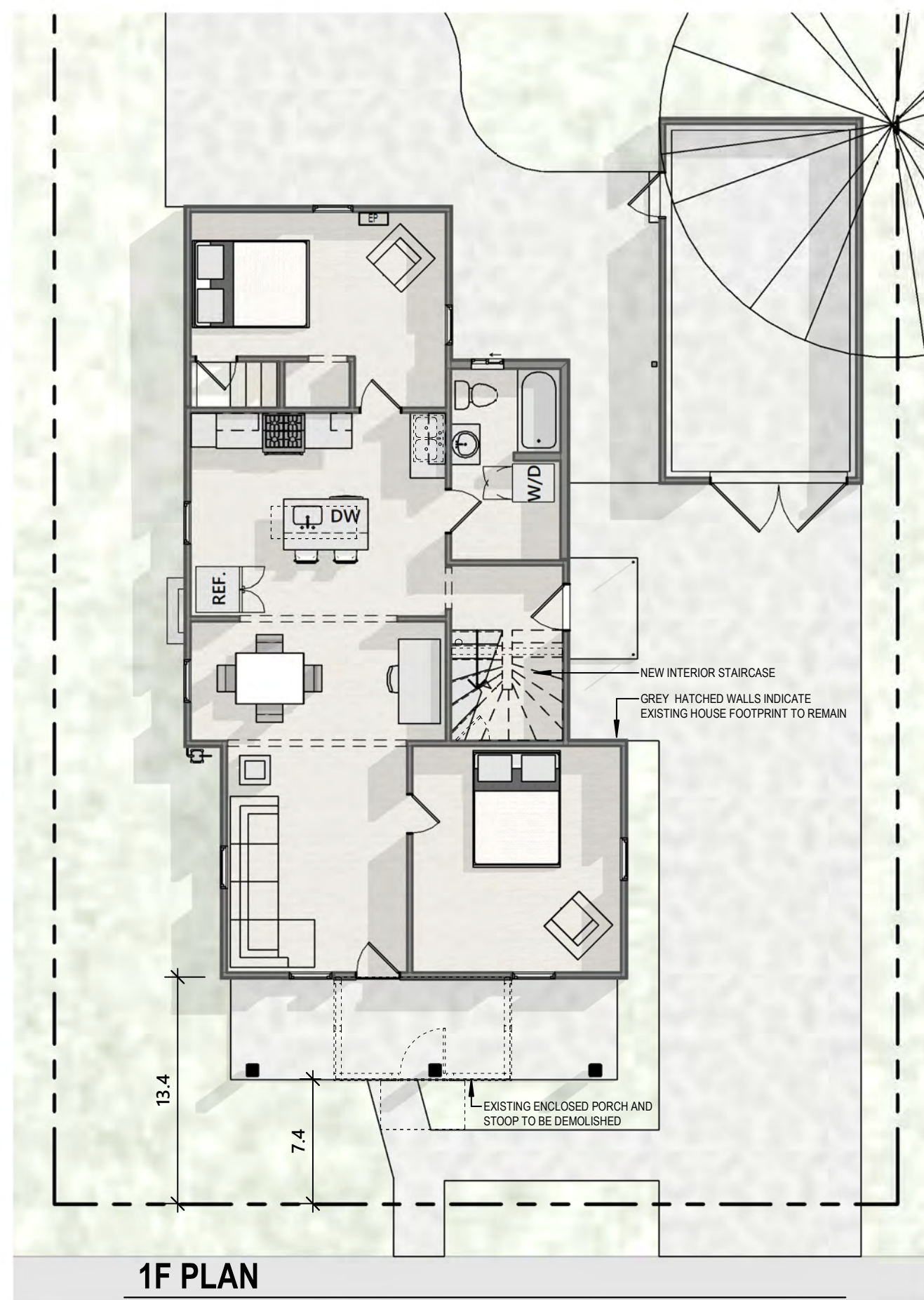
