

**CITY OF BIRMINGHAM
MEETING OF THE BOARD OF ZONING APPEALS
TUESDAY, SEPTEMBER 10, 2024
7:30 PM**

The meeting will be held in the City Commission Room at City Hall, 151 Martin St. Birmingham, MI 48009. 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

1. CALL TO ORDER

2. ROLL CALL

3. ANNOUNCEMENTS

4. APPROVAL OF THE MINUTES

a) August 13, 2024 Minutes

5. APPEALS

	Address	Petitioner	Appeal	Type/Reason
1)	1115 CHAPIN	FRANK COLASONTI	24-19	DIMENSIONAL
2)	160 BALDWIN	ALEXANDER BOGAERTS	24-09	DIMENSIONAL
3)	999 TWIN OAKS	PAUL CANVASSER	24-18	DIMENSIONAL
4)	1587 S BATES	NADIM YAHCHOUCHI	24-20	DIMENSIONAL
5)	1407 RUFFNER	BRIAN CASTILLO	24-21	DIMENSIONAL
6)	1410 COLE	CURTIS FOREMAN	24-22	DIMENSIONAL

6. CORRESPONDENCE

7. GENERAL BUSINESS

8. OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA

9. ADJOURNMENT

Title VI

People with disabilities needing accommodations for effective participation in this meeting should contact the Clerk's Office at 248-530-1880 (voice) or 248-644-5115 (TDD) at least one day in advance to request 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.

SEPTEMBER BZA MAP



Birmingham Board Of Zoning Appeals Proceedings
Tuesday, August 13, 2024
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, August 13, 2024. The meeting was convened at 6:45 p.m.

2. Rollcall

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

Absent: Vice Chair Jason Canvasser; Board Member Ron Reddy; Alternate Board Member Donald Rogers

Staff: Building Official Johnson; City Transcriptionist Eichenhorn, City Attorney Marku (left 8:51 p.m.), Assistant Building Official Morad, Assistant Building Official Zielke

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

The Chair took rollcall of the petitioners. All petitioners were in attendance.

3. Announcements

CA Marku made a presentation to the Board and answered informational questions.

4. Approval Of The Minutes Of The BZA Meetings Of July 9, 2024

T# 08-23-24

Motion by Mr. Lilley

Seconded by Mr. Kona to approve the minutes of the BZA meeting of July 9, 2024 as submitted.

Motion carried, 6-0.

VOICE VOTE

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

Nays: None

5. Appeals

T# 08-24-24

**1) 611 Ruffner
Appeal 24-14**

ABO Zielke presented the item, explaining that the owner of the property known as 611 Ruffner was requesting the following variance to construct a new home with an attached garage:

- 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 14.00 feet on the east side. The proposed is 9.86 feet. Therefore, a variance of 4.14 feet is being requested.

Staff answered informational questions from the Board.

Moses Fram, appellant, reviewed the letter describing why this variance was being sought and answered informational questions from the Board. The letter was included in the evening's agenda packet.

Board member comments were as follows:

- The house met all of the setback requirements. The non-conforming adjacent property was causing the need for a variance.
- Even if the variance were not granted, only six inches could be removed from the house width-wise.
- The unique circumstances of this lot included a non-conforming neighbor, and being required to build a house narrower than 25 feet would be a harsh application of the ordinance.
- Granting this variance would result in this house and the house to the east being closer to ten feet than the required 14 feet. This house could be built closer to the 25 foot minimum width, instead of being built to 25.5 feet, to increase the space between the homes.
- Even if the width of the home were reduced, a variance would still be required.
- Granting this variance would do substantial justice to the appellant and to the community.
- It would be an unnecessary hardship to reduce the home beyond the existing setbacks. Granting the variance because they fall within the lot requirements would do substantial justice.
- The Board is tasked with weighing which option would do substantial justice to the neighborhood.
- Granting the variance would not rise to the level of causing substantial interference, lack of access for the neighbors, or the lack of the ability to enjoy their properties. Allowing the variance to go forward would benefit the neighborhood in terms of creating high-quality aesthetic development.

Public Comment

Sara Ghassan commented regarding the request. The Chair replied to Ms. Ghassan.

Motion by Mr. Yaldo

Seconded by Mr. Lilley with regard to Appeal 24-14, 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 east side. The proposed is 9.86 feet. Therefore, a variance of 4.14 feet is being requested.

Mr. Yaldo moved to approve the variance requested and tied it to the plans as submitted. Because there were special conditions applicable to the property, building without the variance would be impractical and unreasonably difficult. Literal enforcement of the ordinance would result in an unnecessary hardship. Granting the variance would do substantial justice to the owner, the neighboring property owners, and the general public.

Motion carried, 6-0.

ROLL CALL VOTE

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

Nays: None

T# 08-25-24

**2) 160 Baldwin
Appeal 24-09**

ABO Zielke presented the item, explaining that the owner of the property known as 160 Baldwin was requesting the following variance to construct a new home with an attached garage:

- A. Chapter 126, Article 2, Section 2.08.2** of the Zoning Ordinance requires that the minimum front yard setback be the average of the homes within 200.00 feet in each direction. The required front yard setback is 53.54 feet. The proposed is 25.00 feet. Therefore, a 28.54 feet variance is being requested.

Staff answered informational questions from the Board.

Alex Bogaerts, architect, reviewed the letter describing why this variance was being sought and answered informational questions from the Board. The letter was included in the evening's agenda packet.

Board member comments were as follows:

- After removing the outlying homes from the front yard setback calculation, the setback for this home would be 25.7 feet based on the average. While there are unique circumstances on this property, the request was more than necessary.

- A site plan showing all of the houses to Maple would have been helpful. It would have aided the Board in determining how this proposal would affect the cadence of houses on the street.
- Several houses to the north of this home have front yard setbacks that are less than 25 feet.
- Clearer depictions of the building envelope would have been helpful. It also would have been helpful to have information on how the appellant attempted to mitigate the requested variance.
- There may not be a hardship for the proposed size and location of the house. Clear information has not been provided proving that a smaller home with a lesser variance could not be appropriately built.
- There may be a hardship for encroaching into the front yard setback, but it would be a matter of degree.
- The Board has not generally, historically found that the lack of a basement would merit encroachment into the front yard setback.

Given the Board's interest in further information, the appellant asked for the item to be postponed to the September 2024 meeting.

Motion by Mr. Yaldo

Seconded by Mr. Kona with respect to the instant appeal, to postpone the appeal to the next regularly scheduled meeting on September 10, 2024.

The Chair stated that the next presentation should include the building envelope based on the current setback and the flood plain, what would be buildable in that area, and a demonstration of what a ten foot variance would look like in contrast with the present request.

Motion carried, 6-0.

ROLL CALL VOTE

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

Nays: None

T# 08-26-24

**3) 1759 Holland
Appeal 24-17**

ABO Zielke presented the item, explaining that the owner of the property known as 1759 Holland was requesting the following variance to construct a new home with a detached garage:

- A. Chapter 126, Article 2, Section 2.10.4** of the Zoning Ordinance requires that the height to the mid-point of the building with a lot of 4500.00 SF or less is 24.00 feet. The proposed is 25.58 feet. Therefore, a 1.58 foot variance is being requested.

Staff answered informational questions from the Board.

Alex Adler, designer, reviewed the letter describing why this variance was being sought and answered informational questions from the Board. The letter was included in the evening's agenda packet.

Board member comments were as follows:

- It seemed like the appellant could either largely mitigate or eliminate the need for the variance.
- Adjustments to the ceiling heights, height off grade, and substructure heights could all be adjusted to reduce or eliminate the need for a variance.

Motion by Mr. Hart

Seconded by Mr. Lilley with respect to Appeal 24-17, A. Chapter 126, Article 2, Section 2.10.4 of the Zoning Ordinance requires that the height to the mid-point of the building with a lot of 4500.00 SF or less is 24.00 feet.

Mr. Hart moved to approve the variance request and tied approval to the plans as submitted. He said the proposal met the spirit of the ordinance and that difficult circumstances on the property necessitated the variance. The dimensions were not outsized for the context and would be in keeping with the cadence of the neighborhood. Granting the variance would do substantial justice to the appellant and to the neighboring properties. Strict compliance with the ordinance would result in a hardship. Mitigating the variance would result in the loss of attic space.

Mr. Miller said the first floor height could be reduced to eight feet, which would mitigate the variance request by one foot. He said he could not support the present motion, but could support a modified variance incorporating that change.

Mr. Kona said he could not support the motion. The proposed variance would create the only home on the street with a third floor. He noted that the request could be mitigated or eliminated. He said permitting an unusually tall home would not do substantial justice to the neighbors. He noted that smaller eye joists were available and could help reduce the height, and that the floor plan could be modified as well.

Mr. Yaldo said that while the design was beautiful, he could not support the motion. He noted that the appellant acknowledged that many aspects of the home could be modified to at least reduce the variance request. He noted that he was also concerned about how an approval of this variance might create a precedent.

The Chair concurred with Messrs. Miller, Kona, and Yaldo.

Motion failed, 2-4.

ROLL CALL VOTE

Yeas: Hart, Lilley

Nays: Yaldo, Morganroth, Miller, Kona

T# 08-27-24

Motion by Mr. Yaldo

Seconded by Mr. Kona with respect to Appeal 24-17, A. Chapter 126, Article 2, Section 2.10.4 of the Zoning Ordinance requires that the height to the mid-point of the building with a lot of 4500.00 SF or less is 24.00 feet.

Mr. Yaldo moved to deny the variance request and urged the appellant to submit a revised plan. He said that the variance request could at least be mitigated. He noted that the appellant acknowledged that a reduced variance request could be made without unnecessarily burdening the appellant.

The Chair said he did not see evidence that there were any circumstances that would justify such a significant variance. He said there was not an unnecessary hardship since the plan included tall ceilings, and un- or under-utilized spaces on the second floor that could accommodate a fourth bedroom. Allowing for a home taller than the neighboring properties without a substantial hardship would not do substantial justice to the neighbors. Consequently, the Chair offered his support for the motion.

Motion carried, 6-0.

ROLL CALL VOTE

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

Nays: None

T# 08-28-24

**4) 1141 Lake Park
Appeal 24-18**

ABO Zielke presented the item, explaining that the owner of the property known as 1141 Lake Park was requesting the following variances to construct a second floor addition to the existing home:

- A. Chapter 126, Article 2, Section 2.06.2** of the Zoning Ordinance requires that the minimum front yard setback be the average of the homes within 200.00 feet in each direction. The required front yard setback is 45.80 feet. The proposed is 43.80 feet. Therefore, a 2.00 feet variance 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 20.00 feet on the north side. The proposed is 19.60 feet. Therefore, a variance of 0.40 feet is being requested.

Staff answered informational questions from the Board.

Jeff Klatt, architect, reviewed the letter describing why these variances were being sought and answered informational questions from the Board. The letter was included in the evening's agenda packet.

Board member comments were as follows:

- The garage size would increase the present non-conformity. Increasing a non-conformity is usually a challenge for the Board.

Motion by Mr. Miller

Seconded by Mr. Kona with respect to Appeal 24-18, A. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that the minimum front yard setback be the average of the homes within 200.00 feet in each direction. The required front yard setback is 45.80 feet. The proposed is 43.80 feet. Therefore, a 2.00 feet variance 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 20.00 feet on the north side. The proposed is 19.60 feet. Therefore, a variance of 0.40 feet is being requested.

Mr. Miller moved to approve the variance request and tied approval to the plans as submitted. He said that because of special conditions applicable to the property in question, strict application of the ordinance would be unreasonable due to the existing position of the home. Literal enforcement of the chapter would result in an unnecessary hardship. The proposed improvements were reasonable, and improving an older home would do substantial justice to the home and the neighborhood. He said that granting the variance would not be contrary to the spirit or purpose of the ordinance, or contrary to public health, safety, or welfare. He noted that the non-conformity would remain nearly the same. He said the addition was reasonable and well thought out.

Mr. Hart and the Chair said the quality of the presentation was one of the best the Board had seen in a long time. Mr. Hart said he would support the motion and that the presentation addressed the Board's concerns.

The Chair recommended staff use this presentation to show future appellants what information should be included in an appeal.

The Chair said that the skewed nature of the lot made the property unique, and that while he preferred to not expand the non-conformity the request was small enough that granting it would do substantial justice to the appellant. Final construction drawings should align with either this variance or less than this variance. He said he would support the motion.

Motion failed, 6-0.

ROLL CALL VOTE

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

Nays: None

6. Correspondence

All correspondence was provided to the Board and the relevant applicants.

- 7. General Business**
- 8. Open To The Public For Matters Not On The Agenda**
- 9. Adjournment**

No further business being evident, the Board motioned to adjourn at 9:34 p.m.



Bruce R. Johnson, Building Official

Laura Eichenhorn, City Transcriptionist

DRAFT

CASE DESCRIPTION

1115 Chapin (24-19)

Hearing Date: September 10, 2024

Appeal No. 24.19: 1115 Chapin:

A. Rehearing of appellant's variance request originally heard on October 10, 2023, and the BZA will state its findings as to each factor set forth in Chapter 126, Section 8.01F.3.a and connect those findings to the record before it.

Staff Notes: The property owners sought variances last year in August and again in October regarding the construction of a detached garage. Both requests were denied. The property owners appealed the October denial to the Oakland County Circuit Court who remanded the case back to the Board of Zoning Appeals as directed in the attached Order. The following documents are provided for consideration:

1. [Court Order](#)
2. [August 8, 2023 request documents](#)
3. [October 10, 2023 request documents](#)
4. [Additional documents provided by the owner's attorney](#)

This property is zoned R3 – Single Family Residential.

Bruce R. Johnson
Building Official

1115 CHAPIN MAP



CHAPTER 126 - ZONING

ARTICLE 8: ENFORCEMENT AND PENALTIES

8.01 The Board of Zoning Appeals

3. Variances.

- a. 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:
 - 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.

(EACH i-iv must be satisfied)

**STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND**

FRANK COLASONTI, JR,
And JAMES BARCLAY RYDER,

CASE NO: 23-204241-AA
HON. MARY ELLEN BRENNAN

Appellants,

v.

BZA Case No. T# 08-37-23/Appeal 23-26

CITY OF BIRMINGHAM,
a Michigan Municipal Corporation, and
BIRMINGHAM BOARD OF ZONING APPEALS,

Appellees.

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OPINION AND ORDER

At a session of said Court held in the Courthouse in Pontiac,
Oakland County, Michigan on July 10, 2024

PRESENT: MARY ELLEN BRENNAN, Circuit Judge

INTRODUCTION

Before the Court is Appellants Frank Colasonti, Jr (Colasonti) and James Barclay Ryder (Ryder) (hereinafter collectively referred to as “Appellants”) claim of appeal. Appellants appeal the decision (Decision) of Appellees City of Birmingham (Birmingham) and the Birmingham Board of Zoning Appeal (BZA or Board) (hereinafter collectively referred to as “Appellees”). At its meeting held on October 10, 2023, the BZA denied the Appellants’ zoning variance request. For the reasons stated more fully below, the Court REMANDS this matter to the BZA.

BACKGROUND

The Appellants jointly own and reside at the real property commonly known as 1114 Chapin

Birmingham, Michigan 48009 (Property). (Amended Certified Record (ACR) at 35). The Property is zoned R3 – Single family residential. (ACR at 33). The Property has an existing home constructed in 1925 with and a small garage and an addition constructed¹ in 1992. (ACR at 33). Appellants seek to construct a new² and detached garage relocated to the side of the Property.

On August 8, 2023, Assistant Building Official Jeff Ziekle (ABO Ziekle) presented Appellants' variance requests to the ZBA and answered the members' informational questions. (ACR at 3-10). Appellants filed an application seeking the following variances:

- **Variance A, Front Setback:** Chapter 126, Article 2, Section 2.10.1 of the Zoning Ordinance limits the lot coverage to a maximum of 30% of the lot. The required 30% is 1440.00 SF. The proposed is 32.95% (1581.90 SF). Therefore, the homeowners requested a variance of 2.95% (141.90 SF).
- **Variance B, Height:** Chapter 126, Article 4, Section 4.03(G)(1)(C) of the Zoning Ordinance requires that the minimum building height on an accessory structure in the R3 zoning shall not exceed 14.50 feet to the mid-point. The proposed is 15.25 feet. Therefore, the homeowners requested a variance of 0.75 feet.

(ACR at 3 and 52). Colasonti discussed the 1992 renovations as well as Appellants' desire to build a shelter for their two cars and eliminate their storage unit by constructing the new garage with storage space and fielded questions from the ZBA board members. (ACR at 10-15). The meeting minutes summarized the ZBA's comments as follows:

- The lot is limited by its size and the ordinances, and the BZA's decision could not be impacted by the amount of storage desired by the appellant;
- Since most or all of the structure would be used for storage, the width could be reduced by two feet in order to mitigate the need for a variance;

¹ The ZBA Minutes from 1991 reflect that Colasonti added a covered porch and addition to his existing residence. (ACR at 48-50).

² While it is not included in the certified record before the Court, Appellants allege that the current detached garage is a 102-year old wood structure measuring 18 feet by 12.5 feet that is in poor condition with a decaying roof that can only be used as a shed and is not usable for motor vehicle storage. (Claim of Appeal at 2). Further, Appellants allege that Birmingham issued a notice to them requiring that they either demolish or renovate their garage due to its "dilapidated condition." (*Id.*).

- A different style roof may change where the peak would be measured from. Reducing the width of the garage would also lower where the peak would be measured from; and,
- It would be difficult for the garage to accommodate two vehicles given the stairs.

(ACR at 53). The ZBA held a roll call vote on a motion to deny the variance requests. (ACR at 53).

The motion passed based on a 5-1 vote.

After the August meeting, the Appellants resubmitted their application. (ACR at 36). In a letter dated October 10, 2023, Appellants advised the ZBA that they no longer required Variance B, Height and stated that their hardship was no two-car garage with adequate space and summarized their difficulties as no garage, no basement, and no attic or second floor space. (ACR at 43). On October 10, 2023, ABO Ziekle presented Appellants' variance request to the ZBA and answered the members' informational questions. (ACR at 19-20 and 29). The relevant portion of the Case Description on the proposed variance stated as follows:

Appeal No. 23-34: The owner of the property known as 1115 Chapin, requests the following variance to construct a detached garage:

A. Chapter 126, Article 2, Section 2.10.1 of the Zoning Ordinance limits the lot coverage to a maximum of 30% of the lot. The required 30% is 1440.00 SF. The proposed is 32.95% (1581.90 SF). Therefore, a variance of 2.95% (141.90 SF) is being requested.

Staff Notes: This applicant is proposing to construct a new detached garage on the lot with an existing home that was constructed in 1925. There was a rear addition constructed to this home in 1991 which required variances (see attached minutes). This applicant before the board in August (minutes attached) regarding the proposed garage.

This property is zoned R3 - Single family residential.

(ACR at 33). Colasonti discussed the changes to the original plan to mitigate the height issues as well as their continued desire to build a shelter for their two cars in a proposed new garage and fielded questions from the ZBA board members. (ACR at 20-29). The ZBA held a roll call vote on a

motion to deny the variance request because (1) the ordinance would not preclude a smaller garage than proposed from being built, (2) the matter was self-created, and (3) approval would set a difficult precedent for similar appeals in the future. (ACR at 30).³ The motion passed based on a 6-0 vote. (ACR at 30-31).

Appellants' claim of appeal followed. On January 2, 2024, Birmingham Clerk Alexandria D. Bingman (Clerk Bingman) filed a certificate of records, which contained a partial transcript for Appeal 23-26 from an undated BZA proceeding. On January 16, 2024, Clerk Bingman filed an amended certified record.

STANDARD OF REVIEW

The Court reviews interpretations of an ordinance *de novo*. When interpreting an ordinance, the court must discern and give effect to the intent of the drafter as demonstrated in the language of the ordinance. See *McMillan v Douglas*, 322 Mich App 354, 357, 913 NW2d 336 (2017). The court construes the ordinance as a whole and affords the words used their plain and ordinary meaning. *Id.* If the language of an ordinance is clear and unambiguous, the court will enforce it as written. *Id.* Municipal “[o]rdinances are presumed to be constitutional and will be so construed unless the party challenging the [ordinance] clearly establishes its unconstitutionality.” *Grand Rapids v Gasper*, 314 Mich App 528, 536 (2016). (quotation marks and citation omitted). The court “may apply a narrowing construction to an ordinance if doing so would render it constitutional without harming the intent of the legislative body.” *Id.*

Decisions of a board of zoning appeals are subject to appellate review by a circuit court. MCL 125.3605. In reviewing a board of zoning appeals' decision, the circuit court must determine whether the board of zoning appeals' decision (a) complied with the Constitution and laws of this

³ The amended certified record does not contain the ZBA Minutes from the October 10, 2023 meeting.

state, (b) was based on proper procedure, (c) was supported by competent, material, and substantial evidence, and (d) represented the board of zoning appeals' reasonable exercise of discretion. MCL § 125.3606(1) and MCR 7.122(G)(1). As the Court of Appeals explained in *Edw C. Levy*, 293 Mich App at 340-341 (quotation marks and citations omitted),

“Substantial evidence” is evidence that a reasonable person would accept as sufficient to support a conclusion. While this requires more than a scintilla of evidence, it may be substantially less than a preponderance. Under the substantial-evidence test, the circuit court’s review is not de novo and the court is not permitted to draw its own conclusions from the evidence presented to the administrative body. Courts must give deference to an agency’s findings of fact. When there is substantial evidence, a reviewing court must not substitute its discretion for that of the administrative tribunal even if the court might have reached a different result. A court may not set aside findings merely because alternative findings also could have been supported by substantial evidence on the record.

“The decision of a zoning board of appeals should be affirmed unless it is contrary to law, based on improper procedure, not supported by competent, material, and substantial evidence on the record, or an abuse of discretion.” *Janssen v Holland Charter Twp Zoning Bd of Appeals*, 252 Mich App 197, 201; 651 NW2d 464 (2002).

APPLICABLE LAW

Chapter 126, Article 2, Section 2.10.1 of the Zoning Ordinance, the Zoning Ordinance at issue, sets the “Maximum Lot Coverage” at 30%.⁴ The applicable BZA Rules of Procedures provide as follows:

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.

Article I.B.5 (ACR at 38).

The Zoning Ordinance imposes three standards to review variances, to wit: practical difficulties or unnecessary hardship variances; floodplain variances; and sign variances. The

applicable standard of review for Appellants' variance request is the practical difficulties or unnecessary hardship variances procedure, which states as follows:

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:

- 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.

Chapter 126 (Zoning), Section 8.01.F.3.a.

ANALYSIS

Whether the BZA's denial of Appellants' variance request is (1) based on proper procedure; (2) supported by competent, material, and substantial evidence on the record and (3) represents the reasonable exercise of discretion granted by law to the BZA?

Appellants argue that the record reflects that the BZA considered a detailed staff report, detailed plans, a complete application for a variance, photographs, and inspection history. Appellees only addressed the BZA's denial of the variance requests from its August 2023 meeting and failed to even recognize the denial at the October 2023 meeting. Further, Appellees challenge that Appellants' argument regarding "substantial justice" as irrelevant because the Court can only consider the competent, material, and substantial evidence on the record and claim statements about other

⁴ <https://online.encodeplus.com/regs/birmingham-mi/doc-viewer.aspx?secid=345#secid-345>.

properties was not placed “on the record.” In their reply brief, Appellants disagree.

Having reviewed the parties’ briefs as well as the amended certified record and considered the oral arguments of the parties, the Court finds that it is unable to determine if the BZA properly considered the facts and evidence presented. MCR 7.122 governs appeals from zoning ordinance determinations. MCR 7.122(E)(1) defines the record on appeal and states as follows:

The record includes the original or a copy certified by the city, village, township, or county clerk of the application, all documents and material submitted by any person or entity with respect to the application, the minutes of all proceedings, and any determination of the officer or entity.

Therefore, the “record on appeal” is not limited to the statements made at the hearing. Clerk Bingman filed a document as the “certified record,” which only contained a partial transcript for Appeal 23-26 from an undated BZA proceedings. Clerk Bingman filed⁵ an “amended certified record”; however, amended certified record is missing the minutes of all proceedings (e.g., entirety of the 8-8-2023 BZA Minutes; the 10-10-2023 BZA Minutes; the BZA Minutes approving the 10-10-2023 BZA Minutes), the application (e.g., the complete application, detailed plans, photographs, and inspection report (as referenced in Appellants’ brief at 11)), all documents and material submitted by any person or entity with respect to the application (e.g., detailed staff report). Therefore, the record on appeal is incomplete. Without the entire record, the Court cannot answer the issue before it: to wit, whether the BZA’s denial of Appellants’ variance request is (1) based on proper procedure; (2) supported by competent, material, and substantial evidence on the record and (3) represents the reasonable exercise of discretion granted by law to the BZA?

⁵ The amended certified record included the following documentation:

- Case description prepared by Jeff Ziekle, Assistant Building Official (noting BZA Minutes dated December 10, 1991 attached);
- Appellants’ application for the Board of Zoning Appeals dated September 10, 2023;
- BZA Rules of Procedures signed by Appellants;
- Appellants’ letter to the BZA dated October 10, 2023;
- BZA Minutes dated December 10, 1991; and

CONCLUSION

Accordingly, the Court REMANDS this matter to the BZA.

IT IS HEREBY ORDERED that the BZA shall schedule a rehearing of Appellants' variance request at its next available regular BZA meeting.

IT IS FURTHER ORDERED that the BZA shall expressly state its findings as to each factor set forth in Chapter 126 (Zoning), Section 8.01.F.3.a. and connect those findings to the record before it.

IT IS FURTHER ORDERED that the Birmingham Clerk shall file the **entire** record, as defined by MCR 7.122(E)(1), that the BZA considered when it reached its findings at the remand hearing. The **entire** record for BZA Case No. T# 08-37-23/Appeal 23-26 shall include, but is not limited to, the application, all documents and material submitted by any person or entity with respect to the application, the minutes of all proceedings, and any determination of the officer or entity.

IT IS FURTHER ORDERED that the Court retains jurisdiction for the limited purpose of reviewing the BZA's decision on remand if requested by the parties.

IT IS FURTHER ORDERED that this case is stayed pending a final decision by the BZA on remand and receipt of the entire record on appeal as defined by MCR 7.122(E)(1).

IT IS SO ORDERED.


HON. MARY ELLEN BRENNAN 

-
- A portion of the BZA Minutes undated but appear to be August 8, 2023.

CASE DESCRIPTION

1115 CHAPIN (23-26)

Hearing date: August 8, 2023

Appeal No. 23-26: The owner of the property known **1115 Chapin**, requests the following variances to construct a new detached garage:

A. Chapter 126, Article 2, Section 2.10.1 of the Zoning Ordinance limits the lot coverage to a maximum of 30% of the lot. The required 30% is 1440.00 SF. The proposed is 32.95% (1581.90 SF). Therefore, a variance of 2.95% (141.90 SF) is being requested.

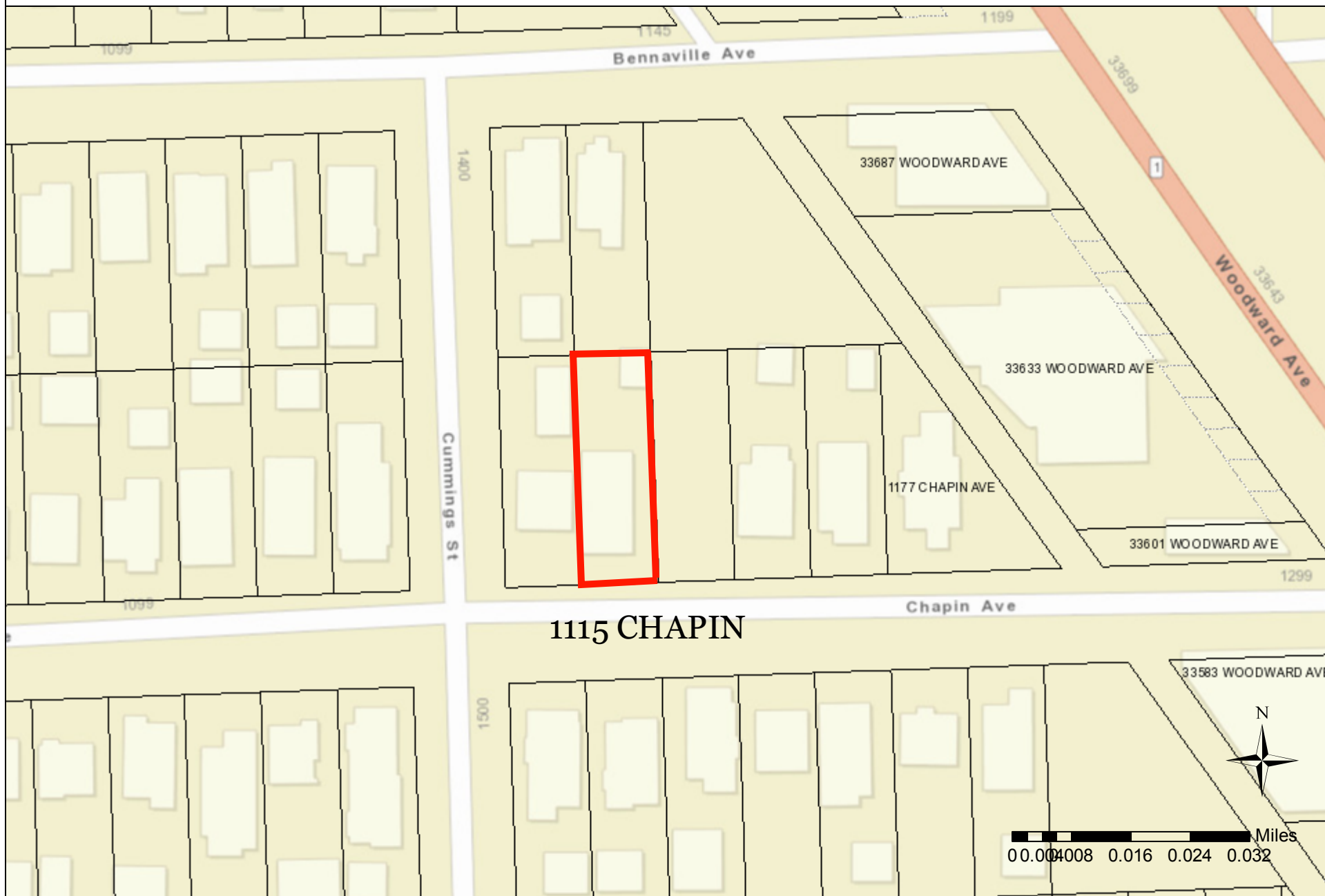
B. Chapter 126, Article 4, Section 4.03(G)(1)(C) of the Zoning Ordinance requires that the minimum building height on an accessory structure in the R3 zoning shall not exceed 14.50 feet to the mid-point. The proposed is 15.25 feet. Therefore, a variance of 0.75 feet is being requested.

Staff Notes: This applicant is proposing to construct a new detached garage.

This property is zoned R3 – Single family residential.

Jeff Zielke, NCIDQ, LEED AP
Assistant Building Official

1115 CHAPIN 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

Received Date: 7/11/23

Hearing Date: 08/08/23

Received By: SP

Appeal #: 23-26

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

Address: 1115 CHAPIN AVE Lot Number: 19-36-431-005 Sidwell Number: 1127

II. OWNER INFORMATION:

Name: FRANK COLASONTI, JR. & JAMES B. RYDER
Address: 1115 CHAPIN AVE City: BIRMINGHAM State: MI Zip code: 48009
Email: JAMES31@AOL.COM Phone: 248-404-7966

III. PETITIONER INFORMATION:

Name: FRANK COLASONTI, JR. Firm/Company Name: JAMES B. RYDER
Address: 1115 CHAPIN AVENUE City: BIRMINGHAM State: MI Zip code: 48009
Email: JAMES31@AOL.COM Phone: 248-404-7966

IV. GENERAL INFORMATION:

The Board of Zoning Appeals typically meets the second Tuesday of each month. COMPLETE digital 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:

Please provide the following in your electronic submission:

- ☐ Completed and signed application
- ☐ Signed letter of practical difficulty and/or hardship
- ☐ Certified survey
- ☐ Building plans including existing and proposed floor plans and elevations
- ☐ If appealing a board decision, provide a copy 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: 7/11/2023

Signature of Petitioner: [Signature]

Date: 7/11/2023

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

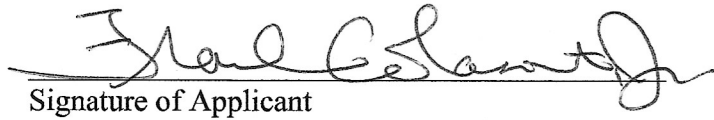
- A. The Board may reverse, affirm, vary or modify any order, requirement, decision or determination as in its opinion should be made, and to that end, shall have all the powers of the officer from whom the appeal has been taken.
- B. The decisions of the Board shall not become final until the expiration 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

Practical Difficulties: **No** Basement. **No** Second Floor or Attic. **No** Garage.

Hardship: **No** garage for two cars. **No** storage space.

7.9.2023

Hello Members of the Birmingham Board of Zoning Appeals:

We are Frank Colasonti, Jr. and James Ryder. I have been a Birmingham homeowner for 40 years, and of those 40 years, my now husband, Jim, has resided here for 35 of them. I have had the good fortune to serve our citizens as a Guidance Counselor with Birmingham Public Schools for over 20 years. I am now retired as is Jim due to a disability.

As a senior and a not-quite a senior, on fixed incomes, our goal is to age-in-place in the community we have lived, loved, enjoyed and supported for these past many years. Our one and only home is at 1115 Chapin Avenue. We are not going anywhere. Birmingham is our final stop.

Our modest one and one-half story bungalow of 1,065 square feet exists without a basement, without a second floor or useable attic and without a detached garage. For two of us, our home has one bathroom, two bedrooms, one large and one guest, and a combined living room, dining room, and kitchen plus a small utility/laundry room. The dining room doubles as our office, and the guest bedroom as a storage unit and the utility room as storage. Our entire home may be considered a storage unit at one time or another.

The proposed design, as presented with requested size and height variances, would replace our 102-year-old one-car, Model-T “garage,” unusable except as a ramshackle shed, with a new two-car garage with storage space above. The design allows for the complete consolation and secure placement on our property of 40 years of accumulated memories and documents from the lifetimes of two people, us, our careers, our personal lives and our LGBTQ+ activism. Also, the design will provide sufficient working space for us to sort and to organize items in a place other than our home.

Currently, our treasures and documents are located off-site in three costly rented storage units. The three rental storage units drain from us a costly, wasted

monthly expense of \$1,053; a \$12,636 yearly expense not including the automatic yearly increase per month. In contrast, our equity loan with its interest is one-half the cost per month, and we will own the garage. Being on fixed incomes, the cost of the rent presents a financial hardship for us. We understand that financial hardship is not a concern of the Board of Zoning Appeals, but we wish to present the unintentional positive impact of approving our request – saving us money for necessary expenses.

Our unassuming bungalow is not the size we expected from our two-year rebuild in 1992. However, at the time, Jim and I needed to make unavoidable difficult decisions due to the theft of our money by an unscrupulous contractor. We had to downsize our plan from a first and second floor total of 1,500 square feet to its current one-floor size of 1,065 square feet from its original 500 square feet.

As you know, with the zoning ordinances prior to 2006, our proposed design would have been approved by the Planning Department without troubling the Board of Zoning Appeals. Unfortunately, it is not the case. And, unfortunately, Jim and I did not foresee the changing trend in Birmingham's housing that would result in changes to our zoning ordinances. The proposed design is to correct our hardship we involuntarily found ourselves in in 1992 and, more so, find ourselves in today.

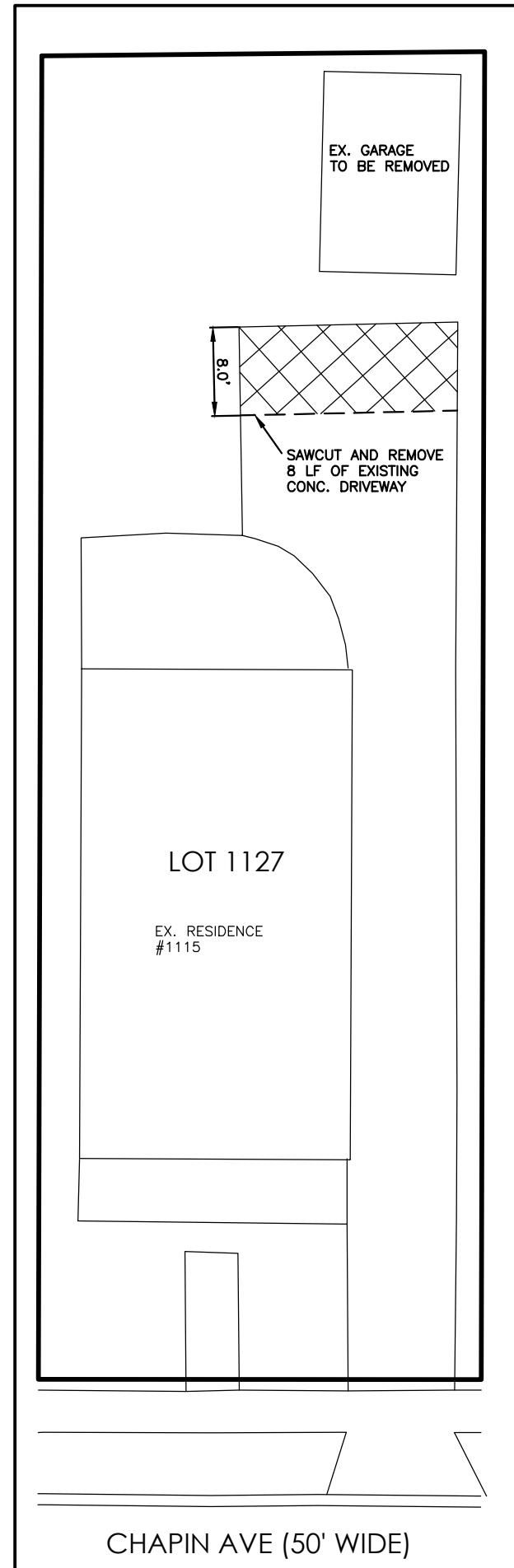
Another hardship that is not the concern of the Board of Zoning Appeals, but bears mentioning is age. Jim and I are both on the downside of life with one of us being closer to the bottom. As a 70-year-old man, the health challenges that accompany growing older humbles me daily. While I have the energy and memory today, I do not know when they may change. To have sufficient, additional space to bring home into one location the possessions and history of our lives together and prior to as well as provide a safe repository for historical LGBTQ+ documents is extremely important. They need to be readily available to us and for others for future requests and challenges.

Jim and I invite you, members of the Birmingham Board of Zoning Appeals and personnel of the Planning Department, to contact us for a personal tour of our home, onto our property and/or to our storage units to assess for yourselves the practical difficulties and the hardship indicated with this letter requesting zoning variances. Please feel free to call: 248-404-7966.

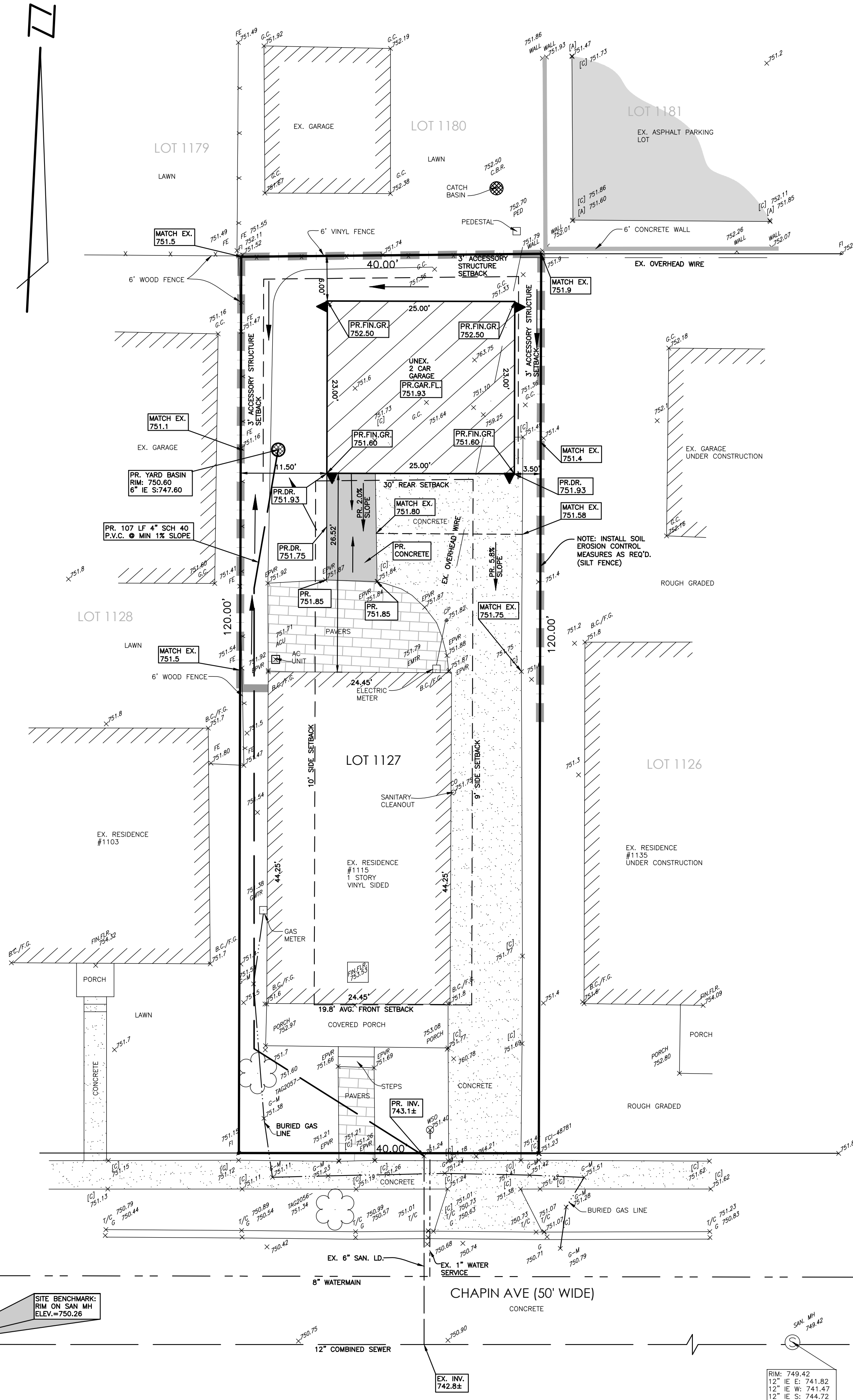
Thank you for considering our request for approval of the needed variances to reverse our extreme lack of storage space hardship. Your approval will help to improve the quality of our lives and to assist us to age-in-place with dignity securely knowing that our two lifetimes of collected treasures are home with us for our remaining years.

Thank you,

Frank Colasonti, Jr and James B. Ryder
Homeowners
1115 Chapin Avenue
Birmingham, MI 48009



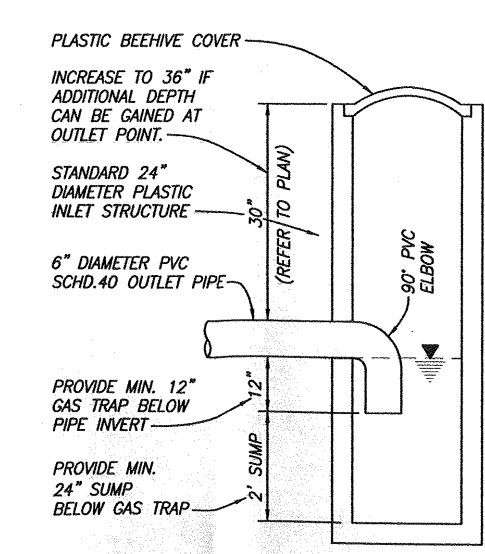
DEMOLITION DETAIL
NTS



- SOIL EROSION NOTES:**
- 1) INSTALL EROSION CONTROL MEASURES PRIOR TO CONSTRUCTION.
 - 2) ALL SOIL EROSION MEASURES MUST BE IN PLACE PRIOR TO ANY EARTH MOVEMENT.
 - 3) COMPLETE ALL EARTH MOVEMENT.
 - 4) RIGHT-OF-WAY MUST BE STABILIZED PRIOR TO FINAL GRADE INSPECTION.
 - 5) ALL SWALE AREAS, ALL SLOPES GREATER THAN 1:5 AND 10' AROUND STORM STRUCTURES MUST BE STABILIZED PRIOR TO FINAL GRADE INSPECTION.
 - 6) AFTER PERMANENT EARTH STABILIZATION IS COMPLETED, REMOVE EROSION CONTROL MEASURES.

CONSTRUCTION SEQUENCE	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN
A SOIL EROSION CONTROL MEASURE												
B HOUSE CONSTRUCTION												
C DRIVEWAY & SIDEWALK CONSTRUCTION												
D FINAL GRADING												
E PERMANENT SOIL EROSION												

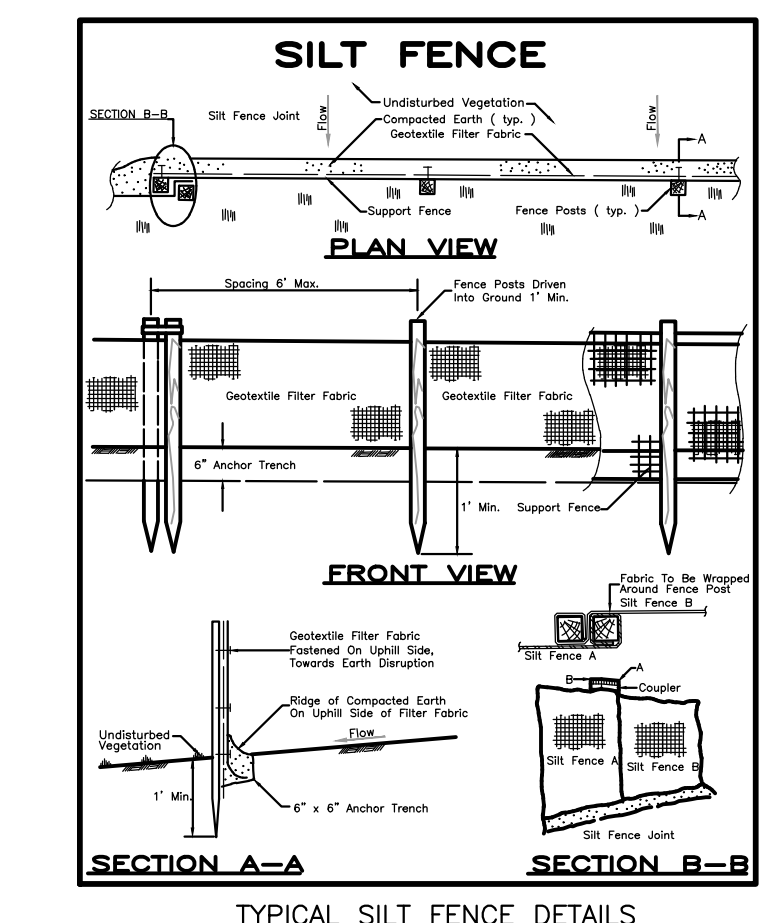
NOTE: THIS TIMING AND SEQUENCE CHART IS TO BE FILLED IN BY THE CLIENT PRIOR TO SUBMITTAL TO THE CITY/TOWNSHIP.



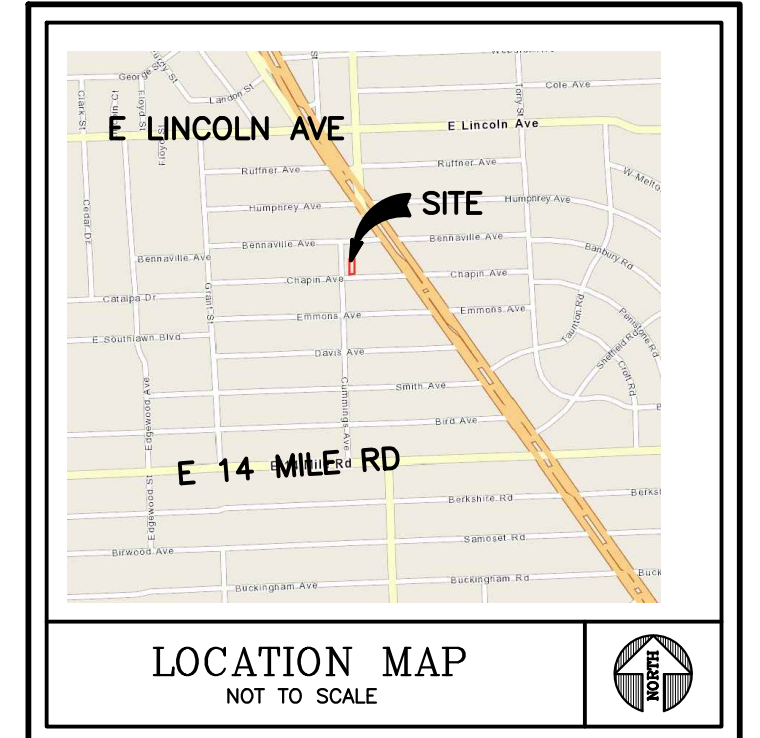
YARD AREA INLET DETAIL
(NO SCALE)

TREE SURVEY	TAG #	DIA. (IN.)	SPECIES	SPREAD (FT.)
	2056	16	LOCUST	30
	2057	10	MAPLE	15

AREA OF LOT = 4,800 SF.
AREA OF HOUSE FOOTPRINT & GARAGE = 1,581 SF.
LOT COVERAGE = 32.9% 30% ALLOWED



TYPICAL SILT FENCE DETAILS



LOCATION MAP
NOT TO SCALE

NOTE: ALL INTERIOR GRADES (ARCHITECTURAL) SUCH AS FINISH FLOOR, BASEMENT FLOOR, FOOTING GRADES WALL SECTIONS SHALL BE VERIFIED BY THE BUILDER AND/OR ARCHITECT PRIOR TO CONSTRUCTION. ALL TRADES MUST USE THE ARCHITECTURAL PLANS OF RECORD TO CONSTRUCT ANYTHING OTHER THAN EXTERIOR GRADES AS SHOWN ON THIS PLOT PLAN.

NOTE: SETBACKS AS SHOWN ON THIS PLOT PLAN WERE OBTAINED FROM THE MUNICIPALITY. IT IS THE RESPONSIBILITY OF THE CLIENT TO INSURE THAT THIS INFORMATION IS CORRECT. SINCE DEED RESTRICTIONS ARE NOT SUPPLIED BY THE MUNICIPALITY, THE CLIENT MUST INFORM THIS OFFICE OF ANY SPECIAL RESTRICTIONS WHICH MAY AFFECT THIS PLOT PLAN.

NOTE: FENN AND ASSOCIATES ASSUMES NO RESPONSIBILITY FOR GIVEN HOUSE DIMENSIONS. CLIENT MUST VERIFY ALL DIMENSIONS PRIOR TO CONSTRUCTION.

NOTE: THIS DRAWING IS NOT INTENDED OR REPRESENTED TO BE A LAND OR PROPERTY LINE SURVEY. THIS DRAWING IS NOT TO BE USED FOR THE ESTABLISHMENT OF ANY PROPERTY LINES OR OTHER IMPROVEMENTS.

NOTE: ACTUAL AS-BUILT LEAD LOCATIONS MUST BE OBTAINED FROM THE CITY/TOWNSHIP.

NOTE: PROPOSED HOUSE HAS PROPOSED DROP BRICK LEDGE.

- LEGEND**
- SECTION CORNER
 - FOUND IRON, MON., NAIL
 - SET IRON
 - RECORDED
 - MEASURED
 - CALCULATED
- EXISTING DESCRIPTION**
- U.P. = UTILITY POLE
 - E. OF WOODS
 - B. OF BERM
 - T. OF BERM
 - E. OF ASPHALT
 - E. OF CONCRETE
 - CORRUGATED METAL PIPE INVERT
 - T. WALL
 - B. WALL
 - E. OF WATER
 - BUILDING CORNER/FINISHED GRADE
 - MARKER
 - WATER SHUT OFF
 - CENTERLINE
 - SAN. MH
 - CATCH BASIN BEEHIVE
 - TOP OF CURB
 - STORM MANHOLE
 - TOP OF BANK
 - BOTTOM OF BANK
 - CENTERLINE
 - CATCH BASIN SQUARE
 - LIGHT POLE
 - GATE VALVE/WELL
- PROPOSED GRADE**
- PROPOSED GRADE
 - EXISTING GRADE
 - PLAN PROPOSED GRADE NO LONGER APPLICABLE
 - C.B. FILTER
 - SILT FENCE
 - DOWNSPOUT



EX. HOUSE #1049	EX. HOUSE #1051	EX. HOUSE #1085	EX. HOUSE #235	EX. HOUSE #1115	EX. HOUSE #1135	EX. HOUSE #1151	EX. HOUSE #1159	EX. HOUSE #1177
22.3'	21.5'	20.7'	22.3'	20.0'	20.3'	14.3'	14.3'	14.3'
CHAPIN AVE								
AVERAGE SETBACK FROM R.O.W. = 19.8'								
AVERAGE SETBACK DETAIL NOT TO SCALE								

Utility information, as shown, indicates the approximate locations and types of utilities as disclosed to this firm by various utility company's markings and/or plans provided. No guarantee is provided or implied as to the existence, accuracy, or completeness of any utilities. All locations and depths of any utilities that may exist shall be verified in the field by others prior to the start of construction. Extreme caution shall be utilized during construction when operating near overhead and/or buried utilities.

CALL MISS DIG 811

72 HOURS (3 WORKING DAYS - EXCLUDING SAT., SUN., & HOLIDAYS)

CALL MISS DIG 1-800-482-7171

OR 811

(TOLL FREE) FOR THE LOCATION OF UNDER GROUND FACILITIES

Property Description

T2N, R10E, SEC 36 LINBACH-HUMPHREY'S WOODWARD AVE SUB LOT 1127

CITY BENCHMARK #22: BRASS DISC LOCATED AT THE NW CORNER OF CUMMINGS AND DAVIS, ELEV.: 748.568 (CITY DATUM)

SITE BENCHMARK: RIM ON SANITARY MANHOLE, ELEVATION: 750.26 (CITY DATUM)

ADDRESS: 1115 CHAPIN AVE

PID: 19-36-431-005

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REVISIONS

7/5/23 GARAGE PLAN

Fenn & Associates, Inc.
Land Surveying and Civil Engineering
14933 Commercial Drive, Shelby Township, MI 48315
Phone: 586-254-9577 Fax: 586-254-9020 www.fennsurveying.com

SCALE: 1" = 10'

DATE: 4/17/23

FIELD: AC, CS

CHECKED: J.S.R., P.E.

SHEET SIZE: 24 x 36

DRAWN BY: R.PERRI

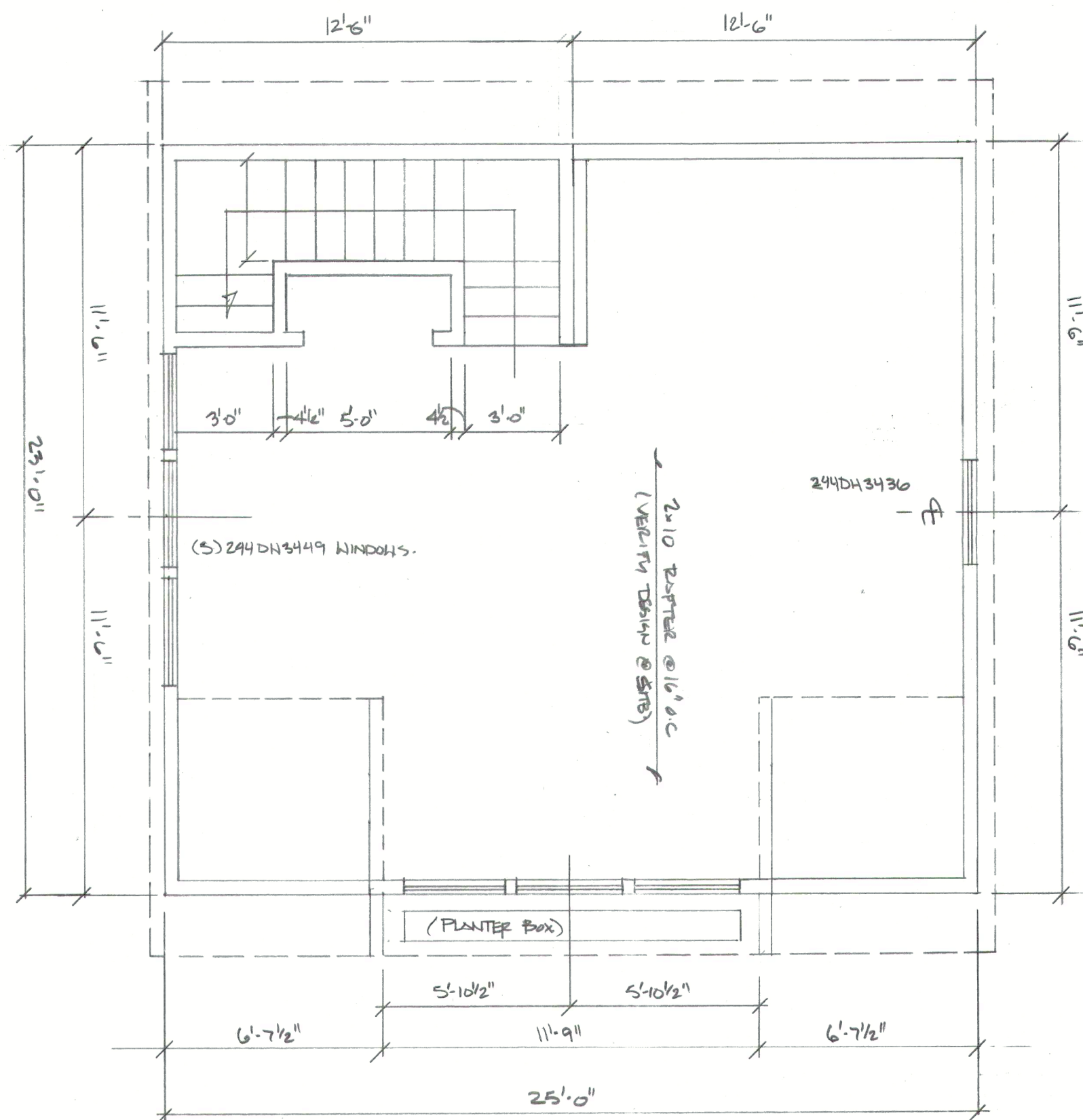
TOPO-GARAGE PLAN UPON 1115 CHAPIN AVE

PART OF SECTION 38, T2N, R10E

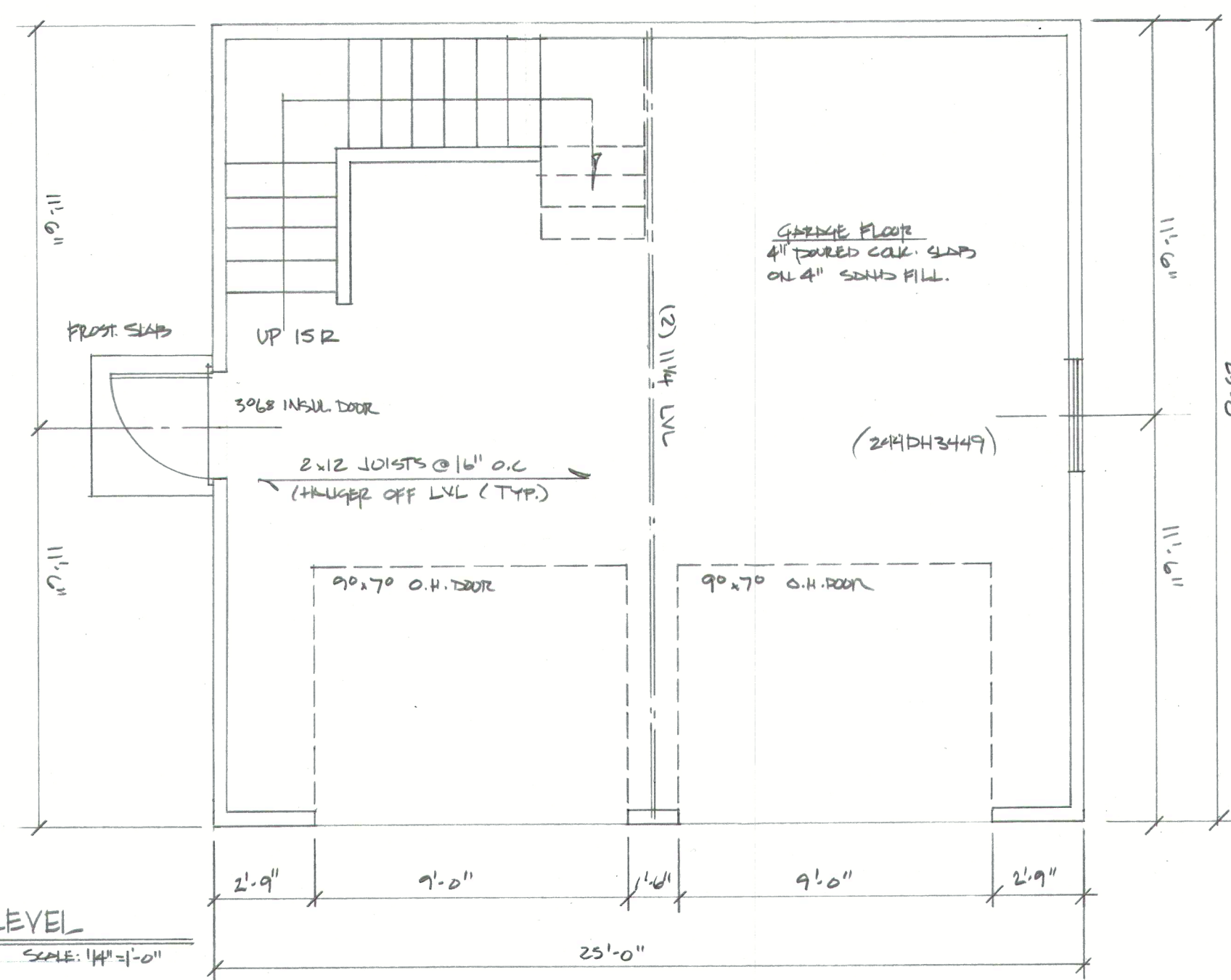
CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN

CLIENT: FRANK COLASONTI, JR & JIM RYDER

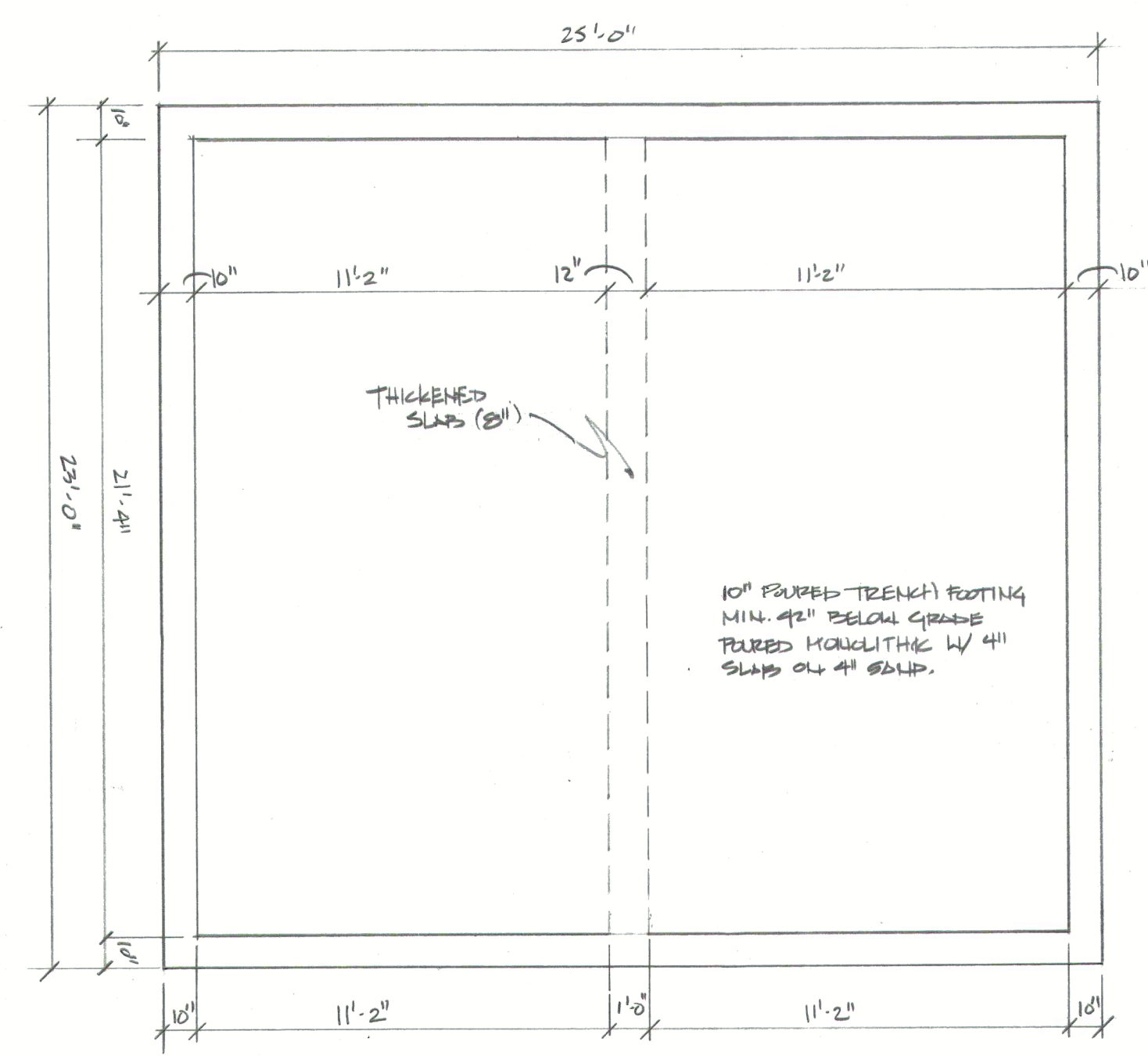
DRAWING NUMBER: 23-00139.01



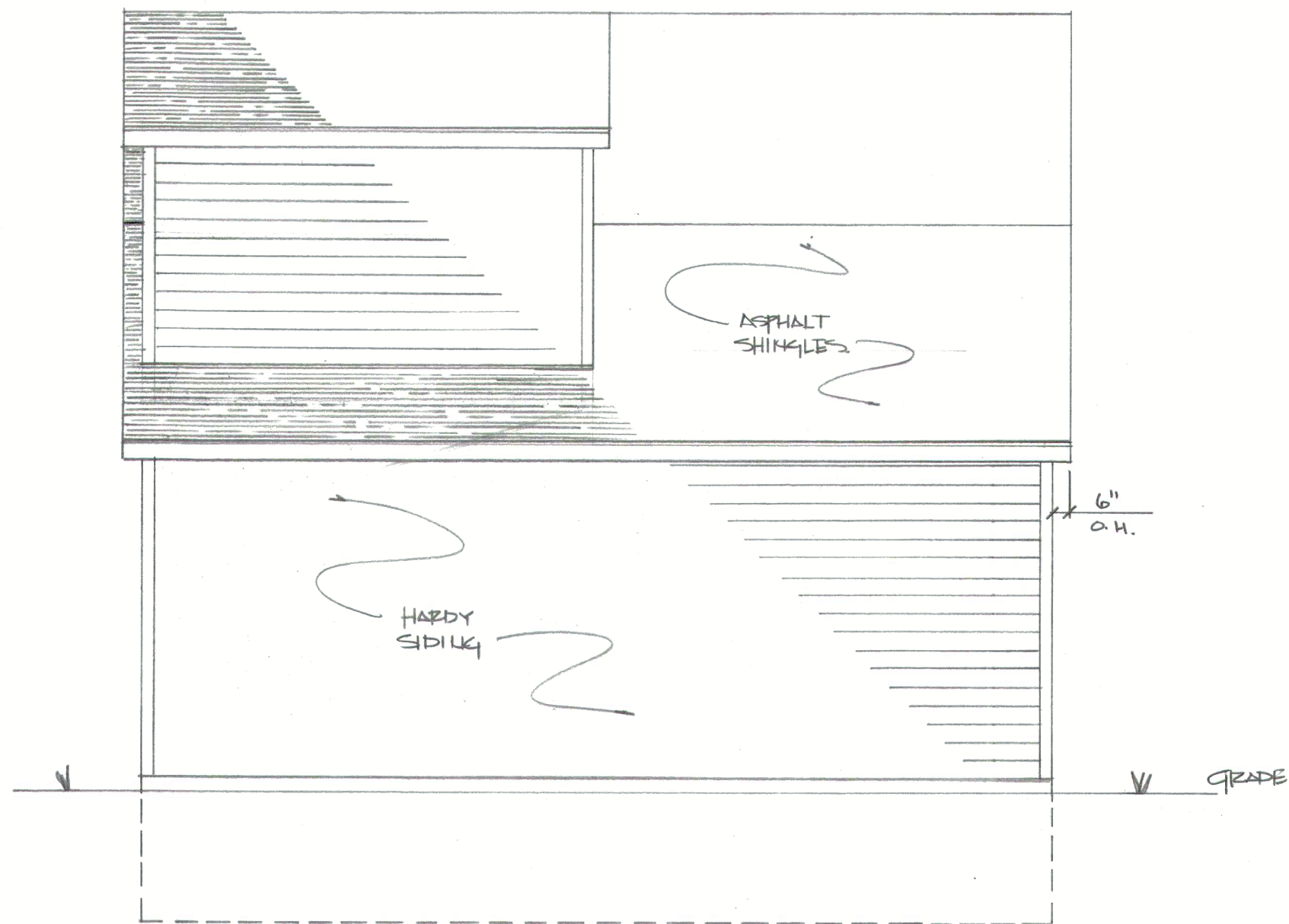
ATTIC LEVEL
SCALE: 1/4" = 1'-0"



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

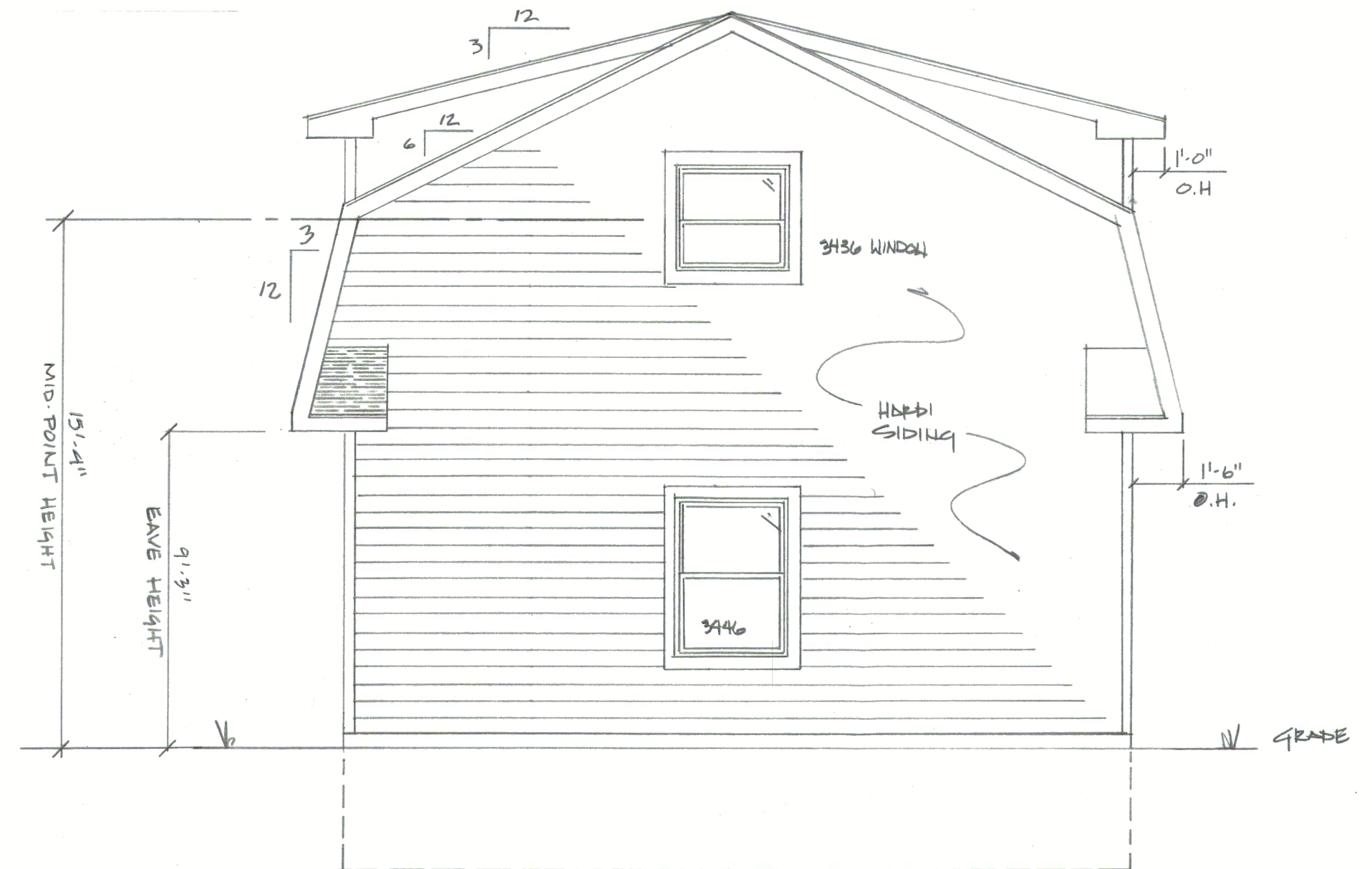


FOUNDATION PLAN
SCALE: 1/4" = 1'-0"



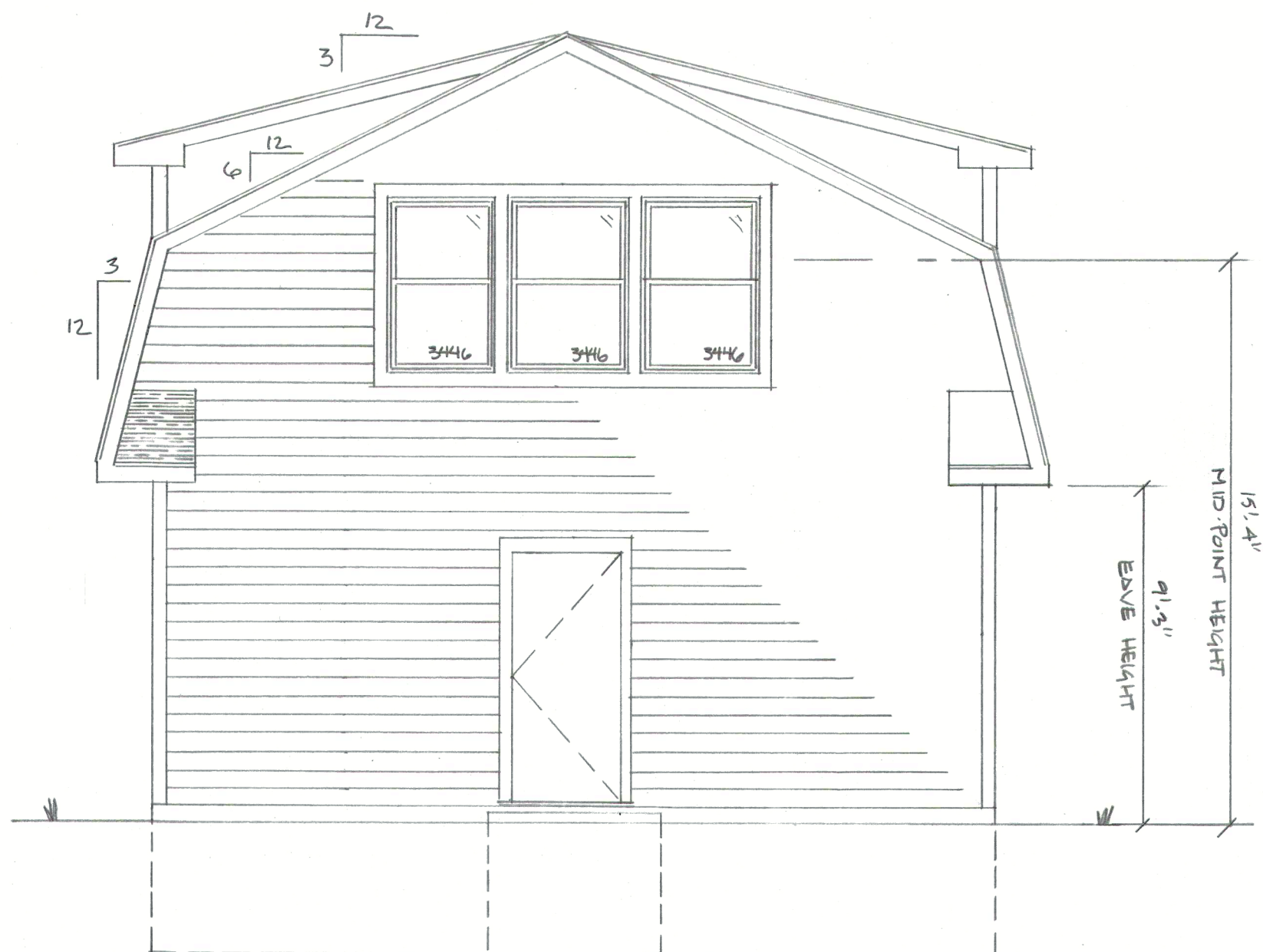
REAR ELEVATION

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



RIGHT SIDE ELEVATION

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



LEFT SIDE ELEVATION

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



FRONT ELEVATION

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

Views from Our Backdoor at 1115 Chapin Avenue

1 message

James Ryder <james31@aol.com>

Thu, Jul 27, 2023 at 9:41 AM

To: "jzielke@bhamgov.org" <jzielke@bhamgov.org>

Dear BZA Members,

Views from Our Backdoor at 1115 Chapin Avenue:

Our 102-year-old, Wooden, Model-T "Garage":



Our Next Door Neighbor's Garage on West:



Our Next Door Neighbor's Garage on the East:



The Northeast Corner View - Original Pancake Parking Lot and Woodward Avenue:



Behind Our "Garage" is a New House and Garage on Bennaville:



Thank you for coming along with us!

