



Agenda
Village of Arlington Heights
Zoning Board of Appeals
Buechner Room, 1st Floor
Arlington Heights Village Hall, 33 S. Arlington Heights Rd.
January 8, 2024
7:00 PM

I. CALL TO ORDER

II. ROLL CALL

III. APPROVAL OF MINUTES

- A. 716 W. Braeside Dr. - 12/11/23
- B. 1604 N. Hickory Ave. - 12/11/23
- C. 645 S. Highland Ave - 12/11/23

IV. REPORTS

V. OLD BUSINESS

VI. NEW BUSINESS

- A. 515 N. Chestnut Ave. - ZBA#23-044 - Public Hearing
- B. 302 S. Patton Ave. - ZBA#23-045 - Public Hearing
- C. 523 S. Chestnut Ave. - ZBA#23-046 - Public Hearing
- D. 720 N. Dunton Ave. - ZBA#23-047 - Public Hearing
 - 1. Petitioner's appeal of the Village's interpretation of the 2002 Comprehensive Amendment of the Zoning Ordinance of the Village of Arlington Heights as amended ("**Zoning Code**"), Section 5.1-3.6.
 - 2. Petitioner's request for variation of maximum height allowed under Section 5.1-3.6 of the Zoning Code.

VII. OTHER BUSINESS

- A. Public Comment

VIII. PUBLIC COMMENT

IX. ADJOURNMENT

Persons with disabilities requiring auxiliary aids or services, such as an American Sign Language interpreter or written materials in accessible formats, should contact Erin Mercado, at 33 S. Arlington Heights Road,

Arlington Heights, Illinois 60005, emercado@vah.com or (847)368-5793.



Zoning Board of Appeals 1/8/2024

Item: 716 W. Braeside Dr. - 12/11/23

Department: Planning & Community Development Department

ATTACHMENTS:

Description	Type
716 W Braeside Dr - 12/11/23 Findings	Minutes
716 W Braeside Dr - 12/11/23 Minutes	Minutes

ZONING BOARD OF APPEALS VILLAGE OF ARLINGTON HEIGHTS

FINDINGS December 11, 2023

PETITIONER: Duch Residence

ADDRESS OF PROPERTY: 716 W. Braeside Dr.

VARIATION: 6.6-5.1 (Table of Permitted Obstructions) & 5.1-3.3b

A 2.0-foot variation to allow a deck with a side yard setback of 5.0 feet instead of the required 7.0 feet.

The petitioner testified as to hardship, uniqueness of circumstances, and the character of the locality. The petitioner testified that they constructed a deck that is encroaching into the required side yard setback. The petitioner explained that the minimum side yard setback is seven feet. The petitioner further explained that they are proposing to demolish a portion of the deck to provide a five-foot setback. The petitioner testified that the deck will not change the look of the neighborhood and that there are similar structures in the neighborhood since many of the houses have access to the house from this side of the property. The petitioner commented that the deck was constructed without obtaining a permit. The petitioner explained that they were not aware that a permit is required for a deck. A neighbor spoke in opposition to the variance request.

Based upon the foregoing as well as other evidence submitted, the Zoning Board of Appeals finds that the petitioner has not established the necessary elements for the granting of a variance for the deck encroachment; that the petitioner would sustain a hardship if the variance were not granted; that the situation of the petitioners is unique; and, that the granting of a variance would not alter the essential character of the neighborhood. Proof of ownership and compliance with the Notification Provisions of the Ordinance were presented.

Thereafter, a motion was made by Mr. Selbka and seconded by Mr. Drake. Thereafter, the Board voted 4-0 to DENY the variance request for the deck encroachment.

Now, therefore, after hearing all the evidence and after due deliberation, the Zoning Board of Appeals, voted 4-0 to DENY the variance request.

You are hereby notified that this ruling is subject to appeal to the Circuit Court of Cook County, under the Administrative Review Law. Such appeal must be filed within thirty-five (35) days of the date of receipt of this decision.

Benjamin Jaffe, Acting Chair
Zoning Board of Appeals
Village of Arlington Heights

ZONING BOARD

REPORT OF PROCEEDINGS OF A MEETING
BEFORE THE VILLAGE OF ARLINGTON HEIGHTS
ZONING BOARD OF APPEALSOF APPEALS

RE: 716 WEST BRAESIDE DRIVE - ZBA #23-041

REPORT OF PROCEEDINGS had before the Village of
Arlington Heights Zoning Board of Appeals taken at the Arlington Heights
Village Hall, 33 South Arlington Heights Road, 1st Floor, Buechner Room,
Arlington Heights, Illinois on the 11th day of November, 2023 at the hour
of 7:00 p.m.

MEMBERS PRESENT:

BENJAMIN JAFFE, Acting Chairperson
TOM DRAKE
JEFFREY LANAGHAN
JOSEPH SELBKA

ALSO PRESENT:

DEREK MACH, Development Planner

ACTING CHAIRPERSON JAFFE: Good evening. I'd like to call this Zoning Board of Appeals meeting to order. We will first start with roll call.

MR. MACH: Mr. Siavelis.

(No response.)

MR. MACH: Mr. Drake.

COMMISSIONER DRAKE: Here.

MR. MACH: Mr. Jaffe.

ACTING CHAIRPERSON JAFFE: Here.

MR. MACH: Mr. Lanaghan.

COMMISSIONER LANAGHAN: Here.

MR. MACH: Mr. O'Connor.

(No response.)

MR. MACH: Mr. Selbka.

COMMISSIONER SELBKA: Here.

MR. MACH: Mr. Portera.

(No response.)

ACTING CHAIRPERSON JAFFE: Next, we will go to the Pledge of Allegiance.

Everyone, direct your attention to the Flag in the back of the room.

(Pledge of Allegiance recited.)

ACTING CHAIRPERSON JAFFE: Next up, we need to approve the minutes from the November meeting.

Have all the members had an opportunity to review the minutes from last month's meeting? Any corrections or edits to be made?

(No response.)

ACTING CHAIRPERSON JAFFE: If not, is there a motion to approve?

COMMISSIONER LANAGHAN: I move that we approve the minutes of our last month's meeting.

COMMISSIONER DRAKE: Second.

ACTING CHAIRPERSON JAFFE: All in favor?

(Chorus of ayes.)

ACTING CHAIRPERSON JAFFE: All opposed?

(No response.)

ACTING CHAIRPERSON JAFFE: Okay, so for the audience, I'm going to go over the procedures for how these meetings run and then we'll move on to the new business.

So, first, hearing procedures. If less than six members are present, the petitioner has an option to continue the meeting. It takes four affirmative votes to approve a variance regardless of the Board members in attendance. If denied, a petitioner cannot reapply for a whole year. So, we have four members tonight, so that means in order to get your petition approved, you have to go four for four. So, if any petitioner wants to request a continuance, now is the time to do so.

As far as order of operations, first, Derek Mach will give the Staff presentation. He'll describe the project overview and the variance or variances that are being requested.

Next, this is the most important part for the petitioner, the petitioner

must explain the four elements necessary to establish in order for this Board to be able to grant a variance. Those four elements are:

1. That the proposed use will not alter the essential character of the locality and will be compatible with existing uses and zoning of nearby property;
2. That the plight of the owner is due to unique circumstances which may include the length of time the subject property has been vacant as zoned;
3. That the proposed variation is in harmony with the spirit and intent of this chapter; and
4. That the variance requested is the minimum variance necessary to allow reasonable use of the property.

A variation shall be permitted only if the evidence, in the judgment of the Board of Appeals, sustains each of the four conditions enumerated.

So, again, I would encourage and remind all petitioners to cover all four of those points. It is not the responsibility of this Board to extract that information from each of you.

We'll swear in the petitioner for each variance. The petitioner will have an opportunity to present their case. You will receive questions from this Board. The petitioner will then be seated and we will allow comments from the audience. Once all comments from the audience are completed, the petitioner will be able to respond to those comments.

For the audience, I would ask that if you do provide comments, that you be concise and you be direct and you have to be relevant to the actual variances that are being petitioned.

At that point, this Board will deliberate. We will call for a motion to either approve or deny the variance or variances.

With that, we will start with new business. 716 West Braeside Drive, Zoning Board of Appeals Case #23-041.

Is the Petitioner for 716 West Braeside Drive present?

MRS. DUCH: Yes.

ACTING CHAIRPERSON JAFFE: Okay, could you please come up to the podium?

MRS. DUCH: Good evening, everyone.

ACTING CHAIRPERSON JAFFE: Have you both had an opportunity to sign in?

MRS. DUCH: Yes.

MR. NAKLICKI: Yes.

ACTING CHAIRPERSON JAFFE: Okay, Derek, do you want to provide the overview?

MR. MACH: Thank you.

The subject property is zoned R-3 and has a land area of 9,035 square feet. A deck has been partially constructed that is not code compliant. The homeowner was informed they must submit for a permit. Since the deck does not comply with the required side yard setback, a variance is being requested. The Petitioner is proposing a deck that is set back five feet where seven feet is required.

Therefore, they're requesting a two-foot variation from Chapter 28, Section 6.6-5.1 and Section 5.1-3.3b to allow a deck with a side yard setback of five feet

instead of the required seven feet. Thank you.

ACTING CHAIRPERSON JAFFE: Can you each state your name and address?

MRS. DUCH: Yes, my name is Gosia Duch, and the address is 716 West Braeside Drive, Arlington Heights, Illinois. This is our architect which is working with us.

MR. NAKLICKI: My name is Piotr Naklicki; I am the architect on this project.

ACTING CHAIRPERSON JAFFE: And your address, sir?

MR. NAKLICKI: 924 South Braintree Drive, Schaumburg.

(Witnesses sworn.)

ACTING CHAIRPERSON JAFFE: Okay.

MR. NAKLICKI: So, they built a deck, and the deck is on the property line. The minimum side setback is seven feet. We are proposing to demo part of the deck to provide a minimum of five feet setback which is required by the Fire Department. So, we would like to keep three feet because on that side, there is a door into the house, existing door into the house, so we would like to keep only three feet plus the railing to provide access into the house, second exit from the house.

So, the deck will not change the look of the neighborhood. Actually, there are similar structures because many houses are there that have access to the house from this side of the property. The only problem, they built too big, so we would like to decrease the size of this deck. That's why, the side setback is required seven feet, we will make five feet. That's all.

ACTING CHAIRPERSON JAFFE: You've got lead.

COMMISSIONER DRAKE: Yes, I do have some questions.

So, you started building the deck without having a permit?

MR. NAKLICKI: Yes.

COMMISSIONER DRAKE: What is the reason for that?

MRS. DUCH: We just didn't know. My husband was not there and working for us was my uncle. He came earlier and it was just our mistake. So, later we started applying for that and that's why we are here.

COMMISSIONER DRAKE: All right, and are you adjusting what we were sent in our Board report in terms of your petition? Are you saying that you want to adjust it, did I understand that correctly, or what was submitted is what you're requesting on the variance?

MRS. DUCH: Yes, that's what is submitted.

MR. NAKLICKI: We submitted the architectural plans. The Zoning Department refused the plans because there is an encroachment.

COMMISSIONER DRAKE: Okay.

MR. NAKLICKI: That's why we have to submit an application to get a variance of two feet, so from seven to five.

COMMISSIONER DRAKE: Okay, and what about your neighbors? Have you talked to the neighbors that are across from you, behind you, next door?

MRS. DUCH: No, we did not.

COMMISSIONER DRAKE: Have you gotten any feedback from that?

MRS. DUCH: No, we did not.

COMMISSIONER DRAKE: No, okay. Is there a reason for that?

MRS. DUCH: I cannot say anything. No one approached us that it's

anything like wrong or that it bothered anyone. So, we didn't feel like, we didn't know at this time, you know, so it's hard right now to explain because now after I can try to, you know, understand why. But before, we just, we are for the first time a homeowner and we were born in Europe and in there is a little bit different than here. So, that's why in some way this is the reason for all the situation that we are in right now, and we're trying to straighten out everything.

COMMISSIONER DRAKE: And how long have you lived in the home?

MRS. DUCH: Four years.

COMMISSIONER DRAKE: Four years, and how many individuals in the home?

MRS. DUCH: Just me, my husband and two kids.

COMMISSIONER DRAKE: So, four obviously?

MRS. DUCH: Yes, family of four.

COMMISSIONER DRAKE: There were some comments from your neighbors that were posted on the Village website as part of the material we were given. That's up there for the public to look at. Are you aware of those public comments?

MRS. DUCH: No.

COMMISSIONER DRAKE: Okay, that's all I have right now.

ACTING CHAIRPERSON JAFFE: Derek, did you want to, are those letters in the packet? Do you want to --

MR. MACH: They are in the packet.

ACTING CHAIRPERSON JAFFE: Why don't we, Jeff or Joe, do you have questions before we go to the communications? Any questions?

COMMISSIONER SELBKA: No.

COMMISSIONER LANAGHAN: No. At this point in time, no.

ACTING CHAIRPERSON JAFFE: Okay, so Derek, did you want to, do we have to read those or since they're already in the packet --

MR. MACH: Since they're already in the packet, it's not necessary to read them.

ACTING CHAIRPERSON JAFFE: Okay. All right, well, if there aren't any other questions at this point, we're going to ask if there's anybody in the audience that wants to comment on this petition. When those comments are complete, then you and the architect can come back and respond to those comments.

MRS. DUCH: Of course. Thank you.

ACTING CHAIRPERSON JAFFE: Thank you.

Okay, is there anybody in the audience that would like to speak to this petition? Come on up. Could you both state your names please?

MRS. ELLIOTT: Carol Elliott.

MR. ELLIOTT: Gary Elliott.

ACTING CHAIRPERSON JAFFE: We don't have to swear or provide their address, correct?

MR. DEREK: No.

ACTING CHAIRPERSON JAFFE: Go ahead.

MRS. ELLIOTT: Well, we are Gary and Carol Elliott, and we live at 804 West Braeside which is the property adjacent to the Petitioners.

ACTING CHAIRPERSON JAFFE: Adjacent in which direction?

MRS. ELLIOTT: To the west.

ACTING CHAIRPERSON JAFFE: The west, thank you.

MRS. ELLIOTT: We have lived in Arlington Heights for 40 years and we have lived in this house for 25 of those years. We thank you for this opportunity to address this variance petition and to voice our objection to it.

We are retired and very much outdoor people. We have invested a great deal of time and money into developing landscaped gardens, a brick patio and a sunroom which all provide a peaceful and relaxing backyard and patio area for our enjoyment in our retirement. We spend a lot of time there.

We have no objection to our neighbors wanting to build a deck for themselves but, and we do have some pictures to show. I don't know if, Derek, do you have those pictures as well?

MR. MACH: I do.

MRS. ELLIOTT: But with the floor height of around seven feet and the encroachment into the required setback area, this will alter the character of our property and certainly our use and enjoyment of our backyard in the ways listed in the e-mail in front of Derek which I believe you had in your packets. We would like to highlight the potential negative impact passing this variance request will have on the saleability of our house as well and the related negative impact to our property value.

We have had guests on our patio since Petitioner halted the deck's construction, and a number of them have prompted negative reactions to the deck's size and closeness to our yard. This was a strong indication to us that an eventual potential buyer of our house could very well have the same reaction.

So, at this time, we would like to point out that there is no compelling reason for this variance request. There are no unique circumstances requiring the deck to be constructed within the required setback area. This is demonstrated by the Petitioner himself in the petition document. He did not even respond to the request for the explanation of the owner's plight. That's because there is none. We submit to you that this variance is being requested simply for the owner's own convenience and does not warrant approval.

We thank you for your time and respectfully ask that this variance request be denied.

ACTING CHAIRPERSON JAFFE: So, to be clear, you oppose the variance?

MRS. ELLIOTT: Yes.

MR. ELLIOTT: Yes.

COMMISSIONER DRAKE: I have a question.

Thank you for your comments. The petition states that there are no windows or sidewalk, it doesn't say obstructions, but that's how I interpreted it on the part of the neighbors. Is that the case? Do you have windows that you can see out of on the side of your house where you can see the deck?

MRS. ELLIOTT: No. There are no windows on the east side of our house; however, there are windows all across the back of the house and the deck is quite visible from those, their deck is quite visible from those windows.

MR. ELLIOTT: I think it's important to point out that there are really two entities being constructed here. One is a rear deck, and the other is the walkway leading

to the deck. We have not as much objection to the walkway to the deck as long as it's revised as I think their current plan indicates. But the deck itself is, at its height, it is so obtrusive into our yard and it does change the character of our own yard being so close.

So, we believe that there are ways that it could be architected to keep the deck portion outside of the setback area.

MRS. ELLIOTT: At the proper setback area.

COMMISSIONER DRAKE: Derek, can you confirm, the height of the deck is not an issue here, correct? That was my understanding.

MR. MACH: It's not. It complies with code.

MRS. ELLIOTT: And we do understand that. It's really just the height plus the closeness, so that basically right now, people standing on that deck would just be looking right down into our yard.

COMMISSIONER LANAGHAN: Would you feel that would be different if it was pushed back the two-foot?

MRS. ELLIOTT: Well, right now, I don't know if you can see from the pictures, it's like three feet from our fence. We do understand that they're planning to move that back a couple of feet.

COMMISSIONER LANAGHAN: Okay, so this is as currently built but it's going to get pushed back, and I'll confirm that with the Petitioner later.

MRS. ELLIOTT: Yes.

MR. ELLIOTT: It's going to be pushed back but there's still two feet, and we believe it can get pushed back outside of the setback area. We would like it pushed back more, but I don't know that that's --

COMMISSIONER LANAGHAN: That's outside of our, we can't help you on that one.

MR. ELLIOTT: And that's why we are looking for at least to the setback line.

ACTING CHAIRPERSON JAFFE: I did drive by your house the other day and I saw that western edge up against your chainlink fence. I didn't get out of my car. You're saying it's approximately three feet from --

MRS. ELLIOTT: No, no. That, what you're referring to, is inches from, but there's a back deck, there's a rear deck. It's, you know, that is about three feet now from the fence.

ACTING CHAIRPERSON JAFFE: But are you saying, as it's currently constructed, the side deck is inches from your fence?

MRS. ELLIOTT: Yes.

MR. NAKLICKI: Right, yes.

ACTING CHAIRPERSON JAFFE: Okay, any other questions?

(No response.)

ACTING CHAIRPERSON JAFFE: Okay, thank you very much.

MRS. ELLIOTT: Thank you.

MR. ELLIOTT: Thank you.

ACTING CHAIRPERSON JAFFE: I'm going to see if there's, we're going to see if everybody has any and then you can come back and respond.

So, is there anybody else in the audience who wishes to speak to this petition?

(No response.)

ACTING CHAIRPERSON JAFFE: Okay, if you can respond to that?

MRS. DUCH: So, I just want to say that the deck on the side, it was built before so it wasn't the construction we built, but we will not, we will decrease, right, the size of it, that's what is bothering our neighbors. I see that the front deck which is the height and the length of the deck, it's correct with the Arlington Heights law. I think maybe our neighbors could ask us what's, because we didn't know that there is a problem. We didn't know about that website. I said we are kind of new in the home owning, so we're kind of surprised that no one asked us about it. We are so close and we see each other, we say hi to each other, and this is a little bit surprising for me.

MR. NAKLICKI: So, the built deck, that's true, it's a couple of inches from the property line, but there is no, they have to demo at least five feet. Those neighbors, they said they have no objections to the side passageway to the door. There is on that page exactly, we can see that there is the entrance door to the house. So, the real deck, that's not an issue. So, the real deck is completely up to code. Square footage, height, rear yard setback also, we meet the code.

So, if they don't have objections to the passageway, then we are okay with everything.

COMMISSIONER LANAGHAN: I don't think that's what they said though. They said they're okay with the passageway until it gets to the back deck, and they're looking at it as two separate pieces, right? So, they have the side corridor we'll call it --

MR. NAKLICKI: Yes.

COMMISSIONER LANAGHAN: -- and then the deck to the rear.

MR. NAKLICKI: Yes.

COMMISSIONER LANAGHAN: So, the deck to the rear, they would like that to meet code, be seven-foot off the property line. But they understand that you, you know, you need to come out of your, I'm assuming that's a bedroom or something, that you come out to the deck; is that correct?

MRS. DUCH: This is the living room.

COMMISSIONER LANAGHAN: It's a living room, okay. So, you come out the living room onto the deck, which again, makes perfect sense that you'd want to do that. Unfortunately, the corridor puts it into a setback.

So, what I think I heard was that they're okay with the corridor coming around and allowing you to access that, which means there would be a step to get to the seven-foot so that the back deck would be in the proper setback and you wouldn't need a variance on the back portion, just for the corridor portion. Does that make sense?

MR. NAKLICKI: Yes. So, it looks like we have to provide with the passageway but part of the rear deck we have to cut another two feet. So, after they have access, so we can keep like three feet from the rear wall and then go back into the --

COMMISSIONER LANAGHAN: Yes, provide just enough room to come around and then step back, correct.

MR. NAKLICKI: Okay, I understand. So, we have to cut this corner.

MRS. DUCH: Yes, and I want to say one more thing because in this place we're trying to build a deck and our neighbor has the deck which is low, but they have like a sunroom that is same height. So, I think the neighbors on the other side could feel the same way because they have a big, you know, structure over there, the same height like ours. So, I'm surprised that if you have almost the same, just not high, but with the walls

and ceiling, and I want to build a deck which will be almost the same height, so how my deck can do something wrong to your property when your sunroom is doing nothing wrong to the property of the neighbors?

ACTING CHAIRPERSON JAFFE: The height is the not the issue. It's the --

MRS. DUCH: But I understood that it is.

ACTING CHAIRPERSON JAFFE: But we wouldn't be here if there wasn't a side yard setback infraction. If that part, if that measurement adhered to code, we wouldn't be here, we wouldn't be talking about height.

MRS. DUCH: Yes, sure.

COMMISSIONER DRAKE: Would you be willing to amend your design so that it was within code, you wouldn't need the variances?

MRS. DUCH: Yes.

COMMISSIONER DRAKE: And, you know --

COMMISSIONER LANAGHAN: You're still going to need a variance if you're going to come out with that side door, right? So, you need a decent dimension there which I think the neighbors were all right with, but you need to be able to come out and walk around to the end. The rear deck itself is kind of the issue.

MR. MACH: Chairman, Zoning Board, the homeowner is allowed, they have a door there and are allowed access, and that landing can encroach into that required setback. The yellow here would demonstrate the area that would need to be, I guess, there's a small portion here in yellow that could remain, but I think it's 18 inches from the --

COMMISSIONER SELBKA: So, the entrance can, it is within code even though it encroaches into the setback?

MR. MACH: Correct, you're allowed.

COMMISSIONER LANAGHAN: Because of the access.

MR. MACH: Yes, because of the access.

COMMISSIONER SELBKA: Okay.

COMMISSIONER LANAGHAN: So, if they were to come back with something similar to what you have there sans, without the yellow, they wouldn't need a variance at all.

MR. MACH: Correct.

COMMISSIONER LANAGHAN: Does that make sense?

COMMISSIONER DRAKE: Back to your petition, you did leave one of the sections blank. I think your neighbor mentioned that. It had to do with unique circumstances. Is there any reason why you didn't put something in there?

MRS. DUCH: I think we like mis-understood the question. No one explained how it was. This is the first time, we didn't also ask advices of any lawyer, maybe we should, because we are not very familiar with all that stuff. So, this is just because --

COMMISSIONER DRAKE: I would hope your architect would be familiar with all this kind of things quite honestly.

MR. NAKLICKI: I understand it. So, we have to minimize as much as possible to provide only the access to the house, and everything else has to meet the code, correct? So, the minimum that is necessary for them to access the house, correct? So, we have to, it looks like if we're going to cut after the door to the passageway and also corner, the northwest of the deck, then we'll get the variance.

COMMISSIONER LANAGHAN: Then you don't need a variance.

MRS. DUCH: We don't need the variance.

MR. NAKLICKI: We need because the portion of the passageway, there is still two feet encroachment.

COMMISSIONER LANAGHAN: Right, but if I understood Derek correctly, you are allowed by code to have access to that door. So, you know, as long as you have -

COMMISSIONER SELBKA: You can have an encroachment.

MR. NAKLICKI: Then we can have an encroachment.

COMMISSIONER LANAGHAN: Even if it encroaches, you're allowed access to that door.

COMMISSIONER SELBKA: For the entrance.

COMMISSIONER LANAGHAN: You just have to minimize that access.

COMMISSIONER SELBKA: Yes, for the entrance, you're allowed to encroach.

MR. NAKLICKI: Oh, okay.

COMMISSIONER SELBKA: The other areas where you were asking for a variance, that does not align.

COMMISSIONER LANAGHAN: Yes, if you're willing to do this, you wouldn't need a variance at all.

MR. NAKLICKI: Even if there is some encroachment.

COMMISSIONER LANAGHAN: Even though there is encroachment because of the access to the door.

MR. NAKLICKI: Okay.

COMMISSIONER LANAGHAN: That's a legal encroachment I guess because it's an entrance point.

MR. NAKLICKI: I understand.

COMMISSIONER LANAGHAN: Does that make sense?

MRS. DUCH: Yes, but if we can ask, of course, then we would have to do this way, but if there is a chance to, we will get rid of the bigger yellow one at the bottom, but if we can ask for the, to even not do like this, that would be helpful for us, if this is possible of course.

COMMISSIONER SELBKA: Derek, is that yellow section there, is that in the packet somewhere?

MR. MACH: It's not.

COMMISSIONER LANAGHAN: No, it's not. Derek just did that for the --

COMMISSIONER SELBKA: Do we have to put that in the record?

COMMISSIONER LANAGHAN: Yes. So, the issue with doing that is, to my mind, you have a neighbor who objects to it. We listen to neighbors quite a bit. You're not over as far as square footage. You know, my thought would be could you shift that or put that on to a different part of the deck so that you maintain the amount that you can use but push it to the backyard as opposed to the side yard? Does that, do you understand what I'm saying?

MRS. DUCH: Not really.

COMMISSIONER LANAGHAN: So, we're basically saying, well, what I'm saying anyway, I'll let the rest of the Board speak for themselves, but what I'm saying is

take the two-foot off of your west side, get into, you know, meet code there, but then put it on to the north side so that you have the same square footage of deck.

MRS. DUCH: Yes, but it's not about the square footage. It's just about the like, you know, look. When you're coming from here and you have the passage, now you have something like that, you know, that's what it's, I would like to have like a straight deck from the entrance.

COMMISSIONER SELBKA: So, it's a matter of aesthetics for you.

MR. DUCH: Thank you so much for the --

ACTING CHAIRPERSON JAFFE: Can you state your name and address?

MR. DUCH: My name is Marcin Duch; I'm the husband.

MRS. DUCH: Owner.

MR. DUCH: And owner. We are owners.

(Witness sworn.)

ACTING CHAIRPERSON JAFFE: Okay.

MR. DUCH: That was my stress and, so they start talking, but when I, I tried to explain something. Your offer, like offer, not you're trying to tell us, so Derek said we can cut like the west side a little bit on the deck, the new deck and cut the deck walkway behind the doors. We can cut the walkway behind the doors, but if we can cut the deck, so that's not going to look like it should be because --

MRS. DUCH: It will be weird.

MR. DUCH: -- reduce the square foot and it doesn't look like regular patio, like a square patio. I don't know it will be okay because their sunroom is completely on the other side, they don't have any patio on the other side, on our side.

COMMISSIONER LANAGHAN: Understood. We're not here to talk about their sunroom because that's not part of our purview. I mean, we're looking at --

MR. DUCH: Yes, but if they have something, if they relax on a patio, so they are on the other side.

MR. NAKLICKI: You're trying to say that they don't see much of the deck.

MR. DUCH: Exactly, and also we've got the trees in between.

ACTING CHAIRPERSON JAFFE: Each case that we hear is evaluated independently, right?

MR. DUCH: Yes.

ACTING CHAIRPERSON JAFFE: So, what Mr. Lanaghan just said, it's not our purview to judge what is or isn't on their yard.

MR. DUCH: Oh, yes, oh, yes, of course.

ACTING CHAIRPERSON JAFFE: We're just trying to figure out is your request acceptable, and based on what we're hearing from the neighbors, based on some potential options that you have, that's what we're trying to decide here.

COMMISSIONER DRAKE: Yes, the goal is not to help you redesign the deck in this meeting, we have other petitions to hear. You can either continue to try to get these variances, we'll discuss it, we'll vote, or if you decide to change the scope of your project and have everything within code and you can figure it out however you want as long as it's within code, then you get your permit and you do all the things that the Village requires.

MRS. DUCH: So, if we can ask about the smaller yellow part on the top?

MR. DUCH: Northwest.

MRS. DUCH: Yes.

MR. DUCH: Northwest.

MRS. DUCH: To be accepted, that would make our project look --

MR. NAKLICKI: To meet maybe in the middle because they have no objections to the passageway, so maybe they can keep the entire passageway and cut only the northwest corner of the deck to get the condition of approval.

COMMISSIONER SELBKA: They want the whole passageway?

MR. NAKLICKI: Keep the corner, that corner of the deck on the northwest.

ACTING CHAIRPERSON JAFFE: But can we arrive at those calculations or am I hearing that they would need a continuance?

MR. MACH: I'm not sure I follow.

MR. NAKLICKI: So, they would like to keep the entire passageway out to the chimney but cut the corner of the deck, the northwest, this part removed.

MRS. DUCH: No, I'm saying opposite.

MR. NAKLICKI: Opposite?

MRS. DUCH: Yes, that's what I think that way.

MR. NAKLICKI: So, which part would you like to keep? The south or north?

MR. DUCH: Northwest.

MR. NAKLICKI: Northwest you'd like to keep?

MR. DUCH: Yes.

MR. NAKLICKI: And remove the south, oh, okay, I'm sorry.

MR. DUCH: Southwest removed, northwest we would like to keep.

ACTING CHAIRPERSON JAFFE: I'm trying not to drift into deliberation, but I don't know if this all can be arrived at tonight. Can they, I mean, can we figure out all the calculations on -- excuse me.

MR. MACH: The Zoning Board could continue it if they feel they need additional information. I would recommend though that, given that the neighbors had come out and, you know, they did all the plan and, you know, whether or not the Zoning Board feels there's a hardship, if they feel they can't take action this evening, I would recommend that --

COMMISSIONER SELBKA: You know, I think we should go to deliberations.

ACTING CHAIRPERSON JAFFE: Okay, are there any other comments you wish to make?

MRS. DUCH: No.

MR. DUCH: This is your decision certainly.

MRS. DUCH: Thank you for letting us speak.

MR. DUCH: Thank you so much.

ACTING CHAIRPERSON JAFFE: So, now this is the deliberation phase.

COMMISSIONER DRAKE: I'll start off. I'm always bothered when someone starts a project without a permit. I'm also additionally bothered that the petition isn't completely filled out. Those things can be corrected and I understand that you may not have a full understanding of how the process works. Not everybody does, that's also fair.

But based on what I'm seeing here right now, I'm not in favor, especially with the neighbor comments, the testimony we had here, and other letters that we've received, that Derek received and are in our packet, I'm not in favor of this variance.

I know they need four votes here in order to get it, I would be open to a continuance.

COMMISSIONER SELBKA: I'm not in favor of it either, honestly. There is no unique circumstance shown here. In addition, they're going to have to knock the deck back anyway, they're going to knock it back a couple of feet already as it is. There's construction that's going on to prepare this. They're just asking for an additional two feet because it looks symmetrical.

I don't see that as a hardship, especially in regard to the objections of the neighbors. That comes into my hardship analysis. So, if we can continue it, I would not really be in favor of a continuance though because I would not be in favor of this variance. So, it's two against, I don't know. I mean, if the rest of the Board is leaning the other way, then, you know, maybe having the full four here would be a way to go, but right now there's two noes.

COMMISSIONER DRAKE: They could go back and redesign the project so it's in the code and it really would be case closed.

COMMISSIONER SELBKA: Right.

COMMISSIONER DRAKE: And, you know, hopefully communicate with your neighbors because I think that's another issue that, you know, not talking to people around you is helpful in getting rid of the situation.

ACTING CHAIRPERSON JAFFE: Jeff, any comments?

COMMISSIONER LANAGHAN: No, I would tend to agree. I mean, I hate it when projects start without a permit. You know, that's kind of a strike one. It seems like there's a reasonable way to get around this so that, you know, a variance isn't needed, you know, I've seen no hardship really here.

ACTING CHAIRPERSON JAFFE: I don't have any evidence or thoughts to the contrary so I would agree with all these comments. Given this deliberation, there is no support. If there is a motion then to deny the variance or there's still a motion to approve and we let that motion fail and then we issue a request for a new motion?

MR. MACH: If there's a motion to approve and it fails, then it's a denial, or you can do a motion to deny.

COMMISSIONER DRAKE: If it fails, they have a year before they can do anything else in terms of a variance.

MR. MACH: Correct, if they want to request a variance again, unless they substantially change the request.

COMMISSIONER DRAKE: If you get no motion, there's no vote.

ACTING CHAIRPERSON JAFFE: Got it.

Is there a motion?

COMMISSIONER SELBKA: Motion to deny the variance.

ACTING CHAIRPERSON JAFFE: Is there a second?

COMMISSIONER DRAKE: Second.

MR. MACH: Mr. Drake.

COMMISSIONER DRAKE: No – yes, on denying.

COMMISSIONER LANAGHAN: I was going to say are we voting --

COMMISSIONER DRAKE: Yes to deny.

COMMISSIONER LANAGHAN: -- to deny, so okay, positive is to deny.

COMMISSIONER DRAKE: Yes, correct.

COMMISSIONER LANAGHAN: Got it.

MR. MACH: Mr. Lanaghan?

COMMISSIONER LANAGHAN: Yes.

MR. MACH: Mr. Selbka?

COMMISSIONER SELBKA: Yes.

MR. MACH: Acting Chairman Jaffe?

ACTING CHAIRPERSON JAFFE: Yes.

So, your petition was denied. Thank you for coming and, you know, hopefully spend some time thinking about how to recreate or redo the project. You're welcome, you're free to go, you're welcome to stay, but you're free to go.

(Whereupon, the public hearing on the above-mentioned petition was adjourned at 7:35 p.m.)



Zoning Board of Appeals 1/8/2024

Item: 1604 N. Hickory Ave. - 12/11/23

Department: Planning & Community Development Department

ATTACHMENTS:

Description	Type
1604 N Hickory Ave - 12/11/23 Findings	Minutes
1604 N Hickory Ave - 12/11/23 Minutes	Minutes

ZONING BOARD OF APPEALS VILLAGE OF ARLINGTON HEIGHTS

FINDINGS DECEMBER 11, 2023

PETITIONER: Gollapalli Residence

ADDRESS OF PROPERTY: 1604 N. Hickory Ave.

VARIATION: 10.2-11.1

A 5.0-foot variation to allow a driveway that is 27-feet wide where the maximum width allowed is 22-feet.

The petitioner testified as to hardship, uniqueness of circumstances, and the character of the locality. The petitioner explained that they are requesting a five-foot variance for a driveway that is 27 feet wide where the maximum width allowed is 22 feet. The petitioner explained that there are other houses in the neighborhood with a driveway that is wider than the subject driveway. The petitioner testified that their contractor informed them that a permit was obtained from the Village for the work that was performed. The petitioner further testified that they failed to obtain proof from the contractor prior to construction that a permit was issued for the project.

The petitioner testified that a citation was issued and they attended a court hearing regarding the case. The petitioner explained that the contractor, was held responsible. The petitioner further explained that the primary reason for the construction of the driveway is because there are currently five drivers in the home at the moment.

A neighbor spoke in opposition of the variance request and expressed concern with the width of the driveway.

Based upon the foregoing as well as other evidence submitted, the Zoning Board of Appeals finds that the petitioner has established the necessary elements for the granting of a variance, namely; that the petitioners would sustain a hardship if the variance were not granted; that the situation of the petitioners is unique; and, that the granting of a variance would not alter the essential character of the neighborhood. Proof of ownership and compliance with the Notification Provisions of the Ordinance were presented.

Thereafter, a motion was made by Mr. Selbka and seconded by Mr. Lanaghan. Thereafter, the Board voted 4-0 to approve the variance request, with a condition to taper the drive near the sidewalk in order to comply with Engineering's comments.

Now, therefore, after hearing all the evidence and after due deliberation, the Zoning Board of Appeals, voted 4-0 to grant the variance with a condition to taper the drive near the sidewalk in order to comply with Engineering comments.

The granting of a variance for this property shall not be construed as an approval to construct or encroach upon any easement areas unless written consent has been granted by each utility company and a copy of each letter is on file with the petition for this variation, nor be construed as a waiver of any requirements of the building code or other applicable ordinances of the Village.

It is expressly noted that no order of this Board permitting the aforesaid variance shall be valid for a period longer than one (1) year unless such construction is started and proceeds to completion within the terms of such permit.

