

City of Birmingham
MEETING OF THE BOARD OF ZONING APPEALS
TUESDAY, AUGUST 10, 2021
7:30 PM

Should you have any statement regarding any appeals, you are invited to attend the meeting in person or virtually through ZOOM:

[https://zoom.us/j/963 4319 8370](https://zoom.us/j/96343198370) or dial: **877-853-5247 Toll-Free,**
Meeting Code: 963 4319 8370

You may also provide a written statement to the Board of Zoning Appeals, City of Birmingham, 151 Martin Street, P.O. Box 3001, Birmingham MI, 48012-3001 prior to the hearing

August 10, 2021
7:30 PM

1. CALL TO ORDER

2. ROLL CALL

3. ANNOUNCEMENTS

- a) The highly transmissible COVID-19 Delta variant is spreading throughout the nation at an alarming rate. As a result, the CDC is recommending that vaccinated and unvaccinated personnel wear a facemask indoors while in public if you live or work in a substantial or high transmission area. Oakland County is currently classified as a substantial transmission area. The City has reinstated mask requirements for all employees while indoors. The mask requirement also applies to all board and commission members as well as the public attending public meetings.

4. APPROVAL OF THE MINUTES

- a) June 8, 2021
b) July 13, 2021

5. APPEALS

	Address	Petitioner	Appeal	Type/Reason
1)	689 WESTWOOD	MACKENZIE	21-29	DIMENSIONAL
2)	282 GREENWOOD	JACOBS	21-30	DIMENSIONAL
3)	1135 MARYLAND	MORGAN	21-34	DIMENSIONAL
4)	375 LAKE PARK	HELLER	21-36	DIMENSIONAL

6. CORRESPONDENCE

7. GENERAL BUSINESS

OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA

ADJOURNMENT

Title VI

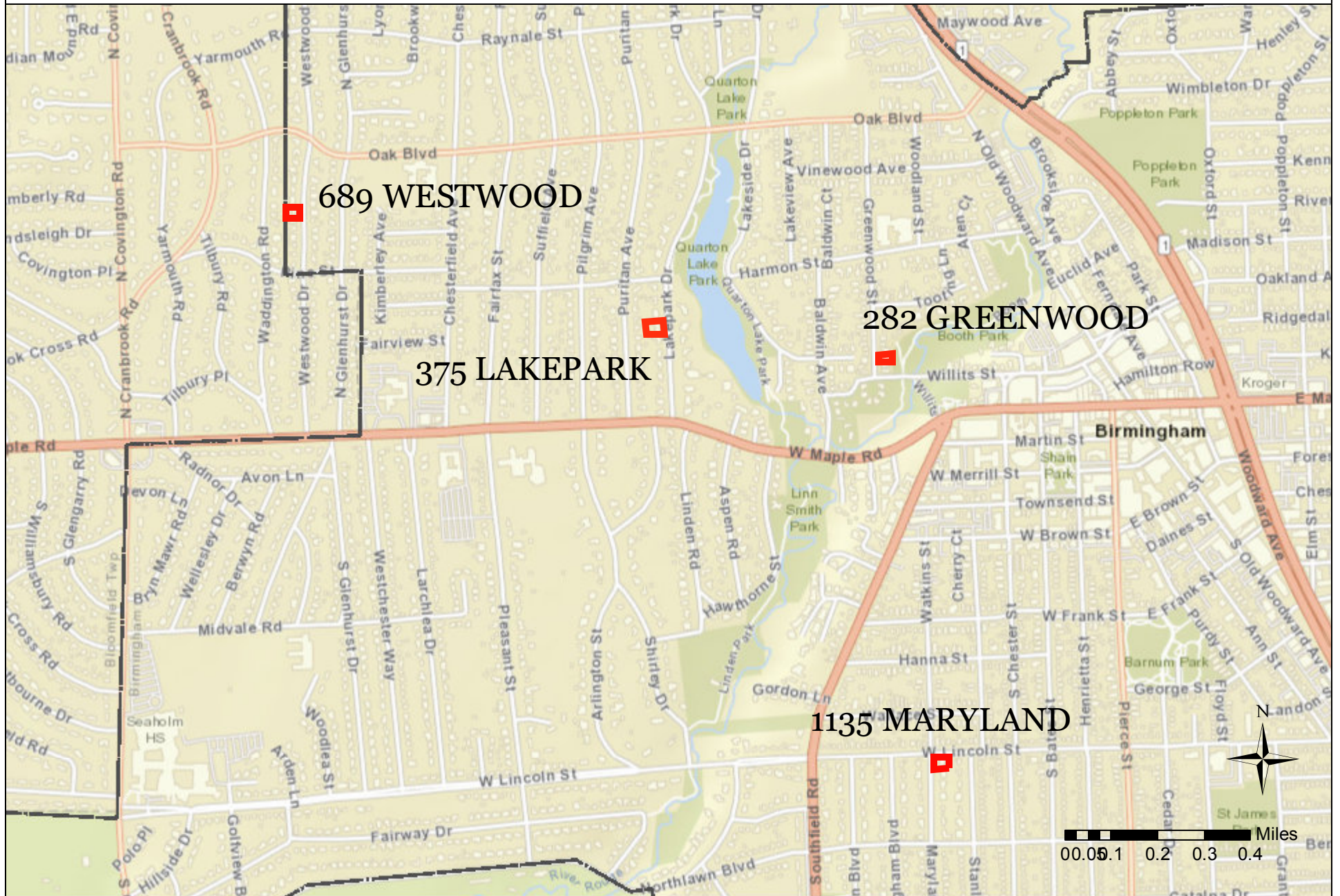
Persons with disabilities that may require assistance for effective participation in this public meeting should contact the City Clerk's Office at the number (248) 530-1880, or (248) 644-5115 (for the hearing impaired) at least one day before the meeting to request help in mobility, visual, hearing, or other assistance.

Las personas con incapacidad que requieren algún tipo de ayuda para la participación en esta sesión pública deben ponerse en contacto con la oficina del escribano de la ciudad en el número (248) 530-1800 o al (248) 644-5115 (para las personas con incapacidad auditiva) por lo menos un día antes de la reunión para solicitar ayuda a la movilidad, visual, auditiva, o de otras asistencias. (Title VI of the Civil Rights Act of 1964).

The public entrance during non-business hours is through the police department at the Pierce Street entrance only. Individuals requiring assistance entering the building should request aid via the intercom system at the parking lot entrance gate on Henrietta Street.

La entrada pública durante horas no hábiles es a través del Departamento de policía en la entrada de la calle Pierce solamente. Las personas que requieren asistencia entrando al edificio debe solicitar ayudan a través del sistema de intercomunicación en la puerta de entrada de estacionamiento en la calle de Henrietta.

AUGUST BZA MAP



**Birmingham Board Of Zoning Appeals Proceedings
Tuesday, June 8, 2021
Held Remotely Via Zoom And Telephone Access**

1. Call To Order

Minutes of the regular meeting of the City of Birmingham Board of Zoning Appeals ("BZA") held on Tuesday, June 8, 2021. Chair Charles Lillie convened the meeting at 7:31 p.m.

2. Rollcall

Present: Chair Charles Lillie; Board Members Jason Canvasser, Kevin Hart, John Miller, Erik Morganroth, Francis Rodriguez; Alternate Board Member Erin Rodenhouse

All located in Birmingham, MI.

Absent: Board Member Richard Lilley; Alternate Board Member Ron Reddy

Administration:

Jeff Zielke, Assistant Building Official
Brooks Cowan, City Planner
Laura Eichenhorn, City Transcriptionist
Mike Morad, Assistant Building Official

Chair Lillie explained the meeting was being held virtually due to the Covid-19 pandemic. He explained the procedures to be followed for the virtual meeting. He then assigned duties for running the evening's meeting to Vice-Chair Morganroth.

Vice-Chair Morganroth described BZA procedure to the audience. He noted that the members of the Board of Zoning Appeals are appointed by the City Commission and are volunteers who serve staggered three-year terms. They are a quasi-judicial board and sit at the pleasure of the City Commission to hear appeals from petitioners who are seeking variances from the City's Zoning Ordinance. Under Michigan law, a dimensional variance requires four affirmative votes from this board, and the petitioner must show a practical difficulty. A land use variance requires five affirmative votes and the petitioner has to show a hardship. He pointed out that this board does not make up the criteria for practical difficulty or hardship. That has been established by statute and case law. Appeals are heard by the board as far as interpretations or rulings. In that type of appeal the appellant must show that the official or board demonstrated an abuse of discretion or acted in an arbitrary or capricious manner. Four affirmative votes are required to reverse an interpretation or ruling.

Vice-Chair Morganroth took rollcall of the petitioners. All petitioners were present except for Appeal 21-27 for 1220 Bird.

T# 06-31-21

3. Approval Of The Minutes Of The BZA Meeting Of May 11, 2021

Mr. Rodriguez asked that 'extant' be changed to 'existing' on page four.

Motion by Mr. Lillie

Seconded by Mr. Miller to accept the Minutes of the BZA meeting of May 11, 2021 as amended.

Motion carried, 5-0.

ROLL CALL VOTE

Yeas: Lillie, Morganroth, Canvasser, Rodriguez, Miller

Nays: None

Abstain: Hart, Rodenhouse

T# 06-32-21

4. Appeals

**1) 1016 Pierce
Appeal 21-21**

ABO Zielke presented the item, explaining that the owner of the property known as 1016 Pierce was requesting the following variance to construct a new single-family home with an attached garage:

A. Chapter 126, Article 4.74(C) of the Zoning Ordinance requires a minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of the total lot width, whichever is larger. The required is 17.25 feet. The proposed is 14.00 feet on the North side therefore; a variance of 3.25 foot is being requested.

ABO Zielke continued that this appeal was in front of the board in May 2021. The applicant reduced the variance request based on the comments from the May meeting.

In reply to Ms. Rodenhouse, ABO Zielke confirmed that a new home could be built on this lot that would not require any variances.

The Eilanders, appellants, reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet.

In reply to Vice-Chair Morganroth, Mr. Eilander said the sitting office bump out could not be reduced since the width as-proposed prevented the need for another variance.

Vice-Chair Morganroth noted that with the variance request the garage would be almost 27 feet wide, with almost seven feet of non-vehicle space. He observed that many garages in Birmingham are only 21 feet wide.

Mr. Eilander said that without the variance they could not fit a ramp.

Vice-Chair Morganroth said he was unsure that was the case.

In reply to Ms. Rodenhouse, Mr. Eilander said that with a 23-foot garage there would only be room for the ramp and two vehicles, with no room for storage.

Ms. Eilander said that the only prohibitive issue here is the distance between principal residential buildings. She said that if that were not the case there would be no need for a variance.

Motion by Mr. Miller

Seconded by Mr. Hart with regard to Appeal 21-21, A. Chapter 126, Article 4.74(C) of the Zoning Ordinance requires a minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of the total lot width, whichever is larger. The required is 17.25 feet. The proposed is 14.00 feet on the North side. Therefore a variance of 3.25 foot is being requested.

Mr. Miller moved to approve the appeal and tied it to the plans as submitted. He said it was a reasonable request given the location of the adjacent homes on the lots to the north and south and that strict compliance with the ordinance would prevent the petitioner from fully using their lot. He said that approving the appeal would do substantial justice and would not effect the property owners to the north or south of this home.

Mr. Lillie offered his support for the motion, explaining that the BZA has run into similar issues on a number of occasions where adjoining lots are not the same width. He noted that if the lot to the north were also approximately 70 feet there would be no need for the variance request in this case. He confirmed Ms. Eilander's contention that all the other ordinance requirements in this case were being met.

Mr. Rodriguez and Vice-Chair Morganroth concurred with Mr. Miller and Mr. Lillie.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Miller, Hart, Canvasser, Rodenhouse, Rodriguez, Lillie, Morganroth

Nays: None

**2) 815 Woodland
Appeal 21-23**

ABO Zielke presented the item, explaining that the owner of the property known as 815 Woodland was requesting the following variances to construct an addition to an existing non-conforming garage:

B. Chapter 126, Article 4.03(H) of the Zoning Ordinance limits the maximum area of the first floor of any accessory structure in an R2 Zone district is 550 square feet. The existing and proposed is 564. Therefore a variance of 14 square feet is being requested.

ABO Zielke continued that this appeal was in front of the board in May 2021. Based on the comments from the May meeting, the applicant withdrew two of the three variances previously requested.

Mr. Lillie noted for the record that the appellant was not tearing the garage down, and was only adding on to the second floor.

W. David Tarver, appellant, reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet.

Motion by Mr. Rodriguez

Seconded by Mr. Miller with regard to Appeal 21-23, B. Chapter 126, Article 4.03(H) of the Zoning Ordinance limits the maximum area of the first floor of any accessory structure in an R2 Zone district is 550 square feet. The existing and proposed is 564. Therefore a variance of 14 square feet is being requested.

Mr. Rodriguez moved to approve variance B and to tie it to the plans as submitted. He noted that the garage was existing non-conforming and that the appellant would not be expanding the non-conformity. He stated it was not self-created and would not impact any of the adjacent properties.

Mr. Rodriguez confirmed that, per ABO Zielke's presentation, the appellant would be required to consult with the City regarding the window on the dormer before receiving final approval.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Rodriguez, Miller, Hart, Canvasser, Rodenhouse, Lillie, Morganroth

Nays: None

**3) 856 N. Old Woodward, Suite 101
Appeal 21-25**

CP Cowan presented the item, explaining that the owner of the business known as Fruition, located at 856 N. Old Woodward, Suite 101, was requesting the following dimensional variance to operate a food & beverage use in the O2-Office zone:

A. Chapter 126, Article 4, Section 4.46(A), Table A of the Zoning Ordinance requires that an eating establishment for indoor or combined indoor-outdoor consumption requires 1 parking space for every 75 square feet of floor area plus such spaces as are required for assembly rooms and affiliated facilities, excluding all area utilized for outdoor dining. 856 N. Old Woodward "The Pearl" is a mixed-use building with three first floor tenant spaces, residential units on floors 2-4, and 70 parking spaces total. Fruition is a 1,227 square foot tenant space that requires 16 parking spaces as a food & beverage use with indoor dining, increasing the total parking requirement to 82 parking spaces for 856 N. Old Woodward, therefore a variance of 12 parking spaces is being requested.

Mr. Lillie noted that the landlord was obligated to make sure that the tenants would be able to run their businesses in adherence with the parking requirements. He observed that there was already an issue with too little parking in the area, and that if the BZA were to grant this variance it could both create a deleterious precedent for future businesses wanting to be granted parking spaces in excess of their allotment. He said it would also contribute to further parking issues in the area.

Leah Cason, appellant, reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet.

Ms. Cason confirmed for the Board that the majority of business at the Grand Rapids location of Fruition is takeout. She said that was true both before Covid-19 and after the Covid-19 restrictions were lifted.

In reply to Vice-Chair Morganroth, CP Cowan said that bartop tables without seating would be a grey area between dine-in and carryout. He said the impact on parking requirements would have to be determined by Planning Director Ecker and Building Official Johnson.

Motion by Mr. Canvasser

Seconded by Mr. Lillie with regard to Appeal 21-25, A. Chapter 126, Article 4, Section 4.46(A), Table A of the Zoning Ordinance requires that an eating establishment for indoor or combined indoor-outdoor consumption requires 1 parking space for every 75 square feet of floor area plus such spaces as are required for assembly rooms and affiliated facilities, excluding all area utilized for outdoor dining. 856 N. Old Woodward "The Pearl" is a mixed-use building with three first floor tenant spaces, residential units on floors 2-4, and 70 parking spaces total. Fruition is a 1,227 square foot tenant space that requires 16 parking spaces as a food & beverage use with indoor dining, increasing the total parking requirement to 82 parking spaces for 856 N. Old Woodward, therefore a variance of 12 parking spaces is being requested.

Mr. Canvasser moved to deny the variance request. He said that the issue the appellant was facing was a private contractual matter. He explained that the landlord was approved for a certain number of parking spaces, and that the landlord should have divvied up the retail spaces based on the approved parking spaces and based on the concepts of each of the tenants. He said he agreed with Mr. Lillie's caution that approving this variance could establish damaging precedent in terms of future

requests for parking spaces. Mr. Canvasser said he was strongly urging the appellant to consult with an appropriate person about the appellant's remedies and rights because there may have possibly been some representations made that were not appropriate. He said that he was sympathetic to the appellant, and wanted to see her succeed, but noted that within the specific charge of the BZA they had no choice but to deny the request.

Ms. Rodenhouse concurred with Mr. Canvasser. She stated that the appellant's remedy would be found with the landlord and not with the BZA.

Mr. Lillie concurred with Mr. Canvasser.

Mr. Miller concurred with Mr. Canvasser, stating that while he wanted to see the business succeed that the BZA was not the right instrument for trying to gain additional parking in this case.

Vice-Chair Morganroth concurred with Mr. Canvasser. He stated that while he would support Fruition as a member of the public, he explained that the BZA could not be used to resolve tenant-landlord issues.

Motion carried, 6-1.

ROLL CALL VOTE

Yeas: Canvasser, Lillie, Morganroth, Rodriguez, Miller, Rodenhouse

Nays: Hart

**4) 555 S. Old Woodward, Suite 100
Appeal 21-26**

CP Cowan presented the item, explaining that the owner of the business known as Birmingham Pub, located at 555 S. Old Woodward, Suite 100, was requesting the following variance to have an illuminated building identification sign:

A. Article 1, Section 1.05(K)(2) of the Sign Ordinance states that non-illuminated signs identifying the entire structure by a building name may be permitted above the first floor in accordance with Section 2.02(C) Requirements. The applicant is proposing a 42-square foot illuminated building identification sign above the second floor, therefore a variance to allow the illumination of a 42-square foot sign is requested.

CP Cowan continued that the applicant received Final Site Plan and SLUP approval to operate an establishment with an Economic Development Liquor License on March 22nd, 2021. Neither the Planning Board nor the City Commission voiced concern or opposition to the signage. The previous restaurant tenant Triple Nickel received a variance for an illuminated building identification sign in December of 2016.

Vice-Chair Morganroth and Mr. Lillie asked how the color-changing lights visible from the railing of this establishment might factor into this variance request.

CP Cowan said that since the color-changing lights were already approved they were not being considered as a factor in the present variance request.

In reply to a question from Mr. Canvasser, CP Cowan said that the City had no concerns about the amount of illumination since the signage would have to comply with all other photometric requirements.

Timothy Muller, representing the appeal, reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet.

In reply to Mr. Canvasser, Mr. Muller stated that the Birmingham Pub signage letters were the same 10-inch height as the signage letters previously used for Triple Nickel.

Motion by Mr. Miller

Seconded by Mr. Hart with regard to Appeal 21-26, A. Article 1, Section 1.05(K)(2) of the Sign Ordinance states that non-illuminated signs identifying the entire structure by a building name may be permitted above the first floor in accordance with Section 2.02(C) Requirements. The applicant is proposing a 42 square foot illuminated building identification sign above the second floor, therefore a variance to allow the illumination of a 42 square foot sign is requested.

Mr. Miller moved to approve the variance and tied it to the plans as submitted. He noted that the same issue arose in consideration of the previous Triple Nickel signage, which the Board approved, and added that the Birmingham Pub signage only had one additional letter. He noted that the height of the Birmingham Pub signage and the height of the Triple Nickel signage were the same. Mr. Miller continued that the signage was unlikely to have a negative impact. Describing the the properties to the north and south as 'blighted' in terms of urban design, Mr. Miller stated that given the environs locating Birmingham Pub would be difficult without illuminated signage. He said the circumstances of the property made it unique, that granting the variance would benefit both the owner and the surrounding property owners, and that the need for the variance was not self-created.

Mr. Lillie explained that while he had previously opposed Triple Nickel's similar request he did not think it would be fair to deny Birmingham Pub's request since Triple Nickel's request had ultimately been approved. Given that, Mr. Lillie said he would support the motion.

Vice-Chair Morganroth concurred with Mr. Miller. He said that he had concerns about the illuminated railing and hoped that the City was looking at that.³

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Miller, Hart, Rodenhouse, Canvasser, Lillie, Morganroth, Rodriguez

Nays: None

**5) 1220 Bird
Appeal 21-27**

Vice-Chair Morganroth asked again if the appellants were present. Since they were not, the Board moved to reschedule the hearing for Appeal 21-27 to the next regular BZA meeting.

Motion by Mr. Lillie

Seconded by Mr. Rodriguez to reschedule the hearing for Appeal 21-27 to the July 2021 BZA meeting.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Lillie, Rodriguez, Miller, Hart, Rodenhouse, Canvasser, Morganroth

Nays: None

**6) 2351 Buckingham
Appeal 21-28**

ABO Zielke presented the item, explaining that the owner of the property known 2351 Buckingham was requesting the following variance to construct a rear second floor addition to an existing non-conforming single-family home:

A. Chapter 126, Article 4.03(D) of the Zoning Ordinance requires that an accessory building shall not be closer than 10.00 feet to the principal building located on the same lot. The existing and proposed is 9.00 feet. Therefore; a variance of 1.00 feet is being requested.

Stephanie Choate, appellant, and John Choate, contractor, reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet.

