

City of Birmingham
MEETING OF THE BOARD OF ZONING APPEALS
TUESDAY, NOVEMBER 9, 2021
7:30 PM

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

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

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

NOVEMBER 9, 2021
7:30 PM

1. CALL TO ORDER

2. ROLL CALL

3. ANNOUNCEMENTS

- a) The highly transmissible COVID-19 Delta variant is spreading throughout the nation at an alarming rate. As a result, the CDC is recommending that vaccinated and unvaccinated personnel wear a facemask indoors while in public if you live or work in a substantial or high transmission area. **Oakland County is 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

- a) October 12, 2021

5. APPEALS

	Address	Petitioner	Appeal	Type/Reason
1)	791 N ETON	PANDOLFI	21-42	DIMENSIONAL
2)	157 E FRANK	MATATALL	21-37	DIMENSIONAL
3)	1061 FOREST	WILLIAMS, WILLIAMS, RATTNER, PLUNKETT	21-47	DIMENSIONAL
4)	670 S OLD WOODWARD	KREIGER, KLATT ARCH	21-48	DIMENSIONAL
5)	1759 HENRIETTA	JOSEPH	21-49	DIMENSIONAL
6)	551 S BATES	GREAT LAKES LANDSCAPING	21-50	DIMENSIONAL
7)	1679 DORCHESTER	MALLON	21-51	DIMENSIONAL

6. CORRESPONDENCE

7. GENERAL BUSINESS

OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA

ADJOURNMENT

Title VI

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

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

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

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

NOVEMBER BZA MAP



Birmingham Board Of Zoning Appeals Proceedings
Tuesday, October 12, 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, October 12, 2021. Chair Charles Lillie convened the meeting at 7:33 p.m.

2. Rollcall

Present: Chair Charles Lillie; Board Members Jason Canvasser, Kevin Hart, John Miller, Richard Lilley; Alternate Board Members Ron Reddy, Erin Rodenhouse

Absent: Board Members Erik Morganroth, Francis Rodriguez

Administration:

Bruce Johnson, Building Official
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# 10-55-21

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 July 13, 2021 and September 14, 2021

Motion by Mr. Lilley

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

Motion carried, 4-0.

ROLL CALL VOTE

Yeas: Lilley, Lillie, Reddy, Rodenhouse

Nays: None

Abstain: Canvasser, Hart, Miller

For the September 14, 2021 minutes, Mr. Lillie noted that the motion for Appeal 21-38 should read "Mr. Lillie moved", not "Mr. Canvasser moved".

Motion by Mr. Lillie

Seconded by Mr. Lilley to accept the Minutes of the BZA meeting of September 14, 2021 as amended.

Motion carried, 5-0.

ROLL CALL VOTE

Yeas: Lilley, Lillie, Hart, Canvasser, Miller

Nays: None

Abstain: Reddy, Rodenhouse

T# 10-56-21

5. Appeals

**1) 566 Ann
Appeal 21-41**

SP Cowan presented the item, explaining that the owner of the property known 566 Ann was requesting the following variance to install a new solar panel car port:

A. Chapter 126, Article 4, Section 4.03(H) of the Zoning Ordinance requires that the maximum area of an accessory structure in an R3 zone not exceed 500 square feet. The applicant is proposing a 1,177 square foot solar panel car port, therefore a dimensional variance of 677 square feet is being requested

Sachit Verma of Nova Consultants reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet.

In reply to Vice-Chair Canvasser, Mr. Verma said that the need for the variance was not self-created because climate change is not self-created and the likely future increase in the use of electric vehicles is not self-created. Mr. Verma stated Stephen Roby, appellant, was seeking the variance to respond to those two factors which are outside of his control.

In reply to Ms. Rodenhouse, Mr. Verma said allowing public use of the electric vehicle (EV) charging port would not increase traffic to the property since it would take four to six hours to fully charge one vehicle. Consequently, only one or two extra vehicles could be charged at the property per day.

Motion by Mr. Lillie

Seconded by Ms. Rodenhouse with regard to Appeal 21-41, A. Chapter 126, Article 4, Section 4.03(H) of the Zoning Ordinance requires that the maximum area of an accessory structure in an R3 zone not exceed 500 square feet. The applicant is proposing a 1,177 square foot solar panel car port, therefore a dimensional variance of 677 square feet is being requested.

Mr. Lillie moved to deny the variance because he found that the petitioner showed no practical difficulty. Mr. Lillie stated compliance with the ordinance was not unduly burdensome and that the petitioner was not being prevented from using the property as permitted. He contended that granting the variance would not do substantial justice to the property owners in the area and that there are no unique circumstances of the property that require the variance. Mr. Lillie noted the BZA has been historically strict about limiting the size of accessory structures to the size permitted by the ordinance. He said to grant the variance in this case might raise questions about previous appeals where larger accessory structures were not permitted.

Mr. Miller noted the disjuncture between the Victorian style of the building at 266 Ann and the industrial quality of the proposed carport. He explained the carport would not complement the property or the surrounding area and would therefore not do substantial justice to the neighbors. He said for that reason he would support the motion.

Mr. Reddy stated that strict compliance with the ordinance would not disrupt the appellant's ability to do business. He said he would support the motion.

Vice-Chair Canvasser clarified that the BZA was not ruling either on solar panels or an EV charging port in this appeal. He stated that the only matter at hand was the

request to allow a larger carport than would otherwise be permitted by ordinance. He said for that reason, and the reasons already stated by his colleagues, he would be supporting the motion.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Lillie, Rodenhouse, Miller, Lilley, Hart, Canvasser, Reddy

Nays: None

**2) 791 N. Eton
Appeal 21-42**

ABO Zielke presented the item, explaining that the owner of the property known as 791 N. Eton was requesting the following variances to construct a new single-family home with an attached garage:

A. Chapter 126, Article 2.08.2 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 17.50 feet. The proposed is 12.70 feet. Therefore; a variance of 4.80 feet is being requested.

B. Chapter 126, Article 4.30(C)4 of the Zoning Ordinance does not permit window wells in the required front open space. The proposed is to place a window well in the required front yard.

C. Chapter 126, Article 4.30(C)4 of the Zoning Ordinance permits window wells projecting into the required open space shall not exceed 6.00 feet in width. The proposed is 13.30 feet. Therefore a variance of 7.30 feet is being requested.

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

In reply to Mr. Lillie, ABO Zielke stated that if the home were pushed back 3.8 feet the home would likely not need the variances for the window wells because it would no longer be in the required front open space. ABO Zielke also said he was not sure if the house to the west met its required total sideyard setbacks.

Mr. Lillie said the house to the west might be causing the need for variance A.

Mr. Miller concurred with Mr. Lillie, stating that the house to the west seemed too large for the lot.

BO Johnson also concurred. He stated the house to the west was most likely impacting the present appeal, but that the dimensions of the house to the west would be necessary to determine the extent of the impact.

Motion by Mr. Miller

Seconded by Ms. Rodenhouse with regard to Appeal 21-42, B. Chapter 126, Article 4.30(C)4 of the Zoning Ordinance does not permit window wells in the required front open space. The proposed is to place a window well in the required front yard; and, C. Chapter 126, Article 4.30(C)4 of the Zoning Ordinance permits window wells projecting into the required open space shall not exceed 6.00 feet in width. The proposed is 13.30 feet. Therefore a variance of 7.30 feet is being requested.

Mr. Miller moved to deny variances B and C because he believed front yard window wells are undesirable in the front yard setback. He said the desire for variances B and C was self-created and that there was no evidence that compliance with the ordinances would be unduly burdensome.

Ms. Rodenhouse noted the lot had no unique circumstances that would require variances B and C. She said there would also be concerns about precedent if variances B and C were granted. She explained that for those reasons she was supporting the motion.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Miller, Rodenhouse, Lilley, Lillie, Hart, Canvasser, Reddy

Nays: None

Motion by Mr. Miller

Seconded by Mr. Reddy with regard to Appeal 21-42, A. Chapter 126, Article 2.08.2 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 17.50 feet. The proposed is 12.70 feet. Therefore; a variance of 4.80 feet is being requested.

Mr. Miller moved to adjourn variance A of Appeal 21-42 to the November 9, 2021 BZA meeting on the condition that the BZA is provided more information on the lot to the west.

Mr. Reddy explained he could not tell without further information whether the house to the west was causing 791 N. Eton to require variance A. He said for that reason he was supporting the motion.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Miller, Reddy, Rodenhouse, Lilley, Lillie, Hart, Canvasser

Nays: None

BO Johnson instructed the Board to retain their documents for Appeal 21-42. He said additional information regarding the house to the west would be sent to the BZA members.

**3) 1974 Holland
Appeal 21-43**

Mr. Reddy recused himself from discussion of, and voting on, Appeal 21-43 since he is related to the property owners. He left the meeting at 8:26 p.m.

ABO Zielke presented the item, explaining that the owner of the property known as 1974 Holland was requesting the following variance to construct a new single-family home:

A. Chapter 126, Article 2.08.2 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 14.00 feet. The proposed is 10.63 feet on the east side. Therefore; a variance of 3.35 feet is being requested.

ABO Zielke confirmed that this house would meet the ordinance if not for the homes to the right or left.

Patrick Raye, builder, reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet. He explained the property would sacrifice the space on the west side of the property to prevent the issue with the distance between principal residential buildings on adjacent lots from recurring with neighboring properties down the road. He also noted the building would stay within the current envelope even if the variance was granted.

Motion by Mr. Hart

Seconded by Mr. Miller with regard to Appeal 21-43, A. Chapter 126, Article 2.08.2 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 14.00 feet. The proposed is 10.63 feet on the east side. Therefore; a variance of 3.35 feet is being requested.

Mr. Hart moved to approve the variance and tied it to the plans as submitted. He said the appellant had demonstrated a hardship and lack of self-creation stemming from the staggered driveway and setback issue. He noted the appellant also proposed plans that would stop the staggered driveway-setback issue from impacting neighboring houses on the street.

Motion carried, 6-0.

ROLL CALL VOTE

Yeas: Hart, Miller, Lilley, Lillie, Canvasser, Rodenhouse

Nays: None

**4) 1853 Fairview
Appeal 21-44**

Mr. Reddy rejoined the meeting at 8:37 p.m.

ABO Zielke presented the item, explaining that the owner of the property known as 1853 Fairview was requesting the following variance to replace the existing A/C condensers:

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 existing and proposed is 2.60 feet. Therefore a variance of 2.40 feet is being requested.

Wayne Ginste, builder and owner, reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet.

Mr. Ginste clarified that in 1998 the front house steps exited to the west and that now the front house steps exit to the north. He explained the permit granted in 1998 was consistent with the survey of the house from 1998. The A/C units have always been on the southeast corner of house.

Mr. Ginste confirmed for Mr. Hart that moving the A/C to the rear of the home would be a prohibitively difficult process. He also confirmed that having the A/C in the side yard is more beneficial to the neighbors.

In reply to Mr. Lillie, Mr. Ginste stated that the proposed A/C unit would be 72 decibels.

In reply to Ms. Rodenhouse, Mr. Ginste confirmed that there would be fences between the A/C unit and the neighbors and the A/C unit and the street.

Motion by Mr. Reddy

Seconded by Mr. Lilley with regard to Appeal 21-44, A. Chapter 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 existing and proposed is 2.60 feet. Therefore a variance of 2.40 feet is being requested.

Mr. Reddy moved to grant the variance and to tie it to the plans as submitted. He explained that the location of the A/C units were originally in compliance with ordinance and that the renovation of the home changed that. He said it would be unreasonable to force the appellant to move the A/C units from their current location.

Mr. Miller explained that a number of homes built before the 1930s have A/C units located in either the side or front yards. He said being able to maintain A/C units in their original locations and being able to replace them with quieter units was reasonable. He said for this reason he would be supporting the motion.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Reddy, Lilley, Lillie, Hart, Canvasser, Rodenhouse, Miller

Nays: None

**5) 2549 Buckingham
Appeal 21-45**

SP Cowan presented the item, explaining that the owner of the property known as 2549 Buckingham was requesting the following variance to operate a Group Home Day Care:

A. Chapter 126, Article 2, Section 2.07 of the Zoning Ordinance lists Permitted Uses, Accessory Permitted Uses, and Uses Requiring a Special Land Use Permit within the R2 – Single Family Residential zone. Group Home Day Care is not listed as a Permitted Use, an Accessory Use, or a use requiring a Special Land Use Permit, therefore a use variance to operate a Group Home Day Care is requested.

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

Mr. Lillie explained that it takes five affirmative votes to receive a use variance which he said is generally very difficult to achieve. He explained that the Board has to avoid spot zoning, and that approving this request would run the risk of being spot zoning since it would arguably alter the essential character of the neighborhood. He stated that the issue seemed to be self-created.

Vice-Chair Canvasser explained that while he was both sympathetic and appreciative of Ms. Ortiz's request, the Board was limited to reviewing the appeal as a request for a use variance. He said Ms. Ortiz might want to consider other potentially appropriate uses in the zoning ordinance that might apply to her case. Vice-Chair Canvasser concurred with Mr. Lillie's comments. He noted the appeal could only be reviewed based on the four-factor test for a use variance, and enumerated the four factors for Ms. Ortiz. He invited Ms. Ortiz to address any of the four factors as appropriate.

Mr. Ortiz spoke of the enthusiasm of families for the service she offers, the benefits to children, and the letters of support she has received from parents of children who attend.

Ms. Rodenhouse said that while she also appreciated Ms. Ortiz's efforts and enthusiasm, the Board would have to find that not granting the variance would prevent the appellant from using their home as a home; result in an unnecessary hardship, which would amount to essentially a taking of the property; and, not alter the essential character of the neighborhood. Ms. Rodenhouse noted that the Board also needs to be considerate of potential precedential effects.

Ms. Ortiz said that with the Covid-19 pandemic she would hope there would be an exception. She reiterated the enthusiasm that families have expressed.

In reply to Mr. Hart, Ms. Ortiz described the areas of the home used for Ortiz Educare which include the kitchen, dining room, living room, and a bedroom-turned-classroom.

Public Comment

Mike Abdullah, Sonya Frisco, and Adam Orley spoke in favor of granting the variance.

Mr. Abdullah said the Covid-19 pandemic was not self-created and that granting the variance should not be considered precedential since the impact of the pandemic is unique in this situation.

Ms. Frisco said she is a neighbor of the Ortizes and would be proud to have Ms. Ortiz's expanded group home day care use in her neighborhood.

Mr. Orley stated Ms. Ortiz's hours of operation are longer than those offered by Birmingham Public Schools which makes it easier to balance work and child care.

Motion by Mr. Lillie

Seconded by Vice-Chair Canvasser with regard to Appeal 21-45, A. Chapter 126, Article 2, Section 2.07 of the Zoning Ordinance lists Permitted Uses, Accessory Permitted Uses, and Uses Requiring a Special Land Use Permit within the R2 – Single Family Residential zone. Group Home Day Care is not listed as a Permitted Use, an Accessory Use, or a use requiring a Special Land Use Permit, therefore a use variance to operate a Group Home Day Care is requested.

Mr. Lillie moved to deny the variance. He explained that while Board members were sympathetic to Ms. Ortiz's appeal, the Board could not approve the variance and establish a precedent in this case. He explained that Ms. Ortiz was not being prevented from using her property and that there were no unique circumstances of the property that would require the variance. He noted that granting the variance would alter the essential character of the area, and said the matter was self-created. He reiterated the importance of avoiding spot zoning as well.

Vice-Chairman Canvasser echoed his previous comments from the discussion and concurred with Mr. Lillie, adding that the Board is quasi-judicial and needs to hew strictly to the required four-factor test.

Mr. Hart said he would not support the motion, citing the extenuating circumstances of the Covid-19 pandemic. He stated the Board exists for this type of request, that granting the variance would do substantial justice to the neighboring community. He stated there were unlikely to be similar enough circumstances in another case in the future that this case could be cited as precedent. He noted that other cases would still need to provide supporting documentation, prove the substantial justice of their requests, and stand on their own merits.

Motion carried, 6-1.

ROLL CALL VOTE

Yeas: Miller, Lilley, Lillie, Canvasser, Reddy, Rodenhouse
Nays: Hart

**6) 1394 Westwood
Appeal 21-46**

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

A. Chapter 126, Article 4, Section 4.61(A)(2) of the Zoning Ordinance requires that a corner lot where there is no abutting interior residential lot on such side street, the minimum side street setback shall be 15.00 feet for permitted attached garages with vehicle entry doors facing the side street. The proposed is 12.81 feet. Therefore, a 2.19 foot variance is being requested.

B. Chapter 126, Article 4.75(A)(2) of the Zoning Ordinance requires that garage doors on attached garages which face a street may not exceed 9.00 feet in width. The proposed is 18.00 feet. Therefore; a variance of 9.00 feet is being requested.

Jeffrey Labelle, owner, reviewed the letter describing why these variances were being sought. The letter was included in the evening's agenda packet. Robert Clarke, architect, was available for technical questions.

Mr. Clarke stated that if he were to install two nine-foot garage doors and add an eight-inch section in between then he would only have 12 inches of structural material at the corners. He said that was too small, even with a tie-down. He stated that he would need 16 to 20 inches on the outside corners.

Mr. Hart said two nine-foot doors should work using LVL material or steel for the header.

Mr. Clarke explained that the header was not the issue, but the corner of the wall. He explained there is a portal condition of the building code that requires a certain dimension on the outside edge of the opening of the doors. As a result, the building code requires that corners of the structure have tie-downs when the structure on the edges is under 20 inches.

In reply to Mr. Hart, Mr. Clarke confirmed that the appellant considered a 16-foot door but found it was too little space to easily accommodate the appellant's two oversized vehicles.

Vice-Chair Canvasser asked BO Johnson and ABO Zielke for their insight.

BO Johnson said while without the figures he could not say for sure, he suspected there was a way to engineer the garage to allow for two nine-foot doors. He acknowledged doing so might increase the cost.

ABO Zielke concurred.

In reply to Mr. Miller, Mr. Clarke stated that there would be 4.5 inches of masonry on the outside edges of the structure, the stud cavities, and then the 18-foot, four-inch door. He stated that if he were to use steel he could possibly do a center post in seven inches instead of the usual eight inches. He said he did not believe that he could expand the garage to the west enough to create space for the two nine-foot doors.

Mr. Labelle said that if Mr. Clarke believed it would be feasible Mr. Labelle would consent to the construction being done in steel to create two nine-foot garage doors.

After discussion, Mr. Labelle said he would be willing to just pursue variance A.

Motion by Mr. Lillie

Seconded by Mr. Miller with regard to Appeal 21-46, A. Chapter 126, Article 4, Section 4.61(A)(2) of the Zoning Ordinance requires that a corner lot where there is no abutting interior residential lot on such side street, the minimum side street setback shall be 15.00 feet for permitted attached garages with vehicle entry doors facing the side street. The proposed is 12.81 feet. Therefore, a 2.19 foot variance is being requested; and, B. Chapter 126, Article 4.75(A)(2) of the Zoning Ordinance requires that garage doors on attached garages which face a street may not exceed 9.00 feet in width. The proposed is 18.00 feet. Therefore; a variance of 9.00 feet is being requested.

Mr. Lillie moved to grant variance A and to deny variance B. He stated variance A would be tied to the plans as submitted. He stated the appellant showed a practical difficulty and had also incorporated previous Board feedback regarding the proposal. He noted only a small portion of the garage would be in the 15-foot setback, that the issue was not self-created, and that the property is somewhat unusual.

Mr. Miller observed that the unique circumstances of this appeal are the position of the home on the lot and the non-rectangular lot shape. Consequently, he said the proposed variance was reasonable in this particular case.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Lillie, Miller, Lilley, Hart, Canvasser, Reddy, Rodenhouse

Nays: None

T# 10-57-21

6. Correspondence

Correspondence for Appeal 21-45 was distributed to the appellants at the beginning of the meeting.

All other correspondence was included in the agenda packet.

T# 10-58-21

7. General Business

T# 10-59-21

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

None.

T# 10-60-21

8. Adjournment

Motion by Mr. Lillie

Seconded by Mr. Lilley to adjourn the October 12, 2021 BZA meeting at 9:55 p.m.

Motion carried, 7-0.

ROLL CALL VOTE

Yeas: Lillie, Lilley, Hart, Canvasser, Reddy, Rodenhouse, Miller

Nays: None

Bruce R. Johnson, Building Official

CASE DESCRIPTION

791 N Eton (21-42)

Hearing date: November 9, 2021

Appeal No. 21-42: The owner of the property known 791 N Eton, requests the following variance to construct a new single-family home with an attached garage:

A. Chapter 126, Article 2.08.2 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 17.50 feet. The proposed is 12.70 feet. Therefore; a variance of 4.80 feet is being requested.

Staff Notes: The applicant is proposing to construct a new home with an attached garage on a corner lot. The applicant had appeared in front of the board in October (See minutes) and tabled at that time for some further information, distance on the west side of the home to the west and its lot width.

This property is zoned R2– Single Family Residential.

Jeff Zielke, NCIDQ, LEED AP
Assistant Building Official

791 N ETON 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: 09/12/21

Hearing Date: 10/12/21

Received By: B.M.

Appeal #: 21-42

Type of Variance:	<input checked="" type="checkbox"/> Interpretation	<input type="checkbox"/> Dimensional	<input type="checkbox"/> Land Use	<input type="checkbox"/> Sign	<input type="checkbox"/> Admin Review
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I. PROPERTY INFORMATION:

Address: <u>791 N. Eton Street</u>	Lot Number: <u>61</u>	Sidwell Number: <u>20-30-327-009</u>
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II. OWNER INFORMATION:

Name: <u>Ernest & Dion Pandolfi</u>			
Address: <u>2806 Pembroke Road</u>	City: <u>Birmingham</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>diongalus@yahoo.com</u>	<u>nesto_44@yahoo.com</u>	Phone: <u>(248) 250-0102</u>	

III. PETITIONER INFORMATION:

Name: <u>AS above</u>	Firm/Company Name:		
Address:	City:	State:	Zip code:
Email:	Phone:		

IV. GENERAL INFORMATION:

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

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

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

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

V. REQUIRED INFORMATION CHECKLIST:

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

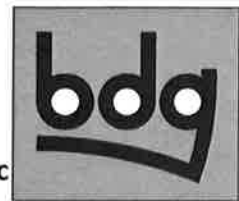
VI. APPLICANT SIGNATURE

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

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

Signature of Owner: <u>Ernest Pandolfi</u>	Date: <u>09/12/21</u>
Signature of Petitioner: <u>Ernest Pandolfi</u>	Date: <u>09/12/21</u>





badrak design group, inc

336 Ridge Road
Grosse Pointe Farms, MI
48236
p/f: 313 343 0597

e:

badrakdesigngroup@comcast.net

Zoning Variance Request

Project: 791 N. Eton Street, Birmingham, MI 48009

Date: September 10, 2021

To: City of Birmingham
Board of Zoning Appeals
151 Martin Street
Birmingham, MI 48012

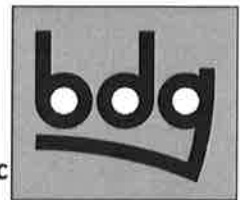
Dear Members of the Board,

This Pandolfi family has recently purchased the house at 791 N Eton with the intention of building a new home on the property. They have lived in this same neighborhood since 2012, residing just a few blocks away. One of their primary goals is to have a house with a (2) car attached garage located along the street face to allow for a safe approach for vehicles without traversing a long driveway. An additional goal is to have a large backyard that gets southern sunlight and a future pool for the enjoyment of their young daughter and neighborhood friends. The Pandolfis selected this property partially due to the 70ft lot width. This 70ft width would allow this primary goal to be achieved while complying with the building setbacks as set for in the zoning ordinance section 2.08. The setback requirements are that 70ft lots require a larger total of two side yard setbacks calculated at 25% of the total lot width, equaling 17.5ft. With a minimum side yard of 10ft required at the east, we have a 7.5ft side yard at the west which does comply with the setback requirements. The overall building width is 52.5ft with 22.5ft allocated for a (2) car garage and 30ft allocated for the house. The garage meets maximum allowable frontage and required setback from front façade.

Variance A: The proposed distance from their new building to the neighbor to the west, at 1958 Derby, is 12.7ft (13.3ft to existing house on property) where section 4.74(C) SS-01 (Structural Standards) requires a larger dimension. 4.74(C) requires minimum distance between principle residential buildings on adjacent lots of 14ft minimum or 25% of the total lot width, which equals 17.5ft. We are requesting a variance of 4.8ft for the distance to the adjacent building. It should be noted that the adjacent structure to the west, at 1958 Derby, is a garage with an attached breezeway, which borders the Pandolfi's property. It should be further noted that the property at 1958 Derby would also require a larger combined side yard setback and minimum distance between principal residential buildings using the same calculations noted above. In this case, both of those dimensions would total 19.5ft, since the property is wider than the Pandolfi's lot at 78 feet.

Variance B: Dion and Ernie Pandolfi fell in love with a daylight basement window architectural detail that they came across while researching ideas for their new home. This detail is very common in townhouse style homes, even some that exist in the Birmingham downtown and perimeter areas. This has been a detail that we have referred to many times during the design process. While section 4.30(C) 4 OS-1 (Open space standards) does not specifically permit window wells to be located within the front open space, this is a detail the Pandolfis would very much love to have on their new home. It should be noted that the property setback minimum is required to be 28.5ft based on the average setbacks of homes on the street. We have provided 28.7ft so that the protrusion of the steps and window well, which align with each other, protrude no further than the minimum 25ft general setback line. There is an above average amount of land beyond the property line, specifically 9ft from the north property line to the sidewalk, and 24.7ft from the north property line to the street. This means that the front of the building is 53.3ft away from the curb. We have come across similar projects in the City for properties that have this feature, specifically 550, 862 and 876 Watkins Street. These three projects have been referenced as they are most similar to our project, being in the same R2 zoning district with similar property dimensions and building shapes. We request that this architectural feature be permitted on the property. This feature will have a railing as required by the open space standard and will have decorative plantings around it.

.....



badrak design group, inc

336 Ridge Road
Grosse Pointe Farms, MI
48236
p/f: 313 343 0597

e:
badrakdesigngroup@comcast.net

Variance C: The daylight window well we have provided in the front open space requested in variance b above is designed to be 13.3ft wide where a maximum 6ft width is noted in 4.30(C) 4. We request a variance of 7.3ft for a wider daylight window well so that it will allow for continuity of windows from the 1st and 2nd floors above.

The Pandolfi family respectfully requests the following variances: 4.7ft to the adjacent building to the west, permission for a daylight window well in the front open space, and 7.3ft for additional width of the window well.

Please feel free to contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matt Badrak', with a stylized flourish at the end.

Matt Badrak
Badrak Design Group, Inc.
336 Ridge Road
Grosse Pointe Farms, MI 48236
313-343-0597
badrakdesigngroup@comcast.net

.....



badrak design group, Inc

336 Ridge Road
Grosse Pointe Farms, MI 48236
p/f: 313 343 0597
e: badrakdesigngroup@comcast.net

791 N Eton Zoning Variance Examples

Project: 791 N. Eton Street, Birmingham, MI 48009

Date: September 10, 2021

To: City of Birmingham
Board of Zoning Appeals
151 Martin Street
Birmingham, MI 48012

Dear Members of the Board,

Below are photos examples of similar projects which have window wells projecting into the front yard.



Inspiration Photo for our project at 791 N Eton

.....



badrak design group, inc

336 Ridge Road
Grosse Pointe Farms, MI 48236
p/f 313 343 0597
e: badrakdesigngroup@comcast.net



Street view 876 (left) and 862 (right) Watkins Street



Closeup of 876 Watkins Street



Closeup of 862 Watkins Street

Sincerely,

A handwritten signature in black ink, reading 'Matt Badrak'.

Matt Badrak
Badrak Design Group, Inc.

.....



badrak design group, inc.

336 RIDGE ROAD
GROSSE POINTE FARMS, MICHIGAN 48236
P/F: 313.343.0591
E-MAIL: badrakdesigngroup@comcast.net

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PANDOLFI RESIDENCE

19 N LTON
BIRMINGHAM, MI 48009

DRAWING TITLE: BASEMENT & ROOF PLANS

REVISIONS:

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

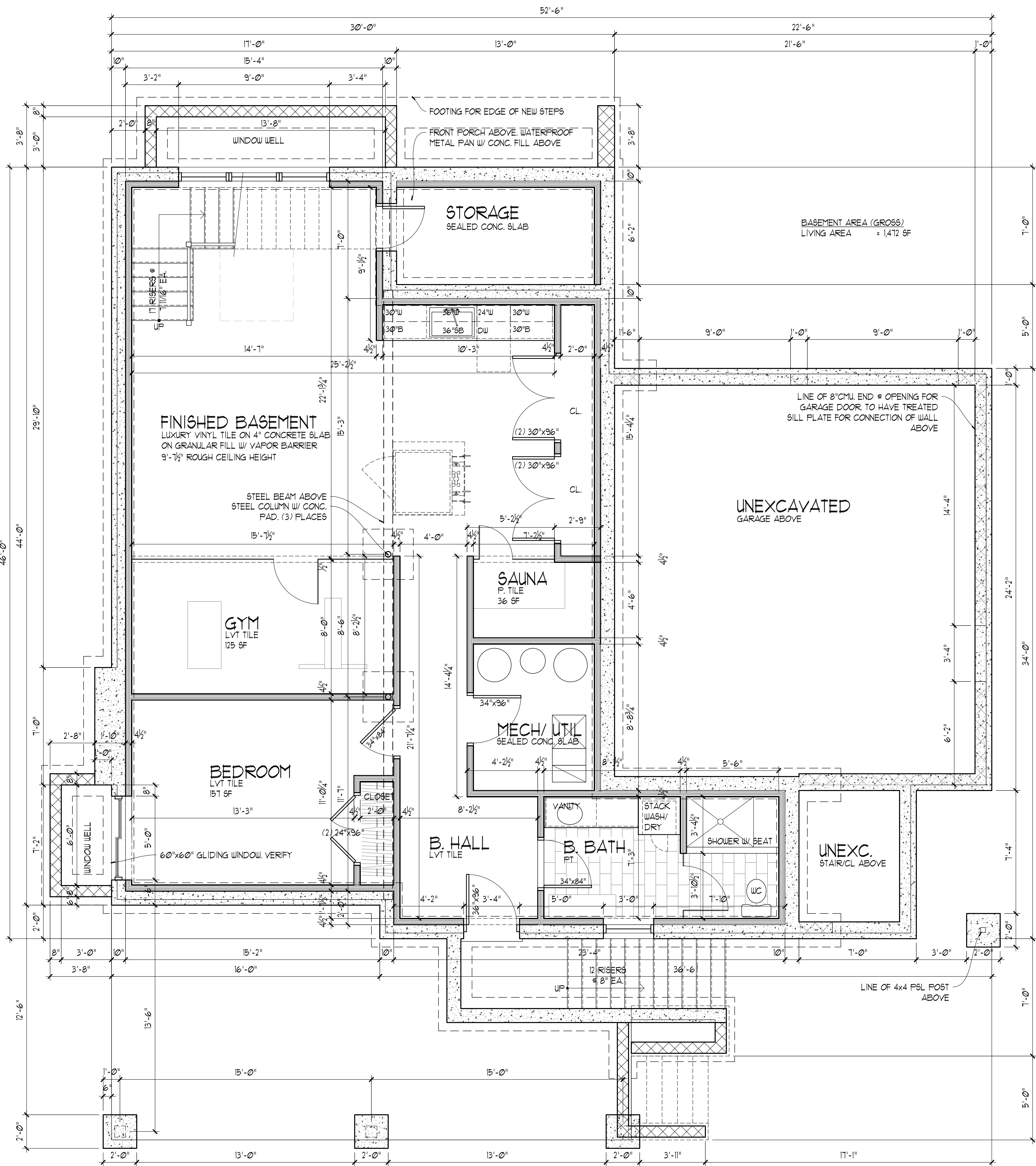
DATE: 10 SEPT, 2021

DRAWN BY: MGB

JOB NUMBER: 21-01

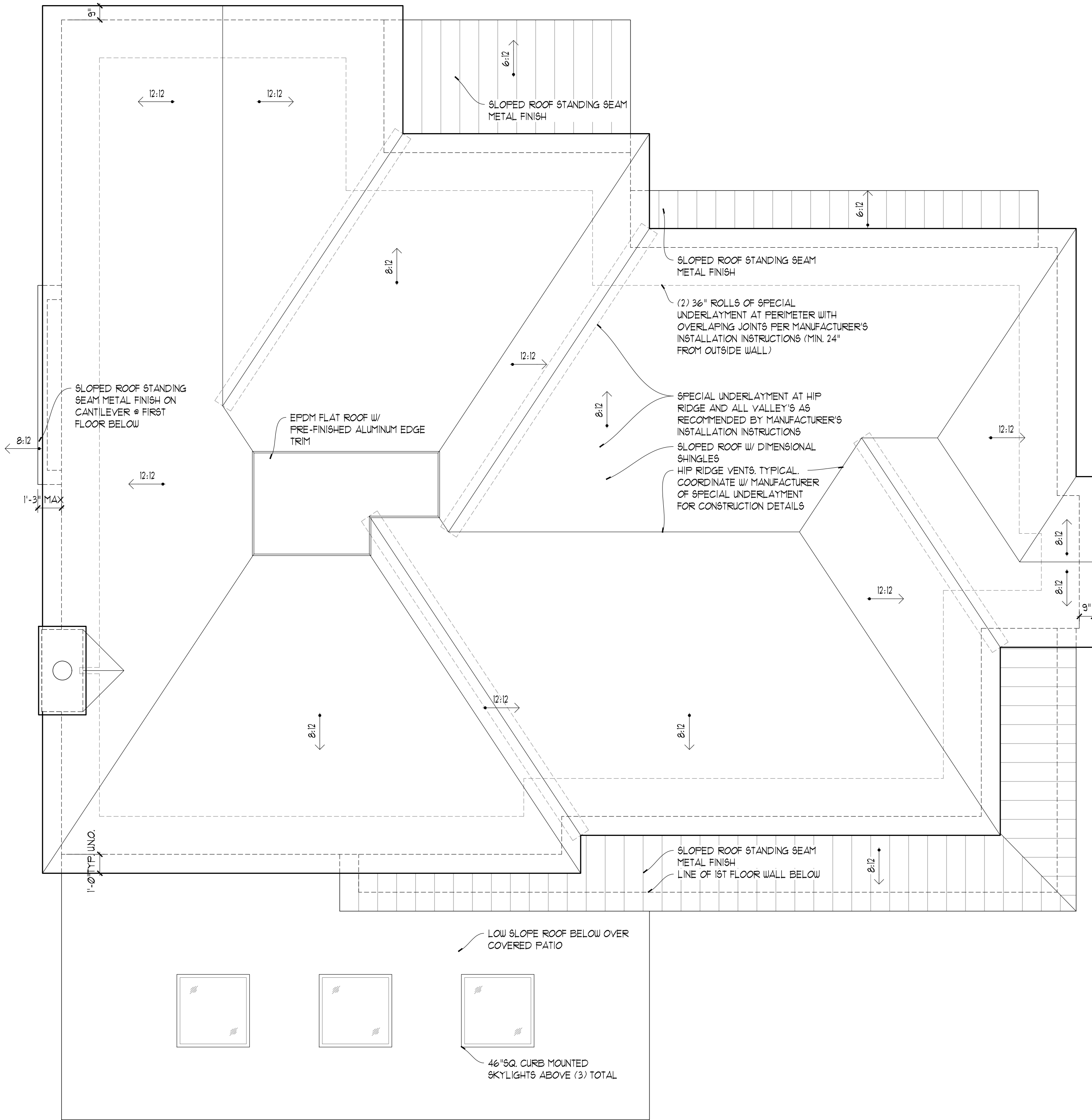
1

SHEET NO. 2 OF 5



Basement/ Foundation Plan

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



Roof Plan

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



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336 RIDGE ROAD
GROSSE POINTE FARMS, MICHIGAN 48236
P/F: 313.343.0891
E-MAIL: badrakdesigngroup@comcast.net

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PANDOLFI RESIDENCE

19 N ETON
BIRMINGHAM, MI 48009

DRAWING TITLE: FIRST & SECOND FLOOR PLANS

REVISIONS:

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

DATE: 10 SEPT, 2021

DRAWN BY: MGB

JOB NUMBER: 21-01

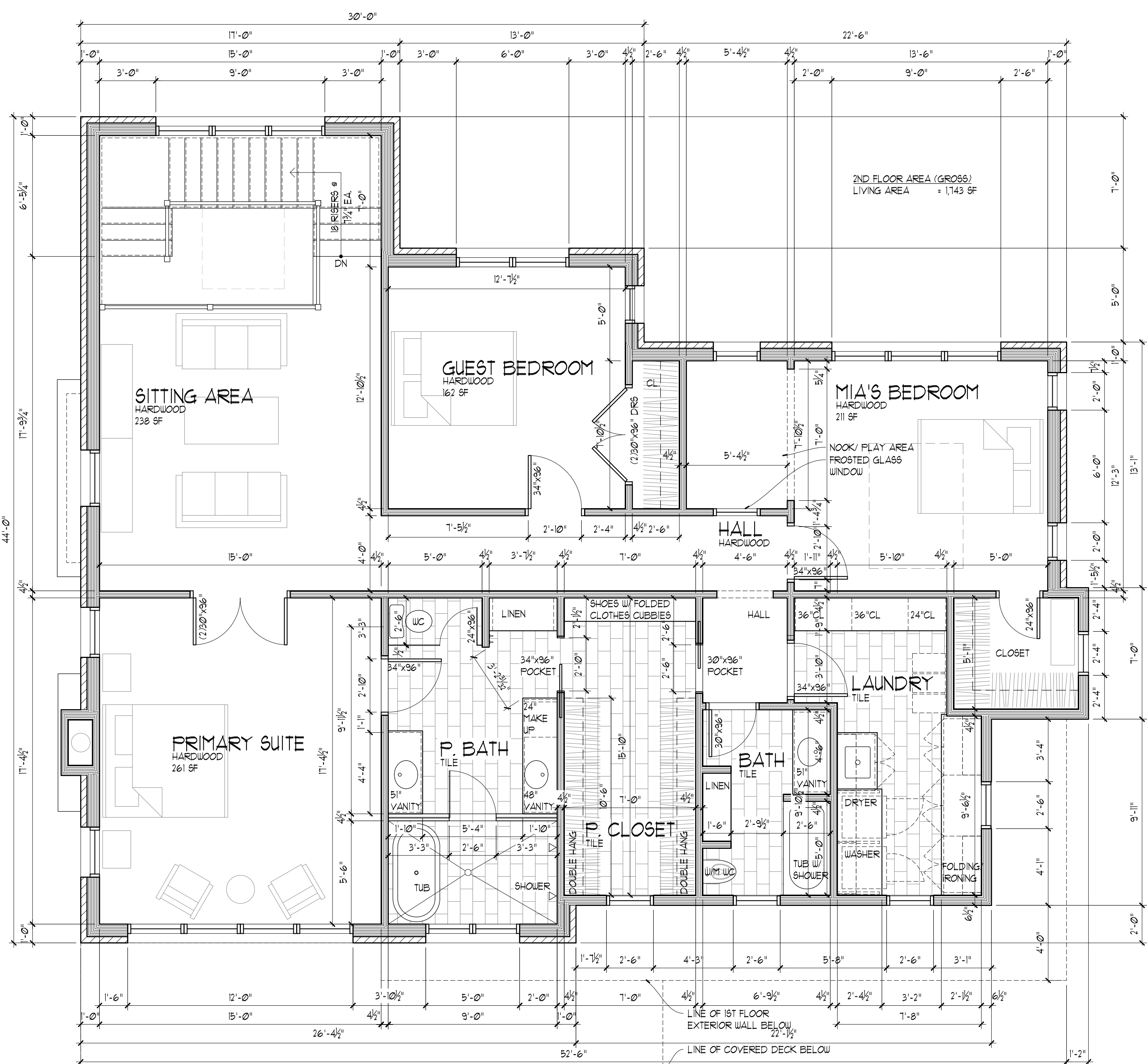
A2

SHEET NO. 3 OF 5



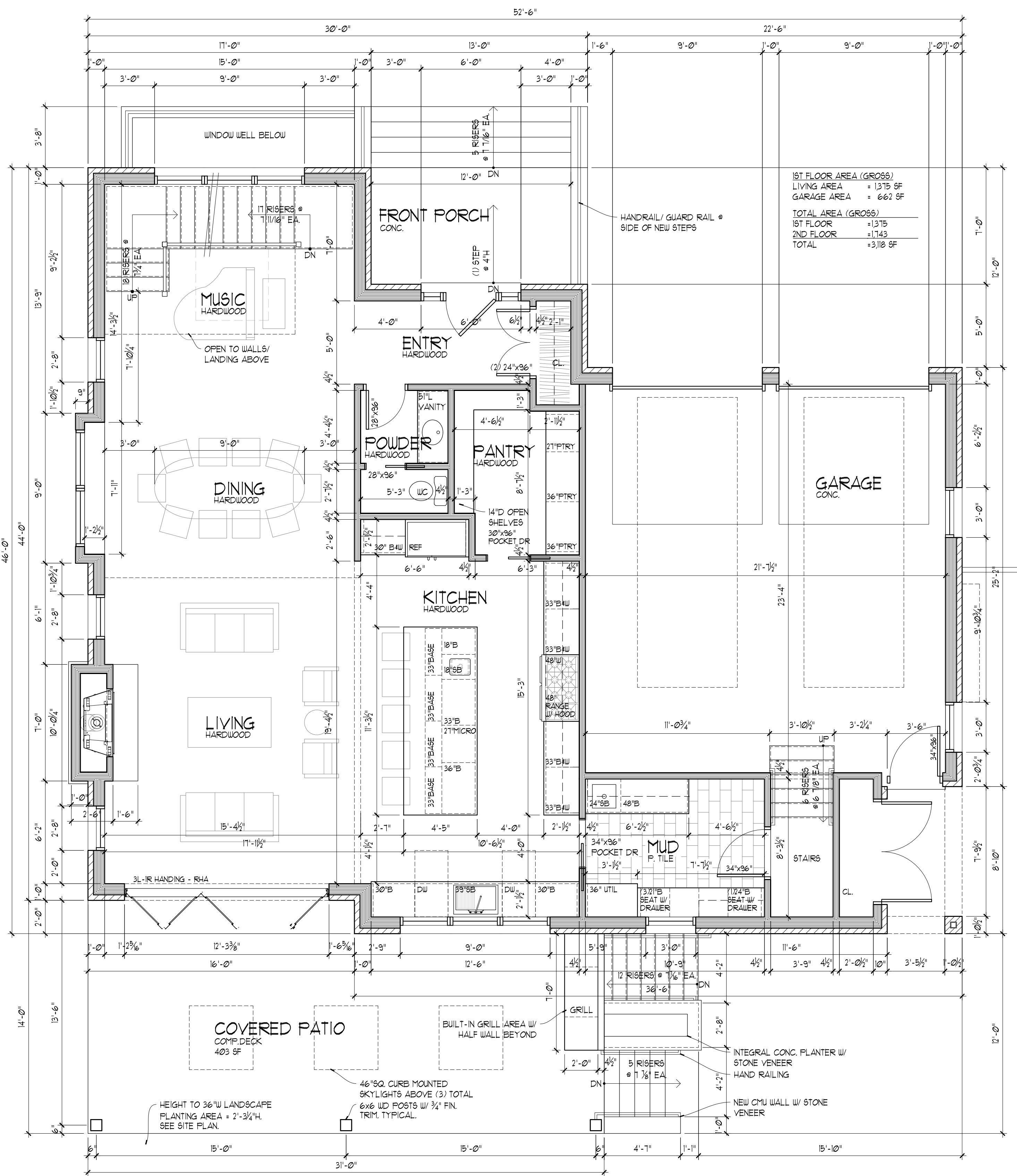
Second Floor Plan

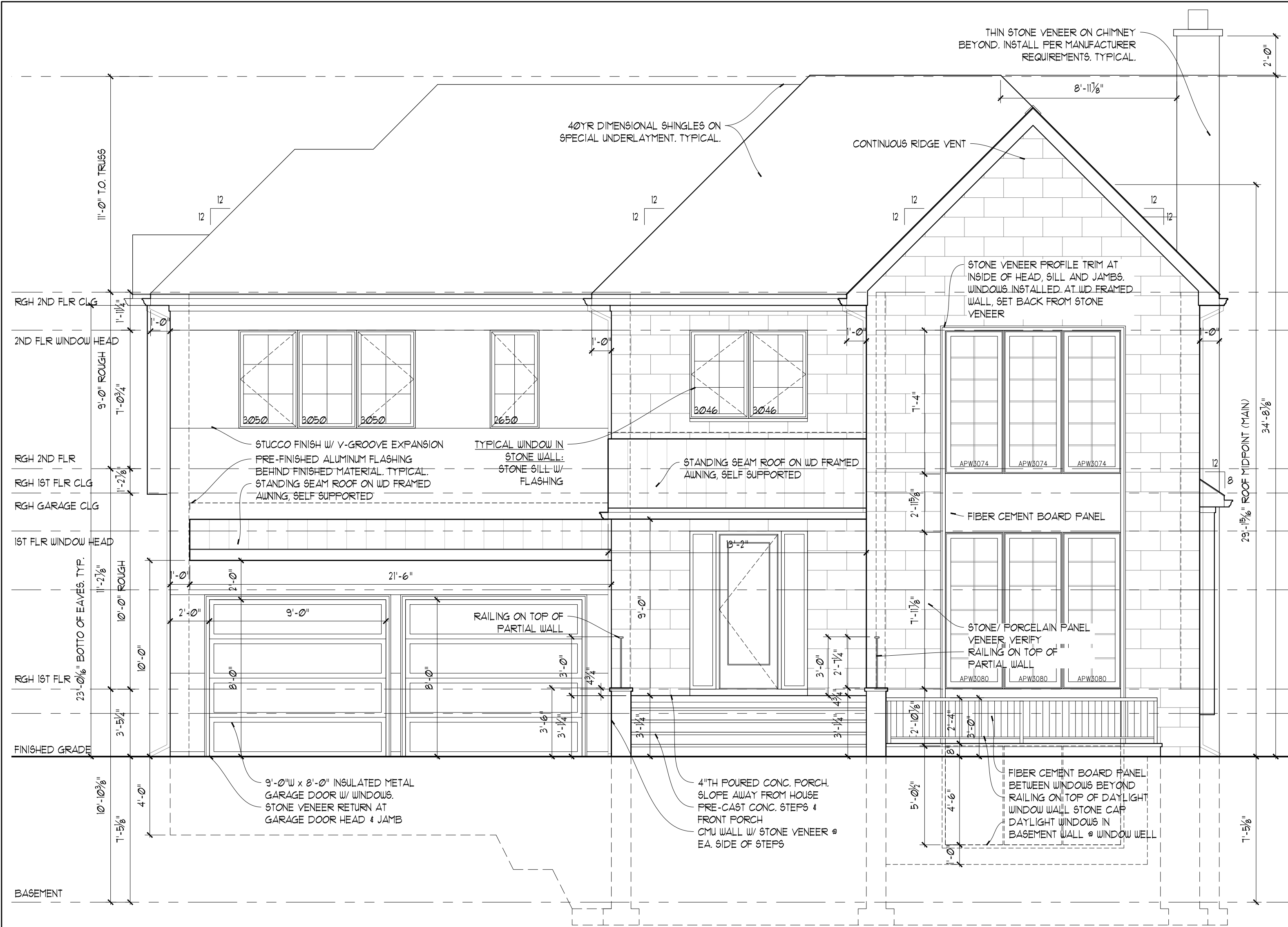
SCALE: 1/4"=1'-0"



First Floor Plan

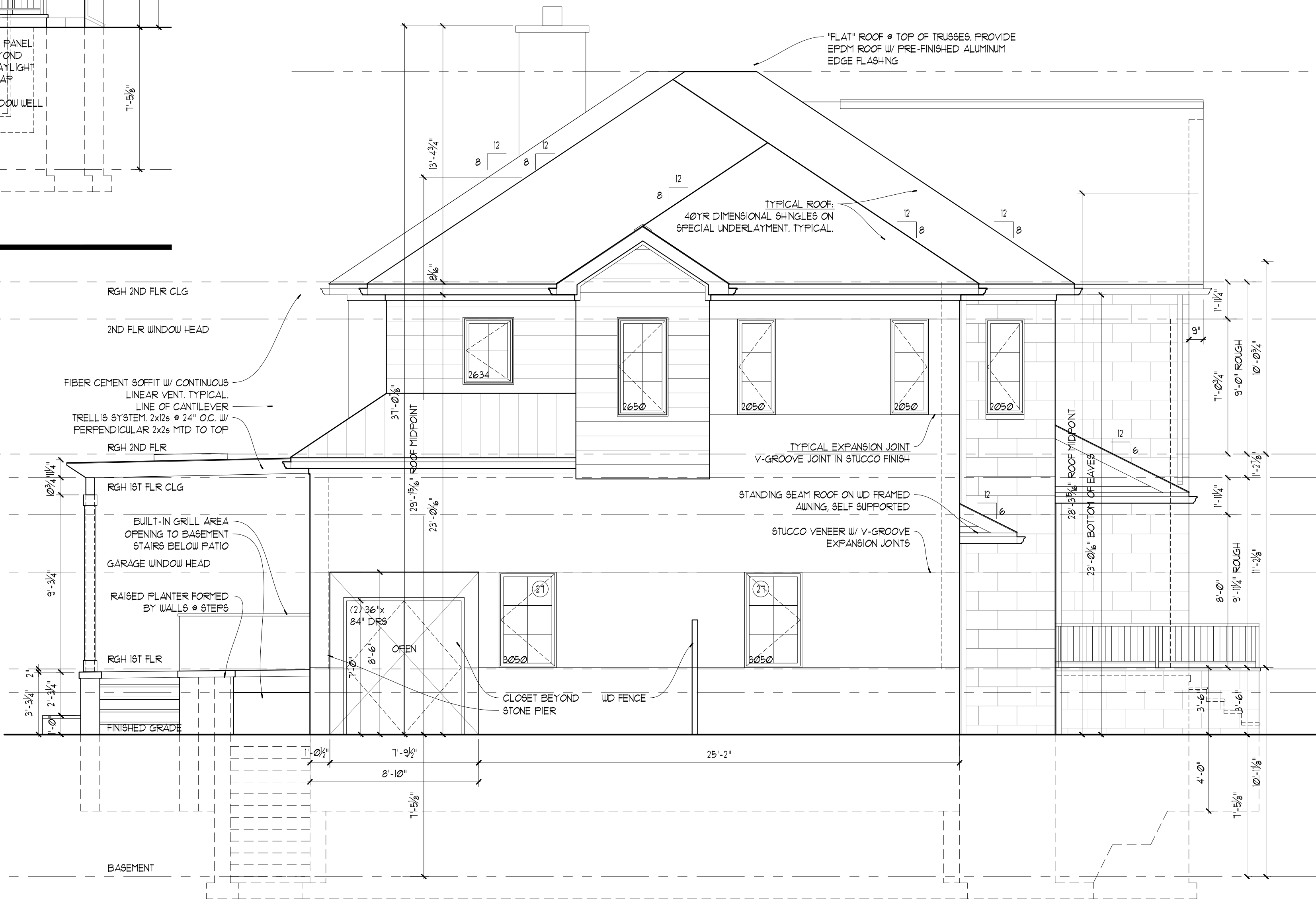
SCALE: 1/4"=1'-0"





