

## ZBA-24-27

Hearing Date: 4/22/2025

<b>TO:</b>	City of Pueblo Zoning Board of Appeals
<b>FROM:</b>	Wade Broadhead
<b>THROUGH:</b>	Scott Hobson, Land Use Administrative Official
<b>LOCATION:</b>	<b>1332 Cypress Street</b>
<b>APPLICANT:</b>	<b>Ryan Lunsford, True North Development LLC</b>
<b>PROPERTY OWNER:</b>	Ryan Lunsford, True North Development LLC
<b>YEAR BUILT:</b>	<b>1905</b>
<b>LEGAL DESCRIPTION:</b>	<b>South 10 ft of Lot 13, and all of Lots 14-16, Block 1, Lake Avenue Addition</b>
<b>ZONE DISTRICT:</b>	One and Two-family Residential (R-3) Zone District
<b>PARCEL ID:</b>	<b>1512201009</b>
<b>LOT SIZE:</b>	<b>9,860 sq. ft.</b>
<b>REQUEST:</b>	Variance to reduce the side yard setback from the required five feet to five inches in a One and Two family Residential (R-3) Zone District

### BACKGROUND AND ANALYSIS

1332 Cypress Street is a 9,860 sq. ft. parcel developed with two single-family residences located in the Bessemer neighborhood, one block west of Ray Aguilera Park. The property owner wishes to split the single parcel that houses both residential structures into two parcels to facilitate redevelopment and the eventual sale of the single-family homes. Splitting the parcel will require a rezoning into a district that allows for lot widths less than 50-feet, a rearrangement of property boundaries, and a variance for the southern structure, which does not meet the required five-foot side-yard setback. The property owner has already applied to rezone the parcel to RCN, Residential Charter Neighborhood, which allows a minimum 25-foot lot width. The Planning and Zoning Commission recommended approval of the rezoning (Z-24-01) on April 10, 2024 with the conditions that the property is rearranged into two 42.5-foot wide parcels and granted a variance for the non-compliant southern side-yard setback, thus this variance request.

At the beginning of this project, an Improvement Location Certificate (ILC) was completed by a surveyor. It showed that the chain link fence along the southern property line was misplaced and that the wall of the southern residence is not parallel to the property line, with only five inches to the property line on the closer corner to one foot, four inches on the other corner, with the eave hanging into the adjoining property by 7/16<sup>th</sup> of an inch. The owner was unsuccessful in their attempt to procure an encroachment easement to allow the half inch overhang; therefore, the owner made effort to remove the overhang in early 2025 by removing a layer of singles hanging off the eaves of the home (see attached photos). Since the encroachment into the neighboring property was so small, the removal of the shingles presumably eliminated the encroachment. However, the edge of the roof is still at property line or extremely close to it, so the actual eave may need to be trimmed down further in order to meet the condition of adding a stormwater-draining mechanism to the home that retains all drainage onto the subject property.

The neighboring property to the requested setback variance, 1334 Cypress, was constructed at about the same time as the subject property according to the Pueblo County Assessor and the Sanborn Fire Insurance Maps. The

residence at 1334 has an open-air carport that sits approximately 2.5 feet from the subject property line. Staff did not find records of a variance for the carport at 1334 Cypress St., but there is a prevailing pattern in the neighborhood of both homes and accessory structures with non-conforming side setbacks.

The reduced side-yard setback for the house at 1332 Cypress has been in existence since at least 1905 when the home was constructed and reflects a neighborhood pattern of reduced side-yard setbacks. The applicant has no way to comply with the five-foot required setback without at least a partial demolition of the existing home, causing a significant hardship to the owner.

**ZONING DISTRICT AND LAND USE**

Zone:		Developed with:
North	One and Two Family Residential (R-3) District	Single-Family Homes
East	One and Two Family Residential (R-3) District	Single-Family Homes
South	One and Two Family Residential (R-3) District	Single-Family Homes
West	One and Two Family Residential (R-3) District	Single-Family Homes

**PUBLIC NOTICE**

The property was publicly noticed in accordance with Title 17 Section 17-5-33(2) of the City of Pueblo Municipal Code. Specifically, the hearing was published in the Pueblo Chieftain, surrounding property owners within 100 feet of the property were notified by mail, and a sign was placed on the site (See Attachment E). These notices occurred at least 10 days prior to the hearing.

