

**GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
MARCH 16, 2021
6:30 P.M.
AGENDA**

Call to Order:

Pledge of Allegiance:

Introductions:

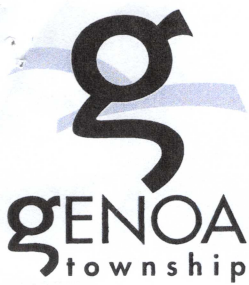
Approval of Agenda:

Call to the Public: *(Please Note: The Board will not begin any new business after 10:00 p.m)*

1. 21-04... A request by Paulette Skolarus, Challis Court Tax ID 4711-26-200-029, for two front yard setback variances to construct a new home.
2. 21-05...A request by Ron and Sara Bomberger, 4182 Highcrest, for front and side yard setback variances to construct a new single family home.

Administrative Business:

1. Approval of minutes for the February 16, 2021 Zoning Board of Appeals meeting.
2. Correspondence
3. Member Discussion
4. Adjournment



GENOA CHARTER TOWNSHIP VARIANCE APPLICATION
2911 DORR ROAD | BRIGHTON, MICHIGAN 48116
(810) 227-5225 | FAX (810) 227-3420

Case # 21-04 Meeting Date: 3-16-21 @ 6:30pm

PAID Variance Application Fee

\$215.00 for Residential

\$300.00 for Sign Variance | \$395.00 for Commercial/Industrial

Applicant/Owner: Paulette Skolarus Email: SKOLARUS@ATT.NET

Property Address: A-3 Challis Ct. Phone: 810-227-1232

Present Zoning: LDR Tax Code: 11-26-200-029

ARTICLE 23 of the Genoa Township Zoning Ordinance describes the Variance procedure and the duties of the Zoning Board of Appeals.

Each application for Variance is considered individually by the ZBA. The ZBA is a board of limited power; it cannot change the Zoning Ordinance or grant relief when it is possible to comply with the Zoning Ordinance. It may provide relief where due to unique aspects of the property with strict application of the zoning ordinance to the land results in practical difficulties or unnecessary hardship.

The applicant is responsible for presenting the information necessary to support the relief requested. While much of the necessary information is gathered through the completed application, other information may be gathered by on-site visits, other sources, and during the ZBA meeting. ZBA members may visit the site without prior notification to property owners.

Failure to meet the submittal requirements and properly stake the property showing all proposed improvements may result in postponement or denial of this petition.

Please explain the proposed variance below:

1. Variance requested/intended property modifications: This is a 3 acre
PARCEL - LOCATED ON A cul-de-sac. It is a
PRIVATE DRIVE WITH 5 HOMES that access
their PROPERTY.

The following is per Article 23.05.03:

Criteria Applicable to Dimensional Variances. No variance in the provisions or requirements of the Ordinance shall be authorized by the Board of Appeals unless it is found from the evidence that all of the following conditions exist:

Under each please indicate how the proposed project meets each criteria.

Practical Difficulty/Substantial Justice. Compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk, density, or other dimensional provisions would unreasonably prevent the use of the property. Granting of a requested variance or appeal would do substantial justice to the applicant as well as to other property owners in the district and is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and vicinity of the subject parcel.

This is the only buildable site on this property. There's a 35' drop off on the northern of the lot. A variance was granted 20 years ago to allow construction of a previous home that was NOT built.

Extraordinary Circumstances. There are exceptional or extraordinary circumstances or conditions applicable to the property or the intended use which are different than other properties in the same zoning district or the variance would make the property consistent with the majority of other properties in the vicinity. The need for the variance was not self-created by the applicant.

There is only one PLACE on this lot that a home could be built. This is a 1500 SQ FT. home and is smaller than every other HOME.

Public Safety and Welfare. The granting of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, comfort, morals or welfare of the inhabitants of the Township of Genoa.

NO

Impact on Surrounding Neighborhood. The variance will not interfere with or discourage the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.

The ONLY IMPACT would be additional vehicles using the driveway

Any Variance not acted upon within 12 months from the date of approval is invalid and must receive a renewal from the Zoning Board of Appeals (ZBA).

After the decision is made regarding your Variance approval a land use permit will be required with additional site plan and construction plans.

Date: 2/8/21 Signature: Pauline Co. [Signature]



MEMORANDUM

TO: Genoa Township Zoning Board of Appeals
FROM: Amy Ruthig, Zoning Official
DATE: March 11, 2021
RE: ZBA 21-04

2911 Dorr Road
Brighton, MI 48116
810.227.5225
810.227.3420 fax
genoa.org

STAFF REPORT

File Number: ZBA#21-04
Site Address: Parcel A-3, Challis Ct.
Parcel Number: 4711-26-200-029
Parcel Size: 3.020 Acres
Applicant: Paulette Skolarus, 6520 Challis Ct., Brighton, MI
Property Owner: Same as applicant

Information Submitted: Application, site plan, conceptual drawings

Request: Dimensional Variance

Project Description: Applicant is requesting two front yard variances to construct a new single family home.

Zoning and Existing Use: LDR (Low Density Residential), the property is vacant.

Other:

Public hearing was published in the Livingston County Press and Argus on Sunday February 28, 2021 and 300 foot mailings were sent to any real property within 300 feet of the property in accordance with the Michigan Zoning Enabling Act.

Background

The following is a brief summary of the background information we have on file:

- The property is vacant.
- In 1997, the applicant split the property to create parcel A-E.
- In 1998, a private road site plan approval was granted for the pavement and installation of a cul-de-sac on Challis Ct. (See attached minutes and site plan)
- In 1998, a variance was approved for a road width reduction for Challis Ct. (See attached minutes)
- In 2001, the applicant was approved for a side yard setback variance to construct a new home. (See attached minutes)
- The property will be served by a well and private septic.

SUPERVISOR

Bill Rogers

CLERK

Paulette A. Skolarus

TREASURER

Robin L. Hunt

TRUSTEES

Jean W. Ledford

H. James Mortensen

Terry Croft

Diana Lowe

MANAGER

Michael C. Archinal

Summary

The applicant is proposing to construct a new single family home. In order to construct the proposed home, the applicant is requesting to obtain two front yard setback variances due to the parcel being a corner lot. After reviewing the approved private road site plan, there appears to be a discrepancy in the easement area on the road site plan compared to the site plan that the applicant submitted. The location of the cul-de-sac does not match the road right of way line. The private road site plan demonstrates that the drainage from the road is directed towards this lot.

Variance Requests

The following is the section of the zoning ordinance that the variance is being requested from as well the criteria applicable to your review of variances in this regard.

Table 3.04.01 (LDR District):

SINGLE FAMILY SETBACK STANDARDS	East Front Yard Setback	South Front Yard Setback
Required	50'	50'
Setback Amount Requested	25'	16'
Variance Amount	25'	34'

Summary of Findings of Fact- After reviewing the application and materials provided, I offer the possible findings of fact for your consideration:

Please note that in order for a variance to be approved it has to meet all of the standards in 23.05.03.

- (a) Practical Difficulty/Substantial Justice** –Strict compliance with the ordinance would prevent the applicant from constructing the proposed new home. Without the variance, the topography of this lot would unreasonable prevent use of the property for residential development. Granting the variance would provide substantial justice in that it would allow for a home to be constructed however the greatly reduced front yard setbacks do not support substantial justice to the other property owners in the district and is not similar to the same district and vicinity of the subject property.
- (b) Extraordinary Circumstances** – The exceptional or extraordinary condition of the property is the topography of the lot and the wetland. The construction of a home would be consistent with properties in the vicinity however the proposed location of the home is not similar or consistent with the majority of other properties in the vicinity. Even though the applicant did not create the topography of the lot, the applicant did split the lot without securing a feasible building envelope thus making the need for the variance self-created.
- (c) Public Safety and Welfare** – The granting of the variances would not impair an adequate supply of light and air to adjacent property. Granting of the variances could unreasonably increase the congestion on the private road and increase the danger of fire or endanger the public safety due to possible sight distance issues from the proposed location of the driveway for emergency vehicles and neighbors that access the road.

(d) Impact on Surrounding Neighborhood – The proposed variances could have an impact on the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood. The approved private road site plan was designed for the road runoff to flow to the vacant lot.

Recommended Conditions

If the Zoning Board of Appeals **GRANTS** the variance request staff recommends the following conditions be placed on the approval.

1. Any retaining walls will require a land use permit.
2. Applicant must verify the location of the private road easement in relationship to the approved private road site plan prior to land use permit issuance:
 - a. This variance applies to the private road easement shown on the survey submitted by the applicant and shall not extend any closer to the road;
 - b. If the private road easement location is increased, then applicant must seek new variance.
3. Applicant must demonstrate that drainage from the home will not be directed towards the road.

If the Zoning Board of Appeals **DENIES** the variance request staff recommends the following conditions be placed:

1. If the variance is denied, applicant should consider combining the property that abuts the subject parcel which is under common ownership to eliminate an unbuildable lot.

GENOA TOWNSHIP BOARD

Regular Meeting

March 16, 1998

MINUTES

The regular meeting of the Genoa Township Board was called to order by Supervisor Murray at 7:00 p.m. at the Genoa Township Hall. The Pledge of Allegiance was then said. The following board members were present constituting a quorum for the transaction of business: Robert Murray, Paulette Skolarus, Robin Hunt, Gary McCririe, Kathy Robertson, and Craig Jarvis. Also present were Mike Archinal, Township Manager; Rick Heikkinen, Township Attorney; and approximately eight persons in the audience.

Moved by McCririe, supported by Jarvis, to approve the Agenda as presented. The motion carried unanimously.

A call to the public was made with the following response: Bill and Nancy Litogot – A proposal for aquatic weed control was presented along with the language for a petition. Heikkinen will review the petition and respond as to the language.

1. **Presentation** and update on the Greenways Project by Coy Vaughn, Livingston County Planning.

The Greenways concept plan was presented to the board. Grant funding is expected to be obtained this fall. The project involving Genoa Township will run from the City of Brighton to Bauer Road and then south of Bauer to Hamburg Township.

2. **Request for approval** of a private road, Challis Court, located off Challis Road between Dorr and Bauer Roads.

Moved by McCririe, supported by Hunt, to approve the private road with the conditions as listed in the Planning Commission Minutes of 02-23-98 and reflecting the variances granted by the Zoning Board of Appeals on March 10, 1998. The motion carried with Skolarus abstaining.

3. **Request for approval** of resolutions for the Baetcke Lake Road Improvement Project.

A. Resolution No. 3 (Reimbursement Resolution).

Moved by Skolarus, supported by Jarvis, to approve resolution No. 3. The motion carried by roll call vote as follows: Ayes – Ledford, McCririe, Hunt, Robertson, Jarvis, Skolarus and Murray. Nays – None.

B. Resolution No. 4 (Approving the project details and directing the preparation of the special assessment roll).

Moved by McCririe, supported by Ledford, to approve resolution No. 4. The motion carried by roll call vote as follows: Ayes – Ledford, McCririe, Hunt, Robertson, Jarvis, Skolarus and Murray. Nays – None.

**GENOA TOWNSHIP
ZONING BOARD OF APPEALS
MARCH 10TH, 1998**

Minutes

A regular meeting of the Zoning Board of Appeals was called to order by Chairman Staley at 7:00 p.m. at the Genoa Township Hall. The following board members were present constituting a quorum for the transaction of business: Rick Staley, Barbara Figurski, Robert Murray, Paulette Skolarus and Nancy Litogot. Also present were Mike Archinal, Township Manager and approximately ten persons in the audience.

Moved by Figurski, supported by Litogot, to approve the Agenda with the tabling of Case 98.03 at the petitioner's request. The motion carried unanimously.

A call to the public was made with no response.

- 1.) *97-41...A request by Wade Bray, 6600 Challis, Brighton, Section 26, for a variance to the 22' wide requirement for a private road to 20' to preserve the land including trees and wetlands. (Tabled from February 10, 1998 meeting)*

A call to the public was made with no response. Moved by Murray, supported by Figurski, to approve a private road with a 20' width as depicted in the plans submitted by Munzel engineering, and to allow six parcels to be served by the private road identified as Challis Court. The hardship is determined to be the preservation of the natural features and trees on the site. The motion carried with Skolarus abstaining.

- 2.) *97-45...A request by Dan and Sheryl Spagnoletti, Chilson Meadows, Howell, Section 07, to move a mobile home onto property during construction of their home. (Tabled from February 10, 1998 meeting)*

Moved by Murray, supported by Figurski, to dismiss this case since the petitioner was not present when it was called. The motion carried unanimously.

- 3.) *98-03...A request by CEI Engineering, 2649 Grand River, Brighton, Section 06, for a 22' variance to the rear yard setbacks to construct a retail only auto parts store with parking.*

Tabled at the petitioner's request.

- 4.) *98-04...A request by Holland, 1205 Chemung, Howell, Section 10, to give lots #40 & 41 unique tax I.D.'s to sell as "buildable" lots.*

Moved by Mortensen, supported by Figurski, to recommend to the Township Board the approval of the Impact Assessment for Lakeshore Village dated December 5, 1997, revised January 20, 1998. **Motion unanimously carried.**

Moved by McCririe, supported by Pobuda, site plan approval for Lakeshore Village, subject to the following:

- Township Board approval of Impact Assessment as presented.
- Township engineering review and approval of all plans and specifications.
- Petitioner shall provide shared access easements to the entrance for adjacent properties, in recordable form to the satisfaction of the Township Board and township attorney.
- Petitioner shall provide for an emergency access easement on the south side of the site, in recordable form to the satisfaction of the township attorney and township engineers.
- The 26' road width, as proposed, is acceptable with the conditions that the petitioner not allow parking on streets and petitioner shall post "no parking" signs, day and night, within the development.
- Any and all detention ponds will not be fenced and outlet easements shall be provided to the satisfaction of the township engineers and attorney.
- Any requirement by the Drain Commissioner for fencing any detention ponds shall be considered a significant change to the site plan and require new site plan approval by the Planning Commission.
- Fire marshall and township engineers shall review the construction plans and placement of the community center.
- It is the finding of this board that section 15.1004, subsection (d), has been met pertaining to secondary access.
- Petitioner shall provide approvals from the following governmental agencies:
 - Michigan Department of Transportation
 - Michigan Department of Environmental Quality
 - Livingston County Drain Commission
 - Livingston County Health Department, if necessary
- Petitioner is aware of, and accepts, the Township's rates and calculations pertaining to residential equivalent users fees for sewer and water for the site.
- Any signage shall conform to Township ordinances.
- The materials board, as provided, is acceptable.

Motion unanimously carried.

- 2) OPEN PUBLIC HEARING #2...REQUEST FOR APPROVAL OF A PRIVATE ROAD, CHALLIS CT., LOCATED OFF CHALLIS BETWEEN DORR AND BAUER ROADS. SECTION 26: WADE BRAY/POLLY SKOLARUS.

A. RECOMMENDATION REGARDING IMPACT ASSESSMENT

B. RECOMMENDATION REGARDING SITE PLAN

Mr. Wade Bray, 6600 Challis Ct., stated they wish to upgrade a 950 foot gravel cul-de-sac. The present drive accesses four building sites - two existing sites and two homes under construction. In order to preserve some trees and natural features, the proposed road improvements have a width which is narrower than the ordinance requires (i.e., 22 feet). The plan shows the road narrowing to 16-18 feet in the center (area BB). A variance from the ZBA is required for the narrower road width. The City of Brighton Fire Department has recommended the road be widened to at least 20 feet for emergency vehicles. They are willing to meet this requirement.

Chairman Colley asked why the road width needed to be reduced. He felt the road could be moved to the west in that area, maintaining a 22' width, and then when you get past the wetlands drop off, you could move east again. In his opinion, a 22' width could be maintained.

Mr. Dan Munzel, Munzel Engineering, stated they looked at the trees, elevations, etc. when widening the road. The goal was to keep the existing drive in a "lane fashion" and maintain trees and the wetlands. If he gets too close to some of the larger oak trees, root damage may occur and impact the health of the trees. If shifted to the west, it would impact many more trees. As proposed, about 460 feet of the road would have a 20' width.

Chairman Colley made a call to the public at 8:10 p.m., with no response.

Commissioner McCririe stated the road currently serves five residential lots and, thus, may be constructed of gravel. He asked if the applicant was aware that the zoning ordinance requires that for six or more units, the road needs to be paved. In other words, if parcels are split in the future for development, the road would need to be paved

Mr. Bray stated it was his understanding that the unit limit for pavement was eight, not six.

Mr. Purdy stated that the country estates district is eight; in the LDR district, which this is in, the limit for no pavement is five.

Commissioner McCririe asked if the neighbor would be willing to grant a conservation easement so that the trees could be preserved.

Ms. Paulette Skolarus, 6550 Challis Ct., stated a grove of mature blue spruce and white pine trees has already been preserved as a nature habitat and she would be happy to provide a conservation easement for the road.

Commissioner Litogot asked about access through parcel A-3 for parcels A-4 and E-2.

Mr. Bray answered a private driveway, which exists now, would serve E-2 and A-4.

Moved by Mortensen, supported by Figurski, to recommend to the Township Board approval of the Impact Assessment for Challis Court as presented to the Planning Commission on February 23, 1998. **Motion unanimously carried.**

Moved by McCririe, supported by Pobuda, to approve the site plan for Challis Court with the following conditions:

- Township Board approval of the Impact Assessment as presented.
- Petitioner will modify the plan to widen the middle section of the road bed to a minimum of 20' wide in the area that is currently depicted as 16-18'.
- Petitioner shall cause a conservation easement for the preservation of existing trees in the road bed, to be recorded in a form approved by and acceptable to the township planners and attorney.
- Township engineering review and approval of plans and specifications.
- Access permits shall be obtained from the Livingston County Road Commission.
- Petitioner is aware that they shall abide by the provisions for paving this road contained in the ordinance at the time any future splits are made to parcels served by the road.

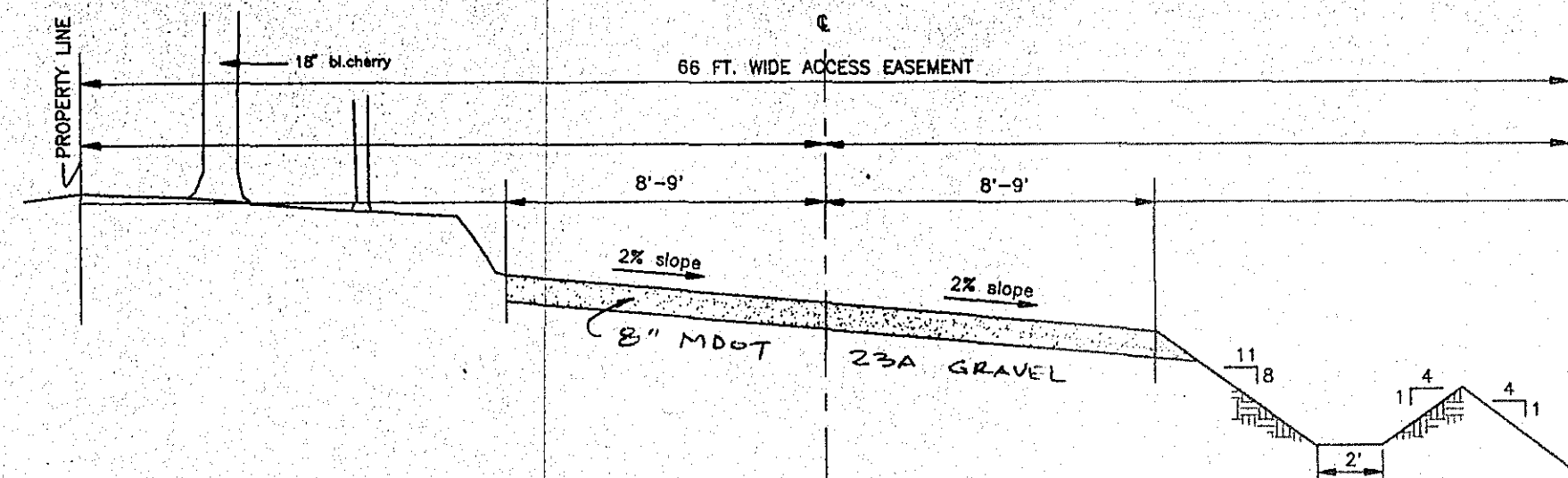
Motion carried (5 yes, 1 no - Colley dissenting).

Moved by Mortensen, supported by Litogot, to recommend to the Zoning Board of Appeals that a variance be approved as to the road width in order to preserve natural features and trees as conditioned in the Planning Commission motion. **Motion unanimously carried.**

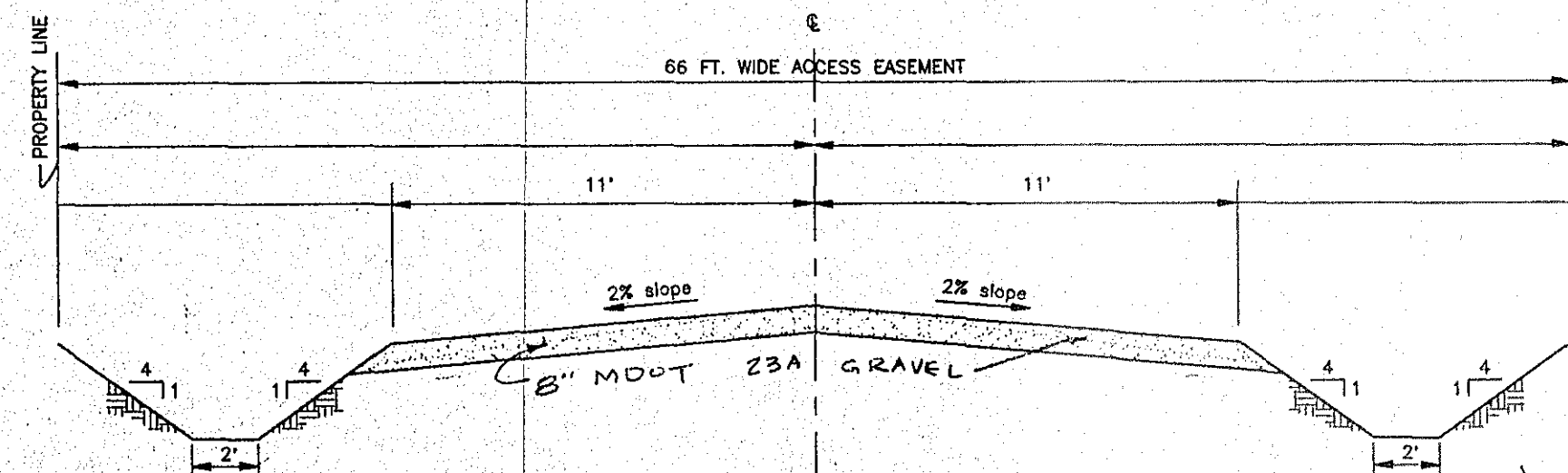
3) OPEN PUBLIC HEARING #3...REQUEST FOR RENEWAL OF SPECIAL LAND USE FOR THE TEMPORARY SITTING OF MANUFACTURED HOUSING. SECTION 11: DIANA GENTRY.

