

**RESOLUTION NO. 17-2020**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VADER, WASHINGTON, APPROVING THE APPLICATION FOR A VARIANCE BY ELWOOD HOLDINGS, LLC (5 ALPINE CT, VADER, APPLICATION NO. VAD 20-16).**

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WHEREAS, Elwood Holdings, LLC has applied to the City for a variance to reduce the applicable side-yard setback from ten feet under the City's zoning ordinance to a distance of seven feet; and

WHEREAS, the City's Planning Committee held a duly-noticed open record public hearing on the application on August 20, 2020; and

WHEREAS, after review of all materials and testimony, the Planning Committee recommended that the City Council approve the application as it meets the Vader Development regulations, including Chapter 27.48 (Variances); and

WHEREAS, the Planning Committee held a special meeting on August 25, 2020 to issue its Recommendation, a copy of which was provided to the Applicant; and

WHEREAS, the City Council considered the recommendation at its meeting on August 27, 2020, which was the first Council Meeting following issuance of the Recommendation from the Planning Committee; and

WHEREAS; after a review of the record and consideration of the Planning Committee's recommendation, the City Council concurs with the findings of fact, conclusions and recommendation of the Planning Committee that the variance should be approved; **NOW, THEREFORE,**

**THE CITY COUNCIL OF THE CITY OF VADER, WASHINGTON, DOES  
HEREBY RESOLVE AS FOLLOWS:**

**Section 1. Approval of the Variance Application.** The City Council finds that the application for the variance meets the requirements in the City’s development regulations, including all four criteria set forth in Section 27.48.020. Each of these criteria are each required to be met in order to grant the request for variance. Therefore, since all four criteria have been satisfied by the application, the City Council agrees with the Planning Committee that the application for a variance to reduce the side yard setback from ten feet (10’) to seven feet (7’) should be approved.

**Section 2. Planning Committee Recommendation Adopted as the Council’s Decision.** The City Council hereby adopts the Planning Committee’s recommendation as its own final decision, including specifically adopting the findings of fact and conclusions.

**Section 3. Directions to Clerk.** In accordance with Vader Development Regulation Section 27.48.060, the City Clerk is hereby directed to mail a copy of this decision to the application no later than 10 day following the rendering of this decision by the City Council.

**RESOLVED** this 27th day of August, 2020.

APPROVED:

\_\_\_\_\_  
Joe Schey, Mayor

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Diane Floyd, City Clerk

PASSED BY THE CITY COUNCIL: \_\_\_\_\_  
RESOLUTION NO.: \_\_\_\_\_

# Exhibit “A”

Planning Committee Recommendation on  
Application for Variance by  
Elwood Holdings, LLC  
5 Alpine Court, Vader Wa

**Recommendation of the City of Vader Planning Committee to**

**The Vader City Council**

**On Variance Application by Elwood Holdings, LLC**

File No.: VAD 20-01-V  
Applicants: Elwood Holdings, LLC  
Address: 5 Alpine Court, Vader WA  
Parcel Number: 007561009000  
Request: The Applicant is seeking a variance from the south side property line setback to reduce the setback from 10 feet to 7 feet.  
Date of Public Hearing: August 20, 2020  
Recommendation: Approve.

**A. Summary of Procedure.**

The procedures for determining variance applications are contained in Chapter 13.000 of the Vader Development Regulations. A property owner may request a variance by filing an application with the City (Vader Development Regulations §13.030). The City Council is the body to make the decision about whether a variance should be granted or denied (Vader Development Regulations §13.010). However, the City of Vader Planning Committee is designated as the body to hear variance requests and is tasked with making a recommendation on such request to the City Council (Vader Development Regulations §13.050). Such recommendation is made after the Planning Committee holds an open record public hearing on the application (Vader Development Regulations §13.040).

Notice of such hearing must be provided to the applicant and “to all property owners whose property abuts, touches, or adjoins, or is directly across a street or an alley from the property involved” (Vader Development Regulations §13.040). The hearing is required to be held within 30 days of the date of receipt of the complete application (Vader Development Regulations §13.050.A). The date for the complete application here is July 20, 2020. The Planning Committee’s hearing was held on August 20, 2020. The City provided notice in accordance with Vader Development Regulations §13.040-050 for the hearing date.

Prior to opening the Public Hearing, the City Attorney provided an overview of the procedures and of the staff report and the Planning Director’s recommendation.

