



Board of Adjustment (BOA) Variance Application

100 N. Wilcox St., Castle Rock, CO 80104 • tking@CRgov.com • 720-733-3557

Applications are due 30 days prior to the hearing you wish to attend.
Meetings are scheduled for the first Thursday of each month at 6:00 p.m.

Applicant Information

APPLICANT: Michael Bolsinger COMPANY: n/a
 PHONE: (303) 827-8762 E-MAIL: mbolsinger@comcast.net
 ADDRESS: 249 S Larkspur Dr CITY/ZIP: Castle Rock 80104
 APPLICANT'S SIGNATURE: 

Owner Information

OWNER: MTB Family Trust COMPANY: n/a
 PHONE: same E-MAIL: same
 ADDRESS: same CITY/ZIP: same
 OWNER'S SIGNATURE: 

Property Information

SITE ADDRESS: 249 S Larkspur Dr, Castle Rock CO 80104
 LEGAL DESCRIPTION: LOT 51 MICHAEL'S 2ND ADDITION TO CASTLE ROCK 0.234 AM/L
 CURRENT ZONING: Single Family Residential
 VARIANCE REQUEST: Area Variance - Privacy Fence

Is this Variance requested pursuant to the Americans with Disabilities Act (ADA) Americans with Disabilities Act of 1990 (ADA) [42 U.S.C. 12101, et seq.] ☐ Yes ☒ No

Submittal Requirements

- ☒ Fee of \$500.00
- ☒ Plot Plan/Elevation Plan
- ☒ Narrative of the variance requested and evidence of meeting the difficulties and hardships, as outlined in CRMC 17.06.020.B.2 and 19.04.080.G
- Other information, as applicable:
 - ☒ Photos
 - ☒ Drawings or simulations
 - ☐ Construction plans
 - n/a ☐ Letter of approval from the HOA
 - ☐ Letters of no objection from affected neighbors

Variance Narrative – Privacy Fence Height Adjustment

Subject Property – LOT 51 MICHAEL`S 2ND ADDITION TO CASTLE ROCK 0.234 AM/L

Property Context and Request

The subject property is a custom home constructed in 1997 within an established neighborhood characterized by varied lot configurations, grades, and construction timelines. The applicant requests a variance to permit an increase in fence height along a limited portion of the north side property line to restore functional privacy that is not achievable under the current six-foot fence limitation.

Unique Physical Conditions Creating Hardship

The hardship is driven by a **unique and non-uniform grade differential** between the subject property and the adjacent parcel. The applicant's home was constructed in 1997 at the original grade. In contrast, the neighboring home, constructed in 2016, was built with a **raised foundation and elevated finished grade**, resulting in a **grade difference** along the shared side yard.

This elevation discrepancy is atypical within the neighborhood and is a function of differing construction eras, site preparation, and foundation design. As documented in the provided survey and photographs, the neighboring side yard sits materially higher than the applicant's yard, effectively reducing the functional height of the existing six-foot privacy fence.

Resulting Practical Difficulty and Loss of Reasonable Privacy

Due to this grade differential, the existing code-compliant six-foot fence performs as a **4.5 to 5-foot barrier when viewed from the adjacent property**, creating a direct line of sight into the applicant's windows and outdoor living areas.

The condition is further influenced by the neighboring finished walkout basement (ADU use), which results in **frequent and recurring foot traffic** along the elevated back and side yards, substantially increasing activity and direct lines of sight into the applicant's property.

While the fence meets code on paper, it does not provide the intended privacy function due to the elevation imbalance. As a result, the applicant experiences a material loss of privacy that would not occur on properties with consistent or uniformly graded conditions.

Constraints and Lack of Reasonable Alternatives

There are no practical alternative screening methods available due to the narrow width of the side yard corridor between the homes. The limited space precludes effective use of landscaping, berming, or additional structural screening without creating maintenance, drainage, or access issues. The side yard width is insufficient to accommodate vegetative screening at a height and density necessary to mitigate the elevation difference without encroaching on access, drainage, and maintenance requirements. Increasing the fence height is the only feasible method to restore the intended privacy function.

