

**City of Birmingham**  
**MEETING OF THE BOARD OF ZONING APPEALS**  
**TUESDAY, OCTOBER 12, 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

**OCTOBER 12, 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) July 13, 2021  
b) September 14, 2021

**5. APPEALS**

	Address	Petitioner	Appeal	Type/Reason
1)	1740 W MAPLE		21-40	WITHDRAWN
2)	566 ANN	NOVA CONSULTANTS	21-41	DIMENSIONAL
3)	791 N ETON	PANDOLFI	21-42	DIMENSIONAL
4)	1974 HOLLAND	HILLAN HOMES	21-43	DIMENSIONAL
5)	1853 FAIRVIEW	HILLBERG	21-44	DIMENSIONAL
6)	2549 BUCKINGHAM	ORTIZ	21-45	USE
7)	1394 WESTWOOD	LABELLE	21-46	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.



A map of Birmingham, Alabama, showing five locations marked with red diamonds and labeled with their addresses. The locations are:

- 1394 WESTWOOD (marked with a red diamond on Redding Rd)
- 1853 FAIRVIEW (marked with a red diamond on Oak Blvd)
- 791 N ETON (marked with a red diamond on Witherbee Dr)
- 2549 BUCKINGHAM (marked with a red diamond on Fembroke Park)
- 566 ANN (marked with a red diamond on Woodward Ave)

The map also shows major roads, parks, and a scale bar in miles (0.125, 0.25, 0.5, 0.75, 1). A north arrow is located in the bottom right corner.



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

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**1. Call To Order**

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

**2. Rollcall**

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

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

**Administration:**

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

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

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

**T# 07-37-21**

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

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

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

**T# 07-38-21**

**4. Appeals**

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

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

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

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

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

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

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

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

**Motion by Mr. Reddy**

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

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

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

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

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

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

**Motion failed, 3-2.**

ROLL CALL VOTE

Yeas: Rodenhouse, Reddy, Lilley

Nays: Lillie, Morganroth

**Motion by Ms. Rodenhouse**

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

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

**Motion carried, 5-0.**

ROLL CALL VOTE

Yeas: Rodenhouse, Reddy, Lilley, Lillie, Morganroth

Nays: None

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

Tabled to the August 2021 BZA meeting.

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

Tabled to the August 2021 BZA meeting.

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

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

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

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

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

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

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

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

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

The motion failed for lack of a second.

**Motion by Mr. Reddy**

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

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

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

**Motion carried, 4-1.**

**ROLL CALL VOTE**

Yeas: Rodenhouse, Reddy, Lillie, Morganroth

Nays: Lilley

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

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

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

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

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

**Motion by Mr. Morganroth**

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

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

**Motion carried, 5-0.**

**ROLL CALL VOTE**

Yeas: Rodenhouse, Reddy, Lillie, Morganroth, Lilley

Nays: None

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

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

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

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

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

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

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

**Motion by Mr. Reddy**

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

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

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

**Motion carried, 5-0.**

**ROLL CALL VOTE**

Yeas: Rodenhouse, Reddy, Lillie, Morganroth, Lilley

Nays: None

**T# 07-39-21**

**5. Correspondence**

Included in the agenda packet.



**T# 07-40-21**

**6. General Business**

**T# 07-41-21**

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

None.

**T# 07-42-21**

**8. Adjournment**

**Motion by Mr. Lilley**

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

**Motion carried, 5-0.**

ROLL CALL VOTE

Yeas: Reddy, Lillie, Morganroth, Lilley, Rodenhouse

Nays: None

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Bruce R. Johnson, Building Official

**Birmingham Board Of Zoning Appeals Proceedings**  
**Tuesday, September 14, 2021**  
**City Commission Room**  
**151 Martin Street, Birmingham, Michigan**

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**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. Canvasser 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**

**566 Ann (21-41)**

**Hearing date: October 12, 2021**

**Appeal No. 21-41:** The owner of the property known 566 Ann, requests 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.

## **Staff Notes:**

566 Ann Street is a Victorian styled structure that is used as an office for a law firm. The property is currently zoned R3-Single Family Residential and is considered legal nonconforming due to the current office use not being permitted in an R3 zone.

Historical zoning records show that the property was zoned B-2 Neighborhood Business prior to 1964 and was surrounded by the R6 Multi-family Residential zone to the north, south, and west of the property. In 1987, the subject property was rezoned to the R3-Single Family Residential zone, as well as the apartment complex to the north and the surrounding area on Ann Street. 566 Ann Street has continued to operate as a legal nonconforming office use since the 1987 rezoning.

The building is surrounded by a parking lot encompassing the remainder of the property. There are 24 parking spaces on-site. The existing solar panel carport covers approximately 3 parking spaces and is 437 square as an accessory structure. The applicant would like to extend the carport to cover 8 parking spaces along the southern edge of the property, creating a 1,177 square foot car port with solar panels. This proposal exceeds the permissible accessory structure size by 677 square feet.

In October 2020, the applicant pursued rezoning the property to TZ2 Transitional Zone with the Planning Board to permit a greater allowance of accessory structure coverage, however the Planning Board recommended denial.

# 566 ANN 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](http://www.bhamgov.org)**

**APPLICATION FOR THE BOARD OF ZONING APPEALS**

Application Date: 9-2-21

Hearing Date: 10-12-21

Received By: BW

Appeal #: 21-41

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: **566 Ann St. Birmingham, MI 48009** Lot Number: Sidwell Number: **08-19-36-205-034**

**II. OWNER INFORMATION:**

Name: **Steven Roby, Ann Street Property, LLC**

Address: **566 Ann St.** City: **Birmingham** State: **MI** Zip code: **48009**

Email: **\* steven.robby@robbylaw.com** Phone: **248-554-8500**

**III. PETITIONER INFORMATION:**

Name: **Sachit Verma** Firm/Company Name: **NOVA Consultants Inc.**

Address: **21580 Novi Road Suite 300** City: **Novi** State: **MI** Zip code: **48375**

Email: **sachit.verma@novaconsultants.com** Phone: **248-347-3512**

**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 12<sup>th</sup> 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.

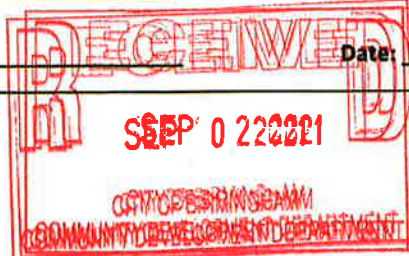
\*By providing your email to the City, you agree to receive news and notifications from the City. If you do not wish to receive these messages, you may unsubscribe at any time.

Signature of Owner: 

Date: 8/26/2021

Signature of Petitioner: 

Date: 9/2/2021

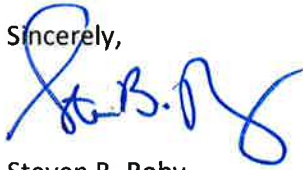


August 26, 2021

To whom it may concern,

Please accept this document as delegation of authority, providing NOVA Consultants, Inc., authorization to sign the Rezoning application and other permit applications as they pertain to their construction and operations of a solar photovoltaic system being installed on my property, located at 566 Ann Street, Birmingham, MI 48009

Sincerely,

A handwritten signature in blue ink, appearing to read "S.B. Roby", with a stylized flourish at the end.

Steven B. Roby  
Attorney and Counselor at Law  
Roby Law Associates, PLLC  
Steven.Roby@robylaw.com  
Tel +1 248 554 8500





August 25, 2021

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

Subject: Variance Request  
566 Ann St.  
Birmingham, MI 48009  
Parcel ID: 08-19-36-205-034

Dear BZA Members:

NOVA Consultants, Inc, (NOVA) is submitting this application for variance request for parcel ID 08-19-36-205-034 on behalf of our client and property owner, Ann Street Property, LLC. Please see attached letter from Ann Street Property authorizing NOVA to submit the application for variance request. NOVA is requesting this variance to increase the permitted size of an accessory structure (solar carport canopy) beyond 500 sq. ft. as currently allowed so that the solar carport can cover additional parking spaces and generate more renewable solar energy. The premises are currently occupied by Roby Law Associates, PLLC (Roby Law) to operate a law firm. Both Ann Street Property, LLC and Roby Law Associates are owned by the father and son partnership of Steven Roby and Anthony Roby, respectively.

### **Application History**

Our client, through its Member representative Mr. Steven Roby, had initially applied for a zoning change from R3 to TZ2 since the TZ2 zoning change would have allowed the larger solar carport. During the meeting in October 2021, while the Birmingham Planning Boardl members were supportive of the larger carport and Mr. Roby's endeavor to help the environment with clean energy, they were of the opinion that the zoning change was

not the best pathway to achieve this objective, and recommended the current variance request approach. Hence this application for a variance request.

## Background

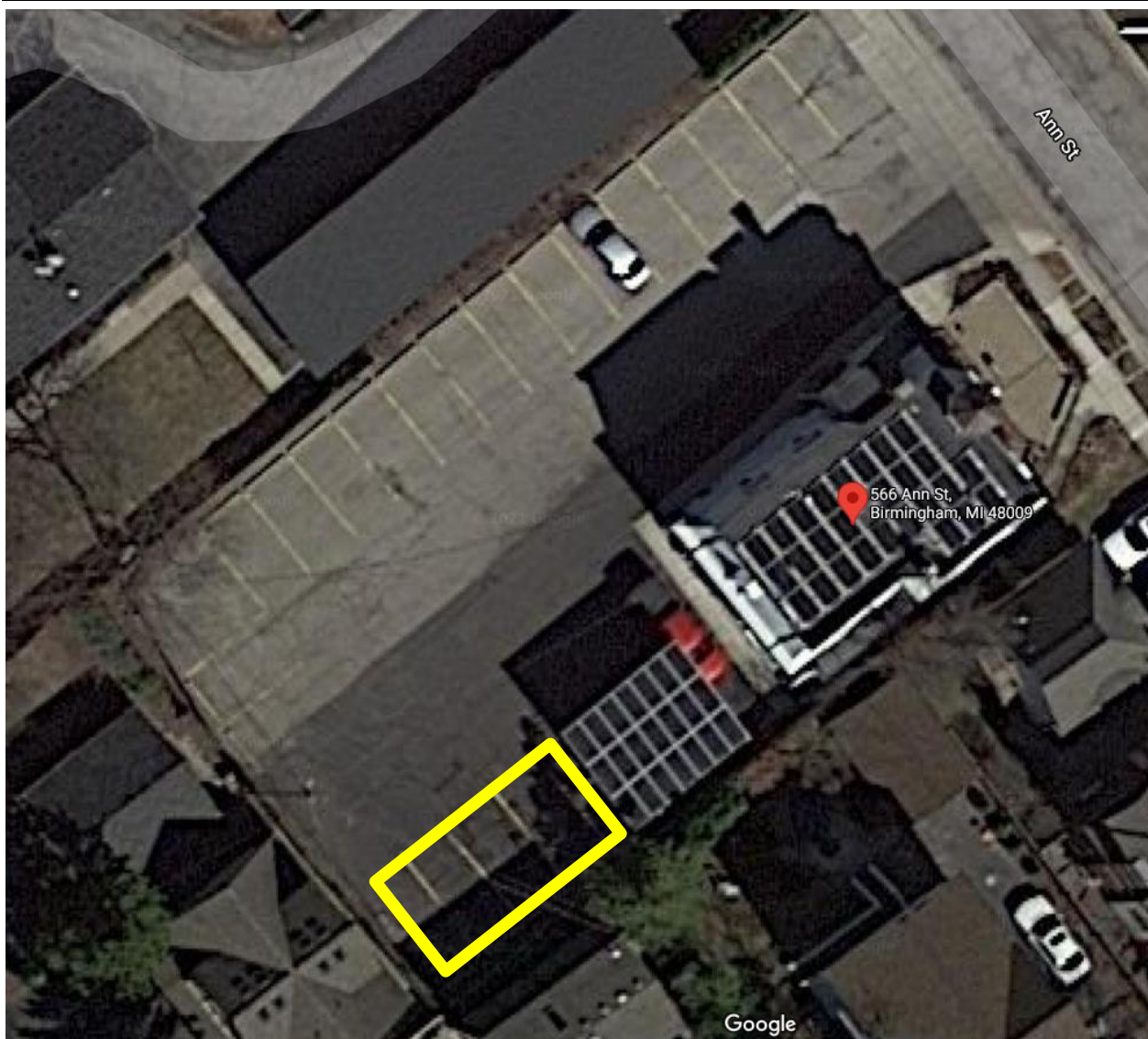
Steven Roby and Anthony Roby have operated the law firm in Birmingham for several years. Besides their law practice, they have a firm and dedicated commitment to environmentally friendly causes, especially solar power generation and electric vehicles. In this same spirit, they installed a rooftop solar power generation system in 2018.



Rooftop solar photovoltaic system installed in 2018

A solar carport canopy covering about three of eight parking spaces and an electric vehicle charger was installed recently. This is the maximum size permissible under the existing ordinance. Please see pictures below.





Existing Solar Carport Canopy, covering less than 3 parking spaces, and proposed expansion to cover remaining spaces



Existing solar carport canopy in portion of parking area



Existing solar carport canopy





Existing electric vehicle charger

The philosophy of Steven Roby and Anthony Roby may be summed up as follows:

1. Roby Law has been an energy partner with DTE at their other building in Royal Oak for 10 years, through the Solar Current program and Roby Law was one of the first private firms in Metro Detroit to embrace clean energy technologies.
2. Steven Roby and Anthony Roby desire to have a neutral energy footprint in Birmingham MI.
3. Birmingham MI benefits from reduced CO<sub>2</sub>, Green House Gases (GHG) emissions, and Hydrocarbon footprint in the city.
4. Roby Law wishes to attract attention to state of the art EV Technology to promote interest in US-based OEM Electric Vehicles and support American OEMs in development and launch of Electric Vehicles.

5. In particular, Roby Law targets employee acquisition of General Motors Company Electric Vehicles to be produced by GM in 2021 and 2022 CYs, based on GM's launch of new electrified vehicle architectures and use of GM's Ultium® battery pack technology with the sincere desire to make available free, easy/fast charging opportunities while at work.
6. Roby Law would also offer the same free benefit to EV vehicle visitors from GM and Tier I suppliers, as well as others who may need to charge their electric vehicles.
7. The City/State/US gains from this philosophy through thoughtful promotion of new EV technologies, to reduce use of internal combustion engine (ICE) based passenger vehicles and we join DTE/GM and other businesses to promote early use of new GM state-of-the-art Electric Vehicles to promote "Buy American" technologies.
8. The construction of the needed solar canopy creates sufficient scale to demonstrate a keen interest in promoting clean technologies in the city.
9. An added benefit of Electric Vehicles is that they are very quiet, so that the usual noise level associated with ICE passenger vehicles likewise may be reduced, to the benefit of residents residing in Birmingham, Michigan.
10. Various parking areas in the City could benefit from lessons learned by Roby Law with regard to its solar footprint, support of Electric Vehicle infrastructure, thereby encouraged to embrace support for clean vehicles (and quiet operating vehicles), and also become motivated to adopt similar state-of-the-art clean technologies in the City.

**Per Article 8, Section 8.01 (F)(3) of the Zoning Ordinance, we will be addressing the following four items as required to help establish why an addition to the solar canopy should be allowed to cover the remaining parking spaces:**

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;
2. Literal enforcement of the chapter will result in unnecessary hardship;
3. The granting of the variance will not be contrary to the spirit and purpose of the Zoning Ordinance nor contrary to the public health, safety and welfare; and

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

**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**

Steven and Anthony Roby intend to further expand the solar carport canopy and add a second EV charger to supplement the existing one. However, the current R3 Residential zoning for the property prohibits accessory structures greater than 500 sq. ft. in area. The existing solar canopy that covers only three of eight parking spaces has already maximized this allowable size.

In order to extend the solar canopy to cover additional parking spaces and provide additional electric vehicle charging availability, a variance to the maximum accessory structure size is required. Please see the attached land survey showing the lot and carport as it exists currently, and the proposed layout showing expanded solar canopy after the variance request is granted.

**Literal enforcement of the chapter will result in unnecessary hardship;**

As stated above, the solar carport only covers less than three of the eight parking spaces at the property due to the maximum allowable size of 500 sq. ft. based on the literal enforcement of the chapter. We consider this as unnecessary hardship since the remaining parking spaces have no cover, and renewable energy generation is also limited as a result of this literal enforcement. The applicant's hardship is not self-created. The change to electric vehicles is beyond the applicant's control, and desire to be on the leading edge of solar energy adaptation must be considered a right.

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**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**

Granting the variance will not be contrary to the spirit and purpose of the Zoning Ordinance nor contrary to the public health, safety and welfare since it will only result in benefit to the property owner, and the Birmingham community at large, and result in the greater good of everyone. The spirit and purpose of the Zoning Ordinance has the objective of creating a harmonious and prosperous Birmingham community, with clean air, water, and optimal use of natural resources for current and future generations. The variance being requested to increase the size of the solar carport is not contrary to these objectives, but in fact further helps to achieve these aims of the Zoning Ordinance via the increase in renewable energy generation and the associated reduction in carbon emissions.

It must be also be noted that the subject property has been used as an office for the last several years, and is located directly adjacent to the downtown commercial zone. Therefore, treating this parcel as a residential parcel is not appropriate.

**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.**

The additional spaced covered by the solar carport will not only protect the vehicles parked underneath from the elements, but also result in increased renewable energy production from the additional solar panels that will be installed as the roof of the carport, and provide additional opportunities for electric vehicle charging in the Birmingham area. This will reduce the carbon footprint of the property owner and contribute to the overall reduction of global carbon emissions, however miniscule the contribution may be. We truly believe that all of us need to do our part to reduce global warming and climate change. In this manner, the granting of the variance will in fact benefit the property owner, other owners of property in the area and the general public.

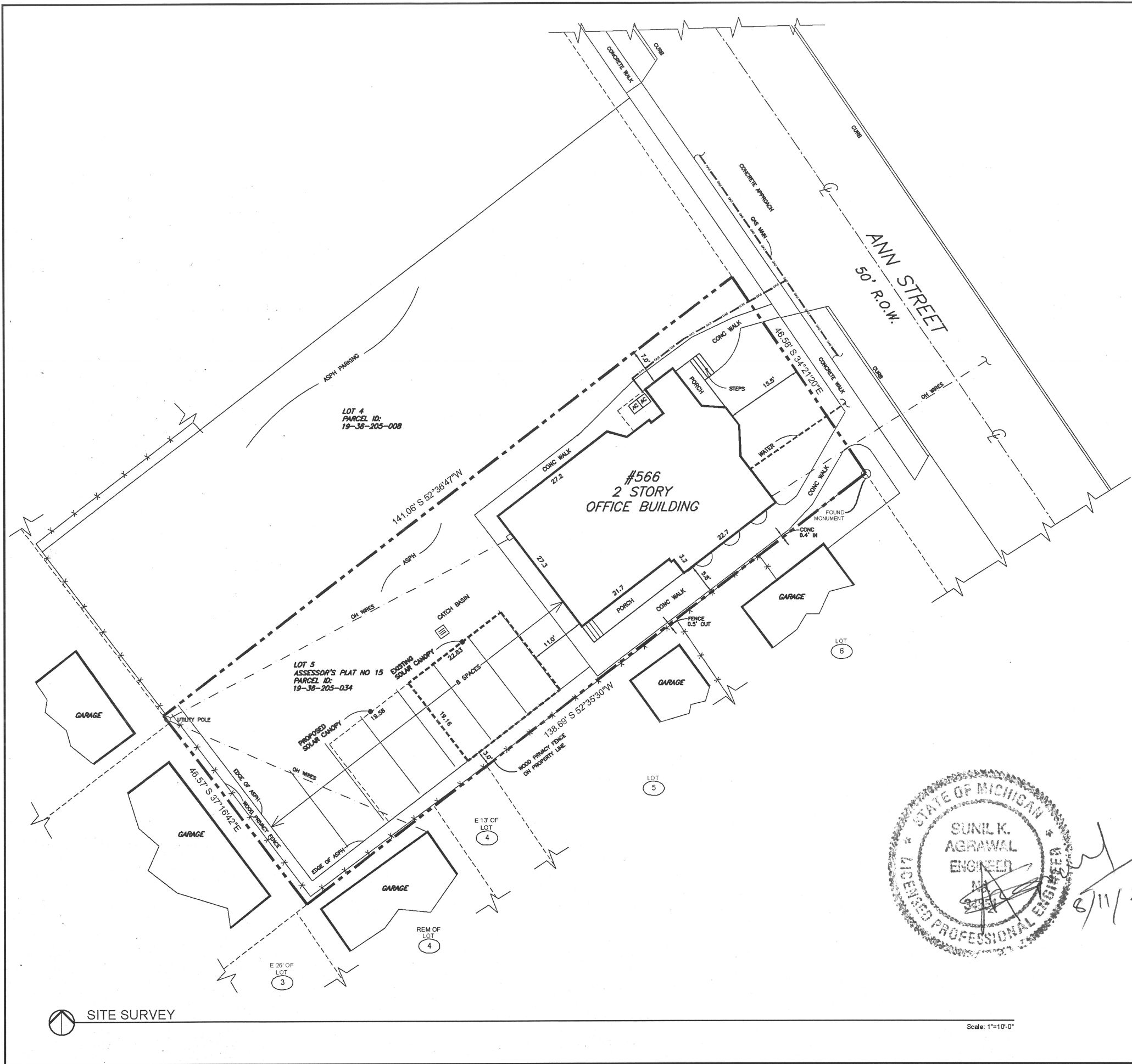
Additionally, expansion of the solar canopy will help transform the empty, barren parking lot by conversion to covered parking with solar panels and electric vehicle chargers, without any adverse impact to surrounding properties.

