

BIRMINGHAM BOARD OF ZONING APPEALS AGENDA

UPDATED: VIRTUAL MEETING DUE TO COVID-19 PANDEMIC

Go To: <https://zoom.us/j/96343198370>

Or Dial: 877 853 5247 US Toll-Free

Meeting Code: 963 4319 8370

April 13, 2021
7:30 PM

1. CALL TO ORDER

2. ROLL CALL

3. APPROVAL OF THE MINUTES

a) March 9, 2021

4. APPEALS

	Address	Petitioner	Appeal	Type/Reason
1)	900 PURITAN	MARTIN/COPLEN	21-16	WITHDRAWN
2)	159 BALDWIN	GREEN BLDG SVCS	21-17	DIMENSIONAL

5. CORRESPONDENCE

6. GENERAL BUSINESS

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

8. ADJOURNMENT

Title VI

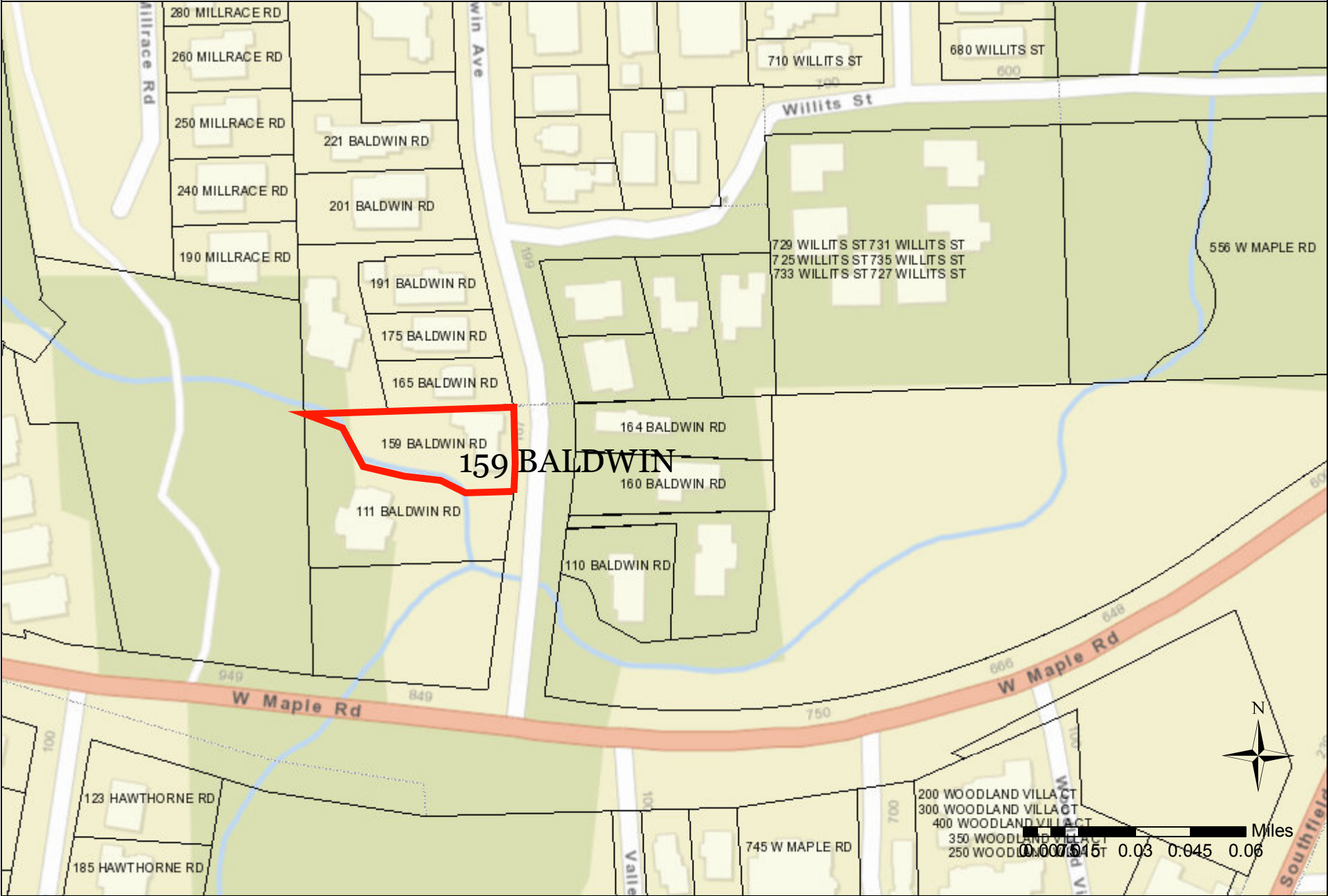
Persons with disabilities that may require assistance for effective participation in this public meeting should contact the City Clerk's Office at the number (248) 530-1880, or (248) 644-5115 (for the hearing impaired) at least one day before the meeting to request help in mobility, visual, hearing,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

APRIL BZA MAP



Birmingham Board Of Zoning Appeals Proceedings
Tuesday, March 9, 2021
Held Remotely Via Zoom And Telephone Access

1. Call To Order

Minutes of the regular meeting of the City of Birmingham Board of Zoning Appeals ("BZA") held on Tuesday, March 9, 2021. Chair Charles Lillie convened the meeting at 7:30 p.m.

2. Rollcall

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

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

Administration:

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

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

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

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

T# 03-13-21

3. Approval Of The Minutes Of The BZA Meeting Of February 9, 2021

Mr. Lillie said that 'or' should be changed to 'of' in the second paragraph of the motion for Appeal 21-04. In the last paragraph on page eight, he said 'practical difficulty' should be changed to 'hardship'.

Motion by Mr. Morganroth

Seconded by Mr. Lilley to accept the Minutes of the BZA meeting of February 9, 2021 as amended.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

T# 03-14-21

4. Appeals

**1) 691 Bloomfield Ct
Appeal 21-09**

ABO Zielke presented the item, explaining that the owner of the property known as 691 Bloomfield Court was requesting the following variance to construct a pool and patio in the required side open space:

A. Chapter 126, Article 4, Section 4.03(A) of the Zoning Ordinance requires that no accessory buildings or structures shall be erected in the required side open space. The proposed pool and patio is to be located in the east side open space. Therefore, a variance to permit a pool and patio is being requested.

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

Chris Fullerton, neighbor, said he was concerned about how noise from the use of the pool would impact his enjoyment of his property.

Mr. Lillie clarified for Mr. Fullerton that if there were a little more space in 691 Bloomfield's rear yard, the appellant could install the pool there. He noted that would result in the pool being much closer to Mr. Fullerton's property than the current appeal would.

Motion by Mr. Miller

Seconded by Mr. Morganroth with regard to Appeal 21-09, A. Chapter 126, Article 4, Section 4.03(A) of the Zoning Ordinance requires that no accessory buildings or structures shall be erected in the required side open space. The proposed pool and

patio is to be located in the east side open space. Therefore, a variance to permit a pool and patio is being requested.

Mr. Miller moved to deny the appeal because he said it was self-created. He said putting the pool in the side yard would negatively affect the neighbors and would not do substantial justice to the other property owners.

Mr. Morganroth said that denying the appellant the ability to put a pool in their sideyard setback does not amount to denying the appellant the enjoyment of their property. While he understood the desire for a pool, he noted that the BZA routinely enforces the ordinance that denies structures in the sideyard setback. He said for these reasons he would be supporting the motion.

