Schedule "A"

Village of Lions Bay
Board of Variance Application Form

I hereby apply for a hearing before the Board of Variance for:

LAND SUBJECT OF THE APPLICATION	
Street Address:	115 Mountain Dr
Legal Description:	Lot 44, Blk A, DL 1814, Grp 1, NWD, Plan 14452
Zoning:	RS-1
OWNER/CONTACT INFORMATION	
Full Name(s) of Property Owner(s):	Jerry Janusz
Full Name of Owner's Authorized Representative (if applicable):	Kent Halex, Architect AIBC
Address to Which Notices Should be Mailed:	Halex Architecture 346 E 20th St North Vancouver BC V7L3A7
Daytime Phone # of Owner or Authorized Representative:	Kent Halex 604 983 9909 (o) 604 836 8650 (c)
Name of Person Who Will Represent Applicant at the Hearing:	Kent Halex, Architect AIBC
TYPE OF APPLICATION (Complete Applicable Section)	
A. VARIANCE OF BYLAW RESPECTING SITING, SIZE OR DIMENSION OF A BUILDING OR STRUCTURE [s.540(a)(i)]	
Bylaw Name/Number & Section(s) from which relief is sought:	Zoning Bylaw 520 Article 7.8.1.
Variance From (current requirement):	Max flat roof height of El 729.95'
To (new requirement requested):	Max flat roof height of El 736.70'
B. EXEMPTION FROM PROHIBITION OF A STRUCTURAL ALTERATION OR ADDITION TO A BUILDING OR STRUCTURE WITH A NON-CONFORMING USE [s.540(c) and s.531(1)]	
Bylaw Name/Number & Section(s) Which Previously Permitted Use: N/A	
Bylaw Name/Number & Section(s) Which Resulted in Legal Non-Conforming Status: N/A	

Continuing Non-Conforming Use: N/A
Structural Alteration or Addition Desired: N/A *Note: If alteration or addition will result in a structure contrary to current bylaw siting, size or dimension requirements, also complete Section A.*
C. APPEAL OF BUILDING INSPECTOR'S DETERMINATION OF DAMAGE TO NON-CONFORMING BUILDING [s.532(1) and s.544]
Date of Building Inspector's Determination (application must be filed within 30 days): N/A
Summary of Building Inspector's Determination (copy attached): N/A
Determination Requested of Board: N/A
D. EXEMPTION TO RELIEVE HARDSHIP FROM EARLY TERMINATION OF LAND USE CONTRACT [s.543]
Bylaw Name(s)/Number(s) & Section(s) from which relief is sought: N/A
Variance From (current requirement): N/A
To (new requirement requested): N/A
STATEMENT OF HARDSHIP (not required for Type C applicants)
I allege that compliance with either the bylaw or ~~section 531(1) [strike one]~~ would cause me hardship by: diminishes the ability to tap the value of the property to myself and/or the real estate market. (attach additional pages if necessary)
TIME REQUIRED TO COMPLETE
Respecting Type A or B applications, the Board may specify a time for completion of the construction of the Building or Structure permitted by the minor variance or exemption, after

which the permission or exemption would terminate. If your application is permitted, when do you expect to complete the work?

December 2022

ADDITIONAL INFORMATION/REASONS SUPPORTING THE APPLICATION

See attached KGHA Letter

(Attach additional pages if required)

ATTACHMENTS

Fee and Title Documents:

- ☑ A Non-refundable application fee of $500.00 (cash or cheque), payable to the Village of Lions Bay.
- ☑ A Title Search Print dated within 30 days of the application and copies of all registered non-financial encumbrances noted thereon.

Drawings Which May be Required:

- ☑ A site plan showing the location of all Buildings and Structures, or proposed Buildings or Structures, on the subject property, preferably prepared and signed by a BC Land Surveyor A floor plan (for existing and proposed Buildings) showing space uses and door and window locations, preferably certified by an architect or structural engineer.
- ☑ A Building or Structure elevation plan preferably certified by an architect or structural engineer, including original and proposed alterations to site levels, if applicable.

Other Documents Which May be Required:

- ☐ A geotechnical engineer's report with respect to drainage, topography, and other geotechnical considerations.
- ☑ Explanatory materials and such other additional information as may be advisable in support of the application (eg: photographs, letters of support, etc.)

The Village Building Department may have some of the documents noted above – check first before ordering new. Further information may be required to enable the Board of Variance members to visualize the proposal and its relationship to the surrounding area. Approval, if given by the Board, is for the plans submitted. Changes to plans after the Board's decision will require a new application.

SIGNED BY ALL OWNERS ON TITLE ON August (month) 16 (day), 2021 (year):

[redacted] [redacted]

Note: Decisions of the Board of Variance regarding Type A, B or D applications are FINAL, other than an appeal to the BC Supreme Court in respect of procedure under the *Judicial Review Procedure Act*. Decisions regarding Type C applications may be appealed by the applicant or the Village of Lions Bay to the BC Supreme Court. Information in this application is subject to the *Freedom of Information and Protection of Privacy Act*.

IMPORTANT INFORMATION

On finding hardship, the Board may order a minor variance or exemption if it would not:

(a) result in inappropriate development of the site;
(b) adversely affect the natural environment;
(c) substantially affect the use and enjoyment of adjacent land;
(d) vary permitted uses and densities under the applicable bylaw; or
(e) defeat the intent of the bylaw.

An order of the Board must not:

(a) be in conflict with a registered *Land Title Act* Covenant;
(b) deal with a matter covered in a land use contract or permit;
(c) deal with a phased development agreement;
(d) deal with a floodplain specification under the *Local Government Act*; or
(e) apply to a heritage property.

