

TACOMA PERMITS

CITY OF TACOMA

Planning & Development Services Department
747 Market St, Room 345 | Tacoma, WA 98402

NOTICE OF DECISION

Date of Decision: 2/8/2017

Appeal Period Ends: 2/22/2017

Decision Final: 2/23/2017

Decision: Approved, subject to conditions

Applicant: Brian Beattie
4710 SW Dawson Street
Seattle, WA 98136

Location: 1116 E. 38th Street
Parcel: 5670400160

Application No.: LU16-0223

Proposal: A rear yard setback variance to allow construction of a single-family home on an existing small lot.

For further information regarding the proposal, **log onto the website at tacomapermits.org and select "Public Notices"**. The case file may be viewed in Planning and Development Services, 747 Market Street, Rm 345.

Reconsideration: Any person having standing may request reconsideration of the Director's decision, based upon errors of procedure or fact, but submitting a request in writing to Planning and Development Services at the address below.

Appeal to Hearing Examiner: Any aggrieved person or entity may appeal to the Hearing Examiner by filing a written Notice of Appeal and submitting the filing fee of **\$325.26** to hearing Examiner Office (747 Market St., Room 720) which contains the following:

- A brief statement showing how the appelland is aggrieved or adversely affected.
- A statement of the grounds for the appeal, explaining why the appelland believes the administrative decision is wrong.
- The request of relief, such as reversal or modification of the decision.
- The signature, mailing address and telephone number of the appelland and any representative of the appelland.

The fee shall be refunded to the appelland should the appelland prevail.

Staff Contact: Lisa Spadoni, Principal Planner, 747 Market St, Room 345, (253) 591-5281, lspadoni@cityoftacoma.org

Environmental Review: Per SEPA, WAC 197-11-800 and TMC Chapter 13.12, the Environmental Official has reviewed this project and determined the project is exempt from SEPA provisions.



To request this information in an alternative format, please contact Planning and Development Services by phone at (voice) 253-591-5030. TTY or STS users please dial 711 to connect to Washington Relay Services



City of Tacoma
Planning and Development Services Department
747 market St. Room 345
Tacoma, WA 98402

NOTICE OF DECISION



City of Tacoma

Office of the Director
Report and Decision

**VARIANCE PERMIT
APPLICATION FOR:**

FILE NO.: LU16-0223

Brian Beattie
4710 SW Dawson St.
Seattle, WA 98136

SUMMARY OF REQUEST:

A rear yard setback variance to allow construction of a single-family home in the "R-2" Single-family zone district.

LOCATION:

1116 E. 38th Street; Parcel No.: 5670400160

SUMMARY OF DECISION:

The request for a rear yard setback variance is **Approved**, subject to conditions.

Notes:

The appeal period on this decision closes February 22, 2017, and the effective date of this decision is the following business day, provided no requests for reconsideration or appeals are timely filed as identified in APPEAL PROCEDURES of this report and decision.

The Director has jurisdiction in this matter per *TMC* 13.05.030. The applicant bears the burden of proof to demonstrate the proposal is consistent with the provisions of the *TMC*, the applicable provisions and policies of the City's *Comprehensive Plan*, and other applicable ordinances of the City.

**FOR ADDITIONAL INFORMATION CONCERNING THIS LAND USE PERMIT PLEASE
CONTACT:**

Lisa Spadoni
Planning and Development Services Department
747 Market Street, Room 345, Tacoma, WA 98402
253-591-5281 or lspadoni@cityoftacoma.org

SUMMARY OF RECORD

The following attachments and exhibits constitute the administrative record:

Attachments:

Attachment "A": Site plan and drawings

Exhibits¹:

Exhibit "A": Applicant's Justification for the Variance

FINDINGS

Proposal:

1. The applicant requests a 13-foot rear yard setback variance to allow construction of a single-family home. The home will be set back 12 feet from the rear property line instead of the 25 foot setback required in the "R-2" Single-Family zone district.
2. The proposed one-story home would be approximately 26 feet wide and 38 feet deep, including a 4 foot deep covered front porch. All other development requirements including setbacks, open yard area and parking will be met.

