

City of Birmingham
MEETING OF THE BOARD OF ZONING APPEALS
TUESDAY, SEPTEMBER 13, 2022
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

SEPTEMBER 13, 2022
7:30 PM

1. CALL TO ORDER

2. ROLL CALL

3. ANNOUNCEMENTS

a) The City continues to recommend the public wear masks while attending City meetings per CDC guidelines. The cases of COVID-19 are increasing in the area. All City employees, commissioners, and board members must wear a mask while indoors when 6-feet of social distancing cannot be maintained. This is to ensure the continuity of government is not affected by an exposure to COVID-19 that can be prevented by wearing a mask. The City continues to provide KN-95 respirators and triple-layered masks for all in-person meeting attendees.

4. APPROVAL OF THE MINUTES

- a) July 26, 2022
- b) August 9, 2022

5. APPEALS

	Address	Petitioner	Appeal	Type/Reason
1)	555 STANLEY	SAMULAK	22-33	POSTPONED
2)	600 ATEN CT	GGA SERVICES	22-40	DIMENSIONAL
3)	588 S OLD WOODWARD	SAMEER EID	22-41	DIMENSIONAL
4)	167 N OLD WOODWARD	KLINGL	22-42	DIMENSIONAL

6. CORRESPONDENCE

7. GENERAL BUSINESS

OPEN TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA

ADJOURNMENT

Title VI

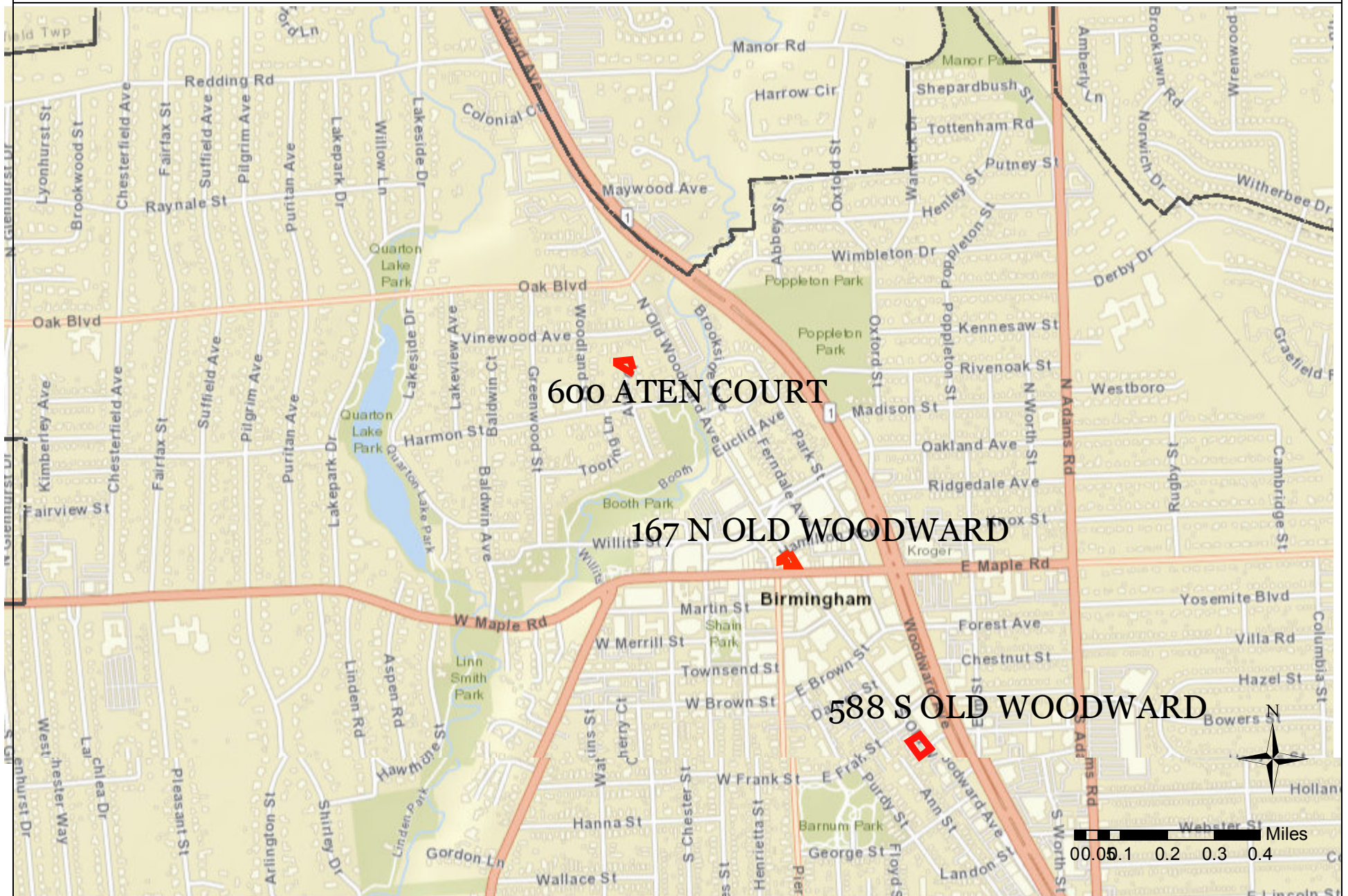
Persons with disabilities that may require assistance for effective participation in this public meeting should contact the City Clerk's Office at the number (248) 530-1880, or (248) 644-5115 (for the hearing impaired) at least one day before the meeting to request help in mobility, visual, hearing,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

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

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

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

SEPTEMBER BZA MAP



Birmingham Board Of Zoning Appeals Proceedings
Tuesday, July 26, 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, July 26, 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, Charles Lillie, John Miller, Pierre Yaldo; Alternate Board Member Carl Kona

Absent: Board Member Ron Reddy

Administration:

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

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

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

Chair Morganroth took rollcall of the petitioners. All petitioners were present.

3. Announcements

The City continues to recommend the public wear masks while attending City meetings per CDC guidelines. The cases of COVID-19 are increasing in the area. All City employees, commissioners, and board members must wear a mask while indoors when 6-feet of social distancing cannot be maintained. This is to ensure the continuity of government is not affected

by an exposure to COVID-19 that can be prevented by wearing a mask. The City continues to provide KN-95 respirators and triple-layered masks for all in-person meeting attendees.

4. Appeals

T# 07-41-22

1) 338 Pilgrim Appeal 22-21

Citing a business relationship with the applicant, Mr. Hart recused himself from this item and stepped out of the room.

ABO Zielke presented the item, explaining that the owner of the property known as 338 Pilgrim was requesting the following variances to construct an addition to an existing nonconforming home:

A. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that the combined total side yard is 14 feet or 25 percent of lot width, which is greater. The required is 17.50 feet. The proposed 14.95 feet. Therefore, a variance of 2.55 feet is being requested.

B. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of total lot width, whichever is larger. The required is 17.50 feet on the north side. The proposed is 16.46 feet. Therefore, a variance of 1.04 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 17.50 feet on the south side. The proposed is 16.41 feet. Therefore, a variance of 1.09 feet is being requested.

Staff answered informational questions from the Board.

Chair Morganroth noted that this appeal was again before the Board since the appellant's appearance at the June 2022 meeting ended in a tie vote. He noted that the appeal also reduced the previous request.

John Fulgenzi, homeowner, reviewed the present variance requests and the mitigation efforts made since the previous variance requests.

In reply to Board inquiry, Mr. Fulgenzi stated:

- The most significant mitigation effort was in reducing the width of the requested garage;
- The home to the north is not in compliance with the ordinance, which impacted the Fulgenzis' request; and,
- Moving the garage to the rear of the lot would cause the home to exceed the allowable lot coverage.

Public Comment

Katherine Hayes and Eve Hadley, neighbors, spoke in favor of the appeal.

Motion by Mr. Miller

Seconded by VC Canvasser with regard to Appeal 22-21, A. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that the combined total side yard is 14 feet or 25 percent of lot width, which is greater. The required is 17.50 feet. The proposed 14.95 feet. Therefore, a variance of 2.55 feet is being requested; B. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of total lot width, whichever is larger. The required is 17.50 feet on the north side. The proposed is 16.46 feet. Therefore, a variance of 1.04 feet is being requested; and, 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 17.50 feet on the south side. The proposed is 16.41 feet. Therefore, a variance of 1.09 feet is being requested.

Mr. Miller moved to approve variance requests A, B, and C and tied them to the plans as submitted.

Mr. Miller said the need for the variances was not self-created, but rather due to the existing home not being ordinance-conforming. He explained that 338 Pilgrim is not squared up to the property lines, which causes a difficulty, and that the non-conforming home to the north also causes a difficulty. He said the variance requests were also reasonable and minimal.

Mr. Lillie noted that the Board has criteria for determining whether an appeal should be approved, and that the Board does not grant or deny variance requests based on popularity.

Chair Morganroth said he would vote in support of the appeal given the appellant's mitigation efforts between the previous and present requests.

Motion carried, 6-0.

ROLL CALL VOTE

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

Nays: None

T# 07-42-22

**2) 333 Ferndale
Appeal 22-26**

Mr. Hart rejoined the meeting.

ABO Morad presented the item, explaining that the owner of the property known as 333 Ferndale was requesting the following variance regarding the height of a masonry fence in the front open space:

A. Chapter 126, Article 4, Section 4.1(A)2 of the Zoning Ordinance requires that fences located in the front open space shall not exceed 3.00 feet in height. The wall installed varies in height. The maximum height is 3.92 feet. Therefore, a variance of 0.92 feet is being requested.

Staff answered informational questions from the Board.

Matthew Brown, homeowner, reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet.

The Chair stated he could recall at least two other instances where similar requests were before the Board and the Board required the appellants to adhere to the ordinance.

Mr. Hart noted that a previous variance request for a similar case was approved in part because the residential appellant was located next to a commercially-zoned area.

In reply to VC Canvasser, BO Johnson said that adding height to the grade would not change the grade if these measurements were being done for a building. He stated that the same text is not in the ordinance in regards to a fence but explained he thought allowing the grade to be filled in next to the fence would create a troublesome precedent.

In reply to Board inquiry, Mr. Brown stated four or five feet of the wall heading west is above three feet and four or five feet heading south is also above five feet.

Motion by Mr. Miller

Seconded by Mr. Hart with regard to Appeal 22-26, A. Chapter 126, Article 4, Section 4.1(A)2 of the Zoning Ordinance requires that fences located in the front open space shall not exceed 3.00 feet in height. The wall installed varies in height. The maximum height is 3.92 feet. Therefore, a variance of 0.92 feet is being requested.

Mr. Miller moved to approve the variance request and tied it to the plans as submitted.

Mr. Miller said the pivotal question for him was whether granting this variance would do substantial justice to both the property owner and other property owners in the area. He noted that this neighborhood has two names: Little San Francisco and Ravines, both of which refer to the radical grade changes in the area, and consequently there are likely dozens of homes in the neighborhood that do not comply as they currently sit. He noted that the grade on this lot slopes in two directions, which is typical of the challenges in the neighborhood. He said the less-than-a-foot variance request was small given the sloping lots in the neighborhood and that the appellant is adjacent to a commercial property. He said that this reasoning would not

apply generally in Birmingham, but that this neighborhood and this lot has unique circumstances.

Mr. Lillie concurred that this was an unusual situation, and noted that most of the wall was in compliance with the ordinance. He noted that one similar recent case mentioned by the Chair was denied because the fence was a uniform five feet. He noted that the case mentioned by Mr. Hart was different from this case because that case had the side yard of the home treated as the front yard, which is why the six-foot variance was granted. He noted that the Board has to be careful about setting precedent in granting variances. In this case, Mr. Lillie said the violation was de minimus and that there was a practical difficulty.

VC Canvasser said he would support the motion and noted that granting this variance would not set a precedent. He noted that the Board has encountered requests in the past from appellants who have already built a non-compliant structure and that the Board has required them to remove the structure. He advised residents not to conclude from this particular request that the Board will allow all non-compliant, already-built structures to remain.

The Chair said he would not support the motion since Mr. Brown stated during his presentation that both he and his contractor were aware the fence should be three feet. He continued that all lots have a slope since that is how water leaves the property. He said that request was only for .92 feet, relative to the three feet requirement, the fence is almost 30% too tall. He said, in his opinion, this decision does set precedent and that the fence was built too tall and could be modified.

Motion carried, 6-1.

ROLL CALL VOTE

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

Nays: Morganroth

T# 07-43-22

**3) 1165 Hillside
Appeal 22-27**

ABO Zielke presented the item, explaining that the owner of the property known as 1165 Hillside was requesting the following variances to construct a new 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 53.20 feet. The proposed is 41.20 feet. Therefore, a 12.00 foot variance is being requested.

B. 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 53.20 feet. The proposed covered porch is 32.30 feet. Porches are permitted per article 4, section 4.30(C)(1) to project into the required front open space for 10.00 feet. Therefore, a 10.90 foot variance is being requested.

C. Chapter 126, Article 4, Section 4.75(A)(1) of the Zoning Ordinance requires that private, attached, single-family residential garages must be setback a minimum of 5.00 feet from the portion of the front façade on the first floor of the principal building that is furthest setback from the front property line. The proposed is the garage is 9.71 feet in front of the furthest façade. Therefore, a variance of 14.71 feet is being requested.

Staff answered informational questions from the Board.

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

In reply to Mr. Lillie, BO Johnson confirmed that if the appellant moved the garage to the rear and the mudroom to the front, and the mudroom were extended to the full width of the garage, that would be ordinance-compliant.

Mr. Samartino said he would get rid of the one-foot jog if he were to change the plans in that way.

In reply to VC Canvasser, BO Johnson said Staff could handle the elimination of the jog without the need for fully redone plans if the Board decided to proceed in that direction.

Public Comment

Christopher Fisher, neighbor, spoke about the rear setback and water runoff.

The Chair explained how rear setbacks work and advised Mr. Fisher to follow-up with Staff with any concerns about water runoff from the lot.

Matt Hutchins, neighbor, said the home would change the character of the neighborhood and echoed Mr. Fisher's concerns about water runoff.

The Chair noted for Messrs. Fisher and Hutchins that variance request A was only for 12 feet, and the rest of the 53.20 feet would be allowed by-right.

Motion by Mr. Lillie

Seconded by VC Canvasser with regard to Appeal 22-27, 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 53.20 feet. The proposed is 41.20 feet. Therefore, a 12.00 foot variance is being requested.

Mr. Lillie moved to approve variance request A and tied it to the plans as presented.

Mr. Lillie noted variance request A has been before the Board at least three times, and each time the distance has been the same and the Board has granted the front yard setback. He stated the facts have not changed, and said the previous appeals and this appeal have shown that it would be unduly burdensome for the petitioner to comply with the ordinance given the wide ranges of the setbacks of the neighboring houses, which creates the setback average. He stated the yard is unique in that it is not rectangular or square, and said the issue was not self-created.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

T# 07-44-22

Motion by Mr. Lillie

Seconded by VC Canvasser with regard to Appeal 22-27, C. Chapter 126, Article 4, Section 4.75(A)(1) of the Zoning Ordinance requires that private, attached, single-family residential garages must be setback a minimum of 5.00 feet from the portion of the front façade on the first floor of the principal building that is furthest setback from the front property line. The proposed is the garage is 9.71 feet in front of the furthest façade. Therefore, a variance of 14.71 feet is being requested.

Mr. Lillie moved to deny variance request C, noting that Mr. Samartino indicated a change could be made to comply with this aspect of the ordinance. He said there was no showing that requiring compliance with the ordinance would be unduly burdensome and said it would not do substantial justice to the neighbors to grant the variance. He said the request was also self-created.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

T# 07-45-22

Motion by Mr. Lillie

Seconded by Mr. Kona with regard to Appeal 22-27, B. 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 53.20 feet. The proposed covered porch is 32.30 feet. Porches are permitted per article 4, section 4.30(C)(1) to project into the required front open space for 10.00 feet. Therefore, a 10.90 foot variance is being requested.

Mr. Lillie moved to deny variance request B, stating that there had been no showing that compliance would be unduly burdensome or that granting the variance would do substantial justice to the neighbors. He said that while the lot is unique, the need for this particular variance is self-created.

Mr. Miller said he would not support the motion because he believes that the City promotes front porches. He said porches do not particularly obscure the views of neighbors since they are not solid walls and so should not be a significant concern. Adding a porch to this home would be a positive addition to the neighborhood and said it was a reasonable request for homeowners in Birmingham.

VC Canvasser said he would also not support the motion, stating that granting variance A but not this variance seemed somewhat odd. He said granting this variance would do substantial justice given the irregularly-shaped lot, which also impacted the Board's granting of variance A.

Chair Morganroth said he would not support the motion to deny.

Motion failed, 2-5.

ROLL CALL VOTE

Yeas: Lillie, Kona,

Nays: Canvasser, Hart, Miller, Morganroth, Yaldo

T# 07-46-22

Motion by VC Canvasser

Seconded by Mr. Hart with regard to Appeal 22-27, B. 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 53.20 feet. The proposed covered porch is 32.30 feet. Porches are permitted per article 4, section 4.30(C)(1) to project into the required front open space for 10.00 feet. Therefore, a 10.90 foot variance is being requested.

VC Canvasser moved to approve variance request B and tied it to the plans as submitted. He referenced the reasons stated during discussion of motion 07-45-22 as his reasons for moving to approve.

Motion carried, 5-2.

ROLL CALL VOTE

Yeas: Canvasser, Hart, Miller, Morganroth, Yaldo

Nays: Lillie, Kona

T# 07-47-22

**4) 564 Ridgedale
Appeal 22-29**

ABO Zielke presented the item, explaining that the owner of the property known as 564 Ridgedale was requesting the following variance to construct a patio in the side yard:

A. Chapter 126, Article 4, Section 4.30(C)(3) of the Zoning Ordinance requires that patios may not project into a required side open space. A proposed patio is projecting into the east required side open space 5.03 feet; therefore, a variance of 5.03 feet is requested.

Staff answered informational questions from the Board.

Nicole Bedi, homeowner, 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, Ms. Bedi stated:

- This proposed area would be adjacent to the neighbor's utility area, and would not be near the neighbor's gathering area or within the sightline of any of the neighbor's windows;
- The patio furniture itself would also be appropriately distant from the property line; and,
- The requested five-foot variance makes a significant difference in terms of the patio's usability. Any other plan would sacrifice some part of the lawn without fixing the five-foot area of lawn that cannot grow grass because of the shade.

Mr. Miller summarized a description from Ms. Bedi's that if the patio door were further north it would better accommodate hosting, but since it is not the patio becomes somewhat pinched without the requested variance.

Ms. Bedi confirmed Mr. Miller's summary.

Motion by Mr. Lillie

Seconded by Mr. Kona with regard to Appeal 22-29, A. Chapter 126, Article 4, Section 4.30(C)(3) of the Zoning Ordinance requires that patios may not project into a required side open space. A proposed patio is projecting into the east required side open space 5.03 feet; therefore, a variance of 5.03 feet is requested.

Mr. Lillie moved to deny the variance request, stating that the petitioner showed no practical difficulty and did not demonstrate that it would be unduly burdensome to comply with the ordinance. He said granting the variance would do no justice to the neighbors, that there was nothing unique about the lot, and that the request was self-created. He noted that without the variance the patio would still be about 17 feet wide.

Mr. Miller said he would support the motion even though he had sympathy for the homeowner. He noted that sideyard setbacks are very important in the City, and that to set a precedent without a compelling hardship would be difficult to do.

The Chair said he would also support the motion. He noted that the appellant has a large rear yard that will accommodate gatherings in addition to the 17 foot wide patio area and so no practical difficulty was established.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

T# 07-48-22

**5) 269 Southlawn
Appeal 22-30**

ABO Morad presented the item, explaining that the owner of the property known as 269 Southlawn was requesting the following variance to construct a new detached garage:

A. Chapter 126, Article 4, Section 4.03(B) of the Zoning Ordinance does not permit accessory building to be constructed closer to a principal building on an adjoining lot than the sum of the minimum required side setbacks as determined in Section 4.74. The required distance is 14.00 feet. The Proposed is 12.77 feet. Therefore, a variance of 1.23 feet is being requested.

Staff answered informational questions from the Board.

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

In reply to Mr. DePorre and the Chair, BO Johnson explained the ordinance regulates distances between accessory structures and principal structures on an adjoining lot, but does not regulate distances between principal structures and accessory structures on an adjoining lot.

Mr. DePorre said this difference in the ordinances was causing the issue in his case.

In response to the Chair, Mr. DePorre said DTE easements also restricted where the garage could be located on the lot.

Motion by Mr. Hart

Seconded by Mr. Lillie with regard to Appeal 22-30, A. Chapter 126, Article 4, Section 4.03(B) of the Zoning Ordinance does not permit accessory building to be constructed closer to a principal building on an adjoining lot than the sum of the minimum required side setbacks as determined in Section 4.74. The required distance is 14.00 feet. The Proposed is 12.77 feet. Therefore, a variance of 1.23 feet is being requested.

Mr. Hart moved to approve the variance request, and tied approval to the plans as submitted. Mr. Hart said the nature of the neighborhood, age of the home, and the

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

T# 07-49-22

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

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

BO Johnson noted a letter regarding Appeal 22-27 and a letter regarding Appeal 22-21 were provided to the Board members and the relevant appellants.

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

T# 07-50-22

7. Adjournment

Motion by Mr. Kona

Seconded by VC Canvasser to adjourn the July 26, 2022 BZA meeting at 9:58 p.m.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

Bruce R. Johnson, Building Official



Laura Eichenhorn

City Transcriptionist

Birmingham Board Of Zoning Appeals Proceedings
Tuesday, August 9, 2022
City Commission Room
151 Martin Street, Birmingham, Michigan

1. Call To Order

Minutes of the regular meeting of the City of Birmingham Board of Zoning Appeals ("BZA") held on Tuesday, August 9, 2022. Chair Erik Morganroth convened the meeting at 7:30 p.m.

2. Rollcall

Present: Chair Erik Morganroth; Vice-Chair Jason Canvasser; Board Members Charles Lillie, Kevin Hart, John Miller, Ron Reddy, Pierre Yaldo; Alternate Board Member Carl Kona (left 8:06 p.m.)

Absent: None

Administration:

Bruce Johnson, Building Official
Leah Blizinski, City Planner
Brooks Cowan, Senior Planner
Laura Eichenhorn, City Transcriptionist
Jeff Zielke, Assistant Building Official

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

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

Chair Morganroth took rollcall of the petitioners. All petitioners were present.

