

ITEM 1 Shannon Edwards requests a Variance of approximately 10 feet from Section 15.05.180(6)(d) that requires a 100-foot setback from the Provo River, for an addition to a residential home, located at 2843 W 370 N in the R1.8 zone. Lakeview South neighborhood. Melissa McNalley (801) 852-6164 mmcnalley@provo.utah.gov PLVAR20210267

Applicant: Mark and Shannon Edwards

Staff Coordinator: Melissa McNalley

Property Owner: Edwards, Mark and Shannon

Parcel ID#: 45:300:0079

Acreage: .223 acres

Number of Properties: 1

Number of Lots: 1

ALTERNATIVE ACTIONS

1. **Deny** the requested appeal. *This action would not be consistent with the recommendations of the Staff Report. The Board of Adjustment should state new findings.*

2. **Continue** to a future date to obtain additional information or to further consider information presented. *The next available meeting date is October 21, 5:00 P.M.*

Current Legal Use: Single family residence

Relevant History: The existing single-family detached home was built in 2001. The back (south end) of the property is within the 100-foot setback of the Provo River.

Neighborhood Issues: Staff is not aware of any issues from the neighborhood.

Summary of Key Issues:

- The applicant would like to extend the living space of their home adding to the kitchen and living room and extending their shop for their business.
- The property is within 100 feet of the bank of the Provo River.
- The property does not fall within the floodplain
- The applicant is requesting a variance to encroach approximately 17 feet into the required 100-foot setback from the Provo River.

Staff Recommendation: Staff recommends the Board of Adjustment approve the requested variance.

OVERVIEW

The applicant requests a variance to encroach approximately 17 feet into the required 100-foot setback from the Provo River per Section 15.05.180(6)(d). The variance will allow for an addition to their residential home located at 2843 West 370 North in the R1.8 zone in the Lakeview South neighborhood.

RELEVANT HISTORY

The subject 9590-square foot property includes an existing single-family detached house and attached two-car garage. The existing structures are constructed toward the north end of the lot. The lot is approximately 84 feet wide and 110 feet in depth.

The applicant wishes to create an addition to the rear portion of the existing structure, extending approximately 17 feet into the required 100-foot setback from the Provo River. The addition is intended to create more livability for the family with a main floor master, additional kitchen and living area, and create more shop space for their business.

Currently, a portion of the existing property is within 100 feet of the Provo River. Creating an extension to the existing home will reduce the distance from the existing structure to the Provo River falling short of the 100-foot setback requirement. While this places the structure closer to the Provo River, it does not place any portion of the property within the 100-year floodplain.

FINDINGS OF FACT

- The property is located in a R1.8 zone, the minimum front and rear yard requirements for this lot size is forty (40) feet. The proposed addition allows for the yard minimum.
- While located adjacent to the Provo River, this property is not located within the 100-year floodplain.
- Were it not for the location of this property in relation to the Provo River, a variance request would not be necessary.

ANALYSIS

1. Section 14.05.030(9), Variances, paragraph (b) of the Provo Municipal Code states that the Board of Adjustment may grant variances if the following criteria are met (Staff responses are in **bold**):

- (i) Literal enforcement of this Title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this Title;

Literal enforcement of this Title would cause an unreasonable hardship as the family is making changes to the property in order to continue to live at the current location. If denied this variance the family will likely have to relocate in order to better address changing family needs.

- (ii) There are special circumstances attached to the property that do not generally apply to other properties in the same district;

Most houses in this neighborhood do not sit along the Provo River. Other neighbors have added to their homes in a similar manner.

- (iii) Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;

Other properties in the area have improved and expanded their homes. The variance will allow this family to continue to live and enjoy their current home for years to come.

- (iv) The variance will not substantially affect the general plan and will not be contrary to the public interest; and

The variance will not affect the general plan and will not be contrary to public interest as neighbors have done the same to their homes in the neighborhood and have expressed support of this addition to the Edwards family.

- (v) The spirit of this Title is observed and substantial justice done.

Granting the variance will be in keeping with the spirit of this Title in that there are special circumstances which warrant the variance.

Substantial justice is done for the applicant by allowing the full utilization of the property within the bounds of the current zoning code.

APPLICABLE ZONING CODES

15.05.180(6)(d) No structure, earth fill, or parking lot in connection with any industrial, commercial, or residential development, or any other surface obstruction to water flow, except bridges, flood control devices, public restroom, and public recreational facilities, may be located closer than one hundred (100) feet to the high point of the bank of Provo River without review and approval of a project plan application if the project is part of a larger development or approval of a minor project plan application if the proposed project is a single-family structure or accessory structure.