The BZA variance request application along with supporting documents is being submitted along with this letter.

Sincerely,  
NOVA Consultants, Inc.

A handwritten signature in black ink, appearing to read 'Sachit Verma', written over a horizontal line.

Sachit Verma, MS  
Program Manager – Energy



SHEET GENERAL NOTES

PARKING  
HANDICAP SPACES 0  
STANDARD SPACES 8  
  
PARCEL AREA  
6,511± Sq. Ft.

  
NOVA Consultants, Inc.  
21580 Novi Road  
Suite 300  
Novi, MI 48375  
  
Phone: (248) 347-3512  
Fax: (248) 347-4152  
  
www.novaconsultants.com

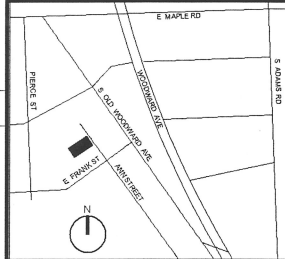
SURVEYOR'S NOTES

THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY AND EXISTING DRAWINGS, AND AS SUCH TAKES NO RESPONSIBILITY FOR THE ACCURACY THEREOF.

ISSUED

DATE	DESCRIPTION	APPVD
7-31-2020	ZONING REVIEW	SV

VICINITY MAP



LEGAL DESCRIPTION

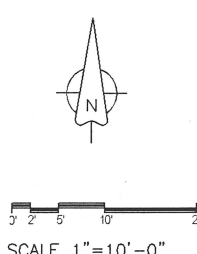
LAND SITUATED IN THE CITY OF BIRMINGHAM, COUNTY OF OAKLAN, STATE OF MICHIGAN, DESCRIBED AS FOLLOWS:  
  
LOT 5, ASSESSOR'S PLAT NO. 15, PART OF THE NORTHWEST QUARTER OF SECTION 36, TOWN 2 NORTH, RANGE 10 EAST, VILLAGE (NOW CITY) OF BIRMINGHAM, ACCORDING TO THE PLAT THEREOF AS RECORDED IN LIBER 51 OF PLATS, PAGE 25, OAKLAND COUNTY RECORDS.  
  
PARCEL NO:  
19-36-205-034

REVISED

NO.	DATE	DESCRIPTION	APPVD

Ann Street Property, LLC  
  
ROBY LAW  
  
566 ANN ST.  
BIRMINGHAM, MI 48009  
  
Solar PV Canopy

LEGEND



DESIGNED BY  
RM  
  
CHECKED BY  
SV

SITE  
SURVEY

DRAWN BY RM	SHEET NUMBER C101
SCALE 1"=10'	
DATE 7/30/2020	





ELEVATION

Scale: N.T.S.



ELEVATION

Scale: N.T.S.

SHEET GENERAL NOTES

PARKING  
HANDICAP SPACES 0  
STANDARD SPACES 8

PARCEL AREA  
6,511± Sq. Ft.

SURVEYOR'S NOTES

THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY AND EXISTING DRAWINGS, AND AS SUCH TAKES NO RESPONSIBILITY FOR THE ACCURACY THEREOF.

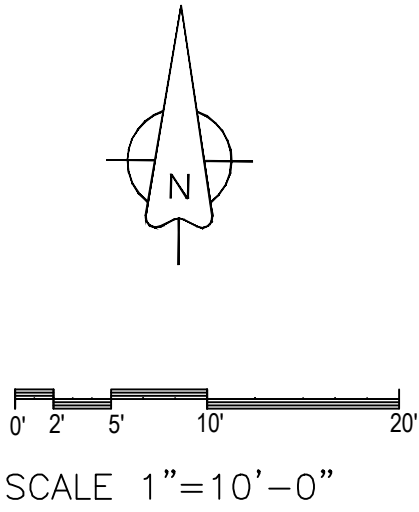
LEGAL DESCRIPTION

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LOT 5. ASSESSOR'S PLAT NO. 15. PART OF THE NORTHWEST QUARTER OF SECTION 36, TOWN 2 NORTH, RANGE 10 EAST, VILLAGE (NOW CITY) OF BIRMINGHAM, ACCORDING TO THE PLAT THEREOF AS RECORDED IN LIBER 51 OF PLATS, PAGE 25, OAKLAND COUNTY RECORDS.

PARCEL NO:  
19-36-205-034

LEGEND



NOVA Consultants, Inc.  
21580 Novi Road  
Suite 300  
Novi, MI 48375

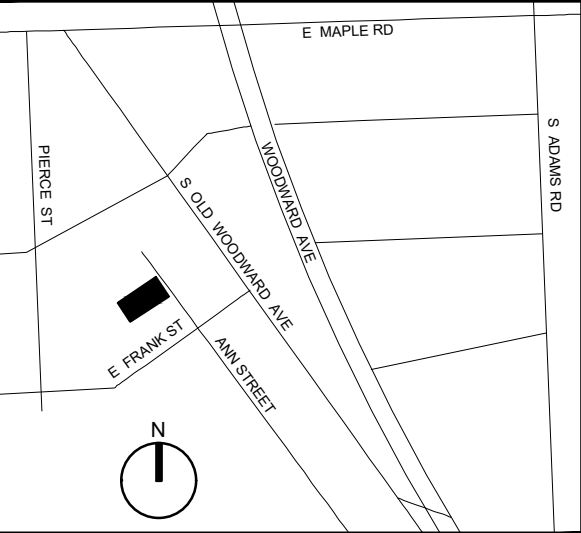
Phone: (248) 347-3512  
Fax: (248) 347-4152

www.novaconsultants.com

ISSUED

DATE	DESCRIPTION	APPVD
8-28-2021	ZONING REVIEW	SV

VICINITY MAP



REVISED

NO.	DATE	DESCRIPTION	APPVD

Ann Street Property, LLC

ROBY LAW

566 ANN ST.  
BIRMINGHAM, MI 48009

Solar PV Canopy

DESIGNED BY  
RM

CHECKED BY  
SV

SITE  
IMAGES

DRAWN BY

RM

SCALE

1"=10'

DATE

7/30/2020

SHEET NUMBER

C102



# **CASE DESCRIPTION**

**791 N Eton (21-42)**

**Hearing date: October 12, 2021**

**Appeal No. 21-42:** The owner of the property known 791 N Eton, requests 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.

**Staff Notes:** The applicant is proposing to construct a new home with an attached garage on a corner lot.

This property is zoned R2– Single Family Residential.

# 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](http://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

<b>Type of Variance:</b>	<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>
------------------------------------	-----------------------	--------------------------------------

**II. OWNER INFORMATION:**

Name: <u>Ernest &amp; 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 12<sup>th</sup> 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

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
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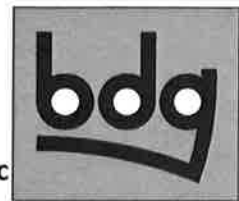
**VI. APPLICANT SIGNATURE**

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

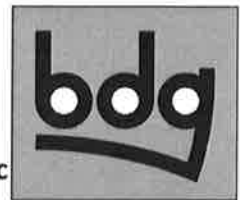
Dear Members of the Board,

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

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**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 1<sup>st</sup> and 2<sup>nd</sup> 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](mailto: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

---

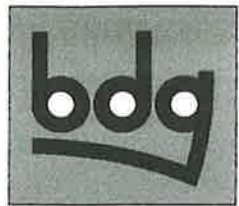
Dear Members of the Board,

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  
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e: badrakdesigngroup@comcast.net



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



Closeup of 876 Watkins Street



Closeup of 862 Watkins Street

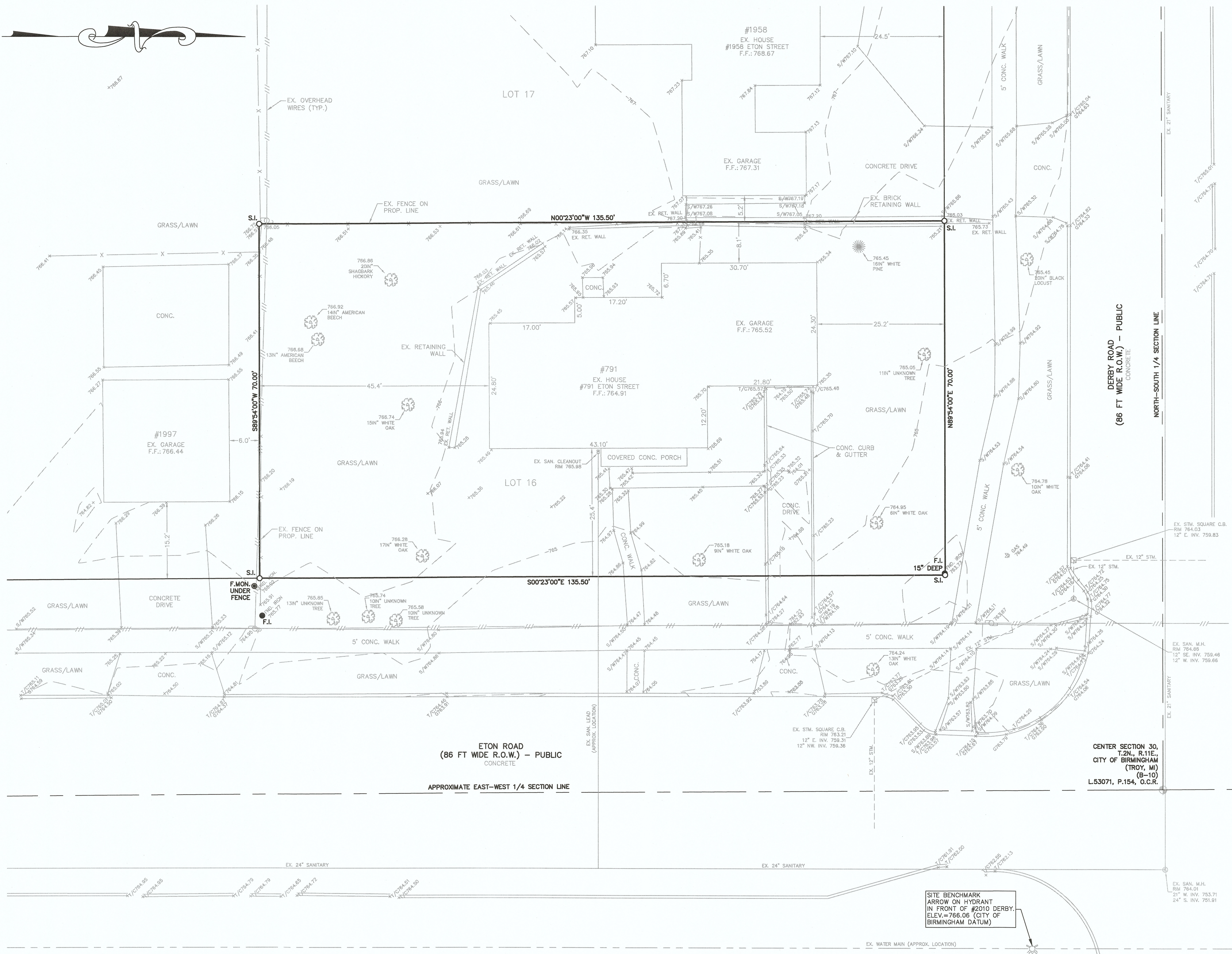
Sincerely,

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

Matt Badrak  
Badrak Design Group, Inc.

.....

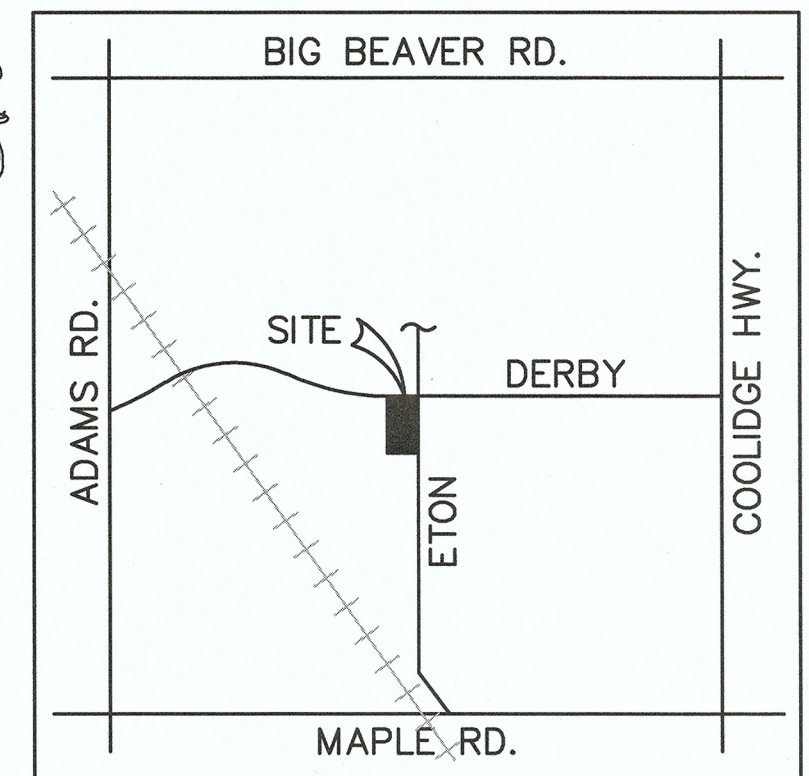




#### SETBACK TABLE:

1922 DERBY	34.3'
1934 DERBY	31.1'
1958 DERBY	24.5'
2010 DERBY	28.0'
2032 DERBY	28.0'
791 N ETON	25.4'

SETBACK DISTANCE = 171.3'  
171.3/6 = 28.5' AVG.



VICINITY MAP

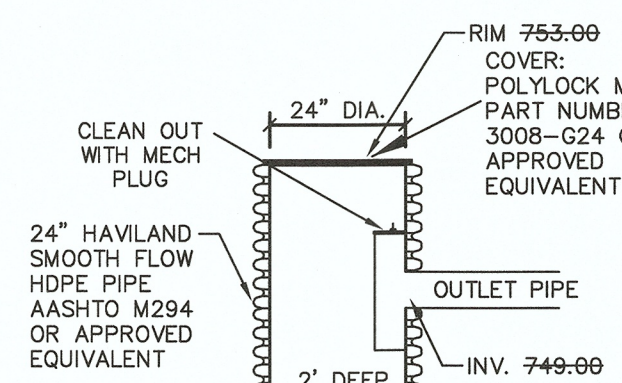
#### LEGEND

---	EXISTING SANITARY SEWER
---	EXISTING WATER MAIN
---	EXISTING STORM SEWER
---	OVERHEAD UTILITY LINES
---	UNDERGROUND UTILITY LINES
---	EXISTING FENCE
---	EXISTING SANITARY MANHOLE
---	EXISTING STORM SQ. CATCH BASIN
---	EXISTING STORM ROUND CATCH BASIN
---	EXISTING STORM MANHOLE
---	EXISTING FIRE HYDRANT
---	EXISTING VALVE IN WELL
---	GAS VALVE
---	LIGHT POLE
---	UTILITY POLE
---	GUY WIRE
---	P.I. SIGN
---	TOP OF CURB
---	GUTTER
---	SECTION CORNER
---	FOUND IRON
---	SET IRON
---	MEASURED

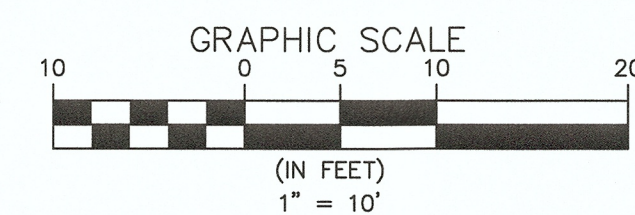
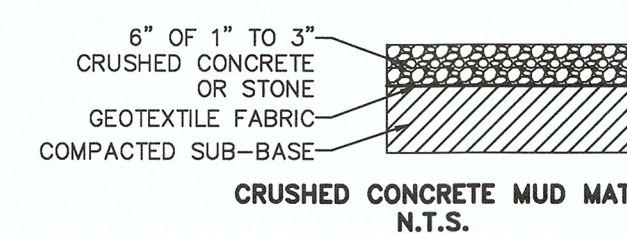
Lehner Associates, Inc.

- Assumes no responsibility for given house dimensions. Client must verify dimensions prior to construction.
- Upon acceptance and submittal of this plan for permits, the Owner acknowledges that he has reviewed the plan and that it meets the requirements established on the work order.
- This plan shall not be used to set foundations. Architect's plans must be used for construction of foundation.
- Approval of this plot plan does not relieve owner/builder of compliance with all applicable codes, ordinances, and restrictions of record.
- Special requirements (i.e. Subdivision Restriction applying to building setbacks, house size, orientation of house on site, etc.) must be provided to Lehner Associates, Inc. in writing when plot plan is ordered. These Restrictions must be clearly labeled on the work order or house plans. Lehner Associates, Inc., will not be responsible for interpreting Subdivision Restrictions.

Note: State Law Act 53, three (3) days before you dig dial toll free Miss Dig 1-800-482-7171.



REAR YARD CATCH BASIN DETAIL



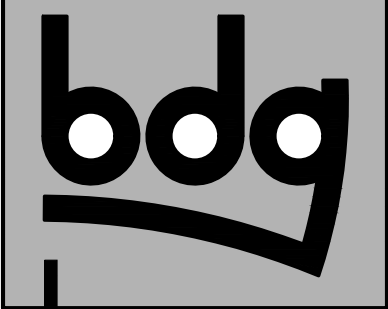
NOTE: ALL CONSTRUCTION SHALL CONFORM TO THE CURRENT STANDARDS AND SPECIFICATIONS OF ALL GOVERNING AGENCIES.

NOTE: ALL WATERMAINS, SANITARY SEWERS, (AND LEADS) AND STORM SEWERS UNDER PROPOSED OR EXISTING PAVEMENT OR WITHIN INFLUENCE OF PAVEMENT (EXTENDING 3' BEYOND EDGE OF PAVEMENT THEN TAPERING TO ORIGINAL GROUND AT 1:1 SLOPE) SHALL BE SAND BACKFILLED AND COMPACTED TO 95% OPTIMUM (PROCTOR) DENSITY. ALL UTILITY CROSSINGS SHALL BE SAND BACKFILLED. SAND BACKFILLING IS INCIDENTAL TO UNIT PRICES.