At the public hearing, the Planning Committee swore in everyone who would testify. No testimony was offered by anyone.

The following documents were submitted into the record:

1. Application for Variance dated July 20, 2020 with three attached drawings; and
2. Staff Report dated August 20, 2020 with attached property aerial photo.

No other written comments or other documents were received.

### **Appearance of Fairness.**

Prior to opening the public hearing, the Committee Members were given the opportunity to disclose any ex parte contacts. No ex parte contacts were disclosed. The Committee Chair also announced that Committee Member Victoria Parsons had recused herself and would not be participating as she is married to a Council Member who would be making the final decision on this variance application. In addition, the Chair announced that Kathi Hall, who is also married to a Council Member, would participate in the Planning Committee hearing but that her husband, Council Member Randy Hall, would be recusing himself from the Council Decision.

### **B. Findings of Fact.**

After having considered all of the documents in the record and noting the absence of any testimony or written comments offered, the Planning Committee makes the following findings of fact:

1. The complete application for the variance was submitted on July 20, 2020.
2. Elwood Holding's request for the variance is based on the following facts:
  - a. The property is a historically small and narrow lot.
  - b. The applicant wants to build a modest home of approximately 1,500 square feet on the lot and cannot do so unless the south side yard setback is reduced from 10 feet to 7 feet.
3. Elwood Holdings did not create the narrowness or size of the lot but acquired it with this historic size.

### **C. Conclusions.**

The Planning Committee makes the following conclusions of law:

1. The City complied with all notice requirements for the variance hearing under Vader Development Regulations, Chapter 13.000.
2. The side yard setbacks applicable to Elwood Holding's property are ten (10) feet on both the north and south sides in accordance with Vader Development Regulations §3.060.D.
3. Side yard setbacks may only be modified by the granting of a variance under Vader Development Regulations §13.010.
4. The Planning Committee is tasked with making a recommendation to the City Council on whether a variance should be granted.

5. In order to grant a variance, all of the conditions set forth in Vader Development Regulations §13.020 (below) are required to be met. The use of the term “and” means that if one or more of these conditions is not satisfied, then the variance cannot be granted.

**13.020 Conditions for granting.**

No application for variance shall be granted unless the city council finds:

A. The variance shall not constitute a grant of special privilege inconsistent with the limitations upon uses of other properties in the vicinity and zone in which the property on behalf of which the application was filed is located; and

B. That such variance is necessary, because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property to provide it with use, rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located; and

C. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvement in the vicinity and zone in which the subject property is situated; and

D. The hardship asserted by the applicant is not the result of the applicant's or the owner's action.

6. All properties in the R-1 zone have 10-foot side yard setbacks for any structures built after the adoption of the current zoning code. The lot at issue was never developed and is historically narrow and small. Many lots in the R-1 zone are developed with modest homes (or even large homes in some cases) while either meeting the setbacks in the City’s code or were developed with much smaller setbacks under a prior zoning code. Therefore, the granting of this variance would not constitute a grant of special privilege inconsistent with the limitations upon uses of other properties in the vicinity and zone in which the property is located because it would allow the Applicants do what other property owners in the area have done: to build a modest home on residentially zoned property under the current zoning code. Thus condition A of Vader Development Regulations 13.020 has been met by this application.
7. There is evidence of special circumstances relating to the size, shape, topography, location or surroundings of the subject property that demonstrate that the variance is necessary. The lot is undeveloped and is historically small and narrow. This narrowness creates a special circumstance which justifies a variance in this case in order to allow the use of this property for development of a single-family home in a single-family zoning district. Thus condition B of Vader Development Regulations 13.020 has been met by this application.
8. The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvement in the vicinity and zone in which the subject property is situated because it allows the applicant to build a single-family home in a single-family neighborhood. The Planning Committee received no comments or testimony from neighbors or other stakeholders objecting to this variance application, therefore there is no evidence that this variance would be injurious to other properties in the area. Thus condition C of Vader Development Regulations 13.020 has been met by this application.

9. The Applicant claims there will be hardship if they are required to comply with the current ten (10) foot side yard setbacks on both sides as this would prevent them from building a reasonably sized home on this R-1 lot. Furthermore, the applicant did not plat this lot or make a boundary line adjustment to reduce the size of this lot. The size and narrowness of this lot is historic and pre-dates the applicant's ownership. This hardship meets condition D of Vader Development Regulations 13.020 which requires that "the hardship asserted by the applicant is not the result of the applicant's or the owner's action." Thus condition D of Vader Development Regulations 13.020 has been met by this application.