Not Self-Created

The hardship is not self-imposed. The applicant did not alter the grade, construct the adjacent structure, or influence the neighboring foundation elevation. The condition arose from subsequent development on the adjacent lot nearly two decades after the original construction of the applicant's home.

Deprivation of Reasonable Use Under Strict Code Application

Strict enforcement of the six-foot fence height limitation prevents the applicant from achieving a reasonable level of privacy that is typical and expected for residential properties. Without relief, the property cannot be

used and enjoyed in a manner consistent with similarly situated properties that do not have this elevation disparity.

Minimum Variance Necessary and Design Compatibility

The requested variance represents the minimum necessary adjustment to restore the intended function of a privacy fence relative to the neighboring grade. The proposed fence would increase to a maximum of approximately eight feet only along the interior portion of the side yard between the homes, where it is not publicly visible. Based on the grade differential, an eight-foot fence is the minimum height necessary to restore an effective six-foot privacy barrier when viewed from the adjacent elevated property. (see photos)

To maintain neighborhood compatibility:

- The fence height will taper down at the rear yard to reduce visual impact.
- The fence will transition to a four-foot height toward the front yard, providing a clean and unobtrusive streetscape condition (it is already behind mature spruce trees and unnoticeable from the street).
- The neighboring structure's side windows are transom-style, oriented for light rather than views, ensuring that the proposed fence height does not negatively impact adjacent sightlines or views.

This design approach ensures the variance remains discreet, proportional, and consistent with the character of the neighborhood.

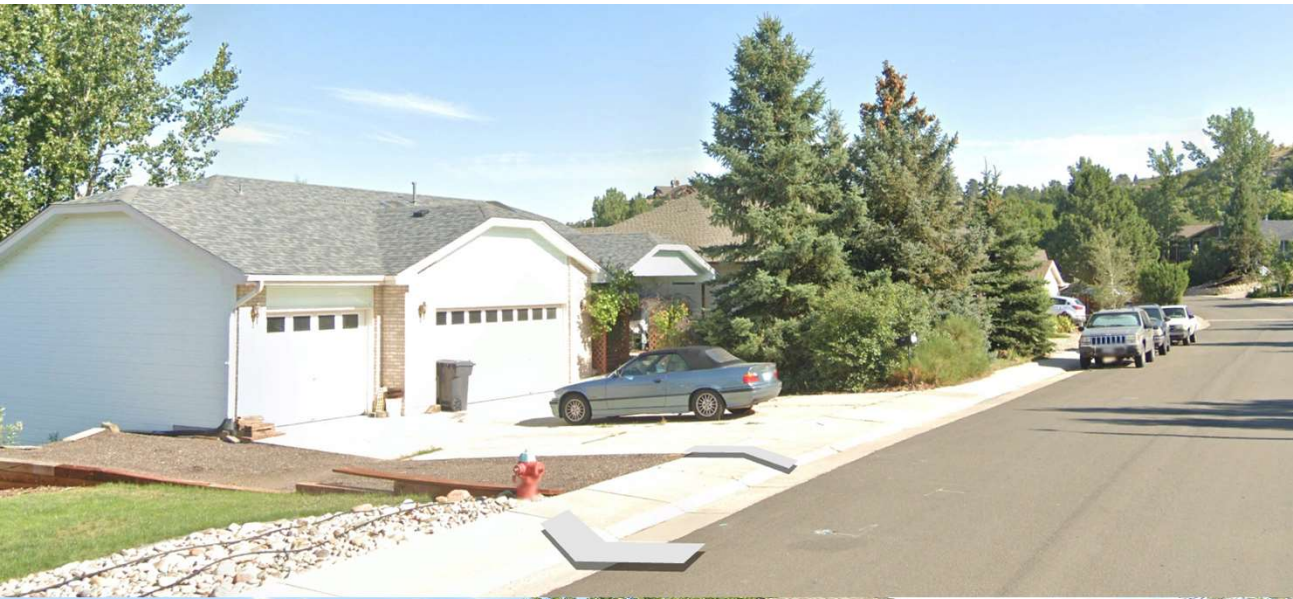
Conclusion

This request satisfies the hardship criteria under CRMC 17.06.020.B.2 and 19.04.080.G. The condition is unique, not self-created, and prevents reasonable use of the property under strict code application. The proposed solution is minimal, targeted, and designed to avoid adverse impacts while restoring the intended privacy function.

