



**PARK CITY BOARD OF ADJUSTMENT MEETING
SUMMIT COUNTY, UTAH
June 20, 2023**

The Board of Adjustment of Park City, Utah, will hold its regular meeting in person at the Marsac Municipal Building, Council Chambers, at 445 Marsac Avenue, Park City, Utah 84060. Meetings will also be available online with options to listen, watch, or participate virtually. [Click here](#) for more information.

SITE VISIT 4:00 PM

395 DEER VALLY DRIVE - Site Visit - The Board of Adjustment is Scheduled to Visit the Site Requesting a Variance to the Front Setback Requirement.

MEETING CALLED TO ORDER AT 5:00 PM.

1. ROLL CALL

2. MINUTES APPROVAL

- 2.A Consideration to Approve the Board of Adjustment Meeting Minutes from March 21, 2023
[BOA 03.21.2023 Minutes](#)

3. PUBLIC COMMUNICATIONS

4. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

5. CONTINUATIONS

6. REGULAR AGENDA

- 6.A **395 Deer Valley Drive - Variance** - The Applicant Requests Variances to the Front Setback Requirements in the Residential-1 (R-1) Zoning District to Construct a New Driveway and a New Garage in Front of the Existing Single-Family Dwelling. PL-23-05654
(A) Public Hearing; (B) Action
[395 Deer Valley Drive Variance Staff Report](#)
[Exhibit A: 395 Deer Valley Drive Draft Final Action Letter](#)
[Exhibit B: Applicant Statement](#)
[Exhibit C: Applicant Submission](#)
[Exhibit D: Engineering Department Memorandum](#)

7. ADJOURN

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the Planning Department at 435-615-5060 or planning@parkcity.org at least 24 hours prior to the meeting.

***Parking is available at no charge for Council meeting attendees who park in the China Bridge parking structure.**



**PARK CITY MUNICIPAL CORPORATION
BOARD OF ADJUSTMENT MEETING
MINUTES OF MARCH 21, 2023**

BOARD MEMBERS IN ATTENDANCE: Ruth Gezelius – Chair, Beth Armstrong, John Stafsholt, Stefanie Wilson, Mary Wintzer

STAFF: Virgil Lund, Planner I; Mark Harrington, Senior City Attorney

1. ROLL CALL

Chair Ruth Gezelius called the meeting to order at 5:00 p.m. and referenced the Board Members present.

2. MINUTES APPROVAL

A. Consideration to Approve the Board of Adjustment Meeting Minutes from December 13, 2022.

Chair Gezelius reported that email comments were received from Jennifer Franklin. The email contained a summary of her suggested corrections to the December 13, 2022 Meeting Minutes. Senior City Attorney, Mark Harrington clarified that the Action Letter was correct and had the right references. No action was required on the part of the Board.

MOTION: Board Member Wintzer moved to APPROVE the Board of Adjustment Meeting Minutes from December 13, 2022, as presented. Board Member Armstrong seconded the motion. The motion passed with the unanimous consent of the Board.

3. PUBLIC COMMUNICATIONS

No comments were submitted.

4. STAFF AND BOARD COMMUNICATIONS AND DISCLOSURES

There were no Staff or Board communications and disclosures.

5. **REGULAR AGENDA**

A. **804 Main Street and 710 Main Street – Appeal of Historic District Design Review Denial – The Board of Adjustment Will Review the Appeal of the Historic District Design Review Denial to Install Vinyl Windows. PL-23-05572.**

Planner I, Virgil Lund shared information related to 804 Main Street and 710 Main Street. Both are located within the Historic Recreation Commercial (“HRC”) Zoning District as part of the Marriott Summit Watch development. On February 16 and February 23, 2023, the Planning Department denied the Historic District Design Reviews (“HDDR”) for 804 Main Street and 710 Main Street to replace aluminum-clad wood windows with vinyl windows. The Planning Director denied the HDDRs for non-compliance with Land Management Code (“LMC”) 15-13-9, which states that vinyl windows were inappropriate for the Historic District. On February 23, 2023, the applicant filed an appeal of the HDDR denials. The applicant proposed the installation of vinyl windows on 804 and 710 Main Street.

Planner Lund shared background information with the Board. On April 3, 1995, the City approved Building Permit B94-00425 for Phase 1 (738 Main Street) and Phase 1A (710 Main Street) for Marriott Summit Watch. The original windows installed on all buildings were aluminum-clad wood. The Marriott Summit Watch Window Replacement Project started in 2020 with Building 1, which was 738 Main Street. On October 13, 2020, the City approved Building Permit TEMP20-1598 for 738 Main Street with a Condition of Approval and a comment that the aluminum-clad wood windows be replaced with aluminum-clad wood windows. The intention was a like-for-like replacement. The condition was not followed and 155 aluminum-clad wood windows were replaced with vinyl windows. Planner Lund shared a screenshot of the Building Permit.

The Marriott Summit Watch window replacement project continued in 2021 with 900 Main Street. The City approved Building Permit TEMP21-397 with a Condition of Approval that the aluminum-clad wood windows be replaced with aluminum-clad wood windows. Again, this was a like-for-like replacement. The condition was not followed and 53 vinyl windows were installed. Planner Lund shared a screenshot of the building plans.

All structures within the Historic District were required to comply with LMC Chapter 15-13. Whether minor or major alterations were proposed, the requirements of LMC Chapter 15-13 applied. LMC 15-13-9(B)(2)(f)(A) stated: "Wood or metal windows similar to those used historically are preferred, but aluminum-clad windows are also appropriate. Vinyl and aluminum windows are inappropriate." Planning Staff found the HDDRs to be non-compliant with the LMC and denied the HDDRs. Before and after images of 900 Main Street were shown. Planner Lund explained that the view was from Deer Valley Drive.

The historic preservation consultant, SWCA, explained why vinyl windows are inappropriate in the Historic District. Their findings were as follows:

- Vinyl windows do not adequately replicate the look and feel of a painted wood window. They look like plastic even to the casual observer, lack the detail and depth in profile of wood windows, and usually have joints in sashes and frames/casings that would not be seen on a historic window assembly;
- Colors can be limited. While more sash colors may be available, frames (which may need to be metal for greater rigidity) may not come in the same range of colors and may not always match the original windows;
- Degradation from UV (outdoor) light and heat may cause warping, sagging, discoloration (yellowing), stippling/pitting, and brittleness/cracking over time. Painted wood windows do not weather in this way and the difference between wood and vinyl only becomes more apparent over time; and
- Vinyl is non-sustainable. Manufacturing is highly toxic and windows cannot be repaired, but can only be replaced.

Planner Lund shared before and after images of 738 Main Street. With regard to the LMC, pursuant to LMC 15-1-18(G), the applicant had the burden of proving that the Planning Director erred in denying the HDDRs. Staff recommended that the Board of Adjustment open a public hearing and consider denying the appeal.

The applicant's representative, Anthony Rys, identified himself as the Director of Engineering at Marriott Summit Watch. He has worked there for approximately one year. As a result, he did not have insight into what happened when the windows on the first two buildings were replaced. That being said, the projects at completion were inspected by the City and both inspections were approved. He was unsure why those inspections were approved without comment if there was an issue with the windows.

