

## HASTINGS BOARD OF ADJUSTMENT

A meeting of the Hastings Board of Adjustment has been scheduled for Thursday, May 19, 2022 at 1:00 PM in the City Building, 220 North Hastings Avenue.

### AGENDA:

1. Call to Order
2. Roll Call
3. Public Notice Notice by the Chair of the Board of Adjustment that the Open Meetings Act is posted on the southeast wall of the City Council Chambers and that prior to this meeting a notice was posted on the bulletin boards in the City Building, that each member and the Chairman received a copy of the proposed agenda and that an agenda for such meeting, kept continuously current, is available fo public inspection and that said meeting is held in open session.
4. Communications and Appearance Request
5. Unfinished Business
  - a. Continued Appeals or Requests
  - b. Tabled Appeals or Requests
  - c. Postponed Appeals or Requests
  - d. Unfinished Items
6. New Appeals or Requests
  - a. Public hearing for a request for an appeal of Hastings City Code, Section 34-202(4) and Section 34-604(1) for an attached garage addition on a property commonly known as 403 Lakeside Drive Hastings, Nebraska  
  
Motion for approve an appeal of Hastings City Code, Section 34-202(4) and Section 34-604(1) for an attached garage addition on a property commonly known as 403 Lakeside Drive Hastings, Nebraska
7. Miscellaneous
  - a. Other Items
  - b. Committee Reports
  - c. Chair's Report
  - d. Staff Report
  - e. Audience Participation
8. Adjournment

# Board of Adjustment

## Minutes

### January 17, 2018

Pursuant to due call and notice thereof, a meeting of the Hastings Board of Adjustment was conducted in the City Building, 220 North Hastings Avenue, City Council Chambers, Hastings, Nebraska, on January 17, 2018

The meeting was called to order at 7:30 a.m. by Chair Krueger with the following members present: Krueger, Hamburger, Myers, Wissing, Northrop. A quorum was present.

The Chair led the Board in the Pledge of Allegiance.

Moved by Hamburger, seconded by Northrop, to adopt the current agenda for the Board of Adjustment meeting. Roll Call: Ayes: Krueger, Hamburger, Myers, Wissing, and Northrop.

Public Notice – Official Notice of the Meeting was published in the Hastings Tribune on January 17, 2018. Pursuant to the Nebraska Revised Statute Section 84-1412, the public was advised that a copy of today's agenda and all reproducible written material which will be discussed at today's meeting is located in the offices of the Development Services Department. Also, a current copy of the Nebraska Open Meetings Act is posted which is accessible to members of the public.

Corrections to the minutes of the September 7, 2016 were discussed. Moved by Hamburger, seconded by Northrop, to approve the minutes with corrections. Roll Call: Ayes: Krueger, Hamburger, Myers, Wissing, and Northrop.

#### **7.a. Request of Richard G. & Sharon A. Fluckey, to appeal the denial of a building permit based on Hastings City Code, Section 34-206(4) for an attached garage addition to dwelling at 201 West 4<sup>th</sup> Street, Hastings, Nebraska.**

Richard Fluckey, 201 W. 4<sup>th</sup> St., Hastings, Nebraska. Mr. Fluckey commented they needed a larger garage than allowed by code because Mrs. Fluckey has MS and it is progressive. A good, safe place is needed for her to get into the house. We own the house next door and hired a contractor to pour the drive to the garage next door. The contractor started to pour the driveway and then dug footings. At that point the building inspector put a stop work on the project. Mr. Fluckey was told no permit was needed for the driveways, but footings needed to be inspected and permitted. The concrete could remain as a pad.

The Chair stated for the Board to approve the variance four conditions must be met as stated in the application. Those conditions are what the Board needs to address.

1. The strict application of the zoning regulation would produce undue hardship.
2. Such hardship is not generally shared by other properties in the same zoning district and the same vicinity.
3. The authorization of such variance will not be substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
4. The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.

The hardship cannot be from a person, it must be a hardship with the property. That is what the Board is charged with determining.

Mr. Fluckey stated the only hardship is when those properties were originally developed and built, they were built with the intention of doing what they are doing now. A staircase was laid in block on the back side which extends 4'-4" with the porch until we were ready to add a garage. That extends out 4'-4". Several storms with high winds occurred which damaged the garage, so we removed the existing garage.

The Chair asked the applicant what his proposal was.

Mr. Fluckey stated he would like to build the garage wide enough for a car and a ramp built on the back side of the porch. The garage would be 4" inside the property line on the front, and be closer to 10' on the back. We used the centerline on the old garage as the property line because it was a shared garage.

Mr. Northrop questioned the building inspector regarding the summary. It states since the properties are zoned R-3 Multiple-Family Residential, staff considered what could happen if two or all three of these properties were combined in one lot. The R-3 district allows multiple structures on one lot. If the three properties were combined, the garage addition could be built as proposed. Is it proposed as you would like it?

Mr. Evans stated yes, that is correct.

Mr. Northrop questioned what the cost would be to combine all the properties into one lot.

Mr. Evans stated there would be an administrative plat fee which is \$100.00, filing fees at \$40-\$50 and the surveying cost, which is the big cost. The downside of combining all three properties is they become one. You cannot sell off one parcel, you would have to sell all three houses. That was not agreeable with the applicant.

Mr. Myers referenced another Board of Adjustment case in which this occurred.

Mr. Northrop stated if Mr. Fluckey would combine all three lots into one, that would solve the problem.

Mr. Fluckey did explain that during discussions. The problem with combining all three lots, at our ages, is it will be an issue for the children.

Mr. Northrop asked if it could be re-subdivided at that time.

Mr. Evans stated at that time the garage addition would need to be removed.

Mr. Northrop stated the solution now would be to combine the three into one lot.

Mr. Myers commented the building itself and setbacks is what the Board needs to discuss.

Mr. Evans stated if all three lots were combined, the Fluckeys could proceed with the project. When they re-subdivide, there is going to be some issues. There would be two non-conforming lot sizes, so

it would be difficult to approve that plat to its current configuration, because they would now no longer be able to meet setbacks and minimum lot areas. As it is now, it enjoys non-conforming, grandfathered status. The setback for 201 W. 4<sup>th</sup> St., would be virtually impossible to meet if you re-subdivided and the lot area for both 201 W. 4<sup>th</sup> St., and 207 W. 4<sup>th</sup> would be impossible to meet as well. Yes, it would get them where they wanted to go, but also realize it is shortsided to do that and cause a future problem down the road. We did discuss this at length.

Mr. Northrop stated it can be done.

Mr. Evans concurred. There is a solution. Is it the best solution? Probably not.

Mr. Northrop question a solution for who?

Mr. Evans replied for the Fluckeys, short term, yes, it works. Long term, it is probably not a great idea. I am just trying to make everyone fully informed of the facts, whether it is their children or a new owner. Regardless, it is going to be problematic for the successors in title.

Mr. Fluckey stated it would take care of it. I understand.

Mr. Northrop stated he was trying to find a solution to the problem.

The Chair stated there are two options. Either combine the lots, or reduce the size of the garage.

Mr. Myers asked about the parking issues.

Mr. Evans replied yes. City code prohibits blocking the sidewalk. He would not have outdoor parking.

Moved by Hamburger to table the issue and work on a solution, seconded by Northrop.