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Sept 02, 2021

Municipality of the Village of Lions Bay
Board of Variance
400 Centre Rd, Lions Bay BC V0N 2E0

Members
Ian Mackie (Chair)
Peter Wreglesworth
Morgan Gatto

RE: Board of Variance Application -115 Mountain Dr

Sirs,
Please consider the following as an outline of the particular site circumstances and criteria as a preamble to and in defence of our application for a Height Variance for the above noted address.

Description of Lot and Existing Conditions

The property and residence at 115 Mountain Dr has been unoccupied for the past three years which has led to it being unkempt, derelict and a community eyesore. It has become a concern and a liability to the owner, the community and to the Municipality.

In its current state the house requires reconstruction or a top to bottom renovation. The current owner has purchased it with the intention of undertaking the latter.

Given the elaborate concrete foundations of the building, which include a suspended concrete slab over an existing natural rock outcrop it has been decided to perform an extensive renovation of the existing structure rather than to build anew. We note that it is not an option to recess the building below grade on the site due to extensive rock substrate.

The applicable RS-1 Bylaw allows for an FAR of 3.0 or 4897 sf (not including garage). The area of the lot is 13,991 sf (1,299.8 sm). The current built area of the house is 2581.3 sf (not including garage). This leaves 2,315.7 sf of unrealized floor area available, which translates to roughly half of the total allowable FAR.

The consensus could easily be reached that the house became un-occupied due to its inability to meet current liveability and marketability standards. We set out to identify these criteria in order to formulate a comprehensive plan to address not just the rehabilitation of the structure but how it works on the site and how it slots into the neighbourhood and community.

Limiting Criteria

The design team identified the criteria for consideration as the following:

a) Ineffective application of available FAR.
b) Inadequate realization of contemporary program area requirements for a home within this calibre of neighbourhood and price range.
c) Physical site constraints limiting design options including limitations due to original house orientation due to a site rock outcrop.
d) Existing house Inability to capture available views.
e) Need to preserve as much of natural site as possible.

Viability Considerations

The conclusions were that for the project to be viable we would need to:

-Address the issue of the unrealized FAR.
-Incorporate programme essentials and amenities commensurate with the calibre of the community and current market expectations.
-Address siting constraints such as rock, septic requirements etc, and the physical limitations they impose, but work with the existing foundations.
-Consider siting, views, sun and other specific natural elements and servicing of the site as they relate to the re-design.

Design Rationale

-It became clear to the design team early in the programmatic discussions that the three bedrooms on the main living level of the house were not practical. The bedrooms were too small, were deprived of natural light and views and had awkward access to bathrooms. To further add to the pressure on the main floor area, the house had an inadequate kitchen with limited work surfaces and storage. The family room was a sunken space created in order for the program area requirements to squeeze upstairs into a loft/flex space, which put further strain on the usability and flexibility of the main floor.

Conclusions

The clear solution was to take this pressure off the main living level through the addition of an additional storey that contained the bedrooms. The remainder of the programmatic issues could be solved through modest additions to the rear of the building.

The RS-1 Bylaw was written with the intent to allow for two storeys above grade and a partly below grade lower floor. A height restriction was formulated with a 24.6' flat roof height limitation from average grade -enough for two stories (including structure) plus a partly exposed lower floor. Due to the flat nature of this specific site and the amount of rock limiting its foundation depths the site constraints combined with the bylaw height restriction thwart the ability to construct the additional storey.

The original developer attempted to work with the limitations of the site as the Bylaw applied to it by constructing a partial 3rd storey loft area that was awkwardly recessed into the existing main and second floor structure, restricted the layout and function of the home and forced the bedrooms to share the main floor level. The result was a compromised house layout and massing that dis-availed them of floor area. The new design had to address these inherent limitations.

The key is a relaxation of the building height restrictions. All other Bylaw requirements can be met.

Neighbour Engagement

The design team performed an evaluation of the site/proposed building and its relationship to the five immediate neighbours homes (See enclosed Fig 1), their home situation on their sites, their view cones, landscaping/screening, natural light and ventilation. All five of the neighbours were visited with drawings and open discussions were undertaken. They were all complementary of the proposed design.

It became clear that the number one priority of all parties was preservation of view. Of secondary importance was neighbour proximity ie: the perceived, or visual presence of these homes relative to one another.



115 Mountain Drive -Fig 1 Neighbour consultation map

View

Views were not an issue for any neighbours that could not see the subject property from their homes. ie: the neighbours on the north side of Mountain Dr (110 and 120) who depend only on their views up Howe Sound.

125 Mountain Dr, next door to the west is physically the closest neighbour. They enjoy a partial view down Howe sound to the south west from the rear of their home but no views to the east where the subject property is located.

110 and 120 Sunset Dr sit above thew subject property on the mountainside to the NE and E respectively.
120 Sunset enjoys a view up Howe sound to the north over the bank of topped cedars at the shared property line. Their view is uninterrupted and the owners were satisfied that the proposed second story and height variance at 115 Mountain Dr would not extend above the cedars. Their foreground view below the recently limbed cedar canopy is of the wall and roof of the existing home at 115 Mountain Dr which extends from the ground

plane to the underside of the cedar canopy. This view would be occupied by the 115 Mountain Dr house irrespective of the height variance. Discussions were had as to how this view could be enhanced with planting, fencing, or a combination thereof.