Mr. Rys reported that the Marriott Summit Watch consisted of six buildings. The window replacement project began in 2020 on the first two buildings, 738 Main Street and 900 Main Street. Based on those installations, windows were purchased for 804 Main Street and 710 Main Street. Window installation was planned for 804 Main Street in the fall and there was an expectation that the application would be approved as the others had been. However, the application was denied and now there was an appeal of that denial.

Information about the vinyl windows was shared. Mr. Rys explained that the choice had not been made based on the cost. Vinyl windows cost slightly less than the aluminum-clad wood option but the vinyl selected was the highest quality of the available product line. The efficiencies of the windows met or exceeded windows with aluminum-clad wood. He reported that the vinyl windows were easier to clean. The decision was made based on serviceability and efficiency. Additionally, it was difficult to tell the difference between the two different materials. It was noted that the surround of the window was a major architectural feature made of wood. As a result, he did not believe there was a detriment to the historic character due to the vinyl windows.

Summit Watch General Manager, Wendy Carney, reported that it is a timeshare and there are approximately 4,000 owners. Ms. Carney has worked there for approximately eight years. Marriott Summit Watch is part of the City and has always worked well with the City.

There was no negative intention in terms of the windows. Marriott Summit Watch liked being part of Park City and the Historic District. David Fjeldsted, an Owner at Marriott Summit Watch, reported that she serves on the Board of Directors for the Owner's Association. Marriott Summit Watch always tries to be a good neighbor and he felt they had been over the years. The purchase of the windows was based on the precedent of the other two buildings that were approved by the City. Mr. Fjeldsted hoped the Board of Adjustment would approve the windows so work could move forward. As an owner, the vinyl windows seemed to be more energy efficient. The units before were drafty and the new windows were superior.

Board Member Wintzer believed the first two buildings were required to have aluminum-clad wood windows. Planner Lund confirmed this and noted that there was a comment on the building plans. However, the previous installations did not go through the HDDR process. The requirement was aluminum-clad wood windows but vinyl windows were installed. Board Member Wintzer wondered how the Building Department inspected and approved those buildings when the wrong materials were used. According to Mr. Rys, based on the approval of those buildings, additional vinyl materials were purchased.

Board Member Stafsholt wanted to understand why the first two buildings did not need to go through the HDDR process. Planner Lund was not certain why HDDRs were not submitted as part of that process. The applicant went through the Building Permit process and Staff found that it was not needed at that time. Board Member Stafsholt asked why white windows had been ordered to replace the existing tan. Ms. Carney explained that it had to do with consistency. There was a desire for everything to be the same color. In the lower plaza, the buildings were slightly newer and the aluminum-clad wood was white.

Board Member Stafsholt asked if the reason Marriott Summit Watch had ordered windows without having the proper approvals in place was to avoid supply chain issues. This was confirmed. Mr. Rys explained that the windows would have been installed earlier if not for the COVID-19 pandemic. Board Member Stafsholt pointed out that anyone who ordered materials before there were approvals in place did so at their own risk. Board Member Wintzer asked about 738 Main Street. She wondered if the original materials were white. Mr. Rys clarified that those were colored. The intent was to match the color scheme of the lower plaza. There was a desire to have consistency.

Chair Gezelius opened the public hearing.

Michael Sweeney reported that the Sweeney family helped develop Lower Main Street. There had been a rigorous four years with the City, negotiating what could and could not be included. At that time, the City did not want any replication or duplication. The family agreed not to replicate or duplicate any building on Lower Main Street to the Historic District. He pointed out that the subject buildings would not replicate historic buildings. It should be possible to make certain changes, so long as the original agreement not to duplicate or replicate a historic building on Lower Main Street was followed.

There were no further comments. The public hearing was closed.

Board Member Armstrong did not believe the Board of Adjustment had the right to decide anything based on personal opinion. As a result, she was not focused on the color of the materials, but on the materials themselves. The vinyl today was different than the vinyl available many years ago. There had been improvements made to the materials. Board Member Armstrong pointed out that no one noticed the first two buildings had vinyl material. The only reason anyone knew that now was because of the application for the next two buildings. That being said, she felt there needed to be some consistency between the buildings. When inspectors went out, it was difficult to catch everything, but in the case of the first two buildings, the window materials were missed.

Board Member Stafsholt referenced the LMC language. It clearly stated that vinyl was not appropriate in the Historic District. The decision of the Board of Adjustment was based on whether the Planning Director erred in the denial. While this was an unfortunate situation, there was always a risk in purchasing materials before approval. Board Member Wilson agreed with the comments shared by other Board Members. Her opinion was that it might look better for there to be a cohesive look. She felt for the owners and the Board of Directors. However, the Board of Adjustment is bound by certain criteria. Decisions cannot be based on opinion but on criteria related to the property and the LMC. Based on the criteria, she did not believe a variance was appropriate.

Board Member Wintzer noted that this was an unfortunate situation but she did not feel she had a choice and needed to uphold the decision made by the Planning Director. Chair Gezelius agreed that it was difficult when mistakes are made. All that could be done now was to move forward and find a reasonable solution within the rules. The language related to the materials was written and adopted by the elected officials. That language was enforced by the Building Department. She reiterated that it was a regrettable situation, but the decision needed to be based on the rules and regulations.

MOTION: Board Member Wilson moved to DENY the Appeal for the Historic District Design Review for 804 Main Street and 710 Main Street, according to the following Findings of Fact and Conclusions of Law:

Findings of Fact:

1. The Site is located at 804 and 710 Main Street.
2. On November 30, 1994, the Park City Planning Commission approved a Conditional Use Permit/ Master Planned Development Application for the Summit Watch at Park City.
3. On April 3, 1995, the City approved Building Permit B94-00425 with aluminum-clad wood windows for Phase 1 and Phase 1A of the Summit Watch buildings.
4. On April 8, 1996, the City approved a Building Permit with aluminum-clad wood windows for Phase 3A and 3B of the Summit Watch buildings.

5. 804 and 710 Main Street are in the Historic Recreation Commercial Zoning District.
6. On November 29, 2022, the Applicant submitted a Historic District Design Review Application to remove and replace the aluminum-clad wood windows with vinyl windows on 804 Main Street, an existing non-historic structure within the Historic Recreation Commercial Zoning District.
7. On February 3, 2023, the Applicant submitted a Historic District Design Review Application to remove and replace the aluminum-clad wood windows with vinyl windows on 710 Main Street, an existing non-historic structure within the Historic Recreation Commercial Zoning District.
8. LMC Section 15-13-9(B)(2)(f)(A) states “[v]inyl and aluminum windows are inappropriate.”
9. SWCA Historic Preservation Consultants explains that vinyl windows are inappropriate in Historic Districts because:
 - a. Vinyl windows do not adequately replicate the look and feel of a painted wood window. They look like plastic even to the casual observer, lack the detail and depth of profile of wood windows, and usually have joints in sashes and frames/casings that would not be seen on a historic window assembly.
 - b. Colors can be limited – while more sash colors may be available, frames (which may need to be metal for greater rigidity) may not come in the same range of colors and may not always match the original windows.
 - c. Degradation from UV (outdoor) light and heat may cause warping, sagging, discoloration (yellowing), stippling/pitting, and brittleness/cracking over time. Painted wood windows do not weather in this way and the difference between wood and vinyl only becomes more apparent over time.
 - d. Vinyl is non-sustainable: manufacturing is highly toxic, and windows cannot be repaired, only replaced.
10. On February 16, 2023, the Planning Department conducted a public hearing for 804 Main Street and denied the Historic District Design Review Application, finding the vinyl windows were not compliant with the LMC.
11. On February 23, 2023, the Planning Department conducted a public hearing for 710 Main Street and denied the Historic District Design Review Application, finding the vinyl windows were not compliant with the LMC.

