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**Board of Zoning Appeals Agenda**

**February 28, 2023**

**City Hall**

**7:00 p.m.**

1. Call to Order
2. Election of Officers
3. Roll Call
4. Pledge of Allegiance
5. Open Board of Zoning Appeals Meeting / Swearing in of Witnesses
6. Guests and Residents
7. New Business

**Agenda Item 1**

**10329 Birkemeyer Drive** – Property owner, George Georgilis, is requesting a variance to allow an attached garage addition to have a setback of 12.8' where 15' is required per Schedule 151.1005 of the Montgomery Zoning Code.

8. Other Business
9. Approval of Minutes
10. Adjournment

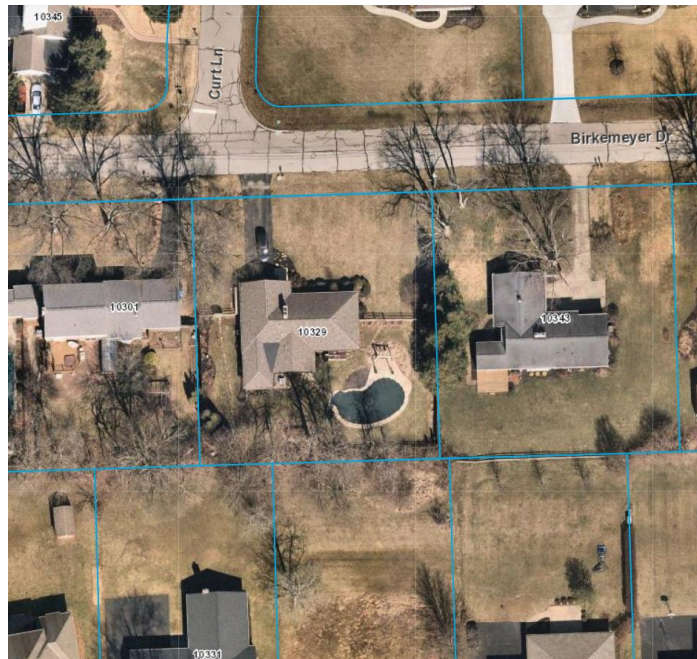
**Application for Variance: *George Georgilis***

**February 23, 2023**  
**Staff Report**

**Applicant:** George Georgilis  
10329 Birkemeyer Drive  
Montgomery, Ohio 45242

**Property Owner:** SAME

**Vicinity Map:**



**Nature of Request:**

The applicant is requesting approval to an attached garage addition to have a setback of 12.8' where 15' is required per Schedule 151.1005 of the Montgomery Zoning Code.

**Zoning:**

This property is zoned 'A' – Single Family Residential and is used for a single-family residence. All surrounding properties are also zoned 'A' single family residential and used for single family residences.

**Findings:**

1. The lot is 0.463 acres or approximately 20,168 square feet, which meets the 20,000 square foot lot minimum in the district.
2. The residence is a ranch style house and was built in 1956.
3. The current side yard setback for the western property line is 24.4' and the eastern property line setback is 47.2'.
4. There are no existing non-conformities with the lot or structure.

**Variance Considerations:**

Section 150.2010 allows the Board of Zoning Appeals to grant dimensional variances when the applicant can establish a practical difficulty. The City has established the following criteria for evaluating hardships:

1. *Whether special conditions and circumstances exist which are peculiar to the land and/or structure involved?*

The home was built in 1956 and was placed along the western portion of the lot, with the garage being located along the most western side. Due to this placement, it limits the available area for expansion of the existing garage.

2. *Will the property yield a reasonable rate of return if the variance is not granted?*

Staff believes that the property will yield a reasonable rate of return without granting the variance, as the home currently has a two-car garage.

3. *Is the variance substantial? Is it the minimum necessary?*

The variance is somewhat substantial, as the applicant is proposing a setback of 12.8' where 15' is required, or a 15% increase. However, Staff is of the opinion that the applicant is requesting the minimum necessary to allow for a single car garage. The total area encroaching into the setback is minimal, and would be 51.1 square feet.

