



CITY OF LA VISTA
BOARD OF ADJUSTMENT

STAFF REPORT

VARIANCE REQUESTS

DATE OF BOA MEETING:

September 22, 2021

SUBJECT:

Variances to Section 5.13.05 Height and Lot Requirements, Section 5.13.06.01 Parking and Drive Use Limitations, Section 7.17.03.02 Street Frontage Landscaping Requirements, and Section 7.17.03.03 Side Yard Landscaping Requirements of the La Vista Zoning Ordinance.

PROPERTY INFORMATION

APPLICANT:

Steve LaHood
15939 Yates St.
Omaha, NE 68116

PROPERTY OWNER:

Steve LaHood
15939 Yates St.
Omaha, NE 68116

SUBJECT PROPERTY:

Tax Lot 6B 18-14-12
8001 S 132nd Street
Omaha, NE 68138

ZONING:

R-3 High-Density Residential and Gateway Corridor District (Overlay District)

BACKGROUND

Description of Request:

1. Steve LaHood purchased a 50' x 50' lot in La Vista's extra-territorial jurisdiction which contains a 290 square foot brick utility building (previously a pumphouse utilized by MUD) that was constructed in 1966. Mr. LaHood seeks to convert the structure into an artist studio space (a place to paint and store his artwork) by adding a second story to the structure, bringing it into compliance with building and life safety codes, and constructing some additional site improvements.
2. This 50' x 50' lot, located southeast of the intersection of S. 132nd Street and Centech Plaza, is currently classified as a tax lot and is too small to be replatted into a legal lot of record which would allow for the construction activities to occur. Additionally, the existing structure does not meet the required front and side yard setbacks. Applicant attempted to purchase additional property adjacent to the subject property in order meet the minimum lot size and setback requirements, but the adjacent property owner declined to sell any property.
3. Applicant has submitted an application to the Board of Adjustment for variances that would allow for the following:
 1. Allow for a reduction in the minimum front yard setback from 60 feet (where parking would be present) to 27 feet on the north side, and from 35 feet to 10 feet on the west side, to match the current setbacks for the existing structure (Section 5.13.05.01);
 2. Allow for a reduction in the minimum side yard setback from 30 feet to 3 feet on the south side of the property, and from 30 feet to 22 feet on the east side, to match the current setbacks for the existing structure (Section 5.13.05.01);
 3. Allow for a reduction in the minimum lot width for the I-1 Light Industrial District from 100 feet to 50 feet (Section 5.13.05.01) so that the property can be replatted as a legal lot;
 4. Allow for a reduction in the minimum lot area for the I-1 Light Industrial District from 10,000 square feet to 2,500 square feet (Section 5.13.05.01) so that the property can be replatted as a legal lot if the property is rezoned to I-1 Light Industrial, as proposed;
 5. Waiver from Section 5.13.06.01 which requires that no parking or drives be located within 30 feet of a residential district, to allow for a place for parking on this lot. As the property is surrounded by residentially zoned land on the north and east sides (the only two sides with sufficient space to park a vehicle), and due to the small lot size, no parking of vehicles would be allowed without a variance from this requirement;
 6. Waiver from Section 7.17.03.02 which requires a landscaped area of 15 feet

from the property line along all street frontages. This variance would be required for the north and west sides of the property. On the west side of the property there is only 10 feet between the property line and the existing structure, and on the north side of the property there is not sufficient room for both the 15 foot landscaping buffer and space to park a vehicle;

7. Waiver from Section 7.17.03.03 which requires a landscaped area of 10 feet from the property line along all side yards. This variance would be required for the south side of the property. The existing structure is only setback 3 feet from the south side property line, so there is not sufficient room for the 10 foot landscaping buffer.
4. According to the applicant, the hardship that warrants variances from the La Vista Zoning Ordinance is the inability for the structure and this lot to be usable given the size constraints of the lot and the inability to obtain additional property in the vicinity in order to comply with the zoning regulations.
5. Obtaining the variances discussed above is just one of many steps that would be required for Mr. LaHood to construct and utilize the structure as desired. Were the applicant to be granted the variances by the BOA, the following subsequent steps would need to occur:
 - Future Land Use Map amendment to designate the land for future industrial usage (from existing High-Density Residential);
 - Re-zoning to change the zoning designation to I-1 Light Industrial (from existing R-3 High-Density Residential);
 - Zoning text amendment to introduce an “artist studio space” use into the I-1 district;
 - Separate preliminary and final plats to make the lot a legal lot of record (which must occur to allow for the construction activities);
 - The proposed exterior improvements would need to be approved through the City’s design review process at this lot sits within the City’s Gateway Corridor Overlay District; and
 - Additional items would be required for the building permit, including an engineering report for the existing structure and items relating to utilities and stormwater.