A. RECOMMENDATION REGARDING RENEWAL OF SPECIAL LAND USE

Ms. Diana Gentry Wyman, 187 S. Hughes Road, stated she owns, with her husband and business partner, approximately five acres of commercially zoned property on Grand River. She is a manufactured home dealer whose primary business is the sales, service and set up of manufactured and BOCCA homes in manufactured home communities and on private property. She is asking for an extension of a special use permit granted 11/22/93 which allowed her to set up a temporary model home on her property. The modification to the permit that she is requesting now is to allow parking of up to seven (7) manufactured and/or BOCCA homes on the property during the period of delivery to dealer and relocation to customer sites. All units will be available for inspection by



DETAIL B-B PROPOSED CHALLIS COURT CROSS SECTION
NO SCALE



DETAIL A-A PROPOSED CHALLIS COURT CROSS SECTION
NO SCALE

STORM CALCULATIONS

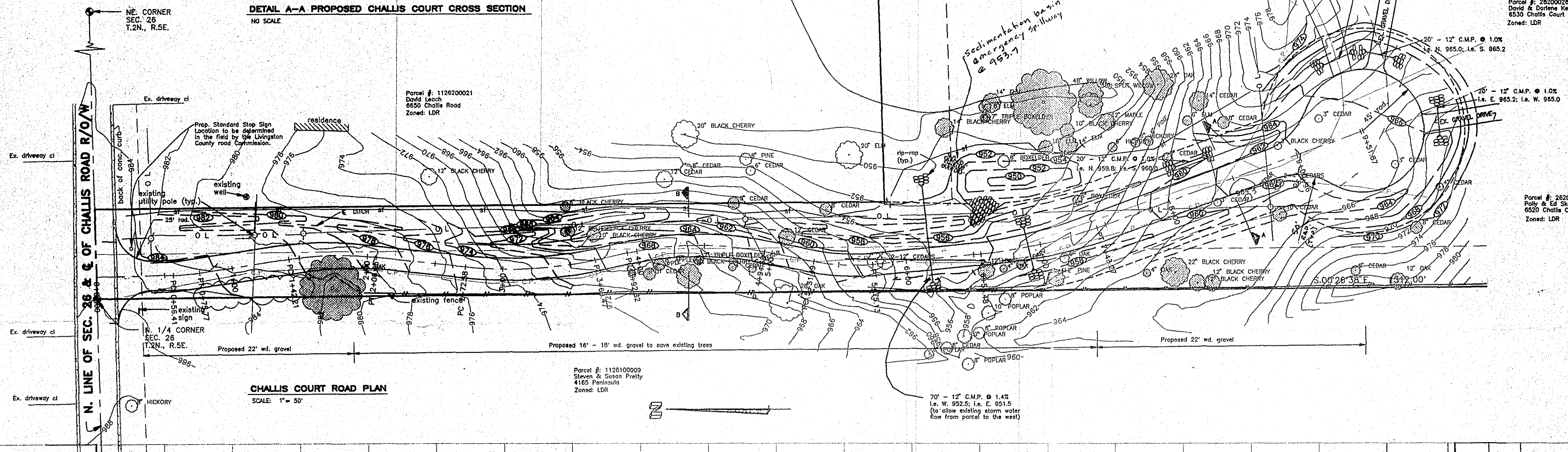
VOLUME REQUIRED:
3.114 c.f. (See L.C.D.C. TABLE B APPENDIX B)
VOLUME PROVIDED:
Area top of pond (E. 954) = 2,399 s.f.
Area bot. of pond (E. 952) = 224 s.f.
TOTAL AREA = 2613 s.f.
Average area = 1306.5 s.f.
Depth of pond = 4 ft.
Volume provided = 1306.5 x 4 = 5,226 s.f.

SOIL EROSION & SEDIMENT CONTROL

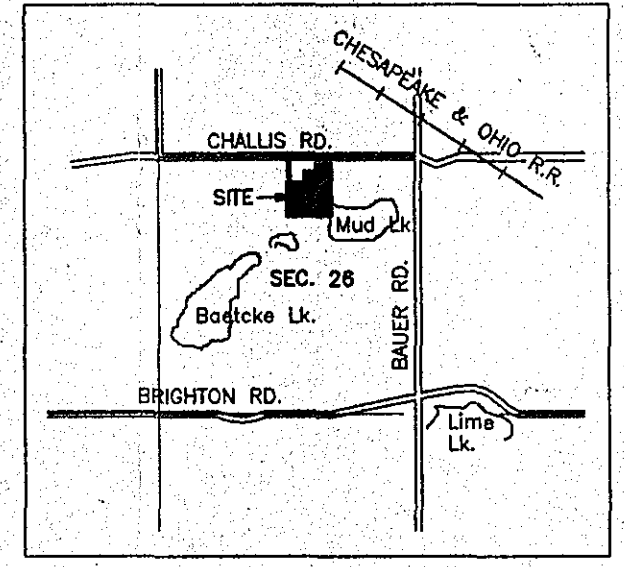
- 1) Total area proposed to be disturbed is 2.10 ac. including driveway, roadway and drainage requirements.
- 2) All disturbed areas will be stabilized with mulch immediately after disturbing.
- 3) Maintenance of all soil erosion provisions shall be the responsibility of the general contractor.
- 4) Place silt fence around site as indicated on drawing prior to construction.
- 5) Sequence of Construction:
Erosion controls installed & maintained
Site grading
Road construction
Landscape & cleanup
Soil erosion controls to be maintained throughout entire construction period.

REVISIONS

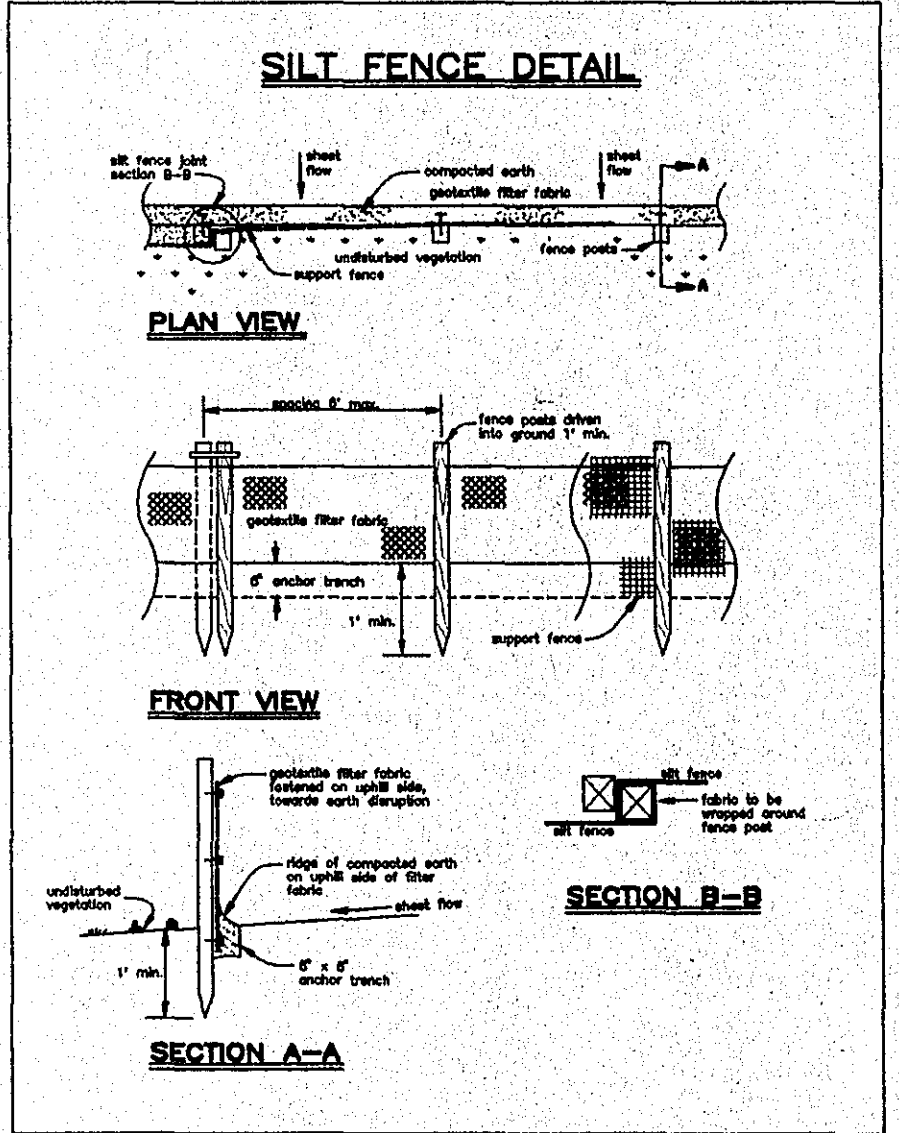
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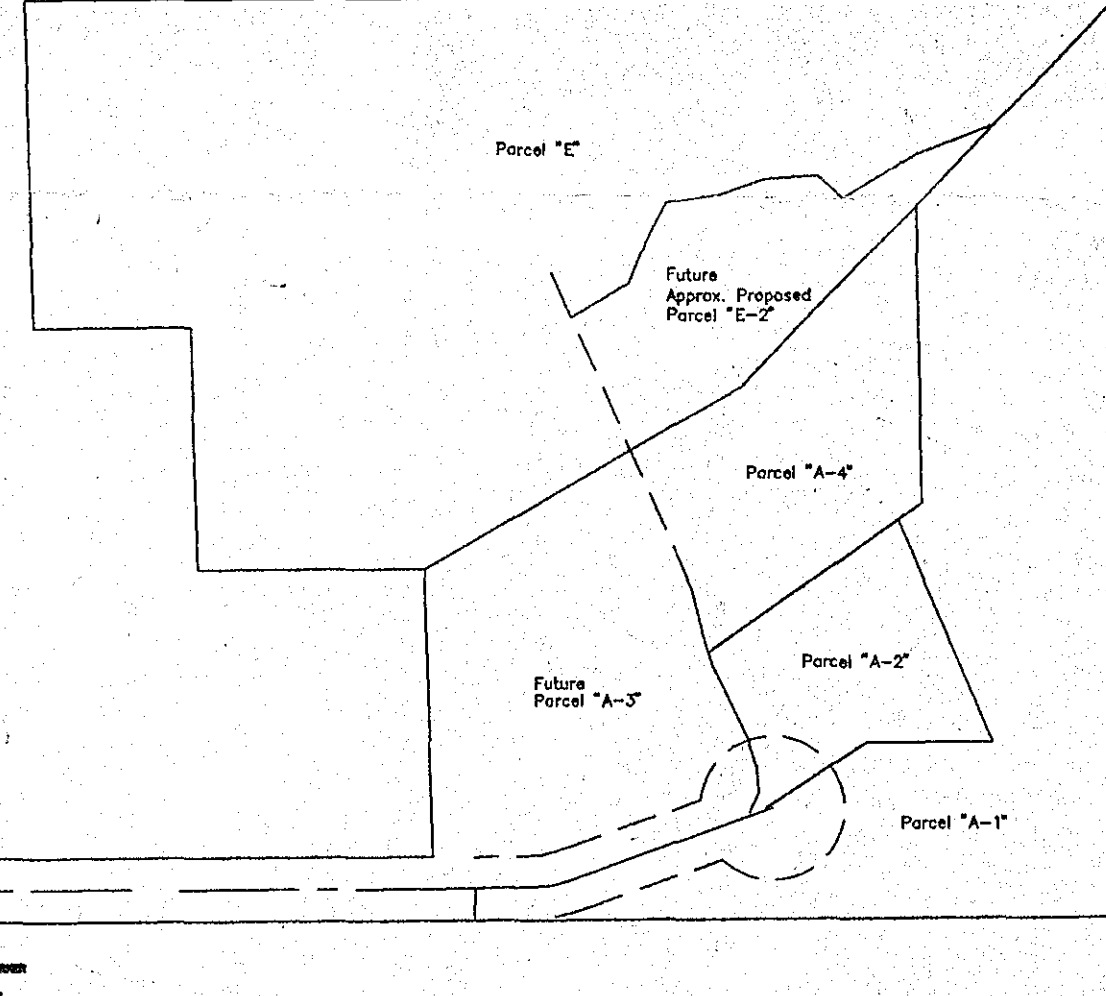
CHALLIS COURT ROAD PLAN
SCALE: 1" = 50'



LOCATION MAP
NO SCALE



- LEGEND**
- ACCESS EASEMENT LINE
 - 920 --- EXISTING CONTOUR LINE
 - 918 --- PROPOSED CONTOUR LINE
 - EXISTING FENCE
 - O L --- OVERHEAD UTILITY LINE
 - SILT FENCE
 - PROPERTY LINE
 - DITCH
 - CONSUMERS POWER LINE
 - EXISTING UTILITY POLE
 - RIP-RAP
 - EXISTING WELL
 - EXISTING TREE
 - TREE TO BE SAVED
 - PROPOSED CULVERT

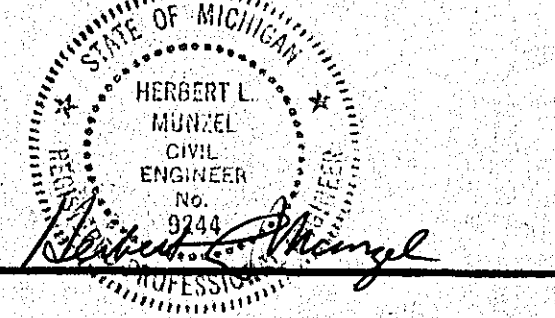


CENTERLINE DESCRIPTION OF A 66' WD. PRIVATE ROAD EASEMENT (CHALLIS COURT)
Part of the West 29 acres of the North 1/2 of the NE 1/4 of Sec. 26, T.2N., R.5E., Genoa Township, Livingston County, described as:
Beginning at a point on the centerline of a private 66 ft. wide easement, distant N.88°32'30"E., along the north line of Sec. 26, which is also the centerline of Challis Rd. R/O/W, 33.00 ft.; thence S.00°26'38"E., 660.00 ft.; thence S.19°01'10"E., 132.76 ft.; thence S.11°11'50"E., 43.78 ft.; thence S.15°43'23"E., 23.65 ft.; thence S.25°12'57"E., 27.96 ft.; thence S.21°08'12"E., 39.18 ft. to the center of a 75 ft. radius cul-de-sac and point of ending.

- NOTES:**
- 1) Design of the road is based on utilizing the centerline of the existing gravel driveway in effort to save as many trees as possible.
 - 2) Proposed private road will serve three homesites with three additional homesites served from the continuation of the existing private drive which will enter the cul-de-sac from the NE.
 - 3) Utilities shown on the drawing are from field location and/or by direction from owners. Call MISS DIG 3 DAYS PRIOR TO ANY CONSTRUCTION 1-800-482-7171
 - 4) Fox-Boyer complex soils are found on this site according to the soil survey of Livingston County, Michigan as produced by the U.S. Dept. of Agriculture, Soil Conservation Service.
 - 5) Fox-Boyer soils are well drained; seepage rate medium in subsoil and rapid in substratum; permeability moderate in subsoil and rapid in substratum.

LIST OF VARIANCES REQUESTED:

- 1) Proposed road width for a portion of the road from 22' to 18' and 16'
- 2) Ditch design to be on only the east side of the road, except for the 5'ly 260'



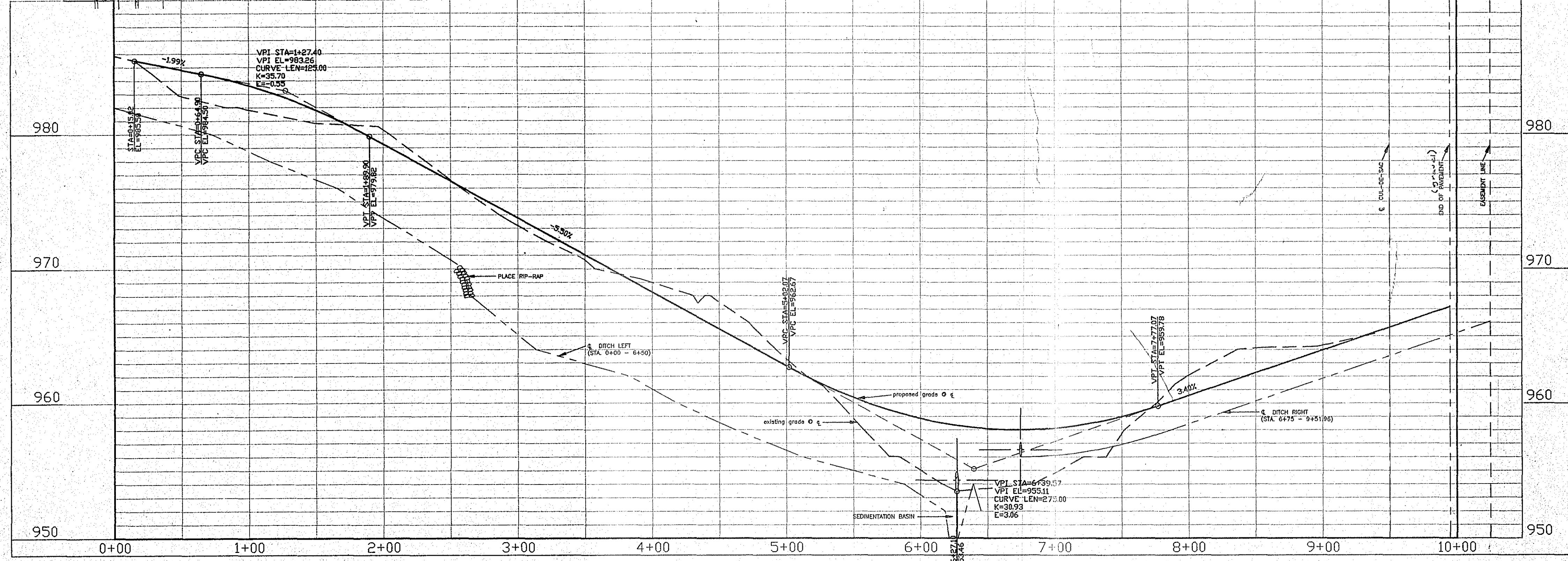
PROPOSED PRIVATE ROAD - CHALLIS COURT
Improvement to 951 ft. of existing Challis Ct. - private drive
SECTION 26, GENOA TWP., LIVINGSTON CO., MICH.

For: WADE BRAY, 6600 Challis Ct., and POLLY & ED SKOLARUS, 6550 Challis Ct.

MUNZEL ENGINEERING		drawn: Lou	date: 1/16/98	SH.
HERBERT L. MUNZEL REG. PROF. ENGINEER & LAND SURVEYOR		chkd:	job no.	OF
222 WEST GRAND RIVER AVENUE		scale: unless 1" = 50'	91531	
BRIGHTON, MICHIGAN 48116 229-8688		rev. 1/19/98		

CALL MISS-DIG 3 DAYS PRIOR TO ANY CONSTRUCTION 1-800-482-7171

ROAD PROFILE
HORIZONTAL SCALE: 1" = 50' VERTICAL SCALE: 1" = 5'



the lot that is at the rear of the property, making it difficult to site a barn behind the home. The motion carried unanimously.

01-18... A request by Clyde Strayer, Section 19, 2100 Crooked Lake Road, is for a 4-foot height variance to construct a pole barn

A Call to the Public was made with no response. Letters in favor of the petition were received from Annette Kidder and Mark Shultz, Gary and Ruth Bedard, Bill and Mickey Maniaci, Mr. and Mrs. Glenn Hanson, and Jeanne Myers. Moved by Figurski, supported by Stornant, to deny the request since no practical difficulty or hardship associated with the property was presented by the petitioner. Further, it was determined that no extraordinary circumstance was demonstrated to allow approval of this request. The motion carried unanimously.

01-19...A request by Stefan Kril, Section 32, 5125 Richardson Road, is for a 30 foot variance from wetlands to construct a new home.

A Call to the Public was made with no response. Moved by Figurski, supported by Skolarus, to grant a 30' variance to the wetland as depicted on the site plan. The practical difficulty is the unusual topography and the preservation of existing trees. The motion carried unanimously.

01-10... A request by Edward Skolarus, Section 26, Vacant off Challis Road, is for a front and side yard variance to construct a new home.

Skolarus advised the board that the minutes of this petition would be taken by VanTassell and that she would not vote on this personal request. A Call to the Public was made with no response. Moved by Figurski, supported by Stornant, to approve a 6' side yard variance for construction of a new home. The practical difficulty is the unusual topography of the site. The motion carried unanimously.

Moved by Figurski, supported by Staley, to approve the Minutes of the 04-10-01 regular meeting of the board as presented. The motion carried unanimously.