12. On February 23, 2023, the Applicant appealed the Historic District Design Review denials.
13. The Board of Adjustment reviews appeals of Historic District Design Review Final Action pursuant to LMC Section 15-1-18(A).
14. Staff posted notice to the City Website, the Utah Public Notice website, and the properties on March 6, 2023.
15. Staff mailed courtesy notices to property owners within 100 feet on March 6, 2023.
16. *The Park Record* published notice on March 8, 2023.

Conclusions of Law:

1. The appellant did not meet their burden of proving the Planning Director erred in denying the Historic District Design Review Applications.
2. The Planning Director was correct in interpreting and applying the plain meaning of LMC Section 15-13-9(B)(2)(f)(A) regarding vinyl windows in Historic Districts.

Board Member Stafsholt seconded the motion. Vote on Motion: Board Member Armstrong-Aye; Board Member Stafsholt-Aye; Board Member Wilson-Aye; Board Member Wintzer-Aye. The motion passed unanimously.

6. ADJOURN

MOTION: Board Member Armstrong moved to ADJOURN. Board Member Stafsholt seconded the motion. The motion passed with the unanimous consent of the Board.

The Board of Adjustment Meeting adjourned at 5:40 p.m.

Approved by _____
Ruth Gezelius, Board of Adjustment Chair

Board of Adjustment Staff Report



Subject: 395 Deer Valley Drive
Application: PL-23-05654
Author: Spencer Cawley, Planer II
Date: June 20, 2023
Type of Item: Variance

Recommendation

(I) Review the proposed Variance to reduce the Front Setback from 20 feet to four feet to convert an existing garage into living space and construct a new two-car garage and driveway for an existing Single-Family Dwelling at 395 Deer Valley Drive, (II) conduct a public hearing, and (III) consider approving the Variance according to the Findings of Fact, Conclusions of Law, and Conditions of Approval in the draft Final Action Letter (Exhibit A).

Description

Applicant: Work Smart Properties, LLC
Alliance Engineering, Applicant Representative

Location: 395 Deer Valley Drive

Zoning District: Residential – 1

Adjacent Land Uses: Single-Family Dwellings, Estate Lots, Open Space

Reason for Review: Variances require Board of Adjustment review and Final Action¹

LMC Land Management Code
R – 1 Residential – 1
ROW Right-of-Way

Terms that are capitalized as proper nouns throughout this staff report are defined in LMC § [15-15-1](#).

Background

395 Deer Valley Drive is in Block 65, Amended Plat of Park City Survey, and consists of all of Lots 9 & 26, the westerly 18.75 feet of Lots 8 & 27, and the easterly one-half of Lots 10 & 25, for a total of 0.194 acres or 8,437 square feet. The Property is in the Residential – 1 (R – 1) Zoning District. Summit County identifies the parcel as PC-518-A-3.

¹ LMC [§ 15-1-8\(I\)](#)

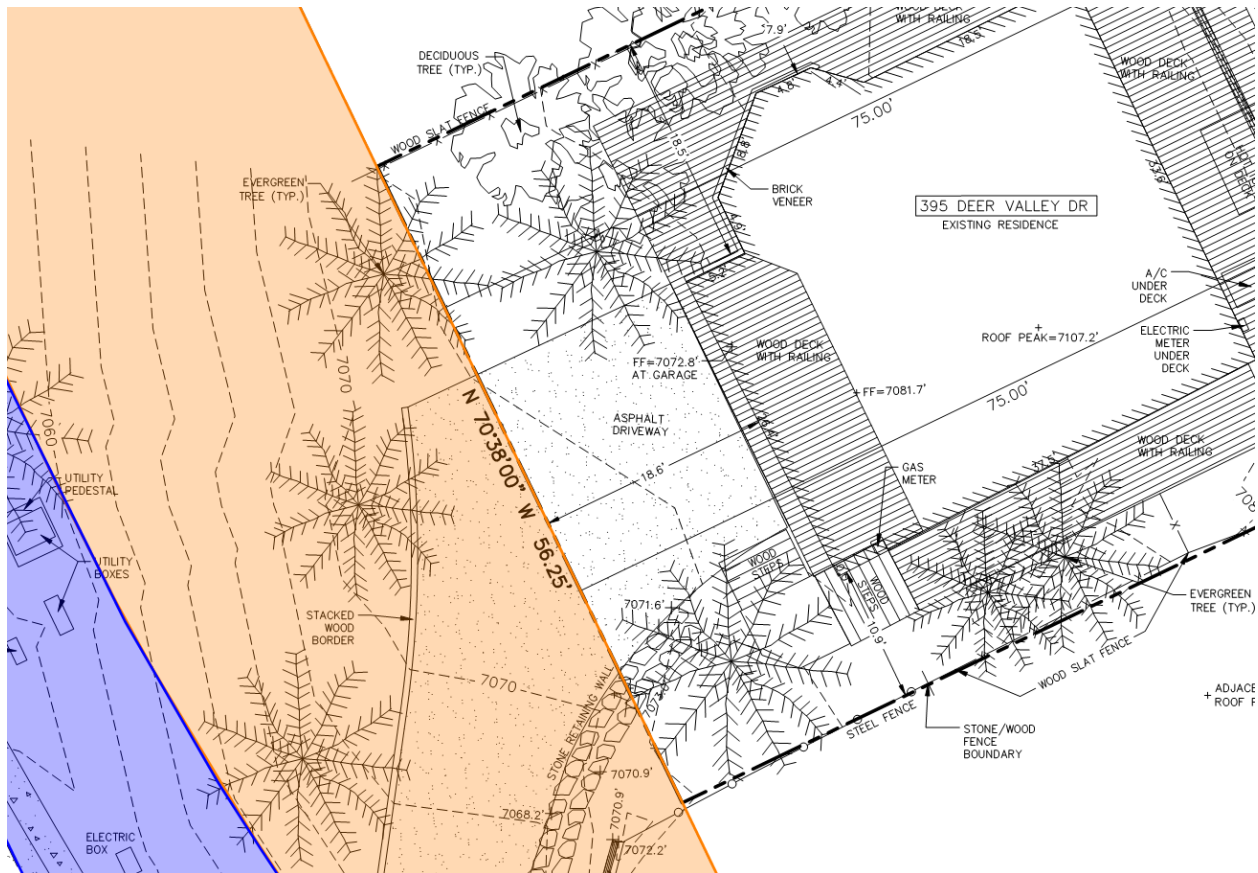
The site contains an existing Single-Family Dwelling built in 1978. The Applicant proposes remodeling the Single-Family Dwelling, including converting the existing garage into living space, with a new garage and driveway. The new garage is proposed to be constructed at an elevation lower than the current garage within the Front Setback of the Property.

The image below is an excerpt from the Applicant's submittal, showing the existing Single-Family Dwelling and driveway:



The current Single-Family Dwelling is 18.6 feet from the property line, which is also the edge of the historic platted Heber Avenue Right-of-Way (ROW). However, the Dedication Plat of Deer Valley Road Section "A"² is the ROW in use in this area. Subsequently, the Single-Family Dwelling is 51.6 feet from constructed Deer Valley Drive.