Mr. Lillie concurred with Messrs. Miller's and Morganroth's comments. He noted that the noise from a pool in the side yard would echo between the neighboring houses whereas a pool in the rear yard would have acoustics less impactful to the neighbors.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

**2) 269 E. Southlawn
Appeal 21-10**

ABO Zielke presented the item, explaining that the owner of the property known as 269 E. Southlawn was requesting the following variances to construct a second floor addition to an existing non-conforming home:

A. Chapter 126, Article 2, Section 2.08.2 of the Zoning Ordinance requires that the minimum combined total side yard setback for residential lots are 14.0 feet or 25% of the lot width whichever is greater. The required total is 14.00 feet. The proposed is 12.82 feet. Therefore, a variance of 1.18 feet is being requested.

B. Chapter 126, Article 2, Section 2.08.2 of the Zoning Ordinance requires that no side yard setback for residential lots shall be less than 5.00 feet. The proposed is 4.49 feet. Therefore, a variance of 0.51 feet is being requested.

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

Mr. Morganroth asked Mr. DePorre if bringing in the second floor had been considered as an attempt to minimize the requested variance.

Mr. DePorre confirmed it had. He explained that bringing in the second floor would create a flat section of the first floor roof that would be prone to leakage. He said bringing in the second floor would also not be feasible in terms of how it would negatively impact the size of the bedrooms and the master bathroom.

Motion by Mr. Reddy

Seconded by Mr. Lilley with regard to Appeal 21-10, A. Chapter 126, Article 2, Section 2.08.2 of the Zoning Ordinance requires that the minimum combined total side yard setback for residential lots are 14.0 feet or 25% of the lot width whichever is greater. The required total is 14.00 feet. The proposed is 12.82 feet. Therefore, a variance of 1.18 feet is being requested and B. Chapter 126, Article 2, Section 2.08.2 of the Zoning Ordinance requires that no side yard setback for residential lots shall be less than 5.00 feet. The proposed is 4.49 feet. Therefore, a variance of 0.51 feet is being requested.

Mr. Reddy moved to approve the appeal because the home was built prior to the City's current zoning requirements were in effect. He noted that the the appeal also did not expand the current non-conformity with the ordinance.

Mr. Miller said he would vote to approve the motion. He noted that this house and the next three houses to the west are misaligned on the lots because they were built prior to the current zoning ordinances and that is what caused the difficulty for the owner of 269 E. Southlawn.

Mr. Rodriguez concurred with Messrs. Reddy and Miller. He noted the motion should be tied to the plans as submitted.

Mr. Reddy and Mr. Lilley clarified that their motion should be tied to the plans as submitted.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

**3) 2440 Fairway
Appeal 21-11**

ABO Zielke presented the item, explaining that the owner of the property known as 2440 Fairway was requesting the following variances to construct a second floor addition to an existing non-conforming home with an attached garage:

A. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that the minimum front yard setback is the average of the homes within 200.00 feet in each

direction. The required total is 41.46 feet. The proposed is 31.82 feet. Therefore, a variance of 9.64 feet is being requested.

B. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that the minimum combined total side yard setback for residential lots are 14.0 feet or 25% of the lot width whichever is greater. The required total is 28.64 feet. The proposed is 15.25 feet. Therefore, a variance of 13.39 feet is being requested.

C. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that no side yard setback for residential lots shall be less than 5.00 feet. The proposed is 4.50 feet. Therefore, a variance of 0.50 feet is being requested.

D. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum total distance between principle residential buildings on adjacent lots be 14.0 feet or 25% of the lot width whichever is greater. The required total is 28.64 feet. The proposed is 14.25 feet on the west side. Therefore, a variance of 14.39 feet is being requested.

E. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum total distance between principle residential buildings on adjacent lots be 14.0 feet or 25% of the lot width whichever is greater. The required total is 28.64 feet. The proposed is 14.91 feet on the east side. Therefore, a variance of 13.73 feet is being requested.

F. Chapter 126, Article 4, Section 4.30(C)1 of the Zoning Ordinance permits porches to project into the required front open space for a maximum distance of 10.00 feet. The proposed is 17.26 feet. Therefore, a variance of 7.26 feet is being requested.

In reply to Mr. Miller, ABO Zielke confirmed that the need for the variances largely resulted from the existing non-conformities of the house's placement on the lot. ABO Zielke also confirmed that the average front yard setback came from the houses on either side of 2440 Fairway even though the house to the west has its side yard facing Fairway.

Mr. Lillie noted that the point of averaging the front yard setbacks in the ordinance is to maintain sightlines. Since Fairway is curved, granting Variance A would not affect the front yard sightlines in this case.

Mirela and Adrian Bazaj, co-appellants, 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. Lilley with regard to Appeal 21-11, A. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that the minimum front yard setback is the average of the homes within 200.00 feet in each direction. The required total is 41.46 feet. The proposed is 31.82 feet. Therefore, a variance of 9.64 feet is being requested; B. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that the minimum combined total side yard setback for residential lots are 14.0 feet or 25%

of the lot width whichever is greater. The required total is 28.64 feet. The proposed is 15.25 feet. Therefore, a variance of 13.39 feet is being requested; C. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that no side yard setback for residential lots shall be less than 5.00 feet. The proposed is 4.50 feet. Therefore, a variance of 0.50 feet is being requested; D. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum total distance between principle residential buildings on adjacent lots be 14.0 feet or 25% of the lot width whichever is greater. The required total is 28.64 feet. The proposed is 14.25 feet on the west side. Therefore, a variance of 14.39 feet is being requested; E. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum total distance between principle residential buildings on adjacent lots be 14.0 feet or 25% of the lot width whichever is greater. The required total is 28.64 feet. The proposed is 14.91 feet on the east side. Therefore, a variance of 13.73 feet is being requested; and, F. Chapter 126, Article 4, Section 4.30(C)1 of the Zoning Ordinance permits porches to project into the required front open space for a maximum distance of 10.00 feet. The proposed is 17.26 feet. Therefore, a variance of 7.26 feet is being requested.

Mr. Miller motioned to approve Variances A, B, C, D, E and F as proposed. He said strict compliance with the ordinance would be excessively burdensome in this case, and that the issues faced by the appellants in this case are not self-created. He said that the need for the variances was caused by the irregularly-shaped lot, and the position of the house on the lot. Mr. Miller opined that adding a front porch would also do substantial justice to the neighboring property owners. He tied the approval to the plans as submitted.

Noting the appellants' reduction of the variance request for the porch from the possible 10 feet to approximately seven feet, Mr. Lillie said he would support the motion. He noted the reduction mitigated the porch's encroachment into the front open space.

Mr. Morganroth said the fact that Fairway is curved mitigated the impact of the porch's encroachment into the front yard. He also concurred with Mr. Lillie's comments.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

**4) 1404 E Lincoln
Appeal 21-12**

ABO Zielke presented the item, explaining that the owner of the property known as 1404 E Lincoln was requesting the following variance to construct a second floor addition to an existing non-conforming home:

A. Chapter 126, Article 2, Section 2.10.2 of the Zoning Ordinance requires that no side yard setback for residential lots shall be less than 5.00 feet. The proposed is 4.75 feet. Therefore, a variance of 0.25 feet is being requested.

Rami Essak, appellant, reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet. He confirmed the addition would get no closer to the lot line than the requested 4.75 feet, even though that meant the addition would have to taper in.

Donna Klein, resident of E. Lincoln, expressed her strong support for the appeal. She said increasing the house to two stories would benefit the neighborhood. She also said she was glad that the existing bungalow would be maintained and renovated rather than being demolished and replaced.

