

FAIRBANKS NORTH STAR BOROUGH

GR2021-193

A grandfather rights determination for a single-family dwelling located 0.6' +/- from the front lot line instead of the 35' required in Rural Estates-2

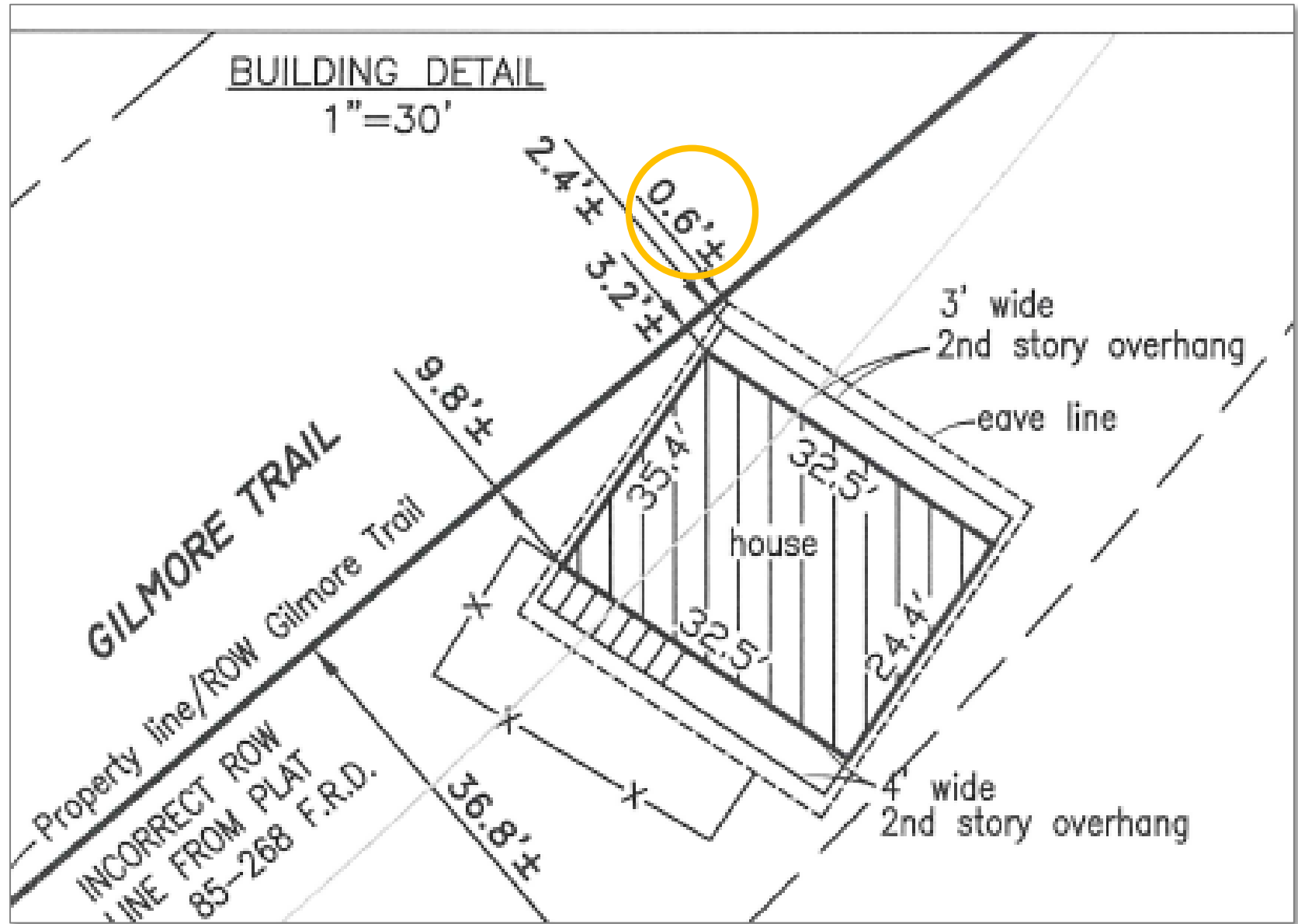
Lot 1, Block 1 Carter Subdivision First Addn
1770 Gilmore Trail

Melissa Kellner, Community Planning

August 5, 2021



GR2021-193 Gerlitz



GR2021-193 history

By 1914,
Gilmore Trail
was
established
as an RS2477
with a 100'
wide
easement.