110 Sunset Dr is the corner property, a three storey structure currently undergoing an extensive renovation. The house currently enjoys expansive views up Howe Sound to the north and west. Discussions with the owners revealed that they had hopes of taking advantage of potential oblique views from their main floor deck and top floor master bedroom skylight windows down Howe Sound to the SW. These views are currently blocked by a stand of 25' cedars on their property, which they were considering topping or removing to open up the view, along with trees on the 115 property which could also be obstructing any view. The concern was that once they made the view available it may be interrupted by the varied second storey height of 115 Mountain Dr.
An investigation was undertaken to identify the exact location of the property line between the two lots and which trees belonged to which property. The goal being to determine if views were available and which trees were to be affected to open up the view. It was acknowledged that unless the trees were removed or topped it would be very difficult to know whether the 115 house itself was obstructing or limiting a view.
At the point of issue of this document the investigation was still under and should yield definitive feedback by the date of BofV consideration.

Proximity

Proximity was not an issue for the neighbours on the north side of Mountain Dr (110 and 120). The bulk of these homes are below the road and they are oriented to the north

110 Sunset did not have an issue with proximity

120 Sunset can see the existing home on the subject property through the limbed trunks of the mature cedars in their rear yard, the canopy of which had been topped to preserve their views of Howe Sound. Their only concern was what would be visible in the foreground which led to consideration of landscaping, hedging and fencing options.

110 Mountain Dr sent an email that they had no issues.

120 Mountain Dr expressed that they had no issues but shared that out of respect for the tight knit community they would not sign an acknowledgement letter unless they knew that all the neighbours were OK with the proposed scheme.

125 Mountain Dr, next door to the west is physically the closest neighbour. They were interested to see what the house would look like from their property. A sketch up perspective was prepared to illustrate the presence of the house and presented to the owners. (See enclosed photo Fig 2)

Bylaw Specifics and discussion

*"**height** means the vertical distance from the average grade of a structure to the highest point of*
the roof surface, in the case of a structure without a roof, to the highest point of the structure;"

"7.8 .1 The height of a principal building shall not exceed 9.0 metres for a sloping roof or 7.5 metres
for a flat roof."

Calculation of Average Grade

4.8 The *average grade* for a *building* or *structure* shall be calculated as follows:

.1 (a) measure the ground elevation at each corner of the *building*; then

(b) total the elevations of all corners; then

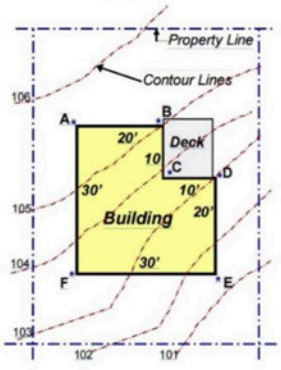
(c) divide by the number of corners.

The result is *average grade* for the *building*, the reference point from which *height* will be measured.

Example:

Corner	Elevation
A	105.5 m
B	105.0 m
C	104.0 m
D	103.0 m
E	101.5 m
F	104.0 m
Total	623.0 m
÷ 6	103.8 m

Figure 1



The average grade for the existing house is 706.46' geodetic. The average grade for the proposed house is 705.35' geodetic, 1.11' lower due to the proposed addition on the south side of the building.

The relative grades are illustrated on Fig 1. (see attachment) Fig 1 shows the proposed building front (north) elevation with the existing building profile superimposed against it in the form of a dashed red line. The purpose of the illustration is to indicate that the existing building sloped roof peak is higher the proposed new flat roof on the upper storey. This is due to the lower height restriction for flat roofed structures.

It should also be noted that the new top floor for which the variance is being requested constitutes approximately 50% of the overall roof area of the building, the balance of roof area being bylaw compliant (see Fig 1 attached)

Existing house sloped roof peak:	El 738.40’
Allowable new flat roof top of structure	El 729.95’
Proposed new flat roof top of structure:	El 736.70’
Proposed height variance	6’-9”

The intent of the height bylaw is threefold:

-To prevent the height of a building from being an impediment to neighbours views and access to natural light.
-To prevent the height of a building from being disproportionate in relation to the context and other homes.
-To reinforce uniformity as a streetscape.

Since Lions Bay is a mountainside community the above tenets remain satisfied by the proposed relaxation. The houses across the street are on steep lots facing away from and below the road. They enjoy views to the opposing direction.
The houses on Sunset Lane are significantly higher geodetically and look over all the properties below them on Mountain Dr. These homes would appear significantly taller if they were visible in a common context.
125 Mountain Dr is a rancher oriented to views down Howe Sound. It cannot be seen from the road.
All houses have well developed landscape screening between themselves.

Proposed Variance

Variance: The owner seeks a Variance of 6.9’ for building height.

Justification: The Variance request is based on relief from hardship imposed by the constraints of this specific site as geology and topography as the Zoning Bylaw applies to avg grade calculation and

limitations of flat roof building height.

Hardship: The grounds are economic hardship. Inability of the owner to avail themselves of potential building area and views diminishes the ability to tap the value of the property either to themselves or the real estate market.

Granting of the variance would:

a) Result in appropriate development of the site in that it would limit the building footprint, allowing for an appropriate ratio of landscape to building, allow more precipitation to be returned to the ground and facilitate capturing inherent views.
b) Have less effect on the natural environment by allowing for undisturbed natural elements, landscape opportunity, natural screening and outdoor amenity.
c) Have no effect on neighbouring properties as it would not affect views, natural convection or block light.
d) Not affect use and density under the existing bylaw
e) Be in conformance with the intent of the Bylaw which is to allow for two and a half storey homes.