4. *Will the character of the neighborhood be substantially altered?*

Staff does not believe the character of the neighborhood would be substantially altered by granting the variance, as the house to the west has a legal non-conforming setback of approximately 10'. In addition, a three-car garage is not uncommon in this subdivision.

5. *Would this variance adversely affect the delivery of government services?*

Government services would not be affected by granting the variance.

6. *Did the owner purchase the property with the knowledge of the zoning restraint?*

The applicant has stated that they were not aware of the zoning restraint, as they did not intend to add on at the time of purchase.

7. *Whether special conditions exist as a result of the actions of the owner?*

No special conditions exist as a result of the actions of the owner.

8. *Whether the owner's predicament can be feasibly obviated through some other method?*

The owner's predicament of expanding their garage cannot be feasibly obviated, due to the location of the existing garage. However, the existing dwelling does meet the requirement of two enclosed garage spaces, and this would be above the minimum required per the Zoning Code.

9. *Would the spirit and intent behind the zoning requirement be observed and substantial justice done by granting the variance?*

Staff does have concern that the spirit and intent behind the zoning requirement may not be observed and substantial just done by granting the variance, as the owner is requesting third garage space to encroach into the required side yard setback, which is above the minimum of two required. However, Staff does not believe that it is the intent of the zoning code to inhibit improvements to an existing home, if the expansion would not be detrimental to the surrounding properties. The nearest home, 10301 Birkemeyer Drive, would be the most impacted by this side setback variance has an existing legal non-

conforming setback of approximately 10'. The proposed addition would allow for approximately 22.8' between dwellings. Staff is of the opinion that this proposed distance would still allow for proper drainage between the two lots.

*10. Would granting the variance confer on the applicant any special privilege that is denied to other properties in this district?*

Staff is of the opinion that the applicant may be receiving a special privilege, as the lot and structure have no existing non-conformities. However, the placement of the existing home has presented a challenge to adding onto the existing garage.

A similar variance was granted in this subdivision at 10330 Pendery Drive in 2013, to allow for a garage addition to encroach into the required side yard setback 4.85' for a total area of 70.5 square feet.

**Staff Comments and Recommendations**

Staff believes that the variance to allow for the proposed addition to encroach into the required side yard setback 2.2' for a total of 51.1 square feet of structure, may be appropriate as the neighboring house has a 10' side yard setback, the character of the neighborhood would not be adversely affected, and the owner is seeking to build the minimum size required for a single garage space.

Approving the variance to allow a side yard setback of 12.8' where 15' is required would be justified by criteria # 1, 4, 5, 6, 7, and 9.



APPLICATION FORM

Meeting (Circle): Board of Zoning Appeals Planning Commission Landmarks Commission

Project Address (Location): 10329 Birkemeyer Drive

Project Name (if applicable): \_\_\_\_\_

Auditors Parcel Number: \_\_\_\_\_

Gross Acres: \_\_\_\_\_ Lots/Units \_\_\_\_\_ Commercial Square Footage \_\_\_\_\_

Additional Information: \_\_\_\_\_

PROPERTY OWNER(S) George Georgilis Contact \_\_\_\_\_

Address 10329 Birkemeyer Drive Phone: 859-240-8984

City Montgomery State OH Zip 45242

E-mail address togeorgeg@yahoo.com

APPLICANT same as above Contact \_\_\_\_\_

Address \_\_\_\_\_ Phone: \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

E-mail address \_\_\_\_\_

I certify that I am the applicant and that the information submitted with this application is true and accurate to the best of my knowledge and belief. I understand the City is not responsible for inaccuracies in information presented, and that inaccuracies, false information or incomplete application may cause the application to be rejected. I further certify that I am the owner or purchaser (or option holder) of the property involved in this application, or the lessee or agent fully authorized by the owner to make this submission, as indicated by the owner's signature below.

