

**CITY OF WEST DES MOINES
BOARD OF ADJUSTMENT COMMUNICATION**

Meeting Date: November 29, 2017

Item: Hewitt Variance, 4245 Oakwood Lane– Vary the rear yard setback for an accessory structure by 15 feet from 20 feet to 5 feet for the construction of a 20' x 26' garage – Brian & Cheri Hewitt (VAR-003680-2017)

Requested Action: Applicant requests approval of a 15 foot Variance of the Rear yard Setback

Case Advisor: J. Bradley Munford, Planner

Applicant's Request: The applicant, Brian & Cheri Hewitt, are requesting a fifteen foot variance of the rear yard accessory structure setback for property located at 4245 Oakwood Lane. The variance would reduce the rear yard setback for an accessory structure from 20 feet to 5 feet. The Hewitt's have submitted their response to the finding for the variance. In that response, they note steep grades, wooded areas and drainage as rationale for the variance need (see Attachment D – Findings from the Applicant).

History: The property is currently the applicant's home and is zoned Residential Estates (RE). It was platted as Lot 12 Quail Park Vista in 1995. The homes was built in 1998.

Staff Review and Comment: Staff notes the following:

Lot Characteristics: The lot does have grades that are slightly atypical from a lot that is completely flat and it does have a fair number of trees. However, Staff has some difficulty viewing it as a unique property because home buyers looking for homes with walk out basement look for these types of lots. While reviewing this case, Staff took a detailed look at the topography of the lot (as can be seen in Attachments B and C) and came to the realization that the area with the steepest grade and drainage challenges is the northwest corner of the lot. The northeast corner, where the applicant is proposing the garage, is an area that flattens out to a point where structures can be placed with just a small amount of design effort. This point is fortified by the fact that an existing 15' x 15' deck was placed in this area with little issue.

Noticing Information: On November 10, 2017, a notice of the November 29, 2017, Board of Adjustment public hearing was published in the *Des Moines Register*. Notice of this public hearing was mailed to all surrounding property owners within 370 feet of the subject property on November 13, 2017.

Property Owner and Applicant: Brian & Cheri Hewitt
4245 Oakwood Lane
West Des Moines IA 50265

Attachments:

Attachment A	-	Board of Adjustment Resolution
Exhibit A	-	Conditions of Approval (none)
Attachment B	-	Location Maps
Attachment C	-	Aerial Pictures of Property
Attachment D	-	Garage Architecture
Attachment E	-	Findings from the Applicant
Attachment F	-	Findings from Staff

Prepared by: J.B. Munford West Des Moines Development Services PO Box 65320 West Des Moines IA 50265-0320 515-222-3630
When Recorded, Return to: City Clerk, City of West Des Moines PO Box 65320 West Des Moines IA 50265-0320

RESOLUTION

A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES, (APPROVING OR DENYING) _____ THE VARIANCE REQUEST (VAR-003680-2017) OF A 15 FOOT VARIANCE OF THE REQUIRED 20 FOOT REAR YARD ACCESSORY STRUCTURE SETBACK FOR PROPERTY LOCATED AT 4245 OAKWOOD LANE FOR PURPOSES OF BUILDING A GARAGE ON THE PROPERTY

WHEREAS, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, the applicants, Brian & Cheri Hewitt, have requested approval of a variance from Title 9, *Zoning*, Chapter 14, *Accessory Structures*, Subsection 6, *Garages And Other Accessory Buildings*, Letter J, for a variance of fifteen (15) feet of the required twenty foot (20') rear yard setback to build a garage on property located at 4245 Oakwood Lane and legally described as:

Legal Description of Property

LOT 12, QUAIL PARK VISTA NOW IN AND FORMING A PART OF
THE CITY OF WEST DES MOINES, POLK. COUNTY, IOWA

WHEREAS, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

WHEREAS, on November 27, 2017, the Board of Adjustment held a duly-noticed public hearing to consider the application for a variance (VAR-003680-2017);

WHEREAS, based upon a review of the submitted variance request, the Board of Adjustment finds **(In Favor of Applicant's Findings, In Favor of Staff Findings, or in Favor of the Board's Findings)** _____ as attached at Exhibit B;

NOW, THEREFORE, THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:

SECTION 1. A Variance Request (VAR-003680-2017), for a fifteen (15) foot variance from the twenty foot (20') rear yard accessory building setback requirement for property locally known at 4245 Oakwood Lane to allow the construction of a garage is _____ **(approved or denied)**.