**OTHER AGENCIES**

Pueblo City/County Health	No comment
City Transportation	No comment
Pueblo Regional Building Department	Regional Building has the following stipulations: Minimum of 5 feet to be maintained between new property line and each existing residence(s). If less than 5 feet between the existing structure(s) and new property line, that exterior wall will need to be fire rated. Plans showing recognized fire rating wall assembly would be required. Permits issued to a contractor licensed in our jurisdiction (and plan review where needed) will be required for any new construction or modification both for the possible fire wall and any future work.
Fire Department	No comment
City Public Works Department	No comment
City Stormwater Department	No comment
City Code Enforcement	No comment
Pueblo Board of Water Works	No comment
City Wastewater Department	No comment
City Parks and Recreation Department	No comment

**CONDITIONS REQUIRED FOR VARIANCE**

1. The variance will not: reduce the required light and air to adjacent properties; constitute a nuisance to the properties within one hundred (100) feet of the property for which the variance is requested; or substantially reduce the monetary value of properties within one hundred (100) feet of the property for which the variance is requested.

**Comments: Neutral finding.** The requested reduction in side-yard setback could reduce light and air to the adjacent property, but the structure has already been present for over 100 years. By cutting back the shingles on the roof, the applicant has removed the overhang encroachment, lessening the impact on the adjacent property. However, the roof pitch and lack of gutters may still be directing stormwater onto the neighboring property, and cross-lot drainage is prohibited. Thus, staff conditions that, should the variance be approved, the property owner must devise a mechanism to keep stormwater from entering the neighboring property. All improvements intended to mitigate stormwater, originating from the house roof, must be located on the subject property.

2. The variance will not affect general planning of the city with respect to land use and the location of streets and highways will not be jeopardized.

**Comments: Affirmative finding.** This variance does not negatively affect the residential land use of the area or impact streets.

3. Strict adherence to this Title would not secure appropriate development of the property for which the variance is requested.

**Comments: Affirmative finding.** Compliance with the current setback regulations would require at least the partial demolition of the home and prevent the desired redevelopment and sale of the two single-family homes.

4. The property for which the variance is requested suffers a unique or singular disadvantage, not common to other property in the district, through the operation of this Title.

**Comments: Affirmative finding.** The house was built before current side-yard setbacks were instituted by the city, and reduced setbacks are the prevailing pattern in this neighborhood.

#### **PLANNING AND COMMUNITY DEVELOPMENT STAFF RECOMMENDATION**

If the Board makes the necessary findings of fact to approve this variance, staff recommends Standard Permit Conditions 1 through 13 as well as the following:

1. The property owner must devise a mechanism to keep stormwater from entering the neighboring property. All improvements intended to mitigate stormwater originating from the roof must be located on the subject property.

#### **ATTACHMENTS**

- A. Standard Permit Conditions
- B. Aerial Map
- C. Zoning Map
- D. Comprehensive Plan Map
- E. Public Notice Photo
- F. Site Photos
- G. Application
- H. Supporting Documents

