



**TOWN OF PAONIA**

**WEDNESDAY, MARCH 22, 2023**

**ZONING BOARD OF ADJUSTMENTS & APPEALS AGENDA 5:30 PM**

**[HTTPS://US02WEB.ZOOM.US/J/82963673159](https://us02web.zoom.us/j/82963673159)**

**MEETING ID: 829 6367 3159**

**ONE TAP MOBILE**

**17193594580**

**Roll Call**

**Approval of Agenda**

**Appointment of Officers**

**Actions & Presentations**

**Public Hearing**

Doherty Variance Appeal- 817 Third Street

**Adjournment**

I. RULES OF PROCEDURE

**Section 1. Schedule of Meetings.** Regular Board of Trustees meetings shall be held on the second and fourth Tuesdays of each month, except on legal holidays, or as re-scheduled or amended and posted on the agenda prior to the scheduled meeting.

**Section 2. Officiating Officer.** The meetings of the Board of Trustees shall be conducted by the Mayor or, in the Mayor's absence, the Mayor Pro-Tem. The Town Clerk or a designee of the Board shall record the minutes of the meetings.

**Section 3. Time of Meetings.** Regular meetings of the Board of Trustees shall begin at 6:30 p.m. or as scheduled and posted on the agenda. Board Members shall be called to order by the Mayor. The meetings shall open with the presiding officer leading the Board in the Pledge of Allegiance. The Town Clerk shall then proceed to call the roll, note the absences and announce whether a quorum is present. Regular Meetings are scheduled for three hours, and shall be adjourned at 9:30 p.m., unless a majority of the Board votes in the affirmative to extend the meeting, by a specific amount of time.

**Section 4. Schedule of Business.** If a quorum is present, the Board of Trustees shall proceed with the business before it, which shall be conducted in the following manner. Note that all provided times are estimated:

- (a) Roll Call - (5 minutes)
- (b) Approval of Agenda - (5 minutes)
- (c) Announcements (5 minutes)
- (d) Recognition of Visitors and Guests (10 minutes)
- (e) Consent Agenda including Approval of Prior Meeting Minutes (10 minutes)
- (f) Mayor's Report (10 minutes)
- (g) Staff Reports: (15 minutes)
  - (1) Town Administrator's Report
  - (2) Public Works Reports
  - (3) Police Report
  - (4) Treasurer Report
- (h) Unfinished Business (45 minutes)
- (i) New Business (45 minutes)
- (j) Disbursements (15 minutes)
- (k) Committee Reports (15 minutes)
- (l) Adjournment

\* This schedule of business is subject to change and amendment.

**Section 5. Priority and Order of Business.** Questions relative to the priority of business and order shall be decided by the Mayor without debate, subject in all cases to an appeal to the Board of Trustees.

**Section 6. Conduct of Board Members.** Town Board Members shall treat other Board Members and the public in a civil and polite manner and shall comply with the Standards of Conduct for Elected Officials of the Town. Board Members shall address Town Staff and the Mayor by his/her title, other Board Members by the title of Trustee or the appropriate honorific (i.e.: Mr., Mrs. or Ms.), and members of the public by the appropriate honorific. Subject to the Mayor's discretion, Board Members shall be limited to speaking two times when debating an item on the agenda. Making a motion, asking a question or making a suggestion are not counted as speaking in a debate.

**Section 7. Presentations to the Board.** Items on the agenda presented by individuals, businesses or other organizations shall be given up to 5 minutes to make a presentation. On certain issues, presenters may be given more time, as determined by the Mayor and Town Staff. After the presentation, Trustees shall be given the opportunity to ask questions.

**Section 8. Public Comment.** After discussion of an agenda item by the Board of Trustees has concluded, the Mayor shall open the floor for comment from members of the public, who shall be allowed the opportunity to comment or ask questions on the agenda item. Each member of the public wishing to address the Town Board shall be recognized by the presiding officer before speaking. Members of the public shall speak from the podium, stating their name, the address of their residence and any group they are representing prior to making comment or asking a question. Comments shall be directed to the Mayor or presiding officer, not to an individual Trustee or Town employee. Comments or questions should be confined to the agenda item or issue(s) under discussion. The speaker should offer factual information and refrain from obscene language and personal attacks.

**Section 9. Unacceptable Behavior.** Disruptive behavior shall result in expulsion from the meeting.

**Section 10. Posting of Rules of Procedure for Paonia Board of Trustees Meetings.** These rules of procedure shall be provided in the Town Hall meeting room for each Board of Trustees meeting so that all attendees know how the meeting will be conducted.

## **II. CONSENT AGENDA**

**Section 1. Use of Consent Agenda.** The Mayor, working with Town Staff, shall place items on the Consent Agenda. By using a Consent Agenda, the Board has consented to the consideration of certain items as a group under one motion. Should a Consent Agenda be used at a meeting, an appropriate amount of discussion time will be allowed to review any item upon request.

**Section 2. General Guidelines.** Items for consent are those which usually do not require discussion or explanation prior to action by the Board, are non-controversial and/or similar in content, or are those items which have already been discussed or explained and do not require further discussion or explanation. Such agenda items may include ministerial tasks such as, but not limited to, approval of previous meeting minutes, approval of staff reports, addressing routine correspondence, approval of liquor licenses renewals and approval or extension of other Town licenses. Minor changes in the minutes such as non-material Scribner errors may be made without removing the minutes from the Consent Agenda. Should any Trustee feel there is a material error in the minutes, they should request the minutes be removed from the Consent Agenda for Board discussion.

**Section 3. Removal of Item from Consent Agenda.** One or more items may be removed from the Consent Agenda by a timely request of any Trustee. A request is timely if made prior to the vote on the Consent Agenda. The request does not require a second or a vote by the Board. An item removed from the Consent Agenda will then be discussed and acted on separately either immediately following the consideration of the Consent Agenda or placed later on the agenda, at the discretion of the Board.

## **III. EXECUTIVE SESSION**

**Section 1.** An executive session may only be called at a regular or special Board meeting where official action may be taken by the Board, not at a work session of the Board. To convene an executive session, the Board shall announce to the public in the open meeting the topic to be discussed in the executive session, including specific citation to the statute authorizing the Board to meet in an executive session and identifying the particular matter to be discussed “in as much detail as possible without compromising the purpose for which the executive session is authorized.” In the event the Board plans to discuss more than one of the authorized topics in the executive session, each should be announced, cited and described. Following the announcement of the intent to convene an executive session, a motion must then be made and seconded. In order to go into executive session, there must be the affirmative vote of two thirds (2/3) of Members of the Board.

**Section 2.** During executive session, minutes or notes of the deliberations should not be taken. Since meeting minutes are subject to inspection under the Colorado Open Records Act, the keeping of minutes would defeat the private nature of executive session. In addition, the deliberations carried out during executive session should not be discussed outside of that session or with individuals not participating in the session. The contents of an executive session are to remain confidential unless a majority of the Trustees vote to disclose the contents of the executive session.

**Section 3.** Once the deliberations have taken place in executive session, the Board should reconvene in regular session to take any formal action decided upon during the executive session. If you have questions regarding the wording of the motion or whether any other information should be disclosed on the record, it is essential for you to consult with the Town Attorney on these matters.

## **IV. SUBJECT TO AMENDMENT**

**Section 1. Deviations.** The Board may deviate from the procedures set forth in this Resolution, if, in its sole discretion, such deviation is necessary under the circumstances.

**Section 2. Amendment.** The Board may amend these Rules of Procedures Policy from time to time.

# Town of Paonia



Thursday, February 23, 2023

First Christian Church of Paonia  
PO Box 413  
Paonia, CO 81428

RE: Notice of Rescheduled Public Hearing on Appeal of Administrative Denial of Variance Concerning Property Located at 817 3rd Street, Paonia, CO

To Whom it May Concern,

You are receiving this Notice, pursuant to Section 16-16-10 of the Paonia Municipal Code, as the owner or occupant of property located within 200 feet of the property that is the subject of the Public Hearing to be held before the Town of Paonia Board of Adjustment at 5:30 p.m. on Wednesday, March 22, 2023, at the Paonia Town Hall, 214 Grand Avenue, Paonia, CO 81428.

The purpose of the Public Hearing will be to consider a property owner's appeal of the decision by administrative officer of the Town to deny a request for a variance to the setback requirements of the Paonia Municipal Code. The appellees, Margaret and Todd Doherty, requested the variance to allow the construction of a wrap-around porch on their property located at 817 3rd Street, Paonia, CO 81428.

You may appear at the Public Hearing and be heard regarding the matters under consideration. For further information concerning the Public Hearing, please contact the Town Clerk at 970-527-4101 during regular business hours.

Sincerely,

TOWN OF PAONIA, COLORADO

Samira M Vetter  
Town Clerk

## Samira V

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**From:** Samira V  
**Sent:** Thursday, February 23, 2023 1:49 PM  
**To:** Samira V  
**Subject:** Doherty Mailed notices  
**Attachments:** 20230223\_134744.jpg

Sent from my T-Mobile 5G Device  
Get [Outlook for Android](#)

TOWN OF PAONIA

TOWN OF PAONIA

TOWN OF PAONIA  
214 GRAND AVE

TOWN OF PAONIA

TOWN OF PAONIA  
214 GRAND AVE

TOWN OF PAONIA  
214 GRAND AVE  
PO BOX 460  
PAONIA CO

TOWN OF PAONIA  
214 GRAND AVE  
PO BOX 460  
PAONIA CO 81428-6302

FOREVER

FOREVER  
USA

FOREVER

FOREVER  
USA

Barn Swallow

ZIMMERLE MICHAEL  
PO BOX 1471  
CO, PAONIA, 81428-1471

February 24, 2023  
Mail

**AFFIDAVIT OF PUBLICATION**

Delta County Independent  
401 Meeker Street  
(970) 874-4421

I, Brooke Jacquez, of lawful age, being duly sworn upon oath, deposes and says that I am the Representative of Delta County Independent, a publication that is a "legal newspaper" as that phrase is defined for the city of Delta, for the County of Delta, in the state of Colorado, that this affidavit is Page 1 of 1 with the full text of the sworn-to notice set forth on the pages that follow, and that the attachment hereto contains the correct copy of what was published in said legal newspaper in consecutive issues on the following dates:

**PUBLICATION DATES:**  
1 Mar 2023

**Notice ID:** qQcyqqPoU5lrK5bAsnhS  
**Publisher ID:** 609293  
**Notice Name:** Doherty Public Hearing Rescheduled

**PUBLICATION FEE:** \$22.94

  
Representative

**VERIFICATION**

STATE OF COLORADO  
COUNTY OF DELTA

Signed or attested before me on this

1st day of March, A.D. 2023.

  
Notary Public

My Commission Expires: 08/20/2023  
DAN #19874227037 - 650712

**TOWN OF PAONIA, COLORADO  
NOTICE OF PUBLIC HEARING**

NOTICE is hereby given that the Town of Paonia Board of Adjustment will hold a Public Hearing at 5:30 p.m. on Wednesday, March 22, 2023, at the Paonia Town Hall, 214 Grand Avenue, Paonia, CO 81428.

The purpose of the Public Hearing will be to consider a property owner's appeal of the decision by administrative officer of the Town to deny a request for a variance to the setback requirements of the Paonia Municipal Code. The appellees, Margaret and Todd Doherty, requested the variance to allow the construction of a wrap-around porch on their property located at 817 3 rd Street, Paonia, CO 81428.