Applicable Zoning Regulations:

5.13.05 Height and Lot Requirements:

5.13.05.01 The height and minimum lot requirements shall be as follows:

Use	Lot Area (SF) ²	Lot Width ²	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	10,000	100	35'1	30'	25'	45'	65%
Permitted Conditional Uses	10,000	100	35'1	30'	25'	45'	65%
Accessory Buildings	-	-	70'	10'	10'	25'	20%

1. 35' front yard setback required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of sixty (60) feet.
2. *Lots created before January 1, 2008 may have a minimum Lot Area of 10,000 square feet and may have less than the minimum 100 feet lot width. (Ordinance No. 1053, 1-15-08)*

5.13.06 Use Limitations:

5.13.06.01 When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in any required yard within *thirty* (30) feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Section 7.17.04. **(Ordinance No. 1053, 1-15-08)**

7.17.03.02 Street Frontage:

A landscaped area having a minimum depth of fifteen feet (15') from the property line shall be provided along the street frontage of all lots or sites including both street frontage of corner lots.

7.17.03.03 Side Yard:

A landscaped area having a minimum depth of ten feet (10') from the property line shall be provided along the side yard abutting any Residential District.

CONDITIONS FOR VARIANCES

Section 8.03.03.01 and Nebraska Revised State Statutes Section 19-910:

The Board of Adjustment shall authorize no such variance, unless it finds that:

1. The strict application of the Ordinance would produce undue hardship;
2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
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; and
4. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice. 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 reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.

Bylaws and Rules of Procedure of the City Of La Vista Board of Adjustment – Section 7, Specific Requirements in Approval of a Variance:

In any action by the Board with regard to approval of a variance, such action shall be taken in accordance with the limitations of Nebraska law and the requirements and limitations of the applicable City Zoning Regulations and these Rules of Procedure. In any action to approve a variance, the Board shall make findings which shall be recorded in the minutes of the Board that:

A. The strict application of any applicable provision of the applicable City Zoning Regulation would, in each specific variance petition, result in at least one of the following:

1. Peculiar and exceptional practical difficulties to or undue hardship upon the owner of the piece of property included in the petition due to exceptional narrowness, shallowness or shape of the piece of property in question;

Staff Analysis: The subject property is exceptionally and abnormally narrow, having a smaller lot width and total lot area than the minimum required for a lot to contain a stand-alone building in any of La Vista's Zoning Districts. This small lot size, and subsequent small buildable area, currently prevents the lot from being replatted into a legal lot of record, preventing any construction or renovation activities that could take place to render the building useable or occupiable.

Resulting Hardship: Yes / No

2. Peculiar and exceptional practical difficulties to or undue hardship upon the owner of the piece of property included in the petition due to exception topographic conditions on the piece of property in questions;

Staff Analysis: The access to this property from Centech Plaza has a steep slope, but the property itself slopes only gradually to the south toward Interstate-80. This topography is not drastically different from other residential or industrial properties in La Vista's planning jurisdiction.

Resulting Hardship: Yes / No

3. Peculiar and exceptional practical difficulties to or undue hardship upon the owner of the piece of property included in the petition due to other extraordinary and exceptional situation or condition of the piece of property in question.

Staff Analysis: The subject property is exceptionally and abnormally narrow due to its history, including ownership by Metropolitan Utilities District (a special government entity) and its use as a pumphouse to publicly supply well water to surrounding properties. When this small lot was purchased by M.U.D. and the pump house was constructed, the intention was to utilize as little land as possible, resulting in the small 50' x 50' property size, which is now currently surrounded by one property on three sides (Lot 1 Andover Pointe), and public right-of-way on the remaining side. The buildable area is severely constrained for this property due to its history, unlike other residential and industrial properties within the City of La Vista and its extraterritorial jurisdiction.

Resulting Hardship: Yes / No

B. In authorizing any variance the Board shall also make findings, which shall be recorded in the minutes of the Board, that EACH of the following requirements for authorizing a variance can be met:

1. Such variances may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the applicable City Zoning Regulations;

Staff Analysis: Staff does not expect that such variances would cause substantial detriment to the public good and would not substantially impair the intent and purpose of the applicable City Zoning regulations.

Specific requirement: satisfied / not satisfied

2. The strict application of the requirements of the City Zoning Regulations would produce an undue hardship upon the owner of the property included in the petition;

Staff Analysis: Due to the limited size of the lot, the strict application of the zoning ordinance would not permit the lot to be replatted, so construction activities and building permits would not be permitted, limiting the usefulness of the property.

Specific requirement: satisfied / not satisfied

3. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;

Staff Analysis: Other uses in the R-3 District (or proposed I-1 District) in La Vista do not have similar irregular lot size issues significantly restricting the buildable area of their lots.

Specific requirement: satisfied / not satisfied

4. The authorization of such variances will not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by such variances;

Staff Analysis: Staff does not expect substantial detriment would occur on adjacent properties or within the zoning district.

Specific requirement: satisfied / not satisfied

5. The authorization of a variance is based upon reasons of demonstrable and exceptional hardship stemming from characteristics of the property involved in the petition and not for reasons of convenience, profit or desire of the property owner;

Staff Analysis: The variance requests are related to the ability of the applicant to replat the subject lot and utilize the existing structure.

