

City of Birmingham
MEETING OF THE BOARD OF ZONING APPEALS
TUESDAY, JANUARY 10, 2023
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

January 10, 2023
7:30 PM

1. CALL TO ORDER

2. ROLL CALL

3. ANNOUNCEMENTS

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

4. APPROVAL OF THE MINUTES

a) December 13, 2022

5. APPEALS

	Address	Petitioner	Appeal	Type/Reason
1)	1496 CHESTERFIELD	JSN ARCHITECTURE	23-01	DIMENSIONAL
2)	584 TOOTING LN	ABLESON	23-02	DIMENSIONAL
3)	2428 NORTHLAWN	JOHNSTON	23-03	DIMENSIONAL
4)	1616 CROFT	SARNA	23-04	DIMENSIONAL - POSTPONED
5)	300 S OLD WOODWARD	WOODWARD DEVELOPMENT	23-05	DIMENSIONAL
6)	188 N OLD WOODWARD	CBRE	23-06	DIMENSIONAL - POSTPONED

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.

JANUARY BZA MAP



**Birmingham Board Of Zoning Appeals Proceedings
Tuesday, December 13, 2022
City Commission Room
151 Martin Street, Birmingham, Michigan**

1. Call To Order

Minutes of the special meeting of the City of Birmingham Board of Zoning Appeals ("BZA") held on Tuesday, December 13, 2022. Chair Erik Morganroth convened the meeting at 7:30 p.m.

2. Rollcall

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

Absent: Board Member John Miller

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

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

Chair Morganroth took rollcall of the petitioners. All petitioners were either present or arrived in time for their appeals to be heard.

3. Announcements

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

4. Approval Of The Minutes Of The BZA Meetings Of November 8, 2022

T# 12-77-22

Motion by VC Canvasser

Seconded by Mr. Reddy to accept the Minutes of the BZA meeting of November 8, 2022 as amended.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

5. Appeals

T# 12-78-22

**1) 555 Stanley
Appeal 22-33**

ABO Zielke presented the item, explaining that the owner of the property known as 555 Stanley was requesting the following variances to construct an addition to an existing non-conforming home:

- A. Chapter 126, Article 2, Section 2.10.1** of the Zoning Ordinance states that the maximum lot coverage is 30% for any lot. The maximum for this property is 1728.00 SF (30%). The existing is 2544.00 SF (44.17%). The proposed is 2580.00 SF (44.79%). Therefore, a variance of 852.00 SF (14.79%) is being requested.
- B. Chapter 126, Article 2, Section 2.10.2** of the Zoning Ordinance requires that a minimum rear yard setback of 30.00 feet. The proposed is 22.17 feet. Therefore, a variance of 7.83 feet is being requested.
- C. Chapter 126, Article 2, Section 2.10.2** of the Zoning Ordinance requires that a minimum combined front and rear yard setback of 55.00 feet. The proposed is 34.50 feet. Therefore, a variance of 20.50 feet is being requested.
- D. Chapter 126, Article 2, Section 2.10.2** of the Zoning Ordinance requires that no side yard shall be less than 5.00 feet. The existing and proposed is 3.50 feet. Therefore, a variance of 1.50 feet is being requested.

Staff answered informational questions from the Board.

Paul Samulak, architect for the appellant, reviewed the letter describing why these variances were being sought. The letter was included in the evening's agenda packet.

In reply to Board inquiry, Mr. Samulak stated:

- Removal of the upstairs closet and the stairs to access that closet could have partially mitigated the variance request. He noted that while one of the residents required a first-floor main bedroom, the other resident would be able to use the upstairs closet;
- The first floor main bathroom could not be moved to the side of the house due to the location of the ingress/egress of the garage;

- Efforts were made to minimize the encroachment into the setback by making the bathroom long and narrow. Efforts to mitigate the variances were balanced with the owner's requirements; and,
- An elevator was considered as a potential option for removing the need for the variances, but was decided against due to cost;
- The main bedroom's size was due to accessibility needs and the owner's preferences; and,
- The variance on the lot coverage was being requested due to the relatively small size of the lot.

The Chair suggested that an elevator or chair lift would likely be less costly than the proposed expansion.

Mr. Kona observed that there were a number of options for including a first-floor main bedroom suite, walk-in closet, and bathroom without needing variances from the ordinance.

Public Comment

Steven Susser, neighbor to the south, spoke in favor of the addition.

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

The Chair stated that while the plans were aesthetically pleasing, applicants often face particular difficulty in trying to expand non-conformities into the setbacks.

Motion by Mr. Reddy

Seconded by Mr. Yaldo with regard to Appeal 22-33, A. Chapter 126, Article 2, Section 2.10.1 of the Zoning Ordinance states that the maximum lot coverage is 30% for any lot. The maximum for this property is 1728.00 SF (30%). The existing is 2544.00 SF (44.17%). The proposed is 2580.00 SF (44.79%). Therefore, a variance of 852.00 SF (14.79%) is being requested; B. Chapter 126, Article 2, Section 2.10.2 of the Zoning Ordinance requires that a minimum rear yard setback of 30.00 feet. The proposed is 22.17 feet. Therefore, a variance of 7.83 feet is being requested; C. Chapter 126, Article 2, Section 2.10.2 of the Zoning Ordinance requires that a minimum combined front and rear yard setback of 55.00 feet. The proposed is 34.50 feet. Therefore, a variance of 20.50 feet is being requested; D. Chapter 126, Article 2, Section 2.10.2 of the Zoning Ordinance requires that no side yard shall be less than 5.00 feet. The existing and proposed is 3.50 feet. Therefore, a variance of 1.50 feet is being requested.

Mr. Reddy moved to deny variances A, B, C, and D. He said that while he was sympathetic to the utility of creating a first-floor main-bedroom suite, the applicant in this case had not demonstrated a practical difficulty that would necessitate the granting of the variances. He said the home could be used as is, and that changes could also be made to the plans to reduce the extent of the requested variances.

Mr. Yaldo said the large requested expansion of the lot coverage led him to support the motion.

Mr. Kona concurred with Mr. Reddy.

The Chair noted that this addition would impact lot coverage and the front and rear setbacks. He said there were so many viable alternatives available to the applicant that no practical difficulty could be established in this request.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

T# 12-79-22

**2) 34901 Woodward Ste 200
Appeal 22-51**

CP Blizinski presented the item, explaining that the owner of the property known as 34901 Woodward Ste 200 was requesting the following variances to replace three existing signs of similar size in similar locations:

- A. Chapter 86, Article 1, Section 1.05 Table B** of the Sign Ordinance requires Wall Signs to be located within the Sign Band, which for this building is defined as a horizontal band extending the full width of the building facade and located between the highest first floor windows and the bottom of the second floor windows. The proposed sign is located in between the highest second floor windows and the bottom of the third floor windows. Therefore, a dimensional variance of 11.00 feet is requested.
- B. Chapter 86, Article 1, Section 1.05 Table B** of the Sign Ordinance permits buildings with more than 100 linear feet of building frontage to contain no more than 100 square feet of signage area placed on walls other than the principal frontage. The proposed signs increase the signage area on walls other than the principal frontage to 114.00 square feet. Therefore, a dimensional variance of 14.00 square feet is requested.

Staff answered informational questions from the Board.

Jim Fields, of Allied Signs, reviewed the letter describing why these variances were being sought. The letter was included in the evening's agenda packet.

In reply to Board inquiry, Mr. Fields stated:

- While the size of the backer could be reduced, the backer as-proposed would help cover the staining and discoloration that would otherwise be present;
- The extant box sign would be the same height as the proposed backer panel and the proposed backer panel would only be two inches more in width; and,
- If the variance were denied, the sign could not align with the corporate requirements.

Seeing no public comment, the Chair returned conversation to the Board.

Motion by VC Canvasser

Seconded by Mr. Lilley with regard to Appeal 22-51, A. Chapter 86, Article 1, Section 1.05 Table B of the Sign Ordinance requires Wall Signs to be located within the Sign Band, which for this building is defined as a horizontal band extending the full width of the building facade and located between the highest first floor windows and the bottom of the second floor windows. The proposed sign is located in between the highest second floor windows and the bottom of the third floor windows. Therefore, a dimensional variance of 11.00 feet is requested; and, B. Chapter 86, Article 1, Section 1.05 Table B of the Sign Ordinance permits buildings with more than 100 linear feet of building frontage to contain no more than 100 square feet of signage area placed on walls other than the principal frontage. The proposed signs increase the signage area on walls other than the principal frontage to 114.00 square feet. Therefore, a dimensional variance of 14.00 square feet is requested.

VC Canvasser moved to approve variances A and B and tied approval to the plans as submitted. He noted that the new signs were necessitated by a rebranding, aesthetic concerns, and that the width increase was a marginal amount. He said strict compliance with the ordinance would be unnecessarily burdensome in this case, and that granting the variances would do substantial justice to the petitioner and other property owners. He said the unique design of the building meant that the need for the variances was not self-created.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

T# 12-80-22

**3) 1626 Taunton
Appeal 22-52**

ABO Morad presented the item, explaining that the owner of the property known as 1626 Taunton was requesting the following variance to construct a second floor addition to an existing non-conforming home:

- A. Chapter 126, Article 4.74(C)** of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of the total lot width whichever is larger. The required is 14.00 feet. The proposed is 13.33 feet. Therefore; a variance of 0.67 feet is being requested.

Staff answered informational questions from the Board.

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

Public Comment

The relative of a neighbor of Mr. Clark raised concerns about the some missing property markers and the accuracy of Mr. Clark's survey.

The Chair advised the neighbor that his concerns were not related to the present appeal, and recommended the neighbor reach out to Staff to further address his concerns.

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

Motion by Mr. Reddy

Seconded by VC Canvasser with regard to Appeal 22-52, A. Chapter 126, Article 4.74(C) of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of the total lot width whichever is larger. The required is 14.00 feet. The proposed is 13.33 feet. Therefore; a variance of 0.67 feet is being requested.

Mr. Reddy moved to approve the variance and tied approval to the plans as submitted. He noted that the property was pre-existing non-conforming, and that the lot was narrow. He said that for practical purposes people should be allowed to have a third bedroom if it fits within the footprint of their home.

The Chair said he would support the motion since the home conformed on its own property and that it was the non-conformity of the adjacent home that necessitated the variance. He noted that the addition also did not increase the non-conformity.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

T# 12-81-22

**4) 585 Wellesley
Appeal 22-53**

ABO Zielke presented the item, explaining that the owner of the property known as 585 Wellesley was requesting the following variances to construct a second floor addition above the garage of an existing non-conforming 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 17.50 feet. The existing and proposed is 14.66 feet. Therefore, a variance of 2.84 feet is being requested.

B. Chapter 126, Article 4.74(C) of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of the total lot width whichever is larger. The required is 17.50 feet. The proposed is 13.04 feet. Therefore, a variance of 4.46 feet is being requested.

Staff answered informational questions from the Board.

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

In reply to Board inquiry, Mr. Rouhan stated that ordinance-compliant plans were considered, but the locations of the bearing loads would have created issues in construction.

Seeing no public comment, the Chair returned conversation to the Board.

Motion by Mr. Yaldo

Seconded by VC Canvasser with regard to Appeal 22-53, 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 17.50 feet. The existing and proposed is 14.66 feet. Therefore, a variance of 2.84 feet is being requested; and B. Chapter 126, Article 4.74(C) of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of the total lot width whichever is larger. The required is 17.50 feet. The proposed is 13.04 feet. Therefore, a variance of 4.46 feet is being requested.

Mr. Yaldo moved to approve the variances as requested and tied approval to the plans as submitted. He said the appellant proved that strict compliance with the ordinance would prevent the appellant from using the property for its permitted purpose. The need for the variances was not self-created, and granting the variances would do substantial justice to the owner and neighboring property owners. The circumstances necessitating the variances were unique to the property and not shared with neighboring properties.

VC Canvasser thanked the applicant for providing a 3D rendering, saying it made it very easy to conceptualize the request.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

T# 12-82-22

**5) 924 Lakeside
Appeal 22-54**

ABO Morad presented the item, explaining that the owner of the property known as 924 Lakeside was requesting the following variance to construct an uncovered porch in the required front open space:

- A. Chapter 126, Article 4.30(C)(1)** of the Zoning Ordinance permits an unenclosed, covered or uncovered, concrete, masonry or wooden porch, deck and/or steps may project into a front open space for a maximum distance of 10.00 feet. The proposed is 13.66 feet. Therefore, a variance of 3.66 feet is being requested.

Staff answered informational questions from the Board.

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

In reply to Board inquiry, Mr. Moore stated:

- The planter was designed as such to create symmetry with the house and to be large enough to allow plants to survive. It was the shape of the lot that was causing the planter's encroachment into the front open space; and,
- The grade change by the stairs necessitated that the planter have a spread footing for the stability of the front walkway and the functionality of the home. The masonry was needed as a transition between the driveway and the front porch area.

Seeing no public comment, the Chair returned conversation to the Board.

Motion by Mr. Hart

Seconded by Mr. Kona with regard to Appeal 22-54, A. Chapter 126, Article 4.30(C)(1) of the Zoning Ordinance permits an unenclosed, covered or uncovered, concrete, masonry or wooden porch, deck and/or steps may project into a front open space for a maximum distance of 10.00 feet. The proposed is 13.66 feet. Therefore, a variance of 3.66 feet is being requested.

Mr. Hart moved to approve the variance and tied approval to the plans as submitted. He said the appellant's plans responded to some challenging geometries on the site, noting that the topography was very pronounced in the front of the home. He said approval of the variance would do substantial justice to the owners and adjacent property owners. He said the planter had a dual function of both aesthetics and assisting people to access the main staircase. He said the need for the variance was not self-created and was due to the unique circumstances of the site.

Mr. Lilley concurred with Mr. Hart.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

T# 12-83-22

**6) 600 Fairfax
Appeal 22-56**

ABO Zielke presented the item, explaining that the owner of the property known as 600 Fairfax was requesting the following variance to construct an attached garage of an existing non-conforming 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 20.00 feet. The proposed is 16.80 feet. Therefore, a variance of 3.20 feet is being requested.

Staff answered informational questions from the Board.

Don Wheeler, speaking on behalf of the appellant, reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet.

Seeing no public comment, the Chair returned conversation to the Board.

Motion by Mr. Hart

Seconded by Mr. Lilley with regard to Appeal 22-56, 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 20.00 feet. The proposed is 16.80 feet. Therefore, a variance of 3.20 feet is being requested.

Mr. Hart moved to approve the variance and tied approval to the plans as submitted. He noted that the home had a pre-existing non-conformity and that the proposed change would reduce the pre-existing non-conformity. He said the need for the variance was not self-created, and stated that the variance would be harmonious with the home and the neighborhood.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

T# 12-84-22

**7) 34745 Woodward
Appeal 22-55**

SP Cowan read the closing paragraphs of the 6th Circuit Court's Order to the BZA, which can be found in the evening's agenda packet, and presented the item, explaining that the owner of the property known as 34745 Woodward was requesting the following appeal of the Planning Board's determination on October 13, 2021 in order to renovate the property and update the operations of a car wash known as Jax Kar Wash:

- A. Chapter 126, Article 4, Section 4.54(C)(3)** of the Zoning Ordinance requires a screen wall to be placed along the front or side of any parking facility that abuts a street, alley, passage, or mixed passage. On October 13th, 2021, the Planning Board approved the applicant's site plan application with the condition that the applicant submit revised plans with sufficient screening that meets the screening requirements of Article 4, Section 4.54 of the Zoning Ordinance. The applicant is requesting an appeal of the Planning Board's decision with the condition that the applicant satisfy all screening requirements of Article 4, Section 4.54.

Staff answered informational questions from the Board.

Nicholas Camargo, attorney for the appellant, reviewed the appellant's reply brief to the 6th Circuit Court. The reply brief was included in the evening's agenda packet.

The Chair explained that scenarios where one puts one's vehicle in park and exits one's vehicle amounts to parking one's vehicle. He also said that parked vehicle headlights could be a distraction to other drivers or pedestrians, and that the movement of the vehicles around the Jax lot could be a risk to pedestrians. He said those factors indicated the need for the protection afforded by a screen wall. The Chair invited Mr. Camargo to comment.

Mr. Camargo opined that the area where one leaves one's vehicle with a valet service could not be described as a 'parking facility', and said that example was most akin to the scenario at hand. He noted that parking on the street also does not require screen walls, despite having parking, because those portions of the street would not be described as a 'parking facility'. He reiterated that 'parking facility' must have a different definition from 'parking', 'parking area', or other similar but non-identical phrases.

In reply to VC Canvasser, Mr. Camargo said he did not believe that there was ambiguity to the definition of 'parking facility'. He also said he had been unable to locate any Michigan statute or case law that defined 'parking facility'.

VC Canvasser reviewed the definitions of 'parking' and 'parking areas' in Birmingham ordinance and the definitions of 'park', 'public way', and 'facility' from Merriam-Webster's Dictionary. He asked Mr. Camargo to explain how the area on the site in question did not meet those definitions.

Mr. Camargo opined that the definitions could lead to an overbroad understanding of parking, suggesting that it could even lead to describing stopping a vehicle at a red light as being parking. He asked where one should differentiate between stopping a vehicle and parking. He explained that a drive-through bank teller, a drive-through restaurant, and the situation at Jax would be located conceptually somewhere between those two actions. He stated that the 'facility' of the area in question at Jax was for vacuuming of vehicles, and not for parking.

In reply to Mr. Reddy, Mr. Camargo stated that the term 'parking facility' was specific and could not encompass every single area where there is parking.

Mr. Kona said that someone could park in one of the vacuum spaces and run into the Jax store to briefly conduct business. He asked how that was different from parking at a different store to briefly conduct business.

Mr. Camargo said that visitors to the Jax store would be expected to park in the southern parking spaces and not in the vacuum spaces. He concurred that one could, however, park in the vacuum spaces and enter the Jax store briefly, even though that was not the intent of those spaces.

Mr. Hart opined that an ordinary person would not describe the four vacuum spaces in question as a 'parking facility'. He noted that there were ancillary issues to the discussion, such as whether having a screen wall was safer, but noted those issues were not presently before the Board.

Mr. Yaldo said that while one would park in one of the four vacuum spaces, he was not sure whether that area would amount to a 'parking facility'.

Seeing no public comment, the Chair returned conversation to the Board.

Motion by VC Canvasser

Seconded by Mr. Yaldo regarding the interpretation of the term "parking facility".

VC Canvasser stated there are a number of different definitions of parking. He explained that the City of Birmingham's code defines 'parking' as "An area used for the parking of motor vehicles"; the City of Birmingham's code defines the 'parking area' as "The actual parking area and the area of the access drive"; and Merriam-Webster's Dictionary defines parking as "1. An area or a location to bring a vehicle to a stop and keep standing at the edge of a public way. 2. To leave temporarily on a public way or in a parking lot or garage. 3. To set and leave temporarily, for example, an 'individual parked his book on a chair'."

He continued that the term 'facility' is defined as, among other things, "Something (such as a hospital) that is built, installed, or established to serve a particular purpose."

Based on those definitions, VC Canvasser moved to interpret 'parking facility' as "An area, designated for a specific purpose, where you leave your car - put it in park - even if it is for a temporary period of time in a designated location."

Mr. Yaldo said he would second the motion, stating that VC Canvasser articulated the interpretation clearly in the plain language coming straight from the dictionary definitions of 'parking' and 'facility'. He noted that VC Canvasser included 'for a purpose' in the interpretation without elaboration, but said he did not believe any further elaboration on that aspect was needed, since it could include any particular purpose.

Mr. Hart said that it was important to use the term 'facility' in 'parking facility'. He noted that one considers both the letter of the law and the spirit of the law, and said

the spirit of the law as it applies to this facility was that it was not a 'parking facility'. He said a parking structure, where one gets out of one's car and leaves it there to go to another location, or to go into a building, is a parking facility. He opined that the key word was 'facility'. He said that the interpretation in the motion was more broad than what the BZA was being asked to do. He said the BZA had to decide what the 'facility' was.

The BZA clarified in conversation that the present task of interpreting 'parking facility' was not specific to 34745 Woodward. It was noted that once the BZA agreed on an interpretation, then the BZA had to determine whether it applied to 34745 Woodward.

Mr. Kona said that when he was reading the ordinance, he defined 'parking facility' as "An area that facilitates parking."

Mr. Yaldo said Mr. Kona's version could still raise questions about the definition of 'parking.'

The Chair said there was some 'facilitating' going on in the situation in question, and direction into where one parks, because one puts one car in park. He said that could be considered as a possible addition to the interpretation if the present motion failed.

Motion carried, 6-1.

ROLL CALL VOTE

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

Nays: Kona

T# 12-85-22

Motion by Mr. Hart

Seconded by Mr. Lilley with regard to Appeal 22-55, A. Chapter 126, Article 4, Section 4.54(C)(3) of the Zoning Ordinance requires a screen wall to be placed along the front or side of any parking facility that abuts a street, alley, passage, or mixed passage. On October 13th, 2021, the Planning Board approved the applicant's site plan application with the condition that the applicant submit revised plans with sufficient screening that meets the screening requirements of Article 4, Section 4.54 of the Zoning Ordinance. The applicant is requesting an appeal of the Planning Board's decision with the condition that the applicant satisfy all screening requirements of Article 4, Section 4.54.

Mr. Hart moved to approve the appellant's request to appeal the Planning Board decision. He said 34745 Woodward was definitely not a 'parking facility'. He said the spirit of the law, versus the letter of the law, was more relevant in this consideration.

Mr. Kona said he could not support the motion. He noted that if the vehicles were moved further forward or backward they would not be reached by the vacuuming stations. He noted that the car is put in 'Park' for several minutes, with the driver

exiting the vehicle. He said, accordingly, that the area in question was a 'parking facility' dedicated for that purpose.

Motion failed, 2-5.

ROLL CALL VOTE

Yeas: Hart, Lilley

Nays: Kona, Morganroth, Canvasser, Reddy, Yaldo

T# 12-86-22

Motion by VC Canvasser

Seconded by Mr. Kona with regard to Appeal 22-55, A. Chapter 126, Article 4, Section 4.54(C)(3) of the Zoning Ordinance requires a screen wall to be placed along the front or side of any parking facility that abuts a street, alley, passage, or mixed passage. On October 13th, 2021, the Planning Board approved the applicant's site plan application with the condition that the applicant submit revised plans with sufficient screening that meets the screening requirements of Article 4, Section 4.54 of the Zoning Ordinance. The applicant is requesting an appeal of the Planning Board's decision with the condition that the applicant satisfy all screening requirements of Article 4, Section 4.54.

VC Canvasser moved to deny the appeal and to uphold the findings of the Planning Board. He said that based on the BZA's de novo review and the BZA's approved interpretation of what constitutes a 'parking facility', the evidence firmly established that there are four specific locations where cars would stop, would be put in park for safety reasons, and in nearly all instances the occupants of the vehicle would exit the vehicle for a specific purpose. He said these were specific areas established for a specific purpose, which qualifies as a 'parking facility' under the interpretation the BZA accepted.

VC Canvasser continued that, based on the requirement in the Zoning Ordinance that 'a screen wall be placed along the front or side of any parking facility that abuts a street, alley, passage, or mixed passage', and there being no dispute that this area abuts two streets, Woodward and Brown, and also abuts the pedestrian sidewalk and right-of-way, that based on a de novo review and a review of the facts, pleadings, and Circuit Court's order, that the findings of a requirement of a screen wall be upheld in this case.

Mr. Reddy concurred. He said the BZA heard sufficient evidence from the City, and combined with the very narrow requirement of what the BZA was supposed to define, that the facility clearly fit into the BZA's interpretation of 'parking facility', and required it to follow the normal ordinances for any parking facility that is used to park vehicles, for a specific purpose, for some temporary period of time.

The Chair said he would support the motion. He said the lanes on the site, and the separation of the lanes with gates, were all a facilitation of the direction of the

vehicles going to the car wash and then to an end location where anyone making a turn to remain on the property would then be exiting their vehicle. There would be an assumption that one would be parking in a particular spot, close enough to the vacuum machines, exiting the vehicle for vacuuming purposes, and the cars are put into 'Park'. He said that although he recognized the challenge and the issues the appellant presented, the circumstances caused the situation to sufficiently fall within the interpretation of 'parking facility' accepted by the BZA.

Motion carried, 5-2.

ROLL CALL VOTE

Yeas: Kona, Morganroth, Canvasser, Reddy, Yaldo

Nays: Hart, Lilley

6. Correspondence

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

8. Adjournment

No further business being evident, the Board motioned to adjourn at 11:18 p.m.

Bruce R. Johnson, Building Official



Laura Eichenhorn

City Transcriptionist

CASE DESCRIPTION

1496 Chesterfield (23-01)

Hearing date: January 10, 2023

Appeal No. 23-01: The owner of the property known **1496 Chesterfield**, requests the following variance to construct an addition to an existing non-conforming home:

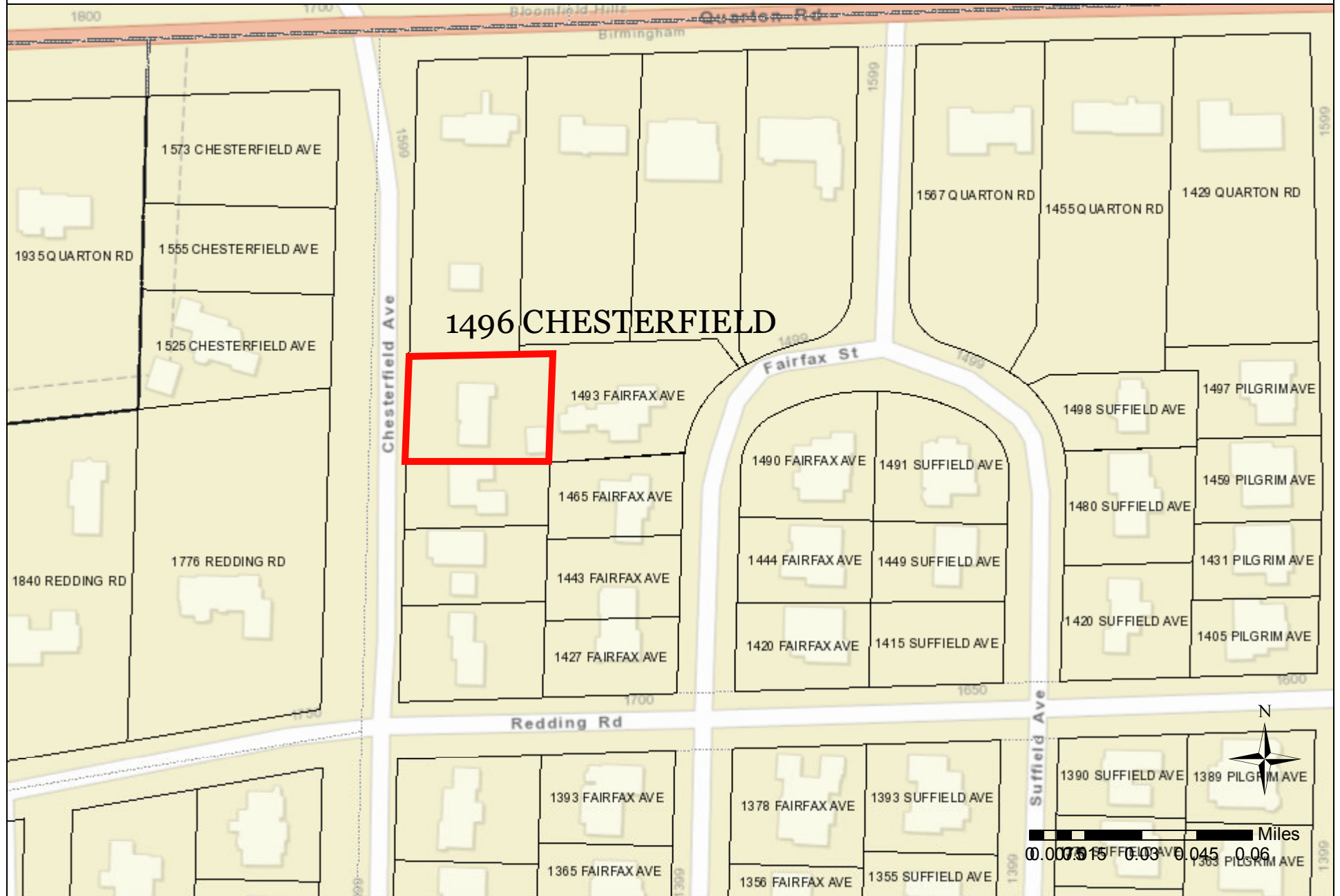
A. Chapter 126, Article 4.74(C) of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of the total lot width whichever is larger. The required is 27.10 feet. The proposed is 17.29 feet on the south side. Therefore, a variance of 9.81 feet is being requested.

Staff Notes: This applicant is proposing to construct a rear addition to the existing non-conforming home that was constructed in 1948. The adjoining lots have varying widths.

This property is zoned R1 – Single family residential.

Jeff Zielke, NCIDQ, LEED AP
Assistant Building Official

1496 CHESTERFIELD MAP



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

APPLICATION FOR THE BOARD OF ZONING APPEALS

Application Date: 11-23-22

Hearing Date: 1-10-23

Received By: HT

Appeal #: 23-01

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

I. PROPERTY INFORMATION:

Address: 1496 Chesterfield Ave	Lot Number: 146	Sidwell Number: 19-26-201-002
--------------------------------	-----------------	-------------------------------

II. OWNER INFORMATION:

Name: Farideh Alavizadeh			
Address: 1496 Chesterfield Ave	City: Birmingham	State: MI	Zip code: 48009
Email: chic080808@yahoo.com		Phone: (313)-600-7580	

III. PETITIONER INFORMATION:

Name: Joseph Novitsky	Firm/Company Name: JSN Architecture		
Address: 3856 12 Mile Road	City: Berkley	State: MI	Zip code: 48072
Email: joe@jsn-aia.com		Phone: (248)-433-2030	

IV. GENERAL INFORMATION:

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

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

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

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

V. REQUIRED INFORMATION CHECKLIST:

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

VI. APPLICANT SIGNATURE

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

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

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

Signature of Owner: [Signature]

Date: 11-23-22

Signature of Petitioner: [Signature]

Date: 11-22-2022

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

ARTICLE I - Appeals

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

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

C. The order of hearings shall be:

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

D. Motions and Voting

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

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

ARTICLE II - Results of an Appeal

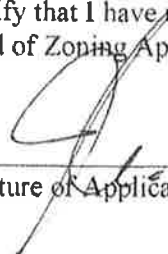
- A. The Board may reverse, affirm, vary or modify any order, requirement, decision or determination as in its opinion should be made, and to that end, shall have all the powers of the officer from whom the appeal has been taken.
- B. The decisions of the Board shall not become final until the expiration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

ARTICLE III - Rehearings

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

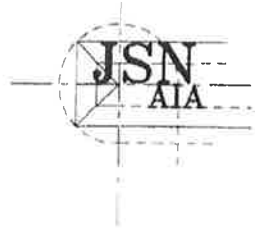
B. Application or rehearing of a case shall be in writing and subject to the same rules as an original hearing, clearly stating the new evidence to be presented as the basis of an appeal for rehearing.

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



Signature of Applicant

Birmingham Board of Zoning Appeals
151 Main Street
Birmingham, MI 48009



Architecture
3856 12 Mile Road
Berkley, MI 48072

November 22, 2022

Dear Board Members,

The property at 1496 Chesterfield Ave is a legal, non-conforming structure. It was built in 1969, and since then, the zoning ordinance has changed. The owner would like to add a small addition off the rear of the building, extending the non-conformity on the southeast corner of the home. The dimensional variance we are requesting is the distance between the existing house and neighbor. The buildings are currently 17.29 ft apart, but the ordinance calls for 27.1 ft. Due to this extraordinarily large lot size and width, we are requesting a 9.81 ft dimensional variance for the legal, non-conforming residence's extension.

Respectfully,

A handwritten signature in dark ink, appearing to be "J. Novitsky". The signature is written in a cursive, flowing style with a large initial "J" and a long, sweeping underline that extends to the right.

Joseph S. Novitsky, AIA

GENERAL NOTES MRBC 2015

1.

ANY DISCREPANCIES, ERRORS, AND/OR OMISSIONS IN THE DRAWINGS ARE TO BE BROUGHT TO THE ATTENTION OF THE ARCHITECT/DESIGNER. FAILURE TO DO SO MAY RESULT IN FUTURE CHANGES, THE COST OF WHICH WILL BE BORNE BY THE APPROPRIATE TRADE.
2.

DO NOT SCALE DRAWINGS, USE FIGURED DIMENSIONS!
3.

PROVIDE TEMPORARY BRACING AS REQUIRED, TO INSURE THE STABILITY OF THE STRUCTURE UNTIL THE PERMANENT FRAMING IS IN PLACE.
4.

ALL WORK SHALL CONFORM TO THE REQUIREMENTS OF THE ICC BASIC BUILDING CODE AND ALL THE CITY AND LOCAL ORDINANCES AS ADOPTED BY THE STATE OF MICHIGAN.
5.

CONTRACTOR SHALL EXERCISE EXTREME CARE IN SETTING GRADES FOR NEW CONSTRUCTION AS THESE GRADES ARE CRITICAL.
6.

FOUNDATIONS SHALL BE CARRIED DOWN (MIN. 3'-6" DEEP) TO NATURAL UNDISTURBED SOILS CAPABLE OF SUPPORTING A 3,000 P.S.F. BEARING CAPACITY. IF POORLY CONSOLIDATED SOILS ARE ENCOUNTERED AT THE DEPTHS SHOWN, THE ARCHITECT /DESIGNER SHALL BE NOTIFIED AND THE FOUNDATIONS WILL BE MODIFIED ACCORDINGLY.
7.

SAND FILL UNDER SLABS SHALL BE COMPACTED TO 95% MODIFIED PROCTOR DENSITY.
8.

CONCRETE SHALL HAVE COMPRESSIVE STRENGTH OF 2500 P.S.I. FOR FOUNDATION WORK AND FLOOR SLABS WITH 4,000 P.S.I. FOR WALKS AND STEPS. REINFORCING STEEL = 40KSI, ASTM 40.
9.

STRUCTURAL STEEL = 36 KSI ASTM GRADE 36.
10.

ALL WOOD FLOORS SHALL BE A.P.A. GLUED FLOOR SYSTEMS. FLOOR JOISTS SHALL BE DOUGLAS FIR NO. 1 OR BETTER, OR ENGINEERED FLOOR JOISTS (T.J.I.'S). FRAMING SHALL BE S.P.F. #2 OR BETTER. USE PRESSURE TREATED LUMBER WHEN IN CONTACT WITH MASONRY AND/OR CONCRETE.
11.

GLUE LAMINATED TIMBERS Fd = 2400 P.S.I.
12.

THE OWNER IS NOT RESPONSIBLE FOR THE MEANS AND METHODS OF CONSTRUCTION, NOR FOR THE SAFETY ON THE JOBSITE, AND THAT THESE RESPONSIBILITIES ARE INTENDED TO BE AND TO REMAIN SOLELY THOSE OF THE GENERAL CONTRACTOR.
13.

THE INTENT IS TO UTILIZE ALL EXISTING UTILITIES: i.e. PHONE, ELEC, GAS, WATER, AND SEWER.
14.

UNLESS NOTED OTHERWISE, CONTRACTOR SHALL PROVIDE & INSTALL THE FOLLOWING. TYPICAL HEADERS FOR OPENINGS AS REQUIRED:
(2) - 2x6's = OPENINGS TO 6'-0" W.
(2) - 2x8's = OPENINGS TO 8'-0" W.
(2) - 2x10's = OPENINGS TO 10'-0" W.
(2) - 2x12's = OPENINGS TO 12'-0" W.
NOTIFY/ CONSULT ARCHITECT FOR UNSPECIFIED OPENINGS EXCEEDING 12'-0" W.
15.

OWNER OR INTERIOR DESIGNER TO SUPPLY ALL FINAL FINISH & FIXTURE SCHEDULES. ALL INTERIOR DETAILS ON THESE PLANS ARE PLACEHOLDERS. IF OWNER DOES NOT HAVE ANY INPUT, THE CONTRACTOR SHALL PROVIDE FINISHES THAT MATCH EXISTING CONDITIONS TO THE BEST OF HIS/HER ABILITY.
16.

CONTRACTOR TO SUBMIT SHOP DRAWINGS OF FURNACE PLACEMENT AND NEW DUCT WORK TO OWNER FOR APPROVAL PRIOR TO PERMIT APPLICATION/ AND APPROVED DRAWINGS WILL BECOME PART OF THE CONTRACT/PERMIT SET.
17.

PROVIDE SHOP DRAWINGS AND ENGINEERING DATA ON ALL STRUCTURAL STEEL AND PREFABRICATED TRUSSES, INCLUDING GIRDER TRUSSES.
TOP CHORD = 5L = 25 psf (TYP.)
BOTTOM CHORD = 1L = 30 psf

LEGAL DESCRIPTION

T2N, R10E, SEC 26 CASPAR J. LINGEMAN'S QUARTON ROAD UNIT NO 1 OF QUARTON LAKE ESTATES LOT 146 & 4 SLY 30 FT OF W 35.33 FT OF LOT 110, ALSO SLY 30 FT OF LOT 111

RI ZONING

LOT AREA:
REQUIRED = 9,000 SQ. FT. (MIN. PER ORDINANCE)
PROVIDED = 16,241.88 SQ. FT. (EXISTING)

SETBACKS:
FRONT SETBACK:
REQUIRED = 25'-0" (MIN. 39'-3" AVERAGE)
PROVIDED = 41'-11" (EXISTING)

SIDE YARD(S):
(1) = REQUIRED = 10'-10" (MIN. #10%)
(1) = PROVIDED = 11'-5" (PROPOSED)
(1) = REQUIRED = 16'-3" (MIN. #15%)
(1) = PROVIDED = 30'-11" (EXISTING)
(2) = REQUIRED = 21'-1" (MIN. #25%)
(2) = PROVIDED = 42'-2" (PROPOSED)

REAR SETBACK:
REQUIRED = 30'-0" (MIN.)
PROVIDED = 58'-4" (PROPOSED)

LOT AREA CALCULATIONS

LOT SIZE (SINGLE LOT) = 16,269 SQ. FT.
30% MAX. LOT COVERAGE = 4,881 SQ. FT. (MAX.)