Frank and Jim 😊

Our Home at 1115 Chapin Avenue

1 message

James Ryder <james31@aol.com>

Thu, Jul 27, 2023 at 9:31 AM

To: "jzielke@bhamgov.org" <jzielke@bhamgov.org>

Thank you, Mr. Zielke, for including this and the next three emails in the BZA packet.

Dear BZA Members,

An Inside Look of Our Home on Chapin Avenue:



Our Living Room:



Another View of Our Living Room:



Our Dining Room/Office:



Our Kitchen:



Another View of Our Kitchen:



Our Small/Guest/Storage Room:



Our Hallway:



Our Bathroom:



Our Laundry/Utility/Storage Room:



The main bedroom is not included in this tour.

Thank you for taking this behind-the-scenes tour of our estate.

Frank and Jim 😊

Our Three Storage Units at 13 Mile Rd and Stephenson - Far from Home at 1115 Chapin Avenue

1 message

James Ryder <james31@aol.com>

Thu, Jul 27, 2

To: "jzielke@bhamgov.org" <jzielke@bhamgov.org>

Dear BZA Members,

A quick look at our storage units:

The Self-Storage Building Hallway.

There is no source for electricity/lighting in the individual units.

The only sources of light are the hallway lights on ten minute timers and the window at the far end.

We supply our own light with flashlights, lanterns and portable converters with rechargeable batteries and LEDs.



Storage Unit #1



Storage Unit #2



Storage Unit #3



Thank You for Viewing Our Collections,
Frank and Jim 😊

Other Views of Neighbors' Garages around 1115 Chapin Avenue

1 message

James Ryder <james31@aol.com>

Thu, Jul 27, 2023 at 9:45 AM

To: "jzielke@bhamgov.org" <jzielke@bhamgov.org>

Cc: James Ryder <james31@aol.com>, Frank Colasonti Jr <hirecolasonti@gmail.com>

Dear BZA Members,

Garages on Chapin Avenue and Bennaville Adjoining Ours:

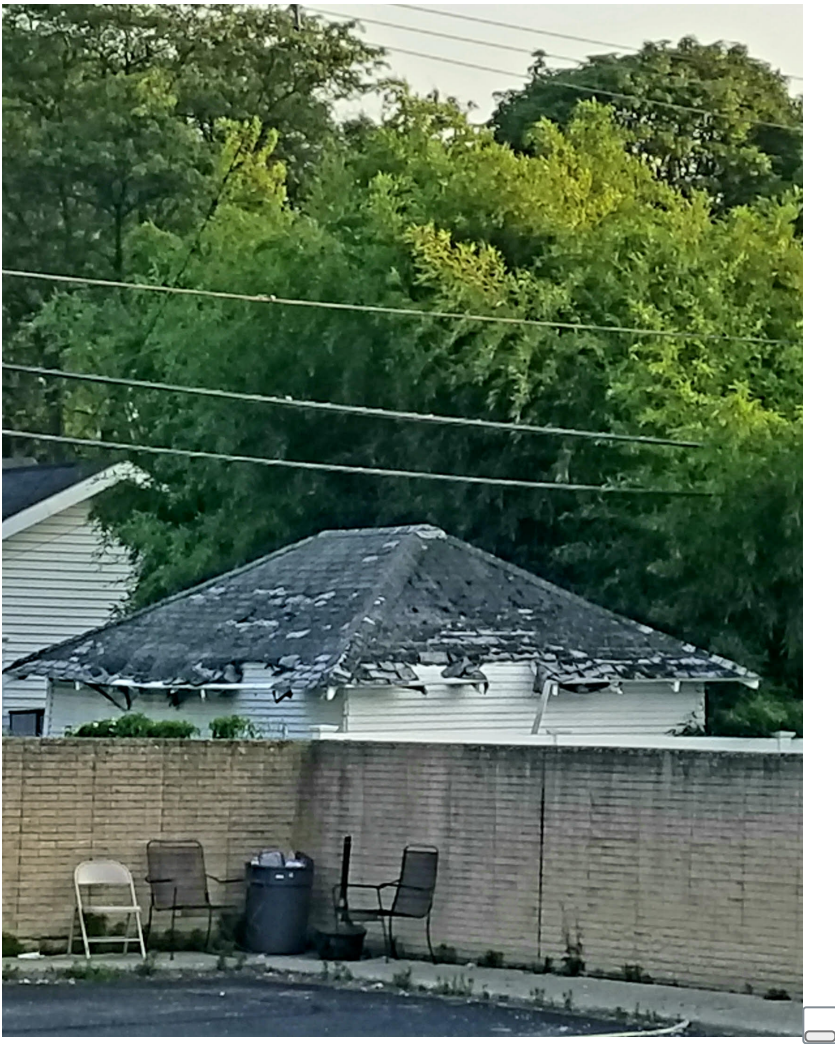
View of the Northeast Corner from the Original Pancake House Parking Lot on Bennaville:



Back View of 1135 Chapin Avenue Garage:



Back View of Our "Garage:"



Side/Front View of New Garage on Bennaville:



View of Two Garages Fronting Cummings Street:



Garage Owned by Northwest Neighbor on Bennaville:



Next Door Neighbor to Our West at 1105 Chapin:



Closer View:



Next Door Neighbor to Our East at 1135 Chapin:

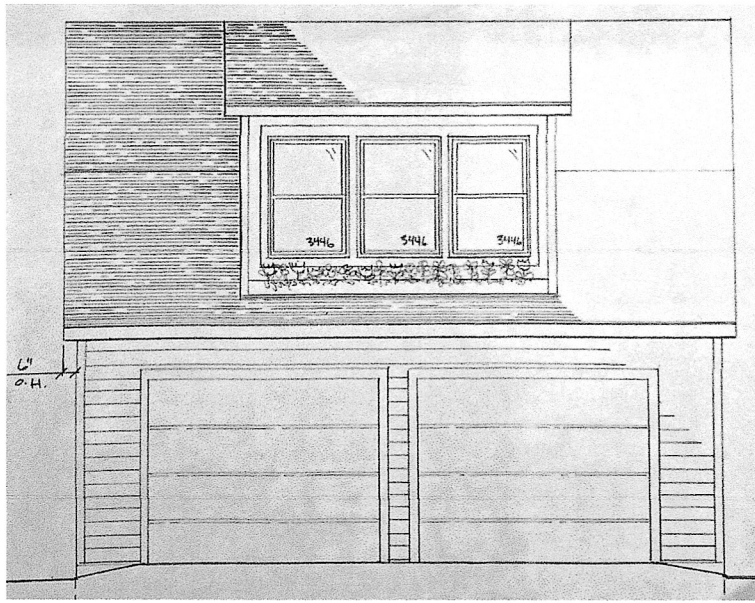


Garage with Bonus Room at 1135 Chapin:



Thank you for your time.

Frank and Jim 😊



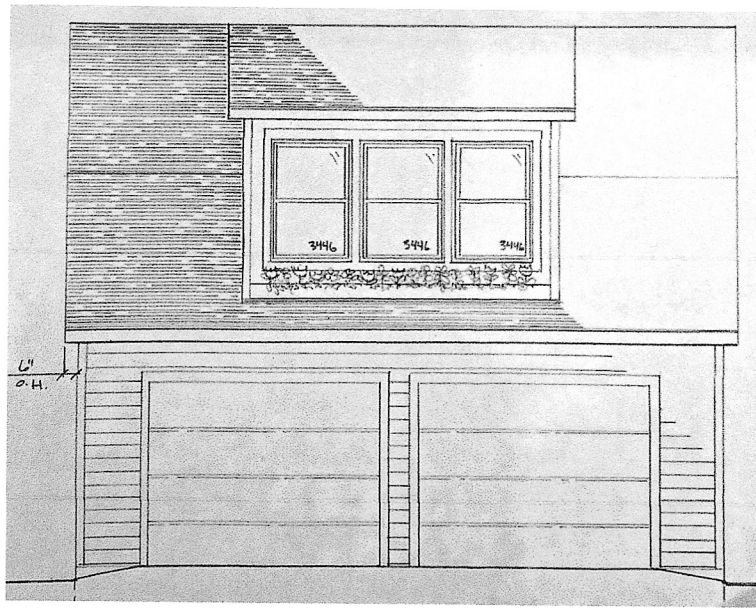
We, the neighbors of Jim and Frank, support Jim and Frank's Request for Approval by the Birmingham Board of Zoning Appeals of their two variances for their proposed garage:

1. An Increase of Lot Coverage from 30% to 32.95%

2. An Increase in Height from 14.5' to 15.25'

Thank you!

1. Ashley Byron 1112 Bennaville 248.416.2252
2. David Weissman 1128 Chapin 248-633-5411
3. Gary Cromie 1144 Chapin 248.645.1709
4. Holly Weber 1128 Chapin 248-797-7243
5. Roz Nessel 1192 Chapin 248.504.9393
6. Elaine Cromie 1144 Chapin 248-645-1709
7. D. K. 1186 Chapin Ave 248-207-5953
8. Benches 1103 Chapin Ave 248.978.9891



We, the neighbors of Jim and Frank, support Jim and Frank's Request for Approval by the Birmingham Board of Zoning Appeals of their two variances for their proposed garage:

1. An Increase of Lot Coverage from 30% to 32.95%

2. An Increase in Height from 14.5' to 15.25'

Thank you!

1. *Frank Frank*
2. *Karen E. Green* *1151 Chapin*
Karen E. Green
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____

Birmingham Board Of Zoning Appeals Proceedings
Tuesday, August 8, 2023
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, August 8, 2023. Chair Morganroth convened the meeting at 7:30 p.m.

2. Rollcall

Present: Chair Erik Morganroth; Board Members Kevin Hart (arrived 8:49 p.m.), Richard Lilley, John Miller, Ron Reddy; Alternate Board Member Carl Kona

Absent: Vice Chair Jason Canvasser; Board Member Pierre Yaldo

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. 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 and gave them the option to postpone since there were only five BZA members in attendance.

All petitioners were in attendance and elected to proceed with having their appeals heard during the present meeting.

3. Announcements

Announcements can be found in the evening's agenda packet.

4. Approval Of The Minutes Of The BZA Meetings Of July 11, 2023

T# 08-31-23

Motion by Mr. Lilley

Seconded by Mr. Reddy to approve the minutes of the BZA meeting of July 11, 2023 as submitted.

Motion carried, 5-0.

VOICE VOTE

Yeas: Lilley, Morganroth, Miller, Reddy, Kona

Nays: None

5. Appeals

T# 08-32-23

**1) 440 Lakeside
Appeal 23-21**

ABO Zielke presented the item, explaining that the owner of the property known as 440 Lakeside was requesting the following variance to construct a new single family home:

- 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 23.75 feet on the north side. The proposed is 14.63 feet. Therefore, a variance of 9.12 feet is being requested.

Staff answered informational questions from the Board.

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

In reply to Board inquiry, Mr. Howe explained:

- The property to the north would only be negatively impacted by the requested variance if the home on said property were torn down. Since the home to the north was very new, that would be an unlikely occurrence in the near future;
- The design was done with consideration of 470 Lakeside;
- If these plans were not approved, a new plan would be drawn that might be less preferable for 470 Lakeside. It would bring the footprint out to the front lot line;
- 470 Lakeside is a non-conforming structure, and had it been conforming the appellant would not need to request a variance. The variance would grant relief from the hardship the appellant faces being adjacent to a non-conforming structure;
- The variance would be beneficial because it aligns with the layout of Lakeside. If Lakeside were perpendicular to the lot line, only a variance of a foot would likely be necessary; and,
- The ordinance does not account for streets that are not perpendicular to the lot lines, except for by increasing the minimum setback from an adjacent structure.

Board comments were as follows:

- The BZA has to take the next buyers of homes into consideration when deciding variances. Granting variances because of neighbor support would make the ordinance useless and could negatively impact future property owners; and,

- If 470 Lakeside were a conforming structure, the appellant would still need a four foot variance to build the plans as proposed. The requested variance would be greater than the existing non-conformity.

Public Comment

Dr. Obeid, owner of 470 Lakeside, offered support for the variance request.

Motion by Mr. Reddy

Seconded by Mr. Lilley with regard to Appeal 23-21, 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 23.75 feet on the north side. The proposed is 14.63 feet. Therefore, a variance of 9.12 feet is being requested.

Mr. Reddy moved to approve the variance request and tied approval to the plans. He stated that there were a number of unique circumstances in the appeal, including a uniquely-shaped lot and a pre-existing non-conforming structure to the north.

Mr. Miller offered support for the motion, noting that there were non-conforming houses on both sides which was an extremely unusual circumstance. He said that circumstance exacerbated the hardship faced by the appellant, as did the radical geometry of the front of the appellant's lot. He added that the plans for the appellant's property were very reasonable given the hardships.

The Chair supported the motion, commenting on the lot's unique shape, the impact on the appellant of taking the averages of the adjacent properties which are different sizes, the measurement of the angle because the street is at an angle to the lot, and the two non-conformities. Future homes on the adjacent properties would likely be able to build substantially within their lot parameters without the appellant's home significantly impacting those properties.

Motion carried, 5-0.

ROLL CALL VOTE

Yeas: Lilley, Morganroth, Miller, Reddy, Kona

Nays: None

T# 08-33-23

**2) 307 Westchester Way
Appeal 23-22**

ABO Zielke presented the item, explaining that the owner of the property known as 307 Westchester Way was requesting the following variance to construct a new detached garage:

- A. Chapter 126, Article 4, Section 4.03(B)** of the Zoning Ordinance requires the distance between an accessory building is not permitted closer to a principal residential buildings on an adjoining lot than the sum of the minimum required side setbacks of 14.00 feet or

25% of total lot width, whichever is larger. The required is 22.50 feet. The proposed is 18.00 feet. Therefore, a variance of 4.50 feet is being requested.

Staff answered informational questions from the Board.

Robert Naegaert of Lunar Construction reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet.

In reply to Board inquiry, Mr. Naegaert explained:

- The garage would be kept to the left side near the fence in order to enable egress and ingress;
- Changing the depth of the garage would not make the garage more accessible;
- The proposed depth of the garage was necessary to accommodate the storage trusses with the stairway; and,
- It would be reasonable for the face of the garage with the doors could be pushed back to 20 feet, and the portion with the stairs could remain at 24 feet in order for the garage to be ordinance compliant.

Board comments were as follows:

- The requested variance was larger than necessary in order to accommodate the storage truss, which does not represent a practical difficulty;
- Putting the face of the garage at 20 feet and the portion with the interior stairs at 24 feet would create more maneuverability for garage ingress and egress; and,
- There would be alternate plans that would allow this garage to be added to the property without either requiring the same amount of variance or possibly without requiring a variance at all.

Motion by Mr. Miller

Seconded by Mr. Kona with regard to Appeal 23-22, Chapter 126, Article 4, Section 4.03(B) of the Zoning Ordinance requires the distance between an accessory building is not permitted closer to a principal residential buildings on an adjoining lot than the sum of the minimum required side setbacks of 14.00 feet or 25% of total lot width, whichever is larger. The required is 22.50 feet. The proposed is 18.00 feet. Therefore, a variance of 4.50 feet is being requested.

Mr. Miller moved to deny the present request because there were other options. While the appellant faced some hardship in terms of maneuvering vehicles into the garage, if a portion of the face of the garage were revised, either no or minimal variance would be required.

The Chair supported the motion, stating there were multiple options to mitigate or eliminate the variance. He noted that there was already an extant, functional garage on the property.

Motion carried, 5-0.

ROLL CALL VOTE

Yeas: Lilley, Morganroth, Miller, Reddy, Kona

Nays: None

T# 08-34-23

**3) 1002 Pilgrim
Appeal 23-23**

ABO Zielke presented the item, explaining that the owner of the property known as 1002 Pilgrim was requesting the following variance to construct a second floor addition to the existing home:

- A. Chapter 126, Article 2, Section 2.04.2** of the Zoning Ordinance requires that the minimum total side yard setbacks of 14.00 feet or 25% of total lot width, whichever is larger. The required is 20.00 feet. The proposed is 16.34 feet. Therefore, a variance of 3.66 feet is being requested.

Staff answered informational questions from the Board.

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

One Board member shared appreciation that the appellant noted their attempts to mitigate the variance request.

Motion by Mr. Miller

Seconded by Mr. Lilley with regard to Appeal 23-23, Chapter 126, Article 2, Section 2.04.2 of the Zoning Ordinance requires that the minimum total side yard setbacks of 14.00 feet or 25% of total lot width, whichever is larger. The required is 20.00 feet. The proposed is 16.34 feet. Therefore, a variance of 3.66 feet is being requested.

Mr. Miller moved to approve the variance request and tied approval to the plans as submitted. He noted the need for the variance was not self-created, and resulted from the home being an older one with a pre-existing non-conformity. He noted that strict compliance with the ordinance would prevent the appellant from building a very reasonable second-story addition. He added that there would be no concerning impact for either the neighbor or the neighborhood.

The Chair offered his support for the motion. He explained that the appellant identified other options that would have increased the variance or would have rendered the proposed changes non-functional. He noted that there was an existing non-conformity, and that the appellant did not increase the non-conformity.

Motion carried, 5-0.

ROLL CALL VOTE

Yeas: Lilley, Morganroth, Miller, Reddy, Kona

Nays: None

T# 08-35-23

4) 2649 Yorkshire

Appeal 23-24

ABO Zielke presented the item, explaining that the owner of the property known as 2649 Yorkshire was requesting the following variances to construct an addition to the existing home:

- 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 18.75 feet on the west side. The proposed is 14.20 feet. Therefore, a variance of 4.55 feet is being requested.
- B. Chapter 126, Article 4, Section 4.75(A)(1)** of the Zoning Ordinance requires that attached garages must be setback a minimum of 5.00 feet from the portion of the front façade on the first floor of a principal residential building that is furthest setback from the front property line. The proposed is 1.00 feet. Therefore, a variance of 4.00 feet is being requested.

Staff answered informational questions from the Board.

Zach Ostroff, builder, 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. Ostroff explained:

- 24 feet would be the inside measurement of the garage, and there would also be wall thickness and brick to consider;
- Steps would need to be added internally to the garage due to grade differences between the garage and the house;
- Everything could be pushed back four feet in order to eliminate Variance B;
- The steps would be less relevant to only Variance A;
- The purpose of this request would be to provide shelter for older visitors who would be parking and then entering the house; and,
- Portions of the deck would have to be removed and reinstalled in order to complete the project.

Board comment was as follows:

- The property was non-conforming, and the proposed plans would increase the non-conformity;
- The appellant's presentation did not indicate why the ordinance could not be met;
- The appellant's request was for a larger garage than many people that submit appeals to the BZA;
- Variance A was challenging for the BZA since it would be expanding the pre-existing non-conformity;
- If the interior garage steps were to be presented as part of the appellant's hardship, those would need to be represented in the submitted documentation.

Motion by Mr. Kona

Seconded by Mr. Reddy with regard to Appeal 23-24, 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 18.75 feet on the west side. The proposed is 14.20 feet. Therefore, a variance of 4.55 feet is being requested.

Mr. Kona moved to deny Variances A and B. He noted there would be several alternative options, and there was insufficient information provided regarding the steps.

Mr. Miller supported the motion since the appellant had other options. He said the proposal and functions could largely be built while respecting the required setbacks.

The Chair said that reducing the width of the proposed garage would somewhat mitigate the variance request, and allow the garage to be substantially as functional. He said changing the depth of the garage would not change the usability of the garage, and that the mudroom could be reconfigured to add more depth to the garage if desired. The Chair agreed that there were likely other options that would mitigate the need for a variance. He said he did not see a practical difficulty necessitating the variances.

Motion carried, 6-0.

ROLL CALL VOTE

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

Nays: None

T# 08-36-23

**5) 508 W. Lincoln
Appeal 23-25**

ABO Zielke presented the item, explaining that the owner of the property known as 508 W Lincoln was requesting the following variance to construct an in-ground pool:

- A. Chapter 126, Article 4, Section 4.03(D)** of the Zoning Ordinance requires that a swimming pool shall not be closer than 10.00 feet to the principal building located on the same lot. The proposed is 8.00 feet. Therefore, a variance of 2.00 feet is being requested.

Staff answered informational questions from the Board.

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

In reply to Board inquiry, Mr. Scheck explained:

- The two feet variance being requested would make a difference for the usage of the pool;
- His understanding of the ordinance was that it was to keep the pool out of the area of influence of the foundation; and,
- The pool could be moved further north per the ordinance.

Board comment was as follows:

- The ordinance and the lot would not allow for a 12 foot pool;
- There are many elements allowed on the sides of a foundation; and,

- Regardless of the purpose of the ordinance, the BZA would need to hear why the ordinance could not be adhered to.

Motion by Mr. Reddy

Seconded by Mr. Kona with regard to Appeal 23-25, Chapter 126, Article 4, Section 4.03(D) of the Zoning Ordinance requires that a swimming pool shall not be closer than 10.00 feet to the principal building located on the same lot. The proposed is 8.00 feet. Therefore, a variance of 2.00 feet is being requested.

Mr. Miller moved to deny the variance. He said that while he originally thought the location of the pool was limited by the power lines, since that was not ultimately the case, the request seemed to be self-created. He stated that the request was not due to unique circumstances of the property, and that adhering to the ordinance in this case would not be unnecessarily burdensome.

Mr. Reddy concurred with Mr. Miller.

The Chair supported the motion. He said there were a number of options available for mitigating the ordinance.

Motion carried, 6-0.

ROLL CALL VOTE

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

Nays: None

T# 08-37-23

**6) 1115 Chapin
Appeal 23-26**

ABO Zielke presented the item, explaining that the owner of the property known as 1115 Chapin was requesting the following variances to construct a new detached garage:

- A. Chapter 126, Article 2, Section 2.10.1** of the Zoning Ordinance limits the lot coverage to a maximum of 30% of the lot. The required 30% is 1440.00 SF. The proposed is 32.95% (1581.90 SF). Therefore, a variance of 2.95% (141.90 SF) is being requested.
- B. Chapter 126, Article 4, Section 4.03(G)(1)(C)** of the Zoning Ordinance requires that the minimum building height on an accessory structure in the R3 zoning shall not exceed 14.50 feet to the mid-point. The proposed is 15.25 feet. Therefore, a variance of 0.75 feet is being requested.

Staff answered informational questions from the Board.

Frank Colasanti Jr., co-owner, 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. Colasanti explained that the appellants were advised that the structure could accommodate two vehicles, especially since one of the vehicles was smaller.

Board comments were as follows:

- The lot is limited by its size and the ordinances, and the BZA's decision could not be impacted by the amount of storage desired by the appellant;
- Since most or all of the structure would be used for storage, the width could be reduced by two feet in order to mitigate the need for a variance;
- A different style roof may change where the peak would be measured from. Reducing the width of the garage would also lower where the peak would be measured from; and,
- It would be difficult for the garage to accommodate two vehicles given the stairs.

Motion by Mr. Reddy

Seconded by Mr. Miller with regard to Appeal 23-26, Chapter 126, Article 2, Section 2.10.1 of the Zoning Ordinance limits the lot coverage to a maximum of 30% of the lot. The required 30% is 1440.00 SF. The proposed is 32.95% (1581.90 SF). Therefore, a variance of 2.95% (141.90 SF) is being requested; and, Chapter 126, Article 4, Section 4.03(G)(1)(C) of the Zoning Ordinance requires that the minimum building height on an accessory structure in the R3 zoning shall not exceed 14.50 feet to the mid-point. The proposed is 15.25 feet. Therefore, a variance of 0.75 feet is being requested.

Mr. Reddy moved to deny the variances. He said slight modifications to the design would minimize or eliminate the requested variances. He noted that the modifications might also benefit the appellant.

Mr. Hart said there was hardship faced by the appellant in terms of the size of the garage. He said the appellant also tried to mitigate the extent of the variance. He said the garage could not be much smaller, and therefore represented a reasonable request. He said he would not support the motion.

Motion carried, 5-1.

ROLL CALL VOTE

Yeas: Lilley, Morganroth, Miller, Reddy, Kona

Nays: Hart

6. Correspondence

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

8. Adjournment

No further business being evident, the Board motioned to adjourn at 9:44 p.m.



Bruce R. Johnson, Building Official



Laura Eichenhorn, City Transcriptionist

CASE DESCRIPTION

1115 CHAPIN (23-34)

Hearing date: October 10, 2023

Appeal No. 23-34: The owner of the property known as **1115 Chapin**, requests the following variance to construct a detached garage:

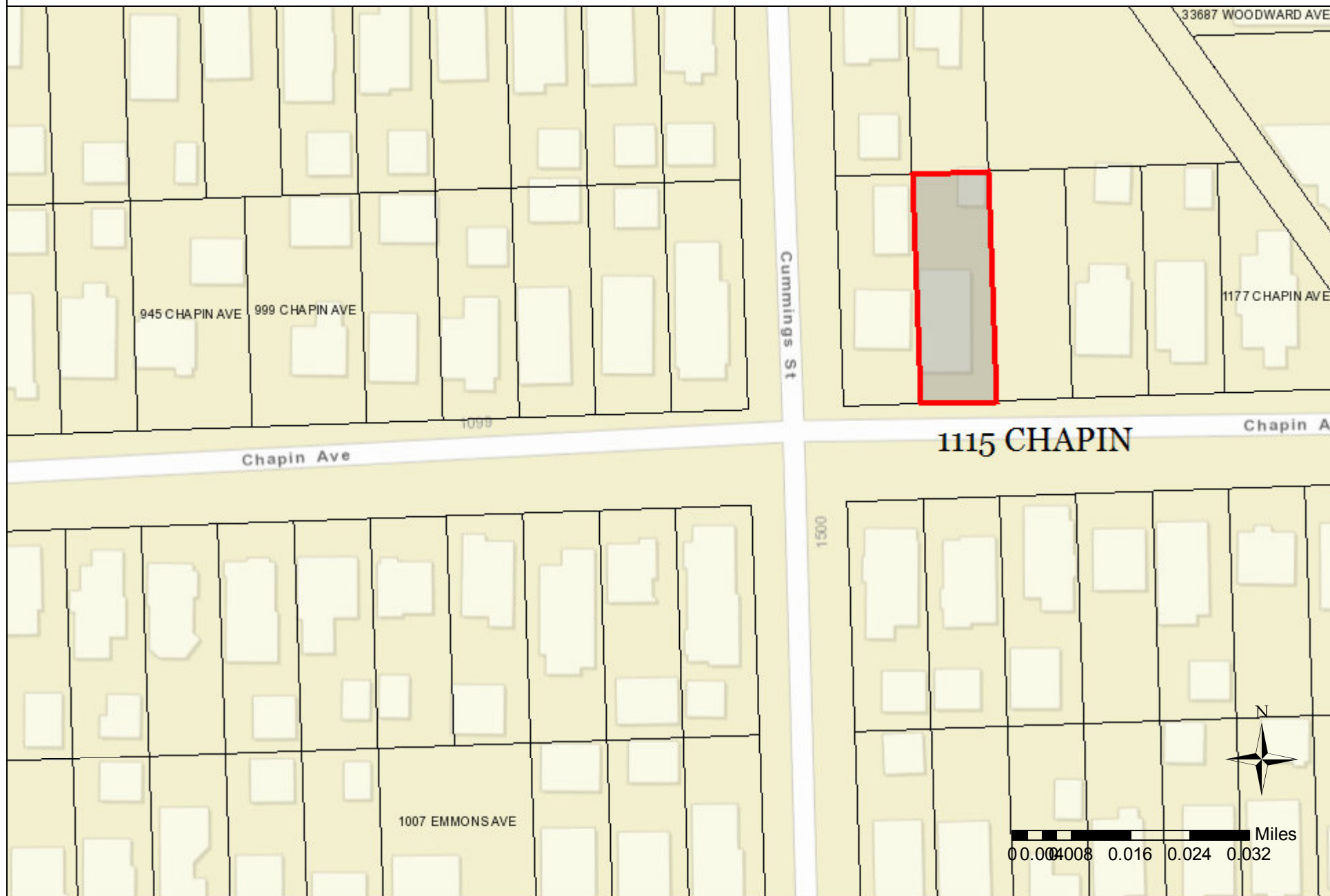
A. Chapter 126, Article 2, Section 2.10.1 of the Zoning Ordinance limits the lot coverage to a maximum of 30% of the lot. The required 30% is 1440.00 SF. The proposed is 32.95% (1581.90 SF). Therefore, a variance of 2.95% (141.90 SF) is being requested.

Staff Notes: This applicant is proposing to construct a new detached garage on the lot with an existing home that was constructed in 1925. There was a rear addition constructed to this home in 1991 which required variances (see attached minutes). This applicant before the board in August (minutes attached) regarding the proposed garage.

This property is zoned R3 – Single family residential.

Jeff Zielke, NCIDQ, LEED AP, COSS
Assistant Building Official

1115 CHAPIN 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

Received Date: _____

Hearing Date: _____

Received By: _____

Appeal #: _____

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

Address: 1115 Chapin Avenue	Lot Number: 19-36-431-005	Sidwell Number: 1127
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II. OWNER INFORMATION:

Name: Frank Colasonti, Jr. and James B. Ryder			
Address: 1115 Chapin Avenue	City: Birmingham	State: MI	Zip code: 48009
Email: James31@aol.com		Phone: 248-404-7966	

III. PETITIONER INFORMATION:

Name: Frank Colasonti Jr & James B. Ryder		Firm/Company Name:	
Address: 1115 Chapin Avenue	City: Birmingham	State: MI	Zip code: 48009
Email: James31@aol.com		Phone: 248-404-7966	

IV. GENERAL INFORMATION:

The Board of Zoning Appeals typically meets the second Tuesday of each month. COMPLETE digital 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:

Please provide the following in your electronic submission:

- ☐ Completed and signed application
- ☐ Signed letter of practical difficulty and/or hardship
- ☐ Certified survey
- ☐ Building plans including existing and proposed floor plans and elevations
- ☐ If appealing a board decision, provide a copy 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: Frank Colasonti Jr and James B. Ryder

Date: 9.10.2023

Signature of Petitioner: Frank Colasonti Jr and James B. Ryder

Date: 9.10.2023

**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.

Frank Colasonti, Jr. and James B. Ryder

Signature of Applicant

Digitally Signed by Frank Colasonti, Jr. and James B. Ryder
9.10.2023 3:35 PM

10/10/2023

Dear Members of the Birmingham Board of Zoning Appeals,

Our **difficulties** remain as they were at the August BZA meeting:

No Garage
No Basement
No Attic/Second Floor

Hardship: No two-car garage with adequate space.

Hearing what some BZA members commented on at the August meeting, we have adjusted the height of our proposed structure downward. Our previously requested variance of 15.5' is removed for consideration.

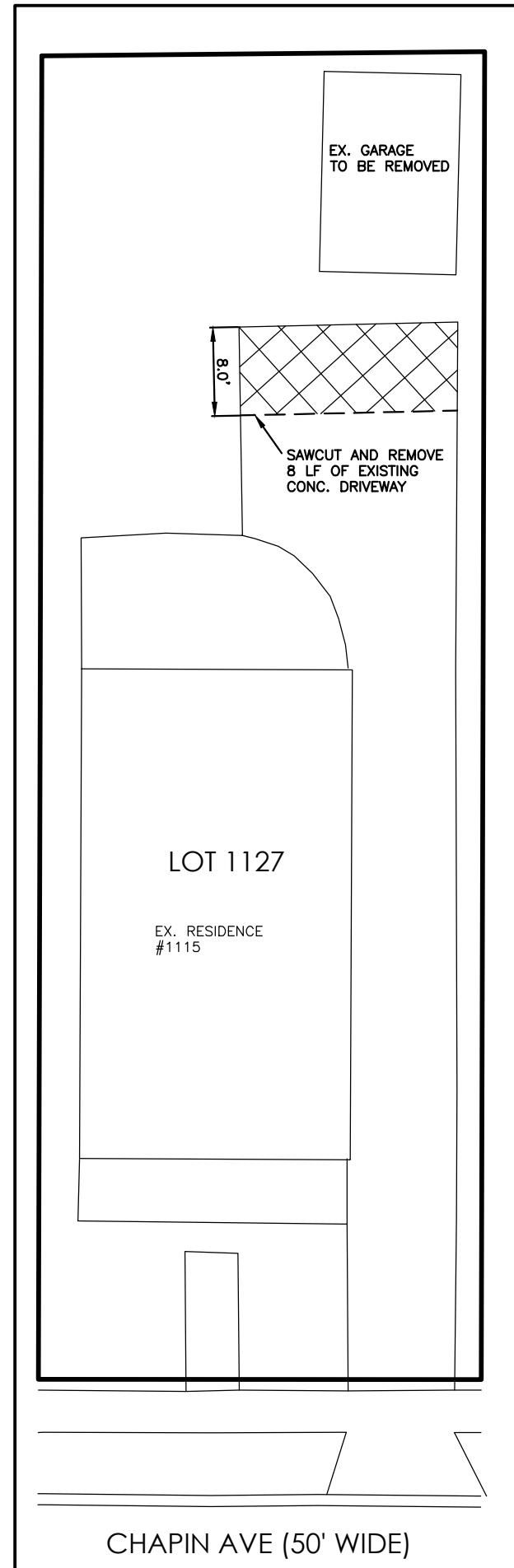
However, our 1,065 sq. ft. home was rebuilt in 1992 when the lot coverage was based solely on lot setbacks, not the percentage of lot coverage. The current lot coverage restriction prevents us from building a two-car garage.

We took to heart the thoughtful, expert observation made by BZA member Architect Hart that *with* our requested variance our proposed design is barely a two-car garage. Therefore, we are again requesting the same variance regarding lot coverage as proposed in August.

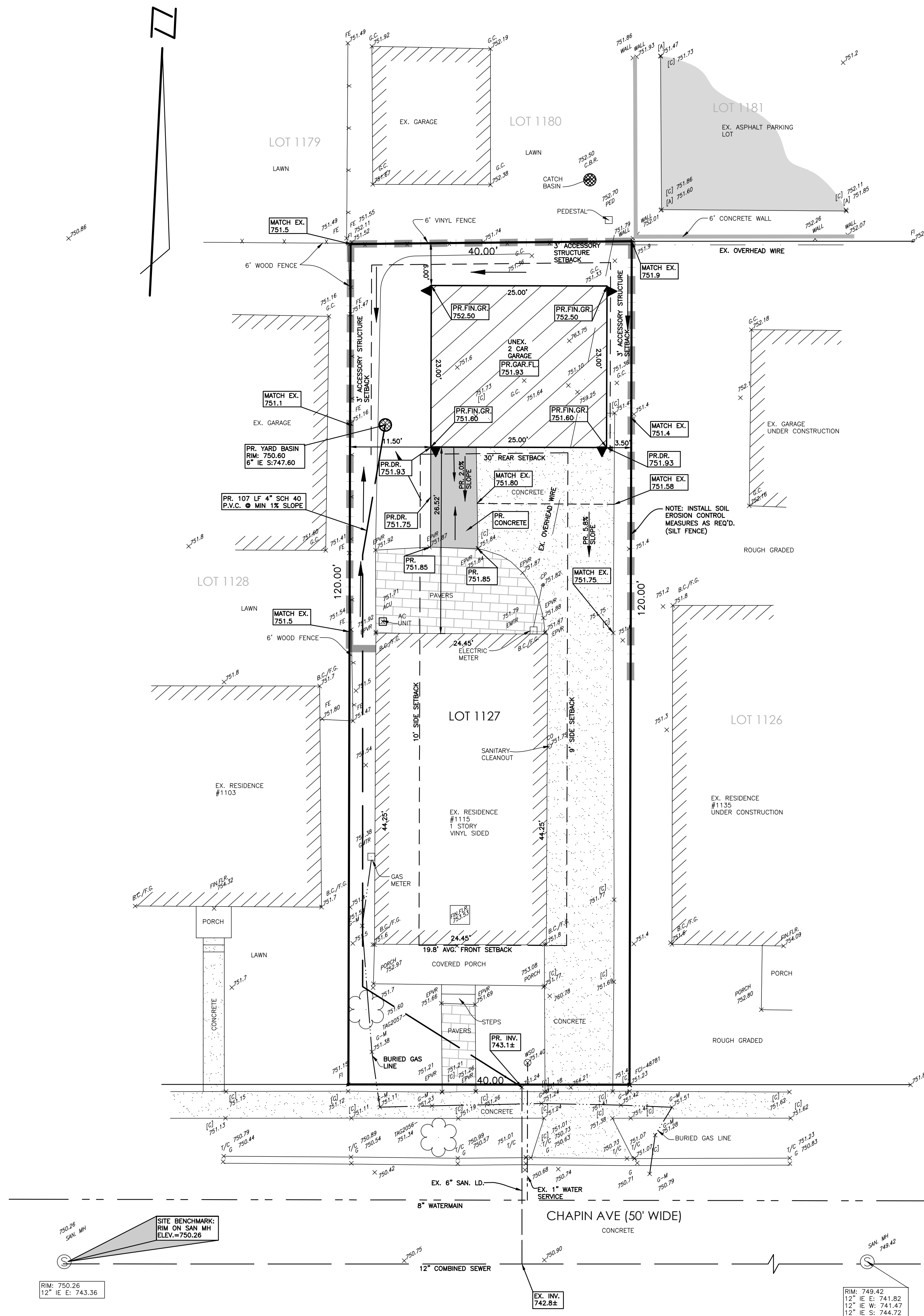
Our proposed design with the variance corrects our hardship by meeting our need for a two-car garage with additional space. It helps us to meet a modest need for us to age-in-place with dignity.

Thank you for reconsidering our request for a variance,

Frank Colasonti, Jr and James B. Ryder
Homeowners
1115 Chapin Avenue



DEMOLITION DETAIL
NTS



- SOIL EROSION NOTES:**
- 1) INSTALL EROSION CONTROL MEASURES PRIOR TO CONSTRUCTION.
 - 2) ALL SOIL EROSION MEASURES MUST BE IN PLACE PRIOR TO ANY EARTH MOVEMENT.
 - 3) COMPLETE ALL EARTH MOVEMENT.
 - 4) RIGHT-OF-WAY MUST BE STABILIZED PRIOR TO FINAL GRADE INSPECTION.
 - 5) ALL SWALE AREAS, ALL SLOPES GREATER THAN 1:5 AND 10' AROUND STORM STRUCTURES MUST BE STABILIZED PRIOR TO FINAL GRADE INSPECTION.
 - 6) AFTER PERMANENT EARTH STABILIZATION IS COMPLETED, REMOVE EROSION CONTROL MEASURES.

CONSTRUCTION SEQUENCE	OPERATION TIME SCHEDULE - BEGINNING											
	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN
A SOIL EROSION CONTROL MEASURE												
B HOUSE CONSTRUCTION												
C DRIVEWAY & SIDEWALK CONSTRUCTION												
D FINAL GRADING												
E PERMANENT SOIL EROSION												

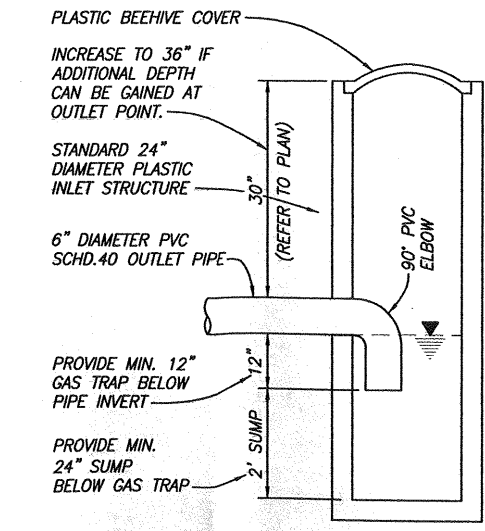
NOTE: THIS TIMING AND SEQUENCE CHART IS TO BE FILLED IN BY THE CLIENT PRIOR TO SUBMITTAL TO THE CITY/TOWNSHIP.

NOTE: AREA OF PROPOSED EARTH CHANGE - 2,400 SQ. FT.

NOTE: SOIL EROSION CONTROL MEASURES WILL BE MAINTAINED ON A WEEKLY BASIS AND AFTER EACH STORM EVENT BY THE BUILDER.

NOTE: THE NEAREST WATER COURSE IS ROUGE RIVER, APPROX. 1.1 MILES TO THE WEST.

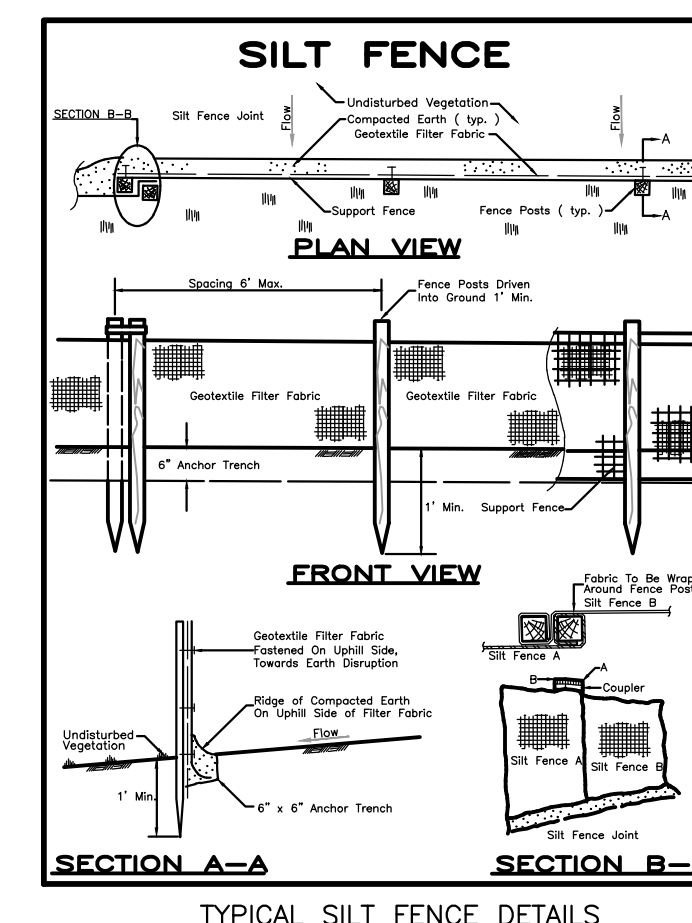
SOIL TYPE PER OAKLAND COUNTY SOIL MAP:
SHEBON-URBAN LAND COMPLEX



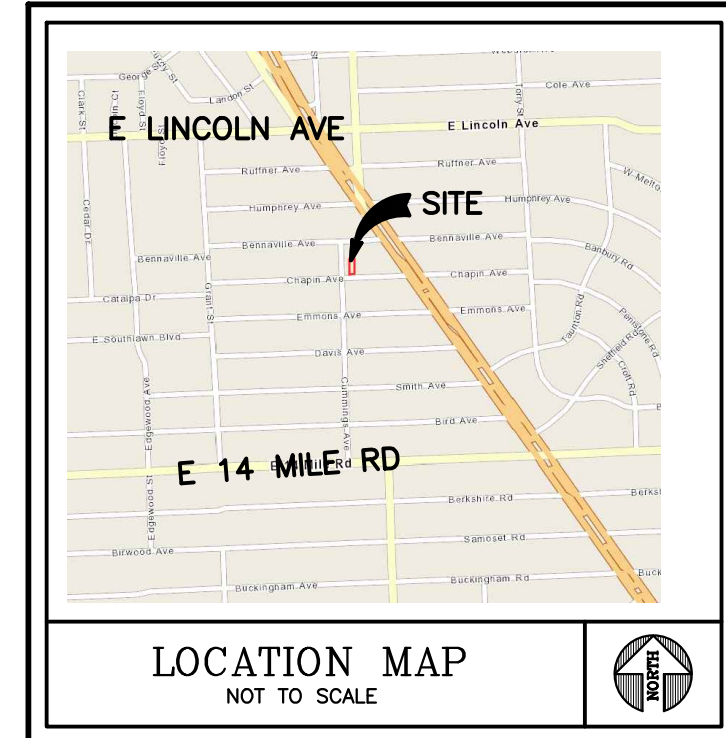
YARD AREA INLET DETAIL
(NO SCALE)

TREE SURVEY	TAG #	DIA. (IN.)	SPECIES	SPREAD (FT.)
	2056	16	LOCUST	30
	2057	10	MAPLE	15

AREA OF LOT = 4,800 SF.
AREA OF HOUSE FOOTPRINT & GARAGE = 1,581 SF.
LOT COVERAGE = 32.9% 30% ALLOWED



TYPICAL SILT FENCE DETAILS



LOCATION MAP
NOT TO SCALE

NOTE: ALL INTERIOR GRADES (ARCHITECTURAL) SUCH AS FINISH FLOOR, BASEMENT FLOOR, FOOTING GRADES WALL SECTIONS SHALL BE VERIFIED BY THE BUILDER AND/OR ARCHITECT PRIOR TO CONSTRUCTION. ALL TRADES MUST USE THE ARCHITECTURAL PLANS OF RECORD TO CONSTRUCT ANYTHING OTHER THAN EXTERIOR GRADES AS SHOWN ON THIS PLOT PLAN.

NOTE: SETBACKS AS SHOWN ON THIS PLOT PLAN WERE OBTAINED FROM THE MUNICIPALITY. IT IS THE RESPONSIBILITY OF THE CLIENT TO INSURE THAT THIS INFORMATION IS CORRECT. SINCE DEED RESTRICTIONS ARE NOT SUPPLIED BY THE MUNICIPALITY, THE CLIENT MUST INFORM THIS OFFICE OF ANY SPECIAL RESTRICTIONS WHICH MAY AFFECT THIS PLOT PLAN.

NOTE: FENN AND ASSOCIATES ASSUMES NO RESPONSIBILITY FOR GIVEN HOUSE DIMENSIONS. CLIENT MUST VERIFY ALL DIMENSIONS PRIOR TO CONSTRUCTION.

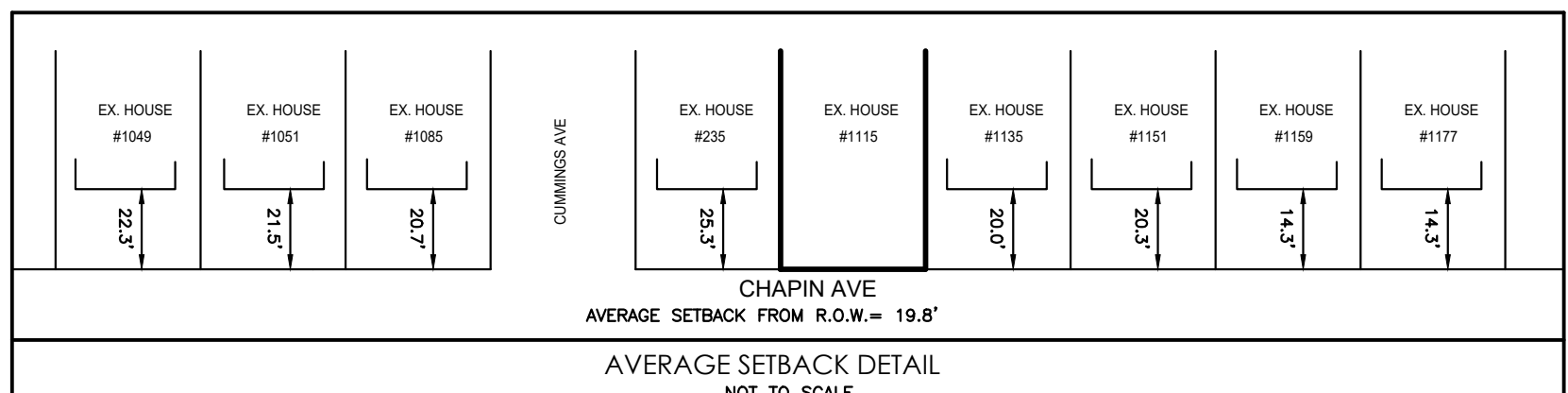
NOTE: THIS DRAWING IS NOT INTENDED OR REPRESENTED TO BE A LAND OR PROPERTY LINE SURVEY. THIS DRAWING IS NOT TO BE USED FOR THE ESTABLISHMENT OF ANY PROPERTY LINES OR OTHER IMPROVEMENTS.

NOTE: ACTUAL AS-BUILT LEAD LOCATIONS MUST BE OBTAINED FROM THE CITY/TOWNSHIP.

NOTE: PROPOSED HOUSE HAS PROPOSED DROP BRICK LEDGE.

LEGEND

- SECTION CORNER
 - FOUND IRON, MON., NAIL
 - SET IRON
 - RECORDED
 - MEASURED
 - CALCULATED
- EXISTING DESCRIPTION**
- U.P. = UTILITY POLE
 - E. OF WOODS
 - B. OF BERM
 - T. OF BERM
 - E. OF ASPHALT
 - E. OF CONCRETE
 - CORRUGATED METAL PIPE INVERT
 - TOP OF WALL
 - BOTTOM OF WALL
 - EDGE OF WATER
 - BUILDING CORNER/FINISHED GRADE
 - MARKER
 - WATER SHUT OFF
 - CENTERLINE
 - SAN. MH
 - CATCH BASIN BEEHIVE
 - TOP OF CURB
 - STORM MANHOLE
 - TOP OF BANK
 - BOTTOM OF BANK
 - CENTERLINE
 - CATCH BASIN SQUARE
 - LIGHT POLE
 - GATE VALVE/WELL
- PROPOSED GRADE**
- PROPOSED GRADE
 - EXISTING GRADE
 - PLAN PROPOSED GRADE NO LONGER APPLICABLE
 - C.B. FILTER
 - SILT FENCE
 - DOWNSPOUT



AVERAGE SETBACK DETAIL
NOT TO SCALE

Property Description
T2N, R10E, SEC 36 LINBACH-HUMPHREY'S WOODWARD AVE SUB LOT 1127
CITY BENCHMARK #22: BRASS DISC LOCATED AT THE NW CORNER OF CUMMINGS AND DAVIS, ELEV.: 748.568 (CITY DATUM)
SITE BENCHMARK: RIM ON SANITARY MANHOLE, ELEVATION: 750.26 (CITY DATUM)

ADDRESS: 1115 CHAPIN AVE
PID: 19-36-431-005

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REVISIONS

DATE: 4/17/23	CHECKED: J.S.R., P.E.	SHEET SIZE: 24 x 36	DRAWN BY: R.PERRI
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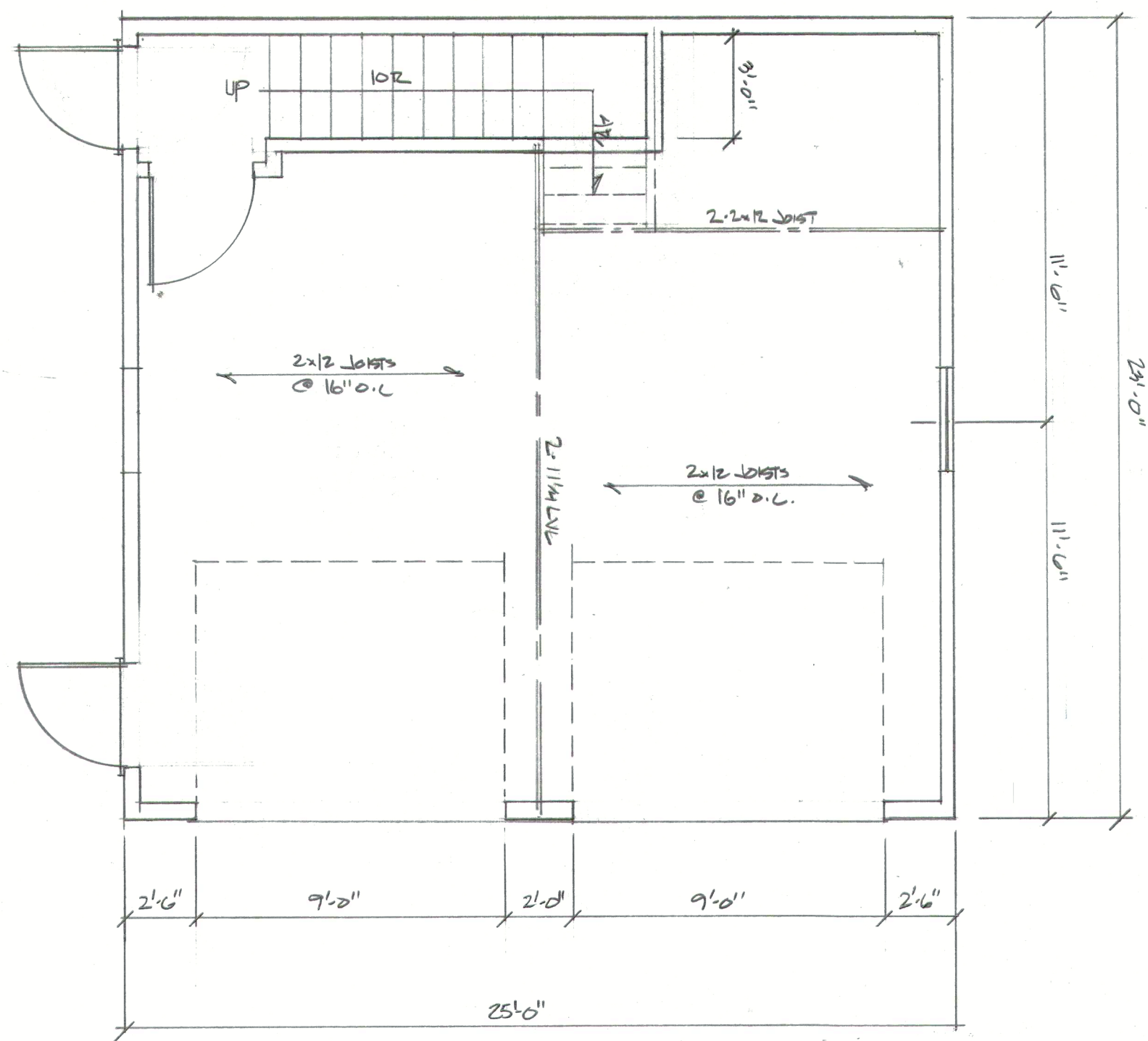
TOPO-GARAGE PLAN UPON 1115 CHAPIN AVE
PART OF SECTION 38, T2N, R10E
CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN

CLIENT: FRANK COLASONTI, JR & JIM RYDER
DRAWING NUMBER: 23-00139.01

Fenn & Associates, Inc.
Land Surveying and Civil Engineering
14933 Commercial Drive, Shelby Township, MI 48315
Phone: 586-254-9577 Fax: 586-254-9020 www.fennsurveying.com

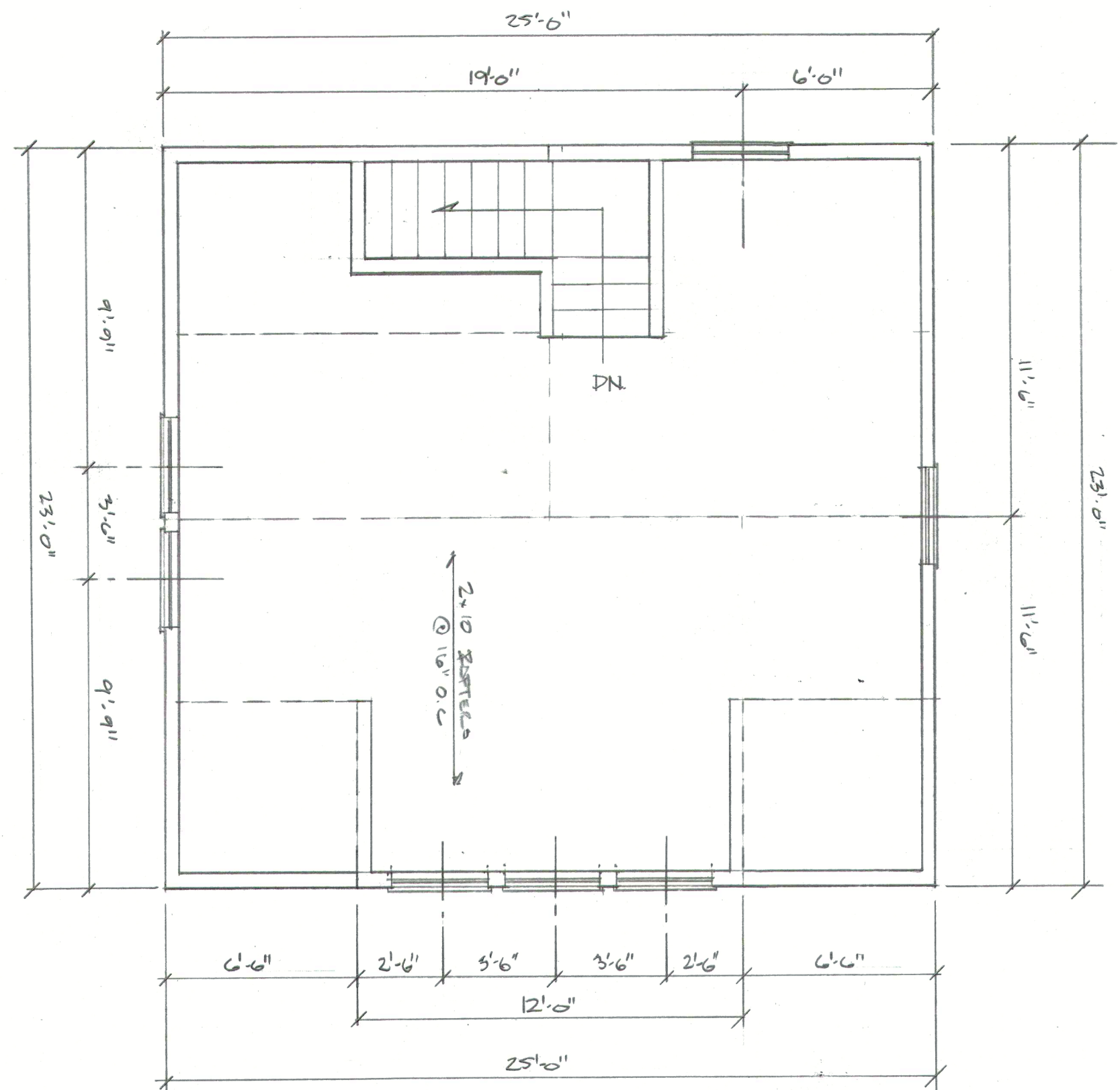


CALL MISS DIG
72 HOURS (3 WORKING DAYS - EXCLUDING SAT., SUN., & HOLIDAYS)
CALL MISS DIG
1-800-482-7171
OR
811
(TOLL FREE) FOR THE LOCATION OF UNDER GROUND FACILITIES