Revisions:	Lehner Associates, Inc. Civil Engineers   Surveying   Planning   Consulting Serving Michigan Since 1912 17001 Nineteen Mile Road, Suite 3 Clinton Township, Michigan 48038 o: 586.412.7050   f: 586.412.7114 www.lehnerassociates.com	Scale: 1"=10' Paper Size: 24"x36" Date: 06-02-21 Drawn By: S.K. Checked By: R.R.D. Job No.: 21-149 Sheet No. 1
Client:	DION & ERNIE PANDOLFI 2806 PEMBROKE ROAD BIRMINGHAM, MI 48009 (248) 250-0102 diongalus@yahoo.com	
	#791 ETON STREET GRAEFIELD SUB. PLOT PLAN	
	PART OF THE WEST 1/2 SECTION 30, T2N, R11E, CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN	





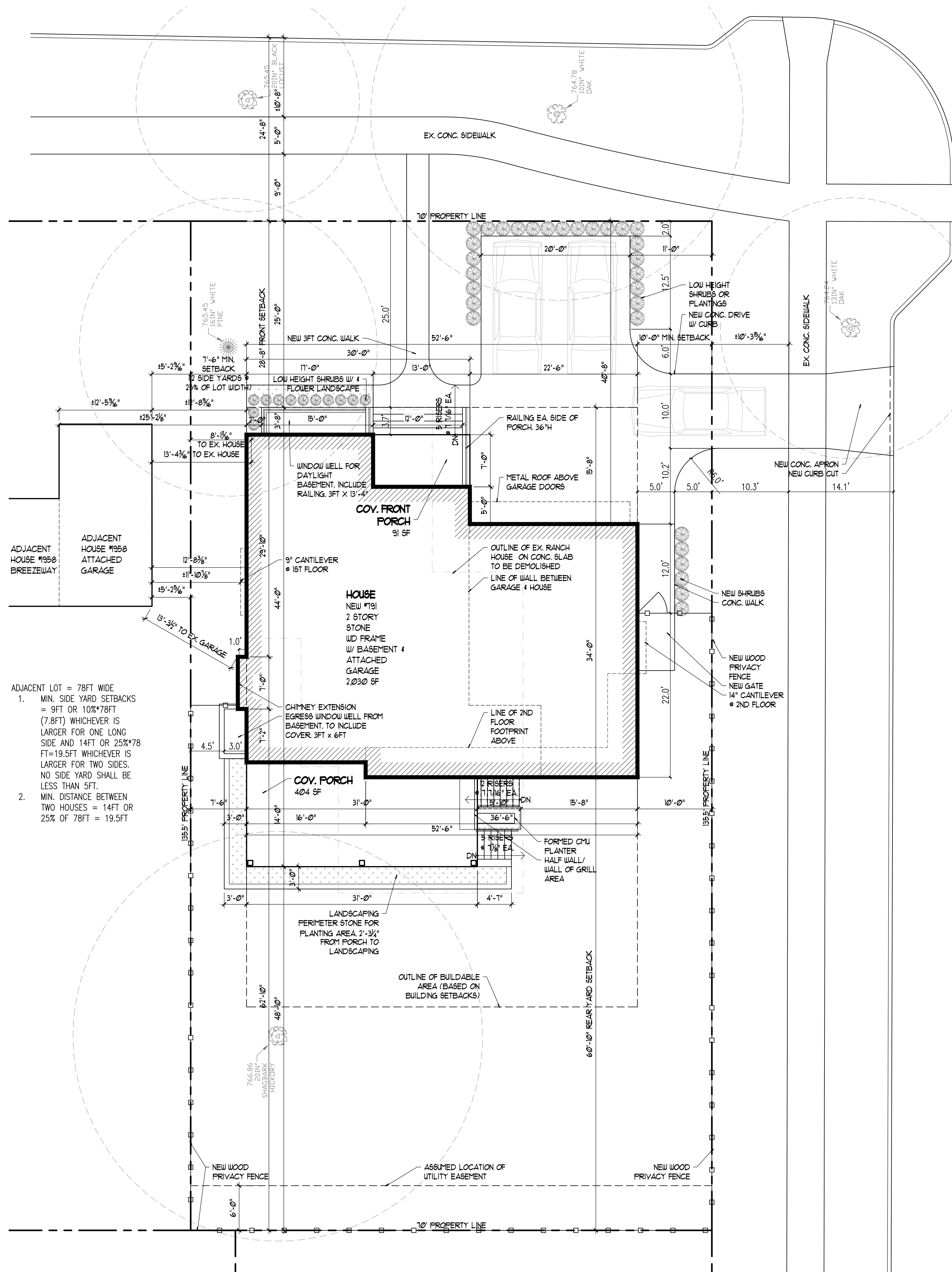
**badrak design group, inc.**  
336 RIDGE ROAD  
GROSSE POINTE PARKS, MICHIGAN 48236  
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E-MAIL: badrakdesigngroup@comcast.net  
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**PANDOLFI RESIDENCE**  
191 N ETON  
BIRMINGHAM, MI 48009

DRAWING TITLE: **PROPOSED PLOT PLAN 2.1**  
SCALE: 1/8"=1'-0"  
DATE: 10 SEPT, 2021  
DRAWN BY: MGB  
REVISIONS:

JOB NUMBER: 21-01

**51**  
SHEET NO. 1 OF 5



**Proposed Plot Plan**  
SCALE: 1/8"=1'-0"

**LEGAL DESCRIPTION:**

T2N, R11E, SEC 30 GRAEFIELD LOT 16

**ZONING R2 RESIDENTIAL DISTRICT:**

MAX BUILDING HEIGHT = 2 1/2 STORIES/ 30FT MID/ 24FT EAVES  
LOTS OVER 9,000SF, MAX HEIGHT = 30FT  
MIN. FRONT YARD SETBACK = 25FT (OR AVERAGE OF HOUSES W/ 200FT)  
MIN. SIDE YARD SETBACK = 28.5FT (SEE SETBACK SCHEDULE)  
MIN. DIST. BETWEEN HOUSES (SS-01) = 9FT OR 10%\*70FT (7FT) =9FT LONG SIDE  
GARAGE SETBACK = 14FT OR 25%\*70 FT=17.5FT TOTAL  
ALLOWABLE GARAGE FRONTAGE = 25% OF LOT WIDTH (70FT) = 17.5FT  
MIN. REAR YARD SETBACK = MIN. 5FT FROM FRONT FACADE  
MIN. COMBINED FRONT & REAR = MAX. 50%  
MAX. LOT COVERAGE = 30FT  
MIN. OPEN SPACE = 55FT  
MIN. FRONT OPEN SPACE = 30%  
MIN. OPEN SPACE = 40%  
MIN. FRONT OPEN SPACE = 65%

**PROPOSED CALCULATIONS:**

BUILDING HEIGHT = 29.2 FT  
FRONT YARD SETBACK: = 28.66 FT  
SIDE YARD SETBACK : = 7.5FT (SHORT SIDE)  
= 10FT (LONG SIDE)  
= 17.5FT TOTAL OF TWO SIDE YARDS  
= 12.7FT @ HOUSE

\*\*DISTANCE BETWEEN HOUSES:  
GARAGE SETBACK (FRONT OF HOUSE) = 10FT  
GARAGE SETBACK (FROM ADJ. HOUSE) = 5FT  
GARAGE FRONTAGE = 19/52.5FT = 36.1%  
REAR YARD SETBACK: = 61FT  
TOTAL COMBINED FRONT & REAR = 89.5FT

SITE AREA = 70'x135.6' = 9,485 SF  
BUILDING AREA (HOUSE & GARAGE) = 2,030 SF  
COVERED FRONT PORCH = 65 SF  
COVERED REAR PORCH = 404 SF  
WINDOW WELLS = 81 SF  
TOTAL SITE FLOOR AREA = 2,580 SF

MAX LOT COVERAGE = 30% x 9,485 = 2,845.5 SF  
CALCULATED LOT COVERAGE = 2,580 /9,485 = 27.2%

TOTAL OPEN SPACE = 1,083 (DRIVE/ WALK), 48 (STEPS) = 1,131 SF  
IMPERVIOUS SURFACE OVER 3FT WIDE = 9,485-2,580-1,131 = 5,774 /9,485 = 60.8%  
FRONT OPEN SPACE = 2,006 SF OF AREA, 641SF OF PAVED AREA ALONG  
FRONT OPEN SPACE, 2,006-641 = 1,365 SF  
1,365/2,006 = 68%

\*\* = ITEM(S) REQUESTING VARIANCE

Variance Chart					
Requested Variance	Section	Required	Existing	Proposed	Variance Amount
Variance A	SS-01.C	17.5ft	13.3ft	12.7ft	4.8ft
Variance B	OS-01.C.4		Window well in Front Open Space		
Variance C	OS-01.C.4	6ft	x	13.3ft	7.3ft

Setback Table	
Address	Distance
1922 Derby	34.3
1934 Derby	31.1
1958 Derby	24.5
791 Eton (Exist. House)	25.4
2010 Derby	28.0
2032 Derby	28.0
Total	171.3
Average	28.55



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E-MAIL: badrakdesigngroup@comcast.net

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PANDOLFI RESIDENCE

19 N LEXON  
BIRMINGHAM, MI 48009

DRAWING TITLE: BASEMENT & ROOF PLANS

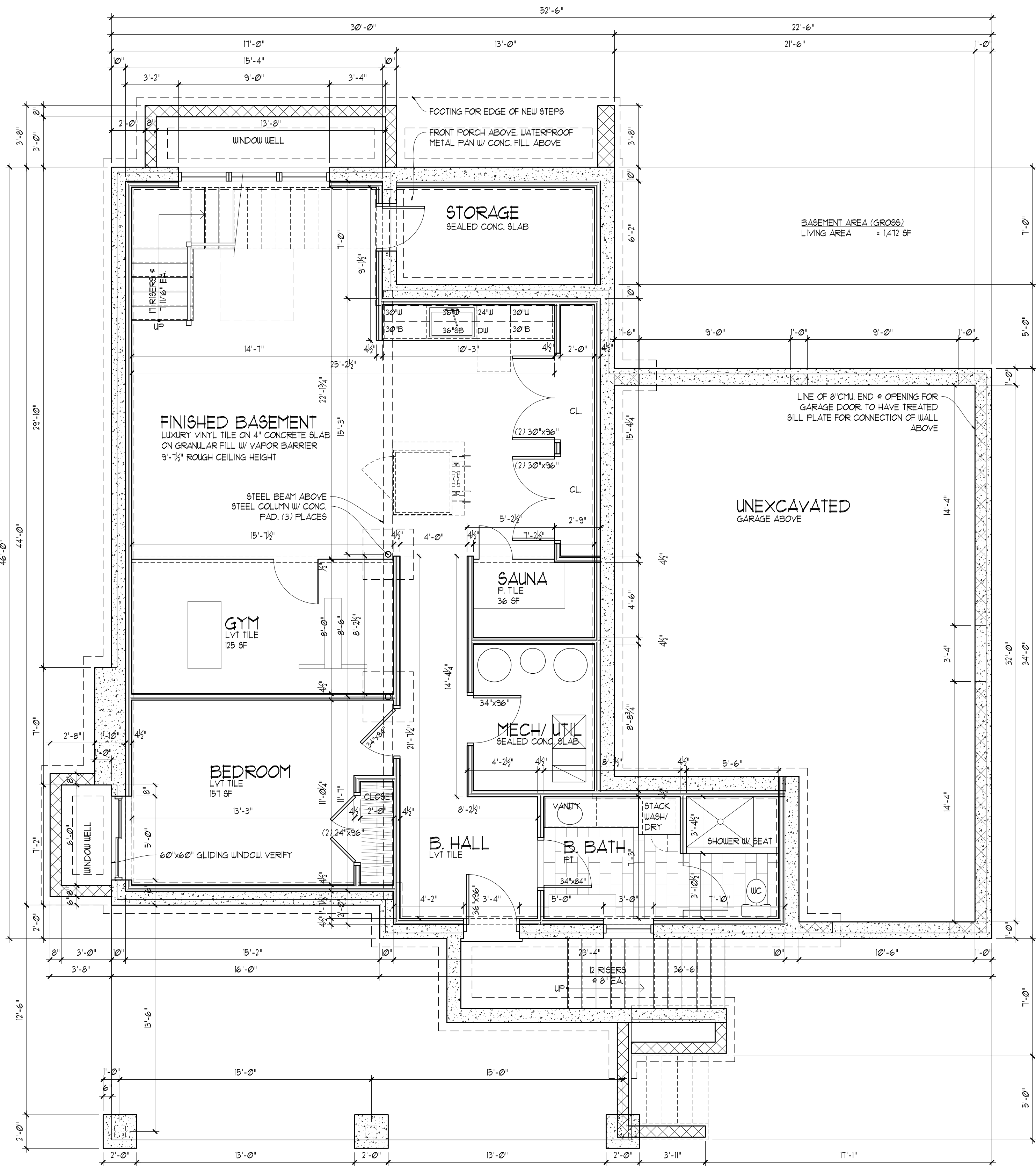
REVISIONS:

SCALE:	1/4"=1'-0"
DATE:	10 SEPT, 2021
DRAWN BY:	MYB

JOB NUMBER: 21-01

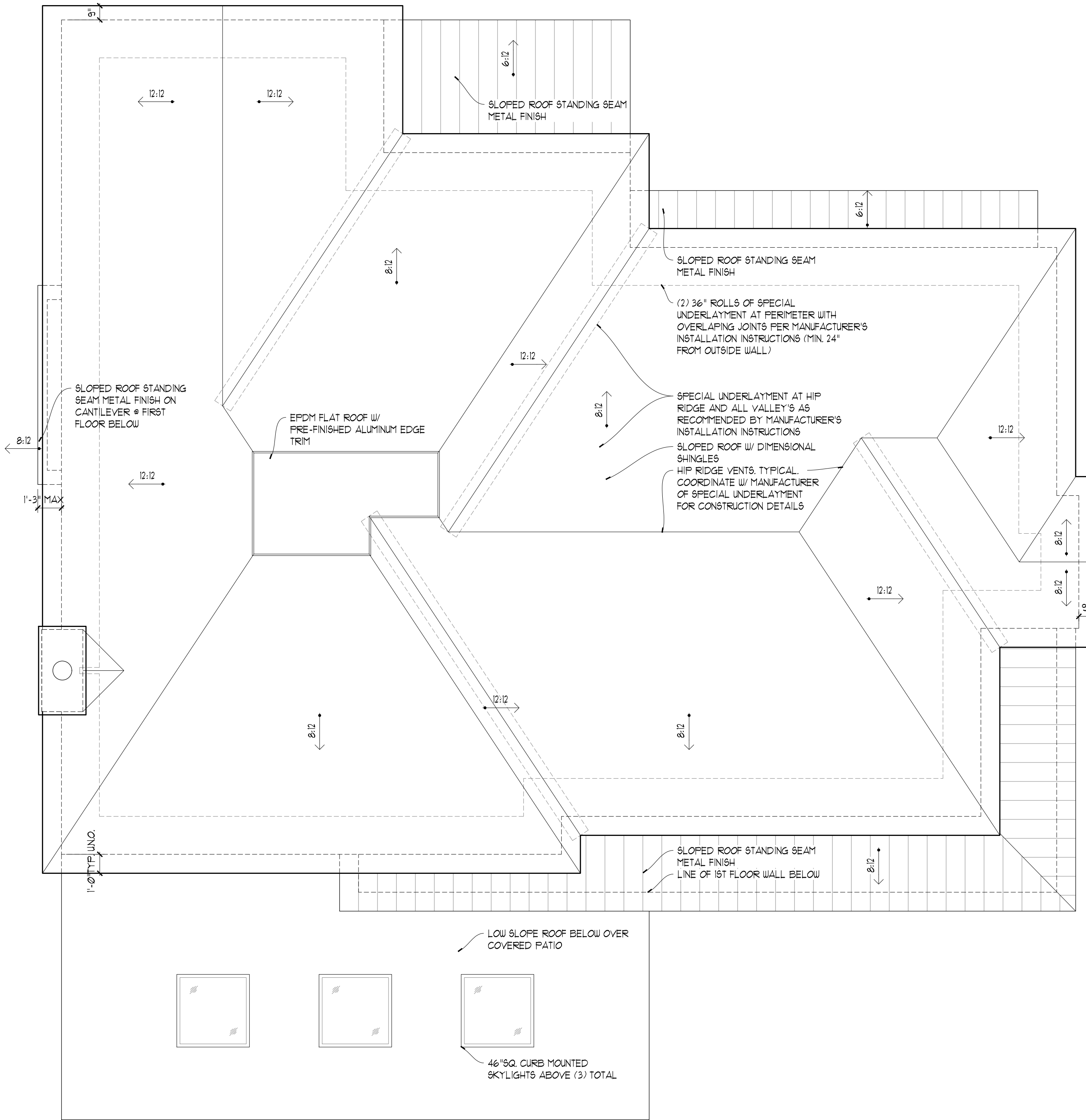
1

SHEET NO. 2 OF 5



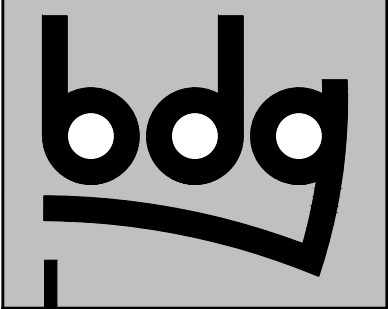
Basement/ Foundation Plan

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



Roof Plan

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



**badrak design group, inc.**  
336 RIDGE ROAD  
GROSSE POINTE PARKS, MICHIGAN 48236  
P/F: 313.343.0897  
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**PANDOLFI RESIDENCE**  
19 N. ETON  
BIRMINGHAM, MI 48009

DRAWING TITLE:	FIRST & SECOND FLOOR PLANS
SCALE:	1/4"=1'-0"
DATE:	10 SEPT, 2021
DRAWN BY:	MYB
REVISIONS:	

