

City of Birmingham
MEETING OF THE BOARD OF ZONING APPEALS
TUESDAY, NOVEMBER 8, 2022
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

November 8, 2022
7:30 PM

1. CALL TO ORDER

2. ROLL CALL

3. ANNOUNCEMENTS

a) The City recommends members of the public wear a mask if they have been exposed to COVID-19 or have a respiratory illness. City staff, City Commission and all board and committee members must wear a mask if they have been exposed to COVID-19 or actively have a respiratory illness. The City continues to provide KN-95 respirators and triple layered masks for attendees.

4. APPROVAL OF THE MINUTES

a) October 11, 2022

5. APPEALS

	Address	Petitioner	Appeal	Type/Reason
1)	1511 E MAPLE	LIBURDI/HURST	22-50	DIMENSIONAL
2)	479 S OLD WOODWARD	BIRMINGHAM TOWERS	22-47	DIMENSIONAL
3)	220 LAKE PARK	WWRP LAW	22-48	DIMENSIONAL
4)	839 RIDGEDALE	LANG	22-49	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.

NOVEMBER BZA MAP



Birmingham Board Of Zoning Appeals Proceedings
Tuesday, October 11, 2022
City Commission Room
151 Martin Street, Birmingham, Michigan

1. Call To Order

Minutes of the special meeting of the City of Birmingham Board of Zoning Appeals ("BZA") held on Tuesday, October 11, 2022. Chair Erik Morganroth convened the meeting at 7:30 p.m.

2. Rollcall

Present: Chair Erik Morganroth; Board Members Kevin Hart, John Miller, Ron Reddy, Pierre Yaldo; Alternate Board Members Carl Kona, Richard Lilley

Absent: Vice-Chair Jason Canvasser

Staff: Building Official Johnson; City Transcriptionist Eichenhorn, Assistant Building Official Morad, Assistant Building Official Zielke

Chair Morganroth welcomed those present and reviewed the meeting's procedures.

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.

Chair Morganroth took rollcall of the petitioners. All petitioners were present.

3. Announcements

The City continues to recommend the public wear masks while attending City meetings per CDC guidelines. The cases of COVID-19 are increasing in the area. All City employees, commissioners, and board members must wear a mask while indoors when 6-feet of social distancing cannot be maintained. This is to ensure the continuity of government is not affected by an exposure to COVID-19 that can be prevented by wearing a mask. The City continues to provide KN-95 respirators and triple-layered masks for all in-person meeting attendees.

4. Approval Of The Minutes Of The BZA Meetings Of September 13, 2022

T# 10-64-22

Motion by Mr. Lilley

Seconded by Mr. Kona to accept the Minutes of the BZA meeting of September 13, 2022 as amended.

Motion carried, 7-0.

VOICE VOTE

Yeas: Morganroth, Kona, Hart, Miller, Reddy, Yaldo, Lilley

Nays: None

5. Appeals

T# 10-65-22

**1) 600 Aten Ct
Appeal 22-40**

ABO Zielke presented the item, explaining that the owner of the property known as 600 Aten Ct was requesting the following variances to construct a new single family home with an attached garage:

A. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that the minimum front yard setback is the average of homes within 200.00 feet in each direction. The required is 32.40 feet. The proposed is 27.83 feet, therefore, a variance of 4.57 feet is being requested.

B. Chapter 126, Article 4, Section 4.75(A)(1) of the Zoning Ordinance requires that private, attached, single-family residential garages must be setback a minimum of 5.00 feet from the portion of the front façade on the first floor of the principal building that is furthest setback from the front property line. The proposed is the garage is 0.23 feet in behind the furthest façade. Therefore, a variance of 4.77 feet is being requested.

Staff answered informational questions from the Board.

In reply to the Chair, Gregory Aerts, architect, confirmed that one of the homes within 200 feet had a more extensive setback than the other nearby homes, which skewed the average setback and resulted in the appellant's request for variance A.

Mr. Aerts explained that he superimposed the existing home on the proposed plan to show the relationship between the two. He provided the setbacks of the neighboring homes and noted that the setback of the proposed home would be the average of homes' setbacks within 200 feet, not including the home with an outlying setback. He explained that the existing house was approximately five feet closer to the street than the proposed home.

Mr. Aerts also noted that the existing home was not within the building envelope and was non-conforming in the rear.

Mr. Miller noted that, at the Board's September 13, 2022 meeting, the Board asked the appellant to return with renderings that showed the relation between the proposed home and the other homes in the circle. He noted that those requested renderings were not provided.

In reply to Mr. Miller, Mr. Aerts said his impression was that the neighbors wanted to see the relationship between the existing house and the proposed house, which is why he overlaid the existing home on the proposed home's plans. He explained that the survey showed the adjacent homes and that the setbacks of the neighboring homes were also provided. He said he did not realize a site plan of the circle was necessary.

Mr. Miller said that the intent of requesting a rendering showing the proposed home in relation to the other homes was to give the Board and neighbors a visual representation of the proposal. He said he was struggling with the lack of the requested rendering.

Motion by Mr. Reddy

Seconded by Mr. Yaldo with regard to Appeal 22-40, A. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that the minimum front yard setback is the average of homes within 200.00 feet in each direction. The required is 32.40 feet. The proposed is 27.83 feet, therefore, a variance of 4.57 feet is being requested; and, B. Chapter 126, Article 4, Section 4.75(A)(1) of the Zoning Ordinance requires that private, attached, single-family residential garages must be setback a minimum of 5.00 feet from the portion of the front façade on the first floor of the principal building that is furthest setback from the front property line. The proposed is the garage is 0.23 feet in behind the furthest façade. Therefore, a variance of 4.77 feet is being requested.

Mr. Reddy moved to approve both the requested variances, stating that Mr. Aerts fit the proposed home within the footprint of the existing home, and brought the proposed home into compliance with the rear setback requirements. Mr. Reddy noted that the shape of the lot was also unusual. He said there were enough unique circumstances to merit the granting of the variances. He tied the approval to the plans as submitted.

Mr. Yaldo seconded the motion, stating that the appellant demonstrated that the shape of the cul-de-sac represented a practical difficulty and that strict compliance with the ordinance would render the property unable to be used for its permitted purpose. He said there was no self-creation, and said granting the variances would do substantial justice to the owner and the neighbors.

Mr. Miller said he could not support the motion given the lack of the requested rendering showing the proposed home in relation to the other homes. He said the lack of the documentation made the decision much more difficult. Mr. Miller explained that

part of the proposed home pulled further forward than the extant home, and said that seeing the relationship between that part of the home and the neighboring home was important.

Mr. Kona said that while he agreed with Mr. Miller about the front portion of the proposed home, he explained that the other circumstances combined to make the appellant's proposal the most appropriate one.

The Chair said he would also support the motion, citing the oddly-shaped lot and the impact of the outlying home on the average setbacks. He noted that while the corner of the garage was not five feet behind the front door, the shape of the lot and the angle of the home made that a necessity. He noted that the the garage was as close to being five feet behind the front door as possible given the circumstances and therefore largely aligned with the intent of the ordinance.

Motion carried, 6-1.

ROLL CALL VOTE

Yeas: Morganroth, Canvasser, Hart, Reddy, Yaldo, Lillie

Nays: Miller

T# 10-66-22

**2) 1998 Bowers
Appeal 22-43**

ABO Zielke presented the item, explaining that the owner of the property known as 1998 Bowers was requesting the following variances to construct a covered porch:

A. Chapter 126, Article 2, Section 2.08.1 of the Zoning Ordinance states that the maximum lot coverage is 30% for any lot. The maximum for this property is 1740.00 SF (30%). The existing is 1917.00 SF (33.00%). The proposed is 1929.00 SF (33.25%). Therefore, a variance of 189.00 SF (3.25%) is being requested.

B. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of total lot width, whichever is larger. The required is 14.00 feet on the west side. The proposed is 10.70 feet. Therefore, a variance of 3.30 feet is being requested.

Staff answered informational questions from the Board.

Raffi Bogosian of MainStreet Design Build reviewed the letter describing why these variances were being sought. The letter was included in the evening's agenda packet.

In reply to Mr. Reddy, Mr. Bogosian stated that the design of the porch was both for aesthetic reasons and to deal with water runoff. He said the alternate design would cause water to pool between the porch and the house.

In reply to Mr. Hart, Mr. Bogosian confirmed that an ordinance-compliant porch would not be appropriate to build. He confirmed that the present porch was largely unusable given its geometry and size, which amounted to a hardship. Mr. Bogosian also explained that the appellants wanted a larger porch so that it would be usable.

Motion by Mr. Hart

Seconded by Mr. Miller with regard to Appeal 22-43, A. Chapter 126, Article 2, Section 2.08.1 of the Zoning Ordinance states that the maximum lot coverage is 30% for any lot. The maximum for this property is 1740.00 SF (30%). The existing is 1917.00 SF (33.00%). The proposed is 1929.00 SF (33.25%). Therefore, a variance of 189.00 SF (3.25%) is being requested; and, B. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of total lot width, whichever is larger. The required is 14.00 feet on the west side. The proposed is 10.70 feet. Therefore, a variance of 3.30 feet is being requested.

Mr. Hart moved to approve both the requested variances and tied approval to the plans as submitted. He said that granting the variances would fix the geometry of the house and enhance the aesthetic appeal of the neighborhood. He explained that this would benefit both the owners and the neighboring properties. Mr. Hart noted that a conforming porch would result in an area where water would pool between the home and the porch. He said that the need for the variances was not self-created.

Mr. Miller supported the motion, noting that the geometry of the home was causing the need for the variances. He said that conformity with the ordinance in this case would be unnecessarily burdensome. Mr. Miller concurred with Mr. Hart that the issue was not self-created, and said granting the variances would be beneficial to the neighborhood.

The Chair noted that the appellant was already beyond their lot coverage, though he acknowledged that the overage was not necessarily the fault of the appellant. He noted that if the appellant were to build an ordinance-compliant porch, the area where water would pool could be waterproofed or dealt with in other ways. He said the desire for the porch was a preference and not a necessity, and said he did not see a practical difficulty. He said he had not decided how he would vote, but wanted to explain his concerns.

Mr. Kona said he had a similarly-sized porch to the appellant's present porch and said he did not find his porch to be unusable. He said he also found it difficult to increase the lot coverage. He said he was unsure how he would vote as well.

Mr. Miller noted that the extending of the porch would be ordinance-compliant. He reiterated that it was the geometry of the home that was necessitating the variances.

Mr. Hart reiterated his contention that an ordinance-compliant porch would be aesthetically displeasing. He said the Board has not required ordinance compliance in similar circumstances where compliance would require a notch in a wall.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Morganroth, Miller, Canvasser, Hart, Reddy, Yaldo, Lillie

Nays: None

T# 10-67-22

**3) 547 Bloomfield Ct
Appeal 22-44**

ABO Zielke presented the item, explaining that the owner of the property known as 547 Bloomfield Ct was requesting the following variance to construct a second floor addition to an existing non-conforming home:

A. Chapter 126, Article 2, Section 2.10.2 of the Zoning Ordinance requires that the minimum rear yard setback is 30.00 feet. The existing and proposed is 7.20 feet. Therefore, a variance of 22.80 feet is being requested.

Staff answered informational questions from the Board.

Todd Emerson of Sterling Custom Homes reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet.

In reply to the Chair, Mr. Emerson said it would be structurally more difficult to built the addition stepped-in from the footprint of the first floor.

Motion by Mr. Hart

Seconded by Mr. Reddy with regard to Appeal 22-44, A. Chapter 126, Article 2, Section 2.10.2 of the Zoning Ordinance requires that the minimum rear yard setback is 30.00 feet. The existing and proposed is 7.20 feet. Therefore, a variance of 22.80 feet is being requested.

Mr. Miller moved to approve the requested variance and tied approval to the plans as submitted. He stated that the placement of the home and the shape of the lot led to the homeowner requesting a variance. He said the issue was not self-created and that ordinance-compliance would unreasonably prevent the appellant from using the property as permitted.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Morganroth, Miller, Canvasser, Hart, Reddy, Yaldo, Lillie

Nays: None

T# 10-68-22

**4) 1016 Pierce
Appeal 22-45**

ABO Morad 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 feet is being requested.

Staff answered informational questions from the Board. It was noted that the appellant was seeking re-approval of this variance because the approval time of a year had elapsed.

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

Motion by Mr. Lilley

Seconded by Mr. Reddy with regard to Appeal 22-45, 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 feet is being requested.

Mr. Lilley moved to approve the requested variance and tied approval to the plans as submitted. He noted that the the same variance was approved unanimously by the Board a little over a year prior.

It was also noted that the home was ordinance-compliant and that it was only the neighboring home that caused this proposal to require a variance.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Morganroth, Miller, Canvasser, Hart, Reddy, Yaldo, Lillie

Nays: None

6. Correspondence

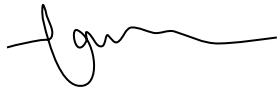
7. Open To The Public For Matters Not On The Agenda

T# 10-69-22

8. Adjournment

No further business being evident, the Board motioned to adjourn at 8:40 p.m.

Bruce R. Johnson, Building Official



Laura Eichenhorn

City Transcriptionist

CASE DESCRIPTION

1511 E. MAPLE (22-50)

Hearing date: November 8, 2022

Appeal No. 22-50: The owner of the property known **1511 E. Maple**, requests the following variance to construct a rear addition to the existing non-conforming house:

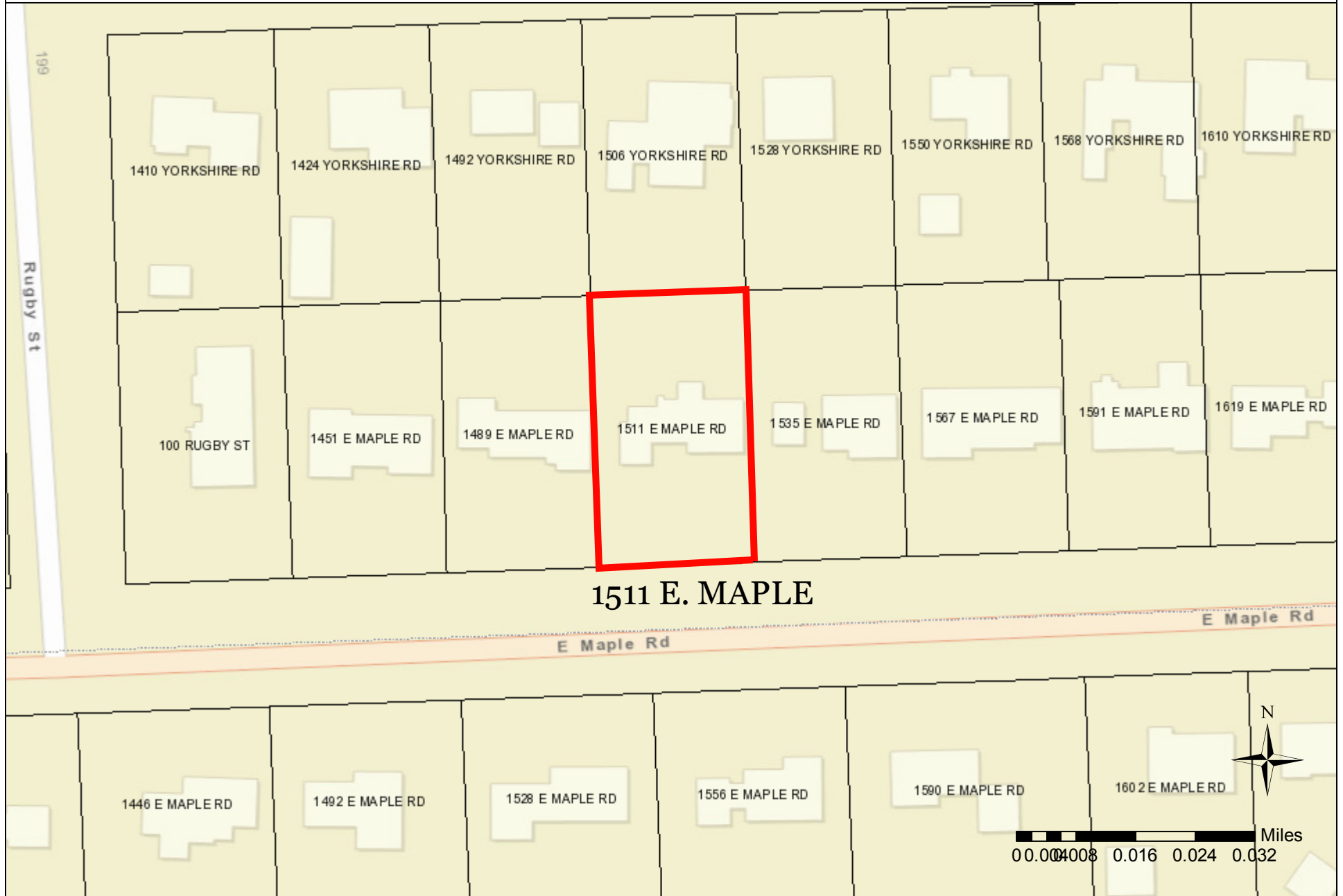
- A. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of total lot width, whichever is larger. The required is 20.00 feet on the east side. The proposed is 17.20 feet. Therefore, a variance of 2.80 feet is being requested.

Staff Notes: This applicant was in front of the board in June 2022 (attached minutes). The applicant is looking to construct a rear addition to the existing non-conforming home that was constructed in 1950. The applicant's variance to construct the rear addition, which had been approved, requires a greater amount than which was published and approved in June. This was discovery was noticed during further reviews. The applicant is back requesting the variance with the correct amount required.

This property is zoned R2 – Single family residential.

Jeff Zielke, NCIDQ, LEED AP
Assistant Building Official

1511 E. MAPLE 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: 10-14-22

Hearing Date: 11-8-22

Received By: HT

Appeal #: 22-50

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

Address: 1511 East Maple	Lot Number: 14	Sidwell Number: 20-30-356-014
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II. OWNER INFORMATION:

Name: Adriana Liburdi / Jason Hurst			
Address: 1511 East Maple	City: Birmingham	State: MI	Zip code: 48009
Email: * jasonhurst0331@gmail.com		Phone: 734-771-0073	

III. PETITIONER INFORMATION:

Name:	Firm/Company Name:		
Address:	City:	State:	Zip code:
Email:	Phone:		

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.
*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: Jason Hurst	Digitally signed by Jason Hurst DN: cn=Jason Hurst, c=US, email=jasonhurst0331@gmail.com Date: 2022.10.14 13:33:20 -04'00'	Date: _____
Signature of Petitioner: _____		Date: _____

**CITY OF BIRMINGHAM
BOARD OF ZONING APPEALS
RULES OF PROCEDURE**

ARTICLE I - Appeals

- A. Appeals may be filed under the following conditions:
1. A property owner may appeal for variance, modification or adjustment of the requirements of the Zoning Ordinance.
 2. A property owner may appeal for variance, modification or adjustment of the requirements of the Sign Ordinance.
 3. Any aggrieved party may appeal the decision of the Planning Board and/or the Building Official in accordance with the City of Birmingham Zoning Ordinance, Article Eight, Section 8.01 (D) Appeals. If an appellant requests a review of any determination of the Building Official, a complete statement setting forth the facts and reasons for the disagreement with the Building Official's determination shall include the principal point, or points on the decision, order or section of the ordinance appealed from, on which the appeal is based.
- B. Procedures of the Board of Zoning Appeals (BZA) are as follows:
1. Regular BZA meetings, which are open to the public, shall be held on the second Tuesday of the month at 7:30 P.M. provided there are pending appeals. There will be a maximum of seven appeals heard at the regular meeting which are taken in the order received. If an appeal is received on time after the initial seven appeals have been scheduled, it will be scheduled to the next regular meeting.
 2. All applications for appeal shall be submitted to the Community Development Department on or before the 12th day of the month preceding the next regular meeting. If the 12th falls on a Saturday, Sunday, or legal holiday, the next working day shall be considered the last day of acceptance.
 3. All property owners and occupants within 300 feet of the subject property will be given written notice of a hearing by the City of Birmingham.
 4. See the application form for specific requirements. If the application is incomplete, the BZA may refuse to hear the appeal. The Building Official or City Planner may require the applicant to provide additional information as is deemed essential to fully advise the Board in reference to the appeal. Refusal or failure to comply shall be grounds for dismissal of the appeal at the discretion of the Board.
 5. In variance requests, applicants must provide a statement that clearly sets forth all special conditions that may have contributed to a practical difficulty that is preventing a reasonable use of the property.

6. Where the Birmingham Zoning Ordinance requires site plan approval of a project by the City Planning Board before the issuance of a building permit, applicants must obtain preliminary site plan approval by the Planning Board before appeal to the BZA for a variance request. If such appeal is granted by the BZA, the applicant must seek final site plan and design review approval from the Planning Board before applying for a building permit.
 7. An aggrieved party may appeal a Planning Board decision. Such appeal must be made within 30 days of the date of the decision. The BZA, in its discretion, may grant additional time in exceptional circumstances.
 8. Appeals from a decision of the Building Official shall be made within 30 days of the date of the order, denial of permit, or requirement or determination contested. The BZA, in its discretion, may grant additional time in exceptional circumstances.
 9. An appeal stays all proceedings in accordance with Act #110, Public Acts of 2006, Article VI, Section 125.3604 (3).
- C. The order of hearings shall be:
1. Presentation of official records of the case by the Building Official or City Planner as presented on the application form.
 2. Applicant's presentation of his/her case—the applicant or his/her representative must be present at the appeal hearing.
 3. Interested parties' comments and view on the appeal.
 4. Rebuttal by applicant.
 5. The BZA may make a decision on the matter or request additional information.
- D. Motions and Voting
1. A motion is made to either grant or deny a petitioner's request
 - a) For a motion to grant or deny a non-use variance request, the motion must receive four (4) affirmative votes to be approved.
 - b) For a motion to grant or deny a use variance request, the motion must receive five (5) affirmative votes to be approved.
 - c) For a motion to grant or deny an appeal of a decision or order by an administrative official or board, the motion must receive four (4) affirmative votes to be approved.
 2. When a motion made is to approve or deny a petitioner's request and if there is a tie vote, then the vote results in no action by the board and the petitioner shall be given an opportunity to have his or her request heard the next regularly scheduled meeting when all the members are present.
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3. When there are less than seven (7) members of the board present for a meeting, then a petitioner requesting a use variance shall be given an opportunity at the beginning of the meeting to elect to have it heard at the next regularly scheduled meeting.
4. When there are less than six (6) members present for a meeting, then all petitioners shall be given an opportunity at the beginning of the meeting to elect to have the request heard at the next regularly scheduled meeting.

ARTICLE II - Results of an Appeal

- A. The Board may reverse, affirm, vary or modify any order, requirement, decision or determination as in its opinion should be made, and to that end, shall have all the powers of the officer from whom the appeal has been taken.
- B. The decisions of the Board shall not become final until the expiration of five (5) days from the date of entry of such orders or unless the Board shall find that giving the order immediate effect is necessary for the preservation of property and/or personal rights and shall so certify on the record.
- C. Whenever any variation or modification of the Zoning Ordinance is authorized by resolution of the BZA, a Certificate of Survey must be submitted to the Community Development Department with the building permit application. A building permit must be obtained within one year of the approval date.
- D. Failure of the appellant, or his representative, to appear for his appeal hearing will result in the appeal being adjourned to the next regular meeting. If, after notice, the appellant fails to appear for the second time, it will result in an automatic withdrawal of the appeal. The appellant may reapply to the BZA.
- E. Any applicant may, with the consent of the Board, withdraw his application at any time before final action.
- F. Any decision of the Board favorable to the applicant is tied to the plans submitted, including any modifications approved by the Board at the hearing and agreed to by the applicant, and shall remain valid only as long as the information or data provided by the applicant is found to be correct and the conditions upon which the resolution was based are maintained.

ARTICLE III - Rehearings

- A. No rehearing of any decision of the Board shall be considered unless new evidence is submitted which could not reasonably have been presented at the previous hearing or unless there has been a material change of facts or law.
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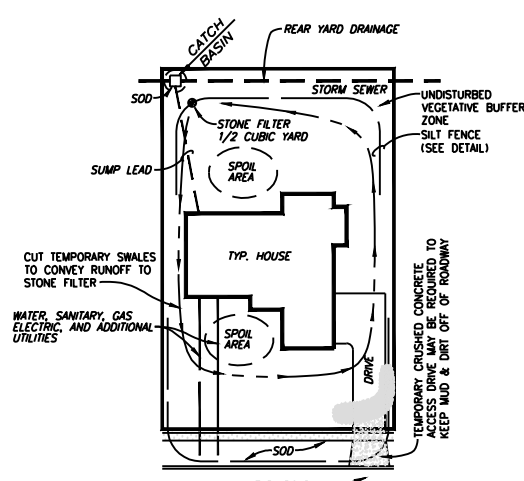
B. Application or rehearing of a case shall be in writing and subject to the same rules as an original hearing, clearly stating the new evidence to be presented as the basis of an appeal for rehearing.

I certify that I have read and understand the above rules of procedure for the City of Birmingham Board of Zoning Appeals.

**Jason
Hurst**

Digitally signed by Jason Hurst
DN: cn=Jason Hurst, c=US,
email=jasonhurst0331@gmail.com
Date: 2022.10.14 13:33:56 -0400

Signature of Applicant



SEQUENCE OF CONSTRUCTION

1. EXISTING FENCE LINE SHALL BE REMOVED AND TEMPORARY SHAKES SHALL BE INSTALLED PRIOR TO EXCAVATION OF THE LOT.
2. EXISTING MATERIAL SHALL BE REMOVED FROM THE EXCAVATION, THE SILT FENCE, AND TEMPORARY SHAKES AS SHOWN.
3. THE TEMPORARY CONTROL MEASURES SHALL BE MAINTAINED AS REQUIRED. THIS WILL ALLOW IN PLACE WITH CONSTRUCTION IS COMPLETE, AND THE EXISTING AREA BE RECOVERED WITH VEGETATION.
4. DIRECT SURFACE RUN-OFF TOWARDS CENTER OF SILT FENCE.
5. ALLOW OPENING IN SILT FENCE FOR CONSTRUCTION TRAFFIC.
6. PRIOR TO FINAL FILL, FILLING EXCAVATION IN PLACE, FENCE AREA, SLOPE GREATER THAN 1% AND 10' AROUND GUYO BRIMS.
7. AFTER EXCAVATION AND FILLING ARE COMPLETED, ALL SLOPES 1:3 OR GREATER WITH A VERTICAL OF 10' FOR TEMPORARY FILL SHALL BE RECOVERED WITH VEGETATION.

NOTE:
MAY COUNTY 18 HOURS PRIOR TO EXCAVATION OF EXISTING

SILT FENCE DETAIL

(NO SCALE)

SOIL EROSION DETAILS

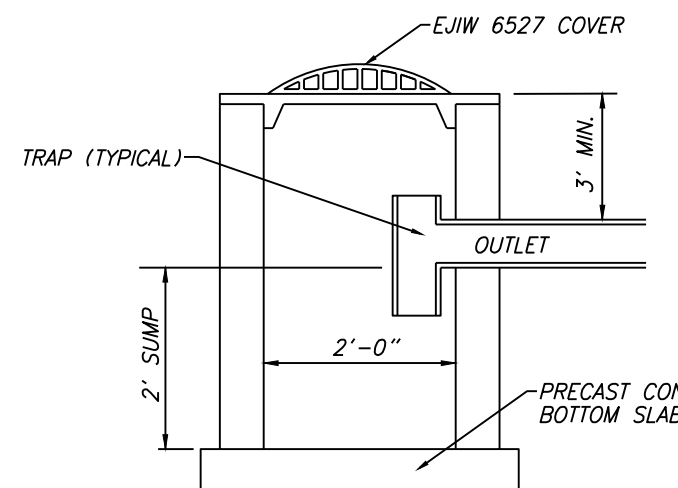
(NO SCALE)

NOTE:

THE CONTRACTOR IS REQUIRED TO INSPECT THE EROSION MEASURES ON A WEEKLY BASIS AND AFTER EVERY RAINSTORM

STREET NAME	HOUSE #	SETBACK	EAVE HT.	PEAK HT.
RUGBY ST.	100	49.1'	9.2'	17.5'
E. MAPLE RD.	1451	49.0'	9.4'	21.7'
E. MAPLE RD.	1489	50.6'	9.3'	17.8'
E. MAPLE RD.**	1511	51.4'	9.4'	20.3'
E. MAPLE RD.	1535	50.2'	9.5'	16.5'
E. MAPLE RD.	1567	50.4'	9.6'	17.4'
E. MAPLE RD.	1591	49.4'	9.8'	18.3'

AVERAGE SETBACK - 49.8' E. MAPLE RD.



2' DIA. PRECAST INLET

(NO SCALE)

AREA COVERAGE

AREA OF LOT = 11,346.6 S.F.
EX. AREA OF HOUSE = 1,637.8 S.F.
LOT COVERAGE = 14.4%
ARE OF DRIVE = 1,286.8 S.F.
OPEN SPACE = 66.0%



Contractor Note:
The locations of existing underground utilities are shown in an approximate way only. The contractor shall determine the exact location of all existing utilities before commencing work. He agrees to be fully responsible for any and all damages which might be occasioned by his failure to exactly locate and preserve any and all underground utilities.

CAUTION

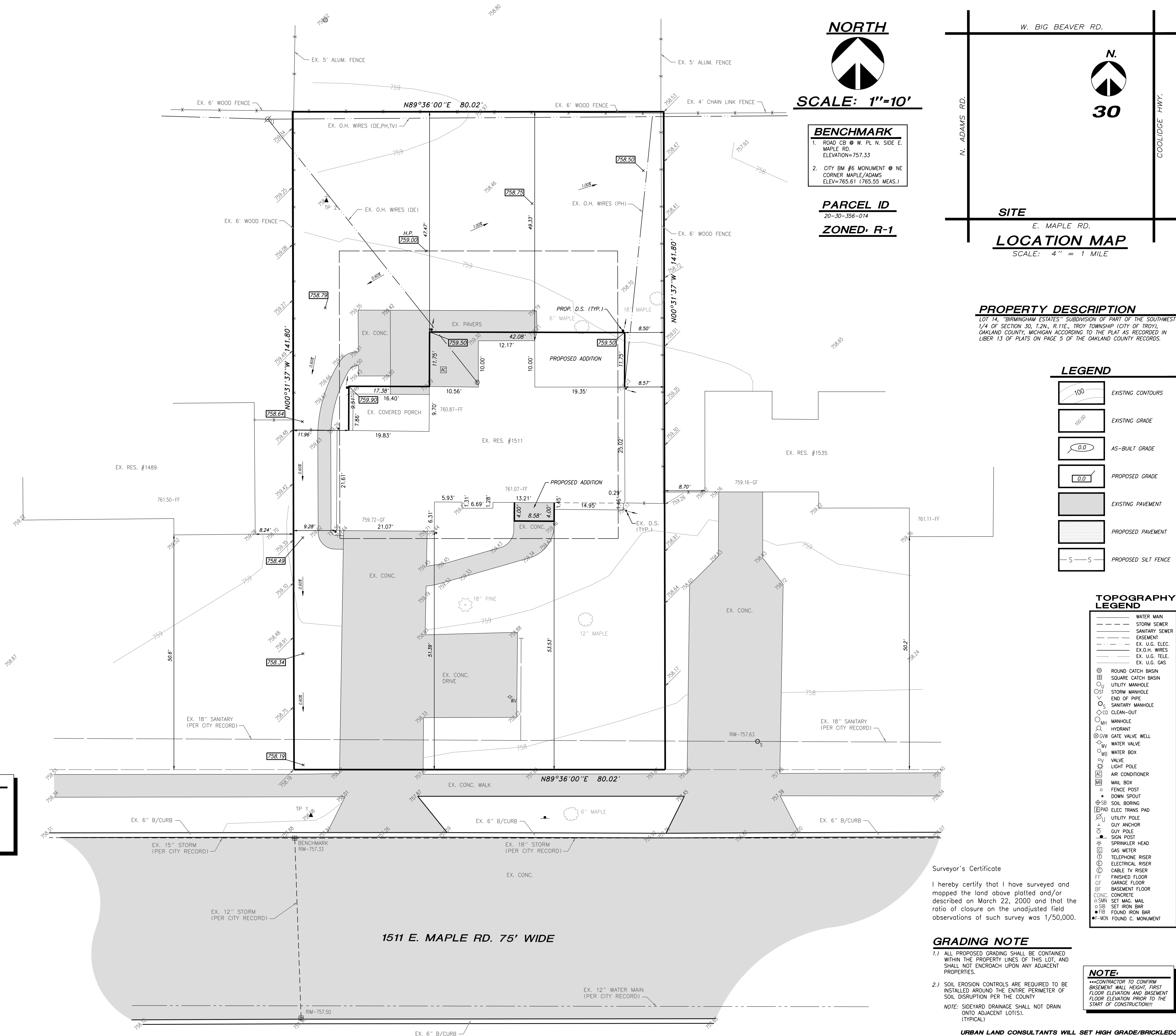
CONTRACTOR TO VERIFY GROUND WATER PRIOR TO CONSTRUCTION.

U.L.C. RECOMMENDS SOIL ANALYSIS TO BE PERFORMED BY A PROFESSIONAL.

CONTRACTOR TO MONITOR EXCAVATION FOR SOIL/GROUND WATER CONDITIONS.

ATTENTION BUILDERS/CONTRACTORS

1. THIS DRAWING IS NOT INTENDED TO REPRESENT A BOUNDARY OR LOT SURVEY, AND SHOULD NOT BE USED TO ESTABLISH PROPERTY LINES OR LOCATE IMPROVEMENTS.
2. U.L.C. ASSUMES NO RESPONSIBILITY FOR THE GIVEN BUILDING DIMENSIONS. DIMENSIONS MUST BE VERIFIED BY OWNER/BUILDER PRIOR TO CONSTRUCTION.
3. THIS PLAN SHALL NOT BE USED TO SET FOUNDATIONS. ARCHITECTURAL PLANS MUST BE USED FOR CONSTRUCTION OF FOUNDATION.
4. UPON ACCEPTANCE AND SUBMITTAL OF THIS PLAN FOR PERMITS, THE OWNER/BUILDER ACKNOWLEDGES HE HAS REVIEWED THE PLAN, AND THAT IT MEETS THE ESTABLISHED REQUIREMENTS.
5. APPROVAL OF THIS PLOT PLAN DOES NOT RELIEVE THE OWNER/BUILDER OF COMPLIANCE WITH ALL CODES AND ORDINANCES THAT SHALL APPLY.
6. SETBACKS SHOWN ON THIS DRAWING HAVE BEEN OBTAINED FROM THE MUNICIPALITY. ANY DEED OR SPECIAL RESTRICTIONS - (i.e. SUBDIVISION RESTRICTIONS, HOUSE SIZE, BUILDING LOCATION, etc.) MUST BE SUPPLIED TO U.L.C. IN WRITING WHEN PLOT PLAN IS ORDERED. U.L.C. WILL NOT BE RESPONSIBLE FOR INTERPRETING SUBDIVISION RESTRICTIONS.
7. U.L.C. RECOMMENDS A 50' EXTRA ALLOWANCE TO ALL MINIMUM SETBACKS, WHERE THE OWNER / BUILDER DOES NOT FOLLOW THIS RECOMMENDATION, THE OWNER / BUILDER AGREES TO HOLD U.L.C. HARMLESS FOR STRUCTURE ENCROACHMENT (S) INTO THE MINIMUM SETBACK.
8. UTILITY LEAD LOCATIONS AS SHOWN ARE APPROXIMATE. AS-BUILT LOCATIONS MUST BE OBTAINED FROM THE LOCAL MUNICIPALITY.



Surveyor's Certificate

I hereby certify that I have surveyed and mapped the land above plotted and/or described on March 22, 2000 and that the ratio of closure on the unadjusted field observations of such survey was 1/50,000.

GRADING NOTE

1. ALL PROPOSED GRADING SHALL BE CONTAINED WITHIN THE PROPERTY LINES OF THIS LOT, AND SHALL NOT ENCRUCH UPON ANY ADJACENT PROPERTIES.
2. SOIL EROSION CONTROLS ARE REQUIRED TO BE INSTALLED AROUND THE ENTIRE PERIMETER OF SOIL DISRUPTION PER THE COUNTY.

NOTE: SIDEYARD DRAINAGE SHALL NOT DRAIN ONTO ADJACENT LOT(S). (TYPICAL)

URBAN LAND CONSULTANTS WILL SET HIGH GRADE/BRICKLEDGE CONTRACTOR TO USE GRADE SET ON SITE.

NOTE:

CONTRACTOR TO CONFIRM BASEMENT WALL HEIGHT, FIRST FLOOR ELEVATION AND BASEMENT FLOOR ELEVATION PRIOR TO THE START OF CONSTRUCTION!!!