In reply to Vice-Chair Morganroth, Ms. Choate stated that she did explore stepping in the second floor. She explained that doing so would cause the bedroom to be prohibitively constrained.

Motion by Mr. Miller

Seconded by Mr. Hart with regard to Appeal 21-28, A. Chapter 126, Article 4.03(D) of the Zoning Ordinance requires that an accessory building shall not be closer than 10.00 feet to the principal building located on the same lot. The existing and proposed is 9.00 feet. Therefore; a variance of 1.00 feet is being requested.

Mr. Miller moved to approve the plans and tied it to the plans as submitted. He said the need for the variance arose as a result of the position of the two existing buildings

on the site. He said the issue was not self-created and that it arose from the unique circumstances of the site. He stated that strict compliance with the ordinance in this case would prevent the petitioner from reasonably improving their property.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Miller, Hart, Rodenhouse, Canvasser, Lillie, Morganroth, Rodriguez

Nays: None

T# 06-33-21

5. Correspondence

Included in the agenda packet.

T# 06-34-21

6. General Business

Mr. Miller and Vice-Chair Morganroth thanked the City for the token of appreciation given to each BZA member as an acknowledgment of their volunteer service on the Board.

T# 06-35-21

7. Open To The Public For Matters Not On The Agenda

None.

T# 06-36-21

8. Adjournment

Motion by Mr. Canvasser

Seconded by Mr. Lillie to adjourn the June 8, 2021 BZA meeting at 9:31 p.m.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Canvasser, Lillie, Morganroth, Hart, Rodenhouse, Rodriguez, Miller

Nays: None

Bruce R. Johnson, Building Official

Birmingham Board Of Zoning Appeals Proceedings
Tuesday, July 13, 2021
City Commission Room
151 Martin Street, Birmingham, Michigan

1. Call To Order

Minutes of the regular meeting of the City of Birmingham Board of Zoning Appeals ("BZA") held on Tuesday, July 13, 2021. Chair Charles Lillie convened the meeting at 7:31 p.m.

2. Rollcall

Present: Chair Charles Lillie; Board Members Richard Lilley, Erik Morganroth (attended virtually, located in Birmingham MI); Alternate Board Members Ron Reddy, Erin Rodenhouse

Absent: Board Member Jason Canvasser, Kevin Hart, John Miller, Francis Rodriguez

Administration:

Bruce Johnson, Building Official
Laura Eichenhorn, City Transcriptionist
Mike Morad, Assistant Building Official
Jeff Zielke, Assistant Building Official

Chair Lillie described BZA procedure to the audience. He noted that the members of the Board of Zoning Appeals are appointed by the City Commission and are volunteers who serve staggered three-year terms. They are a quasi-judicial board and sit at the pleasure of the City Commission to hear appeals from petitioners who are seeking variances from the City's Zoning Ordinance. Under Michigan law, a dimensional variance requires four affirmative votes from this board, and the petitioner must show a practical difficulty. A land use variance requires five affirmative votes and the petitioner has to show a hardship. He pointed out that this board does not make up the criteria for practical difficulty or hardship. That has been established by statute and case law. Appeals are heard by the board as far as interpretations or rulings. In that type of appeal the appellant must show that the official or board demonstrated an abuse of discretion or acted in an arbitrary or capricious manner. Four affirmative votes are required to reverse an interpretation or ruling.

Chair Lillie took rollcall of the petitioners. All petitioners were present. The Chair offered all petitioners the option to delay their hearings to the August 2021 meeting since only five Board members were present. The appellants for Appeals 21-29 and 21-30 chose to table their hearings to the August 2021 meeting.

T# 07-37-21

3. Approval Of The Minutes Of The BZA Meeting Of June 8, 2021

With Messrs. Reddy and Lilley abstaining due to their absences from the June 8, 2021 meeting the Board did not have a quorum for a vote on the minutes.

The June 8, 2021 minutes will be voted on along with the July 13, 2021 minutes at the August 2021 meeting.

T# 07-38-21

4. Appeals

**1) 1220 Bird
Appeal 21-27**

ABO Zielke presented the item, explaining that the owner of the property known as 1220 Bird was requesting the following variances to construct a rear and front addition to an existing single-family home:

A. Chapter 126, Article 2.10.2 of the Zoning Ordinance requires that the minimum front yard setback is the average setback of homes with 200 feet in each direction. The required front yard setback is 20.90 feet. The proposed is 15.00 feet. Therefore a variance of 5.90 feet was being requested.

B. Chapter 126, Article 2.10.2 of the Zoning Ordinance requires that no side yard shall be less than 5.00 feet. The existing and proposed is 3.80 feet. Therefore a variance of 1.20 feet is being requested.

ABO Zielke continued that the applicant was requesting variances to an existing non-conforming home that was constructed in 1926. Variance A was for the front addition and variance B was for the rear addition. It was noted that the information for this appeal was provided as part of the June 2021 BZA agenda.

Zack Ostroff, representative for the appellant, reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet.

In reply to Mr. Morganroth, Mr. Ostroff confirmed that the addition could be narrowed but said the 1.2 feet would be helpful. He said the two story buildout was being requested to have the architecture of the home better match the neighborhood.

Mr. Morganroth said that while both this home and the home to the west were pre-existing non-conforming, granting the variances would increase the non-conformity further down the lot and would increase the variance needed by the neighbor if they wanted to add on to their home in the future.

Motion by Mr. Reddy

Seconded by Mr. Lilley with regard to Appeal 21-27, B. Chapter 126, Article 2.10.2 of the Zoning Ordinance requires that no side yard shall be less than 5.00 feet. The existing and proposed is 3.80 feet. Therefore a variance of 1.20 feet is being requested.

Mr. Reddy moved to approve variance B only and tied it to the plans as submitted. He said based on the unique features of the lot, the fact that the home was pre-existing non-conforming, and the fact that the neighbor's home was also pre-existing non-conforming it was worth granting variance B to allow for a reasonable addition to the rear of the home.

Mr. Morganroth noted that Mr. Ostroff had stated the addition could be narrowed so as not to require a variance. He said the need for variance B was therefore self-created, and that if the addition were narrowed appropriately it would allow the neighbor to be able to build as they choose on their lot. For that reason he said he would not support the motion.

Ms. Rodenhouse offered her support for the motion, saying that preventing the appellant from keeping their roof line in a straight line was an unreasonable restriction given the house's pre-existing non-conformity.

Chair Lillie said he would not support the motion. He said that while the BZA occasionally grants variances for pre-existing non-conforming homes that stay within the existing plane, those variances have generally dealt with the minimum distances between buildings as opposed to buildings along the lot line. He noted that other properties have had additions in the area and indented them to avoid requesting a variance.

Mr. Reddy reiterated that it was a pre-existing non-conformity and said it was an undue hardship to require the appellant to narrow the addition. He noted that granting variance B would not necessarily affect the nextdoor neighbor since there was currently fifteen feet between the buildings according to the plans.

Motion failed, 3-2.

ROLL CALL VOTE

Yeas: Rodenhouse, Reddy, Lilley

Nays: Lillie, Morganroth

Motion by Ms. Rodenhouse

Seconded by Mr. Lilley with regard to Appeal 21-27, A. Chapter 126, Article 2.10.2 of the Zoning Ordinance requires that the minimum front yard setback is the average setback of homes with 200 feet in each direction. The required front yard setback is 20.90 feet. The proposed is 15.00 feet. Therefore a variance of 5.90 feet is being requested.

Ms. Rodenhouse moved to deny variance A. She noted that the proposed second-story space would just be decorative and that no practical difficulty vis-a-vis this variance was established by the appellant.

Motion carried, 5-0.

ROLL CALL VOTE

Yeas: Rodenhouse, Reddy, Lilley, Lillie, Morganroth

Nays: None

**2) 689 Westwood
Appeal 21-29**

Tabled to the August 2021 BZA meeting.

**3) 282 Greenwood
Appeal 21-30**

Tabled to the August 2021 BZA meeting.

**4) 375 Lakepark
Appeal 21-31**

ABO Zielke presented the item, explaining that the owner of the property known as 375 Lakepark was requesting the following variance to construct an addition to an existing non-conforming single-family home:

A. Chapter 126, Article 2.06.2 of the Zoning Ordinance requires that the minimum front yard setback is the average setback of homes with 200 feet in each direction. The required front yard setback is 45.50 feet. The proposed is 41.00 feet. Therefore a variance of 4.50 feet is being requested.

ABO Zielke continued that the original home was constructed in 1926 and had an addition in 2003.

Ben Heller, builder, reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet.

In reply to BZA comment, Mr. Heller noted that the appellant would be able to build a larger covered front porch by right without a variance, and stated that the appellant was trying to add something with more modest coverage instead. He explained that the primary issue was the walls being proposed for the small covered area. He stated that the practical difficulty was gaining coverage from inclement weather at the front door. He ventured that his proposal better keeps with the spirit of the ordinance. He noted the neighbors were supporting the appeal.

Mr. Morganroth floated two options that might mitigate the need for a variance. BO Johnson and ABO Zielke confirmed that both options would still require variances.

Ms. Rodenhouse observed that if the practical difficulty was gaining coverage from inclement weather, there were ordinance-compliant options to do that. She said the BZA is charged with applying the ordinance, not interpreting the intent. She said the BZA only looks at the 'spirit' of the ordinance if there is ambiguity, and stated there was no ambiguity in this case.

Mr. Lilley moved to grant the variance and tied it to the plans as submitted. He said it fit with the architecture of the house, fit with the neighborhood and would do justice to the property owner and the neighbors.

The motion failed for lack of a second.

Motion by Mr. Reddy

Seconded by Mr. Morganroth with regard to Appeal 21-31, A. Chapter 126, Article 2.06.2 of the Zoning Ordinance requires that the minimum front yard setback is the average setback of homes with 200 feet in each direction. The required front yard setback is 45.50 feet. The proposed is 41.00 feet. Therefore a variance of 4.50 feet is being requested.

In moving to deny the variance request, Mr. Reddy concurred with Ms. Rodenhouse's comments. He noted that the Board had just turned down a similar request from 1220 Bird, and said that since there were ordinance-compliant options for achieving coverage from inclement weather in the front of the home the appellant should pursue those.

Mr. Morganroth said that while the design was likely the most aesthetically appropriate option, the challenge was the porch's existing non-conformity and the request to expand the non-conformity. He said expanding the non-conformity contradicts with the BZA's role. He stated that since the practical difficulty was described as coverage from inclement weather, and there are ordinance-compliant options for achieving that, the BZA could not grant a variance. He said the appellant could likely pull the design forward, open the sides, and maintain the front door and the window above without needing a variance. He concurred with Mr. Reddy that the BZA has to maintain consistency in its rulings and therefore could not grant this request.

Motion carried, 4-1.

ROLL CALL VOTE

Yeas: Rodenhouse, Reddy, Lillie, Morganroth

Nays: Lilley

**5) 782 Chesterfield
Appeal 21-32**

ABO Zielke presented the item, explaining that the owner of the property known as 782 Chesterfield was requesting the following variance to construct an addition to an existing non-conforming single-family home:

A. Chapter 126, Article 2.06.2 of the Zoning Ordinance requires that the minimum front yard setback is the average setback of homes with 200 feet in each direction. The required front yard setback is 49.12 feet. The proposed is 37.61 feet. Therefore a variance of 11.51 feet is being requested.

ABO Zielke continued that the existing home was built in 1948. There was an addition to the rear and garage in 2006. It was noted that the house on the corner had a significantly larger setback than the other homes and thus significantly impacted the average setback in this case.

Ben Heller, builder, reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet.

Motion by Mr. Morganroth

Seconded by Ms. Rodenhouse with regard to Appeal 21-32, A. Chapter 126, Article 2.06.2 of the Zoning Ordinance requires that the minimum front yard setback is the average setback of homes with 200 feet in each direction. The required front yard setback is 49.12 feet. The proposed is 37.61 feet. Therefore a variance of 11.51 feet is being requested.

Mr. Morganroth moved to approve the variance and tied it to the plans as submitted. He explained that the corner lot with the large setback created unique enough circumstances in this case to justify granting the variance. He noted that if it were not for the corner lot the proposed projection in this appeal would likely be allowed. He said granting the variance would do justice to the neighbors and the appellant.

Motion carried, 5-0.

ROLL CALL VOTE

Yeas: Rodenhouse, Reddy, Lillie, Morganroth, Lilley

Nays: None

**6) 640 Suffield
Appeal 21-33**

ABO Zielke presented the item, explaining that the owner of the property known as 640 Suffield was requesting the following variance to construct an addition to an existing single-family home:

A. Chapter 126, Article 7.74(C) of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of the total lot width whichever is larger. The required is 19.75 feet. The proposed is 18.40 feet. Therefore a variance of 1.35 feet is being requested.

ABO Zielke continued that the existing home was constructed in 1936 and that the detached garage would be demolished if the appeal is granted to construct a new attached garage. He stated that granting this variance would not likely create a hardship if a demolition and new build were proposed for 660 Suffield given the width of 660 Suffield's lot.

Matt Parkinson, appellant, reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet.

In reply to Chair Lillie, Mr. Parkinson stated he did not want to shorten the garage and push it back on the lot because he wanted to maintain the kitchen, upstairs hallway, and master bedroom as-is. He said he also believed the garage would look more balanced vis-a-vis the home if constructed and placed according to the plans.

Mr. Morganroth noted that given the depth of the proposed garage the appellant could mitigate the need for the variance by parking two vehicles slightly diagonal to each other in order to allow passengers and drivers enough space to get in and out of the vehicles in the garage.

Motion by Mr. Reddy

Seconded by Mr. Lilley with regard to Appeal 21-33, A. Chapter 126, Article 7.74(C) of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of the total lot width whichever is larger. The required is 19.75 feet. The proposed is 18.40 feet. Therefore a variance of 1.35 feet is being requested.

Mr. Reddy moved to approve the variance and tied it to the plans as submitted. He said installing a two-car garage was a reasonable use of the property, and that variance requested was small compared to the lot size. He noted that there was still a significant distance between the appellant's home and the home at 660 Suffield even if the variance was granted.

Ms. Rodenhouse said the owner established a practical difficulty and concurred with Mr. Reddy that the request for the variance was relatively minor. She said it would be an unreasonable restraint on the property to deny this variance request.

Motion carried, 5-0.

ROLL CALL VOTE

Yeas: Rodenhouse, Reddy, Lillie, Morganroth, Lilley

Nays: None

T# 07-39-21

5. Correspondence

Included in the agenda packet.

T# 07-40-21

6. General Business

T# 07-41-21

7. Open To The Public For Matters Not On The Agenda

None.

T# 07-42-21

8. Adjournment

Motion by Mr. Lilley

Seconded by Mr. Morganroth to adjourn the July 13, 2021 BZA meeting at 9:20 p.m.

Motion carried, 5-0.

ROLL CALL VOTE

Yeas: Reddy, Lillie, Morganroth, Lilley, Rodenhouse

Nays: None

Bruce R. Johnson, Building Official

CASE DESCRIPTION

689 Westwood (21-29)

Hearing date: August 10, 2021

Appeal No. 21-29: The owner of the property known 689 Westwood, requests the following variance to construct an addition to an existing non-conforming single-family home:

A. Chapter 126, Article 2.06.2 of the Zoning Ordinance requires that the minimum total side yard setback are 14.00 feet or 25% of the total lot width whichever is larger. The required is 22.47 feet. The proposed is 18.82 feet. Therefore; a variance of 3.65 feet is being requested.

Staff Notes: The applicant was in front of the board in May, which the appeal was denied (minutes attached), and tabled in July. The applicant is requesting a lesser variance to construct an addition to the home.

This property is zoned R1– Single Family Residential.

Jeff Zielke, NCIDQ, LEED AP
Assistant Building Official

689 WESTWOOD MAP



CITY OF BIRMINGHAM
Community Development - Building Department
 151 Martin Street, Birmingham, MI 48009
 Community Development: 248-530-1850
 Fax: 248-530-1290 / www.bhamgov.org

APPLICATION FOR THE BOARD OF ZONING APPEALS

Application Date: 5.28.21
 Received By: HT

Hearing Date: 7.13.21
 Appeal #: 21-0029

Type of Variance:	☐ Interpretation	☒ Dimensional	☐ Land Use	☐ Sign	☐ Admin Review
I. PROPERTY INFORMATION:					
Address: <u>689 Westwood</u>		Lot Number: <u>459 Part 45</u>		Sidwell Number:	
II. OWNER INFORMATION:					
Name: <u>Mr. AND MRS L. Mackenzie</u>					
Address: <u>689 Westwood</u>		City: <u>Birmingham</u>		State: <u>MI</u>	Zip code: <u>48009</u>
Email:			Phone:		
III. PETITIONER INFORMATION:					
Name: <u>Mr. & Mrs L. Mackenzie</u>		Firm/Company Name: <u>OWNER</u>			
Address: <u>689 Westwood</u>		City: <u>Birmingham</u>		State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>lmackenzie@ntvbm.edid.com</u>			Phone: <u>248-892-7717</u>		
IV. GENERAL INFORMATION:					
The Board of Zoning Appeals typically meets the second Tuesday of each month. Applications along with supporting documents must be submitted on or before the 12th day of the month preceding the next regular meeting. Please note that incomplete applications will not be accepted. To insure complete applications are provided, appellants must schedule a pre-application meeting with the Building Official, Assistant Building Official and/or City Planner for a preliminary discussion of their request and the documents that will be required to be submitted. Staff will explain how all requested variances must be highlighted on the survey, site plan and construction plans. Each variance request must be clearly shown on the survey and plans including a table as shown in the example below. All dimensions to be shown in feet measured to the second decimal point. The BZA application fee is \$360.00 for single family residential; \$560.00 for all others. This amount includes a fee for a public notice sign which must be posted at the property at least 15-days prior to the scheduled hearing date.					
Variance Chart Example					
Requested Variances	Required	Existing	Proposed	Variance Amount	
Variance A, Front Setback	25.00 Feet	23.50 Feet	23.50 Feet	1.50 Feet	
Variance B, Height	30.00 Feet	30.25 Feet	30.25 Feet	0.25 Feet	
V. REQUIRED INFORMATION CHECKLIST:					
☐ One original and nine copies of the signed application ☐ One original and nine copies of the signed letter of practical difficulty and/or hardship ☐ One original and nine copies of the certified survey ☐ 10 folded copies of site plan and building plans including existing and proposed floor plans and elevations ☐ If appealing a board decision, 10 copies of the minutes from any previous Planning, HDC, or DRB board meeting					
VI. APPLICANT SIGNATURE					
By signing this application, I agree to conform to all applicable laws of the City of Birmingham. All information submitted on this application is accurate to the best of my knowledge. Changes to the plans are not allowed without approval from the Building Official or City Planner.					
Signature of Owner: <u>[Signature]</u>		Date: <u>5/27/21</u>			
Signature of Petitioner: <u>same</u>		Date: <u>28 2021</u>			



CITY OF BIRMINGHAM
 Date 06/01/2021 12:07:51 PM
 Ref 00180467
 Amount \$300.00

May 26, 2021

Re: MacKenzie Residence
689 Westwood, Birmingham, MI

Dear Zoning Board Members:

After denial of 2 Variance requests at the May Board of Zoning Appeals in order to expand our Existing Garage, we have made several modifications to our building plans and are hereby applying for a Single Dimensional Variance in order to construct a Garage Addition with Second Floor above to the home that we have lived-in for over 20 years and wish to continue to do so in our new empty-nest life.

Unfortunately, we were unable to get access to speak on the Zoom Hearing, due to technical difficulties, when a board member questioned whether the 1.07' distance to neighbor variance could be eliminated but are willing to eliminate that Variance which would at least allow us to add 3' to our existing extremely narrow garage.

The 3' Addition to Garage would put our garage at 8.45' from our Lot Line and maintain the required 22.47' (25% of our lot width) from neighbor.

The Total Side Setbacks for our lot are 22.47' (25% of lot width). Because the existing South Side of our house is 10.53' from the Lot Line, our Total Side Setback proposed would be 18.98', requiring the Single Variance of 3.49' that are requesting.

This variance would only involve our own property, an item discussed at last month's meeting.

We have ALSO modified our plans to set the Second Floor Addition back from the Lot Line the 3.49' so that the Second Floor would be at the required total side setback and so the Variance we are requesting will only apply to the Ground Floor Garage (the second floor complying).

The current size of our garage poses a number of practical difficulties at its 18'-4" width. It does not fit 2 cars which is unreasonable to today's standards and our needs and does not provide any storage space for lawn equipment etc. The 3' addition requested would improve our situation greatly.

The original house was built with this undersized Garage AND prior to the Total Side Setback ordinance so this is not self-created. Given these pre-existing conditions and the practical difficulties they impose, literal enforcement of the ordinance would result in a hardship unreasonably preventing us from using our property for permitted use, an attached garage.

We respectfully request your consideration of the items that we have revised in order to get some addition to our existing Garage width (which no longer impacts the neighbor to north) and humbly request your approval.