North Elevation (Derby)

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



East Elevation (Eton)

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



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GROSSE POINTE PARKS, MICHIGAN 48236
P/F: 313.343.0931
E-MAIL: badrakdesigngroup@comcast.net

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PANDOLFI RESIDENCE

19 N ETON
BIRMINGHAM, MI 48009

DRAWING TITLE: NORTH & EAST ELEVATIONS

REVISIONS:

SCALE:

SEE DWG

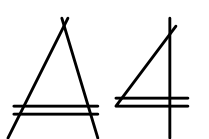
DATE:

10 SEPT, 2021

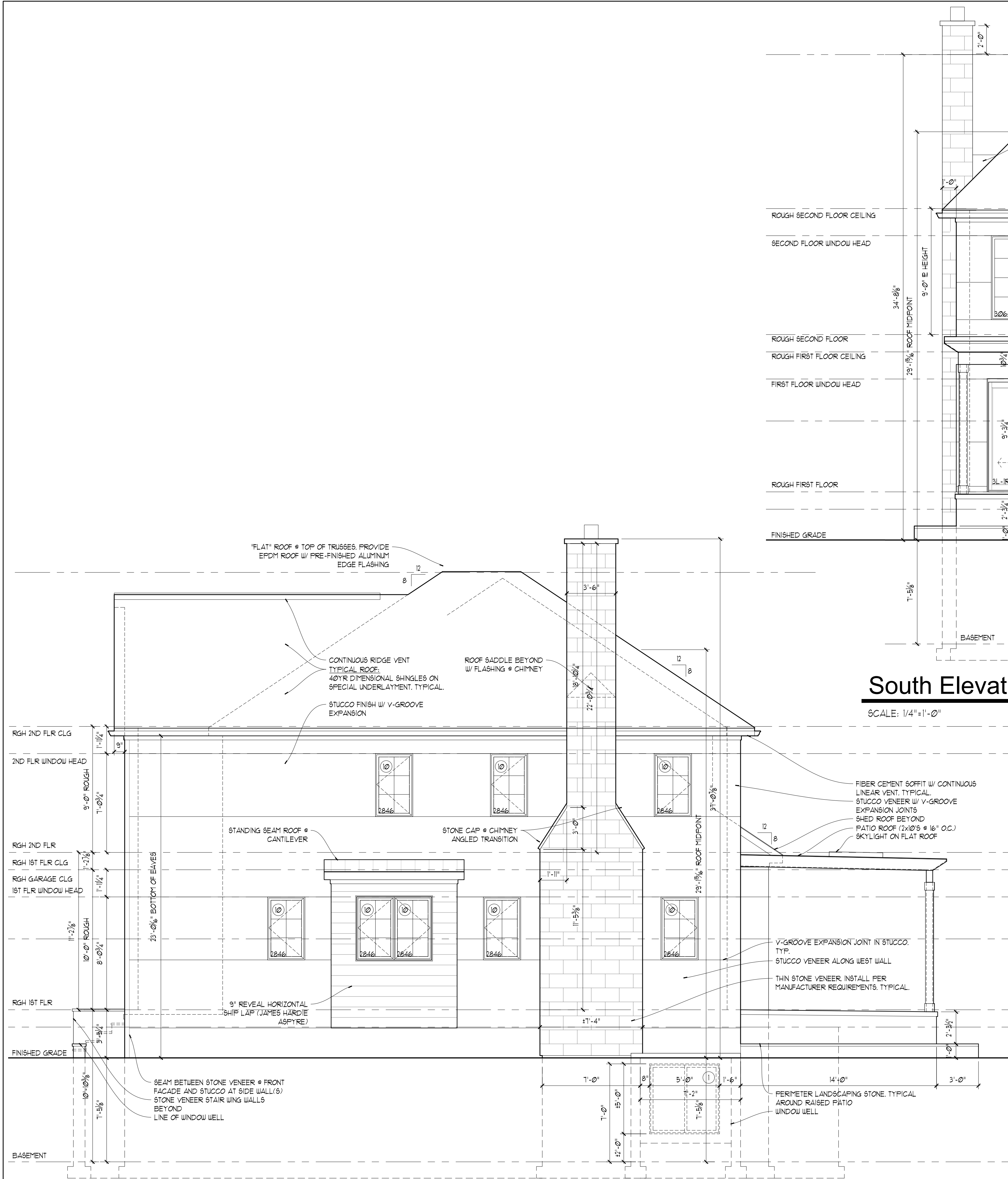
DRAWN BY:

MYB

JOB NUMBER: 21-01

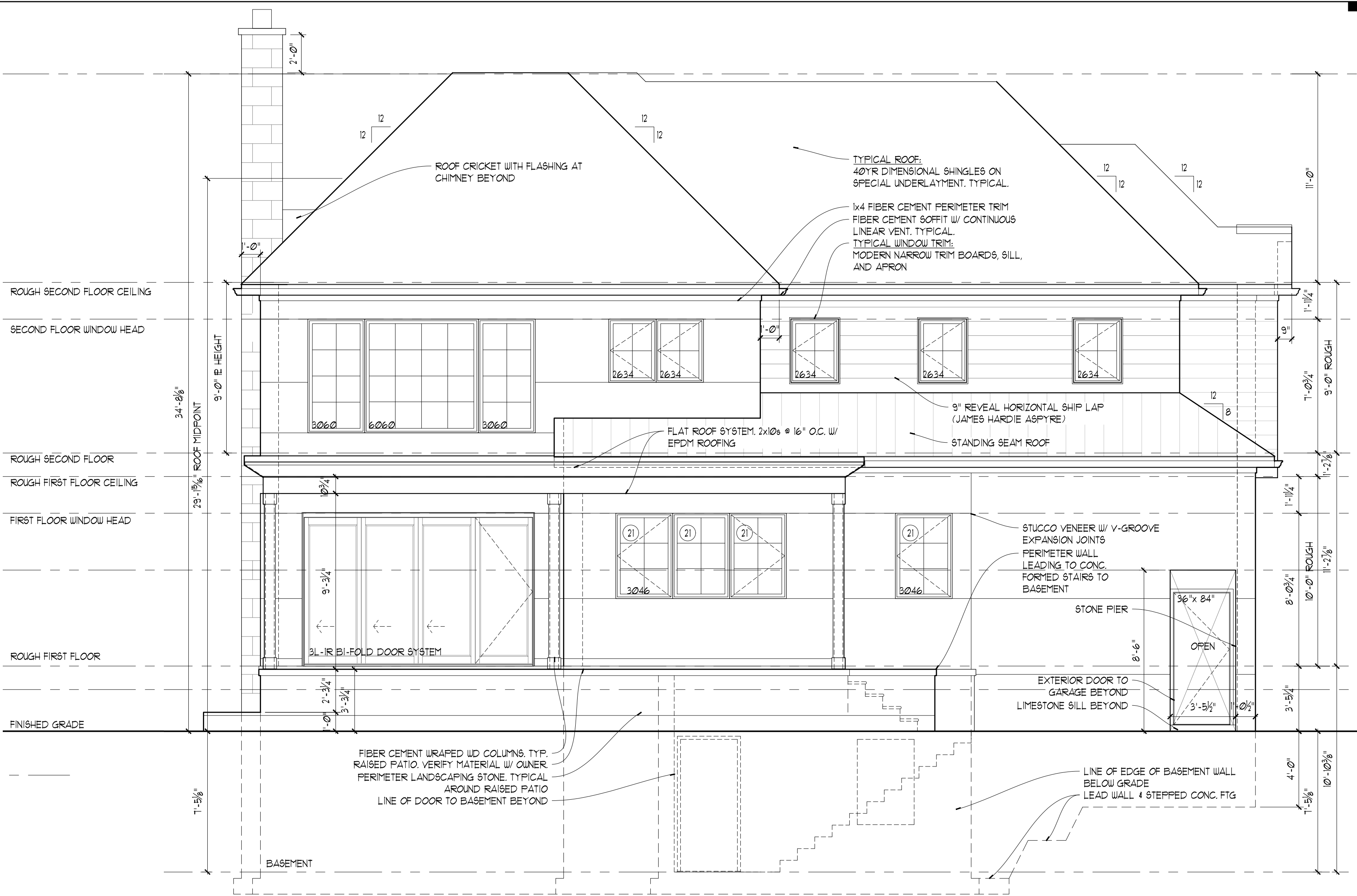


SHEET NO. 4 of 5



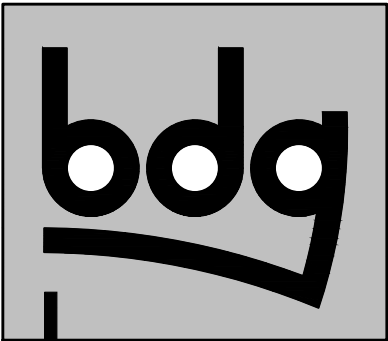
West Elevation

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



South Elevation

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



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336 RIDGE ROAD
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P/F: 313 343 0891
E-MAIL: badrakdesigngroup@comcast.net

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PANDOLFI RESIDENCE

19 N LEXON
BIRMINGHAM, MI 48009

DRAWING TITLE: SOUTH & WEST ELEVATIONS

REVISIONS:

SCALE:

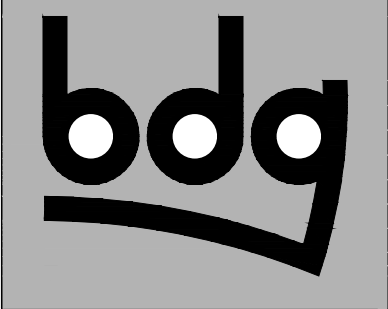
DATE:

DRAWN BY:

JOB NUMBER: 21-01

A5

SHEET NO. 5 OF 5



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E-MAIL: badrakdesigngroup@comcast.net
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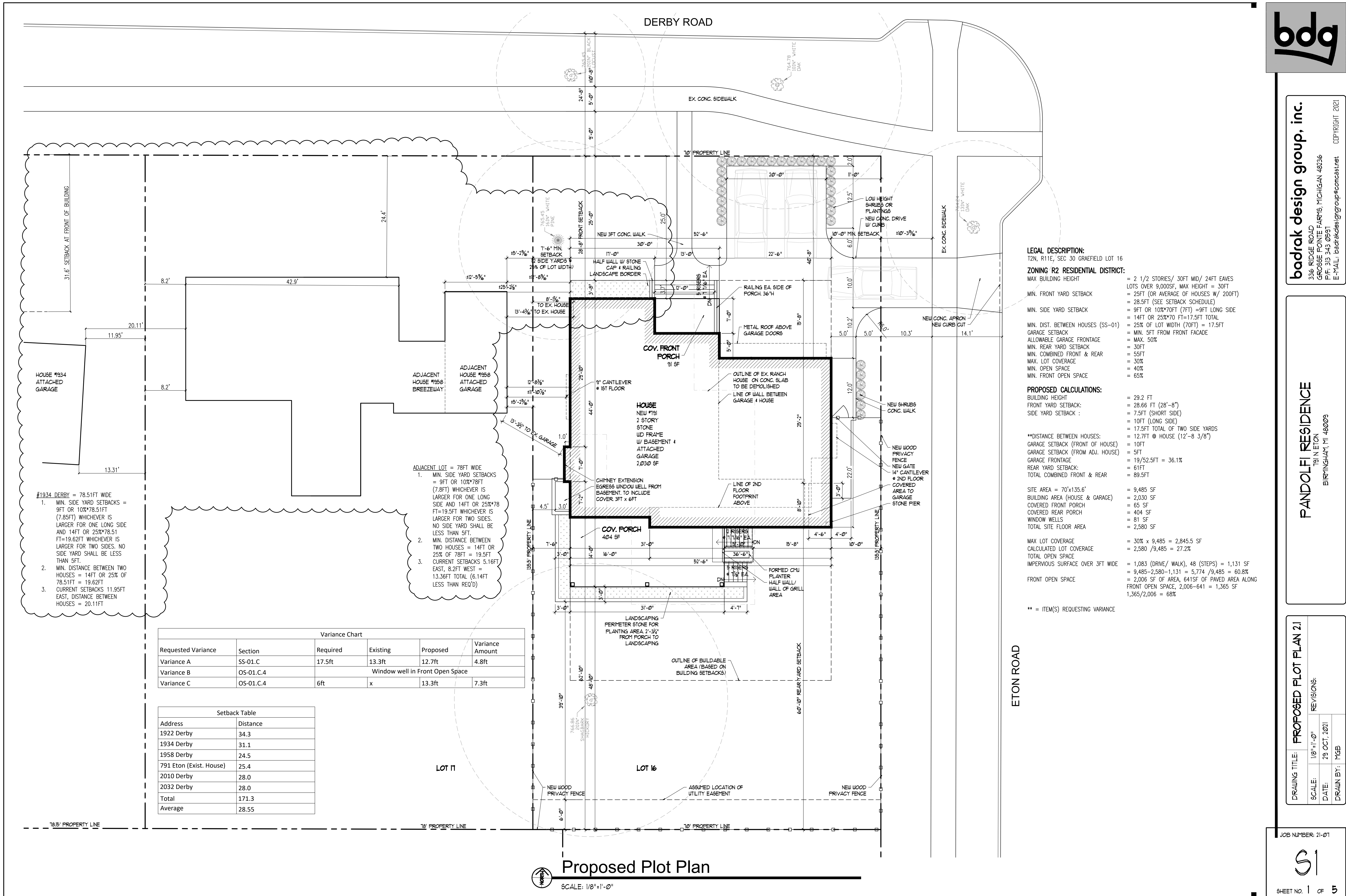
PANDOLFI RESIDENCE
191 N ETON
BIRMINGHAM, MI 48009

DRAWING TITLE:	PROPOSED PLOT PLAN 2.1	REVISIONS:	
SCALE:	1/8"=1'-0"	DATE:	29 OCT, 2021
DRAWN BY:	MGB		

JOB NUMBER: 21-01

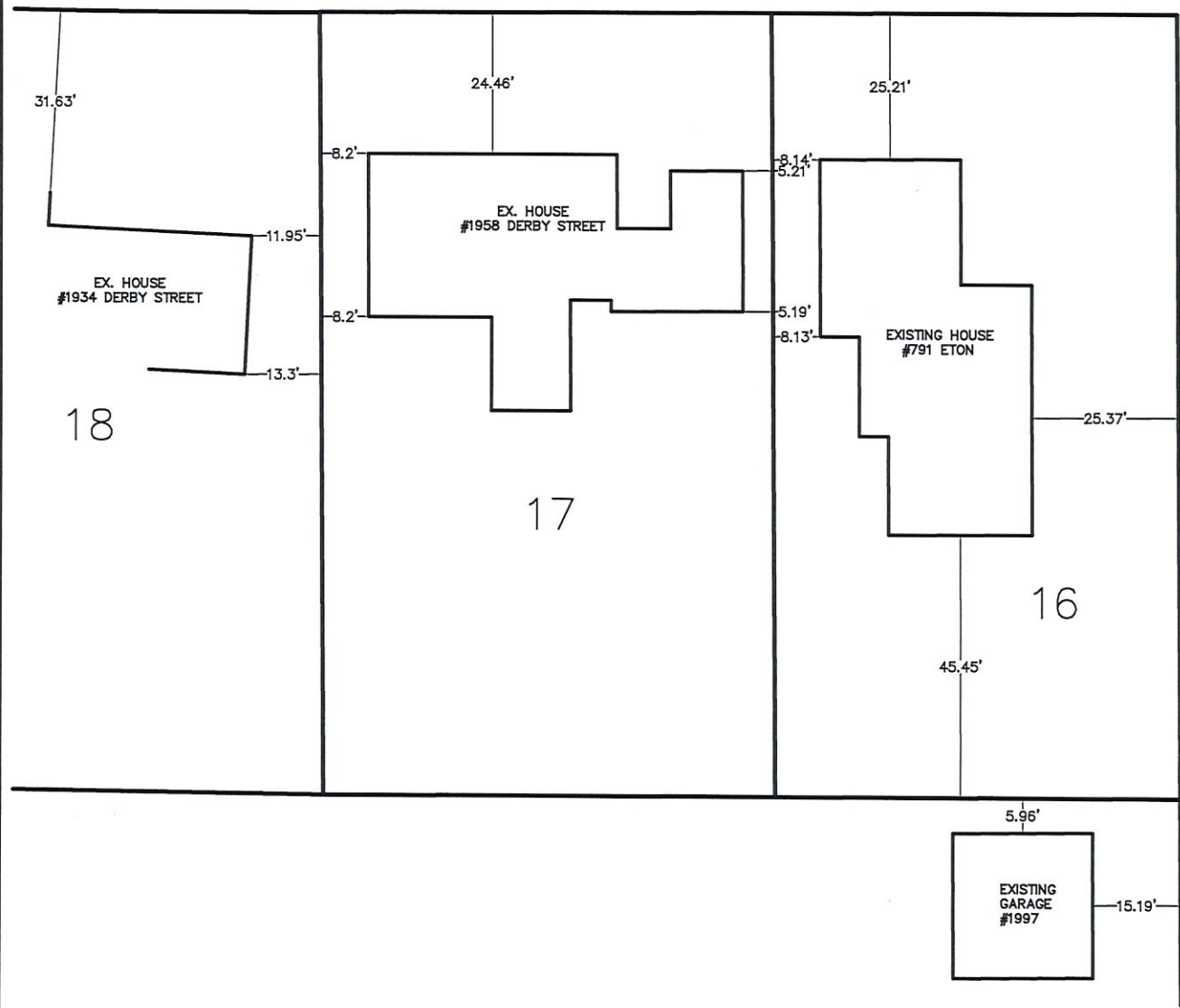
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SHEET NO. 1 OF 5



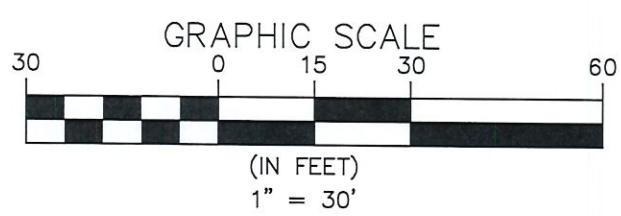
EXISTING HOUSE SETBACK SKETCH
LOT 16 OF "GRAEFIELD SUBDIVISION" BEING
PART OF THE WEST 1/2 SECTION 30, T2N, R11E,
CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN

DERBY ROAD
(86 FT WIDE R.O.W.) – PUBLIC



STATE OF MICHIGAN
Robert R. Drouillard
License No. 400452517
LICENSED PROFESSIONAL SURVEYOR

*HOUSE SETBACK
DIMENSIONS FIELD VERIFIED
10-19-2021*



DION & ERNIE PANDOLFI
2806 PEMBROKE ROAD
BIRMINGHAM, MI 48009
(248) 250-0102
diongalus@yahoo.com

Lehner Associates, Inc.
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Clinton Township, Michigan 48038
o: 586.412.7050 | f: 586.412.7114
www.lehnerassociates.com

#791 ETON STREET
GRAEFIELD SUBDIVISION
HOUSE SETBACK SURVEY
JOB#: 21-149
DATE: 10-25-21 DRAWN BY: RRD
SCALE: 1"=30 PAGE 1 OF 1

CASE DESCRIPTION

157 E. Frank (21-37)

Hearing date: November 9, 2021

Appeal No. 21-37: The owner of the property known 157 E Frank, requests the following variance to replace the existing driveway:

- A. Chapter 126, Article 2.10.1** of the Zoning Ordinance requires that a minimum open space of 40% (2440.00 SF), shall be maintained. The proposed is 33.52% (2045.00 SF). Therefore; a variance of 6.48% (395.00 SF) is being requested.
- B. Chapter 126, Article 4.31(A)** of the Zoning Ordinance requires that a minimum of 65% (1034.40) of the front open space in all single-family districts shall be free of paved surfaces. The proposed is 45.83% (729.43 SF). Therefore a variance of 19.17% (304.99 SF) is being requested.

Staff Notes: The applicant is requesting variances on the required open space to remove and replace the existing drive. The existing home constructed in 1985 was before lot coverage and open space regulations were in the ordinance. The applicant was in front of the board in September (minutes attached), which was tabled at that time.

This property is zoned R2– Single Family Residential.

Jeff Zielke, NCIDQ, LEED AP
Assistant Building Official

157 E FRANK 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 Date: 7-7-21
 Received By: HT

Hearing Date: 9-14-21
 Appeal #: 21-0037

APPLICATION FOR THE BOARD OF ZONING APPEALS

Type of Variance:	<input type="checkbox"/> Interpretation	<input type="checkbox"/> Dimensional	<input type="checkbox"/> Land Use	<input type="checkbox"/> Sign	<input type="checkbox"/> Admin Review
-------------------	---	--------------------------------------	-----------------------------------	-------------------------------	---------------------------------------

I. PROPERTY INFORMATION:

Address: <u>157 E. Frank St.</u>	Lot Number:	Sidwell Number:
----------------------------------	-------------	-----------------

II. OWNER INFORMATION:

Name: <u>Michael Lewis</u>			
Address: <u>157 E. Frank St.</u>	City: <u>Birmingham</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>Lewismichael0000@gmail.com</u>		Phone: <u>(810) 397-4334</u>	

III. PETITIONER INFORMATION:

Name: <u>Nathan Matatail</u>			
Firm/Company Name: <u>NM Restorations Inc.</u>			
Address: <u>21300 Groesbeck Hwy</u>	City: <u>Warren</u>	State: <u>MI</u>	Zip code: <u>48089</u>
Email: <u>info@nandmrestoration.com</u>		Phone: <u>(586) 883-2170</u>	

IV. GENERAL INFORMATION:

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

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

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

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

V. REQUIRED INFORMATION CHECKLIST:

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

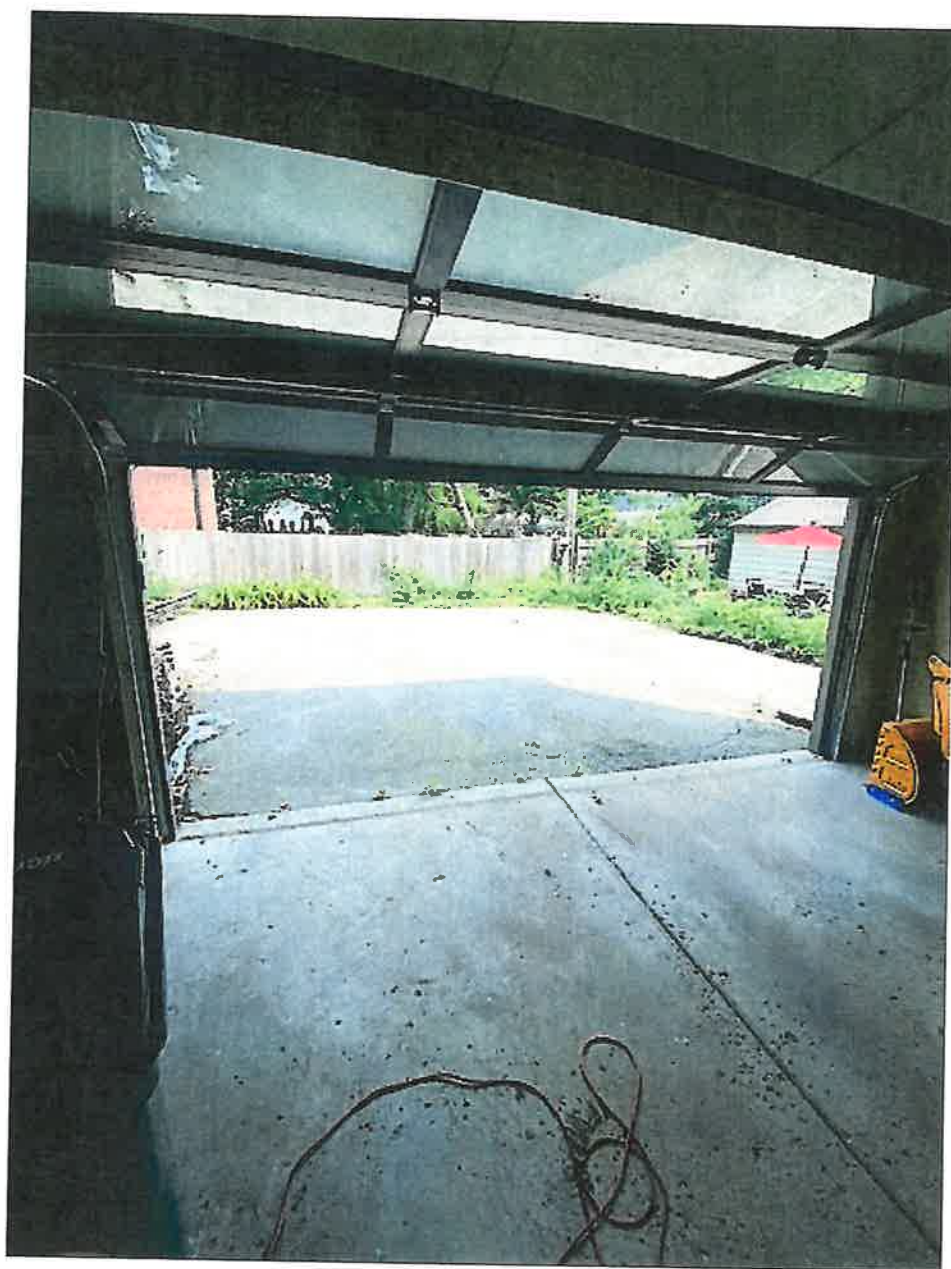
VI. APPLICANT SIGNATURE

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

X Signature of Owner: Michael Lewis
 Signature of Petitioner: Nathan Matatail

Date: 7-7-21

Date: 7/7/2021







To Whom it May Concern,

I purchased my new home at 157 E Frank St in Birmingham in February of this year. After purchasing the home, I made plans to replace windows, update electrical that was not up to code and various other items. One item that has been very difficult to deal with has been the driveway. The driveway slopes towards the garage due to the root system of a MASSIVE oak tree that I had removed which was growing 1.5' away from the home. When it rains, the water goes all inside my garage and creates a flood every time. When it snows, the ice freezes and melts into the garage as well, producing ice dams and more floods. As you can see from the attached photos, my driveway is a rare driveway in Birmingham as it is a front entry drive, rear entrance-attached garage. This being my 4th home in Birmingham, all of my previous homes had detached garages, or forward facing however this driveway requires a 4-5 point turn just to get my vehicle in the garage as it currently is designed. The driveway has eroded on all corners and areas, where re-sealing or resurfacing it is no longer an option. The drive pools at the entrance as it is higher than the sidewalk and has potholes on both sides from the asphalt eroding. The drive from the front to the back is like walking a tight-rope and my mirror has hit my home several times, one time my bumper actually hit the corner of the home splitting the wood and leaving a massive

dent on my bumper that I will be forced to replace when turning in my lease. I wanted to replace the driveway exactly as it stands because I cannot afford to lose an inch in any direction because of how difficult it is to use/maneuver with my vehicle. I was then told I had to find some area to reduce it which I replied if I absolutely have to, I would take some off of the back (north facing side against the fence) however it would cause me to drive in my garden to turn around, but if I have to just to replace the driveway to avoid any further flooding and bury the electrical underneath it, then I will. All I am asking is to replace my current dilapidated driveway with a cement driveway. I am available to discuss this in front of the city planning or commission team at any time and would be happy to walk anyone around my property as well. Please view the attached photos as further supporting documentation that I am merely asking to replace the driveway with an operable one.

Thank you,

Michael E. Lewis

810-397-4334

CUSTOMER DATA:

DRAWN:


CHECKED:

APPROVED:

SCALE:

DATE:

SHEET NO.



Birmingham Board Of Zoning Appeals Proceedings
Tuesday, September 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, September 14, 2021. Chair Charles Lillie convened the meeting at 7:32 p.m.

2. Rollcall

Present: Chair Charles Lillie; Board Members Jason Canvasser, Kevin Hart, John Miller, Erik Morganroth (attended virtually, located in Birmingham MI); Francis Rodriguez, Richard Lilley

Absent: Alternate Board Members Ron Reddy, Erin Rodenhouse

Administration:

Bruce Johnson, Building Official
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 Morganroth.

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

Vice-Chair Morganroth took rollcall of the petitioners. All petitioners were present with the exception of Appeal 21-35. ABO Zielke indicated the petitioners for Appeal 21-35 were in the parking lot and would be joining the meeting momentarily.

T# 09-49-21

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 Meeting Of August 10, 2021

Mr. Canvasser stated that in the second full line of page two 'because' should be changed to 'becomes'.

Motion by Mr. Canvasser

Seconded by Mr. Lilley to accept the Minutes of the BZA meeting of August 10, 2021 as amended.

Motion carried, 6-0.

ROLL CALL VOTE

Yeas: Lilley, Hart, Morganroth, Canvasser, Rodriguez, Miller

Nays: None

Abstain: Lillie

With Vice-Chair Canvasser and Messrs. Hart, Miller, and Rodriguez abstaining due to their absences from the July 13, 2021 meeting the Board did not have a quorum for a vote on the July 13, 2021 minutes. Consequently, approval of the July 13, 2021 minutes was delayed to a future date.

T# 09-50-21

5. Appeals

1) 689 Westwood Appeal 21-29

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

A. Chapter 126, Article 2.06.2 of the Zoning Ordinance requires that the minimum total side yard setback are 14.00 feet or 25% of the total lot width whichever is larger. The required is 22.47 feet. The proposed is 18.99 feet. Therefore; a variance of 3.48 feet is being requested.

ABO Zielke continued that the applicant had an appeal denied by the Board in May 2021. The applicant returned with a request for a lesser variance to construct an addition to the home.

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

Both ABO Zielke and Ms. Meads explained that this variance would still allow the neighbor to the north to teardown and rebuild their home while meeting the requirements for the distance between neighbors. They noted that doing so would depend on the neighbor to the north's choices in were to situate a rebuilt house on the lot.

Ms. Meads also noted that if the owners of 689 Westwood were to teardown and rebuild their house they would still be able build the wall of their garage where it was being proposed.

Motion by Mr. Miller

Seconded by Mr. Lilley with regard to Appeal 21-29, A. Chapter 126, Article 2.06.2 of the Zoning Ordinance requires that the minimum total side yard setback are 14.00 feet or 25% of the total lot width whichever is larger. The required is 22.47 feet. The proposed is 18.99 feet. Therefore; a variance of 3.48 feet is being requested.

Mr. Miller moved to approve the variance and tied it to the plans as submitted. He noted that this was the third time the Board was reviewing this petition. He said the matter was not self-created. He explained the issue was the result of the relationship between garage, steps, and house which makes the garage unusable as a two-car garage. He said strict compliance would unreasonably restrict the owners' use of the garage. He said the impact on the neighbor to the north would either be minimal or negligible because of the way this house and the adjacent houses sit on their lots at an angle.

Mr. Hart said that the Board could only make its determination based on what exists now in terms of the neighbor to the north. He said he would support the motion.

Vice-Chair Morganroth said the Board was responsible for ensuring to the best of its ability that it would not negatively affect the neighbor, and said the Board had done so in its three reviews of this appeal. He said in light of that and the practical difficulty with the garage he would support the motion.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

**2) 448 Willits
Appeal 21-35**

ABO Zielke presented the item, explaining that the owner of the property known as 448 Willits was requesting the following variances to renovate the exterior of an existing non-conforming single-family home:

A. Chapter 126, Article 4.30(C)(2) of the Zoning Ordinance allows roof overhangs to extend or project into a required side open space not more than 2 inches for each 1 foot of width of such required open space. The West side yard setback is non-conforming by 5.40 feet. A one (1.00) foot overhang is proposed. Therefore; a variance of 3.74 feet for the overhang is being requested.

B. Chapter 126, Article 4.30(C)(2) of the Zoning Ordinance allows roof overhangs to extend or project into a required side open space not more than 2 inches for each 1 foot of width of such required open space. The East side yard setback is non-conforming by 2.30 feet. An existing/proposed one (1.00) foot overhang is being proposed. Therefore; a variance of 2.47 feet for the overhang is being requested.

C. Chapter 126, Article 4.30(C)(2) of the Zoning Ordinance allows roof overhangs to extend or project into a required front open space not more than 2 inches for each 1 foot of width of such required open space provided that such extensions may not project more than 2 feet into the front open space. The front yard setback is non-conforming by 6.30 feet. A two (2.00) foot overhang is being proposed. Therefore a variance of 6.30 feet for the overhang is be requested.

ABO Zielke continued that the applicant was proposing to re-side and restore the existing exterior of the existing non-conforming home that was constructed in 1924.

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

Motion by Mr. Miller

Seconded by Mr. Lillie with regard to Appeal 21-35, A. Chapter 126, Article 4.30(C)(2) of the Zoning Ordinance allows roof overhangs to extend or project into a required side open space not more than 2 inches for each 1 foot of width of such required open space. The West side yard setback is non-conforming by 5.40 feet. A one (1.00) foot overhang is proposed. Therefore; a variance of 3.74 feet for the overhang is being requested; and, B. Chapter 126, Article 4.30(C)(2) of the Zoning Ordinance allows roof overhangs to extend or project into a required side open space not more than 2 inches for each 1 foot of width of such required open space. The East side yard setback is non-conforming by 2.30 feet. An existing/proposed one (1.00) foot overhang is being proposed. Therefore; a variance of 2.47 feet for the overhang is being requested; and, C. Chapter 126, Article 4.30(C)(2) of the Zoning Ordinance allows roof overhangs to extend or project into a required front open space not more than 2 inches for each 1 foot of width of such required open space provided that such extensions may not project more than 2 feet into the front open space. The front yard

setback is non-conforming by 6.30 feet. A two (2.00) foot overhang is being proposed. Therefore a variance of 6.30 feet for the overhang is be requested.

Mr. Miller moved to approve the variances and tied them to the plans as submitted. He explained that most of the houses along this stretch of Willits are non-conforming, and that allowing the owners to improve their homes instead of requiring they be rebuilt does substantial justice to the owner, neighbors, and th City.

Mr. Lillie said he would support the motion since it was the existing placement of the house on the lot that was causing the need for the variances.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

**3) 157 E. Frank
Appeal 21-37**

ABO Zielke presented the item, explaining that the owner of the property known as 157 E. Frank was requesting the following variances to replace the existing driveway:

A. Chapter 126, Article 2.10.1 of the Zoning Ordinance requires that a minimum open space of 40% (2440.00 SF), shall be maintained. The proposed is 33.63% (2051.65 SF). Therefore; a variance of 6.37% (388.35 SF) is being requested.

B. Chapter 126, Article 4.31(A) of the Zoning Ordinance requires that a minimum of 65% (1034.40) of the front open space in all single-family districts shall be free of paved surfaces. The proposed is 36.04% (573.65 SF). Therefore a variance of 28.96% (460.75 SF) is being requested.

ABO Zielke continued that the applicant was requesting variances on the required open space to remove and replace the existing drive. The existing home was constructed in 1985, before lot coverage and open space regulations were added to the ordinance.

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

Nathan Matatall, contractor, was present to answer technical questions on behalf of the appellant.

Mr. Canvasser, Mr. Lillie, and Mr. Miller each suggested ways the appellant could reduce the amount of hardscape in the front yard, thereby at least minimizing the variance requests.

The Board offered the appellant the option to table the appeal to October 2021 to see if he might find a way of minimizing the hardscape in the front yard.

Mr. Lewis accepted the offer to table the appeal for one month.

Motion by Mr. Canvasser

Seconded by Mr. Miller with regard to Appeal 21-37, A. Chapter 126, Article 2.10.1 of the Zoning Ordinance requires that a minimum open space of 40% (2440.00 SF), shall be maintained. The proposed is 33.63% (2051.65 SF). Therefore; a variance of 6.37% (388.35 SF) is being requested; and, B. Chapter 126, Article 4.31(A) of the Zoning Ordinance requires that a minimum of 65% (1034.40) of the front open space in all single-family districts shall be free of paved surfaces. The proposed is 36.04% (573.65 SF). Therefore a variance of 28.96% (460.75 SF) is being requested.

Mr. Canvasser moved to adjourn Appeal 21-37 to October 2021. He noted that more detailed drawings that included the landscaping and locations of other features would help the Board evaluate the appeal.

Vice-Chair Morganroth said providing a design plan instead of a plot plan would help.

Mr. Miller agreed with Messrs. Canvasser and Morganroth about the need for more detailed plans. He said those plans should include the location of the front porch and the overhangs on the house. He said he would also recommend at least some effort at mitigating the amount of hardscape being requested in the front of the home.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

**4) 1222 Cole
Appeal 21-38**

ABO Zielke presented the item, explaining that the owner of the property known as 1222 Cole was requesting the following variance to replace the existing A/C condensers:

A. Chapter 126, Article 4.03(B) of the Zoning Ordinance allows accessory structures to be located in the rear open space, but shall be at least 3.00 feet from any lot line. The existing and proposed is 1.90 feet. Therefore; a variance of 1.10 feet is being requested.

ABO Zielke continued that the applicant was seeking to replace the existing A/C units which are currently non-conforming. The home was constructed in 2011.

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

Mr. Fabry confirmed that there was an easement in the home's title to allow for the current placement of the fence.

Motion by Mr. Lillie

Seconded by Mr. Lilley with regard to Appeal 21-38, A. Chapter 126, Article 4.03(B) of the Zoning Ordinance allows accessory structures to be located in the rear open space, but shall be at least 3.00 feet from any lot line. The existing and proposed is 1.90 feet. Therefore; a variance of 1.10 feet is being requested.

Mr. Lillie moved to grant the variance as advertised as long as the replacement A/C units comply with the City's noise ordinance. He tied the approval to the plans as presented.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

**5) 1159 E. Maple
Appeal 21-39**

ABO Zielke presented the item, explaining that the owner of the property known as 1159 E. Maple was requesting 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% (1924.00) of the front open space in all single-family districts shall be free of paved surfaces. The existing is 52.70% (1561.00 SF) and the proposed is 57.60% (1706.00 SF). Therefore a variance of 7.94% (218.00 SF) is being requested.

ABO Zielke continued that the applicant was seeking to replace the existing driveway which exceeds the allowable impervious area in the required front yard. The home was constructed in 1986.

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

Motion by Mr. Miller

Seconded by Mr. Lilley with regard to Appeal 21-39, A. Chapter 126, Article 4.31(A) of the Zoning Ordinance requires that a minimum of 65% (1924.00) of the front open space in all single-family districts shall be free of paved surfaces. The existing is 52.70% (1561.00 SF) and the proposed is 57.60% (1706.00 SF). Therefore a variance of 7.94% (218.00 SF) is being requested.

Mr. Miller moved to approve the variance and to tie it to the plans as submitted. He noted that there were a number of unique conditions contributing to the need for the variance including a lack of street parking in front of the home, the location of the garage on the lot, and the fact that the home is located in a high-traffic area. He said the appellant's proposal to replace the driveway with some mitigation was reasonable as a result. He noted that approving the variance would also have no negative impact on the neighbors.

Vice-Chair Morganroth said he would support the motion. He noted that the circumstances outlined by Mr. Miller explained the difference between this appeal and Appeal 21-37.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

T# 09-51-21

6. Correspondence

Included in the agenda packet.

T# 09-52-21

7. General Business

T# 09-53-21

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

None.

T# 09-54-21

8. Adjournment

Motion by Mr. Lilley

Seconded by Mr. Canvasser to adjourn the September 14, 2021 BZA meeting at 9:10 p.m.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

Bruce R. Johnson, Building Official

CASE DESCRIPTION

1061 Forest (21-47)

Hearing date: November 9, 2021

Appeal No. 21-47: The owner of the property known 1061 Forest, requests the following variance to construct a fence in the required front open space:

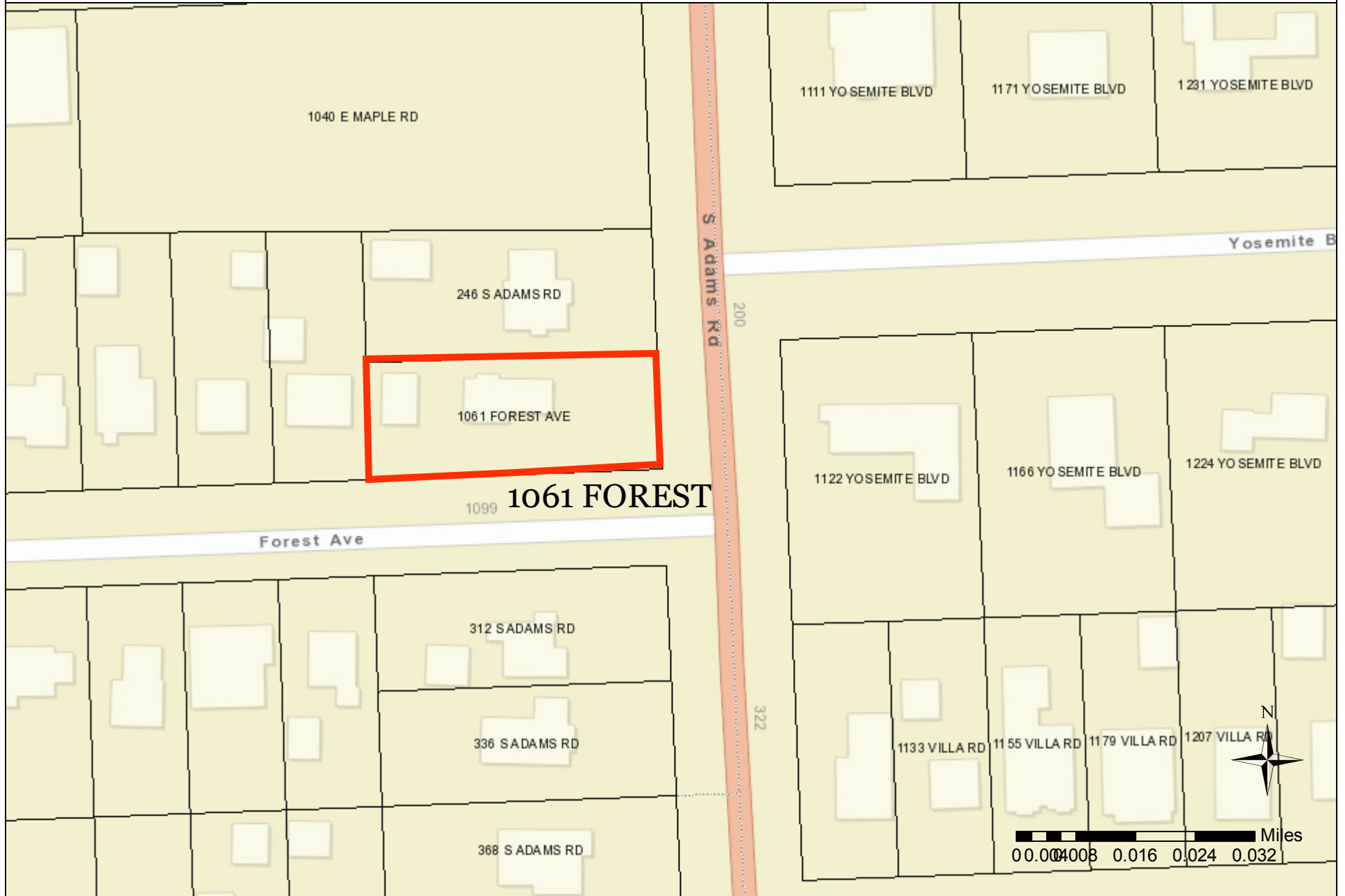
- A. Chapter 126, Article 4.1(A)(1) of the Zoning Ordinance states that fences in the front open space shall not exceed 3.00 feet in height. The proposed is 6.00 feet. Therefore; a variance of 3.00 feet is being requested.

Staff Notes: The applicant is proposing to install a new 6.00 foot tall fence to replace the existing 6.00 foot tall fence in the required front yard. The existing home was moved to this site in 1984. There was a fence permit that was from 1985 which stated which is the front yard.

This property is zoned R2– Single Family Residential.

Jeff Zielke, NCIDQ, LEED AP
Assistant Building Official

1061 FOREST 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: October 1, 2021

Hearing Date: 11-9-21

Received By: BW

Appeal #: 21-0047

Type of Variance:	<input type="checkbox"/> Interpretation	<input checked="" type="checkbox"/> Dimensional X	<input type="checkbox"/> Land Use	<input type="checkbox"/> Sign	<input type="checkbox"/> Admin Review
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I. PROPERTY INFORMATION:

Address: 1061 Forest Avenue	Lot Number: 4	Sidwell Number: 08-19-36-227-026
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II. OWNER INFORMATION:

Name: Nicholas Green and Clodagh Earls			
Address: 1061 Forest Avenue	City: Birmingham	State: MI	Zip code: 48009
Email: <u>clodagh.earls@gmail.com</u>		Phone: <u>248-550-9505</u>	

III. PETITIONER INFORMATION:

Name: Richard E. Rassel	Firm/Company Name: Williams, Williams, Rattner & Plunkett		
Address: 380 N. Old Woodward Ave. Suite 300	City: Birmingham	State: MI	Zip code: 48009
Email: rer@wwrplaw.com		Phone: 248-642-0333	

IV. GENERAL INFORMATION:

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

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

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

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

V. REQUIRED INFORMATION CHECKLIST:

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

VI. APPLICANT SIGNATURE

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></u>	<div style="border: 2px solid red; padding: 5px; display: inline-block;"> RECEIVED OCT 04 2021 </div>	Date: <u>09/30/2021</u>
Signature of Petitioner: <u></u>		Date: <u>9/30/2021</u>

CITY OF BIRMINGHAM
COMMUNITY DEVELOPMENT DEPARTMENT

**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.

 09/30/2021

Signature of Applicant



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

380 North Old Woodward Avenue
Suite 300
Birmingham, Michigan 48009

Tel: (248) 642-0333

Fax: (248) 642-0856

www.wwrplaw.com

Richard E. Rassel
rer@wwrplaw.com

October 1, 2021

By: Hand Delivery

Board of Zoning Appeals
City of Birmingham
151 Martin St.
Birmingham, MI 48012
Attn: Bruce Johnson
Building Director

Re: 1061 Forest ("Property")- Nicholas Green and Clodagh Earls (the "Greens")

Dear Members of the Board of Zoning Appeals:

Please accept the following as a practical difficulty/hardship letter on behalf of our clients the Greens in support of the Green's request for a dimensional, non-use variance from the City of Birmingham Zoning Ordinance ("Zoning Ordinance") at Section 4.11 to permit the replacement and improvement of a 6' foot high solid cedar fence in the required front open space of the Property along Forest Avenue and Adams Road as shown on the plan at **Exhibit A**.

* * *

Background

The Greens have owned the Property commonly known as 1061 Forest Avenue since November 13, 2013. The Greens, both professionals, have enjoyed living in Birmingham and have developed close relationships with their neighbors in the surrounding area. Petitioners now have 2 small children, ages 3 and 11 months.

Research shows that the home on the Property was originally located on Willits Street in Birmingham. In 1984, the home was relocated from Willits Street to the present location on the Property and placed on a new basement foundation. See 1984 Building Permit **Exhibit B**. The front door and primary entrance of the home were oriented towards Forest Avenue to the south. However, the 1984 Permit notes that for purposes of zoning, the Adams Road (eastern) frontage is the front lot line of the Property and the yard between Adams and the eastern facade of the home is the front open space. See 1984 Permit notes **Exhibit B**. The home on the Property has remained in its current location since 1984, with the front door and primary entrance both oriented toward Forest Avenue to the south (see 2020 historical photos **Exhibit D**) but, subject to recent confirmation from the City Building Department, still subject to the Adams Road oriented

front open space determination.

For 24 years, since at least October, 1997, the Property was improved by a 6' foot high solid wood fence extending around the entire perimeter of the house, including all the way to the Adams Road lot line (inclusive of the front open space) and stopping at the home's southerly façade where the front door is located along Forest Avenue. See 1997 Fence Permit **Exhibit C** and 2020 historical photos **Exhibit D**. The fence provided historical privacy and safety for the Property, especially from Adams Road, which is a busy commercial and heavily trafficked road in this area.

In the spring/summer of 2021, the Greens sought to replace and improve an old and dilapidated section of the fence along the northern, eastern (Adams) and southerly sections of the front open space to maintain the family's privacy and safety from Adams Road, for the benefit of the Green's children primarily. The Greens hired a contractor and removed this section of the fence with the intent to install replacement 6' high solid cedar fencing in the exact same location as had existed since 1997. See plan at **Exhibit A** and images of the proposed fencing material at **Exhibit E**. The Greens were then informed by the City that per the Zoning Ordinance at Section 4.11, the fence height would be restricted to 3' feet in height along Adams since this area constituted the front open space per the original Building Permit notes (and residential fencing is limited to 3' feet in height in front open spaces in this zoning district). The Greens were told by the City Building Department that they would need a variance to improve and replace the removed fence area with a 6' foot high solid cedar fence in the areas shown on the plan at **Exhibit A**.

The Greens, therefore, request a 3' foot dimensional, non-use variance from the Board of Zoning Appeals ("BZA") from Section 4.11 of the Zoning Ordinance to improve the Property through the replacement of the old-dilapidated and removed section of the fence with a 6' foot high solid cedar fence in the areas shown on the plan at **Exhibit A** and in the same exact location as the historical fence had existed since 1997. As will be shown, the Greens request to the BZA is based on the existence of an exceptional practical difficulty to the Greens that is rooted in both the historical treatment of the Property by the City as it relates to the fence and in privacy and safety concerns for the Green family and their children as it relates to the Property's unique proximity to adjacent Adams Road, again, a busy commercial and heavily trafficked road in this area.

The Greens have consulted with their neighbors in the area and have their full and unconditional support for their equitable variance request to the BZA. The Green's request will not negatively affect the character or harmony of the surrounding area or its streetscape, especially since the request is to merely continue a prior use in a consistent location that existed continually since 1997.

Respectfully, and for the reasons set forth below, the requested dimensional, nonuse variance for the improved and replaced fence is warranted.

Variance Standards

Chapter 8.01 The Board of Zoning Appeals Section F.3.a. provides:

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.

Strict Application of the Zoning Ordinance Unreasonably Prevents a Permitted Purpose

The Greens propose a permitted use, a fence, in the area shown on the plan at **Exhibit A**, and at a height consistent with its historical use as a 6' foot high solid wood fence improvement. (See also images of the proposed fencing material at **Exhibit E**). The old-dilapidated fence needed to be replaced and improved and the Greens propose to install the 6' foot high fence in the subject area in the same location as previously permitted for 24 years per the 1997 Fence Permit. See 1997 Fence Permit **Exhibit C** and 2020 historical photos **Exhibit D**. To strictly apply the Zoning Ordinance requirement at Section 4.11 of a 3' foot high fence in this very unique front open space along Adams Road prevents the historical screening, privacy and safety provided by the 6' high sold fence enjoyed by the Property's owners since 1997. Further, the

requested variance encourages reasonable improvements in the subject area and discourages simply leaving old dilapidated similar or identical improvements from being maintained, replaced and improved for the betterment of the neighborhood.