Any person may appear at the Public Hearing and be heard regarding the matters under consideration. For further information concerning the Public Hearing, please contact the Town Clerk at 970-527-4101 during regular business hours.

Dated the 23rd day of February, 2023.

TOWN OF PAONIA, COLORADO

Samira M Vetter  
Town Clerk  
Published Wednesday, March 1, 2023

# NOTICE

PURSUANT TO THE Peoria Municipal Code  
OF Peoria, Colorado  
Marion E. Todd District  
317 Third St  
Peoria, CO  
1122  
HAS REQUESTED THE Zoning Board  
of Adjustment of the Town of Peoria  
TO Consider, properly, over appeal of the  
various denial of setback requirements of  
Peoria Municipal Code TO BE HELD AT:  
Peoria Town Hall 214 Grand Avenue  
Peoria, CO 81357  
TIME AND DATE: March 22, 2023  
DATE OF Notice: February 23, 2023  
BY ORDER OF:  
Zoning Board of  
Adjustment - 3 Applicants



Public Hearing- Doherty Variance Appeal- 817 Third Street



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### **Sec. 16-15-10. Procedures.**

- (a) Appeals to the Board of Adjustment may be taken by any person aggrieved by his or her inability to obtain a building permit based upon the decision of any administrative officer or agency made in the course of the administration or enforcement of the provisions of this Code. Appeal may be taken by an officer, department, board or bureau of the Town affected by the refusal of a building permit or by other decision of an administrative officer or agency made in the course of the administration or enforcement of this Code. Appeals to the Board of Adjustment must be made in writing and filed with the Town Clerk no later than 4:30 p.m. of the seventh day following the action or decision from which the appeal is taken. In the event the seventh day falls on a Saturday, Sunday or holiday, the next regular business day of the Town shall be deemed the seventh day. The day of the action or decision shall not be included in the seven-day calculation.
- (b) An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal has been filed with him or her that, by reason of facts stated in the certificate, a stay, in his or her opinion, would cause imminent peril to life and property, in which case proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or a court of record on application, on notice to the officer from whom the appeal is taken and on whom due cause is shown.
- (c) Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of enactment of the initial ordinance codified herein, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation enacted under this Chapter would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of such property, the Board of Adjustment may authorize, upon an appeal relating to said property, a variance from such strict application so as to relieve such difficulties or hardship; provided, however, that:
  - (1) The variance granted is the minimum necessary to alleviate such practical difficulties or undue hardship upon the owner of said property.
  - (2) Such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the general plan or this Chapter.
  - (3) The circumstances found to constitute a hardship were not created by the appellant, are not due to or the result of general conditions in the district and cannot be practically corrected.

(Ord. No. 83-116, Art. XXI, 1983; Ord. No. 2000-02, Art. XXI, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

### **Sec. 16-15-20. Hearings.**

All hearings on the appeals to the Board of Adjustment shall be held within thirty (30) days of the filing of the appeal. Hearings held in regard to variance from strict application of the provisions of this Chapter shall be conducted at a public hearing following public notice requirements as provided in Article 16 of this Chapter.

(Ord. No. 83-116, Art. XXI, 1983; Ord. No. 2000-02, Art. XXI, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

### **Sec. 16-15-30. Fee.**

For all applications for a variance or interpretation of this Code, a fee shall be charged to cover the costs of advertising and processing. The amount of the fee shall be established by resolution of the Board of Trustees.

(Ord. No. 83-116, Art. XXI, 1983; Ord. No. 2000-02, Art. XXI, 2000)

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**Sec. 16-15-40. Decisions.**

The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or agency or to decide in favor of the appellant.

(Ord. No. 83-116, Art. XXI, 1983; Ord. No. 2000-02, Art. XXI, 2000; Ord. No. 2014-04, § 1, 1-13-2015)

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**Sec. 16-13-30. Alterations and extensions.**

- (a) Nonconforming buildings as of the effective date of the initial ordinance codified herein shall not be altered or extended in a way that would increase the degree of nonconformance. Therefore, all new additions, alterations or extensions shall be in accordance with the applicable zoning requirements, including but not limited to setbacks, height, open space and parking. Exceptions to this requirement may be allowed if the following conditions apply:
- (1) The purpose of the alteration or extension is for repairs to a building or structure that is ordered by a public official to make it safe.
  - (2) The purpose of the alteration is to make maintenance repairs that are needed to keep the building in good condition.
  - (3) There is a special hardship created by strict application of this Code and a variance is granted by the Board of Adjustment in accordance with the provisions of Article 15 of this Chapter.
- (b) Nonconforming uses may be expanded or altered in the same manner as nonconforming buildings, except that the area of a nonconforming use may not be expanded by more than twenty-five percent (25%) of its existing floor area.

(Ord. No. 83-116, Art. XX, 1983; Ord. No. 2000-02, Art. XX, 2000; Ord. No. 2014-04, § 1, 1-13-2015)



Office: 970-527- 4101 / 214 Grand Avenue / P.O Box 460, Paonia, CO 81428-0460  
townofpaonia.colorado.gov

9/22/2022

Todd & Margaret Doherty  
PO Box 1777  
Paonia, CO 81428

After full review of the application and all information available I will not be able to recommend the building variance for the following reasons:

1. The reduced side yard setback places the burden of meeting the full setback on the side neighbor's property – meaning that the 3' side setback would then require the neighbor to meet a 9, setback should they develop in the footprint.
2. Municipal Code Sec. 16-13-30 (a) states: *Nonconforming* buildings as of the effective date of the initial ordinance codified herein shall not be altered or extended in a way that would increase the degree of nonconformance.
3. Municipal Code Sec.16-15-10 (c)(3) states: *The circumstances found to constitute a hardship were not created by the appellant, are not due to or the result of general conditions in the district and cannot be practically corrected.*

Please advise, should you desire to continue with the application process with the Zoning Board of Adjustments and Appeals. Should you choose to rescind the request at this point, I am willing to refund the cost of the application, as the only time invested is mine, and I am happy to assist.

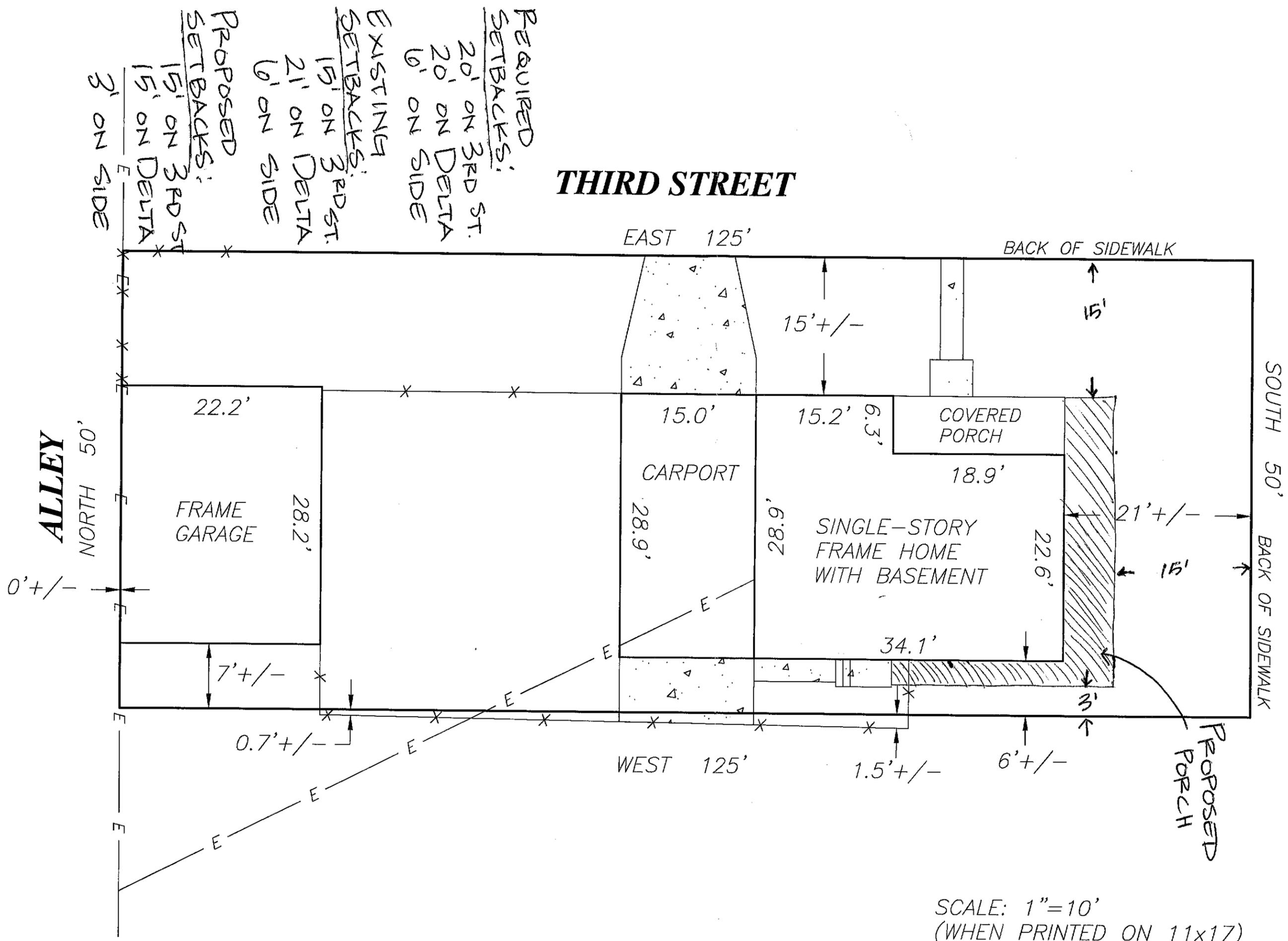
Best,

Corinne Ferguson  
Town Administrator/Clerk

DOHERTY SETBACK VARIANCE SITE PLAN  
 817 3RD STREET

DELTA AVENUE

THIRD STREET



SCALE: 1"=10'  
 (WHEN PRINTED ON 11x17)

**SPECIAL REVIEW/VARIANCE APPLICATION**

Name TODD + MARGARET DOHERTY Application Date 9.12.22  
Property Address 817 3rd Street Planning Hearing \_\_\_\_\_  
Telephone Number 303-518-4741 Board Hearing \_\_\_\_\_

11.01 Intent. Each established zoning district is intended for a specific type or category of land use (e.g., single family dwelling in an R-1 district). However, there are certain uses, which may or may not be appropriate in a district depending on the situation. For example, the location, nature of the proposed use, character of the surrounding area, traffic capacities of adjacent streets, and potential environmental effects all may dictate that the circumstances of the development should be individually reviewed. The special review process is established to provide for these specific uses without establishing numerous separate zoning classifications. It is the intent of this chapter to provide a review of such uses so that the community is assured that the proposed uses are compatible with the location and surrounding land uses.

11.02: When Allowed. Within each zoning district, certain land uses are permitted by right, by special review or prohibited. Special review uses may be permitted in designated districts upon review by the Planning and Zoning Commission and approval by the Town Board.