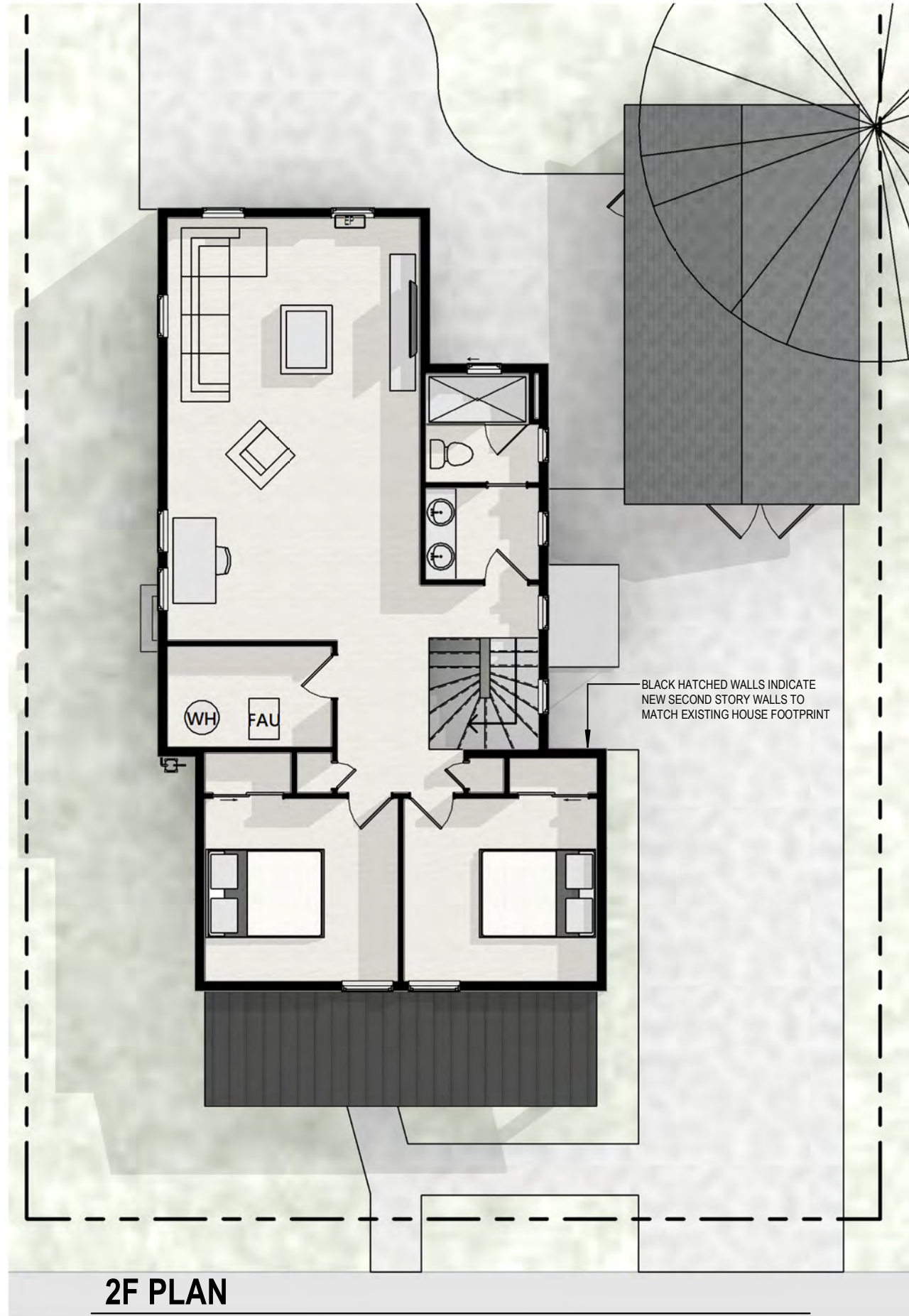