Benjamin Jaffe, Acting Chair
Zoning Board of Appeals
Village of Arlington Heights

ZONING BOARD

REPORT OF PROCEEDINGS OF A MEETING
BEFORE THE VILLAGE OF ARLINGTON HEIGHTS
ZONING BOARD OF APPEALS

OF APPEALS

RE: 1604 NORTH HICKORY AVENUE - ZBA #23-042

REPORT OF PROCEEDINGS had before the Village of
Arlington Heights Zoning Board of Appeals taken at the Arlington Heights
Village Hall, 33 South Arlington Heights Road, 1st Floor, Buechner Room,
Arlington Heights, Illinois on the 11th day of November, 2023 at the hour
of 7:35 p.m.

MEMBERS PRESENT:

BENJAMIN JAFFE, Acting Chairperson
TOM DRAKE
JEFFREY LANAGHAN
JOSEPH SELBKA

ALSO PRESENT:

DEREK MACH, Development Planner

ACTING CHAIRPERSON JAFFE: All right, agenda item B, 1604 North Hickory Avenue, Zoning Board of Appeals Case #23-042.

Can you state your name?

MR. REDDY: Mallik, Mallik Reddy. I'm one of the owners of the property, myself and my mom. We own it; we co-own the property.

ACTING CHAIRPERSON JAFFE: The property address?

MR. REDDY: 1604 North Hickory Avenue. This is my nephew.

MR. VELUMULA: My name is Rishi. Rishi.

ACTING CHAIRPERSON JAFFE: Your name, full name?

MR. VELUMULA: Rishi Velumula.

ACTING CHAIRPERSON JAFFE: And address?

MR. VELUMULA: I live at the address; 1604 North Hickory.

(Witnesses sworn.)

ACTING CHAIRPERSON JAFFE: Okay, Derek is going to give the summary.

MR. MACH: Thank you.

A building inspector observed a driveway that was installed without a permit. The homeowner was informed that the driveway does not meet code due to the width. Per the Zoning Code, for a two-car garage, the maximum driveway width allowed is 22 feet and the driveway is 27 feet.

Therefore, they're requesting a five-foot variation from Chapter 28, Section 10.2-11.1 to allow a driveway that is 27 feet wide where the maximum width allowed is 22 feet. Thank you.

MR. REDDY: Yes, so for the first part, I do state that the proposed use will not alter the essential character of the locality. We're confident that the character of the neighborhood of the houses within 250 feet have long and big driveways, bigger than ours. A lot of the homes have L-shaped --

ACTING CHAIRPERSON JAFFE: I'm sorry, can you hold on a second? We just want to make sure your voice is catching on the microphone.

COMMISSIONER SELBKA: We want to close the door --

ACTING CHAIRPERSON JAFFE: Why don't you start at the beginning? Thank you.

COMMISSIONER LANAGHAN: No, sorry.

MR. REDDY: No problem.

So, for the first part, I do state that the proposed use will not alter the essential character of the neighborhood of the houses within 250 feet. A lot of the houses have long and big driveways, bigger than ours. They do have L-shaped driveways and are big enough to park more than three to four cars in the driveway.

The primary reason why we constructed the driveway, and I do understand that we unfortunately had a contractor who actually came in and was applying for the permit for the driveway to be constructed but on a certain given day he did come over and tell my father who was at home that he had received the permit from the Village. He said that he could construct and finish the work within two hours. So, the driveway was constructed.

When we asked him for the permit, he never gave us the permit after construction of the driveway. When we checked with some of the other neighbors, you know, around our premises, they did say that they also had a similar situation with the same contractor, with the same company. They did have some construction done and the same thing, he did not have permits for that.

So, the case was actually, we even went to a court hearing regarding this. The contractor, the company was actually held responsible for that. We had to end up paying the fine and we did, but as far as our driveway, because we did not even, we were told that the permit was given, but in fact it was not, now we have a driveway which doesn't meet the zoning regulations.

So, now the primary reason for our construction of the driveway is because we live in an extended family. We have six adults, two seniors who are my parents, we have myself and my wife who are working physicians, we have two college kids, my nephew and niece who both have cars because they commute all the way to Loyola in the city. We have two toddlers who live with us and go to daycare. So, it is difficult to carpool. It is difficult because of the different timing of our work.

So, because we have, earlier they went to high school so we were able to drop them to St. Viator because they were very close by. My parents were dropping them, but now since they're independent and they have to drive a long distance, they have their own cars. So, we have five cars as of present right now.

So, the extension of the driveway was only for one vehicle, additional vehicle. Unfortunately, we're in the situation we're in now, we have something that doesn't meet the regulations. So, we're just trying to see how we could salvage that and we are willing to make any changes we need to.

COMMISSIONER SELBKA: Have you seen the Engineering report to this case; the Engineering report that was submitted to us?

Derek, could you put that up?

Okay, the Engineering report says that you submitted drawings that didn't match the installation, which is probably why you didn't get the permit, and then an inspector showed up and told both the homeowner and the contractor to stop work and then you finished it anyway. Is that true?

MR. REDDY: Not to my knowledge.

MR. VELUMULA: That was before we had it done. He said to make sure that the contractor had a permit, and we said we'd make sure he had one.

COMMISSIONER SELBKA: The inspector?

MR. VELUMULA: The inspector told us, yes.

COMMISSIONER SELBKA: Did he tell you to stop work?

MR. VELUMULA: He said to stop work if there was no permit.

COMMISSIONER SELBKA: Okay.

MR. VELUMULA: If we didn't receive a permit, he said you can't do work, which we agreed with. We weren't going to do work without a permit.

COMMISSIONER SELBKA: And you didn't have a permit.

MR. VELUMULA: Well, to our knowledge we had a permit, but it turns out we didn't.

COMMISSIONER SELBKA: So, basically, in front of the contractor and you, the inspector told you to stop work unless you had a permit --

MR. VELUMULA: Yes.

COMMISSIONER SELBKA: -- and then the contractor told you he had a permit?

MR. VELUMULA: Yes, and that was not --

MR. REDDY: He lied.

MR. VELUMULA: Yes, he lied. Yes, he lied to us. We have not been able to establish contact with him since.

COMMISSIONER SELBKA: And you didn't ask him let me see the permit?

MR. VELUMULA: He just came in, he said I'm here, I'm putting it down. My granddad was at home; he's 70 years old. He's not going to fight this man.

COMMISSIONER SELBKA: Okay, so the contractor came in and said he was putting in the asphalt?

MR. VELUMULA: Exactly, yes.

COMMISSIONER SELBKA: Was that with the inspector there?

MR. VELUMULA: No, the inspector was not there at that time.

COMMISSIONER SELBKA: So, the inspector left and the contractor came back.

MR. VELUMULA: So, I can explain. So, the contractor dug up the grass a week before, or two weeks before we had the asphalt done. So, it was just, the grass was taken out, you can see it's on the sheet over there. That's when the inspector came to our house, and we did not have the asphalt done at that point.

After that, so we told him with confidence that, yes, we will put it down with a permit, we're not going to do anything without a permit. He said okay, that's great. Contractor comes in, we told him the same thing, we want a permit, we're not doing it without a permit. He comes in, he says he has the permit, he's going to do it right now. He does it, then we find out because the inspector comes over, he says, well, you don't have a permit.

COMMISSIONER SELBKA: When did the inspector, after the asphalt?

MR. VELUMULA: After the asphalt, and that was a couple of days after, not in that same day, so yes.

COMMISSIONER SELBKA: All right, Derek, Engineering says that Engineering would not object if they installed a 45-degree taper to the existing driveway apron. Do they need a variance even so in regard to --

MR. MACH: It's not part of the Zoning Code so it would not be the Zoning Board's purview. Engineering requires that the driveway match the width of the apron at the sidewalk. So, I'm understanding their comments, they're asking for this to be tapered here to meet up with the existing apron in the parkway.

COMMISSIONER SELBKA: Okay.

ACTING CHAIRPERSON JAFFE: But there was also a second comment, right, about widening the apron overall? I think they gave them two options, right?

COMMISSIONER SELBKA: Right. It's to widen the driveway apron to match the private. Now, with that, if they did that, would they even require a variance?

MR. MACH: They would still require a variance for the overall width of the driveway.

COMMISSIONER SELBKA: Okay.

ACTING CHAIRPERSON JAFFE: Do you understand what he was just

describing and then what the Engineering Department was saying?

MR. REDDY: The 45-degree angle and the total width of the driveway including what we have and the new extension being 25 feet, is it?

ACTING CHAIRPERSON JAFFE: 27.

MR. REDDY: 27, yes.

ACTING CHAIRPERSON JAFFE: Option 1 is to provide that taper.

MR. REDDY: Yes.

ACTING CHAIRPERSON JAFFE: Option 2 is, you see where all that grass is to the left of the existing apron?

MR. REDDY: Yes.

ACTING CHAIRPERSON JAFFE: You would basically have that removed and have your apron widened so it matches the width of your pavers and asphalt --

MR. REDDY: Okay.

COMMISSIONER LANAGHAN: -- in the parkway.

ACTING CHAIRPERSON JAFFE: In the parkway.

COMMISSIONER SELBKA: Would you be willing to do one of those two things?

MR. REDDY: Yes.

COMMISSIONER SELBKA: You would?

MR. REDDY: Yes.

COMMISSIONER SELBKA: Okay, all right.

MR. REDDY: I'm sorry.

COMMISSIONER SELBKA: That's okay.

MR. REDDY: None of this would have happened if, I mean, I don't want to point fingers, we're also at fault because we trusted somebody and we shouldn't have. I wasn't home. Like I said, my father is old, he's older and he's not in the best state of health also, so trusting somebody was, I would say, not the most advisable thing at that point in time. This is something that, we know for a fact that this contractor has done to multiple families in the neighborhood. So, hence the court case.

COMMISSIONER SELBKA: Okay, so have you spoken to your neighbors about this variance request?

MR. REDDY: Yes. Yes.

COMMISSIONER SELBKA: What's their feedback?

MR. REDDY: As far as our neighbors who we have sent notifications to along with the regulations and whatever we were required to do, none of them have objections. I don't know if they left any public comments, I'm not aware of that.

COMMISSIONER SELBKA: All right, and I believe we've received any public comment, correct, Derek?

MR. MACH: We have not. I just received a phone call from a neighbor just inquiring.

COMMISSIONER SELBKA: All right, I have no other questions.

ACTING CHAIRPERSON JAFFE: Tom? Jeff?

COMMISSIONER LANAGHAN: Yes, I have a couple actually.

So, looking at the, and Derek, can you blow up the survey that shows the proposed driveway? Yes, that one. So, based on that, it looks like the grass area above the sidewalk would be taken out for the driveway, and that the driveway extension

would basically go to the east side of your sidewalk. Does that make sense?

MR. REDDY: Yes.

COMMISSIONER LANAGHAN: If I look at the picture which is the next one down here, the pavement is to the west side of the sidewalk, meaning it's bigger than 27 feet. It's more than five by whatever that width of the sidewalk is, and then the area by the garage which you could have theoretically paved with this variance is still grass. So, you're a little wider and a little shorter which is going to make it tougher to get the 45 that you're doing.

So, I guess I'm a little confused as to what the fix here is when we give you a variance. What will I see out there in a month's time or whatever?

MR. REDDY: So, I mean, according to the two options, either the 45-degree angle or extension of the actual driveway to the east --

COMMISSIONER LANAGHAN: To the east, right?

MR. REDDY: Yes.

COMMISSIONER SELBKA: The apron?

COMMISSIONER LANAGHAN: Yes.

MR. REDDY: Yes.

COMMISSIONER LANAGHAN: I'm assuming, Derek, correct me if I'm wrong, if they do the latter where they extend on to the parkway, they're going to need to revise the curb there as well so that they can pull out; is that a correct assumption?

MR. MACH: Correct. They would need to --

COMMISSIONER LANAGHAN: So, I want to make sure you understand that also, right? So, you know, if you pave down to the street which is one of Engineering's options, you would need to rework that curb, cut it and what have you so that cars would come in and out and you're not jumping off a curb. So, again, I guess I'm a little confused as to what variance we're being asked for here.

COMMISSIONER SELBKA: What we're being asked for --

COMMISSIONER LANAGHAN: Is a five-foot wide.

COMMISSIONER SELBKA: Is to leave it as it is, but the conditions would be to change the apron or to do the 45.

COMMISSIONER LANAGHAN: I got you.

MR. REDDY: Right. Yes, it would be easier for us to have it the way it is right now.

COMMISSIONER SELBKA: But you would be willing to accept the Engineering Department's conditions?

MR. REDDY: Yes.

ACTING CHAIRPERSON JAFFE: Jeff, do you have any more?

COMMISSIONER LANAGHAN: No, I'm good at that point.

ACTING CHAIRPERSON JAFFE: All right, why don't you have a seat?

Let's see if there's anybody in the audience who wants to comment, and then similar to what you saw in the last one, you'll have an opportunity to come back and respond.

MR. REDDY: Sure. Thank you.

ACTING CHAIRPERSON JAFFE: Is there anybody in the audience who wishes to speak to this petition?

MR. HERRMANN: Yes.

ACTING CHAIRPERSON JAFFE: All right, you can come on up.

MR. HERRMANN: I'd just like to keep it short and sweet. My name is Rob -

ACTING CHAIRPERSON JAFFE: Yes, just give them a minute so they can exit the podium because then I'm going to just have you state your name into the mic. All right, thank you. Please.

MR. HERRMANN: Hi, my name is Rob Herrmann, and I'm just opposed to having a three-wide driveway in the neighborhood. It just doesn't help the character of the neighborhood. I think it hurts it negatively.

ACTING CHAIRPERSON JAFFE: So, you're opposed to this variance?

MR. HERRMANN: I'm definitely opposed. My wife is, too, but she's disabled; she couldn't come.

ACTING CHAIRPERSON JAFFE: Okay.

COMMISSIONER DRAKE: Are you one of the neighbors?

MR. HERRMANN: I'm a block away on Douglas.

COMMISSIONER DRAKE: A block away, okay.

MR. HERRMANN: That is it.

ACTING CHAIRPERSON JAFFE: Okay, thank you.

Do you wish to respond to that?

MR. REDDY: No.

ACTING CHAIRPERSON JAFFE: Okay, is there anybody else in the audience who wishes to comment on this?

(No response.)

ACTING CHAIRPERSON JAFFE: Okay, that being said, we'll close it down for Board deliberations.

Joe, did you want to begin?

COMMISSIONER SELBKA: Yes. I think I'm in favor of this. I think that there has been a unique, with conditions, I think I'm in favor of granting the variance with the conditions imposed by the Engineering Department. I think the testimony which was uncontradicted here today that the Petitioner was somewhat misled by his contractor who is the actual bad actor, I realize that they are responsible for their contractor, but it is a unique circumstance and it is a hardship.

I understand that some of the neighbors find this expansion to be aesthetically problematic, but unfortunately that horse has kind of left the barn and we've got a driveway there and it would be costly to rip that up. But I do think that we should grant this variance only on the condition that the homeowner do one of the two things required by the Engineering Department, which is to do a 45-degree taper or have the driveway extended to the apron.

COMMISSIONER LANAGHAN: Yes, I'd tend to agree with Joe on the proportions, although, I think I'd have to prefer to have a single option as opposed to giving them kind of an either/or and we go out there to find out what it is. I did hear the neighbor. I don't necessarily disagree, you know, just looking on Google Earth, there's not a lot of three-car driveways. It doesn't appear anyway I would imagine. So, I think, you know, I'm willing to do the variance with the 45 to taper back to the sidewalk as I think it would make more sense.

COMMISSIONER DRAKE: I would agree with that. I understand the

difficulty you're in, and I like the idea of just one option so it's definitive. I think there is definitely a hardship with all residents you have in the home and all the car juggling you have to do. All of us have been through that.

ACTING CHAIRPERSON JAFFE: So, can you come back up to the mic, please? You understand we're laying out that of the two options, we are asking that we would approve this with your consent on the one?

MR. REDDY: Yes.

ACTING CHAIRPERSON JAFFE: And you're both good with that?

MR. REDDY: The 45-degree angle taper, right.

ACTING CHAIRPERSON JAFFE: All right, you can now have a seat.

MR. REDDY: Thank you.

ACTING CHAIRPERSON JAFFE: So, I would agree with what everyone has said, and I do want to thank the neighbor in the audience for providing his feedback, but that being said, is there a motion to approve?

COMMISSIONER SELBKA: Motion to approve with the condition of the homeowner installing the 45-degree taper as required by the Engineering Department.

COMMISSIONER LANAGHAN: Second.

MR. MACH: Mr. Drake?

COMMISSIONER DRAKE: Yes.

MR. MACH: Mr. Lanaghan?

COMMISSIONER LANAGHAN: Yes.

MR. MACH: Mr. Selbka?

COMMISSIONER SELBKA: Yes.

MR. MACH: All right, Acting Chair Jaffe?

ACTING CHAIRPERSON JAFFE: Yes.

Congratulations, your variance has been approved. You're welcome to stay, but you're free to leave.

MR. REDDY: Thank you.

(Whereupon, the public hearing on the above-mentioned petition was adjourned at 7:55 p.m.)



Zoning Board of Appeals 1/8/2024

Item: 645 S. Highland Ave - 12/11/23

Department: Planning & Community Development Department

ATTACHMENTS:

Description	Type
645 S Highland Ave - 12/11/23 Findings	Minutes
645 S. Highland Ave - 12/11/23 Minutes	Minutes

ZONING BOARD OF APPEALS VILLAGE OF ARLINGTON HEIGHTS

FINDINGS December 11, 2023

PETITIONER: Gospodinov Residence

ADDRESS OF PROPERTY: 645 S. Highland Ave.

VARIATION: 6.5-2, 5.1-3.5b (Accessory Structures, Maximum Impervious Surface Coverage)

A 2.1-foot variation to allow a deck and gazebo with a setback of 0.9 feet instead of the required 3.0 feet; and a 208 square foot variation to allow 3,782 square feet of impervious surface coverage where 3,573 (55%) square feet is allowed.

The petitioner testified as to hardship, uniqueness of circumstances, and the character of the locality. The petitioner explained that a deck was constructed that does not comply with the required side yard setback. The petitioner testified that they are proposing a gazebo above the deck. The petitioner also explained that the patio was installed without a permit and exceeds the allowable impervious surface coverage. The petitioner testified that they did not know that a permit is required for the deck and the brick paver patio. The petitioner explained that the patio drains properly. Neighbors spoke in opposition to the variance request.

Based upon the foregoing as well as other evidence submitted, the Zoning Board of Appeals finds that the petitioner has not established the necessary elements for the granting of a variance for the deck; that the petitioners would sustain a hardship if the variance were not granted; that the situation of the petitioners is unique; and, that the granting of a variance would not alter the essential character of the neighborhood. Proof of ownership and compliance with the Notification Provisions of the Ordinance were presented.

Thereafter, a motion was made by Mr. Selbka and seconded by Mr. Drake. Thereafter, the Board voted 4-0 to DENY the variance request for the deck and gazebo setback.

Now, therefore, after hearing all the evidence and after due deliberation, the Zoning Board of Appeals, voted 4-0 to DENY the variance for the 2.1-foot variation to allow a deck and gazebo with a setback of 0.9 feet instead of the required 3.0 feet.

You are hereby notified that this ruling is subject to appeal to the Circuit Court of Cook County, under the Administrative Review Law. Such appeal must be filed within thirty-five (35) days of the date of receipt of this decision.

Based upon the foregoing as well as other evidence submitted, the Zoning Board of Appeals finds that the petitioner has established the necessary elements for the granting of a variance for the impervious surface coverage for the patio, namely; that the petitioners would sustain a hardship if the variance were not granted; that the situation of the petitioners is unique; and, that the granting of a variance would not alter the essential character of the neighborhood. Proof of ownership and compliance with the Notification Provisions of the Ordinance were presented.

Thereafter, a motion was made by Mr. Selbka and seconded by Mr. Drake. Thereafter, the Board voted 4-0 to approve the variance request for a 208 square foot variation to allow 3,782 square feet of impervious surface coverage where 3,573 (55%) square feet is allowed.

Now, therefore, after hearing all the evidence and after due deliberation, the Zoning Board of Appeals, voted 4-0 to grant the variance for impervious surface coverage.

The granting of a variance for this property shall not be construed as an approval to construct or encroach upon any easement areas unless written consent has been granted by each utility company and a copy of each letter is on file with the petition for this variation, nor be construed as a waiver of any requirements of the building code or other applicable ordinances of the Village.

It is expressly noted that no order of this Board permitting the aforesaid variance shall be valid for a period longer than one (1) year unless such construction is started and proceeds to completion within the terms of such permit.

Benjamin Jaffe, Acting Chair
Zoning Board of Appeals
Village of Arlington Heights

ZONING BOARD

REPORT OF PROCEEDINGS OF A MEETING
BEFORE THE VILLAGE OF ARLINGTON HEIGHTS
ZONING BOARD OF APPEALS

OF APPEALS

RE: 645 SOUTH HIGHLAND AVENUE - ZBA #23-043

REPORT OF PROCEEDINGS had before the Village of
Arlington Heights Zoning Board of Appeals taken at the Arlington Heights
Village Hall, 33 South Arlington Heights Road, 1st Floor, Buechner Room,
Arlington Heights, Illinois on the 11th day of November, 2023 at the hour
of 7:55 p.m.

MEMBERS PRESENT:

BENJAMIN JAFFE, Acting Chairperson
TOM DRAKE
JEFFREY LANAGHAN
JOSEPH SELBKA

ALSO PRESENT:

DEREK MACH, Development Planner

ACTING CHAIRPERSON JAFFE: All right, final agenda item of the evening is 645 South Highland Avenue, Zoning Board of Appeals Case #23-043.

MR. GOSPODINOV: Hello, good evening.

ACTING CHAIRPERSON JAFFE: Hi.

MR. GOSPODINOV: My name is Konstantin Gospodinov. I am the owner of the property.

MS. RODRIGUEZ: My name is Kathleen Rodriguez; I am a real estate attorney of Arlington Heights. They asked that I come along to just assist with this hearing.

MRS. GOSPODINOV: My name is Magdalena Gospodinov and I live at 645 South Highland. His wife.

ACTING CHAIRPERSON JAFFE: Okay, could you state your address?

MS. RODRIGUEZ: Sure, 736 North Kennicott.

ACTING CHAIRPERSON JAFFE: Thank you.

(Witnesses sworn.)

MR. MACH: Thank you. A deck was constructed that does not comply with the required side yard setback; therefore, a variance is being requested. The Petitioner is also proposing a gazebo above the deck. The Petitioner has constructed the deck that is set back 0.9 foot where three feet is required. In addition, the Petitioner has expanded the patio area and the Village has no record of a permit.

Therefore, they are requesting a 2.1-foot variation to allow a deck and gazebo with a setback of 0.9 foot instead of the required three feet, as well as a 208 square-foot variation from Chapter 28, Section 5.1-3.5b to allow 3,782 square feet of impervious surface coverage where 3,573 square feet is allowed. Thank you.

MR. GOSPODINOV: I want to maybe show you some pictures of how the whole thing looks so you can visualize it.

ACTING CHAIRPERSON JAFFE: Have you, just so you know, if you give us the pictures, they're entered into evidence so we can't give you back the copies.

MR. GOSPODINOV: That's completely fine.

ACTING CHAIRPERSON JAFFE: Okay.

MR. GOSPODINOV: I make the picture from the same point of view. This is for the impervious surface. This is the same patio. So, pretty much we have a deck over right now and the kids are playing in this area. This was never grass, it was just mud and dirt. That's why we just expanded the patio a little bit to cover it and this is the purpose that we're using it for. We thought we'd extend this corner over here and just resurfaced it.

Everything is pervious surface, porous at least. In the book it says that pavers are pervious. I know that the Village it's considered like a concrete paver, but this is --

COMMISSIONER SELBKA: So, it isn't pervious, but --

COMMISSIONER LANAGHAN: It does drain.

COMMISSIONER SELBKA: -- it does drain.

MR. GOSPODINOV: It does drain. It's gravel and sand under it. I'm personally putting the gravel and sand each year. So, we don't have any, since we, I can show you a picture of how it was looking, the patio before.

ACTING CHAIRPERSON JAFFE: So, this is before, this is after?

MR. GOSPODINOV: Yes. This is before, this is after. This is after, too.

COMMISSIONER LANAGHAN: Okay.

MR. GOSPODINOV: This is how it was looking, the patio, each rain, when we bought the house. So, we fixed up everything, we fixed everything just looking at that.

On this picture, however, is the deck. So, in the place of this deck, you can see that this picture is actually like eight years old. It was having these structures over here. I am admitting I did not know that I need a permit for both of them. We just bought from Costco when we saw it in the store. We didn't know that we need a permit.

On this one, you can see there was an old structure around the small house, around the playhouse. There was something, I'm going to show you. So, over here you can see those are old beams into the ground, so --

ACTING CHAIRPERSON JAFFE: And that was there when you bought the property?

MR. GOSPODINOV: Yes, these beams were there and they were extremely rotten. There were some pieces of wood that we just cleaned that up and we used it like a border for the playhouse. That's why I didn't think that, for me it was more like modifying the same space that was over there. I didn't need, I wasn't thinking that I need a permit.

Everything that I'm doing in my yard, I'm asking my neighbors first. So, I was getting everybody to agree first before to continue. As we understand after, they changed their minds and now they are opposing.

I can show the picture even when I asked, so even this is a little bit after, it was just on a frame and I just asked my neighbor across on the north side who is the only one affected with the whole thing. I asked to come to take a look to decide and to tell me what he thinks. He was okay with it, but after that he changed his mind, he didn't tell me. Honestly, if I knew, probably I was going to redo it, but now everything is done, and the Building Department already approved everything that's, all the plans on everything.

COMMISSIONER LANAGHAN: Got you. A couple of questions for you. So, how many people live in the house?

MR. GOSPODINOV: Four. Me, my wife and two kids, and one big dog.

COMMISSIONER LANAGHAN: All right, and approximately how long have you lived in the house?

MRS. GOSPODINOV: Eight years.

MR. GOSPODINOV: Eight years, nine years.

COMMISSIONER LANAGHAN: And that, again, going back to this for my own mind, the deck that was back there previously was there when you bought it?

MR. GOSPODINOV: There was only these left over beams and pieces of wood all around. When we bought the house, it wasn't really, I mean, everything was in really bad condition. We bought it as is and we spent all of our time trying to improve everything.

COMMISSIONER LANAGHAN: Got you. Approximately when did you build the deck? You know, when did you do this work?

MR. GOSPODINOV: What was it, like June, July, early this year.

COMMISSIONER LANAGHAN: Okay, those are really kind of what I had right now.

ACTING CHAIRPERSON JAFFE: So, when you installed all these pavers, is that permitted?

MR. GOSPODINOV: It's not permitted because I didn't know that they need a permit. I'm admitting it was impulsive. I was having some Mexican guys cleaning the grass and everything and they saw the mud in the middle and they asked me do you want --

MRS. GOSPODINOV: We had leftovers from the pavers.

MR. GOSPODINOV: Yes, we were having like a half skid of leftovers for the pavers, a lot, and they asked me do you want to do it and I said why not. They did it in three days.

ACTING CHAIRPERSON JAFFE: So, the construction of the gazebo --

MR. GOSPODINOV: The deck?

ACTING CHAIRPERSON JAFFE: The deck, you are already at an impervious surface area issue, correct? The work you're doing now is not adding to that. The work that you did by putting in these pavers without a permit has created one of the variances that you're seeking.

MR. GOSPODINOV: Yes.

ACTING CHAIRPERSON JAFFE: Okay.

MS. RODRIGUEZ: So, to clarify, I don't think there's any more work to be done, right? They're just looking to --

ACTING CHAIRPERSON JAFFE: Understood, but as a result of his decision to do this work without a permit, it has now created a situation where he is out of code.

MS. RODRIGUEZ: Correct.

MR. GOSPODINOV: I cannot, actually this is a question maybe for Derek because I'm not sure, for this 200 square feet that we are applying for the impervious surface, are they from the deck or they are from the patio? Is the deck considered an impervious surface, too?

MR. MACH: The deck is considered pervious; however, if --

MR. GOSPODINOV: Pervious, okay.

MR. MACH: -- the gazebo is placed on top, it's going to increase the impervious, but the impervious coverage variance is for the patio.

COMMISSIONER SELBKA: But the gazebo has not been installed yet, correct?

MR. GOSPODINOV: No. We was having this old gazebo. Honestly, we put it on the deck and we just did not like because the shape of the roof of this gazebo that Costco was having at the time is surrounded and it didn't fit, nothing around it. I mean, it wasn't looking good so we decided to get rid of it. This happened actually when we received the notice.

COMMISSIONER LANAGHAN: Is there a plan to add a gazebo, or --

MR. GOSPODINOV: Yes.

COMMISSIONER LANAGHAN: -- at this time there is no gazebo planned?

MR. GOSPODINOV: Actually, the whole prompt for this deck came out to secure the gazebo because before the gazebo was sitting just on the pavers and it wasn't secure towards the ground. That's why when I was thinking how to do it, I decided that maybe it's easier to make it like a deck and there is a, this deck has seven posts that are 42 inches into the ground founded with concrete and it has steps that are projected to

where the gazebo is going to step to be bolted in.

COMMISSIONER SELBKA: So, the gazebo right now exists and it is in the brick?

MR. GOSPODINOV: No, there is no gazebo right now. As soon as we put it on the deck, we realized that it doesn't look good and then we just sold it, but --

COMMISSIONER SELBKA: Okay.

MS. RODRIGUEZ: -- they would like to put a new gazebo.

MR. GOSPODINOV: But we would like to put a gazebo.

COMMISSIONER SELBKA: Just sometime in the future you want a new gazebo?

MR. GOSPODINOV: Yes. The new gazebo actually is in the documentation, yes.

COMMISSIONER DRAKE: Derek, has the Village confirmed that the pavers that we just looked at are pervious?

MR. MACH: No, because there is no permit on record; nothing has been inspected.

COMMISSIONER DRAKE: So, okay.

MS. RODRIGUEZ: So, I did ask if they, since it's been out there for a while and we've had rain and all that, if they've had problems or any of that, they said that no, you know, water that's come down has flowed through, that they're not living with --

COMMISSIONER DRAKE: So, there's no flooding issues with the neighbors?

MR. GOSPODINOV: No. A little bit of explanation, I'm an owner of a heating/air conditioning company that is also located here in Arlington Heights. I have a pretty good engineering view of the whole thing and I was really specific when we built the patio for leveling it for everything, how to be done. That's why it's gravel and sand, it doesn't have a -- nothing on it. Since we did it, we don't have any flooding problems anywhere. Before was getting a lot of water in the garage, now it's just solid.

COMMISSIONER LANAGHAN: Derek, you made a comment earlier about if he put a gazebo in they're going to have a larger impervious issue. So, that gazebo is not calculated into this even though it's part of the variance?

MR. MACH: It's not calculated as part of the impervious surface. The impervious surface variance is for what's currently there.

COMMISSIONER LANAGHAN: Got you. Does that mean if we proceed as presented here, that they need to come back for a gazebo or how would that --

MR. MACH: If the Zoning Board is supportive of the --

COMMISSIONER LANAGHAN: I'm just curious and trying to make sure we tie up as many loose ends as possible.

MR. MACH: Yes, then they're going to need another variance for the 126 by 136-inch gazebo.

ACTING CHAIRPERSON JAFFE: So, the impervious surface ratio would increase again.

MR. MACH: It would.

COMMISSIONER LANAGHAN: By the size of the gazebo.

MS. RODRIGUEZ: But if the pavers are pervious --

MR. GOSPODINOV: Can I mention something here? I mean, the gazebo is

going to step exclusively on the deck, on the steps that are projected. So, the legs of this gazebo are actually gutters and all of the water is going to go on the deck itself. It's something that will disappear. The deck itself, it's with gravel under it; it's predicted to take water.

COMMISSIONER SELBKA: The ordinance requires, (a) the ordinance treats the pavers as impervious regardless of whether they do drain --

MR. GOSPODINOV: Yes.

COMMISSIONER SELBKA: -- and the gazebo, because it's, you know, it does not drain despite that there are gutters there, that counts towards your impervious surface as well.

ACTING CHAIRPERSON JAFFE: Any other questions from the Board before we open it up?

(No response.)

ACTING CHAIRPERSON JAFFE: Why don't you have a seat and let's hear what the audience have to say?

Is there anybody present who would like to speak to this petition?

Would you both state your names?

MR. ROSSI: Jon Rossi.

MRS. ROSSI: And I'm Mallory Rossi. We're husband and wife; we live at
641 --

MR. ROSSI: South Highland.

MRS. ROSSI: -- South Highland, yes.

MR. ROSSI: So, we're the property directly adjacent to the north.

ACTING CHAIRPERSON JAFFE: Okay.

MR. ROSSI: So, you know, I'll start out with saying that Maggie and Konstantin are wonderful people. So, it brings us no pleasure to do this, right? It's an unfortunate situation and, yes, nobody is happy about it.

You know, I do just want to comment on Konstantin's comment earlier about asking us permission beforehand. There was no conversation before construction had happened. He had asked me after he had done the footings, poured concrete and framed out the entire deck. Then at that point, I raised concerns about the height of it and the pitch of it in relation to the yard and, you know, he said there was nothing that could be done about it at that point.

So, with that, you know, I just have a couple of comments I wanted to read through. You know, obviously the recent construction of the deck along with the expanded brick has us concerned about rainwater management regarding the impervious square footage. We did and always have had flooding concerns in our yard and in their yard. Every time there is significant rain, it pools in the east end of our yard and in the east end of their yard.

Adding to the impervious square footage is only going to hurt the situation. They constructed the deck at the end of summer, so that was not rainy season. So, you know, it hasn't been truly tested in the spring and rain season yet.

Additionally, you know, one of my questions for Derek was around, and you guys touched on it all already, they're already exceeding the impervious square footage. Once you've put that gazebo on the deck, the entire deck is now impervious, right? So, it's only making the problem even worse by expanding that area.

You know, my other main concern is that both of our properties pitch down towards the east and, you know, the direction of the deck is going level as the yard is pitching down. So, right next to that shed, you know, when you're standing on that deck, it's like you're standing 10-foot above the ground level. It's giving the appearance that the deck is like a stage in the backyard, and especially if you put a gazebo on there, it's like an elevated stage and it's affecting our privacy in our backyard. You know, we feel like we can't enjoy our patio as much or our backyard, and it looks into our back door if, you know, windows or back door and windows on the side of our house that all see that.

So, keeping it short, we just --

MRS. ROSSI: Also one big thing is they had a previous gazebo before they just, I think there's a picture of it and it was, like he said, it was not attached to the ground.

So, actually in a big windstorm, it actually flew over our fence into our yard damaging our fence. It could have very seriously injured our dog, we have a dog, and now we have an eight-month old child at home. So, the --

MR. ROSSI: It's a safety concern.

MRS. ROSSI: -- safety of it is a big concern especially with it being elevated as well. It's just easier for it to jump over the fence in a big windstorm. I would hate for it to be, someone injured or something like that happened horribly.

MR. ROSSI: Ideally, you know, ideally in our eyes the deck would just simply be removed, not even moved back to the setback, but we feel strongly that the setback should at a minimum be followed and the deck should be ideally removed. They also, if you look at the size of the brick patio, they have outdoor space. That's an outdoor entertaining area that's just as big as most people. You don't see people that have a brick patio and a deck, especially a deck that's not attached to the home, and it's right up against my property, you know, it's --

MRS. ROSSI: Less than a foot away.

MR. ROSSI: -- less than a foot away from our property line.

So, kind of the combination of all of those things, it's just like we have no privacy and it's just, you know, an additional noise. It's just not ideal for us. So, we just wanted to raise those concerns to you guys and we appreciate the opportunity to do so.

ACTING CHAIRPERSON JAFFE: Three questions and then I'll let the rest of the Board ask. So, question number one, were you consulted before the pavers were expanded?

MR. ROSSI: No.

ACTING CHAIRPERSON JAFFE: Okay, question number two and three, the two variances being sought, do you oppose or support either or both of them?

MR. ROSSI: We oppose both of them.

ACTING CHAIRPERSON JAFFE: You oppose both.

MR. ROSSI: Yes, and you know, I think the other comments, you know, just around ignorance in needing permits, I think it's common knowledge that you need permits for these things. He's a contractor that pulls permits all of the time. So, you know, I think it was put in and now he wants it to stay and I just don't think it's right because I don't think that permit would have been granted in the first place had they done it with the right process, the correct process.

ACTING CHAIRPERSON JAFFE: Any other questions from the Board for these folks?

(No response.)

MRS. ROSSI: Thank you.

MR. ROSSI: Thank you, guys.

ACTING CHAIRPERSON JAFFE: Thank you.

Before you get a chance to respond, this was not part of the packet, right? Does this need to be read or is it just --

MR. MACH: I can read it in the record.

Good afternoon. I'm writing to you to ask that the Village deny the variances requested by Konstantin Gospodinov at 645 South Highland Avenue. My name is Lisa Peters and I've lived at 637 South Highland Avenue, two doors away, for over 20 years. I've watched over the last several years the work that has been done to 645 South Highland and I have many concerns regarding what they're asking for.