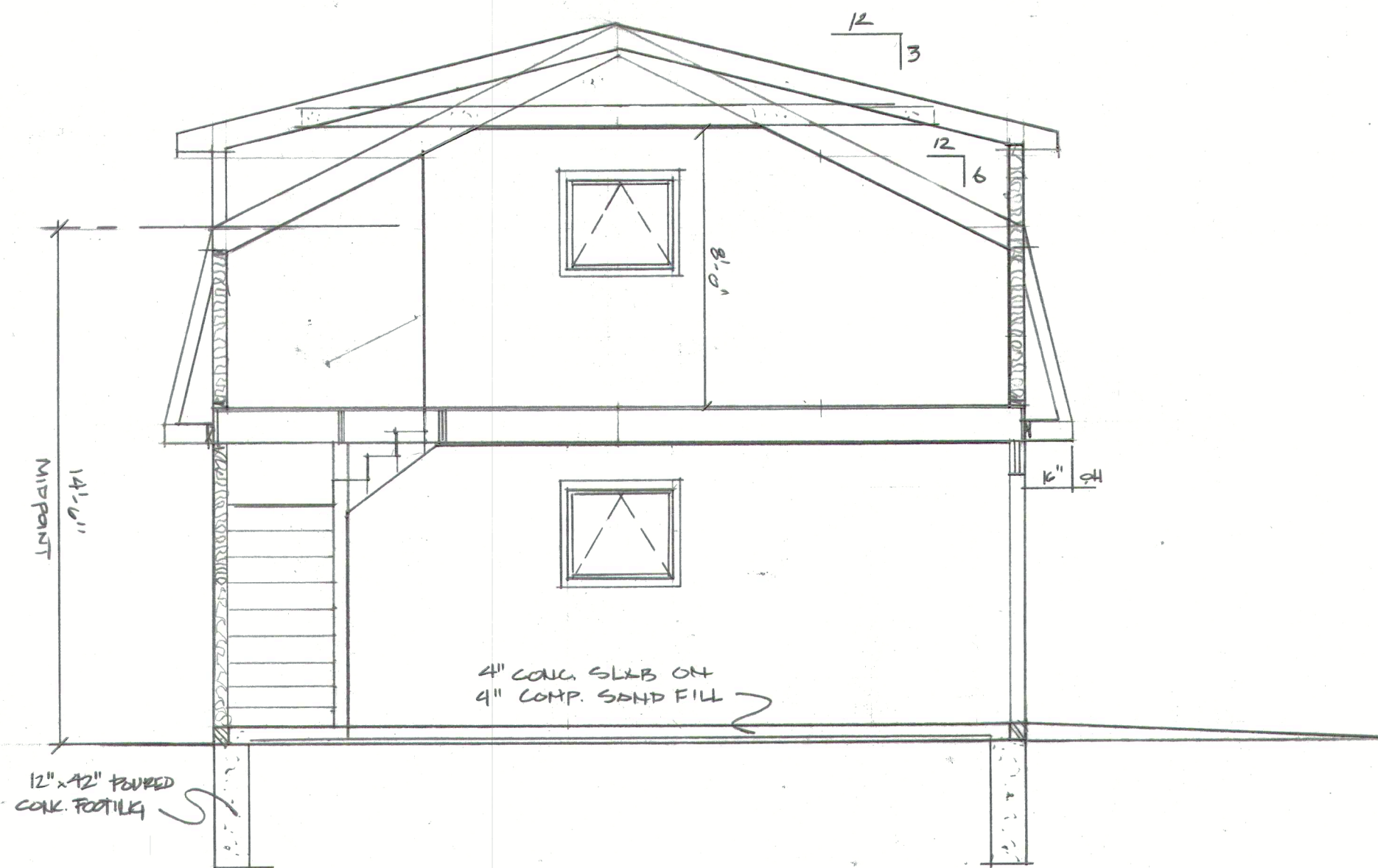
GARAGE LEVEL

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



ATTIC LEVEL

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



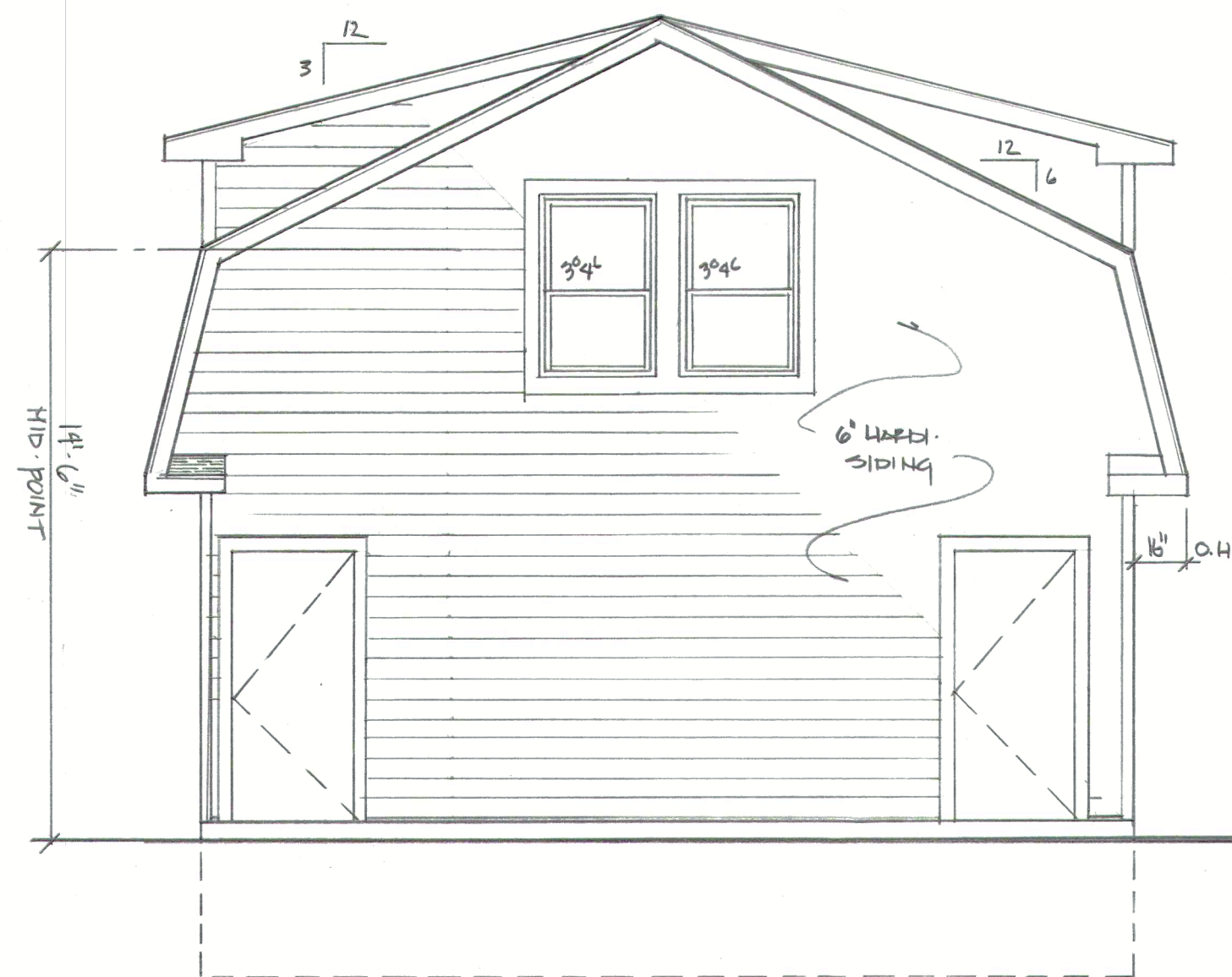
SECTION

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



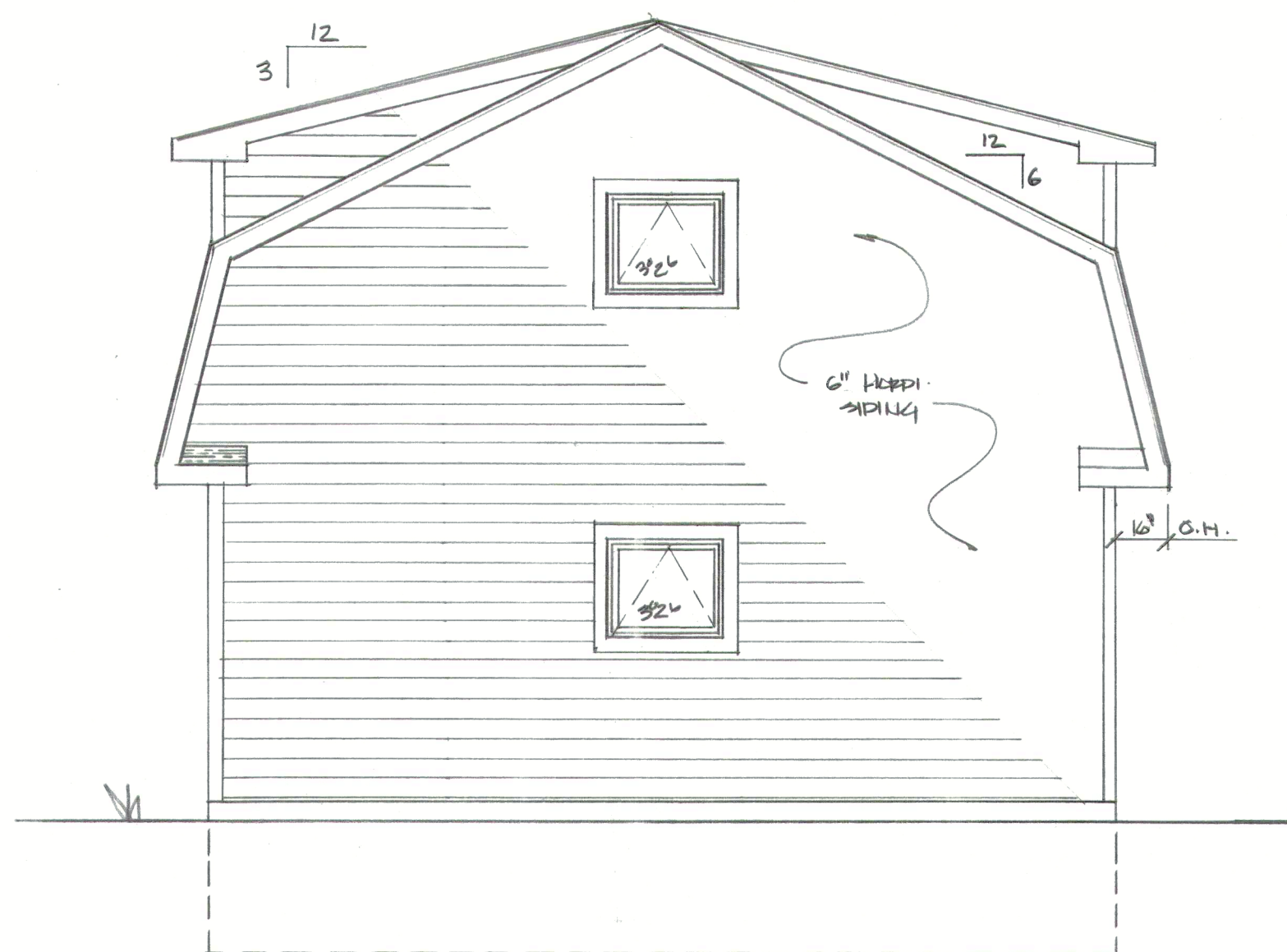
FRONT ELEVATION

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



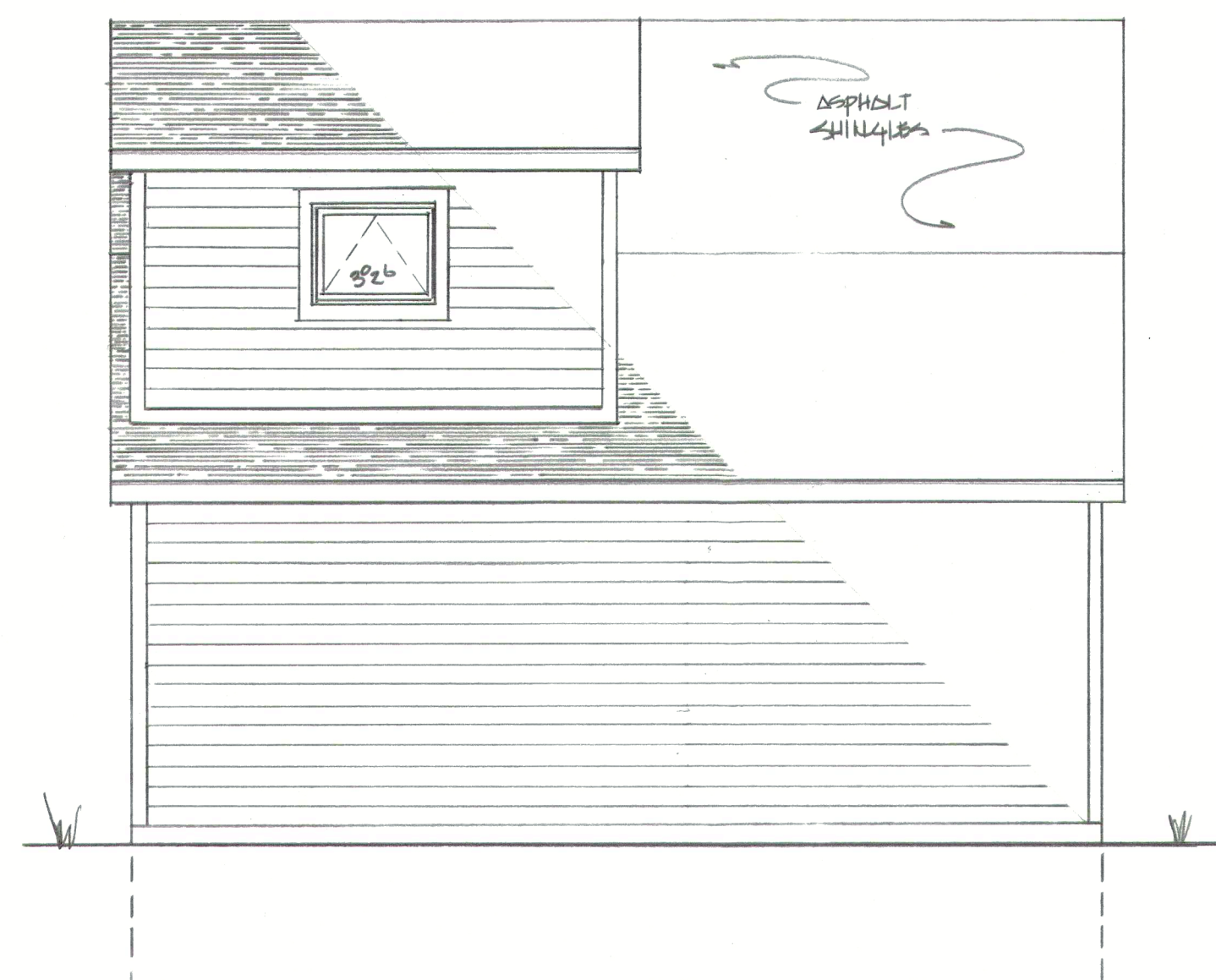
LEFT-SIDE ELEVATION

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



RIGHT-SIDE ELEVATION

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



REAR ELEVATION

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

Mr. Koseck stated he would be comfortable with granting a variance only if he was confident that there isn't an existing parking problem. He proposed postponing this Appeal for a month so that he could drive by the site for a while to observe the area's parking situation. He assured Mr. DeWitt he would take into consideration the construction going on at Market Square.

Mr. Lillie explained to Mr. DeWitt that he can either adjourn to date so that the Board members can drive by the site and observe the parking situation, or the Board can act on his Appeal this evening. Mr. DeWitt opted for an adjournment.

Motion by Ms. Richie

Seconded by Mr. Koseck that Appeal 91-60 be postponed until the next regularly-scheduled meeting in January.

Yeas: Mr. Lillie, Ms. Richie, Messrs. Gibbs, Williams,
 Conlin and Koseck.

Nays: None
Motion passes to adjourn to date.

Appeal 91-62

Mr. Frank Colasonti, Jr., owner of the property known as 1115 Chapin, is requesting variances in order to add a covered porch and addition to his existing residence.

Section 5.163, Chapter 39, Birmingham City Code, requires the side yard setback to be a minimum of 5' with 3.6' proposed or a variance of 1.4' required.

Section 5.163, Chapter 39, Birmingham City Code, requires the front setback to be 25' with 13.8' proposed or a variance of 11.2' required.

Section 5.223(1), Chapter 39, Birmingham City Code, allows steps to project 15' in the required front yard with 10.8' proposed or a variance of 4.2' required.

Section 5.182, Chapter 39, Birmingham City Code, requires the minimum distance between buildings on adjoining property to be 9' with 7.6' proposed or a variance of 1.4' required.

Mr. Murphy explained there are two areas involved; one is an addition to the front and one to the back. There is a covered porch which the petitioner would like to widen and also add some steps out front.

The petitioner is extending the existing plane on the west side of the house, front and back.

Mr. Colasonti explained he is proposing a modest addition to the rear and is trying to keep the integrity of the house; it is a 1921 cottage. There are porch steps currently and the new steps would not extend any further beyond the current ones. The only way the petitioner is elevating the front elevation is by adding 5' to the east side of the porch and carrying it across the width of the front of the house. The depth of the addition on the back is 16' and 24' wide. A bathroom located at the back of the house is being removed.

Mr. Colasonti is proposing to make the home handicap accessible. He explained that he intends to care for his parents thus his plans. Also, there are people on the market who look for homes that are accessible to the handicap, and he would like his home to be one of them.

Mr. Conlin referenced the petition the Board received from residents in the area citing their opposition to any addition that does not comply with existing City codes. Mr. Colasonti explained this goes back about two or three years ago when there was a proposal by the City to have the first property on both sides of Woodward, which were zoned residential, re-zoned commercial. He, along with other neighbors, petitioned not to have it re-zoned but to keep it residential and eventually it was rezoned to become parking. So, Mr. Colasonti stated he has made efforts to preserve the neighborhood.

Mr. Williams queried the petitioner what would have to be added to make the house handicap accessible if this variance was granted. Mr. Colasonti responded a ramp would be added. Mr. Colasonti explained that in all likelihood, he would put the ramp behind the house.

Mr. Gibbs commented that it didn't look like the bathroom was being made handicap accessible; looks too small.

Motion by Mr. Conlin

Seconded by Mr. Williams, with reference to Appeal 91-62, to grant the side yard variance of 1.4'; move to grant the front setback variance of 11.2'; move to allow the steps to have the variance of 4.2'; and, I would move to allow the variance of 1.4' between the buildings. The petitioner has demonstrated this is an existing cottage that was probably built along with echo city back when it was established on a 40' lot. The petitioner is not proposing to add any height or width to the existing footprint of the house other than the front porch area. The purpose of the front porch rebuilding, renovation seems to be purely aesthetic without encroaching into the space. The variance for the stairs and the porch are not any more of an encroachment than what exists--or it has been represented that they are not. The distance between buildings is not any greater than what exists at the present time, and the side yard is a result of the extension of a 16' addition to the rear of the home. Because of the type of home that it is, the increase in volume would enhance the useability in contemporary times and allow for more viable space. The variance would not do a substantial injustice to adjoining property owners. The adjoining property owners have enclosed a petition against it but have not either demonstrated or commented as to what particular variance they are opposed to or why. The conditions are due to unique existing circumstances that relate to the age of the home and to the size of the lot. I tie the Motion to the representations that are presented to us tonight, particularly with regard to the page that shows the front setbacks in relation to the other homes and the footprint of the home demonstrating a 16 x 24 foot addition to the rear; the two 5' additions to the side of the porch and which pretty much depicts all the variances to allow the Building Department to ensure that nothing will exceed that.

Mr. Williams stated the drawing shows three steps. Mr. Colasonti stated there will be two steps and then the porch. Mr. Murphy stated he figured a 12" tread under the dimension of the proposed step.

Yeas: Messrs. Conlin, Koseck and Lillie, Ms. Richie,
 Messrs. Gibbs and Williams.

Nays: None

Motion passes to grant the variances.

Mr. Williams commented that the neighbors objecting might have assumed there would be many variations from the way this was advertised, not realizing the petitioner was going to conform.

- Regardless of the purpose of the ordinance, the BZA would need to hear why the ordinance could not be adhered to.

Motion by Mr. Reddy

Seconded by Mr. Kona with regard to Appeal 23-25, Chapter 126, Article 4, Section 4.03(D) of the Zoning Ordinance requires that a swimming pool shall not be closer than 10.00 feet to the principal building located on the same lot. The proposed is 8.00 feet. Therefore, a variance of 2.00 feet is being requested.

Mr. Miller moved to deny the variance. He said that while he originally thought the location of the pool was limited by the power lines, since that was not ultimately the case, the request seemed to be self-created. He stated that the request was not due to unique circumstances of the property, and that adhering to the ordinance in this case would not be unnecessarily burdensome.

Mr. Reddy concurred with Mr. Miller.

The Chair supported the motion. He said there were a number of options available for mitigating the ordinance.

Motion carried, 6-0.

ROLL CALL VOTE

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

Nays: None

T# 08-37-23

**6) 1115 Chapin
Appeal 23-26**

ABO Zielke presented the item, explaining that the owner of the property known as 1115 Chapin was requesting the following variances to construct a new detached garage:

- A. Chapter 126, Article 2, Section 2.10.1** of the Zoning Ordinance limits the lot coverage to a maximum of 30% of the lot. The required 30% is 1440.00 SF. The proposed is 32.95% (1581.90 SF). Therefore, a variance of 2.95% (141.90 SF) is being requested.
- B. Chapter 126, Article 4, Section 4.03(G)(1)(C)** of the Zoning Ordinance requires that the minimum building height on an accessory structure in the R3 zoning shall not exceed 14.50 feet to the mid-point. The proposed is 15.25 feet. Therefore, a variance of 0.75 feet is being requested.

Staff answered informational questions from the Board.

Frank Colasanti Jr., co-owner, 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. Colasanti explained that the appellants were advised that the structure could accommodate two vehicles, especially since one of the vehicles was smaller.

Board comments were as follows:

- The lot is limited by its size and the ordinances, and the BZA's decision could not be impacted by the amount of storage desired by the appellant;
- Since most or all of the structure would be used for storage, the width could be reduced by two feet in order to mitigate the need for a variance;
- A different style roof may change where the peak would be measured from. Reducing the width of the garage would also lower where the peak would be measured from; and,
- It would be difficult for the garage to accommodate two vehicles given the stairs.

Motion by Mr. Reddy

Seconded by Mr. Miller with regard to Appeal 23-26, Chapter 126, Article 2, Section 2.10.1 of the Zoning Ordinance limits the lot coverage to a maximum of 30% of the lot. The required 30% is 1440.00 SF. The proposed is 32.95% (1581.90 SF). Therefore, a variance of 2.95% (141.90 SF) is being requested; and, Chapter 126, Article 4, Section 4.03(G)(1)(C) of the Zoning Ordinance requires that the minimum building height on an accessory structure in the R3 zoning shall not exceed 14.50 feet to the mid-point. The proposed is 15.25 feet. Therefore, a variance of 0.75 feet is being requested.

Mr. Reddy moved to deny the variances. He said slight modifications to the design would minimize or eliminate the requested variances. He noted that the modifications might also benefit the appellant.

Mr. Hart said there was hardship faced by the appellant in terms of the size of the garage. He said the appellant also tried to mitigate the extent of the variance. He said the garage could not be much smaller, and therefore represented a reasonable request. He said he would not support the motion.

Motion carried, 5-1.

ROLL CALL VOTE

Yeas: Lilley, Morganroth, Miller, Reddy, Kona

Nays: Hart

6. Correspondence

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

8. Adjournment

No further business being evident, the Board motioned to adjourn at 9:44 p.m.



Bruce R. Johnson, Building Official



Laura Eichenhorn, City Transcriptionist

**Birmingham Board Of Zoning Appeals Proceedings
Tuesday, October 10, 2023
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, October 10, 2023. Chair Morganroth convened the meeting at 7:30 p.m.

2. Rollcall

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

Absent: Board Member Kevin Hart

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

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

3. Announcements

Announcements can be found in the evening's agenda packet.

4. Approval Of The Minutes Of The BZA Meetings Of September 12, 2023

T# 10-45-23

Motion by Mr. Lilley

Seconded by Mr. Reddy to approve the minutes of the BZA meeting of September 12, 2023 as submitted.

Motion carried, 6-0.

VOICE VOTE

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

Nays: None

5. Appeals

T# 10-46-23

**1) 680 Fairfax
Appeal 23-27**

ABO Zielke presented the item, explaining that the owner of the property known as 680 Fairfax was requesting the following variance to replace the existing pool deck and patio:

A. Chapter 126, Article 2, Section 2.06.1 of the Zoning Ordinance requires that the minimum open space required is 40% (4705.00 SF). The existing is 30.29% (3562.43 SF). The proposed is 33.05% (3888.53 SF). Therefore, a variance of 6.95% (816.47 SF) is being requested.

Staff answered informational questions from the Board.

Todd Grabel, owner, reviewed the letter describing why this variance was being sought and answered informational questions from the Board. The letter was included in the evening's agenda packet.

The Board's discussion included the following topics:

- When the minimum open space of a lot was not met, wanting additional surface around an existing pool beyond functional surface did not inherently constitute a practical difficulty;
- Budgetary difficulties could not be used to constitute a practical difficulty;
- There was additional surface around the north side of the pool that could be eliminated to mitigate the variance request; and,
- The lack of dimensions on the plans made the review challenging.

Motion by Mr. Miller

Seconded by Mr. Kona with regard to Appeal 23-27, A. Chapter 126, Article 2, Section 2.06.1 of the Zoning Ordinance requires that the minimum open space required is 40% (4705.00 SF). The existing is 30.29% (3562.43 SF). The proposed is 33.05% (3888.53 SF). Therefore, a variance of 6.95% (816.47 SF) is being requested.

Mr. Miller said this appeal was challenging because it was beneficial that the appellant was mitigating a pre-existing non-conforming condition. He noted that without dimensions it was difficult to determine whether the mitigation could be increased. He added that some mitigation on the driveway could also likely occur to increase the open space of the lot, and that not doing so involved self-creation. He said those two aspects informed the fact that he was moving to deny the appeal.

Mr. Yaldo noted that mitigation had occurred, and that it was difficult to know whether more could be done because of the lack of dimensions on the plans. He noted that the plan to replace the dilapidated structure on the lot would be beneficial.

The Chair noted a few aspects of the plan for the rear yard that could likely yield further open space if changed. He explained that since the Board has to make these decisions for many lots in the City it was important to be consistent in the evaluations. He echoed the fact that the lack of dimensions on the plans made it more difficult to determine whether more mitigation could occur. He noted that the extensive pre-existing non-conforming lot coverage made it difficult to permit further lot coverage. He added that since the area around the pool would be completely repoured starting from a blank slate, that would allow for ways of reducing the variance request.

Mr. Kona echoed his colleagues' statements that the lack of dimensions was a challenge, and added that the lack of topography also made evaluation more difficult. He said he appreciated the proposed mitigation, but that the information provided was not sufficient to indicate that more mitigation could not occur.

Motion carried, 6-0.

ROLL CALL VOTE

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

Nays: None

T# 10-47-23

**2) 1395 Northlawn
Appeal 23-33**

BO Johnson presented the item, explaining that the owner of the property known as 1395 Northlawn was requesting the following variance for a house currently under construction:

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 15.50 feet. The proposed is 14.59 feet on the east side. Therefore, a variance of 0.91 feet is requested.

Ben Templeton, builder, reviewed the letter describing why this variance was being sought and answered informational questions from the Board. The letter was included in the evening's agenda packet.

Public Comment

In reply to Anurag Newatia, the Chair recommended that Mr. Newatia meet with the builder for 1395 Northlawn.

Motion by Mr. Reddy

Seconded by Mr. Lilley with regard to Appeal 23-33, 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 15.50 feet. The proposed is 14.59 feet on the east side. Therefore, a variance of 0.91 feet is requested.

Mr. Reddy moved to grant the variance and tied approval to the plans as submitted. He stated that unusual circumstances existed in this appeal including the City's prior, mistaken approval and the shape of the lot. He said that denying the variance would be substantially unjust.

The Chair noted that the Board was separate from the City administration, and that the Board should not approve a variance solely because the City made an error. While that was the case, he explained that in evaluating this particular appeal, it was clear this property was unique, that a narrow house on a narrow lot was being proposed, and that a practical difficulty was established. He noted that the plans met all the ordinances necessary to be on the lot and that since it neighbored a country club, it would not impact the neighbor.

Motion carried, 6-0.

ROLL CALL VOTE

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

Nays: None

T# 10-48-23

**3) 1195 Chapin
Appeal 23-34**

ABO Zielke presented the item, explaining that the owner of the property known as 1115 Chapin was requesting the following variance to construct a detached garage:

A. Chapter 126, Article 2, Section 2.10.1 of the Zoning Ordinance limits the lot coverage to a maximum of 30% of the lot. The required 30% is 1440.00 SF. The proposed is 32.95% (1581.90 SF). Therefore, a variance of 2.95% (141.90 SF) is being requested.

Frank Colosanti, Jr., owner, reviewed the letter describing why this variance was being sought and answered informational questions from the Board. The letter was included in the evening's agenda packet.

The Board's discussion included the following topics:

- A 20x20 ft. garage would be functional for two vehicles, although small;
- The appellant was very close to not needing a variance;
- In the Board's history, many garages have been reduced to their minimum usable and feasible size, which would be smaller than the present request; and,
- There would be a smaller garage that could work for the appellant and would not need a variance.

Motion by Mr. Miller

Seconded by Mr. Kona with regard to Appeal 23-34, A. Chapter 126, Article 2, Section 2.10.1 of the Zoning Ordinance limits the lot coverage to a maximum of 30% of the

lot. The required 30% is 1440.00 SF. The proposed is 32.95% (1581.90 SF). Therefore, a variance of 2.95% (141.90 SF) is being requested.

Mr. Miller moved to deny the appeal. He noted that the ordinance would not preclude a smaller garage than proposed from being built. He said the matter was self-created, and that approval would set a difficult precedent for similar appeals in the future.

Motion carried, 6-0.

ROLL CALL VOTE

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

Nays: None

T# 10-49-23

**4) 321 Lake Park
Appeal 23-35**

ABO Zielke presented the item, explaining that the owner of the property known as 321 Lake Park was requesting the following variance to construct a circle driveway in the front open space:

A. Chapter 126, Article 4, Section 4.31(A)1 of the Zoning Ordinance requires that The minimum open space of 65% of the front open space in all single-family Districts shall be free of paved surfaces. The required is 2749.50 SF. The proposed is 54% (2283.00 SF). Therefore, a variance of 11% (466.50 SF) is being requested.

Staff answered informational questions from the Board.

Fritz Carlson, owner, reviewed the letter describing why this variance was being sought and answered informational questions from the Board. The letter was included in the evening's agenda packet.

The Board's discussion included the following topics:

- There would be ways that this variance request could be mitigated, even to the extent of not requiring a variance;
- The appellant did not describe a practical difficulty during his presentation; and,
- While the design of the driveway was aesthetically pleasing, it did not comply with the ordinance.

Motion by Mr. Reddy

Seconded by Mr. Kona with regard to Appeal 23-35, A. Chapter 126, Article 4, Section 4.31(A)1 of the Zoning Ordinance requires that The minimum open space of 65% of the front open space in all single-family Districts shall be free of paved surfaces. The required is 2749.50 SF. The proposed is 54% (2283.00 SF). Therefore, a variance of 11% (466.50 SF) is being requested.

Mr. Reddy moved to deny the appeal. He reiterated that the extent of the variance could be mitigated or eliminated entirely without impacting the design concept. He noted that a u-shaped driveway was also not necessary for the house to function.

Motion carried, 6-0.

ROLL CALL VOTE

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

Nays: None

T# 10-50-23

**5) 604 Hanna
Appeal 23-36**

ABO Zielke presented the item, explaining that the owner of the property known as 604 Hanna was requesting the following variance to construct an attached pergola:

A. Chapter 126, Article 2, Section 2.08.1 of the Zoning Ordinance limits the lot coverage to a maximum of 30% of the lot. The required 30% is 11963.50 SF. The existing is 29.29% (1917.10 SF). The proposed is 32.38% (2119.40 SF). Therefore, a variance of 2.38% (155.90 SF) is being requested.

Staff answered informational questions from the Board.

Matt DeLapp of Singh Homes reviewed the letter describing why this variance was being sought and answered informational questions from the Board. The letter was included in the evening's agenda packet.

The Board noted that, as stated during Appeal 23-36, the Board does not automatically grant variances in cases where the City may have made an approval in error.

Motion by Mr. Miller

Seconded by Mr. Reddy with regard to Appeal 23-36, A. Chapter 126, Article 2, Section 2.08.1 of the Zoning Ordinance limits the lot coverage to a maximum of 30% of the lot. The required 30% is 11963.50 SF. The existing is 29.29% (1917.10 SF). The proposed is 32.38% (2119.40 SF). Therefore, a variance of 2.38% (155.90 SF) is being requested.

Mr. Miller moved to deny the appeal. He noted that while the pergola had received a erroneous approval on the initial plans, the Board was not bound to grant variances based on erroneous approvals. He noted that the Board had even required inappropriately built pergolas to be torn down in the past. He stated that the matter was self-created since it did not stem from a condition of the property itself. He explained that while a pergola would be a nice amenity, its absence would not limit the use of the property. He said the Board had not been presented with a reason to approve the variance request.

The Chair voiced support for motion. He noted that while many people would likely appreciate a pergola, many would also not be able to build one due to lot coverage constraints. He noted that if residents thought the ordinance should be changed, they could raise the issue with the City Commission.

Motion carried, 6-0.

ROLL CALL VOTE

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

Nays: None

T# 10-51-23

**6) 660 Mohegan
Appeal 23-37**

ABO Zielke presented the item, explaining that the owner of the property known as 660 Mohegan was requesting the following variance to construct an addition to square the rear corner of the home:

A. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires a minimum rear yard setback of 30.00 feet. The proposed is 28.34 feet. Therefore, a variance of 1.66 feet is being requested.

Staff answered informational questions from the Board.

Glenn DesRosiers, owner, reviewed the letter describing why this variance was being sought and answered informational questions from the Board. The letter was included in the evening's agenda packet.

The Board's discussion included the following topics:

- Even with the requested variance, the southwest corner of the garage would be smaller than a standard garage;
- The design of the home was intentional. The lot was a unique shape, and the home filled the building envelope;
- As a result, there were not many options regarding the garage, since the house was designed to maximize its footprint on the lot;
- The request seemed minimal and reasonable given that the garage would not fit a car and that the appellant was permitted to have a garage;
- The southwest portion of the garage could have been intended as a storage area; and,
- The Board would have to consider setting a potential precedent if this variance were to be approved.

Motion by Mr. Yaldo

Seconded by Mr. Lilley with regard to Appeal 23-37, A. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires a minimum rear yard setback of 30.00 feet. The proposed is 28.34 feet. Therefore, a variance of 1.66 feet is being requested.

Mr. Yaldo moved to approve the variance and tied approval to the plans as submitted. He said that while concerns were raised about setting a precedent, the unique structure of the house made that unlikely. He commented that the request was minimal in light of the desire to have a functional three car garage.

Mr. Reddy voiced support for the motion. He acknowledged the concerns regarding precedent, and continued that each variance request was evaluated on its own merits. He said the lot was very unique and that the request was minimal.

Mr. Miller said that while he was somewhat conflicted about precedent, he would ultimately support the motion as well. He noted that the unique layout of the house would not likely be similar to any other variance request, that there would be a minimal intrusion into the backyard setback, and that the variance would not have a negative impact on the neighbors.

The Chair said the original designer of the home focused on designing a unique home while staying within all the setbacks required by the City. He said that to take a conforming home and to create a variance in this case would contradict the charge of the Board. Consequently, the Chair said he would not support the motion.

Motion carried, 4-2.

ROLL CALL VOTE

Yeas: Lilley, Miller, Yaldo, Reddy

Nays: Morganroth, Kona

- 6. Correspondence**
- 7. Open To The Public For Matters Not On The Agenda**
- 8. Adjournment**

No further business being evident, the Board motioned to adjourn at 9:50 p.m.

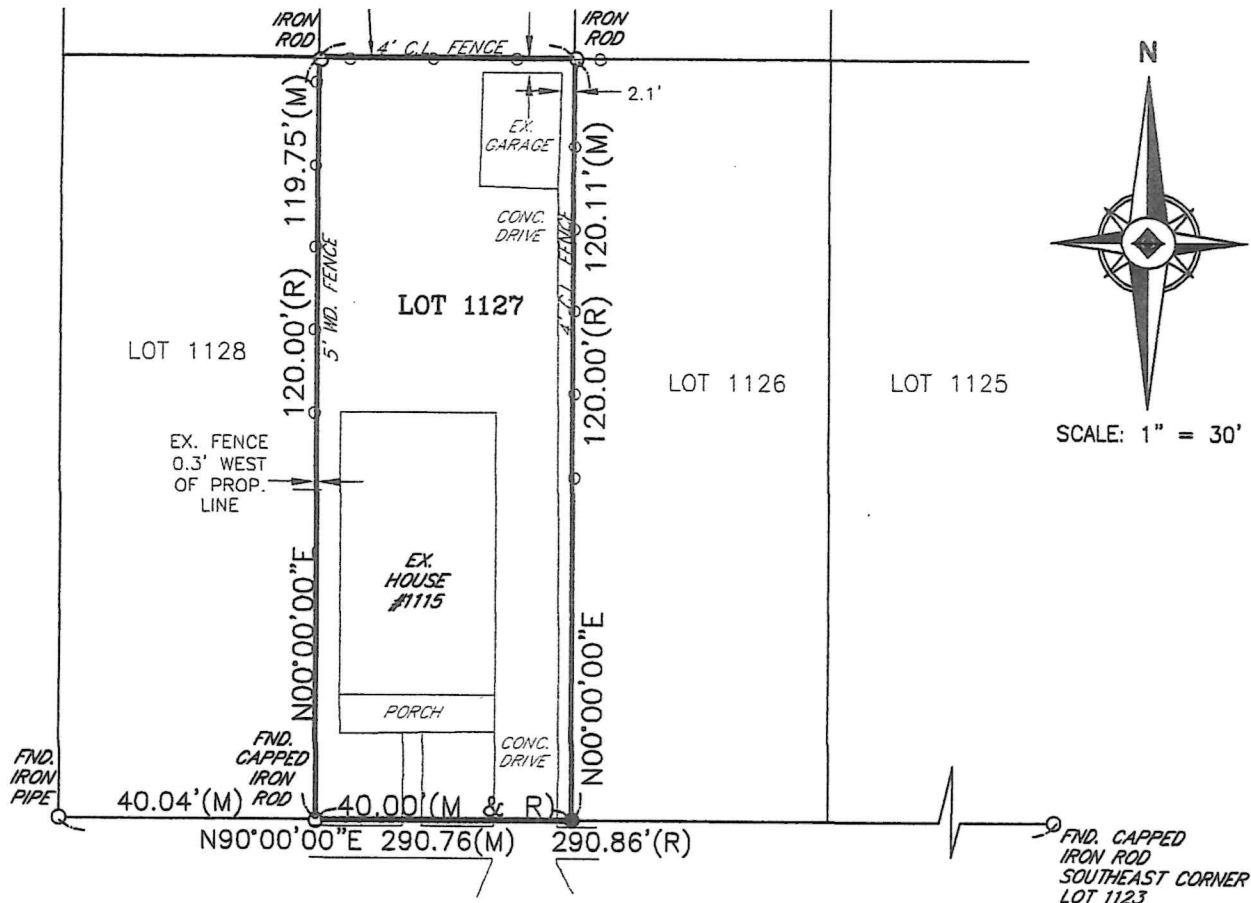


Bruce R. Johnson, Building Official



Laura Eichenhorn, City Transcriptionist

CUMMINGS ST. NORTH



CHAPIN AVE. 50' WIDE

LEGEND

- (M) MEASURED
- (R) RECORDED
- SET IRON
- FOUND IRON

PROPERTY DESCRIPTION:

PARCEL I.D. NO. 19-36-431-005, 1115 CHAPIN AVE.

LOT 1127, "LEINBACH-HUMPHREY'S WOODWARD AVENUE SUBDIVISION", PART OF THE SOUTHEAST 1/4 OF SECTION 36, T. 2N., R. 10E., CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN, AS RECORDED IN LIBER 27, PAGE 5, OAKLAND COUNTY RECORDS.

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I HAVE SURVEYED AND MAPPED THE LAND ABOVE PLATTED AND/OR DESCRIBED ON 8/14/2010 AND THAT THE RATIO OF CLOSURE ON THE UNADJUSTED FIELD OBSERVATIONS OF SUCH SURVEY WAS LESS THAN 1/5000.

PAUL W. KINNUNEN, P.S. #48781

**METROPOLITAN
LAND
CONSULTANTS INC.**

37537 SCHOOLCRAFT
LIVONIA, MI 48150
TEL#: 734-464-0822
FAX#: 734-464-0875

DRAWN BY: JDS	SCALE: 1" = 30'
JOB#: 10-035	DATE: 08/16/10
CLIENT: FRANK COLASONTI JR. 1115 CHAPIN BIRMINGHAM, MI	

REV: 9/21/2010

DWG. NO.
1 OF 1





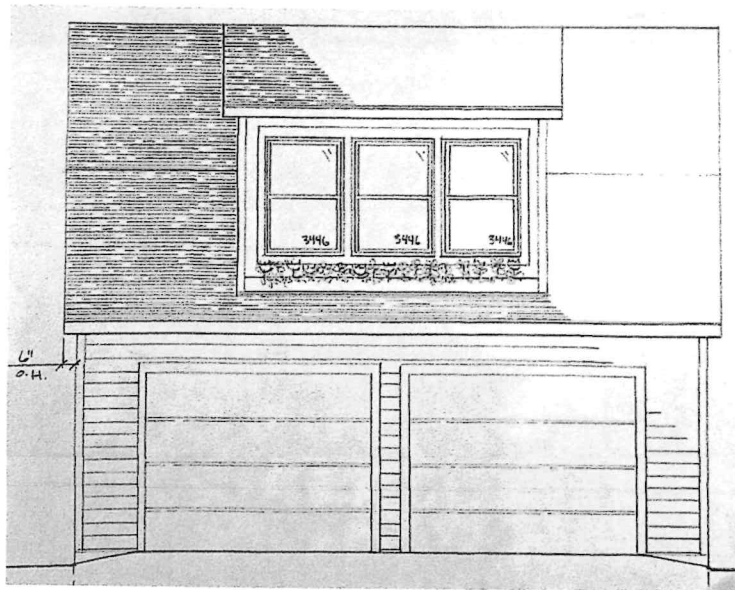
We, the neighbors of Jim and Frank, support Jim and Frank's Request for Approval by the Birmingham Board of Zoning Appeals of their two variances for their proposed garage:

1. An Increase of Lot Coverage from 30% to 32.95%

2. An Increase in Height from 14.5' to 15.25'

Thank you!

1. Ashley Byron 1112 Bennaville 248-416-2252
2. David Weissman 1128 Chapin 248-633-5411
3. Gary Cromie 1144 Chapin 248-645-1709
4. Holly Weber 1128 Chapin 248-797-7243
5. Roz Nessel 1192 Chapin 248-504-9393
6. Elaine Cromie 1144 Chapin 248-645-1709
7. D. R. 1186 Chapin Ave 248-207-5953
8. Bencha 1103 Chapin Ave 248-978-9891

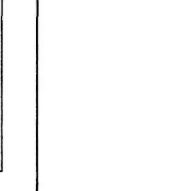
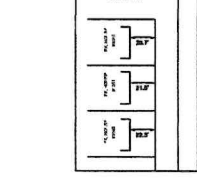
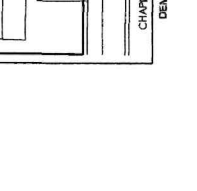
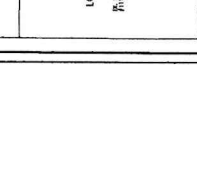
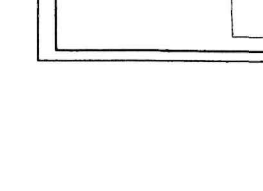


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1. An Increase of Lot Coverage from 30% to 32.95%
2. An Increase in Height from 14.5' to 15.25'

Thank you!

1. Frank Bunker
2. Pat & Helen 1151 Chippin
Karen & Helen
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____



APPROVED 5/13/03

**BIRMINGHAM BOARD OF ZONING APPEALS PROCEEDINGS
TUESDAY, APRIL 8, 2003**

Minutes of the regular meeting of the City of Birmingham Board of Zoning Appeals ("BZA") held on April 8, 2003. Chairman Kingsley Cotton convened the meeting at 8:08 p.m.

Present: Chairman Kingsley Cotton; Board Members David Conlin, Charles Lillie, Enid Livingston, Peter Lyon, Ken Stamps

Absent: Board Members Thomas Hughes, Randolph Judd, Bert Koseck

Administration: Mary Ferrario, Building Official
Kelly Mathews, City Planner
C. James Sabo, City Planner
Carole Salutes, Secretary
Scott Worthington, Building Inspector

Chairman Cotton welcomed everyone and explained the BZA procedure to the audience. Additionally, he noted that the members of the Zoning Board are appointed by the City Commission and are volunteers. They 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 a land use variance requires five affirmative votes. There are no land use variances before the board this evening. Also, appeals are heard by the board as far as interpretations or rulings. There is one ruling called for this evening. Four affirmative votes are required to reverse an interpretation or ruling.

04-30-03

Approval of the Minutes of March 11, 2003

Mr. Lillie:

Page 11 - Add "Lyon" to the yeas vote

Ms. Livingston:

Page 10 - Insert "not" before "presented" in the second line of the motion.

Motion by Mr. Lillie

Seconded by Ms. Livingston that the Minutes of March 11 be approved as modified.

Motion carried, 6-0.

Yeas: Lillie, Livingston, Conlin, Cotton, Stamps, Lyon

Nays: None

Absent: Hughes, Judd, Koseck

04-31-03

1106 BENNAVILLE (continued from February 11 and March 11, 2003)
(Appeal 02-121)

The owners of the property known as 1106 Bennaville request the following variance for lot coverage:

- A. Section 126-446 allows a maximum lot coverage of 30 percent of 1,439.7 sq. ft. with 22.7 percent or 1,088 sq. ft. existing and 31.07% or 1,488 sq. ft. proposed; therefore, a variance of 1.07 percent or 48.3 sq. ft. is requested.

This property is zoned R-3 Residential.

Ms Ferrario recalled this appellant was before the board last month. Even though the appellant reduced the variance from 1.67 percent to 1.07 percent and went down to a 20 ft. by 20 ft. garage at the last meeting, Mr. Lyon noticed that the eave was still quite tall. Additionally, Mr. Conlin wanted to know more about the bearing, and Mr. Koseck was concerned about the massing of the structure. A motion was made to table his appeal to this meeting when the appellant could come back with plans that are in line with comments that were made by the board members.

Mr. Lowe, the petitioner, has now come in with a 9 ft. by 12 ft. pitch on the garage roof. The overall height has been reduced to 19 ft. He has removed an additional 3 ft. from the garage and put in a pull-down interior stair for the storage on the second floor. The garage is located in the back corner of the lot.

Mr. Lowe described how he took out the second floor added attic trusses for storage. Mr. Lyon explained the board at the last meeting had suggested the appellant could make his garage less massive by reducing the average height, but still allowing the larger footprint.

No one from the audience wished to speak on this appeal at 8:21 p.m.

Motion by Mr. Conlin

Seconded by Mr. Stamps in reference to Appeal 02-121 to approve the variances requested. The petitioner has made a yeoman effort to demonstrate his cooperation in trying to reduce the building down to what a minimum footprint size would be for a basic two-car garage.

He would move that the variance be granted with plans as provided attached.
Motion carried, 6-0.

Yeas: Conlin, Stamps, Cotton, Lillie, Livingston, Lyon
Nays: None
Absent: Hughes, Judd, Koseck

04-32-03

369 E. MAPLE
(Appeal 03-10)

The owners of the property known as 369 E. Maple request the following review of an administrative decision:

A. Section 126-675 (1) allows for review of administrative decisions.

The petitioner is requesting a review of the Historic District and Design Review Commission ("HDDRC") decision of February 19, 2003, not to approve the design plan review.

This property is zoned B-4 Business Residential 126-396, D-4 Overlay Zoning District 126-447.

The property owner, Melvin M. Kaftan, is appealing the decision of the HDDRC to deny the exterior design for the renovation of 369 E. Maple on the basis of the height of the proposed building.

On October 8, 2002, the BZA reversed the Planning Board and approved the applicant's preliminary site plan for renovation of the property to a three-story building, including first-floor retail space and one residential unit.

The height of the approved three-story building is 49.7 ft. It is below the allowable building height in the D-4 Overlay district. The applicant appeared before the HDDRC on February 5, 2003

and again on February 19, 2003 with revised elevations which offered both a limestone building exterior and a brick exterior for the HDDRC's consideration. The HDDRC thereafter voted to deny the applicant's building on the basis of the building's height.

Support for Variance at 1115 Chapin - Garage

From: Bradley Thomasma (bradley@ert-group.com)

To: jzielke@bhamgov.org

Cc: james31@aol.com; homes@ert-group.com

Date: Tuesday, August 1, 2023 at 04:27 PM EDT

Hi Jeff,

This is Bradley Thomasma. I'm a builder and own/am building a new home at 1135 Chapin Ave., Birmingham, MI 48009. I support our neighbors', James Ryder and Frank Colasanti, Jr., requests for variances to build a new garage on 1115 Chapin Ave. Both requests are de minimus and neighbors will have difficult time constructing appropriately sized new garage under current zoning lot coverage and height restrictions given footprint of existing house.

Please save this letter in support for their hearing.

Thank you.

BRADLEY THOMASMA
LEGAL & OPERATIONS

P 248.880.2412 E BRADLEY@ERT-GROUP.COM



ERT-GROUP.COM

From: James Ryder <james31@aol.com>
Sent: Sunday, July 30, 2023 12:58 PM
To: Bradley Thomasma <bradley@ert-group.com>
Subject: Support for Variances

7.30.2023

Hello Bradley,

As you know, we are building a new two-car garage to replace the current dilapidated wooden, Model-T one-car garage. Also, as you know we are asking



Our Next Door Neighbor's Garage on West:

Ch 3. Retain Neighborhood Quality

Retain Housing Character

Retain Housing Character

The value of properties in Birmingham has risen such that the cost of purchasing and demolishing existing homes is viable. Some parts of the City have already been significantly rebuilt and the trend is moving into other neighborhoods. Many residents feel that the scale of new homes are overwhelming and out of character with their neighborhoods, the result of both trends in building larger homes and a lack of coordination between the existing housing character and zoning standards. While the City has implemented progressive design standards for garage placement and overall construction management, many of the new houses are, in fact, oversized for their lots and often negatively impact surrounding households. Except in historic districts, new houses are not evaluated for the appropriateness of their architectural design or building materials by a review board or committee. New house plans are only reviewed for compliance with building codes and required site engineering regulations.

House design and consumer preferences have changed since Birmingham's neighborhoods were first developed. The original prewar houses were usually modestly designed and downplayed the home-owners wealth or lack thereof. Large houses and manors were broken up into a series of smaller volumes which effectively disguised their overall volume and, with commensurate architectural details, gave them the appearance of matching the scale of neighboring houses. Most of Birmingham's original houses were constructed with quality craftsmanship and designed with architectural massing and details intended to blend into the neighborhood rather than command attention. Following trends in

today's housing market, many new homes are designed to stand out and be noticed, rather than harmonize with and complement neighboring houses.

Additions to existing homes should be encouraged as a way to accommodate changes that the market desires without eroding neighborhood character. Often the driver of new construction is market demand for additional bathrooms, a master suite, closet space, larger kitchens, and larger garages, which tend to be lacking in older homes. While it is often easier to tear down an existing home and build a new one, this is a destructive process that creates significant waste and impacts neighborhood character. Renovation and addition could be encouraged through a number of policies such as: a fast-tracked approval process (requiring a slowing down of new construction approvals), waived fees for review and inspection, and increased lot coverage allowances at the ground level (not second story). While additions and renovation cannot be required, they may be encouraged.

Leveraging historic districts is another means of controlling the pace of demolitions, providing review of the scale and character of new housing, and encouraging renovation. Expanding existing historic districts and landmarks, and establishing new districts would provide oversight of new construction and renovation in many areas of the city. The Historic District Commission (HDC) should actively study and establish new historic districts and landmarks throughout the city. Additionally, HDC review authority should be strengthened in consideration of demolitions and renovations.

Lastly, light intensity and color is an often overlooked quality of Birmingham's neighborhood streets. Some new homes have been built with lighting that is too intense, degrading the calm character of Birmingham's neighborhood fabric. Lighting should be subdued generally, avoid spillover onto neighboring properties, and be oriented downward not outward. Luminaires should be shielded to eliminate glare and limited in individual intensity. Multiple bulbs of lower intensity can provide the same light coverage without glare or hot spots. Color temperature is also keenly important. Light that is towards the blue end of the spectrum, higher color temperature, disrupts natural human cycles when used at nighttime. Color temperature should not exceed 3500 Kelvin after dusk. Currently the Zoning Ordinance uses Illuminating Engineering Society of North America (IESNA) standards



Figure 40. Historic home with a sign marketing demolition for a larger home.

Ch 3. Retain Neighborhood Quality

Retain Housing Character



Figures 41 & 42. Infill housing on two sides of one street, older homes (left) and new homes (right).

as a baseline, IESNA Zone E4 for everything R4 and above. Neighborhood illumination is not regulated, which is clearly in need. The International Dark Sky Association model standards are recommended in place of IESNA standards. These standards should be evaluated for use in neighborhoods as well as for adjustment or replacement of existing zoning requirements concerning lighting in R4 and above.

Similarly, the color temperature and intensity of streetlights requires study to avoid issues similar to residential exterior lighting. Across the country many cities have switched to LED streetlights. This is a recommended practice for maintenance and energy usage but the fixtures and luminaires must be carefully selected. LED streetlights produce more glare and hotspots than prior technologies. The earliest models, still available, are set to color temperatures that are

too blue. As the city contemplates a change in technology, common pitfalls should be avoided, ensuring: luminaires are shielded with globes or similar devices that scatter light; luminaires have a color temperature no greater than 3500K; and that poles be installed more frequently, at a lower height, to achieve the desired light level while avoiding glare, excessive intensity, and hot spots.



Figure 43. High quality contemporary infill, in scale with neighborhood fabric.

Ch 3. Retain Neighborhood Quality

Retain Housing Character

MASTER PLAN ACTIONS

1. As part of a zoning code update:
 - a. Adjust residential zone boundaries and standards to better match existing housing. This requires a study of the city's residential architectural styles and building types, their key characteristics, position on their properties, driveway configuration, age, and the areas where each common type is located.
 - b. Encourage renovations to expand existing houses rather than the construction of new houses.
 - c. Review and update site, building, and design codes to prevent increased rainwater runoff and other negative impacts from new house construction.
 - d. Consider age-in-place-friendly building regulations, such as grab-bars, ramps, and elevators in single-family homes, with careful attention paid to the city's architectural heritage.
 - e. Address neighborhood lighting standards, including exterior residential lighting intensity and color temperature. See the International Dark Sky Association recommended standards.
2. Adopt a policy to proactively establish new historic districts as well as landmarks.
3. As part of a Multi-modal Plan update, adopt a policy regulating street lighting, including intensity, color temperature, luminaire, and pole height and frequency.

BEST PRACTICE RECOMMENDATIONS FOR RESIDENTIAL LIGHTING

- a. Residential lighting standards should address:
 - a. Maximum luminaire intensity,
 - b. Color temperature range,
 - c. Shielding and directionality, and
 - d. Spillover.
- b. Street lighting standards should address:
 - a. Maximum luminaire intensity,
 - b. Color temperature range,
 - c. Shielding and directionality,
 - d. Lamp design, and
 - e. Pole height and spacing.
- c. Consider the International Dark Sky Association model standards.
- d. Consider aligning lighting intensity restrictions with the Future Land Use categories for neighborhood fabric intensity where Fine Grained Fabric justifies higher lighting intensity and Picturesque Fabric justifies lower lighting intensity. Dark Sky LZ1 may be appropriate in Picturesque and Traditional Fabric areas, LZ2 in Fine Grained Fabric areas, and LZ3 in the city's mixed-use districts.

CITY OF BIRMINGHAM, MICHIGAN
COMMUNITY DEVELOPMENT

VIOLATION NOTICE

Notice Issued To Frank Colasanti Jr.

Address 1115 Chapin
Birmingham, Mi 48009

Re: 1115 Chapin
Notice Date May 11 2023
Inspection Date January 11 2023

The following violation(s) of Birmingham City Code were noted at the above address.

Property maintenance violations:
- Verbal warning - January 11, 2023 -
Detached garage is in extreme disrepair.

Please repair garage to meet City ordinance requirements
or demo garage with required permit.

You are further notified that you are required to correct conditions listed, and all such work shall be complete within 30 days from the date of this notice. Action will be taken against you for violation of the City Code if you fail, neglect or refuse to comply with this notice within the time limits herein set forth.

Community Development 248-530-1850

Doug Manigold 248-521-9241
INSPECTOR / OFFICER

City of Birmingham Violation Notice issued by
Community Development Officer Doug Manigold.

Dated: January 11, 2023

The Violation Notice presented the impetus
for the actions that followed by the
Homeowners Frank Colasanti Jr and James B. Ryder



1106 Bennaville Avenue

Northwest Corner behind 1115 Chapin Avenue

View from Cummings



Our Next Door Neighbor's Garage on the East:



The Northeast Corner View - Original Pancake Parking Lot and Woodward Avenue:



Behind Our "Garage" is a New House and Garage on Bennaville:



Thank you for coming along with us!

Frank and Jim 😊

Our Home at 1115 Chapin Avenue

1 message

James Ryder <james31@aol.com>

Thu, Jul 27, 2023 at 9:31 AM

To: "jzielke@bhamgov.org" <jzielke@bhamgov.org>

Thank you, Mr. Zielke, for including this and the next three emails in the BZA packet.

Dear BZA Members,

An Inside Look of Our Home on Chapin Avenue:



Our Living Room:

Other Views of Neighbors' Garages around 1115 Chapin Avenue

1 message

James Ryder <james31@aol.com>

Thu, Jul 27, 2023 at 9:45 AM

To: "jzielke@bhamgov.org" <jzielke@bhamgov.org>

Cc: James Ryder <james31@aol.com>, Frank Colasonti Jr <hirecolasonti@gmail.com>

Dear BZA Members,

Garages on Chapin Avenue and Bennaville Adjoining Ours:

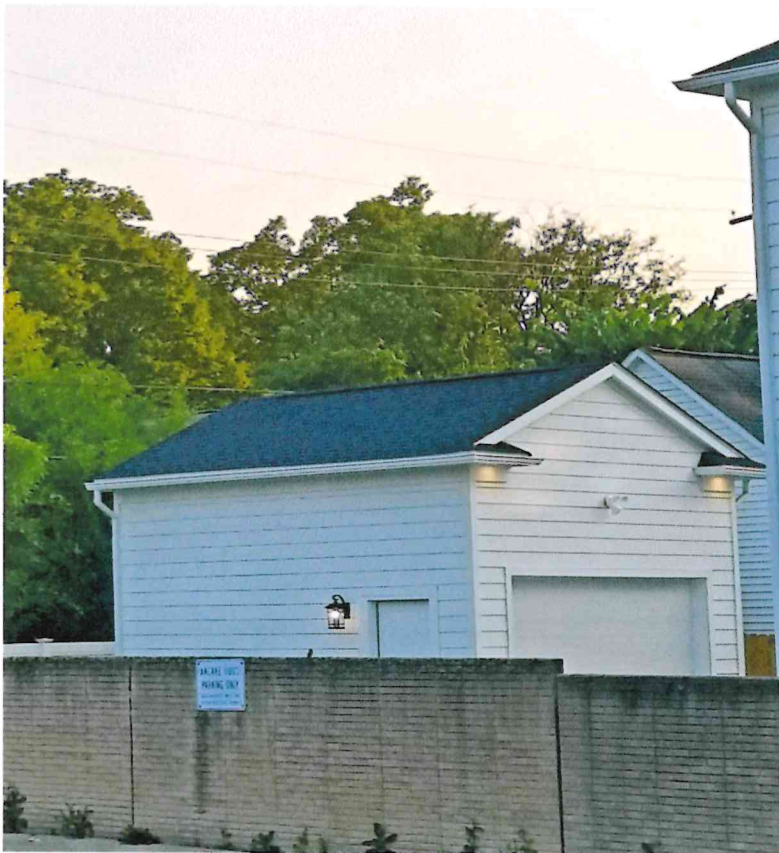
View of the Northeast Corner from the Original Pancake House Parking Lot on Bennaville:



Back View of 1135 Chapin Avenue Garage:



Back View of Our "Garage:"



View of Two Garages Fronting Cummings Street:



Garage Owned by Northwest Neighbor on Bennaville:



Next Door Neighbor to Our West at 1105 Chapin:



Closer View:



Next Door Neighbor to Our West at 1105 Chapin:



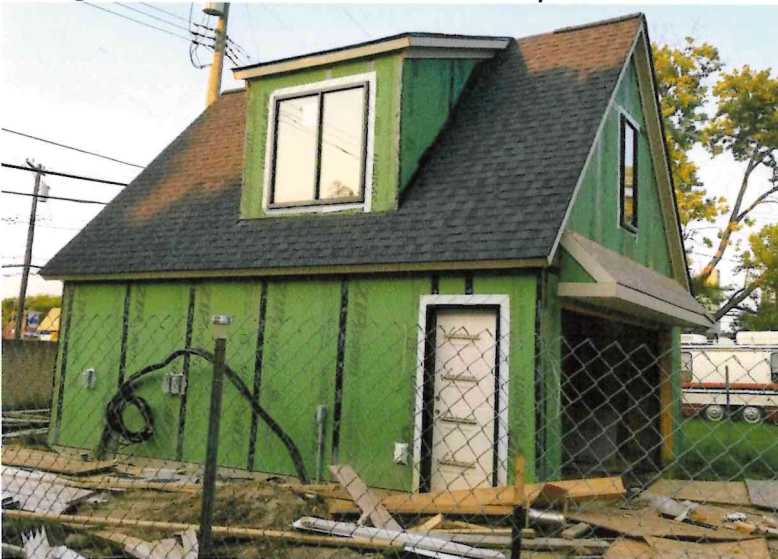
Closer View:



Next Door Neighbor to Our East at 1135 Chapin:



Garage with Bonus Room at 1135 Chapin:



Thank you for your time.

Frank and Jim 😊



DTE Electric
NW Engineering & Planning
1970 Orchard Lake Rd Sylvan Lake MI 48320

Date: 7/12/2023

Regarding: **Comments on site Plan for Address: 1115 Chapin, Birmingham, MI 48009**

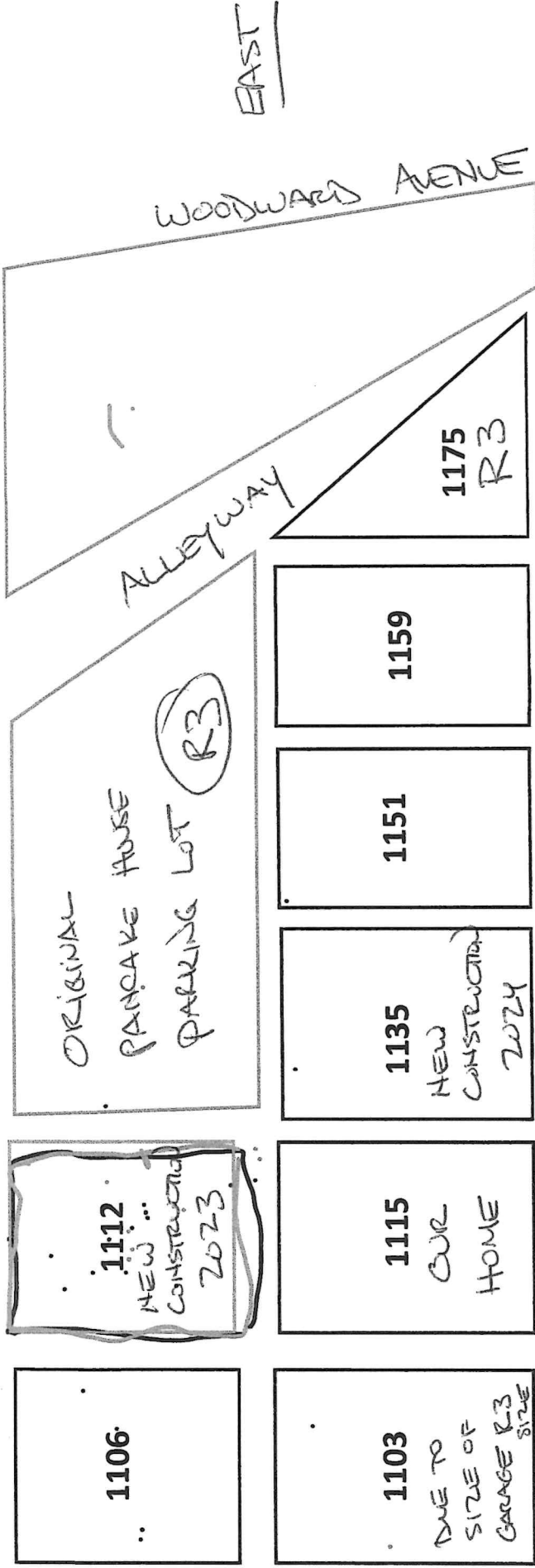
- ☐ Overhead wires must be relocated prior to construction.
- ☐ Relocation of pole(s) or guy wires will be necessary prior to construction.
- ☐ Relocation of underground utility equipment or cables will be necessary prior to construction
- ☒ No conflict with DTE Electric equipment. Proposed garage meets overhead clearances of wires running along (rear) Northern property line at 6'. Any changes to this site plan will require approval from DTE.
- ☐ Other:

- **Call 800.338-0178 when ready for service.**

Signed by: *James Humason*
James Humason
Service Planner
James.Humason@dteenergy.com

NORTH

Bennaville Street



EAST

WOODWARD AVENUE

ALLEYWAY

ORIGINAL
PANCAKE HOUSE
PARKING LOT
(R3)

1106

1112

NEW CONSTRUCTION
2023

1103

DUE TO
SIZE OF
GARAGE R3
SIZE

1115

OUR
HOME

1135

NEW
CONSTRUCTION
2024

1151

1159

1175

R3

1144

OVER-SIZED
GARAGE

Chapin Avenue

MY ATTEMPT TO
MAP OUT THE
STREET ADDRESSES

SOUTH

Chapin Avenue



Addresses:

Lot Size	House Size	Garage Size	Year Build
----------	------------	-------------	------------

1103 Chapin Avenue (Bencha Kassabian Trust)

1115 Chapin Avenue (OUR HOME)

1135 Chapin Avenue (ERT Chapin Avenue LLC/Bradley and Rachael Thomasas)

1151 Chapin Avenue (Karen Breen)

1159 Chapin Avenue (Adam Jajou)

1175 Chapin Avenue (John D. Myers Trust) Zoned: Business R-3

1106 Bennaville (Angelo Testa))

1112 Bennaville (Corey and Rachael Byron)

East side: Parking Lot for Original Pancake House – R3

FYI 1144 Chapin Avenue (Gary & Elaine Cromie/Across the Street from Us to the Left) Oversized Garage



1115 Chapin Avenue

103-year-old “garage” built in 1921 to accommodate a Model-T.

Detached, wood structure in poor condition measuring 18 feet by 12.5 feet.

Not usable for motor vehicle storage; usable only as a shed.

