CITY OF HOLLADAY
ADMINISTRATIVE APPEALS HEARING
MEETING AGENDA
Monday, February 28, 2024. @ 9:30 AM
Mount Olympus Room, 4580 S. 2300 E.

AGENDA ITEM(S)

1. **Waldo Side Setback Variance** – 2019 E WALDO DR, HOLLADAY, UT 84117
   (SLC Assessor Parcel No. 22033060110000; the property is in an R-1-10 [*Single Family Residential*] Zone

   The appellant is requesting to be granted a relief from the prescribed 21.45 ft side yard setback, proposing to maintain an 11 ft side yard setback as originally existing on the property [City Code Title §13.14.056]. *(City Case # 25-5-01; Blake Berrett as property owner)*

2. Adjourn

CERTIFICATE OF POSTING

I, Stephanie N. Carlson, the City Recorder of the City of Holladay, certify that the above agenda notice was posted on the City of Holladay bulletin board, the City website www.cityofholladay.com, the Utah Public Notice website www.utah.gov/pmn, and was emailed to the Salt Lake Tribune and Desert News and others who have indicated interest.

DATE POSTED: 13, February, 2024 at 4:30 pm

Stephanie N. Carlson MMC, City Recorder
City of Holladay

Reasonable accommodations for individuals with disabilities or those in need of language interpretation service can be provided upon request. For assistance, please call the City Recorder's office at 272-9450 at least three days in advance. TTY/TDD number is (801)270-2425 or call Relay Utah at # 7-1-1

City of Holladay

COMMUNITY ECONOMIC DEVELOPMENT DEPARTMENT
4580 S 2300 E, Holladay, Utah 84117
Phone: 801-527-3890

GENERAL APPEAL APPLICATION

Name of Project: 2019 Waldo Dr

Address of Project: 2019 E Waldo Dr Holladay, Utah 84117

TYPE OF APPEAL

APPEAL AUTHORITY: ADMINISTRATIVE APPEALS OFFICER (ORD. 13.09)	*APPEAL AUTHORITY: CITY COUNCIL (ORD. 13.07)*
✓ VARIANCE* – WAIVER/MODIFICATION to ZONE ORDINANCE	☐ PLANNING COMMISSION ACTION – 10 days from date decision
☐ ADMINISTRATIVE DECISION – 10 days from date decision	

*Please review the FAQs on Variances at Utah Property Rights

Appellant Name: (Please Print) ***ATTACH PROPERTY OWNER AFFIDAVIT*** Blake Berrett

Appellant's Agent: (Please Print)

Appellant's Mailing: Address: Po box 17495 **City:** Holladay **State:** Utah **Zip:** 8411

Appellant's Phone: 8012748640 ( )

Appellant's Email Address: blakebe2003@gmail.com

Main Contact Person (Please Print):
Name: Blake Berrett **Phone:** 8012748640 **email:** blakebe2003@gmail.com

Brief description of decision being appealed: *(attach written, detailed ground for the appeal to this application)*

Keep existing sideyard setbacks of 11' for new home or renovation project

Keep existing sideyard setbacks of 11' for new home or renovation project

FILING FEES: (ORD 3.35)

☐ VARIANCE - RESIDENTIAL	$500.00	☐ APPEAL TO CITY COUNCIL	$150.00
☐ VARIANCE - COMMERCIAL	$750.00		
☐ APPEAL of ADMINISTRATIVE DECISION	$500.00		

FINAL TOTAL DUE: ☐

OFFICE USE ONLY

FILE NUMBER _____
PARCEL NUMBER _____
GENERAL PLAN: _____
ZONE: _____
PC ACTION: _____ DATE:
CC ACTION: _____ DATE:
FILE DATE: _____

NEXT STEPS FOR APPLICANTS:

1. To be considered COMPLETE, this form must be accompanied by all applicable "project tracking" checklist(s)/submittals or it will not be accepted.
2. Complete applications must be submitted 3 weeks prior to the desired Planning Commission date
3. Applications are reviewed every Tuesday by the Holladay TRC. You will be notified of any deficiencies, decisions and/or meetings dates at that time
4. Planning Commission convenes each month on the 1st and 3rd Tuesday. City Council convenes the 1st and 3rd Thursday of each month
5. Your Attendance at the Planning Commission and/or City Council meetings is required by the applicant or a representative of the applicant.

STAFF ACKNOWLEDMENT OF COMPLETE APPLICTION: _____ **DATE:** _____

City of Holladay
AFFIDAVIT OF PROPERTY OWNERSHIP
for property located at

Address: 2019 E Waldo Dr. Holladay Utah 84117

Subdivision: Holladay Estates Plat: _____ Lot: 17

PROPERTY OWNER

I (we), Blake Berrett and Erin Berrett being duly sworn, depose and say that I (we) am (are) the owner(s) of the property identified in the attached application and that the statement herein contained and the information provided in the attached plans and other exhibits are in all respects true and correct to the best of my (our) knowledge.

Property Owner

Property Owner

CHRISTINA GALLEGOS
Notary Public - State of Utah
Comm. No. 720685
My Commission Expires on
Sep 30, 2025

ACKNOWLEDGMENT

State of Utah)
) ss.
County of Salt Lake)

The foregoing affidavit was acknowledged before me this 29th day of January, 2025, who duly acknowledged to me that he did execute the same.