**Exhibit A. Standard Permit Conditions**

<b>Standard Permit Conditions</b> Date of Issuance of Permit: <b>4/22/2025</b>	
1.	<b>Time Limits</b> Zoning permit shall become invalid unless work or action authorized by permit is fully executed by <b>4/22/2026</b>
2.	<b>Required Revisions</b> Any revisions or additions to plans required as a result of approval must be submitted and stamped “approved” prior to the sign-off of the building permit routing slip or business license.
3.	<b>Changes</b> The project shall be completed as shown on the plans, which have been stamped “approved” and dated by the Department of Planning and Community Development. The project shall not deviate from the approved plans without prior written approval from the Department of Planning and Community Development.
4.	<b>Property Inspection</b> By acceptance of this permit, Permit holder authorizes City Officials and/or their authorized representatives, access to the subject property for purpose of observing work in progress, inspecting and/or measuring the property or improvements as long as the use authorized by this permit remains in effect.
5.	<b>Certificate of Occupancy</b> A certificate of occupancy must be issued by Regional Building <u>PRIOR</u> to use and/or occupancy of the subject premises. Prior to issuance, the Department of Planning and Community Development must certify that work has been completed in accordance with approved plans and that applicable conditions have been met. The Permit holder may be required to provide a Letter of Credit to obtain a Certificate of Occupancy prior to completion of all required improvements.
6.	<b>Completion and Maintenance of Improvements and Landscaping</b> Permit holder or successor in interest is responsible for completing all improvements shown on approved plans. By acceptance of this permit, Permit holder agrees to maintain all improvements in a satisfactory condition. Any landscaping installed according to the approved plan which becomes diseased, or dies shall be replaced by similar species and size no later than the first available planting season.
7.	<b>Building Permit; Other Permits</b> Permit holder is solely responsible for obtaining <u>BUILDING PERMIT</u> and all other applicable local, state and federal permits.
8.	<b>Off-Site Drainage</b> Issuance of this permit does not authorize the discharge of stormwater runoff or other surface drainage from the subject premises onto adjoining property or properties.
9.	<b>Appeals</b> of a decision of the Land Use Administrator can occur up to thirty (30) days following such decision. Appeals of Zoning Board of Appeals decisions can occur up to thirty (30) days following final decision. Any work done in connection with this permit prior to the expiration of all applicable appeal periods is done <u>SOLELY</u> at the risk of the Permit holder.
10.	<b>Errors</b> Permit holder is solely responsible for the accuracy of all information contained in the Zoning Permit form and in accompanying documentation. Any errors contained therein may invalidate the Zoning Permit and may result in issuance of a code violation citation and prosecution.
11.	<b>Transfer of Ownership</b> In the event of a transfer of ownership, partial or whole, of the subject premises, the transferee shall become Permit holder and subject to compliance with the terms and conditions of this permit.
12.	<b>Violations/Penalties</b> A violation of any of the conditions of this permit or of any provision of the Pueblo Municipal Code may result in a penalty of up to three hundred dollars (\$300) per day.
13.	<b>Incorporation and Reference of All Plans Presented to the Zoning Board of Appeals.</b> This approval incorporates by reference all plans and drawings presented and all verbal representations by the applicant at Zoning Board of Appeals meetings and hearings on the subject application to the extent that they are not in conflict with other stated conditions or regulations.