11.03: Site Plan and Supporting Documents. There shall be filed with each special review application a site plan drawn to scale and an appropriate number of copies as determined by the Town Manager. The site plan shall be drawn in black ink on Mylar. Following approval by the Town Board the applicant shall submit a reproducible copy of the original site plan to the Town for the Town's permanent records.

**The special review application shall include the following:**

- The site plan showing the location of all buildings, structures and other improvements to be placed on the real property. A building envelope may be used in lieu of showing the exact building or structure location to allow for minor variations in the location.
- A legal description of the property, which may require a survey.
- A list of the names and addresses of all property owners within 200 ft. of the property.
- ~~n/A~~  All off-street parking and loading areas.
- ~~n/A~~  The location of all ways for ingress and egress to all buildings, and parking areas.
- ~~n/A~~  Service and refuse collection areas.
- ~~n/A~~  Major screening proposals.
- ~~n/A~~  The size, shape, height and character of all signs.
- ~~n/A~~  The area and location of all open space and recreation areas.
- ~~n/A~~  The location and type of outdoor lighting. — attach light ordinance
- ~~n/A~~  The character and type of landscaping to be provided. The landscaping shall be indicated in tabular form showing the type of plant material, minimum size and quantity. The approximate location of landscaping shall be indicated on the site plan.
- The anticipated timetable for completion. If the project is to be completed in phases, then the data for completion of each phase shall be indicated.

**PAID**  
SEP 12 2022  
TOWN OF PAONIA

All owners and lien-holders of the property shall sign the following agreement that will be placed on the original special review site plan.

n/a

Home Owner's association Written plan approval (if applicable)

The undersigned agree that the real property described on the site plan shall be developed only in accordance with the approved special review site plan and other provisions of the zoning regulations of the Town of Paonia.

**I. Site Plan**

Any application for Special Review/Variance that includes a new structure or improvement to an existing structure will require a site plan. Plans may be hand drawn, but must be clearly written with accurate measurements indicated. The Site Plan may be submitted as two separate drawings or one drawing with an overlay.

**II. Project Summary**

Please answer only the questions that apply to your request. Any additional information, which would be beneficial in the consideration, may be noted in the "Comments" section.

- a. Reason for Special Review/Variance We are proposing to extend our existing porches in the front and back to 'wrap around' the house. This requires a variance
- b. Current Zoning of Property R1 D
- c. What land boundary changes are necessary? SIDEYARD SETBACK OF 3 FEET AND FRONT YARD SETBACK OF 15 FEET.
- d. What addition/changes to existing buildings/structures will be made? REPLACE EXISTING PORCHES
- e. What new buildings/structures will be constructed? NEW WOOD WRAPAROUND PORCH.
- f. What additions/changes in utilities will be necessary? Include water, sewer, gas, and electric. NA
- g. Will property have Commercial/Private or Public Use? NA
- h. Anticipated traffic flow and volume? NA

- i. Detail the Safety and Disabled Access accommodations? THE NEW PORCH WILL BE MUCH SAFER.
- j. Detail the possible environmental impact; such as noise, lighting glare, pollutants, etc. NA

Comments: THE CURRENT PORCHES, BUILT IN 1947 EXTEND INTO THE SETBACK. TO REPLACE THEM DOES NOT REQUIRE A VARIANCE - BUT TO WRAP THE PORCH AROUND THE HOUSE DOES. THIS PORCH WILL BE SAFER THEN THE EXISTING, PROVIDE BETTER DRAINAGE AROUND THE HOUSE, AND WILL FIT INTO THE HISTORIC CHARACTER OF THE HOUSE.

**III. Public Notice Requirements**

All property owners within 200 feet of the property being reviewed shall be notified via certified mail of a public hearing whereby the Planning and Zoning Commission shall consider this application. Applications for Special Review shall be filed at least 30 days in advance of the meeting at which they are to be considered by the Planning and Zoning Commission. Incomplete applications shall result in denial of application acceptance and returned for completion, consequentially delaying hearings.

**IV. Acknowledgement to Pay Fees**

This application must be completed and a fee of **\$250.00** is assessed to include preliminary costs of administrative services and initial correspondence. Additional charges will be invoiced for, publication and certified mailings to property owners within 200 feet of said property. **Payment must accompany this application.**

**FEES PAID HEREUNDER ARE NON-REFUNDABLE UPON SIGNING**  
**By signing below, I acknowledge that I will be billed for any overages of costs incurred for this Special Review/Variance. I am aware that upon acceptance of the Special Review/Variance by the Planning and Zoning Commission, a building permit must be applied and approved by the Building Inspector, if applicable.**

*Todd Doherty*

SIGNED *Margaret Doherty*

PRINTED NAME MARGARET DOHERTY / DATE: 9.12.22

Clerks Acceptance \_\_\_\_\_ DATE \_\_\_\_\_

*TODD DOHERTY*  
*9.12.22*

SCHNEIDER DAVID  
PO BOX 1535  
CO, PAONIA, 81428-8035

DIDERO NICOLE  
910 3RD STREET  
CO, PAONIA, 81428-8436

DAVID NANCY IRENE  
904 3RD ST  
CO, PAONIA, 81428-8436

LINEHAN RAMONA  
PO BOX 1813  
CO, PAONIA, 81428-1813

PFEIFER AMBER MARIE  
PO BOX 1073  
CO, PAONIA, 81428-1073

DOBBINS PATSY A PROTECTED PERSON  
901 3RD ST  
CO, PAONIA, 81428-8437

KOEPSSELL ERIC B  
PO BOX 1141  
CO, PAONIA, 81428-1141

EMMONS CHARLOTTE J  
PO BOX 141  
CO, PAONIA, 81428-0141

MEADER GEORGE L  
313 DELTA AVE  
CO, PAONIA, 81428-8411

SHEAHAN 5 LLC  
28506 LITTLE BIG HORN DRIVE  
CO, EVERGREEN, 80439-6314

FRAZIER FAMILY REVOCABLE TRUST  
39468 LUND RD  
CO, PAONIA, 81428-6447

ZIMMERLE MICHAEL  
PO BOX 1471  
CO, PAONIA, 81428-1471

ELAND MATTHEW B  
907 3RD ST  
CO, PAONIA, 81428-8437

BREZONICK MICHAEL L  
PO BOX 855  
CO, PAONIA, 81428-0855

DOHERTY DAVID TODD  
PO BOX 1777  
CO, PAONIA, 81428-1777

BAES DONNA K  
311 OAK AVE  
CO, PAONIA, 81428-8452

FIRST CHRISTIAN CHURCH OF PAONIA  
PO BOX 413  
CO, PAONIA, 81428-0413

Account Number	Owner NAME	Mail Address	Mail State
R008553	SCHNEIDER DAVID	PO BOX 1535	CO
R008473	DAVID NANCY IRENE	904 3RD ST	CO
R008554	PFEIFER AMBER MARIE	PO BOX 1073	CO
R008545	KOEPSSELL ERIC B	PO BOX 1141	CO
R008472	MEADER GEORGE L	313 DELTA AVE	CO
R008467	FRAZIER FAMILY REVOCABLE TRUST	39468 LUND RD	CO
R008542	ELAND MATTHEW B	907 3RD ST	CO
R008552	DOHERTY DAVID TODD	PO BOX 1777	CO
R008466	BAES DONNA K	311 OAK AVE	CO
R019995	FIRST CHRISTIAN CHURCH OF PAONIA	PO BOX 413	CO
R008474	DIDERO NICOLE	910 3RD STREET	CO
R008556	LINEHAN RAMONA	PO BOX 1813	CO
R008543	DOBBINS PATSY A PROTECTED PERSON	901 3RD ST	CO
R008468	EMMONS CHARLOTTE J	PO BOX 141	CO
R008555	SHEAHAN 5 LLC	28506 LITTLE BIG HORN DRIVE	CO
R008541	ZIMMERLE MICHAEL	PO BOX 1471	CO
R008544	BREZONICK MICHAEL L	PO BOX 855	CO

Mail City	Mail Zip
PAONIA	81428-8035
PAONIA	81428-8436
PAONIA	81428-1073
PAONIA	81428-1141
PAONIA	81428-8411
PAONIA	81428-6447
PAONIA	81428-8437
PAONIA	81428-1777
PAONIA	81428-8452
PAONIA	81428-0413
PAONIA	81428-8436
PAONIA	81428-1813
PAONIA	81428-8437
PAONIA	81428-0141
EVERGREE	80439-6314
PAONIA	81428-1471
PAONIA	81428-0855



## Corinne Ferguson

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**From:** Todd Doherty <dtodddoherty@gmail.com>  
**Sent:** Thursday, September 22, 2022 12:58 PM  
**To:** Corinne Ferguson; Margaret Doherty  
**Subject:** RE: variance application  
**Attachments:** ILC 817 3rd Street.pdf

Hi Corrine,

Thank you for your preliminary review of our variance application. Below are the answers to your questions:

1. **LEGAL DESCRIPTION:** THE NORTH 50 FEET OF LOTS 16, 17, 18, 19 AND 20 IN BLOCK 8 OF HAWKIN'S AND MOLLER'S ADDITION TO THE TOWN OF PAONIA DELTA COUNTY, STATE OF COLORADO (attached ILC also includes legal description).
2. We are very supportive of Paonia being an International Dark Sky Association (IDA) designated community and will install new outdoor lighting in accordance with the Town's lighting ordinance. We will install two new outdoor lights on the porch ceiling on the Delta Street side. There is an existing outdoor light on the 3<sup>rd</sup> Street porch that is in compliance with the ordinance. We will install its replacement in the same location and will also ensure that this light is in compliance with the ordinance as well. We will install one outdoor light on the south side of the house, also on the porch ceiling and in accordance with the ordinance.
3. We are waiting to see if we obtain the variance or not prior to obtaining bids from contractors. If we receive approval, we believe a reasonable estimate to complete construction within one year from the date of approval. Our hope would be to complete construction earlier so we can enjoy the new porch in Spring 2023.

Thanks again and please don't hesitate to reach out if you need additional information and/or have any questions. We look forward to hearing from you on the details of the public hearing.

-Todd and Margaret

---

**From:** [Corinne Ferguson](#)  
**Sent:** Thursday, September 22, 2022 11:20 AM  
**To:** [Todd Doherty](#); [Margaret Doherty](#)  
**Subject:** variance application

Good morning,

I have completed the preliminary review of the variance application for the porch modification at 817 3<sup>rd</sup> Street. I need the following items submitted prior to the setting of the public hearing.

1. The legal description of the property.
2. The location and type of any porch lighting in compliance with the attached lighting ordinance – if any.
3. The anticipated timeline to complete pending approval.

Thank you,

*J. Corinne Ferguson*

October 30, 2022

Board of Zoning Adjustment & Appeals  
Town of Paonia  
P.O. Box 460  
Paonia CO 81428-0460

Dear Board Chair and Members,

Please accept our request to appeal the Town Administrator's decision to not recommend approval of our variance application. In the Administrator's letter, dated September 22, 2022, she provided three reasons for a recommendation of denial. Below, we provide our responses and further explanation for why we believe a variance is warranted:

1. Town Administrator: *"The reduced side yard setback places the burden of meeting the full setback on the side neighbor's property - meaning that the 3' side setback would then require the neighbor to meet a 9' setback should they develop in the footprint."*

Our Response: The 3' side yard setback exists today and has existed since the house was built in 1947. The only back door to the house is accessed from an existing 3' wide covered porch that is 3' from the property line. The existing concrete porch is leaning away from the house and does not have a railing. It is not up to code and needs to be replaced.