Property Owner Signature

ONLY

Print Name George Georgilis

Date 02/07/23

FOR DEPARTMENT USE

Meeting Date:	<u>02/28/23</u>
Total Fee:	<u>300.00</u>
Date Received:	<u>2/6/23</u>
Received By:	<u>gn</u>



## CONSENT OF OWNER(S) TO INSPECT PREMISES

To: City of Montgomery Board of Zoning Appeals Members and Staff  
City Hall  
10101 Montgomery Road  
Montgomery, Ohio 45242

Re: Review Subject Site

Dear Members and Staff:

As owner(s) of the property located at 10329 Birkemeyer Drive, we hereby grant permission to Members of the Board of Zoning Appeals and City of Montgomery Staff to enter the property for visual inspection of the exterior premises. The purpose of said inspection is to review the existing conditions of the subject site as they relate to the application as filed to the Board of Zoning Appeals.

Property Owner(s) Signature \_\_\_\_\_

Print Name George Georgilis

Date 02/07/23

Board of Zoning Appeals Members:

Mary Jo Byrnes

Tom Molloy

Catherine Mills Reynolds

Bob Saul

Jade Stewart

Steve Uckotter

Richard White

January 30, 2023

To: City of Montgomery

Re: Application for Dimensional Variance for residence of:

George and Linda Georgilis  
10329 Birkemeyer Drive  
Cincinnati, Ohio 45242  
513-439-7066  
Parcel ID:603-0009-0172-00, Land Use 510 Single family dwelling  
BIRKEMEYER DR 135 X 150 LOT 140 JONES FARM SUB BLK C

The residence at 10329 Birkemeyer Dr. is a ranch home built in 1956. The lot is 135' wide and the existing home and garage are built on the west side of the lot deeming the west side of the home as the only option for a new single car garage addition. The owners have worked through a design build process with their contractor Legacy Builders Group to design a small single car garage addition to their home to add additional storage and workspace. The designs were intended to minimize the impact on the required setback as stated in our application for variance.

We feel that the variance for the single car garage addition porch is the minimum necessary. The garage was designed with the minimum width for a single car garage. The setback requirement is 15' and the new setback after the addition will be 12.8'. We are seeking a variance for the 2.2' for a total of 50.1 square feet.

The immediate neighbors have been informed of the proposed addition and are in favor of the issuance of a dimensional variance. (Get letters from Neighbors and submit if you are able to)

The purpose of the zoning code as stated in the Montgomery Zoning Code is to promote and protect the public health, safety, convenience, comfort, prosperity, and general welfare in the city. In addition the zoning code is intended to protect the character, integrity and value of the residence. It is our belief that granting a variance for the garage addition to the residence of 10329 Birkemeyer Drive is in keeping with the spirit and intention of the zoning code and will serve the best interests of the owner and the community.

We ask that you strongly consider granting this variance.  
Thank you for your time and consideration.



## Consideration for Approval of Dimensional Variances

The following criteria will be used, along with other testimony provided at the public hearing to determine whether a practical difficulty exists that warrants a variance from the Zoning Code. Applicants should be prepared to respond to these issues.

1. Whether special conditions and circumstances exist which are peculiar to the land or structure and which are not applicable to other lands or structures in the same zoning district. Examples are narrowness, shallowness or steepness of the lot, or adjacency to non-conforming uses.

*The home is located at 10329 Birkemeyer Dr. the current home meets the current zoning setbacks. The lot is rather wide at 135.0'. The existing home was built in 1956 and was placed on the lot in an odd way compared to the other homes in the neighborhood. Both the home and existing garage and driveway were built close to the west property line. Adding a garage to this side of the home is the only option. If the home would have been more centered in the lot the owner would have no problem adding onto their home. The second issue for the owners is their home is built on a slab with no basement. Safe and adequate storage is paramount for them. Owners are in their retirement years and having an attached structure for storage and parking is essential to their safety and aging in place in their home.*

2. Will the property yield a reasonable rate of return if the variance is not granted?

*The area immediately surrounding 10329 Birkemeyer is rapidly changing architecturally. Existing homes are being remodeled and updated while others are being demoed and replaced with new homes. Adding a single car garage addition to this home will add to architectural appeal of the property keeping it in line with other newly transformed properties.*

