



Kyle Holland, **Planner II**
Community Development Department
316 North Park Avenue, Room 445
Helena, MT 59623

: Phone: 406-447-8492
: Fax: 406-447-8460
: Email: kholland@helenamt.gov

helenamt.gov

Date: August 24, 2023

STAFF REPORT

To: Helena Board of Adjustment

From: Kyle Holland, City Planner II

Subject: Consideration of:

1. A variance from Section 11-4-2 to decrease the minimum setback for a side lot line from 8' to 0', for a property with a legal description of The west 10 feet of Lot 8 and all of Lots 9 and 10 in Block 567 of the Easterly Addition to the City of Helena, Lewis and Clark County, Montana (Ref: Book 215 Deeds, page 193) and All of Lot 7 and the easterly 32 feet of Lot 8 in Block 567 of the Easterly Addition to the City of Helena, Lewis and Clark County, Montana as shown on the Certificate of Survey filed under Doc. No. 3052910.

The reason for this variance is to replace a garage. The applicant contends that there is a rebuttable presumption.

This property is located at 807 2nd ST.

OVERVIEW

GENERAL INFORMATION

DATE OF APPLICATION: Application received July 25, 2023

PUBLIC HEARING DATE: Board of Adjustment - 5:30 p.m., Tuesday, September 5, 2023

PROPERTY OWNER: Tyler and Caroline Warne

MAILING ADDRESS: 807 2nd Street, Helena, MT 59601

CONTACT NUMBER: (406) 465-9936

EMAIL ADDRESS: tylerr@tdappraisal.com

APPLICANT: Tracy Egeline

MAILING ADDRESS: 3530 Centennial Drive

CONTACT NUMBER: (406) 204-1288

EMAIL ADDRESS: tracy@eclipsearch.com

PROPERTY ADDRESSES: 807 2nd ST., Helena, MT 59601

LEGAL DESCRIPTION:

The west 10 feet of Lot 8 and all of Lots 9 and 10 in Block 567 of the of the Easterly Addition to the City of Helena, Lewis and Clark County, Montana. (Ref: Book 215 Deeds, page 193)

AND

All of lot 7 and the Easterly 32 feet of Lot 8 in Block 567 of the Easterly Addition to the City of Helena, Lewis and Clark County, Montana, as shown on the Certificate of Survey filled under DOC. No. 3052910.

PRESENT LAND USE: Single dwelling unit with detached garage

ADJACENT LAND USE:

- North: R-1 – Residential - Single Dwelling Unit
- South: R-1 – Residential - Single Dwelling Unit
- East: R-1 – City of Helena Park Land
PLI – City of Helena Park Land
- West: R-1 – Residential - Single Dwelling Unit
R-1 – Vacant
R-1 – Residential – Two Dwelling Units

PRESENT ZONING: R-1

VARIANCE PROPOSALS:

1. **A variance from Section 11-4-2 to decrease the minimum setback for a side lot line from 8’ to 0’, for a property with a legal description of The west 10 feet of Lot 8 and all of Lots 9 and 10 in Block 567 of the Easterly Addition to the City of Helena, Lewis and Clark County, Montana (Ref: Book 215 Deeds, page 193) and All of Lot 7 and the easterly 32 feet of Lot 8 in Block 567 of the Easterly Addition to the City of Helena, Lewis and Clark County, Montana as shown on the Certificate of Survey filed under Doc. No. 3052910.**

HISTORY OF APPLICABLE PERMITTING ACTION:

- 1) June 1972 – A permit was acquired to remodel the barn into a studio

ZONING EVALUATION for the properties legally addressed as 807 2nd S., Helena, MT, located in a R-1 zoning district.

ZONING REQUIREMENT	Applicable ZONING REGULATION	PRESENT CONDITION	PROPOSAL	VARIANCE REQUIRED
City Code: §11-4-2 (Table 2) (R-1) Lot requirements by zoning district	Side lot line setback: 8’ Minimum	Extends over property line	Remove and replace existing garage within property lines utilizing a 0’ setback.	Yes

BOARD OF ADJUSTMENT VARIANCE CRITERIA

Section 11-5-5 of the Helena Zoning Ordinance includes certain criteria that must be reviewed as part of the variance procedure.

To approve a requested variance for a new building or portion thereof, the board of adjustment shall consider the following standards and find as follows:

1. *The variance will not create a significant risk to the public health, safety, or general welfare;*
2. *The variance will not significantly reduce or impair the peaceful use of existing property or improvements in the vicinity and the zoning district in which the subject property is located; and*
3. *Strict compliance with the provisions of this title would create unnecessary hardship or practical difficulty.*

In evaluating the standards above, the board of adjustment may consider the following factors:

- 1. Special conditions and circumstances that are unique to the applicant's site, including the size of the property, unusual or extreme topography, or unusual shape of the property.*
- 2. The height, location, or dimensions of existing structures located on the site or in the vicinity of the site.*
- 3. Whether there is a prevalence of nonconformities in the vicinity of the site that are similar to the variance requested.*
- 4. The subsequent imposition of zoning restrictions creating nonconforming lots or parcels, and governmental actions beyond the applicant's control.*
- 5. Whether a literal interpretation of the provisions of this Title would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same district under the terms of this Title.*
- 6. The extent to which the hardship or difficulty results from the actions of the applicant.*
- 7. Whether granting the variance requested will confer an unreasonable special privilege to the subject property that is not available to other properties similarly located in the same zoning district.*

PUBLIC COMMENT:

As of Monday, August 21, 2023, no comments have been received.

City Attorney's Office:

It is the recommendation of the City Attorney's Office, that staff does not make a recommendation to approve or deny a variance.

CONCLUSION

Montana law states the Board of Adjustment has authority to consider "...upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship and so that the spirit of the ordinance shall be observed and substantial justice done." (76-2-323 MCA)

Motion:

Move to Approve or Deny

- 1. A variance from Section 11-4-2 to decrease the minimum setback for a side lot line from 8' to 0', for a property with a legal description of The west 10 feet of Lot 8 and all of Lots 9 and 10 in Block 567 of the Easterly Addition to the City of Helena, Lewis and Clark County, Montana (Ref: Book 215 Deeds, page 193) and All of Lot 7 and the easterly 32 feet of Lot 8 in Block 567 of the Easterly Addition to the City of Helena, Lewis and Clark County, Montana as shown on the Certificate of Survey filed under Doc. No. 3052910.**

If the Board of Adjustment approves the requested variance, the following condition is recommended:

Building Permit: A building permit must be obtained within one (1) year.

Regards,



Kyle Holland, Planner II

Community Development Department
City-County Building
316 N. Park Ave, Rm 403
Helena, MT 59623

807 2nd St



Legend

-  807 2nd St
-  R-1 Residential District - Large Lot





Kyle Holland, Planner II

Community Development Department
316 North Park Avenue, Room 445
Helena, MT 59623

Phone: 406-447-8492
Fax: 406-447-8460
Email: kholland@helenamt.gov

helenamt.gov

Date: August 17, 2023

TO WHOM IT MAY CONCERN: Variances from district dimensional standards requirements are being proposed in your area. Please review the enclosed description, and vicinity map. You may respond to the proposal at the public hearing or submit written comments prior to the September 5th, 2023 Board of Adjustments public hearing to the City Planning Division, 316 North Park, Helena MT 59623.

The Helena Board of Adjustments will hold a public hearing on the variance request on Tuesday, September 05, 2023 at 5:30 p. m. via Zoom at <https://zoom.us/j/95139091644>, Meeting ID: 951 3909 1644. Dial in at (346) 248-7799 or find your local Zoom phone number by going to <https://zoom.us/u/abx78Gko9e>.

Interested parties are encouraged to attend this meeting. We may not be able to reach all who may be interested in this application, and we encourage you to talk to your neighbors about this proposal.

PROPOSAL:

1. A variance from Section 11-4-2 to decrease the minimum setback for a side lot line from 8' to 0', for a property with a legal description of The west 10 feet of Lot 8 and all of Lots 9 and 10 in Block 567 of the Easterly Addition to the City of Helena, Lewis and Clark County, Montana (Ref: Book 215 Deeds, page 193) and All of Lot 7 and the easterly 32 feet of Lot 8 in Block 567 of the Easterly Addition to the City of Helena, Lewis and Clark County, Montana as shown on the Certificate of Survey filed under Doc. No. 3052910.

The reason for this variance is to replace a garage.

ADDRESS:

This property is located at 807 2nd St.

GENERALLY LOCATED:

This property is generally located at the southeast corner of 2nd St and South Raleigh St

If you have questions concerning the proposed change, please contact the City Planning Division of the Community Development Department at 447-8459.