PLOT PLAN

LOT 14 BIRMINGHAM ESTATES

PART OF THE S.W. 1/4 OF SECTION 30 T.21N., R.11E., CITY OF BIRMINGHAM OAKLAND TOWNSHIP, MICHIGAN

BY: KG CV

ADDITIONS AND/OR REVISIONS

DATE 210228-10429

Job No. 210228-10429

Date 4-7-21

Scale 1" = 10'

Drawn CV

Check R. LINDH

Sheet 1 OF 1

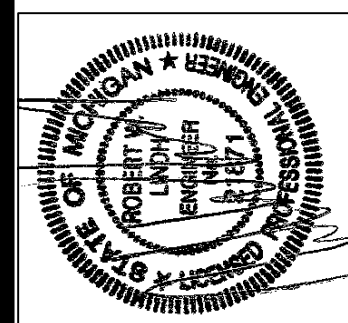
REV. PER CITY REVIEW

5-27-21

COMPLETED PLOT PLAN

JASON HURST

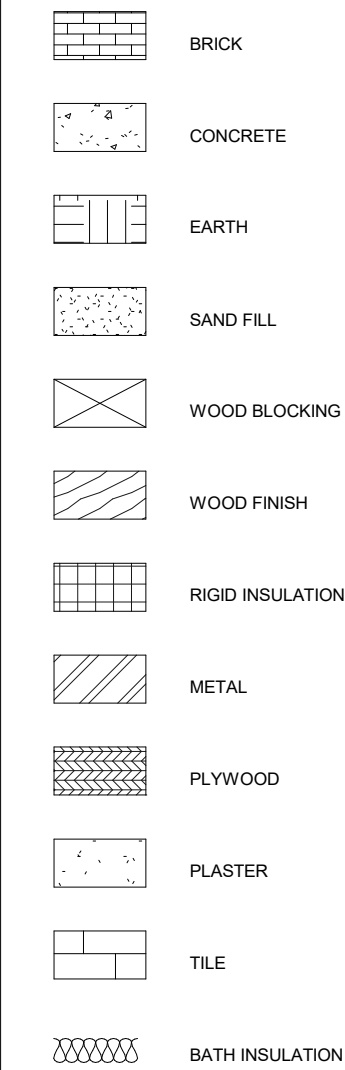
1511 E. MAPLE ROAD
BIRMINGHAM, MI 48009
734-771-0073



PHONE 586 731-8030

URBAN LAND CONSULTANTS ©
PLANNERS LAND SURVEYORS
CIVIL ENGINEERS
8800 23 MILE ROAD
SHELBY TWP., MI 48316-4516

SHEET INDEX



OWNER

**ADRIANA
& JASON**

**1511 E. Maple St
Birmingham, MI 48009**

Title	
COVER SHEET	
Project number	20-01
Date	09/14/2020
Drawn by	ACS

A-00

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

Sheet Size - 24x36

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DIMENSIONS AND SQUARE FOOTAGES ARE APPROXIMATE AND MAY VARY WITH ACTUAL CONSTRUCTION

1. CONTRACTOR SHALL INSPECT SITE TO VERIFY ALL EXISTING CONDITIONS.

4. FLOOR SHEATHING: TO BE 3/4" OSB, UNDERLAYMENT/SHEATHING, TONGUE AND GROOVED AND NAILED + 8" O.C. WITH 8D HOT-DIPPED GALVANIZED NAILS (OR APPROVED EQUAL).
5. FLOOR INSULATION: OPTIONAL.
6. WALL FRAMING: EXTERIOR TO BE 2x4 K F SPF (SPRUCE-PINE-FIR) CONSTRUCTION GRADE W/ R-13 FIBERGLASS INSULATION.
7. WINDOW AND DOOR HEADERS: 2/2x10 KID FIR, WITH 2x3 SEPARATORS AND FIBERGLASS INFILL.
8. WALL SHEATHING: TO BE 7/16" OSB, FASTENED WITH 6D HOT-DIPPED GALVANIZED NAILS.
9. EXTERIOR WALL: TYVEK WRAPPING ENTIRE EXTERIOR WALL.
10. INSULATION: R-13 FIBERGLASS INSULATION FOR ALL EXTERIOR WALLS AND R-30 IN ATTIC.
11. ROOF SHEATHING: TO BE 1/2" OSB, FASTENED WITH 8D HOT-DIPPED GALVANIZED NAILS OR EQUIVALENT.
12. INSECT SCREEN: 16 MESH TO THE INCH.
13. PLYWOOD/OSB (INTERIOR): A-A INT-DFPA IN ACCORDANCE WITH AMERICAN PLYWOOD ASSOCIATION GRADE MARK.
14. TRIM: ON ALL INTERIOR DOORS AND WINDOWS.
15. MOULDING: TO BE DETERMINED.
16. GYPSUM BOARD: SHEET ROCK SW WALL BOARD BY USG, GLUE & SCREW FASTENED. 1/2" WALLS & 5/8" CEILINGS/GARAGE & (2)-LAYERS 1" FIRERATED FOR FIREWALL
17. BASE TRIM: 3 1/4" WOOD BASE SHERWIN WILLIAMS OR EQUAL.
18. PAINT: PRIMER PLUS ONE COAT FLAT PAINT (COLOR TO BE DETERMINED) FLAT FOR ALL CEILINGS.
19. BUILT-IN'S: VERIFY WITH OWNER.
20. EXTERIOR SIDING: DOUBLE 4" VINYL LAP SIDING.

1. CLEARING: ROADS, PAVEMENTS, CURBS SIDEWALKS, UTILITIES, ETC. THAT ARE DAMAGED IN THE PERFORMANCE OF WORK, RESTORED IN A MANNER PRESCRIBED BY AUTHORITIES HAVING JURISDICTION, OR AS DIRECTED BY THE DEVELOPER.

- ## WINDOWS AND DOORS

- METAL

1. ALL STEEL A-36 (GRADE 60)
2. BOLTS: A-325 HIGH STRENGTH STEEL
3. WELDING ELECTRODES: A-23, SERIES E-70

1. ROOF SHINGLES: ASPHALT SHINGLES, ARCHITECTURAL SERIES 30 YEAR SHINGLE OR EQUIVALENT
2. ROOFING BARRIER: 15 LB FLET PAPER

1. WOOD ROOF TRUSS & FLOOR JOIST: DESIGN AND FABRICATE IN ACCORDANCE WITH THE "NATIONAL DESIGN SPECIFICATIONS FOR WOOD STRUSS AND ITS FASTENING". SUBMIT SHOP DRAWINGS FOR OWNER'S APPROVAL

2. FRAMING LUMBER: ALL KD SPF CONSTRUCTION GRADE.

3. ICE AND WATERPROOFING: BITUTHENE MEMBRANE BY W.R. GRACE

4. SIDING: DOUBLE 4" VINYL LAP SIDING
5. CAULKING: CONSTRUCTION SEALANT.
6. GUTTERS: SEAMLESS ALUMINUM GUTTERS
7. VAPOR BARRIER: 6-MIL VAPOR BARRIER BY W.R. GRACE BELOW CONC. SLAB

1. HARD WOOD: SEE DRAWINGS
2. VINYL TILES: SEE DRAWINGS
3. CARPET: SEE DRAWINGS
4. CERAMIC TILE: SEE DRAWINGS
COUNTER TOPS
1. PLASTIC LAMINATE- COLOR & STYLE BY OWNER

1. TO BE COMPLETED WITH TYPE M COPPER
SUPPLY AND CPVC DWV RUNS AS PER PLUMBING CODE.
2. PLUMBING ACCESSORIES SELECTED BY OWNER AND INSTALLED BY THIS CONTRACTOR
3. ONE (1) 40-GALLON WATER HEATER
4. BATHROOM FIXTURES BY GENERAL CONTRACTOR.
INCLUDES GLASS SHOWER ENCLOSURE, SINKS, TUBS, TOILETS ETC.
5. PROVIDE SUMP IN BASEMENT.

TO BE 100 AMP. UNDERGROUND SERVICES, OUTLETS AS PER CODE, SWITCH CONTROLLED LIGHTING IN ALL ROOMS TO CODE, LIGHTING IN ATTIC, VENTILATION FANS IN ALL BATHS, CONNECTIONS TO HVAC UNITS, RANGE HOOD, WATER HEATERS AND STANDARD RECESSED LIGHTING CANS BY G.C. LIGHTING FIXTURES BY G.C. RANGE HOOD, FANS AND/OR FAN/LIGHTS, YARD AND POST LIGHTS ARE CONSIDERED FIXTURES. ½ HP GARBAGE DISPOSAL FOR SINK. PROVIDE ADDITIONAL SLOTS IN BREAKER BOX FOR FUTURE EXPANSION.

TO BE BASED ONE (1) INCOMING LINES. ALL PERMANENT PHONE WIRING ABOVE FIRST FLOOR LEVEL TO BE PREWIRED AND CONCEALED. PHONE EQUIPMENT BY OWNER. USE MULTI-CONDUCTOR PHONE WIRE.

LANDSCAPING BY OWNER.



ADRIANA
& JASON
1511 E. Maple St
Birmingham, MI 48009

Project

1511 E. Maple St
Birmingham, MI
48009

Project number	20-01
Date	09/14/2020
Drawn by	ACS

Scale: $1/4" = 1'-0"$

A-02	1/4" = 1'-0"
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[illegible]

OWNER

**ADRIANA
& JASON**

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Birmingham, MI 48009

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Project

1511 E. Maple St
Birmingham, MI
48009

1511 E. Maple St
Birmingham, MI
48009

Title

EXISTING 2ND
FLOOR PLAN

EXISTING 2ND FLOOR PLAN

Project number	20-01
Date	09/14/2020

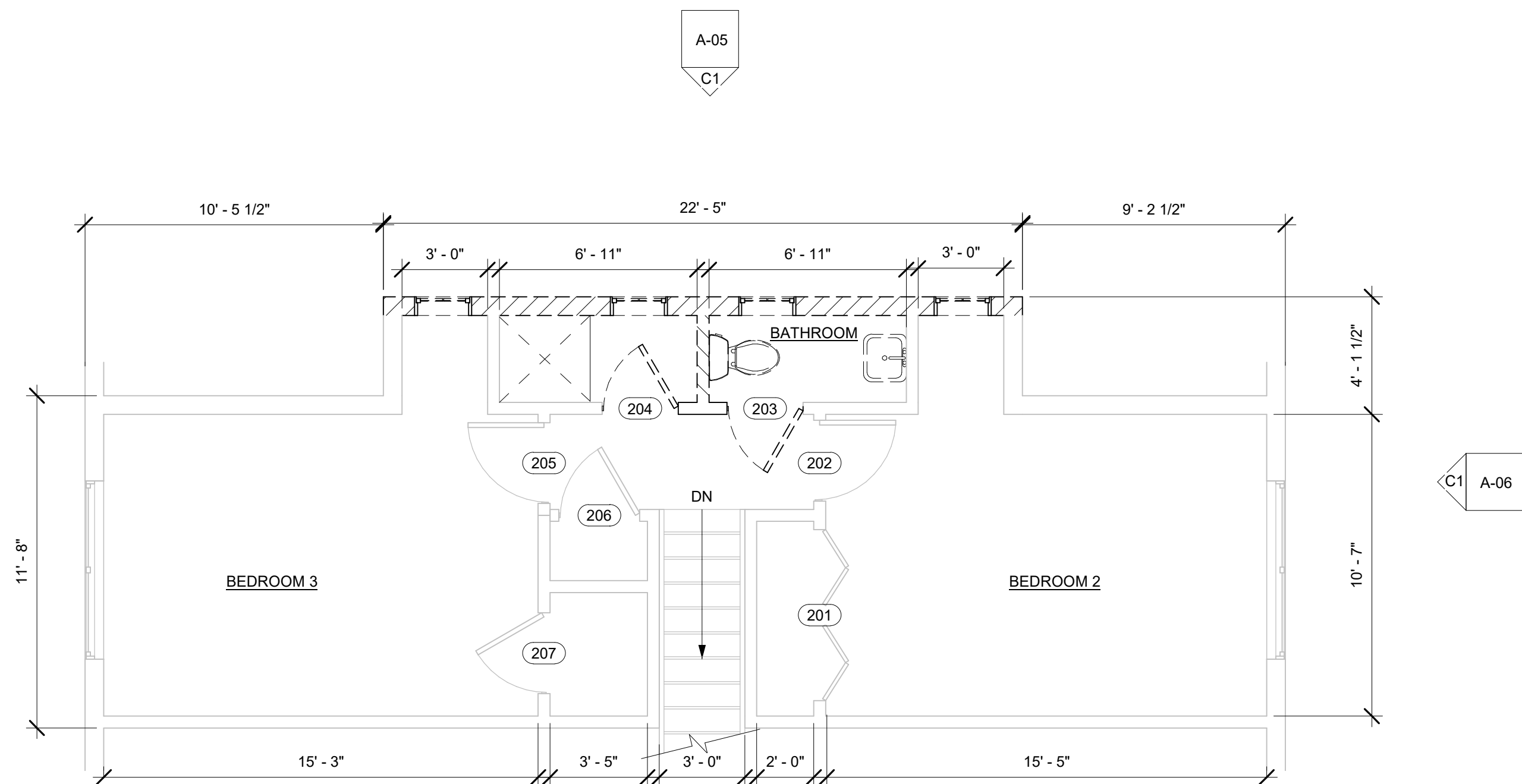
Date	09/14/2020
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Drawn by ACS

A-03

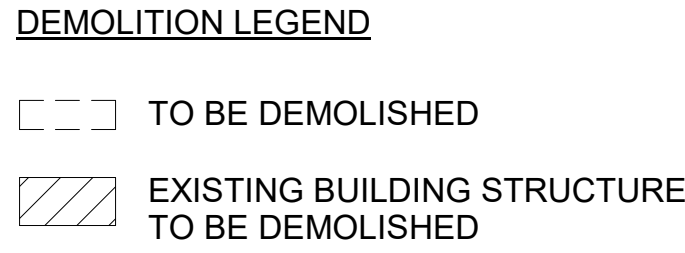
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D1 | EXISTING 2ND FLOOR PLAN

A-03	1/4" = 1'-0"
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& JASON**

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project

1511 E. Maple St
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48009

project number	20-01
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Birmingham, MI 48009

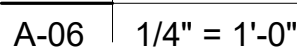
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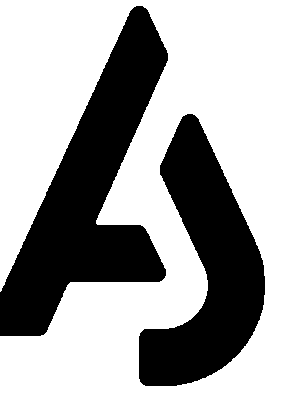
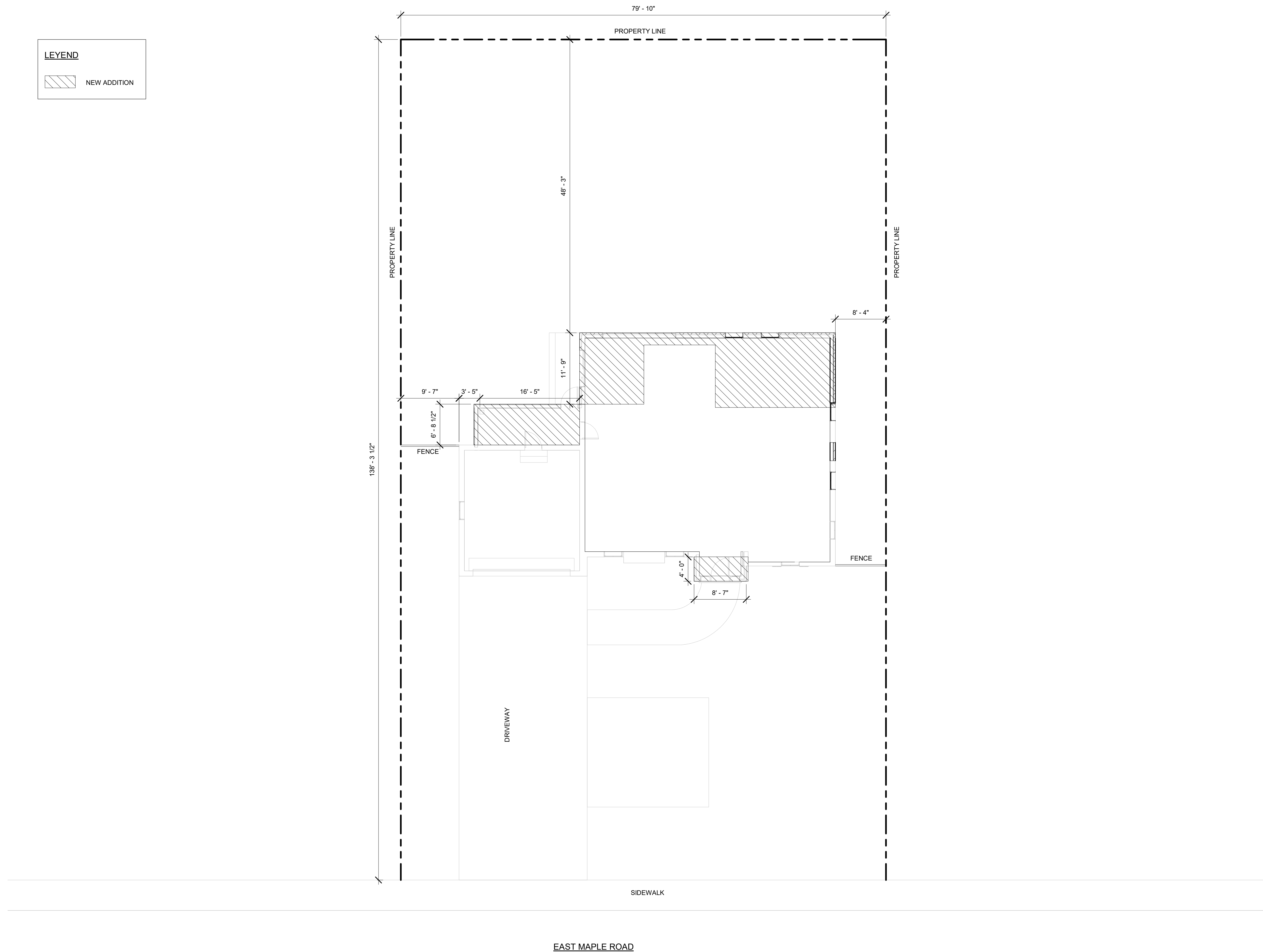
1511 E. Maple St
Birmingham, MI
48009

Project number	20-01
Date	09/14/2020
Drawn by	ACS

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

A-06	1/4" = 1'-0"
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48009

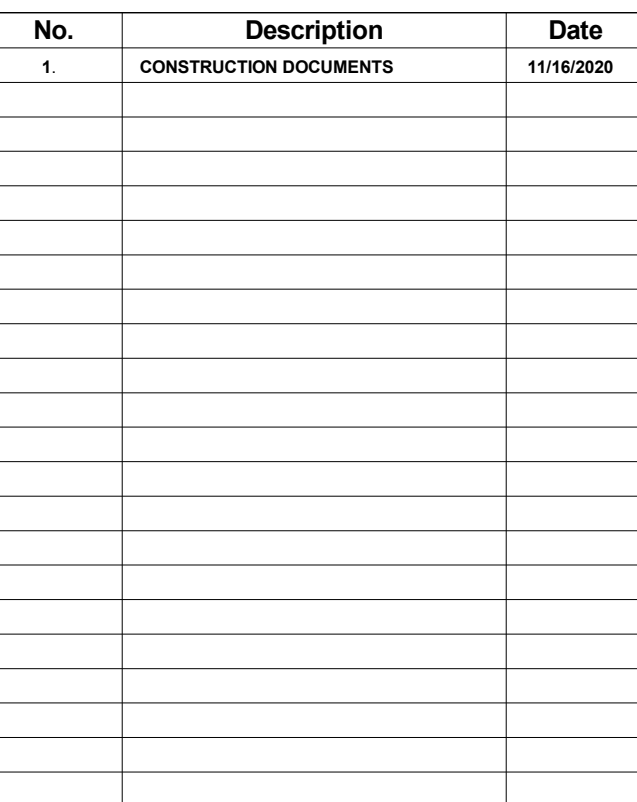
PROPOSED SITE PLAN

Project number	2
Date	09/14/10
Drawn by	Aut

A-08

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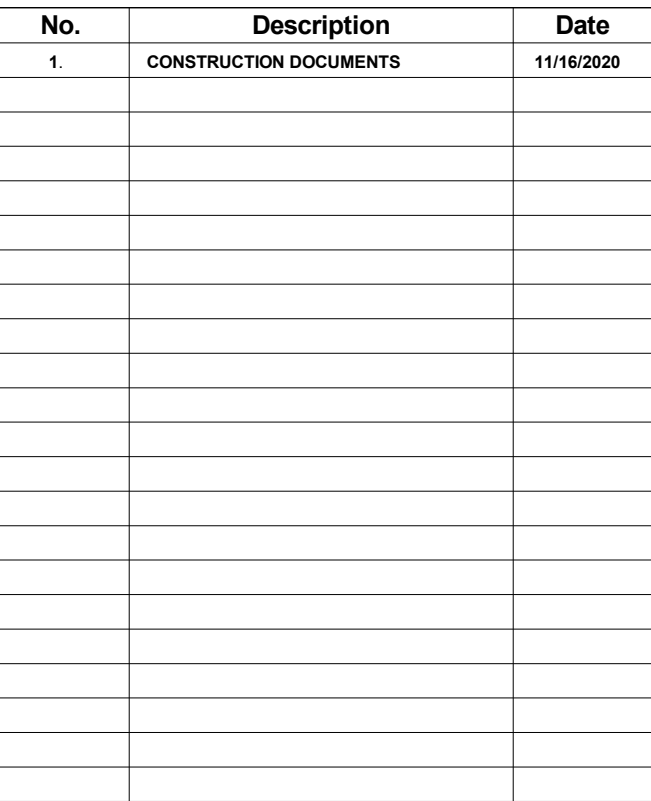
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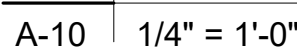
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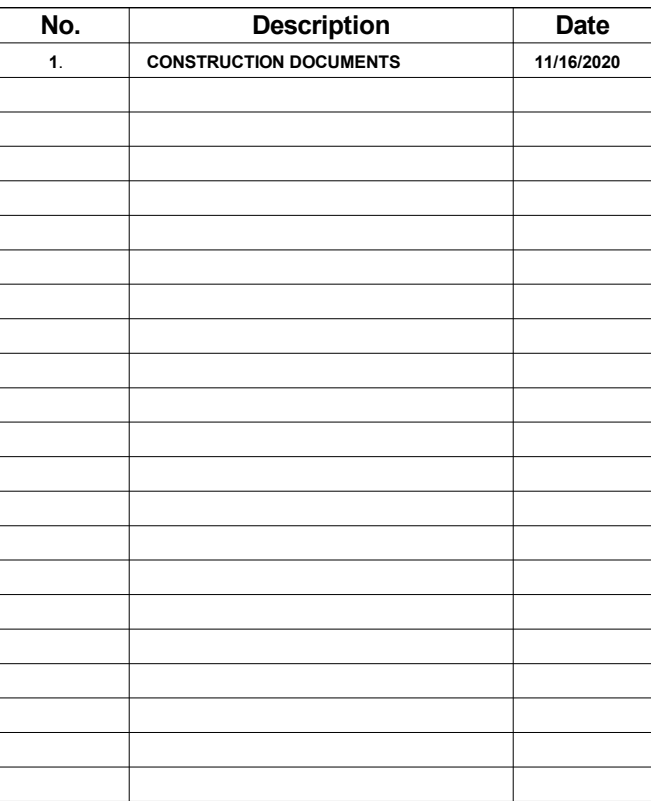
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Project	
1511 E. Maple St Birmingham, MI 48009	
Title	
PROPOSED 2ND FLOOR PLAN	
Project number	20-0201
Date	09/14/2020
Drawn by	ACS

Project number	20-01
Date	09/14/2020
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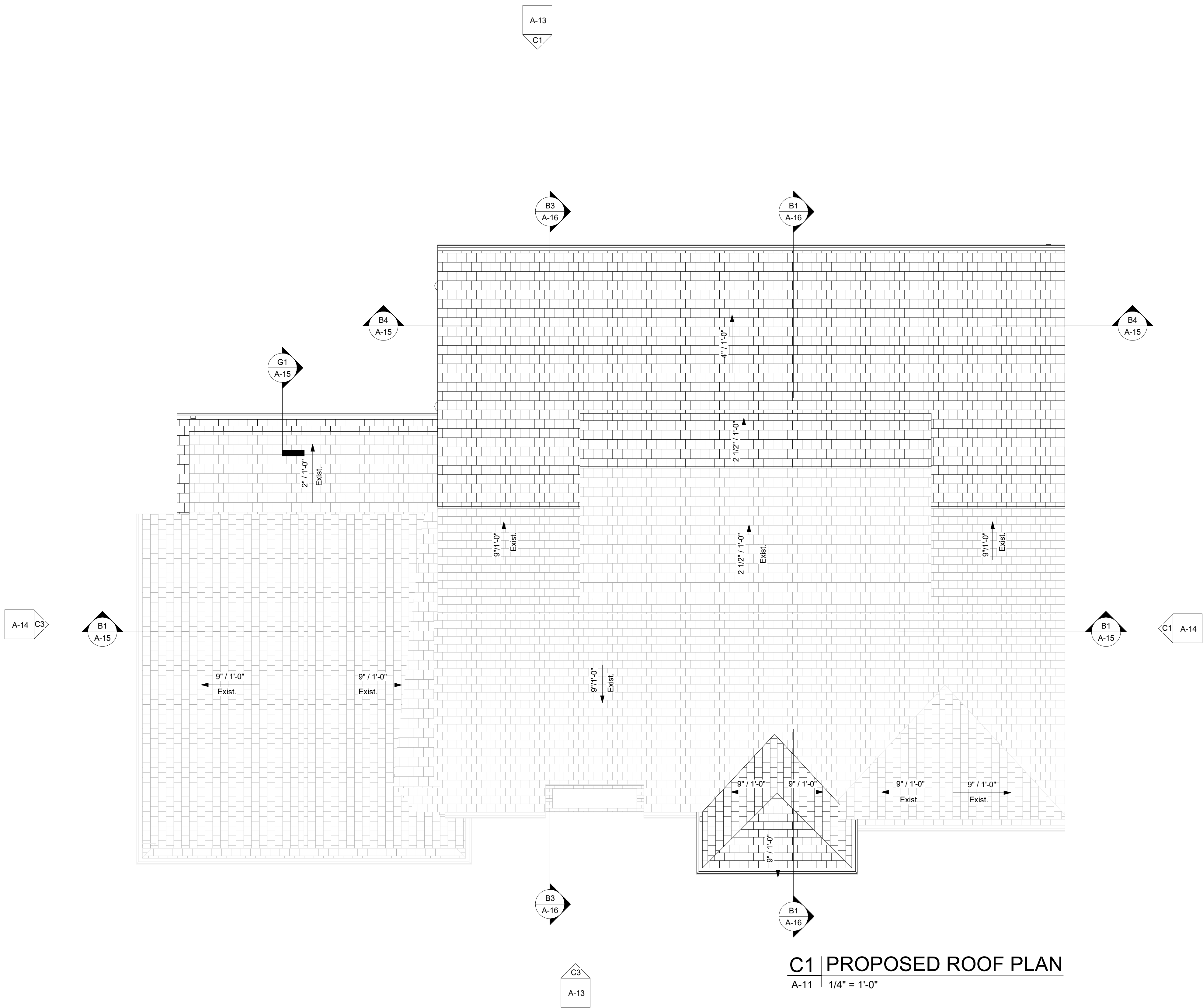
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Title

PROPOSED ROOF
PLAN

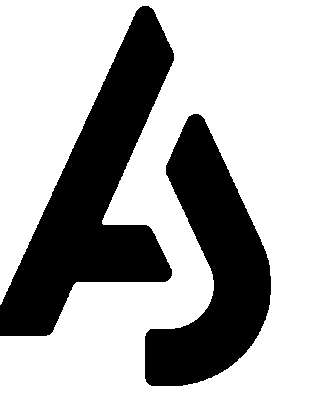
A-11

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DL: RECESSED DOWNLIGHT, CLG. MOUNTED
PL: PENDANT LIGHT, CLG. MOUNTED
LL: RECESSED LINEAR LIGHT, UNDER CABINETS
SL: SCONE LIGHT, WALL MOUNTED
EL: EXTERIOR LIGHT, WALL MOUNTED
RL: ROUND LIGHT, CLG. MOUNTED

NOTE: FINAL LIGHTING LAYOUT WILL BE COORDINATED BY CONTRACTOR

[illegible]OWNER

ADRIANA
& JASON
511 E. Maple St
Ann Arbor, MI 48109

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building codes prior to commencing construction.

Project

1511 E. Maple St
Birmingham, MI
48009

Title

REFLECTED CEILING PLANS

Project number	20-01
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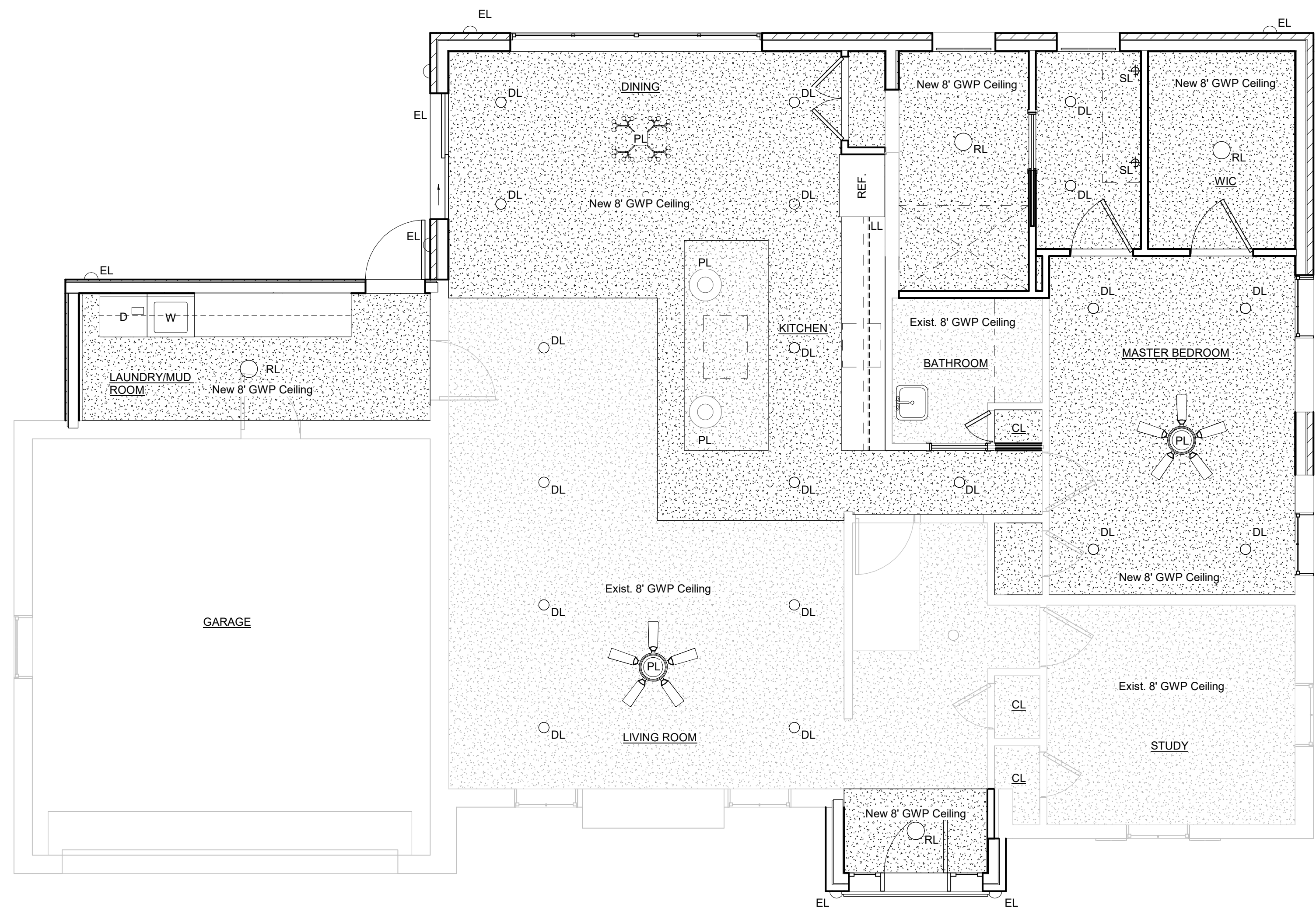
Date	09/14/2020
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Drawn by ACS

A-12

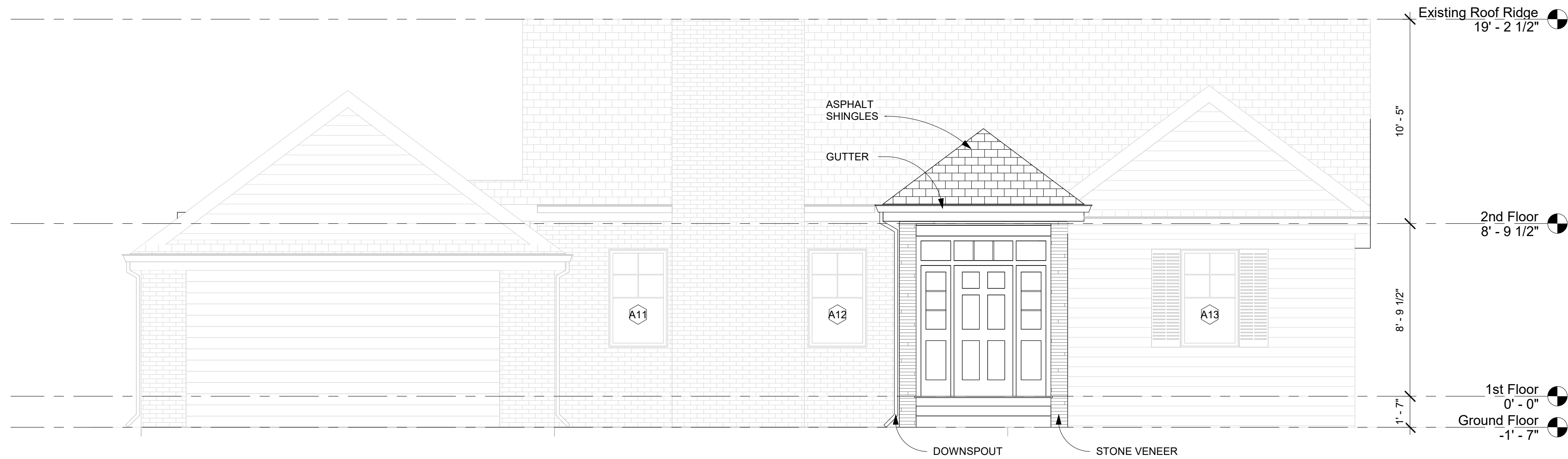
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D1 | 1ST FLOOR REFLECTED CEILING PLAN

A-12	$1/4" = 1'-0"$
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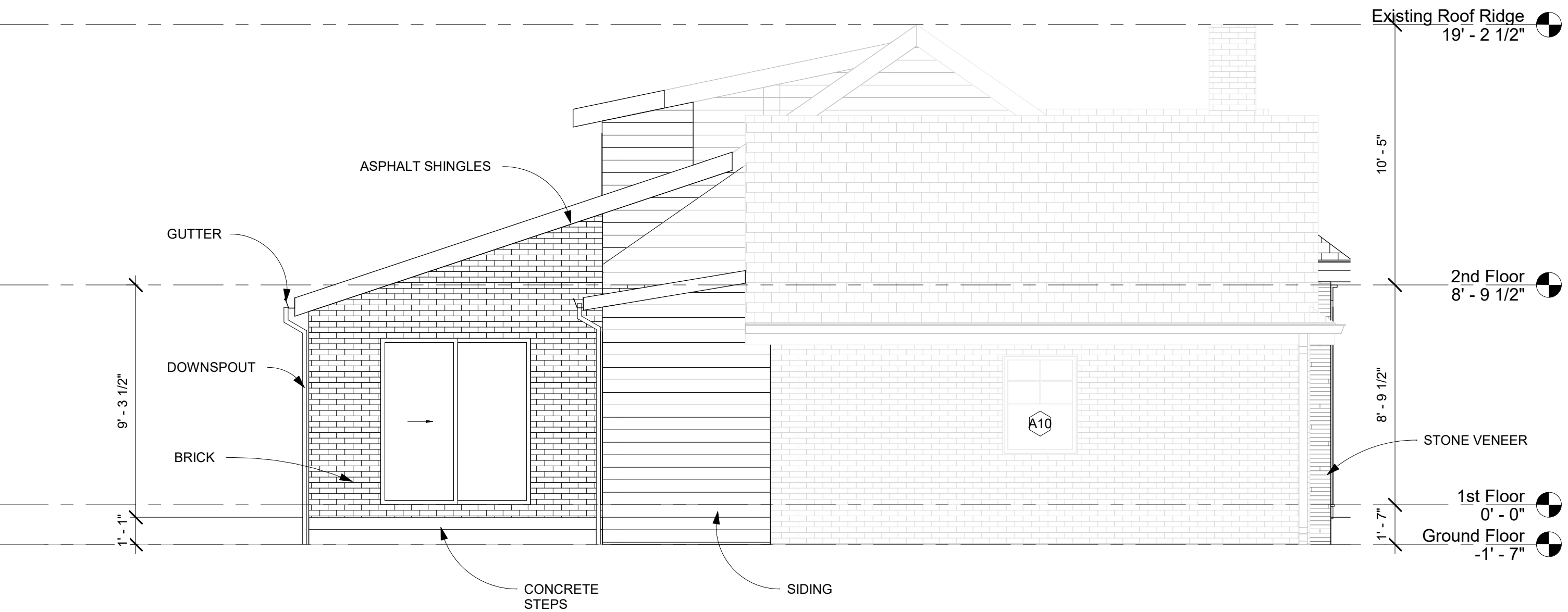


Architectural elevation drawing of the rear exterior of a two-story house. The drawing includes the following elements and dimensions:

- Existing Roof Ridge:** 19' - 2 1/2"
- Second Floor:** 8' - 9 1/2" high, featuring four windows labeled A27, A29, A28, and A26.
- Main Level (Ground Floor):** 8' - 9 1/2" high, featuring three windows labeled A22, A23, and D1.
- First Floor:** 0' - 0" high, featuring a door labeled D1.
- Ground Floor:** -1' - 7" high, featuring concrete steps and siding.
- Materials and Features:** Asphalt shingles, gutters, downspouts, brick, and concrete steps.