Respectfully Submitted,

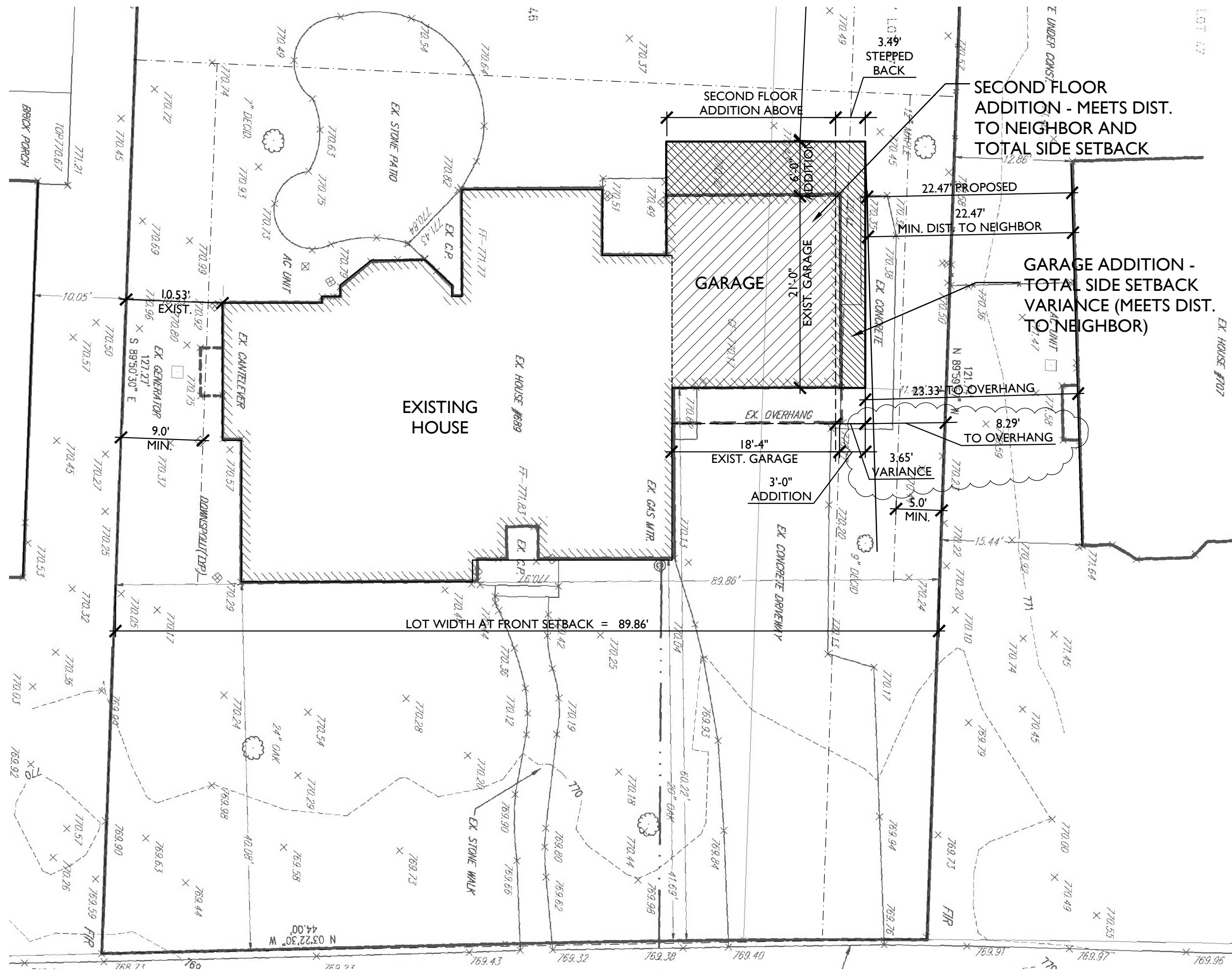
A handwritten signature in black ink, appearing to read 'Larry & Mari MacKenzie', written in a cursive style.

Larry & Mari MacKenzie



MacKenzie Residence
689 Westwood





MacKENZIE RESIDENCE

689 Westwood
Birmingham, MI

Glenda MEADS Architects

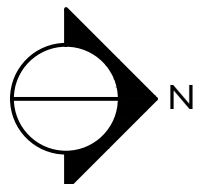
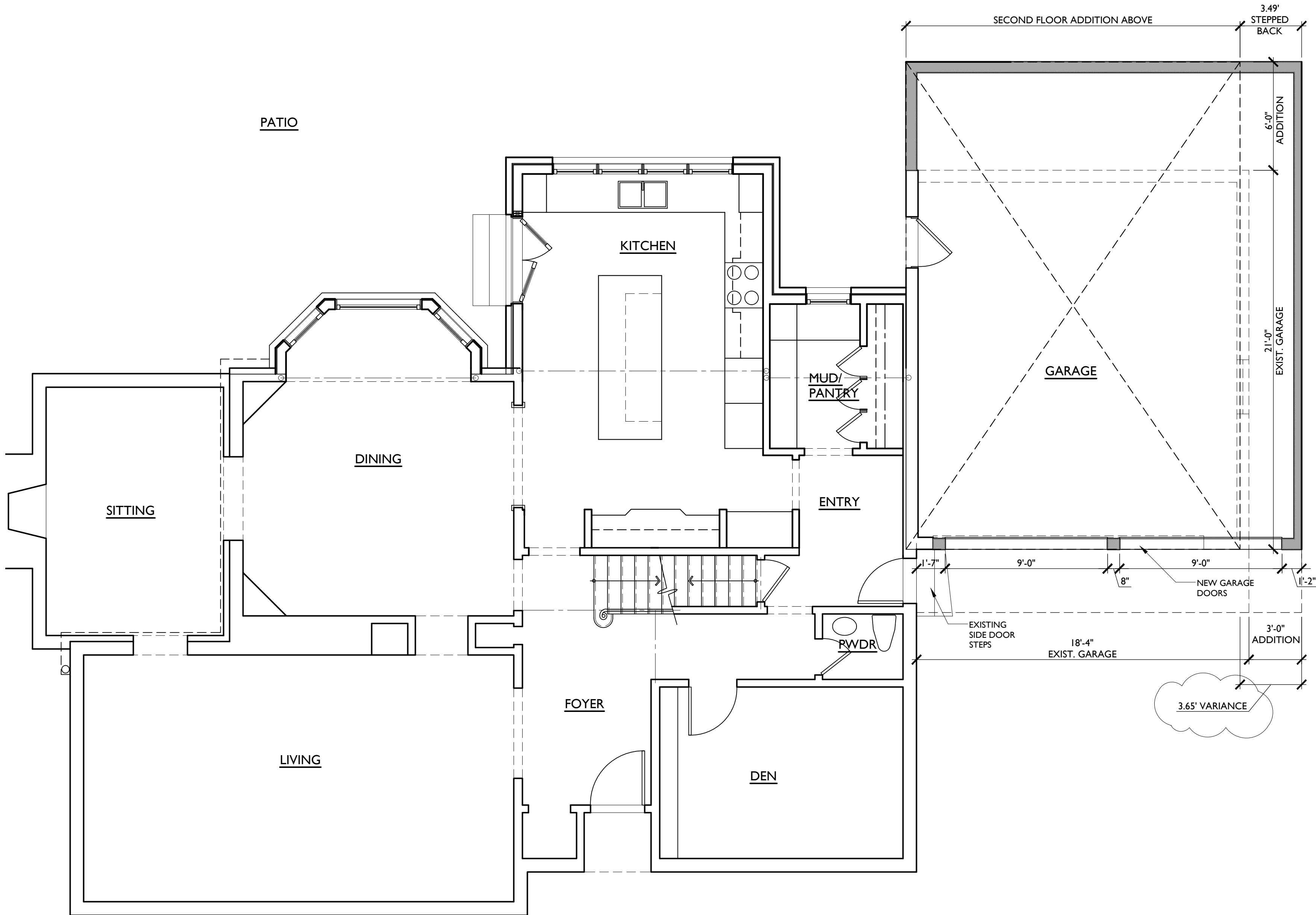
114 S. OLD WOODWARD AVE, SUITE 5, BIRMINGHAM, MI 48009
TELEPHONE: (248) 220-4998
MOBILE: (248) 514-2971
E-MAIL: glendameadsarchitects@comcast.net

Project Data:

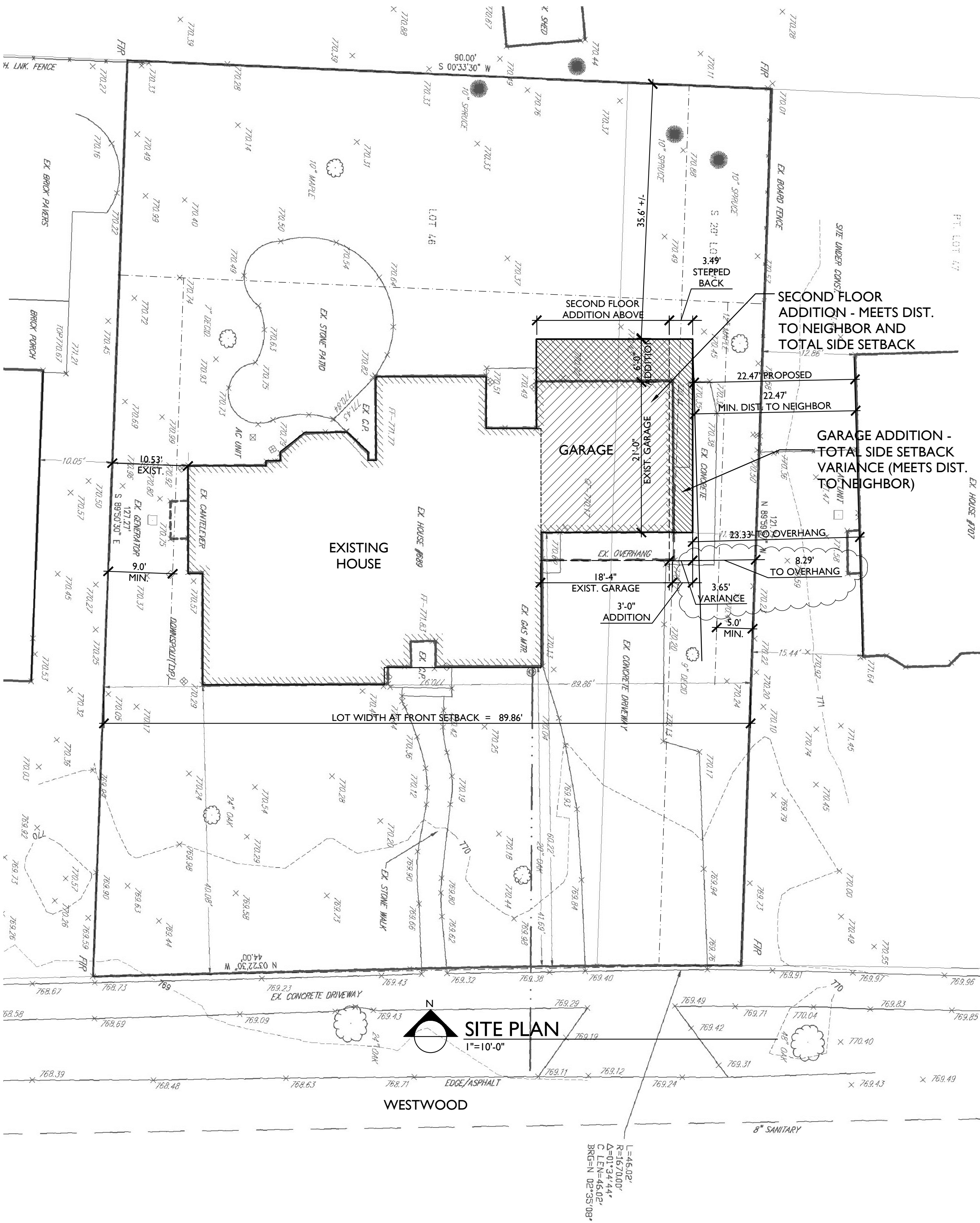
ADDRESS	689 WESTWOOD		
ZONED	R-1 (SINGLE FAMILY RESIDENTIAL)		
LOT AREA	22,414 +/- SF		
FRONTAGE	90'		
LOT WIDTH AT FRONT SETBACK	89.86'		
SITE DATA			
	REQUIRED	PROPOSED	
FRONT SETBACK	AVE OF HOUSES	38.39 (EXIST. TO REMAIN)	- OK
REAR SETBACK	30' MIN.	35.6' +/- TO ADD'N	- OK
LEAST SIDE SETBACK	5' MIN.	7.45' TO ADD'N NORTH SIDE	- OK
SIDE SETBACK	9' MIN. (10% LOT WIDTH)	10.53' EXIST. SOUTH SIDE	- OK
TOTAL SIDES SETBACK	25 % OF 89.86' = 22.47' MIN.	EXIST. SOUTH SIDE 10.53' ADD'N NORTH SIDE 8.29'	
		18.82' - 3.65' VARIANCE	
DIST. TO NEIGHBOR	25 % OF 89.86' = 22.47' MIN.	22.47' TO ADD'N NORTH SIDE	- OK

VARIANCE SUMMARY CHART

ITEM	REQUIRED	EXISTING	PROPOSED	VARIANCE AMOUNT
VARIANCE I:				
TOTAL SIDE SETBACK	22.47'	21.98'	18.82'	3.65'



GROUND FLOOR PLAN
1/4"=1'-0"



MACKENZIE RESIDENCE

689 Westwood
Birmingham, Mi

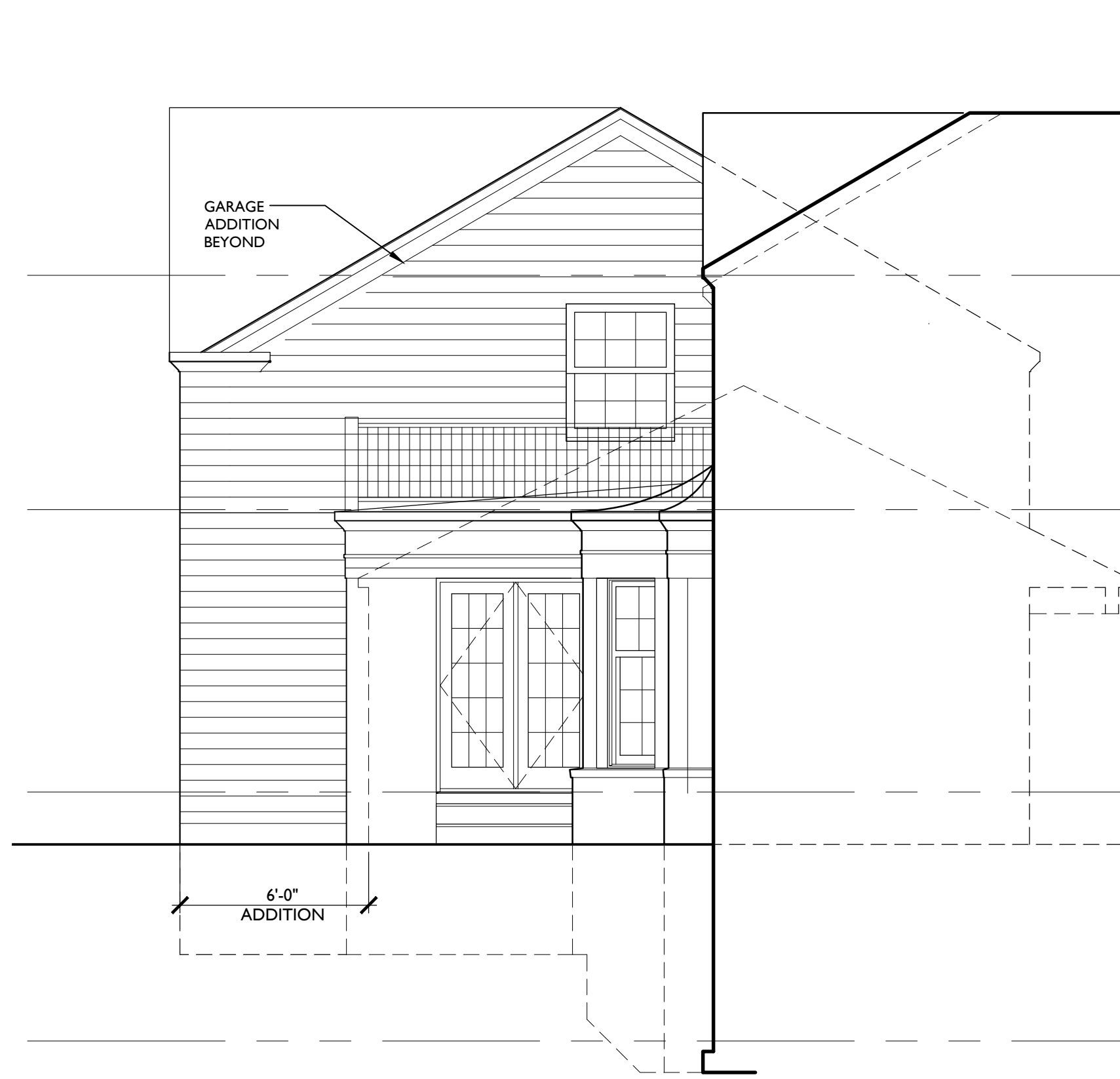
Glenda MEADS Architects

114 S. OLD WOODWARD AVE, SUITE 5, BIRMINGHAM, MI 48009
T (248) 220-4998 M (248) 514-2971 glenda@glendameads.com

SITE & GROUND
FLOOR PLANS

4-8-21
ZONING APPEAL
5-26-21
ZONING APPEAL 2
6-17-21
ZONING APPEAL 2
REVISED

A101



⊙ SOUTH (SIDE) ELEVATION
1/4"=1'-0"



⊙ EAST (FRONT) ELEVATION
1/4"=1'-0"



⊙ NORTH (SIDE) ELEVATION
1/4"=1'-0"



⊙ WEST (REAR) ELEVATION
1/4"=1'-0"

MACKENZIE RESIDENCE
689 Westwood
Birmingham, Mi

Glenda MEADS Architects
1114 S. OLD WOODWARD AVE, SUITE 5, BIRMINGHAM, MI 48009
T (248) 220-4998 M (248) 514-2971 glenda@glendameads.com

ELEVATIONS

4-8-21
ZONING APPEAL
5-26-21
ZONING APPEAL 2

6-17-21
ZONING APPEAL 2
REVISED

A102

**Birmingham Board Of Zoning Appeals Proceedings
Tuesday, May 11, 2021
Held Remotely Via Zoom And Telephone Access**

1. Call To Order

Minutes of the regular meeting of the City of Birmingham Board of Zoning Appeals ("BZA") held on Tuesday, May 11, 2021. Chair Charles Lillie convened the meeting at 7:30 p.m.

2. Rollcall

Present: Chair Charles Lillie; Board Members Jason Canvasser, Richard Lilley, John Miller, Erik Morganroth, Francis Rodriguez; Alternate Board Member Ron Reddy (all located in Birmingham, MI.)

Absent: Board Member Kevin Hart; Alternate Board Member Erin Rodenhouse

Administration:

Bruce Johnson, Building Official
Laura Eichenhorn, City Transcriptionist
Mike Morad, Assistant Building Official
Jeff Zielke, Assistant Building Official

Chair Lillie explained the meeting was being held virtually due to the Covid-19 pandemic. He explained the procedures to be followed for the virtual meeting. He then assigned duties for running the evening's meeting to Vice-Chair Canvasser.

Vice-Chair Canvasser described BZA procedure to the audience. He noted that the members of the Board of Zoning Appeals are appointed by the City Commission and are volunteers who serve staggered three-year terms. They are a quasi-judicial board and sit at the pleasure of the City Commission to hear appeals from petitioners who are seeking variances from the City's Zoning Ordinance. Under Michigan law, a dimensional variance requires four affirmative votes from this board, and the petitioner must show a practical difficulty. A land use variance requires five affirmative votes and the petitioner has to show a hardship. He pointed out that this board does not make up the criteria for practical difficulty or hardship. That has been established by statute and case law. Appeals are heard by the board as far as interpretations or rulings. In that type of appeal the appellant must show that the official or board demonstrated an abuse of discretion or acted in an arbitrary or capricious manner. Four affirmative votes are required to reverse an interpretation or ruling.

Vice-Chair Canvasser took rollcall of the petitioners. All petitioners were present.

T# 05-25-21

3. Approval Of The Minutes Of The BZA Meeting Of April 13, 2021

Motion by Mr. Lilley

Seconded by Mr. Lillie to accept the Minutes of the BZA meeting of April 13, 2021 as submitted.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Lilley, Lillie, Miller, Rodriguez, Morganroth, Canvasser, Reddy

Nays: None

T# 05-26-21

4. Appeals

**1) 900 Puritan
Appeal 21-18**

ABO Zielke presented the item, explaining that the owner of the property known as 900 Puritan was requesting the following variances to construct new single-family home with an attached garage:

A. Chapter 126, Article 4, Section 4.30(C)(1) of the Zoning Ordinance states that covered or uncovered porches shall not project into the required side open space. The proposed 10.00 foot covered porch is to project 16.18 feet; therefore, a variance of 16.18 feet is being requested.