While I do believe the house itself looks beautiful, it is the yard and everything that they have installed in it that is of concern. The years that I have lived here, I have replaced all of the electrical systems, installed new windows and installed a fence in my home. I have had all these items permitted through the Village, but I did not have to make a couple of -- I'm sorry, I did have to make a couple of changes to our original plans in order to comply with Village codes.

As far as I know, there has never been a permit pulled into any of the work at 645 South Highland. Now, I notice that they are now asking for variances for items that they proceeded to install without checking with the Village first or getting approval. The yard which I can see through the Rossis' yard is completely out of control. There are large speakers, lights, awnings, swings, trampoline stacks, brick patio, brick hardscape and a gazebo which is like another room to their home. The gazebo deck are mere inches from my neighbor's fence.

My understanding is that they also want to replace the current deck with a larger one and even a larger gazebo. We have always felt that this is a nice family and the house does look nice, but when is enough enough? I have concerns regarding drainage and water runoff. I have concerns regarding the height of that new gazebo. I would be concerned about rain and snow runoff from an even larger gazebo which would most likely hang over the Rossis' fence.

There was an incident a few years ago when the gazebo flew completely over to the Rossis' house and landed in their yard. It was so close that it didn't even hit the fence, it flew right over it. If they, their child or their dog was in the yard, it could have injured them severely.

The lack of privacy for my next-door neighbors, the Rossis, is also a concern of mine. The previous family that lived there, the Reddingtons, would tell me that 645 South's concrete patio deck were so close to the property line that the Gospodinovs could see directly into their kitchen. This infringes on my neighbors' opportunity to enjoy their own yard and patio due to the lack of privacy. The current deck is raised so they are able to look over the fence from the deck.

I've enclosed here a photo of my view of the patio from this past summer before they took down the original gazebo and put up the Chicago Bears' tent. This is with the Rossis' house in between. Can you imagine what it's like for them? It will definitely hurt their property value and also possibly their opportunity to sell their house in the future.

The Village forced another neighbor of ours to jack up a poured foundation because it was a few inches over the approved plans due to the contractor error. The right thing to do would be to do the same here. This owner has decided to ask for forgiveness instead of permission. I would like to ask that you deny their request for the variances. Thank you. Lisa Peters, 637 South Highland.

ACTING CHAIRPERSON JAFFE: Would you like to come back up to the podium and respond to any of those comments?

MR. GOSPODINOV: So, for this incident with the big storm that flipped over the gazebo, that was the reason that I decided to bolt it somehow to the foundation because before where it was stepping before, it was on the pavers and there was no possibility to do any foundation under it. That's why I decided to move it on the side to make it, to bolt it for concrete that is 42 inches into the ground and it's not going to move from there.

I'm really surprised at listening to you both. I'm not going to comment. Do you have comments about all those stuff?

So, on one of the pictures, you can see actually the height of the deck.

COMMISSIONER LANAGHAN: I was just looking for that, actually, I can, unless it's under something –

ACTING CHAIRPERSON JAFFE: I mean, it's kind of hard for us, sir, to view things on your phone because they can't be entered in evidence. So, can you at least estimate the height?

MR. GOSPODINOV: The height of the deck is with two inches difference from the surface over here. So, practically just because of the foundation and how much we can dig, over here in this corner it's just two inches. The only problem is that the level is going towards the side on the garage and on the other side it's like 12 inches from before. For me, it's not even a deck, it's a platform, you know, just so you can step in.

MS. RODRIGUEZ: Yes, it's not, you don't, you would just step on, right.

MR. GOSPODINOV: So, when you walk from the patio from the west side, it's just like an inch-and-a-half step.

COMMISSIONER DRAKE: Could you address the drainage issue? I had asked earlier if there were any draining issues, drainage or pooling issues. You said no. Your neighbor I think said something to the contrary. Is there a water problem?

MR. GOSPODINOV: So, a long time ago with the previous neighbors, relating it on when they was there, there was a huge -- in the back, but I cleaned up the back of the yard and this water started draining. I mean, after that, we fixed the pavers that was in front of the shed, this helps a lot. I mean, on my yard, we don't get any water staying or something.

If they have a concern, on the side of the garage I was thinking before, if the problem persists, we could do some kind of special drainage with a pump there to pump the water out of this section. It's just because maybe he's just a little bit lower than mine on this side, but this is nothing that I changed there. I have the same height from the beginning. The only issue it can be, the dig that we're putting, but like I said it's gravel under it. I did it the way that it's supposed to be done.

COMMISSIONER DRAKE: Thank you.

ACTING CHAIRPERSON JAFFE: I think you can have a seat.

We'll close it down for Board deliberations.

You want to start, Jeff?

COMMISSIONER LANAGHAN: Yes, I will. I think in general, I would be okay with both of these although I'm not comfortable with the gazebo. We are over a limit here and I'm a little concerned that we are getting conflicting stories on, you know, is there water issues or are there not water issues. I was trying to look to see if there's anything in this letter that would identify that or not.

You know, the fact that there was a structure more or less where this deck was before I think is somewhat mitigating to me in that, you know, they're more or less replacing it, cleaning it up and doing it in that shape. The pavers which is the second portion of it, the 200 square feet give or take that they're over for the pavers, again, with it set up on stone and gravel, I don't think that that would necessarily be an issue as far as drainage goes. I understand Engineering's concern but I think that it, at least from what I'm seeing here and what I've heard, that that would appear good, but again, I could not support a gazebo.

ACTING CHAIRPERSON JAFFE: Tom or Joe?

COMMISSIONER DRAKE: I have a question for Derek.

If neither of these variances were approved, what is the implication for the homeowner if any?

MR. MACH: They'd have to bring it into compliance. It would proceed to code enforcement and they'd have to remove impervious to bring it into compliance. So, the deck would have to comply with code and be set back three feet.

COMMISSIONER DRAKE: They'd have to redesign that deck?

MR. MACH: They would, yes.

COMMISSIONER DRAKE: Okay.

COMMISSIONER SELBKA: And the deck has already been installed, but they're going to demolish the deck, is that the plan?

COMMISSIONER LANAGHAN: I think that's the purpose and put the gazebo in there, but at least if I'm interpreting what we've been presented here correctly.

MR. ROSSI: Can I also --

ACTING CHAIRPERSON JAFFE: Yes, I'm sorry, we're close for deliberation.

COMMISSIONER SELBKA: Yes, I don't think I'd approve a gazebo under any circumstances. As for the others, I mean, as for the pavers, I think they're mostly permeable. As for the deck, I mean, it's a relatively small incursion into the setback line. So, I guess I'm reluctant, but the deck has been refurbished, you know, I think actually given the neighbors resist it, the neighbors' objections, I would oppose the 2.1 variation and the gazebo and just grant the variance as to the pavers.

ACTING CHAIRPERSON JAFFE: And that's where my head is at because the hardship that would be inflicted upon the property owner to dig up and redo the backyard I think is legitimate. So, I would be comfortable granting the variance for the impervious surface area coverage and denying the other variance.

COMMISSIONER DRAKE: You can add me to that list. I'm also bothered by the lack of a permit for someone that was a contractor. It seems to me you should have known that. It does happen. It also seems to me that people should be talking to neighbors right around them on this kind of projects, and it doesn't sound like that

happened. Sending the letters out is fine, putting the sign up is fine, but going the extra mile can make a big difference in this type of hearings.

So, I would agree on approving just one of the variances and not the gazebo.

ACTING CHAIRPERSON JAFFE: So, do we do separate motions then? Can you pull up the code, the numbers or whatever?

So, we'll start. Is there a motion for the request for a 2.1-foot variance to allow a deck and gazebo with a setback of 0.9 foot instead of the required three feet?

COMMISSIONER SELBKA: Motion to deny the variance.

ACTING CHAIRPERSON JAFFE: Is there a second?

COMMISSIONER DRAKE: Second.

MR. MACH: Mr. Drake?

COMMISSIONER DRAKE: Yes to deny that.

MR. MACH: Mr. Lanaghan?

COMMISSIONER LANAGHAN: No.

MR. MACH: Mr. Selbka?

COMMISSIONER SELBKA: Yes to deny.

MR. MACH: All right, Acting Chair Jaffe?

ACTING CHAIRPERSON JAFFE: Yes.

So, that variance has failed, correct, Derek?

COMMISSIONER LANAGHAN: That's right, four.

ACTING CHAIRPERSON JAFFE: So, then is there a motion to approve a 208 square-foot variation from Chapter 28, Section 5.1-3.5b?

COMMISSIONER LANAGHAN: So moved.

ACTING CHAIRPERSON JAFFE: Is there a second?

COMMISSIONER DRAKE: Second.

MR. MACH: Mr. Drake?

COMMISSIONER DRAKE: Yes.

MR. MACH: Mr. Lanaghan?

COMMISSIONER LANAGHAN: Yes.

MR. MACH: Mr. Selbka?

COMMISSIONER SELBKA: Yes.

MR. MACH: Acting Chair Jaffe?

ACTING CHAIRPERSON JAFFE: Yes.

Okay, so in summary, your request for the first variance was denied but your request for the second variance was approved.

MR. GOSPODINOV: Can I ask a question then? If I were to do the deck on the requested setback, is this going to be a problem, three feet from the property line?

COMMISSIONER LANAGHAN: That's per code and you wouldn't need a variance at that point.

MR. GOSPODINOV: Okay.

COMMISSIONER SELBKA: You should still need to pull a permit.

MR. GOSPODINOV: Yes, we will need a permit.

COMMISSIONER LANAGHAN: Yes.

ACTING CHAIRPERSON JAFFE: All right.

COMMISSIONER LANAGHAN: It's not, just so we're clear, the variance for

the impervious does not include the gazebo, right? It's for the pavers only.

MR. GOSPODINOV: Yes.

ACTING CHAIRPERSON JAFFE: Okay, is there any other public comment this evening?

(No response.)

ACTING CHAIRPERSON JAFFE: None being heard, is there a motion to adjourn?

COMMISSIONER SELBKA: Motion to adjourn.

ACTING CHAIRPERSON JAFFE: Is there a second?

COMMISSIONER LANAGHAN: Second.

ACTING CHAIRPERSON JAFFE: All in favor?

(Chorus of ayes.)

ACTING CHAIRPERSON JAFFE: This meeting is adjourned. Good night.
(Whereupon, the public hearing on the above-mentioned petition was adjourned at 8:27 p.m.)



Zoning Board of Appeals 1/8/2024

Item: 515 N. Chestnut Ave. - ZBA#23-044 - Public Hearing

Department: Planning & Community Development Department

REQUEST

- A 3.1-foot variation from Chapter 28, Section 6.5-6 (Height of Accessory Structures in Required Rear Yards) to allow a detached garage with a peak height of 18.1 feet above grade where a maximum peak height of 15.0 feet is allowed.
- A 8.0-foot variation from Chapter 28, Section 10.2-11.1 to allow a driveway that is 30 feet wide where the maximum width allowed is 22 feet.

ATTACHMENTS:

Description	Type
Supporting Documents	Exhibits

ARLINGTON HEIGHTS ZONING BOARD OF APPEALS

Staff Analysis

Prepared By: Derek Mach, Planner
Hearing Date: January 8, 2024
Date Prepared: January 3, 2024
Project Title: Leahy Residence
Address: 515 N. Chestnut Ave.

Background Information

Petition Number: ZBA #23-044
Petitioner: Andrew Venamore
Address: 602 Academy Dr.
Northbrook IL 60062

Existing Zoning: R-3 – Residential Single-Family District

Requested Action/Background Information

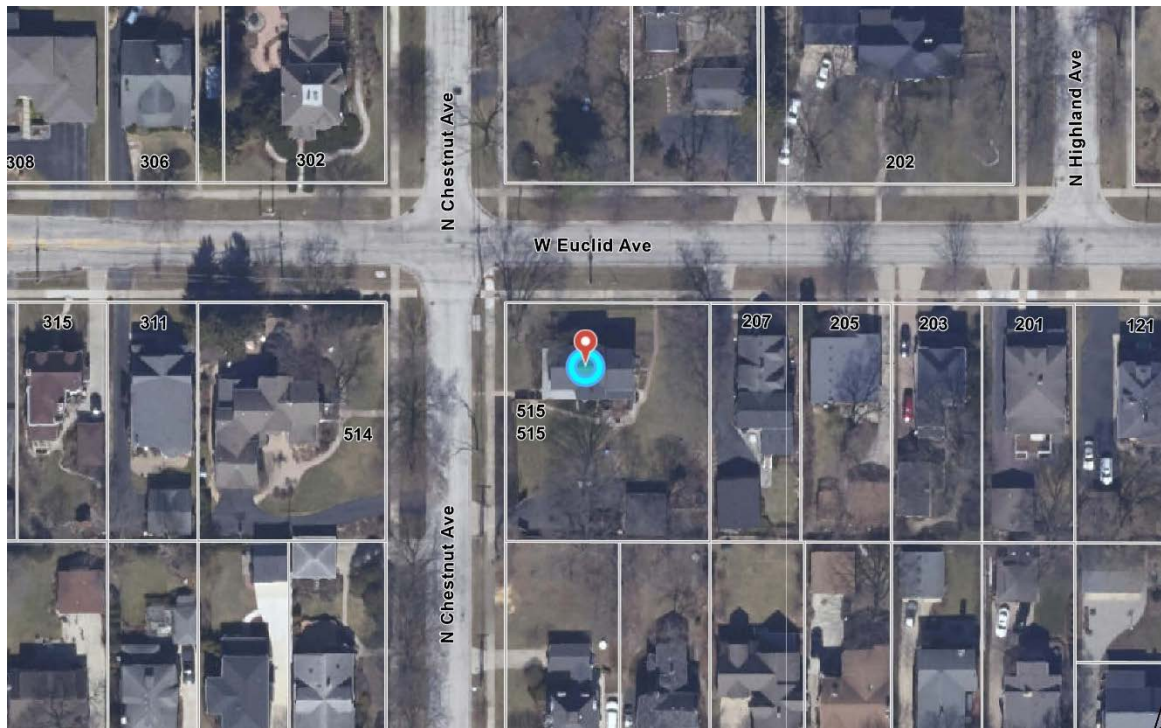
The petitioner is seeking to construct a new detached garage. However, this results in a detached garage with a peak height of 18.1 feet above grade where a maximum peak height of 15 feet is allowed. In addition, the petitioner is proposing to modify the layout of the existing non-conforming driveway. The proposed expansion results in a driveway with a width of 30.0 feet where a maximum width of 22 feet is permitted. Therefore, the petitioner requests the following variations:

- A 3.1-foot variation from Chapter 28, Section 6.5-6 (Height of Accessory Structures in Required Rear Yards) to allow a detached garage with a peak height of 18.1 feet above grade where a maximum peak height of 15.0 feet is allowed.
- A 8.0-foot variation from Chapter 28, Section 10.2-11.1 to allow a driveway that is 30 feet wide where the maximum width allowed is 22 feet.

Variation Review Standards

In its consideration of the standards of practical difficulties or particular hardships, the Zoning Board of Appeals shall require evidence that (1) the proposed use will not alter the essential character of the locality and will be compatible with existing uses and zoning of nearby property; and (2) the plight of the owner is due to unique circumstances, which may include the length of time the subject property has been vacant as zoned; and (3) the proposed variation is in harmony with the spirit and intent of this Chapter; and (4) the variance requested is the minimum variance necessary to allow reasonable use of the property. A variation shall be permitted only if the evidence, in the judgment of the Board of Appeals, sustains each of the four conditions enumerated.

Map of General Vicinity



Items required to be Submitted 15 Days Prior to Public Hearing

<u>Item</u>	<u>Provided</u>	<u>Dated</u>	<u>Remarks</u>
1. Notification Affidavit	✓	12/20/23	
2. List of Property Owners Within 250 feet of Subject Property	✓	12/20/23	
3. Letter that was Mailed	✓	12/20/23	
4. Photographs of Sign on Property	✓	12/20/23	

Photographs of Existing Structure



PROJECT REVIEW TRANSMITTAL
for
Zoning Board of Appeals Review

Project Name: Leahy Residence

Project Address: 515 N. Chestnut Avenue

ZBA #: 23-044

ZBA Hearing Date: January 8, 2024

To: Mike Pagones, Village Engineer
Jorge Torres, Director of Building and Life Safety

C: Michael Lysicatos, Assistant Director of Planning and Community Development
Steve Hautzinger, Design Planner

From: Derek Mach, Landscape Planner

Transmitted On: December 14, 2023

- A 3.1-foot variation from Chapter 28, Section 6.5-6 (Height of Accessory Structures in Required Rear Yards) to allow a detached garage with a peak height of 18.1 feet above grade where a maximum peak height of 15.0 feet is allowed.
- A 8.0-foot variation from Chapter 28, Section 10.2-11.1 to allow a driveway that is 30 feet wide where the maximum width allowed is 22 feet.

Attached are the Petitioner's:

- ☐ Application & Petition
- ☐ Plat of Survey
- ☐ Site Plan
- ☐ Other: _____

Comments:

There is no objection to the increased roof pitch and height to match the roof pitch and character of the existing historic house, which is commendable. However, the large dormers on each side of the garage are not necessary to match the architecture of the house which does not have any dormers. The petitioner's explanation does not comment on the the intended use or need for all of the additional garage attic space. If the only goal is to match the architecture of the house, then it is recommended to omit the large dormers.

Steve Hautzinger, Design Planner



Village of Arlington Heights Building & Life Safety Department

Interoffice Memorandum

To: Derek Mach, Zoning Board of Appeals Liaison

From: Nusrat Jahan, Building & Life Safety Department

Project Name: Leahy Residence

Project Address: 515 N Chestnut Avenue

ZBA #: 23-044

Date: December 19, 2023

Derek:

We have reviewed the request for the following variance:

- **A 3.1-foot variation from Chapter 28, Section 6.5-6 (Height of Accessory Structures in Required Rear Yards) to allow a detached garage with a peak height of 18.1 feet above grade where a maximum peak height of 15.0 feet is allowed.**
- **A 8.0-foot variation from Chapter 28, Section 10.2-11.1 to allow a driveway that is 30 feet wide where the maximum width allowed is 22 feet.**

and have the following comments:

- The south wall soffit of the new garage, being less than 5 feet to the lot line is required to have a minimum fire-resistance rating of 1-hour, or fire-retardant treated wood, or fireblocking from the wall top plate to the underside of the roof sheathing.

and do not have any comments or objections on the driveway width variance.

From: [Schwab, Brigit](#)
To: [DiMatteo, Pat](#); [Mach, Derek](#)
Cc: [Pagones, Mike](#)
Subject: RE: ZBA reviews for 1/8/24 - For Department Review
Date: Monday, December 18, 2023 3:56:04 PM

Derek –

Please see Engineering comments below:

515 N Chestnut (23-044)

1. Engineering has NO COMMENT to a 3.1-foot variation from Chapter 28, Section 6.5-6 (Height of Accessory Structures in Required Rear Yards) to allow a detached garage with a peak height of 18.1 feet above grade where a maximum peak height of 15.0 feet is allowed.
2. Engineering has NO OBJECTION to a 8.0-foot variation from Chapter 28, Section 10.2-11.1 to allow a driveway that is 30 feet wide where the maximum width allowed is 22 feet.

Thank you,

Brigit F. Schwab, P.E.

Senior Civil Engineer

Village of Arlington Heights Public Works Department

Engineering Division

33 South Arlington Heights Road

Arlington Heights, IL 60005

PETITION

The following petition form shall be used when submitting a petition for a variation from Chapter 28 of the Arlington Heights Municipal Code. This must be submitted with a fully executed application to the Zoning Board of Appeals. Please refer to Section 12 of Chapter 28 if the Arlington Heights Municipal Code for information regarding the criteria by which the Zoning Board of Appeals will evaluate variation requests. (Attached to this application packet.)

PETITION

NOW COMES the Petitioner ANDREW VENAMORE FOR JOHN LEAHY

being the owner of the property commonly know as: 515 N. CHESTNUT AVENUE

and appeals to the Zoning Board of Appeals of the Village of Arlington Heights for a Variation from Section _____

Chapter 28, of the Arlington Heights Municipal Code, in order to: CONSTRUCT A DETACHED
GARAGE AND DRIVEWAY

I hereby state that the proposed use will not alter the essential character of the locality and will be compatible with existing uses and zoning of nearby property if the variation(s) were granted (please explain): _____

PLEASE SEE ATTACHED WRITTEN EXPLANATION

I hereby state that the plight of the owner is due to unique circumstances, which may include the length of time the subject property has been vacant as zoned (please explain): _____

PLEASE SEE ATTACHED WRITTEN EXPLANATION

I hereby state that the proposed variation is in harmony with the spirit and intent of this Chapter (please explain): _____

PLEASE SEE ATTACHED WRITTEN EXPLANATION

I hereby state that the variance requested is the minimum variance necessary to allow reasonable use of the property (please explain): _____

PLEASE SEE ATTACHED WRITTEN EXPLANATION

Signed:  _____
Petitioner

Date: 12/08/2023

**EXPLANATION OF VARIATION
VILLAGE OF ARLINGTON HEIGHTS
515 N. Chestnut Avenue – John and Kelly Leahy**

11. 2 Land Use Variations. In order to receive a variation, the Petitioner must provide support for each of the following factors:

(1) The proposed use will not alter the essential character of the locality and will be compatible with existing uses and zoning of nearby property:

The project consists of replacing an existing decrepit 2-car garage built (approximately) within the past 40 years, with a structure that is of a similar design to the existing historic home that was built in the late 1800's. With numerous other homes in this neighborhood of architectural note from around 100 years ago, the owners want to provide a structure that will be compatible with their home and that will add to the fabric of the immediate neighborhood. Detached garages are quite a familiar feature in this area and so this continued use will not alter the essential character of the location and its replacement in essentially the identical location will help to maintain the existing nature of the immediate area.

As part of this replacement structure process, an existing non-conforming condition will be removed. Currently the garage exhibits a 4.05-foot setback from the south (rear) property line which will be eliminated as part of this process with the new garage reflecting the ordinance required 5.00-foot rear yard setback.

(2) The plight of the owner is due to unique circumstances, which may include the length of time the subject property has been vacant as zoned:

As part of the desire to give architectural merit to the garage and have it more closely reflect the house (compared to the existing garage), the pitch on the roof of the new structure has raised the ridge height to 18 feet which exceeds the permitted height for an accessory building. As mentioned previously, the driver behind this relief is tied to the idea to match the house's overall design as closely as possible in order to have the new garage seem as though it's always been part of the property. The proposed materials and details are being aligned with the home and so the owner's unique position is tied to good stewardship of a property within the village and a desire to maintain and improve their property.

The driveway request (for relief from the 20-foot maximum width requirement) seeks to assist in the street parking challenges than can afflict this location. With no parking permitted on Euclid Avenue and the potential overflow parking that will be part of the Eastman Project, the owner's desire for on-site parking to alleviate this challenge is the reason for the relief request. What is also playing into this question is the location of some significantly sized trees adjacent to both sides of the existing driveway which hamper its location and being able to provide parking in a normal manner on this residential driveway. Similar to the other variation, there is an

existing non-conforming condition associated with this request. Since its current width is anywhere from 23.00 feet to 28.00 feet and is impacting the survivability of the (3) existing trees, the design to provide parking closer to the front of the lot and away from the trees is the reason for the requested relief.

(3) The proposed variation is in harmony with the spirit and intent of this Chapter:

The ordinance's intent is to protect the character and stability of residentially zoned areas, and to conserve the taxable value of land and buildings throughout the village: this project seeks to accomplish those purposes. By eliminating an existing non-conforming setback encroachment with the new garage and providing a structure that will match the house, the project will help in maintaining the harmony and spirit of the ordinance.

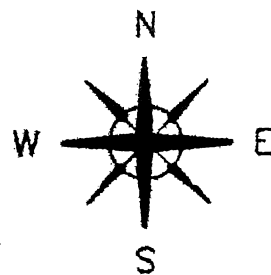
(4) The variance requested is the minimum variance necessary to allow reasonable use of the property:

In order to match the overall historic appearance of the home, the ridge height of the garage has been elevated past the permitted 15.00-foot. This request is the minimum necessary height for the architectural continuity of the property and will assist the owners in the reasonable use of their land. The driveway width expansion will allow for the parking of vehicles in an area which has challenging parking conditions: particularly due to Euclid Avenue.



SCALE: 1" = 20 FEET

PLAT OF SURVEY OF



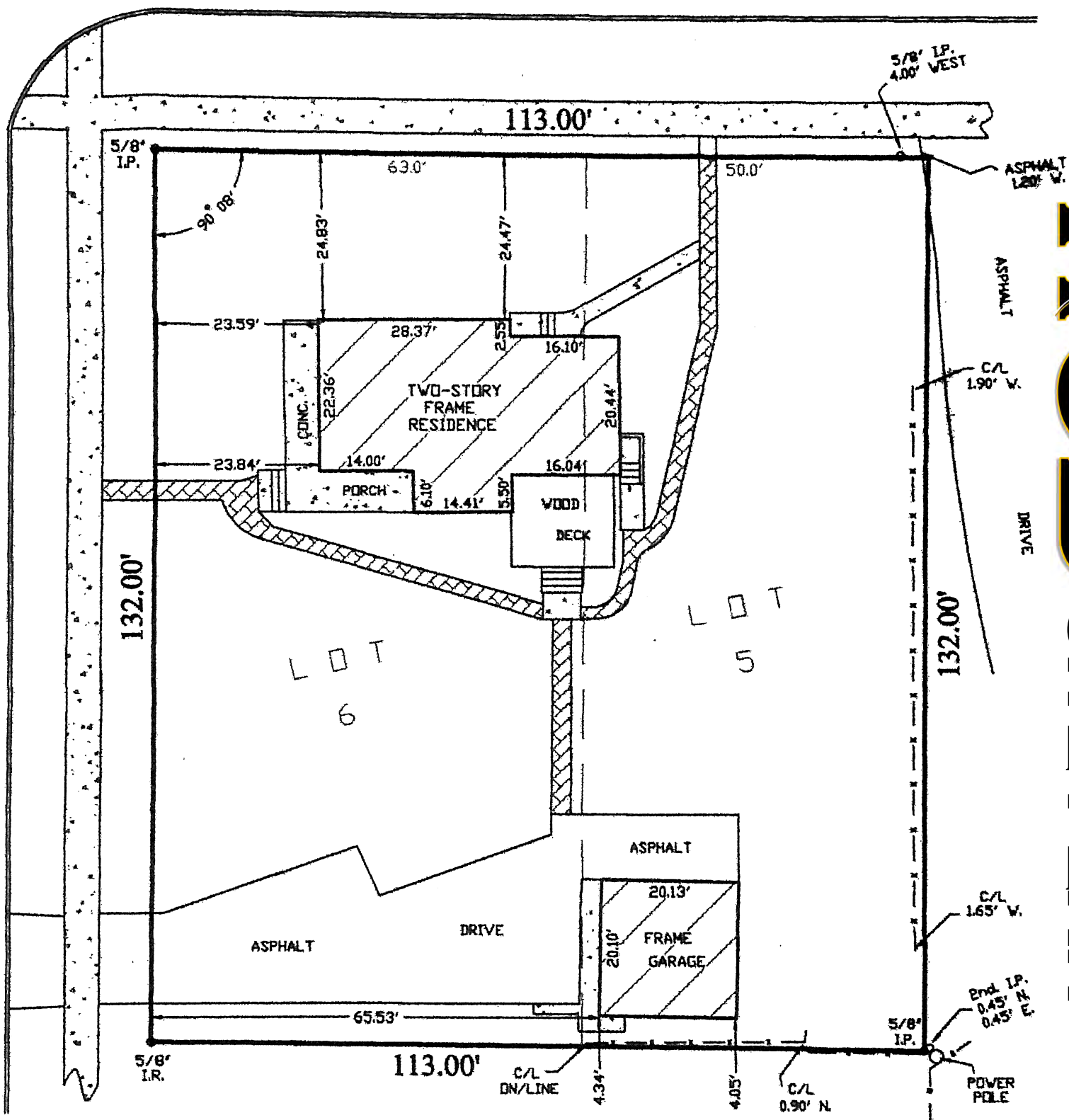
LOTS 5 AND 6 IN BLOCK 1 IN ATKINS ADDITION TO ARLINGTON HEIGHTS, SAID ADDITION BEING A SUBDIVISION OF PART OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 30, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN LYING NORTH OF THE CHICAGO AND NORTHWESTERN RAILROAD, IN COOK COUNTY, ILLINOIS.

EUCLID AVENUE

R.O.W.=66'

CHESTNUT AVENUE

R.O.W.=66'



HGB EXISTING
SITE PLAN

STATE OF ILLINOIS)
COUNTY OF KANE) SS:

I, ANDREW J. TOBIN, DO HEREBY CERTIFY THAT I HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY ACCORDING TO THE OFFICIAL RECORD, AND THAT THE PLAT CORRECTLY REPRESENTS SAID SURVEY. THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS OF PRACTICE FOR BOUNDARY SURVEYS.

BY: Andrew J. Tobin
PROFESSIONAL LAND SURVEYOR
LICENSE NO. 35-3519
EXPIRES 11/30/18



DATED: APRIL 3, 2015
PREPARED FOR: SAMMONS LAW OFFICE
PROPERTY ADDRESS: 515 CHESTNUT AVE.
ARLINGTON HEIGHTS, ILLINOIS
SURVEY ORDER NO: 15060

ANY DISCREPANCY IN MEASUREMENTS SHOULD BE PROMPTLY REPORTED TO THE SURVEYOR FOR EXPLANATION OR CORRECTION.

COMPARE THE DESCRIPTION ON THIS PLAT WITH DEED.
REFER TO DEEDS FOR EASEMENTS AND BUILDING LINES.

THIS SURVEY IS ONLY VALID WHEN ACCOMPANIED BY AN EMBOSSED SEAL

INDICATES FOUND STAKE ○ CHAIN LINK FENCING
INDICATES SET STAKE ● WOOD FENCING
INDICATES CONCRETE [Symbol]

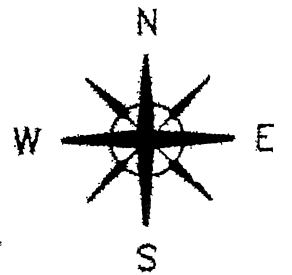
ANDREW J. TOBIN

P.O. BOX 42 DUNDEE, ILLINOIS 60118 847-695-4235



SCALE: 1" = 20 FEET

PLAT OF SURVEY OF



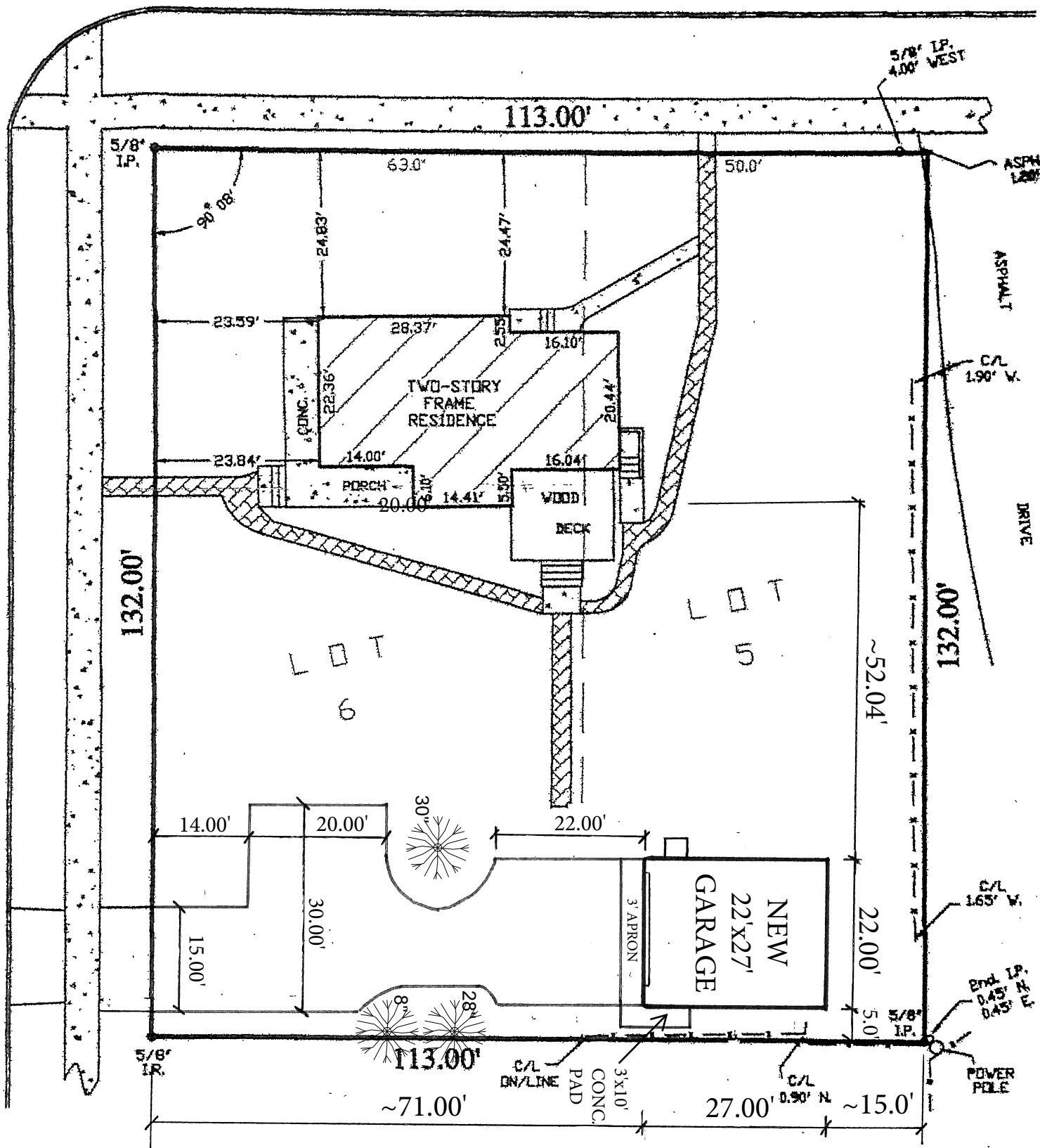
LOTS 5 AND 6 IN BLOCK 1 IN ATKINS ADDITION TO ARLINGTON HEIGHTS, SAID ADDITION BEING A SUBDIVISION OF PART OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 30, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN LYING NORTH OF THE CHICAGO AND NORTHWESTERN RAILROAD, IN COOK COUNTY, ILLINOIS.

EUCLID AVENUE

R.O.W. = 66'

CHESTNUT AVENUE

R.O.W. = 66'



HGB PROPOSED
SITE PLAN

STATE OF ILLINOIS)
COUNTY OF KANE) SS:

I, ANDREW J. TOBIN, DO HEREBY CERTIFY THAT I HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY ACCORDING TO THE OFFICIAL RECORD, AND THAT THE PLAT CORRECTLY REPRESENTS SAID SURVEY. THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS OF PRACTICE FOR BOUNDARY SURVEYS.

BY: Andrew J. Tobin
PROFESSIONAL LAND SURVEYOR
LICENSE NO. 35-3519
EXPIRES 11/30/18

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COMPARE THE DESCRIPTION ON THIS PLAT WITH DEED.
REFER TO DEEDS FOR EASEMENTS AND BUILDING LINES.

THIS SURVEY IS ONLY VALID WHEN ACCOMPANIED BY AN EMBOSSED SEAL.