2. Town Administrator: *“Municipal Code Sec. 16-13-30 (a) states: Nonconforming buildings as of the effective date of the initial ordinance codified herein shall not be altered or extended in a way that would increase the degree of nonconformance.”*

Our Response: There are two doors that were included in the original design of the house. The front door is located on 3<sup>rd</sup> Street and is the more formal visitor entrance into the living room. The back door is located on the opposite side of the house (the south side) and is the less formal family entrance into the kitchen. The existing front and back porches that provide access to these doors are nonconforming. We must replace them because they are in disrepair and are not safe.

We are also requesting to extend the nonconformance by wrapping the porch around the Delta Avenue frontage. We request this variance to allow us to have an accessible entrance from Delta Avenue, which is the primary parking location for the home. The back door is the door the family uses to bring groceries into the home, pets, etc., so as not to have to walk through the living room.

As you know, 3<sup>rd</sup> Street slopes from East to West from the mountains down towards the North Fork of the Gunnison River. Our property has a significant grade change from the SE corner of our lot to the NW corner. The two existing entrances are 30 inches off the ground and can only be accessed with stairs. Connecting our two existing porches with a wraparound porch creates an entrance into the home that will be only eight inches off the ground (see photo below). The new porch will easily accommodate a small ramp at the SE corner, which will make the house accessible for wheelchairs, strollers, etc.

Please see the attached design drawings that show the proposed porch matching the existing conditions at the two entrances and wrapping around the Delta Avenue frontage.



The SE corner of the lot is here, where our gate from Delta Street is located.

The proposed porch will only be 8 inches from the ground here.

Our new fence gate is positioned to allow the family to park on Delta Avenue and enter the house through the back door, directly into the kitchen with groceries, etc. The proposed wraparound porch will make this entrance more accessible.



3. Town Administrator: *“Municipal Code Sec.16-15-10 (c)(3) states: The circumstances found to constitute a hardship were not created by the appellant, are not due to or the result of general conditions in the district and cannot be practically corrected.”*

It is true that the conditions that we are asking to keep were not created by us. They have existed since the house was built in 1947. The conditions are due to and reflect the general conditions in the district. As you can see in the photos below, our immediate neighbor has a recent nonconforming front porch replacement that encroaches into the setback at the same distance from the property line as our request. His house was built at the same time and must have had an original porch that encroached into the setback because the door is three steps higher than the ground. In the case of his house and ours, the condition cannot be practically corrected without an encroachment into the setback.



As you go further down Delta Avenue, towards 2<sup>nd</sup> Street, there are many nonconforming porches encroaching into the setback.



We are not asking to encroach as far into the setback as many of these existing porches. We are asking to match our immediate neighbor's existing porch.

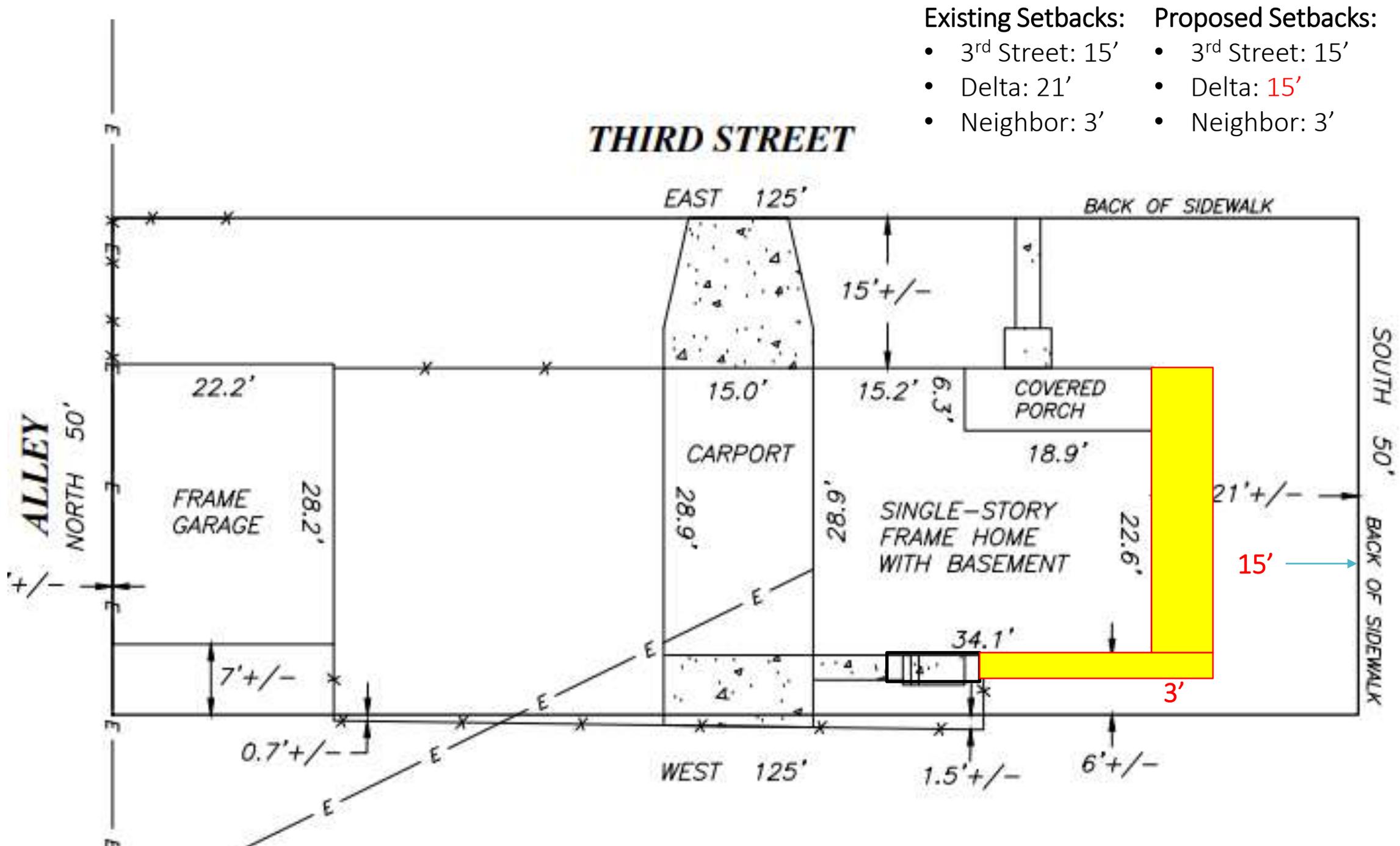
In summary, the existing nonconforming porches must be replaced. We're asking to replace them in their current locations. We are also asking to wrap a covered porch around the Delta Avenue frontage, connecting the front and back porches, at the same setback as our only immediate neighbor, to allow a safe and accessible entrance into the existing back door.

We appreciate your time and consideration and hope that you will find our request reasonable. We encourage the Board to visit the site to better understand the existing grade and condition of the existing porches.

Sincerely,  
Todd and Margaret Doherty  
817 3<sup>rd</sup> Street  
Paonia, CO 81428  
(970) 730-9280

# 817 3<sup>rd</sup> Street

Appeal of Administrative Decision on Variance Denial





Existing front porch must be replaced.

- Concrete is pulling away from the house.
- Railing is not attached to the porch.
- Ceiling is warped and collapsing.



## Existing back porch must be replaced.

- Concrete is pulling away from the house.
- There's no railing.
- Roof above needs to be replaced and/or repaired.
- (Gas meter is being removed – going totally electric)

