TOWN OF WINTER PARK
BOARD OF ADJUSTMENT

Applicant:	Ben Lawton and Elena Coda
Location:	Lot 5, Block 1, Hideaway Pines Subdivision – 95 Pine Cone Lane
Zoning:	R-1

Owner's Detailed Description of Variance Request: "The variance is being requested to add a garage to the existing house."

Owner's Reasons Why the Variance Should Be Granted: Please review the attached application for reasoning.

Applicable Town Code:
Section 7-4A-3D – Minimum Yard Requirements:
D. Minimum Yard Requirements: Except as provided for in section 7-3-7 of this title, minimum yard requirements in an R-1 zone shall be:

1. There shall be a front yard setback of at least twenty-five feet (25') for any principal use and accessory structure.

2. **There shall be a rear yard setback of at least twenty feet (20') for any principal use and accessory structure.**

3. **There shall be a side yard setback of at least ten feet (10') for any principal use and accessory structure.**

4. The side yard on the street side of each corner lot shall not be less than fifteen feet (15'). (Ord. 317, Series of 2002)

Criteria to Grant Variance (Town Code sections 7-8):
7-8-1B: No variance shall be granted unless the board of adjustment finds, based on evidence, that:

1. The property in question cannot yield a reasonable return in use or service if permitted to be used only under the conditions allowed by the regulations for the municipality.
2. The plight of the owner is due to unusual circumstances.
3. The variation, if granted, will not alter the essential character of the locality.

7-8-1C: For the purpose of implementing the above rules, the Board shall also, in making its determination whether there are practical difficulties or particular hardships, take into consideration the extent to which the following facts favorable to the applicant have been established by the evidence:

1. The particular physical surroundings, shape or topographical condition of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.

2. The conditions upon which the petition for a variance is based would not be applicable, generally, to the other property within the same zoning classification.
3. The purpose of the variation is not based primarily upon a desire to make more money out of the property.
4. The alleged difficulty or hardship has not been created by any person presently having an interest in the property.
5. The granting of the variation would not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion in the public streets or increase the danger of fire or endanger the public safety or substantially diminish or impair property values within the neighborhood.

Public Notification:
This variance request has had proper public notification pursuant to Section 7-8-3 of the Town Code. A Public Notice was published in the Sky-Hi Daily News on May 19, 2016 providing notification of the meeting and requesting comments. Mailings were sent to property owners within 300 feet of the property on May 11, 2016 and the property was posted May 19, 2016. Two comments have been received from neighbors.

James Brosious – Mr. Brosious lives in close proximity to the property and after reviewing the submittal package, has no concerns with granting the variance request.

Linda & Gary Behlen – 105 Pine Cone Lane – The Behlen's are located directly north of the property. They are opposed to the variance for several reasons outlined in their letter. They are concerned with snow storage, drainage, overhangs and if that large of a garage is really required. They also layout other concerns and address why the variance should not be granted based on the Town Code criteria.

Staff Comments:
The applicant is requesting a variance to the rear yard setback and side yard setback for the construction of an attached one car garage. The proposed garage would be located on the north side of the house where an existing driveway and parking area is located. The garage would encroach 7' 10" into the required rear yard setback and 4' (3' foundation/1' eave) into the required side yard setback.

The applicant has provided three options for the garage and explained in detail why the location proposed in the variance is the best option (Option #1). The neighbor must directly affected by the variance has concerns with snow being pushed onto their property, drainage potentially going on their property and the precedent this variance could set for the neighborhood.

Staff Recommendation:
Staff does not provide a recommendation for variance requests. The Board of Adjustment must prove that a hardship is applicable and must establish findings of fact as related to the particular difficulties of the site. The hardship must be determined using one of the following criteria:

1. The property in question cannot yield a reasonable return in use or service if permitted to be used only under the conditions allowed by the regulations for the municipality.

2. The plight of the owner is due to unusual circumstances.

3. The variation, if granted, will not alter the essential character of the locality.

The applicant has provided reasoning why the variance should be granted. The topography of the site necessitates the need to locate the garage on the north side of the property. It should be noted that the property has created a reasonable return in use as a structure has been built on the lot and a garage could be located within the required setback although it may not be ideal for the applicant.