CONCLUSIONS

This variance request meets the criteria established by Section 15.05.180(6)(d) Specifically, denial would restrict the property owner from expanding their current home to allow for changing family needs. In addition, the variance will not substantially negatively affect the general plan. Staff recommends approval of this variance request. We also recommend, as a condition of approval, the addition be constructed according the requirements of the 1 foot above base flood elevation as found in 15.05 Provo City Code.

JUDICIAL APPEAL OF BOARD OF ADJUSTMENT ACTION

Chapter 14.05 provides a process for appeal of a determination by the Board of Adjustment (quoted in part):

04.05.050. Judicial Appeal.

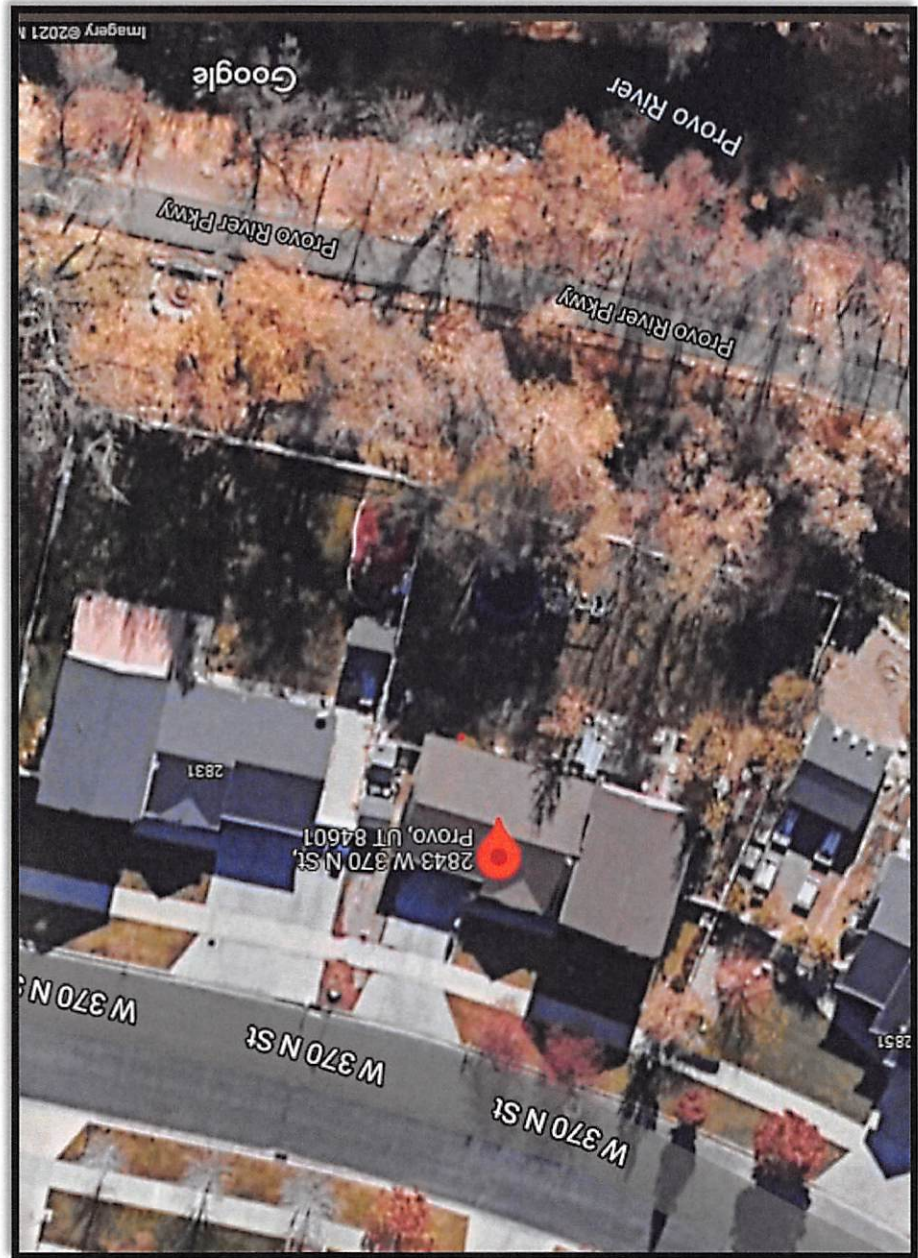
- (i) Any person aggrieved by or affected by any decision of the Board of Adjustment may have and maintain a plenary action for relief from the District Court of competent jurisdiction, provided petition for such relief is presented to the court within thirty (30) days after the filing of such decision in the office of the Board of Adjustment or with the City Recorder.