LOT COVERAGE (30% MAX.):
RESIDENCE 2,020 SQ. FT.
GARAGE 534 SQ. FT.
COVERAGE 2,554 SQ. FT. (15.1%)

IMPERVIOUS SURFACE:
FRONT PORCH 22 SQ. FT.
ENCLOSED PORCH 143 SQ. FT.
REAR PORCH 185 SQ. FT.
COVERAGE 350 SQ. FT. (2.2%)

OPEN SPACE:
OPEN AREA 13,365 SQ. FT. (82.1%)
TOTAL (LOT AREA) 16,269 SQ. FT.

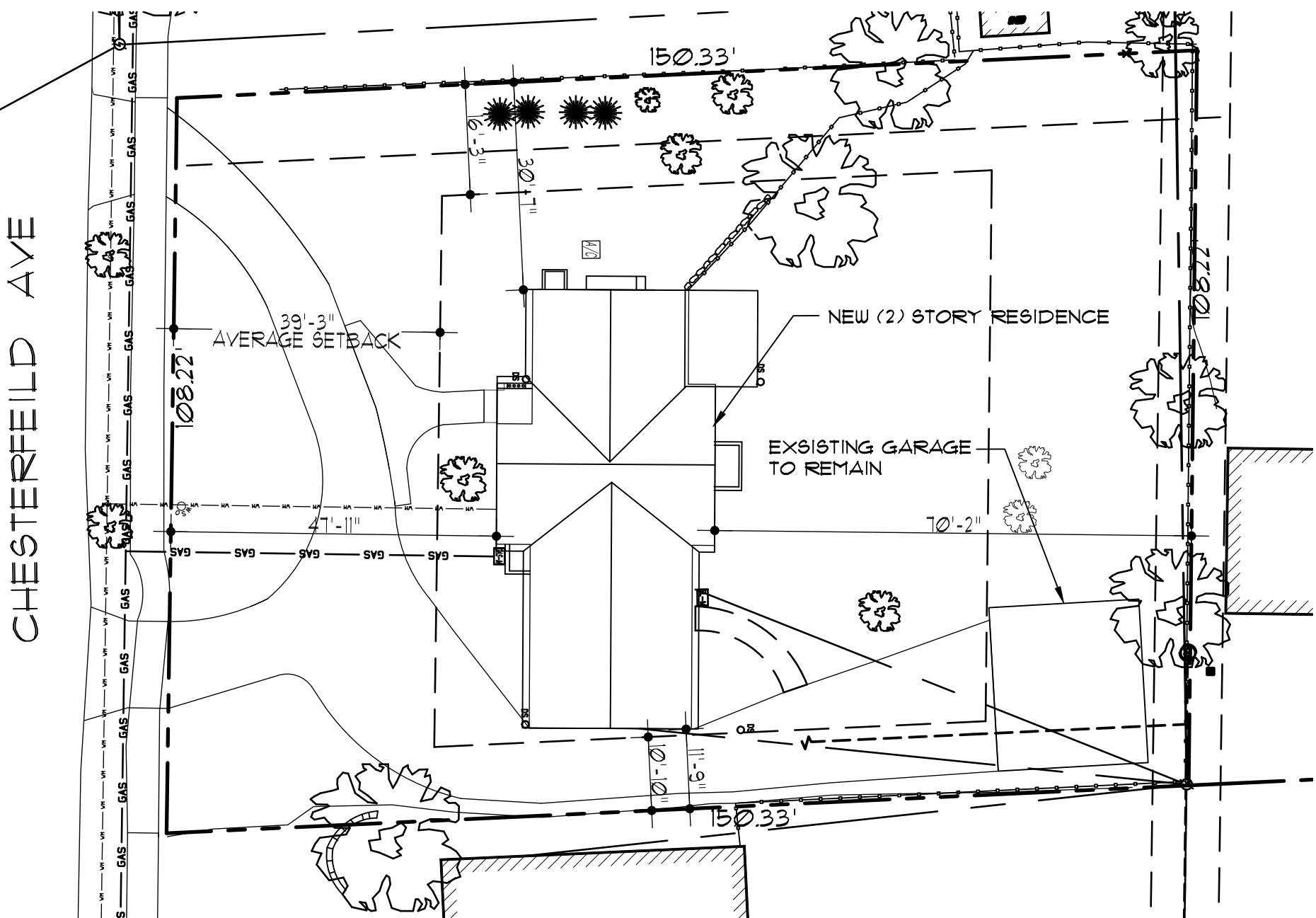
FRONT YARD OPEN SPACE:
FRONT YARD 5,114 SQ. FT.
#65% 3,363 SQ. FT.
ASPHALT DRIVE 1,148 SQ. FT.
WALKWAY TO PORCH 60 SQ. FT.
COVERAGE 1,208 SQ. FT. (35%)

SQUARE FOOTAGE

EXISTING SQUARE FEET:
FIRST FLOOR: 1,694 SQ. FT.
SECOND FLOOR: 1,348 SQ. FT.
TOTAL: 3,023 SQ. FT.

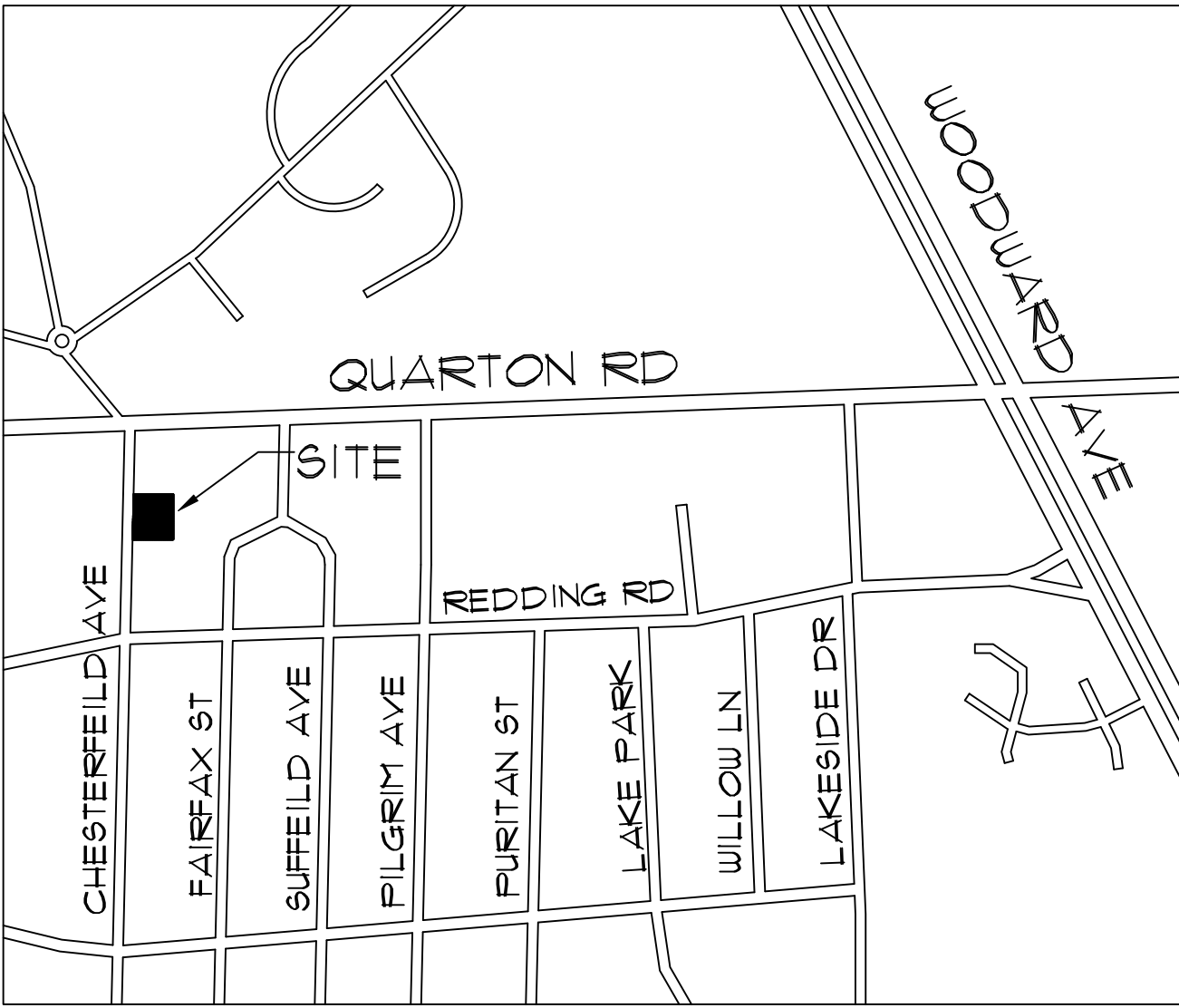
ADDED SQUARE FEET:
FIRST FLOOR: 324 SQ. FT.
SECOND FLOOR: 351 SQ. FT.
TOTAL: 681 SQ. FT.

TOTAL SQUARE FEET: 3,722.5 SQ. FT.
FIRST FLOOR: 2,020 SQ. FT.
SECOND FLOOR: 1,705 SQ. FT.



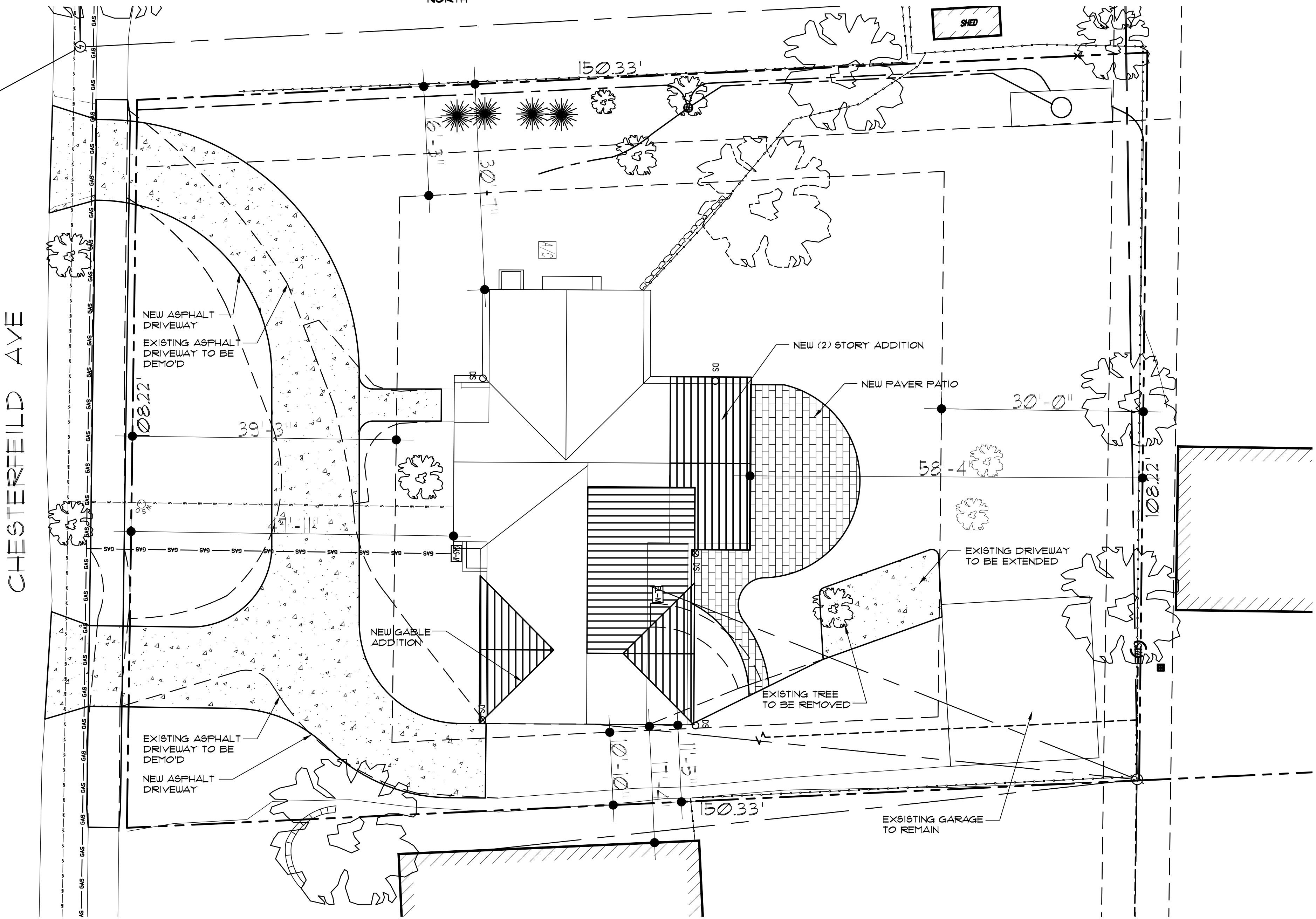
EXISTING SITE PLAN

SCALE: 1" = 20'-0"



LOCATION MAP

SCALE: N.T.S.



PROPOSED SITE PLAN

SCALE: 1" = 10'-0"

Project Name:
1496 CHESTERFIELD AVE.
BIRMINGHAM MI

OWNER:
MIKE MIRCHOLI
(313)-800-7580

Sheet Title:
SITE
PLAN,
ZONING
&GENERAL
NOTES

Date: 07/29/2022
Drawn by: SLR

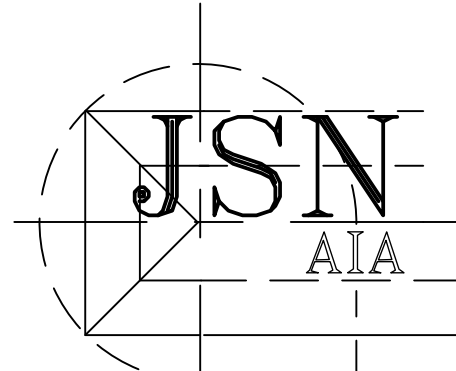
Project Number:
2022-68

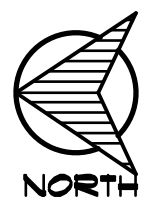
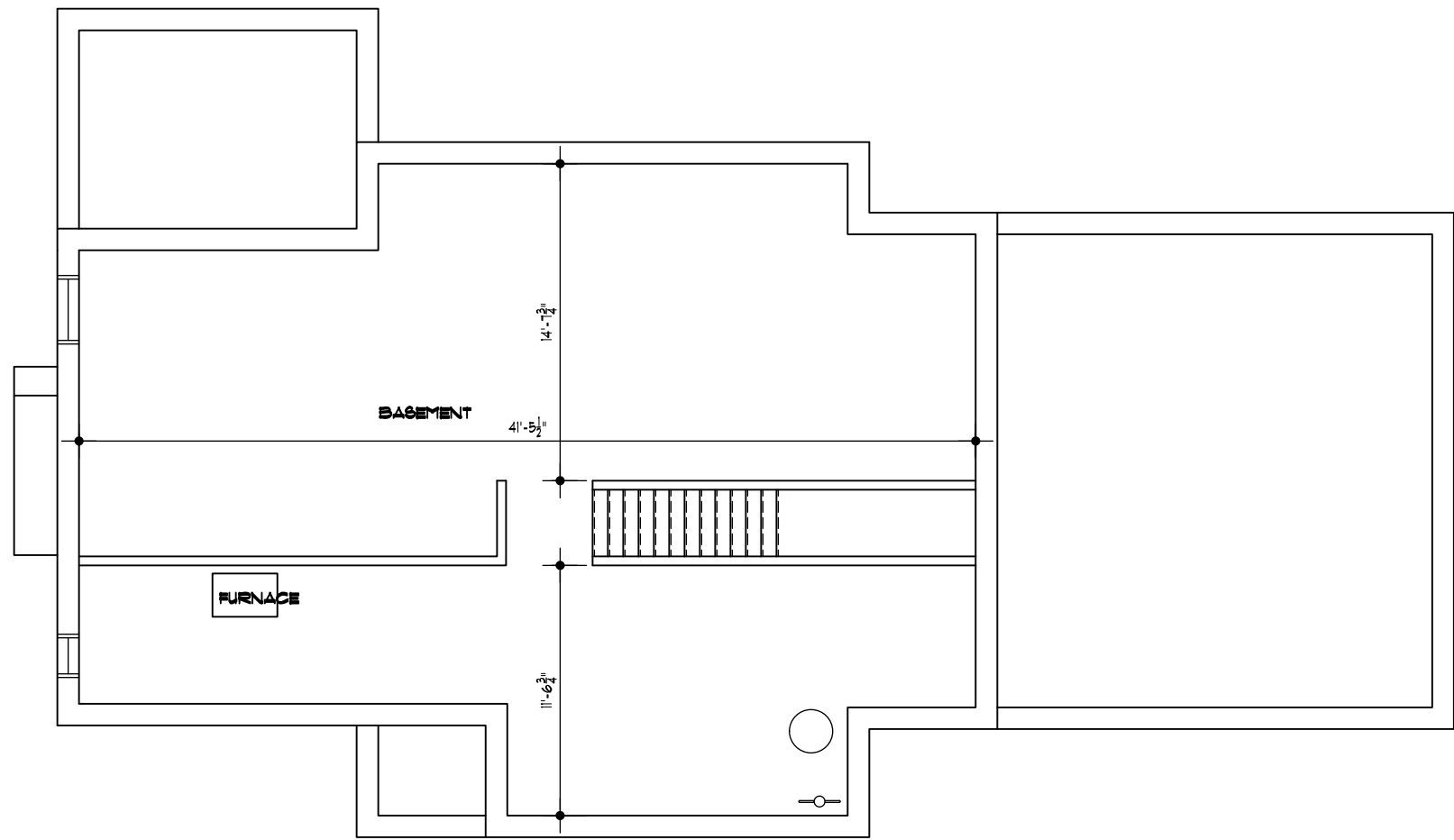
Sheet Number:
S-1

Revisions:	
DATE	DESCRIPTION
06/17/2022	EXISTING CONDITIONS
07/18/2022	REVIEW
07/19/2022	REVIEW
07/29/2022	REVIEW
08/17/2022	REVIEW
08/18/2022	BIDS & PERMITS
11/23/2022	BZA REVIEW



Joseph S. Novitsky
Architecture
3856 12 Mile Road
Berkley, MI 48072
(248) 433-2030





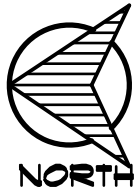
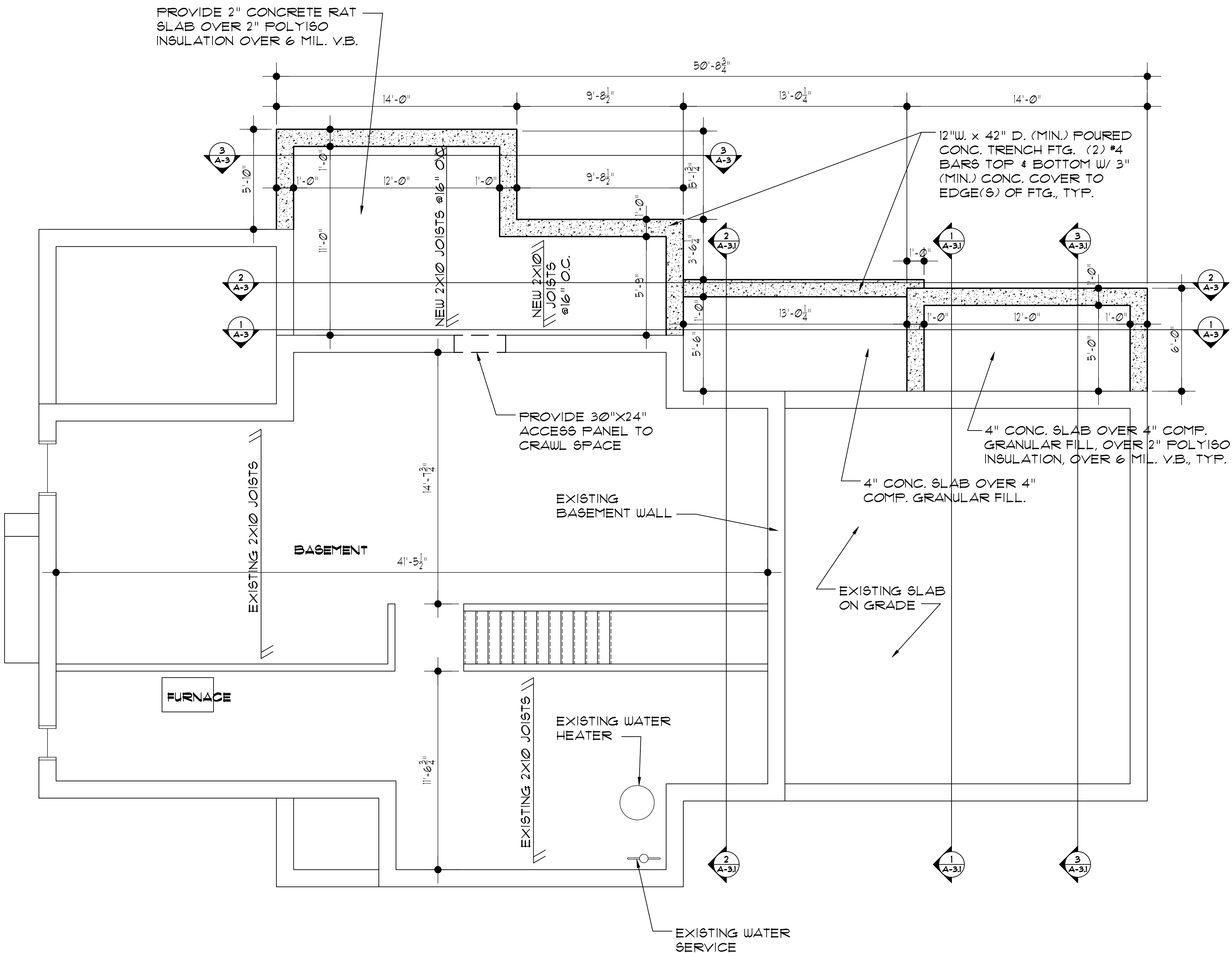
EXISTING BASEMENT/FOUNDATION

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

WALL SCHEDULE	
SYMBOL	DESCRIPTION
	EXISTING WALL SCHEDULED FOR DEMOLITION
	EXISTING WALL TO REMAIN
	NEW INTERIOR PARTITION WALL, 2x4 STUD WALL @ 16" O.C. W/ 1/2" GYPBOARD EACH SIDE
	NEW INTERIOR PARTITION WALL, 2x6 STUD WALL @ 16" O.C. W/ 1/2" GYPBOARD EACH SIDE
	NEW EXTERIOR WALL, 2x4 STUD WALL @ 16" O.C. WITH 1/2" GYP BOARD INTERIOR FINISH, PROVIDE 1/2" CDX PLYWOOD, TYVEK VB AND EITHER LP SIDING OR DRYVIT FINISH, INSULATE WITH R-20 (MIN) SPRAY FOAM INSULATION.
	NEW BRICK WALL, 2x4 STUD WALL @ 16" O.C. WITH 1/2" GYP BOARD INTERIOR FINISH, PROVIDE 1/2" CDX PLYWOOD, TYVEK VB AND BRICK FINISH, INSULATE WITH R-20 (MIN) SPRAY FOAM INSULATION.
	POURED CONCRETE FOOTING, 12"W. x 42" D. (MIN.) POURED CONC. TRENCH FTG. (2) #4 BARS TOP & BOTTOM W/ 3" (MIN.) CONC. COVER TO EDGE(S) OF FTG., TYP.

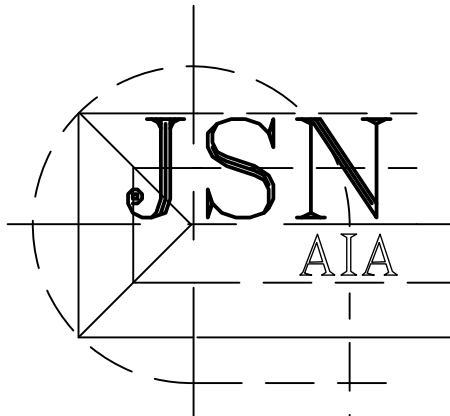
ELECTRICAL & LIGHTING LEGEND	
	NEW DUPLEX
	NEW DUPLEX WITH GROUND FAULT INTERRUPTER
	NEW LIGHT SWITCH/ NEW THREE-WAY LIGHT SWITCH
	NEW CEILING MOUNTED LIGHT FIXTURE
	NEW WALL MOUNTED LIGHT FIXTURE
	NEW VANITY LIGHT
	NEW CAN LIGHT
	NEW RESTROOM EXHAUST FAN
	NEW SMOKE DETECTOR TO BE INSTALLED

ELECTRICAL/LIGHTING NOTES:
1. ALL FIXTURES TO BE CHOSEN BY OWNER/INTERIOR DESIGNER
2. MODIFICATIONS TO THE LIGHTING LAYOUT MAY OCCUR BY THE OWNER & INTERIOR DESIGNER, CONSULT WITH THEM BEFORE RE-WIRING.



PROPOSED BASEMENT AND FOUNDATION PLAN

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



Joseph S. Novitsky
Architecture
3856 12 Mile Road
Berkley, MI 48072
(248) 433-2030



Revisions:

DATE	DESCRIPTION
06/17/2022	EXISTING CONDITIONS
07/23/2022	REVIEW
08/17/2022	REVIEW
08/18/2022	BIDS & PERMITS
11/23/2022	BZA REVIEW

Project Name:
1496 CHESTERFEILD AVE.
BIRMINGHAM MI

OWNER:
CONTACT:

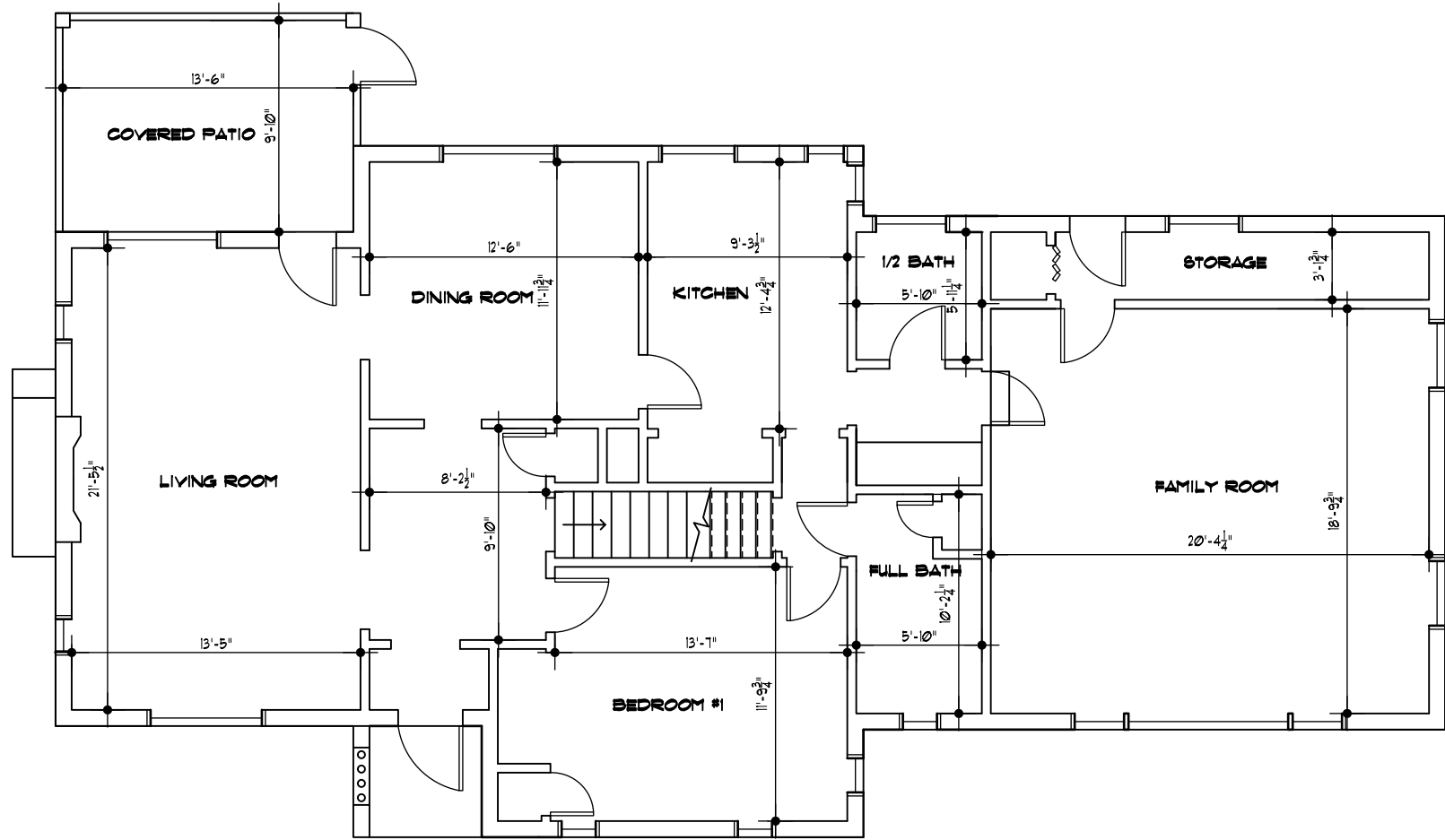
Sheet Title:
EXISTING
& PROPOSED
BASEMENT
AND
FOUNDATION
PLAN

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NOT BE REPRODUCED WITHOUT THE EXPLICIT
WRITTEN CONSENT OF AN ARCHITECTURE

Date: 07/27/2022
Drawn by: SLR

Project Number:
2022-68

Sheet Number:
A-1.0



EXISTING FIRST FLOOR PLAN

1,694 SQ. FT.

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

WALL SCHEDULE	
SYMBOL	DESCRIPTION
	EXISTING WALL SCHEDULED FOR DEMOLITION
	EXISTING WALL TO REMAIN
	NEW INTERIOR PARTITION WALL, 2x4 STUD WALL @ 16" O.C. W/ 1/2" GYPBOARD EACH SIDE
	NEW INTERIOR PARTITION WALL, 2x6 STUD WALL @ 16" O.C. W/ 1/2" GYPBOARD EACH SIDE
	NEW EXTERIOR WALL, 2x4 STUD WALL @ 16" O.C. WITH 1/2" GYP BOARD INTERIOR FINISH, PROVIDE 1/2" CDX PLYWOOD, TYVEK VB AND EITHER 1/2" SIDING OR DRYVIT FINISH, INSULATE WITH R-20 (MIN) SPRAY FOAM INSULATION.
	NEW BRICK WALL, 2x4 STUD WALL @ 16" O.C. WITH 1/2" GYP BOARD INTERIOR FINISH, PROVIDE 1/2" CDX PLYWOOD, TYVEK VB AND BRICK FINISH, INSULATE WITH R-20 (MIN) SPRAY FOAM INSULATION.
	POURED CONCRETE FOOTING, 12" W x 42" D, (MIN) POURED CONC. TRENCH FTG. (2) #4 BARS TOP & BOTTOM W/ 3" (MIN) CONC. COVER TO EDGE(S) OF FTG., TYP.

ELECTRICAL & LIGHTING LEGEND	
	NEW DUPLEX
	NEW DUPLEX WITH GROUND FAULT INTERRUPTER
	NEW LIGHT SWITCH/ NEW THREE-WAY LIGHT SWITCH
	NEW CEILING MOUNTED LIGHT FIXTURE
	NEW WALL MOUNTED LIGHT FIXTURE
	NEW VANITY LIGHT
	NEW CAN LIGHT
	NEW RESTROOM EXHAUST FAN
	NEW SMOKE DETECTOR TO BE INSTALLED

ELECTRICAL/LIGHTING NOTES:

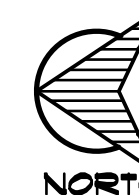
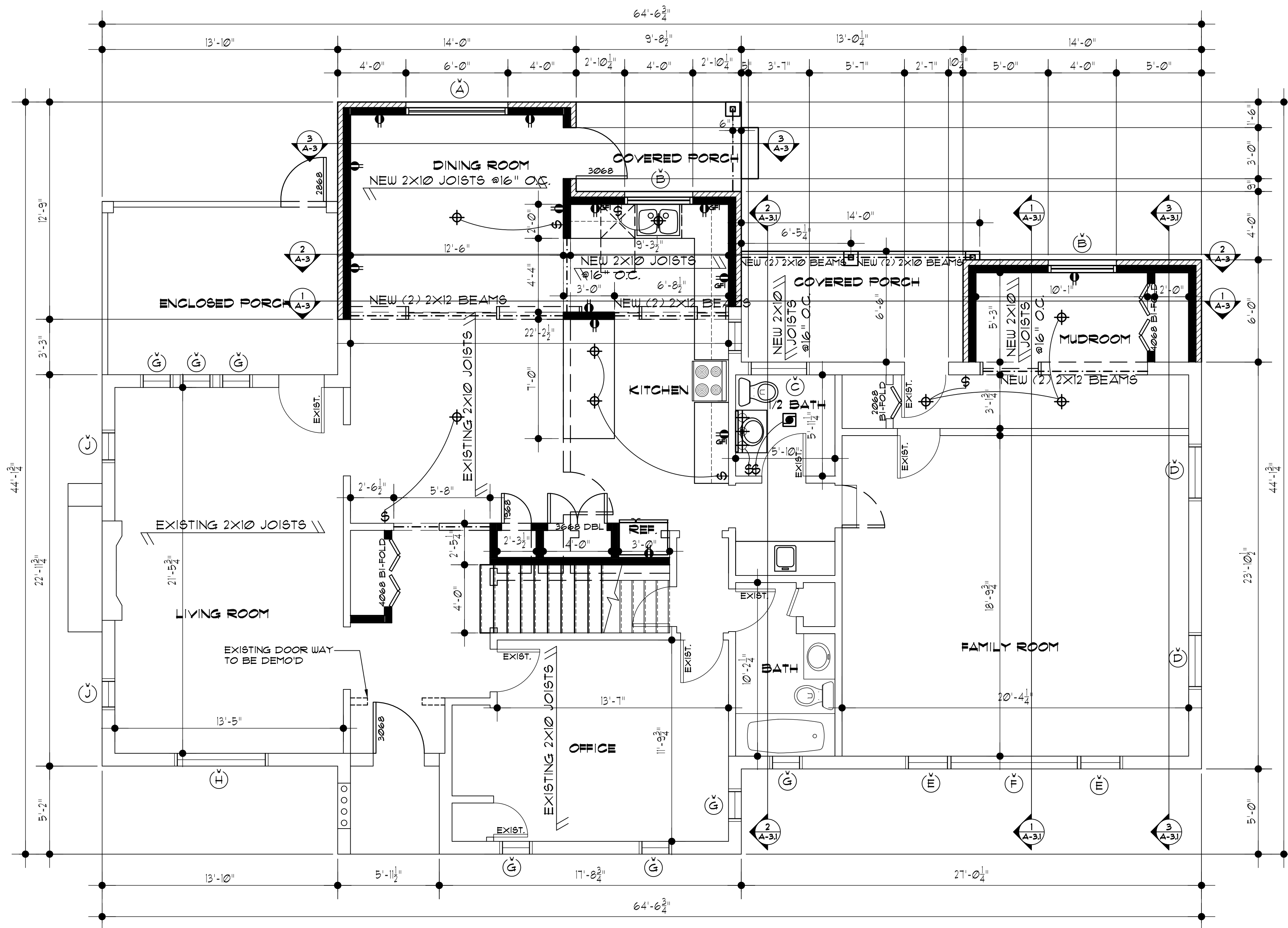
- ALL FIXTURES TO BE CHOSEN BY OWNER/INTERIOR DESIGNER
- MODIFICATIONS TO THE LIGHTING LAYOUT MAY OCCUR BY THE OWNER & INTERIOR DESIGNER, CONSULT WITH THEM BEFORE RE-WIRING.

NOTE: ALL NEW INSULATION TO BE SPRAY-IN FOAM INSULATION BY SUPERIOR INSULATION (734)-320-2313

WINDOW & TRIM GENERAL NOTES:

- ALL EXTERIOR WINDOW AND DOOR TRIM SHALL BE HARD/ETRM BOARDS, STYLE AND COLOR BY OWNER. SEE ELEVATIONS FOR VISUAL REPRESENTATION OF DESIGN INTENT.
- ALL INTERIOR WINDOW & DOOR TRIM SHALL BE DETERMINED BY OWNER & OR INTERIOR DESIGNER.
- ALL WINDOWS SHOULD BE LOCATED VERTICALLY SO THE TOP IS 6'-8" ABOVE FINISH FLOOR SUCH THAT DOOR AND WINDOW ALIGN WITH EACH OTHER, UNLESS OTHERWISE NOTED OR FRAMING STRUCTURE DOES NOT ALLOW.
- ALL WINDOWS FRAMES SHALL HAVE A STYLE & COLOR TO BE DETERMINED BY OWNER.