Sincerely,

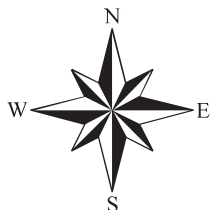
Kyle Holland, Planner II
Community Development Department
City-County Building
316 N. Park Ave, Rm 403
Helena, MT 59601

807 2nd St



Legend

-  807 2nd St
-  R-1 Residential District - Large Lot





BOARD OF ADJUSTMENT VARIANCE APPLICATION

Community Development Department, Planning Division
316 North Park Avenue, Room 445, Helena, MT 59623
406-447-8490; citycommunitydevelopment@helenamt.gov

Date received:

APPLICATION FEE: \$125.00
(PAYABLE TO THE CITY OF HELENA)
ALL FEES ARE NON-REFUNDABLE

PROPERTY OWNER: *Primary Contact?*

Name: Tyler and Caroline Warne Primary Number: 406-465-9936
Address: 807 2nd Street, Helena MT Other Phone: 406-461-2022
Email: tyler@tdappraisal.com

APPLICANT (If different from property owner): *Primary Contact?*

Name: Tracy Egeline Primary Number: 406-204-1288
Address: 3530 Centennial Drive Other Phone: _____
Email: tracy@eclipsearch.com Company: Eclipse Architecture

AUTHORIZED REPRESENTATIVE: *Primary Contact?*

Name: _____ Primary Number: _____
Address: _____ Other Phone: _____
Email: _____ Company: _____

Section A: PLEASE PROVIDE THE INFORMATION REQUESTED BELOW.

- Address of Property 807 2nd Street, Helena, Montanan, 59601

Address	City	State	Zip Code
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- Legal Description (Block & Lots, Subdivision, COS#) EASTERLY ADDN, S31, T10 N, R03 W, BLOCK 567, LTS 7-10
- Geocode 05-1888-31-1-03-13-0000
- The most recent deed for impacted property
- Lot or Parcel Size (square feet) (.39 acres) 16,830 square feet
- Current and proposed use of structure or property: Single family residence, detached garage w/ apartment
- Current Zoning District R-1
- Are there other related Land Use Applications being submitted: Yes No
- Submit proof of current paid taxes
- 1 copy of a scaled site plan and supporting data/documents. The site plan must clearly show the existing standard and the proposed variance to the standard.

Section B: INDICATE WHICH VARIANCE(S) IS (ARE) BEING REQUESTED AND THE EXTENT OF THE VARIANCE.

EXAMPLE: [X] Reduce Front Lot Line Setback: *From the required 10 feet to 3 feet.*

Please provide all the information requested in the Application. An incomplete application may delay the review of your request. Please note: "N/A" is not an acceptable answer alone and requires an explanation if used.

Dimensional Criteria:

- Reduce front lot line setback: _____
- Front lot line setback #2 (corner lot): _____
- Reduce garage entrance setback: _____
- Reduce side lot line setback: From Required 8'-0" to 0'-0"
- Reduce rear lot line setback: _____
- Exceed building height limitation: _____

Lot Coverage/Area Criteria:

- Lot coverage percentage: _____
- Front porch lot coverage percentage: _____
- Lot area per dwelling unit: _____

Landscaping Criteria:

- Reduce or eliminate landscaping area: _____
- Reduce or eliminate screening: _____

Parking Criteria:

- Exceed the maximum parking spaces allowed: _____
- Reduce the amount of required on-site parking spaces: _____
- Reduce or eliminate loading berths: _____
- Reduce or eliminate required bicycle spaces: _____
- Reduce size of parking space: _____

Sign Criteria:

- Sign area (square footage): _____
- Sign height: _____
- Sign location: _____
- Number of signs: _____

Other: _____

Section C: BOARD OF ADJUSTMENTS VARIANCE REVIEW CRITERIA.

To approve a requested variance for a new building or portion thereof, the Board of Adjustment shall consider the following standards in section 11-5-5 of the Helena City Code and find as follows:

1. The variance will not create a significant risk to the public health, safety, or general welfare;
2. The variance will not significantly reduce or impair the peaceful use of existing property or improvements in the vicinity and the zoning district in which the subject property is located; and
3. Excluding monetary hardship, strict compliance with the provisions of this title would create unnecessary hardship or practical difficulty.

These are the standards your application for variance will be judged on. Your answers in section D should speak to the review criteria.

It is the applicant's burden of proof to show that a variance should be granted. As part of your application, you are required to provide information for each of the following factors including all alternatives considered. Failure to provide adequate responses or requested documentation may result in a returned application.

Section D: EVALUATION FACTORS

1. Special conditions and circumstances that are unique to the applicant's site, including the size of the property, unusual or extreme topography, or unusual shape of the property.

If the above condition applies, state the specific factors and provide supporting documentation. For example, if the variance request is due to an abnormal lot configuration, provide a survey of the lot that specifically demonstrates the issue.

10% average grade from South End of property to North End of property. Existing early 1900's stone retaining wall that seperates the southern yard from northern yard. Retaining wall was built at the same era as single family residence. Scenic view from house, would like to maintain view which adds to value to home.

2. The height, location, or dimensions of existing structures located on the site or in the vicinity of the site.

Ex: How is the proposed variance compatible with the other structures located on the site or in the vicinity of the site? On the site plan you provide, please represent accurately and to scale the height, location, and dimensions of existing structures.

Existing garage located on lot: 22'-6" wide x 26'-0" long. New garage is 25'-0" wide x 36'-0" long. Deed restriction on height. Existing structure is the same height as existing. It is 2'-0" deeper into the ground. Exist'g garage encroaches over property line, new garage proposed to be at 0' setback from property line.

3. Whether there is a prevalence of nonconformities in the vicinity of the site that are similar to the variance requested.

If so, what are those nonconformities and provide supporting documentation.

Several garages and houses were built before zoning was enforced. Neighborhood consists houses built between 1890 - 1920, as well as house built in the 60s and 70s. Neighborhoold consists houses built as homes are being purchased and updated. See attached map and photos.

4. The subsequent imposition of zoning restrictions creating nonconforming lots or parcels, and governmental actions beyond the applicant's control.

Is the need for a variance request a result of government action? For example, the front yard setbacks were increased after construction of the structure, thereby creating the non-conformity. Explain.

Yes, the house and retaining wall were built in 1900. The existing garage was built in 1964. It's possible that the set back rules were different then.

5. Whether a literal interpretation of the provisions of this title would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same district under the terms of this title.

For example, would the denial of the variance deny the property owner the right to safe placement of a garage where garages are typical? If so, explain.

Yes, this is the best placement on the property for the garage. The garage is close to the kitchen entrance. If the garage was moved in front of the house, there is an icy slope to contend with in the winter. The homes in the neighborhood enjoy the proximity of their garages to their homes and also at the same elevation.

6. The extent to which the hardship or difficulty results from the actions of the applicant.

Explain the extent of the circumstances that are creating hardship or difficulty in compliance with the City Code and list alternatives and options considered by the applicant. Provide supporting documentation.

To move the garage to the required 8'-0" setback, it would be further down the hill & at a different elevation. It would infringed on the existing retaining wall and patio area. And it would block the view of one of Helena's City Parks. Moving it to the front of the house would eat up valuable open yard space.

7. Whether granting the variance requested will confer an unreasonable special privilege to the subject property that is not available to other properties similarly located in the same zoning district.

Not an unreasonable special privilege. Many neighbors get to use separated garage with a 0'-0" setback that is close to their main door.

8. Do you think a rebuttable presumption, as identified in City Code Section 11-5-5(E), should apply to your property, yes or no? For example, do you have an existing non-conforming structure that you wish to rebuild in the same location? If yes, show the original footprint of the building. Provide documentation that proves the existence of the prior nonconformity. Document that the nonconformity can be in compliance with building and fire codes.

Would like to build the garage in the same location, though not over the property line. The existing garage didn't function well. Car garage portion is too short to park standard vehicles and the apartment above is cramped studio that got creative about location of their plumbing fixtures.

9. Provide any additional information you would like the Board to consider.

There is a deed restriction on the property that doesn't let the home owner build to the east of the neighbor's secondary driveway. While there is a lot of space to this property it is restricted by the deed or it's downhill from the house.

IT IS THE POLICY OF THE CITY OF HELENA'S BOARD OF ADJUSTMENT TO NOT ACT ON A PROPOSAL IF THE APPLICANT/PROPERTY OWNER OR REPRESENTATIVE IS NOT PRESENT AT THE BOARD OF ADJUSTMENTS HEARING. CITY STAFF REPRESENT THE CITY AND CANNOT ANSWER QUESTIONS ON BEHALF OF THE APPLICANT AT THE BOARD OF ADJUSTMENT HEARINGS.