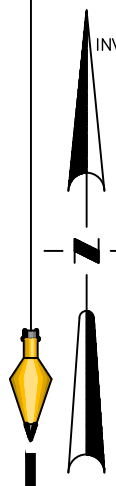
Paulette A. Skolarus
Genoa Township Clerk



Adam VanTassell
Ordinance Enforcement Officer

GENOA TOWNSHIP





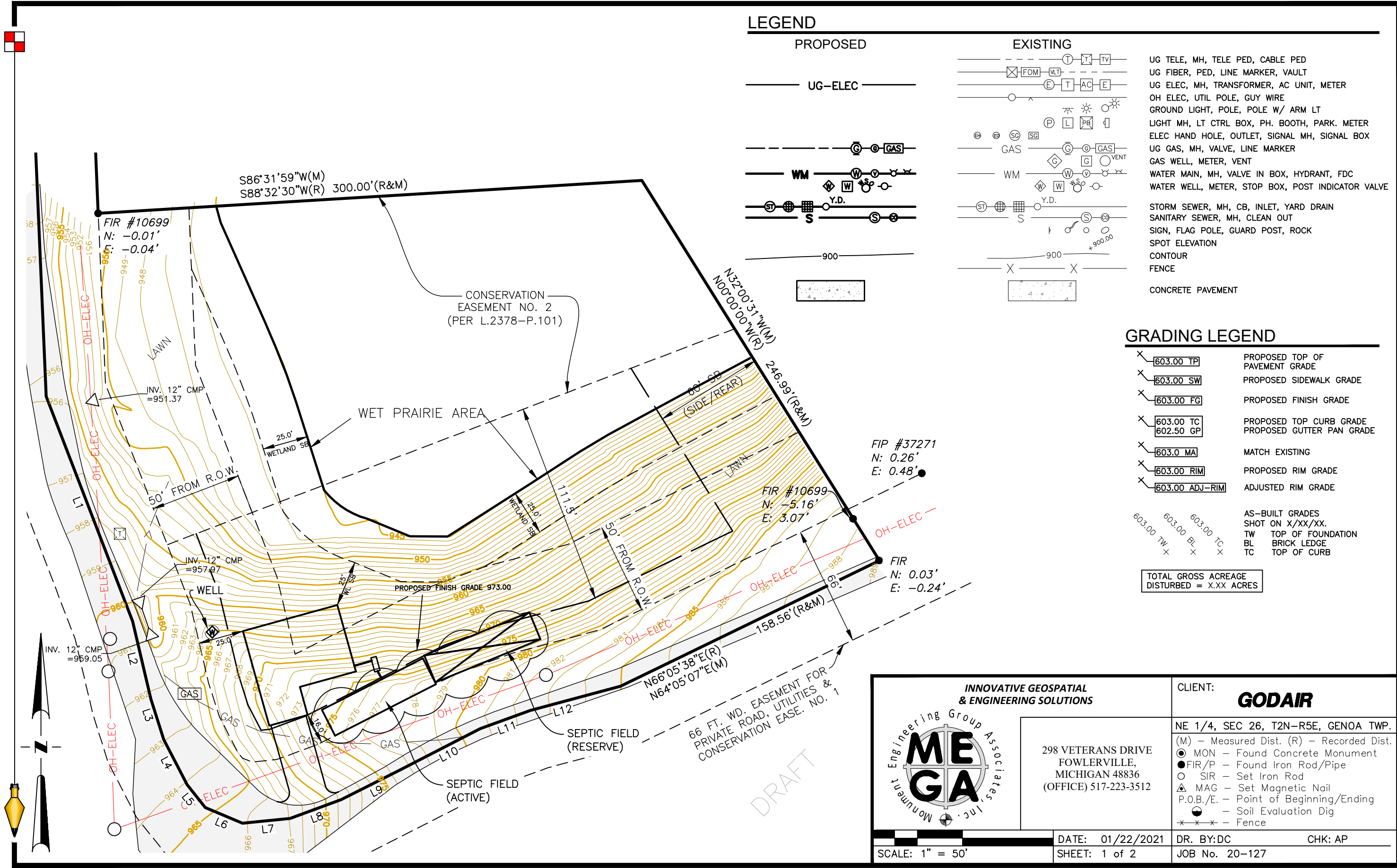
LEGEND

PROPOSED	EXISTING	
UG-ELEC	UG TELE, MH, TELE PED, CABLE PED	
	UG FIBER, PED, LINE MARKER, VAULT	
	UG ELEC, MH, TRANSFORMER, AC UNIT, METER	
	OH ELEC, UTIL POLE, GUY WIRE	
	GROUND LIGHT, POLE, POLE W/ ARM LT	
	LIGHT MH, LT CTRL BOX, PH. BOOTH, PARK. METER	
	ELEC HAND HOLE, OUTLET, SIGNAL MH, SIGNAL BOX	
	UG GAS, MH, VALVE, LINE MARKER	
	GAS WELL, METER, VENT	
	WATER MAIN, MH, VALVE IN BOX, HYDRANT, FDC	
	WATER WELL, METER, STOP BOX, POST INDICATOR VALVE	
	STORM SEWER, MH, CB, INLET, YARD DRAIN	
	SANITARY SEWER, MH, CLEAN OUT	
	SIGN, FLAG POLE, GUARD POST, ROCK	
	SPOT ELEVATION	
	CONTOUR	
	FENCE	
	CONCRETE PAVEMENT	

GRADING LEGEND

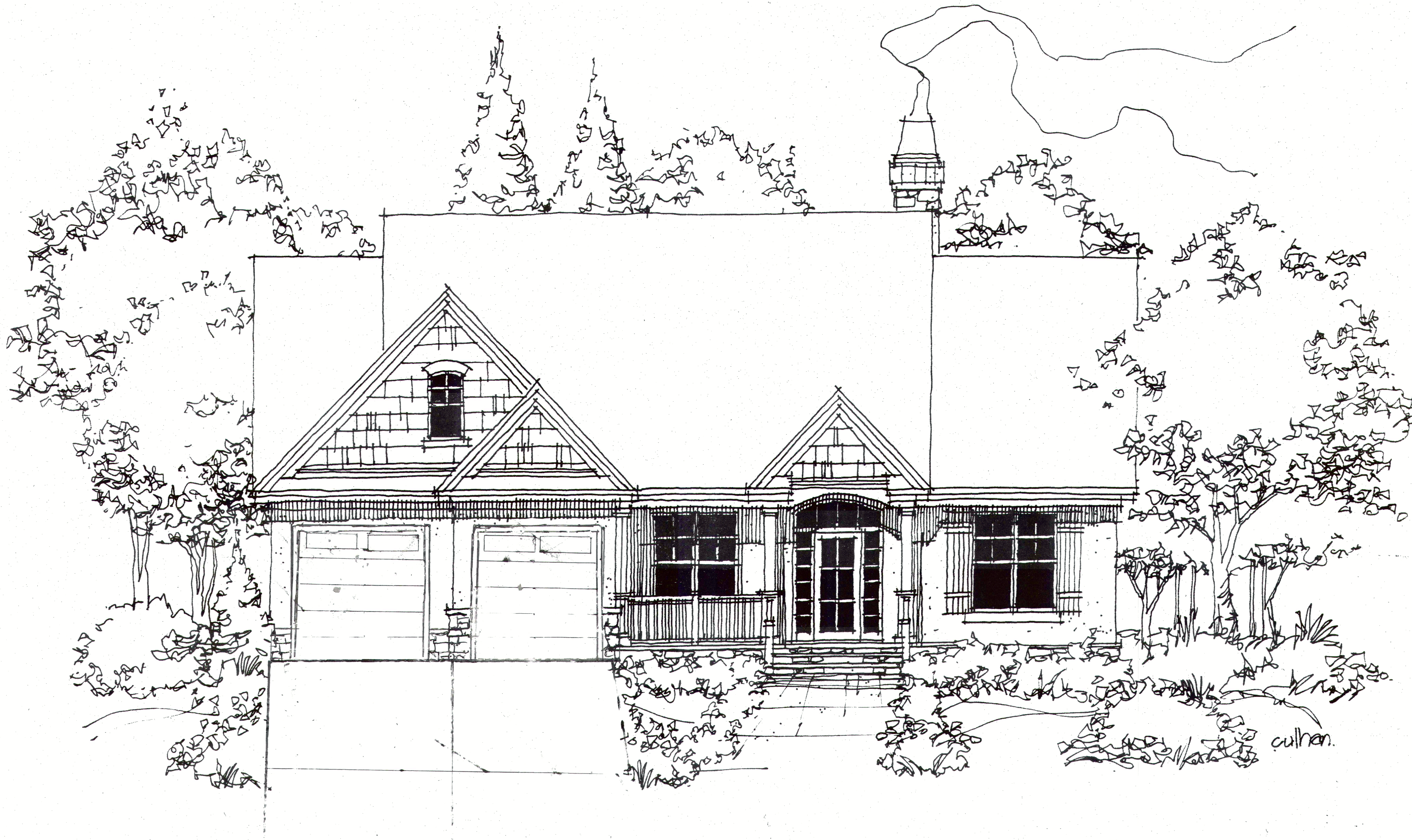
X 603.00 TP	PROPOSED TOP OF PAVEMENT GRADE
X 603.00 SW	PROPOSED SIDEWALK GRADE
X 603.00 FG	PROPOSED FINISH GRADE
X 603.00 TC 602.50 GP	PROPOSED TOP CURB GRADE PROPOSED GUTTER PAN GRADE
X 603.0 MA	MATCH EXISTING
X 603.00 RIM	PROPOSED RIM GRADE
X 603.00 ADJ-RIM	ADJUSTED RIM GRADE
603.00 TW	AS-BUILT GRADES SHOT ON X/XX/XX.
603.00 BL	TW TOP OF FOUNDATION
603.00 TC	BL BRICK LEDGE
	TC TOP OF CURB

TOTAL GROSS ACREAGE
DISTURBED = X.XX ACRES



	INNOVATIVE GEOSPATIAL & ENGINEERING SOLUTIONS 298 VETERANS DRIVE FOWLerville, MICHIGAN 48836 (OFFICE) 517-223-3512	CLIENT: GODAIR NE 1/4, SEC 26, T2N-R5E, GENOA TWP. (M) - Measured Dist. (R) - Recorded Dist. ● MON - Found Concrete Monument ● FIR/P - Found Iron Rod/Pipe ○ SIR - Set Iron Rod ▲ MAG - Set Magnetic Nail P.O.B./E. - Point of Beginning/Ending ● - Soil Evaluation Dig *-*-* - Fence
	DATE: 01/22/2021 SHEET: 1 of 2	DR. BY: DC JOB No. 20-127 CHK: AP

NOT FOR CONSTRUCTION



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REG # 330802

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Blank lines for notes or specifications.

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DESIGN NO. 151-A T
SHEET OF 5 LUS
COVERSHEET

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GENERAL NOTES

A. GENERAL:

1. AT THE TIME OF CREATION, PLANS CONFORM TO "CABO ONE AND TWO FAMILY DWELLING CODE," WHICH IS COMPILED FROM BOCA, IBC, AND UBC BUILDING CODES. HOWEVER, MODIFICATIONS MAY BE NECESSARY TO COMPLY WITH LOCAL AND STATE CODES.
2. CONTRACTOR SHALL VERIFY ALL DIMENSIONS.
3. CONTRACTOR SHALL COMPLY WITH THE CONTENTS OF THE SPECIFICATIONS FOR THIS HOUSE.
4. ALL WOOD USED IN CONSTRUCTION OF DECKS AND STEPS SHALL BE TREATED. FASTENERS FOR TREATED WOOD (NAILS, BOLTS, HARDWARE, ETC.) SHALL BE GALVANIZED.
5. CONTRACTOR SHALL INSTALL GROUND FAULT INTERRUPT OUTLETS AS PER CODE.
6. INSTALL ROOFING MATERIALS ACCORDING TO MANUFACTURER'S RECOMMENDATIONS FOR THE AREA AND CLIMATE, INCLUDING BUT NOT LIMITED TO SHINGLES, TILES, FELTS, FLASHING, AND FASTENING DEVICES.
7. HEARTH DIMENSIONS DETERMINED BY CODE.
8. INSTALL EXTERIOR FINISH SYSTEMS PER MANUFACTURER'S RECOMMENDATIONS (I.E. CONTROL JOINTS, ATTACHMENT/ANCHORING DEVICES, FLASHING, SEALANTS, ETC.)

B. FRAMING:

1. UNLESS NOTED OTHERWISE FLOOR FRAMING SHALL CONSIST OF NOMINAL 1 1/2" DEEP WOOD FLOOR TRUSSES.
2. FLOOR TRUSS SYSTEM SHALL BE DESIGNED AND ENGINEERED BY TRUSS MANUFACTURER AND COMPLETE INSTALLATION DETAILS SHALL BE PROVIDED.
3. COORDINATE ACTUAL FLOOR TRUSS DIMENSIONS WITH THE SELECTED TRUSS MANUFACTURER.
4. PROVIDE BLOCKING BETWEEN FLOOR TRUSSES UNDER WALLS THAT ARE PERPENDICULAR TO FLOOR TRUSSES.
5. JOIST SPANS WERE DETERMINED ON THE BASIS OF THE ALLOWABLE STRESSES IN THE "1991" GRADING RULES OF THE SOUTHERN PINE INSPECTION BUREAU "GRADE NUMBER TWO (2)" KILN DRIED.
6. PROVIDE DOUBLE JOISTS BELOW ALL PARALLEL PARTITIONS, ABOVE AND AROUND ALL OPENINGS NOT INDICATED ON DRAWINGS.
7. PROVIDE SOLID BLOCKING BETWEEN FLOOR JOISTS UNDER WALLS THAT ARE PERPENDICULAR TO FLOOR JOISTS.
8. SHEATH ALL EXTERIOR WALLS WITH NOMINAL 1/2" STRUCTURAL GRADE 2 PLYWOOD OR NOMINAL 1/2" OSB (ORIENTED STRAND BOARD).

C. VENTILATION:

1. PROVIDE CONTINUOUS RIDGE VENTS ON ALL ROOFS.
2. PROVIDE CONTINUOUS SOFFIT VENTS AT EAVES.

D. FOOTINGS:

1. CARRY ALL FOOTINGS TO FIRM UNDISTURBED BEARING:
 - 16" X 12" FOOTING FOR 8" OR 9" FOUNDATION WALL WITH (2) #4 REIN. RODS CONTINUOUS
 - 24" X 12" FOOTING FOR 12" FOUNDATION WALL WITH (2) #4 REIN. RODS CONTINUOUS.

E. PIER FOOTINGS:

1. 36" X 36" X 12" W/4" 4 BAR GRID

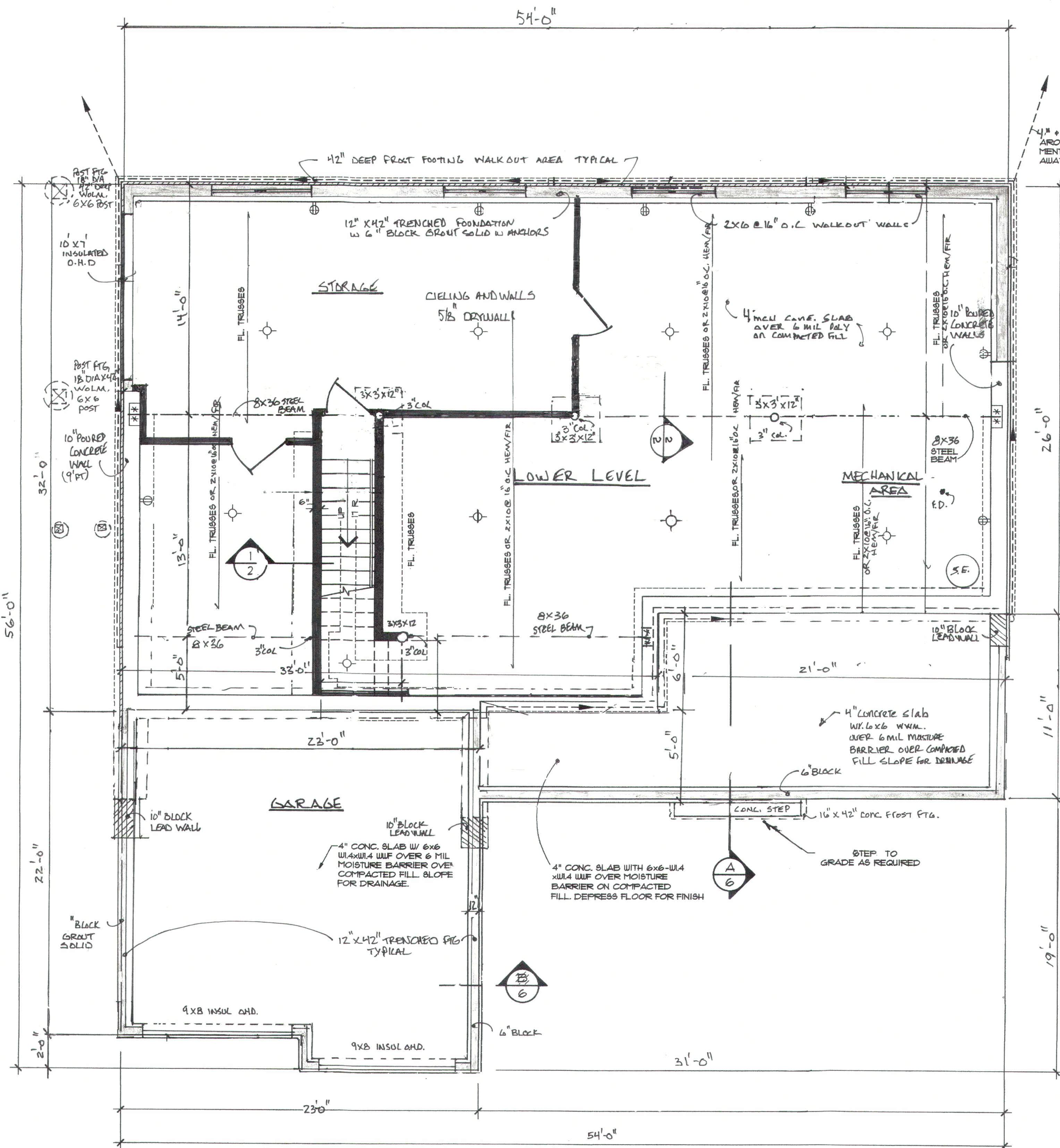
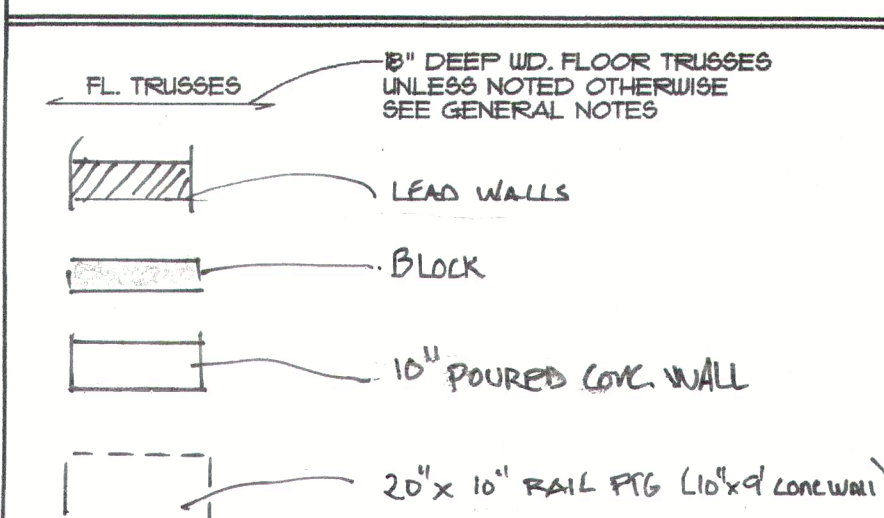
F. CHIMNEY CONSTRUCTION:

1. USE NOMINAL 1/2" STRUCTURAL GRADE 2 PLYWOOD OR NOMINAL 1/2" OSB (ORIENTED STRAND BOARD) SHEATHING.
2. SPLICE ONLY ONE CORNER STUD AT ANY SPLICE. STAGGER SPLICES AT LEAST 3'-0" AND USE (4) STUDS PER CORNER. USE 10D NAILS @ 4" O.C. AROUND ALL PLYWOOD EDGES AND 12" O.C. AT ALL INTERMEDIATE SUPPORTS.
3. PROVIDE BLOCKING BETWEEN STUDS AT 4'-0" INTERVALS.
4. CONTRACTOR TO VERIFY CHIMNEY FINISH MATERIAL WITH OWNER PRIOR TO CONSTRUCTION. IF BRICK MASONRY IS REQUIRED, CONTRACTOR TO MODIFY CONSTRUCTION OF FIREPLACE AND CHIMNEY AS REQUIRED.

G. BASEMENT:

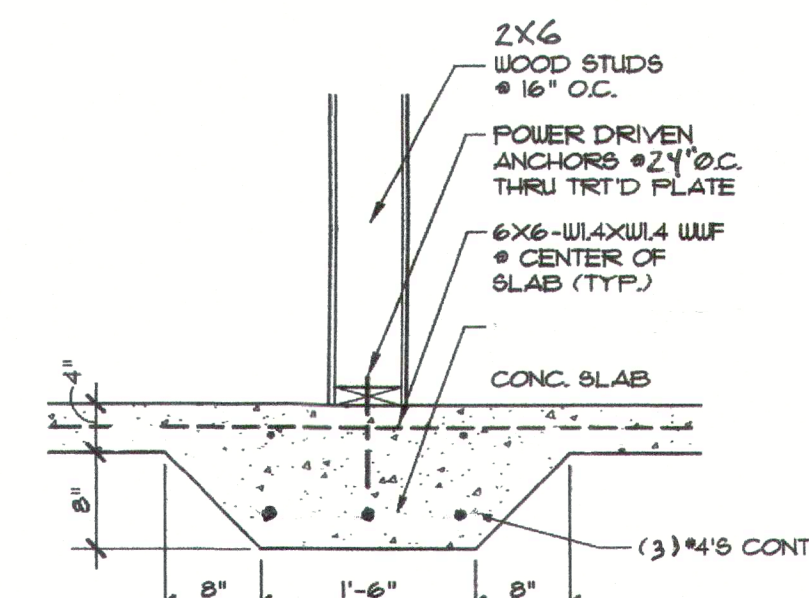
1. 18" POURED CONCRETE WALLS 9' HIGH
2. 20" RAIL FTG. W/2#5

FOUNDATION LEGEND



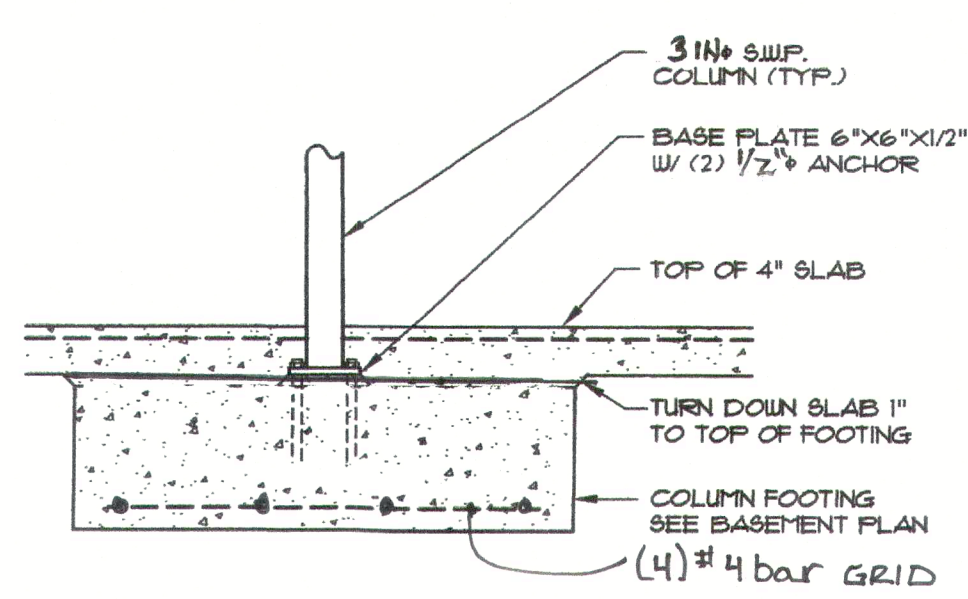
BASEMENT AND FLOOR FRAMING PLAN

1/4" = 1'-0"