If a variance is granted, staff will also need to grant a variance to the driveway setback. The Standards and Specifications for Design and Construction require driveways be located seven feet from the side setback. The driveway would be located within six feet of the property line.

TOWN OF WINTER PARK
BOARD OF ADJUSTMENT
VARIANCE REQUEST APPLICATION

Applicant: Snow Mountain Builders, Inc.

Mailing Address: Po Box 3069
Winter Park, CO 80482

Email: SnowmtnBuilders@aol.com Phone: 303-587-1433

Street Address Of Property For Which The Variance Is Requested:
95 Pine Cone Lane

Legal Description Of Property: Lot 5, Hideaway Pines
Winter Park, Colorado

Property Owner: Ben Lawton and Elena Coda

Mailing Address: 1711 North Salisbury Street
West Lafayette, Indiana 47906-2303

Detailed Description Of Variance Requested:

See Attached

Reasons Why The Variance Should Be Granted:

See Attached

Board of Adjustment meetings are scheduled as needed at the Winter Park Town Hall. Proper notification of these proceedings will be completed by Town staff upon complete application submittal.

Snow Mountain Builders Inc.
Applicant Signature

Received By: LS Date 4/26/16

$250 Fee Received: # 2199 $250.00
Snow Mtn Builders, Inc.

Snow Mountain Builders

The Coda/Lawton Residence *Variance Request Narrative*

95 Pine Cone Lane (Lot 5, Hideaway Pines)
Winter Park, Colorado 80482

April 26, 2016

Item 1 – Detailed Description of Variance Request:

Ben and Elena would like to add an attached garage to their existing residence. Due to the uphill grade of their lot and the location of the existing house, there is limited space for this addition. They have reduced the size of their proposed garage to a one car garage to try to minimize the need for a variance. With no variance, a one car garage simply does not fit in the attached garage configuration.

We have looked at three options for the garage – their rough location is noted on the attached option plan. Option #1 is the single car attached option they would like. This option can utilize their existing main entry and allows for a flat driveway approach at the garage.

Option #2 would be for a detached two car garage in front of the existing house. This option would require regrading of the driveway for proper grade access to the garage and the cut required would result in the need to relocate exiting water and gas line service. As the floor level of the garage would be thirteen feet below the floor level of the house, this would also create the need for exterior steps to access the house main entry which is not desirable in winter months.

Option #3 would be to build a two car tandem garage extending towards the street from the proposed garage location. This option would also require the same 3' variance to create the space needed to work with the existing structure. This option would require remodeling the existing residence to move the entry to the front of the house, which would likely result in the loss of a bedroom. This option would also not allow for a flat approach to the garage door due to the steep grade on the existing driveway. The entry to the garage would be on a 10% grade.

Item 2 – Reasons Why the Variance Should be Granted:

Ben and Elena have reduced the footprint in option #1 as much as possible to create a one car garage that works with their existing residence and driveway conditions. There really is no other cost effective solution that works for their needs.

All views for the neighbors to each side are primarily to the east (towards the divide), which is away from the location that this garage would be placed. The height of the garage is much lower than the current residence, so it will not impede sunlight to any adjacent structures any more than the current house does. As there is only an open space and a street behind them, the garage does not affect any views for neighbors to the west.

P.O. Box 3069
Winter Park, Colorado 80482

Phone/Fax 970-887-9650
E-mail SnowMtnBuilders@aol.com

Since the variance is for three feet, this will still leave seven feet on the side of their garage to access the back of their house – there would be no need to cross property lines to access their lot from that side of the garage.

We have reviewed snow removal with their maintenance company and they will be able to clear the driveway with all snow piles staying on their property.

It is Ben and Elena's hope that this project would have a minimal impact to the neighborhood, but a large impact to the function of their house.