JOB NUMBER: 21-01

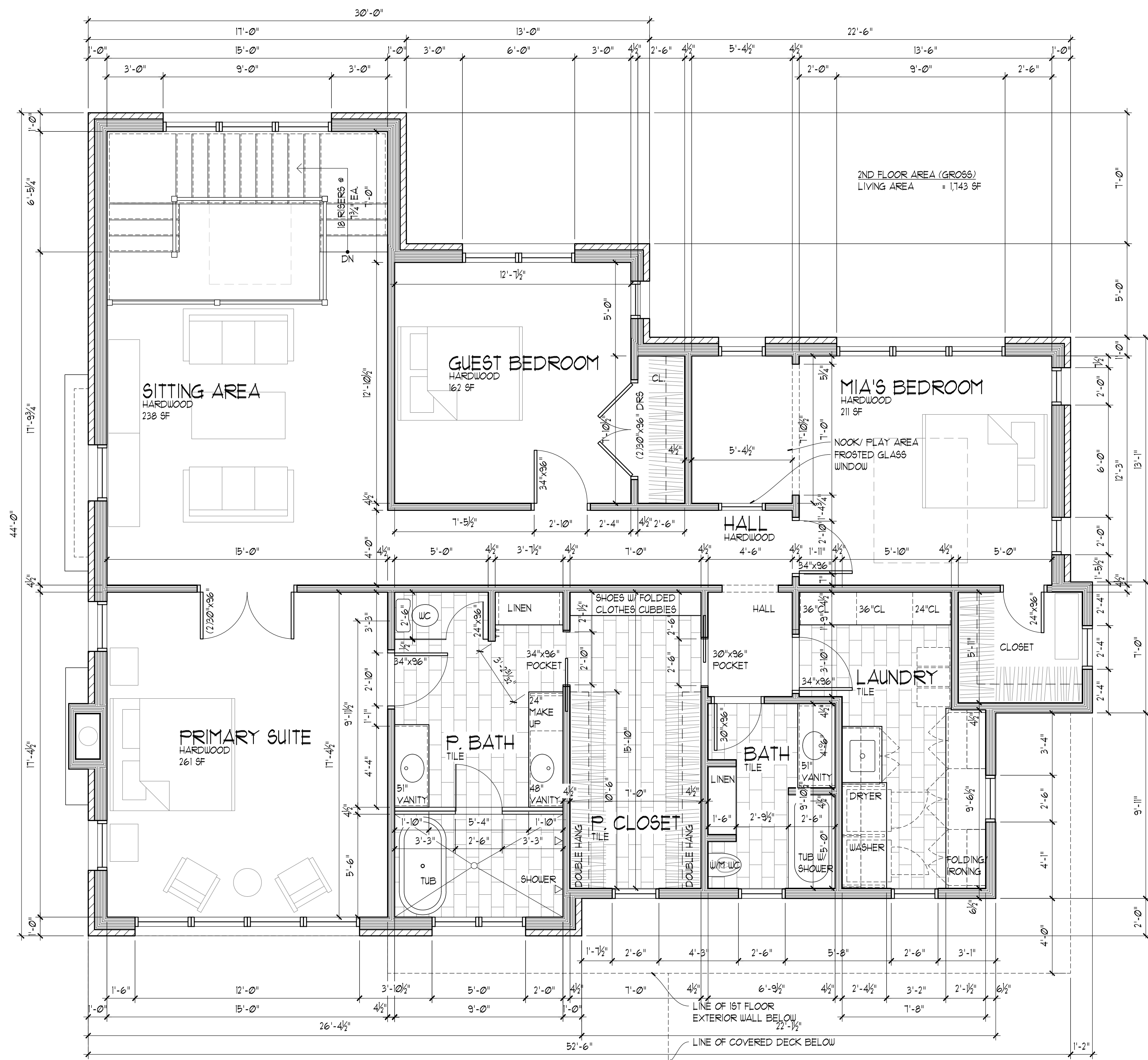
**A2**

SHEET NO. 3 OF 5



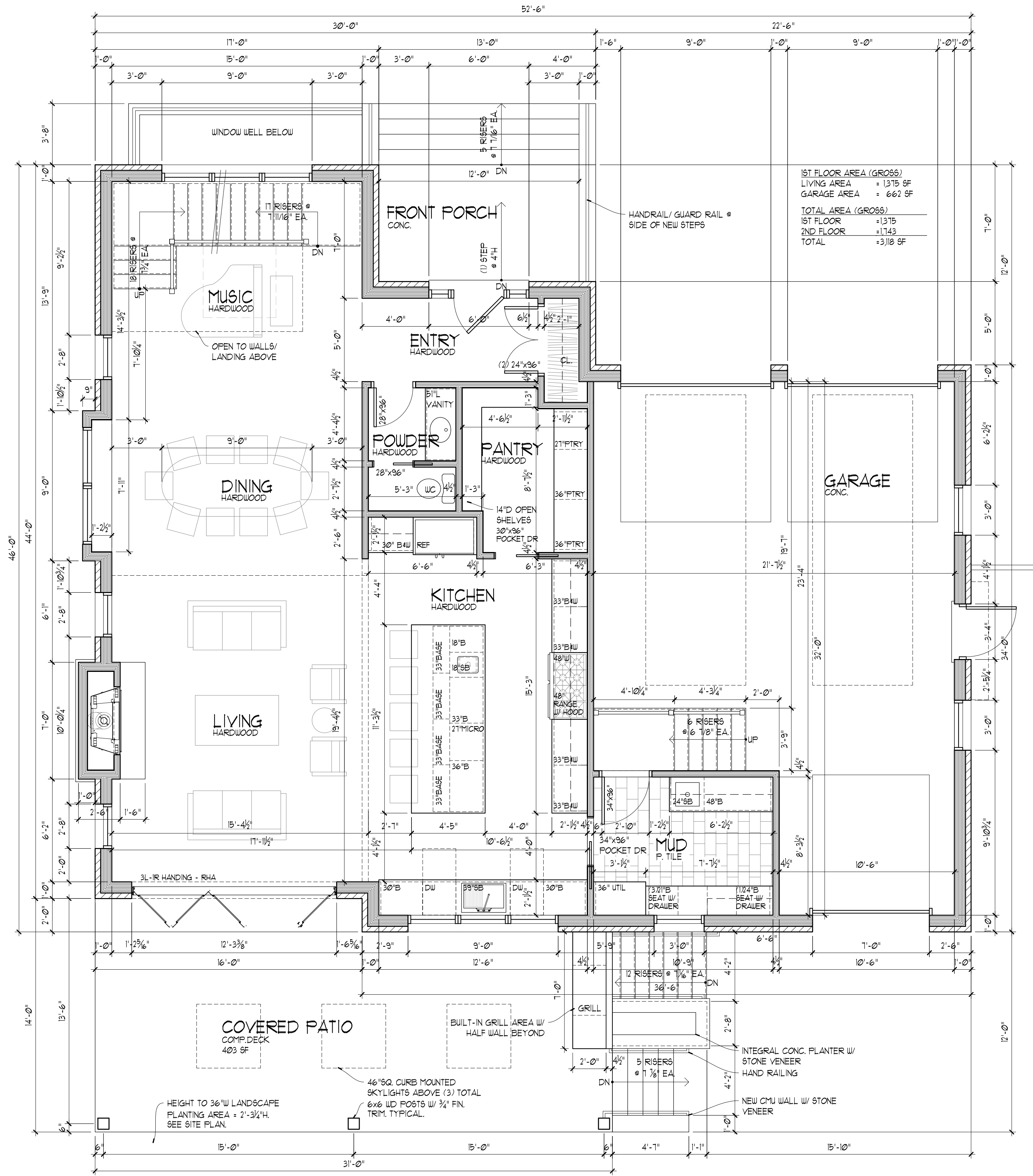
**Second Floor Plan**

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

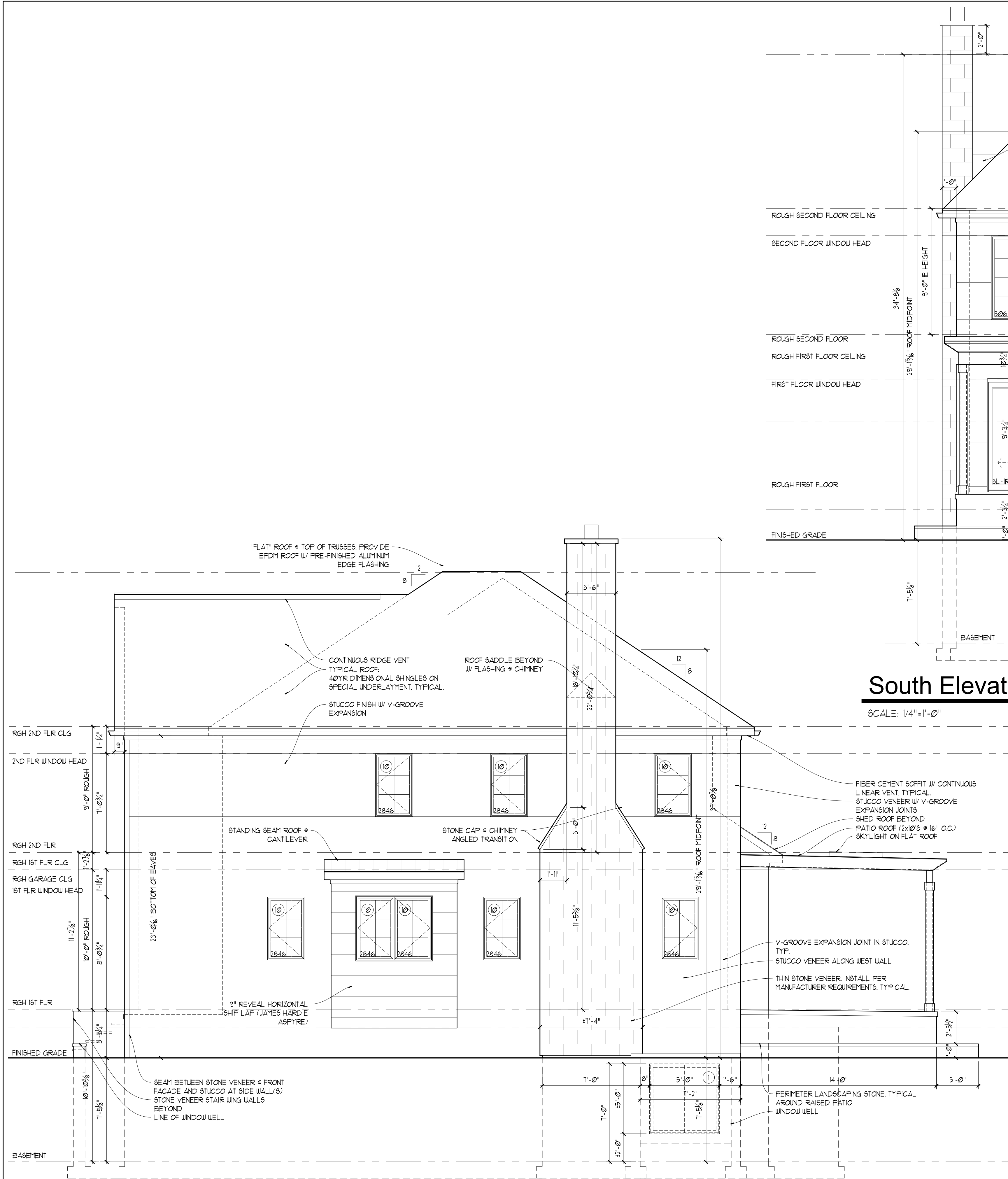


**First Floor Plan**

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

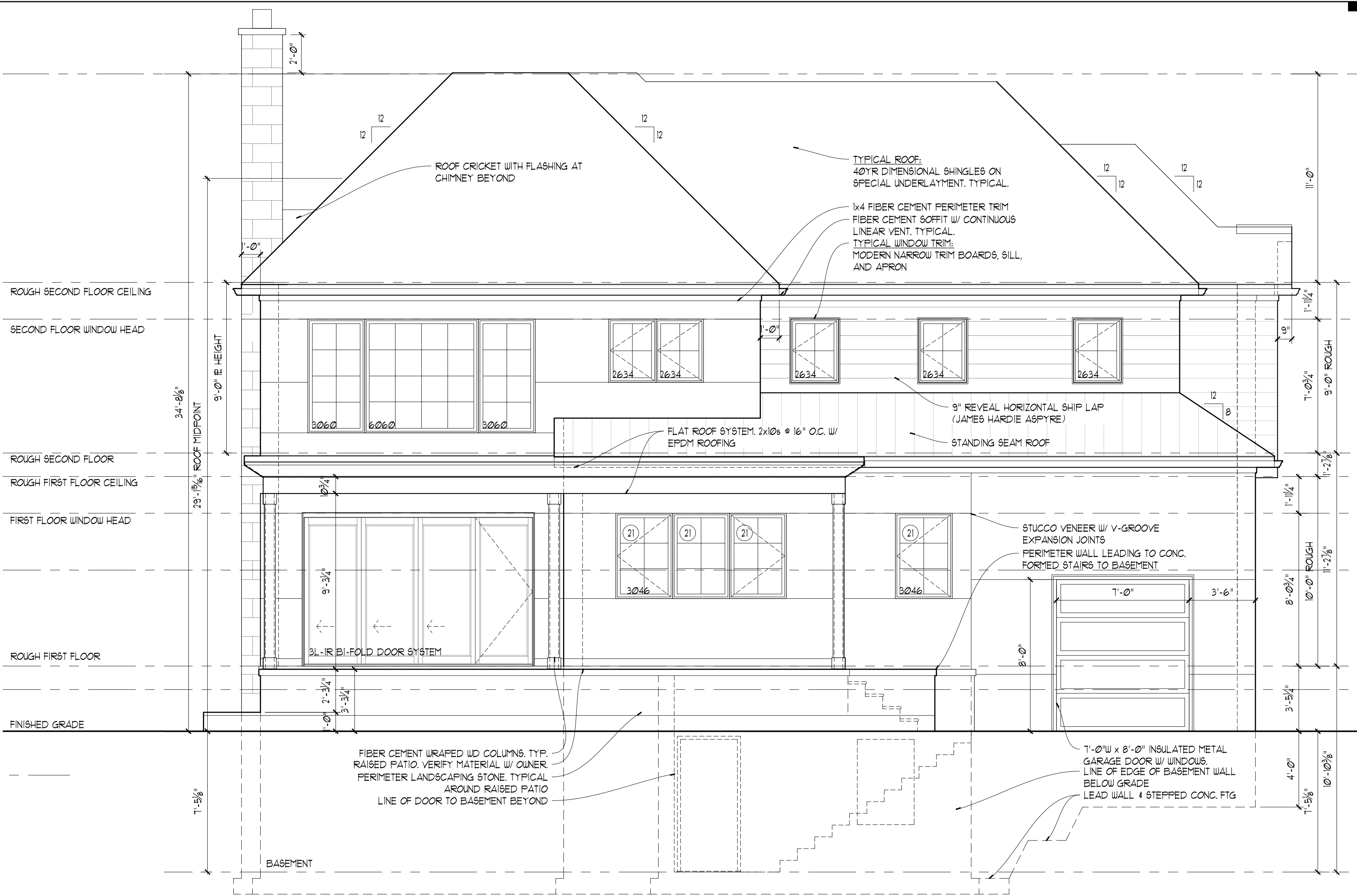


SCALE: 1/4"=1'-0"



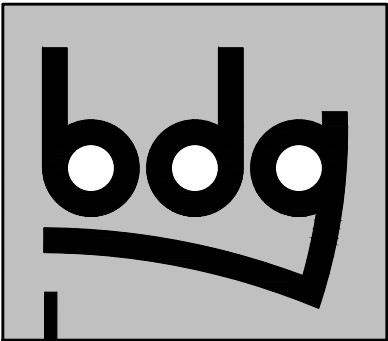
West Elevation

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



South Elevation

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



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GROSSE POINTE PARKS, MICHIGAN 48236  
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E-MAIL: badrakdesigngroup@comcast.net

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PANDOLFI RESIDENCE

19 N LEXON  
BIRMINGHAM, MI 48009

DRAWING TITLE: SOUTH & WEST ELEVATIONS

REVISIONS:

SEE DWG

DATE: 10 SEPT, 2021

DRAWN BY: MGB

JOB NUMBER: 21-01

A5

SHEET NO. 5 OF 5



# **CASE DESCRIPTION**

## **1974 Holland (21-43)**

**Hearing date: October 12, 2021**

**Appeal No. 21-43:** The owner of the property known 1974 Holland, requests 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.

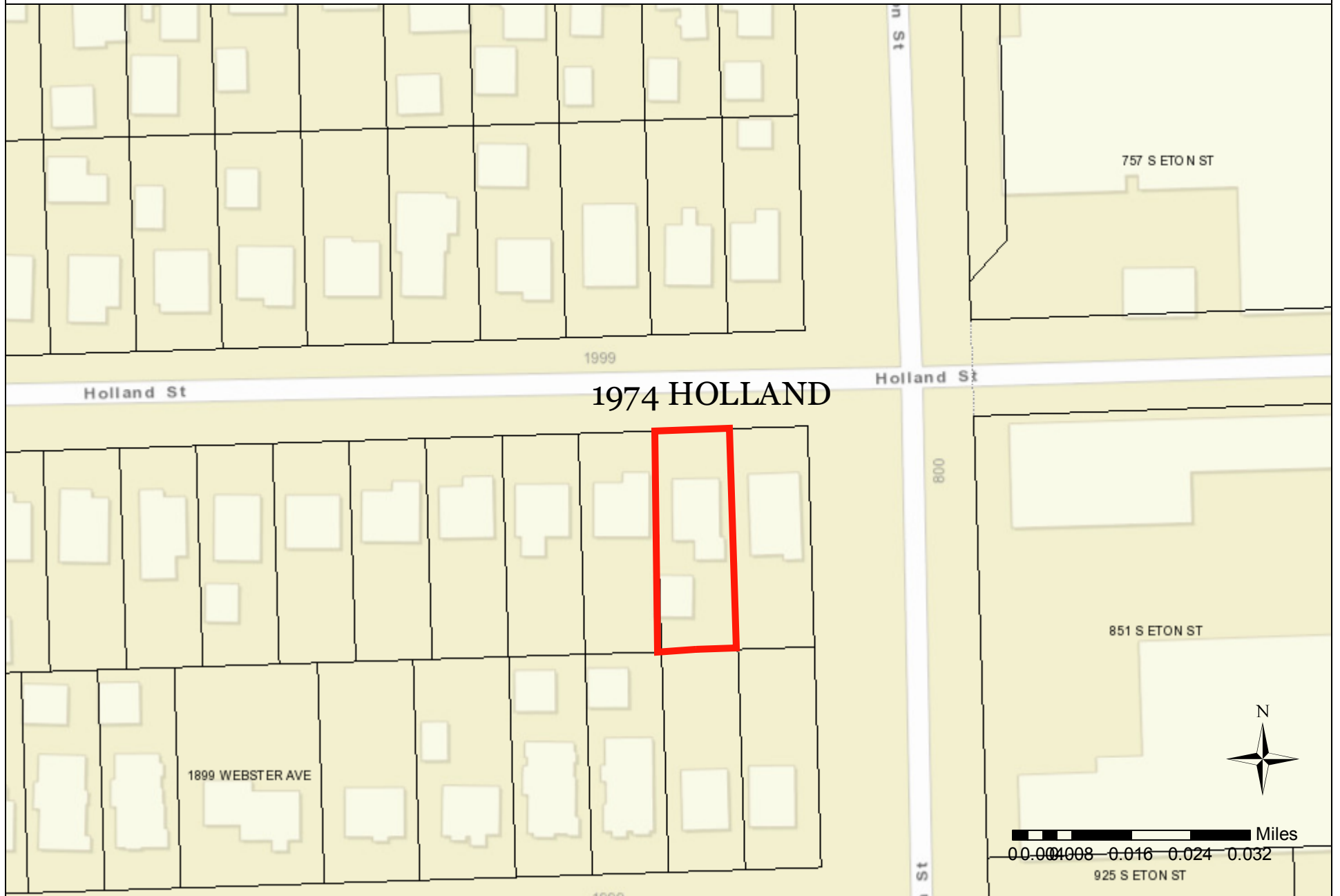
**Staff Notes:** The applicant is proposing to construct a new home with a detached garage on the lot. The neighboring home to the east side is a corner lot, was constructed in 2013 and a variance was granted for that home in September (Minutes attached) for the similar request.

This property is zoned R2– Single Family Residential.

---

Jeff Zielke, NCIDQ, LEED AP  
Assistant Building Official

# 1974 HOLLAND 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](http://www.bhamgov.org)

**APPLICATION FOR THE BOARD OF ZONING APPEALS**

Application Date: 9/9/21

Hearing Date: 10/12/21

Received By: BM

Appeal #: 21-43

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

**I. PROPERTY INFORMATION:**

Address: 1974 Holland Lot Number: 386 Sidwell Number: 20 31 178 030

**II. OWNER INFORMATION:**

Name: Wayne Ginst  
Address: 3764 Piedmonte City: Rochester State: MI Zip code: 48306  
Email: \*ginst94@gmail.com Phone: (248) 930-0390

**III. PETITIONER INFORMATION:**

Name: Patrick Raye Firm/Company Name: Hillan Homes  
Address: 1231 Lacrosse Trail City: Oxford State: MI Zip code: 48371  
Email: patrick.hillanhomes@gmail.com Phone: 248 462 4792

**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 12<sup>th</sup> 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

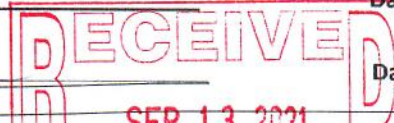
**VI. APPLICANT SIGNATURE**

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: Wayne Ginst Date: 8/24/21

Signature of Petitioner: [Signature] Date: 8/24/21







Hillan Homes, Inc.

September 12, 2021

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

RE: 1974 Holland – ZBA Letter of Practicality and/or Hardship

Dear Sir or Madam:

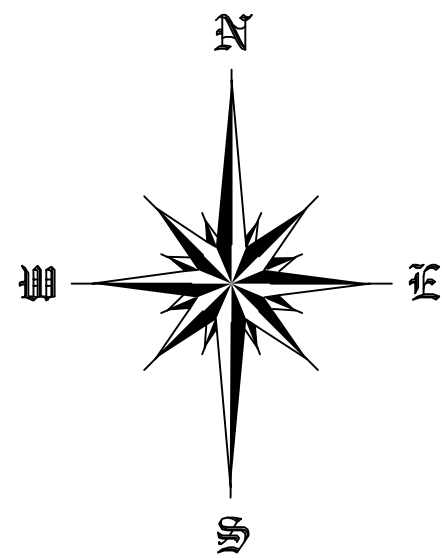
We are looking to build a new construction house and comply with the 14 feet of separation between houses or 9'5' rule but we have existing houses on both sides that are infringing on their respective portion of the 9'5' component. The house on the west side is 3'11" from the property line and the house on the east side is 5'7" from the property line. The house on the east side is 'known' or common situation where the house is located on a corner lot and instead of having their driveway positioned on the side of their house to contribute to the general 9' portion of the 14' of separation (9'5' rule) they have their driveway in the backyard. They must have received a variance in order to build only 5'7" from the property line creating a hardship situation for us to absorb the majority of the 14' of separation on both sides of our house. Rather than seek variances on both sides we are only seeking a single variance on the east side and are effectively maintaining the current footprint.

1. Request for relief on the east side of 3 feet to allow 11 total feet between houses. The existing or neighboring house (1992 Holland) is located on a corner lot and does not have their driveway situated on the west side of their house. This house is located 5'7" from the property line rather than the typical 9' creating a hardship for us to absorb the majority of the 14' separation between houses on both sides. The 3' requested variance on the east side of our house would position our house 5'5" from the property line, which although complies with our designated portion of the 5' component of the 9'5' rule would result in only 11 feet in total between houses.

Respectfully,

Patrick Raye, Pres.  
Hillan Homes

1231 Lacrosse Trail  
Oxford, Michigan 48371  
(248) 462-4792  
(248) 693-1626 fax  
[www.hillanhomes.com](http://www.hillanhomes.com)



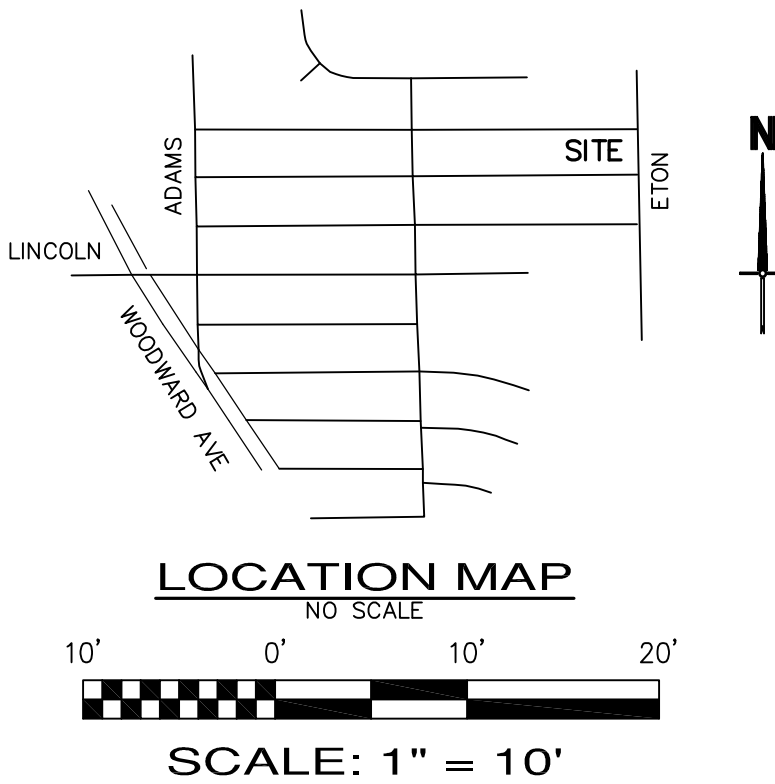
CALCULATIONS:

AREA OF LOT: 4,610 SQ. FT.  
AREA OF HOUSE/GARAGE: 1,379 SQ. FT.  
AREA OF DRIVEWAY: 948 SQ. FT.  
AREA OF PORCH: 122.5 SQ. FT.