I HEREBY CERTIFY AND ACKNOWLEDGE THE STATEMENTS IN THIS APPLICATION AND ANY ATTACHED INFORMATION ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Signed: Carl Wanne Date: 7/24/23
Property Owner

Applicant: Tracy Kephin Date: 07.20.2023
(If different from Owner)

(Property owner must sign application)

It is recommended that the applicant contact neighbors to inform them of proposal and identify any concerns that the applicant may be able to address.

City Planning Staff represents the City; staff cannot answer questions for the applicant.

NOT FOR CONSTRUCTION

LIMITED SERVICES
 eclipse ARCHITECTURE
 1000 WEST WYOMING
 HELENA, MONTANA 59601
 (406) 254-1288

VARIANCE
 SUBMISSION
 07.12.2023

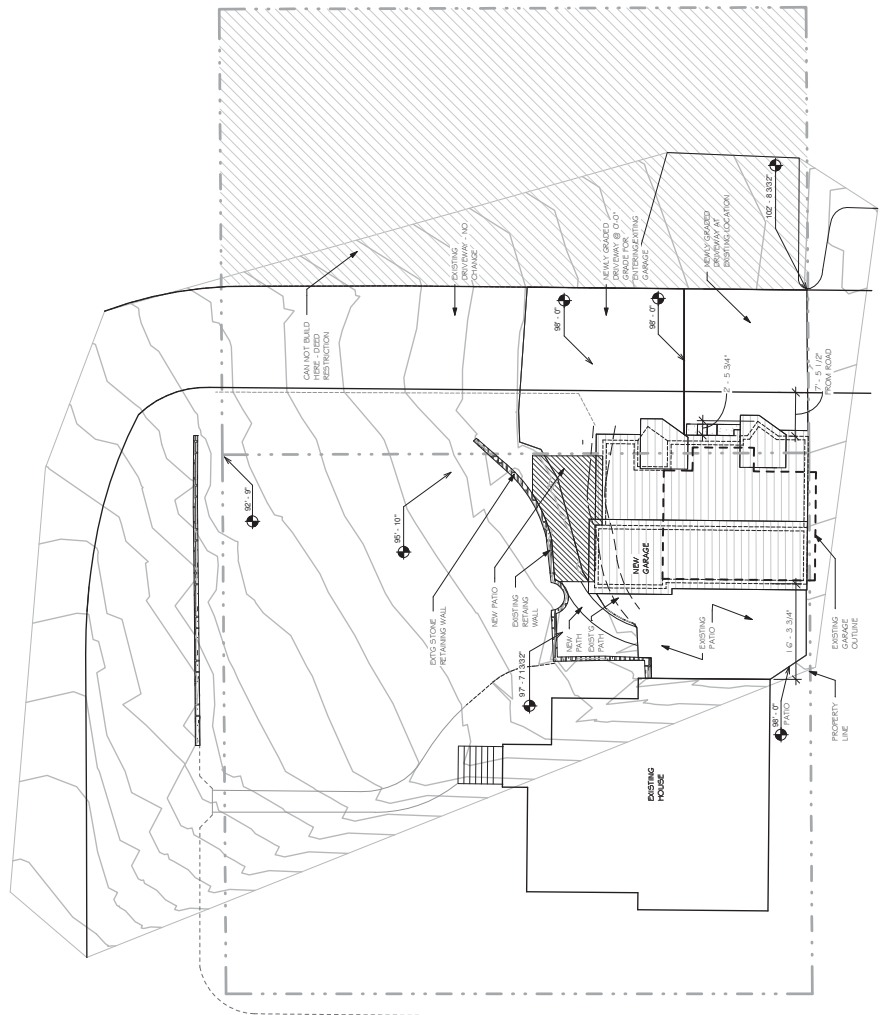
NEW GARAGE AND ADU FOR:
 TYLER AND CAROLINE WARNE
 807 2ND STREET,
 HELENA, MONTANA

PROJECT NUMBER:	22.037
DATE:	07.19.2023
DRAWN BY:	TEE
CHECKED BY:	TEE
REVISIONS:	
A-1	
Approver	

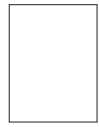
NOTE: THIS DRAWING IS FOR INFORMATIONAL PURPOSES AND HAS NOT BEEN REVISIONED FROM OTHER RESOURCES AND THEREFORE MAY NOT BE SUITABLE FOR LEGAL PURPOSES. THE USER OF THIS INFORMATION SHOULD CONSULT WITH AN ATTORNEY AND OBTAIN THE LIABILITY OF THE INFORMATION.

PROJECT INFORMATION
 ZONE: OS-3000-000-000-00-0000
 GSD CODE: OS-3000-000-000-00-0000
 LOT AREA: 10,000 SQ FT
 LOT WIDTH: 100 FT
 LOT DEPTH: 100 FT
 SURFACES: FRONT LOT SETBACK: (N.E.S.W) 30.0 FT
 REAR LOT SETBACK: (N.E.S.W) 30.0 FT
 SIDE LOT SETBACK: (N.E.S.W) 10.0 FT
 BUILDING HEIGHT: 12 FT
 MINIMUM FLOOR AREA: 1,000 SQ FT
 PARKING REQUIREMENTS: 2 SPACES

NOTE: STATE OF MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY CONSIDERS THE ENVIRONMENTAL QUALITY OF THE PROJECT AND THE PROJECT NUMBER FOR ACCURATE INFORMATION IS 4000-444-2000. IF THIS INFORMATION IS USED FOR ANY OTHER PURPOSES YOU ARE TO CALL THE DOD FOR PROPER INSTRUCTIONS.



① SITE PLAN NEW
 1" = 10'-0"



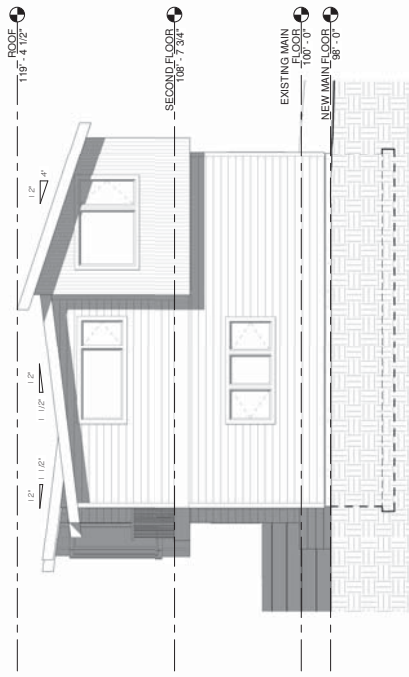
NOT FOR CONSTRUCTION

LIMITED SERVICES
eclipse ARCHITECTURE
1820 N. MONTANA AVENUE
HELENA, MONTANA 59601
(406) 258-1288

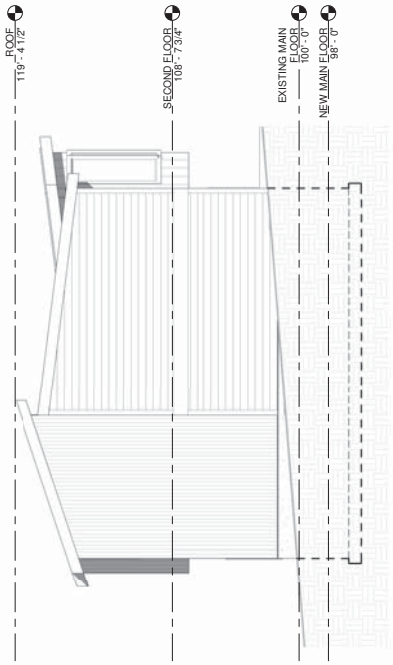
VARIANCE
SUBMISSION
07.12.2023

NEW GARAGE AND ADU FOR:
TYLER AND CAROLINE WARNE
807 2ND STREET,
HELENA, MONTANA

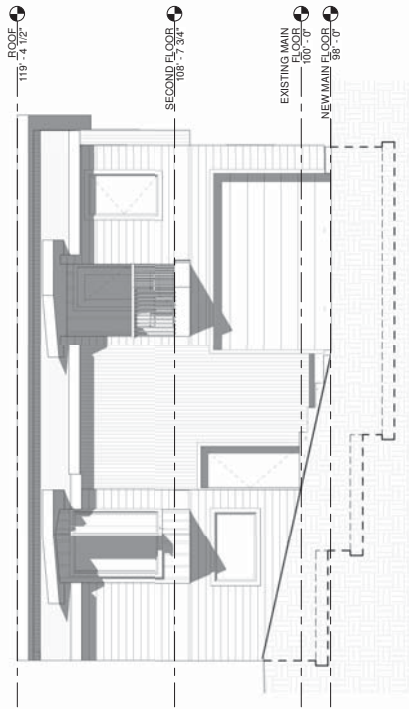
EXTERIOR ELEVATIONS	
PROJECT NUMBER:	22.037
DATE:	07.19.2023
DRAWN BY:	TEE
CHECKED BY:	TEE
REVISIONS:	
A-6	
of Approver	