Specific requirement: satisfied / not satisfied

6. The condition or situation of the property included in such petition or the intended use of such 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 applicable City Zoning Regulations.

Staff Analysis: The presence of properties of this limited size is not general, and requests to utilize such properties is not of a recurring nature, so staff does not believe an amendment to the zoning regulations to address irregularly shaped and undersized properties is appropriate.

Specific requirement: satisfied / not satisfied

DECISION

Motion to approve variance requests:

Move to approve the variance requests, as proposed and presented to the City of La Vista Board of Adjustment, finding that at least one hardship has been created by the strict application of the Zoning Ordinance and finding that each specific requirement has been satisfied, with approval of these variances contingent upon approval of a Future Land Use Map amendment, Zoning Map amendment, Zoning Ordinance text amendment, and Final Plat, as outlined in this staff report.

Seconded: _____

Vote: Ayes____ Nays____

Motion to deny variance requests:

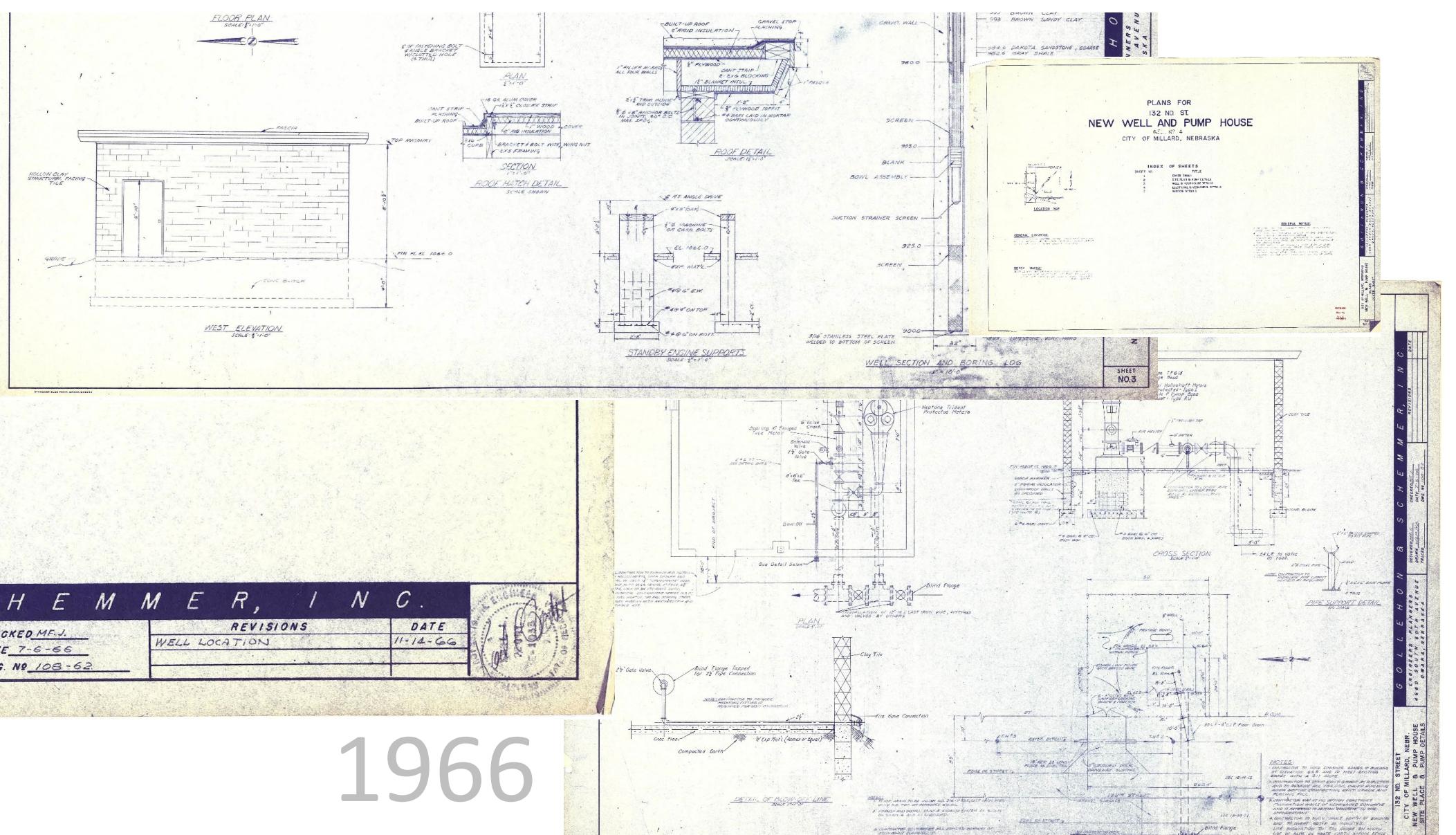
Move to deny the variance requests, as proposed and presented to the City of La Vista Board of Adjustment based on the following reasons for denial:

Seconded: _____

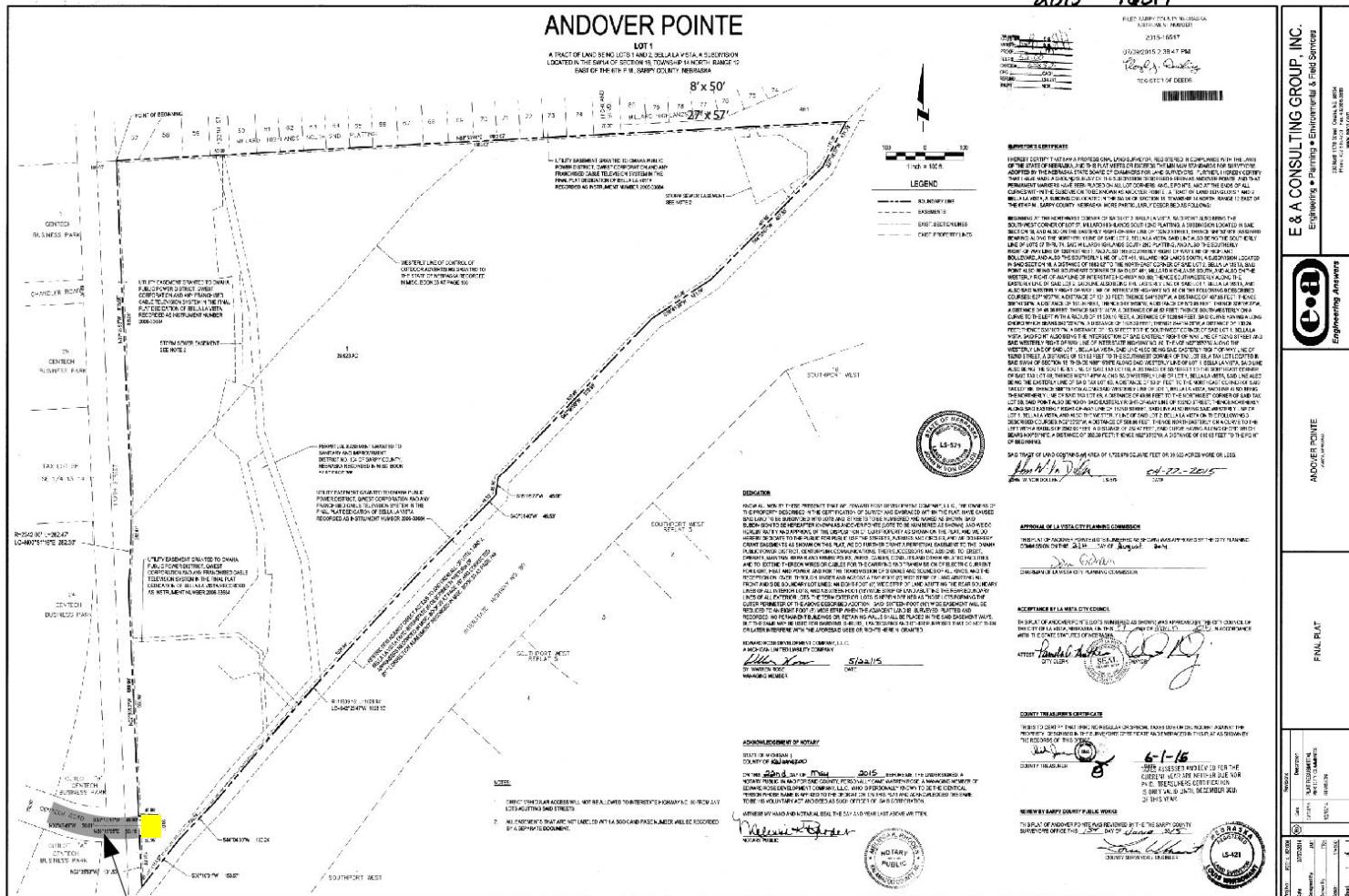
Vote: Ayes____ Nays____

Proposed Renovation/Addition

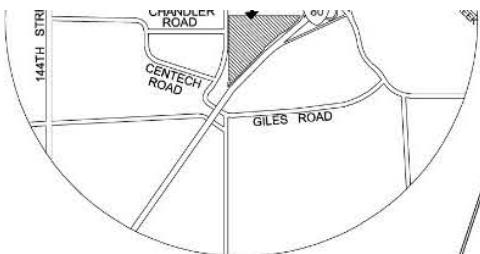
Well House



Context/Location



Area of easement



CENTECH ROAD

S 132nd Street

OUTLOT B

OUTLOT A

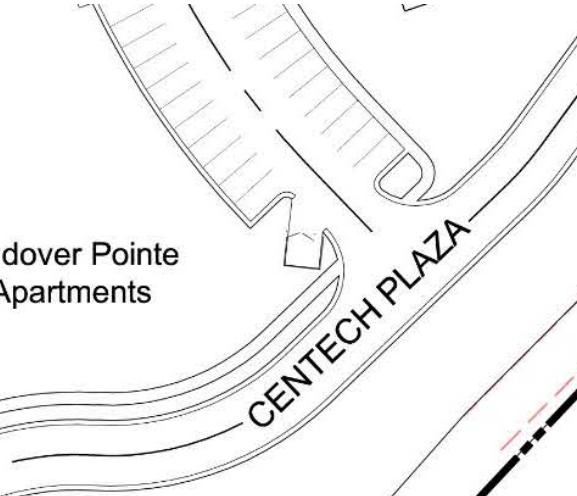
Access