ATTACHMENTS

- 1. Location Map**
- 2. Existing Site Plan**
- 3. Proposed Site Plan**
- 4. Documentation Submitted by Applicant**



Attachment 1: Location Map



[illegible]

Attachment 3: Proposed Site Plan

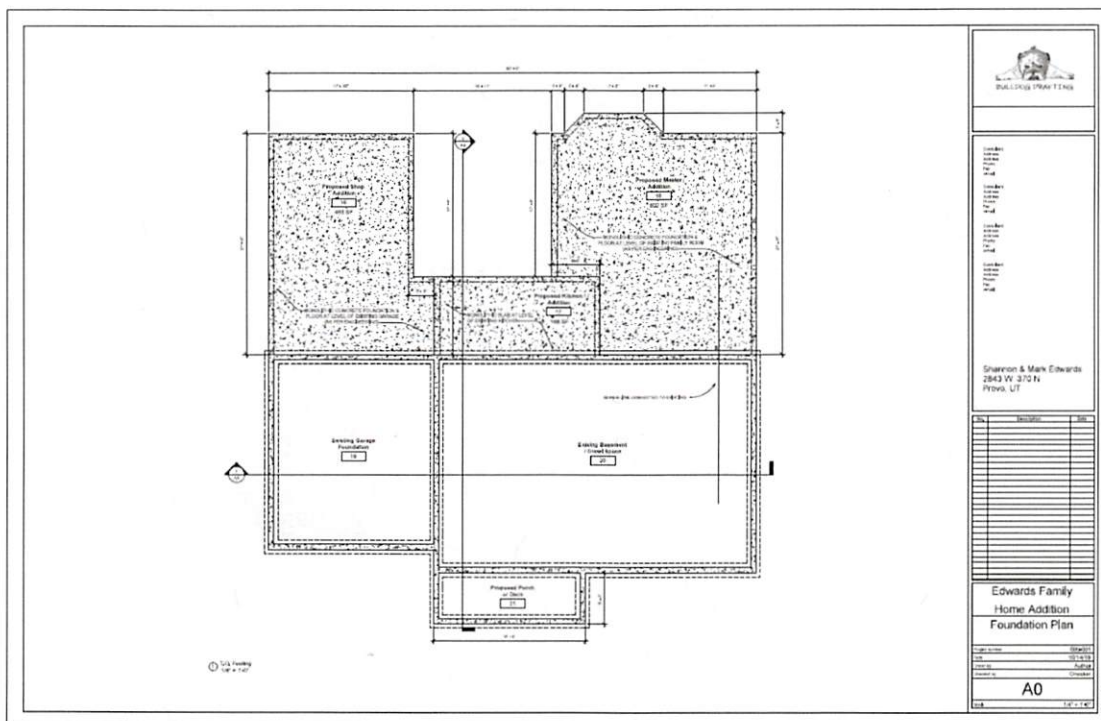


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12" = 1'-0"