3. Announcements

The City continues to recommend the public wear masks while attending City meetings per

CDC guidelines. The cases of COVID-19 are increasing in the area. All City employees, commissioners, and board members must wear a mask while indoors when 6-feet of social distancing cannot be maintained. This is to ensure the continuity of government is not affected by an exposure to COVID-19 that can be prevented by wearing a mask. The City continues to provide KN-95 respirators and triple-layered masks for all in-person meeting attendees.

T# 08-50-22

4. Approval Of The Minutes Of The BZA Meetings Of July 12, 2022

Motion by VC Canvasser

Seconded by Mr. Reddy to accept the Minutes of the BZA meeting of July 12, 2022 as submitted.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

5. Appeals

T# 08-51-22

**1) 2647 Dorchester
Appeal 22-39**

VC Canvasser recused himself from this item citing previous work with the petitioner. VC Canvasser stepped out of the room.

Mr. Kona filled in on this item for VC Canvasser.

ABO Zielke presented the item, explaining that the owner of the property known as 2647 Dorchester was requesting the following variance to construct a new single-family home:

A. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of total lot width, whichever is larger. The required is 14.00 feet on the west side. The proposed is 12.23 feet. Therefore, a variance of 1.77 feet is being requested.

Staff answered informational questions from the Board.

Derek Babi, builder, 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. Babi explained:

- He could likely go to a 9.5 or ten foot driveway, which would reduce the amount of the requested variance; and,
- While the home could be built without the variance if the rooms were slightly reduced, the home were shifted to the east on the lot, and the driveway were brought down to nine feet, the client was highly prioritizing a larger driveway which requires at least some amount of variance.

Public Comment

Patrick Carolan, neighbor, spoke in support of granting the requested variance.

Paul Martin and Glen Harris, neighbors, spoke against granting the requested variance.

Mr. Lillie noted that an issue similar to this one occurs at least once on every block in Birmingham with small lots.

Chair Morganroth emphasized that this house could be ordinance-compliant if it were more narrow and shifted to the east, or could reduce the amount of the request if the width of the driveway was reduced.

Mr. Hart made a motion to approve, but there was no second.

Given the lack of a second for an approval, Mr. Miller asked if the appellant would be willing to propose a compromise to lessen the requested variance.

Mr. Babi proposed the house be shifted six inches to the east and that the driveway be ten feet.

Motion by Mr. Miller

Seconded by Mr. Lillie with regard to Appeal 22-39, A. Chapter 126, Article 4, Section 4.74(C) of the Zoning Ordinance requires that the minimum distance between principal residential buildings on adjacent lots of 14.00 feet or 25% of total lot width, whichever is larger. The required is 14.00 feet on the west side. The proposed is 12.23 feet. Therefore, a variance of 1.77 feet is being requested.

Mr. Miller moved to approve the variance and tied approval to the plans as submitted, with the understanding that the home would be moved six inches further to the east relative to the original variance request. This resulted in a modified variance request of 1.27 feet. Mr. Miller said he believed there was a practical difficulty because this lot was pinched relative to other lots on the block. He said this modified variance request reduces the impact on the home to the west while also acknowledging the practical difficulty faced by this lot.

The Chair noted that the driveway would be ten feet.

Mr. Yaldo said the compromise seemed fair and that he would support the motion.

The Chair noted that this home sits within the building envelope, and that if there were no homes on either side this proposal would not need a variance. He concurred with his colleagues that the compromise was reasonable and offered his support for the motion.

Mr. Lillie said it would not be fair to ask the appellant to reduce the width of the home in this case since the home otherwise complies with the ordinance and this issue arises at least once on every block with small lots in Birmingham. Mr. Lillie explained that this is not a self-created issue.

The Chair concurred, noting that the home was within the building envelope.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

T# 08-52-22

**2) 111 E Merrill
Appeal 22-35**

Mr. Kona departed the meeting and VC Canvasser rejoined the meeting.

CP Blizinski presented the item, explaining that the owner of the property known as 111 E Merrill was requesting the following variance to install a wall-mounted projecting sign:

A. Chapter 1, Article 1, Table B of the Sign Ordinance requires wall-mounted projecting signs to be located at the sign band and no less than 8 feet above grade. The applicant has proposed a blade sign 8 feet above grade and 4.66 ft. below the sign band, therefore a dimensional variance of 4.66 ft. is being proposed.

Staff answered informational questions from the Board.

Steve Trombly, owner of Done Right Signs, 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. Trombly stated:

- His reading of the ordinance would allow the blade sign to be a minimum of eight feet from grade;
- Pedestrians walking west on Merrill would not be able to see the sign if it were placed in the sign band;
- It would not be aesthetically pleasing to place the sign under consideration in the sign band given the other signage already present in the band;
- The sign as proposed would still be higher than a number of other signs in the City when measured from grade; and,

- Visibility is the priority in pursuing this variance.

The Chair explained Staff interpreted the sign ordinance as allowing a blade sign in the sign band and also no lower than eight feet. He noted that was different from Mr. Trombly's interpretation. He noted that Mr. Trombly had not yet described anything unique about the property that would merit a variance from the ordinance.

BO Johnson noted that the sign band changes from building to building, which is why some blade signs on other buildings would be located lower than this proposed sign.

Mr. Hart said that if a pedestrian were heading east on the north side of Merrill, the extant canopy would obscure the blade sign if it were located in the sign band. He said he did not see sense in moving the blade sign up as a result.

Mr. Trombly concurred.

In reply to the Chair, CP Blizinski confirmed that signage on the doors would be permitted.

The Chair invited Pete Petrolla, representative of the landlord of the building, to make a brief comment.

Mr. Petrolla explained that the blade sign location was selected in order to best direct people into Schechter's door and not into other parts of the building.

Motion by Mr. Reddy

Seconded by Mr. Lillie with regard to Appeal 22-35, A. Chapter 1, Article 1, Table B of the Sign Ordinance requires wall-mounted projecting signs to be located at the sign band and no less than 8 feet above grade. The applicant has proposed a blade sign 8 feet above grade and 4.66 ft. below the sign band, therefore a dimensional variance of 4.66 ft. is being proposed.

Mr. Reddy moved to deny the variance request, explaining it would not unreasonably prevent the property owner from using the property for its permitted purpose, that there was no showing that compliance with the ordinance was unduly burdensome, a number of alternatives exist for the appellant and the problem is self-created.

Mr. Miller said the motion had his reluctant support. He said the proposed height worked best for the pedestrian scale of the downtown area. He concurred with the Planning Director's comment from the July 20, 2022 HDC meeting, where this sign was reviewed, that the sign ordinance needed to be updated. In granting a variance, however, Mr. Miller was concerned that the Board would be abandoning the sign ordinance altogether in this case and would risk creating a difficult precedent. He explained that he would support the motion as a result.

Motion carried, 6-1.

ROLL CALL VOTE

Yeas: Miller, Morganroth, Lillie, Canvasser, Yaldo, Reddy

Nays: Hart

T# 08-53-22

**3) 680 Westwood
Appeal 22-36**

ABO Zielke presented the item, explaining that the owner of the property known as 680 Westwood was requesting the following variance to construct a deck:

A. Chapter 126, Article 2, Section 2.06.1 of the Zoning Ordinance states that the maximum lot coverage is 30% for any lot. The maximum for this property is 2754.00 SF (30%). The existing is 3048.00 SF (33.20%). The proposed is 3020.00 SF (32.89%). Therefore, a variance of 294.00 SF (2.89%) is being requested.

Staff answered informational questions from the Board.

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

The Board had no questions for Mr. Reznar.

Motion by VC Canvasser

Seconded by Mr. Lillie with regard to Appeal 22-36, A. Chapter 126, Article 2, Section 2.06.1 of the Zoning Ordinance states that the maximum lot coverage is 30% for any lot. The maximum for this property is 2754.00 SF (30%). The existing is 3048.00 SF (33.20%). The proposed is 3020.00 SF (32.89%). Therefore, a variance of 294.00 SF (2.89%) is being requested.

VC Canvasser moved to approve the requested variance, tying approval to the plans as submitted. He stated that strict compliance with the ordinance would render conformity unnecessarily burdensome, the variance would do substantial justice to the petitioner as well as other property owners in the area, the circumstances of this home were unique because it had complied with the ordinance when it was built and had become non-compliant with the ordinance, and preventing the owner from replacing the deteriorating deck would cause a safety hazard to the owners and their guests.

The Chair noted that the appellant was mitigating their request by replacing their larger deck with a smaller deck.

Mr. Miller spoke in support of the motion. He said that repairing a decaying deck should be seen as essential to the quality of Birmingham's neighborhoods. He said the Board would not want to discourage residents from repairing a dangerous condition.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

T# 08-54-22

**4) 282 Greenwood
Appeal 22-34**

ABO Zielke presented the item, explaining that the owner of the property known as 282 Greenwood was requesting the following variances to construct a deck and rework the existing impervious area to an existing non-conforming site:

A. Chapter 126, Article 4, Section 4.30(C)(5) of the Zoning Ordinance allows a deck and/or steps to project into the rear open space for a maximum distance of 15.00 feet. This provision shall not reduce the required rear yard setback to less than 15.00 feet. The proposed deck is to reduce the rear yard to 10.00 feet; therefore, a variance of 5.00 feet is requested.

B. Chapter 126, Article 4, Section 4.31(A) of the Zoning Ordinance requires that a minimum of 65% (998.53 SF) of the front open space in all single- family districts shall be free of paved surfaces. The existing is 43.19% (663.50 SF) and the proposed is 56.98% (875.30 SF). Therefore a variance of 8.02% (123.23 SF) is being requested.

Staff answered informational questions from the Board.

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

In reply to VC Canvasser, Mr. Toby stated the remaining variance could not be further mitigated because of the existing wall.

The Chair stated that this was a better design than the previously approved design for the home. He clarified for Mr. Toby that the location of the water feature was not tied to these potential variances.

Motion by VC Canvasser

Seconded by Mr. Reddy with regard to Appeal 22-34, A. Chapter 126, Article 4, Section 4.30(C)(5) of the Zoning Ordinance allows a deck and/or steps to project into the rear open space for a maximum distance of 15.00 feet. This provision shall not reduce the required rear yard setback to less than 15.00 feet. The proposed deck is to reduce the rear yard to 10.00 feet; therefore, a variance of 5.00 feet is requested; and, B. Chapter 126, Article 4, Section 4.31(A) of the Zoning Ordinance requires that a minimum of 65% (998.53 SF) of the front open space in all single- family districts shall be free of

paved surfaces. The existing is 43.19% (663.50 SF) and the proposed is 56.98% (875.30 SF). Therefore a variance of 8.02% (123.23 SF) is being requested.

VC Canvasser moved to approve variances A and B, tying approval to the plans as submitted. He stated that strict compliance with the ordinance would unreasonably prevent the petitioner from using the property for its intended purpose, the variances would do substantial justice to the petitioner as well as other nearby property owners, there are unique circumstances, and the problem was not self-created. VC Canvasser cited the topography of the lot and safety needs in terms of the staircase and exit as some of the unique circumstances. He noted that he would vote to approve despite having previously voted against the variances requested for this lot because these current plans included further mitigation versus the previous variances.

Mr. Lillie said that it would be inappropriate to vote against this motion since this request amounts to a small change relative to the previous appeal where the Board found the appellant had a practical difficulty. He said he would also be voting in favor because the petitioner reduced the requested variance.

The Chair said he would also be voting in favor, citing the park next door and the topography of the lot. He said that no other location on the lot would permit the deck. He also noted the mitigation of the variances requested as part of the reason for his support.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

T# 08-55-22

**5) 34660 Woodward
Appeal 22-37**

SP Cowan presented the item, explaining that the owner of the property known as 34660 Woodward was requesting the following variance to have a mural painted on the side of their building:

A. Article 9, Section 9.02 Definitions of the Zoning Ordinance defines Wall Art as an artistic design applied to the exterior surface of a structure in a permanent or temporary manner. The location of wall art is limited to elevations of structures facing the side or rear lot line within the defined Rail District boundary, side elevations with a 0 foot setback in the Triangle District and Downtown Overlay District, and elevations facing a public or private alley, passage, or via in the Downtown Overlay and the Triangle District as specified in the Via Activation Overlay District. Wall art is only permitted in compliance with Chapter 126, the City of Birmingham Zoning Ordinance Article 7, Section 7.41 – 7.44. Wall art is not permitted on a building facing an alley, passage or via that any of which

abuts a single-family residential zoned property. The applicant is proposing a mural on the side elevation of their building facing Woodward Avenue which is setback 92 feet from the side lot line, therefore a dimensional variance of 92 feet is being requested.

Staff answered informational questions from the Board.

In reply to Mr. Miller, SP Cowan said it was his understanding that the Design Review Board recommended approval of the mural because of the position of the building on the lot, the age of the building, and the existence of the long blank wall. He noted the wall art ordinance was created to activate larger blank walls.

Sally Savoy, member of the Village Players, reviewed the letter describing why this variance was being sought. The letter was included in the evening's agenda packet.

In reply to inquiry from the Board, Ms. Savoy stated:

- They would likely reface the surface where the mural would be located; and,
- The fact that the parking lot precedes the building makes the building difficult for patrons to locate.

In reply to Mr. Miller, SP Cowan said Staff would be looking at wall art proposals on a case-by-case basis.

It was noted that most buildings along Woodward front on Woodward, which would prevent them from having murals facing Woodward.

VC Canvasser said he was not particularly concerned about potentially setting precedent with this case since every proposal would be evaluated individually.

In reply to Mr. Miller, BO Johnson said the mural would have to remain, with the approved design, even if a new occupant were to enter the building unless the new owner received permission to modify the mural.

Motion by Mr. Hart

Seconded by Mr. Miller with regard to Appeal 22-37, A. Article 9, Section 9.02 Definitions of the Zoning Ordinance defines Wall Art as an artistic design applied to the exterior surface of a structure in a permanent or temporary manner. The location of wall art is limited to elevations of structures facing the side or rear lot line within the defined Rail District boundary, side elevations with a 0 foot setback in the Triangle District and Downtown Overlay District, and elevations facing a public or private alley, passage, or via in the Downtown Overlay and the Triangle District as specified in the Via Activation Overlay District. Wall art is only permitted in compliance with Chapter 126, the City of Birmingham Zoning Ordinance Article 7, Section 7.41 – 7.44. Wall art is not permitted on a building facing an alley, passage or via that any of which abuts a single-family residential zoned property. The applicant is proposing a mural on the side elevation of their building facing Woodward Avenue which is setback 92 feet from the side lot line, therefore a dimensional variance of 92 feet is being requested.

Mr. Hart made a motion to approve the variance and tied approval to the plans as submitted. He said the enhancement of the building would do substantial justice to the owner and to the neighboring properties. He said the building is obscured from view of Woodward by perhaps 30-40% for traffic heading in either direction on Woodward and that this mural would increase wayfinding and marketing. He said that the issue was not self-created. Mr. Hart stated that this approval would not set a precedent since there are multiple reviews any proposal would have to go through before even reaching the BZA.

Mr. Lillie asked to amend the motion to clarify that this approval was contingent upon only the approved mural being painted. He noted that any changes to the mural would be required to go through the entire wall art review process again, including seeking another variance.

Messrs. Hart and Miller accepted Mr. Lillie's amendment.

VC Canvasser echoed his previous comments regarding the lack of precedent being set by this approval. He said there was no ambiguity in the plain language of the ordinance, and that this approval met the four factors required. He said he would support the motion for those reasons.

The Chair said he would not support the motion because it was not his impression that the ordinance intended to have murals facing main roads. He said he believed that was why the Public Arts Board voted against the mural. He said that a practical difficulty had not been established and said the ordinance specifically disallows this mural because it did not meet the lot line or location requirements.

Motion carried, 4-3.

ROLL CALL VOTE

Yeas: Miller, Canvasser, Reddy, Hart

Nays: Morganroth, Yaldo, Lillie

T# 08-56-22

**6) 766 Chesterfield
Appeal 22-38**

ABO Zielke presented the item, explaining that the owner of the property known as 766 Chesterfield was requesting the following variances to construct a new single-family home:

A. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that the minimum front yard setback is the average of homes within 200.00 feet in each direction. The required is 47.70 feet. The proposed is 40.00 feet, therefore, a variance of 7.70 feet is being requested.

B. Chapter 126, Article 4, Section 4.30(C)(1) of the Zoning Ordinance permits covered or uncovered porches to project into the required front open space for a maximum of 10.00 feet. The proposed is 16.70 feet, therefore, a variance of 6.70 feet is being requested.

Staff answered informational questions from the Board.

David Schmerin, developer, 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. Schmerin stated:

- The variances were being requested in an attempt to make the home align visually with the neighboring homes on the street; and,
- After the boundary and topographical surveys were completed he knew there was an issue, and the Building Department advised him to complete the plot plan in order to come before the BZA.

The Chair observed that the home would still fit in the building envelope and be ordinance-compliant if it were pushed back seven feet.

Motion by Mr. Lillie

Seconded by VC Canvasser with regard to Appeal 22-38, A. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that the minimum front yard setback is the average of homes within 200.00 feet in each direction. The required is 47.70 feet. The proposed is 40.00 feet, therefore, a variance of 7.70 feet is being requested; and, B. Chapter 126, Article 4, Section 4.30(C)(1) of the Zoning Ordinance permits covered or uncovered porches to project into the required front open space for a maximum of 10.00 feet. The proposed is 16.70 feet, therefore, a variance of 6.70 feet is being requested.

Mr. Lillie moved to grant the variances and tied them to the plans as submitted. He said there was a showing of a practical difficulty and that making the petitioner comply with the ordinance would be unduly burdensome. He noted that a nearby home was skewing the front setbacks, and that the Board has taken similar circumstances into consideration when reviewing similar appeals in the past. He said the situation was not self-created, and said it was a fairly unique situation since almost all the homes on the block are about 40 feet from the front lot line and then one is twice the distance back.

Mr. Reddy said normally he was not in favor of variances for front setbacks, but thought in this case it would do substantial justice to both the owner and the neighboring property owners given the circumstances Mr. Lillie described. Consequently, Mr. Reddy offered his support for the motion.

Motion carried, 7-0.

ROLL CALL VOTE

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

Nays: None

6. Correspondence

The Chair noted that one item of correspondence was provided to the Board and the relevant appellant.

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

T# 08-57-22

8. Adjournment

Motion by VC Canvasser

Seconded by Mr. Miller to adjourn the August 9, 2022 BZA meeting at 10:12 p.m.

Motion carried, 7-0.

VOICE VOTE

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

Nays: None

Bruce R. Johnson, Building Official



Laura Eichenhorn

City Transcriptionist

CASE DESCRIPTION

600 Aten Court (22-40)

Hearing date: September 13, 2022

Appeal No. 22-40: The owner of the property known **600 Aten Court**, requests the following variances to construct a new single family home with an attached garage:

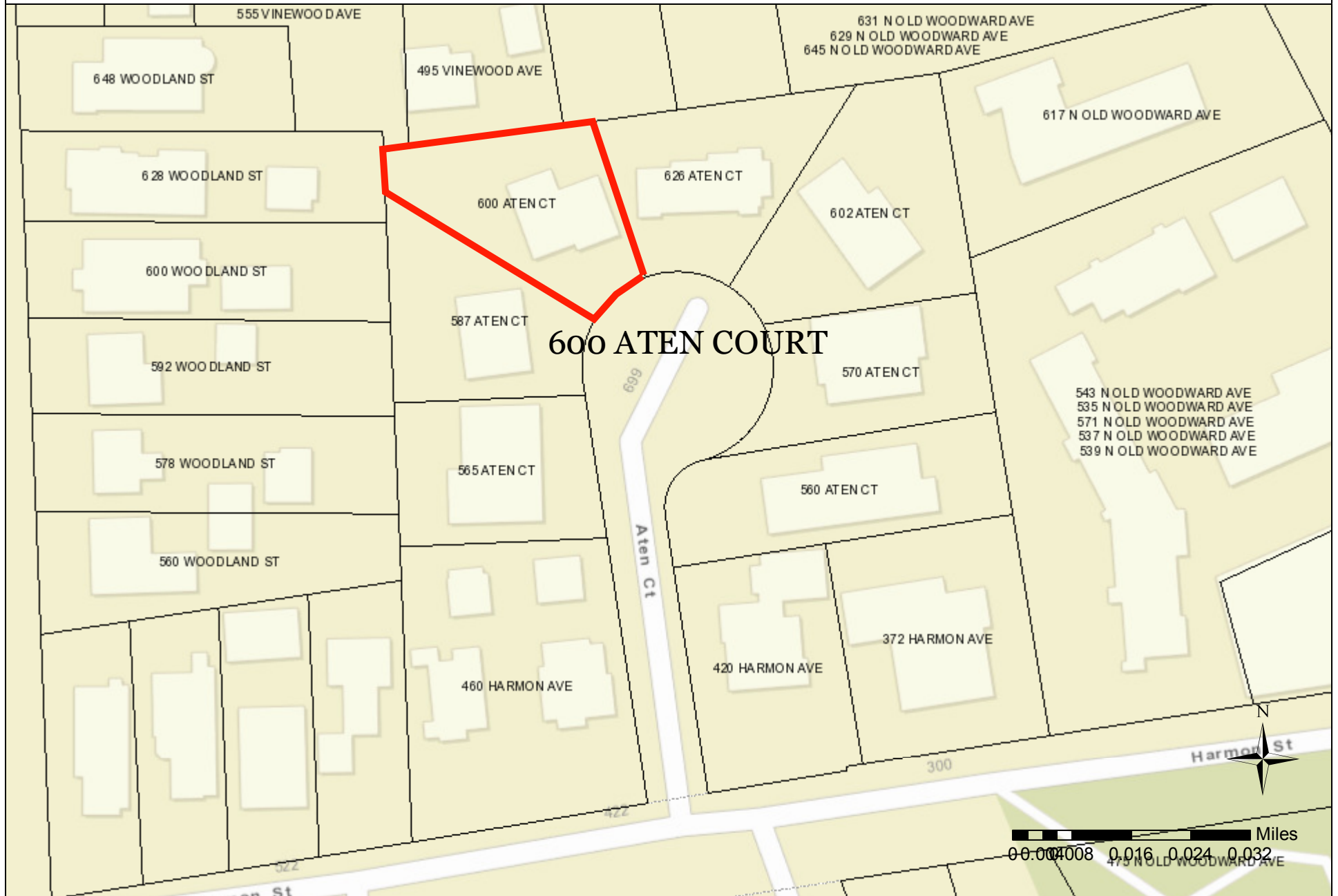
- A. Chapter 126, Article 2, Section 2.06.2 of the Zoning Ordinance requires that the minimum front yard setback is the average of homes within 200.00 feet in each direction. The required is 32.40 feet. The proposed is 27.83 feet, therefore, a variance of 4.57 feet is being requested.
- B. Chapter 126, Article 4, Section 4.75(A)(1) of the Zoning Ordinance requires that private, attached, single-family residential garages must be setback a minimum of 5.00 feet from the portion of the front façade on the first floor of the principal building that is furthest setback from the front property line. The proposed is the garage is 0.23 feet in behind the furthest façade. Therefore, a variance of 4.77 feet is being requested.