My commission expires: 9/30/2025

Notary Public

AGENT AUTHORIZATION

I (We), _____, the owner(s) of the real property described above, do authorize as my agent(s) _____ to represent me (us) regarding the attached application and to appear on my (our) behalf before any administrative or legislative body in the City of Holladay considering this application and to act in all respects as our agent in matters pertaining to the attached application.

ACKNOWLEDGMENT

State of Utah)
) ss.
County of _____)

The foregoing affidavit was acknowledged before me this _____ day of _____, 20___, who duly acknowledged to me that he did execute the same.

My commission expires: _____

Notary Public

VARIANCE REQUEST FOR 2019 E WALDO DR

Zoning: R-1-10

Subject lot size: .65 (28,314 sq ft)

Items listed below as per Holladay's required documents for submittal:

a) **Type of variance requested:**

1. We are requesting a variance to keep our existing Side Setbacks of 11' on each side of the home and allow us to perform a major home renovation either using the existing foundation or new construction within those 11' side setbacks.

b) **Sections of code requesting a variance on:**

1. 13.04.040: LOT WIDTH: *The diameter of the largest circle that can be inscribed entirely within a lot. The lot width circle shall not include streams/floodplains, wetlands, areas of thirty percent (30%) slope or greater or other natural hazard areas, or a "significant tree" as defined in this title*

2. 13.14.056: SIDE SETBACKS: *A. The combined setbacks for any main structure on a lot in any R-1 zone shall be a minimum of twenty five percent (25%) of the "lot width" (see chapter 13.04, "Definitions", of this title) with no one side setback less than ten percent (10%) of the lot width. B. The combined setback for any main structure on a lot measuring twice or more the minimum lot size required by the zone in which it is located shall be a minimum thirty percent (30%) of the "lot width" (see chapter 13.04, "Definitions", of this title) with no one side setback less than fifteen percent (15%) of the lot width. (Ord. 2018-05, 5-17-2018)*

c) **Why the variance is requested and purpose:**

1. Granting a variance to maintain our current 11-foot side setbacks is crucial for us to move forward with any significant project to our home. This variance would allow us to either renovate our home utilizing the existing foundation or construct a new home within the same established setbacks of 11' on each side. Maintaining these setbacks is essential for preserving the visual harmony of our property with the surrounding neighborhood. The current Holladay City code mandates increased side setbacks for any projects removing 50% or more of an existing structure. This requirement would necessitate a significant reduction in our home's width, resulting in a disproportionate and visually unappealing structure that clashes with the architectural character of the street and the overall neighborhood. Without this variance, we would be compelled to abandon our project entirely, as compliance with the current code would render the project infeasible.

2. These mandated setbacks are both undesirable and impractical for our property due to its unique configuration: a larger, highly irregular 'pie-shaped' lot. It is evident that the current code was not designed or intended to accommodate the specific challenges and limitations presented by such lot configurations.

3. The granted variance will enable us to develop realistic floor plans that effectively utilize the existing side setbacks. The current home's width already presents design challenges. Further reducing the width would not only result in an aesthetically unappealing structure but could also necessitate the loss of a bedroom or significant square footage, which is crucial for our needs. Moreover, the majority of homes in the vicinity exhibit very similar front and side setbacks. Any substantial alteration to these setbacks would create a visually discordant structure that would appear out of place within the established architectural character of the neighborhood.

4. The Holladay City Development Code currently determines side setbacks based on the 'largest diameter circle that can be drawn within a lot.' This methodology fails to adequately address the unique characteristics of larger, highly irregular lots, such as ours. Our property exhibits a distinctive 'pie-shaped' configuration, with the majority of its width concentrated towards the rear of the lot. This contrasts significantly with the more common rectangular lot shapes you might see in most neighborhoods. To illustrate this point: if our lot were a traditional rectangle with the same overall square footage but simply maintaining the street frontage we have now

of approximately 74 feet going straight back (vs a pie shape), we could readily accommodate our existing foundation or construct a new home within our current 11-foot side setbacks without the need for a variance.

d) Describe following points:

1. Hardship(s) that will be incurred if a variance is not granted:

a. Adherence to Holladay's current side setback restrictions for a major renovation or new construction would necessitate a significant reduction in the home's overall width. This reduction could range from approximately 10 feet to as much as 22 feet, depending on the placement of the 'largest circle' within the lot as determined by the City of Holladay's building department. Even a minimal reduction in width would look out of place but a 10' reduction in width would result in a structure that appears visually discordant and inconsistent with the architectural character of our street and the surrounding neighborhood. A 22-foot reduction would be both impractical and aesthetically unacceptable, rendering the project infeasible.

b. The inability to obtain a variance for our existing 11-foot side setbacks would likely preclude us from pursuing a major renovation or new construction. A significant reduction in the home's size would severely hinder the development of a functional floor plan and would create a visually discordant structure that clashes with the established character of our neighborhood. Without the variance, we would be limited to minor cosmetic improvements or no improvements at all. These limited options are not viable long-term solutions. The current structure requires extensive updates, including energy-efficient upgrades and a complete redesign to meet modern construction standards and our needs. The home, originally built in 1957, has undergone almost no updates over the years and is in dire need of a comprehensive overhaul.

c. Without the variance, we would be restricted to cosmetic improvements or no improvements at all. This would prevent us from upgrading the home to comply with current building codes, including seismic requirements, which poses a significant long-term safety concern for us.

2.How this property is different from other properties within the vicinity:

a. Our lot is a large, 'pie-shaped' lot with an irregular configuration, unlike the more common rectangular lots. The majority of our lot's width is located towards the rear. It appears that the 'largest circle' method for determining setbacks was not intended to be applied to lots with such unique characteristics and may not accurately reflect the intent of the code.