The Chair commented a lift is possible versus a ramp, which would conserve on space.

The Chair stated we need to act on the variance at this meeting. He could still comply with the zoning regulations.

Mr. Northrop asked Mr. Fluckey if he would be willing to work with Dale Hamburger?

Mr. Fluckey stated he had no problem with working with him.

Mr. Myers stated there is no sense tabling this. We need to make a decision now.

Sharon Fluckey, 201 W. 4<sup>th</sup> Street, Hastings, Nebraska. The garage is being built for her. If we could work with Mr. Hamburger, I have a hardship that I could fall. I would also appreciate Mr. Hamburger working with us to achieve our goal.

The Chair asked for questions. There were none.

The Chair asked for discussion on the motion. There was none.

Mr. Evans asked for a future date? We would have to get together to deny the appeal because they found a solution.

Roll call: Ayes: Krueger, Myers, Northrop, Hamburger, Headley. Nays: None.

The Chair stated the Fluckeys would be notified when the next meeting will be held.

The Chair asked for new business. There was none.

The Chair asked for Staff comments. There was none.

The Chair asked for a motion to adjourn.

Moved by Northrop, seconded by Hamburger. Roll call: Ayes: Krueger, Myers, Northrop, Hamburger, Headley. Nays: None.

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Tom Krueger, Chair

Department: Development Services  
Staff Contact: Brian Hurskainen  
Board of Adjustment Meeting Date: 5/19/2022  
File No: 2022-028  
Prepared By: Brian Hurskainen, City Planner

## **AGENDA ITEM SUMMARY SHEET**

### **Description of Item:**

Public hearing for a request for an appeal of Hastings City Code, Section 34-202(4) and Section 34-604(1) for an attached garage addition on a property commonly known as 403 Lakeside Drive Hastings, Nebraska

Motion to approve an appeal of Hastings City Code, Section 34-202(4) and Section 34-604(1) for an attached garage addition on a property commonly known as 403 Lakeside Drive Hastings, Nebraska

### **Names of People/Business affected by this action:**

The applicant, the people of Hastings, and the City.

### **Why Board of Adjustment action is required:**

Neb. Rev. Stat. 19-910 (1) The board of adjustment appointed pursuant to section 19-907 shall, subject to such appropriate conditions and safeguards as may be established by the city council or village board of trustees, have only the following powers: (a) To hear and decide appeals when it is alleged there is error in any order, requirement, decision, or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures, except that the authority to hear and decide appeals shall not apply to decisions made under subsection (3) of section 19-929; (b) to hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map; and (c) when by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under this section and sections 19-901, 19-903 to 19-904.01, and 19-908 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any zoning regulation.

### **Type of action requested:**

Motion

**Suggested motion:**

Motion for approval for an appeal of Hastings City Code, Section 34-202(4) and Section 34-604(1) for an attached garage addition on a property commonly known as 403 Lakeside Drive Hastings, Nebraska

**Deadlines associated with action:**

Not Applicable

**Department head comments:**

The applicant is appealing the denial of a building permit to build an attached garage at 403 Lakeside Drive.

A Building Permit Application, dated February 28, 2022, (Exhibit E) is included in the information packet (attached). There was a letter sent by the Building Inspector (Exhibit F) on March 18, 2022 noting that:

“he addition may not reduce the distance between the lot line and the building line” (Hastings City Code Section 34-604)

The current zoning of the property is R-1, Urban Single Family and must meet the setbacks of the zone except for nonconformities listed in Section 34-604. The setbacks are based off of the south lot line being the front per the definition of Lot, corner in City Code; “A lot abutting upon two or more streets, at their intersection. A corner lot shall be deemed to front on that street on which it has its least dimension, unless otherwise specified by the Building Inspector.” Per the R-1 code, with this being a corner lot, a minimum of 15 feet along the street side. Exhibit ‘A’ shows that the Assessor’s Office has the home being built in 1946, which was well before the nonconformities section of the code was written in 2009. Per Section 34-604 “Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful.” With the house being older than the code section they would be allowed to add onto the structure as long it didn’t make the nonconformity worse.

Exhibit ‘B’ is a site plan of the subject property, showing the proposed addition. The plan shows the current line of the building at 10’ while the addition increases the nonconformity to 6.5’.

Variances must meet all 4 requirements found in Neb Rev Statue 19-910 (2): No such variance shall be authorized by the board of adjustment unless it finds that: (a) The strict application of the zoning regulation would produce undue hardship; (b) such hardship is not shared generally by other properties in the same zoning district and the same vicinity; (c) the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and (d) the granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice. No variance shall be authorized unless the board of

adjustment finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

(a) The strict application of the zoning regulation would produce undue hardship:

There is a slight slope on the driveway from the street that I noticed from driving by the site and shown on Exhibit 'C', a picture from Google Maps. It is unclear how the additional garage space would fix the problem of an icy driveway or vehicles bottoming out. The driveway and slope could be altered without the garage.

(b) Such hardship is not shared generally by other properties in the same zoning district and the same vicinity:

A similar slope is shared with all properties along Lakeside drive as shown on Exhibit 'D', the floodplain map. The slope is designed on purpose to have water flow into Heartwell Park.

(c) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance

This is an older area of town that has most of the homes built in the 1940's. There are several that don't meet the setbacks of today and that's why we have the nonconformity section to allow them to be legal in the eyes of the code. The goal of that section is to maintain what is already there and let people use those structures, but also establish limits to not make things worse.

(d) The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.

Exhibit 'A' shows that the driveway as it sits was constructed in 1946; over the decades the house has still been usable with everything as it sits. This request appears to be a request of convenience rather than necessity. If the applicant would like to change the driveway to be a little flatter or less curved, a garage is not required to accomplish fixing this problem.

**Recommendation:**

Staff recommends a motion of disapproval for an appeal of Hastings City Code, Section 34-202(4) and Section 34-604(1) for an attached garage addition on a property commonly known as 403 Lakeside Drive Hastings, Nebraska

# Exhibit A

403 LAKESIDE DR,

Deed: ALLEN-PICKETT GREGORY & JESSICA  
 Contract:  
 CID#: 3765-07-1-1555.00-000-0108  
 DBA:  
 MLS: 284-11458

Map Area: 1006 RINGLAND  
 Route: 000-000-000  
 Tax Dist: ES9 NR2 SD18 CRA HASTINGS  
 Plat Page: 6-18  
 Subdiv: 1555.00-COUNTRY CLUB ADD

Checks/Tags: S  
 Lister/Date:  
 Review/Date:  
 Entry Status:

Legal: Section: ; Twp: 07; Rng: 09; Block: ; Lot: 80; Deeded Acres: 0.000  
 1555.00-W65' LOT 80 COUNTRY CLUB ADD 0.16 AC

Dist TIF Fund: NONE Neighborhood: Status: 01 - Improved Location: 01 - Urban  
 School Base: 01-0018 Greenbelt Acres: Use: 01 - Single Family City Size: 03 - 12,001 - 100,000  
 Affiliated Code: [EMPTY] Greenbelt Loss: Zoning: 01 - Single Family Lot Size: 01 - 1 sf - 10,000 sf