Staff Notes: The applicant is looking to construct a new home with an attached garage on an irregular shaped lot.

This property is zoned R2 – Single family residential.

Jeff Zielke, NCIDQ, LEED AP
Assistant Building Official

600 ATEN COURT 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: 7.12.22

Hearing Date: _____

Received By: HT

Appeal #: 220040

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

Address: <u>600 ATEN CT.</u>	Lot Number: _____	Sidwell Number: <u>19-25-327-022</u>
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II. OWNER INFORMATION:

Name: <u>1844 COLE STREET LLC.</u>			
Address: <u>787 GREENWOOD ST.</u>	City: <u>BIRMINGHAM</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>greg@gaerts.com</u>		Phone: <u>248-622-6263</u>	

III. PETITIONER INFORMATION:

Name: <u>GREGORY AERTS</u>	Firm/Company Name: <u>66A SERVICES, LLC.</u>		
Address: <u>787 GREENWOOD ST.</u>	City: <u>BIRMINGHAM</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>greg@gaerts.com</u>		Phone: <u>248-622-6263</u>	

IV. GENERAL INFORMATION:

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

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

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

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

V. REQUIRED INFORMATION CHECKLIST:

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

VI. APPLICANT SIGNATURE

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

Signature of Owner: <u>[Signature]</u>	<div style="border: 2px solid red; padding: 5px; display: inline-block;"> RECEIVED JUL 12 2022 </div>	Date: <u>7/11/22</u>
Signature of Petitioner: <u>[Signature]</u>		Date: <u>7/11/22</u>

CITY OF BIRMINGHAM
COMMUNITY DEVELOPMENT DEPT.

LETTER OF DIFFICULTY & HARDSHIP

PROJECT: 600 ATEN COURT, BIRMINGHAM, MI.

07.12.22

VARIANCE A: FRONT SETBACK.

The Subject Property is on a cul-de-sac, with an unusual curved front property line and trapezoidal lot shape. We are proposing to build a new home on the property. When calculating the average front setback, seven (7) other homes are within the required 200-foot distance. One property, 602 Aten Court, has a setback that is far greater than all the other properties, at 60.0 feet, approximately double all the other homes in the calculation. This creates an average setback of 32.4 feet. Since 602 Aten Court is not among the homes directly around the cul-de-sac, we feel that this is in excess of what is adequate to provide a consistent front setback on the street and creates hardship. We propose to eliminate the 60-foot setback from the average; in doing so, the resulting calculation would make the required setback for the Subject Property 27.83 feet. It is important to note that the existing home on the property has a front setback of 23.67 feet; therefore, our proposal will mitigate the existing non-conforming front setback by 4.16 feet.

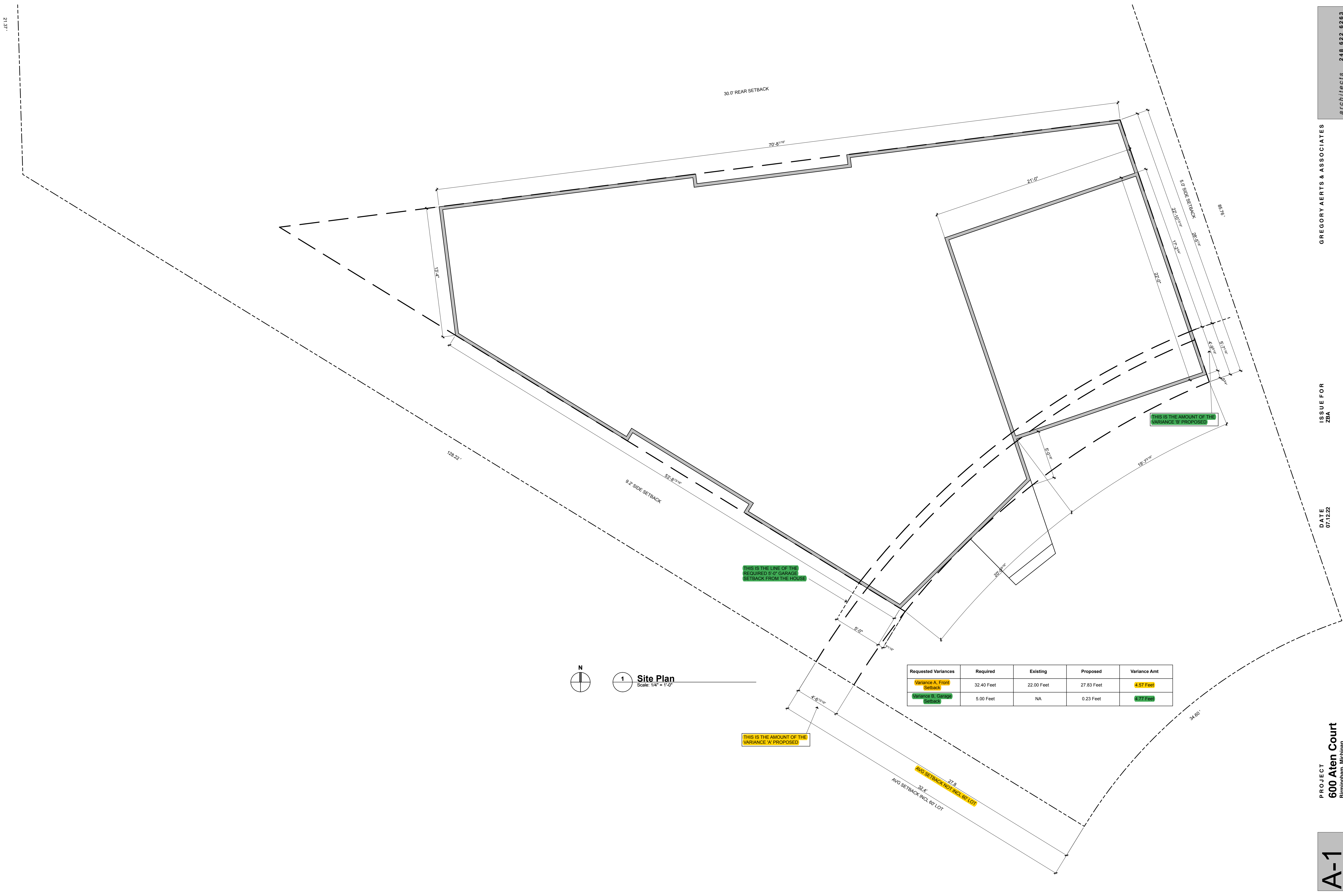
VARIANCE B: GARAGE SETBACK FROM HOUSE.

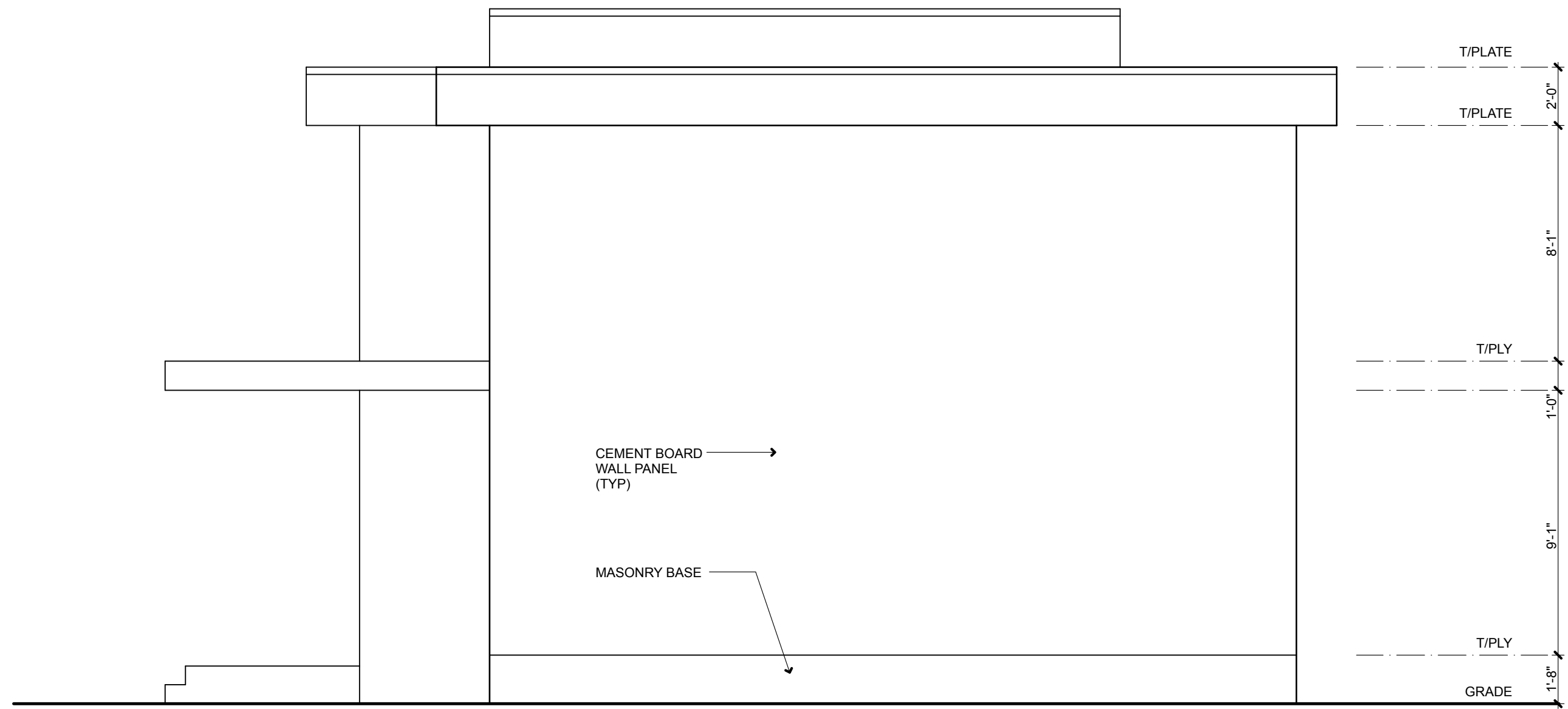
The unique shape of the lot and curved front setback line creates a very unusual difficult condition for the design of the house. We are proposing a design that provides a 5-foot setback from the proposed front house setback line to the front wall of the garage, where the garage meets the house, which we believe meets the spirit of the ordinance. Because of the odd shape of the lot, and unusually restrictive lot depth on the east side, we are proposing a garage front wall that maintains an appropriate square angle to the side lot line, while effectively providing the 5-foot offset at the house.

Respectfully Submitted:



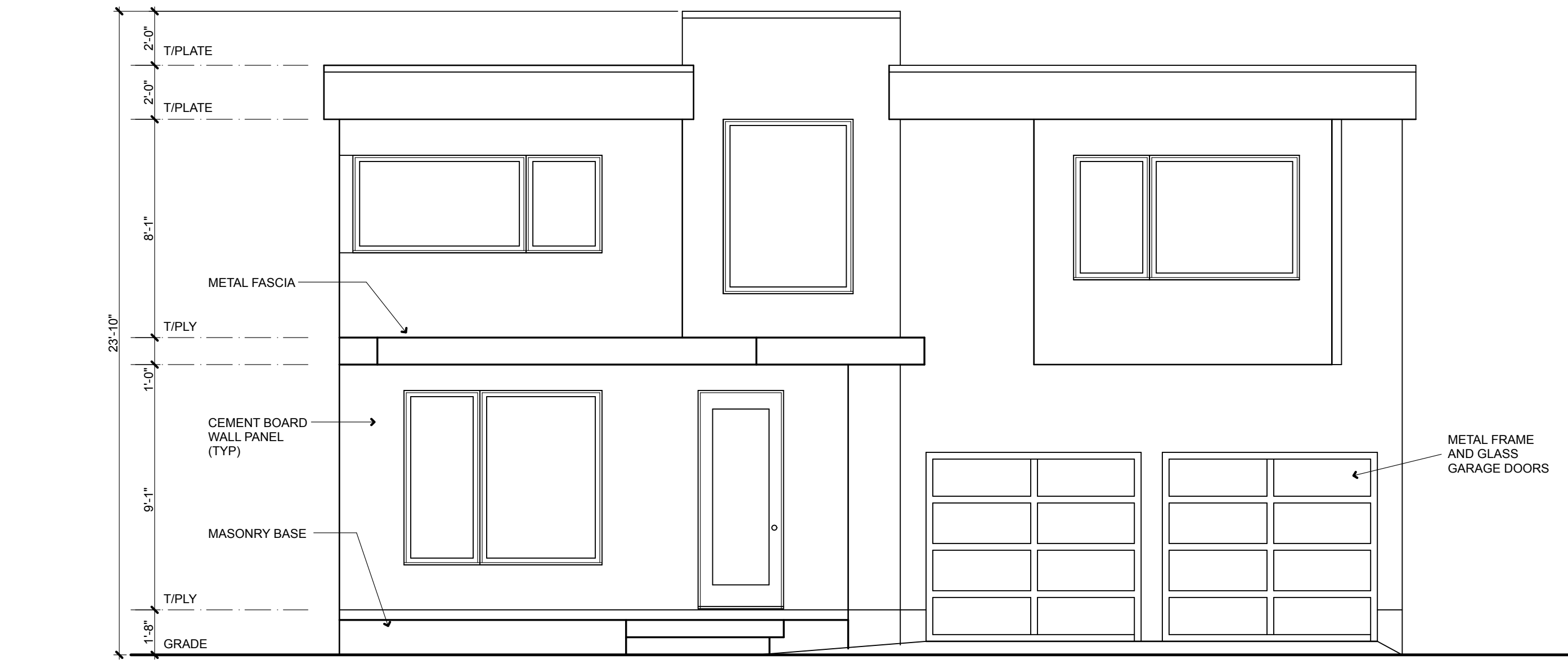
Gregory Aetis, AIA





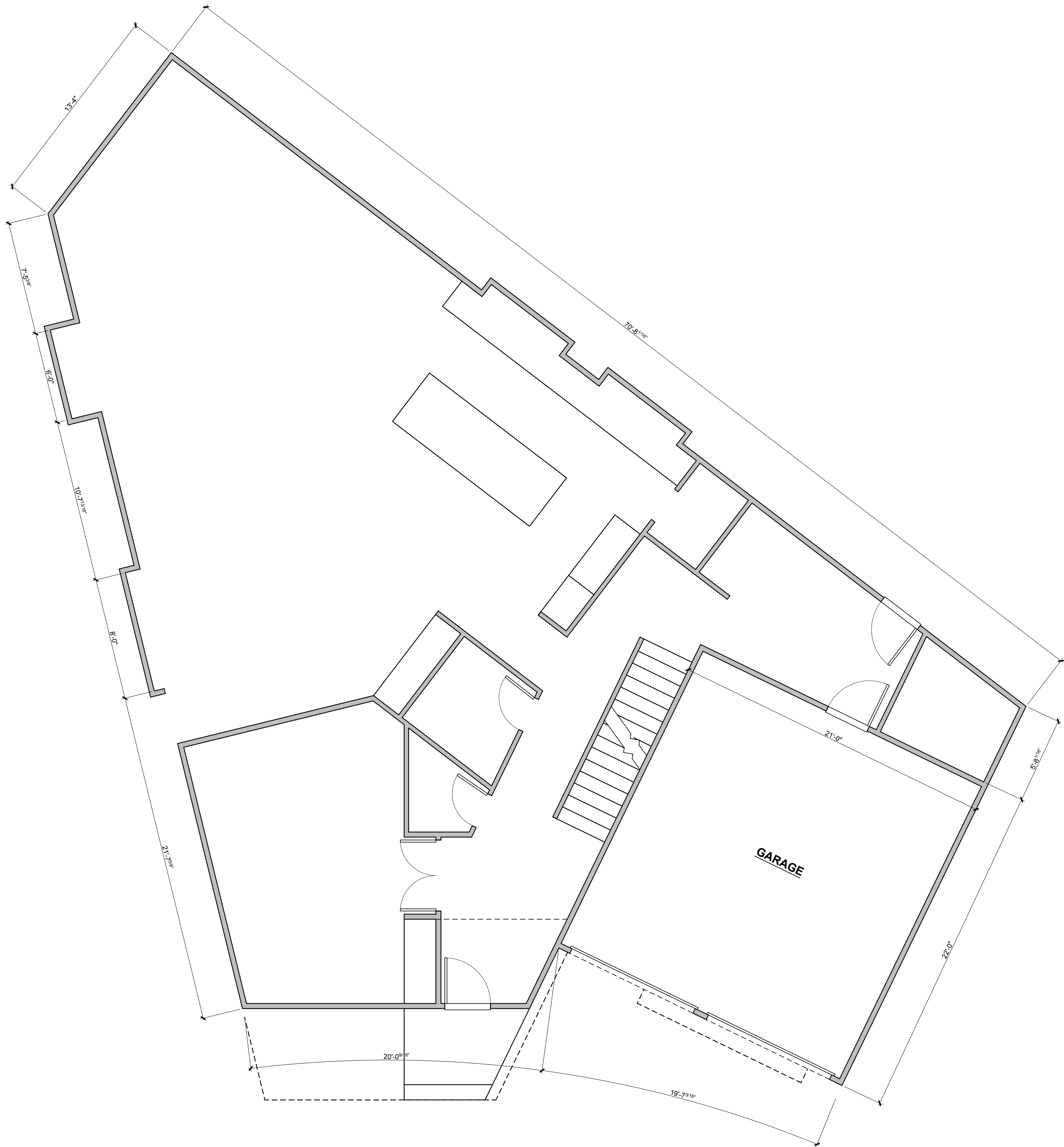
2 East Elevation

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



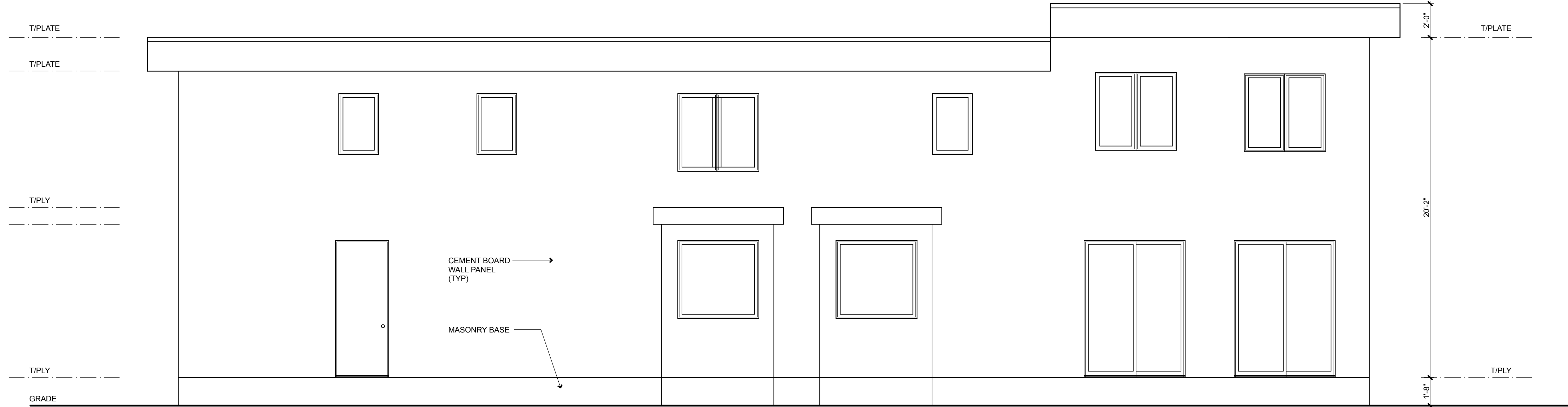
1 South (Front) Elevation

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

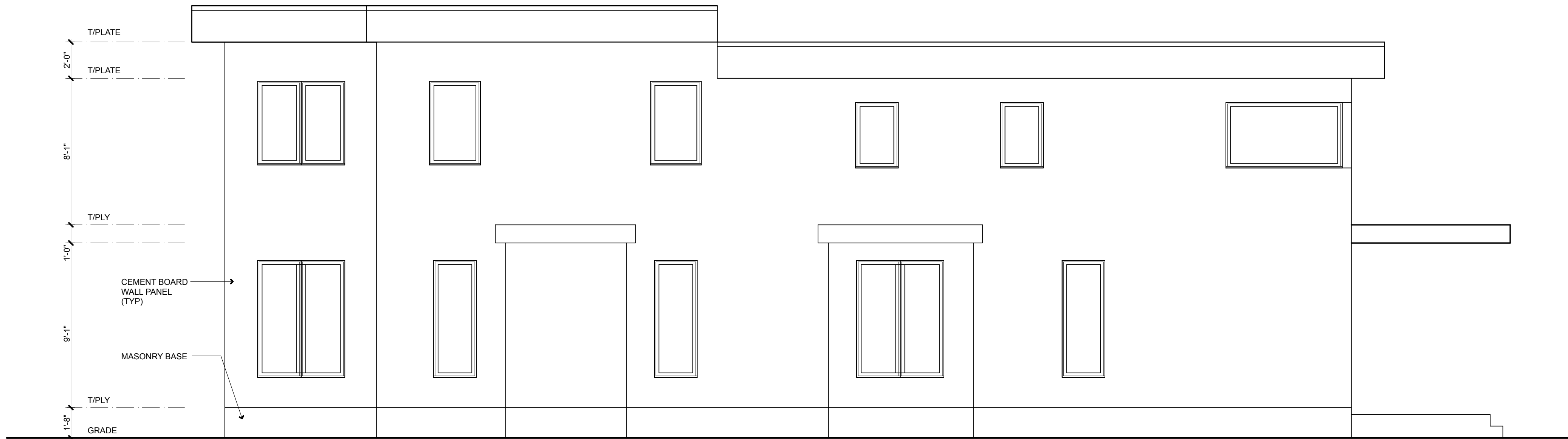


1 First Floor Plan

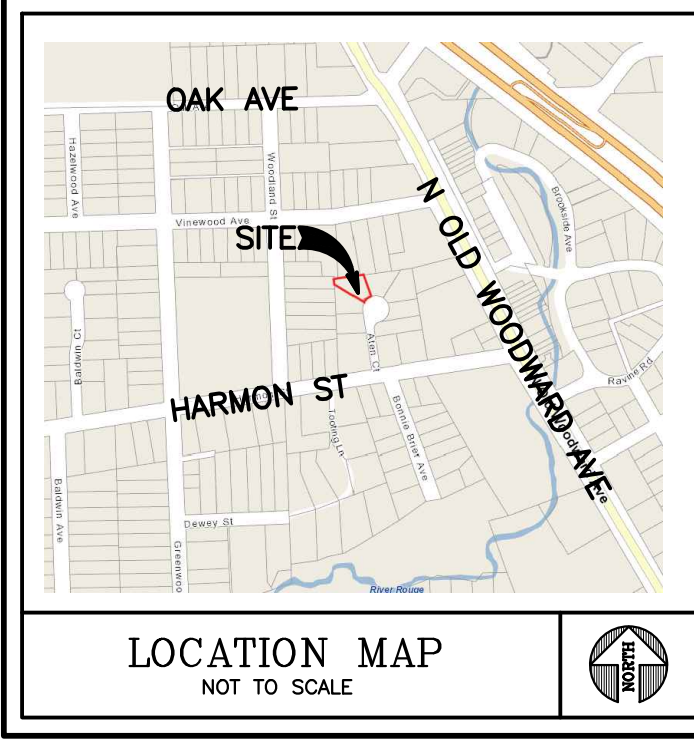
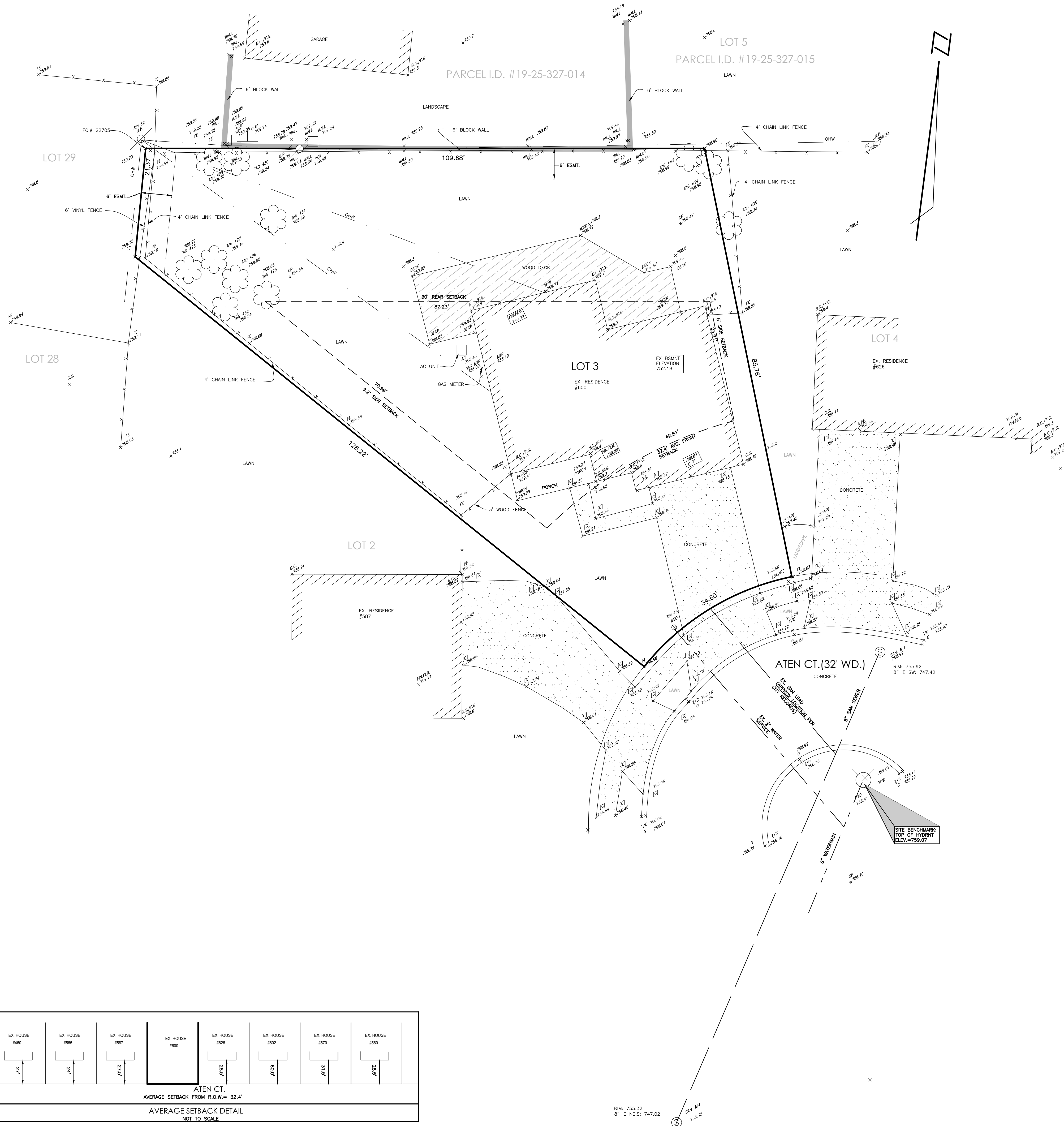
Scale: 1/4" = 1'-0"



3 North Elevation
Scale: 1/4" = 1'-0"



4 West Elevation
Scale: 1/4" = 1'-0"



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

- LEGEND**
- SECTION CORNER
 - FOUND IRON, MON., NAIL
 - SET IRON
 - RECORDED
 - MEASURED
 - CALCULATED
- EXISTING DESCRIPTION**
- U.P.B. = UTILITY POLE
 - E.WOODS = EDGE OF WOODS
 - B/BM = BOTTOM OF BERM
 - T/BM = TOP OF BERM
 - A/P = EDGE OF ASPHALT
 - (C) = EDGE OF CONCRETE
 - C.M.P. = CORRUGATED METAL PIPE INVERT
 - T.WALL = TOP OF WALL
 - B.WALL = BOTTOM OF WALL
 - E.W. = EDGE OF WATER
 - B.C.F.G. = BUILDING CORNER/FINISHED GRADE
 - MCR = MARKER
 - WSD = WATER SHUT OFF
 - CL = CENTERLINE
 - SAN. MH = SANITARY MANHOLE
 - C.B.B. = CATCH BASIN BEEHIVE
 - T/C = TOP OF CURB
 - STM. MH. = STORM MANHOLE
 - T/B = TOP OF BANK
 - B/B = BOTTOM OF BANK
 - CL = CENTERLINE
 - C.B.S. = CATCH BASIN SQUARE
 - LP = LIGHT POLE
 - GW = GATE VALVE/WELL
- PR. 000.00 = PROPOSED GRADE
000.00 = EXISTING GRADE
PR-000.00 = PLAN PROPOSED GRADE NO LONGER APPLICABLE
- = C.B. FILTER
 = SILT FENCE

TREE SURVEY			
TAG #	DIA (IN.)	SPECIES	SPREAD (FT.)
425	13	PINE	20
426	10	ELM	25
427	19	BLACK WALNUT	45
428	20	BLACK WALNUT	45
429	9	BLACK WALNUT	35
430	9	BLACK WALNUT	35
431	4	PINE	10
432	6	MULBERRY	10
434	8	BLACK WALNUT	10
435	7	ORNAMENTAL	15
443	15	BLACK WALNUT	40

SETBACK INFORMATION
ZONING = R2
FRONT = 30.4' (AVG.)
SIDE = 5'(MIN.), 14.2'(TOTAL)
REAR = 30'
BUILDING TO BUILDING MIN. = 14.2'

PROPERTY DESCRIPTION:
T2N, R10E, SEC 25 ATEN SUB LOT 3

EX. HOUSE #600	EX. HOUSE #555	EX. HOUSE #587	EX. HOUSE #600	EX. HOUSE #626	EX. HOUSE #602	EX. HOUSE #570	EX. HOUSE #560
27'	24'	27.5'		28.5'	60.0'	31.5'	28.5'
ATEN CT. AVERAGE SETBACK FROM R.O.W. = 32.4'							
AVERAGE SETBACK DETAIL NOT TO SCALE							

811
BEFORE YOU DIG
CALL MISS DIG
1-800-482-7171
(TOLL FREE)

ADDRESS: 600 ATEN CT
PARCEL I.D. #19-25-327-022

CITY BENCHMARK #25: BRASS DISC LOCATED AT SW CORNER OF GREENWOOD & OAK, ELEVATION: 763.883 (CITY DATUM)
SITE BENCHMARK: TOP OF HYDRANT, ELEVATION: 759.07 (CITY DATUM)

REVISIONS					
SCALE: 1" = 10'	FIELD: B.J.H.	SHEET SIZE: 24 x 36	DRAWN BY: R.PERRI		
DATE: 5/6/22	CHECKED: J.S.R., P.E.				
TOPOGRAPHIC MAPPING UPON 600 ATEN CT					
PART OF SECTION 25, T2N, R10E					
CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN					
CLIENT: GREGORY AERTS ARCHITECTURE, INC.			DRAWING NUMBER: 22-00220		

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

CASE DESCRIPTION

588 S Old Woodward (22-41)

Hearing date: September 13, 2022

Appeal No. 22-41: The owner of the property known **588 S Old Woodward**, requests the following variance.

- A. Chapter 126, Article 4, Section 4.46(A) Table A of the Zoning Ordinance requires that eating establishments provide 1 parking space for each 75 square feet of floor area. The applicant, Phoenicia, is proposing a 1,381 square foot addition to their restaurant, which will total 4,081 square feet; therefore, 54 parking spaces will be required. The applicant is proposing 34 parking spaces on-site; therefore, a variance of 20 parking spaces is being requested.

Staff Notes:

The applicant, Phoenicia operates a food and beverage establishment under a Special Land Use Permit (SLUP) with a Class C Liquor License. The applicant appeared before the Planning Board for Final Site Plan and SLUP review on April 27th, 2022 proposing updates to the restaurant. On June 27th, 2022, Phoenicia received Final Site Plan and SLUP approval from the City Commission.

Phoenicia is currently a 2,668 square foot restaurant that has operated in Birmingham since 1982 with 37 parking spaces on-site which currently satisfies the parking requirement.

The applicant is proposing a 1,381 square foot addition to the rear section of the restaurant for additional kitchen space, storage space, an employee bathroom and locker room, and a private dining room. The additional square footage results in a total of 4,049 square feet and increases Phoenicia's parking requirements to a total of 54 parking spaces (1 per 75 square feet).

Incorporating the proposed expansion to the building leaves space for 34 parking spaces on-site, therefore the applicant has a shortage of 20 parking spaces. The City's updates to the S. Old Woodward Avenue streetscape eliminates an opportunity to include on-street parking spaces towards Phoenicia's parking requirements. Parking spaces are not allowed in intersections, therefore Phoenicia will have a large bumpout and pedestrian crossing in front of their property.

During Final Site Plan and SLUP review with the Planning Board and City Commission, the applicant indicated a parking lease agreement with the 555 S. Old Woodward building for 20 spaces, thereby satisfying the Zoning Ordinance parking requirements. The parking lease agreement with the 555 building provided for review was not complete though, the applicant did not wish to execute the private party agreement until obtaining Final Site Plan and SLUP approval from the City. On June 27th, 2022, the City Commission approved Phoenicia's Final Site Plan and SLUP with the following condition:

- 1.) The applicant submit a signed parking lease agreement for 20 parking spaces or obtain a variance for required parking spaces from the BZA;*

As indicated by the applicant in their August 10th, 2022 letter to the BZA requesting a parking variance, the 555 building representatives have since withdrawn the proposed parking lease agreement, therefore the applicant is no longer able to satisfy the parking requirements for the proposed expansion.

This property is zoned B2-B and D2 Overlay.

Brooks Cowan
Senior Planner

588 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: 8/10/22

Hearing Date: 9.13.22

Received By: HT

Appeal #: 22-0041

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

Address: <u>588 S. OLD WOODWARD</u>	Lot Number:	Sidwell Number: <u>19-36-253-028</u>
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II. OWNER INFORMATION:

Name: <u>SAMEEC EID</u>			
Address: <u>588 S. OLD WOODWARD</u>	City: <u>BIRMINGHAM</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: *		Phone:	

III. PETITIONER INFORMATION:

Name: <u>SAMY EID</u>	Firm/Company Name: <u>PHOENICIA, LLC</u>		
Address: <u>588 S. OLD WOODWARD</u>	City: <u>BIRMINGHAM</u>	State: <u>MI</u>	Zip code: <u>48009</u>
Email: <u>Samy.Eid@me.com</u>		Phone: <u>(248) 840-8127</u>	

IV. GENERAL INFORMATION:

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

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

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

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

V. REQUIRED INFORMATION CHECKLIST:

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

VI. APPLICANT SIGNATURE

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

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

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

Signature of Owner: <u><i>Samy Eid</i></u>	Date: <u>8-10-22</u>
Signature of Petitioner: <u><i>Samy Eid</i></u>	Date: <u>8-10-22</u>

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

ARTICLE I - Appeals

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

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

C. The order of hearings shall be:

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

D. Motions and Voting

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

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

ARTICLE II - Results of an Appeal

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

ARTICLE III - Rehearings

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

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

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



Signature of Applicant



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

Jerome P. Pesick
jpesick@wwrplaw.com

August 18, 2022

City of Birmingham
Board of Zoning Appeals
151 Martin Street
Birmingham, MI 48009

Attention: Mr. Nicholas Dupuis

Re: 588 South Old Woodward Avenue, Birmingham ("Property")
Samy Eid (Phoenicia Restaurant ("Petitioner"))

Dear Members of the Board of Zoning Appeals:

In further support of Petitioner's August 10, 2022 Application for Variance and hardship letter, enclosed please find ten copies of the following materials prepared by Saroki Architecture:

1. Existing Phoenicia site plan – Sheet A001;
2. Phoenicia expansion site plans – Sheets A050 & SK01;
3. Phoenicia expansion first level floor plan – Sheet A110;
4. Phoenicia expansion existing and proposed front, side and rear plan elevations – Sheets A210, A220, A230, A240.

Also enclosed is a survey of the Phoenicia property prepared by Nowak & Fraus Engineers.

Should you have any questions or require any additional information, please contact me.

Very truly yours,

Jerome P. Pesick

JPP/pas
Enclosures

cc: Samy Eid, Owner Phoenicia
588 S. Old Woodward, Birmingham
City of Birmingham Supplemental Letter (01622566).DOCX



W | W | R | P

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

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Tel: (248) 642-0333

Fax: (248) 642-0856

www.wwrplaw.com

Jerome P. Pesick
jpesick@wwrplaw.com

August 10, 2022

City of Birmingham
Board of Zoning Appeals
151 Martin Street
Birmingham, MI 48009

Re: 588 South Old Woodward Avenue, Birmingham ("Property")
Samy Eid (Phoenicia Restaurant ("Petitioner"))

Dear Members of the Board of Zoning Appeals:

Please accept the following as a hardship letter on behalf of the Petitioner in support of its request for a dimensional variance from the following sections of the Birmingham Zoning Ordinance ("Zoning Ordinance"):

**Variance from the "Off-Street Parking Spaces" requirement
of the B2B zone as set forth in Article 4, Section 4.46.**

The Property sits within the boundaries of the B2B zone (General Business) of the Downtown Overlay District. The Property is in the South Old Woodward area of the City of Birmingham, but outside of the boundaries of the Parking Assessment District.

The Petitioner, Samy Eid, is a long-time Birmingham proprietor. He and his family have operated the Phoenicia restaurant for over 50 years and at the Property since 1982. Phoenicia serves the nearby residential neighbors and others with high quality, Mediterranean cuisine. The restaurant itself operates in a one-story brick building with a surface parking lot immediately adjacent to the north with 34 spaces. While it also attracts customers from outside the neighborhood, many of its patrons walk or ride bicycles to the restaurant.

The Petitioner received City Commission final approval of a Special Land Use Permit for a minor expansion of the building on June 27, 2022. The central purpose of the expansion is for the health and safety of the cooks and restaurant workers. The proposed renovation of the Property includes a small expansion of its current footprint to the west/rear of the building. The restaurant currently is 2668 square feet with a small, outdated kitchen. Petitioner wishes to expand on the backside of the building to reconfigure and expand the kitchen and storage areas to increase functionality and safety for the restaurant's staff. This small alteration of the building

City of Birmingham
August 10, 2022
Page 2

will also allow additional bathroom space for patrons and employees and a small private dining area for special gatherings. The new health and safety addition adds approximately 1381 square feet, of which less than 500 square feet is for a private dining area with 14 seats.

Pursuant to the requirements of the B2B off-street parking standards of the Zoning Ordinance (“Ordinance”), this small addition intended for the health and safety of workers and patrons will require a total of 54 parking spaces. The Property currently provides 34 spaces in the adjacent surface lot. The restaurant would therefore need to increase the spaces provided by 20, even though the added square footage is attributable primarily to kitchen, workstations, storage area, and bathrooms. Requiring 20 more spaces creates an unnecessary hardship for the Petitioner due to the uniqueness of this renovation for the health and safety of staff and patrons, the Property’s use as a restaurant, its South Old Woodward location after the loss of usable street parking, and the configuration of the existing surface parking between Phoenicia and adjacent properties. Thus, the Petitioner requests the Board of Zoning Appeals grant a variance for the Property, as set forth below, so this restaurant Property can be renovated with an updated, safer and more functional kitchen and storage area for the employees, and continue to operate as it has since 1982 with 34 parking spaces.

The most recent Birmingham Master Plan draft states that the South Old Woodward District should be strengthened by actions to “[i]ncentivize redevelopment through increased zoning capacity and reduced parking requirements.” See *The Birmingham Plan*, Draft 10/08/21, page 26. The vision of the current Birmingham Downtown 2016 Plan also prioritizes “the safety, comfort, convenience, and enjoyment of pedestrians, rather than vehicular traffic.” 2016 Plan, page 181.

Importantly, with the City’s emphasis on pedestrians and the walkability of Downtown, the City approved and recently began construction on the new streetscape design of South Old Woodward resulting in the loss of over 62 on-street parking spaces servicing Phoenicia and other similarly situated businesses.

City of Birmingham
August 10, 2022
Page 3

Dimensional Variance from Off-Street Parking Spaces Requirement

The primary purpose of expanding the building is not focused on intensifying the use, but rather to improve the health, safety and convenience of the kitchen operation, restaurant employees, and patrons. This variance to allow the restaurant to continue to operate with 34 parking spaces is requested because of the nature of the renovations, the unique size, configuration, physical characteristics, and location of this Property as it relates to other neighboring and nearby properties, coupled with the requirements of the South Old Woodward streetscape redesign.

One of the purposes of the Downtown Overlay District is to “[e]ncourage the renovation of buildings . . .” Ord. Sec. 301(B). The Petitioner has owned the restaurant since 1971, operating in this Property since 1982, and desires to renovate it principally to improve and expand the kitchen and storage areas, as well as upgrading the bathrooms. Only 14 seats are being added to a small private dining room of less than 500 square feet. The Downtown Birmingham District, on the other hand, presently relies upon Article 4 of the Ordinance for off-street parking requirements that are calculated using square footage rather than guest capacity. As stated above, the Property currently has 34 parking spaces, but needs a total of 54 to strictly comply with the Ordinance.

The location of the Property has been fortunate for the Petitioner in many ways since it opened its doors decades ago, but to renovate and expand the kitchen, the Petitioner has come to realize that its unique location outside the Parking Assessment District along South Old Woodward where significant on-street parking is disappearing, ironically stands in the way of improving this iconic Birmingham restaurant. To the west of the restaurant is a residential neighborhood, directly adjacent to the north is an office building, across the street to the east is a commercial building with condos, and to the south immediately next door is Birmingham Nails and the Vibe Salon. Upgrading the kitchen, storage, bathrooms, and adding a small private dining room to the restaurant will not create a noticeable impact on residents. In this instance, the parking Ordinance is working at cross-purposes with the Downtown Overlay District’s encouragement of the renovation of existing buildings.

City of Birmingham
August 10, 2022
Page 4

ARTICLE 8.01(F)(3)(a)(i) - BECAUSE OF SPECIAL CONDITIONS APPLICABLE TO THE PROPERTY IN QUESTION THE PROVISIONS OF THE ZONING ORDINANCE, IF STRICTLY APPLIED, UNREASONABLY PREVENTS THE PROPERTY OWNER FROM ENHANCING THE PROPERTY FOR ITS PERMITTED PURPOSE.

There are exceptional and extraordinary circumstances and conditions applicable to the subject Property because of its placement, the size, configuration, and location of the Property along South Old Woodward and the dictates of the South Old Woodward streetscape plan. These unusual circumstances cause a practical difficulty and unnecessary hardship for the Property owner and prevent the Property owner from renovating the restaurant to make it a healthier and safer place for the employees. Because of its location, size, and configuration, it is physically impossible for off-street parking to be added to the Property. There is no option to expand the parking area on the north or south sides of the existing building.

The result of limiting a small renovation of the restaurant that does not significantly increase seating nor intensify use seems contrary to the goals of the Downtown 2016 Plan and the proposed Birmingham 2040 Plan for this area of Downtown. One clear pursuit of the Downtown Overlay District in which the Property sits, is to “[e]ncourage the renovation of buildings.” See Ordinance Sec. 3.01(c). The Petitioner wishes to do just that; renovate its restaurant by adding space for an expanded, modernized, safer and more functional kitchen, storage area, and bathrooms for its staff and patrons, while offering a private dining experience for small gatherings. The off-site parking restriction contained in the Ordinance is inconsistent with the goals of the Overlay District for a modern, mixed use and pedestrian friendly South Old Woodward neighborhood, as applied to this Property. Application of the parking restriction to this Property prohibits one of the longest operating restaurants in the City from being modernized and maintained as part of the Overlay District.

ARTICLE 8.01(F)(3)(A)(ii) - LITERAL ENFORCEMENT OF THE CHAPTER WILL RESULT IN UNNECESSARY HARDSHIP.

The literal enforcement of the off-street parking requirements of the B2B zoning district as it applies to an eating establishment will result in a practical difficulty and an unnecessary hardship to the Petitioner. Although the building is designed in all respects as intended by the Zoning Ordinance, that is, with the standards of the Overlay District, it is clear that the application of the

City of Birmingham
August 10, 2022
Page 5

off-street parking applicable to the Downtown Overlay district, if applied to this particular Property in this unique situation, will not only cause the Petitioner a practical difficulty and an unnecessary hardship, but also causes a conflict with the Birmingham 2016 Plan and Birmingham 2040 Plan, both of which identify the South Old Woodward area within the “southern gateway to Birmingham.” The proposed 2040 Plan directs improvements in the southern gateway be implemented by “[r]educing parking requirements and allowing shared parking.” 2040 Plan, page 26.