07/18/2024
10:21 AM

Valuation Report

DB: Assessing-24

08-19-36-431-004	2024 Est. T.C.V.	BENCH A KASSABIAN TRUST
Property Class: 401		1103 CHAPIN AVE
Map #: .	City of Birmingham	BIRMINGHAM, MI 48009-2034

Land Value Estimates for Land Table 36V.Land Table 36V

* Factors *

Description	Frontage	Depth	Front	Depth	Rate	%Adj.	Reason	Value
Standard FF	40.00	120.00	1.0000	1.0000	6676	100		267,040
40 Actual Front Feet, 0.11 Total Acres							Total Est. Land Value =	267,040

Cost Est. for Res. Bldg: 1 Single Family Ranch Cls CD Blt 1958

(11) Heating System: Forced Air w/ Ducts
Ground Area = 801 SF Floor Area = 801 SF.
Phy/Ab.Phy/Func/Econ/Comb. % Good=51/100/100/100/51

Building Areas

Stories	Exterior	Foundation	Size	Cost New	Depr. Cost
1 Story	Siding	Basement	801		
			Total:	120,991	61,705

Other Additions/Adjustments

Plumbing

Ceramic Tile Floor	1	1,064	543
Ceramic Tile Wains	1	2,215	1,130
Ceramic Tub Alcove	1	738	376

Porches

CPP	30	848	432
-----	----	-----	-----

Garages

Class: CD Exterior: Siding Foundation: 42 Inch (Unfinished)

Base Cost	754	29,006	14,793
Storage Over Garage	751	9,898	5,048
Door Opener	1	523	267

Built-Ins

Dishwasher	1	680	347
Garbage Disposal	1	232	118
Vented Hood	1	521	266

Fireplaces

Wood Stove	1	2,316	1,181
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Totals: 169,032 86,206

Notes:

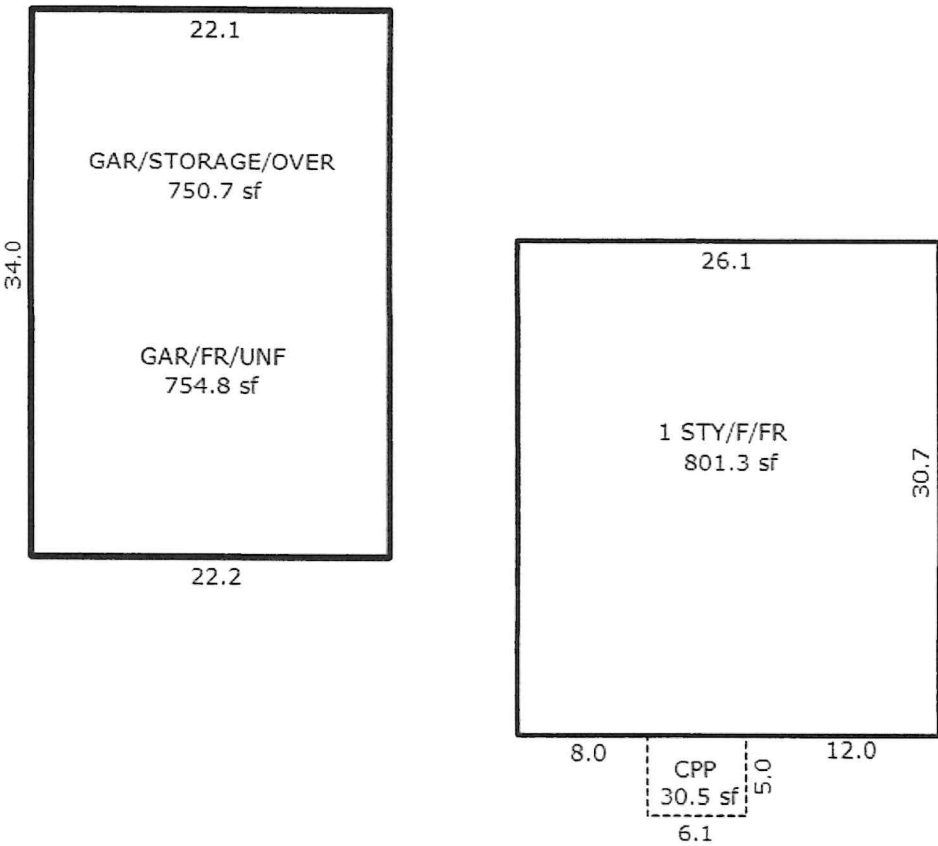
ECF (E.C.F. Table 36V) 0.400 => TCV: 34,482

2024 Est. T.C.V. 08-19-36-431-004 = 301,522

Est. TCV/Total Floor Area = 376.43

2023 Assessed	MBOR	S.E.V.	Base for Cap	C.P.I.	
151,250	151,250	151,250	77,140	5.00	
2024 New	Eq. Adjustment	Loss	Additions	Tax Adjustment	Losses
0	-490	0	0	3,850	0
2024 Assessed	MBOR	S.E.V.	Capped	->Taxable<-	PRE/MBT
150,760	150,760	150,760	80,990	80,990	80,990

Parcel Number: 08-19-36-431-004, Residential Building 1



*** Information herein deemed reliable but not guaranteed***

07/18/2024
10:28 AM

Valuation Report

DB: Assessing-24

08-19-36-431-005	2024 Est. T.C.V.	COLASONTI JR, FRANK
Property Class: 401		1115 CHAPIN AVE
Map #: .	City of Birmingham	BIRMINGHAM, MI 48009-2034

Land Value Estimates for Land Table 36V.Land Table 36V

* Factors *

Description	Frontage	Depth	Front	Depth	Rate	%Adj.	Reason	Value
Standard FF	40.00	120.00	1.0000	1.0000	6676	100		267,040
40 Actual Front Feet, 0.11 Total Acres								
Total Est. Land Value =								267,040

Land Improvement Cost Estimates

Description	Rate	Size	% Good	Cash Value
D/W/P: Brick on Sand	19.43	168	57	1,860
Wood Frame	26.30	225	23	1,361
Total Estimated Land Improvements True Cash Value =				3,221

Cost Est. for Res. Bldg: 1 Single Family Ranch Cls C Blt 1925

(11) Heating System: Forced Heat & Cool
Ground Area = 1064 SF Floor Area = 1064 SF.
Phy/Ab.Phy/Func/Econ/Comb. % Good=57/100/100/100/57

Building Areas

Stories	Exterior	Foundation	Size	Cost New	Depr. Cost
1 Story	Siding	Crawl Space	1,064		
Total:				156,487	89,197

Other Additions/Adjustments

Plumbing

Extra Sink	1	1,024	584
Ceramic Tile Floor	1	1,208	689
Ceramic Tub Alcove	1	811	462

Porches

WCP (1 Story)	147	6,977	3,977
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Built-Ins

Cook Top	1	840	479
Dishwasher	1	840	479
Garbage Disposal	1	282	161
Jacuzzi repl.Tub	1	7,144	4,072
Standard Range	1	1,368	780

Totals: 176,981 100,880

Notes:

ECF (E.C.F. Table 36V) 0.400 => TCV: 40,352

2024 Est. T.C.V. 08-19-36-431-005 = 310,613

Est. TCV/Total Floor Area = 291.93

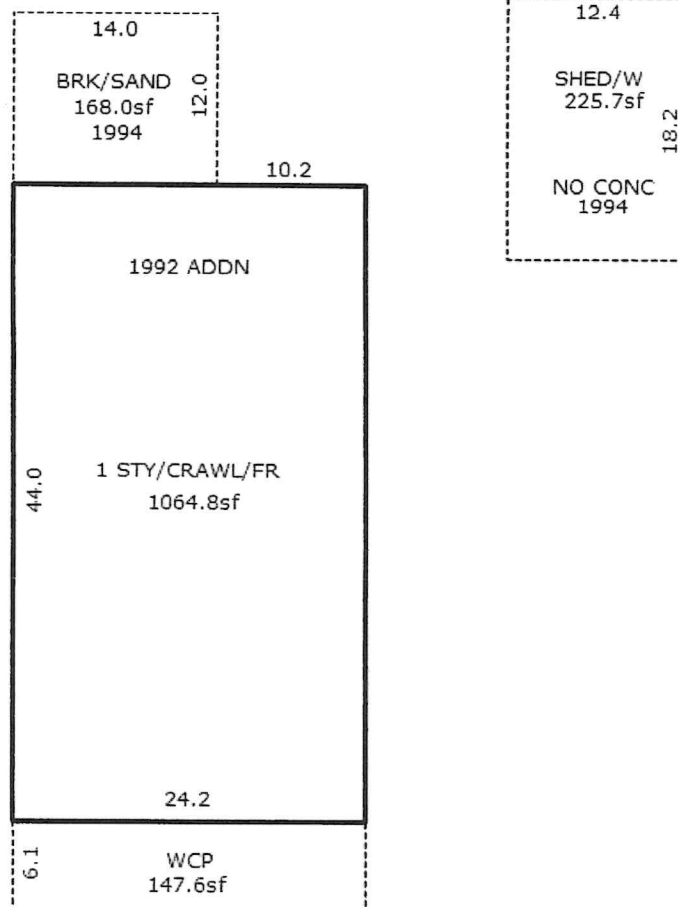
2023 Assessed	MBOR	S.E.V.	Base for Cap	C.P.I.	
158,700	158,700	158,700	83,000	5.00	
2024 New Eq. Adjustment	Loss	Additions	Tax Adjustment	Losses	
0	-3,390	0	4,150	0	
2024 Assessed	MBOR	S.E.V.	Capped	->Taxable<-	PRE/MBT
155,310	155,310	155,310	87,150	87,150	87,150

07/18/2024
10:28 AM

Valuation Report

DB: Assessing-24

Parcel Number: 08-19-36-431-005, Residential Building 1



*** Information herein deemed reliable but not guaranteed***

07/18/2024
10:29 AM

Valuation Report

DB: Assessing-24

08-19-36-431-006	2024 Est. T.C.V.	ERT CHAPIN AVE LLC
Property Class: 401		1135 CHAPIN AVE
Map #: .	City of Birmingham	BIRMINGHAM, MI 48009

12/19/23 BP NEW HSE. OBSERVED FROM ROAD, APPEARS TO BE 70% COMP (DRYWALLED)
LEAVE AT 70% FOR EOY. CHK 24 FOR COMPL. TOOK PICS. #82/87

09/27/23 BP NH. HSE LOOKS LIKE IT IS APPROX 50% COMP @ THIS TIME (LOCKED
GATE/FENCE). FINAL PASS. #58/91

05/16/23 BP NEW HOUSE. GATE LOCKED, VIEWED FROM ROAD. PULLED PLANS FOR EXT/INT
DIMS, RM COUNT & BLT-INS (ON BACK) EST 40% COMPLETE. HSE WILL HAVE BSMT FIN
(CALC ON BACK) LOAD AT COMPLETION. LEAVE BP OPEN CHK NEXT PASS FOR PROGRESS.
VERIFY ALL ESTIMATES FROM PLANS. PICS. #20/26

11/29/22 BP NEW HSE. WORKERS ON SITE. PREPPING FRAMING ON FNDN. CALLING N/C BY
EOY AND LEAVING FLAT VALUE FOR FNDN. CHK 2023 FOR PROGRESS. PICS. #16

09/07/22 NO NEW HOUSE. NO WORKERS. GATE LOCKED. FND ONLY AT THIS TIME. ADDED
FLAT VALUE. OPEN CHECK FINAL PASS FOR PROGRESS. PIC. #90/91

Land Value Estimates for Land Table 36V.Land Table 36V

* Factors *

Description	Frontage	Depth	Front	Depth	Rate	%Adj.	Reason	Value
Standard FF	40.00	120.00	1.0000	1.0000	6676	100		267,040
40 Actual Front Feet, 0.11 Total Acres					Total Est.		Land Value =	267,040

Cost Est. for Res. Bldg: 1 Single Family Colonial/2Sty Cls B-10 Blt 2022

(11) Heating System: Forced Air w/ Ducts
Ground Area = 1357 SF Floor Area = 2901 SF.
Phy/Ab.Phy/Func/Econ/Comb. % Good=98/100/100/100/98

Building Areas

Stories	Exterior	Foundation	Size	Cost New	Depr. Cost
3 Story	Siding	Basement	437		
2 Story	Siding	Basement	593		
1 Story	Siding	Blt-in Gar.	327		
1 Story	Siding	Overhang	30		
1 Story	Siding	Overhang	18		
1 Story	Siding	Overhang	15		
1 Story	Siding	Overhang	14		
		Total:		468,633	459,272

Other Additions/Adjustments

Porches			
CPP	157	4,564	4,473

Garages

Class: B Exterior: Siding Foundation: 42 Inch (Unfinished)
Base Cost 496 37,438 36,689

Fireplaces

Direct-Vented Gas	1	5,682	5,568
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Deck

Composite	48	2,063	2,022
w/Roof (Roof portion)	30	1,003	983

Totals: 519,383 509,007

Notes:

ECF (E.C.F. Table 36V) 1.480 => TCv: 753,330
70% Completed => Est. True Cash Value 2024 = 527,331

2024 Est. T.C.V. 08-19-36-431-006

= 794,371

07/18/2024
10:29 AM

Valuation Report

DB: Assessing-24

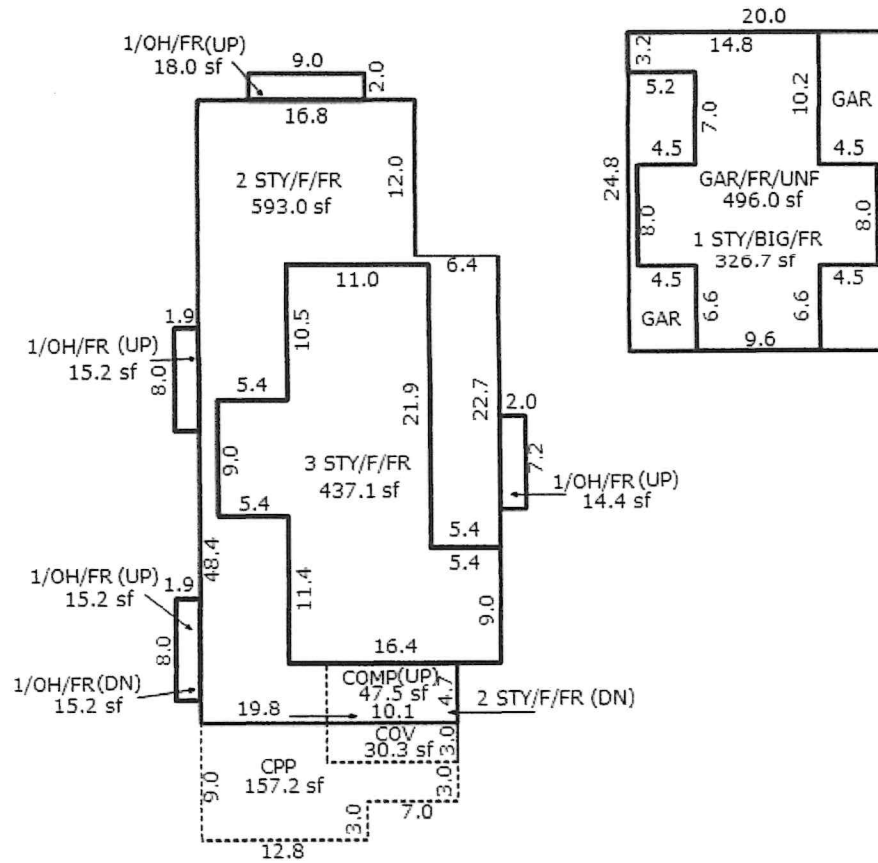
Parcel Number: 08-19-36-431-006

Page: 2

Est. TCV/Total Floor Area = 273.83, Most recent sale 01/20/2021 for 255,000

2023	Assessed	MBOR	S.E.V.	Base for Cap	C.P.I.	
	126,100	126,100	126,100	100,090	5.00	
2024	New	Eq. Adjustment	Loss	Additions	Tax Adjustment	Losses
	253,670	17,420	0	253,670	5,000	0
2024	Assessed	MBOR	S.E.V.	Capped	->Taxable<-	PRE/MBT
	397,190	397,190	397,190	358,760	358,760	358,760

Parcel Number: 08-19-36-431-006, Residential Building 1



*** Information herein deemed reliable but not guaranteed***

07/18/2024
10:30 AM

Valuation Report

DB: Assessing-24

08-20-31-305-001	2024 Est. T.C.V.	BREEN, KAREN E
Property Class: 401		1151 CHAPIN AVE
Map #: .	City of Birmingham	BIRMINGHAM, MI 48009-2034

Land Value Estimates for Land Table 36V.Land Table 36V

* Factors *

Description	Frontage	Depth	Front	Depth	Rate	%Adj.	Reason	Value
Standard FF	40.00	120.00	1.0000	1.0000	6676	100		267,040
40 Actual Front Feet, 0.11 Total Acres								Total Est. Land Value = 267,040

Land Improvement Cost Estimates

Description	Rate	Size	% Good	Cash Value
D/W/P: 4in Concrete	7.51	55	36	149
Total Estimated Land Improvements True Cash Value =				149

Cost Est. for Res. Bldg: 1 Single Family Ranch Cls CD Blt 1927

(11) Heating System: Forced Air w/o Ducts
Ground Area = 991 SF Floor Area = 991 SF.
Phy/Ab.Phy/Func/Econ/Comb. % Good=45/100/100/100/45

Building Areas

Stories	Exterior	Foundation	Size	Cost New	Depr. Cost
1 Story	Siding	Mich Bsmnt.	828		
1 Story	Siding	Slab	163		
Total:				132,826	63,435

Other Additions/Adjustments

Porches

WCP (1 Story)	120	5,363	2,413
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Garages

Class: CD Exterior: Siding Foundation: 42 Inch (Unfinished)
Base Cost 374 17,989 8,095

Plumbing

Ceramic Tub Alcove	1	738	332
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Built-Ins

Unvented Hood	1	297	134
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Deck

w/Roof (Roof portion)	19	424	191
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Totals: 157,637 70,937

Notes:

ECF (E.C.F. Table 36V) 0.400 => TCV: 28,375

2024 Est. T.C.V. 08-20-31-305-001 = 295,564

Est. TCV/Total Floor Area = 298.25, Most recent sale 08/19/2020 for 1

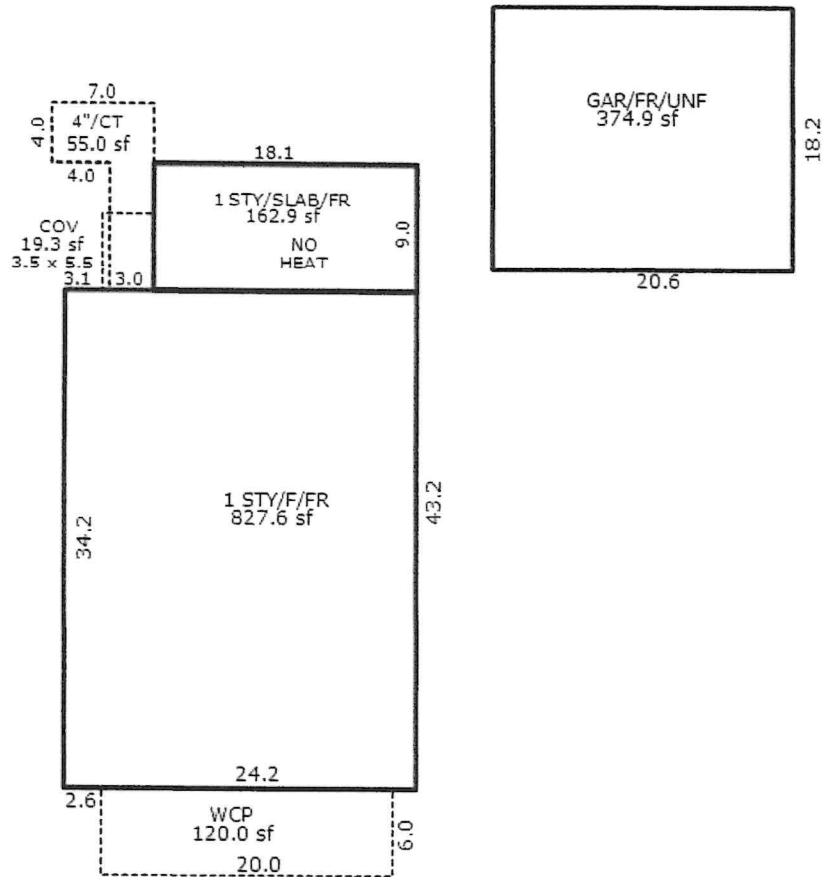
2023 Assessed	MBOR	S.E.V.	Base for Cap	C.P.I.	
144,530	144,530	144,530	128,620	5.00	
2024 New	Eq. Adjustment	Loss	Additions	Tax Adjustment	Losses
0	3,250	0	0	6,430	0
2024 Assessed	MBOR	S.E.V.	Capped	->Taxable<-	PRE/MBT
147,780	147,780	147,780	135,050	135,050	135,050

07/18/2024
10:31 AM

Valuation Report

DB: Assessing-24

Parcel Number: 08-20-31-305-001, Residential Building 1



*** Information herein deemed reliable but not guaranteed***

07/18/2024

Valuation Report

10:32 AM

DB: Assessing-24

08-20-31-305-002 2024 Est. T.C.V. JAJOU, ADAM
 Property Class: 401 1159 CHAPIN AVE
 Map #: . City of Birmingham BIRMINGHAM, MI 48009-2034

10/26/09 - Meas'd ext. Rev'd int. #92

Land Value Estimates for Land Table 36V.Land Table 36V

* Factors *

Description	Frontage	Depth	Front	Depth	Rate	%Adj.	Reason	Value
Standard FF	40.00	120.00	1.0000	1.0000	6676	100		267,040
40 Actual Front Feet, 0.11 Total Acres Total Est. Land Value =								267,040

Cost Est. for Res. Bldg: 1 Single Family Colonial/2Sty Cls C Blt 1927

(11) Heating System: Forced Heat & Cool

Ground Area = 1089 SF Floor Area = 2178 SF.

Phy/Ab.Phy/Func/Econ/Comb. % Good=49/100/100/100/49

Building Areas

Stories	Exterior	Foundation	Size	Cost New	Depr. Cost
2 Story	Siding	Mich Bsmnt.	590		
2 Story	Siding	Crawl Space	499		
Total:				276,973	137,968

Other Additions/Adjustments

Plumbing

3 Fixture Bath	1	5,008	2,454
2 Fixture Bath	1	3,351	1,642
Extra Sink	1	1,024	502
Ceramic Tile Floor	1	1,208	592

Porches

WGEP (1 Story)	50	6,486	3,178
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Deck

Pine	242	4,041	1,980
Pine w/Roof (Deck Portion)	47	1,481	726
Pine w/Roof (Roof portion)	47	1,014	497
Pine	43	1,427	699

Garages

Class: CD Exterior: Siding Foundation: 42 Inch (Unfinished)

Base Cost	283	15,211	7,453
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Built-Ins

Jacuzzi repl.Tub	1	7,144	3,501
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Totals: 324,368 158,940

Notes:

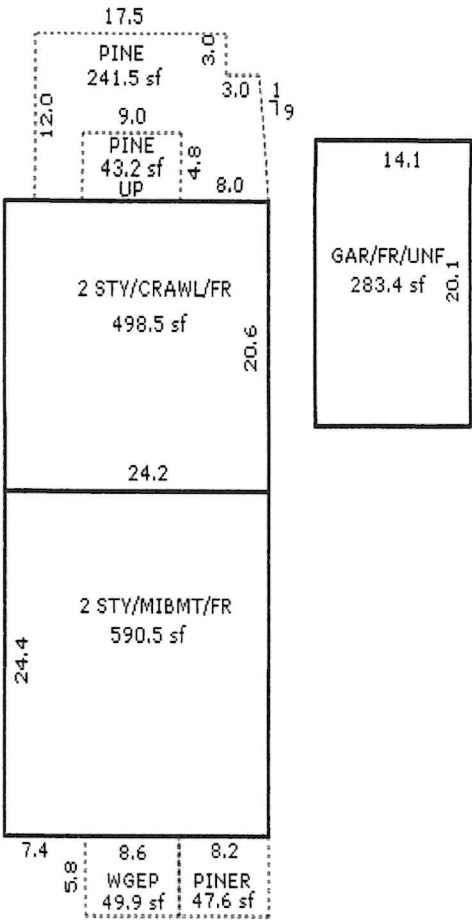
ECF (E.C.F. Table 36V) 1.220 => TCV: 193,907

2024 Est. T.C.V. 08-20-31-305-002 = 460,947

Est. TCV/Total Floor Area = 211.64, Most recent sale 04/17/2020 for 525,000

2023 Assessed	MBOR	S.E.V.	Base for Cap	C.P.I.		
213,750	213,750	213,750	193,010	5.00		
2024 New Eq. Adjustment	Loss	Additions	Tax Adjustment	Losses		
0	16,720	0	0	9,650	0	
2024 Assessed	MBOR	S.E.V.	Capped	->Taxable<-	PRE/MBT	
230,470	230,470	230,470	202,660	202,660	202,660	

Parcel Number: 08-20-31-305-002, Residential Building 1



Sketch by Apex Medina™

*** Information herein deemed reliable but not guaranteed***

07/18/2024
10:34 AM

Valuation Report

DB: Assessing-24

08-20-31-305-003	2024 Est. T.C.V.	JOHN D MYERS TRUST AGREEMENT
Property Class: 401		1177 CHAPIN AVE
Map #: .	City of Birmingham	BIRMINGHAM, MI 48009-2034

03/31/15- OFFICE REVIEW REMOVED FOB #92
07-21-11 MEAS'D EXT, REV'D INT #92
5/6/08 Correccted recork for MTT. 75

Land Value Estimates for Land Table 36V.Land Table 36V

* Factors *

Description	Frontage	Depth	Front	Depth	Rate	%Adj.	Reason	Value
Standard FF	40.00	120.00	1.0000	1.0000	6676	100		267,040
Excess Stnd FF	24.55	120.00	1.0000	1.0000	3337	100		81,923
65 Actual Front Feet, 0.18 Total Acres Total Est. Land Value =								348,963

Cost Est. for Res. Bldg: 1 Single Family Ranch Cls CD Blt 1927

(11) Heating System: Forced Heat & Cool
Ground Area = 1418 SF Floor Area = 1432 SF.
Phy/Ab.Phy/Func/Econ/Comb. % Good=45/100/100/100/45

Building Areas

Stories	Exterior	Foundation	Size	Cost New	Depr. Cost
1 Story	Siding	Mich Bsmnt.	1,052		
1 Story	Siding	Blt-in Gar.	366		
1 Story	Siding	Overhang	14		
Total:				179,977	85,118

Other Additions/Adjustments

Plumbing

3 Fixture Bath	1	4,161	1,872
Ceramic Tile Floor	1	1,064	479
Ceramic Tile Wains	1	2,215	997

Porches

CCP (1 Story)	38	1,200	540
CCP (1 Story)	40	1,251	563

Garages

Class: CD Exterior: Siding Foundation: 42 Inch (Unfinished)

Base Cost	365	17,721	7,974
Common Wall: 1.5 Wall	1	-4,058	-1,826

Fireplaces

Exterior 1 Story	1	6,152	2,768
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Unit-in-Place Cost Items

ExtraKitchen	1	7,144	3,215
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Totals: 216,827 97,572

Notes:

ECF (E.C.F. Table 36V) 0.400 => TCV: 39,029

2024 Est. T.C.V. 08-20-31-305-003 = 387,992

Est. TCV/Total Floor Area = 270.94, Most recent sale 10/26/2007 for 140,000

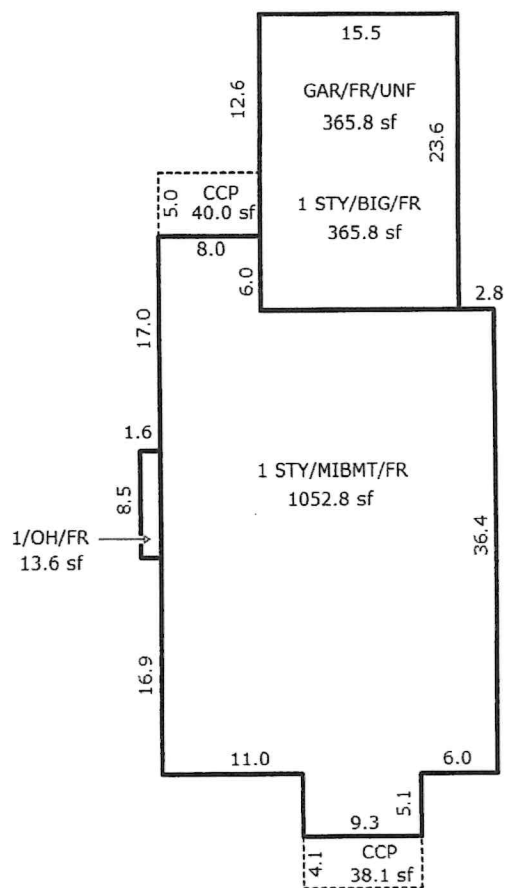
2023 Assessed	MBOR	S.E.V.	Base for Cap	C.P.I.		
190,730	190,730	190,730	85,360	5.00		
2024 New	Eq. Adjustment	Loss	Additions	Tax Adjustment	Losses	
0	3,270	0	0	4,260	0	
2024 Assessed	MBOR	S.E.V.	Capped	->Taxable<-	PRE/MBT	
194,000	194,000	194,000	89,620	89,620	0	

07/18/2024
10:34 AM

Valuation Report

DB: Assessing-24

Parcel Number: 08-20-31-305-003, Residential Building 1



Sketch by Apex Sketch

*** Information herein deemed reliable but not guaranteed***

07/18/2024
10:36 AM

Valuation Report

DB: Assessing-24

08-19-36-431-001	2024 Est. T.C.V.	TESTA, ANGELO C
Property Class: 401		1106 BENNAVILLE AVE
Map #: .	City of Birmingham	BIRMINGHAM, MI 48009-1711

08/23/17 OFFICE SALE REV. DUE TO \$403,000 (52%) SALE ON 7/31/17 LISTED 3 SINKS -
REMOVED 4 WAIN, COOKTOP, OVEN AND HOOD. PER INTERNET RES. #92

10/12/09 REV EXT, NAH, C/P #92

11-05-08 MEAS EXT, INT STUD WALLS, LEAVE OPEN, REV IN 09 #92

06-11-08 NC TO FILE, CK 2ND PASS #75

11-08-07 HSE VACANT. REMOD IN PROGRESS. CHECK IN 2008 #98

08-28-07 HSE APPEARS VACANT. CHECK 2ND PASS #21

10/03/06 FIELD REV. HSE GUTTED TO STUDS, EST INT & CLASS; RECALC %GOOD. LEAVE
PERMIT OPEN #38

Land Value Estimates for Land Table 36V.Land Table 36V

* Factors *

Description	Frontage	Depth	Front	Depth	Rate	%Adj.	Reason	Value
Standard FF	40.00	120.00	1.0000	1.0000	6676	100		267,040
40 Actual Front Feet, 0.11 Total Acres					Total Est. Land Value =			267,040

Cost Est. for Res. Bldg: 1 Single Family Colonial/2Sty Cls C 5 Blt 1925

(11) Heating System: Forced Heat & Cool

Ground Area = 1160 SF Floor Area = 1976 SF.

Phy/Ab.Phy/Func/Econ/Comb. % Good=66/100/100/100/66

Building Areas

Stories	Exterior	Foundation	Size	Cost New	Depr. Cost
2 Story	Siding	Basement	787		
1 Story	Siding	Basement	114		
1 Story	Siding	Crawl Space	66		
1 Story	Siding	Basement	193		
1 Story	Siding	Overhang	11		
1 Story	Siding	Overhang	18		
		Total:		283,003	186,756

Other Additions/Adjustments

Recreation Room	1094	22,799	15,047
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Plumbing

3 Fixture Bath	2	10,016	6,611
2 Fixture Bath	1	3,351	2,212
Extra Sink	3	3,071	2,027
Ceramic Tile Floor	4	4,831	3,188
Ceramic Tub Alcove	3	2,432	1,605

Deck

Treated Wood w/Roof (Deck Portion)	124	3,256	2,149
Treated Wood w/Roof (Roof portion)	124	2,391	1,578
Treated Wood	129	3,348	2,210

Garages

Class: C Exterior: Siding Foundation: 42 Inch (Unfinished)

Base Cost	408	21,200	13,992
Door Opener	1	589	389

Built-Ins

Dishwasher	1	840	554
Garbage Disposal	1	282	186
Microwave	1	456	301

07/18/2024
10:36 AM

Valuation Report

DB: Assessing-24

Parcel Number: 08-19-36-431-001

Page: 2

Notes:

Totals: 361,865 238,805

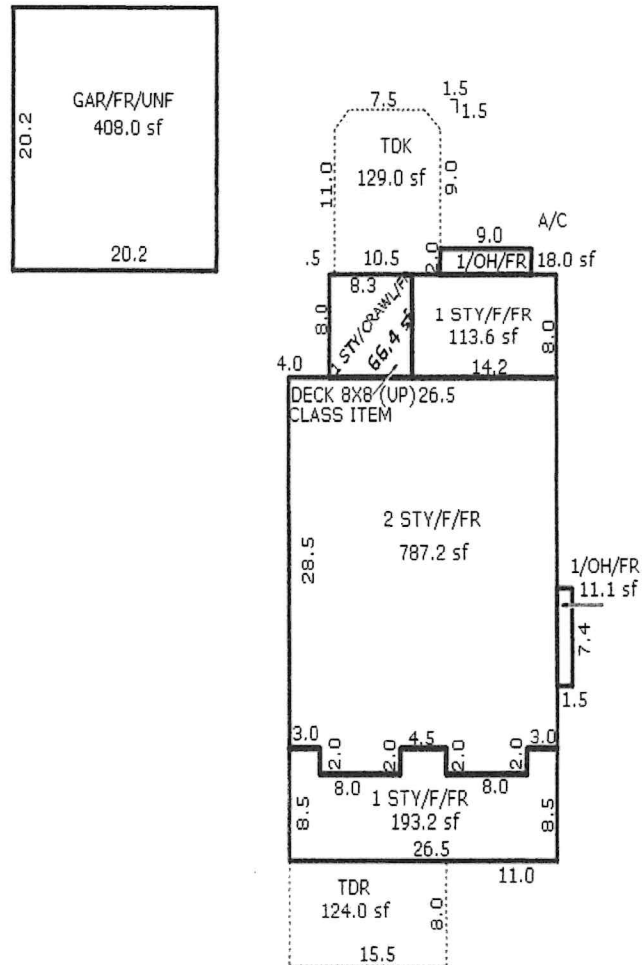
ECF (E.C.F. Table 36V) 1.230 => TCV: 293,730

2024 Est. T.C.V. 08-19-36-431-001 = 560,770

Est. TCV/Total Floor Area = 283.79, Most recent sale 03/12/2020 for 440,000

2023 Assessed	MBOR	S.E.V.	Base for Cap	C.P.I.		
252,970	252,970	252,970	251,250	5.00		
2024 New	Eq. Adjustment	Loss	Additions	Tax Adjustment	Losses	
0	27,420	0	0	12,560	0	
2024 Assessed	MBOR	S.E.V.	Capped	->Taxable<-	PRE/MBT	
280,390	280,390	280,390	263,810	263,810	263,810	

Parcel Number: 08-19-36-431-001, Residential Building 1



Sketch by Apex Medina™

*** Information herein deemed reliable but not guaranteed***

07/18/2024
10:37 AM

Valuation Report

DB: Assessing-24

08-19-36-431-002	2024 Est. T.C.V.	BYRON, COREY
Property Class: 401		1112 BENNAVILLE AVE
Map #: .	City of Birmingham	BIRMINGHAM, MI 48009-1711

09/27/23 - BP PATIO SPOKE TO MR & MRS H.O. REV'D EXT ADD NEW CT. CP #58/91

6/8/23 REV'D FILE- ADD EXT OBSOLESENCE AS PROPERTY SIDES PARKING LOT & ALSO VIEWS COMMERCIAL PROPERTY. #91

11/29/22 BP- NEW HOUSE: HSE FENCED & LOCKED COULD NOT REV. OBSERVED FROM BEYOND FENCE, EXT COV ON HOUSE. EST HOUSE 50% BY EOY. CHECK 2023 FOR PROGRESS. PIC. #16

9/15/22 BP NH. INT/EXT REV AND REV'D PLANS @ CITY. HSE IS 40% COMPL. GAR IS FINISHED. FINAL PASS. #91

9/7/22 BP DEMO/NH. DEMO COMPLETE. NH STARTED. #90/95

4/4/22 - BP DEMO. NO CHG. 2ND PASS. TOOK PIC #16/91

12/30/21 BP DEMO, HSE STILL STANDING. NOT YET FENCED. TOOK PIC. CHK 2022. #71

Land Value Estimates for Land Table 36V.Land Table 36V

Description	Frontage	Depth	Front	Depth	Rate	%Adj.	Reason	Value
Standard FF	40.00	120.00	1.0000	1.0000	6676	100		267,040
40 Actual Front Feet, 0.11 Total Acres							Total Est. Land Value =	267,040

Land Improvement Cost Estimates

Description	Rate	Size	% Good	Cash Value
D/W/P: 4in Concrete	7.51	290	98	2,134
Total Estimated Land Improvements True Cash Value =				2,134

Cost Est. for Res. Bldg: 1 Single Family Colonial/2Sty Cls BC Blt 2022

(11) Heating System: Forced Heat & Cool
Ground Area = 1164 SF Floor Area = 2328 SF.
Phy/Ab.Phy/Func/Econ/Comb. % Good=98/100/100/90/88.2
Economic Depreciation because of: C/I INFLU/SIDE PARKING

Building Areas

Stories	Exterior	Foundation	Size	Cost New	Depr. Cost
2 Story	Siding	Basement	1,164		
			Total:	391,382	345,198

Other Additions/Adjustments

Plumbing

3 Fixture Bath	1	7,365	6,496
2 Fixture Bath	1	4,934	4,352
Extra Sink	2	3,034	2,676
Separate Shower	1	2,983	2,631
Ceramic Tile Floor	2	3,150	2,778
Ceramic Tub Alcove	1	977	862

Porches

CCP (1 Story)	154	5,800	5,116
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Garages

Class: BC Exterior: Siding Foundation: 42 Inch (Unfinished)

Base Cost	313	22,927	20,222
Door Opener	1	736	649

Built-Ins

Dishwasher	1	1,267	1,117
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07/18/2024
10:37 AM

Valuation Report

DB: Assessing-24

Parcel Number: 08-19-36-431-002

Page: 2

Garbage Disposal	1	391	345
Vented Hood	1	861	759
Microwave	1	876	773

Fireplaces			
Prefab 1 Story	1	3,952	3,486

Totals:	450,635	397,460
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Notes:

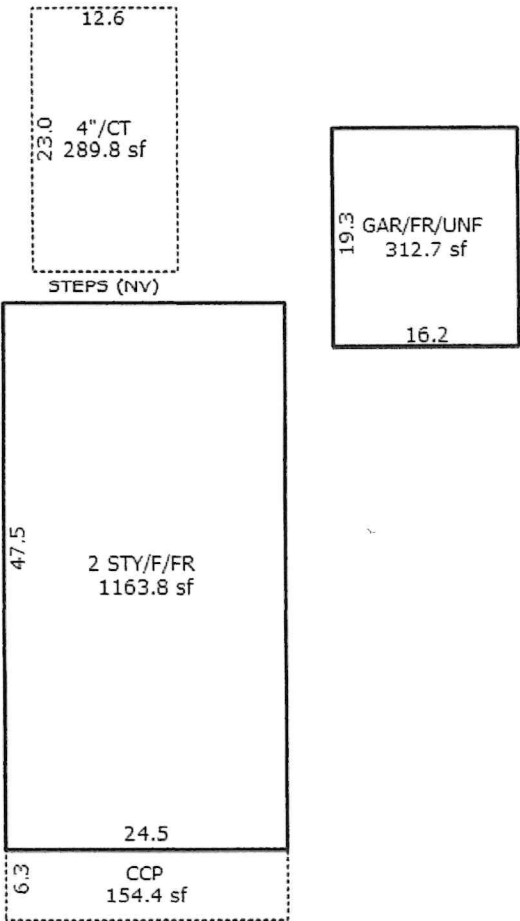
ECF (E.C.F. Table 36V) 1.480 => TCV: 588,241

2024 Est. T.C.V. 08-19-36-431-002 = 857,415

Est. TCV/Total Floor Area = 368.31, Most recent sale 03/24/2023 for 779,500

2023 Assessed	MBOR	S.E.V.	Base for Cap	C.P.I.		
255,830	255,830	255,830	229,820	5.00		
2024 New	Eq. Adjustment	Loss	Additions	Tax Adjustment	Losses	
155,460	17,420	0	155,460	43,430	0	
2024 Assessed	MBOR	S.E.V.	Capped	->Taxable<-	PRE/MBT	
428,710	428,710	428,710	396,770	428,710	428,710	

Parcel Number: 08-19-36-431-002, Residential Building 1



*** Information herein deemed reliable but not guaranteed***

07/18/2024

Valuation Report

10:39 AM

DB: Assessing-24

08-19-36-433-003

2024 Est. T.C.V.

CROMIE, GARY

Property Class: 401

1144 CHAPIN AVE

Map #: .

City of Birmingham

BIRMINGHAM, MI 48009-2035

Land Value Estimates for Land Table 36V.Land Table 36V

* Factors *

Description	Frontage	Depth	Front	Depth	Rate	%Adj.	Reason	Value
Standard FF	40.00	120.00	1.0000	1.0000	6676	100		267,040
40 Actual Front Feet, 0.11 Total Acres								
Total Est. Land Value =								267,040

Cost Est. for Res. Bldg: 1	Single Family	Ranch	Cls CD	Blt 1924
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(11) Heating System: Forced Air w/ Ducts

Ground Area = 855 SF Floor Area = 875 SF.

Phy/Ab.Phy/Func/Econ/Comb. % Good=45/100/100/100/45

Building Areas

Stories	Exterior	Foundation	Size	Cost New	Depr. Cost
1 Story	Siding	Basement	806		
1 Story	Siding	Crawl Space	49		
1 Story	Siding	Overhang	20		
Total:				128,908	58,008

Other Additions/Adjustments

Recreation Room	792	15,816	7,117
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Plumbing

Ceramic Tile Floor	1	1,064	479
Ceramic Tile Wains	1	2,215	997
Ceramic Tub Alcove	1	738	332

Porches

WGEP (1 Story)	88	8,757	3,941
WGEP (1 Story)	26	4,192	1,886

Garages

Class: CD Exterior: Siding Foundation: 42 Inch (Unfinished)

Base Cost	735	28,503	12,826
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Built-Ins

Cook Top	1	673	303
Dishwasher	1	680	306
Garbage Disposal	1	232	104
Unvented Hood	1	297	134
Oven	1	1,180	531

Deck

Treated Wood	24	1,157	521
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Totals:	194,412	87,485
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Notes:

ECF (E.C.F. Table 36V) 0.400 => TCV: 34,994

2024 Est. T.C.V. 08-19-36-433-003

=

302,034

Est. TCV/Total Floor Area = 345.18, Most recent sale 04/05/2005 for 1

2023 Assessed MBOR S.E.V. Base for Cap C.P.I.

151,080 151,080 151,080 78,990 5.00

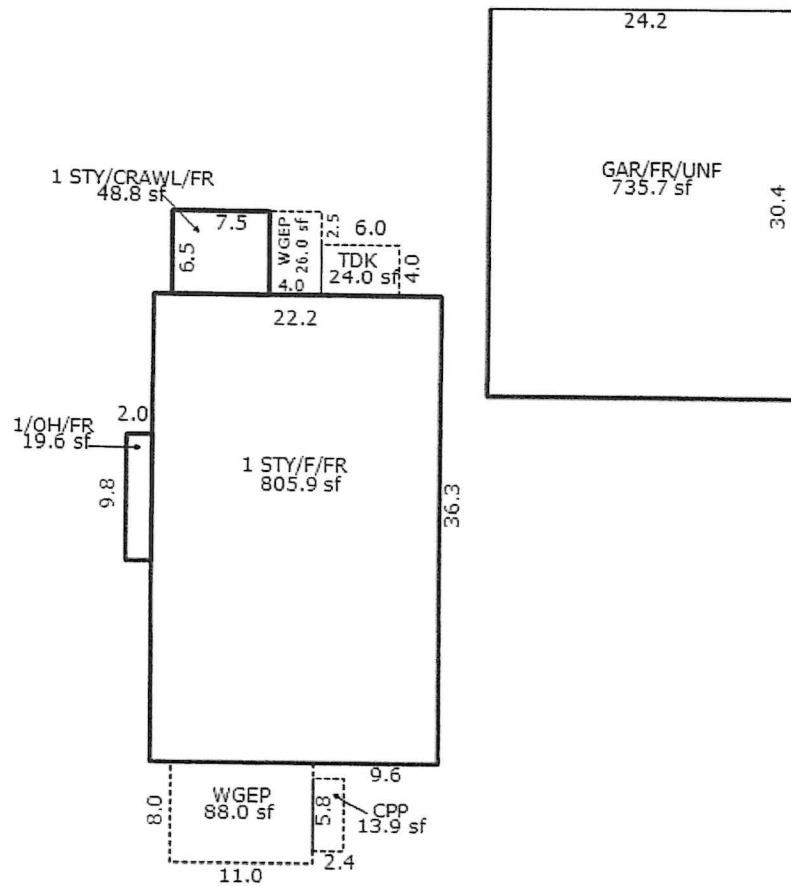
2024 New Eq. Adjustment Loss Additions Tax Adjustment Losses

0 -60 0 0 3,940 0

2024 Assessed MBOR S.E.V. Capped ->Taxable<- PRE/MBT

151,020 151,020 151,020 82,930 82,930 82,930

Parcel Number: 08-19-36-433-003, Residential Building 1



*** Information herein deemed reliable but not guaranteed***

07/24/2024
10:00 AM

Valuation Report

DB: Assessing-24

08-19-36-433-001	2024 Est. T.C.V.	MARCUS, TODD S
Property Class: 401		1116 CHAPIN AVE
Map #: .	City of Birmingham	BIRMINGHAM, MI 48009-2035

08/19/19 DR. CHG'D 2/OH'S TO "STACKED" 1/OH'S. #15

Land Value Estimates for Land Table 36V.Land Table 36V

* Factors *

Description	Frontage	Depth	Front	Depth	Rate	%Adj.	Reason	Value
Standard FF	40.00	120.00	1.0000	1.0000	6676	100		267,040
40 Actual Front Feet, 0.11 Total Acres					Total Est. Land Value =			267,040

Cost Est. for Res. Bldg: 1 Single Family Colonial/2Sty Cls BC Blt 2002

(11) Heating System: Forced Heat & Cool

Ground Area = 991 SF Floor Area = 2187 SF.

Phy/Ab.Phy/Func/Econ/Comb. % Good=79/100/100/100/79

Building Areas

Stories	Exterior	Foundation	Size	Cost New	Depr. Cost
2 Story	Brick	Basement	991		
1 Story	Siding	Overhang	15		
1 Story	Siding	Overhang	100		
1 Story	Siding	Overhang	67		
1 Story	Siding	Overhang	23		
		Total:		387,144	305,844

Other Additions/Adjustments

Recreation Room	730	21,506	16,990
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Plumbing

3 Fixture Bath	2	14,729	11,636
2 Fixture Bath	2	9,869	7,797
Extra Sink	2	3,034	2,397
Separate Shower	1	2,983	2,357
Ceramic Tile Floor	3	4,725	3,733
Ceramic Tub Alcove	1	977	772

Porches

CCP (1 Story)	58	2,359	1,864
CCP (1 Story)	179	6,652	5,255

Garages

Class: CD Exterior: Siding Foundation: 42 Inch (Unfinished)

Base Cost	450	20,277	16,019
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Built-Ins

Dishwasher	1	1,267	1,001
Garbage Disposal	1	391	309
Jacuzzi repl.Tub	1	9,923	7,839
Microwave	1	876	692
Standard Range	1	1,838	1,452

Fireplaces

Direct-Vented Gas	1	4,741	3,745
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Unit-in-Place Cost Items

015-RefrigFreezerDel	1	9,310	7,355
030-WetBar	1	1,406	1,111

Totals: 504,007 398,168

Notes:

ECF (E.C.F. Table 36V) 1.165 => TCV: 463,866

2024 Est. T.C.V. 08-19-36-433-001

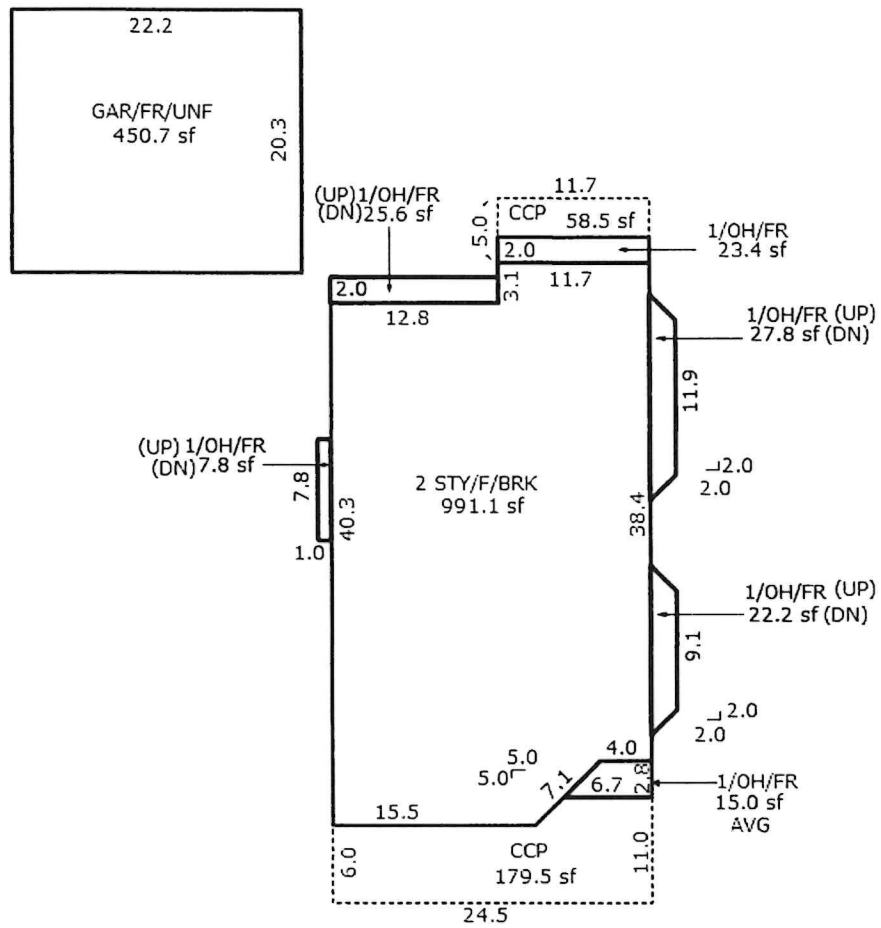
= 730,906

Parcel Number: 08-19-36-433-001

Page: 2

Est. TCV/Total Floor Area = 334.20, Most recent sale 09/28/2022 for 1						
2023	Assessed	MBOR	S.E.V.	Base for Cap	C.P.I.	
	343,690	343,690	343,690	310,600	5.00	
2024	New	Eq. Adjustment	Loss	Additions	Tax Adjustment	Losses
	0	21,760	0	0	15,530	0
2024	Assessed	MBOR	S.E.V.	Capped	->Taxable<-	PRE/MBT
	365,450	365,450	365,450	326,130	326,130	326,130

Parcel Number: 08-19-36-433-001, Residential Building 1



*** Information herein deemed reliable but not guaranteed***

07/24/2024

Valuation Report

10:02 AM

DB: Assessing-24

08-19-36-433-002	2024 Est. T.C.V.	WEISSMAN, DAVID
Property Class: 401		1128 CHAPIN AVE
Map #: .	City of Birmingham	BIRMINGHAM, MI 48009-2035

08/19/19 DR. CHG'D 2/OH'S TO "STACKED" 1/OH'S. #15

Land Value Estimates for Land Table 36V.Land Table 36V

* Factors *

Description	Frontage	Depth	Front	Depth	Rate	%Adj.	Reason	Value
Standard FF	40.00	120.00	1.0000	1.0000	6676	100		267,040
40 Actual Front Feet, 0.11 Total Acres							Total Est. Land Value =	267,040

Cost Est. for Res. Bldg: 1 Single Family Colonial/2Sty Cls BC Blt 2002

(11) Heating System: Forced Heat & Cool

Ground Area = 1053 SF Floor Area = 2276 SF.

Phy/Ab.Phy/Func/Econ/Comb. % Good=79/100/100/100/79

Building Areas

Stories	Exterior	Foundation	Size	Cost New	Depr. Cost
2 Story	Brick	Basement	1,053		
1 Story	Siding	Overhang	29		
1 Story	Siding	Overhang	16		
1 Story	Siding	Overhang	102		
1 Story	Siding	Overhang	23		
			Total:	402,381	317,881

Other Additions/Adjustments

Recreation Room	753	22,183	17,525
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Plumbing

3 Fixture Bath	2	14,729	11,636
2 Fixture Bath	2	9,869	7,797
Extra Sink	1	1,517	1,198
Separate Shower	1	2,983	2,357
Ceramic Tile Floor	3	4,725	3,733
Ceramic Tub Alcove	2	1,954	1,544

Porches

CCP (1 Story)	51	2,091	1,652
CCP (1 Story)	53	2,168	1,713

Garages

Class: BC Exterior: Siding Foundation: 42 Inch (Unfinished)

Base Cost	452	29,312	23,156
Door Opener	1	736	581

Built-Ins

Dishwasher	1	1,267	1,001
Garbage Disposal	1	391	309
Jacuzzi repl.Tub	1	9,923	7,839
Standard Range	1	1,838	1,452

Fireplaces

Two Sided	1	10,568	8,349
Raised Hearth	1	738	583
Direct-Vented Gas	1	4,741	3,745

Unit-in-Place Cost Items

015-RefrigFreezerDel	1	9,310	7,355
030-WetBar	1	1,406	1,111

Totals:	534,830	422,517
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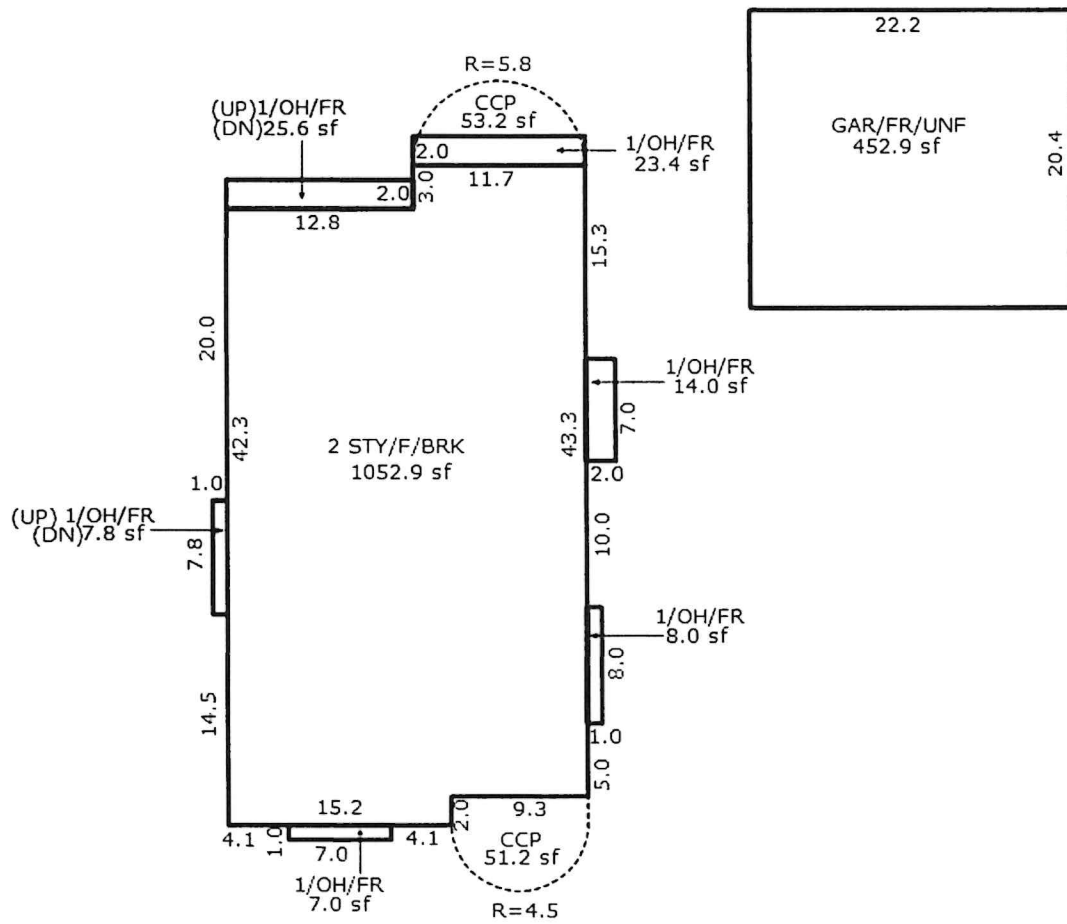
Notes:

ECF (E.C.F. Table 36V) 1.165 => TCV: 492,232

Parcel Number: 08-19-36-433-002 Page: 2

2024	Est. T.C.V.	08-19-36-433-002	=	759,272		
Est. TCV/Total Floor Area = 333.60, Most recent sale 07/23/2003 for 545,975						
2023	Assessed	MBOR	S.E.V.	Base for Cap	C.P.I.	
	357,620	357,620	357,620	287,120	5.00	
2024	New	Eq. Adjustment	Loss	Additions	Tax Adjustment	Losses
	0	22,020	0	0	14,350	0
2024	Assessed	MBOR	S.E.V.	Capped	->Taxable<-	PRE/MBT
	379,640	379,640	379,640	301,470	301,470	301,470

Parcel Number: 08-19-36-433-002, Residential Building 1



*** Information herein deemed reliable but not guaranteed***

3/12/21 MBOR APPT. PET #128 N/C.

3/16/16 MBOR, LTR, VALUE, NC
3/12/09 VERIFIED INTERIOR #92

1/29/08 REMOVED BSMT FINISH & BLT INS PER ASSESSOR REVIEW #17

Land Value Estimates for Land Table 36V.Land Table 36V							
* Factors *							
Description	Frontage	Depth	Front	Depth	Rate	%Adj.	Reason Value
Standard FF	40.00	120.00	1.0000	1.0000	6676	100	267,040
40 Actual Front Feet, 0.11 Total Acres					Total Est. Land Value =		267,040

Cost Est. for Res. Bldg: 1 Single Family Bungalow Cls C -5 Blt 1973

(11) Heating System: Forced Heat & Cool
Ground Area = 765 SF Floor Area = 956 SF.
Phy/Ab.Phy/Func/Econ/Comb. % Good=55/100/100/100/55

Building Areas

Stories	Exterior	Foundation	Size	Cost New	Depr. Cost
1.25 Story	Siding	Basement	765		
Total:				143,687	79,030

Other Additions/Adjustments

Plumbing					
2 Fixture Bath			1	3,351	1,843
Ceramic Tile Wains			1	2,425	1,334
Ceramic Tub Alcove			1	811	446

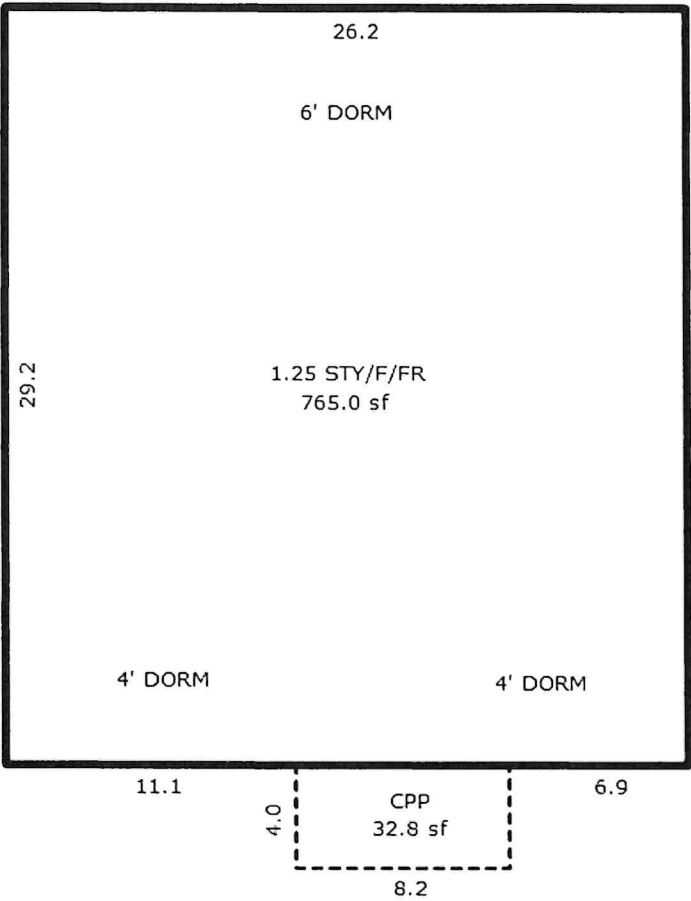
Porches					
CPP			32	948	521
Totals:				151,222	83,174

Notes:

ECF (E.C.F. Table 36V) 1.235 => TCV: 102,720

2024 Est. T.C.V. 08-20-31-351-001				=	369,760
Est. TCV/Total Floor Area = 386.78					
2023 Assessed	MBOR	S.E.V.	Base for Cap	C.P.I.	
171,870	171,870	171,870	61,160	5.00	
2024 New	Eq. Adjustment	Loss	Additions	Tax Adjustment	Losses
0	13,010	0	0	3,050	0
2024 Assessed	MBOR	S.E.V.	Capped	->Taxable<-	PRE/MBT
184,880	184,880	184,880	64,210	64,210	64,210

Parcel Number: 08-20-31-351-001, Residential Building 1



*** Information herein deemed reliable but not guaranteed***

07/24/2024
10:04 AM

Valuation Report

DB: Assessing-24

08-20-31-351-002	2024 Est. T.C.V.	KALT, MATTHEW
Property Class: 401		1164 CHAPIN AVE
Map #: .	City of Birmingham	BIRMINGHAM, MI 48009-2035

3/11/21 MBOR APPT. PET #87 DISAGREE.

5/9/14 MEAS EXT, NAH, EST 753 SF BSMT FIN & BLT-IN, PICS, C/P #92

09/24/13 HSE DEMO'D. NEW FDN. REV IN 20104. #92

1/31/08 COMPLETE APPRAISAL DUE TO ASSESSOR REVIEW. ADJ FILE. TOOK PIC #64

Land Value Estimates for Land Table 36V.Land Table 36V

* Factors *

Description	Frontage	Depth	Front	Depth	Rate	%Adj.	Reason	Value
Standard FF	40.00	120.00	1.0000	1.0000	6676	100		267,040
40 Actual Front Feet, 0.11 Total Acres							Total Est. Land Value =	267,040

Cost Est. for Res. Bldg: 1 Single Family Colonial/2Sty Cls BC Blt 2014

(11) Heating System: Forced Heat & Cool

Ground Area = 1094 SF Floor Area = 2243 SF.

Phy/Ab.Phy/Func/Econ/Comb. % Good=90/100/100/100/90

Building Areas

Stories	Exterior	Foundation	Size	Cost New	Depr. Cost
2 Story	Siding	Basement	1,094		
1 Story	Siding	Overhang	21		
1 Story	Siding	Overhang	12		
1 Story	Siding	Overhang	9		
1 Story	Siding	Overhang	13		
		Total:		377,129	339,415

Other Additions/Adjustments

Recreation Room	820	24,157	21,741
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Plumbing

3 Fixture Bath	2	14,729	13,256
2 Fixture Bath	1	4,934	4,441
Extra Sink	1	1,517	1,365
Separate Shower	1	2,983	2,685
Ceramic Tile Floor	2	3,150	2,835
Ceramic Tub Alcove	2	1,954	1,759

Porches

CCP (1 Story)	147	5,558	5,002
CCP (1 Story)	35	1,530	1,377

Garages

Class: BC Exterior: Siding Foundation: 42 Inch (Finished)

Base Cost	382	30,701	27,631
Door Opener	1	736	662

Built-Ins

Appliance Allow.	1	4,285	3,856
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Fireplaces

Direct-Vented Gas	1	4,741	4,267
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Unit-in-Place Cost Items

007-DoubleOven	1	4,104	3,694
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Totals: 482,208 433,986

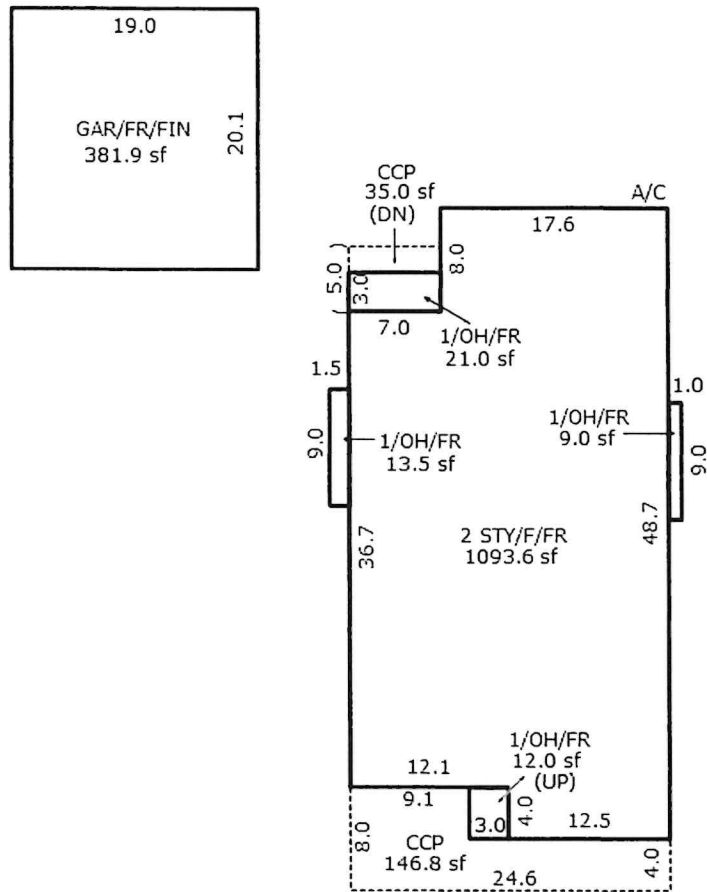
Notes:

ECF (E.C.F. Table 36V) 1.165 => TCV: 505,594

Parcel Number: 08-20-31-351-002 Page: 2

2024	Est. T.C.V. 08-20-31-351-002					=	772,634
Est. TCV/Total Floor Area = 344.46, Most recent sale 11/10/2020 for 650,000							
2023	Assessed	MBOR	S.E.V.	Base for Cap	C.P.I.		
	400,940	400,940	400,940	378,310	5.00		
2024	New	Eq. Adjustment	Loss	Additions	Tax Adjustment	Losses	
	0	-14,620	0	0	8,010	0	
2024	Assessed	MBOR	S.E.V.	Capped	->Taxable<-	PRE/MBT	
	386,320	386,320	386,320	397,220	386,320	386,320	

Parcel Number: 08-20-31-351-002, Residential Building 1



*** Information herein deemed reliable but not guaranteed***

07/24/2024

Valuation Report

DB: Assessing-24

10:06 AM

08-20-31-351-003	2024 Est. T.C.V.	DANIEL E RAVID TRUST
Property Class: 401		1186 CHAPIN AVE
Map #: .	City of Birmingham	BIRMINGHAM, MI 48009-2035

8/6/18 UPDATED STY HT FOR 2014 COST MANUAL CONVERSION EST'D AND AVG'D PER AERIALS #58

5/31/17 OC-1 FOR DECK. HSE EMPTY, LEFT NOTICE. REV'D EXT. REMOVE CPP & ADD TDK. TOOK PICS. CP. #76

11/2/16 BP FOR NEW HOUSE. MEASURED THE EXTERIOR, REVIEWED THE INTERIOR. BSMT IS 27X25 FINISHED AREA WITH 2PC BATH. KITCHEN HAS DISPOSAL, DISHWASHER, VENTED HOOD. HOUSE IS 95% COMPLETE. ESTIMATED COMPLETE BY YEAR END. CLOSED PB 0815B-61N. OPENED OC-1 TO REVIEW FOR TDK/PATIO. TOOK 3 PIC. #92

9/16/16 BP(15-0061) FOR NEW HOUSE AND DET GARAGE, TRIM CARPENTERS ONSITE. HSE APPROX 70% COMPLETE. MEAS EXT & REV'D INT. 3RD STY IS BASICALLY 7' HEAD ROOM BY LENGTH OF HSE (41.3) SO CALLING HSE 2 1/4 STY. 3TD FLOOR HAS 3 PC BATH & BED OR PLAY AREA. UNABLE TO DETERMINE KITCHEN BLT-INS AT THIS POINT. CHECK FINAL PASS FOR COMPLETE AND INTERIOR REVIEW. TOOK PICS. #49

4/18/16 HOUSE DEMO'D CLOSED PO 16-011 PER DEMO. ADVERTISING ON BUILDERS WEBSITE SAY 2, 645 SF 3 1/2 BATH HOUSE WILL BE AVAILABLE IN 11/2016. OPEN OC-1 TO REVIEW DURING SECOND PASS. #92

Land Value Estimates for Land Table 36V.Land Table 36V

* Factors *							
Description	Frontage	Depth	Front	Depth	Rate %Adj.	Reason	Value
Standard FF	40.00	120.00	1.0000	1.0000	6676	100	267,040
40 Actual Front Feet, 0.11 Total Acres					Total Est. Land Value =		267,040

Cost Est. for Res. Bldg: 1 Single Family Colonial/2Sty Cls BC Blt 2016

(11) Heating System: Forced Heat & Cool
 Ground Area = 1041 SF Floor Area = 2407 SF.
 Phy/Ab.Phy/Func/Econ/Comb. % Good=92/100/100/100/92

Building Areas

Stories	Exterior	Foundation	Size	Cost New	Depr. Cost
2 Story	Siding	Basement	781		
3 Story	Siding	Basement	260		
1 Story	Siding	Overhang	27		
1 Story	Siding	Overhang	18		
1 Story	Siding	Overhang	11		
1 Story	Siding	Overhang	9		
			Total:	393,979	362,460

Other Additions/Adjustments

Recreation Room	675	19,886	18,295
Plumbing			
3 Fixture Bath	2	14,729	13,551
2 Fixture Bath	2	9,869	9,079
Extra Sink	2	3,034	2,791
Ceramic Tile Floor	3	4,725	4,347
Ceramic Tub Alcove	3	2,931	2,697
Porches			
CPP	180	4,509	4,148
Deck			
Treated Wood	291	6,050	5,566
w/Roof (Roof portion)	126	3,234	2,975

Garages

Class: C Exterior: Siding Foundation: 42 Inch (Unfinished)

Parcel Number: 08-20-31-351-003

Page: 2

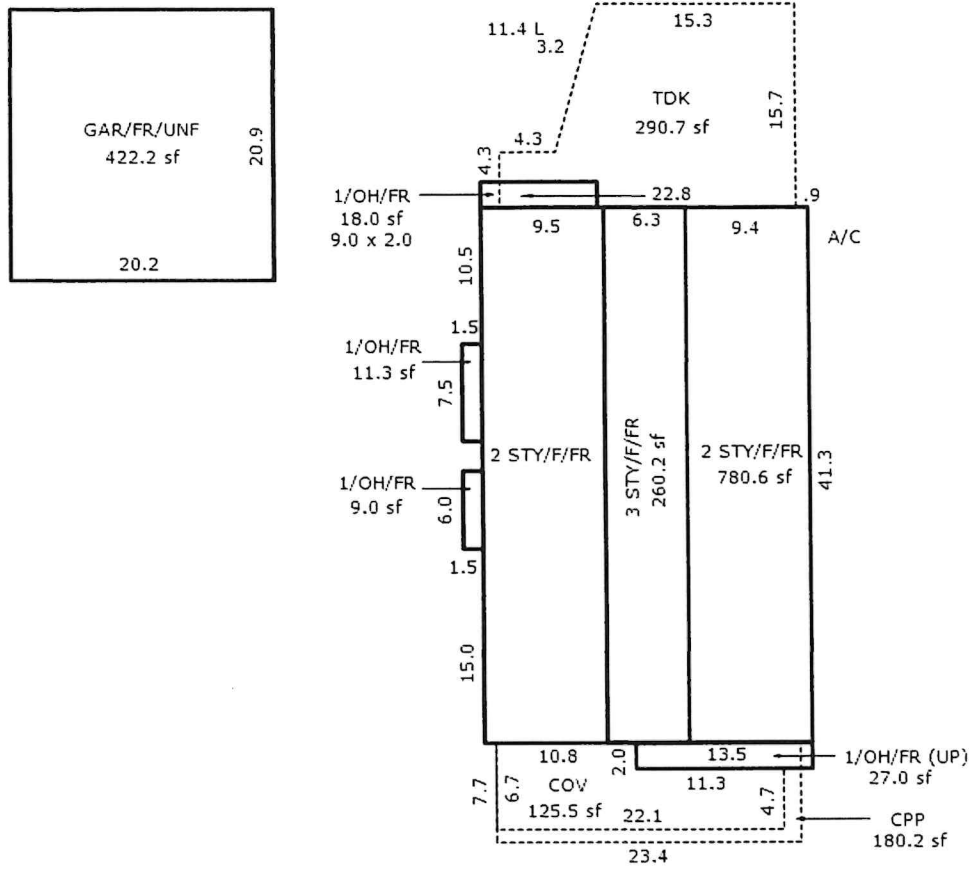
Base Cost	422	21,695	19,959
Door Opener	1	589	542
Built-Ins			
Dishwasher	1	1,267	1,166
Garbage Disposal	1	391	360
Vented Hood	1	861	792
Fireplaces			
Direct-Vented Gas	1	4,741	4,362
Totals:		492,490	453,090

Notes:

ECF (E.C.F. Table 36V) 1.480 => TCV: 670,573

2024	Est. T.C.V. 08-20-31-351-003					=	937,613
Est. TCV/Total Floor Area = 389.54, Most recent sale 05/16/2017 for 660,000							
2023	Assessed	MBOR	S.E.V.	Base for Cap	C.P.I.		
	413,420	413,420	413,420	389,700	5.00		
2024	New	Eq. Adjustment	Loss	Additions	Tax Adjustment	Losses	
	0	55,390	0	0	19,480	0	
2024	Assessed	MBOR	S.E.V.	Capped	->Taxable<-	PRE/MBT	
	468,810	468,810	468,810	409,180	409,180	409,180	

Parcel Number: 08-20-31-351-003, Residential Building 1



*** Information herein deemed reliable but not guaranteed***

07/24/2024

10:07 AM

Valuation Report

DB: Assessing-24

08-20-31-351-004

2024 Est. T.C.V.

BUSCHMOHLE, PATRICK

Property Class: 401

1230 CHAPIN AVE

Map #: .

City of Birmingham

BIRMINGHAM, MI 48009-4720

11/08/12 - BP BSMT FIN. ALREADY IN FILE CP #44

6/10/04 gate locked. last pass hse near complete #75 10/21/04 measured and
reviewed new hse close bp 89

Land Value Estimates for Land Table 36V.Land Table 36V

* Factors *

Description	Frontage	Depth	Front	Depth	Rate	%Adj.	Reason	Value
Standard FF	40.00	120.00	1.0000	1.0000	6676	100		267,040
40 Actual Front Feet, 0.11 Total Acres							Total Est. Land Value =	267,040

Cost Est. for Res. Bldg: 1 Single Family Colonial/2Sty Cls C 10 Blt 2004

(11) Heating System: Forced Heat & Cool

Ground Area = 1015 SF Floor Area = 2100 SF.

Phy/Ab.Phy/Func/Econ/Comb. % Good=80/100/100/100/80

Building Areas

Stories	Exterior	Foundation	Size	Cost New	Depr. Cost
2 Story	Siding	Basement	1,015		
1 Story	Siding	Overhang	32		
1 Story	Siding	Overhang	20		
1 Story	Siding	Overhang	18		
			Total:	302,766	242,204

Other Additions/Adjustments

Recreation Room	870	18,131	14,505
-----------------	-----	--------	--------

Plumbing

3 Fixture Bath	2	10,016	8,013
2 Fixture Bath	1	3,351	2,681
Extra Sink	1	1,024	819
Separate Shower	1	1,466	1,173
Ceramic Tile Floor	3	3,623	2,898
Ceramic Tub Alcove	3	2,432	1,946

Porches

CCP (1 Story)	151	4,420	3,536
---------------	-----	-------	-------

Garages

Class: BC Exterior: Siding Foundation: 42 Inch (Unfinished)

Base Cost	408	27,307	21,846
Door Opener	1	736	589

Built-Ins

Dishwasher	1	840	672
Garbage Disposal	1	282	226
Vented Hood	1	615	492
Jacuzzi repl.Tub	1	7,144	5,715

Fireplaces

Direct-Vented Gas	1	3,257	2,606
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Totals:	387,410	309,921
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Notes:

ECF (E.C.F. Table 36V) 1.165 => TCV: 361,058

2024 Est. T.C.V. 08-20-31-351-004

= 628,098

Est. TCV/Total Floor Area = 299.09, Most recent sale 03/11/2011 for 257,000

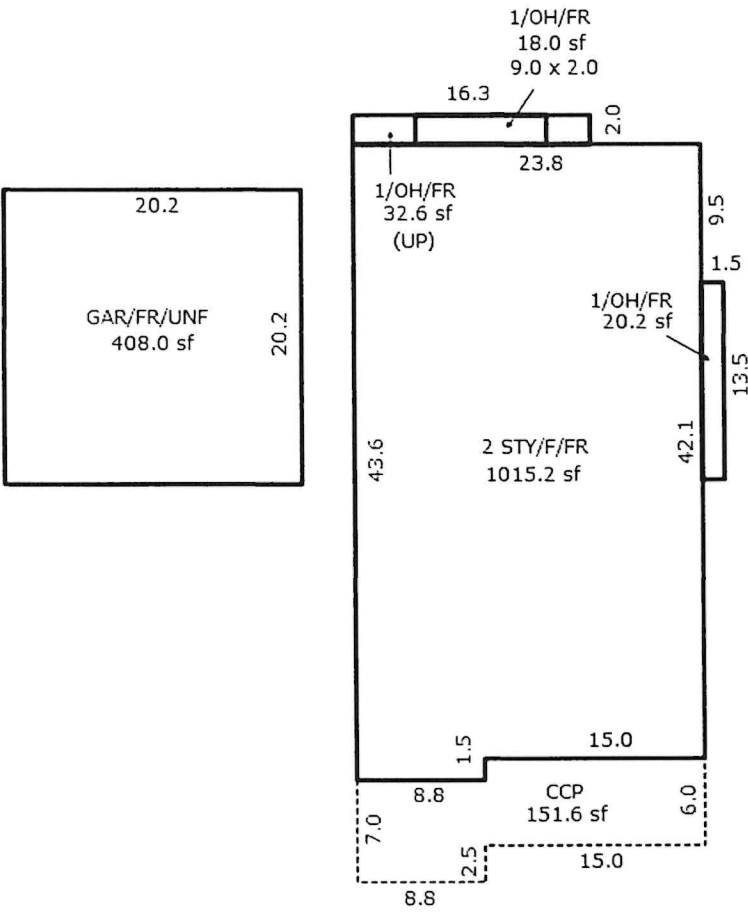
2023 Assessed	MBOR	S.E.V.	Base for Cap	C.P.I.
293,250	293,250	293,250	228,120	5.00

Parcel Number: 08-20-31-351-004

Page: 2

2024	New	Eq. Adjustment	Loss	Additions	Tax Adjustment	Losses
	0	20,800	0	0	11,400	0
2024	Assessed	MBOR	S.E.V.	Capped	->Taxable<-	PRE/MBT
	314,050	314,050	314,050	239,520	239,520	239,520

Parcel Number: 08-20-31-351-004, Residential Building 1



*** Information herein deemed reliable but not guaranteed***

Benefits to Granting Requested Variance:

Rectifies the nonconforming side setback to ordinance conforming.