If so ordered the Board would not:
a) Be in conflict with a registered land title act covenant
b) Deal with a matter covered in a land use contract or permit
c) Deal with a phased development agreement
d) Deal with a flood plain specification
e) Apply to a heritage property

End

115 Mountain Dr –Lions Bay

Project Data

Zoning: RS-1 Residential Single Detached

Lot Area: 13,991 sf (1,299.81 sm)

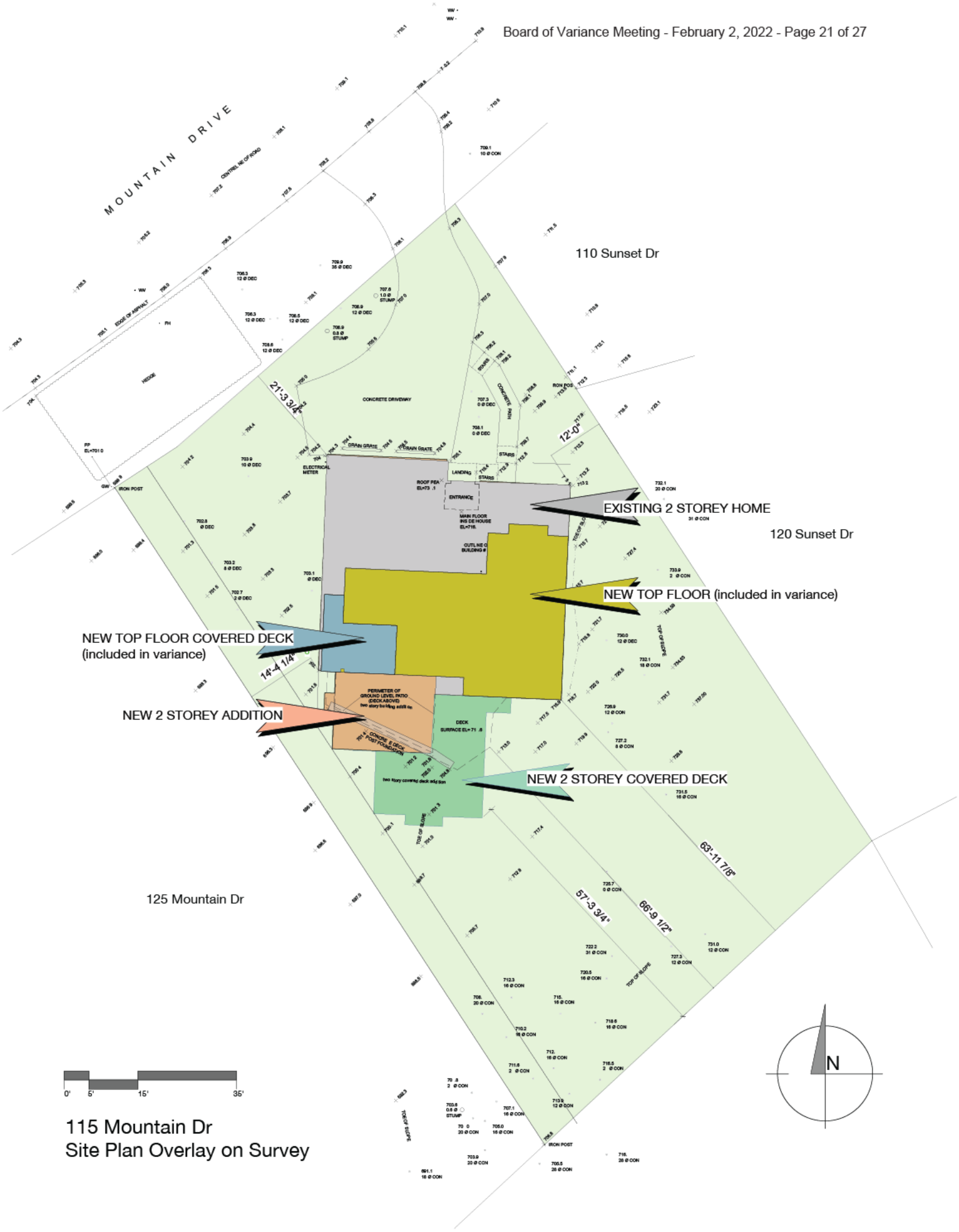
Lot coverage:	Allowable 0.3 = **4197.3 sf**	Existing 1,799 sf	Proposed 2,234 sf
FAR:	Allowable 0.35 = **4,897 sf***	Existing 2581.3 sf	Proposed 4,186 sf