Second, the spirit and intent of the Overlay District is to have a mix of uses with an activated urban neighborhood pedestrian streetscape. The hardship caused here is that this Overlay zoning district standard does not satisfactorily accommodate the location of this Property with its unique characteristics as it is situated in the neighborhood, especially after the significant loss of on-street parking by the streetscape redesign. The result is that application of the off-street parking requirements to this Property has the unintended result of impeding the restaurant from increasing its interior space with a new health and safety addition of approximately 1392 square feet with less than 500 square feet set aside for a private dining room. With the proposed modification to this iconic, long-standing restaurant in Birmingham, the only change to the footprint is to move the rear wall, principally for the health and safety of staff and patrons. The hardship is caused because of the Property’s unique characteristics and configuration without space for added off-street parking, and because of its location on South Old Woodward where parking is being removed.

ARTICLE 8.01(F)(3)(a)(iii) – THE GRANTING OF THE VARIANCE WILL NOT BE CONTRARY TO THE SPIRIT AND PURPOSE OF THE ZONING ORDINANCE NOR CONTRARY TO PUBLIC HEALTH, SAFETY AND WELFARE.

The granting of the variance requested by Petitioner will not be contrary to the spirit and purpose of the Zoning Ordinance nor will it be detrimental to the public health, safety, and welfare. Rather, the granting of this variance will allow Petitioner to meet the spirit and intent of the Ordinance more effectively. Other than being able to produce the current required amount of parking spaces, all other elements of this building’s renovations will be built in accordance with the Downtown Overlay District and the Ordinance. Other than an increase in 14 seats at a private dining table, there will be no increase in use.

City of Birmingham
August 10, 2022
Page 6

The purpose, spirit and intent of the Ordinance is clearly set forth in Section 3.01. It directs development in the Downtown Overlay District and implements the Downtown Birmingham 2016 Plan, to “encourage (i) a form of development that will achieve physical qualities necessary to maintain and enhance the economic vitality of Downtown . . . [and (ii)] the renovation of buildings . . . [and] ensure that all uses relate to the pedestrian.” Undoubtedly, the minor expansion of the building to modernize the kitchen and other amenities of one of the oldest continuously operating restaurants in Birmingham is supported by the Ordinance.

The location of this building and the siting of the Property on South Old Woodward where street parking is being lost to the Old Woodward redesign project, do not fit the Downtown Overlay paradigm. The spirit and intent of the Downtown Overlay is not enhanced nor in any way accomplished by applying the off-street parking restrictions to Phoenicia. It is physically impossible to add parking to this Property due to its size, configuration, and location. The parking requirements unnecessarily inhibit the retention and improvement of the encouraged use of this Property as a well-established neighborhood restaurant. The spirit, purpose and intent of the Zoning Ordinance is served by granting a variance that would allow the Petitioner to enhance and renovate the restaurant in the way described in this letter without adding 20 parking spaces.

ARTICLE 8.01(F)(3)(a)(iv) – THE GRANTING OF THE VARIANCE WILL RESULT IN SUBSTANTIAL JUSTICE TO THE PROPERTY OWNERS, THE OWNERS OF THE PROPERTY IN THE AREA AND THE GENERAL PUBLIC.

The granting of the variance will result in substantial justice to the owner of the Property and the neighboring owners and the public. The purposes of the Downtown Overlay are set forth above. The fulfillment of these requirements and the purpose of the Overlay District have been determined by the Planning Commission and the City Commission as being for the benefit to the health, safety, and welfare of the community. The purpose and planning goals of the Downtown 2016 Plan and the proposed Birmingham 2040 Plan encourage development with a traditional mixed-use urban form, to create a vibrant Downtown and an inviting southern gateway along South Old Woodward, as well as retention and improvements of encouraged uses, such as one of the longest operating restaurants in Birmingham, all for the benefit of the community. The unique location, size, and configuration of this Property has eliminated the possibility of creating 20 new parking spots. There is no injustice to neighboring properties nor the public because the

City of Birmingham
August 10, 2022
Page 7

addition of just 14 seats inside the restaurant will not intensify the use at the public's or neighbor's expense.

THE PRACTICAL DIFFICULTY AND HARDSHIP IS NOT SELF-CREATED.

The practical difficulty and hardship experienced by this Petitioner is not self-created but exists because of changes in the City's master planning -- especially the South Old Woodward streetscape redesign that restricts parking by 62 spaces and contemplates a streetscape and road redesign -- that did not exist when Petitioner commenced business in this area, as well as the existing size, configuration, location and natural features of the Property and existing building. A modernization of the kitchen and related amenities to create greater functionality and safety can only be accomplished by an expansion to the rear. Moreover, the Petitioner is losing the ability to count street parking toward the requirement because of the loss of spaces along South Old Woodward. The reasons for this variance and the current renovation plan is to preserve and maintain the long term success of Phoenicia, an iconic restaurant, for the benefit of the City of Birmingham with a building and development that is complimentary to, consistent with, and encouraged by the Downtown Birmingham Overlay District and the 2016 Master Plan.

The restaurant has existed on this site for decades. Petitioner's proposed improvements to the Phoenicia are principally for the health and safety of staff and patrons while adding 14 interior seats at a private dining table. The hardship and practical difficulty of adding 20 parking spaces to accomplish Petitioner's proposed interior renovation of the Property is not self-created.

ATTEMPTS TO OBTAIN PARKING LEASE AGREEMENT

Petitioner is mindful of the fact that the Planning Board and City Commission approvals were conditioned upon Petitioner either entering into an off-site parking agreement for 20 spaces pursuant to Article 4, Section 4.45 of the Zoning Ordinance, or obtaining a variance.

At the Planning Board and City Commission hearings, Petitioner was able to represent that it had received a commitment and a proposed lease document from the management of the 555 building for a 5 year term for the 20 spaces required. Petitioner had informed the 555 management that it would accept the form of Lease presented. On August 5, 2022, after several attempts by Petitioner to have the proposed Lease signed on behalf of 555 building, the 555

City of Birmingham
August 10, 2022
Page 8

management informed Petitioner, that the proposed Lease was being withdrawn. The withdrawal of the Lease was confirmed by 555 management in a call with Petitioner on August 8, 2022.

Petitioner has in good faith exhausted all possible avenues to obtain additional parking spaces for the Property and has been unable to do so. In addition to the 555 building, Petitioner reached out to the ownerships of the properties immediately to the north of the subject Property and to the south to inquire about the availability of a shared parking agreement. Unfortunately, no such agreement is available. This left the 555 building as the only option within 100 feet of Phoenicia as required by Section 4.45(b) 2 of the Ordinance. Therefore, the withdrawal of the lease by the 555 management further supports the existence of a hardship by Phoenicia.

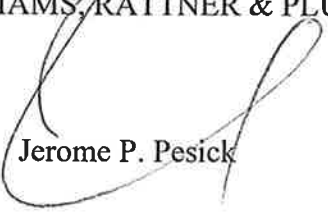
Conclusion

The variance requested is necessary to preserve the enjoyment and substantial property rights possessed by the property owner by adding, first, to the health and safety of Petitioner's employees and only slightly increasing dining capacity with a small private dining room. Further, the granting of this variance provides the following relief: (i) the Property owner will not be unreasonably prevented from renovating and improving the existing use of the Property; (ii) the literal enforcement of the Zoning Ordinance will result in unfair and unnecessary hardship to the Petitioner; (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. Finally, the practical difficulty and unnecessary hardships experienced by the Petitioner are not caused by the Petitioner. The granting of this variance will produce a situation where the renovation of this Property as proposed in all ways, complies with the purposes and objectives of both the Downtown Overlay District and the Birmingham 2016 Plan.

City of Birmingham
August 10, 2022
Page 9

Accordingly, Petitioner requests the Board of Zoning Appeals to grant the dimensional variance as submitted herein. Please contact the undersigned with any questions or requests for additional information.

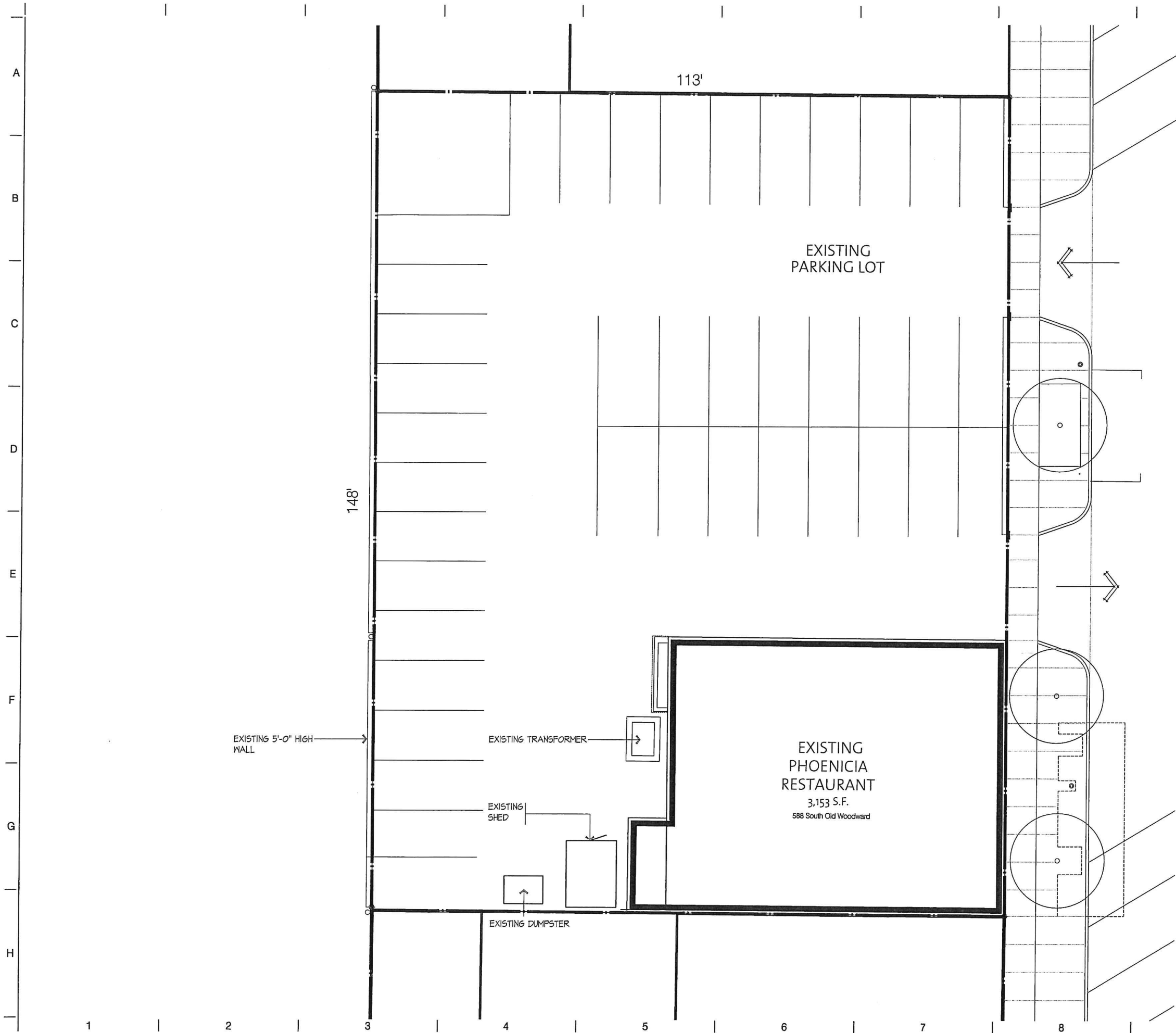
Sincerely,
WILLIAMS, WILLIAMS, RATTNER & PLUNKETT, P.C.




Jerome P. Pesick

cc: Samy Eid, Owner Phoenicia
 588 S. Old Woodward, Birmingham

City of Birmingham Letter (01608760).DOCX



SOUTH OLD WOODWARD

   Existing Site Plan
SCALE: 1/8" = 1'-0"

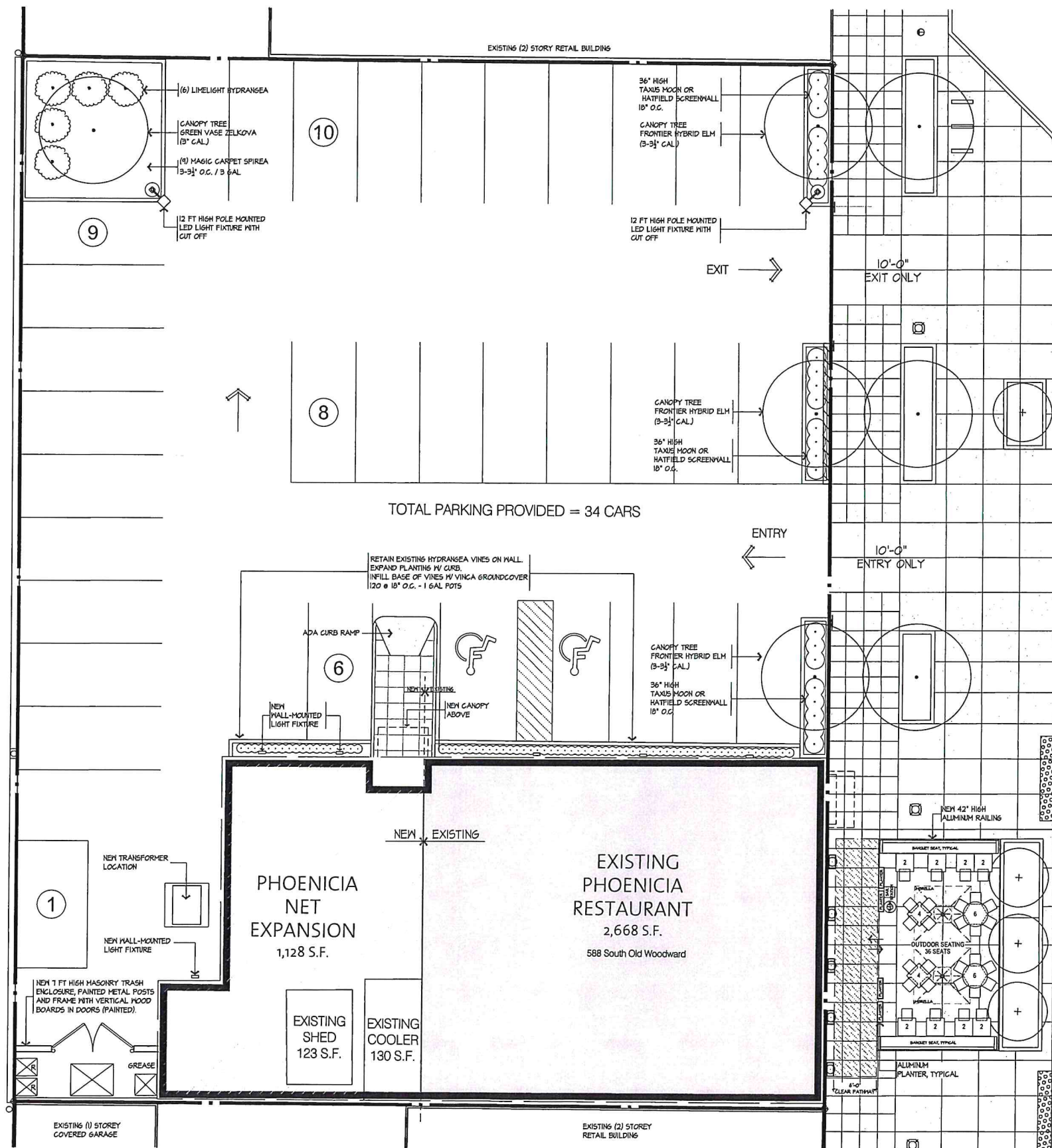


SAROKI
ARCHITECTURE
430 N. OLD WOODWARD
BIRMINGHAM, MI 48009
P. 248.258.5707
F. 248.258.5515
SarokiArchitecture.com

Project:
Phoenicia
588 South Old Woodward
Birmingham, Michigan

Date: 02-24-2017 Issued For: SUBMITTAL

Sheet No.:
A001
EXISTING SITE PLAN



Phoenicia Expansion - Parking Calculations:

Parking Required:

Existing Restaurant 35.57

2,668 SF / 75 = 35.57

Proposed Addition 18.41

1,381 SF / 75 = 18.41

Total Parking Required: 54

Parking Provided: 34

Variance Request 20

SAROKI
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BIRMINGHAM, MI 48009

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F. 248.258.5515

SarokiArchitecture.com

Project:
Phoenicia Expansion
588 South Old Woodward
Birmingham, Michigan 48009

Date: Issued For:

08-12-22 Client Review

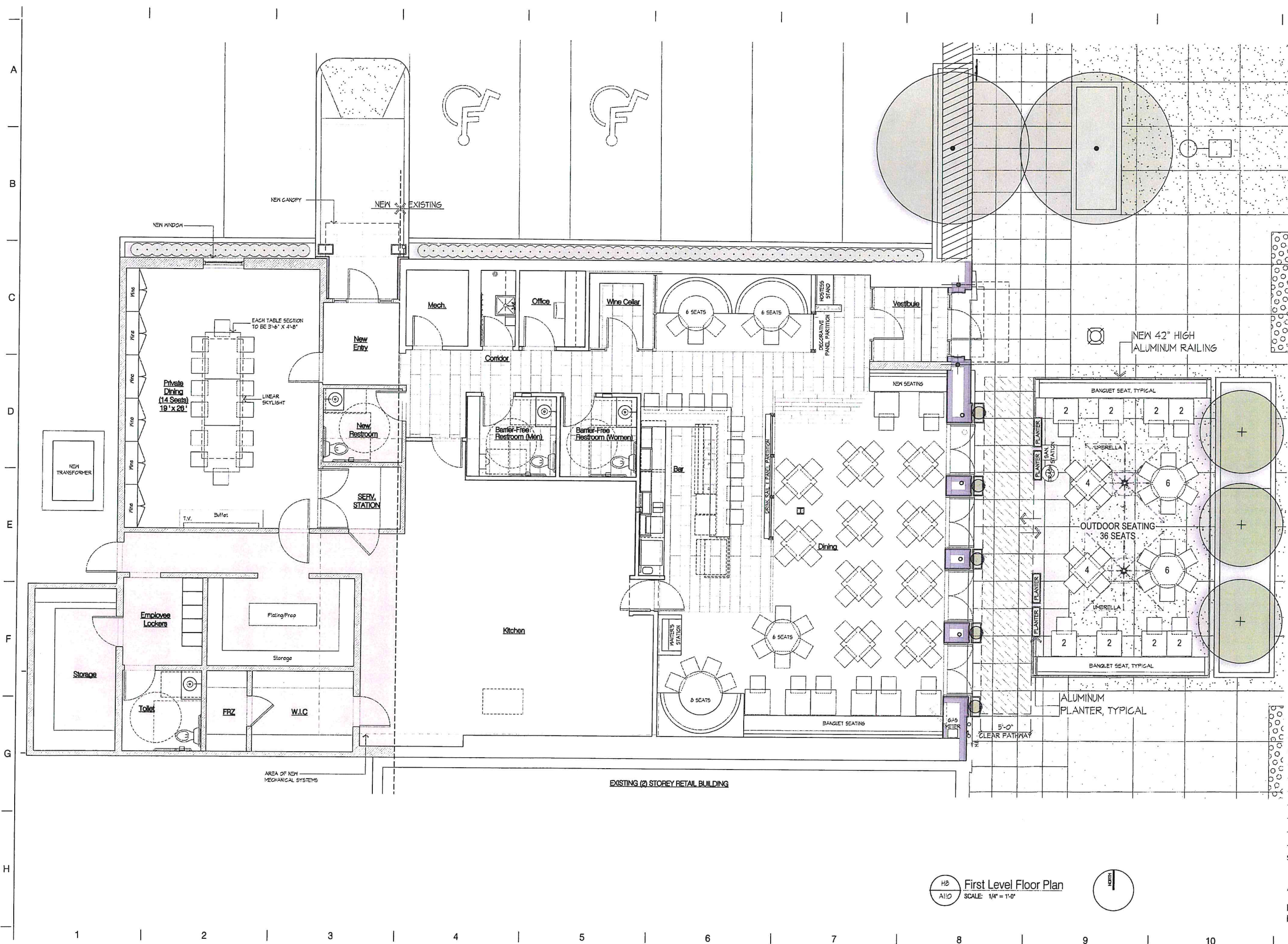
Sheet No.:

SK01

SITE PLAN DIAGRAM

H9 Site Plan Diagram
SK-01 SCALE: 1/8" = 1'-0"





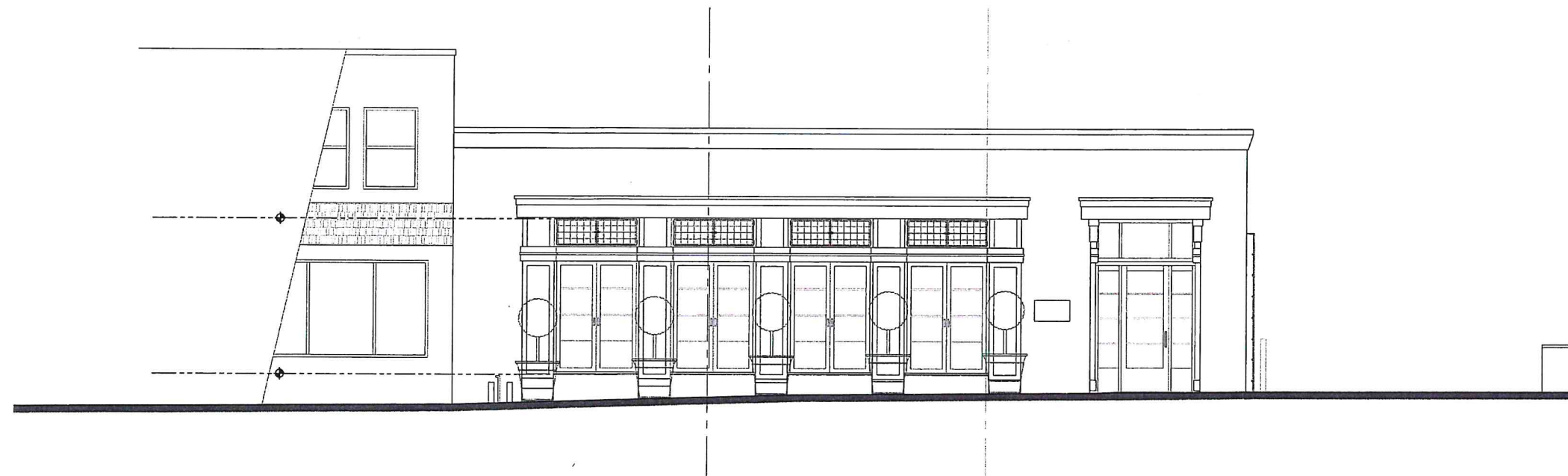
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Project:
Phoenicia Expansion
588 South Old Woodward
Birmingham, Michigan 48009