Proposed Findings Supporting Approval

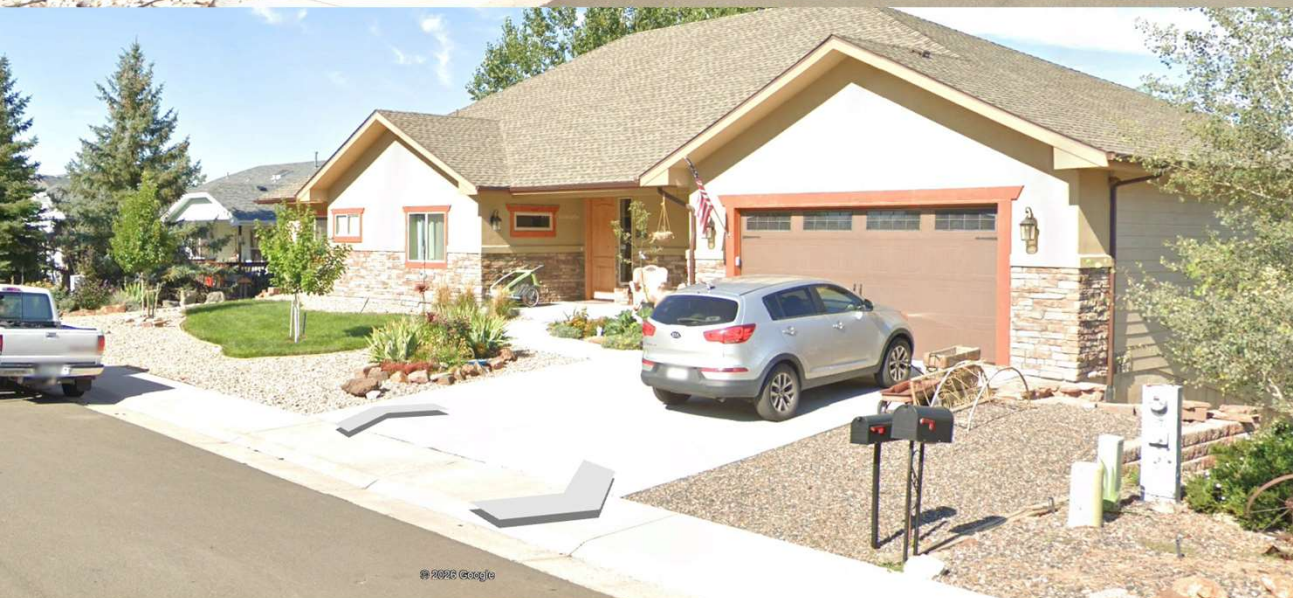
The Board of Adjustment may find that:

- **Unnecessary Hardship Exists:** Strict application of the fence height standard results in a practical difficulty due to a grade differential that materially reduces the effective height of a compliant fence.
- **Unique Physical Circumstances:** The hardship arises from unique topographic and construction conditions not common to surrounding properties.
- **Not Self-Created:** The condition was created by subsequent development on the adjacent property and not by any action of the applicant.
- **Deprivation of Reasonable Use:** Without the variance, the property cannot achieve a reasonable level of privacy typical of residential use, particularly given direct sightlines into living areas.
- **No Reasonable Alternatives:** Due to the narrow side yard configuration, alternative screening methods are not feasible.
- **Minimum Necessary Relief:** The request is limited to the least modification needed to restore functional privacy.
- **No Adverse Impact:** The proposal will not negatively affect neighboring properties or public welfare and is not visible from the public right-of-way.
- **Consistency with Code Intent:** Granting the variance restores intended residential privacy without undermining zoning objectives.