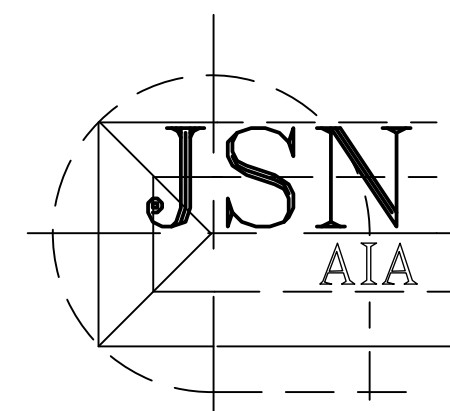
WINDOW SCHEDULE									
ALL NEW WINDOWS BASED ON ANDERSEN WINDOWS 400 SERIES									
NO.	QUAN.	ROUGH OPENING	UNIT SIZE	UNIT #	FRAME MATL.	FIN.	EXT.	TRIM INT.	NOTES
A	(1)	6'-0 3/4" X 4'-5 3/8"	5'-11 1/2" X 4'-4 1/8"	C345	NOTE 4	NOTE 4	NOTE 1	NOTE 2	THREE-PANEL CASEMENT WINDOW
B	(2)	4'-0 1/4" X 3'-0 1/2"	4'-0" X 2'-11 1/8"	C23	NOTE 4	NOTE 4	NOTE 1	NOTE 2	DOUBLE CASEMENT WINDOW
C	(1)	5'-9 3/4" X 4'-2"			NOTE 4	NOTE 4	NOTE 1	NOTE 2	
D	(2)	2'-11 3/8" X 4'-0 1/2"			NOTE 4	NOTE 4	NOTE 1	NOTE 2	
E	(2)	2'-3 1/2" X 5'-5"			NOTE 4	NOTE 4	NOTE 1	NOTE 2	
F	(1)	6'-3" X 5'-5"			NOTE 4	NOTE 4	NOTE 1	NOTE 2	
G	(1)	1'-1" X 4'-2"			NOTE 4	NOTE 4	NOTE 1	NOTE 2	
H	(1)	5'-1 3/8" X 5'-2 1/2"			NOTE 4	NOTE 4	NOTE 1	NOTE 2	
J	(2)	1'-7" X 5'-2 1/2"			NOTE 4	NOTE 4	NOTE 1	NOTE 2	
K	(1)	5'-3 1/4" X 4'-0 1/2"	5'-2 3/4" X 4'-0"	CX24	NOTE 4	NOTE 4	NOTE 1	NOTE 2	DOUBLE CASEMENT WINDOW (EGRESS)
L	(1)	2'-4 3/8" X 2'-4 3/8"	2'-4 3/8" X 2'-4 3/8"	CU25	NOTE 4	NOTE 4	NOTE 1	NOTE 2	CASEMENT WINDOW (TEMPERED)
M	(2)	3'-0 1/2" X 4'-0 1/2"	2'-11 1/8" X 4'-0"	CX14	NOTE 4	NOTE 4	NOTE 1	NOTE 2	CASEMENT WINDOW (EGRESS)
N	(2)	2'-10 1/4" X 4'-0 1/2"	2'-9 3/4" X 4'-0"	CR24	NOTE 4	NOTE 4	NOTE 1	NOTE 2	DOUBLE CASEMENT WINDOW
O	(3)	3'-1" X 3'-2"			NOTE 4	NOTE 4	NOTE 1	NOTE 2	
P	(1)	5'-6 3/8" X 4'-3"			NOTE 4	NOTE 4	NOTE 1	NOTE 2	



PROPOSED FIRST FLOOR PLAN

2,020 SQ. FT.

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



Joseph S. Novitsky
Architecture
3856 12 Mile Road
Berkley, MI 48072
(248) 433-2030



Revisions:

DATE	DESCRIPTION
06/17/2022	EXISTING CONDITIONS
07/18/2022	REVIEW
07/15/2022	REVIEW
7/29/2022	REVIEW
08/17/2022	REVIEW
08/18/2022	BIDS & PERMITS
11/27/2022	BXA REVIEW

Project Name:
**1496 CHESTERFEILD AVE.
BIRMINGHAM MI**

OWNER:
**MIKE MIRCHOLI
(313)-600-7580**

Sheet Title:

**EXISTING
& PROPOSED
FLOOR
PLANS**

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Date: 07/29/2022

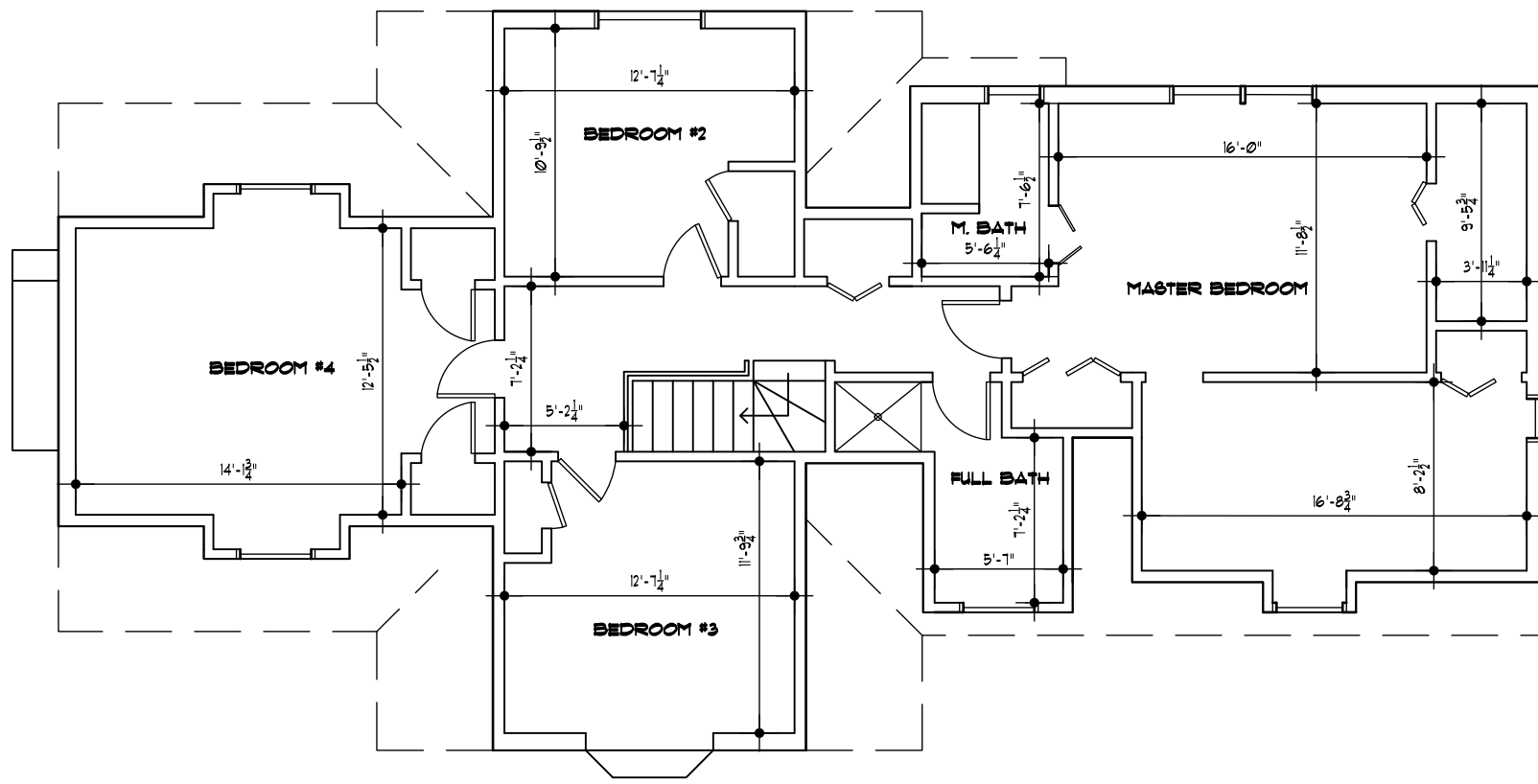
Drawn by: SLR

Project Number:

2022-68

Sheet Number:

A-1.1



NOTE: ALL NEW INSULATION TO BE SPRAY-IN FOAM INSULATION BY SUPERIOR INSULATION (734)-320-2313

WINDOW & TRIM GENERAL NOTES:

1. ALL EXTERIOR WINDOW AND DOOR TRIM SHALL BE HARDIETRIM BOARDS, STYLE AND COLOR BY OWNER. SEE ELEVATIONS FOR VISUAL REPRESENTATION OF DESIGN INTENT.
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WINDOW SCHEDULE									
ALL NEW WINDOWS BASED ON ANDERSEN WINDOWS 400 SERIES									
NO.	QUAN.	ROUGH OPENING	UNIT SIZE	UNIT #	FRAME	FIN.	EXT.	TRIM	INT.
									NOTES
A	(1)	6'-0 3/8" X 4'-5 3/8"	5'-11 1/2" X 4'-4 1/2"	C345	NOTE 4	NOTE 4	NOTE 1	NOTE 2	THREE-PANEL CASEMENT WINDOW
B	(2)	4'-0 1/4" X 3'-0 1/4"	4'-0" X 2'-11 1/2"	C23	NOTE 4	NOTE 4	NOTE 1	NOTE 2	DOUBLE CASEMENT WINDOW
C	(1)	5'-9 3/4" X 4'-2"			NOTE 4	NOTE 4	NOTE 1	NOTE 2	
D	(2)	2'-11 3/4" X 4'-0 1/2"			NOTE 4	NOTE 4	NOTE 1	NOTE 2	
E	(2)	2'-3 1/2" X 5'-5"			NOTE 4	NOTE 4	NOTE 1	NOTE 2	
F	(1)	6'-3" X 5'-5"			NOTE 4	NOTE 4	NOTE 1	NOTE 2	
G	(1)	1'-1" X 4'-2"			NOTE 4	NOTE 4	NOTE 1	NOTE 2	
H	(1)	5'-1 3/8" X 5'-2 1/2"			NOTE 4	NOTE 4	NOTE 1	NOTE 2	
J	(2)	1'-7" X 5'-2 1/2"			NOTE 4	NOTE 4	NOTE 1	NOTE 2	
K	(1)	5'-3 1/4" X 4'-0 1/2"	5'-2 3/4" X 4'-0"	CX24	NOTE 4	NOTE 4	NOTE 1	NOTE 2	DOUBLE CASEMENT WINDOW (EGRESS)
L	(1)	2'-4 3/8" X 2'-4 3/8"	2'-4 3/8" X 2'-4 3/8"	CU25	NOTE 4	NOTE 4	NOTE 1	NOTE 2	CASEMENT WINDOW (TEMPERED)
M	(2)	3'-0 1/4" X 4'-0 1/2"	2'-11 3/4" X 4'-0"	CX104	NOTE 4	NOTE 4	NOTE 1	NOTE 2	CASEMENT WINDOW (EGRESS)
N	(2)	2'-10 1/4" X 4'-0 1/2"	2'-9 3/4" X 4'-0"	CR24	NOTE 4	NOTE 4	NOTE 1	NOTE 2	DOUBLE CASEMENT WINDOW
O	(3)	3'-1" X 3'-2"			NOTE 4	NOTE 4	NOTE 1	NOTE 2	
P	(1)	5'-6 3/8" X 4'-3"			NOTE 4	NOTE 4	NOTE 1	NOTE 2	



EXISTING SECOND FLOOR PLAN

1,348 SQ. FT.

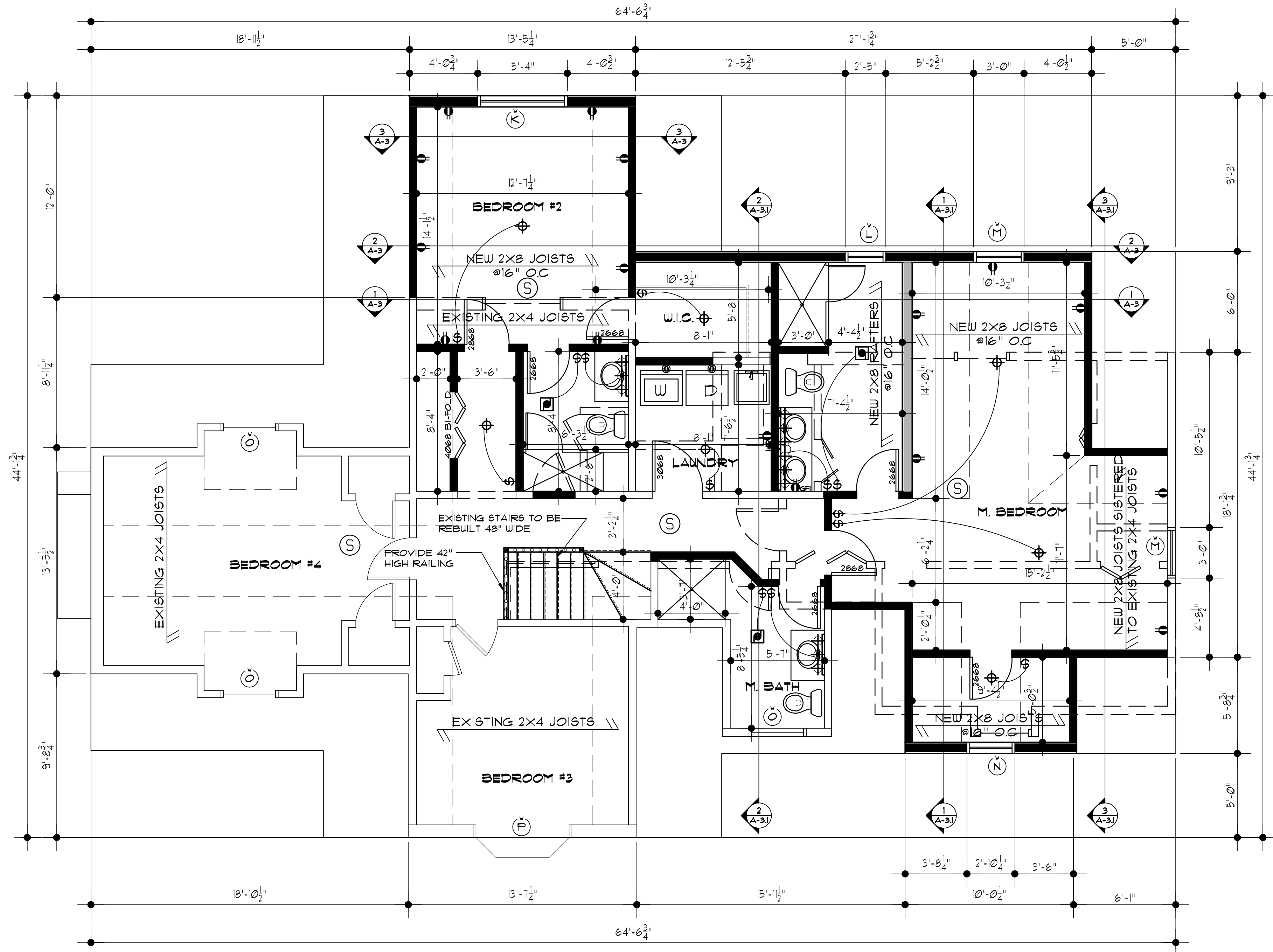
SCALE: 1/8" = 1'-0"

WALL SCHEDULE	
SYMBOL	DESCRIPTION
---	EXISTING WALL SCHEDULED FOR DEMOLITION
---	EXISTING WALL TO REMAIN
---	NEW INTERIOR PARTITION WALL, 2X4 STUD WALL @ 16" O.C. W/ 1/2" GYPBOARD EACH SIDE
---	NEW INTERIOR PARTITION WALL, 2X6 STUD WALL @ 16" O.C. W/ 1/2" GYPBOARD EACH SIDE
---	NEW EXTERIOR WALL, 2X4 STUD WALL @ 16" O.C. WITH 1/2" GYP BOARD INTERIOR FINISH, PROVIDE 1/2" CDX PLYWOOD, TYVEK VB AND EITHER LP SIDING OR DRYVIT FINISH, INSULATE WITH R-20 (MIN) SPRAY FOAM INSULATION.
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ELECTRICAL & LIGHTING LEGEND	
⚡	NEW DUPLEX
⚡GFI	NEW DUPLEX WITH GROUND FAULT INTERRUPTER
⚡/3	NEW LIGHT SWITCH/ NEW THREE-WAY LIGHT SWITCH
⊕	NEW CEILING MOUNTED LIGHT FIXTURE
⊕	NEW WALL MOUNTED LIGHT FIXTURE
⊕	NEW VANITY LIGHT
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⊕	NEW SMOKE DETECTOR TO BE INSTALLED

ELECTRICAL/LIGHTING NOTES:

1. ALL FIXTURES TO BE CHOSEN BY OWNER/INTERIOR DESIGNER
2. MODIFICATIONS TO THE LIGHTING LAYOUT MAY OCCUR BY THE OWNER & INTERIOR DESIGNER, CONSULT WITH THEM BEFORE RE-WIRING.



PROPOSED SECOND FLOOR PLAN

1,705 SQ. FT.

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

Revisions:

DATE	DESCRIPTION
06/17/2022	EXISTING CONDITIONS
07/18/2022	REVIEW
07/15/2022	REVIEW
1/29/2022	REVIEW
08/17/2022	REVIEW
08/18/2022	BIDS & PERMITS
11/27/2022	BXA REVIEW

Project Name: 1496 CHESTERFEILD AVE. BIRMINGHAM MI

OWNER: MIKE MIRCHOLI (313)-600-7580

Sheet Title:

EXISTING & PROPOSED FLOOR PLANS

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Date: 07/29/2022
Drawn by: SLR

Project Number:

2022-68

Sheet Number:

A-1.2



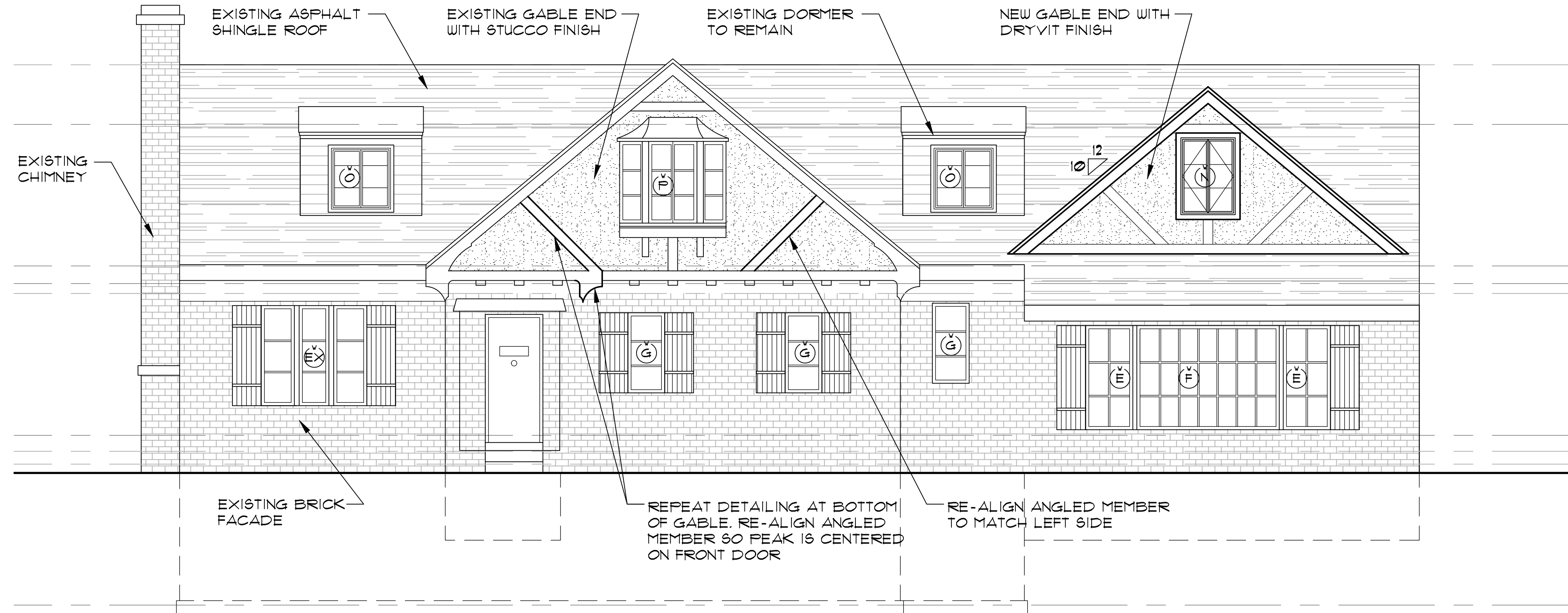
EXISTING WEST (FRONT) ELEVATION

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



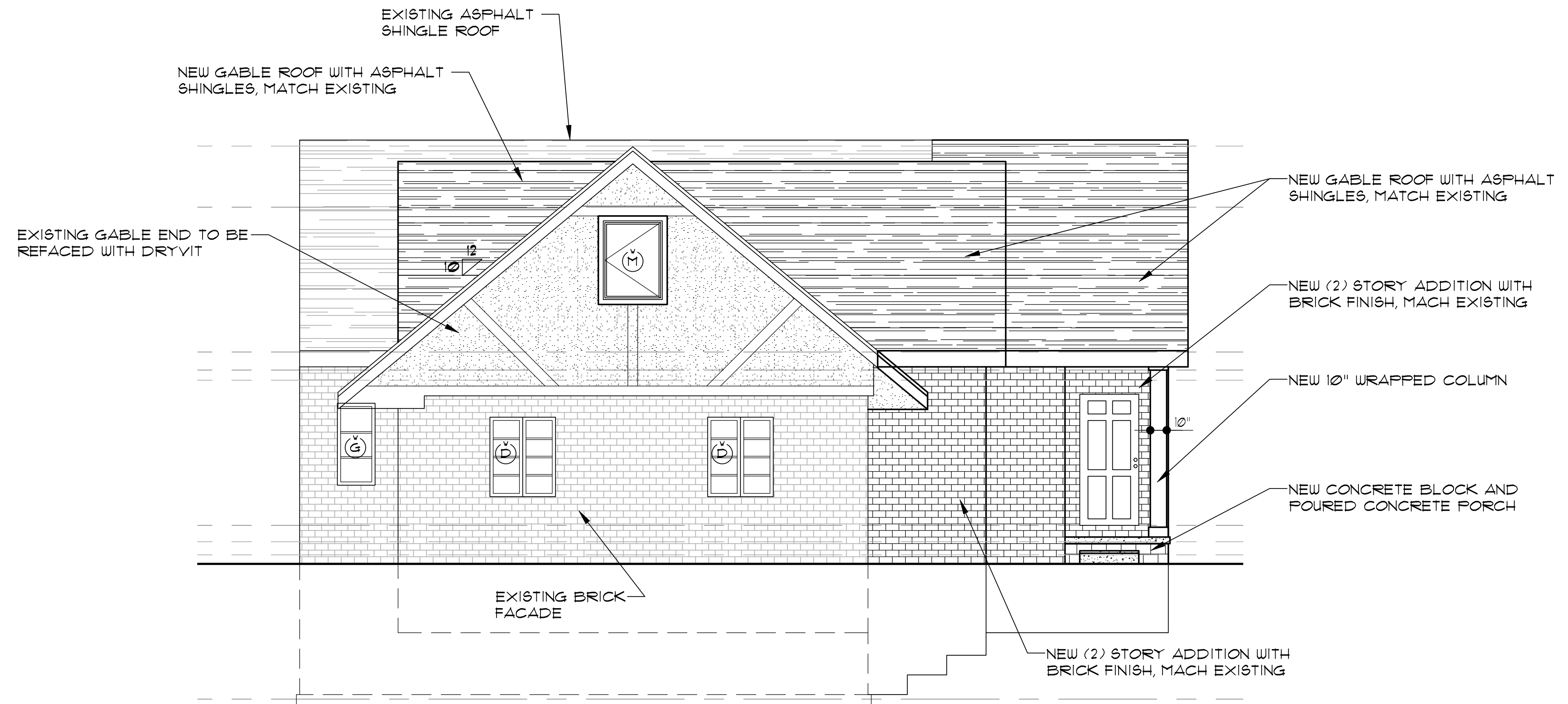
EXISTING SOUTH (SIDE) ELEVATION

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



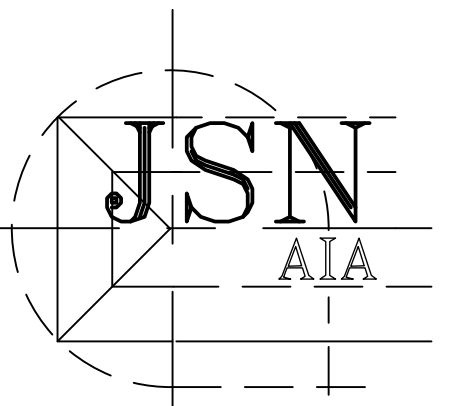
PROPOSED WEST (FRONT) ELEVATION

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



PROPOSED SOUTH (SIDE) ELEVATION

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



Joseph S. Novitsky
Architecture
3856 12 Mile Road
Berkley, MI 48072
(248) 433-2030



Revisions:

DATE	DESCRIPTION
	EXISTING CONDITIONS
01/18/2022	REVIEW
01/15/2022	REVIEW
01/25/2022	REVIEW
02/11/2022	REVIEW
02/18/2022	BIDS + PERMITS
1/22/2022	BZA REVIEW

Project Name:
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BIRMINGHAM MI**

OWNER:
**MIKE MIRCHOLI
(313)-600-7580**

Sheet Title:

**EXISTING
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ELEVATIONS**

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Drawn by: SLR

Project Number:
2022-68

Sheet Number:
A-2.0



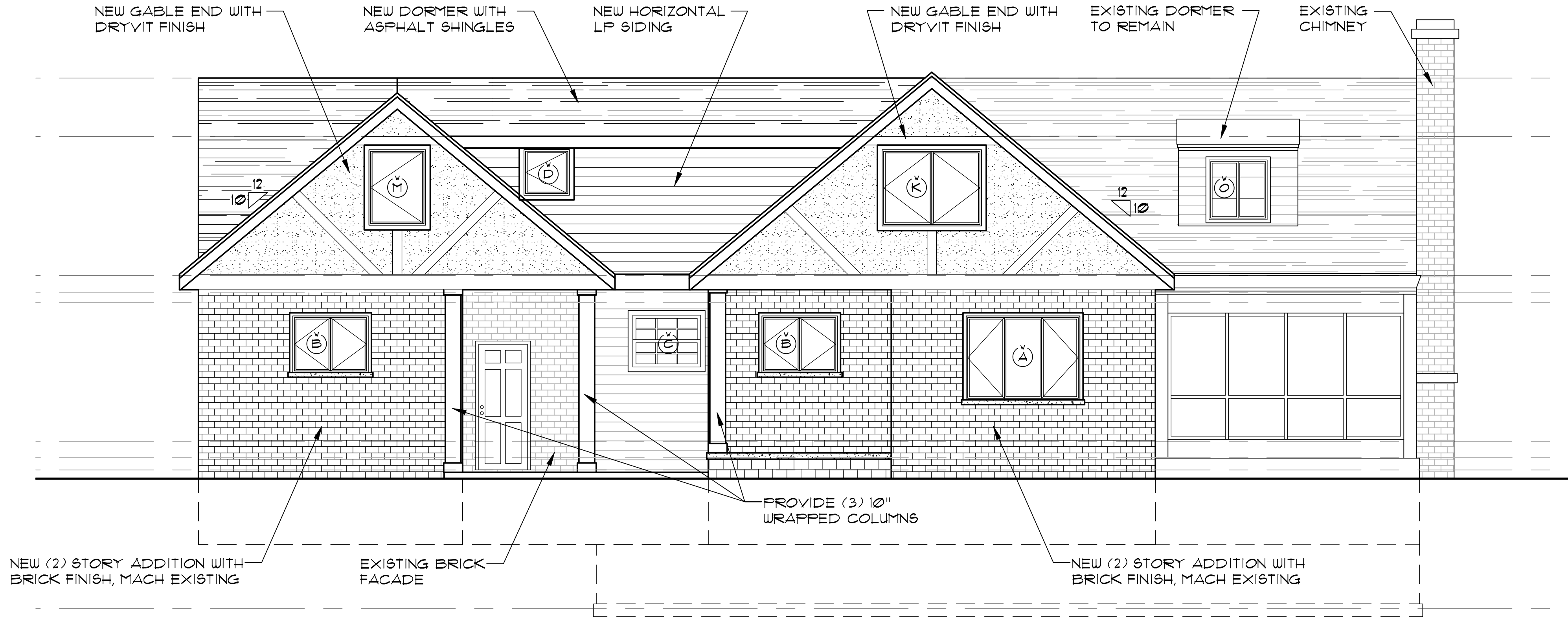
EXISTING EAST (REAR) ELEVATION

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



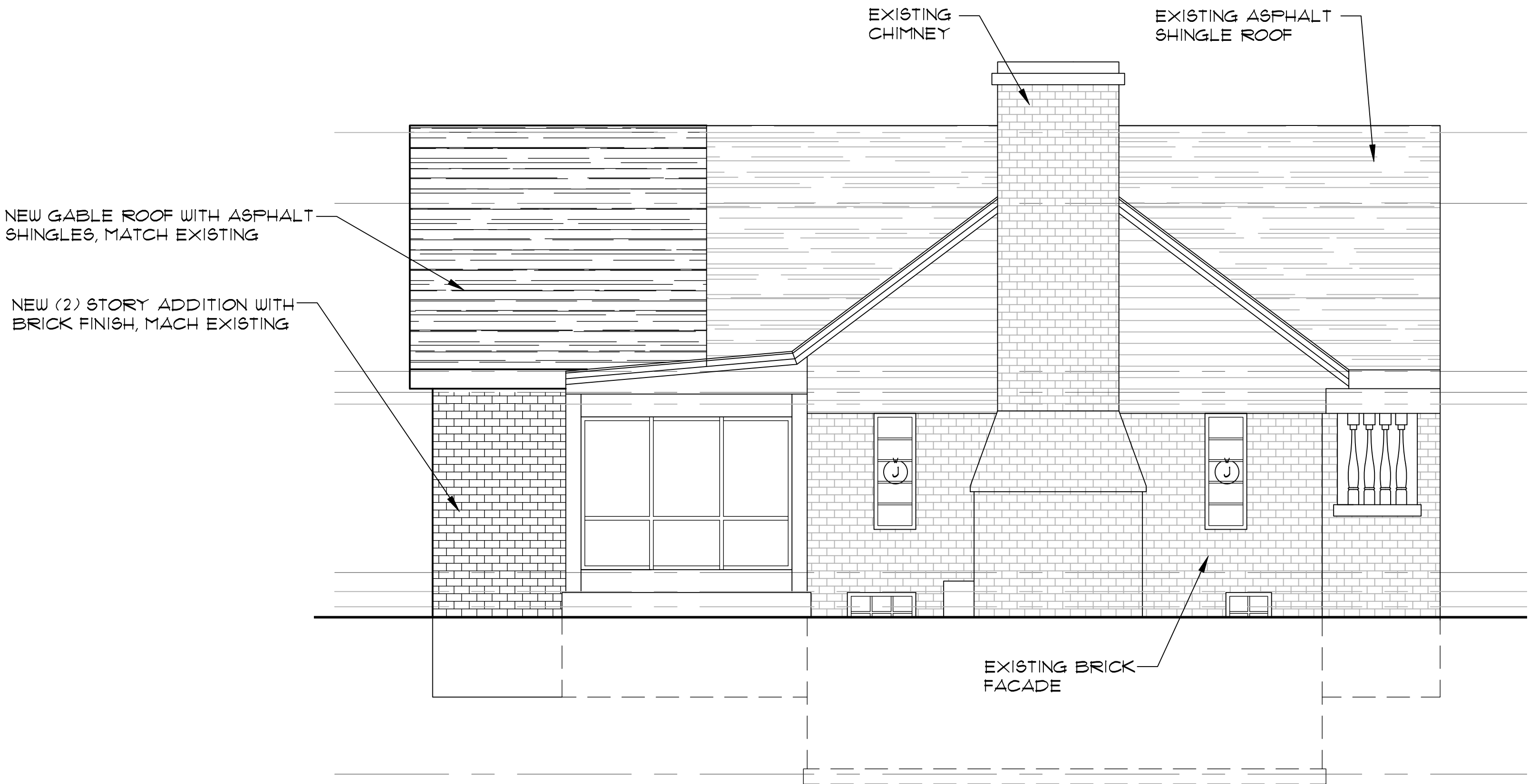
EXISTING NORTH (SIDE) ELEVATION

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



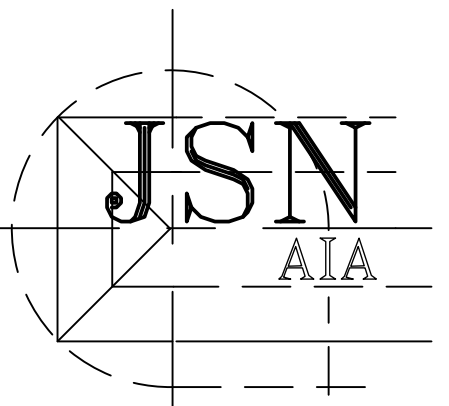
PROPOSED EAST (REAR) ELEVATION

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



PROPOSED NORTH (SIDE) ELEVATION

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



Joseph S. Novitsky
Architecture
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Berkley, MI 48072
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Revisions:

DATE	DESCRIPTION
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01/18/2022	REVIEW
01/15/2022	REVIEW
01/19/2022	REVIEW
08/17/2022	REVIEW
08/18/2022	BIDS + PERMITS
1/22/2022	BZA REVIEW

Project Name:
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BIRMINGHAM MI**

OWNER:
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(313)-600-7580**

Sheet Title:

**EXISTING
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ELEVATIONS**

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Date: 07/29/2022
Drawn by: SLR

Project Number:
2022-68

Sheet Number:

A-2.1

CASE DESCRIPTION

584 Tooting Lane (23-02)

Hearing date: January 10, 2023

Appeal No. 23-02: The owner of the property known **584 Tooting Lane**, requests the following variances to reconstruct the second floor and roof of an existing non-conforming detached garage:

A. Chapter 126, Article 4, Section 4.03(H) of the Zoning Ordinance requires the maximum area of the first floor of any accessory structure in the R2 zoning district is 550.00 SF and per Section 4.30(C)(6) permits an additional 75.00 SF for having an interior staircase. Therefore, the accessory structure can be 625.00SF. The existing and proposed is 747.50 SF. Therefore, a variance of 122.50 SF is being requested.

B. Chapter 126, Article 4, Section 4.03(B) of the Zoning Ordinance requires that accessory structures shall be at least 3.00 feet from any lot line. The existing and proposed on the southeast side is 0.50 feet. Therefore, a variance of 2.50 feet is being requested.

Staff Notes: This applicant is proposing to reconstruct the roof to an existing non-conforming garage. This location had variances granted in August 1991 for a similar request. (Minutes attached)

This property is zoned R2 – Single family residential.

Jeff Zielke, NCIDQ, LEED AP
Assistant Building Official

584 TOOTING LANE MAP



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

APPLICATION FOR THE BOARD OF ZONING APPEALS

Application Date: 12.1.22

Hearing Date: 1.10.23

Received By: 276

Appeal #: 23-002

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

I. PROPERTY INFORMATION:

Address: <u>584 TOOTING LANE</u>	Lot Number: <u>8</u>	Sidwell Number: <u>RANDALL ADDITION</u>
----------------------------------	----------------------	---

II. OWNER INFORMATION:

Name: <u>MIKE & KATHY ABLESON</u>			
Address: <u>584 TOOTING LANE</u>	City: <u>BIRMINGHAM</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>mableson@sbcglobal.net</u>		Phone: <u>313-720-4839</u>	

III. PETITIONER INFORMATION:

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

IV. GENERAL INFORMATION:

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

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

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

Variance Chart Example

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

V. REQUIRED INFORMATION CHECKLIST:

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

VI. APPLICANT SIGNATURE

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

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

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

Signature of Owner: Matthew Ableson

Date: Dec 1, 2022

Signature of Petitioner: same/owner

Date: _____

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

ARTICLE I - Appeals

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

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

C. The order of hearings shall be:

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

D. Motions and Voting

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

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

ARTICLE II - Results of an Appeal

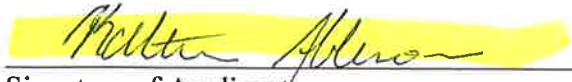
- A. The Board may reverse, affirm, vary or modify any order, requirement, decision or determination as in its opinion should be made, and to that end, shall have all the powers of the officer from whom the appeal has been taken.
- B. The decisions of the Board shall not become final until the expiration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

ARTICLE III - Rehearings

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

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

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



Signature of Applicant

November 28, 2022

Re: ABLESON RESIDENCE
584 Tooting Lane, Birmingham, MI

Dear Zoning Board Members:

We are hereby applying for 2 Dimensional Variances to construct a new Roof on our Existing Detached Garage/Accessory Structure.

It is an EXISTING NON-CONFORMING structure which we would like to update/enhance to be more in character with our Heritage Wallace Frost home and to have some usable storage above.

The EXISTING FOOTPRINT (on which we wish to construct a more historically accurate roof line but NO expansion of footprint) is 747.5 SF. The maximum permitted Accessory Structure Area is 600 SF + 75 SF for a fixed Interior Stair which we are adding (which reduces the non-conformity) so we are requesting a 122.5 SF variance.

The EXISTING LOCATION of the garage is on the property line at south-east corner and .5' away from the property line at the north-east corner, not providing the minimum 3' for Accessory Structure so we are requesting a 3' Setback Variance. (The new eave on that side will be a minimum 1 1/2" necessary for proper water management where the Existing Overhang is 1.5' so we are also decreasing the non-conformity there as well).

This variance request is not self-created since the Existing Garage is an existing condition which was granted a variance 08-13-1991 and permitting us to improve on the roof line would alleviate the practical difficulty that it poses to us.

Granting this request would not be a detriment to the neighborhood as the Garage exists and would provide us substantial justice in full use of our structure.

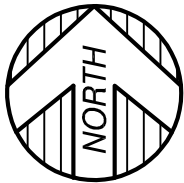
The proposed garage roof design meets all other Height & Bulk requirements of the Zoning Ordinance, has DTE approval, and we humbly request your approval.