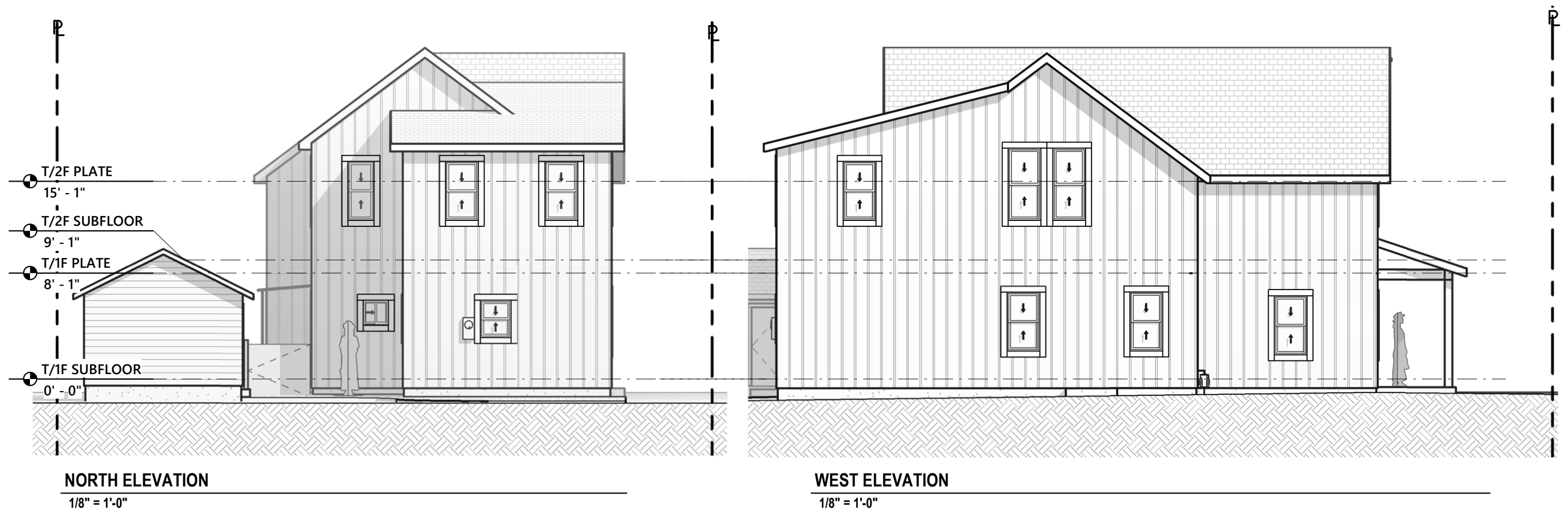
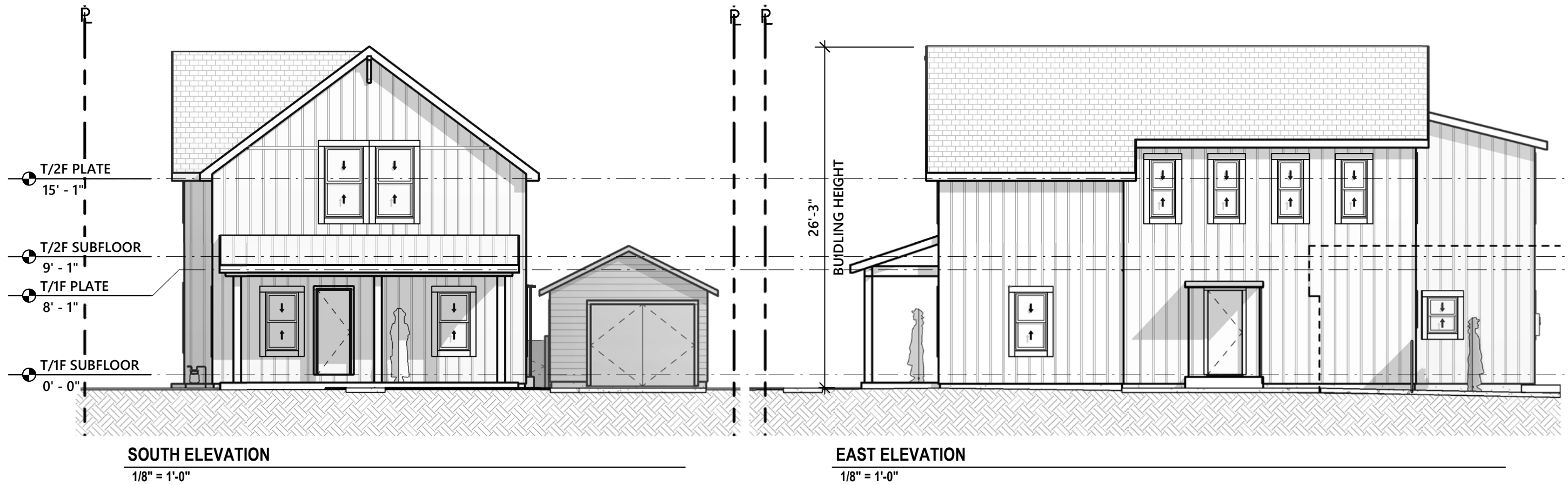