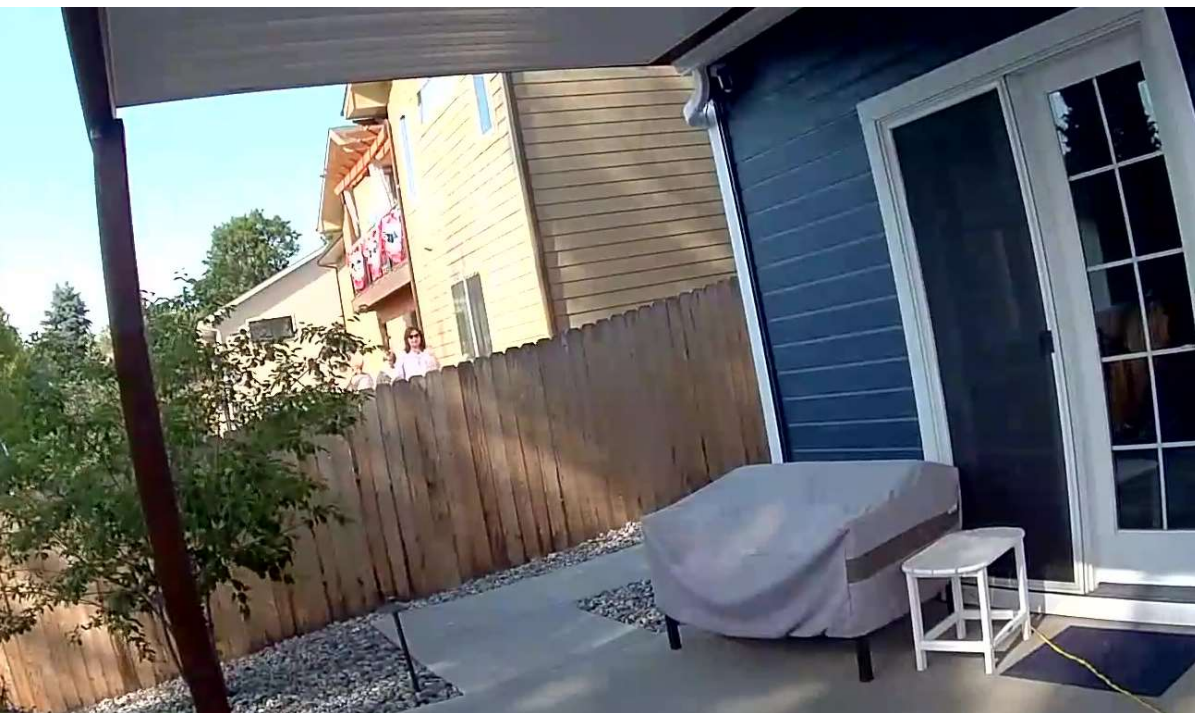
These images were taken from Google Earth street view and are dated (don't show improvements) but show general lot grades.

Applicant's home is the top right image and shows how the foundation is below the street curb and has a downward sloping driveway.



The adjacent lot neighbors' home is shown bottom left. The driveway has a slight upward slope, and the foundation is significantly raised to the applicants home on the left.

Note, at the center of the applicant's lot, water runs both south and north indicating the home is at the peak of the block making the adjacent lot downhill from the applicant. There is a storm drain at the next home to the north.



These pictures show the privacy hardship experience caused by the significant and unusual grade differences.

The neighboring property has ADU use with the egress toward the applicants home and between the homes. There are also 2 walkout basement windows clearly visible from over the fence.

The six-foot fence is about an inch above grade for protection from ground contact; there is 2-3" of landscape rock.

There is no permanent camera at this angle, these were captured at a brief opportunity to do so for the purpose of showing the hardship. This is the sight line from the applicant/subject property hot tub.

The front yard facing security cameras support the statement that the ADU traffic is significant and on a regular and recurring basis throughout the day.





This picture is a fair representation of how much grade increase there is at the adjacent home.