The following image is taken from the Applicant's existing conditions survey. Staff highlighted the Heber Avenue ROW in orange and the Deer Valley ROW in blue. See Exhibit C for the full survey.



² Recorded April 16, 1980; Entry No. 165809



The Applicant requests a Variance from the Front Setback. The proposed new garage would meet a 35.8-foot setback from the Deer Valley Drive ROW and a four-foot setback from the Heber Avenue ROW/Applicant's property line. See the Applicant's proposal below:

On September 2, 2022, the Applicant submitted a Plat Amendment Application to the Planning Department (PL-22-05370). LMC [§ 15-1-11\(B\)](#) states, "[t]he Board of Adjustment must review Applications for Variances. Such approval must be obtained from the Board of Adjustment prior to the issuance of any [. . .] other approval by the Planning Commission or Planning Department. All action on an Application shall be stayed upon the determination that a board of Adjustment approval is required." Prior to scheduling the Plat Amendment for Planning Commission review, the Applicant requests the Board of Adjustment consider their request for a Variance from the Front Setback R – 1 Zoning District requirements.

On May 4, 2023, the Planning Department received a complete Variance Application requesting the Board of Adjustment consider reducing the Front Setback from 20 feet to four feet to accommodate the construction of a new garage and driveway.

Analysis

The Board of Adjustment hears all Variance requests. The Board of Adjustment holds a public hearing and takes Final Action on Variances. The Board of Adjustment may impose additional requirements on the Applicant to (I) mitigate any harmful effects of the Variance or (II) serve the purpose of the standard or requirement that is waived or modified.³

The Applicant requests the following Variance:

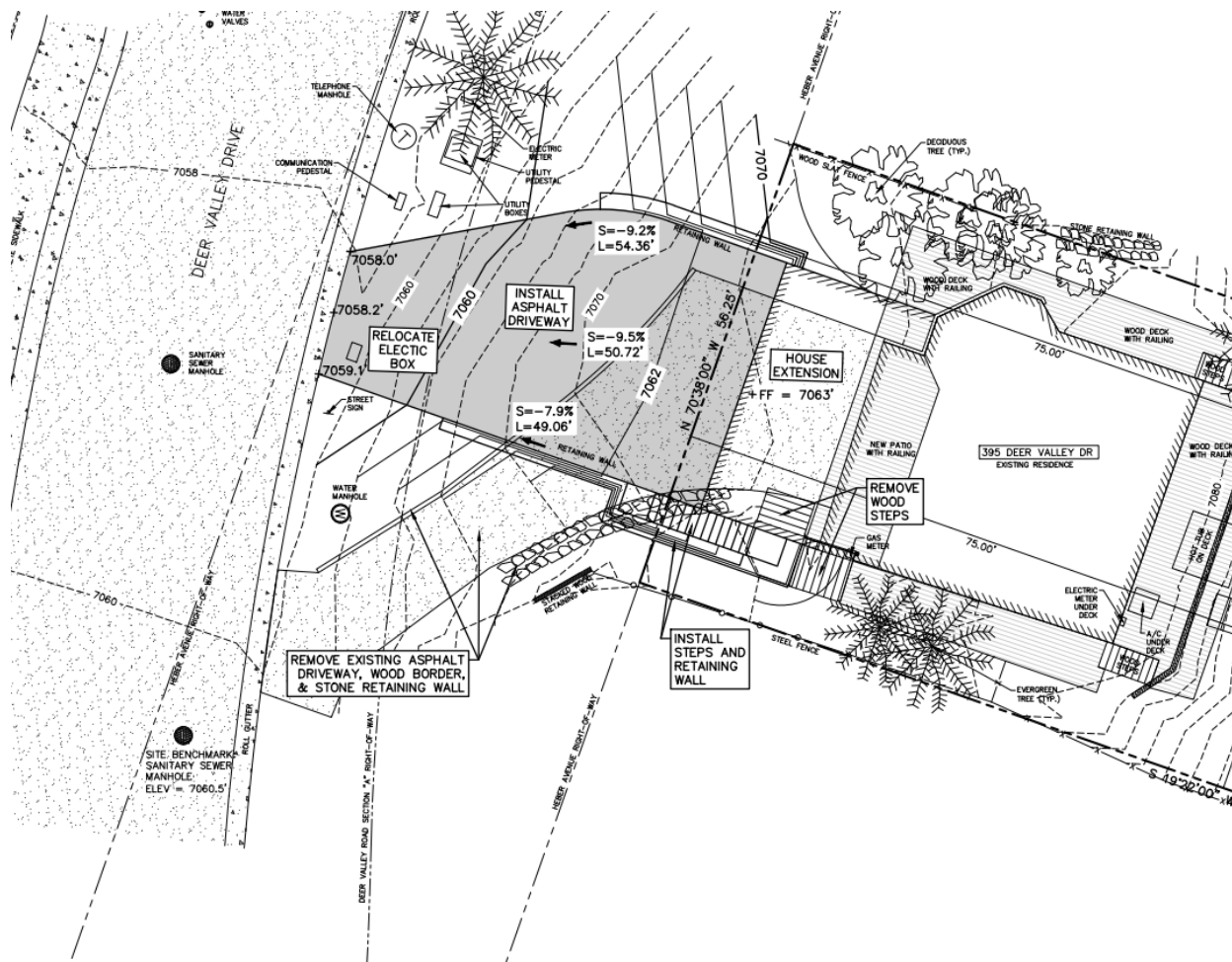
"The Applicant is requesting approval for a 35.8-foot setback from Deer Valley Drive right-of-way and a 4-foot setback from the Heber Avenue right-of-way to enable construction of a garage that would bring the slope of the driveway in compliance with the Land Management Code." (Applicant Statement, Exhibit B)

If the Applicant receives approval of this Variance for the Front Setback, they must complete the Plat Amendment process. The Applicant must also obtain permits for

³ LMC [§ 15-10-8](#)

construction in the ROW, an encroachment agreement for the retaining walls, and the issuance of a Building Permit **(Conditions of Approval 4, 5, and 6)**.

The image below is from the Applicant's submittal and shows the approximate location of the proposed garage and driveway on a site plan of the Property:



(I) The Applicant seeks a Variance from the 20-Foot Residential – 1 (R – 1) Zoning District Front Setback requirements outlined in LMC § 15-2.12-3 Lot and Site Requirements.

The LMC requires a minimum Front Setback of 15 feet, and Front Facing Garages for Single-Family Dwellings must be at least 20 feet from the Front Property Line in the R – 1 Zoning District.⁴ Because of the distance from Deer Valley Drive to the property line – approximately 30 feet at its closest point – the Applicant proposes to reduce the Front Setback from 20 feet to four feet to place the new garage four feet from the property line.