Exhibit B. Aerial Map

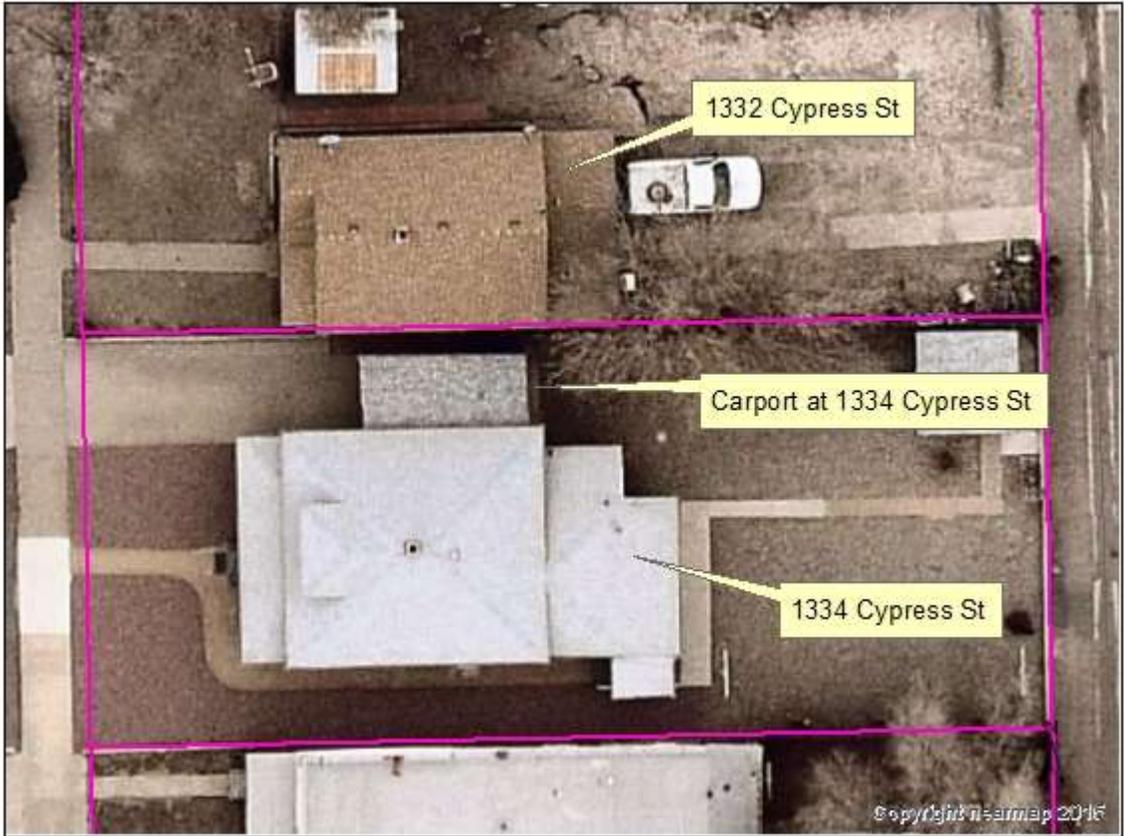


Exhibit C. Zoning Map



**Exhibit D. Comprehensive Plan Map**



**Exhibit E. Public Notice**



Exhibit F. Site Photos

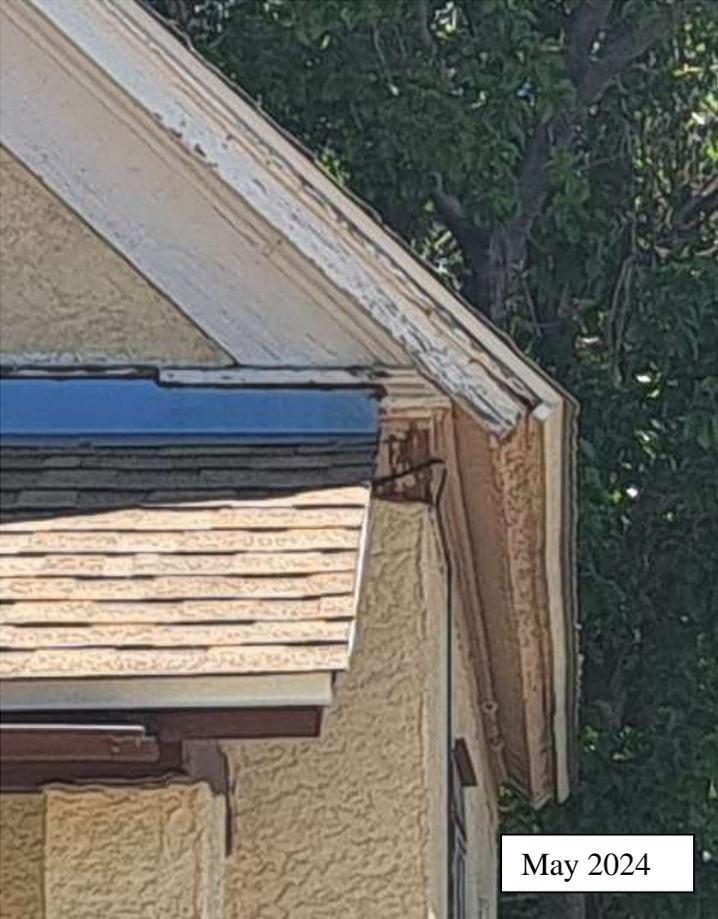
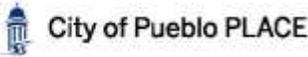


Exhibit G. Application

4/4/24, 1:49 PM

24-68



4/4/2024

24-68  
Zoning Board of Appeals -  
Special Use Permit &  
Variances  
Status: Active  
Submitted On: 4/4/2024