Table of Contents

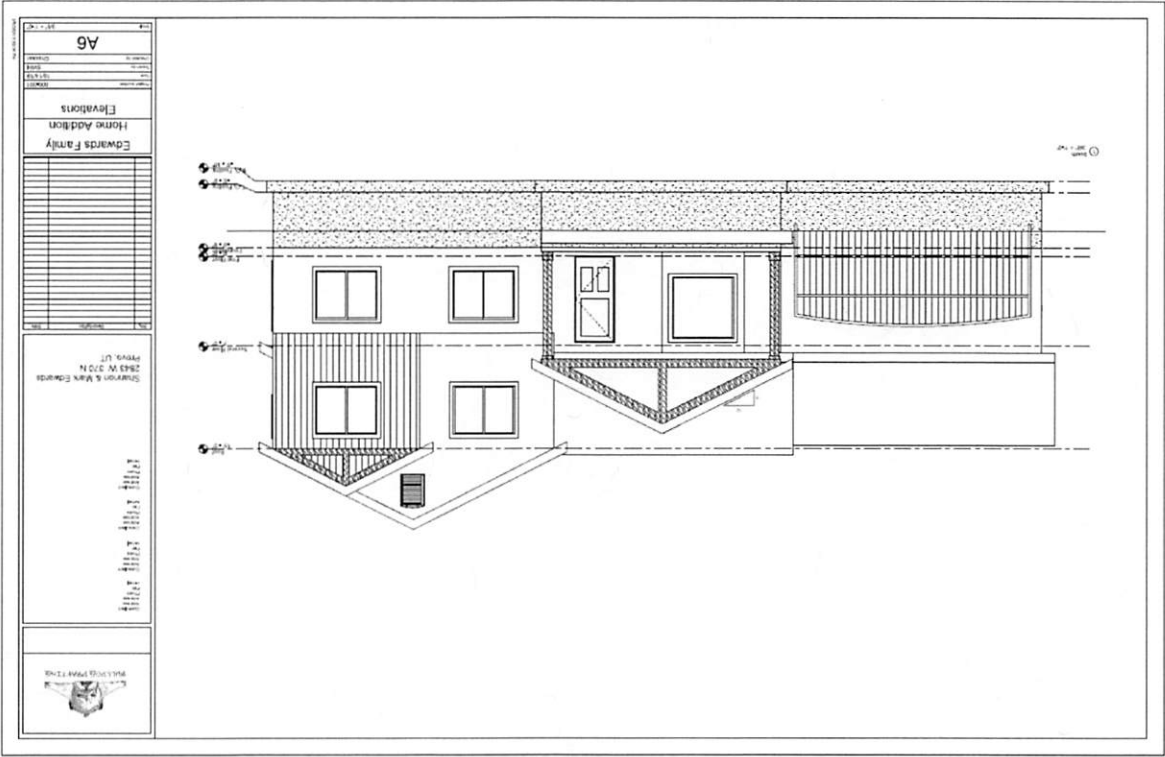
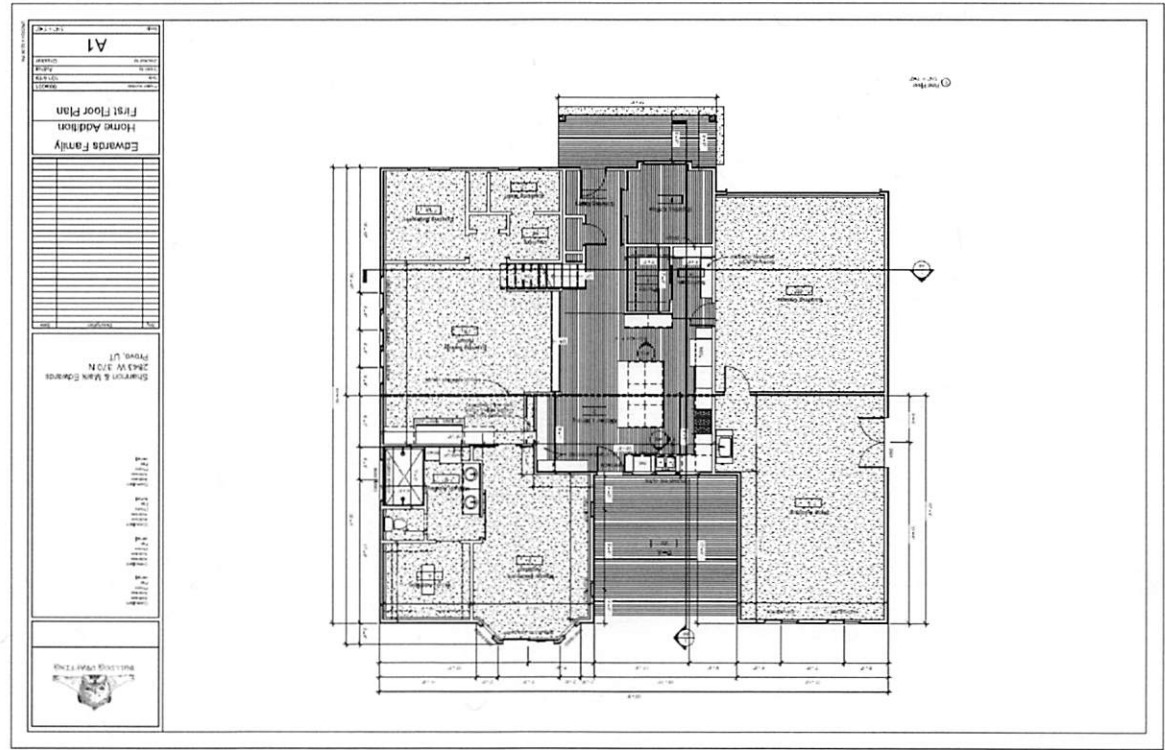
- A0 – Footing/Foundation Plan
- A1 – First Floor Plan
- A6 – Elevation (South)
- A7 – Elevations (North, East & West)
- A8 – Sections
- A12 – Exterior Detail Views
- A13 – Interior Cabinet Elevations
- C1 – Site Plan
- E1 – First Floor Electrical Plan