⁴ LMC [§ 15-2.12-3\(B\)](#)

The following table outlines the minimum Lot and Site requirements per LMC Chapter 15-2.12 for development in the R – 1 Zoning District:

R-1 Zoning Requirement	Analysis of Proposal
Minimum Lot Area: 2,812 square feet for a Single-Family Dwelling.	Complies. The Lot contains 8,437.49 square feet. No changes are proposed to the Lot size.
Front Setback: 15 feet. 20 feet for new Front Facing Garages.	Four-foot Front Setback for the proposed garage requires a Variance. The Applicant requests a reduction of sixteen feet for the Front Setback to construct a garage four feet from the property line rather than 20 feet from the property line as required by the R – 1 Zoning District. The Applicant's proposed plan includes retaining walls in the Front Setback that exceed four feet in height. Staff recommends Condition of Approval 7 requiring the Applicant to obtain an Administrative Conditional Use Permit for retaining walls that exceed four feet in height prior to applying for a Building Permit.
Rear Setback: 10 feet.	Complies. The existing Single-Family Dwelling is 93 feet from the rear Lot line. A standalone composite deck with a metal railing is seven feet from the rear Lot line. The Applicant does not propose any changes to the Rear Setback.
Side Setback: 5 feet.	Complies. The existing Structure is 7.9 feet from the west Lot line and 10.9 feet from the east Lot line. The Applicant does not propose any changes to the Side Setback.
Building Height: 28 feet from Existing Grade.	Condition of Approval 8 The new Front Facing Garage is proposed to sit below the existing Single-Family Dwelling and will be

	attached to the Structure. No additional changes are proposed to the existing Structure. The new garage shall not exceed 28 feet from Existing Grade.
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Driveway Standards

The current driveway has a slope of approximately 19%, which exceeds the maximum of 14% required by today's Land Management Code [§ 15-3-3\(A\)\(4\)](#). The proposed driveway configuration improves the slope to nine percent (9%) and will move the driveway entrance approximately 40 feet east of the existing driveway entrance. The new driveway configuration will impact significant vegetation, including two evergreen trees. Staff recommends **Condition of Approval 9** requiring the Applicant to replace the trees with water- and fire-wise trees on their property.

The Applicant's proposed driveway will increase the impervious surface by 77 square feet. The driveway is 15 feet at Deer Valley Drive and increases to a width of 32 feet at the proposed garage addition. Pursuant to LMC [§ 15-3-3\(H\)\(1\)](#), the maximum driveway width for a Single-Family Dwelling is 27 feet. **Condition of Approval 10** requires the Applicant to reduce the width of the driveway to meet the 27-foot width standard.

(II) The Applicant bears the burden of proving the five Variance criteria outlined in LMC § 15-10-8(C) are met.

In order to grant the requested Variance to R – 1 Front Setback regulations, the Board of Adjustment must find that all five criteria are met, pursuant to LMC [§ 15-10-8\(C\)](#). The Applicant bears the burden of proving that all the conditions justifying a Variance have been met.

In determining whether or not enforcement of the Zoning Ordinance will cause unreasonable hardship under LMC [§ 15-10-8\(C\)\(1\)](#), the Board of Adjustment may not find an unreasonable hardship unless the alleged hardship is located on or associated with the Property for which the Variance is sought and comes from circumstances peculiar to the Property, not from conditions that are general to the neighborhood.⁵ In determining whether or not enforcement of the LMC would cause unreasonable hardship, the Board of Adjustment may not find an unreasonable hardship if the hardship is self-imposed or economic.⁶

⁵ LMC [§ 15-10-8\(D\)\(1\)](#)

⁶ LMC [§ 15-10-8\(D\)\(2\)](#)

The table below outlines the Variance criteria and the Applicant's response:

Variance Review Criteria	Analysis of Proposal
1. Literal enforcement of the Land Management Code would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the Land Management Code.	<u>Applicant's Request:</u> A hardship has been created due to the topography from Deer Valley Drive up to the currently existing garage on the Property. The slope of the driveway is approximately 19% and the Park City LMC restricts the maximum slope of a driveway to 14%. In addition, the north boundary of the Heber Avenue right-of-way (which is where the setback would be measured from if the LMC is literally enforced) as originally platted is an average of 33 feet from the Deer Valley Drive right-of-way at the location of the subject Property, which is the right-of-way that is actually in use and follows the same curvature as Deer Valley Drive.
2. There are special circumstances attached to the Property that do not generally apply to other Properties in the same zone.	<u>Applicant's Request:</u> Other properties in the zone have garages that are closer to the elevation of the street than the garage at 395 Deer Valley Drive and therefore do not have driveway slopes as steep as the subject Property. Also, the existing garage is farther back from the Deer Valley Drive right-of-way than other properties in the area and therefore has ample room to allow for the Variance. <u>Staff Analysis:</u> The site is unique from neighboring properties because the property line is set back from the ROW by approximately 30 feet and sits at a grade higher than many of the adjacent Single-Family Dwellings along Deer Valley Drive. Granting the Variance will be beneficial to the street as it will improve the line-of-site along the ROW. The following image, taken from Google Earth, shows the driveways and garages of the neighboring properties, 415 and 501 Deer Valley Drive:



3. Granting the Variance is essential to the enjoyment of a substantial Property right possessed by other Property in the same zone.

Applicant's Request:

Other properties near 395 Deer Valley Drive are closer to the street and the garages are either encroaching into the Heber Avenue right-of-way or have a smaller setback than the 4-foot setback the Applicant is requesting. Granting the Variance will allow the driveway to have a slope of approximately 9% and will be less hazardous backing out onto Deer Valley Drive.

Staff Analysis:

Staff finds that properties in the vicinity of 395 Deer Valley Drive have garages that are built beyond the property line, into the Heber Avenue ROW, or to their property line.

- 415 Deer Valley Drive – Existing Non-Conforming garage has a zero-foot Front Setback.
- 375 Deer Valley Drive – Existing Non-Conforming garage encroaches into platted ROW, beyond the front property line. The encroachment is formalized with an Encroachment permit dated October 31, 1989.

The rear of the Property has a slope greater than 50%, making over half of the Property a Very Steep Slope. The front of the Property has a slope greater than 40%. Due to the topography of the site and the

	property lines, the Applicant's house is far from the platted ROW. By decreasing the length of the driveway from the garage to the ROW, the Applicant can safely use the proposed driveway to access Deer Valley Drive, especially during the winter months. The request honors the intent of the LMC which is for the built environment to be set back from the public ROW.
4. The Variance will not substantially affect the General Plan and will not be contrary to the public interest.	<u>Applicant's Request:</u> The Variance will not affect the General Plan of the Land Management Code since the objective of a front setback is to prevent buildings from being too close to the public right-of-way that is used as a thoroughfare. The public interest will be enhanced due to the driveway entrance being moved approximately 40 feet down Deer Valley Drive to the west, which will allow for improved sight distance looking up Deer Valley Drive.
5. The spirit of the Land Management Code is observed, and substantial justice done.	<u>Applicant's Request:</u> The proposed setback will be farther back from the Deer Valley Drive right-of-way than other buildings in the area and will exceed the required front facing garage setback requirement by approximately 17 feet. <u>Staff Analysis:</u> Staff finds that the spirit of the Land Management Code is observed, and substantial justice is done. The existing Single-Family Dwelling has two one-car garages, attached to the Structure. Granting this Variance will not reduce the available off-street parking and will allow the Applicant to follow the LMC requirements for driveway slopes. All other LMC related site and lot criteria, including Side and Rear Setbacks, Building Height, parking, Uses, etc., will be met. As conditioned, this Variance will ensure the Applicant addresses removal of Significant Vegetation and a decreased width of the proposed driveway.

Approval of the Variances by the Board of Adjustment constitutes Final Action that may be appealed following the procedures found in LMC [§ 15-1-18](#).