3. Is the variance substantial? Is it the minimum necessary?  
*We feel that the variance for the single car garage addition porch is the minimum necessary. The garage was designed with the minimum width for a single car garage. The setback requirement is 15' and the new setback after the addition will be 12.8'. We are seeking a variance for the 2.2'. Total area of variance is 51.1 sq. feet. We feel this is appropriate, the encroachment into the 15 foot setback is small, the character of the neighborhood will not be adversely affected the neighbor to the west.*
4. Will the character of the neighborhood be substantially altered?  
*The addition will not be a detriment to the neighborhood but will be in keeping with area trends and architecture.*
5. Would this variance adversely affect the delivery of government services?  
*The addition will not adversely affect the delivery of governmental service.*

CITY OF  
**MONTGOMERY**

A CHARMING PAST. A GLOWING FUTURE.

6. Did the owner purchase the property with the knowledge of the zoning restraint?

*The owners purchased the property while the current zoning code was in place but had no particular reason at the time of the purchase to understand the zoning code as the idea of adding on to their home was not a need at the time.*

7. Whether special conditions exist as a result of the actions of the owner?

*No special circumstances or conditions exist.*

8. Whether the owner's predicament can be feasibly obviated through some other method?

*Because of the location of the existing garage and driveway there is really no other option for the location of the added single car garage. Please see all other options that were considered on included plan set.*

9. Would the spirit and intent behind the zoning requirement be observed and substantial justice done by granting the variance?

*It is our belief that granting the variance would very much in keeping with the spirit and intent spelled out in the Purpose or the Montgomery Zoning Code*

10. Would granting the variance confer on the applicant any special privilege that is denied to other properties in this district?

*Dimensional variances for side-yard setbacks have been granted to lots in the 'A' District with special conditions that are peculiar to the structure and granting the variance does not grant any special exception in regard to use.*

*A dimensional variance was approved for 10330 Pendery Dr, Montgomery, OH 45242. This home is across the street of the intersection of Pendery and Birkemeyer. The variance for 10330 Pendery has very similar circumstances as the position of the original home made it very difficult to add a garage addition to their home. The variance at Pendery was more substantial than what is being requested in this variance application. The Pendery variance was a two story addition with 4.85' encroachment for a total area of 70.5 square feet. Our request is only 2.8' for a total area of 51.1 square feet. We believe that granting this request is in keeping with the spirit of the zoning code, improving the character of the neighborhood and compares with precedent the approval of the variance at 10330 Pendery dr.*

**GENERAL NOTES AND DESIGN CRITERIA:**

2017 OBC/2019 RCO/2018 RCV/OH AMENDMENTS

**REQUIRED DESIGN LOADS**

MAXIMUM DEFLECTION LIMITS:

FLOORS= l/360

WALLS= h/240

EXPOSED RAFTER: > 3:12 PITCH= l/180  
< 3:12 PITCH= l/240

NOTE: THIS STRUCTURE IS NOT DESIGNED FOR ANY LIVE LOADS ON TRUS BOTTOM CHORDS.

DESIGN LIVE LOADS:

40 PSF DWELLING AND SLEEPING AREAS

25 PSF ROOF AREAS

WIND 90 MPH

40 PSF STAIRS OR 300# ON A SQ. IN. AREA

40 PSF DECKS

60 PSF BALCONIES EXTERIOR

50 PSF GARAGE

ASSUMED MAXIMUM SOIL BEARING CAPACITY 1500 PSF

**FOUNDATION/ CONCRETE**

CONCRETE STRENGTH:

FOOTINGS= 2500 PSI

WALLS= 3000 PSI

OTHER= 3500 PSI

ALL LUMBER IN CONTACT WITH CONCRETE OR MASONRY OR IN PROXIMITY TO EXPOSED GROUND SHALL BE PRESSURE TREATED MATERIAL

FOUNDATION WALLS, GARAGE FLOORS AND EXTERIOR CONCRETE REQUIRE 5-7 AIR ENTRAINMENT.