Project Site:

3. The site is located within the "R-2" Single-Family Dwelling District and the City's *Comprehensive Plan* designates the site as "Single-Family Residential". It is also within the Eastside Neighborhood.
4. The lot is currently vacant and measures 50 feet wide by 54 feet deep for a total area of approximately 2,700 square feet. It is considered a Level 2 small lot per *TMC 13.06.100* and *TMC 13.06.145* since it is less than the 4,500 square feet required for Level 1 small lots. It is a corner lot with frontage on East 38th Street to the north and East Howe Street to the east. The front yard is oriented off of East 38th Street.

Surrounding Area:

5. The surrounding parcels are generally 5,000 square feet or greater in size and are developed with single-family dwellings.
6. The lot immediately adjacent to the west is also a small lot of 2,700 square feet and is developed with a small single-family home. The existing home extends to within 8 feet of the front property line and to within approximately 10 feet of the rear property line.

Notification and Comments:

7. The application was determined to be complete on September 30, 2016. Written notice of the application was mailed to owners of property within 100 feet of the site as indicated by the Pierce County Assessor/Treasurer's records, the neighborhood council, and qualified neighborhood groups, allowing for 14 days of comment period. Public notice was posted on the site within seven days of the start of the comment period. No public comments were received.

¹ All Exhibits are contained within associated file of the Planning and Development Services Department. They are referenced and incorporated herein as though fully set forth.

Additional Information:

8. The applicant's justification for the variance application is marked as an Exhibit to this report and decision. In summary, the applicant states the following:
 - The parcel is small at 50 feet by 54 feet and 2,700 square feet. The 25 foot rear yard setback requirement is a hardship since between that and the 8 foot required front yard setback, there is only a 21 foot deep building area.
 - The request is the minimum necessary since it only asks for one setback variance and all other requirements of the code will be met.
 - The proposed house is in harmony with the neighborhood. There used to be a house on this lot, similar in size to the house proposed, but it burned down. The house on the neighboring small lot is closer to its rear property line than this one will be.
 - The proposal is consistent with the Comprehensive Plan since it does not negatively affect the character of the neighborhood and it will be in the public interest since it will help provide affordable housing.

Applicable Regulations and Policies:

9. TMC Section 13.06.100.C allows for single-family detached dwellings within the "R-2" Single-family Dwelling District.
10. TMC Section 13.06.100.D includes regulations regarding lot size and front yard and rear yard setback regulations discussed above for structures within the "R-2" District. The section indicates that the front yard setback shall be 20 feet or the same as the setback of the adjacent house to the west.
11. TMC Section 13.06.100.D also includes language regarding the purpose of setback regulations:

"These residential setback requirements are designed to provide yard areas that help to minimize impacts between neighboring uses, allow space for recreational activities, allow access to light and air, serve as filtration areas for storm water run-off, provide a level of privacy and comfort, provide emergency and utility access around and into buildings, provide public view corridors, create a pleasing, rhythmic streetscape, promote consistency with existing development patterns, and promote the desired character of residential neighborhoods."
12. TMC Section 13.06.145 includes the regulations for small lot design standards. One of those regulations includes a requirement that new homes on Level 2 small lots either meet Build Green or other equivalent environmental certification for new construction or include a porch with a minimum area of 60 square feet and no dimension less than 6 feet. This could require a modification in the proposed design.
13. TMC Section 13.06.602.A.4.m(9) allows covered front porches to extend up to 8 feet into the required front yard setback. Since the required front yard setback for this property is 8 feet, the front porch can extend to approximately to the front property line.
14. TMC Section 13.06.645.B.1.b includes the criteria required for approval of a setback variance.
15. The *Comprehensive Plan*, which sets forth policy regarding development in the City of Tacoma, provides the following policy guidance relative to residential development:

GOAL DD-4 | Enhance human and environmental health in neighborhood design and

development. Seek to protect safety and livability, support local access to healthy food, limit negative impacts on water and air quality, reduce carbon emissions, encourage active and sustainable design, and integrate nature and the built environment.