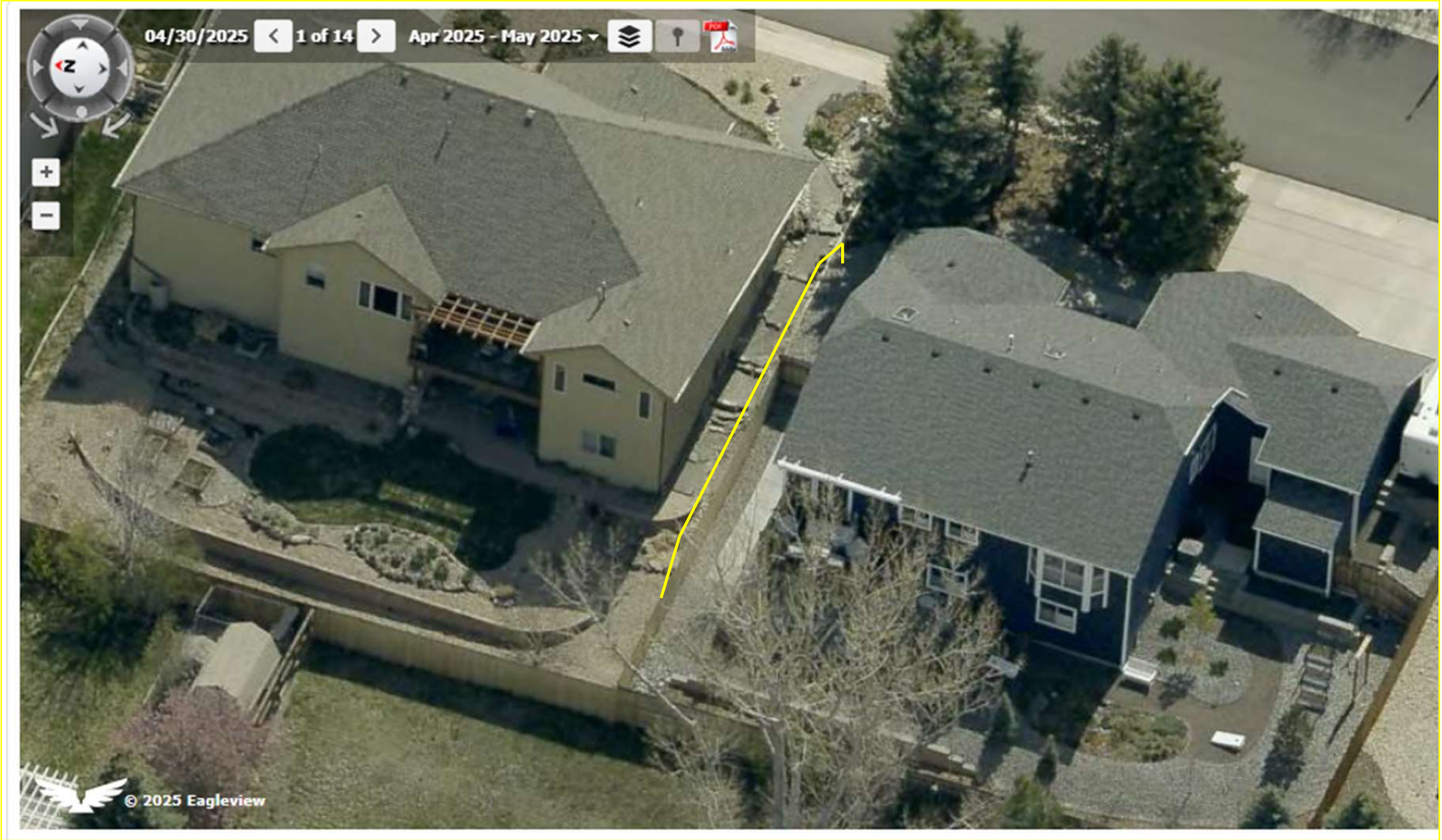
If the lot line represents zero grade, the adjacent home immediately steps up with landscape timbers and walls but those are simply supporting the original foundation grade.

This also shows the neighbors transom windows where no views will be hindered by a taller privacy fence.