FRONT SETBACK: 26.00 FEET(AVG OF EX HOMES)  
SIDE SETBACK: 5 FEET(MIN) 16 FEET(TOTAL)  
REAR SETBACK: 30 FEET

FRONT SETBACK:

FIVE HOUSES(WEST), 1 EAST  
AVG SETBACK: 26.00 FEET



HOLLAND AVE.  
( 50 FT WD )

EX. SANITARY M.H.  
RIM 742.63

BENCHMARK  
ARROW ON HYDRANT  
ELEV=745.44  
BIRMINGHAM DATUM

S. ETON

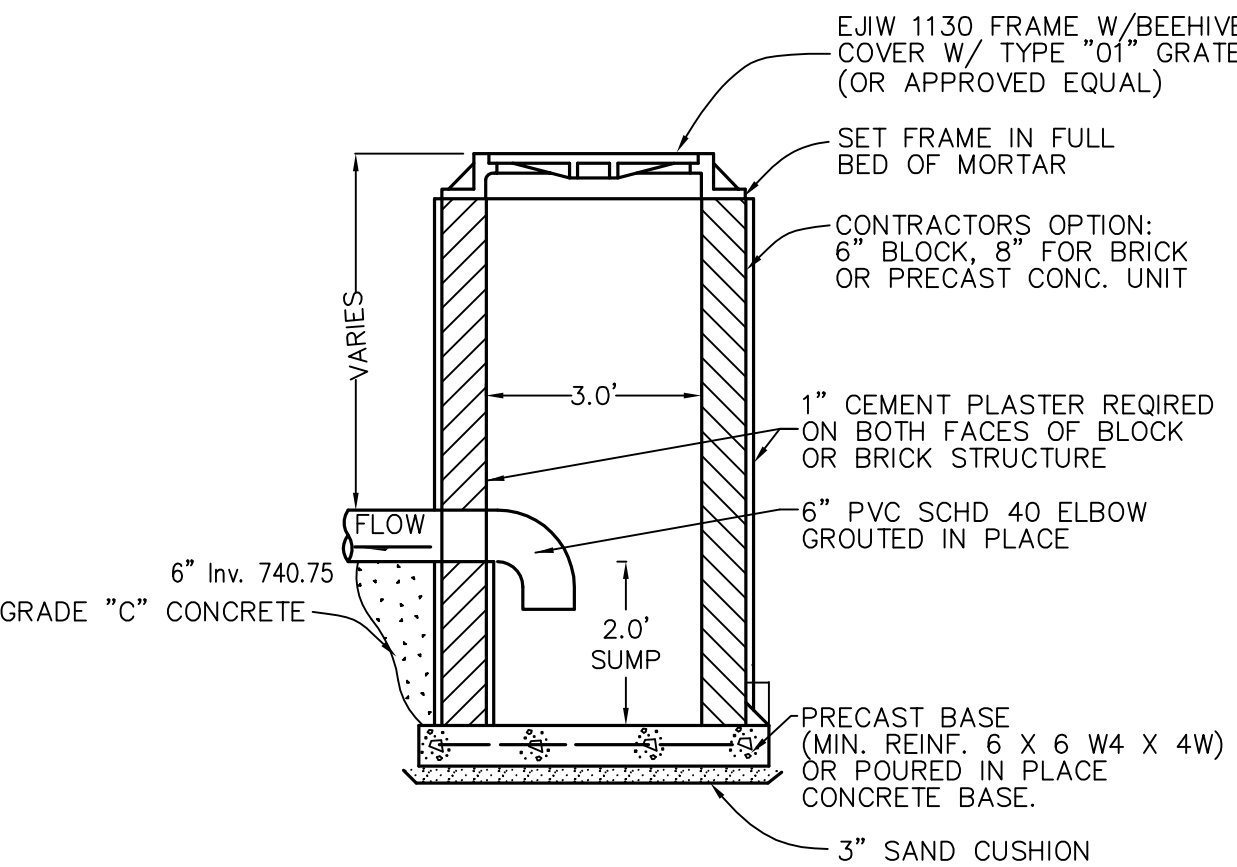
LEGEND

- EX. GRADE
- EX. INDEX CONTOUR
- EX. CONTOUR
- EX. WATER MAIN
- EX. STORM SEWER
- EX. SANITARY SEWER
- EX. OVERHEAD
- EX. GAS
- EX. UNDERGROUND
- EX. FENCE
- EX. RAILROAD
- EX. WALL
- EX. Q. OF DITCH
- EX. WETLAND
- HYDRANT
- CATCH BASIN
- MANHOLE
- SIGN
- GATE VALVE
- LIGHT POLE
- UTILITY POLE
- METAL LIGHT POLE
- TOP OF BERM
- TOE OF BERM
- TREE TAG
- TOP OF CURB
- GUTTER
- TOP OF ASPHALT
- TOP OF WALK
- TOP OF WALL
- FOUND IRON ROD
- SET IRON ROD
- FOUND IRON PIPE
- ASPHALT
- CONCRETE
- PR. GRADE
- REMOVE TREE
- DRAINAGE DIRECTION
- PROPOSED DOWNSPOUT

TOPO. NOTES:

- THIS SURVEY WILL NOT SHOW ALL EASEMENTS OF RECORD UNTIL AN UPDATED TITLE POLICY HAS BEEN FURNISHED TO THE SURVEYOR BY THE OWNER.
- ALL ELEVATIONS ARE EXISTING ELEVATIONS
- SUBJECT PROPERTY LOCATED IN ZONE X. AREA OF MINIMAL FLOODING. PER FEMA FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 26125C0537F EFFECTIVE DATE: SEPTEMBER 29, 2006.
- THE LOCATION OF THE EXISTING UTILITIES AS SHOWN WERE OBTAINED FROM MUNICIPAL AND UTILITY COMPANIES RECORDS. NO GUARANTEE CAN BE MADE REGARDING THE COMPLETENESS OR EXACTNESS OF THE UTILITIES LOCATION. IT IS THE CONTRACTORS RESPONSIBILITY TO VERIFY IN THE FIELD THE LOCATION OF ALL UTILITIES. ANY POTENTIAL CONFLICT SHALL BE REPORTED TO THE ENGINEER PRIOR TO CONSTRUCTION.
- THE CONTRACTOR SHALL CONTACT MISS DIG 3 WORKING DAYS PRIOR TO CONSTRUCTION.

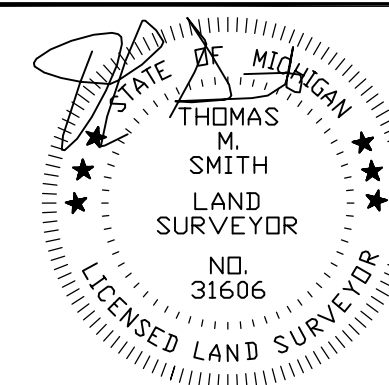
NOTE::  
EXISTING HOUSE, GARAGE AND ALL CONCRETE TO BE DEMOLISHED.



TRAPPED REAR YARD CATCH BASIN  
NOT TO SCALE

SITE UNDER CONSTRUCTION  
( NO FINAL GRADE ESTABLISHED )

LEGAL DESCRIPTION:  
LOT 386, BIRMINGHAM GARDENS, CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN.



THOMAS M. SMITH P.S.  
PROFESSIONAL LAND SURVEYOR

7559 OLDE STURBRIDGE TRAIL  
CLARKSTON, MICHIGAN 48348

PROJECT  
1974 HOLLAND  
BIRMINGHAM, MI

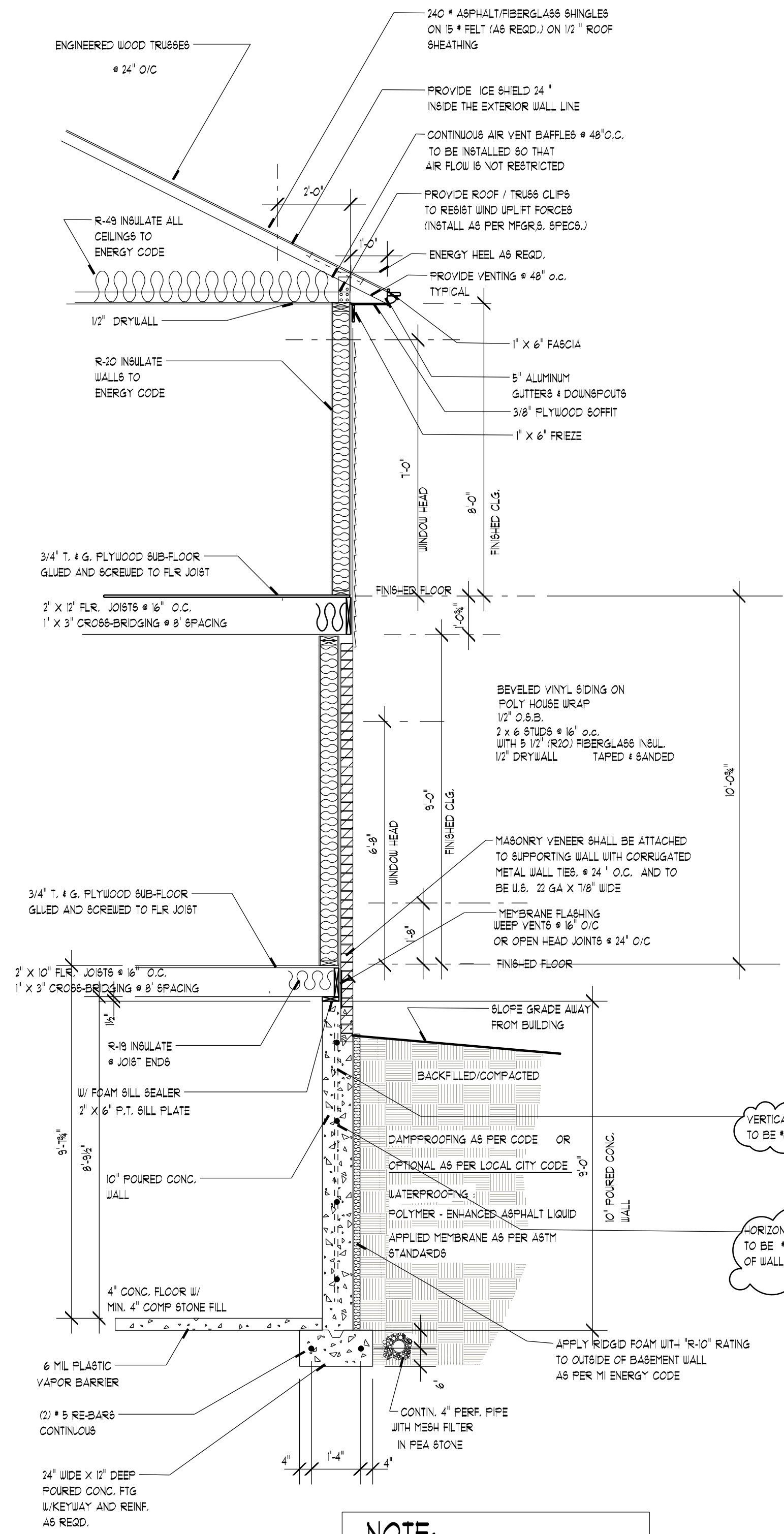
TITLE  
SITE PLAN

CLIENT  
HILLAN

DRAWN BY: TMS  
CHECKED BY: TMS  
APPROVED BY: TMS  
SCALE HORIZ. 1"=10'  
SCALE VERT. N/A  
DATE 08-11-21  
PROJECT No. 21-151  
SHEET No. 1 of 1





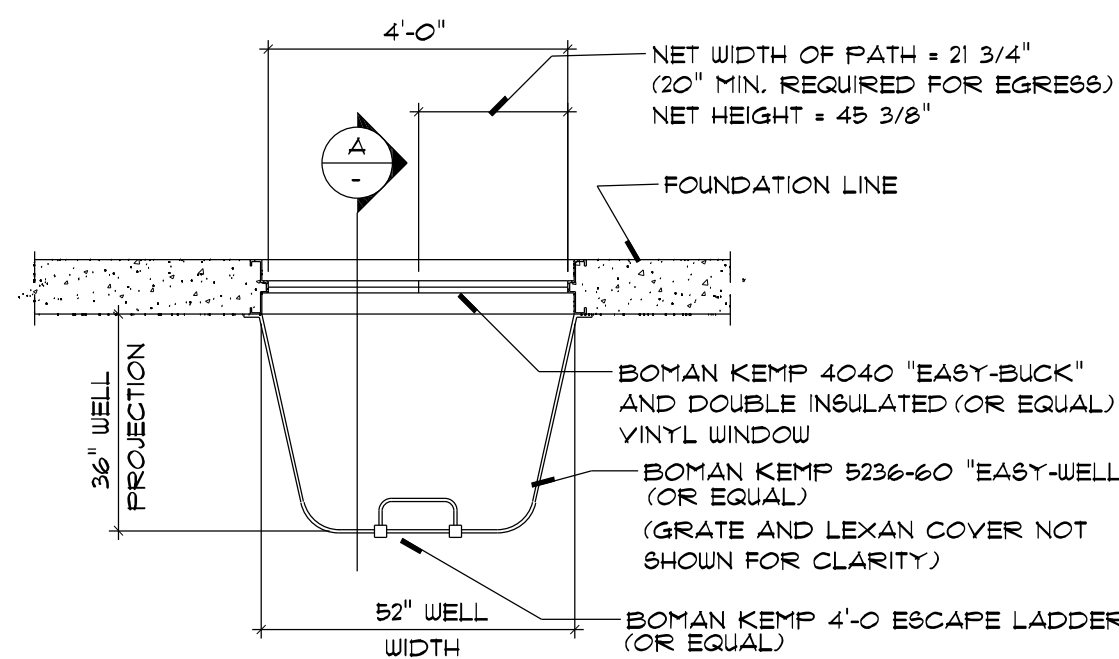


### BUILDING SECTION

SCALE: 3/8" = 1'-0"

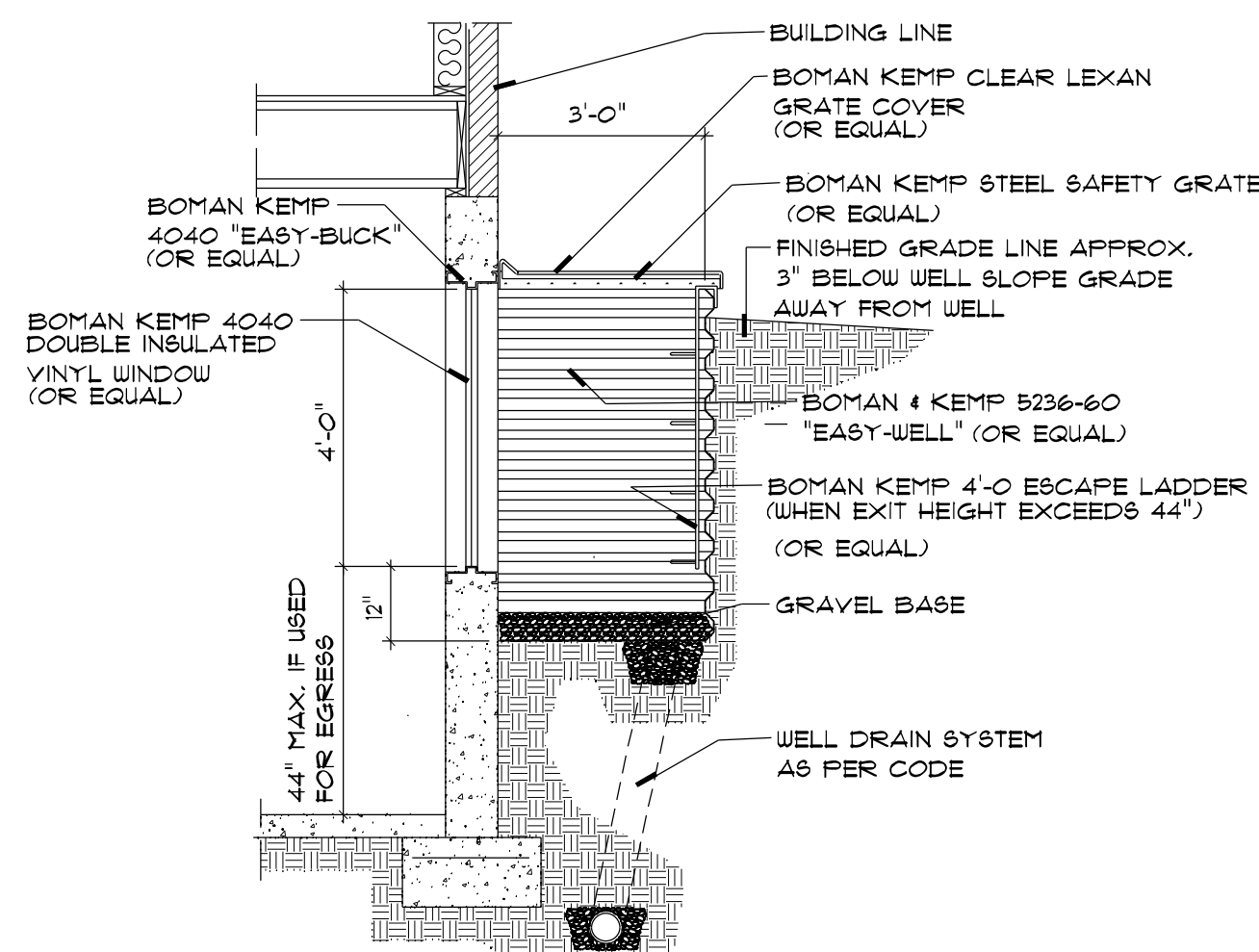
#### NOTE:

EXTERIOR WALLS TO HAVE WEATHER RESISTIVE PAPER APPLIED OVER SHEATHING  
OR  
EXTERIOR WALLS MUST BE SHEATHED WITH WEATHER RESISTIVE PANELS WITH APPROVED TAPE OVER JOINTS



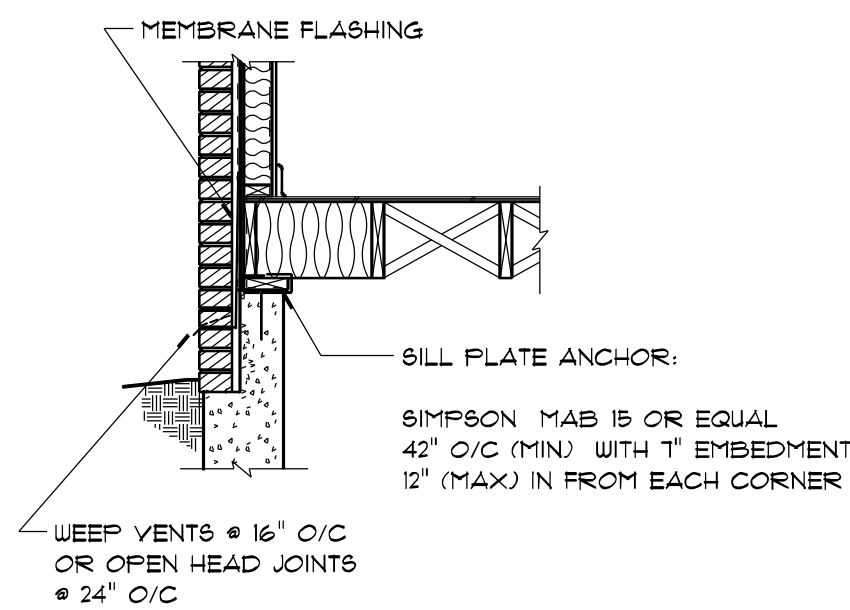
### PLAN VIEW WINDOW WELL

SCALE: 3/8" = 1'-0"  
36" PROJECTION REQUIRED FOR EGRESS



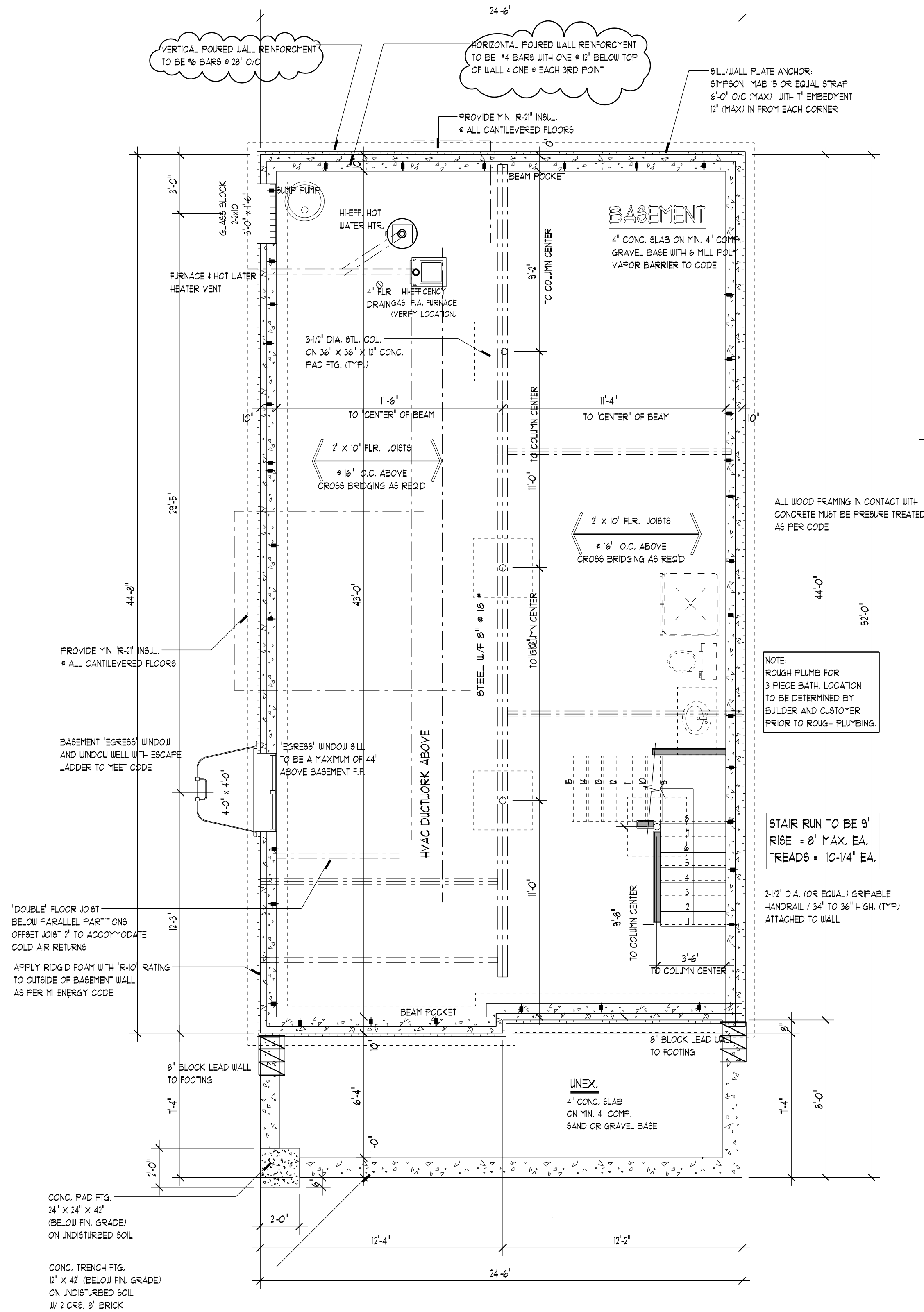
### WALL SECTION THRU WINDOW WELL

SCALE: 3/8" = 1'-0"