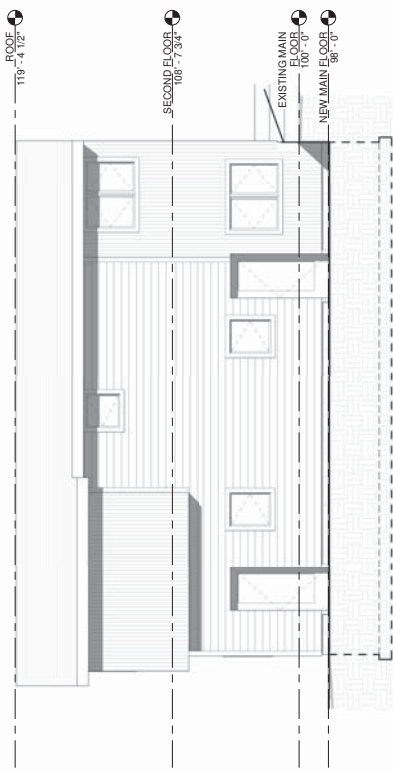
② NEW NORTH ELEVATION
1/4" = 1'-0"



④ NEW SOUTH ELEVATION
1/4" = 1'-0"



① NEW EAST ELEVATION
1/4" = 1'-0"



③ NEW WEST ELEVATION
1/4" = 1'-0"



NOT FOR CONSTRUCTION

LIMITED SERVICES
eclipse ARCHITECTURE
1050 S. CENTRAL BLVD.
HELENA, MONTANA 59601
(406) 264-1988

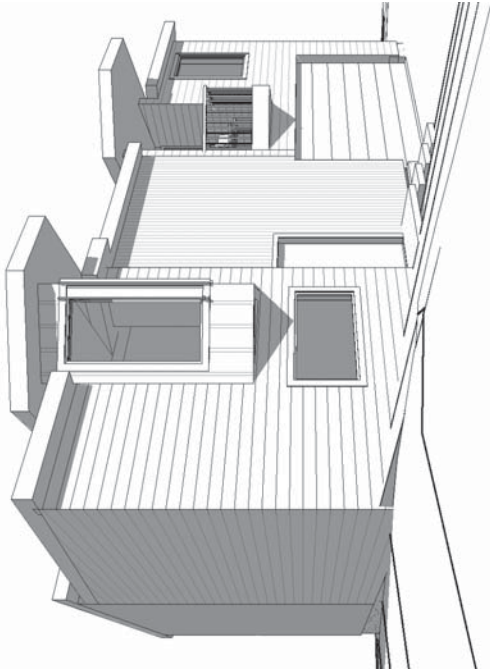
VARIANCE SUBMISSION
07.12.2023

NEW GARAGE AND ADU FOR:
TYLER AND CAROLINE WARNE
807 2ND STREET,
HELENA, MONTANA

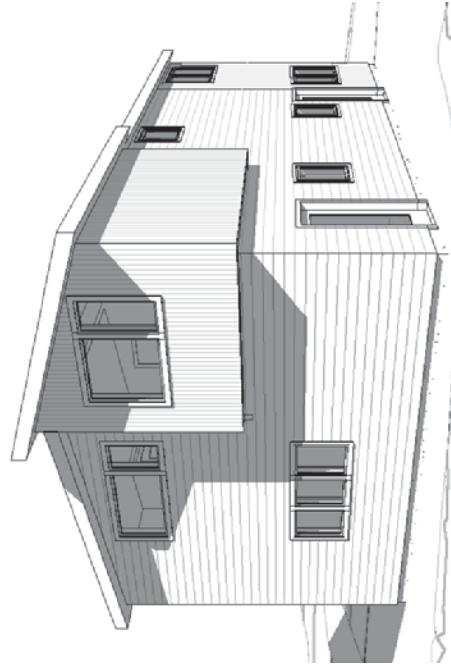
3D PERSPECTIVES

PROJECT NUMBER: 22.037
DATE: 07.19.2023
DRAWN BY: TEE
CHECKED BY: TEE
REVISIONS:

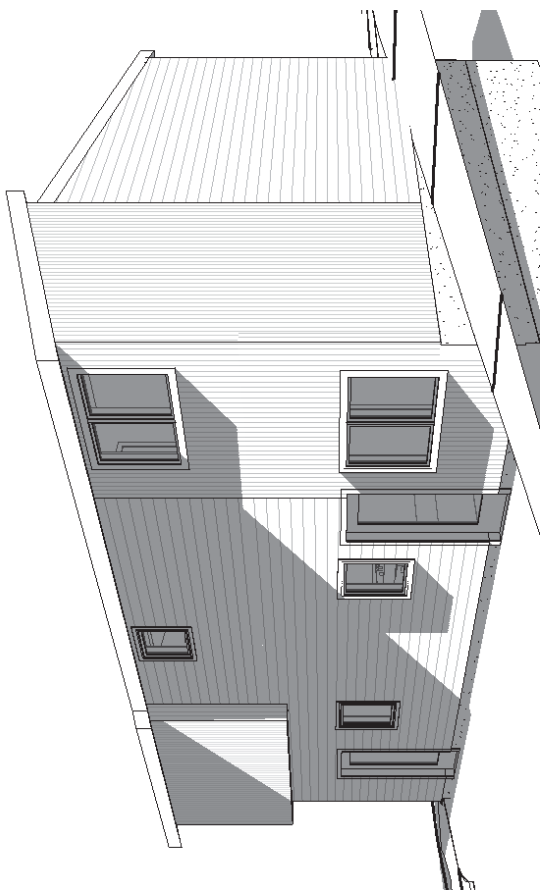
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of Approver



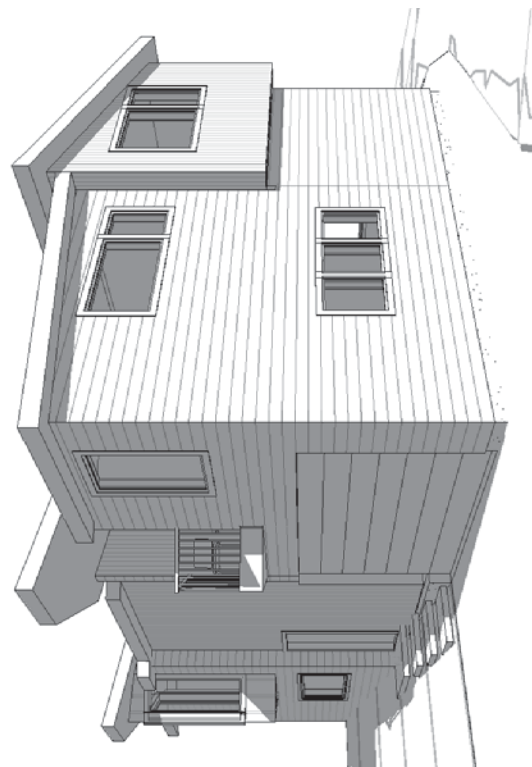
② SOUTHEAST PERSPECTIVE
1/2" = 1'-0"