PASSED AND ADOPTED on November 27, 2017

Michael R. Blaser, Chair

ATTEST:

Recording Secretary

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Board of Adjustment for the City of West Des Moines, Iowa, at a regular meeting held on November 27, 2017, by the following vote:

AYES:

NAYS:

ABSTAIN:

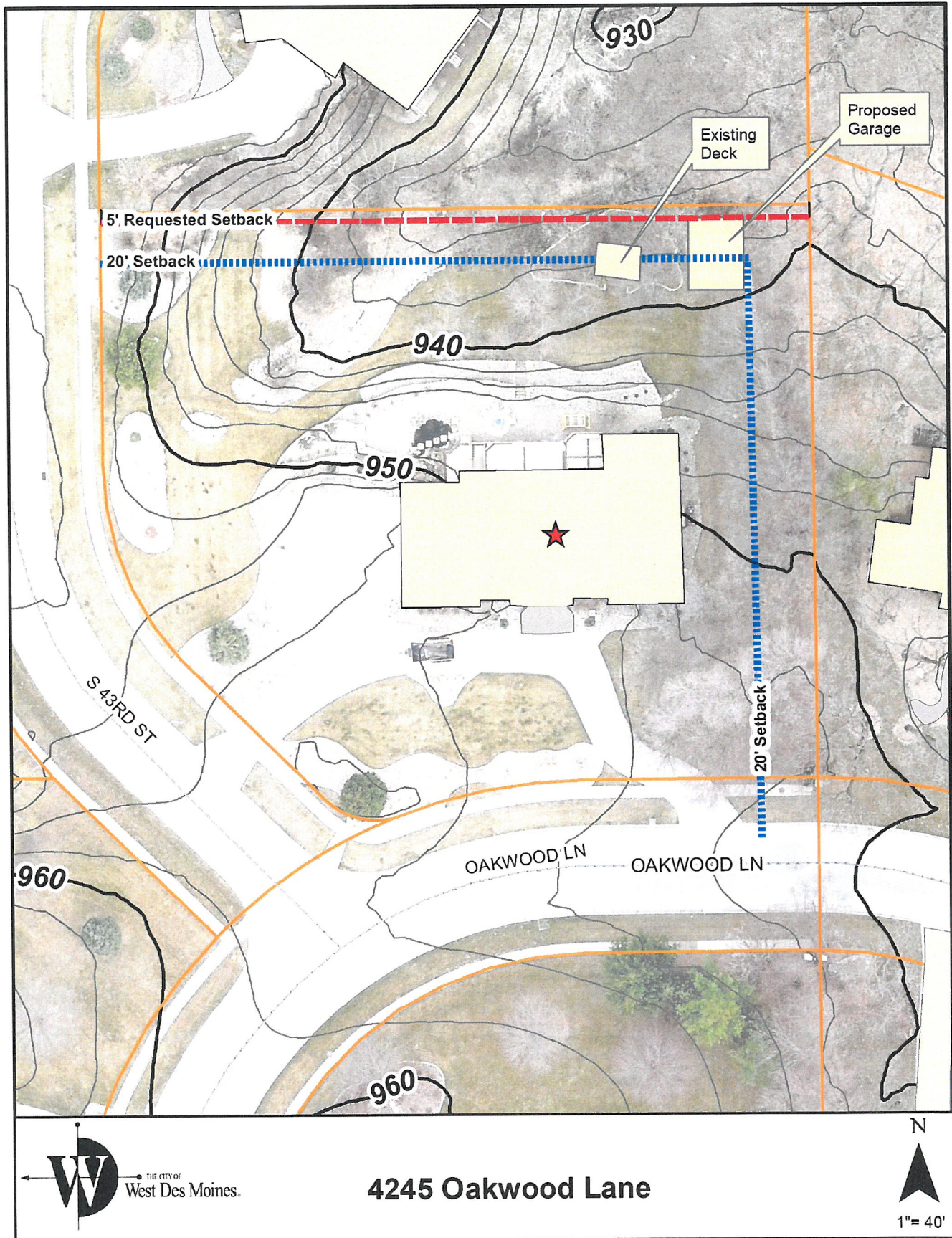
ABSENT:

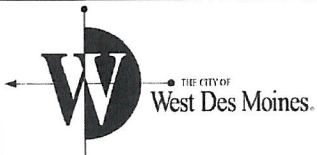
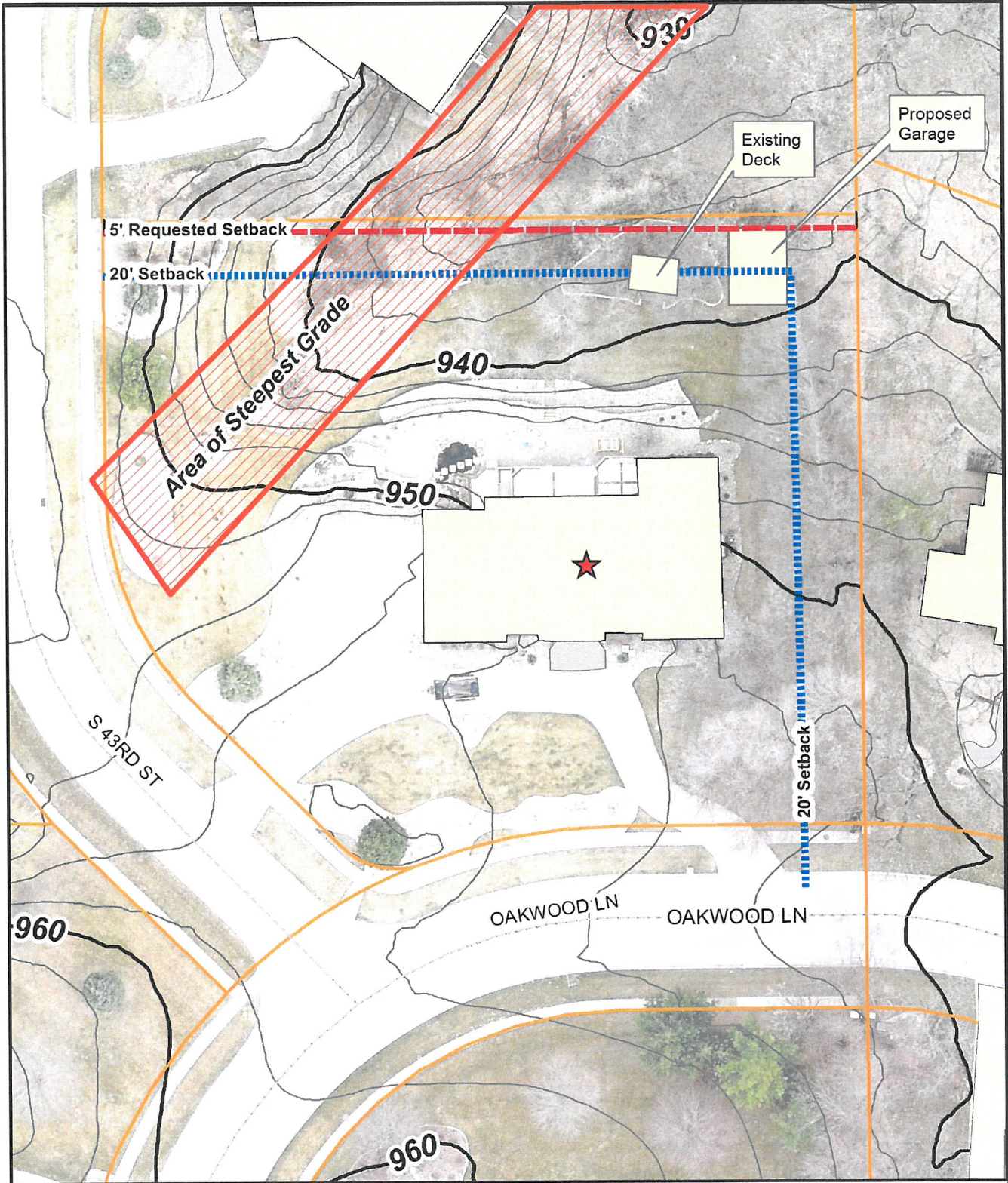
ATTEST:

Recording Secretary

Exhibit A
Conditions of Approval

None.