Motion by Mr. Lilley

Seconded by Mr. Miller with regard to Appeal 21-12, A. Chapter 126, Article 2, Section 2.10.2 of the Zoning Ordinance requires that no side yard setback for residential lots shall be less than 5.00 feet. The proposed is 4.75 feet. Therefore, a variance of 0.25 feet is being requested.

Mr. Lilley moved to approve the variance request as long as the side setback is maintained at the requested 4.75 feet. He noted that the home was built prior to the current ordinance requirements and so the issue is an existing non-conformity. He said the request was not unreasonable, and asked that the approval of the variance be tied to the plans as submitted.

Mr. Lillie said he would support the motion but that the plans would have to be adjusted slightly in order to maintain the 4.75 foot side setback requirement.

Building Official Johnson said the motion could be tied to the plans as amended during the present discussion.

Per Building Official Jonson's recommendation, Mr. Lilley asked that approval of the variance be tied to the plans as amended, reiterating that 4.75 foot side yard setback must not be decreased.

Mr. Miller maintained his second of the motion.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

5) 998 S Glenhurst

Appeal 21-13

ABO Zielke presented the item, explaining that the owner of the property known as 998 S. Glenhurst, was requesting the following variances to construct a new single family home with an attached garage:

A. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum total distance between principle residential buildings on adjacent lots be 14.0 feet or 25% of the lot width whichever is greater. The required total is 20.00 feet. The proposed is 16.30 feet on the north side. Therefore, a variance of 3.70 feet is being requested.

B. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum total distance between principle residential buildings on adjacent lots be 14.0 feet or 25% of the lot width whichever is greater. The required total is 20.00 feet. The proposed is 17.55 feet on the south side. Therefore, a variance of 2.45 feet is being requested.

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

Motion by Mr. Morganroth

Seconded by Mr. Rodriguez with regard to Appeal 21-13, A. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum total distance between principle residential buildings on adjacent lots be 14.0 feet or 25% of the lot width whichever is greater. The required total is 20.00 feet. The proposed is 16.30 feet on the north side. Therefore, a variance of 3.70 feet is being requested and B. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum total distance between principle residential buildings on adjacent lots be 14.0 feet or 25% of the lot width whichever is greater. The required total is 20.00 feet. The proposed is 17.55 feet on the south side. Therefore, a variance of 2.45 feet is being requested.

Mr. Morganroth moved to approve both variances. He said the appellant demonstrated that he met the required side setbacks for his own lot and that it is the non-conforming homes to the north and the south that cause the need for the variances. Mr. Abdullah also is reducing the existing non-conformity on the north side, bringing that side setback from the current seven feet to the required ten feet. Mr. Morganroth said granting the variances would do substantial justice to the home owner and would have no negative impact on the adjacent properties. He tied the approval to the plans as submitted.

Mr. Reddy said he could not support the motion. He said the issue was self-created since the builder knew the lot's dimensions and the dimensional ordinance requirements when he bought the home.

Mr. Lillie said he would support the motion. He said the BZA generally does not penalize an appellant who meets all the ordinance requirements for their property if the need for the variance is caused by adjacent non-conforming properties.

Mr. Rodriguez concurred with Mr. Lillie and reiterated the appellant's mitigation of the non-conformity on the north side of his property.

Motion carried, 6-1.

ROLL CALL VOTE

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

Nays: Reddy

**6) 1859 Yorkshire
Appeal 21-14**

ABO Zielke presented the item, explaining that the owner of the property known as 1859 Yorkshire was requesting the following variance to construct a detached garage in the required front open space:

A. Chapter 126, Article 4, Section 4.03(A) of the Zoning Ordinance requires that no accessory buildings or structures shall be erected in the required front open space. The proposed detached garage is to be located in the front open space. Therefore, a variance to permit a detached structure in the front open space is being requested.

B. Chapter 126, Article 4, Section 4.03(H) of the Zoning Ordinance requires that the maximum area of the first floor of any accessory structure or accessory structures in combination shall not exceed 10% of the lot area or 600 square feet in R1, whichever is less. The required total is 600 square feet. The proposed is 1039 square feet. Therefore, a variance of 439.00 square feet is requested.

ABO Zielke stated that the appellant did discuss installing the garage behind the home but did not pursue it due to some noise and safety concerns.

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

Sara and Justin Evoe, across the street neighbors of 1859 Yorkshire, voiced their support for the requested variances. Mr. Evoe said the wooded area between the neighborhood and the railroad tracks had been substantially thinned out over the last four years, and that granting the variance would restore some of the sound barrier previously enjoyed by homes in the neighborhood.

Mary and Michael Jarman, neighbors to the west of 1859 Yorkshire, also voice their support for the requested variances. Mr. Jarman echoed the Evoe's comments, and said the Motyls' proposed work would also give the neighbors some visual reprieve from the railroad tracks. Mr. Jarman

continued that requiring the Motyls to put their driveway between their house and the Jarmans' would be difficult since the Jarmans' driveway is four feet above the Motyls' lot's grade.

Motion by Mr. Lillie

Seconded by Mr. Rodriguez with regard to Appeal 21-14, A. Chapter 126, Article 4, Section 4.03(A) of the Zoning Ordinance requires that no accessory buildings or structures shall be erected in the required front open space. The proposed detached garage is to be located in the front open space. Therefore, a variance to permit a detached structure in the front open space is being requested.

Mr. Lillie moved to grant Appeal A and to tie it to the amended drawings. He said the lot's shape and adjacency to the railroad tracks make the lot unique. Making the appellants comply with the ordinance in this case would be unduly burdensome, whereas granting the variance would benefit the neighboring properties. He noted the need for the variance was not self-created. Mr. Lillie said it would be the first time the BZA permitted a garage in the front of the home, but the circumstances were so unique that the variance was justified.

Mr. Miller said he would support the appeal while noting that it created no precedent for allowing a garage in the front of a home. He said that the unique circumstances of the home, combined with a sensitive and well thought out plan for addressing them, were leading him to vote to approve. Mr. Miller stated that it is very unusual that adding a garage to the front of the home would do substantial justice to the neighbors but that here that was the case.

Vice-Chair Canvasser said he would also support the motion for the same reasons given by other Board members.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

Nota bene: No motion was made in regards to Variance B and no vote was taken regarding Variance B.

T# 03-15-21

5. Correspondence

Included in the agenda packet.

T# 03-16-21

6. General Business

None.

T# 03-17-21

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

T# 03-18-21

8. Adjournment

Motion by Mr. Lilley

Seconded by Mr. Lillie to adjourn the March 9, 2021 BZA meeting at 9:22 p.m.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

Bruce R. Johnson, Building Official

CASE DESCRIPTION

159 Baldwin (21-17)

Hearing date: April 13, 2021

Appeal No. 21-17: The owner of the property known as 159 Baldwin, request the following variances to construct a new single family home with an attached garage:

- A. Chapter 126, Article 2, Section 2.08** of the Zoning Ordinance requires that the minimum front yard setback be the average of the homes within 200.00 feet in each direction. The required front yard setback is 44.30 feet. The proposed is 11.00 feet. Therefore, a 33.30 foot variance is being requested.
- B. Chapter 126, Article 2, Section 2.08** of the Zoning Ordinance requires the maximum eave height of a structure is 24.00 feet. The proposed eave height is 25.10 feet. Therefore, a 1.10 foot variance is being requested.
- C. Chapter 126, Article 4, Section 4.30(C)(5)** of the Zoning Ordinance limits porches and decks to one story in height in the rear open space. The proposed deck is to be constructed over one story in height and to project 1.50 feet into the rear open space. Therefore, a 1.50 foot variance is being requested.