**Land**

Land Basis	Front	Rear	Side 1	Side 2	R. Lot	SF	Acres	Depth/Unit	EFF/Type	Qual./Land						
<b>SqFt X Rate</b>						6,100.00	0.140			SF-3.00						
SF x Rate 2						1,000.00	0.020			SF-3.00						
Subtotal						7,100.00	0.160									
<b>Grand Total</b>						7,100.00	0.160									

**Street**

**Utilities**

**Zoning**

**Land Use**

<b>SqFt X Rate</b>	None	None	Not Applicable	Not Applicable
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**Sales**

**Building Permits**

**Values**

Date	\$ Amount	NUTC	Recording	Date	Number	Tag	\$ Amount	Reason	Type	Override
12/07/2021	\$255,000	C00	2021 5391						Land	\$21,300
06/11/2019	\$129,500	C00	2019 1772						Dwlg	\$138,176
02/08/2019	\$125,000	C00	2019 0707						Impr	\$0
12/04/2018	\$165,000	D01	2018 4146						Exempt	\$0
									<b>Total</b>	<b>\$159,476</b>

Res. Structure		Finish				Plumbing		Addition		Garage	
Occ. Code	101	Ttl Rooms Above #	0	Bedrooms Above #	4	Full Bath		Addition	1 of 1	Garage	1 of 1
Occ. Descr.	Single-Family / Owner Occupied	Ttl Rooms Below #	0	Bedrooms Below #	0	Shower Stall Bath		Year Built	1946	Style	Att Fr.
Year Built	1946	Living Qtrs. (Multi)	324			Toilet Room		EFA	73	W X L	0' X 0'
EFA / EFYr	73 / 1946					Lavatory		EFA Year	1946	Area (SF)	286
Arch. Dsgn	N/A	Foundation	None			Water Closet		Style	2 Sty Fr.	Year Built	1946
Style	1 Story Frame	Exterior Walls	Frame, Siding, Vinyl			Sink		Area (SF)	324	EFA	73
AreaSF	1,309 /	Roof	Comp Shingle			Shower Stall/Tub		Condition	Normal	EFF Year	1946
		Interior Finish	None			Mtl St Sh Bath		Bsmt (SF)	324	Condition	NML
		Flooring	None			Mtl Stall Shower		NoBsmt Flr(SF)		Bsmt (SF)	
		<b>Non-base Heating</b>		<b>Fireplace</b>		No Bathroom		Heat	No	Qtrs Over	None
		Floor/Wall #	0	Masonry, 1 Sty	2	Wet Bar		AC	No	Qtrs Over (SF)	
		Pipeless #	0			Whirlpool Bathroom		Attic (SF)		Qtrs AC (SF)	
		Hand Fired (Y/N)	No			Whirlpool Tub				Door Opnrs	
Condition	NML	Space Heat #	0			No Hot Water Tank				Stalls- Bsmt / Std	
		<b>Appliances</b>				No Plumbing					
		Range Unit	Built-In Vacuums			Sewer & Water Only					
Basement	None	Oven - Single	Intercom System			Water Only w/Sink					
No Bsmt Flr.	0	Oven - Double	Bl Stereo(SpkrsOnly)			Hot Tub					
Heat	Yes	Dishwasher				Bidet					
AC	Yes	Microwave				Fbgls Service Sink					
Attic	None	Trash Compactor				Urinal					
		Jennair				Sauna					
		Security System				W'Pool Bath w/Shower					
						Plumbing (Incl in Base)	6				
						Plumbing (Addtn'l Fixts)	2				

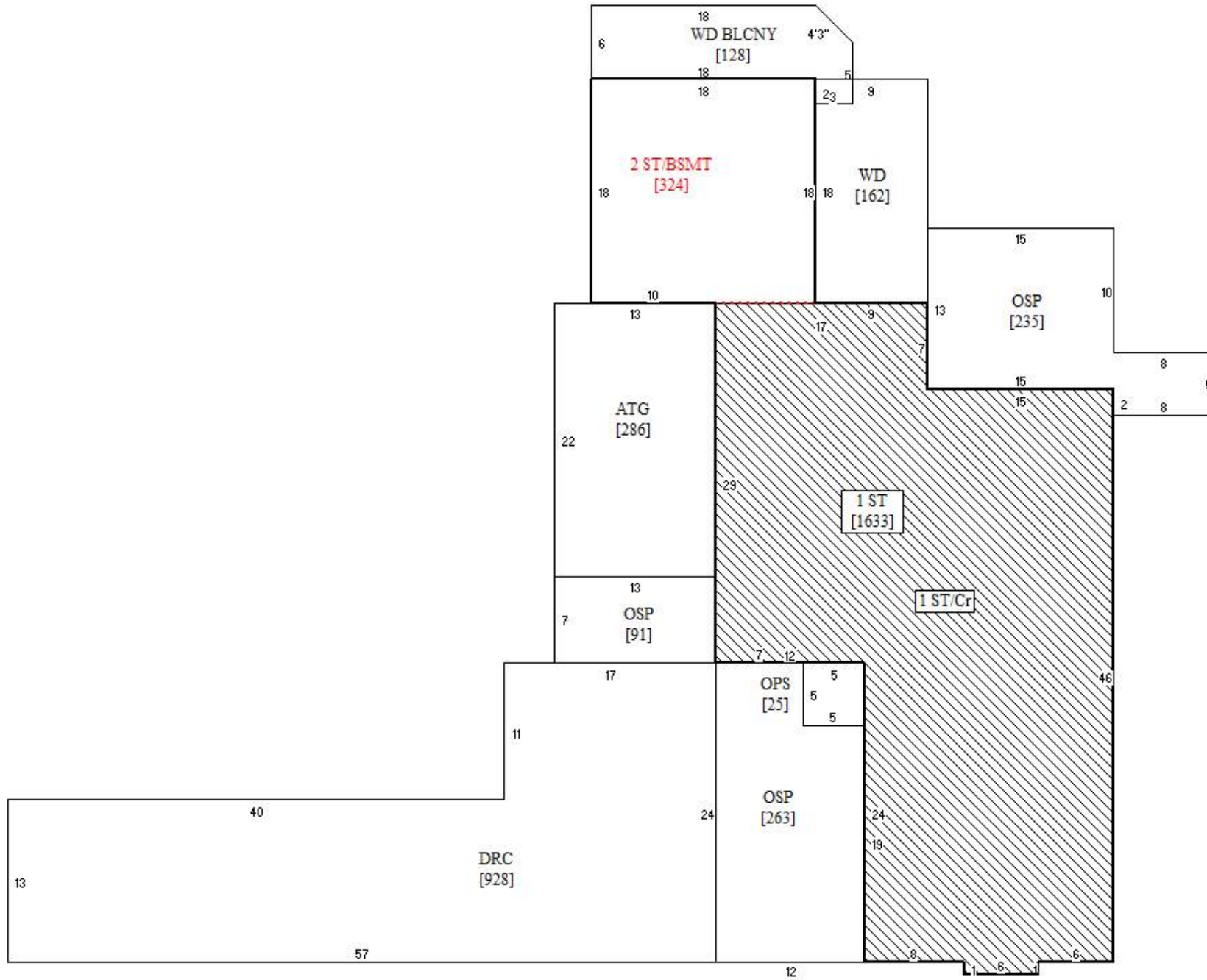


Bldg / Addn	Description	Units	Year						
	101 — Single-Family / Owner Occupied								
	1 Story Frame	1,309							
	Adjustment for basement - None								
#1	Bsmt Fin - Living Qtrs. (Multi) (Avg)	324 Tbl							
	Base Heat								
	Add Central Air	1,309							
	Deck #1: Wood Deck-Med	128 SF							
	Deck #2: Concrete Patio-Med	235 SF							
	Deck #3: Concrete Patio-Med	25 SF							
	Deck #4: Concrete Patio-Med	288 SF							
	Deck #5: Concrete Patio-Med	91 SF							
	Deck #6: Wood Deck-Med	162 SF							
	Plumbing	8							
#1	Fireplace: Masonry, 1 Story	2							
	Garage: Att Frame	286 SF	1946						
Adtn	2 Story Frame	324 SF	1946						
	Basement area	324 SF							