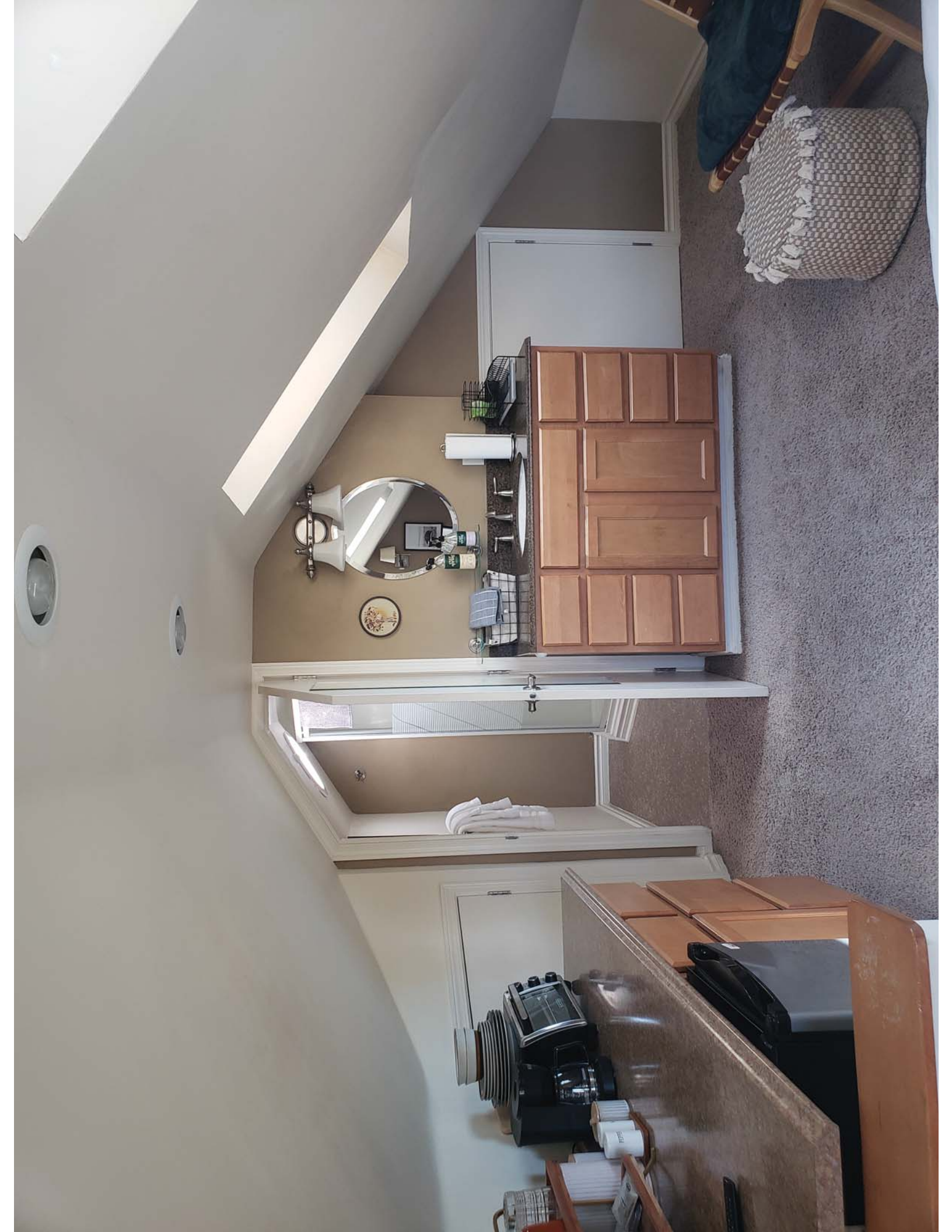
④ NORTHWEST PERSPECTIVE
1/2" = 1'-0"

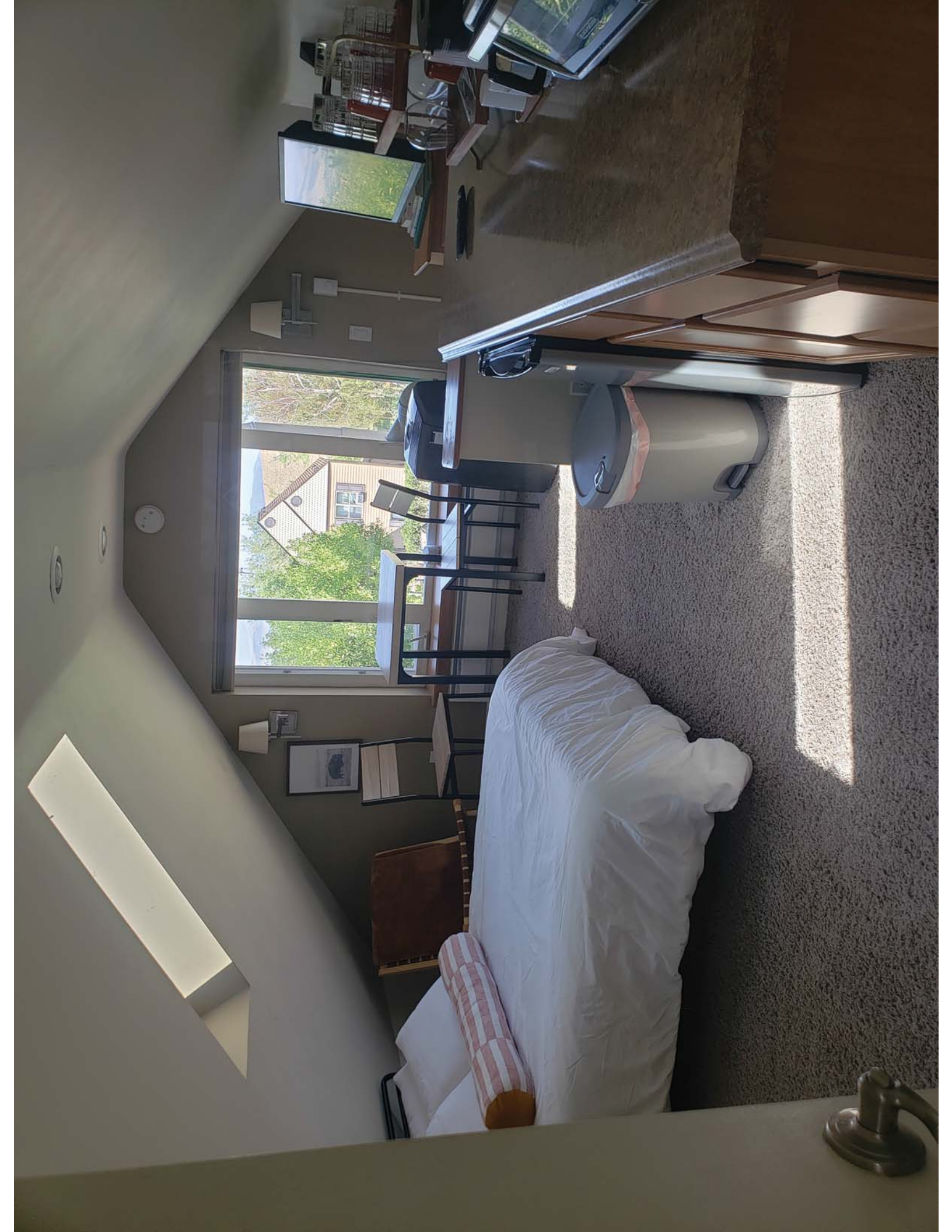


① SOUTHWEST PERSPECTIVE
1/2" = 1'-0"

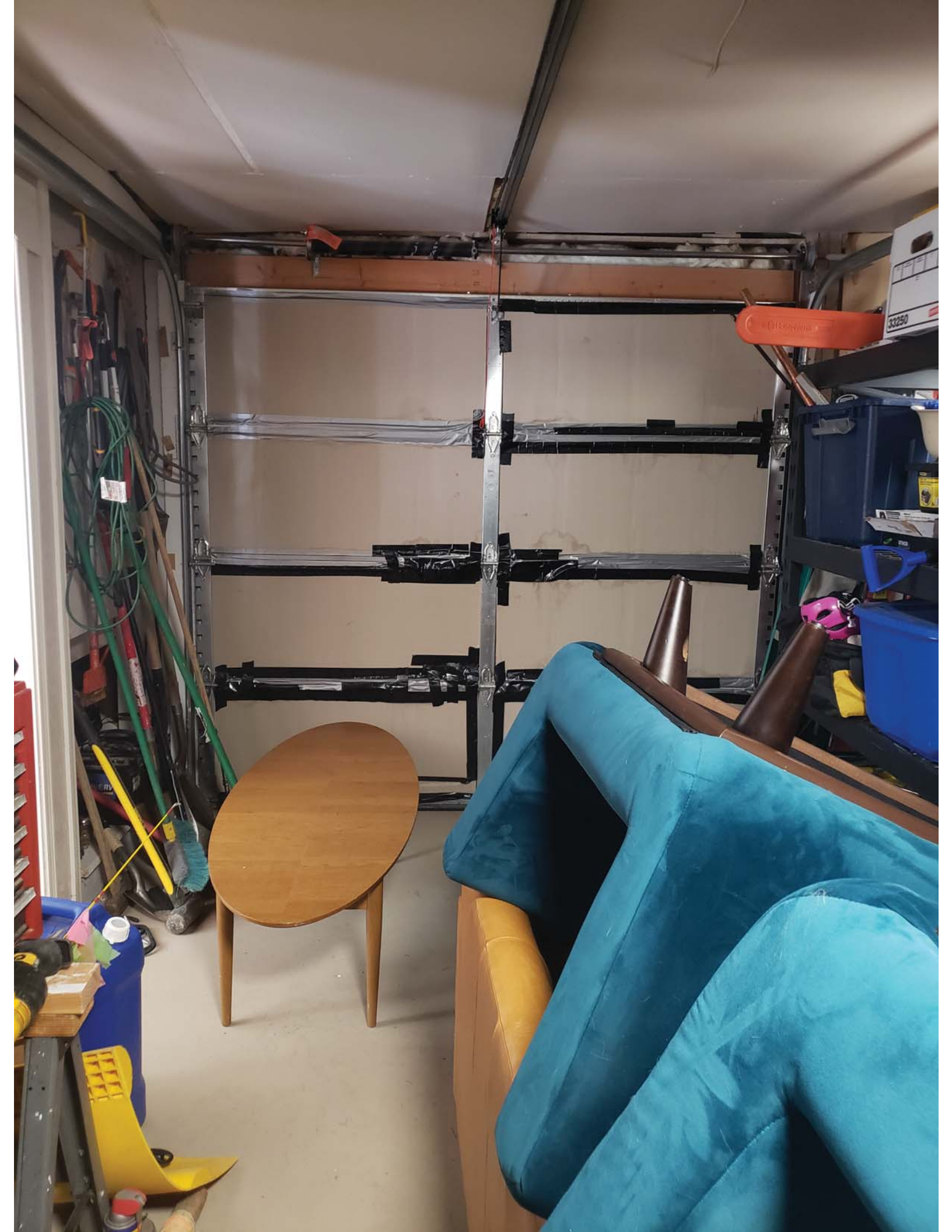


③ NORTHEAST PERSPECTIVE
1/2" = 1'-0"