Respectfully Submitted,



Mr. & Mrs. M. Ableson
584 Tooting Lane, Birmingham, MI

BOUNDARY SURVEY



SCALE: 1"=20'



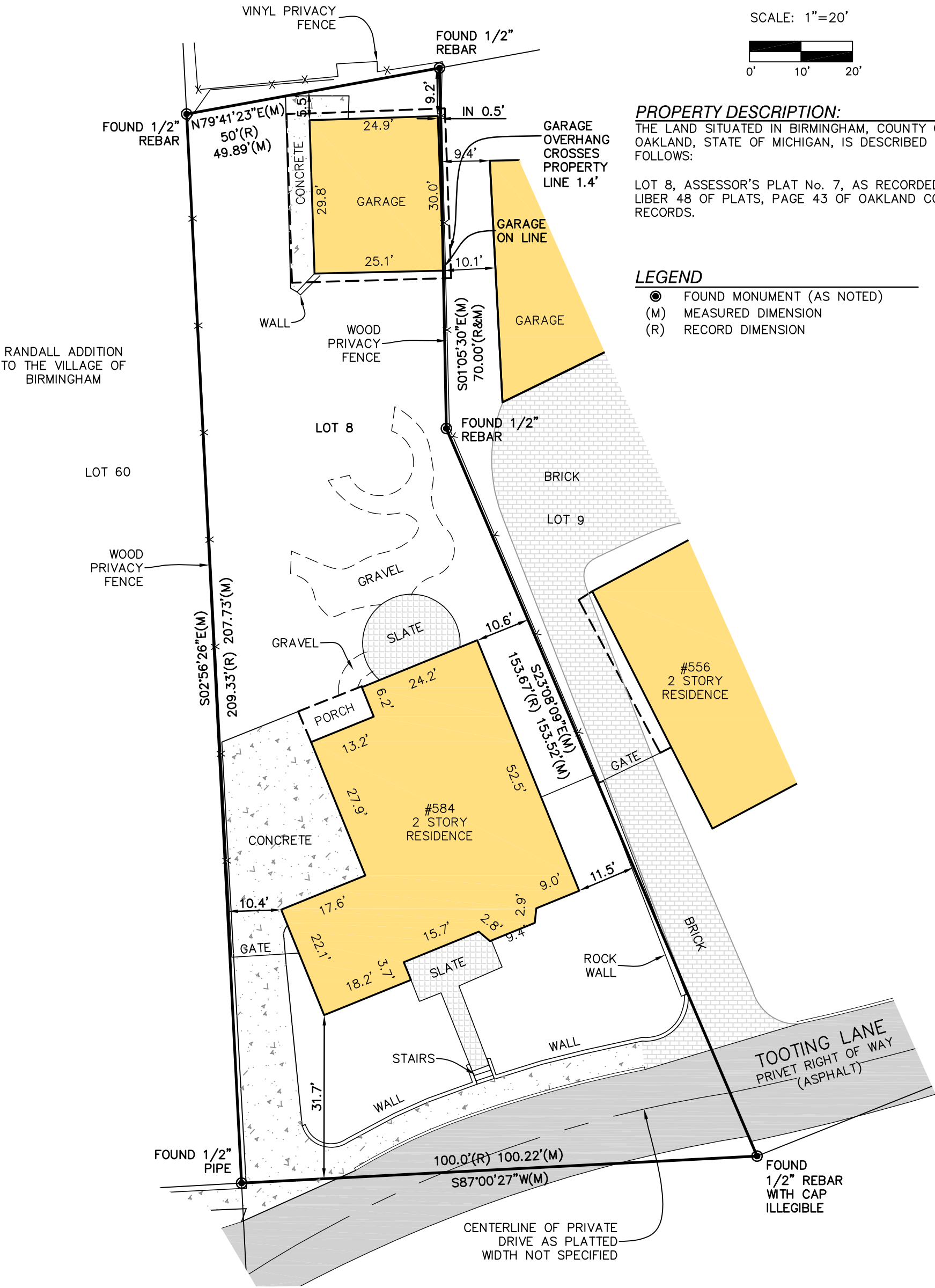
PROPERTY DESCRIPTION:

THE LAND SITUATED IN BIRMINGHAM, COUNTY OF OAKLAND, STATE OF MICHIGAN, IS DESCRIBED AS FOLLOWS:

LOT 8, ASSESSOR'S PLAT No. 7, AS RECORDED IN LIBER 48 OF PLATS, PAGE 43 OF OAKLAND COUNTY RECORDS.

LEGEND

- FOUND MONUMENT (AS NOTED)
- (M) MEASURED DIMENSION
- (R) RECORD DIMENSION



I HEREBY CERTIFY THAT I HAVE SURVEYED THE LAND HEREIN DESCRIBED AND THAT THIS MAP REPRESENTS THE RESULTS OF THE SURVEY.

Anthony T. Sycko, Jr.

ANTHONY T. SYCKO, JR., P.S.
PROFESSIONAL SURVEYOR
MICHIGAN LICENSE NO. 47976



KEM-TEC

PROFESSIONAL ENGINEERING,
SURVEYING & ENVIRONMENTAL
SERVICES

A GROUP OF COMPANIES

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Detroit

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(734) 994.0888

Grand Blanc

(888) 694.0001

FAX: (586) 772.4048

FAX: (586) 772.4048

FAX: (734) 994.0667

FAX: (810) 694.9955

www.kemtecagroupofcompanies.com

CERTIFIED TO: MICHAEL ABLESON

FIELD SURVEY: KG TN

DATE: MAY 12, 2022

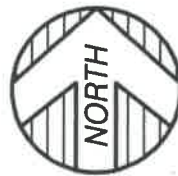
DRAWN BY: DAH

SHEET: 1 OF 1

SCALE: 1" = 20'

JOB NO.: 22-00950

SITE PLAN



SCALE: 1"=20'



LOT 11

VINYL PRIVACY FENCE

FOUND 1/2" REBAR

FOUND 1/2" REBAR

N79°41'23"E(M)
50'(R)
49.89'(M)

NEW ROOF LINE
ON EXISTING
747.5 SF GARAGE
(122.5 SF VARIANCE)

CONCRETE

GARAGE

IN 0.5'

GARAGE
OVERHANG
CROSSES
PROPERTY
LINE

3' REQUIRED
VARIANCE

GARAGE
ON LINE

WALL

WOOD
PRIVACY
FENCE

GARAGE

S01°05'30"E(M)
70.00'(R&M)

FOUND 1/2" REBAR

LOT 8

BRICK

LOT 9

LOT 60

WOOD
PRIVACY
FENCE

S02°56'26"E(M)

209.33'(R) 207.73'(M)

GRAVEL

GRAVEL

SLATE

PORCH

CONCRETE

#584
2 STORY
RESIDENCE

#556
2 STORY
RESIDENCE

GATE

GATE

SLATE

ROCK WALL

BRICK

STAIRS

WALL

TOOTING LANE
PRIVET RIGHT OF WAY
(ASPHALT)

FOUND 1/2" PIPE

100.0'(R) 100.22'(M)
S87°00'27"W(M)

FOUND
1/2" REBAR
WITH CAP
ILLEGIBLE

CENTERLINE OF PRIVATE
DRIVE AS PLATTED
WIDTH NOT SPECIFIED

PROPERTY DESCRIPTION:

THE LAND SITUATED IN BIRMINGHAM, COUNTY OF OAKLAND, STATE OF MICHIGAN, IS DESCRIBED AS FOLLOWS:

LOT 8, ASSESSOR'S PLAT No. 7, AS RECORDED IN LIBER 48 OF PLATS, PAGE 43 OF OAKLAND COUNTY RECORDS.

LEGEND

- FOUND MONUMENT (AS NOTED)
- (M) MEASURED DIMENSION
- (R) RECORD DIMENSION

Glenda Meads Architects

114 S. Old Woodward, Suite 5
Birmingham, MI 48009

Project Data:

ADDRESS 584 TOOTING LAVE
ZONED R-2 (SINGLE FAMILY RESIDENTIAL)
LOT AREA 13,824 SF
LOT WIDTH (AT FRONT SETBACK) 79.33'

LOT COVERAGE 30 % MAX.
EXISTING HOUSE & GARAGE FOOTPRINT 2,258.0 SF
EXISTING REAR COVERED PORCH 92.0 SF
EXISTING DETACHED GARAGE 747.5 SF
TOTAL COVERAGE AREA : 3,097.5 SF

LOT AREA COVERAGE:
3,097.5 SF / 13,824 SF = 22.4 % 30 % MAX.

OPEN SPACE 40 % MIN.
TOTAL STRUCTURES 3,097.5 SF
EXISTING FRONT PORCH 145.0 SF
EXISTING REAR TERRACE 400.0 SF
PAVED SIDE PATIO 380.0 SF
EXISTING DRIVEWAY (INCL ALL IN FRONT YARD) 3,287.5 SF
TOTAL IMPERVIOUS 7,312.5 SF

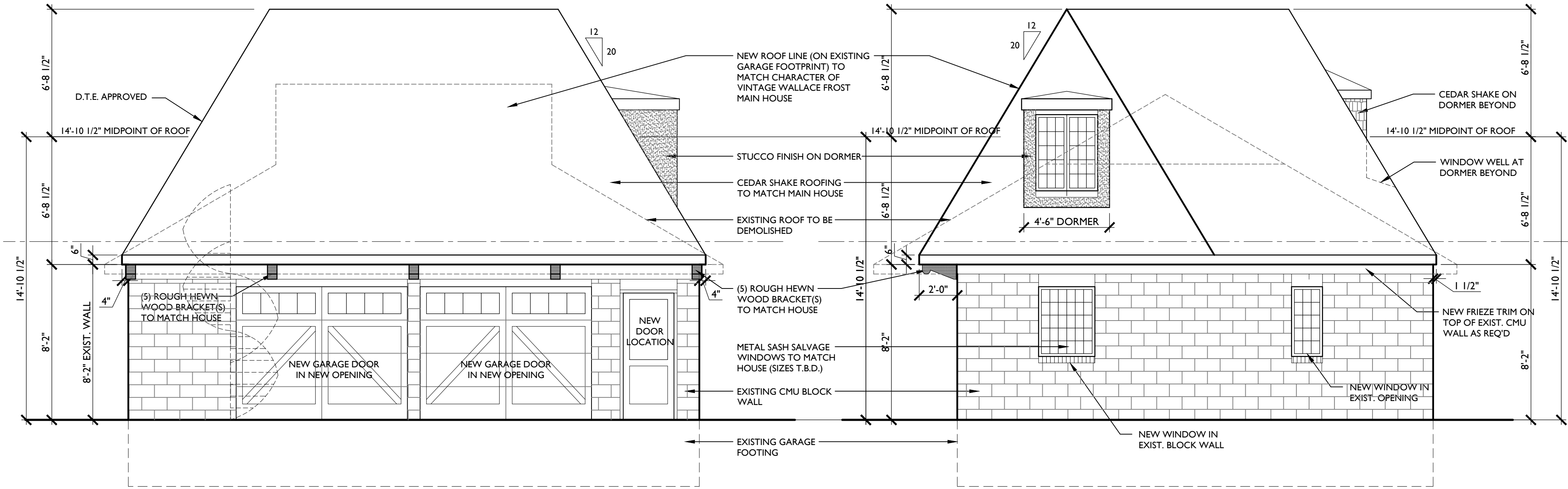
OPEN SPACE:
13,824 SF - 7,312.5 SF / 13,824 SF = 47 % 40 % MIN.

ACCESSORY STRUCTURE DATA

ITEM	REQUIRED	EXISTING/PROPOSED
DISTANCE FROM LOT LINE	3' MIN.	5.5' AND 9.2' EXIST. FROM REAR LOT LINE - OK 0' AND 0.5 EXIST. FROM SIDE LOT LINE - VARIANCE REQ'D
ACCESSORY STRUCTURE AREA	550 SF. MAX.	747.5 SF EXISTING - VARIANCE REQ'D
ACCESSORY STRUCTURE HEIGHT	15' TO MIDPOINT	14'-10 1/2" PROPOSED - OK

VARIANCE CHART

ITEM	REQUIRED	EXISTING	VARIANCE AMOUNT
DISTANCE FROM LOT LINE	3'	0' EAST SIDE	3'
MAXIMUM FLOOR AREA	550 SF + 75 SF FOR STAIR = 625 SF	747.5 SF	122.5 SF

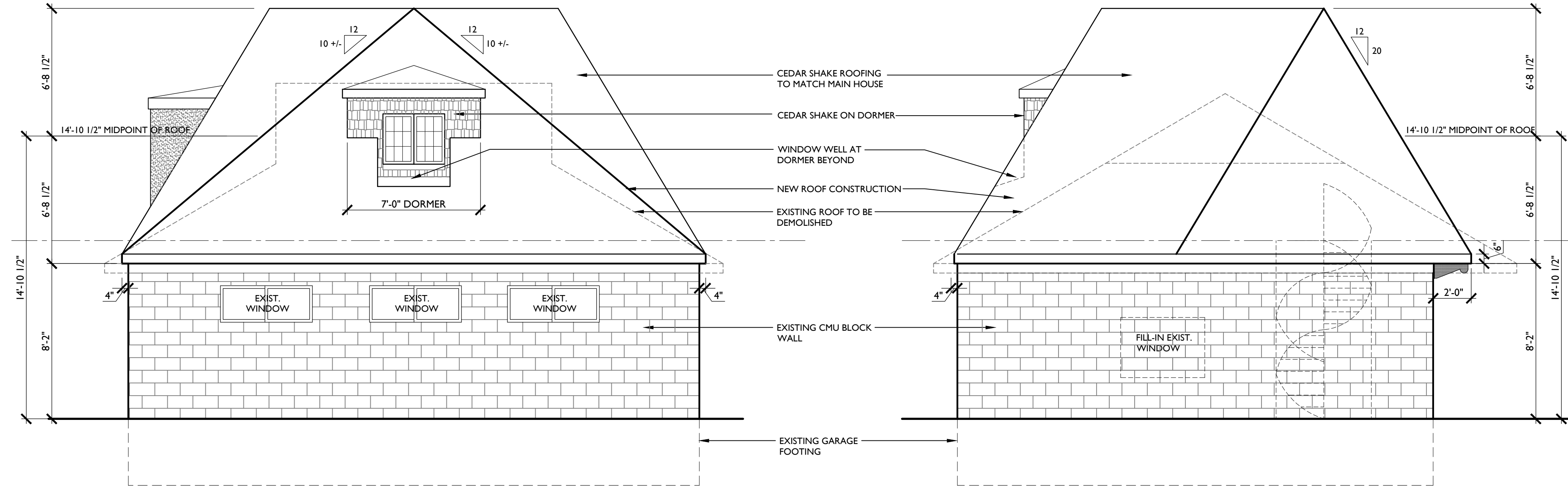


WEST ELEVATION

1/4"=1'-0"

SOUTH ELEVATION

1/4"=1'-0"

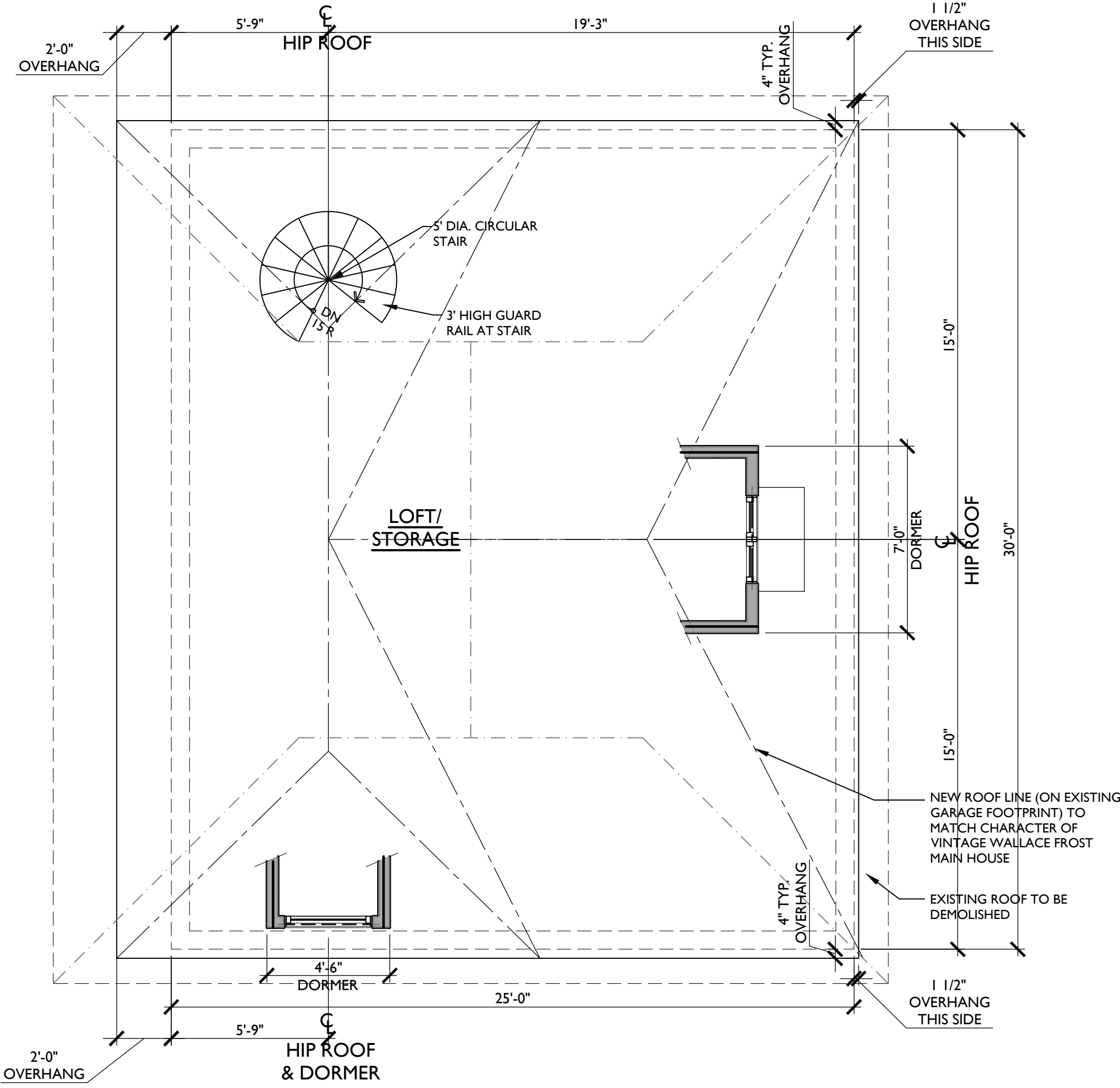


EAST ELEVATION

1/4"=1'-0"

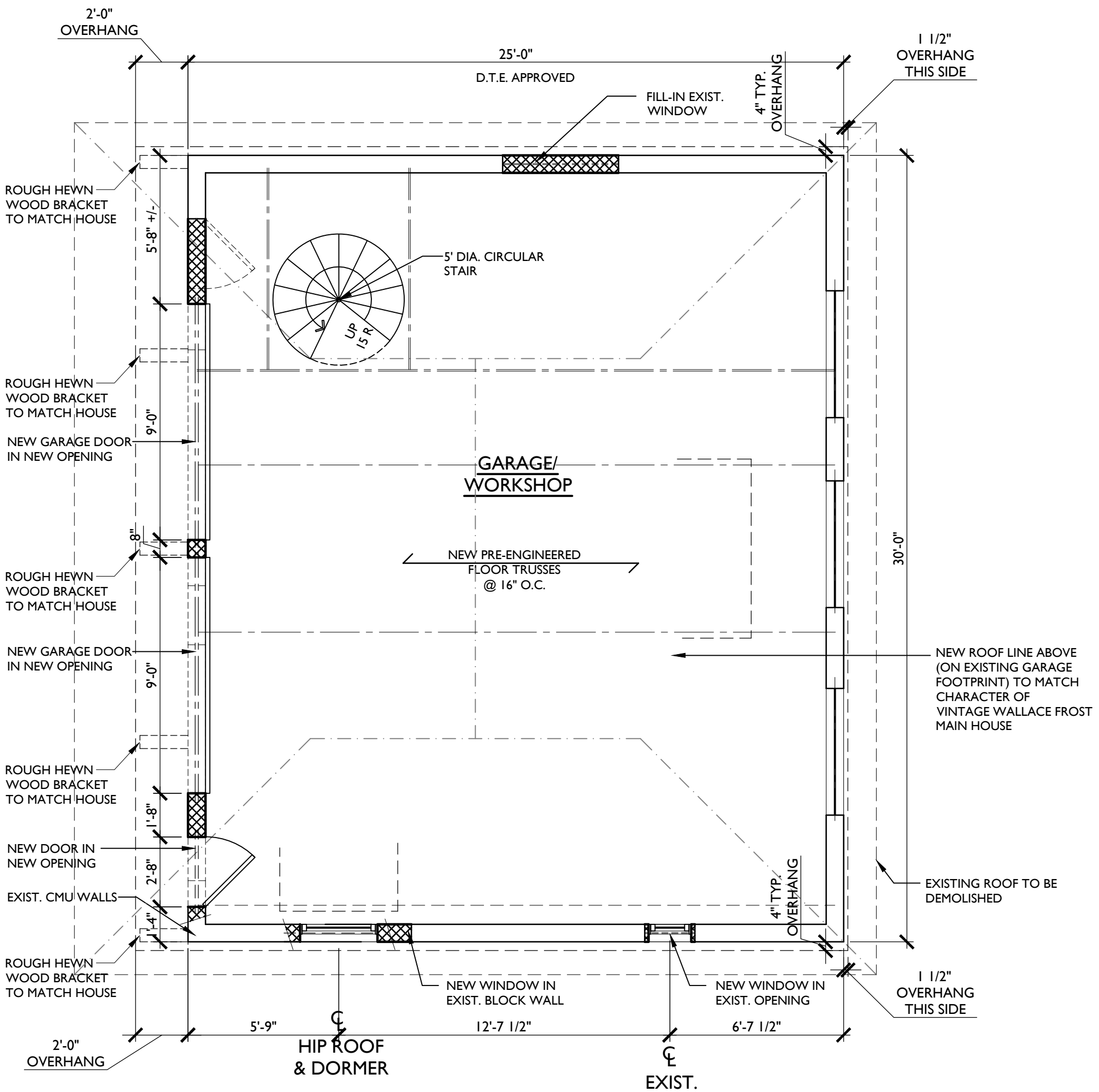
NORTH ELEVATION

1/4"=1'-0"



SECOND FLOOR PLAN

1/4"=1'-0"



GROUND FLOOR PLAN

1/4"=1'-0"

ABLESON GARAGE
584 Tooting Lane
Birmingham, Mi

Glenda MEADS Architects
114 S. OLD WOODWARD AVE. SUITE 5, BIRMINGHAM, MI 48009
T (248) 220-4998 M (248) 514-2971 glenda@glendameads.com

PLANS & ELEVATIONS

5-28-21 PRE-LIM DESIGN
6-16-21 REVISED DESIGN
11-30-21 REVISED DESIGN
12-23-21 REVISED DESIGN
1-6-22 FINAL DESIGN
11-22-22 ZONING APPEAL

A100







Sami Asmar, MD
638 Dewey St.
Birmingham, MI 48009


December 27th, 2002

Building Department
City of Birmingham
151 Martin St
P.O. Box 3001
Birmingham, MI 48009

Dear Members of the Board of Zoning Appeals,

I received notice of our neighbors, Mike and Kathy Ableson's, request for a variance to restore their existing garage at 584 Tooting Lane. I'm writing to let you know I am fully in support of the project. I understand it is their intention to repair the existing structure to reflect the historic nature of their house and believe the project will enhance the overall symmetry and balance of our neighborhood.

Sincerely,



Sami Asmar, MD

NOTICE OF PUBLIC HEARING

BIRMINGHAM BOARD OF ZONING APPEALS

Meeting Date, Time, Location:	Tuesday, January 10, 2023, 7:30 p.m. Municipal Building, 151 Martin Birmingham, MI 48009
Location of Request:	584 TOOTING LANE
Nature of Hearing:	Variances regarding the allowable size and setbacks to construct a second floor to an existing non-conforming detached garage.
City Staff Contact:	Jeff Zielke 248-530-1849 jzielke@bhamgov.org
Notice Requirements:	Mailed to all property owners and occupants within 300 feet of subject address and published in newspaper 15 days prior.
Should you have any statement regarding the above, you are invited to attend the meeting in person or virtually through ZOOM: https://zoom.us/j/96343198370 Meeting Code: 963 4319 8370 or Dial: 877 853-5247 US Toll-Free You may also present your written statement to the Building Dept., City of Birmingham, 151 Martin Street, P.O. Box 3001, Birmingham, Michigan 48012-3001 prior to the hearing.	
Persons with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk's Office at (248) 530-1880 (voice) or (248) 644-5115 (TDD) at least one day in advance to request mobility, visual, hearing or other assistance.	

JANET & DONN DICKERSON
525 TOOTING LANE
BIRMINGHAM, MI 48009
Ph-248-594-1424
Email janet525tooting@comcast.net
12/23/2022



Building Dept.,
City of Birmingham
151 Martin Street, PO Box 3001
Birmingham, MI 48012-3001

Re: Variances for 584 Tooting Lane

Gentlepersons,

Please be advised that we fully support the Abelson's effort to repair and rebuild the unit with variances applied for. The historic significance of the property is important to all in the neighborhood.

Thank You

Janet Dickerson

Donn Dickerson

cc---The Abelson's

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RECEIVED

DEC 29 2022

CITY OF BIRMINGHAM
COMMUNITY DEVELOPMENT DEPT.

We would like to register our
Support for this proposed
variance at 584 TOOTING LANE!

Jeff & Michelle Arning
515 TOOTING LANE

CASE DESCRIPTION

2428 Northlawn (23-03)

Hearing date: January 10, 2023

Appeal No. 23-03: The owner of the property known **2428 Northlawn**, requests the following variances to construct an addition to an existing non-conforming home:

A. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that the minimum front yard setback be the average of the homes within 200.00 feet in each direction. The required front yard setback is 59.13 feet. The proposed is 58.10 feet. Therefore, a 1.03 foot variance is being requested.

B. Chapter 126, Article 4, Section 4.61(A)(1) of the Zoning Ordinance requires that a corner lot which has on its side street an abutting residential lot shall have a minimum setback from the side street equal to the minimum front setback for the zoning district in which such building is located. The required is 47.25 feet on the east side. The existing and proposed is 24.97 feet. Therefore, a variance of 22.28 feet is being requested.

C. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of total lot width, whichever is larger. The required is 27.37 feet on the west side. The existing and proposed is 26.40 feet. Therefore, a variance of 0.97 feet is being requested.

Staff Notes: This applicant was in front of the Board in July 2022(Minutes attached). There were changes in the plans, which brings them back in front of the Board, as the requests are tied to the plans as presented.

This property is zoned R1 – Single family residential.

Jeff Zielke, NCIDQ, LEED AP
Assistant Building Official

2428 NORTHLAWN MAP



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

APPLICATION FOR THE BOARD OF ZONING APPEALS

Application Date: 12-12-22
Received By: HT

Hearing Date: 1-10-23
Appeal #: 23-003

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

Address: <u>2428 Northlawn Blvd</u>	Lot Number:	Sidwell Number:
-------------------------------------	-------------	-----------------

II. OWNER INFORMATION:

Name: <u>Kent and Shantih Johnston</u>			
Address: <u>2428 Northlawn</u>	City: <u>Birmingham</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>KSLJ1@yahoo.com</u>	Phone: <u>248 961 3256</u>		

III. PETITIONER INFORMATION:

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

IV. GENERAL INFORMATION:

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

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

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

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

V. REQUIRED INFORMATION CHECKLIST:

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

VI. APPLICANT SIGNATURE

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

Signature of Owner: 	Date: <u>09 DEC 2022</u>
Signature of Petitioner: 	Date: <u>4 DEC 2022</u>

Kent & Shantih Johnston
2428 Northlawn Blvd
Birmingham, MI 48009

December 9, 2022

RE: Application for the BZA, 2428 Northlawn Blvd, Birmingham

Board of Zoning Appeals,

In July 2022, my wife and I applied for a variance to construct an addition on our existing non-conforming home and presented our hardship to the Board. Thankfully, our request was approved (minutes from this meeting are attached).

After meeting with contractors over the past few months, we've made some notable modifications to our original plan. We added a screened-in porch to the North side, meeting all setback requirements. We have also eliminated the rear 2-story NW addition (almost 1000 sq ft) and reworked some spaces within the existing structure. In doing so, we are no longer encroaching the west side setback. All other approved variance points remain the same, we are only updating our plans and documents and want them to match everything that will be submitted for our building permits.

As we mentioned during the July 2022 meeting, the angle in which our home was positioned on the lot creates a number of challenges for improvement to the structure. We have been very mindful of renovating our home in a tasteful manner which takes advantage of the southern exposure and encroaches as little as possible on any setbacks.

Thank you for your time.

Warm regards,

Kent and Shantih Johnston

Meeting minutes from
approved variance request
in July 2022

distances between existing structures combined to create unusual circumstances on this lot. The neighboring property to the east created an addition that was in compliance but caused Mr. DePorre's garage to become out-of-compliance. Mr. Hart noted Mr. DePorre's compliance with DTE's easements, said the request was minimal and reasonable, and that it would be built on the foundation of the extant garage.

Mr. Miller said he initially expected to not support the request, but upon hearing the constraints believed it would be appropriate to grant the request.

The Chair said he would also support the motion, noting that the non-conformity was not being expanded and was not self-created.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

**6) 2428 Northlawn
Appeal 22-32**

T# 07-49-22

ABO Zielke presented the item, explaining that the owner of the property known as 2428 Northlawn was requesting the following variances to construct an addition to an existing non-conforming home:

A. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that the minimum front yard setback be the average of the homes within 200.00 feet in each direction. The required front yard setback is 59.13 feet. The proposed is 58.10 feet. Therefore, a 1.03 foot variance is being requested.

B. Chapter 126, Article 4, Section 4.61(A)(1) of the Zoning Ordinance requires that a corner lot which has on its side street an abutting residential lot shall have a minimum setback from the side street equal to the minimum front setback for the zoning district in which such building is located. The required is 47.25 feet on the east side. The existing and proposed is 24.97 feet. Therefore, a variance of 22.28 feet is being requested.

C. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of total lot width, whichever is larger. The required is 27.37 feet on the west side. The existing and proposed is 26.40 feet. Therefore, a variance of 0.97 feet is being requested.

Staff answered informational questions from the Board.

Kent Johnston, homeowner, reviewed the letter describing why these variances were being sought. The letter was included in the evening's agenda packet.

In reply to Board inquiry, Mr. Johnston stated variance A would allow the home to be more aesthetically pleasing than if that aspect of the home had to be ordinance-compliant. Allowing that variance would comply with the spirit of the ordinance since it would increase the aesthetic appeal of the front of the home. If the home were not set at an angle, he would not need to request variance A. He could still build the home without variance A if required.

Motion by Mr. Hart

Seconded by Mr. Yaldo with regard to Appeal 22-32, A. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that the minimum front yard setback be the average of the homes within 200.00 feet in each direction. The required front yard setback is 59.13 feet. The proposed is 58.10 feet. Therefore, a 1.03 foot variance is being requested; B. Chapter 126, Article 4, Section 4.61(A)(1) of the Zoning Ordinance requires that a corner lot which has on its side street an abutting residential lot shall have a minimum setback from the side street equal to the minimum front setback for the zoning district in which such building is located. The required is 47.25 feet on the east side. The existing and proposed is 24.97 feet. Therefore, a variance of 22.28 feet is being requested; C. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of total lot width, whichever is larger. The required is 27.37 feet on the west side. The existing and proposed is 26.40 feet. Therefore, a variance of 0.97 feet is being requested.

Mr. Hart moved to approve variances A, B, and C, and tied them to the plans as submitted. He said the appellant faced a number of challenges with the home given the way it is situated on the lot. He said the home being squared off to the street created difficult setback requirements on all four sides of the home. He said the requests were reasonable.

Mr. Miller said he would also support the motion, stating that variance A only was required because of the orientation of the house on the lot. He said that granting variance A also does not push that part of the home beyond the corner of the adjacent house, and so did not represent a detriment to the neighbor.

The Chair concurred with Mr. Miller.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

5. Correspondence

Approved July 2022

Kent and Shantih Johnston
1266 Norfolk St.
Birmingham, MI 48009

May 23, 2022

RE: Variance requested for 2428 Northlawn Blvd, Birmingham

Board of Zoning Appeals,

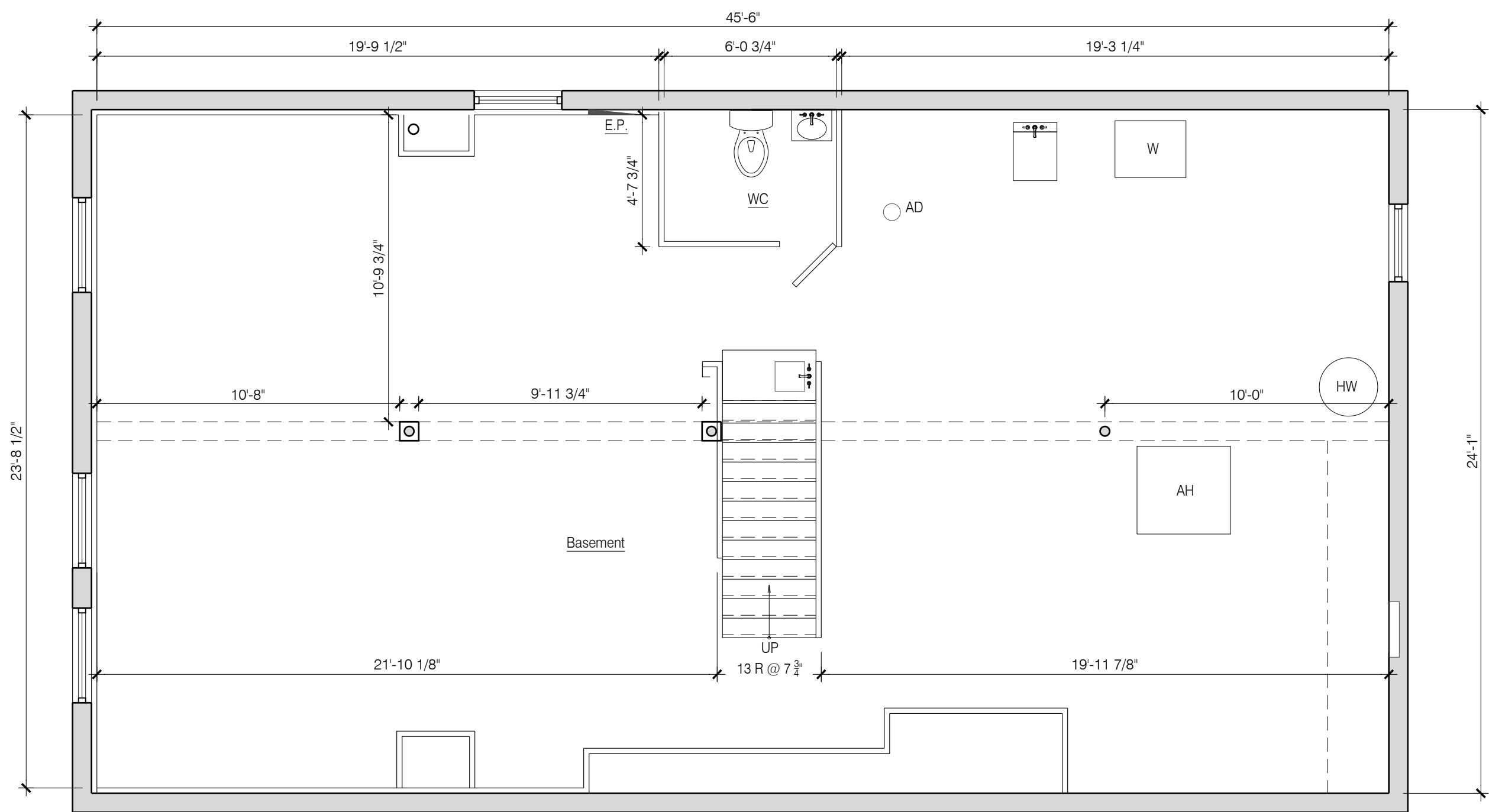
My husband and I have been residents of Birmingham for over 25 years. We've raised our family here and now that 2 of our 3 children have moved out, we've purchased a smaller house on 2428 Northlawn Blvd that will be our "forever" home. We are keeping the original footprint and adding a garage off the back that will be accessible from the adjacent side street (Greenlawn), as the house is on a corner lot. We plan to add many windows to the current structure to take advantage of the beautiful southern exposure facing the Birmingham Country Club golf course. We'd also like to add a master suite on the first level, so the house can be wheelchair accessible if/when needed. Here is the hardship: The house was built in 1951 at an angle on the property to begin with and is currently non-conforming on the west side setback. Our proposed addition will encroach LESS than the current non-conforming west wall. In addition, by moving the location of the garage to the back (east side), we are eliminating a non-conforming front setback of the current garage.

For the front setback variance, we'd like to add a foyer to the entrance which will provide more architectural interest/curb appeal and allow us to enter the front living space without stepping right into the staircase. The hardship for this is that the current layout leaves little room to enter the home and have space before the stairway begins (or for a wheelchair if needed). In addition, the home is very long and flat and could use some added dimension in the front.

Requested Variances	Required	Existing	Proposed	Variance Amount
Variance A: Side yard setback West (<i>existing structure</i>)	9	8.54	8.54	0.46
Variance B: Side yard setback West (<i>existing structure</i>)	25% of total lot width: 27.365	26.4	26.4	0.965
Variance C: Front yard setback	59.13	59.7	58.1	1.03

Thank you for your time. We hope that a variance can be granted so that we can renovate our new home in a tasteful, beautiful manner and one that makes sense for our lifestyle.