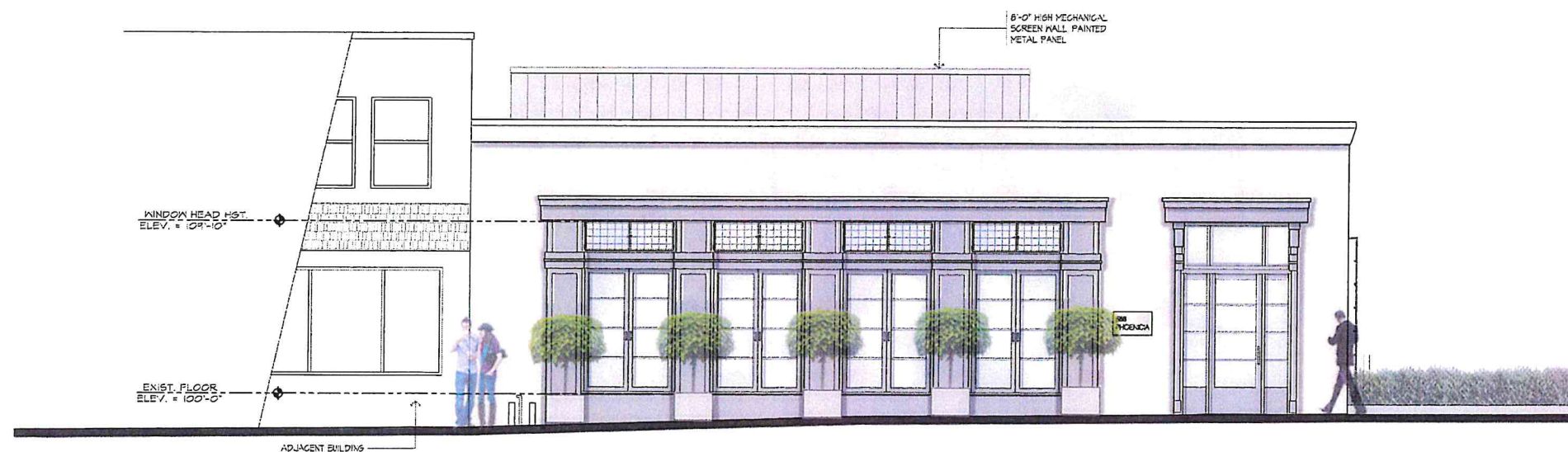
Date: 3-29-22 Issued For: Site Plan Approval

Sheet No.:
A110
FIRST LEVEL
FLOOR PLAN

H2 First Level Floor Plan
A110 SCALE: 1/4" = 1'-0"



DB
A240 Existing Front Elevation
SCALE: 1/4" = 1'-0"



HB
A240 Proposed Front Elevation
SCALE: 1/4" = 1'-0"

SAROKI
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F. 248.258.5515

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Project:
Phoenicia Expansion
588 South Old Woodward
Birmingham, Michigan 48009

Date: 3-29-22 **Issued For:** Site Plan Approval

Sheet No.:

A210

FRONT ELEVATION

A

B

C

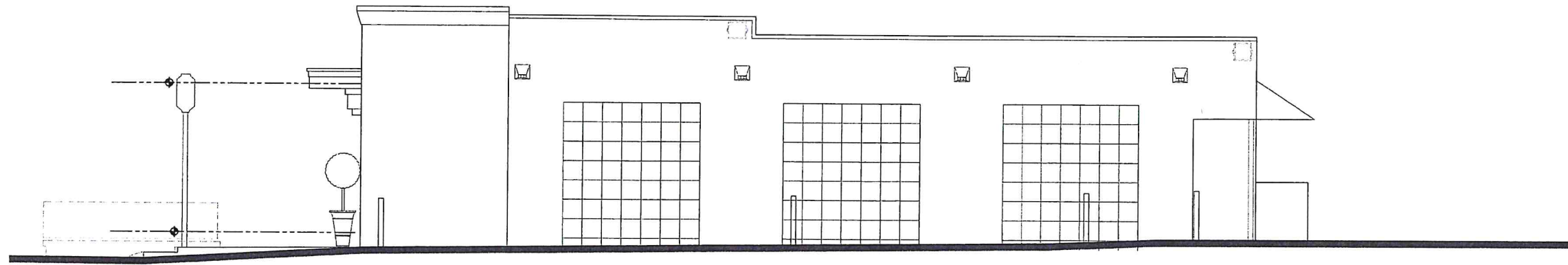
D

E

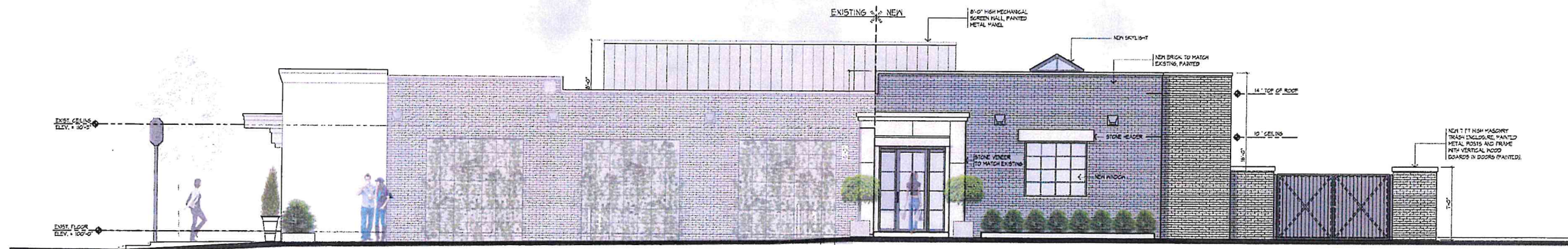
F

G

H



D8 Existing Side Elevation
A220 SCALE: 1/4" = 1'-0"



H8 Proposed Side Elevation
A220 SCALE: 3/16" = 1'-0"

SAROKI
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Project:
Phoenicia Expansion
588 South Old Woodward
Birmingham, Michigan 48009

Date: 3-29-22 **Issued For:** Site Plan Approval

Sheet No.:

A220

SIDE ELEVATION

1

2

3

4

5

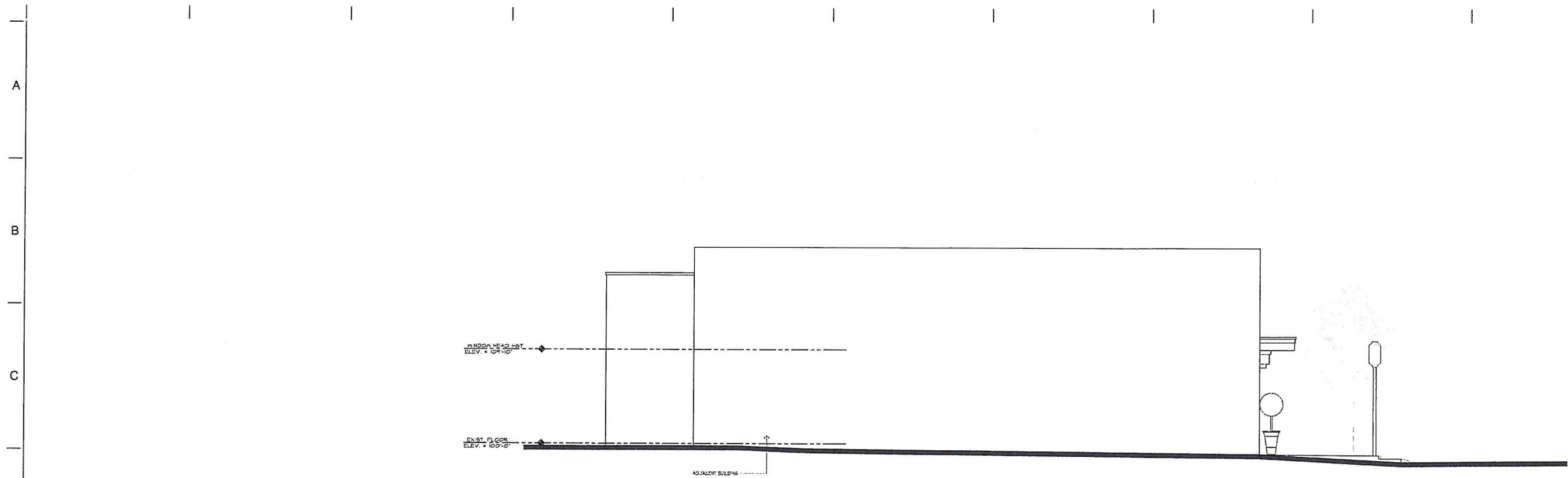
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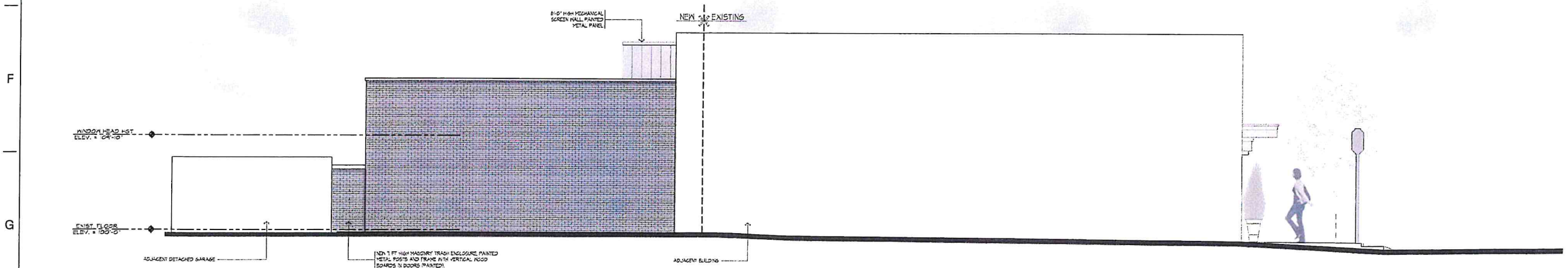
8

9

10



DB
A230 Existing Side Elevation
SCALE: 3/16" = 1'-0"



H2
A230 Proposed Side Elevation
SCALE: 3/16" = 1'-0"

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Project:
Phoenicia Expansion
588 South Old Woodward
Birmingham, Michigan 48009

Date: 3-29-22 Issued For: Site Plan Approval

Sheet No.:
A230
SIDE ELEVATION

A

B

C

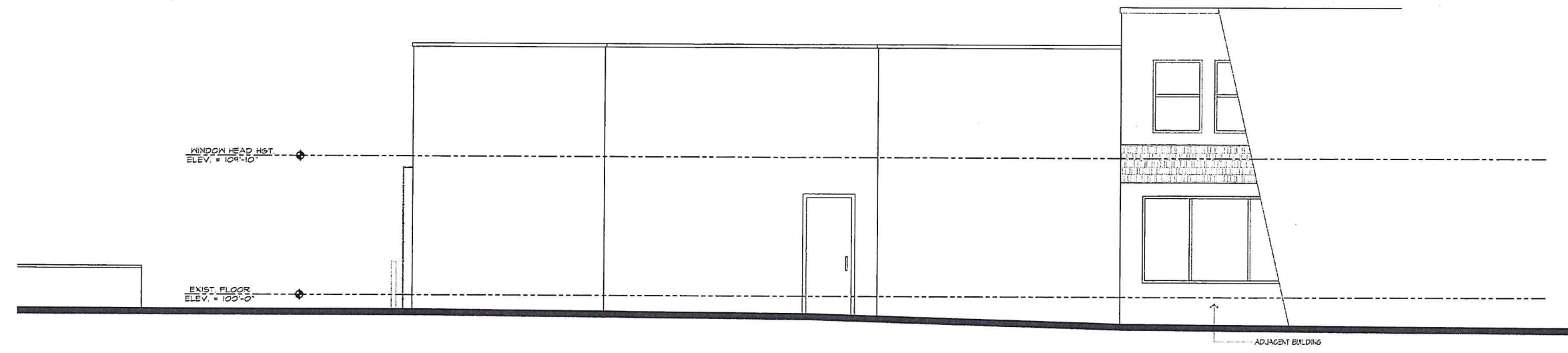
D

E

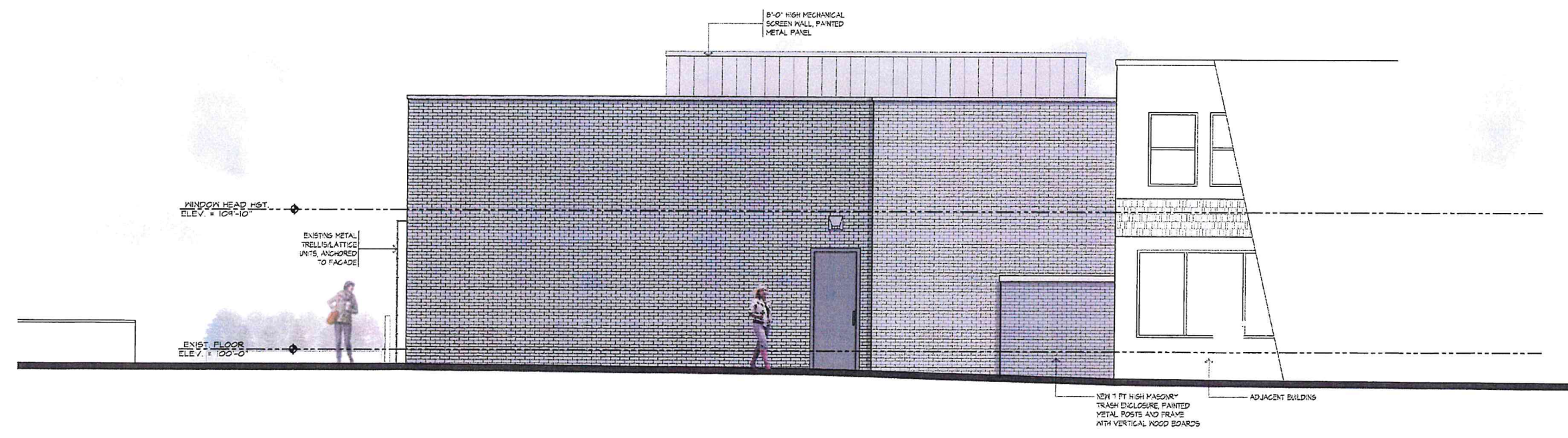
F

G

H



D8 Existing Rear Elevation
A240 SCALE: 1/4" = 1'-0"



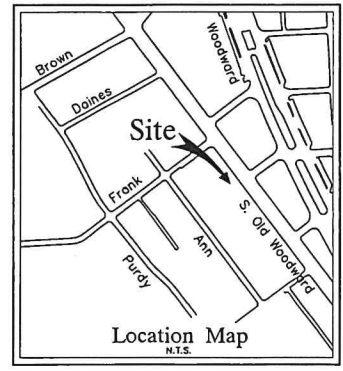
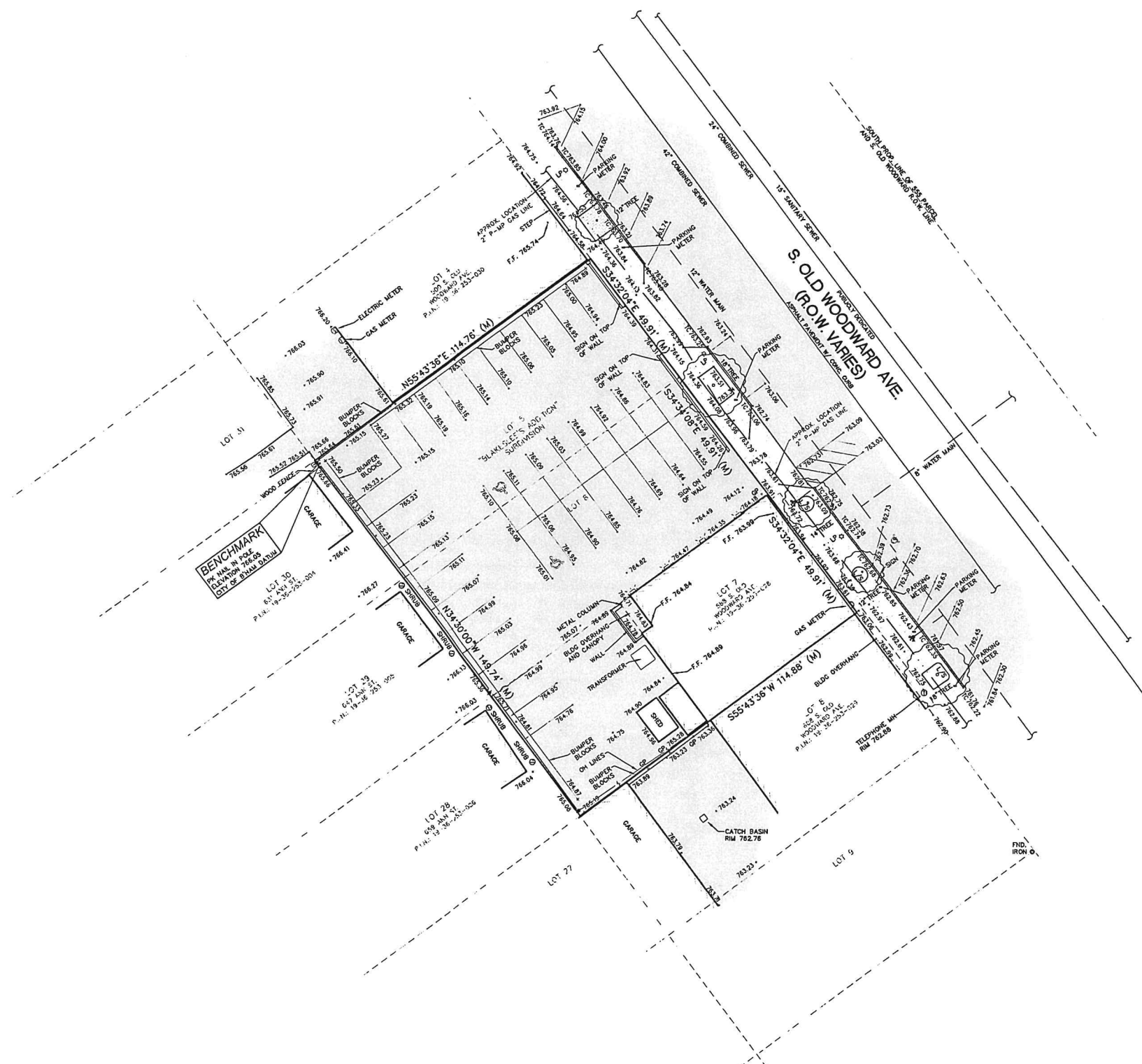
H8 Proposed Rear Elevation
A240 SCALE: 1/4" = 1'-0"

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Project:
Phoenicia Expansion
588 South Old Woodward
Birmingham, Michigan 48009

Date: Issued For:
3-29-22 Site Plan Approval

Sheet No.:
A240
REAR ELEVATION



CIVIL ENGINEERS
LAND SURVEYORS
LAND PLANNERS

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

SEAL



PROJECT
Phoenicia Restaurant
588 S. Old Woodward
Birmingham, MI

CLIENT
Phoenicia
588 S. Old Woodward
Birmingham, MI 48009

Contact: Samy Eid
Ph: (248) 644-3122

PROJECT LOCATION
Part of Section 36
T. 2 North, R. 10 East
City of Birmingham,
Oakland County, Michigan

SHEET
Boundary / Topographic
Survey



REVISIONS
08-10-2022 BUILDING PERMIT

LEGAL DESCRIPTION

LAND SITUATED IN SECTION 36, TOWN 2 NORTH, RANGE 10 EAST, CITY OF BIRMINGHAM, OAKLAND COUNTY, MICHIGAN, BEING MORE PARTICULARLY DESCRIBED AS:
LOTS 5, 6, AND 7 OF "BLAKESLEE'S ADDITION", EXCEPT THAT PART TAKEN FOR THE HIGHWAY.
P.L.N.: 19-36-253-028

MISS DIG / UTILITY DISCLAIMER NOTE

A MISS DIG TICKET NUMBER A08030432, 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 FEBRUARY 15, 2018. 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 FACILITY OWNERS AND/OR THEIR AUTHORIZED AGENTS, THE COMPLETENESS AND EXACTNESS OF THE UTILITIES LOCATION.

FLOOD HAZARD NOTE

THE PROPERTY DESCRIBED ON THIS SURVEY DOES NOT LIE WITHIN A SPECIAL FLOOD HAZARD AREA AS DEFINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY. THE PROPERTY LIES WITHIN ZONE X OF THE FLOOD INSURANCE RATE MAP IDENTIFIED AS MAP NO. 26125C00377 BEARING AN EFFECTIVE DATE OF SEPTEMBER 29, 2006.

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.
THIS SURVEY MAY NOT SHOW ALL EASEMENTS OF RECORD UNLESS AN UPDATED TITLE POLICY IS FURNISHED TO THE SURVEYOR BY THE OWNER.

LEGEND

- MANHOLE
- HYDRANT
- MANHOLE
- UTILITY POLE
- GUY WIRE
- EXISTING SANITARY SEWER
- EXISTING SAN. CLEAN OUT
- EXISTING WATER MAIN
- EXISTING STORM SEWER
- EX. R.Y. CATCH BASIN
- EXISTING BURIED CABLES
- OVERHEAD LINES
- LIGHT POLE
- SIGN
- EXISTING GAS MAIN

DRAWN BY:
A. Eizember
DESIGNED BY:

APPROVED BY:
P. Williams
DATE:
August 10, 2022
SCALE: 1" = 20'
20 10 0 10 20 30
NFE JOB NO.
I264-01
SHEET NO.
C-1

City Of Birmingham
Regular Meeting Of The Planning Board
Wednesday, April 27, 2022
City Commission Room
151 Martin Street, Birmingham, Michigan

Minutes of the regular meeting of the City of Birmingham Planning Board held on April 27, 2022.
Chair Scott Clein convened the meeting at 7:30 p.m.