Rectifies the nonconforming rear setback to ordinance conforming.

Permits Detroit Edison the minimum distance it seeks to access its powerlines.

(Critical to the City of Birmingham; DTE approval of plans is the first and mandatory step required of homeowners prior to submitting design/construction plans to the Community Development Department.)

Improves fire and public safety with the demolition of a 103-year-old “garage” and replacing it with a structure constructed of today’s building materials/standards.

Improves public safety with greater accessibility for first responders in a fire emergency assisted by new conforming setback distances between neighbors’ homes and accessory structures.

Improves the neighborhood true to its current character.

Presents the neighbors with an aesthetically pleasing structure, new cement work and landscaping to view from their backyards and from Chapin Avenue as they deserve.

Increases revenue for the City of Birmingham from taxable property improvement.

Grants the homeowners to age-in-place by providing shelter for their two vehicles.

Provides the City with a clear example of its solid commitment to the 2040 Master Plan’s goal of residents aging-in-place; strongly encouraging its goal.

Grants homeowner the ADA accommodation requested for impaired eyesight.

The 2.95% added lot coverage does not encroach on any neighbor’s property nor conflicts with City of Birmingham’s setback ordinances.

The requested variance does no harm.

Disadvantage to Granting Requested Variance:

Exceeds the 30% lot coverage by structures by 2.95% in the R3 zone.

Asking questions:

How does it better serve the City of Birmingham to not conform to the established setback ordinances by keeping a 103-year-old garage in existence?

How does it better serve the adjacent neighbors by keeping a 103-year-old garage in existence?

How does it better serve the character of the neighborhood by keeping a 103-year-old garage in existence?

How does it better serve DTE by keeping a 103-year-old garage in existence?

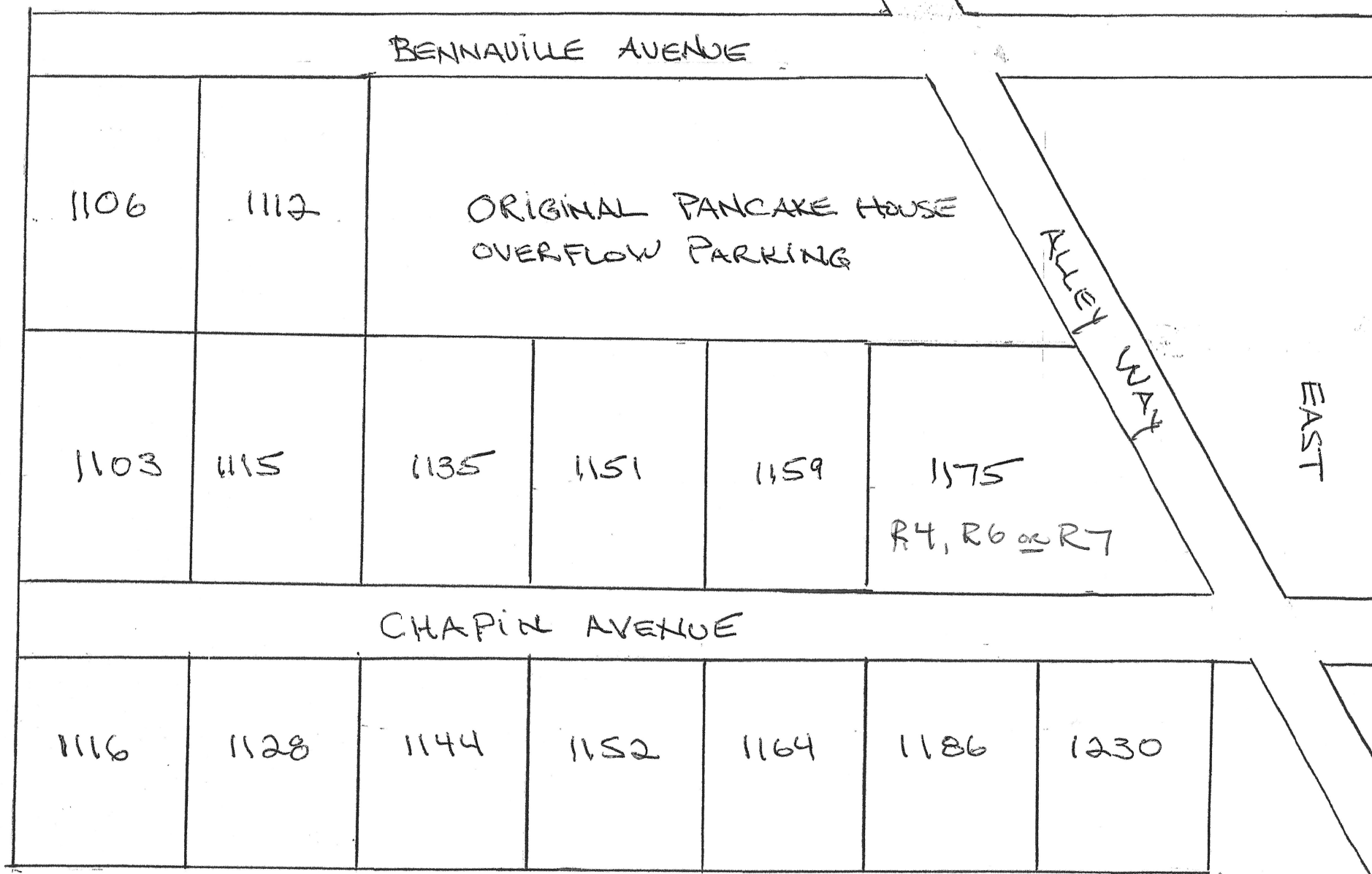
How does it better serve Public Safety and first responders by keeping a 103-year-old garage in existence?

How does it better serve the Homeowners by keeping a 103-year-old garage in existence?

Asking the question differently:

What negative consequence does the City of Birmingham experience by granting a 2.95 variance request?

WEST
CUMMINGS



NORTH

BENNAVILLE AVENUE

ORIGINAL PANCAKE HOUSE
OVERFLOW PARKING

ALLEY WAY

EAST

CHAPIN AVENUE

1116

1128

1144

1152

1164

1186

1230

SOUTH

OPEN HOUSE FACT-FINDING ADVENTURE FOR BZA MEMBERS & THE COMMUNITY DEVELOPMENT STAFF

OCTOBER 6 - 4:00 PM - 9:00 PM

OCTOBER 7, 8, 9 - 8:00 AM - 8:00 PM

1115 CHAPIN AVENUE, BIRMINGHAM 48009

Experience Life in a former Sears Kit Home of Yesteryear!
A 1,065 Sq. Ft. Home **without** a Basement, a 2nd Floor,
a Garage and Storage, with 1 Bathroom & 2 Bedrooms.

Reimagine you and your loved ones living without
the many, expected amenities in your current home!

Stop Over. It's an Open House. *Times/Dates don't work for you?*

Call Frank and Jim: 248-404-7966

CASE DESCRIPTION

160 Baldwin (24-09)

Hearing date: September 10, 2024

Appeal No. 24-09: The owner of the property known **160 Baldwin**, requests the following variance to construct a new home with an attached garage:

A. Chapter 126, Article 2, Section 2.08.2 of the Zoning Ordinance requires that the minimum front yard setback be the average of the homes within 200.00 feet in each direction. The required front yard setback is 53.54 feet. The proposed is 25.00 feet. Therefore, a 28.54 feet variance is being requested.

Staff Notes: This applicant was in front of the board last month and was motioned to be postponed until this month so that additional information could be prepared (see minutes). This applicant's variance request on the location for the front yard setback is to construct a new home. The floodway and floodplain affects a large portion of the property. The existing 1950 home is in the floodway which is to be removed and the new home is proposed to be moved forward on the lot to address the floodplain issue as it was discussed with EGLE.

This property is zoned R2 – Single family residential.

Jeff Zielke, NCIDQ, LEED AP, COSS
Assistant Building Official

CHAPTER 126 - ZONING

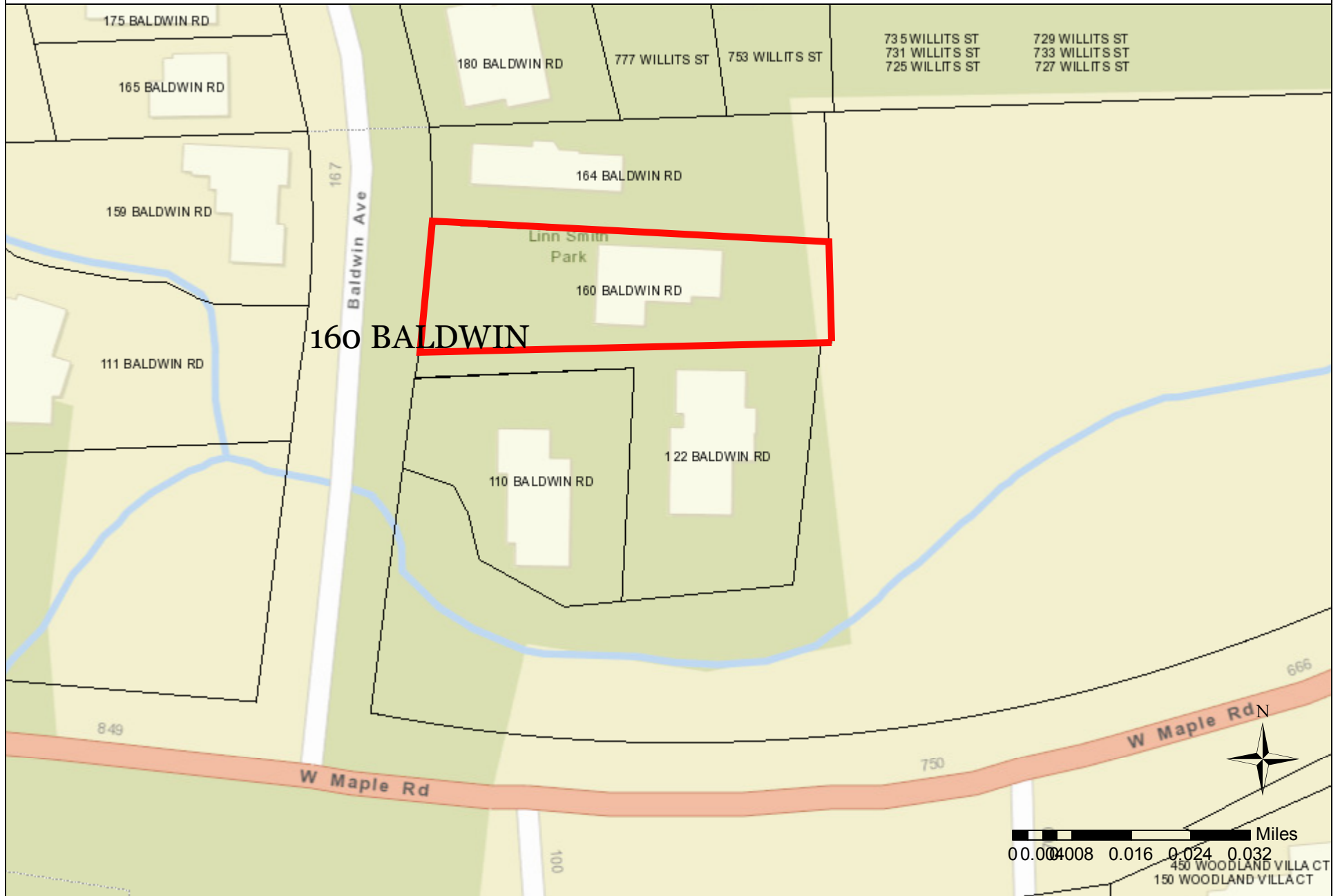
ARTICLE 8: ENFORCEMENT AND PENALTIES

8.01 The Board of Zoning Appeals

3. Variances.
 - a. 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:
 - 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.

(EACH i-iv must be satisfied)

160 BALDWIN 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

Received Date: _____

Hearing Date: _____

Received By: _____

Appeal #: _____

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

Address: 160 Baldwin Rd	Lot Number:	Sidwell Number: 19-36-102-002
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II. OWNER INFORMATION:

Name: Dr Nawaf Masri			
Address: 4575 Charing Cross Rd	City: Bloomfield Hills	State: MI	Zip code: 48304
Email: * masriids@hotmail.com		Phone: 248-722-6780	

III. PETITIONER INFORMATION:

Name: same as owner	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. COMPLETE digital 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:

Please provide the following in your electronic submission:

- ☐ Completed and signed application
- ☐ Signed letter of practical difficulty and/or hardship
- ☐ Certified survey
- ☐ Building plans including existing and proposed floor plans and elevations
- ☐ If appealing a board decision, provide a copy 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: <u>5/6/2024</u>
Signature of Petitioner: _____	Date: <u>5/6/2024</u>

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

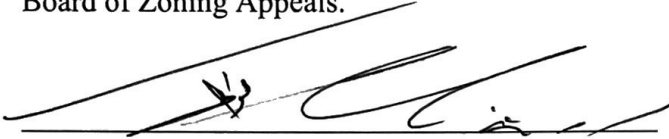
- A. The Board may reverse, affirm, vary or modify any order, requirement, decision or determination as in its opinion should be made, and to that end, shall have all the powers of the officer from whom the appeal has been taken.
- B. The decisions of the Board shall not become final until the expiration 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 black ink, consisting of a series of loops and a long horizontal stroke, positioned above a solid horizontal line.

Signature of Applicant



ALEXANDER V. BOGAERTS & ASSOCIATES, P.C.

Architecture

Planning

Interior Design

2445 Franklin Rd.
Bloomfield Hills, MI 48302
248/ 334-5000

August 23, 2024

Board of Zoning Appeals
151 Martin Street
Birmingham, MI 48099

Re: 160 Baldwin Rd
Variance request (front yard setback)

Board Members,

We listened to your comments at the BZA meeting 8-13-24:

Based on your request for Additional information:

Additional information showing the surround neighborhood in context,
(See sheet no. 4 - aerial).

Additional information showing existing front yard measurements of the homes to the north and west of our site **(see sheet no. 4 - Front setback field measurement chart and site graphic).**

Increase the front yard setback:

We have increased the front setback from 25' to 27'

which is greater than our immediate neighbor to the north, and greater than the average setback of the existing homes north and west of our site.

(see sheet no. 4 - Front setback field measurement chart and site graphic).

Increase the north side yard setback:

We increase our north side setback from 8' to (9'- 9.15')

Raise the first floor elevation to 2' above the existing floodplain:

We Raised the first floor elevation to 2' above the existing floodplain

Buildable Area:

Due to the sites unique and unusual circumstances
(an extreme design practical difficulty is created) ...severally limiting the sites buildable area.
See sheet no. 5 site plan/buildable area graphic

Article 2, Section 2.08 R2 requires a minimum front yard setback based on the average distance from the front lot line of homes on lots with frontage on the same side of the street within 200 feet.

(We are requesting a 26.54' front yard setback variance due to practical difficulties and design hardships created due to the unique and unusual circumstances of our site as described below). (Variance chart $267.72'/5 = 53.54'$ avg setback reqd. $53.54' - \text{prop. } 27' = 26.54'$)

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.

If the provisions of the Zoning Ordinance are strictly applied, it would unreasonably prevent the property owner from using the property for a permitted purpose, which is not reasonable or appropriate due to the sites unique and unusual existing conditions.

The special conditions applicable to the property are as follows:

The entire site is in the floodplain and +- 60% of the property is also in the floodway, which severely limits the buildable area of the site and our ability to design a reasonable sized home that is comparable with similar size homes currently existing throughout the City.

We submitted a preliminary design to EGLE and the building department requesting to build a new home on the lot that would consist of remodeling the existing structure in the floodway, and attaching a new addition to the remodeled structure. The new addition was proposed to be located at the front of the lot in the floodplain.

We were told that this approach would not be permissible by either EGLE or the city.

Based on our conversations with the building department and EGLE it was concluded that any type of construction in the floodway is so severely restricted that it becomes essentially an unbuildable area of the site; therefore, we are restricted to building anything new only in the front +- 40% of the site in the floodplain.

The other special condition that severely impacts our site is that (2) of the houses that we are required to use in our average front yard setback calculations have front yard setbacks that are totally out of character with the rest of the homes front yard setbacks on Baldwin.

**One of the homes is setback 140.95' from the street;
the other home is setback 49.72' from the street, because of its close proximity to the river.
*These (2) home setbacks severely skew/impact the average setback calculation.***

If not for these (2) unique and unusual home locations the average front yard setback calculation would be 25.7'
(see sheet no. 4 - Front setback field measurement chart and site graphic).

Finally, the ordinance for our lot allows for 30% lot coverage.

Due to the extreme site restrictions, we are forced to design within, our design is restricted to a lot coverage of 19.4%.

Based on our severely reduced lot coverage, floodway restrictions and the out of character neighboring lots front yard setbacks, we believe it is reasonable to seek a variance for a reduced front yard setback.

Literal enforcement of the chapter will result in unnecessary hardship.

Literal enforcement of the chapter will result in an unnecessary hardship; as previously discussed, it will severely restrict the buildable envelope on the site. Floodway building codes severely restrict any type of construction in the floodway so that it essentially renders +- 60% of the site as an unbuildable area; when you combine the floodway restrictions with the required 53.54' average front yard setback, the result is a severe design hardship which creates an unbuildable envelope

(See sheet no. 5 site plan/buildable area graphic)

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.

Based on the unique conditions described above, granting the variance will not be contrary to the spirit and purpose of the Zoning Ordinance nor contrary to the public health, safety and welfare. Our design and variance request meet the spirit and intent of the zoning ordinance, as well as all applicable building codes.

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.

Granting of the variance will result in substantial justice to the property owner, the owners of property in the area and the general public because it will allow us to design a home that is comparable with similar sized homes currently existing in the City. Our front yard setback is greater than our immediate neighbor's front yard setback to the north, and the average of the setbacks north of our site and west of our site. Our homes design is compatible with the overall architectural character of community; finally, it is a reasonable and appropriate request given the sites unique and unusual conditions.

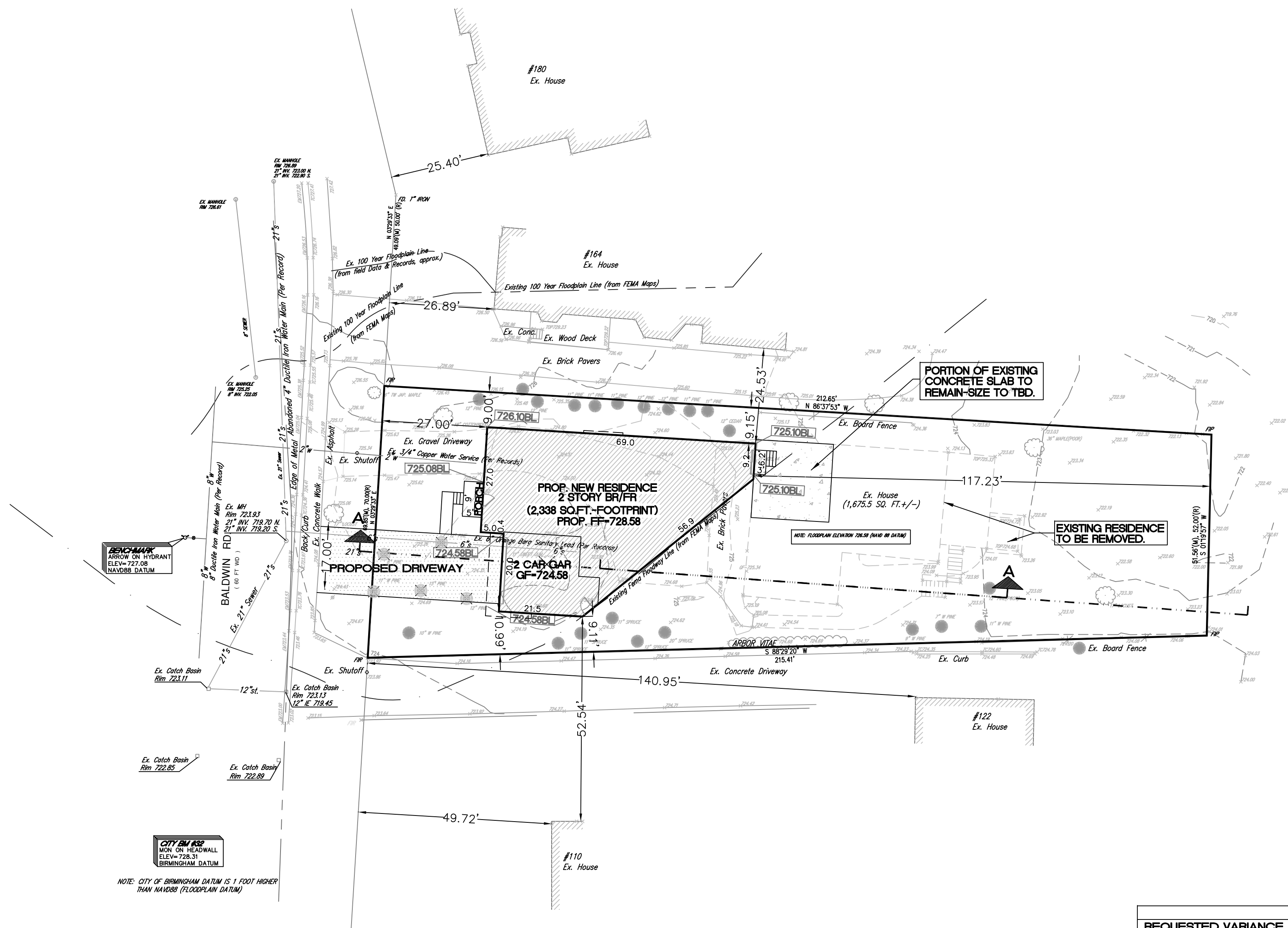
Finally, prior to preparing our detailed plans that we submitted to the BZA, we shared a preliminary site and floor plan sketch w/ EGLE; EGLE told us based on the preliminary concept sketch that our new approach to the site and house design was something they would be able to permit.

We look forward to presenting our project to the BZA at your September 10 th meeting.

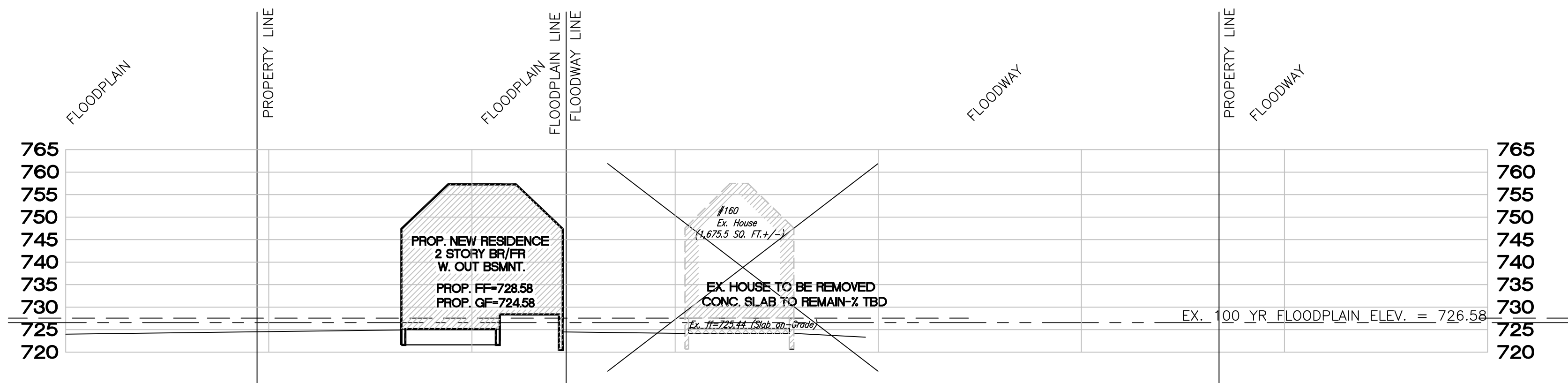
Sincerely

Mark Abanatha

Mark Abanatha, Architect

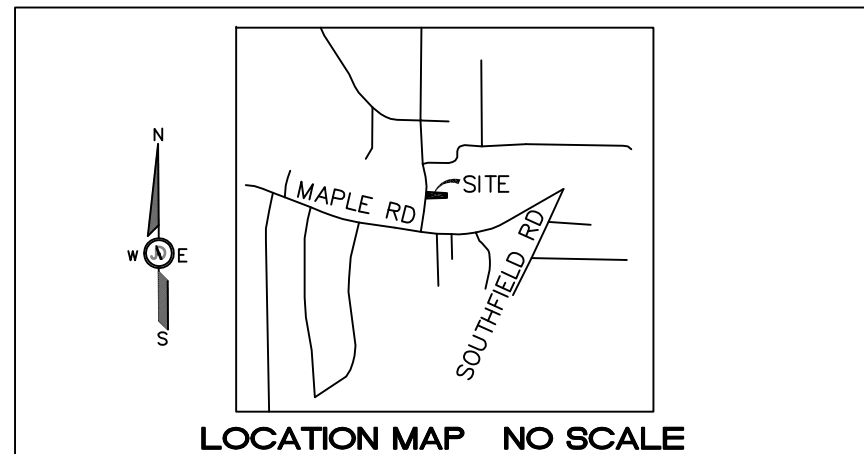


PRELIMINARY SITE PLAN
SCALE: 1"=20'



CROSS SECTION A-A
SCALE: 1"=20'

REQUESTED VARIANCE	VARIANCE CHART		VARIANCE AMOUNT
	REQUIRED	PROPOSED	
VARIANCE FRONT SETBACK	53.54'	27.00'	26.54'



LOCATION MAP NO SCALE
ZONING: R2-ONE FAMILY RESIDENTIAL DISTRICT.
LEGAL DESCRIPTION:

(LEGAL DESCRIPTION PROVIDED BY THE OWNER)
PARCEL IDENTIFICATION NUMBER: 19-23-302-036
PART OF THE NORTHWEST 1/4 OF SECTION 36, T2N., R10E, CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN, DESCRIBED AS BEGINNING AT A POINT LOCATED DISTANT N 87°31'35"W., 50.00 FEET FORM THE NORTHWEST 31°35' W., 50.00 FEET FROM THE NORTHWEST SECTION CORNER; THENCE THENCE S88°32'40"E., 212.67 FEET; THENCE S01°20'40"W., 52.00 FEET; THENCE S87°50'06"W., 216.04 FEET; THENCE N03°31'35"E., 70.00 FEET; THE POINT OF BEGINNING.
CONTAINING 12,973.25 SQUARE FEET OR 0.30 ACRES OF LAND MORE OR LESS.
COMMONLY KNOWN AS: 160 BALDWIN ROAD

DESCRIPTION	EXISTING	PROPOSED
STORM/SEWER	MANHOLE 12" ST. 12"	MANHOLE 12" ST. 12"
SANITARY/COMBINED/SEWER	MANHOLE 12" ST. 12"	MANHOLE 12" ST. 12"
WATER LINE	42" 42"	42" 42"
UTILITY POLE W/GUY WIRE	6" 6"	6" 6"
GAS LINE	6" 6"	6" 6"
CONCRETE PAVEMENT	CONCRETE PAVEMENT	CONCRETE PAVEMENT
SILT FENCE	SILT FENCE	SILT FENCE
FENCE	FENCE	FENCE
LOT IDENTIFICATION NO.	LOT 178	LOT 078
PARCEL IDENTIFICATION NO.	11-30-277-078	11-30-077-078
FIRST FLOOR ELEVATION	FF=987.7	PROP. FF=987.7
BASEMENT FLOOR ELEV.	BF=987.7	PROP. BF=987.7
GARAGE FLOOR ELEVATION	GF=987.7	PROP. GF=987.7
SPOT ELEVATION	SPOT ELEVATION	SPOT ELEVATION
CONTOUR LINE	980	980
FINISHED GRADE ELEV.	987.7FG	987.7FG
TOP OF WALK ELEV.	987.7TW	987.7TW
GUTTER ELEVATION	987.7GU	987.7GU
TOP OF CURB ELEVATION	987.7TC	987.7TC
BRICK LEDGE ELEVATION	987.7BL	987.7BL
TOP OF WALL ELEVATION	987.7TW	987.7TW
BOTTOM OF WALL ELEV.	987.7BW	987.7BW
BOTTOM SWALE ELEVATION	987.7SW	987.7SW
SURFACE DRAINAGE FLOW	SURFACE DRAINAGE FLOW	SURFACE DRAINAGE FLOW
LIGHT POLE	LIGHT POLE	LIGHT POLE
DECIDUOUS TREE	DECIDUOUS TREE	DECIDUOUS TREE
EVERGREEN TREE	EVERGREEN TREE	EVERGREEN TREE
HEDGE	HEDGE	HEDGE
IRON FOUND	IRON FOUND	IRON FOUND
MONUMENT FOUND	MONUMENT FOUND	MONUMENT FOUND
RECORDED	REC.	REC.
MEASURED	MEAS.	MEAS.

BENCH MARK-NAVD 88 DATUM
THE BENCHMARK DESCRIPTIONS, ELEVATIONS, AND LABELS CONTAINED ON THIS LIST IS SUBJECT TO CHANGE, WITHOUT PRIOR NOTICE AT ANY TIME DUE TO ONGOING CONSTRUCTION AND MAINTENANCE PROJECTS THROUGHOUT THE CITY OF BIRMINGHAM. IT IS STRONGLY ADVISED TO FIELD MEASURE THE ELEVATION DIFFERENCE BETWEEN A MINIMUM OF TWO BENCHMARKS TO VERIFY A BENCHMARK ELEVATION BEFORE USE ON THIS PROJECT.
SITE BM#1
TOP OF ARROW ON HYDRANT LOCATED ACROSS THE PROPERTY ON THE WEST S.O.W. OF BALDWIN ROAD.
ELEV.=727.08

FLOOD MAP DETERMINATION
FEMA ISSUED MAP NO.: 26125C0536F
EFFECTIVE DATE: 09/29/2006
ZONE "AE". FLOODPLAIN ELEVATION 726.58
TOPO NOTES
THE LOCATION OF UNDERGROUND UTILITIES AS SHOWN ON THIS DRAWING ARE DERIVED FROM MUNICIPAL OFFICIALS AND RECORDS OF UTILITY COMPANIES AND NO GUARANTEE CAN BE MADE TO THE COMPLETENESS OR EXACTNESS OF LOCATION.

SOIL TYPES (USDA-NRCS) (625)
63A URBAN LAND THETFORD COMPLEX, 0% TO 3% SLOPES.

R-2 DISTRICT DEVELOPMENT STANDARDS				
SUBJECT	REQUIRED	EXISTING	PROVIDED	VARIANCE
MINIMUM LOT AREA	6,000 SF	12,973SF		
MAXIMUM LOT COVERAGE	30%			19.4%
MINIMUM OPEN SPACE	40%			76.7%
MINIMUM 65% FRONT OPEN SPACE	65%			72.9%
MINIMUM FRONT YARD SETBACK	53.54 FT	27.00 FT		26.54 FT
MINIMUM REAR YARD SETBACK	30 FEET		117.23FT	
MINIMUM COMB. FRONT/REAR SETBACK	55 FEET		142.23FT	
MINIMUM SIDE YARD SETBACK(ONE SIDE) 9'/10%	9 FT		9 FT	
MINIMUM SIDE YARD SETBACK(TOTAL) 14'/25%	17 FT		18.11FT	
MINIMUM FLOOR AREA/UNIT(2.5 STORIES)	1,200SF			EXCEED
MAXIMUM PORCH PROJECTION (FRONT)	10 FEET			COMPLY
MAX. PORCH/DECK PROJECTION (REAR)	15 FEET		0 FT	
ATTACHED GARAGE-MAX. 50% LINEAR FRONTAGE	23.50 FT		20.0 FT	
ATT. GAR-MIN. 5' SETBACK FROM FRONT FACADE	5 FT		5 FT	
MAX. BUILDING HEIGHTS (MIDPOINT)*	28 FEET		27'-8"	
MAX. BUILDING HEIGHTS (EAVES)	24 FEET		24'	
BUILDING TO BUILDING 14'/25%	17 FT		24.53 FT	
BUILDING TO BUILDING	17 FT		52.54 FT	
A. BLDGS. MIN. DIST. FROM LOT LINES	5 FEET		9 FEET	

NOTE:
SEE SUAK ENG. SURVEY
AVERAGE SETBACK OF
EXISTING ADJACENT (5)
HOUSES 267.72'/5 = 53.54'

J.A.D.
Services
5119 Highland Road-#201
Waterford, MI 48327
Telephone: (248) 739-9955
jad222@sbglobal.net

PETITIONER:
MR. RAJAEI ABBAS
31333 SOUTHFIELD ROAD-SUITE 200
BEVERLY HILLS, MICHIGAN 48025
TELEPHONE: 248-770-9542

SHEET TITLE:
PRELIMINARY SITE PLAN
AND CROSS SECTION
PROJECT TITLE:
PROPOSED PRIVATE RESIDENCE
160 BALDWIN ROAD
PART OF NW 1/4 OF SEC. 36, T.2N.-R.10E.
CITY OF BIRMINGHAM
OAKLAND COUNTY, MICHIGAN

PROJECT NO.:
2324
DRAWN JAD
CHECKED JAD
APPROVED JAD

ISSUED FOR DATE
PRELIM SITE PLAN 03-01-24
REVISION 1 03-21-24
REVISION 2 05-02-24
REVISION 3 07-09-24
REVISION 4 07-12-24
REVISION 5 08-21-24

SCALE: 1"=20'
SHEET NO:



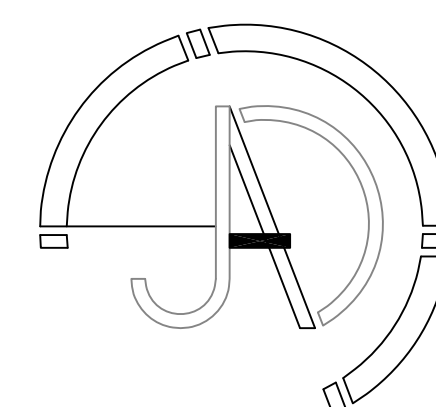
Telephone: (248) 739-9955
jad222@sbcglobal.net

PETITIONER:

SHEET TITLE:

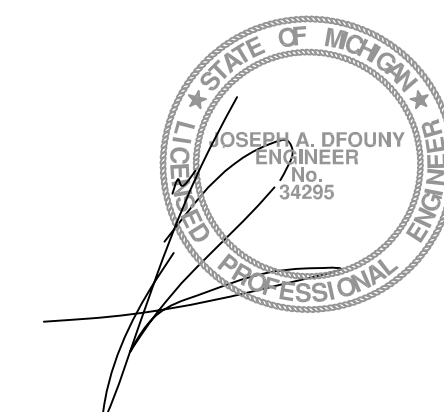
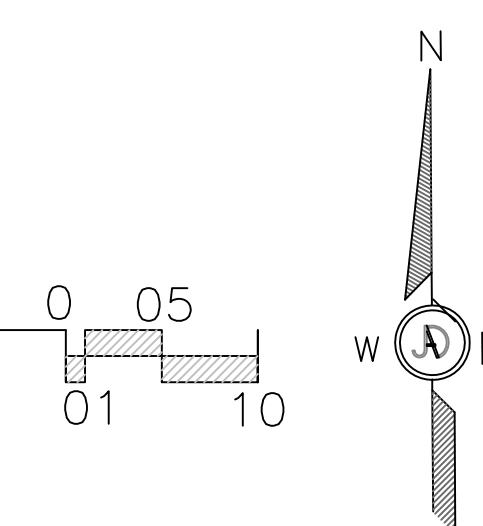
ISSUED FOR	DATE
PRELIM SITE PLAN	03-01-24
REVISION 1	03-21-24
REVISION 2	05-02-24
REVISION 3	07-09-24
REVISION 4	07-12-24
REVISION 5	08-21-24

C-1A



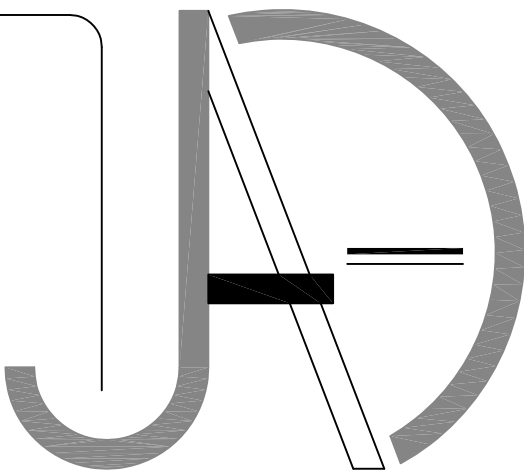
PRELIMINARY SITE PLAN

SCALE: 1" = 10'



VARIANCE CHART			
REQUESTED VARIANCE	REQUIRED	PROPOSED	VARIANCE AMOUNT
VARIANCE FRONT SETBACK	53.54'	27.00'	26.54'

R-2 DISTRICT DEVELOPMENT STANDARDS				
SUBJECT	REQUIRED	EXISTING	PROVIDED	VARIANCE
MINIMUM LOT AREA	6,000 SF	12,973SF		
MAXIMUM LOT COVERAGE	30%		19.4%	
MINIMUM OPEN SPACE	40%		76.7%	
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MINIMUM SIDE YARD SETBACK(TOTAL) 14'/25%	17 FT		18.11FT	
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BUILDING TO BUILDING	17 FT		52.54 FT	
A. BLDGS. MIN. DIST. FROM LOT LINES	5 FEET		9 FEET	



J.A.D.
Services

5119 Highland Road-#201
Waterford, MI 48327

Telephone: (248) 739-9955
jad222@sbcbglobal.net

PETITIONER:

MR. RAJAEI ABBAS
31333 SOUTHFIELD ROAD-SUITE 200
BEVERLY HILLS, MICHIGAN 48025
TELEPHONE: 248-770-9542

SHEET TITLE:

PRELIMINARY CROSS SECTION A-A
PROJECT TITLE:
PROPOSED PRIVATE RESIDENCE
160 BALDWIN ROAD
PART OF NW 1/4 OF SEC. 36, T.2N.-R.10E.
CITY OF BIRMINGHAM
OAKLAND COUNTY, MICHIGAN

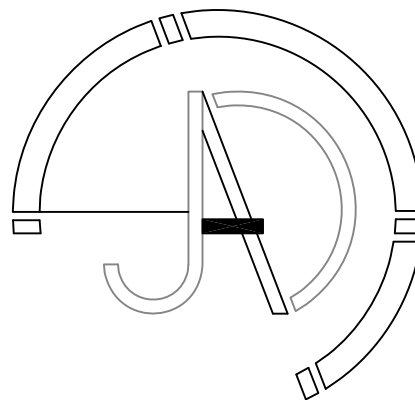
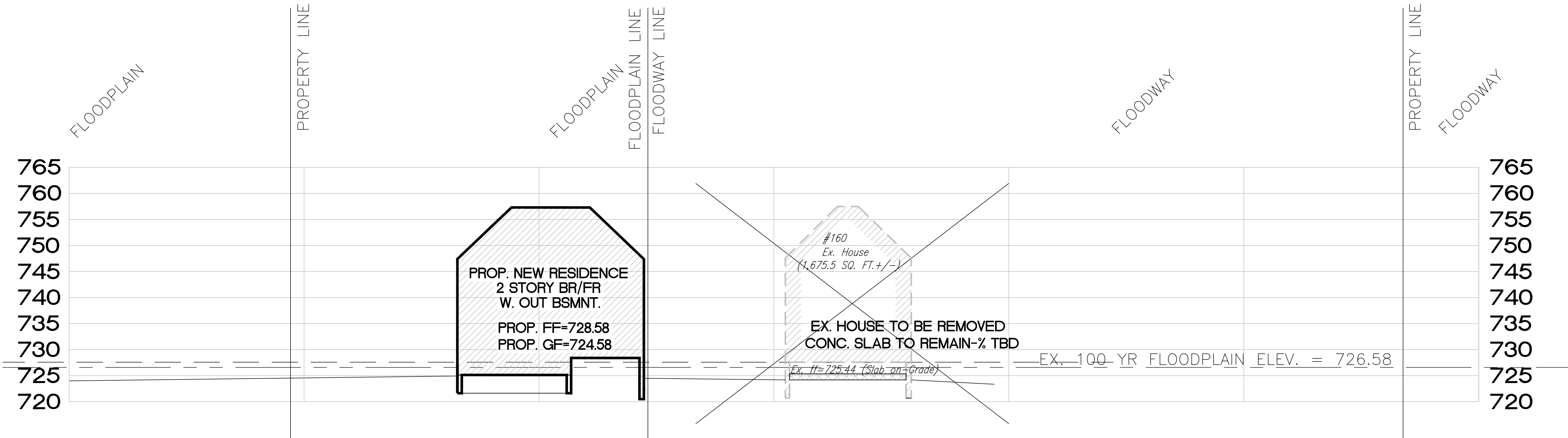
PROJECT NO.:
2324

DRAWN JAD
CHECKED JAD
APPROVED JAD

ISSUED FOR DATE
PRELIM SITE PLAN 03-01-24
REVISION 1 03-21-24
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REVISION 3 07-09-24
REVISION 4 07-12-24
REVISION 5 08-21-24

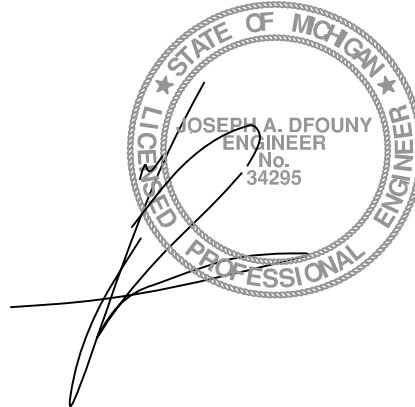
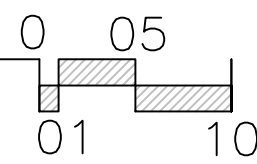
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SHEET NO:

C-1B



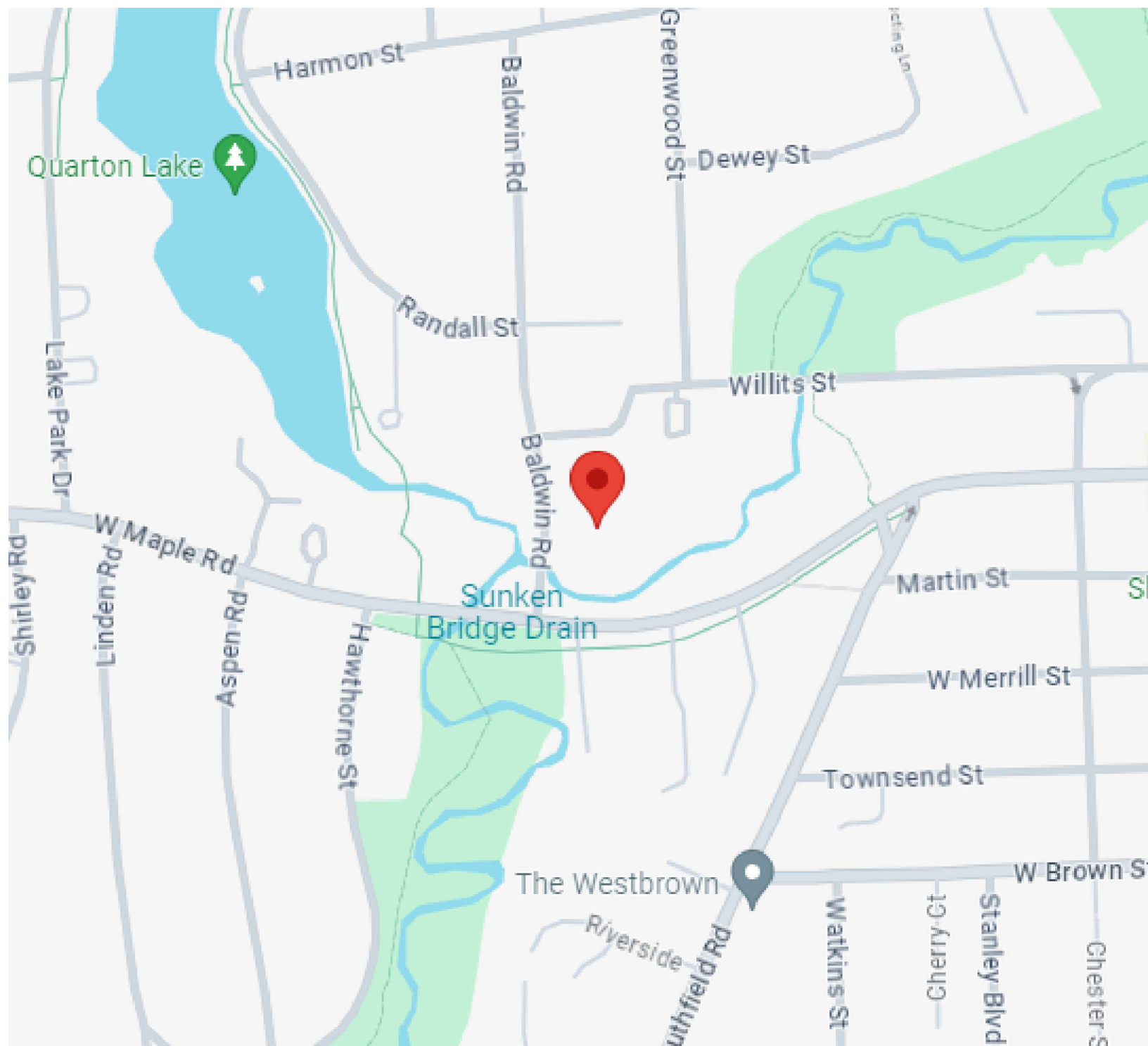
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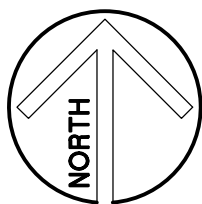
PROPOSED PRIVATE RESIDENCE

BIRMINGHAM, MI



LOCATION MAP

NOT TO SCALE



OWNERS:

PRIVATE RESIDENCE
160 BALDWIN ROAD
BIRMINGHAM, MICHIGAN 48009

ARCHITECT:

ALEXANDER V. BOGAERTS + ASSOCIATES, P.C.
2445 FRANKLIN ROAD
BLOOMFIELD HILLS, MI 48302
248.334.5000 (P)

SHEET INDEX	
T-1	TITLE SHEET
1	FIRST & SECOND FLOOR PLANS
2	ELEVATIONS - FRONT (WEST) & LEFT SIDE (NORTH)
3	ELEVATIONS - REAR (EAST), RIGHT (SOUTH), & ANGLED SIDE (SOUTH-EAST)
4	AERIAL OVERVIEW & ADDITIONAL SETBACK INFORMATION
5	SITE PLAN / BUILDABLE AREA



NOTE TO BUILDING OFFICIAL:
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Bloomfield Hills, MI 48302
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CLIENT/PROJECT

PRIVATE RESIDENCE
160 BALDWIN ROAD
BIRMINGHAM, MICHIGAN

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B2A SUBMITTAL
REVISED
08-23-2024

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CAD FILENAME

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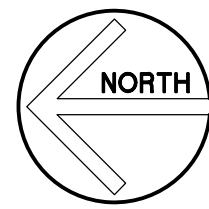
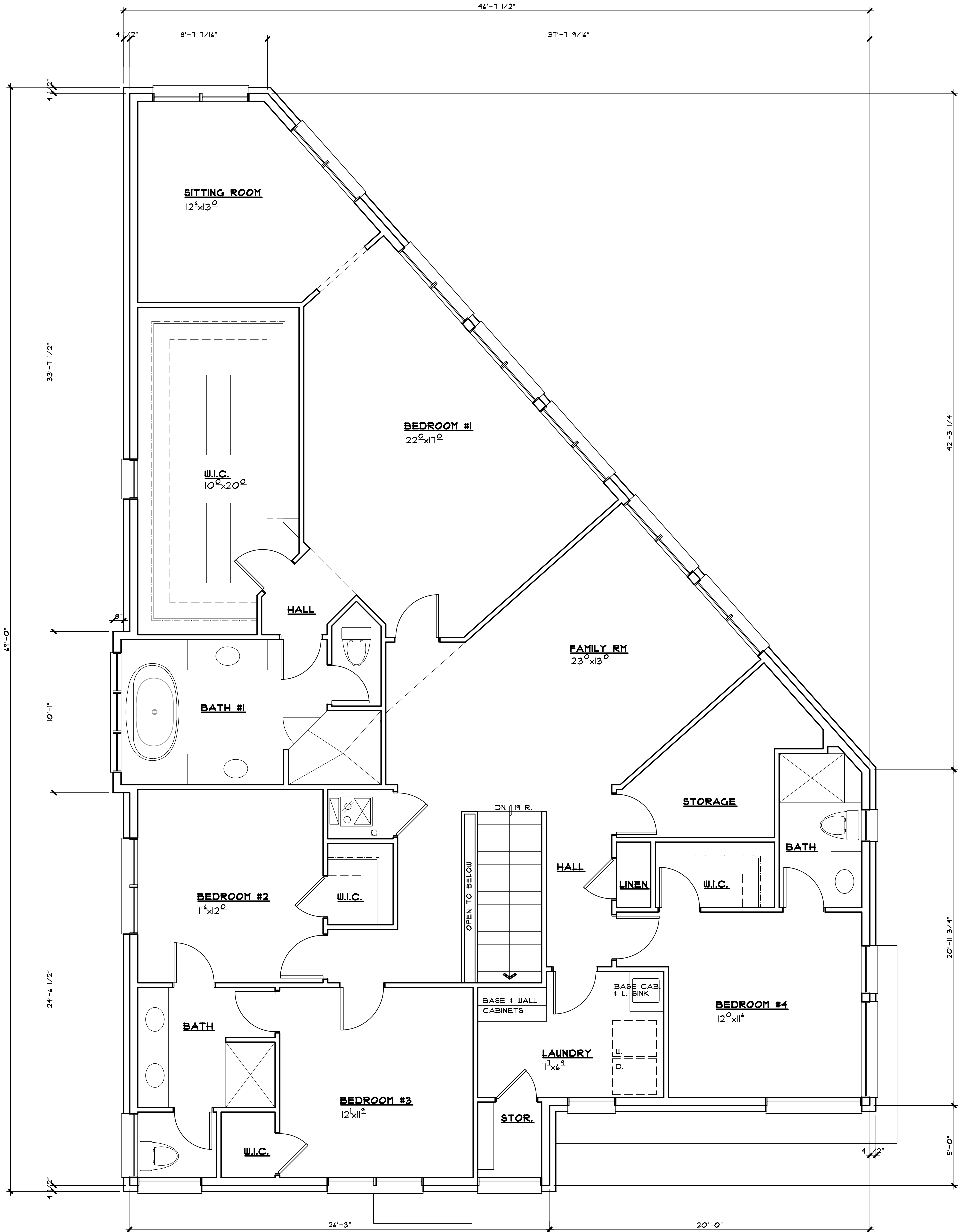
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DATE

SHEET NUMBER
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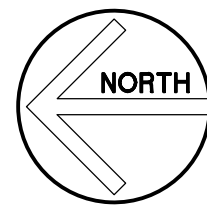
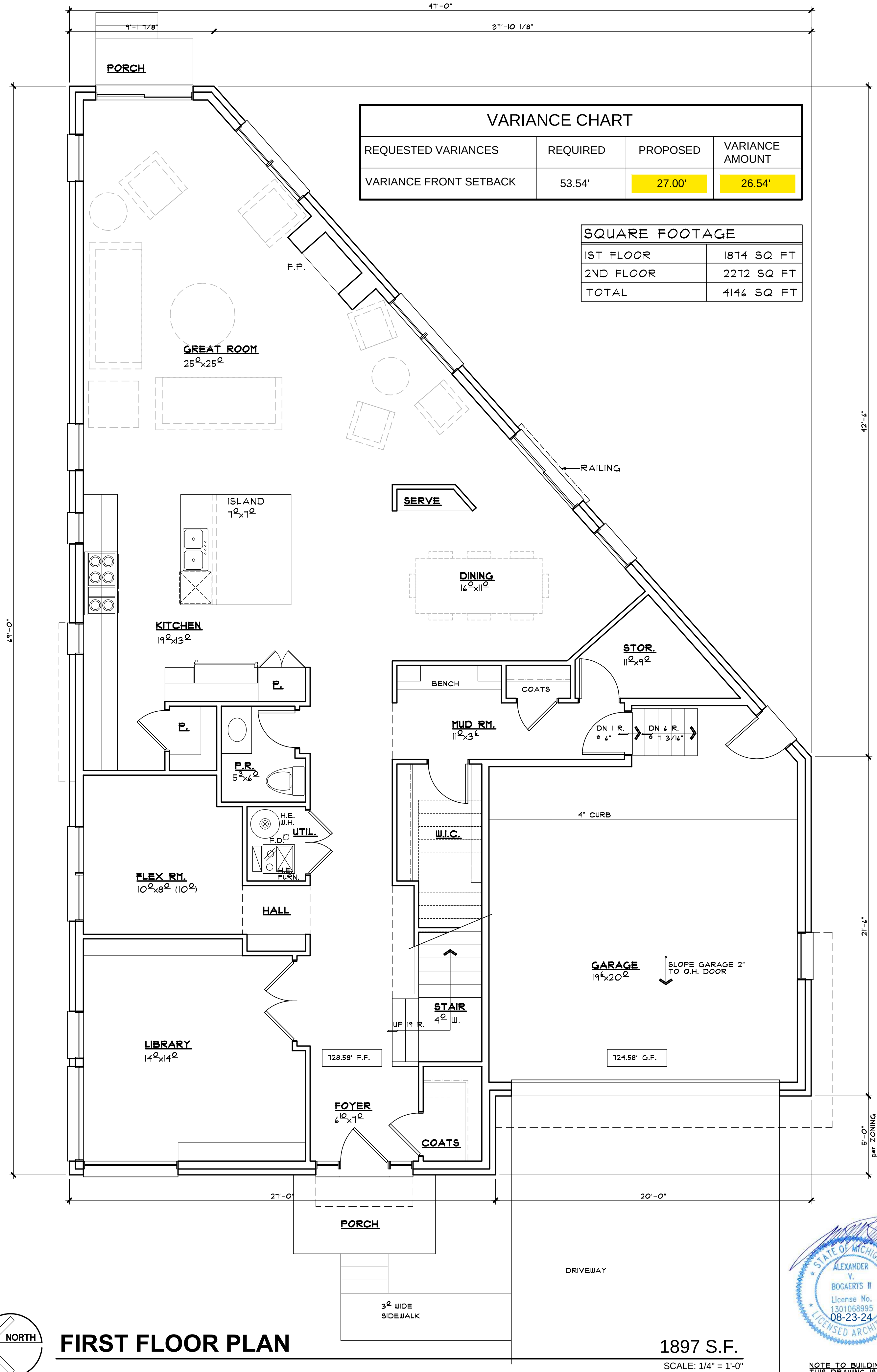
TITLE SHEET

TITLE



SECOND FLOOR PLAN

2087 S.F.
SCALE: 1/4" = 1'-0"



FIRST FLOOR PLAN

1897 S.F.
SCALE: 1/4" = 1'-0"



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SHEET TITLE

FIRST FLOOR PLAN



LEFT SIDE (NORTH) ELEVATION

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



FRONT (WEST) ELEVATION

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



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160 BALDWIN ROAD
BIRMINGHAM, MICHIGAN

SHEET TITLE

EXTERIOR ELEVATIONS

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DATE

SHEET NUMBER

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ANGLED SIDE (SOUTH EAST) ELEVATION

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



REAR (EAST) ELEVATION

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



RIGHT SIDE (SOUTH) ELEVATION



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

Alexander

Bogaerts + Associates, P.C. • Architecture • Planning • Interior Design

EXTERIOR ELEVATIONS

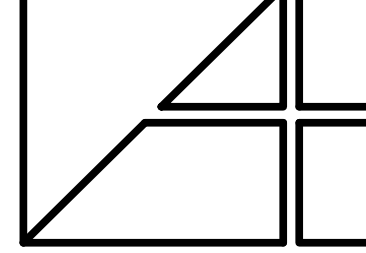
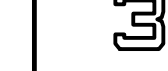
PRIVATE RESIDENCE
160 BALDWIN ROAD
BIRMINGHAM, MICHIGAN

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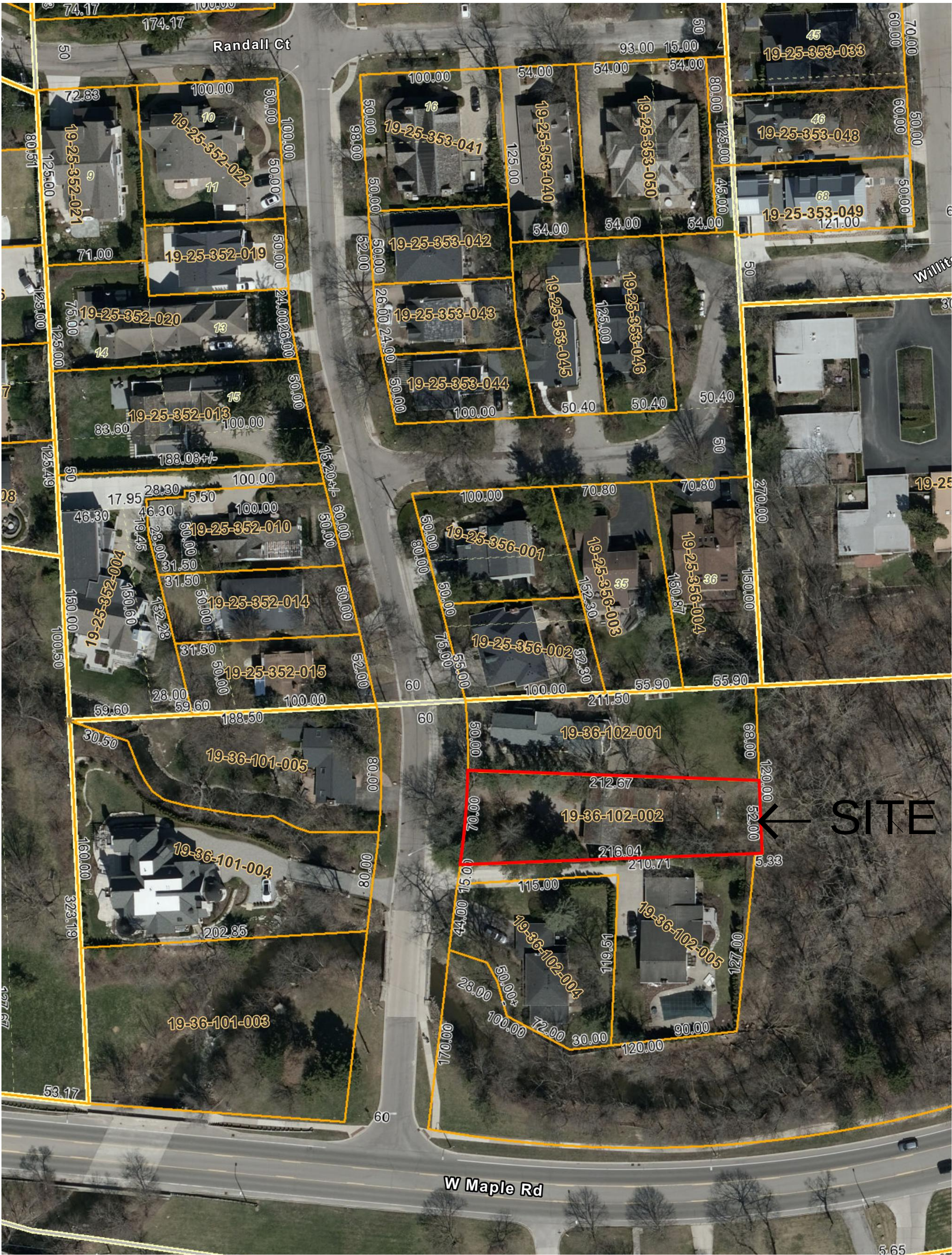
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REVISED
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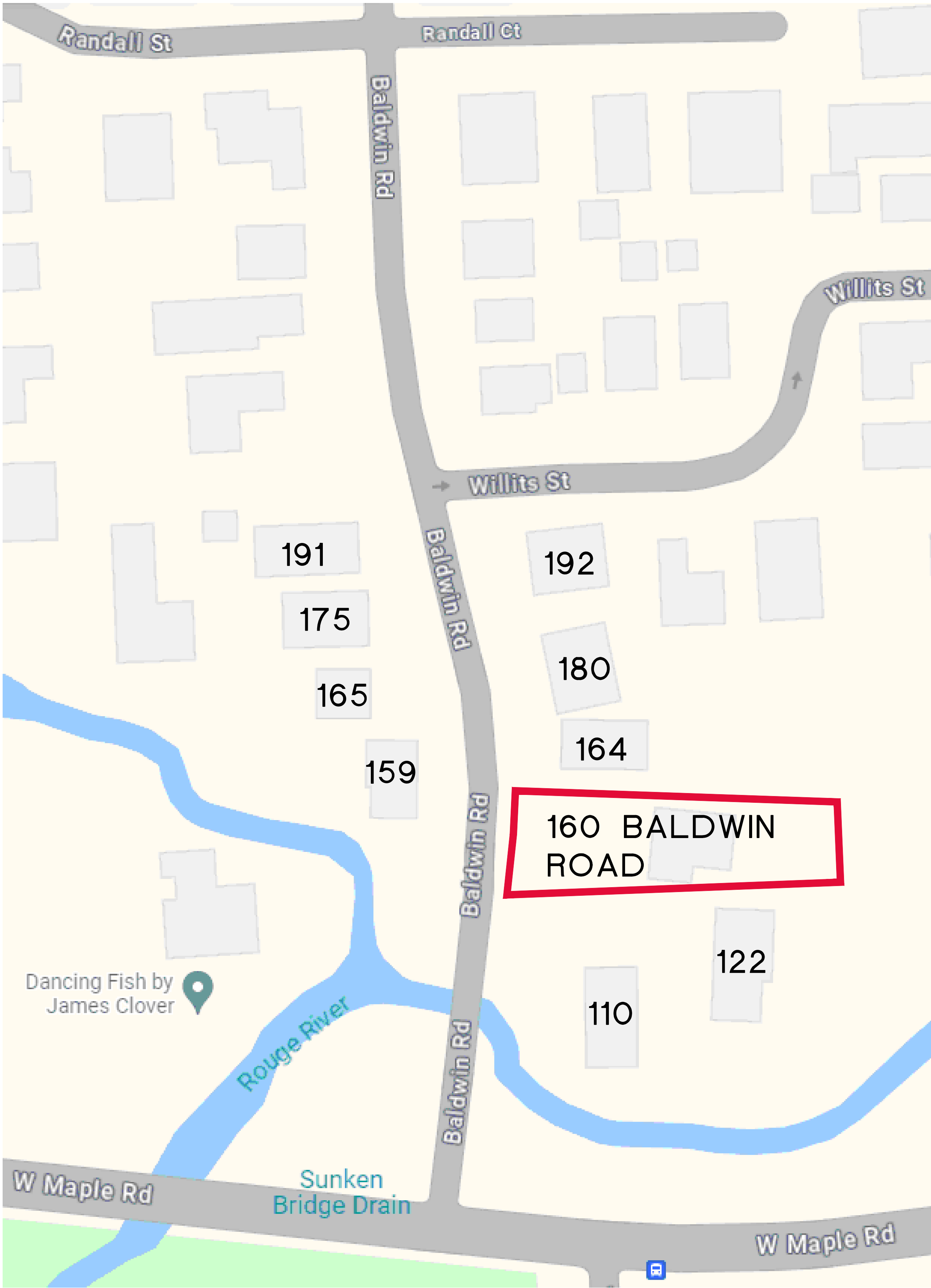


2445 Franklin Road
Bloomfield Hills, MI 48302
248 • 334 • 5000

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FRONT SETBACK FIELD MEASUREMENT	
BALDWIN RD - EAST SIDE	
#164	26.9'
#180	25.4'
#192	24.8'
WILLITS ST.	
AVERAGE	25.7'
BALDWIN RD - WEST SIDE	
#159	12.2'
#165	36.5'
#175	30.1'
#191	23.5'
AVERAGE	25.6'



PRIVATE RESIDENCE - AERIAL OVERVIEW

NOTE: SEE CHART FOR AVERAGE SETBACKS FROM ROAD
(FOR HOMES NORTH OF AND ACROSS STREET FROM SITE)

SCALE: N.T.S.