Literal Enforcement Will Result in an Unnecessary Hardship

The unnecessary hardship experience by the Greens relates primarily to the Property's unique location adjacent to Adams Road, a busy commercial and heavily trafficked road that presents legitimate safety and privacy concerns to homeowners with small children like the Greens who live along its edges. This explains the existence of the 6' high solid wood fence that existed per City permission since 1997 and which in all practical effect is merely being replaced. This same argument, to allow a 3' high fence variance, would not apply to other properties not abutting a major and dangerous commercial thoroughfare like the Property and, therefore, is unique, resulting in a specific and unnecessary hardship to the Greens not experienced by other dissimilar homeowners in the City. Without the variance, historical privacy, safety and screening to benefit the Green family will be unnecessarily lost without a correlating benefit to the neighborhood or the City at large.

The Variance is Consistent with the Spirit and Purpose of the Zoning Ordinance and is Consistent with the Public Health Safety and Welfare

The Green's plight is due to the unique circumstances of the Property and its immediate proximity to Adams Road. Essentially, the Greens propose an extension of the status quo, a 6' foot high solid fence to replace an old-dilapidated section of same in the same location that existed since 1997. The Greens' request to extend the screening, safety and privacy features enjoyed by the Property since 1997 would be unnecessarily frustrated by denial of the requested variance without a corresponding public health, safety and welfare benefit to area residents or the City. The Zoning Ordinance permits reasonable variance requests to be granted by the BZA for this exact type of situation.

The Variance Will Result in Substantial Justice to the Greens, their neighbors and the General Public

In these unique circumstances, given the location and special characteristics of this Property, without the requested variance there is a practical difficulty and hardship that prevents the Greens from the use of the Property in the same manner as enjoyed by other property owners in the area, namely the benefit of privacy, screening and most importantly family safety from Adams Road. The variance merely continues and unobjected to improvement that has existed continually since 1997 in the same location. In this spirit, and as noted, the Greens have consulted with their neighbors in the area and have their full and unconditional support for their

equitable variance request to the BZA. The Green's request will not negatively affect the character or harmony of the surrounding area or its streetscape, especially since the request is to merely continue a prior use in a consistent location that existed continually since 1997 for the benefit of reasonable protection for the Green family from Adams Road.

Conclusion

The Greens respectfully contend that the variance standards in the Zoning Ordinance at Chapter 8.01, Section F.3.a. have been met through their request for a 3' foot high dimensional, non-use variance from the literal requirements at Zoning Ordinance Section 4.11 to permit the replacement and improvement of a 6' foot high solid cedar fence in the required front open space of the Property along Forest Avenue and Adams Road as shown on the plan at **Exhibit A**.

If you have any questions or comments about the above, please do not hesitate to contact me. We will of course be able to address this request also at the public hearing.

Very truly yours,

WILLIAMS, WILLIAMS, RATTNER & PLUNKETT, P.C.

Richard E. Rassel

Richard E. Rassel

cc: Nicholas Green and Clodagh Earls

CITY OF BIRMINGHAM
BUILDING INSPECTION DEPARTMENT

REC-111

JUL 23 1984

CITY OF BIRMINGHAM
BUILDING DEPARTMENT

DATE: 7/22/84

BUILDING PERMIT NO. 102486

TWO SETS OF PLANS ARE REQUIRED

APPLICATION is hereby made for a permit to CONSTRUCT ENLARGE ALTER REPAIR DEMOLISH
a building, structure or parking lot.

LOCATION: STREET AND NUMBER

1047

1061

FOREST AVE.

LOT

4

SUBDIVISION

SNOW SUB.

NAME OF APPLICANT

ASHTON BUILDERS, INC.

PHONE

644-8054

ADDRESS

555 SOUTH WOODWARD

ST. 1004 BIRMINGHAM

48011

(Number)

(Street)

(City)

(Zip)

NAME OF OWNER:

ARLEE INVESTMENT CO.

PHONE

ADDRESS

159 PIERCE

ST. 201

BIRMINGHAM

(Number)

(Street)

(City)

ESTIMATED VALUE OF THE PROPOSED CONSTRUCTION: - - - -

(APPLICANT'S) \$

9,000⁰⁰

ZONING

(DEPARTMENT'S) \$

USE GROUP

TYPE OF CONSTRUCTION

(For New Construction Only)

Water Tap Size

FEE

1" 596.00

PERMIT FEE

\$

60

Meter Size

FEE

3/8" 45.00

PLAN REVIEW

\$

Water for Construction

FEE

5.00

FEE

\$

Sewer Size

FEE

6" 661.00

TOTAL

\$

Stop Box (Refunded if
not damaged)

25.00

BOND

\$

TOTAL

TOTAL

\$

60

BRIEF DESCRIPTION OF CONSTRUCTION:

CONSTRUCTION OF NEW BASEMENT ON VACANT LOT INCLUDING

SEWER & WATER TAP ARRANGEMENTS AS PER PLAN

SUBMIT DRAWINGS SHOWING SIZE, LOCATION ETC. ETC.

I hereby certify that the proposed construction is authorized by the owner of record and
that I have been authorized by the owner to make this application as his authorized agent.

SIGNATURE OF OWNER OR AGENT

Mark W. Tkowski

MARK W. TKOWSKI

PRESIDENT
(Title)

LICENSE NUMBER

066903

COMPANY NAME

ASHTON BUILDERS, INC.

APPROVAL: BUILDING INSPECTOR

Frank P. Martin

DATE

7-30-84

PLANNING DIRECTOR

DATE

3/25/83

NOTE: FOR THE PURPOSE OF ZONING THE ADJ. ST. PROPERTY
IS THE FRONT LOT LINE & THAT SPACE IS THE FRONT YARD
SPACE

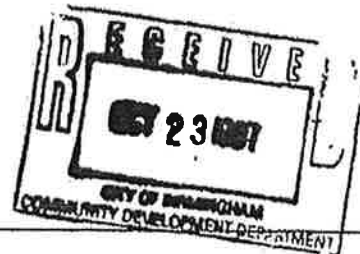
Address:

1061 Forest

Date: October 23, 1997

CITY OF BIRMINGHAM

FENCE PERMIT



TO BE FILLED IN BY APPLICANT

(1) Use of Property home privacy

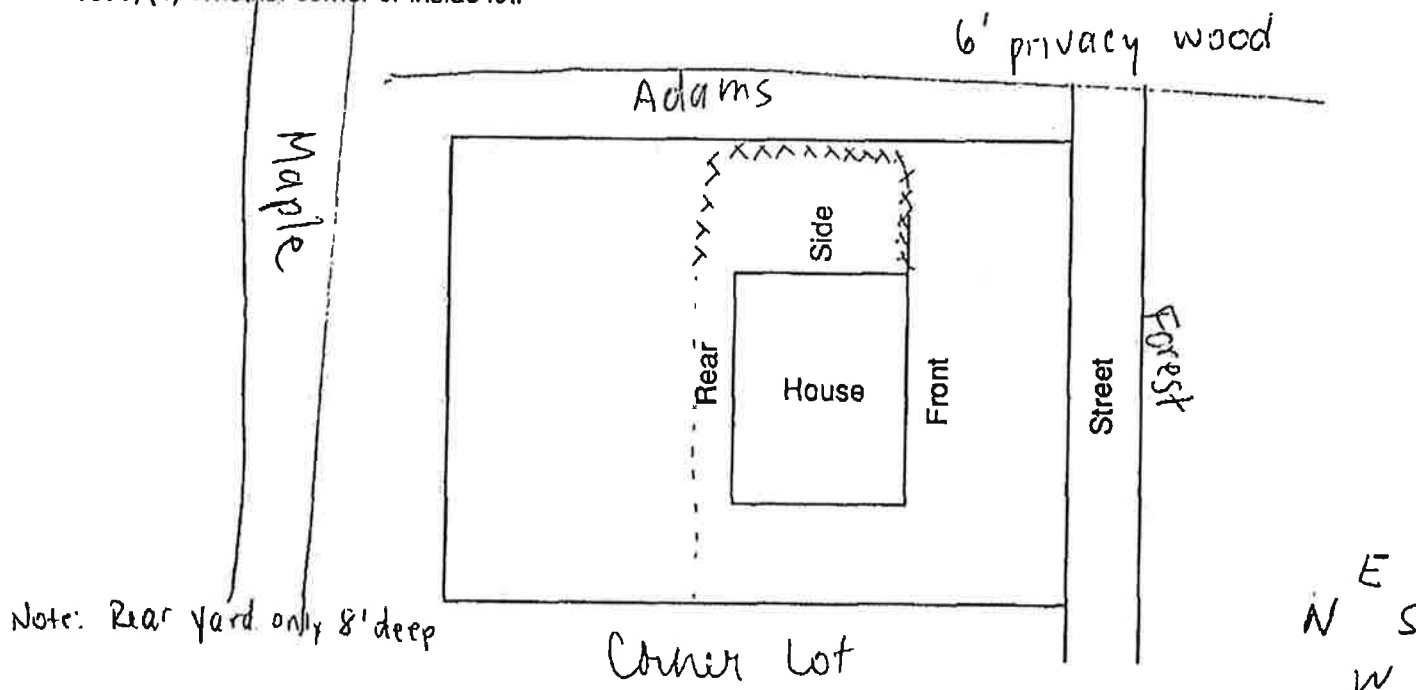
(2) Name of Applicant Nancy Kornfeld

(3) Address 1061 Forest

(4) Telephone h. 642-5006
w. 643-1763

Nancy Kornfeld
Signature of Applicant

In space below, indicate: (1) With X's where fence is to be located; (2) Fence height; (3) Type of fencing to be used; (4) Whether corner or inside lot.



NOTE: This is an approval from the City only. You should also check your subdivision building and use restrictions on fences.

TO BE FILLED IN BY BUILDING INSPECTOR

Approved

Denied

Inspector

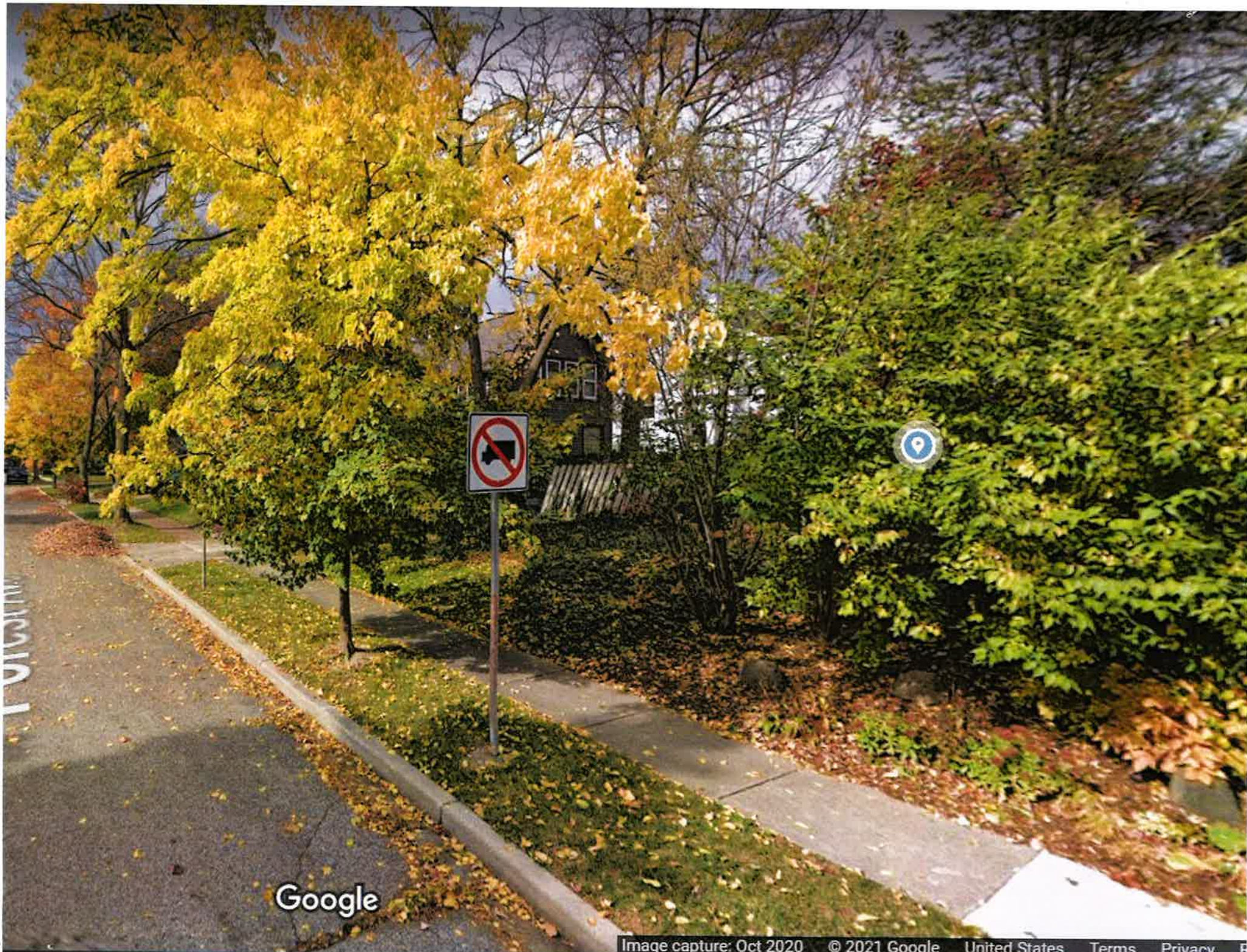
Date

05/92

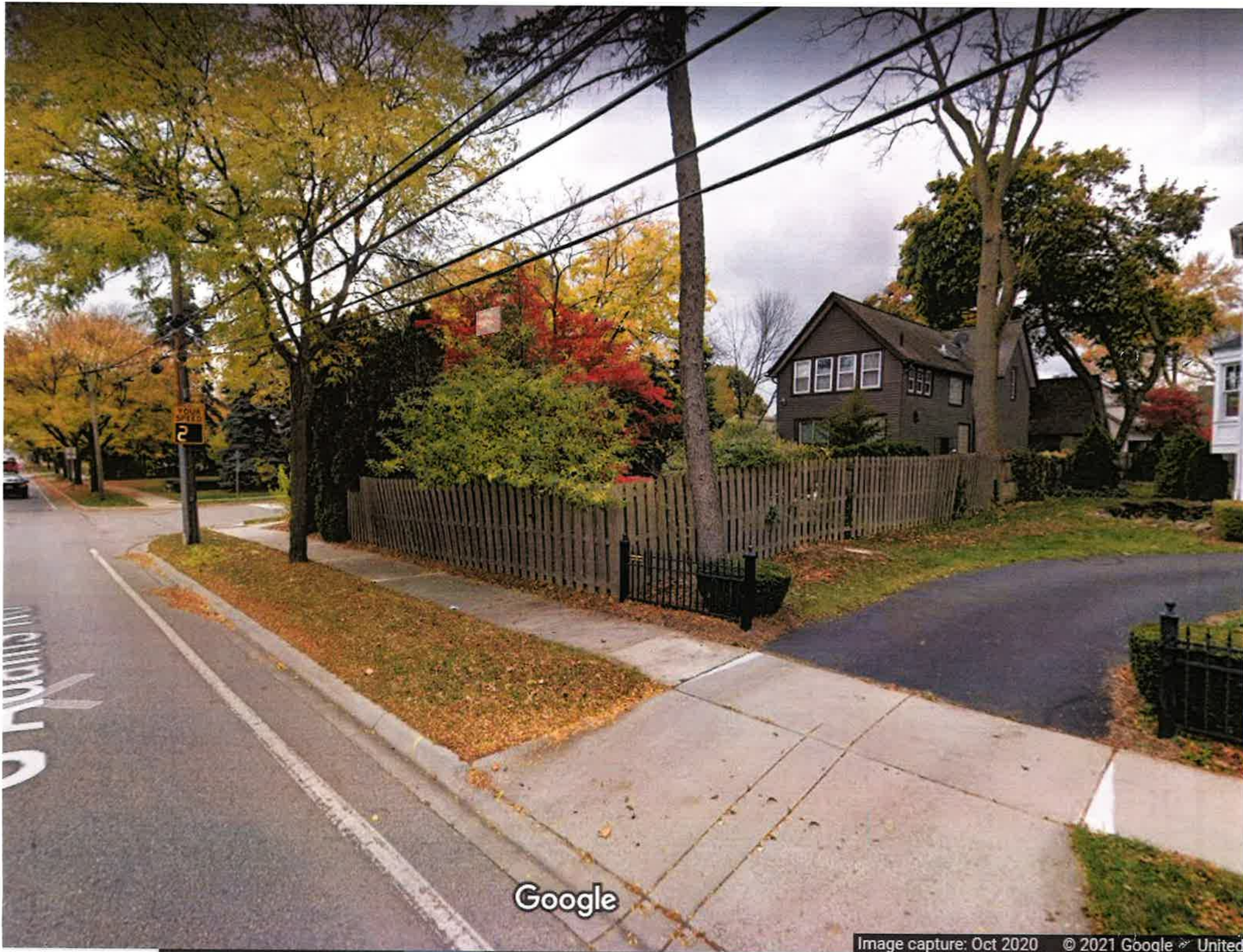
(Customer Copy)



Google



Google



Google



Google



020

Google

Image capture: Oct 2020



Dear Neighbors,

For 24 years, since at least October 1997, our property had a 6' foot high solid wood fence extending around the entire perimeter of the East side of our property, including all the way to Adams Road and stopping at our home's South facing frontage on Forest Avenue. This fence provided privacy and safety for our family and families before ours, especially from Adams Road, which we all know is a commercial and heavily trafficked road.

We recently hoped to replace and improve upon this fence as it had become aged and dilapidated (especially after the severe storms in July 2021). We had scheduled to improve this fence in August 2021 and unfortunately, our contractor removed the fence before we were aware of limitations due to frontages and heights on fences for property layouts such as ours. Thus, we need to request a variance for replacement of our fence.

We have been granted a spot on the agenda of the November 9th Board of Zoning Appeals meeting to hopefully be granted a variance to have a 6' cedar fence placed back in its historical location. We hope that you, our neighbors, would feel comfortable supporting us in this endeavor, understanding the safety and privacy it provides to us and our young daughters.

If you see no issue with this fence being restored on our property and support this variance, please sign your name below.

With utmost respect and appreciation,

The Green Family

(Nicholas, Clodagh, Feodora (age 3), and Fionnuala (age 11 months))

Name(s)	Address	Signature(s)
Louis Montzamy	1111 YOSEMITE	[Signature]
ART LANG	212 W. ADAMS RD.	[Signature]
Nancy Taiyesimi	1011 Forest Avenue	[Signature]
Chuck Bayberry	955 Forest	[Signature]
Christina Vindici	941 Forest Ave	[Signature]
BRUCE KOMISAR	915 FOREST AVE	[Signature]
Alexandra Zikakis	887 Forest Ave	Alexandra Zikakis
RICHARD HERAGHTY	887 FOREST AVE	[Signature]
ERIK WITTBOLD	1000 FOREST AVE	[Signature]
ERIC KNOX	1045 FOREST AVENUE	[Signature]
JOHN SHRIVER	984 FOREST AVE	[Signature]
Mauveen Neimann	956 FOREST AVE	[Signature]
Alison Everett + Ken Svendsen	900 Forest Ave	Alison M. Everett
Cathy McGregor	850 Forest Ave	[Signature]
Katherine Cser	1122 Yosemite Blvd.	Katherine Cser
DAVID DOLIK	246 J. ADAMS	[Signature]
JUDY VINDICI	941 FOREST AVE.	Judy Vindicie
Tom Shayaka	1027 Forest Ave	[Signature]
JOHN HAJI	967 FOREST AVE	[Signature]
Chy M	676-548-3552	[Signature]
Rochelle Solomon	864 FOREST AVE	Doanwre Russo
	978 FOREST	Rochelle Solomon

CASE DESCRIPTION

670 S Old Woodward (21-48)

Hearing date: November 9, 2021

Appeal No. 21-48: The owner of the property known 670 S Old Woodward, requests one of the following variances to satisfy parking requirements in order to operate a salon/spa with 23 service chairs.

- A. Chapter 126, Article 4, Section 4.45(G)(2) of the Zoning Ordinance requires that off-street parking be provided within 100 feet of the building being served, distance being measured along the most direct line of public pedestrian access. The applicant is proposing a shared parking agreement with Adams Square Shopping Center, which is 1,300 feet away from the subject property. Therefore, a variance of 1,200 feet is being requested.
- B. Chapter 126, Article 4, Table A of the Zoning Ordinance requires that beauty salon uses provide 2 parking spaces per service chair, or 1 parking space per 300 square feet of floor area, whichever is greater. The applicant is proposing 23 service chairs and is required to provide 46 parking spaces. The subject property has 24 parking spaces on-site. Therefore, a variance of 22 parking spaces is being requested.

Staff Notes: The applicant has demonstrated that Adams Square has an excess of 33 parking spaces, which accommodates the applicant's requirement of 23 parking spaces. Therefore a shared parking agreement would not require Planning Board approval, nor that a shared parking agreement be recorded on the deed for Adams Square.

This property is zoned B2-B and D2 Overlay

670 S OLD WOODWARD MAP



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

APPLICATION FOR THE BOARD OF ZONING APPEALS

Application Date: 10-8-21

Hearing Date: 11-9-21

Received By: BM

Appeal #: 21-0048

Type of Variance:	<input checked="" type="checkbox"/> Interpretation	<input type="checkbox"/> Dimensional	<input type="checkbox"/> Land Use	<input type="checkbox"/> Sign	<input type="checkbox"/> Admin Review
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I. PROPERTY INFORMATION:

Address: 670 S. Old Woodward	Lot Number:	Sidwell Number:
------------------------------	-------------	-----------------

II. OWNER INFORMATION:

Name: VIBE of Birmingham, LLC			
Address:	City:	State: MI	Zip code:
Email: * fjarbou@symmetrymgmt.com		Phone: 248-465-0200	

III. PETITIONER INFORMATION:

Name: Jeff Klatt	Firm/Company Name: Krieger Klatt Architects		
Address: 2120 E. Eleven Mile Rd	City: Royal Oak	State: MI	Zip code: 48067
Email: jeff@kriegerklatt.com		Phone: 248.414.9270	

IV. GENERAL INFORMATION:

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

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

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

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

V. REQUIRED INFORMATION CHECKLIST:

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

VI. APPLICANT SIGNATURE

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

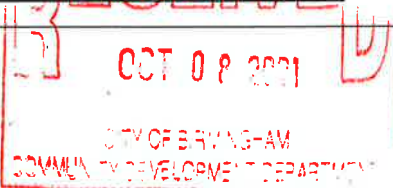
*By providing your email to the City, you agree to receive news and notifications from the City. If you do not wish to receive these messages, you may unsubscribe at any time.

Signature of Owner: Azar M. Alizadeh

Date: Oct. 7-2021

Signature of Petitioner: Fmd

Date: 10-7-21



**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



October 6, 2021

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

Re: 670 S. Old Woodward ("Property")
Petitioner: VIBE of Birmingham, LLC

Dear Members of the Board of Zoning Appeals:

Please accept the following as a hardship/practical difficulty letter on behalf of the Petitioner in support of its request for variances from Sections 4.4.5 PK-01(G)(2) and 4.5.2 PK-08.

VIBE Salon Suites of Birmingham Business Model/Operations

VIBE Salon Suites ("VIBE") facility in Birmingham represents an evolving trend in the hair salon styling business. To accommodate the flexibility needed for women, who are the primary professionals in the salon industry, the business model has changed. Under the VIBE model, salon professionals lease space from the owner and can schedule appointments with their customers on a very flexible basis. This allows female professionals, in particular, to balance work/home obligations and meet the demands of their customer base.

At the Property, VIBE is proposing 23 service chairs. This number is a voluntary 28% reduction from the original plan submitted to the City of 32 service chairs. Unfortunately, under Ordinance 4.5.2 PK-08, a requirement of 46 parking spaces is mandated, which is significantly beyond the number that will be needed to reasonably support VIBE's salon operations.

VIBE also operates a salon in Plymouth, Michigan with 28 service chairs. They utilize a keycard system, which allows them to track the occupancy by the stylists of the 28 spaces. We have attached that information for the eleven (11) month period, November 2020 through September 2021. A summary and monthly data sheets are attached. This data reveals, in part, the following important statistics:

- The average number of suites accessed on a daily basis are ten (10) or less, averaging 7.1 suites per day.
- The average daily percentage of suite access is 25.4%.

ATTORNEYS & COUNSELORS AT LAW

- The highest daily suite access on any given day is 13.

Utilizing the daily average of suites accessed in Plymouth at the high of 10 and applying the Birmingham parking requirement, only 20 parking spaces would be needed. With the Property having 24 parking spaces on site, which would be more than adequate to handle the average daily needs.

Based upon the information provided in this letter and accompanying explanations, VIBE is requesting variances to allow it to operate with 23 service chairs.

Variance from Off-Street Parking Requirement in Ordinance 4.45 PK-01(G)(2)

To partially offset the stringent Ordinance parking requirement of 2 spaces for every service chair, VIBE contacted nearby businesses with parking lots, but not one was willing to lease even a single space! Instead, VIBE is entering into a lease with the nearby Adams Square Shopping Center for 22 additional parking spaces. These spaces will only be utilized by the salon stylists and not customers. These publicly available spaces are just a short walk away from the Property.

However, the Ordinance only allows such leased parking to be utilized if it is "within 100 feet of the building being served." The Ordinance's practical effort is to restrict such parking only to immediately adjacent businesses. The Adams Square Shopping Center parking is more than 100 feet away from the Property, but a very short walking distance of less than 6 minutes (via Bowers). The Adams Square Shopping Center is the only feasible site for parking rental. Should the Board of Zoning Appeals allow this variance, that would decrease any actual parking variance by 22 spaces.

Based on the Site Plan of the Adams Square Shopping Center being submitted by Krieger Klatt Architects, there is an excess of 33 parking spaces, which will allow for the rental of 22 spaces. A visual review of the Center's parking lot also reveals significant available spaces at various times throughout the day.

Variance from Off-Street Parking Spaces Requirement for Salons as Set Forth in Ordinance 4.52 PK-08

Salons have a special parking requirement that is stated in the Ordinance, as follows:

"2 spaces per service chair; or 1 space per 300 square feet of floor area, whichever is greater."

The Ordinance is really based on a much older and traditional salon business model. This creates an unreachable parking requirement of 46 parking spaces. As the data from VIBE's Plymouth operations clearly shows, such a need for 46 parking spaces will never exist.

VIBE would also like the Board of Zoning Appeals to note that under the alternative requirement of "1 space per 300 square feet of floor area," that VIBE would clearly qualify. The floor area of the building on the Property is 6,886 square feet, which would generate a parking requirement of 23 spaces. The VIBE Property contain 24 parking spaces.

Ordinance 8.01(F)(3)(A)(ii) – Literal Enforcement of the Chapter Will Result in Practical Difficulty and Unnecessary Hardship

Because of the special conditions applicable to the Property, the literal enforcement of the off-street parking requirements will result in practical difficulty and an unnecessary hardship to the Petitioner. VIBE is not attempting to "max out" the number of service chairs and the hardship is not self-created. With respect to VIBE's proposed use of the Property, we note the following:

- VIBE's use as a salon is a permitted use in a B2B district.
- VIBE is not expanding the footprint of the building, which remains unchanged.
- VIBE is not increasing the height of the building on the Property, which remains unchanged.
- VIBE is not eliminating any of the 24 parking spaces currently on the Property.
- VIBE's use and the building on the Property are consistent with other uses and buildings in the general vicinity.
- VIBE has voluntarily reduced the original number of service chairs from 32 to 23 decreasing the parking requirement by 28%.
- VIBE is entering into a parking lease with the Adams Square Shopping Center for 22 parking spaces for its salon stylists.

The depth of the Property is only 114 feet, which will not allow expansion of parking to the west, as that would impede upon an existing residential neighborhood. There is no room to expand parking the north or south of the building, as that would require buying the entire

adjacent properties (Sporthaus and Birmingham Nails) which would be economically unfeasible and create the appearance of a "sea of parking" instead of storefronts.

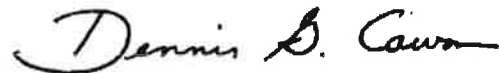
The result of the stringent application of the Ordinance to this Property would result in only 11 chairs being allowed for a 7,000 square foot building! Given that the Ordinance recognizes that 300 square feet per chair is an alternative and a requirement that VIBE meets, this creates a practical difficulty and hardship for VIBE.

The limit of 100 feet for leased parking, creates a further unnecessary hardship as there are no available spaces within 100 feet. Since the stylists, and not customers, are parking in the leased spaces, a greater distance should be allowed.

On behalf of VIBE, we respectfully request approval of the variances requested.

As always, if you have any questions, please feel to contact us at your earliest convenience.

Sincerely,

A handwritten signature in black ink that reads "Dennis G. Cowan". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Dennis G. Cowan
Direct Dial: (248) 901-4029
Email: dcowan@plunkettcooney.com

DGC/cmw
Attachment

cc: Thomas Markus
Jana Ecker
Brooks Cowan
Frank Jarbou
Jeff Klatt

PLYMOUTH VIBE SALON
Occupancy Summary
November 2020 to September 2021

28 Suites in Plymouth VIBE Salon

	<u>Daily Ave. Suites Accessed</u>	<u>Daily Pct. of Suites Accessed</u>	<u>Highest Daily Suite Access</u>
November 2020	9.5	33.9%	13
December 2020	10.0	35.7%	13
January 2021	9.6	34.3%	13
February 2021	6.6	23.7%	9
March 2021	6.3	22.5%	9
April 2021	6.0	23.1%	9
May 2021	5.7	20.6%	9
June 2021	5.5	20.3%	9
July 2021	5.6	20.0%	9
August 2021	6.5	23.1%	9
September 2021	<u>6.6</u>	<u>22.8%</u>	9
<i>11 Month Average</i>	<i>7.1</i>	<i>25.4%</i>	



November 3, 2021

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

Re: 670 S. Old Woodward ("Property")
Petitioner: VIBE of Birmingham, LLC

Dear Members of the Board of Zoning Appeals:

Please accept this letter as a supplement to my initial letter of October 6th on behalf of the Petitioner, VIBE of Birmingham, LLC ("VIBE") in support of its request for variances from Sections 4.4.5 PK-01(G)(2) and 4.5.2 PK-08.

Petitioner's Attempts to Lease Parking Spaces Within 100 Feet and Beyond

VIBE made several attempts with property owners within and beyond 100 feet from the Property to lease parking spaces. Birmingham Nails and Don Thomas Sporthaus, which flank the VIBE Property, do not have any available spaces for lease. Both of those adjacent properties are within the 100-foot standard of Section 4.4.5 PK-01 (G)(2). Requests for parking spaces were also made of other four nearby parking owners with surface lot parking, but all four declined (or were non-responsive) leasing any spaces to VIBE. Further, VIBE spent considerable time with the 555 Building owner across the street until it was determined no additional spaces were available. As a result, despite its best efforts, there was no opportunity for VIBE to comply with the 100-foot standard in Section 4.4.5 PK-01 (G)(2). Nor were any shared parking opportunities pursuant to Section 4.4.5 PK-01(G)(4).

VIBE Parking Lease with Adams Shopping Center

Attached is a Parking Lease agreed to between VIBE and the South Adams Shopping Center Owner, LLC for the lease of 22 parking spaces (see **Exhibit A**). The term of the Agreement is for 10 years. The additional 22 leased spaces will allow VIBE to have 46 parking spaces consistent with having maintained 23 service chairs at its Property. These leased spaces will be used by the stylists with on-site parking reserved for customers. VIBE has no objection to this Parking Lease being executed and maintained as a condition of approval.

Adams Shopping Center leased spaces are within easy walking distance and are apparently 1,606 feet away from the Property as shown on the attached Google Earth map (see **Exhibit B**). A walk by a hair stylist down Bowers Street at the Adams Shopping Center to the front door of the VIBE building is just under 6 minutes. This is a very short distance to walk. It is about the same distance as the walk from the Pierce Street or Peabody Street public parking decks to the

ATTORNEYS & COUNSELORS AT LAW

Property. Most hair stylists at downtown suburban locations are accustomed to parking and walking as most salons do not have “on-site” parking like VIBE.

VIBE Meets the Standards of Review for Variances

VIBE meets the criteria that the Board reviews, as follows:

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

A hair salon is a permitted purpose under the Zoning District. While VIBE has made every effort to maximize offsite parking, it still falls short of strict compliance with Section 4.4.5 PK-01(G)(2). It simply cannot meet the heavy burden of two spaces per chair with just its current on-site parking.

The Zoning Ordinance does provide an alternative of one parking space per every 300 feet of floor area for salons. Unfortunately, due to the restriction that the parking calculation must be the “greater of” the two alternatives, strict application places an unreasonable demand on VIBE. It is simply not reasonable to expect VIBE to only have 12 salon chairs on-site for an approximate 7,000 square foot building.

- 2. Literal enforcement of the chapter will result in unnecessary hardship.**

The Property has already been fully built out and there is no room for additional parking. Further, businesses on either side within the 100-foot leased parking radius are very successful and cannot lease any parking spaces to VIBE. Neither VIBE nor the owner of the Property has taken any action to change the parking configuration or any other action to decrease number of parking spaces on-site. The unnecessary hardship would cause significant underutilization of the building is due to a very restrictive City parking requirement for hair salons, at two parking spaces per chair, without regard to the square footage of the building.

- 3. The granting of the variance will not be contrary to the spirit or purpose of the Zoning Ordinance nor contrary to the public health, safety, and welfare.**

Section 1.04 states that the “zoning ordinance is intended to guide the growth and development of the City in accordance with the goals, objectives and strategies stated within the Birmingham Master Plan and Downtown Birmingham 2016 Plan.” The granting of the variance to allow the leased spaces at the Adams Shopping Center will meet goals to:

- Replace an empty storefront with a dynamic business.

- Attract more customers to the Downtown area.
- Utilize an existing parking lot at Adams Shopping Center and not add any "hard surface" area.

The VIBE parking plan will not adversely impact the public, health, safety or welfare. There will be no additional stress on public parking in the area due to VIBE leasing parking spaces. In fact, the City is preparing to reduce the number of parking spaces on Old Woodward as part of Phase 3 street renovations. Attached is a diagram distributed to the City Commission for its October 25th meeting (**Exhibit C**). The diagram shows public parking spaces in the area, including the VIBE Property, are underutilized with only 38% usage and the plan is to reduce on-street public parking in the area from 70 to 49 spaces.

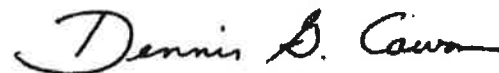
4. Granting of the variance will result in substantial justice to the property owner, the owners of property in the area and the general public.

VIBE believes that its salon will be a welcome addition to other businesses in the immediate area. In providing the requisite 46 spaces (on-site and leased spaces), VIBE is in no way seeking to evade or avoid any parking requirements. Rather, the retail rental market has changed dramatically with the COVID pandemic and its impact on retail and small businesses. Many traditional retail businesses are struggling and very few are expanding. VIBE will bring customers to the downtown Birmingham area. Typically, salon customers also visit other nearby businesses before or after their appointment. The granting of the variance will provide VIBE with "substantial justice" and not adversely effect nearby properties in any way.

On behalf of VIBE, we respectfully request approval of the variances submitted for your review.

As always, if you have any questions, please feel to contact us at your earliest convenience.

Sincerely,



Dennis G. Cowan
Direct Dial: (248) 901-4029
Email: dcowan@plunkettcooney.com

DGC/cmw
Attachments

cc: Thomas Markus
Brooks Cowan
Frank Jarbou
Jeff Klatt

Open.28439.10892.27458039-1

PARKING LEASE

BY AND BETWEEN SOUTH ADAMS SHOPPING CENTER OWNER LLC

AS LANDLORD

AND

VIBE OF BIRMINGHAM LLC

AS TENANT

FOR

**725 S ADAMS ROAD
BIRMINGHAM, MICHIGAN 48009**

DATED

September, 2021

PARKING LEASE

THIS PARKING LEASE AGREEMENT (this "**Agreement**") is made this ____ day of September, 2021, between South Adams Shopping Center Owner LLC, a Michigan limited liability company ("**Landlord**"), having its principal office at 2550 Telegraph Road, Suite 200, Bloomfield Hills, Michigan 48302, and Vibe of Birmingham LLC, a Michigan limited liability company ("**Tenant**"), whose principal office is located at 812 S. Main Street, Suite 200, Royal Oak, MI 48067 and whose current retail address is 670 S. Old Woodward Avenue, Birmingham, Michigan 48009. In consideration of the mutual covenants and conditions set forth herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree as follows:

1. **LEASE:** Landlord hereby agrees to lease and make available to Tenant and Tenant's sub-tenants, and Tenant hereby leases from Landlord, a certain area of Property (as defined herein) as depicted on Exhibit A attached hereto and made a part hereof (the "**Premises**") owned by Landlord containing twenty-two (22) parking spaces (each, a "**Parking Space**" and collectively, the "**Parking Spaces**") within the Property, and subject to and upon the terms and conditions set forth in this Agreement (collectively, the "**Parking Purpose**"). Tenant accepts the Parking Spaces and the Premises in their as-is condition and Landlord shall not be obligated to make any improvements or modifications to same in connection herewith. Landlord at all times shall have the right to repair, repave and resurface the Parking Spaces as needed as determined by Landlord in its sole discretion.

2. **PREMISES:** (a) a portion of the property located 725 S. Adams Road, Birmingham, Michigan situated on land located in the City of Birmingham, Michigan 48009 (the "**Property**") containing 22 Parking Spaces as depicted on Exhibit A attached hereto and made a part hereof. Notwithstanding anything contained herein to the contrary, Landlord shall have the right, without Tenant's consent, to relocate the Parking Spaces and the Premises to a different portion of the Property owned by Landlord upon not less than five (5) days written notice to Tenant identifying the new location of such Parking Spaces. Landlord reserves (a) the right from time to time to make changes, alterations, additions, improvements, repairs or replacements in or to the Property and the buildings located thereon (including the Premises), as well as in or to the street entrances, all as Landlord may reasonably deem necessary or desirable, and (b) the right to eliminate, substitute and/or rearrange the common areas (which may theretofore have been so designated) as Landlord deems appropriate in its reasonable discretion. Tenant's nonexclusive right to utilize the common areas shall be in common with Landlord, other tenants and occupants of the Property and others to whom Landlord grants such rights from time to time.

(b) Tenant shall use the Parking Space solely for parking of vehicles and no vehicles shall be parked in the Parking Spaces overnight. Tenant shall not do or permit to be done in or about the Premises, nor bring or keep or permit to be brought or kept therein, anything which is prohibited by or will in any way conflict with any law, statute, ordinance or governmental rule or regulation now in force or which may hereafter be enacted or promulgated. Tenant shall not do or permit anything to be done in or about the Premises which will in any way obstruct or interfere with the rights of other tenants of the Property, or injure them, or use or allow the Premises to be used for any improper, immoral, or unlawful purpose, nor shall Tenant cause, maintain or permit any nuisance in, on or about the Premises or commit or suffer to be committed any waste in, on or about the Premises.

Tenant shall procure and keep in effect comprehensive general liability insurance, including contractual liability, with minimum limits of liability of [REDACTED] per occurrence for bodily injury or death, and [REDACTED] per occurrence for property damage. From time to time, Tenant shall increase the limits of such policies to such higher limits as Landlord shall reasonably require. Such insurance shall name Landlord, and any lender which Landlord may designate from time to time as additional named insureds, shall specifically include the liability assumed hereunder by Tenant, and shall provide that it is primary insurance and not excess over or contributory with any other valid,

existing and applicable insurance in force for or on behalf of Landlord, and Tenant shall provide Landlord at least ten (10) days' notice prior to any cancellation or change of coverage.

3. **TERM.** The term of this Agreement shall be for a period of ten (10) years commencing on ____ day of ____, 202__ (**the "Commencement Date"**) and remain in effect through ____ day of ____, 203__ (the "Expiration Date"), unless earlier terminated in accordance with this Agreement. The Commencement Date through the Expiration Date is the "**Term**". Notwithstanding the foregoing, Landlord shall have the right to terminate this Agreement, at any time, by delivery of ninety days' written notice to the Tenant, and this Agreement will terminate on the ninetieth day (the "**Termination Surrender Date**") after the confirmed delivery of such notice of termination. Tenant shall surrender the Premises to Landlord on or prior to the Termination Surrender Date, provided that Tenant shall remain obligated for all of its obligations under this Agreement through the Termination Surrender Date.

4. **RENT:**

(a) Tenant shall pay to Landlord as gross rent for the Property during the term of this Lease minimum net rental as follows, which shall be paid on or before the first of each month:

Year	Per Space	Per Month	Per Year
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

(b) Neither Tenant nor its employees shall commit or allow any waste or damage to be committed on any portion of the Property, create any nuisance, or unreasonably interfere with, annoy or disturb any other tenant, licensee, parker or Landlord in its operation of the Property.

(c) Tenant and its employees shall comply with all applicable governmental laws and regulations. In addition, the use of the Parking Spaces by Tenant and its employees is subject to such rules and regulations as are promulgated from time to time by Landlord and communicated to Tenant (collectively, the "**Rules and Regulations**").

5. **CASUALTY:**

(a) If the Property is damaged by fire or other casualty (each, a "**Casualty**"), Landlord shall deliver to Tenant a good faith estimate (the "**Damage Notice**") of the time needed to repair the damage caused by such Casualty. If a Casualty damages a material portion of the Property and (i) Landlord estimates that the damage to the Property cannot be repaired within sixty days after commencement of repairs, (ii) the damage to the Property exceeds twenty-five percent of the replacement cost thereof (excluding foundations and footings), as estimated by Landlord, (iii) regardless of the extent of damage to the Property, Landlord makes a good faith determination that restoring the Property, as applicable, would be uneconomical, or (iv) Landlord is required to pay a portion of the insurance proceeds arising out of the Casualty to Landlord's mortgagee, then either Landlord or Tenant may terminate this Agreement by giving written notice of its election to terminate within sixty days after the Damage Notice has been delivered to Tenant and Landlord will make commercially reasonable efforts to secure suitable replacement parking for Tenant at comparable costs. Tenant shall not be required to pay any gross rent during the period the casualty exists.

(b) If the Property is damaged by a Casualty, the Lease Fee shall be abated based on the number of Parking Spaces rendered unusable from the date of damage until the completion of Landlord's repairs.

6. **EMINENT DOMAIN:** If any part of the Property, as applicable, shall be taken or condemned for public use, this Agreement shall terminate as of the date the condemner acquires possession. Further, if, as a result of such condemnation, more than one-third of the Parking Spaces then being used under this Agreement have been taken, or any material part of the Property has been taken, Tenant or Landlord may, at its respective sole option, terminate this Agreement.

7. **INDEMNIFICATION:** Except to the extent caused by Landlord's gross negligence or willful misconduct, Tenant shall indemnify, defend and hold Landlord harmless from all damage to any property or injury to or death of any person arising from the use of the Property by Tenant or its agents, representatives or employees. The foregoing indemnity obligation of Tenant shall include reasonable attorneys' fees, investigation costs and all other reasonable costs and expenses incurred by Landlord from the first notice that any claim or demand is to be made or may be made. The provisions of this Section 11 shall survive the expiration or sooner termination of this Agreement with respect to any damage, injury or death occurring prior to such expiration or sooner termination.

8. **ASSIGNMENT AND SUBLETTING:** Tenant shall not assign this Agreement or sublicense any portion of the Property to anyone not affiliated with Tenant (i.e., its subtenants) without the prior written consent of Landlord, which consent may be withheld in Landlord's sole discretion.

9. **LANDLORDS TRANSFER:** Landlord may transfer any portion of the Property and any of its rights under this Agreement without the consent of Tenant. If Landlord assigns its rights under this Agreement, then Landlord shall thereby be released from any further obligations hereunder arising after the date of transfer, provided that the assignee assumes Landlord's obligations hereunder in writing.

10. **ESTOPPEL CERTIFICATES:** From time to time, Tenant shall furnish to any party designated by Landlord, within ten days of Landlord's request, a certificate signed by Tenant confirming and containing such factual certifications and representations as to this Agreement as Landlord may request, including the following facts: (a) this Agreement is in full force and effect, (b) the terms and provisions of this Agreement have not been changed, (c) not more than one monthly installment of the gross rent has been paid in advance, (d) there are no claims against Landlord nor any defenses or rights of offset against collection of the gross rent other charges, (e) Landlord is not in default under this Agreement, and (f) any additional information as may be reasonably requested by Landlord.

11. **NOTICES:** Any notice given by Landlord or Tenant under this Agreement shall be in writing and shall be deemed to have been duly given when (a) personally delivered; or (b) three days after being deposited in the United States mail, certified or registered, return receipt requested, postage prepaid; or (c) one

business day after being deposited with a nationally recognized overnight courier service, sent for and guaranteeing next business day delivery and in all instances to the addresses set forth below, or to such other address as a party hereunder may from time to time designate in a notice to the other party:

Tenant's Address for Notices:

Vibe of Birmingham LLC
812 S. Main Street, Suite 200
Royal Oak, MI 48067
Attn: Frank Jarbou

Landlord's Address for Notices:

12. **FORCE MAJEURE:** Other than for Tenant's obligations under this Agreement that can be performed by the payment of money (e.g., payment of the Lease Fee and maintenance of insurance), whenever a period of time is herein prescribed for action to be taken by either party hereto, such party shall not be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, terrorist acts or activities, governmental laws, regulations, or restrictions, or any other causes of any kind whatsoever which are beyond the reasonable control of such party.

13. **DEFAULT:** If Tenant shall default hereunder, then Landlord shall have the following remedies:

- (a) Landlord at any time after a default, at Landlord's option, may give to Tenant thirty (30) days' notice of termination of this Lease, and in the event such notice is given, this Lease shall come to an end and expire (whether or not the Term shall have commenced) upon the expiration of such thirty (30) days, but Tenant shall remain liable for damages as provided herein.
- (b) Landlord lawfully may immediately or at any time after the default or after the date upon which this Lease shall expire, reenter the Premises or any part thereof, with prior notice, either by summary proceedings or by any other applicable action or proceeding, (without being liable to indictment, prosecution or damages therefor), and may repossess the Premises and remove any and all of Tenant's property and effects from the Premises.
- (c) Landlord shall have the right to recover the rental and all other amounts payable by Tenant hereunder as they become due (unless and until Landlord has terminated this Lease) and all other damages incurred by Landlord as a result of a default.
- (d) The remedies provided for in this Lease are in addition to any other remedies available to Landlord at law or in equity by statute or otherwise.

14. **SERVERABILITY:** If any clause or provision of this Agreement is illegal, invalid, or unenforceable under present or future laws, then the remainder of this Agreement shall not be affected thereby and in lieu of such clause or provision, there shall be added as a part of this Agreement a clause or provision

as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable.

15. **AMENDMENTS:** This Agreement may not be amended, except by an instrument in writing signed by Landlord and Tenant. The terms and conditions contained in this Agreement shall inure to the benefit of and be binding upon the parties hereto, and upon their respective successors in interest and legal representatives, except as otherwise herein expressly provided. This Agreement is for the sole benefit of Landlord and Tenant, and, other than Landlord's current or future mortgagee, if any, no third party shall be deemed a third party beneficiary hereof.

16. **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between Landlord and Tenant regarding the subject matter hereof and supersedes all oral statements and prior writings relating thereto. Except for those set forth in this Agreement, no representations, warranties, or agreements have been made by Landlord or Tenant to the other with respect to this Agreement or the obligations of Landlord or Tenant in connection therewith. The normal rule of construction that any ambiguities be resolved against the drafting party shall not apply to the interpretation of this Agreement or any exhibits or amendments hereto. The captions and headings used throughout this Agreement are for convenience of reference only and shall not affect the interpretation of this Agreement.

17. **WAIVER:** One or more waivers of any covenant or condition by a party shall not be construed as a waiver of a further breach of the same covenant or condition. No provision of this Agreement shall be deemed to have been waived by Landlord unless such waiver is in writing signed by Landlord, and no custom or practice which may evolve between the parties in the administration of the terms hereof shall waive or diminish the right of Landlord to insist upon the performance by Tenant in strict accordance with the terms hereof.

18. **NO REPRESENTATIONS OR WARRANTIES:** Landlord makes no representations or warranties of any kind with respect to the Property. The Property is hereby provided to Tenant in its "as-is" "where is" "with all faults" condition.

19. **WAIVER OF JURY TRIAL:** TO THE MAXIMUM EXTENT PERMITTED BY LAW, LANDLORD AND TENANT EACH WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY LITIGATION OR TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE ARISING OUT OF OR WITH RESPECT TO THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith OR THE TRANSACTIONS RELATED HERETO.

20. **MISCELLANEOUS:** This Agreement will not be recorded by Tenant. Nothing contained in this Agreement is intended to be a gift or dedication of any portion of the Property to the general public or for any public use or purpose whatsoever. This Agreement is for the exclusive benefit of Tenant and Landlord as defined herein, and nothing in this Agreement, express or implied, confers upon any person, other than Tenant and Landlord, any rights or remedies under or by reason of this Agreement.

21. **APPLICABLE LAW:** This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan.

[Signature Page Follows]

[SIGNATURE PAGE TO PARKING AGREEMENT]

The undersigned have executed this Agreement as of the date first above written.