3. Benefit other properties enjoy that our property will not without a variance:

a. Unlike many other lots in the neighborhood, which are more rectangular and closer to the minimum lot size, our irregularly shaped lot is disproportionately impacted by the current side setback requirements.

4. Why variance will not deviate from the general purposes of the City of Holladay code:

a. A couple items that help support our variance request are actually specifically noted in part of the holladay code under Section of 13.14.010: PURPOSE OF PROVISIONS:

"The majority of land use in the City of Holladay is low density, single-family, detached dwellings. Most of these dwellings are located in areas zoned R-1. The purpose of the R-1 zones is to establish and maintain low density residential neighborhoods that provide persons who reside therein a comfortable, healthy, safe and pleasant environment. Furthermore, the rules below should support the goals of the general plan such as the preservation of housing by allowing for reasonable expansion within limits and for responsible growth. Also, it is the intent of the rules to ensure that development within these zones is harmonious and compatible with the character of existing development patterns in the immediate vicinity including building mass, setback, lot coverage, height, etc. Specific techniques, among others, that shall be applied in approval of all development are:"

A. *Graduated height/building envelope rules.*

B. *Maximum building footprint coverage percentages.*

C. *Maximum height allowances.*

D. *Averaging of building setbacks. (Ord. 2012-15, 9-20-2012; amd. Ord. 2021-24, 9-9-2021)*

b. Our current front yard area, front and side setbacks of the home, and the overall view from the street are in harmony with the surrounding properties. Maintaining these

setbacks appears to be consistent with the likely intent of the Holladay City Development Code, which aims to preserve the established character of existing neighborhoods.

c. Getting our variance granted would help support some of Holladays intentions as noted in this section above.

d. Item D listed above, 'Averaging of building setbacks,' currently appears to only apply to front setbacks. To preserve the established character of the immediate vicinity, consideration should be given to extending this provision to side yard setbacks, especially in cases like ours where the 'largest circle' method is deemed inappropriate. Utilizing some form of 'averaging' could be particularly beneficial in these situations.

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5.How variance conforms to overall intent of the zoning laws and why it is fair to granted:

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a. Regarding conformance with the intent of the zoning, I refer to the statements previously made in item 4, which are directly supported by the Holladay City Code.

b. A variance was granted for the same (or very similar) circumstances about a block away on Cresthill Cir about a year ago and they kept the foundation and built new home on the existing footprint (very similar lot size & side setbacks, lot is on an inward curved street so it creates same wide 'pie shape' lot, etc). We fell our scenario is very similar if not identical.

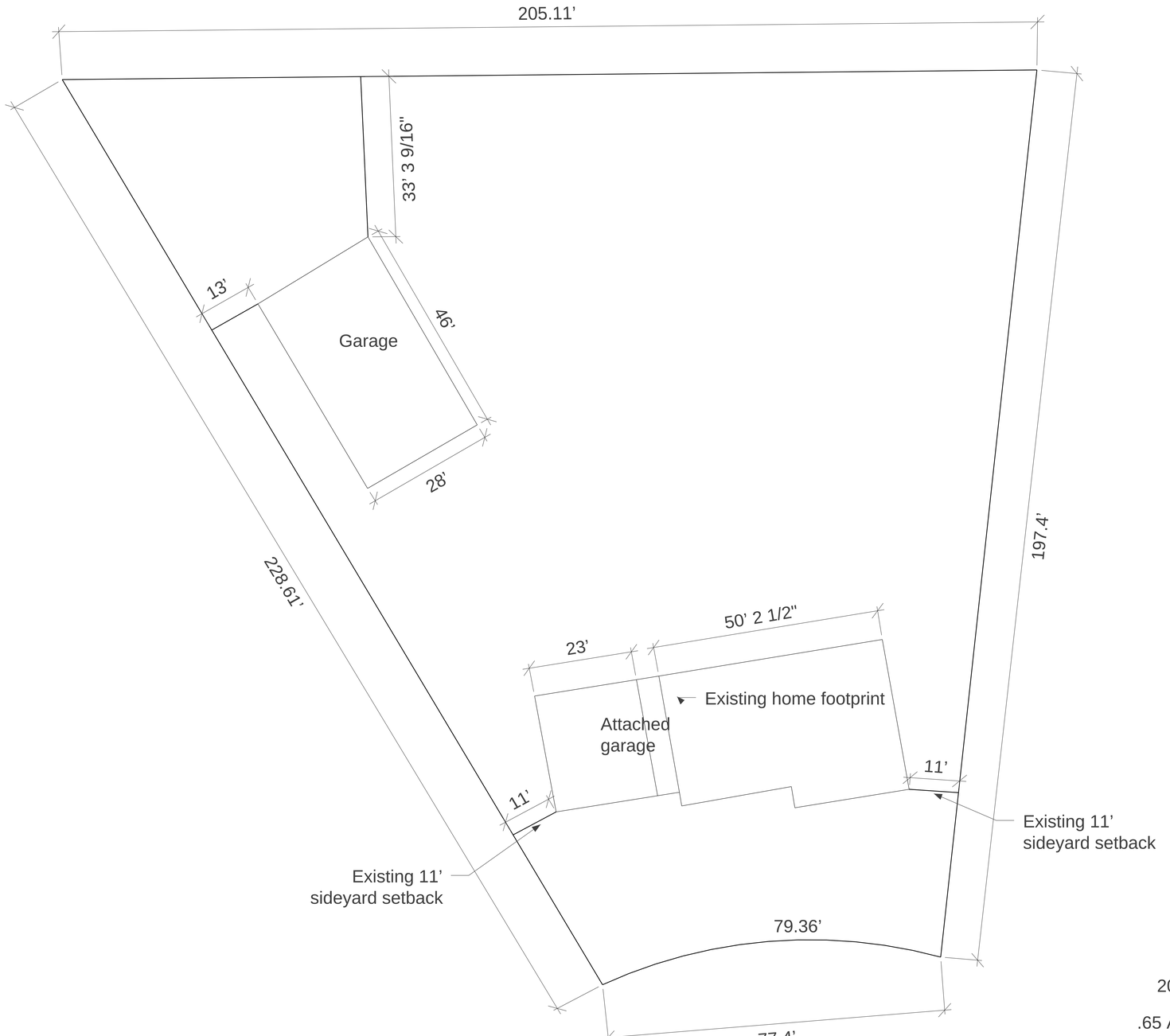
c. We believe granting this side setback variance is the most appropriate course of action. Without it, we would be limited to either constructing a significantly narrower home or setting the home excessively far back from the property line, both of which would disrupt the established neighborhood character and neither are a desired nor feasible solution. Furthermore, undertaking minimal cosmetic upgrades would be insufficient to address the home's critical needs, including outdated systems, energy inefficiency, seismic vulnerabilities, and an inadequate floor plan.