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Bloomfield Hills, MI 48302

248 • 334 • 5000

SHEET TITLE

AERIAL OVERVIEW

ADDITIONAL SETBACK INFO

CLIENT/PROJECT

PRIVATE RESIDENCE
160 BALDWIN ROAD
BIRMINGHAM, MICHIGAN

REVISIONS

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JOB NUMBER
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DATE

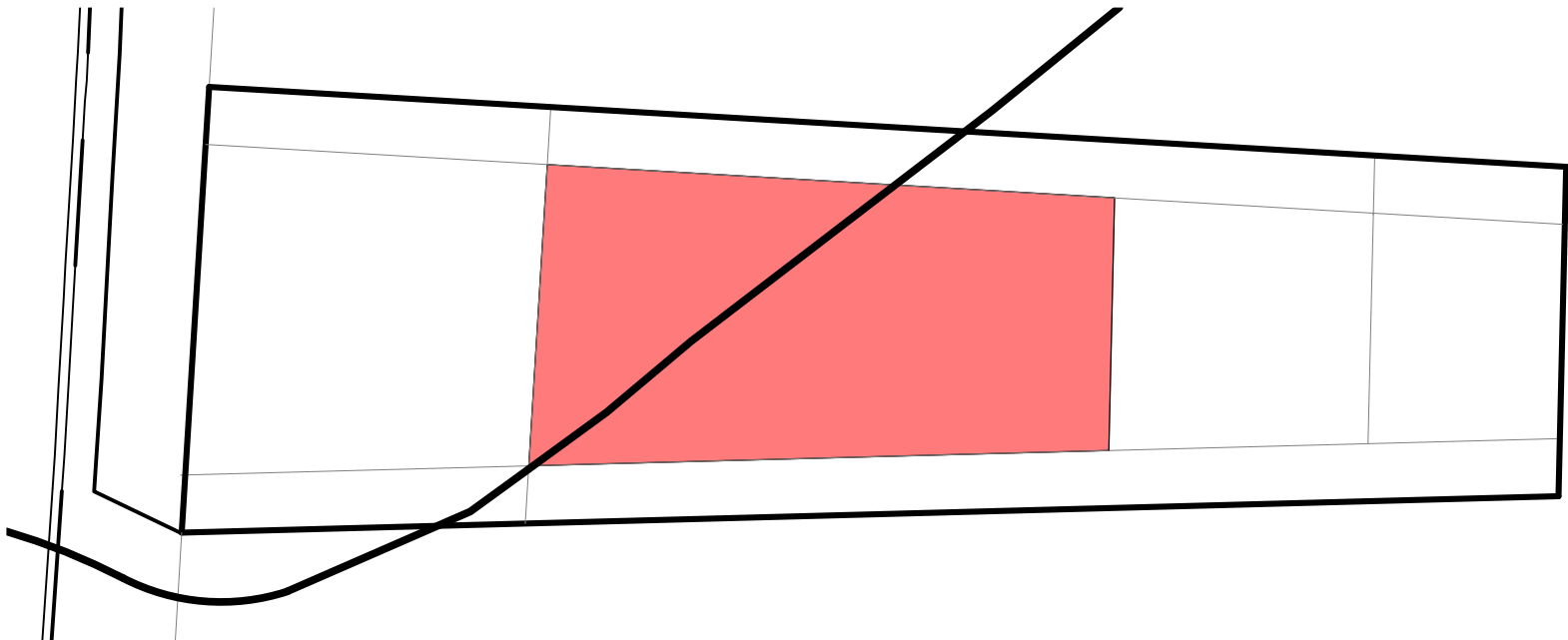
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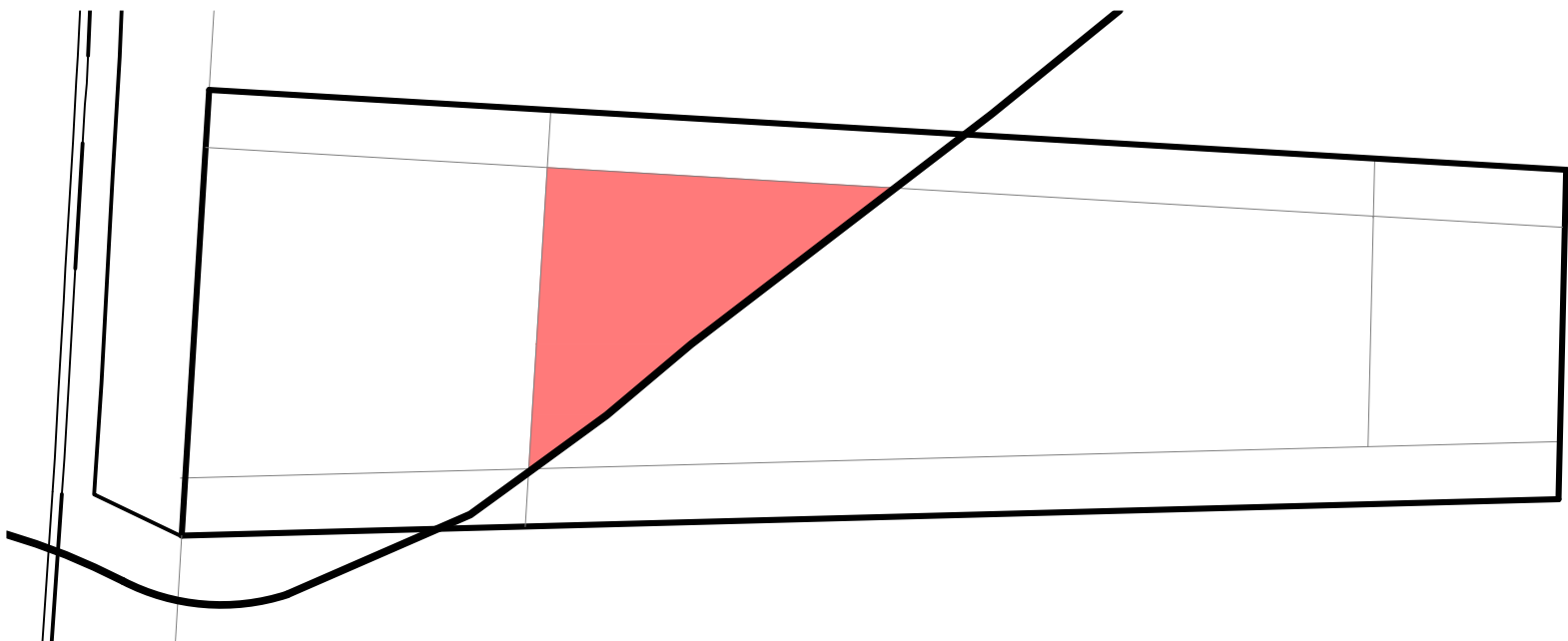
OWNER REVIEW

PERMITS

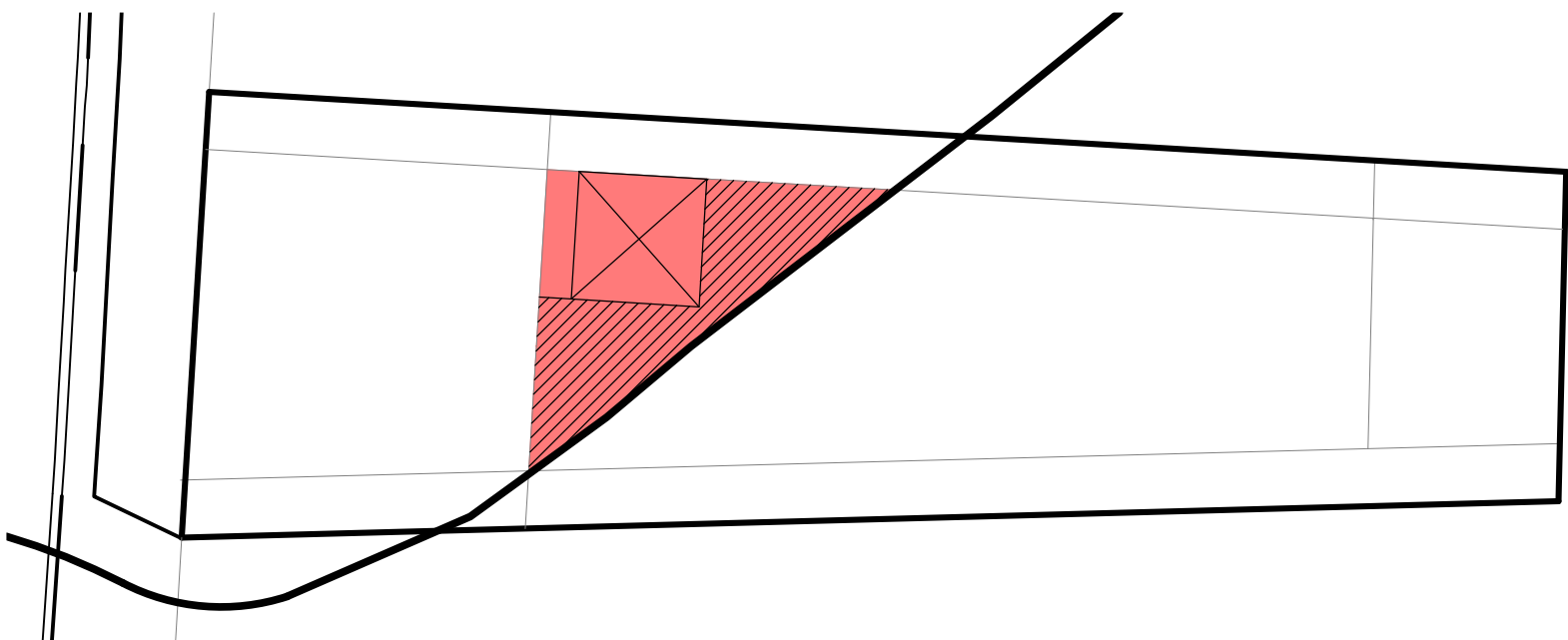
CONSTRUCTION



SITE AREA : 12,973 S.F.
BUILDABLE AREA PER 30% MAX LOT COVERAGE LIMIT :



ACTUAL BUILD. AREA PER FLOODWAY LINE & FRONT SETBACK :

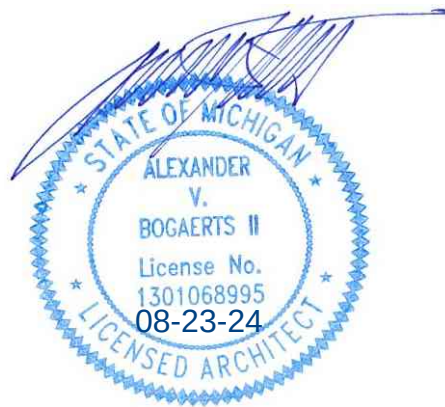
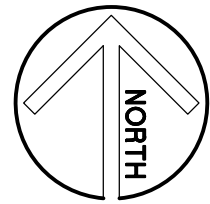


BUILDABLE AREA LESS 20x20 GARAGE & 5 FT. GARAGE SETBACK :



SITE PLAN

SCALE: 1" = 10'



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SHEET TITLE

SITE PLAN /

BUILDABLE AREA

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JOB NUMBER
2653

DATE

SHEET NUMBER

STATE OF MICHIGAN

ALEXANDER
V.
BOGAERTS II

License No.
1301068995

08-23-24

LICENSED ARCHITECT

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CASE DESCRIPTION

999 Twin Oaks (24-18)

Hearing date: September 10, 2024

Appeal No. 24-18: The owner of the property known **999 Twin Oaks**, requests the following variance to replace the existing driveway:

A. Chapter 126, Article 4.31(A) of the Zoning Ordinance requires that a minimum of 65% (1356.00) of the front open space in all single-family districts shall be free of paved surfaces. The proposed is 42.40% (884.00 SF). Therefore a variance of 22.60% (472.00 SF) is being requested.

Staff Notes: This applicant is seeking a variance for the front open space requirement for a driveway. This applicant was in front of the board in December of 2021 for a total combined side yard setbacks for an addition the 1949 constructed home (minutes attached)

This property is zoned R1 – Single family residential.

Jeff Zielke, NCIDQ, LEED AP, COSS
Assistant Building Official

CHAPTER 126 - ZONING

ARTICLE 8: ENFORCEMENT AND PENALTIES

8.01 The Board of Zoning Appeals

3. Variances.

- a. 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:
 - 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.

(EACH i-iv must be satisfied)

999 TWIN OAKS 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: _____

Hearing Date: _____

Received By: _____

Appeal #: _____

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

I. PROPERTY INFORMATION:

Address: 999 Twin Oaks Ln	Lot Number: 2	Sidwell Number: 19-25-177- 023
---------------------------	---------------	--------------------------------

II. OWNER INFORMATION:

Name: Mr. Paul Canvasser			
Address: 592 W Lincoln	City: Birmingham	State: MI	Zip code: 48009
Email:* Paul@pdc.net		Phone: (248)894-0100	

III. PETITIONER INFORMATION:

Name: Brittany Mullins/Matt Mohser	Firm/Company Name: Mosher Design Co.		
Address: 2725 Nakota Rd.	City: Royal Oak	State: MI	Zip code: 48009
Email: brittany@mosherassociates.com		Phone: (586)216-3279	

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: Paul D Canvasser

Date: 6/11/24

Signature of Petitioner: 

Date: 6/11/24

**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

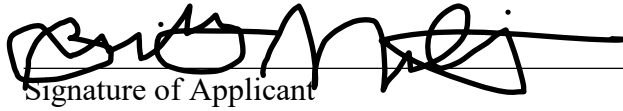
- A. The Board may reverse, affirm, vary or modify any order, requirement, decision or determination as in its opinion should be made, and to that end, shall have all the powers of the officer from whom the appeal has been taken.
- B. The decisions of the Board shall not become final until the expiration 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

City of Birmingham
Community Development – Building Department
151 Martin Street, Birmingham, MI 48009
(248) 530-1850

ATTN: Board of Zoning Appeals or Jeff Zielke

REGARDING: 999 Twin Oaks Lane

DATE: 7-8-24

Dear board members,

We appreciate the opportunity to put this request before you. We are seeking approval for a variance request, listed as 'VARIANCE A', for front yard open space, of the above subject property. The variance amount proposed is outlined by feature on the corresponding plan.

Our variance request has not changed, but we have updated our plan set to reflect the existing pavers over the property line to be removed, and the footprint of a proposed porch, to also be removed.

It should be noted that the existing porch is not included in the front yard, therefore currently, it is not a feature of the variance request. The variance request is to update the driveway so that it does not encroach into the neighboring property, while maintaining the functionality required to maneuver through the proposed updates. Due to the location of the front porch and the location of the driveway at the end of the road, it's extremely difficult to maneuver a vehicle without adequate driveway space. Doing anything lesser would create an unsafe environment. Furthermore, the lot configuration and what is considered the front yard is extremely unique making it difficult to comply with the front yard open space requirements. Therefore we think the request for variance is reasonable and meets all the standards for practical difficulty.

We look forward to discussing our proposal with you and would greatly appreciate your feedback.


APPLICANT: Mosher Design | B. Mullins

Paul D Canvasser

PROPERTY OWNER: Paul Canvasser



BRITTANY MULLINS
LANDSCAPE PROJECT COORDINATOR
BRITTANY@MOSHERASSOCIATES.COM
586.216.3279
MOSHERDESIGNCO.COM
2725 NAKOTA RD, ROYAL OAK, MI 48073

Birmingham Board Of Zoning Appeals Proceedings
Tuesday, December 14, 2021
City Commission Room
151 Martin Street, Birmingham, Michigan

1. Call To Order

Minutes of the regular meeting of the City of Birmingham Board of Zoning Appeals ("BZA") held on Tuesday, December 14, 2021. Chair Charles Lillie convened the meeting at 7:30 p.m.

2. Rollcall

Present: Chair Charles Lillie; Board Members Jason Canvasser, Richard Lilley, John Miller, Erik Morganroth; Alternate Board Members Ron Reddy, Erin Rodenhouse

Absent: Board Members Kevin Hart, Francis Rodriguez

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

Chair Lillie welcomed those present, reviewed the meeting's procedures, and assigned duties for running the evening's meeting to Vice-Chair Canvasser.

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

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

T# 12-67-21

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 November 9, 2021

In the first full paragraph on page six, in the second line, Mr. Lillie recommended 'zoned' be changed to 'determined'. He recommended the same change be made in the third full paragraph on page six in the second-to-last line.

Motion by Mr. Lillie

Seconded by Mr. Reddy to accept the Minutes of the BZA meeting of November 9, 2021 as amended.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

T# 12-68-21

5. Appeals

1) 1679 Dorchester Appeal 21-51

ABO Zielke presented the item, explaining that the owner of the property known as 1679 Dorchester was requesting the following variances to construct a second floor addition to an existing nonconforming single-family home:

A. Chapter 126, Article 2.06.2 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 22.13 feet. The existing and proposed is 18.50 feet. Therefore; a variance of 3.63 feet is being requested.

B. Chapter 126, Article 4.61(A)(2) of the Zoning Ordinance states that a corner lot where there is no abutting interior residential lot on such side street, the minimum side street setback shall be 10.00 feet from the permitted principal building. The existing and proposed is 9.00 feet. Therefore; a variance of 1.00 feet is being requested.

C. Chapter 126, Article 4.75(A)(1) of the Zoning Ordinance requires that a private attached, single-family residential garage shall not occupy more than 50% (15.40 feet) of a linear building width of a principal residential building that faces a street. The existing and proposed on the east side occupies 91.56% (28.20 feet). Therefore; a variance of 41.56% (12.80 feet) is being requested.

D. Chapter 126, Article 4.75(A)(1) of the Zoning Ordinance requires that a private attached, single-family residential garage must be setback a minimum of 5.00 feet from the portion of the front façade on the first floor of a principal residential building that is furthest setback from the front property line. The existing and proposed is in line with the garage (0.00 feet). Therefore; a variance of 5.00 feet is being requested.

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

The Board had no questions for the appellant.

Motion by Mr. Reddy

Seconded by Mr. Miller with regard to Appeal 21-51, A. Chapter 126, Article 2.06.2 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 22.13 feet. The existing and proposed is 18.50 feet. Therefore; a variance of 3.63 feet is being requested; B. Chapter 126, Article 4.61(A)(2) of the Zoning Ordinance states that a corner lot where there is no abutting interior residential lot on such side street, the minimum side street setback shall be 10.00 feet from the permitted principal building. The existing and proposed is 9.00 feet. Therefore; a variance of 1.00 feet is being requested; C. Chapter 126, Article 4.75(A)(1) of the Zoning Ordinance requires that a private attached, single-family residential garage shall not occupy more than 50% (15.40 feet) of a linear building width of a principal residential building that faces a street. The existing and proposed on the east side occupies 91.56% (28.20 feet). Therefore; a variance of 41.56% (12.80 feet) is being requested; and, D. Chapter 126, Article 4.75(A)(1) of the Zoning Ordinance requires that a private attached, single-family residential garage must be setback a minimum of 5.00 feet from the portion of the front façade on the first floor of a principal residential building that is furthest setback from the front property line. The existing and proposed is in line with the garage (0.00 feet). Therefore; a variance of 5.00 feet is being requested.

Mr. Reddy moved to approve the four variances and to tie the approval to the plans as submitted. He noted that the home was existing non-conforming. He stated that denying the variances in this case would render conformity unnecessarily burdensome because the owner is trying to keep the addition within the existing footprint of the home. He also stated that home being on a corner lot in this case made the circumstances somewhat unique.

Mr. Miller noted that that there would be no impact on a neighboring property owner because there is no neighbor adjacent to the corner where the proposed addition would be located.

Mr. Lillie said he would support the motion since the house is existing non-conforming and the need for the variances was not self-created.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

**2) 999 Twin Oaks
Appeal 21-52**

Vice-Chair Canvasser noted he was a very distant relation of one of the appellants. He said he believed there was no basis for recusal but wanted to allow the Board and public the opportunity to comment if they saw fit.

Seeing no comment, Vice-Chair Canvasser invited ABO Zielke to present.

ABO Zielke presented the item, explaining that the owner of the property known as 999 Twin Oaks was requesting the following variance to construct an addition to an existing single-family home:

A. Chapter 126, Article 2.06.2 of the Zoning Ordinance requires that the minimum total side yard setback are 14.00 feet or 25% of the total lot width whichever is larger. The required is 19.85 feet. The proposed is 15.30 feet. Therefore; a variance of 4.55 feet is being requested.

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

In reply to Mr. Morganroth, Mr. Canvasser stated that extending the home back towards the Rouge River had been explored but had been decided against because it would still result in rooms and halls narrower than desired. Mr. Canvasser stated that many potential options for an addition had been reviewed over the years and that the submitted one was the most beneficial to the homeowners.

Motion by Mr. Miller

Seconded by Ms. Rodenhouse with regard to Appeal 21-52, A. Chapter 126, Article 2.06.2 of the Zoning Ordinance requires that the minimum total side yard setback are 14.00 feet or 25% of the total lot width whichever is larger. The required is 19.85 feet. The proposed is 15.30 feet. Therefore; a variance of 4.55 feet is being requested.

Mr. Miller moved to approve the variance and tied it to the plans as submitted. He said the request was reasonable giving the unusual slope and shape of the lot. He said granting the variance would have no adverse impact on the neighbors. Mr. Miller expressed that conformity to the ordinance in this case would be unduly burdensome.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

**3) 227 Northlawn
Appeal 21-54**

ABO Zielke presented the item, explaining that the owner of the property known as 227 Northlawn was requesting the following variances to construct a new single-family home with a detached garage and an A/C unit in the side yard:

A. Chapter 126, Article 4, Section 4.03(A) of the Zoning Ordinance requires that no accessory structures shall be located in the required side open space. The minimum required side open space is 5.00 feet. The proposed is 2.00 feet. Therefore a variance of 3.00 feet is being requested.

B. 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 14.00 feet. The proposed is 12.50 feet. Therefore; a variance of 1.50 feet is being requested.

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

In reply to Board comment, Ms. McGregor added:

- The appellant did not apply for a variance for a generator and that there were no plans to hardwire for a generator;
- The only matters at hand were the distance between houses and locating the air conditioner in the side yard;
- There is a DTE easement that runs along the rear of the property, behind the garage, which requires that everything be pushed towards Henrietta;
- Because 227 Northlawn is a small corner lot with two front yard setbacks, the only available room for using the outdoor space is between the house and the garage; and,
- The air conditioner will have screening built around it and will not be visible from the street.

In reply to Mr. Lillie, Jeff Klatt, architect, stated that the proposed house was fairly modest in size for a new home and met all the ordinance requirements with the exception of the two modest variances being requested.

Mr. Morganroth explained he was reasonably comfortable with Variance B since the askew positioning of the house makes it hard to meet the requirement and the house would meet the required sideyard setback. He explained he was less persuaded regarding Variance A, stating that the appellant could likely find an ordinance-compliant location for the air conditioner.

Mr. Klatt contended that the air conditioner would be more pleasant for the appellant and their neighbors if located in the proposed location.

Mr. Morganroth explained that reasoning did not rise to the level of a hardship or practical difficulty.

Mr. Reddy stated his house has similar circumstances and that he has located the air conditioner in the rear, as required. He said he was more comfortable with Variance B as well since the neighbor to the south of the appellant is existing non-conforming.

Ms. McGregor reiterated that the two front yard setbacks on this corner lot makes it difficult to place mechanicals.

Motion by Mr. Lillie

Seconded by Mr. Morganroth with regard to Appeal 21-54, B. 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 14.00 feet. The proposed is 12.50 feet. Therefore; a variance of 1.50 feet is being requested.

Mr. Lillie moved to grant Variance B and tied it to the plans as submitted. He said the petitioner demonstrated a practical difficulty by complying with the ordinances, and that it was the neighbors' existing non-conforming home that was causing the issue. He noted that if the neighbors' home were not there, the appellant would not need a variance for the minimum distance between principal residential buildings on adjacent lots. Mr. Lillie noted that the need for Variance B was not self-created.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

Motion by Mr. Lillie

Seconded by Mr. Morganroth with regard to Appeal 21-54, A. Chapter 126, Article 4, Section 4.03(A) of the Zoning Ordinance requires that no accessory structures shall be located in the required side open space. The minimum required side open space is 5.00 feet. The proposed is 2.00 feet. Therefore a variance of 3.00 feet is being requested.

Mr. Lillie moved to deny Variance A. He stated that the appellant did not demonstrate that compliance with the ordinance would be unduly burdensome. He stated that Variance A would do no justice to the neighbors by locating the air conditioner in the side open space. He held that the desire for Variance A was self-created since the construction would be brand new and could be designed to comply with the ordinance.

Mr. Miller said he would not support the motion due to the unique circumstances of the lot. He stated that air conditioners in the side yard seemed to be common in this section of the neighborhood and so Variance B seemed reasonable. He noted that 227 Northlawn's easement and corner location results in a very small rear yard, meaning that requiring the air conditioner to be in the rear yard is more onerous than appropriate.

Vice-Chair Canvasser concurred with Mr. Lillie in regards to self-creation and said he would support the motion.

Motion carried, 6-1.

ROLL CALL VOTE

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

Nays: Miller

Mr. Morganroth noted that while pool equipment, a pool, and a generator were shown on the site plans they were not presented or considered as part of Appeal 21-54. He stated for the record that approval of Variance A should not be construed as approval of any of these items.

**4) 34745 Woodward
Appeal 21-55**

SP Cowan presented the item, explaining that the owner of the property known as 34745 Woodward was requesting either the following appeal or the following variance to renovate the property and update the operations of a car wash use known as Jax Kar Wash (Jax):

A. Chapter 126, Article 4, Section 4.54(C)(3) of the Zoning Ordinance requires a 32 inch capped masonry screen wall to be placed along the front or side of any parking facility that abuts a street, alley, passage, or mixed passage. On October 13th, 2021, the Planning Board approved the applicant's site plan application with the condition that the applicant submit revised plans with sufficient screening that meets Article 4, Section 4.54 of the Zoning Ordinance. The applicant is requesting an appeal of the Planning Board's decision with the condition that the applicant satisfy all screening requirements of Article 4, Section 4.54.

OR

B. Chapter 126, Article 4, Section 4.54(C)(3) of the Zoning Ordinance requires a 32 inch capped masonry screen wall be placed along the front or side of any parking facility that abuts a street, alley, passage, or mixed passage. The applicant is proposing a site plan with a parking facility consisting of 47.75 feet of unscreened frontage along Woodward Avenue. Therefore, a dimensional variance of 47.75 feet is being requested.

In reply to Board inquiry, SP Cowan noted that 'parking facility' is not defined in the ordinance. He stated that 'parking' is defined as an area used for the parking of motor vehicles.

In reply to Ms. Rodenhouse, SP Cowan stated that screening is required for a 'parking facility', not just 'parking', per the ordinance in Chapter 126, Article 4, Section 4.54(C)(3).

BO Johnson stated that parking area total is defined as the actual parking area and the area of the access drives, and a parking lot interior is defined as all area within the perimeter of a parking lot which is including planting islands, curb areas, corner lots, parking spaces, and all interior driveways and aisles except those with no parking spaces located on either side.

Vice-Chair Canvasser noted that in cases of Building interpretations or rulings of other boards, the appellant must show that the official or board demonstrated an abuse of discretion, or that the official or board acted in an arbitrary or capricious manner. He noted that standard would apply to Appeal A, and would require four affirmative votes to pass.

Bradley Scobel, attorney, explained why the appellant was seeking either the appeal or the variance. He stated:

- The appellant does not believe that the area in question meets the definition of a 'parking facility' as defined in the ordinance, and that there the Planning Board's requirement of a screen wall on Woodward amounted to an abuse of discretion;
- The appellant is concerned that a screen wall on Woodward would be hit by drivers, would prevent egress of vehicles in an emergency, and would also prevent the operator from effectively plowing snow from the lot;
- Having to install a screen wall on Woodward would be so prohibitive to operations that the appellant would instead withdraw all planned updates;
- If the Board denies Variance A, granting Variance B would still be appropriate because it would increase the safety of the entire site;
- There have been no pedestrian-vehicle safety issues in in the history of Jax's operations resulting from cars turning left onto of Woodward and then left onto Brown to re-enter the Jax lot;
- There have been no pedestrian-vehicle safety issues there because it is not a commonly traversed area by pedestrians and because the vehicle attendants look out for any potential safety issues;
- The planned updates will increase the safety of the site overall;
- The area in question adjacent to Woodward would be more appropriately described as a service aisle or a drive lane, and does not amount to a parking facility as intended by the ordinance because there is no parking on either side;

- The Speedway fuel station across the street has similar conditions in terms vehicles parking for three to four minutes to use an amenity and leaving and does not have a screen wall;
- The current conditions at the Jax site do amount to a parking facility along Woodward, but under the proposed plan the conditions would not; and,
- A drawing was submitted to the City indicating that wall that the appellant is requesting a variance from, and was provided to the Board members, but was not included in the evening's agenda packet.

BO Johnson advised the Board that if Speedway were to be opened today any of the parking areas would likely be subject to the ordinance's screen wall requirements.

In reply to Vice-Chair Canvasser, Mr. Scobel confirmed that in the absence of a definition of terms in the ordinance it would be appropriate to use the dictionary definition of the terms. He stated that he did not find a dictionary definition of 'parking facility' which is used in the ordinance. He stated he did look up a definition of an aisle or lane.

Ms. Rodenhouse explained that since this requires an interpretation of a zoning ordinance it would be most appropriate to conduct a de novo review, looking at the language of the ordinance itself without giving any deference to the Planning Board. Interpretation of an ordinance follows the same procedure as interpreting a statute. The BZA's role is to ascertain the intent of the legislative body, per case law. The first step is to give the words in question their plain meaning. The ordinance does not state precisely what a parking facility is, but does state that screening would only be required for a parking facility. The definition of a 'facility' as provided by Random House-Webster's Unabridged Dictionary, 2nd ed., is 'something designed, built, installed to serve a specific function, affording a convenience or service'. She noted that in this case that convenience or service would be parking, and the area in question would have to have been designed, built and installed to provide parking. She stated that the area in question was designed, built, and installed for vacuuming, not for parking.

Ms. Rodenhouse concluded that there was no ambiguity for the review process to be followed in this instance. She stated that ambiguity only exists if a statute creates irreconcilable conflict with another provision, or is equally susceptible to more than one meaning. She said neither of those two cases apply in this instance since the area in question is not a facility for parking.

Vice-Chair Canvasser replied that the BZA is a Zoning Board, not a Court of Appeals. He stated the Board would be reviewing for an abuse of discretion, not a de novo review of the ordinance.

Ms. Rodenhouse noted that a misinterpretation of the statute on the part of the Planning Board would be an error of law, and an error of law is necessarily an abuse of discretion. She contended that construing any place where one parks as a 'parking facility' would be an error of law, which consequently would be an abuse of discretion.

In reply to Mr. Lillie, Jason Milen, owner and operator of Jax, explained that currently when snow is plowed from the lot it gets pushed into the right of way by Woodward.

Mr. Lillie asked if the Shell fuel station at 33588 Woodward had screen walls for its parking since the business had done updates a few years prior.

Vice-Chair Canvasser said he thought he recalled some amount of wall on 33588 Woodward's lot, but could not recall exactly where it was located.

Motion by Ms. Rodenhouse

Seconded by Mr. Miller with regard to Appeal 21-55, A. Chapter 126, Article 4, Section 4.54(C)(3) of the Zoning Ordinance requires a 32 inch capped masonry screen wall to be placed along the front or side of any parking facility that abuts a street, alley, passage, or mixed passage. On October 13th, 2021, the Planning Board approved the applicant's site plan application with the condition that the applicant submit revised plans with sufficient screening that meets Article 4, Section 4.54 of the Zoning Ordinance. The applicant is requesting an appeal of the Planning Board's decision with the condition that the applicant satisfy all screening requirements of Article 4, Section 4.54.

Ms. Rodenhouse moved that the Planning Board erred as a matter of law in their interpretation. She reiterated her previous comments explaining how the Planning Board erred as a matter of law and therefore demonstrated an abuse of discretion. She added that not finding this area to be a 'parking facility' harmonizes with the rest of the ordinance since in Article 10, Section 26.397 building permits are required for a 'parking facility', meaning it is a built structure, and in Article 9, Section 110.137(C) it is indicated that a 'parking facility' is something which could require an attendant.

Mr. Lilley concurred with Ms. Rodenhouse.

Mr. Reddy stated that since there is no ordinance definition of a 'parking facility' he concurred with Ms. Rodenhouse's explanation.

Mr. Lillie said one of the questions was how long one must park in order to define an area as a parking area.

Vice-Chair Canvasser said he would not support motion. He said Ms. Rodenhouse's motion was well-articulated and well-reasoned. He said he hoped that the Commission would consider defining and reviewing the use of 'parking facility' in the ordinance as a result of this discussion. He noted that the area in question would be having drivers park their vehicles to use the vacuums. He said that while he may not think the Planning Board's interpretation of this area as a 'parking facility' was the best interpretation available, he felt that the Planning Board had a justifiable basis in doing interpreting it as such. Consequently, he said he believed the BZA could not say that the Planning Board unequivocally demonstrated an abuse of discretion, or that the Planning Board acted in an arbitrary or capricious manner.

Mr. Morganroth concurred with Vice-Chair Canvasser. He added that the vehicles are parked in the area in question and that the drivers exit their vehicles. He said he did

not see an error that rises to the level of the BZA having to repeal the Planning Board's findings. He said that while a court of law might be able to do so, he did not find an abuse of discretion or arbitrary or capricious actions in the Planning Board's decision.

In reply to Mr. Reddy, Vice-Chair Canvasser restated that the appellant must show that the official or board demonstrated an abuse of discretion, or that the official or board acted in an arbitrary or capricious manner.

Ms. Rodenhouse said she wanted it absolutely clear on the record that an abuse of discretion happens when an error of the law is made. An error of law is to improperly apply the rules of statutory construction. In this case, the plain definition of 'facility' tells the BZA what the ordinance means. As per the previously-given definition of 'facility', this area was not designed to serve the specific function of parking. Therefore the Planning Board committed an abuse of discretion by reading something into the word 'facility' that is not part of the definition. She said she wanted that reiterated for purposes that go beyond the evening's hearing.

Vice-Chair Canvasser noted that the appellant did not provide a definition of 'facility', and stated that it was not the Board's job to make the argument for the appellant.

Mr. Morganroth said the definition of 'parking' as provided in the Oxford English Dictionary is 'bringing a vehicle one is driving to a halt to leave it temporarily, typically in a parking lot or by the side of the road'. He said that the definition leaves the Planning Board's conclusion ambiguous enough that the BZA cannot find that the Planning Board demonstrated an abuse of discretion or acted in an arbitrary or capricious manner.

Mr. Lillie noted that the area in question is being designed for vehicles to be turned off and exited.

Motion failed, 3-4.

ROLL CALL VOTE

Yeas: Rodenhouse, Miller, Lilley

Nays: Morganroth, Reddy, Canvasser, Lillie

Vice-Chair Canvasser invited Mr. Scobel to explain the rationale behind requesting Variance B.

Mr. Scobel noted that there is screen wall and landscaping planned for the corner of Brown and Woodward which would sufficiently block any view of the area in question from the perspective of a vehicle heading south on Woodward at 50 miles per hour. He said vehicles are most likely to be stationary on Brown while waiting for the traffic light to turn onto Woodward, which is why Jax agreed to put a screen wall on Brown.

He continued that Jax cannot operate with the screen wall on Woodward, and therefore would not be able to complete the project. Since the project would increase the safety of the site, requiring the screen wall on Woodward would result in the site's safety remaining as-is.

Mr. Scobel concluded by saying that granting the variance, and therefore allowing the updates to proceed, would do substantial justice to the property owner, neighbors and wider community.

Mr. Morganroth asked if the appellant had considered an approximately 18 foot iron gate that would bridge the corner of the Brown Street wall and the portion that touches the wall of Jax that could be opened for snow clearing or emergency egress. He noted that would require a variance for materials but not for a complete absence of a wall.

Mr. Scobel said it had not been discussed. He noted that while the Planning Board required that the area adjacent to Woodward be screened, they did not require that the south side of the building, where there is a parking area, be screened. He said the Planning Board was inconsistent in their application of the ordinance and whether they had the authority to change them.

Vice-Chair Canvasser said that if the present variance under consideration was denied, that the appellant could return with a mitigated variance request if they saw fit. He said the conversation should not veer into possible ways of mitigating the variance at this point.

In reply to Vice-Chair Canvasser, Mr. Scobel said the need for the variance was not self-created since the owner did not create the shape of the building or the way it was situated on the lot. He noted that the requirements for operation have also changed since the business opened about seventy years ago, which is not self-created. He said the only way to modernize the site is to be granted the variance.

Mr. Miller asked why the 47.75 foot variance request could not be reduced.

Mr. Scobel reiterated his contention that any reduction in the variance request would prevent egress of vehicles in an emergency and would also prevent the operator from effectively plowing snow from the lot.

Mr. Miller said he was not fully persuaded that snow removal would require the full 47.75 foot variance. He said he understood the other concern.

In reply to Mr. Lillie, Mr. Scobel noted that the appellant submitted a study from a safety engineer that confirmed the plans would not require a screen wall in order to avoid confusing southbound traffic on Woodward with the headlights of vehicles on the Jax lot.

Mr. Reddy said that without some fencing in the space along Woodward he did not see how Jax could direct vehicles into the appropriate lanes.

It was noted that any change like that would have to return to the Planning Board for review.

Mr. Scobel said the appellant did not want to return to the Planning Board for review.

Motion by Mr. Reddy

Seconded by Mr. Miller with regard to Appeal 21-55, B. Chapter 126, Article 4, Section 4.54(C)(3) of the Zoning Ordinance requires a 32 inch capped masonry screen wall be placed along the front or side of any parking facility that abuts a street, alley, passage, or mixed passage. The applicant is proposing a site plan with a parking facility consisting of 47.75 feet of unscreened frontage along Woodward Avenue. Therefore, a dimensional variance of 47.75 feet is being requested.

Mr. Reddy moved to deny Variance B. He stated that strict compliance with the ordinance would not unreasonably prevent the appellant from using his property, that compliance with the ordinance was not unnecessarily burdensome, and that the need for the variance was self-created since the owner could mitigate the request by adding a fence and still operate the property as intended.

Mr. Miller supported the motion, saying that the length of the variance request was likely double what it needs to be. He said he had no quarrel with the appellant's concern, but rather with the extent of the request.

Mr. Morganroth said he would like to see a compromise that results in some amount or kind of wall along Woodward but also allows the appellant to undertake the planned updates to the business. He said he understood how the updates would be beneficial to both the safety and operations of the business.

Mr. Lillie concurred with Messrs. Miller and Morganroth.

Ms. Rodenhouse said she would not support the motion because she did not believe a screen wall along Woodward was required by the plain language of the ordinance. She said she believed the City has given this business the run-around and created an unreasonable restraint on the property. She noted the process has taken two years to get to this point. She noted that now the appellant will have to either appeal or reformulate their plans.

Motion carried, 5-2.

ROLL CALL VOTE

Yeas: Reddy, Miller, Morganroth, Canvasser, Lillie

Nays: Rodenhouse, Lilley

T# 12-69-21

6. Correspondence

All correspondence was included in the agenda packet.

T# 12-70-21

7. General Business

BO Johnson reminded the Board that this was the last month that Board members would be able to participate via Zoom. Starting in January 2022, appellants, Staff and the public could participate via Zoom but Board members must appear in person.

T# 12-71-21

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

None.

T# 12-72-21

8. Adjournment

Motion by Mr. Lillie

Seconded by Vice-Chair Canvasser to adjourn the December 14, 2021 BZA meeting at 10:15 p.m.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

Bruce R. Johnson, Building Official

CASE DESCRIPTION

1587 S Bates (24-20)

Hearing date: September 10, 2024

Appeal No. 24-20: The owner of the property known as **1587 S Bates**, requests the following variance to construct a new single-family home with a detached garage:

A. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that a minimum distance between principal residential buildings on adjacent lots to be 14.00 feet or 25% of the lot width, whichever is larger. The required is 14.00 feet. The proposed is 13.22 feet on the south side. Therefore, a variance of 0.78 feet is requested.

Staff Notes: This applicant is seeking the same variance for the distance between the principal buildings that was granted in May 2023 (minutes attached) due to the time expired and change in ownership.

This property is zoned R2 – Single family residential.

Jeff Zielke, NCIDQ, LEED AP, COSS
Assistant Building Official

CHAPTER 126 - ZONING

ARTICLE 8: ENFORCEMENT AND PENALTIES

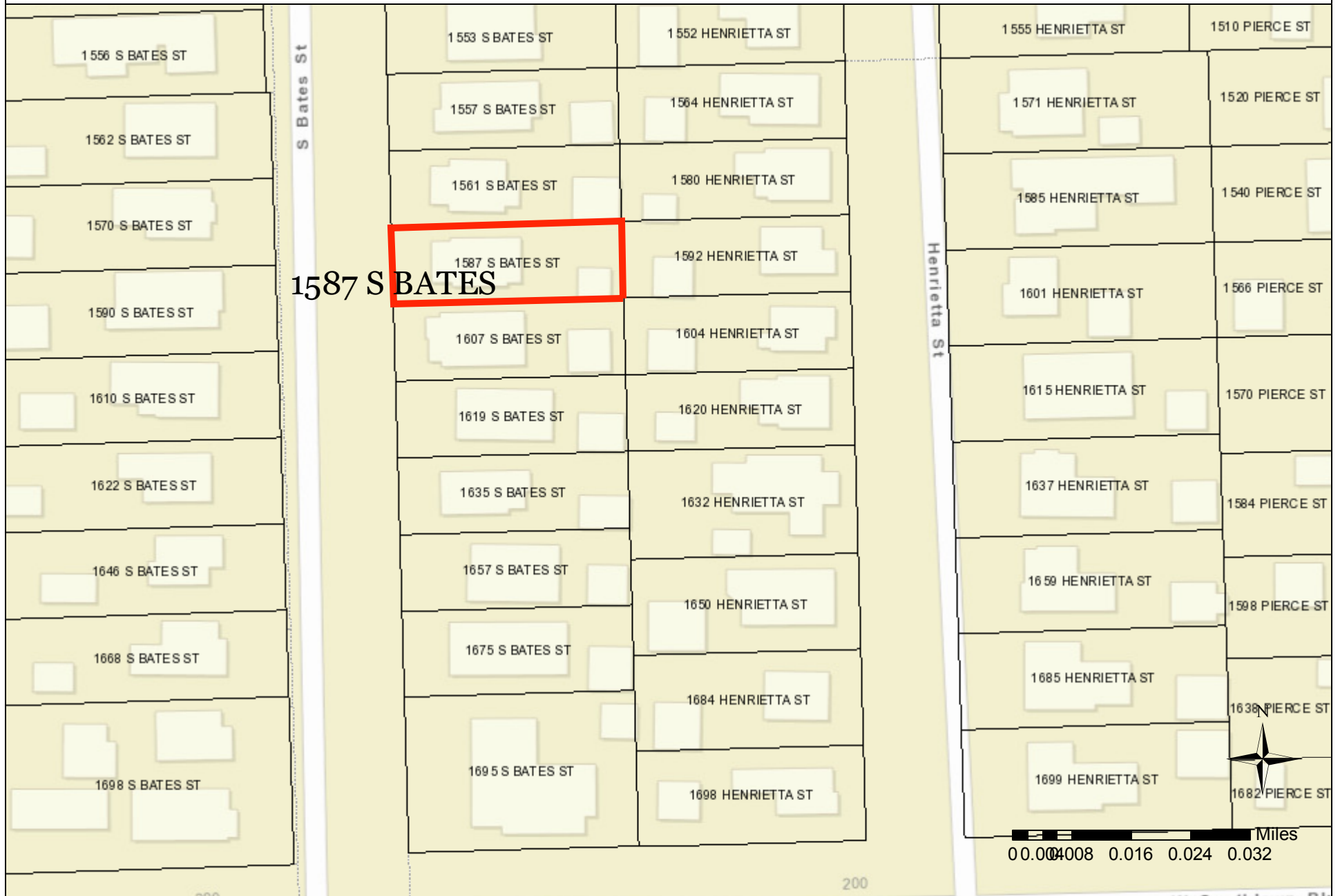
8.01 The Board of Zoning Appeals

3. Variances.

- a. 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:
 - 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.

(EACH i-iv must be satisfied)

1587 S BATES 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

Received Date: _____

Hearing Date: _____

Received By: _____

Appeal #: _____

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

I. PROPERTY INFORMATION:

Address: 1587 S. Bates Street	Lot Number: 08-19-36-332-013	Sidwell Number:
--------------------------------------	-------------------------------------	-----------------

II. OWNER INFORMATION:

Name: 1587 S Bates, LLC			
Address: 1587 S, Bates Street	City: Birmingham	State: MI	Zip code: 48009
Email: * Nadimy@creativedropinc.com		Phone:	

III. PETITIONER INFORMATION:

Name: Nadim Yahchouchi	Firm/Company Name: Creativedrop Inc.		
Address: 19621 Babington Street	City: Santa Clarita	State: CA	Zip code: 91351
Email: Nadimy@creativedropinc.com		Phone: 818.636.2869	

IV. GENERAL INFORMATION:

The Board of Zoning Appeals typically meets the second Tuesday of each month. COMPLETE digital 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 **\$750.00** for single family residential; **\$950.00** 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:

- Please provide the following in your electronic submission:**
- ☐ Completed and signed application
 - ☐ Signed letter of practical difficulty and/or hardship
 - ☐ Certified survey
 - ☐ Building plans including existing and proposed floor plans and elevations
 - ☐ If appealing a board decision, provide a copy 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: <u>Edward Prekelezaj</u>	Date: <u>08/07/2024</u>
Signature of Petitioner: <u>[Signature]</u>	Date: <u>08/07/2024</u>

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

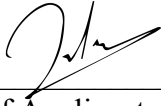
- A. The Board may reverse, affirm, vary or modify any order, requirement, decision or determination as in its opinion should be made, and to that end, shall have all the powers of the officer from whom the appeal has been taken.
- B. The decisions of the Board shall not become final until the expiration 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

APPLICANT LETTER | AUGUST 7TH, 2024

Nadim Yahchouchi
19621 Babington Street
Santa Clarita, CA 91351

Birmingham Board of Zoning
Appeals

151 Martin Street
Birmingham, MI 48009

MESSAGE

Dear Board of Zoning Appeals,

We are submitting a request for a variance regarding the 14-foot distance separation between structures for our proposed new single-family home located at 1587 South Bates Street. This variance was previously approved by your board on April 11, 2023. Unfortunately, we experienced setbacks due to the loss of investors and were unable to secure the necessary resources to commence construction.

The property has since been sold to 1587 S Bates LLC, owned by Edward Prekelezaj and Nora Prekelezaj, who are now ready to proceed with the project. As the original variance has expired, we are respectfully seeking a new variance to allow the project to move forward

We are providing a 9.0 feet side yard setback on south side and a 5.0 feet side yard setback on the north side. This makes our project in compliance with the required 14.0 feet combined side yard setbacks.

On the south side, our certified survey shows the neighbor's house 4.22 feet from the property line. This is non-conforming to the minimum side yard setback required by the zoning code which is 5.0 feet. With 9.0 feet setback on our property, our proposed house will be 13.22 feet from the neighbor's house. This is less than the required

Property Transfer Affidavit

This form is issued under authority of P.A. 415 of 1994. Filing is mandatory.

This form must be filed whenever real estate or some types of personal property are transferred (even if you are not recording a deed). **The completed Affidavit must be filed by the new owner with the assessor for the city or township where the property is located within 45 days of the transfer.** The information on this form is NOT CONFIDENTIAL.

1. Street Address of Property 1587 South Bates Street		2. County Oakland	3. Date of Transfer (or land contract signed) August 5, 2024
4. Location of Real Estate (Check appropriate field and enter name in the space below.) ☒ City ☐ Township ☐ Village Birmingham		5. Purchase Price of Real Estate 454,416.00	
7. Property Identification Number (PIN). If you don't have a PIN, attach legal description. 08-19-36-332-013		6. Seller's (Transferor) Name Nadim Yahchouchi	
8. Buyer's (Transferee) Name and Mailing Address 1587 S Bates, LLC 40950 Woodward Avenue, Ste 300, Bloomfield Hills, MI 48304		9. Buyer's (Transferee) Telephone Number (248) 979-4155	
Items 10 - 15 are optional. However, by completing them you may avoid further correspondence.			
10. Type of Transfer. <u>Transfers</u> include, but are not limited to, deeds, land contracts, transfers involving trusts or wills, certain long-term leases and business interest. See page 2 for list. ☐ Land Contract ☐ Lease ☒ Deed ☐ Other (specify) _____			
11. Was property purchased from a financial institution? ☐ Yes ☒ No		12. Is the transfer between related persons? ☐ Yes ☐ No	
13. Amount of Down Payment			
14. If you financed the purchase, did you pay market rate of interest? ☐ Yes ☐ No Cash Sale		15. Amount Financed (Borrowed) 0.00	

EXEMPTIONS

Certain types of transfers are exempt from uncapping. If you believe this transfer is exempt, indicate below the type of exemption you are claiming. If you claim an exemption, your assessor may request more information to support your claim.

- ☐ Transfer from one spouse to the other spouse
- ☐ Change in ownership solely to exclude or include a spouse
- ☐ Transfer between certain family members *(see page 2)
- ☐ Transfer of that portion of a property subject to a life lease or life estate (until the life lease or life estate expires)
- ☐ Transfer between certain family members of that portion of a property after the expiration or termination of a life estate or life lease retained by transferor ** (see page 2)
- ☐ Transfer to effect the foreclosure or forfeiture of real property
- ☐ Transfer by redemption from a tax sale
- ☐ Transfer into a trust where the settlor or the settlor's spouse conveys property to the trust and is also the sole beneficiary of the trust
- ☐ Transfer resulting from a court order unless the order specifies a monetary payment
- ☐ Transfer creating or ending a joint tenancy if at least one person is an original owner of the property (or his/her spouse)
- ☐ Transfer to establish or release a security interest (collateral)
- ☐ Transfer of real estate through normal public trading of stock
- ☐ Transfer between entities under common control or among members of an affiliated group
- ☐ Transfer resulting from transactions that qualify as a tax-free reorganization under Section 368 of the Internal Revenue Code.
- ☐ Transfer of qualified agricultural property when the property remains qualified agricultural property and affidavit has been filed.
- ☐ Transfer of qualified forest property when the property remains qualified forest property and affidavit has been filed.
- ☐ Transfer of land with qualified conservation easement (land only - not improvements)
- ☐ Other, specify: _____

CERTIFICATION

I certify that the information above is true and complete to the best of my knowledge.

Printed Name

1587 S Bates, LLC

Signature

Date

August 5, 2024

Name and title, if signer is other than the owner

Daytime Phone Number

(248) 979-4155

E-mail Address

nora@contourcompanies.com

14.0 feet however; it is the neighbor's house that is non-conforming. For that reason, we are requesting your board to grant us a zoning variance to the 14 feet distance between structures as follow:

Variance Chart				
Requested Variance	Required	Existing	Proposed	Variance Amount
Distance between structures	14.0 feet	13.22 feet	13.22 feet	0.88 feet



(Applicant Signature)

Nadim Yahchouchi

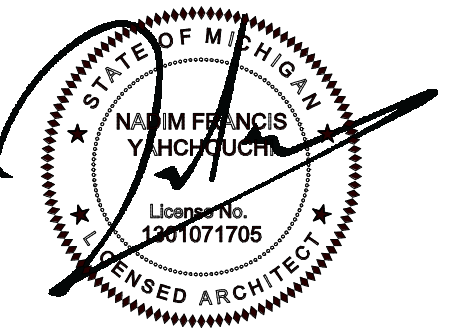
(Printed personnel name and title)



(Owner Signature)

Edward Prekelezaj

(Printed personnel name and title)

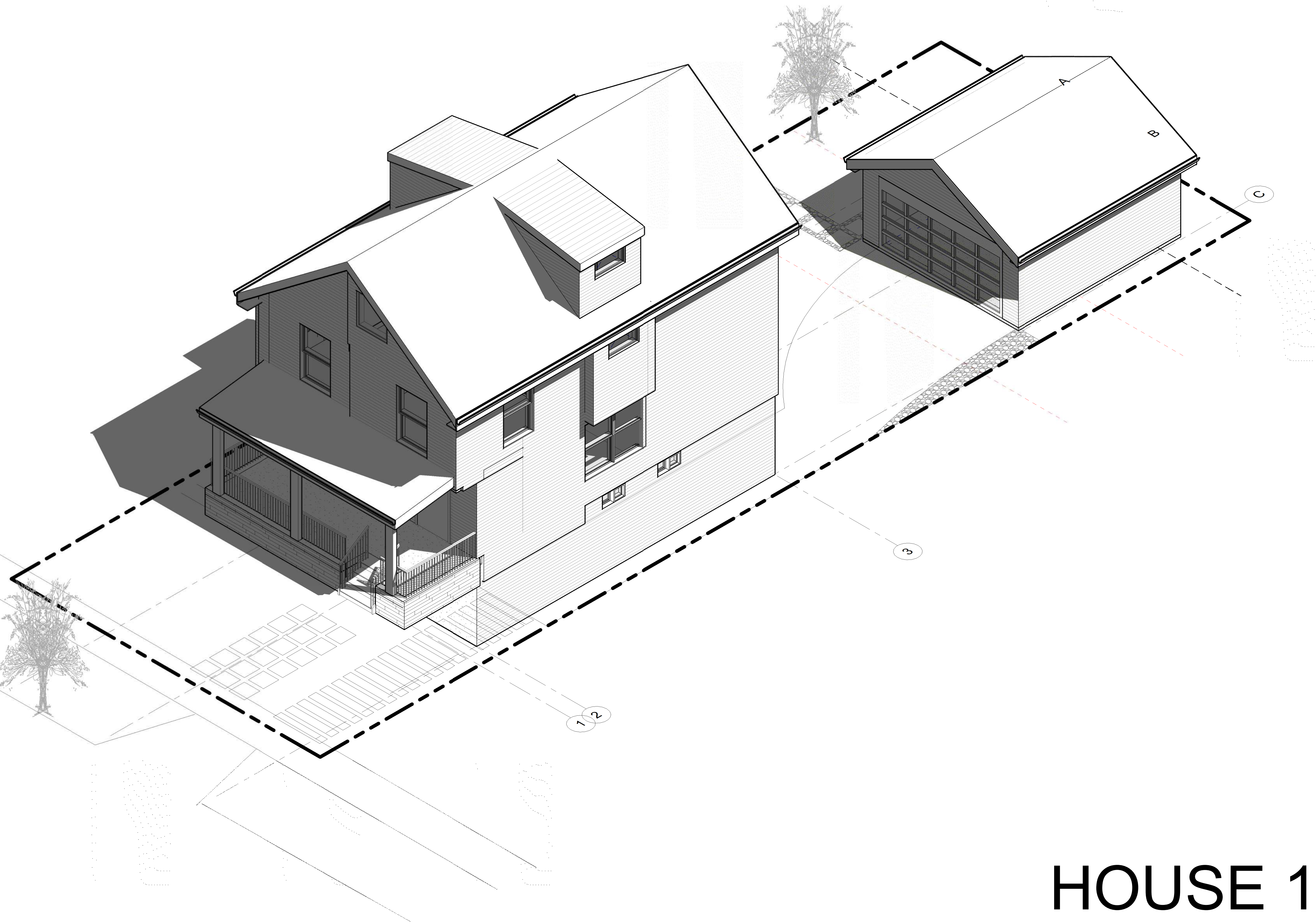


HOUSE 1587
1587 South Bates Street
Birmingham, MI, 48009

[illegible]

Cover Sheet

G000



HOUSE 1587

The diagram illustrates two types of symbols used in architectural drawings. On the left, a circular reference sheet symbol is shown with 'X' in the top half and 'XX.X' in the bottom half, connected by a horizontal line to a rectangular box containing the text 'REFERENCE NO. SHEET NUMBER'. To the right of this is a section line symbol consisting of a thick line and two parallel diagonal lines, with the text 'CHANGE IN ELEVATION' to its right. Below these, a horizontal line separates the section line symbol from a rectangular box representing a room identification symbol. This box is divided into three horizontal sections: the top section contains 'UNIT:' with an arrow pointing to 'UNIT TYPE'; the middle section contains '2101' with an arrow pointing to 'UNIT NUMBER'; and the bottom section contains '1/A401' with an arrow pointing to 'ENLARGED PLAN REFERENCE'.

	GRID	GRID LINE
	SECTION NUMBER SHEET NUMBER	BUILDING SECTION REFERENCE
	SECTION NUMBER SHEET NUMBER	PARTIAL BUILDING OR WALL SECTION REFERENCE
	DETAIL NUMBER SHEET NUMBER	DETAIL REFERENCE
	MATCH LINE SHEET NUMBER	MATCH LINE REFERENCE
	ELEVATION NUMBER SHEET NUMBER	EXTERIOR ELEVATION REFERENCE
	ELEVATION NUMBER SHEET NUMBER	INTERIOR ELEVATION REFERENCE
	ELEVATION HEIGHT	CONTROL POINT OR DATUM POINT
	EL XX.XX FF	FINISH FLOOR ELEVATION
	EL XX.XX	FINISH SURFACE FLOOR ELEVATION
	X	KEYNOTE
	XX.XX	DOOR SYMBOL SEE A600 SHEETS
	XX	WINDOW/GLAZING SYMBOL SEE A600 SHEETS
	SD	SMOKE DETECTOR
	XX	BUILDING MATERIAL/ COLOR REFERENCE
	X	REVISION REFERENCE
		REVISION CLOUD
	FH	FIRE HYDRANT
	FE	FIRE EXTINGUISHER
	SP	CLASS 1 STANDPIPE
	BDS	BUILDING DIRECTIONAL SIGNAGE
	KB	KNOX BOX, RECESSED MOUNTED 48" AFF
	FD	FLOOR DRAIN, SEE PLUMBING DWGS.
		EXIT SIGN
	LE	LOW LEVEL EXIT SIGN
		BUILDING EXIT
		INTERNATIONAL SIGN OF ACCESSIBILITY, (I.S.A.) RAISED LETTERS & BRAILLE.
		ACCESSIBLE BLDG. ENTRY
		ACCESSIBLE ROUTE
		EXIT PATH OF TRAVEL
		LIMIT OF WORK
		PROPERTY LINE
		ASSUMED PROPERTY LINE
		CENTER LINE
		CENTER LINE
		NORTH ARROW

WALL TYPE SYMBOL

FIRE RATING
0 = NON RATED
1 = ONE HOUR RATED
2 = TWO HOUR RATED
3 = THREE HOUR RATED
4 = FOUR HOUR RATED

WALL MATERIAL
W = WOOD STUD - SEE A720.
S = STEEL STUD - SEE A725.
M = CMU - SEE DET. 12/A720.
C = CONCRETE - SEE DET. 12/A720.
FW = FIRE WALL - SEE A722.

DETAIL NUMBER ON REFERENCED SHEET

2.	PRIOR TO STARTING CONSTRUCTION, MEET WITH REPRESENTATIVE OF THE APPROPRIATE GOVERNING AGENCY(IES) TO INSPECT AND DOCUMENT EXISTING WORK ON PUBLIC PROPERTY (I.E. CURBS, GUTTERS, SIDEWALK, TREES AND LANDSCAPING, ETC. DAMAGE TO EXISTING WORK ON PUBLIC PROPERTY CAUSED BY CONSTRUCTION ACTIVITIES RELATED TO THIS PROJECT SHALL BE REPAIRED AT THE CONTRACTOR'S COST, AND TO THE SATISFACTION OF THE APPROPRIATE GOVERNING AGENCY PRIOR TO COMPLETION OF THIS PROJECT.	1.	THESE PLANS ARE THE PROPERTY OF CREATIVE/DROP INC. AND ARE NOT TO BE USED ON ANY OTHER PROJECT OR ADDITIONAL WORK ON THIS PROJECT, WITHOUT THE ARCHITECT'S AND CONSULTANTS' WRITTEN AUTHORIZATION.
3.	OBTAIN ALL REQUIRED PERMITS FOR REMOVAL OF PAVEMENT, EXCAVATION, AND REPAIR OF PAVEMENT ON PUBLIC PROPERTY REQUIRED FOR CONNECTIONS TO UTILITIES, CONSTRUCTION OF DRIVEWAYS, CURBS, GUTTERS ETC. AND/OR LANDSCAPING.	2.	ALL CONSTRUCTION SHALL COMPLY WITH CURRENT AND APPLICABLE CODES, FEDERAL, STATE, AND LOCAL REGULATIONS, ORDINANCES, AND STATUTES.
4.	FIRE DEPARTMENT VEHICLE ACCESS SHALL BE PROVIDED AND MAINTAINED SERVICEABLE TO ALL BUILDINGS ON THE SITE AND THROUGHOUT THE SITE DURING THE ENTIRE TIME OF CONSTRUCTION. FIRE ACCESS LANES SHALL COMPLY WITH THE WIDTH AND CLEARANCE STANDARDS OF THE LOCAL FIRE DEPARTMENT. SUBMIT FIRE PROTECTION PLAN PROPOSED TO BE USED DURING CONSTRUCTION TO THE LOCAL FIRE DEPARTMENT 60 DAYS OR AS REQUIRED PRIOR TO START OF CONSTRUCTION.	3.	OBTAIN REQUIRED PERMITS FROM ALL GOVERNING AUTHORITIES PRIOR TO START OF WORK.
5.	MAINTAIN FOR THE ENTIRE DURATION OF THE WORK ALL EXITS, EXIT LIGHTING, FIRE PROTECTION DEVICES AND ALARMS IN CONFORMANCE WITH ALL APPLICABLE CODES AND ORDINANCES.	4.	THE PROJECT MANUAL, BOUND SEPARATELY IS PART OF THE CONTRACT DOCUMENTS. IN CASE OF CONFLICT BETWEEN THE TWO DOCUMENTS THE MORE RESTRICTIVE SHALL GOVERN.
6.	ALL EXIT DOORS IN BUILDINGS, INCLUDING BUT NOT LIMITED TO DOORS OF TOILETS AND STORAGE ROOMS, SHALL CONFORM WITH THE REQUIREMENTS OF SECTION 1010, OF THE CALIFORNIA BUILDING CODE. THE FOLLOWING ARE SOME OF THE REQUIREMENTS: A. ALL EXITS SHALL BE OPENABLE FROM THE INSIDE WITHOUT USE OF A KEY OR SPECIAL KNOWLEDGE OR EFFORT AND SHALL BE ACCESSIBLE BY THE DISABLED. B. HAND ACTIVATED DOOR OPENING HARDWARE SHALL BE CENTERED BETWEEN 34 AND 38 INCHES ABOVE THE FLOOR. C. HAND BOLTS ARE NOT PERMITTED UNLESS OPERABLE WITH A SINGLE EFFORT BY LEVER TYPE HARDWARE.	5.	ALL CONSTRUCTION DOCUMENTS FOR THE PROJECT COMPLEMENT EACH OTHER AND WHAT IS SHOWN OR SPECIFIED BY ONE SHALL BE BINDING AS IF SHOWN OR SPECIFIED BY ALL. ANY WORK REFERRED TO ON ANY CONSTRUCTION DOCUMENT SHALL BE PROVIDED AS THOUGH IT WERE SHOWN OR SPECIFIED IN ALL RELATED DOCUMENTS, INCLUDING SPECIFICATIONS AND DETAIL REFERENCING.
7.	ALL EXIT LIGHTING AND SIGNS TO HAVE MINIMUM 6 INCH LETTERS IN ACCORDANCE WITH CBC SECTION 1008.	6.	CONTRACTOR SHALL REVIEW ALL DOCUMENTS INCLUDING ELECTRONIC DOCUMENTS IF PROVIDED, AND SHALL VERIFY ALL DIMENSIONS AND CONDITIONS AND SHALL CONFIRM THAT WORK IS BUILDABLE AS SHOWN. ANY CONFLICTS, DISCREPANCIES, OMISSIONS, ETC. ARE TO BE IMMEDIATELY REPORTED TO THE ARCHITECT FOR CLARIFICATION PRIOR TO THE PERFORMANCE OF ANY WORK IN QUESTIONS.
8.	EXIT SIGNS SHALL BE LOCATED AS NECESSARY TO CLEARLY INDICATE THE DIRECTION OF EGRESS TRAVEL. NO POINT SHALL BE MORE THAN 100 FEET FROM THE NEAREST VISIBLE SIGN. EXIT SIGNS SHALL BE READILY VISIBLE FROM ANY DIRECTION OF APPROACH.	7.	DO NOT SCALE DRAWINGS INCLUDING ELECTRONIC DRAWINGS IF PROVIDED. WRITTEN DIMENSIONS GOVERN ALL LOCATIONS OF ELEMENTS OF CONSTRUCTION. WRITTEN DIMENSIONS TAKE PRECEDENCE OVER SCALED DIMENSIONS. FLOOR PLAN BY ARCHITECT TAKE PRECEDENCE OVER OTHER PLANS. WRITTEN DIMENSIONS ON HARD COPY DOCUMENTS TAKE PRECEDENCE OVER DIMENSIONS ON ELECTRONIC DOCUMENTS.
9.	EXIT SIGNS SHALL BE ILLUMINATED WITH TWO ELECTRICAL LAMPS OF NOT LESS THAN 15 WATTS EACH. PROVIDE TWO SOURCES OF POWER.	8.	PLAN DIMENSIONS ARE TO THE FOLLOWING REFERENCES UNLESS SPECIFICALLY NOTED OTHERWISE IF THE DRAWINGS: A. COLUMN CENTER LINE - STRUCTURAL GRID B. FACE OF STUD (FOS) C. ALL DIMENSIONS MARKED "CLEAR" SHALL BE MAINTAINED AND SHALL ALLOW FOR THICKNESS OF ALL FINISHES.
10.	ALL MATERIALS AND EQUIPMENT TO BE INCORPORATED INTO THE WORK SHALL BE NEW. ALL MATERIALS INCORPORATED INTO THE WORK SHALL BE FREE FROM ASBESTOS, RADIOACTIVE WASTE AND ANY OTHER MATERIALS DETERMINAL TO HUMAN HEALTH AND SAFETY. MATERIALS MUST ALSO CONFORM WITH ALL CODES INCLUDING HEALTH SAFETY, AND ADA.	9.	DETAILS SHOW GENERAL INTENT OF ACCOMPLISHING WORK. MAKE MINOR MODIFICATIONS AS REQUIRED TO SUITE THE JOB DIMENSIONS OR CONDITIONS AS PART OF THE WORK. IF THERE ARE ANY CONFLICTS IN THE DRAWINGS THE MORE RESTRICTIVE WILL GOVERN.
11.	ASSUME FULL RESPONSIBILITY FOR PROTECTION AND SAFEKEEPING OF ALL PRODUCTS RECEIVED, STORED AND INSTALLED ON SITE.	10.	ANY WORK OR MATERIAL NOT NOTED DIRECTLY ON THE CONTRACT DOCUMENTS BUT NECESSARY FOR THE PROPER EXECUTION AND COMPLETION OF THE INTENT OF THE WORK DESCRIBED IN THE CONTRACT DOCUMENTS, IS IMPLIED. SUCH WORK OR MATERIAL SHALL BE INCLUDED AS IF SPECIFICALLY NOTED OR DESCRIBED IN THE CONTRACT DOCUMENTS.
12.	HANDLE AND INSTALL PRODUCTS IN STRICT ACCORDANCE WITH MANUFACTURER'S INSTRUCTIONS AND IN CONFORMANCE WITH SPECIFIED REQUIREMENTS.	11.	THE CONTRACTOR TO VERIFY AND BE RESPONSIBLE FOR THE COORDINATION OF THE WORK WITH EXISTING CONDITIONS AND DIMENSIONS. NOTIFY THE ARCHITECT OF ANY CONDITION REQUIRING CLARIFICATION OR MODIFICATION PRIOR TO PROCEEDING WITH THE AFFECTED WORK.
13.	EACH LITE OF GLAZING MATERIAL INSTALLED IN HAZARDOUS LOCATIONS SHALL BE IDENTIFIED BY A PERMANENT LABEL THAT SPECIFIES THE LABELER, AND STATES THAT SAFETY GLAZING MATERIAL HAS BEEN UTILIZED IN SUCH INSTALLATIONS. THE FOLLOWING SHALL BE CONSIDERED SPECIFIC HAZARDOUS LOCATIONS FOR THE PURPOSE OF GLAZING: A. GLAZING IN INGRESS AND EGRESS DOORS EXCEPT JAULOSIES. B. GLAZING IN FIXED AND SLIDING PANELS IN SWINGING DOORS OTHER THAN WARDROBE DOORS. C. GLAZING IN FIXED OR OPERABLE PANELS ADJACENT TO A DOOR WHERE THE NEAREST EXPOSED EDGE OF THE GLAZING IS WITHIN A 24 INCH ARC OF VERTICAL EDGE OF THE DOOR IN A CLOSED POSITION AND WHERE THE BOTTOM EXPOSED EDGE OF THE GLAZING IS LESS THAN 60 INCHES ABOVE THE WALKING SURFACE. D. GLAZING IN AN INDIVIDUAL FIXED OR OPERABLE PANEL THAT MEET ALL OF THE FOLLOWING CONDITIONS: I. EXPOSED AREA OF AN INDIVIDUAL PANE GREATER THAN 9 SQUARE FEET. II. EXPOSED BOTTOM EDGE LESS THAN 18 INCHES ABOVE FLOOR. III. EXPOSED TOP EDGE GREATER THAN 36 INCHES ABOVE THE FLOOR. IV. ONE OR MORE WALKING SURFACES WITHIN 36 INCHES HORIZONTALLY OF THE PLANE OF THE GLAZING.	12.	THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ACCURATE PLACEMENT OF THE BUILDING(S) ON THE SITE. BUILDING(S) LAYOUT SHALL BE PERFORMED BY A LICENSED SURVEYOR OR CIVIL ENGINEER EMPLOYED BY OR PAID FOR BY THE CONTRACTOR.
14.	ALL MATTERS AND DECISIONS REGARDING COLOR, TEXTURE AND DESIGN SHALL BE REFERRED TO THE ARCHITECTS	13.	PREVENT MOVEMENT OR SETTLEMENT OF STRUCTURES IN PERFORMANCE OF WORK. PROVIDE AND PLACE BRACING OR SHORING AND BE RESPONSIBLE FOR SAFETY AND SUPPORT OF WORK.
15.	ALL SEALANT SHALL MATCH ADJACENT FINAL COLOR.	14.	EXCAVATION AND DIGGING REQUIRES INFORMING REGIONAL NOTIFICATION CENTER. CONTACT A REPRESENTATIVE OF UNDERGROUND SERVICE ALERT ("DIGALERT") AT (800) 227-2600 A MINIMUM OF TWO (2) DAYS IN ADVANCE OF STARTING AN EXCAVATION OR DIGGING.
16.	ALL FLASHING SHALL BE PAINTED TO MATCH ADJACENT MATERIALS UNLESS SHOWN OTHERWISE ON THE PLANS.	15.	TRENCHES OR EXCAVATIONS FIVE FEET (5') OR MORE IN DEPTH INTO WHICH A PERSON IS REQUIRED TO DESCEND REQUIRE SEPARATE PERMIT(S). OBTAIN SUCH PERMIT(S) AS REQUIRED.
17.	ALL GALVANIZED DRIPS SHALL BE PAINTED TO MATCH ADJACENT MATERIALS UNLESS SHOWN OTHERWISE ON THE PLANS.	16.	THE LOCATION OF EXISTING UNDERGROUND UTILITIES WHERE SHOWN IN THE DRAWINGS, ARE APPROXIMATE ONLY AND HAVE NOT BEEN INDEPENDENTLY VERIFIED BY THE OWNER, THE ARCHITECT OR THEIR REPRESENTATIVE. DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES AND MODIFY THE APPLICABLE UTILITY COMPANIES BEFORE COMMENCING WORK OR IN THE EVENT THE UTILITY LINES REQUIRE RELOCATION REPAIR ANY DAMAGES SERVICE LINES IMMEDIATELY. THE CONTRACTOR SHALL BE FULLY RESPONSIBLE FOR THE REPAIRS, AT HIS OWN COST, OF ANY AND ALL DAMAGES TO EXISTING UNDERGROUND UTILITIES OCCASIONED BY THE CONTRACTOR'S FAILURE TO EXACTLY LOCATE AND PRESERVE SUCH UNDERGROUND UTILITIES.
18.	PENETRATIONS OF FIRE-RESISTIVE WALLS, FLOOR-CEILINGS AND ROOF CEILINGS SHALL BE PROTECTED AS REQUIRED IN THE CBC SEC. 712 AND SECTION 714.	17.	TRESPASSING ON ANY ADJOINING PROPERTIES IS PROHIBITED. MATERIAL SHALL NOT BE STORED ON ANY ADJOINING PROPERTY, EXCEPT WHEN AND WHERE APPROVED BY THE RESPECTIVE OWNERS.
19.	WALL AND CEILING FINISHES SHALL NOT EXCEED THE FLAME SPREAD AND CLASSIFICATIONS IN THE CBC TABLE 803.1	18.	PROVIDE TEMPORARY CONSTRUCTION FENCE(S), GATE(S), BARRICADE(S) OR OTHER PROTECTIVE MEASURES AS REQUIRED BY THE APPROPRIATE GOVERNING AGENCIES AND AS OTHERWISE REQUIRED BY THE CURRENT APPLICABLE CODE(S) TO PROTECT THE PUBLIC AND AVOID UNAUTHORIZED ENTRY TO THE CONSTRUCTION SITE.
20.	BUILDING PROJECTIONS INTO PUBLIC PROPERTIES MUST COMPLY WITH CHAPTER 32. TEMPORARY PEDESTRIAN PROTECTION SHALL BE PROVIDED AS REQUIRED BY SECTION 3306. OBTAIN PUBLIC WORKS APPROVAL (3201.3, 3202.3, 3306)	19.	REMOVE AND DISPOSE OF ALL RUBBISH, WASTE MATERIAL AND ABANDONED ITEMS GENERATED BY THE CONTRACTOR SUBCONTRACTOR AND TRADES FROM THE SITE ON A REGULAR BASIS. CLEAN OR CONGEALED AREAS OF ALL DEBRIS IMMEDIATELY PRIOR TO ENCLOSURE, CLEAN SPILLAGE, OVERSPRAY AND HEAVY COLLECTION OF DUST IMMEDIATELY. RUBBISH AND WASTE MATERIAL SHALL NOT ACCUMULATE IN THE BUILDING(S) OR ON SITE. SWEEP ADJACENT STREET AND SIDEWALKS AT LEAST ONCE A DAY, PREFERABLY AT THE END OF THE DAY. COMPLIANCE WITH THIS MEASURE IS SUBJECT TO CITY INSPECTIONS. DISPOSE OF THE RUBBISH, WASTE MATERIALS AND ABANDONED ITEMS IN ACCORDANCE WITH ALL APPLICABLE...
21.	TEMPORARY PEDESTRIAN PROTECTION SHALL BE PROVIDED AS REQUIRED BY SECTION 3306. OBTAIN PUBLIC WORKS APPROVAL.	20.	LIMIT CONSTRUCTION ACTIVITY TO THE PERIOD BETWEEN HOURS OF 7:00 AM AND 7:00 PM MONDAY THROUGH FRIDAY ONLY. INTERIOR/FINISH WORK MAY EXCEED THIS PERIOD IF APPROVED BY THE GOVERNING AGENCY.
22.	FIRE LANE ACCESS IS REQUIRED WHERE ANY PART OF THE BUILDING IS 150 FEET FROM THE EDGE OF AN IMPROVED STREET OR APPROVED FIRE LANE. OBTAIN CLEARANCE FROM THE HYDRANTS AND ACCESS UNIT OF THE FIRE DEPARTMENT FOR ACCESS REQUIREMENTS.	21.	OBTAIN ALL REQUIRED PERMITS FOR USE OF PUBLIC PROPERTY DURING CONSTRUCTION. OBTAIN REQUIRED PERMITS FOR AND PROVIDE PEDESTRIAN PROTECTION AS REQUIRED BY THE APPROPRIATE GOVERNING AGENCY. DO NOT STORE MATERIAL ON PUBLIC PROPERTY WITHOUT REQUIRED PERMIT(S).