### FLOOR ANCHORAGE DETAIL

SCALE 1/2" = 1'-0"



### BASEMENT & FOUNDATION PLAN

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

### MICHIGAN RESIDENTIAL CODE

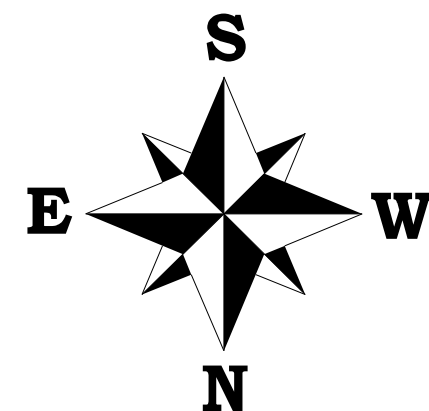
#### 2015 (MIN) FOOTINGS:

- TRENCH FOOTING SIZES SHOWN ARE BASED ON 2500 P.S.F. LOAD BEARING VALUE OF SOIL.
- 4 INCH BRICK VENEER OVER LIGHT FRAME CONSTRUCTION:  
GARAGE (WITHOUT LIVING AREA ABOVE) \_\_\_\_\_ 1/2 INCHES MIN.  
GARAGE (WITH LIVING AREA ABOVE) \_\_\_\_\_ 3/4 INCHES MIN.  
TWO STORY \_\_\_\_\_ 1 INCHES MIN.  
THREE STORY \_\_\_\_\_ 3/2 INCHES MIN.
- FOOTINGS MUST COMPLY WITH THE "MICHIGAN RESIDENTIAL CODE", CHAPTER 4 AND TABLE R 403.1
- PERMIT HOLDER MUST VERIFY FOOTING REQUIREMENTS WITH BUILDING OFFICIAL

### GENERAL FOUNDATION/CONCRETE

#### NOTES:

- ALL UNDERGROUND UTILITIES CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE STANDARDS ESTABLISHED BY GOVERNING AUTHORITY HAVING JURISDICTION.
- FOOTINGS SHOWN ON PLANS WERE DESIGNED ASSUMING 2500 P.S.F. SOIL BEARING CAPACITY. IF SOIL BORINGS ARE DONE AND RESULTS ARE LESS THAN 2500 P.S.F., A STRUCTURAL ENGINEER SHOULD BE RESPONSIBLE FOR FOOTING DESIGN.
- ALL SOILS UNDER BUILDING MUST BE COMPACTED TO 95 PERCENT OR HIGHER. FILL MUST BE CLEAN, FREE OF VEGETATION AND DEBRIS. IT IS RECOMMENDED THAT SOIL TEST AND COMPACTION TEST BE CONDUCTED BY A SOILS ENGINEER.
- ALL CONCRETE TO BE 3000 P.S.I. AT 28 DAYS.
- ALL BUILDING FOOTINGS TO BE 4" MINIMUM DEPTH AND TO BE SOIL BEARING.
- BATCHING, TRANSPORT AND PLACING OF ALL CONCRETE TO CONFORM TO A.C.I. LATEST EDITION. STEEL REINFORCING FABRICATION AND PLACEMENT TO CONFORM TO C.R.S.I. STANDARDS.
- DAMP-PROOFING AS PER LOCAL CITY CODE OR POLYMER-ENHANCED ASPHALT LIQUID APPLIED MEMBRANE AS PER ASTM STANDARDS.
- PROVIDE EXPANSION JOINT BETWEEN CONCRETE SLAB AND BRICK OR BLOCK WALL EXPANSION JOINT TO BE A.P.S. FIBER BOARD OR EQUAL 1/2" X 4" CONTINUOUS.
- BASEMENT WALLS ARE TO BE BACK FILLED AFTER INSIDE BRACING OR FIRST FLOOR DECKING HAS BEEN INSTALLED.



NOTE:  
LOCATION OF HI HEATER, FURNACE & BUMP PUMP WILL BE DETERMINED ON SITE. DEPENDING ON CONDITIONS, EXTRA CHARGES MAY APPLY.

NOTE:  
BACKWATER VALVE TO BE INSTALLED IN SEWER DRAIN, INSIDE OF BASEMENT AS PER LOCAL CODES

#### NOTE:

POURED BASEMENT WALL:  
9'-0" HIGH

10" POURED CONCRETE WALL ON 24" X 12" POURED CONC. FTG. W/ KEYWAY REINFORCE AS NEEDED OR TO CODE  
4" WIDE BRICKLEDGE HOT AS REQD. BY GRADE OR BY LOCAL CODE.





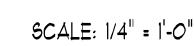
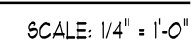
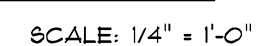
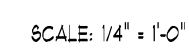
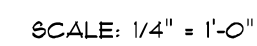
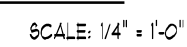
1. WATER SUPPLY LINES IN OUTSIDE WALLS MUST BE WRAPPED WITH FOAM INSULATION
2. PLUMBER TO INSULATE WATER SUPPLY LINES WHEN FIXTURE IS NEAR AN UN-HEATED AREA

 IN MICHIGAN  
(3 WORKING DAYS)  
*BEFORE YOU DIG CALL "MISS DIG"*  
**1-800-482-7171**









IN MICHIGAN  
(3 WORKING DAYS)  
BEFORE YOU DIG CALL "MISS DIG"  
1-800-482-7171

# **CASE DESCRIPTION**

## **1853 Fairview (21-44)**

**Hearing date: October 12, 2021**

**Appeal No. 21-44:** The owner of the property known 1853 Fairview, requests 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.

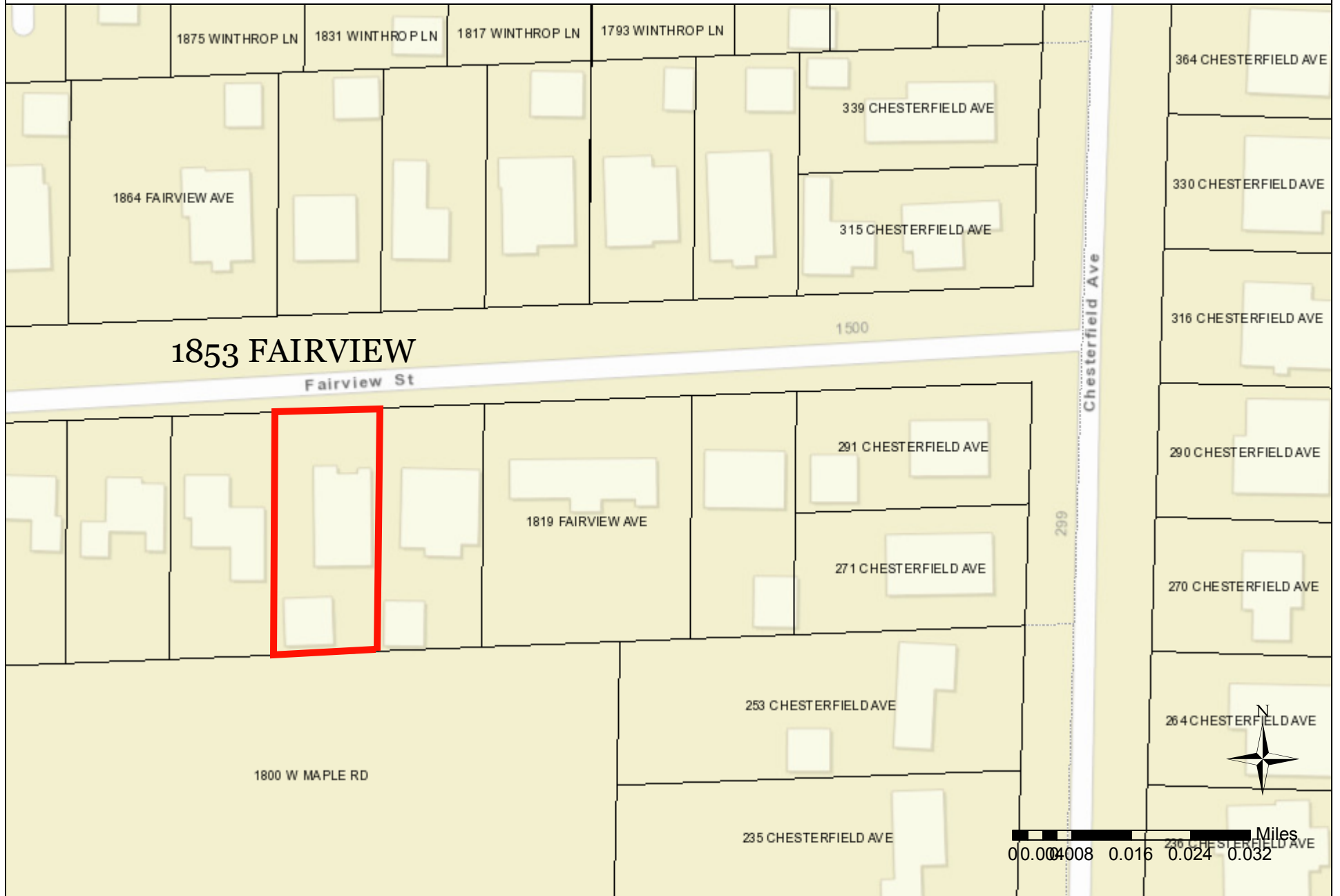
**Staff Notes:** The existing home was constructed in 1938. The home had an addition constructed in 1985 to the rear of the home along with a kitchen renovation in 2018.

This property is zoned R2– Single Family Residential.

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Jeff Zielke, NCIDQ, LEED AP  
Assistant Building Official

# 1853 FAIRVIEW 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](http://www.bhamgov.org)

**APPLICATION FOR THE BOARD OF ZONING APPEALS**

Application Date: 9/13/21

Hearing Date: 10-12-21

Received By: BM

Appeal #: 21-44

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

**I. PROPERTY INFORMATION:**

Address: 1853 Fairview St Lot Number: 19-26-378-050 Sidwell Number:

**II. OWNER INFORMATION:**

Name: Patrick Hillberg  
Address: 1853 Fairview Street City: Birmingham State: MI Zip code: 48009  
Email: patrick\_hillberg@hotmail.com Phone: (248)797-1804

**III. PETITIONER INFORMATION:**

Name: Same 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 12<sup>th</sup> 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: Patrick Hillberg P.H.

Date: 11-Sep-2021

Signature of Petitioner: \_\_\_\_\_ Date: \_\_\_\_\_

Revised 12-4-19

1853 Fairview St.



Patrick Hillberg  
1853 Fairview Street  
11-Sep-21

Re: Air Conditioner Replacement at 1853 Fairview Street

To: Board of Zoning Appeals,

- 1) After denial of a permit for replacement of my air conditioning units, I am aggrieved by the actions of the City of Birmingham Building Office, and seek an appeal, per **Chapter 126 Article 8.01(D)** of the Zoning Ordinance. A permit was sought by my contractor, Thornton & Grooms about 13-July-2021, and was denied on 5-September-2021.
- 2) A 1998 permit on file with the City of Birmingham Building Office shows that the existing units were permitted (#98-2069 -- included in packet) in their current location as part of an addition onto the pre-existing 1938-constructed house.
  - a. Stipulated: The placement of the existing units do not now conform to five-foot side yard constraint of **Chapter 126, Article 4.03AS-02**.
  - b. However, the permit request is protected by **Chapter 126 Article 6.02** which provides for a "Continuance of Nonconformity" of a *"nonconforming building or use existing at the time of enactment or amendment of the Zoning Ordinance"*. I seek permit to continue an existing nonconforming use of that portion of my property which currently houses the cooling units.
  - c. In addition, **Chapter 126 Article 1.06** requires the city to interpret and apply the provisions of the Zoning Ordinance as the *"minimum requirements necessary to promote the public health, morals, safety, comfort, convenience, or general welfare"*. The request maintains the status quo, with no adverse impact on health, safety, etc.
  - d. The Building Office exceeds its authority by denying this permit request under Article 4.03, as it clearly falls within the scope of Articles 6.02, and 1.06.
- 3) Further, the **Building Office endangers public health and safety** in creating delays and difficulties when residents seek continuous access to air-conditioned spaces within their homes, as it may lead to grievous illness or wrongful death. I state this concern for the public record; to protect the public and for the City to understand the risk of future liability. For example:
  - a. In a pandemic, residents may choose or be ordered to shelter in place. But as seen in the "heat domes" which afflicted the Pacific Northwest with 100 degree heat in June of 2021, a lack of air conditioning (for only a few days) led to hundreds of excess deaths. Vancouver's City Planning Commission now calls for "energy-efficient air conditioning as part of our standard expectation of housing".



- b. In a small sample of only the 18 houses on Fairview Street, at least five have AC units placed within their 5-foot side lots, meaning each house faces the risk of not having conditioned space to survive a heat wave, given the long delay in seeking a permit.
- c. This will soon be an issue with heating units as well. A strategy to reduce climate change is to "electrify everything, and then provide sustainable electricity". As such, residents will seek to replace interior natural gas furnaces with exterior heat pumps. This is a public safety concern for heating as well as cooling. (I am installing heat pumps.)

4) I do not concede that a variance is needed, as per paragraph (2) above. However,

Per **Article 8.01(F)(3)(a)**, to enforce Article 4.03AS-02 would create practical difficulties and unnecessary hardships for my property and would be the basis of a variance request. It is unjust for the property to undergo such costly and substantial changes, and such changes would unreasonably prevent me from using the property, as the 1998 addition was designed based on placing the AC units in their current location.

- a. The existing AC units are placed inside a fence, with no adjoining windows, and direct access to power.
- b. The maximum variance would be 2.4 feet. The property line angles slightly with respect to the eastern wall of the house. (At the narrowest point, a 28.4" unit with a 6" installation clearance implies less than 3.0 feet, at the narrowest point of 5.4 feet.)
- c. Both front and back of the house were extensively landscaped (prior to my purchase in 2006). A brick patio extends to the south (back) of the house, with a pond and waterfall to the south of the patio. There is no viable means of putting the units in either the back or front yard.
- d. Placing them on the SW side of the house would cause multiple problems with drainage, plumbing, and access to power, and would consume necessary space in the driveway.

Patrick Hillberg  
1853 Fairview Street.



**CITY OF BIRMINGHAM  
COMMUNITY DEVELOPMENT DEPARTMENT**

**REFRIGERATION PERMIT APPLICATION**

Permit # 98-2369

Date 9/23/98 **SEP 23 1998**

Application is hereby made for a permit to INSTALL, ALTER, REPLACE, a refrigeration system on the property described herein:

LOCATION: 1853 FAIRVIEW

Lot No. \_\_\_\_\_

Subdivision \_\_\_\_\_

SIDWELL NUMBER: \_\_\_\_\_

NAME OF APPLICANT CHARLES C. COOPER

Phone (248) 644-9000

Address: 2205 HOLLAND AVE.

BIRMINGHAM

48012

Number

(WHITUS RESIDENCE) Street

City

Zip

OWNER OF PROPERTY KRAUS BUILDING

Phone (248) 649-4044

Address: 2590 PEMBROKE

BIRMINGHAM

48009

Number

Street

City

Zip

Signature of Applicant: Charles C. Cooper

Registration Number: \_\_\_\_\_

Class of Work: New ( ☒ ) Alter ( ) Temporary ( ) Replace ( )

Type of Building Occupancy: Residential / Commercial / Industrial / Other

Type: New ( ☒ )

Convert or Alter ( )

Replace ( )

↑  
N

Self-Contained:

20

\$25.00

Remote to 10HP:

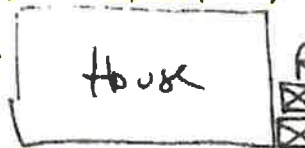
\$25.00

to 50HP

\$50.00

Over 50HP

\$75.00



System: Make LENDOX

Model 10RCB-24

APPROVED BY M. B. Ferraro

Regular Fee

50

DATE: \_\_\_\_\_

Registration

15

TOTAL FEE

65

PLEASE ENTER TOTAL "\$" AMOUNT OF ENTIRE REFRIGERATION WORK TO BE DONE ON THIS PROJECT

= \$ 50.00

PLEASE DRAW A SKETCH SHOWING THE LOCATION OF ANY OUTDOOR EQUIPMENT ON THE REVERSE SIDE OF THIS APPLICATION.





SE Corner (from North)



SE Corner (from South)



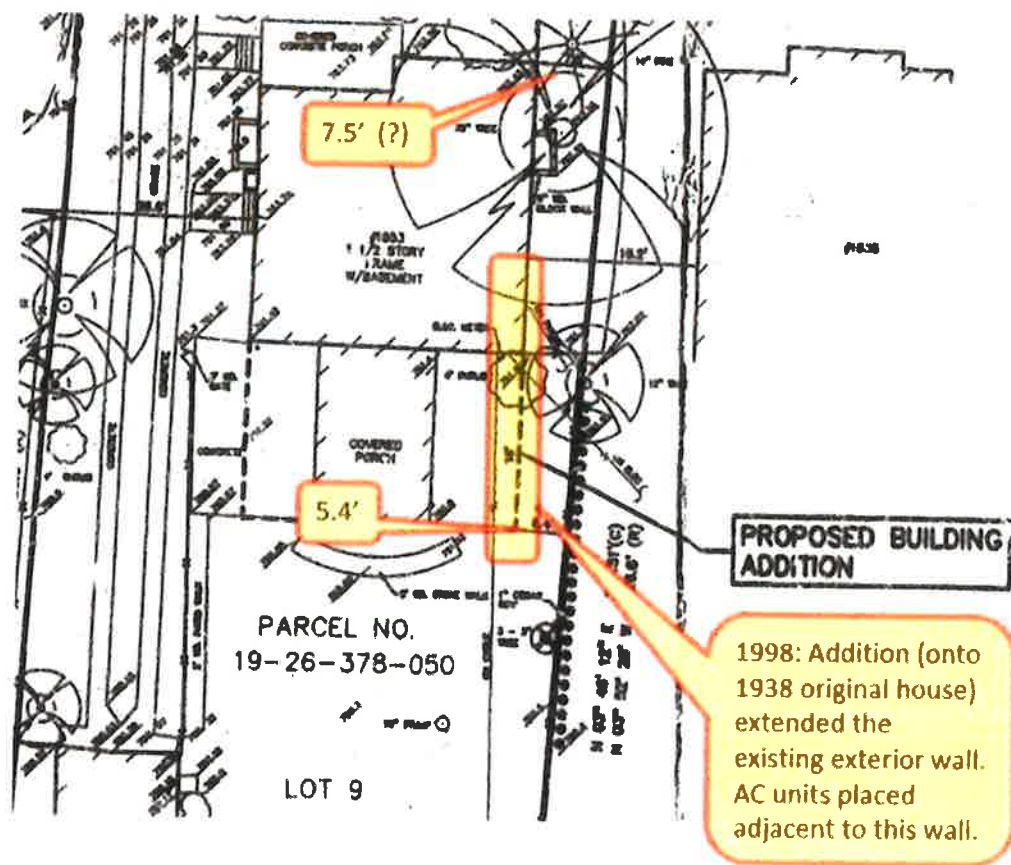
Backyard garden





SW Corner (looking North)

In addition to driveway, windows, downspouts and drainage, this corner is the house's warmest location at the time when cooling units will be used; increasing energy consumption.



1853 Fairview St.

# **CASE DESCRIPTION**

## **2549 Buckingham (21-45)**

**Hearing date: October 12, 2021**

**Appeal No. 21-45:** The owner of the property known 2549 Buckingham, requests 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.