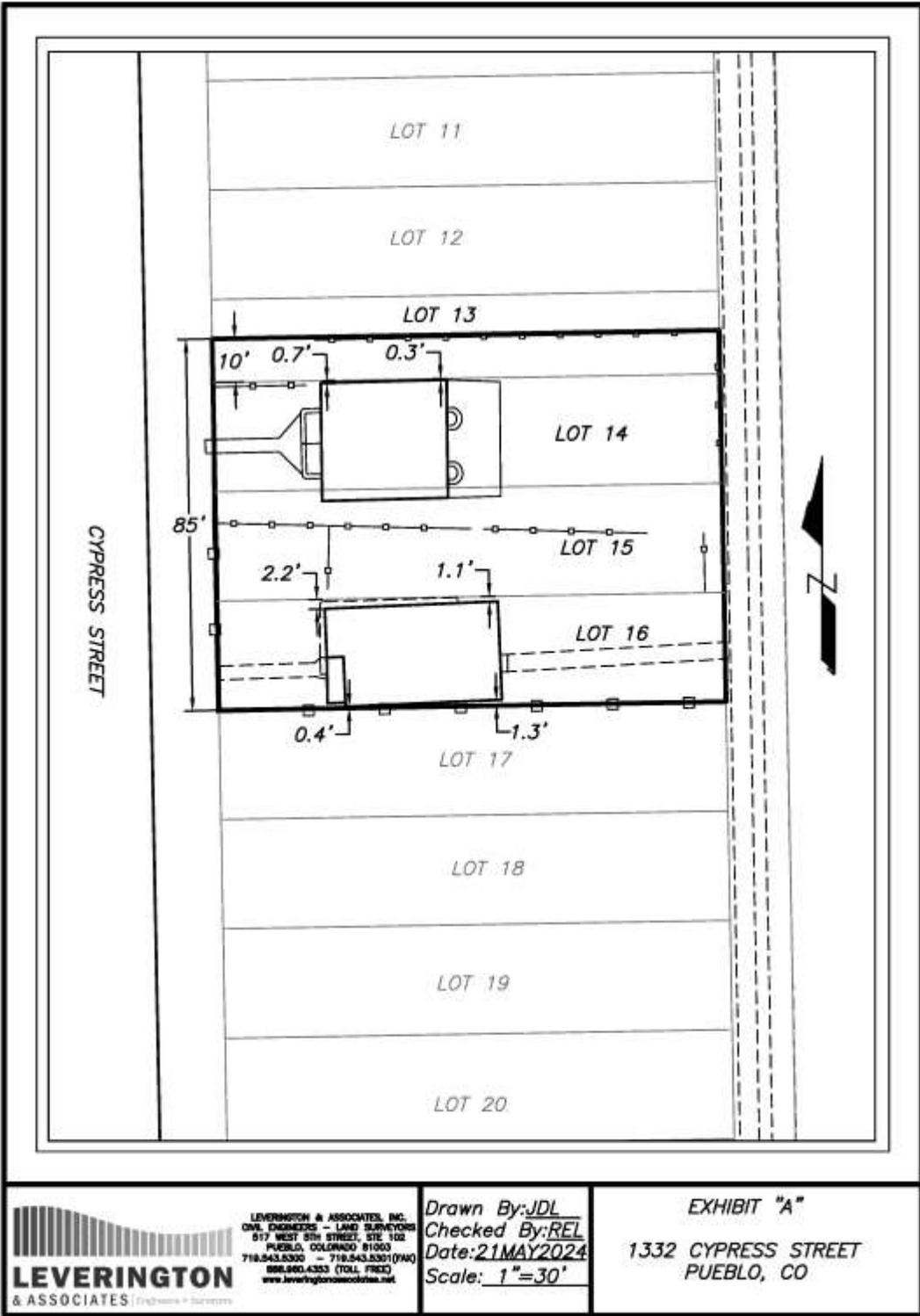
Primary Location  
1332 CYPRESS ST  
PUEBLO, CO 81004  
Owner  
TRUE NORTH  
DEVELOPMENT LLC  
5994 S HOLLY ST STE 145  
GREENWOOD VILLAGE , CO  
80111-4221

Applicant  
Ryan Lunsford  
720-626-1994  
finance@tndevgroup.com  
5994 S Holly St #145  
Greenwood Village, CO  
80111

H. Supporting Documents



Photo provided by applicant showing setback with boundary fence that is not in the correct location.



**LEVERINGTON & ASSOCIATES** | Engineers • Surveyors

LEVERINGTON & ASSOCIATES, INC.  
 CIVIL ENGINEERS - LAND SURVEYORS  
 817 WEST 5TH STREET, STE. 102  
 PUEBLO, COLORADO 81003  
 719.543.8300 - 719.543.8301 (FAX)  
 888.990.4333 (TOLL FREE)  
 www.leveringtonandassociates.net

Drawn By: JDL  
 Checked By: REL  
 Date: 21MAY2024  
 Scale: 1"=30'

EXHIBIT "A"  
 1332 CYPRESS STREET  
 PUEBLO, CO

Figure showing southern wall face encroachment into side yard setback.