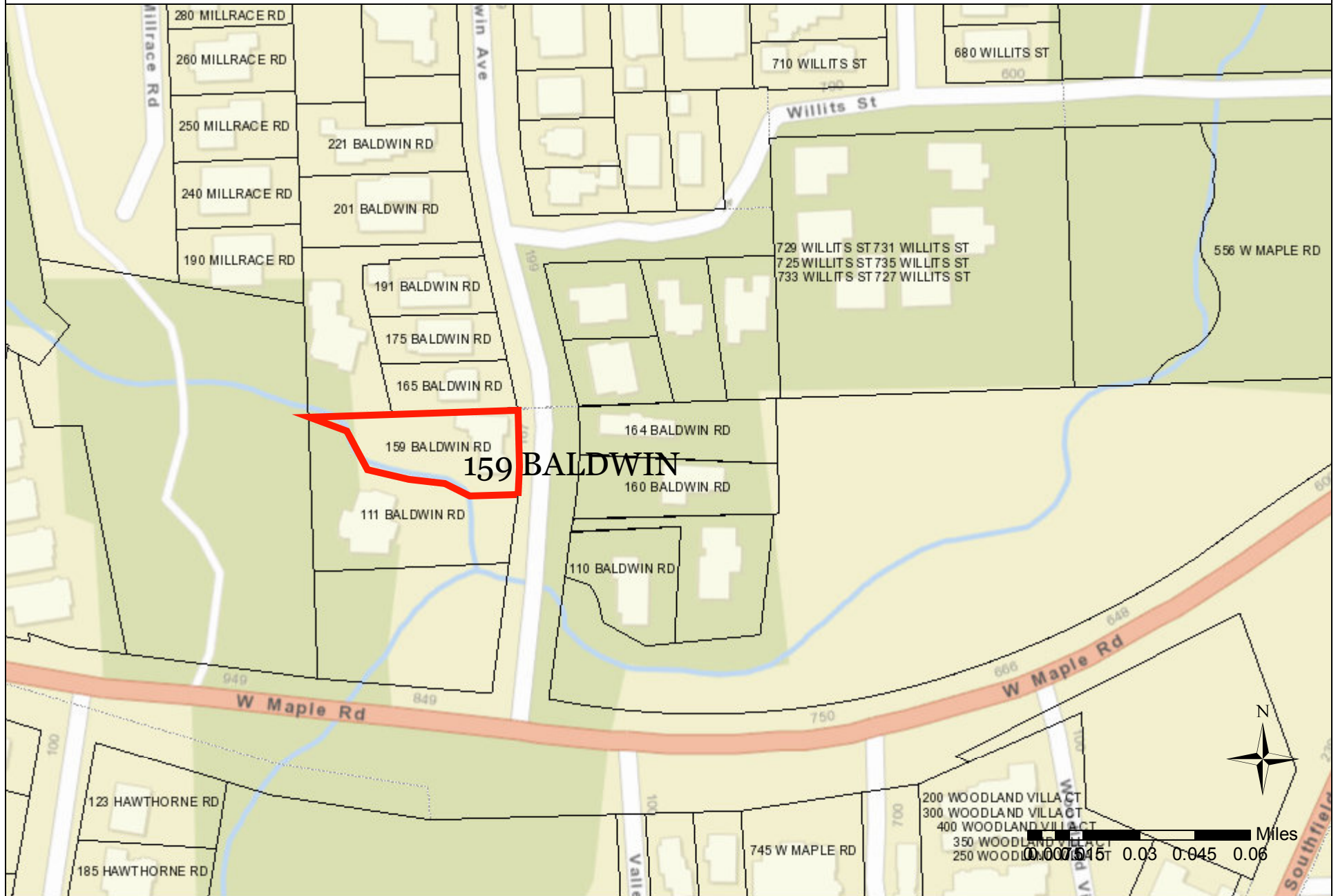
Staff Notes:

The applicant was in front of the board in August 2019, due to the pandemic and obtaining necessary permit from EGLE, the time had lapsed on the variance granted. The applicant is back for the same variances to construct a new single family home with an attached garage on this irregular shaped lot with sloping grades and flood plain challenges.

This property is zoned R2 – Single Family Residential.

Jeff Zielke, LEED AP
Assistant Building Official

159 BALDWIN MAP



CITY OF BIRMINGHAM
Date 03/15/2021 3:16:56 PM
Ref 00178084
Receipt 568875
Amount \$360.00

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: 3-15-21

Received By: HT

Hearing Date: 4-13-21

Appeal #: 21-017

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
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I. PROPERTY INFORMATION:

Address: 159 BALDWIN Lot Number: Sidwell Number: 19-36-101-005

II. OWNER INFORMATION:

Name: TIM PFANNES
Address: 159 BALDWIN AVE City: BIRMINGHAM State: MI Zip code: 48009
Email: TIM@GROUNDWORKΦ.COM Phone: 248-214-1123

III. PETITIONER INFORMATION:

Name: BRIAN HALPRIN Firm/Company Name: GREEN BUILDING SERVICES LLC
Address: 5639 WESTWOOD CT City: BLOOMFIELD State: MI Zip code: 48301
Email: BJHALPRIN@GMAIL.COM Phone: 248-259-9122

IV. GENERAL INFORMATION:

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

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

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

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

V. REQUIRED INFORMATION CHECKLIST:

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

VI. APPLICANT SIGNATURE

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

Signature of Owner: [Signature]

Date: 3-10-21

Signature of Petitioner: [Signature]

Date: 3/10/2021



159 Baldwin – Pfannes Residence – BZA Narrative – 3.10.2021

Note that this is a request for reinstatement of a variance previously approved by the City of Birmingham BZA on 8/13/2019. The reasons for the reinstatement requests are as follows

- 1) Due to COVID, the client was reluctant to start this project, which involves demolition of the existing structure, until the situation regarding the pandemic had stabilized.
- 2) The required EGLE permit was not issued 8/18/2020, also delaying permit application.

Thanks for your consideration and review.

What follows is the narrative from the 8/13/2019 submittal, with minor amendments factoring in the final grading plan engineered by Hubbell, Roth and Clark and approved by the State of Michigan/EGLE.

159 Baldwin is an existing two story, two bedroom home that sits along the banks of the Rouge River. It has had several additions since it was first built in 1901, with the latest in 1990. The master bedroom is upstairs and there is a second, smaller bedroom on the main floor, along with a living room and step down den, kitchen with dining area, as well as a loft over the garage. My client purchased the home in 2013 and has made minor improvements since. Over time, he has experienced the following challenges living in this home.

- 1) The home heats and cools unevenly, and different rooms have different climate conditions depending on the season, with a resulting lack of comfort and additional cost in heating and cooling.
- 2) The step down in to the Kitchen/Dining area and Den has become a challenge in terms of ease of livability.
- 3) The flight of stairs up into the master suite will pose a long term problem as the client looks to age in place in this location.

After studying the potential to correct these deficiencies within the existing structure, the client looks to tear down the home instead, and consolidate his vision for a dream home on a magnificent lot, where he can both enjoy nature and his walks into downtown Birmingham. Due to the site conditions and the lot being partially in the flood plan, the proposed construction is to be built on a crawl space, and access to the rear lot will be via the first floor deck. There is no opportunity for a walkout basement.