- *Policy DD-4.1 Preserve and enhance the quality, character and function of Tacoma's residential neighborhoods.*
- *Policy DD-4.3 Encourage residential infill development that complements the general scale, character, and natural landscape features of neighborhoods. Consider building forms, scale, street frontage relationships, setbacks, open space patterns, and landscaping. Allow a range of architectural styles and expression, and respect existing entitlements.*

CONCLUSIONS²

1. Provided the conditions of approval are met, the proposal meets the criteria identified in TMC 13.06.645.B.1 for approval of a Variance as follows:

- a. *The restrictive effect of the specific zoning regulation construed literally as to the specific property is unreasonable due to unique conditions relating to the specific property, and which do not result from the actions of the applicant, such as: parcel size; parcel shape; topography; location; documentation of a public action, such as a street widening; proximity to a critical area; location of an easement; or character of surrounding uses.*

The site is an existing Level 2 small lot that is only 54 feet deep. The required 8 foot front yard and 25 foot rear yard setback requirements result in a building area that is only 21 feet deep. The size and depth of the lot are unique conditions that make the restrictive effect of the zoning regulation unreasonable.

See Attachment "A"; Exhibit "A"; Findings 1-6, 8-10, 14.

- b. *The requested variance does not go beyond the minimum necessary to afford relief from the specific hardship affecting the site*

The variance does not go beyond the minimum necessary to afford relief from the hardships affecting the site as rear yard setback reduction will allow for construction small single-family home that meets all other zoning code requirements.

See Attachment "A"; Exhibit "A"; Findings 1-14.

- c. *The grant of the variance would allow a reasonable use of the property and/or allow a more environmentally sensitive site and structure design to be achieved than would otherwise be permitted by strict application of the regulation, but would not constitute a grant of special privilege not enjoyed by other properties in the area*

The grant of the variance will allow a reasonable use of the site. Single-family homes are the primary allowed use in this district and the proposed home is of a small scale similar to the adjacent home to the west. The Director concludes that the granting of the variance would not constitute a grant of special privilege not enjoyed by other properties in the area.

See Attachment "A"; Exhibit "A"; Findings 1-14.

² Conclusions are based upon the applicable criteria and standards set forth in the *Tacoma Municipal Code (TMC)*, the policies of the Comprehensive Plan, and the Attachments and Exhibits listed herein. Any conclusion of law hereinafter stated which may be deemed a finding of fact herein is hereby adopted as such.

- d. *The grant of the variance will not be materially detrimental or contrary to the Comprehensive Plan and will not adversely affect the character of the neighborhood and the rights of neighboring property owners.*

The proposed home will not be contrary to the Comprehensive Plan or adversely affect the character of the neighborhood since it is being constructed at a location where a single family home previously existed and is of a scale and located on the site in a similar manner as the home to the west.

See Attachment "A"; Exhibit "A"; Findings 1-14

- e. *The grant of the variance will not cause a substantial detrimental effect to the public interest*

The proposal is consistent with the Comprehensive Plan and will not have a detrimental effect on neighboring properties. Therefore, it will not cause a substantial detrimental effect to the public interest.

- f. *Standard corporate design and/or increased development costs are not cause for variance.*

No information has been submitted to indicate that standardized corporate design and/or increased development costs were cause for the variance request.

DECISION

Based upon the above findings and conclusions, the request for a rear yard setback variance is **Approved**, subject to the following conditions:

Conditions:

1. The proposal shall be developed substantially consistent with the attached site plan and shall meet all requirements for small lot development.

Advisory Notes:

The below notes are meant to provide additional information to the applicant relative to the specific development proposal. These notes are not conditions of the permit nor do they constitute a complete review of the project.