Prior Year	Comment	Value Type	Location	Class	Land	Dwlg	Impr	PP	Total Value
2021	FINAL VALUES 12-2-21	BofE	Urban	Single Fam	\$21,300	\$138,176	\$0		\$159,476
2020	12-4-2020 FINAL VALUE	BofE	Urban	Single Fam	\$21,300	\$138,176	\$0		\$159,476
2019	2019 FINAL VALUES 12-05-19	BofE	Urban	Single Fam	\$21,300	\$130,355	\$0		\$151,655
2019	Certified 5/31/2019	BofE	Urban	Single Fam	\$21,300	\$130,355	\$0		\$151,655
2018	FINAL CORRECTED VALUES 12/21/18	BofE	Urban	Single Fam	\$14,910	\$130,355	\$0		\$145,265
2018	FINAL VALUES 11-30-2018	BofE	Urban	Single Fam	\$14,910	\$130,355	\$0		\$145,265
2017		Appr	Rural	Single Fam	\$14,910	\$122,975	\$0		\$137,885
2016		Appr	Rural	Single Fam	\$14,910	\$122,975	\$0		\$137,885
2015		Appr	Rural	Single Fam	\$14,910	\$119,395	\$0		\$134,305
2014		Appr	Rural	Single Fam	\$14,200	\$119,395	\$0		\$133,595
2013		Appr	Rural	Single Fam	\$14,200	\$114,805	\$0		\$129,005
2012		Appr	Rural	Single Fam	\$14,200	\$114,805	\$0		\$129,005
2011		Appr	Rural	Single Fam	\$7,100	\$111,460	\$0		\$118,560





# Exhibit B



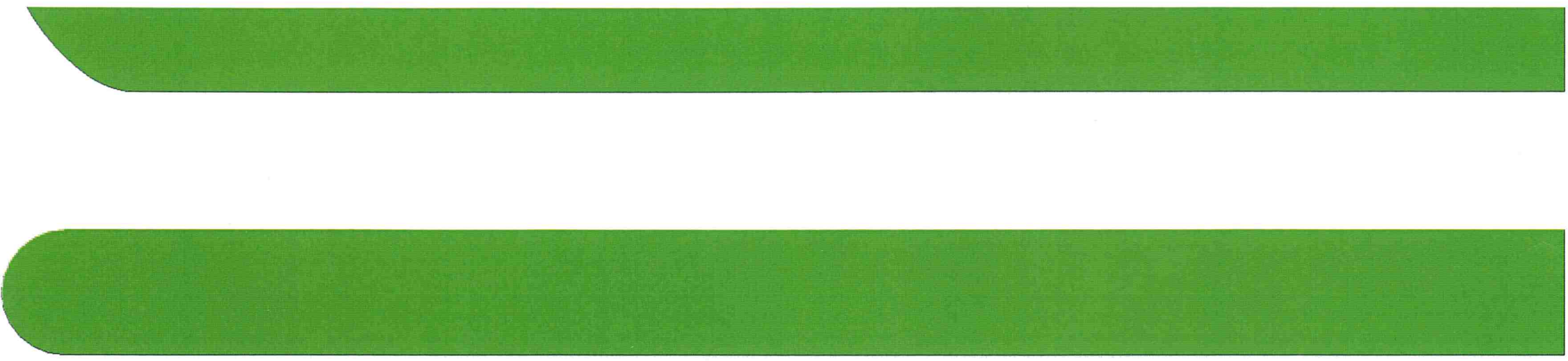
contact: Todd Brown (402) 460-7047  
 cicada23@gmail.com