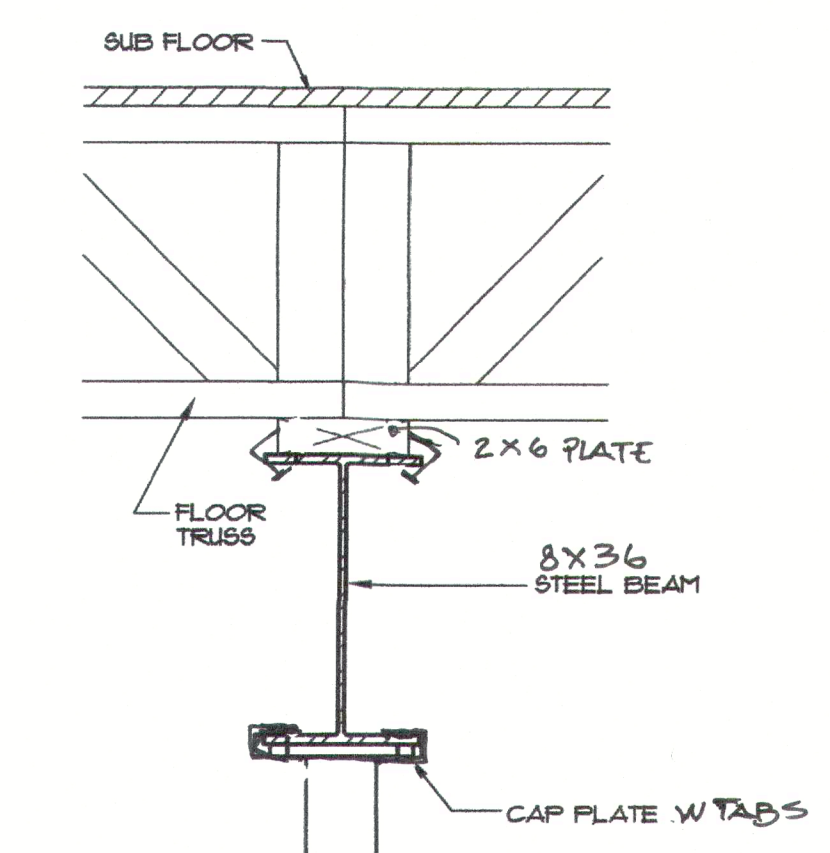
DETAIL AT THICKENED SLAB

3/4" = 1'-0"



COLUMN BASE PLATE DETAIL

3/4" = 1'-0"



SECTION

1 1/2" = 1'-0"

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DESIGN NO. 151-A-T
 SHEET OF 5 DR LUS
 FOUNDATION PLAN

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DOOR SCHEDULE				SYMBOL
MARK	SIZE	QUAN.	DESCRIPTION	
1	3'-0" x 6'-8"	1	EXT. FULL GLASS W/ ARCHED TRANSOM, 12" SIDELITES	
2	(2) 2'-6" x 6'-8"	1	EXT. FULL GLASS W/ 12" TRANSOM #	
3	2'-8" x 6'-8"	1	EXT. 1 HOUR FIRE-RATED	
4	2'-8" x 6'-8"	6	INT.	
5	2'-4" x 6'-8"	2	INT.	
6	2'-0" x 6'-8"	4	INT.	
7	1'-6" x 6'-8"	2	INT.	
8	(2) 2'-0" x 6'-8"	2	INT.	
9	16'-0" x 7'-0"	1	GARAGE	

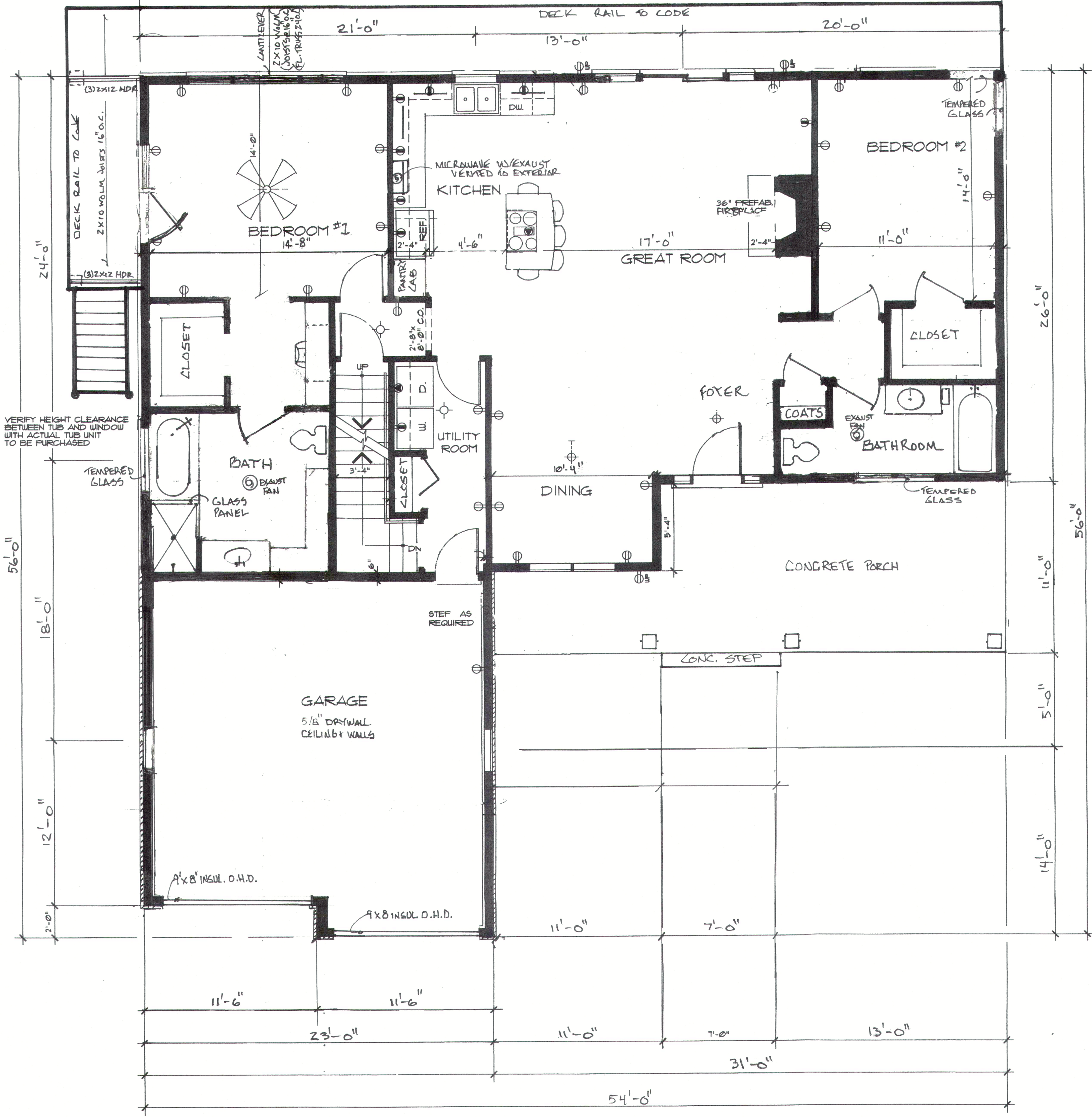
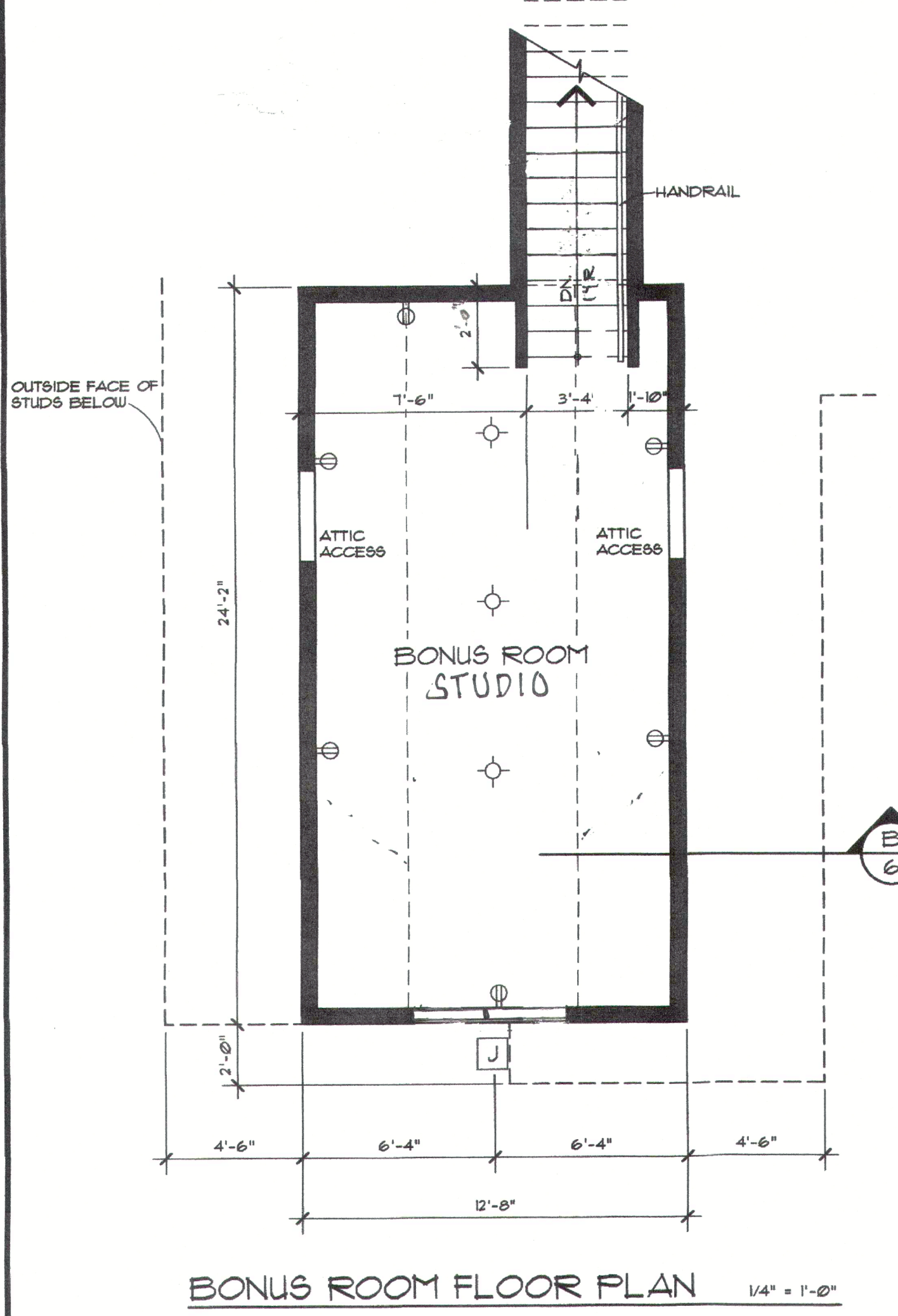
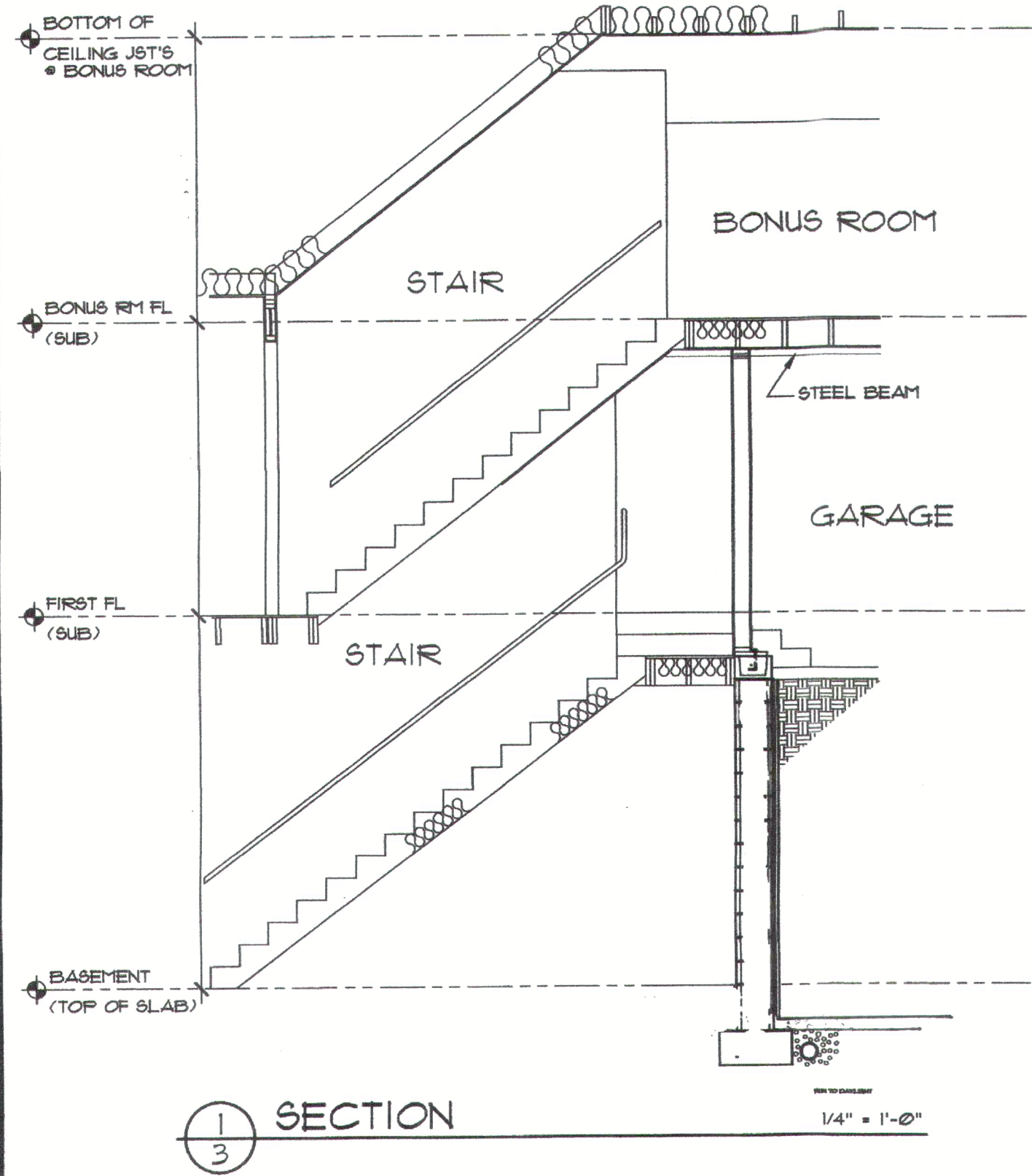
SEE ELEVATION FOR TRANSOM.

WINDOW SCHEDULE				SYMBOL
MARK	SIZE	QUAN.	DESCRIPTION	
A	(2) 2'-4" x 5'-2"	2	DH	
B	3'-0" x 4'-6"	1	DH, ARCH TOP	
C	(2) 2'-8" x 6'-2"	3	DH	
D	2'-8" x 4'-6"	1	DH	
E	2'-8" x 6'-2"	4	DH	
F	2'-8" x 4'-2"	1	DH	
G	4'-0" x 6'-2"	1	FIXED	
H	6'-0" x 2'-6"	1	FIXED, ARCH TOP	
J	2'-4" x 4'-2"	1	DH, ARCH TOP	

ALL WINDOWS ARE INSULATED AND WEATHERSTRIPPED.
 VERIFY LOCAL CODE EGRESS WINDOW REQUIREMENTS PRIOR TO CONSTRUCTION WINDOW MANUFACTURER TO PROVIDE TEMPERED GLASS WHERE REQUIRED BY CODE.

ELECTRICAL LEGEND	
SYMBOL	DESCRIPTION
	DUPLEX OUTLET (GROUNDED TYPE)
	WEATHER PROOF DUPLEX OUTLET
	ABOVE COUNTER LOCATION
	FLUSH FLOOR DUPLEX OUTLET, OWNER VERIFY LOCATION
	220 VOLT OUTLET OR CONNECTION
	CEILING MOUNTED LIGHT FIXTURE
	WALL BRACKET MOUNTED LIGHT FIXTURE
	SUSPENDED CEILING MOUNTED LIGHT FIXTURE
	RECESSED DIRECTIONAL CEILING LIGHT FIXTURE
	RECESSED CEILING LIGHT FIXTURE
	RECESSED LIGHT FOR WET AREA
	UNDER COUNTER FLUORESCENT LIGHT
	EXTERIOR CAST ALUMINUM FLOOD LIGHTS
	CEILING MOUNTED PADDLE FAN w/ LIGHT
	CEILING MOUNTED FAN - EXHAUST
	CEILING MOUNTED FAN AND HEATER
	CEILING MOUNTED FAN, LIGHT, AND HEATER

- PLAN NOTES:**
- VERIFY ALL LOCAL CODES, ENERGY TYPES, AND SITE CONDITIONS PRIOR TO CONSTRUCTION. THE OWNER AND BUILDER SHALL BE SOLELY RESPONSIBLE FOR CODE COMPLIANCE.
 - REVIEW SELECTED MECHANICAL SYSTEMS WITH OWNER PRIOR TO CONSTRUCTION.
 REVIEW SUB-CONTRACTORS LOCATIONS OF THE WATER HEATER AND HVAC UNITS WITH THE OWNER PRIOR TO CONSTRUCTION. ENSURE COMPLIANCE WITH LOCAL BUILDING CODE REQUIREMENTS AND MANUFACTURER REQUIREMENTS.
 - SEE STRUCTURAL DRAWINGS FOR ADDITIONAL INFORMATION.
 - INSULATE AROUND ALL BATHS AND UTILITY ROOM.
 - TYPICAL INTERIOR WALL, 2x4'S @ 16" O.C., UNLESS OTHERWISE DIMENSIONED.
 - TYPICAL EXTERIOR WALL, 2x6'S @ 16" O.C., UNLESS OTHERWISE DIMENSIONED.
 - PROVIDE SMOKE DETECTORS AS REQUIRED BY CODE.
 - PROVIDE DOORBELLS, TRANSFORMER, AND CHIME.



TOTAL LIVING	
GARAGE	sq. ft.
BONUS ROOM	sq. ft.
BASEMENT	sq. ft.

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DESIGN NO. 151-A1
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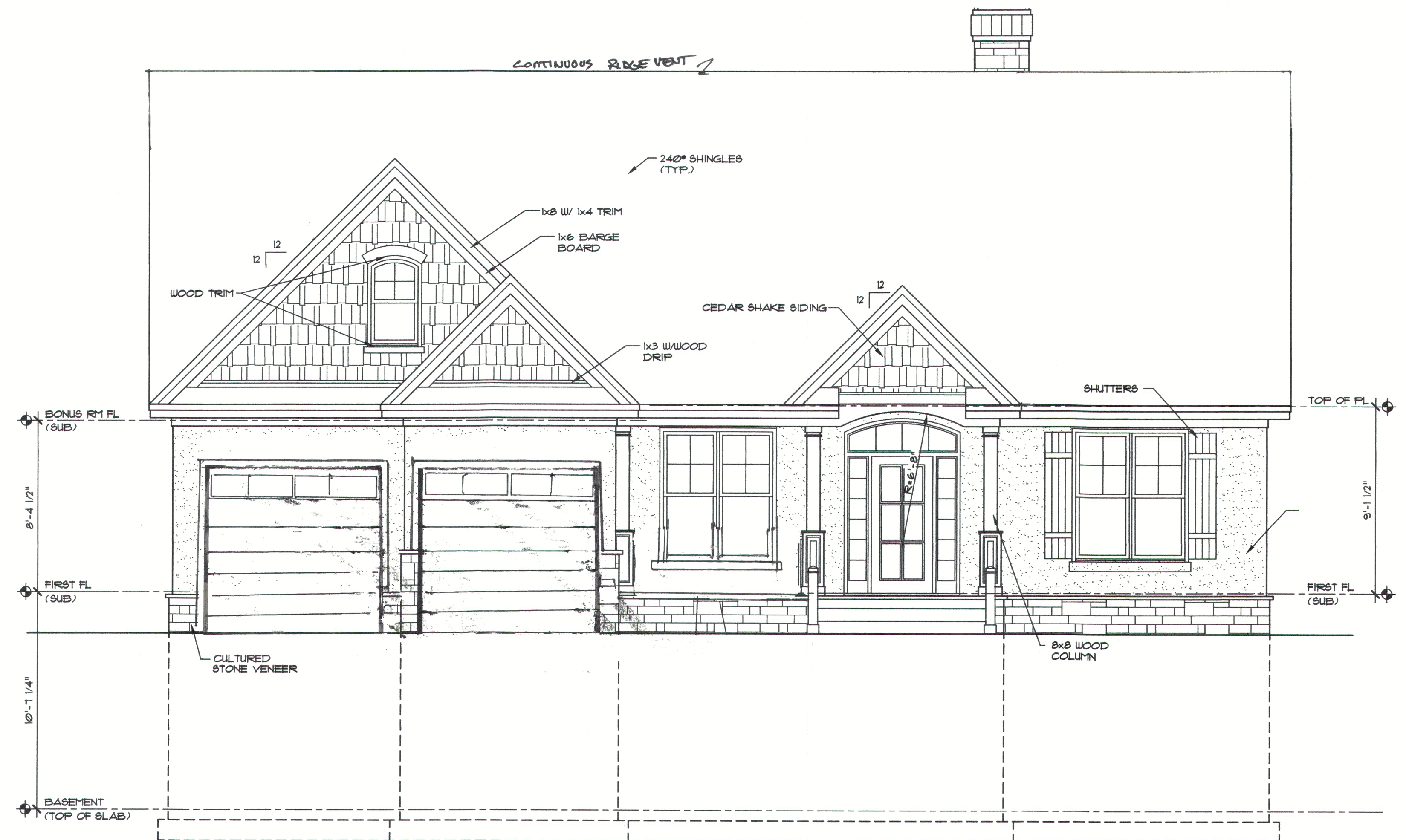
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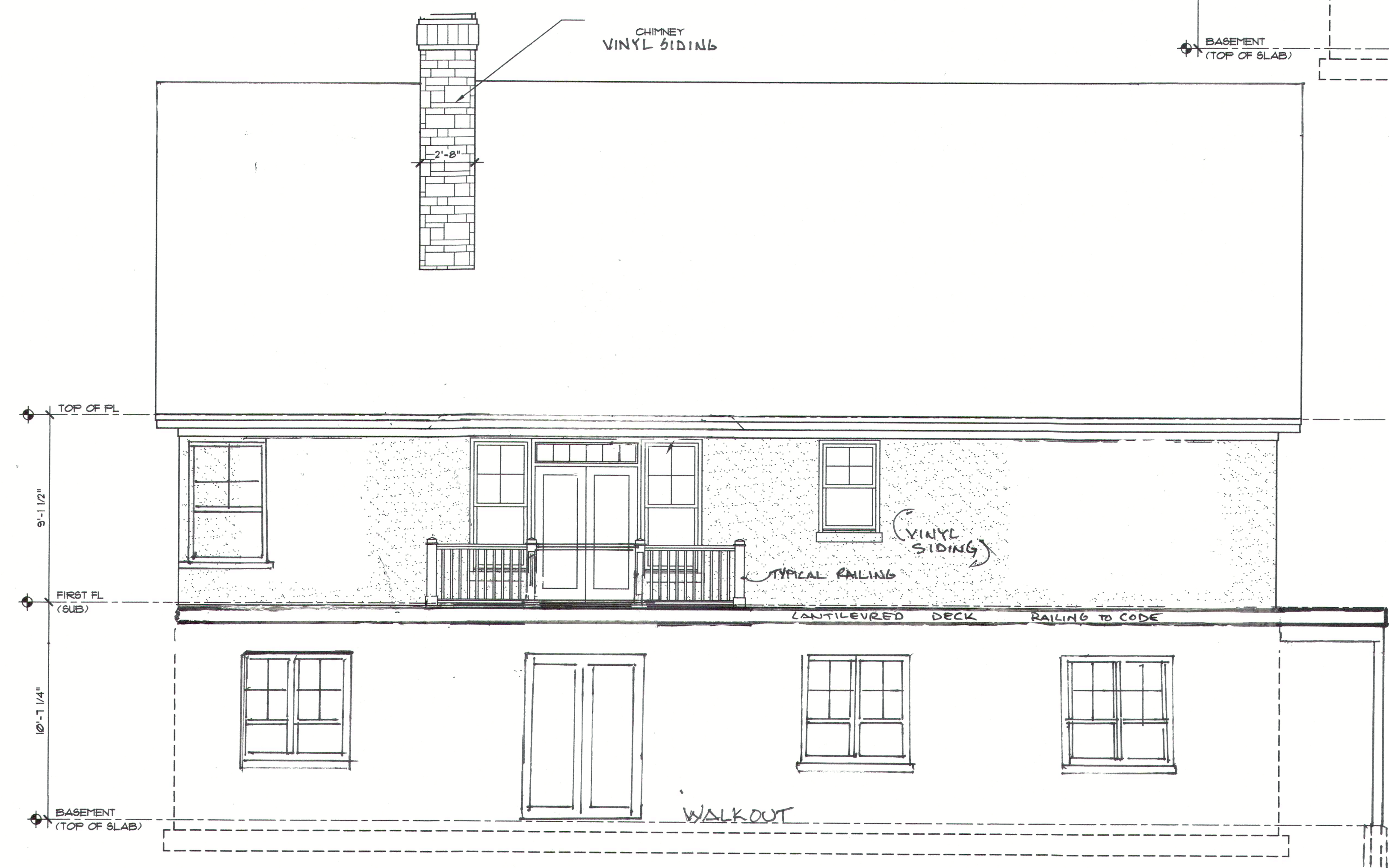
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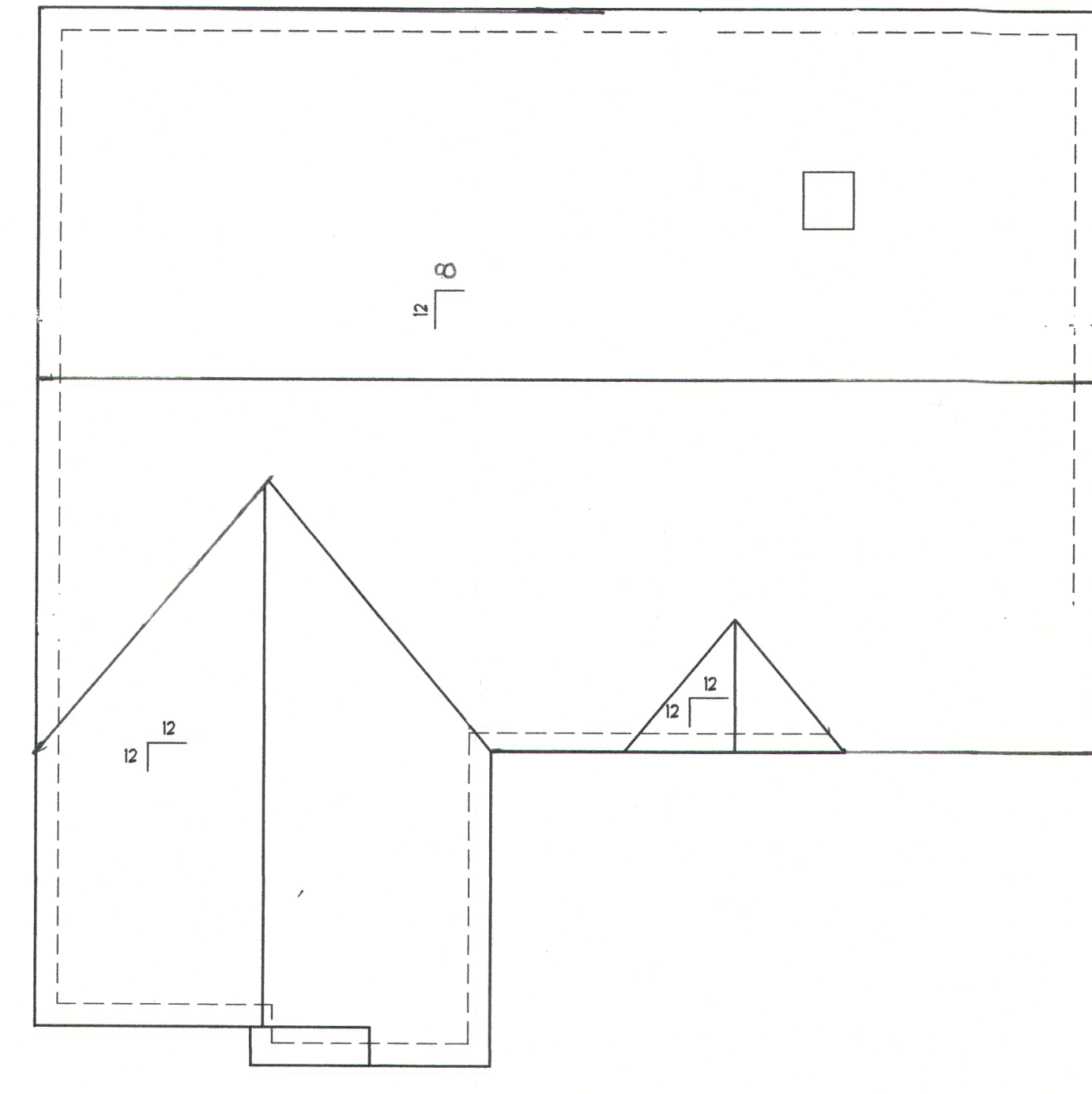
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FRONT ELEVATION 1/4" = 1'-0"