**D. Recommendation.**

Based on the findings of fact and conclusions of law set forth above, the Planning Committee recommends the Variance Application (VAD 20-01-V) of Elwood Holdings, LLC be **GRANTED.**

RESPECTFULLY SUBMITTED this 20<sup>th</sup> day of August, 2020.

Members of the Vader Planning Committee

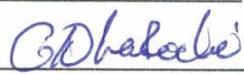
\_\_\_\_\_  
Scott Gross, Chair

\_\_\_\_\_  
Kathi Hall

\_\_\_\_\_  
Mason Gaul

**City of Vader**  
 317 8th Street  
 PO Box 189  
 Vader, WA 98593-0189  
 360-295-3222

Development Regulation Standards  
**VARIANCE Request**

STAFF USE ONLY	Case No.	Fee Paid-Receipt #													
	Date Received	Zoning District													
<p><b>1 Owner(s)</b></p> <p>Name <u>ELWOOD HOLDINGS LLC</u></p> <p>Mailing Add <u>PO Box 130</u></p> <p>City &amp; State <u>BRUSH PRARIE, WA.</u></p> <p>Zip <u>98606</u> Phone # <u>360-906-0056</u></p> <p>I (we) do hereby affirm and certify under penalty of perjury that I am one (or more) of the owners of the above-described property, and all of the information given is true and correct.</p> <p>Signature <u></u></p> <p>Signature _____</p>	<p><b>4 Property Location</b></p> <p><u>5 ALPINE CT.</u></p> <p><u>VADER, WA</u></p> <p><u>Parcel# 007591-003-000</u></p> <p>Section _____ Township _____</p> <p>Range _____ Parcel # _____</p>														
<p><b>2 Variance Request:</b></p> <p><u>SIDE YARD / SEE ATTACHED SITE PLAN</u></p> <table border="1" style="margin-top: 20px; width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">Required Setback</th> <th style="text-align: center;">Proposed Setback</th> </tr> </thead> <tbody> <tr> <td>Front</td> <td style="text-align: center;"><u>20'</u></td> <td style="text-align: center;"><u>20'</u></td> </tr> <tr> <td>Side</td> <td style="text-align: center;"><u>10'</u></td> <td style="text-align: center;"><u>10' &amp; 7'</u></td> </tr> <tr> <td>Rear</td> <td style="text-align: center;"><u>15'</u></td> <td style="text-align: center;"><u>15'</u></td> </tr> </tbody> </table>		Required Setback	Proposed Setback	Front	<u>20'</u>	<u>20'</u>	Side	<u>10'</u>	<u>10' &amp; 7'</u>	Rear	<u>15'</u>	<u>15'</u>	<p><b>5 What are the special conditions of your land which lead you to believe you are entitled to a variance?</b></p> <p><u>WE WANT TO BUILD A SMALL HOME 1409 SQ FT. THIS IS A NARROW LOT AND WE NEED 3 MORE FEET.</u></p> <p><u>SEE ATTACHED SITE PLAN</u></p>		
	Required Setback	Proposed Setback													
Front	<u>20'</u>	<u>20'</u>													
Side	<u>10'</u>	<u>10' &amp; 7'</u>													
Rear	<u>15'</u>	<u>15'</u>													
<p><b>3 Point of Contact (If different from owner)</b></p> <p>Name <u>CAROL HARPER</u></p> <p>Company <u>ELWOOD HOLDINGS LLC</u></p> <p>Mailing Address <u>same</u></p> <p>City &amp; State _____</p> <p>Zip _____ Phone # <u>701 897 0023</u></p> <p>Fax # _____</p> <p>Signature <u></u></p> <p>Date <u>7/20/2020</u></p> <p>Note: The point of contact will be the person receiving all City correspondence regarding this application.</p>	<p><b>6 To the best of your knowledge, was the situation described above caused by an action of anyone having property interests in the land after the zoning ordinance or applicable part thereof became law?</b></p> <p>Yes _____ No <u>X</u></p> <p>If "Yes", explain why the situation should not be regarded as self-imposed and, as such, not entitled to a variance:</p> <p>_____</p> <p>_____</p> <p>_____</p>														
<p><b>7 Is this the minimum variance that will make possible the reasonable use of the land?</b></p> <p>Yes <u>X</u> No _____</p>															



August 20, 2020

## STAFF REPORT

To: City of Vader Planning Commission

From: Gary Cooper, Planning Director

Subject: La Roche Variance Application, VAD 20-01-V

Applicant: George La Roche

Address: 5 Alpine Court

Parcel Number: 007591003000

Request: The applicant is seeking a variance from the side property line setback to reduce the setback from 10 feet to 7 feet.