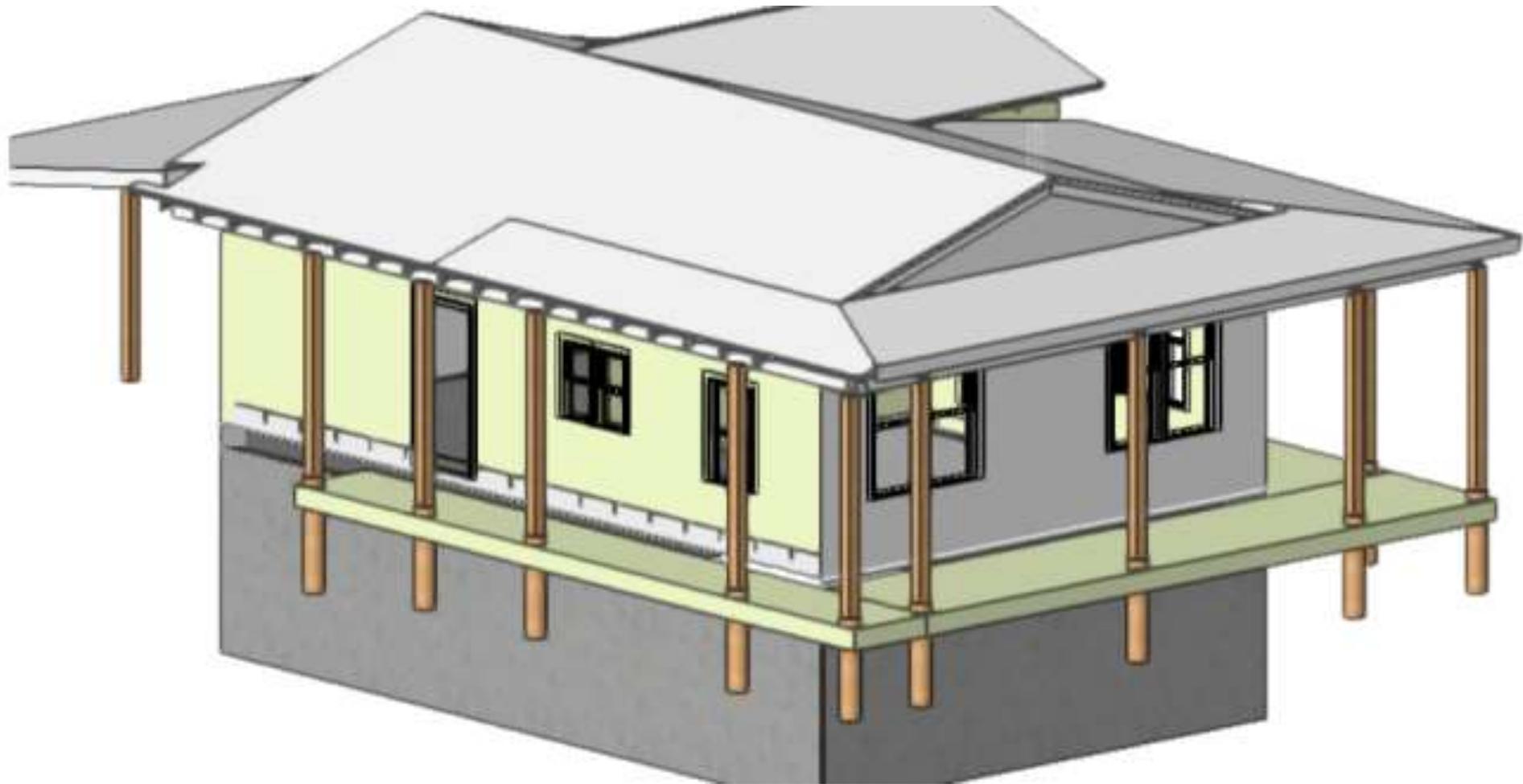


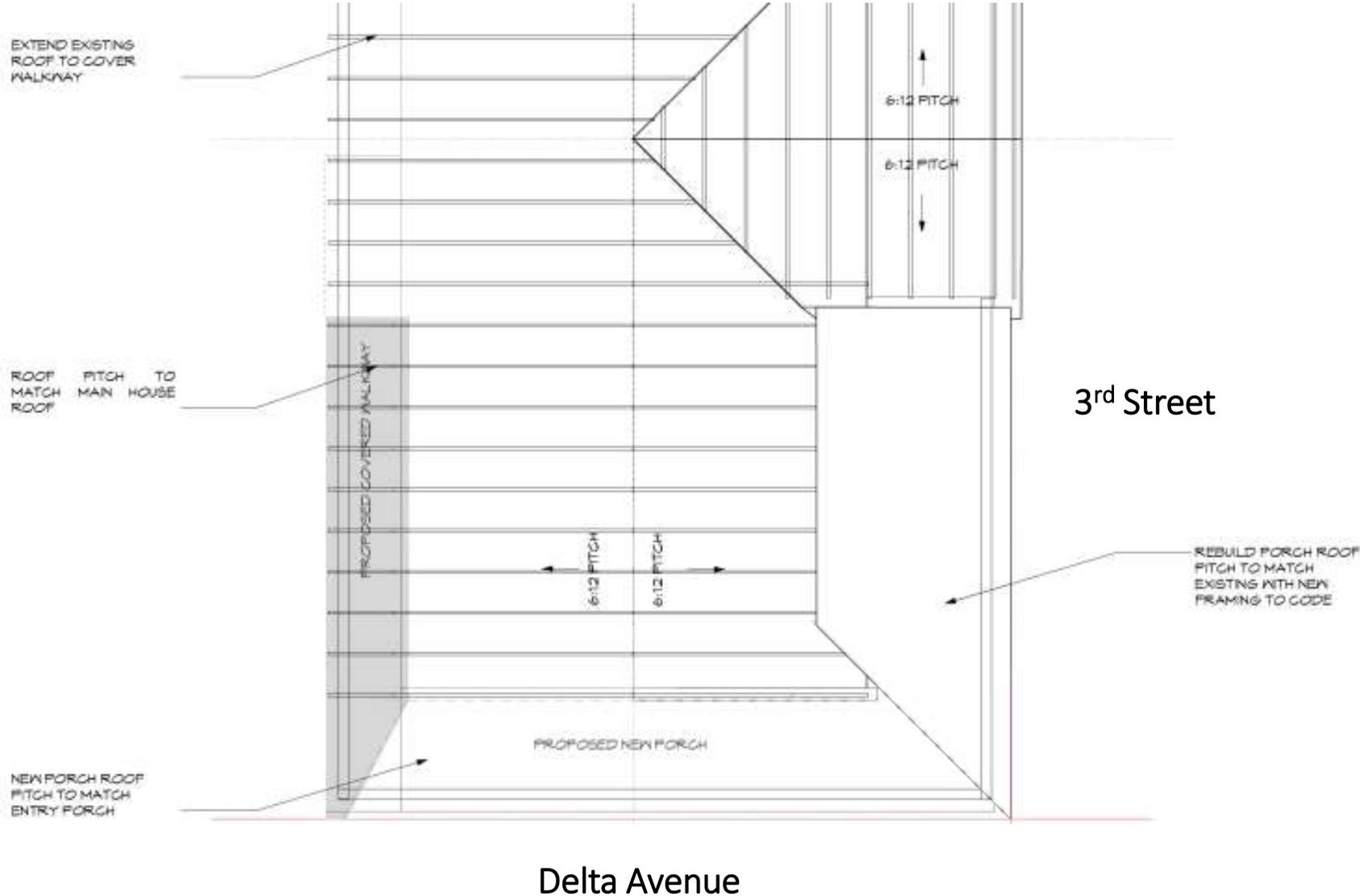
3 DELTA AVENUE ELEV  
Scale: 1/4" = 1'-0"



4 THIRD STREET ELEV  
Scale: 1/4" = 1'-0"

New wraparound porch.



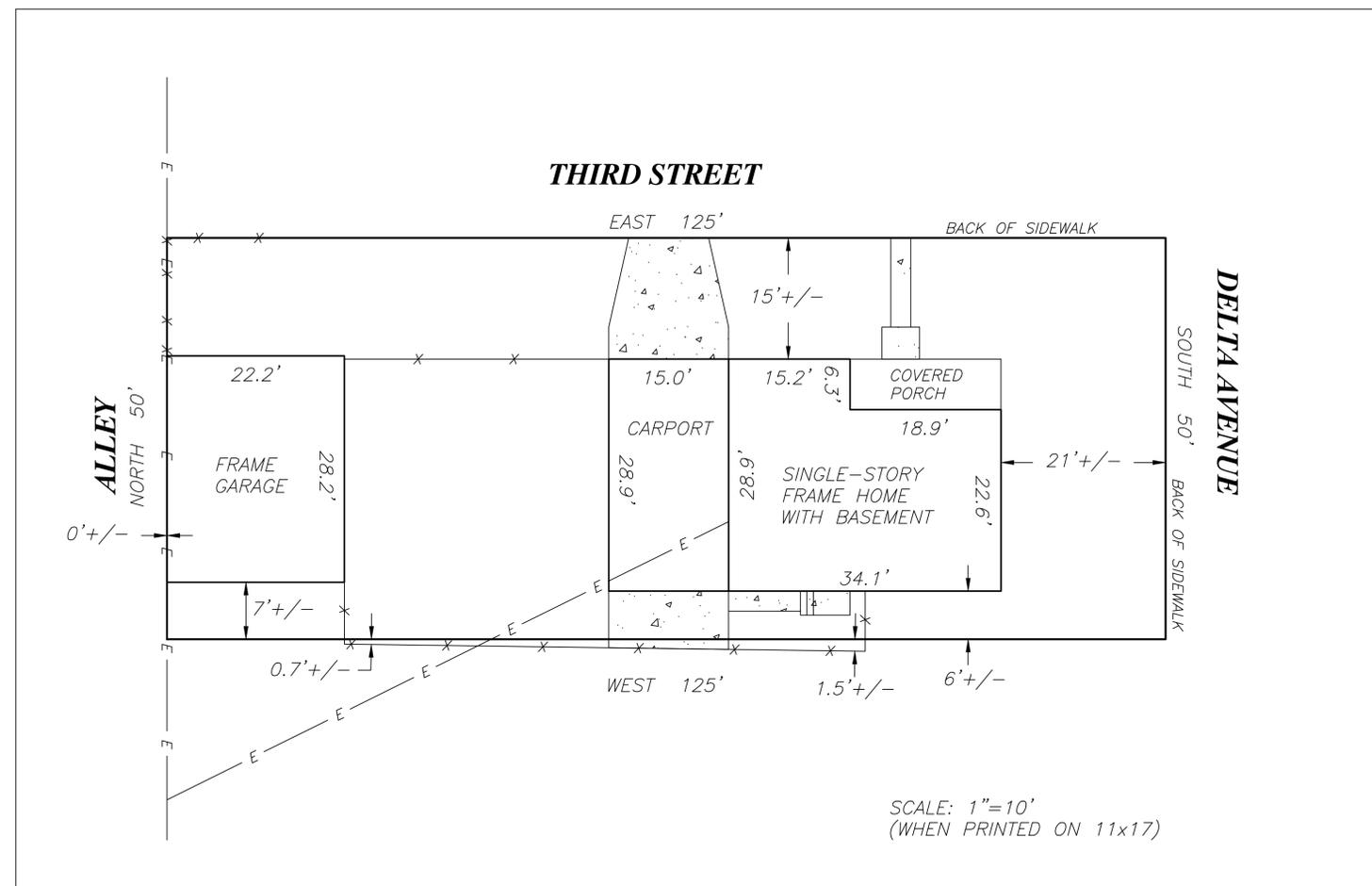


### Summary Request:

1. Maintain existing setbacks from 3<sup>rd</sup> Street and south property line.
2. Allow 15' setback from Delta Avenue.
3. Take reasonable efforts to identify and use fire-resistant and fireproof design and materials.
4. Employ professional design and/or construction services.



These photos were taken before the new fence was built.