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



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

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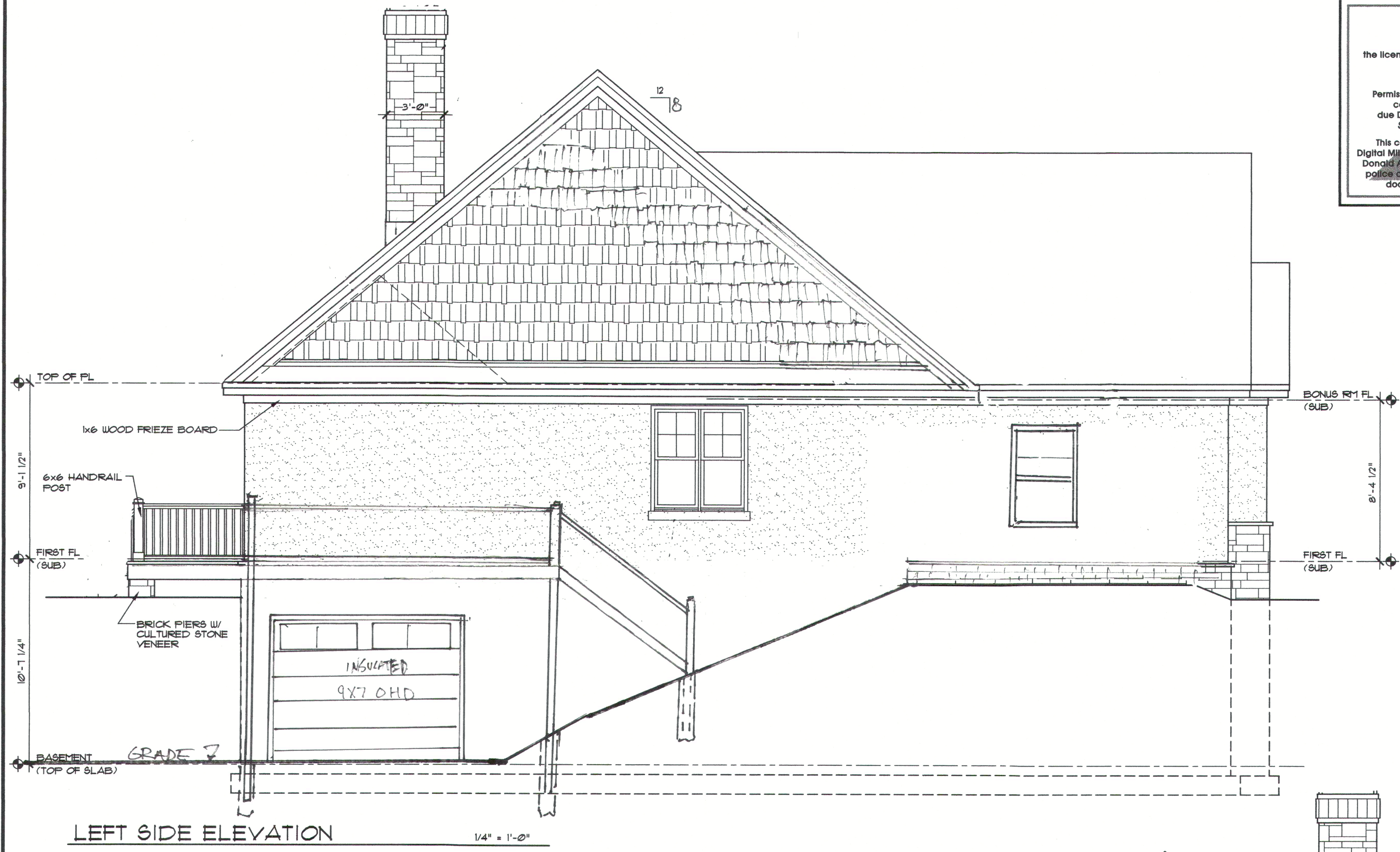
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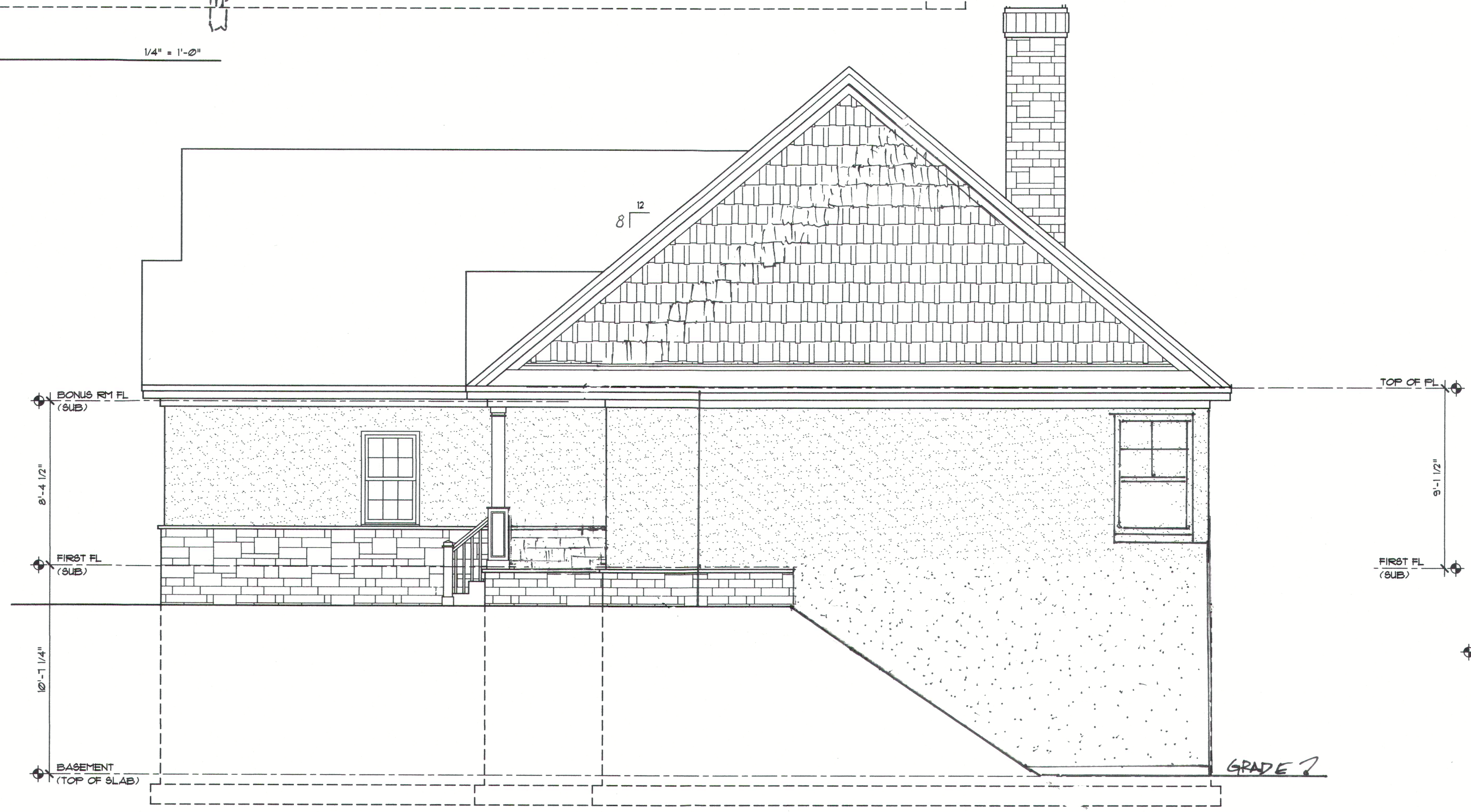
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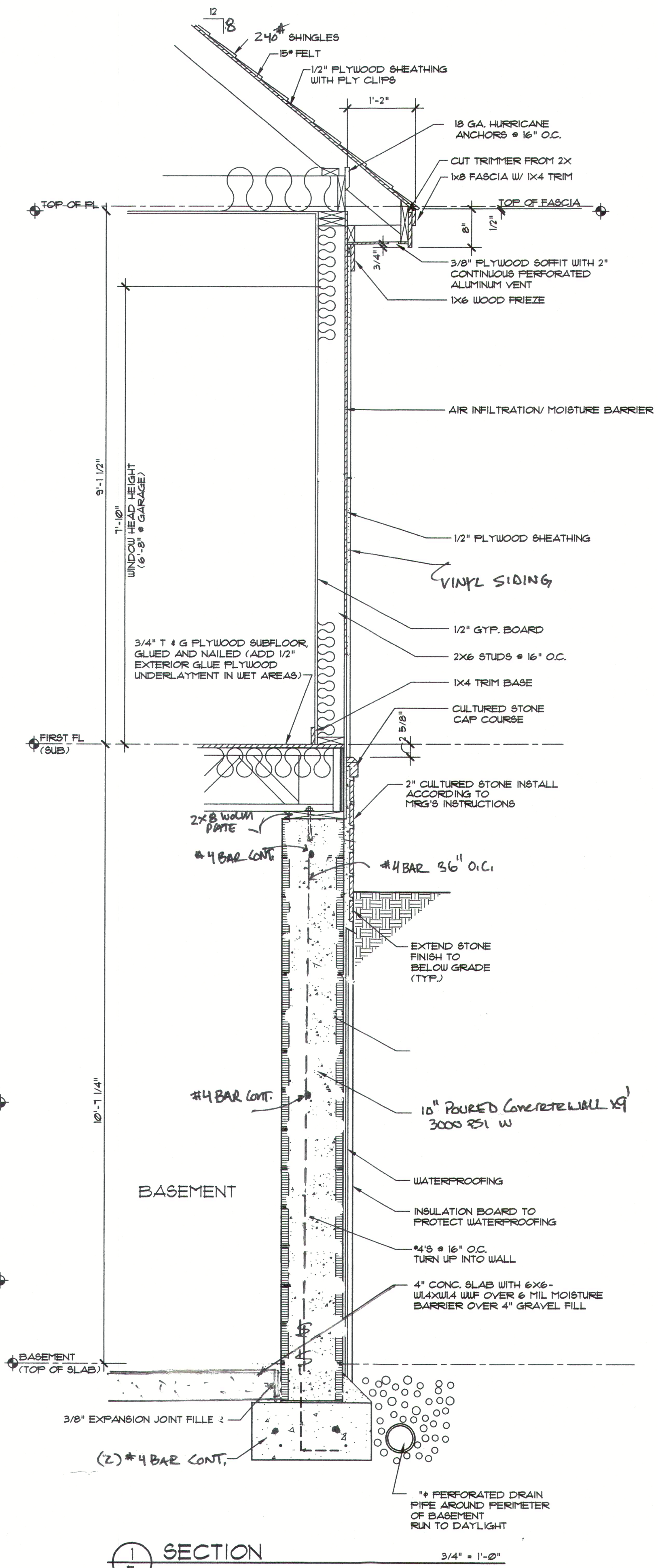
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LEFT SIDE ELEVATION 1/4" = 1'-0"



RIGHT SIDE ELEVATION 1/4" = 1'-0"



SECTION 1/4" = 1'-0"

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DESIGN NO. 157-A1
 SHEET OF 5 LWS
 ELEVATIONS
 1 SECTION

From: [David Leach](#)
To: [Amy Ruthig](#)
Subject: Skolarus variance request
Date: Tuesday, March 9, 2021 8:29:02 AM

Regarding the Skolarus zoning variance request, there have been some substantial concerns in that part of the neighborhood for several years regarding the narrow driveway which creates an inability for trucks, and of more concern, emergency vehicles to turn around once they are in the neighborhood and the piece of property she is proposing to build on is the only place left for these vehicles to use as a turn around without having to back down the very steep hill that leads to the back portion of the neighborhood.

In addition, the developer that bought, split and sold the lots from the original 29 acre parcel that comprises this neighborhood wanted to create additional lots and was denied the opportunity to do so and then magically, as soon as Skolarus, the Township Clerk bought property here she was approved for the splits the developer was denied.

Is that really the reputation you want among the township's constituency??

While this situation doesn't directly affect us, I would be vociferously against it if I lived back there.

This request should be denied for multiple reasons.

David Leach

--

David Leach
248-760-0015
daleach236@gmail.com

Grantor	Grantee	Sale Price	Sale Date	Inst. Type	Terms of Sale	Liber & Page	Verified By	Prcnt. Trans.			
Property Address		Class: RESIDENTIAL-VACANT		Zoning: LDR	Building Permit(s)	Date	Number	Status			
CHALLIS CT		School: BRIGHTON AREA SCHOOLS									
		P.R.E. 100% 04/24/1995									
Owner's Name/Address		MAP #: V21-04									
SKOLARUS, PAULETTE & LOLLIO, KELLY LYNN 6520 CHALLIS RD BRIGHTON MI 48116		2021 Est TCV 51,260									
		Improved	X	Vacant	Land Value Estimates for Land Table 4501.BRIGHTON M & B						
Tax Description		Public Improvements		* Factors *				Value			
SEC 26 T2N R5E COMM N 1/4 COR TH N88*E 33 FT TO POB TH N88*E 33 FT TH SOUTH 581 FT TH N88*E 300 FT TH S35*E 246.99 FT TO CENTERLINE OF A PRIVATE ROAD EASEMENT TH ALONG SAID CENTERLINE SW'LY 382.01 FT AND NW'LY 305.66 FT AND NORTH 680 FT TO THE N'LY END OF SAID EASEMENT AND THE POB CONT. 3.02 AC M/L CORR 6/99 OF SPLIT 020 (025) 10/97 TVF A-3		Dirt Road		Description	Frontage	Depth	Front	Depth	Rate %Adj.	Reason	Value
		Gravel Road		WETLANDS			3.020	Acres	16,974	100	51,260
		Paved Road		3.02 Total Acres				Total Est. Land Value =		51,260	
		Storm Sewer									
		Sidewalk									
		Water									
		Sewer									
		Electric									
		Gas									
		Curb									
		Street Lights									
		Standard Utilities									
		Underground Utils.									
Comments/Influences		Topography of Site									
		Level									
		Rolling									
		Low									
		High									
		Landscaped									
		Swamp									
		Wooded									
		Pond									
		Waterfront									
		Ravine									
		Wetland									
		Flood Plain									
		Year	Land Value	Building Value	Assessed Value	Board of Review	Tribunal/Other	Taxable Value			
Who		When	What	2021	25,600	0	25,600		18,354C		
				2020	25,600	0	25,600		18,101C		
				2019	25,600	0	25,600		17,764C		
				2018	25,600	0	25,600		17,348C		

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*** Information herein deemed reliable but not guaranteed***

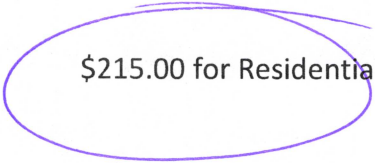


GENOA CHARTER TOWNSHIP VARIANCE APPLICATION
 2911 DORR ROAD | BRIGHTON, MICHIGAN 48116
 (810) 227-5225 | FAX (810) 227-3420

Case # 21-05 Meeting Date: March 16, 2021

PAID Variance Application Fee

8:30pm



\$215.00 for Residential | \$300.00 for Sign Variance | \$395.00 for Commercial/Industrial

Applicant/Owner: RON & SARA BOMBERGER Email: RON.BOMBERGER@MYBOBS.COM
 Property Address: 4182 HIGHCREST Phone: 401-524-5087
 Present Zoning: LRR Tax Code: 11-22-302-173

ARTICLE 23 of the Genoa Township Zoning Ordinance describes the Variance procedure and the duties of the Zoning Board of Appeals.

Each application for Variance is considered individually by the ZBA. The ZBA is a board of limited power; it cannot change the Zoning Ordinance or grant relief when it is possible to comply with the Zoning Ordinance. It may provide relief where due to unique aspects of the property with strict application of the zoning ordinance to the land results in practical difficulties or unnecessary hardship.

The applicant is responsible for presenting the information necessary to support the relief requested. While much of the necessary information is gathered through the completed application, other information may be gathered by on-site visits, other sources, and during the ZBA meeting. ZBA members, township officials and township staff may visit the site without prior notification to property owners.

Failure to meet the submittal requirements and properly stake the property showing all proposed improvements may result in postponement or denial of this petition.

Please explain the proposed variance below:

1. Variance requested/intended property modifications: 1) FRONTYARD VARIANCE OF 7'-0". FROM 35' TO 28' 2) SIDEYARD VARIANCE OF 12". FROM 5' TO 4'.



GENOA CHARTER TOWNSHIP VARIANCE APPLICATION
 2911 DORR ROAD | BRIGHTON, MICHIGAN 48116
 (810) 227-5225 | FAX (810) 227-3420

Case # _____ Meeting Date: _____

PAID Variance Application Fee

\$215.00 for Residential | \$300.00 for Sign Variance | \$395.00 for Commercial/Industrial

Applicant/Owner: Ron & Sara Bomberger Email: R.O.BOMBERGER@MYBOBS.COM

Property Address: 4182 HIGHLREST Phone: 401-524-5087

Present Zoning: L.R.R. Tax Code: _____

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[Signature] 2-13-2021
Sara Messier Bomberger 2-13-2021

The following is per Article 23.05.03 of the Genoa Township Ordinance:

Criteria Applicable to Dimensional Variances. No variance in the provisions or requirements of the Ordinance shall be authorized by the Board of Appeals unless it is found from the evidence that all of the following conditions exist:

Under each please indicate how the proposed project meets each criteria.