Thanks for your consideration,

Blake and Erin Berrett

NO-O

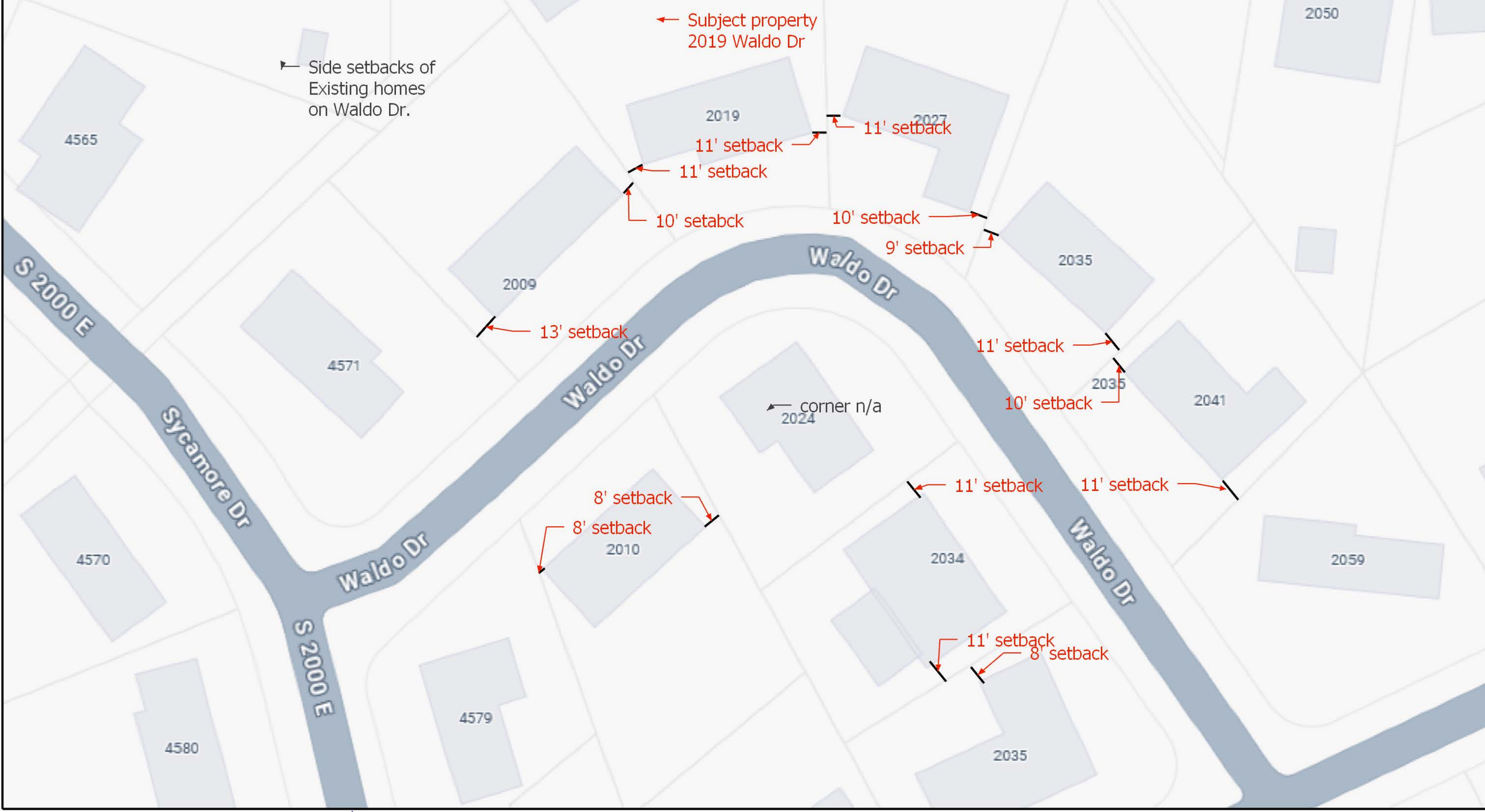
2034



SITE PLAN

2019 E Waldo Dr.

.65 Acres= 28,314 sq ft


Subject property
2019 Waldo Dr
Side setbacks of
Existing homes
on Waldo Dr.
2050
4565
2019
2027
11' setback
11' setback
11' setback
10' setabck
10' setback
9' setback
2035
2009
13' setback
11' setback
4571
2035
10' setback
2041
corner n/a
2024
S 2000 E
Sycamore Dr
Waldo Dr
Waldo Dr
Waldo Dr
Waldo Dr
11' setback
11' setback
8' setback
8' setback
2010
2034
2059
4570
S 2000 E
11' setback
8' setback
4579
4580
2035