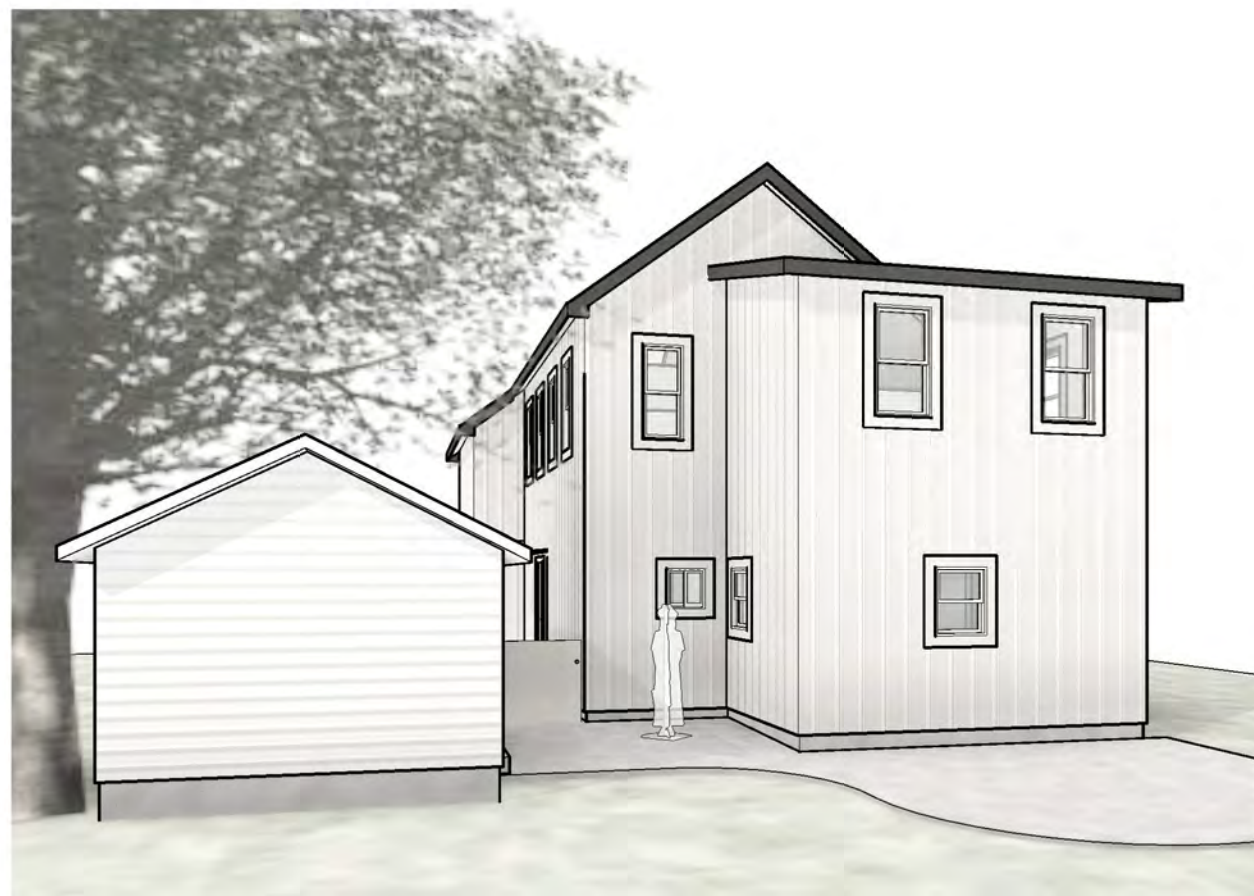