Easement
Area

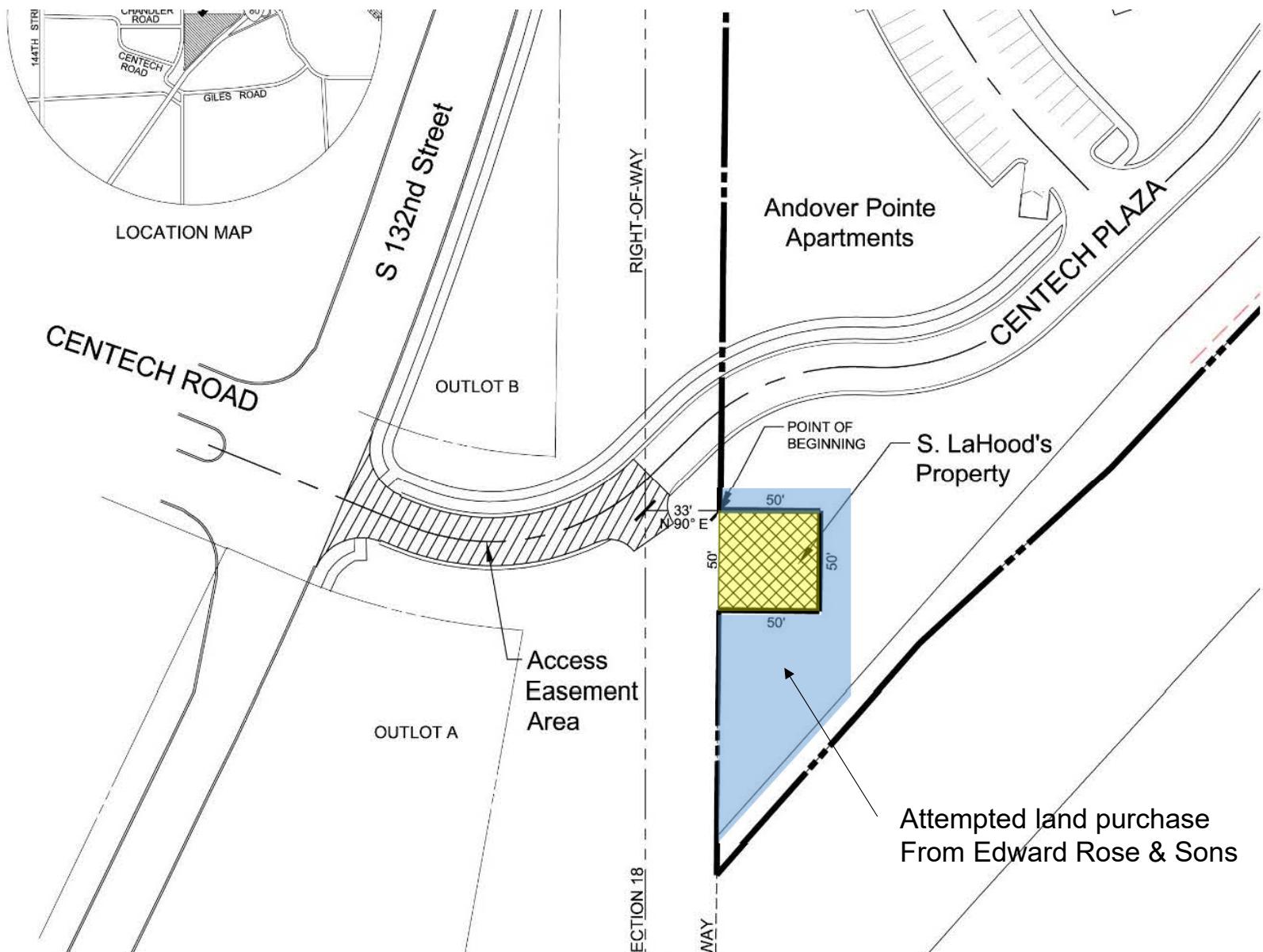
RIGHT-OF-WAY ECTION 18 NAY



Andover Pointe
Apartments

S. LaHood's
Property





Variances Requested

- Building setbacks - 35' (or 60') front yard setbacks and 30' side yard setback

- Lot width minimum - 100 ft.

- Lot area of 10,000 sq ft.