CITY OF HOLLADAY

VARIANCE APPLICATION
REQUEST FOR APPEAL OFFICER ACTION

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especially in his circumstance. He also highlights that the size and shape of his property differs significantly from those of other properties in the neighborhood, thereby necessitating exaggerated setback requirements which would disproportionately alter the character of the neighborhood street face. Additionally, the applicant submits that complying with the current side setback code requirements would compel them to abandon their project entirely, as compliance would cripple the feasibility of the project. Additional information regarding the applicants' narrative, site plan, and proposed side yard setbacks is attached herewith.

HOLLADAY CITY CODE

Per City Ordinance §13.14.050: SETBACKS:

1. A. Purpose: The spacing of buildings and structures away from property lines, rights-of-way, physical hazards and natural features such as streams and other buildings, are essential elements of land use planning and of urban design. In particular, setbacks may provide for privacy, light, shadow, air movement, passive and active space, vegetation and also contribute directly to physical and psychological wellbeing. Setbacks should vary proportionally depending upon the size and shape of the properties and also upon the type of the existing and proposed land use. In some instances setbacks should be uniform assuming there is a specific desired outcome for the setback, such as protection of views, public safety, economic development, etc. In other instances, variability and flexibility of setback may produce equally important outcomes such as the protection of natural features, aesthetically pleasing streetscapes, creativity in architectural design, and retention of fragile housing stock or other important goals. Due to the evolution of housing styles over the last few decades, the relative high value of land within the community, the desire for architectural creativity, and especially the dramatic increase in average house size, setbacks shall be applied within a flexible envelope.

   B. Implementation: Averaging of setbacks in all yard areas shall be allowed as shown below. Variations across the setback line may not exceed fifteen percent (15%) of the minimums required. Calculation of the average shall require at least ten (10) equally spaced measurements across any one "building line", as defined in section 13.04.040 of this title, and shown in figure 13.14.051 of this subsection.

Per City Ordinance §13.14.056: SIDE SETBACKS:

A. The combined setbacks for any main structure on a lot in any R-1 zone shall be a minimum of twenty five percent (25%) of the "lot width" (see chapter 13.04, "Definitions", of this title) with no one side setback less than ten percent (10%) of the lot width.

B. The combined setback for any main structure on a lot measuring twice or more the minimum lot size required by the zone in which it is located shall be a minimum thirty percent (30%) of the "lot width" (see chapter 13.04, "Definitions", of this title) with no one side setback less than fifteen percent (15%) of the lot width. (Ord. 2018-05, 5-17-2018)

Definitions §13.04: LOT WIDTH

The diameter of the largest circle that can be inscribed entirely within a lot. The lot width circle shall not include streams/floodplains, wetlands, areas of thirty percent (30%) slope or greater or other natural hazard areas, or a "significant tree" as defined in this title.

APPROVAL STANDARDS

FIVE-PART TEST FOR VARIANCE:

The Hearing Officer may grant a variance only if:

1. **Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance.** In determining whether or not enforcement of the zoning ordinance would cause unreasonable hardship, the board of adjustment may not find an unreasonable hardship unless the alleged hardship: 1) is located on or associated with the property for which the variance is sought; and 2) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood. The hardship cannot be self-imposed or economic.
2. **There are special circumstances attached to the property that do not generally apply to other properties in the same zone.** The Hearing Officer may find that special circumstances exist only if the special circumstances: 1) relate to the hardship complained of; and 2) deprive the property of privileges granted to other properties in the same zone.
3. **Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.**
4. **The variance will not substantially affect the development code and will not be contrary to the public interest.**
5. **The spirit of the zoning ordinance is observed and substantial justice is done.**

STAFF FINDINGS (ANAYLSIS)

(*Staff does not vote on these matters and acts only in an advisory position on the technical aspects of the application*)

Generally, these findings and observations were made in relation to the variance request;

- Pursuant to Holladay City regulations on side setbacks as defined in section §13.14.056 of the City Code, the minimum side yard setback distance for any main structure on a lot in any R-1 zone shall be 25% of the lot width. In the applicant's case, their lot size *(28,314 sq. ft.)* is almost three-times (3x) the minimum lot size in that zone *(R-1-10)*. Therefore, Holladay's ordinance prescribes different application of side setback regulations for such lot, requiring wider setbacks. Specifically, §13.14.056(B) states "*The combined setback for any main structure on a lot measuring twice or more the minimum lot size required by the zone in which it is located shall be a minimum thirty percent (30%) of the "lot width" with no one side setback less than fifteen percent (15%)*".

  The Planning Department assesses the lot width for the subject property to be approximately 143 ft. *(See Figure 1 below)*. In this case, the required side setback would be a combined 42.9 ft (30%) with no one side less than 21.45 ft. (15%). This requirement would constitute a 10 ft. deviance in minimum side setback from the pre-existing conditions on the subject property. Decisions regarding the uniqueness of the applicant's property should be, in part, moderated by recognizing the considerable size and width of the subject properties in comparison with adjacent neighboring lots on Waldo Drive.