1. The proposal shall comply with all applicable requirements contained in the City of Tacoma Stormwater Management Manual, Side Sewer and Sanitary Sewer Availability Manual, Tacoma Municipal Code 12.08 and the City of Tacoma Right-of-Way Design Manual in effect at time of vesting land use actions, building or construction permitting.
2. Any utility construction, relocation, or adjustment costs shall be at the applicant's expense.
3. Construction of the addition shall comply with the adopted Fire Code at the time of building permit submittal.

ORDERED this 8th day of February, 2017.



Peter Huffman
Director, Planning and Development
Services Department

FULL DECISION TRANSMITTED by first class mail and interoffice email to:

Brian Beattie, 4710 SW Dawson St., Seattle, WA 98136

SUMMARY OF DECISION TRANSMITTED by first class and interoffice mail to the following:

All property owners within 100 feet of the subject site

Eastside Neighborhood Council

Neighborhood Planning Team Members: Brian Boudet, Ian Munce, and Carol Wolfe

PURSUANT TO RCW 36.70B.130, YOU ARE HEREBY NOTIFIED THAT AFFECTED PROPERTY OWNER(S) RECEIVING THIS NOTICE OF DECISION MAY REQUEST A CHANGE IN VALUATION FOR PROPERTY TAX PURPOSES CONSISTENT WITH PIERCE COUNTY'S PROCEDURE FOR ADMINISTRATIVE APPEAL. TO REQUEST A CHANGE IN VALUE FOR PROPERTY TAX PURPOSES YOU MUST FILE WITH THE PIERCE COUNTY BOARD OF EQUALIZATION ON OR BEFORE JULY 1ST OF THE ASSESSMENT YEAR OR WITHIN 30 DAYS OF THE DATE OF NOTICE OF VALUE FROM THE ASSESSOR-TREASURER'S OFFICE. TO CONTACT THE BOARD CALL 253-798-7415 OR <WWW.CO.PIERCE.WA.US/BOE>.

APPEAL PROCEDURES

Any request for RECONSIDERATION and/or any APPEALS must be submitted in the applicable manner as outlined below on or before **February 22, 2017**.

RECONSIDERATION:

Any person having standing under the ordinance governing this application and feeling that the decision of the Director is based on errors of procedure or fact may make a written request for review by the Director within fourteen (14) days of the issuance of the written order. This request shall set forth the alleged errors, and the Director may, after further review, take such further actions as deemed proper, and may render a revised decision. A request for RECONSIDERATION of the Director's decision in this matter must be filed in writing to the staff contact listed on the first page of this document.

APPEAL TO HEARING EXAMINER:

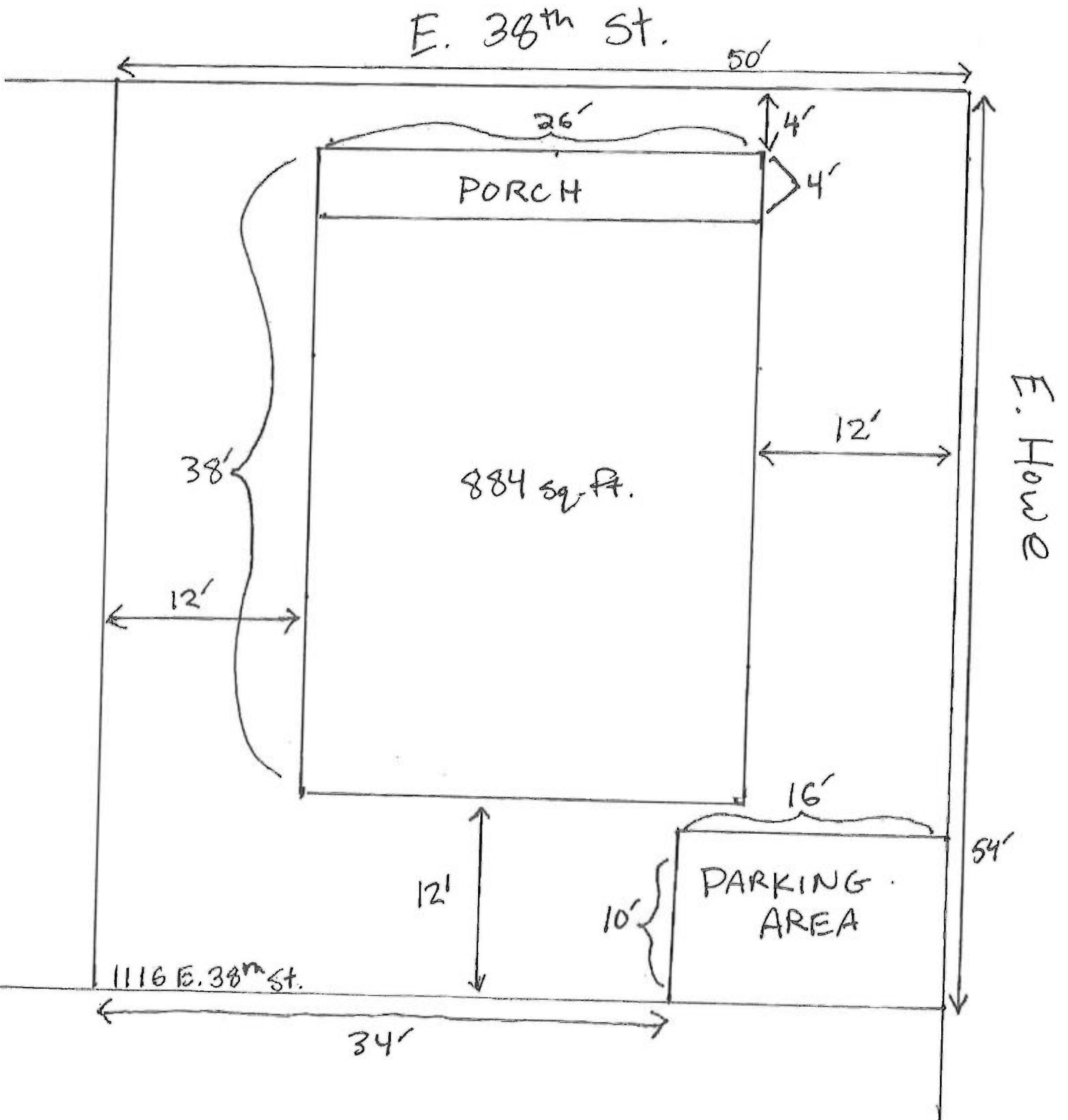
Any decision of the Director may be appealed by any aggrieved person or entity as defined in Section 13.05.050 of the *Tacoma Municipal Code*, within fourteen (14) days of the issuance of this decision, or within seven (7) days of the date of issuance of the Director's decision on a reconsideration, to appeal the decision to the Hearing Examiner.

An appeal to the Hearing Examiner is initiated by filing a Notice of Appeal accompanied by the required filing fee of **\$325.26**. Filing of the appeal shall not be complete until both the Notice of Appeal and required filing fee has been received. **THE FEE SHALL BE REFUNDED TO THE APPELLANT SHOULD THE APPELLANT PREVAIL.** (Pursuant to Section 2.09.020 of the *Tacoma Municipal Code*, fees for appeals shall be waived for qualifying senior citizens and persons who are permanently handicapped who are eligible for tax exemption because of financial status.)

The Notice of Appeal must be submitted in writing to the Hearing Examiner's Office, Seventh Floor, Tacoma Municipal Building, and shall contain the following:

- (1) A brief statement showing how the appellant is aggrieved or adversely affected.
- (2) A statement of the grounds for the appeal, explaining why the appellant believes the administrative decision is wrong.
- (3) The requested relief, such as reversal or modification of the decision.
- (4) The signature, mailing address and telephone number of the appellant and any representative of the appellant.