LANDLORD:

South Adams Shopping Center Owner LLC

By: _____

Matthew B. Lester

Its: Manager

TENANT:

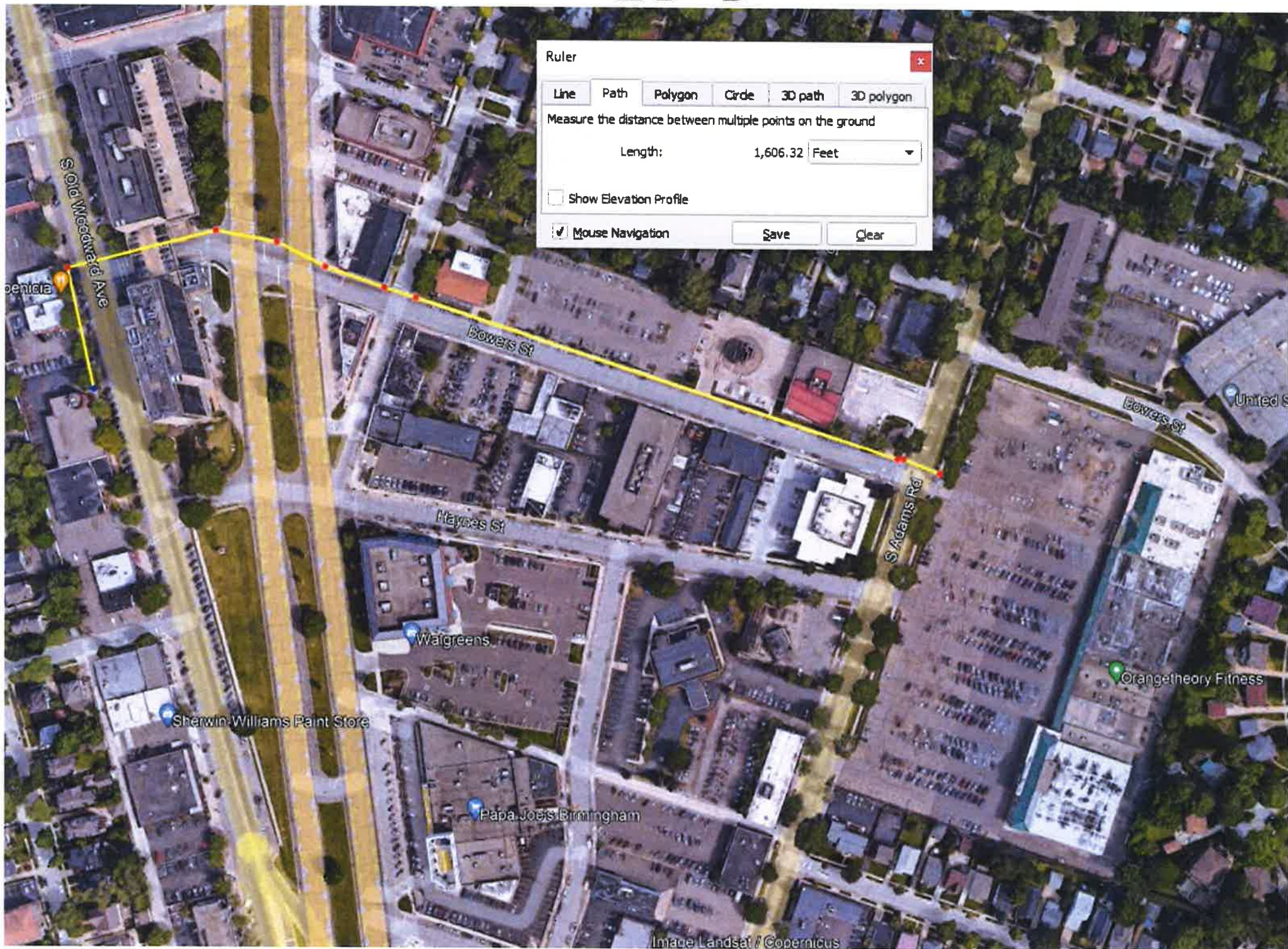
Vibe of Birmingham LLC

By: _____

Frank Jarbou

Its: Authorized Member

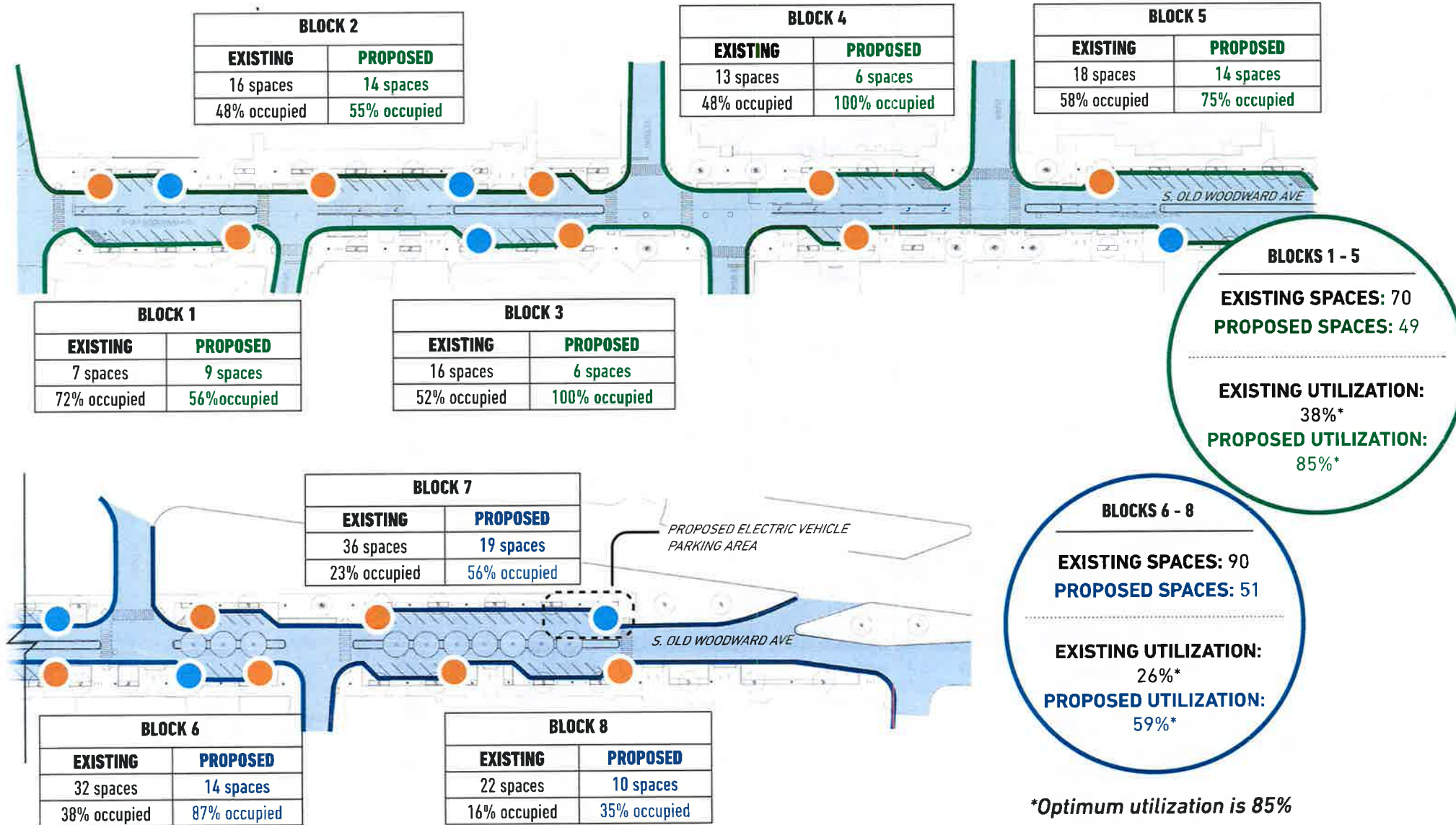
CANDID D



OPTIMIZE PARKING AND ACCESSIBILITY

EXHIBIT C

● SCOOTER PARKING ● ADA PARKING



CASE DESCRIPTION

1759 Henrietta (21-49)

Hearing date: November 9, 2021

Appeal No. 21-49: The owner of the property known 1759 Henrietta, requests the following variances to construct a second floor addition to an existing non-conforming single-family home:

- A. Chapter 126, Article 2.08.2 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 14.00 feet. The proposed is 12.50 feet. Therefore; a variance of 1.50 feet is being requested.
- B. Chapter 126, Article 4.30(C)(1) of the Zoning Ordinance permits a covered or uncovered porch including the steps may project into a front open space for a maximum distance of 10.00 feet. The existing and proposed is 13.59 feet. Therefore; a variance of 3.59 feet is being requested.

Staff Notes: The applicant is proposing to construct a second story addition to the rear of the home on the existing footprint and along with reworking the existing front porch.

This property is zoned R2 – Single family residential.

1759 HENRIETTA MAP



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

APPLICATION FOR THE BOARD OF ZONING APPEALS

Application Date: 10-11-21

Hearing Date: 11-9-21

Received By: BM

Appeal #: 21-49

Type of Variance:	<input checked="" type="checkbox"/> Interpretation	<input checked="" type="checkbox"/> <u>Dimensional</u>	<input type="checkbox"/> Land Use	<input type="checkbox"/> Sign	<input type="checkbox"/> Admin Review
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I. PROPERTY INFORMATION:

Address: <u>1759 Henrietta Street</u>	Lot Number: <u>138, 10FT OF LOT 139</u>	Sidwell Number: <u>08-19-36-379-028</u>
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II. OWNER INFORMATION:

Name: <u>Christopher Joseph</u>			
Address: <u>1759 Henrietta Street</u>	City: <u>Birmingham</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>cjoseph2018@gmail.com</u>		Phone: <u>248-719-4126</u>	

III. PETITIONER INFORMATION:

Name: <u>Christopher Joseph</u>		Firm/Company Name:	
Address: <u>1759 Henrietta Street</u>	City: <u>Birmingham</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>cjoseph2018@gmail.com</u>		Phone: <u>248-719-4126</u>	

IV. GENERAL INFORMATION:

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

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

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

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


V. REQUIRED INFORMATION CHECKLIST:

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

VI. APPLICANT SIGNATURE

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

*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>10/11/21</u>
Signature of Petitioner: _____	Date: <u>10/11/21</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, appearing to be a stylized 'S' or 'B' with a loop, positioned above a horizontal line.

Signature of Applicant



Divide Design, PLLC.
1471 W. Nine Mile Road
Ferndale, MI 48220
Ste. 9

Letter of Intent / Need
In Support of Request for Zoning Variance
1759 Henrietta St, Birmingham, MI 48009

to: City of Birmingham Michigan Zoning
Approvals & Appeals Board for Review

Nov 1 2021

Client(s):

Chris Joseph
248.719.4126

Design Contact(s):

Brian Wisniewski, RA (Owner)
734.812.2508

This Letter of Intent is in support of my request for a variance to the side yard setback requirement for an existing non-conforming lot, citing Ch 126 Zoning Ordinances Article 2.08 R2 and Article 4.74 SS-01. The intention is to expand an existing, decades-old single family two-story residence to have a new a second-story expansion, to be constructed above the first level footprint existing to the rear of the home. We are requesting variance permission for the existing structure, both as currently built and with new upper addition (there will be no ground-level foundation footprint modifications), considering undue hardships that would otherwise be necessary to move setbacks per current zoning guidelines.

The existing home within the project lot is non-compliant according to current ordinance section 2.08 R2. Per the section guidelines listed below in italics, please see responses and hardships outlined.

2.08.2 Information:

Minimum front yard setback – average setback to be average of homes within 200 feet

- Average for this home location determined by survey is 20.7' for existing porch setback and 25.25' for the building setback per the above formula. The project home unit is the minimum outlier within the area, closest to the street, and below the average by ~5' – as currently existing. We are requesting to add a new porch canopy overhang that encroaches closer to the street by 24", without adjusting the face of the top porch slab from its current location offset from the street. This permanent overhang will not encroach in any public right of ways

Minimum side yard setback – 9 feet or 10% of total lot width whichever is larger for one side yard; 14 feet or 25% of total lot width whichever is larger for both side yards; no side yard shall be less than 5 feet

C. Distance Between Buildings: Each residential lot shall provide a minimum distance between principal residential buildings on adjacent lots of 14 feet or 25% of the total lot width, whichever is larger. This requirement is in addition to the setback provisions as specified in each two-page layout in Article 2.

- The current distance between south structure and the south face of the proposed project house's is less than the required 14'-0" at current 12'-6". To revise this setback to be greater than required, the entire existing footprint and basement foundation wall of the existing home would require demolition and reconstruction. This is an undue hardship for this decades old home and current owner. The proposed addition requests using the existing footprint to extend the 2nd floor over the existing first floor, without changing any total setbacks from existing boundaries.

Most relevant here, is the time the homes were built and undue hardship upon a new resident just moving to the Birmingham community. I would ask the board to consider (1) the fact that as requested does not alter the foot print from what currently exists; (2) the fact that the southern side set back will not be encroached on any more than it is today; (3) the undue burden on any the owner of the project property or neighboring residence to retrofit their home to meet current ordinance; (4) the proposed style and structure



Divide Design, PLLC.
1471 W. Nine Mile Road
Ferndale, MI 48220
Ste. 9

Contract/Invoice #20-1101
Date 28 NOV 2020
Project 2106 St Andrews Dr
Rochester Hills MI 48309
Delivery Date 30 NOV 2020

of the house is kept within the existing neighborhood and the porch will not obstruct views or public rights of way; and (5) that the proposed project would be an improvement to the neighborhood and result in an overall increase in property value and tax base created by improvement.

Thank you for your consideration.

Respectfully submitted on behalf of client Chris Joseph (Property Owner),

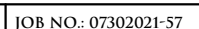
A handwritten signature in blue ink, appearing to read "Brian Wisniewski", written over a faint, larger signature.

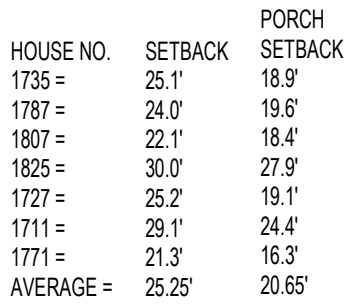
Brian Wisniewski, RA NCARB NOMA
Architect + Owner
Divide Design, PLLC



1"=20'

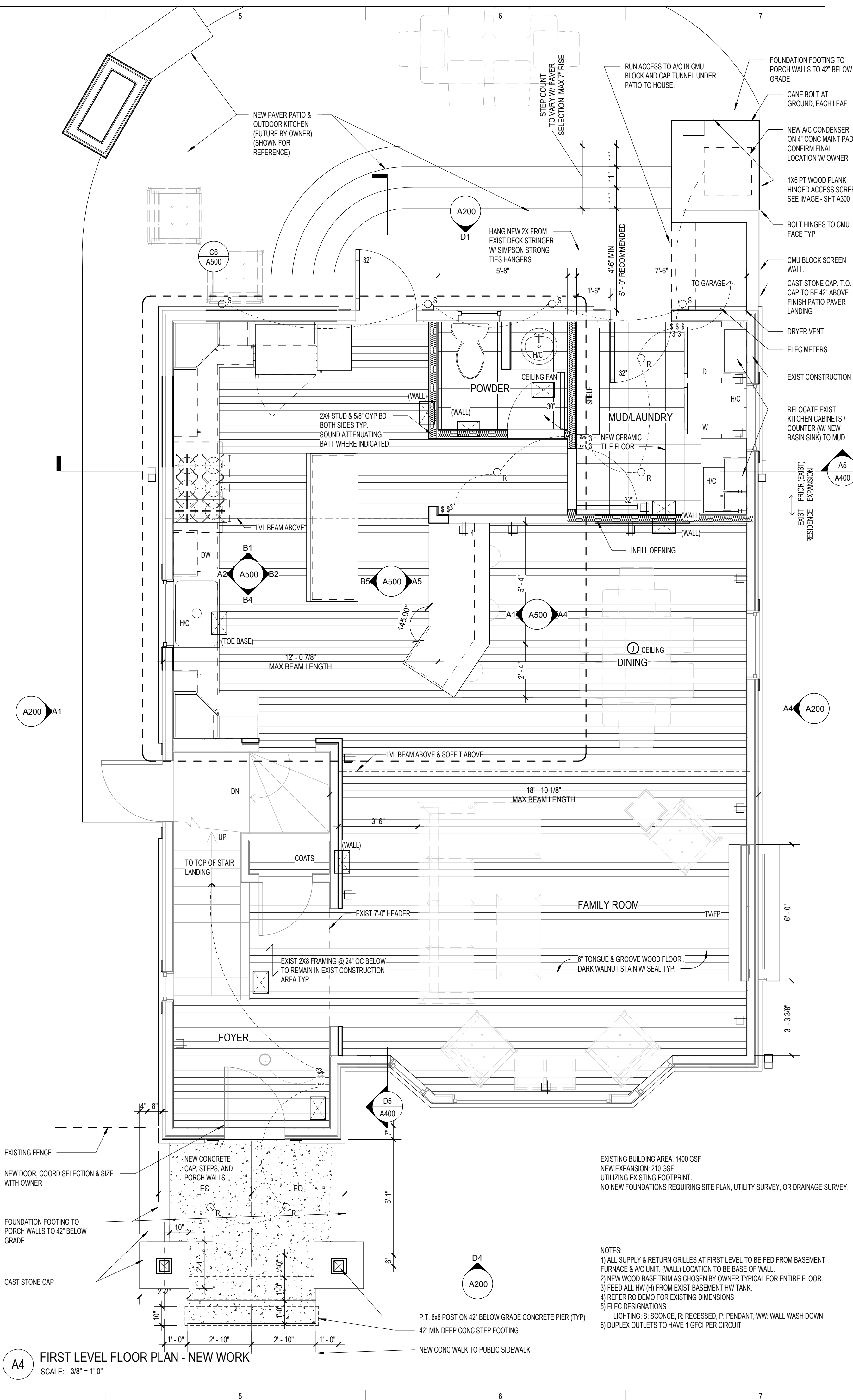
PORCH
K SETBACK
18.9'
19.6' —
18.4'
27.9'
19.1'
24.4'
16.3'
20.65'





SCALE: 1" = 10'-0"

SHEET NUMBER



SHEET NUMBER

A1 SECOND LEVEL FLOOR PLAN
SCALE: 3/8" = 1'-0"

A4 SECOND LEVEL FLOOR PLAN
SCALE: 3/8" = 1'-0"

Project Information.
1759 Henrietta
Birmingham, MI
Renovation



DIVIDE DESIGN
a design collective

1471 W Nine Mile Ferndale, MI 48220 Ste 9
e. wisniadp@gmail.com
c. 734.812.2508

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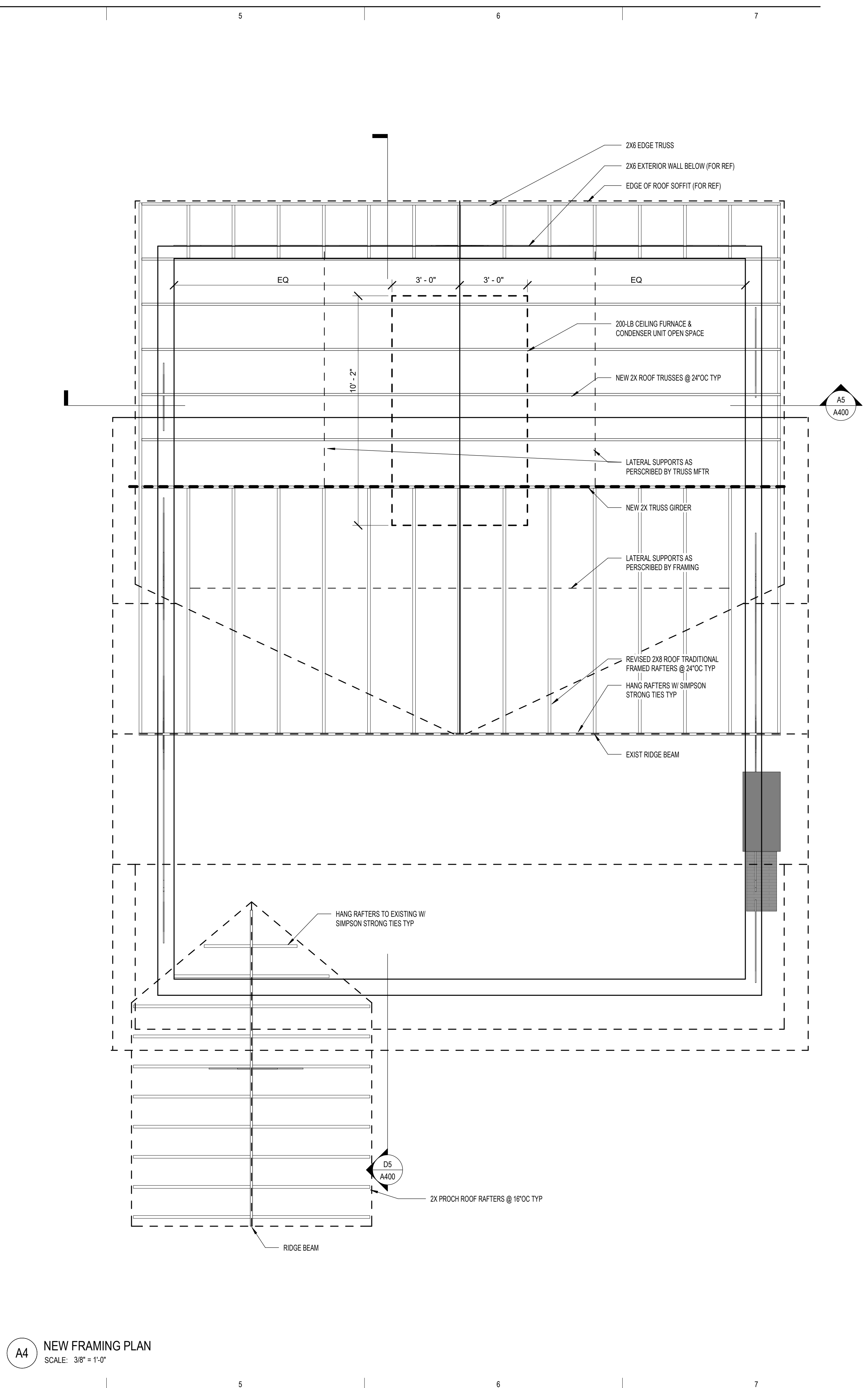
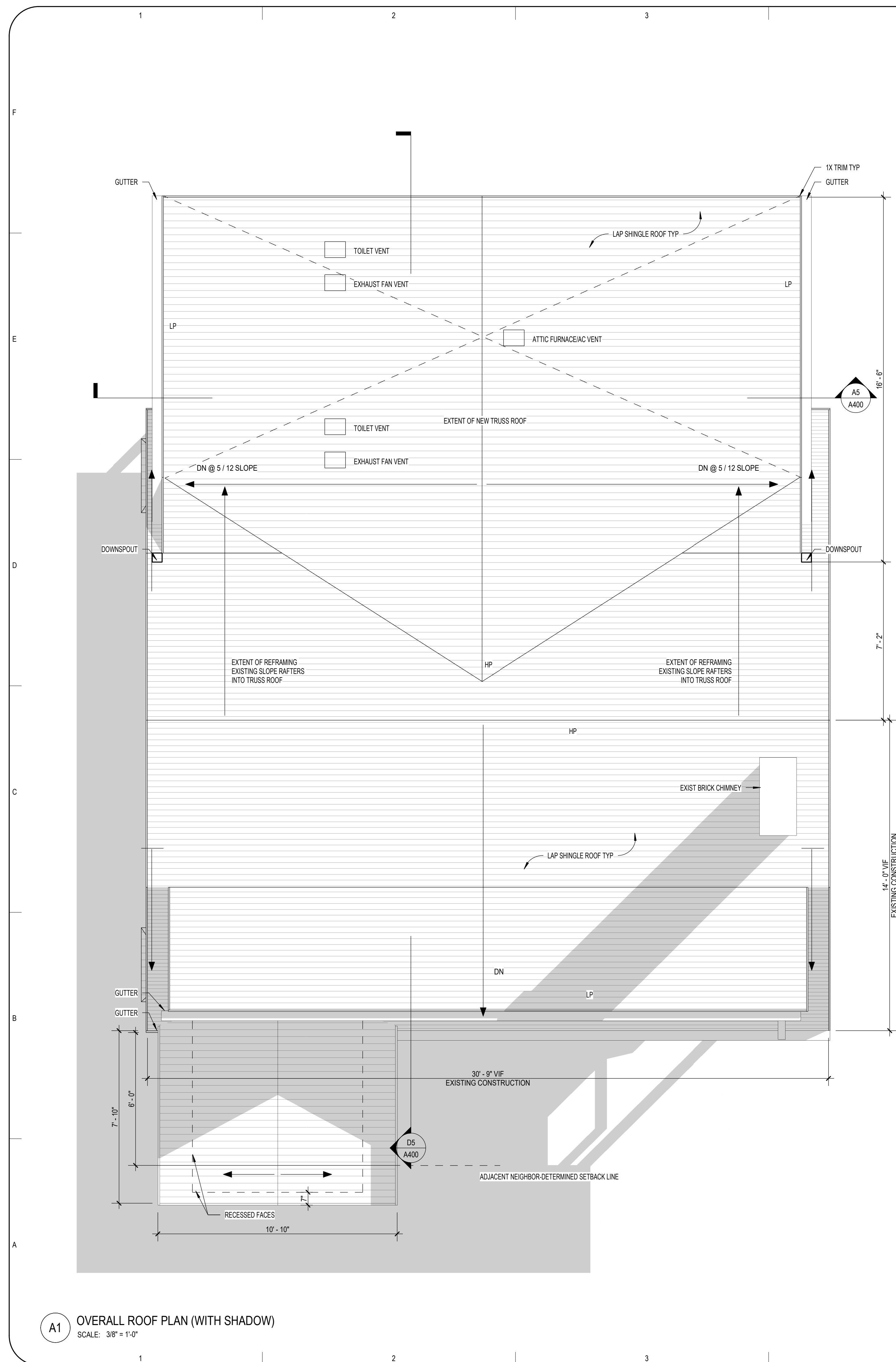
SEALS AND SIGNATURES

SHEET TITLE

SECOND FLOOR PLANS

SHEET NUMBER

A102



Project Information:
1759 Henrietta
Birmingham, MI
Renovation



DIVIDE DESIGN
a design collective

1471 W Nine Mile Ferndale, MI 48220 Ste 9
e. wisniadp@gmail.com
c. 734.812.2508

[illegible]

SEALS AND SIGNATURES

SHEET TITLE

ROOF & FRAMING PLAN

SHEET NUMBER

A103



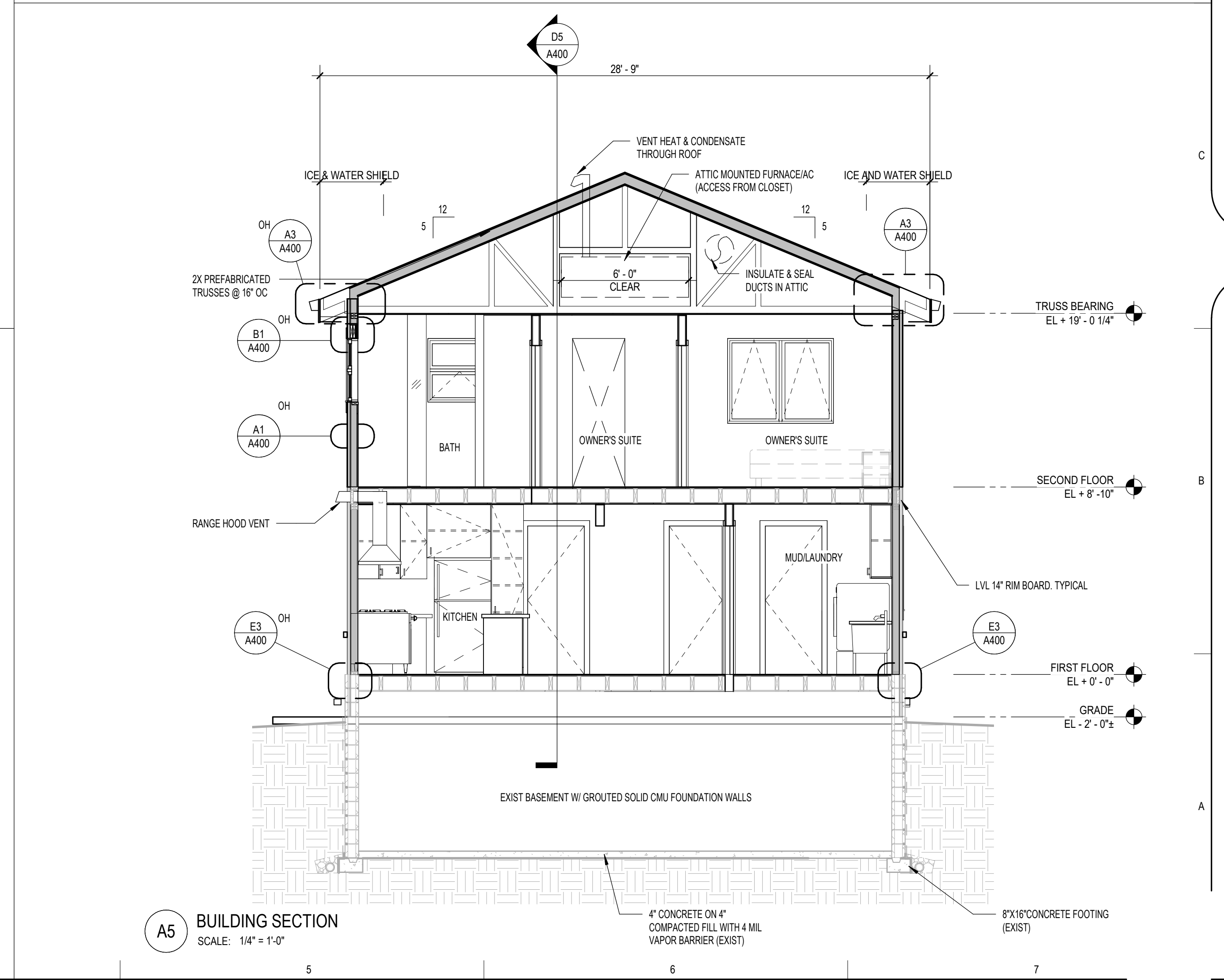
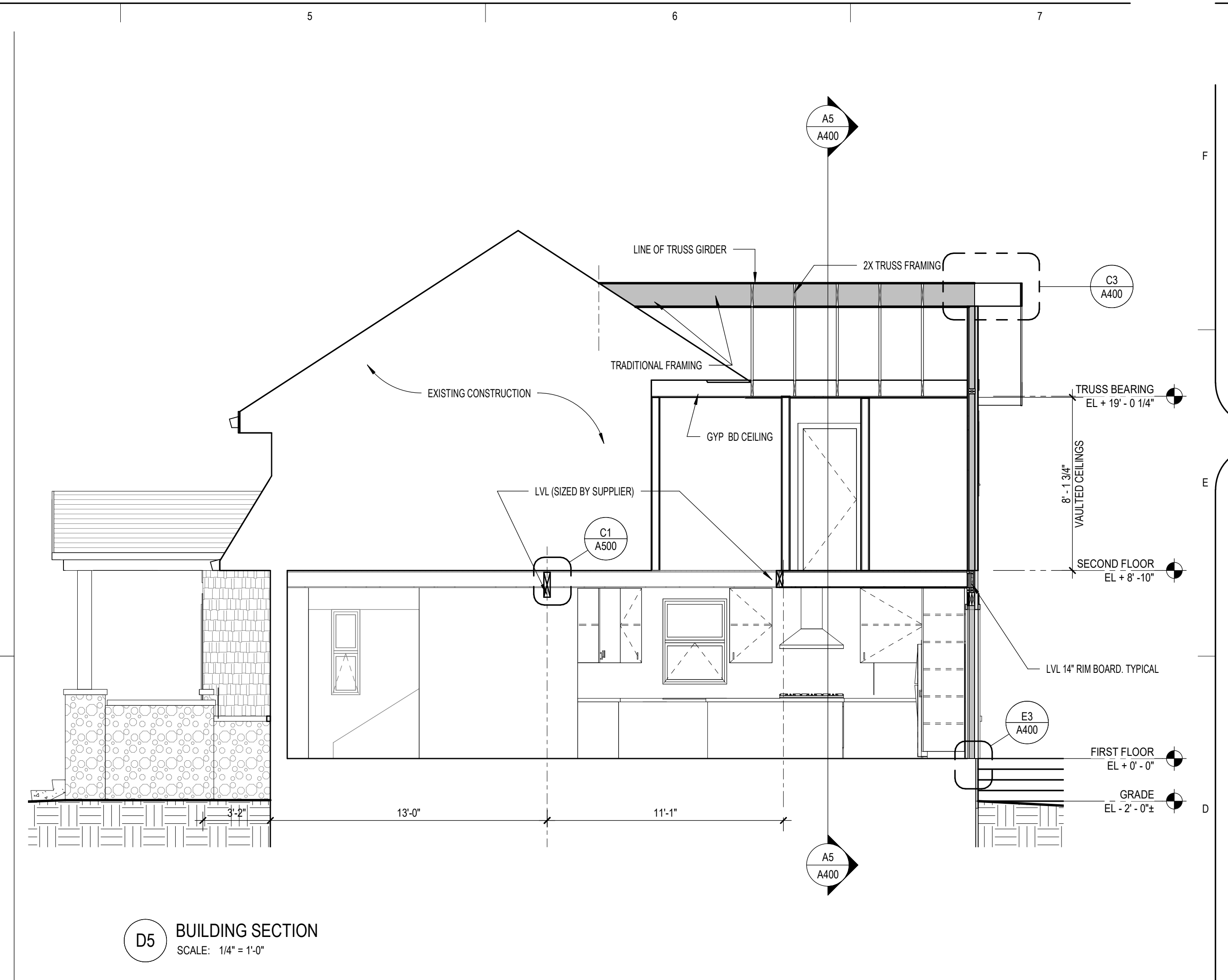
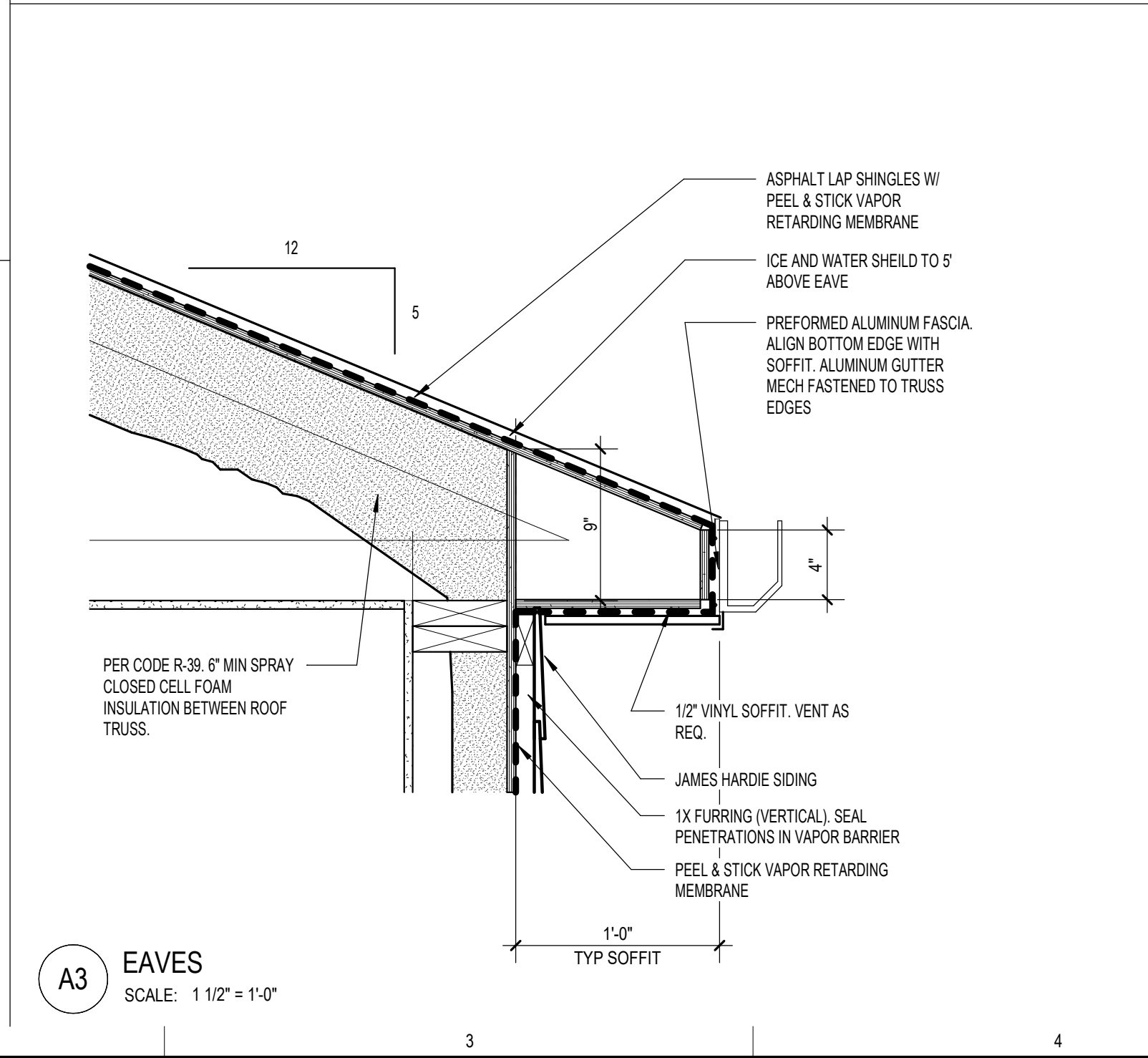
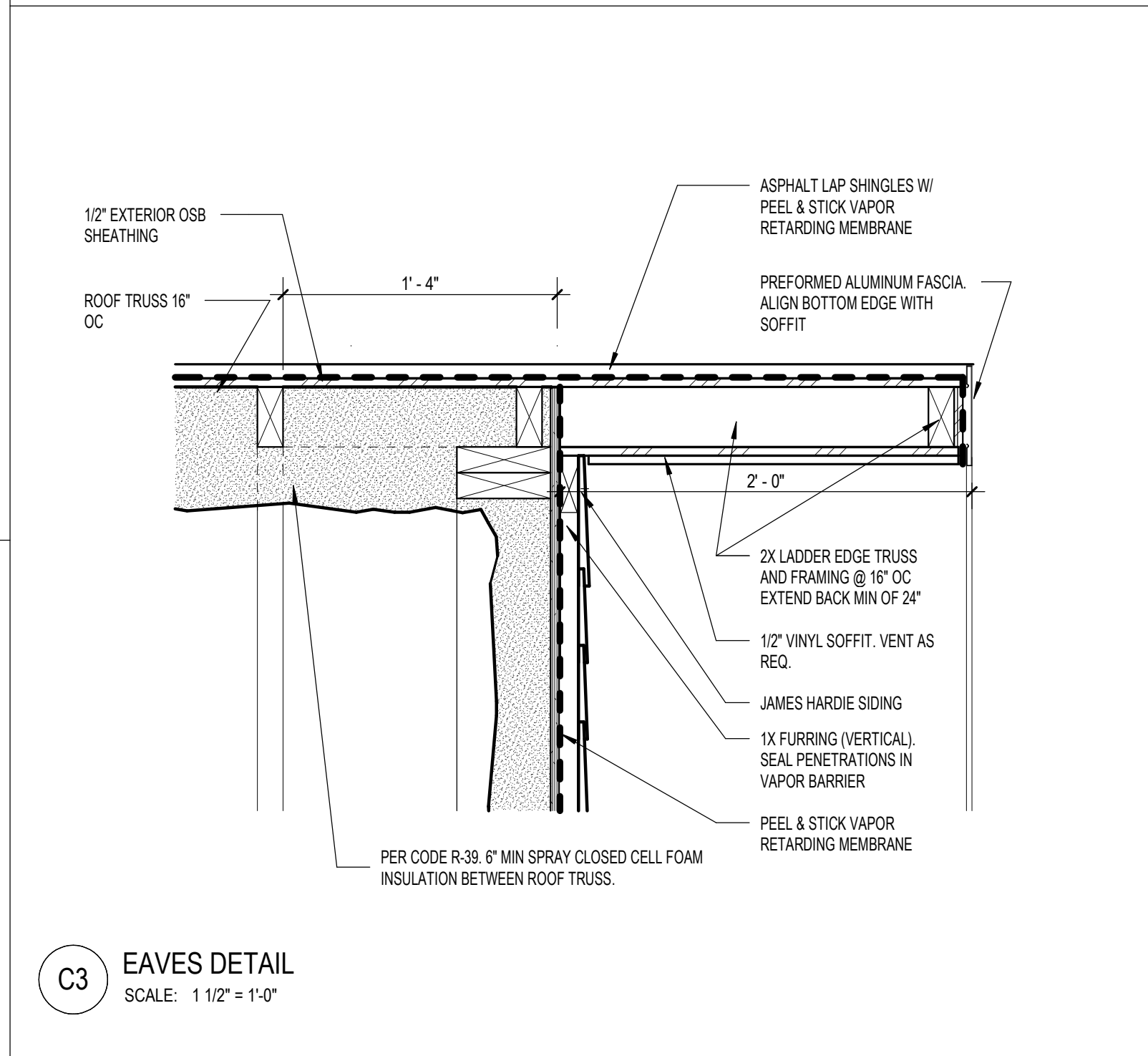
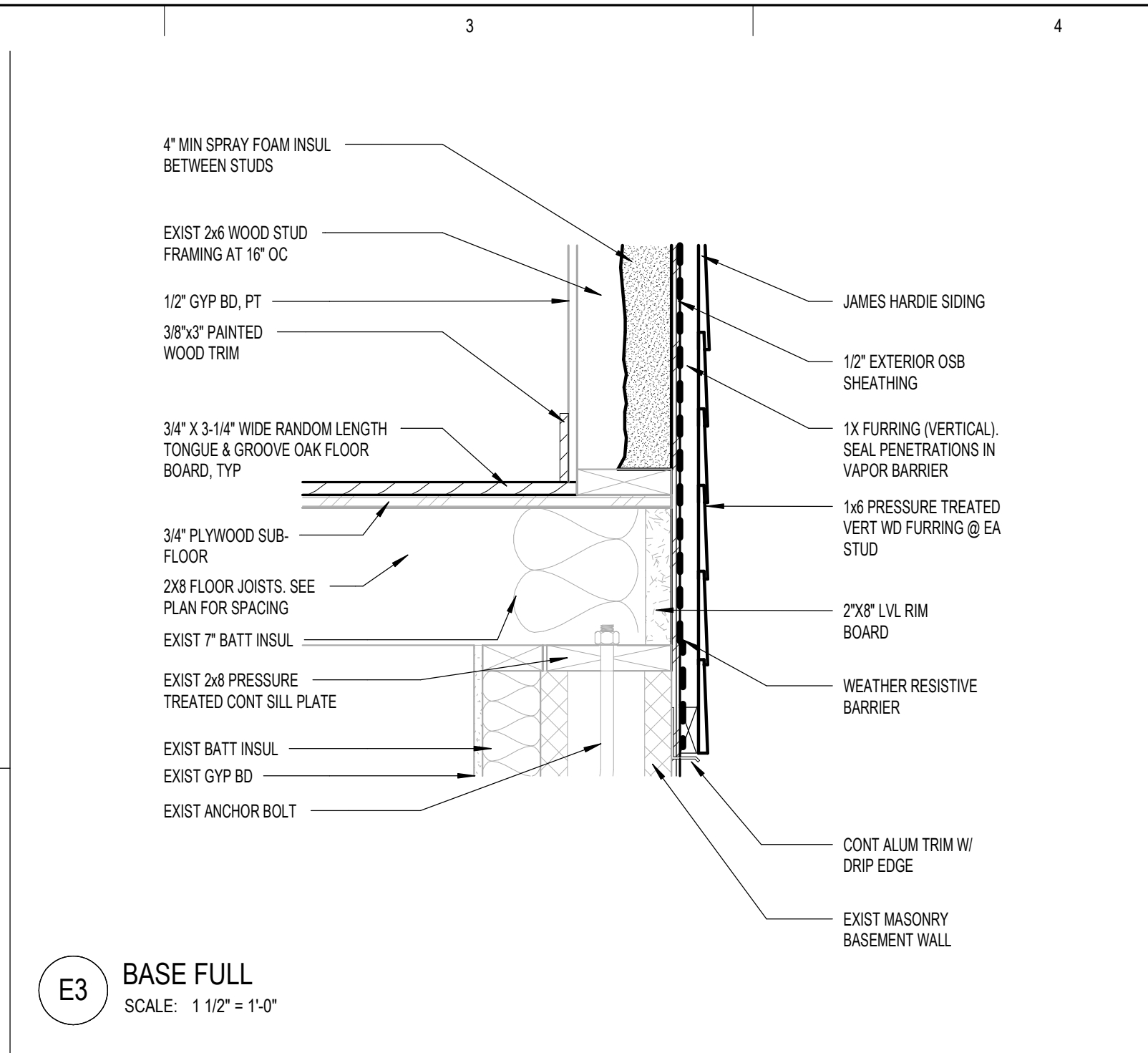
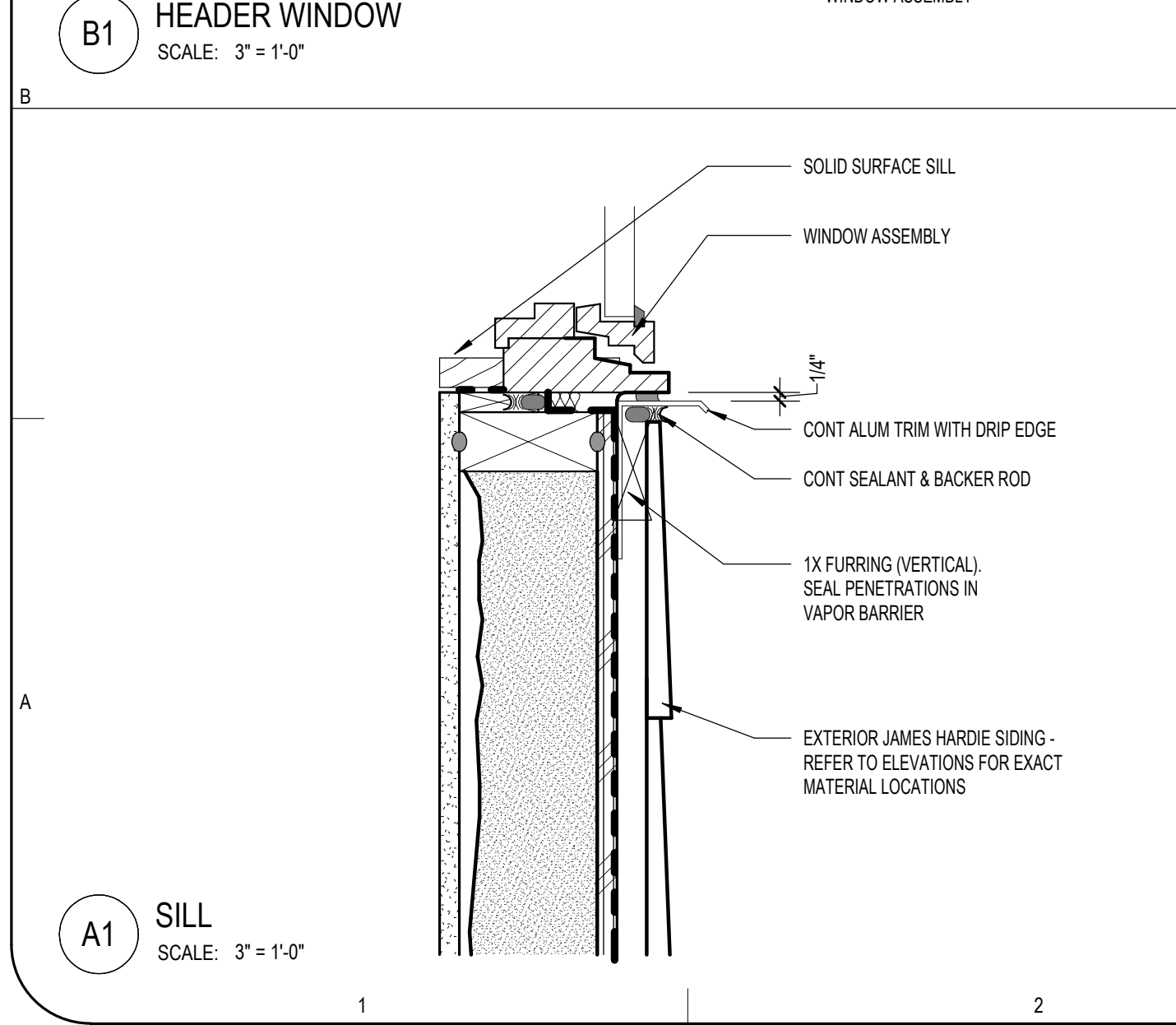
a design collective

[illegible]

SHEET TITLE

A300

SHEET NUMBER



Project Information:
1759 Henrietta
Birmingham, MI
Renovation



DIVIDE DESIGN
a design collective

1471 W Nine Mile Ferndale, MI 48220 Ste 9
e. wisniadp@gmail.com
c. 734.812.2508

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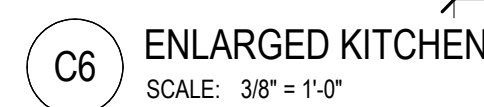
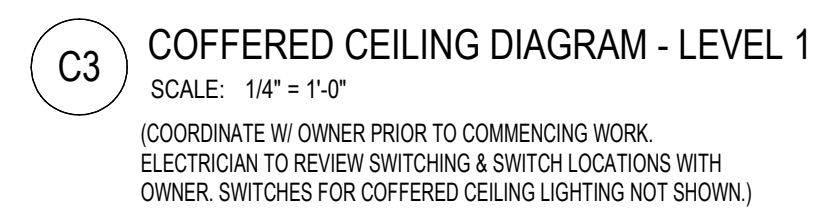
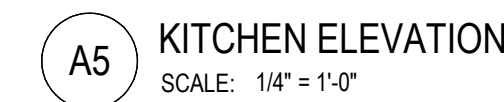
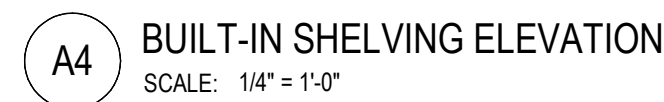
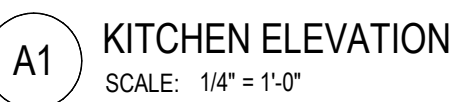
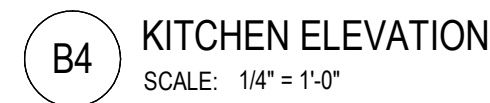
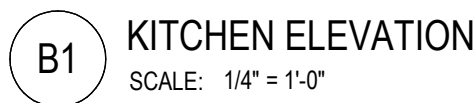
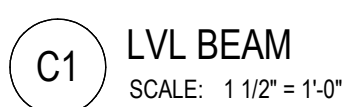
SEALS AND SIGNATURES

SHEET TITLE

SECTIONS AND DETAILS

SHEET NUMBER

A400

[illegible]

EALS AND SIGNATURES

HEET TITLE

ELEVATIONS & ENLARGED KITCHEN PLAN

SHEET NUMBER

A500



Project Information:
1759 Henrietta
Birmingham, MI
Renovation



DIVIDE DESIGN
a design collective

1471 W Nine Mile Ferndale, MI 48220 Ste 9
e. wisniadp@gmail.com
c. 734.812.2508

ISSUED FOR	REV	DATE
FOR FINAL PERMIT APPROVAL	1	04 SEP 21



SEALS AND SIGNATURES

SHEET TITLE

DEMOLITION SCOPE
EXTERIOR

AD100

SHEET NUMBER

CASE DESCRIPTION

551 S Bates (21-50)

Hearing date: November 9, 2021

Appeal No. 21-50: The owner of the property known 551 S Bates, requests the following variances to construct a front and rear patio to an existing non-conforming home:

- A. Chapter 126, Article 2.10.1 of the Zoning Ordinance requires that the maximum lot coverage is 30% (1826.40 SF) of the lot. The proposed is 35.82% (2181.00 SF). Therefore; a variance of 5.82% (354.60 SF) is being requested.
- B. Chapter 126, Article 4.31(A) of the Zoning Ordinance requires that a minimum of 65% (958.75) of the front open space in all single-family districts shall be free of paved surfaces. The proposed is 63.34% (935.00 SF). Therefore; a variance of 1.66% (23.75 SF) is being requested
- C. Chapter 126, Article 4.30(C)(1) of the Zoning Ordinance permits a covered or uncovered porch including the steps may project into a front open space for a maximum distance of 10.00 feet. The existing and proposed is 13.60 feet. Therefore; a variance of 3.60 feet is being requested.