### 1. Background.

The property for which a variance is sought is located in the City of Vader’s Single Family Residential (R-1) Zoning District. The City’s development regulations establish the standards for building a single-family residence and accessory structures, such as garages. In the present instance, the applicant seeks to reduce the setback from the side yard property line from 10 feet to 7 feet. Vader Municipal Code (VMC) section 3.060 D sets forth the setback standards applicable to this lot.

#### D: Minimum Yard Requirements

1. Front yards shall meet at least one of the following standards:
  - a) Each lot shall have a front yard containing a minimum depth of twenty feet from any structure to the front of the property line; or
  - b) A lot with required garage and parking accessible only from a rear alley may have a front yard of only eight (8) feet; or
  - c) When at least fifty percent of the lots that front a street are improved with structures and when not all such yards have the minimum front yards required by this ordinance, then any new structure shall have a front yard not less than the average front yard of all such lots; provided to calculate the average front yard vacant lots shall be considered as having a twenty (20) foot front yard.
- 4.<sup>1</sup> **Side yard: Each lot shall have two side yards, each having a width of not less than 10 feet.**
5. Rear yard: Fifteen feet.
6. All building setbacks and yard depths shall be measured from the property line, or the edge of the critical areas buffer if that buffer should lie within the development parcel.

<sup>1</sup> The ordinance is mis-numbered.

The regulation that is the subject of the variance request is VMC 3.060 (D)(4), the side yard setback of 10 feet, which is highlighted in the above citation. The setback standards do not provide for any alternative yard setbacks, so the only way this standard can be changed to a smaller setback is through a formal variance process.

## **2. Variance Decision Making Process and Criteria.**

The process for a variance application is set forth in the Vader Municipal Code. All variance applications first go to the Planning Committee for a public hearing. At the conclusion of the hearing, the Planning Committee votes on a recommendation of either approval or denial. This recommendation is sent to the City Council for a final decision. The City Council's decision is based on the record created before the Planning Committee. [VMC 13.040-13.060]

The City of Vader's criteria for granting a variance are found at 13.020 VMC, and before it can grant a variance the City Council must find that the applicant meets all four criteria. It is important to note that each of these criteria is followed by the word "and" which means that all of these criteria need to be met in order to grant the application. There is nothing in the City's variance standards which provides a process for the Planning Committee or the Council to waive any of the criteria.

13.020 Conditions for granting.

No application for variance shall be granted unless the city council finds:

- A. The variance shall not constitute a grant of special privilege inconsistent with the limitations upon uses of other properties in the vicinity and zone in which the property on behalf of with the application was files is located; and
- B. That such variance is necessary, because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property to it with use, rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located; and
- C. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvement in the vicinity and zone in which the subject property is situated; and
- D. The hardship asserted by the applicant is not the result of the applicant's or the owner's action.

## **3. Analysis.**

This section walks through the application and addresses how the application does or does not meet each of the four criteria for approval set forth in 13.020(A-D).

**Criterion A:** The variance shall not constitute a grant of special privilege inconsistent with the limitations upon uses of other properties in the vicinity and zone in which the property on behalf of which the application was filed is located.

Would the variance grant a "special privilege" to the applicant that would be inconsistent with the limitations upon other uses in the vicinity?

Assuming the applicant meets all the variance criteria, granting the variance would not afford a special privilege. The modest reduction in the side yard setback would not place limitations on other property owners uses of their properties in the vicinity.

Conclusion: This application meets Criterion A.

**Criterion B:** That such variance is necessary, because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property to provide it with use, rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located.

Are there special circumstances relating to the size, shape, topography, location or surroundings of the subject property that make it necessary to decrease the rear-yard setback?

Yes, at 65', the lot is too narrow to accommodate an average-sized home and still meet the 10-foot side yard setbacks.

Conclusion: This application meets Criterion B.

**Criterion C:** The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvement in the vicinity and zone in which the subject property is situated.

Would granting a variance be materially detrimental to the public welfare or injurious to the property or improvement in the vicinity?

No, there is no reason to believe it would be injurious to other property owners.

Conclusion: This application meets Criterion C.