Practical Difficulty/Substantial Justice. Compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk, density, or other dimensional provisions would unreasonably prevent the use of the property. Granting of a requested variance or appeal would do substantial justice to the applicant as well as to other property owners in the district and is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and vicinity of the subject parcel.

PLEASE SEE ATTACHED TEXT FOR DETAILED RESPONSES TO ALL FOUR ISSUES

Extraordinary Circumstances. There are exceptional or extraordinary circumstances or conditions applicable to the property or the intended use which are different than other properties in the same zoning district or the variance would make the property consistent with the majority of other properties in the vicinity. The need for the variance was not self-created by the applicant.

Public Safety and Welfare. The granting of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, comfort, morals or welfare of the inhabitants of the Township of Genoa.

Impact on Surrounding Neighborhood. The variance will not interfere with or discourage the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.

Any Variance not acted upon within 12 months from the date of approval is invalid and must receive a renewal from the Zoning Board of Appeals (ZBA).

After the decision is made regarding your Variance approval a land use permit will be required with additional site plan and construction plans.

Date: 2/23/21 Signature: [Handwritten Signature]

Practical Difficulty / Substantial Justice

Compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk, density, or other dimensional provisions would unreasonably prevent the use of the property. Granting of a requested variance or appeal would do substantial justice to the applicant as well as to other property owners in the district and is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and vicinity of the subject parcel.

Frontyard variance: This phrase summarizes our condition exactly, "necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties". Our site is in the middle of a string of eight properties, all with very similar size and shape. We are requesting a similar consideration afforded to all of them.

A simple average of the neighboring homes relative to the road is 33.86'. That dimension, translated to our site, would produce a frontyard setback variance of 7'-5", we are requesting slightly less at 7'. Our variance request aligns us perfectly with the neighboring properties, and yields a substantial property right similar to that possessed by other properties.

Sideyard variance: Our neighbor on the right side, the north side, is built 27" from our lot line at the front corner and 21" from our lot line at the rear. The southern neighbor is significantly further from the lot line at 8'-9". We understand that the process of construction is not enjoyable for our neighbors. With that in mind, we plan on using the right side of the lot to move materials and equipment back and forth. Locating the house to the left, even 12", allows use to center our house a little between the two neighbors. For our neighbor to the south, that means that our encroachment upon them during construction is likely to only be a man on a ladder, all of the real heavy movement being carried out on the right side.

Extraordinary Circumstances

There are exceptional or extraordinary circumstances or conditions applicable to the property or the intended use which are different than other properties in the same zoning district or the variance would make the property consistent with the majority of properties in the vicinity, The need for the variance was not self-created by the applicant.

Frontyard variance: Again, this phrase summarizes our condition exactly, "the variance would make the property consistent with the majority of properties in the vicinity". Our lot has a steep drop from about its midpoint toward the water's edge, I'm sure obvious upon a site visit. By moving the house toward the road, even just 7', our building condition improves greatly as we avoid the expense and difficulty of dealing with the steepest portion of the lot. Our request carefully considers the condition of neighboring properties, and creates a roughly equal and

consistent circumstance from one property to the next as described in the previous answer. The natural grade was certainly not self created by the applicant.

Sideyard variance: The extreme closeness of the northern neighbor has generated this request. We think it pays dividends now & later. Early on this 12" variance makes the construction process a little easier for us and our neighbors, and upon completion the three homes are slightly more consistent in their spacing. This is a good faith effort to serve all three properties during construction and leave all three parties on friendly terms upon completion.

Public Safety and Welfare

The granting of the variance will not impair and adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, comfort, morals or welfare of the inhabitants of the Township of Genoa.

The site will be used for a private residence, as all others in our vicinity, and not a threat to any of the conditions listed above. Both variances requests produce conditions very much in keeping with the pattern of property development in this neighborhood.

Impact on Surrounding Neighborhood

The variance will not interfere with or discourage the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.

The site will be used for a private residence, promoting the further development of the neighborhood. Our request is completely reactionary to conditions of our and neighboring lots. We are not asking for unreasonable or extraordinary conditions, just a reflection of our neighbor's circumstances. Lastly, our development of this lot will significantly increase the value for both neighboring properties.



MEMORANDUM

TO: Genoa Township Zoning Board of Appeals
FROM: Amy Ruthig, Zoning Official
DATE: March 10, 2021

RE: ZBA 21-05

2911 Dorr Road
Brighton, MI 48116
810.227.5225
810.227.3420 fax
genoa.org

STAFF REPORT

File Number: ZBA#21-05
Site Address: 4182 Highcrest Drive, Brighton
Parcel Number: 4711-22-302-173
Parcel Size: .211 Acres
Applicant: Ron and Sara Bomberger
Property Owner: Sara Bomberger, 4182 Highcrest Drive, Brighton, MI

Information Submitted: Application, site plan, conceptual drawings

Request: Dimensional Variances

Project Description: Applicant is requesting front and side yard setback variances to demolish and construct a new single family home.

Zoning and Existing Use: LRR (Lakeshore Resort Residential) Single Family Dwelling located on property.

Other:

Public hearing was published in the Livingston County Press and Argus on Sunday February 28, 2021 and 300 foot mailings were sent to any real property within 300 feet of the property in accordance with the Michigan Zoning Enabling Act.

Background

The following is a brief summary of the background information we have on file:

- Per assessing records the existing home was constructed in 1974.
- In 2020, was land use waiver was issued for the demolition of the home.
- The parcel is serviced by a well and public sewer.
- See Assessing Record Card.

SUPERVISOR

Bill Rogers

CLERK

Paulette A. Skolarus

TREASURER

Robin L. Hunt

TRUSTEES

Jean W. Ledford

H. James Mortensen

Terry Croft

Diana Lowe

MANAGER

Michael C. Archinal

The proposed project is to demolish the existing home and construct a new single family home. In order to construct the new home as proposed, the applicant is required to obtain a front and side yard setback variance.

Variance Requests

The following is the section of the Zoning Ordinance that the variance is being requested from:

Table 3.04.01 (LRR District):

Table 3.04.01 LRR District	Front Yard Setback	Side Yard Setback
Requirement	35'	5'
Request	28'	4'
Variance Amount	7'	1'

Summary of Findings of Fact- After reviewing the application and materials provided, I offer the possible findings of fact for your consideration:

Please note that in order for a variance to be approved it has to meet all of the standards in 23.05.03.

- (a) Practical Difficulty/Substantial Justice** –Strict compliance with the front and side yard setbacks would prevent the applicant from constructing the proposed new single family home. There are other homes in the vicinity with reduced front and side yard setbacks would support substantial justice and is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same vicinity of the subject parcel.
- (b) Extraordinary Circumstances** – The exceptional or extraordinary condition of the property is the narrowness of the lot. The need for the front and side yard setback variances is not self-created and seems to be the least amount necessary.
- (c) Public Safety and Welfare** – The granting of the variances will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, comfort, morals or welfare of the inhabitants of the Township of Genoa.
- (d) Impact on Surrounding Neighborhood** – The proposed variances would have little or no impact on the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.

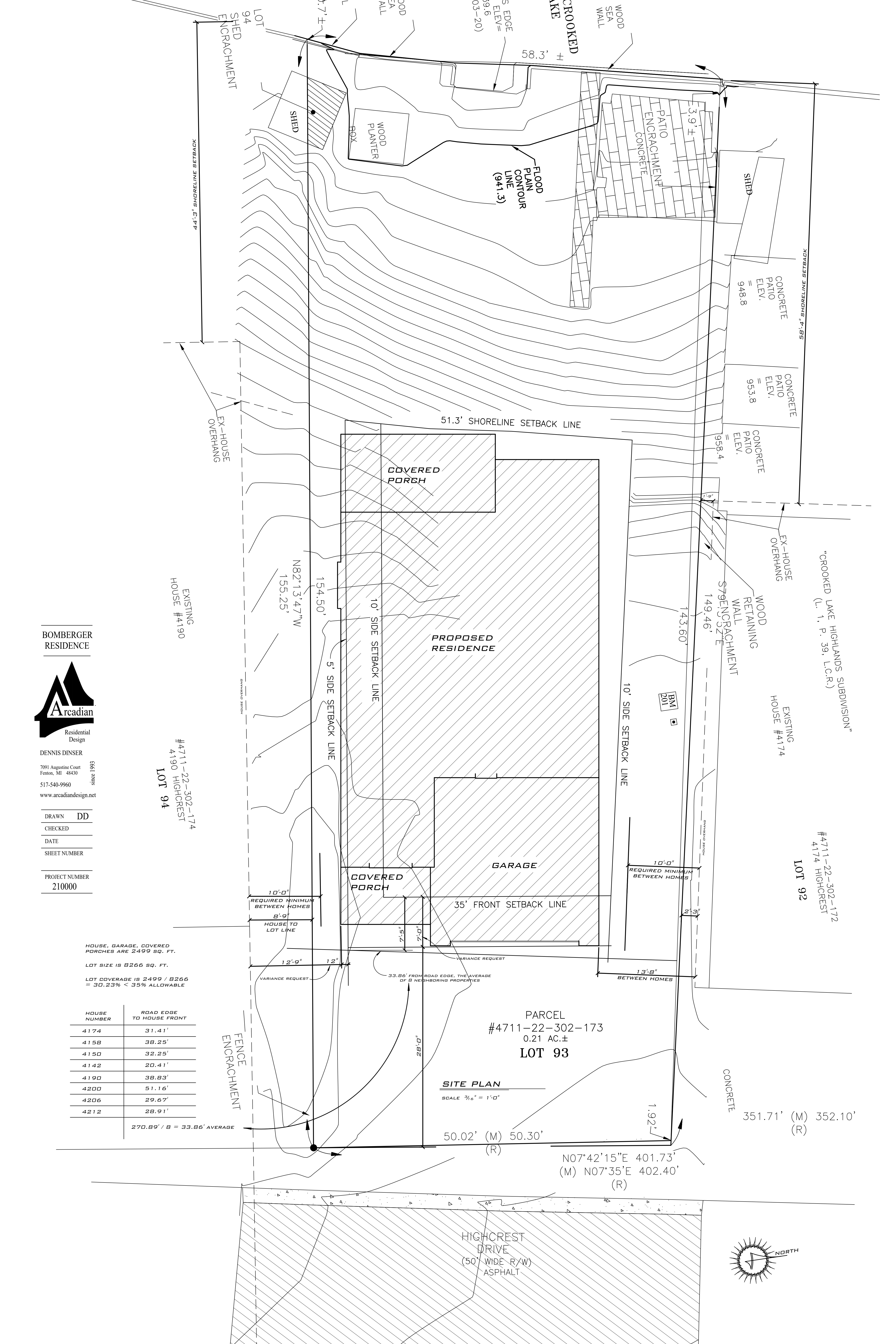
Recommended Conditions

If the Zoning Board of Appeals grants the variance requests staff recommends the following conditions be placed on the approval.

1. Structure must be guttered with downspouts.
2. The applicant must contact the MHOG Utility Dept. in regards to the sewer disconnect and if relocating the grinder, must receive MHOG Utility Dept. approval for new location prior to land use permit issuance.

GENOA TOWNSHIP





BOMBERGER RESIDENCE



DENNIS DINSER
 7091 Augustine Court
 Fenton, MI 48430
 517-540-9960
 www.arcadiandesign.net

DRAWN DD
 CHECKED
 DATE
 SHEET NUMBER

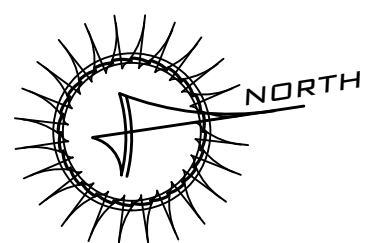
PROJECT NUMBER
 210000

HOUSE, GARAGE, COVERED PORCHES ARE 2499 SQ. FT.
 LOT SIZE IS 8266 SQ. FT.
 LOT COVERAGE IS 2499 / 8266 = 30.23% < 35% ALLOWABLE

HOUSE NUMBER	ROAD EDGE TO HOUSE FRONT
4174	31.41'
4158	38.25'
4150	32.25'
4142	20.41'
4190	38.83'
4200	51.16'
4206	29.67'
4212	28.91'
270.89' / 8 = 33.86' AVERAGE	

PARCEL #4711-22-302-173
 0.21 AC.±
LOT 93

SITE PLAN
 SCALE 3/16" = 1'-0"



EXISTING HOUSE #4190
 #4711-22-302-174
 4190 HIGHCREST
 LOT 94

EXISTING HOUSE #4174
 #4711-22-302-172
 4174 HIGHCREST
 LOT 92

"CROOKED LAKE HIGHLANDS SUBDIVISION"
 (L. 1, P. 39, L.C.R.)

LOT 94 SHED ENCROACHMENT

51.3' SHORELINE SETBACK LINE

EX-HOUSE OVERHANG

154.50'

155.25'

182'3"47"W

10' SIDE SETBACK LINE

5' SIDE SETBACK LINE

COVERED PORCH

WOOD SEA WALL

WOOD SEA WALL

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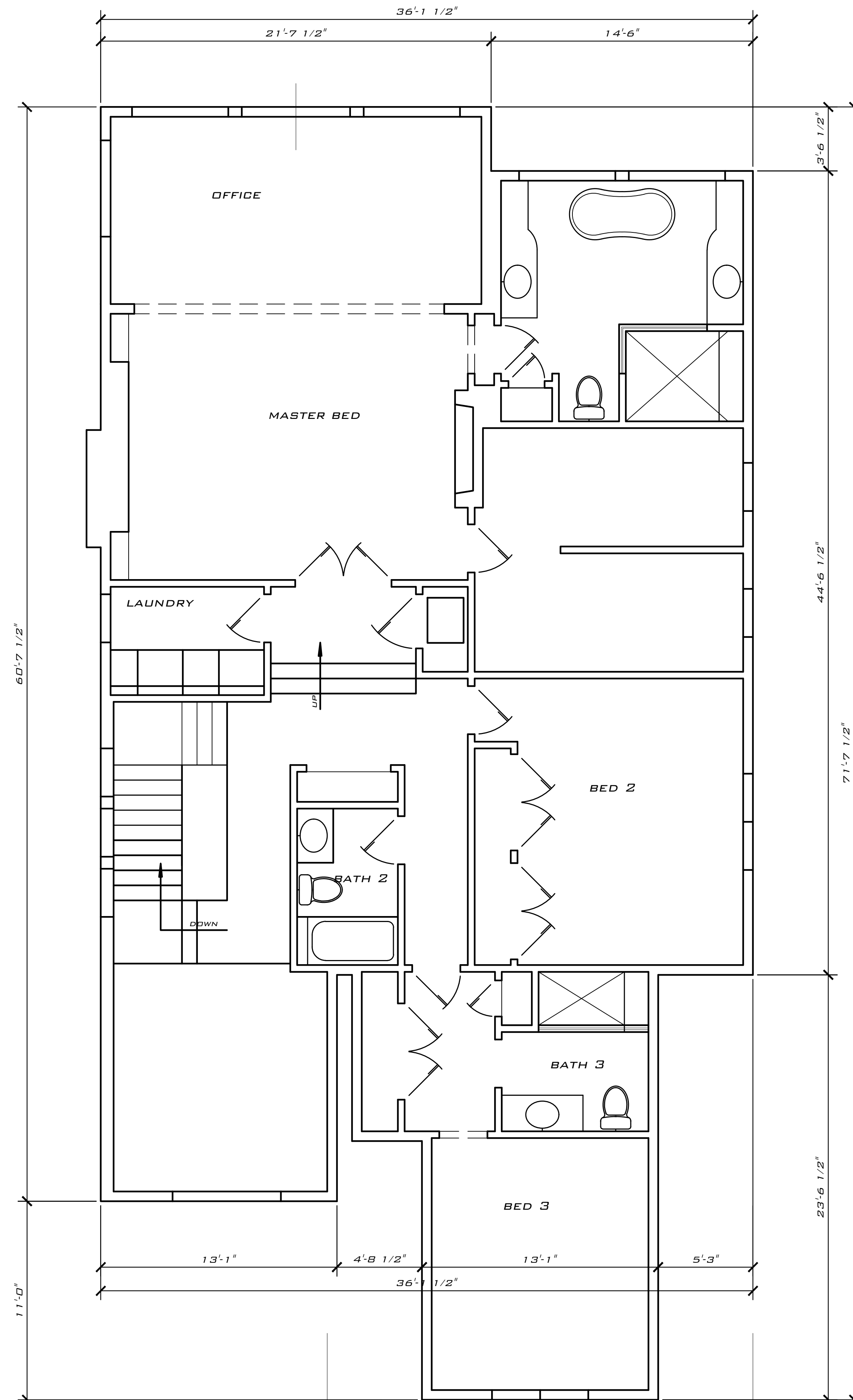
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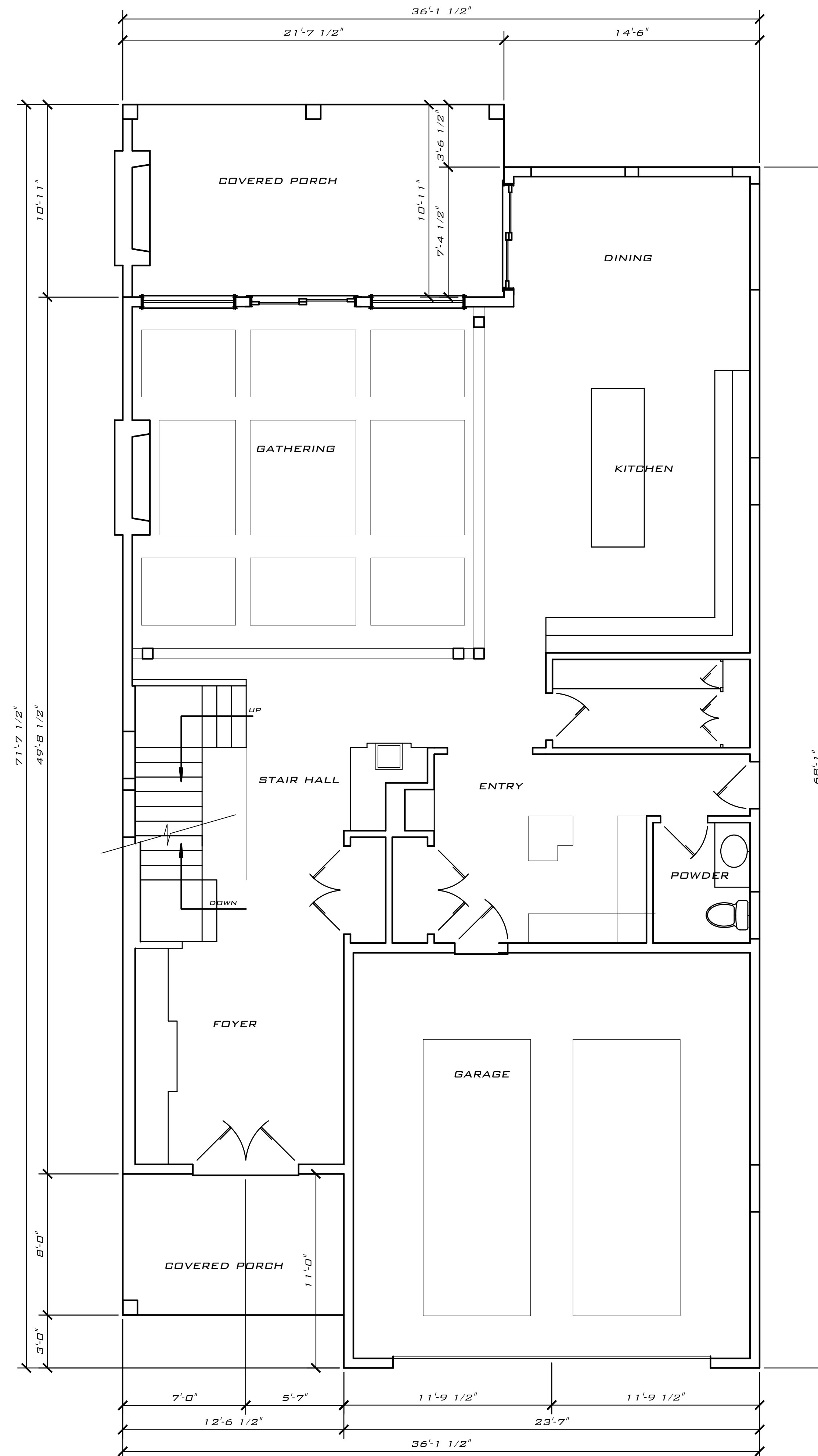
WOOD SEA WALL