Respectfully submitted to our neighbors – Ben and Elena

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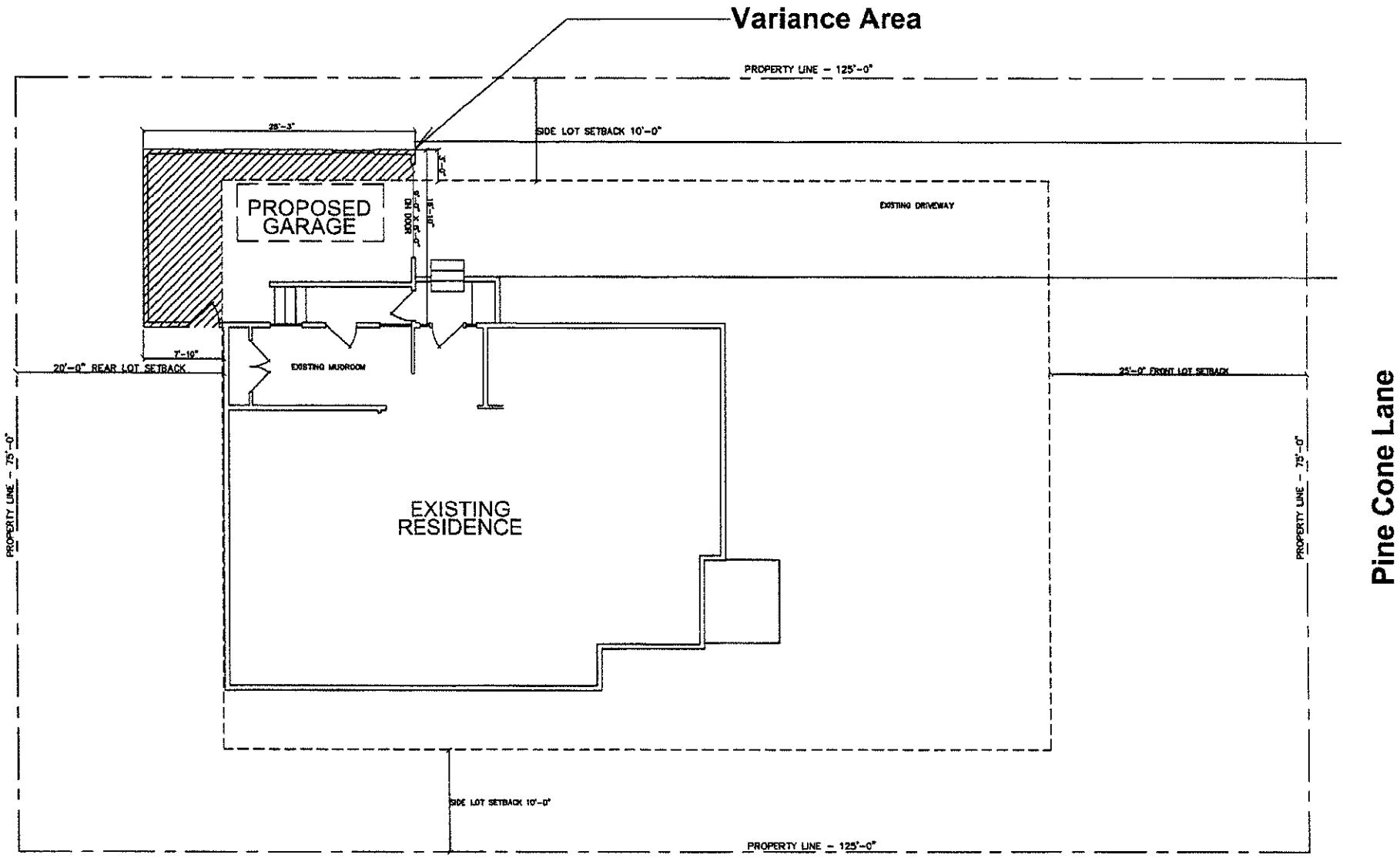
Winter Park, Colorado 80482