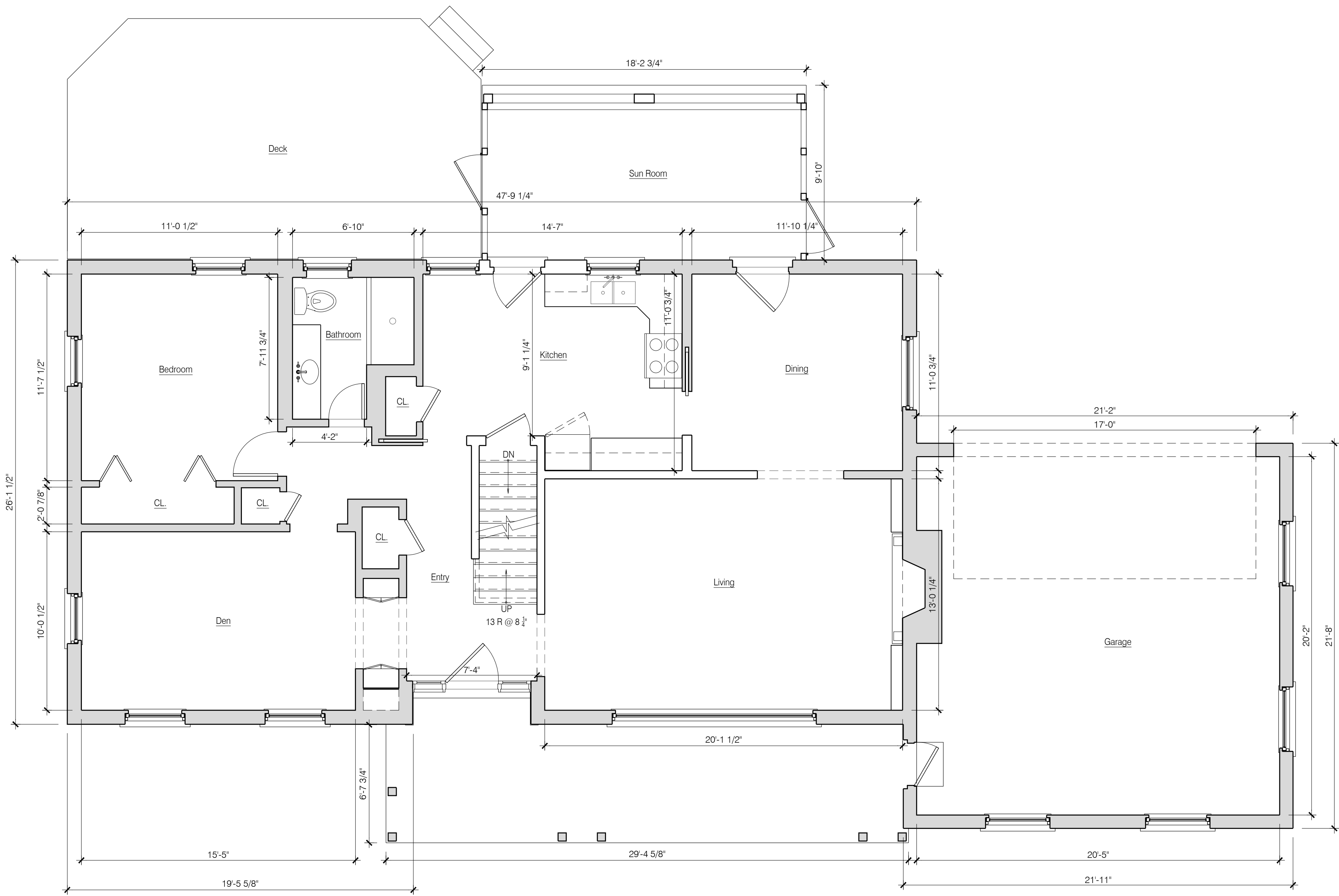
Warm Regards,
Shantih and Kent Johnston



BASEMENT PLAN

1/4" = 1'-0"

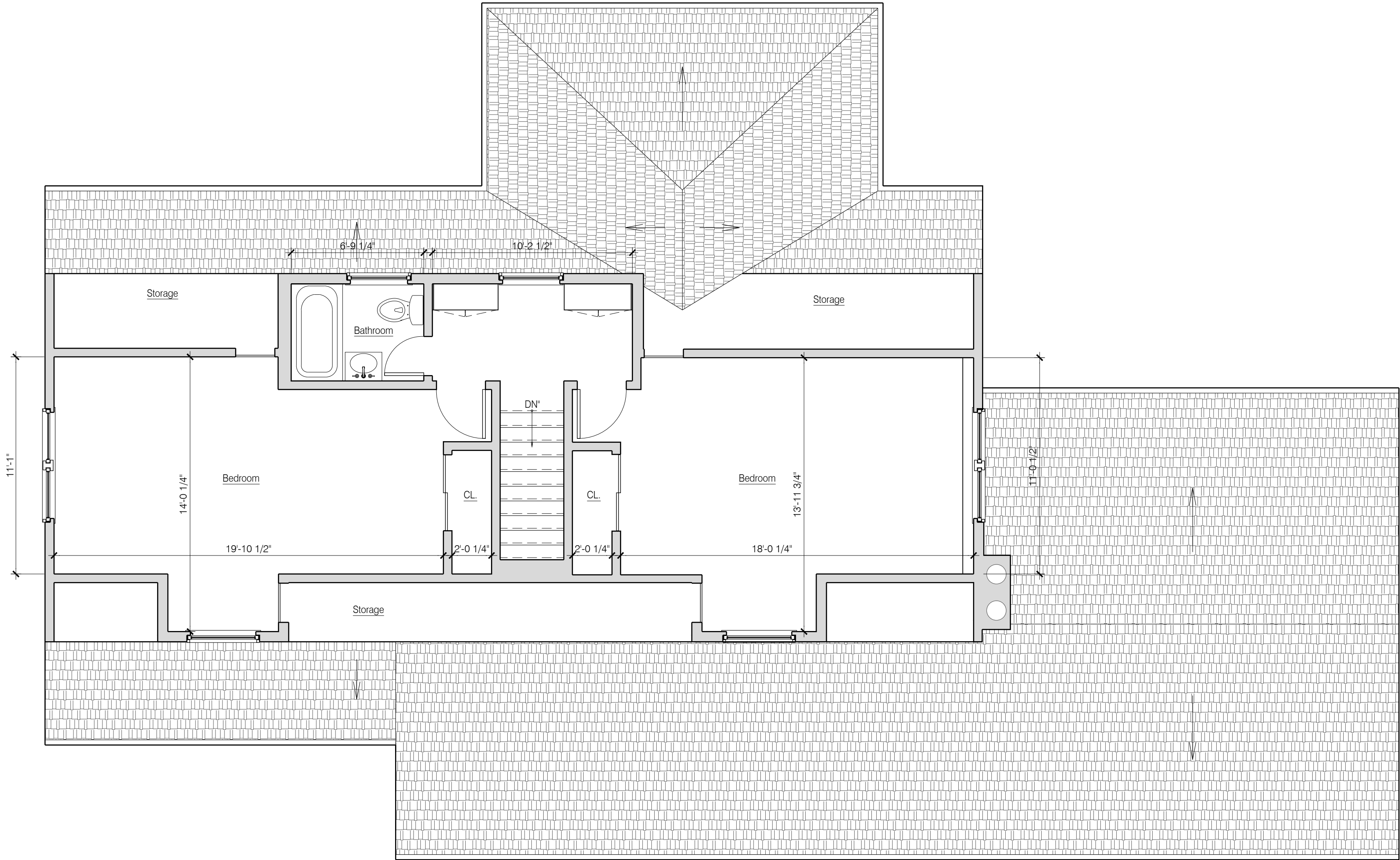




FIRST FLOOR PLAN

1/4" = 1'-0"

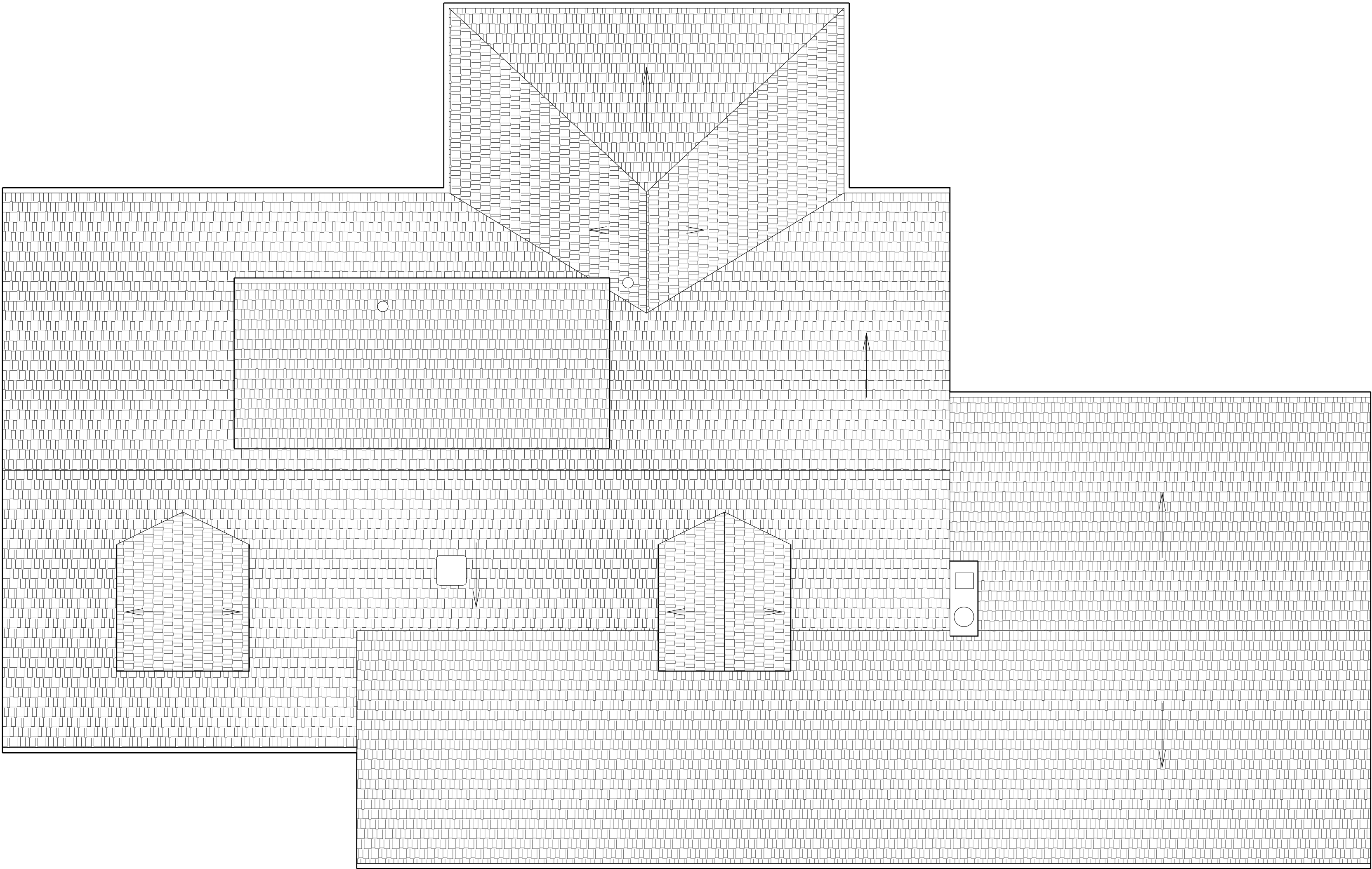




SECOND FLOOR PLAN

1/4" = 1'-0"





ROOF PLAN

1/4" = 1'-0"





SOUTH ELEVATION 1/4" = 1'-0"



WEST ELEVATION 1/4" = 1'-0"

Ridge
19'-4 1/2"

Second Floor
8'-11 1/4"

First Floor
0'-0"

Garage Slab
-2'-0"



NORTH ELEVATION 1/4" = 1'-0"



EAST ELEVATION 1/4" = 1'-0"

Ridge
19'-4 1/2"

Second Floor
8'-11 1/4"

First Floor
0'-0"

Garage Slab
-2'-0"

GREENLAWN BLVD (68 FT R.O.W.)

185.00'

742.21 M.E. F.I.

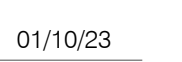
M. CB
41.90
SW 738.35
SE 738.32

C.P. Δ

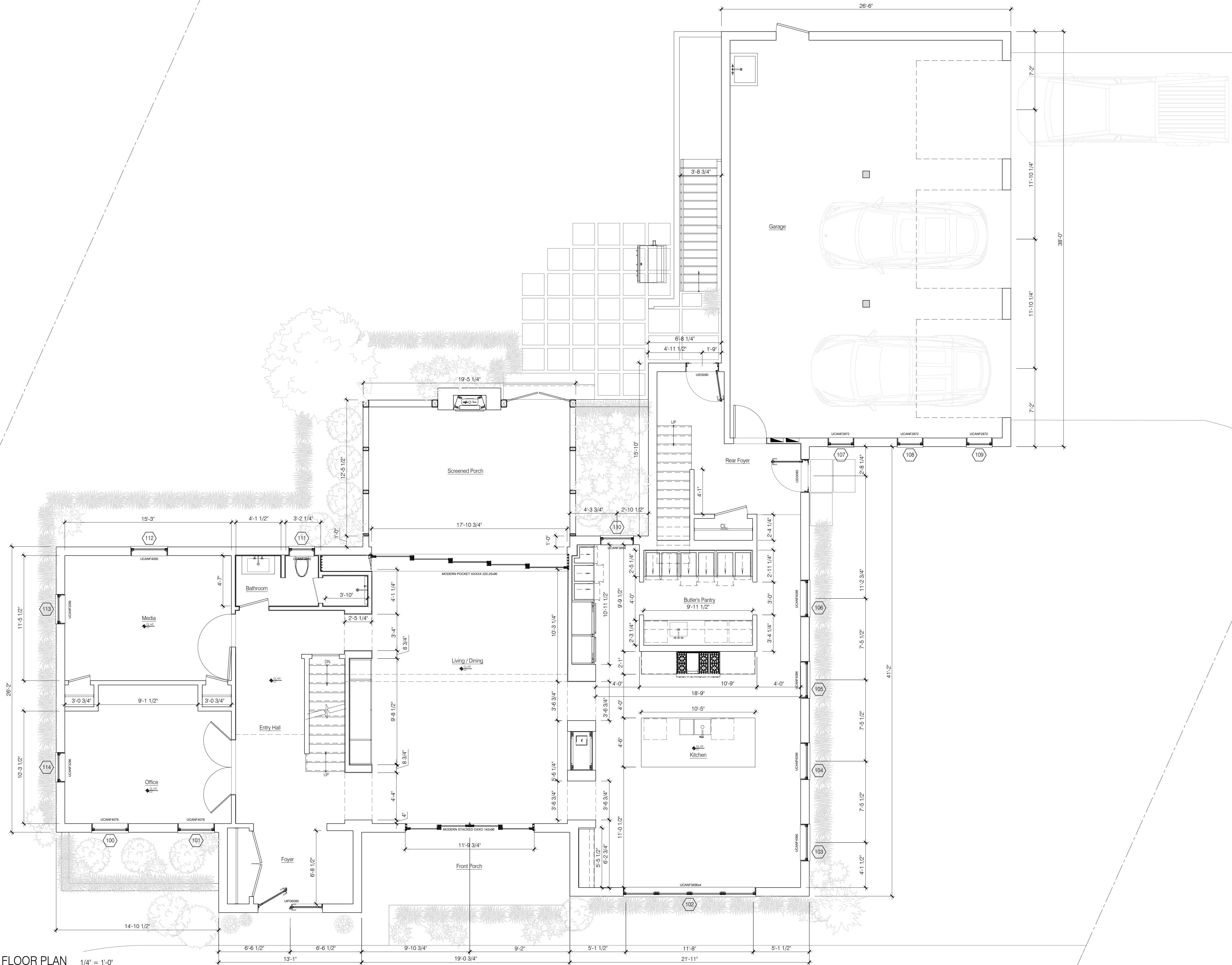
LOT 12
REL# 19-35-306

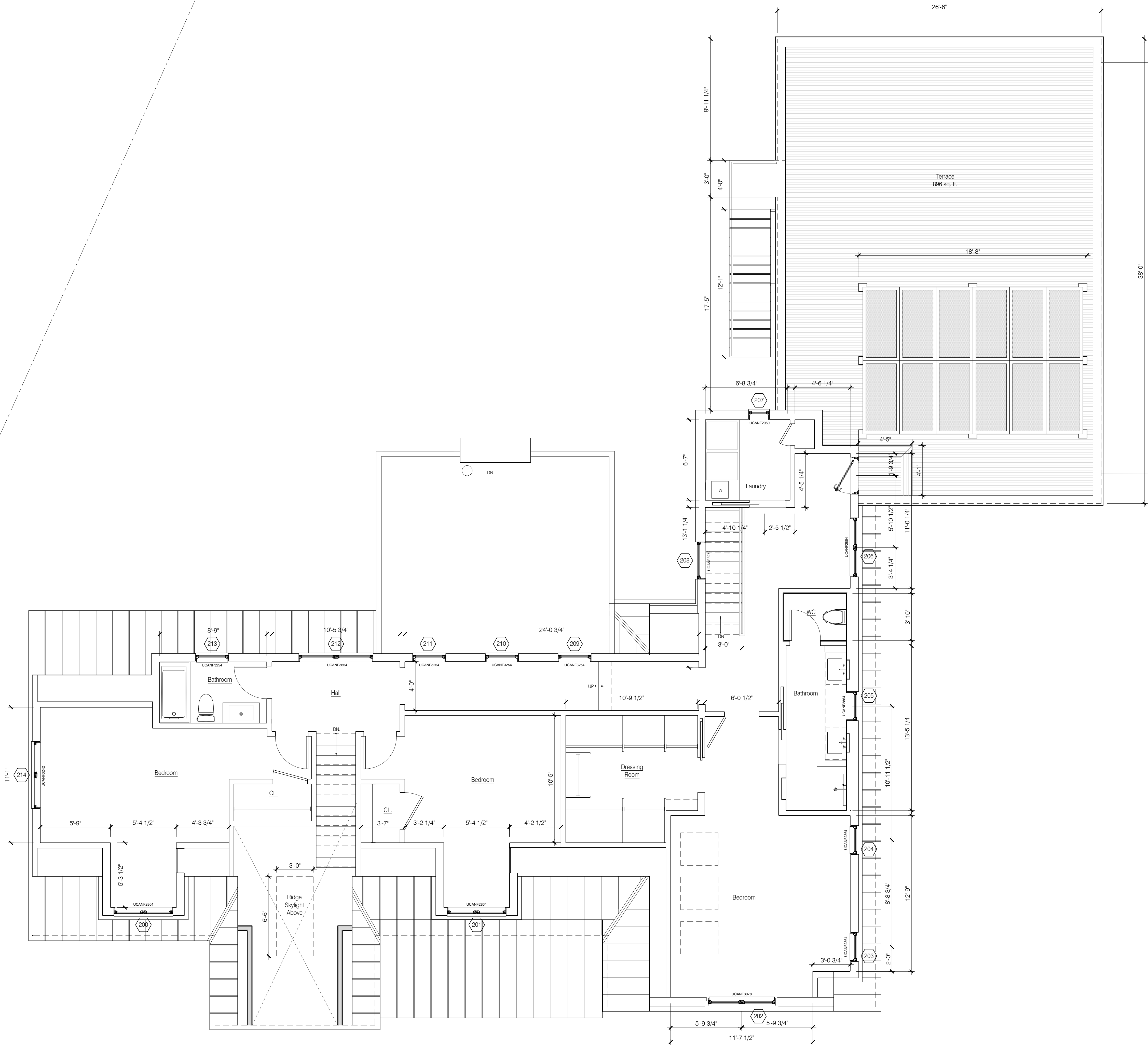
10/23

A-100



FIRST FLOOR PLAN 1/4" = 1'-0"





SECOND FLOOR PLAN 1/4" = 1'-0"

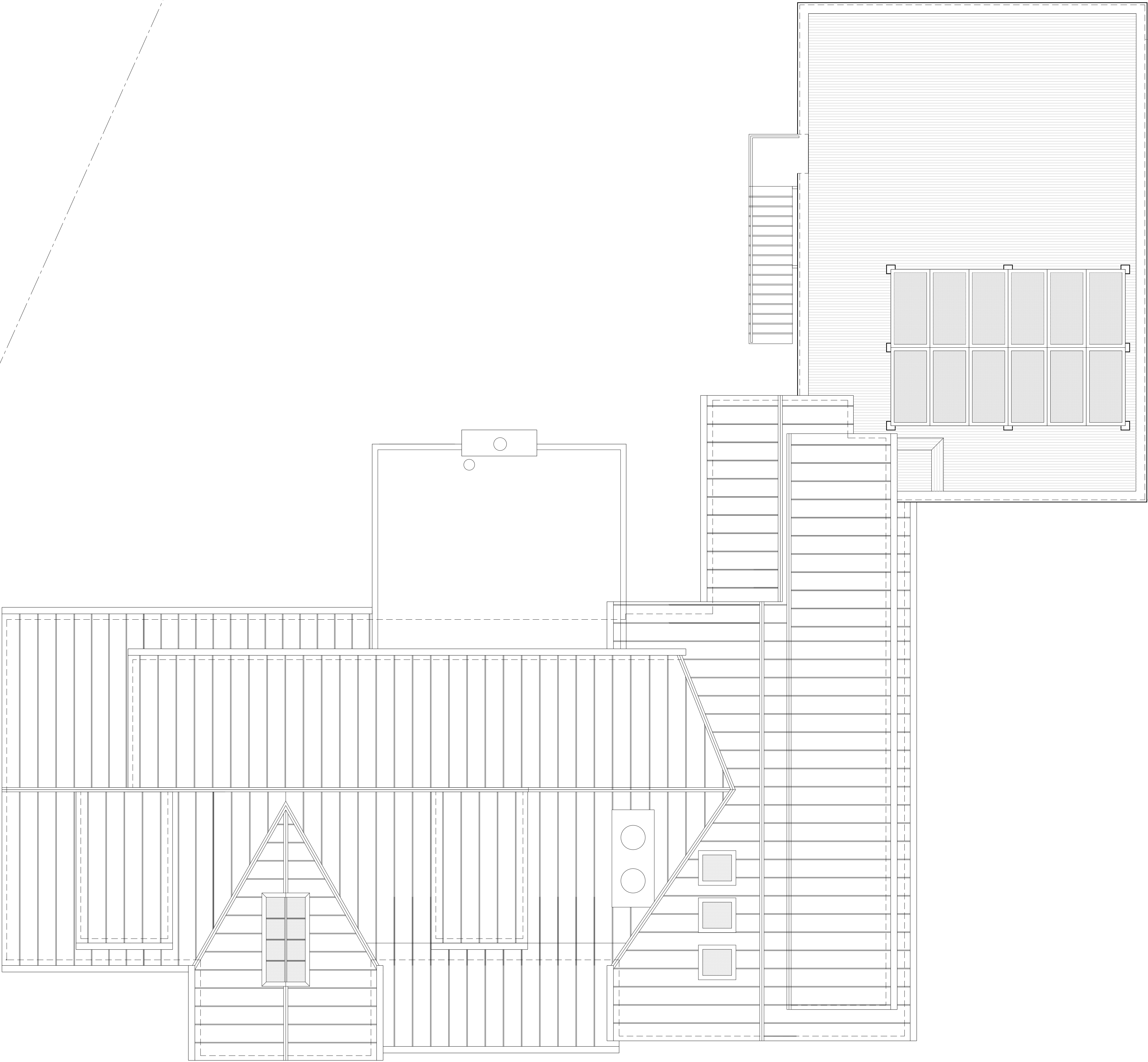


2428 Northlawn Blvd.
Birmingham, MI

Proposed Plans
Roof

1/4" = 1'-0"

A-103



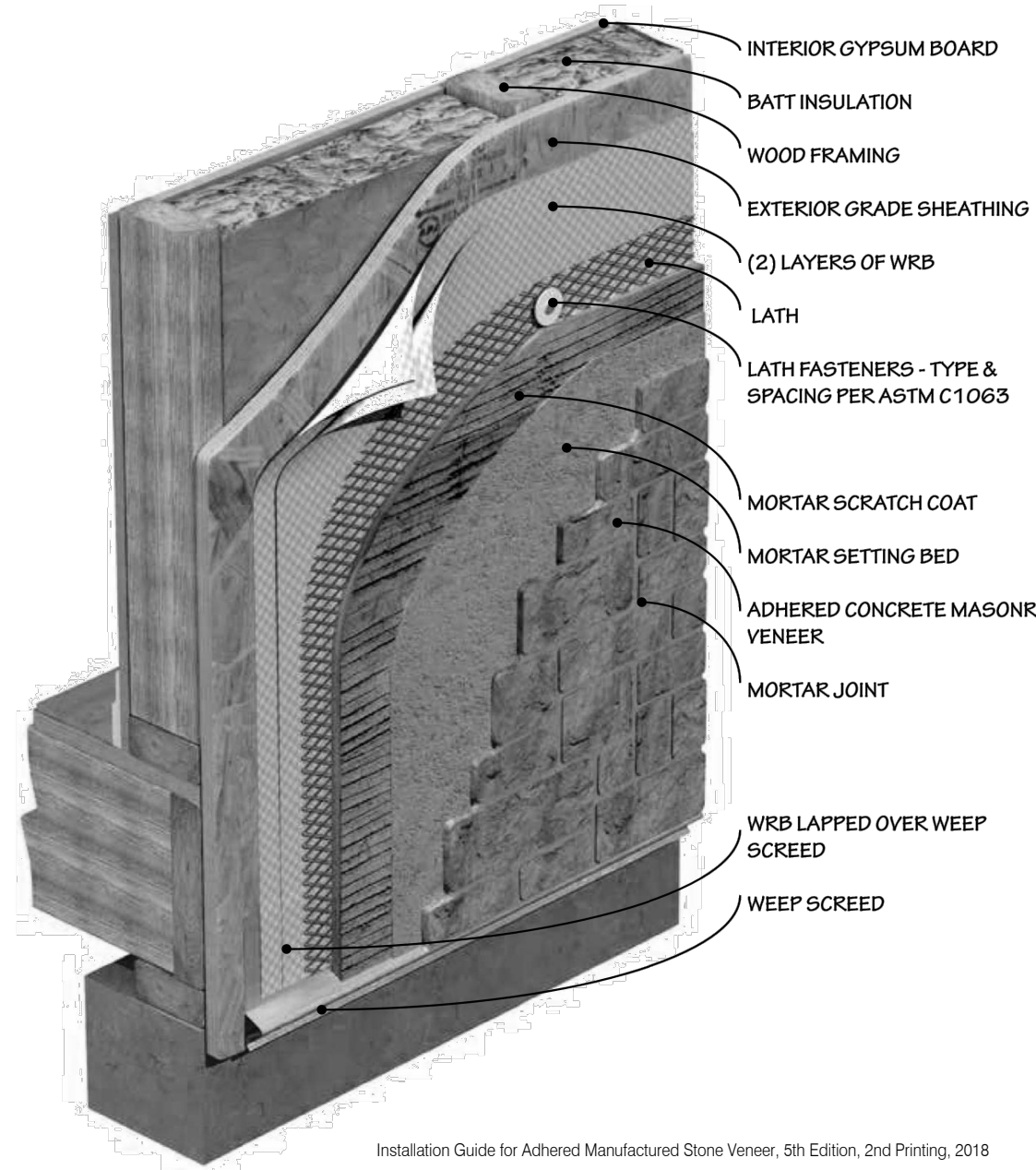
ROOF PLAN

1/4" = 1'-0"



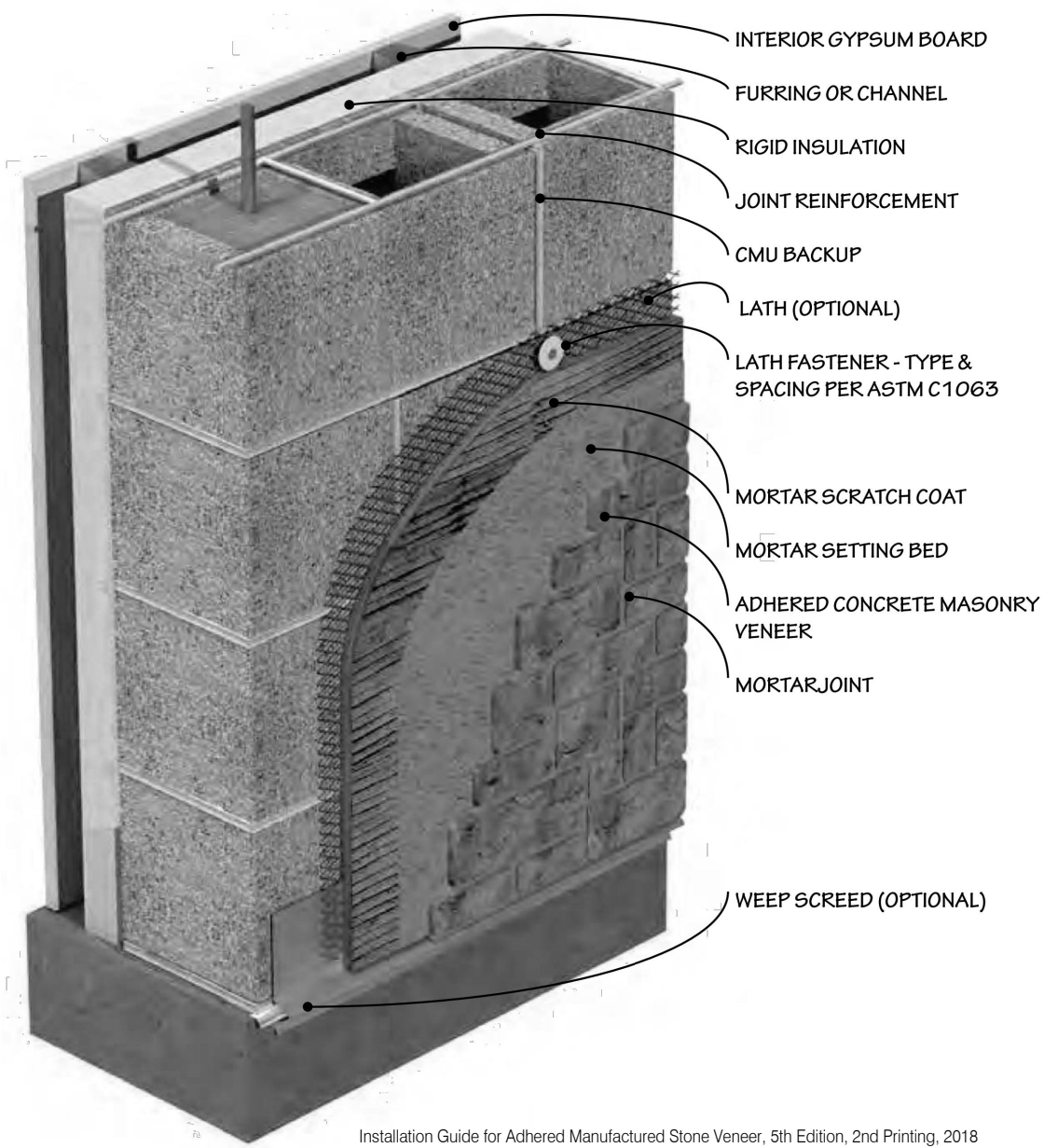


SOUTH ELEVATION 1/4" = 1'-0"



Installation Guide for Adhered Manufactured Stone Veneer, 5th Edition, 2nd Printing, 2018

STONE VENEER ON FRAMING



Installation Guide for Adhered Manufactured Stone Veneer, 5th Edition, 2nd Printing, 2018

STONE VENEER ON MASONRY

2428 Northlawn Blvd.
Birmingham, MI

Exterior Elevations
North

1/4" = 1'-0"

A-105



NORTH ELEVATION 1/4" = 1'-0"



EAST ELEVATION 1/4" = 1'-0"



WEST ELEVATION 1/4" = 1'-0"

CASE **DESCRIPTION**

300 S. OLD WOODWARD

(23-05)

Hearing date: January 10, 2023

Appeal No. 23-05: The owner of the property known **300 S. Old Woodward** requests the following variances:

- A. Chapter 126, Article 3, Section 3.04 (E)(4) requires all buildings in the Downtown Overlay District to contain storefronts transparent areas equal to 70% of its portion of the facade between one and eight feet from the ground. The proposed building contains a storefront on Daines with a transparency percentage of 62% (392 sq. ft.) where 70% (440 sq. ft.) is required. Therefore, a variance of 48 sq. ft. is requested for the Daines storefront.
- B. Chapter 126, Article 3, Section 3.04 (E)(4) requires all buildings in the Downtown Overlay District to contain storefronts transparent areas equal to 70% of its portion of the facade between one and eight feet from the ground. The proposed building contains a storefront on S. Old Woodward with a transparency percentage of 60% (700 sq. ft) where 70% (812 sq. ft.) is required. Therefore, a variance of 112 sq. ft. is requested for the S. Old Woodward storefront.
- C. Chapter 126, Article 3, Section 3.04 (E)(4) requires all buildings in the Downtown Overlay District to contain storefronts transparent areas equal to 70% of its portion of the facade between one and eight feet from the ground. The proposed building contains a storefront on Brown with a transparency percentage of 58% (364 sq. ft) where 70% (440 sq. ft.) is required. Therefore, a variance of 76 sq. ft. is requested for the Brown storefront.

D. Chapter 86, Article 1, Section 1.05 (K)(2) of the Sign Ordinance permits *non-illuminated* signs identifying the entire structure by a building name to be permitted above the first floor. The applicant is proposing four *illuminated* building identification signs at 16.5 sq. ft. each (66 sq. ft. total). Therefore, the applicant is requesting a dimensional variance of 66 sq. ft. of illuminated building identification signage.

Staff Notes:

The applicant, Restoration Hardware (RH), obtained Final Site Plan and SLUP approval for a four story retail and restaurant building on August 9th, 2021. On December 14th, 2022 the applicant appeared before the Planning Board to amend their final site plan and SLUP which includes changes to the exterior design. The Planning Board recommended approval of the proposed amendments with conditions including the applicant obtain a variance for first floor glazing percentages of less than 70% and another variance to have four illuminated building identification signs.

The first three floors of the building are proposed to be retail use, followed by a restaurant on the fourth floor with retail elements. All three floors of the retail exhibits will be visible through the transparent glass from each side of the building. The applicant is proposing to maintain architectural continuity and symmetry for all three floors of retail use, therefore the exterior columns remain the same width from the ground level to the top of the third level.

The standards of the Downtown Overlay District require that the first floor of this building be used as retail, and that the first floor façade have a transparent glazing area of 70% or more between one and eight feet from the ground. As previously mentioned, the applicant is proposing first floor glazing percentages of 62% facing Daines Street, 60% facing S. Old Woodward, and 58% facing Brown Street.

It is of note that Article 3.04(E)(6) of the Downtown Overlay District states that the glazed area of a façade above the first floor shall not exceed 35% of the total area. This requires a transition in exterior building material from the first floor to the area above by emphasizing a greater amount of stone or brick. At this time, the applicant's proposal satisfies the glazing area requirements for the façades above the first floor. However, if the applicant were to narrow the width of the columns to satisfy the first

floor glazing requirements of 70%, the proposal would not satisfy the upper level glazing requirements of less than 35% without sacrificing symmetry and continuity of the exterior design.

The form based code of the Downtown Overlay District created design regulations in the 1990s with the general assumption that new buildings would be mixed-use with one floor of retail and/or restaurants, up to two floors of office, and the remaining floor(s) as residential. The design regulations of the Downtown Overlay District are meant to ensure quality design as the uses transition from one floor to another. In the applicant's case, the exclusive use of retail extends from the first floor to the third floor where a design transition then occurs to the fourth floor restaurant. General consensus from the Planning Board hearing on December 14th, 2022 was that the updated proposal is the type of design desired for the City's downtown.

In regard to signage, the applicant is proposing four illuminated building identification signs reading "RH" on each side of the building. Building identification signs may be placed above the first floor, however they are not allowed to be illuminated as the applicant has proposed. Signage is allowed to be illuminated when located on the sign band which is the area between the first and second floor. General consensus from the Planning Board hearing on December 14th, 2022 was that the illuminated building identification signs were not garrish or obtrusive and requested that the sign lighting on the western elevation be turned off after business hours if the variance is obtained.

The property is zoned B2 General Business and D4* in the Downtown Overlay

*with the condition that the building is constructed pursuant to the site plan, as voluntarily given by the applicant

Brooks Cowan
Senior Planner

300 S OLD WOODWARD MAP



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

APPLICATION FOR THE BOARD OF ZONING APPEALS

Application Date: 12-12-22

Hearing Date: 1-10-23

Received By: HT

Appeal #: 23-05

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: 300 & 394 S Old Woodward Avenue	Lot Number:	Sidwell Number: 8-19-36-204-006; 08-19-36-2004-014; 08-19-36-204-027
--	-------------	--

II. OWNER INFORMATION:

Name: Woodward Development, LLC (RH, Inc.)			
Address: 15 Koch Road	City: Corte Madera	State: CA	Zip code: 94925
Email: * nkulczycky@rh.com		Phone: (315) 663-6457	

III. PETITIONER INFORMATION:

Name: Woodward Development, LLC c/o Richard Rattner, Esq	Firm/Company Name: Williams, Williams, Rattner & Plunkett, P.C.		
Address: 380 N Old Woodward Avenue	City: Birmingham	State: MI	Zip code: 48009
Email: rdrattner@wwrplaw.com		Phone: (248) 642-0333	

IV. GENERAL INFORMATION:

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

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

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

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

V. REQUIRED INFORMATION CHECKLIST:

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

VI. APPLICANT SIGNATURE

Owner hereby authorizes the petitioner designated below to act on behalf of the owner.
By signing this application, I agree to conform to all applicable laws of the City of Birmingham. All information submitted on this application is accurate to the best of my knowledge. Changes to the plans are not allowed without approval from the Building Official or City Planner.
*By providing your email to the City, you agree to receive news and notifications from the City. If you do not wish to receive these messages, you may unsubscribe at any time.

Signature of Owner: [Signature]

Date: 12/12/2022

Signature of Petitioner: Richard D. Rattner

Date: 12/12/2022



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

380 North Old Woodward Avenue
Suite 300

Birmingham, Michigan 48009

Tel: (248) 642-0333

Fax: (248) 642-0856

December 12, 2022

Richard D. Rattner
rdr@wwrplaw.com

Hand-Delivered

Board of Zoning Appeals
City of Birmingham
151 Martin St.
Birmingham, MI 48012

Re: Application for Dimensional Variance ("Application") for Property at 300 and 394 S. Old Woodward and 294 E. Brown Street, Birmingham, Michigan ("Subject Property") submitted by RH, Inc. ("Applicant")

Dear Members of the Board of Zoning Appeals:

This letter supports the above-referenced Application for Dimensional Variance for the Subject Property relating to the glazing requirement of the D4 Overlay Zone set forth below:

Section 3.04 E. Architectural standards.

All buildings shall be subject to the following physical requirements:

* * *

4. Each storefront must have transparent areas, equal to 70% of its portion of the façade, between one and eight feet from the ground.¹

In addition, the Applicant requests a back-lit wall sign with the letters "RH" in the center just above the third floor of the building. This variance is request relates to Section 1.05 K (2) of the Sign Ordinance, which states:

K. Wall Signs (General).

* * *

2. Building Identification: Nonilluminated signs identifying the entire structure by a building name may be permitted above the first floor in accordance with Section 2.02C: Requirements.

¹ Note Zoning Ordinance Section 4.90 WN-01E of the Development Standards provides glazing percentages can be modified by majority vote of the Planning Board "to allow flexibility in design." This Development Standard, however, is not applicable to the Overlay districts, to the detriment of development in those districts.