### **Staff Notes:**

Article 9, Section 9.02 of the Zoning Ordinance defines Day Care, Group Home as:

*A dwelling in which a permanent occupant of the dwelling provides for the care of fewer than 13 minor children unrelated to the care provider for periods of fewer than 24 hours a day, for more than 4 weeks in a calendar year, unattended by the children's parents or legal guardians, and must be licensed and/or registered by the state.*

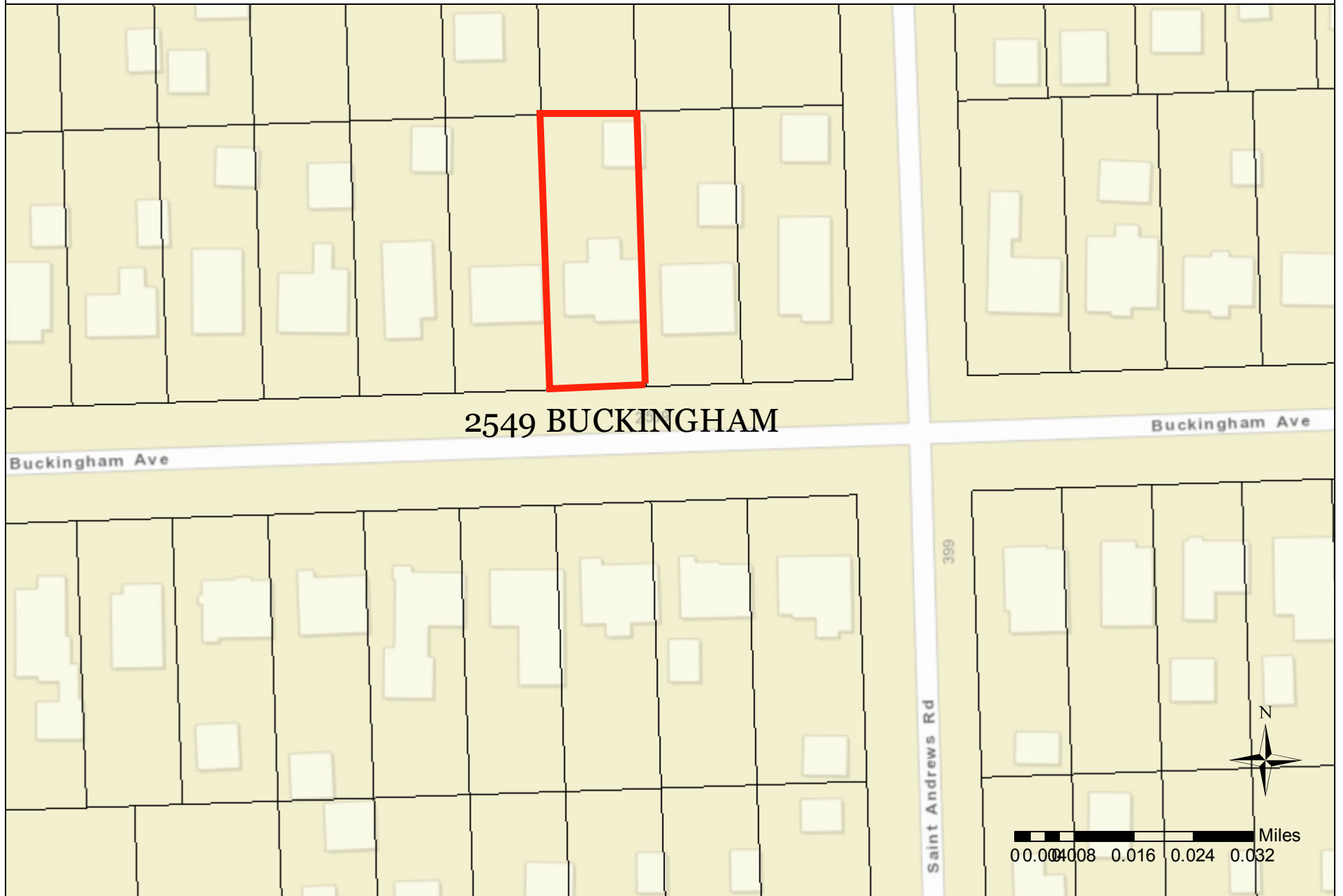
Meanwhile, Article 9, Section 9.02 of the Zoning Ordinance defines Day Care, Family Home as:

*A dwelling in which a permanent occupant of the dwelling provides for the care of fewer than 7 minor children unrelated to the care provider for periods of fewer than 24 hours a day, for more than four weeks in a calendar year unattended by the children's parents or legal guardians, and must be licensed and/or registered by the state.*

Article 2, Section 2.07(C)(1)(a) of the Zoning Ordinance for R2-Single Family Residential lists Family Day Care Home as an accessory permitted use, therefore a day care of up to 6 minor children is permitted. However, Group Home Day Care is not listed as a permitted use, accessory permitted use, or use requiring a SLUP, therefore a Group Home Day Care of up to 12 minor children is not permitted. Both a Family Day Care Home (1-6 minor children) and Group Home Day Care (7-12 minor children) require a license from the state. A state license requires indication that the use is permitted for the subject property, therefore the granting of the use variance would enable the applicant to obtain a state license for a Group Home Day Care, so long as all other state and local requirements are met.



# 2549 BUCKINGHAM 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](http://www.bhamgov.org)

Application Date: 9/13/2021 **APPLICATION FOR THE BOARD OF ZONING APPEALS**

Hearing Date: 10-12-21

Received By: BM

Appeal #: 21-0045

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: 2549 Buckingham Ave Lot Number: 139 Sidwell Number: 20-30-406-031

**II. OWNER INFORMATION:**

Name: Amy & Sean Ortiz  
 Address: 2549 Buckingham Ave City: Birmingham State: MI Zip code: 48009  
 Email: amy.ortiz170Comcast.net Phone: 248-709-4510

**III. PETITIONER INFORMATION:**

Name: Amy Ortiz Firm/Company Name: Ortiz Educare  
 Address: 2549 Buckhyan Ave City: Birmingham State: MI Zip code: 48009  
 Email: amy.ortiz170Comcast.net Phone: 248-709-4510

**IV. GENERAL INFORMATION:**

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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

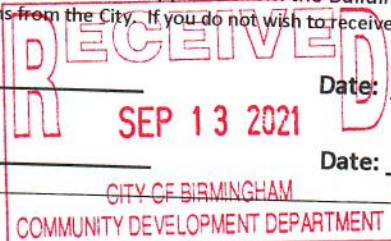
**V. REQUIRED INFORMATION CHECKLIST:**

- One original and nine copies of the signed application
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**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: Amy Ortiz  
 Signature of Petitioner: Amy Ortiz



Date: 9/13/2021  
 Date: 9/13/2021



Mrs. Amy Ortiz  
2549 Buckingham Ave.  
Birmingham, MI 48009

CITY OF BIRMINGHAM  
Community Development – Building Department  
151 Martin Street, Birmingham, MI 48009  
September 13, 2021

Dear Board of Zoning Appeals,

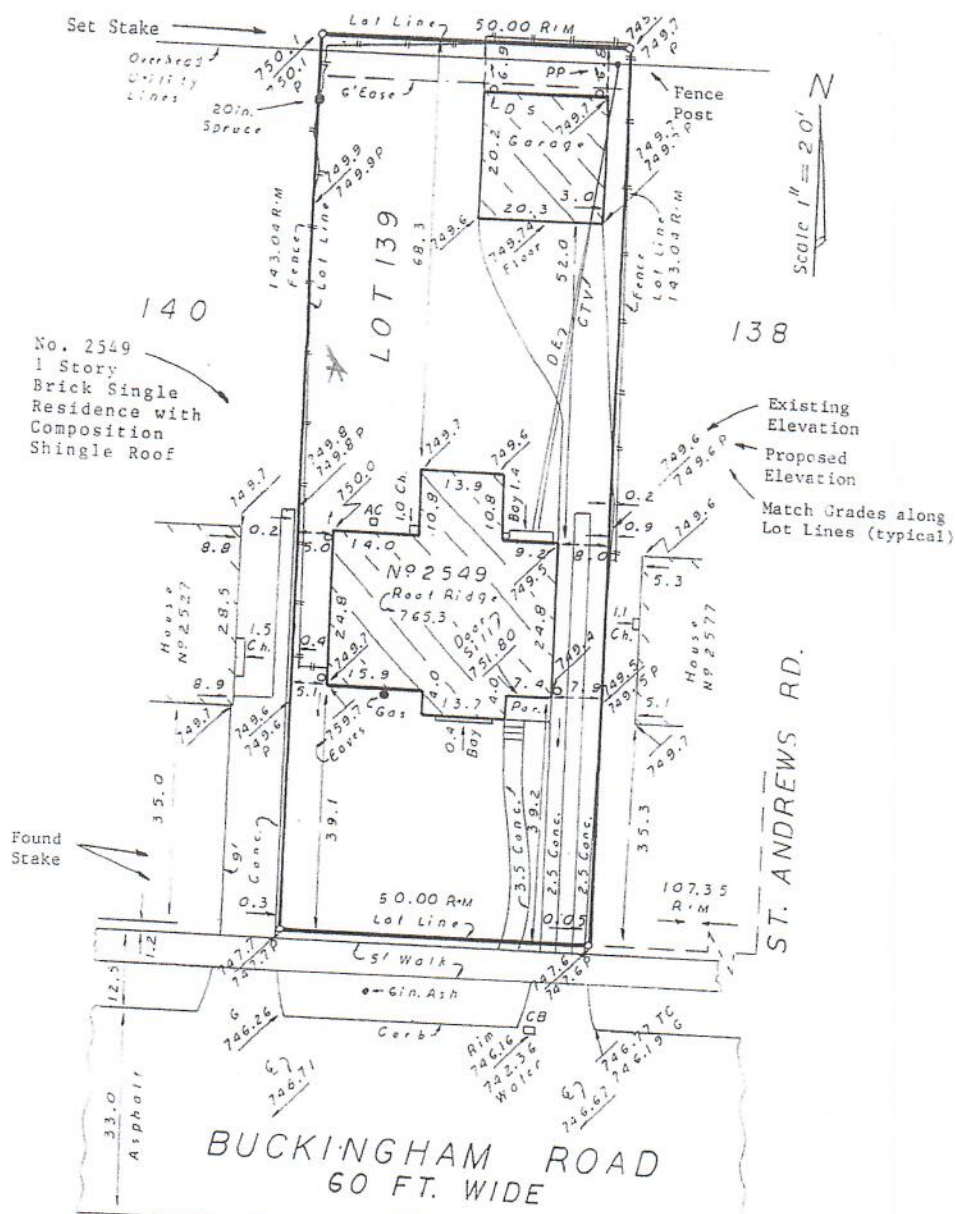
Hoping that this letter finds you all well. My name is Amy Ortiz and I have been a resident of Birmingham for over 20 years, raised two wonderful children that attended Birmingham schools, and my husband and I are vested community members. I am a teacher and due to the pandemic last year, I resigned from Birmingham Public Schools as our preschool program was on hold along with all the other uncertainties.

In the spring of 2021, my husband and I decided to get our home fully licensed and had a small, wonderful summer program out of our home which inspired me to create our **Ortiz Educare!** I have a small preschool that is going wonderfully along with having a waitlist as childcare in such a high demand in our community right now. I am requesting the board to please change my zoning to accommodate **7 – 12 children / Group Home Day Care**. We have worked extremely hard to provide a safe and loving environment and would love to be able to offer a few more spots to families on my waitlist. I feel blessed as this opportunity has evolved my career and continue to do what I love....teach!

Sincerely,

Amy Ortiz

Ortiz Educare  
248.709.4510



SET BACKS TO BUCKINGHAM		Lot Area	7152	SF
House #	2471	35.0	House	1125
	2493	35.0	Garage	410
	2409	35.3	Ex. Coverage	21.46 %
	2527	35.0		
Subject House				
	2377	35.3		
	2593	34.1		
St. Andrews Rd				
	2601	30.1		

RESIDENTIAL PLOT PLAN  
DATE: Aug. 14, 2015  
Job No. 190914  
SHEET 2 of 2

**GUARANTY SURVEY CO.**  
REGISTERED LAND SURVEYORS  
1660 ROCHESTER ROAD  
TROY, MI 48063  
ESTABLISHED 1939

PETER G. PITCHFORD  
TOM NORTHRUP  
(248) 528-1717  
FAX (248) 528-1746

PLN 20-30-406-031  
Sidwell #

# **CASE DESCRIPTION**

## **1394 Westwood (21-46)**

**Hearing date: October 12, 2021**

**Appeal No. 21-46:** The owner of the property known 1394 Westwood, requests 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.

**Staff Notes:** The applicant was in front of the board in May(see attached minutes), the variance request was denied at that time. The applicant has revised the plans and it back seeking a lesser variance request.

This property is zoned R2– Single Family Residential.



1394 WESTWOOD MAP



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

**APPLICATION FOR THE BOARD OF ZONING APPEALS**

Application Date: 9-13-21

Hearing Date: 10-12-21

Received By: BM

Appeal #: 21-0046

Type of Variance:	<input checked="" 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>1394 Westwood Dr.</u>	Lot Number: <u>121</u>	Sidwell Number: <u>19-26-128-001</u>
-----------------------------------	------------------------	--------------------------------------

**II. OWNER INFORMATION:**

Name: <u>Jeff LaBelle</u>			
Address: <u>1394 Westwood Dr.</u>	City: <u>Birmingham</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: * <u>labejef@gmail.com</u>		Phone: <u>312-835-9282</u>	

**III. PETITIONER INFORMATION:**

Name: <u>Jeff LaBelle (owner)</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 12<sup>th</sup> 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

RECEIVED

SEP 13 2021

CITY OF BIRMINGHAM  
COMMUNITY DEVELOPMENT DEPT.

**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: Jeffrey LaBelle

Date: 9-13-21

Signature of Petitioner: Jeffrey LaBelle

Date: 9-13-21

September 13, 2021

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

Re: Variance request for 1394 Westwood Dr.

Dear Members of the Board,

We are submitting this request for 1 dimensional variance from your zoning ordinance requirements. When we came in front of the board in May, we had requested 2 dimensional variances and the board asked us to take another look at the design to find a way to conform. In working with CBI Design Professionals, we were able to modify the plans to remove 1 of the 2 variances and reduce the size of the remaining variance.

Our house is on a corner lot on Westwood and Redding with a unique diagonal property line angle with relation to the existing home. The current garage faces Redding and is "existing non-conforming" with a set back from the property line of 11.89' in the west corner of the garage (compared to the 15' required). This portion of the garage is proposed to remain the same. The proposed variance pertains to the east half of the garage which will include a new structure with a greater depth to allow for 2 SUVs to be parked properly inside while allowing us to maintain our window in the kitchen. The dimensional variance is proposed to be 12.81' from the property line which results in a proposed variance distance of 2.19'.

Our property does not have a sidewalk currently on the Redding side and there is ample space to park a vehicle between the garage and the street. We feel that this variance is consistent with other, newer homes in our neighborhood. For example, the house directly to the East at 1369 Glenhurst is a corner lot with a garage/driveway facing Redding. We measured the distance from the garage to the sidewalk line to be 11'7" demonstrating that this type of distance is consistent with the neighborhood.

Coming out of our May review with the board, we worked closely with our architects to address your feedback. We feel our revised solution allows us to reduce materially our variance request, to maintain a consistent look and feel with nearby corner lots on Redding while and to meet the needs of our renovation project.

Thank you for your consideration of this request.

Sincerely,

  
Jeffrey LaBelle

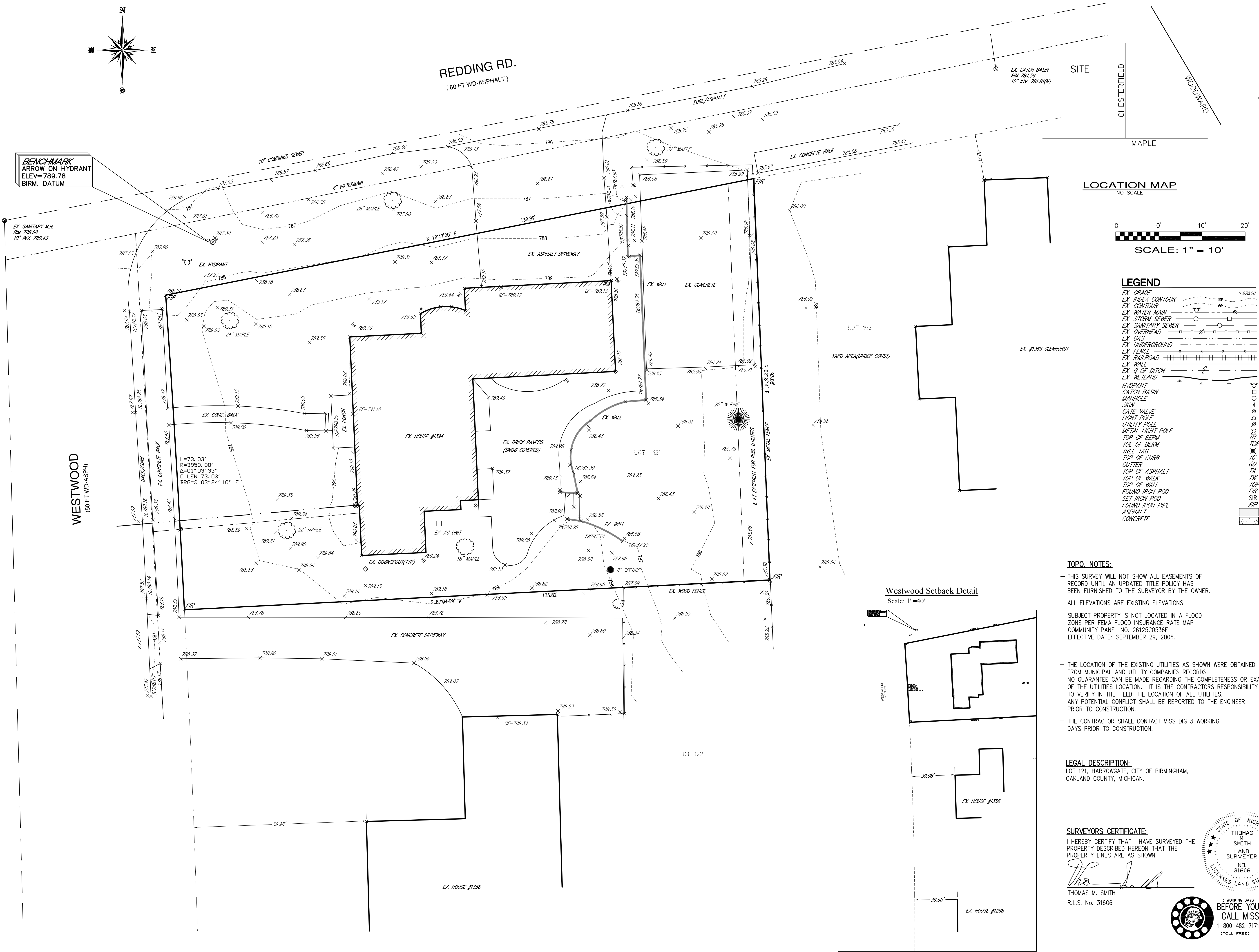
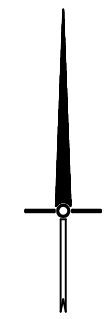
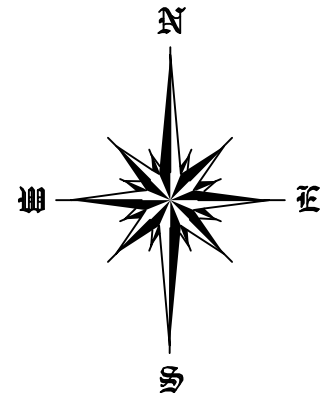












SE Sujak Engineering PLC		DESIGN	BY	DATE
CIVIL ENGINEERING		PLANNING	REV.	DESCRIPTION
4031 Coolidge Highway Troy, MI 48068		Phone: (248) 885-8431 Fax: (248) 885-8432 Email: SujakEngineering@Comcast.net	THE REPRODUCTION, COPYING OR OTHER USE OF THIS DRAWING WITHOUT WRITTEN CONSENT IS PROHIBITED © 2011 SUJAK ENGINEERING, P.C.	