Staff Notes: The applicant is proposing to construct a raised stone patio to replace the existing wood deck in the rear of the home. The existing front porch is to be repaired which is currently existing non-conforming and the front walkway is to be reworked as well which the required variances are requested.

This property is zoned R2 – Single family residential.

551 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

Application Date: 10-12-21
Received By: BM

Hearing Date: 11-9-21
Appeal #: 21-0050

Type of Variance:	<input type="checkbox"/> Interpretation	<input type="checkbox"/> Dimensional	<input type="checkbox"/> Land Use	<input type="checkbox"/> Sign	<input type="checkbox"/> Admin Review
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I. PROPERTY INFORMATION:

Address: <u>551 South Bates</u>	Lot Number:	Sidwell Number:
---------------------------------	-------------	-----------------

II. OWNER INFORMATION:

Name: <u>Jane Synnestvedt</u>			
Address: <u>551 South Bates</u>	City: <u>Birmingham</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>jane@janesynnestvedt.com</u>		Phone:	

III. PETITIONER INFORMATION:

Name: <u>Jeremy Locke</u>	Firm/Company Name: <u>Great Lakes Landscape Design</u>		
Address: <u>10631 Capital St</u>	City: <u>Oak Park</u>	State: <u>MI</u>	Zip code: <u>48237</u>
Email: <u>jeremy@greatlakeslandscapedesign.com</u>		Phone: <u>248-543-6320</u>	

IV. GENERAL INFORMATION:

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

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

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

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

V. REQUIRED INFORMATION CHECKLIST:

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

VI. APPLICANT SIGNATURE

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

Signature of Owner: <u>Jane Synnestvedt</u>	Date: <u>10-7-21</u>
Signature of Petitioner: <u>[Signature]</u>	Date: <u>10-7-21</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

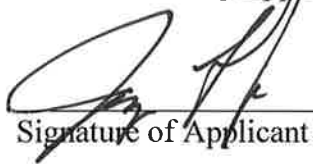
- A. The Board may reverse, affirm, vary or modify any order, requirement, decision or determination as in its opinion should be made, and to that end, shall have all the powers of the officer from whom the appeal has been taken.
- B. The decisions of the Board shall not become final until the expiration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

October 8, 2021

City of Birmingham
Planning

Residential - 551 S. Bates

I am reaching out in regards to my property at 551 S. Bates. It was purchased with the existing deck structure which is now in need of replacement.

I have recently had my mother pass away and have a father with Parkinsons.

I am planning ahead to make sure he can spend time with me at my home. Please keep this in mind as you review my requests.

I appreciate your help and attention in advance.

My best,

Jane S. Lynneott
(248) 561 - 9309

November 3, 2021

Please be advised that we are submitting the following plans for approval with the city based on existing site conditions and city ordinance.

Our client is seeking 3 variances, one for lot coverage 5.82%, one for front open space of 1.66% and the front porch will require a 3.6-foot variance as it exceeds the maximum 10' allowable per ordinance.

The client has a practical difficulty regarding the porch as while the house is not deemed historic it was built in the early 1900's and the client would like to keep it in the current state and maintain the look of the neighborhood.

The existing walkway is being proposed as a smaller non permeable space, but the practical difficulty remains that the house needs a walkway and the existing is already greater than the allowable per ordinance.

The lot coverage due to the extremely small lot creates a practical difficulty to have all the needed amenities that the house currently has and require maintenance.

We respectfully submit this application for your approval.

Best Regards

Ivan Katz

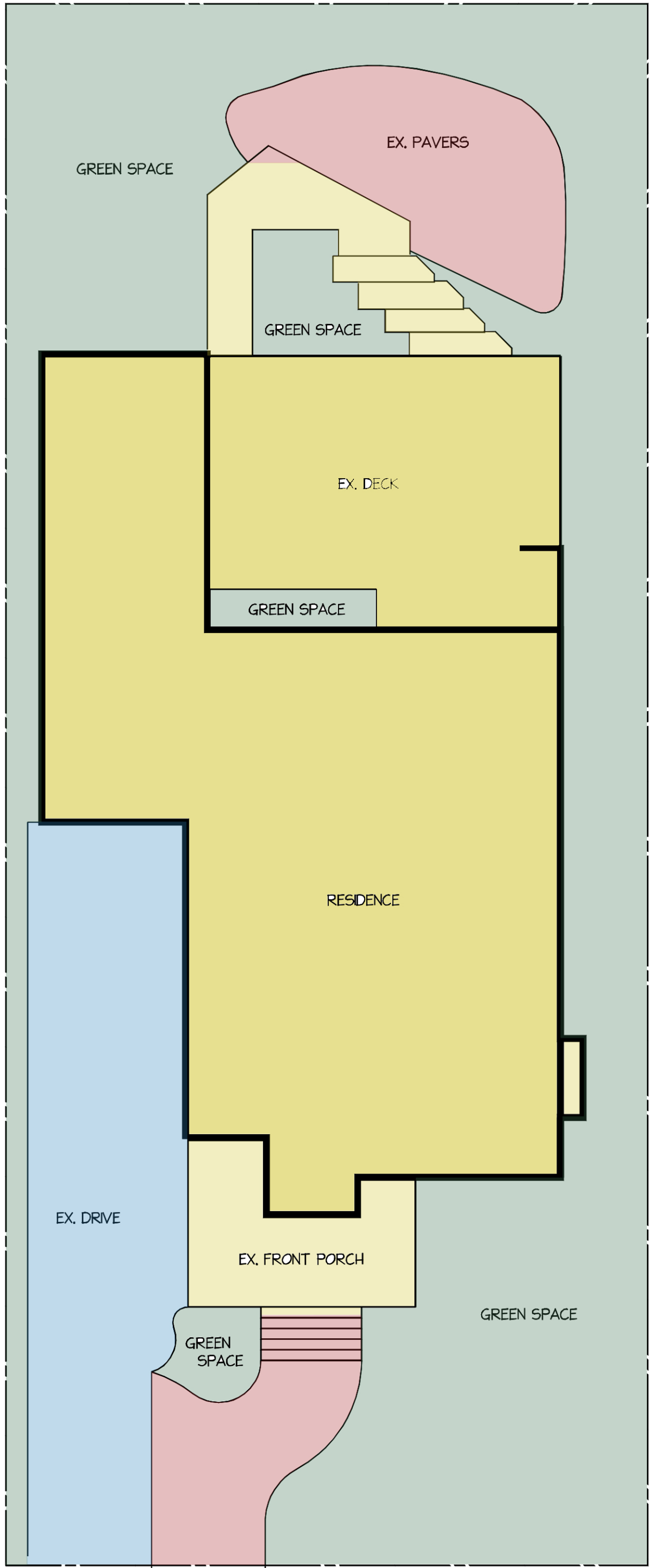
Visionary

Great Lakes Landscape Design



EXISTING

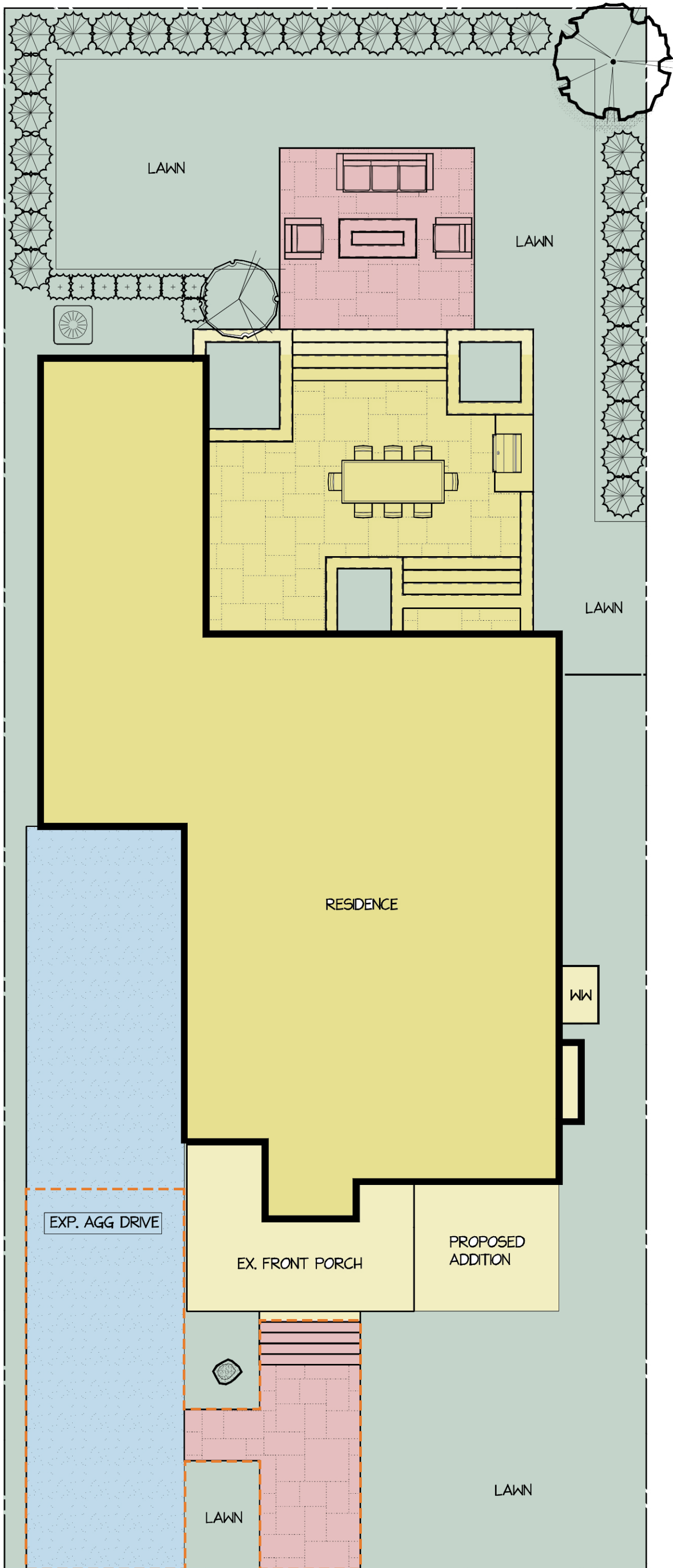
PROPOSED



TOTAL SF = 6088

ALLOWABLE PROJECTION	356 SF
DRIVE	669 SF
STRUCTURE	2242 SF
OPEN SPACE	2324 SF
HARDSCAPE	497 SF

6%	ALLOWABLE PROJECTION
11%	DRIVE
37%	STRUCTURE
38%	OPEN SPACE
8%	HARDSCAPE



TOTAL SF = 6088

ALLOWABLE PROJECTION	382 SF
DRIVE	713 SF
STRUCTURE	2181 SF
OPEN SPACE	2420 SF
HARDSCAPE	392 SF

540 SF	
6 %	ALLOWABLE PROJECTION
12%	DRIVE
36 %	STRUCTURE
40%	OPEN SPACE
6%	HARDSCAPE



NORTH

SYNNESTVEDT RESIDENCE
551 S Bates St.
Birmingham, 48009

DRAWING #

DATE

10/2021

SCALE

1"=8'

CASE DESCRIPTION

1679 Dorchester (21-51)

Hearing date: November 9, 2021

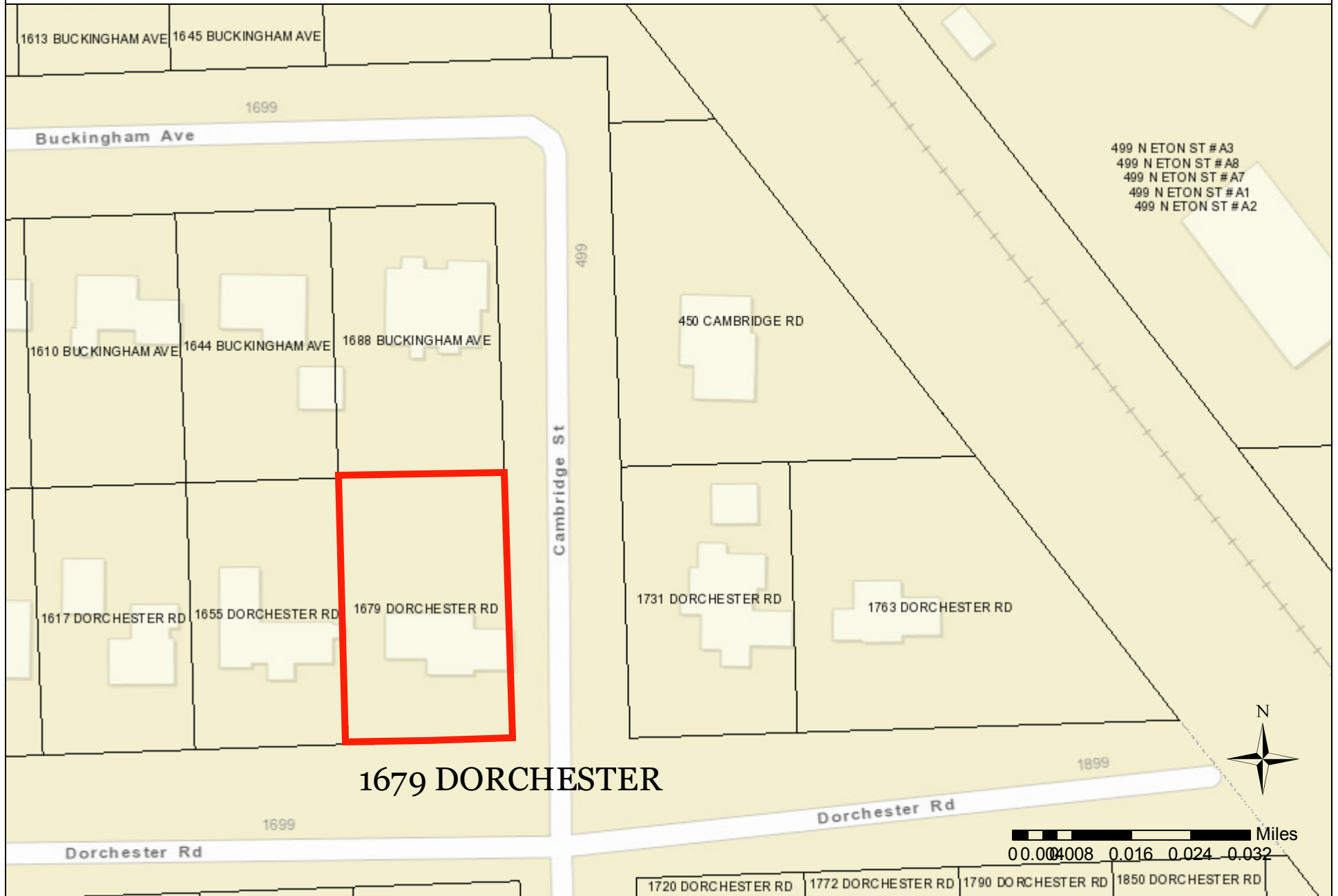
Appeal No. 21-51: The owner of the property known 1679 Dorchester, requests the following variances to construct a second floor addition to an existing non-conforming single-family home:

- 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 3.64 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% (15.30 feet) of a linear building width of a principal residential building that faces a street. The existing and proposed on the east side occupies 69.28% (21.20 feet). Therefore; a variance of 19.28% (5.90 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.

Staff Notes: The applicant is proposing to construct an addition to an existing non-conforming home. The home was constructed in 1946.

This property is zoned R2 – Single family residential.

1679 DORCHESTER 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 Date: 10/12/2021
Received By: BM

APPLICATION FOR THE BOARD OF ZONING APPEALS

Hearing Date: 11-9-21
Appeal #: 21-0051

Type of Variance:	<input type="checkbox"/> Interpretation	<input checked="" type="checkbox"/> Dimensional	<input type="checkbox"/> Land Use	<input type="checkbox"/> Sign	<input type="checkbox"/> Admin Review
-------------------	---	---	-----------------------------------	-------------------------------	---------------------------------------

I. PROPERTY INFORMATION:		
Address: <u>1679 Dorchester Rd</u>	Lot Number: <u>140</u>	Sidwell Number: <u>082030354020</u>

II. OWNER INFORMATION:			
Name: <u>PATRICK MALLON</u>			
Address: <u>1679 Dorchester Rd</u>	City: <u>Birmingham</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>PATRICKMALLON79@comcast.net</u>		Phone: <u>586-980-0980</u>	

III. PETITIONER INFORMATION:			
Name:		Firm/Company Name:	
Address: <u>Same as above</u>	City:	State:	Zip code:
Email:		Phone:	

IV. GENERAL INFORMATION:

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

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

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

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

V. REQUIRED INFORMATION CHECKLIST:	
<input checked="" type="checkbox"/>	One original and nine copies of the signed application
<input checked="" type="checkbox"/>	One original and nine copies of the signed letter of practical difficulty and/or hardship
<input checked="" type="checkbox"/>	One original and nine copies of the certified survey
<input checked="" type="checkbox"/>	10 folded copies of site plan and building plans including existing and proposed floor plans and elevations
<input type="checkbox"/>	If appealing a board decision, 10 copies of the minutes from any previous Planning, HDC, or DRB board meeting

VI. APPLICANT SIGNATURE	
By signing this application, I agree to conform to all applicable laws of the City of Birmingham. All information submitted on this application is accurate to the best of my knowledge. Changes to the plans are not allowed without approval from the Building Official or City Planner.	
Signature of Owner: <u>[Signature]</u>	Date: <u>10/12/2021</u>
Signature of Petitioner: <u>[Signature]</u>	Date: <u>10/12/2021</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

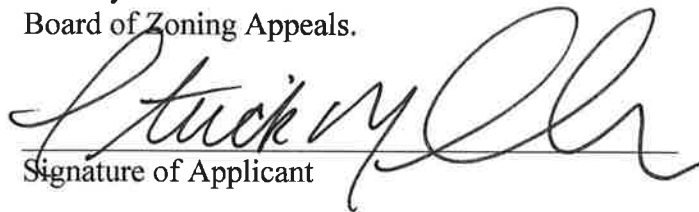
- A. The Board may reverse, affirm, vary or modify any order, requirement, decision or determination as in its opinion should be made, and to that end, shall have all the powers of the officer from whom the appeal has been taken.
- B. The decisions of the Board shall not become final until the expiration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

Practical Difficulty / Hardship Letter

1679 Dorchester Rd, Birmingham MI

To Whom It May Concern,

We are building over our existing footprint & are applying for a zoning appeal because our home is now deemed non-conforming once we knock down the garage. We have looked at bringing the structure in on the sides closest to the roads & being in compliance with the ordinances, but that does not work with plan for the additional space and layout needed.

Our existing first floor office space is needed for my mother-in-law when she comes to stay from out of town to treat her medical issue. She also has a tough time going up our winding staircase and this would help with her safety and comfort.

Practical difficulty / Hardship:

- Adding space for growing family & much needed mother-in law quarters
 - Bedrooms and new office on second floor
 - Mother-in law is from Charlevoix and is being medically treated at Karmanos. Existing first floor office is needed for her comfort and safety.
- Building over existing footprint & adding upstairs space
- Maintaining character in neighborhood
- Maintaining character of existing home & balance aesthetics with design
- Maintaining structural integrity by building straight up over garage

Respectfully,

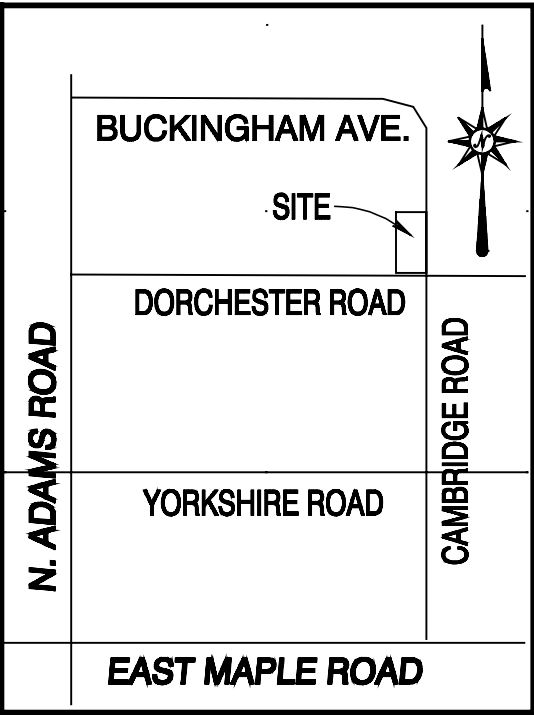
A handwritten signature in black ink, appearing to read 'Patrick Mallon', written in a cursive style.

Patrick Mallon

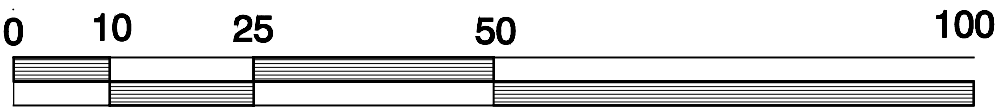
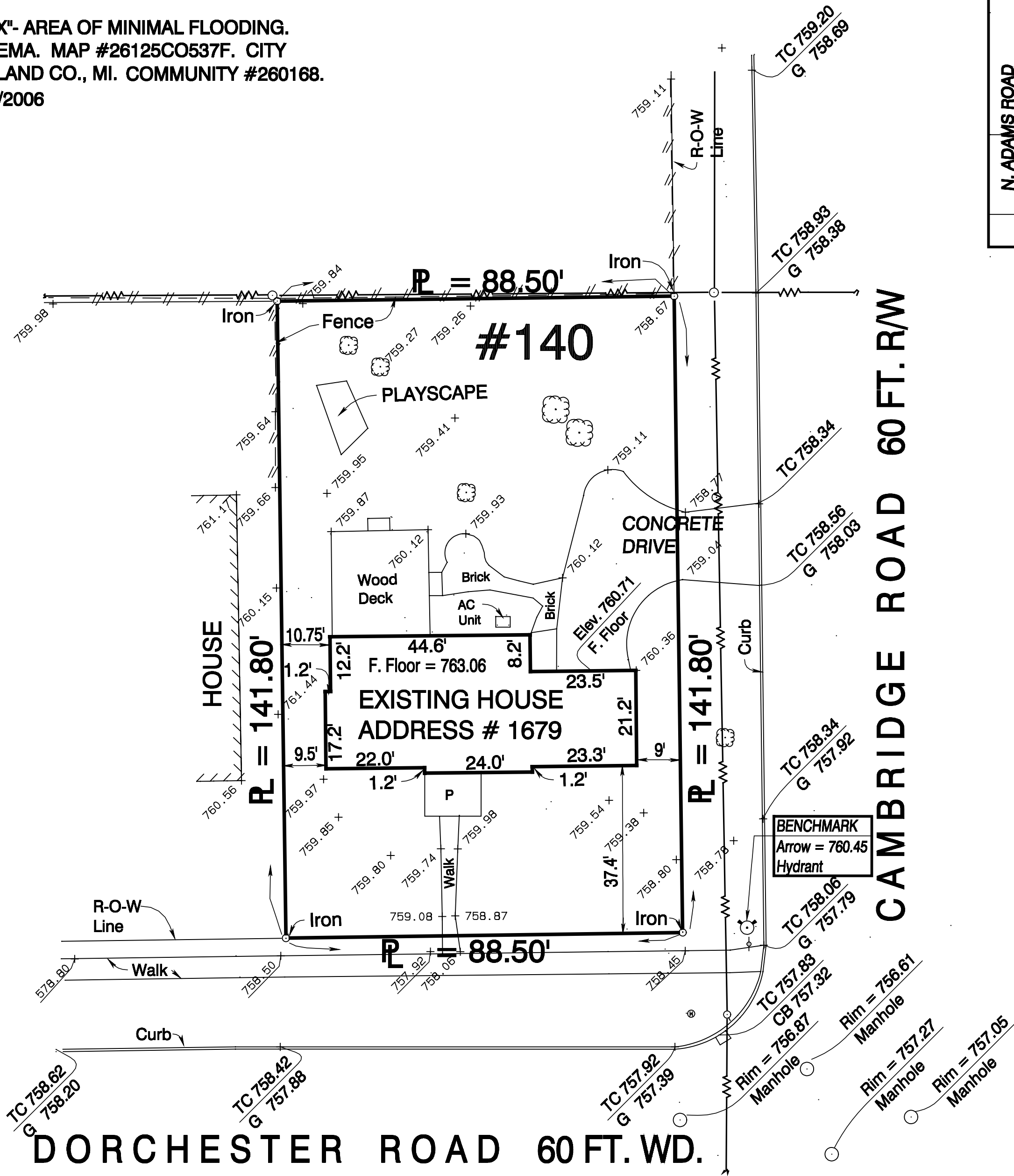
All elevations shown are NAVD88 Datum.

Check local DPS for underground locations/info

THIS SITE IS IN "ZONE X"- AREA OF MINIMAL FLOODING.
AS ESTABLISHED BY FEMA. MAP #26125CO537F. CITY
OF BIRMINGHAM, OAKLAND CO., MI. COMMUNITY #260168.
EFFECTIVE DATE: 9/29/2006



VICINITY MAP
(NO SCALE)



SCALE: 1" = 20'



Tod D. Stanley

By: Tod D. Stanley, P. S. # 57420

Symbol	Description
	HYDRANT
	SIGN
	TREE
	IRON REROD
	POLE
	MANHOLE
	WATER S/O
	OVERHEAD LINE

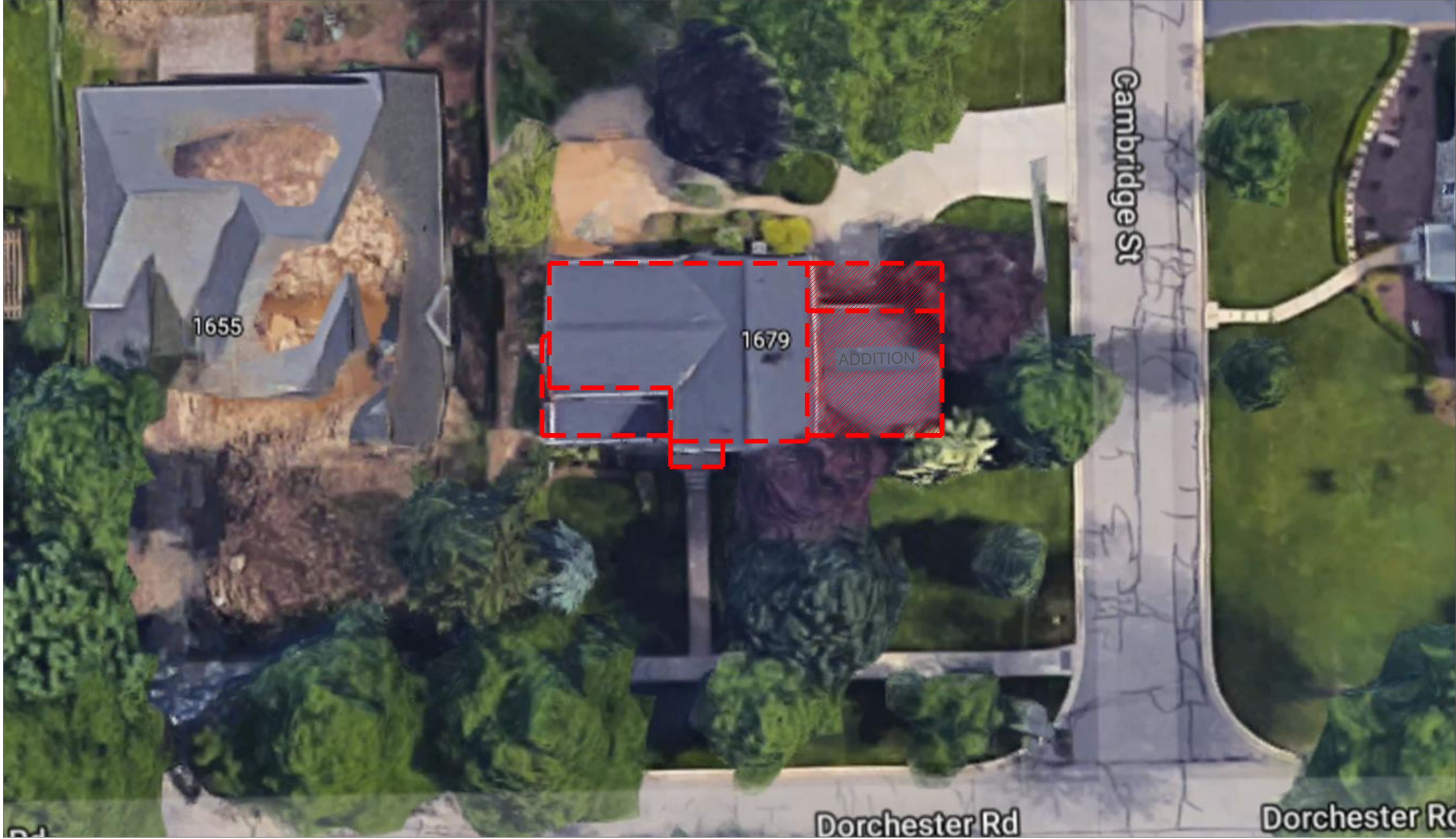
TOPOGRAPHICAL SURVEY FOR:
PATRICK MALLON

Lot 140, "BIRMINGHAM ESTATES SUBDIVISION", T. 2 N., R. 11 E.,
Section 30, City of Birmingham, Oakland County, Michigan.

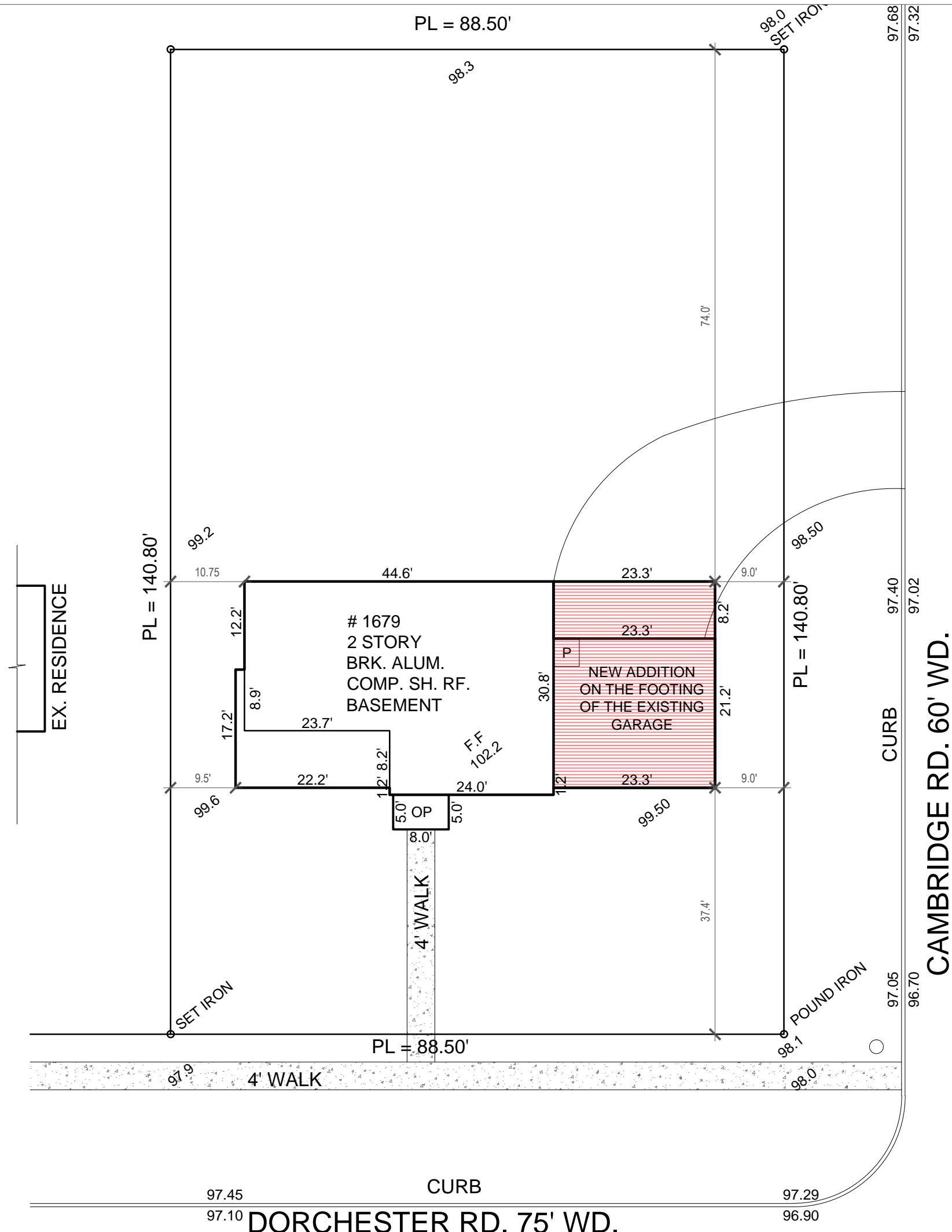


CIVIL ENGINEERING - LAND SURVEYING
STANLEY & ASSOCIATES
Grosse Ile Airport, Hanger 2 - North Offices
9505 Groh Road - Suite 100, Grosse Ile, MI. 48138
Phone: (734) 675-7830 - Fax (734) 675-3039

Scale 1 inch = 20 Feet Date July 23, 2021



MALLON RESIDENCE
1679, DORCHESTER, RD. BIRMINGHAM MI. 48009



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

SHEET SCHEDULE

- | | |
|-----|---|
| T1 | TITLE SHEET |
| A1 | EXISTING PHOTOS |
| A2 | EXISTING FOUNDATION PLAN EXISTING BASEMENT PLAN
EXISTING FIRST FLOOR PLAN EXISTING SECOND FLOOR PLAN |
| A3 | EXISTING ROOF PLAN |
| A4 | EXISTING ELEVATIONS |
| A5 | DEMO FOUNDATION DEMO FIRST FLOOR
DEMO SECOND FLOOR DEMO ROOF |
| A6 | DEMO ELEVATIONS |
| A7 | PROPOSED FOUNDATION PLAN PROPOSED FIRST FLOOR PLAN
PROPOSED SECOND FLOOR PLAN PROPOSED ROOF PLAN |
| A8 | PROPOSED SECTIONS |
| A9 | ENLARGED DETAILS |
| A10 | PROPOSED ELEVATIONS |
| A11 | ENLARGED FLOOR PLANS |
| A12 | FIRST FLOOR LIGHTING PLAN SECOND FLOOR LIGHTING PLAN |
| A13 | WINDOW AND DOOR SCHEDULE |
| A14 | WALL DETAILS |
| A15 | RENDERING |

SCOPE

- IMPLEMENT NEW SITE PLAN
- REMOVE SOME OF THE WINDOWS AND DOORS BASED ON THE DEMO PLANS
- REORGANIZE THE INTERIOR FLOOR PLANS.
- ORGANIZE NEW CAR PARKING GARAGE. DEMO THE EXISTING GARAGE.
- REMOVE AND REPLACE WITH A NEW ROOF.
- ADD A SECOND FLOOR ABOVE THE GARAGE.
- REFINISH AND REPAIR THE GARAGE
- REPAIR AND REPLACE WINDOWS PER CLIENT'S CHOICE.

GENERAL NOTES

- DO NOT SCALE DRAWINGS - USE GIVEN DIMENSION - ONLY.
- GENERAL CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND EXISTING CONDITIONS. IF DISCREPANCIES OCCUR, CONTRACTOR SHALL NOTIFY THE DESIGN TEAM IF NECESSARY
- COTRACTOR SHALL CONSTRUCT THIS PROJECT IN ACCORDANCE W/ THE LATEST MICHIGAN RESIDENTIAL CODE 2015, MECHANICAL CODE AND LATEST EDITION OF THE N.E.C. CODE.
- APPROVED FIRE STOP MATERIAL SHALL BE PROVIDED IN ALL DROPS & CHASES FOR ELECTRICAL, PLUMBING & HEATING.
- VERIFY LOCATION OF FURNACE & WATER HEATER AND OTHER MECHANICAL EQUIPMENT W/MECHANICAL CONTRACTOR.
- SMOKE DETECTORS SHALL BE AC/DC & INTERCONNECTING W/ONE ANOTHER.
- HEADERS, JOISTS & RAFTERS SHALL BE NO 2 SPF OR BETTER.
- MIN LUMBER Fb = 1,050 PSI BENDING STRESS.
- DOUBLE OR LADDER JOISTS UNDER ALL PARALLEL PARTITIONS.
- ALL WINDOW SIZES SHOWN ARE APPROX. UNIT SIZED ONLY. BEDROOM WINDOWS MUST MEET EMERGENCY EGRESS REQUIREMENTS, MANUFACTURERS TO VERIFY SIZES.
- ALL INTERIOR STUD WALLS ARE TO BE 2X4 CONSTRUCTION UNLESS OTHER WISE NOTED. ALL EXTERIOR STUD WALLS TO BE 2X6 CONSTRUCTION UNLESS OTHER WISE NOTED.
- TRUSS MANUFACTURER TO VERIFY ROOF FRAMING & NOTIFY ARCHITECT OF ANY DISCREPANCIES.
- FINISHED FLOOR MATERIALS BY OWNER
- POINT LOADS SHALL NOT BE ALTERED W/OUT NOTIFYING ARCHITECT.
- 36" HIGH WOOD RAILING BALUSTER, CLEAR OPENING MUST BE LESS THEN 4" DIA., TYPICAL.
- STAIR TO HAVE HEAD HEIGHT OF 6'-8" CLEAR MINIMUM.
- PROVIDE SOFFIT (STEAM TRAP) OVER SHOWER & TUB (FINISH PER BUILDER/OWNER SPEC.).
- LOCATE ATTIC ACCESS TO SUIT & MEET LOCAL CODE.
- FIRST FLOOR LIVE LOAD: 40 PSF
- SECOND FLOOR LIVE LOAD: 40 PSF
- ROOF LIVE LOAD: 30 PSF
- FIRST FLOOR DEAD LOAD: 20 PSF
- SECOND FLOOR DEAD LOAD: 20 PSF
- ROOF DEAD LOAD: 20 PSF
- FLOOR WITH TILE OR STONE TO BE DESIGNED W/ DEFLECTION LIMITS OF L/480 ALL OTHERS @ L/360.
- INSULATION R-VALUES:

BOND	R-21
WALLS	R-21
CEILING LOCATIONS	R-21
FLOORS OVER UNCONDITIONED SPACES	R-38
UNDER SLABS (WHERE REQUIRED)	R-10

FOUNDATION GENERAL NOTES

- DO NOT SCALE DRAWINGS - USE GIVEN DIMENSION.
- ALL FOOTINGS SHALL BE PLACED ON FIRM UNDISTURBED SOIL. FOOTING BASED ON MIN 2,500 PSF SOIL PRESSURE.
- FOOTING & WALL COMPRESSIVE STRENGTH SHALL BE 3,000 PSI MIN. AT 28 DAYS. BASEMENT SLABS 2,500 PSI. GARAGE SLABS & OTHER EXTERIOR FLATWORK 3,500 PSI.
- CONCRETE REINFORCING BARS SHALL BE A.S.T.M. A-615 GRADE 60 MIN.
- STEEL FABRICATION & ERECTION SHALL MEET ALL A.I.S.C. CODES.

AREA

EXISTING BASEMENT LEVEL	1151.4 sq.ft.
EXISTING FIRST LEVEL	1418.6 sq.ft.
EXISTING SECOND LEVEL	1174.5 sq.ft.
PROPOSED FIRST LEVEL	1464.9 sq.ft.
PROPOSED SECOND LEVEL	1866.7 sq.ft.
TOTAL GARAGE	4482.9 sq.ft.
TOTAL GROSS	5083.8 sq.ft.

LIST OF CONTACTS

DESIGN TEAM

CRÉATEUR
GJERGJI PRENDI
6001 CASS AVE, DETROIT, MI 48202
E. GP@CREATEURSTUDIO.COM
M. 586.610.1174

ENGINEER TEAM

BORYN ENGINEERING CO.
EDWARD BORYN P.E.
4780 BIRKDALE DRIVE
COMMERCE TWP., MI 48382
EBORYN@YAHOO.COM
M. 248.310.6205

SITE SURVEYOR

STANLEY & ASSOCIATES
GROSSE ILE AIRPORT
HANGER 2 - NORTH OFFICES
9505 GROH ROAD - SUITE 100
GROSSE ILE, MI 48138
M. (734) 675.7830
F. (734) 675.3039

BUILDING CODES

THE NEW ADDITION HAS BEEN
DESIGNED TO CONFORM TO THE
FOLLOWING CODE:

- 2015 Michigan Residential Code
- 2015 Michigan Mechanical Code
- 2015 Michigan Plumbing Code
- 2015 Michigan Electrical Code

REVISIONS

-
-
-
-
-

JOB NO.

2020_1230

PLOT SCALE

DATE

05/26/2021

DRAWN BY

Ema Gjura

CHEKED BY

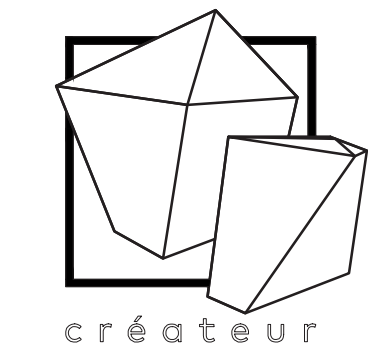
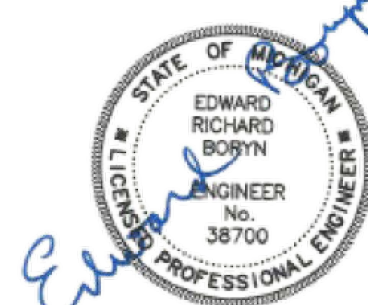
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BB

MALLON RESIDENCE
1679 DORCHESTER RD. BIRMINGHAM, MI 48009

SEAL



CRÉATEUR

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E. HI@CREATEURSTUDIO.COM
WWW.CREATEURSTUDIO.COM

SHEET

T1



NORTH VIEW



NORTH-WEST VIEW



SOUTH VIEW



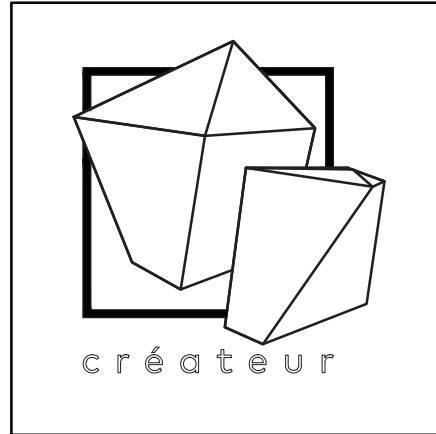
SOUTH-EAST VIEW

EXISTING PHOTOS

REVISIONS
1.
2.
3.
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5.
JOB NO. 2020_1230
PLOT SCALE
DATE 08/04/2021
DRAWN BY Ema Gjura
CHEKED BY
SF
DF
BB

MALLON RESIDENCE
1679 DORCHESTER RD. BIRMINGHAM, MI 48009

SEAL

A circular professional engineer seal for Edward Richard Bohn, No. 38700, State of Michigan. The seal is stamped in blue ink.

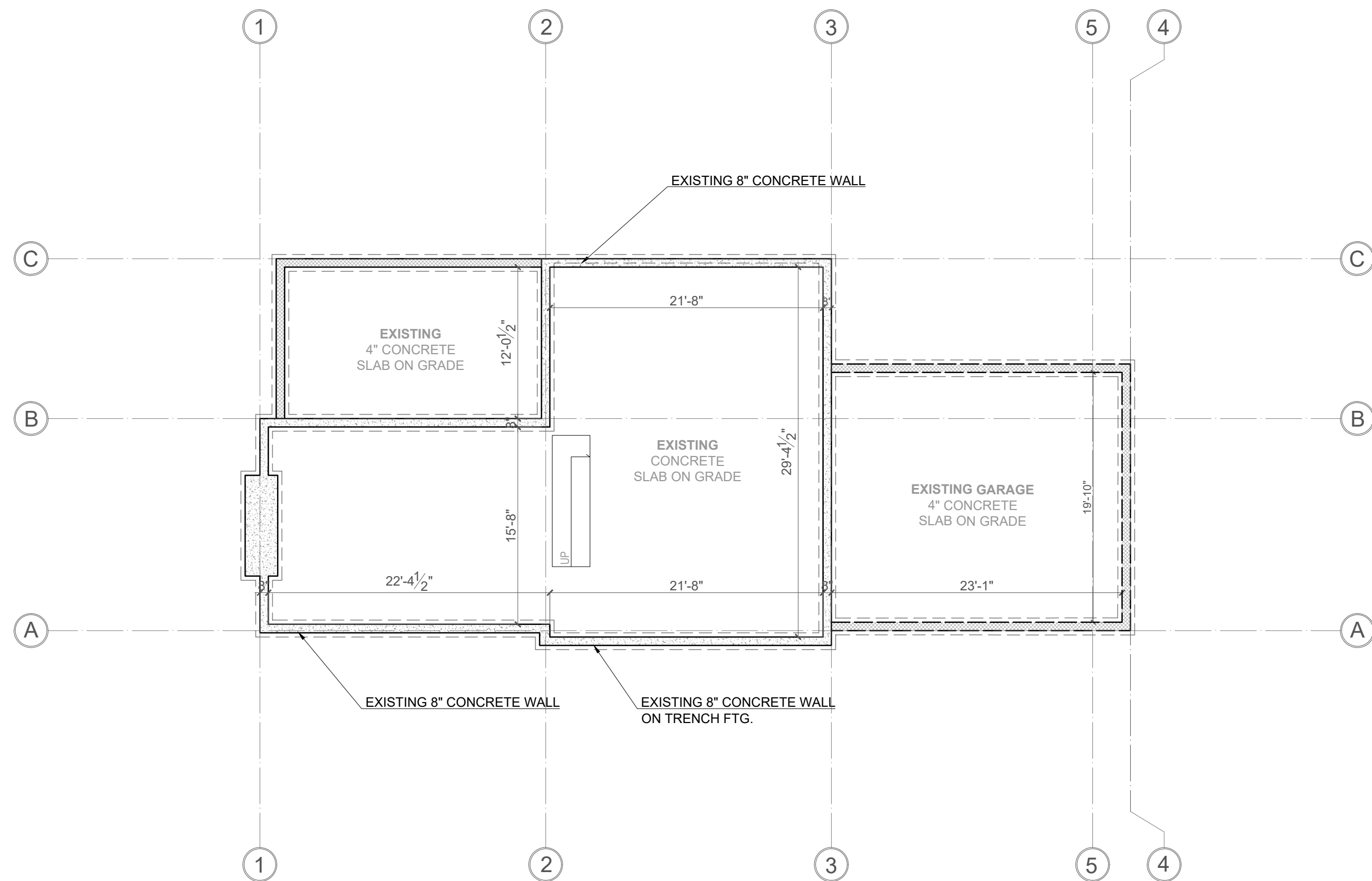
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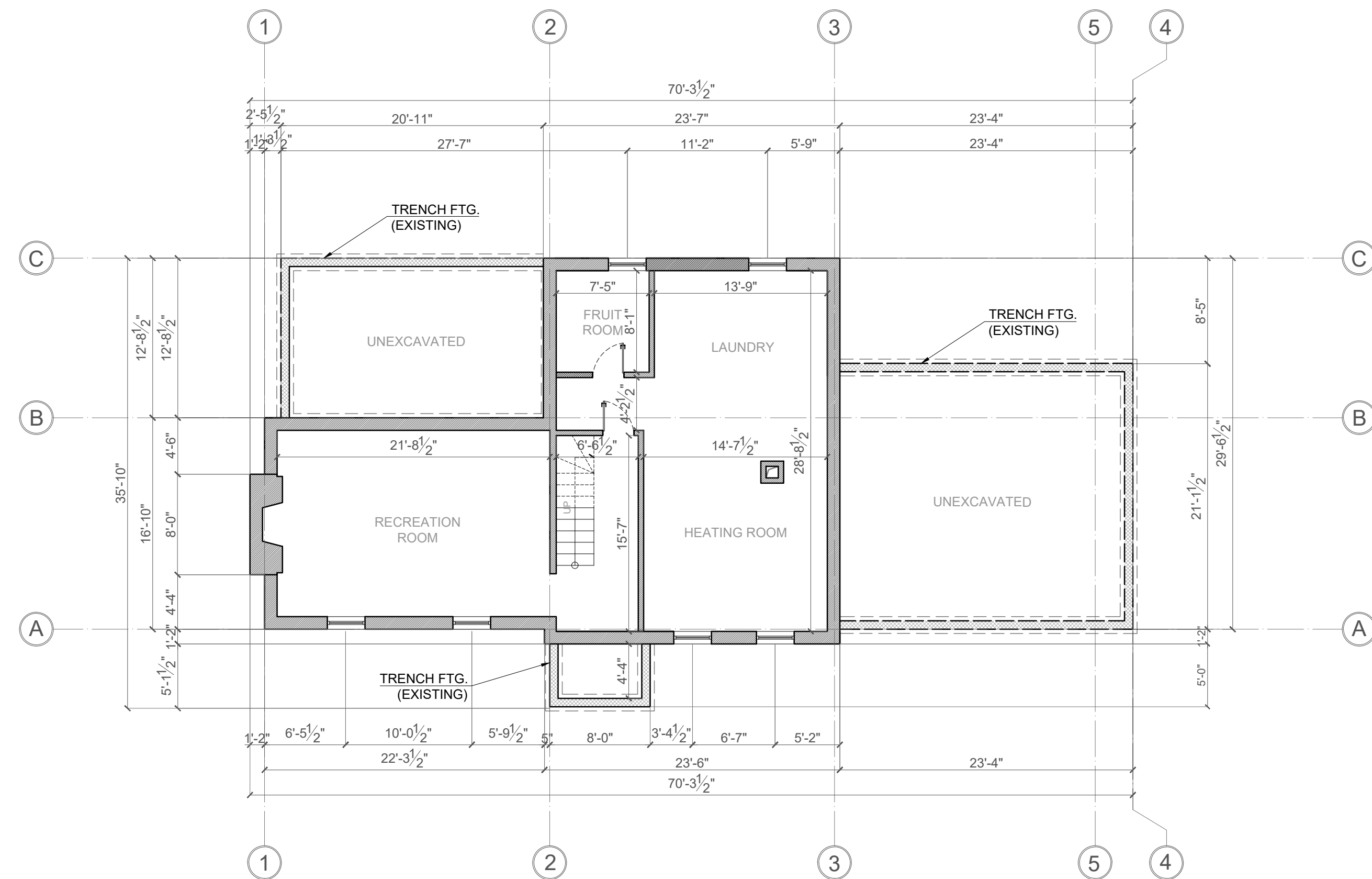
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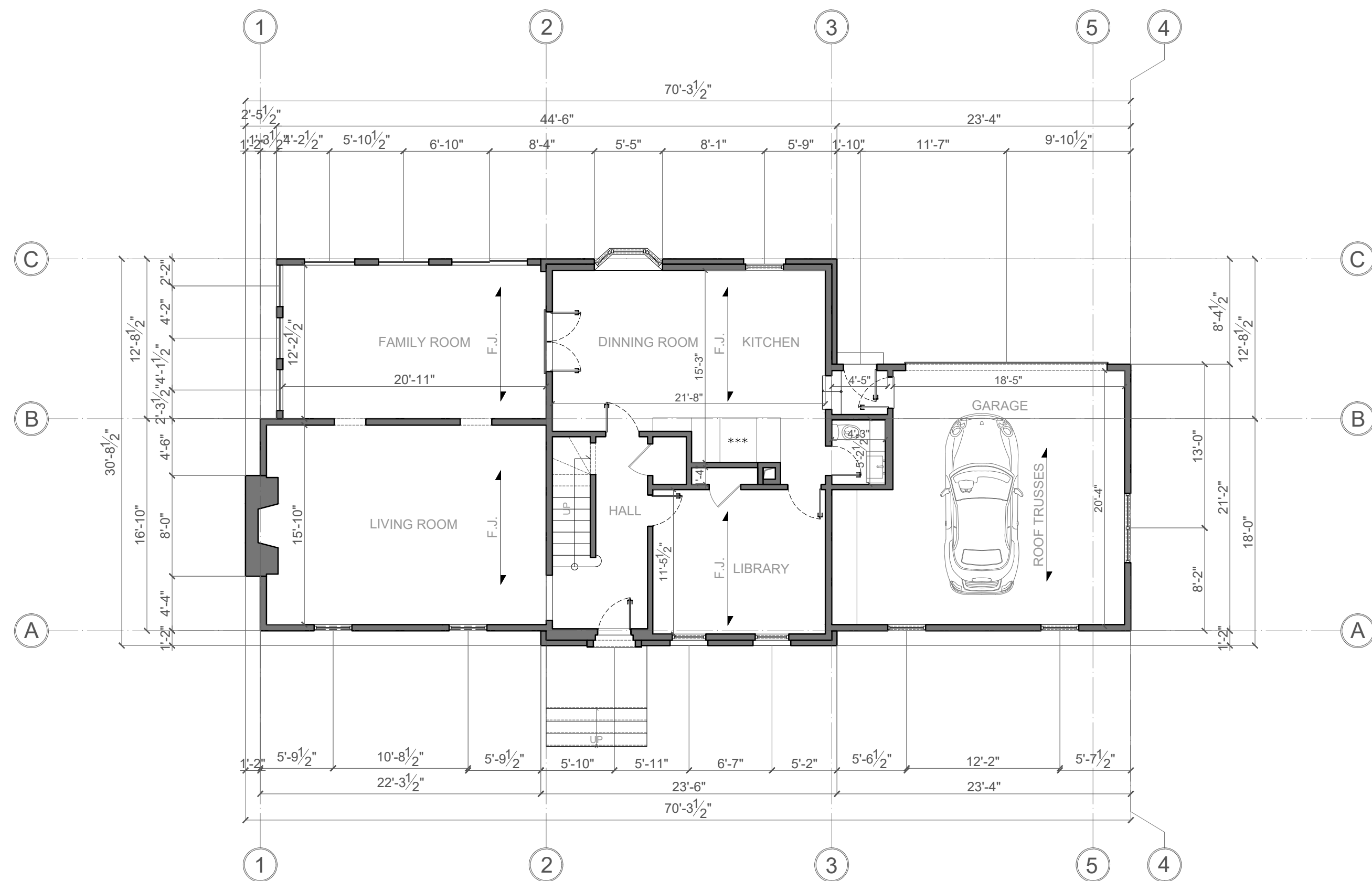
A1