4245 Oakwood Lane





South Looking North




East Looking West

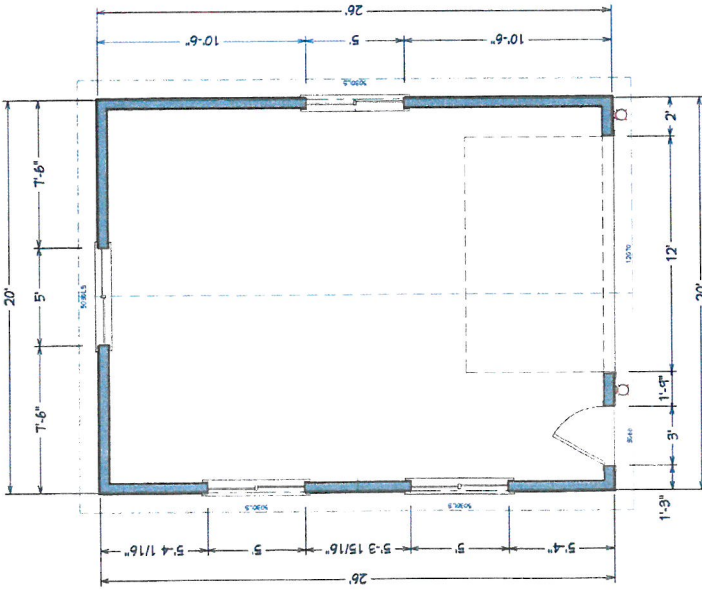


West Looking East

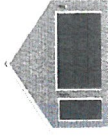


North Looking South

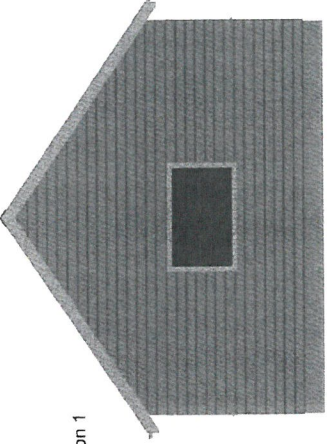
NO.	DESCRIPTION	BY	DATE	<p>mbg CONSULTING ENGINEERS 10000 WEST 12TH AVENUE SUITE 100 DENVER, COLORADO 80242 TEL: 303.733.8800 FAX: 303.733.8801 WWW.MBGCONSULTANTS.COM</p>			HEWITT MAN CAVE 
DATE:	9-9-17	SCALE:	3/16"=1'				SHEET:



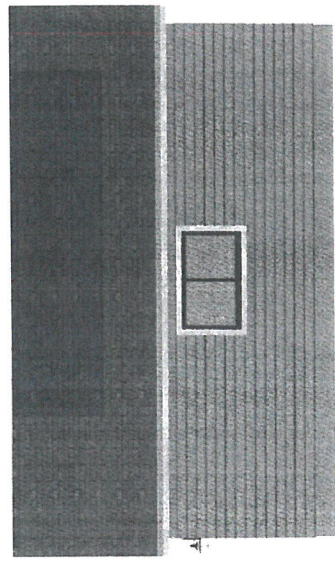
HEWITT MAN CAVE
520 SQ. FT.



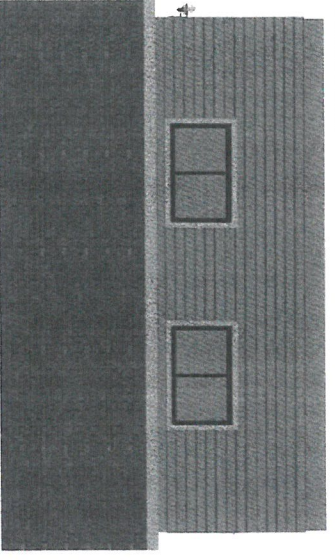
Elevation 1



Elevation 4



Elevation 3



Elevation 2

Attachment E

APPLICANT RESPONSE TO FINDINGS

Please address each required finding in the space provided or attach more sheets if necessary to prove to the Board of Adjustment that the finding can be made.