(III) The Development Review Committee met on May 23, 2023, and did not identify any issues.⁷

On June 13, 2023, the Engineering Department visited the site to evaluate the proposed changes to the driveway. The Public Improvements Engineer provided a memorandum expressing their support of the Variance because it will allow the Applicant to reduce the driveway's slope and increase safety (Exhibit D).

Department Review

The Planning Department, Engineering Department, and City Attorney's Office reviewed this report.

Notice

Staff published notice on the City's website and the Utah Public Notice website and posted notice to the Property on June 6, 2023. Staff mailed courtesy notice to property owners within 300 feet on June 6, 2023. The *Park Record* published notice on June 6, 2023.⁸

Public Input

Staff did not receive any public input at the time this report was published.

Alternatives

- The Board of Adjustment may grant the Variance reducing the Front Setback from 20 feet to four feet for a garage addition according to the Findings of Fact, Conclusions of Law, and Conditions of Approval as drafted and/or as amended; or
- The Board of Adjustment may deny the Variance reducing the Front Setback from 20 feet to four feet for a garage addition and direct staff to make Findings for the denial; or
- The Board of Adjustment may request additional information and continue the discussion to a date certain.

Exhibits

Exhibit A: Draft Final Action Letter
Exhibit B: Applicant Statement
Exhibit C: Applicant Submission
Exhibit D: Engineering Department Memorandum

⁷ The Development Review Committee meets the first and third Tuesday of each month to review and provide comments on Planning Applications, including review by the Building Department, Engineering Department, Sustainability Department, Transportation Planning Department, Code Enforcement, the City Attorney's Office, Local Utilities including Rocky Mountain Power and Dominion Energy, the Park City Fire District, Public Works, Public Utilities, and the Snyderville Basin Water Reclamation District (SBWRD).

⁸ LMC [§ 15-1-21](#).



Planning Department

June 20, 2023

Alliance Engineering
ATTN: Marshall King
2700 West Homestead Road
Suite 50 & 60
Park City, UT 84098
marshall@alliance-engr.com
435-258-6938

CC: Work Smart Properties, LLC

NOTICE OF BOARD OF ADJUSTMENT ACTION

Description

Address: 395 Deer Valley Drive

Zoning District: Residential – 1

Application: Variance

Project Number: PL-23-05654

Action: APPROVED WITH CONDITIONS (See Below)

Date of Final Action: June 20, 2023

Project Summary: The property owner of 395 Deer Valley Drive requests a Variance from the 20-foot Front Setback for a four-foot Front Setback to construct a new garage four feet from the property line.

Action Taken

On June 20, 2023, the Board of Adjustment conducted a public hearing and approved the Variance according to the following Findings of Fact, Conclusions of Law, and Conditions of Approval:

Findings of Fact

1. The Property is located at 395 Deer Valley Drive in the Residential – 1 (R-1) Zoning District.

2. The Property is in Block 65, Amended Plat of Park City Survey, and consists of all of Lots 9 & 26, the westerly 18.75 feet of Lots 8 & 27, and the easterly one-half of Lots 10 & 25.
3. The Property contains a total of 0.194 acres or 8,437 square feet.
4. The Summit County parcel tax ID is PC-518-A-3.
5. The existing Single-Family Dwelling was built in 1978.
6. The Structure is 18.6 feet from the property line, which is also the edge of the historic platted Heber Avenue Right-of-Way (ROW).
7. The Deer Valley Road Section "A" is the ROW in use in this area.
8. The Single-Family Structure is 51.6 feet from the Deer Valley ROW.
9. The R-1 Zoning District requires a ten-foot rear setback. The existing Single-Family Dwelling is 93 feet from the rear Lot line.
10. The R-1 Zoning District requires a five-foot side setback. The existing Single-Family Dwelling is 7.9 feet from the west side Lot line and 10.9 feet from the east side Lot line.
11. Pursuant to LMC § 15-3-3, driveways cannot exceed a slope of 14% and can have a maximum width of 27 feet.
12. The site is accessed from Deer Valley Drive by a driveway that has a slope of approximately 19%.
13. Pursuant to LMC § 15-2.12-3, new Front Facing Garages for Single-Family Dwellings must be at least 20 feet from the Front Property Line in the R-1 Zoning District.
14. The Applicant requests a Variance to LMC § 15-2.12-3(B), the R-1 Zoning District Front Setback regulations, to reduce the required 20-foot Front Setback for a garage to four feet.
15. The Applicant's front property line is approximately 30 feet from Deer Valley Drive.
16. The Applicant does not propose to make any changes to the Side or Rear Setbacks.
17. The Applicant does not propose to change the Lot Area.
18. The new Front Facing Garage is proposed to be four feet from the property line.
19. LMC § 15-3-3 establishes a maximum driveway width of 27 feet.
20. LMC § 15-10-8(C) outlines the conditions necessary for the Board of Adjustment to grant a variance:
 - a. Literal enforcement of the LMC would cause an unreasonable hardship for the Applicant that is not necessary to carry out the general purpose of the LMC. A hardship has been created due to the topography from Deer Valley Drive up to the currently existing garage on the Property. The slope of the driveway is approximately 19%, and the Park City LMC restricts the maximum slope of a driveway to 14%. In addition, the north boundary of

the Heber Avenue right-of-way (which is where the setback would be measured from if the LMC is literally enforced), as originally platted, is an average of 33 feet from the Deer Valley Drive right-of-way at the location of the subject Property, which is the right-of-way that is actually in use and follows the same curvature as Deer Valley Drive.

- b. There are special circumstances attached to this Property that do not generally apply to other Properties in the same zone. Other properties in the zone have garages that are closer to the elevation of the street than the garage at 395 Deer Valley Drive and therefore do not have driveway slopes as steep as the subject Property. Also, the existing garage is farther back from the Deer Valley Drive right-of-way than other properties in the area and therefore has ample room to allow for the Variance.
 - c. Granting the Variance is essential to the enjoyment of a substantial Property right possessed by other Property in the same zone. Other properties near 395 Deer Valley Drive are closer to the street, and the garages are either encroaching into the Heber Avenue right-of-way or have a smaller setback than the 4-foot setback the Applicant is requesting. Granting the Variance will allow the driveway to have a slope of approximately 9% and will be less hazardous backing out onto Deer Valley Drive.
 - d. The Variance will not substantially affect the General Plan and will not be contrary to the public interest. The Variance will not affect the General Plan of the Land Management Code since the objective of a front setback is to prevent buildings from being too close to the public right-of-way that is used as a thoroughfare. The public interest will be enhanced due to the driveway entrance being moved approximately 40 feet down Deer Valley Drive to the west, which will allow for improved sight distance looking up Deer Valley Drive.
 - e. The spirit of the LMC is observed, and substantial justice done. The proposed setback will be farther back from the Deer Valley Drive right-of-way than other buildings in the area and will exceed the required front-facing garage setback requirement by approximately 17 feet.
21. All other LMC related Site and Lot criteria, including the Side and Rear Setbacks, Building Height, parking, uses, etc., must be met.
22. The Development Review Committee met on May 23, 2023, and did not identify any issues.
23. On June 13, 2023, the Engineering Department visited the site and provided a memorandum expressing support of the Variance because it will allow the Applicant to reduce the slope of the driveway and increase safety.
24. Notice was mailed to property owner within 300 feet on June 6, 2023.

25. Staff published notice to the City's website, the Utah Public Notice Website, and the subject Property on June 6, 2023.
26. The *Park Record* published notice on June 6, 2023.