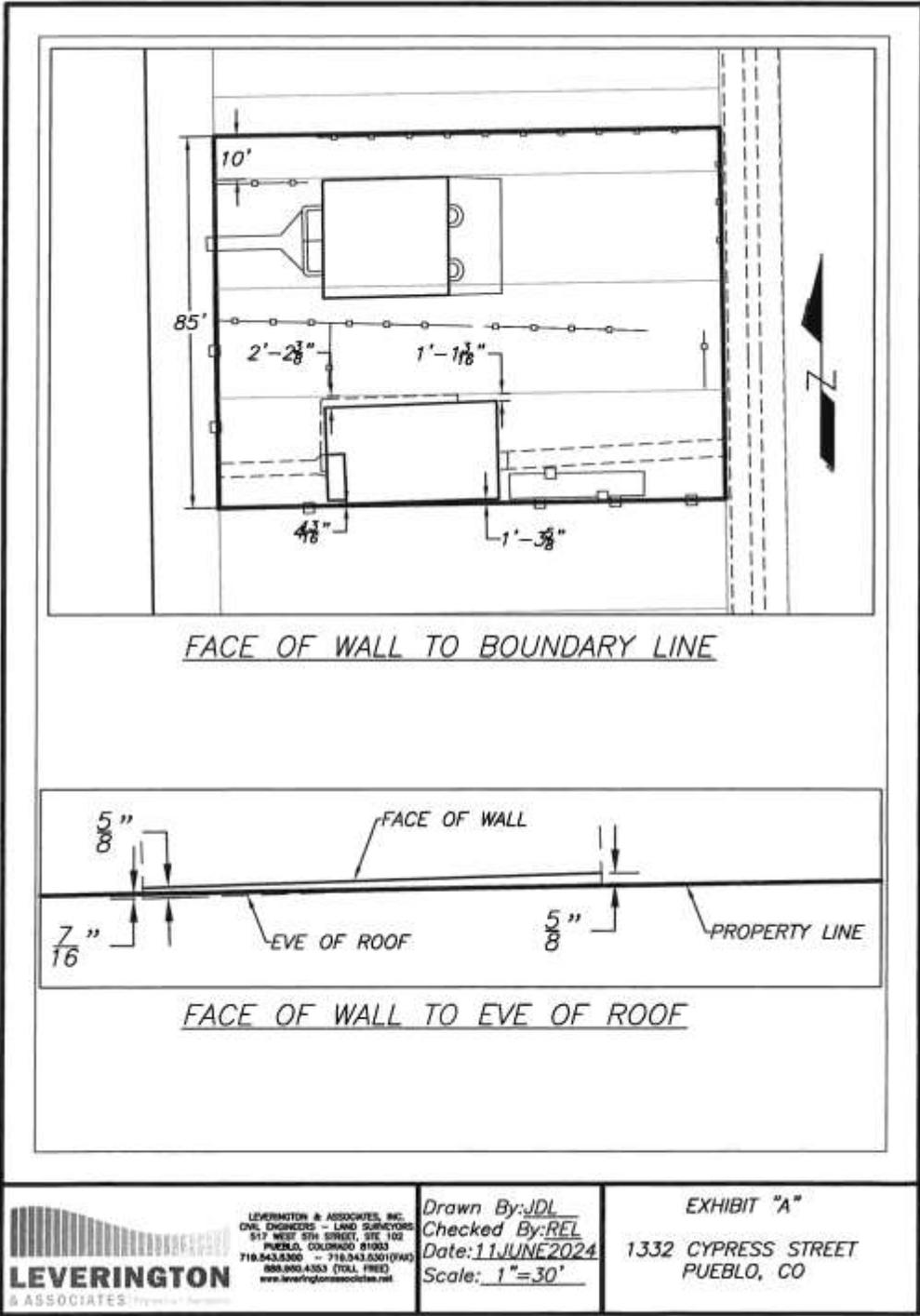


Figure showing eave encroachment into adjacent property (1334 Cypress)