Applicant seeks two dimensional variances as shown below:

<u>Requested Variances</u>	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	<u>Variance Amount</u>
Less than 70% transparency of the first floor	70%	NA	58%-62% (varies by façade)	Less 8%-12%*
To place illuminated wall sign above a sign band	Nonilluminated walls signs above sign band	NA	Back-lit RH near top of building	Variance for back lighting; sign allowed

*percentages subject to Planning Board's review and approval of the amended site plan.

Executive Summary -- The Subject Property

The Birmingham Zoning Ordinance ("Ordinance") at Sec. 1.04 provides that the purpose of the Zoning Ordinance is to "...guide the growth and development of the City in accordance with the goals, objectives and strategies stated within the Birmingham Master Plan ("Birmingham Plan"), and Downtown Birmingham 2016 Plan ("2016 Plan")." The Downtown Birmingham 2016 Plan (1996) reveals the Applicant's request for a glazing variance for the Subject Property meets the spirit and intent of the Ordinance as well as the 2016 Plan. The dimensional variances will permit the Applicant to develop the Subject Property into one of the most exciting and successful home furnishing retail galleries in the country, complete with a fourth-floor restaurant. The entire site will be occupied by the RH home line design gallery and fourth-floor restaurant. The proposed building will be a perfect complement to the Daxton Hotel across Brown Street to the north and other properties in the South Old Woodward corridor, activating the southwest corner of Brown Street, and further extending the central business district to the south.

The 2016 Plan, at p. 181, in the Downtown Birmingham "Vision Statement" specifically states that future plans should "[s]trengthen the spatial and architectural character of the downtown area and ensure buildings are compatible, in mass and scale, with their immediate surroundings and the downtown's traditional two and four-story buildings." The mass and scale of the proposed RH building, while more modern in design, is complimentary of the architectural landmark building on the north side of Brown Street, the Daxton Hotel. The variance of 8-12 % for the first-floor glazing will also permit the Subject Property to be developed into a stand-alone retail space on a size that Birmingham has not enjoyed since the days of Jacobson's and Crowley's, with the addition of a first-class restaurant. This reinforces the identifiable Downtown and brings a mix of uses, including retail and commercial, consistent with the goals of the 2016 Plan. The existing glazing standard of 70% for transparency for the first floor does not anticipate an anchor retailer with three stories of gallery space but reflects an antiquated

assumption of office and residential placement in upper floors. The slight decrease in the glazing standard of 70% is de minimis. As designed the first floor is architecturally consistent with the entire façade of the retail gallery and creates a nearly “see through” building for the pedestrian walking past. Thus, the glazing variance satisfies the intent of the D4 architectural standards.

The Vision Statement also provides one goal of the 2016 Plan, to “[e]ncourage first floor retail businesses, services, and other activities which are required for everyday living.” The Applicant plans to use the entire Subject Property for one of its exemplary home design and furniture retail stores, goods everyone touches daily. Floors one through three of the new building will be dedicated entirely to the retail use (not limited to the first floor), while the fourth floor will offer food and beverage service. Another “vision” of the 2016 Plan is to “[e]nsure the economic vitality of the downtown business community” and to “[b]e designed for safety, comfort, convenience, and enjoyment of pedestrians, rather than vehicular traffic.” The Applicant’s stand-alone retail store will be a destination for home interior shoppers, thereby drawing people into Downtown and adding to Downtown’s economic vitality. This retail store will be like no other in Birmingham with a pedestrian-friendly retail concept designed for people to enjoy from the inside and the outside.

The architectural design with a balance of clear glazing on the first floor and upper floors allows pedestrians to see into the galleries at the street level and all floors above, making the building very inviting from the street. A back-lit wall sign designating the building as an RH is consistent with the modern design of the structure that has no identifiable sign band. The illumination of the understated wall sign will face the commercial frontage on South Old Woodward, adjacent to the stop lights at Brown and South Old Woodward and will add only ambient light to the already well-illuminated intersection.

In summary, RH’s requested dimensional variances not only comply with the Vision Statement of the 2016 Plan but has the distinct advantages of creating a new and modern shopping destination with a mix of retail and restaurant uses unique to Birmingham, while at the same time it will extend the central business district of Downtown by the addition of beautiful architecture complimenting and enhancing the South Old Woodward corridor.

Standards

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

- i. Because of special conditions applicable to the property in question, the provisions of the Zoning Ordinance, if strictly applied, unreasonably prevent the

- property owner from using the property for a permitted purpose;
- ii. Literal enforcement of the chapter will result in unnecessary hardship;
 - iii. The granting of the variance will not be contrary to the spirit and purpose of the Zoning Ordinance nor contrary to the public health, safety and welfare; and
 - iv. The granting of the variance will result in substantial justice to the property owner, the owners of property in the area and the general public.

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

The Applicant intends to construct a uniquely designed four-story retail gallery, unlike any other commercial building in Downtown Birmingham. There are no department stores or retail galleries in Birmingham and the proposed new RH Gallery is the type of retail anchor store the city has longed to attract. The glazing standard for the D4 Overlay, however, does not anticipate a retail anchor where the first floor and upper floors are dedicated principally for retail galleries. The Ordinance only anticipates office and residential in the upper floors of Downtown as reflected in the current glazing standard. Hence, the Ordinance unreasonably prevents the Applicant from designing a coherent façade to suit the same retail use of the first three floors with the same inviting openness to each floor, although such retail use is permitted on those floors.

Similarly, the Sign Ordinance does not anticipate the stunningly beautiful architectural design of the building with no delineation of floors and, hence, no sign band. The simplicity of the RH logo and its placement in the center of the façade above the third floor is consistent with the building's use as a retail gallery, as opposed to first floor retail only, with office or residential in the floors above. Note, the Sign Ordinance permits placement of the wall sign above the third floor. Back lighting the RH logo will not add measurable light to the streetscape. It will be adjacent to the stop lights at Brown and South Old Woodward. There are other lighted wall signs along this stretch of South Old Woodward and, therefore, the RH sign will not be an anomaly.

Literal Enforcement of the Zoning Ordinance Will Result in Unnecessary Hardship

Literal enforcement of the D4 Overlay glazing standard will result in an unnecessary hardship to the Applicant. Rather than build a 4-story retail building where the inviting retail design of the first floor is carried through consistently to the second and third floors, Section 3.04 E.4 requires the Applicant to design the first, second and third floors as if they had different uses, creating cognitive dissonance for pedestrians. The result is an unnecessary hardship of limiting the openness of a retail standard and coherence of first floor retail and upper floor retail and discouraging pedestrians from shopping all the galleries placed above the first floor, or even being aware the galleries continue to the upper floors. This presumption of the Ordinance is mirrored in the Sign Ordinance with the disallowance of illuminated signs above the sign band. This building, designed as a retail gallery on three floors, has no identifiable sign band. Without

some illumination of the RH logo, pedestrians will have difficulty identifying the retail gallery after dark.

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

As stated in the Executive Summary section of this letter, granting Applicant the requested variance to allow a de minimis reduction in 70% transparency of the first floor while meeting the standard above the first floor is not contrary to the spirit and purpose of the Ordinance, as it creates a unified, open façade demonstrating an invitation to pedestrians to browse all floors of the RH Gallery. In addition, the variance would not be contrary to the public health, safety, and welfare. From an environmental standpoint, the consistency of glazing of floors one through three allows the building to be lighted, heated and cooled more from the Earth's elements, drawing less energy from utilities. Hence, the variance is aligned with welfare of everyone.

The Sign Ordinance already permits placement of a wall sign above the third floor. Back lighting the understated RH logo is the Applicant's only request related to the sign. This is consistent with the spirit and intent of the ordinance which is to encourage extension of the retail district into the South Old Woodward corridor. Without some illumination of the RH sign, the anchor retail gallery will lack identification after dark for Downtown pedestrians.

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

Granting the requested variances will result in substantial justice to the Applicant, the owners of neighboring properties in the area, and the public. As stated above, the City is determined to meet the goals and objectives laid out in the Master Plan; and the requested variance regarding harmonious glazing of the first three floors is aligned with the goals of the Master Plan, as is the request to back light the understated RH logo above the third floor. Birmingham has long desired to attract a department store to anchor Downtown as a destination, and to connect disparate areas of Downtown such as the Central Business District and South Old Woodward. This one-of-a-kind RH Gallery, the first with RH's new signature design -- anywhere in the world -- will connect the Central Business District and the South Old Woodward corridor and be a shopping destination like no other. It's mass and scale will fit perfectly between the Daxton and the Forefront buildings. The addition of RH to Downtown Birmingham will have a positive spillover effect for other Downtown businesses and be a pedestrian destination for dining, browsing and shopping for nearby residents.

The Practical Difficulty is not Self-Created

The practical difficulty experienced by the Applicant is not self-created. Applicant is

enthusiastically approved by the Planning Board to build a four-story retail building in the D4 Overlay. Applicant's building is three stories of furniture galleries with a fourth-story restaurant. Neither the Ordinance nor Sign Ordinance, however, anticipate one retail gallery operating on all floors without a sign band. Could Applicant choose a different design for the building? Of course, it could. Notwithstanding that Applicant has a design preference, no matter the design choice, the Ordinance and Sign Ordinance only allow design that is consistent with first floor only retail with upper floors used for residential and office. The Ordinance/Sign Ordinance do not account for vertical retail and restaurant. Hence, the practical difficulty is not self-created.

Conclusion

The merging of the destination retail experience with the offering of restaurant will create something new in the City of Birmingham. The new RH Gallery will enhance the surrounding properties, and not be detrimental to them. Simply stated, the RH will draw pedestrians to South Old Woodward which will help to keep the area healthy and vibrant. With developments such as this, the South Old Woodward corridor can be more than just an outpost of Downtown Birmingham but will become an exciting, attractive district. The new RH will offer something entirely different: a shopping, strolling, and restaurant experience. The new RH Gallery will provide a vertical retail experience not limited to the first floor, something unique to the City which is unanticipated by the Ordinance. For these reasons, granting a variance to allow slightly less than 70% glazing on the first floor is warranted by the Ordinance standards and the Master Plan. In addition, the Sign Ordinance presumes street level retail only and does not account for three floors of design galleries and a rooftop restaurant, for which a coherent design of street level and upper floors is warranted. Placing an illuminated RH above the third floor integrates and notifies pedestrians of all three floors of gallery space. The back lit sign will have only an ambient effect on an otherwise well lighted intersection.

Respectfully, Applicant requests the Board of Zoning Appeals grant the requested variances allowing a reduction of 8% to 12% transparency for the first floor of the Subject Property and allowing the RH logo placed above the third floor to be back lighted.

Should you have any further questions or comments regarding the above, please do not hesitate to call. With kind regards, I am,

Very truly yours,

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

Richard D. Rattner

Richard D. Rattner
Attorney for Applicant



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

380 North Old Woodward Avenue
Suite 300
Birmingham, Michigan 48009

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

www.wwrplaw.com

Richard D. Rattner
rdr@wwrplaw.com

December 22, 2022

By E-Mail & Hand-Delivered

Board of Zoning Appeals
City of Birmingham
151 Martin St.
Birmingham, MI 48012

Re: Application for Dimensional Variance (“Application”) for Property at 300 and 394 S. Old Woodward and 294 E. Brown Street, Birmingham, Michigan (“Subject Property”) submitted by RH, Inc. (“Applicant”)

Dear Members of the Board of Zoning Appeals:

This letter supplements the Application for Dimensional Variances and the Applicant’s previous letter submitted to the Board of Zoning Appeals (“BZA”) on December 12, 2022. Prior to the BZA’s hearing on the Application, the Applicant asks us to clarify the following points of information:

- The Application involves two (2) dimensional variances:
 - (i) glazing (58% - 62% on all facades of first floor); and
 - (ii) backlit 3’-3.5” x 5’-0” RH sign above the third floor on all facades (see attached rendering).

<u>Requested Variances</u>	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	<u>Variance Amount</u>
Less than 70% transparency of the first floor	70%	NA	58%-62% (varies by façade; average of all sides is	Less 8%-12%

			60%)	
To place illuminated wall sign above a sign band	Nonilluminated wall signs above sign band (this building has no sign band)	NA	Backlit RH near top of building	Variance for back lighting; sign allowed

Glazing Variance

- The Planning Board unanimously voted to approve these glazing percentages of the amended site plan and made special mention of the glass on the first floor being twice as high as measured by the Ordinance. The Planning Board encouraged the glazing variance because “this might be the most activated building in Birmingham,” which is the intent behind the glazing standard.
- The transparency of the first floor on all sides of the RH building will extend up to 13’-8”, measured from ground to second floor, which adds dramatically to the transparency of the building. The glazing standard of the Zoning Ordinance only measures (gives credit for) the first 8 feet of transparency.
- The approved amended site plan is a 4-sided building with consistently designed facades. The building includes equally visible and inviting entrances on all four sides. The design advances the objectives and goals of the Downtown Birmingham Plan to create a walkable, pedestrian-friendly Downtown.
- The intended use is a 4-story retail design and furniture gallery, with a rooftop restaurant. It will serve as an anchor business in the S. Old Woodward corridor, extending the Central Business District.
- The Zoning Ordinance anticipates retail only on the first floor with office or residential on the floors above and not a full three-story retail use.
- Literal enforcement of the first-floor glazing standard makes no sense with this design that includes glazing on all four facades from street level to the third floor.
- Outside of the Downtown Overlay, the Zoning Ordinance permits the Planning Board discretion to vary from the first-floor glazing standard.

Variance for Halo RH Sign Below Cornice

- The Planning Board unanimously approved the placement of the RH halo-lit sign on all facades of the approved amended site plan and made special mention that the lighting meets the Ordinance's photometric standards. The Planning Board also agreed the illuminated under cornice signs on the three street sides of the building are a good idea and recommend the halo sign on the west façade be turned off when the restaurant closes for the night.
- The approved design of the building has no delineated sign band, the absence of which is not anticipated by the Zoning Ordinance.
- If the building had a sign band, the total signage allowed by the Ordinance would far exceed the 3'-3.5" x 5'-0" RH sign on each of the four facades.
- The understated halo lighting behind the RH sign adds de minimis soft light below the cornice.
- Placing a halo-lit RH sign below the third-floor cornice on each façade integrates the building and notifies pedestrians on each side that there are three floors of gallery space.
- The building fronts three streets: S. Old Woodward, Brown, and Daines Street. The location of the building over an entire city block fronting three streets is a real practical difficulty for the Applicant, as the Zoning Ordinance does not account for a property in the Downtown Overlay with three street-facing facades.

Conclusion

- The building visually exceeds the transparency goals of the Ordinance on all four sides: thus, meeting the spirit and intent of the Ordinance. Furthermore, the building exceeds any other building in the city regarding accessibility, transparency, and entry points.
- The new stunning RH Gallery will enhance the surrounding properties, and not be detrimental to them.
- The RH will draw pedestrians to South Old Woodward which adds to the health and vibrancy of the area.
- This building will designate South Old Woodward as an exciting, attractive district, more than just an outpost of Downtown Birmingham, as it is now.

- Granting a variance to allow an average of 60% glazing on the first floor is warranted by the Ordinance standards and the Master Plan.
- The Sign Ordinance presumes street level retail only and does not account for three floors of retail, for which a coherent design of street level and upper floors is warranted.
- Halo-lighting the RH sign will have only an ambient effect and allows identification of the building on all facades and entrances.
- Both requested variances are necessary due to the practical difficulty of designing a building covering an entire city block and fronting three streets and a pedestrian via.

Respectfully, Applicant requests the Board of Zoning Appeals grant the requested variances.

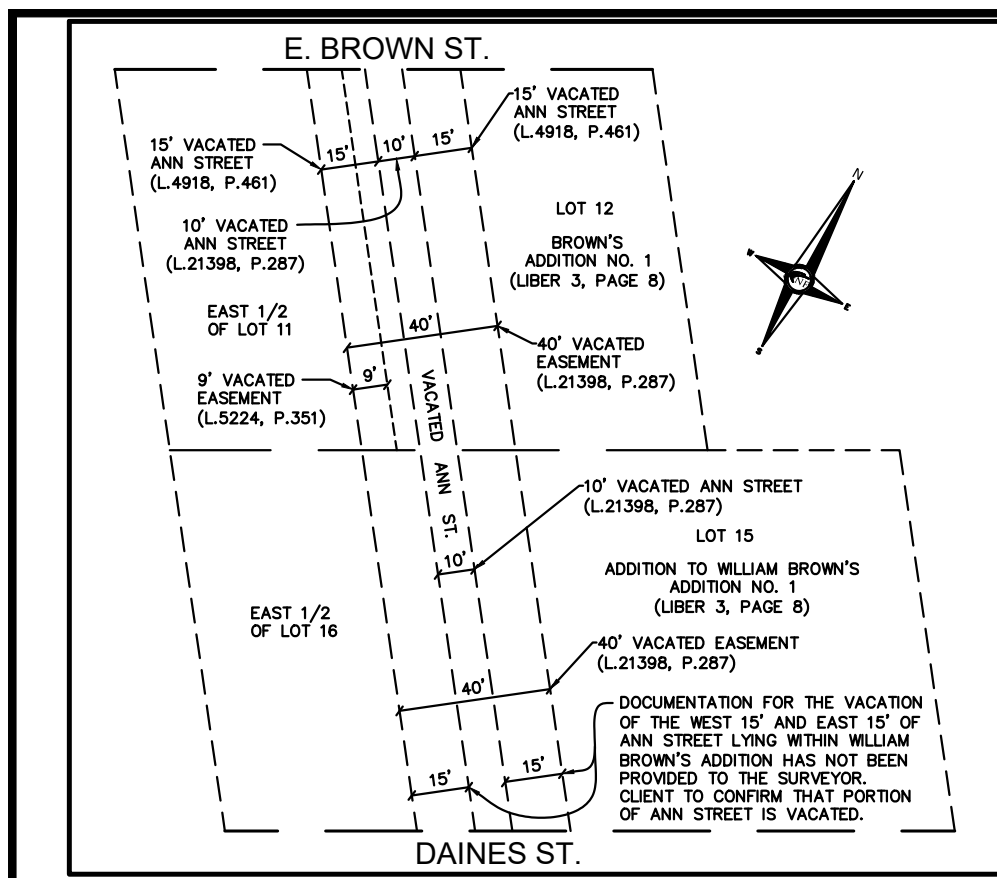
We are here to answer any further questions or comments regarding the above. With kind regards, I am,

Very truly yours,

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

Richard D. Rattner

Richard D. Rattner
Attorney for Applicant



ANN STREET SKETCH

1" = 50'

FLOOD HAZARD NOTE

THE PROPERTY DESCRIBED ON THIS SURVEY DOES NOT LIE WITHIN A SPECIAL FLOOD HAZARD AREA AS DEFINED BY THE FEDERAL AGENCY. MANAGEMENT AGENCY. THE PROPERTY LIES WITHIN ZONE X OF THE FLOOD INSURANCE RATE MAP IDENTIFIED AS MAP NO. 26125C0537F BEARING AN EFFECTIVE DATE OF 09-29-2006.

MISS DIG / UTILITY DISCLAIMER NOTE

A MISS DIG TICKET NUMBER A003240501, PURSUANT TO MICHIGAN PUBLIC ACT 174 WAS ENTERED FOR THE SURVEYED PROPERTY. DUE TO THE EXTENDED REPORTING PERIOD FOR UNDERGROUND FACILITY OWNERS TO PROVIDE THEIR RECORDS, THE SURVEY MAY NOT REFLECT ALL THE UTILITIES AT THE TIME THE SURVEY WAS ISSUED ON DECEMBER 28, 2020. THE SURVEY ONLY REFLECTS THOSE UTILITIES WHICH COULD BE OBSERVED BY THE SURVEYOR IN THE FIELD OR AS DEPICTED BY THE UTILITY COMPANY RECORDS FURNISH PRIOR TO THE DATE THIS SURVEY WAS ISSUED. THE CLIENT AND/OR THEIR AUTHORIZED AGENT SHALL VERIFY WITH THE UTILITY COMPANY OWNERS AND/OR THEIR AUTHORIZED AGENTS, THE COMPLETENESS AND EXACTNESS OF THE UTILITIES LOCATION.

TOPOGRAPHIC SURVEY NOTES

ALL ELEVATIONS ARE EXISTING ELEVATIONS, UNLESS OTHERWISE NOTED.

UTILITY LOCATIONS WERE OBTAINED FROM MUNICIPAL OFFICIALS AND RECORDS OF UTILITY COMPANIES, AND NO GUARANTEE CAN BE MADE TO THE COMPLETENESS, OR EXACTNESS OF LOCATION.

ALTA SURVEY NOTES

THERE IS NO VISIBLE EVIDENCE OF CURRENT EARTH MOVING WORK, BUILDING CONSTRUCTION OR BUILDING ADJUSTIONS.

THERE IS NO PROPOSED CHANGES IN STREET RIGHT OF WAY LINES AND THERE IS NO EVIDENCE OF RECENT STREET OR SIDEWALK CONSTRUCTION OR REPAIR.

THERE IS NO VISIBLE EVIDENCE OF SITE USE AS A SOLID WASTE DUMP, SLUMP OR SANITARY LANDFILL.

THERE IS NO VISIBLE EVIDENCE OF ANY WETLAND AREAS.

LOCATION OF UTILITIES EXISTING ON OR SERVING THE PROPERTY AS DETERMINED BY OBSERVED EVIDENCE OR EVIDENCE FROM PLANS REQUESTED BY THE SURVEYOR AND OBTAINED FROM UTILITY COMPANIES.

THE SUBJECT PROPERTY HAS ACCESS TO S. OLD WOODWARD AVENUE, E. BROWN STREET AND DAINES STREET, ALL BEING A PUBLICLY DEDICATED ROAD.

BASIS OF BEARING NOTE

ALL BEARINGS ARE IN RELATION TO THE PREVIOUSLY ESTABLISHED SOUTH RIGHT-OF-WAY LINE OF STREET (60' WIDE) (NOW KNOWN AS BROWN STREET) OF BROWN'S ADDITION AS RECORDED IN LIBER 3 OF PLATS, PAGE 8, OAKLAND COUNTY RECORDS. (N.62E.)

DATUM NOTE

ALL ELEVATIONS SHOWN HEREON ARE ON THE CITY OF BIRMINGHAM'S VERTICAL DATUM, REFERENCE HEREON, IS ONE (1.00) FOOT HIGHER THAN THE NORTH AMERICAN VERTICAL DATUM OF 1988 (N.A.V.D. 88).

SURVEY DATA

SITE AREA:

PARCEL 1: 13,818.22 SQUARE FEET OR 0.317 ACRES
PARCEL 2: 18,892.06 SQUARE FEET OR 0.433 ACRES
PARCEL 3: 13,204.93 SQUARE FEET OR 0.303 ACRES
PARCEL 3: 8,137.75 SQUARE FEET OR 0.187 ACRES
TOTAL: 54,052.96 SQUARE FEET OR 1.24 ACRES

ZONED:

B2, GENERAL BUSINESS DISTRICT

PARKING SPACES:

PARCEL 1: 9 REGULAR SPACES
PARCEL 2: 46 REGULAR SPACES AND 3 BARRIER-FREE SPACES
PARCEL 3: 20 REGULAR SPACES AND 1 BARRIER-FREE SPACE
PARCEL 3: NO ON-SITE PARKING SPACES

A SURVEYOR CANNOT MAKE A CERTIFICATION ON THE BASIS OF AN INTERPRETATION OR OPINION OF ANOTHER PARTY. A ZONING ENDORSEMENT LETTER SHOULD BE OBTAINED FROM THE CITY OF BIRMINGHAM TO INSURE CONFORMITY AS WELL AS MAKE A FINAL DETERMINATION OF THE REQUIRED BUILDING SETBACK REQUIREMENTS.

DTE DISCLAIMER NOTE

PLEASE NOTE THAT DTE HAS NEW REGULATIONS THAT MAY IMPACT DEVELOPMENT OUTSIDE THEIR EASEMENT OR THE PUBLIC RIGHT OF WAY. CLIENT SHALL CONTACT DTE TO DETERMINE THE "NEW STRUCTURES AND POWER LINE" REQUIREMENTS AS THEY MAY APPLY TO ANY FUTURE BUILDING OR RENOVATION OF A STRUCTURE. DTE ENERGY CAN BE CONTACTED AT 800-477-4747

LEGAL DESCRIPTION - PARCEL 2 (PER TITLE COMMITMENT)

LAND IN THE CITY OF BIRMINGHAM, OAKLAND COUNTY, MI, DESCRIBED AS FOLLOWS:

THE EASTERLY 50 FEET OF LOT 12, AND THE WESTERLY PART OF LOT 13, MEASURING 82.45 FEET ON THE NORTH LOT LINE AND 82.48 FEET ON THE SOUTH LOT LINE OF BROWN'S ADDITION SUBDIVISION ACCORDING TO THE PLAT THEREOF RECORDED IN LIBER 3 OF PLATS, PAGE 8 OF OAKLAND COUNTY RECORDS.

ADDRESS: 300 S. OLD WOODWARD AVENUE, BIRMINGHAM, MI 48009

TAX ID NUMBER: 19-36-204-006

TITLE REPORT NOTES - PARCEL 2

REFERENCE FIRST AMERICAN TITLE INSURANCE COMPANY FILE NUMBER: 910053, COMMITMENT DATE: DECEMBER 21, 2020, REVISION B.

SCHEDULE B, PART II, EXCEPTIONS:

EXCEPTIONS: 1, 4, 5, 6, 7, 8, 10, 11, 14 AND 15 REFER TO THE OWNERSHIP OF THE PROPERTY AND/OR ARE NOT PLOTTABLE.

2. ANY FACTS, RIGHTS, INTERESTS OR CLAIMS NOT SHOWN BY THE PUBLIC RECORDS BUT THAT COULD BE ASCERTAINED BY MAKING INQUIRY OF PERSONS IN POSSESSION THEREOF OF THE LAND.

3. EASEMENTS, ENCUMBRANCES, OR CLAIMS THEREOF, NOT SHOWN BY THE PUBLIC RECORDS.

9. TERMS AND CONDITIONS CONTAINED IN RESOLUTION AS DISCLOSED BY INSTRUMENT RECORDED IN LIBER 8715, PAGE 137. (NO EASEMENTS OR RESTRICTIONS WITHIN SAID DOCUMENT, NOT PLOTTED)

12. INTEREST, IF ANY, OF THE UNITED STATES, STATE OF MICHIGAN, OR ANY POLITICAL SUBDIVISION THEREOF, IN THE OIL, GAS AND MINERALS IN AND UNDER AND THAT MAY BE PRODUCED FROM THE CAPTIONED LAND.

13. RIGHTS OF TENANTS, IF ANY, UNDER ANY UNRECORDED LEASES.

LEGAL DESCRIPTION - PARCEL 3 (PER TITLE COMMITMENT)

LAND IN THE CITY OF BIRMINGHAM, OAKLAND COUNTY, MI, DESCRIBED AS FOLLOWS:

LOT(S) 14, EXCEPT THAT PART TAKEN FOR WIDENING WOODWARD AVENUE OF ADDITION TO WILLIAM BROWN'S ADDITION NO. 1, ACCORDING TO THE PLAT THEREOF RECORDED IN LIBER 3 OF PLATS, PAGE 8 OF OAKLAND COUNTY RECORDS, INCLUDING THE VACATED WEST 20 FEET OF ANN STREET ADJOINING LOT 11 AND THE VACATED WEST 19 FEET OF ANN STREET ADJOINING LOT 16.

ADDRESS: 394 S. OLD WOODWARD AVENUE, BIRMINGHAM, MI 48009

TAX ID NUMBER: 19-36-204-014

TITLE REPORT NOTES - PARCEL 3

REFERENCE FIRST AMERICAN TITLE INSURANCE COMPANY FILE NUMBER: 910453, COMMITMENT DATE: DECEMBER 21, 2020, REVISION A.

SCHEDULE B, PART II, EXCEPTIONS:

EXCEPTIONS: 1, 4, 5, 6, 7, 9, 10, 13 AND 14 REFER TO THE OWNERSHIP OF THE PROPERTY AND/OR ARE NOT PLOTTABLE.

2. ANY FACTS, RIGHTS, INTERESTS OR CLAIMS NOT SHOWN BY THE PUBLIC RECORDS BUT THAT COULD BE ASCERTAINED BY MAKING INQUIRY OF PERSONS IN POSSESSION THEREOF OF THE LAND.

3. EASEMENTS, ENCUMBRANCES, OR CLAIMS THEREOF, NOT SHOWN BY THE PUBLIC RECORDS.

8. TERMS AND CONDITIONS CONTAINED IN RESOLUTION AS DISCLOSED BY INSTRUMENT RECORDED IN LIBER 8715, PAGE 137. (NO EASEMENTS OR RESTRICTIONS WITHIN SAID DOCUMENT, NOT PLOTTED)

11. INTEREST, IF ANY, OF THE UNITED STATES, STATE OF MICHIGAN, OR ANY POLITICAL SUBDIVISION THEREOF, IN THE OIL, GAS AND MINERALS IN AND UNDER AND THAT MAY BE PRODUCED FROM THE CAPTIONED LAND.

12. RIGHTS OF TENANTS, IF ANY, UNDER ANY UNRECORDED LEASES.

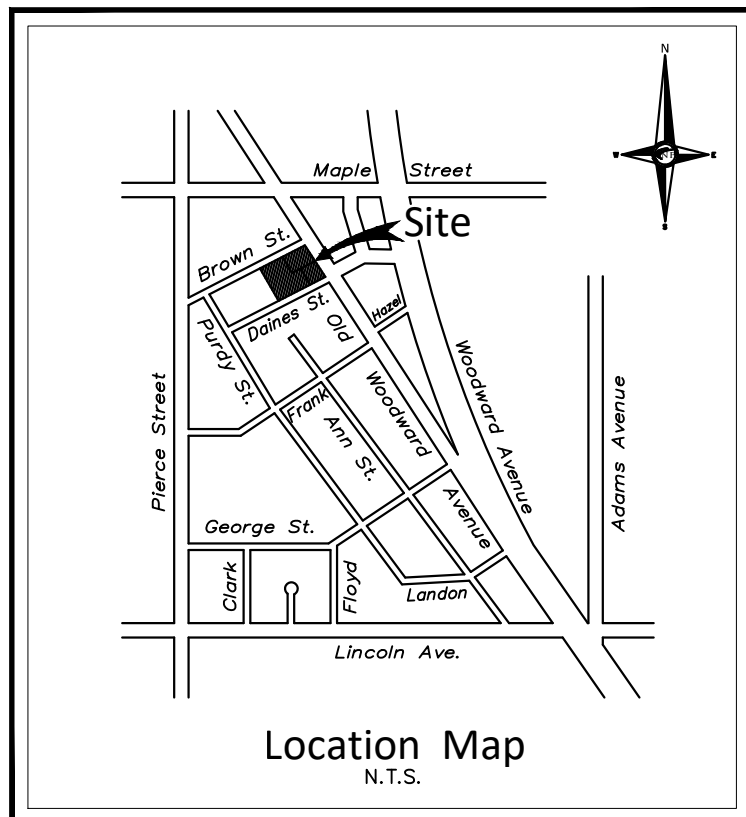
CERTIFICATE OF SURVEY

CERTIFIED TO:

-PURCHASER'S ASSIGNEE
-TROTTS PROPERTIES 294, LLC, A MICHIGAN LIMITED LIABILITY COMPANY, AS TO PARCEL 1
-BRB EQUITABLE, LLC, AS TO PARCEL 2
-FRANK T. KONAREVICH OR LOIS H. KONAREVICH (OR SUCCESSOR TRUSTEES) AS THE TRUSTEES FOR THE FRANK T. KONAREVICH REVOCABLE LIVING TRUST DATED MAY 22, 1995, AS TO PARCEL 3
-FIRST AMERICAN TITLE INSURANCE COMPANY AND EACH OF THEIR RESPECTIVE SUCCESSORS AND/OR ASSIGNS AS THEIR INTERESTS MAY APPEAR

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2016 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDE ITEMS 1, 2, 3, 4, 6(a), 7(a), 7(b)(1), 7(c), 8, 9, 11, 13, 14, 16, 17, 18 AND 20 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON DECEMBER 16, 2020.

1-24-2021
KEVIN NAVAROLI, P.S. NO. 4001053503 DATE



LEGAL DESCRIPTION - PARCELS I & II (PER TITLE COMMITMENT)

LAND IN THE CITY OF BIRMINGHAM, OAKLAND COUNTY, MI, DESCRIBED AS FOLLOWS:

PARCEL I: THE WEST 1/2 OF LOT(S) 11 OF BROWN'S ADDITION TO THE CITY OF BIRMINGHAM AND THE EAST 1/2 OF LOT 16 OF BROWN'S ADDITION NO. 1, IN THE CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN ACCORDING TO THE PLAT THEREOF RECORDED IN LIBER 3 OF PLATS, PAGE 8 OF OAKLAND COUNTY RECORDS, INCLUDING THE VACATED WEST 20 FEET OF ANN STREET ADJOINING LOT 11 AND THE VACATED WEST 19 FEET OF ANN STREET ADJOINING LOT 16.

PARCEL II: THE WEST 1/2 OF LOT(S) 12 OF BROWN'S ADDITION TO THE VILLAGE (NOW CITY) OF BIRMINGHAM, OF PART OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 36, TOWN 2 NORTH, RANGE 10 EAST, TOWNSHIP OF BLOOMFIELD (NOW CITY OF BIRMINGHAM), OAKLAND COUNTY, MICHIGAN ACCORDING TO THE PLAT THEREOF RECORDED IN LIBER 3 OF PLATS, PAGE 8 OF OAKLAND COUNTY RECORDS, ALSO LOT 15, ADDITION TO WILLIAM BROWN'S ADDITION NO. 1, BEING A PART OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 36, TOWN 2 NORTH, RANGE 10 EAST ACCORDING TO THE PLAT THEREOF RECORDED IN LIBER 3 OF PLATS, PAGE 8 OF OAKLAND COUNTY RECORDS, INCLUDING VACATED 20 FEET OF ANN STREET, ADJOINING THE WESTERLY SIDE OF LOT 12 AND VACATED 21 FEET OF ANN STREET ADJOINING THE WESTERLY SIDE OF LOT 15.

ADDRESS: 294 E. BROWN STREET, BIRMINGHAM, MI 48009

TAX ID NUMBER: 19-36-204-021

TITLE REPORT NOTES - PARCELS I & II

REFERENCE FIRST AMERICAN TITLE INSURANCE COMPANY FILE NUMBER: 915853, COMMITMENT DATE: DECEMBER 8, 2020.

SCHEDULE B, PART II, EXCEPTIONS:

EXCEPTIONS: 1, 4, 5, 6, 7, 8 AND 16 REFER TO THE OWNERSHIP OF THE PROPERTY AND/OR ARE NOT PLOTTABLE.

2. ANY FACTS, RIGHTS, INTERESTS OR CLAIMS NOT SHOWN BY THE PUBLIC RECORDS BUT THAT COULD BE ASCERTAINED BY MAKING INQUIRY OF PERSONS IN POSSESSION THEREOF OF THE LAND.

3. EASEMENTS, ENCUMBRANCES, OR CLAIMS THEREOF, NOT SHOWN BY THE PUBLIC RECORDS.

9. TERMS AND CONDITIONS CONTAINED IN RESOLUTION AS DISCLOSED BY INSTRUMENT RECORDED IN LIBER 8715, PAGE 137. (NO EASEMENTS OR RESTRICTIONS WITHIN SAID DOCUMENT, NOT PLOTTED)

10. TERMS AND CONDITIONS CONTAINED IN RESOLUTION AS DISCLOSED BY INSTRUMENT RECORDED IN LIBER 5224, PAGE 351. (SAID VACATED EASEMENT IS PLOTTED HEREON)

11. EASEMENT FOR UTILITIES OVER THAT PORTION OF LAND INCLUDED IN THE VACATED ANN STREET AS EVIDENCED BY INSTRUMENT RECORDED IN LIBER 4918, PAGE 461 (SAID VACATED ANN STREET & RETAINED EASEMENT ARE PLOTTED HEREON) AND LIBER 21398, PAGE 287 (SIZE AND LOCATION OF DETROIT EDISON EASEMENT IS UNKNOWN, NOT PLOTTED).

12. EASEMENT(S), RESTRICTIONS AND/OR SETBACK LINES, IF ANY, AS DISCLOSED BY THE RECORDED PLAT.

13. INTEREST OF OTHERS IN OIL, GAS AND MINERAL RIGHTS, IF ANY, WHETHER OR NOT RECORDED IN THE PUBLIC RECORDS.

14. INTEREST, IF ANY, OF THE UNITED STATES, STATE OF MICHIGAN, OR ANY POLITICAL SUBDIVISION THEREOF, IN THE OIL, GAS AND MINERALS IN AND UNDER AND THAT MAY BE PRODUCED FROM THE CAPTIONED LAND.

15. RIGHTS OF TENANTS, IF ANY, UNDER ANY UNRECORDED LEASES.

NOTE: DOCUMENTATION FOR THE VACATION OF THE WEST 15 FEET AND EAST 15 FEET OF ANN STREET LYING WITHIN WILLIAMS BROWN'S ADDITION HAS NOT BEEN PROVIDED TO THE SURVEYOR. CLIENT TO CONFIRM THAT PORTION OF ANN STREET IS VACATED.