PROJECT SITE
1587 S. BATES STREET

Sheet Number	Sheet Name
G000	Cover Sheet
G001	Project Information
G002	DTE Letter Of Compliance
A100	Site Plan
A100B	Basement Floor Plan
A101	Main Floor Plan
A102	Second Floor Plan
A103	Loft Floor Plan
A104	Roof Plan
A201	Elevations
A202	Elevations
A301	Sections
A302	Sections
A310	Wall Sections
A311	Wall Sections
A401	Kitchen Enlarged Plans
A402	Master Bathroom Enlarged Plans
A601	Door & Window Schedules
A701	Details
A702	Details
S1	Foundation Plan
S2	Second Floor Plan
S3	Structural Notes

Name	Area
Basement	
Basement Bath	51 SF
Closet	32 SF
Entertainment Room	186 SF
Family Room	331 SF
Guest Bedroom	147 SF
Stairs	79 SF
Utility Room	104 SF
Grand total: 7	931 SF

Name	Area
Main level	
Dining Room	151 SF
Family Room	225 SF
Foyer	131 SF
Guest bath	37 SF
Kitchen	200 SF
Office/Study Room	128 SF
Stairs	99 SF
Main level: 7	971 SF
Level 1	
Bathroom 1	186 SF
Bedroom 2	169 SF
Closet	23 SF
Closet	18 SF
Corridor	60 SF
Laundry Room	50 SF
Master Bathroom	112 SF
Master Bedroom	183 SF
Shared Bath	59 SF
Walk In Closet	84 SF
Level 1: 10	950 SF
Loft Level	
Bath, Loft	67 SF
Loft	452 SF
Stairs	71 SF
Loft Level: 3	589 SF
Grand total: 20	2510 SF

OWNER

1587 S. BATES LLC
EDWARD PREKELZAJ
P: (248) 975 - 4155
EMAIL: NORA@CONTOURCOMPANIES.COM

ARCHITECT

NADIM YAHCHOUCHI
19621 BABINGTON STREET
SANTA CLARITA, CA 91351
P: (818) 636-2869
EMAIL: NADIMY@CREATIVEDROPINC.COM

STRUCTURAL

LAWRENCE CONSULTING ENGINEERS
32300 NORTH RIVER ROAD
HARRISON TOWNSHIP, MI, 48045
P: (586) 246-9810
EMAIL: LMISKI2@GMAIL.COM

LAND SURVEYOR

LAND DEVELOPMENT SERVICES OF MICHIGAN
48597 HAYES ROAD
SHELBY TOWNSHIP, MI, 48315
P: (586) 854-7310
EMAIL: LDSOFMICHIGAN@GMAIL.COM

ENGINEY

D.R. NELSON & ASSOCIATES, INC
P.O. BOX 2420
BIRMINGHAM, MI 48012
P: (248) 393-9100
EMAIL: KEITH@DRNELSON.COM

PROJECT DESCRIPTION	
NEW CONSTRUCTION OF A 2,563 SF SINGLE FAMILY DWELLING TWO STORY ABOVE A BASEMENT. (DEMOLITION OF EXISTING STRUCTURE WILL BE UNDER A SEPARATE PERMIT)	
PROJECT ADDRESS	
1587 SOUTH BATES STREET. BIRMINGHAM, MI 48009	
LEGAL DESCRIPTION	
PIN: 19-19-36-332-013	
ZONING INFORMATION	
ZONE:	R2
USE:	SINGLE FAMILY DWELLING
LOT COVERAGE:	30%
LOT DIMENSIONS:	40' X 120'
LOT AREA:	4800 SF
MAX. LOT COVERAGE:	4800 SF X 0.3 = 1440 SF

SIDES: 9 FEET
SIDE: 5 FEET
FRONT: 26'-8" **CALCULATED**

BUILDING HEIGHT:

TO MIDPOINT OF PITCH ROOF - 26 FEET
TO EAVE 24 FEET
TO FLAT ROOF 24 FEET

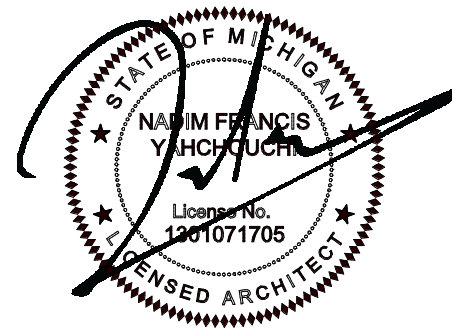
CITY OF BIRMINGHAM, MI ZONING ORDINANCE
2015 MICHIGAN RESIDENTIAL CODE
2015 MICHIGAN PLUMBING CODE
2015 MICHIGAN MECHANICAL CODE
2015 MICHIGAN ELECTRICAL CODE
2015 MICHIGAN ENERGY CODE - RESIDENTIAL

TYPE V - B

TYPE V - B



19621 BABINGTON STREET
SANTA CLARITA, CA 91351



**1587 South Bates Street
Birmingham, MI, 48009**

HOUSE 1587

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Project Information

G001

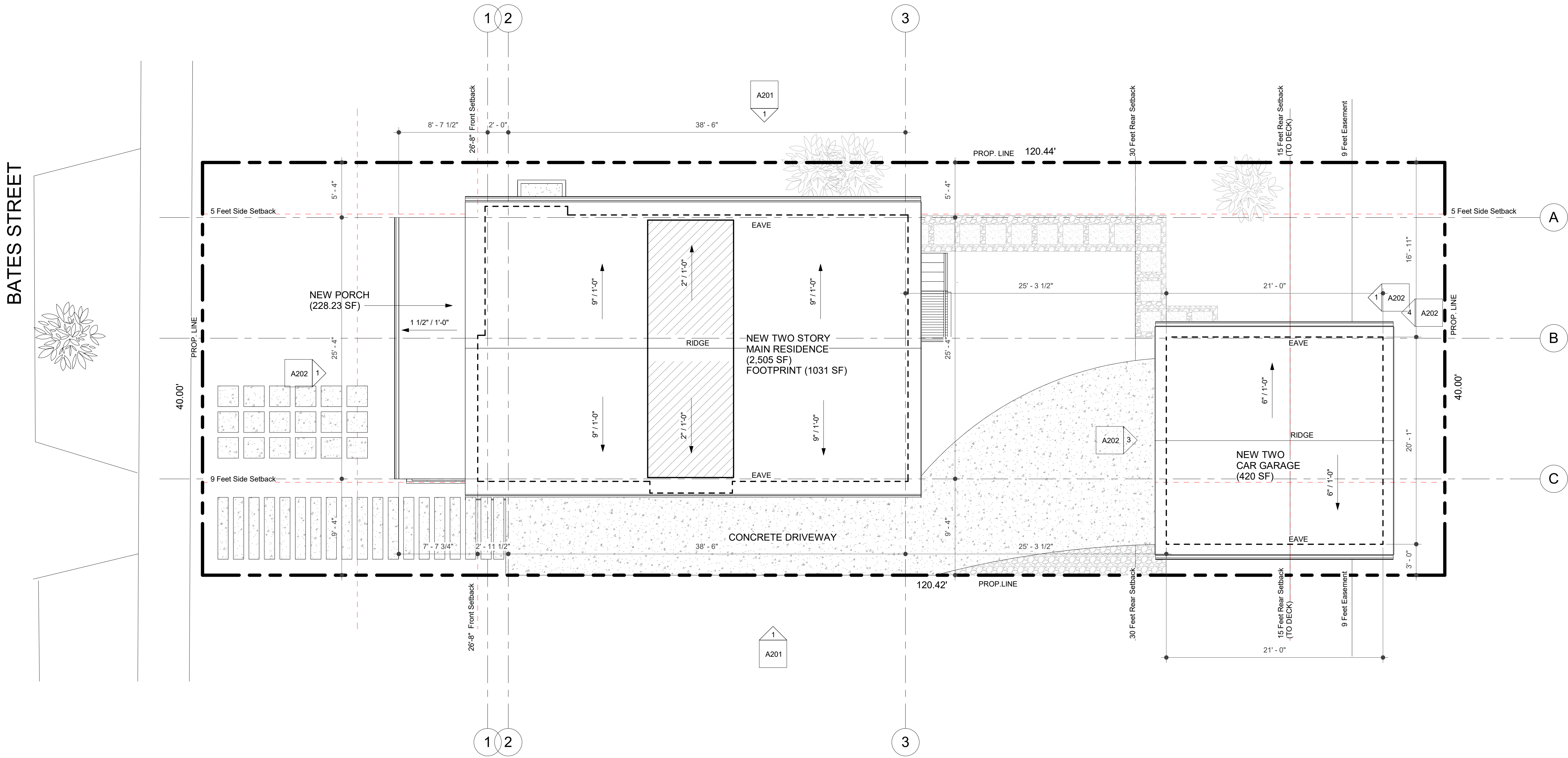


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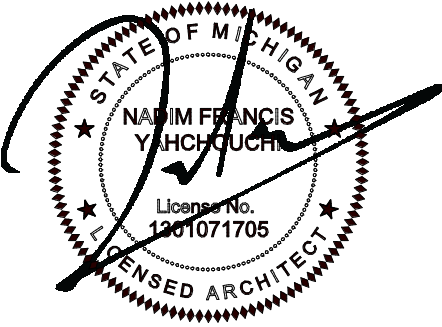
Site Plan

A100





19621 BABINGTON STREET
SANTA CLARITA, CA 91351



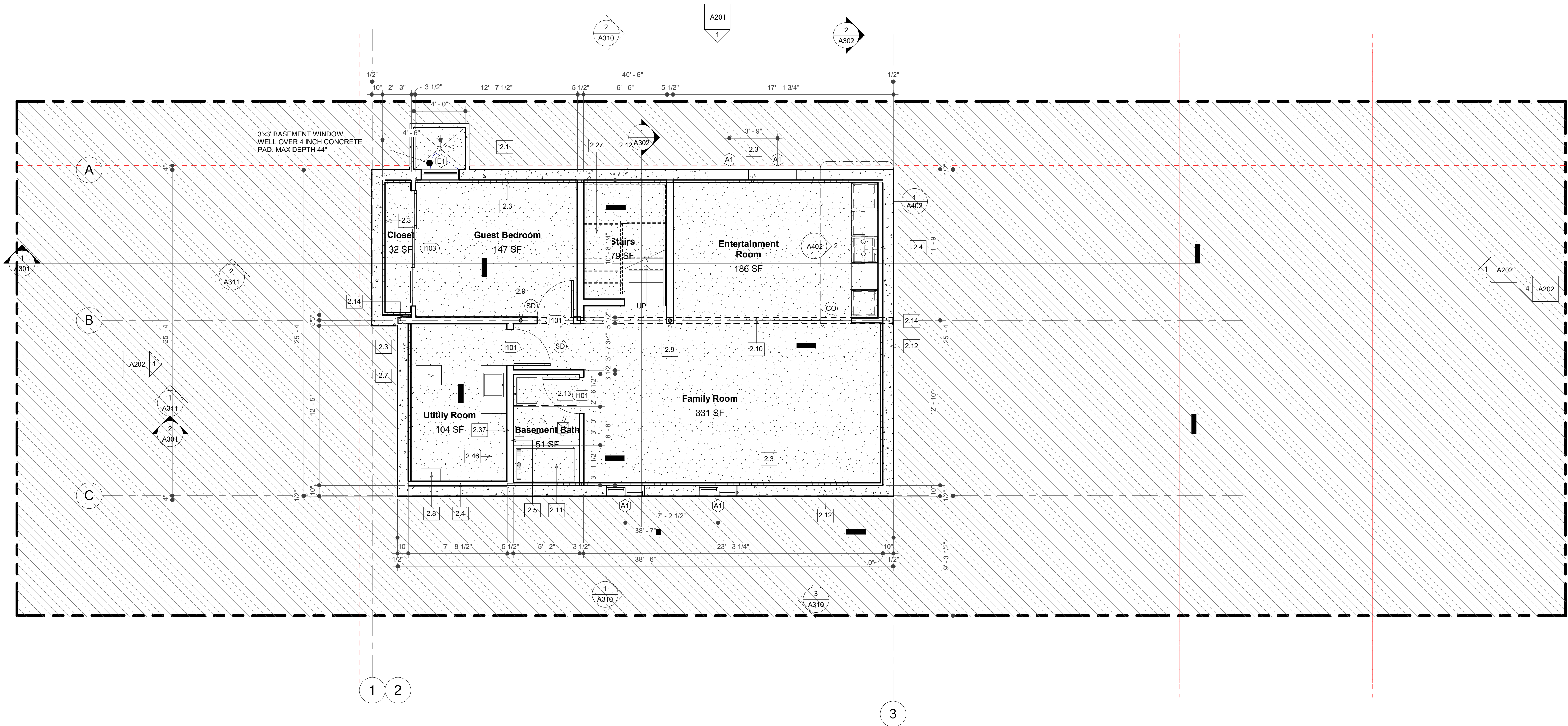
HOUSE 1587

1587 South Bates Street
Birmingham, MI, 48009

REVISIONS	
03/22/2023	NEW CONSTRUCTION PERMIT SET SUBMITTAL
05/10/2023	NEW CONSTRUCTION PERMIT SET SUBMITTAL
03/14/2024	PC1 PERMIT SET SUBMITTAL

Basement Floor
Plan

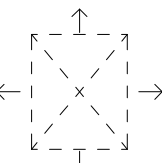
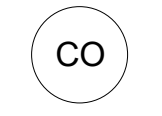
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KEYNOTES

- 2.1 BASEMENT WINDOW WELL WITH EGRESS WINDOW. SEE DETAIL 9/A702
- 2.3 2-INCH RIGID INSULATION OVER CONCRETE BASEMENT WALL COVERED WITH 1/2" GYP BOARD
- 2.4 2x4 PLUMBING WALL
- 2.5 2X6 PLUMBING WALL
- 2.7 STAND UP FLOW FURNACE. SUPPLIES BASEMENT AND MAIN FLOOR. INSTALL PER MANUFACTURER'S INSTALLATION INSTRUCTIONS.
- 2.8 WALL MOUNTED TANKLESS WATER HEATER. INSTALL PER MANUFACTURER'S INSTALLATION INSTRUCTIONS.
- 2.9 3-INCH DIA. STRUCTUAL STEEL POST WITH FOOTING. LOCATE INSIDE OF WOOD STUD WALL. REFER TO STRUCTURAL PLANS FOR ADDITIONAL INFORMATION.
- 2.10 W8X18 INTERMEDIATE STRUCTURAL BEAM ABOVE. REFER TO STRUCTURAL FOR ADDITIONAL INFORMATION.
- 2.11 34" MIN. WIDE SHOWER WITH TILE SURROUND.
- 2.12 CAST-IN-PLACE BASEMENT CONCRETE WALL WITH DELTA-MS SUBRAGE WATERPROOFING MEMBRANE OVER BITUMEN DAMP PROOFING. SEE DETAILS 1/A701 AND 2/A701. REFER TO STRUCTURAL FOR ADDITIONAL INFORMATION.
- 2.13 NEW CEILING EXHAUST FAN. FAN SHALL HAVE 50 CFM MINIMUM AND BE ENEGRGY STAR COMPLIANT WITH HUMIDISTAT.
- 2.14 7"X7" BEAM POCKET WITH BEARING PLATE. REFER TO STRUCTURAL FOR ADDITIONAL INFORMATION.
- 2.27 WOOD FRAMED STAIRS WITH CABLE RAILING. 10" TREAD MINIMUM AND 8.75" HIGH RISER MAXIMUM.
- 2.37 PROVIDE WASHER AND DRYER HOOK-UP INSIDE PLUMBING WALL FOR FUTURE USE.
- 2.46 WALL HUNG LAUNDRY SHELVES. COORDINATE WITH OWNER ON STYLE AND FINISH

PLAN LEGEND

-  EXHAUST CEILING FAN
-  CARBON MONOXIDE
-  SMOKE DETECTOR

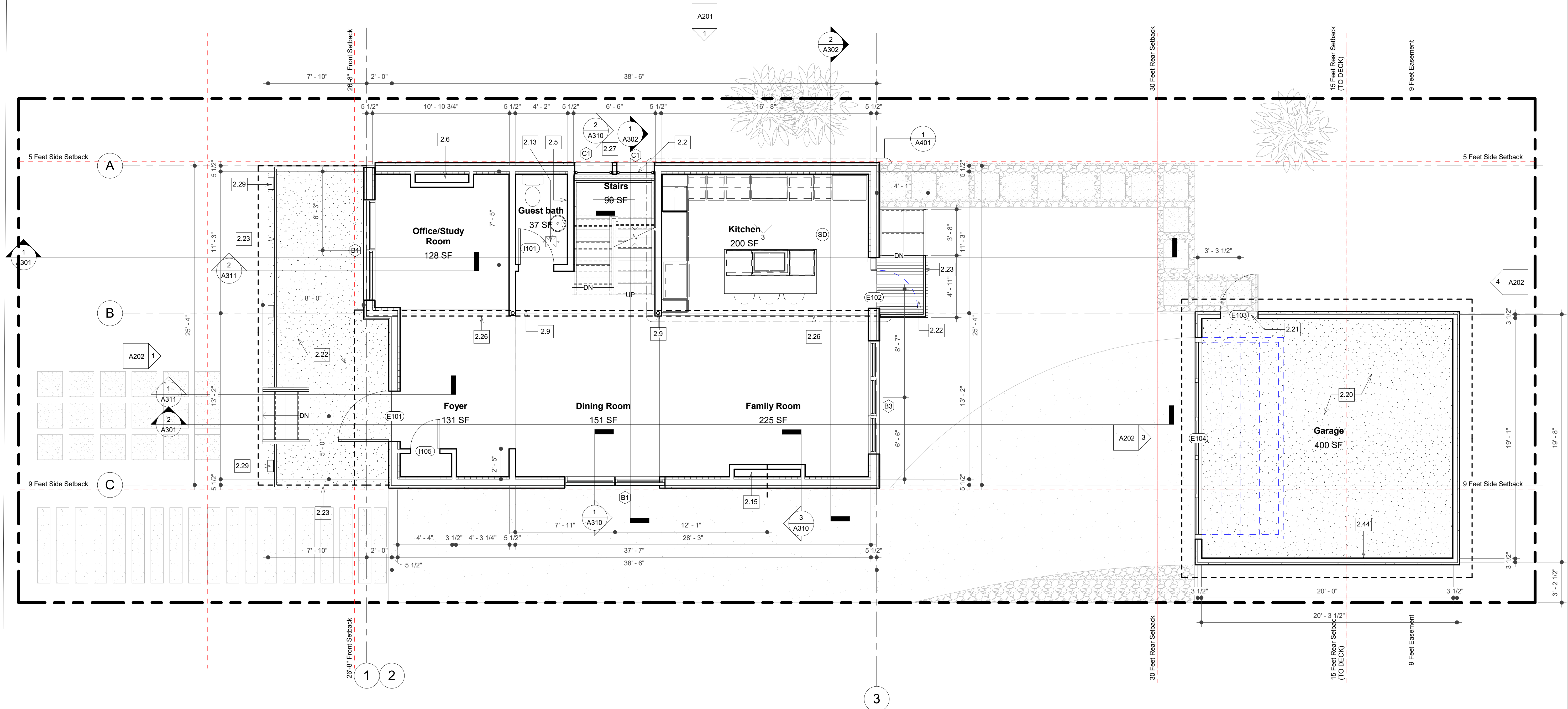
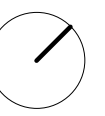


HOUSE 1587

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Main Floor Plan

A101



2.2 WINDOW +/- 33-INCHES ABOVE STAIR LANDING. SEE 1/A302

2.5 2X6 PLUMBING WALL

2.6 TILED IN ELECTRIC FIREPLACE. COORDINATE WITH OWNER ON PRODUCT SELECTION. INSTALL PER INSTALLATION INSTRUCTIONS.

2.9 3-INCH DIA. STRUCTURAL STEEL POST WITH FOOTING. LOCATE INSIDE OF WOOD STUD WALL. REFER TO STRUCTURAL PLANS FOR ADDITIONAL INFORMATION

2.13 NEW CEILING EXHAUST FAN. FAN SHALL HAVE 50 CFM MINIMUM AND BE ENERGY STAR COMPLIANT WITH HUMIDISTAT.

2.15 NOT USED

2.20 4-INCH THICK CONCRETE SLAB WITH 10" CURB AROUND PERIMETER OVER VAPOR BARRIER AND COMPACTED LIME STONE. REFER TO STRUCTURAL FOR ADDITIONAL INFORMATION.

2.21 EXTERIOR GARAGE SWING DOOR AT GRADE LEVEL. SEE DOOR SCHEDULE FOR SIZE.

2.22 4-INCH MINIMUM CONCRETE TOPPING SLAB OVER VAPOR BARRIER WITH 2% MINIMUM SLOPE FOR WASH DRAIN

2.23 SITE MOUNTED EXTERIOR GRADE CLEAR ANODIZED STEEL CABLE RAILING WITH LITE TOP RAIL.

2.26 4X14 FTCH BEAM ABOVE. REFER TO STRUCTURAL FOR ADDITIONAL INFORMATION.

2.27 WOOD FRAMED STAIRS WITH CABLE RAILING. 10" TREAD MINIMUM AND 8.75" HIGH RISER MAXIMUM.

2.29 6X12 WOOD POST WITH GRADE A FINISH COORDINATE STAIN COLOR WITH OWNER. REFER TO STRUCTURAL FOR ADDITIONAL INFORMATION.

2.44 1-HR FIRE RATED STUD WALL WITH EXTERIOR CLADDING. SEE DETAIL 12/A702

EXHAUST CEILING FAN

CO

CARBON MONOXIDE

SD

SMOKE DETECTOR

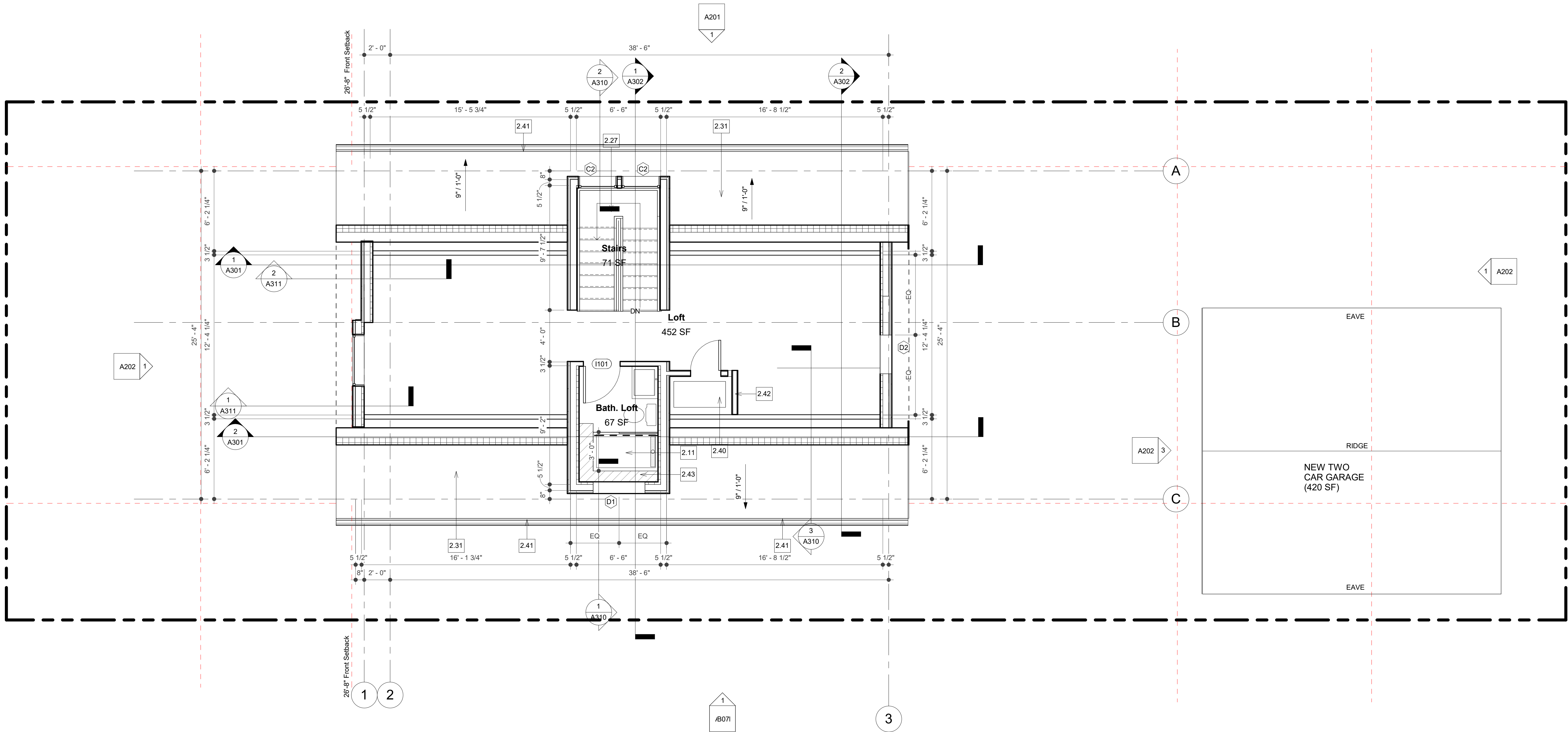
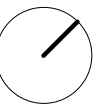


HOUSE 1587

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Loft Floor Plan

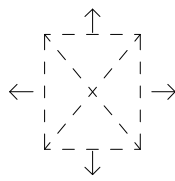
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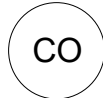
KEYNOTES

- 2.21 3/4" MIN. WIDE SHOWER WITH TILE SURROUND.
- 2.22 WOOD FRAMED STAIRS WITH CABLE RAILING. 10" TREAD MINIMUM AND 8.75" HIGH RISER MAXIMUM.
- 2.23 STANDING SEAM METAL ROOF FINISH OVER 2 LAYERS OF #30 Felt BUILDING PAPER AND RIGID INSULATION. SEE METAL ROOFING INSTALLATION INSTRUCTIONS.
- 2.24 HORIZONTAL FLOOR FLOOR FINISH. SUPPLIES LOFT AND SECOND FLOOR. INSTALL PER MANUFACTURER'S INSTALLATION INSTRUCTIONS.
- 2.41 6-INCH WIDE STAINLESS STEEL GUTTER WITH GUTTER GUARD.
- 2.42 2X4 ACQUISIT SMALL AIR FURNACE. WITH 2 LAYERS OF GYP BOARD ON BOTH SIDES AND BAKER ROD AND SEALANT TOP AND BOTTOM.
- 2.43 TILED SAKER AROUND SHOWER.

PLAN LEGEND



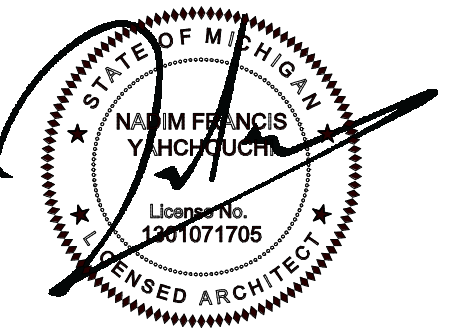
EXHAUST CEILING FAN



CARBON MONOXIDE



SMOKE DETECTOR



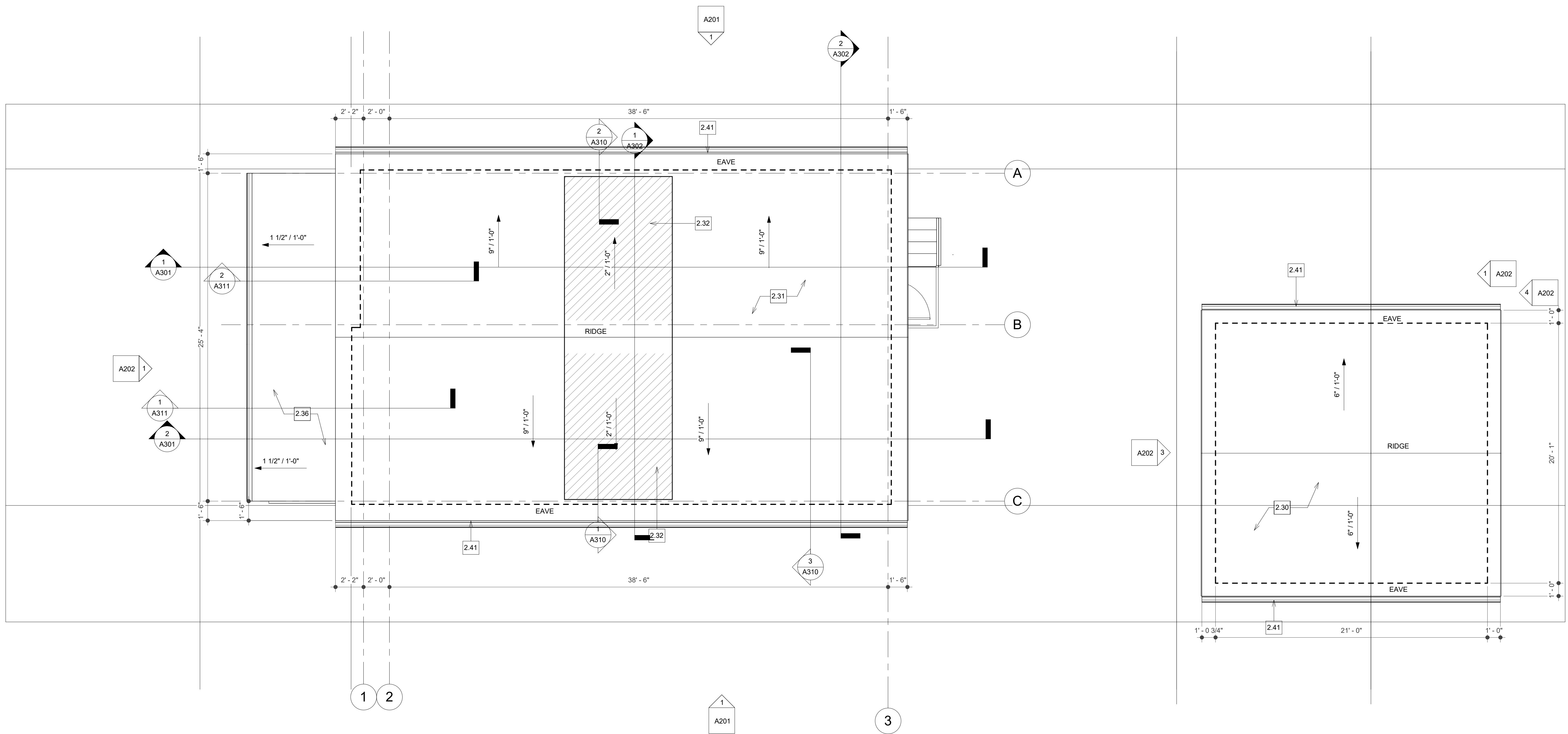
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Birmingham, MI, 48009

HOUSE 1587

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Roof Plan

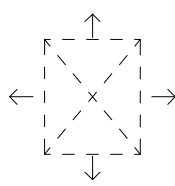
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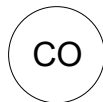
KEYNOTES

- | | |
|------|--|
| 2.31 | STANDING SEAM METAL ROOF FINISH OVER 2 LAYERS OF #30 FELT BUILDING PAPER AND RIGID INSULATION. INSTALL PER MANUFACTURER INSTALLATION INSTRUCTIONS. |
| 2.32 | STANDING SEAM METAL ROOF FINISH FOR LOW SLOPE ROOFS OVER 2 LAYERS OF #30 FELT BUILDING PAPER. INSTALL PER MANUFACTURER INSTALLATION INSTRUCTIONS. |

PLAN LEGEND



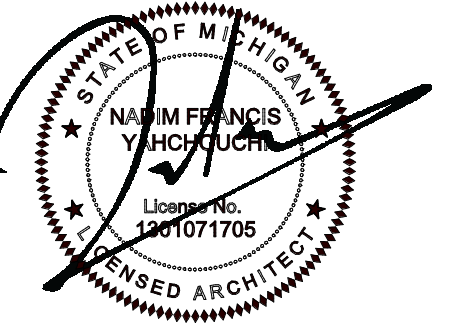
EXHAUST CEILING FAN



CARBON MONOXIDE



SMOKE DETECTOR



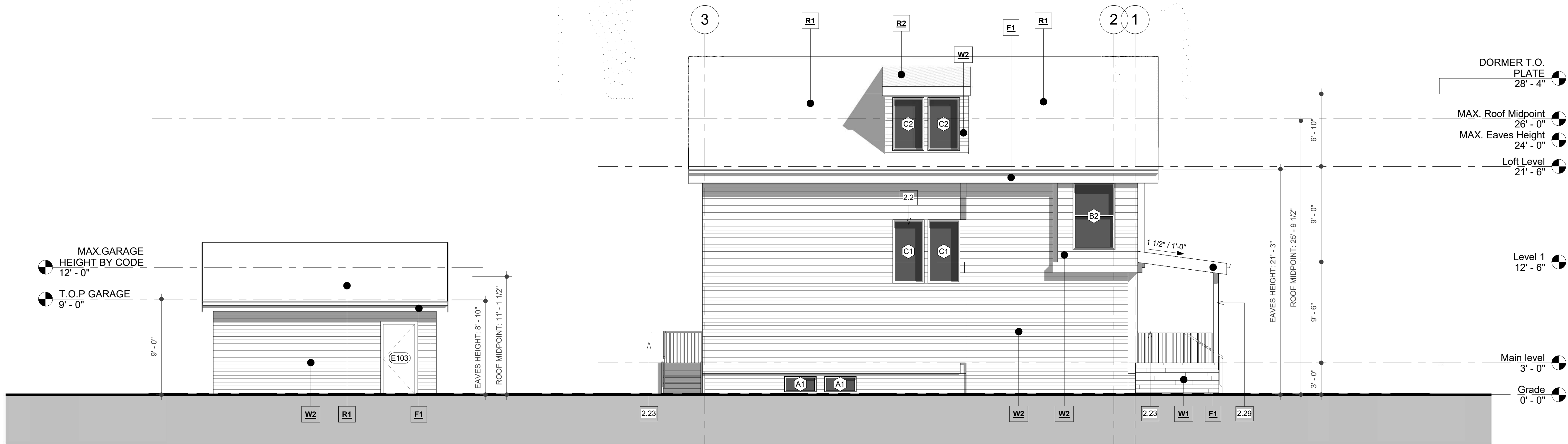
**1587 South Bates Street
Birmingham, MI, 48009**

HOUSE 1587

[illegible]

Elevations

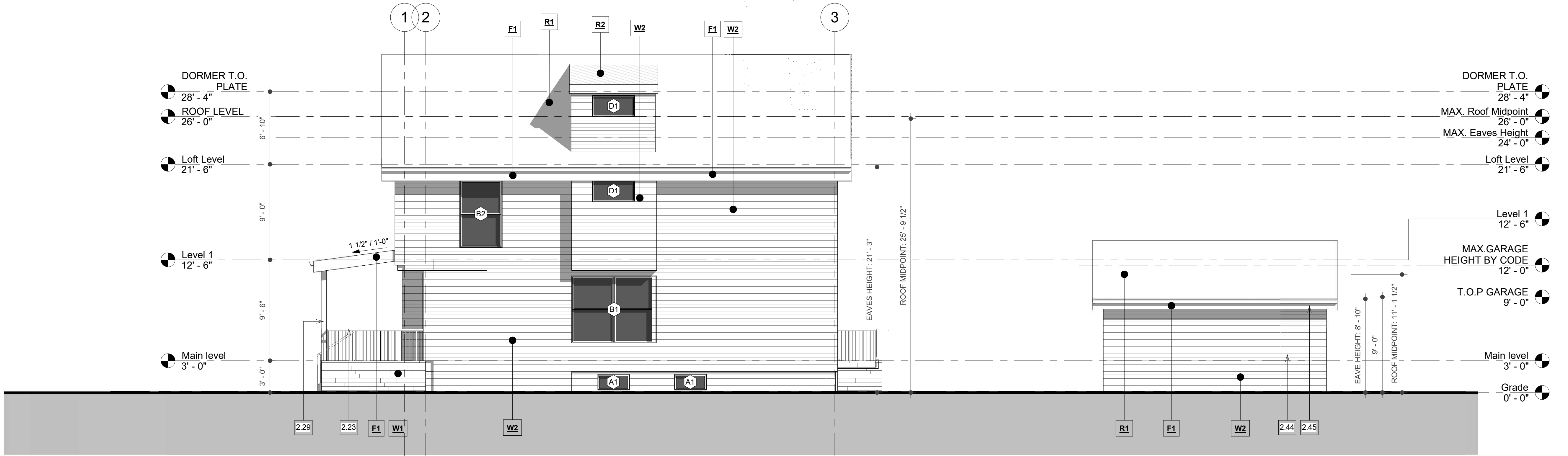
A201



North

SCALE: 3/16" = 1'-0"

1



South

SCALE: 3/16" = 1'-0"

KEYNOTES

2.2 WINDOW +/- 33-INCHES ABOVE STAIR LANDING. SEE 1/A302

2.23 SIDE MOUNTED EXTERIOR GRADE CLEAR ANODIZED STEEL CABLE RAILING WITH LITE TOP RAIL.

2.29 6X12 WOOD POST WITH GRADE A FINISH COORDINATE STAIN COLOR WITH OWNER. REFER TO STRUCTURAL FOR ADDITIONAL INFORMATION.

2.44 1-HR FIRE RATED STUD WALL WITH EXTERIOR CLADDING. SEE DETAIL 12/A702

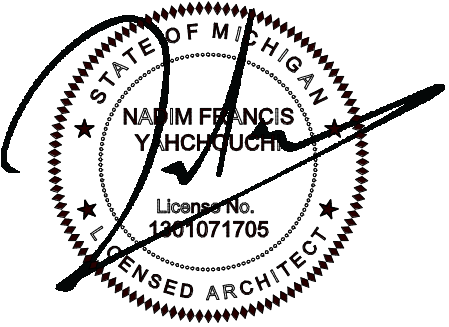
2.45 1-HR FIRE RATED EAVE PROJECTION. SEE DETAIL 03/A701

MATERIAL SCHEDULE

W1	STONE VENEER
W2	FIBER CEMENT SIDING
R1	STANDING SEAM METAL ROOFING
R2	STANDING SEAM METAL ROOFING FOR LOW SLOPE
F1	POLYMER PVC FASCIA BOARD
F1	POLYMER PVC FASCIA BOARD



W1	STONE VENEER
W2	FIBER CEMENT SIDING
R1	STANDING SEAM METAL ROOFING
R2	STANDING SEAM METAL ROOFING FOR LOW SLOPE
F1	POLYMER PVC FASCIA BOARD
F1	POLYMER PVC FASCIA BOARD



HOUSE 1587

Elevations

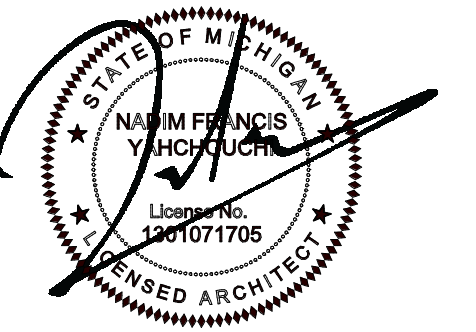
A202

SCALE: 3/16" = 1'-0"

SCALE: 3/16" = 1'-0"



19621 BABINGTON STREET
SANTA CLARITA, CA 91351



HOUSE 1587

**1587 South Bates Street
Birmingham, MI, 48009**

[illegible]

Sections

A301

2

1

Birmingham Board Of Zoning Appeals Proceedings
Tuesday, May 9, 2023
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, May 9, 2023. Chair Morganroth convened the meeting at 7:30 p.m.

2. Rollcall

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

Absent: Board Member John Miller

Staff: Building Official Johnson; Senior Planner Cowan, City Transcriptionist Eichenhorn, Assistant Building Official Zielke

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

Announcements can be found in the evening's agenda packet.

4. Approval Of The Minutes Of The BZA Meetings Of April 11, 2023

T# 05-22-23

Motion by Mr. Lilley

Seconded by VC Canvasser to accept the minutes of the BZA meeting of April 11, 2023 as submitted.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

5. Appeals

T# 05-23-23

**1) 220 Hamilton Row
Appeal 23-06**

SP Cowan presented the item, explaining that the owner of the property known as 220 Hamilton Row was requesting the following variance:

- A. Chapter 126, Article 3, Section 3.04 (E)(1)** requires all buildings in the Downtown Overlay District to be constructed with at least 90% of the exterior finish material on all facades that face a street limited to the following: glass, brick, cut stone, cast stone, coarsely textured stucco, or wood. Dryvit or E.F.I.S is prohibited. The applicant is proposing to replace existing, non-conforming metal siding with new metal siding that is not a permitted material. Therefore, a dimensional variance of 1,210 square feet is requested.

Staff answered informational questions from the Board.

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

In reply to Board inquiry, Mr. Noecker explained:

- It would be very difficult to fabricate the rectangular frame to put in another panel;
- The system would be rainproof, would hold up better than stucco, and would be expected to last 40 to 50 years; and,
- The work would span over the two by three foot hole, would be supported properly, and none of the panels to be removed would be structural.

Motion by Mr. Hart

Seconded by Mr. Lilley with regard to Appeal 23-06, A. Chapter 126, Article 3, Section 3.04 (E)(1) requires all buildings in the Downtown Overlay District to be constructed with at least 90% of the exterior finish material on all facades that face a street limited to the following: glass, brick, cut stone, cast stone, coarsely textured stucco, or wood. Dryvit or E.F.I.S is prohibited. The applicant is proposing to replace existing, non-conforming metal siding with new metal siding that is not a permitted material. Therefore, a dimensional variance of 1,210 square feet is requested.

Mr. Hart moved to approve the variance request and tied approval to the plans as submitted. He said the appellant demonstrated the practical difficulty of repairing the structural and facade damage. He noted the matter was properly reviewed by other City Departments and the Historic District Commission.

The Chair supported the motion, saying that it was an attempt to repair with a similar product. He said the product was allowed and supported by the Historical District. He noted that the proposed material was a slightly more modern version than the present material. He said that even if an attempt to repair the present damage was made, much of the material has been worn. He said allowing the variance would allow the appellant to make repairs that would benefit the building's neighbors and the community.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

T# 05-24-23

**2) 479 S Old Woodward
Appeal 23-16**

SP Cowan presented the item, explaining that the owner of the property known as 479 S Old Woodward was requesting the following variance:

- A. Chapter 126, Article 4, Section 4.46(A), Table A** of the Zoning Ordinance requires off-street parking to be based on land uses for the site. The applicant is required to provide 98 parking spaces on-site and is proposing 87 parking spaces on-site. Therefore, a variance of 11 parking spaces is requested.

Staff answered informational questions from the Board.

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

In reply to the Board, Mr. Estey explained:

- The City Commission might not grant the use of 11 parking spaces;
- A shared parking agreement was not a viable option at the present time;
- There would be no guarantee that a Special Land Use Permit (SLUP) would be granted for the site;
- Changing an additional floor's use to residential may not be economically viable;
- The practical difficulty existed whether there were other potential avenues for addressing the parking issue. The standard for demonstrating a practical difficulty is not that every other avenue has to be adjusted first;
- He was not sure what the next steps would be if the variance were not granted;

- The nearby parking structures have sufficient parking available for the project and nearby demands;
- The Planning Board supported the appellant appearing before the BZA with the variance request; and,
- The foundation issue is what necessitated a higher variance request than the one approved for this property in 2021.

Motion by Mr. Yaldo

Seconded by Mr. Hart with regard to Appeal 23-16, A. Chapter 126, Article 4, Section 4.46(A), Table A of the Zoning Ordinance requires off-street parking to be based on land uses for the site. The applicant is required to provide 98 parking spaces on-site and is proposing 87 parking spaces on-site. Therefore, a variance of 11 parking spaces is requested.

Mr. Yaldo moved to approve the variance request and tied approval to the plans as submitted. He noted that the appellant has made significant efforts to get to the present request. He noted that the previous variance request was for a much higher number of parking spaces than the present 11 space request. He recalled that the BZA previously recommended that the plans be revised to reduce the variance for the number of parking spaces and observed that the appellant had done so. He said 11 spaces should not prevent the appellant from moving forward.

Mr. Reddy concurred with Mr. Yaldo. He added the fact that this building is the only one zoned D4 and not included in the Parking Assessment District justified the variance for a relatively small number of spaces. He noted the applicant attempted to mitigate their variance requests over a number of meetings and deserved credit for their efforts. He said he would support the motion for those reasons.

VC Canvasser noted that based on actions in December 2022, it would be possible for the appellant to have the parking requirements waived by the City Commission through a SLUP. He explained that would allow the appellant to build the plans as-proposed without a variance. He noted that a shared parking agreement or a change of the proposed interior uses would also allow the building to be built without a variance. VC Canvasser suggested that the BZA should be the Board of last resort, and said that he might feel differently had all other options been exhausted. He said he would not support the motion for those reasons.

Mr. Kona concurred with VC Canvasser and stated could not support the motion at this time.

Mr. Hart said the appellant demonstrated how the building faced unique circumstances, that the appellant made a significant effort to mitigate prior variance requests with the present variance request, that approving the variance would do substantial justice to the owners and to the neighboring properties, and that the site is very difficult to develop. He offered his support for the motion for those reasons.

The Chair said he would not support the motion. He said while the request for 11 parking spots was not unreasonable, the building could be built as designed without a variance. He noted that a change of use of one floor to residential would allow the building to be built without a SLUP, variance, or parking agreement, and that the economic consequences of such a change were not part of the BZA's purview. He said he could not support a variance when he knew a variance was not required.

Motion carried, 4-3.

ROLL CALL VOTE

Yeas: Hart, Reddy, Lilley, Yaldo

Nays: Morganroth, Canvasser, Kona

**3) 185 Oakland
Appeal 23-17**

SP Cowan presented the item, explaining that the owner of the property known as 185 Oakland was requesting the following variances:

- A. Chapter 126, Article 3, Section 3.09(B)(1)** requires that no less than 70% of the storefront/ground floor façade between 1 and 8 feet above grade shall be clear glass panels and doorway. The applicant is proposing changes to the façade facing Oakland Ave that will result in a glazing percentage of 41% (256 square feet), therefore a variance of 167 square feet is being requested.
- B. Chapter 126, Article 3, Section 3.09(B)(1)** requires that no less than 70% of the storefront/ground floor façade between 1 and 8 feet above grade shall be clear glass panels and doorway. The applicant is proposing changes to the façade facing Ferndale Ave that will result in a glazing percentage of 53% (421 square feet), therefore a variance of 132 square feet is being requested.

Staff answered informational questions from the Board.

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

In reply to the Board, Mr. Hinkle said:

- While there are always different ways to address a building's issues, it was felt that this proposal did not significantly expand the present non-conformity;
- The mullions, windows, pilasters, and other features could potentially be changed to reduce the non-conformities; and,
- The new glazing on the first floor could likely approach the present levels, but would not likely reach 70%.

VC Canvasser and the Chair asked Mr. Hinkle whether he would prefer to postpone his request for a month to try and reduce the variance request or whether he would prefer the Board move

forward on voting on the present proposal. The Vice Chair and Chair explained that if the Board voted against the present proposal, the appellant would only be able to return with a substantially different request.

Mr. Hinkle confirmed that he would like the request postponed for to the June 13, 2023 meeting. The Board postponed the request to the June 13, 2023 meeting by unanimous consent.

The Board and Staff had a brief discussion about the difficulties some appellants face regarding complying with the energy code or complying with the City's glazing requirements.

The Chair noted that if the appellant faced a practical difficulty regarding the energy code and the glazing requirements, that could be presented as part of the future request.

T# 05-25-23

4) 1587 S Bates Appeal 23-18

ABO Zielke presented the item, explaining that the owner of the property known as 1587 S Bates was requesting the following variance to construct a new single-family home with an attached garage:

- A. Chapter 126, Article 4, Section 4.74(C)** of the Zoning Ordinance requires that a minimum distance between principal residential buildings on adjacent lots to be 14.00 feet or 25% of the lot width, whichever is larger. The required is 14.00 feet. The proposed is 13.22 feet on the south side. Therefore, a variance of 0.78 feet is requested.

Staff answered informational questions from the Board.

Nadim Yahchouchi, owner and architect, reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet.

In reply to the Board, Mr. Yahchouchi said the cladding would be four inches wide, and would bring the setback to five feet on the side requiring that.

The Chair addressed the letter received from the neighbor at 1607 S. Bates. The Chair noted that the property at 1587 S. Bates would be conforming if not for 1607 S. Bates' pre-existing nonconformity. The Chair noted that the variance request was in response to 1607 S. Bates' nonconformity.

Motion by Mr. Reddy

Seconded by Mr. Kona with regard to Appeal 23-18, A. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that a minimum distance between principal residential buildings on adjacent lots to be 14.00 feet or 25% of the lot width, whichever is larger. The required is 14.00 feet. The proposed is 13.22 feet on the south side. Therefore, a variance of 0.78 feet is requested.

Mr. Reddy moved to approve the variance request and tied approval to the plans as submitted. He explained that this was a conforming design impacted by a nonconforming neighbor and that the Board has reviewed similar cases before.

Motion carried, 7-0.

ROLL CALL VOTE

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

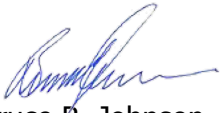
Nays: None

6. Correspondence

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

8. Adjournment

No further business being evident, the Board motioned to adjourn at 9:14 p.m.

A blue ink signature of Bruce R. Johnson, written in a cursive style.

Bruce R. Johnson, Building Official

A black ink signature of Laura Eichenhorn, written in a cursive style.

Laura Eichenhorn, City Transcriptionist

CASE DESCRIPTION

1407 Ruffner (24-21)

Hearing date: September 10, 2024

Appeal No. 24-21: The owner of the property known **1407 Ruffner**, requests the following variance to construct of a covered rear porch:

A. Chapter 126, Article 2, Section 2.10.1 of the Zoning Ordinance limits the lot coverage to a maximum of 30% of the lot. The required 30% is 1440.00 SF. The proposed is 30.68% (1472.62 SF). Therefore, a variance of 0.68% (32.62 SF) is being requested.

Staff Notes: This applicant is seeking a variance for the rear covered porch for protection of an EV charging station. The existing home was constructed in 2011.

This property is zoned R3 – Single family residential.

Jeff Zielke, NCIDQ, LEED AP, COSS
Assistant Building Official

CHAPTER 126 - ZONING

ARTICLE 8: ENFORCEMENT AND PENALTIES

8.01 The Board of Zoning Appeals

3. Variances.

- a. 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:
 - 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.

(EACH i-iv must be satisfied)

1407 RUFFNER MAP

E Lincoln St

1407 RUFFNER

1599

Ruffner Ave

Ruffner Ave



0.000 0.008 0.016 0.024 0.032 Miles

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

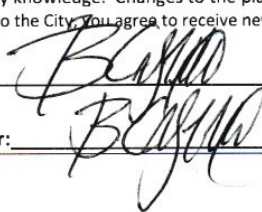
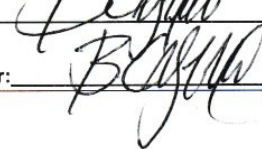
APPLICATION FOR THE BOARD OF ZONING APPEALS

Received Date: _____

Hearing Date: _____

Received By: _____

Appeal #: _____

Type of Variance:	☒ Interpretation	☒ Dimensional	☐ Land Use	☐ Sign	☐ Admin Review
I. PROPERTY INFORMATION:					
Address: 1407 RUFFNER		Lot Number: 359	Sidwell Number: 20 31 301 046		
II. OWNER INFORMATION:					
Name: BRIAN CASTILLO					
Address: 1407 RUFFNER		City: BIRMINGHAM	State: MI	Zip code: 48009	
Email: briancas@umich.edu				Phone: 586 441 8476	
III. PETITIONER INFORMATION:					
Name: BRIAN CASTILLO					
Address: 1407 RUFFNER		City: BIRMINGHAM	State: MI	Zip code: 48009	
Email: briancas@umich.edu				Phone: 586 441 8476	
IV. GENERAL INFORMATION:					
The Board of Zoning Appeals typically meets the second Tuesday of each month. COMPLETE digital 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 \$750.00 for single family residential; \$950.00 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:					
Please provide the following in your electronic submission: ☐ Completed and signed application ☐ Signed letter of practical difficulty and/or hardship ☐ Certified survey ☐ Building plans including existing and proposed floor plans and elevations ☐ If appealing a board decision, provide a copy 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: 08 Aug. 2024		
Signature of Petitioner: 			Date: 08 Aug 2024		

**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

Brian Castillo
1407 Ruffner Ave.
Birmingham, MI
05 August 2024

Board of Zoning Appeals
151 Martin Street
Birmingham, Michigan

Dear Board Members:

I am a homeowner and 13-year resident of Birmingham, and I respectfully request a variance for my property as described herein.

My home was built in 2010-2011, and was built with a small landing and steps leading to the rear door. In the time since the home was built, this structure has deteriorated, and I would like to replace it. The design of the existing landing and steps, however, has proven to have several deficiencies which I would like to address when I replace it, specifically:

- Snow blows and piles up against the rear door in the wintertime, making it difficult to exit the door after snowfall safely, and resulting in snow falling inside the house when the door is opened
- The wooden surface of the landing is quite slippery when wet, and the absence of railing has resulted in my falling from the porch on several occasions, fortunately without injury
- The same prevailing winds that drive snow against the door in wintertime drive rain against the door in the summertime, resulting in water entering the house when the door is used during rainfall

In addition to (and perhaps more importantly than) these deficiencies, my employer has recently required me to install an EV charger on my property, which for a number of reasons could most safely and reasonably be located on this porch, to permit accessibility to a vehicle while charging. I am concerned with the continued exposure of this charger and the associated charge cord to water and snow, as it is a high-voltage electrical device. While the charger is rated for outdoor installation, the attachment and connection of the charger to the vehicle is done manually, and I do not relish the thought of any member of my family operating electrical equipment that is wet.

To address these issues, it is my desire to replace the existing landing and steps with a slightly larger version, constructed of higher-quality materials and inclusive of a safety railing, and to cover this landing with an awning-style roof extending from the rear of the house. This design would shield both the rear door and the EV charger from direct rain and snow exposure, and provide additional safety when exiting the house and operating the charger.

While the replacement of the landing is consistent with zoning ordinances, the addition of the roof (measuring just under 4' x 7' in plan view) would result in the landing being classified as a structure, which would be in violation of the 30% maximum for lots of this size.

I would ask the board for understanding in this issue and point out the following:

- The proposed covered landing is not designed to increase living space, outdoor entertaining area, or storage, and is designed explicitly to shield the doorway and EV charger for the purposes of safety

- The incremental change from the existing condition is relatively small, with a 4'x7' structure constituting less than 0.6% of the lot area
- The proposed construction would be done using the same James Hardi siding and trim products used on the rest of the house, installed by the same contractor, so as to maintain consistent appearance with the rest of the house

I will acknowledge that the existing house and detached garage are currently not in compliance with the 30% ordinance (attached survey indicates the current coverage at 30.1%), a condition of which I have only recently been made aware. I would submit that this existing discrepancy of 0.1% has existed since the house was built, and was not the result of any modifications or additional construction conducted while I have owned the property.

In closing, I would submit that it is my belief that while this proposed construction is undoubtedly in violation of the 30% ordinance, it is not counter to the spirit of said ordinance, as I am not trying to artificially enlarge the dwelling, and its appearance and function will not be out-of-place with houses of similar size and design elsewhere on the street.

I appreciate your kind consideration in this matter.

Sincerely,

Brian Castillo

Board of Zoning Appeals – Variance Request

Address: 1407 Ruffner Ave., Birmingham MI 48009

Lot Number: 359

Sidwell Number: 20 31 301 046

Variance Type: Dimensional

Owner / Petitioner: Brian Castillo

Email: briancas@umich.edu

Cell: 586 441 8476



Existing rear landing and EV charger. Structure has deteriorated, is not level, includes no railing. Orientation results in snow drift accumulation against door and step in wintertime, and EV charger is exposed to the elements.



Context of rear door and landing relative to scale of house.

SUMMARY OF AREA:

EX. HOUSE = 1,031 S.F.
EX. GARAGE = 414 S.F.
EX. FRONT PORCH WITHIN 10' OF
FRONT BUILDING LINE = 41 S.F.*
EX. REAR DECK WITHIN 15' OF
REAR BUILDING LINE = 23 S.F.*
EX. SIDEWALK 3' WIDE OF LESS = 0*
EX. SIDEWALK WIDER THAN 3' = 59 S.F.
EX. DRIVEWAY = 1,058 S.F.

*Measurements at left taken from survey of
8/2024, included as attachment.*

*Proposed roof over rear landing of 28sqft
constitutes 0.583% of 4800sqft lot.*

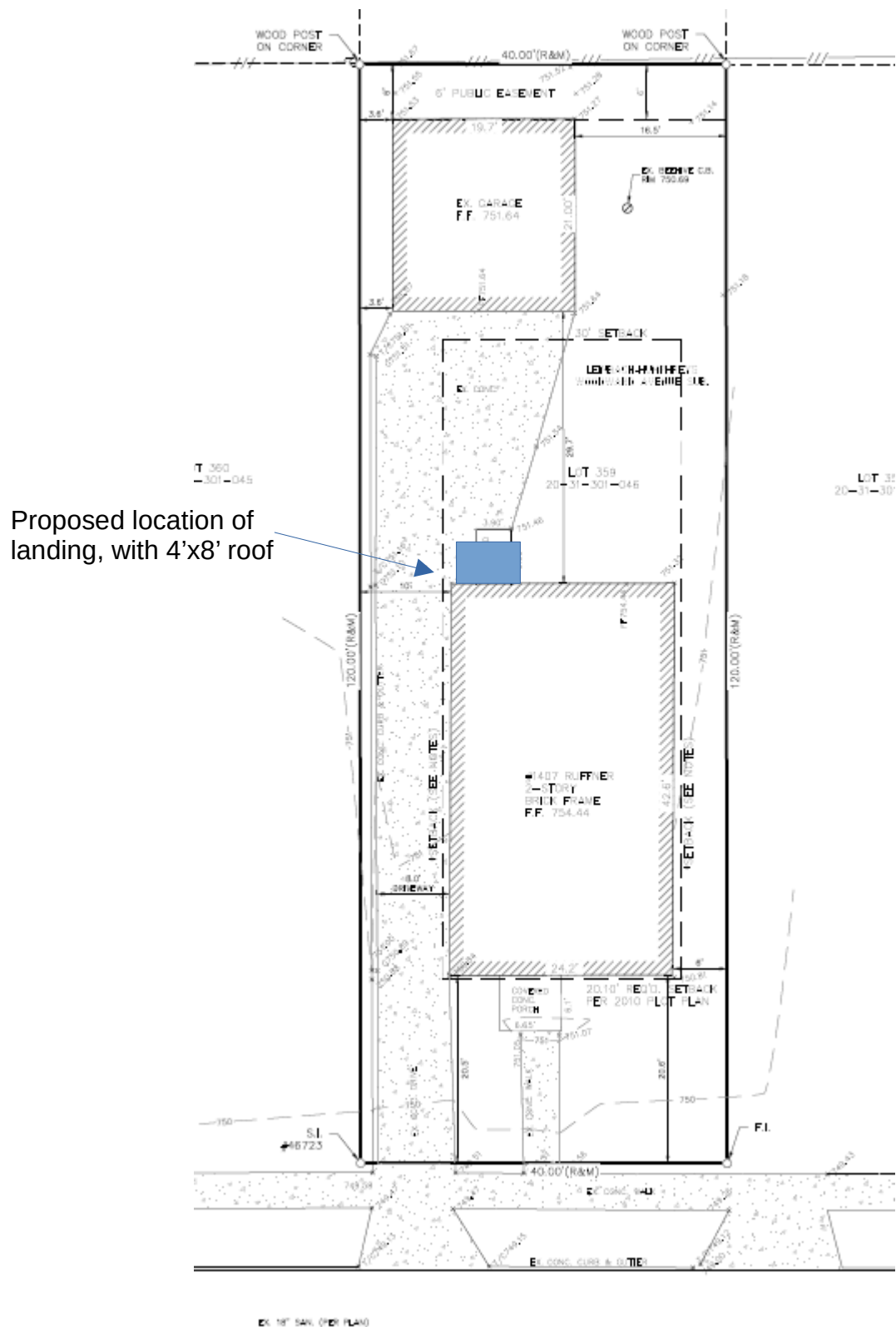
OPEN SPACE CALCULATIONS:

LOT AREA = 4,800 S.F.
EX. IMPERVIOUS AREA =
(1,031 + 414 + 59 + 1,058) = 2,562 S.F. (53.4%)
OPEN SPACE = 2,238 S.F. (46.6%)

LOT COVERAGE = (1,038 + 416) = 1,445 S.F. (30.1%)

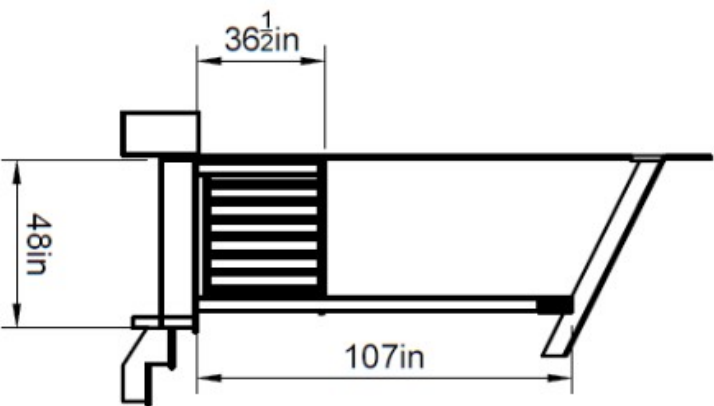
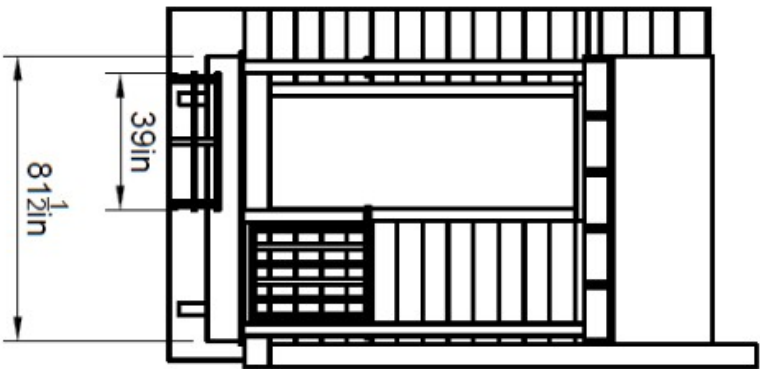
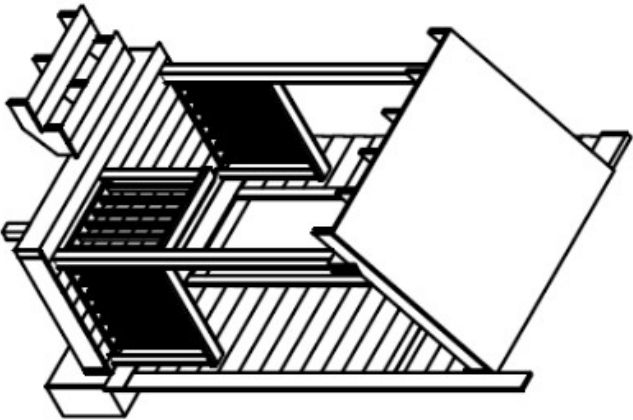
NOTE: "*" DESIGNATES IMPERVIOUS AREAS THAT ARE
WITHIN OPEN SPACE PROJECTION AREAS &
THEREFOR NOT INCLUDED IN THE IMPERVIOUS
AREA TOTAL.

Requested Variance	Required	Existing	Proposed	Variance Amount
Lot Coverage	30%	30.1%	30.68%	0.58% of lot (28 sqft)





Rendering of proposed landing, steps, railing,
and attached roof; plan-view area 4' x 7'



Dept.		Technical reference		Created by		Approved by	
				Brian Castillo		5/20/2024	
		Document type				Document status	
		Title		DWG No.			
		Rear Porch Revised					
		Rev.		Date of issue		Sheet	
						1/2	

CASE DESCRIPTION

1410 COLE (24-22)

Hearing date: September 10, 2024

Appeal No. 24-22: The owner of the property known **1410 Cole**, requests the following variance to construct a second floor addition to the existing non-conforming home:

A. Chapter 126, Article 2, Section 2.10.2 of the Zoning Ordinance requires that no side yard shall be less than 5.00 feet. The existing and proposed is 3.90 feet on the east side. Therefore, a variance of 1.10 feet is being requested.

Staff Notes: This applicant is seeking to construct a second floor addition to the existing non-conforming home that was constructed in 1951.

This property is zoned R3 – Single family residential.

Jeff Zielke, NCIDQ, LEED AP, COSS
Assistant Building Official

CHAPTER 126 - ZONING

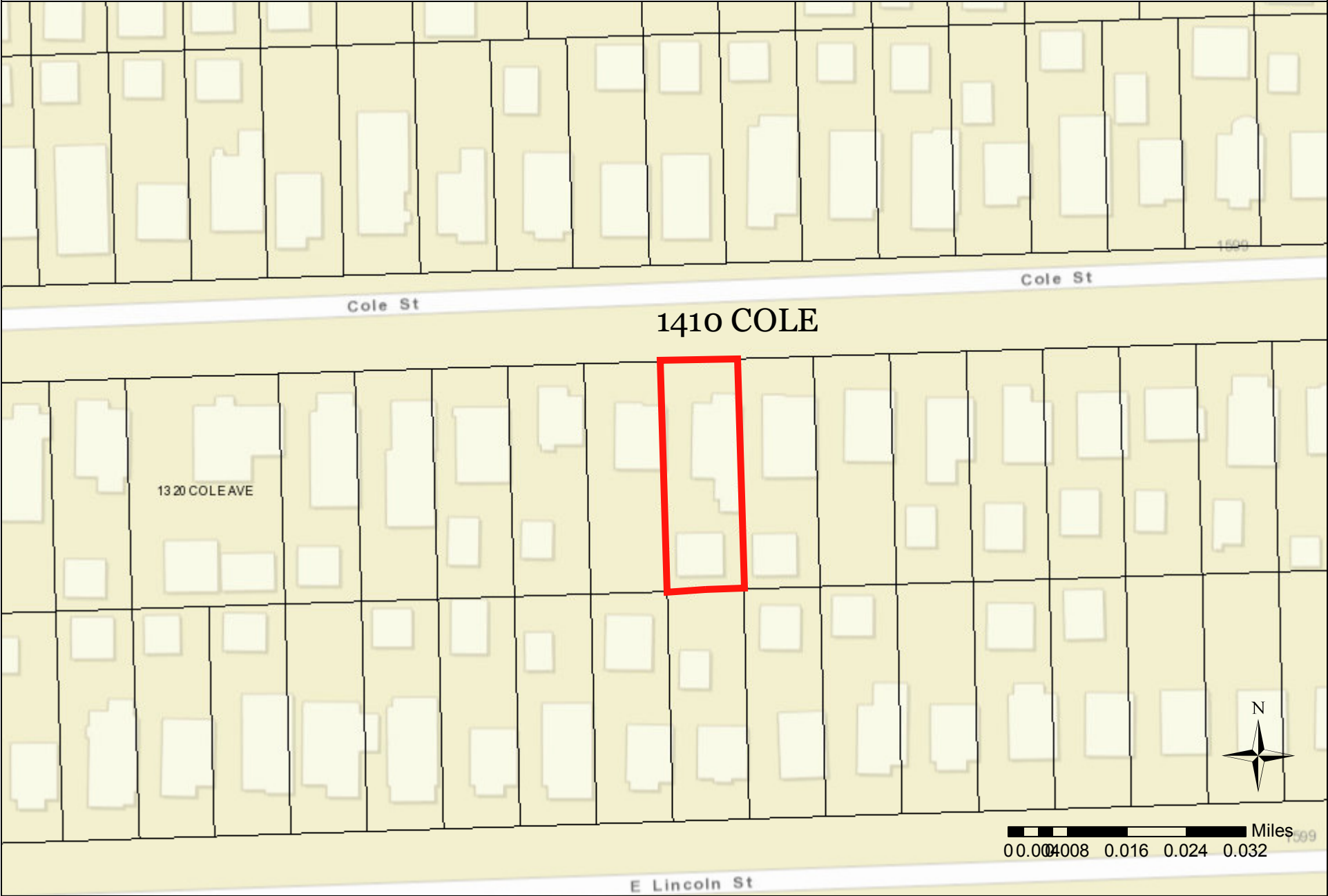
ARTICLE 8: ENFORCEMENT AND PENALTIES

8.01 The Board of Zoning Appeals

3. Variances.
 - a. 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:
 - 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.