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



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

BOMBERGER
RESIDENCE

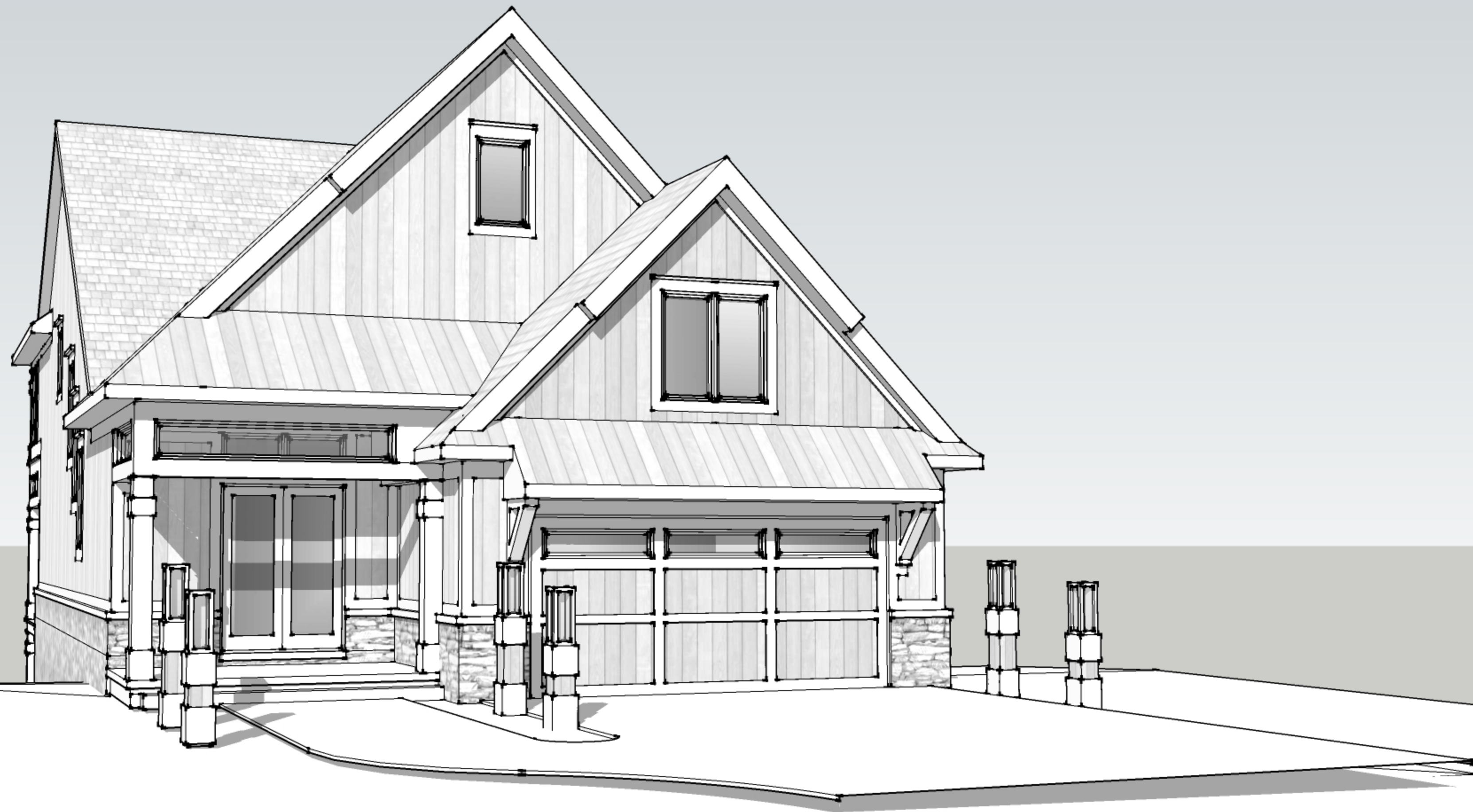


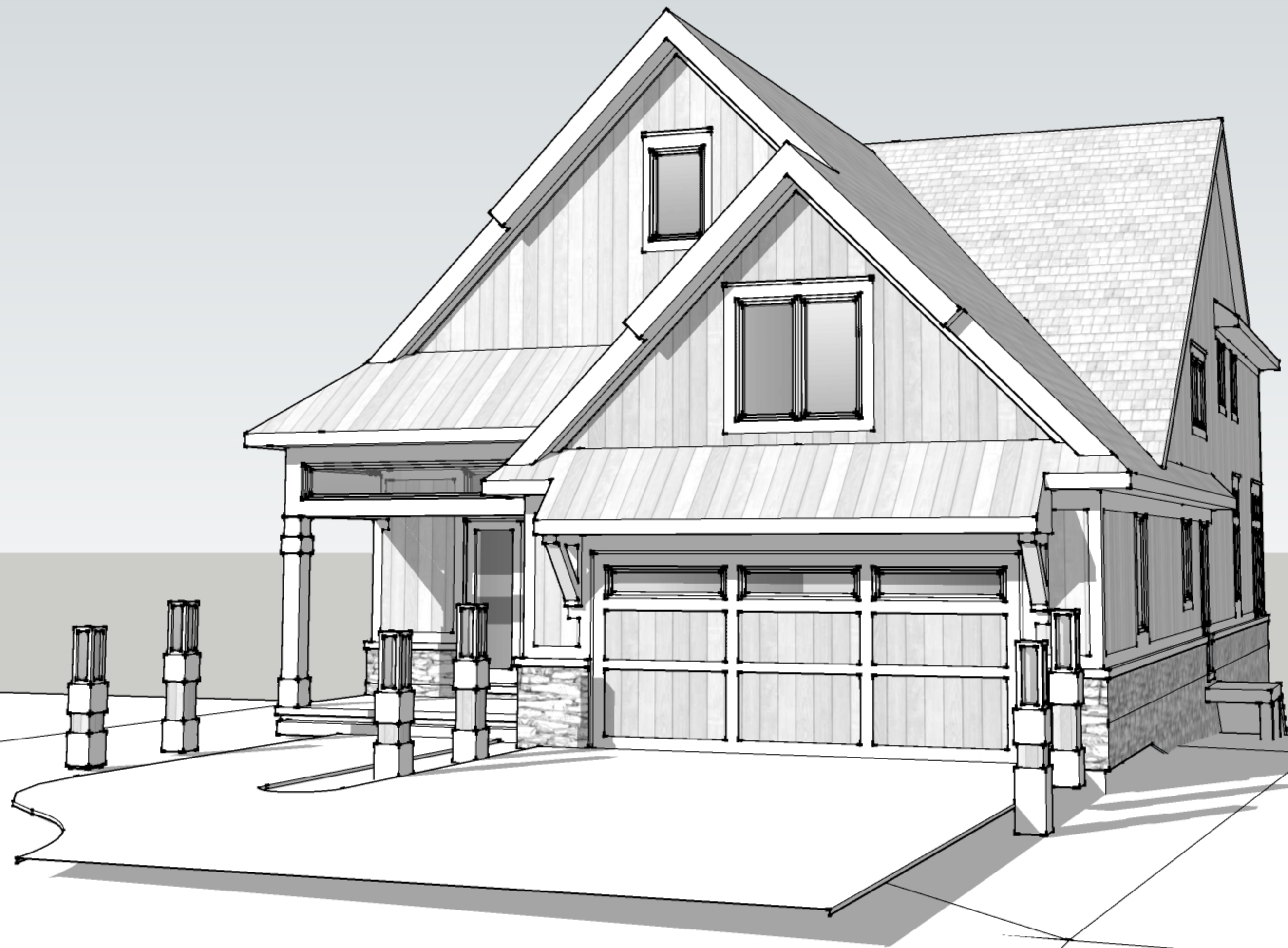
DENNIS DINSER
7091 Augustine Court
Fenton, MI 48430
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www.arcadiandesign.net

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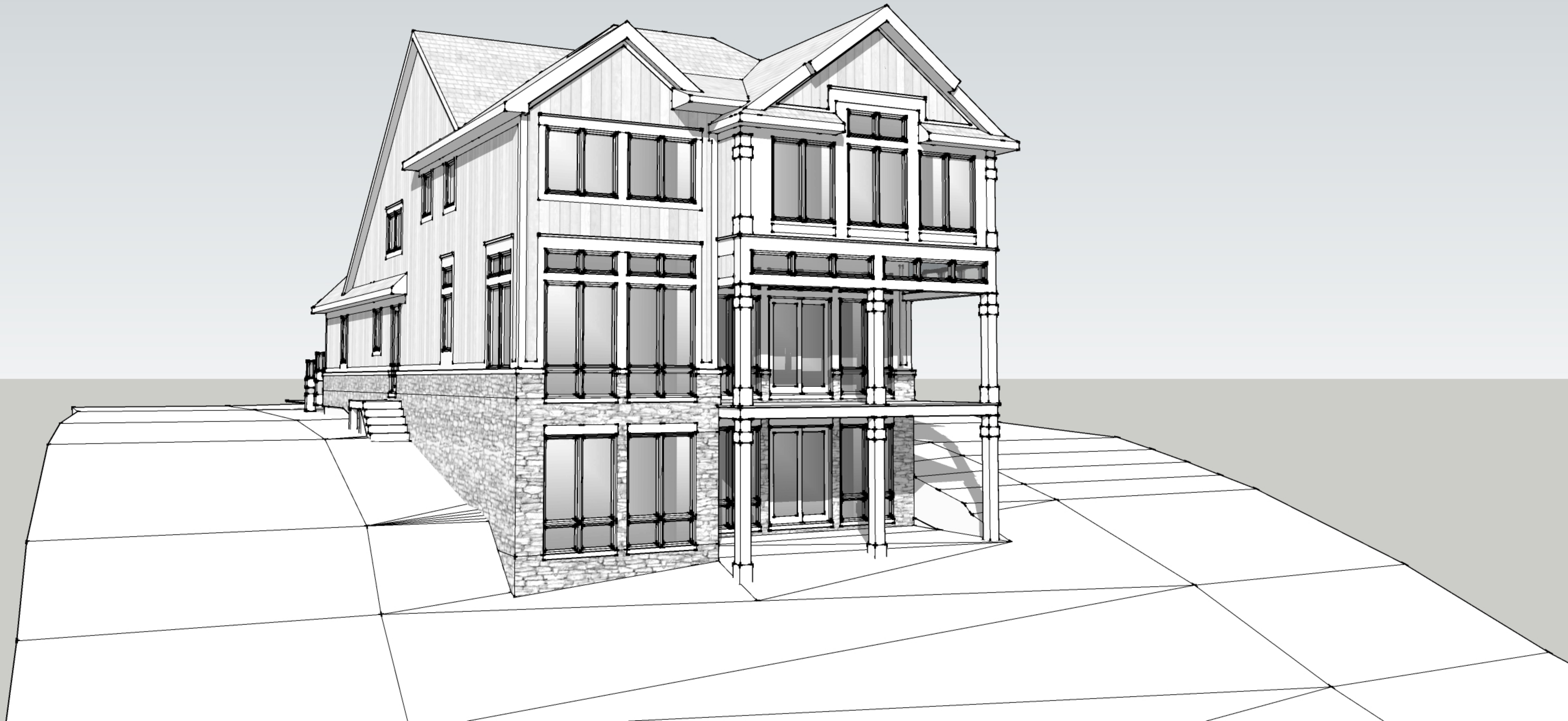


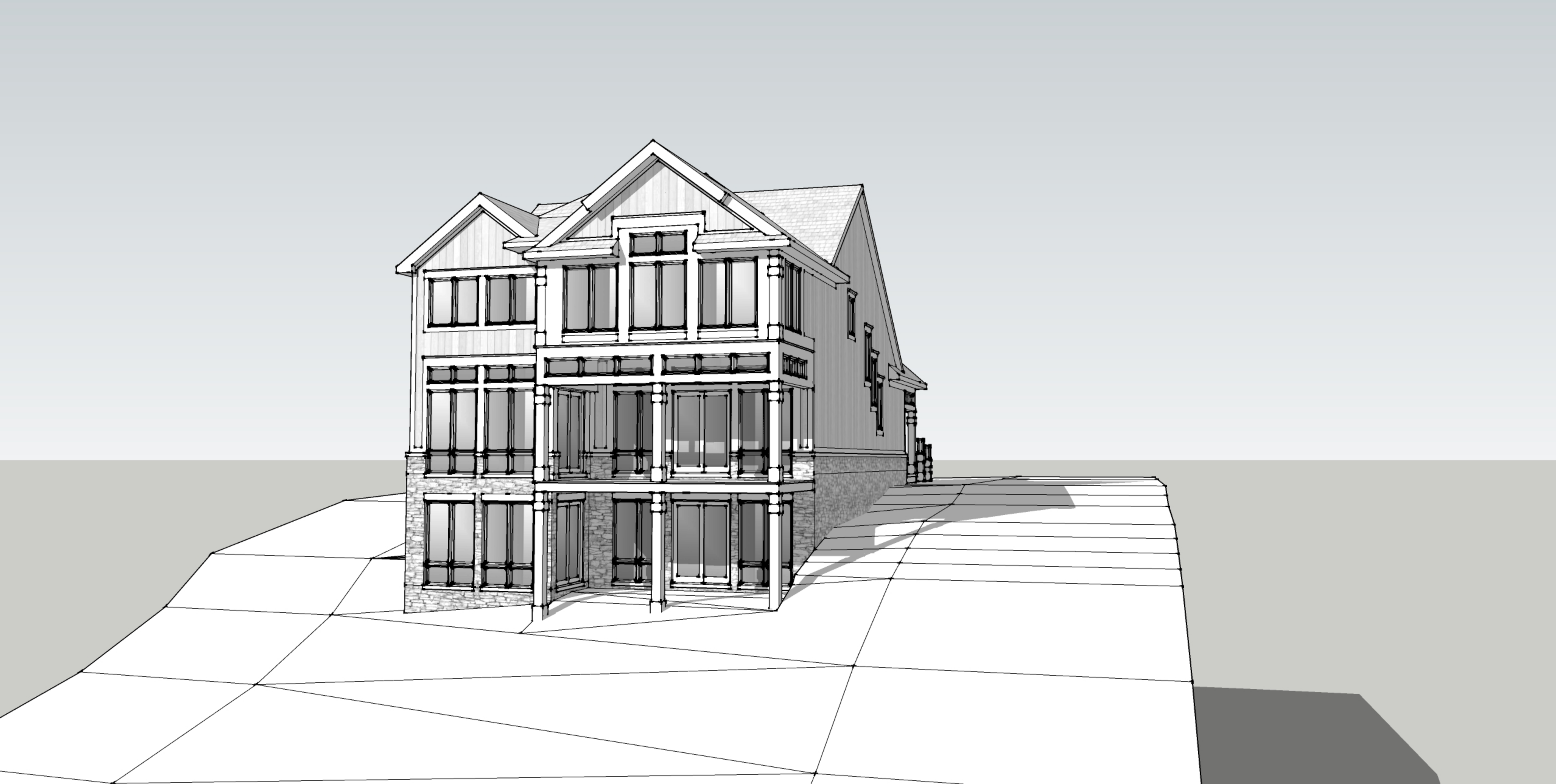


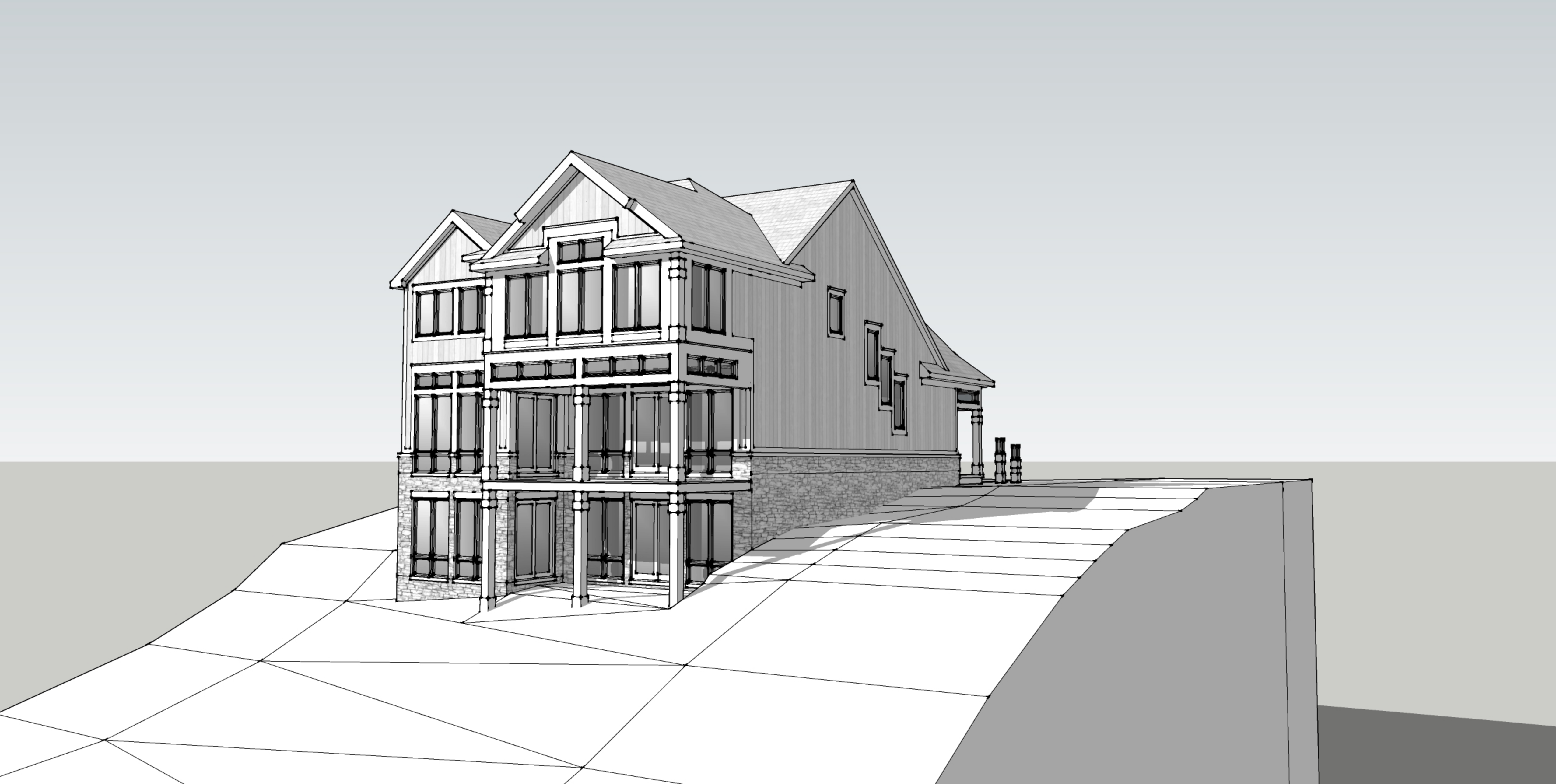










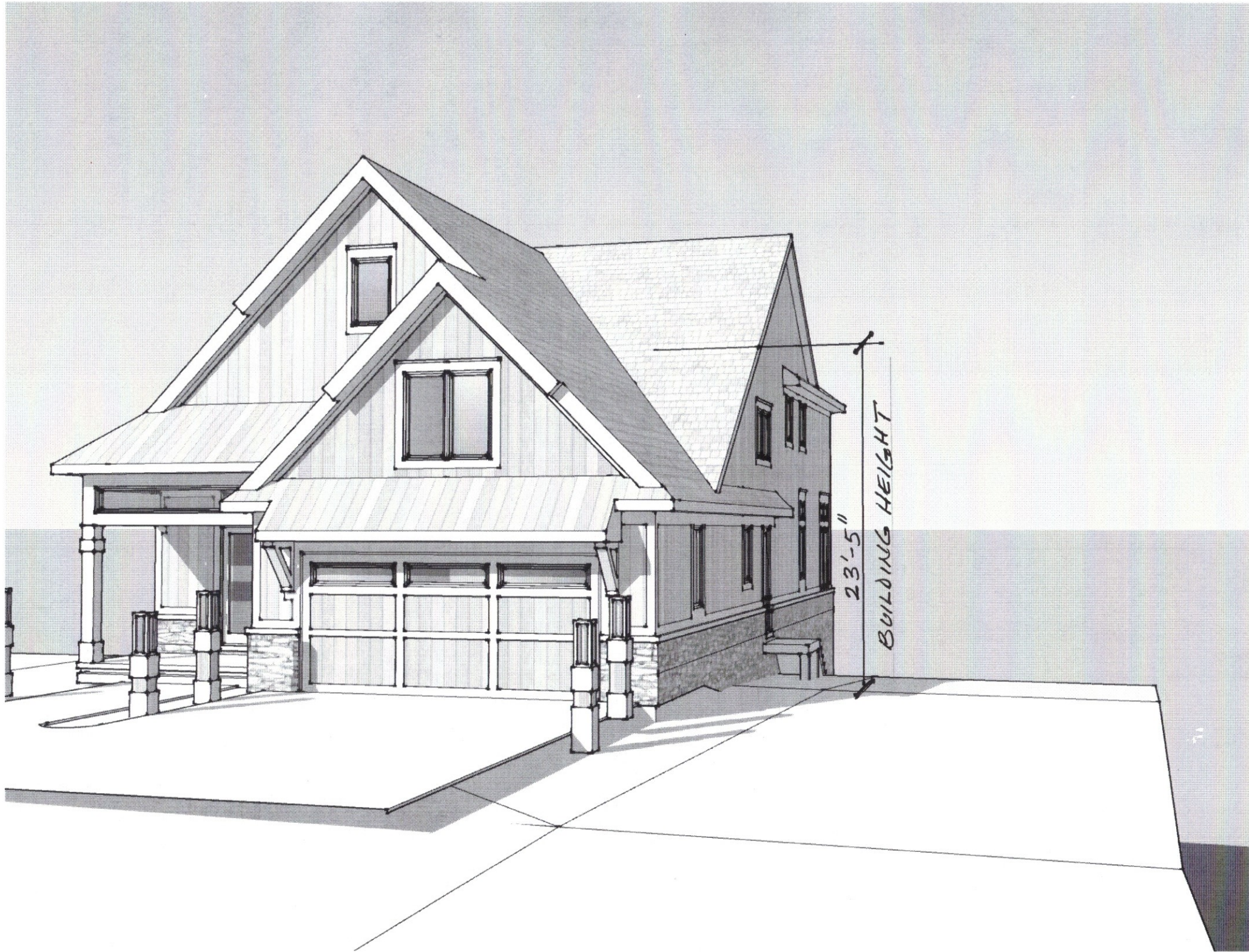




23'-8"

HEIGHT

BUILDING



Grantor	Grantee	Sale Price	Sale Date	Inst. Type	Terms of Sale	Liber & Page	Verified By	Prcnt. Trans.
PERRI ANDREW	MESSIER-BOMBERGER SARA	342,000	08/31/2020	WD	ARMS-LENGTH	2020R-030104	BUYER	100.0
PAR FOUR CO	PERRI ANDREW	250,000	07/11/2007	TA	ARMS-LENGTH	2007R-027264	BUYER	100.0

Property Address	Class: RESIDENTIAL-IMPROV	Zoning: LRR	Building Permit(s)	Date	Number	Status
4182 HIGHCREST	School: BRIGHTON AREA SCHOOLS		Demolition	10/30/2020	PW20-123	
Owner's Name/Address	P.R.E. 0%					
MESSIER-BOMBERGER SARA 4182 HIGHCREST BRIGHTON MI 48116	MAP #: V21-05					
	2021 Est TCV 345,528 TCV/TFA: 327.20					

Tax Description	Improved	Vacant	Land Value Estimates for Land Table 4306.TRI LAKES LAKE FRONT									
SEC. 22 T2N, R5E, CROOKED LAKE HIGHLANDS SUB. LOT 93	X		* Factors *									
			Description	Frontage	Depth	Front	Depth	Rate	%Adj.	Reason	Value	
			A LAKE FRONT	50.00	177.00	1.0000	1.0000	4300	100		215,000	
			B SURPLUS LF	2.00	177.00	1.0000	1.0000	1600	100		3,200	
			52 Actual Front Feet, 0.21 Total Acres						Total Est. Land Value =			218,200

Comments/Influences	Public Improvements	Topography of Site	Level	Year	Land Value	Building Value	Assessed Value	Board of Review	Tribunal/Other	Taxable Value
	Dirt Road Gravel Road Paved Road Storm Sewer Sidewalk Water Sewer Electric Gas Curb Street Lights Standard Utilities Underground Utils.		Rolling Low High Landscaped Swamp Wooded Pond Waterfront Ravine Wetland Flood Plain	2021	109,100	63,700	172,800			172,800S
				2020	101,500	60,600	162,100			117,415C
				2019	96,500	58,700	155,200			115,226C
				2018	76,500	56,100	132,600			112,526C