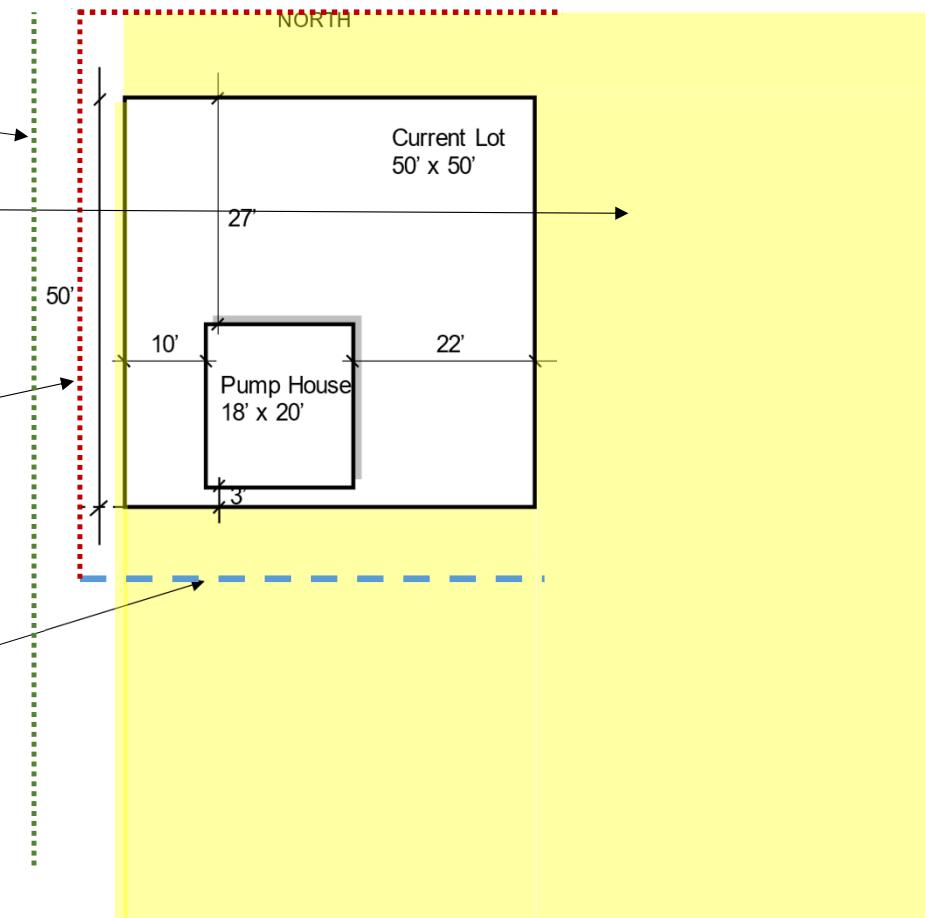
- Section 5.13.06.01. Parking no closer than (30) feet

- Section 7.17.03.02

Required landscaped area of 15' from the property line along all street frontages (variance necessary for west side and north side).

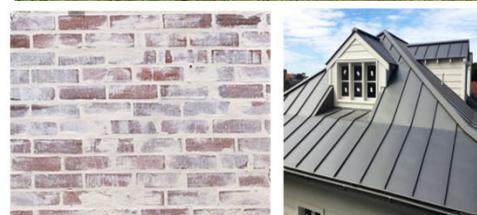
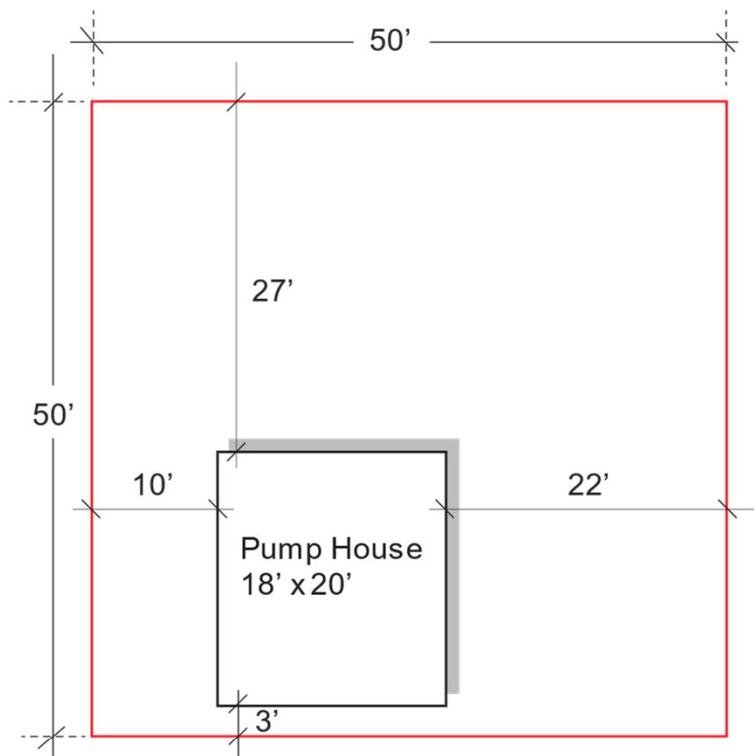
- Section 7.17.03.03