1972: area
was
zoned
Rural
Estate I.
(Setback:
35')

1975:
subject
house was
constructed

1985:
Carter
subdivision
platted,
including Lot 1.
Existing
structure
noted.

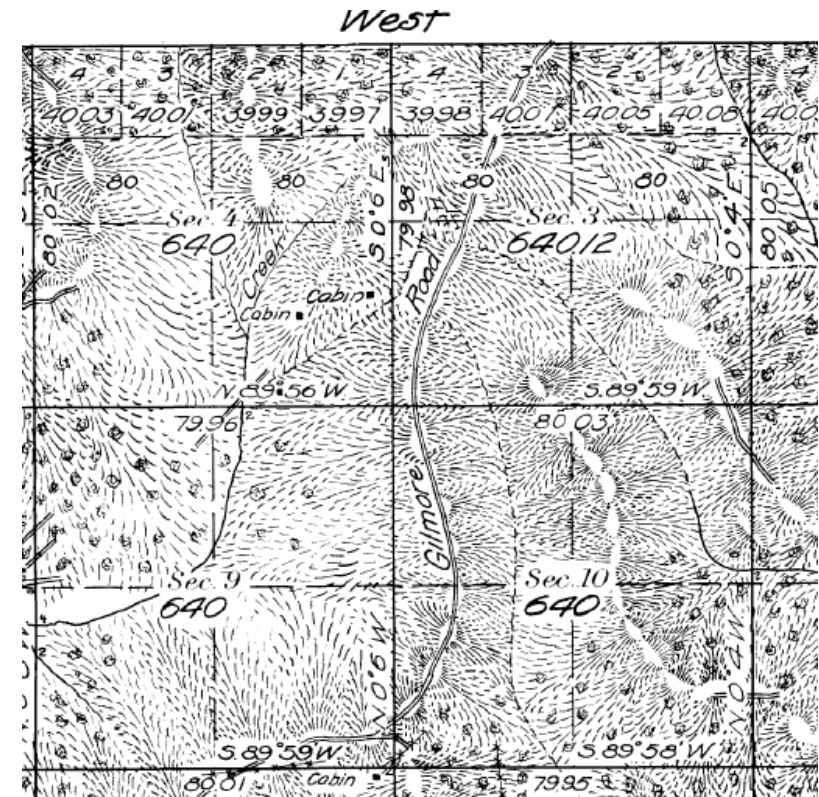
Zoning and development history

By 1914, Gilmore Trail was established as an RS2477 with a 100' wide easement.

Mining Law of 1866, later known as Section 2477 of Revised Statutes of 1878 (RS2477):

“The right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted.”

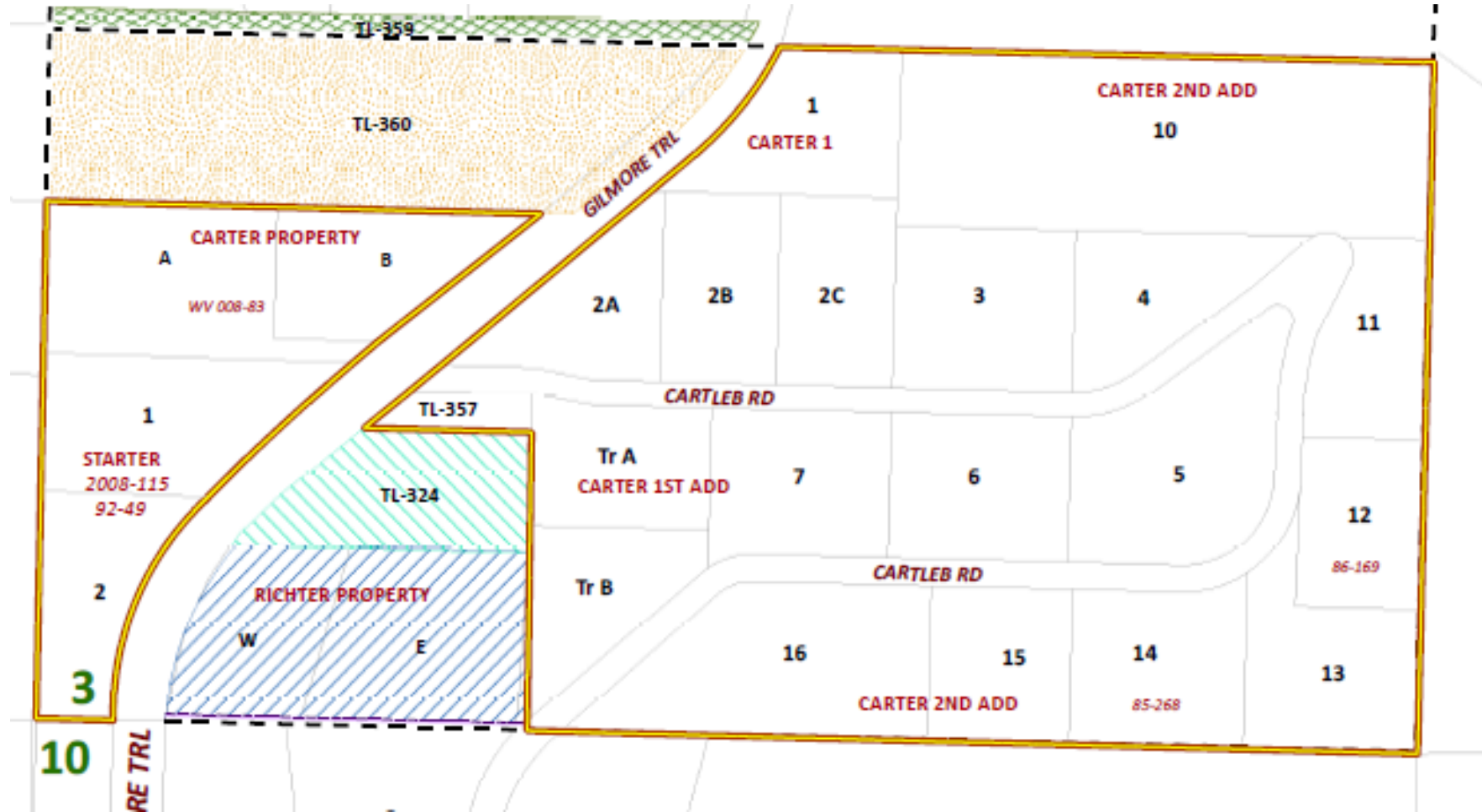
RS2477 easements were established at the date of use. Estimate 1903-1914.