LEGEND

MANHOLE(MH)	EXISTING SANITARY SEWER
HYDRANT(HYD)	EXISTING SAN. CLEAN OUT
MANHOLE(MH)	EXISTING WATER MAIN
CBB	EXISTING STORM SEWER
EX. BEEHIVE CATCH BASIN	
EX. UNDERGROUND (UG) CABLE	
OVERHEAD (OH) LINES	
LIGHT POLE	
SIGN	
EXISTING GAS MAIN	
ASPH.	ASPHALT
CONC.	CONCRETE
FD. / FND.	FOUND
RET. WALL	RETAINING WALL
R.O.W.	RIGHT-OF-WAY
SPK	SET PK NAIL
(TYP)	TYPICAL
(R)	RECORD
(M)	MEASURED
C/L	CENTERLINE
P/L	PROPERTY LINE
GM	GAS METER
EM	ELECTRIC METER
PM	PARKING METER
AC	AIR CONDITIONING UNIT
LS	LANDSCAPE

NF ENGINEERS

CIVIL ENGINEERS
LAND SURVEYORS
LAND PLANNERS

NOWAK & FRAUS ENGINEERS
46777 WOODWARD AVE.
PONTIAC, MI 48342-5032
TEL. (248) 332-7931
FAX. (248) 332-8257
WWW.NOWAKFRAUS.COM

SEAL

PROJECT

Restoration Hardware
Birmingham, MI

CLIENT

Saroki Architecture
430 N. Old Woodward Ave.
Birmingham, MI 48009

Contact: Victor Saroki
Phone: 248.258.5707

PROJECT LOCATION

Part of the NE 1/4
of Section 36
T.2N., R.10E.,
City of Birmingham,
Oakland County, Michigan

SHEET

ALTA/NSPS Land Title /
Topographic Survey



DATE ISSUED/REVISED

11-18-2022 FINAL SITE PLAN SUBMITTAL

DRAWN BY:

M. Carnaghi

DESIGNED BY:

K. Navaroli

APPROVED BY:

K. Navaroli

DATE:

November 18, 2022

SCALE: 1" = 20'

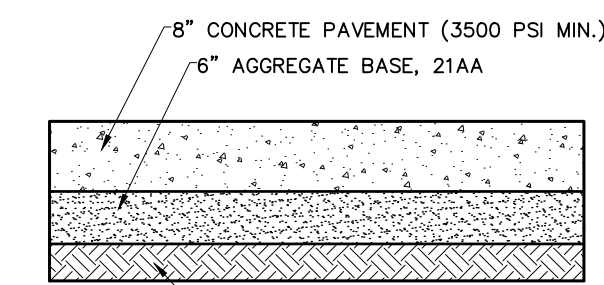
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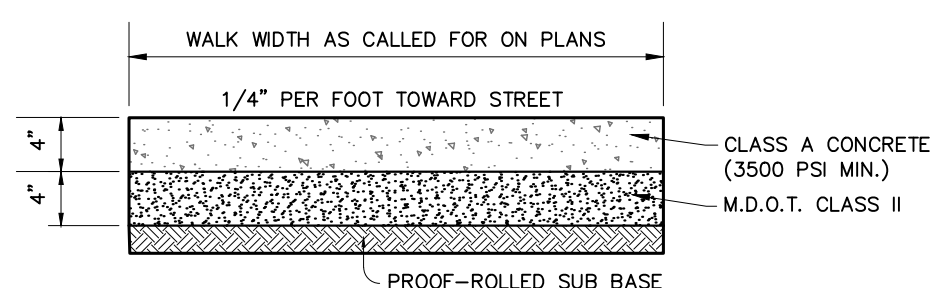
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M106

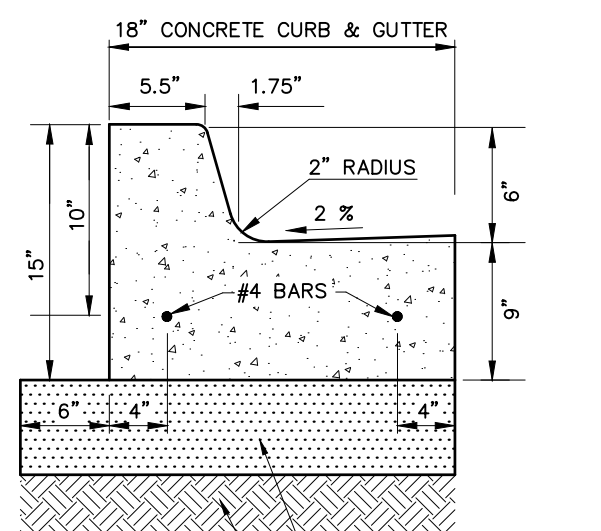
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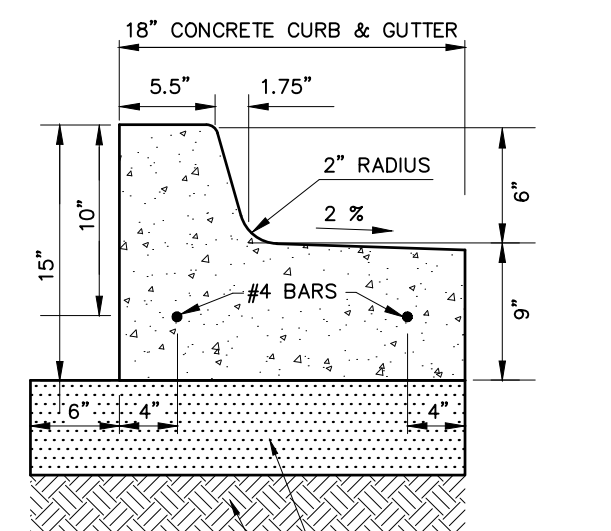
CONCRETE PAVEMENT SECTION
N.T.S.



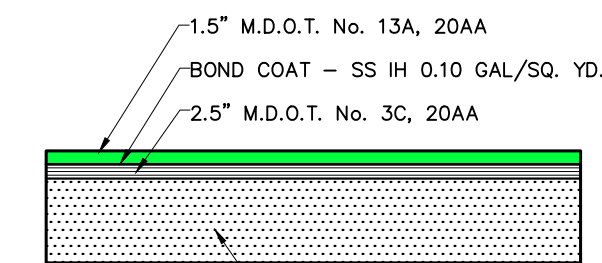
CONCRETE SIDEWALK SECTION
N.T.S.



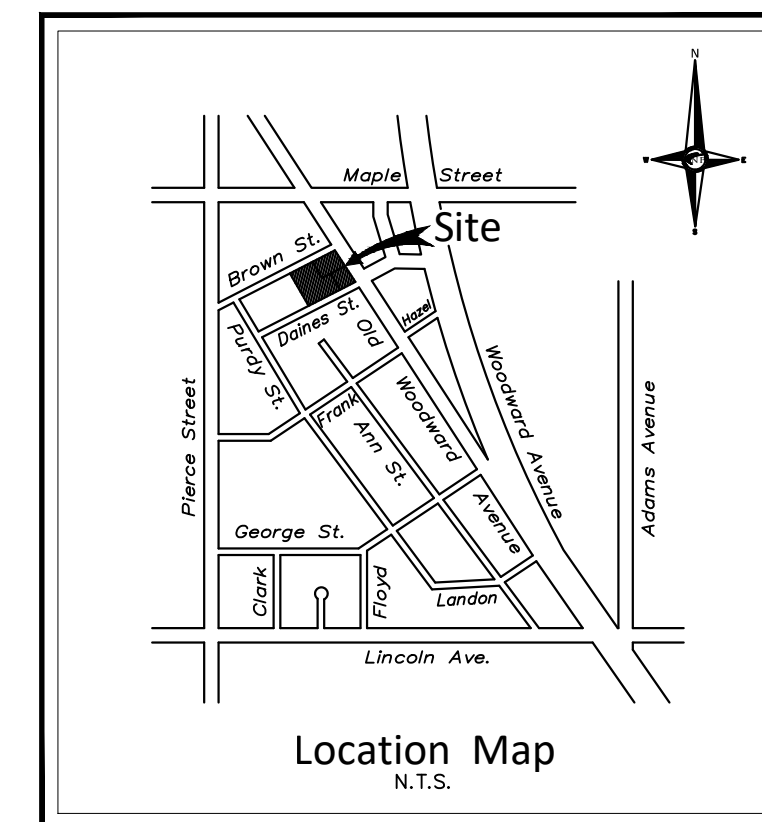
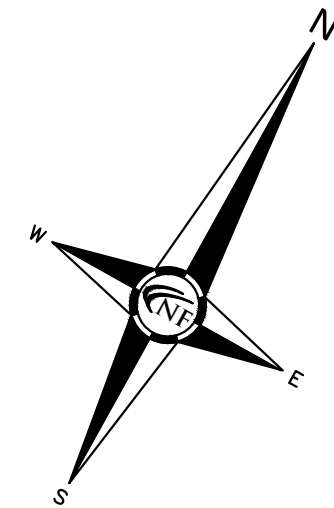
CONCRETE CURB DETAIL 'A'
N.T.S.



CONCRETE CURB DETAIL 'B'
N.T.S.



ASPHALT PAVEMENT SECTION
(DRIVE AND PARKING)



Location Map
N.T.S.

NF
ENGINEERS
CIVIL ENGINEERS
LAND SURVEYORS
LAND PLANNERS

NOWAK & FRAUS ENGINEERS
46777 WOODWARD AVE.
PONTIAC, MI 48342-5032
TEL. (248) 332-7931
FAX. (248) 332-8257
WWW.NOWAKFRAUS.COM

GENERAL PAVING NOTES

PAVEMENT SHALL BE OF THE TYPE, THICKNESS AND CROSS SECTION AS INDICATED ON THE PLANS AND AS FOLLOWS:

CONCRETE: PORTLAND CEMENT TYPE IA (AIR-ENTAINED) WITH A MINIMUM CEMENT CONTENT OF SIX SACKS PER CUBIC YARD, MINIMUM 28 DAY COMPRESSIVE STRENGTH OF 3,500 PSI AND A SLUMP OF 1 1/2 TO 3 INCHES.

ASPHALT: BASE COURSE - MODT BITUMINOUS MIXTURE NO. 1100L, 20AA; SURFACE COURSE - MODT BITUMINOUS MIXTURE NO. 1100T, 20AA; ASPHALT CEMENT PENETRATION GRADE 85-100, BOND COAT - MODT SS-1H EMULSION AT 0.10 GALLON PER SQUARE YARD; MAXIMUM 2 INCH LIFT.

PAVEMENT BASE SHALL BE COMPACTED TO 95% OF THE MAXIMUM DENSITY (MODIFIED PROCTOR) PRIOR TO PLACEMENT OF PROPOSED PAVEMENT. EXISTING SUB-BASE SHALL BE PROOF-ROLLED IN THE PRESENCE OF THE ENGINEER TO DETERMINE DENSITY.

ALL CONCRETE PAVEMENT, DRIVEWAYS, CURB & GUTTER, ETC., SHALL BE SPRAY CURED WITH WHITE MEMBRANE CURING COMPOUND IMMEDIATELY FOLLOWING FINISHING OPERATION.

ALL CONCRETE PAVEMENT JOINTS SHALL BE FILLED WITH HOT POURED RUBBERIZED ASPHALT JOINT SEALING COMPOUND IMMEDIATELY AFTER SAWCUT OPERATION. FEDERAL SPECIFICATION SS-S16A.

ALL TOP OF CURB ELEVATIONS, AS SHOWN ON THE PLANS, ARE CALCULATED FOR A 6" CONCRETE CURB UNLESS OTHERWISE NOTED.

ALL SIDEWALK RAMPS, CONFORMING TO PUBLIC ACT NO. 8, 1993, SHALL BE INSTALLED AS INDICATED ON THE PLANS.

CONSTRUCTION OF A NEW OR RECONSTRUCTED DRIVE APPROACH CONNECTING TO AN EXISTING STATE OR COUNTY ROADWAY SHALL BE ALLOWED ONLY AFTER AN APPROVED PERMIT HAS BEEN SECURED FROM THE AGENCY HAVING JURISDICTION OVER SAID ROADWAY.

FOR ANY WORK WITHIN THE PUBLIC RIGHT-OF-WAY, THE CONTRACTOR SHALL PAY FOR AND SECURE ALL NECESSARY PERMITS AND LIKEWISE ARRANGE FOR ALL INSPECTION.

EXISTING TOPSOIL, VEGETATION AND ORGANIC MATERIALS SHALL BE STRIPPED AND REMOVED FROM PROPOSED PAVEMENT AREA PRIOR TO PLACEMENT OF BASE MATERIALS.

EXPANSION JOINTS SHOULD BE INSTALLED AT THE END OF ALL INTERSECTION RADII.

SIDEWALK RAMPS, CONFORMING TO PUBLIC ACT NO. 8, 1973, SHALL BE INSTALLED AS SHOWN AT ALL STREET INTERSECTIONS AND AT ALL BARRIER FREE PARKING AREAS AS INDICATED ON THE PLANS.

ALL PAVEMENT AREAS SHALL BE PROOF-ROLLED UNDER THE SUPERVISION OF A GEOTECHNICAL ENGINEER PRIOR TO THE PLACEMENT OF BASE MATERIALS AND PAVING MATERIALS.

FILL AREAS SHALL BE MACHINE COMPACTED IN UNIFORM LIFTS NOT EXCEEDING 9 INCHES THICK TO 98% OF THE MAXIMUM DENSITY (MODIFIED PROCTOR) PRIOR TO PLACEMENT OF PROPOSED PAVEMENT.

COVID-19 PANDEMIC CONDITION

DUE TO THE UNPRECEDENTED COVID-19 PANDEMIC CONDITION AND RESTRICTIONS THE STANDARD DATA WHICH IS OBTAINED FROM MISS DIG / CALL 811 HAS BEEN RESTRICTED TO CRITICAL INFRASTRUCTURE ONLY. NFE WILL MAKE EVERY EFFORT TO OBTAIN CURRENT REFERENCE DATA FROM THE GOVERNING AGENCIES. HOWEVER, THIS DATA MAY BE PARTIAL OR INCOMPLETE. NFE WILL ISSUE THIS SURVEY WITH THE BEST AVAILABLE INFORMATION FROM OUR FIELD SURVEY AND OTHER AVAILABLE REFERENCE DATA. NFE WILL NOT BE RESPONSIBLE FOR INCOMPLETE OR PARTIAL DATA PROVIDED BY THIRD PARTY FACILITY OWNERS. NFE IS NOT RESPONSIBLE FOR BURIED UTILITIES FOR WHICH PLANS WERE NOT FURNISHED OR CANNOT BE OBSERVED IN THE FIELD.

ALL CONSTRUCTION DOCUMENTS WILL BE UPDATED WHEN THE UTILITY INFORMATION IS PROVIDED BY THE FACILITY OWNER UP UNTIL THE TIME OF SUBMITTAL. ONCE THE PLANS HAVE BEEN SUBMITTED AND APPROVED IT IS THE CONTRACTORS RESPONSIBILITY TO OBTAIN A MISS DIG TICKET PRIOR TO COMMENCING ANY CONSTRUCTION REQUIRING EXCAVATION. CONTRACTOR SHALL IMMEDIATELY NOTIFY NFE OF ANY UTILITIES FLAGGED BY MISS DIG THAT WERE NOT SHOWN ON THE PLANS OR UTILITIES UNCOVERED DURING THEIR WORK.

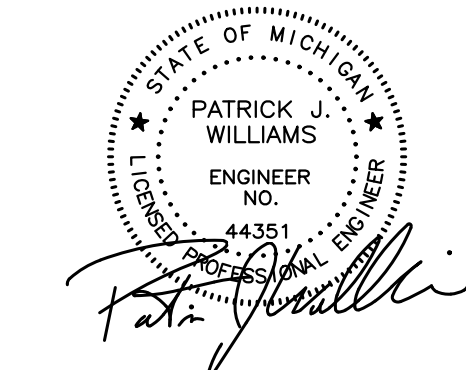
PAVING LEGEND

	PROPOSED CONCRETE PAVEMENT
	PROPOSED ASPHALT PAVEMENT

LEGEND

MANHOLE	EXISTING SANITARY SEWER
HYDRANT	SAN. CLEAN OUT
MANHOLE	GATE VALVE
MANHOLE	EXISTING WATERMAIN
UTILITY POLE	EXISTING STORM SEWER
GUY POLE	EX. R. Y. CATCH BASIN
GUY WIRE	EXISTING BURIED CABLES
SIGN	OVERHEAD LINES
EXISTING GAS MAIN	LIGHT POLE
C.O.	PR. SANITARY SEWER
HYDRANT	PR. WATER MAIN
INLET	PR. STORM SEWER
C.B.	PR. R. Y. CATCH BASIN
MANHOLE	PROPOSED LIGHT POLE

SEAL



PROJECT

Restoration Hardware
Birmingham, MI

CLIENT

Saroki Architecture
430 N. Old Woodward Ave.
Birmingham, MI 48009

Contact: Victor Saroki
Phone: 248.258.5707

PROJECT LOCATION

Part of the NE 1/4
of Section 36
T.2N., R.10E.,
City of Birmingham,
Oakland County, Michigan

SHEET

Engineering Site Plan



DATE ISSUED/REVISED

11-18-2022 FINAL SITE PLAN SUBMITTAL

DRAWN BY:

A. Eizember

DESIGNED BY:

A. Eizember

APPROVED BY:

P. Williams

DATE:

November 18, 2022

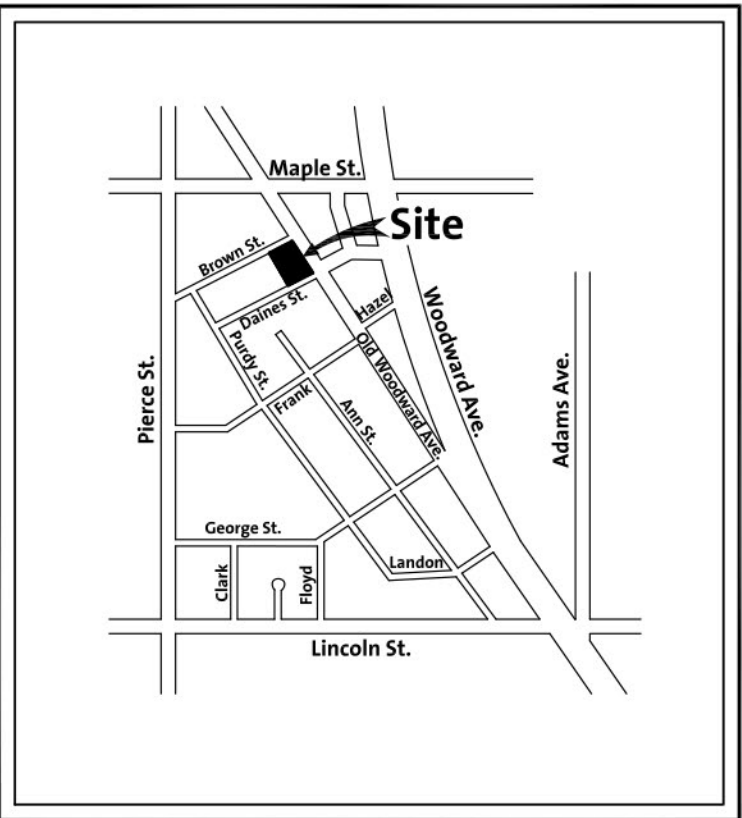
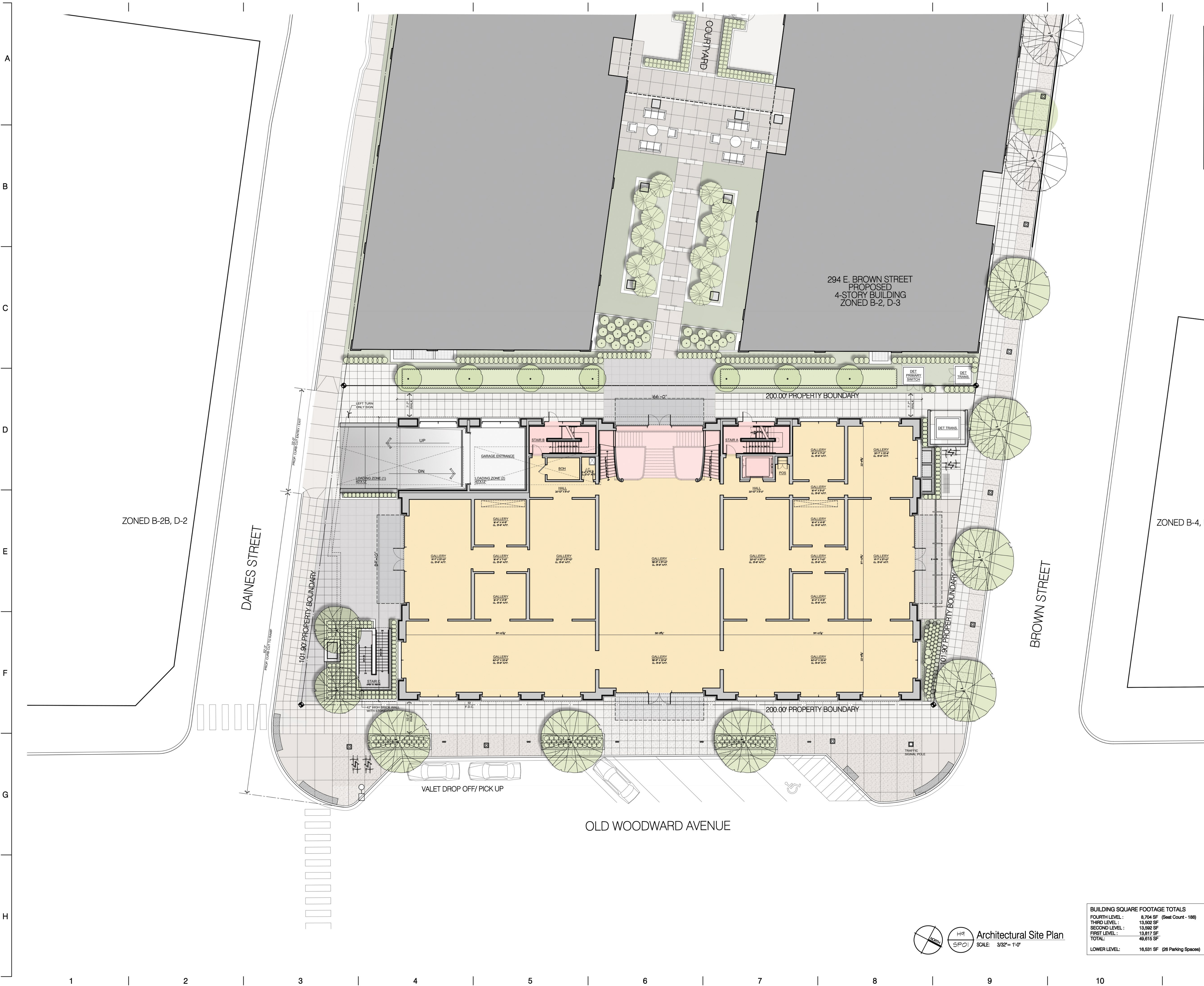
SCALE: 1" = 20'

20 10 0 10 20 30

NFE JOB NO. SHEET NO.

M106 SP-2





Site Location Map:
Not To Scale

LEGAL DESCRIPTION - SWAP
PARCEL 1
LAND SITUATED IN THE CITY OF BIRMINGHAM, OAKLAND COUNTY, MI, DESCRIBED AS FOLLOWS:
PART OF LOT 12 OF BROWN'S ADDITION SUBDIVISION ACCORDING TO THE PLAT THEREOF RECORDED IN LIBER 3 OF PLATS, PAGE 8 OF OAKLAND COUNTY RECORDS; BEING DESCRIBED AS: BEGINNING AT A POINT DISTANT 5.62°00'00"W. 119.37 FEET FROM THE NORTHEAST CORNER OF LOT 13 OF SAID BROWN'S ADDITION SUBDIVISION; THENCE S.35°35'52"E. 100.00 FEET; THENCE S.62°00'00"W. 30.76 FEET; THENCE N.36°14'00"W. 100.15 FEET; THENCE N.62°00'00"E. 31.88 FEET TO THE POINT OF BEGINNING. CONTAINING: 3,104 SQUARE FEET OR 0.07 ACRES OF LAND

LEGAL DESCRIPTION - SWAP
PARCEL 2
LAND SITUATED IN THE CITY OF BIRMINGHAM, OAKLAND COUNTY, MI, DESCRIBED AS FOLLOWS:
PART OF LOT 15 OF ADDITION TO WILLIAM BROWN'S ADDITION NO. 1 ACCORDING TO THE PLAT THEREOF RECORDED IN LIBER 3 OF PLATS, PAGE 8 OF OAKLAND COUNTY RECORDS; BEING DESCRIBED AS: BEGINNING AT A POINT DISTANT S.62°00'00"W. 119.37 FEET AND S.35°35'52"E. 100.00 FEET FROM THE NORTHEAST CORNER OF LOT 13 OF BROWN'S ADDITION SUBDIVISION AS RECORDED IN LIBER 3 OF PLATS, PAGE 8 OF OAKLAND COUNTY RECORDS; THENCE N.62°00'00"E. 19.24 FEET; THENCE S.35°14'00"E. 100.15 FEET; THENCE S.62°00'00"W. 20.36 FEET; THENCE N.35°35'52"W. 100.00 FEET TO THE POINT OF BEGINNING. CONTAINING: 1,963 SQUARE FEET OR 0.04 ACRES OF LAND

SAROKI
ARCHITECTURE
430 N. OLD WOODWARD
BIRMINGHAM, MI 48009
P. 248.258.5707
F. 248.258.5515
SarokiArchitecture.com

Project:
RH / Mixed-Use
300 S Old Woodward
Birmingham, MI 48009

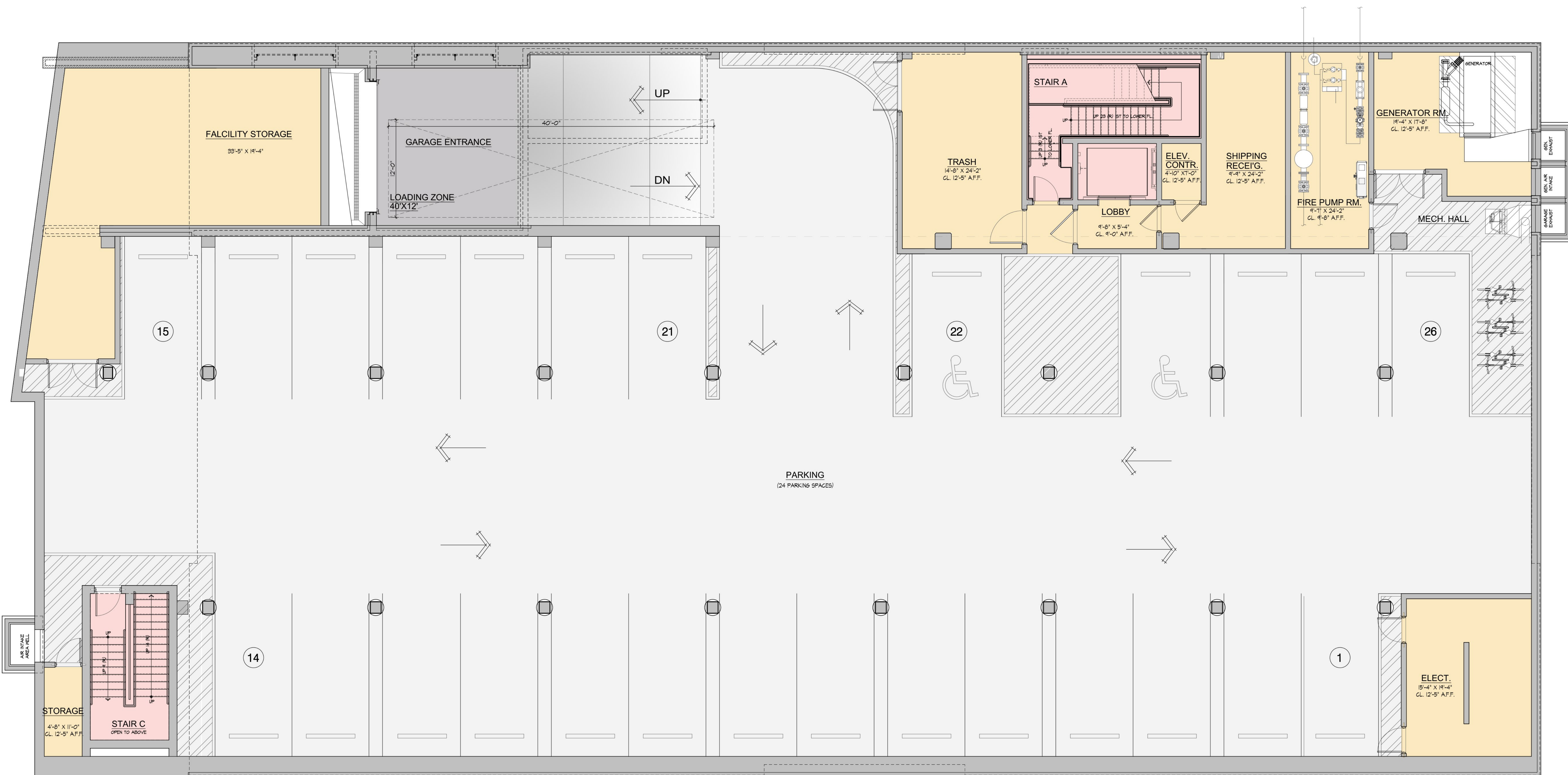
Date: Issued For:
11-09-2022 Pre-App.
11-18-2022 Final Site Plan Application

SP01
Architectural Site Plan

BUILDING SQUARE FOOTAGE TOTALS	
FOURTH LEVEL:	8,704 SF (Seat Count - 188)
THIRD LEVEL:	13,502 SF
SECOND LEVEL:	13,592 SF
FIRST LEVEL:	13,817 SF
TOTAL:	49,615 SF
LOWER LEVEL:	16,531 SF (28 Parking Spaces)

Architectural Site Plan
SCALE: 3/32" = 1'-0"

A
B
C
D
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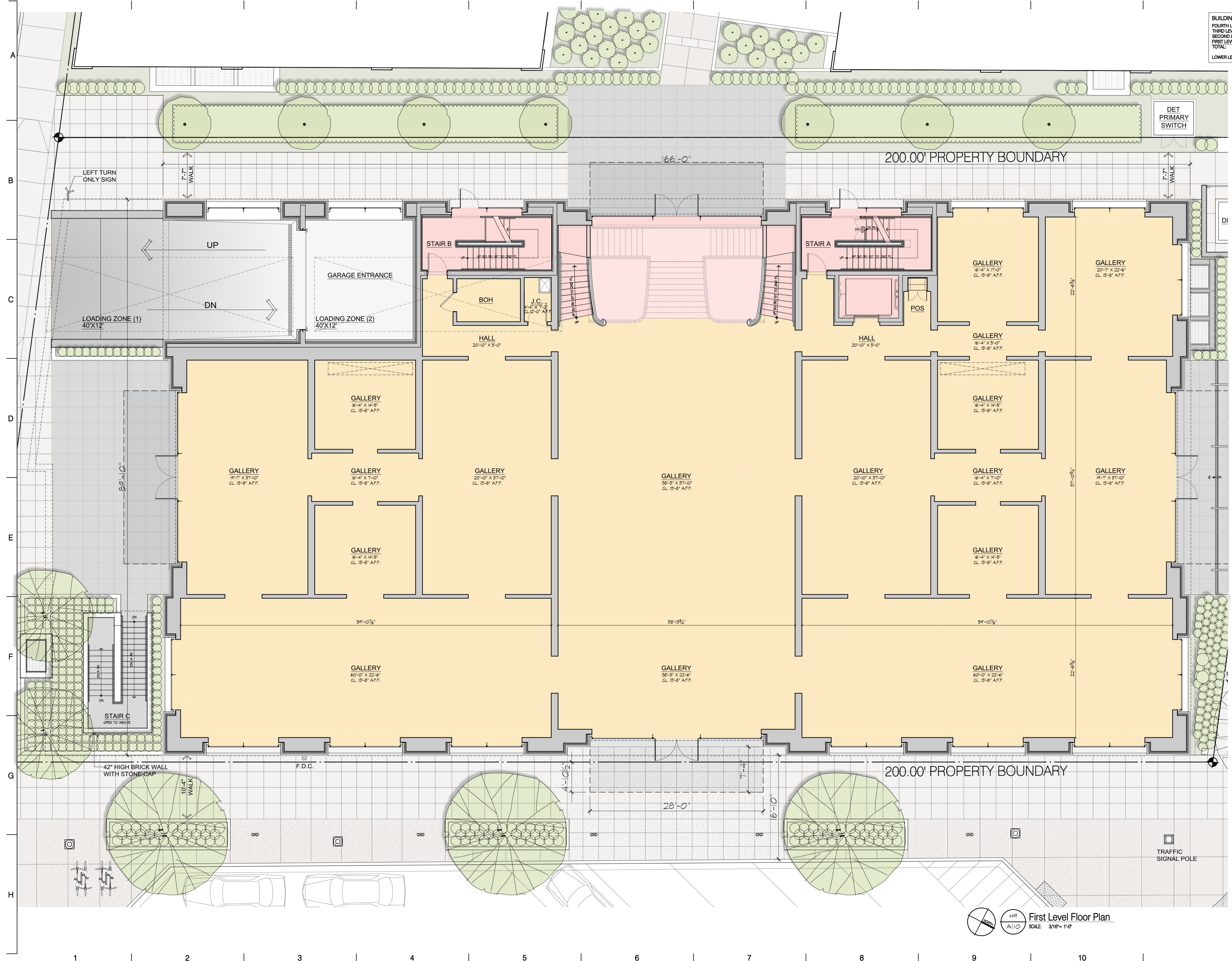
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Lower Level Parking Garage Floor Plan
SCALE: 3/16" = 1'-0"

A100
Lower Level Parking Garage
Floor Plan

1 2 3 4 5 6 7 8 9 10

BUILDING SQUARE FOOTAGE TOTALS	
FOURTH LEVEL :	8,704 SF (Seat Count - 188)
THIRD LEVEL :	13,502 SF
SECOND LEVEL :	13,582 SF
FIRST LEVEL :	13,817 SF
TOTAL:	49,615 SF
LOWER LEVEL:	16,531 SF (26 Parking Spaces)



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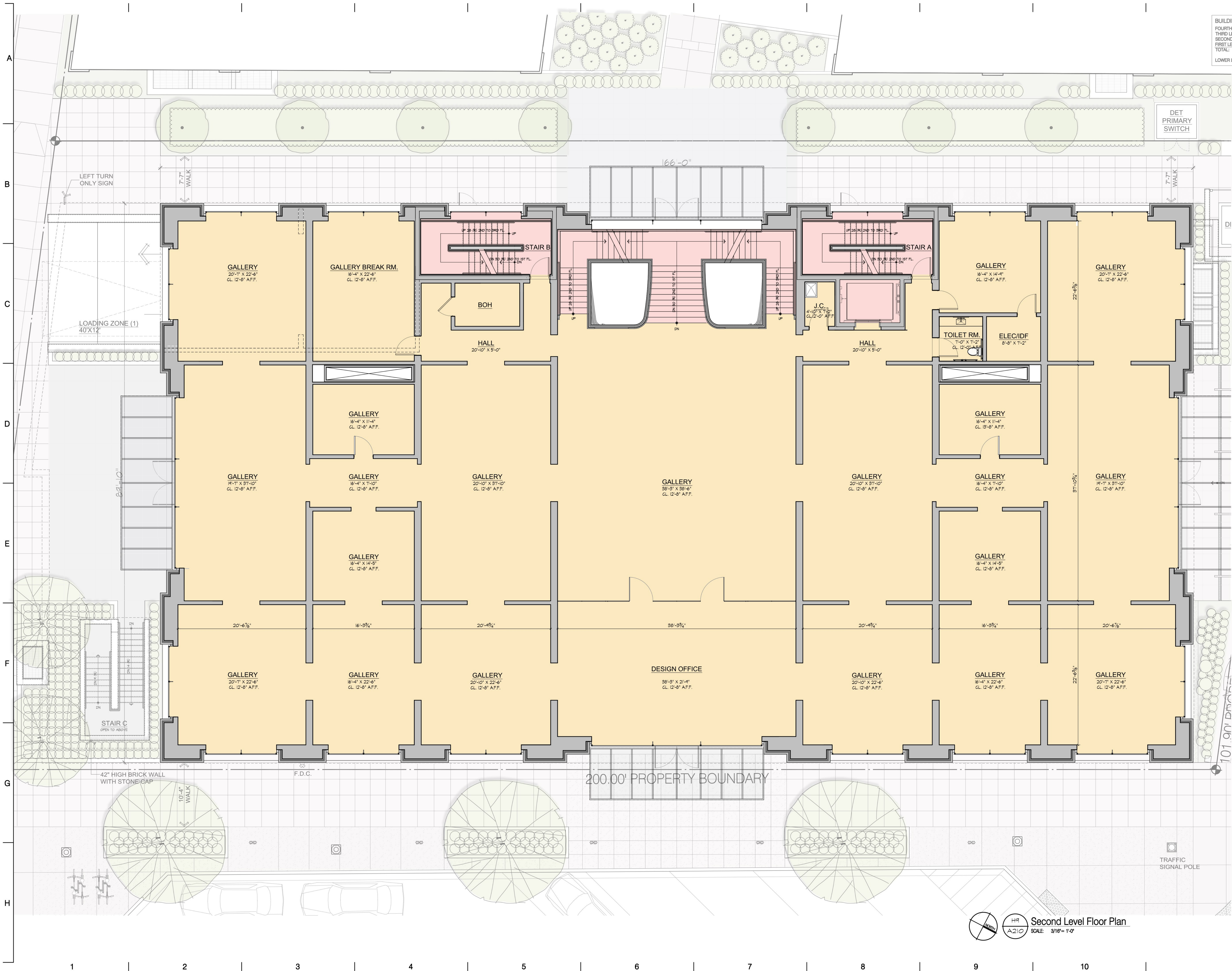
11-18-2022 Final Site Plan Application

A110

First Level Floor Plan

First Event: Roof Rain

BUILDING SQUARE FOOTAGE TOTALS	
FOURTH LEVEL:	8,704 SF (Seat Count - 188)
THIRD LEVEL:	13,502 SF
SECOND LEVEL:	13,692 SF
FIRST LEVEL:	13,817 SF
TOTAL:	49,615 SF
LOWER LEVEL:	16,531 SF (26 Parking Spaces)