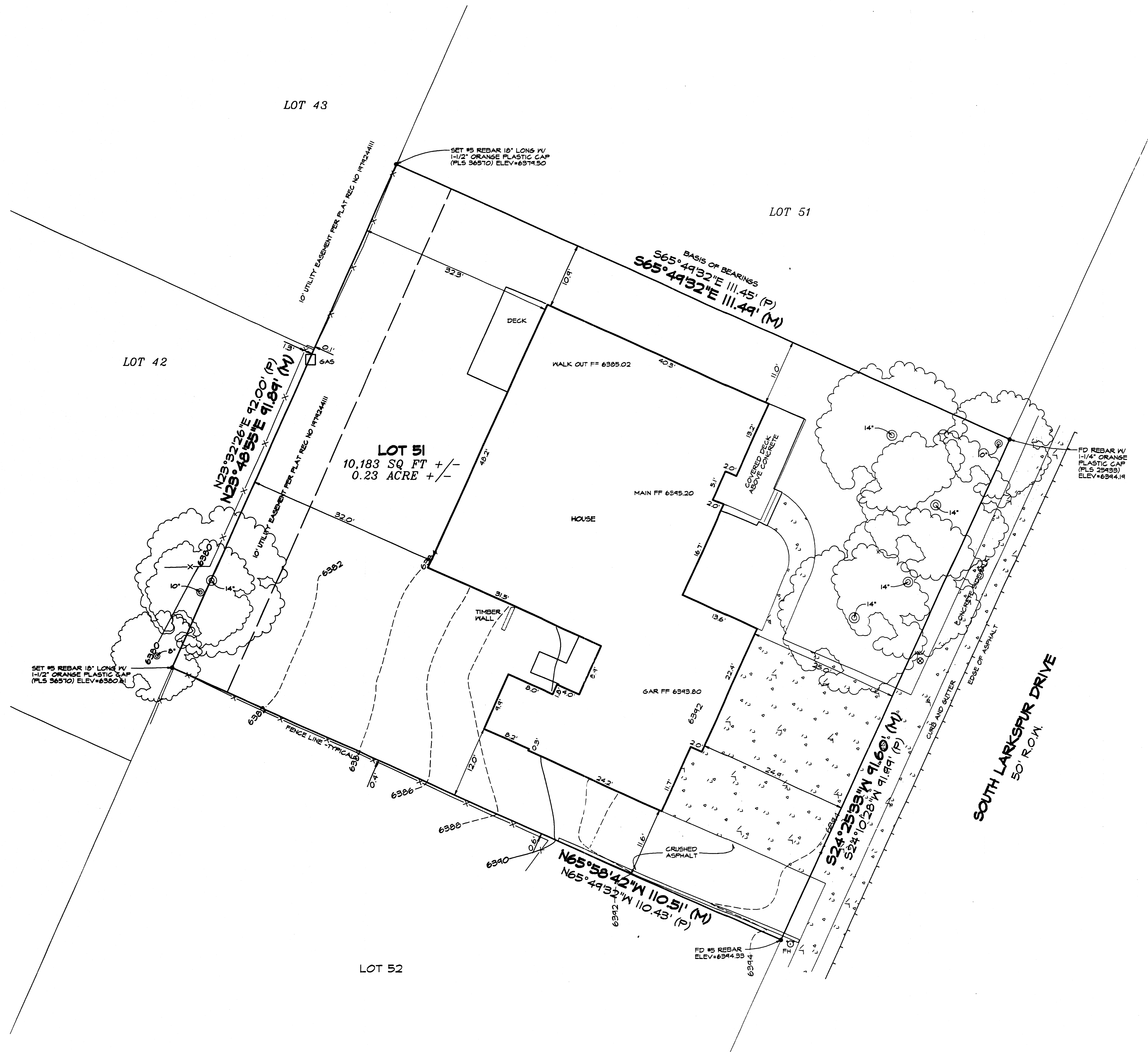
The photo below shows the overall elevated foundation and grade. The yellow arrows indicate the sight lines creating a privacy hardship.