Clip from 1914 map of T1N R1E, FM. US Surveyor General's Office

Zoning and development history

1972: area was zoned Rural Estate I. (Setback: 35')



Zoning and development history

Zoning permit issued to Elder Lebert but with no site plan; TL 302 & 306 comprised approx. 50 acres at the time.

1975:
subject
house was
constructed



FAIRBANKS NORTH STAR BOROUGH
P. O. BOX 1257 FAIRBANKS, ALASKA 99707
ZONING PERMIT SALES TAX EXEMPTION PERMIT
(FOR BUILDING MATERIALS ONLY)

1. APPLICANT: Elder Lebert DATE July 21 19 76
2. MAILING ADDRESS: Box 40515Rt. 4 TEL 452-4625
3. BUILDING ADDRESS: 3 1/2 Gilmore Trail
4. LEGAL DESCRIPTION OF LOT OR PARCEL: TL 302 & 306 Sec. 3 T1N, R1E
5. RECORD OWNER: Same
6. MAILING ADDRESS: Same
7. DESCRIPTION OF WORK: NEW ALTERATION ADDITION REPAIRS
8. USE OF STRUCTURE: RESIDENTIAL NO. OF UNITS 1
R1E ZONE \$20,000 ESTIMATED COST INDUSTRIAL COMMERCIAL
TOTAL LOT AREA: 50 acres SQ. FT. -1 PER CENT OF LOT OCCUPIED BY STRUCTURE
HEIGHT OF STRUCTURE 24 FEET NUMBER OF STORIES 2
9. This area is not located on the 1969 core of engineers flood plain map.
ELEVATION FIRST FLOOR _____ FEET COMPARED TO 1957 FLOOD LEVEL.
PLOT PLAN _____ INDICATE ARROW DRAW INTERSECTION STREET OR ROAD AND NUMBER STRUCTURE TO NEAREST INTERSECTION
(For City use attach 2 copies of the plot plan)
35 feet from all lot lines.
Plans approved by STATE FIRE MARSHAL YES NO
SMOKE DETECTORS REQUIRED CALL: 456-4002