B. Chapter 126, Article 4, Section 4.61(A)(1) of the Zoning Ordinance requires a corner lot which has on the side street an abutting interior residential lot shall have a minimum setback from the side street equal to the minimum front setback for the zoning district in which such building is located. The required side yard setback for this property is 38.03 feet. The proposed setback is 31.85 feet; therefore, a variance of 6.18 feet is requested.

ABO Zielke continued that the applicant proposed to construct a new home in place of the existing non-conforming home.

Timothy Martin, appellant, reviewed the letter describing why these variances were being sought. The letter was included in the evening's agenda packet.

In reply to Mr. Lillie, Mr. Martin stated there has been multiple attempts to design a home that would fit within the building envelope. While he acknowledged that an ordinance-compliant home could be constructed within the building envelope, he opined that every ordinance-compliant option ended up less desirable than the proposed plans.

Mr. Lillie stated that if these variances were granted they could be used as precedent for the neighbors to request variances to move forward towards Oak.

In reply to Mr. Lillie, Mr. Martin said that might actually benefit the aesthetics of Oak.

Mr. Morganroth stated that there were a number of different options for building in the building envelope.

Mr. Martin said that granting the variances maintained the spirit of the ordinance, and that not granting the variances would cause his family to lose the rights available to others in the same area. He stated that the available building width would be substantially reduced due to the special circumstances of his lot.

Tom Sowden, neighbor, spoke in favor of granting the variances in order to maintain the trees between the two homes.

Motion by Mr. Lillie

Seconded by Mr. Morganroth with regard to Appeal 21-18, A. Chapter 126, Article 4, Section 4.30(C)(1) of the Zoning Ordinance states that covered or uncovered porches shall not project into the required side open space. The proposed 10.00 foot covered porch is to project 16.18 feet; therefore, a variance of 16.18 feet is being requested; and, B. Chapter 126, Article 4, Section 4.61(A)(1) of the Zoning Ordinance requires a corner lot which has on the side street an abutting interior residential lot shall have a minimum setback from the side street equal to the minimum front setback for the zoning district in which such building is located. The required side yard setback for this property is 38.03 feet. The proposed setback is 31.85 feet; therefore, a variance of 6.18 feet is requested.

Mr. Lillie moved to deny the variances, stating that the petitioner had not demonstrated a practical difficulty. He said permitting the variance would do no justice to the neighbors, that the property had no unique characteristics necessitating the variances and that the petitioner failed to show why the home could not be built within the building envelope. He said the need for the variances was self-created since the plan is to tear down the existing home and begin with a blank slate.

Mr. Miller said that while he understood his colleague's reasoning he would not support the motion. He said the two homes to the east of 900 Puritan are anomalous in terms of their sideyard setbacks. He said the sideyard setback for Puritan would be more appropriate if it were more similar to the rest of the homes on Puritan and to the west. Granting the variances, then, would cause 900 Puritan to fall into alignment with the majority of the other homes on the street and would do justice to the overall neighborhood. He said the proposed plans also somewhat mitigate the existing non-conformities. He stated that moving the driveway to Puritan was both safer and more aesthetically pleasing.

Vice-Chair Canvasser said he would support the motion. He noted the appellant would be working with a blank slate once the home is torn down and that the appellant acknowledged an ordinance-compliant home could be built in the building envelope. Both of these facts indicated to Vice-Chair Canvasser that the desire for these two variances was self-created.

Mr. Rodriguez said he was somewhat torn on this petition, noting that the proposal did seek to decrease the extant non-conformity. He said the deciding factor was the appellant's acknowledgement that the property could be used for the permitted purpose without the variances and that an ordinance-compliant home could be built within the building envelope. He concurred with Mr. Lillie and Vice-Chair Canvasser that these factors demonstrated self-creation, so he said he would vote to support the motion.

Motion carried, 6-1.

ROLL CALL VOTE

Yeas: Lillie, Morganroth, Lilley, Canvasser, Reddy, Rodriguez

Nays: Miller

**2) 1394 Westwood
Appeal 21-19**

ABO Zielke presented the item, explaining that the owner of the property known as 1394 Westwood was requesting the following variances to construct an addition to the existing home with an attached garage:

A. Chapter 126, Article 4, Section 4.61(A)(2) of the Zoning Ordinance requires that a corner lot where there is no abutting interior residential lot on such side street, the minimum side street setback shall be 10.00 feet for the permitted principal building. The proposed is 7.69 feet. Therefore, a 2.31 foot variance is being requested.

B. Chapter 126, Article 4, Section 4.61(A)(2) of the Zoning Ordinance requires that a corner lot where there is no abutting interior residential lot on such side street, the minimum side street setback shall be 15.00 feet for permitted attached garages with vehicle entry doors facing the side street. The proposed is 11.17 feet. Therefore, a 3.83 foot variance is being requested.

ABO Zielke stated the existing home was constructed in 1961 on a corner lot.

Robert Clarke, architect, reviewed the letter describing why these variances were being sought. The letter was included in the evening's agenda packet.

Mr. Clarke explained that he was attempting to maintain the south and north edge of the garage and foundation areas.

Mr. Morganroth said a 21- or 22-foot garage should be able to adequately accommodate the kind of vehicles the appellants would be driving, which would mitigate the need for the variance. Mr. Morganroth also suggested that the garage doors be moved to the outside facade rather than the inside to create a bit more room.

In reply to Mr. Miller, Mr. Clarke said there was a grade drop of three-and-a-half to four feet on the east side of the garage.

In reply to Mr. Reddy, Mr. Clarke stated that he was trying to avoid a runaway building line in the front of the home in order to resemble the other homes in the area. He said he could not expand on the north face of the laundry room to create space because of the second floor window.

Motion by Mr. Miller

Seconded by Mr. Lillie with regard to Appeal 21-19, A. Chapter 126, Article 4, Section 4.61(A)(2) of the Zoning Ordinance requires that a corner lot where there is no abutting interior residential lot on such side street, the minimum side street setback shall be 10.00 feet for the permitted principal building. The proposed is 7.69 feet. Therefore, a 2.31 foot variance is being requested; and, B. Chapter 126, Article 4, Section 4.61(A)(2) of the Zoning Ordinance requires that a corner lot where there is no abutting interior residential lot on such side street, the minimum side street setback shall be 15.00 feet for permitted attached garages with vehicle entry doors facing the side street. The proposed is 11.17 feet. Therefore, a 3.83 foot variance is being requested.

Mr. Miller made a motion to deny Appeal 21-19. He said the need for variances was self-created and that there were no particularly unique aspects of the property. He said the soft angle of the road and the slight fall-off of the grade did not amount to hardships. Mr. Miller found that strict compliance with the ordinance was not unreasonable in this case.

Mr. Morganroth said he would support the motion. While he acknowledged that the angle of the lot creates some challenges, he said the proposed changes to the home could likely be achieved in an ordinance-compliant way. He remained unconvinced that the appellant required the requested variances to meet their goals.

Vice-Chair Canvasser said he had concerns about self-creation and the expansion of a pre-existing non-conformity.

Mr. Reddy concurred with Vice-Chair Canvasser.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Miller, Lillie, Rodriguez, Morganroth, Lilley, Canvasser, Reddy

Nays: None

**3) 689 Westwood
Appeal 21-20**

ABO Zielke presented the item, explaining that the owner of the property known as 689 Westwood was requesting the following variances to construct an addition to an existing non-conforming home:

A. Chapter 126, Article 2.06.2 of the Zoning Ordinance requires that the minimum total side yard setback are 14.00 feet or 25% of the total lot width whichever is larger. The required is 22.47 feet. The proposed is 17.78 feet. Therefore; a variance of 4.49 feet is being requested.

B. Chapter 126, Article 4.74(C) of the Zoning Ordinance requires a minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of the total lot width, whichever is larger. The required is 22.47 feet. The proposed is 21.40 feet. Therefore; a variance of 1.07 feet is being requested.

ABO Zielke stated the existing home was constructed in 1945 along with a small kitchen addition in 2014 in the rear of the home.

Glenda Meads, architect, reviewed the letter describing why these variances were being sought. The letter was included in the evening's agenda packet.

Motion by Mr. Morganroth

Seconded by Mr. Rodriguez with regard to Appeal 21-20, A. Chapter 126, Article 2.06.2 of the Zoning Ordinance requires that the minimum total side yard setback are 14.00 feet or 25% of the total lot width whichever is larger. The required is 22.47 feet. The proposed is 17.78 feet. Therefore; a variance of 4.49 feet is being requested; and, B. Chapter 126, Article 4.74(C) of the Zoning Ordinance requires a minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of the total lot width, whichever is larger. The required is 22.47 feet. The proposed is 21.40 feet. Therefore; a variance of 1.07 feet is being requested.

Mr. Morganroth moved to deny Appeal 21-20. He said several issues formed the basis for his denial, noting that his most significant concern was substantial justice to the neighbor. He said expanding the non-conformity on the side could compromise the neighbor's maximum width home if they chose to tear down and build again at some point in the future. He said he understood the challenge of the garage but said Ms. Meads did not establish the side relative to the side-entry porch was a factor. He said the use was a factor.

Mr. Miller said this was a difficult case because he said wanting the garage to be a usable width was reasonable. Noting that, he still concurred with Mr. Morganroth that the Board could not compromise justice for the neighbor by granting the variances, and so he supported the motion to deny.

Vice-Chair Canvasser said he would support the motion since it would expand a pre-existing non-conformity and would impact the neighbor.

Mr. Lillie said he would support the motion for the previously stated reasons.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Morganroth, Rodriguez, Lilley, Canvasser, Reddy, Lillie, Miller

Nays: None

**4) 1016 Pierce
Appeal 21-21**

ABO Zielke presented the item, explaining that the owner of the property known as 1016 Pierce was requesting the following variance to construct a new single-family home with an attached garage:

A. Chapter 126, Article 4.74(C) of the Zoning Ordinance requires a minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of the total lot width, whichever is larger. The required is 17.25 feet. The proposed is 12.95 feet on the South side. Therefore; a variance of 4.30 foot is being requested.

ABO Zielke stated the proposed home met the ordinance for the lot with the exception of meeting the distance between principal structures.

Ann and Brett Eilander, owners, reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet. They stated Ben Templeton, builder, and Glenda Meads, architect, were also on the call.

Vice-Chair Canvasser said the lack of dimensions on the drawings made it difficult for him to evaluate the appellants' claims.

Mr. Miller concurred with Vice-Chair Canvasser, adding that the lack of information about vertical elevations in the drawings did the same.

Mr. Morganroth concurred with Vice-Chair Canvasser.

Mr. Templeton stated that plans with full elevations were not submitted because the Eilanders were waiting for the results of this BZA meeting to get a design set of drawings from Ms. Meads.

Mr. Morganroth suggested that if the elevator could come down to the garage floor and then the first floor that the ramp would not be needed. If that were the case, then minimizing the garage could possibly also minimize, if not completely mitigate, the need for the variance.

Mr. Eilander said the three feet also allows the appellants enough room to navigate the garage without having to move the cars.

Mr. Lillie suggested that the 12.95 feet could be split between the southern and northern neighbors.

The Eilanders said they would be happy to either keep the 12.95 feet as proposed or to follow Mr. Lillie's suggestion, whichever the Board ended up preferring.

In response to Board discussion, the Eilanders said they could return with plans that showed dimensions and elevations.

Vice-Chair Canvasser clarified for the Eilanders that a review of updated plans would not necessarily result in an approval. He said it would just provide more information to the Board members.

Motion by Mr. Lillie

Seconded by Vice-Chair Canvasser with regard to Appeal 21-21, A. Chapter 126, Article 4.74(C) of the Zoning Ordinance requires a minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of the total lot width, whichever is larger. The required is 17.25 feet. The proposed is 12.95 feet on the South side. Therefore a variance of 4.30 foot is being requested.

Mr. Lillie moved to adjourn Appeal 21-21 to the June 2021 BZA meeting with a request that the appellants submit the dimensions and elevations for the plans.

Mr. Miller cautioned the appellants that the proposed office bump-out would difficult to vote to approve.

Mr. Reddy concurred with the Mr. Miller. He said the bump-out could be mitigated. He said that slightly reducing the width of the garage and doing a bit of redesign might help the appellants achieve their goals.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Lillie, Canvasser, Reddy, Miller, Rodriguez, Morganroth, Lilley

Nays: None

**5) 1301 Fairway
Appeal 21-22**

ABO Zielke presented the item, explaining that the owner of the property known as 1301 Fairway was requesting the following variances to construct an addition to an existing non-conforming home:

A. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that the minimum front yard setback be the average of the homes within 200.00 feet in each direction. The required front yard setback is 32.24 feet. The proposed is 25.34 feet. Therefore; a 6.90 foot variance is being requested.

B. Chapter 126, Article 2.06.2 of the Zoning Ordinance requires that the minimum total side yard setback are 14.00 feet or 25% of the total lot width whichever is larger. The required is 28.12 feet. The existing is 16.14 feet and the proposed is 15.94 feet. Therefore; a variance of 9.18 feet is being requested.

C. Chapter 126, Article 4.74(C) of the Zoning Ordinance requires a minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of the total lot width, whichever is larger. The required is 28.12 feet. The proposed is 21.90 feet on the South side Therefore; a variance of 6.22 foot is being requested.

D. Chapter 126, Article 4.75(A)(1) of the Zoning Ordinance requires that single family attached garages must be setback a minimum of 5.00 feet from the portion of the front façade on the first floor of the principal residential building that is furthest setback from the front property line. The existing is 6.00 feet in front of the furthest setback portion. Therefore; a variance of 11.00 feet is being requested.

E. Chapter 126, Article 4.75(A)(2) of the Zoning Ordinance requires that garage doors on attached garages which facing a street may not exceed 9.00 feet in width. The existing is 16.00 feet. Therefore; a variance of 7.00 feet is being requested.

ABO Zielke stated the existing home, constructed in 1960, was a non-conforming home and sat on an irregularly-shaped lot.

Dana Warg, owner, reviewed the letter describing why these variances were being sought. The letter was included in the evening's agenda packet.

Motion by Mr. Reddy

Seconded by Mr. Lilley with regard to Appeal 21-22, A. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that the minimum front yard setback be the average of the homes within 200.00 feet in each direction. The required front yard setback is 32.24 feet. The proposed is 25.34 feet. Therefore; a 6.90 foot variance is being requested; B. Chapter 126, Article 2.06.2 of the Zoning Ordinance requires that the minimum total side yard setback are 14.00 feet or 25% of the total lot width whichever is larger. The required is 28.12 feet. The existing is 16.14 feet and the proposed is 15.94 feet. Therefore; a variance of 9.18 feet is being requested; C. Chapter 126, Article 4.74(C) of the Zoning Ordinance requires a minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of the total lot width, whichever is larger. The required is 28.12 feet. The proposed is 21.90 feet on the South side Therefore; a variance of 6.22 foot is being requested; D. Chapter 126, Article 4.75(A)(1) of the Zoning Ordinance requires that single family attached garages must be setback a minimum of 5.00 feet from the portion of the

front façade on the first floor of the principal residential building that is furthest setback from the front property line. The existing is 6.00 feet in front of the furthest setback portion. Therefore; a variance of 11.00 feet is being requested; and, E. Chapter 126, Article 4.75(A)(2) of the Zoning Ordinance requires that garage doors on attached garages which facing a street may not exceed 9.00 feet in width. The existing is 16.00 feet. Therefore; a variance of 7.00 feet is being requested.

Mr. Reddy moved to approve Variances A, B, C, D and E for Appeal 21-22 and tied it to the plans as submitted. He said denial of the appeal would prevent the appellant from gaining full use of the home because of its unusually-shaped lot. He said it was not self-created because the owner was seeking to improve the appearance of the home.

Mr. Miller said the unusual triangular-shaped lot was a reason to support the variance request.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Reddy, Lilley, Canvasser, Lillie, Miller, Rodriguez, Morganroth

Nays: None

**6) 815 Woodland
Appeal 21-23**

ABO Zielke presented the item, explaining that the owner of the property known as 815 Woodland was requesting the following variances to construct an addition to an existing non-conforming garage:

A. Chapter 126, Article 4.03(G) of the Zoning Ordinance limits the maximum eave height on accessory structures shall not exceed 12.00 feet. The proposed is 20.33 feet. Therefore; a variance of 8.33 feet is being requested.

B. Chapter 126, Article 4.03(H) of the Zoning Ordinance limits the maximum area of the first floor of any accessory structure in an R2 Zone district is 550 square feet. The existing and proposed is 564. Therefore a variance of 14 square feet is being requested.

C. Chapter 126, Article 4.03(J) of the Zoning Ordinance requires that dormers on accessory structures are limited to 50% or less of the width of the roof per elevation or 10.00 foot interior dimension, whichever is greater. The proposed is 100% of the roof width. Therefore; a variance of 50% is being requested.

ABO Zielke stated the existing detached structure footprint exceeded the allowable square footage. The proposed renovation to the existing structure would exceed the eave height and the dormer width permitted.

David Tarver, owner, reviewed the letter describing why these variances were being sought. The letter was included in the evening's agenda packet.

Discussion between Mr. Morganroth, ABO Zielke and Mr. Tarver clarified that if the side walls of the dormer aligned with the wall of the storage room and the interior staircase wall that most, if not all, of the need for Variance C could be mitigated.

Mr. Tarver confirmed that modification would be possible.

Discussion between the Board, Building Official Johnson, and Mr. Tarver concluded that the Board would give the Tarvers the opportunity to return with plans that included Variances A and B but mitigated Variance C.

Motion by Mr. Morganroth

Seconded by Mr. Lillie with regard to Appeal 21-23, A. Chapter 126, Article 4.03(G) of the Zoning Ordinance limits the maximum eave height on accessory structures shall not exceed 12.00 feet. The proposed is 20.33 feet. Therefore; a variance of 8.33 feet is being requested; B. Chapter 126, Article 4.03(H) of the Zoning Ordinance limits the maximum area of the first floor of any accessory structure in an R2 Zone district is 550 square feet. The existing and proposed is 564. Therefore a variance of 14 square feet is being requested; and, C. Chapter 126, Article 4.03(J) of the Zoning Ordinance requires that dormers on accessory structures are limited to 50% or less of the width of the roof per elevation or 10.00 foot interior dimension, whichever is greater. The proposed is 100% of the roof width. Therefore; a variance of 50% is being requested.

Mr. Morganroth moved to adjourn Appeal 21-23 to the June 2021 BZA meeting in order to give the appellants an opportunity to revise their plans.

In reply to Mr. Reddy, Building Official Johnson said the Zoning Ordinance's definition of a dormer could be included in the next BZA agenda packet.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Morganroth, Lillie, Miller, Rodriguez, Lilley, Canvasser, Reddy

Nays: None

T# 05-27-21

5. Correspondence

Included in the agenda packet.

T# 05-28-21

6. General Business

There was brief discussion regarding when in-person meetings might resume. Building Official Johnson said he would inform the Board of any changes to the current policy.

T# 05-29-21

7. Open To The Public For Matters Not On The Agenda

None.