A. Roll Call

Present: Chair Scott Clein (left at 9:40 p.m.); Board Members Robin Boyle, Bert Koseck, Daniel Share, Janelle Whipple-Boyce, Bryan Williams; Student Representatives MacKinzie Clein, Andrew Fuller

Absent: Board Member Stuart Jeffares; Alternate Board Members Jason Emerine, Nasseem Ramin

Administration:

Nick Dupuis, Planning Director
Leah Blizinski, City Planner
Brooks Cowan, Senior Planner
Laura Eichenhorn, City Transcriptionist

I. Special Land Use Permit and Final Site Plan and Design Review

1. 588 S. Old Woodward – Phoenicia – Request for small addition to rear of building

SP Cowan presented the item. He added that Phoenicia would be required to provide a parking lease agreement to the City every year during liquor license renewals in order to demonstrate the provision of sufficient parking or risk losing its SLUP agreement, per the City Attorney. He noted that a memo provided to the Board at the beginning of the meeting also provided updated motion language to that effect.

04-101-22

Motion by Mr. Williams

Seconded by Mr. Share to receive and file the memo from SP Cowan dated April 27, 2022 to the Planning Board.

Motion carried, 6-0.

VOICE VOTE

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

Nays: None

Mr. Koseck noted a discrepancy between the parking proposals on the architectural site plan and the civil site plan and asked which was correct.

SP Cowan stated that the architectural site plan showed the accurate parking proposal.

Mr. Boyle asked why the City would measure parking based on square footage when the Board has a plan that states the establishment's number of seats. He noted that half of the proposed addition would not be holding seating, and asserted as a result that the number of additional parking spaces being required was excessive. He said the City needed to amend its parking regulations accordingly or the ordinance would result in overparking.

Messrs. Share, Williams, and the Chair concurred with Mr. Boyle that the City's parking regulations require updating.

Samy Eid, owner, spoke on behalf of the p
Victor Saroki, architect, and roject.

Mr. Saroki commented that a parking requirement of one parking space per 75 feet of gross area within an establishment is no longer valid by today's standards. He said that the applicant would likely pursue a variance at the Board of Zoning Appeals (BZA) and asked if the Planning Board might be willing to provide comment for that potential appeal. He also asked the City to consider a revision to the City's parking requirements.

Jack Reinhardt, managing partner of The 555 and 555 Commercial, said he was fully in support of Phoenicia and confirmed that 555 Commercial and Phoenicia would be entering into a five year lease to provide Phoenicia with 20 extra parking spaces.

Mr. Reinhardt also contested the parking counts described on page 38 of the agenda packet. He said he does counts at 10 a.m. and 2 p.m. and that he usually counts between 180-200 parked cars in the 555 parking structure at those times. He said he would go further into his objection of the parking counts later on.

Messrs. Eid and Saroki expressed concern that Phoenicia's SLUP agreement would be tied to the continuance of the parking agreement, noting that unforeseen future changes in the 555's management could leave Phoenicia in a difficult situation with no recourse.

Chair Clein acknowledged Mr. Eid's statement but said the Board had no leeway in following direction from the City Attorney.

In reply to Mr. Boyle, Mr. Saroki confirmed that the walls on the east side of the parking lot would be replaced with a well-maintained hedge and three trees.

Mr. Boyle opined that while he appreciates vegetation, this is a very urban space and the walls work well in this context.

In reply to Mr. Koseck, Mr. Saroki confirmed that the front door would continue to be the main entry for the majority of patrons.

In reply to Mr. Share, Mr. Eid confirmed he understood that if he did not maintain an adequate number of parking spaces that he could lose the ability to operate out of the restaurant's addition.

In reply to Mr. Share, SP Cowan confirmed that the parking counts were based off a standard office and a standard retail usage, and not some of the more high-intensity retail usages.

Mr. Share said he wanted to make sure that Mr. Reinhardt understood that if he enters into this parking lease with Phoenicia, it may have an impact on the parking available to other tenants in the building in the future.

Mr. Reinhardt confirmed he understood.

SP Cowan clarified that the parking calculations for this item were based on 100% occupancy, whereas an analysis of a tenant's parking needs would only be based on current demand. He also noted that The 555 would be doing a bit more restriping in its lot, which would add a few more parking spaces.

In reply to the Chair, Mr. Saroki said he could likely expand the clear pedestrian path adjacent to the outdoor dining deck to be closer to six feet.

The Chair said he would appreciate an expansion in the pedestrian clear path adjacent to the outdoor dining deck, and said he would be comfortable with an administrative approval on those changes.

PD Dupuis asked if the Planning Board would be willing to provide comment for the applicant's potential future variance request at the BZA.

Mr. Williams said he was not willing since he wanted to address the issue by ordinance since this is not the only parcel adversely affected by the current parking regulations.

The Chair concurred.

Public Comment

Wendy Zabriskie stated that the City's parking requirements are archaic. She advocated for the City to change its parking requirements so Phoenicia, a long-running small business, would not be at risk of losing its ability to operate.

Mr. Reinhardt spoke in favor of retaining parking in the S. Old Woodward area.

04-102-22

Motion by Mr. Williams

Seconded by Mr. Koseck to approve the Final Site Plan and Design Review for 588 S. Old Woodward – Phoenicia – subject to the following conditions:

- 1. The applicant submit a signed parking lease agreement for 20 parking spaces or obtain a variance for required parking spaces from the BZA;**
- 2. The applicant submit an updated photometric plan that satisfies the foot candle level requirements for parking lot circulation areas;**
- 3. The Planning Board allow evergreen parking lot screening in place of a masonry screen wall;**

- 4. The Planning Board allow the glazing standards for the northern elevation with a public entrance to be modified; and,**
- 5. The City Attorney draft language to be included in the Special Land Use Permit contract to require that the applicant demonstrates satisfactory parking is maintained to satisfy compliance with the current parking ordinance during its review in the annual liquor license review with the City; and,**
- 6. The applicant comply with the requests of all City Departments.**

Motion carried, 6-0.

VOICE VOTE

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

Nays: None

04-103-22

Motion by Mr. Williams

Seconded by Mr. Koseck to recommend approval to the City Commission of the Special Land Use Permit for 588 S. Old Woodward – Phoenicia – subject to the following conditions:

- 1. The applicant submit a signed parking lease agreement for 20 parking spaces or obtain a variance for required parking spaces from the BZA;**
- 2. The applicant submit an updated photometric plan that satisfies the foot candle level requirements for parking lot circulation areas;**
- 3. The Planning Board allow evergreen parking lot screening in place of a masonry screen wall;**
- 4. The Planning Board allow the glazing standards for the northern elevation with a public entrance to be modified; and,**
- 5. The City Attorney draft language to be included in the Special Land Use Permit contract to require that the applicant demonstrates satisfactory parking is maintained to satisfy compliance with the current parking ordinance during its review in the annual liquor license review with the City; and,**
- 6. The applicant comply with the requests of all City Departments.**

Motion carried, 6-0.

VOICE VOTE

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

Nays: None



Nick Dupuis
Planning Director



Laura Eichenhorn
City Transcriptionist

APPROVED

Birmingham City Commission Minutes

June 27, 2022

Municipal Building, 151 Martin

7:30 p.m.

Vimeo Link: <https://vimeo.com/event/3470/videos/720093825/>

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Therese Longe, Mayor, opened the meeting with the Pledge of Allegiance.

II. ROLL CALL

Alexandria Bingham, City Clerk, called the roll.

Present: Mayor Longe
Mayor Pro Tem Boutros
Commissioner Baller
Commissioner Haig
Commissioner Host
Commissioner McLain
Commissioner Schafer

Absent: None

Administration: City Manager Markus, City Clerk Bingham, Planning Director Dupuis, Assistant City Manager Ecker, Assistant to the City Manager Fairbairn, Operations Commander Grewe, City Attorney Kucharek, Human Resources Manager Lambert, Consulting City Engineer Surhigh

Commissioner Haig

Nays, None

06-174-22 Public Hearing - 588 S. Old Woodward - Phoenicia – Special Land Use Permit, Final Site Plan and Design Review

The Mayor opened the public hearing at 8:00 p.m.

PD Dupuis presented the item.

Victor Saroki, architect, spoke on behalf of the item.

Seeing no public comment, the Mayor closed the public hearing at 8:06 p.m.

Samy Eid, owner of Phoenicia, also spoke on behalf of the item.

In reply to Commissioner Baller, CM Markus said the City would monitor parking near Phoenicia to ensure that the 20 leased parking spaces in the 555 Building are being used and that Phoenicia's parking is not spilling over into the public areas.

In reply to CM Markus, Mr. Eid confirmed he understood the potential consequences if he could not renew the lease for the 20 parking spaces once the present five-year lease expires.

Commissioner Haig encouraged Mr. Eid to use the 20 spaces in the 555 Building since he is paying for them. The Commissioner also agreed with CM Markus, advising Mr. Eid to maintain the agreement with the 555 Building in order to continue using the addition to the restaurant.

Mr. Eid agreed.

In reply to the Mayor, Mr. Eid said he was unsure why the lease provided by the 555 Building was written for five years instead of ten.

MOTION: Motion by Commissioner Haig, MPT Boutros:

To approve the Special Land Use Permit, Final Site Plan and Design Review application for 588 S. Old Woodward – Phoenicia with the following condition:

- The applicant submit a signed parking lease agreement for 20 parking spaces or obtain a variance for required parking spaces from the BZA.

MPT Boutros commended Mr. Eid, noted Phoenicia's longevity in the community, and said tying the business to the lease of the parking spaces shows Mr. Eid's commitment to the community.

In reply to additional comment by MPT Boutros, CM Markus briefly summarized how the Board of Zoning Appeals evaluates whether a variance from the zoning ordinance should be granted.

CM Markus recommended that Mr. Eid continuously evaluate opportunities to maintain Phoenicia's required parking in case changes occur in the 555 Building's circumstances.

ROLL CALL VOTE: Ayes, MPT Boutros
 Commissioner Baller

Commissioner McLain
Commissioner Schafer
Commissioner Host
Mayor Longe
Commissioner Haig

CASE DESCRIPTION

167 N Old Woodward (22-42)

Hearing date: September 13, 2022

Appeal No. 22-42: The owner of the property known **167 N Old Woodward**, requests the following variance.

- A. Chapter 126, Article 4, Section 4.54(C)(8) of the Zoning Ordinance requires that rooftop mechanical and other equipment be limited, positioned and screened to minimize views from adjacent properties and public rights-of-way. The applicant is proposing two new rooftop mechanical units without a screen wall, therefore a variance of 342 square feet (171 square feet per unit) is being requested.

Staff Notes:

The applicant Sweetgreens received administrative approval for exterior changes from the Planning Division in April of 2022. The approved plans indicate two new rooftop HVAC mechanical units with screening that satisfies the Zoning Ordinance requirements for rooftop mechanical units. The administratively approved screen walls consist of a 4'5"ABS horizontal louver panel in an alabaster color with a total surface area of 171 square feet for each HVAC unit. Upon final inspection, the applicant has not installed the required and approved screen walls surrounding the rooftop mechanical units.

This property is zoned B4 and D4 Overlay.

167 N 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: 8/9/2022

Hearing Date: 9.13.22

Received By: HT

Appeal #: 22-42

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

I. PROPERTY INFORMATION:

Address: 167 N Old Woodward Ave Birmingham, MI	Lot Number:	Sidwell Number:
------------------------------------------------	-------------	-----------------

II. OWNER INFORMATION:

Name: Brian Najor, President Najor Companies			
Address:	City: Birmingham	State: MI	Zip code:
Email: * brian@najorcompanies.com		Phone:	

III. PETITIONER INFORMATION:

Name: Michael Klingl, PLA	Firm/Company Name:		
Address: 1400 E Touhy Ave, Suite 215	City: Des Plaines	State: IL	Zip code: 60018
Email: michael.klingl@jsdinc.com		Phone: (630) 200-9219	

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: 

Date: 8.10.22

Signature of Petitioner: 

Date: 8/10/2022

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.
-

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



August 11, 2021

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

Subject **Variance Request – Screening requirement for new rooftop units
Sweetgreen Berthage, 167 N Old Woodward Ave Birmingham, MI 48009**

Letter of Practical Difficulty/Hardship

Per Chapter 126, Article 4.54 SC-01 (C)(8), "Rooftop mechanical and other equipment shall be limited, positioned and screened to minimize views from adjacent properties and public rights-of-way." As part of their recent renovations to the commercial retail space at 167 N Old Woodward Ave Sweetgreen installed two new RTUs to accommodate their HVAC needs. Due to the existing conditions at the property and location of these new RTUs it is our belief that there is limited impact to the adjacent properties because of the following:

- 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;**

In order to accommodate the needs of the modern tenant, upgrades to older building and their infrastructure is required. Requiring screening to new units when so many adjacent units will remain unscreened can act as a deterrent for potential tenants and prevent the property owner from using the property for its permitted purpose.

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

As written the ordinance applies to the installation of new RTU's or other HVAC equipment while allowing similar existing equipment the ability to be replaced in perpetuity without the same requirement. Since this ordinance itself cannot be uniformly imposed it is placing an unnecessary hardship as it seeks to impose a screening requirement that can never be achieved; that being the screening of all RTUs or other rooftop equipment.

- 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**

Due to the location and positioning of these RTU's they will not be visible from the public realm and therefore will not be a visual nuisance to the public. Additionally, between our building and the adjacent units there are more than 15 RTUs which will remain unscreened. Our RTU's will be the exception if screening is required. Therefore, leaving our RTU's unscreened will be in no way be contrary to the spirit and purpose of the Zoning Ordinance nor contrary to the public health, safety and welfare.

- 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.**

As is, the ordinance is placing an unjust requirement on the property owners in this area as it is acting as a deterrent for potential tenants. Due to the building's location within a historic district and the existing infrastructure of the building the installation of the RTUs was necessary. Essentially the screening requirement acts as a tax on property owners and tenants of older buildings who wish to modernize and improve their space.

Per our review of the ordinance it is our position that the strict application of the provisions found in Article 4.54 SC-01 (C)(8) will impose a hardship because of its inconsistent and unfair requirements that was not the original intention of the ordinance. It is our view that a variance should be granted in order to allow for the continued uniform and open development of the historic district and the surrounding areas.

Best Regards,

A handwritten signature in blue ink, appearing to read 'Michael Klingl'.

Michael Klingl, PLA, ASLA | Senior Development Manager
JSD Professional Services, Inc. – Chicago Regional Office
(630) 200-9219
Michael.klingl@jsdinc.com

ABBREVIATION LEGEND

C	CENTERLINE
(E)	EXISTING
(N)	NEW
AT	DIAMETER OR ROUND
Ø	AND
ADD'L	ADDITIONAL
AFF	ABOVE FINISH FLOOR
ALUM	ALUMINUM
ARCH	ARCHITECTUR(URAL)
AS	ART AND CHAIR SUPPLIER
ASS	ALARM SYSTEM SUPPLIER
B.O.	BOTTOM OF
BD.	BOARD
BLDG.	BUILDING
CLG	CEILING
CMU	CONCRETE MASONRY UNIT
CS	CHEMICAL SUPPLIER
DIM	DIMENSION(S)
EA	EACH
EL	ELEVATION (VERTICAL HEIGHT)
ELEC	ELECTRIC(AL)
ELEV	ELEVATION
EQ	EQUAL
EXT	EXTERIOR
FRP	FIBERGLASS-REINFORCED PANEL
FRT	FIRE-RETARDANT TREATED
GA	GAUGE
GALV	GALVANIZED
GC	GENERAL CONTRACTOR
GYP	GYPSUM
H.P.	HIGH POINT
HS	HOOD SUPPLIER
HT	HEIGHT
HVAC	HEATING AND VENTILATING
INT	INTERIOR
KES	KITCHEN EQUIPMENT SUPPLIER
MAX.	MAXIMUM
MIR	MIRROR
MECH	MECHANICAL
MFR	MANUFACTURER
MIN.	MINIMUM
MISC	MISCELLANEOUS
MSS	MUSIC SYSTEM SUPPLIER
N.I.C.	NOT IN CONTRACT
NO.	NUMBER
O.C.	ON CENTER
OSB	ORIENTED STRAND BOARD
PAF	POWDER ACTUATED FASTENER
POS	POINT OF SALE
PREP	PREPARATION
PVC	POLYVINYL CHLORIDE
R	RADIUS
RE	REFERENCE
RR	RESTROOM
RTU	ROOF TOP UNITS
SF	SQUARE FOOT
SG	SWEETGREEN
SIM	SIMILAR
SS	SOLID SURFACE
SSS	CCTV AND SAFE/CASHBOX
SST	STAINLESS STEEL
STR	STRUCTURE
T.B.D.	TO BE DETERMINED
T.O.	TOP OF
TYP	TYPICAL
UPS	UNINTERRUPTED POWER SUPPLY
U.N.O.	UNLESS NOTED OTHERWISE
VD	VENDOR
V.I.F.	VERIFY IN FIELD
VAR	VARIES
W/	WITH
WA	WASHROOM ACCESSORIES
WCS	TENANT'S WALK-IN COOLER SUPPLIER
WS	TENANT'S WINDOW SHADE SUPPLIER

SYMBOL LEGEND

XXXX EL. ± XX'-X"	LEVEL TAG	XXXX-X	WALL TYPE TAG
XX XXXX	BUILDING ELEVATION	XX	DOOR TAG
XX XXXX	INTERIOR ELEVATION	DXXX	DATA DEVICE TAG
XX XXXX		K XXX	KITCHEN EQUIPMENT TAG
		FXXX	FURNITURE TAG
		G XXX	ART/GRAPHICS TAG
			WASHROOM ACCESSORIES TAG
1 XXXX	SECTION MARKER	ROOM XXX	ROOM TAG
1 XXXX	SECTION / DETAIL	XX	FINISH TAG
		Area Name 150 SF	AREA TAG
	LAYOUT POINT		REVISION TAG
0	KEY NOTE TAG	XX	OCCUPANT LOAD

TRUE NORTH

PLAN NORTH

XX

View Title

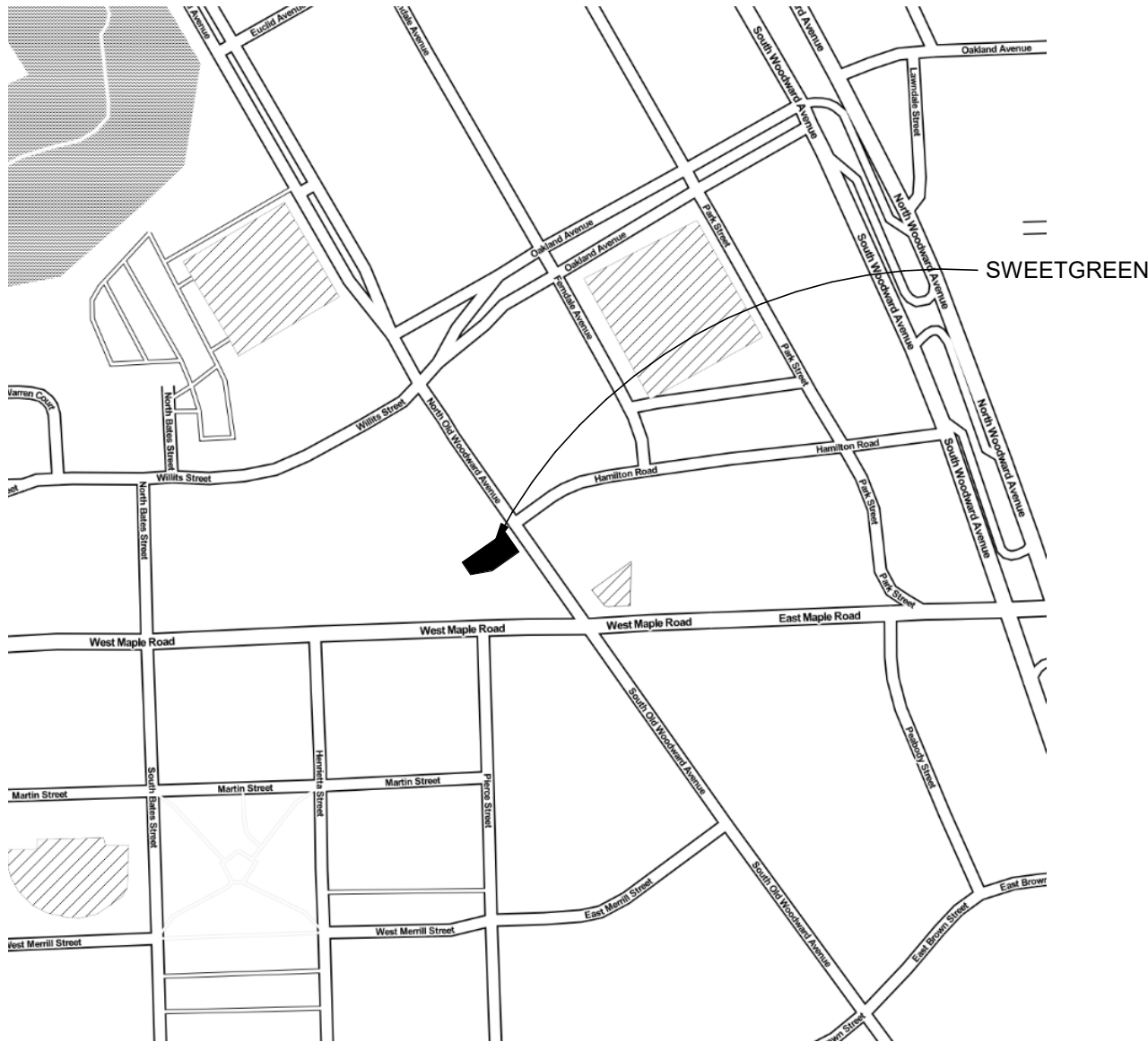
1/4" = 1'-0"

PROJECT CONTACTS

LANDLORD Brian Najor Najor Companies 600 N. Old Woodward Ave., Ste. 100 Birmingham, MI 48009 T: 248.433.7000	SIGNAGE VENDOR Chad Elliott Ruggles Sign 83 Industry Drive Versailles, KY 40383 E: chad@rugglessign.com T: 859.879.1199, ext: 129	WATER UTILITY City of Birmingham Treasurer's Office 151 Martin Street, #109 Birmingham, MI 48009 T: 248.530.1890
DESIGN MANAGER Lauren Keenoy sweetgreen 1270 Lafayette Street New York, NY 10012 E: lauren.keenoy@sweetgreen.com T: 203.581.0290	KITCHEN VENDOR Kerry Thorn Singer EVI 3581 Ten Oaks Road, #2C Glenelg, MD 21737 E: kthorn@singerequipment.com T: 443.419.1004	SEWER UTILITY City of Birmingham Treasurer's Office 151 Martin Street, #109 Birmingham, MI 48009 T: 248.530.1890
CONSTRUCTION MANAGER Joe Barna sweetgreen 3101 W. Exposition Blvd. Los Angeles, CA 90018 E: joe.barna@sweetgreen.com T: 847.612.8778	PLANNING DEPARTMENT Nicholas Dupuis, Planner Planning Department 151 Martin Street, #223 Birmingham, MI 48009 E: ndupuis@bhsimgov.org T: 248.530.1856	GAS UTILITY Consumers Energy One Energy Plaza Jackson, MI 49201 T: 800.477.5050
ARCHITECT OF RECORD Harlan R. Faust FHA Architects 14344 Y Street, Suite 204 Omaha, NE 68137 Project Manager: Scott Tieken E: stieken@fhaarchitects.com T: 402.895.0878	BUILDING DEPARTMENT Bruce Johnson, Building Official Building Department 151 Martin Street Birmingham, MI 48009 E: bjohnson@bhamgov.org T: 248.530.1850	ELECTRIC UTILITY DTE Electric Company One Energy Plaza Detroit, MI 48226 Customer Service T: 800.338.0178
STRUCTURAL ENGINEER Juleen Rogness DCI Engineers 341 W. Tudor, Suite 105 Anchorage, AK 99503 E: jrogness@dc-engineers.com T: 907.570.1446	HEALTH DEPARTMENT Michael J. Cox, Sr. Public Health Sanitarian Oakland County Health Division 1200 N. Telegraph Road, Bldg. 34E Pontiac, MI 48341 E: coxmj@oakgov.com T: 248.424.7092	TELEPHONE UTILITY AT&T Business Services Center E: att.com/contactus/smb T: 800.321.2000
MEP ENGINEER Joshua Everett, P.E. Everj Engineering, Inc. 1509 Buck Trail Lane Worthington, OH 43085 E: jeverett@everjengineering.com T: 240.319.0822	TENANT LICENSING 3101 W. Exposition Blvd. Los Angeles, CA 90018 ATTN: Sweetgreen licensing Contact: Debi Chun Habiger E: debi.habiger@sweetgreen.com T: 805.304.8250	HVAC SUPPLIER Derek Van Ripper Trane Commercial Sales 3253 E. Imperial Hwy Brea, CA 92821 E: derek.vanripper@trane.com T: 714.983.0505

CODE AUTHORITIES

BUILDING CODE:	2015 MICHIGAN BUILDING CODE
ACCESSIBILITY CODE:	2010 ADA STANDARDS FOR ACCESSIBLE DESIGN
FIRE CODE:	2015 INTERNATIONAL FIRE CODE (AS REFERENCED IN 2015 MICHIGAN BUILDING CODE)
MECHANICAL CODE:	2015 MICHIGAN MECHANICAL CODE
PLUMBING CODE:	2015 MICHIGAN PLUMBING CODE
ELECTRICAL CODE:	2017 NATIONAL ELECTRICAL CODE (AND PART 8 TECHNICAL AMENDMENTS)
ENERGY CODE:	2015 MICHIGAN ENERGY CODE
HEALTH CODE:	2009 MICHIGAN MODIFIED FOOD CODE



TRUE NORTH

PLAN NORTH

2

VICINITY MAP

NTS

SCOPE OF WORK

INSTALLATION OF SECOND FLOOR ROOF-TOP UNIT ROOF SCREENS AS DIRECTED BY CITY OF BIRMINGHAM PLANNING DEPARTMENT.