[illegible]

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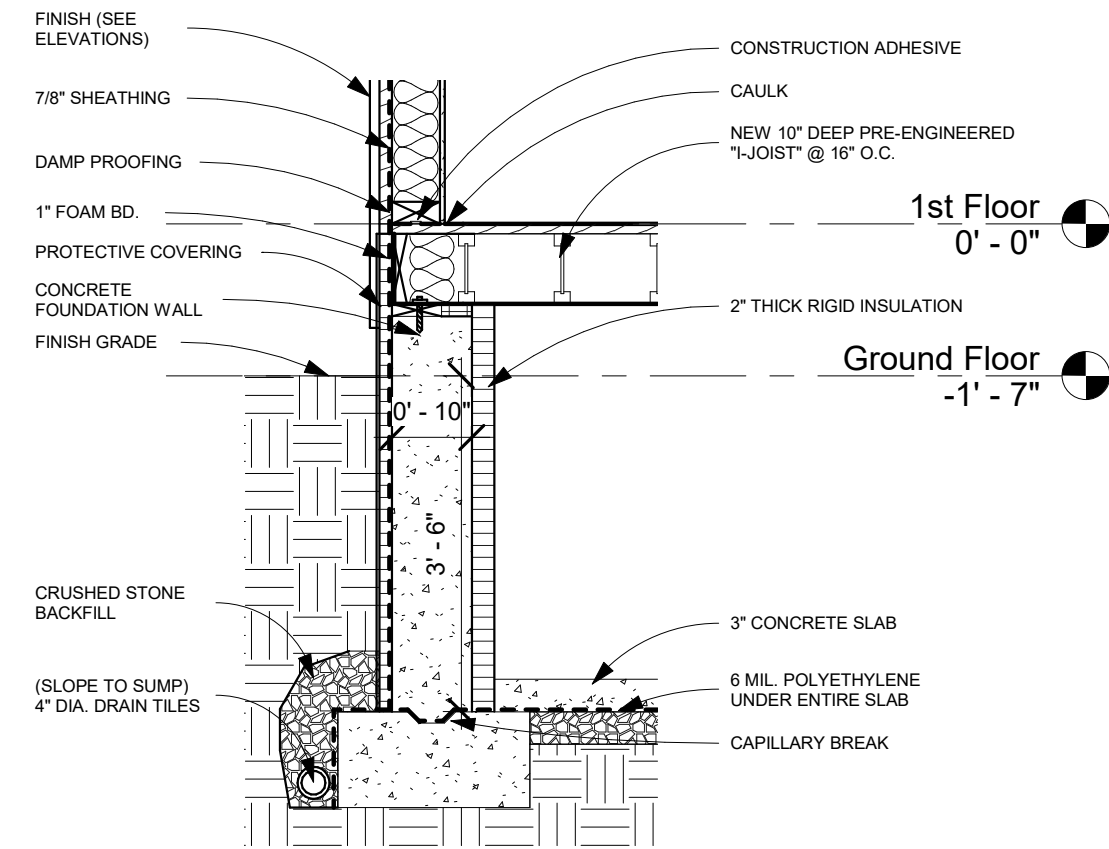


Architectural elevation drawing of the front of a house. The drawing includes the following labels and features:

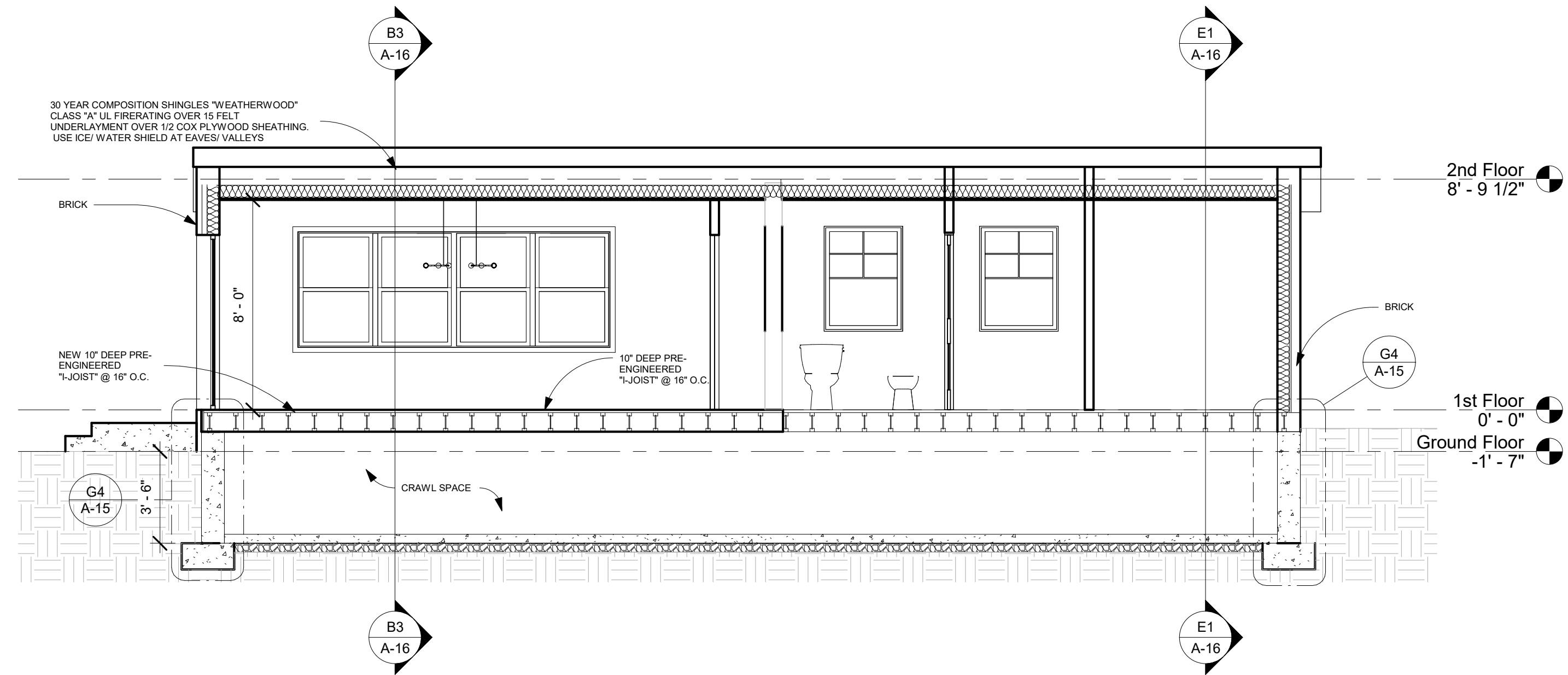
- Existing Roof Ridge:** 19' - 2 1/2"
- 10' - 5"** (Roof height)
- 2nd Floor:** 8' - 9 1/2"
- 8' - 9 1/2"** (Main floor height)
- 1st Floor:** 0' - 0"
- Ground Floor:** -1' - 7"
- 1' - 7"** (Foundation height)
- Labels:**
 - ASPHALT SHINGLES
 - GUTTER
 - STONE VENEER
 - CONCRETE STEPS
 - ASPHALT SHINGLES
 - GUTTERS
 - DOWNSPOUTS
 - BRICK
- Window Markers:** B2, A14, A23, A24

[illegible]

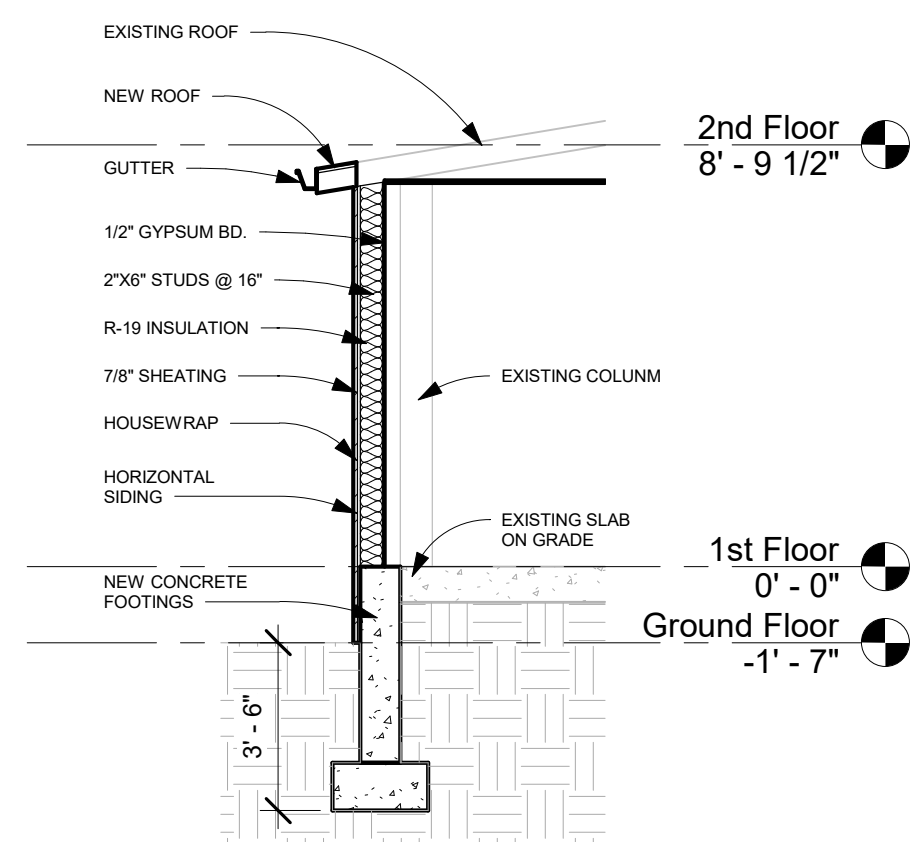
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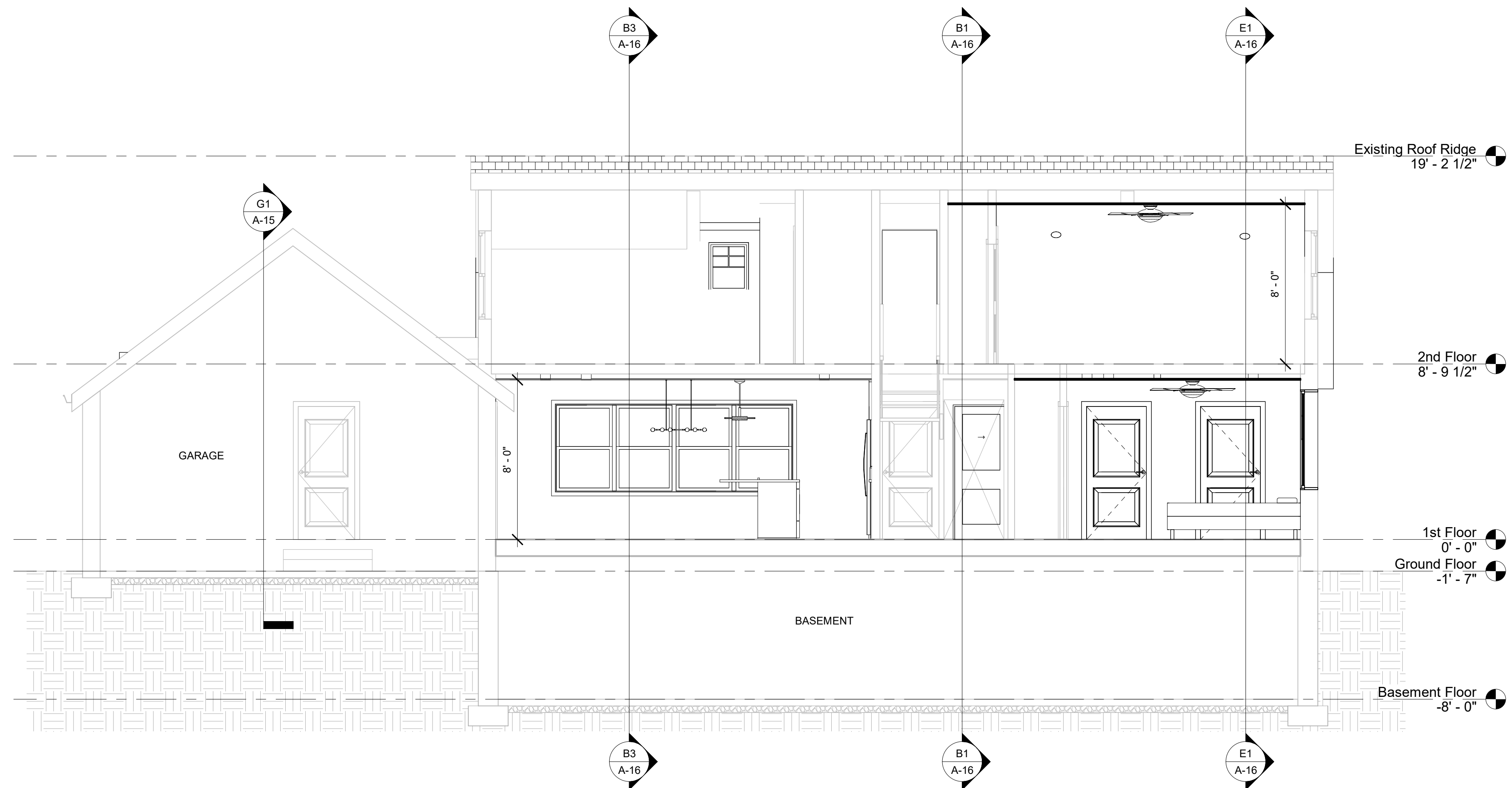
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A-15	1/4" = 1'-0"
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A-15	1/4" = 1'-0"
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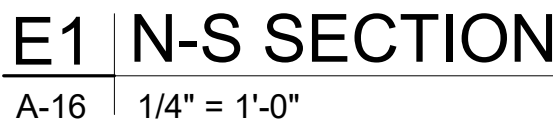
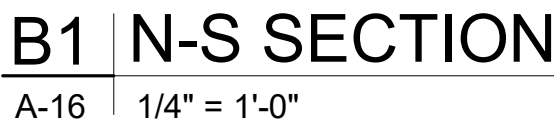
A-15	1/4" = 1'-0"
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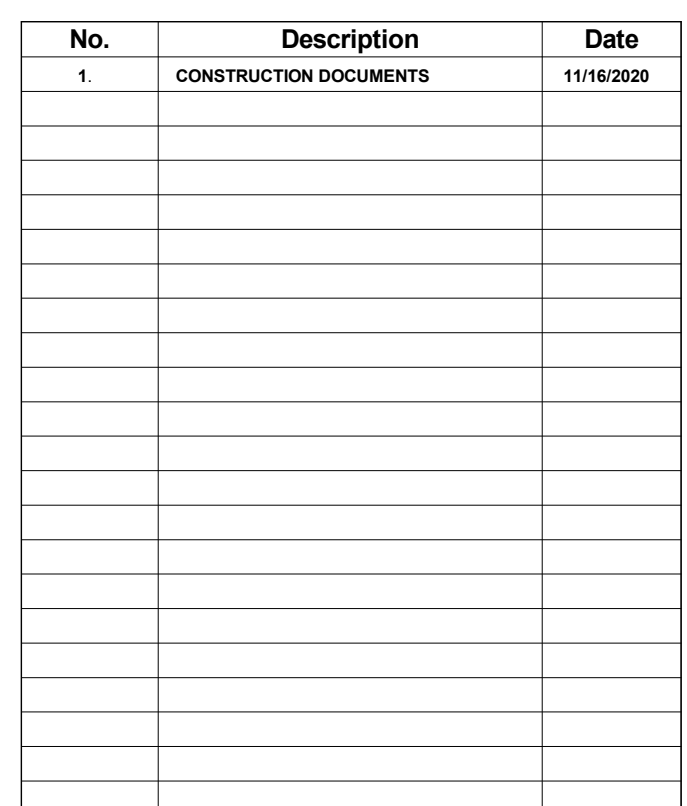
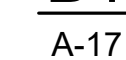
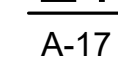
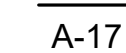
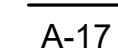


**ADRIANA
& JASON**
511 E. Maple St
Ann Arbor, MI 48106

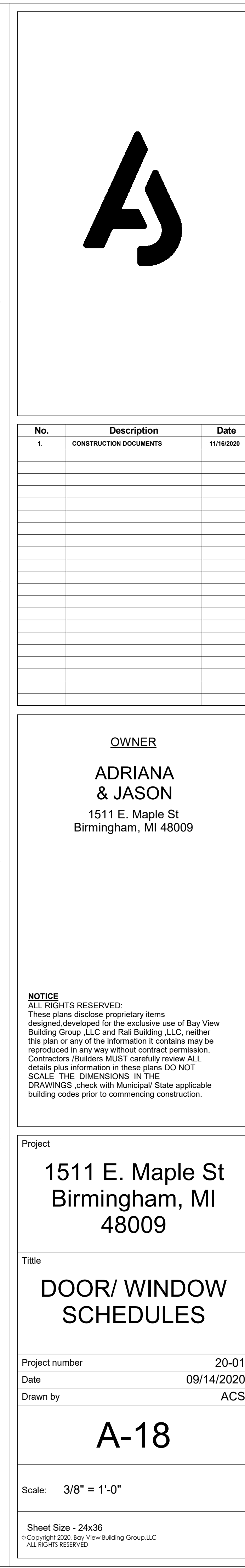
Project number	
1511 E. Maple St Birmingham, MI 48009	
Title	
SECTIONS	
Project number	20-01
Date	09/14/2020
Drawn by	ACS
A-16	
Scale: 1/4" = 1'-0"	
Sheet Size - 24x36	
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PROPOSED AREA 1ST FLOOR:	1,725 SF
PROPOSED AREA 2ND FLOOR:	612 SF
<u>GARAGE:</u>	<u>430 SF</u>
TOTAL:	2,767 SF

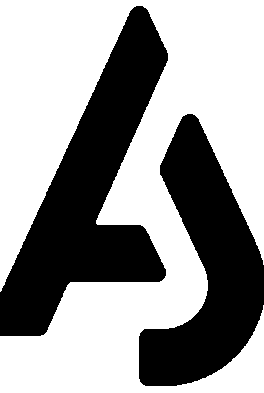


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DOOR SCHEDULE							
Mark	Family	Type Mark	Height	Width	Material	Finish	Comments
1st Floor							
101	Single door	1	6' - 8"	3' - 0"	-	-	Existing door to be removed
102	Garage door	7	8' - 0"	16' - 0"	-	-	Existing door to remain
103	Single door	1	6' - 8"	2' - 10"	-	-	Existing door to remain
104	Single door	1	6' - 8"	2' - 10"	Wood	Stain	Existing door to be replaced
105	Double door	2	6' - 8"	3' - 0"	-	-	Existing door to be removed
106	Single Glass door	6	6' - 8"	3' - 0"	-	-	Existing door to be removed
107	Single door	1	6' - 8"	2' - 10"	-	-	Existing door to remain
108	Single door	1	6' - 8"	2' - 8"	-	-	Existing door to be removed
109	Single door	1	6' - 8"	2' - 2"	-	-	Existing door to be removed
110	Single door	1	6' - 8"	2' - 10"	-	-	Existing door to remain
111	Single door	1	6' - 8"	2' - 2"	-	-	Existing door to remain
112	Single door	1	6' - 8"	2' - 10"	-	-	Existing door to remain
113	Single door	1	6' - 8"	2' - 2"	-	-	Existing door to remain
114	Single door	1	6' - 8"	2' - 2"	-	-	Existing door to remain
115	Entrance door	5	6' - 8"	3' - 0"	Wood	Stain	
116	Single Glass door	6	6' - 8"	2' - 10"	Wood	Stain	
117	Sliding glass door	8	6' - 8"	6' - 0"	Fiberglass	Prefinished painted	
118	Double door	2	6' - 8"	4' - 0"	Wood	Stain	
119	Sliding door	3	6' - 8"	2' - 8"	Wood	Stain	
120	Single door	1	6' - 8"	1' - 6"	Wood	Stain	
122	Single door	1	6' - 8"	3' - 0"	Wood	Stain	
123	Sliding door	3	6' - 8"	2' - 8"	Wood	Stain	
124	Single door	1	6' - 8"	3' - 0"	Wood	Stain	
2nd Floor							
201	Bifold 4 panel door	4	6' - 0"	6' - 0"	-	-	Existing door to remain
202	Single door	1	6' - 8"	2' - 10"	-	-	Existing door to remain
203	Single door	1	6' - 8"	2' - 8"	-	-	Existing door to be removed
204	Single door	1	6' - 8"	2' - 8"	-	-	Existing door to be removed
205	Single door	1	6' - 8"	2' - 10"	-	-	Existing door to remain
206	Single door	1	6' - 8"	2' - 10"	-	-	Existing door to remain
207	Single door	1	6' - 0"	2' - 10"	-	-	Existing door to remain
208	Sliding door	3	6' - 8"	2' - 8"	Wood	Stain	

Materials Finish Schedule									
Code	Manufacturer/Product	Product #	Material/System	Size/ Thickness	Color	Finish	Additional Finish Comments	Location	Remarks
Base									
RB-1	PINE FLOOR BASE	-	WOOD	5" HIGH	-	PTD	-	1ST & 2ND FLOOR	-
Masonry Veneer - Brick									
MA-1	EXTERIOR BRICK	-	-	PER DETAILS	-	-	-	PER DRAWINGS	-
-	-	-	-	-	-	-	-	-	-
Casing									
CA-1	PINE DOOR/ WINDOW CASING	-	WOOD	3"	-	PTD	-	PER DRAWINGS	-
Concrete									
CONC-1	EXTERIOR CONCRETE STEPS	-	CONCRETE FLOOR	PER STRUCT.	STANDARD	-	-	PER DRAWINGS	-
-	-	-	-	-	-	-	-	-	-
Gypsum Board / Cement Board									
GB-1	GYPSUM BOARD	-	-	-	-	PTD, U.N.O.	-	PER DRAWINGS	-
Flooring									
FL-1	HARDWOOD FLOOR	-	OAK	-	-	-	-	PER DRAWINGS	-
Paint									
PT-1	SHERWIN WILLIAMS	-	-	-	-	-	-	-	-
PT-2	SHERWIN WILLIAMS	-	-	-	-	-	-	-	-
Quartz									
QU-1	QUARTZ COUNTERTOPS	-	QUARTZ	-	-	-	-	KITCHEN AND BATHROOMS	-
Roofing									
RF-1	ASPHALT SHINGLES ROOFING	-	ASPHALT SHINGLES	-	-	-	-	PER DRAWINGS	-
Stone									
ST-1	STONE VENEER	-	STONE VENEER	-	GREY	-	-	PER DRAWINGS	-
Tile									
TL-1	FLOOR TILE	-	CERAMIC TILE	-	-	-	-	BATHROOMS	-
TL-2	WALL TILE	-	CERAMIC TILE	-	-	-	-	BATHROOMS	-
Notes									
1.	NOTES								

[illegible]OWNER

ADRIANA
& JASON

1511 E. Maple St
Birmingham, MI 48009

NOTICE

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Project

1511 E. Maple St
Birmingham, MI
48009

Title

MATERIAL SCHEDULE

Project number

20-01

Date _____

Drawn by

ACS

Drawn by _____

AC3

A-19

Scale: 12" = 1'-0"

Sheet Size - 24x36

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Birmingham Board of Zoning Appeals Proceedings
Tuesday, June 14, 2022
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, June 14, 2022. Chair Erik Morganroth convened the meeting at 7:30 p.m.

2. Rollcall

Present: Chair Erik Morganroth, Vice-Chair Jason Canvasser; Board Members Kevin Hart, John Miller, Ron Reddy, Pierre Yaldo; Alternate Board Member Carl Kona

Absent: Board Member Charles Lillie

Administration:

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

Chair Morganroth welcomed those present and reviewed the meeting's procedures.

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.

Chair Morganroth took rollcall of the petitioners. All petitioners were present.

3. Announcements

Per the CDC, Oakland County has a COVID-19 Community level and transmission level of HIGH. The City continues to highly recommend the public wear masks while attending City meetings per

CDC guidelines. These precautions are due to COVID-19 transmission levels remaining high in Oakland County that have led to an increase in infections of City employees and board members. All City employees, commissioners, and board members must wear a mask while indoors when 6-feet of social distancing cannot be maintained. This is to ensure the continuity of government is not affected by an exposure to COVID-19 that can be prevented by wearing a mask. The City continues to provide KN-95 respirators and triple-layered masks for all in-person meeting attendees.

T# 06-30-22

4. Approval Of The Minutes Of The BZA Meetings Of May 10, 2022

Motion by Mr. Reddy

Seconded by Vice-Chair Canvasser to accept the Minutes of the BZA meeting of May 10, 2022 as submitted.

Motion carried, 7-0.

VOICE VOTE

Yeas: Morganroth, Canvasser, Hart, Reddy, Miller, Kona, Yaldo

Nays: None

5. Appeals

T# 06-31-22

**1) 2225 E Fourteen Mile Rd
Appeal 22-16**

SP Cowan presented the item, explaining that the owner of the property known 2225 E Fourteen Mile, Our Shepherd Lutheran Church, was requesting the following variance to install three signs:

A. Chapter 1, Article 1, Table D of the Sign Ordinance permits religious institutions to have one sign at 20 square feet or less if less than 500 feet from occupied residential dwellings, or 40 square feet of signage if it is more than 500 feet from occupied residential dwelling units. The applicant is proposing three signs for a total of 104 square feet of signage, therefore a dimensional variance of 84 square feet is being proposed.

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

In reply to BZA inquiry, Mr. Abanatha explained:

- The sign on Melton would only be a 3.7 sq. ft. sign, which would be just enough to let visitors know there was an access point there;
- The end of that sign would be facing the residences, and not the long side of the sign;
- Much of the traffic would be entering the church parking lot at the northwest access;
- The access points are already extant, and the aim is to provide good wayfinding for those access points; and,
- The signs are scaled to the likely speeds of traffic passing the signs.

In response to Mr. Kona, Mr. Abanatha confirmed the font size for 'Lutheran Church' could be reduced on the sign in order to reduce the variance request.

Mr. Kona suggested the sign at the southeast corner could also be reduced since it would not be viewed by westbound traffic. He said if smaller signs were installed at the southeast and northeast corners, and the main sign at the southwest corner, it would also reduce the need for a variance.

Mr. Abanatha acknowledged that was possible but reiterated his contention that the signs as proposed were scaled appropriately to the traffic speeds, size of the property, and wayfinding needs.

Mr. Kona said the signs at the northeast and southeast corners are only about 400 feet apart and very substantial. He said when he drove the area he saw no need for two monument signs that close together. He said he also could not find another house of worship in Birmingham that has a similar sign condition.

Motion by Vice-Chair Canvasser

Seconded by Mr. Reddy with regard to Appeal 22-16, A. Chapter 1, Article 1, Table D of the Sign Ordinance permits religious institutions to have one sign at 20 square feet or less if less than 500 feet from occupied residential dwellings, or 40 square feet of signage if it is more than 500 feet from occupied residential dwelling units. The applicant is proposing three signs for a total of 104 square feet of signage, therefore a dimensional variance of 84 square feet is being proposed.

Vice-Chair Canvasser moved to deny the variance request, saying that the request variance was excessive and self-created. He said he would be willing to consider some amount of variance, but that the appellant did not demonstrate why they need three double-sided signs in the fonts proposed. He encouraged the appellant to work with the City to see if some of the goals could be accomplished with directional signs and/or with a reduced variance request.

Mr. Miller said he would support the motion, noting that two signs on 14 Mile Road were likely not needed because of the location and significant size of the church.

Mr. Kona said he would support the motion. He said if the font for 'Lutheran Church' were reduced and the two smaller signs were placed at the northeast and southeast corners the appellant would very nearly meet the requirements of the ordinance. He said there are ways to nearly meet the ordinance and to meet the needs of the church.

Chair Morganroth said he would support the motion. He noted that GPS reduces the need to rely on signage and that viable options were proposed during the discussion for reducing the variance request.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Miller, Morganroth, Canvasser, Hart, Reddy, Kona, Yaldo

Nays: None

T# 06-32-22

**2) 1029 Lake Park
Appeal 22-17**

ABO Zielke presented the item, explaining that the owner of the property known as 1029 Lake Park was requesting the following variance to the required open space for the impervious surface and turf installed in the rear yard:

A. Chapter 126, Article 2.06.1 of the Zoning Ordinance requires that a minimum open space of a lot is to be 40% (8202.00 SF). The proposed is 35.30% (7234.00 SF). Therefore, a variance of 4.70% (968.00 SF) is being requested.

Amie Ackerman, representative for Sapphire Landscaping, 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 Canvasser, Ms. Ackerman said the appellant could explore ways of mitigating the 968 sq. ft. variance being requested.

Mr. Miller noted that the amount of impervious surface in the front yard could be reduced to increase the amount of turf that could remain in the rear yard.

In reply to Mr. Hart, Ms. Ackerman said it was likely that the turf was proposed partially because this lot has a lower elevation than the neighboring homes.

BO Johnson stated that the site had an approved drainage plan.

Ms. Ackerman noted that the property received an approved as-built.

In response to additional comment by Ms. Ackerman, the Chair explained that the definition of 'impervious' was already provided to the BZA and could not be changed in this case. He said Ms. Ackerman must establish why the appellant cannot meet the ordinance, not why she thinks the interpretation of the ordinance should be changed.

Motion by Mr. Reddy

Seconded by Mr. Miller with regard to Appeal 22-17, A. Chapter 126, Article 2.06.1 of the Zoning Ordinance requires that a minimum open space of a lot is to be 40% (8202.00 SF). The proposed is 35.30% (7234.00 SF). Therefore, a variance of 4.70% (968.00 SF) is being requested.

Mr. Reddy moved to deny the variance, stating that no special or unique circumstances were demonstrated. He said the need for the variance was self-

created. He also noted that there were a number of ways to mitigate the need for the variance.

Mr. Miller agreed that there were options for mitigation and said he also said granting the variance could establish a potentially difficult precedent for the future.

Vice-Chair Canvasser noted that this was not an appeal of interpretation and so the definition of 'impervious' is provided for the BZA in this case. He opined that turf was not clearly addressed in the open space definition, structure definition, or impervious definition of the ordinance. He said it would be beneficial for the Commission and Planning Board to create an ordinance that specifically addresses turf.

The Vice-Chair said that he supported the motion because there were mitigating options, but said the BZA does need guidance from the Commission on the issue.

The Chair noted that installation of the turf requires a compacting machine, which may impact how pervious or impervious the turf is.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Miller, Morganroth, Canvasser, Hart, Reddy, Kona, Yaldo

Nays: None

T# 06-33-22

**3) 338 Pilgrim
Appeal 22-21**

Mr. Hart recused himself from the item at 8:41 p.m. citing a business relationship.

ABO Zielke presented the item, explaining that the owner of the property known as 338 Pilgrim was requesting the following variances to construct an addition to an existing non-conforming home:

It was determined that Variance A was no longer relevant.

B. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that the combined total side yard is 14 feet or 25 percent of lot width, which is greater. The required is 17.50 feet. The proposed 13.96 feet. Therefore, a variance of 3.54 feet is being requested.

C. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of total lot width, whichever is larger. The required is 17.50 feet on the north side. The proposed is 15.80 feet. Therefore, a variance of 1.70 feet is being requested.

D. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of total lot width, whichever is larger. The required is 17.50 feet on the south side. The proposed is 16.08 feet. Therefore, a variance of 1.42 feet is being requested.

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

In reply to Board inquiry, Mr. VanBrouck stated:

- The request for Variance D stemmed from the need to maneuver a wheelchair around two vehicles and the need to be able to fit two vehicles in the garage;
- The neighbor is supportive of the requested variances; and,
- It would be difficult to move the garage to the south in order to achieve a garage of the desired size without a variance.

Mr. Miller said it seemed like there would be a way to eliminate the need for Variance D and still accomplish the appellant's main goals.

The Chair concurred.

Motion by Vice-Chair Canvasser

Seconded by Mr. Miller with regard to Appeal 22-21, B. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that the combined total side yard is 14 feet or 25 percent of lot width, which is greater. The required is 17.50 feet. The proposed 13.96 feet. Therefore, a variance of 3.54 feet is being requested; C. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of total lot width, whichever is larger. The required is 17.50 feet on the north side. The proposed is 15.80 feet. Therefore, a variance of 1.70 feet is being requested; and, D. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of total lot width, whichever is larger. The required is 17.50 feet on the south side. The proposed is 16.08 feet. Therefore, a variance of 1.42 feet is being requested.

Vice-Chair Canvasser moved to approve Variances B, C, and D and tied them to the plans as submitted. He noted that part of the house is pre-existing non-conforming. He said the appellant describes efforts to mitigate the variance requests and that strict compliance with the ordinance would be unnecessarily burdensome in this situation. He said that other options may still require a variance and that it was not appropriate to trade one variance for another. He said granting these variances would do substantial justice to the appellant and the neighbors. He said it was a well-designed option for moving the garage forward while meeting the intent of the ordinance. He said there were unique circumstances on the lot and that the need for the variances was not self-created.

Motion failed, 3-3.

ROLL CALL VOTE

Yeas: Miller, Canvasser, Yaldo

Nays: Morganroth, Reddy, Kona

T# 06-34-22

**4) 310 E Maple
Appeal 22-22**

Mr. Hart rejoined the meeting at 9:13 p.m.

SP Cowan presented the item, explaining that the owner of the property known as 310 E Maple was requesting the following variance to enclose a portion of their outdoor dining to facilitate year round outdoor dining:

A. Chapter 126, Article 3, Section 3.04(C)(10)(i) of the Zoning Ordinance states "enclosures facilitating year round dining outdoors are not permitted." The applicant is proposing 767.25 square feet of isinglass to enclose 26 outdoor dining seats, therefore a dimensional variance of 767.25 square feet for an enclosure facilitating year round dining outdoors is being requested.

Kelly Allen, attorney, reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet. Luciano DelSignore, owner, also answered a few technical questions.

In reply to the Chair, Ms. Allen stated protecting the restaurant's equipment was not before the BZA, but the enclosure was before the BZA. Without the enclosure and the eisenglass, equipment essential to the running of the business could be destroyed by the elements.

The Chair suggested a protective vestibule could be created without outside dining.

Mr. Hart said the vestibule was a major component of the restaurant's ability to function in Michigan weather. He noted the design being discussed was part of the Cafe Via's original design.

Mr. Kona asked how the owner of the restaurant planned to protect the equipment in the vestibule when he was made aware that he would have to take the eisenglass down.

Ms. Allen said Mr. DelSignore only took the eisenglass down and did not have an alternate plan for protecting the equipment.

Mr. Kona noted that did not coming up with a plan to protect the equipment in winter meant that the operator did not have a plan to comply with the City's requirements.

Ms. Allen said that Mr. DelSignore did comply because he took the eisenglass down.

The Chair posed Mr. Kona's question to Mr. DelSignore regarding whether there was a plan to protect the equipment when the eisenglass came down.

Mr. DelSignore said the intent was to not use the equipment in that area during the winter, and to just rely on the internal equipment. He said it became clear that was not working. He said removing the eisenglass also made it so that the via-side indoor dining could not be used in the winter because it became too cold.

In reply to Mr. Hart, BO Johnson explained that when Casa Pernoi reopened the Special Land Use Permit for the restaurant all aspects came under review.

Motion by Mr. Miller

Seconded by Mr. Hart with regard to Appeal 22-22, A. Chapter 126, Article 3, Section 3.04(C)(10)(i) of the Zoning Ordinance states "enclosures facilitating year round dining outdoors are not permitted." The applicant is proposing 767.25 square feet of isinglass to enclose 26 outdoor dining seats, therefore a dimensional variance of 767.25 square feet for an enclosure facilitating year round dining outdoors is being requested.

Mr. Miller moved to approve the variance and tied it to the plans as submitted. He said the uniqueness of the circumstances would prevent this approval from establishing an inappropriate precedent. He said the area in question was designed and approved as an integral part of the building, which makes the circumstances unique. He noted it is also on private property. He said the issue was not self-created and was due to the unique circumstances of the property. He said approving the variance would due substantial justice to the petitioner and to the area. He said denial would prevent the petitioner from using the property for its intended purpose by hindering the use, functioning, and mechanical systems of the building.

Mr. Reddy concurred with Mr. Miller. He added that the restaurant was purchased under one set of rules which changed after the purchase as another reason for his support.

Vice-Chair Canvasser concurred with Mr. Miller. He said approval would also prevent a somewhat absurd situation where a sealed off area would be kept vacant with no seats inside, which he said would benefit no one.

Mr. Yaldo concurred with Vice-Chair Canvasser.

Mr. Kona said he could not support the motion because he saw other ways to resolve the issue and said the issue was a business one, not a weather one.

Mr. Hart voiced his support for the motion, also citing the unique circumstances. He noted that making a vacant area could have safety and security impacts, and said the success of this business impacts the businesses in the area as well.

The Chair said that while a vestibule could be created that would allow functioning, he also agreed that this area was created as an integral part of the functioning of the restaurant. He also concurred with the Vice-Chair's comments. The Chair said he would support the motion.

Motion carried, 6-1.

ROLL CALL VOTE

Yeas: Miller, Morganroth, Canvasser, Hart, Reddy, Yaldo

Nays: Kona

T# 06-35-22

**5) 843 Tottenham
Appeal 22-23**

ABO Zielke presented the item, explaining that the owner of the property known as 843 Tottenham was requesting the following variances to reconstruct the existing front porch:

A. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that the combined total side yard is 14 feet or 25 percent of lot width, which is greater. The required is 16.25 feet. The existing and proposed 13.80 feet. Therefore, a variance of 2.45 feet is required.

B. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of total lot width, whichever is larger. The required is 16.25 feet on the north side. The existing and proposed is 13.80 feet. Therefore, a variance of 2.45 feet is being requested.

Fred Dawson, representative for the appellant, reviewed the letter describing why these variances were being sought. The letter was included in the evening's agenda packet.

Motion by Vice-Chair Canvasser

Seconded by Mr. Reddy with regard to Appeal 22-23, A. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that the combined total side yard is 14 feet or 25 percent of lot width, which is greater. The required is 16.25 feet. The existing and proposed 13.80 feet. Therefore, a variance of 2.45 feet is required; and, B. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of total lot width, whichever is larger. The required is 16.25 feet on the north side. The existing and proposed is 13.80 feet. Therefore, a variance of 2.45 feet is being requested.

Vice-Chair Canvasser moved to approve the variance and tied the approval to the plans as submitted. He said it was not a self-created issue and that there would be no expansion of the existing non-conformity. He said allowing it was a safety issue,

would allow substantial justice to the petitioner, and that strict compliance would render conformity with the ordinance unnecessarily burdensome.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Miller, Morganroth, Canvasser, Hart, Reddy, Kona, Yaldo

Nays: None

T# 06-36-22

**6) 843 Chestnut
Appeal 22-24**

ABO Zielke presented the item, explaining that the owner of the property known as 843 Chestnut was requesting the following variance to reconstruct the existing rear patio.

A. Chapter 126, Article 4, Section 4.30(C)5 of the Zoning Ordinance permits patios to project into the rear open space for a minimum distance of 15.00 feet. The provision shall not reduce the required rear setback to less than 15.00. The existing reduces the rear setback to 13.95 feet. Therefore, a variance of 1.05 feet is being requested.

Mark Vinckier, owner of the home, reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet.

In reply to the Chair, Mr. Vinckier explained that mitigating the 1.05 feet was considered but given the already small size of the patio, the three young children, and a fixed gas fireplace making the patio any smaller could endanger members of the family.

Motion by Mr. Reddy

Seconded by Mr. Miller with regard to Appeal 22-24, A. Chapter 126, Article 4, Section 4.30(C)5 of the Zoning Ordinance permits patios to project into the rear open space for a minimum distance of 15.00 feet. The provision shall not reduce the required rear setback to less than 15.00. The existing reduces the rear setback to 13.95 feet. Therefore, a variance of 1.05 feet is being requested.

Mr. Reddy moved to approve the variance and tied it to the plans as submitted. He said the existing non-conformity was being reduced and granting the variance would do substantial justice to the petitioner.