SCALE: 1" = 8'





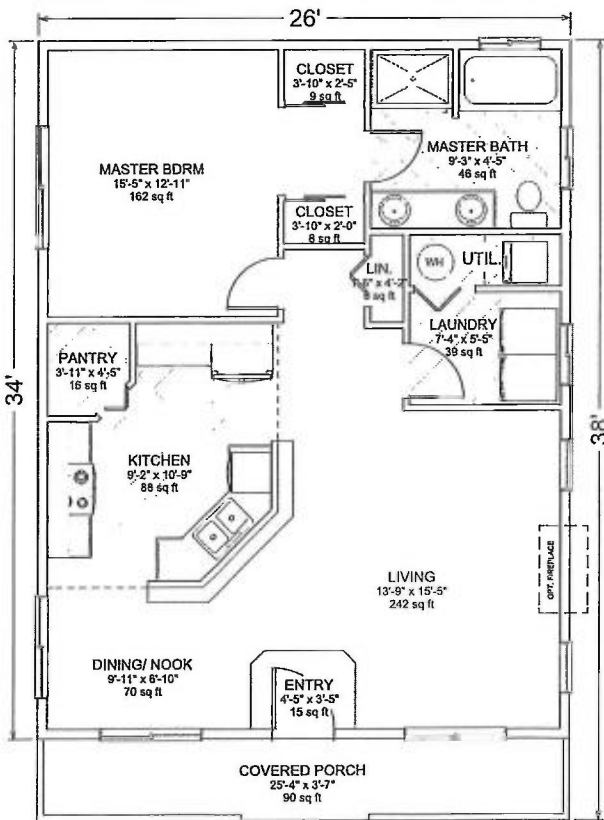
SHASTA

PLAN SUMMARY:

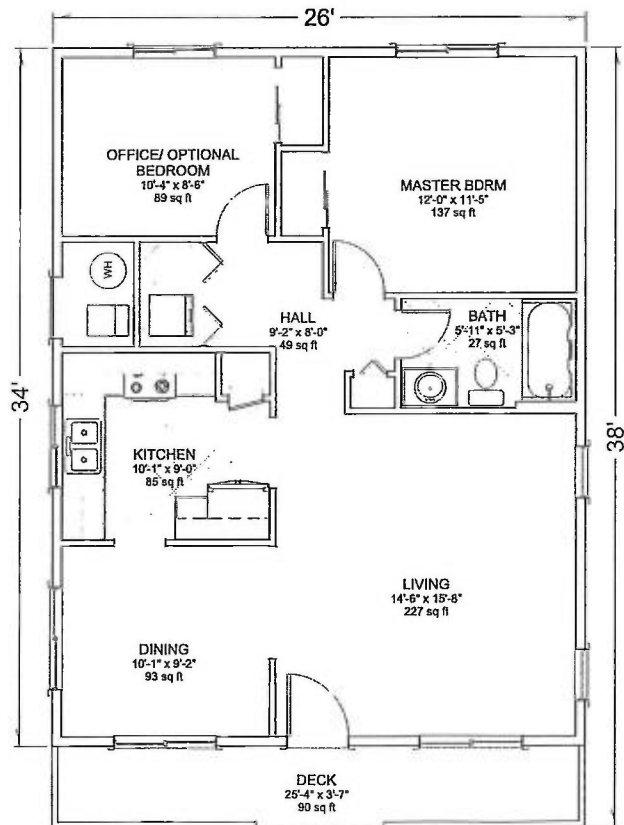
Plan Type:	Single Story
Plan Name:	Shasta
Footprint:	26' x 38'
Living Area:	884 sq ft
Garage Type:	None
Bedrooms:	1-2 Bed
Baths:	1 Bath

- Narrow Lot Plan
- Great as a Cabin

Artist rendering and/ or plan may show optional features not included in base price.



Single Bedroom Opt.



Two Bedroom Opt.