Figure 1: Applicant's Lot Width Assessment

- The requirements of the ordinance on setbacks as outlined in section §13.14.050 is intended to regulate spacing between buildings to uphold shared principles of privacy, light, shadow, and air movement. The applicant's request to maintain the existing foundation footprint does not appear to unreasonably conflict with the purpose of this ordinance provision – as the pre- existing structure appears to seamlessly align with the neighborhood street face. (*See Street view of subject project*). Compliance with the 21 ft side setback would dictate that the current building moves about 82 ft deeper into the lot – which would detract from the visual appeal and architectural alignment of homes on this corner of Waldo Street *(See figure 4)*.

Figure 2: Existing Streetscape Subject Property on Waldo Dr.

- The overarching purpose of the City ordinance on setbacks as pertaining to section §13.14.050 allows for the flexible application of setback standards based on contextual considerations. The Code section §13.14.050 (A) stipulates that "*Due to the evolution of housing styles over the last few decades, the relative high value of land within the community, the desire for architectural creativity, and especially the dramatic increase in average house size,* ***setbacks shall be applied within a flexible envelope.***" While the property is unique in terms of its size and shape, complying with the prescribed side setback may also impact their ability to meet other zoning regulations such as the maximum structural height and building corridor restrictions. A neighborhood assessment of the current side setbacks on Waldo Drive also shows that on average, all adjacent properties have side setbacks ranging from 8 ft to 13 ft *(See Figure 3 below and applicant's narrative)*. Requiring a 21 ft side setback from the applicant appears to be a disproportionate treatment and calls for the application of the envelope flexibilities as stated in the above portions of Holladay city code *(See Figure 4)*. Maintaining the existing side setbacks would ensure uniform setbacks for all properties located on Waldo Drive while preserving aesthetically pleasing streetscapes in the neighborhood.

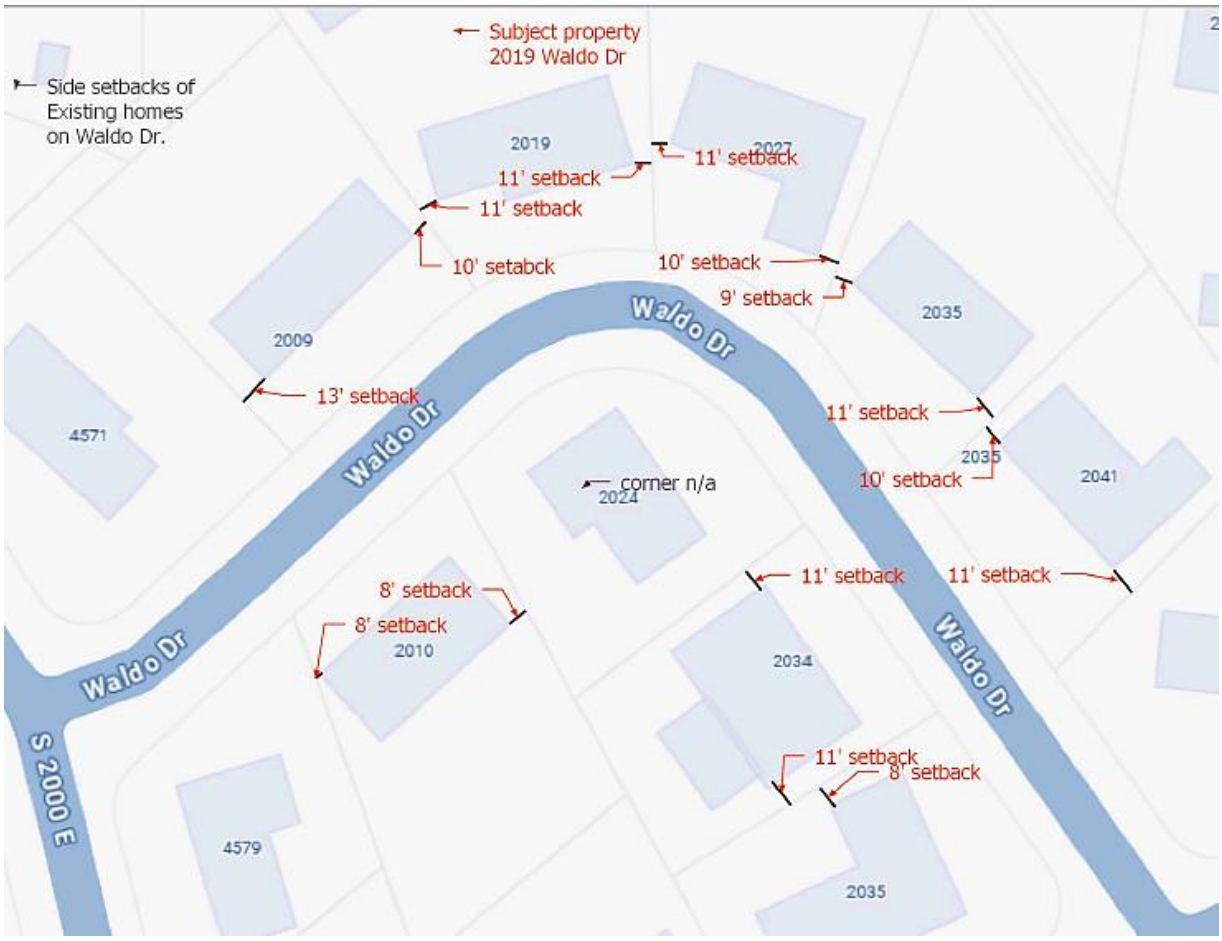


Figure 3: Assessing Existing Neighborhood Side Setbacks on Waldo Dr.