The Chair noted that the fixed fireplace prevents the petitioner from eliminating the need for the variance.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Miller, Morganroth, Canvasser, Hart, Reddy, Kona, Yaldo

Nays: None

T# 06-37-22

**7) 1511 E Maple
Appeal 22-25**

ABO Zielke presented the item, explaining that the owner of the property known as 1511 E Maple was requesting following variance to construct a rear addition to the existing non-conforming house:

A. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of total lot width, whichever is larger. The required is 20.00 feet on the east side. The proposed is 19.20 feet. Therefore, a variance of 0.80 feet is being requested.

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

In reply to the Chair, Mr. Hurst said mitigating the .8 feet was considered but having the plans redrawn would represent a financial burden and he preferred to leave a straight-run gutter on the rear to prevent backups.

Motion by Mr. Hart

Seconded by Vice-Chair Canvasser with regard to Appeal 22-25, A. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of total lot width, whichever is larger. The required is 20.00 feet on the east side. The proposed is 19.20 feet. Therefore, a variance of 0.80 feet is being requested.

Mr. Hart moved to approve the variance and tied the approval to the plans as submitted. He said the appellant demonstrated the unique aspects of the property and that strict compliance to the ordinance would unreasonably prevent the petitioner from using the property for its permitted use and would create an undue burden. He said granting the variance would do substantial justice to the appellant and the neighboring properties and that the problem was not self-created.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Miller, Morganroth, Canvasser, Hart, Reddy, Kona, Yaldo

Nays: None

6. Correspondence

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

T# 06-37-22

8. Adjournment

Motion by Vice-Chair Canvasser

Seconded by Mr. Reddy to adjourn the June 14, 2022 BZA meeting at 10:35 p.m.

Motion carried, 7-0.

VOICE VOTE

Yeas: Miller, Morganroth, Canvasser, Hart, Reddy, Kona, Yaldo

Nays: None



Bruce R. Johnson, Building Official



Laura Eichenhorn

City Transcriptionist

CASE DESCRIPTION

479 S Old Woodward (22-47)

Hearing date: November 8, 2022

Appeal No. 22-47: The owner of the property known **479 S. Old Woodward** requests the following appeal and variance:

A. The applicant is requesting an appeal of the Planning Board's decision on September 28th, 2022 to deny the revised Final Site Plan and Design Review application for 479 S. Old Woodward.

OR

B. Chapter 126, Article 4, Section 4.46(A) Table A requires the off-street parking total for a site to be based on the land uses. Furthermore, Chapter 126, Article 4, Section 4.50(D) enables parking requirement reductions for a property in the B3 Zone when there is combined within a single building an office use, a residential use, and a restaurant use. The applicant is required to provide 113 parking spaces on-site. The amended site plan provides 39 parking spaces on-site. Therefore, a variance of 74 parking spaces is being requested.

Staff Notes:

On September 23rd, 2020, the subject property obtained Final Site Plan approval from the Planning Board for a five story building with first floor retail and four stories of residential use. The subject site is not within the former parking assessment districts, therefore commercial and residential off-street parking requirements were satisfied with ground level parking and two levels of underground parking. The site plan approved in September of 2020 required 75 parking spaces and provided 84, an excess of 9. It is also of note that the site plan approved in September of 2020 had 14 parking spaces on the ground level intended for retail users. On January 12th, 2021, the applicant obtained a variance for 7 of the ground level parking spaces to be within the first 20 feet of the property's frontage line along Hazel Street.

On September 28th, 2022, the applicant appeared before the Planning Board to apply for a

revised Final Site Plan and Design Review for a modified five story building proposal. Substantial revisions included two floors of commercial uses instead of one, with first floor retail replacing the previously approved 14 ground level parking spaces. The revised site plan has 26,000 square feet of commercial space, whereas the plans approved in 2020 had 6,200 square feet of commercial space. The revised site plan also eliminated a second level of underground parking which contained 37 parking spaces. The additional commercial space paired with eliminating a level of underground parking changed the revised site plan's parking requirement from an excess of 9 to a shortage of 74 parking spaces.

Upon review with the Planning Board, it was discussed how the revised site plan provides enough parking that is required for the residential uses but not the commercial uses. The applicant stated that the site has encountered structural engineering issues with a second level of underground parking, hence they would like to approach the commercial aspect of the building as if it were within the parking assessment district. The Planning Board discussed how the enormity of the parking shortage was difficult to overcome. The Planning Board moved to deny the revised Final Site Plan and Design Review by a vote of 4-2. Relevant minutes are attached.

It is of note that in 2021, the applicant applied to have 479 S. Old Woodward included within the parking assessment district which would enable the property to have commercial parking requirements waived (retail, office, restaurant, etc). It was determined that the City's time limitation for special assessments (City Code Chapter 94, Section 17) is 20 years and that legally, properties cannot pay a retroactive assessment fee. The most recent special assessment for the purpose of providing a public parking facility was for the Chester Street parking structure in 1989, thus the assessment expired in 2009. Given the legalities regarding payments of an assessment, the applicant was denied being incorporated within the parking assessment district.

It is also of note that the applicant has applied for a Zoning Ordinance amendment to enable City Commission the ability to waive commercial parking requirements for a property in the D4 Downtown Overlay zone through the provisions of a Special Land Use Permit. The hearing for the amendment will be held on December 5th, 2022 at City Commission.

This property is zoned B3 (Office-Residential) and D4 in the Downtown Overlay.

Brooks Cowan
City Planner

479 S OLD WOODWARD 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: 9/12/2022

Hearing Date: 10.11.22

Received By: HT

Appeal #: 22-47

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

Address: 479 S. Old Woodward	Lot Number: N/A	Sidwell Number: 08-19-36-208-207
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II. OWNER INFORMATION:

Name: Birmingham Towers Partners, LLC			
Address: 251 East Merrill Street	City: Birmingham	State: MI	Zip code: 48009
Email: * c/o sestey@dykema.com		Phone: 248-203-0538	

III. PETITIONER INFORMATION:

Name: Same as Owner Information	Firm/Company Name:		
Address:	City:	State:	Zip code:
Email:	Phone:		

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

Owner hereby authorizes the petitioner designated below to act on behalf of the owner.

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: 9/12/2022

Signature of Petitioner: [Signature]

Date: 9/12/2022

**CITY OF BIRMINGHAM
BOARD OF ZONING APPEALS
RULES OF PROCEDURE**

ARTICLE I - Appeals

A. Appeals may be filed under the following conditions:

1. A property owner may appeal for variance, modification or adjustment of the requirements of the Zoning Ordinance.
2. A property owner may appeal for variance, modification or adjustment of the requirements of the Sign Ordinance.
3. Any aggrieved party may appeal the decision of the Planning Board and/or the Building Official in accordance with the City of Birmingham Zoning Ordinance, Article Eight, Section 8.01 (D) Appeals. If an appellant requests a review of any determination of the Building Official, a complete statement setting forth the facts and reasons for the disagreement with the Building Official's determination shall include the principal point, or points on the decision, order or section of the ordinance appealed from, on which the appeal is based.

B. Procedures of the Board of Zoning Appeals (BZA) are as follows:

1. Regular BZA meetings, which are open to the public, shall be held on the second Tuesday of the month at 7:30 P.M. provided there are pending appeals. There will be a maximum of seven appeals heard at the regular meeting which are taken in the order received. If an appeal is received on time after the initial seven appeals have been scheduled, it will be scheduled to the next regular meeting.
2. All applications for appeal shall be submitted to the Community Development Department on or before the 12th day of the month preceding the next regular meeting. If the 12th falls on a Saturday, Sunday, or legal holiday, the next working day shall be considered the last day of acceptance.
3. All property owners and occupants within 300 feet of the subject property will be given written notice of a hearing by the City of Birmingham.
4. See the application form for specific requirements. If the application is incomplete, the BZA may refuse to hear the appeal. The Building Official or City Planner may require the applicant to provide additional information as is deemed essential to fully advise the Board in reference to the appeal. Refusal or failure to comply shall be grounds for dismissal of the appeal at the discretion of the Board.
5. In variance requests, applicants must provide a statement that clearly sets forth all special conditions that may have contributed to a practical difficulty that is preventing a reasonable use of the property.

6. Where the Birmingham Zoning Ordinance requires site plan approval of a project by the City Planning Board before the issuance of a building permit, applicants must obtain preliminary site plan approval by the Planning Board before appeal to the BZA for a variance request. If such appeal is granted by the BZA, the applicant must seek final site plan and design review approval from the Planning Board before applying for a building permit.
 7. An aggrieved party may appeal a Planning Board decision. Such appeal must be made within 30 days of the date of the decision. The BZA, in its discretion, may grant additional time in exceptional circumstances.
 8. Appeals from a decision of the Building Official shall be made within 30 days of the date of the order, denial of permit, or requirement or determination contested. The BZA, in its discretion, may grant additional time in exceptional circumstances.
 9. An appeal stays all proceedings in accordance with Act #110, Public Acts of 2006, Article VI, Section 125.3604 (3).
- C. The order of hearings shall be:
1. Presentation of official records of the case by the Building Official or City Planner as presented on the application form.
 2. Applicant's presentation of his/her case—the applicant or his/her representative must be present at the appeal hearing.
 3. Interested parties' comments and view on the appeal.
 4. Rebuttal by applicant.
 5. The BZA may make a decision on the matter or request additional information.
- D. Motions and Voting
1. A motion is made to either grant or deny a petitioner's request
 - a) For a motion to grant or deny a non-use variance request, the motion must receive four (4) affirmative votes to be approved.
 - b) For a motion to grant or deny a use variance request, the motion must receive five (5) affirmative votes to be approved.
 - c) For a motion to grant or deny an appeal of a decision or order by an administrative official or board, the motion must receive four (4) affirmative votes to be approved.
 2. When a motion made is to approve or deny a petitioner's request and if there is a tie vote, then the vote results in no action by the board and the petitioner shall be given an opportunity to have his or her request heard the next regularly scheduled meeting when all the members are present.
-

3. When there are less than seven (7) members of the board present for a meeting, then a petitioner requesting a use variance shall be given an opportunity at the beginning of the meeting to elect to have it heard at the next regularly scheduled meeting.
4. When there are less than six (6) members present for a meeting, then all petitioners shall be given an opportunity at the beginning of the meeting to elect to have the request heard at the next regularly scheduled meeting.

ARTICLE II - Results of an Appeal

- A. The Board may reverse, affirm, vary or modify any order, requirement, decision or determination as in its opinion should be made, and to that end, shall have all the powers of the officer from whom the appeal has been taken.
- B. The decisions of the Board shall not become final until the expiration of five (5) days from the date of entry of such orders or unless the Board shall find that giving the order immediate effect is necessary for the preservation of property and/or personal rights and shall so certify on the record.
- C. Whenever any variation or modification of the Zoning Ordinance is authorized by resolution of the BZA, a Certificate of Survey must be submitted to the Community Development Department with the building permit application. A building permit must be obtained within one year of the approval date.
- D. Failure of the appellant, or his representative, to appear for his appeal hearing will result in the appeal being adjourned to the next regular meeting. If, after notice, the appellant fails to appear for the second time, it will result in an automatic withdrawal of the appeal. The appellant may reapply to the BZA.
- E. Any applicant may, with the consent of the Board, withdraw his application at any time before final action.
- F. Any decision of the Board favorable to the applicant is tied to the plans submitted, including any modifications approved by the Board at the hearing and agreed to by the applicant, and shall remain valid only as long as the information or data provided by the applicant is found to be correct and the conditions upon which the resolution was based are maintained.

ARTICLE III - Rehearings

- A. No rehearing of any decision of the Board shall be considered unless new evidence is submitted which could not reasonably have been presented at the previous hearing or unless there has been a material change of facts or law.
-

B. Application or rehearing of a case shall be in writing and subject to the same rules as an original hearing, clearly stating the new evidence to be presented as the basis of an appeal for rehearing.

I certify that I have read and understand the above rules of procedure for the City of Birmingham Board of Zoning Appeals.



Signature of Applicant



Dykema Gossett PLLC
39577 Woodward Avenue
Suite 300
Bloomfield Hills, MI 48304

WWW.DYKEMA.COM

Tel: (248) 203-0700

Fax: (248) 203-0763

Stephen R. Estey

Direct Dial: (248) 203-0538

Direct Fax: (855) 232-1793

Email: SEstey@dykema.com

October 21, 2022

Via Hand Delivery

City of Birmingham
ATTN: Board of Zoning Appeals
151 Martin Street
Birmingham, MI 48009

Re: Appeal of Planning Board's Denial of Site Plan Amendment And/Or In Alternative Request For Parking Variance Request – 479 S. Old Woodward

Dear Zoning Board Members:

We represent the owner, Birmingham Towers Partners (“BTP”), of the combined lots of 469-479 S. Old Woodward Avenue, now known as 479 S. Old Woodward Avenue (the “Property”). This letter and its accompanying materials, including the Application attached hereto as **Exhibit A**, are presented to the City of Birmingham (“City”) Board of Zoning Appeals (“BZA”) in furtherance of BTP’s request for a parking variance as set forth herein.

I. BACKGROUND

The property at issue consists of a commercial building which was formerly utilized as a Mountain King restaurant and bank. It is in desperate need of renovation/redevelopment. BTP has recently entered into a Letter of Intent to bring a national high-end furniture retailer to this location and has submitted updated site plans to the Planning Board to modify the existing plan in order to accommodate this retail use on the first floor and mezzanine with residential apartments above. *See* Amended Plan, attached as **Exhibit B**. Ground floor commercial uses are consistent with the Master Plan as well as recent proposed drafts of the 2040 Plan. In addition, the use of higher story buildings (such as 5 story in the D-4) is contemplated and consistent with the Downtown Overlay District.

The Property is located in the Downtown Overlay District, D-4 Zone (“D-4”). The physical practicalities of the Property create unique problems for development under the City’s current zoning ordinance, given the manner in which parking is treated for parcels included in the former Parking Assessment District (“PAD”) vs. all others. The overall lot size is 0.423 acres. The lot is long and narrow, and it is situated on two corners with frontage on three streets,

S. Old Woodward, Hazel and M-1. Because of the size and narrow corner configuration of the Property, it cannot support viable street-level retail, commercial use, residential use, *and* the required parking for those uses as discussed herein.

The off-street parking requirements for this Property make the engineering and design of a mixed-use, D4-allowable building challenging – if not impossible. Even with a significant amount of the ground floor area and an underground garage dedicated to parking, there simply is not enough onsite parking to support a street-level-activating retail use such as that planned for the S. Old Woodward frontage. This fails to optimize retail for a pedestrian streetscape or to make the development economically viable.

BTP has worked for four years to find a solution to enable it to develop this Property in a manner that is consistent with the Township’s Master Plan as well as providing the best product for the area in question. These efforts have included, among other things, exploring re-opening the PAD, requesting the City Commission to add the Property to the PAD, proposing a minor zoning ordinance amendment, and most recently seeking approval of an amended site plan and the instant parking variance.

1). BIRMINGHAM ZONING ORDINANCE

The property is the only building located downtown that is zoned D-4 which has not been included in the former Parking Assessment District. Therefore, the Property is unfairly prejudiced and subject to different standards than all of the other similarly situated D-4 zoned properties.

a. Parking Disparity

Article 3, Section 3.04(D) provides in pertinent part:

D. Parking requirements.

1. For all nonresidential uses located within the parking assessment district, parking on the site shall not be required, provided such site is in full compliance with the requirements of the parking assessment district.
2. For all residential uses located within the parking assessment district, the on-site parking requirements contained in Section [4.46](#), Section [4.49](#), Section [4.50](#) and Section [4.51](#) may be complied with through leasing the required spaces from an off-site parking area, provided the requirements of Section [4.45](#)(G) are met and all parking is supplied on site or within 300 feet of the residential lobby entrance of the building

3. For all sites located outside of the parking assessment district, off-street parking must be provided in accordance with the requirements of Article 4 for parking, loading and screening.
4. Notwithstanding the above regulations, residential dwelling units within the existing second and third floors of landmark buildings, as defined in Section 62-87 of the Birmingham City Code, located within the central business historic district are exempt from required off-street parking requirements.
5. Off-street parking contained in the first story shall not be permitted within 20 feet of any building facade on a frontage line or between the building facade and the frontage line.
6. The placement of two abutting off-street parking lots with continuous street frontages shall not be permitted.

Based on the foregoing, the Property is required to provide strict compliance of off-street parking in accordance with the requirements of Article 4.

b. The Property Is The Only D4 Zoned Area Outside Of The Former PAD.

As noted above, the Property is the only building located in the Downtown Birmingham Overlay District that is zoned D-4 which has not been included in the former Parking Assessment District. See Parking Assessment Map attached hereto as **Exhibit C**. Dating back to 1965, the PAD included all properties located in the CBD. The Downtown Birmingham Overlay District was created in 1996 and replaced the CBD. Section 1-2 of the Birmingham Ordinance states,

“Central Business District. When the words “Central Business District” are used in this Code, it shall mean those areas included within the Downtown Birmingham Overlay District as described in Article Three: Overlay Districts, 3.02 Section D of the Birmingham Zoning Ordinance.”

(Emphasis added)

By not being included in the PAD, the Property is subject to different standards than all of the other similarly situated D-4 properties in the City. By way of example, the Property was previously utilized as a Mountain King restaurant along with a bank. If our client attempted to re-activate these exact same uses today – it could not, as without being in the PAD, there would be insufficient off street parking.

Among the purposes of the Birmingham Downtown Overlay District are the following:

- A. Encourage a form of development that will achieve the physical qualities necessary to maintain and enhance the economic vitality of Downtown Birmingham and to maintain the desired character of the City of Birmingham as stated in the Downtown Birmingham 2016 Plan;
- B. Encourage the renovation of buildings; ensure that new buildings are compatible with their context and the desired character of the city; ensure that all uses relate to the pedestrian; and, ensure that retail be safeguarded along specific street frontages.

See Section 3.01

The full range of uses in the D4 Zone are not possible due to the parking difficulties. The exclusion, albeit inadvertent, of the Property from the PAD in 1982 has thwarted the ability of this Property to be developed in accord with the City's Master Plan and to be economically viable.

II. APPEAL OF THE PLANNING BOARD DENIAL.

The Michigan Zoning Enabling Act, MCL 125.3101 et seq., provides that zoning boards of appeals shall hear appeals to decisions made by administrative officials or other body:

Sec. 603. (1) The zoning board of appeals . . . shall hear and decide appeals from and review any administrative order, requirement, decision, or determination made by an administrative official or body charged with enforcement of a zoning ordinance adopted under this act.¹

MCL 125.3604 sets forth the procedures for appeal, including the required timing:

(2) An appeal under this section shall be taken within such time as prescribed by the zoning board of appeals by general rule, by filing with the body or officer from whom the appeal is taken and with the zoning board of appeals a notice of appeal specifying the grounds for the appeal. The body or officer from whom the appeal is taken shall immediately transmit to the zoning board of appeals all of the papers constituting the record upon which the action appealed from was taken.

On September 28, 2022, BTP appeared before the Planning Board present a proposed amendment to Site Plan, which proposed redesigning the development in a manner that would eliminate the need for additional underground parking and enable a high end retail use to occupy the first floor and mezzanine. The proposed high end retail user is a national furniture store. It was necessary to amend the plans in order to redevelop the Property in a way that would not

¹ MCL 125.3603.

adversely impact the structural integrity of adjacent properties due to underground parking and to provide for an economically viable design. Importantly, while the strict requirements of the Ordinance would require 123 parking spaces, the furniture store use contemplated would utilize nowhere near that amount. Yet, the applicant is forced into a position to request a variance due to the manner in which the parking requirements are structured.

In general, while the Planning Commission supported the updated site plan, the majority elected to deny the site plan based solely on the need for a parking variance. As discussed herein, however, the Property is unable to be developed in an economically viable manner without such a parking variance. As such, the decision of the Planning Board should be reversed and the parking variance should be granted.

III. THE REQUESTED PARKING VARIANCE.

The Amended Plan requires a total of 123 parking spaces. There are 46 spaces available on site. Therefore, BTP is requesting a variance of 77 spaces.

Parking Calculations

Required Parking	Available Parking <i>Undergraduate</i>	Variance Needed	Change
123	46	77	62%

IV. THE REQUIREMENTS JUSTIFYING A VARIANCE ARE MET.

MCL 125.3604 gives a zoning board of appeals the authority to grant nonuse variances if there are “practical difficulties,” relating to the “construction, structural changes, or alteration of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse related standard in the ordinance.” Likewise, Section 8.01 of the City’s Zoning Ordinance provides that the BZA may grant variances from site development requirements upon certain conditions being met. In addition, Michigan law provides that there need only be a reasonable showing of “practical difficulty” to warrant a dimensional non-use variance. *Heritage Hill Ass’n, Inc v City of Grand Rapids*, 48 Mich App 765; 211 NW2d 77 (1973); *Nat’l Boatland, Inc v Farmington Hills Zoning Bd of Appeals*, 146 Mich App 380; 380 NW2d 472 (1985).

Section 8.01:

Powers and Duties: The Board of Zoning Appeals shall have the powers and duties set forth in MCL 125.581 et seq., MSA 5.2931 et seq. and as more particularly hereinafter enumerated. The

Board of Zoning Appeals shall not have the power to change the zoning district of any property. The Board of Zoning Appeal's power and duties shall include the following:

Variances.

- i. The Board of Zoning Appeals shall hear and grant or deny requests for variances from the strict application of the provisions of the Zoning Ordinance where there are practical difficulties or unnecessary hardships in carrying out the strict letter of such chapter. In granting a variance, the Board of Zoning Appeals may attach such conditions as it may deem reasonably necessary to promote the spirit and intent of the Zoning Ordinance. The Board of Zoning Appeals shall not grant any variance unless it first determines that:
 - ii. Because of special conditions applicable to the property in question, the provisions of the Zoning Ordinance, if strictly applied, unreasonably prevent the property owner from using the property for a permitted purpose;
 - iii. Literal enforcement of the chapter will result in unnecessary hardship;
 - iv. The granting of the variance will not be contrary to the spirit and purpose of the Zoning Ordinance nor contrary to the public health, safety and welfare; and
 - v. The granting of the variance will result in substantial justice to the property owner, the owners of property in the area and the general public.

Following are the basis upon which BTP meets each of the specific standards of review pursuant to Section 8.01 F.3 of the Ordinance:

(1) Because of special conditions applicable to the property in question, the provisions of the Zoning Ordinance, if strictly applied, unreasonably prevent the property owner from using the property for a permitted purpose;

RESPONSE: As noted above, the fact that this is the only D-4 Property not included in the former PAD, places this Property in unique development situation. Absent a variance, BTP will not be able to redevelop the Property in a manner that is consistent with the Downtown District and Master Plan objectives. In addition, due to the overall lot size (0.423 acres), odd shape, and location on two corners with frontage on three streets, S. Old Woodward, Hazel and M-1 the Property is not able to support viable street-level retail,

commercial use, residential use, *and* the required parking for those uses as discussed herein. The Downtown Overlay District, D-4, contemplates taller buildings with mixed uses, however, due to the strict application of parking requirements at this Property, a viable five (5) story mixed-use building cannot be built. Underground parking is not feasible from an engineering standpoint, due to the need to underpin Birmingham Place.

- (2) Literal enforcement of the chapter will result in unnecessary hardship;

RESPONSE: Strict enforcement of the parking requirements would require significant underground parking, which is not feasible due to structural issues which could arise relating to the proximity of the adjacent Birmingham Place. Moreover, literal enforcement would put this D-4 Property in a development position different from every other D-4 in the City as all other D-4 properties do not have to comply with Section 3.04(D). See Letter of Resurget Engineering, dated October 19, 2022, attached hereto as Exhibit D.

- (3) The granting of the variance will not be contrary to the spirit and purpose of the Zoning Ordinance nor contrary to the public health, safety and welfare; and

RESPONSE: The requested variance will actually further the intent of the Ordinance and Master Plan. For example, it will encourage a form of development that will achieve the physical qualities necessary to maintain and enhance the economic vitality of Downtown Birmingham and to maintain the desired character of the City of Birmingham. This includes taller buildings with first floor retail. It will also encourage redevelopment in a manner which will ensure that new buildings are compatible with the desired character of the city and, ensure that retail be safeguarded along street frontages.

- (4) The granting of the variance will result in substantial justice to the property owner, the owners of property in the area and the general public.

RESPONSE: The granting of a variance will result in substantial justice as it will bring this D-4 Property in conformance with all other D-4 properties in the City as it relates to parking requirements. Moreover, redevelopment of this site with a strong high end national retailer as well as apartments will create synergy in the area and improve the Downtown.



City of Birmingham
ATTN: Board of Zoning Appeals
October 21, 2022
Page 8

V. CONCLUSION

Accordingly, BTP respectfully requests that the BZA grant its appeal and/or grant the requested variance as set forth herein.

Thank you for your consideration of this request. Should you have any questions, please do not hesitate to contact me.

Regards,

Dykema Gossett PLLC

A handwritten signature in blue ink, appearing to read "Stephen R. Estey", with a long horizontal line extending to the right.

Stephen R. Estey

cc: Client

EXHIBIT A

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: 9/12/2022

Hearing Date: _____

Received By: _____

Appeal #: _____

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

Address: 479 S. Old Woodward	Lot Number: N/A	Sidwell Number: 08-19-36-208-207
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II. OWNER INFORMATION:

Name: Birmingham Towers Partners, LLC			
Address: 251 East Merrill Street	City: Birmingham	State: MI	Zip code: 48009
Email: * c/o sestey@dykema.com		Phone: 248-203-0538	

III. PETITIONER INFORMATION:

Name: Same as Owner Information	Firm/Company Name:		
Address:	City:	State:	Zip code:
Email:	Phone:		

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

Owner hereby authorizes the petitioner designated below to act on behalf of the owner.

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:  Date: 9/12/2022

Signature of Petitioner:  Date: 9/12/2022

**CITY OF BIRMINGHAM
BOARD OF ZONING APPEALS
RULES OF PROCEDURE**

ARTICLE I - Appeals

A. Appeals may be filed under the following conditions:

1. A property owner may appeal for variance, modification or adjustment of the requirements of the Zoning Ordinance.
2. A property owner may appeal for variance, modification or adjustment of the requirements of the Sign Ordinance.
3. Any aggrieved party may appeal the decision of the Planning Board and/or the Building Official in accordance with the City of Birmingham Zoning Ordinance, Article Eight, Section 8.01 (D) Appeals. If an appellant requests a review of any determination of the Building Official, a complete statement setting forth the facts and reasons for the disagreement with the Building Official's determination shall include the principal point, or points on the decision, order or section of the ordinance appealed from, on which the appeal is based.

B. Procedures of the Board of Zoning Appeals (BZA) are as follows:

1. Regular BZA meetings, which are open to the public, shall be held on the second Tuesday of the month at 7:30 P.M. provided there are pending appeals. There will be a maximum of seven appeals heard at the regular meeting which are taken in the order received. If an appeal is received on time after the initial seven appeals have been scheduled, it will be scheduled to the next regular meeting.
2. All applications for appeal shall be submitted to the Community Development Department on or before the 12th day of the month preceding the next regular meeting. If the 12th falls on a Saturday, Sunday, or legal holiday, the next working day shall be considered the last day of acceptance.
3. All property owners and occupants within 300 feet of the subject property will be given written notice of a hearing by the City of Birmingham.
4. See the application form for specific requirements. If the application is incomplete, the BZA may refuse to hear the appeal. The Building Official or City Planner may require the applicant to provide additional information as is deemed essential to fully advise the Board in reference to the appeal. Refusal or failure to comply shall be grounds for dismissal of the appeal at the discretion of the Board.
5. In variance requests, applicants must provide a statement that clearly sets forth all special conditions that may have contributed to a practical difficulty that is preventing a reasonable use of the property.

6. Where the Birmingham Zoning Ordinance requires site plan approval of a project by the City Planning Board before the issuance of a building permit, applicants must obtain preliminary site plan approval by the Planning Board before appeal to the BZA for a variance request. If such appeal is granted by the BZA, the applicant must seek final site plan and design review approval from the Planning Board before applying for a building permit.
7. An aggrieved party may appeal a Planning Board decision. Such appeal must be made within 30 days of the date of the decision. The BZA, in its discretion, may grant additional time in exceptional circumstances.
8. Appeals from a decision of the Building Official shall be made within 30 days of the date of the order, denial of permit, or requirement or determination contested. The BZA, in its discretion, may grant additional time in exceptional circumstances.
9. An appeal stays all proceedings in accordance with Act #110, Public Acts of 2006, Article VI, Section 125.3604 (3).

C. The order of hearings shall be:

1. Presentation of official records of the case by the Building Official or City Planner as presented on the application form.
2. Applicant's presentation of his/her case—the applicant or his/her representative must be present at the appeal hearing.
3. Interested parties' comments and view on the appeal.
4. Rebuttal by applicant.
5. The BZA may make a decision on the matter or request additional information.

D. Motions and Voting

1. A motion is made to either grant or deny a petitioner's request
 - a) For a motion to grant or deny a non-use variance request, the motion must receive four (4) affirmative votes to be approved.
 - b) For a motion to grant or deny a use variance request, the motion must receive five (5) affirmative votes to be approved.
 - c) For a motion to grant or deny an appeal of a decision or order by an administrative official or board, the motion must receive four (4) affirmative votes to be approved.
 2. When a motion made is to approve or deny a petitioner's request and if there is a tie vote, then the vote results in no action by the board and the petitioner shall be given an opportunity to have his or her request heard the next regularly scheduled meeting when all the members are present.
-

3. When there are less than seven (7) members of the board present for a meeting, then a petitioner requesting a use variance shall be given an opportunity at the beginning of the meeting to elect to have it heard at the next regularly scheduled meeting.
4. When there are less than six (6) members present for a meeting, then all petitioners shall be given an opportunity at the beginning of the meeting to elect to have the request heard at the next regularly scheduled meeting.

ARTICLE II - Results of an Appeal

- A. The Board may reverse, affirm, vary or modify any order, requirement, decision or determination as in its opinion should be made, and to that end, shall have all the powers of the officer from whom the appeal has been taken.
- B. The decisions of the Board shall not become final until the expiration of five (5) days from the date of entry of such orders or unless the Board shall find that giving the order immediate effect is necessary for the preservation of property and/or personal rights and shall so certify on the record.
- C. Whenever any variation or modification of the Zoning Ordinance is authorized by resolution of the BZA, a Certificate of Survey must be submitted to the Community Development Department with the building permit application. A building permit must be obtained within one year of the approval date.
- D. Failure of the appellant, or his representative, to appear for his appeal hearing will result in the appeal being adjourned to the next regular meeting. If, after notice, the appellant fails to appear for the second time, it will result in an automatic withdrawal of the appeal. The appellant may reapply to the BZA.
- E. Any applicant may, with the consent of the Board, withdraw his application at any time before final action.
- F. Any decision of the Board favorable to the applicant is tied to the plans submitted, including any modifications approved by the Board at the hearing and agreed to by the applicant, and shall remain valid only as long as the information or data provided by the applicant is found to be correct and the conditions upon which the resolution was based are maintained.

ARTICLE III - Rehearings

- A. No rehearing of any decision of the Board shall be considered unless new evidence is submitted which could not reasonably have been presented at the previous hearing or unless there has been a material change of facts or law.
-

B. Application or rehearing of a case shall be in writing and subject to the same rules as an original hearing, clearly stating the new evidence to be presented as the basis of an appeal for rehearing.

I certify that I have read and understand the above rules of procedure for the City of Birmingham Board of Zoning Appeals.

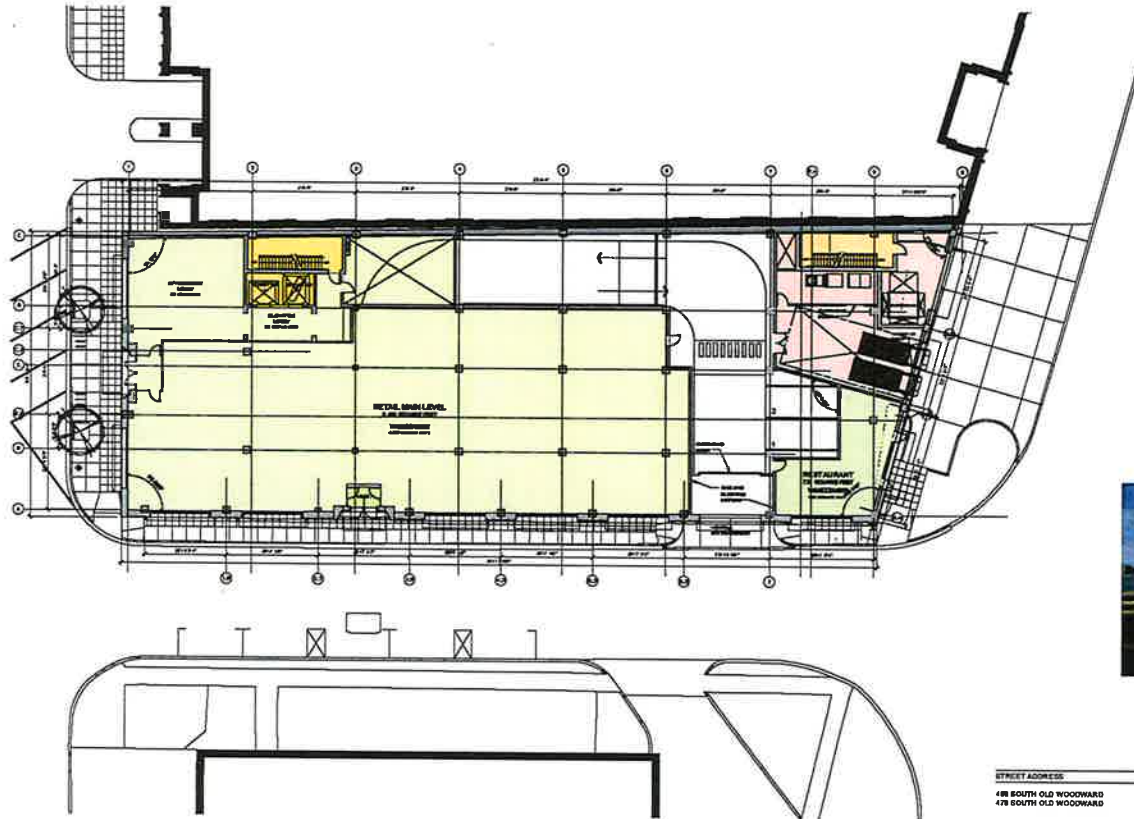
A handwritten signature in blue ink, appearing to be "clo" followed by a stylized flourish.

Signature of Applicant

EXHIBIT B

BIRMINGHAM TOWER PARTNERS, LLC

251 East Merrill Street, Suite 204
Birmingham, Michigan 48009



OCCUPANCY AREAS

OCCUPANCY	LOCATION IN BUILDING	NET USABLE AREA
RETAIL + LOBBY + COMMERCIAL	FLOOR 1	14,718 SF
RETAIL + OFFICE + ELECTRICAL	FLOOR 2	13,860 SF
RESIDENTIAL UNITS	FLOORS 3-8	34,817 SF

PARKING TABULATION

RESIDENTIAL	RETAIL	OFFICE	COMMERCIAL	PARKING REDUCTION	TOTAL
35 APARTMENTS (27 + 8 BONUS + 1 SPACE (14 200-250 SQ. FT. + 120 300-400 SQ. FT.))	10,804 SF / 130 SP	9,880 SF / 300 SF	1,108 SF / 30 SF	(33.0 SPACES + 40%)	133.8 SPACES
22.5 SPACES	48.0 SPACES	30.0 SPACES	30.0 SPACES	(13.0 SPACES)	42.0 SPACES
128 SPACES					
42.0 SPACES					
42.0 SPACES					

* CITY OF BIRMINGHAM ZONING ORDINANCE, PARKING REQUIREMENTS APPLICABLE TO ALL DEVELOPERS OF
OFFICE AND RESIDENTIAL BUILDINGS, WHERE THERE IS COMBINED RETAIL & OFFICE BUILDING, AN IMPROVED
OFFICE AND RESIDENTIAL BUILDING, OR A COMBINED OFFICE AND RESIDENTIAL BUILDING, THE REQUIREMENT FOR
THE OFFICE USE MAY BE USED TO MEET THE REQUIREMENT FOR RESIDENTIAL USE, PROVIDED
THAT THE NUMBER OF SPACES PROVIDED FOR RESIDENTIAL PARKING SHALL NOT BE LESS THAN 1
PARKING SPACE PER DWELLING UNIT.