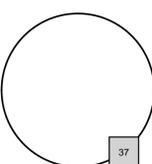


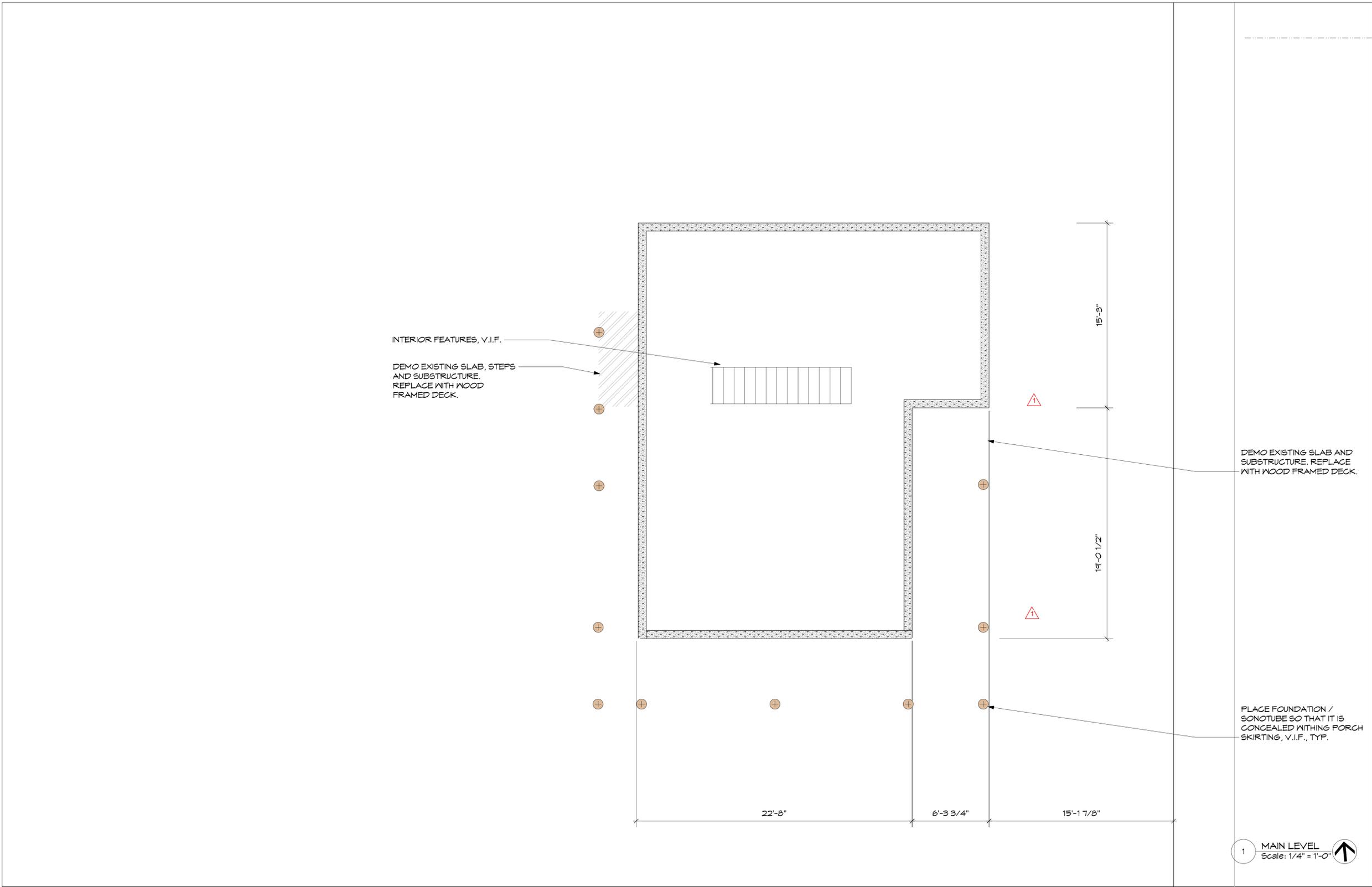
**DOHERTY PORCH PROJECT**  
817 THIRD STREET  
PAONIA, CO

**SHEET NAME:**  
SCHEMATIC DESIGN FOR PLANNING

**BY:** WIEGAND  
EXISTING CONDITIONS

**DATE:**  
08-11-2022





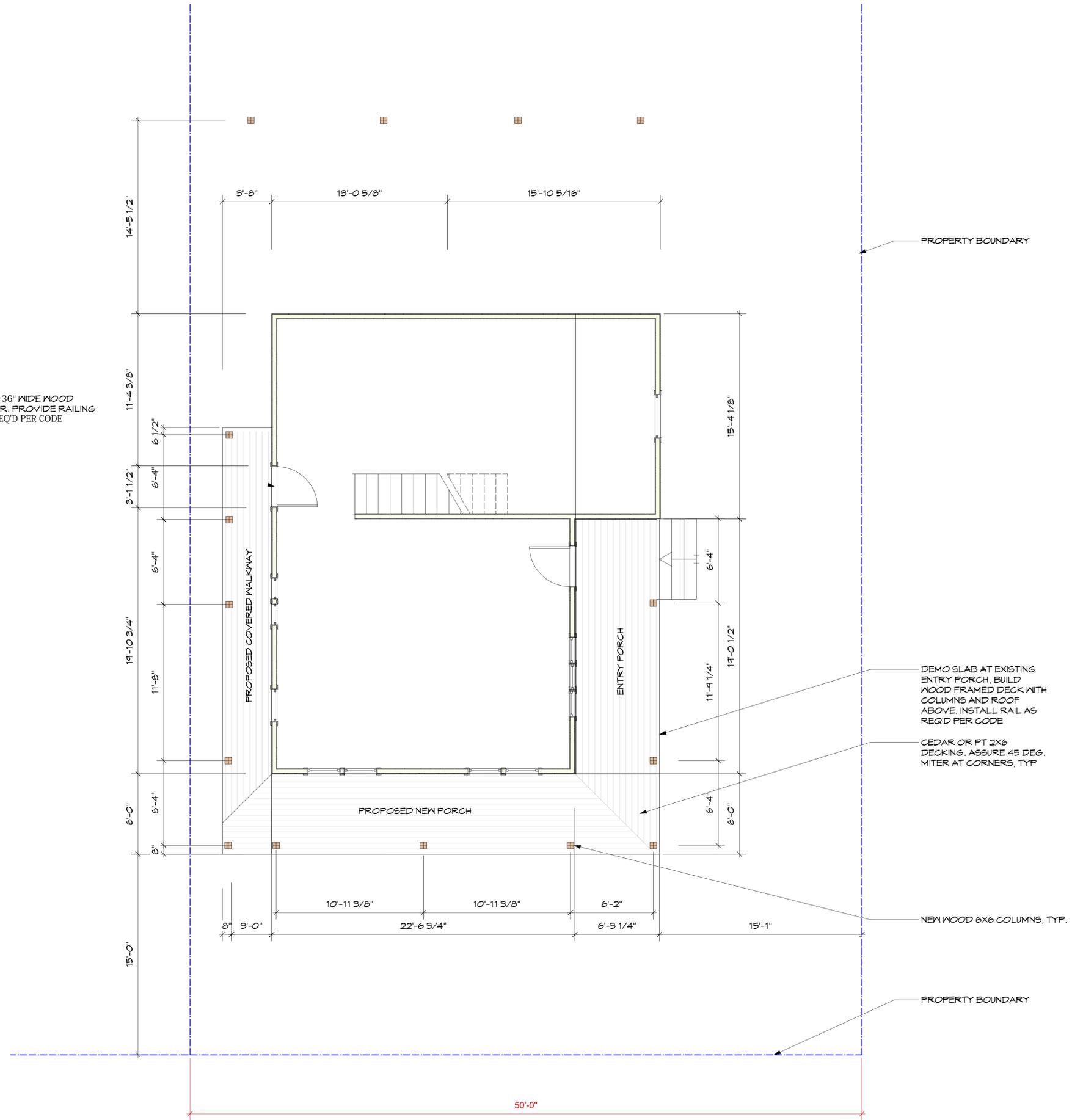
DOHERTY PORCH PROJECT  
 817 THIRD STREET  
 PAONIA, CO

SHEET NAME:  
 SCHEMATIC  
 DESIGN FOR  
 PLANNING  
 MAIN LEVEL  
 PLAN  
 DATE:  
 08-11-2022

A2.2

1 MAIN LEVEL  
 Scale: 1/4" = 1'-0" ↑

NEW 36" WIDE WOOD STAIR, PROVIDE RAILING AS REQ'D PER CODE



PROPERTY BOUNDARY

DEMO SLAB AT EXISTING ENTRY PORCH, BUILD WOOD FRAMED DECK WITH COLUMNS AND ROOF ABOVE. INSTALL RAIL AS REQ'D PER CODE

CEDAR OR PT 2X6 DECKING. ASSURE 45 DEG. MITER AT CORNERS, TYP

NEW WOOD 6X6 COLUMNS, TYP.

PROPERTY BOUNDARY

DOHERTY PORCH PROJECT  
817 THIRD STREET  
PAONIA, CO

SHEET NAME:

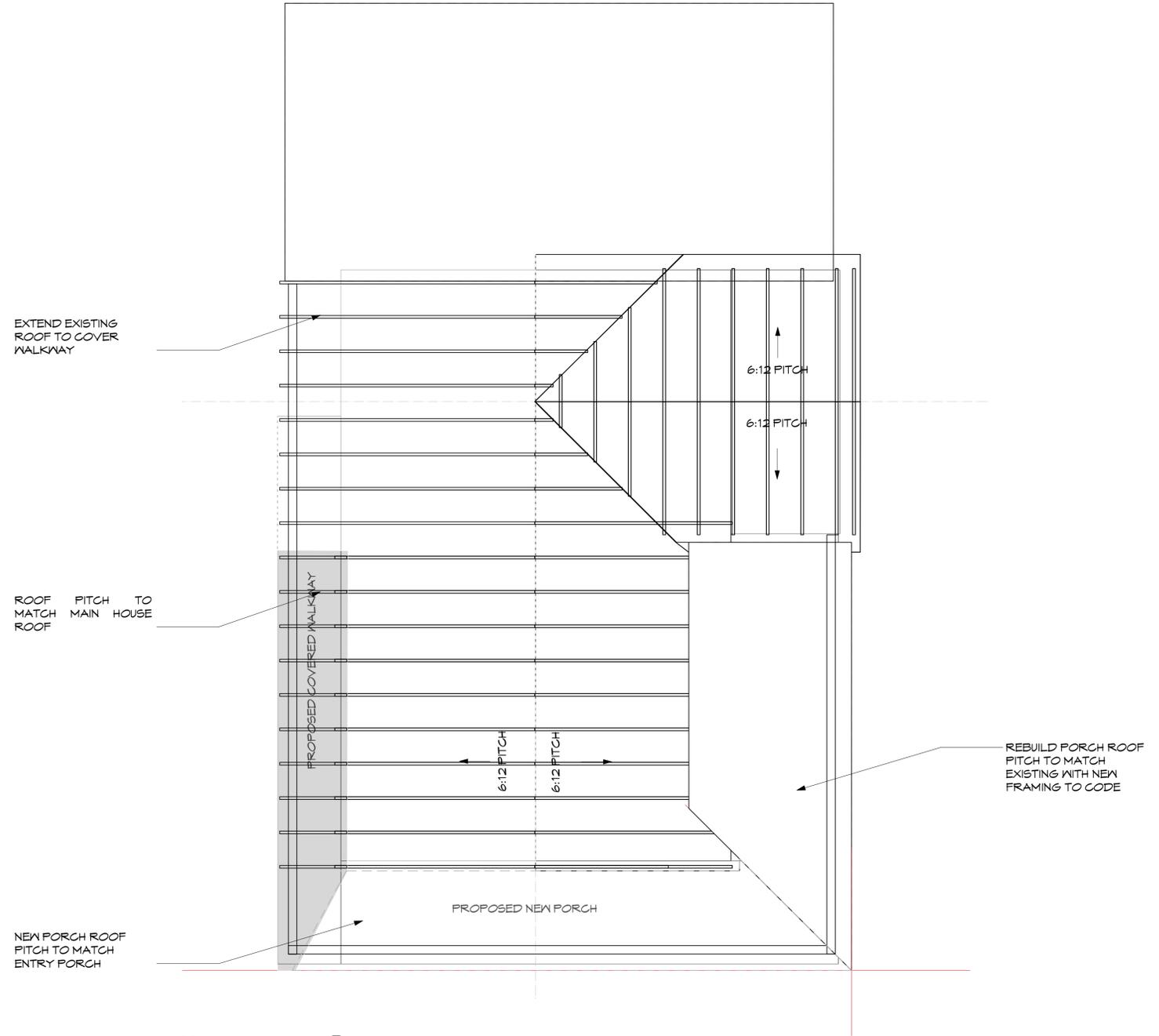
SCHEMATIC DESIGN FOR PLANNING

UPPER LEVEL PLAN

DATE:

08-11-2022

A2.3



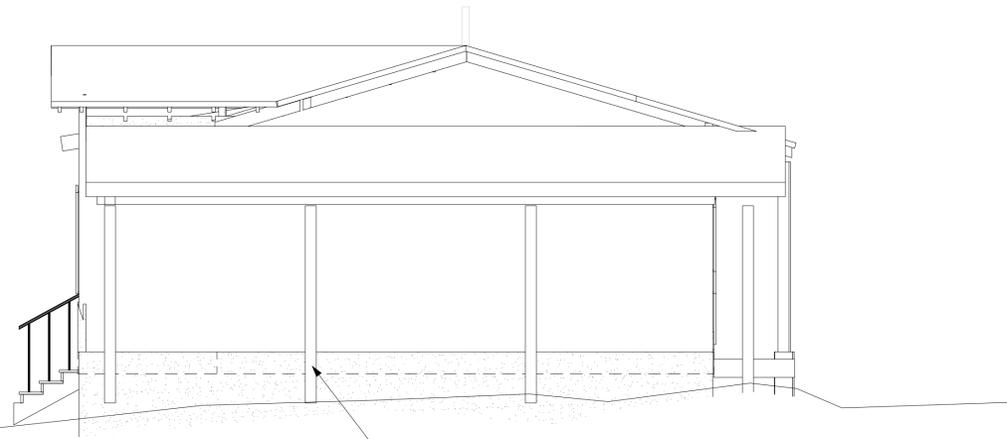
DOHERTY PORCH PROJECT  
 817 THIRD STREET  
 PAONIA, CO

SHEET NAME:  
 SCHEMATIC  
 DESIGN FOR  
 PLANNING  
 ROOF PLAN  
 DATE:  
 08-11-2022

3 ROOF PLAN  
 1/2"=1'-0"

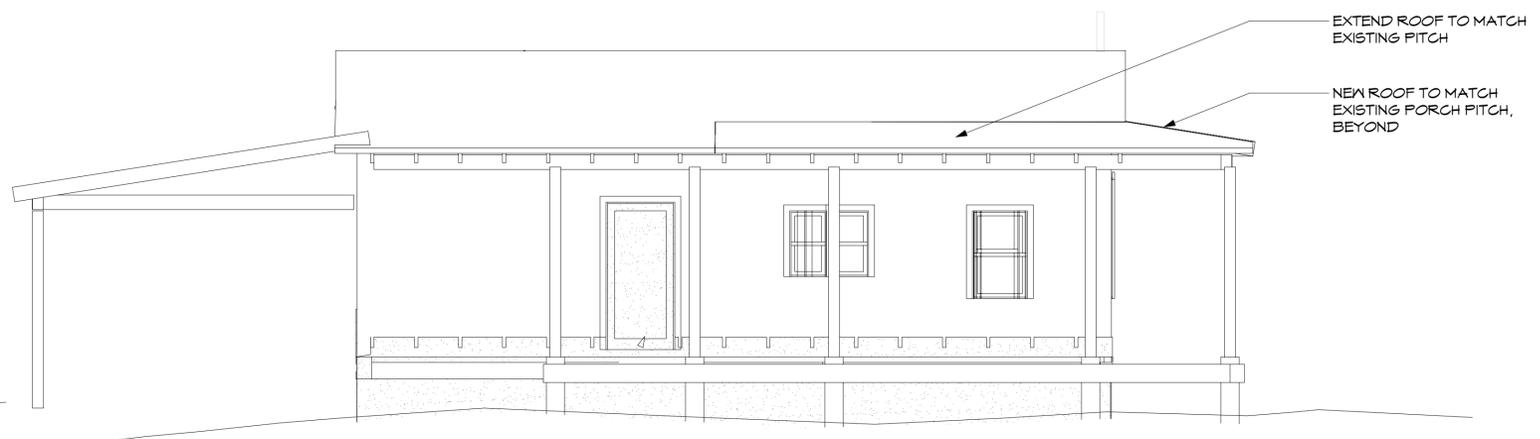
0 5 10 15 FT

A2.5



NO DIMENSIONS AT THIS SIDE OF HOUSE ARE TO BE CONSIDERED ACCURATE. VERIFY IN FIELD

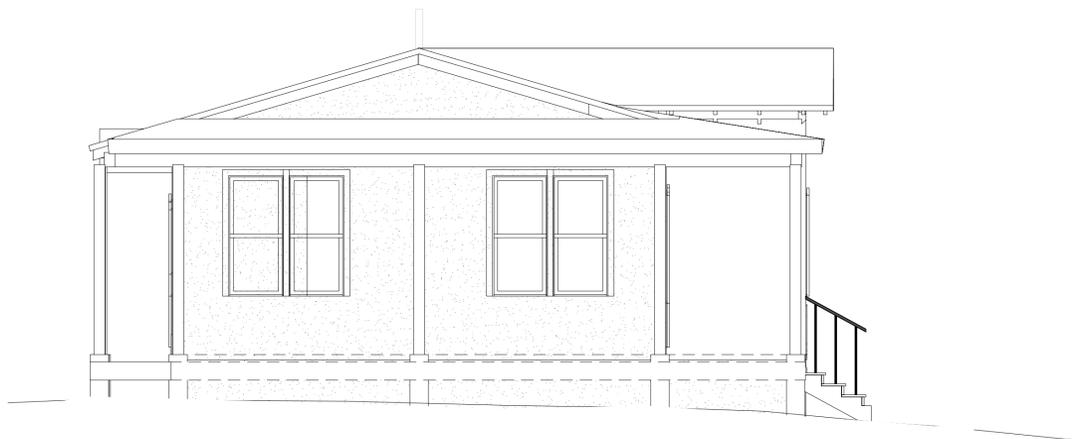
2 NORTH ELEV  
Scale: 1/4" = 1'-0"



EXTEND ROOF TO MATCH EXISTING PITCH

NEW ROOF TO MATCH EXISTING PORCH PITCH, BEYOND

2 SOUTH ELEV  
Scale: 1/4" = 1'-0"



3 DELTA AVENUE ELEV  
Scale: 1/4" = 1'-0"



4 THIRD STREET ELEV  
Scale: 1/4" = 1'-0"

DOHERTY PORCH PROJECT  
817 THIRD STREET  
PAONIA, CO

SHEET NAME:

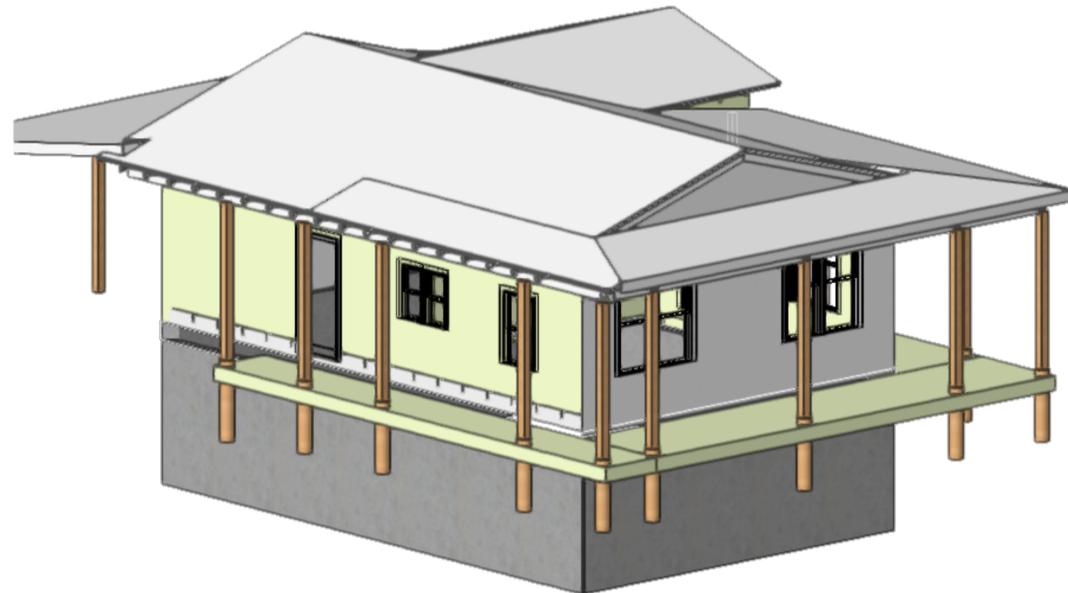
SCHEMATIC DESIGN FOR PLANNING

ELEVATIONS

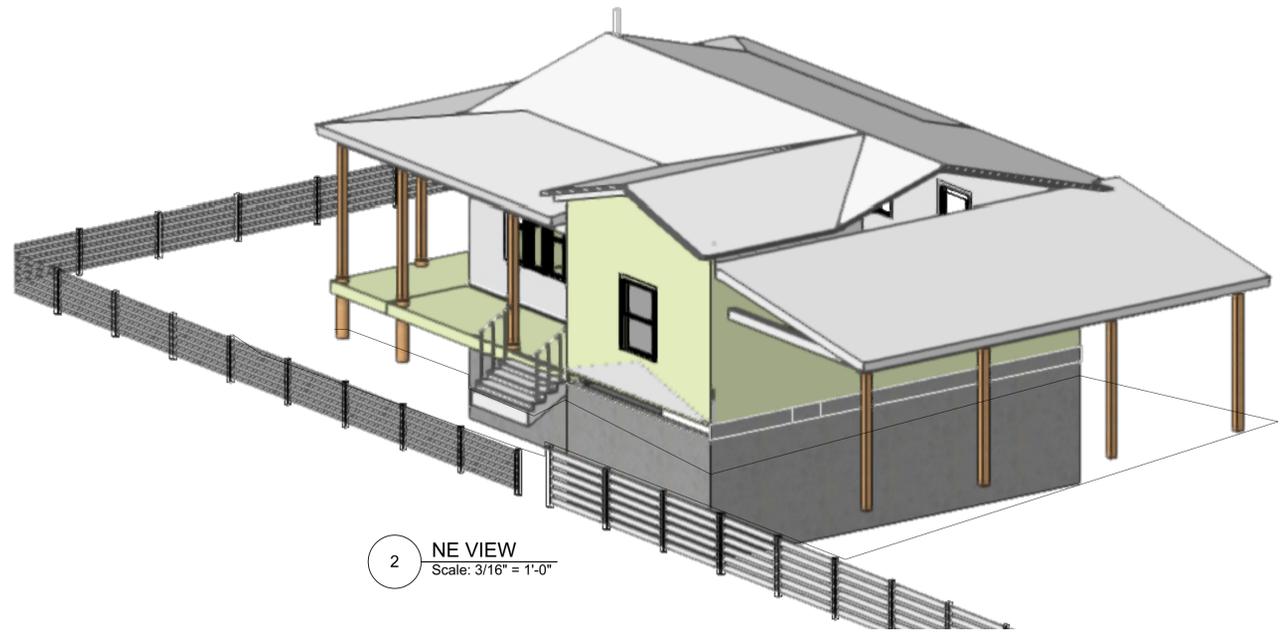
DATE:

08-11-2022

A3.1



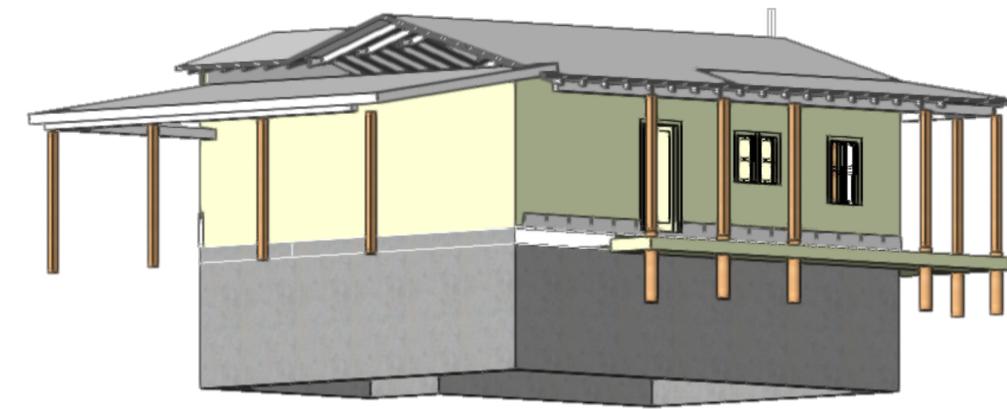
3 PROPOSED PORCH  
Scale: 1:55



2 NE VIEW  
Scale: 3/16" = 1'-0"



1 DELTA AND THIRD  
Scale: 1/4" = 1'-0"



4 NW VIEW  
Scale: 1:65

DOUGHERTY PORCH PROJECT  
817 THIRD STREET  
PAONIA, CO

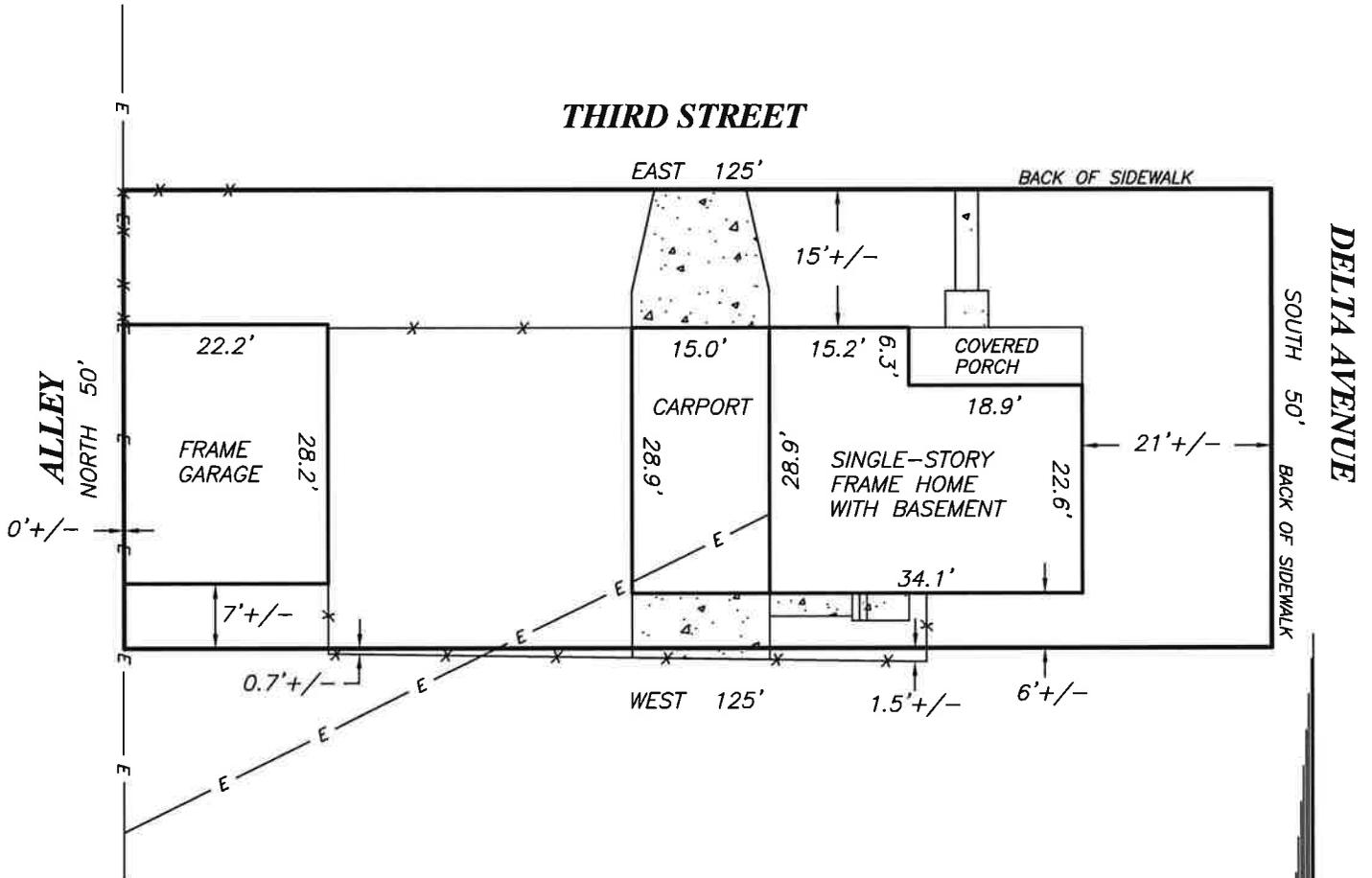
SHEET NAME:  
SCHEMATIC  
DESIGN FOR  
PLANNING  
SOUTH  
ELEVATION  
STUDY  
DATE:  
08-11-2022

A7.1

# IMPROVEMENT LOCATION CERTIFICATE

THIS IS NOT A SURVEY

BUYER: *DAVID TODD DOHERTY AND MARGARET ROSE DOHERTY*    DATE: *JUNE 10, 2022*  
 ORDERED BY: *TODD DOHERTY*  
 PROPERTY ADDRESS: *817 3RD STREET*  
 GENERAL LOCATION: *PAONIA*



**TYPICAL LEGEND**

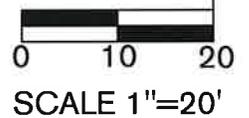
- Found pin with cap
- x— Fencelines
- T— Tel. line
- E— Electric (overhead) (subject to easement)
- G— Gas line
- W— Water line
- Easement
- Setback Line
- ▨ Concrete
- ▤ Gravel Driveway

**LEGAL DESCRIPTION:**

THE NORTH 50 FEET OF LOTS 16, 17, 18, 19 AND 20 IN BLOCK 8 OF HAWKIN'S AND MOLLER'S ADDITION TO THE TOWN OF PAONIA DELTA COUNTY, STATE OF COLORADO

**NOTE:**

BOUNDARY LINES ARE UNKNOWN WITHOUT A SURVEY. NO MONUMENTS WERE FOUND. THE IMPROVEMENTS APPEAR TO BE WITHIN THE BOUNDARY LINES.



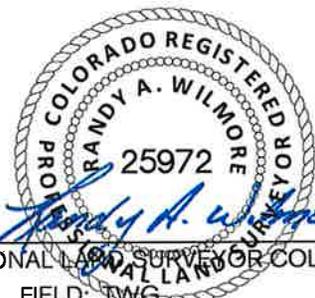
INVESTIGATION BY WILMORE AND COMPANY PROFESSIONAL LAND SURVEYING INC., P.O. BOX 1652, 406 GRAND AVENUE, PAONIA, COLORADO 81428 (970) 527-4200; (970) 527-4202

I hereby certify that this IMPROVEMENT LOCATION CERTIFICATE was prepared solely for DAVID TODD DOHERTY AND MARGARET ROSE DOHERTY, that it is NOT a survey plat, and that it is not to be relied upon for the establishment of fences, buildings, or other future improvement construction lines. I further certify that the improvements on the above described parcels on this 10TH day of JUNE, 2022, EXCEPT as may be shown above, that there are no apparent encroachments upon the described parcel by improvements on an adjoining property, EXCEPT as indicated, and that there is no apparent evidence of any easement crossing or burdening this parcel, EXCEPT AS NOTED.



**WILMORE & COMPANY**  
 PROFESSIONAL LAND SURVEYING, INC.

406 Grand Avenue    970.527-4200  
 P.O. Box 1652    970.527-4202  
 Paonia, Colorado 81428



PROFESSIONAL LAND SURVEYOR COLO# 25972

Defining Boundaries

JOB# ILC22118    JUNE 10, 2022    DRAWN BY: TWG    FIELD: TWG

## Samira V

---

**From:** Margaret Doherty <margaretrosedoherty@gmail.com>  
**Sent:** Monday, February 13, 2023 2:43 PM  
**To:** Samira V; Nick Cotton-Baez; Todd Doherty  
**Subject:** Fwd: Wrap around deck

Begin forwarded message:

**From:** Todd Doherty <dtodddoherty@gmail.com>  
**Date:** February 13, 2023 at 10:56:28 AM EST  
**To:** Margaret Doherty <margaretrosedoherty@gmail.com>  
**Subject:** FW: Wrap around deck

Ben and Amber were kind enough to submit this email in support of our project. Would you please include it in the packet to Sam?

Thanks, love you.  
Todd

**From:** [Ben and Amber Gillespie](#)  
**Sent:** Monday, February 13, 2023 8:46 AM  
**To:** [dtodddoherty@gmail.com](mailto:dtodddoherty@gmail.com)  
**Subject:** Wrap around deck

To whom it may concern,

Ben and Amber Gillespie of 230 Delta Ave are in support of the purposed deck project occuring at 817 3rd Street for Margaret and Todd Doherty.

Ben and Amber Gillespie  
230 Delta Ave  
970-361-0041

**Samira V**

---

**From:** Margaret Doherty <margaretrosedoherty@gmail.com>  
**Sent:** Monday, February 13, 2023 2:42 PM  
**To:** Samira V; Nick Cotton-Baez; Todd Doherty  
**Subject:** Fwd: Comment in support of wraparound porch project at 817 Third Street, Paonia

Begin forwarded message:

**From:** Margaret Doherty <margaretrosedoherty@gmail.com>  
**Date:** February 11, 2023 at 6:12:06 PM EST  
**To:** Margaret Doherty <margaret.doherty2@fema.dhs.gov>  
**Subject:** **Fwd: Comment in support of wraparound porch project at 817 Third Street, Paonia**

Sent from my iPhone

Begin forwarded message:

**From:** David Schneider <daveschneider99@gmail.com>  
**Date:** February 11, 2023 at 10:57:45 AM MST  
**To:** dtodddoherty@gmail.com, margaretrosedoherty@gmail.com  
**Subject:** **Comment in support of wraparound porch project at 817 Third Street, Paonia**

Dear Margaret and Todd Doherty,

You may share this letter with Town of Paonia officials if you wish.

I am writing as the owner and principal occupant of 234 Delta Avenue, Paonia, CO 81428. As your immediate neighbor, I may be viewed as being the most affected person in the neighborhood by your proposed wrap-around porch.

I have viewed the tentative design plans and discussed the project with you in person. I wish to thank you for your thoughtfulness and consideration in consulting with me on this project. I think the proposed wrap-around porch will add value and function to your property and increase the aesthetic appeal of the neighborhood.

My support is conditional on three requests: 1) That you make all reasonable efforts to identify and use fire-resistant and fireproof design and materials in the construction of the porch. Wildfires and regular house fires are concerns in Paonia. I don't want to go cutting down mature vegetation or changing existing construction, but I do think with new construction there is an opportunity to "build it right." 2) That the new porch or walkway on the south side of the house (closest to my property) does not encroach more within the setback than the existing back porch/steps and walkway already do. 3) That you employ professional design and/or construction services in the execution of the project. I am okay with DIY projects if they are thoughtfully done, but just ask that there is professional guidance along the way.

Thank you and best of luck with your wrap-around porch project.

Sincerely,

David Schneider

February 27, 2023 11:56am

I received a call from Ms. Kathy Baes who lives at 311 Oak Avenue. She said she received her notification of the Public Hearing on the variance appeal for 817 Third St in the mail. Due to mobility issues she isn't able to attend the hearing but wanted to still have her opinion added to the packet if I was willing to take it.

Ms. Baes is in favor of allowing them to have the wrap around porch. She says that house is old and had seen better days, but the Doherty's have fixed it up really nicely, improving the neighborhood and the house and even put up a fence for their dog. She also said that as homeowners, if they want a wrap around porch to sit out on, they should be able to do that.

Samira M Vetter  
Town Clerk