T# 05-30-21

8. Adjournment

Motion by Mr. Morganroth

Seconded by Mr. Lilley to adjourn the May 11, 2021 BZA meeting at 10:12 p.m.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Morganroth, Lilley, Canvasser, Reddy, Lillie, Miller, Rodriguez

Nays: None



Bruce R. Johnson, Building Official

CASE DESCRIPTION

282 Greenwood (21-30)

Hearing date: August 10, 2021

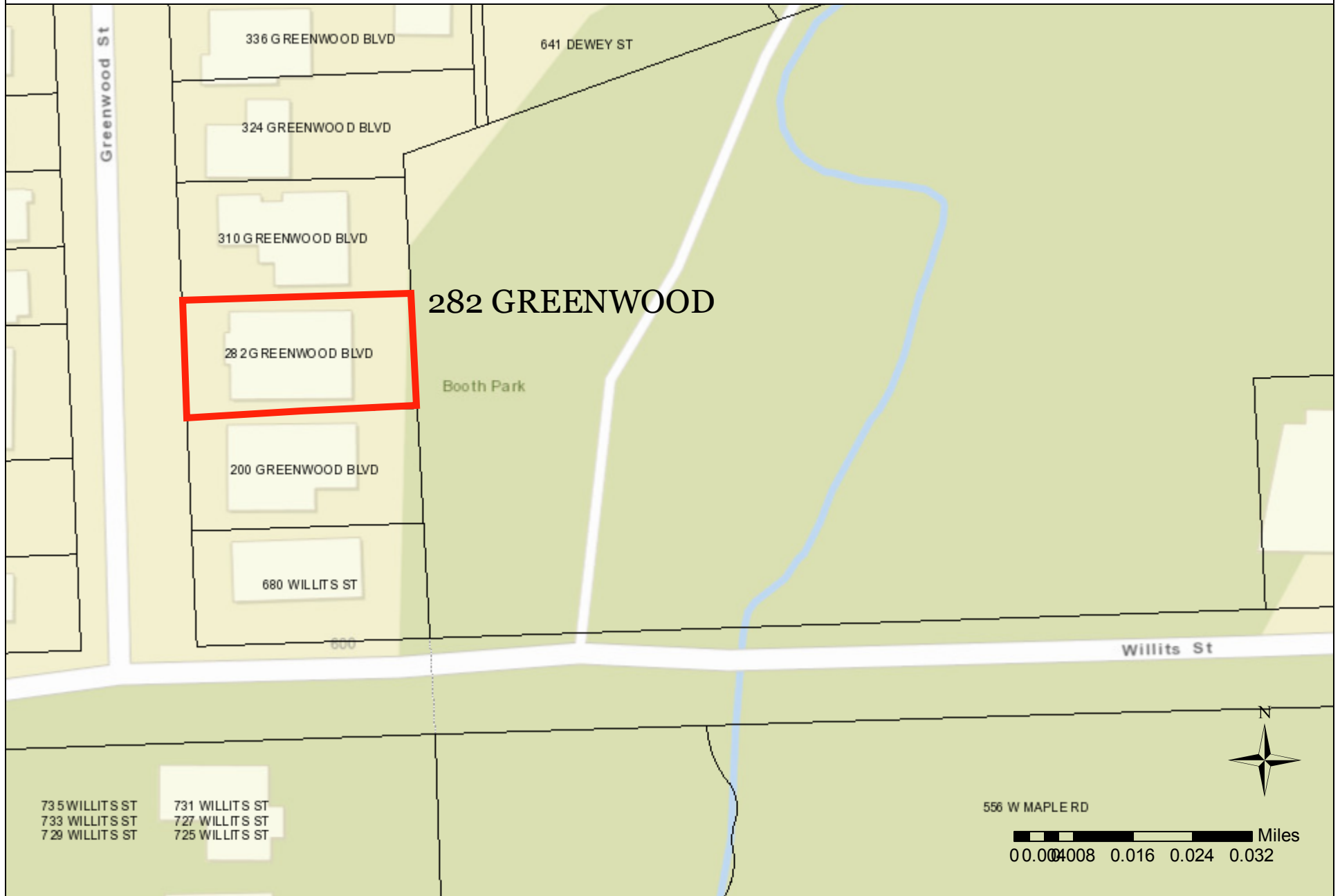
Appeal No. 21-30: The owner of the property known 282 Greenwood, requests the following variances to re-construct existing deck and impervious areas to an existing non-conforming single-family home:

- A. Chapter 126, Article 4.30(C)(5)** of the Zoning Ordinance allows a deck and/or steps may project into the rear open space for a maximum distance of 15.00 feet. This provision shall not reduce the required rear setback to less than 15.00 feet. The proposed it reduce the rear yard setback to 5.00 feet. Therefore; a variance of 10.00 feet is being requested.
- B. Chapter 126, Article 4.31(A)** of the Zoning Ordinance requires that a minimum of 65% (998.53 feet) of the front open space in all single-family districts shall be free of paved surfaces. The existing is 43.19% (663.50 SF) and the proposed is 56.44% (867.00 SF). Therefore a variance of 8.56% (131.53 SF) is being requested.

Staff Notes: The applicant is requesting variances to construct a deck and replace the existing impervious surfaces in the front and rear of the home. The existing home constructed in 1996, which is non-conforming to the current ordinance. This appeal was tabled from July. There was a change to the variance A request.

This property is zoned R2– Single Family Residential.

282 GREENWOOD MAP



CITY OF BIRMINGHAM
Community Development - Building Department
151 Martin Street, Birmingham, MI 48009
Community Development: 248-530-1850
Fax: 248-530-1290 / www.bhamgov.org

APPLICATION FOR THE BOARD OF ZONING APPEALS

Application Date: 6-1-21
Received By: BM

Hearing Date: 7-13-21
Appeal #: 21-30

Type of Variance:	☐ Interpretation	☐ Dimensional	☒ Land Use	☐ Sign	☐ Admin Review
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I. PROPERTY INFORMATION:

Address: <u>282 Greenwood St.</u>	Lot Number: <u>48</u>	Sidwell Number: <u>08-19-25-355-008</u>
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II. OWNER INFORMATION:

Name: <u>Robert Jacobs</u>			
Address: <u>282 Greenwood St.</u>	City: <u>Birmingham</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>868rj@comcast.net</u>	Phone: <u>248-320-8744</u>		

III. PETITIONER INFORMATION:

Name: <u>Robert Jacobs</u>	Firm/Company Name:		
Address: <u>282 Greenwood St.</u>	City: <u>Birmingham</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>868rj@comcast.net</u>	Phone: <u>248-320-8744</u>		

IV. GENERAL INFORMATION:

The Board of Zoning Appeals typically meets the second Tuesday of each month. Applications along with supporting documents must be submitted on or before the 12th day of the month preceding the next regular meeting. Please note that incomplete applications will not be accepted.

To insure complete applications are provided, appellants must schedule a pre-application meeting with the Building Official, Assistant Building Official and/or City Planner for a preliminary discussion of their request and the documents that will be required to be submitted. Staff will explain how all requested variances must be highlighted on the survey, site plan and construction plans. Each variance request must be clearly shown on the survey and plans including a table as shown in the example below. All dimensions to be shown in feet measured to the second decimal point.

The BZA application fee is **\$360.00** for single family residential; **\$560.00** for all others. This amount includes a fee for a public notice sign which must be posted at the property at least 15-days prior to the scheduled hearing date.

Variance Chart Example				
Requested Variances	Required	Existing	Proposed	Variance Amount
Variance A, Front Setback	25.00 Feet	23.50 Feet	23.50 Feet	1.50 Feet
Variance B, Height	30.00 Feet	30.25 Feet	30.25 Feet	0.25 Feet

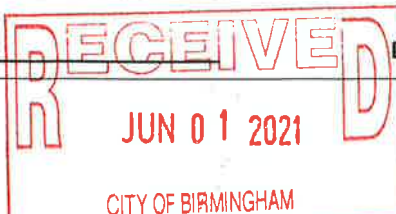
V. REQUIRED INFORMATION CHECKLIST:

- ☐ One original and nine copies of the signed application
- ☐ One original and nine copies of the signed letter of practical difficulty and/or hardship
- ☐ One original and nine copies of the certified survey
- ☐ 10 folded copies of site plan and building plans including existing and proposed floor plans and elevations
- ☐ If appealing a board decision, 10 copies of the minutes from any previous Planning, HDC, or DRB board meeting

VI. APPLICANT SIGNATURE

By signing this application, I agree to conform to all applicable laws of the City of Birmingham. All information submitted on this application is accurate to the best of my knowledge. Changes to the plans are not allowed without approval from the Building Official or City Planner.

Signature of Owner: <u>Robert Jacobs</u>	Date: <u>May 24, 2024</u>
Signature of Petitioner: <u>Robert Jacobs</u>	Date: <u>May 24, 2024</u>



CITY OF BIRMINGHAM
Date: 06/09/2021 9:33:04 AM
Ref: 00180693
Receipt: 578160
Amount: \$360.00

ROBERT JACOBS
288 GREENWOOD ST.
BIRMINGHAM, MI 48009
(248) 320-8744 | 868rj@comcast.net

Letter of Practical Difficulty and/or Hardship

May 24, 2021

City of Birmingham
Community Development - Building Department
151 Martin Street
Birmingham, MI 48009

RE: Application for the Board of Zoning Appeals, Lot 48, Sidwell 08-19-25-355-008

In the process of beautifying our home, which includes landscaping and a deck, we are also correcting a drainage problem on our property.

Although our current open space for total lot coverage and front yard coverage would both be out of compliance to existing requirements, our proposed changes will substantially improve them. We ask your assistance in granting the respective variances to accommodate our proposed changes.

Variance Chart for 288 Greenwood St., Birmingham, MI 48009				
Requested Variances	Required	Existing	Proposed	Variance Amount
Lot coverage % open space	40% or more	29.40%	35.81%	4.19%
Percent front open space	65% or more	43.19%	56.44%	8.56%

Thank you for your consideration.

Warmly submitted,



Robert Jacobs

LOT COVERAGE DETAILS - JACOBS RESIDENCE

282 Greenwood Boulevard, Birmingham, MI 48009

R2 Zoning

May 10, 2021 - **ALL MATERIALS INCLUDED IN COUNT**

Minimum Lot Size 6000 sq ft
Maximum Lot Coverage 30%
Minimum Open Space = 40%
Minimum Front Open Space = 65%

LOT COVERAGE

Description	Current Existing Conditions (sq ft)	Proposed Conditions (sq ft)
Lot Size	7307	7307
Existing House Foot Print	2939.4	2939.4
Frontyard Walk (36" wide)	N/A	N/A
Frontyard Patio/Porch/Walk	184	82.4
Driveway	659.1	559.4
Frontyard Wall	29.6	27.4
Remaining Walls	304.2	71
Side Yard Walk and Steps (Gravel Walk is 36" wide)	229.4	121.8
Back Yard Patio	813.4	505.9
Backyard Deck (excludes SF overlapping patio below)	N/A	307.9
Pond	N/A	74.9
Sum of Above Less Lot Size	5159.1	4690.1

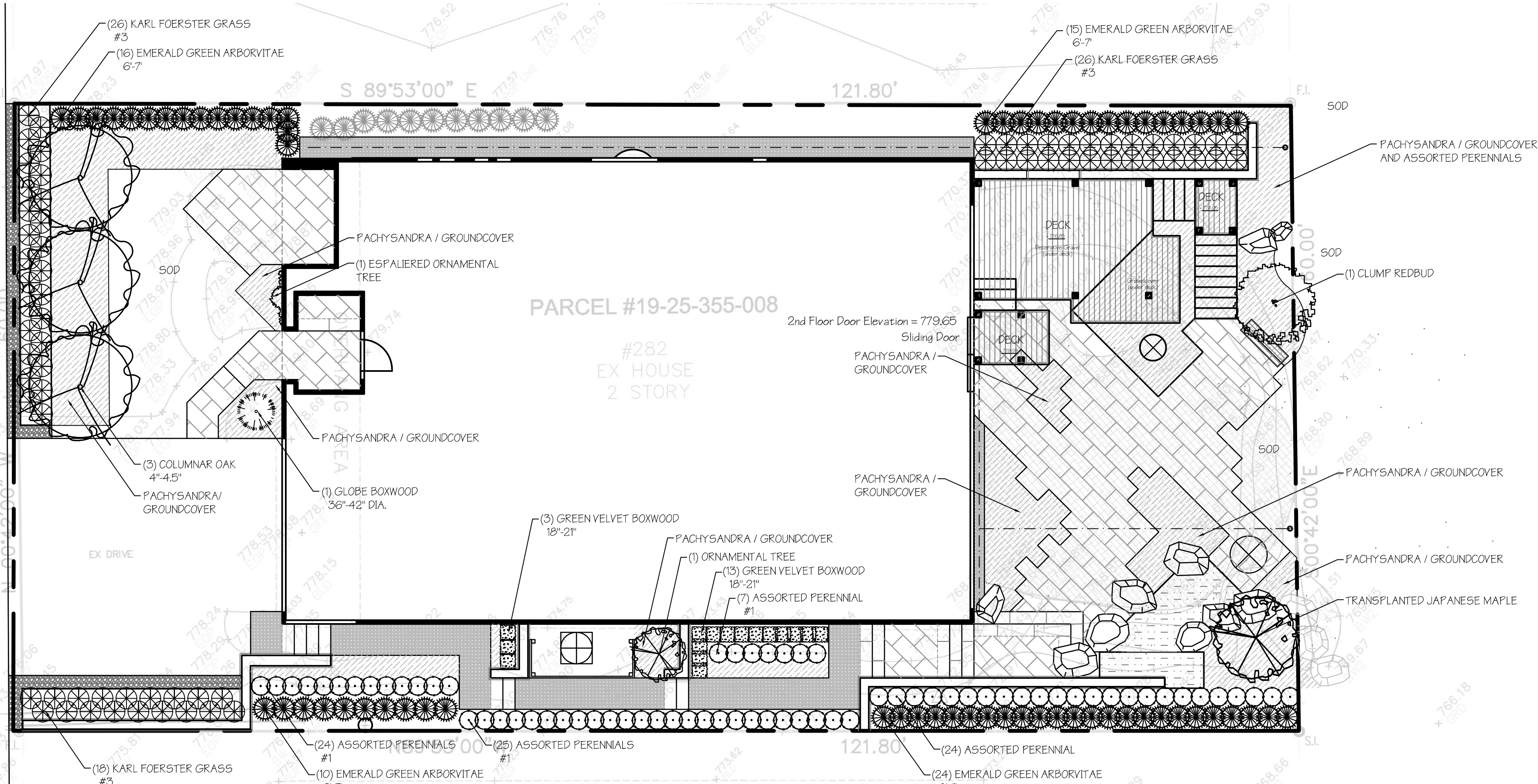
Lot Coverage	40.23%	40.23%
Percent Open Space (40% or more needed)	29.40%	35.81%

FRONT YARD COVERAGE

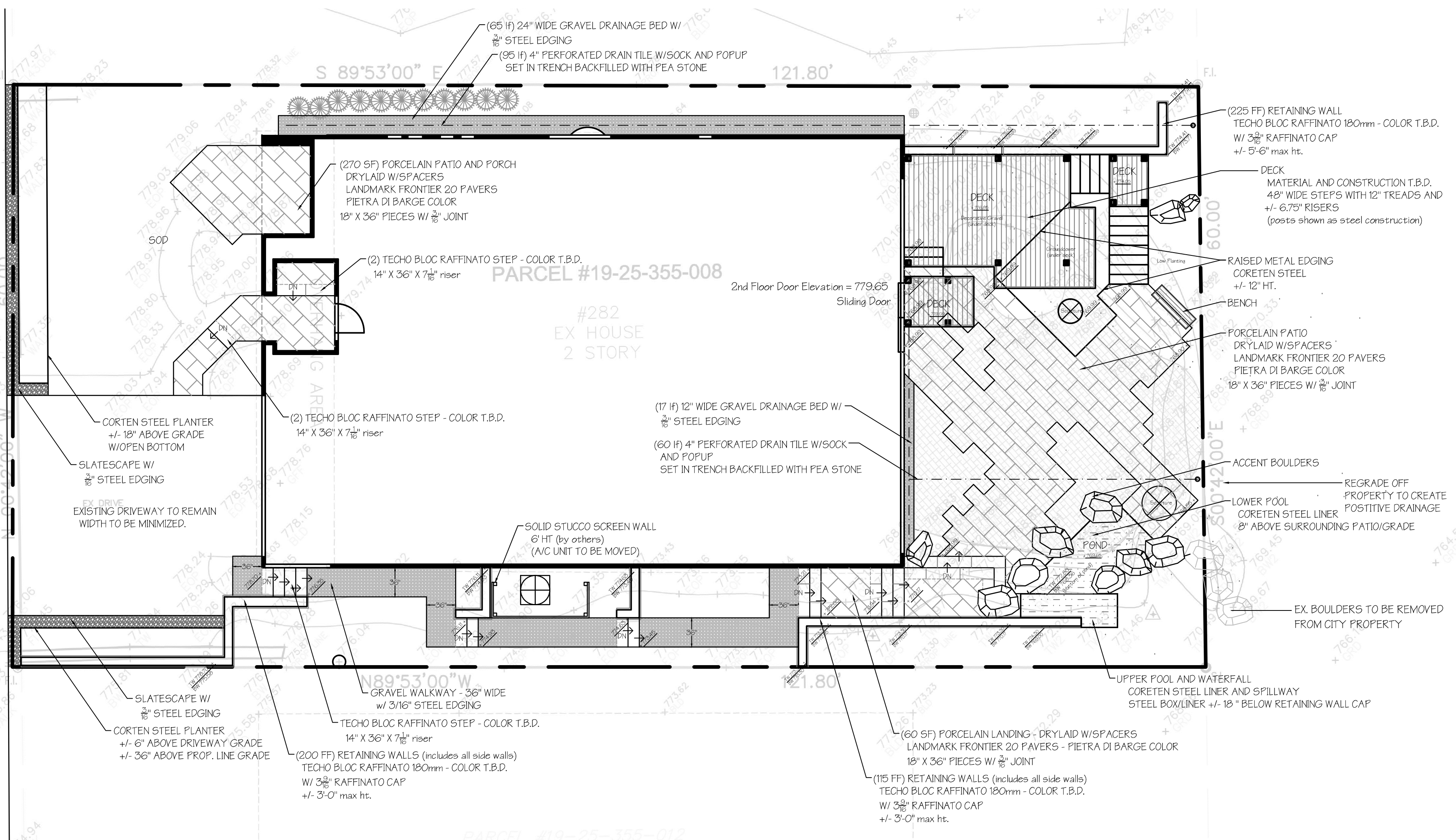
Description	Current Existing Conditions (sq ft)	Proposed Conditions (sq ft)
Front Yard Area	1536.2	1536.2
Frontyard Driveway	659.1	559.4
Frontyard Wall	29.6	27.4
Frontyard Patio/Porch/Walk	184	82.4
Sum of Front Coverage	872.7	669.2

Percent Front Coverage	56.81%	43.56%
Percent Front Open Space (65% or more needed)	43.19%	56.44%

PLANTING PLAN



HARDSCAPE PLAN



** STEP LOCATIONS AND PROPOSED GRADES ARE ESTIMATED. LOCATION AND GRADES MUST BE FINALIZED BY THE ENGINEER AFTER A FULL SURVEY HAS BEEN COMPLETED. **

This plan is a landscape concept and it is intended that the designer be involved to consider on-site conditions and to make any necessary adjustments to the plan for its sole use. Unauthorized use of this plan is prohibited.

Project #:	AUGUST 10, 2020
Scale:	1/8" = 1'-0"
Drawn by:	SAA
Checked by:	GR
Revisions:	
1	DECEMBER 09, 2020
2	FEBRUARY 19, 2021
3	FEBRUARY 23, 2021
4	MARCH 19, 2021
5	APRIL 27, 2021
6	MAY 10, 2021

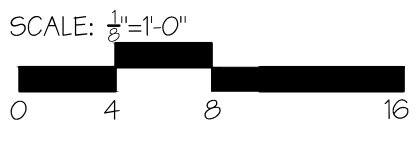
PROJECT: **Jacob Residence**
282 Greenwood St, Birmingham, MI
SUBJECT: **PLANTING AND HARDSCAPE PLANS**
Client: **Robert Jacob**

LANDSCAPE ARCHITECTURE
CONSULTING SERVICES
ALL SEASON MAINTENANCE
NURSERY

GREAT OAKS LANDSCAPE

2805 SAMUEL LINCOLN COURT
PHONE 248.989.3555 • FAX 248.989.3556
• greatoakslandscape.com

4877



CASE DESCRIPTION

1135 Maryland (21-34)

Hearing date: August 10, 2021

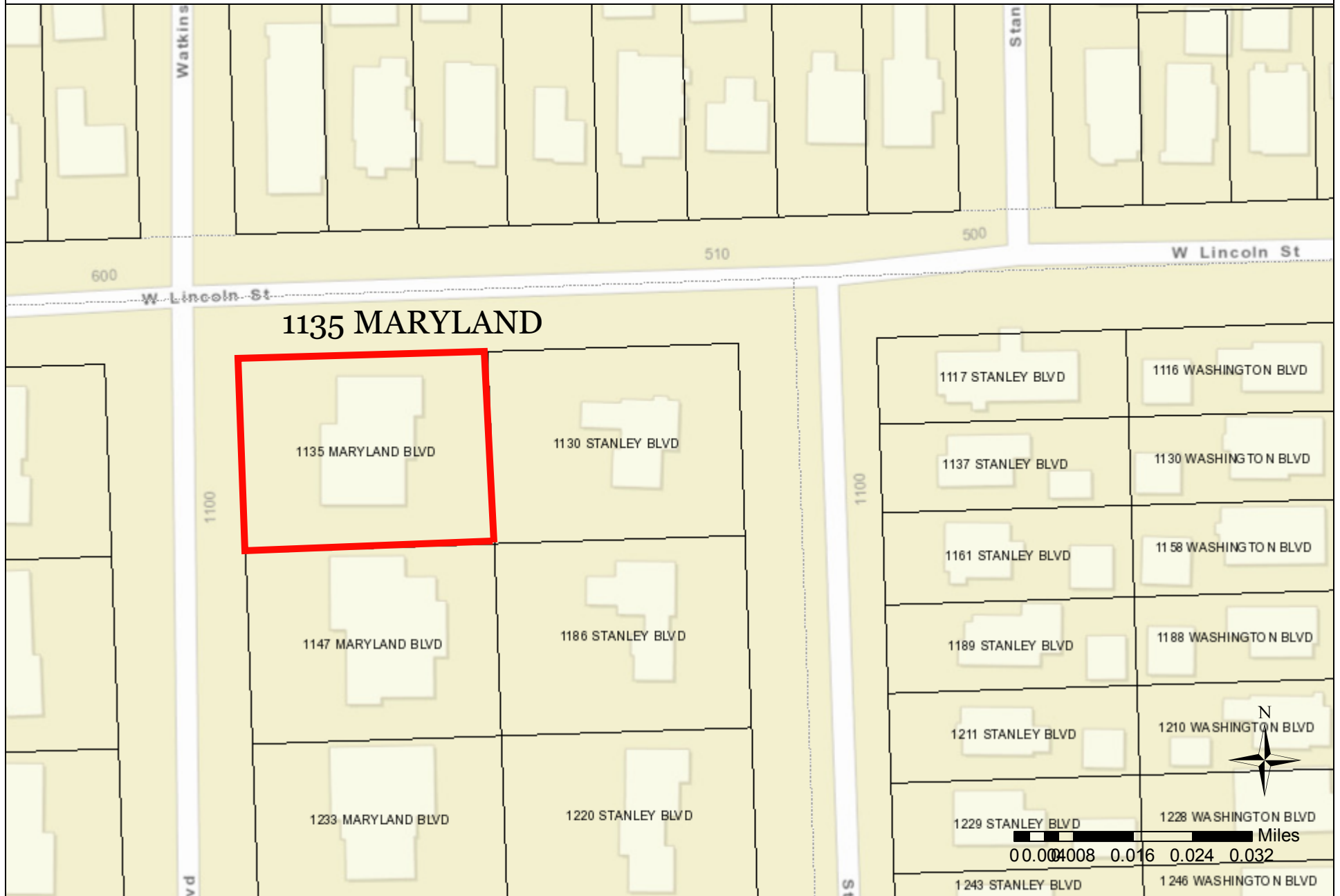
Appeal No. 21-34: The owner of the property known 1135 Maryland, requests the following variances to construct an addition to an existing non-conforming single-family home:

- A. Chapter 126, Article 2.06.2** of the Zoning Ordinance requires that the minimum front yard setback is the average setback of homes with 200 feet in each direction. The required front yard setback is 43.03 feet. The existing and proposed is 40.20 feet. Therefore; a variance of 2.83 feet is being requested.
- B. Chapter 126, Article 4.30(C)(1)** of the Zoning Ordinance allows covered or uncovered porches and/or steps to project into the required front open space for a maximum distance of 10.00 feet. The proposed is 13.50 feet, Therefore; a variance of 3.50 feet is being requested.