Seal

1394 Westwood Drive  
Birmingham, MI 48009  
Parcel # 19-26-128-001

Topographic Survey

Scale: 1"=10'

Drawn: TMS

Checked: TCS

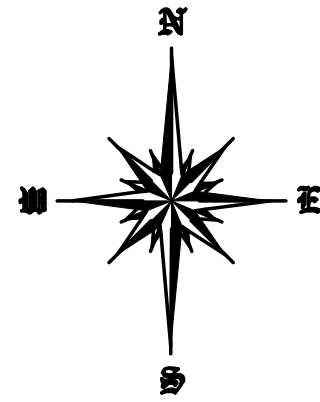
Approved: TMS

Date: 3/24/2021

Job No. 21-015

Sheet No. CS1.0





BENCHMARK  
ARROW ON HYDRANT  
ELEV=789.78  
BIRM. DATUM

WESTWOOD  
(50 FT WD-ASPH)

REDDING RD.  
(60 FT WD-ASPHALT)

LOCATION MAP  
NO SCALE

10' 0' 10' 20'  
SCALE: 1" = 10'

LEGEND

EX. GRADE  
EX. INDEX CONTOUR  
EX. CONTOUR  
EX. WATER MAIN  
EX. STORM SEWER  
EX. SANITARY SEWER  
EX. OVERHEAD  
EX. GAS  
EX. UNDERGROUND  
EX. FENCE  
EX. RAILROAD  
EX. WALL  
EX. Q OF DITCH  
EX. METLAND  
HYDRANT  
CATCH BASIN  
MANHOLE  
SIGN  
GATE VALVE  
LIGHT POLE  
UTILITY POLE  
METAL LIGHT POLE  
TOP OF BERM  
TREE TAG  
TOP OF CURB  
GUTTER  
TOP OF ASPHALT  
TOP OF WALK  
TOP OF WALL  
FOUND IRON ROD  
SET IRON ROD  
FOUND IRON PIPE  
ASPHALT  
CONCRETE

TOPO. NOTES:

- THIS SURVEY WILL NOT SHOW ALL EASEMENTS OF RECORD UNTIL AN UPDATED TITLE POLICY HAS BEEN FURNISHED TO THE SURVEYOR BY THE OWNER.
- ALL ELEVATIONS ARE EXISTING ELEVATIONS
- SUBJECT PROPERTY IS NOT LOCATED IN A FLOOD ZONE PER FEMA FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 26125C0536F EFFECTIVE DATE: SEPTEMBER 29, 2006.
- THE LOCATION OF THE EXISTING UTILITIES AS SHOWN WERE OBTAINED FROM MUNICIPAL AND UTILITY COMPANIES RECORDS. NO GUARANTEE CAN BE MADE REGARDING THE COMPLETENESS OR EXACTNESS OF THE UTILITIES LOCATION. IT IS THE CONTRACTORS RESPONSIBILITY TO VERIFY IN THE FIELD THE LOCATION OF ALL UTILITIES. ANY POTENTIAL CONFLICT SHALL BE REPORTED TO THE ENGINEER PRIOR TO CONSTRUCTION.
- THE CONTRACTOR SHALL CONTACT MISS DIG 3 WORKING DAYS PRIOR TO CONSTRUCTION.

LEGAL DESCRIPTION:

LOT 121, HARROWGATE, CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN.

SURVEYORS CERTIFICATE:

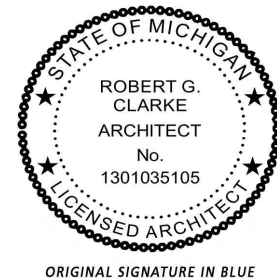
I HEREBY CERTIFY THAT I HAVE SURVEYED THE PROPERTY DESCRIBED HEREON THAT THE PROPERTY LINES ARE AS SHOWN.

THOMAS M. SMITH  
R.L.S. No. 31606



REQUESTED VARIANCES	REQUIRED	EXISTING	PROPOSED	VARIANCE AMOUNT
VARIANCE A, SIDE SETBACK (CORNER LOT)	15.00'	11.89'	12.81'	2.19'

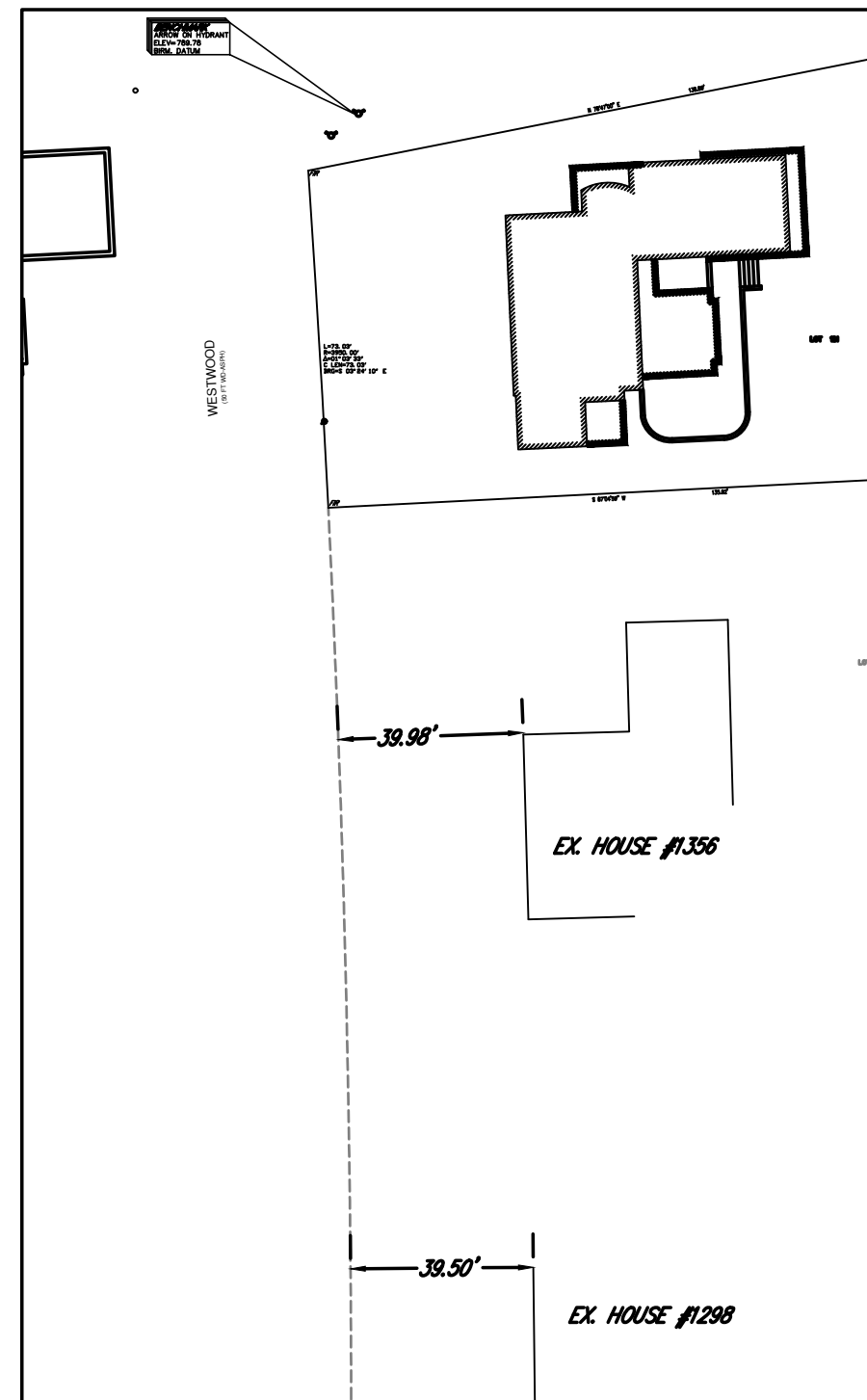
LOT AREA = 11396 SF.  
BLDG. AREA = 2666 SF.  
LOT COVERAGE = 23.5%



ORIGINAL SURVEY BY:  
SUJAK ENGINEERING, PLC 03-24-2021

SITE PLAN:  
REVISIONS TO ORIGINAL SURVEY BY:  
CBI DESIGN PROFESSIONALS, INC. 09-13-2021

Westwood Setback Detail  
Scale: 1"=40'



SE Sujak Engineering PLC  
CIVIL ENGINEERING \$ PLANNING \$ DESIGN \$  
4031 Coolidge Highway  
Troy, MI 48068  
Phone: (248) 885-8431  
Fax: (248) 885-8432  
Email: SujakEngineering@Comcast.net

ORIGINAL  
SIGNATURE IN  
BLUE

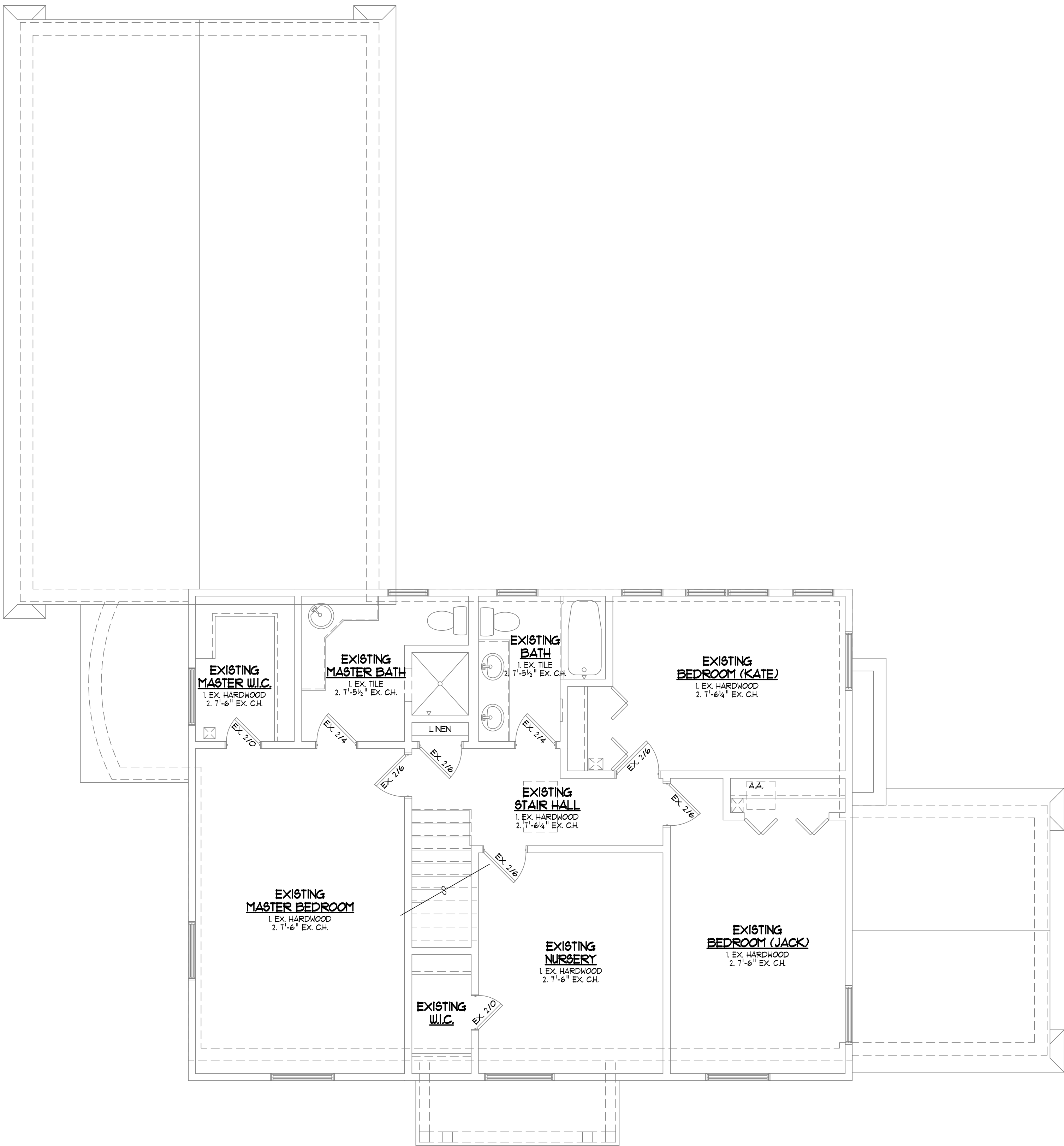
Team C. Sujak, P.E. No. 046896

1394 Westwood Drive  
Birmingham, MI 48009  
Parcel # 19-26-128-001  
Topographic Survey  
PRELIMINARY

Scale: 1"=10'  
Drawn: TMS  
Checked: TCS  
Approved: TMS  
Date: 3/24/2021  
Job no: 21-015  
Sheet No: CS1.0







EXISTING SECOND FLOOR PLAN

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

Existing Conditions for  
the LaBelle Residence  
1394 Westwood Dr., Birmingham, MI 48009

JOB NO.  
**21001**  
DRAWN BY  
**LIP**  
CDD BY  
**RGC**  
RELEASE DATE

REVISION NO.

ARCHITECT'S SEAL

SHEET NO.

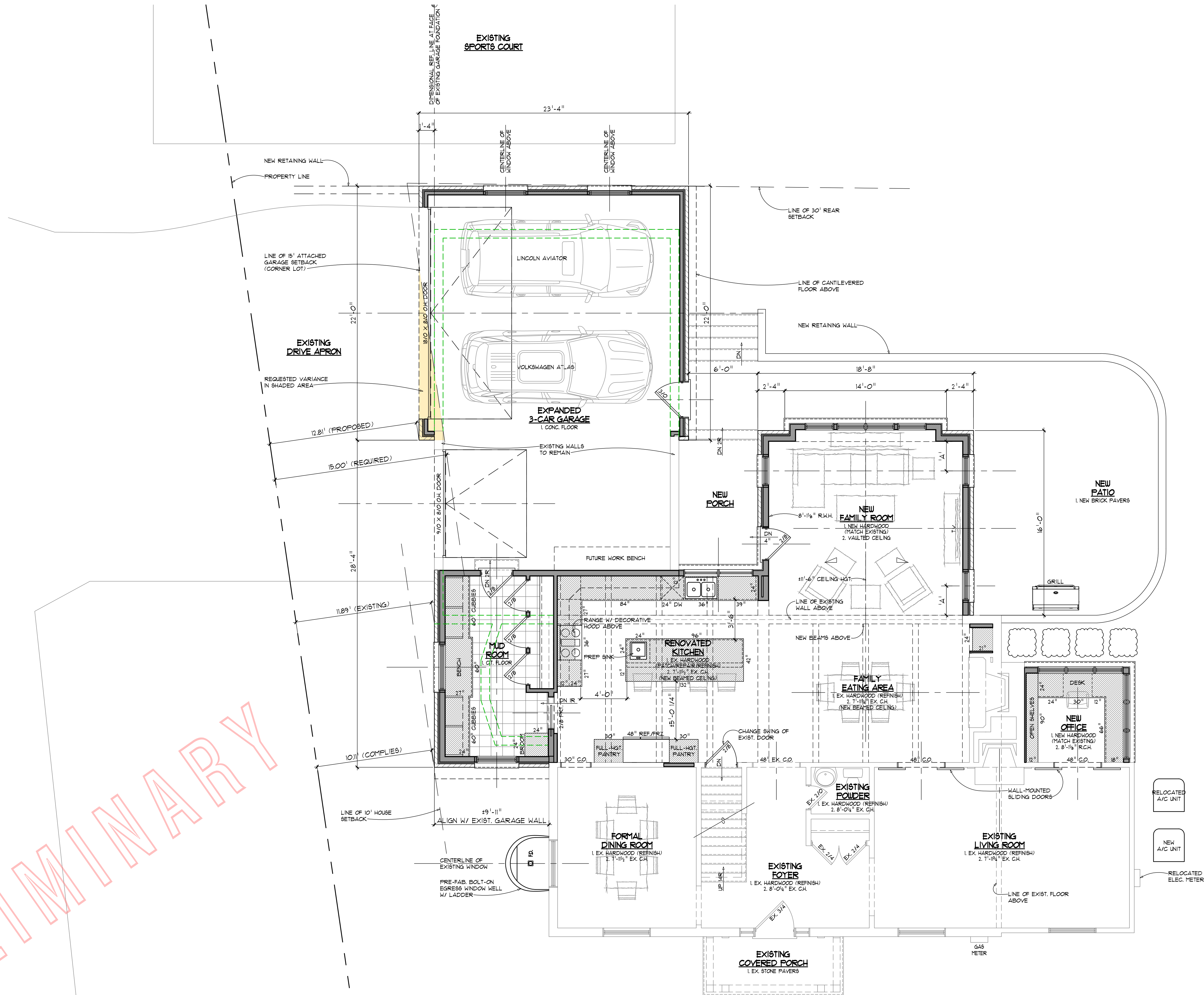
EX2

CBI Design Professionals  
838 W. Long Lake, Suite 110  
Bloomfield Hills, MI 48302  
P: 248.645.2605  
F: 248.647.7307  
www.cbidesign.net  
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PRELIMINARY



Addition/Renovation for  
the LaBelle Residence  
1394 Westwood Dr., Birmingham, MI 48009

JOB NO.  
**21001**  
DRAWN BY  
LMF  
CDD BY  
RGC  
RELEASE DATE

Client Review - 03.19.2021  
Client Review - 05.19.2021  
Client Review - 05.27.2021  
Client Review - 06.01.2021  
B2A Submission - 09.09.2021  
B2A Submission - 09.13.2021

REVISION NO.

ARCHITECT'S SEAL

SHEET NO.

**DD1**

CBI Design Professionals  
838 W. Long Lake, Suite 110  
Bloomfield Hills, MI 48302

P: 248.645.2605

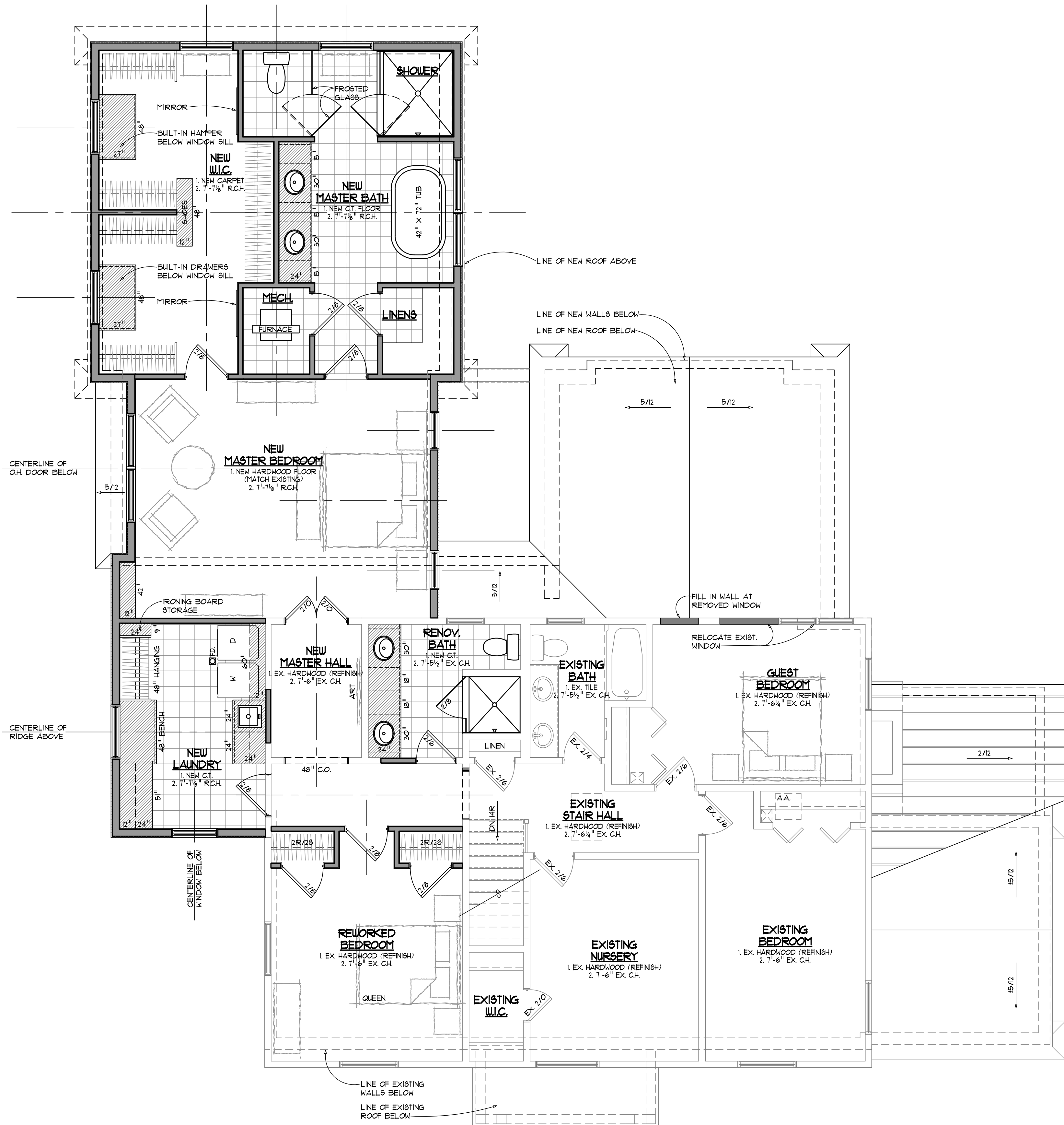
F: 248.647.7307

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PRELIMINARY



PROPOSED SECOND FLOOR PLAN

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

APPROX. EXISTING SECOND FLOOR AREA = 1036 SF.  
APPROX. SECOND FLOOR RENOVATED AREA = 321 SF.  
APPROX. SECOND FLOOR ADDITIONAL AREA = 979 SF.  
TOTAL SECOND FLOOR AREA = 2135 SF.



CBI DESIGN PROFESSIONALS

Addition/Renovation for  
the LaBelle Residence  
1394 Westwood Dr., Birmingham, MI 48009

JOB NO.

21001

DRAWN BY

LMF

CDD BY

RGC

RELEASE DATE

Client Review: 03.19.2021  
Client Review: 03.19.2021  
Client Review: 03.19.2021  
Client Review: 03.19.2021  
B2A Submission: 03.19.2021

REVISION NO.

ARCHITECTS SEAL

SHEET NO.

DD2

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838 W. Long Lake, Suite 110  
Bloomfield Hills, MI 48302

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F: 248.647.7307

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Conceptual Floor Plans





PROPOSED FRONT (WEST) ELEVATION

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



PROPOSED SIDE (SOUTH) ELEVATION

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