PROPOSED ADDITION

403 LAKESIDE DRIVE

DEC 2021

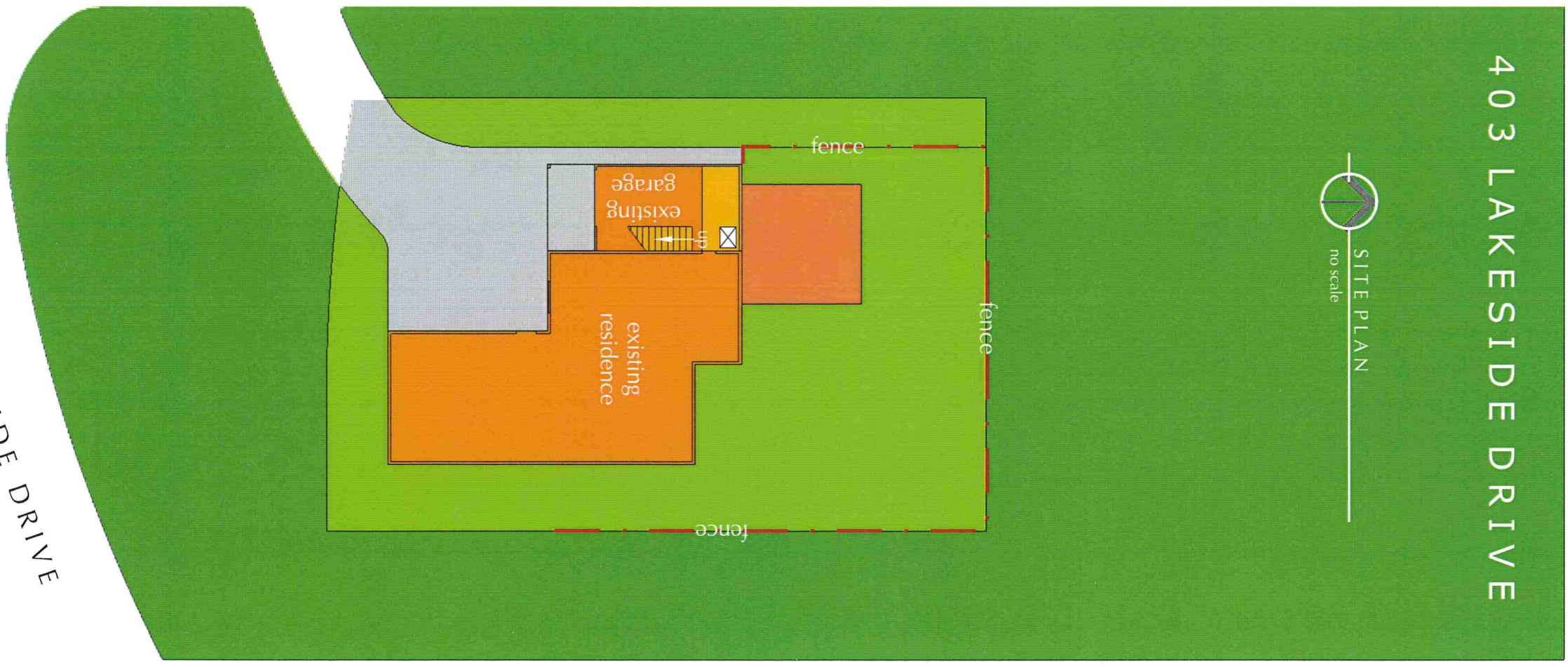


CALIFORNIA AVE

403 LAKESIDE DRIVE



SITE PLAN  
no scale



LAKESIDE DRIVE

EXISTING RESIDENCE

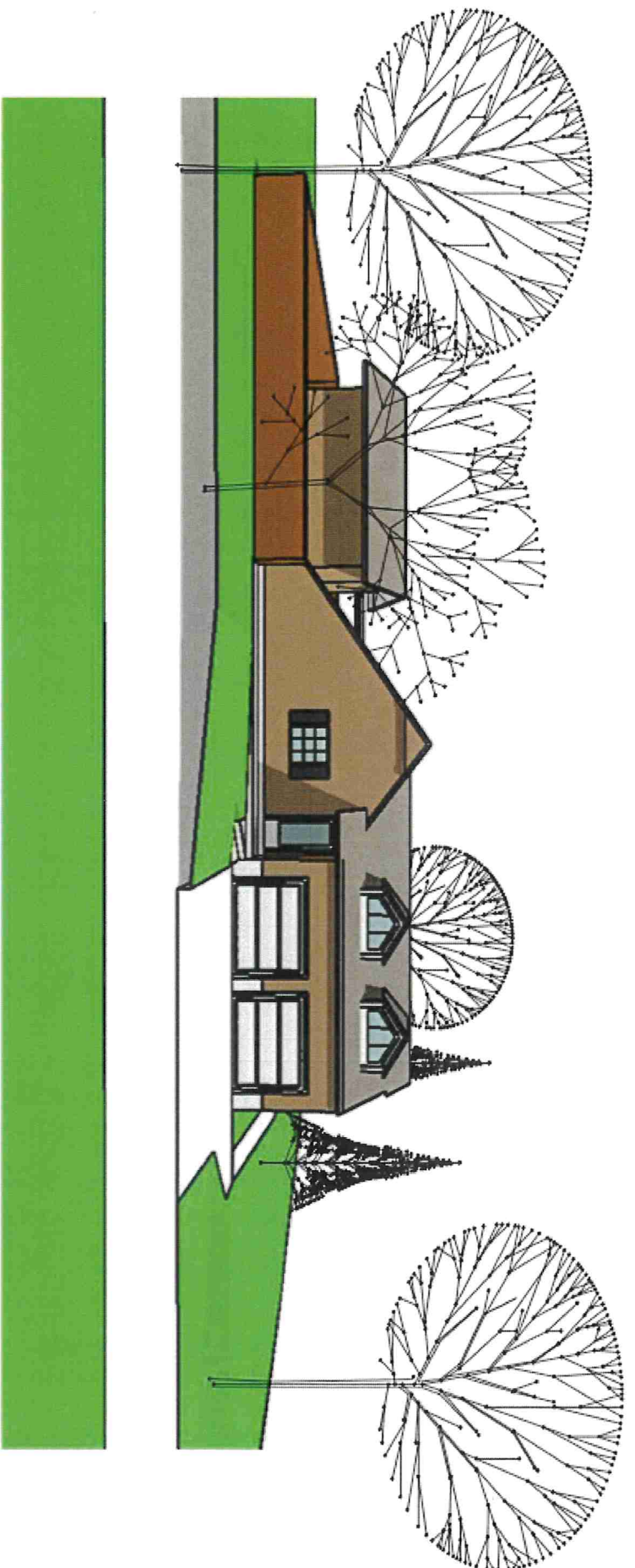


contact: Todd Brown (402) 460-7047  
cicada223@gmail.com

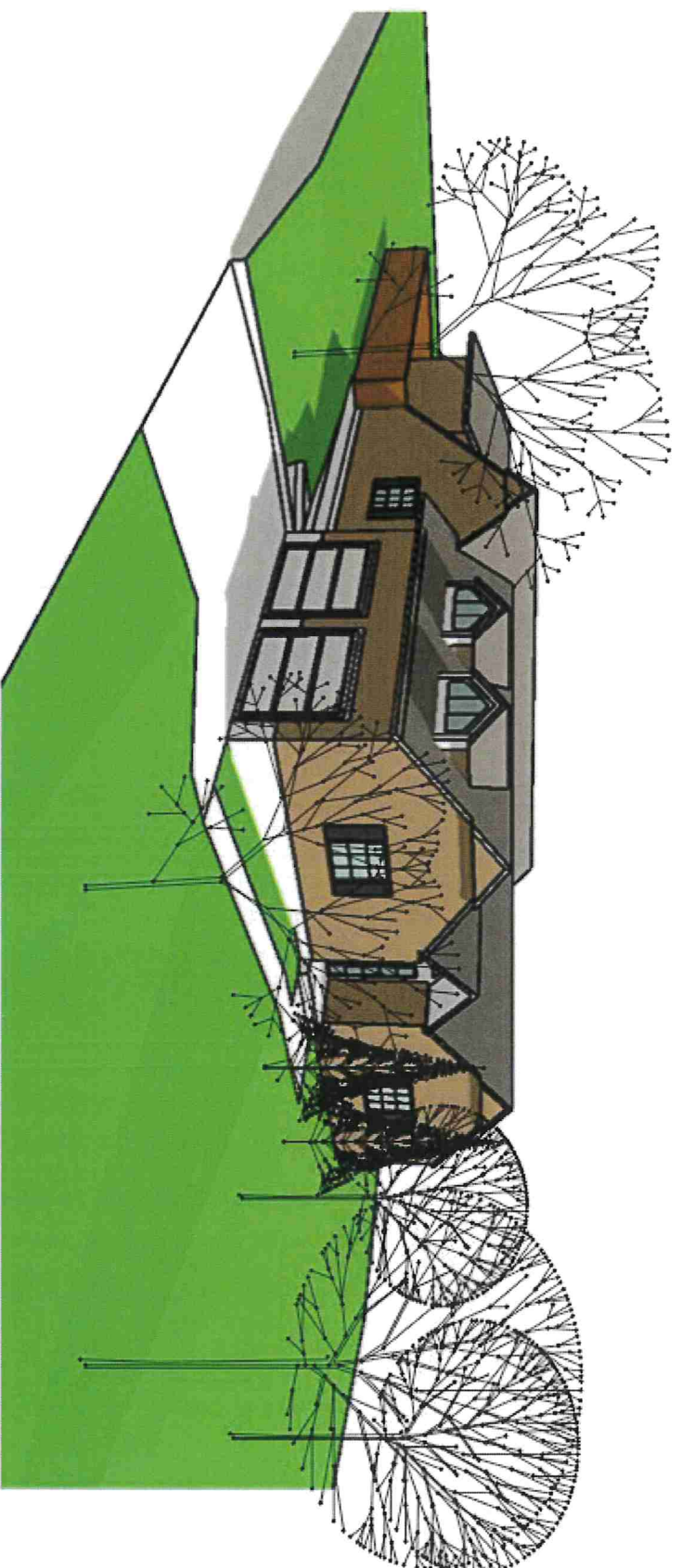
403 LAKESIDE DRIVE

DEC 2021

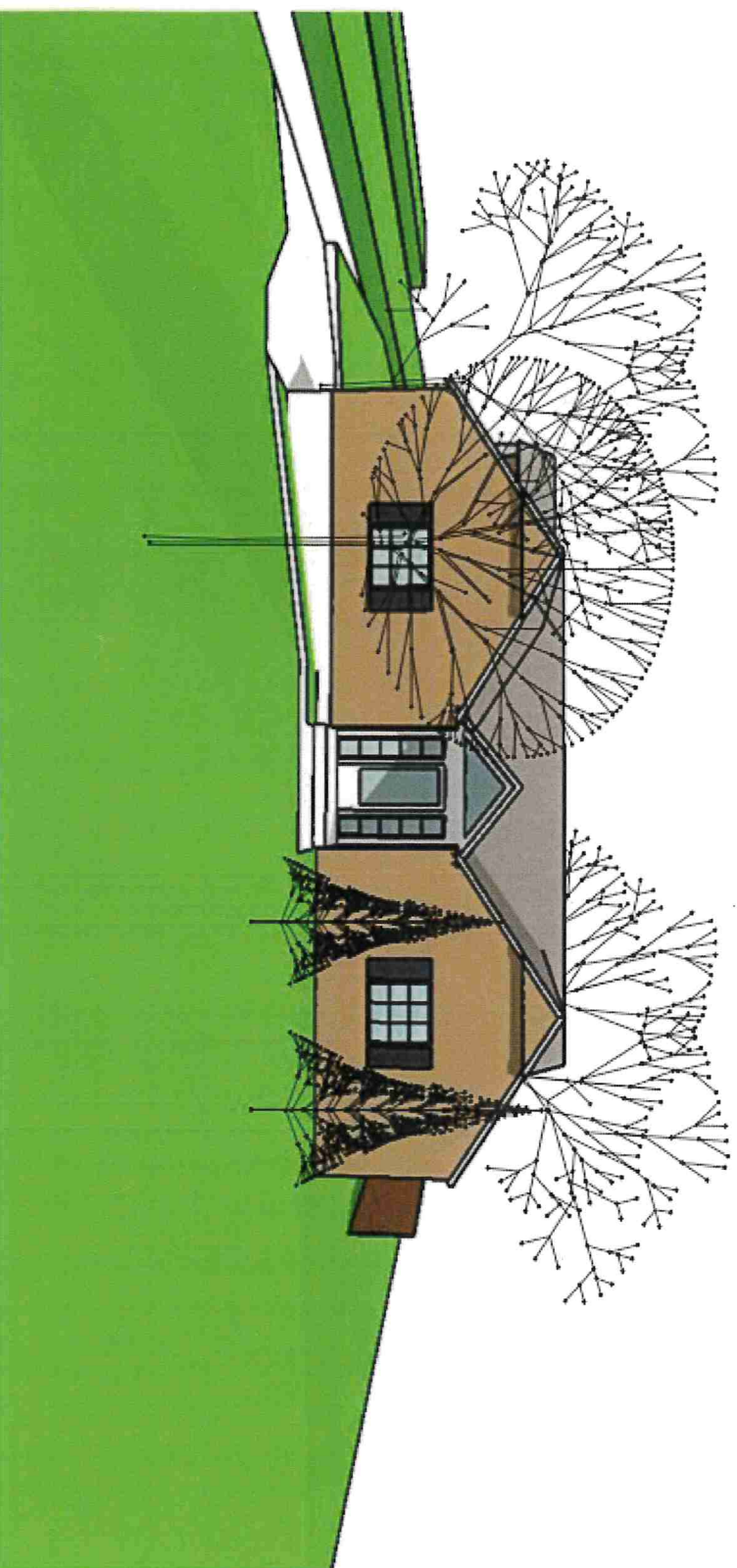
1



WEST ELEVATION



CORNER PERSPECTIVE



FRONT ELEVATION

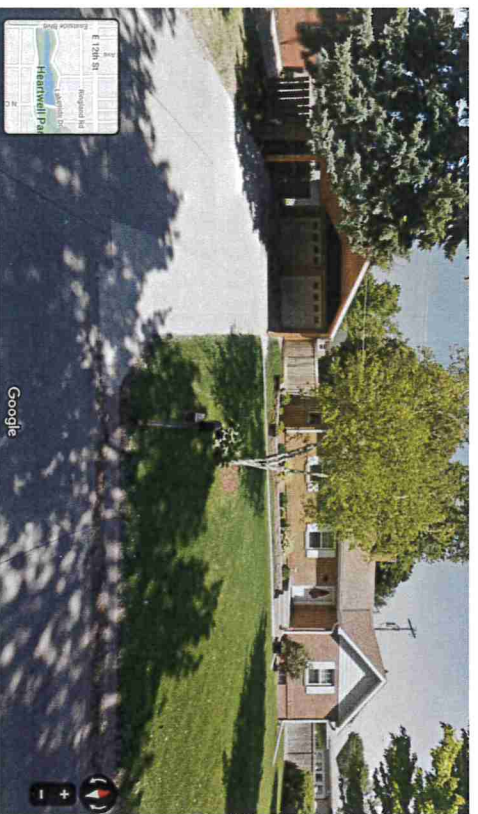




201 LAKESIDE



403 LAKESIDE



421 LAKESIDE



511 LAKESIDE



COMPARABLES



contact: Todd Brown (402) 460-7047  
cicada23@gmail.com

403 LAKESIDE DRIVE

DEC 2021



# Exhibit C









W Calhoun

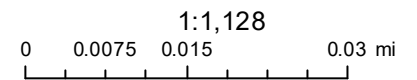
# Exhibit D

# ArcGIS Web Map



5/11/2022, 2:00:38 PM

-  Limits
-  OneMile
-  TwoMile
-  Wellhead Protection Boundary
-  Monitoring Well
-  Addresses
-  Parcels
-  Institutional Control Area Boundary



# Exhibit E



**Permit #:** 20220169

**Permit Date:** 02/28/22

**Permit Type:**

**Issue Date:**

**Permit Type:** Building

**Type of Work:** Addition

**Building Used As:** Residential

**Basement:**

**Location