Staff Notes: The original home was constructed in 1941. There has been an addition constructed to the home in 1996.

This property is zoned R1– Single Family Residential.

1135 MARYLAND MAP



CITY OF BIRMINGHAM
Community Development - Building Department
151 Martin Street, Birmingham, MI 48009
Community Development: 248-530-1850
Fax: 248-530-1290 /

APPLICATION FOR THE BOARD OF ZONING APPEALS

Application Date: 7-12-21

Hearing Date: _____

Received By: _____

Appeal #: 21-34

Type of Variance: ☐ Interpretation ☒ Dimensional ☐ Land Use ☐ Sign ☐ Admin Review

I. PROPERTY INFORMATION:

Address: 1135 MARYLAND Lot Number: 217 Sidwell Number: 19-363-04-001

II. OWNER INFORMATION:

Name: RANDAL & STEPHANIE TOMA
Address: 1135 MARYLAND ST. City: BIRMINGHAM State: MI Zip code: 48009
Email: RTOMA@TOMA.LAND.COM Phone: 248-94-6363

III. PETITIONER INFORMATION:

Name: CHRIS MORHAN Firm/Company Name: CHRIS MORHAN & ASSOCIATES
Address: 4435 NEWCASTLE DR. City: CLARKSTON State: MI Zip code: 48348
Email: CHRIS@CHRISMORHANANDASSOCIATES.COM Phone: 248-762-5328

IV. GENERAL INFORMATION:

The Board of Zoning Appeals typically meets the second Tuesday of each month. Applications along with supporting documents must be submitted on or before the 12th day of the month preceding the next regular meeting. Please note that incomplete applications will not be accepted.

To insure complete applications are provided, appellants must schedule a pre-application meeting with the Building Official, Assistant Building Official and/or City Planner for a preliminary discussion of their request and the documents that will be required to be submitted. Staff will explain how all requested variances must be highlighted on the survey, site plan and construction plans. Each variance request must be clearly shown on the survey and plans including a table as shown in the example below. All dimensions to be shown in feet measured to the second decimal point.

The BZA application fee is \$360.00 for single family residential, \$560.00 for all others. This amount includes a fee for a public notice sign which must be posted at the property at least 15-days prior to the scheduled hearing date.

Variance Chart Example				
Requested Variances	Required	Existing	Proposed	Variance Amount
Variance A, Front Setback	42.3'	40.7'	30.53'	1.77' (70 STOPS)
	42.3'	40.2'	40.2'	2.1' (2 ND LEVEL)

V. REQUIRED INFORMATION CHECKLIST:

- One original and nine copies of the signed application
- One original and nine copies of the signed letter of practical difficulty and/or hardship
- One original and nine copies of the certified survey
- 10 folded copies of site plan and building plans including existing and proposed floor plans and elevations
- If appealing a board decision, 10 copies of the minutes from any previous Planning, HDC, or DRB board meeting

VI. APPLICANT SIGNATURE

By signing this application, I agree to conform to all applicable laws of the City of Birmingham. All information submitted on this application is accurate to the best of my knowledge. Changes to the plans are not allowed without approval from the Building Official or City Planner.

*By providing your email to the City, you agree to receive news and notifications from the City. If you do not wish to receive these messages, you may unsubscribe at any time.

Signature of Owner: [Signature]

Date: 6/28/2021

Signature of Petitioner: [Signature]

Date: 6/28/21

July 30, 2021

City of Birmingham
Board of Zoning Appeals
151 Martin St.
Birmingham, MI 48009



RE: 1135 Maryland Blvd.
Birmingham, MI 48009

Dear Board Members,

Chris Morgan & Associates, Inc. is requesting a dimensional variance for a covered front porch and an expansion of the second level to the existing front wall of the main level.

The dimensional variance required for the front porch is 3.5' to the steps, taking into account that the covered porch can encroach into the front yard setback 10'-0". The dimensional variance required to the second level expansion is 2.83'. This lines the second-level front wall and dormers up with the main-level front wall.

We believe we have a hardship, due to the fact that the existing home is not currently compliant with the current zoning ordinance. The existing uncovered front porch already encroaches 3.5' into the front setback. We are simply covering the porch with a roof. The new area of the porch complies with the required setbacks. For the second level expansion, again the existing house is non-compliant, so in order for us to line up the walls, it requires a variance.

We feel our requests are reasonable, because we are not increasing the non-compliance and we are maintaining the current setbacks. For this reason we feel that our request does not negatively affect the adjacent neighbors.

Thank you for your consideration of our request for the dimensional variances for our project. If you have any questions, please feel free to contact me at my office, (248) 393-3462.

Respectfully,

A handwritten signature in black ink, appearing to read "Chris Morgan", with a long, sweeping horizontal stroke extending to the right.

Chris Morgan, CPBD
President

chris@chrismorganandassociates.com

Chris Morgan & Associates, Inc.
4435 Newcastle Drive, Clarkston, MI 48348
(248) 393-3462 office / (248) 762-5328 mobile



EXHIBIT SURVEY

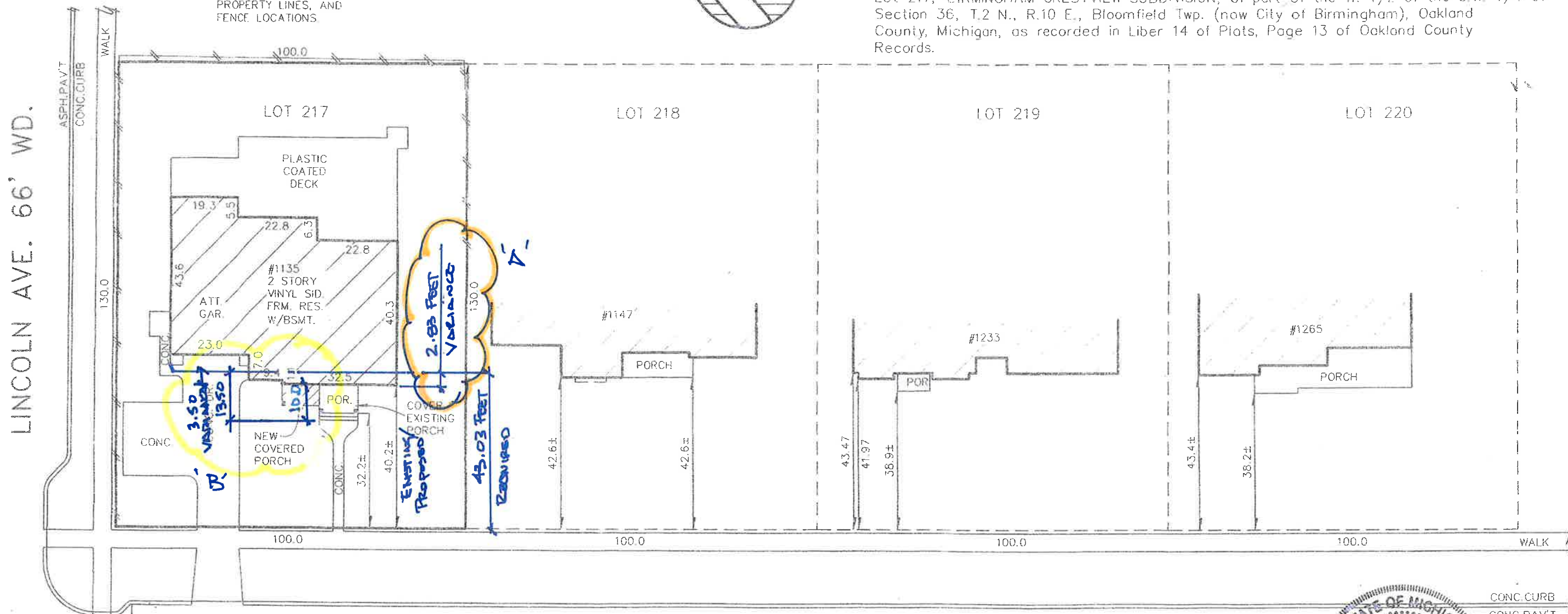


Certified to: CHRIS MORGAN & ASSOCIATES, INC.

Property Description:

Lot 217; BIRMINGHAM CRESTVIEW SUBDIVISION, of part of the W. 1/2 of the S.W. 1/4 of Section 36, T.2 N., R.10 E., Bloomfield Twp. (now City of Birmingham), Oakland County, Michigan, as recorded in Liber 14 of Plats, Page 13 of Oakland County Records.

NOTE: A BOUNDARY SURVEY IS NEEDED TO DETERMINE EXACT SIZE AND/OR LOCATION OF PROPERTY LINES, AND FENCE LOCATIONS.



CERTIFICATE: We hereby certify that we have surveyed the above-described property in accordance with the description furnished for the purpose of a mortgage loan to be made by the forementioned applicants, mortgagor, and that the buildings located thereon do not encroach on the adjoining property, nor do the buildings on the adjoining property encroach upon the property heretofore described, except as shown. This survey is not to be used for the purpose of establishing property lines, nor for construction purposes, no stakes having been set at any of the boundary corners.

MARYLAND BLVD. 70' WD.

VARIANCE 'A'
 VARIANCE 'B'



THIS SURVEY IS VOID IF THE PROFESSIONAL SEAL IS NOT IN BLUE INK.

[Handwritten signature]

JOB NO: 21-01157 SCALE: 1=30'
DATE: 04/30/21 DR BY: CS



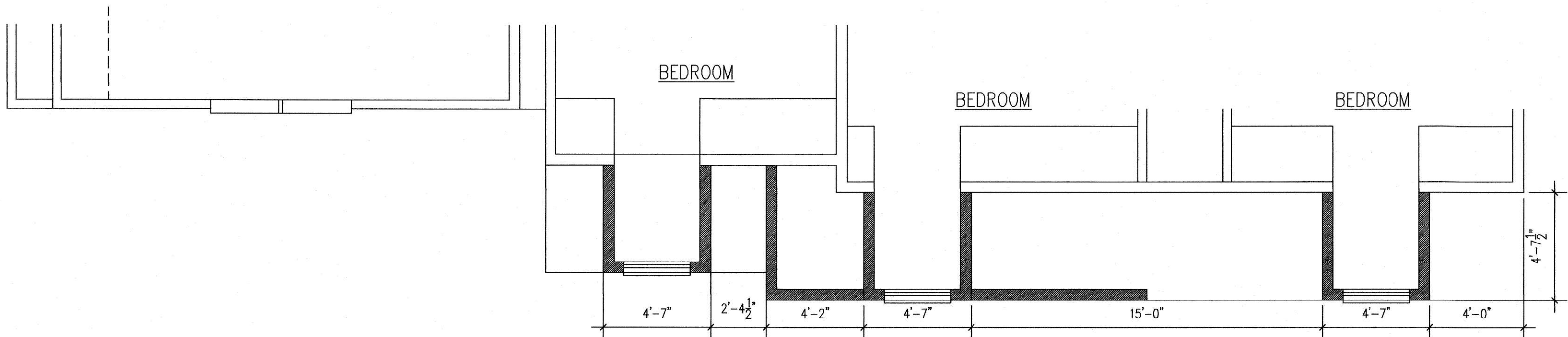
A GROUP OF COMPANIES
Eastpointe (800) 295.7222
Detroit (313) 758.0577
Ann Arbor (734) 994.0888
Grand Blanc (888) 694.0001
FAX: (586) 772.4048 FAX: (586) 772.4048 FAX: (734) 994.0667 FAX: (810) 694.9955
www.kemtecagroupofcompanies.com

WALL LEGEND

NEW CONSTRUCTION

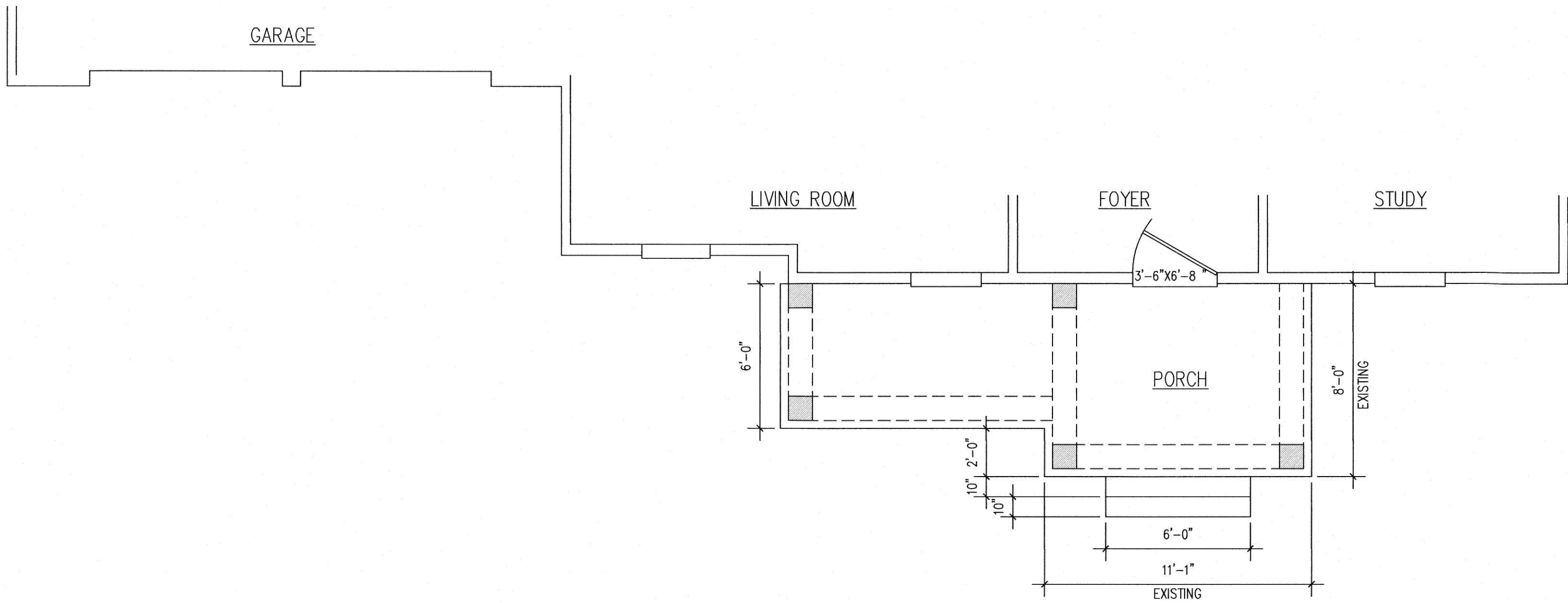
EXISTING CONSTRUCTION

CONSTRUCTION TO BE REMOVED



SECOND LEVEL PLAN

SCALE: 1/4" = 1'-0"



MAIN LEVEL PLAN

SCALE: 1/4" = 1'-0"

VARIANCE REQUESTS				
REQUIRED VARIANCES	REQUIRED	EXISTING	PROPOSED	VARIANCE AMOUNT
SECOND LEVEL FRONT YARD SETBACK	42.3'	40.2'	40.2'	2.1'
FRONT PORCH FRONT YARD SETBACK	42.3'-10' = 32.3'	30.53'	30.53'	1.77' TO STEPS



AS-BUILT FRONT ELEVATION

SCALE: 1/4" = 1'-0"

CHRIS MORGAN & ASSOCIATES, INC.
DESIGN-BUILD
4435 NEWCASTLE DR., CLARKSTON MI 48348 248-393-3462

RANDY & STEPHANIE TOMA RESIDENCE
1135 MARYLAND, BLOOMFIELD HILLS, 48009

DRAWN BY:
C. MORGAN

REVISIONS:

PAGE NO. #

E X



LEFT ELEVATION

SCALE: 1/4" = 1'-0"



FRONT ELEVATION

SCALE: 1/4" = 1'-0"



RIGHT ELEVATION

SCALE: 1/4" = 1'-0"



REAR ELEVATION

SCALE: 1/4" = 1'-0"

CASE DESCRIPTION

375 Lakepark (21-36)

Hearing date: August 10, 2021

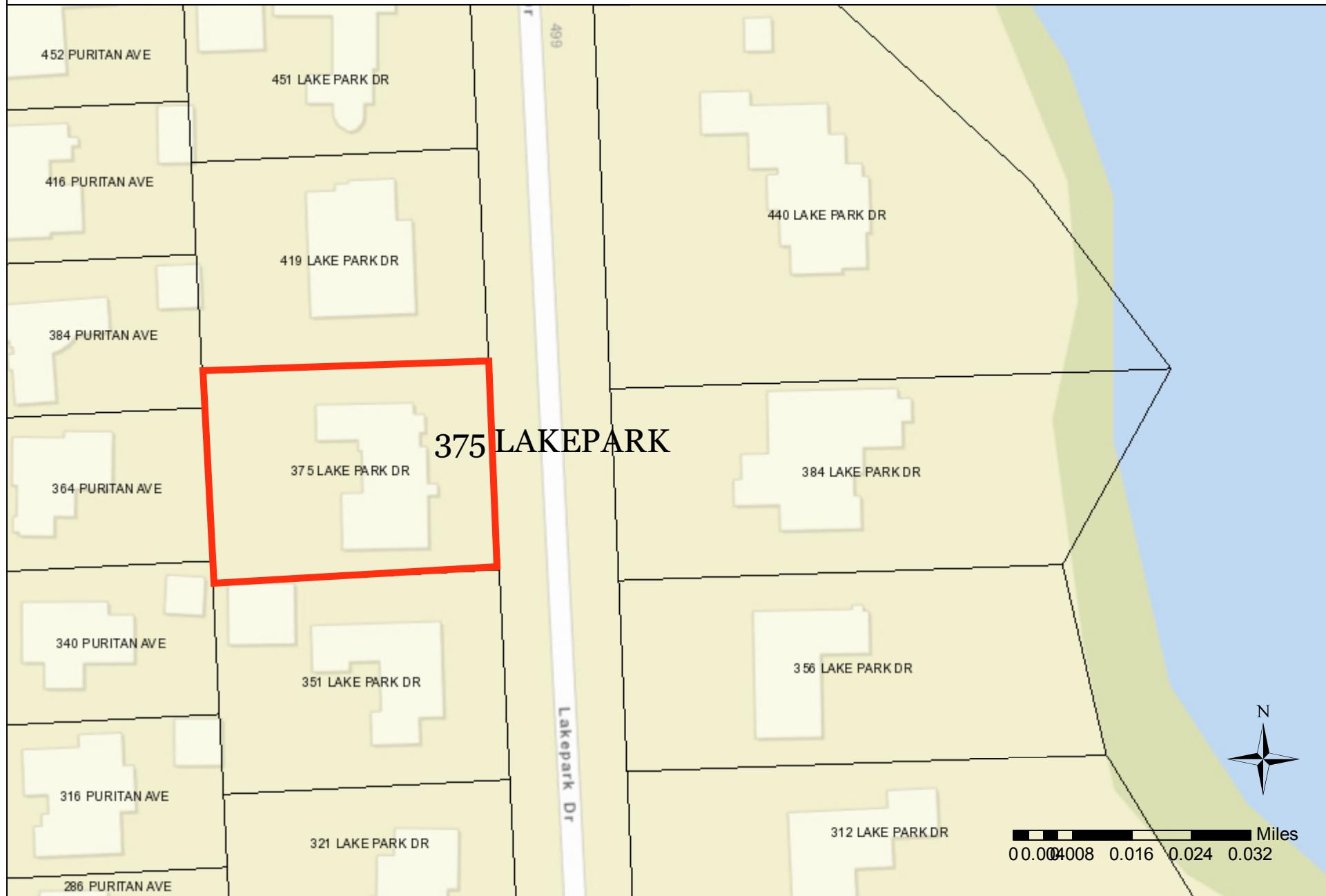
Appeal No. 21-36: The owner of the property known 375 Lakepark, requests the following variances to construct an addition to an existing non-conforming single-family home:

- A. Chapter 126, Article 2.06.2** of the Zoning Ordinance requires that the minimum front yard setback is the average setback of homes with 200 feet in each direction. The required front yard setback is 45.50 feet. The proposed is 43.60 feet. Therefore; a variance of 1.90 feet is being requested.
- B. Chapter 126, Article 4.75(B)(1)** of the Zoning Ordinance required that no individual dormer may exceed 8.00 feet in width as measured to the interior dimension. The existing is 16.75 feet. The proposed 11.33 feet, Therefore; a variance of 3.33 feet is being requested.