The existing home has the following non-conforming elements that we seek to correct as possible with our proposed design:

- 1) Front yard setback - 10.3'
- 2) Distance to eave height at river side greater than 24', currently 26'-6".
- 3) Garage sits proud of house at front yard
- 4) The front face of the garage site less than 15' from the front property
- 5) Total Side yard setbacks less than 20'
- 6) North side of house sits less than twenty feet from neighbor to the north

The non-conforming elements below have been improved, but the proposed design still require and the following variances:

- 1) VARIANCE ONE - Front yard setback- proposed 11' – proposed improvement of encroachment, design steps back from the front yard as well, so overall mass of house sits further back

- 2) VARIANCE TWO - Distance to eave height at river side greater than 24' – improved from 2'6" over to 1'1" over the allowed 24'. Note that this condition only occurs at the lowest point of grade at the rear yard, measured from a spot below the proposed deck to the underside of the eave. If the site were flat, a variance request here would not be needed. Also note that based upon the final grading engineered by Hubbell, Roth and Clark and approved by the State of Michigan/EGLE the distance from grade to the underside of eave in the rear yard is now less than 24'-0" in this location.
- 3) VARIANCE THREE – The proposed second floor balcony/deck is to be constructed over one story in height and is to project 1.50 feet into the rear open space. Therefore a 1.50 foot variance is being requested.

The proposed design corrects the remaining non-conforming elements noted above, as follows:

- 4) Garage sits proud of house at front yard – corrected, garage sits 5' behind front of house
- 5) The front face of the garage site less than 15' from the front property – corrected, now 21.0'
- 6) Total Side yard setbacks less than 20' – corrected
- 7) North side of house sits less than twenty feet from neighbors – corrected

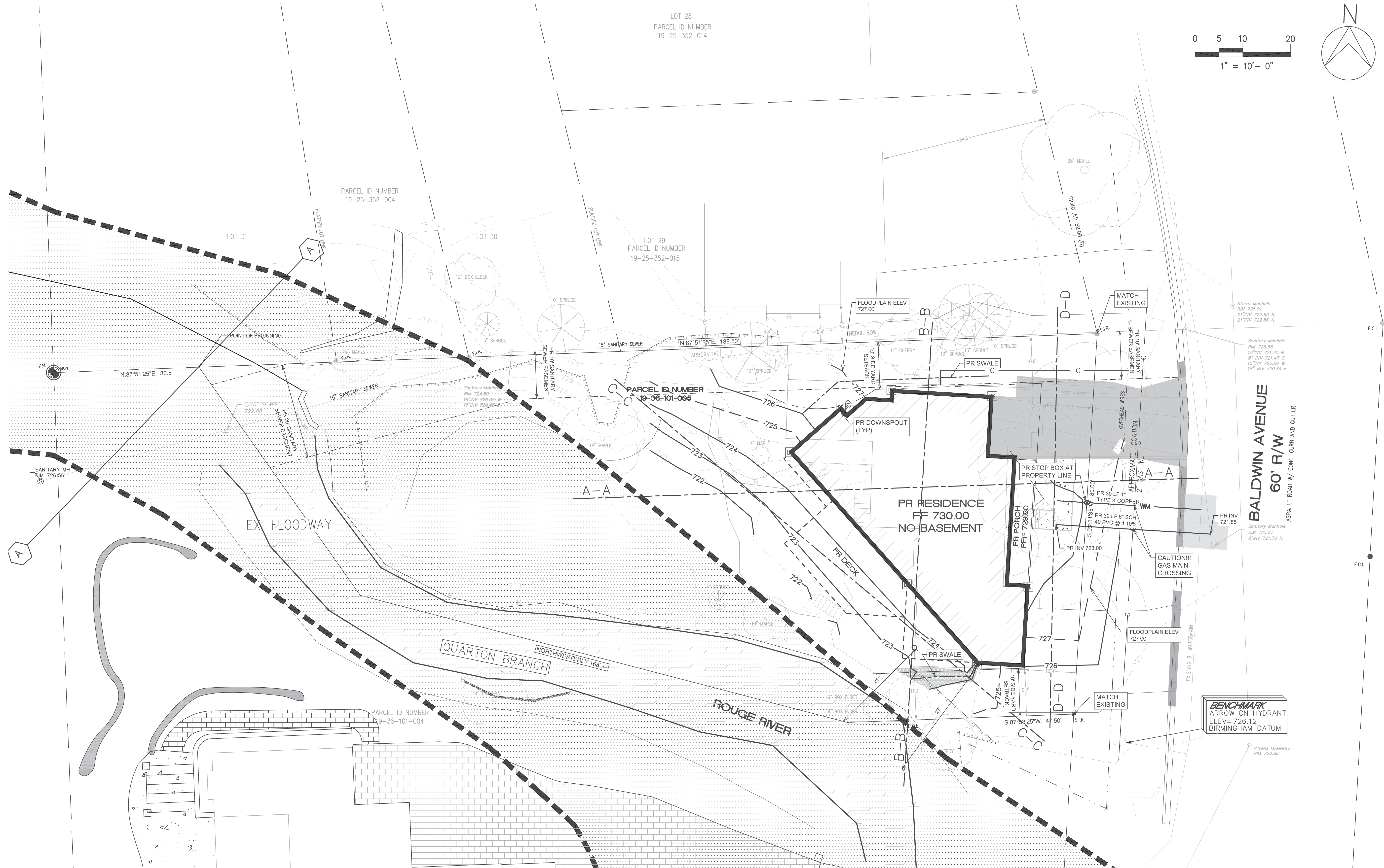
Note that this property is partially located in the 100 year flood plain. As a result, there are unique limitations on the size of the potential building envelope as well as the location of the building envelope. Approximately one half of the property is in the floodway and thus unbuildable. The average front yard setback is calculated further from the street as a result of construction to the south at 111 Baldwin, which sits across the river and is 100.3' from the right of way. As a result of this the front setback is 44.3'. Without this unique condition, the average front yard setback is 30.3'. The sloping grade towards the river creates the need for two of the variances, the first floor deck and the underside of eave height. Further, there is a sewer that runs along north property line that requires 20' easement centered on property line. This results in the loss of an additional 1' of buildable area on the north side of the property, and forces the buildable area south towards the floodway and low ground, which has restrictions.

Our hardship is that by applying all limitations, floodplain requirements, easements and setbacks, the allowable building envelope would be a small wedge shape in the north central portion of the property. This would be approximately half the size of the current building footprint, and would result in blocking the view of the river for the neighbors to the north.

After consulting with city of Birmingham officials, we decided the most prudent approach is to essentially maintain the overall shape and size of the existing home, but to lessen or eliminate the non-conforming elements as possible and to preserve the shared view that all neighbors enjoy of this beautiful location. Take note that the proposed construction footprint is only slightly larger than the existing one, and that the overall lot coverage when including decks is slightly less than existing. We request your consideration and approval for the items listed above, thank you.

Respectfully submitted,

Brian Halprin AIA/LEED AP BD+C
Green Building Services pllc



LEGEND

PR ASPHALT	
PR CONCRETE DRIVEWAY	
PR CURB AND GUTTER	
PR SIDEWALK	

NOTES

- SANITARY SEWER AND WATER MAIN LEADS SHALL BE CONSTRUCTED WITHIN THE SAME TRENCH
- SEE ARCHITECTS PLANS FOR BUILDING DIMENSIONS

PERMITS

- USACE JPA
- CITY OF BIRMINGHAM SOIL EROSION AND SEDIMENT CONTROL PERMIT

PROPERTY DESCRIPTION

PART OF THE NORTHWEST 1/4 OF SECTION 36, T.2N., R.10E., CITY OF BIRMINGHAM, OKLAHOMA COUNTY, MICHIGAN DESCRIBED AS BEGINNING AT A POINT DISTANT N.87°51'25"E., 30.5 FEET FROM THE NORTHWEST SECTION CORNER; THENCE N.87°51'25"E., 188.5 FEET; THENCE S.03°31'35"W., 80.00 FEET; THENCE S.87°53'25"W., 47.50 FEET; THENCE NORTHWESTERLY 168 FEET ALONG THE CENTERLINE OF THE ROUGE RIVER TO THE POINT OF BEGINNING. SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.