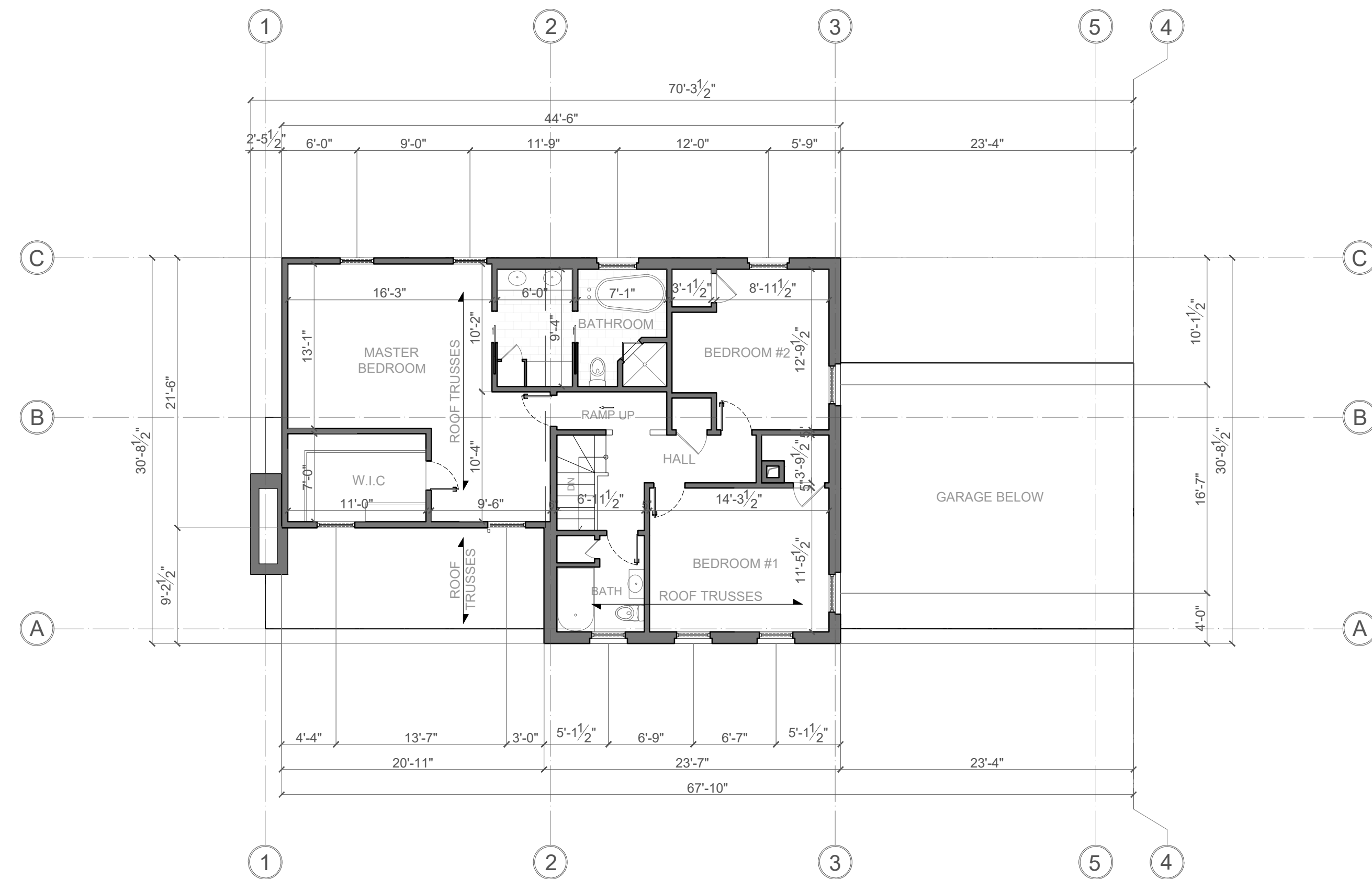
EXISTING FOUNDATION PLAN
SCALE 1/8"=1'-0"



EXISTING BASEMENT PLAN
SCALE 1/8"=1'-0"



EXISTING FIRST FLOOR PLAN
SCALE 1/8"=1'-0"



EXISTING SECOND FLOOR PLAN
SCALE 1/8"=1'-0"

REVISIONS

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- 4.
- 5.

JOB NO.

2020_1230

PLOT SCALE

1/8"=1'-0"

DATE

08/05/2021

DRAWN BY

Ema Gjura

CHEKED BY

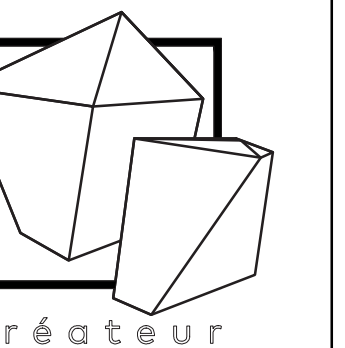
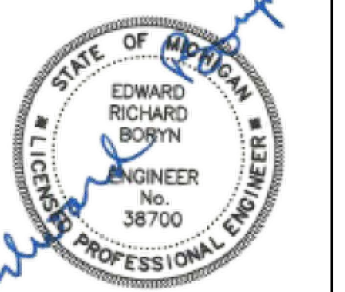
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1679 DORCHESTER RD. BIRMINGHAM, MI 48009

SEAL



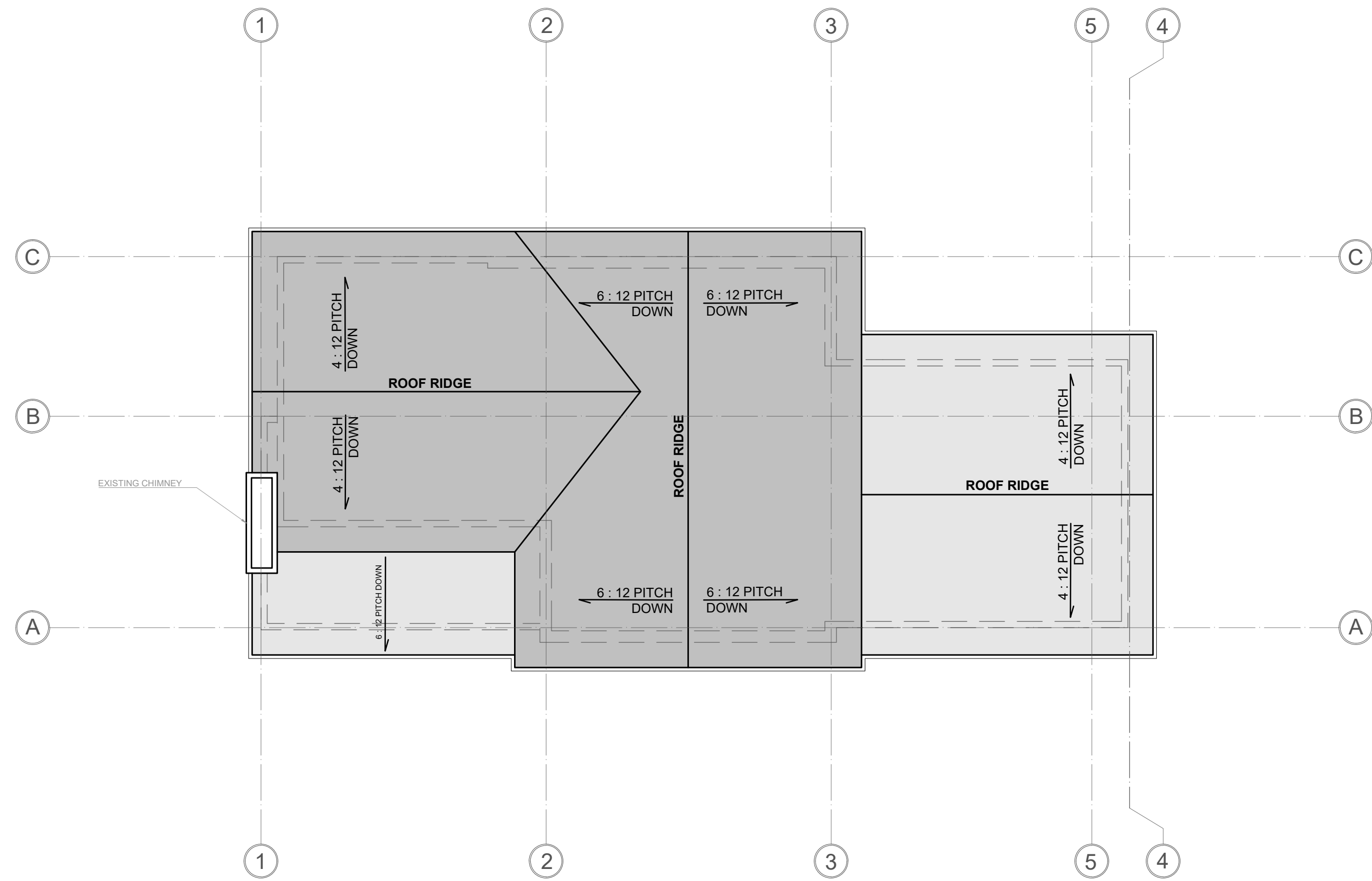
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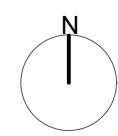
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SHEET

A2



 **EXISTING ROOF PLAN**
SCALE 1/8"=1'-0"

REVISIONS

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- 2.
- 3.
- 4.
- 5.

JOB NO.

2020_1230

PLOT SCALE

1/8"=1'-0"

DATE

08/05/2021

DRAWN BY

Ema Gjura

CHEKED BY

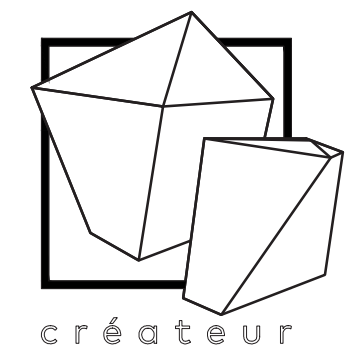
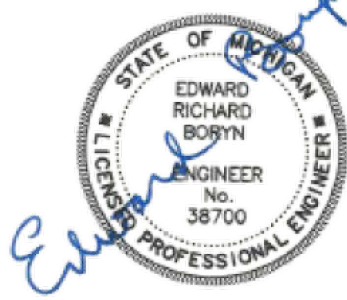
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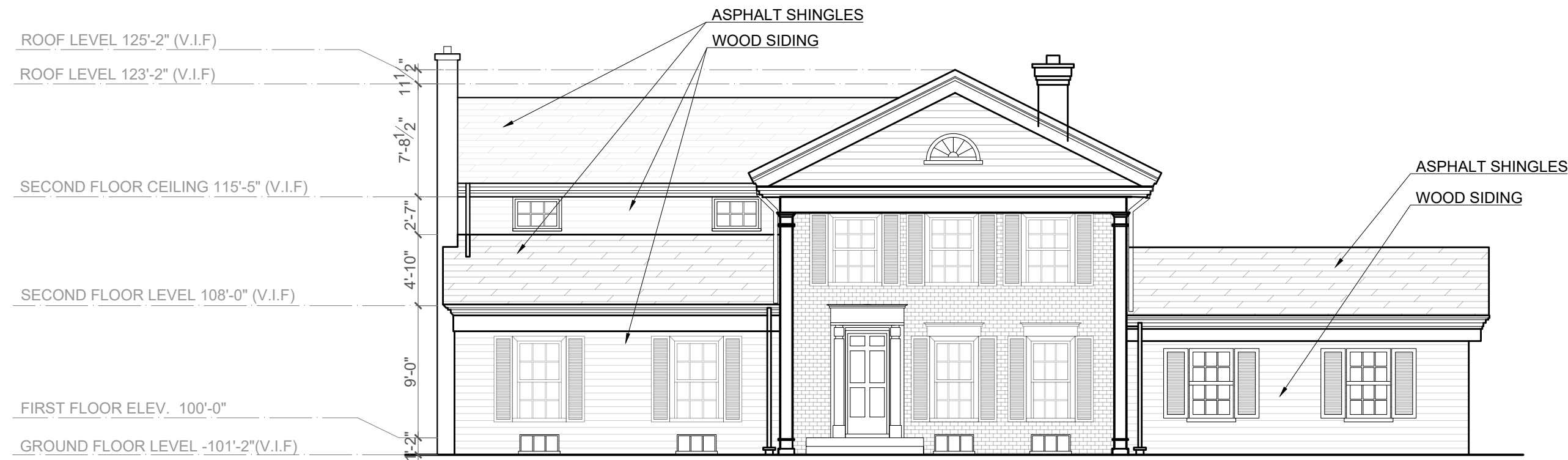
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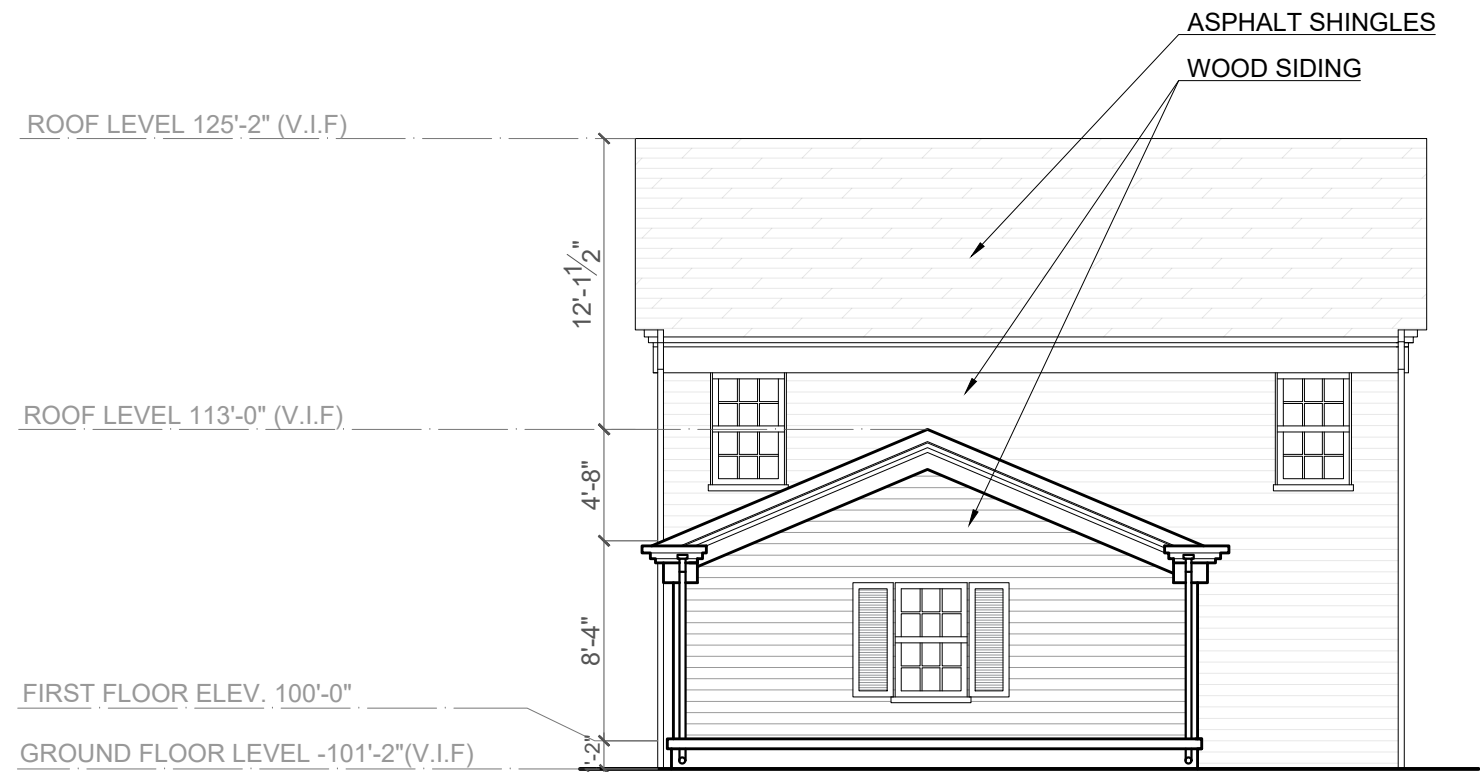
C. 586.275.9030
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WWW.CREATEURSTUDIO.COM

SHEET

A3



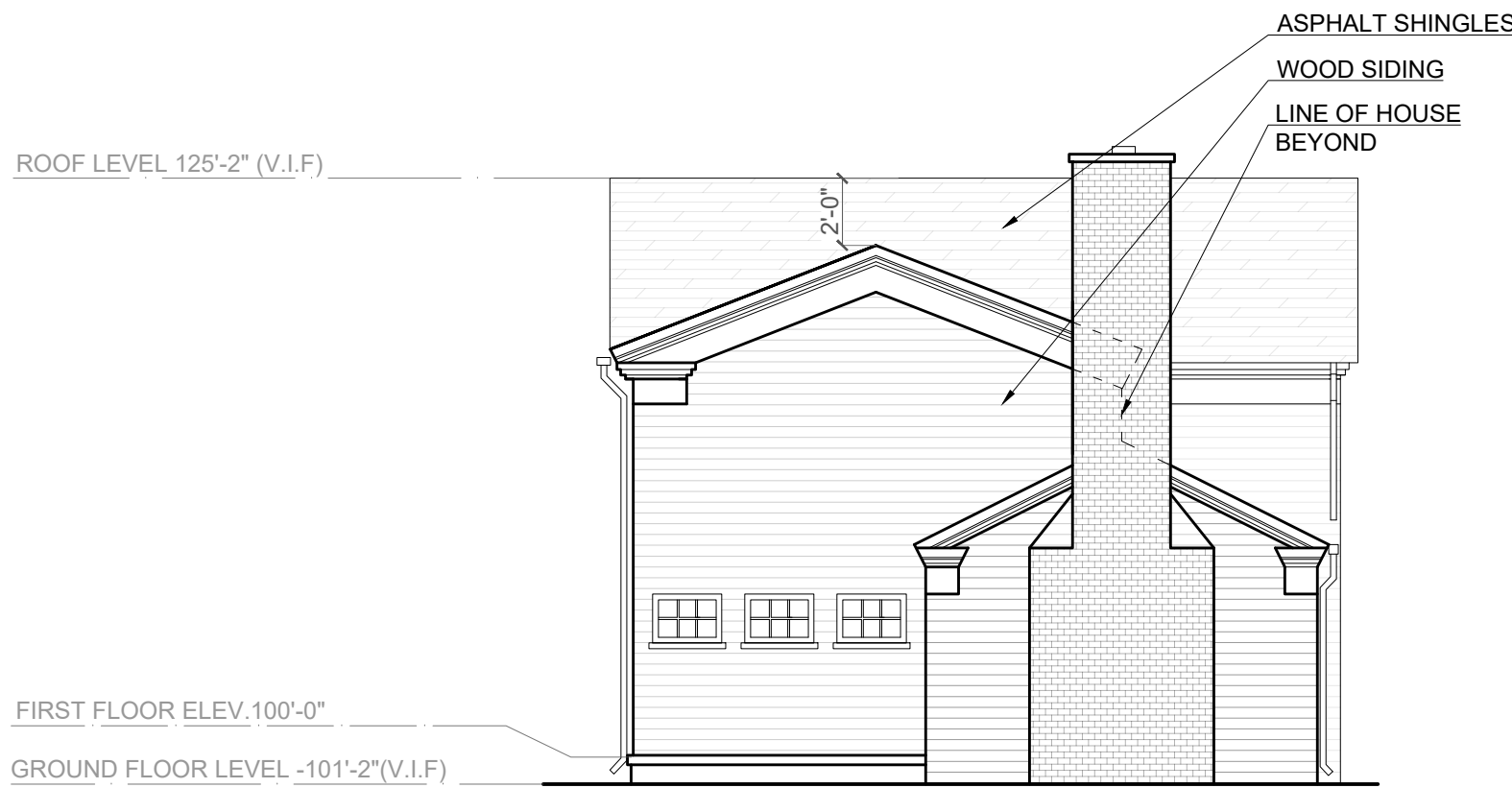
EXISTING SOUTH ELEVATION
SCALE 1/8"=1'-0"



EXISTING EAST ELEVATION
SCALE 1/8"=1'-0"



EXISTING NORTH ELEVATION
SCALE 1/8"=1'-0"



EXISTING WEST ELEVATION
SCALE 1/8"=1'-0"

REVISIONS

- 1.
- 2.
- 3.
- 4.
- 5.

JOB NO.

2020_1230

PLOT SCALE

1/8" = 1'-0"

DATE

08/05/2021

DRAWN BY

Ema Gjura

CHEKED BY

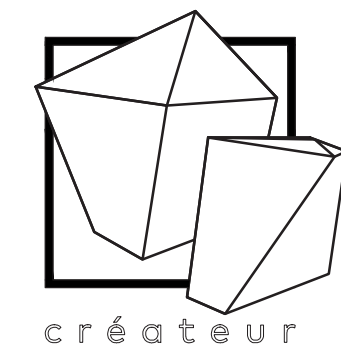
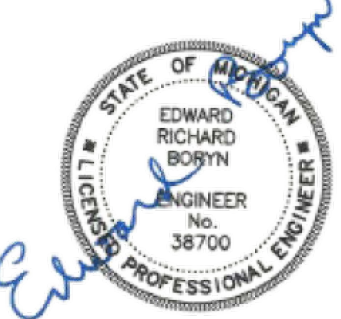
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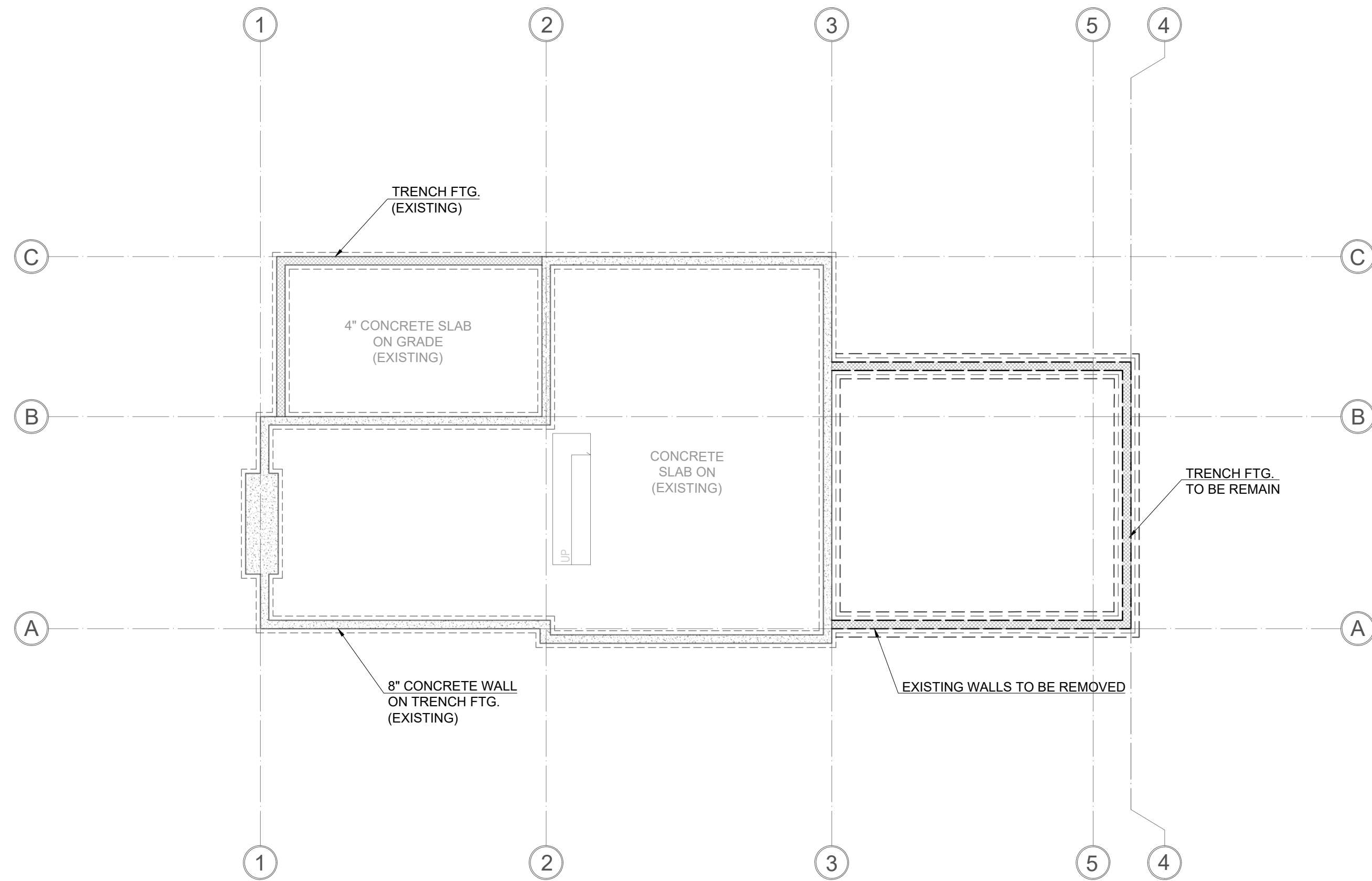
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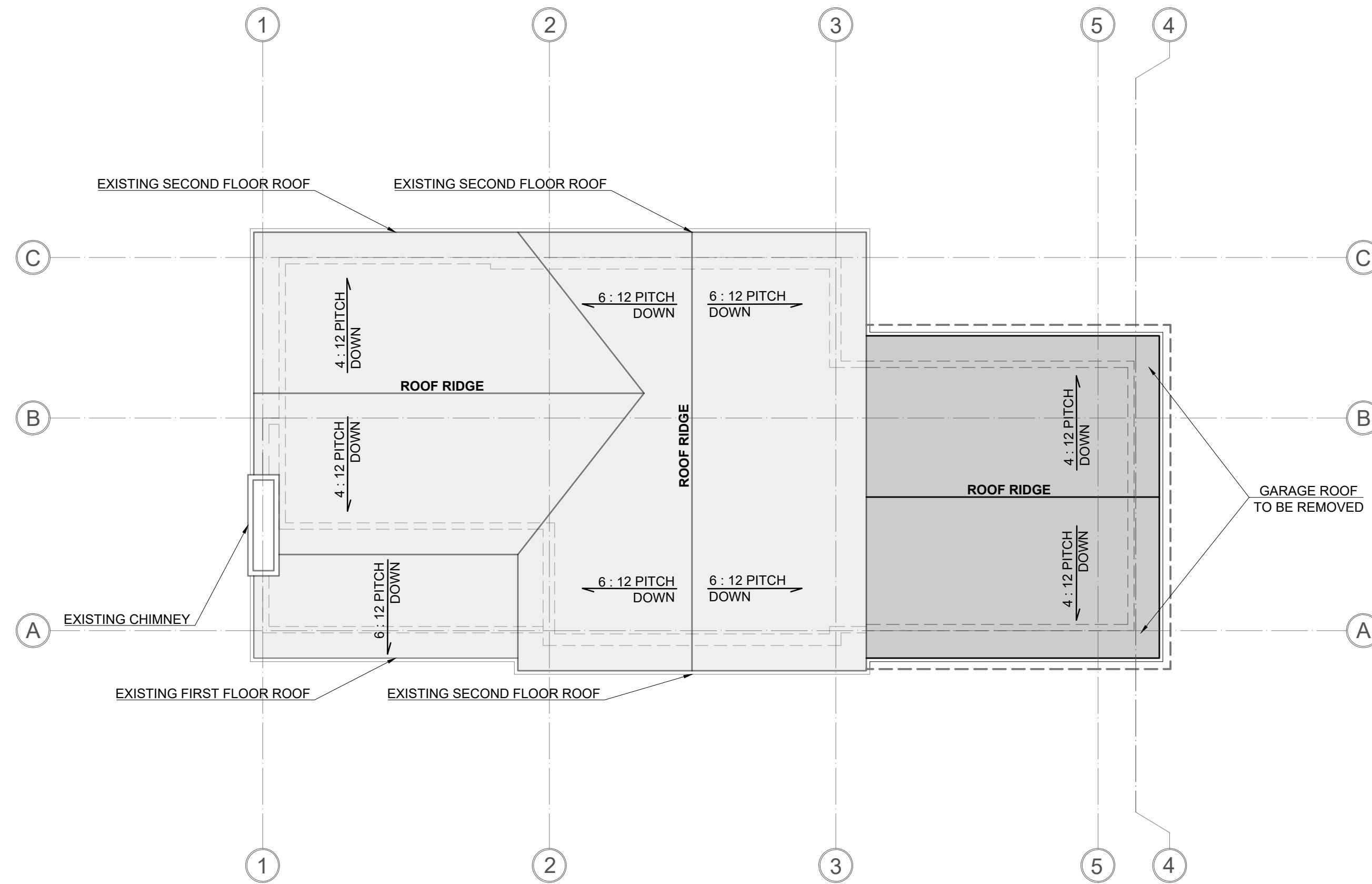
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SHEET

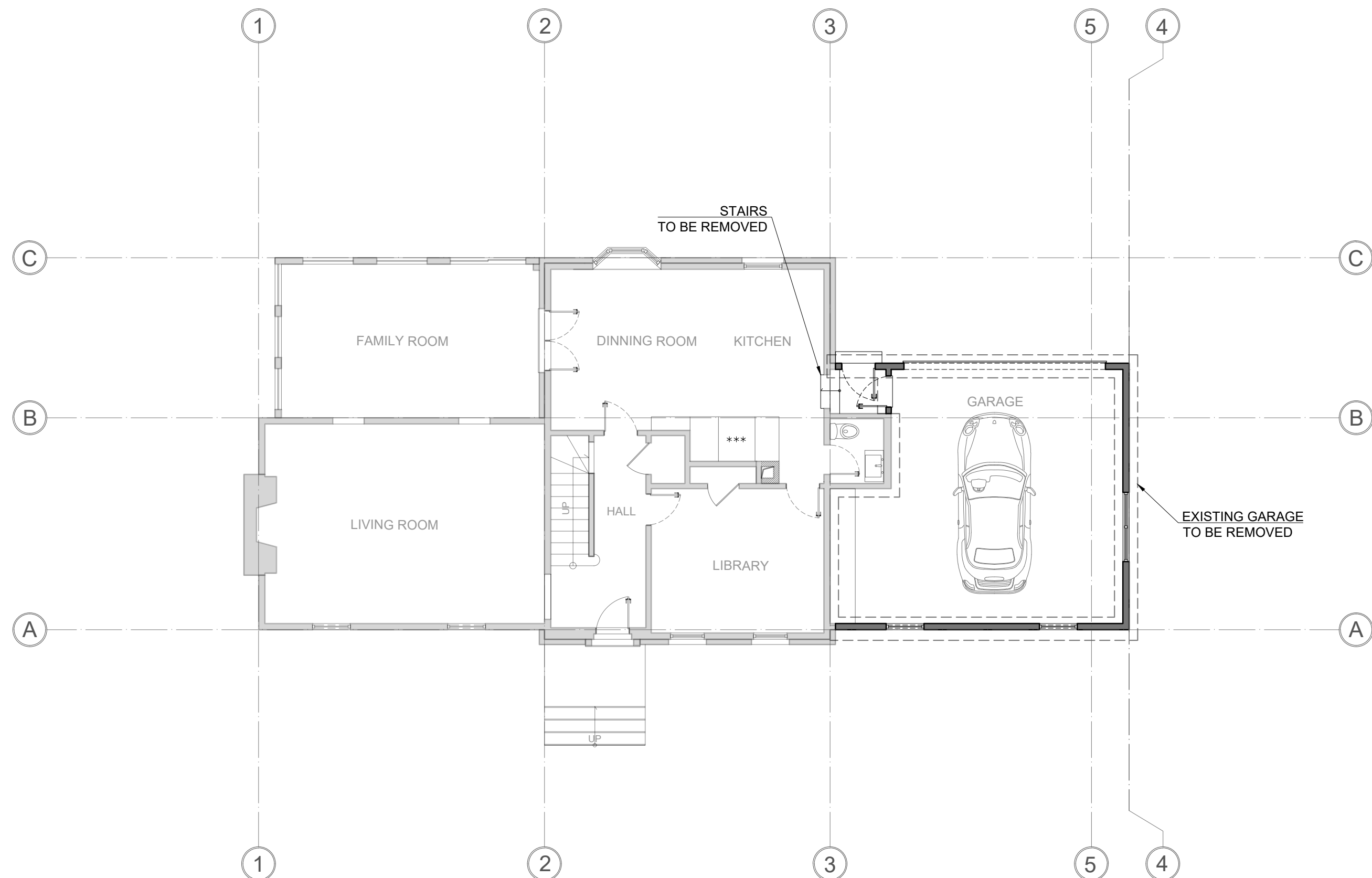
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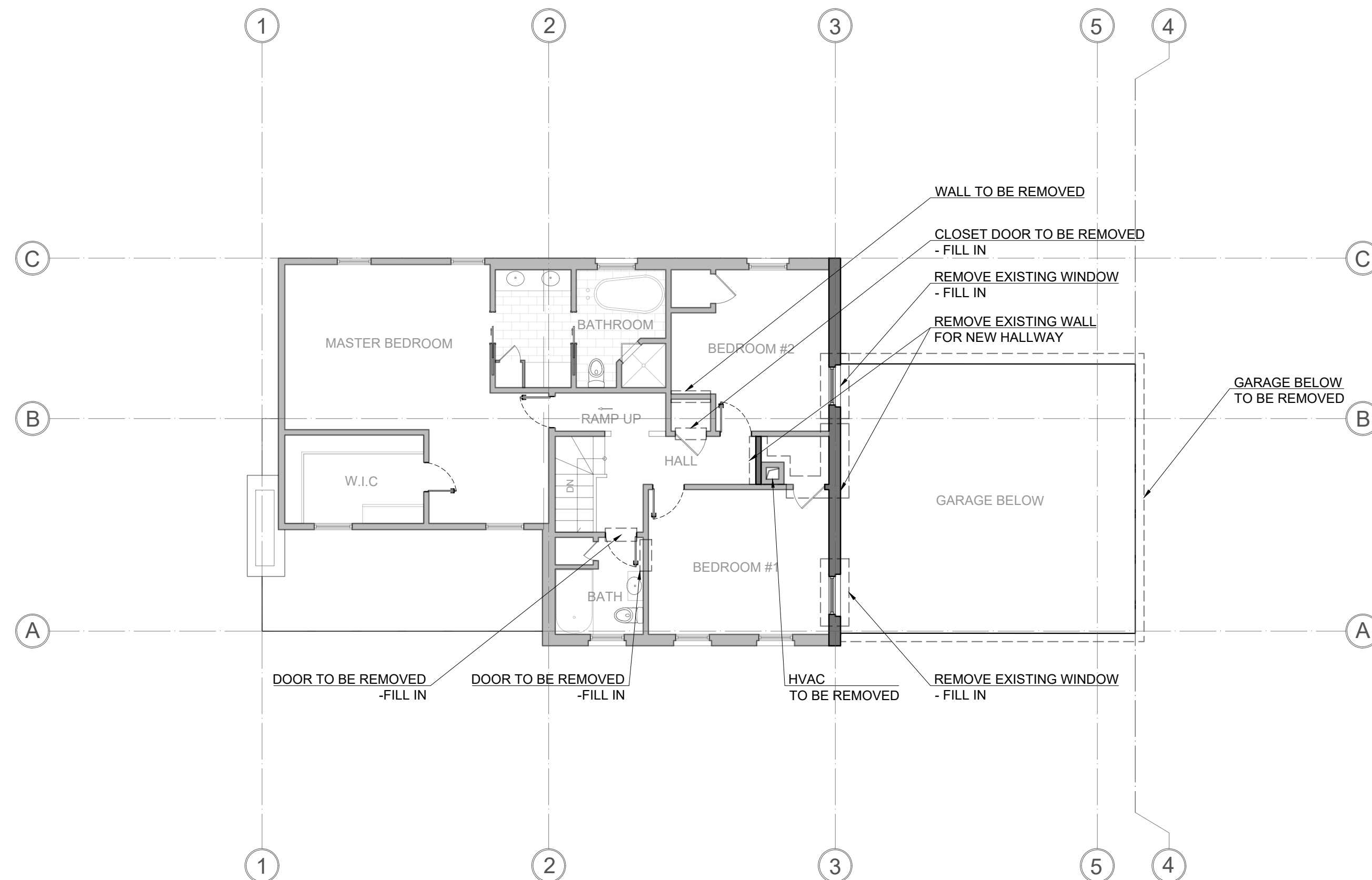
DEMO FOUNDATION PLAN
SCALE 1/8"=1'-0"



DEMO ROOF PLAN
SCALE 1/8"=1'-0"



DEMO FIRST FLOOR PLAN
SCALE 1/8"=1'-0"



DEMO SECOND FLOOR PLAN
SCALE 1/8"=1'-0"

REVISIONS

- 1.
- 2.
- 3.
- 4.
- 5.

JOB NO.
2020_1230

PLOT SCALE
1/8"=1'-0"

DATE
08/05/2021

DRAWN BY
Ema Gjura

CHEKED BY

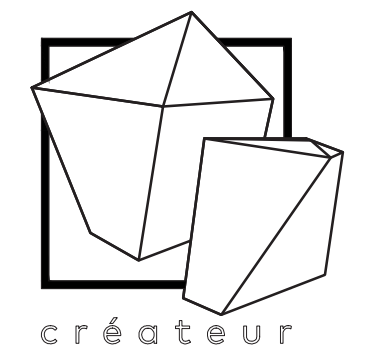
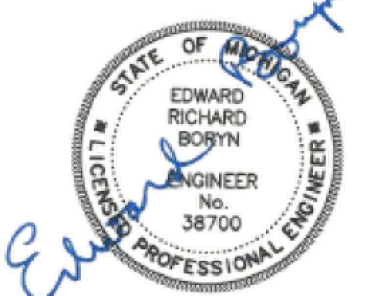
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DF

BB

MALLON RESIDENCE
1679 DORCHESTER RD. BIRMINGHAM, MI 48009

SEAL



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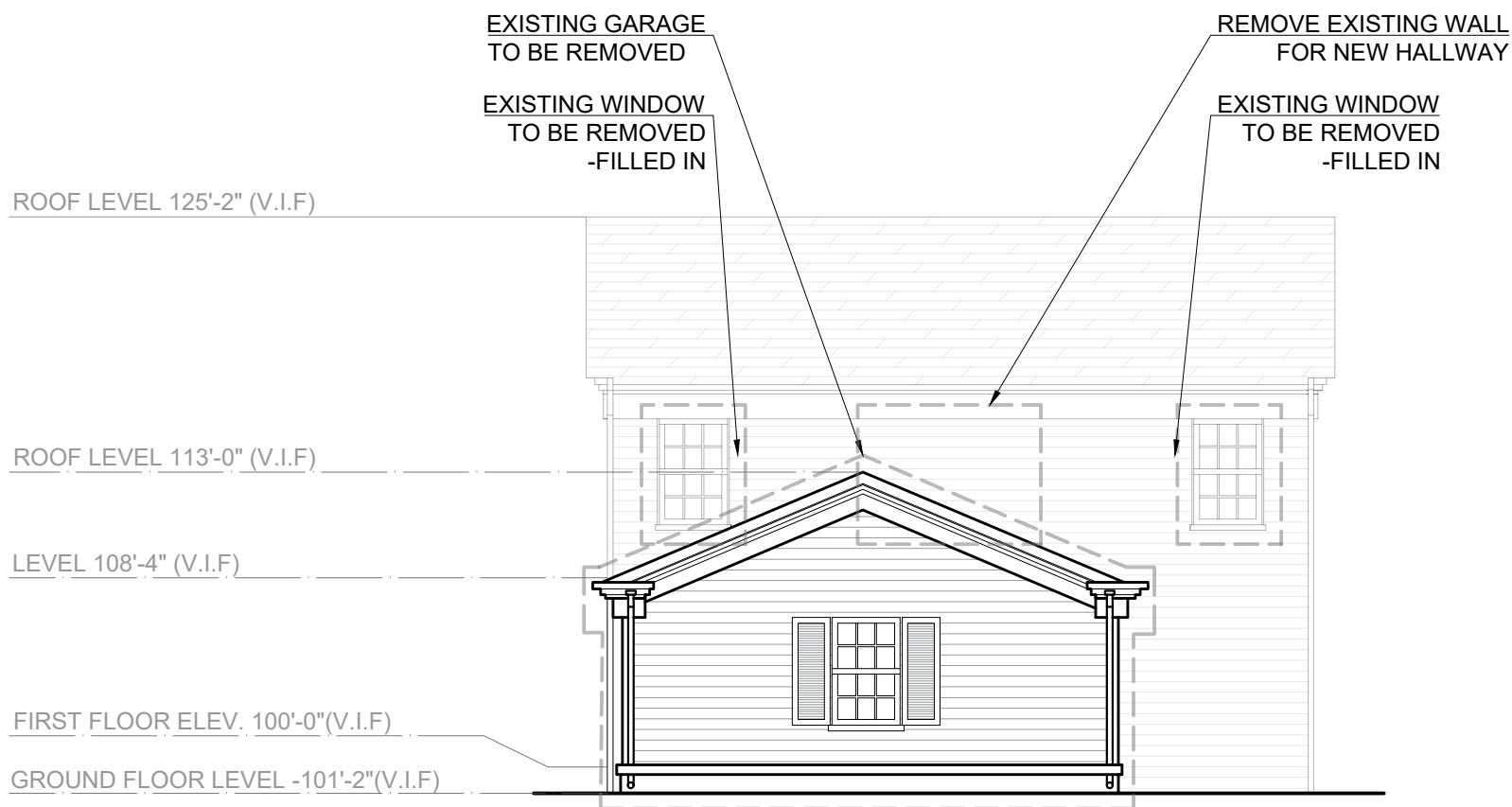
6001 CASS AVE.
DETROIT, MI 48202
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E. HI@CREATEURSTUDIO.COM
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SHEET

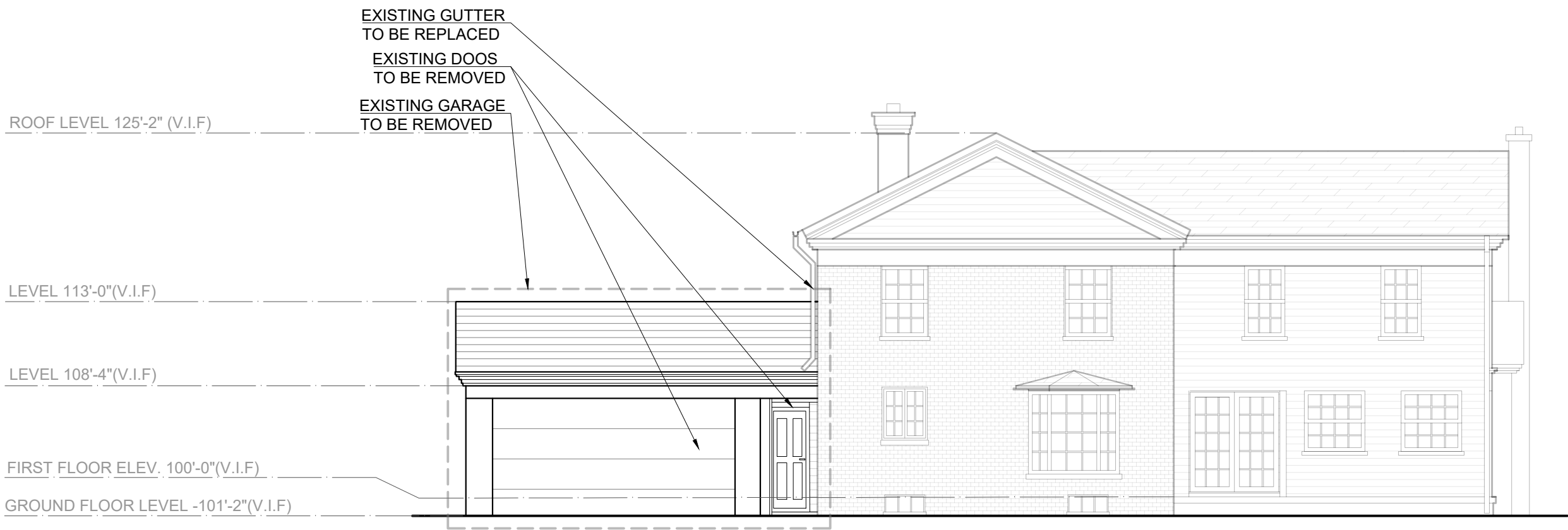
A5



DEMO SOUTH ELEVATION
SCALE 3/16"=1'-0"



DEMO EAST ELEVATION
SCALE 3/16"=1'-0"



DEMO NORTH ELEVATION
SCALE 3/16"=1'-0"

REVISIONS

- 1.
- 2.
- 3.
- 4.
- 5.

JOB NO.