Phone/Fax 970-887-9650
E-mail SnowMtnBuilders@aol.com

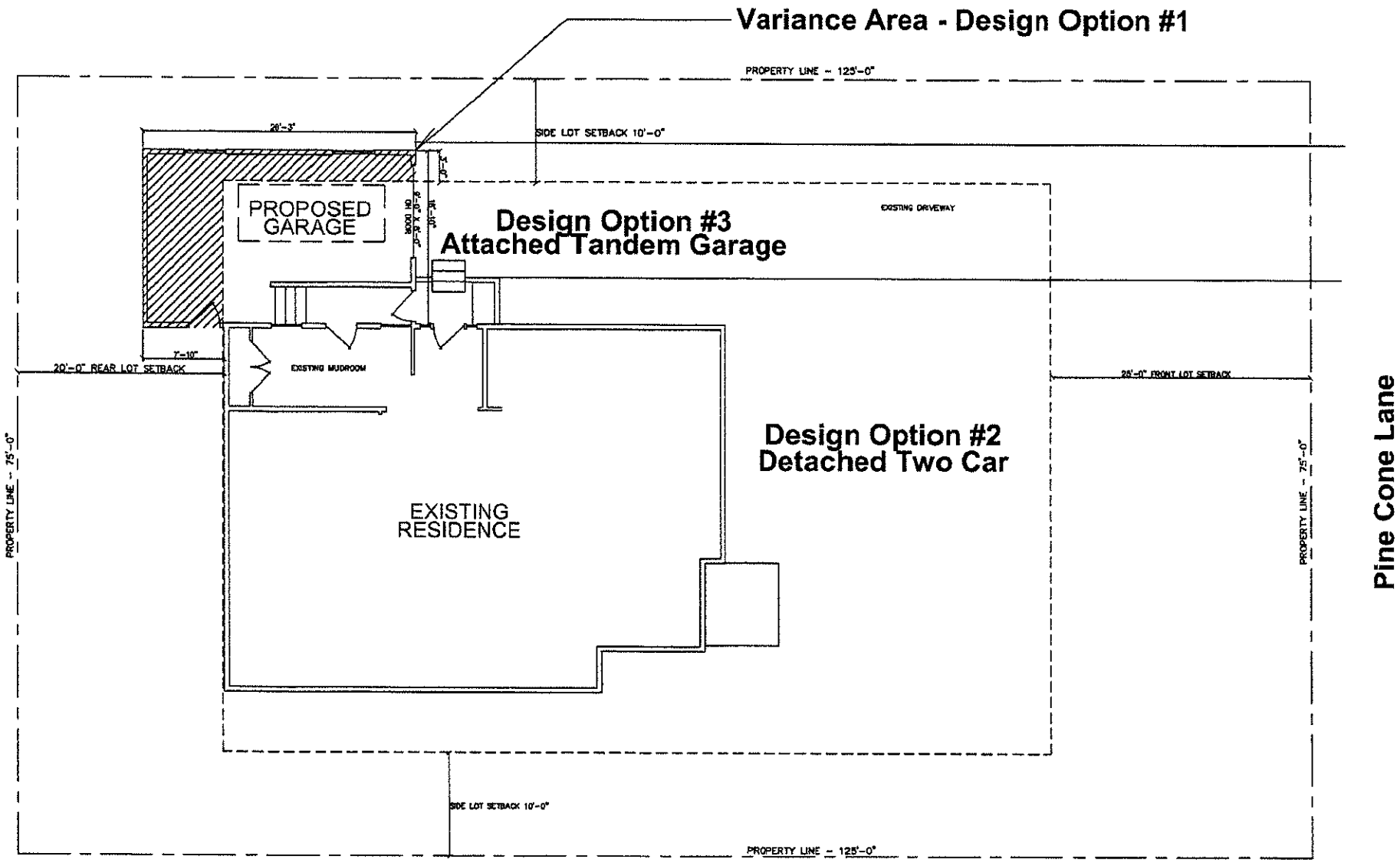


Coda/Lawton Addition
Proposed Garage Plan

1/4"=1'-0"