Conclusions of Law

1. Literal enforcement of the R-1 District requirements for this Property causes an unreasonable hardship that is not necessary to carry out the general purpose of the zoning ordinance.
2. There are special circumstances attached to the Property that do not generally apply to other properties in the same district.
3. Granting the Variance is essential to the enjoyment of a substantial property right possessed by other Property in the same zone.
4. The proposal is consistent with the General Plan.
5. The spirit of the zoning ordinance is observed by this application.

Conditions of Approval

1. The Variance is limited to the construction of a two-car garage with a reduced Front Setback of four feet.
2. No portion of the new garage shall be used for living space.
3. Fences, walls, retaining walls, uncovered stairs leading to the Main Structure, decks, porches, roof overhangs, eaves, cornices, sidewalks, patios, and pathways in the front setback shall comply with LMC § 15-2.12-3(C)(1-7) *Front Setback Exceptions*.
4. The Applicant shall obtain permits for construction in the Right-of-Way from the Engineering Department prior to the issuance of a building permit.
5. An encroachment permit is required for any retaining walls or stairways built in the platted Rights-of-Way.
6. The Applicant shall obtain a building permit prior to the commencement of any construction.
7. The Applicant shall obtain an Administrative Conditional Use Permit for retaining walls exceeding four feet in height in the Front Setback prior to Building Permit application.
8. The new garage shall not exceed 28 feet in height from Existing Grade.
9. The Applicant shall replace any removed Significant Vegetation with similar types of vegetation that are both water and fire-wise on their Property.
10. The Applicant shall reduce the driveway width from 32 feet to a maximum of 27 feet as outlined in LMC § 15-3-3(H)(1) prior to submitting a Building Permit application.
11. If at some point in the future, Deer Valley Drive or Heber Avenue are widened, or re-aligned, the Applicant is responsible for the removal of retaining walls, stairs,

and/or the driveway at the property owner's expense and in an expeditious manner (within 90 days of written notice).

12. City Engineer review and approval of all appropriate grading, utility installation, and public improvements is a condition precedent to building permit issuance. An approved shoring plan is required prior to excavation.
13. Prior to the issuance of a building permit, a Construction Mitigation Plan must be submitted to the Building Department for review by the Building, Engineering, and Planning Departments for final approval.

If you have questions or concerns regarding this Final Action Letter, please call 435-615-5060 or email spencer.cawley@parkcity.org.

Sincerely,

Ruth Gezelius
Board of Adjustment, Chair

CC: Spencer Cawley, City Planner

PARK CITY SURVEY, BLOCK 65,
LOTS 9 & 26 and part of Lots 8, 10, 25 & 27

(395 Deer Valley Drive)

May 3, 2023

Request for Variance



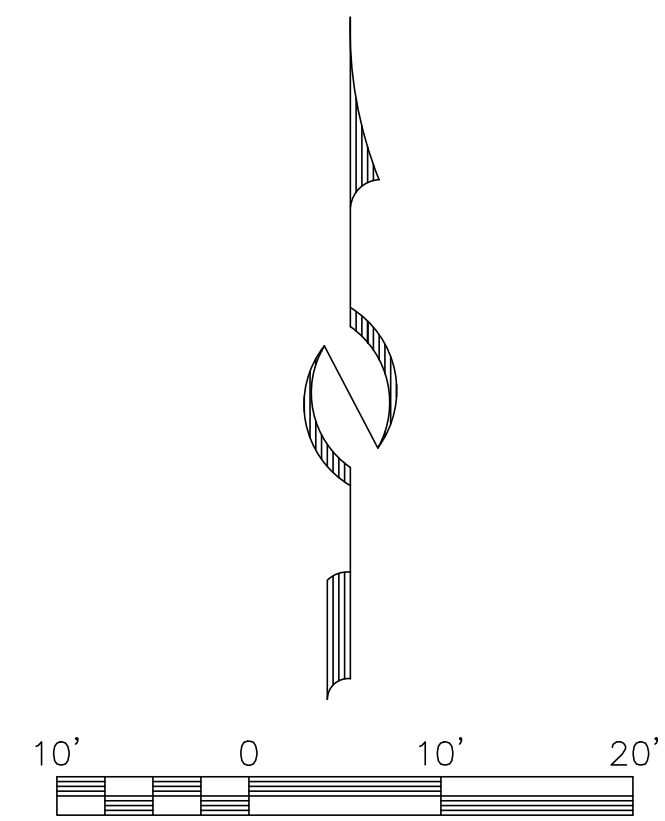
The property at 395 Deer Valley Drive is in Block 65, Park City Survey and consists of Lots 9 & 26 and part of Lots 8, 10, 25 & 27 and is currently occupied by a single family residence. A plat amendment application to remove the internal lot lines to create a single lot of record has been submitted.

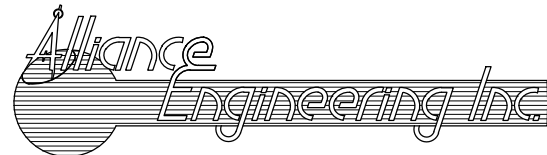
The current residence is 18.6 feet from the property line, which is the historic platted Heber Avenue right-of-way. The Dedication Plat of Deer Valley Road Section "A", recorded April 16, 1980, as Entry No. 165809 is the right-of-way actually in use in this area. As a result, the current residence is 51.6 feet from the currently platted Deer Valley Drive right-of-way.

The proposed remodeling of the residence includes adding a new garage in front of the existing house at an elevation lower than the existing garage as well as a redesigned driveway. This Request for Variance proposes a 4-foot setback from the property line for the garage addition. This property is in the Residential (R1) zone, which requires a 20-foot front setback for new front facing garages. The proposed location of the new garage would be an additional 15.8 feet from the Deer Valley Drive right-of-way for a total setback of 35.8 feet at its closest point.

The current driveway has a slope of approximately 19%, which exceeds the maximum of 14% required by the Land Management Code. The new driveway would be in compliance with the LMC at a slope of 9% and will also move the entrance approximately 40 feet down Deer Valley Drive for improved sight distance looking up Deer Valley Drive.

The applicant is requesting approval for a 35.8-foot setback from the Deer Valley Drive right-of-way and a 4-foot setback from the Heber Avenue right-of-way to enable construction of a garage that would bring the slope of the driveway in compliance with the Land Management Code.