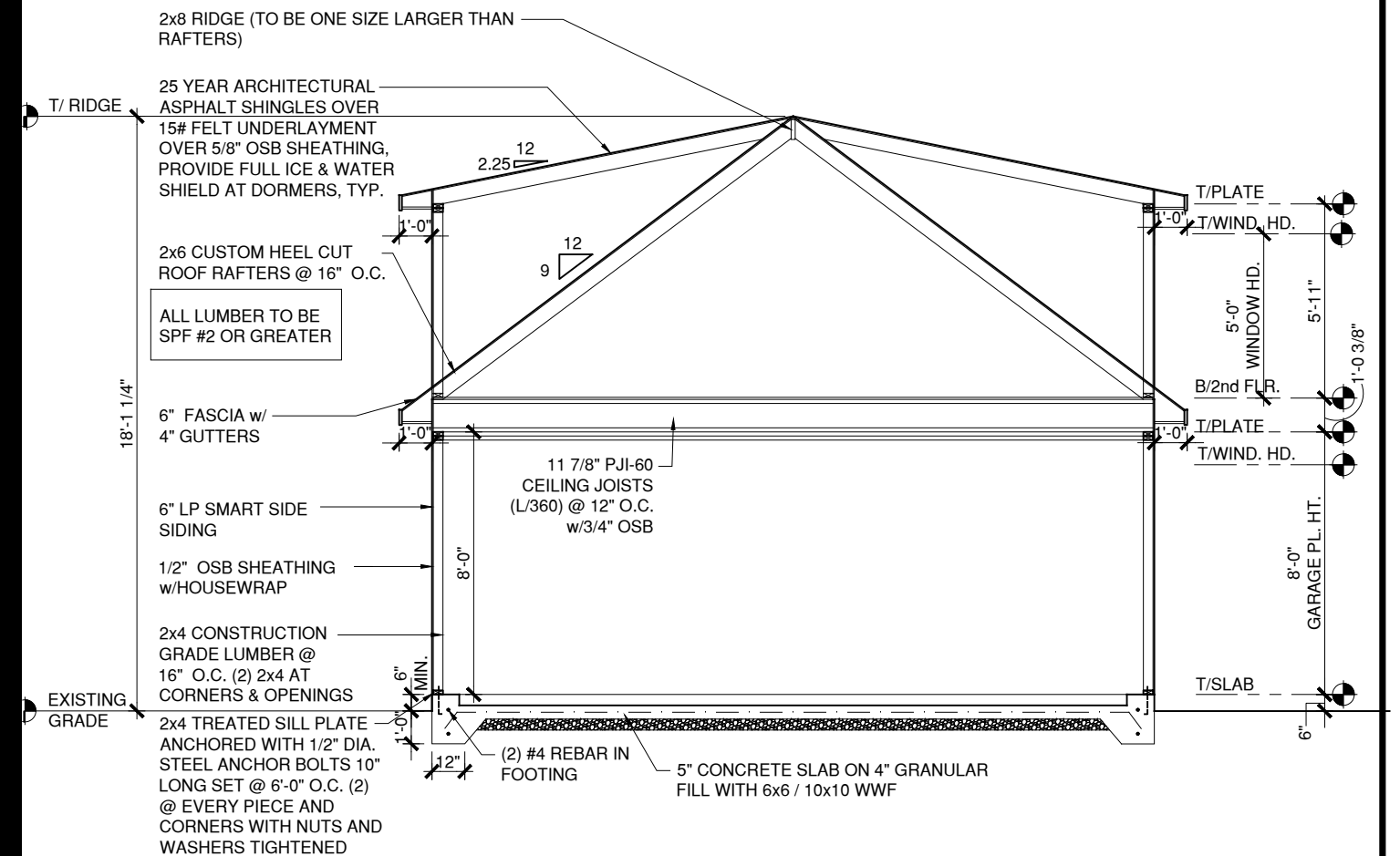
REPLACEMENT
DRIVEWAY

DATED: APRIL 3, 2015
PREPARED FOR: SAMMONS LAW OFFICE
PROPERTY ADDRESS: 515 CHESTNUT AVE.
ARLINGTON HEIGHTS, ILLINOIS
15060
SURVEY ORDER NO:

INDICATES FOUND STAKE ○ CHAIN LINK FENCING
INDICATES SET STAKE ● WOOD FENCING
INDICATES CONCRETE

ANDREW J. TOBIN

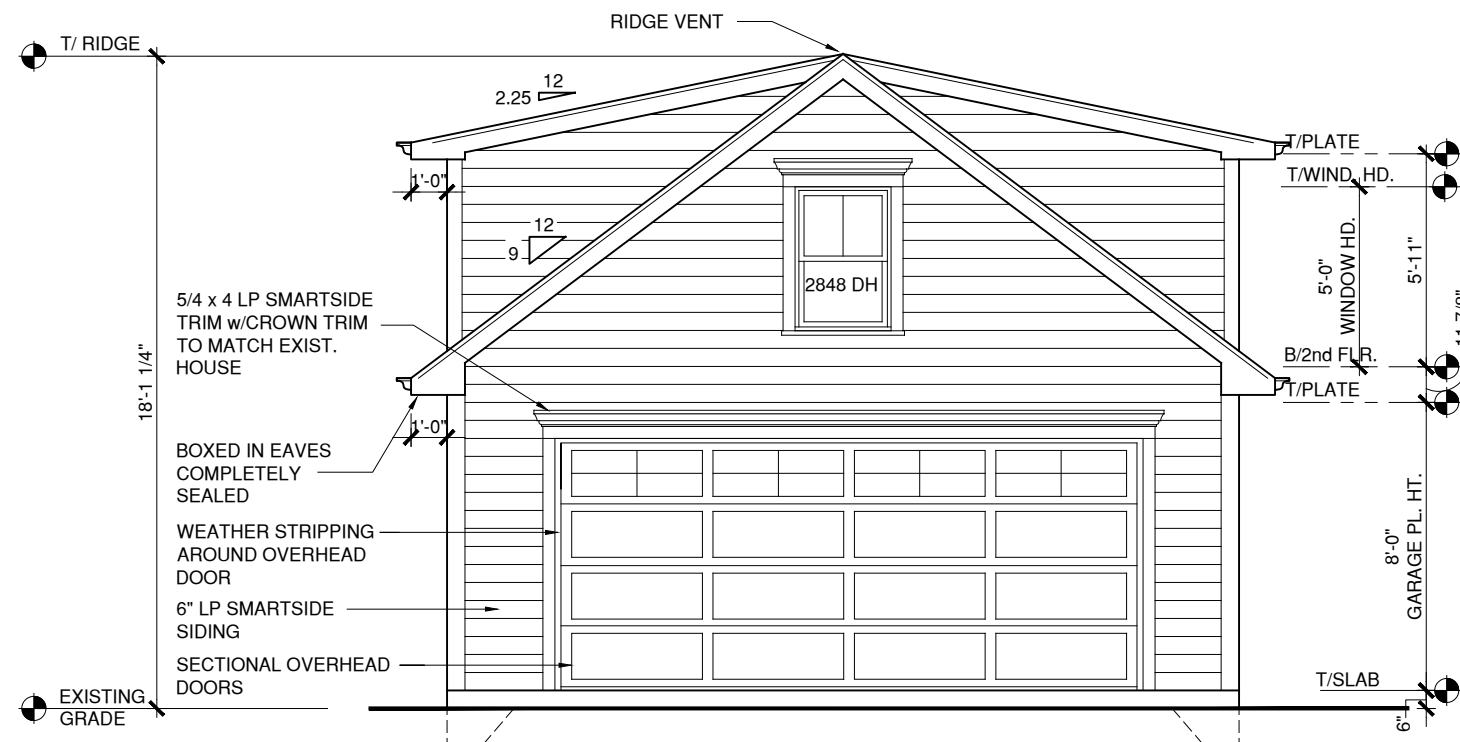
P.O. BOX 42 DUNDEE, ILLINOIS 60118 847-695-4235



SCALE: 3/16" = 1'-0"

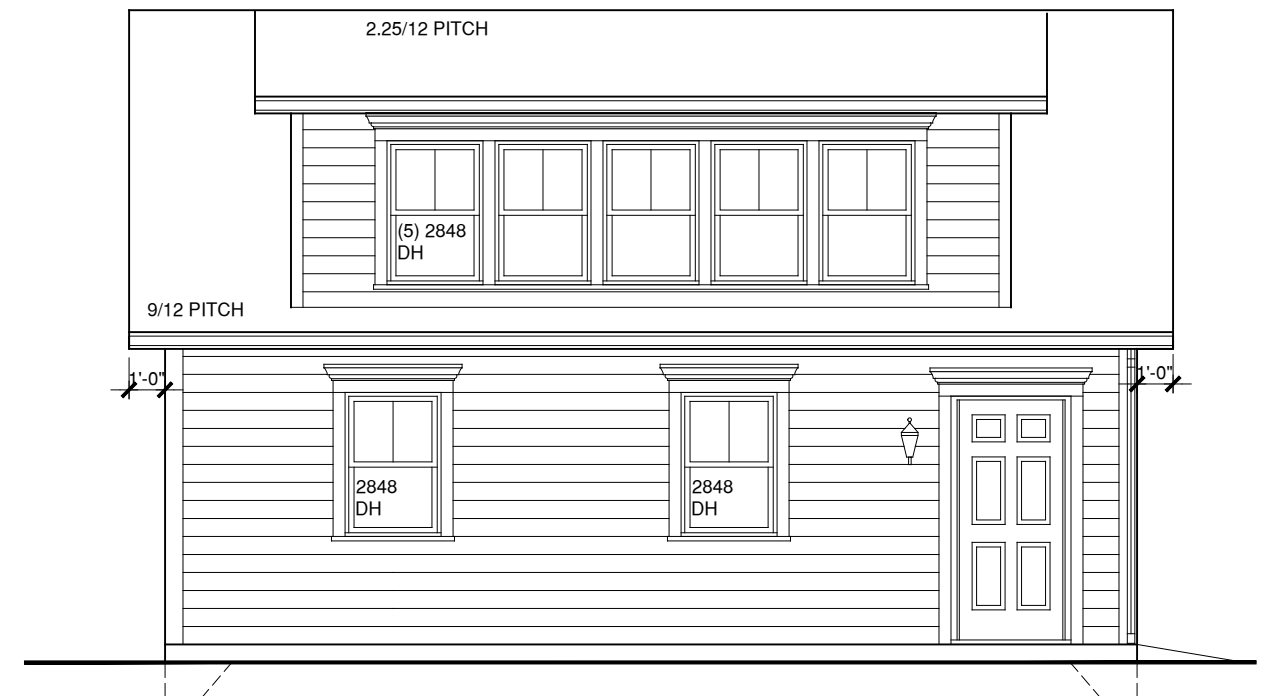


SHEET NAME:	
FLOOR PLAN	
SHEET NUMBER:	
2 OF 4	



WEST ELEVATION

SCALE: 3/16" = 1'-0"



NORTH ELEVATION

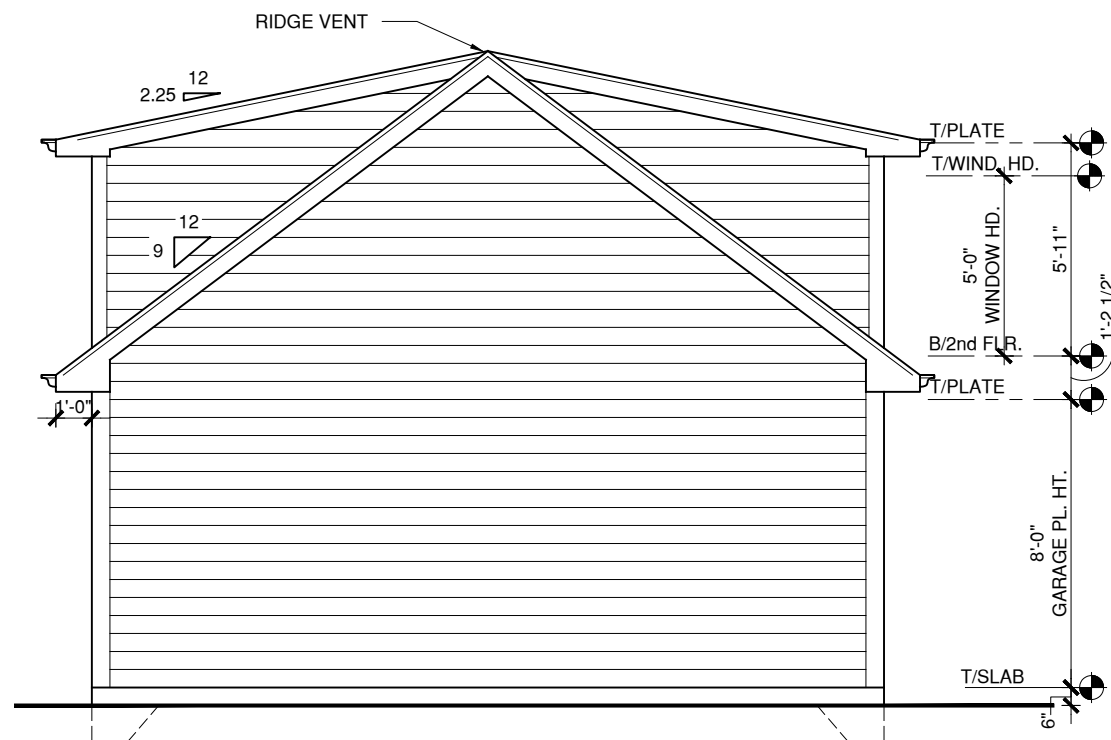
SCALE: 3/16" = 1'-0"



DETACHED GARAGE - GABLE ROOF
 515 N. CHESTNUT AVE, ARLINGTON HEIGHTS
 LEAHY RESIDENCE

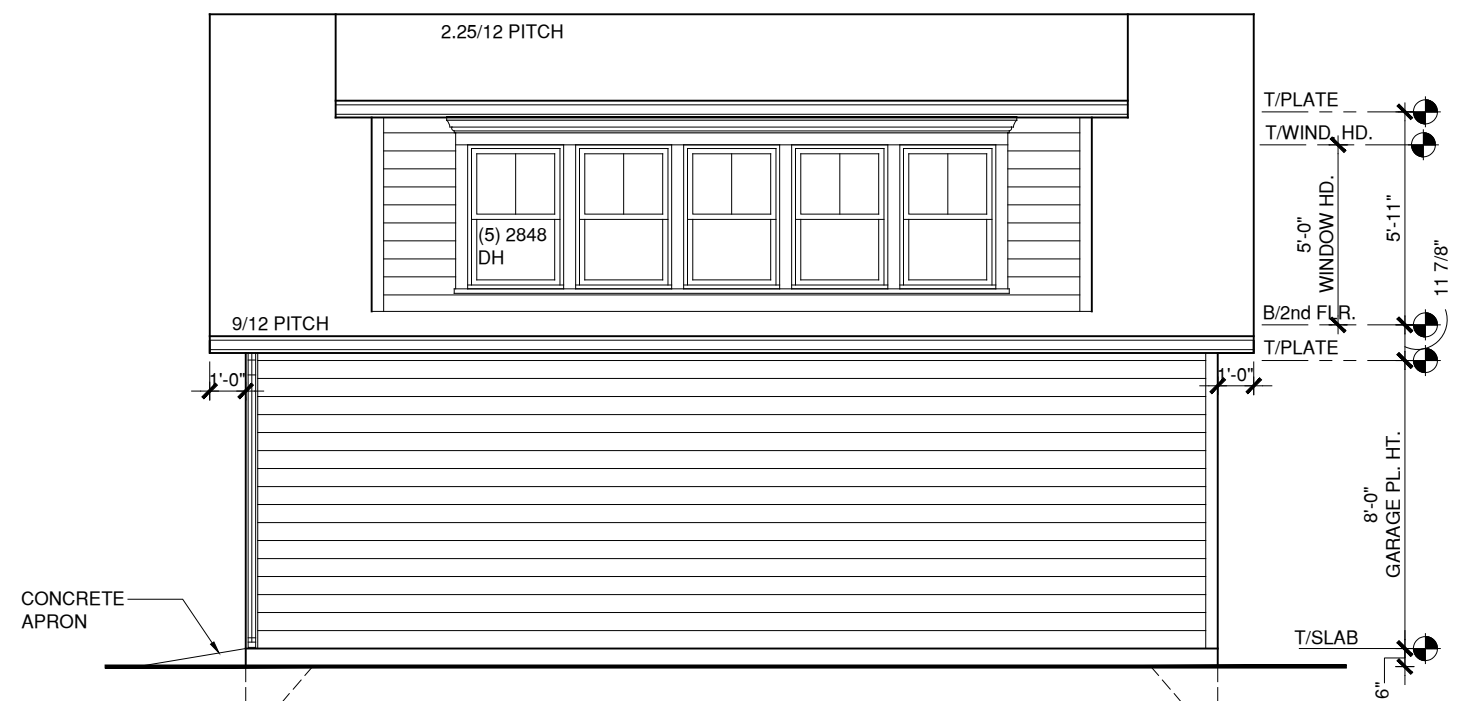
CONTRACTOR:
HEARTLAND GARAGE BUILDERS
 602 ACADEMY DRIVE
 NORTHBROOK, IL 60062
 PHONE: (224) 619-4539
 EMAIL: INFO@HLGBS.COM

SHEET NAME:
ELEVATIONS
 SHEET NUMBER:
3 OF 4



EAST ELEVATION

SCALE: 3/16" = 1'-0"



SOUTH ELEVATION

SCALE: 3/16" = 1'-0"



DETACHED GARAGE - GABLE ROOF
515 N. CHESTNUT AVE, ARLINGTON HEIGHTS
LEAHY RESIDENCE

CONTRACTOR:
HEARTLAND GARAGE BUILDERS
602 ACADEMY DRIVE
NORTHBROOK, IL 60062
PHONE: (224) 619-4539
EMAIL: INFO@HLGBS.COM

SHEET NAME:
ELEVATIONS
SHEET NUMBER:
4 OF 4



Zoning Board of Appeals 1/8/2024

Item: 302 S. Patton Ave. - ZBA#23-045 - Public Hearing

Department: Planning & Community Development Department

REQUEST

- A 3.6-foot variation from Chapter 28, Section 5.1-3.3b (Required Minimum Yards) to allow an addition with a side yard setback of 3.0 feet instead of the required 6.6 feet and an additional 1.3 feet for the eave.
- A 5.5-foot variation from Chapter 28, Section 5.1-3.3a (Required Minimum Yards) to allow a front porch with a front yard setback of 19.5 feet instead of the required 25.0 feet and an additional 1.5 feet for the eave.

ATTACHMENTS:

Description

Supporting Documents

Public Comment Recvd on 1-7-24

Type

Exhibits

Correspondence

ARLINGTON HEIGHTS ZONING BOARD OF APPEALS

Staff Analysis

Prepared By: Derek Mach, Planner
Hearing Date: January 8, 2024
Date Prepared: January 3, 2024
Project Title: Kritikos Residence
Address: 302 S. Patton Ave.

Background Information

Petition Number: ZBA #23-045
Petitioner: Robert Flubacker Architects
Address: 1895 Rohlwing Rd, Suite B
Rolling Meadows, IL 60008

Existing Zoning: R-3 – Residential Single-Family District

Requested Action/Background Information

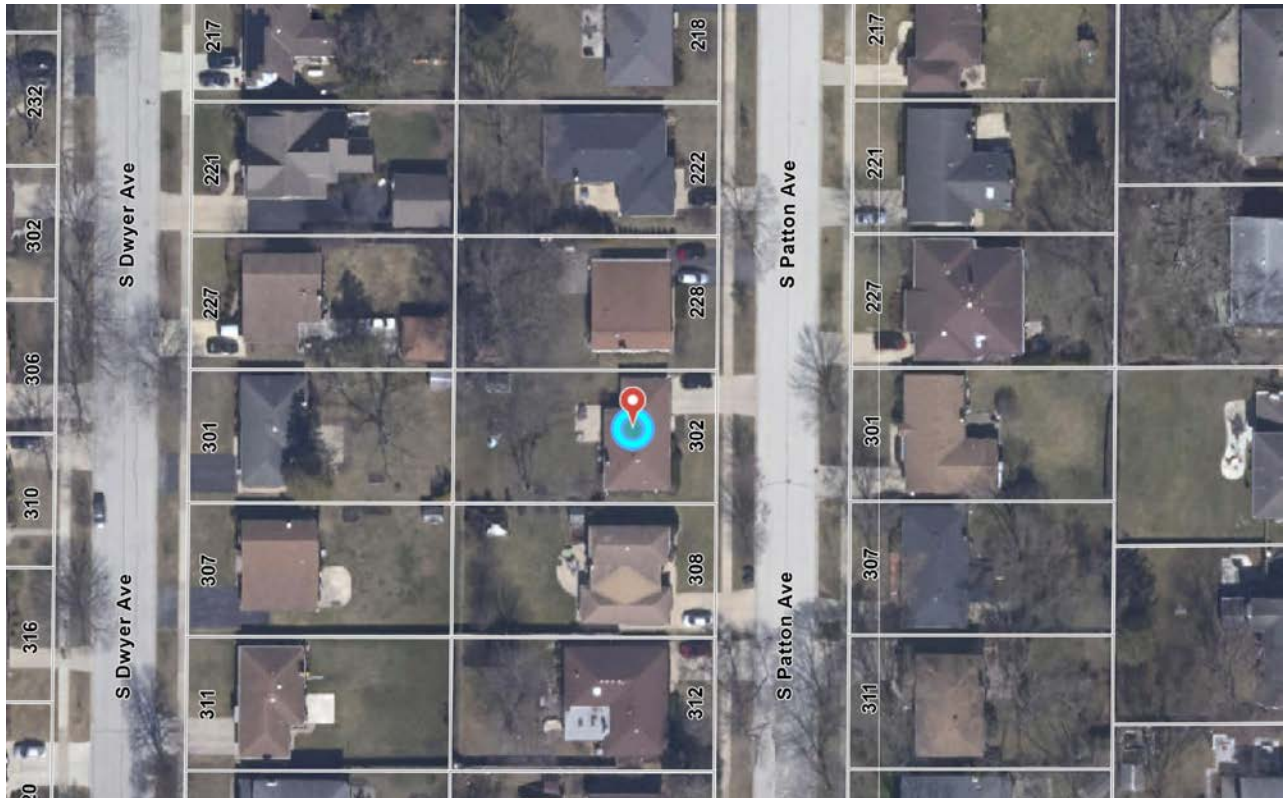
The subject site is zoned R-3, One Family Dwelling District. The property has a total land area of 8,593 square feet and the proposed residence with the addition will be approximately 3,367 square feet. The petitioner is proposing to construct an addition to the existing single-story home. The proposed addition, includes an expansion to the attached garage, which is encroaching 3.6 feet into the required side yard setback. The petitioner is also proposing a front porch that is encroaching into the required front yard setback. Therefore, the petitioner is requesting the following variations:

- A 3.6-foot variation from Chapter 28, Section 5.1-3.3b (Required Minimum Yards) to allow an addition with a side yard setback of 3.0 feet instead of the required 6.6 feet and an additional 1.3 feet for the eave.
- A 5.5-foot variation from Chapter 28, Section 5.1-3.3a (Required Minimum Yards) to allow a front porch with a front yard setback of 19.5 feet instead of the required 25.0 feet and an additional 1.5 feet for the eave.

Variation Review Standards

In its consideration of the standards of practical difficulties or particular hardships, the Zoning Board of Appeals shall require evidence that (1) the proposed use will not alter the essential character of the locality and will be compatible with existing uses and zoning of nearby property; and (2) the plight of the owner is due to unique circumstances, which may include the length of time the subject property has been vacant as zoned; and (3) the proposed variation is in harmony with the spirit and intent of this Chapter; and (4) the variance requested is the minimum variance necessary to allow reasonable use of the property. A variation shall be permitted only if the evidence, in the judgment of the Board of Appeals, sustains each of the four conditions enumerated.

Map of General Vicinity



Items required to be Submitted 15 Days Prior to Public Hearing

<u>Item</u>	<u>Provided</u>	<u>Dated</u>	<u>Remarks</u>
1. Notification Affidavit	✓	12/21/23	
2. List of Property Owners Within 250 feet of Subject Property	✓	12/21/23	
3. Letter that was Mailed	✓	12/21/23	
4. Photographs of Sign on Property	✓	12/21/23	

Photographs of Existing Structure



PROJECT REVIEW TRANSMITTAL
for
Zoning Board of Appeals Review

Project Name: Kritikos Residence

Project Address: 302 S. Patton Avenue

ZBA #: 23-045

ZBA Hearing Date: January 8, 2024

To: Mike Pagones, Village Engineer
Jorge Torres, Director of Building and Life Safety

C: Michael Lysicatos, Assistant Director of Planning and Community Development
Steve Hautzinger, Design Planner

From: Derek Mach, Landscape Planner

Transmitted On: December 14, 2023

- A 3.6-foot variation from Chapter 28, Section 5.1-3.3b (Required Minimum Yards) to allow an addition with a side yard setback of 3.0 feet instead of the required 6.6 feet and an additional 1.3 feet for the eave.
- A 5.5-foot variation from Chapter 28, Section 5.1-3.3a (Required Minimum Yards) to allow a front porch with a front yard setback of 19.5 feet instead of the required 25.0 feet and an additional 1.5 feet for the eave.

Attached are the Petitioner's:

- ☐ Application & Petition
- ☐ Plat of Survey
- ☐ Site Plan
- ☐ Other: _____

Comments:

Overall, the proposed addition looks nicely designed. The one-and-a-half-story massing helps the house to fit in with the character of the surrounding context which is primarily single-story homes. A Design Commission application is required to be submitted to the Planning Department for review.

Steve Hautzinger, Design Planner



Village of Arlington Heights Building & Life Safety Department

Interoffice Memorandum

To: Derek Mach, Zoning Board of Appeals Liaison

From: Nusrat Jahan, Building & Life Safety Department

Project Name: Kritikos Residence

Project Address: 302 S. Patton Avenue

ZBA #: 23-045

Date: December 19, 2023

Derek:

We have reviewed the request for the following variance:

- **A 3.6-foot variation from Chapter 28, Section 5.1-3.3b (Required Minimum Yards) to allow an addition with a side yard setback of 3.0 feet instead of the required 6.6 feet and an additional 1.3 feet for the eave.**
- **A 5.5-foot variation from Chapter 28, Section 5.1-3.3a (Required Minimum Yards) to allow a front porch with a front yard setback of 19.5 feet instead of the required 25.0 feet and an additional 1.5 feet for the eave.**

and have the following comments:

1. The north part of the proposed addition, located within 5 feet from the side lot line shall have a minimum of 1-hour fire-resistance rated construction with exposure from both the inside and outside of the wall.
2. The eave projection is not allowed within 2 feet from the lot line.
3. The soffit of the addition located 2 feet from the side lot line shall have a minimum of 1-hour fire-resistance rated construction on the underside or solid blocking between the top plate to the underside of the roof sheathing.
4. The maximum openings on the north wall shall be 25% of the west wall area based on the distance to the lot line of 3 feet.

and do not have any comments or objections on the porch addition.

From: [Schwab, Brigit](#)
To: [DiMatteo, Pat](#); [Mach, Derek](#)
Cc: [Pagones, Mike](#)
Subject: RE: ZBA reviews for 1/8/24 - For Department Review
Date: Monday, December 18, 2023 3:56:04 PM

Derek –

Please see Engineering comments below:

302 S Patton (23-045)

1. Engineering has NO OBJECTION to a 3.6-foot variation from Chapter 28, Section 5.1-3.3b (Required Minimum Yards) to allow an addition with a side yard setback of 3.0 feet instead of the required 6.6 feet and an additional 1.3 feet for the eave. Please note, the permit will require an existing and proposed grading plan with cross sections along the north property to ensure positive drainage.
2. Engineering has NO OBJECTION to a 5.5-foot variation from Chapter 28, Section 5.1-3.3a (Required Minimum Yards) to allow a front porch with a front yard setback of 19.5 feet instead of the required 25.0 feet and an additional 1.5 feet for the eave.

Thank you,

Brigit F. Schwab, P.E.

Senior Civil Engineer

Village of Arlington Heights Public Works Department

Engineering Division

33 South Arlington Heights Road

Arlington Heights, IL 60005

PETITION

NOW COMES the Petitioner, **Robert Flubacker**, being the petitioner of the property commonly known as: **302 S. Patton Ave.**, and appeals to the Zoning Board of Appeals of the Village of Arlington Heights for a variation from, **Section 5.1-3.3 (b) Required Minimum Yards** and **Table 6.6-5.1 Table of Permitted Obstructions**, Chapter 28, of the Arlington Heights Municipal Code, in order to:

1. Construct a two-story addition encroaching 3.6 feet into the required 6.6 foot side yard setback with an eave, overhang and gutter projecting 15 inches beyond the face of the first floor wall, and also;
2. Construct a covered front porch addition encroaching 5.5 feet into the required 25.0 foot front yard building line with an eave, overhang and gutter projecting 18 inches beyond the face of the porch columns.

I hereby state that the proposed use will not alter the essential character of the locality and will be compatible with existing uses and zoning of nearby property if the variations were granted:

The use of the existing house is not changing and the surrounding neighborhood has single-family homes of a widely varied mix of sizes and shapes. The propose addition enhances the existing architectural character of the home.

I hereby state that the plight of the owner is due to unique circumstances, which may include the length of time the subject property has been vacant as zoned:

Project was constructed in the 1950's when the zoning ordinance allowed an attached garage to be constructed to within three feet of the side lot line. This exception was carried in the zoning ordinance until the early 2000's. The unique situation at this location allows for expansion of the one-car garage to an acceptable width of a two-car garage while still maintaining the aforementioned three foot side yard setback. There are other examples in the immediate area of a similar setback.

I hereby state that the proposed variation is in harmony with the spirit and intent of this Chapter:

With the exception of the variations requested, the project falls below the other zoning requirements. The project maintains the character of the neighborhood, while providing the desired expansion of the home the owner needs.

I hereby state that the variance requested is the minimum variance necessary to allow reasonable use of the property:

The proposed Garage is below Village width requirement for a two-car Garage but is designed to maintain 3 feet clear to the lot line. The size of the Front Porch encroachment (larger than the 5' x 10' that is allowed) is to provide a proportionally appropriate Front Porch.

Signed: _____

Robert Flubacker, Petitioner

Date: _____

12.8.13

...OF...LOT 16 IN BLOCK 5 IN MINNECI'S ARLINGTON HEIGHTS RESUBDIVISION OF LOTS 2, 5, 6, 7, 10, 11, 12, 13 AND THE WEST HALF OF LOT 14, WEST HALF OF LOT 15, ALL OF LOTS 16, 17, 18, 19, 20, 21 AND 22 IN CAMPBELL AVENUE ADDITION TO ARLINGTON HEIGHTS, BEING A SUBDIVISION OF PARTS OF SECTIONS 30 AND 31, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF REGISTERED IN THE OFFICE OF THE REGISTRAR OF TITLES OF COOK COUNTY, ILLINOIS, ON AUGUST 12, 1955, AS DOCUMENT NUMBER 1613766.

COMMONLY KNOWN AS: 302 S. PATTON AVENUE, ARLINGTON HEIGHTS, ILLINOIS.



Information hereon is not sufficient nor guaranteed
for new construction, unless property corners noted.
Distances and angles may not be assumed by scaling.
Distances noted hereon are in feet and decimals.
Building Lines & Easements per title, if provided.
Compare all points on ground prior to construction.



 SCALE: 1" = 16'

WE, North Shore Survey, Ltd., do hereby certify that we have surveyed the property as described in the above caption in accordance with official records and/or previous surveys and that the plat hereon drawn is a correct representation of said survey.

that the plan hereon drawn is a correct representation of said survey.

William R. Olson

PROFESSIONAL ILLINOIS LAND SURVEYOR
LICENSE NO. 35-2232 Exp. 11-30-2016

INSTR.: ART
CAD: ART LEGAL: ARD

FILE NO.

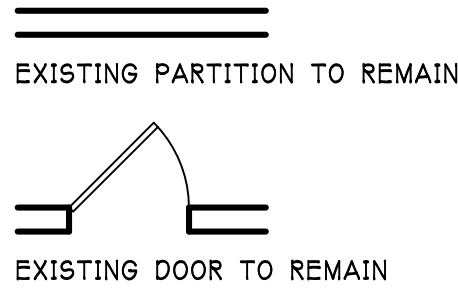
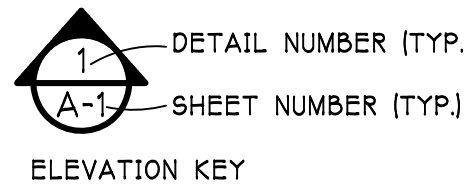
42270-U

ALTERATIONS AND ADDITIONS FOR

THE KRITIKOS RESIDENCE

302 S. PATTON AVE.
ARLINGTON HEIGHTS, ILLINOIS

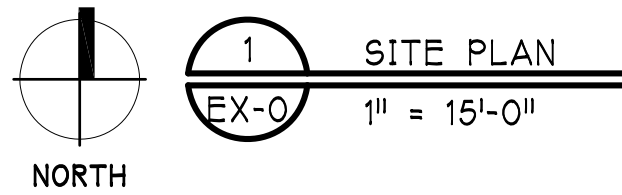
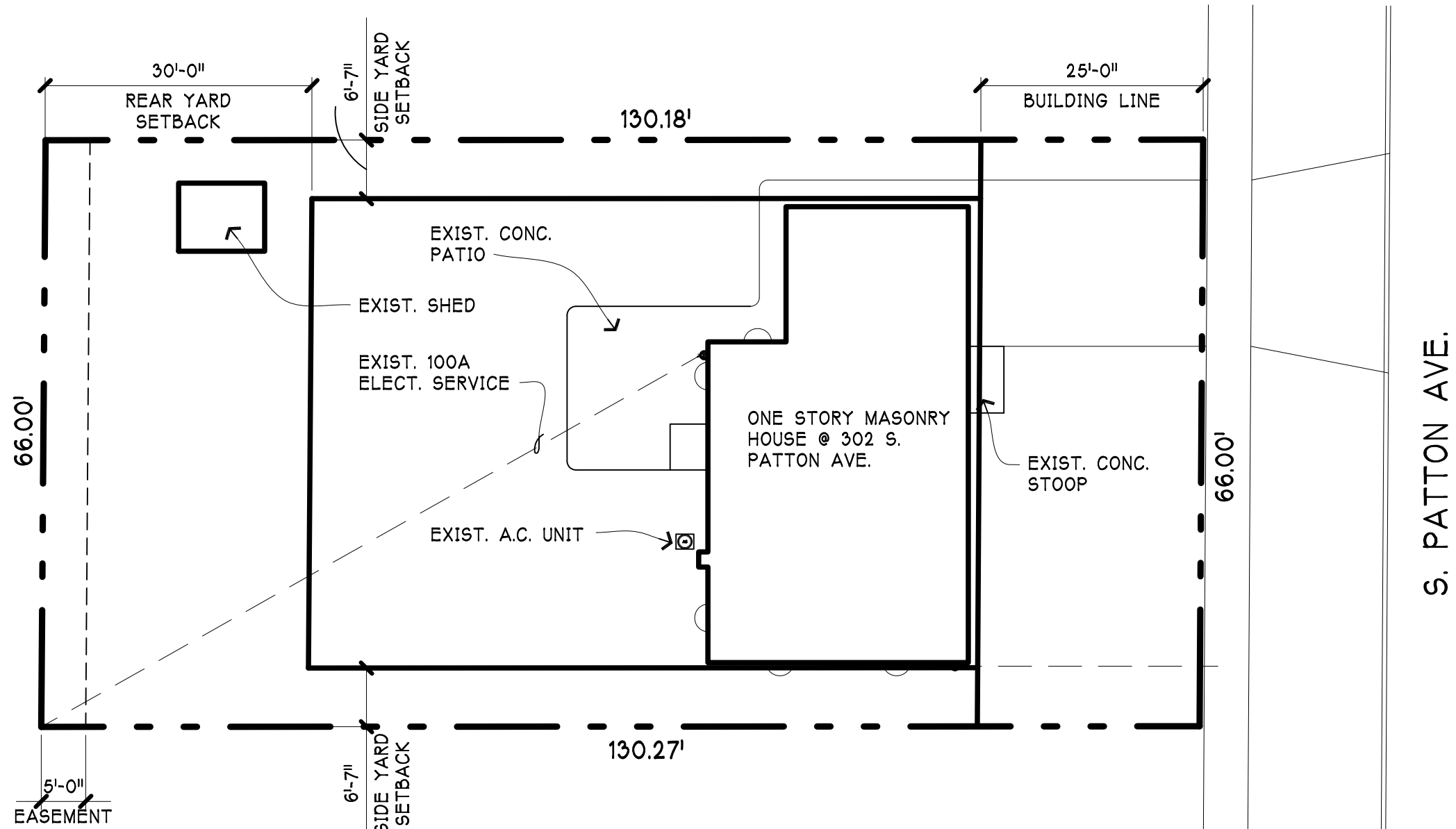
SYMBOLS



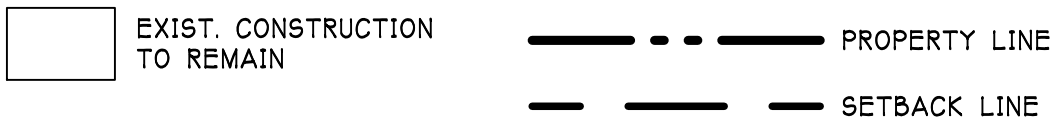
LIST OF DRAWINGS

EX-0 TITLE SHEET / SITE PLAN
EX-1 EXISTING BASEMENT PLAN
EX-2 EXISTING FIRST FLOOR PLAN
EX-3 EXISTING EXTERIOR ELEVATIONS