of Work:** 403 Lakeside Drive

**Secondary Location:**

**Applicant Name:** Greg and Jessica Allen-Pickett

**Applicant Address:** 403 Lakeside Drive

**City:** Hastings

**State:** NE

**Zip:** 68901

**Phone Number:** [REDACTED]

**Email:** [REDACTED]

**Description of Work:** Garage Addition to dwelling with new entry - 632 sq. ft.

**Fence Type:**

**Fence Materials:**

**Fence Height:**

**# of Gates:** 0

**Special Conditions:**

**Project Cost:** 0

**Square Feet:** 632

**Number of Stories:** 1

**Ground Area:** 0

**Total Fixtures:** 0

**Roof Type:**

**Insulation Type:**

**Sign Type:**

**Illuminated:**

**Sprinklers:** None

**Air Conditioning:** 0

**Meter Needed:**

**Phase:**

**Voltage:**

**Amps:**

**Water Meter Quantity : 0**

**Water Meter:**

**Water Tap:**

**Sewer Tap:**

**Garage:**

**Geothermal Well:** None

**Name:**

**fee:** 0.00

**Primary Occupancy:** R-3 Residential Single Family Dwelling

**Status:** Denied

**Assigned To:** Trevor Terwey

### Property

Parcel #	Address	Legal Description	Owner Name	Owner Phone	Zoning
010011560	403 LAKESIDE DR		ALLEN-PICKETT GREGORY & JESSICA	██████████	R-1 Urban Single Family Residential