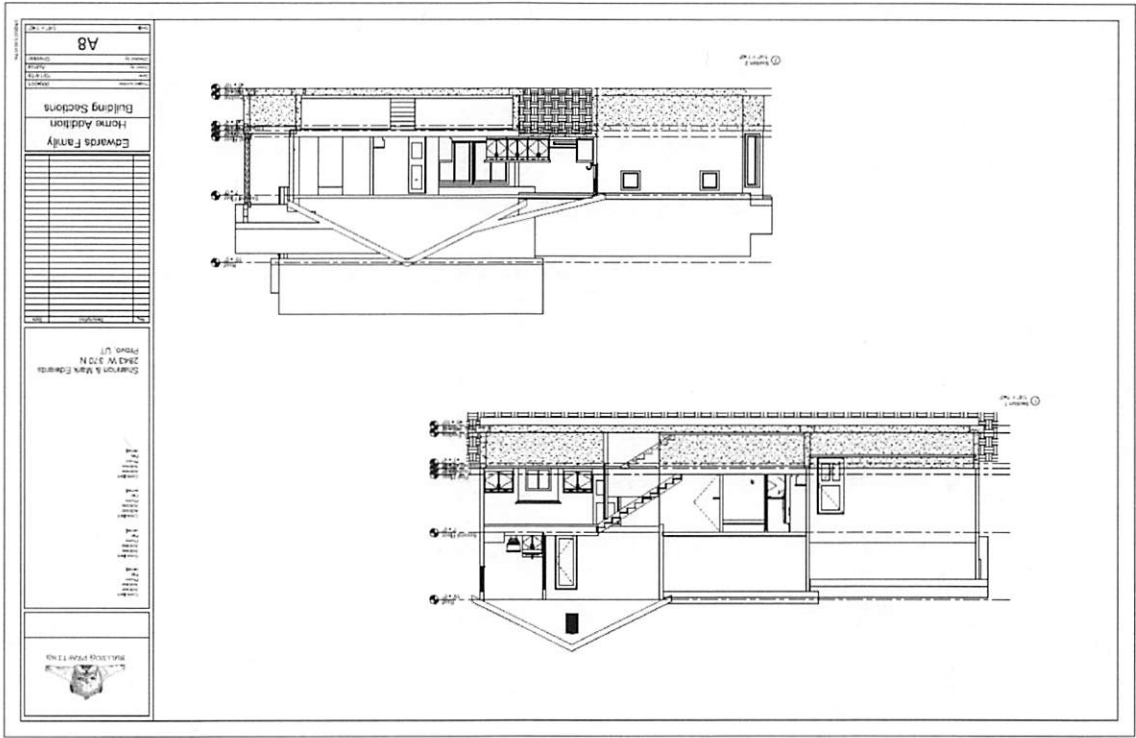
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Address	2843 W 370 N
City	Provo, UT
Project Name	Edwards Family Home Addition
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Scale	12" = 1'-0"
Author	Shannon
Checker	Mark
Project No.	123456789
Client Name	Shannon & Mark Edwards
Address	2843 W 370 N
City	Provo, UT
Project Name	Edwards Family Home Addition
Sheet Title	Foundation Plan
Scale	12" = 1'-0"
Author	Shannon
Checker	Mark