*Excluding balconies, sundecks and up to 40 sm of garage

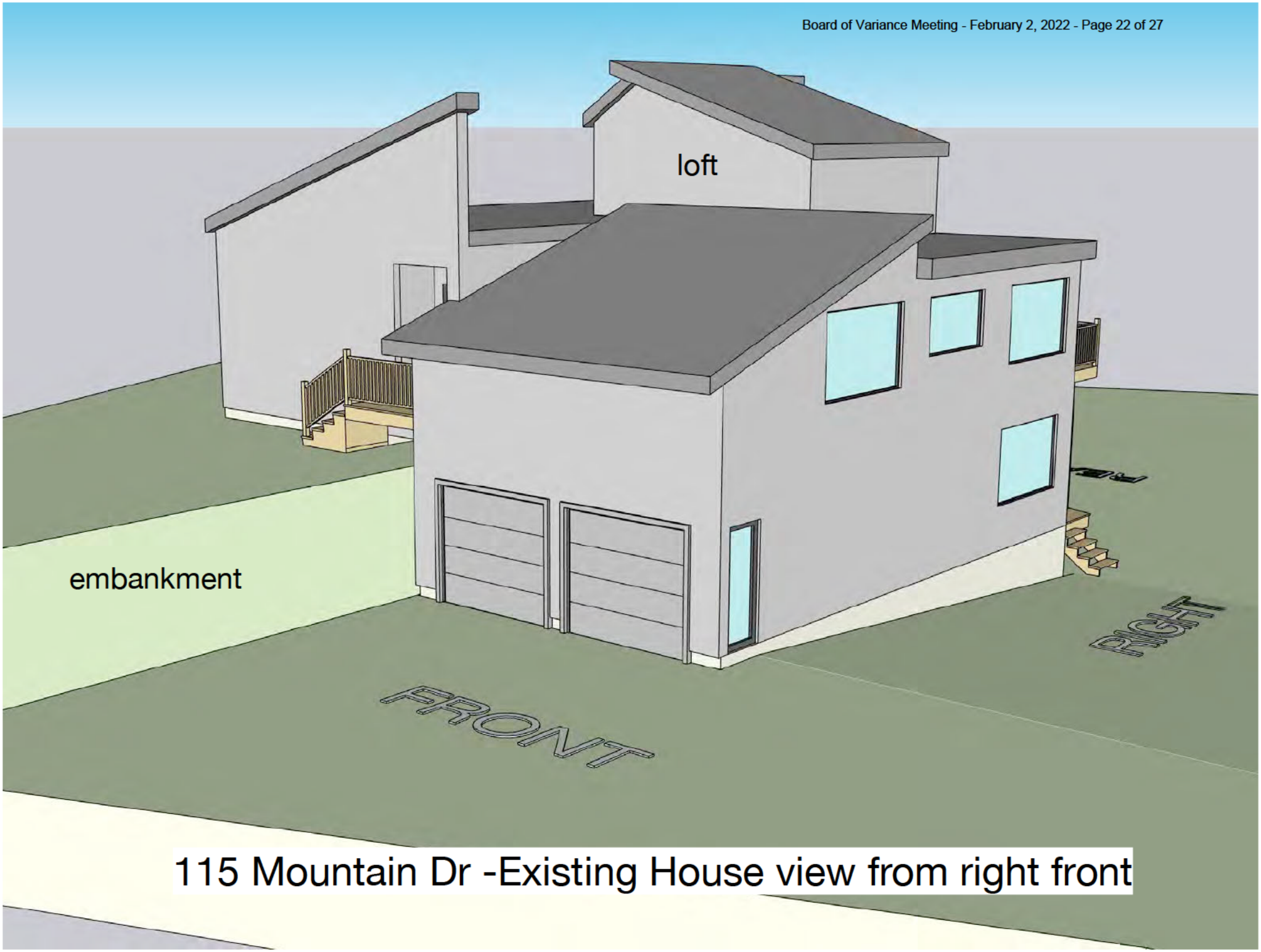
Garage	Allowable **430.56 sf** (40 sm)	Existing 396 sf	Proposed 396 sf
Setbacks:	Allowable N (front): 24.61' W (side): 7.87' E (side):7.87' S (rear): 24.61'	Existing 21.31' 14.35' 11.66' 63.99'	Proposed 24.61' 14.35' 11.66' 56.5'
Avg grade:		Existing 706.46'	Proposed **705.35'**
Height:	Allowable Sloped roof 29.5' from avg gd =735.96' exist house =734.85' new house	Existing 735.96'	Proposed N/A
	Flat roof 24.6' from avg gd =731.06' exist bldg =**729.95'** new bldg	730.96'	736.7'
Secondary Suite:	Allowable lesser of **969 sf** (90sm) or 40% of GFA 0.4 x 4186 = 1674.4 sf (155.6 sm)	Existing 491.4 sf	Proposed 920.5 sf



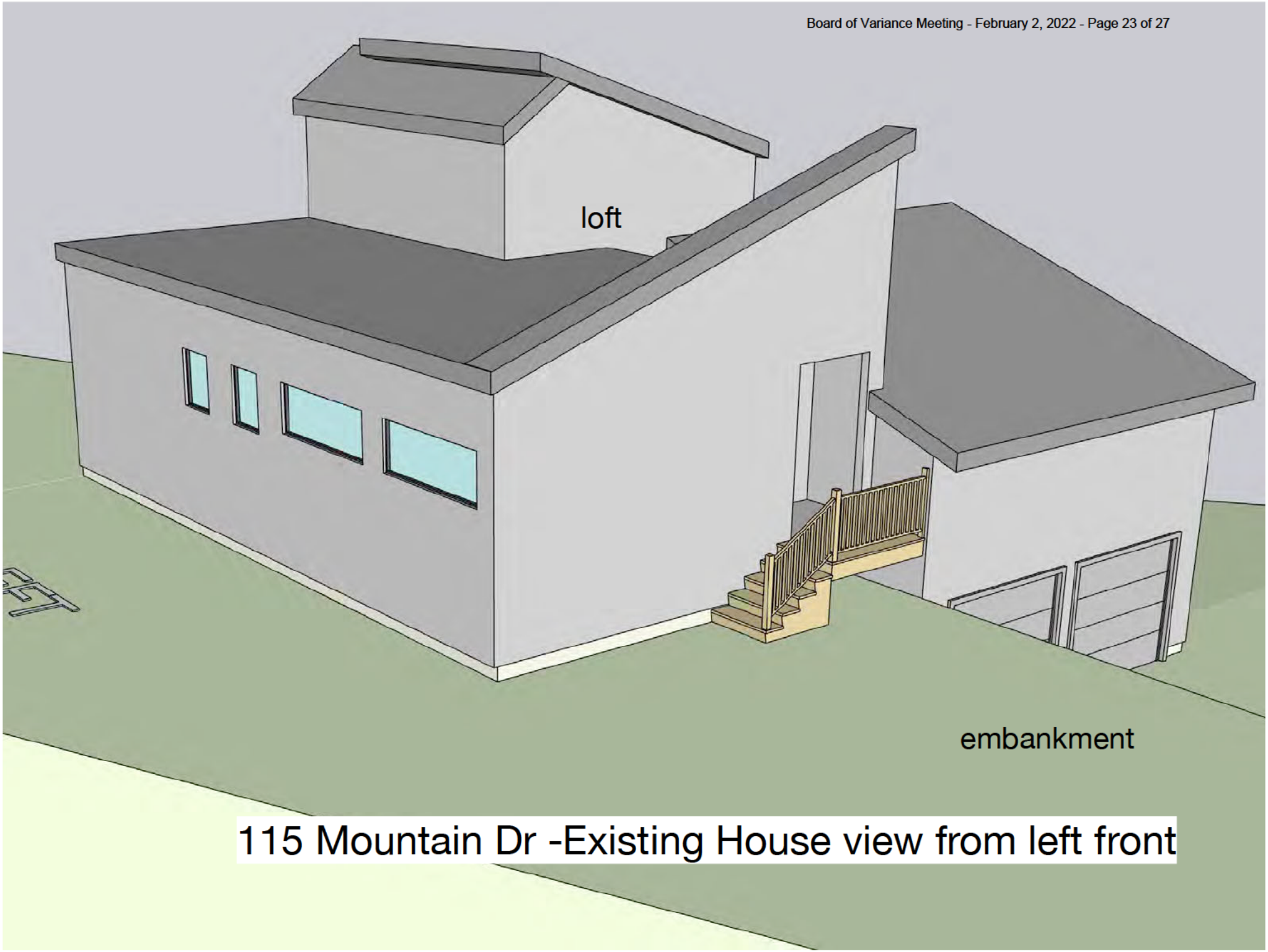
115 Mountain Drive -Fig 1 Neighbour consultation map