NOTE: NO TITLE WORK WAS SUPPLIED BY CLIENT. THEREFORE, NO EASEMENTS OF RECORD, IF ANY EXIST, COULD BE SHOWN.

BENCHMARK

BENCHMARK No. 1
ARROW ON FIRE HYDRANT LOCATED NEAR THE SOUTHEAST CORNER OF THE SITE.
ELEVATION 726.12 BIRMINGHAM DATUM

BENCHMARK No. 32 17.4 W. OF SE COR.
MAPLE BRIDGE
ELEVATION 728.31 BIRMINGHAM DATUM

EX AVERAGE FRONT SETBACKS

TO NORTH
No. 165 34.6'
No. 175 25.8'
No. 191 21.5'
No. 201 39.2'

TO SOUTH:
No. 111 100.3'

AVERAGE FRONT SETBACK: 44.3'

FLOODPLAIN

SITE FALLS UNDER 100 YR FLOODPLAIN
ELEV. 726.00+- (NAVD 88)
ELEV. 727.00+- (BIRMINGHAM DATUM)

NOTE

- FLOODWAY FROM FIRM OAKLAND COUNTY, MICHIGAN PANEL 536 OF 704 MAP No26125C0536F EFFECTIVE ON 9/29/2006 NO WORK SHALL BE DONE WITHIN FLOODWAY



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16231 W.14Mile #101
Beverly Hills, MI 48025
248-259-9122
GreenBuildingofMichigan.com

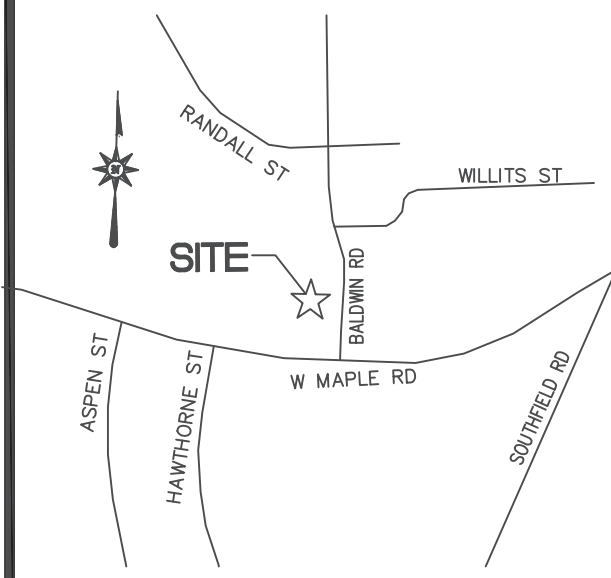


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BLOOMFIELD HILLS, MICH. 48303 - 0824
PHONE: (248) 454-6300
FAX (1st Floor): (248) 454-6312
FAX (2nd Floor): (248) 454-6359
WEB SITE: <http://www.hrcengr.com>



07/23/20	REISSUED FOR EGLE PERMIT
04/23/20	REISSUED FOR EGLE PERMIT
03/20/20	ISSUED FOR PERMITS
01/08/20	ISSUED FOR EGLE PERMIT

DATE	ADDITIONS AND/OR REVISIONS
DESIGNED	
DRAWN	
CHECKED	
APPROVED	

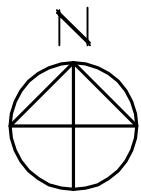
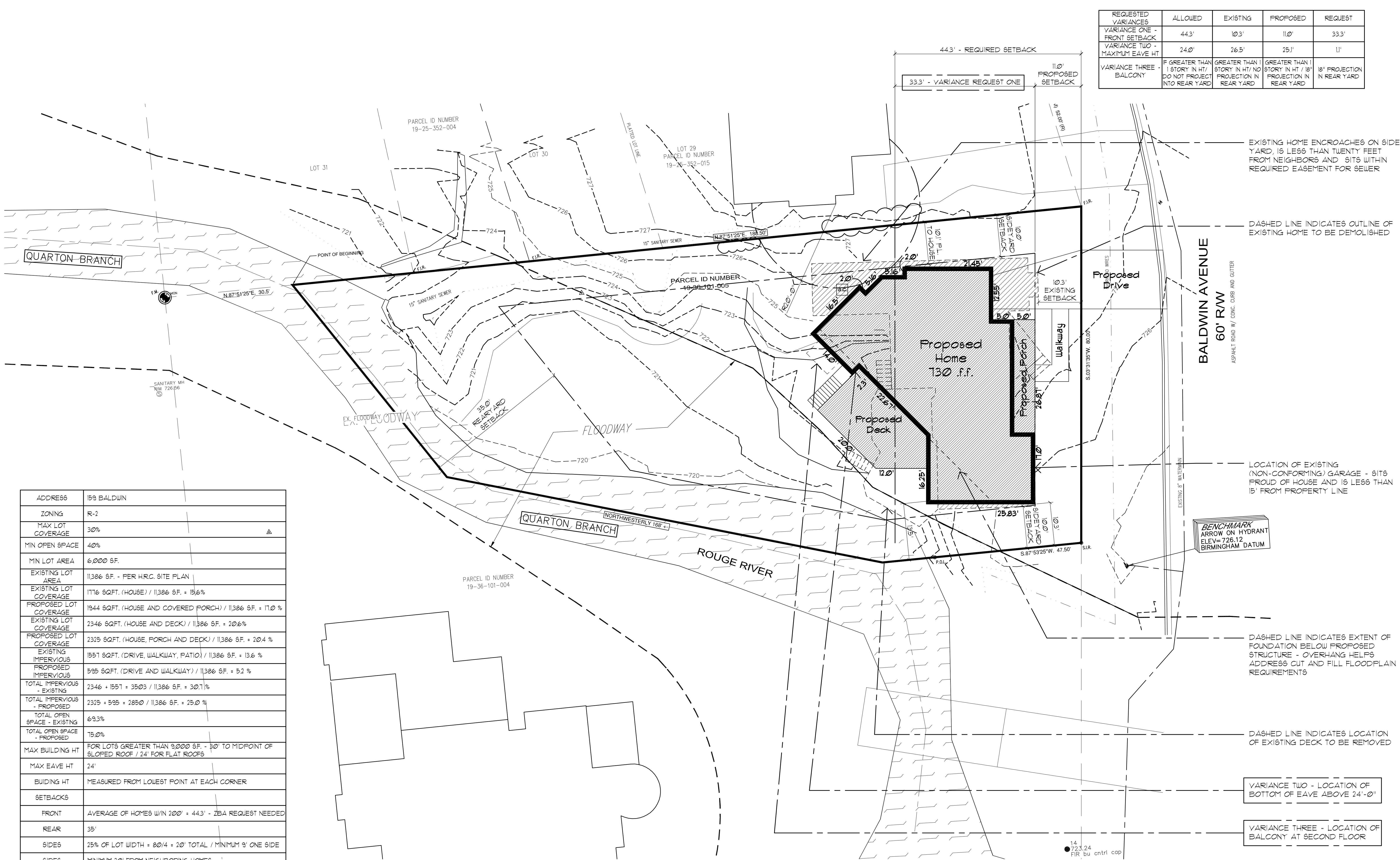