SITE PLAN

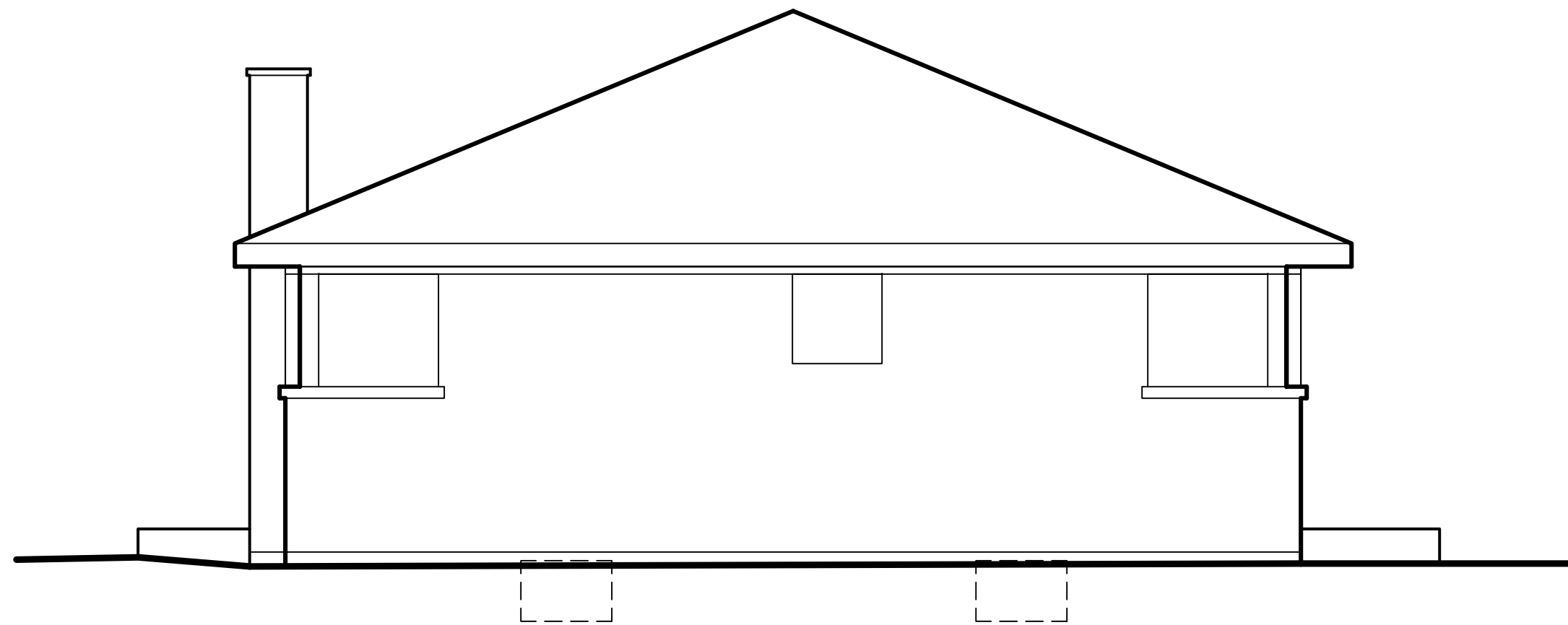


SITE PLAN LEGEND:

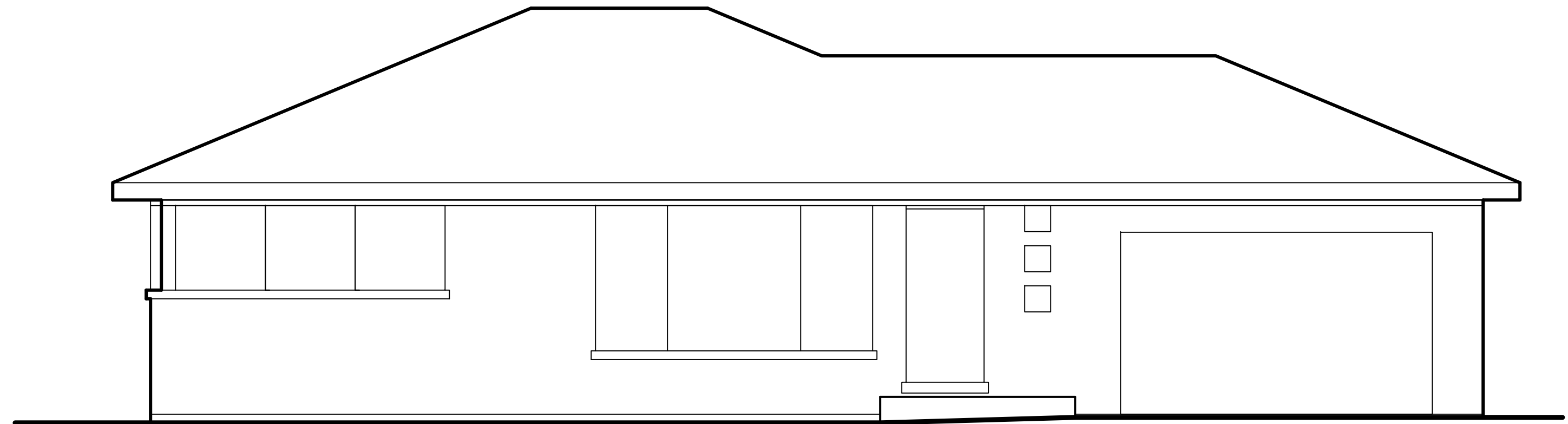


CODE REVIEW

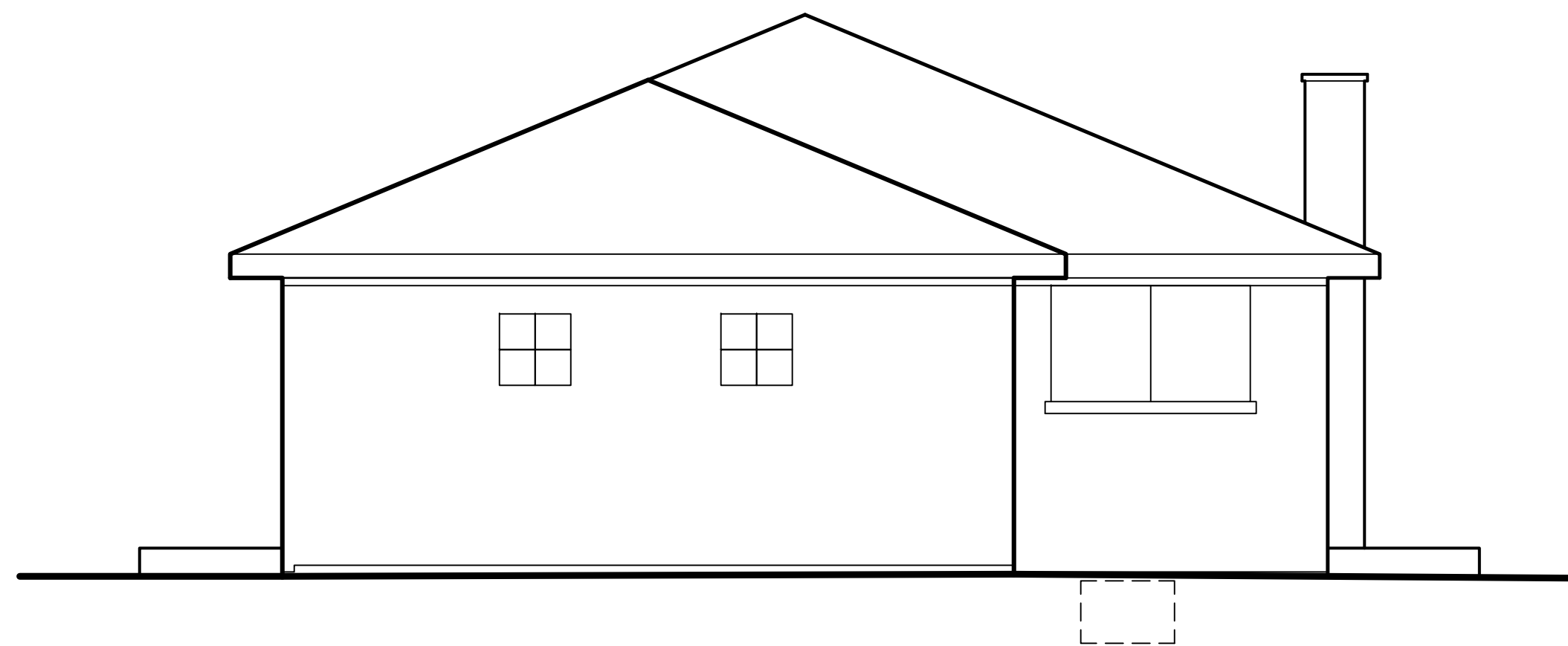
ZONING	R-3	
LOT AREA	8,595 SQ.FT.	
BUILDING AREAS	EXISTING	ALLOWED
FIRST FLOOR	1,058 SQ.FT.	
ATTACHED GARAGE	312 SQ.FT.	
ACCESSORY STRUCTURES	74 SQ.FT.	
FLOOR AREA RATIO (FAR)	1,058 SQ.FT.	3,867 SQ.FT.
BUILDING LOT COVERAGE	1,444 SQ.FT.	3,008 SQ.FT.
IMPERVIOUS SURFACE COVER.	2,396 SQ.FT.	4,297 SQ.FT.
BUILDING HEIGHT	12.5 FT.	25 FT.



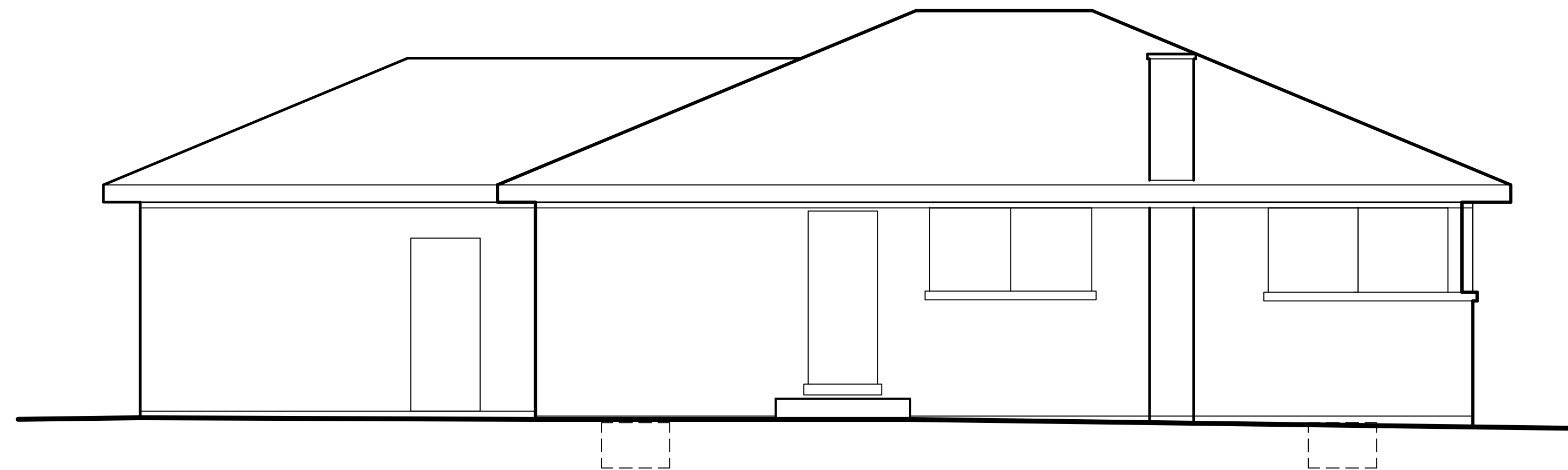
1 EXISTING SOUTH ELEVATION
EX-3 1/4" = 1'-0"



2 EXISTING EAST ELEVATION
EX-3 1/4" = 1'-0"



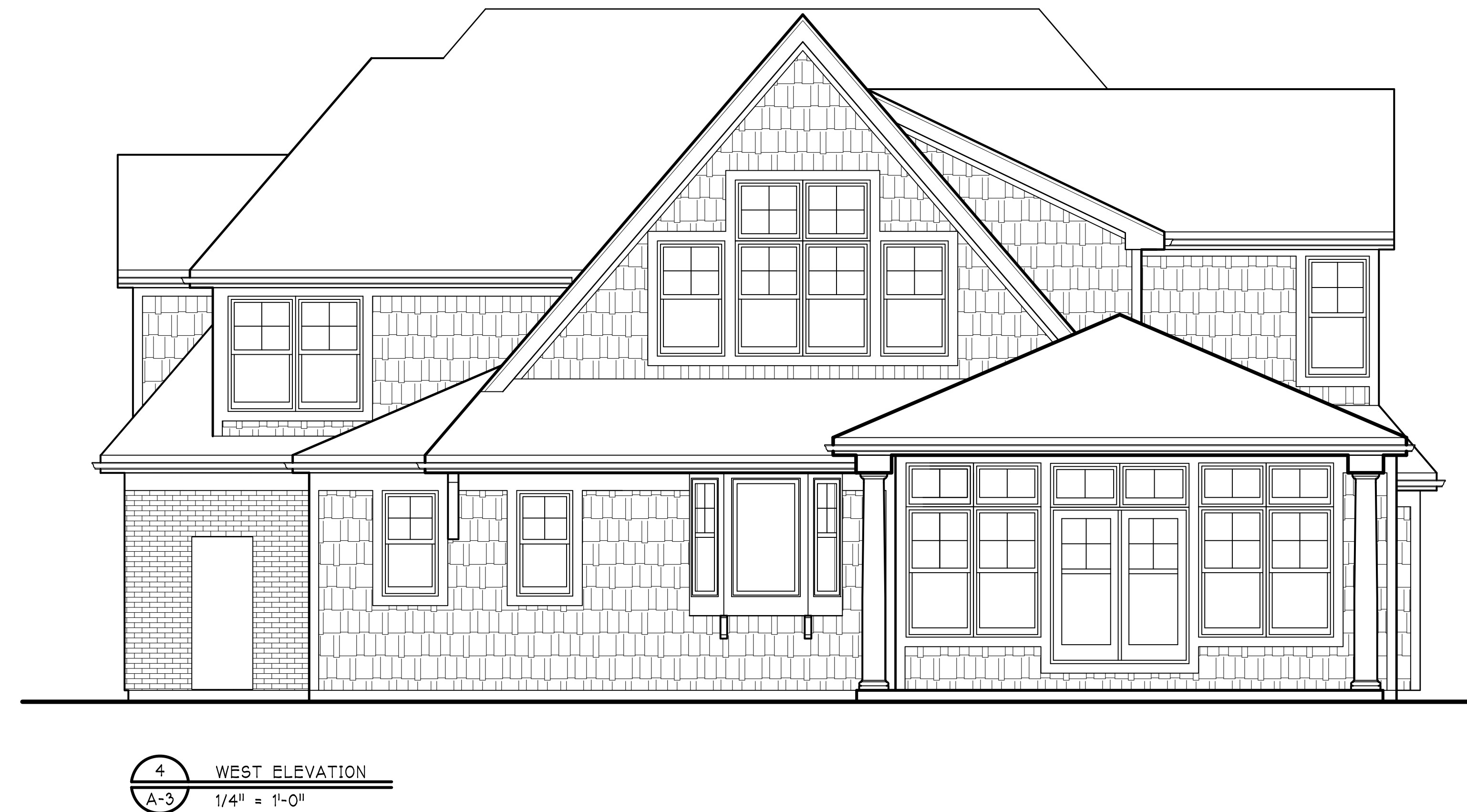
3 EXISTING NORTH ELEVATION
EX-3 1/4" = 1'-0"

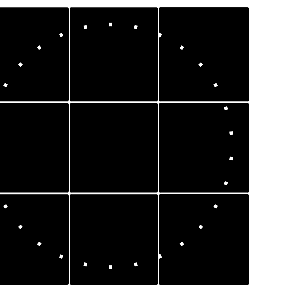


4 EXISTING WEST ELEVATION
EX-3 1/4" = 1'-0"

Date	Description
8/1/23	EXIST.

<u>ZONING</u>	R-3		
<u>LOT AREA</u>	8,595 SQ.FT.		
<u>BUILDING AREAS</u>	<u>EXISTING</u>	<u>ALLOWED</u>	<u>PROPOSED</u>
FIRST FLOOR	1,058 SQ.FT.		1,583 SQ.FT.
SECOND FLOOR			1,661 SQ.FT.
ATTACHED GARAGE	312 SQ.FT.		523 SQ.FT.
ACCESSORY STRUCTURES	74 SQ.FT.		74 SQ.FT.
FRONT PORCH			167 SQ.FT.
REAR PATIO/PORCH			318 SQ.FT.
EXIST. DRIVEWAY	470 SQ.FT.		470 SQ.FT.
<u>FLOOR AREA RATIO (FAR)</u>	1,058 SQ.FT.	3,867 SQ.FT.	3,367 SQ.FT.
<u>BUILDING LOT COVERAGE</u>	1,444 SQ.FT.	3,008 SQ.FT.	2,665 SQ.FT.
<u>IMPERVIOUS SURFACE COVER.</u>	2,396 SQ.FT.	4,287 SQ.FT.	3,213 SQ.FT.
<u>BUILDING HEIGHT</u>	12.5 FT.	25 FT.	23.6 FT.

[illegible]



ARCHITECTS
LIMITED

IL Design Firm
#184.001489
Expire: 4/30/2025

THE KRITIKOS RESIDENCE
302 S. PATTON AVE.
ARLINGTON HEIGHTS, ILLINOIS

[illegible]

© 2023 R.F.A. LTD.

Project Number

A-4



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



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

Date: 1/7/2024

From: Hristo Douhalov

228 South Patton Avenue, Arlington Heights, IL 60005

To: Arlington Heights Zoning Board of Appeals

RE: Petition – ZBA#23-045; PIN: 03-31-106-035; 302 South Patton Avenue – Kritikos Residence

Dear Madams/Sirs,

I am the owner of 228 South Patton Avenue property, located on the north side of 302 South Patton Avenue and thus is the one most affected by the proposed addition/zoning variance.

I hereby state my explicit objection to the approval of the application for zoning variance, submitted as part of NOVUS_packet_1-8-24, specifically to the following paragraph:

- **A 3.6-foot variation from Chapter 28, Section 5.1-3.3b (Required Minimum Yards) to allow an addition with a side yard setback of 3.0 feet instead of the required 6.6 feet and an additional 1.3 feet for the eave.**

The reasons for this objection are as follows:

1. Fire hazard – the proposed addition would violate the current building code mandatory side setback of 6'-6". While the prior edition of the current building code, may have allowed a 3'-0" setback, through the early 2000s, the current year is 2024 and the current code mandates a 6'-6" side setback, mainly for minimum fire separation between building structures. The proposed addition adds a second floor to the existing first floor and has an extremely high roof peak (30' according to the scale of the drawings), thus effectively more than doubling the existing building height, which in turn increases the potential radius of burning wreckage. This problem would be even further enhanced by the execution of this second story in a wood frame construction (most combustible), as is typical for residential additions. Also, please note that a twin car garage carries a much higher fire hazard risk than the existing single car garage. Moving the existing north addition (garage) wall and eave, almost to the property line (3'-0" at north wall, 1'-9" at the eave), would even further increase the risk of fire hazard to my property. This problem is further enhanced by the location of the 302 South Patton Avenue garbage cans (see packet photos), an additional fire hazard, which would then sit right on the property line and closer and under my bedrooms windows. All the above will negatively reflect on my homeowner's insurance policy. Assuming that any insurance company would be willing to insure my property, after the construction of the proposed addition, the new new monthly premiums would be exorbitant and will thus create an extreme financial burden for me. Please, note that all the bedrooms of my residence face south (toward the aforementioned wall encroachment and new garage wall). In case of fire at 302 South Patton Avenue, my living quarters would be at risk first, along with my own life.

2. Living conditions – as mentioned above, all my bedrooms face south toward the newly proposed addition. Southern exposure is a primary source of sunlight and daylight for these living quarters. Given the proposed height and proximity of the new addition and its roof, the amount of sunlight and daylight would be severely reduced. In addition, the expansion of the garage and its newly increased proximity to my bedrooms would increase car engine noise, emissions, and commotion to unacceptable levels. Please, note that the above-mentioned garbage cans at the north garage wall and eave would reinforce the elevated noise levels and bring additional smell and unsanitary conditions right under my bedroom windows.

Respectfully submitted,

Hristo Douhalov



Zoning Board of Appeals 1/8/2024

Item: 523 S. Chestnut Ave. - ZBA#23-046 - Public Hearing

Department: Planning & Community Development Department

REQUEST

- A 2.6-foot variation from Chapter 28, Section 5.1-3.3b (Required Minimum Yards) to allow a one-story addition with a side yard setback of 3.9 feet instead of the required 6.5 feet.

ATTACHMENTS:

Description

Supporting Documents
Public Comments

Type

Exhibits
Correspondence

ARLINGTON HEIGHTS ZONING BOARD OF APPEALS

Staff Analysis

Prepared By: Derek Mach, Planner
Hearing Date: January 8, 2024
Date Prepared: January 3, 2024
Project Title: McGuire Residence
Address: 523 S. Chestnut Avenue

Background Information

Petition Number: ZBA #23-046
Petitioner: Beth & Tom McGuire
Address: 523 S. Chestnut Avenue
Arlington Heights IL 60005

Existing Zoning: R-3 – Residential Single-Family District

Requested Action/Background Information

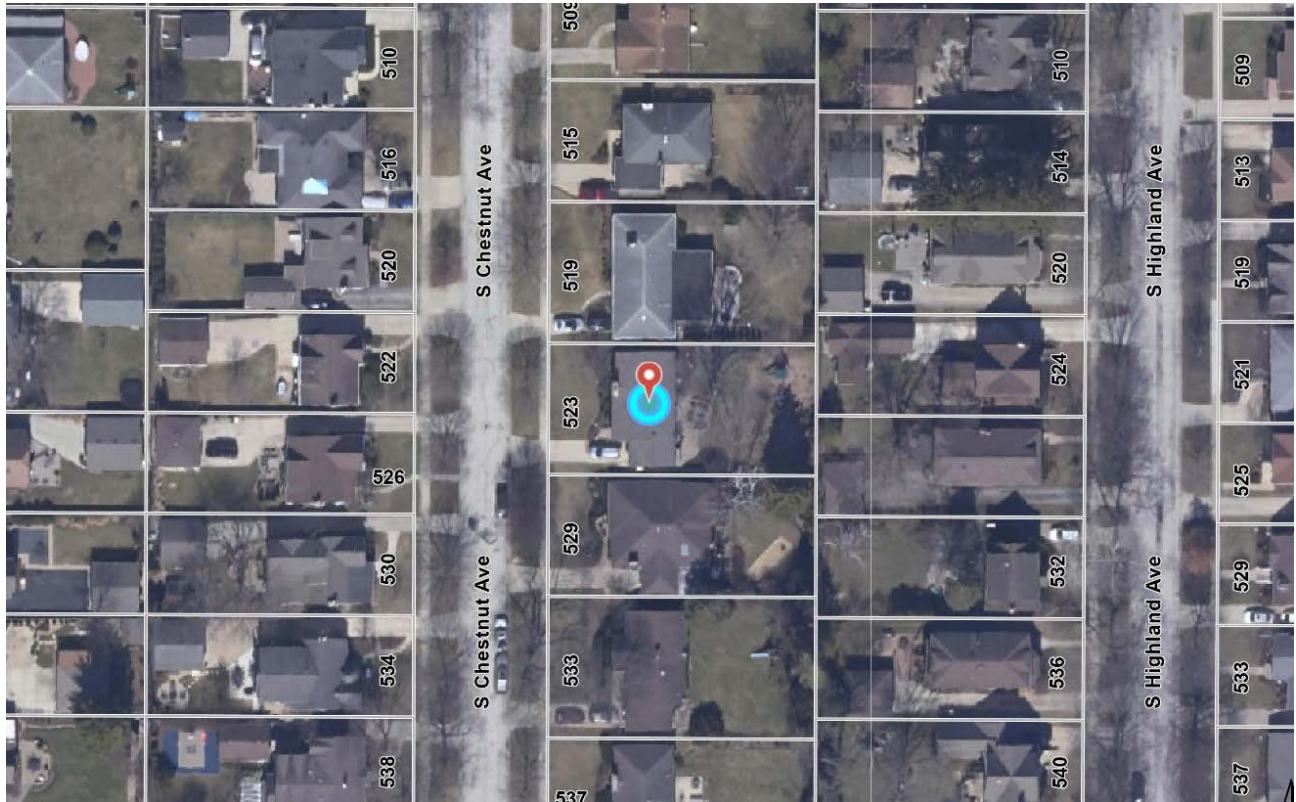
The subject site is zoned R-3, One Family Dwelling District. The property has a total land area of 8,594 square feet and the proposed residence with the addition will be approximately 2,047 square feet. The petitioner is proposing to construct an addition to the existing single-story home. The proposed addition, includes an expansion in the rear of the home which is encroaching 2.6 feet into the required side yard setback. Therefore, the petitioner is requesting the following variation:

- A 2.6-foot variation from Chapter 28, Section 5.1-3.3b (Required Minimum Yards) to allow a one-story addition with a side yard setback of 3.9 feet instead of the required 6.5 feet.

Variation Review Standards

In its consideration of the standards of practical difficulties or particular hardships, the Zoning Board of Appeals shall require evidence that (1) the proposed use will not alter the essential character of the locality and will be compatible with existing uses and zoning of nearby property; and (2) the plight of the owner is due to unique circumstances, which may include the length of time the subject property has been vacant as zoned; and (3) the proposed variation is in harmony with the spirit and intent of this Chapter; and (4) the variance requested is the minimum variance necessary to allow reasonable use of the property. A variation shall be permitted only if the evidence, in the judgment of the Board of Appeals, sustains each of the four conditions enumerated.

Map of General Vicinity



Items required to be Submitted 15 Days Prior to Public Hearing

<u>Item</u>	<u>Provided</u>	<u>Dated</u>	<u>Remarks</u>
1. Notification Affidavit	✓	12/21/23	
2. List of Property Owners Within 250 feet of Subject Property	✓	12/21/23	
3. Letter that was Mailed	✓	12/21/23	
4. Photographs of Sign on Property	✓	12/21/23	

Photographs of Existing Structure



PROJECT REVIEW TRANSMITTAL
for
Zoning Board of Appeals Review

Project Name: McGuire Residence

Project Address: 523 S. Chestnut Avenue

ZBA #: 23-046

ZBA Hearing Date: January 8, 2024

To: Mike Pagones, Village Engineer
Jorge Torres, Director of Building and Life Safety

C: Michael Lysicatos, Assistant Director of Planning and Community Development
Steve Hautzinger, Design Planner

From: Derek Mach, Landscape Planner

Transmitted On: December 14, 2023

- A 2.6-foot variation from Chapter 28, Section 5.1-3.3b (Required Minimum Yards) to allow a one story addition with a side yard setback of 3.9 feet instead of the required 6.5 feet.

Attached are the Petitioner's:

- ☐ Application & Petition
- ☐ Plat of Survey
- ☐ Site Plan
- ☐ Other: _____

Comments:

The proposed addition has an unusual appearance that does not match the existing house. However, since it is a single-story addition on the rear of the house, it is not a significant concern. A Design Commission application is required to be submitted to the Planning Department for review.

Steve Hautzinger, Design Planner:



Village of Arlington Heights Building & Life Safety Department

Interoffice Memorandum

To: Derek Mach, Zoning Board of Appeals Liaison

From: Nusrat Jahan, Building & Life Safety Department

Project Name: McGuire Residence

Project Address: 523 S Chestnut Avenue

ZBA #: 23-046

Date: December 19, 2023

Derek:

We have reviewed the request for the following variance:

- **A 2.6-foot variation from Chapter 28, Section 5.1-3.3b (Required Minimum Yards) to allow a one story addition with a side yard setback of 3.9 feet instead of the required 6.5 feet.**

and have the following comments:

1. The north part of the proposed addition, located within 5 feet from the side lot line shall have a minimum of 1-hour fire-resistance rated construction with exposure from both the inside and outside of the wall.
2. The maximum openings on the north wall shall be 25% of the west wall area based on the distance to the lot line of 3 feet.
3. The eave projection is not allowed within 2 feet from the lot line.
4. The soffit at the north side wall of the addition shall have a minimum of 1-hour fire-resistance rated construction on the underside or solid blocking between the top plate to the underside of the roof sheathing based on the distance to the lot line of between 2 feet to 5 feet.

Note: Foundation and Footing design for Single Family Construction shall comply with 2018 International Residential Code.

From: [Schwab, Brigit](#)
To: [DiMatteo, Pat](#); [Mach, Derek](#)
Cc: [Pagones, Mike](#)
Subject: RE: ZBA reviews for 1/8/24 - For Department Review
Date: Monday, December 18, 2023 3:56:04 PM

Derek –

Please see Engineering comments below:

523 S Chestnut Ave (23-0456)

1. Engineering has NO OBJECTION to a 2.6-foot variation from Chapter 28, Section 5.1-3.3b (Required Minimum Yards) to allow a one story addition with a side yard setback of 3.9 feet instead of the required 6.5 feet. Please note, the permit will require an existing and proposed grading plan with cross sections along the north property to ensure positive drainage.

Thank you,

Brigit F. Schwab, P.E.

Senior Civil Engineer

Village of Arlington Heights Public Works Department

Engineering Division

33 South Arlington Heights Road

Arlington Heights, IL 60005

PETITION

The following petition form shall be used when submitting a petition for a variation from Chapter 28 of the Arlington Heights Municipal Code. This must be submitted with a fully executed application to the Zoning Board of Appeals. Please refer to Section 12 of Chapter 28 of the Arlington Heights Municipal Code for information regarding the criteria by which the Zoning Board of Appeals will evaluate variation requests. (Attached to this application packet.)

PETITION

NOW COMES the Petitioner Beth and Tom McGuire
being the owner of the property commonly known as: 523 South Chestnut Avenue, Arlington Heights, Illinois 60622
and appeals to the Zoning Board of Appeals of the Village of Arlington Heights for a Variation from Section 5.1-3.3
Chapter 28, of the Arlington Heights Municipal Code, in order to: Reduce the sideyard setback from 6'-6" to 3'-10" — matching nearby setbacks

I hereby state that the proposed use will not alter the essential character of the locality and will be compatible with existing uses and zoning of nearby property if the variation(s) were granted (please explain):

This variance enables us to retain the tree & ranch home character in the neighborhood.

I hereby state that the plight of the owner is due to unique circumstances, which may include the length of time the subject property has been vacant as zoned (please explain):

The position of the tree, relative to existing home's configuration, necessitates this setback variance.
Other options did not result with long-term quality experience, both inside and outside.

I hereby state that the proposed variation is in harmony with the spirit and intent of this Chapter (please explain):

The addition will be consistent with the existing home, and, as a low ceiling'ed ranch, it will maintain sunlight to the neighbor's homes.

I hereby state that the variance requested is the minimum variance necessary to allow reasonable use of the property (please explain):

Long-term value in the neighborhood means increasing home usability, and, growth of trees.
This variance accomplishes both.

Signed: _____
Petitioner

Date: _____



A = ASSUMED
C = CALCULATED
CH = CHORD
CL = CENTERLINE
D = DEED
E = EAST
F.I.P. = FOUND IRON PIPE
F.I.R. = FOUND IRON ROD
FT. = FEET/FOOT
L = ARC LENGTH
M = MEASURED
N = NORTH
NE = NORTHEAST
NW = NORTHWEST
P.O.B. = POINT OF BEGINNING
P.O.C. = POINT OF COMMENCEMENT
R = RECORD
RAD = RADIUS
R.O.W. = RIGHT OF WAY
S = SOUTH
S.I.P. = SET IRON PIPE
S.I.R. = SET IRON ROD
SE = SOUTHEAST
SW = SOUTHWEST
W = WEST

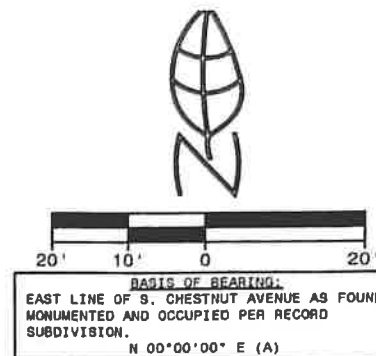
--- X --- = CHAIN LINK FENCE
--- O --- = WOOD FENCE
--- Δ --- = METAL FENCE
--- Δ --- = VINYL FENCE
--- --- = EASEMENT LINE
--- --- = SETBACK LINE
--- --- = INTERIOR LOT LINE

PLAT OF SURVEY OF

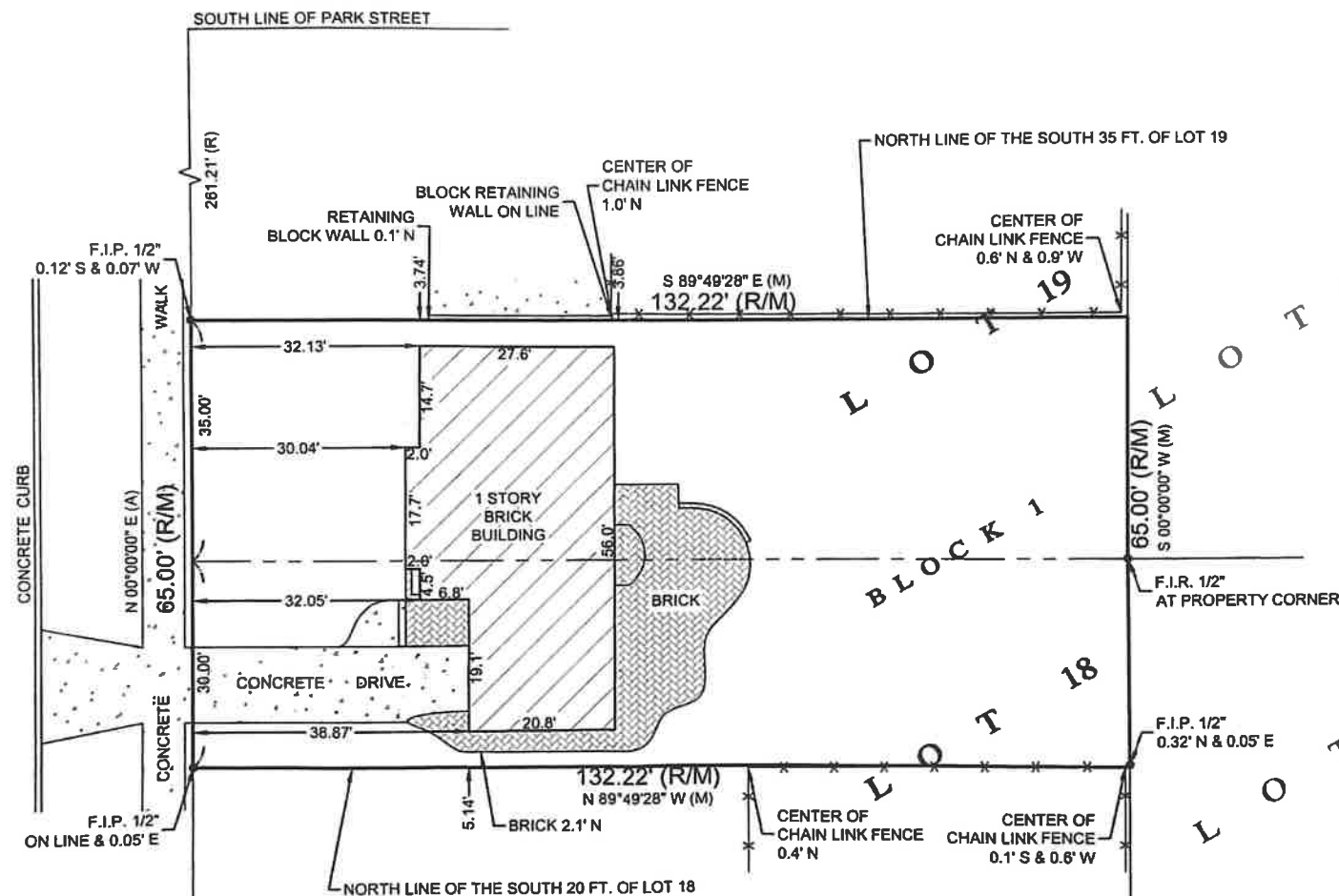
LOT 18 (EXCEPT THE SOUTH 20 FEET THEREOF) TOGETHER WITH THE SOUTH 35 FEET OF LOT 19 IN BLOCK 1 IN THE SUBDIVISION OF LOTS 9 TO 14 OF CAROLINE FIENE'S SUBDIVISION OF THE SOUTH 50 ACRES OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 31, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

AREA OF SURVEY:

CONTAINING 8,594 SQ. FT. OR 0.19 ACRES MORE OR LESS



S. CHESTNUT AVENUE
(66' R.O.W.)



Morris Engineering, Inc.
515 Warrenville Road, Lisle, IL 60532
Phone: (630) 271-0770
FAX: (630) 271-0774
WEBSITE: WWW.ECIVIL.COM

STATE OF ILLINOIS }96
COUNTY OF DUPAGE

I, THE UNDERSIGNED, AN ILLINOIS PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR A BOUNDARY SURVEY, AND THAT THE PLAT HEREON DRAWN IS A CORRECT REPRESENTATION OF SAID SURVEY.

DATED, THIS 19TH DAY OF JULY, A.D. 2018,
AT Lisle, ILLINOIS.

ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 035-3253
LICENSE EXPIRATION DATE NOVEMBER 30, 2018
ILLINOIS BUSINESS REGISTRATION NO. 184-002245



NOTE:

1. ALL TIES SHOWN ON THIS SURVEY ARE MEASURED TO THE BUILDING'S SIDING (BRICK, FRAME, STUCCO, METAL, ETC.) AND NOT TO THE FOUNDATION, UNLESS NOTED OTHERWISE.
2. ROOF LINES AND OVERHANGS ARE TYPICALLY NOT SHOWN HEREON.
3. COMPARE ALL DISTANCES AND POINTS IN FIELD AND REPORT ANY DISCREPANCIES TO SURVEYOR AT ONCE.
4. NO DIMENSIONS SHALL BE ASSUMED BY SCALING.

ADDRESS COMMONLY KNOWN AS 523 S. CHESTNUT AVENUE
ARLINGTON HEIGHTS, ILLINOIS

CLIENT DROST KIVLAHAN MCMAHON & O'CONNOR LLC

FIELDWORK DATE (CREW) 07/18/2018 (RL/JB)

DRAWN BY: R.S. REVISED: JOB NO. 18-07-0176

• • •

523 Addition

Beth and Tom McGuire

animate...

11december2023

north

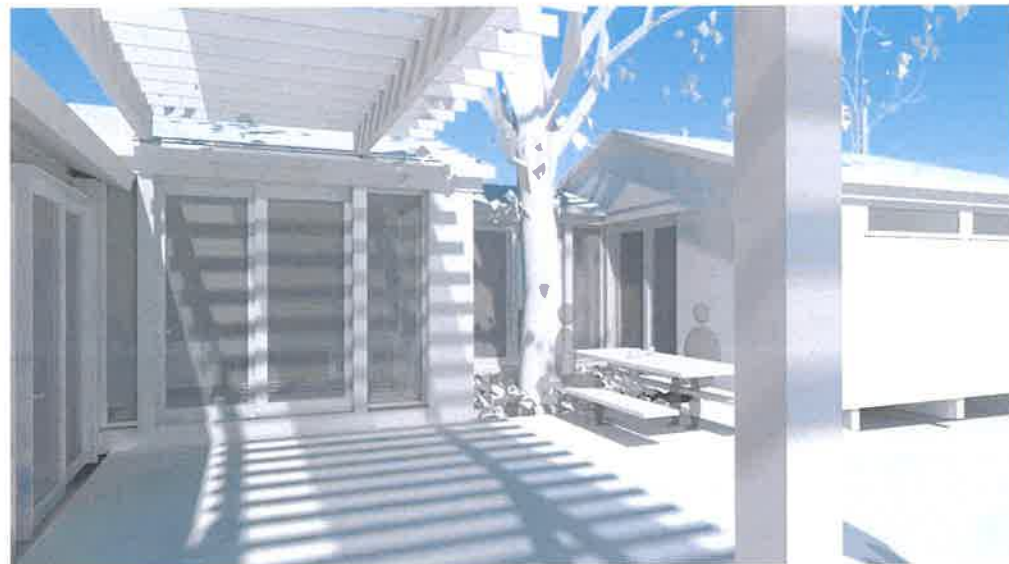


plat of survey

Conceptual & Programming

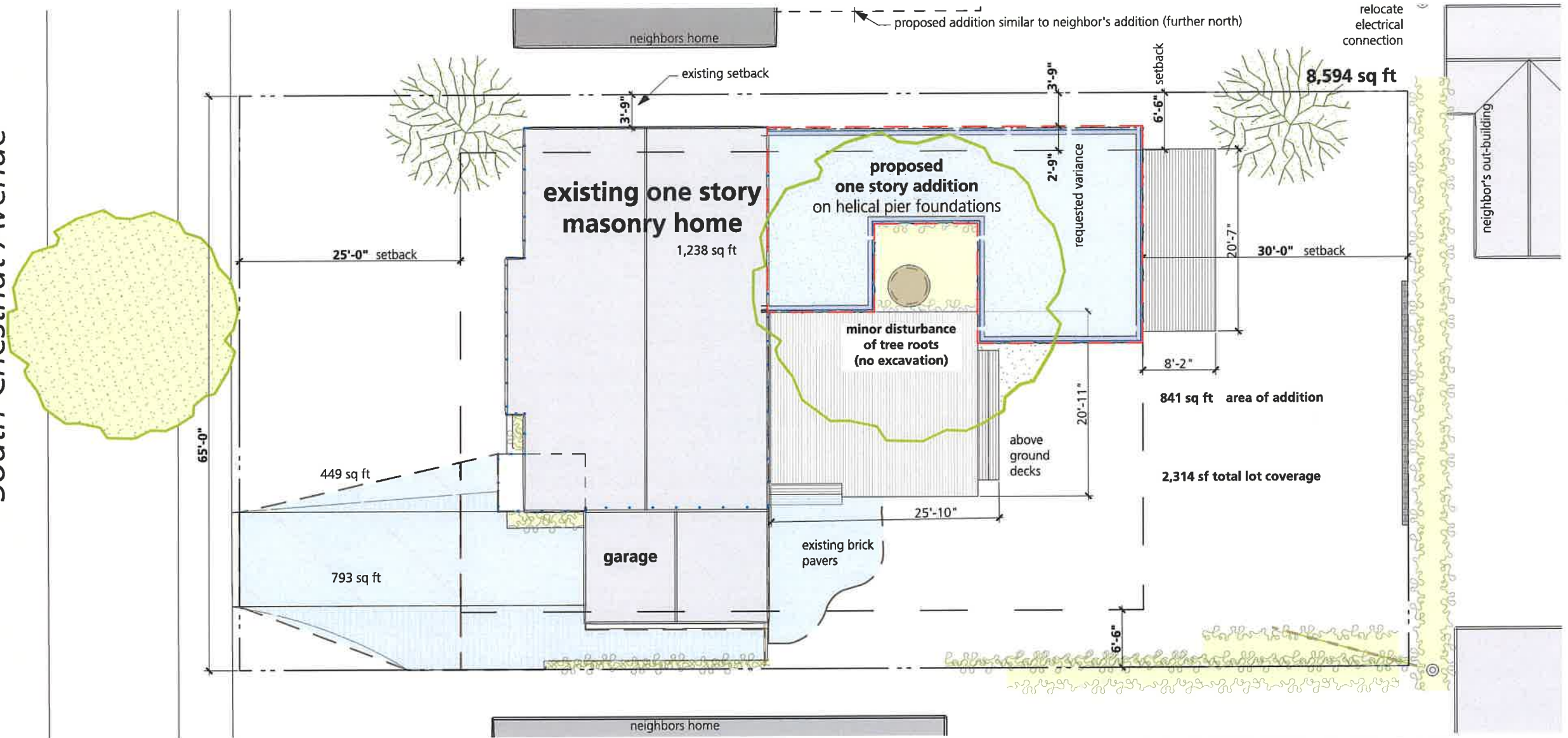








South Chestnut Avenue



page	section name	zoning requirements	actual	location/ sheet	remarks
		523 South Chestnut	8,594 sf — site area	0.20	acres
		existing building	65 feet wide lot addition		non-conforming minimum lot width, building in side yards
28	5.1-3 One Family Dwelling District	R3			
	5.1-3.1 Minimum Lot Size	6,750 sf	98% of required lot size	20% of required lot size	g1
	5.1-3.2 Minimum Lot Width	70 feet	93% of required width	0% of required width	
	5.1-3.3 Required Minimum Yards	Table 110-3			
	Front Yard	25 feet	25.0 feet		plot recorded prior to 1959
	Side Yard	10% of lot width	6.5 feet	3'-10" feet	existing house north side yard
	Rear Yard	30 feet	30.0 feet	30.0 feet	
	5.1-3.4 Maximum Floor Area Ratio	0.45 times lot area	3,867 max building area	2,047 sf building area	
	5.1-3.5 Maximum Lot Coverage	35% of lot area	3,008 max lot coverage	2,314 sf lot coverage	
	Impervious Lot Coverage	50% of lot area	4,297 max impervious coverage	3,107 sf impervious coverage	1-100
	5.1-3.5 Maximum Height	25 feet & 2.5 stories		24 feet & 2 stories	
	6.4 Permits				
	may be issued if	90% of required lot area/width		98% & 93% per above	
	6.6-5.1 Table of Permitted Obstructions				
	Front	2.5 feet eaves			chimneys
	Side	2.5 inches per foot of yard; eaves			ext. planters/decks 30" above grade into full setback
	Rear				laundry drying equipment

*the Tree
even in the winter*



From: Steve Scheffler [REDACTED]
Sent: Friday, December 22, 2023 3:07 PM
To: Mach, Derek
Cc: Heather Kallman
Subject: Chestnut project

[NOTICE: This message originated outside of Village of Arlington Heights email system -- **DO NOT CLICK** on links or open **attachments** unless you are sure the content is safe.]

Derek,

I wanted to reach out to express our support of the McGuire's project on south Chestnut Ave. We think it adds great value to the neighborhood without changing the feel of the block and keeping the large coveted trees in the neighborhood, which we all love.

For what it's worth we are very supportive of this addition.

Happy Holidays!

Steve Scheffler and Heather Kallman
542 s. Chestnut Ave.

Sent from my iPhone

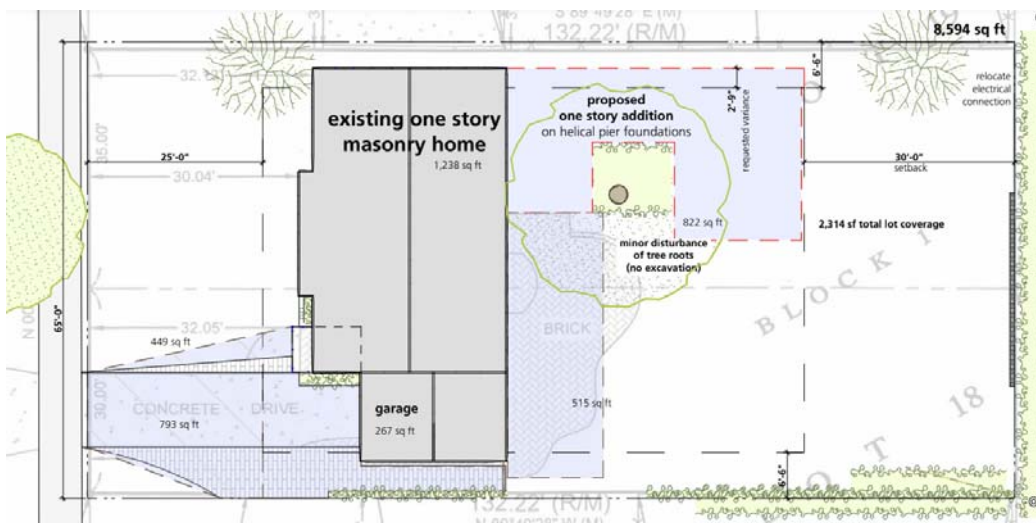
From: Rose Sherry [REDACTED] >
Sent: Friday, December 22, 2023 4:08 PM
To: Mach, Derek
Subject: McGuire variance

[NOTICE: This message originated outside of Village of Arlington Heights email system -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Dear Derek,

I am the backyard neighbor of the McGuire family. I live at 528 S Highland Ave, Arlington Heights, IL 60005. I wanted to say that I am in favor of the current plans to expand the ranch home by extending it on the north side of the lot with only minor disturbance to the existing tree as noted in the picture below.

*Peace and Love,
Rose Sherry*



From: **Jay Bingaman** [REDACTED] >
Date: Sat, Dec 23, 2023 at 7:41 PM
Subject: Re: Variance
To: Tom E. McGuire [REDACTED]

Tom,

This looks amazing! I understand the need to expand, and I am so glad you are working to save that tree it is awesome.

Good luck with the project!

--

From: Hillary Walker <[REDACTED]>
Sent: Friday, December 29, 2023 2:03 PM
To: Mach, Derek
Subject: McGuire permit variance

[NOTICE: This message originated outside of Village of Arlington Heights email system -- **DO NOT CLICK** on links or open **attachments** unless you are sure the content is safe.]

Hi Derek,

My name is Hillary Walker and I live at 529 S Chestnut Ave in Arlington Heights along with my husband Justin Walker. Our neighbors, Tom and Beth McGuire of 523 S Chestnut, Arlington Heights are applying for a side yard setback variance to allow for an addition to their home. We fully support this plan.

The McGuires are fantastic neighbors who have spent the past few years investigating addition plans to best suit their needs, existing landscaping, all while being mindful of their neighbors and what would fit best within our neighborhood. We have reviewed their plans and have no issue with this variance and hope the village permits their plan to move forward as submitted.

Thank you,

Justin and Hillary Walker
[REDACTED]

From: **Anthony Barbera** <[REDACTED]>
Date: Tue, Jan 2, 2024 at 17:01
Subject: Re: Variance
To: Tom McGuire <[REDACTED]>
CC: Thalia Flores <[REDACTED]>

Hi Tom:

I hope you, Beth, and Caitlin had a nice holiday.

Thalia and I would like to express our full support for the proposed one-story addition with a side yard setback of 3.9 feet as outlined in your letter dated December 18th, 2023.

With that said, we are happy to support the project any way we can (by sending an email to the planning manager and/or attending the zoning board of appeals meeting on January 8th).

Please let us know what you need!

Best Regards,

Anthony Barbera

From: Bill Prince [REDACTED]
Sent: Wednesday, January 3, 2024 8:09 AM
To: Mach, Derek
Subject: Chestnut Street Variance Request Support

[NOTICE: This message originated outside of Village of Arlington Heights email system -- **DO NOT CLICK** on links or open **attachments** unless you are sure the content is safe.]

Hi Derek,

I live at 520 South Chestnut Street across from the McGuires.

I am writing to let you know that I support their request for a variance to allow for their planned house addition.

- Bill Prince



Zoning Board of Appeals 1/8/2024

Item: 720 N. Dunton Ave. - ZBA#23-047 - Public Hearing

Department: Planning & Community Development Department

Request 1: The Petitioner appeals Village staff's interpretation of "The 2002 Comprehensive Amendment of the Zoning Ordinance of the Village of Arlington Heights," as amended ("Zoning Code"), regarding the height of the structure under construction at 720 N. Dunton Avenue. The Petitioner claims that the height of the structure is in compliance. Village staff determined that the structure exceeds the maximum height of 25 feet permitted in Section 5.1-3.6 of the Zoning Code.

Pursuant to Chapter 6, Section 202, the Zoning Board shall have the power to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Building Commissioner or appropriate Administrative Officer in the enforcement of the Code, or to hear and decide any of the appeals provided for in this Section.

Request 2: If the Zoning Board of Appeals determines that the structure exceeds the maximum height allowed by the Zoning Code, then in the alternative to the appeal, the Petitioner requests a height variation from Section 5.1-3.6 of the Zoning Code of up to 3.2 feet above the 25 feet maximum height, to allow the existing structure to remain as constructed.

- A 3.2 foot variation from Chapter 28, Section 5.1-3.6 (Maximum Height) to allow a single family home with a midpoint roof height of 28.2 feet where a maximum midpoint roof height of 25.0 feet is permitted.

ATTACHMENTS:

Description	Type
Supporting Documents	Exhibits
Public Comments	Correspondence
Additional Public Comment Recvd as of 3 pm, 1-8-24	Correspondence

ARLINGTON HEIGHTS ZONING BOARD OF APPEALS

Staff Analysis

Prepared By: Steve Hautzinger, Design Planner
Hearing Date: January 8, 2024
Date Prepared: January 3, 2024
Project Title: 720 N. Dunton Ave.
Address: 720 N. Dunton Ave.

Background Information

Petition Number: ZBA #23-047
Petitioner: Jerome W. Pinderski, Jr.
Address: 115 W. Colfax St.
Palatine, IL 60067

Existing Zoning: R-3 – Residential Single-Family District

Requested Action/Background Information

Request 1: The Petitioner appeals Village staff's interpretation of "The 2002 Comprehensive Amendment of the Zoning Ordinance of the Village of Arlington Heights," as amended ("**Zoning Code**"), regarding the height of the structure under construction at 720 N. Dunton Avenue. The Petitioner claims that the height of the structure is in compliance. Village staff determined that the structure exceeds the maximum height of 25 feet permitted in Section 5.1-3.6 of the Zoning Code.

Pursuant to Chapter 6, Section 202, the Zoning Board shall have the power to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Building Commissioner or appropriate Administrative Officer in the enforcement of the Code, or to hear and decide any of the appeals provided for in this Section.

Request 2: If the Zoning Board of Appeals determines that the structure exceeds the maximum height allowed by the Zoning Code, then in the alternative to the appeal, the Petitioner requests a height variation from Section 5.1-3.6 of the Zoning Code of up to 3.2 feet above the 25 feet maximum height, to allow the existing structure to remain as constructed.

- **A 3.2 foot variation from Chapter 28, Section 5.1-3.6 (Maximum Height) to allow a single family home with a midpoint roof height of 28.2 feet where a maximum midpoint roof height of 25.0 feet is permitted.**

Background and Summary:

The design for the new house at 720 N. Dunton Avenue received Design Commission approval on April 11, 2023. The architectural drawings presented at the Design Commission review showed the house on a flat level site with a straight grade line across the front of the house. The dimensioned building height on the architectural drawings was 24'-8 1/2" measured from grade to the midpoint of the roof, which complied with code. (Refer to 'Front Elevation-Exhibit 1')

When the project was submitted for building permit review, the architectural elevation permit drawings matched the approved Design Commission drawings, showing a flat level site and a straight grade line across the front of the house, with the dimensioned building height of 24'-8 1/2". (Refer to 'Front Elevation-Exhibit 2')

During construction, neighbors observed that the house under construction appeared to be taller than the design that was approved by the Design Commission. Upon receiving this complaint, Village Staff requested a height survey from the builder. It was discovered that the approved architectural building permit drawings were not coordinated with the site engineering grading plan for the project. The site engineering drawings showed that the site was not flat and level,

but instead had a slope of approximately three feet from the high point at the rear alley to the low point at the front public sidewalk. To make up for this drop in grade, the grading plan included a three-foot tall mound of dirt across the front of the house and six additional steps along the front walk to get up to the front door.

The petitioner is claiming that the building height complies with code by measuring the building height from the high point of the artificially raised grade at the front of the house. However, Staff disagrees with the petitioners method of measuring the building height. Building height is determined and consistently applied based on the following municipal code requirements.

Per Chapter 28, Section 28-3 Definitions,

21. Building Height. The vertical distance measured from the sidewalk level or its equivalent established grade opposite the middle of the front of the building to the highest point of the roof in the case of a flat roof; to the deck line of a mansard roof; and **to the mean height level between eaves and ridge of a gable**, hip or gambrel roof; **provided that where buildings are set back from the street line, the height of a building may be measured from the average elevation of the finished lot grade at the front of the building.**

Per Chapter 28, Section 28-5.1-3 One Family Dwelling District: R-3
Section 5.1-3.6 **Maximum Height: 25 feet** and 2-1/2 stories.

According to the roof height survey provided by the petitioner (Exhibit A), the high point of the roof elevation is 743.61 and the eave elevation is 734.48. **The calculated mean (midpoint) roof elevation is 739.0.**

Staff's determination of "**the average elevation of the finished lot grade at the front of the building**" for measuring the building height is based on Chapter 23, **Section 23-103 General Lot Grade Maximums**, which states "**No lot shall be graded in such a manner as to raise the grade of such lot to any point higher than a continuous grade level between the grades of the lots on either side abutting such lot.**" Based on this requirement, the correct application of the municipal code for determining the building height is to measure from the average grade level between the existing grades of the lots on either side abutting the subject property at the front building setback. The existing grade elevation at the 25.5' front building setback line is 711.0 on the south lot line and 710.5 on the north lot line, with an average elevation of 710.8. The building height is measured from the average elevation of the existing grade (710.8) to the midpoint of the roof (739.0). **Therefore, staff's determination of the building height is 28.2 feet, where 25 feet is the maximum allowed** (refer to Front Elevation-Exhibit 4).

Artificially raising the grade is not in compliance with Chapter 23, Section 23-103, and the Zoning Board of Appeals cannot grant relief from Chapter 23.

Recommendations:

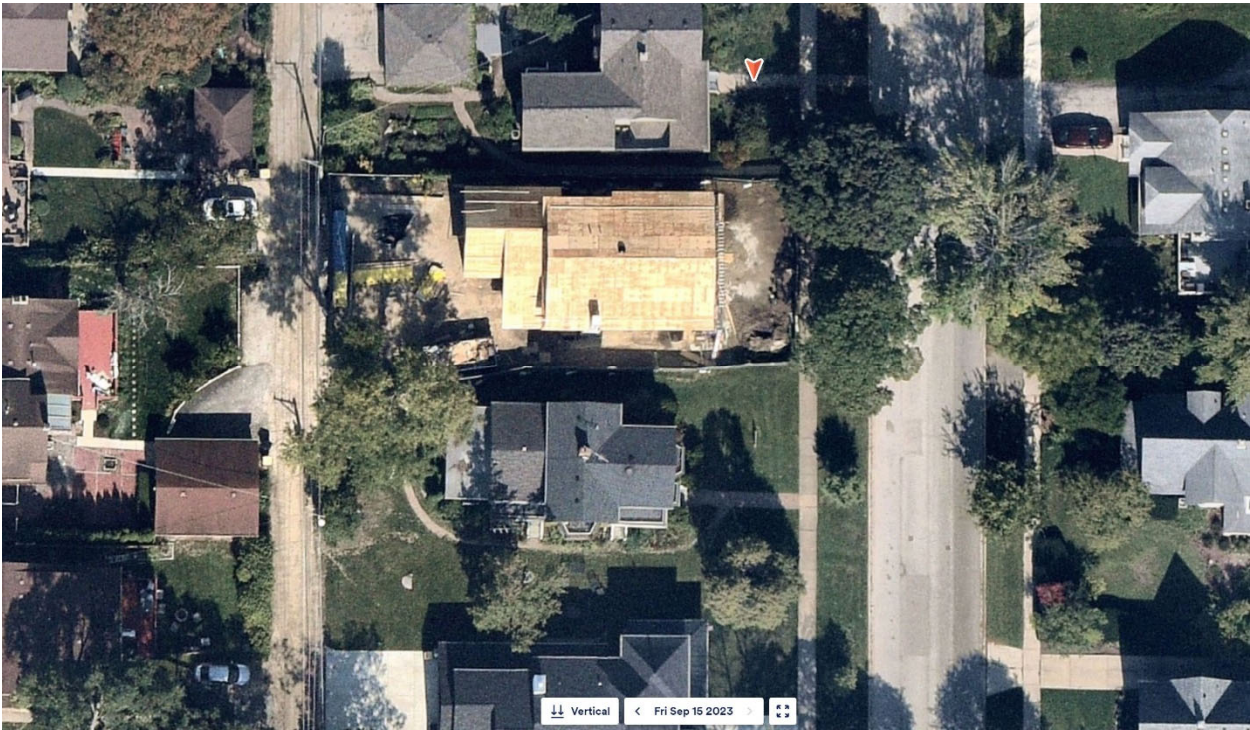
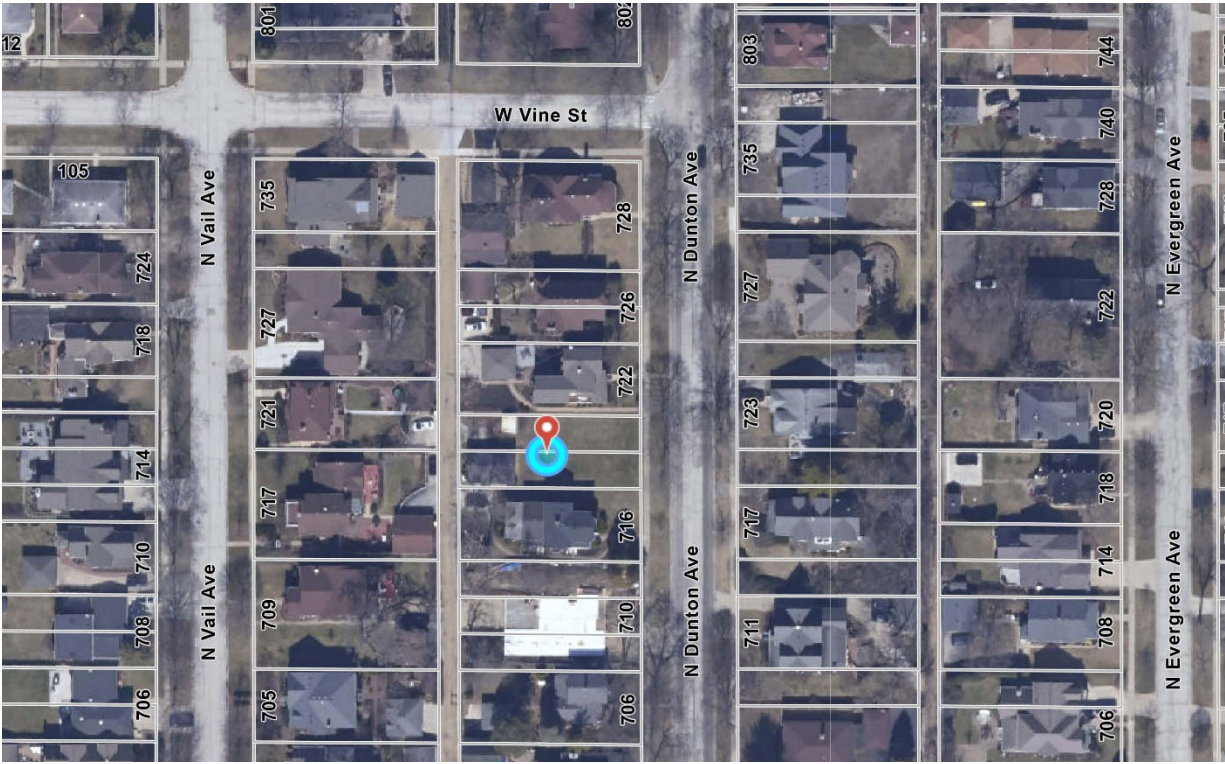
Request 1: Staff recommends **DENIAL** of the petitioner's appeal of the Chapter 28, Zoning Regulations, Building Height requirements.

Request 2: After denial of Request 1, Staff recommends that the Zoning Board review the hardship criteria and determine whether or not the requested height variance is justified.

Variation Review Standards

In its consideration of the standards of practical difficulties or particular hardships, the Zoning Board of Appeals shall require evidence that (1) the proposed use will not alter the essential character of the locality and will be compatible with existing uses and zoning of nearby property; and (2) the plight of the owner is due to unique circumstances, which may include the length of time the subject property has been vacant as zoned; and (3) the proposed variation is in harmony with the spirit and intent of this Chapter; and (4) the variance requested is the minimum variance necessary to allow reasonable use of the property. A variation shall be permitted only if the evidence, in the judgment of the Board of Appeals, sustains each of the four conditions enumerated.

Map of General Vicinity



Items required to be Submitted 15 Days Prior to Public Hearing

<u>Item</u>	<u>Provided</u>	<u>Dated</u>	<u>Remarks</u>
1. Notification Affidavit	✓	12/22/23	
2. List of Property Owners Within 250 feet of Subject Property	✓	12/22/23	
3. Letter that was Mailed	✓	12/22/23	
4. Photographs of Sign on Property	✓	12/22/23	

Photographs of Existing Structure



C: Derek Mach, ZBA Liaison

Petitioner's
ZBA Submittal

Petition

Petitioner Mastercraft Builders & Carpentry, Inc., by its attorneys, Pinderski & Pinderski, Ltd., being the owner the property commonly known as 720 N. Dunton, Arlington Heights Illinois, does hereby appeal to the Zoning Board of Appeals of the Village of Arlington Heights for relief as follows:

A. Building height dispute

1. Petitioner seeks to adjudicate a dispute by between it and the staff of the Village as to the proper interpretation and application to be given to the zoning ordinances pertaining to the measurement of the height of a building and related grade measures as set forth in Sections 28-3-21, 28-3-73 and 28-5.1-3.

21. Building Height. The vertical distance measured from the sidewalk level or its equivalent established grade opposite the middle of the front of the building to the highest point of the roof in the case of a flat roof; to the deck line of a mansard roof, and to the mean height level between eaves and ridge of a gable, hip or gambrel roof; provided that where buildings are set back from the street line, the height of a building may be measured from the average elevation of the finished lot grade at the front of the building. **28-3-21**

73. Grade. The degree of rise or descent of a sloping surface.

a. For buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street.

b. For buildings having walls adjoining more than one street, the average of the elevation of the sidewalk at the center of all walls adjoining street.

C. For buildings having no wall adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building.

Any wall approximately parallel to and not more than five feet from a street line shall be considered as adjoining the street. Where no sidewalk exists, the grade shall be established by the Village Engineer. **28-3-73**

5.1-3.6 Maximum Height: 25 feet and 2-1/2 stories, except for churches-maximum height is 75 feet for towers and steeples but not more than 45 feet for main structures. **28-5.1-3**

2. The Zoning Board of Appeals has jurisdiction pursuant to Section 6-202 (e)(2)(a) of the Village Code to hear and decide appeals as to zoning code interpretation disputes and orders associated with projects pending in the Village of Arlington Heights. Petitioner seeks to invoke this jurisdiction to resolve its code enforcement dispute.
3. Petitioner has constructed a single-family home on the property commonly known as 720 N. Dunton. The home has been constructed in accordance with approved architectural, building and engineering plans.
4. Upon completion of the home's external structure, including its roof system, an issue arose as to the final height of the building. Under Section 28-5.1-3, a building in an R-3 district may not exceed 25 feet in height.
5. Petitioner delivered to the Village a vertical survey of the existing home structure to resolve the alleged height issue. A true and correct copy of same is attached hereto as Exhibit A. As measured by Petitioner's licensed land surveyor, the home built on the property measures 24.77 feet in height, which is in compliance with the zoning code requirement for an R-3 district building.
6. Village staff has disputed the height measurement prepared by Petitioner's surveyor. Staff does not dispute the individual building measurements set forth in the vertical survey document, nor the mathematical calculations contained therein. As such, there is no dispute as to the actual height of the highest point of the roof, the measure of the gable roof system, the height of the foundation nor the grade point used as the measuring floor.
7. Staff asserts that Petitioner has misinterpreted the code, and utilized an improper base measure in calculating the building's height. See staff memo dated November 7, 2023, attached hereto as Exhibit B. Petitioner disputes staff's interpretation of the code, and otherwise asserts that the building, as built, does not violate the zoning code's height requirement.

8. Petitioner's Site Improvement Plan, attached hereto as Exhibit C, provides that the final grade at the front of the foundation wall will be 714.0 feet. The Site Improvement Plan includes the final grade measures for the property once construction is finished. Petitioner's surveyor made use of the final established great height, which has been approved by the Village as the measuring point at the middle of the front foundation wall as a part of its vertical height calculation. Using the final grade point is an appropriate measuring spot for vertical height measuring, and is compliant with the zoning code definition of Building Height. Section 28-3-21. The height of the new home which petitioner has constructed will be in full compliance with the zoning code upon the completion of the final grading of the site per the approved Site Improvement Plan.

9. Staff has misconstrued the plain language contained within the zoning code pertaining to the proper measure of a building's height. The staff memo attached as Exhibit B, contains three different scenarios as to how to interpret the code in measuring a building's height. The three interpretations each calculate a different final building height. Option 1 finds the building to be 28.2 feet tall. Option 2 finds the building to be 26.6 feet tall. Option 3 finds the building to be 26 feet tall.

10. All of the measuring rationale set forth in the staff memorandum represent an attempt to insert other language and other methods/processes into the measuring mix which are simply not a part of the zoning code. Staff has transformed what should be a straightforward and objective survey calculation into an involved project without any clear definition. At a minimum, staff should express a single interpretation as to the method by which a building's height should be measured as the code itself attempts to do.

11. The competing calculations of the building's zoning code height show the existing structure having a height of anywhere from 24.77 feet to 28.2 feet. As noted above, the actual height of the building as well as the height measures for the gable roof system, the top of the foundation and the final grade plan measures have not changed. The dispute with staff centers solely on the grade level starting point from which the calculation is to made. Petitioner asserts that its calculations are in conformity with the

zoning code, and establish mathematically that its house height is compliant with the code.

II. Building height variance

12. The resolution of the zoning code dispute by the Zoning Board of Appeals in favor of Petitioner will solve the dispute, and allow the structure to remain as built without change or modification. However, should the Zoning Board of Appeals resolve the code dispute by adopting some form of staff's interpretation of the zoning code, and find that Petitioner's building height exceeds the code limit, Petitioner seeks additional relief in the form of a height variance from the 25 foot height requirements set forth in Section 28-5.1-3 as to allow the existing structure to remain as built.

13. The Zoning Board of Appeals has jurisdiction pursuant to Section 6-202 (e)(2)(c) of the Village Code to grant code variances when it finds that a strict application of the zoning code will cause an owner to suffer unusual practical difficulties or particular hardship in making use of its property.

14. The height variance for the existing structure will not alter the essential character of the neighborhood in which it has been built. The home, as built is compatible with the existing residential uses in its neighborhood which lies along N. Dunton St. between Hawthorne and Vine Street. The new home architecturally and physically fits into the neighborhood. Other new homes have been built within the block of similar size, shape and height. The new home does not look out of place in the neighborhood. It is a handsome structure that adds great value and character to its neighborhood.

15. Petitioner's plight is due to unique circumstances which tie back to the aforementioned dispute with staff with respect to the proper interpretation and application of the zoning code sections which pertain to the measure of a building's height. The home, including its foundation structure is otherwise in compliance with all approved architectural, building and engineering plans. The height issues described above represent, at a minimum, an honest dispute between Petitioner's professionals and village staff with respect to how to make use of the zoning code's height measure

requirements in practice in the field, taking into account professional survey standards which govern the practice civil engineering surveying work in the state of Illinois.

16. The various interpretations of the code clearly lead to differing height calculations even though the heights of the foundation and building do not change. The lack of a clear standard and process for use in measuring a building's height is the dilemma facing the Petitioner. In the absence of a variation, if some portion of staff's interpretations are found to be correct, Petitioner may be required to physically demolish and/or rebuild portions of the home's roof system which would diminish its architectural value, and likely create a blight in the neighborhood as the home, as changed might not otherwise fit as designed.

17. The proposed height variance is in harmony with the spirit and intent of the zoning code with respect to maximum height of residential structures in an R-3 district. As noted above, the height of the structure, as completed can be measured in different ways. Each method will result in a different calculation as to its "measured height" even though the structure itself remains at a fixed height above sea level. No one disputes the issue is the building's height "at grade" which can vary depending upon the grade measure point utilized in calculating the buildings height. Petitioner's variance request represents its best efforts to honor the code without destruction of the building that was constructed in good faith based upon approved architectural, building and engineering plans, and Petitioner's own independent surveyor calculations that show that the building's height, in fact, does comply with zoning code. In addition, the height variance sought does not impact the building's position as sited on its lot. All front, back and side yards remain code complaint.

18. The requested height variance is the minimal variance necessary to allow for the reasonable use of the property, and in this case, being the retention of the new residence without the reconstruction of its roof system. The height variance will allow the existing residence to remain as a compatible new home within its neighborhood.

For all the reasons set forth herein, Petitioner Mastercraft Builders & Carpentry, Inc. prays for relief as follows:

- A. That the Zoning Board of Appeals exercise its jurisdiction to resolve the code dispute by and between it and staff.
- B. That the Zoning Board of Appeals resolve the code dispute in Petitioner's favor, and find that it's existing home is in compliance with the Village of Arlington Heights zoning code.
- C. In the alternative, should the Zoning Board of Appeals find in favor of staff, that it grant Petitioner a height variance so as to allow it's existing home to remain on its property as built.
- D. That the Zoning Board of Appeals grant such further relief as it deems appropriate under the circumstances.

Signed at Palatine Illinois on December 1, 2023.

PINDERSKI & PINDERSKI, LTD.
Attorneys for Petitioner
Mastercraft Builders & Carpentry, Inc.

By: Jerome W. Pinderski, Jr.

Jerome W. Pinderski, Jr.
PINDERSKI & PINDERSKI, LTD.
Attorneys for Petitioner
Mastercraft Builders & Carpentry, Inc.
115 West Colfax Street
Palatine, IL 60067
847-358-5220
jerome@pinderski.com

of

[illegible]

Ridge of Gable to 2nd Floor Top Plate:	8.55" (per Carpenter)
Mean Height of Gable to 2nd Floor Top Plate:	$8.55" \times 1.4142 = 12.09" / 2$
Mean Height Level Eave to Gable Ridge:	$4.29 + 734.48$
Final Established Grade:	714.5" = 737.77"
Allowable Mean Height (from Grade)*:	25.0' = 714.0
As-Built Mean Height (from Grade):	738.77' - 714.0
As-Built Mean Height (24.77') < Allowable Mean Height (25.00')	

*NOTE: Final Grade Not Established at Time of Survey; Final Grade Shall be 8" Below Top of Foundation per Approved Grading Plan.