1. That the proposed development or use is consistent with the West Des Moines comprehensive plan and any applicable sub-area plan.

It is a single family dwelling

2. That there are special circumstances or exceptional characteristics applicable to the subject property with regard to size, shape, topography or location, which do not apply generally to comparable properties in the same vicinity and zones.

It is a corner lot with a very wooded and steep back yard. There is also a drainage ditch running behind the property.

3. That the strict application of the zoning regulations as they apply to the subject property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose of such regulations provided that such hardships shall not be self-imposed by the applicant or his or her successor in interest.

Moving to building further from the property lines would cause drainage & water flow issues. The grade of the property is also much steeper further from the property lines.

4. That there have been no changes in the character of the site or its surrounding which detrimentally affect the environment.

The will not be.

5. That the granting of such variance does not, under the circumstances and conditions applied in the particular case, adversely affect the health or safety of persons, is not materially detrimental to the public welfare, nor injurious to nearby property or improvements.

It does not.

Attachment F

**CITY OF WEST DES MOINES
STAFF VARIANCE APPLICATION FINDINGS**

1. That the proposed development or use is consistent with the West Des Moines comprehensive plan and any applicable sub-area plan.

The proposed use of single family residential is consistent with the West Des Moines Comprehensive Plan in that the land use of the property is designated Low Density Residential on the Comprehensive Plan Land Use Map.

2. That there are special circumstances or exceptional characteristics applicable to the subject property with regard to size, shape, topography or location, which do not apply generally to comparable properties in the same vicinity and zones.

Staff was unable to identify any special circumstances or exceptional characteristics with this property. It is a fairly typical walk-out type lot that is desired in single family developments. These lots feature topography that slopes from the high point in the front (street side) to the low point in the rear. These type of lots do require slightly more design effort than a flat lot, but that effort has historically not been so egregious to detour similar lots in our community from complying this portion of our code. In addition the steepest grade and drainage challenges on the property can be found at the northwest corner of the lot. The proposed garage would be located on the northeast corner of the lot, where the ground flattens out to a point where structures can be placed with just small amount of design effort. There is no material difference in grade from the proposed location and the location that would comply with the required rear yard setback.

3. That the strict application of the zoning regulations as they apply to the subject property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose of such regulations provided that such hardships shall not be self-imposed by the applicant or his or her successor in interest.

In evaluation of the request, the existing site condition and comparison to similarly situated properties, It is staff's conclusion is that the strict application of the zoning ordinance does not result in practical difficulties of hardships and that the hardship could be considered self-imposed by the applicant in that the applicant prefers to have the garage closer to the property line. Staff believes that with the proper design, a garage can be constructed that complies with City code.

4. That there have been no changes in the character of the site or its surroundings which detrimentally affect the environment.

This development is in an area with varying characteristics such as topography and vegetation. The character of the site has been slightly changed over the years, through the addition of multi-tiered retaining walls for an outdoor living area. Staff does not believe that any of the changes made over the years detrimentally affect the points listed above.

5. That the granting of such variance does not, under the circumstances and conditions applied in the particular case, adversely affect the health or safety of persons, is not materially detrimental to the public welfare, nor injurious to nearby property or improvements.

The intent of the 20 foot setback in Residential Estate (RE) districts is to promote a residential environment typified by larger lot single-family detached dwellings and to be mindful of the impact of larger residential structures to adjacent property owners. Unlike the majority of our residential zoning districts, RE does not have the 1,000 square foot maximum size cap for accessory buildings. Years ago the maximum size cap was removed from the RE district with the reasoning that larger lots may have the need because of maintenance demands and the expressed desire for large accessory buildings for hobbies, recreation or storage uses. It was believed that RE properties (minimum lot size of 1 acre per code) have sufficient space to setback the buildings and insulate their impacts from surrounding neighbors. The 20 foot setback was put into place as a way to protect the quality of life of neighbors and allow these larger lots to have the type of accessory buildings they desired.

The granting of this variance will bring the garage fifteen feet closer to the neighboring lot. Considering that the intent of the setback was to insulate neighbors from adverse effects of accessory structures, staff believes that an approval could negatively impact the quality of life of the nearby properties, but find no concerns for the health safety and welfare of the community.