159 BALDWIN
BIRMINGHAM, MI

SITE PLAN

HRC JOB NO. 20180573	SCALE 1"=10'
DATE February 2020	SHEET NO. C-2 OF

ADDRESS	159 BALDWIN
ZONING	R-2
MAX LOT COVERAGE	30% A
MIN OPEN SPACE	40%
MIN LOT AREA	6,000 S.F.
EXISTING LOT AREA	11,386 S.F. - PER H.R.C. SITE PLAN
EXISTING LOT COVERAGE	1116 SQ.FT. (HOUSE) / 11,386 S.F. = 19.6%
PROPOSED LOT COVERAGE	1944 SQ.FT. (HOUSE AND COVERED PORCH) / 11,386 S.F. = 17.0 %
EXISTING LOT COVERAGE	2346 SQ.FT. (HOUSE AND DECK) / 11,386 S.F. = 20.6%
PROPOSED LOT COVERAGE	2325 SQ.FT. (HOUSE, PORCH AND DECK) / 11,386 S.F. = 20.4 %
EXISTING IMPERVIOUS	1551 SQ.FT. (DRIVE, WALKWAY, PATIO) / 11,386 S.F. = 13.6 %
PROPOSED IMPERVIOUS	595 SQ.FT. (DRIVE AND WALKWAY) / 11,386 S.F. = 5.2 %
TOTAL IMPERVIOUS - EXISTING	2346 + 1551 = 3903 / 11,386 S.F. = 30.1%
TOTAL IMPERVIOUS - PROPOSED	2325 + 595 = 2850 / 11,386 S.F. = 25.0 %
TOTAL OPEN SPACE - EXISTING	69.3%
TOTAL OPEN SPACE - PROPOSED	75.0%
MAX BUILDING HT	FOR LOTS GREATER THAN 9,000 S.F. - 30' TO MIDPOINT OF SLOPED ROOF / 24' FOR FLAT ROOFS
MAX EAVE HT	24'
BUILDING HT	MEASURED FROM LOWEST POINT AT EACH CORNER
SETBACKS	
FRONT	AVERAGE OF HOMES W/IN 200' = 44.3' - ZBA REQUEST NEEDED
REAR	35'
SIDES	25% OF LOT WIDTH = 80/4 = 20' TOTAL / MINIMUM 9' ONE SIDE
SIDES	MINIMUM 20' FROM NEIGHBORING HOMES
OVERHANGS	24" AT FRONT / 2" FOR EVERY FOOT AT SIDES
CANTILEVERS	FEATURE NOT FLOOR / 12" FOR BAYS 8' WIDE MAX
FLOOD PLAIN	
BASE FLOOD ELEVATION	BFE 121' / PROPOSED FLOOR ELEVATION +3' AT 130'
GARAGE	BFE 121' / PROPOSED GARAGE ELEVATION +1' AT 128'



159 Baldwin - Preliminary Architectural Site Plan
Scale 1"=10'

Grades shown may not be completely accurate. See Site Survey by Hubbell Roth and Clark for Additional Information and final grading.

REQUESTED VARIANCES	ALLOWED	EXISTING	PROPOSED	REQUEST
VARIANCE ONE - FRONT SETBACK	44.3'	10.3'	11.0'	33.3'
VARIANCE TWO - MAXIMUM EAVE HT	24.0'	26.5'	25.1'	11'
VARIANCE THREE - BALCONY	IF GREATER THAN 1 STORY IN HT / DO NOT PROJECT INTO REAR YARD	GREATER THAN 1 STORY IN HT / NO PROJECTION IN REAR YARD	GREATER THAN 1 STORY IN HT / 18" PROJECTION IN REAR YARD	18" PROJECTION IN REAR YARD

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NOTE: DRAWINGS ARE PRELIMINARY - NOT FOR CONSTRUCTION

Job Number	1601
Date	Issue
6.3.19	SFR
1.12.19	BZA
3.10.21	RESUBMIT BZA
4.6.21	REVISED BZA

DO NOT SCALE DRAWINGS - USE FIGURED DIMENSIONS ONLY

Plannes Residence
159 Baldwin Avenue, Birmingham, MI
Proposed Site Plan



Green Building Services
pllc

5639 Westwood Court
Bloomfield, MI 48301
248-259-9122
GreenBuildingpllc@gmail.com
Michigan.com

NOTE: DRAWINGS ARE PRELIMINARY - NOT FOR CONSTRUCTION

Job Number	1001
Date	Issue
6.3.19	SPR
1.12.19	BZA
3.10.21	RESUBMIT BZA
4.6.21	REVISED BZA

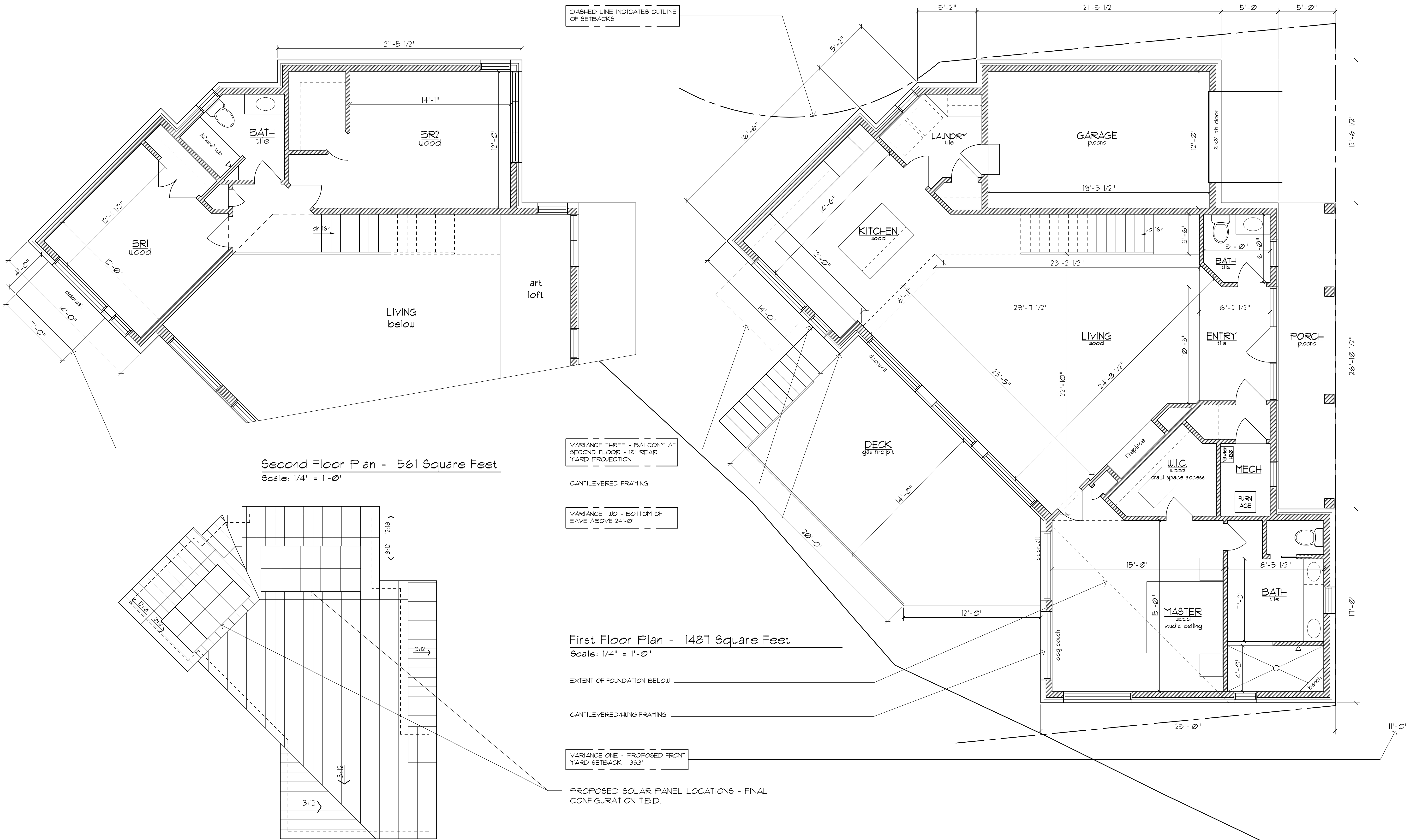
DO NOT SCALE DRAWINGS -
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Plannes Residence
159 Baldwin Avenue, Birmingham, MI
Proposed Floor Plans