### Plan Reviews

Date	Review Type	Description	Assigned To	Review Status
03/09/2022	Hastings Utilities		Brian Tran	In Review

### Valuations

Valuation Name	Factor	Amount
U Utility, miscellaneous - VB	632.0	\$30,835.28

### Fees

Fee	Description	Notes	Amount
Building Permit - Residential			\$111.01
<b>Total</b>			<b>\$111.01</b>

### Payments

Date	Paid By	Description	Payment Type	Accepted By	Amount
03/09/2022	Greg D Allen-Pickett	347593			\$111.01
<b>Outstanding Balance</b>					<b>\$0.00</b>

### Uploaded Files

Date	File Name
03/21/2022	<a href="#">11053018-Allen-Picket Letter.docx</a>
03/18/2022	<a href="#">11045415-Allen-Picket Letter.docx</a>
03/09/2022	<a href="#">10914661-403 lakeside permit revised site.pdf</a>
02/28/2022	<a href="#">8d06ea33c598a97fd73b52351bd0d212_403_lakeside_permit.pdf</a>

# Exhibit F



March 18, 2022

Greg & Jessica Allen-Pickett  
403 Lakeside Dr  
Hastings, NE 68901

Re: Application for a Building Permit to construct an attached garage.

Dear Applicant:

The application for the permit at 403 Lakeside Dr. has been carefully reviewed. Unfortunately, your project does not meet the criteria as set forth in Hastings City Code and has been denied. Please review the following information regarding your addition.

Hastings City Code Sec. 34-604 – Nonconforming Structures

(d). Nothing in these regulations shall prevent the issuance of a permit to expand an existing nonconforming single family residential structure located in a residential zoning use district, **providing the addition conforms to the use, setback**, height, parking and other regulations applicable to the residential district in which the building is located.

(f) Additions to such structure may be constructed in conformance with all of the following restrictions:

- (i) Such addition must be an addition to a single family dwelling;
- (ii) The addition may continue along the existing building line of the structure as it existed at the time of the application for a building permit for said addition, provided that the addition **may not reduce the distance between the lot line and the building line** from that which existed at the time of the application for a building permit for said addition;
- (iii) **The addition may not encroach into any required side, front or back yard setback** when there was no such encroachment by the original structure at the time of the application for a building permit for said addition;
- (iv) The addition may not be constructed closer than three feet to any lot line.

If you have any questions or concerns about these conditions, or if you have alternatives to any of the above conditions that you would like to discuss, please contact me at your earliest convenience.

Sincerely,  
Trevor Terwey  
Building Inspector

220 North Hastings Avenue  
Inspection: (402) 461-2302



[www.cityofhastings.org](http://www.cityofhastings.org)

Hastings, Nebraska 68901  
Planning: (402) 461-2302  
Fax: (402) 461-2304

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## **Sec. 34-604. Nonconforming structures.**

- (1) Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
  - (a) Except as described in Section 34-604(1)(f), no such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
  - (b) Should such nonconforming structure or nonconforming portion of structure be damaged by any means to an extent of more than 60 percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.
  - (c) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
  - (d) Additions to existing nonconforming single family residential structures. Nothing in these regulations shall prevent the issuance of a permit to expand an existing nonconforming single family residential structure located in a residential zoning use district, providing the addition conforms to the use, setback, height, parking and other regulations applicable to the residential district in which the building is located.
  - (e) Nothing in this section shall prevent the expansion or alteration of an existing structure which has a nonconforming setback (minimum yard) resulting from a governmental taking action, provided the addition conforms to the use building setback, building height, parking and other regulations applicable to the district in which the building is located.
  - (f) Additions to such structure may be constructed in conformance with all of the following restrictions:
    - (i) Such addition must be an addition to a single family dwelling;
    - (ii) The addition may continue along the existing building line of the structure as it existed at the time of the application for a building permit for said addition, provided that the addition may not reduce the distance between the lot line and the building line from that which existed at the time of the application for a building permit for said addition;
    - (iii) The addition may not encroach into any required side, front or back yard setback when there was no such encroachment by the original structure at the time of the application for a building permit for said addition;
    - (iv) The addition may not be constructed closer than three feet to any lot line.

(Ord. No. 3446-1/95 and 4233-11/2009)

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## Sec. 34-202. R-1 Urban Single Family Residential Districts.

- (1) *Intent.* This district is intended for urban single-family residential areas with low to medium population densities where public sewer and water service is available. Structures and uses required to serve governmental, education, religious, non-commercial recreational, and other needs of such areas are permitted within such districts or are permissible as conditional uses subject to restrictions intended to preserve and protect their single-family residential character.
- (2) *Allowed uses.* See Table 200-1 in Section 34-200.
- (3) *Minimum lot requirements.*
  - (a) *Lot area*—7,000 sq. ft.
  - (b) *Lot width*—70 ft.
- (4) *Minimum yard requirements.*
  - (a) *Front yard*—25 ft.
  - (b) *Side yard*—There shall be a side yard on each side of a building not less than ten percent of the width of the lot; except that such side yard shall not be less than seven feet, and need not be more than 25 feet.

Buildings on corner lots shall provide a side yard on the street side of not less than 15 feet; provided, that this regulation shall not be so interpreted as to reduce the buildable width of a corner lot in separate ownership on August 26, 1968 to less than 35 feet.
  - (c) *Rear yard*—The depth of the rear yard shall be at least 20 percent of the depth of the lot, but such depth need not be more than 30 feet, except that for a corner lot, the rear yard setback shall be the same as for the interior side yard, as described in the preceding subsection (b). See Exhibit No. 2, Appendix A.
- (5) *Minimum dwelling size.*
  - (a) 650 square feet of living floor area.
- (6) *Maximum lot coverage by all buildings.*
  - (a) The maximum lot coverage by all buildings shall not exceed forty (40%) percent.
- (7) *Maximum height of structures.*
  - (a) Except as otherwise provided in this chapter, the maximum height of a principal structure shall be 35 feet above grade.
  - (b) The maximum height of an accessory structure shall not exceed the height of the principal structure by more than 25 percent.

(Code No. 3139-8/89, 3215-6/91, 3269-7/92, 3276-9/92, 3428-10/94, 3861-6/2002 and 4233-11/2009)



## Board of Adjustment Procedure

The Board of Adjustment meets monthly at 7:30 a.m. in the City Council Chambers.

Any questions, please give Teri Salmen a call at 461-2302.