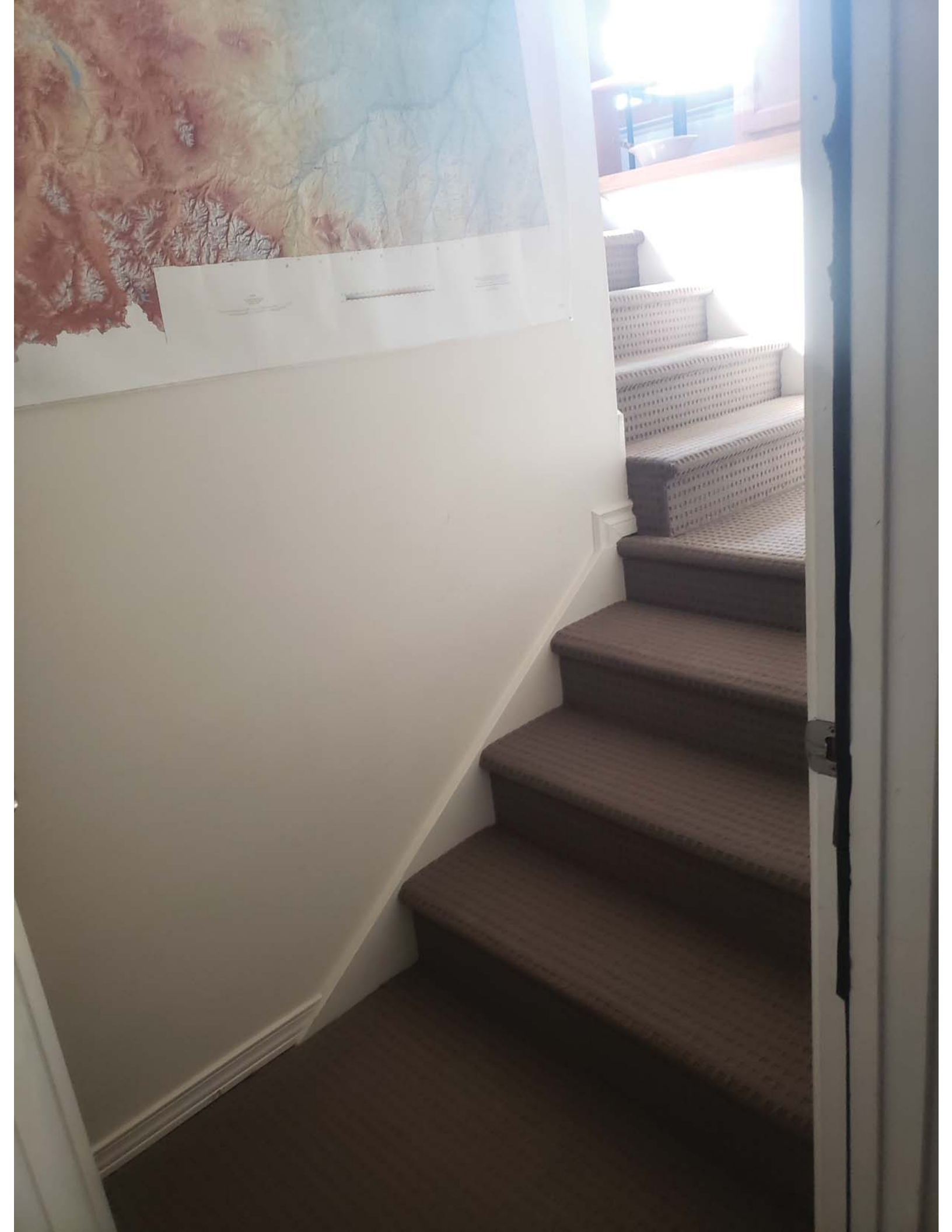






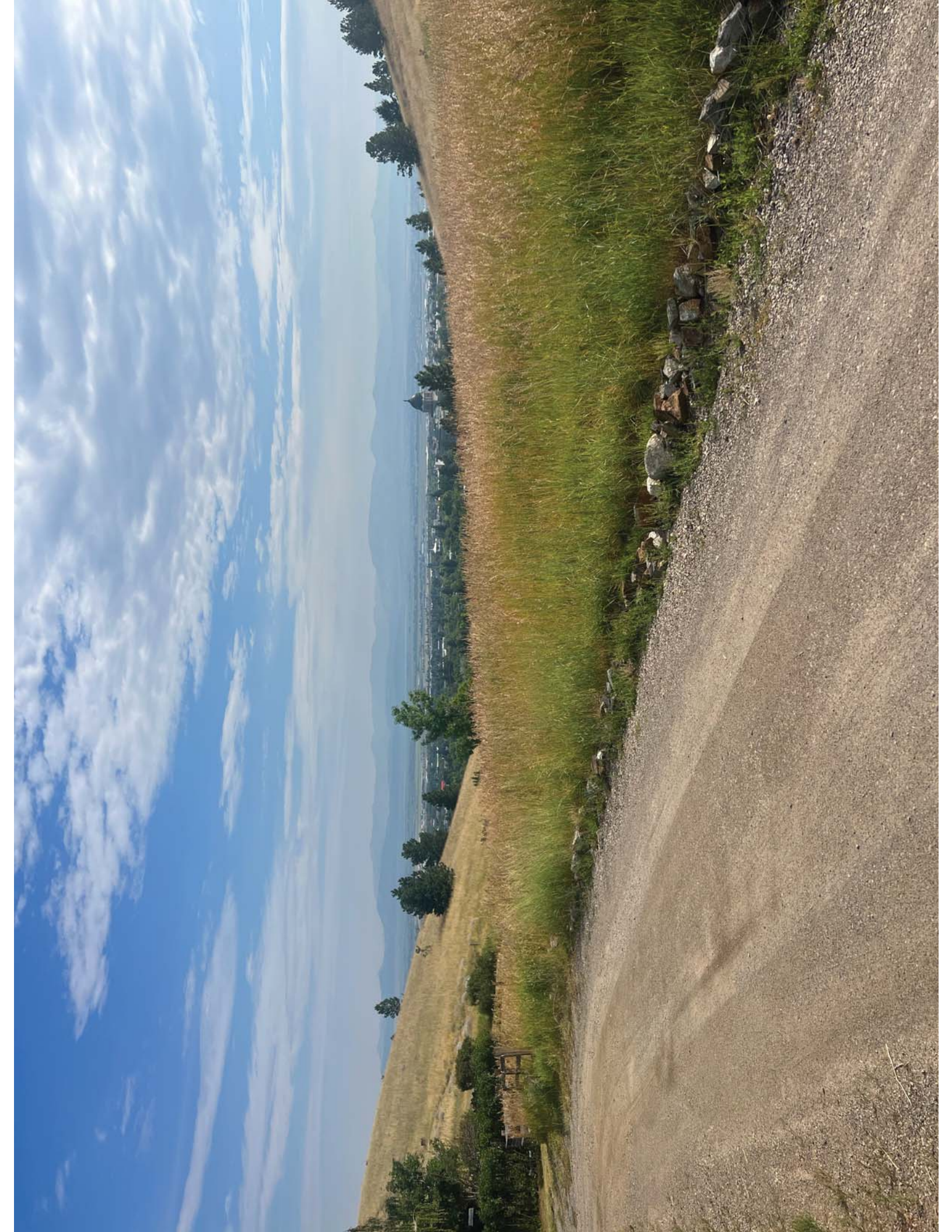


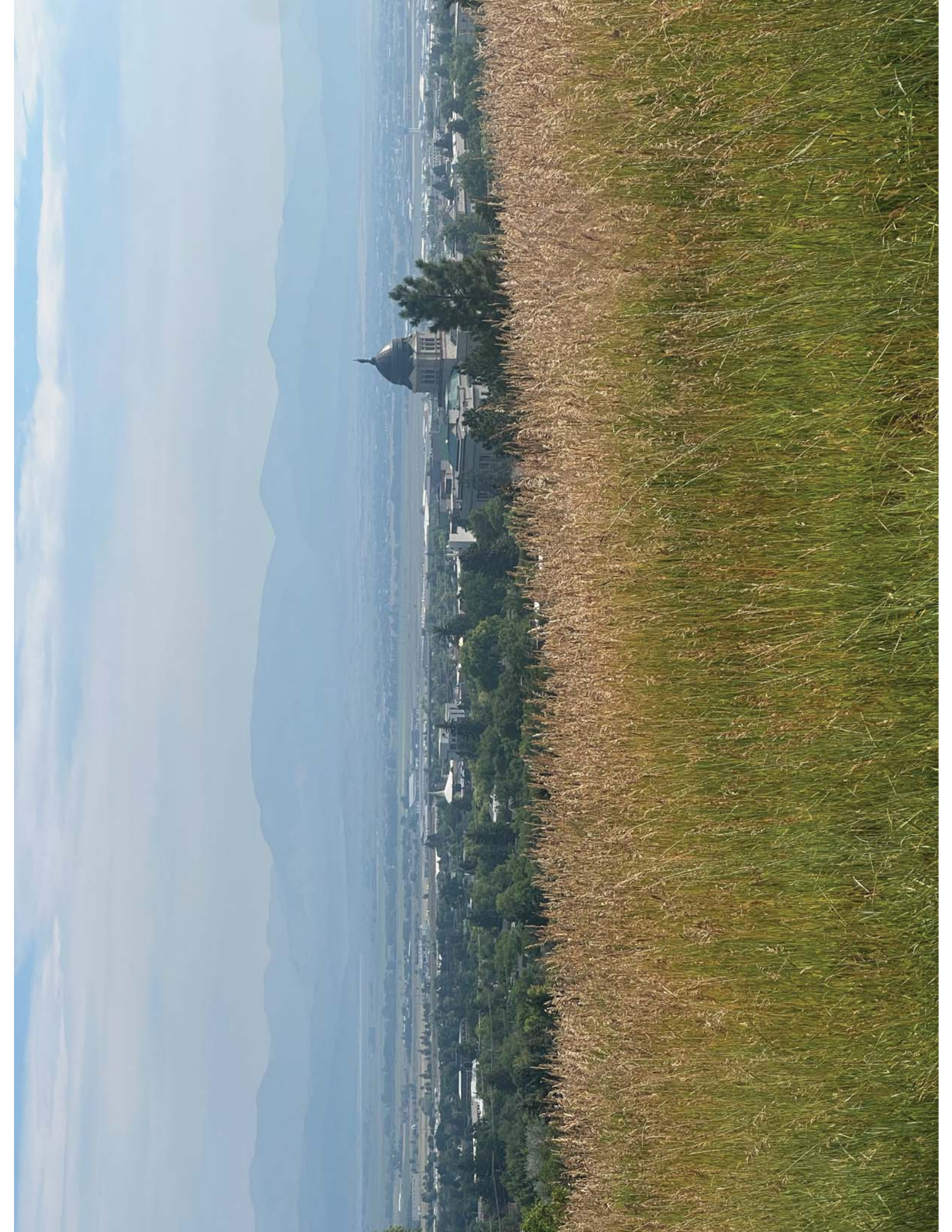














RETURN TO:

Name: Helena Abstract and Title Company
Address: PO Box 853
Montana Club Bldg, 6th & Fuller Ave
Helena, MT 59624
File No.: 2179115 *Cullb*

WARRANTY DEED

FOR VALUABLE CONSIDERATION, FRANK C. CROWLEY aka FRANK CROWLEY and BONNIE ADEE, the grantor(s), do(es) hereby grant, bargain, sell, convey and confirm unto TYLER D. WARNE and CAROLINE DJR WARNE, the grantee(s), as joint tenants (and not as tenants in common), and to the survivor of said named joint tenants, and their assigns, and to the heirs and assigns of such survivor, the following described premises in Lewis and Clark County, Montana, to-wit:

Parcel 1: The west 10 feet of Lot 8 and all of Lots 9 and 10 in Block 567 of the Easterly Addition to the City of Helena, Lewis and Clark County, Montana. (Ref: Book 215 Deeds, page 193)

Parcel 2: All of Lot 7 and the easterly 32 feet of Lot 8 in Block 567 of the Easterly Addition to the City of Helena, Lewis and Clark County, Montana, as shown on the Certificate of Survey filed under Doc. No. 3052910.

TO HAVE AND TO HOLD the said premises, with its appurtenances unto the said Grantees, as joint tenants with right of survivorship (and not as tenants in common) and their assigns, and to the heirs and assigns of the survivor of said named joint tenants forever.

SUBJECT TO DEED RESTRICTIONS ATTACHED ^{A B C D} HERETO AND MADE A PART HEREOF.

ALSO SUBJECT TO: A. All reservations, exceptions, covenants, conditions and restrictions of record and in patents from the United States or the State of Montana; B. All existing easements, rights of way and restrictions apparent or of record; C. Taxes and assessments for the current year and subsequent years; D. All prior conveyances, leases or transfers of any interest in minerals, including oil, gas and other hydrocarbons; and E. Building, use, zoning, sanitary, and environmental restrictions.

Grantor(s) do(es) hereby WARRANT unto the said Grantee(s), their heirs and assigns, that previous to the date of this conveyance said Grantor(s) has not conveyed the same estate or any right, title, or interest therein to any person other than Grantee(s) and that such estate is at the time of the execution of this conveyance, free from encumbrances done, made, or suffered by them or any person claiming under them.

DATED August 06, 2021.

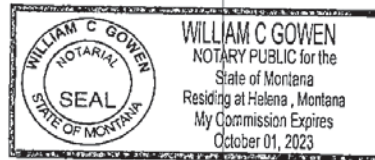