(EACH i-iv must be satisfied)

1410 COLE 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

Received Date: _____

Hearing Date: _____

Received By: _____

Appeal #: _____

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

Address: <u>410 Cole</u>	Lot Number: _____	Sidwell Number: _____
--------------------------	-------------------	-----------------------

II. OWNER INFORMATION:

Name: <u>Daniel Zwolak</u>			
Address: <u>1410 Cole</u>	City: <u>Birmingham</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>dan@seedsdetroit.com</u>		Phone: _____	

III. PETITIONER INFORMATION:

Name: <u>Daniel Zwolak</u>		Firm/Company Name: _____	
Address: <u>1410 Cole</u>	City: <u>Birmingham</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>dan@seedsdetroit.com</u>		Phone: <u>248-792-1036</u>	

IV. GENERAL INFORMATION:

The Board of Zoning Appeals typically meets the second Tuesday of each month. COMPLETE digital 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 \$750.00 for single family residential; \$950.00 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:

Please provide the following in your electronic submission:

- ☐ Completed and signed application
- ☐ Signed letter of practical difficulty and/or hardship
- ☐ Certified survey
- ☐ Building plans including existing and proposed floor plans and elevations
- ☐ If appealing a board decision, provide a copy 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: 08.12.24

Signature of Petitioner: _____

Date: 08.12.24

**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



Dan Zwolak
1410 Cole St.
Birmingham, MI 48009
August 28th, 2024

Dear Zoning Board of Appeals,

I am writing to request a variance for a proposed addition to my home at 1410 Cole Street in Birmingham. As a resident and business owner in our community, I am deeply invested in maintaining and improving my property to better accommodate my growing family and to enhance our living experience. I own seeds Marketing+Design located in downtown Birmingham. So as someone who works and lives in this city, I have seen so much change in the 20 years I've called it home. As a marketing professional, I love to see its growth happening before me and its brand get stronger with every development. As someone who also happens to hold an urban planning degree from Michigan State, I believe in smart growth. The variance I am requesting is for a relatively modest addition to my existing home because I believe in mixed use and mixed scale development — particularly in our ever-changing neighborhood east of Woodward. Frankly, I do not see enough 2,000 square-foot homes being thoughtfully designed and built here. So my addition is in part a humble response to that.

I am seeking approval for a variance to build a non-conforming second story over the existing footprint of the first floor. This addition will enable us to expand our living space to comfortably host family and guests. Currently, our home is a single-story ranch with a total of 900 square feet, including one bedroom, one den/family room, one living room, a main floor bathroom, a kitchen, and a basement.

The **special condition of my property** is: the lot is 1.1 feet narrower than the zoning requirements for a conforming extension. This minor deficiency significantly impacts our ability to add a second story while adhering to current regulations. Building within the existing footprint will not only enhance the structural integrity of the new addition but also maintain the visual symmetry and functional layout of our home. Additionally, this approach will allow for a proper staircase without compromising the usability of our first-floor spaces.

Because my lot is 1.1' less than compliant, there is an **unnecessary hardship**, requiring us to reduce the second floor's footprint by stepping it in would result in a loss of 46 square feet. This would detract from the aesthetic consistency and functionality of the proposed design, undermining the intended improvements. By aligning the new porch with the existing aesthetic, the addition will set back further from Cole Street than the neighboring properties, thus respecting the character and scale of the surrounding area.

By approving this my proposed home **will not be contrary to the spirit purpose of the local zoning ordinance, my neighborhood or the safety of Cole Street.**

I believe granting this variance will achieve **substantial justice** and fairness, benefitting both my family and the community.

Thank you for considering my request.

Best regards,

Dan Zwolak

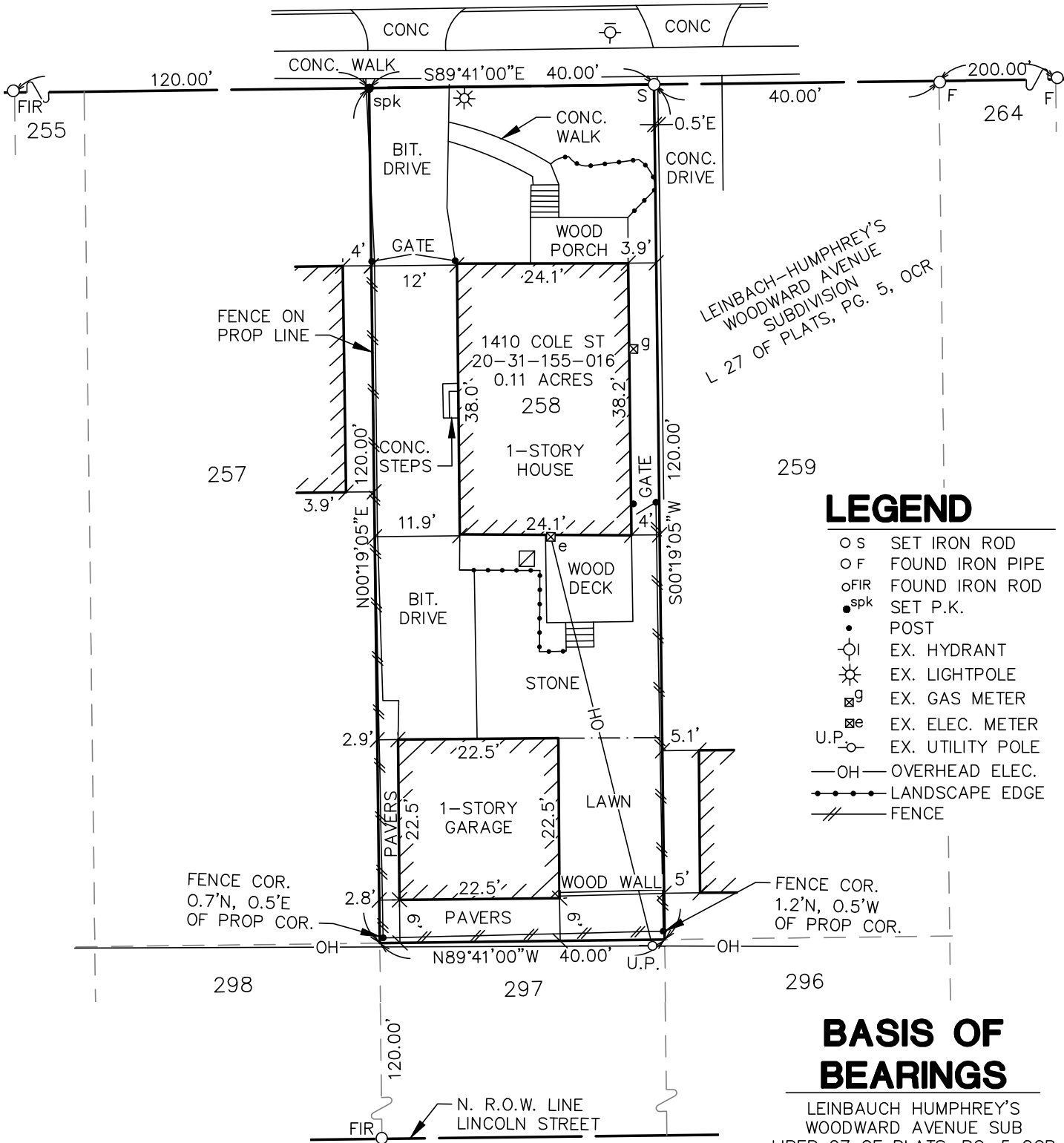
A handwritten signature in black ink, appearing to be 'DZ', with a stylized, looping design.

CERTIFIED SURVEY

CERTIFIED SURVEY OF A PARCEL OF LAND IN THE NW 1/4 OF SECTION 31, T2N, R11E, CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN



COLE STREET
(50-FT WIDE)
CONCRETE



LEGEND

- S SET IRON ROD
- F FOUND IRON PIPE
- FIR FOUND IRON ROD
- spk SET P.K.
- POST
- I EX. HYDRANT
- ⊙ EX. LIGHTPOLE
- ⊠ g EX. GAS METER
- ⊠ e EX. ELEC. METER
- U.P. EX. UTILITY POLE
- OH — OVERHEAD ELEC.
- LANDSCAPE EDGE
- FENCE

BASIS OF BEARINGS

LEINBAUCH HUMPHREY'S
WOODWARD AVENUE SUB
LIBER 27 OF PLATS, PG. 5 OCR

I HEREBY CERTIFY THAT I HAVE SURVEYED AND MAPPED THE ABOVE PARCEL HEREON DESCRIBED ON AUGUST 7, 2024 AND THAT THE RELATIVE POSITIONAL PRECISION OF EACH CORNER IS WITHIN THE LIMITS ACCEPTED BY THE PRACTICE OF PROFESSIONAL SURVEYING AND THAT ALL REQUIREMENTS OF P.A. 132 1970, AS AMENDED, HAVE BEEN COMPLIED WITH.

CLIENT: DANIEL ZWOLAK	DATE: 8/7/2024
JOB NO.: 24158	SHEET 1 OF 2
SECTION: 31 TOWN: 2N RANGE: 7E	SCALE: 1in. = 20 ft.
CITY OF BIRMINGHAM	BOOK: 1112
OAKLAND COUNTY, MICHIGAN	BY: MST



MIDWESTERN
CONSULTING

3815 Plaza Drive Ann Arbor, Michigan 48108
(734) 995-0200 • www.midwesternconsulting.com





MARK VANDER VEEN PS NO. 4001056788



LEGAL DESCRIPTION

(PER WARRANTY DEED LIBER 52656, PAGE 475, OCR)

The following described premises situated in the City of Birmingham, County of Oakland, State of Michigan, to wit:

Lot 258, Leinbach-Humphrey's Woodward Avenue Subdivision, according to the plat thereof as recorded in Liber 27, Page 5 of Plats, Oakland County Records.

Commonly known as: 1410 Cole Street, Birmingham, MI 48009
Parcel ID No.: 20-31-155-016

I HEREBY CERTIFY THAT I HAVE SURVEYED AND MAPPED THE ABOVE PARCEL HEREON DESCRIBED ON AUGUST 7, 2024 AND THAT THE RELATIVE POSITIONAL PRECISION OF EACH CORNER IS WITHIN THE LIMITS ACCEPTED BY THE PRACTICE OF PROFESSIONAL SURVEYING AND THAT ALL REQUIREMENTS OF P.A. 132 1970, AS AMENDED, HAVE BEEN COMPLIED WITH.

CLIENT: DANIEL ZWOLAK	DATE: 8/7/2024
JOB NO.: 24158	SHEET 2 OF 2
SECTION: 31 TOWN: 2N RANGE: 7E	SCALE: 1in.= 20 ft.
CITY OF BIRMINGHAM	BOOK: 1112
OAKLAND COUNTY, MICHIGAN	BY: MST



MIDWESTERN
CONSULTING

3815 Plaza Drive Ann Arbor, Michigan 48108
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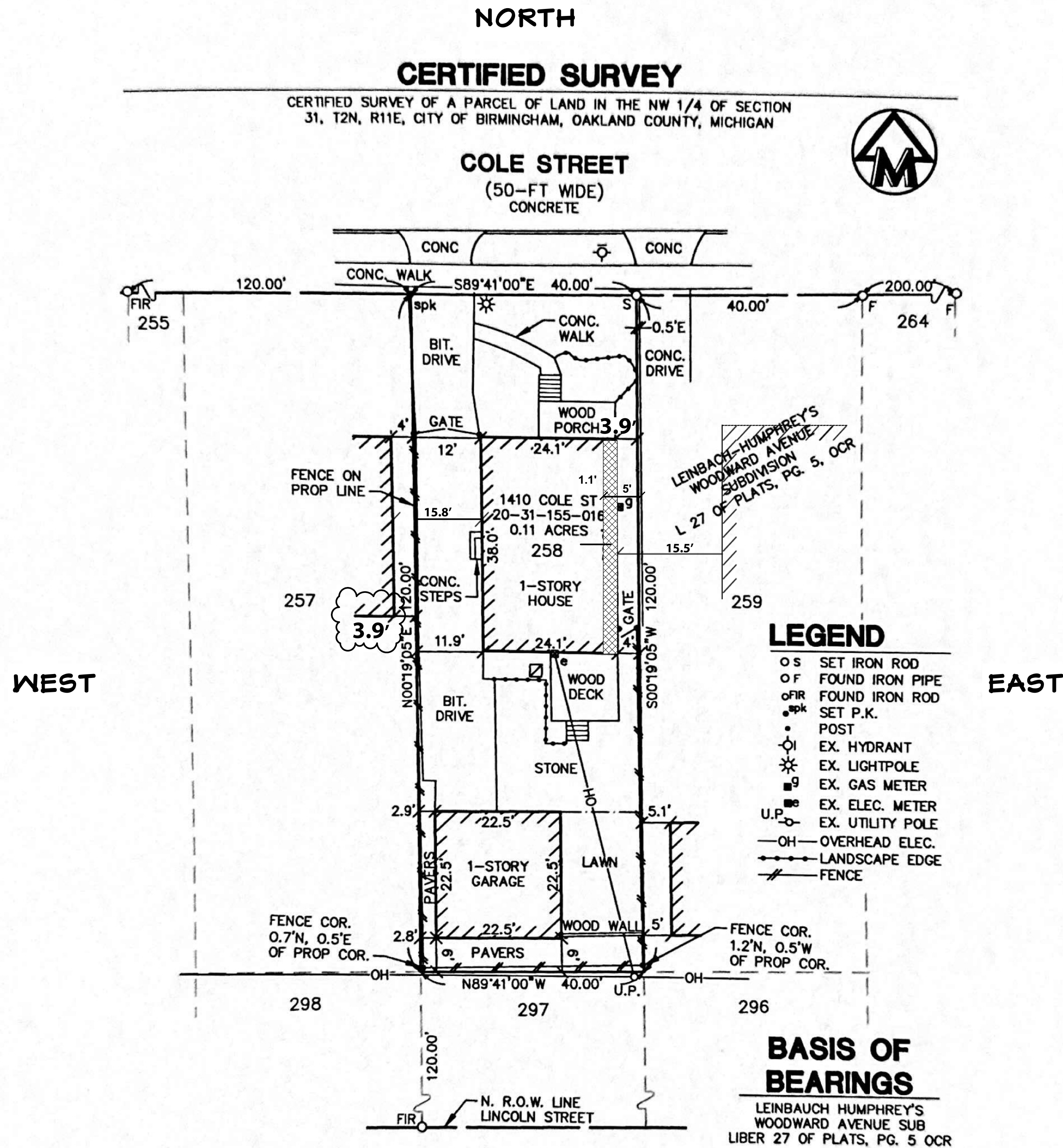




MARK VANDER VEEN PS NO. 4001056788



REQUESTED VARIANCE	REQUIRED EXISTING	PROPOSED	VARIANCE AMOUNT
VARIANCE A - SIDEYARD	5.00 FT	3.90 FT	1.10 FT

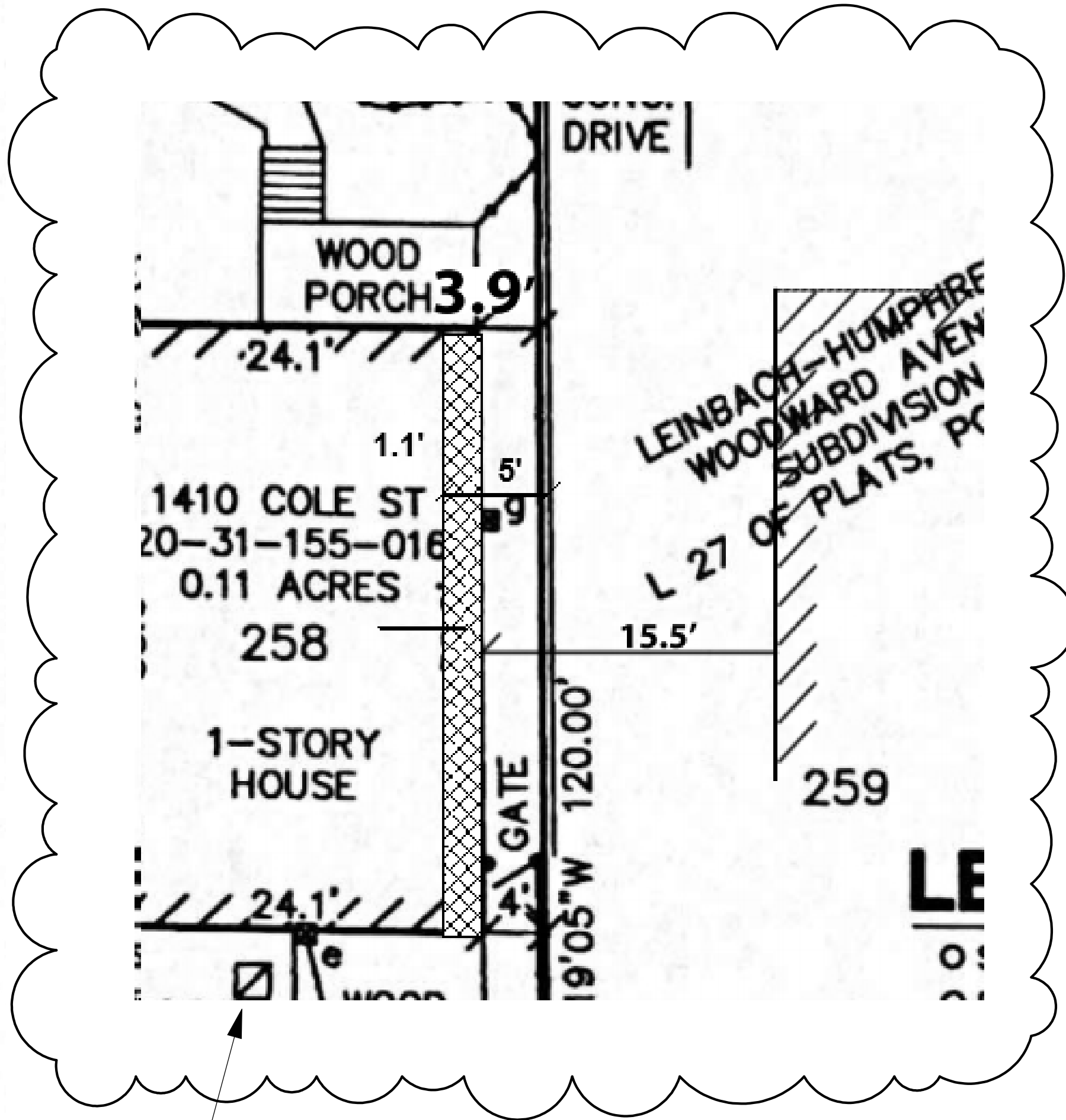


I HEREBY CERTIFY THAT I HAVE SURVEYED AND MAPPED THE ABOVE PARCEL HEREON DESCRIBED ON AUGUST 7, 2024 AND THAT THE RELATIVE POSITIONAL PRECISION OF EACH CORNER IS WITHIN THE LIMITS ACCEPTED BY THE PRACTICE OF PROFESSIONAL SURVEYING AND THAT ALL REQUIREMENTS OF P.A. 132 1970, AS AMENDED, HAVE BEEN COMPLIED WITH.

CLIENT: DANIEL ZWOLAK	DATE: 8/7/2024	
JOB NO.: 24158	SHEET 1 OF 2	
SECTION: 31 TOWN: 2N RANGE: 7E	SCALE: 1in. = 20 ft.	
CITY OF BIRMINGHAM	BOOK: 1112	
OAKLAND COUNTY, MICHIGAN	BY: MST	

MIDWESTERN CONSULTING
3815 Plaza Drive Ann Arbor, Michigan 48108
(734) 995-0200 • www.midwesternconsulting.com

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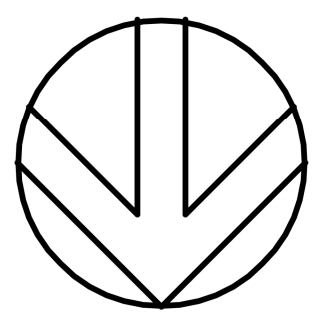
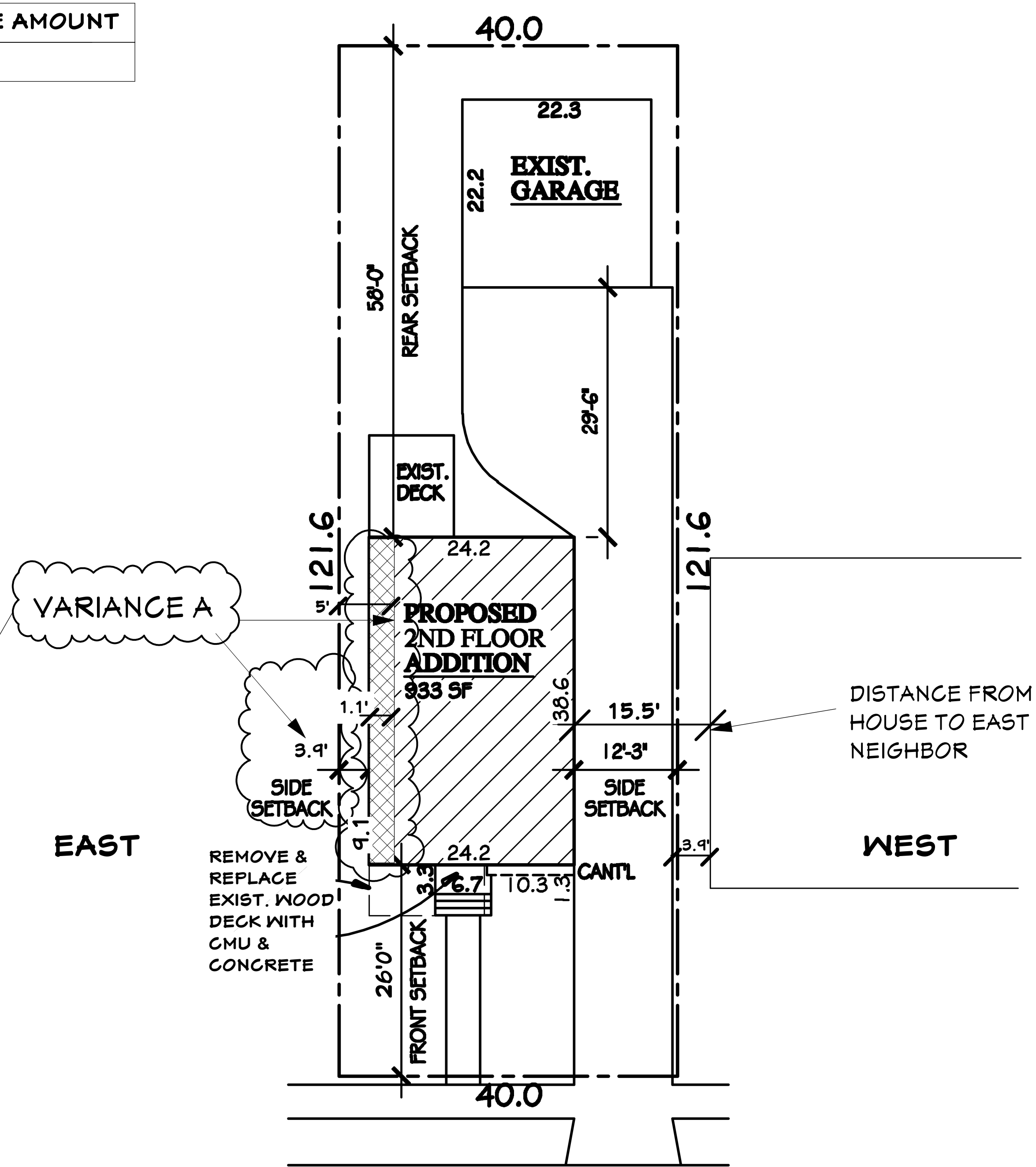
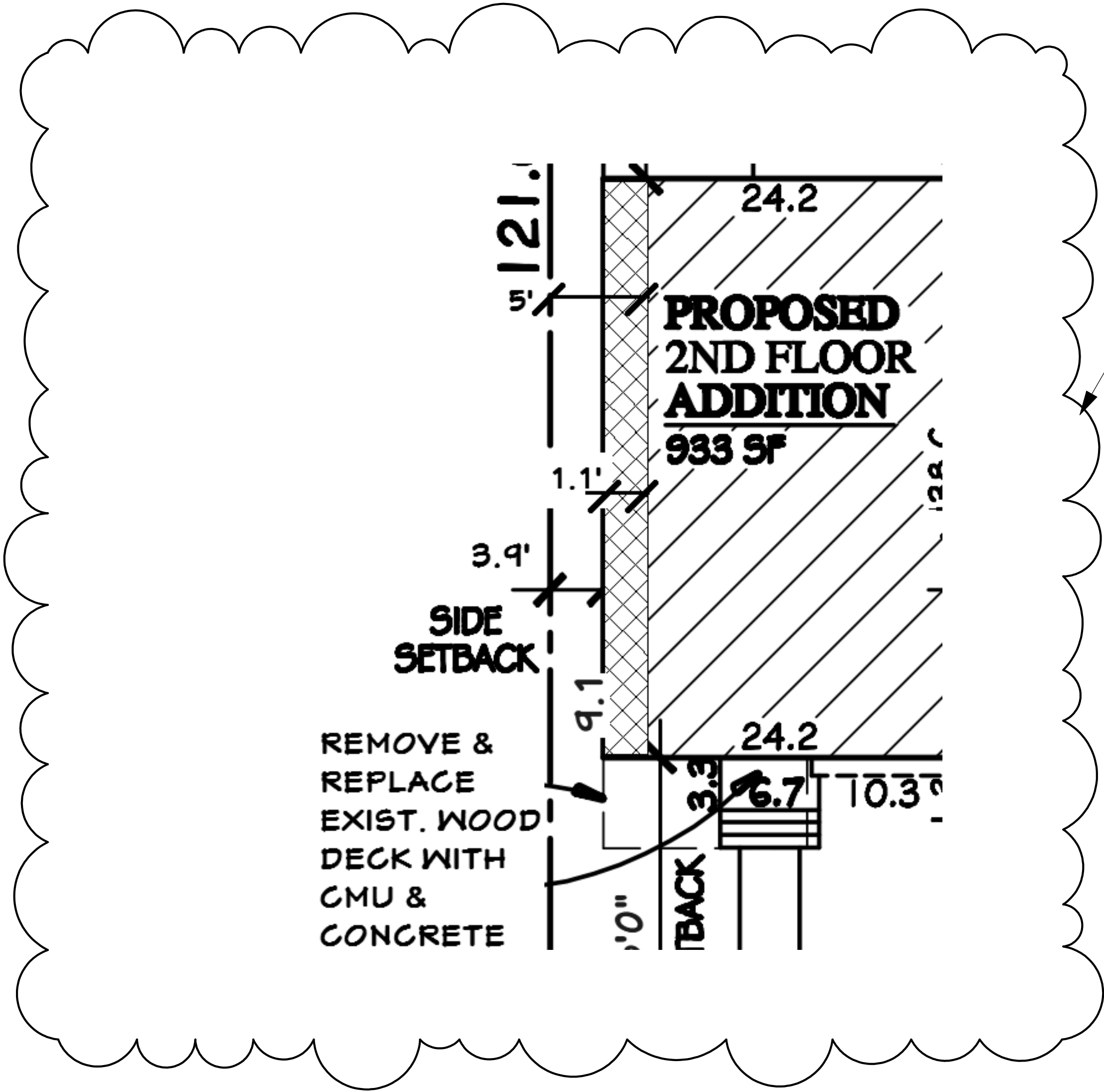


Zwolak Addition
1410 Cole St.
Birmingham, MI

Certified Survey

12 July 2024 Permits

REQUESTED VARIANCE	REQUIRED EXISTING	PROPOSED	VARIANCE AMOUNT
VARIANCE A - SIDEYARD	5.00 FT	3.90 FT	1.10 FT



COLE ST.
NORTH

Site Plan

SCALE: 1" = 40' = 1"

SITE CALCULATIONS:
LOT: 4865 SF
 $4865 \times .35 = 1703 \text{ SF MAX}$

EXIST. HOUSE: 946 SF
(INCLUDES FRONT CANT'L)
EXIST. GARAGE: 495 SF
TOTAL: 1441 SF

Zwolak Addition
1410 Cole St.
Birmingham, MI

Site Plan

12 July 2024 Permits

REQUESTED VARIANCE	REQUIRED EXISTING	PROPOSED	VARIANCE AMOUNT
VARIANCE A - SIDEYARD	5.00 FT	3.90 FT	1.10 FT

General Notes

1. BUILDER TO ADHERE TO 2015 MICHIGAN RESIDENTIAL CODE (M.R.C.) BOOK AND TO ALL APPLICABLE STATE AND LOCAL BUILDING CODES AND ORDINANCES.

2. WINDOWS AS A MEANS OF EGRESS OR RESCUE SHALL INCLUDE THE FOLLOWING:
BOTTOM OF CLEAR OPENING TO BE 44" ABOVE FLOOR
NET CLEAR OPENING TO BE 5.7 SQUARE FEET
MINIMUM NET CLEAR OPENING HEIGHT TO BE 24"
MINIMUM NET CLEAR OPENING WIDTH TO BE 20"

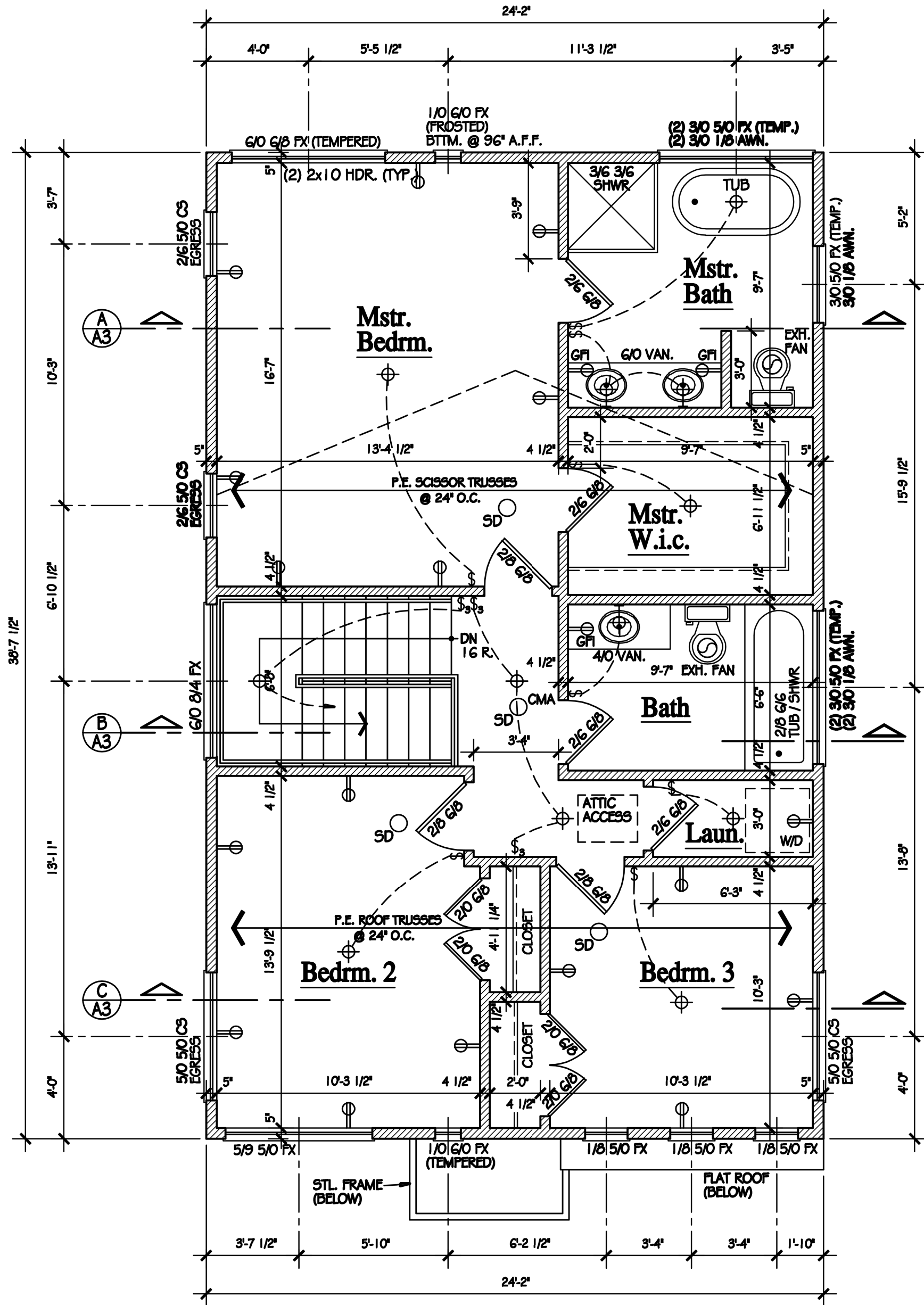
3. TEMPERED GLASS AS REQUIRED. PROVIDE SAFETY GLAZING IN DOORS ENCLOSING SHOWERS AND BATHTUBS.

4. SMOKE DETECTORS SHALL BE NFPA72 LISTED, HARDWIRED, AND INTERCONNECTED WITH BATTERY BACK-UP
5. GUARDRAILS AND HANDRAILS TO MEET 2015 M.R.C. HANDRAILS TO HAVE A CIRCULAR CROSS SECTION W/ A DIA. OF 1 1/4" TO 2 5/8". GUARDRAILS GREATER THAN 30" ABOVE GRADE: MIN. HEIGHT = 36". OPEN SIDE GUARDRAILS TO BE 34" FROM TREAD NOSING. SPINDLE SPACING TO BE 4" MAX. (LADDER EFFECT NOT ALLOWED).

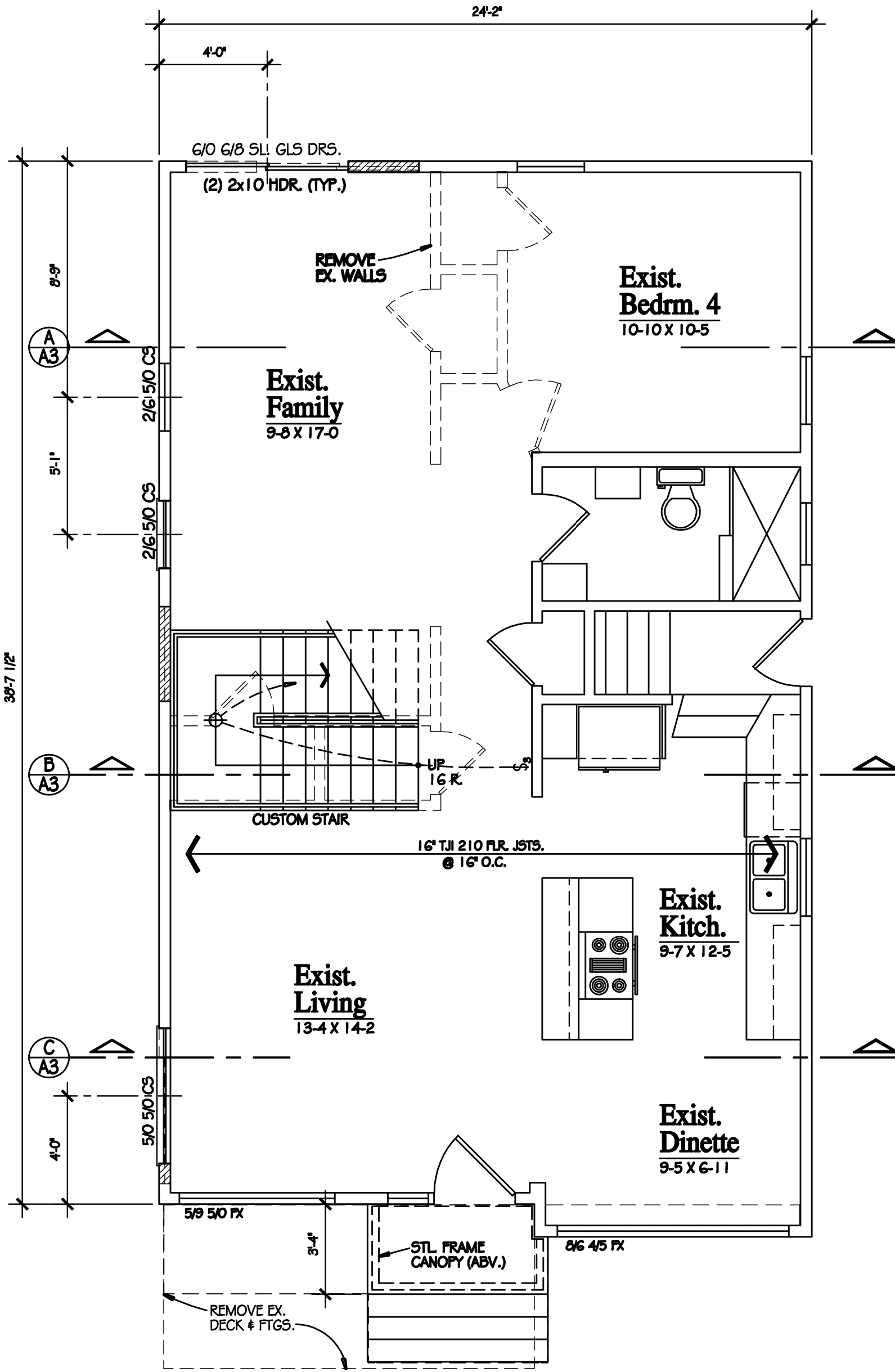
6. ROOF VENTS AS PER 2015 M.R.C.

7. ALL MICRO-LAM LVL SIZED BY TRUS JOIST MacMILLAN OR LUMBER COMPANY.

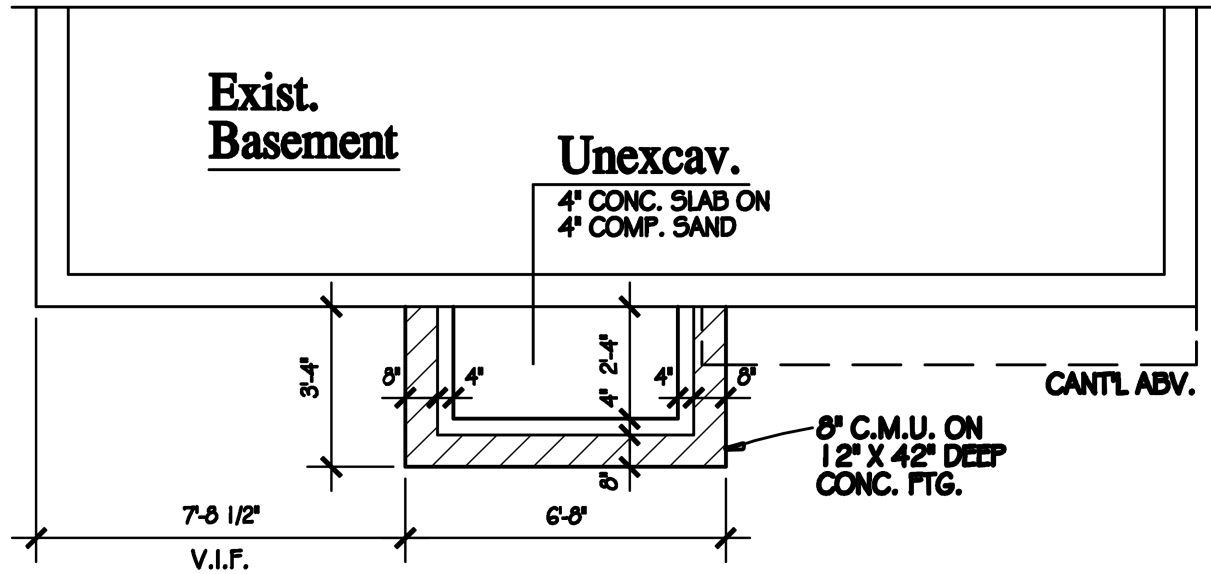
8. R315.1 - A CARBON MONOXIDE ALARM (CMA) COMPLYING WITH UL 2034 SHALL BE INSTALLED OUTSIDE OF EACH SEPARATE SLEEPING AREA IN THE IMMEDIATE VICINITY OF THE BEDROOMS.



Second Floor Plan
SCALE: 1/4" = 1'-0"
SECOND FLOOR AREA: 933 SF



First Floor Plan
SCALE: 1/4" = 1'-0"
FIRST FLOOR AREA: 946 SF
SECOND FLOOR AREA: 933 SF
TOTAL FLOOR AREA: 1879 SF

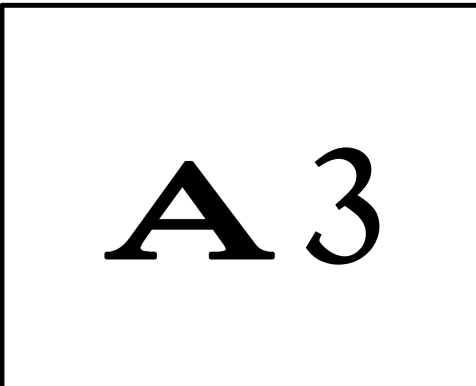


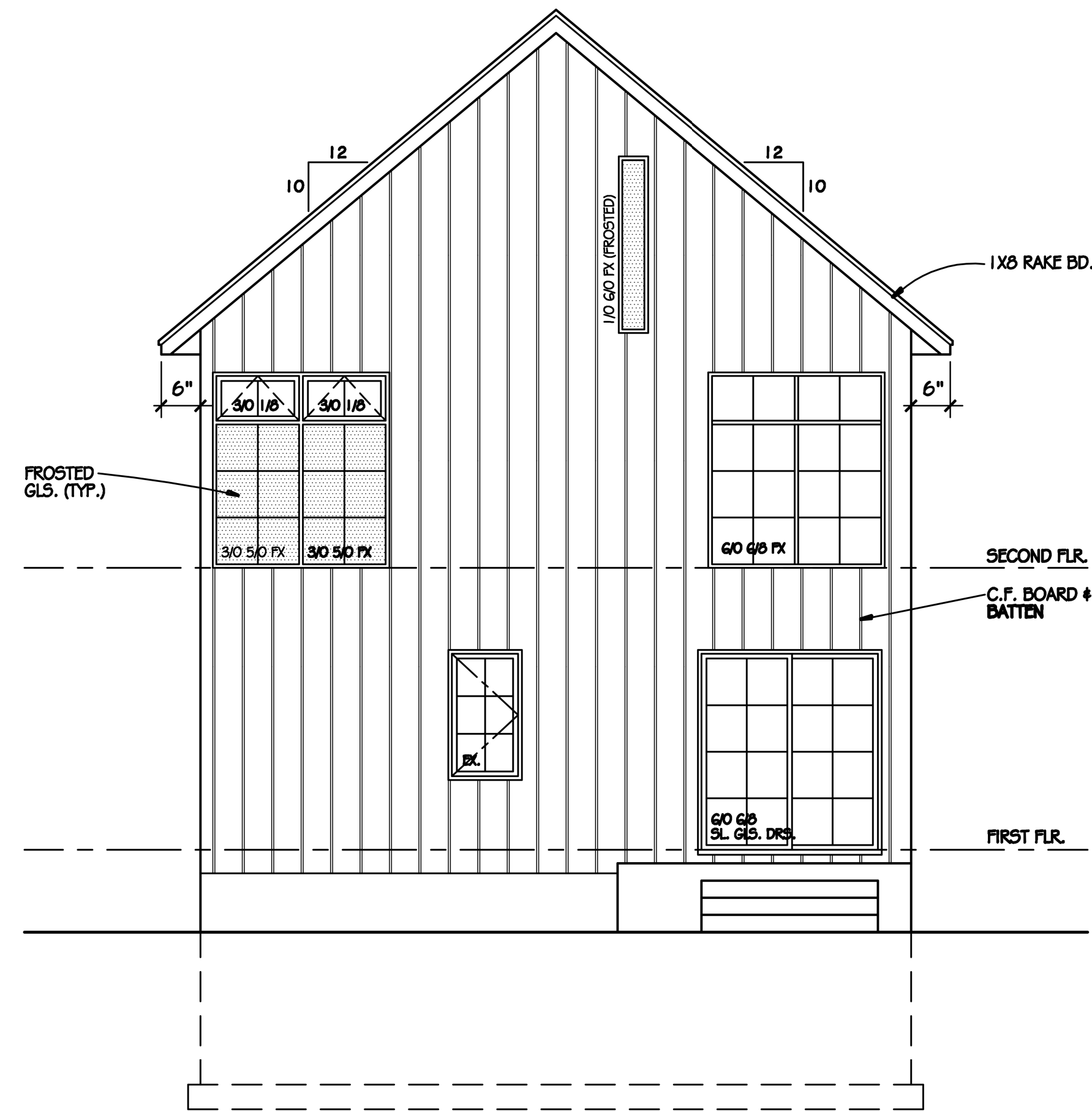
Foundation Plan
SCALE: 1/4" = 1'-0"

Zwolak
Addition
1410 Cole St.
Birmingham, MI

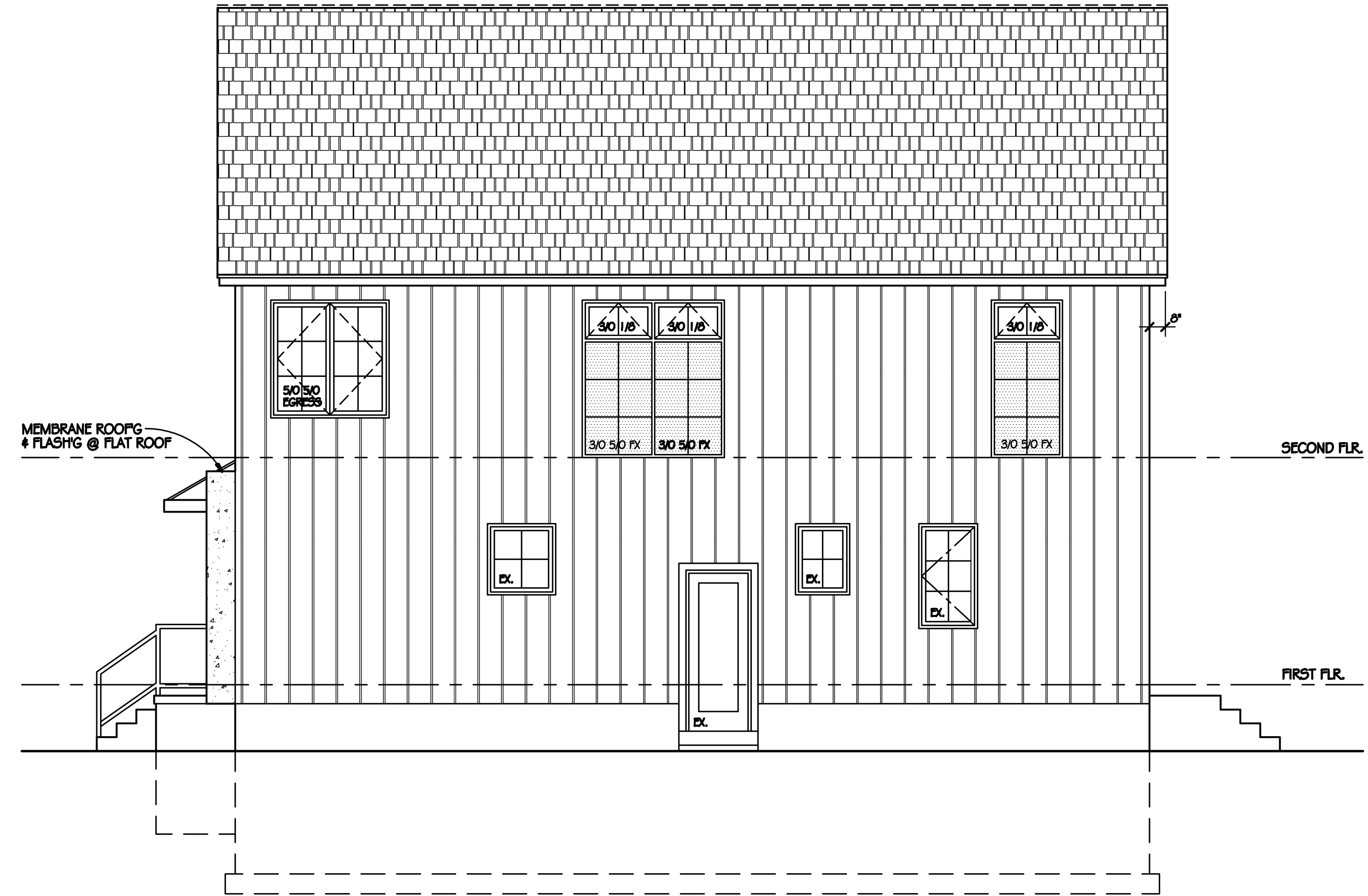
Floor Plans

12 July 2024 Permits

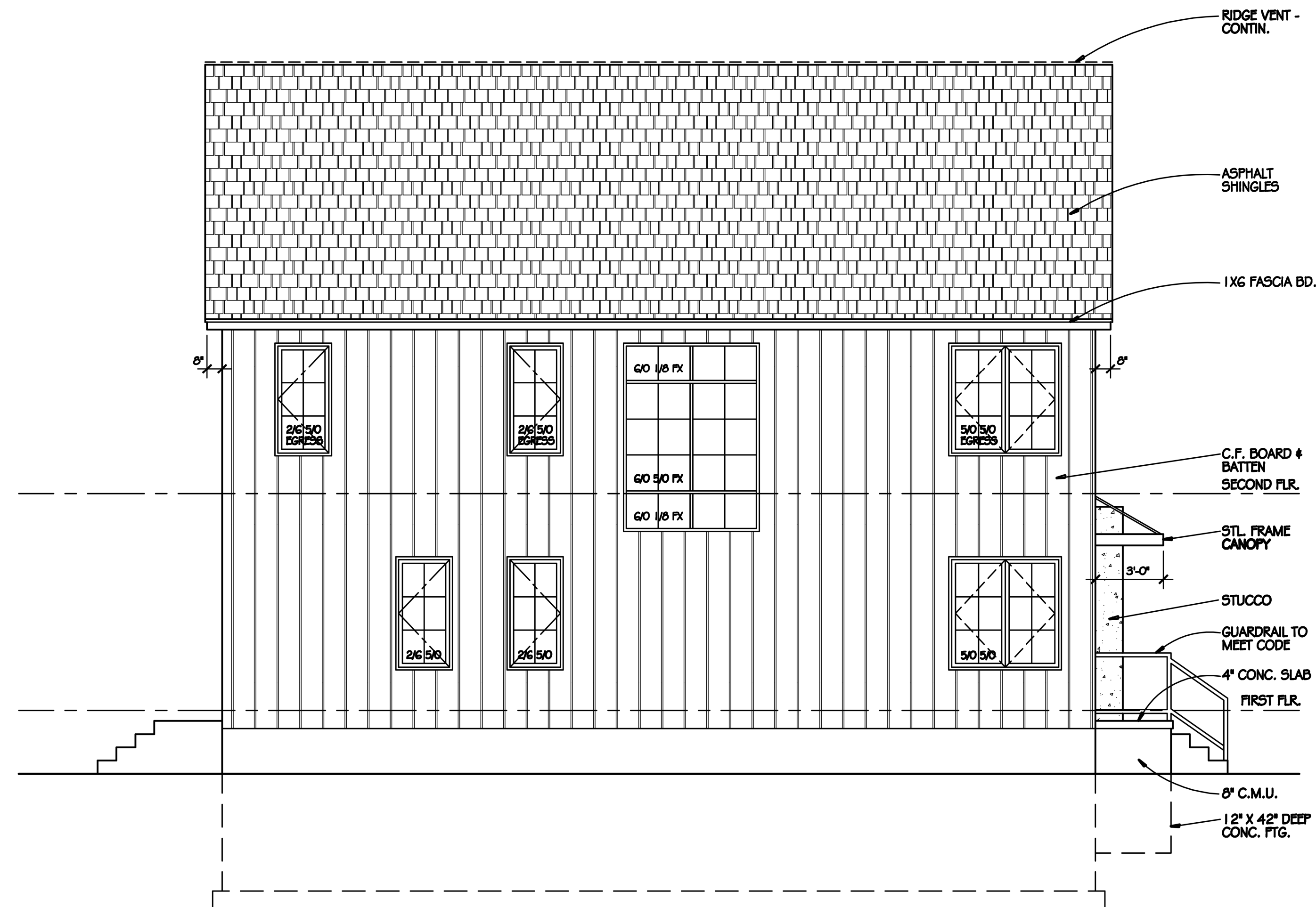




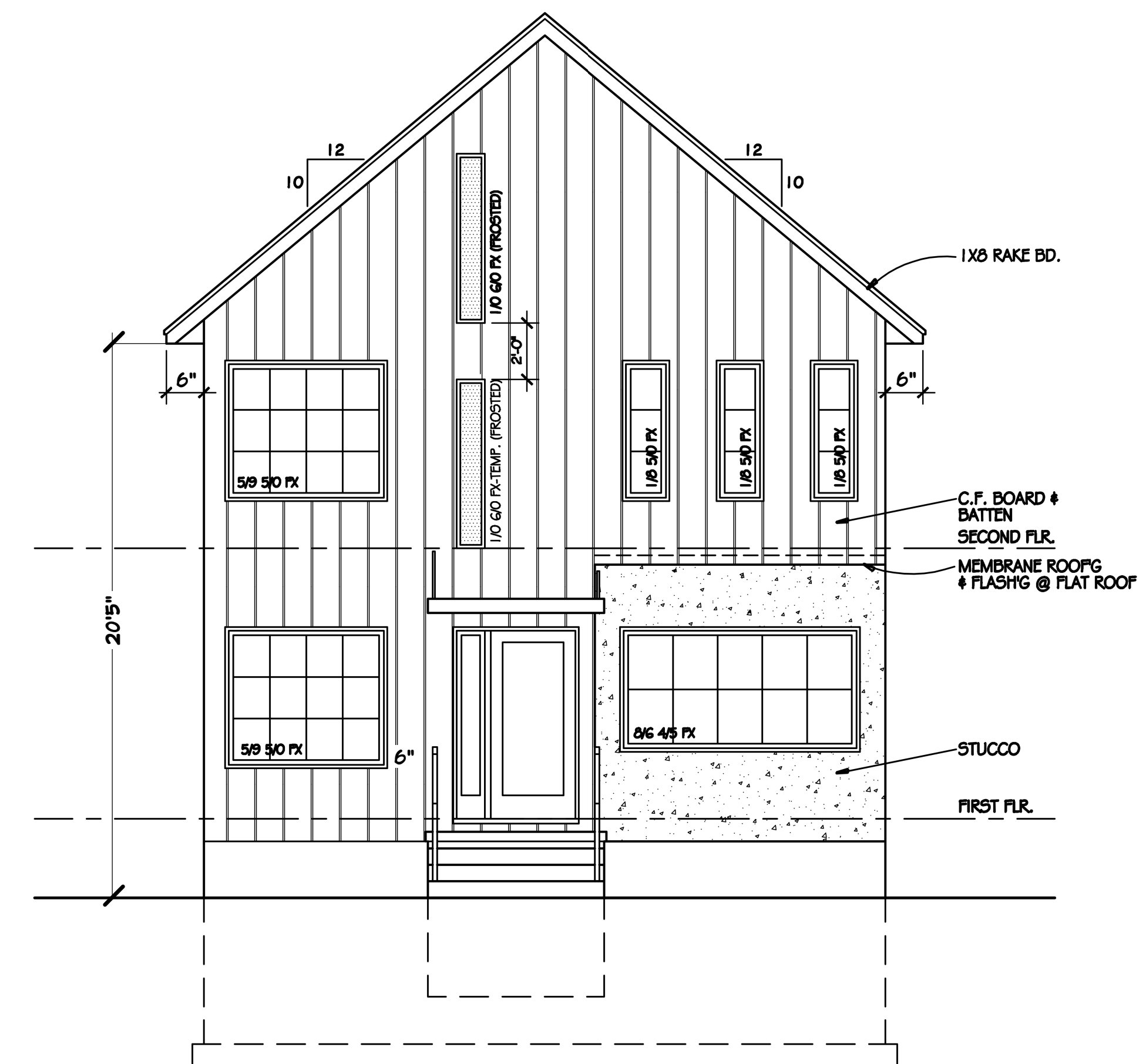
Rear Elevation
SCALE: 1/4" = 1'-0"



Right Side Elevation
SCALE: 1/4" = 1'-0"



Left Side Elevation
SCALE: 1/4" = 1'-0"



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

**Zwolak
Addition**
1410 Cole St.
Birmingham, MI

Elevations

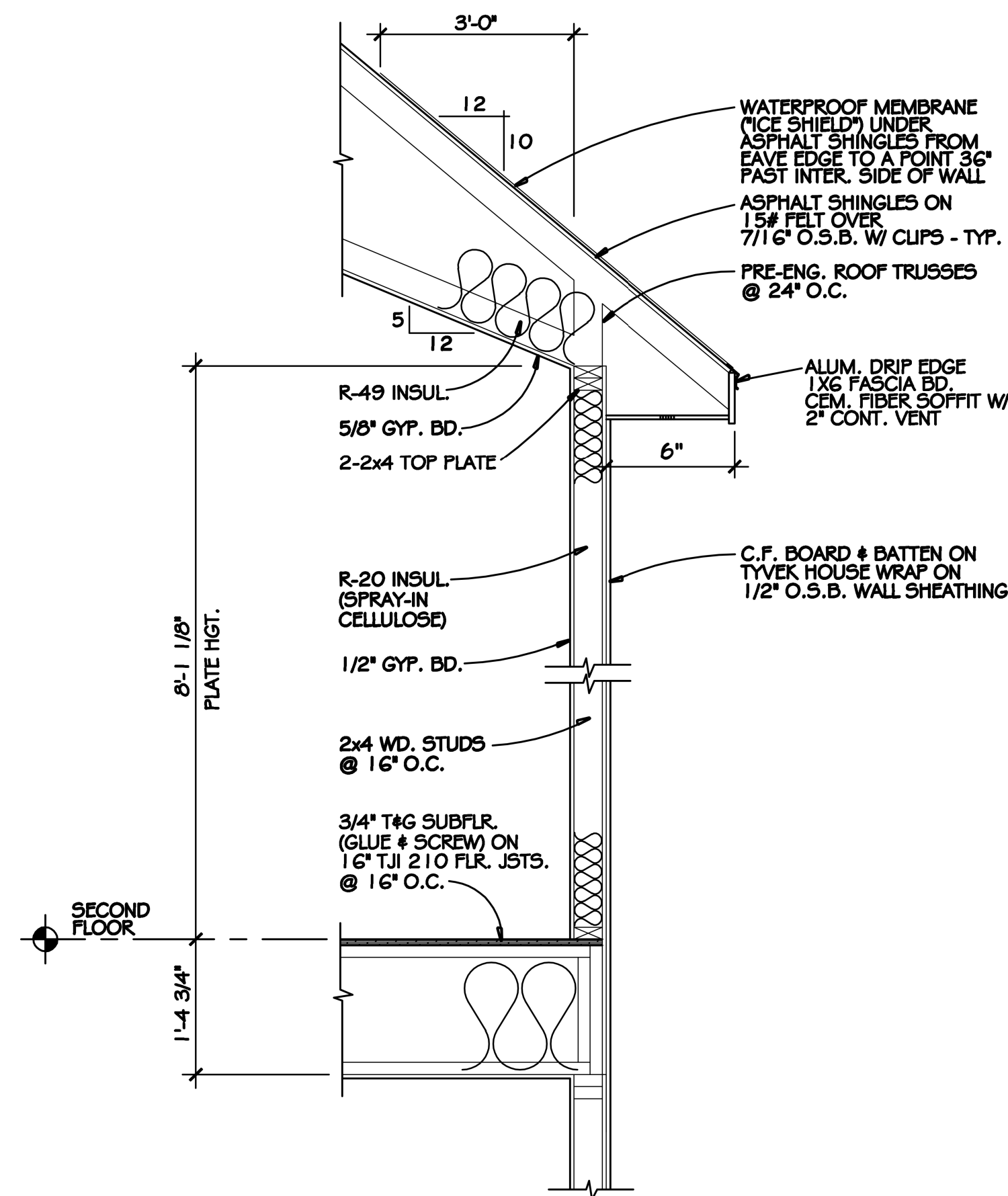
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A4

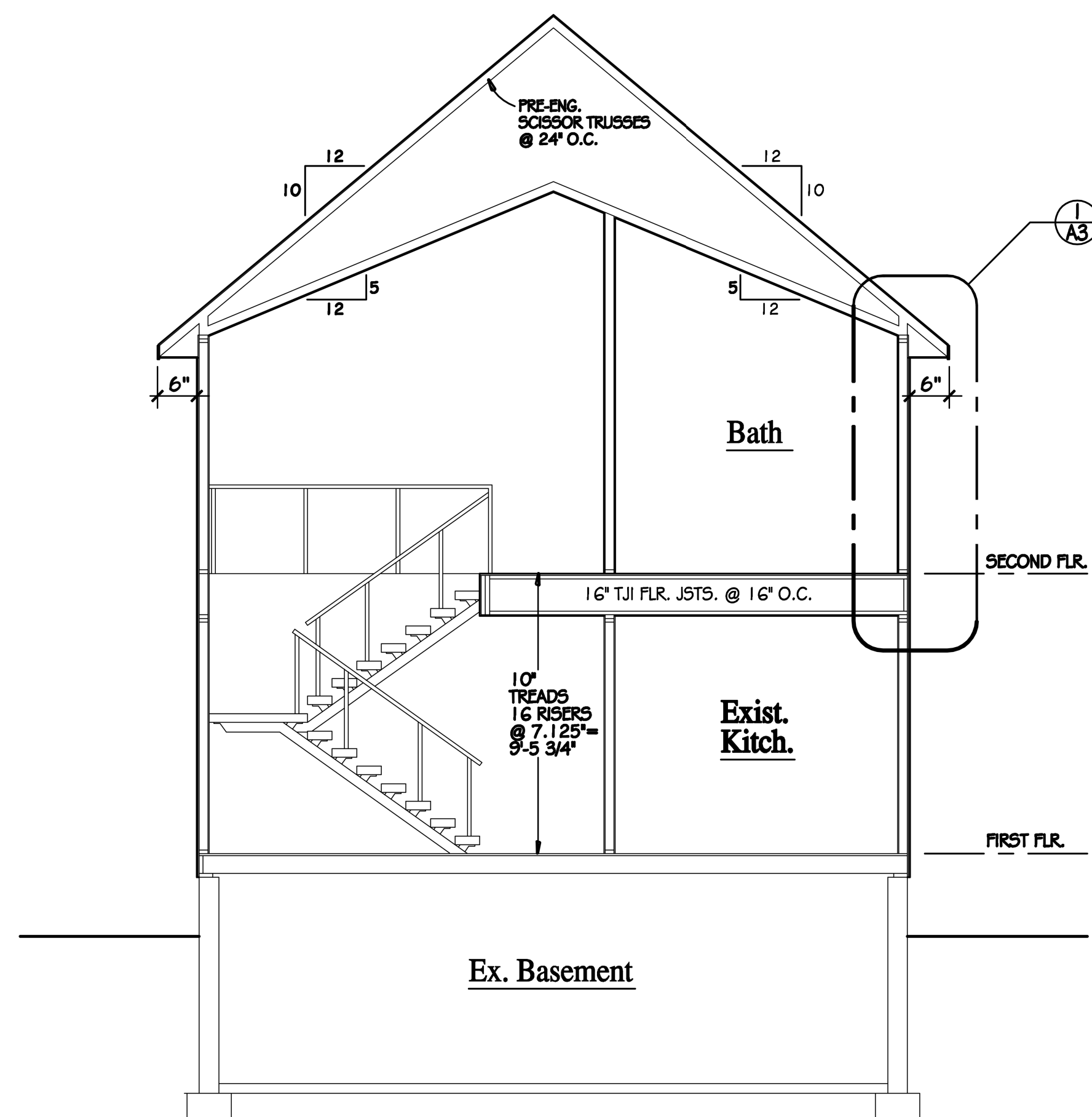
Zwolak
Addition
1410 Cole St.
Birmingham, MI

Sections

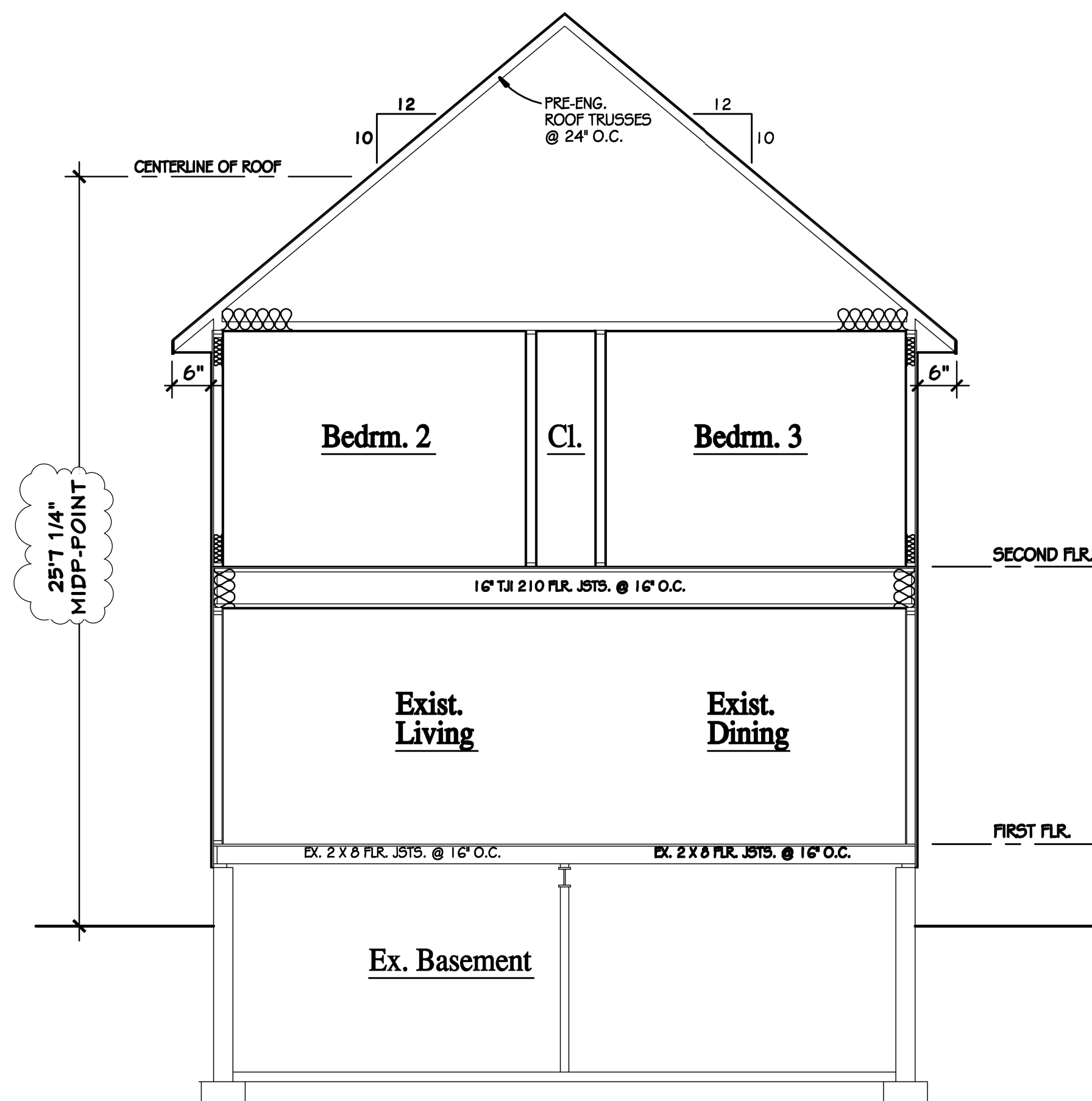
12 July 2024 Permits



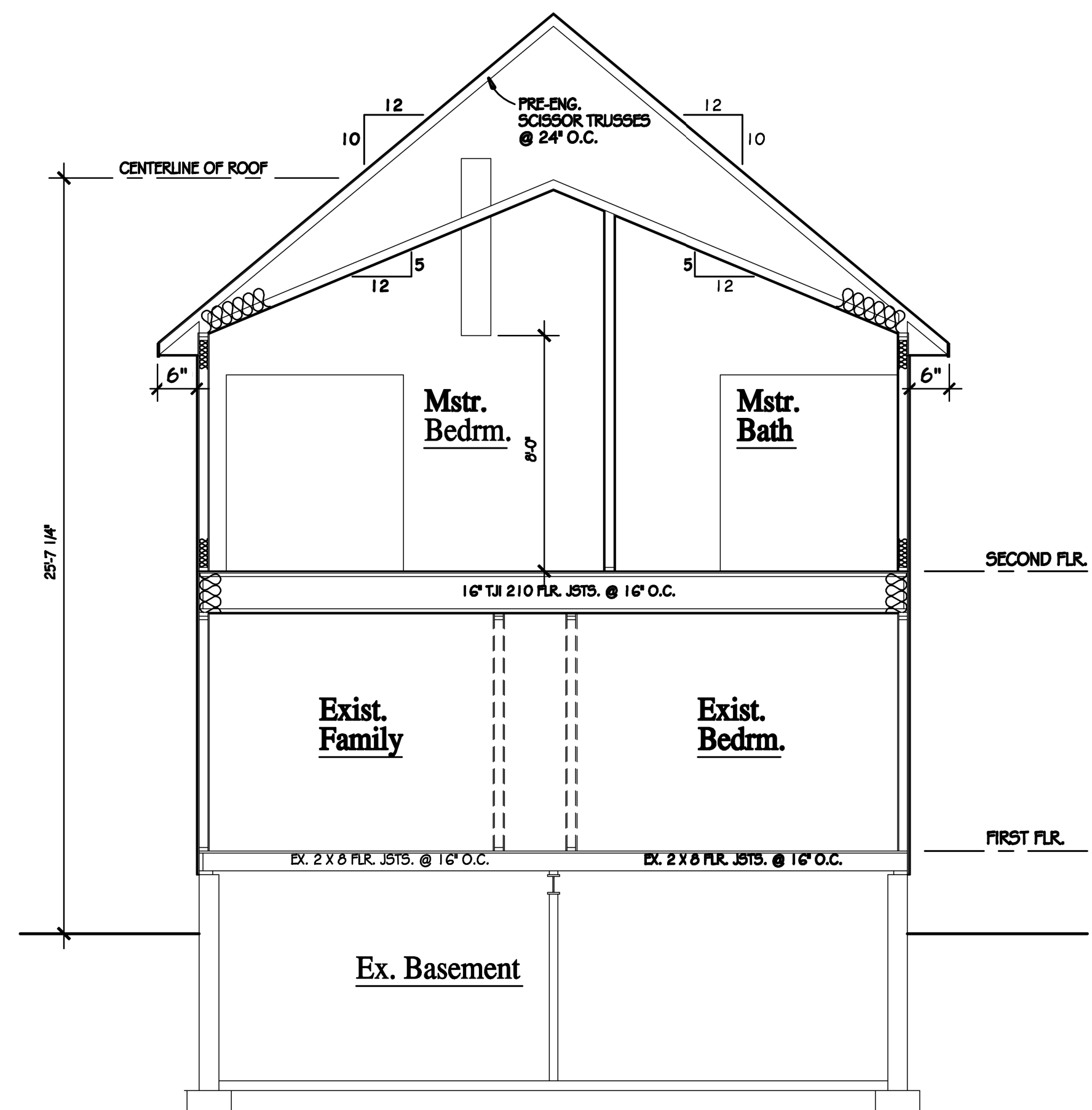
I
A3
Wall Section
SCALE: 3/4" = 1'-0"



B
A1
Cross Section
SCALE: 1/4" = 1'-0"



C
A1
Cross Section
SCALE: 1/4" = 1'-0"



A
A1
Cross Section
SCALE: 1/4" = 1'-0"