 CONSULTING ENGINEERS LAND PLANNERS SURVEYORS 323 Main Street P.O. Box 2664 Park City, Utah 84060-2664	(435) 649-9467	STAFF: BRAYLON ROSE CHIP TOMSUDEN MARSHALL KING TYLER LEPORE THOMAS VAUGHN	AERIAL EXHIBIT 395 DEER VALLEY DRIVE BLOCK 65, PARK CITY SURVEY	SHEET 1 OF 1
	DATE: 5/3/23	FOR: WORK SMART PROPERTIES, LLC JOB NO.: 10-7-19 FILE: X:\ParkCitySurvey\dwg\Projects\395 Deer Valley Drive\100719-site plan for variance.dwg		

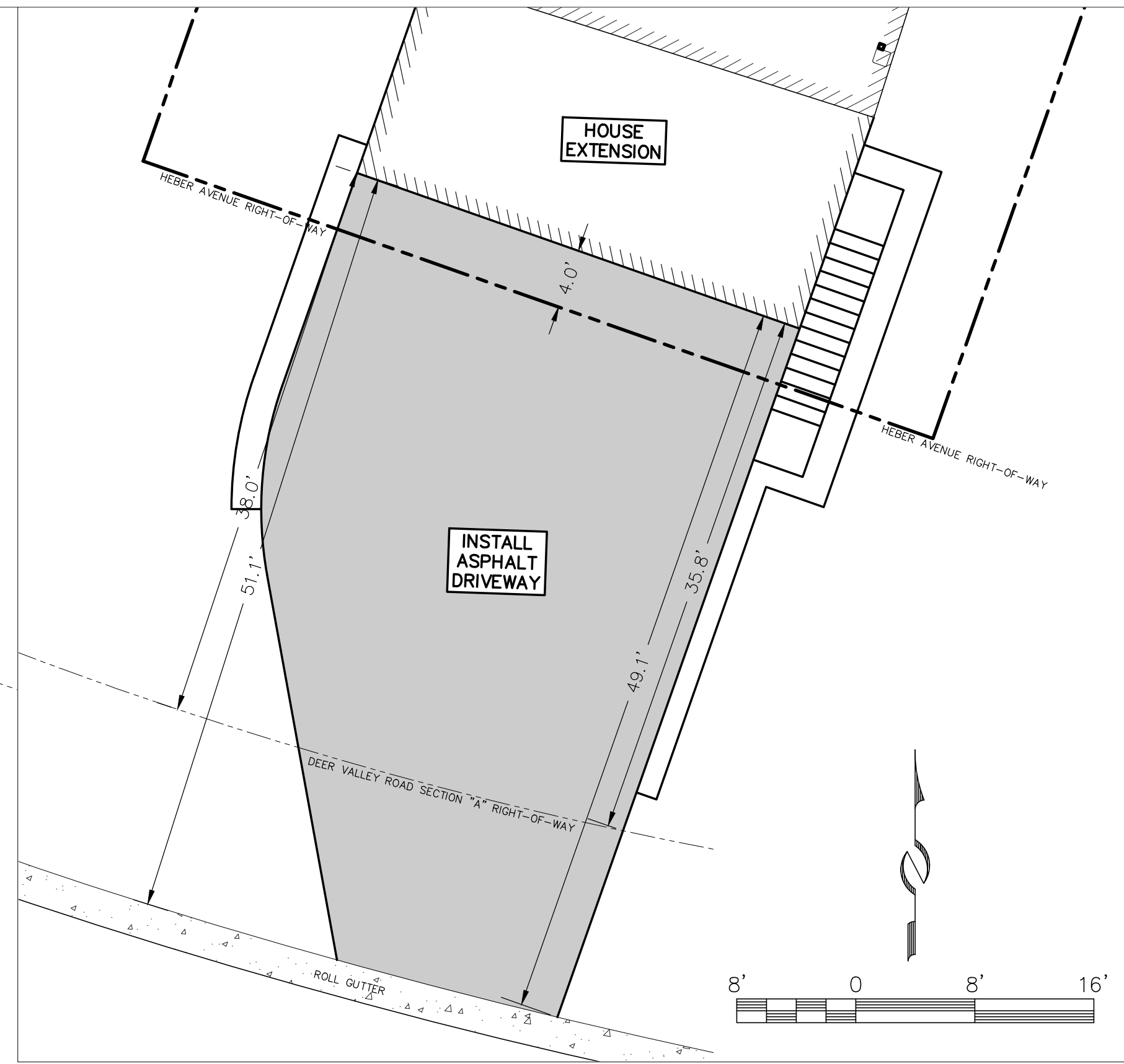
CONDOMINIUMS
MULTIPLE OWNERS
PARCEL ID: RNDABTC-A, ETC.
ROUNDBOUT CONDOMINIUMS
RECORDED: MAY 21, 2015
ENTRY NO.: 1019555

CONDOMINIUMS
MULTIPLE OWNERS
PARCEL ID: DVDG-1, ETC.
DVD CONDOMINIUMS
RECORDED: JUNE 8, 2006
ENTRY NO.: 780287

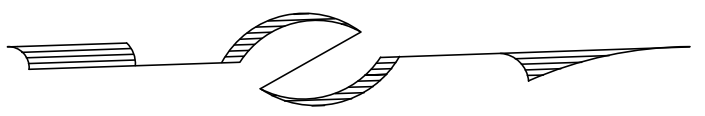
SINGLE FAMILY HOME
PAUL AND MARGARET TAN FAMILY LIVING TRUST
PARCEL ID: PC-518
DEED RECORDED: MARCH 29, 2021
ENTRY NO.: 1159604

SINGLE FAMILY HOME
DIANA J. THOMPSON FAMILY TRUST
PARCEL ID: 415-DV-1
415 DEER VALLEY DRIVE SUBDIVISION
RECORDED: DECEMBER 16, 2013
ENTRY NO.: 985992

PARCEL ID: JORG-1
JORGENSEN REPLAT
RECORDED: JULY 2, 1998
ENTRY NO.: 511325

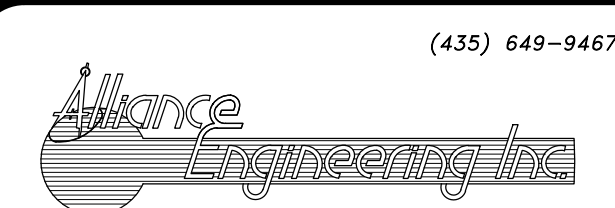


CITY OWNED PROPERTY
PARCEL ID: PC-525-A-X



NOTES

1. Site Benchmark: Sanitary Sewer Manhole = 7060.5'
2. Field work for this survey was completed June 3, 2022.
3. The architect is responsible for verifying building setbacks, zoning requirements, and building heights.
4. This survey was prepared in conjunction with a plat amendment application.
5. Property size: 8,437 square feet = 0.19 acres



(435) 649-9467

323 Main Street P.O. Box 2664 Park City, Utah 84060-2664

STAFF:
BRAYLON ROSE
CHIP TOMSUDEN
MARSHALL KING
TYLER LEPORE
THOMAS VAUGHN

DATE: 5/3/23

SITE PLAN
395 DEER VALLEY DRIVE
BLOCK 65, PARK CITY SURVEY

FOR: WORK SMART PROPERTIES, LLC

JOB NO.: 10-7-19

FILE: X:\ParkCitySurvey\dwg\Projects\395 Deer Valley Drive\100719-site plan for variance.dwg

SHEET
1
OF
1



ENGINEERING DEPARTMENT
MEMORANDUM

DATE: 06/14/2023

Re: 359 Deer Valley Drive

To Whom it May Concern:

After evaluating the applicant's variance report for the modified driveway for 395 Deer Valley Drive, the engineering department recommends granting the variance. The existing driveway is significantly out of compliance with Park City Municode section 15-3-3 which requires driveways not exceed a 14% slope. Driveway steepness is particularly important in a snowy and icy climate like Park City due to the risk of sliding. The variance will allow the driveway to come into compliance with steepness standards reducing the risk of vehicles sliding uncontrolled into Deer Valley Drive.

If you have any questions or concerns, please call me at (435) 615-5075 or e-mail me at becky.gutknecht@parkcity.org.

Sincerely,

A handwritten signature in blue ink that reads "Becky Gutknecht". The signature is written in a cursive, flowing style.

Becky Gutknecht
Public Improvements Engineer