For lack of a better design tool, this shows how the new eight-foot fence would taper into the existing side yard fence in the back and be extended past the existing wing fence on the side toward the front. The applicant emailed with the Town Zoning Manager about extending the fence to the front and initially that was okay without a permit or variance. The only variance is the extended height. A permit would be pulled by the fence contractor to assure all requirements are met.

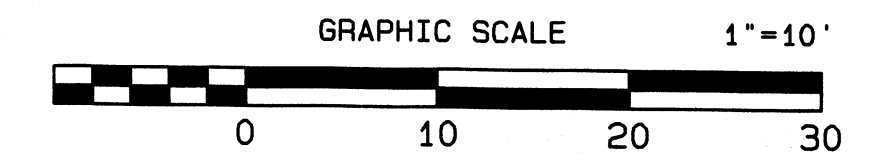


IMPROVEMENT SURVEY PLAT
In Section 12, Township 8 South, Range 67 West,
6th P.M, Douglas County, Colorado



DOUGLAS COUNTY BENCHMARK:
DCBM - 3005015
ELEVATION = 6197.57 (NAVD88)

* CONTOUR INTERVAL = 2.0'



All measurements shown hereon are U.S. Survey Feet.
Conflicting boundary evidence is as shown.

(M) = FIELD MEASURED
(P) = PLATTED DIMENSION
(C) = CALCULATED DIMENSION
(R) = RECORDED DIMENSION
= TREE W/ DIAMETER

PROPERTY DESCRIPTION:

Lot 51, Michael's 2nd Addition to Castle Rock
Douglas County, Colorado
Plat Recorded October 26, 1979
Rec No 1979244111

Deed Recorded March 29, 2022
Rec No 2022022206
Douglas County, Colorado

BASIS OF BEARINGS
Bearings are platted and based on the consideration
that the Northeast line of Lot 51 bears S65°49'32"E as shown
hereon between the identified monuments.

NOTES:

This survey was performed without the benefit of a title insurance commitment or a title insurance policy. A title insurance commitment or a title insurance policy may disclose facts not reflected on this survey. Corner monuments were set or found and accepted as indicated hereon.

CERTIFICATE OF SURVEY:

I, Johnny Calvin Hicks, a duly registered Professional Land Surveyor practicing in the State of Colorado, do hereby certify to Michael Bolsinger that on May 5, 2022, a survey was made under my direct supervision, of 249 South Larkspur Drive, Douglas County, Colorado.
The survey was made on the ground using the normal standard of care of Professional Land Surveyors practicing in Douglas County, Colorado, and is based upon the professional land surveyor's knowledge, information and belief, that it is in accordance with applicable standards of practice and that this plat accurately represents said survey. It is not a guaranty or warranty, either expressed or implied.
The location and dimensions of all buildings, improvements, easements and rights of way if any in evidence or known to me and encroachments by or on the premises are accurately shown.
This survey does not constitute a title search by David E. Archer and Associates, Inc. of the property shown and described hereon to determine:
1. Ownership of the tract of land.
2. Compatibility of this description with those of adjacent tracts of land.
3. Rights of way, easements and encumbrances of record affecting this tract of land.

Signed _____
Johnny Calvin Hicks for and on behalf of David E. Archer & Assoc., Inc.

INDEXING STATEMENT

Deposited this _____ day of _____, 20____, in the county surveyor's land survey
/right-of-way surveys at LSP No. _____, in the office of the Douglas County
Clerk and Recorder.

County Surveyor

NOTICE: According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event, may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.

REVISIONS	DAVID E. ARCHER & ASSOCIATES, INC. LAND DEVELOPMENT CONSULTING SURVEYING & ENGINEERING PHONE (303) 688-4642 105 WILCOX ST. CASTLE ROCK, COLORADO 80104		TITLE: IMPROVEMENT SURVEY PLAT 249 South Larkspur Drive In Sec. 12, Township 8 South, Range 67 West, 6th PM, Douglas County, Colorado DATE: 5-14-2022 BY: JCH PRO: JCH CLIENT: MICHAEL BOLSIINGER JOB NUMBER: 22-0709 Sheet 1 of 1
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