GROUP	TENANT	OCCUPANCY
PREVIOUS USE:	GRABBAGREEN	A-2
PROPOSED USE:	SWEETGREEN	A-2

SHEET INDEX

		RTU ROOF-SCREEN							
SHEET SHEET TITLE									
GENERAL									
G-001	PROJECT INFORMATION	X							
ARCHITECTURAL									
A-150	ROOF PLAN	X							
A-151	EXISTING CONDITIONS PHOTOGRAPHS	X							



sweetgreen

3101 W. EXPOSITION BLVD.
LOS ANGELES, CALIFORNIA 90018

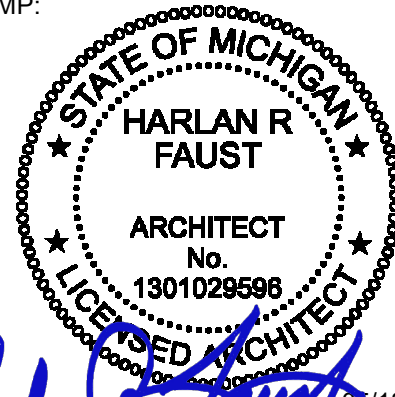
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ARCHITECT OF RECORD:

HARLAN R. FAUST
ARCHITECT

HARLAN R. FAUST, ARCHITECT
14344 "Y" STREET, SUITE 204
OMAHA, NE 68137-2805
402.895.0878
402.895.9561 FAX
www.fhaarchitects.com

STAMP:



PROJECT INFORMATION:
BIRMINGHAM

PROJECT INFORMATION:
167 N. OLD WOODWARD AVE.
BIRMINGHAM, MI 48009

DRAWN BY: MB
CHECKED BY: ST
PROJECT MANAGER: ST
SG DESIGN MANAGER: LK
SG CONSTR. MANAGER: JB
PROJECT NO: 071121
TEMPLATE VERSION: 210604.03

REVISIONS
REV. DATE DESCRIPTION

PROJECT
INFORMATION

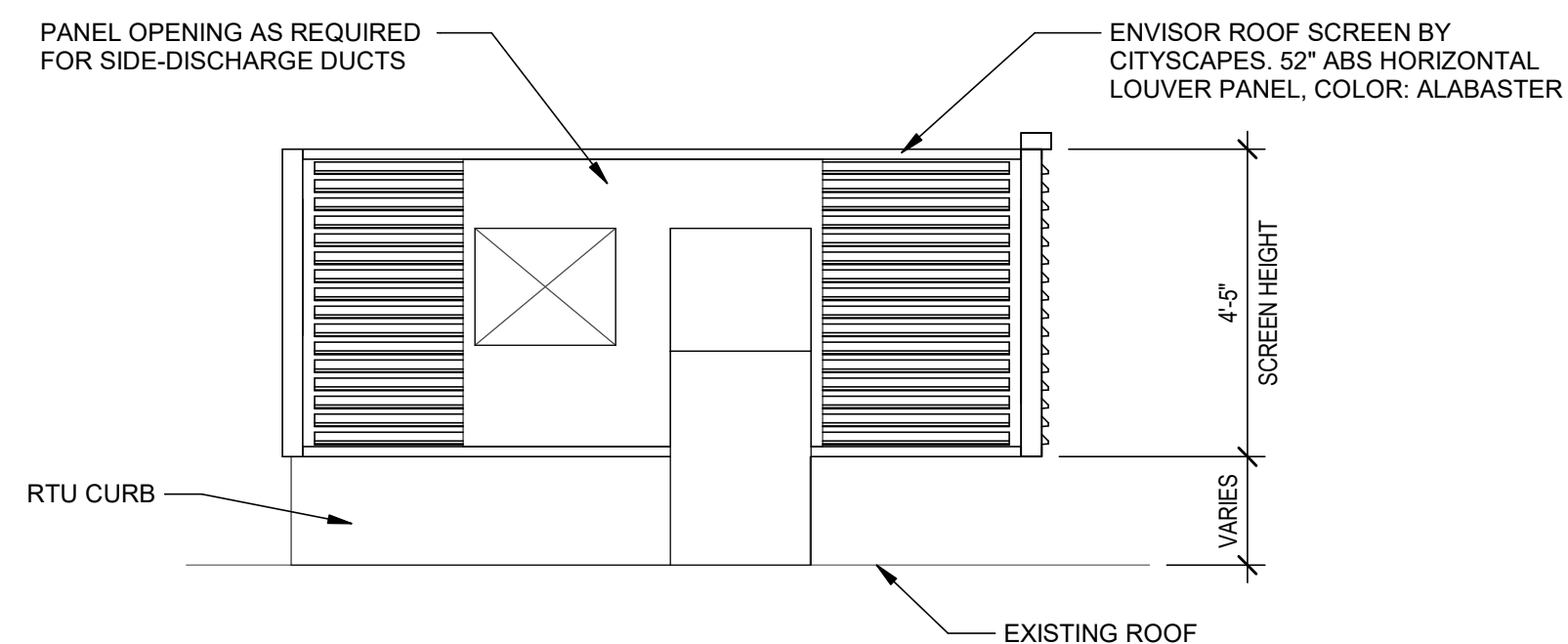
G-001

GENERAL NOTES

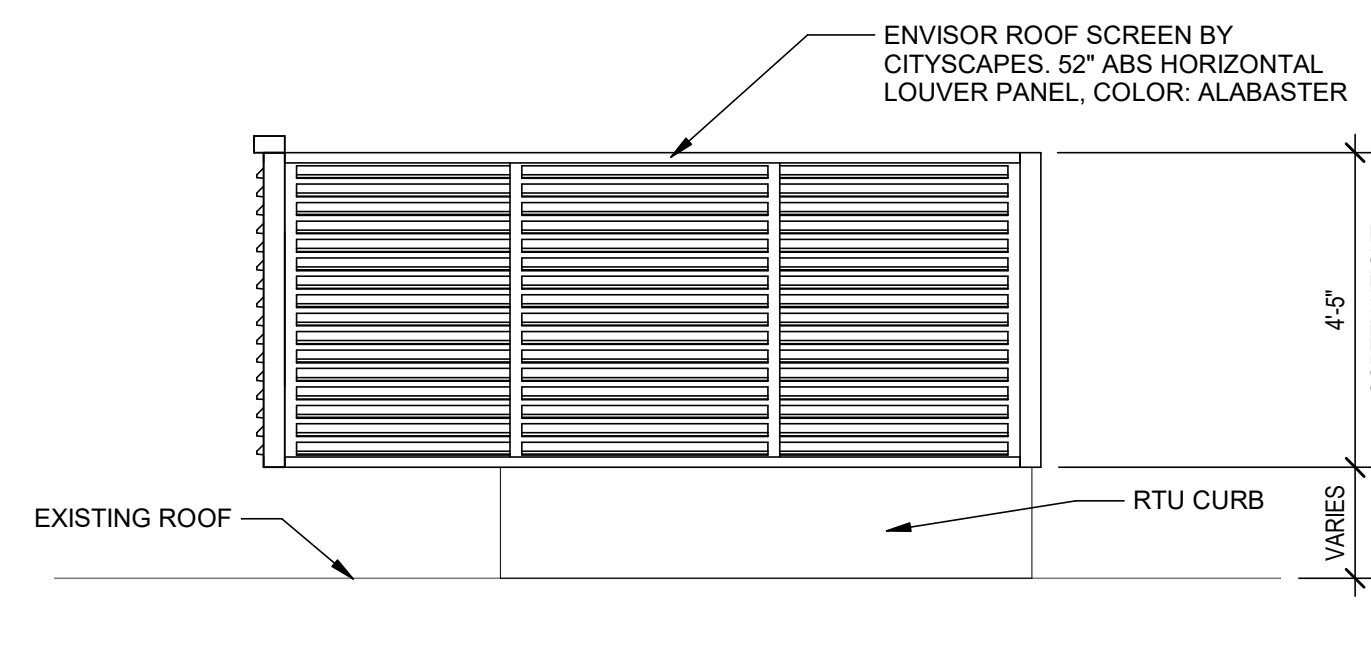
- A. SEE STRUCTURAL DRAWINGS FOR LOCATIONS AND SIZE(S) OF STRUCTURAL ROOF REINFORCEMENTS.
- B. SEE MECHANICAL PLAN FOR ROOF TOP EQUIPMENT.
- C. COORDINATE ALL ROOF PENETRATIONS, FLASHING, AND REPAIR WITH TENANT CM PRIOR TO START OF WORK.
- D. DIMENSIONS ARE TO THE CENTER OF THE PENETRATION AND ARE FOR REFERENCE ONLY. ROOFING CONTRACTOR TO ADJUST AS NECESSARY IN FIELD. CONTACT ENGINEERING CONSULTANTS FOR ANY MAJOR MODIFICATIONS TO LAYOUT.
- E. JOISTS FOR SHELL BUILDING WERE DESIGNED FOR THE RTU WEIGHTS AND PLACEMENT EXHIBITED. IF LOCATION OR ORIENTATION OF A UNIT MUST CHANGE, NOTIFY ARCHITECT IMMEDIATELY.
- F. SEE MECHANICAL PLANS FOR PENETRATION DETAILS AT RTUS AND EXHAUST FANS.
- G. PROVIDE INSULATED CURBS FOR ALL EQUIPMENT IN EXPOSED DECK AREA ONLY. COORDINATE WITH MECHANICAL SHEETS.

CODED NOTES

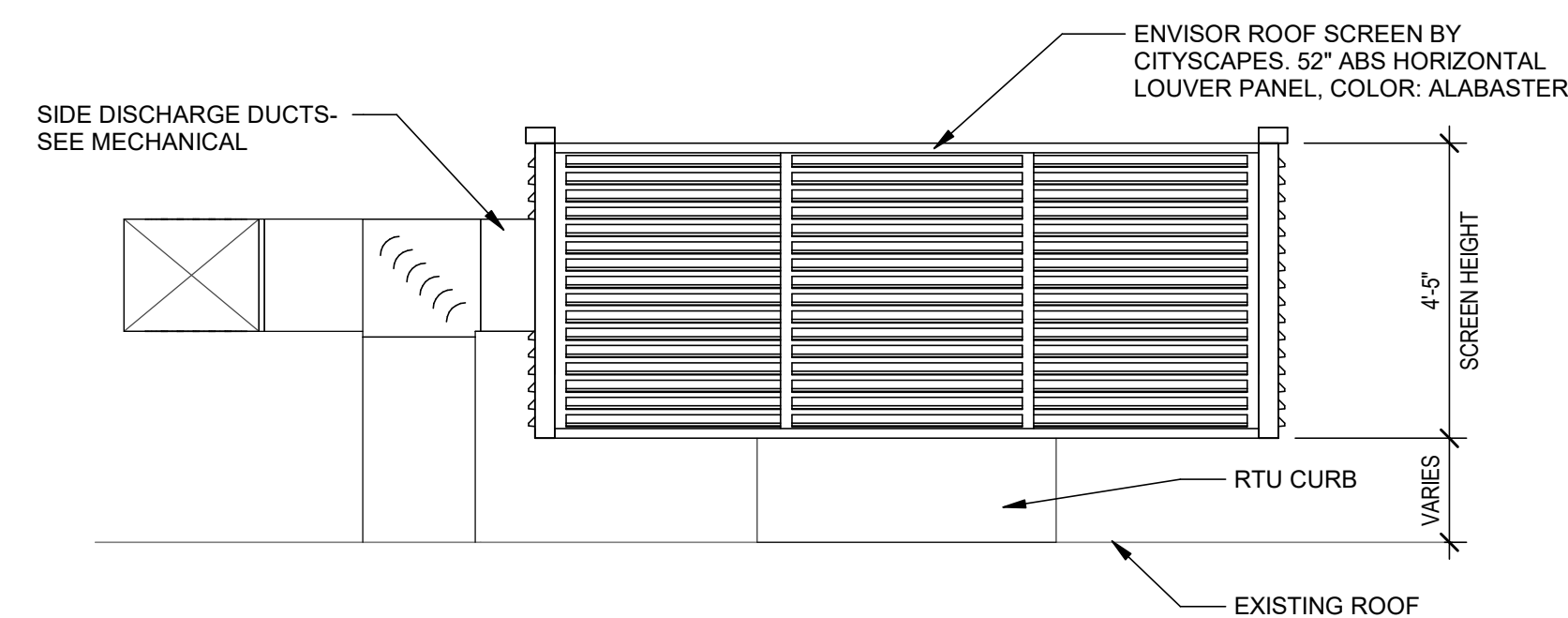
- | | |
|----|------------------------------------------------------------------------------------------------|
| 1 | TENANT SPACE BELOW, SHOWN DASHED |
| 3 | EXISTING ROOF MEMBRANE |
| 5 | EXISTING PARAPET |
| 14 | EXISTING MECHANICAL UNITS |
| 20 | EXISTING SKYLIGHT |
| 21 | 10'-0" RADIUS CLEARANCE FOR FRESH AIR INTAKES, NOTIFY ARCHITECT IMMEDIATELY IF CONFLICT OCCURS |
| 25 | NEW MECHANICAL UNIT AND CURB |
| 26 | NEW EXHAUST FAN LOCATION |
| 27 | NEW WALK-IN COOLER REMOTE CONDENSER |
| 29 | NEW VENT THROUGH ROOF, REFER TO MECHANICAL DRAWINGS |



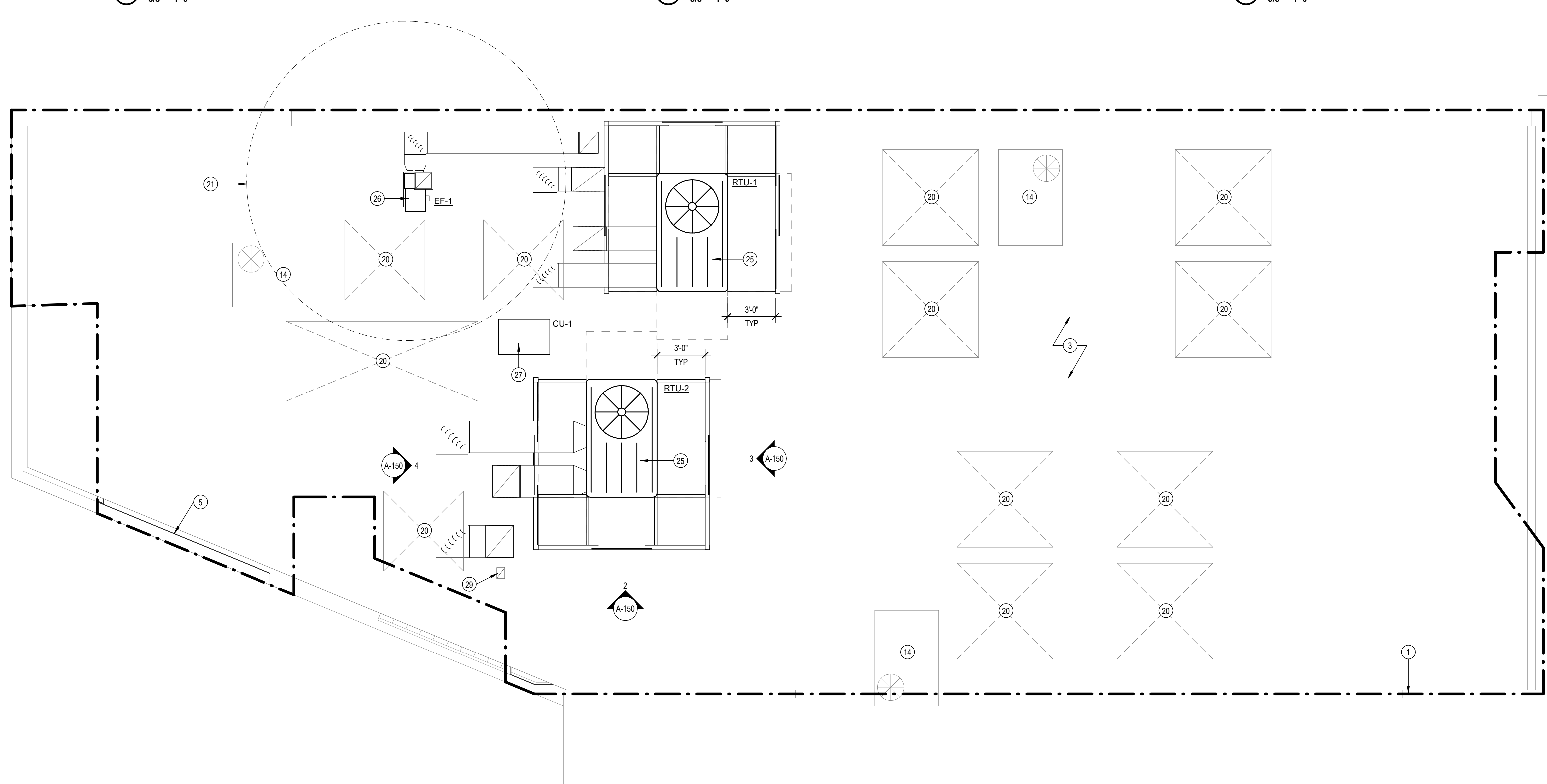
4 ELEVATION @ ROOF SCREEN
3/8" = 1'-0"



ELEVATION @ ROOF SCREEN



2 ELEVATION @ ROOF SCREEN
3/8" = 1'-0"



TRUE NORTH PLAN NORTH

1 ARCHITECTURAL ROOF PLAN
1/4" = 1'-0"

sg

sweetgreen

3101 W. EXPOSITION BLVD.
LOS ANGELES, CALIFORNIA 90018

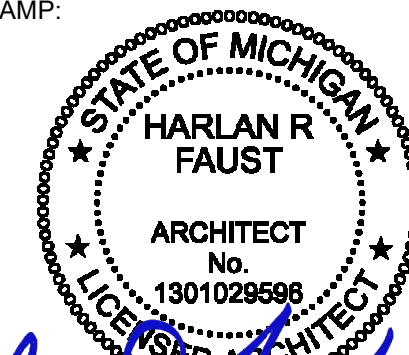
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ARCHITECT OF RECORD:

HARLAN R. FAUST
ARCHITECT

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STAMP



05/18/202

PROJECT INFORMATION:
BIRMINGHAM

PROJECT INFORMATION:

167 N. OLD WOODWARD AVE.
BIRMINGHAM, MI 48009

DRAWN BY:	MB
CHECKED BY:	ST
PROJECT MANAGER:	ST
SG DESIGN MANAGER:	LK
SG CONSTR. MANAGER:	JB
PROJECT NO:	071121
TEMPLATE VERSION:	210604.03

REVISIONS		
REV.	DATE	DESCRIPTION

ROOF PLAN

A-150



sweetgreen

3101 W. EXPOSITION BLVD.
LOS ANGELES, CALIFORNIA 90018

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ARCHITECT

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402.895.9561 FAX
www.hfaarchitects.com

STAMP:



PROJECT INFORMATION:
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PROJECT INFORMATION:
167 N. OLD WOODWARD AVE.
BIRMINGHAM, MI 48009

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TEMPLATE VERSION: 210604.03

REVISIONS
REV. DATE DESCRIPTION

**EXISTING
CONDITIONS
PHOTOGRAPHS**



EXISTING RTU & RTU'S IN VICINITY OF SPACE



EXISTING RTU & RTU'S IN VICINITY OF SPACE



EXISTING RTU'S IN VICINITY OF SPACE



EXISTING RTU & RTU'S IN VICINITY OF SPACE



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