Staff Notes: The original home was constructed in 1926 and had an addition in 2003. The applicant is looking to renovate the existing home. The existing home is non-conforming with the required front yard setback, along with an existing dormer in the rear of the home exceeds the allowable width per the current ordinance. The applicant was in front of the board in July 2021 (see draft minutes from July). The applicant reworked the existing plan due to the decision of the previous appeal.

This property is zoned R1– Single Family Residential.

375 LAKEPARK MAP



CITY OF BIRMINGHAM
Community Development - Building Department
151 Martin Street, Birmingham, MI 48009
Community Development: 248-530-1850
Fax: 248-530-1290 / www.bhamgov.org
APPLICATION FOR THE BOARD OF ZONING APPEALS

Application Date: _____

Received By: _____

Hearing Date: 7-1-36

Appeal #: _____

Type of Variance:	☐ Interpretation	☐ Dimensional	☐ Land Use	☐ Sign	☐ Admin Review
-------------------	---	--------------------------------------	-----------------------------------	-------------------------------	---------------------------------------

I. PROPERTY INFORMATION:

Address: <u>375 LAKE PARK</u>	Lot Number:	Sidwell Number:
-------------------------------	-------------	-----------------

II. OWNER INFORMATION:

Name: <u>TODD FINK</u>				
Address: <u>375 LAKE PARK</u>	City: <u>BIRMINGHAM</u>	State: <u>MI</u>	Zip code: <u>48009</u>	
Email: <u>TFINK@O2INVESTMENT.COM</u>	Phone:			

III. PETITIONER INFORMATION:

Name: <u>BEN HELLER</u>	Firm/Company Name: <u>HELLER & ASSOC.</u>			
Address: <u>7 S. PERRY ST.</u>	City: <u>PONTIAC</u>	State: <u>MI</u>	Zip code: <u>48342</u>	
Email: <u>DABATE@HELLERHOMES.NET</u>	Phone: <u>248-762-3824</u>			

IV. GENERAL INFORMATION:

The Board of Zoning Appeals typically meets the second Tuesday of each month. Applications along with supporting documents must be submitted on or before the 12th day of the month preceding the next regular meeting. Please note that incomplete applications will not be accepted.

To insure complete applications are provided, appellants must schedule a pre-application meeting with the Building Official, Assistant Building Official and/or City Planner for a preliminary discussion of their request and the documents that will be required to be submitted. Staff will explain how all requested variances must be highlighted on the survey, site plan and construction plans. Each variance request must be clearly shown on the survey and plans including a table as shown in the example below. All dimensions to be shown in feet measured to the second decimal point.

The BZA application fee is \$360.00 for single family residential; \$560.00 for all others. This amount includes a fee for a public notice sign which must be posted at the property at least 15-days prior to the scheduled hearing date.

Variance Chart Example				
Requested Variances	Required	Existing	Proposed	Variance Amount
Variance A, Front Setback	25.00 Feet	23.50 Feet	23.50 Feet	1.50 Feet
Variance B, Height	30.00 Feet	30.25 Feet	30.25 Feet	0.25 Feet

V. REQUIRED INFORMATION CHECKLIST:

- ☐ One original and nine copies of the signed application
- ☐ One original and nine copies of the signed letter of practical difficulty and/or hardship
- ☐ One original and nine copies of the certified survey
- ☐ 10 folded copies of site plan and building plans including existing and proposed floor plans and elevations
- ☐ If appealing a board decision, 10 copies of the minutes from any previous Planning, HDC, or DRB board meeting

VI. APPLICANT SIGNATURE

By signing this application, I agree to conform to all applicable laws of the City of Birmingham. All information submitted on this application is accurate to the best of my knowledge. Changes to the plans are not allowed without approval from the Building Official or City Planner.

Signature of Owner: [Signature]

Date: 7.12.21

Signature of Petitioner: [Signature]

Date: 7.12.21



July 23, 2021

Todd & Nicole Fink
375 Lake Park
Birmingham, MI 48009

The existing home is pre-existing non-conforming.

The front wall of the foyer is the only wall that is pre-existing non-conforming. The existing front wall of the foyer sits 1.9' into the average front yard setback. Although the proposed project does not encroach any further into the front setback than is existing, any alteration to the front entry wall which is pre-existing non-conforming triggers the requirement for BZA review.

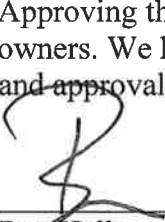
The ordinance does allow a covered, with open sides, front porch to create coverage to encroach up to 10.0' into the front yard setback. This means that the subject property can extend a porch roof out from the home 8.1' from the existing entry wall.

Our current request is to alter the existing front gable to receive a new front open sided covered porch. The alteration to the pre-existing non-conforming front gable does not increase the dimensional pre-existing non-conformity. The front door will remain in the exact same location and the front wall will not encroach any further than existing. An open sided covered front porch is proposed that extends 8.1' from the existing front wall. This proposed covered space is conforming.

Hardship:

The home predates the ordinance (the home is pre-existing non-conforming). This home was constructed many years before the ordinance was created, therefore this situation was not self-created.

Approving the proposed alteration would not damage any of the neighboring property owners. We have reviewed this with the adjoining neighbors and have their full support and approval.



Ben Heller
President

TOPOGRAPHIC SURVEY

PROPERTY DESCRIPTION:

LOT 320, OF "QUARTON LAKE ESTATES SUBDIVISION" OF THE EAST 1/2 OF SECTION 26, AND PART OF THE NORTHEAST 1/4 OF SECTION 35 AND THE NORTHWEST 1/4 OF SECTION 25, TOWN 2 NORTH, RANGE 10 EAST, BLOOMFIELD TOWNSHIP (NOW CITY OF BIRMINGHAM), OAKLAND COUNTY, MICHIGAN AS RECORDED IN LIBER 14 OF PLATS, PAGE 6, 6A AND 6B OF OAKLAND COUNTY RECORDS.

NOTES:

- 1. A CURRENT TITLE POLICY HAS NOT BEEN FURNISHED AT TIME OF SURVEY, THEREFORE EASEMENTS AND/OR ENCUMBRANCES AFFECTING SUBJECT PARCEL MAY NOT BE SHOWN.
- 2. DUE TO SNOW COVER SOME SURFACE LEVEL FEATURES MAY NOT BE SHOWN.
- 3. SEE SHEET 2 FOR DETAILS.

BENCHMARKS

CITY OF BIRMINGHAM BENCHMARK #22
ELEVATION = 753.76
BRASS CAP AT N.W. CORNER OF
MAPLE ROAD AND LAKE PARK.

LAKE PARK DRIVE
60' RIGHT OF WAY
ASPHALT



SCALE: 1"=20'



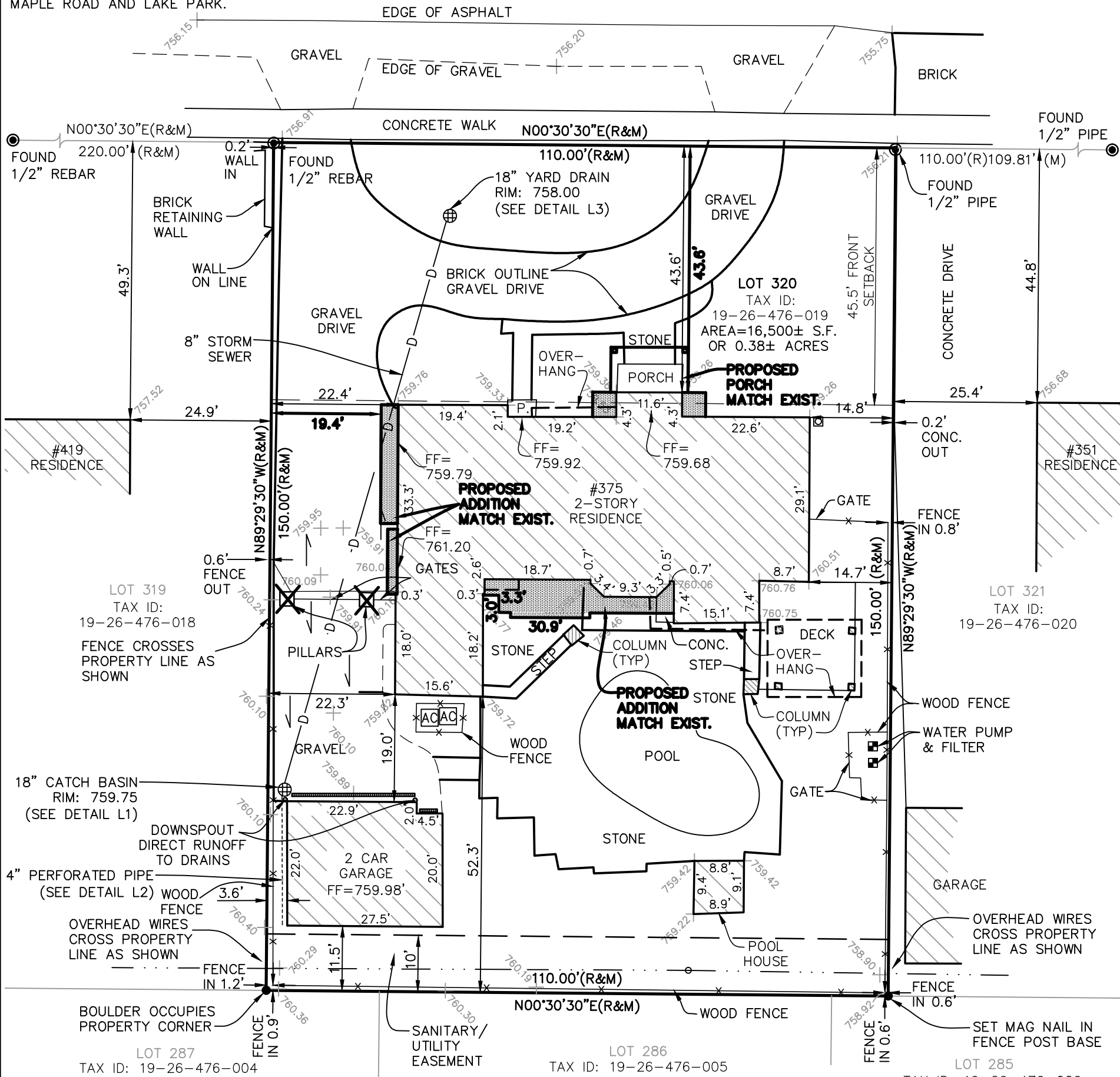
SITE BENCHMARK
SANITARY MANHOLE
RIM=755.95

LOT COVERAGE

	SQ FT	%
PROP. HOUSE	2943.0	17.8
GARAGE	595.9	3.6
POOL HOUSE	81.5	0.5
CABANA	227.0	1.4
TOTAL	3847.4	23.3

EXIST. HOUSE	2659.7	16.1
GARAGE	595.9	3.6
POOL HOUSE	81.5	0.5
CABANA	227.0	1.4
TOTAL	3564.0	21.6

LOT AREA 16499.0



FRONT SETBACK TABLE

HOUSE ADDRESS:	DISTANCE:	MEASURED TO:
#451	49.9'	HOUSE
#419	49.3'	HOUSE
#375	43.6'	HOUSE
#351	44.8'	HOUSE
#321	39.9'	HOUSE
AVERAGE	45.5'	

OPEN SPACE

REAR YARD OPEN SPACE = 44%

ACCESSORY STRUCTURE SIZE

MAX ALLOWABLE = 675 SQ FT
EXISTING POOL HOUSE = 81 SQ FT
GARAGE = 594 SQ FT
TOTAL = 675 SQ FT

LEGEND

- SET 1/2" REBAR WITH CAP, #47976
- ⊙ FOUND MONUMENT (AS NOTED)
- (M) MEASURED DIMENSION
- (R) RECORD DIMENSION
- × 000.0 GROUND ELEVATION

I HEREBY CERTIFY THAT I HAVE SURVEYED THE PROPERTY HEREIN DESCRIBED. THE ELEVATIONS SHOWN HEREON ARE BASED ON A FIELD SURVEY AND THE DRAWING HEREON DELINEATED IS A CORRECT REPRESENTATION OF THE SAME.

ANTHONY T. SYCKO, JR., P.S.
PROFESSIONAL SURVEYOR
MICHIGAN LICENSE NO. 47976



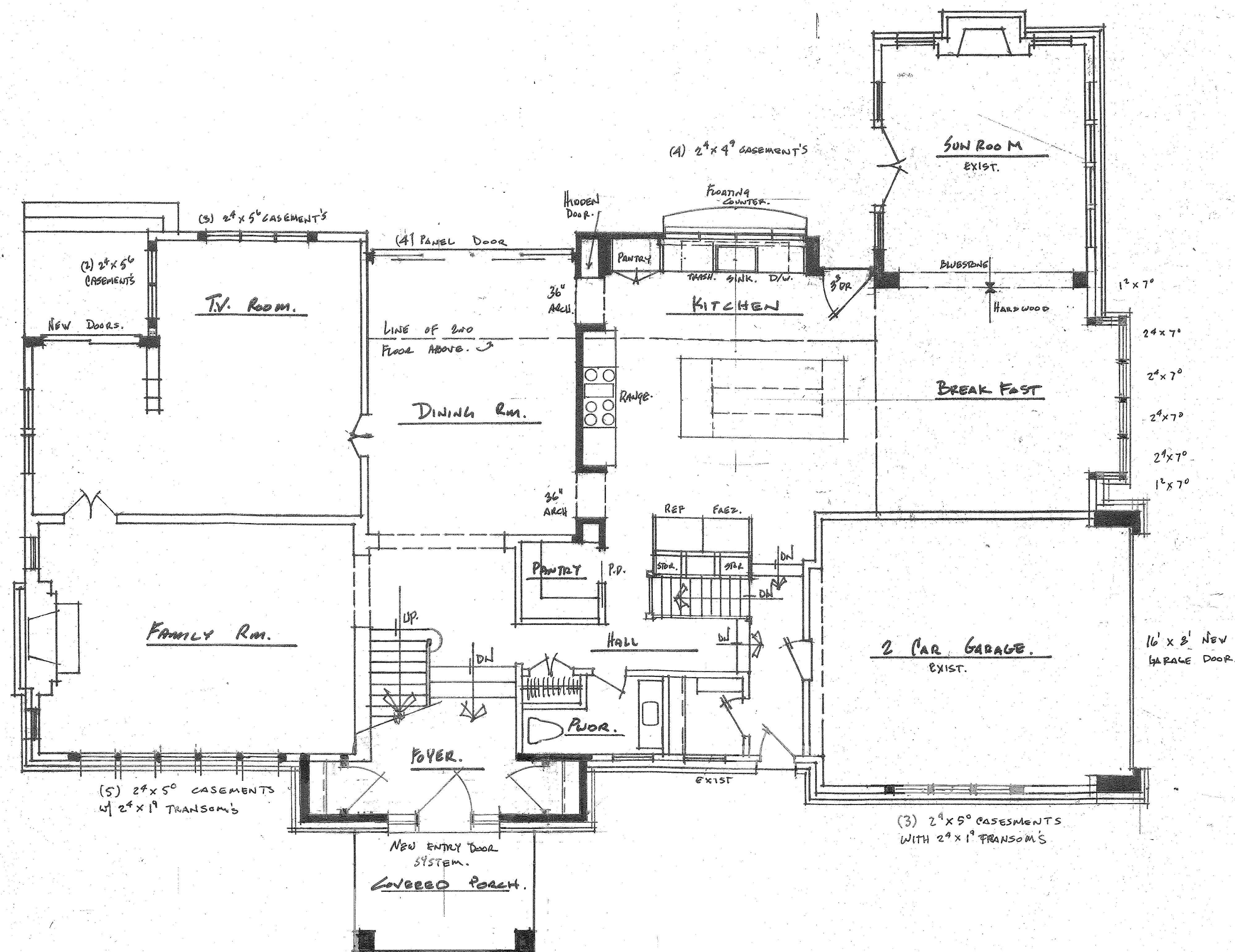
REVISED JULY 22, 2021 - PROPOSED IMPROVEMENTS
REVISED JULY 01, 2021 - ADDED LOT COVERAGE



KEM-TEC & ASSOCIATES

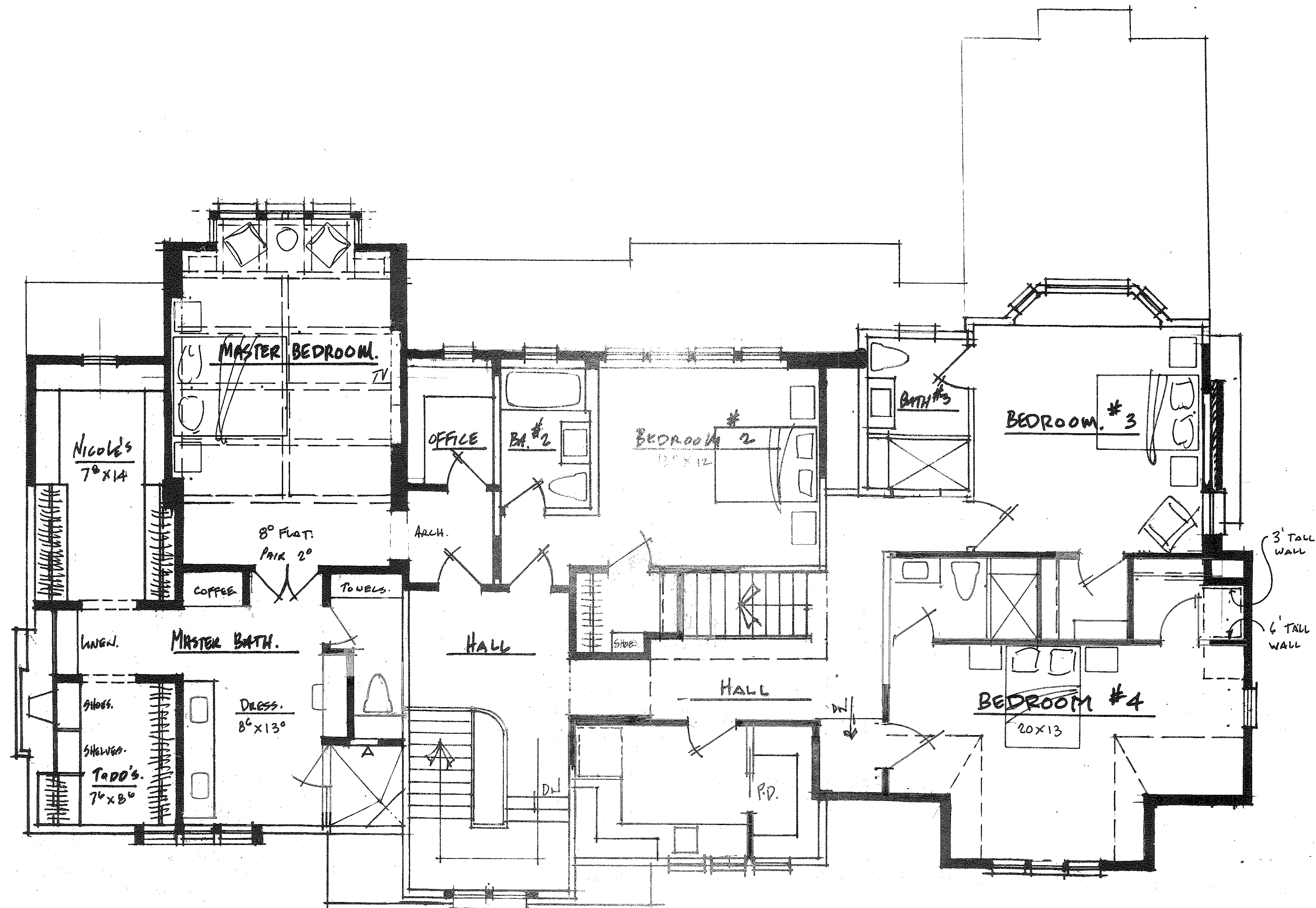
22556 GRATIOT AVE. EASTPOINTE, MI 48021
PROFESSIONAL SURVEYORS - PROFESSIONAL ENGINEERS
(586)772-2222 * FAX (586)772-4048

CERTIFIED TO: MORGAN HELLER & ASSOCIATES	
FIELD SURVEY: KB MM JS VR	DATE: FEBRUARY 17, 2015
DRAWN BY: SK	SHEET: 1 OF 2
SCALE: 1" = 20'	JOB NO.: 15-00305