Frank C. Crowley
FRANK C. CROWLEY aka FRANK CROWLEY

Bonnie Adee
BONNIE ADEE

STATE OF MONTANA
COUNTY OF LEWIS AND CLARK

This instrument was acknowledged before me on August 6, 2021 by FRANK C. CROWLEY aka FRANK CROWLEY and BONNIE ADEE.

William C Gowen
Notary Public for the State of Montana
Residing at
My Commission expires:



DEED RESTRICTIONS
807 2nd Street Helena

GRANTORS deed and transfer all their right title and interest in 807 2nd Street in Helena, Montana to GRANTEES subject to the following deed restrictions:

(a) construction of any buildings on or east of the current driveway (i.e. on lots 8 or 7) is not allowed;

(b) construction or modification of any buildings on lots 10, 9 and that part of lot 8 that the garage currently occupies, in excess of the respective current heights of the residence and garage/studio building is not allowed;

(c) in order to preserve the current unique quality of night time darkness on the 807 2nd Street property and the two properties to the south, (i) only short low-voltage (or solar) top-shielded landscape lighting for the east driveway and parking area across from carriage house are allowed, and (ii) all outside lights on the south and east sides of the 807 2nd Street property are to be only motion-activated, with the following exceptions:

- patio lights on the patio outside the current kitchen;
- the two outside yard lights over the east bathroom windows on the second floor

Please Return To:
KELBY R. FISCHER
40 WEST LAWRENCE, SUITE B
P.O. Box 267
HELENA, MT 59624-0267

QUITCLAIM DEED

This indenture, is made the 25th day of January 2022, between TYLER DAVID WARNE a/k/a TYLER D. WARNE and CAROLINE DJR WARNE, 807 2nd Street, Helena, Montana 59601, hereinafter GRANTORS, and TYLER D. WARNE AND CAROLINE DJR WARNE, TRUSTEES OF THE T.C.W. LIVING TRUST DATED JANUARY 25, 2022, AND ANY AMENDMENTS THERETO, 807 2nd Street, Helena, Montana 59601, hereinafter GRANTEE;

WITNESSETH, that GRANTORS, for and in consideration of the sum of \$10.00 in hand paid by GRANTEE, the receipt whereof is hereby acknowledged, do hereby convey, remise, release and forever quitclaim unto GRANTEE, and to GRANTEE'S heirs and assigns all of GRANTORS' interest in and to the following real estate situated in the City of Helena, County of Lewis & Clark, State of Montana, to-wit:

Parcel 1: The west 10 feet of Lot 8 and all of Lots 9 and 10 in Block 567 of the Easterly Addition to the City of Helena, Lewis and Clark County, Montana. (Book 215 Deeds, p. 193.)