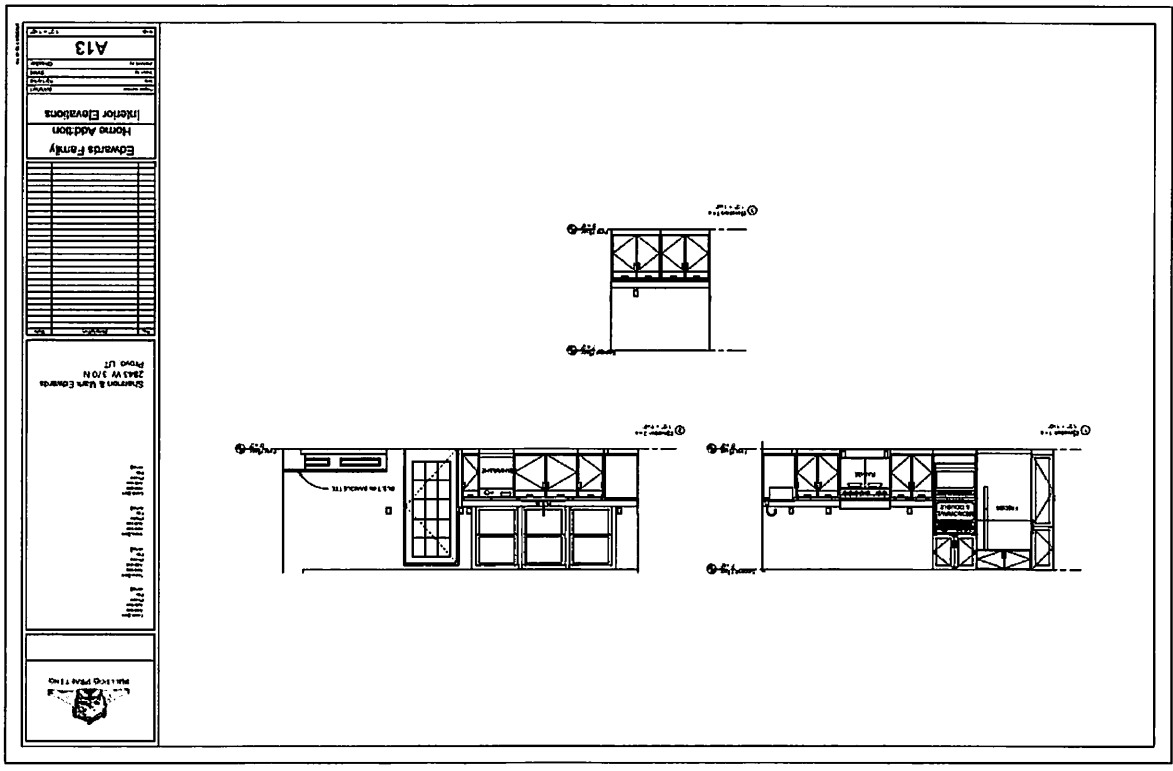
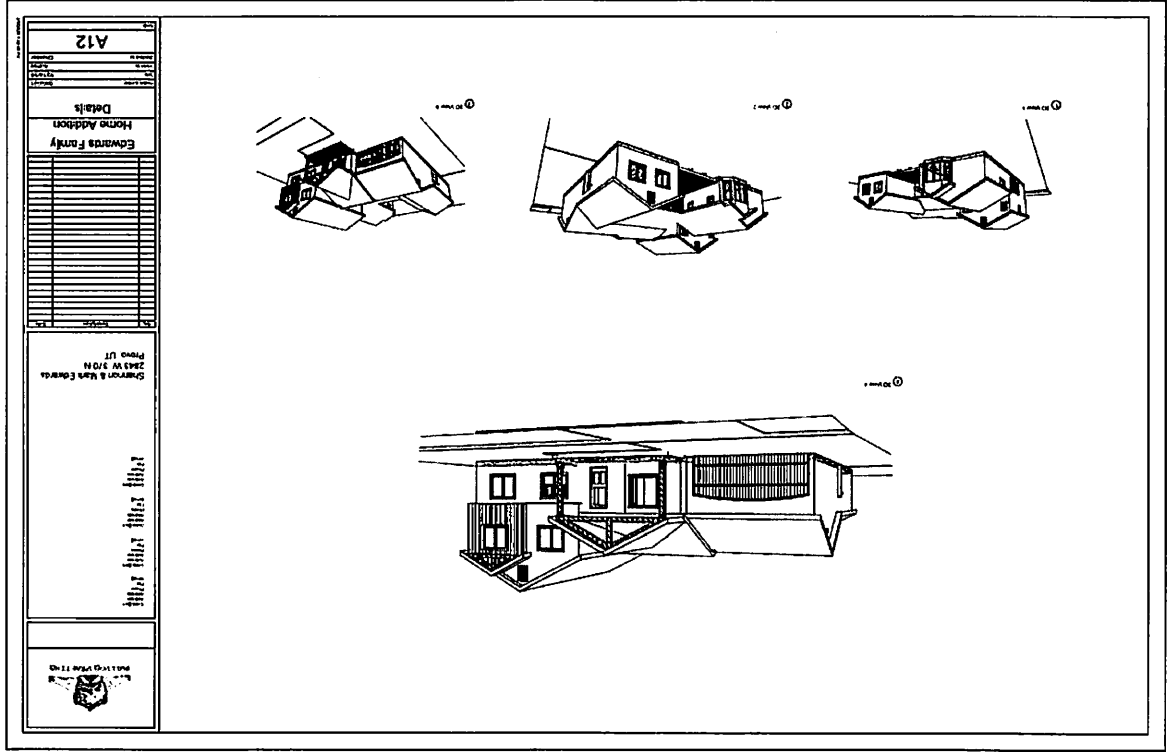