The following is the order of procedure that must be followed for applying for a variance:

1. Apply for a building permit. Permit must be denied.
2. Complete application for variance.
3. Submit:
  - a) application for variance
  - b) site plan
  - c) narrative of your variance
  - d) denied permit
  - e) a typed list of adjacent property owner(s) and address along with property owner(s) across the street

4. Filing fees must accompany submittals -

Appeal	\$200.00
Appeal - construction without building permit	\$250.00
Appeal - construction with building permit, but not in conformance	\$250.00

7. Make check payable to the City of Hastings.

220 North Hastings Avenue  
Inspection: (402) 461-2302  
Health: (402) 461-2305

P.O. Box 1085



[www.cityofhastings.org](http://www.cityofhastings.org)

Hastings, Nebraska 68902-1085  
Planning: (402) 461-2345  
Fax: (402) 461-2304

B. Granting of this petition would permit Please See attached page 1

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NEBRASKA STATE STATUTES STATE IN PART THAT:

“NO VARIANCE SHALL BE AUTHORIZED UNLESS THE BOARD FINDS THAT THE CONDITION OR SITUATION OF THE PROPERTY CONCERNED OR THE INTENDED USE OF THE PROPERTY IS NOT OF SO GENERAL OR RECURRING A NATURE AS TO MAKE REASONABLE PRACTICABLE THE FORMULATION OF A GENERAL REGULATION TO BE ADOPTED AS AN AMENDMENT OF THE ZONING REGULATIONS.”

BEFORE A VARIANCE MAY BE GRANTED, THE APPLICANT MUST PROVE THAT EACH OF THE FOLLOWING FOUR (4) CONDITIONS HAVE BEEN FULFILLED. ANSWER EACH OF THE CONDITIONS IN DETAIL, USING ADDITIONAL SHEETS IF NECESSARY.

THE UNDERSIGNED ALLEGES THAT:

1. The strict application of the Zoning Regulations would produce undue hardship; in that:  
Please See attached page 2  

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2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; in that  
Please See attached page 2  

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**A. The existing situation is:**

The property at 403 Lakeside Drive is built up on a hill with a very steep, narrow, and curved driveway. The driveway is so steep and curved that most passenger vehicles bottom out entering and exiting the driveway. The driveway also becomes unusable when there is snow on the ground. In the event of snow, the owners of the property have to park their cars on the street and then walk up to the house on foot. This also means that the cars parked on the street can be a traffic hazard and a hindrance for snow removal.

The narrow and steep driveway currently leads to a one car garage that does not have enough space to park even one car due to the presence of a furnace and a permanent, fixed staircase that leads to attic storage. The narrow and steep driveway also exits very close to the corner of California and Lakeside which creates a safety issue with traffic coming around that corner as vehicles are exiting the driveway coming down a steep curved slope. The curve and slope both limit visibility to oncoming traffic. With icy or snow conditions, cars backing out of the driveway can slide down the driveway out of control and strike traffic coming around the corner.

**B. Granting of this petition would permit:**

The construction of a usable two car garage and fixing the driveway to minimize the slope and take out the curve for visibility, safety, and accessibility. This would allow the homeowners and visitors to park their cars off the street without bottoming out, and also to use the driveway and garage in the event of a snow storm instead of parking on the street. It would also eliminate the safety hazard of the narrow, steep driveway exiting very close to the corner of California and Lakeside by moving the driveway entrance 10 feet further north on California, eliminating the curve, and minimizing the slope. This project would also contribute positively to the beauty and character of the neighborhood through its design and by the homeowners storing their cars in the garage and not on the street.

**1. The strict application of the Zoning Regulations would produce undue hardship; in that:**

- The current driveway and access to the garage is challenging to navigate and can cause damage to cars due to its steep angle, creating an undue hardship.
- The current driveway and garage are rendered unusable with snowfall, which creates an undue hardship.
- The current driveway creates a potential safety hazard given its steep slope, curve, and proximity to the corner of California and Lakeside, creating an undue hardship for the homeowners.
- There is no way to redesign the driveway in its current location due to the steep slope of the yard.
- The current garage is not usable and there's no way to make it accessible given the current configuration of the driveway, which produces undue hardship.

The homeowners are requesting a variance to build into the setback in order to locate a garage and driveway on the property that are safer and usable, particularly in inclement weather. The homeowners have worked with an architect to come up with a plan that maintains the character and charm of the house and neighborhood while allowing the construction of a two car garage that maintains access to the existing windows and natural light in the home. Strict application of the zoning regulation would produce undue hardship because it would not allow for the new garage to be built as designed.

**2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; in that:**

- Other properties do not have such steep slopes in the yard, making the current driveway and garage access uniquely challenging to navigate without damaging vehicles and impossible to use in inclement weather.
- Other properties in the same zoning district and vicinity don't have a steep and curved driveways and garage access that exit close to an intersection, creating a safety hazard.
- This property is surrounded by a significant amount of city right of way. The lot size is 6,175 square feet and the right of way adjacent to the property, which appears to be part of the lot and is maintained by the homeowners, is approximately 6,500 square feet. This makes the property unique.

Each of these unique features to the property creates a hardship that is not shared generally by other properties in the same zoning district and the same vicinity. This request would allow for a variance to the setback rules that is unique to this property and would not set a precedent for future variances.

**3. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; in that:**

The homeowners have worked with an architect to create a design that complements the existing character of the home and the neighborhood.

- When looking at other properties on the block it appears that 6 of the 10 properties with frontage on Lakeside Drive between California and Elm have 2 car garages.
- The setback that the variance addresses is not towards adjacent property, the setback is towards the right of way and the street. Therefore the approval of this variance, and the construction of the garage will not have a negative impact on adjacent properties.
- Given the amount of right of way surrounding the lot, the request for a variance in setback will not give the appearance that the garage is anywhere close to the edge of the property.
- The design maintains the plane of the house in the front and matches the plane of the poured concrete apron on the side of the house.
- The property at 201 Lakeside, on the corner of Lakeside and Pine also has the same design and layout that we are proposing with the front door facing Lakeside and a two car garage around the corner. That property has 5'6" between the face of the garage and the lot line. Our design proposes 9' between the face of the garage and the lot line.

**4. The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice; in that:**

- Access to the driveway and garage without damaging a vehicle is not a matter of convenience, profit, or caprice. Damaging vehicles as we enter and exit due to the slope of the driveway is a hardship.
- Not being able to use the current driveway and garage when there is snow on the ground due to its slope and curve is also a demonstrable and exceptional hardship.
- The curve and slope of the driveway and proximity to the intersection of California and Lakeside also creates a hardship for the homeowners as it presents a potential safety hazard when we back out of our driveway, particularly if someone is coming around the corner quickly or if there is any snow or ice on the steeply sloped driveway.

The new proposed driveway would be set 10 feet further north on California and would be less steep and not curved. This will create safer conditions for us to enter and exit our property.

The garage will also provide us a place to store our vehicles, which will help contribute to the general look of the neighborhood by not having multiple vehicles parked in front of the house and on the street.

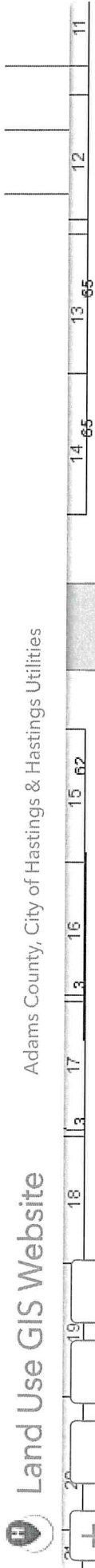
Adjacent Property Owners:

405 Lakeside Drive  
Pamela and Albert Boner

400 Ringland Road  
Allen Simpson

319 Lakeside Drive  
Darrell and HoneyLou Bonar

318 Ringland Road  
Sarah Henry



*Adjacent Property Owners*



-98.377 40.596 Degrees