STREET ADDRESS	BOWELL NUMBER	ZONING
408 SOUTH OLD WOODWARD	18-28-288-011	RS-4
478 SOUTH OLD WOODWARD	18-28-288-012	RS-4

LOCATION	SPACES/UNITS	NET USABLE AREA	GROSS AREA
PARKING LEVEL P1	40 PARKING SPACES	16,847 SF	16,847 SF
MAIN FLOOR	RETAIL/OFFICE/COMMERCIAL	14,718 SF	14,718 SF
2ND FLOOR	3 PARKING SPACES	12,000 SF	12,000 SF
3RD FLOOR	12 APARTMENT UNITS	13,860 SF	13,860 SF
4TH FLOOR	12 APARTMENT UNITS	13,860 SF	13,860 SF
5TH FLOOR	9 APARTMENT UNITS	11,213 SF	11,213 SF
TOTAL		82,578 SF	100,770 SF

SITE PLAN



SCALE: 1/16" = 1'-0"

BOWERS ASSOCIATES
1400 BIRMINGHAM AVENUE, SUITE 1400
P. 204 934-2042 • F. 204 934-2010
WWW.BOWERSASSOCIATES.COM

CONSULTANT + NAME

PROJECT + INFORMATION
BIRMINGHAM TOWER
PARTNERS, LLC
251 EAST MERRILL STREET, SUITE 204
BIRMINGHAM, MI 48009

PROJECT + NUMBER

22-222

ISSUE + DATE

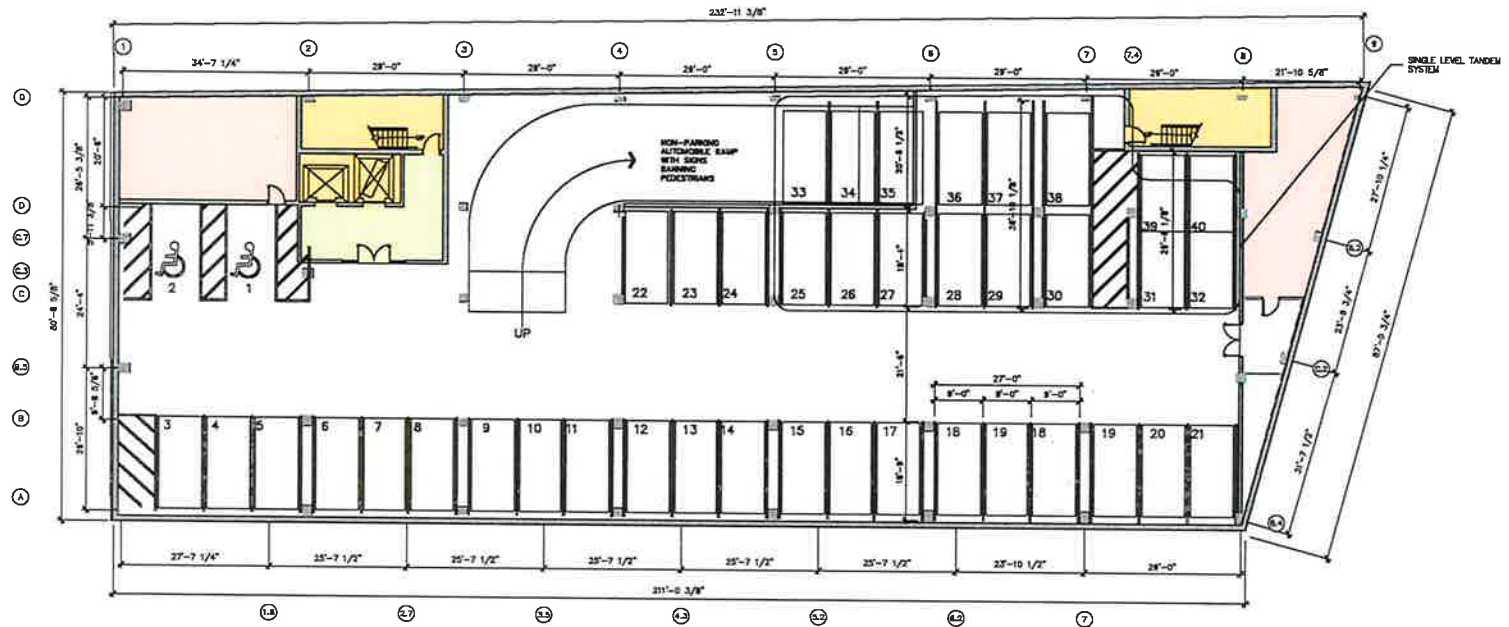


SHEET + TITLE

SHEET + NUMBER

SD.1

BIRMINGHAM TOWER PARTNERS, LLC
 251 East Merrill Street, Suite 204
 Birmingham, Michigan 48009



LEGEND

	PARKING
	RETAIL + LOBBY + OFFICE
	MECHANICAL
	EGRESS
	CIRCULATION
	1 BEDROOM UNITS
	2 BEDROOM UNITS
	3 BEDROOM UNITS

PARKING LEVEL (P1)

SCALE: 3/32" = 1'-0"



POWERB+ASSOCIATES
 2408 BIRMINGHAM TOWER PARTNERS, LLC
 251 EAST MERRILL STREET, SUITE 204
 BIRMINGHAM, MI 48009
 WWW.POWERB+ASSOCIATES.COM

CONSULTANT + NAME

PROJECT + INFORMATION
BIRMINGHAM TOWER PARTNERS, LLC
 251 EAST MERRILL STREET, SUITE 204
 BIRMINGHAM, MI 48009

PROJECT + NUMBER

22-222

ISSUE + DATE



SHEET + TITLE

SHEET + NUMBER

SD.2

BIRMINGHAM TOWER PARTNERS, LLC
 251 East Merrill Street, Suite 204
 Birmingham, Michigan 48009

BOWER ASSOCIATES
 ARCHITECTS
 1515 1ST AVENUE, SUITE 1000
 BIRMINGHAM, AL 35203
 P 205 975 2000 F 205 975 2100
 WWW.BOWERASSOCIATES.COM

CONSULTANT + NAME

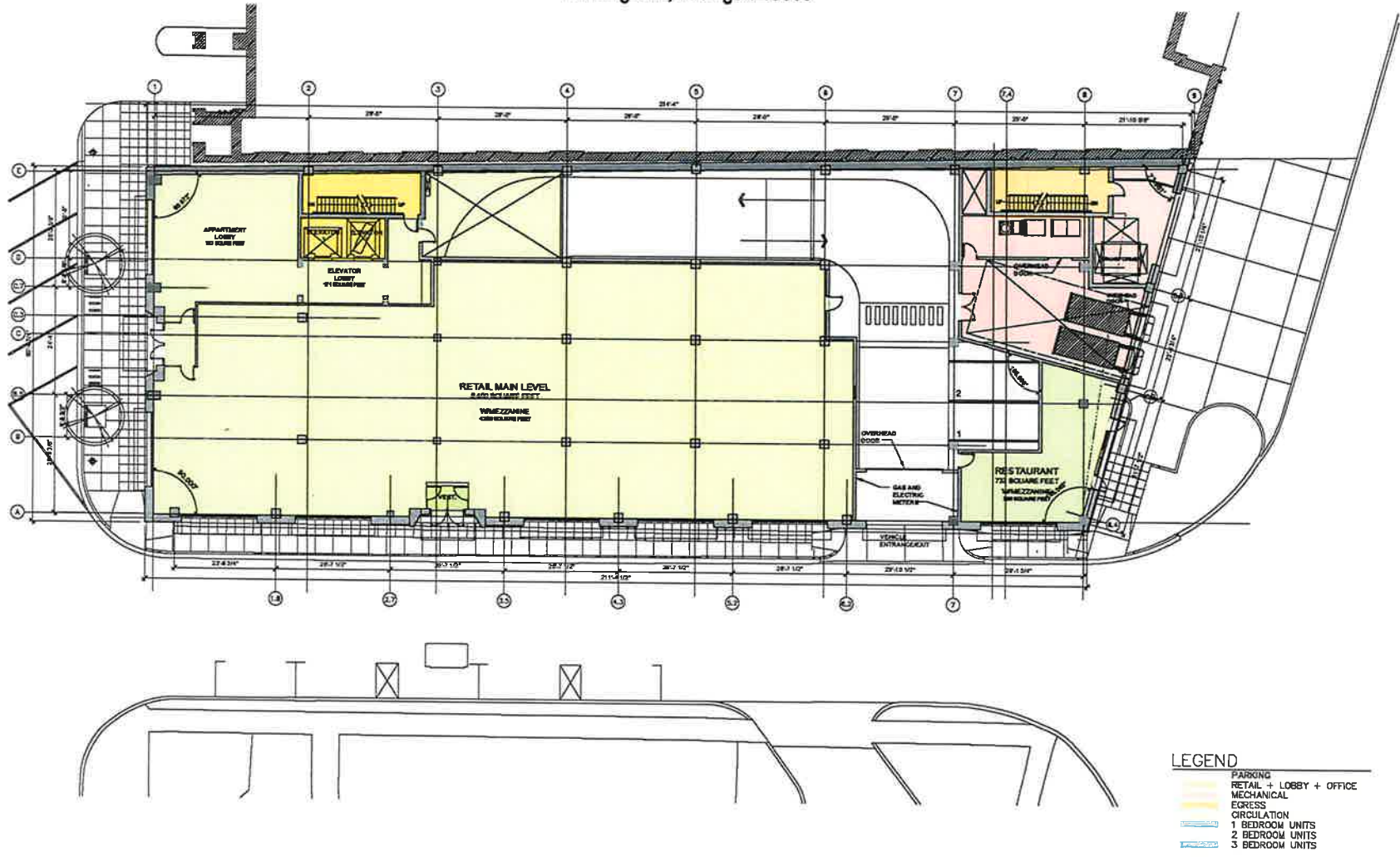
PROJECT + INFORMATION
BIRMINGHAM TOWER PARTNERS, LLC
 251 EAST MERRILL STREET, SUITE 204
 BIRMINGHAM, MI 48009

PROJECT + NUMBER
 22-222

ISSUE + DATE

SHEET + TITLE

SHEET + NUMBER
SD.3



FIRST FLOOR

SCALE: 3/32" = 1'-0"

BIRMINGHAM TOWER PARTNERS, LLC
 251 East Merrill Street, Suite 204
 Birmingham, Michigan 48009

BOWEN ASSOCIATES
 ARCHITECTS
 1400 BOWEN DRIVE, SUITE 100
 BIRMINGHAM, AL 35203
 P. 205.972.2000 F. 205.972.2010
 WWW.BOWENASSOCIATES.COM

CONSULTANT + NAME

PROJECT + INFORMATION
BIRMINGHAM TOWER
PARTNERS, LLC
 251 EAST MERRILL STREET, SUITE 204
 BIRMINGHAM, AL 35203

PROJECT + NUMBER

22-222

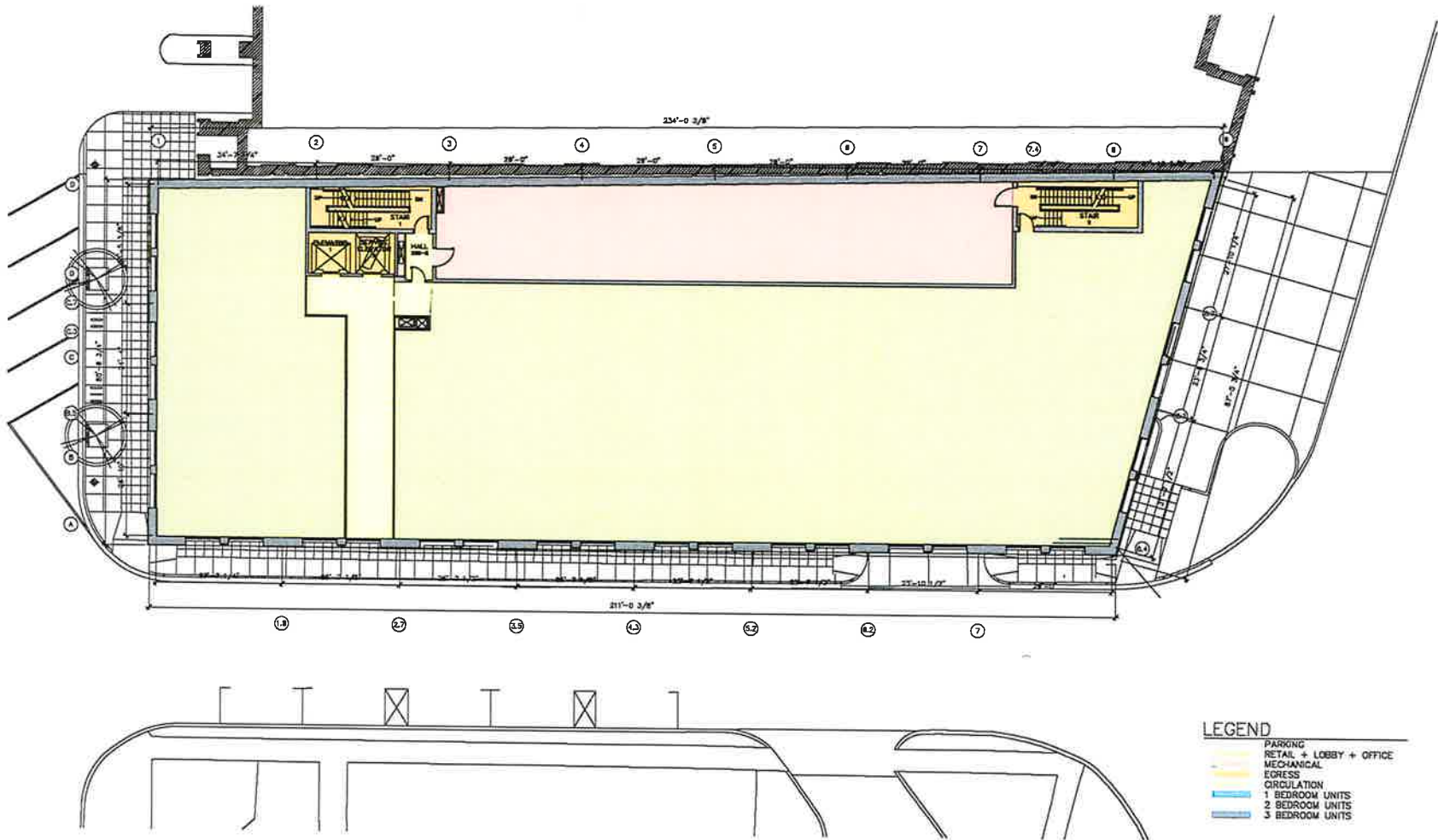
ISSUE + DATE



SHEET + TITLE

SHEET + NUMBER

SD.4



SECOND FLOOR (OFFICE/ELECTRICAL)

SCALE: 3/32" = 1'-0"

BIRMINGHAM TOWER PARTNERS, LLC
251 East Merrill Street, Suite 204
Birmingham, Michigan 48009

BOWERS+ASSOCIATES
ARCHITECTS
2408 EAST MERRILL STREET, SUITE 204
BIRMINGHAM, MI 48009
P 248.221.7400 F 248.221.7401
WWW.BOWERSA.COM

CONSULTANT + NAME

PROJECT + INFORMATION
**BIRMINGHAM TOWER
PARTNERS, LLC**
251 EAST MERRILL STREET, SUITE 204
BIRMINGHAM, MI 48009

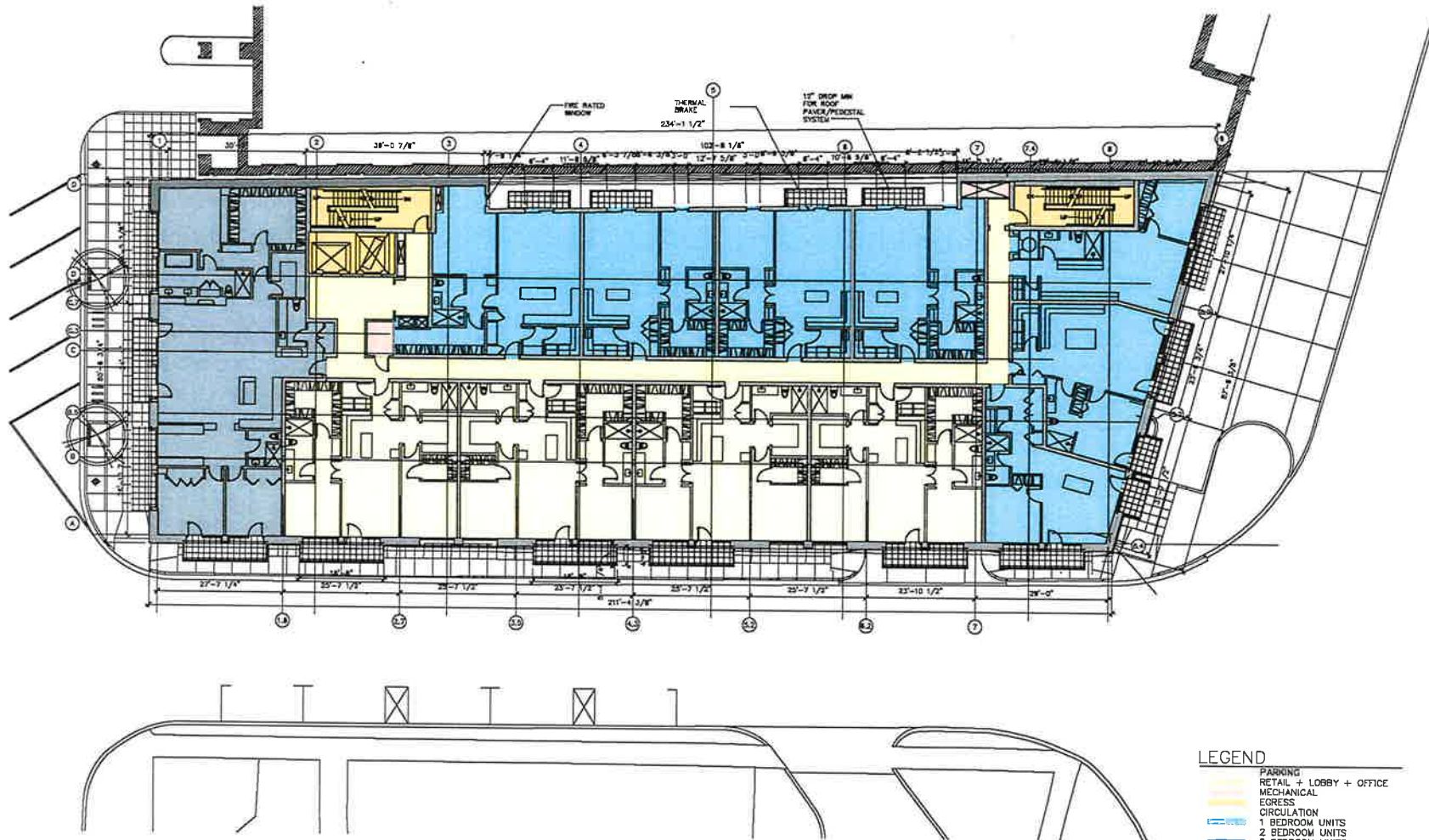
PROJECT + NUMBER
22-222

ISSUE + DATE



SHEET + TITLE

SHEET + NUMBER
SD.5



- LEGEND**
- PARKING
 - RETAIL + LOBBY + OFFICE
 - MECHANICAL
 - EGRESS
 - CIRCULATION
 - 1 BEDROOM UNITS
 - 2 BEDROOM UNITS
 - 3 BEDROOM UNITS

THIRD FLOOR (RESIDENTIAL)

SCALE: 3/32" = 1'-0"



BIRMINGHAM TOWER PARTNERS, LLC
251 East Merrill Street, Suite 204
Birmingham, Michigan 48009

BOWERS ASSOCIATES
ARCHITECTS
1400 SOUTH BRIDGE AVENUE, SUITE 200
BIRMINGHAM, AL 35203
P 774.913.2000 F 774.913.2010
WWW.BOWERSASSOCIATES.COM

CONSULTANT + NAME

PROJECT + INFORMATION
**BIRMINGHAM TOWER
PARTNERS, LLC**
251 EAST MERRILL STREET, SUITE 204
BIRMINGHAM, MI 48009

PROJECT + NUMBER

22-222

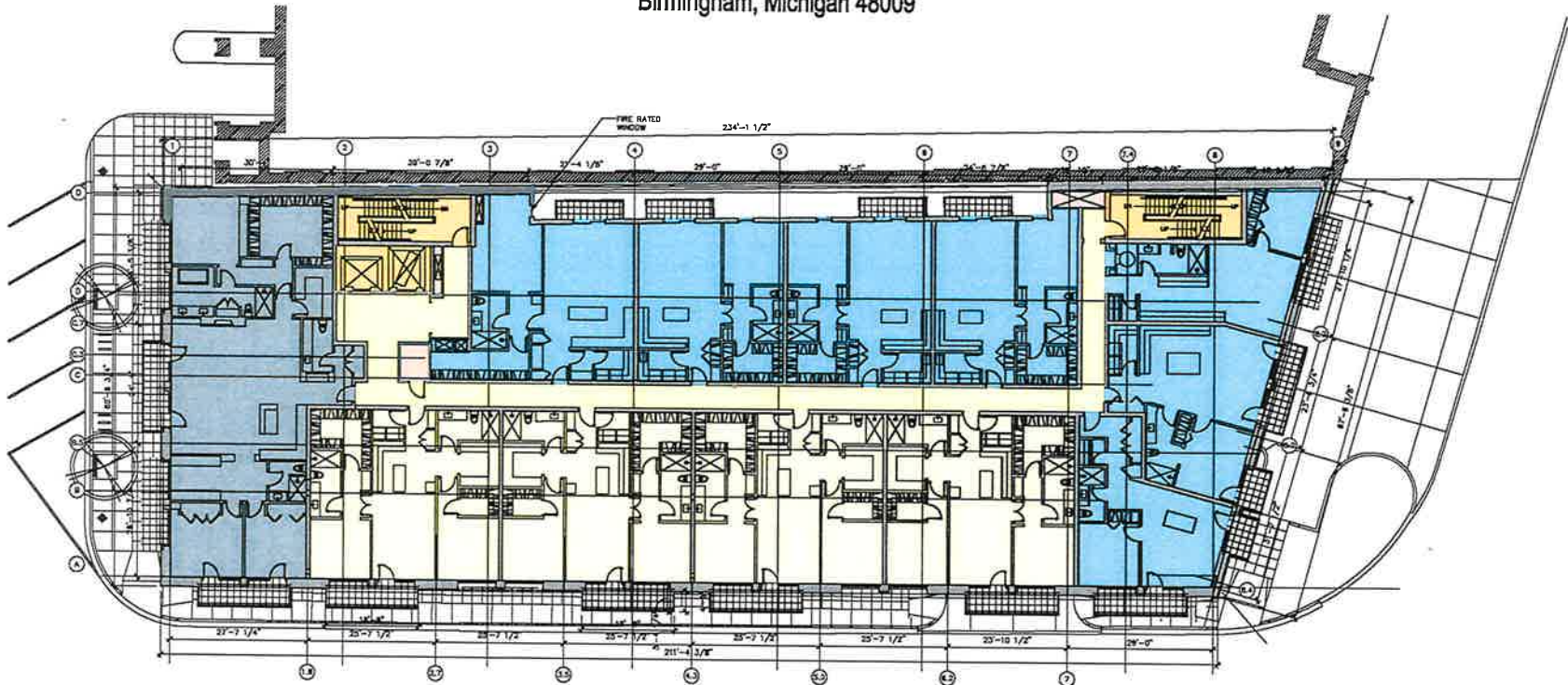
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SHEET + NUMBER

SD.6



- LEGEND**
- PARKING
 - RETAIL + LOBBY + OFFICE
 - MECHANICAL
 - EGRESS
 - CIRCULATION
 - 1 BEDROOM UNITS
 - 2 BEDROOM UNITS
 - 3 BEDROOM UNITS

FOURTH FLOOR (RESIDENTIAL)



SCALE: 3/32" = 1'-0"

BIRMINGHAM TOWER PARTNERS, LLC
251 East Merrill Street, Suite 204
Birmingham, Michigan 48009

BOWER ASSOCIATES
ARCHITECTS
2000 BOWEN DRIVE, SUITE 200
BIRMINGHAM, AL 35202
205.975.1200 • FAX 205.975.1201
WWW.BOWERASSOCIATES.COM

CONSULTANT NAME

PROJECT INFORMATION
**BIRMINGHAM TOWER
PARTNERS, LLC**
251 EAST MERRILL STREET, SUITE 204
BIRMINGHAM, MI 48009

PROJECT NUMBER
22-222

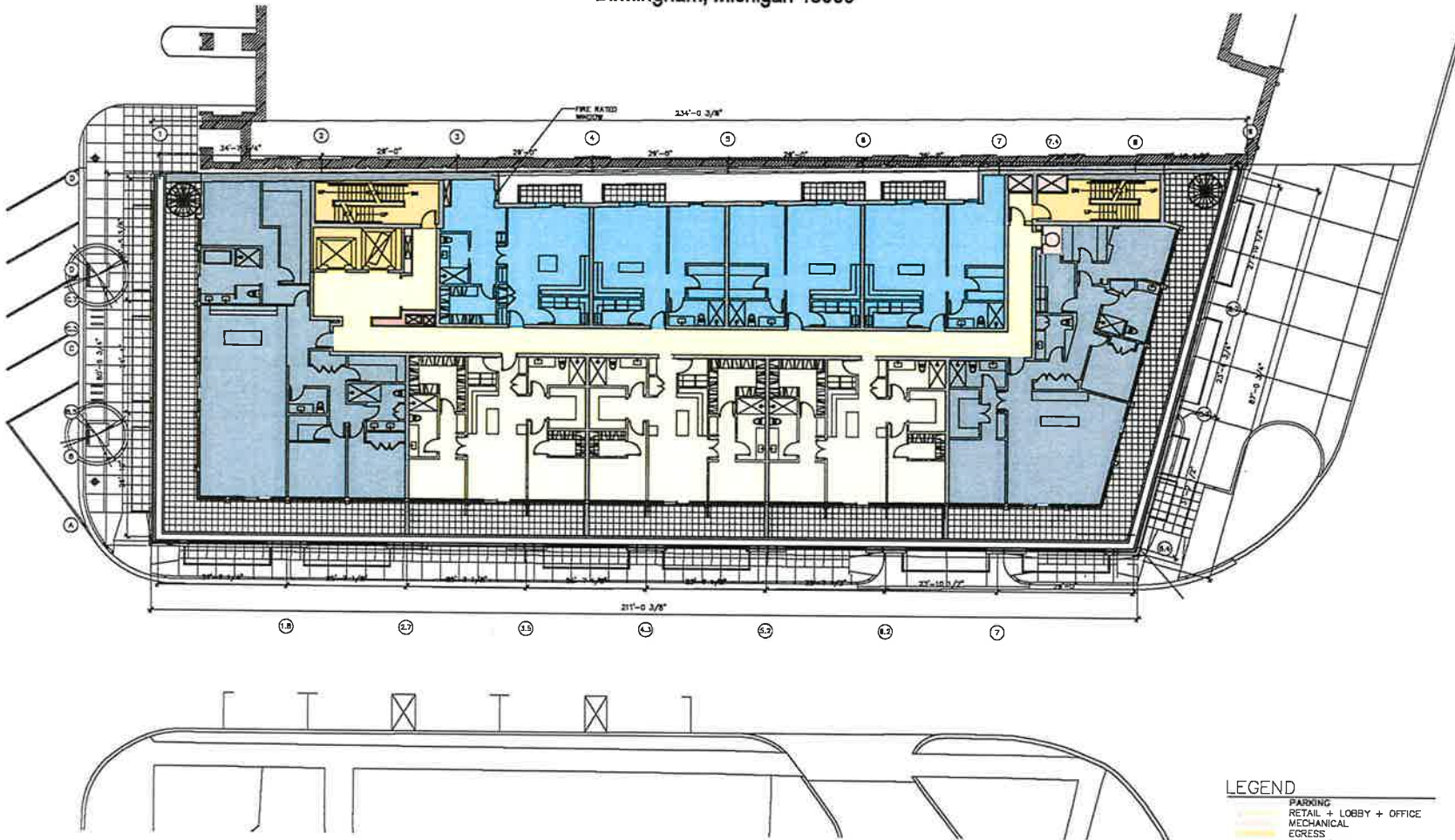
ISSUE + DATE



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SHEET NUMBER

SD.7



- LEGEND**
- PARKING
 - RETAIL + LOBBY + OFFICE
 - MECHANICAL
 - GRESS
 - CIRCULATION
 - 1 BEDROOM UNITS
 - 2 BEDROOM UNITS
 - 3 BEDROOM UNITS

FIFTH FLOOR (RESIDENTIAL)

SCALE: 3/32" = 1'-0"

BIRMINGHAM TOWER PARTNERS, LLC
 251 East Merrill Street, Suite 204
 Birmingham, Michigan 48009

BOWERS+ASSOCIATES
 2106 East 9th Avenue • Joliet, IL 60431
 Tel: 815.709.1234
 www.bowersassociates.com

CONSULTANT + NAME

PROJECT + INFORMATION
**BIRMINGHAM TOWER
 PARTNERS, LLC**
 251 EAST MERRILL STREET, SUITE 204
 BIRMINGHAM, MI 48009

PROJECT + NUMBER

22-222

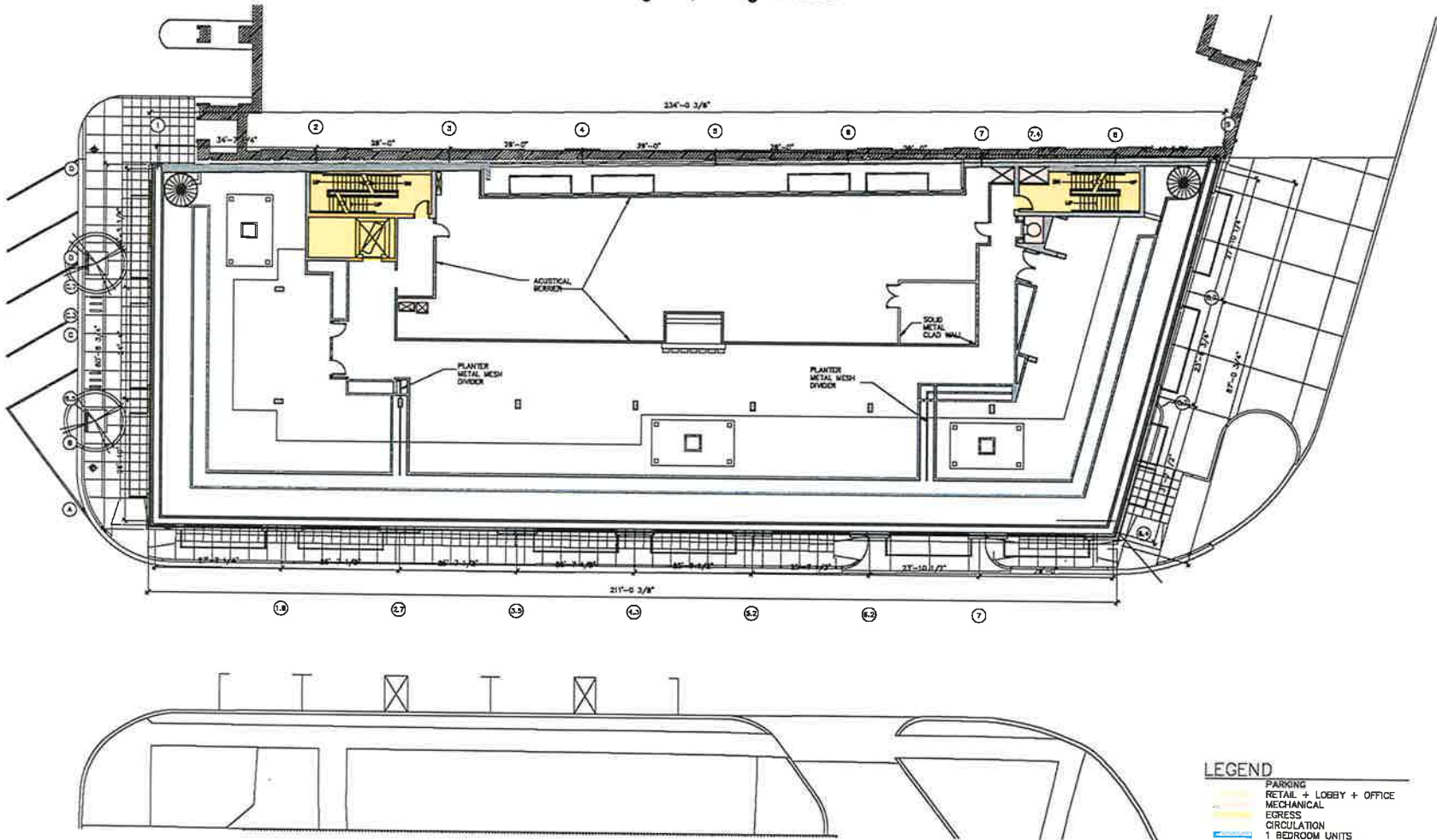
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SHEET + NUMBER

SD.8



- LEGEND**
- PARKING
 - RETAIL + LOBBY + OFFICE
 - MECHANICAL
 - EGRESS
 - CIRCULATION
 - 1 BEDROOM UNITS
 - 2 BEDROOM UNITS
 - 3 BEDROOM UNITS

SIXTH FLOOR (TERRACE)



SCALE: 3/32" = 1'-0"

BOWERS ASSOCIATES
3400 S. OLYMPIA PIKE • JENSEN BEACH, FL 33408
P: 734-872-2400 • F: 734-872-2410
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CONSULTANT + NAME

PROJECT + INFORMATION
BIRMINGHAM TOWER
PATNERS, LLC
251 EAST MERRILL STREET, SUITE 204
BIRMINGHAM, MI 48009

PROJECT + NUMBER

22-222

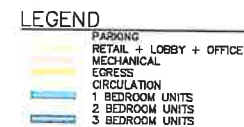
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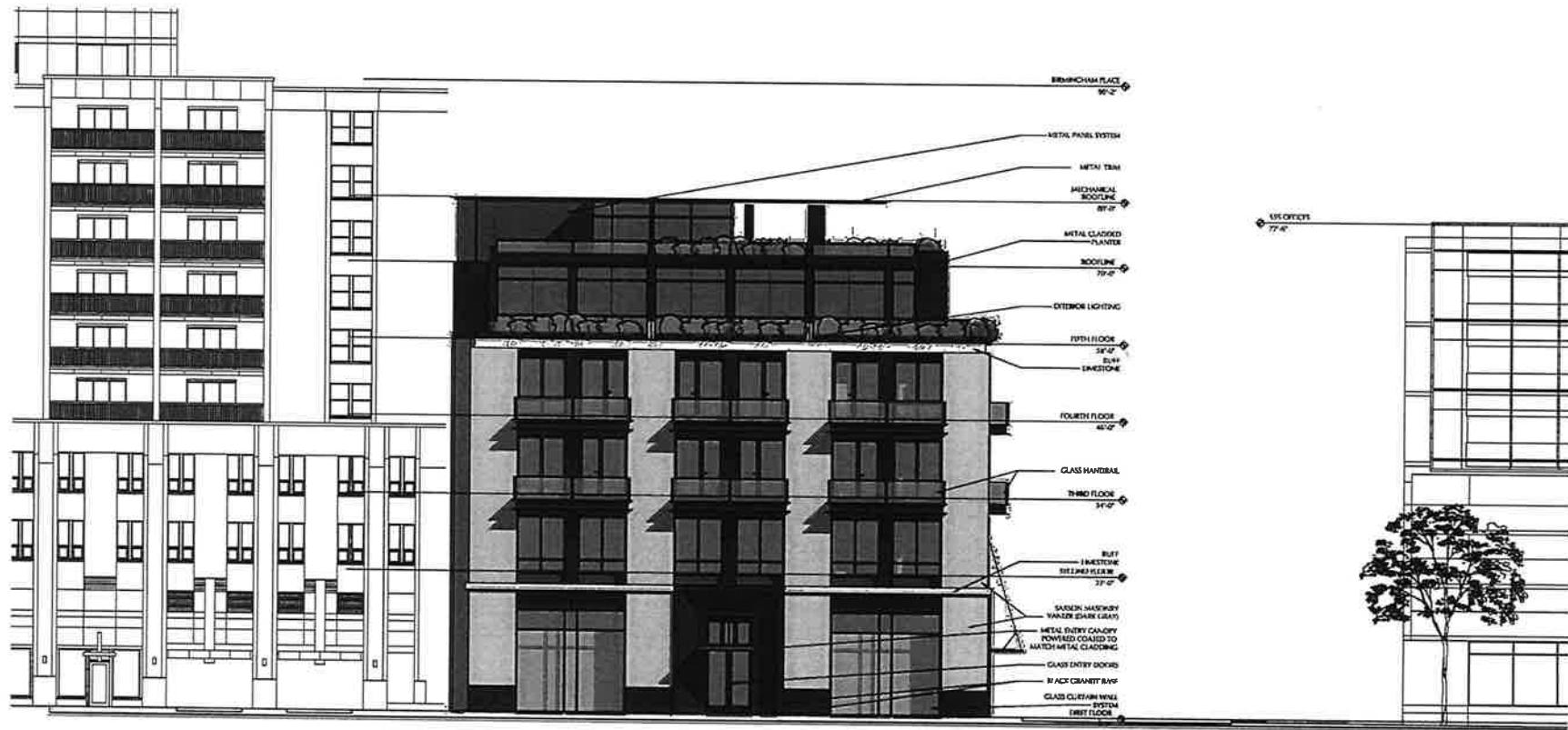


ROOF FLOOR PLAN

SCALE: 3/32" = 1'-0"



BIRMINGHAM TOWER PARTNERS, LLC
251 East Merrill Street, Suite 204
Birmingham, Michigan 48009



WEST ELEVATION

BOWERS & ASSOCIATES
2105 6th Avenue, Suite 204
Birmingham, AL 35204
www.bowersandassociates.com

CONSULTANT & NAME

PROJECT & INFORMATION
BIRMINGHAM TOWER
PARTNERS, LLC
251 EAST MERRILL STREET, SUITE 204
BIRMINGHAM, AL 35204

PROJECT & NUMBER

22-222

ISSUE & DATE



SHEET & TITLE

SHEET & NUMBER

SD.10

251 East Merrill Street, Suite 204
Birmingham, Michigan 48009



SOUTH ELEVATION

BOWERS+ASSOCIATES
2400 SOUTH HURON PARKWAY • ANN ARBOR, MI 48104
P: 734.973.2400 • F: 734.973.2410
www.BowersArch.com

CONSULTANT + NAME

PROJECT • INFORMATION
BIRMINGHAM TOWER
PATNERS, LLC
251 EAST MERRILL STREET, SUITE 204
BIRMINGHAM, MI 48009

PROJECT • NUMBER

22-222

ISSUE + DATE



SHEET + TITLE

SHEET + NUMBER

SD.11

BIRMINGHAM TOWER PARTNERS, LLC
251 East Merrill Street, Suite 204
Birmingham, Michigan 48009



EAST ELEVATION

BOWER & ASSOCIATES
ARCHITECTS
1815 SOUTH HURON AVENUE / SUITE 204
ANN ARBOR, MI 48106
734.769.1234
WWW.BOWERARCH.COM

CONSULTANT + NAME

PROJECT + INFORMATION
**BIRMINGHAM TOWER
PARTNERS, LLC**
251 EAST MERRILL STREET, SUITE 204
BIRMINGHAM, MI 48009

PROJECT + NUMBER

22-222

ISSUE + DATE



SHEET + TITLE

SHEET + NUMBER

SD.12

EXHIBIT C



-  D4 Parking Assessment Buildings
-  D4 Zoning District
-  Parking Assessment Buildings
-  Building Footprints
-  Parking Assessment District

Your ref
POur ref
File ref

RESURGET ENGINEERING

Birmingham Tower Partners, LLC
c/o Doraid Markus
251 E. Merrill, Suite 205
Birmingham, MI 48079

28 West Adams
Suite 1710
Detroit, MI 48226
t +1 313 315 3290

marc@resurget.engineering
www.resurget.engineering

October 19, 2022

Dear Mr. Markus,

479 South Old Woodward – Basement Construction Limitations

Birmingham Tower Partners, LLC authorized Resurget Engineering PC to investigate the feasibility of constructing one or two levels of underground parking on the 479 South Old Woodward property located adjacent to the existing Birmingham Place Building in Birmingham MI.

Scope of Services

Resurget Engineering's scope of work for this project includes the following:

- Review existing drawings to establish as built conditions and structural foundation sizes and locations of the adjacent Birmingham Place Building along the north property line.
- Review geotechnical investigation report and requirements for temporary earth retention systems for constructability of one- or two-levels of basement.
- Render an opinion on the feasibility/risk of one or two-levels of basement on 479 South Old Woodward property.

Review of Existing Drawings

A set of original construction documents for the Birmingham Place building was provided showing the below grade foundations along the property line.