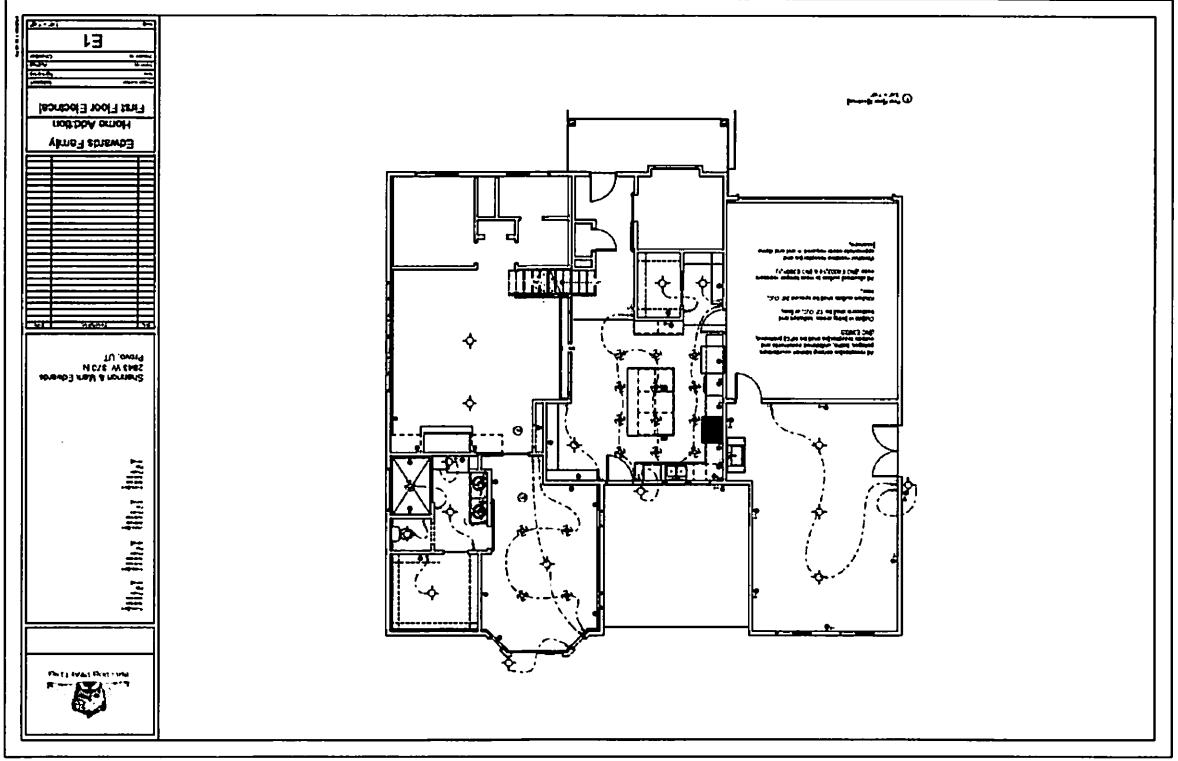
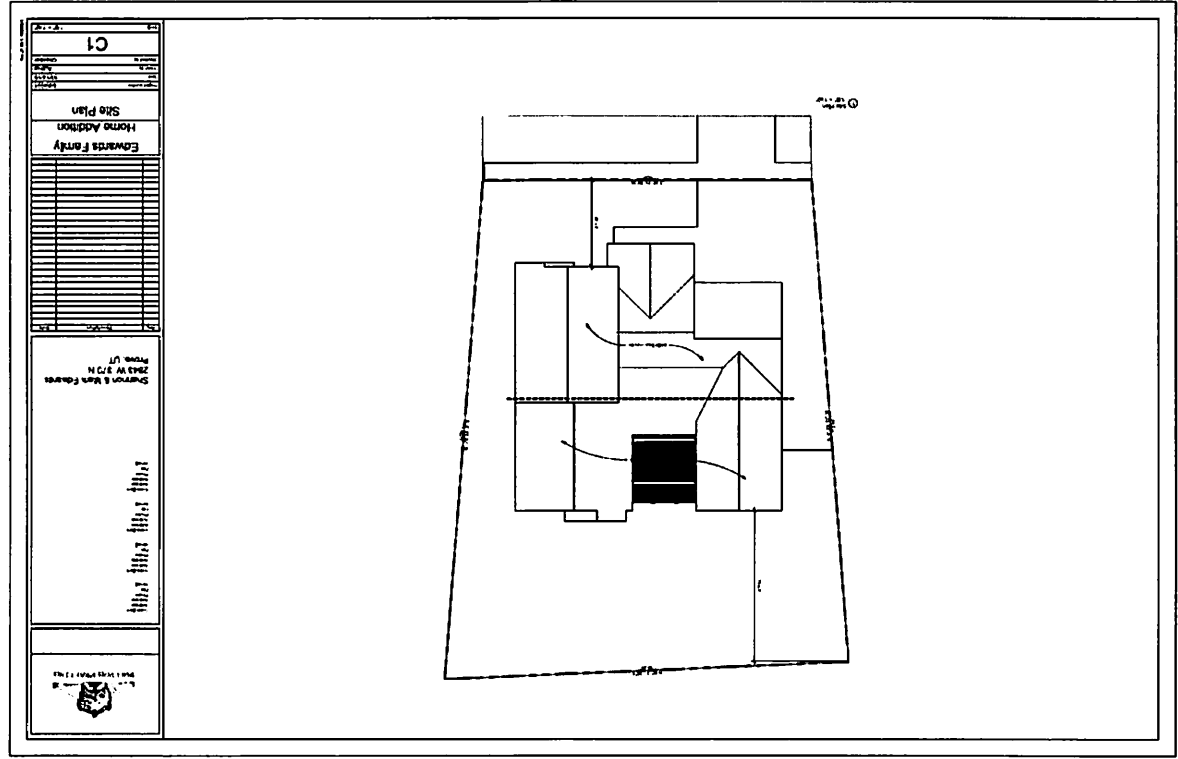
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Attachment 4: Documentation Submitted by the Applicant