MAIN LEVEL FLOOR PLAN

SCALE: 1/4" = 1'-0"



SECOND LEVEL FLOOR PLAN (OPTION B)
 (REVISED BED #4)
 SCALE: 1/4" = 1'-0"



HELLER & ASSOCIATES
 DESIGN + BUILD
 7 SOUTH PERRY STREET - PONTIAC, MICHIGAN 48342 - OFFICE (248) 322-0771 FAX (248) 322-0222 - www.hellerandassociates.com

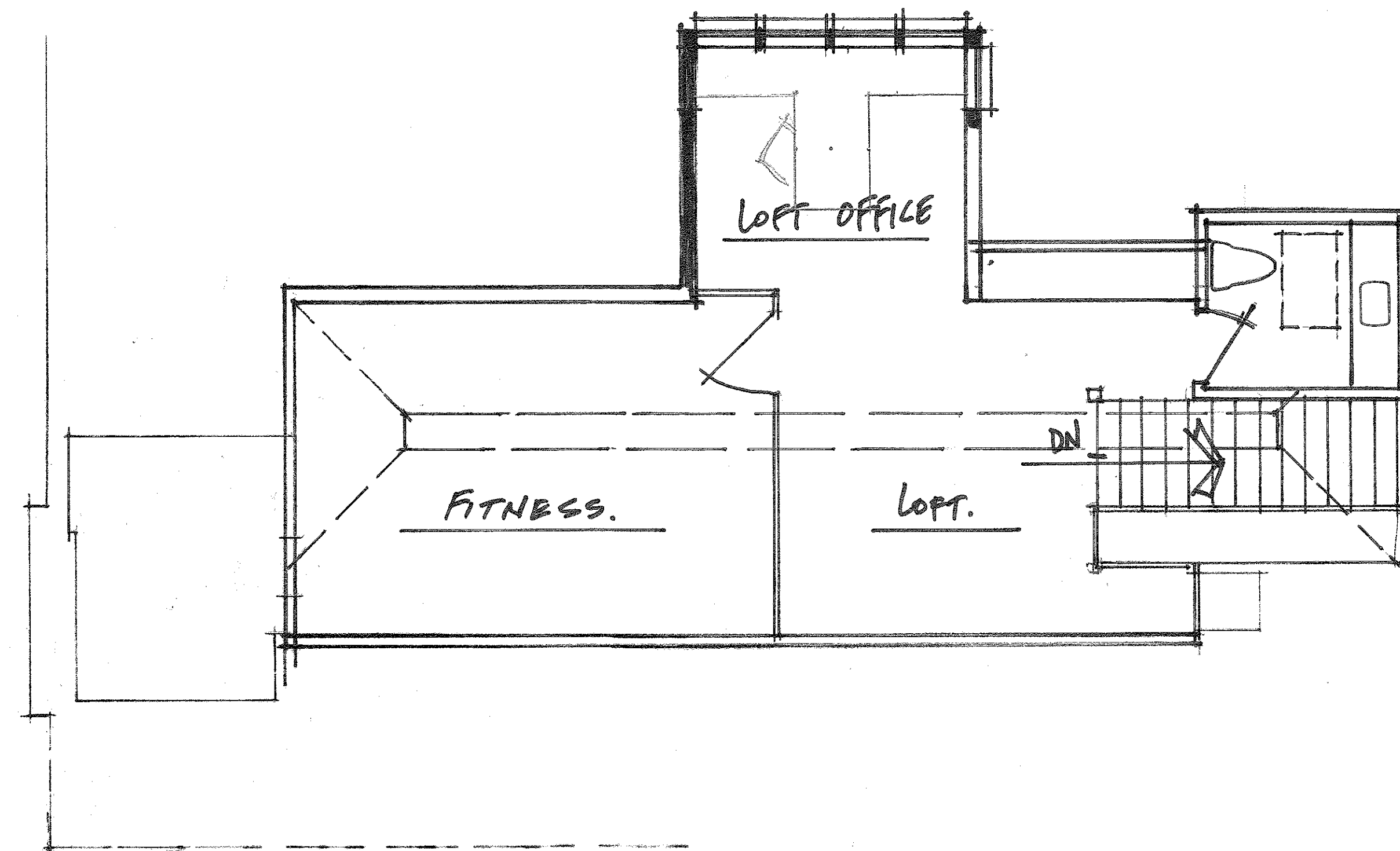
TODD & NICOLE PINK RESIDENCE
 375 LAKE PARK
 BIRMINGHAM MI 48009

2nd Floor A.
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 D. ABATE

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 7.9.21
 7.22.21

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LOFT FLOOR PLAN

SCALE: 1/4" = 1'-0"



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A.3



FRONT ELEVATION "A"
SCALE: 1/4" = 1'-0"



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Todd & Nicole Fink Residence
375 Lakeland
Birmingham AL 35209

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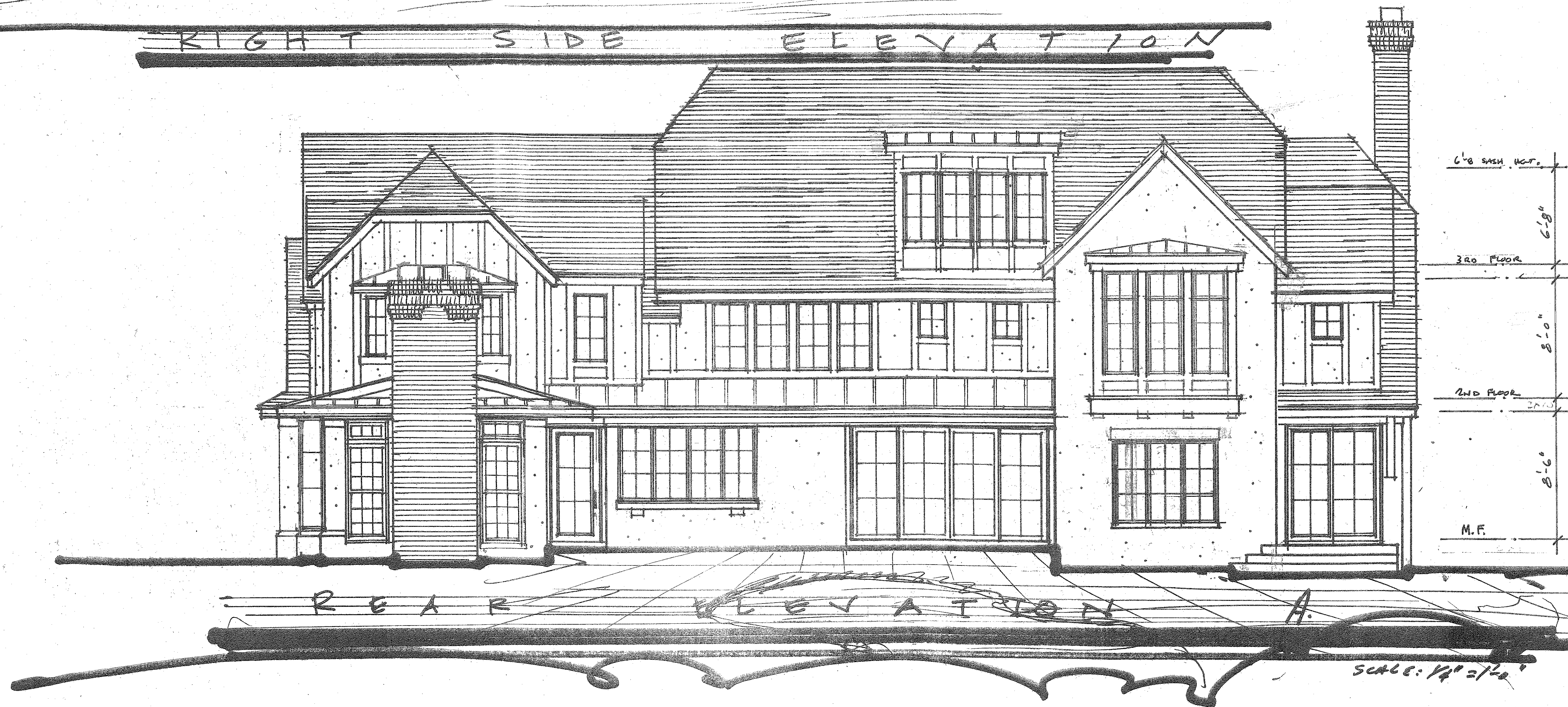
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A.4



RIGHT SIDE ELEVATION



REAR ELEVATION

SCALE: 1/4" = 1'-0"



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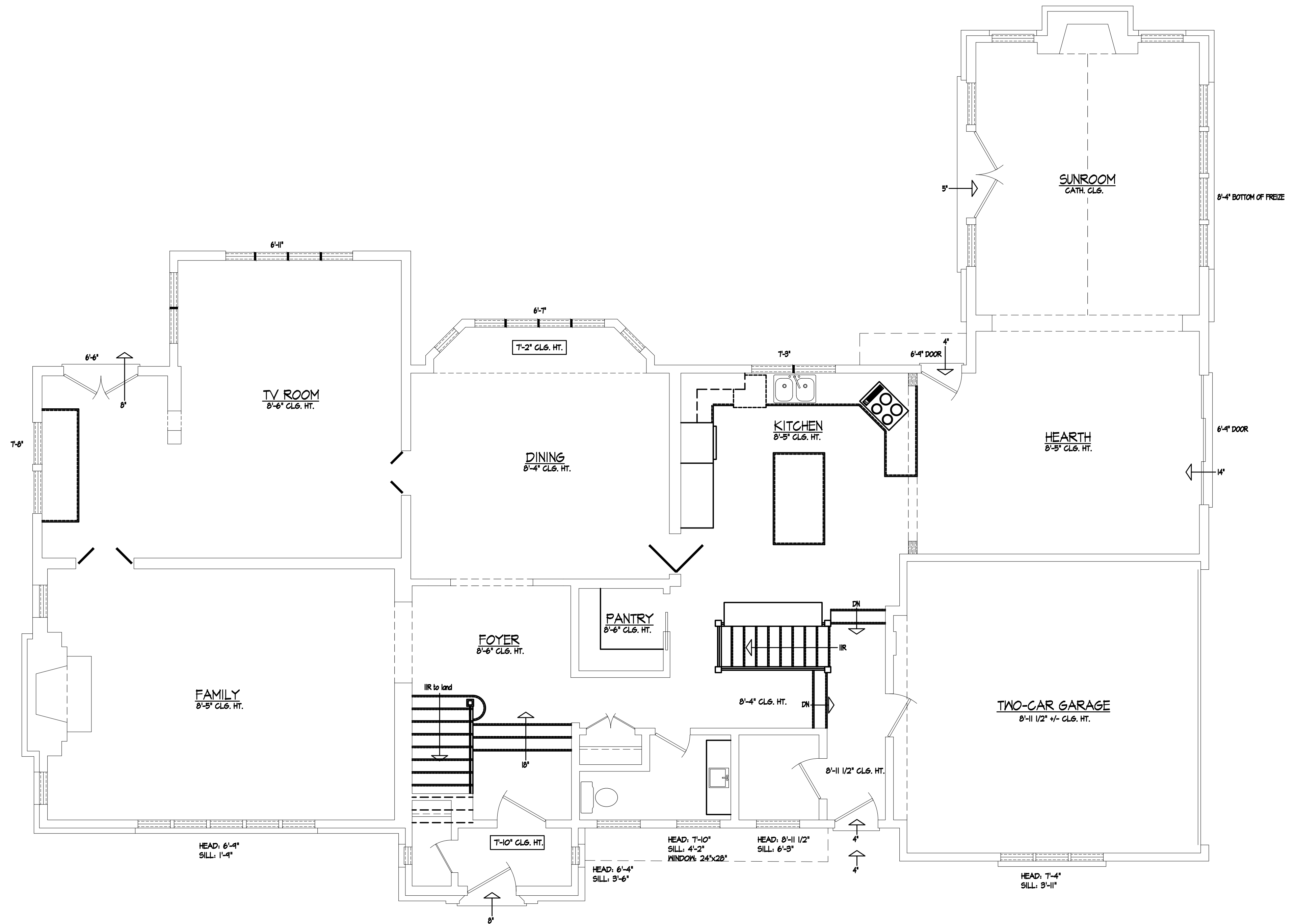
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BIRMINGHAM AL 35209

ELEVATION'S A.
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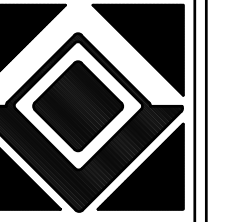
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A-5



MAIN LEVEL AS-BUILT PLAN

SCALE: 1/4" = 1'-0"



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FINK RESIDENCE
375 Lake Park, Birmingham, MI 48009

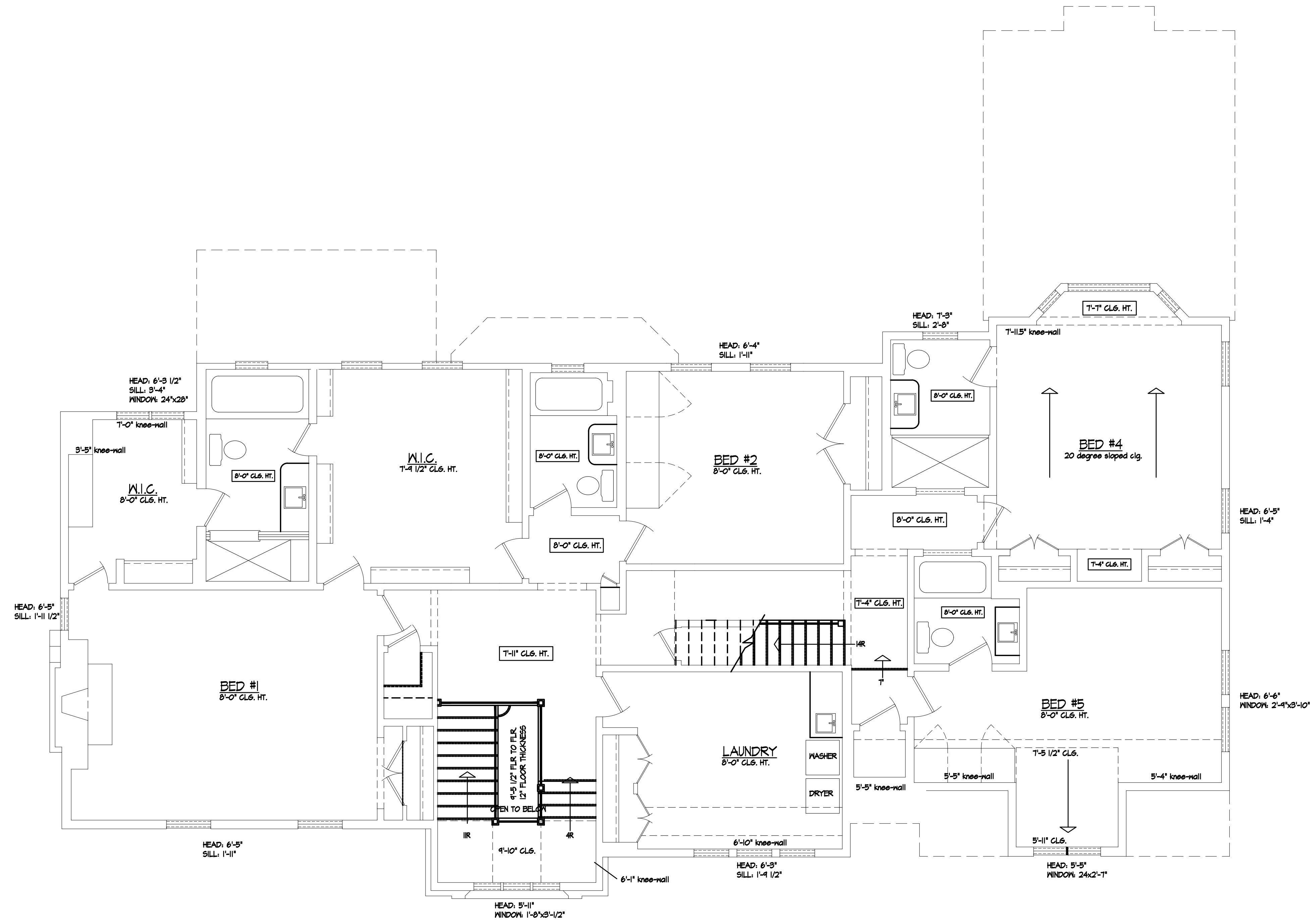
MAIN LEVEL
AS-BUILT
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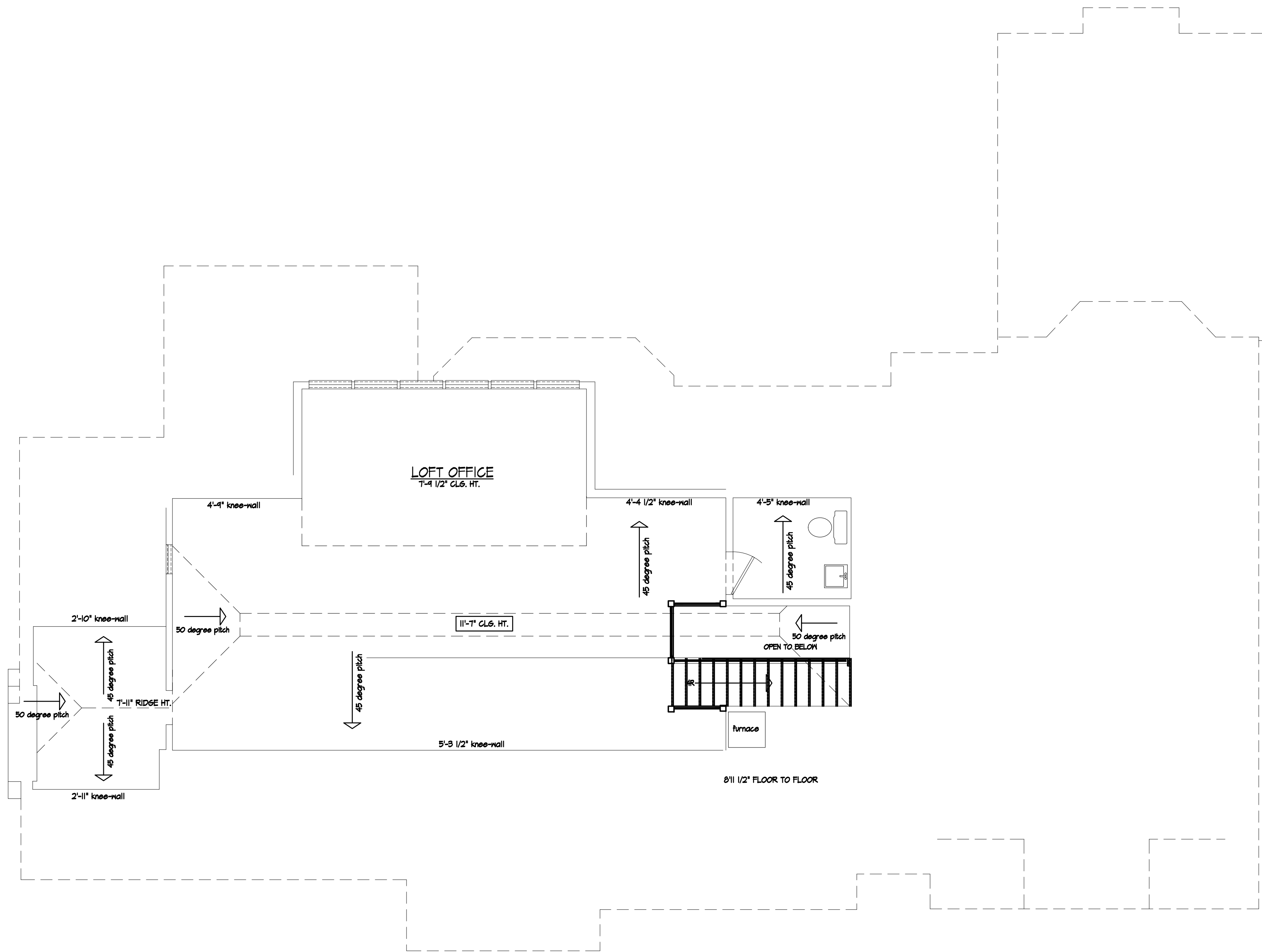
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8-1-2021

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LOFT AS-BUILT PLAN

SCALE: 1/4" = 1'-0"



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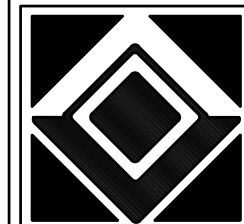
LEFT ELEVATION AS-BUILT

SCALE: 1/4" = 1'-0"



FRONT ELEVATION AS-BUILT

SCALE: 1/4" = 1'-0"



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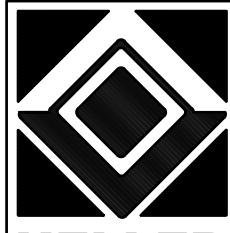
RIGHT ELEVATION AS-BUILT

SCALE: 1/4" = 1'-0"



REAR ELEVATION AS-BUILT

SCALE: 1/4" = 1'-0"



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