The Birmingham Place building has a one level basement with basement wall along the property line. The structural steel building columns and basement walls bear on conventional pad and strip foundations located between 2ft and 4ft below the basement floor elevation. Due to the location of the building columns and imposed load, the foundation wall

foundations, and isolated pads in the southwest corner (northwest corner of 479 site) extend up to 16ft into the building.

The foundation bearing elevation of these foundation vary between elevation 750' and 753'.

The proposed floor elevation of the 479 South Old Woodward building is estimated at 766' approximately 13ft to 16ft above these foundations.

It is recommended that conventional pad or matt foundation for the 479 South Old Woodward building are located with a bottom elevation not lower than 750'. Foundations lower than this elevation would require underpinning of the existing Birmingham Place Foundations. Due to the size and projection of the existing foundations away from the property line there is not practical way to carry out this underpinning safely.

Review of Geotechnical Report and TERS

Geotechnical report prepared by SME recommends a matt foundation with bearing capacity of 3,000psf or Auger Cast in Place deep piles 75ft long with a capacity of between 250 and 350kips/pile. No permanent water table was recorded on the boring logs.

Temporary earth retention system recommended a soldier pile and wood lagging system with cantilevered piles up to an excavation depth of around 14ft. Deeper systems would require an intermediate level of tie back rods extending beyond the property boundary under adjacent buildings, utilities, and roadways.

Opinion on Feasibility of One- or Two-Level Basement Construction

A one-level below grade basement is feasible on the property for the following reasons:

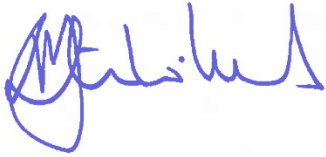
- New foundations would not require underpinning of the existing Birmingham place strip or pad foundations
- TERS could be constructed using cantilevered soldier piles and lagging without the need of tie-backs projecting beyond the property boundary.

A two-level below grade basement is not feasible on the property for the following reasons:

- Lower new foundations would require extensive underpinning of the existing Birmingham place strip or pad foundations along the adjoining property line. Due to the size and projection of the existing foundations from the property line these is no safe way to carry out this work.
- TERS would require tie-backs projecting beyond the property boundary. This increases the risk of damage to existing underground utilities located outside the property.

If you have any questions regarding this summary, please contact us.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Marc Steinhobel', with a stylized, cursive script.

Marc Steinhobel
Principal

City Of Birmingham
Regular Meeting Of The Planning Board
Wednesday, September 28, 2022
City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on September 28, 2022. Chair Scott Clein convened the meeting at 7:30 p.m.

A. Roll Call

Present: Chair Scott Clein; Board Members Stuart Jeffares, Bert Koseck, Daniel Share, Janelle Whipple-Boyce, Bryan Williams; Alternate Board Member Nasseem Ramin; Student Representatives MacKinzie Clein, Andrew Fuller

Absent: Board Member Robin Boyle; Alternate Board Member Jason Emerine

Staff: Senior Planner Cowan; City Planner Blizinski, City Transcriptionist Eichenhorn

1. 469/479 S. Old Woodward – Request for revised Final Site Plan & Design Review for new 1st and 2nd floor layouts and lower level parking modifications.

Ms. Ramin recused herself from the discussion due to an existing business relationship with the applicant team.

Senior Planner Cowan summarized the item.

Chair Clein, Mr. Koseck and Mr. Share requested clarification the proposal for the mezzanine.

Mr. Koseck discussed the setback regulations that are required to be followed versus the streetscape issues along Hazel.

Mr. Williams asked why the proposal has gone from 2 levels of underground parking to 1 level of underground parking.

Doraid Markus, representing the ownership of 469/479 S. Old Woodward, provided commentary on the Hazel St. streetscape issues and explained the engineering issues with providing a second level of underground parking. He also summarized the changes that are being proposed to the site plan that reflect a new opportunity that was presented to them.

Stephen Estey, council for the applicant, summarized the issues present in the Planning Division report and offered more background on the existing efforts being pursued by the applicant team.

Public Comment

Michelle Prentis, resident of the Birmingham Place, offered her support for the proposed revised Final Site Plan based on the improved safety and aesthetics.

Dan Barber, general manager of the 555 Building, read a letter from Molly Barron from Studio M. Pilates (a tenant of the 555 Building) which outlined her concerns with the proposed project.

Jack Reinhart, managing partner of the 555 Building, expressed his concern about the parking impacts of the proposed development.

Seeing no further public comment, the Chair returned discussion to the Board.

Chair Klein summarized his opinion of the two main issues at hand, which are the streetscape on Hazel St., and the parking issues. He stated that in general, the uses proposed in the development are acceptable to him. He also stated his concern about the number of parking spaces that are short based on the proposal.

Mr. Koseck said that he feels as though the plan is a good plan, especially compared to the formerly approved final site plan. He also feels as though the development and general area are walkable, and have ample access to two nearby parking structures.

Mr. Williams stated his discomfort in approving a project that is significantly deficient in providing the required parking on site.

Mr. Share stated that he feels as though the parking issue could be broken down further into two facets: the hardship that will be analyzed by the Board of Zoning Appeals, and the impacts of not providing the required parking.

Ms. Whipple-Boyce stated that she feels as though it would be irresponsible to approve a project that is deficient 74 spaces.

Mr. Jeffares asked for clarification regarding the possibility of providing a development in this zone that could be fully parked with one underground level and that may be less than 5 stories in height.

In reply to Mr. Jeffares, Mr. Cowan suggested that a predominantly residential use with large units might be able to meet the requirements.

Mr. Jeffares continued to state that he feels as though a development like this is what the Planning Board is looking for, not a shorter building with a singular or less desirable use.

In reply to Chair Klein, Mr. Cowan clarified the next steps for the proposal based on potential outcomes of the revised final site plan hearing.

Mr. Markus and Mr. Estey provided comments regarding the issues that are specific to his property and offered some perspective regarding his potential tenant.

09-157-22

Motion by Mr. Share

Seconded by Mr. Williams to deny the proposed revised final site plan for 469/479 S. Old Woodward due to the impact of parking on the surrounding area.

Paul Regan, resident on Purdy, concurred with some of the comments made by Planning Board members in regards to the negative parking impacts of the proposal.

Motion carried, 4-2

ROLL CALL VOTE

Yeas: Clein, Williams, Share, Whipple-Boyce

Nays: Jeffares, Koseck



Nick Dupuis
Planning Director



Laura Eichenhorn
City Transcriptionist

CASE DESCRIPTION

220 Lake Park (22-48)

Hearing date: November 8, 2022

Appeal No. 22-48: The owner of the property known **220 Lake Park**, requests the following variance to construct a front addition to the existing house:

- A. Chapter 126, Article 4, Section 4.75(A)(1) of the Zoning Ordinance requires that private, attached, single-family residential garages must be setback a minimum of 5.00 feet from the portion of the front façade on the first floor of the principal building that is furthest setback from the front property line. The proposed is the garage is 95.00 feet in front of the furthest façade. Therefore, a variance of 100.00 feet is being requested.

Staff Notes: This applicant is looking to construct an attached garage to the existing home was built in 2007. The lot is known as a flag lot and the existing home was constructed back to the rear setback and forward toward the front.

This property is zoned R1 – Single family residential.

Jeff Zielke, NCIDQ, LEED AP
Assistant Building Official

220 LAKEPARK MAP



RECEIVED

SEP 28 2022

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: 9-28-22

Hearing Date: 11-8-22

Received By: HT

Appeal #: 22-0048

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

Address: 220 Lake Park Dr.	Lot Number: 330	Sidwell Number: 08-19-26-477-021
----------------------------	-----------------	----------------------------------

II. OWNER INFORMATION:

Name: Robert and Lindsay Mardigian			
Address: 220 Lake Park Dr.	City: Birmingham	State: MI	Zip code: 48009
Email: * rob@mcmdemo.com		Phone: 248-568-7645	

III. PETITIONER INFORMATION:

Name: Gayle McGregor, Esq.		Firm/Company Name: Williams, Williams, Rattner & Plunkett	
Address: 380 N. Old Woodward, #300	City: Birmingham	State: MI	Zip code: 48009
Email: gsm@wwrplaw.com		Phone: 248-642-0333	

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

Owner hereby authorizes the petitioner designated below to act on behalf of the owner. 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: Gayle McGregor

Date: 09/26/2022

Signature of Petitioner: Gayle McGregor - WWRP

Date: 9/28/2022



Williams Williams Rattner & Plunkett, P.C.
Attorneys and Counselors

380 North Old Woodward Avenue
Suite 300
Birmingham, Michigan 48009

Tel: (248) 642-0333
Fax: (248) 642-0856

September 26, 2022

Gayle S. McGregor
gsm@wwrplaw.com

City of Birmingham
Board of Zoning Appeals
151 Martin Street
Birmingham, MI 48009

**Re: 220 Lake Park Drive, Birmingham, MI 48009 ("Property")
Request for Variances Relating to Garage Addition**

Dear Members of the Board of Zoning Appeals,

This office serves as legal counsel to Robert and Lindsay Mardigian ("Petitioners"), the owners of the Property commonly referred to as 220 Lake Park Drive, Birmingham, MI 48009. The Property is situated in the R1 zone (Single-Family Residential), per the zoning map provided on the City of Birmingham's website ([City Map \(bhamgov.org\)](http://CityMap(bhamgov.org))). The undersigned respectfully submits this hardship letter on behalf of Petitioners in support of their request for a non-use/dimensional variance-from the following provision of the Birmingham Zoning Ordinance (the "Zoning Ordinance") as outlined below:

Section 4.75 SS-02(A) of the Zoning Ordinance, which provides, in part, that attached garages "must be set back a minimum of 5 feet from the portion of the front façade on the first floor of a principal residential building that is furthest set back from the front property line."

The requested variance may be summarized by the following table:

<u>Requested Variance</u>	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	<u>Variance Amount</u>
Placement of attached garage in front of façade (front yard)	5.00 feet behind façade	In basement	Attached to front façade	95.0 feet

Background

The Property is in an area zoned R1 (Single Family Residential). See enclosed GIS lot depiction at **Attachment 1**. The lot is very unique compared to typical Birmingham single-family lots (large in size, deep from front to rear, flag-shaped, one of only ten lake-front homes in Birmingham, house not visible from the public street or sidewalk). Petitioners request a non-use variance to Section 4.75 SS-02(A) of the Zoning Ordinance, as strict enforcement would result in

practical difficulties and unnecessary hardships in carrying out the strict letter of the Zoning Ordinance. The relevant Ordinance standard here is intended to prevent garages that dominate the front house elevation as viewed from the public street or sidewalk. See examples of such prohibited structures at **Attachment 2**. Petitioners' requested variance will not result in such a prohibited garage structure based on the intent of zoning ordinance. Note, the proposed building addition complies with all other aspects of the zoning ordinance. It is only the garage use, which makes up approximately 50% of the internal function of the total addition, that requires the variance. Petitioners' proposed attached garage will cover approximately 28% of the frontage with garage doors facing away from the street. See rendering enclosed as **Attachment 3**.

The existing house was under previous ownership, constructed over 13 years ago, prior to adoption of the latest garage ordinance, Section 4.75 SS-02(A), in 2017. The Petitioners are the new owners of the Property and were not involved in the design or construction of the current house. Upon taking occupancy of the home, they are finding it impossible to access the basement garage in a family car without risking the safety of their family or damaging their vehicles, making the current garage useless as a garage. Hence, the need for the requested variance is not caused by any fault of Petitioners. The need for a variance is caused by the unique flag shape of the lot and its situation on the waterfront of Quarton Lake, making a side yard and back yard garage impossible. In addition, the principal residential building located on the adjacent lot directly to the west, commonly referred to as 200 Lake Park Drive (the "Adjacent Lot") covers the entire street frontage and blocks the view of the home at 220 Lake Park. The only part of 220 Lake Park seen from the street view is the driveway entrance. See photograph enclosed as **Attachment 4**.

Standards

Section 8.01(3)(a) of the Zoning Ordinance provides that the Board of Zoning Appeals "shall hear and grant or deny requests for variances from the strict application of the provisions of the Zoning Ordinance where there are practical difficulties or unnecessary hardships in carrying out the strict letter or such chapter." Section 8.01(3)(a) further provides that the Board of Zoning Appeals shall not grant a variance unless it determines that:

- i. Because of special conditions applicable to the property in question, the provisions of the Zoning Ordinance, if strictly applied, unreasonably prevent the property owner from using the property for a permitted purpose;
- ii. Literal enforcement of the chapter will result in unnecessary hardship;
- iii. The granting of the variance will not be contrary to the spirit and purpose of the Zoning Ordinance nor contrary to the public health, safety and welfare; and
- iv. The granting of the variance will result in substantial justice to the property owner, the owners of property in the area and the general public.

Strict Application of the Zoning Ordinance Unreasonably Prevents Petitioners from Using His Property for a Permitted Use

Petitioners use their Property as a one-family dwelling, which is expressly authorized under Section 2.07(B)(1)(b) of the Zoning Ordinance. Petitioners also intend to maintain an attached garage on their Property satisfactory of the parking standards pertinent to the R1 district as set forth in Section 4.46 PK-02 of the Zoning Ordinance. Petitioners believe the existing home with the location of the garage driveway and retaining wall at the lot line is a prior nonconformity. Per Ordinance Section 6.02(A)(3), however, the proposed garage addition will not enlarge or extend the nonconformity because it does not violate any of the setbacks or other provisions of the Zoning Ordinance, except for its placement in front of the house façade for which this variance is requested.

Request for Variance:

Accessing by a typical automobile, the current basement garage is physically challenging and unsafe because of the limited 15 feet of clearance width, impossible turning radius, and slope geometry of the ramp. See enclosed photograph of the garage access at **Attachment 5**. Moreover, there is no place to situate a typical garage behind the façade or on the rear lakeside yard of the Property. See Site Plan enclosed at **Attachment 6**.

Hence, the unique characteristics of the Property render it infeasible for Petitioners to add a typical garage conforming to the prohibition of attached garages in the front yard.

Strict application of the Section 4.75 SS-02(A) would unreasonably prevent Petitioners from using their Property as a one-family dwelling with an attached garage as permitted by Article Section 4.75 SS-02(A) of the Zoning Ordinance.

Literal Enforcement of the Zoning Ordinance Will Result in Unnecessary Hardship

For the reasons stated above, literal enforcement of Section 4.75 SS-02(A) of the Zoning Ordinance on this flag-shaped lot fronting Quarton Lake, with the neighboring home to the west entirely blocking the subject's front yard from street view, would result in the imposition of unnecessary hardship upon Petitioners.

The proposed building addition complies with all other aspects of the zoning ordinance (setbacks, height, lot coverage, open space, front yard space). The proposed Mudroom, Studio, and Bathroom are all allowable uses and allowed in area of the proposed addition. It is only the

garage use, which makes up approximately 50% of the internal functions of the total addition, that requires the variance. The proposed garage will not visibly dominate the front façade of the existing home. It's width in elevation equates to 28% of the total front elevation, substantially less than the 50% allowable. The unique shape of the lot and its situation as a lakefront home, leaves no side or backyard for an attached garage behind the front facade. As the existing basement garage cannot reasonably and safely be entered with a car, Petitioners, at no fault of their own, will be unable to have a garage in which to park their family cars as required in the R1 use standards. Thus, literal enforcement of the Zoning Ordinance in this regard would result in unnecessary hardship to Petitioners.

Granting the Requested Variance Would Not Be Contrary to the Spirit and Purpose of the Zoning Ordinance, Nor Contrary to the Public Health, Safety, and Welfare

Although Section 2.05(A) (relating to the R1 zone of Birmingham) states that a district intent is not available for the zoning district, it remains nevertheless clear that granting the requested variance would not run afoul of the spirit and purpose of the Zoning Ordinance. Indeed, Section 1.04 of the Zoning Ordinance states that the Ordinance, as a whole, "is intended to guide the growth and development of the City in accordance with the goals, objectives, and strategies stated within the Birmingham Master Plan and Downtown Birmingham 2016 Plan." The Future Land Use Map included in the second draft of the Birmingham Master Plan for 2040 ([1817-MasterPlan-Draft_2-Updated.pdf \(mcka.com\)](#)) shows that Petitioners' Property, even 29 years from today, is intended to be used for single-family residential purposes. Thus, Petitioners' proposed construction of a safe, accessible, attached garage will fit comfortably within the City's intended course of progression for years to come.

Further, there has been no suggestion that Petitioners' proposed variance would, if granted, somehow harm the health, safety, and welfare of the public. To the contrary, Petitioners' current basement garage is a safety hazard and cannot be used for its intended purpose. Most importantly, Ordinance Section 4.75 SS-02(A) is intended to prevent street-facing homes with a façade made entirely of a street-facing dominantly visible attached garage. See **Attachment 3**. The present variance request is consistent with the purpose of Ordinance Section 4.75 SS-02(A) because this house is not fronted on Lake Park Drive, rather it sits behind and is visually obstructed by the property directly to the west. The garage also will be visually appealing as it will cover only 28% of the house facade and be the same handsome architectural style as the house.

It is notable that an addition to the front of the existing house would otherwise be permissible under the Ordinance standards and unquestionably satisfies public health, safety, and welfare. Use of the front addition as a garage mandates the variance.

Granting the Requested Variance Will Result in Substantial Justice to Petitioners, Owners of the Property in the Area, and to the General Public

Granting the requested variance will result in substantial justice to Petitioners, the owners of neighboring properties in the area, and the public. As stated above, the City is determined to meet the goals and objectives laid out in the Master Plan; and Petitioners' proposed garage construction not only facilitates satisfaction of the City's intended use of this Property as a single-family residence in accordance with the R1 zone use standards, but it would also bring to the neighborhood a newly constructed, aesthetically pleasing addition that may galvanize further improvements without jeopardizing the Quarton Lake waterfront or the street view from Lake Park Drive.

For these reasons, granting the requested variance will result in substantial justice to Petitioners, the owners of neighboring properties in the area, and the general public.

The Practical Difficulty is not Self-Created

The practical difficulty and unnecessary hardship experienced by these Petitioners are not self-created; they exist because of the size, shape, location, and natural features of the Property. This Property is in the R1 zone, situated on an unusual flag-shaped lot, with Quarton Lake frontage immediately to the east. There is an adjacent home sitting directly in front of the Property facing Lake Park Drive to the west. The challenges presented by the unique location fronting Quarton Lake and by the safety hazard of the pre-existing garage designed by a prior owner are the factors primarily precluding Petitioners' strict compliance with the letter of the Zoning Ordinance. The dimensional nonconformity presented in Petitioners' Application is the result of Petitioners' best efforts to limit noncompliance to the furthest extent possible while considering the special characteristics of the Property and the potential hazards of Petitioners' use of the current garage. Beyond this, the granting of the requested variance satisfies the intent of the garage standards because the garage complies with all setback requirements and will not be visible from Lake Park Drive.

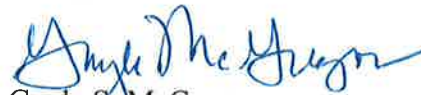
Conclusion

The variance requested is consistent with the permitted uses of the R1 zone of the City of Birmingham and with the future intended use of the Property as outlined under the City's Master Plan. Further, granting the variance will provide the following relief: (1) Petitioners will be permitted to use the Property for a permitted purpose, specifically a one-family dwelling with an attached garage in which to park cars; (2) Petitioners will be relieved from unfair and unnecessary hardship that would result from literal enforcement of the Zoning Ordinance; (3) the variance

requested, if granted, would be consistent with the spirit and purpose of the Zoning Ordinance or the public health, safety, and welfare would result; and (4) substantial justice would result to Petitioners, the owners of property in the area, and the general public.

If you have any further questions or comments about the above, please do not hesitate to contact this office at your earliest convenience.

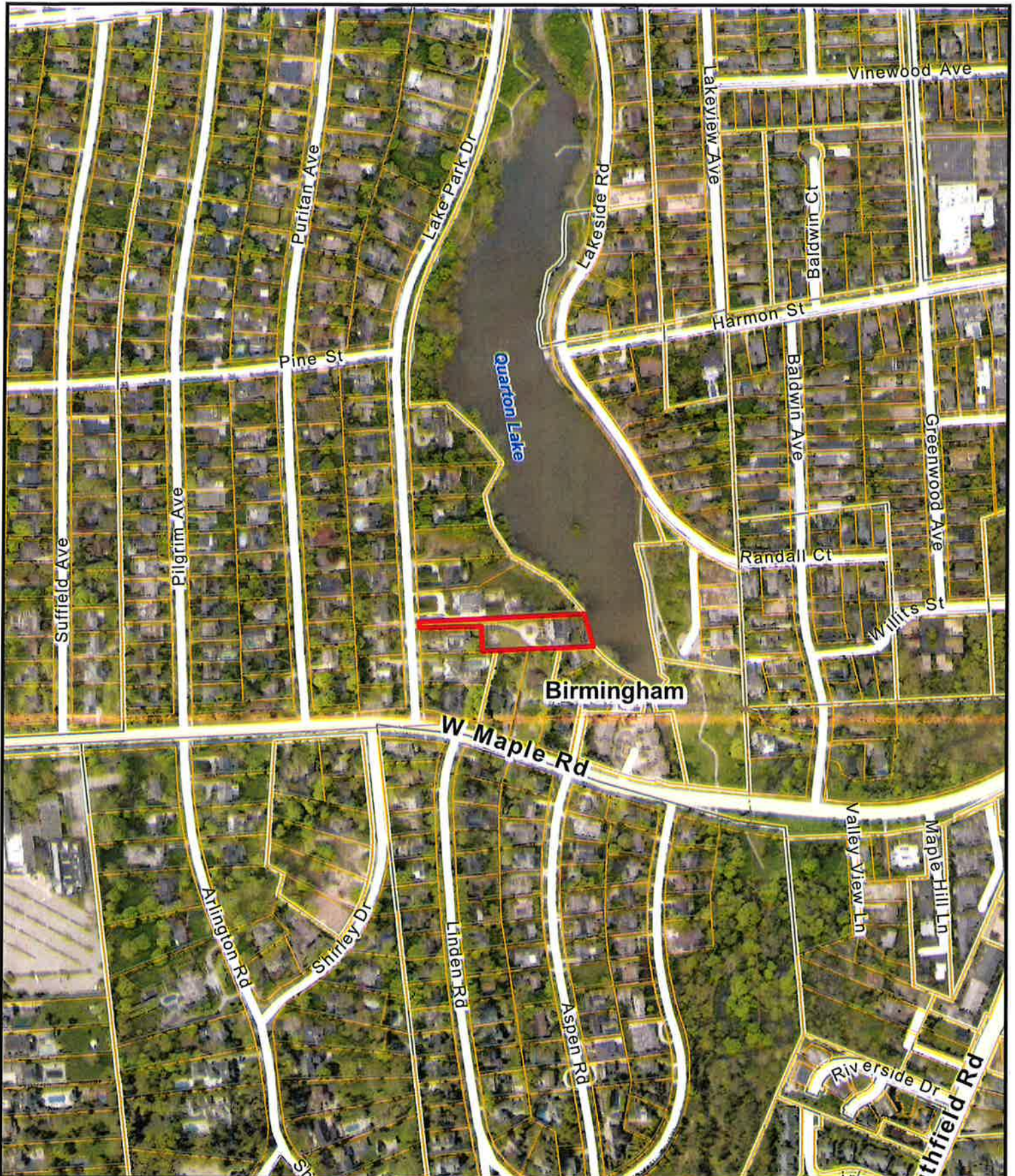
Very truly yours,
WILLIAMS, WILLIAMS, RATTNER & PLUNKETT, P.C.


Gayle S. McGregor

cc: Robert and Lindsay Mardigian

ATTACHMENT 1

220 Lake Park



Disclaimer: The information provided herewith has been compiled from recorded deeds, plats, tax maps, surveys and other public records. It is not a legally recorded map or survey and is not intended to be used as one. Users should consult the information sources mentioned above when questions arise. FEMA Floodplain data may not always be present on the map.



David Coulter
Oakland County Executive

Date Created: 9/23/2022



1 inch = 400 feet

ATTACHMENT 2

SPIRIT AND INTENT

With granting of a variance, the "spirit and intent" of the ordinance is observed. The premise of the applicable zoning ordinance was to avoid the development of "Garage Houses" where the garage function becomes dominant as viewed from the public street and sidewalk, diminishing the appearance of the house function. The existing house is unique in that it is not visible from public view, nor will the proposed garage.

HISTORY OF CHANGES TO THE ZONING ORDINANCE TO ELIMINATE "GARAGE HOUSES"

Birmingham historically has had traditional neighborhood development. Most single-family zoning districts consisted of small lots with homes constructed fronting on a street with garages, typically detached, in the rear yard. This made for attractive neighborhoods with the house and activities associated with a house to be engaged with the street.

Birmingham continued to be a very desirable place to live, existing inventory of homes became old and obsolete by current standards, homes were demolished and replaced with new. People preferred attached garages with direct access to the house and open outdoor space in the rear. The replacement of houses began primarily within Birmingham's neighborhoods with narrow lots, typically 40', 50' or 60' in wide. The only way to build an attached garage was to place the garage at the front with the primary house attached to the rear.

These developments began to adversely change the character of the neighborhoods. Birmingham's original houses, engaged with the public street and sidewalk, were now being replaced with what became known as "Garage Houses"often with the house front door buried behind the garage completely hidden from view.

The City Commission reacted by making changes to the zoning ordinance such that the living areas of a building (the house) would always be dominant and the visibility of a garage diminished. New restrictions included attached garages be placed behind the plane of the house façade and other requirements such as limiting a garage doors to 8' in width (recently increased to 9').

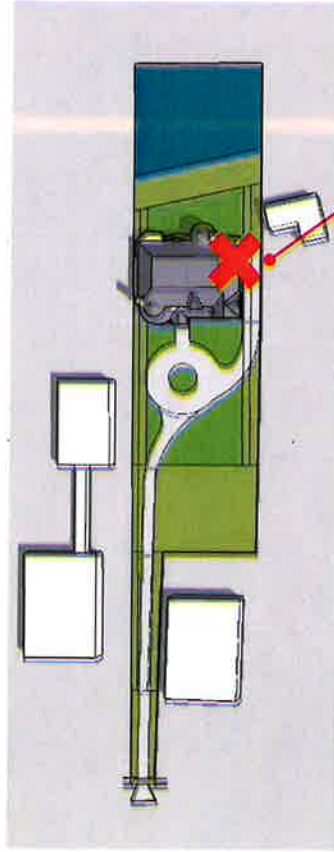


THESE ARE SOME HOMES IN BIRMINGHAM CONSIDERED "GARAGE HOUSE" – THIS IS WHY THE ZONING RESTRICTION EXIST...TO AVOID THIS TYPE OF HOUSE/GARAGE VISABLE FROM THE STREET AND SIDEWALK

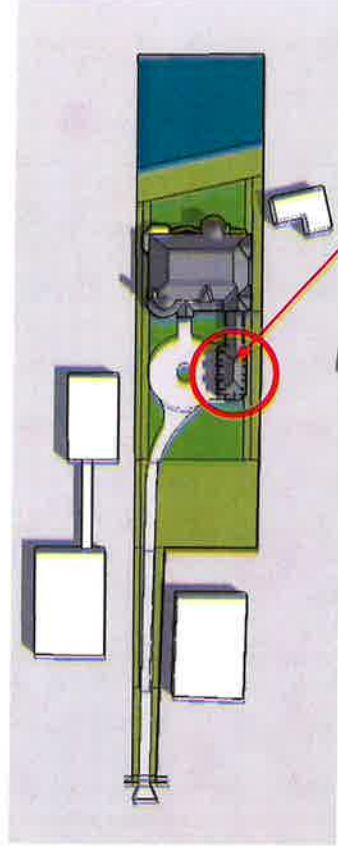
ATTACHMENT 3

THE SOLUTION – BUILD A GARAGE ADDITION

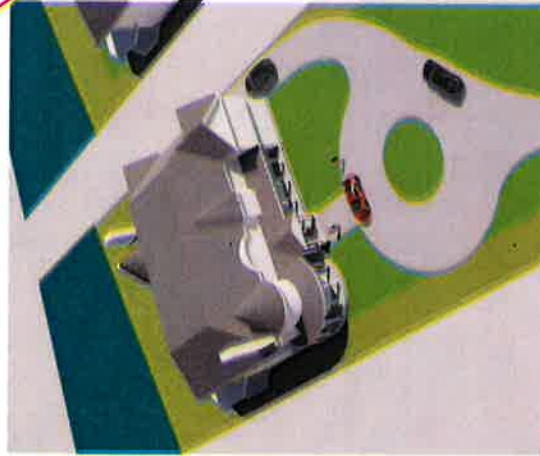
Construct a 3-car garage addition attached to and in front of the existing house. The addition would also include an expanded mudroom, storage, and second floor studio.



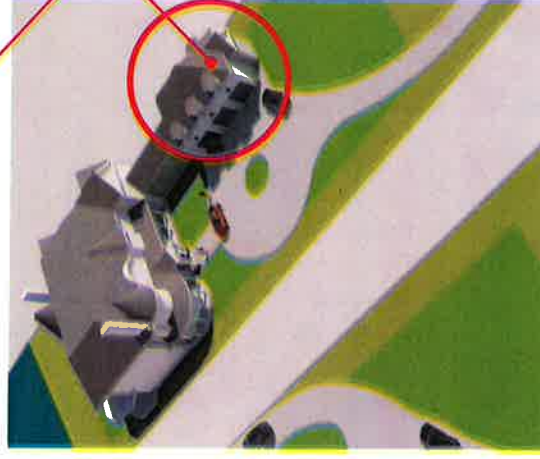
EXISTING



PROPOSED



Existing garage in basement



Add a Garage/Studio addition

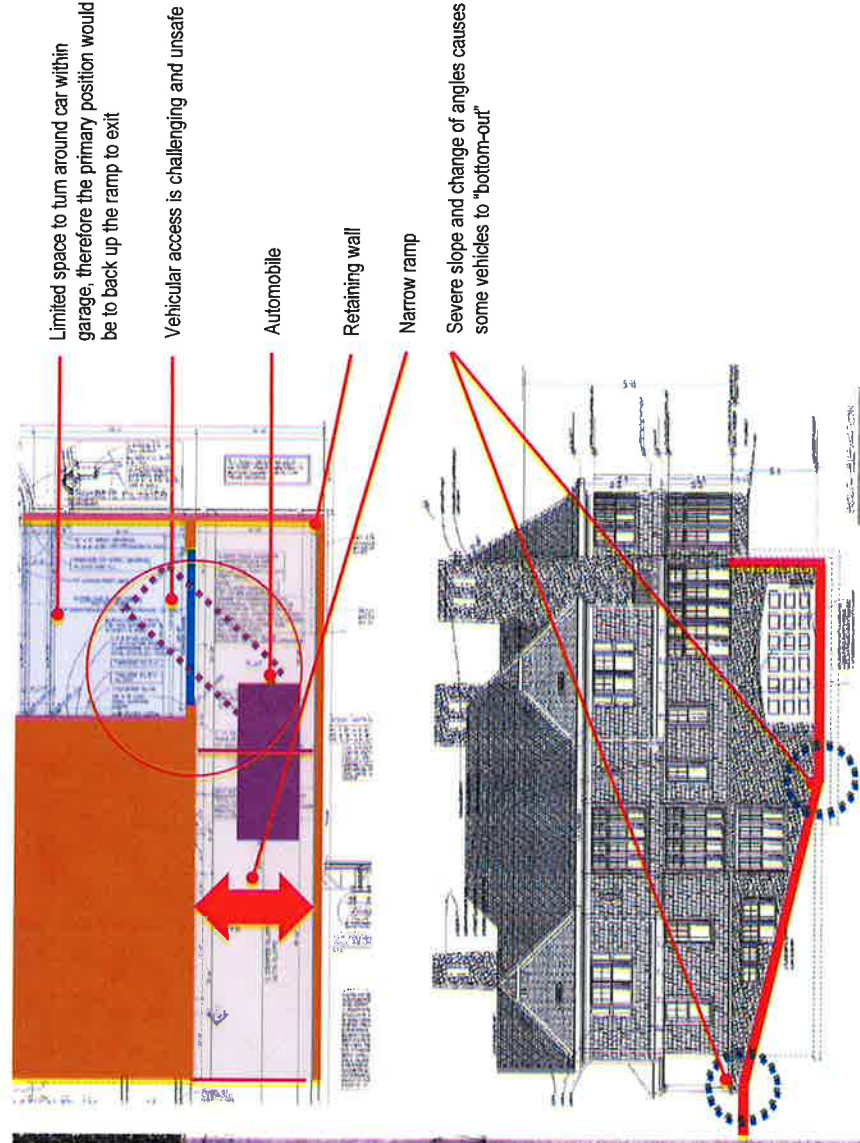
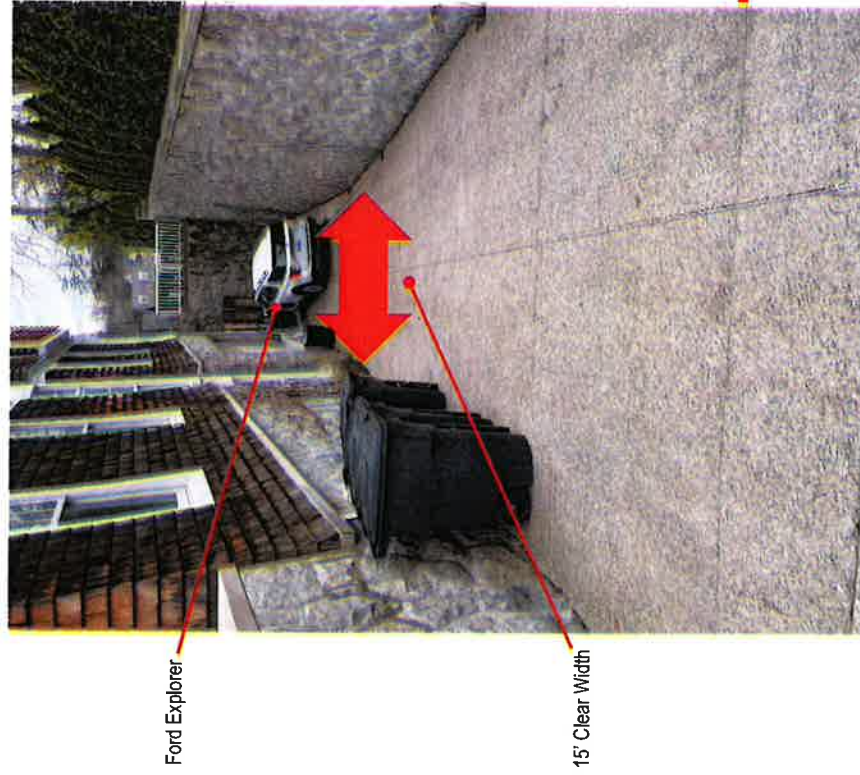
ATTACHMENT 4



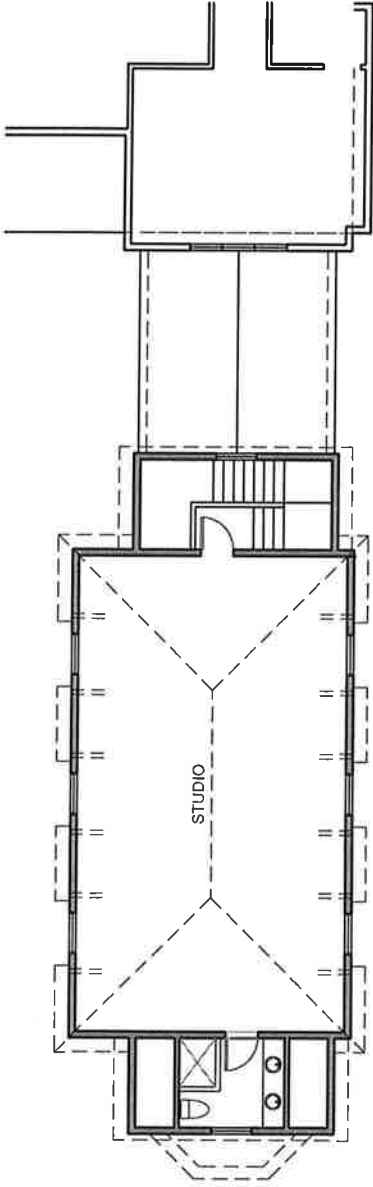
ATTACHMENT 5

THE PROBLEM – EXISTING GARAGE ACCESS IS CHALLENGING AND UNSAFE

The current garage is placed in the lower level of the house, accessible by a ramp on the south side of the house abutting the side property line. The ramp is very steep, has problematic slope changes, and is only 15' wide making it very challenging and dangerous to maneuver. Existing garage also has some non-compliant fire separation issues.