Green Building Services pllc

5639 Westwood Court
Bloomfield, MI 48301
248-259-9122
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Michigan.com



DASHED LINE INDICATES OUTLINE OF SETBACKS

VARIANCE THREE - BALCONY AT SECOND FLOOR - 18" REAR YARD PROJECTION

CANTILEVERED FRAMING

VARIANCE TWO - BOTTOM OF EAVE ABOVE 24'-0"

First Floor Plan - 1487 Square Feet
Scale: 1/4" = 1'-0"

EXTENT OF FOUNDATION BELOW

CANTILEVERED/HUNG FRAMING

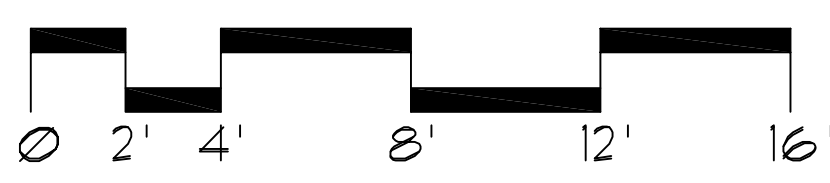
VARIANCE ONE - PROPOSED FRONT YARD SETBACK - 33.3'

PROPOSED SOLAR PANEL LOCATIONS - FINAL CONFIGURATION T.B.D.

159 Baldwin
Green Building Services pllc

Second Floor Plan - 561 Square Feet
Scale: 1/4" = 1'-0"

Roof Plan / Half Scale
Scale: 1/8" = 1'-0"



Job Number	1807
Date	Issue
6/3/19	SFR
1/12/19	BZA
3/10/21	RESUBMIT BZA
4/6/21	REVISED BZA

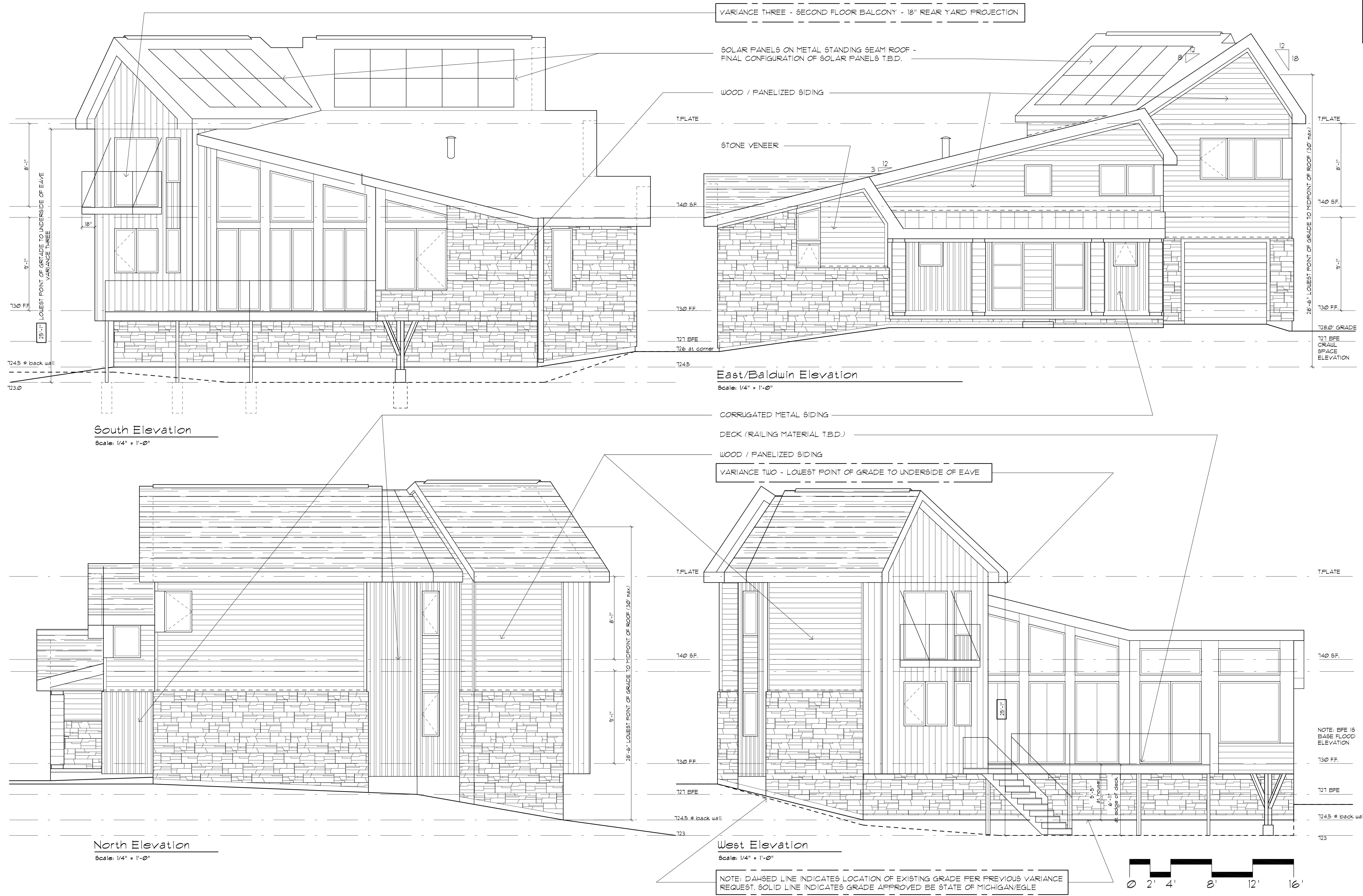
DO NOT SCALE DRAWINGS - USE FIGURED DIMENSIONS ONLY

Plannes Residence
159 Baldwin Avenue, Birmingham, MI
Proposed Elevations



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Jeff Zielke <jzielke@bhamgov.org>

159 Baldwin

2 messages

Gail Whitty <gailwhitty@prodigy.net>
To: "jzielke@bhamgov.org" <jzielke@bhamgov.org>

Thu, Apr 1, 2021 at 2:44 PM

Re: variance request April 13 for 159 Baldwin.

I live next door to this house and support the request for a variance. I testified in the hearing when the variance was first authorized and I understand nothing has changed but that it had lapsed and now needs to be approved again.

thank you, Gail and Michael Whitty 165 Baldwin

Brian Halprin <bjhalprin@gmail.com>
To: "jzielke@bhamgov.org" <jzielke@bhamgov.org>
Cc: Gail Whitty <gailwhitty@prodigy.net>

Thu, Apr 1, 2021 at 3:09 PM

Hi Jeff,

Are you the right person to submit this letter to? Please confirm or let me know to whom it should be sent, thanks.

Thanks Gail for your comments.

Brian Halprin / GBSpllc
AIA / LEED AP BD +C / CGP
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