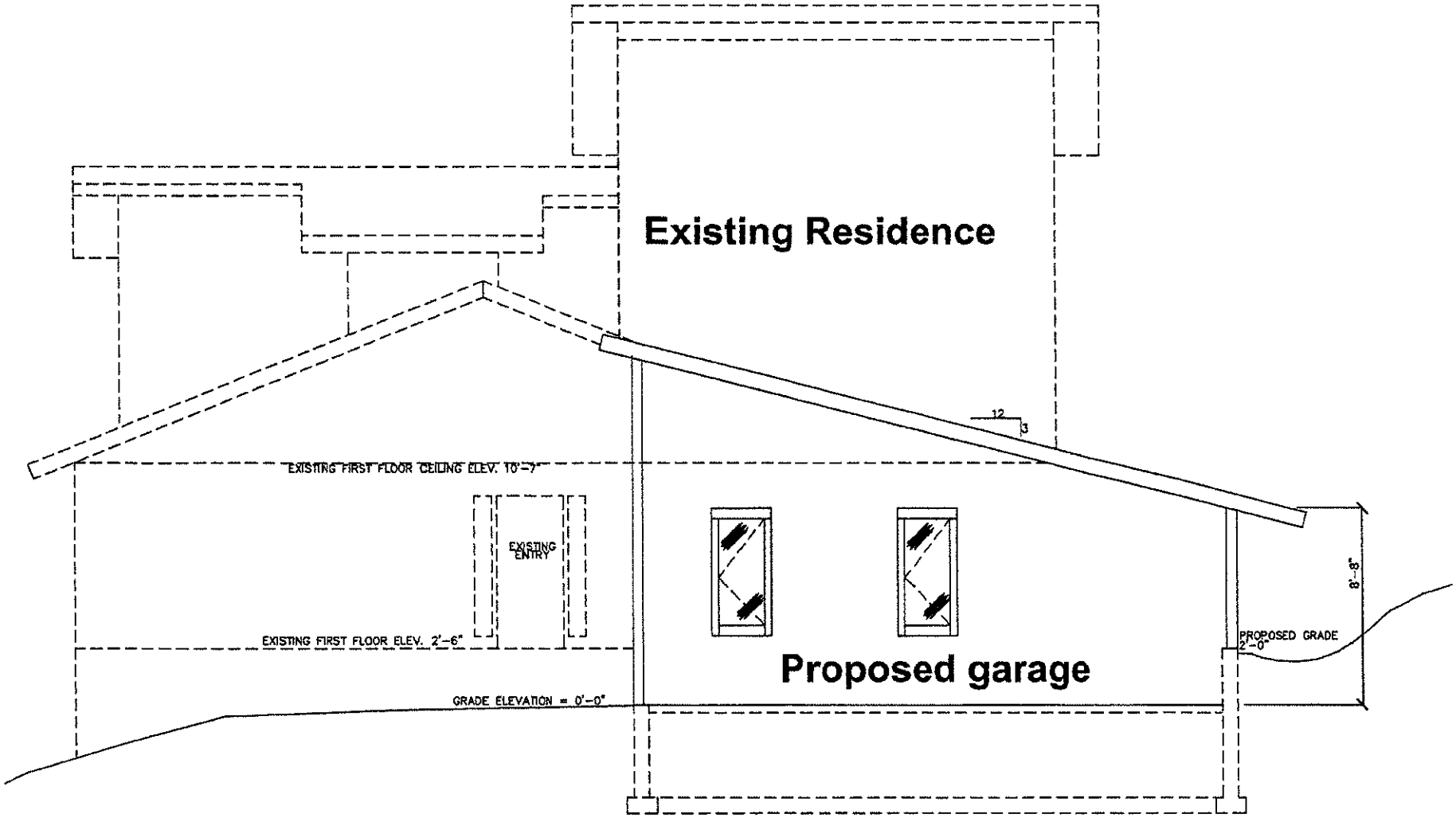
NORTH 0 2'-0" 4'-0" 8'-0"

Construction Variance Request
95 Pine Cone Lane
Lot 5 - Hideaway Pines
Winter Park, Colorado



Coda/Lawton Addition
Proposed Garage Plan

Construction Variance Request
95 Pine Cone Lane
Lot 5 - Hideaway Pines
Winter Park, Colorado



North Elevation
Schematic Level Design

From: Brosious
To: James Shockey; snowmtnbuilders@aol.com; seedog1080@msn.com
Subject: Coda / Lawton Residence Request for Variance
Date: Friday, May 20, 2016 12:10:53 PM

To whom it may concern,
I am in receipt of the package: Public Notice, Town of Winter Park, Board of Adjustment, Setback Variance Request; pertaining to Lot 5 Block 1 Hideaway Pines Subdivision, AKA 95 Pine Cone Lane. My residence is located at 875 Elk Trail, Elk Run subdivision, in close proximity to the subject property. I have reviewed the package and see no reason why the setback should not be granted. Please feel free to contact me if you need any additional information.