ATTACHMENT 6



SECOND FLOOR PLAN
SCALE: 1" = 10'

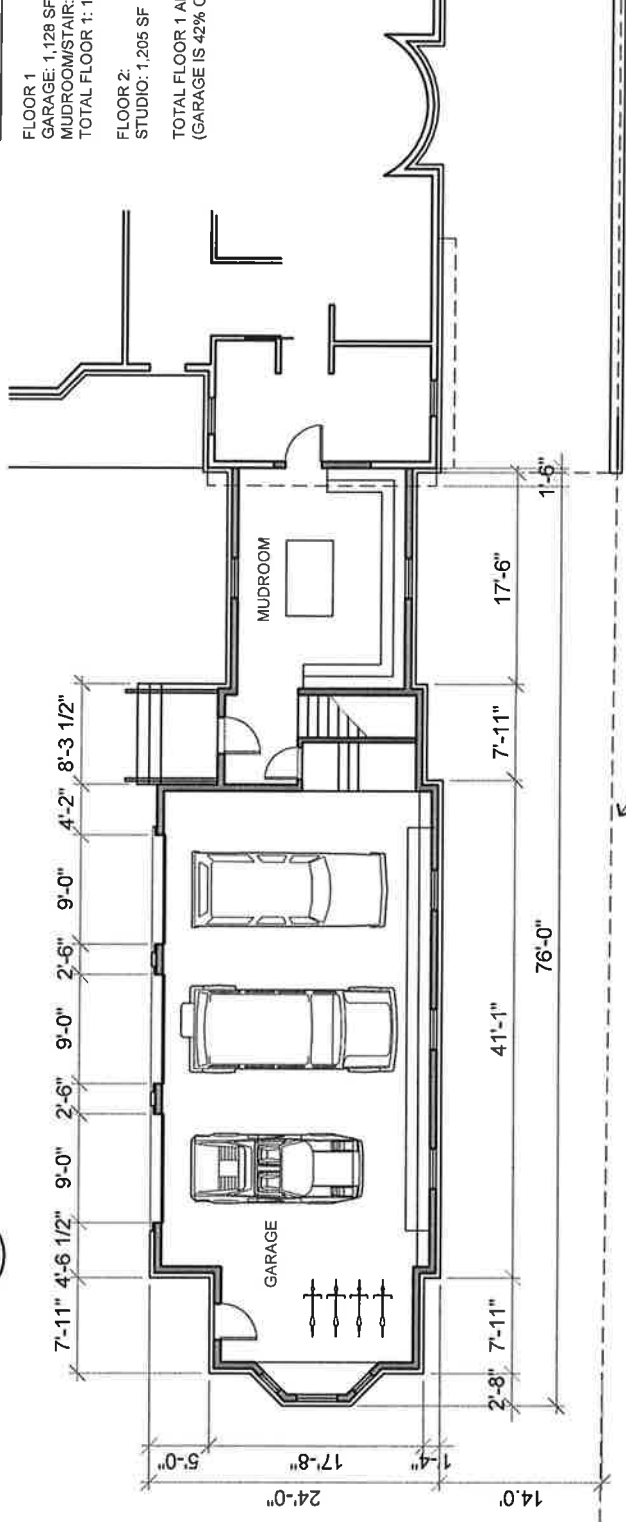
EXISTING HOUSE AREA:
FLOOR 1 + FLOOR 2: +/- 10,000 SF

PROPOSED ADDITION - CARRIAGE HOUSE

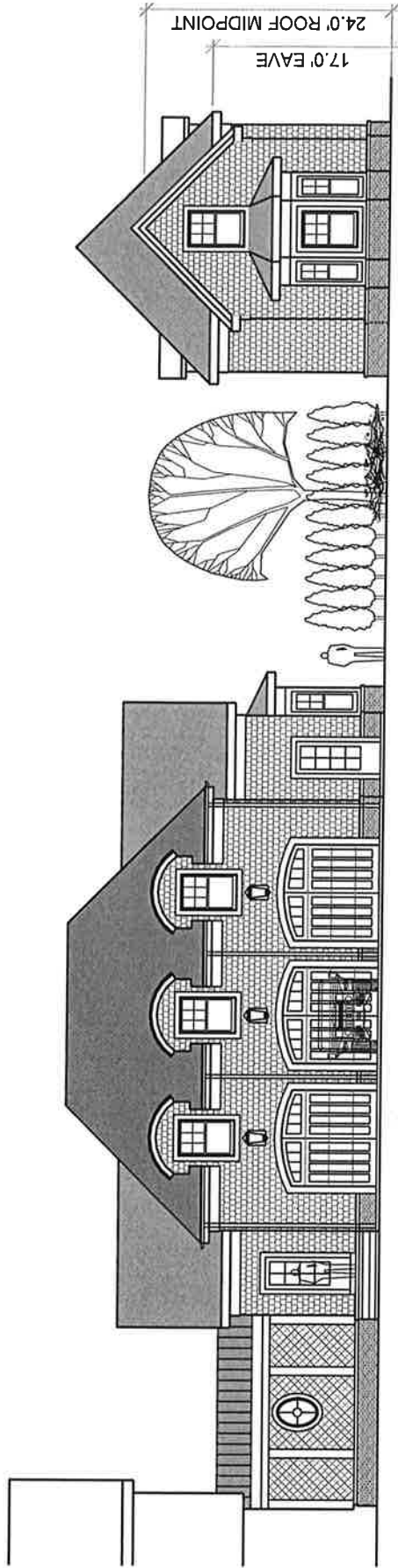
FLOOR 1
GARAGE: 1,128 SF
MUDROOM/STAIR: 340 SF
TOTAL FLOOR 1: 1,468 SF

FLOOR 2:
STUDIO: 1,205 SF

TOTAL FLOOR 1 AND 2: 2,673
(GARAGE IS 42% OF TOTAL BUILDING AREA)

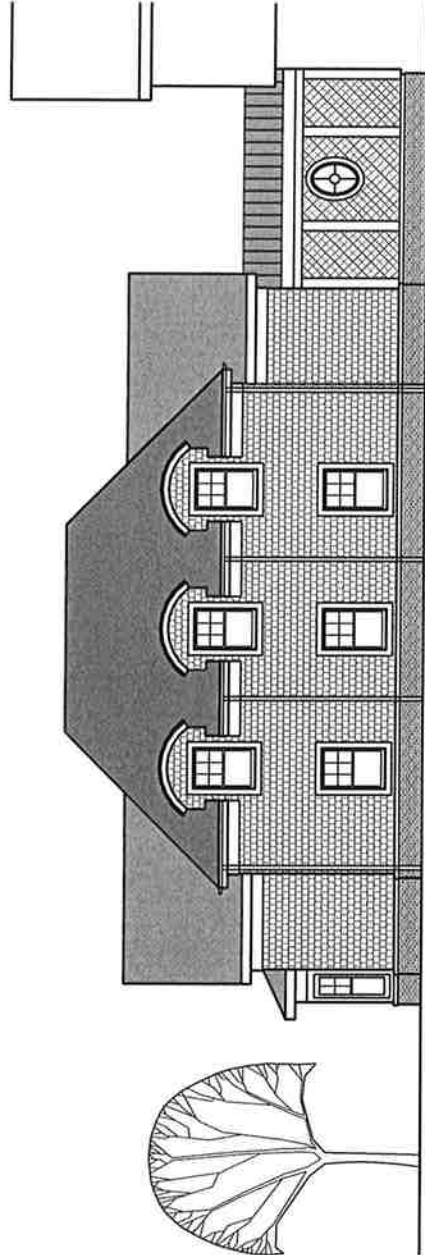


FIRST FLOOR PLAN
SCALE: 1" = 10'



NORTH ELEVATION
SCALE: 1" = 10'

WEST ELEVATION
SCALE: 1" = 10'



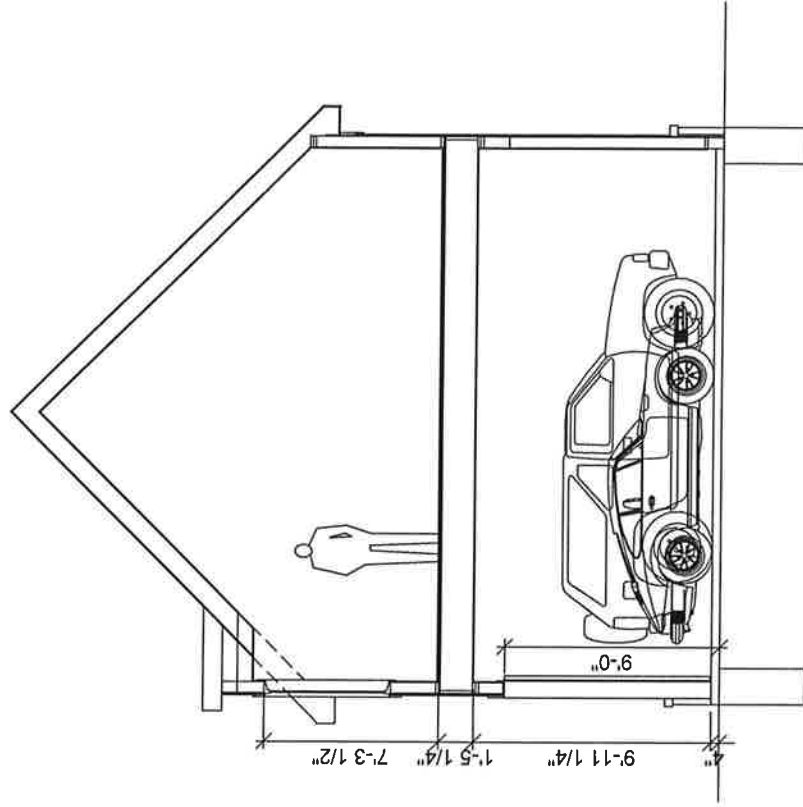
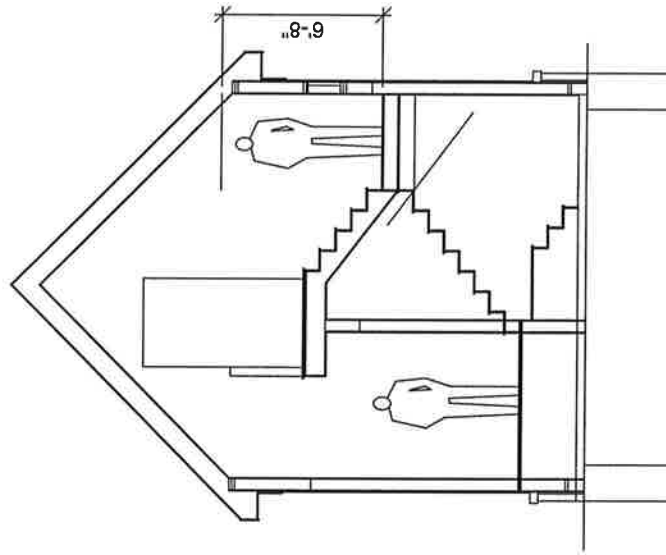
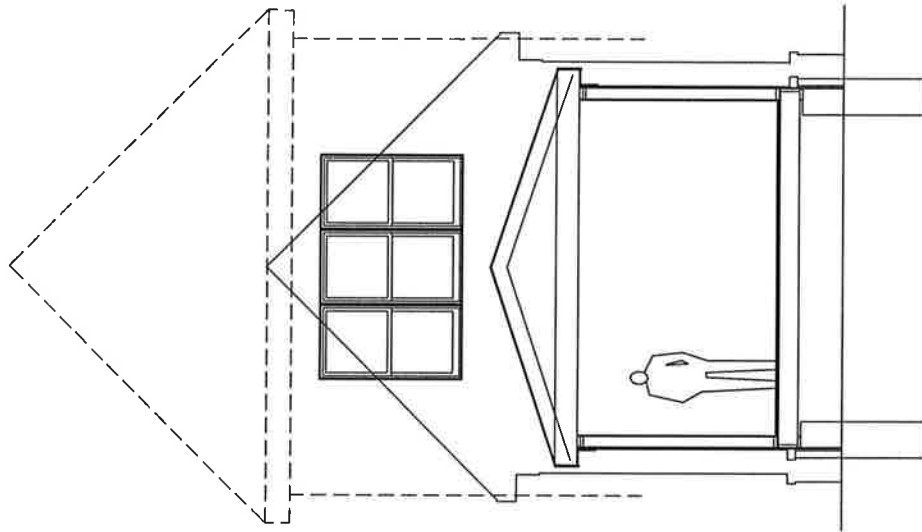
SOUTH ELEVATION
SCALE: 1" = 10'

Project: Mardigan Residence (Garage)
220 Lakepark
Birmingham, Michigan

Phase: Design Development

Date: September 21, 2022

Sheet: **A.3**



Project:
Mardigan Residence (Garage)
220 Lakepark
Birmingham, Michigan

Phase:
Design Development

Date:
September 21, 2022

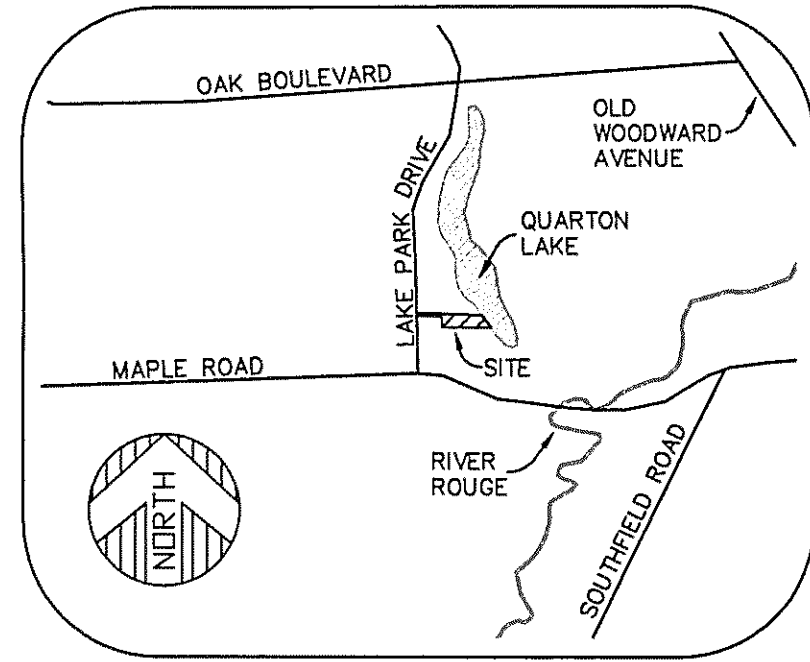
Sheet

A.4

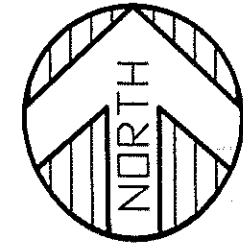
SITE PLAN AND DRAINAGE PLAN

CERTIFIED TO: VALSTONE GROUP

PART OF LOT 330, "QUARTON LAKE ESTATES SUBDIVISION" CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN AS RECORDED IN LIBER 14 OF PLATS, PAGE 6, 6A AND 6B OF OAKLAND COUNTY RECORDS.



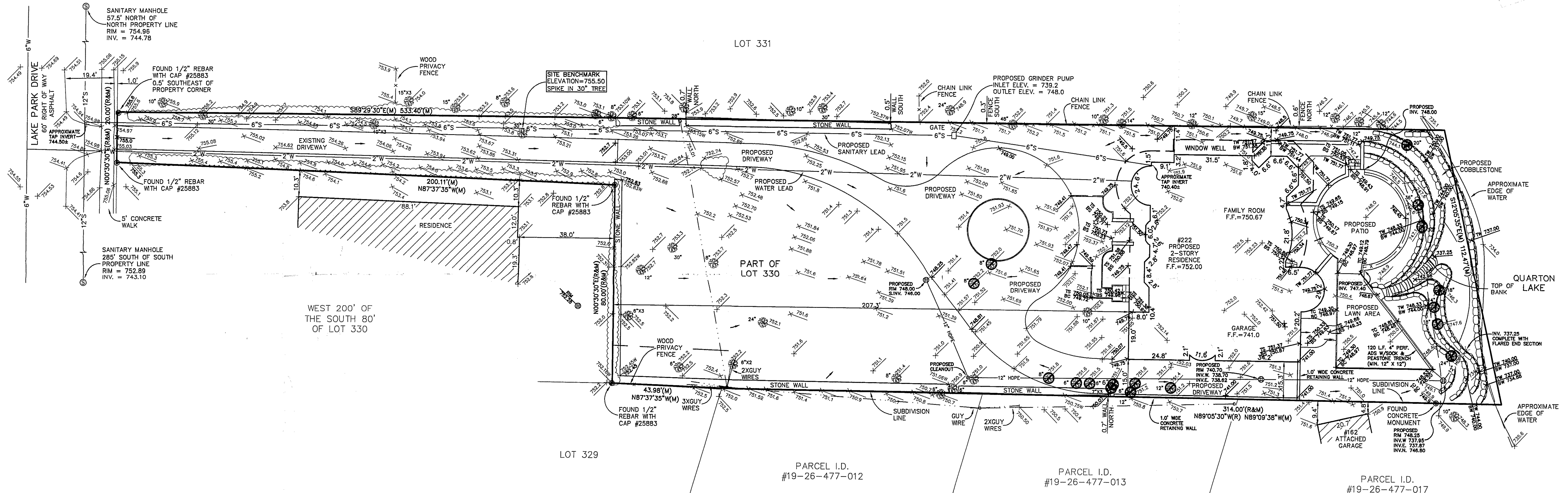
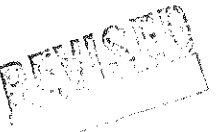
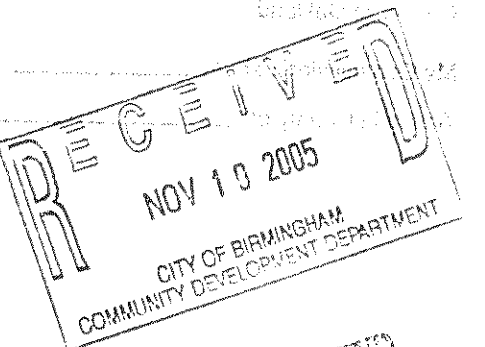
VICINITY MAP
(NOT TO SCALE)



GRAPHIC SCALE



(IN FEET)
1 inch = 20 ft.



LEGEND

●	FOUND MONUMENT (AS NOTED)
(R)	RECORD DIMENSION
(M)	MEASURED DIMENSION
(R&M)	RECORD & MEASURED DIMENSION
× 000.00	EXISTING ELEVATION
× 000.00	PROPOSED ELEVATION
○	ROUND CATCH BASIN
⊙	LIGHT POLE
⊙	UTILITY POLE
⊙	TREE (AS NOTED)
—	PARCEL BOUNDARY LINE
—	PLATTED LOT LINE
—	BUILDING
—	FENCE (AS NOTED)
—	WALL (AS NOTED)
—	OVERHEAD UTILITY LINE
—	SHRUB LINE
TS	TOP OF STEP
BS	BOTTOM OF STEP
TC	TOP OF CURB
BC	BOTTOM OF CURB
TW	TOP OF WALL
BW	BOTTOM OF WALL

NOTES

1. THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND THE CITY OF BIRMINGHAM UTILITY MAPS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED. ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES OTHER THAN THE STRUCTURE INVENTORY SHOWN HEREON.
2. ALL GUTTER AND DOWN SPOUTS MUST BE CONSTRUCTED IN A MANNER THAT DIRECTS WATER FLOW TO THE REAR OF SUBJECT PROPERTY.
3. PROPOSED RETAINING WALLS AND LANDSCAPING AS SHOWN ON SURVEY ARE DESIGNED BY MICHAEL J. DUL & ASSOCIATES, INC., 212 DAINES STREET, BIRMINGHAM, MICHIGAN 48009. REFER TO CONSTRUCTION SITE PLAN FOR WALL DETAILS.
4. ZONING = R-1 SINGLE FAMILY RESIDENTIAL
5. SETBACKS
FRONT = N/A
REAR = 30.0 FEET
SIDE 1 = 10.00 FEET MIN. 10% OF (80+20) 100 FEET
SIDE 2 = 15.00 FEET MIN. 15% OF (80+20) 100 FEET
TOTAL = 25.00 FEET, 25% OF (80+20) 100 FEET
6. GRADE PLANE =
AVERAGE ELEVATION ALONG NORTH PROPERTY LINE = 751.81
AVERAGE ELEVATION ALONG SOUTH PROPERTY LINE = 751.69
(751.64+751.85)/2 = 751.75
7. PART OF LOT 330 AREA = 42,196 SQUARE FEET
8. GROUND COVERAGE AREA (PROPOSED RESIDENCE) = 4,965 SQUARE FEET
9. GROUND COVERAGE = 4,965/42,196 = 11.77%
10. OPEN SPACE = 88.23%

PROPERTY DESCRIPTION (AS FURNISHED BY CLIENT)

PART OF LOT 330, THAT PART BEING ALL OF LOT 330 EXCEPT THE WEST 200 FEET OF THE SOUTH 80 FEET, 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.

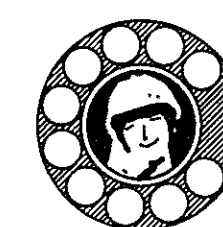
FLOOD NOTE

ZONE A: AREA OF 100-YEAR FLOOD. BASE FLOOD ELEVATIONS AND FLOOD HAZARD FACTORS DETERMINED. INTERPOLATED FLOOD PLAIN ELEVATION = 736.28 AND EXISTS ALONG THE FACE OF THE BANK OF QUARTON LAKE AS SHOWN ON FLOOD INSURANCE RATE MAP, COMMUNITY - PANEL NUMBER 260168 0005 B, DATED MAY 15, 1980, PUBLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

BENCHMARKS

CITY OF BIRMINGHAM BENCHMARK #22
ELEVATION = 753.78
BRASS CAP AT N.W. CORNER OF
MAPLE ROAD AND LAKE PARK.

SITE BENCHMARK - SET SPIKE IN 30"
TREE, ELEVATION = 755.50 AS SHOWN.



72 HOURS
(3 WORKING DAYS)
BEFORE YOU DIG
CALL MISS DIG
800-482-7171
(TOLL FREE)

SURVEYOR'S CERTIFICATION

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.
PROFESSIONAL SURVEYOR
MICHIGAN LICENSE NO. 47976



KEM-TEC & ASSOCIATES
PROFESSIONAL SURVEYORS
22556 GRATIOT AVE. • EASTPOINTE, MICHIGAN 48021.
(586)772-2222 • (800)295-7222 • FAX (586)772-4048

PREPARED FOR: VALSTONE GROUP

DATE: JULY 20, 2005 JOB #: 04-41084

SCALE: 1" = 20' SHEET: 1 OF 1

DRW. BY: JTA REV.: NOVEMBER 4, 2005

20 10 0 20 40 60

SCALE IN FEET 1" = 20'

PROPERTY LINE
OFF-SITE PARCEL
SETBACK LINE
EASEMENT LINE

TAX ID#: 19-26-477-021

ZONED: R-1 (SINGLE FAMILY RESIDENTIAL)

SETBACKS:

FRONT: AVERAGE DISTANCE FROM THE FRONT LINE OF HOMES WITH FRONTAGE ON THE SAME SIDE OF THE STREET WITHIN 200 FEET:

290 LAKE PARK:	86.2 FT
240 LAKE PARK:	112.2 FT
200 LAKE PARK:	72.3 FT
158 LAKE PARK:	71.7 FT
130 LAKE PARK:	79.0 FT
	$421.4 / 5 = 84.3 \text{ FT REQUIRED}$

EXISTING HOME: 205.7 FT

PROPOSED ADDITION: 132.1 FT

SIDE: 9 FEET OR 10% OF TOTAL LOT WIDTH WHICHEVER IS LARGER FOR ONE SIDE YARD. 14 FEET OR 25% OF TOTAL LOT WIDTH WHICHEVER IS LARGER FOR BOTH SIDE YARDS. NO SIDE YARD SHALL BE LESS THAN 5 FEET.

LOT WIDTH AT FRONT SETBACK: 108.2 FT

LEAST SIDE: 5 FT REQUIRED

OPPOSITE SIDE: 10.8 FT REQUIRED

14.0 FT EXISTING**

14.0 FT PROPOSED

TOTAL SIDES: 25% 27.1 FT REQUIRED

4.3 + 14 = 18.3 FT EX. AND PR.

* MEASURED TO OUTER EDGE OF SUPPORT COLUMN

** MEASURED TO 2ND FLOOR OVERHANG

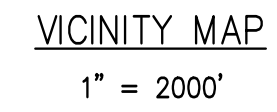
REAR: 30 FT REQUIRED

53.3 FT EXISTING

COMBINED FRONT AND REAR: 55 FT REQUIRED

259.0 FT EXISTING

185.4 FT PROPOSED



VARIANCE REQUEST
PART OF THE SOUTHEAST 1/4 OF SECTION 26, T2N, R10E,
CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN

ENGINEERS, SURVEYORS
MLP
AND ASSOCIATES, INC.

STATUS:	DATE: 08-24-2022	PREPARED FOR:
	PRG: ENP	LANSOWNE CONTRACTING
	ENG: SURAEC	ATTN: SCOTT SAWICA
	CAD: ENP	lansdownecontracting@live.com
	VOATIME: N/A	(248) 670 0136
JOB NO. 2022.92		

SHEET
01

CASE DESCRIPTION

839 Ridgedale (22-49)

Hearing date: November 8, 2022

Appeal No. 22-49: The owner of the property known 839 Ridgedale, requests the following variance to construct a second floor addition to an existing non-conforming home:

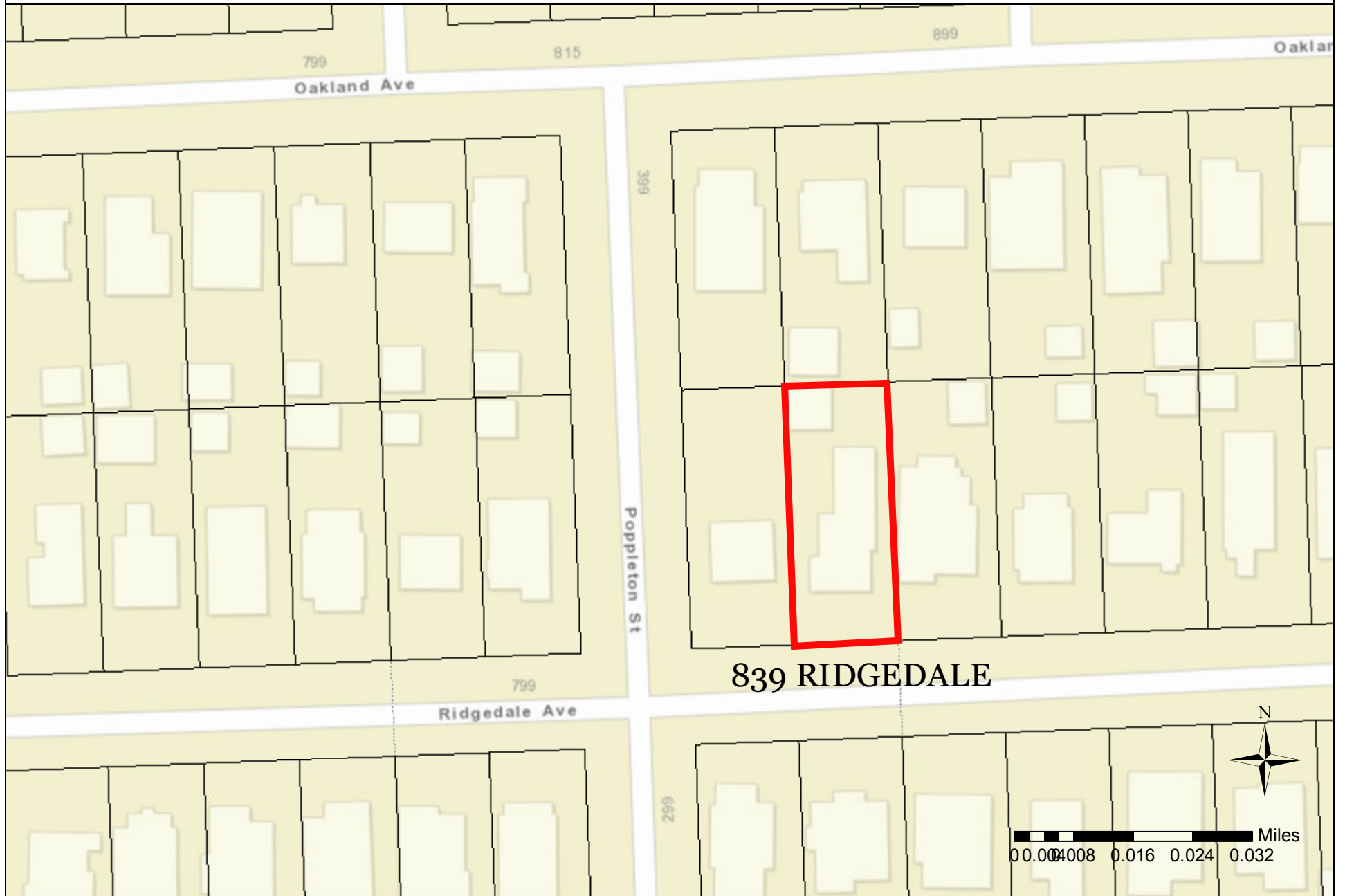
A. Chapter 126, Article 2.08.2 of the Zoning Ordinance requires that a minimum front yard setback is the average of homes within 200 feet each way. The required is 32.70 feet. The existing and proposed is 28.30 feet. Therefore a variance of 4.40 feet is being requested.

Staff Notes: This applicant was in front of the board in February 2022 (Minutes attached). The applicant is back requesting the same variance that was granted for the expansion on the existing dormer width. The plans has revisions to the first floor, the applicants requesting that these plans be tied to the variance granted.

This property is zoned R2 – Single family residential.

Jeff Zielke, NCIDQ, LEED AP
Assistant Building Official

839 RIDGEDALE 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: OCT 12, 2022

Hearing Date: 11-8-22

Received By: 447

Appeal #: 22-49

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

Address: <u>8309 RIDGEDALE AVE.</u>	Lot Number: <u>LOT 8</u>	Sidwell Number: <u>19-25-481-011</u>
-------------------------------------	--------------------------	--------------------------------------

II. OWNER INFORMATION:

Name: <u>ANNE & MIKE TRESH</u>			
Address: <u>8309 RIDGEDALE AVE</u>	City: <u>BIRMINGHAM</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>*atresh2@gmail.com</u>		Phone: <u>314-074-8021</u>	

III. PETITIONER INFORMATION:

Name: <u>ARTHUR LANG</u>	Firm/Company Name: <u>ARTHUR R. LANG - ARCHITECT</u>		
Address: <u>312 S. ADAMS</u>	City: <u>BIRMINGHAM</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>arthurlang@sbcglobal.net</u>		Phone: <u>248-1765-0716</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

Owner hereby authorizes the petitioner designated below to act on behalf of the owner.

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: 10/12/22

Signature of Petitioner: [Signature]

Date: OCT 12 2022

**CITY OF BIRMINGHAM
BOARD OF ZONING APPEALS
RULES OF PROCEDURE**

ARTICLE I - Appeals

- A. Appeals may be filed under the following conditions:
1. A property owner may appeal for variance, modification or adjustment of the requirements of the Zoning Ordinance.
 2. A property owner may appeal for variance, modification or adjustment of the requirements of the Sign Ordinance.
 3. Any aggrieved party may appeal the decision of the Planning Board and/or the Building Official in accordance with the City of Birmingham Zoning Ordinance, Article Eight, Section 8.01 (D) Appeals. If an appellant requests a review of any determination of the Building Official, a complete statement setting forth the facts and reasons for the disagreement with the Building Official's determination shall include the principal point, or points on the decision, order or section of the ordinance appealed from, on which the appeal is based.
- B. Procedures of the Board of Zoning Appeals (BZA) are as follows:
1. Regular BZA meetings, which are open to the public, shall be held on the second Tuesday of the month at 7:30 P.M. provided there are pending appeals. There will be a maximum of seven appeals heard at the regular meeting which are taken in the order received. If an appeal is received on time after the initial seven appeals have been scheduled, it will be scheduled to the next regular meeting.
 2. All applications for appeal shall be submitted to the Community Development Department on or before the 12th day of the month preceding the next regular meeting. If the 12th falls on a Saturday, Sunday, or legal holiday, the next working day shall be considered the last day of acceptance.
 3. All property owners and occupants within 300 feet of the subject property will be given written notice of a hearing by the City of Birmingham.
 4. See the application form for specific requirements. If the application is incomplete, the BZA may refuse to hear the appeal. The Building Official or City Planner may require the applicant to provide additional information as is deemed essential to fully advise the Board in reference to the appeal. Refusal or failure to comply shall be grounds for dismissal of the appeal at the discretion of the Board.
 5. In variance requests, applicants must provide a statement that clearly sets forth all special conditions that may have contributed to a practical difficulty that is preventing a reasonable use of the property.

6. Where the Birmingham Zoning Ordinance requires site plan approval of a project by the City Planning Board before the issuance of a building permit, applicants must obtain preliminary site plan approval by the Planning Board before appeal to the BZA for a variance request. If such appeal is granted by the BZA, the applicant must seek final site plan and design review approval from the Planning Board before applying for a building permit.
7. An aggrieved party may appeal a Planning Board decision. Such appeal must be made within 30 days of the date of the decision. The BZA, in its discretion, may grant additional time in exceptional circumstances.
8. Appeals from a decision of the Building Official shall be made within 30 days of the date of the order, denial of permit, or requirement or determination contested. The BZA, in its discretion, may grant additional time in exceptional circumstances.
9. An appeal stays all proceedings in accordance with Act #110, Public Acts of 2006, Article VI, Section 125.3604 (3).

C. The order of hearings shall be:

1. Presentation of official records of the case by the Building Official or City Planner as presented on the application form.
2. Applicant's presentation of his/her case—the applicant or his/her representative must be present at the appeal hearing.
3. Interested parties' comments and view on the appeal.
4. Rebuttal by applicant.
5. The BZA may make a decision on the matter or request additional information.

D. Motions and Voting

1. A motion is made to either grant or deny a petitioner's request
 - a) For a motion to grant or deny a non-use variance request, the motion must receive four (4) affirmative votes to be approved.
 - b) For a motion to grant or deny a use variance request, the motion must receive five (5) affirmative votes to be approved.
 - c) For a motion to grant or deny an appeal of a decision or order by an administrative official or board, the motion must receive four (4) affirmative votes to be approved.
 2. When a motion made is to approve or deny a petitioner's request and if there is a tie vote, then the vote results in no action by the board and the petitioner shall be given an opportunity to have his or her request heard the next regularly scheduled meeting when all the members are present.
-

3. When there are less than seven (7) members of the board present for a meeting, then a petitioner requesting a use variance shall be given an opportunity at the beginning of the meeting to elect to have it heard at the next regularly scheduled meeting.
4. When there are less than six (6) members present for a meeting, then all petitioners shall be given an opportunity at the beginning of the meeting to elect to have the request heard at the next regularly scheduled meeting.

ARTICLE II - Results of an Appeal

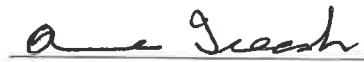
- A. The Board may reverse, affirm, vary or modify any order, requirement, decision or determination as in its opinion should be made, and to that end, shall have all the powers of the officer from whom the appeal has been taken.
- B. The decisions of the Board shall not become final until the expiration of five (5) days from the date of entry of such orders or unless the Board shall find that giving the order immediate effect is necessary for the preservation of property and/or personal rights and shall so certify on the record.
- C. Whenever any variation or modification of the Zoning Ordinance is authorized by resolution of the BZA, a Certificate of Survey must be submitted to the Community Development Department with the building permit application. A building permit must be obtained within one year of the approval date.
- D. Failure of the appellant, or his representative, to appear for his appeal hearing will result in the appeal being adjourned to the next regular meeting. If, after notice, the appellant fails to appear for the second time, it will result in an automatic withdrawal of the appeal. The appellant may reapply to the BZA.
- E. Any applicant may, with the consent of the Board, withdraw his application at any time before final action.
- F. Any decision of the Board favorable to the applicant is tied to the plans submitted, including any modifications approved by the Board at the hearing and agreed to by the applicant, and shall remain valid only as long as the information or data provided by the applicant is found to be correct and the conditions upon which the resolution was based are maintained.

ARTICLE III - Rehearings

- A. No rehearing of any decision of the Board shall be considered unless new evidence is submitted which could not reasonably have been presented at the previous hearing or unless there has been a material change of facts or law.
-

B. Application or rehearing of a case shall be in writing and subject to the same rules as an original hearing, clearly stating the new evidence to be presented as the basis of an appeal for rehearing.

I certify that I have read and understand the above rules of procedure for the City of Birmingham Board of Zoning Appeals.



Signature of Applicant



arthur r. lang - architect ■ 312 s. adams rd. birmingham, mi 48009 ■ p: 248.765.0716 ■
arthurlang@sbcglobal.net

October 12, 2022
Board Of Zoning Appeals
Birmingham, Michigan

Subject Property:

839 Ridgedale Avenue
Birmingham, Michigan
48009

Owner:
Anne and Mike Treash

Dear members of the City Of Birmingham, Board of Zoning Appeals:

We are requesting a dimensional variance for a proposed modification/addition to an existing second floor dormer for the above referenced property. This project was previously reviewed by the BZA back on February 8th, 2022. Our original variance request was approved at that meeting, however, some scope has been adjusted that we believe is tied to the verbiage of that original approval. We are returning to the BZA and are petitioning for the same dimensional variance that was originally approved, in hopes we can meet your approval with the scope adjustment described below.

We are requesting a 4.4' dimensional variance into the required front yard setback for the widening of an existing second floor dormer.

The required front setback for our subject property is 32.7'. This required setback is determined by using the average setback of all houses 200' to each side of our subject property. The existing front dormer currently sits 28.3' from the front property line.

By applying the required calculated front set back the existing second floor front dormer projects into the required front yard setback a distance of 4.4' (or 32.7'-28.3'). This makes our current condition an existing nonconforming distance.

The improvements proposed include widening the existing front dormer for use as an upgraded Main Bedroom Suite. We are asking the Board to consider a variance request to widen the existing dormer to do so. We will be following the existing front dormer alignment and are not asking to move it closer to the front setback, but are actually proposing to maintain the existing distance.

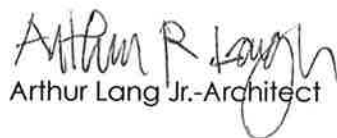
In our original variance request on February 8th, 2022, we planned on opening up a former covered front porch that is currently enclosed as year round living space. By restoring this porch, it corrected an existing non conforming front setback encroachment of 5.4'. Although that was a voluntary correction, we understand that it was referenced and tied into the approval of our dimensional variance request at the second floor dormer. Due to value engineering concerns, the owner would like to forgo the front porch modification at this time. We are asking the Board to revisit this adjusted concept in hopes we can satisfy any concerns in asking for our original front dimensional variance of 4.4' at our proposed second floor dormer expansion. We do intend on updating the overall look of the front elevation by updating finish materials as referenced in the drawing package.