Required landscaping area of 10' from the property line along all side yards (variance necessary for the south side)

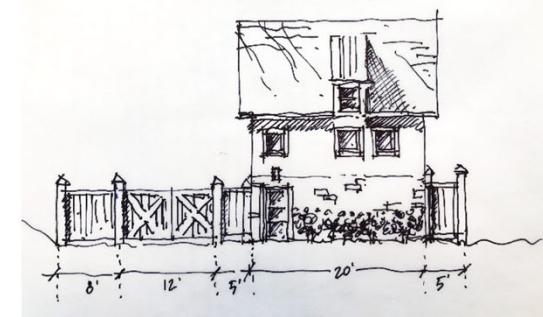


Existing Condition





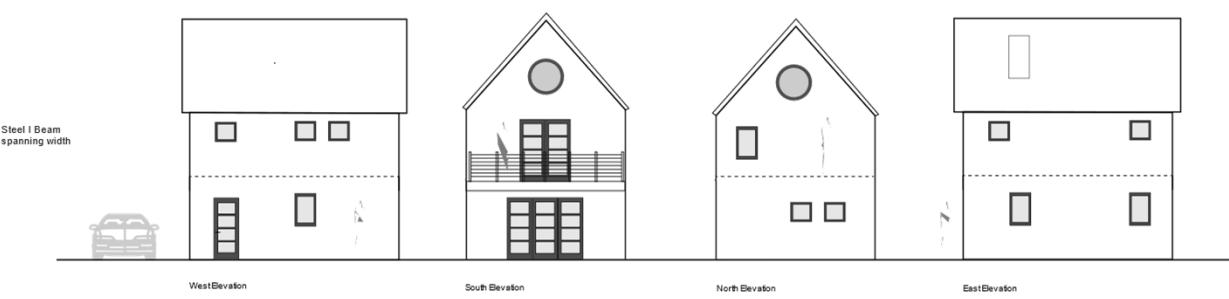
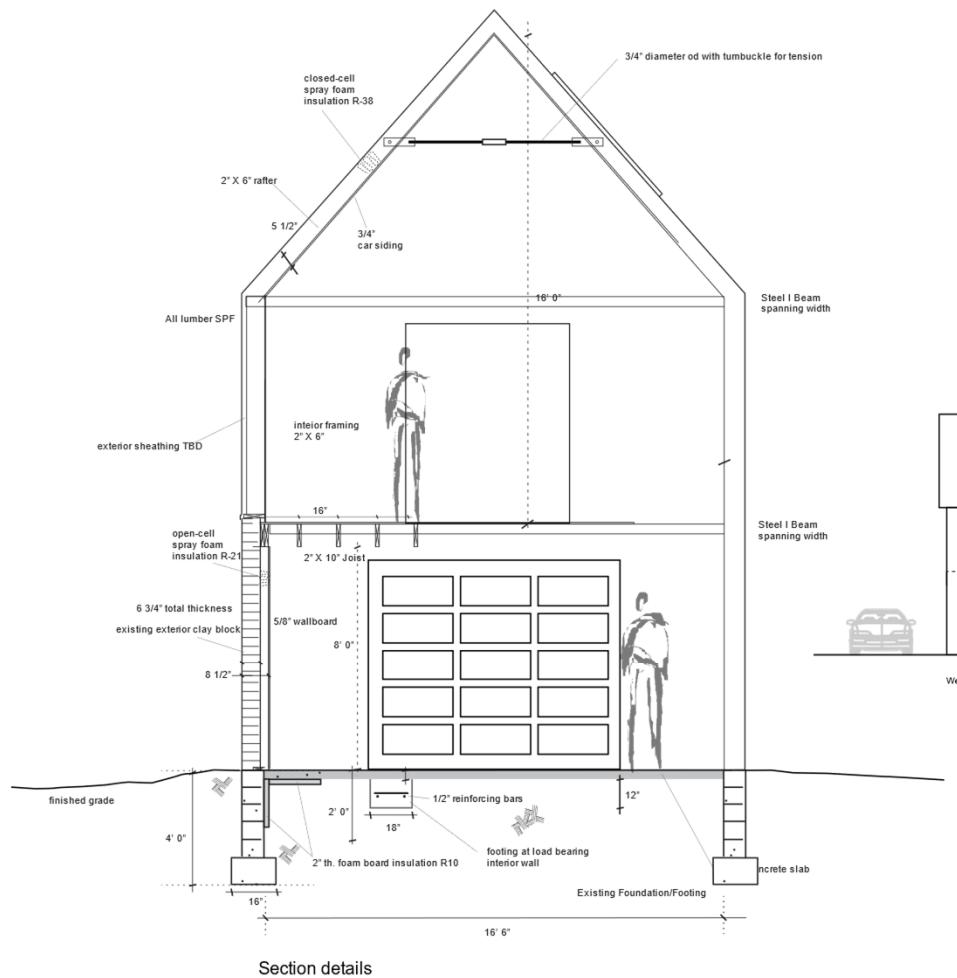
Concept materials/scale