Figure 4: Existing Situation (Left side) Vs Compliance (Right side)

STAFF COMMENTARY & RECOMMENDATION

Pursuant to State Law and Holladay City's Quasi-Judicial Procedures regarding variance requests, the burden of proof lies with the applicant to convincingly argue before the Administrative Appeals Officer that one or more conditions related to the property they represent hinders the applicant's reasonable use of their land in a manner and form comparable with that enjoyed by their neighbors or other properties in a similar situation and zoning district. Each variance application is reviewed on a case-by-case basis and the merits of the matter are assessed in a public forum. Any public testimony received in response to notifications provided via public notice, the City's websites, and any comments or recommendations by City Departments or external agencies have been presented to the Administrative Appeals Officer for their consideration. Below, the City staff assigned to this case provides commentary and recommendations on each of the five-part approval standards for this variance application.

Describing what hardship will occur if variance is not granted.

Concerning the appellant's demonstration of the existence of unique circumstances or an unreasonable hardship making it exceptionally difficult to comply with the zoning regulations, the applicant outlined three (3) factors in their narrative to satisfy the burden of proof. These points included the impracticality of building a structure that conforms to the zoning ordinance while matching existing neighborhood street face. Moreover, the applicant pointed to restrictions that would be imposed on the functional size of their home and long-term seismic and energy-efficient upgrades to meet modern construction standards An independent assessment of applicable zoning laws by the City's Technical Review Committee indicates that compliance with the side setback requirement would indeed create an unreasonable hardship that extends to meeting other zoning codes, particularly pertaining to building corridor restrictions and significantly altering the character of the streetscape on Waldo Dr. The hardship conditions submitted by the applicant appears to be neither self-imposed nor for economic reasons. Rather, they are peculiar to the property, limits substantial development rights, and poses significant deviations from the neighborhood character. City Staff posits that accommodating these hardships would be reasonable and justified, comparative to requiring compliance with the existing City Code on setback standards §13.14.056.

Describing how the property is different from other properties within the vicinity.

Regarding special circumstances attached to the property making it different from others within the vicinity, both the applicant and City Staff believes that property distinguishes itself from other properties along Waldo Drive. Mr. Berrett's property is notably unique and poses special circumstance that set it apart from others within the vicinity. First, the property *(28,314 sq. ft.)* is nearly three-times (3x) the minimum lot size in our R-1-10 zone and twice the size of the average lot on Waldo Dr *(0.34 acres)*. Second, the irregular 'pie-shape' shape and width of the property makes it unique from other properties in the vicinity. These two focal points elect Mr. Berrett's property to be characteristically distinct from others in neighborhood and necessitates different treatment – specifically pertaining to the side setback. City Staff is of the opinion that granting an exception to the above portions of city ordinance §13.14.056 would ensure a reasonable and uniform application of setbacks based on the uniqueness of this context while minimizing substantial deviations from neighborhood character.

Describing benefits other properties in the vicinity will enjoy at the expense of Applicant without a variance.

In justifying how granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district, the applicant presents two (2) reasons to this effect. Mr. Berrett indicates that

granting them the variance will ensure they enjoy similar benefits other properties on Waldo Drive enjoy including uniform setbacks, preventing visual distortion to property's appeal, as well as removing barriers to future rebuilds and development square footage on the property. As shown in City Staff's analysis above, the average side setbacks for properties on Waldo Drive range from 8 – 13 ft. However, the shape and design of the Applicant's property would demand an 21 ft setback – constituting a 13.45 ft to an 8.45 ft difference in enjoying similar property rights by neighbors. Given the size configuration and geographic characteristics of properties on Waldo Drive, City Staff believes granting the variance to the applicant will be essential to the substantial enjoyment of property rights and common privileges enjoyed by other properties in the vicinity.

Describing why the variance will not deviate from the general purposes of the City of Holladay development code

Regarding deviations from the City's development code that are not contrary to the public interest, the ordinance provisions as pertaining to setbacks §13.14.050 are explicit in their intent to ensure uniform setbacks to achieve specific desired outcomes, and in other instances, accommodate variability and flexibility to produce equally important outcomes. In light of the circumstances presented in this case, City staff agrees with the applicant that ensuring uniform neighborhood side setbacks does not deviate from the general purpose of the development code. Granting the variance would in fact, contribute positively to preserving a pleasant street face on Waldo Dr, maintaining setback uniformity, compactible visual continuity of the neighborhood, and promoting aesthetically pleasing environments patterns in the vicinity.

Describing how the variance is fair and conforms to the overall intent of the zoning laws

In conforming to the general intent of zoning laws and fairness, the supplementary evidence presented by the applicant and geo-spatial analysis conducted by City Staff demonstrate that the requested variance conforms to the overall intent of the zoning laws – specifically setback ordinance §13.14.050(A). Granting the variance would also foster the principle of fairness in applying setback regulations to produce equal outcomes. This would be especially critical in rectifying the disproportionate impact of applying a 21.45 ft side setback standard on Mr. Berrett while his neighbors in the immediate vicinity enjoy between 8 and 13 ft side setbacks. City Staff believes that granting the variance to maintain the original 11 ft side setbacks would be key to ensuring that the fairness principle is accommodated while upholding the spirit of zoning intent.