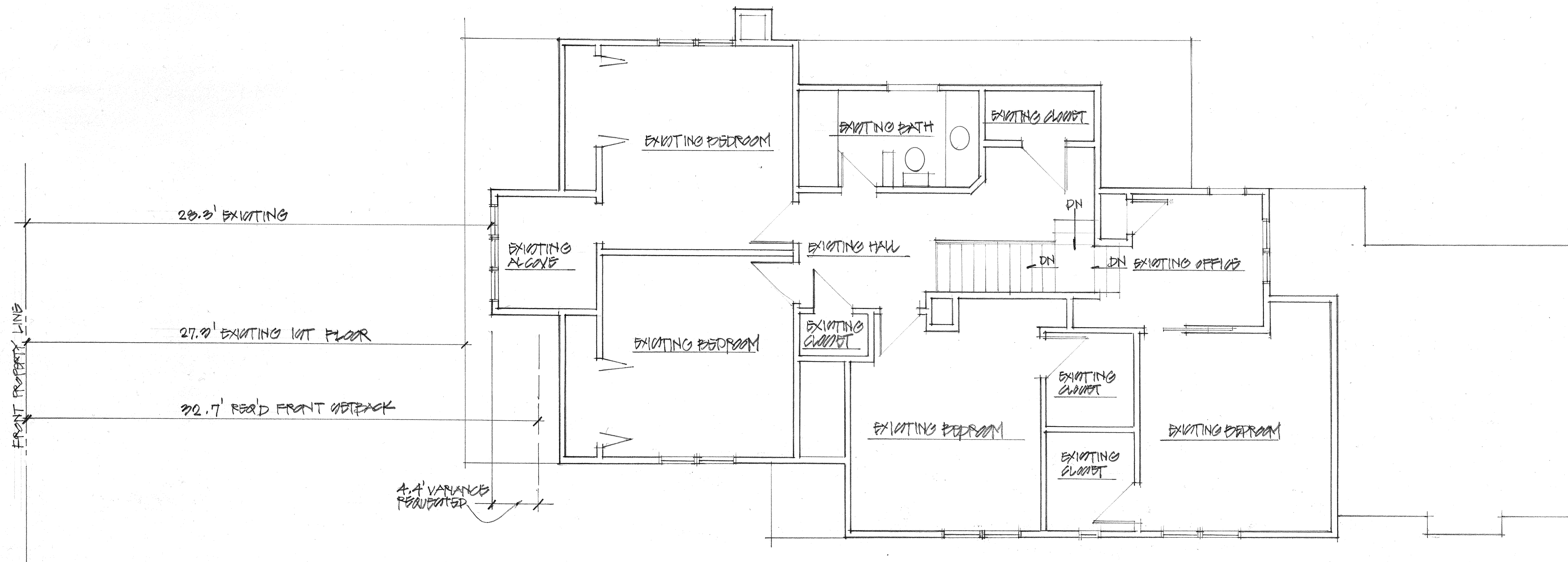
The decision to widen our existing front dormer within the nonconforming area is the result of studying multiple opportunities in second floor improvements to the existing bedroom layouts. Since the bedroom space at the front of the house is partially located within the roof geometry, there is a practical difficulty in providing adequate updated space with reasonable head clears and access to wall space for required egress window placement.

We hope that by widening the existing dormer and not changing the existing nonconforming alignment, that we are providing a sensitive solution that will not create any problems for the neighborhood residents. We hope to maintain the general intent of the Zoning Ordinance and blend harmoniously with the existing neighboring structures.

Thank you for your consideration while reviewing our variance request. Please feel to reach out to me if you have any questions.

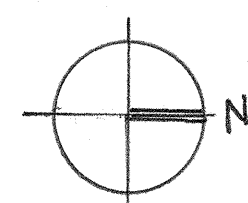
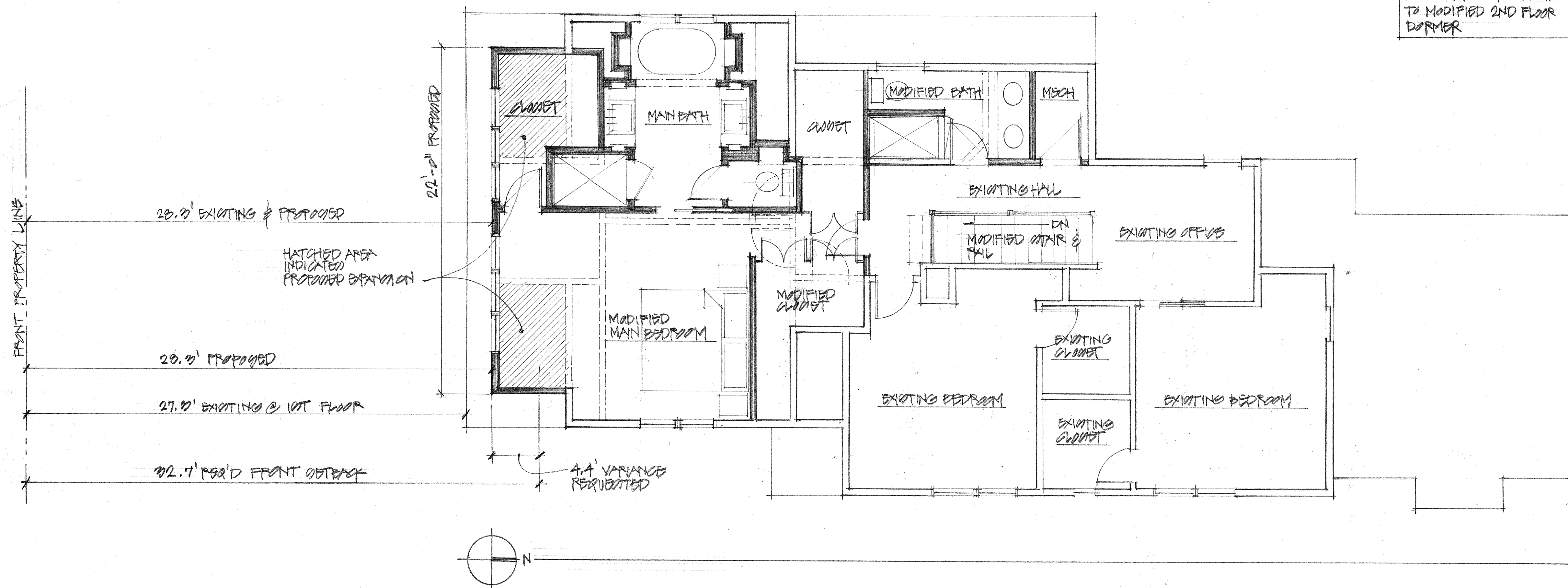
Sincerely;


Arthur Lang Jr.-Architect



N
EXISTING 2ND FLOOR PLAN
SCALE: 1/4" = 1'-0"

VARIANCE CHART			
VARIANCE REQUESTED	REQUIRED - EXISTING 200' AVG. C.A.V.	PROPOSED @ 2ND FLOOR DORMER	VARIANCE AMOUNT REQUESTED
DIMENSIONAL VARIANCE AT FRONT PROPERTY LINE TO MODIFIED 2ND FLOOR DORMER			



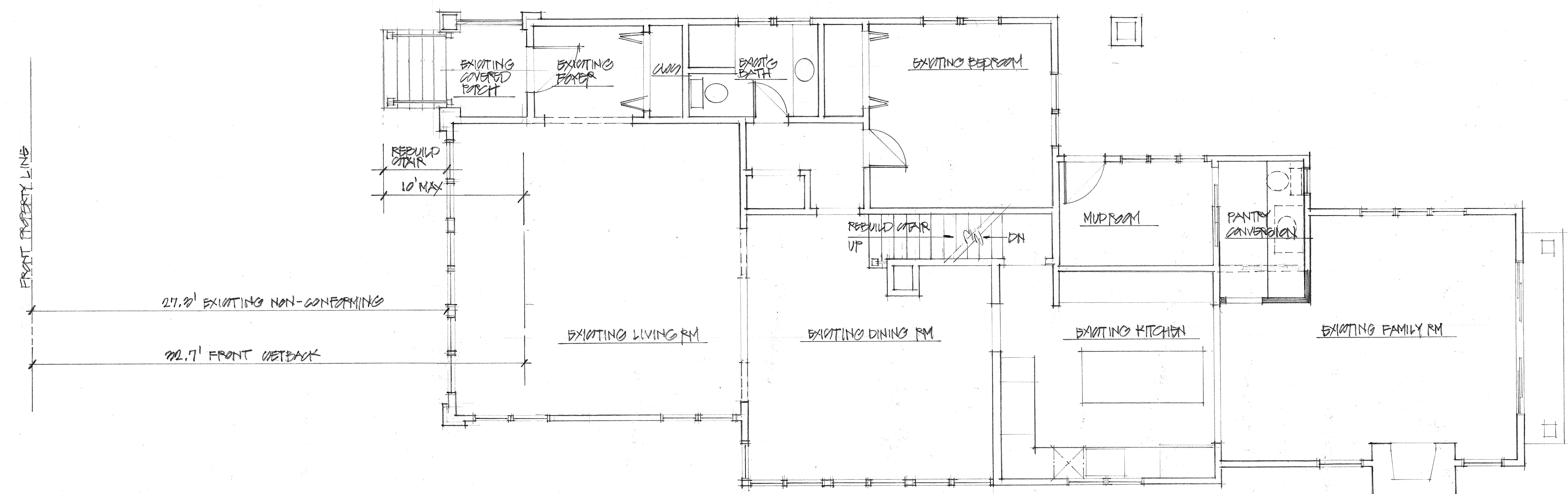
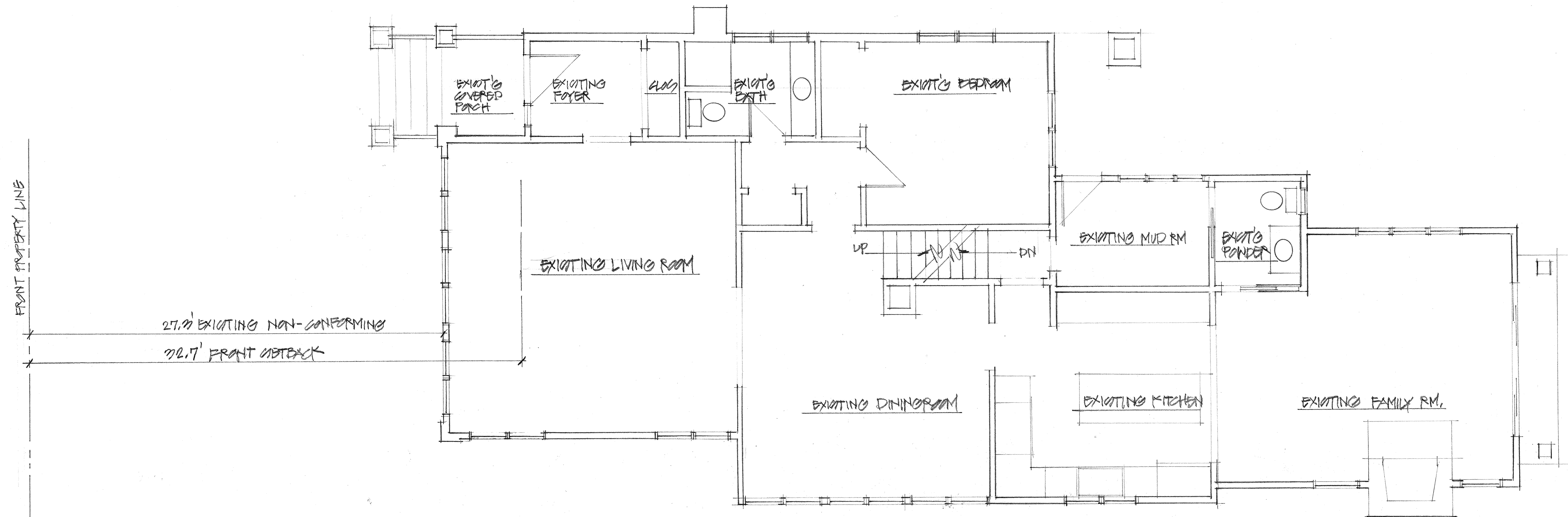
OCT 12, 2022

Proposed Addition and Remodel for:

Anne & Mike Treash
839 Ridgedale Avenue
Birmingham, Michigan
48009

Arthur Lang Jr.
Architect
312 S. Adams Road
Birmingham, MI
48009

248-765-0716



OCT 12, 2012

Proposed Addition and Remodel for:

Anne & Mike Treash
839 Ridgedale Avenue
Birmingham, Michigan
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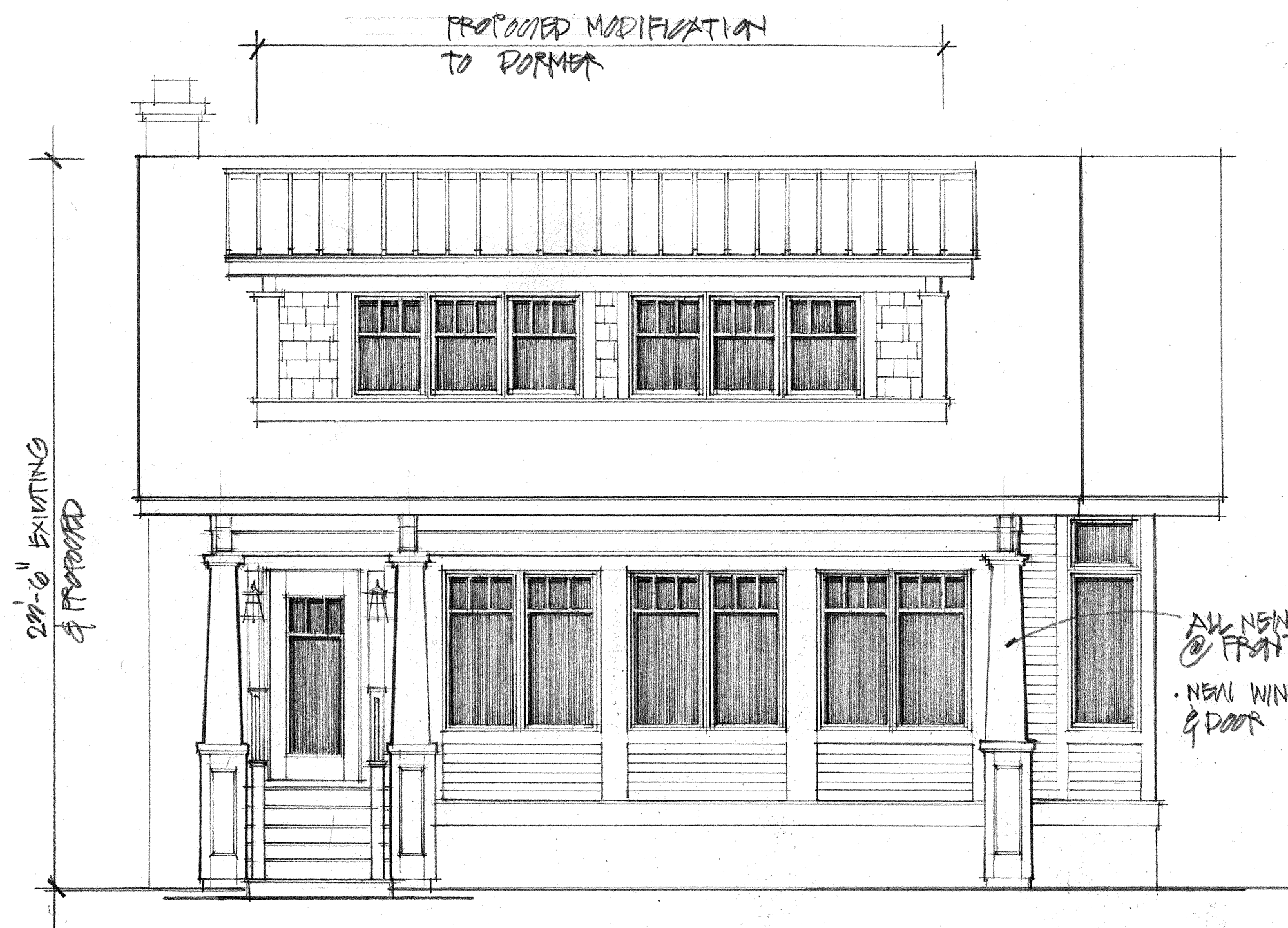
248-765-0716



EXISTING SOUTH ELEVATION
SCALE: 1/4" = 1'-0"



EXISTING EAST ELEVATION
SCALE: 1/4" = 1'-0"



PROPOSED SOUTH ELEVATION
SCALE: 1/4" = 1'-0"



PROPOSED EAST ELEVATION
SCALE: 1/4" = 1'-0"

OCT 12, 2022

Proposed Addition and Remodel for:

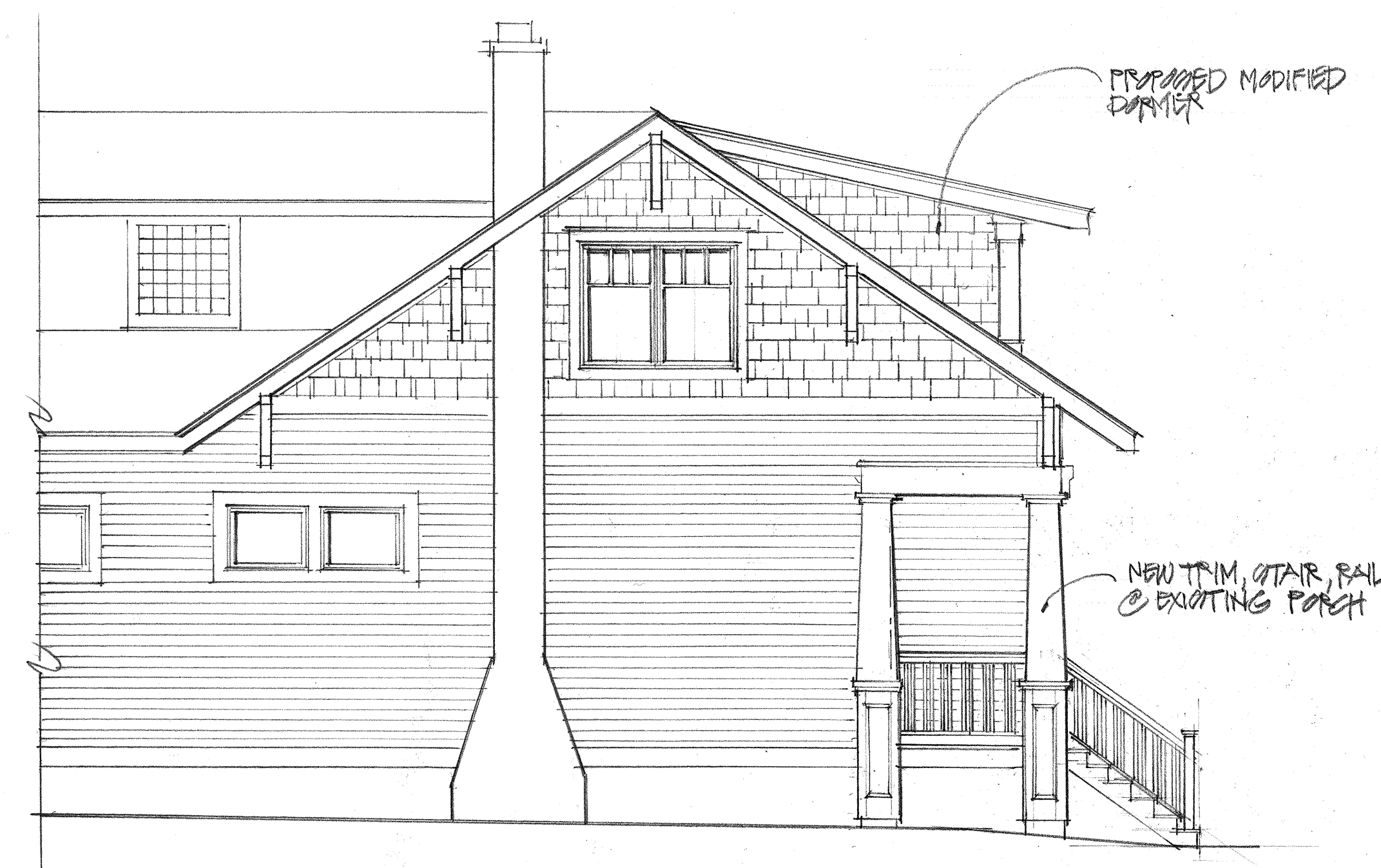
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Birmingham, Michigan
48009

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Architect
312 S. Adams Road
Birmingham, MI
48009

248-765-0716



PARTIAL EXISTING WEST ELEVATION
SCALE: 1/4" = 1'-0"



PROPOSED PARTIAL WEST ELEVATION
SCALE: 1/4" = 1'-0"

02/12/2022

Proposed Addition and Remodel for:

Anne & Mike Treash
839 Ridgedale Avenue
Birmingham, Michigan
48009

Arthur Lang Jr.
Architect
312 S. Adams Road
Birmingham, MI
48009

248-765-0716

Birmingham Board Of Zoning Appeals Proceedings
Tuesday, February 8, 2022
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, February 8, 2022. Vice-Chair Erik Morganroth convened the meeting at 7:30 p.m.

2. Rollcall

Present: Board Members Jason Canvasser, Kevin Hart, John Miller, Erik Morganroth; Alternate Board Member Erin Rodenhouse

Absent: Chair Charles Lillie; Alternate Board Member Ron Reddy,

Administration:

Bruce Johnson, Building Official
Leah Blizinski, City Planner
Brooks Cowan, Senior Planner
Laura Eichenhorn, City Transcriptionist
Mike Morad, Assistant Building Official
Jeff Zielke, Assistant Building Official

Vice-Chair Morganroth welcomed those present and reviewed the meeting's procedures. He noted that only five board members were present, and that dimensional variances require four affirmative votes. Consequently, Vice-Chair Morganroth offered each petitioner the opportunity to postpone their petition to the next regularly scheduled BZA meeting.

In regards to Appeal 22-03, Vice-Chair Morganroth noted that Mr. Canvasser would be recusing. As a result, too few regular Board members were present to hear the appeal. Vice-Chair Morganroth stated that Staff would contact the appellant to reschedule the appeal.

Vice-Chair Morganroth took rollcall of the petitioners with the exception of Appeal 22-03. All remaining petitioners were present and interested in their appeals being heard at the present meeting.

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.

T# 02-01-22

3. Announcements

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 now at the HIGH level of community transmission for COVID-19. 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 Of The BZA Meetings Of December 14, 2021

Motion by Mr. Canvasser

Seconded by Ms. Rodenhouse to accept the Minutes of the BZA meeting of December 14, 2021 as submitted.

Motion carried, 5-0.

VOICE VOTE

Yeas: Canvasser, Rodenhouse, Miller, Hart, Morganroth

Nays: None

T# 02-02-22

5. Appeals

**1) 1217 Washington
Appeal 20-05**

ABO Zielke presented the item, explaining that the owner of the property known as 1217 Washington was requesting the following variance for the total side yard setback to construct an addition to the existing non-conforming home:

A. Chapter 126, Article 2, Section 2.08.2 of the Zoning Ordinance requires that the minimum total side yard setbacks are 14.0 feet or 25% of the lot width whichever is greater. The required total is 16.25 feet. The existing and proposed total is 12.40 feet. Therefore, a variance of 3.85 feet is being requested.

L. Scott Grant, owner, reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet.

Motion by Mr. Miller

Seconded by Mr. Canvasser with regard to Appeal 20-05, A. Chapter 126, Article 2, Section 2.08.2 of the Zoning Ordinance requires that the minimum total side yard setbacks are 14.0 feet or 25% of the lot width whichever is greater. The required total is 16.25 feet. The existing and proposed total is 12.40 feet. Therefore, a variance of 3.85 feet is being requested.

Mr. Miller moved to approve the variance and to tie the approval to the plans as submitted. He noted that the appeal regards a proposed addition to an existing non-conforming home and that the need for the variance was due to the unique circumstances of the property. He said it was reasonable for the addition to line up with the existing construction and said the proposal was a modest overlap of the setback.

Ms. Rodenhouse said she would support the motion for the reasons stated by Mr. Miller and to align with the Board's previous approval of the appeal.

Motion carried, 5-0.

VOICE VOTE

Yeas: Morganroth, Rodenhouse, Canvasser, Miller, Hart

Nays: None

**2) 1230 Latham
Appeal 21-53**

ABO Zielke presented the item, explaining that the owner of the property known as 1230 Latham was requesting the following variance for the total side yard setback to construct an addition to the existing non-conforming home:

A. Chapter 126, Article 2.06.2 of the Zoning Ordinance requires that a minimum front yard setback is the average of homes within 200 feet each way. The required is 65.30 feet. The proposed is 50.50 feet. Therefore a variance of 14.80 feet is being requested.

B. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that the minimum total side yard setbacks are 14.0 feet or 25% of the lot width whichever is greater. The required total is 16.45 feet. The proposed is 10.55 feet. Therefore, a variance of 5.90 feet is being requested.

C. Chapter 126, Article 2.06.4 of the Zoning Ordinance requires a maximum building height is 30.00 feet. The proposed height is 35.33 feet; Therefore a variance of 5.33 feet is being requested.

D. Chapter 126, Article 2.06.4 of the Zoning Ordinance requires a maximum eave height is 24.00 feet. The proposed height is 31.92 feet; Therefore a variance of 7.92 feet is being requested.

Bruce Bloomingdale, co-owner of the building company, reviewed the letter describing why these variances were being sought. The letter was included in the evening's agenda packet.

In reply to Vice-Chair Morganroth, Mr. Bloomingdale confirmed that the building company was, at the time of purchase, aware of the lot's drastic change in grade from the front to the rear.

Mr. Miller noted that Variance A would align this house in the front with the adjacent houses and that Variances C and D were related to the drop off in the rear of the lot. He said the slope in the rear yard would make it prohibitive to put a garage in the rear of the lot. He said was having more difficulty rationalizing Variance B.

Mr. Bloomingdale drew the meeting's attention to Exhibit B, specifically the part circled in red. He said part of that area would be retained in some way, and said it was 'in the wrong area'. He asked ABO Zielke to help clarify.

ABO Zielke clarified that a few feet of the area in discussion was not behind the home directly, so it is more in the side yard, hence the request for Variance B.

Vice-Chair Morganroth noted locating the staircase off the terrace was dictating the location of that wall. He said if the staircase were located elsewhere Variance B might not be needed.

Mr. Bloomingdale, and his brother, John Bloomingdale, also a co-owner of the building company, both concurred that the staircase could be brought within the building envelope in order to eliminate the need for Variance B.

The appellant thanked ABO Zielke for his assistance with the appeal.

Public Comment

In reply to Fadi Nassar, Vice-Chair Morganroth stated that any concerns about water drainage between properties and retaining wall materials could be addressed to the Building Department.

Motion by Mr. Canvasser

Seconded by Mr. Hart with regard to Appeal 21-53, A. Chapter 126, Article 2.06.2 of the Zoning Ordinance requires that a minimum front yard setback is the average of homes within 200 feet each way. The required is 65.30 feet. The proposed is 50.50 feet. Therefore a variance of 14.80 feet is being requested; B. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that the minimum total side yard setbacks are 14.0 feet or 25% of the lot width whichever is greater. The required total is 16.45 feet. The proposed is 10.55 feet. Therefore, a variance of 5.90 feet is being requested; C. Chapter 126, Article 2.06.4 of the Zoning Ordinance requires a maximum building height is 30.00 feet. The proposed height is 35.33 feet; Therefore

a variance of 5.33 feet is being requested; and, D. Chapter 126, Article 2.06.4 of the Zoning Ordinance requires a maximum eave height is 24.00 feet. The proposed height is 31.92 feet; Therefore a variance of 7.92 feet is being requested.

Mr. Canvasser moved to approve Variances A, C, and D, and to deny Variance B. He tied approval of Variances A, C, and D, to the plans as submitted. Mr. Canvasser stated that the retaining wall should be changed to not require a variance, and that appropriate drawings should be provided to the City.

He noted that the lot is an irregularly-shaped property with a steep slope. Because of the characteristics of this property, Mr. Canvasser stated that strict compliance with the ordinance would be unnecessarily burdensome. He stated that granting the petition would do substantial justice to the property owner and to the other property owners in the area. Mr. Canvasser stated that the problem was not self-created.

Motion carried, 5-0.

VOICE VOTE

Yeas: Morganroth, Rodenhouse, Canvasser, Miller, Hart

Nays: None

**3) 1563 Lakeside
Appeal 22-01**

ABO Zielke presented the item, explaining that the owner of the property known as 1563 Lakeside was requesting the following variances to construct a new single-family home with an attached garage:

A. Chapter 126, Article 4, Section 4.61(1) of the Zoning Ordinance requires the minimum street side yard setback for this property to be 46.40 feet. The proposed setback for the home is 33.40 feet; therefore, a variance of 13.00 feet is requested.

B. Chapter 126, Article 4, Section 4.61(1) of the Zoning Ordinance requires the minimum street side yard setback for this property to be 46.40 feet. The proposed setback for a covered porch is 27.40 feet; therefore, a variance of 19.00 feet is requested.

C. Chapter 126, Article 4, Section 4.30(C)(3) of the Zoning Ordinance requires that patios may not project into a required side open space. A proposed patio is projecting into the west required side open space 9.00 feet; therefore, a variance of 9.00 feet is requested.

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

Motion by Mr. Hart

Seconded by Mr. Miller with regard to Appeal 22-01, A. Chapter 126, Article 4, Section 4.61(1) of the Zoning Ordinance requires the minimum street side yard setback for this property to be 46.40 feet. The proposed setback for the home is 33.40 feet; therefore, a variance of 13.00 feet is requested; B. Chapter 126, Article 4, Section 4.61(1) of the Zoning Ordinance requires the minimum street side yard setback for this property to be 46.40 feet. The proposed setback for a covered porch is 27.40 feet; therefore, a variance of 19.00 feet is requested; and, C. Chapter 126, Article 4, Section 4.30(C)(3) of the Zoning Ordinance requires that patios may not project into a required side open space. A proposed patio is projecting into the west required side open space 9.00 feet; therefore, a variance of 9.00 feet is requested.

Mr. Hart moved to approve the variance requests and to tie them to the plans as submitted. He stated that strict compliance with the ordinance would be very difficult for the permitted use. He stated that the appellant demonstrated that a detached garage would not work on this property for several reasons, including the difficulty of moving some of the DTE lines. He said granting the variance would provide substantial justice to the neighboring properties and to the homeowner. He stated that the problem was not self-created.

Motion carried, 5-0.

VOICE VOTE

Yeas: Morganroth, Rodenhouse, Canvasser, Miller, Hart

Nays: None

**4) 1690 Fairway
Appeal 22-02**

ABO Zielke presented the item, explaining that the owner of the property known as 1690 Fairway was requesting to construct an addition to an existing non-conforming single-family home with a detached garage:

A. Chapter 126, Article 4.74(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 20.00 feet. The existing and proposed is 18.70 feet. Therefore; a variance of 1.30 feet is being requested.

ABO Zielke noted that the work on this home was started without a permit, and that once code enforcement was made aware the work was stopped.

In reply to Mr. Canvasser, ABO Zielke confirmed that if the variance was granted it would not affect the neighbors.

In reply to Mr. Canvasser, BO Johnson confirmed that granting the appeal would not affect the City's ability to ensure that the structure would be safe.

Vic Ventimiglia, fiancé of the homeowner, 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. Ventimiglia confirmed that if construction had not been started the addition could have been designed to comply with the ordinance. He opined that aesthetically it looks better for the addition to align with the rest of the existing non-conforming home.

Mr. Ventimiglia thanked the Board for their time.

Public Comment

Margaret Dufault, neighbor, said she had no problem with the variance.

In reply to further comments by Ms. Dufault, Vice-Chair Morganroth stated that any concerns about the appellant being on Ms. Dufault's property without her permission should be directed to the Building Department and code enforcement.

Ms. Dufault thanked ABO Zielke for his help with her concerns.

Charles Gleeson, builder working with the appellant, said he would be happy to post a bond to ensure Ms. Dufault that the construction equipment and staff for 1690 Fairway would not cross onto her property. He spoke in support of the variance.

Motion by Ms. Rodenhouse

Seconded by Mr. Miller with regard to Appeal 22-02, A. Chapter 126, Article 4.74(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 20.00 feet. The existing and proposed is 18.70 feet. Therefore; a variance of 1.30 feet is being requested.

Ms. Rodenhouse moved to deny the variance, stating that the Board has denied variances for this very issue in order to maintain conformity with the ordinance's requirements for the side setback. She said that while it was regrettable that construction was already started, it should not have a bearing on the Board's findings.

Mr. Miller said he supported the motion because Messrs. Ventimiglia and Gleeson both stated that the addition was designed as it was for reasons of aesthetics. He said he did not see the aesthetic value. He said he could not agree with the reasoning and did not think it justified granting the appeal. He said that while there might be reasons of constructability neither Mr. Ventimiglia or Mr. Gleeson mentioned that as a reason.

Mr. Canvasser said he would not support the motion. He noted that while there is precedent for the Board denying already-built variances, there is also precedent for approving the type of variance being requested here. He added that even though precedent was being discussed, the Board should look at each request on its own

merits. He stated that this house is pre-existing non-conforming and that the variance only proposes to extend the sight-line without adding to the non-conformity. He said that despite the improper steps that occurred to date, he would support a motion granting this variance.

Mr. Hart said he would not support the motion either. He said that while appellant's building without permits showed disrespect for the process and the neighboring properties, the appeal itself fulfills the requirements of not being self-created, and of doing substantial justice to the neighboring properties. He said that drawing out this process could serve to inconvenience the neighbor.

Vice-Chair Morganroth noted that while Messrs. Ventimiglia and Gleeson both acknowledged that permits should have been pulled for the construction on this home, permitting matters would be handled by the Building Department and not by the Board. He said that if the variance request had been submitted properly before construction began, he likely would have supported the request to align the new construction with the existing wall.

Motion failed, 2-3.

VOICE VOTE

Yeas: Miller, Rodenhouse

Nays: Morganroth, Canvasser, Hart

Motion by Ms. Canvasser

Seconded by Mr. Hart with regard to Appeal 22-02, A. Chapter 126, Article 4.74(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 20.00 feet. The existing and proposed is 18.70 feet. Therefore; a variance of 1.30 feet is being requested.

Ms. Canvasser moved to approve the variance and to tie it to the plans as submitted. He said it was not a self-created problem since the house is pre-existing non-conforming which qualifies as unique circumstances. He said compliance with the ordinance would be unnecessarily burdensome. He concurred with Mr. Hart that granting the variance would do both substantial justice to the property owner and to the neighbor, since if the variance is denied Ms. Dufault would have to now deal with demolition at 1690 Fairway. He said the majority of similar appeals in the past have been approved by the Board.

Mr. Hart said he was supporting the motion, describing it as the lesser of two evils. He said that since the appeal meets the criteria for approval, it should be granted.

Vice-Chair Morganroth reminded all present that four affirmative votes would be required and that the chance to postpone being heard was offered at the beginning of the meeting.

Ms. Rodenhouse said she wanted the record clear that she was against the variance because similar variances have been denied by the Board, citing appeals in July 2021 as examples. She said she was not against the variance because the construction was improperly done, though she described that as unsavory. She said the appellants for July 2021 would have cause to wonder if this current appeal was approved because construction was already started or because it would cause the neighbor inconvenience via demolition. She said the City has an obligation to treat neighbors alike, and that since neighbors in the same exact scenario have been denied in the past she would not be supporting this motion to approve.

Mr. Miller said he would also not support the motion. He said the Board needs the opportunity to explore alternatives to plans and elevations and that here the Board has none. He said the house did not have to be built as it was and that there were other options.

Motion failed, 3-2.

VOICE VOTE

Yeas: Morganroth, Canvasser, Hart

Nays: Miller, Rodenhouse

**5) 1572 Holland
Appeal 22-03**

Mr. Canvasser stated he would have to recuse himself from Appeal 22-03. With Mr. Canvasser's recusal there would have been too few regular Board members to hear the appeal. Staff will contact the appellant to reschedule the appeal.

**6) 1572 Humphrey
Appeal 22-04**

ABO Zielke presented the item, explaining that the owner of the property known as 1572 Humphrey was requesting the following variance to construct a detached garage:

A. Chapter 126, Article 4.03(B) of the Zoning Ordinance requires that an accessory building is not permitted to be closer to a principal residential building on an adjoining lot than the sum of the minimum required side setbacks. The required is 14.00 feet. The proposed is 8.30 feet. Therefore; a variance of 5.70 feet is being requested.

Brandon Potash, builder, 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. Potash said the resident of 1572 Humphrey would back out of their garage and down the driveway.

Motion by Mr. Hart

Seconded by Mr. Miller with regard to Appeal 22-04, A. Chapter 126, Article 4.03(B) of the Zoning Ordinance requires that an accessory building is not permitted to be closer to a principal residential building on an adjoining lot than the sum of the minimum required side setbacks. The required is 14.00 feet. The proposed is 8.30 feet. Therefore; a variance of 5.70 feet is being requested.

Mr. Hart moved to approve the variance and to tie the approval to the plans as submitted. He noted that the current garage was one of the smaller ones in Birmingham and stated that the appellant proved the practical difficulty of the current garage configuration. Mr. Hart said strict compliance with the ordinance would prevent the appellant from proper use of the property, that compliance with the ordinance would be unduly burdensome, and that granting the variance would do substantial justice to the neighboring properties. He said the problem was due to the unique circumstances of the overhead DTE lines and that the problem was not self-created.

Mr. Miller noted that the non-conformity of the adjacent house was also a reason to grant the variance.

Mr. Hart concurred.

Motion carried, 5-0.

VOICE VOTE

Yeas: Morganroth, Rodenhouse, Canvasser, Miller, Hart

Nays: None

**7) 839 Ridgedale
Appeal 22-05**

ABO Zielke presented the item, explaining that the owner of the property known as 839 Ridgedale, was requesting the following variance to construct a second floor addition to an existing non-conforming home:

A. Chapter 126, Article 2.08.2 of the Zoning Ordinance requires that a minimum front yard setback is the average of homes within 200 feet each way. The required is 32.70 feet. The existing and proposed is 28.30 feet. Therefore a variance of 4.40 feet is being requested.

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

Motion by Mr. Miller

Seconded by Mr. Canvasser with regard to Appeal 22-05, A. Chapter 126, Article 2.08.2 of the Zoning Ordinance requires that a minimum front yard setback is the

average of homes within 200 feet each way. The required is 32.70 feet. The existing and proposed is 28.30 feet. Therefore a variance of 4.40 feet is being requested.

Mr. Miller moved to approve the variance and to tie the approval to the plans as submitted. He said that since the appeal regards an addition to an existing non-conforming home the problem was not self-created. He said there were also unique circumstances to the property. He said the proposed remodeling will mitigate an existing non-conformity.

Mr. Hart said that while the Board does not usually comment on topics outside the Board's purview, he said that this was a good example of stewardship of an old home and he commended Mr. Lang on his work. Mr. Hart said the City would like to see more projects similar to this one. Mr. Hart said he would be supporting the motion.

Motion carried, 5-0.

VOICE VOTE

Yeas: Morganroth, Rodenhouse, Canvasser, Miller, Hart

Nays: None

T# 02-03-22

6. Correspondence

All correspondence was included in the agenda packet.

T# 02-04-22

7. General Business

T# 02-05-22

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

None.

T# 02-06-22

8. Adjournment

Motion by Mr. Canvasser

Seconded by Ms. Rodenhouse to adjourn the February 8, 2022 BZA meeting at 9:31 p.m.

Motion carried, 5-0.

VOICE VOTE

Yeas: Morganroth, Rodenhouse, Canvasser, Miller, Hart

Nays: None

Bruce R. Johnson, Building Official

A handwritten signature in black ink, appearing to read 'Laura Eichenhorn', with a stylized, flowing script.

Laura Eichenhorn

City Transcriptionist