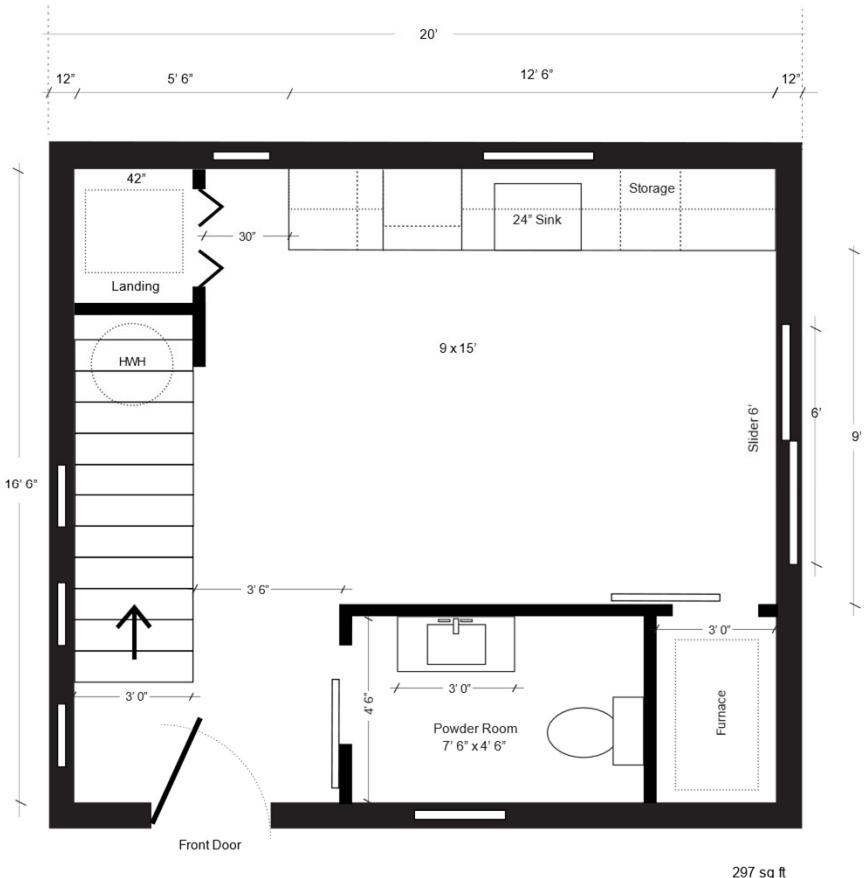




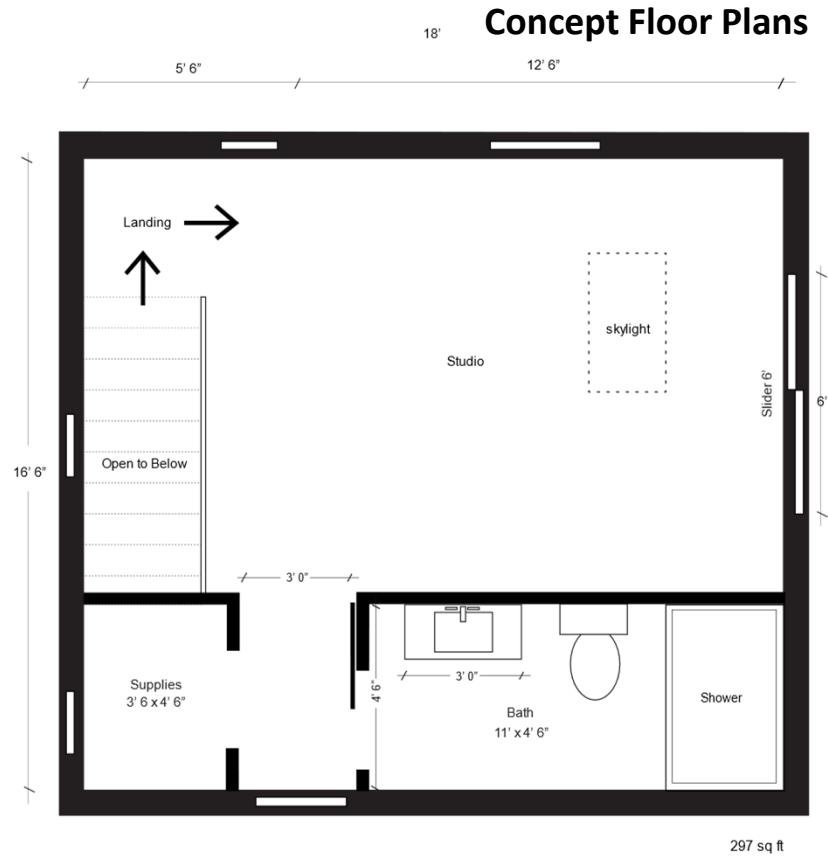


Concept Elevations/details





Ground



Level 2

Concept Floor Plans