2020_1230

PLOT SCALE

3/16" = 1'-0"

DATE

08/05/2021

DRAWN BY

Ema Gjura

CHEKED BY

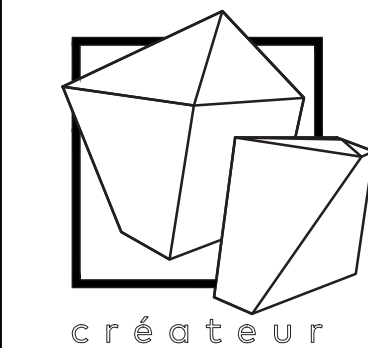
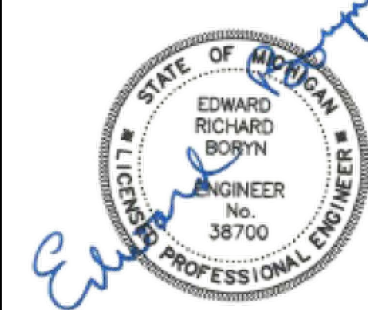
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SEAL



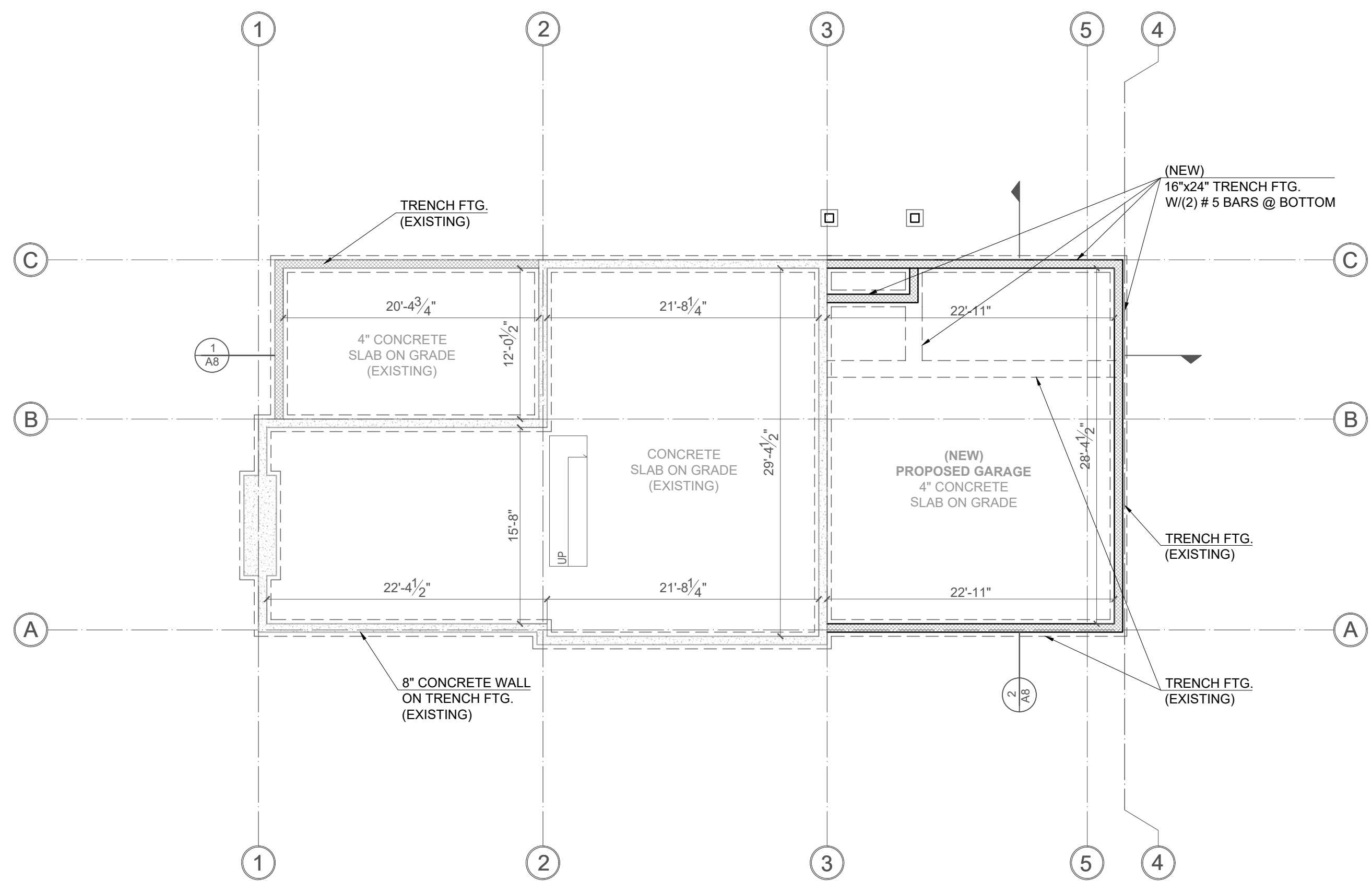
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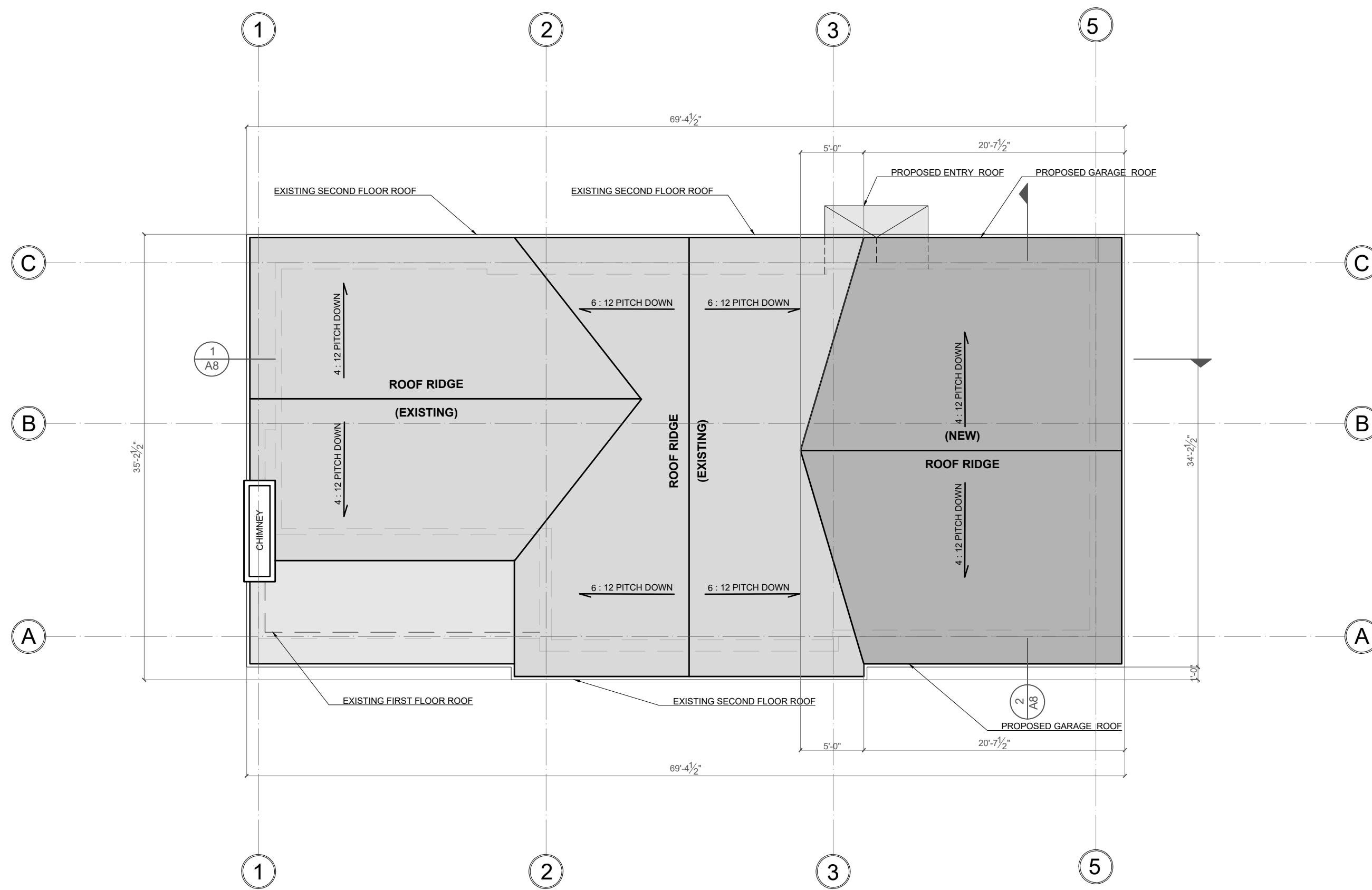
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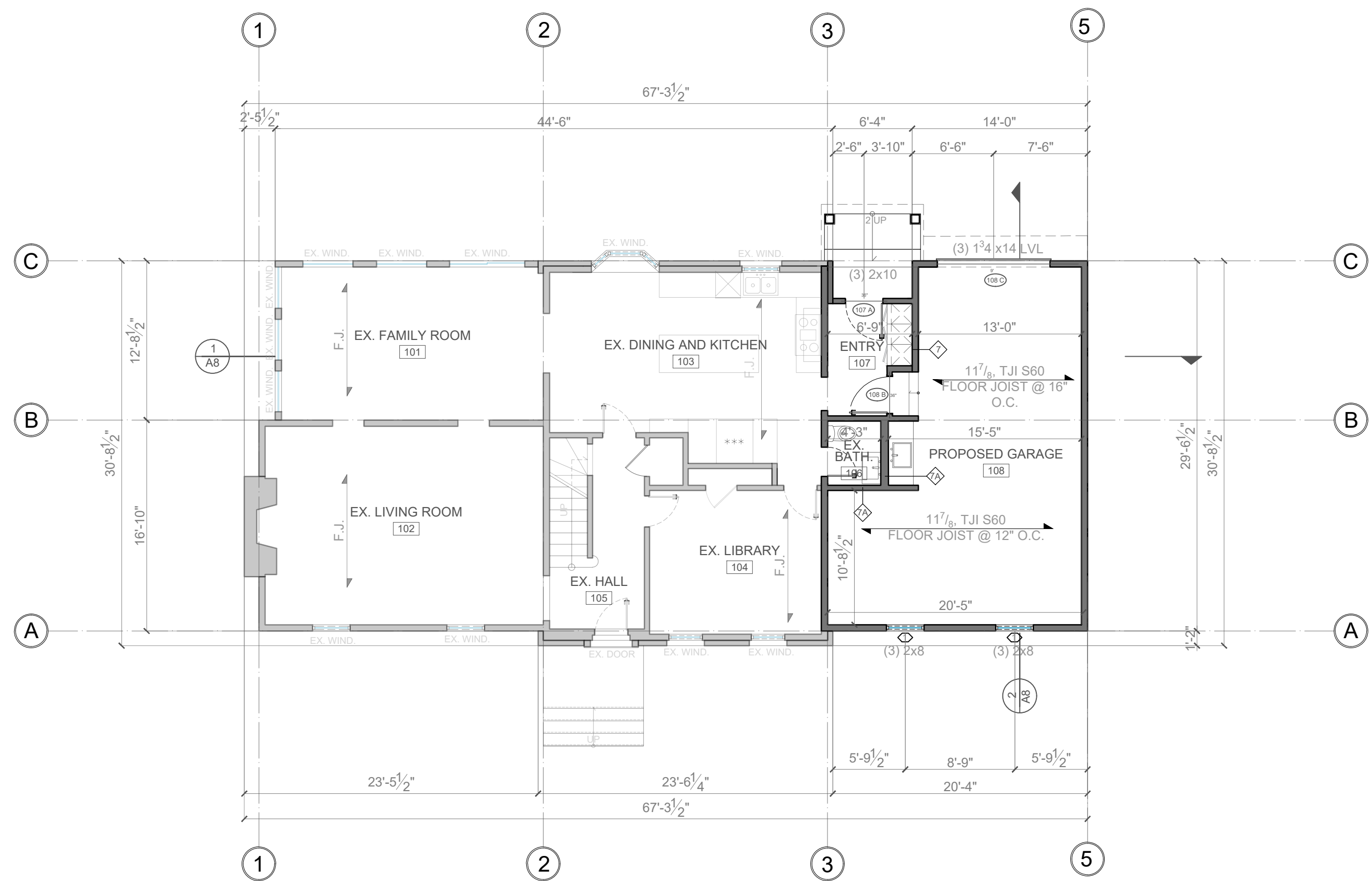
A6



PROPOSED FOUNDATION PLAN
SCALE 1/8"=1'-0"



PROPOSED ROOF PLAN
SCALE 1/8"=1'-0"



PROPOSED FIRST FLOOR PLAN
SCALE 1/8"=1'-0"



PROPOSED SECOND FLOOR PLAN
SCALE 1/8"=1'-0"

NOTE: SEE SHEET A11 FOR ENLARGED PLANS

REVISIONS

- 1.
- 2.
- 3.
- 4.
- 5.

JOB NO.

2020_1230

PLOT SCALE

1/8"=1'-0"

DATE

08/05/2021

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Ema Gjura

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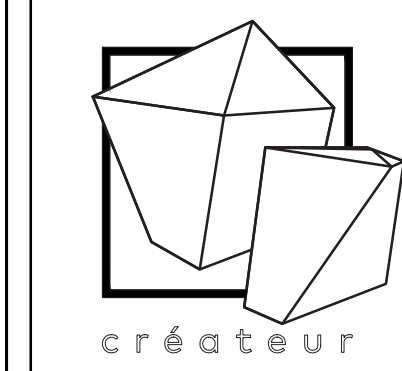
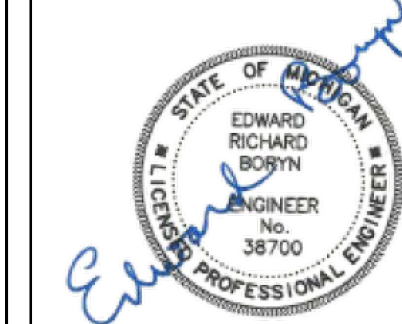
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SEAL

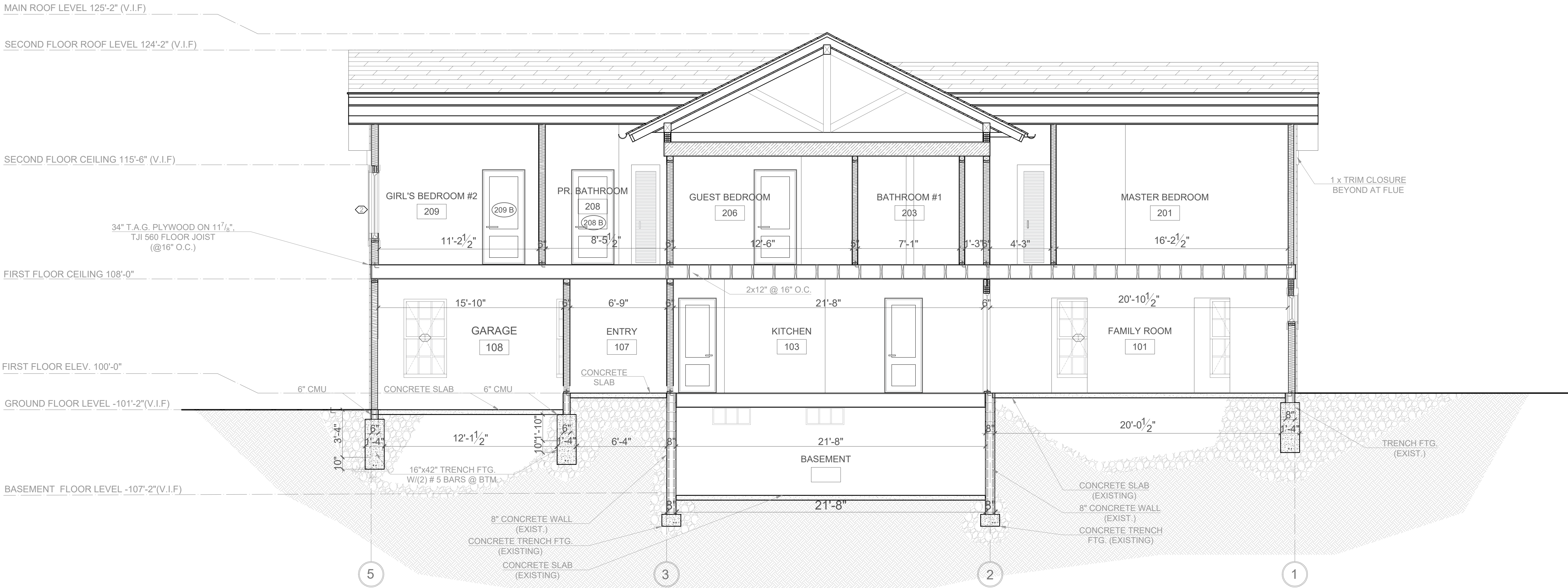


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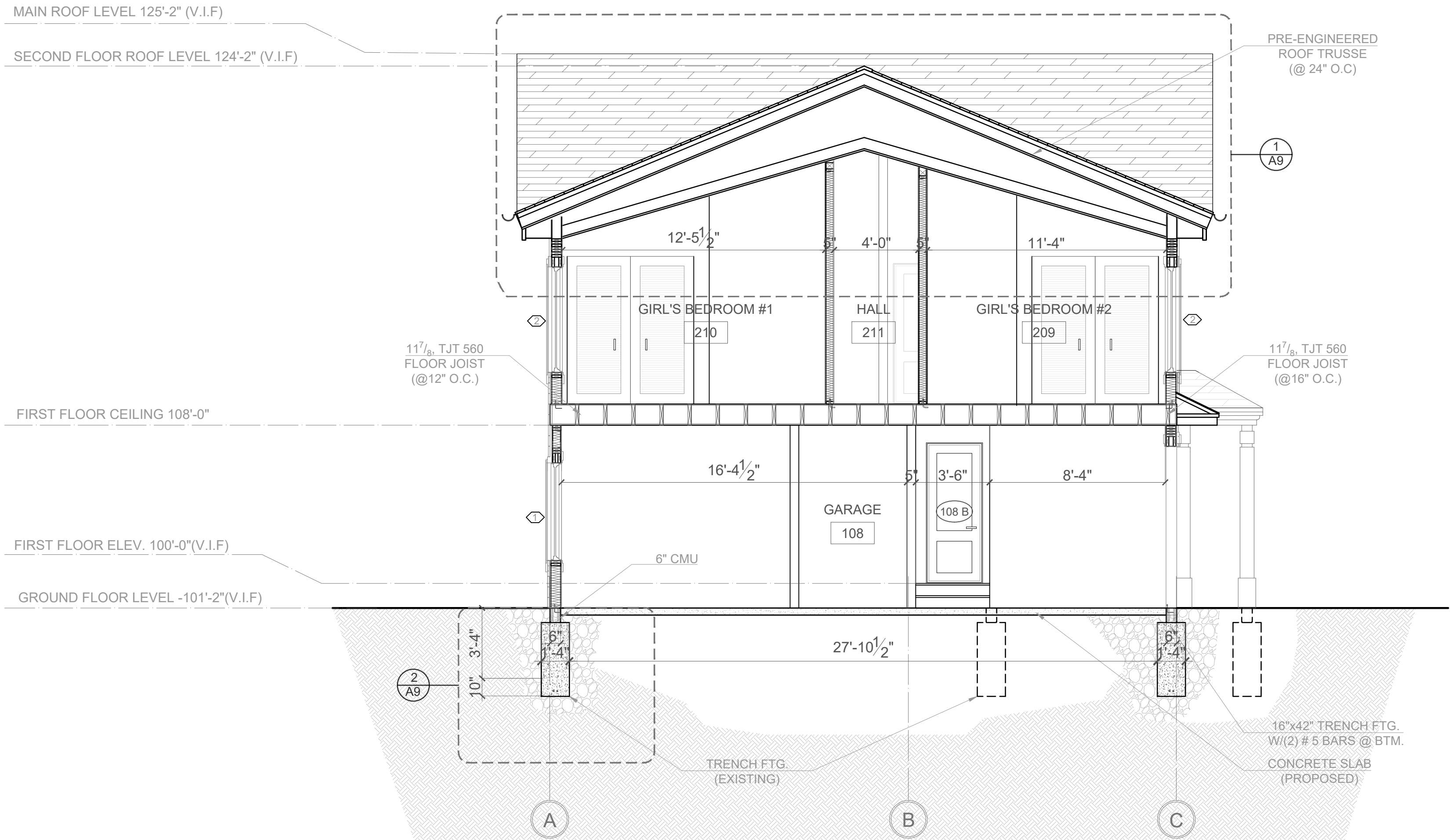
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SHEET

A7



1
A8
PROPOSED SECTION
SCALE 3/16"=1'-0"



2
A8
PROPOSED SECTION
SCALE 3/16"=1'-0"

REVISIONS

- 1.
- 2.
- 3.
- 4.
- 5.

JOB NO.

2020_1230

PLOT SCALE

3/16" = 1'-0"

DATE

08/05/2021

DRAWN BY

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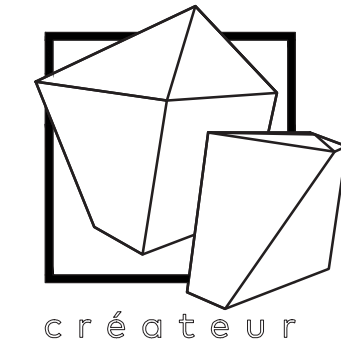
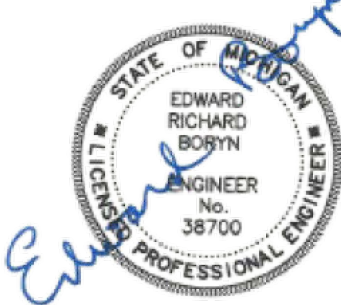
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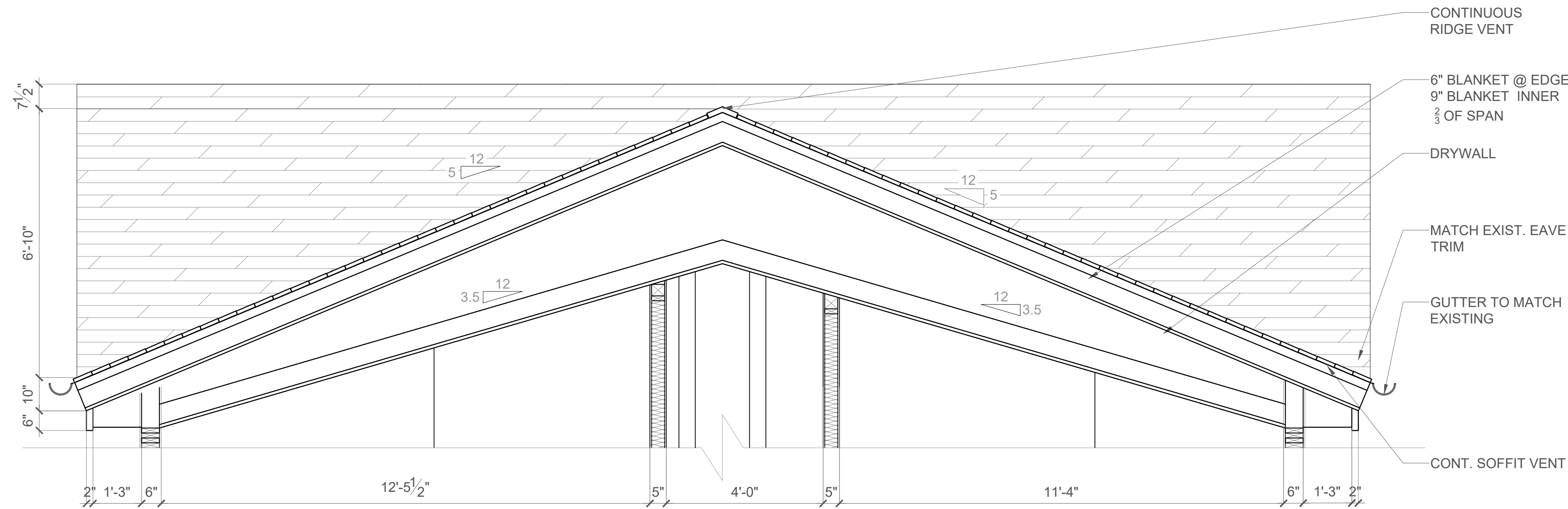
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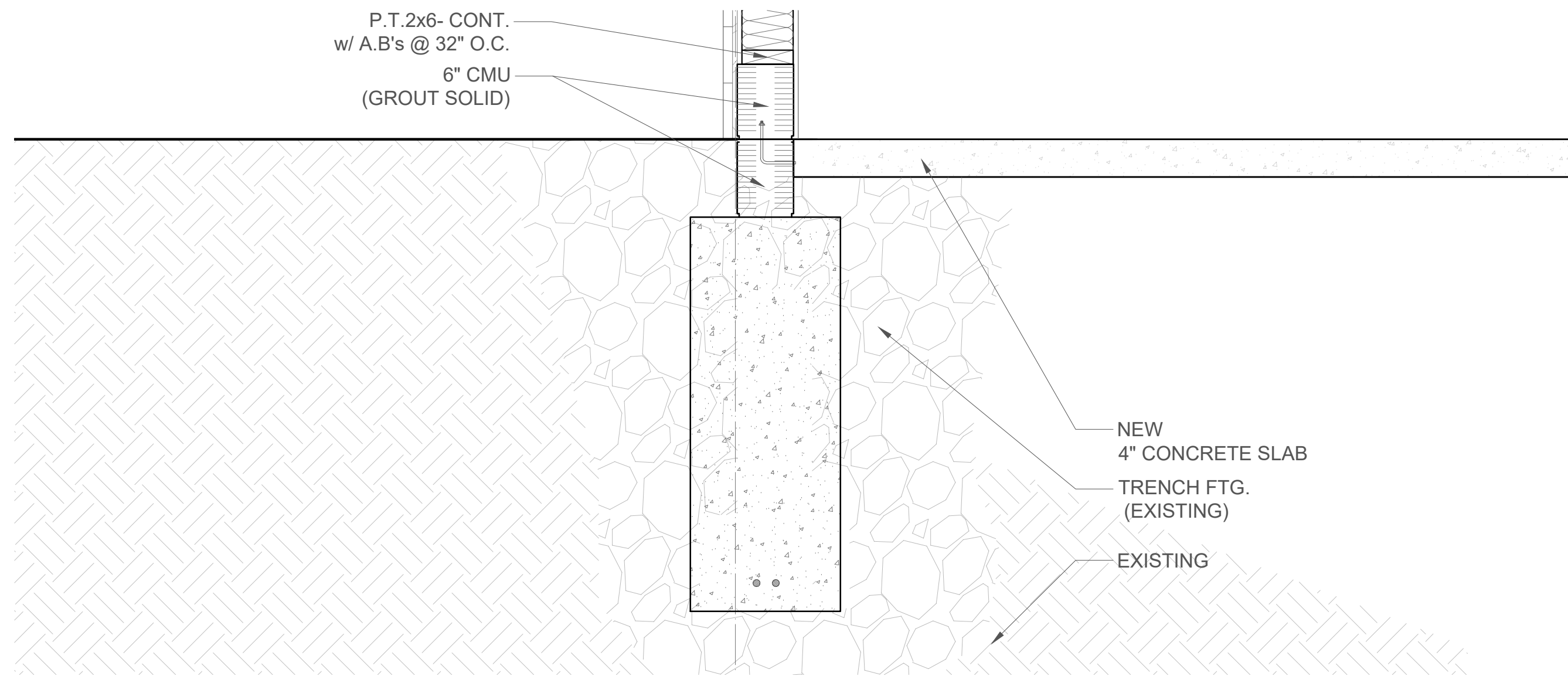
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SHEET

A8



1
A9
ENLARGED DETAIL
SCALE 1/2"=1'-0"



2
A9
ENLARGED DETAIL
SCALE 1"=1'-0"

REVISIONS

- 1.
- 2.
- 3.
- 4.
- 5.

JOB NO.

2020_1230

PLOT SCALE

1/2" = 1'-0"

DATE

08/05/2021

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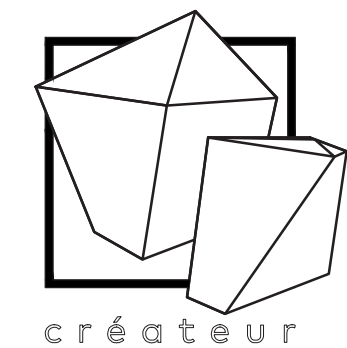
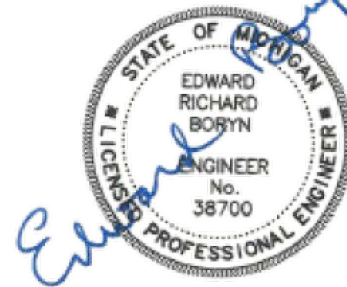
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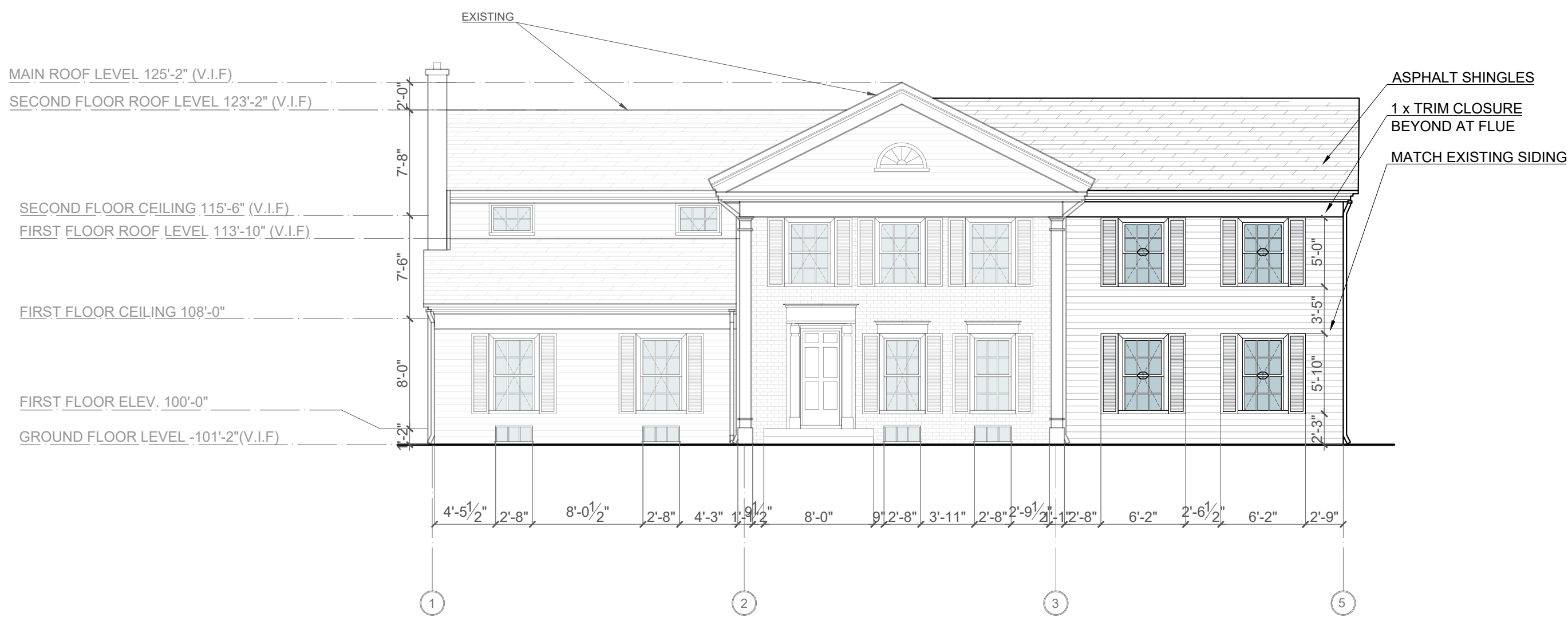
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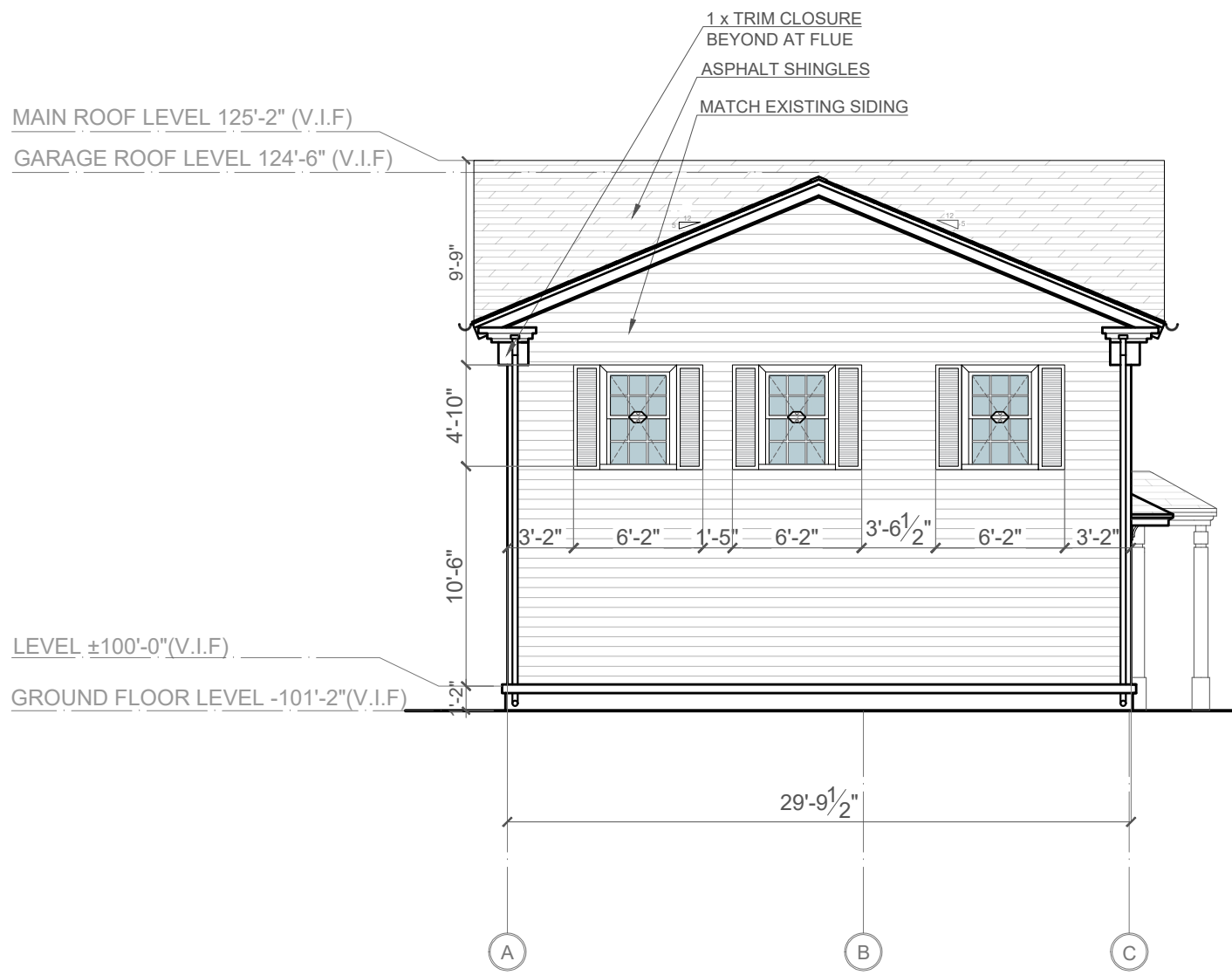
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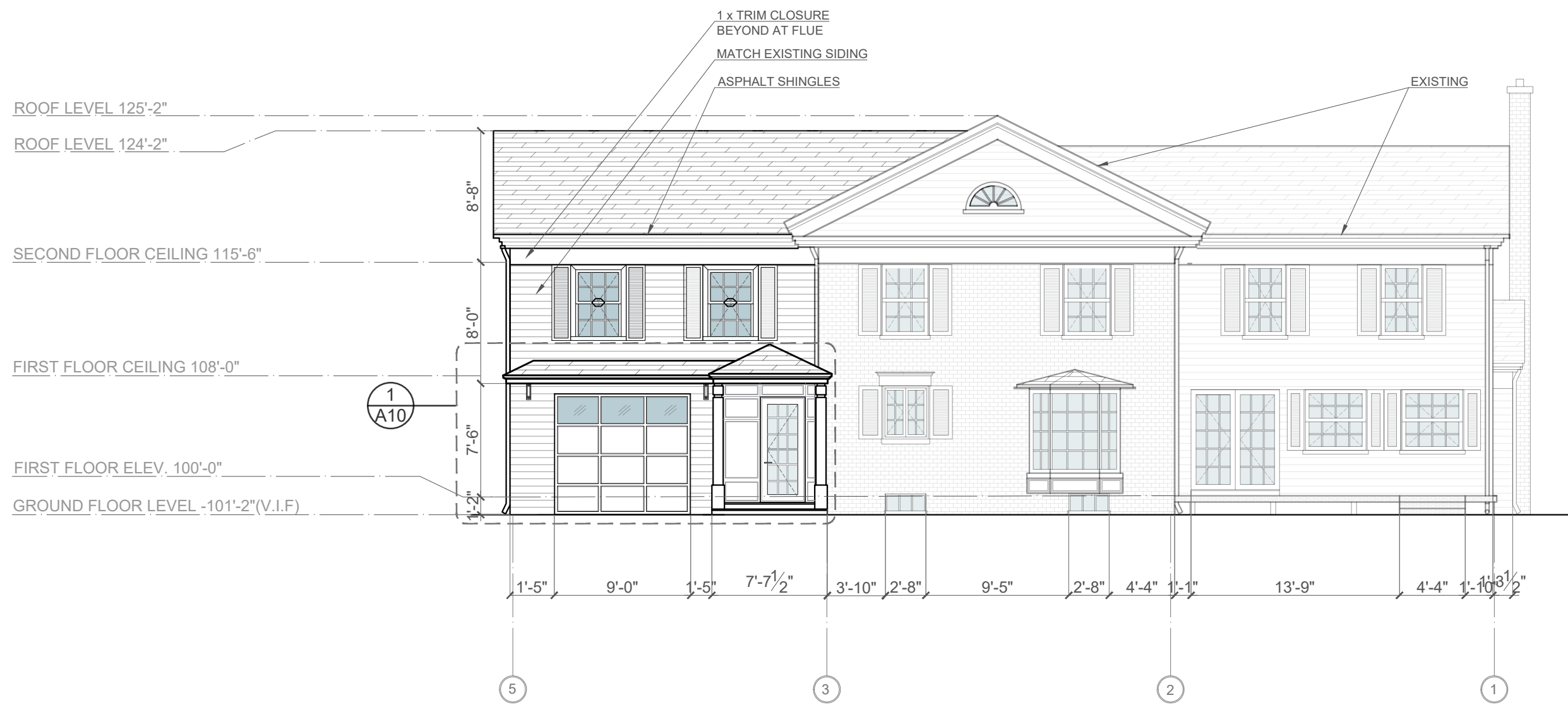
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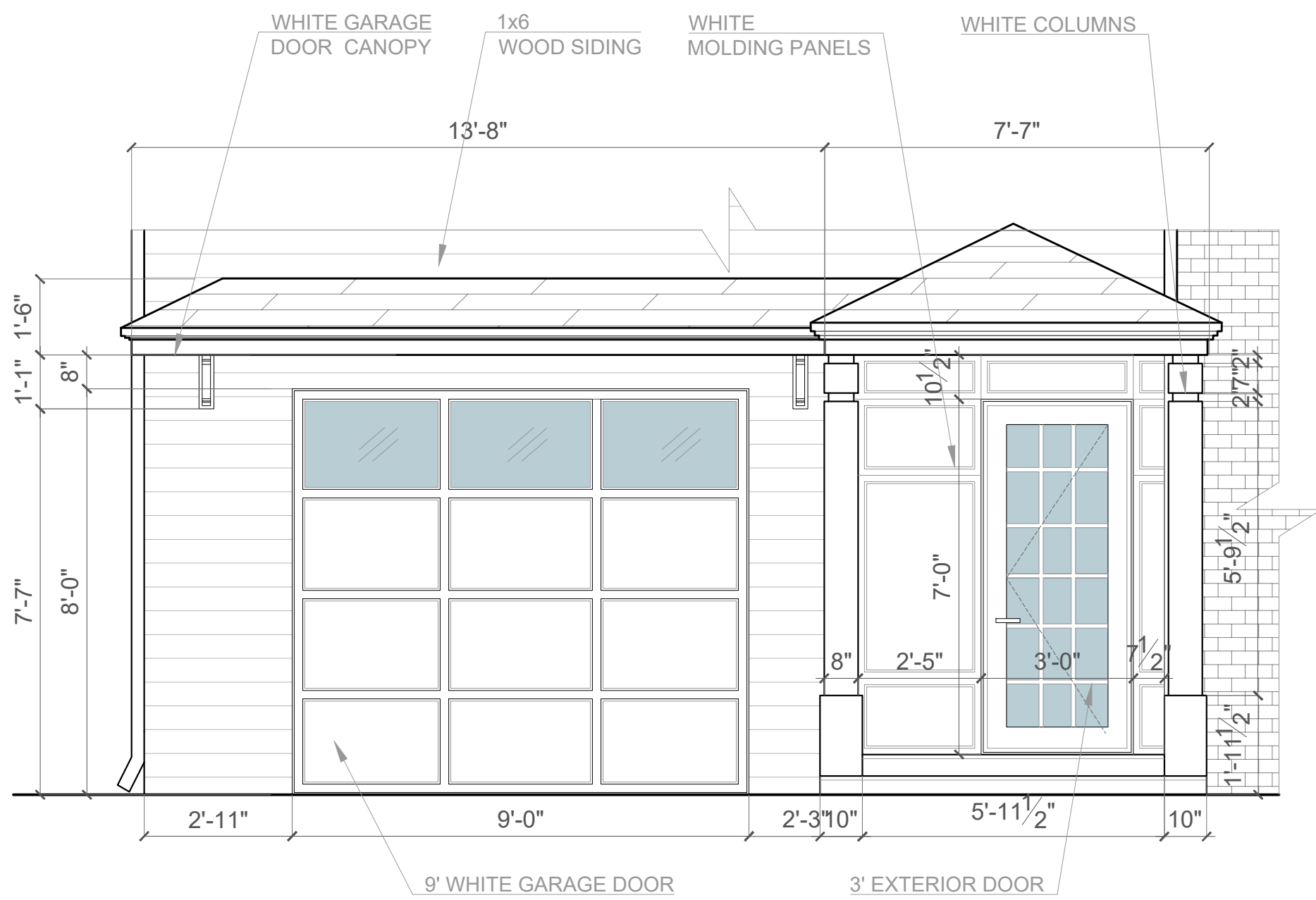
PROPOSED SOUTH ELEVATION
SCALE 1/8"=1'-0"



PROPOSED EAST ELEVATION
SCALE 1/8"=1'-0"



PROPOSED NORTH ELEVATION
SCALE 1/8"=1'-0"



1
A10 ENLARGEDDETAIL
SCALE 3/8"=1'-0"

REVISIONS

- 1.
- 2.
- 3.
- 4.
- 5.

JOB NO.

2020_1230

PLOT SCALE

1/8" = 1'-0"

DATE

08/05/2021

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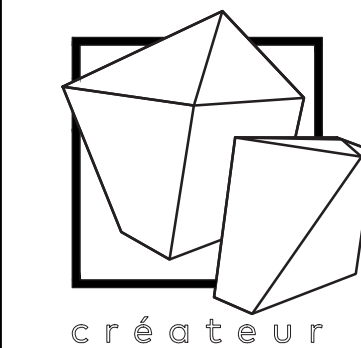
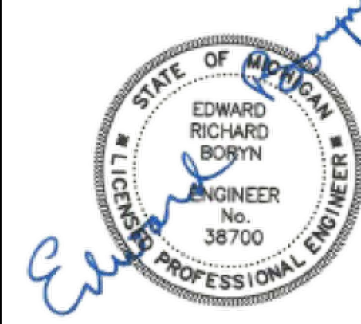
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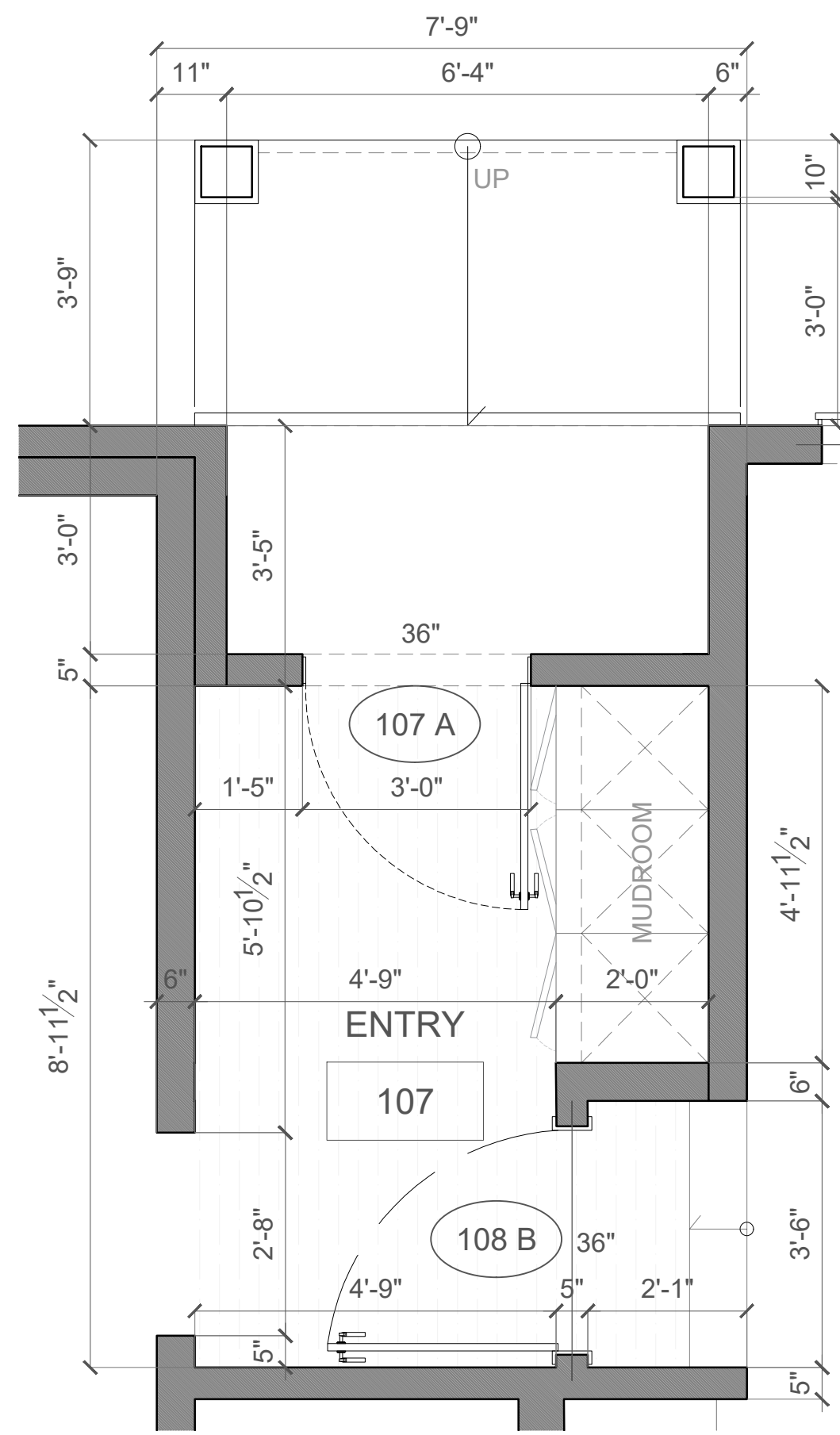


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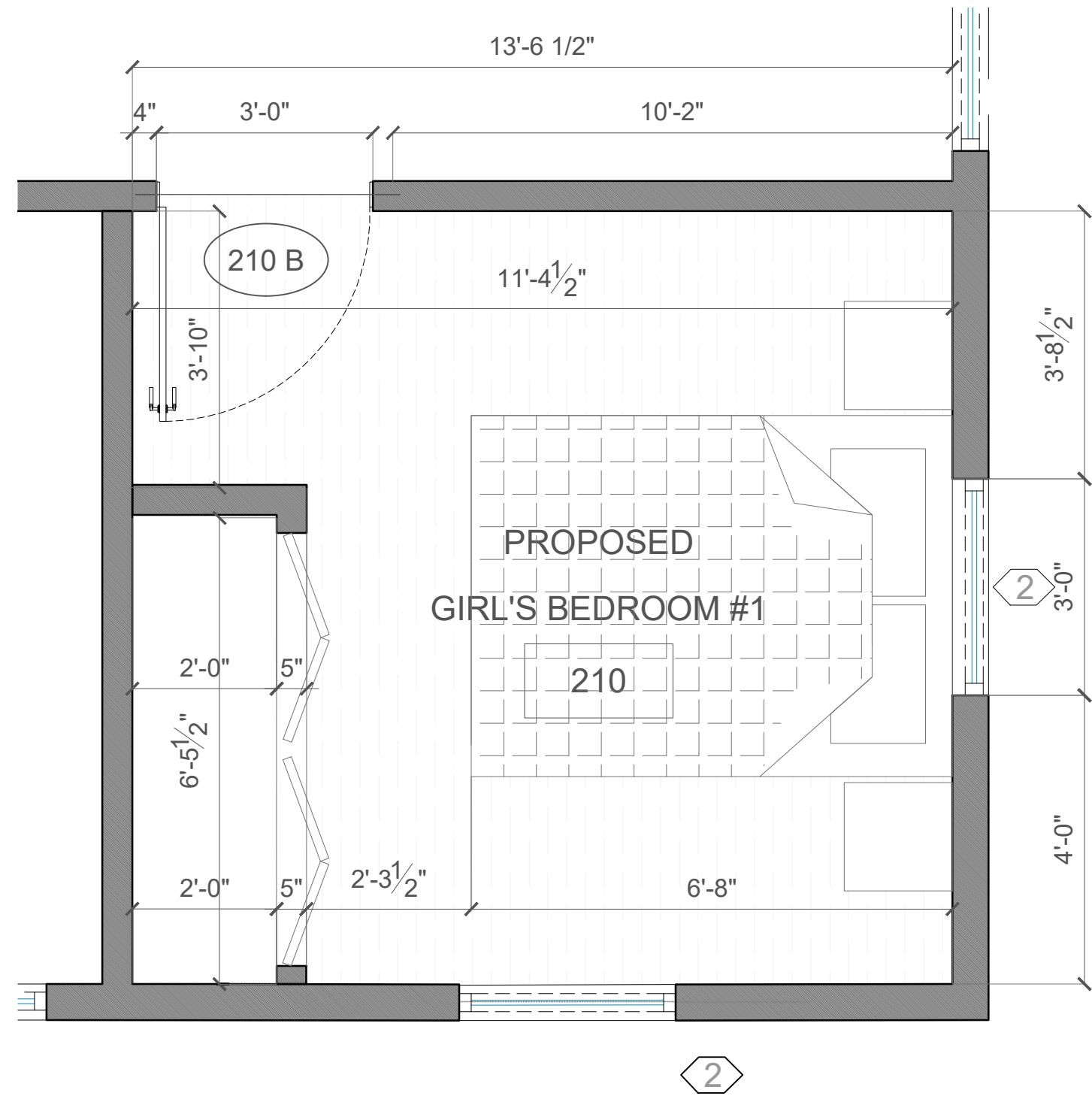
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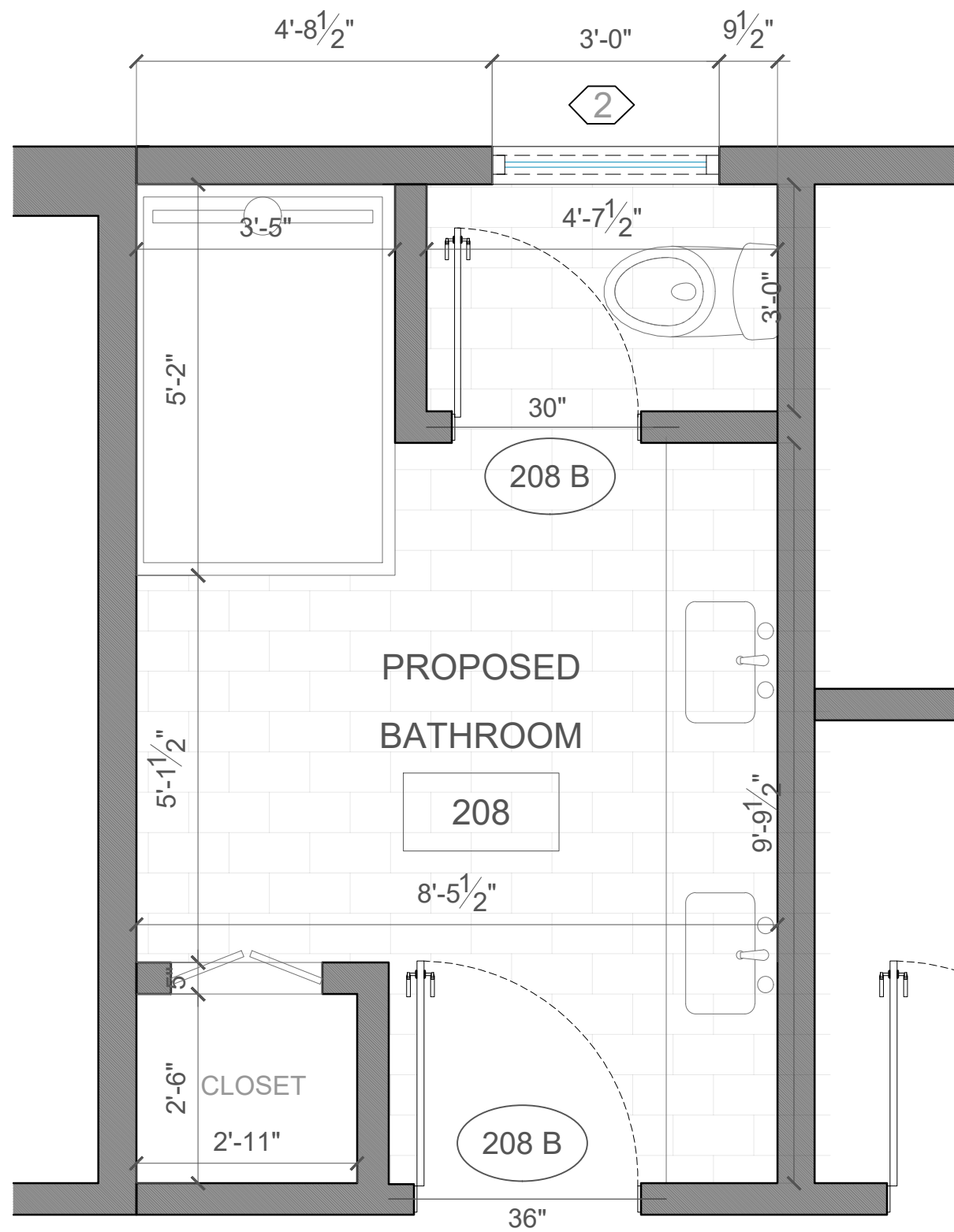
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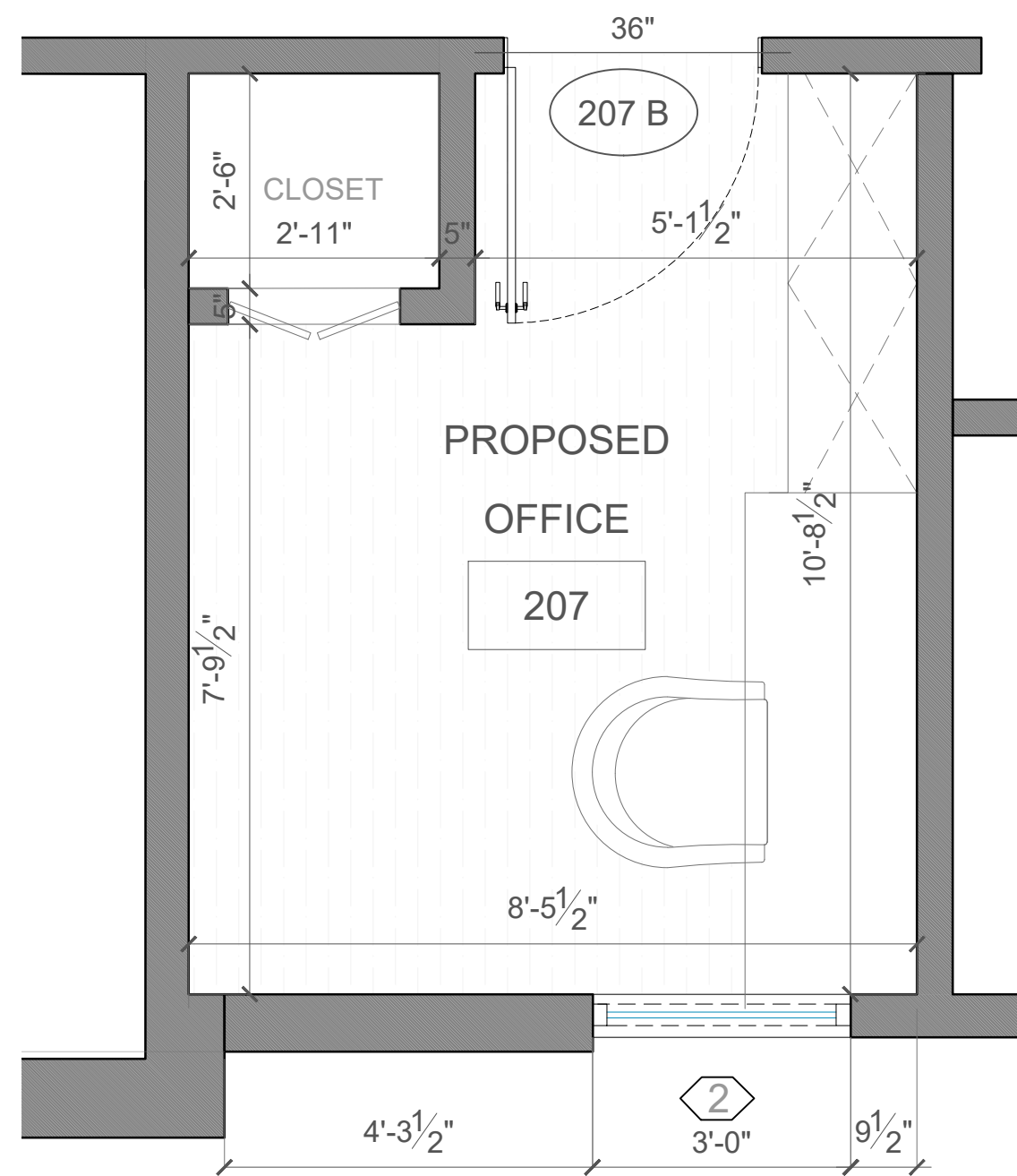
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A11 ENLARGED ENTRY HALL FLOOR PLAN
SCALE 1/2"=1'-0"