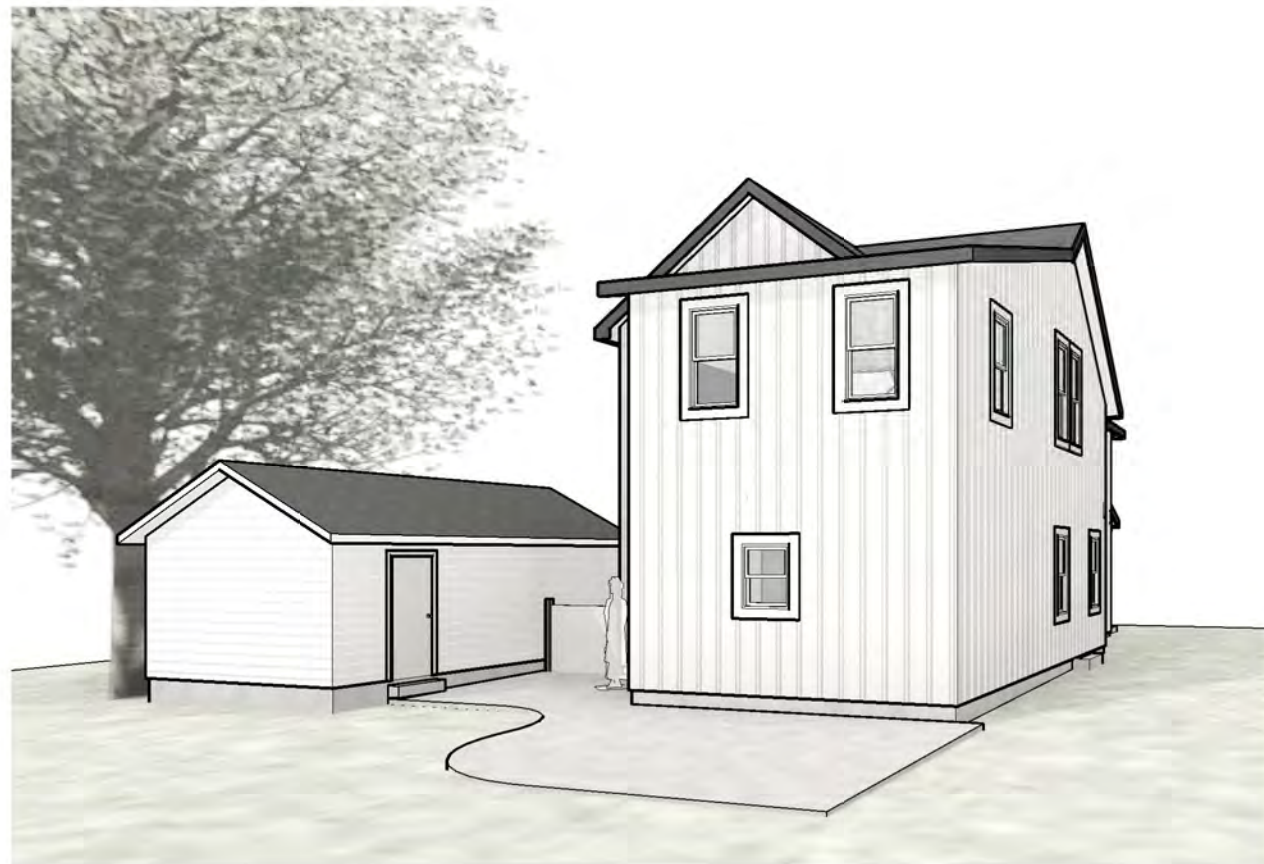
SITE PLAN
1/16" = 1'-0"