Variance Description

We, Mark and Shannon Edwards, request a variance to the rear setback of our property line in conjunction with the Provo River bank from approximately 52 feet to approximately 35 feet as required in the recorded plat note #2 which prohibits buildings and structures within 100 feet setback of the bank of the Provo River as shown on the plat per Provo City Code.

Variance Criteria Justification

(i) Literal enforcement of this title would cause an unreasonable hardship for us because we are unable to use our property to the same accord as our neighbors across the street who do not have the river behind them. They were able to build a shed almost to the very back of their property line. We are not even extending that much in comparison to our yard. We would just like to be able to use our property to benefit our family. We are not in the 100 yr. flood plain and have never had any kind of flooding in the 15 years we have lived here.

(ii) There are special circumstances attached to the property that do not generally apply to other properties in our neighborhood. Most houses do not sit along the river. Others have been able to add on to their homes in the same manor as to what we are proposing.

(iii) Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the area because we would be able to use our property to enlarge our home which in turn will allow us to enjoy our property to it's fullest extent. My husband is a teacher at Provo High School and we feel a great connection to this community. If we are unable to add on we will not have a master bedroom on the main level, which is something we need to make this our forever home, and therefore, will have to move. That will put us in a burden financially because of the price increase and unavailability of homes for sale in the area.

(iv) The variance will not substantially affect the general plan because we believe it will only beautify and update our home and will not be an eyesore or block any views. The variance will not be contrary to the public interest as we have support from all of our neighbors to add on to our home. We have shown and/or explained our plans to most of them as well.

(v) The spirit of this title is observed by keeping in accordance with not being in the flood plain and not building in such a way to cause flooding to the new addition. Substantial justice is done in granting this variance to allow us the same rights as others in our area.