Parcel 2: All of Lot 7 and the easterly 32 feet of Lot 8 in Block 567 of the Easterly Addition to the City of Helena, Lewis and Clark County, Montana, a shown on the Certificate of Survey filed under Doc. No. 3052910.

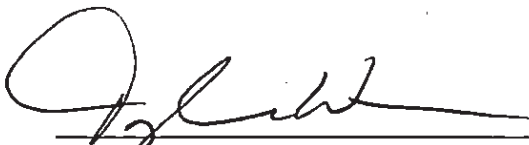
SUBJECT TO DEED RESTRICTIONS set forth at Deeds M59, p. 6874

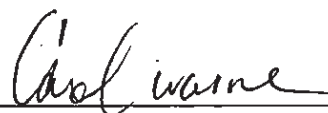
AND

Lot 12-A as shown on the Amended Plat of Lots 10, 11 and 12 in Block 546 of the TOWNSITE OF HELENA, as disclosed by Plat filed under Document Number 496602-E, records of Lewis and Clark County, Montana.

Together, with all the tenements, hereditaments, and appurtenances thereto belonging, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof; and also all the estate, right, title, interest, right of dower, property, possession, claim and demand whatsoever as well in law as in equity, of GRANTORS, of, in or to the said premises, and every part and parcel thereof, **TO HAVE AND TO HOLD**, all and singular the said premises with the appurtenances thereto belonging, unto GRANTEE, and to GRANTEE'S heirs and assigns forever.

IN WITNESS WHEREOF, GRANTORS have hereunto set their hands and seals the day and year first herein above written.

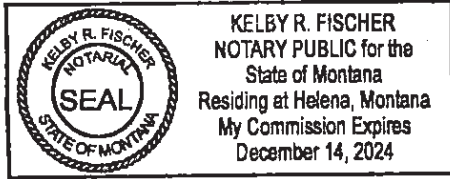

Tyler David Warne



Caroline DJR Warne



STATE OF MONTANA)
County of Lewis & Clark)

Signed and acknowledged before me on January 25, 2022 by TYLER DAVID WARNE and CAROLINE DJR WARNE.





Signature of Notary

WARNE GARAGE

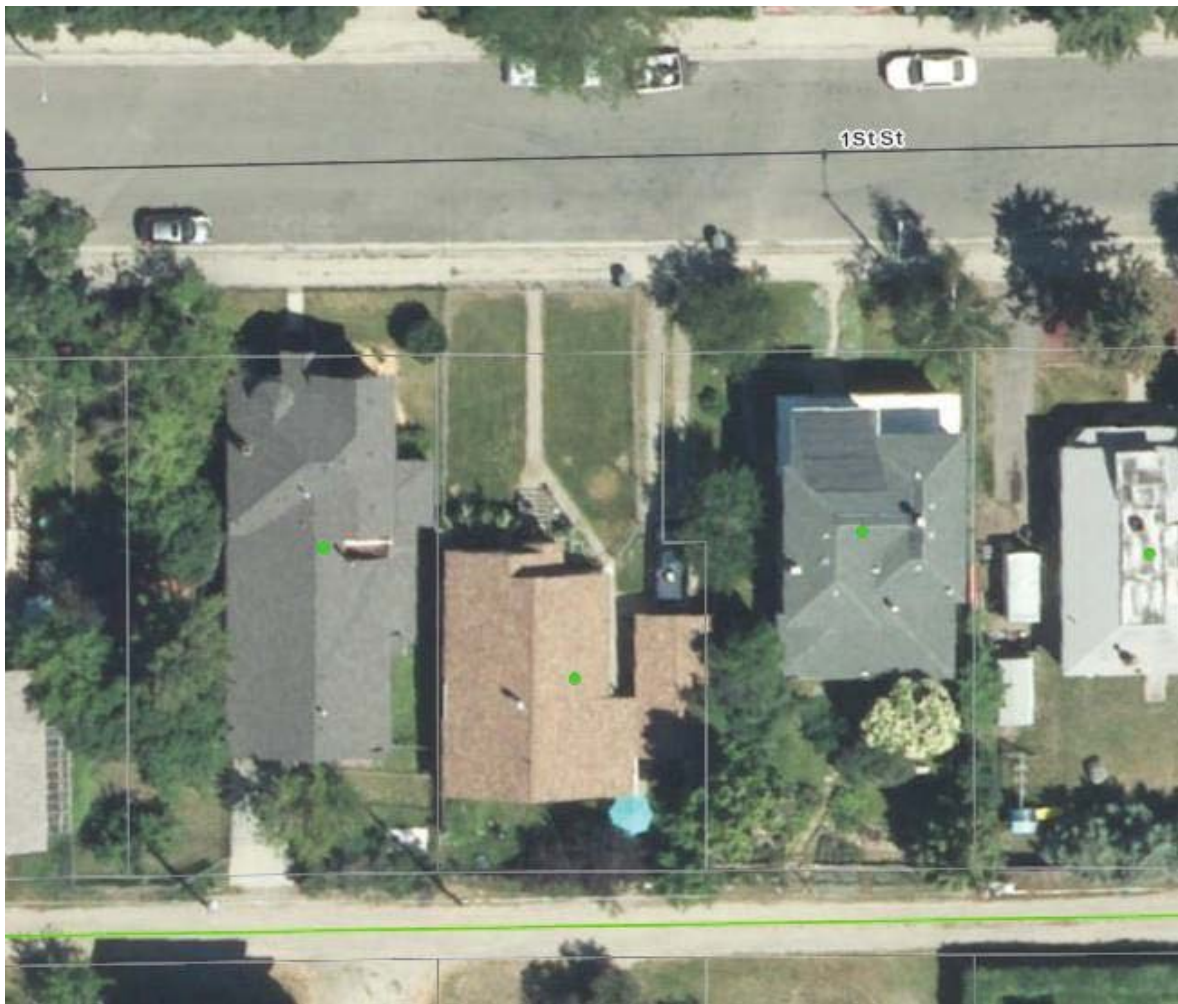


- 1. 311 Chaucer
- 2. 611, 613, & 619 1st Street
- 3. 615 2nd Street
- 4. 621 3rd Street

- 5. 625 2nd Street
- 6. 627 1st Street
- 7. 629 2nd Street
- 8. 703 Rhode Island Street



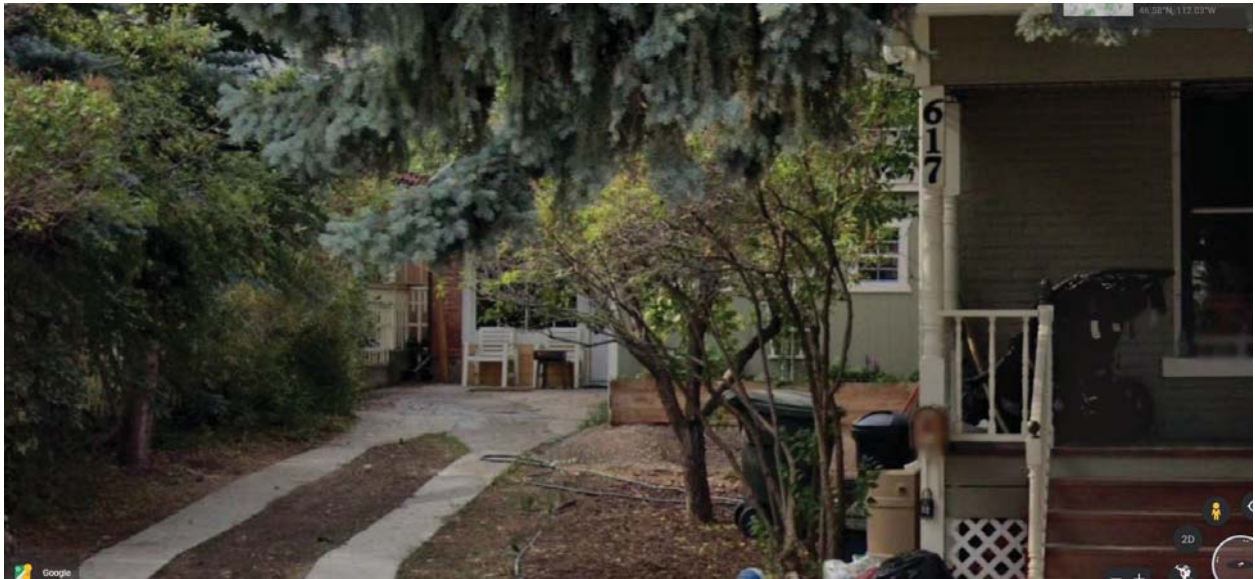
1. 311 Chaucer



2. 611, 613 and 619 1st Street



3. 615 2nd Street



4. 621 3rd Street



5. 625 2nd Street



6. 627 1st Street



7. 629 2nd Street



8. Rhode Island Street