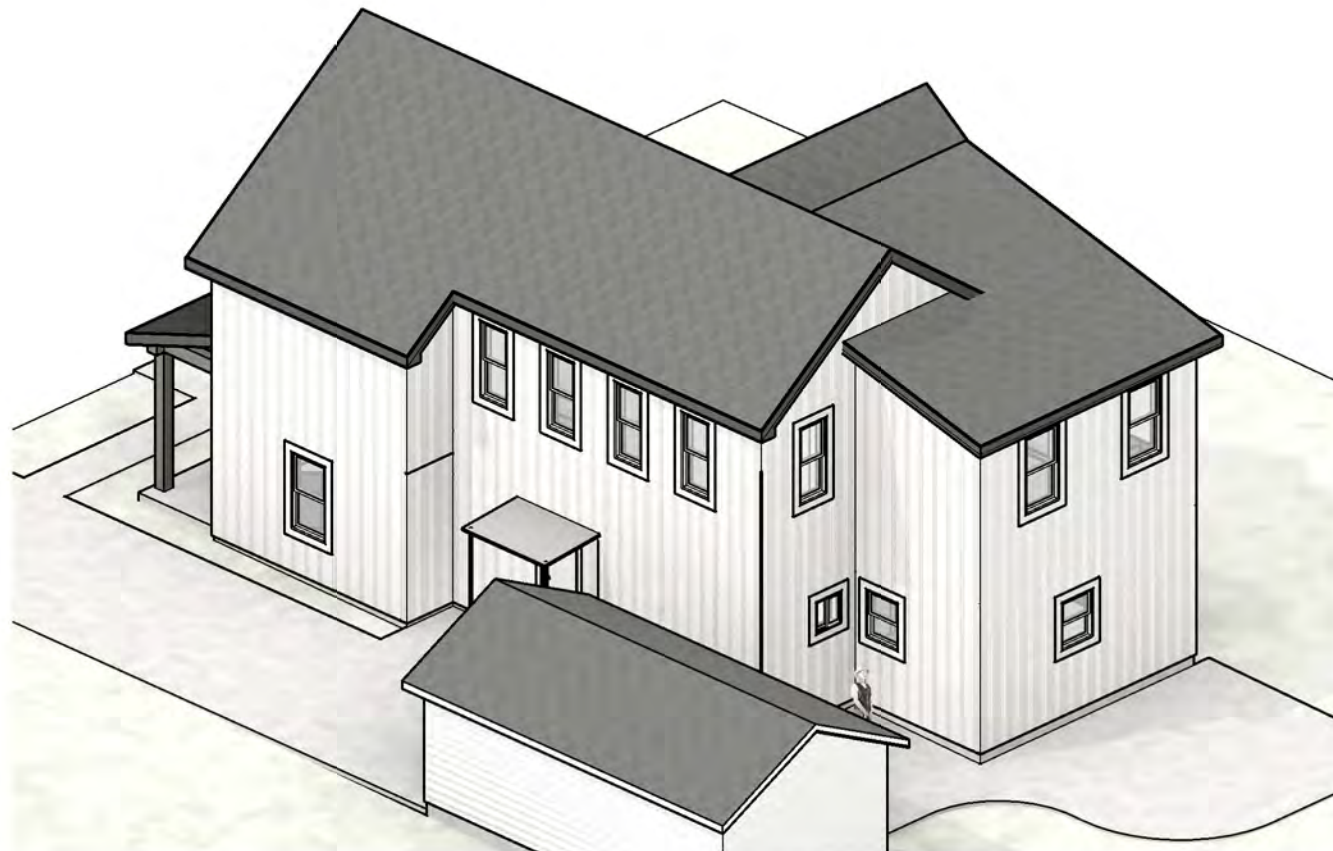


VICINITY MAP









Town of Windsor Planning Department

301 Walnut Street, Windsor, Colorado 80550

Phone 970/686-7476 Fax 970/686-7180



SETBACK CERTIFICATION

THIS COMPLETED FORM MUST BE SUBMITTED FOR APPROVAL

PRIOR TO THE

UNDERGROUND PLUMBING INSPECTION (BEFORE INSTALLATION OF ANY FRAMING)

Date: 10/08/2021

Building Permit # _____

Lot 5 Block 16 Subdivision TOWN OF WINDSOR

Address: 110 ELM STREET, Windsor, Colorado

On 10/1/2021 _____, a field crew measured the
(Date)

setbacks (distances from all property lines along streets) and offsets (distances from all property lines that are not along streets) for the above referenced property and found them to be in compliance with the approved plans and the requirements of the Windsor Municipal Code.

BY: _____



CONTRACTOR CERTIFICATION

I, _____ representing _____
(PRINT Name and title) (Contractor/Builder)

have reviewed the setback certification and the approved plans for the above referenced project and concur that the location of this structure is in conformance with the approved plans and the setback and offset requirements of the Windsor Municipal Code. Furthermore, I hereby certify that all portion(s) of the structure to be framed including, but not limited to, garages, porches, decks, cantilevers, bay windows or other structures, shall maintain compliance with said setback and offset requirements.