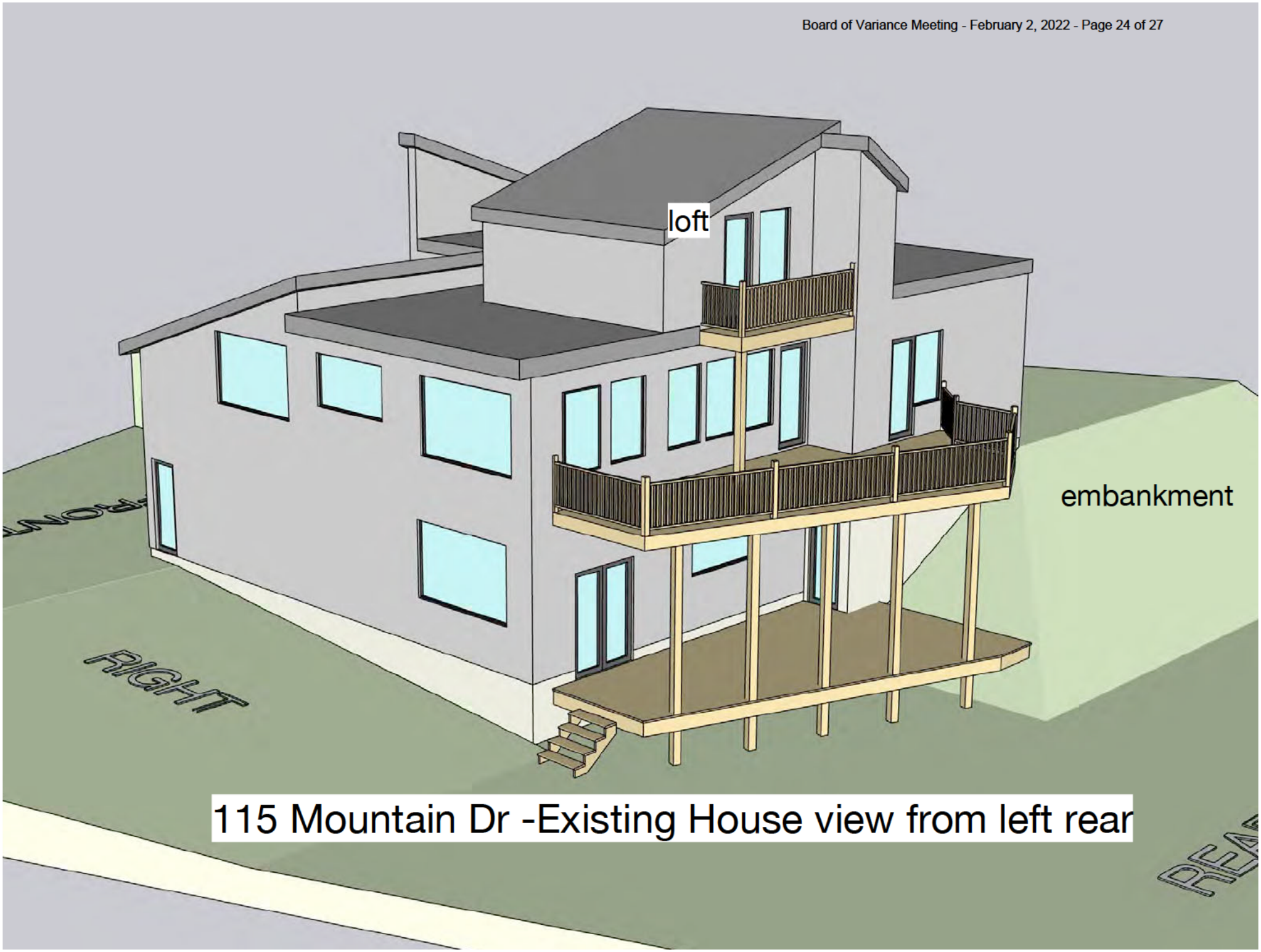
115 Mountain Dr
Site Plan Overlay on Survey