CP # 600
Description: Cross Notch on Fire Hydrant Bolt
Elevation: 712.66 NAVD 88 (Genid 12A)

Completion of field work: October 3, 2023

MEMO



DATE: November 7, 2023

TO: Charles Witherington-Perkins, Director of Planning & Community Development

FROM: Steve Hautzinger, Design Planner

RE: 720 N. Dunton – Building Height

Per Chapter 28, Section 28-3 Definitions,

21. Building Height. The vertical distance measured from the sidewalk level or its equivalent established grade opposite the middle of the front of the building to the highest point of the roof in the case of a flat roof; to the deck line of a mansard roof; and to the mean height level between eaves and ridge of a gable, hip or gambrel roof; provided that where buildings are set back from the street line, the height of a building may be measured from the average elevation of the finished lot grade at the front of the building.

Per Chapter 28, Section 28-5.1-3 One Family Dwelling District: R-3

Section 5.1-3.6 Maximum Height: 25 feet and 2-1/2 stories.

The roof height survey indicates the high point of the roof to be 743.61, and the eave to be 734.48. The survey indicates the mean height of the roof to be 738.77, but the actual calculated mean height of the roof is 739.0.

OPTIONS FOR DETERMINING GRADE AS BASE POINT OF HEIGHT MEASUREMENT

Option 1 – Most Consistent with Typical Single-Family Grading and Building Height Measurement

According to the site engineering plan, the existing grade elevation at the 25.5' front building setback is 711.0 on the south lot line and 710.5 on the north lot line, with an average elevation of 710.8. If the building height is measured from the average elevation of the existing grade (710.8) to the midpoint of the roof (739.0), then the building height is 28.2 feet, where 25 feet is the maximum allowed.

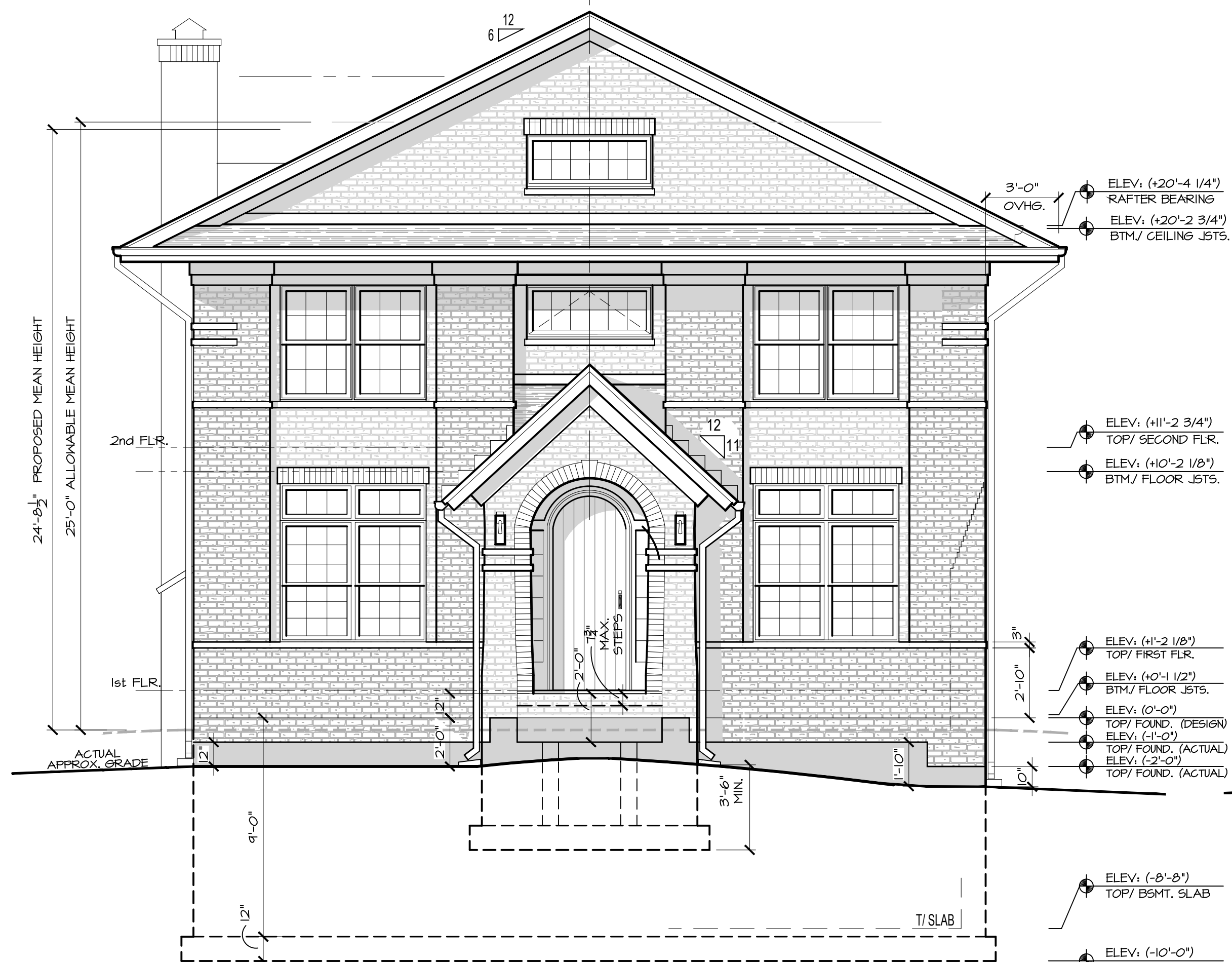
Option 2

According to the site engineering plan, the high point of the artificially raised grade at the front building setback is 714.0. The average elevation of the artificially raised grade is 712.4 (midpoint of 714.0 and 710.8). If the building height is measured from the average elevation of the artificially raised grade (712.4) to the midpoint of the roof (739.0), then the building height is 26.6 feet, where 25 feet is the maximum allowed.

Option 3

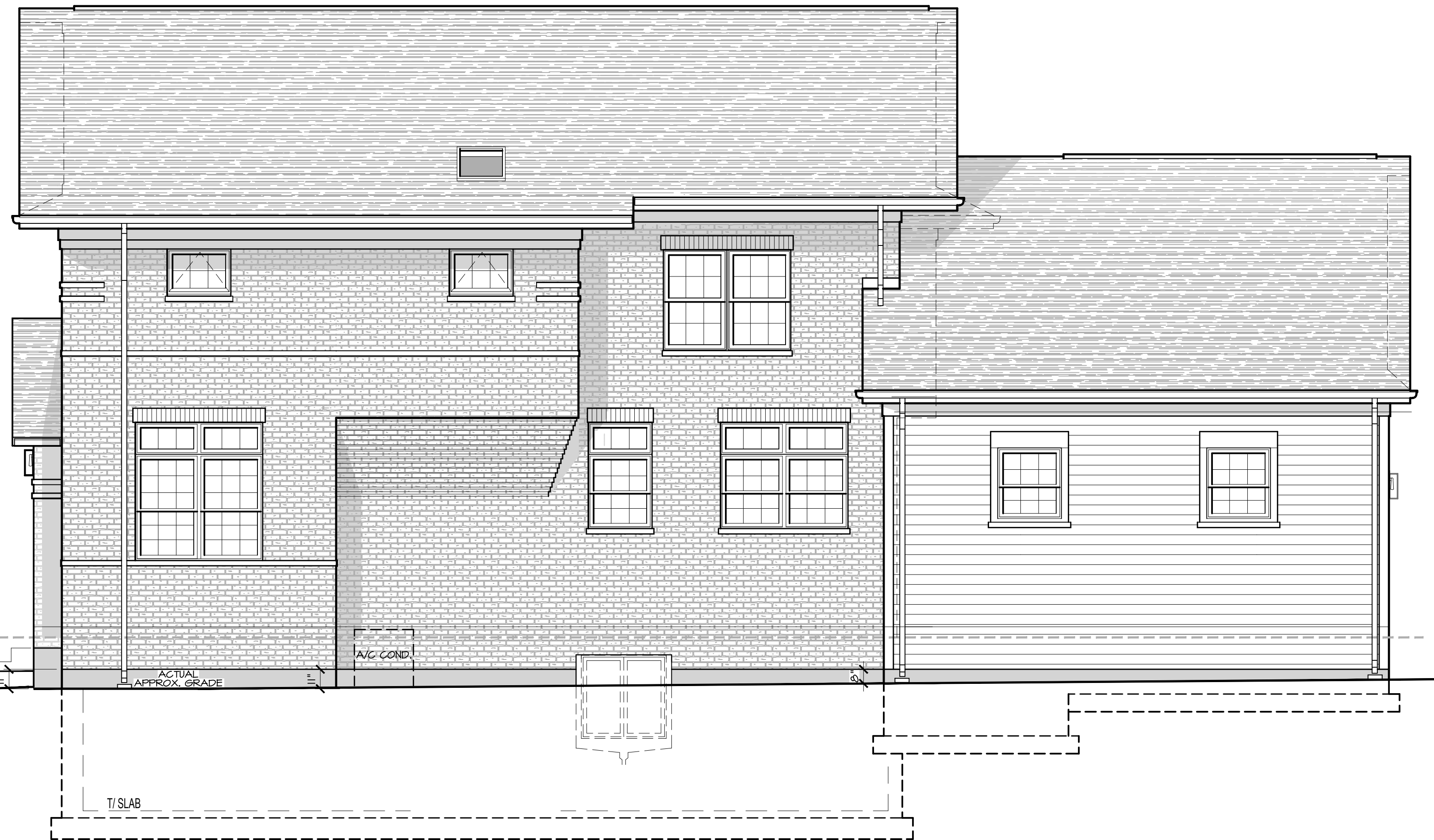
According to the site engineering plan, the elevation of the artificially raised grade is 712.0 at the northeast corner of the foundation. The high point of the artificially raised grade at the front building setback is 714.0. The average elevation of the artificially raised grade at the foundation wall across the front of the building is 713 (midpoint of 714.0 and 712). If the building height is measured from this elevation (713) to the midpoint of the roof (739.0), then the building height is 26 feet, where 25 feet is the maximum allowed.

The approved architectural drawings show a level grade around the house with a building height of 24'-8 1/2" with one step up to the front stoop. The architectural plans are not coordinated with the grading plan which shows seven steps up to the front stoop. The height of the house currently under construction either needs to be revised to comply with code, or a building height variation needs to be requested from the Zoning Board of Appeals.



PROPOSED EAST ELEVATION

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



PROPOSED NORTH ELEVATION

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



PROPOSED SOUTH ELEVATION

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

**EXISTING CONDITIONS
AS OF 12/9/23**

WARNING:
IT IS A VIOLATION OF THE LAW FOR
ANY PERSON, UNLESS ACTING UNDER
THE DIRECTION OF THE ARCHITECT OF
RECORD, TO ALTER THESE DRAWINGS
OR SPECIFICATIONS IN ANY WAY.

JOHN NELSON - ARCHITECT, INC.
1420 WHISPERING SPRINGS CIRCLE
PALATINE, IL 60074

PROPOSED NEW SINGLE FAMILY
RESIDENCE FOR:
720 N. DUNTON AVE.
ARLINGTON HEIGHTS, IL
MASTER CRAFT BUILDERS & CARPENTRY
(847) 875-6249

DATE	7/1/19	CLIENT REVIEW
	4/14/22	CLIENT REVIEW
	12/26/22	CLIENT REVIEW
	12/29/22	CLIENT REVIEW
	12/30/22	CLIENT REVIEW
	1/19/23	CLIENT REVIEW
	1/23/23	CLIENT REVIEW
	2/22/23	APPEARANCE REVIEW
	4/14/23	PERMIT / BID ISSUE
	5/15/23	VILLAGE COMMENTS
© COPYRIGHT 2023		
SHEET TITLE: EXTERIOR ELEVATIONS		
SHEET NUMBER: OF: TOTAL SHEETS		

A8

VERTICAL CONTEXT SURVEY

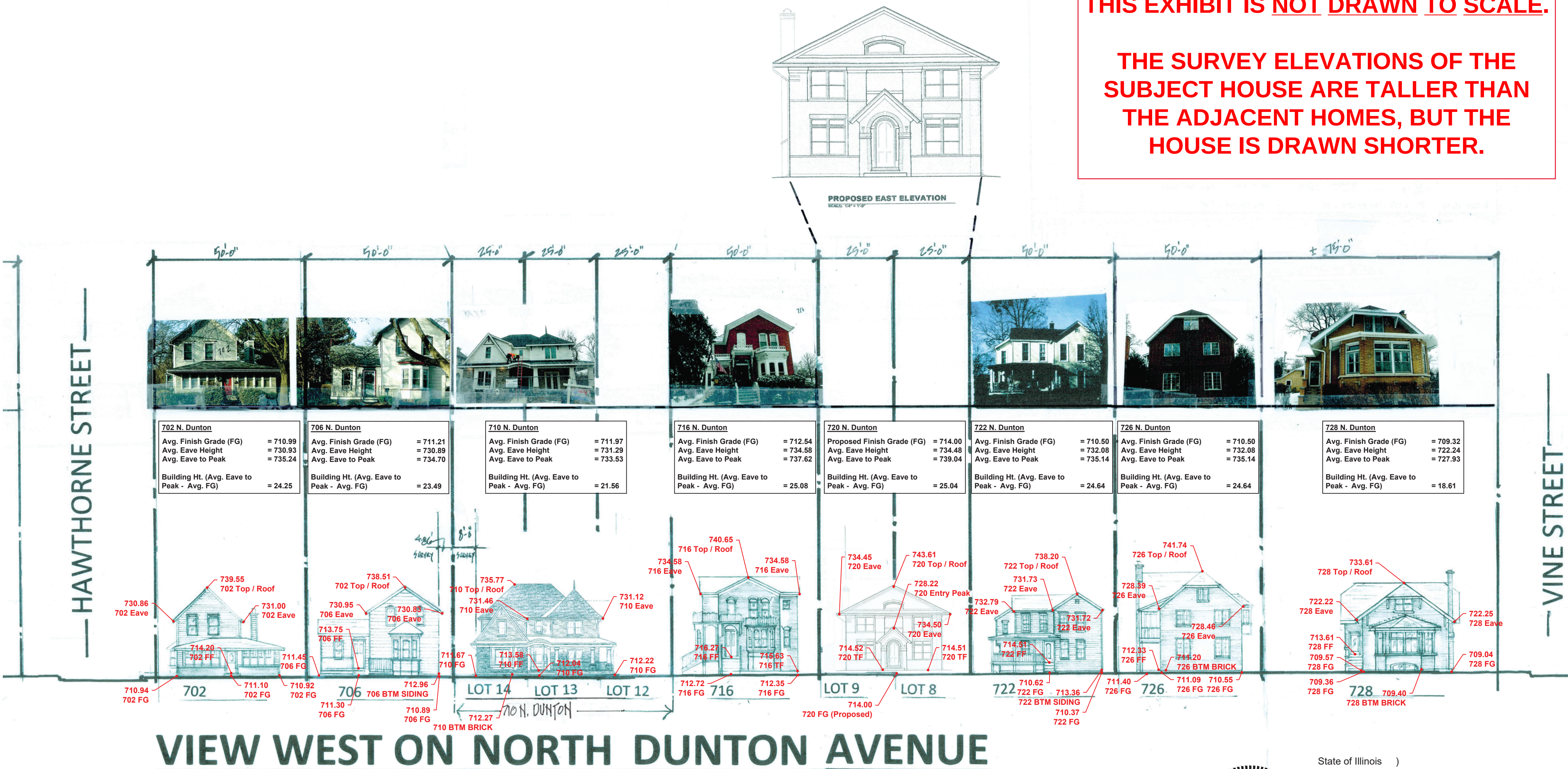
OF THE

WEST SIDE OF THE 700 BLOCK OF N. DUNTON AVENUE

STAFF'S NOTE:

THIS EXHIBIT IS NOT DRAWN TO SCALE.

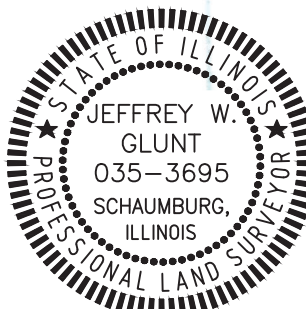
**THE SURVEY ELEVATIONS OF THE
SUBJECT HOUSE ARE TALLER THAN
THE ADJACENT HOMES, BUT THE
HOUSE IS DRAWN SHORTER.**



NOTE:
Basis for bearings shown hereon
are assumed.
Completion of field work: October 31, 2023

Benchmark
CP # 617 (see survey)
Description: Maze Nail
Elevation: 713.29 NAVD 88 (Geoid 12A)
CP # 600
Description: Cross Notch on Fire Hydrant Bolt
Elevation: 712.66 NAVD 88 (Geoid 12A)

Ordered By: MASTERCRAFT
Order No.: 19120



State of Illinois)
County of Cook) SS:

We hereby certify that we have measured and located the
roof, eave and finish grade elevations on the above
described properties, and that the plat hereon drawn is a
correct representation of said elevations.

Schaumburg, Illinois November 2, 2023
By: *[Signature]*
Illinois Professional Land Surveyor No. 3695

EXPIRES 11-30-24

HAEGER ENGINEERING LLC
Illinois Professional Design Firm No. 184-003152
Consulting Engineers - Land Surveyors
1304 N. Plum Grove Road
Schaumburg, Illinois 60173
Tel: 847/394-6600 Fax: 847/394-6608
www.haegerengineering.com













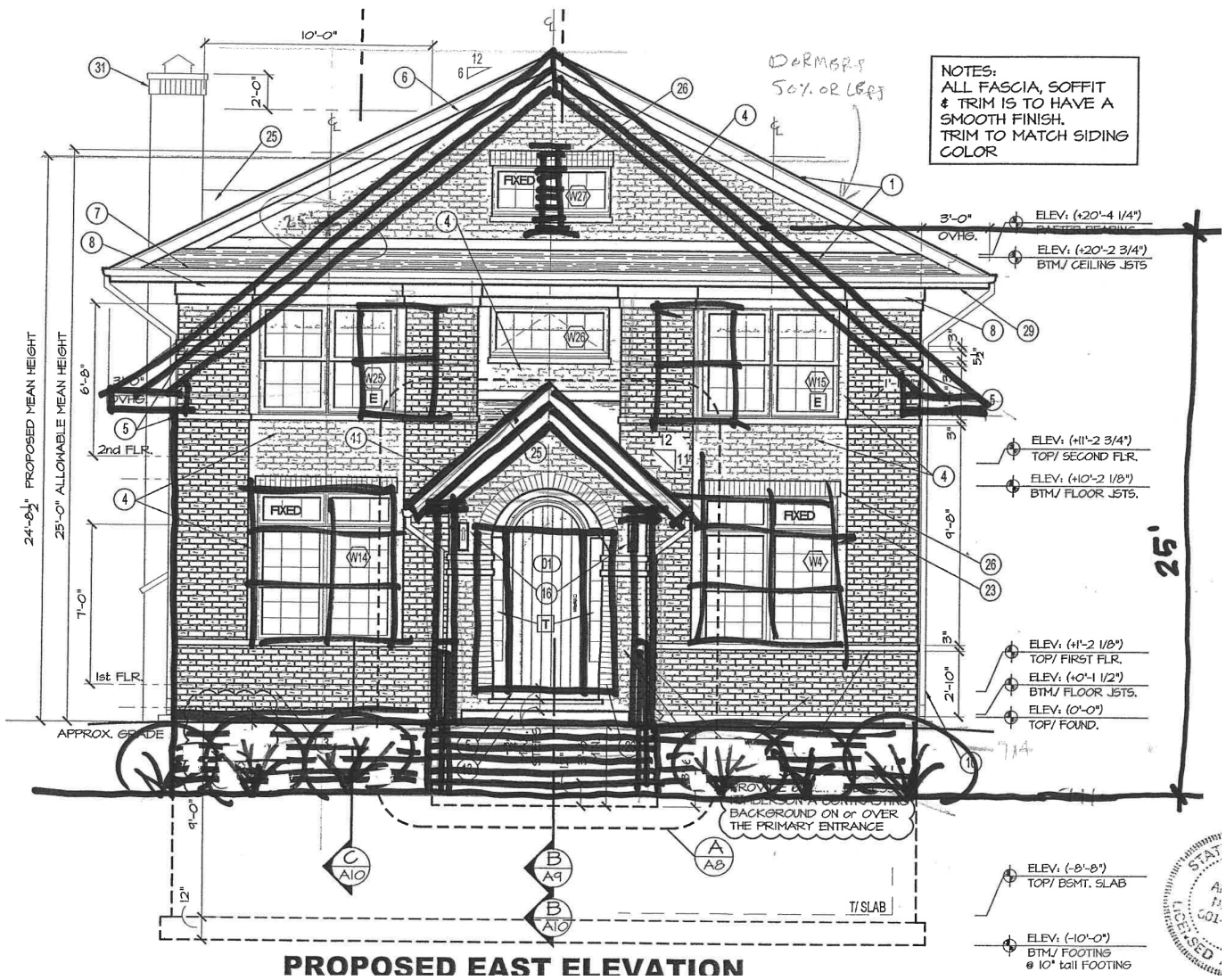


Department Comments

Comments:

The "Background and Summary" correctly summarizes the situation. The architectural drawings reviewed and approved by the Design Commission showed the house on a flat site, where in reality the site slopes down approximately three feet. The architectural plans should have been coordinated with the site grading to design a code-compliant house. One possible revised version of the design with a code-compliant building height is as shown in the sketch below.

- Steve Hautzinger, Design Planner



MEMO

DATE: December 5, 2023

TO: Charles Witherington-Perkins, Director of Planning & Community Development

FROM: Steve Hautzinger, Design Planner

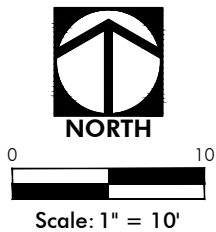
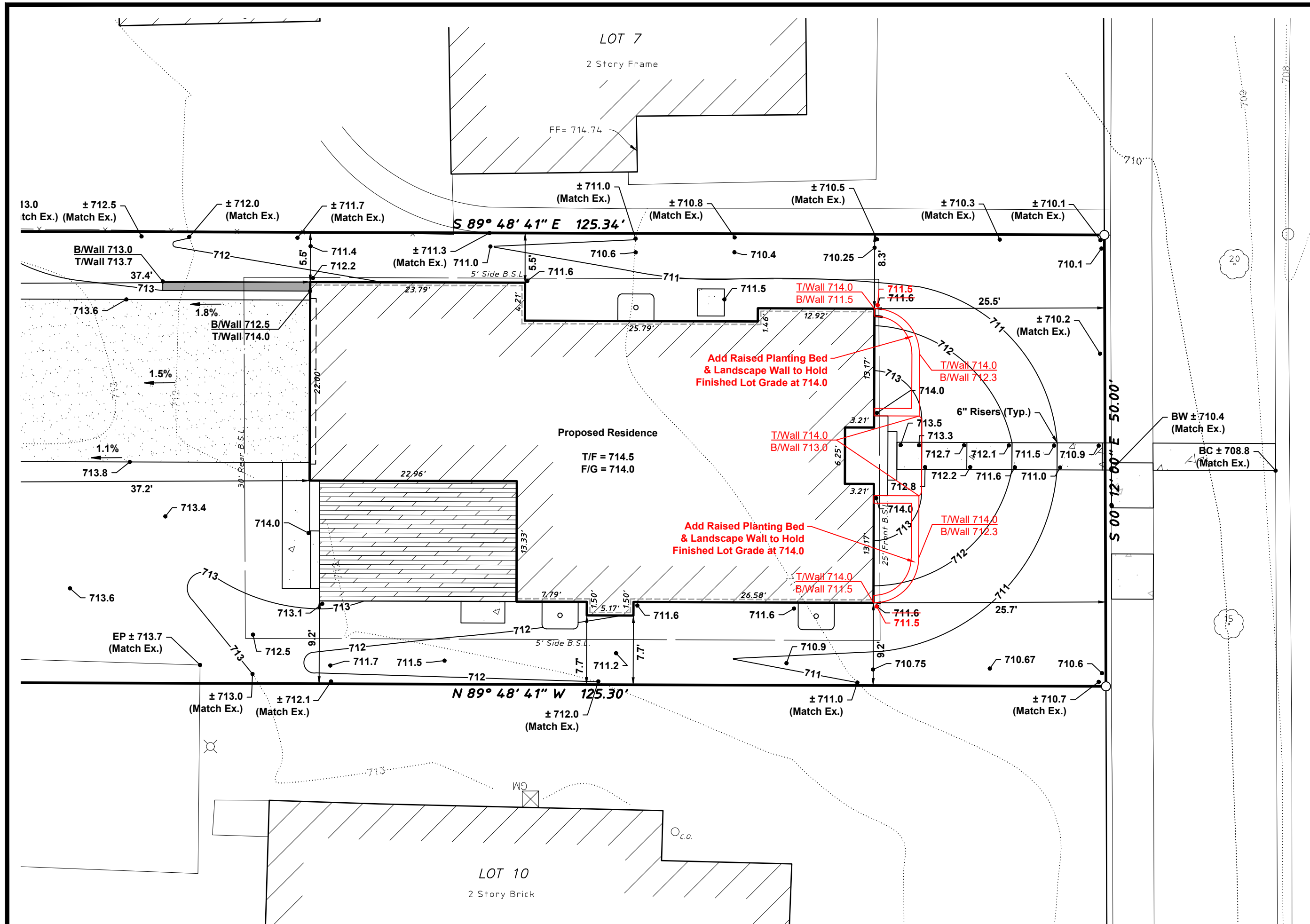
RE: 720 N. Dunton – Building Height

Village Staff has received the “Finish Grade Revision to Address Building Height” drawing for 720 N. Dunton dated 11/20/2023 prepared by Haeger Engineering. This drawing was received as a proposed resolution to the building height issue as outlined in the attached MEMO dated November 7, 2023. As outlined in the MEMO, *“where buildings are set back from the street line, the height of a building may be measured from the average elevation of the finished lot grade at the front of the building”*. The proposed drawing shows two “raised planting bed & landscape wall” across the front of the house at elevation 714.0.

After consultation with the Village’s Engineering Division, the average elevation of the finished lot grade at the front of the building is based on the Village of Arlington Heights municipal code, Chapter 23, **Section 23-103 General Lot Grade Maximums**, which states, *“No lot shall be graded in such a manner as to raise the grade of such lot to any point higher than a continuous grade level between the grades of the lots on either side abutting such lot.”*

Based on this code requirement, Staff has determined that the finish elevation of raised planters does not establish the finished lot grade for measuring building height as it artificially raises the grade which is inconsistent with the municipal code sections 23-103, 28-3.21, & 28.5.1-3. Per these code requirements, the correct application of the municipal code for determining the building height is as outlined in Option 1 on the attached MEMO which measures the building height from the average grade level between the existing grades of the lots on either side abutting the subject property at the front building setback. Options 2 & 3 were provided to illustrate that the building height would still not comply with code even if the artificially raised grade were used to measure the building height.

Therefore, determination of grade as base point of building height measurement is as follows. The existing grade elevation at the 25.5’ front building setback is 711.0 on the south lot line and 710.5 on the north lot line, with an average elevation of 710.8. The building height is measured from the average elevation of the existing grade (710.8) to the midpoint of the roof (739.0). **The building height is 28.2 feet, where 25 feet is the maximum allowed.**



HAEGER ENGINEERING
consulting engineers • land surveyors
100 East State Parkway, Schaumburg, IL 60173 • Tel: 847.394.6600 Fax: 847.394.6608
Illinois Professional Design Firm License No. 184-003152
www.haegerengineering.com

**FINISH GRADE REVISION TO
ADDRESS BUILDING HEIGHT**
SINGLE-FAMILY RESIDENCE
720 N. DUNTON AVENUE
ARLINGTON HEIGHTS, ILLINOIS

Project Manager: M L A
Engineer: K P N
Date: 11/20/2023
Project No. 19120
Sheet 1

MEMO

DATE: November 7, 2023

TO: Charles Witherington-Perkins, Director of Planning & Community Development

FROM: Steve Hautzinger, Design Planner

RE: 720 N. Dunton – Building Height

Per Chapter 28, Section 28-3 Definitions,

21. Building Height. The vertical distance measured from the sidewalk level or its equivalent established grade opposite the middle of the front of the building to the highest point of the roof in the case of a flat roof; to the deck line of a mansard roof; and to the mean height level between eaves and ridge of a gable, hip or gambrel roof; provided that where buildings are set back from the street line, the height of a building may be measured from the average elevation of the finished lot grade at the front of the building.

Per Chapter 28, Section 28-5.1-3 One Family Dwelling District: R-3

Section 5.1-3.6 Maximum Height: **25 feet** and 2-1/2 stories.

The roof height survey indicates the high point of the roof to be 743.61, and the eave to be 734.48. The survey indicates the mean height of the roof to be 738.77, but the actual calculated mean height of the roof is 739.0.

OPTIONS FOR DETERMINING GRADE AS BASE POINT OF HEIGHT MEASUREMENT

Option 1 – Most Consistent with Typical Single-Family Grading and Building Height Measurement

According to the site engineering plan, the existing grade elevation at the 25.5' front building setback is 711.0 on the south lot line and 710.5 on the north lot line, with an average elevation of 710.8. If the building height is measured from the average elevation of the existing grade (710.8) to the midpoint of the roof (739.0), **then the building height is 28.2 feet**, where 25 feet is the maximum allowed.

Option 2

According to the site engineering plan, the high point of the artificially raised grade at the front building setback is 714.0. The average elevation of the artificially raised grade is 712.4 (midpoint of 714.0 and 710.8). If the building height is measured from the average elevation of the artificially raised grade (712.4) to the midpoint of the roof (739.0), **then the building height is 26.6 feet**, where 25 feet is the maximum allowed.

Option 3

According to the site engineering plan, the elevation of the artificially raised grade is 712.0 at the northeast corner of the foundation. The high point of the artificially raised grade at the front building setback is 714.0. The average elevation of the artificially raised grade at the foundation wall across the front of the building is 713 (midpoint of 714.0 and 712). If the building height is measured from this elevation (713) to the midpoint of the roof (739.0), **then the building height is 26 feet**, where 25 feet is the maximum allowed.

The approved architectural drawings show a level grade around the house with a building height of 24'-8 1/2" with one step up to the front stoop. The architectural plans are not coordinated with the grading plan which shows seven steps up to the front stoop. The height of the house currently under construction either needs to be revised to comply with code, or a building height variation needs to be requested from the Zoning Board of Appeals.

Mach, Derek

From: Julius, Nanci
Sent: Wednesday, January 3, 2024 10:31 AM
To: Mach, Derek
Subject: ZBA reviews for 1/8/24 - For Department Review

720 N Dunton (ZBA 23-047)

1. The Engineering Division is not in favor of Request 1 appealing staff's interpretation of Chapter 28, Zoning Regulations, in regards to building height. The Engineering Division further concurs with the Planning Department and Legal Counsel's interpretation of the code.
2. The Engineering Division has no objection to the 3.2 foot variation of Chapter 28, Section 5.1-3.6 (Maximum Height) to all a single family home with a midpoint roof height of 28.2 feet where a maximum roof height of 25.0 feet is permitted.
3. The proposed East Elevation As-Built is not presented accurately and the FRONT ELEVATION WITH GRADING does not show the swales or grades on the adjacent parcels. An exhibit was also not provided showing the home in relation to the neighboring homes to the north and south. The FRONT ELEVATION WITH GRADING as shown would direct drainage to the north and south. Revisions may be needed to the final grading to ensure that the drainage from the home will be directed to the east and not migrate onto the adjacent properties.

Nanci C. Julius, P.E. | Senior Civil Engineer
Village of Arlington Heights Public Works Department, Engineering Division
33 S Arlington Heights Rd, Arlington Heights, IL 60005
Office: (847) 368-5255 | Fax: (847) 368-5985 | email: njulius@vah.com



Village of Arlington Heights Building & Life Safety Department

Interoffice Memorandum

To: Derek Mach, Zoning Board of Appeals Liaison

From: Nusrat Jahan, Building & Life Safety Department

Project Name: Mastercraft Builders & Carpentry, Inc

Project Address: 720 N Dunton Avenue

ZBA #: 23-047

Date: December 19, 2023

Derek:

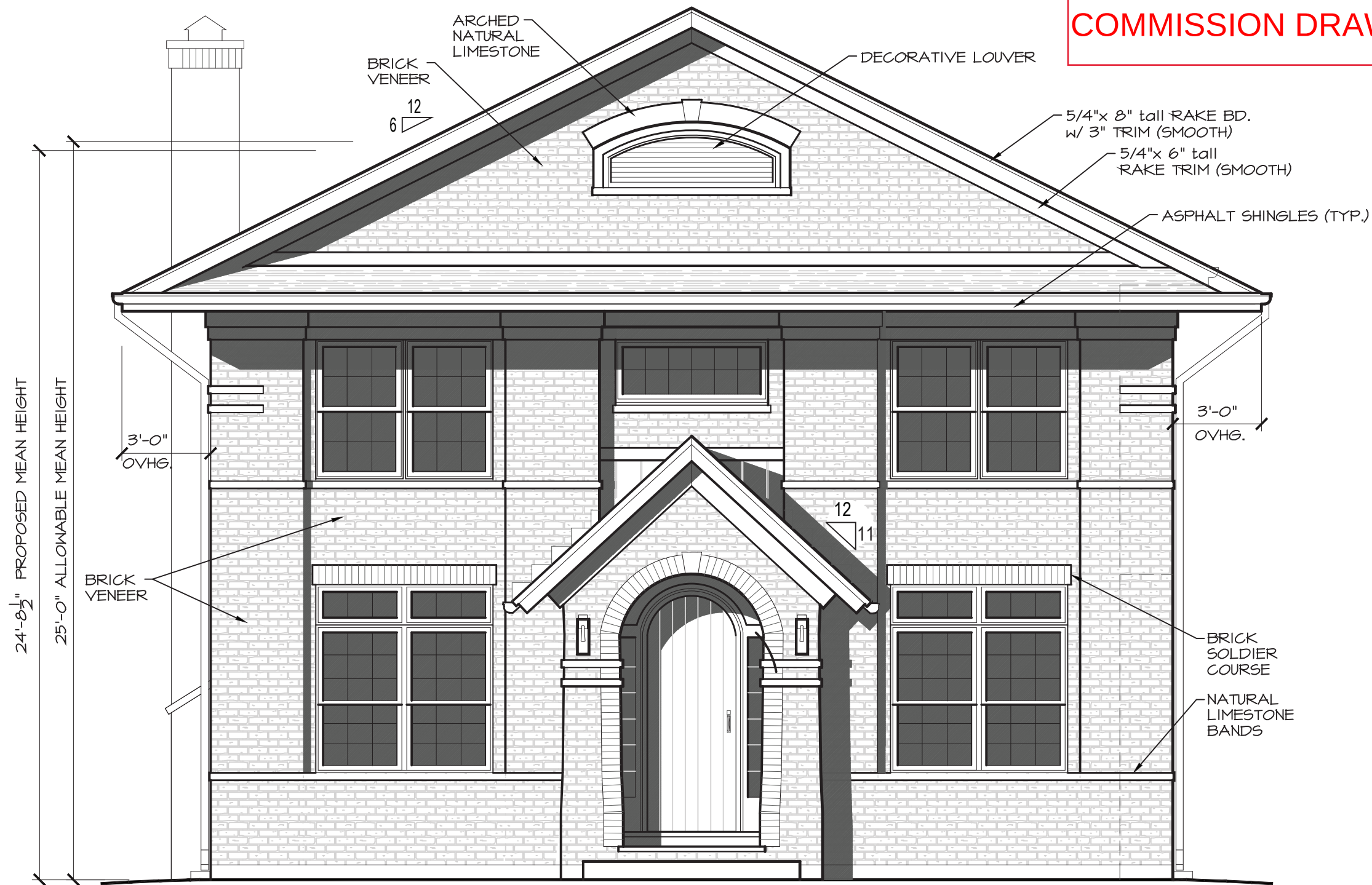
We have reviewed the request for the following variance:

- **A 3.2 foot variation from Chapter 28, Section 5.1-3.6 (Maximum Height) to allow a single family home with a midpoint roof height of 28.2 feet where a maximum midpoint roof height of 25.0 feet is permitted.**

and do not have any comments or objections.