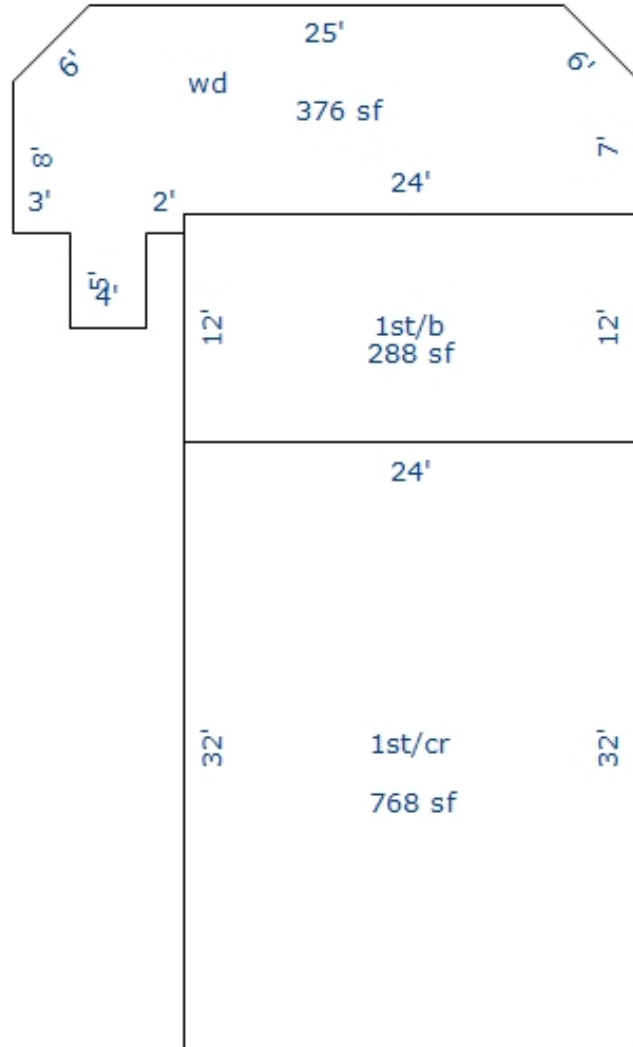
4711-22-302-173 11/02/2020
The Equalizer. Copyright (c) 1999 - 2009.
Licensed To: Township of Genoa, County of Livingston, Michigan

*** Information herein deemed reliable but not guaranteed***

Building Type		(3) Roof (cont.)		(11) Heating/Cooling			(15) Built-ins			(15) Fireplaces			(16) Porches/Decks		(17) Garage	
X	Single Family Mobile Home Town Home Duplex A-Frame		Eavestrough Insulation 0 Front Overhang 0 Other Overhang	X	Gas Wood		Oil Coal		Elec. Steam		Appliance Allow. Cook Top Dishwasher Garbage Disposal Bath Heater Vent Fan Hot Tub Unvented Hood Vented Hood Intercom Jacuzzi Tub Jacuzzi repl.Tub Oven Microwave Standard Range Self Clean Range Sauna Trash Compactor Central Vacuum Security System		Interior 1 Story Interior 2 Story 2nd/Same Stack Two Sided Exterior 1 Story Exterior 2 Story Prefab 1 Story Prefab 2 Story Heat Circulator Raised Hearth Wood Stove Direct-Vented Gas	Area 376	Type Pine	Year Built: Car Capacity: Class: Exterior: Brick Ven.: Stone Ven.: Common Wall: Foundation: Finished ?: Auto. Doors: Mech. Doors: Area: % Good: Storage Area: No Conc. Floor:
X	Wood Frame		(4) Interior Drywall Paneled	X	Forced Air w/o Ducts Forced Air w/ Ducts Forced Hot Water Electric Baseboard Elec. Ceil. Radiant Radiant (in-floor) Electric Wall Heat Space Heater Wall/Floor Furnace Forced Heat & Cool Heat Pump No Heating/Cooling											
Building Style: C		Trim & Decoration Ex X Ord Min		Central Air Wood Furnace			(12) Electric 0 Amps Service			Class: C Effec. Age: 41 Floor Area: 1,056 Total Base New : 144,547 Total Depr Cost: 85,283 Estimated T.C.V: 127,328			E.C.F. X 1.493		Bsmnt Garage: Carport Area: Roof:	
Yr Built 1974	Remodeled 0	Size of Closets Lg X Ord Small		No./Qual. of Fixtures Ex. X Ord. Min			Cost Est. for Res. Bldg: 1 Single Family C (11) Heating System: Forced Air w/ Ducts Ground Area = 1056 SF Floor Area = 1056 SF. Phy/Ab.Phy/Func/Econ/Comb. % Good=59/100/100/100/59			Cls C Blt 1974						
Condition: Good		Doors: Solid X H.C.		No. of Elec. Outlets Many X Ave. Few			Building Areas Stories Exterior Foundation Size Cost New Depr. Cost 1 Story Siding Basement 288 1 Story Siding Crawl Space 768 Total: 124,267 73,318									
Room List		(5) Floors Basement 1st Floor 2nd Floor 2 Bedrooms		(13) Plumbing Average Fixture(s) 2 3 Fixture Bath 2 Fixture Bath Softener, Auto Softener, Manual Solar Water Heat No Plumbing Extra Toilet Extra Sink Separate Shower Ceramic Tile Floor Ceramic Tile Wains Ceramic Tub Alcove Vent Fan			Other Additions/Adjustments Basement, Outside Entrance, Below Grade Plumbing 3 Fixture Bath Deck Pine Water/Sewer Public Sewer Water Well, 200 Feet Totals: 144,547 85,283									
(1) Exterior		(6) Ceilings		(14) Water/Sewer Public Water 1 Public Sewer 1 Water Well 1000 Gal Septic 2000 Gal Septic			Notes: ECF (4306 TRI LAKES LAKE FRONT) 1.493 => TCV: 127,328									
X	Wood/Shingle Aluminum/Vinyl Brick	(7) Excavation Basement: 288 S.F. Crawl: 768 S.F. Slab: 0 S.F. Height to Joists: 0.0		Lump Sum Items:												
(2) Windows		(8) Basement Conc. Block Poured Conc. Stone Treated Wood Concrete Floor														
X	Many Avg. Few	X	Large Avg. Small	(9) Basement Finish Recreation SF Living SF 1 Walkout Doors No Floor SF												
Wood Sash Metal Sash Vinyl Sash Double Hung Horiz. Slide Casement Double Glass Patio Doors Storms & Screens		(9) Basement Finish														
(3) Roof		(10) Floor Support Joists: Unsupported Len: Cntr.Sup:														
X	Gable Hip Flat	Gambrel Mansard Shed														
X	Asphalt Shingle															
Chimney: Brick																

*** Information herein deemed reliable but not guaranteed***

New 2021 tax Roll
Demo Home 10/30/20



2 BEDROOMS
2 FULL BATH
W/O BSMT
CNC DW - N/V

**GENOA CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
FEBRUARY 16, 2021 - 6:30 PM
Via ZOOM**

MINUTES

Call to Order: Chairman Rassel called the regular meeting of the Zoning Board of Appeals to order at 6:34 pm. The members and staff of the Zoning Board of Appeals were present as follows: Greg Rassel, Michele Kreutzberg, Jean Ledford, Marianne McCreary and William Rockwell. Also in attendance was Kelly VanMarter, Community Development Director/Assistant Township Manager, Amy Ruthig, Zoning Official, and Joseph Seward, Township Attorney.

Pledge of Allegiance: The Pledge of Allegiance was recited.

Introduction: The members of the Board and staff introduced themselves, including their locations.

Election of Officers:

Moved by Board Member Ledford, seconded by Board Member Rockwell, to nominate Greg Rassel as Chairman. **The motion carried unanimously.**

Moved by Board Member Ledford, seconded by Board Member Kreutzberg, to nominate Marianne McCreary as Vice-chairperson. **The motion carried unanimously.**

Approval of the Agenda:

Moved by Board Member Ledford, seconded by Board Member McCreary, to approve the agenda as presented. **The motion carried unanimously.**

Call to the Public:

The call to the public was made at 6:40 pm with no response.

1. 21-02... A request by Lawrence Zalewski, 4480 Golf Club Road, for a side yard setback variance to construct an addition to an existing single family home.

Mr. Zalewski is the builder for the owner. They would like to add a bedroom and bathroom to the southeast corner of the home. The addition will be in line with the side of the existing home. They are not going any further toward the property line.

Board Member McCreary asked for clarification that the addition will be straight off the existing side line setback and then further back. Mr. Zalewski stated, "yes".

Board Member Kreutzberg asked if this is the only location where the addition can be placed. Mr. Zalewski stated that due to the elevations of the floor of the existing home, this is the only location where this can be placed without having to be put in three steps.

Board Member Ledford asked for the square footage of the addition. Mr. Zalewski stated it is approximately 100 square feet.

The call to the public was made at 6:47 pm with no response.

Moved by Board Member Rockwell, seconded by Board Member Kreutzberg, to approve Case #21-02 by Lawrence Zalewski at 4480 Golf Club Road for a side-yard variance of 2 feet, 6 inches from the required side-yard setback of 30 feet for a 27 foot, 6 inch side-yard setback for construction of an addition to an existing single-family home, based on the following findings of fact:

- Strict compliance with the side yard setback would prevent the applicant from constructing the addition in the proposed location. The variance it does provide substantial justice for there are some homes in the surrounding area with non-conforming side yard setbacks due to being located on a narrow lot same as the applicant.
- The exceptional or extraordinary condition of the property is the existing location of the home, the narrowness of the lot and the location of the septic field. It appears to be the least amount necessary and is not self-created.
- The granting of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, comfort, morals or welfare of the inhabitants of the Township of Genoa.
- The proposed variance would have little or no impact on the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.

The motion carried unanimously.

2. 21-03...A request by Jeffrey A. Andersen, 1627 Greenmeadow Drive, for side, front and rear yard setback variances to construct a new home.

Mr. and Mrs. Andersen were present. Ms. Andersen stated they are requesting to replace a 1965 mobile home. They would like to move back to the Brighton area. The existing home is only 625 square feet. Their new home will be 1,003 square feet. The rear and one side yard setback will be the same, but the other side and the front will be closer to the property lines.

Board Member McCreary asked how many bedrooms are in the existing home. Ms. Andersen stated there are two in the current home and there will be two in the new one. Ms. McCreary

wants to make sure the health department has approved the septic. Ms. Andersen stated they have received approval for the existing well, septic, and drain field.

She asked what kind of foundation will the new home be placed? Ms. Andersen stated it will be the same foundation, which is piers, so it will not be permanent. Board Member McCreary noted that the application states they are only asking for a side yard setback variance, but there are side, rear, and front yard variances in the agenda item. Chairman Russel confirmed that there are three variances being requested.

Board Member Kreutzberg asked if the existing home is non-conforming per the subdivision. Ms. Andersen confirmed that is correct.

Board Member Rockwell questioned if the well pit is considered a structure and is there anything that needs to be addressed by the Township or the ZBA. Ms. Ruthig stated this will be handled through the Livingston County Health Department and will be addressed during the building permit process.

The call to the public was made at 6:59 pm with no response.

Moved by Board Member Kreutzberg, seconded by Board Member Ledford, to approve Case #21-03 for Jeffrey A. Andersen for a front-yard variance of 11 feet from the required 35 feet for a front-yard setback of 24 feet, a side-yard variance of 3.5 feet from the required 10 feet for a side-yard setback of 6.5 feet, and a rear-yard variance of 5 feet from the required 40 feet for a rear-yard setback of 35 feet to replace or construct a new conforming home, based on the following findings of fact:

- Strict compliance with the setbacks would unreasonably restrict use of the property.
- Granting the variances will provide substantial justice in granting the applicant the same rights as similar properties in the neighborhood as there are many homes in the surrounding area with non-conforming setbacks. The need for the variances is not self-created.
- The extraordinary circumstances being the location of the accessory structure and the septic field.
- These variances are the least necessary and would make the property consistent with other properties and homes in the area.
- Granting the variances will not impair an adequate supply of light and air to adjacent properties, would not increase congestion or increase the danger of fire or threaten public safety and welfare.
- The proposed variances would have little or no impact on the appropriate development, continued use or value of adjacent properties and the surrounding neighborhood.

This approval is conditioned upon the following:

1. The structure must be guttered with downspouts.

2. The applicant shall be required to completely remove the detached accessory structure once the existing home is removed under the following conditions:
 - a. If a permit to construct a new principal residence is not issued within six months of the ZBA decision; and/or
 - b. If the applicant fails to obtain final occupancy certification from the Livingston County Building Department within one year of Land Use permit issuance;
 - c. Township staff shall have discretion to approve extensions to the above deadlines under proven special or extenuating circumstances but in no case shall that extension exceed 6 months for Item (a) or 12 months for Item (b).
3. If improvements are requested for the expansion of the current accessory building, they shall comply with Section 24.04.06 of the zoning ordinance.

The motion carried unanimously.

3. A request by Ralph Slider, 3470 Pineridge Lane, for an appeal of an administrative decision per Section 23.02.01 determining required waterfront setbacks.

Mr. Seward stated this is an appeal by Mr. Slider of a decision made by the Zoning Administrator to deny the Land Use permit and advise they needed to seek a variance.

Section 23.02.01 of the Ordinance allows for appeals before the ZBA. The Sliders have to meet at least one of four criteria per 23.05.02 of the ordinance, which are:

1. Was the decision by the Zoning Administrator arbitrary or capricious.
2. Was the decision based on an erroneous finding of material fact.
3. Constituted an abuse of discretion.
4. Was based on an erroneous interpretation of the zoning ordinance or zoning law.

He has received a letter from Mr. Andrew Babnik, the Slider's attorney, which follows two paths. Their first issue is that the decision was arbitrary and capricious and the second is that the zoning administrator made an error in the interpretation of the zoning ordinance.

The slider argument is that Section 11.04.05 says what can be waterfront accessory structures, and it applies to what is permitted, but they are limited to docks and mooring apparatus, decks, and no more than one gazebo. They have done a survey of the lake and there are a number of flagpoles, fire pits, and steps that are found in the waterfront yard, and if the ordinance was strictly construed, then those would constitute structures under the ordinance and by not enforcing the ordinance for these other property owners the zoning official is being arbitrary and capricious by not affording the same permission as the Slider's request.

In Mr. Seward's letter, he cited case law that says that a Township is not prohibited from enforcing its ordinances even though there have been past situations where the ordinance wasn't enforced the same way it is now. The Board does not need to follow this case law, but if the Board believes the decision by the zoning administrator was not arbitrary and capricious, the

law does not require a different decision; however, the Board can find that this decision was arbitrary and capricious. It is up to this body to make that decision.

The second item that the Slider's state is that the zoning ordinance was improperly interpreted. They provided a long analysis and there is a fundamental disagreement as to their interpretation. When deciding what was the applicability of the ordinance he wants the members to see Section 1.05.01 that states that if there is a conflict between provisions in the zoning ordinance, the provisions or standards that are more restrictive or limiting shall govern.

The Slider's position is that because Section 11.04.0(g), the general dimensional standards are set forth, the ordinance only specifically speaks to detached accessory buildings when speaking of the setbacks from the shoreline. They say that the word "structure" is not in Section 11.04.01(g) and was purposeful not to include anything but a building and pool, by definition in Chapter 25 of the ordinance, does not fit the definition of a building. It does not have a roof.

Then they go to Section 11.04.01(f), which speaks to pools. This says pools have to be at least 10 feet from the principal building and at least 10 feet from a side lot line. What they are proposing would fit that definition. They say that the table in 3.04.02 does not apply to them. They add that even if Section 3.04.02 applies, that it sets forth a different and distinct setback for the principal structure as compared to an accessory structure. They agree that under Table 3.04.02 for the principal building, which is the house, it has to be 40 feet from the shore line or consistent with the setback of the adjacent principal buildings, whichever is greater.

On the other hand, when looking at the definition of "yard" and "front yard", in Chapter 25, they say that when it says "front yard", that the front yard is the minimum and so they go back to Table 3.04.02 and when they use the definition of "waterfront yard" and "the minimum", they only focus on those three words in table 3.04.02, which is "a minimum of 40 feet". Additionally, they take the position that the phrase "or consistent with setbacks adjacent to principal buildings, whichever is greater" does not apply. That is their reason for the erroneous decision by the zoning administrator. Is it the intent of table 3.04.02 that states "the minimum of 40 feet or consistent with the setbacks of adjacent principal buildings, whichever is greater and does that apply and also defining what the "waterfront setback" should? If so, then their pool encroaches upon the "required yard" and under Chapter 11, it is not a structure that is permitted to be in the waterfront yard.

Section 11.04.03(c) says that swimming pools shall not be located in any front yard. The definition in Chapter 25 of "yard" says "front yards... and the yard adjoining the shore line shall be considered the waterfront yard" so a waterfront property could have two front yards, and this could be another reason to say that a pool is not allowed in a front yard.

Mr. Andrew Babnik, Mr. Slider's attorney, stated that he wanted to address the argument of the

front yard, side yard, rear yard, issues. In November the ZBA found that the waterfront yard is not, by definition, the front yard. A waterfront yard would not have two front yards, and a pool could be placed in a waterfront yard and not a "required yard".

His client was asked to seek a variance to build based on a "required" vs "non-required" yard. This has very little to do with a pool. This is an issue of what can be built in the "required yard" and how it is defined. It is agreed that you cannot build in the "required yard" except for docks, mooring apparatus and a deck. The problem is the definition of the "required yard", which is where the erroneous decision and the arbitrary and capricious come into play.

The ZBA denied Mr. Slider the variance that he requested claiming he was building in the required waterfront yard. Additionally, one example of a pool was given and it was admitted by the Township that approval was issued in error; however, additional pools have been shown to be in the waterfront yard, as well as other multiple violations of non-conforming uses, such as flagpoles, fire pits, etc. that are deemed to be structures per the ordinance and are not allowed in the waterfront yard. He does not believe that his client is being singled out, but that would be the only reason why these other structures were allowed to be built.

The case law cited by Mr. Seward deals with a commercial use so he does not believe that is applicable to this issue.

This was a public hearing and the neighbors spoke up and did not want the pool. He was allowed to put in the retaining wall, but not the pool.

The ordinance states that if there are two restrictions in the ordinance, the more restrictive must take precedence, but the zoning administrator and the ZBA cannot create a conflict that does not exist. It has been said that the non-required yard or required yard needs to match the setback of the principal structure, but there is no support for that in the ordinance. In the December 5, 2020 ZBA meeting, it was stated that nothing can be built in the required yard except, decks, mooring apparatus, and docks.

He stressed that this is not about a pool. While there are multiple examples of pools, a pool is not different from a fire pit. A pool is a structure, which is distinct from a building, and there are multiple examples of structures that have either been allowed by the zoning administrator or with a variance.

The definition of a "required yard" is "it corresponds to the minimum setback in the district". The administrator and the ZBA interpreted that the minimum setback is the same as the principal structure, and that is not in the ordinance. He agrees that if a conflict exists, the more restrictive takes precedence; however, there is no conflict. The zoning administrator has created a conflict by this interpretation. Not only the existing structures, but every future flagpole, fire pit, anything that is defined as a structure that appears in what is being defined as the required yard, which

exceeds what is the minimum in the district, is going to need a variance. The proper interpretation is that the required yard setback for the LDR district mirrors the minimum setback for the district, which is 40 feet. Section 13.02.04 provides a minimum for the district, which is 25 feet from the waterfront.

What is the intent of the ordinance? Why is there a “required” and “non-required” yard? The ZBA stated that the purpose was to prevent sight line interference for the neighbors and protect waterfront views. This would prevent his client from having any yard where he would be able to put anything; not a flagpole, a pool, etc. If the intent of the ordinance is to not impede sight lines, and the ZBA has already approved a variance for a retaining wall, why is a pool different? The interpretation not only does not allow his client from putting in a pool, it also places dozens of other properties into non-compliance. The correct interpretation that he has noted brings everyone into compliance and creates no conflict.

He summarized his argument that his client is not looking for a technicality within the ordinance, he wants equal treatment. There is a conflict between the ZBA saying there is no substantial justice and that there is no issue here. The required yard is as it is defined by the administrator and therefore, nothing can be built within the required yard. He agrees that nothing can be built within the required yard without a variance, but the definition of required yard contradicts everything that the zoning administrator has done up until this point and what the ZBA up until this point.

No one has pointed out why the required yard would have to match the principal building setback. There is a clear difference between the definition of a building and a structure. He is asking the Board to find that the zoning administrator’s interpretation of what the required yard is was erroneous. This would bring all of the other properties into compliance and allow his client to build within the non-required yard, as long as he does not violate the required yard setback.

The call to the public was made at 7:34 pm with no response.

Board Member McCreary stated that she has reviewed the attorney’s letters and heard their presentations this evening and she continues to hold her position that she has had since the beginning of this issue.

Board Member Kreutzberg stated that all of the ZBA’s decisions were based on the parameters that they were given over these several months, which is what has led her to her conclusions.

Moved by Board Member McCreary, seconded by Board Member Ledford, to deny the request for an administrative appeal, based on the following:

- The applicant is requesting an administrative appeal, which has the ability to reverse an order of an administrative official or the planning commission only if it finds that the action or decision appeal meets one or more of the following requirements.
 1. Was the decision by the Zoning Administrator arbitrary or capricious.
 2. Was the decision based on an erroneous finding of material fact.
 3. Does the decision constituted an abuse of discretion.
 4. Was the decision based on an erroneous interpretation of the zoning ordinance or zoning law.

- In an effort for the applicant to request their variances for the pool and landscaping, the applicant, the applicant's representatives, Township officials, the Township's council and the applicant's councils, as well as the Zoning Board of Appeals have spent an inordinate amount of time reviewing the request for variances of the pool and landscaping.
- Public comments have also been heard and considered in each occasion regarding the requests for these variances.
- None of these meetings, dialogues or analysis of the requests have been taken lightly or discarded at any time by the Zoning Board and, for that matter, Township staff and officials. The ordinances in place are what we utilize as the tool to apply for the variances that are not self-created, the least requested, and will not cause harm to the residents or the surrounding properties of the Township.
- Four meetings were held to discuss the variance requests.
- At the request of the Township manager, one entire meeting was held for the purposes of the ZBA to Interpret sections of the ordinance, specifically Section 11.04.03, Section 11. 01.04, Section 11.04 05, and Section 23.02.03. This request was to identify how these sections related to swimming pools, required waterfront yards, required waterfront setbacks, and retaining wall setbacks.
- The outcome of the discussion resulted in the following: All commissioners agree that a swimming pool can be put in a waterfront yard and not in the front yard, and if it is the waterfront, it cannot be in the required waterfront setbacks. Refer to table 3.04.02 as it applies was used for this determination.
- As the members of the Zoning Board have, each time when calling for the vote, all identified that the variance for the pool is denied, I see no arbitrary or capricious nature as we have applied this to both the applicant and the definition of the way the ordinance is written.
- Further I see no correlation with any of the four criteria that would deem this appeal reversible.

The motion carried unanimously.

Administrative Business:

Zoning Board of Appeals
February 16, 2021
Unapproved Minutes

1. Approval of minutes for the January 19, 2021 Zoning Board of Appeals meetings.

Needed corrections were noted.

Moved by Board Member Ledford, seconded by Board Member McCreary, to approve the minutes of the January 19, 2021 ZBA meeting as amended. **The motion carried unanimously.**

2. Correspondence - Ms. Ruthig stated there are two cases scheduled for the March 16 meeting.
3. Member Discussion - Chairman Rassel thanked Mr. Seward for attending tonight and for his assistance this evening.
4. Adjournment - **Moved** by Board Member Rockwell, seconded by Board Member Kretuzberg, to adjourn the meeting at 7:49 pm. **The motion carried unanimously.**

Respectfully submitted:

Patty Thomas, Recording Secretary