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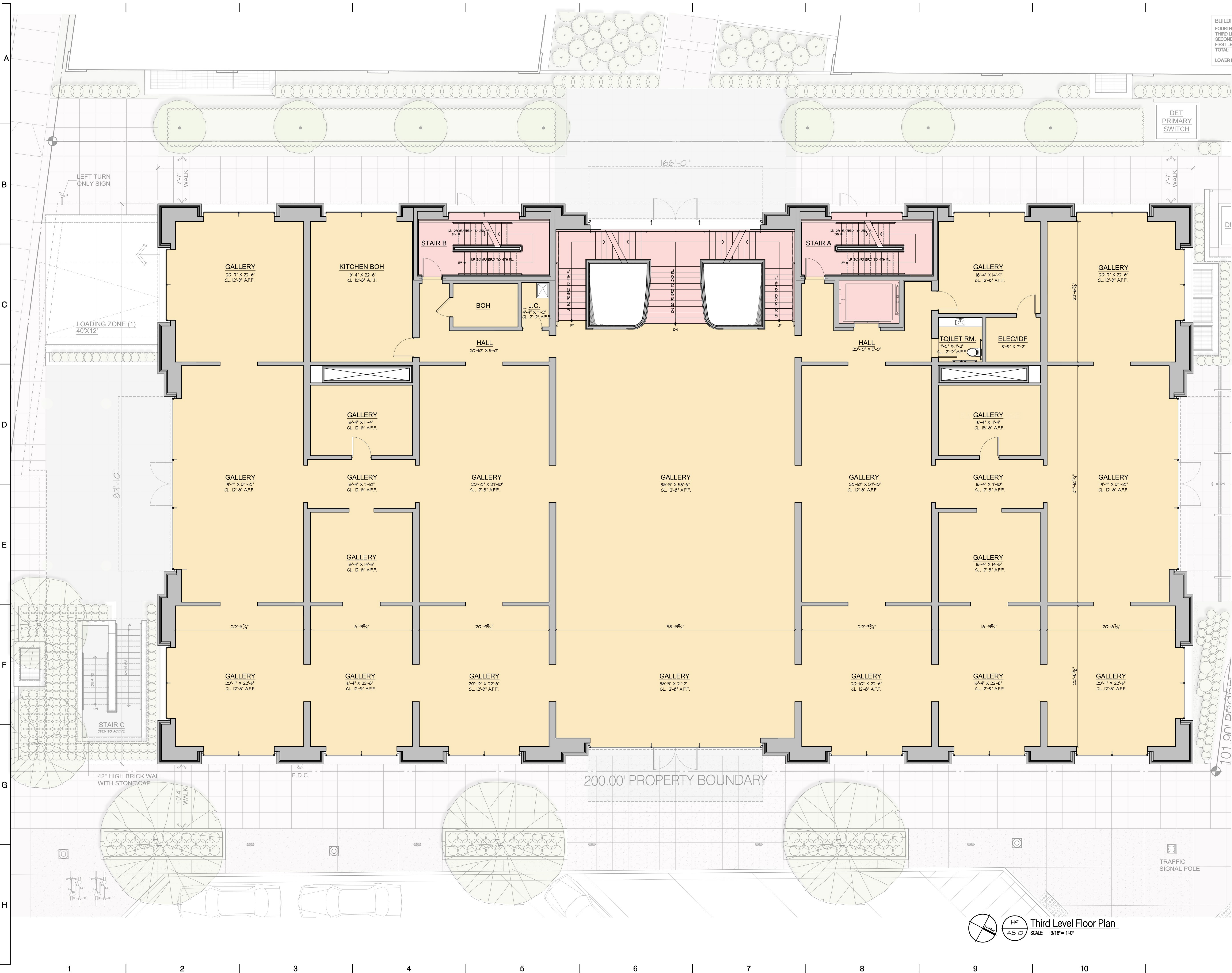
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Birmingham, MI 48009

Date: 11-08-2022 **Issued For:** Pre-App.
11-18-2022 Final Site Plan Application

H9
A210
Second Level Floor Plan
SCALE: 3/16" = 1'-0"

A210
Second Level Floor Plan

BUILDING SQUARE FOOTAGE TOTALS	
FOURTH LEVEL:	8,704 SF (Seat Count - 188)
THIRD LEVEL:	13,502 SF
SECOND LEVEL:	13,692 SF
FIRST LEVEL:	13,817 SF
TOTAL:	49,815 SF
LOWER LEVEL:	16,531 SF (26 Parking Spaces)



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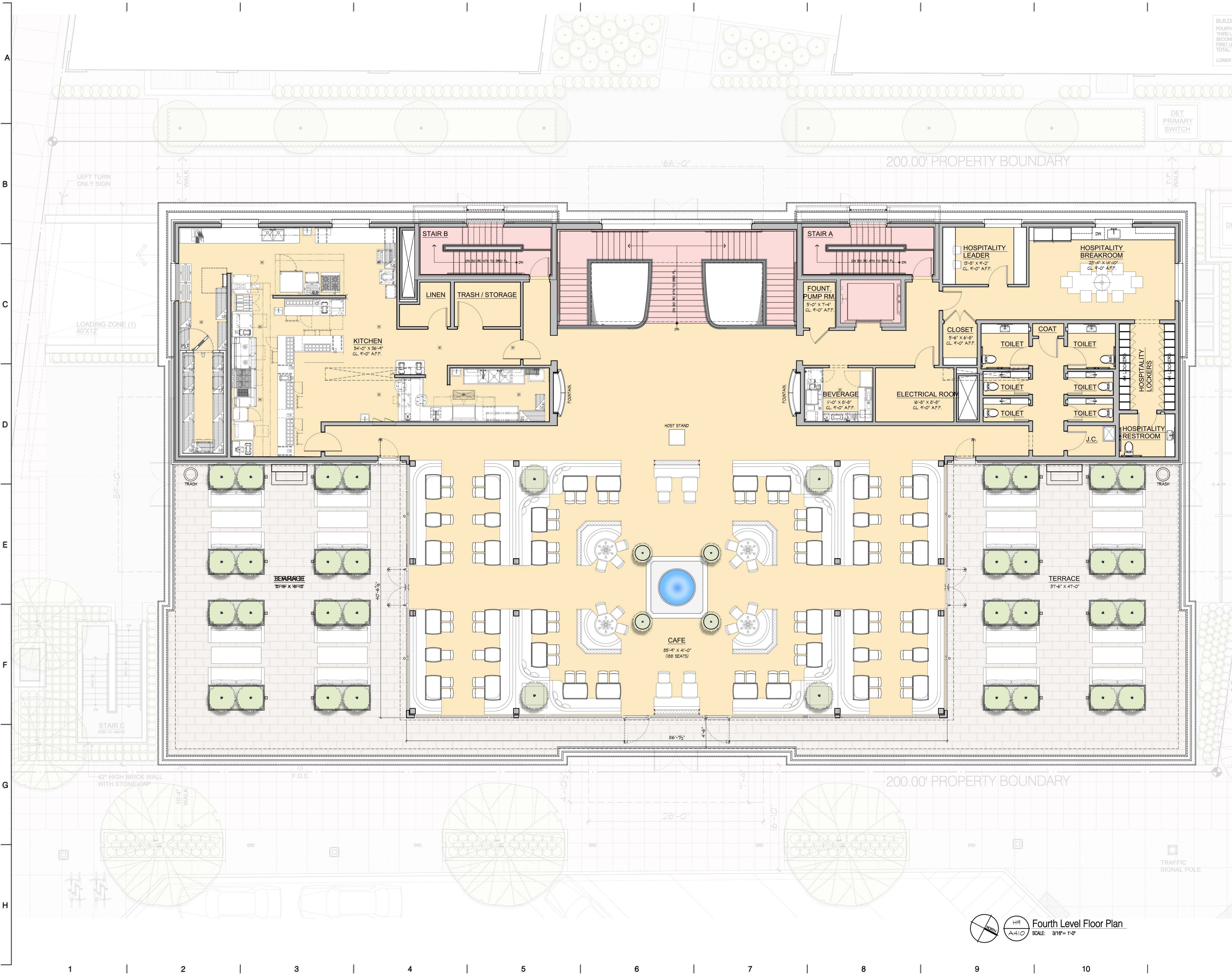
11-08-2022 Pre-App.

11-18-2022 Final Site Plan Application

H9
A310
Third Level Floor Plan
SCALE: 3/16" = 1'-0"

A310
Third Level Floor Plan

BUILDING SQUARE FOOTAGE TOTALS	
FOURTH LEVEL:	8,704 SF (Seat Count - 188)
THIRD LEVEL:	13,522 SF
SECOND LEVEL:	13,682 SF
FIRST LEVEL:	13,817 SF
TOTAL:	49,615 SF
LOWER LEVEL:	16,581 SF (26 Parking Spaces)



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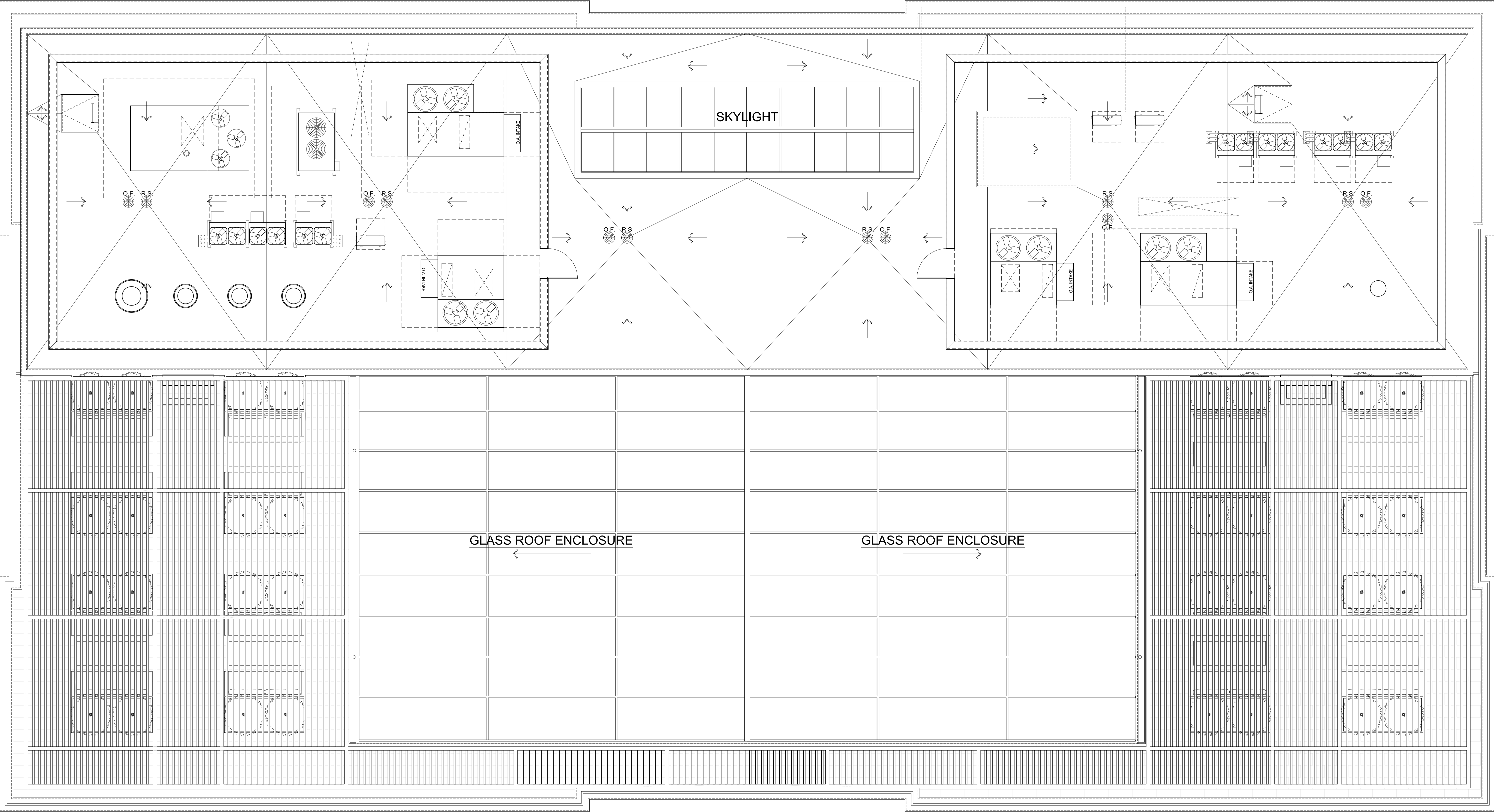
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H9
A410
Fourth Level Floor Plan
SCALE: 3/16" = 1'-0"

A410
Fourth Level Floor Plan

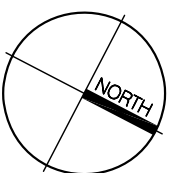
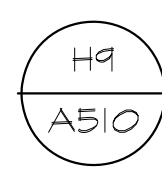
A
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  **Roof Level Floor Plan**
SCALE: 3/16" = 1'-0"

A510
Roof Plan

1 2 3 4 5 6 7 8 9 10

A

B

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10



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East Exterior Elevation (Old Woodward Ave.)
SCALE: 1/8" = 1'-0"

A200
EAST EXTERIOR ELEVATION

H

[illegible]

A200

EAST EXTERIOR ELEVATION

B

D

E

F

G

H



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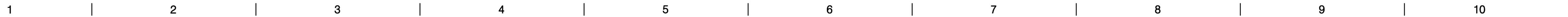
1-18-2022 Final Site Plan Application

[illegible]

North Exterior Elevation (Brown Street)

A201
NORTH EXTERIOR ELEVATION

H

[illegible]

A202

A

B

C

D

E

F

G

H

1 2 3 4 5 6 7 8 9 10



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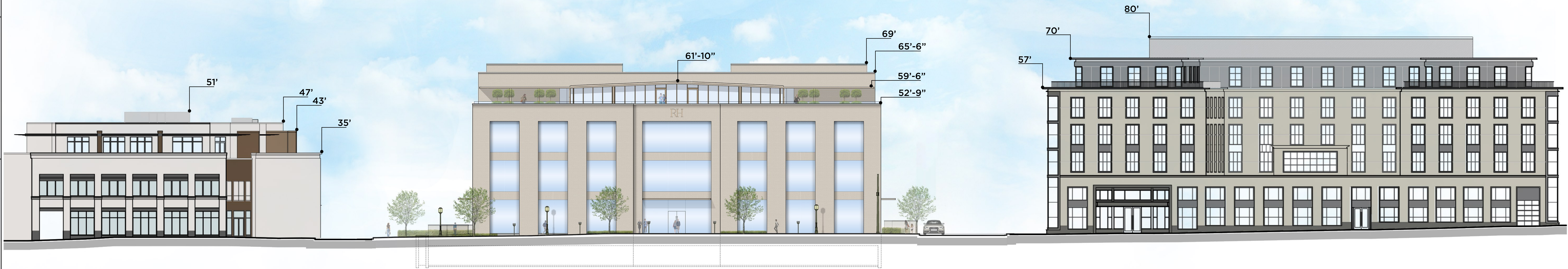
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H10
A203
South Exterior Elevation
SCALE: 1/8" = 1'-0"

A203
SOUTH EXTERIOR ELEVATION

A
B
C
D
E
F
G
H

1 2 3 4 5 6 7 8 9 10



H9
A204
StreetView Elevation
SCALE: 1/16" = 1'-0"

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Sheet No.:
A204
EXTERIOR ELEVATION







A

B

C

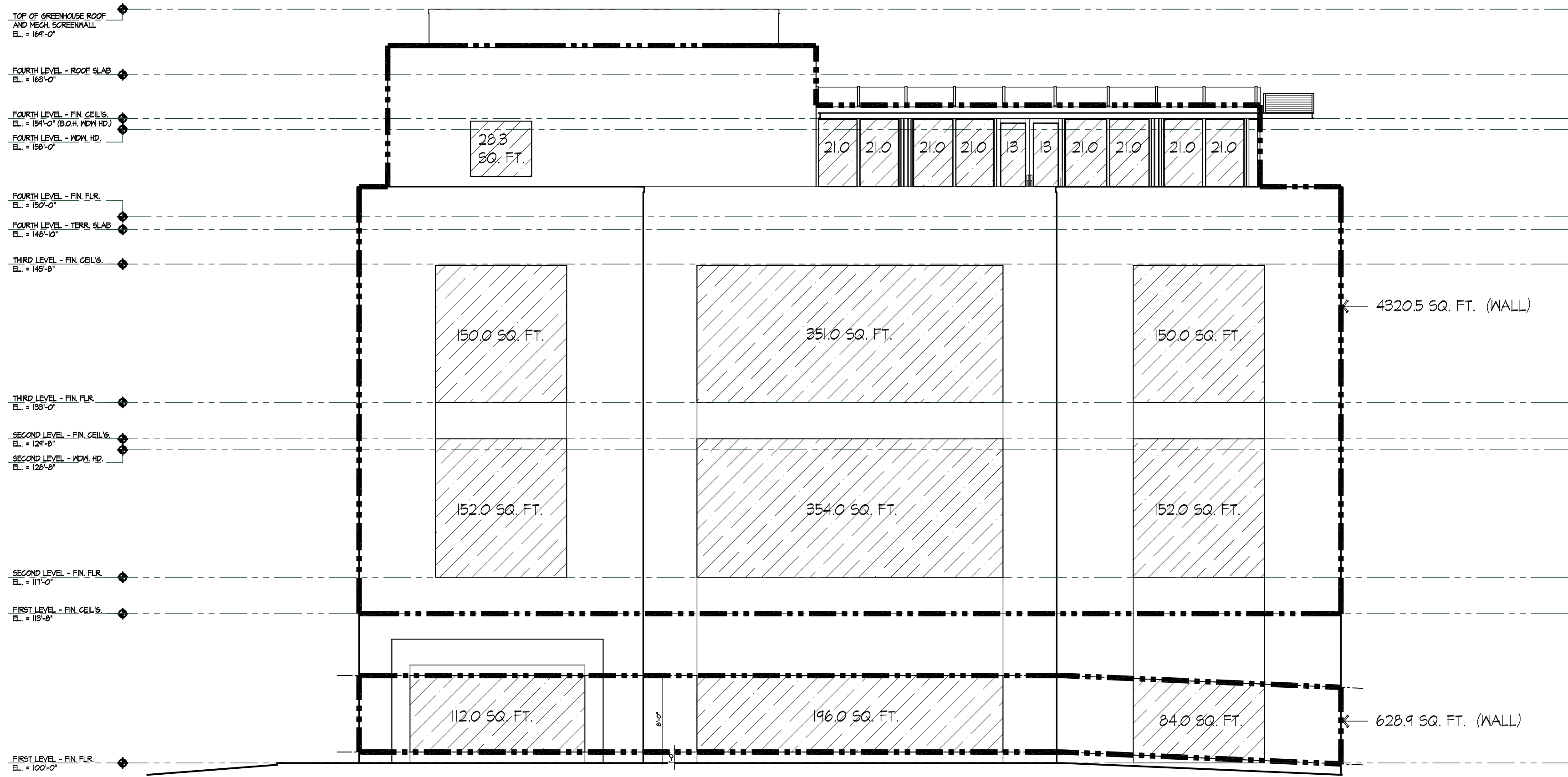
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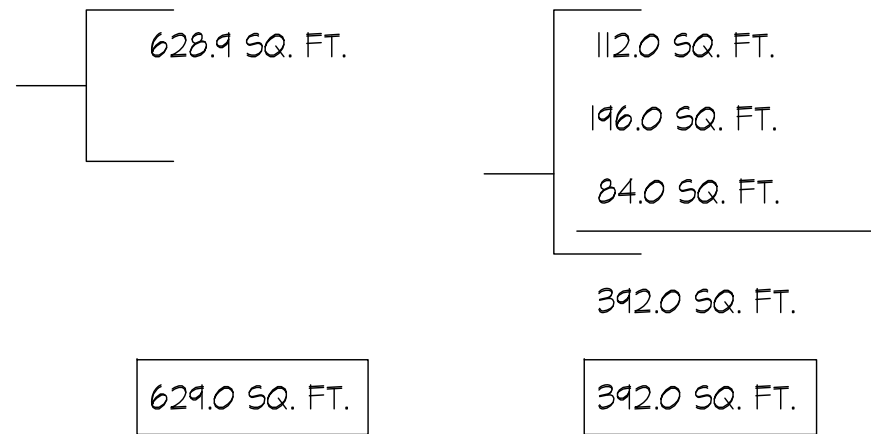
H



SOUTH FACADE

FIRST FLOOR

(TOTAL WALL 1ST LEVEL) (TOTAL WINDOW 1ST LEVEL)

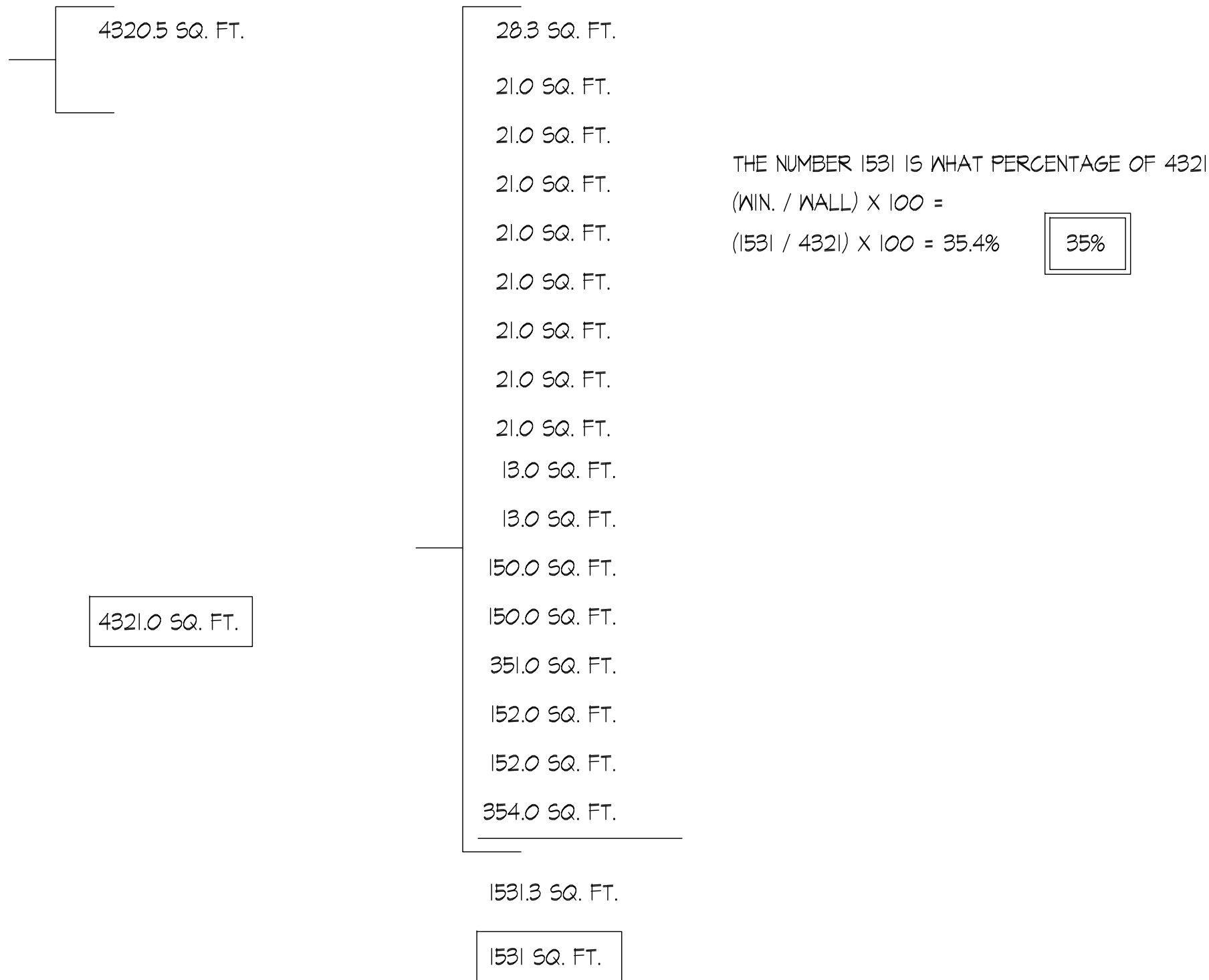


THE NUMBER 342 IS WHAT PERCENTAGE OF 629
(WIN. / WALL) X 100 =
(342 / 629) X 100 = 62.3% 62%

SOUTH FACADE

UPPER FLOORS

(TOTAL WALL 1ST LEVEL) (TOTAL WINDOW 1ST LEVEL)
(2ND, 3RD, 4TH, NO SCREEN WALLS) (2ND, 3RD, 4TH, NO SCREEN WALLS)



THE NUMBER 1531 IS WHAT PERCENTAGE OF 4321
(WIN. / WALL) X 100 =
(1531 / 4321) X 100 = 35.4% 35%

A

B

C

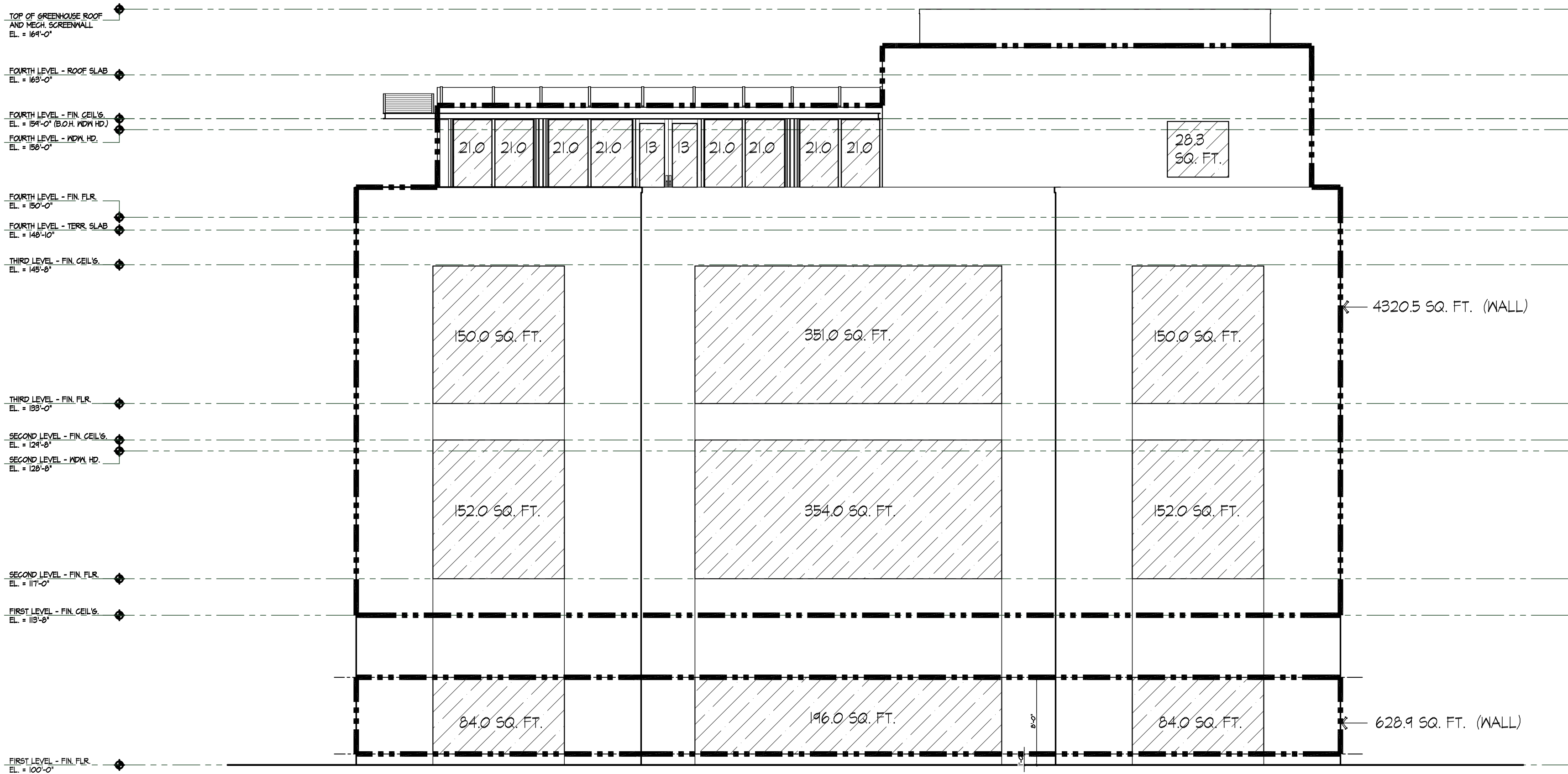
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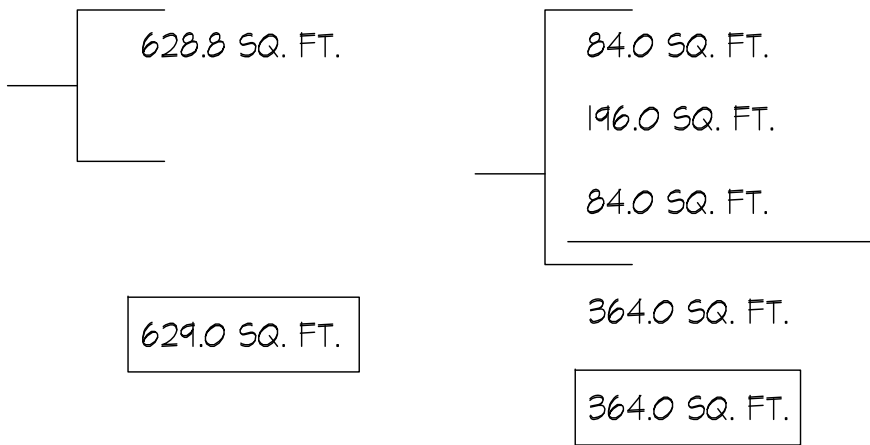


NORTH FACADE

FIRST FLOOR

(TOTAL WALL 1ST LEVEL)

(TOTAL WINDOW 1ST LEVEL)

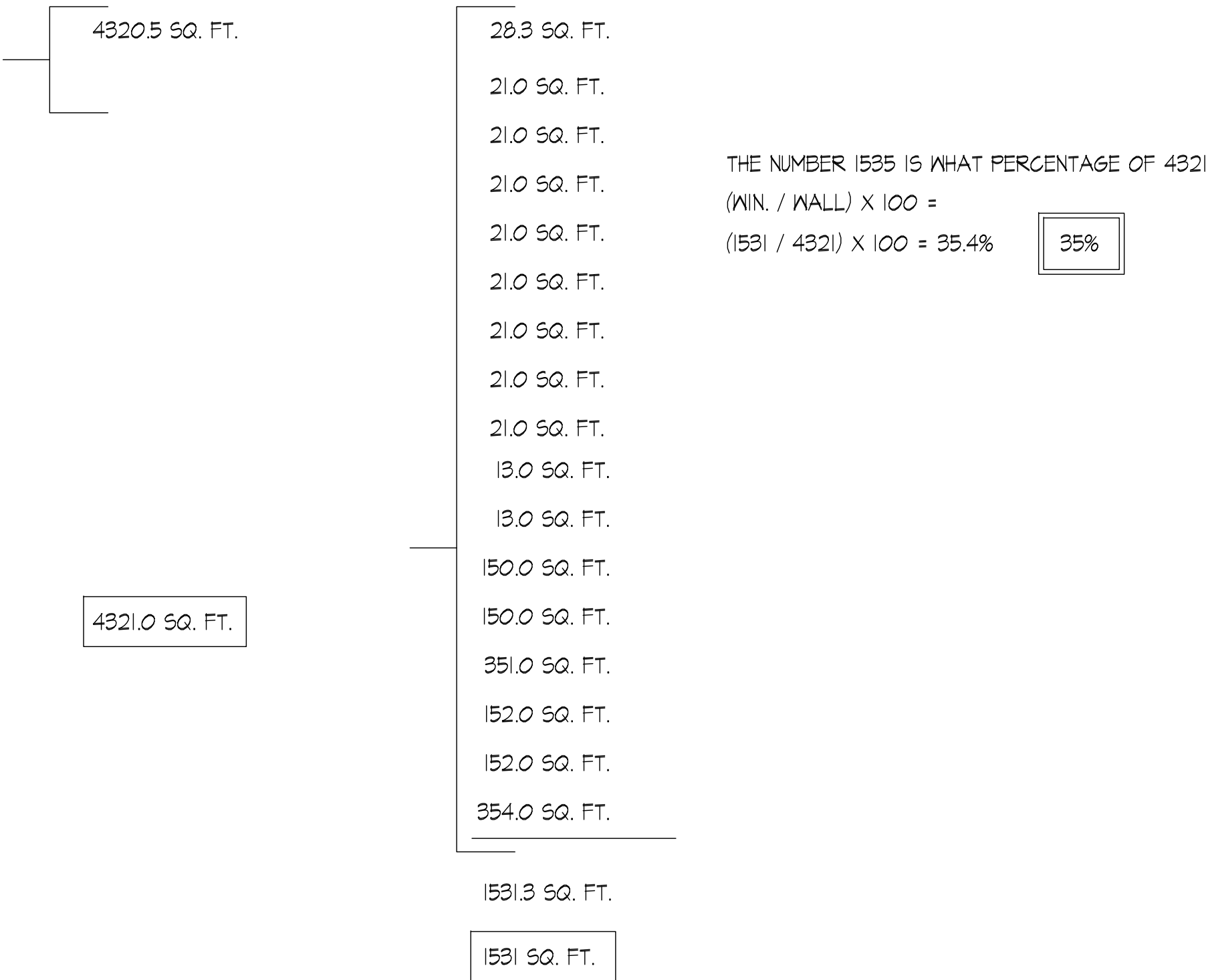


NORTH FACADE

UPPER FLOORS

(TOTAL WALL 1ST LEVEL)
(2ND, 3RD, 4TH, NO SCREEN WALLS)

(TOTAL WINDOW 1ST LEVEL)
(2ND, 3RD, 4TH, NO SCREEN WALLS)



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G240
NORTH EXTERIOR ELEVATION
GLAZING CALCULATIONS

North Exterior Elevation (Brown Street) Glaz. Calc.
SCALE: 1/8" = 1'-0"

**Planning Board Minutes
December 14th, 2022**

SLUP, Final Site Plan & Design Review

300 S. Old Woodward - Restoration Hardware

PD Dupuis presented the item.

Victor Saroki, architect for the applicant, spoke on behalf of the application.

PD Dupuis and Mr. Saroki answered brief informational questions from the Board.

Mr. Saroki stated that the drawings were reviewed and found to be code-compliant by the City's Building Official.

In reply to Mr. Share, Mr. Saroki confirmed that if the Board of Zoning Appeals (BZA) would prefer, RH would likely be willing to turn the west facade sign off after the restaurant closes in the evenings.

Mr. Saroki noted that he was also working on the building across from RH's west facade. He said that while that building would be within 200 feet of RH's west facade, it would not be a problem for RH's west facade sign to be on during the day and into the early evening.

In reply to Mr. Boyle, Mr. Saroki said he would ask RH management about the possibility of adding an electric vehicle charging station to RH's parking area.

Mr. Saroki also confirmed that the bricks would be stacked flush.

Seeing no public comment, the Chair returned conversation to the Board.

Mr. Jeffares noted that the intent of the glazing ordinance was to create activation and interplay between the inside and outside of a building. Given the building's general design, he opined that this building would do that superlatively. He expressed no concerns about this particular building falling short of the glazing standards.

Mr. Williams concurred and said he hoped the BZA would approve the glazing variance. He also stated that the new designs resolved any previous concerns about the building's west orientation. He said the reorientation of the building towards S. Old Woodward was a very positive change and resulted in a better project. He said he was also comfortable with the sign proposal, as long as the sign on the west facade is turned off in the evenings when the building is closed. He opined

that an illuminated sign facing S. Old Woodward would be positive in general. He praised the change in the color, noting that it would distinguish the building from the hotel across the street.

The Chair expressed appreciation for the quality of the materials being proposed in the new designs. He said he fully supported the variance for the glazing, and fully supported the sign variance as long as the west facade sign is turned off when the building is closed. He said the project would bring a lot of value to the community and that he was thrilled to see it move forward.

Ms. Whipple-Boyce said the planned lighting of the building was very aesthetically appropriate and that she could not imagine the lighting being done in another way.

The Board concurred that the proposed material for the metal gate was appropriate.

12-167-22

Motion by Mr. Share

Seconded by Ms. Whipple-Boyce to recommend to the City Commission approval of the Special Land Use Permit for 300 S. Old Woodward – RH – with the following conditions:

- 1. The Planning Board approves the projection of the canopy into the right-of-way;**
- 2. The applicant must still adhere to the principles accepted by the Planning Board in the Community Impact Study review and provide ample space for the separation of recycling in this area;**
- 3. The Planning Board approves the use of arborvitae and masonry screen wall with metal gates to screen the proposed electrical equipment;**
- 4. The applicant must submit revised plans demonstrating 70% clear glazing on the storefront facades or obtain a variance from the Board of Zoning Appeals;**
- 5. The Planning Board approves the use of non-cutoff light fixtures on the facade;**
- 6. The applicant must submit detailed and dimensioned sign plans that meet the requirements of the Sign Ordinance, or obtain a variance from the Board of Zoning Appeals; and,**
- 7. The applicant must comply with the requests of all City Departments.**

Mr. Share said that in his time on the Board he could not recall an applicant reconsidering their application with such an attention to quality aesthetics. He commended the applicant for doing so.

Motion carried, 7-0.

VOICE VOTE

Yeas: Jeffares, Koseck, Boyle, Clein, Williams, Whipple-Boyce, Share

Nays: None

The Board offered unanimous support for the granting of the glazing variance and the granting of the sign variance with the caveat that the west facade sign be turned off when the building is closed.

12-168-22

Motion by Mr. Share

Seconded by Ms. Whipple-Boyce to recommend to the City Commission approval of the Final Site Plan and Design Review for 300 S. Old Woodward – RH – with the following conditions:

- 1. The Planning Board approves the projection of the canopy into the right-of-way;**
- 2. The applicant must still adhere to the principles accepted by the Planning Board in the Community Impact Study review and provide ample space for the separation of recycling in this area;**
- 3. The Planning Board approves the use of arborvitae and masonry screen wall with metal gates to screen the proposed electrical equipment;**
- 4. The applicant must submit revised plans demonstrating 70% clear glazing on the storefront facades or obtain a variance from the Board of Zoning Appeals;**
- 5. The Planning Board approves the use of non-cutoff light fixtures on the facade;**
- 6. The applicant must submit detailed and dimensioned sign plans that meet the requirements of the Sign Ordinance, or obtain a variance from the Board of Zoning Appeals; and,**
- 7. The applicant must comply with the requests of all City Departments.**

Motion carried, 7-0.

VOICE VOTE

Yeas: Jeffares, Koseck, Boyle, Clein, Williams, Whipple-Boyce, Share

Nays: None