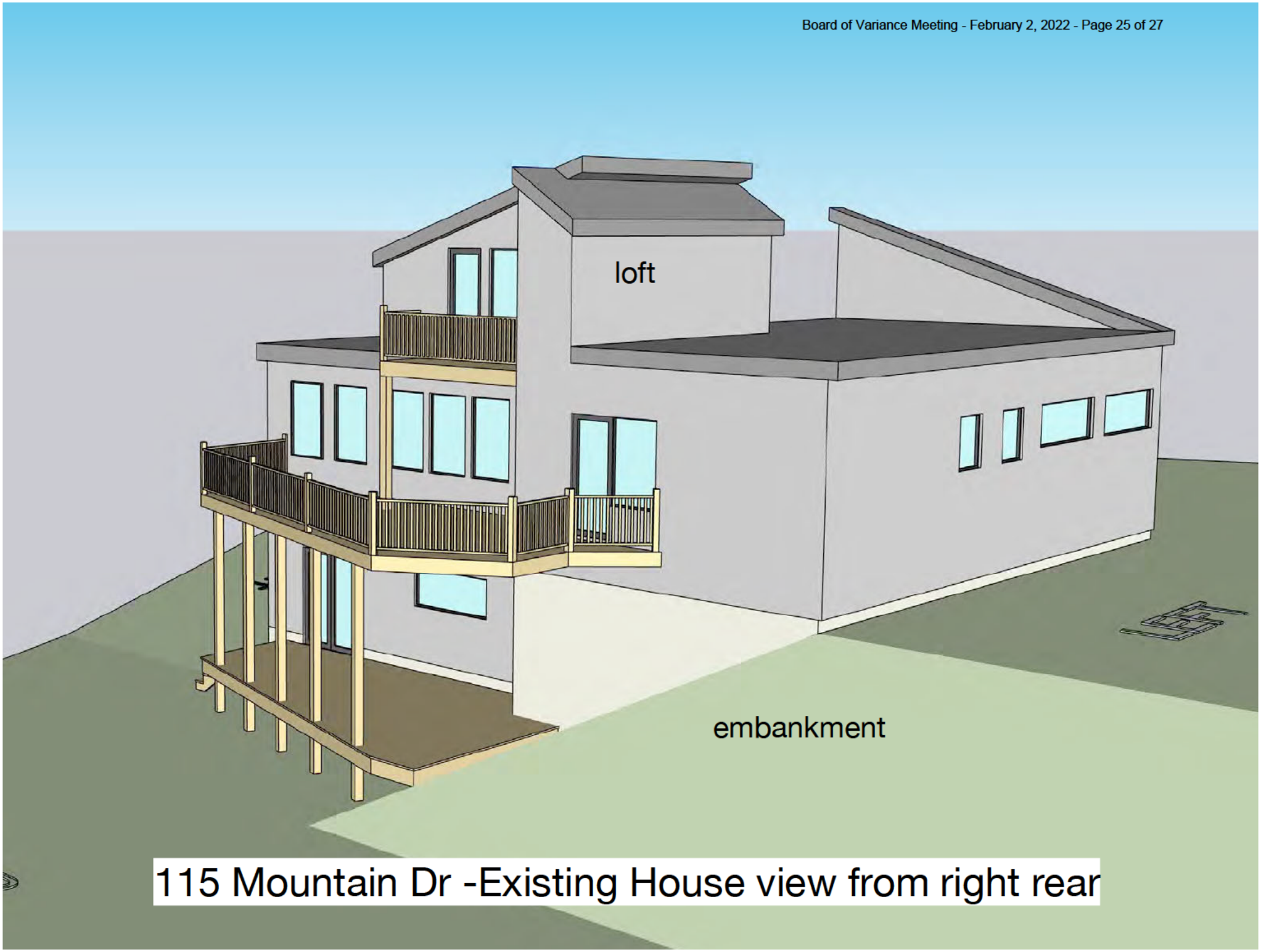
115 Mountain Dr -Existing House view from right front



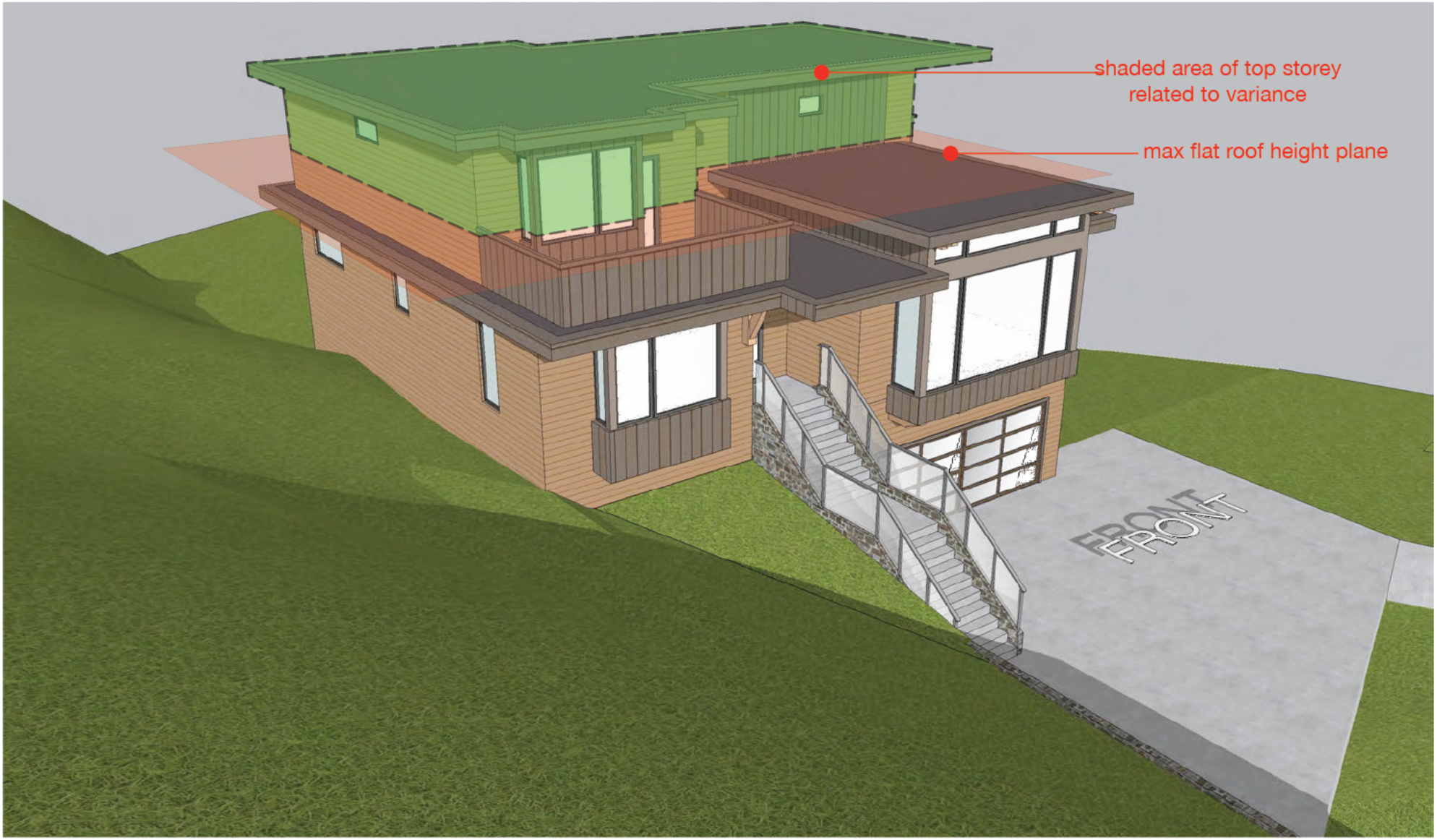
115 Mountain Dr -Existing House view from left front