Sincerely,
James C Brosious Jr
11509 W Park Range Rd
Littleton, CO 80127

303-979-8336

Linda & Gary Behlen
105 Pine Cone Lane
Winter Park, CO 80482
May 30, 2016

Board of Adjustment
c/o James Shockey
Town Planner
PO Box 3327
Winter Park, CO 80482

Dear Chair and Board,

We are writing to make comments regarding the variance request made by Ben Lawton & Elena Coda for their home: Lot 5, Block 1 Hideaway Pines Subdivision also known as 95 Pine Cone Lane. The applicants are requesting to build a garage and would like to extend 3 feet into the required 10 foot side yard setback. Our property, 105 Pine Cone Lane is immediately adjacent to the property to the north.

We have the following specific concerns:

1. Certainly, it would be our desire for Ben and Elena to have their garage while keeping within the Winter Park zoning and planning setback rules.
2. Snow storage & Fill – The previous owner of 95 Pine Cone Lane brought in fill to level the driveway (obviously without obtaining a permit) which encroaches approximately 8 feet onto our property. (figures 1 and 2) If a driveway permit had been obtained for this previous improvement, all of this fill, including large rocks to shore up the grade, would be within the property boundary of 95 Pine Cone Lane and the area that Ben and Elena now view as available for their garage would be substantially reduced. In other words, their ability to build on this area is due to a previous encroachment on 105 Pine Cone Lane. Also, this area and the slope to the north has been used for snow storage in the past. Going forward all snow storage needs to be accommodated on the Lawton-Coda property as we have noted some new saplings growing in this area.
3. Drainage – The design blocks drainage down the drive and toward the street and potentially reroutes historic flow into our property requiring some type of diversion structure
4. Foundations & Overhangs – The submitted plan does not show any overhangs. Conversations with the builder, Dave Dresden, indicated the design calls for 18" overhangs. The total request is therefore 3 feet for the foundation and an additional 1.5 feet for the overhang. This would bring the total encroachment into the set back to 4 feet 6 inches, reducing the required side setback by almost 50%. Does the Board wish to set that precedent?
5. We wonder if a 9 foot garage door is really necessary and if an 8 foot door would be a hardship. A smaller door would allow the requested adjustment to be reduced by 1 foot. The property also has a retaining wall which runs parallel to the structure and is approximately 5 feet from the foundation. The front steps could be rerouted along the side of the house toward the front with the retaining wall reconfigured closer to the house. This could further reduce the size of the adjustment. It would

then be possible to have a 1.5 foot adjustment for the foundation and a 1.5 foot adjustment for the overhang. The overhang would be within the 3 feet which is allowed by right.

6. It was mentioned that a garage in front would be 16 feet below the first floor. This would allow for a spectacular deck on top of the garage with southern exposure in the winter months.

We would also like to address certain aspects of Variance Procedures as laid out in Chapter 8 of the Winter Park Municipal Code: Variance Procedures

A. 4. **Specific conditions regarding the property**. – Response: The property has a normal rectangular shape is similar in size to other lots in the subdivision. It does not have unusual narrowness. It is up to the Board to determine if it has *unusual* topographic conditions or *unusual* practical difficulties which would place undue hardship upon the owner. Is the relocation of gas and utility lines, which may be necessary for a garage in the front, an *unusual* practical difficulty, or place an *undue* hardship upon the owner, or is it just part of normal practices that folks do to build in Winter Park?

B. 1. **The property cannot yield a reasonable return in use or service**. – Response: The property can still serve as a single family home without a garage or with a garage regardless of its location.

2. **The plight of the owner is due to *unusual* circumstances** – This is up to the Board to decide.

C. Conditions required for making a determination

1. **The surroundings or shape result in a hardship rather than a mere inconvenience** Response: The lot is a standard rectangular subdivision lot. The applicant has rejected some solutions that the Board may consider mere inconveniences.

2. **The conditions would not be applicable to other property** - NA

3. **The purpose is not to make more money**. NA

4. **Hardship has not been created by any person presently having an interest**. NA

5. **Variation would not be detrimental to the public welfare.** NA

6. **The proposed variation will not … increase the danger of fire or endanger the public safety.** Response: NA

7. Temporary building - NA

8. Gravel pit - NA

9. Public utility – NA

Of course it is the responsibility of the BOA to review all aspects of the case at hand and to consider the present request in light of decisions made in the past. Ultimately the BOA must decide if the lack of a garage is a hardship. The Board must also determine if there is no other reasonable way to reconcile the presumed a hardship without intrusion into the setback and must also determine if the presumed hardship justifies an encroachment of (at the very least) 30% of the required 10 feet.