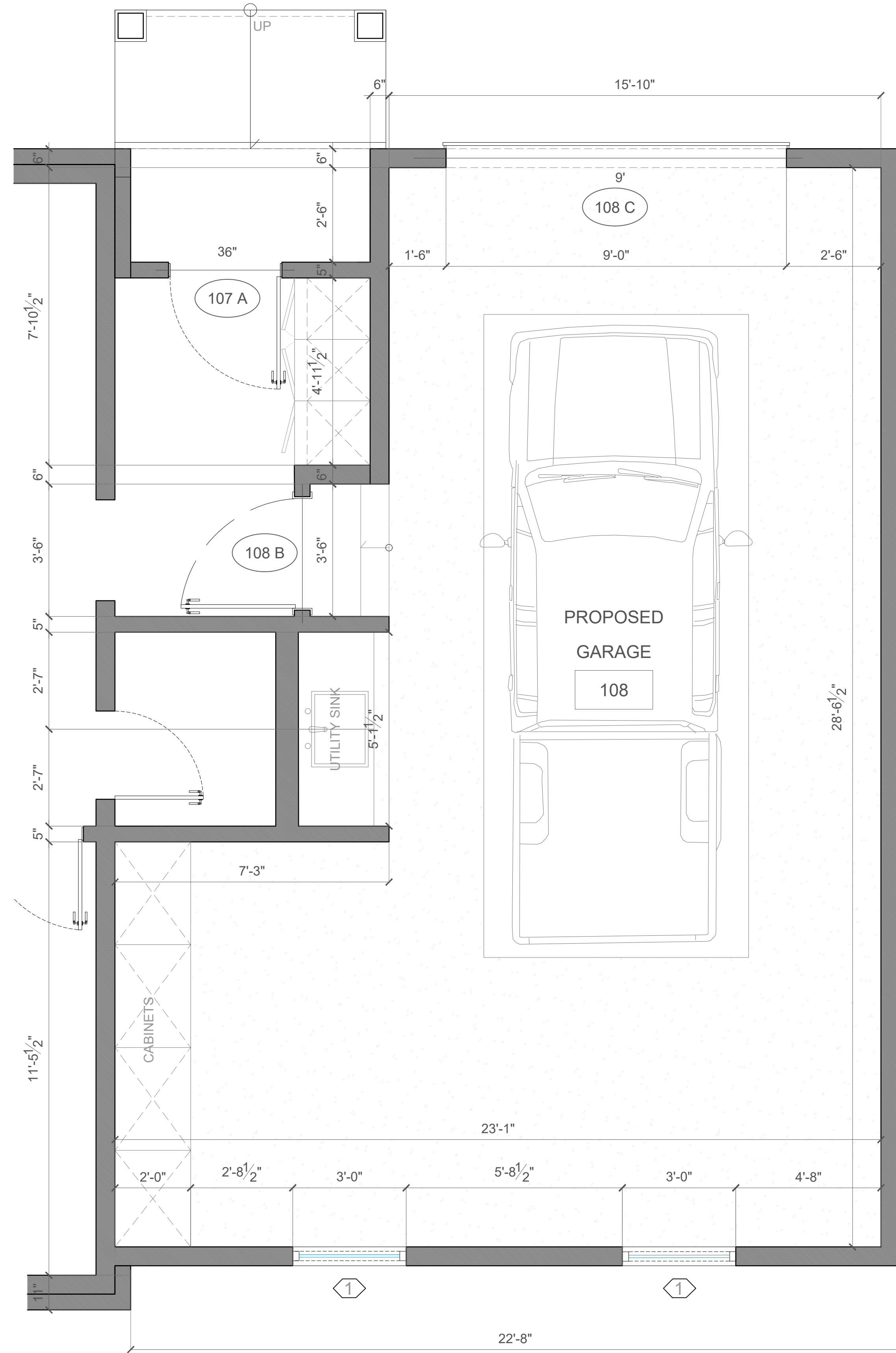
2
A11 ENLARGED GIRLS BEDROOM #1 FLOOR PLAN
SCALE 1/2"=1'-0"



3
A11 ENLARGED BATHROOM FLOOR PLAN
SCALE 1/2"=1'-0"



4
A11 ENLARGED OFFICE FLOOR PLAN
SCALE 1/2"=1'-0"



5
A11 ENLARGED GARAGE FLOOR PLAN
SCALE 1/2"=1'-0"

REVISIONS

- 1.
- 2.
- 3.
- 4.
- 5.

JOB NO.

2020_1230

PLOT SCALE

1/2"=1'-0"

DATE

08/05/2021

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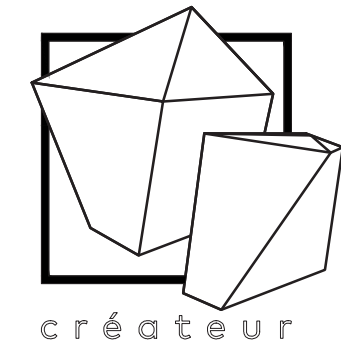
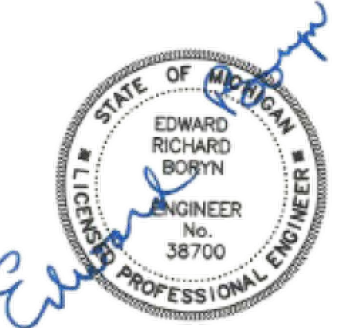
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SEAL



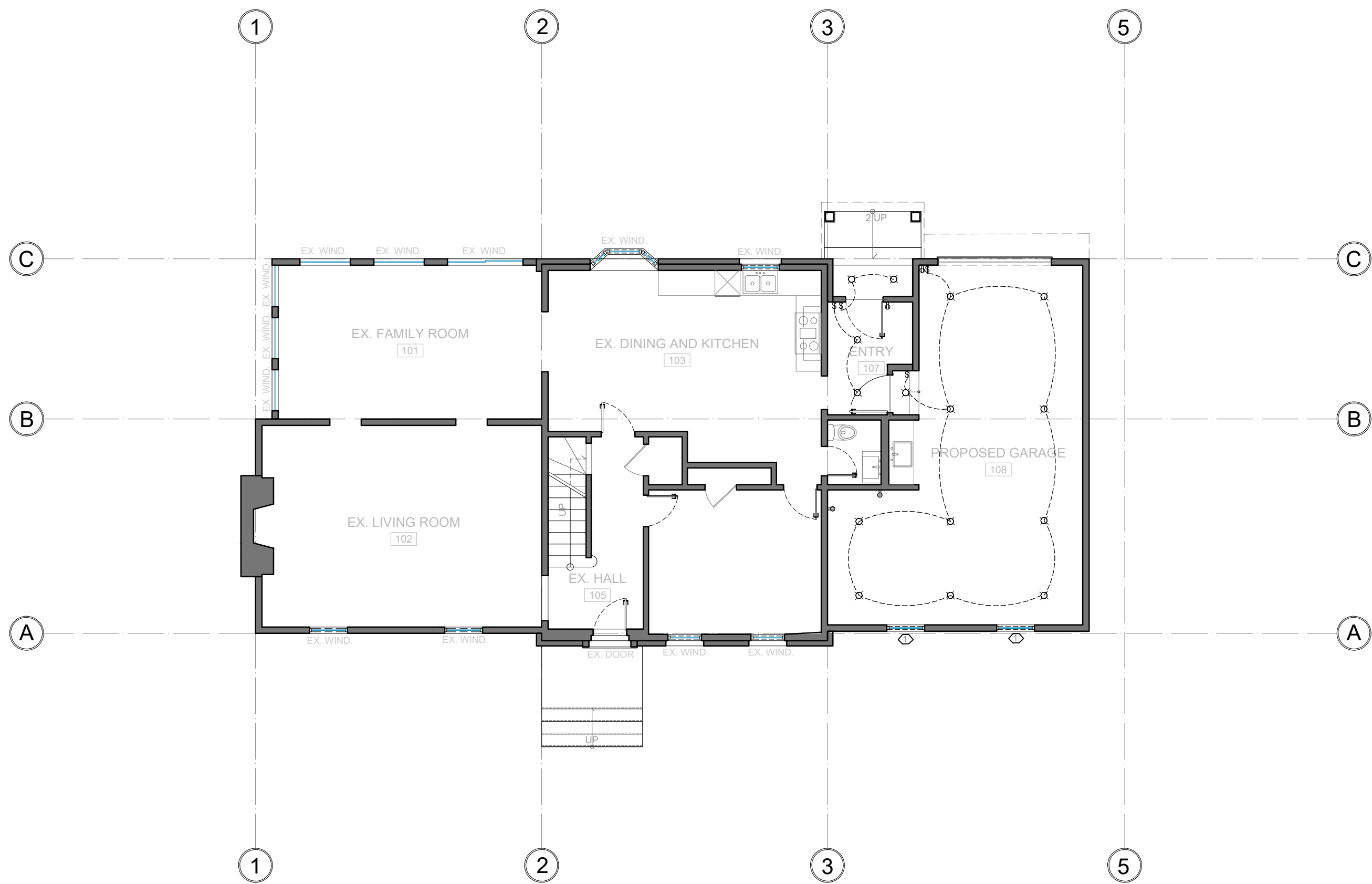
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A11



FIRST FLOOR LIGHTING PLAN
SCALE 1/8"=1'-0"



SECOND FLOOR LIGHTING PLAN
SCALE 1/8"=1'-0"

- REVISIONS
- 1.
 - 2.
 - 3.
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JOB NO.
2020_1230

PLOT SCALE
1/8"=1'-0"

DATE
08/05/2021

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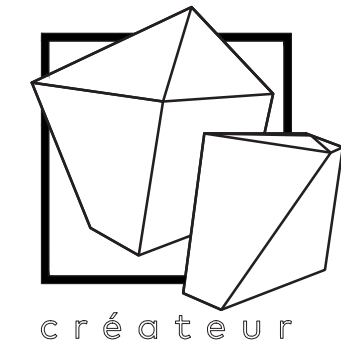
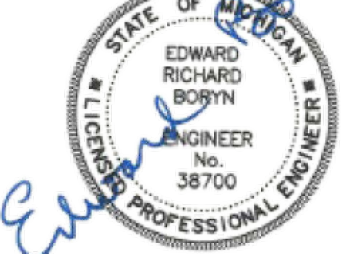
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SEAL



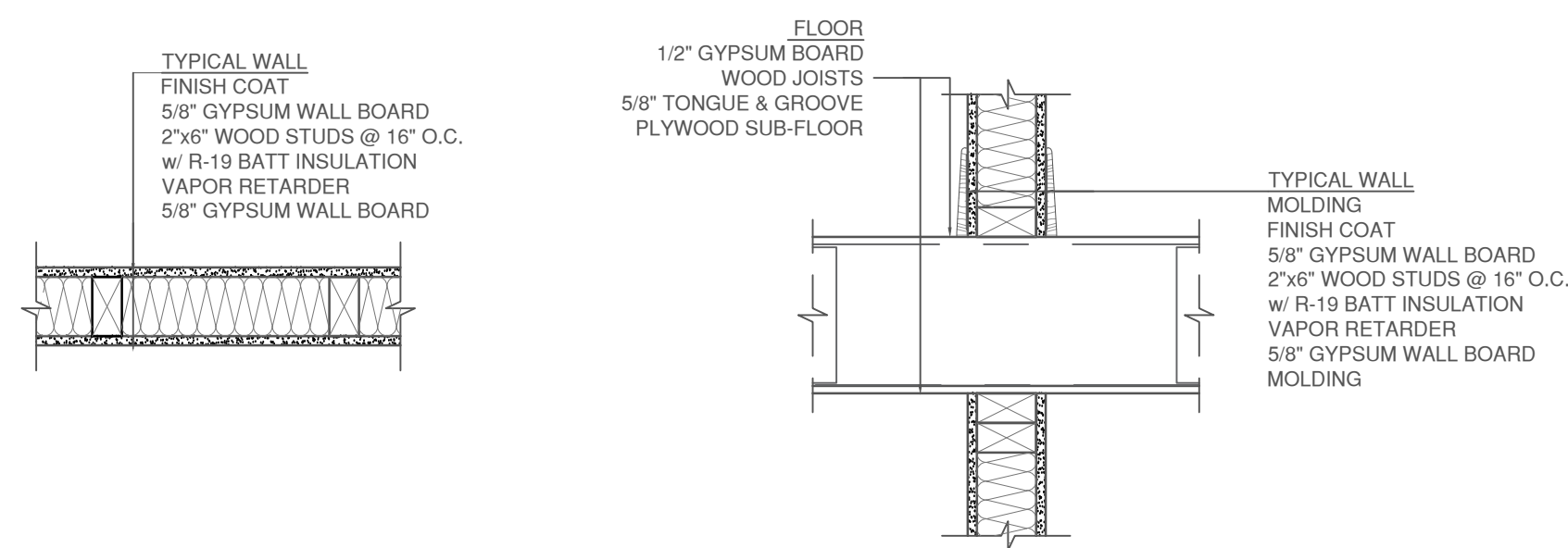
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A12

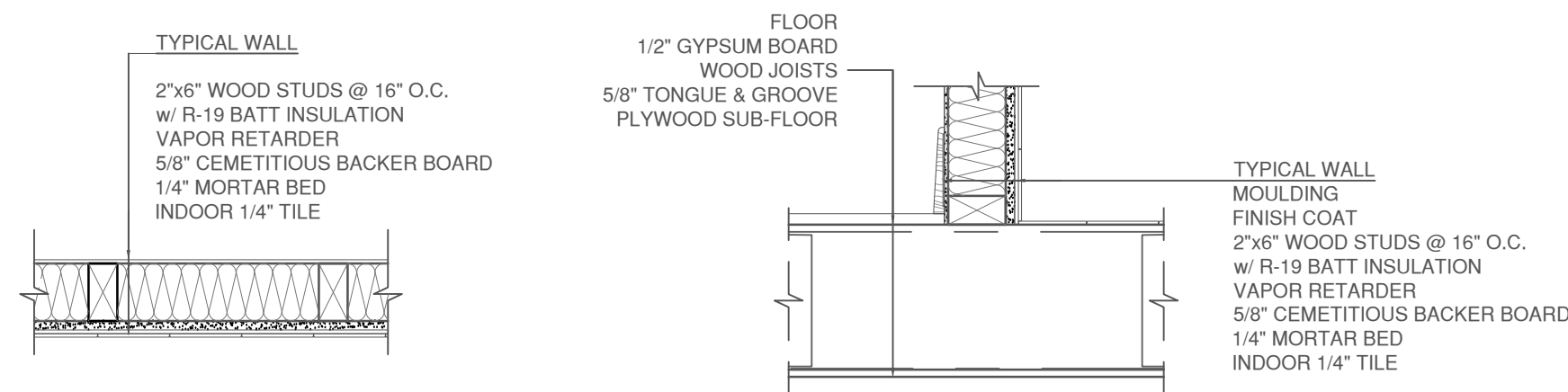
INTERIOR WALL - TYPE 7



GENERAL NOTES

- *SEAL ALL TYVEK® JOINTS AND PENETRATIONS WITH APPROVED TAPE. (ex. DUPONT CONTRACTOR TAPE)
- *FASTEN TYVEK® TO SHEATHING WITH LARGE HEAD NAILS OR USE NAILS WITH LARGE PLASTIC WASHER HEADS.(ex. DUPONT WRAPCAPS)
- *LOCAL LAWS, ZONING, AND BUILDING CODES VARY AND THEREFORE GOVERNS OVER MATERIAL SELECTION AND DETAILING SHOWN BELOW.
- *INSTALL STUCCO ACCORDING TO MANUFACTURER'S WRITTEN INSTRUCTIONS

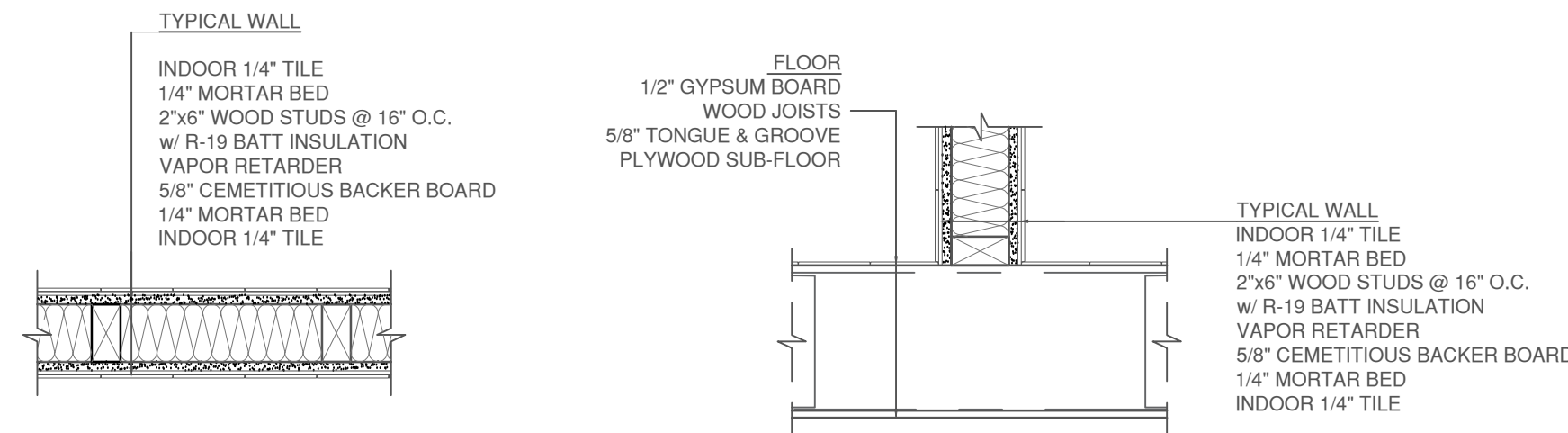
INTERIOR WALL - TYPE 7A



GENERAL NOTES

- *SEAL ALL TYVEK® JOINTS AND PENETRATIONS WITH APPROVED TAPE. (ex. DUPONT CONTRACTOR TAPE)
- *FASTEN TYVEK® TO SHEATHING WITH LARGE HEAD NAILS OR USE NAILS WITH LARGE PLASTIC WASHER HEADS.(ex. DUPONT WRAPCAPS)
- *LOCAL LAWS, ZONING, AND BUILDING CODES VARY AND THEREFORE GOVERNS OVER MATERIAL SELECTION AND DETAILING SHOWN BELOW.
- *INSTALL STUCCO ACCORDING TO MANUFACTURER'S WRITTEN INSTRUCTIONS

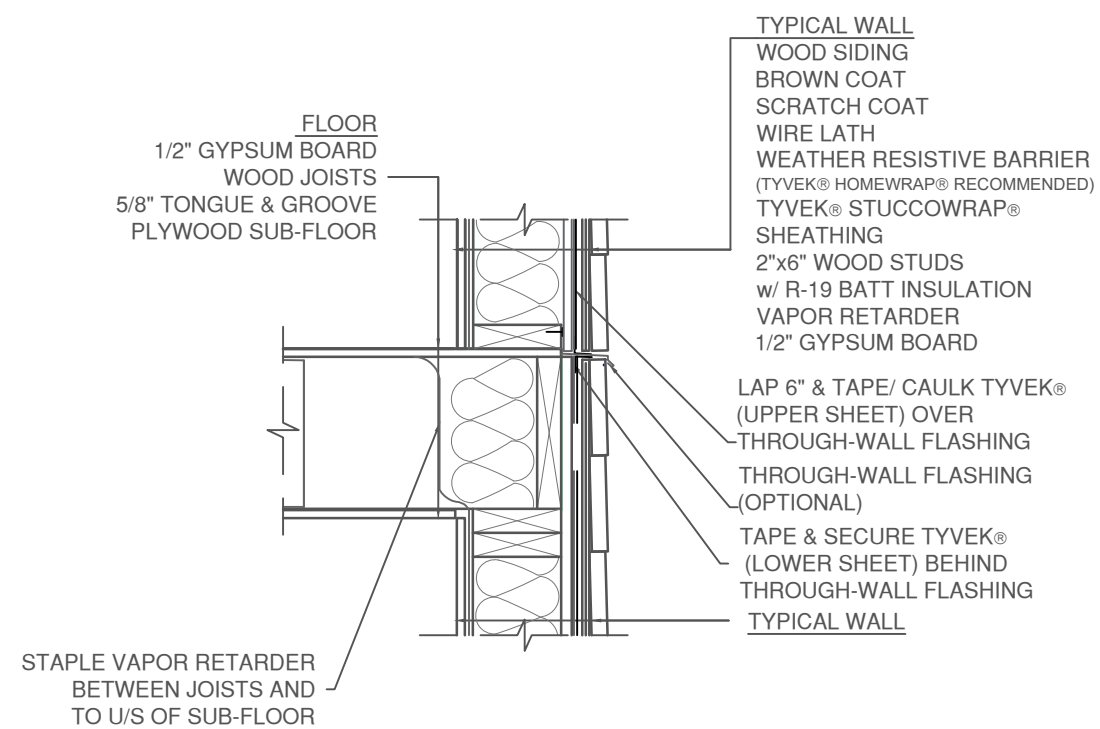
INTERIOR WALL - TYPE 7B



GENERAL NOTES

- *SEAL ALL TYVEK® JOINTS AND PENETRATIONS WITH APPROVED TAPE. (ex. DUPONT CONTRACTOR TAPE)
- *FASTEN TYVEK® TO SHEATHING WITH LARGE HEAD NAILS OR USE NAILS WITH LARGE PLASTIC WASHER HEADS.(ex. DUPONT WRAPCAPS)
- *LOCAL LAWS, ZONING, AND BUILDING CODES VARY AND THEREFORE GOVERNS OVER MATERIAL SELECTION AND DETAILING SHOWN BELOW.
- *INSTALL STUCCO ACCORDING TO MANUFACTURER'S WRITTEN INSTRUCTIONS

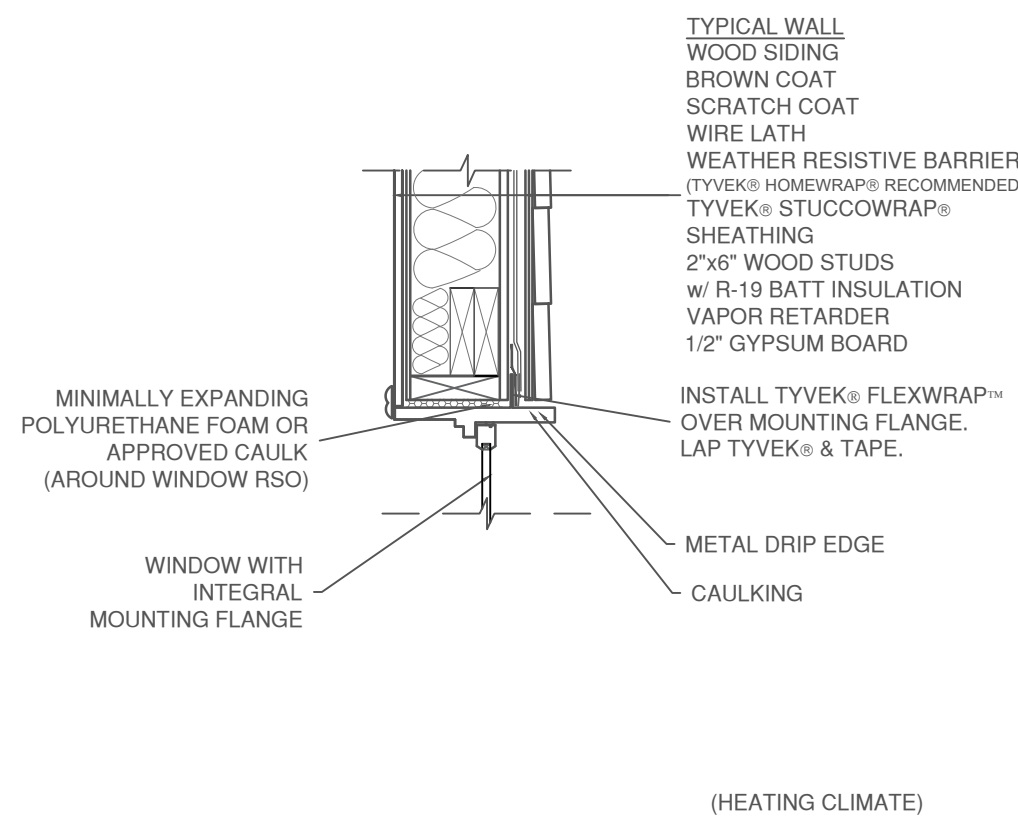
FLOOR/ WALL INTERFACE WOOD SIDING
DETAIL



GENERAL NOTES

- *SEAL ALL TYVEK® JOINTS AND PENETRATIONS WITH APPROVED TAPE. (ex. DUPONT CONTRACTOR TAPE)
- *FASTEN TYVEK® TO SHEATHING WITH LARGE HEAD NAILS OR USE NAILS WITH LARGE PLASTIC WASHER HEADS.(ex. DUPONT WRAPCAPS)
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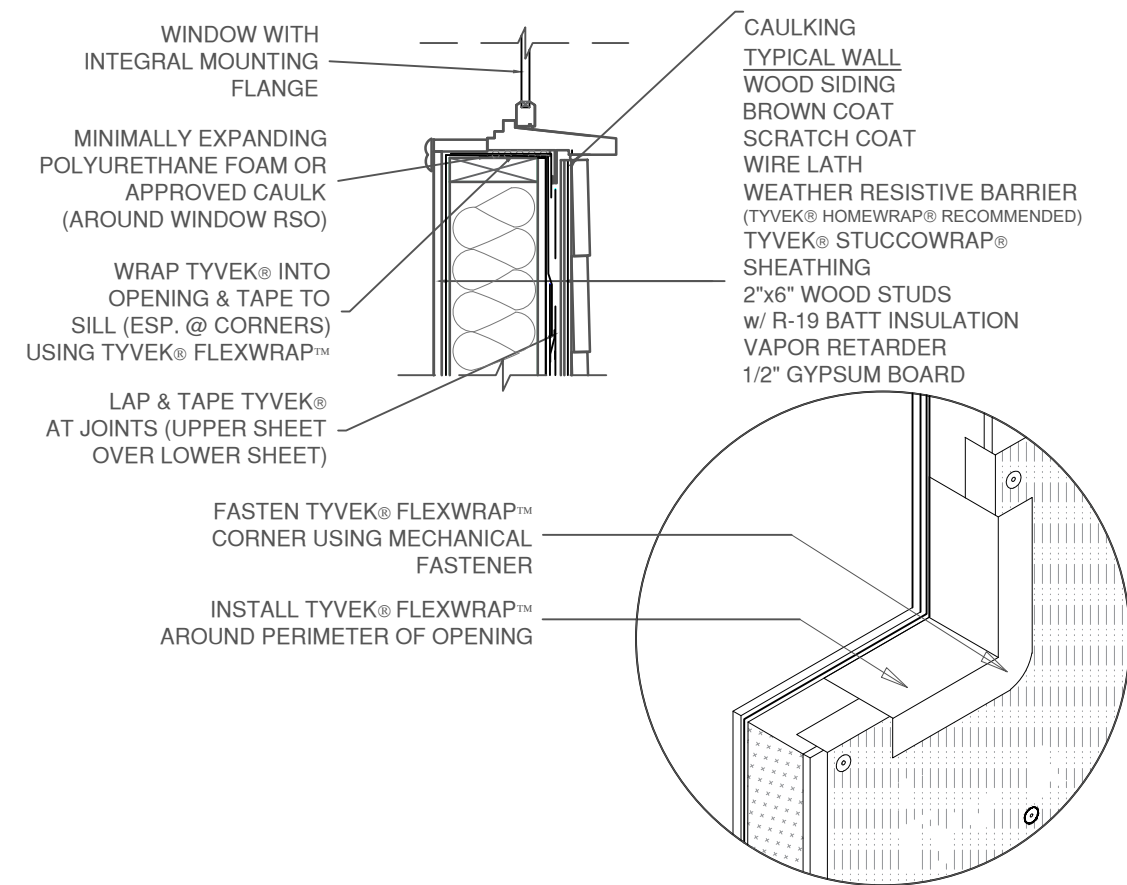
WINDOW HEAD DETAIL WITH WOOD SIDING



GENERAL NOTES

- *SEAL ALL TYVEK® JOINTS AND PENETRATIONS WITH APPROVED TAPE. (ex. DUPONT CONTRACTOR TAPE)
- *FASTEN TYVEK® TO SHEATHING WITH LARGE HEAD NAILS OR USE NAILS WITH LARGE PLASTIC WASHER HEADS.(ex. DUPONT WRAPCAPS)
- *LOCAL LAWS, ZONING, AND BUILDING CODES VARY AND THEREFORE GOVERNS OVER MATERIAL SELECTION AND DETAILING SHOWN BELOW.
- *INSTALL STUCCO ACCORDING TO MANUFACTURER'S WRITTEN INSTRUCTIONS

WINDOW SILL DETAIL WITH WOOD SIDING



GENERAL NOTES

- *SEAL ALL TYVEK® JOINTS AND PENETRATIONS WITH APPROVED TAPE. (ex. DUPONT CONTRACTOR TAPE)
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- *INSTALL STUCCO ACCORDING TO MANUFACTURER'S WRITTEN INSTRUCTIONS

REVISIONS

- 1.
- 2.
- 3.
- 4.
- 5.

JOB NO.

2020_1230

PLOT SCALE

3/16" = 1'-0"

DATE

08/05/2021

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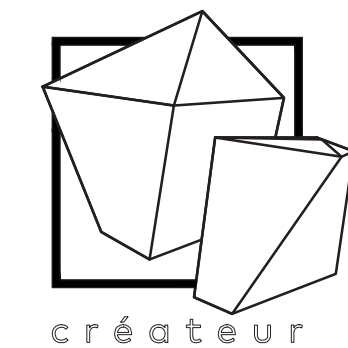
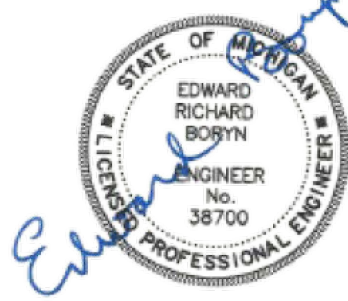
SF

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1679 DORCHESTER RD. BIRMINGHAM, MI 48009

SEAL



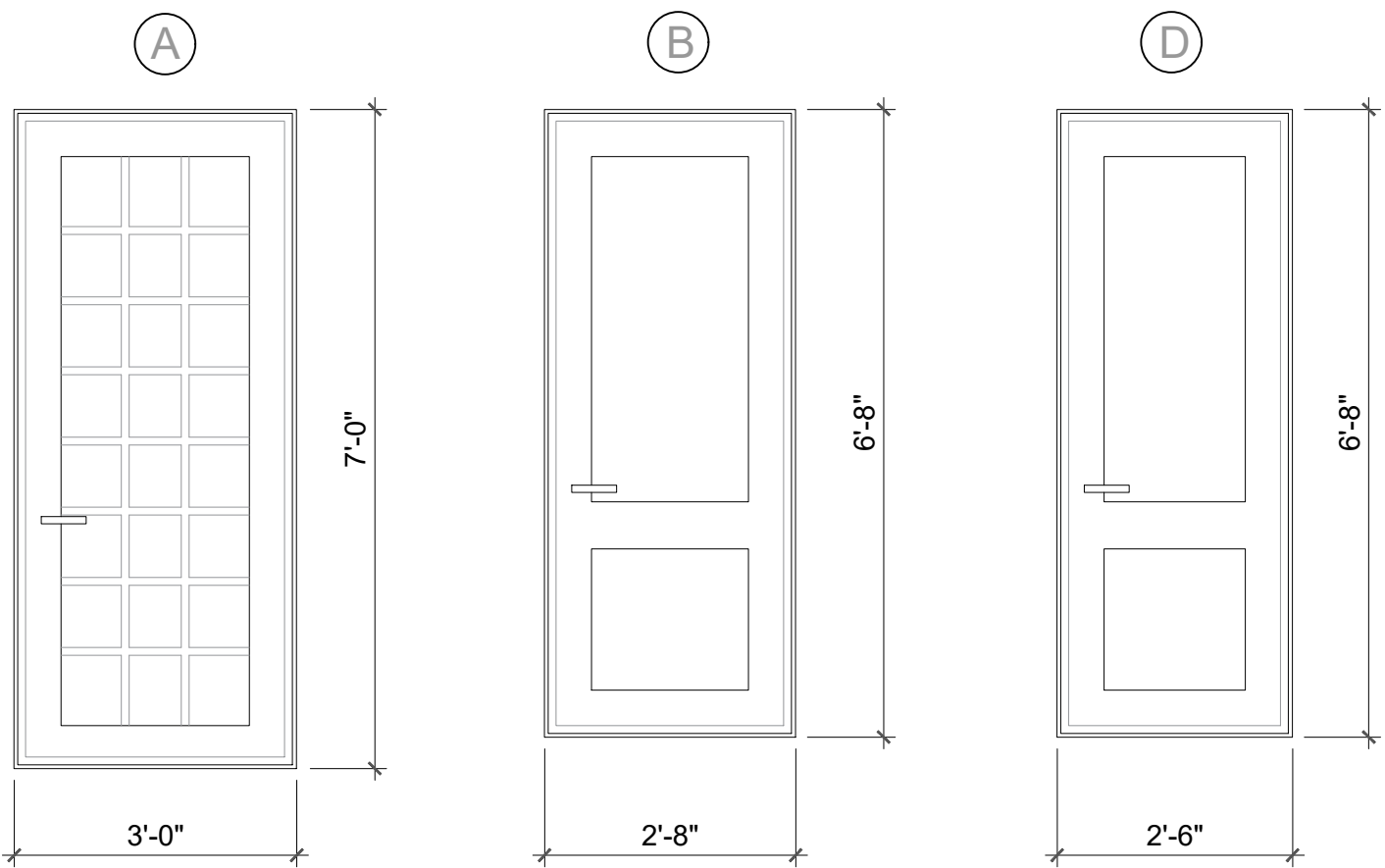
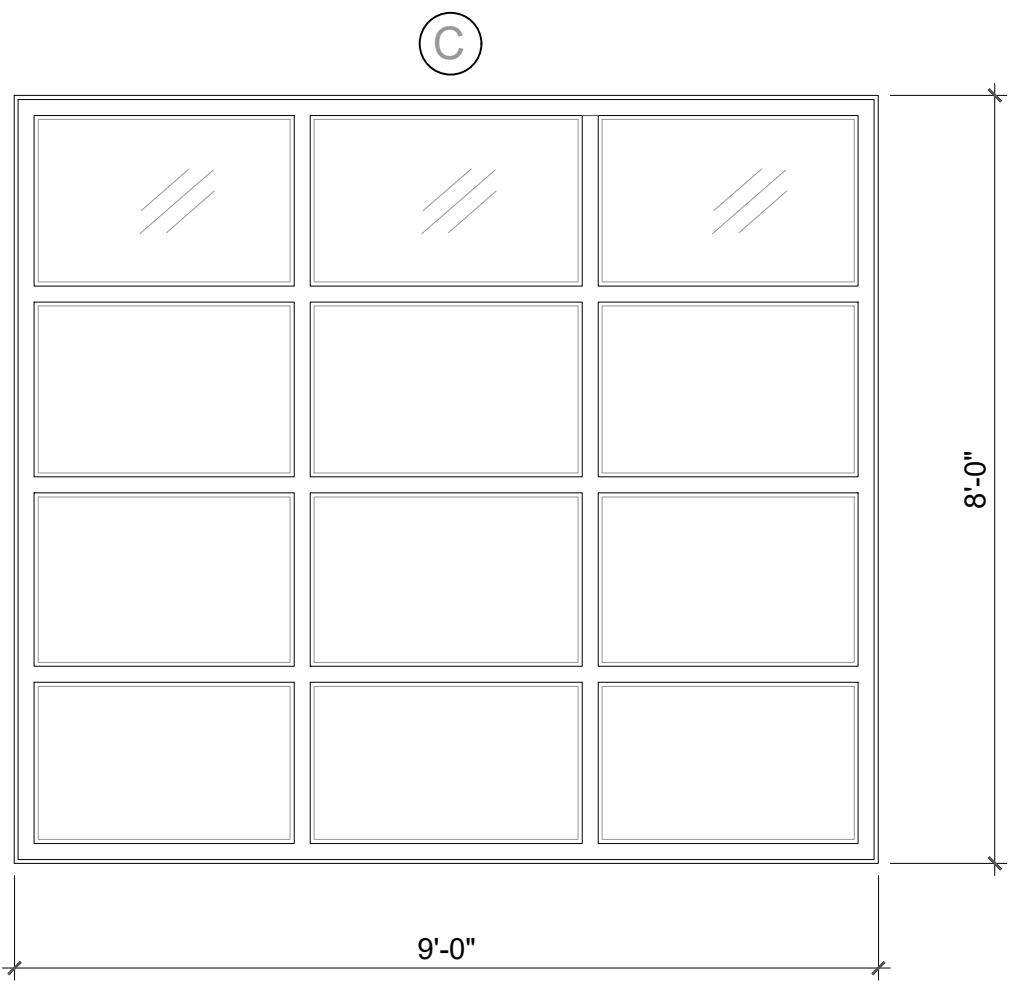
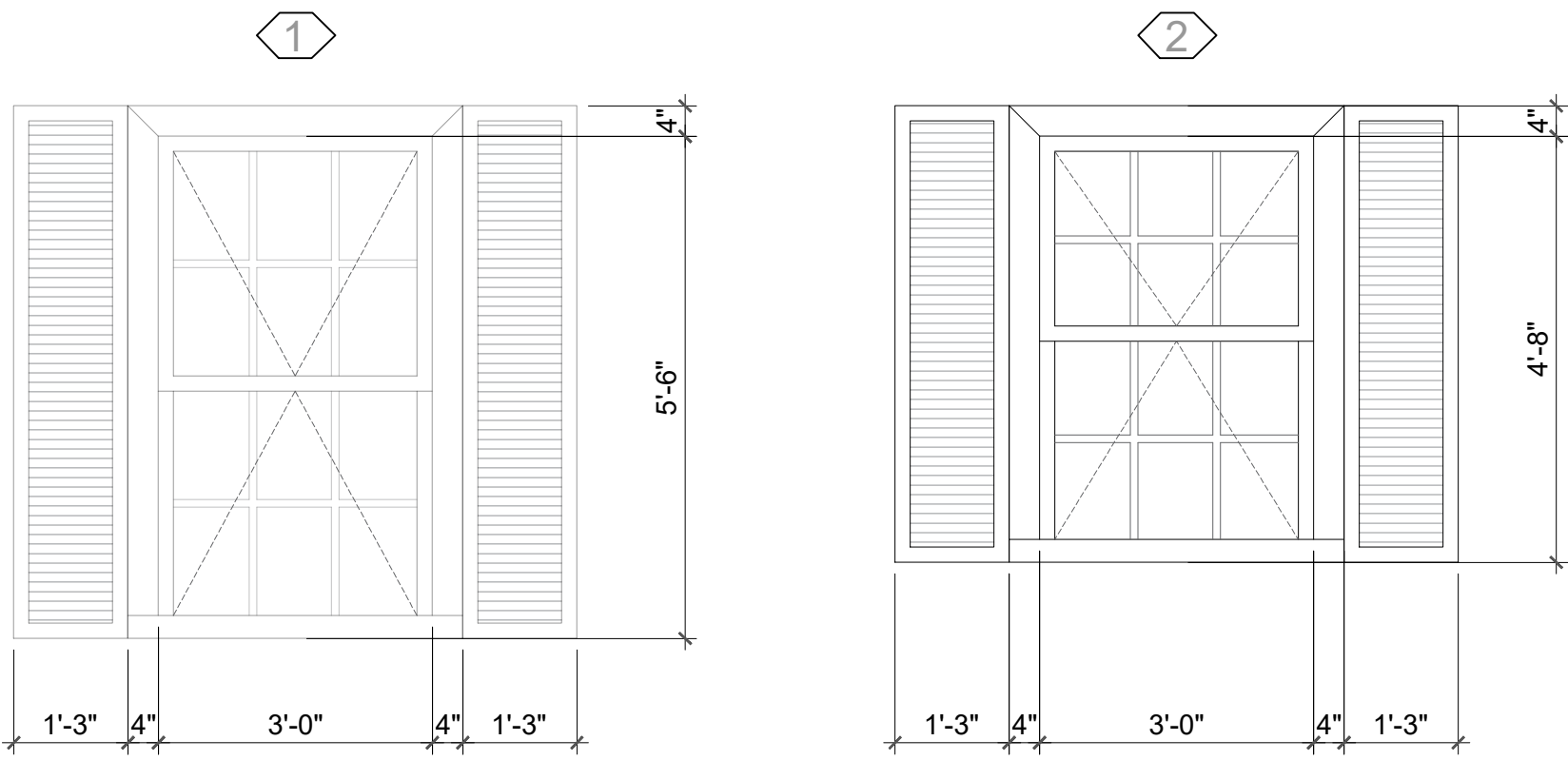
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A13



ROOMS, WINDOWS AND DOOR SCHEDULES
SCALE 1/2"=1'-0"

ROOM SCHEDULE		WINDOW SCHEDULE				DOOR SCHEDULE			
Nr.	NAME	TYPE	QUANTITY	SIZE	REMARKS	TYPE	QUANTITY	SIZE	REMARKS
FIRST FLOOR									
101	FAMILY ROOM	EX. W.				EX. D.			
102	EXIST. LIVING ROOM	EX. W.				EX. D.			
103	EXIST. DINING & KITCHEN	EX. W.				EX. D.			
104	EXIST. LIBRARY	EX. W.				EX. D.			
105	HALL	EX. W.				EX. D.			
106	PROP. GARAGE	⬡1	2	36" x 66"	WINDOW WITH SHADES	Ⓒ	1	108" x 96"	GARAGE DOOR
106	ENTRY	EX. W.				Ⓐ	1	36" x 84"	EXTERIOR DOOR
						Ⓑ	1	36" x 80"	INTERIOR DOOR
SECOND FLOOR									
201	EXIST. MASTER BEDROOM	EX. W.				EX. D.			
202	EXIST. W.I.C	EX. W.				EX. D.			
203	EXIST. BATHROOM #1	EX. W.				EX. D.			
204	EXIST. BATHROOM #2	EX. W.				EX. D.			
205	EXIST. BOY'S BEDROOM	EX. W.				Ⓑ	1	36" x 80"	INTERIOR DOOR
206	EXIST. GUEST BEDROOM	EX. W.				EX. D.			
207	PROP. OFFICE	⬡2	1	48" x 56"	WINDOW WITH SHADES	Ⓑ	1	36" x 80"	INTERIOR DOOR
208	PROP. BATHROOM	⬡2	1	48" x 56"	WINDOW WITH SHADES	Ⓑ	1	36" x 80"	INTERIOR DOOR
						Ⓓ	1	30" x 80"	BATHROOM DOOR
209	PROP.GIRL'S BEDROOM #1	⬡2	2	48" x 56"	WINDOW WITH SHADES	Ⓑ	1	36" x 80"	INTERIOR DOOR
210	PROP.GIRL'S BEDROOM #2	⬡2	2	48" x 56"	WINDOW WITH SHADES	Ⓑ	1	36" x 80"	INTERIOR DOOR
211	HALL	⬡2	1	48" x 56"	WINDOW WITH SHADES				

NOTE
WINDOW SIZES ARE APPROX. FRAME
SIZE. VERIFY R.O. SIZE WITH MFG.
SPECS., OWNER TO SELECT.

NOTE
DOORS SIZES ARE APPROX. FRAME
SIZE. VERIFY R.O. SIZE WITH MFG.
SPECS., OWNER TO SELECT.

REVISIONS

-
-
-
-
-

JOB NO.
2020_1230

PLOT SCALE
3/16" = 1'-0"

DATE
08/05/2021

DRAWN BY
Ema Gjura

CHEKED BY

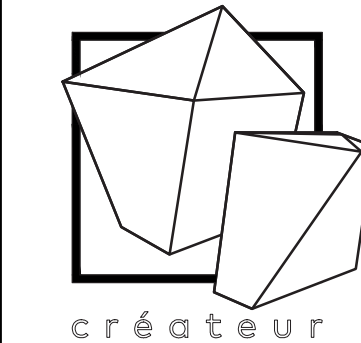
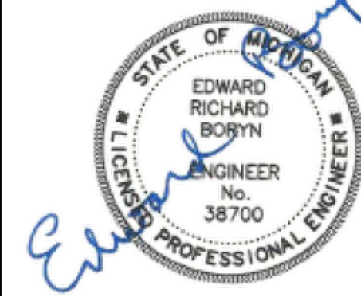
SF

DF

BB

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EXTERIOR IMAGE | FRONT VIEW



EXTERIOR IMAGE | BACK VIEW

REVISIONS

- 1.
- 2.
- 3.
- 4.
- 5.

JOB NO.

2020_1230

PLOT SCALE

DATE

08/05/2021

DRAWN BY

Ema Gjura

CHEKED BY

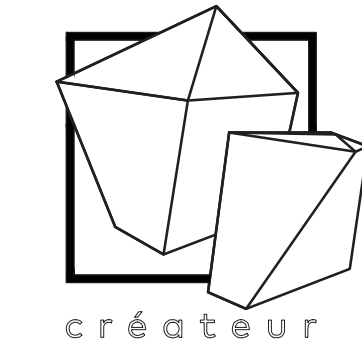
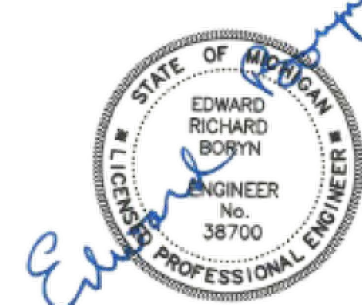
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