115 Mountain Dr -Existing House view from left rear



115 Mountain Dr -Existing House view from right rear



115 Mountain Drive -Diagram of area of house related to variance

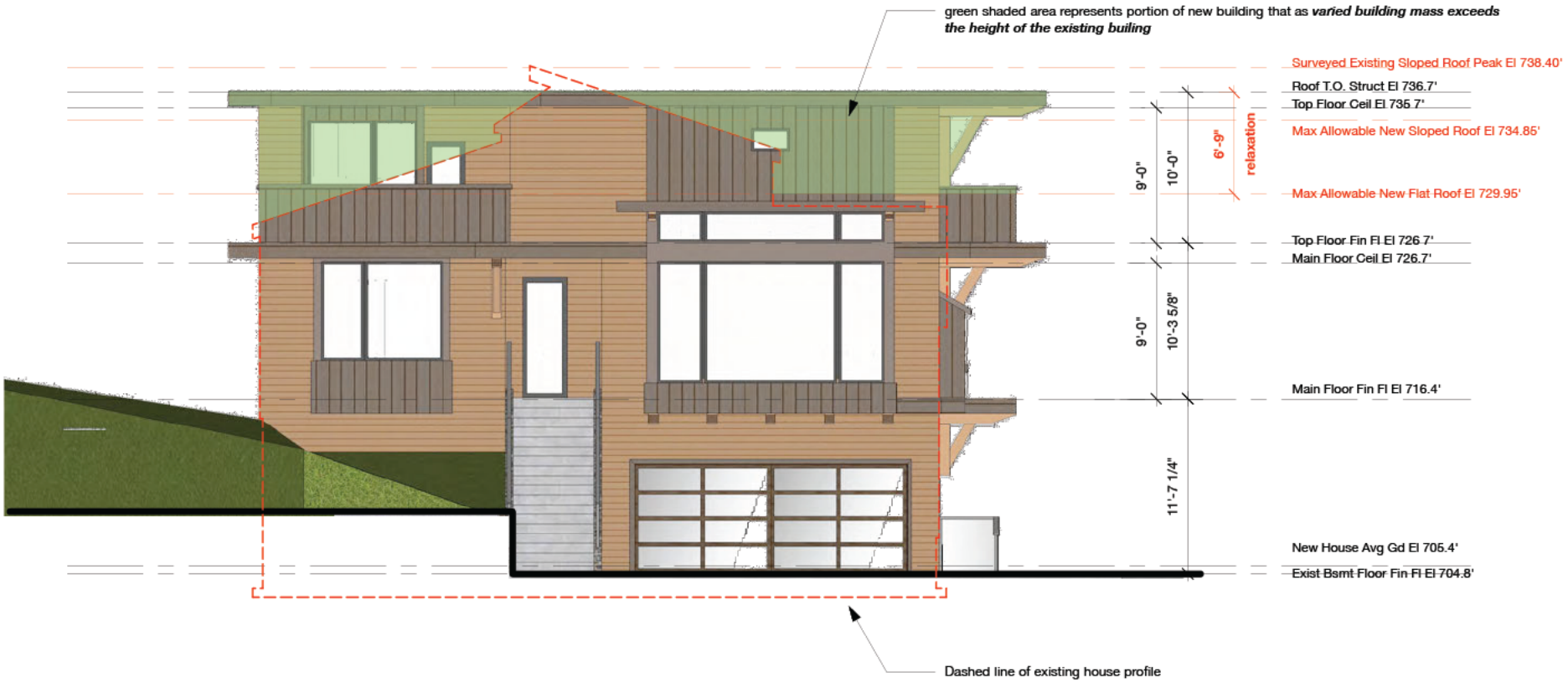


Fig 1 -NORTH ELEVATION AND RELATED HEIGHTS -NO SCALE