Sincerely,
Gary & Linda Behlen

Figure 1 - Improvement Location Certificate for 105 Pine Cone Lane. The red elipse indicates approximate location of snow storage from 95 Pine Cone Lane

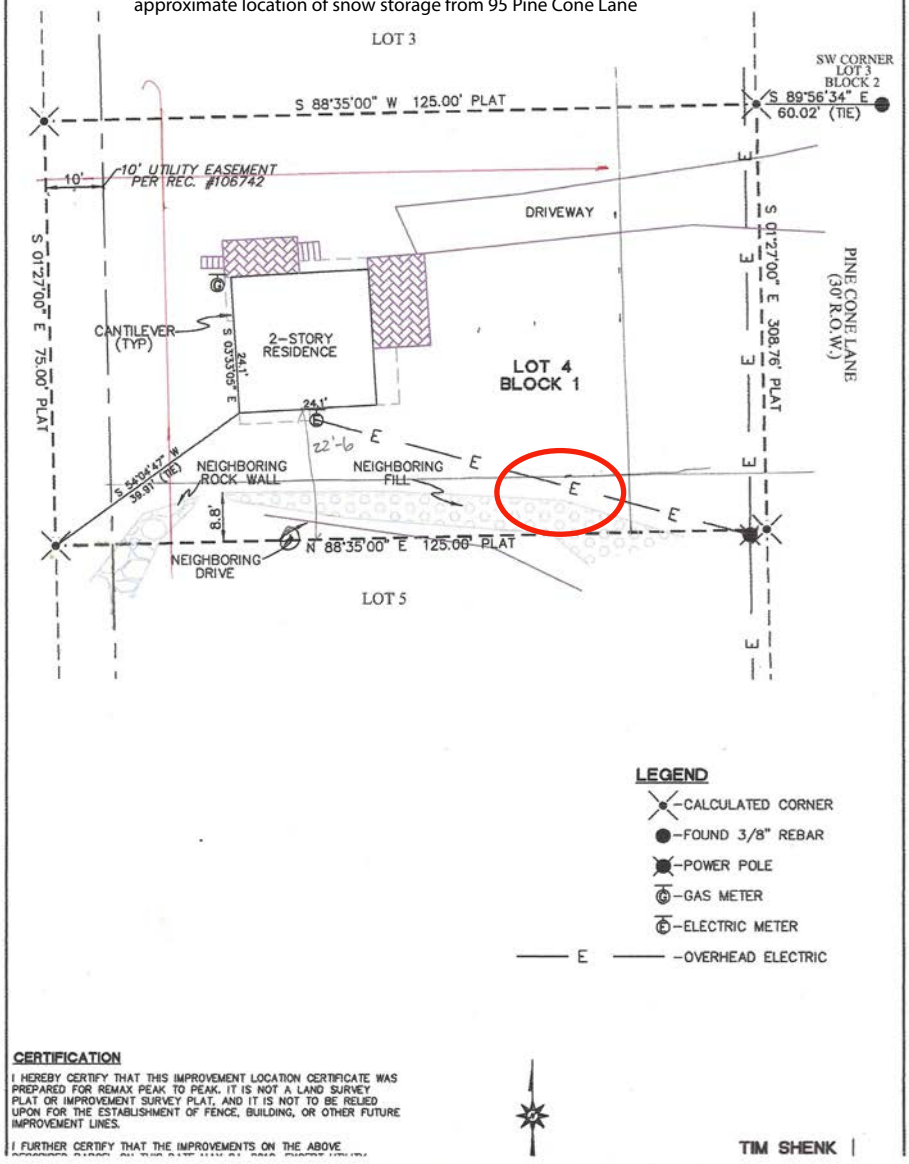


Figure 2. Property Line (telephone pole) with neighboring fill looking to the east. Subject property (95 Pine Cone) is to the right and 105 Pine Cone is to the left.

Figure 3a. 95 Pine Cone from front property line. Drive way and Retaining Wall

Figure 3b. 95 Pine Cone from side property line. Driveway and retaining wall.