BY: _____

Date

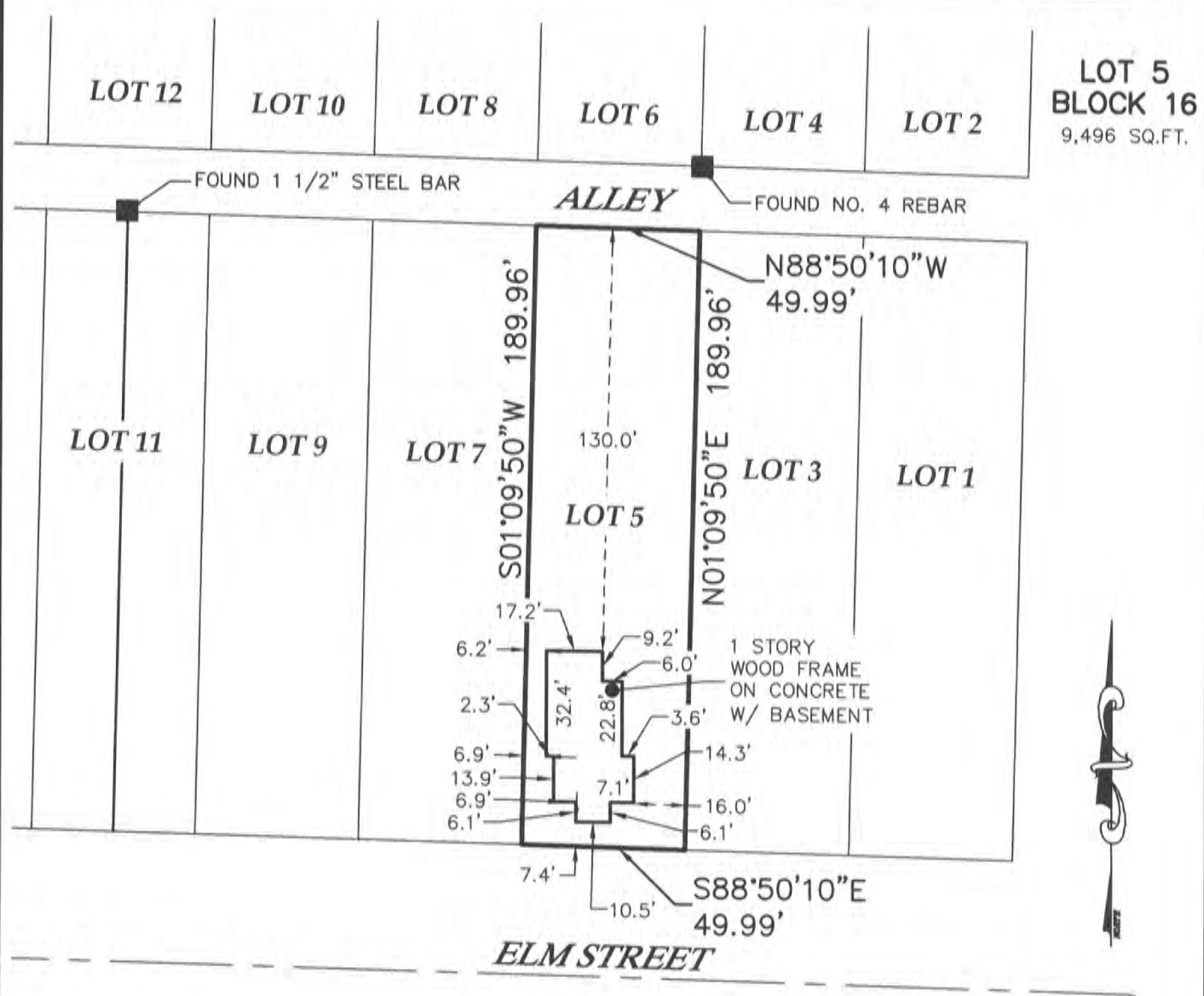
Revised:8/31/2016

SETBACK CERTIFICATION

LOT 5 BLOCK 16 SUBDIVISION TOWN OF WINDSOR

COUNTY OF WELD STATE OF COLORADO

ADDRESS 110 ELM ST.



I, CHRISTOPHER DEPAULIS, A DULY LICENSED LAND SURVEYOR IN THE STATE OF COLORADO DO HEREBY STATE THAT THE DIMENSIONS SHOWN HEREON WERE DETERMINED FROM THE RESULTS OF AN ACTUAL FIELD SURVEY MADE BY ME OR UNDER MY SUPERVISION ON 10/1/2021 AND THE INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY BELIEF AND KNOWLEDGE.



CHRISTOPHER DEPAULIS
LS 38105

DATE

DRAWN BY: ERH

SCALE: 1"=50'

DATE: 10/07/2021

JOB NO. 20210548

CLIENT: KELTON



KING SURVEYORS

650 E. Garden Drive | Windsor, Colorado 80550

phone: (970) 686-5011 | fax: (970) 686-5821

www.contact@kingsurveyors.com