**Criterion D:** The hardship asserted by the applicant is not the result of the applicant's or the owner's action.

Is the hardship being asserted the result of the applicant's own actions?

No, the hardship has not been caused by the applicant. The lot dimensions are historical and were not caused by any recent boundary line adjustments.

Conclusion: This application meets Criterion D.

#### **4. Recommendation**

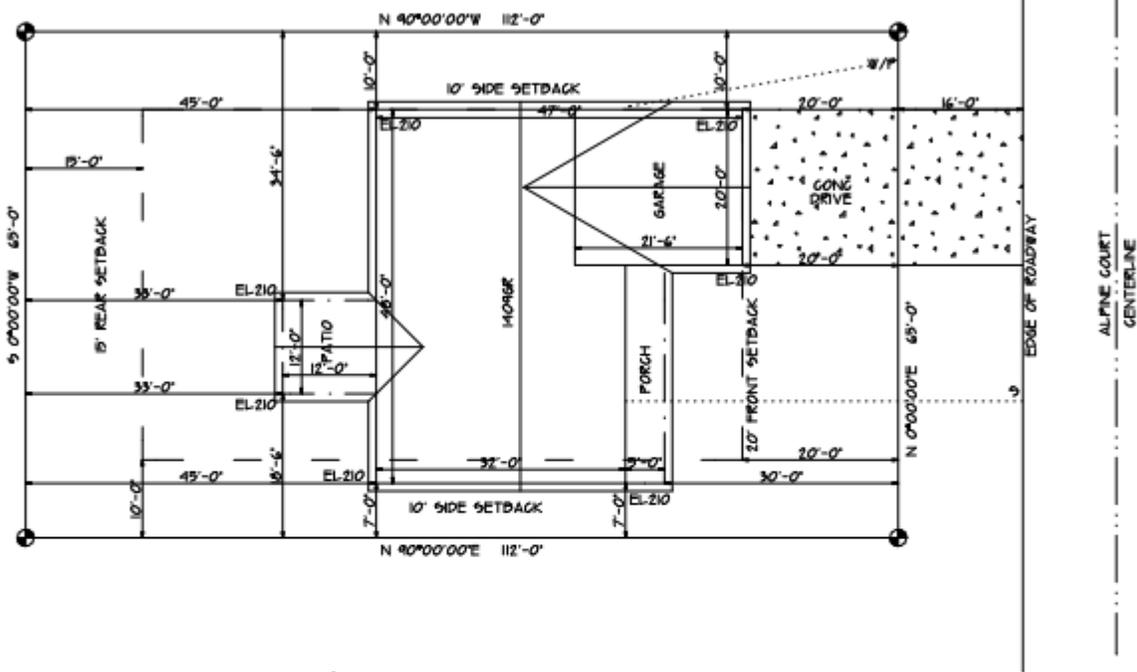
The applicant meets the City of Vader's criteria for granting a variance. The staff recommendation is that this application for a variance to modify the side yard setback for this R-1 property from 10 feet to 7 feet be **GRANTED**.