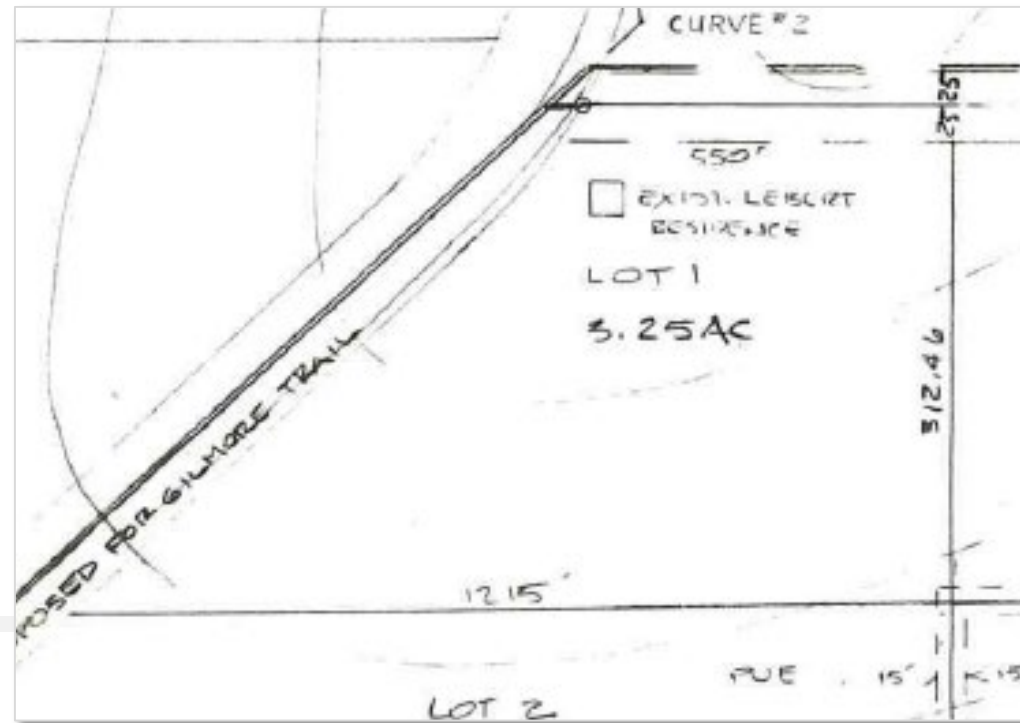
OWNER Gerlitz
MAIL ADD. _____ PROPERTY ADD. 1770 Gilmore Trail
PERMITS _____ DATE BUILT 1975

LOT: 01
CARTER 1

Zoning and development history

1985:
Carter
subdivision
platted,
including Lot
1. Existing
structure
noted.

- “Existing Lebert Residence” noted on 1976 survey map
- Staff review of preliminary plat notes No Objections from the Planning Office
- No indication of a special exception, variance or waiver issued



Zoning and development history

1988:
Zoning code
revision; RE - I
becomes
Rural Estate -
2

- Front yard setback requirement of 35' remains.

Findings of Fact

1. The single-family detached dwelling on the subject property does not comply with RE-2 standards because it is located 0.6' +/- from the front lot line instead of the required 35'.
2. Gilmore Trail borders this property on the west. Gilmore Trail was originally established as an RS2477 with a 100' wide easement sometime between 1903 and 1914 and has been maintained by ADOT since the 1960s. The boundary shared by Gilmore Trail and the subject lot was documented by a record of survey dated 6/6/2021.
3. FNSB adopted its zoning regulations with the adoption of Ordinance No. 1967-34 on March 28, 1968. The subject property was zoned Unrestricted Use (UU). The UU zone had no setback requirements.
4. On July 13, 1972, the SW ¼ Sec 3, T1N R1E was zoned Rural Estate I with the adoption of Ord 197434. The front yard setback requirement of the RE-I zone was 35'.
5. The applicant has stated, and the Assessor's field card confirms, that the house was built in 1975. At the time of construction, the house did not meet the front yard setback requirements of RE-I.

Findings of Fact

6. Lot 1 was created with the recording of a plat for Carter Subdivision on November 18, 1985 (FRD1985_268_001). The staff report for this platting action noted current zoning as Rural Estate I. A survey map of the area dated October 5, 1976 notes the “exist(ing) Lebert residence” in the northwest corner of Lot 1.

7. There do not appear to be any additions to the single-family residence since its construction.

8. FNSBC 18.108.020 states *“Any nonconforming building, use or lot which existed lawfully prior to the effective date of the ordinance codified in this title or any lawful building, use or lot which has become nonconforming upon the adoption of the ordinance codified in this title or any subsequent amendment thereto may be continued, subject to the restrictions in this chapter.”*

9. FNSBC 18.108.040(A)(1) states *“A nonconforming building may be enlarged, altered, or reconstructed on an existing permanent foundation as long as this does not create a new nonconformity of this code, except that expansion is permitted within the standards that were in place when the zone changed.”*