RECOMMENDATION

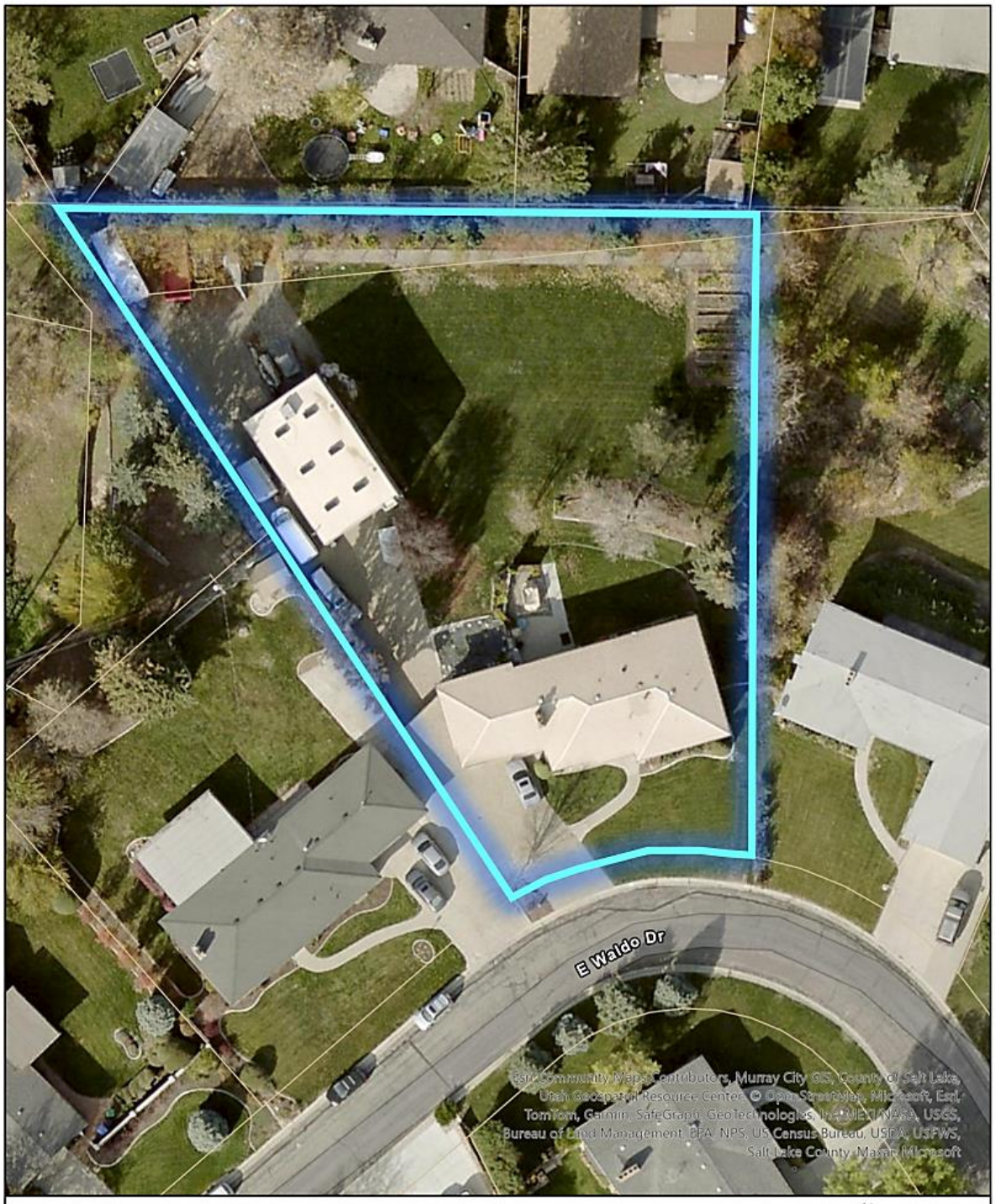
Concluding from the City Staff's technical review of City Code and analysis of the geographical characteristics of the case context, granting this variance request appears to be the least intrusive solution to upholding the spirit of zoning as outlined in section §13.14.050(A). Generally, discussions regarding denials or approval should be moderated by examination of the language of City Code *(on sections §13.14.050 and §13.14.056)*, the applicant's narrative and proceedings from the public hearing, as well as other submissions received herein. From the City Staff's perspective, this variance request comprehensively passes the five-part test for variance approval standards. Approval is Recommended.

POSSIBLE MOTIONS

- Deny the variance request.
- Approve variance as requested.
- Approve variances with revised/alternative mitigation methods.
- Remand the request back to CED for consideration (*reschedule date should be set during this meeting*)

SUPPORTING DOCUMENTS

- Affidavit of Property Ownership
- General Appeal Application
- Variance Request
- Applicant's Narrative
- Site Plans and relevant street photos and plans



City of Holladay
2019 E Waldo Drive
SETBACK VARIANCE

N
0 0.15 0.3 Mi
0 0.3 0.6 Km

Ribbon Ln
Suncrest Dr
Ribbon L
E Waldo Dr
Subject Location
S Waldo Dr
Sycamore Dr
Cresthill Dr
City of Holladay
2019 E Waldo Drive
SETBACK VARIANCE
N
0 0.15 0.3 Mi
0 0.3 0.6 Km

City of Holladay
2019 E Waldo Drive
SETBACK VARIANCE

N
0 0.15 0.3 Mi
0 0.3 0.6 Km