Staff's
Supplemental
Exhibits

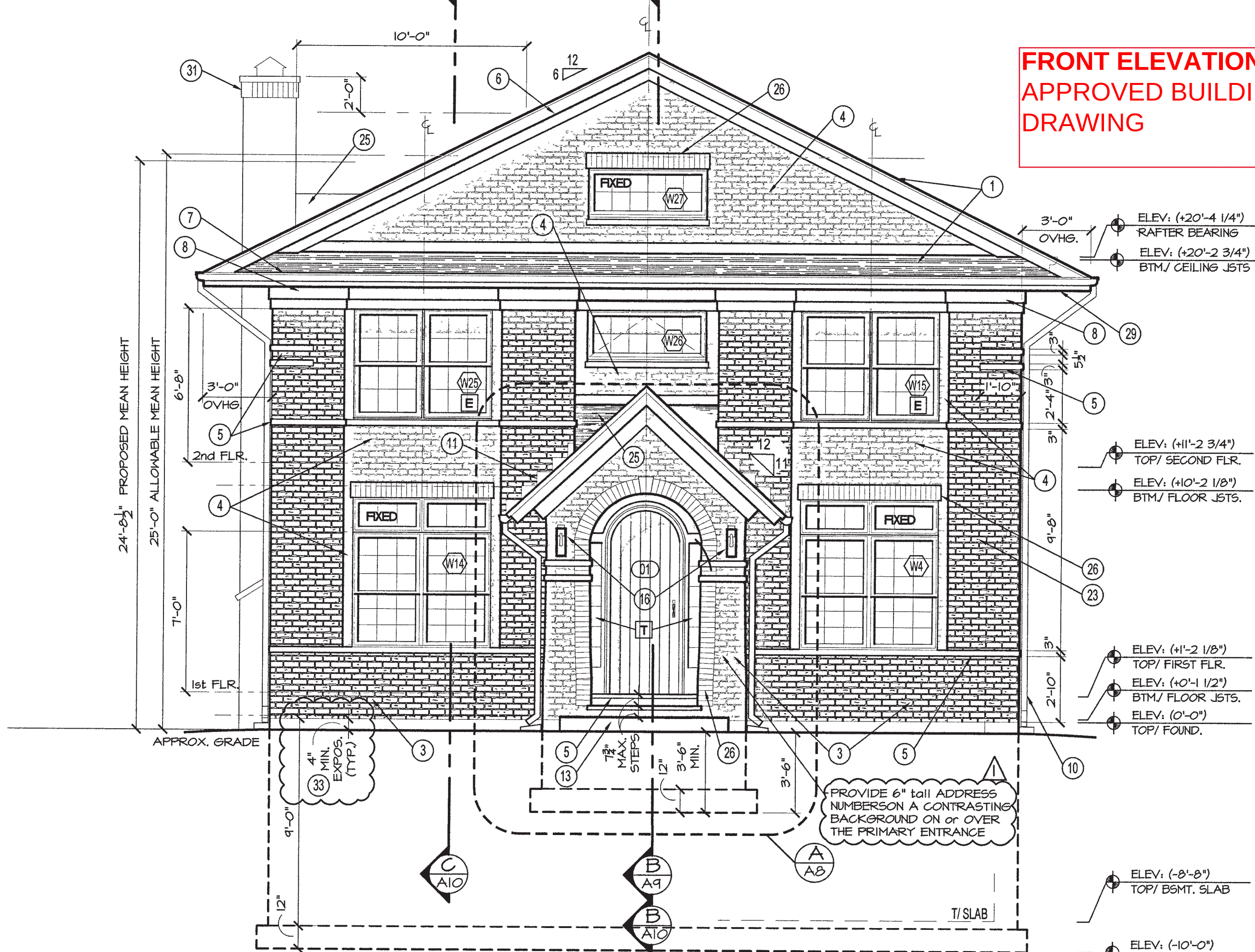
FRONT ELEVATION - EXHIBIT 1:
APPROVED DESIGN
COMMISSION DRAWING



PROPOSED EAST ELEVATION

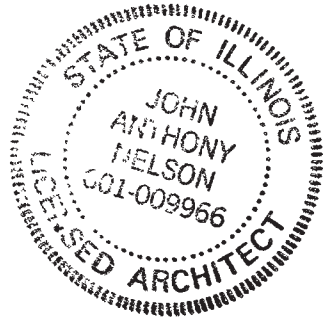
SCALE: 1/4" = 1'-0"

**FRONT ELEVATION - EXHIBIT 2:
APPROVED BUILDING PERMIT
DRAWING**

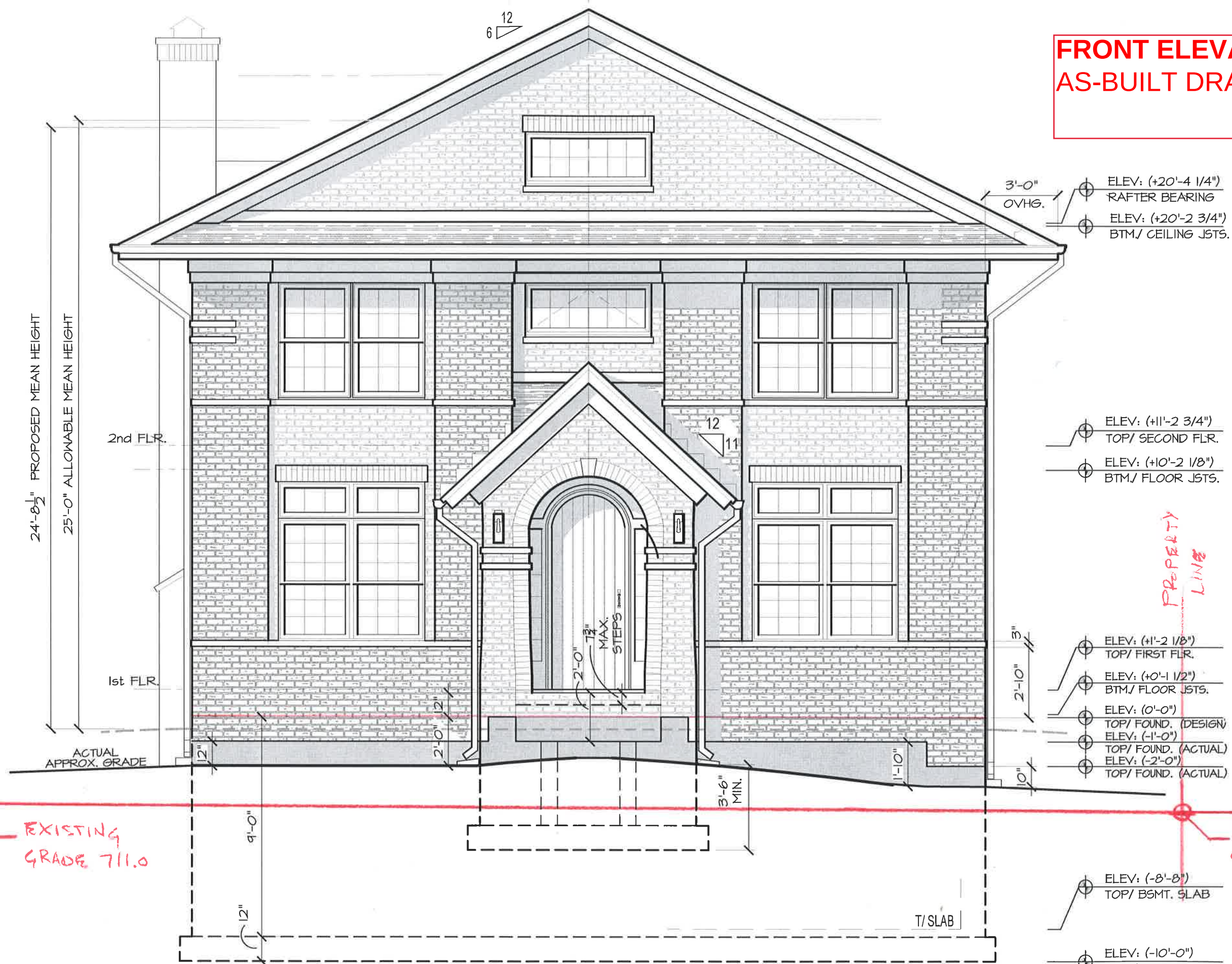


PROPOSED EAST ELEVATION

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



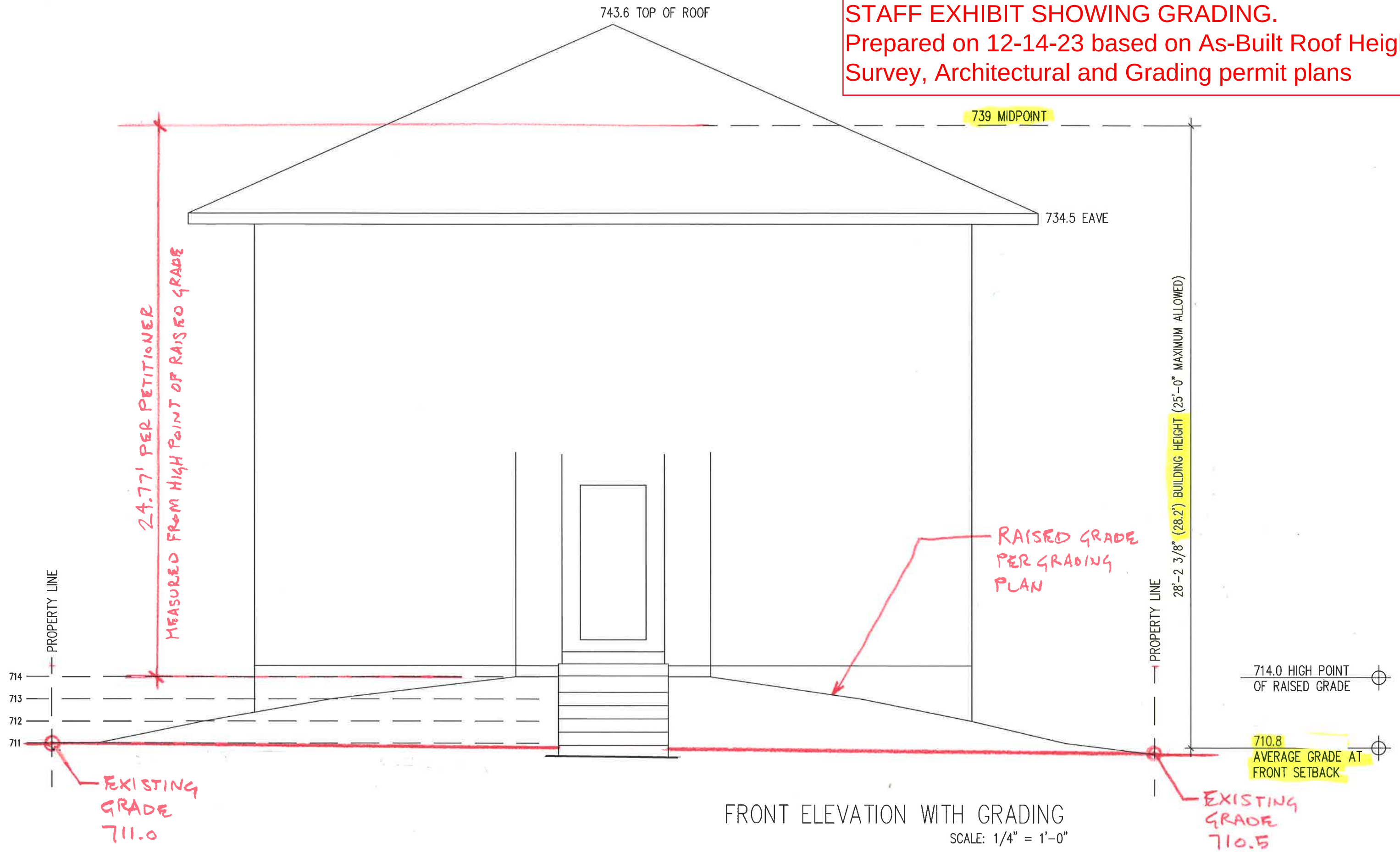
**FRONT ELEVATION - EXHIBIT 3:
AS-BUILT DRAWING**



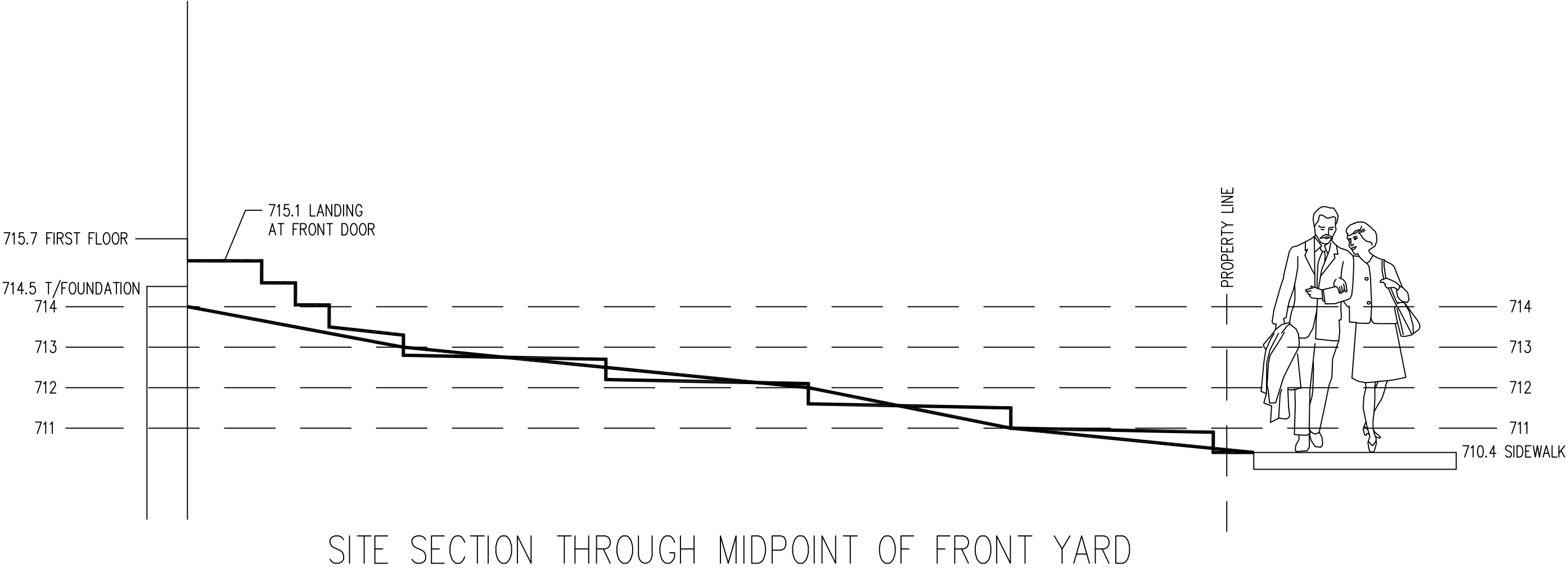
PROPOSED EAST ELEVATION

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

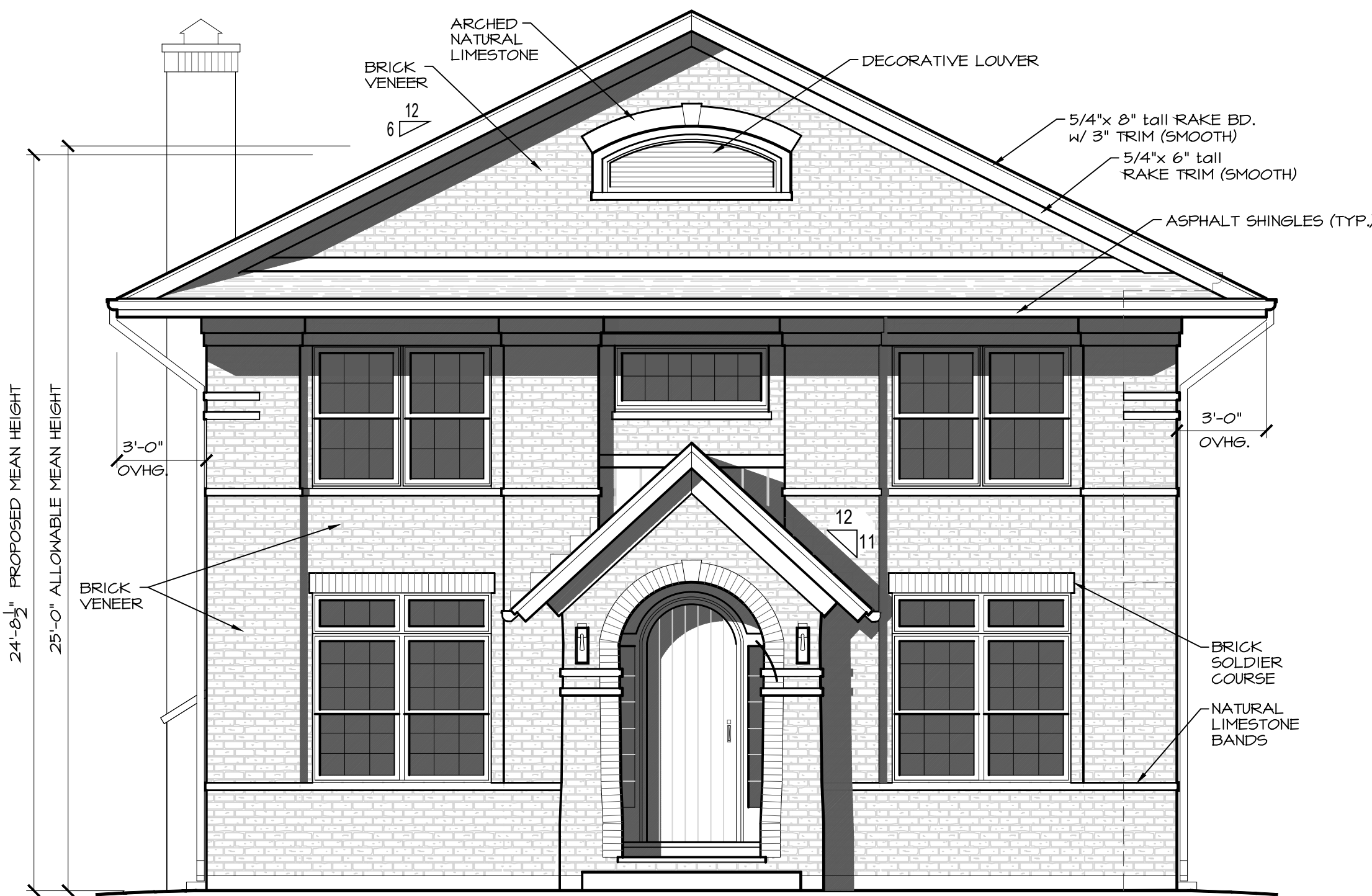
FRONT ELEVATION - EXHIBIT 4:
STAFF EXHIBIT SHOWING GRADING.
Prepared on 12-14-23 based on As-Built Roof Height Survey, Architectural and Grading permit plans



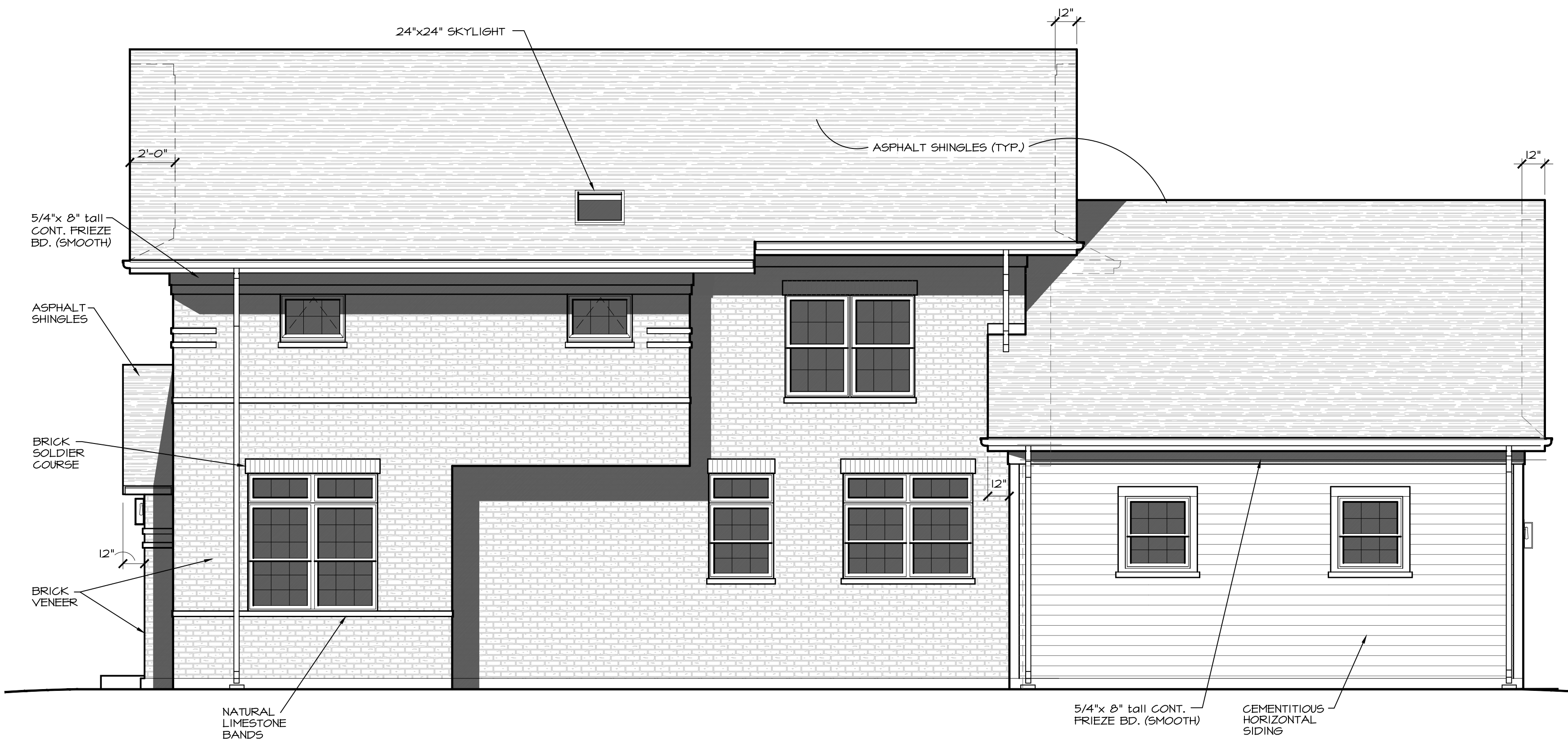
SITE SECTION - EXHIBIT 5:
STAFF EXHIBIT prepared on 12-14-23 based on
Architectural and Grading permit plans



Design Commission
and
Permit Plans
(Elevations)

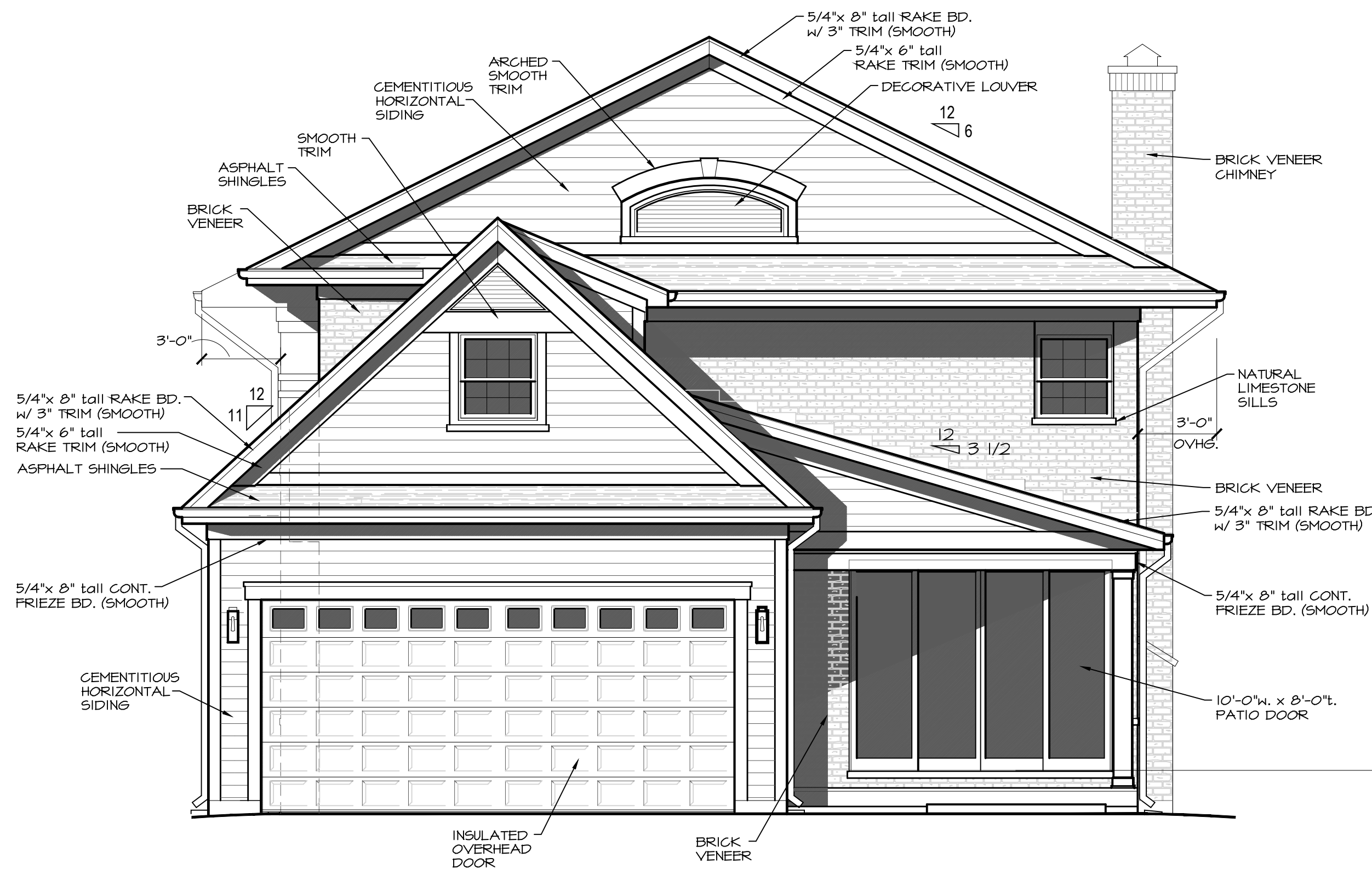


PROPOSED EAST ELEVATION
SCALE: 1/4" = 1'-0"



PROPOSED NORTH ELEVATION
SCALE: 1/4" = 1'-0"

**APPROVED DESIGN
COMMISSION DRAWINGS**



PROPOSED WEST ELEVATION
SCALE: 1/4" = 1'-0"



PROPOSED SOUTH ELEVATION
SCALE: 1/4" = 1'-0"

WARNING:
IT IS A VIOLATION OF THE LAW FOR
ANY PERSON, UNLESS ACTING UNDER
THE DIRECTION OF THE ARCHITECT OF
RECORD, TO ALTER THESE DRAWINGS
OR SPECIFICATIONS IN ANY WAY.

JOHN NELSON - ARCHITECT, INC.
1420 WHISPERING SPRINGS CIRCLE
PALATINE, IL 60074
847 991-9154

**PROPOSED NEW SINGLE FAMILY
RESIDENCE FOR;**

**720 N. DUNTON AVE.
ARLINGTON HEIGHTS, IL**

DATE	7/1/19	CLIENT REVIEW
	4/14/22	CLIENT REVIEW
	12/26/22	CLIENT REVIEW
	12/29/22	CLIENT REVIEW
	12/30/22	CLIENT REVIEW
	1/19/23	CLIENT REVIEW
	1/23/23	CLIENT REVIEW
	2/22/23	APPEARANCE REVIEW
	3/18/23	APPEARANCE REVIEW

DATE:
DRAWN BY:
CHECKED BY:
SCALE:
SHEET TITLE:
EXTERIOR ELEVATIONS
SHEET NUMBER:
OF: TOTAL SHEETS

A3

From: kurt skrudland [REDACTED]
Sent: Sunday, December 10, 2023 9:29 PM
To: Hautzinger, Steve
Cc: Turpin-Soderholm Laurie [REDACTED]
Subject: 720 N Dunton - Follow up to our conversation

[NOTICE: This message originated outside of Village of Arlington Heights email system -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Hi Steve,

Thank you for meeting with Laurie and me on Friday. I appreciate and value your candidness and I look forward to continued discussions.

As a follow up to our conversation, I want to present some additional observations about the height violation at 720 N. Dunton. Please share this with the individuals who are making a decision on the height violation appeal and others at the Village who could benefit from this information.

1. It's my understanding that the developer is claiming they measured from the highest point of the property instead of the front setback, so their violation is an honest mistake. However, what they submitted to the Design Commission contradicts this. They're clearly measuring the 25' height from the front of the property, not the back.
2. The comparison elevation submitted by the developer, which shows the heights of all the houses on the block compared to the proposed design, misrepresents the heights of adjacent houses in relation to 720. As you can see in the attached screen shot from the presentation and a photo of the actual homes, the adjacent houses are shown taller in the submission than they actually are. 716 N Dunton seems especially stretched to appear significantly taller than 720, which is clearly not the case.
3. They did not submit a proposed site plan for review by the Design Commission, even though they did do that for their submission on 710 Dunton and it is a requirement for review by the Commission. A proposed site plan and its associated topography might have caught the issue.
4. Although the topographical survey showed the sloping grade, this grade was not included on the side elevations that were submitted at the same time. If this sloping grade detail were included, it might have highlighted this issue early on.
5. There are three steps in the floor plan going up from the garage to the main house. This is an unusual design. As a residential architect, I understand that one step is required for separation between the garage and the house floor but three is considered a safety issue that should be avoided. This decision exacerbates the issue of overall height in relation to topography.

One, or possibly two, of these errors/omissions/decisions might be understandable. But collectively I believe they indicate an effort to obscure the height issue.

As you know, it is the responsibility of the developer - not the Village planning, engineering and building departments - to ensure that their construction is built according to the rules of the Village and all code requirements. Every experienced architect and developer is aware of this and knows that approved permit drawings do not relieve them of this responsibility, regardless of the stage of construction.

Thanks again for your time on Friday.

Kurt





716



LOT 9

LOT 8



722

JUNTON AVENUE

From: [M Anderson](#)
To: [Mach, Derek](#)
Cc: [Hautzinger, Steve](#)
Subject: Opposition to Zoning Variance at 720 N Dunton
Date: Wednesday, January 3, 2024 10:25:52 PM
Attachments: [ZBA 4 720 N. Dunton Violation Time Line 2.pdf](#)

[NOTICE: This message originated outside of Village of Arlington Heights email system -- **DO NOT CLICK** on **links** or open **attachments** unless you are sure the content is safe.]

To Zoning Board of Appeals

My name is Mark Anderson and I live at 728 N. Dunton. I am *strongly opposed* to the 3.2 foot height variation being requested for 720 N. Dunton. My home is two properties north of the property proposing the variance.

First, some background. My wife Mary Ann Crosby-Anderson and I have lived in Arlington Heights for 36 years and in our current house at 728 N Dunton for 27 years. We chose this neighborhood because of its character and charm. We have raised our children here and invested our lives in this neighborhood. We have respected the development process.

When the property at 716 N. Dunton was up for subdivision in 2019 or 2020, *we attended the public hearing*. At that time, 716 N. Dunton had a single Italianate home with an open lot on each side. At that meeting, the property of 716 N. Dunton was approved for subdivision into three lots, 710 N. Dunton, 716 N. Dunton and 720 N. Dunton.

When this same builder went before the Design Commission for construction at 710 N Dunton in 2021, *we attended all the associated meetings*. While we would have preferred an empty lot, the developer proposed a house that met code and the Design Commission approved it.

When 720 N. Dunton went before the Design Commission on 3/14/23 and 4/11/23, *we attended the meetings*. Again, while we would have preferred an open lot to remain, the proposed design was within Village code. If a house was proposed that exceeded the maximum allowable height by 3.2 feet, we would have strongly opposed it *before* any work was done. Construction on 720 began in the summer of 2023.

Meanwhile, the same builder went before the Design Commission to apply for demolition of the Italianate home at 716 and construction of a new home. *We attended this meeting* and I'm very happy the Design Commission denied the demolition request. The builder is appealing this demolition denial.

To summarize, the builder, Mastercraft Builders, owns four of the eight properties on the west side of the 700 block of North Dunton (since they also recently purchased 702 N. Dunton which is currently vacant). My wife and I have a keen interest in the character and charm of the neighborhood in which we have raised our children and invested our lives for the past 27 years. Because of that, we attend all associated public hearings concerning building and development in the neighborhood. In my opinion Mastercraft Builders does not have an interest in the character and charm of the neighborhood since they do not live here nor do they plan to live in any of the houses they are building or are proposing to build.

- I think the proposed 3.2 foot variance will alter the essential character of the neighborhood. That variance will make 720 N Dunton much higher than the houses in the neighborhood and much higher than what is allowed. That proposed height would also change the proportions of the house making it seem to loom over its neighbors.
- Any plight the builder is experiencing due to unique circumstances is of the builder's own making; variances should be granted *before* construction begins.
- The proposed variation is *not* in harmony with the spirit and intent of Chapter 28 of the Village Code. Part 5.1-3.6 of the code is not dependent on surrounding structures. The maximum height allowed is fixed at 25 feet.
- The variance requested is well over any minimum variance that would be reasonable. If the foundation would have been poured correctly, *no* variance would be necessary.

No attempt has been made by the builder at any time to communicate with my wife or me about this situation. To my knowledge, the builder has not communicated with anyone living in the neighborhood about the height violation or the request for a zoning variance.

I have been in contact with the Planning and Community Development Department and then the Building and Life Safety Department since August because of what I observed about the obvious difference in what the Design Commission approved and the actual construction occurring. Attached is a timeline of my contacts with the Village.

When this builder is done on this block, they will walk away from this neighborhood. My wife and I, however, will forever have to live with what is being built two houses south of our home. Please deny the zoning variance and compel the builder to comply with what the Design Commission approved and what the Village Code allows.

Regards,
Mark Anderson
728 N. Dunton Ave


- Summer of 2023. After the foundation at 720 N Dunton was poured, I noticed that the top of the foundation wall was approximately three feet higher than the grade of the property. This was apparent from the street. The Design Commission approved construction that had the top of the foundation wall close to grade. To my eye, this meant that the whole house was going to be about three feet higher than what was approved.
- Between 8/12 and 8/26 **Made 2 phone calls** to Building Department to alert them of the observed height violation at 720 N Dunton. Spoke to Jorge Torres
- 9/6 **Sent email** to Steve Hautzinger to alert him of observed height violation at 720 N Dunton, referenced talking to Jorge
- 9/19 **Received email** from Steve acknowledging my previous email. Stated that he passed along the information to the Building Department requesting an inspection
- 9/20 **Received phone call** from Jorge about the height violation
- 9/20 **Sent email** to Steve acknowledging talking to Jorge
- 9/22 **Sent email** to a neighbor filling him in on previous communications with the Village regarding height violation at 720 N Dunton
- 10/12 **Sent email** to Steve and Jorge asking for follow-up/update on 720 N Dunton height violation
- 10/12 **Received email** from Steve with Jorge and the neighbor copied in stating that Village was reviewing the spot survey of roof elevations supplied by the builder
- 10/24 Stop Work Order sticker displayed on construction site at 720 N Dunton
- 10/31 Observed surveyor working on west side of the 700 block of North Dunton. He stated he was conducting a height survey of the houses on that side of the block because “apparently the Village thinks 720 is too high”. He would provide me with no other information
- 12/4 Observed work proceeding at 720 despite Stop Work Order. Pump discharging on north side of house onto neighboring property and public sidewalk. Apparent gas line running above ground in between 720 N Dunton and 716 N Dunton. Worker observed on north side of building. Worker’s truck parked at 702 N Dunton
- 12/4 **Made phone call** and spoke to Alex (inspector) and Jorge from the Building Department describing work being observed and questioning what a Stop Work Order entails. Was told by Jorge that builder had permission from Building Department to proceed with work for which they had already received permits **at their risk**. This work could continue until a zoning variance was received or the height violation was corrected

From: Annie Mentkowski [REDACTED]
Sent: Monday, January 8, 2024 7:00 AM
To: Hautzinger, Steve <shautzinger@vah.com>
Subject: Re: 720 N. Dunton Height Variance

[**NOTICE:** This message originated outside of Village of Arlington Heights email system -- **DO NOT CLICK** on links or open **attachments** unless you are sure the content is safe.]

Good morning:

I am writing this morning in lieu of attending this evening's hearing. I urge the committee to deny the request for a height variance, should it be found the height of the structure does indeed exceed the height limit.

This is a slippery slope and as a professional builder Master Craft knew or should have known the height restrictions before it broke ground on the project. Moreover, granting exceptions diminishes the strength of zoning ordinances because it sets a precedent of asking for forgiveness rather than permission. Further, granting variances of this nature encourages future builders to ignore the village's important zoning regulations.

Thank you for your consideration,

Annie Mentkowski
Home owner 823 N Dunton

Sent from my iPhone

From: Matt Becker [REDACTED] >
Sent: Monday, January 8, 2024 8:19 AM
To: Hautzinger, Steve <shautzinger@vah.com>
Subject: 720 N Dunton - height variance

[NOTICE: This message originated outside of Village of Arlington Heights email system -- DO NOT CLICK on [links or open attachments unless you are sure the content is safe.](#)]

Hi,

I live nearby and I am concerned about the proposed height variance for 720 N Dunton Ave.

The height regulations are there for a reason and all builders and developers, including this one, should follow it. We are not talking about a few inches here - they are asking for 3.2 feet or 28.2 feet total.

Also, if the builders and developers can just do what they want and get height variances so easily, then why have height restrictions at all.

Thank you so much to the village staff who identified this issue and issued the stop work order.

Matt Becker