#### ATTACHMENTS:

1. Property aerial.
2. Variance Application.
3. Site Plan.

# Location of Property: 5 Alpine CT





DNW JOB# 20-230

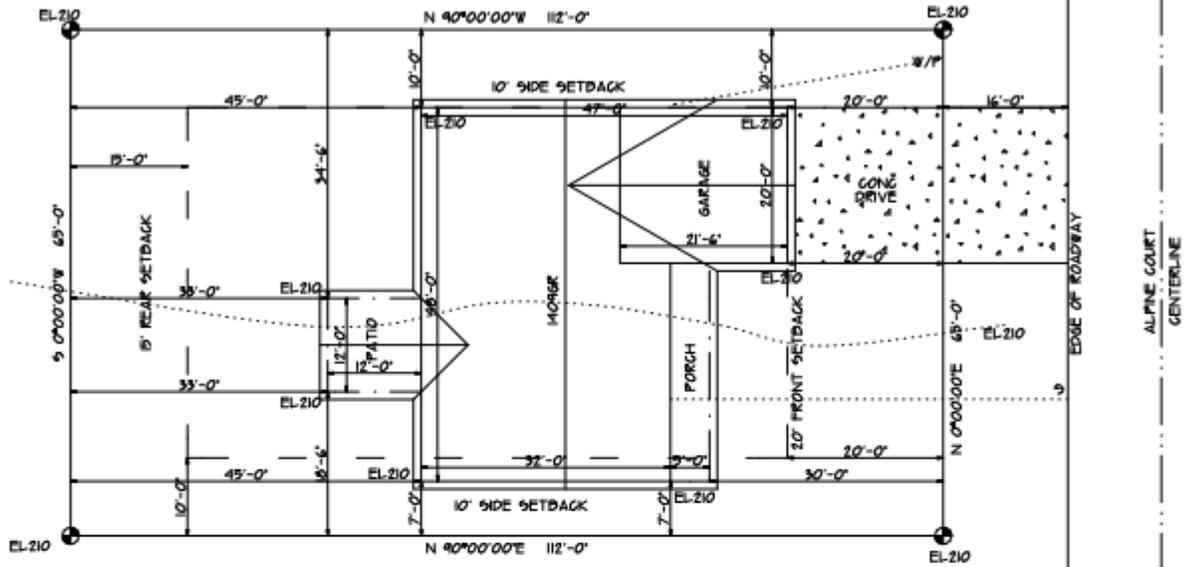
Lot Area:	7280 9F
BLDG footprint:	1836 9F
Driveway:	720 9F
Total Hardscaping:	2556 9F
LOT COVERAGE:	29 %

COPYRIGHT © DESIGN NW

SCALE:  
1" = 20'

FOLEY - JOHANSEN RES  
 PARCEL # 007561009000  
 5 ALPINE COURT, VADER, WA  
 PLOT PLAN





DNW JOB# 20-230

Lot Area:	7280 SF
BLDG footprint:	1836 SF
Driveway:	720 SF
Total Hardscaping:	2556 SF
LOT COVERAGE:	29 %

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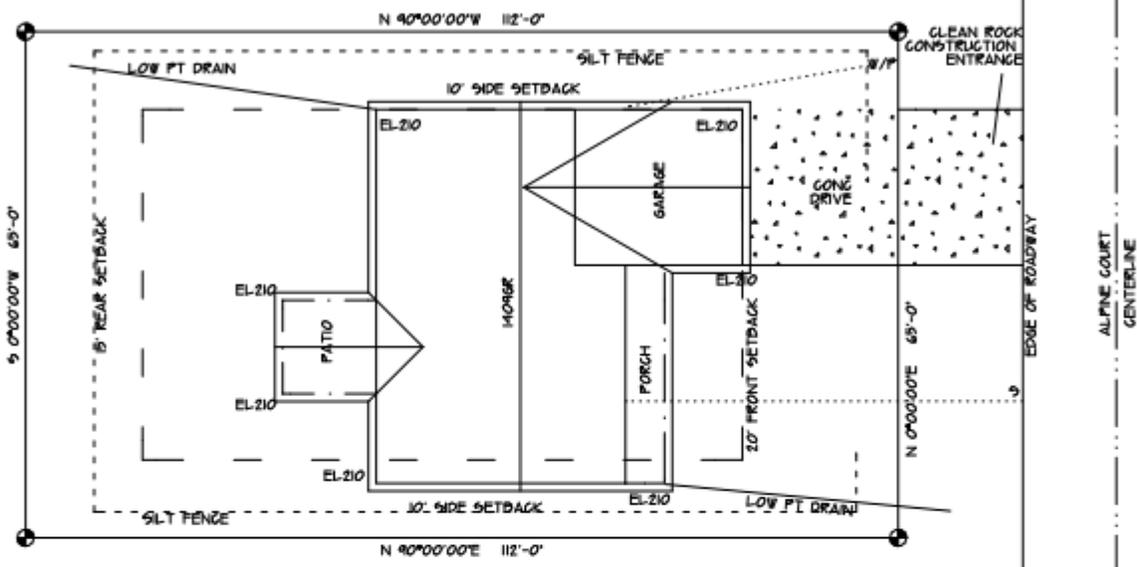
SCALE:

1" = 20'

FOLEY - JOHANSEN RES  
 PARCEL # 007561009000  
 5 ALPINE COURT, VADER, WA

STORMWATER PLAN





DNW JOB# 20-230

Lot Area:	7280 SF
BLDG footprint:	1836 SF
Driveway:	720 SF
Total Hardscaping:	2556 SF
LOT COVERAGE:	29 %

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SCALE:  
1" = 20'

FOLEY - JOHANSEN RES  
 PARCEL # 007561009000  
 5 ALPINE COURT, VADER, WA

EROSION PLAN