MAXIMUM 48" OF UNBALANCED FILL AT ALL STEP-DOWN FDTN. WALLS

CONTRAOL JOINTS IN ALL SLABS @ 30' MAX. EACH DIRECTION

**FRAMING**

LUMBER GRADE AND SPECIES:

JOIST:#1 SYP

STUDS: #2 SPF (OR BETTER)

ROOF SHEATHING: 7/16"OSB (W/CLIPS)

WALL SHEATHING: 7/16"OSB

NOTE: ALL WALL SHEATHING TO BE BACKED WITH BLOCKING EQUAL TO STUD SIZE.

LVL MEMBERS: E1.9 MINIMUM

PROVIDE WOOD BRIDGING FOR ALL JOIST OVER 10'

SUBFLOOR: 3/4" T&G PLYWOOD GLUED AND NAILED.

INTERIOR WALLS 2x4'S 16" O/C (UNLESS NOTED)

EXTERIOR WALLS 2x4'S 16" O/C W/ SHEATHING (UNLESS NOTED)

BEARING LINTELS: 2- 2x10'S W/ 1/2 SHEATHING (UNLESS NOTED)

DOUBLE JOIST BELOW PARALLEL BEARING PARTITIONS

FRAMING COMPONENTS OF 3 OR MORE MEMBERS TO HAVE 1/2" BOLTS @ 24" O.C. STAGGERED (EXC. LVL'S)

LVL FRAMING COMPONENTS OF 3 OR MORE MEMBERS TO HAVE 2 ROWS 1/2" BOLTS @ 24" O.C. MIN. 2" FROM EDGE OF MEMBER. BOLTS TO BE A MATERIAL CONFORMING TO ASTM STANDARD A307 BOLT HOLES TO BE SAME DIAMETER OF BOLT. WASHERS SHOULD BE USED UNDER HEAD AND NUT.

LATERAL BRACING REQUIRED ON ALL LVL'S

SUPPLY BUILDING INSPECTOR WITH TRUSS DRAWINGS PRIOR TO FRAMING INSPECTION.

ALL GIRDER TRUSS LOCATIONS AND BEARING REQUIREMENTS ARE TO BE CONFIRMED WITH TRUSS MANUFACTURER.

VALLEY SETS ARE FEILD FRAMED

PROVIDE A CRICKET AT CHIMNEY WHEN 30" = WIDE AT GUTER

WINDOW SIZES AS INDICATED OR PER SCHEDULE

WINDOWS-DOORS-SKYLIGHTS Uo

=0.5 9 (MAXIMUM)

ALL EXPOSED EXTERIOR METAL FASTENERS USED SHALL BE CORROSION-RESISTANT

**GUARDRAILS/STAIRS**

HANDRAILS: 34- 38" FROM NOSING, TERMINATE INTO NEWELS OR RETURN TO WALLS, MAX 2 1/4" GRIP

GUARDRAILS: MIN. 36" HIGH, MAX. 2 1/4" GRIP, LESS THAN 4" CLEAR SPAN BETWEEN BALLUSTERS

ALL STAIRS SHOWN TO HAVE CLOSED RISERS AND 6'-8" MINIMUM HEAD HEIGHT AT FACE OF RISER.

ALL INTERIOR AND EXTERIOR STAIRWAYS SHALL BE PROVIDED WITH A MEANS TO ILLUMINATE THE STAIR INCLUDING THE LANDINGS AND TREADS. INTERIOR STAIRS SHALL BE PROVIDED WITH AN ARTIFICIAL LIGHT SOURCE LOCATED IN THE IMMEDIATE VICINITY OF EACH LANDING AT TOP AND BOTTOM OF STAIR. EXTERIOR STAIRS SHAL BE PROVIDED WITH AN ARTIFICIAL LIGHT SOURCE LOCATED IN THE IMMEDIATE VACINITY OF THE TOP LANDING OF THE STAIR. AN ARTIFICIAL LIGHT SOURCE IS NOT REQUIRED AT THE TOP AND BOTTOM LANDING, PROVIDED AN ARTIFICIAL LIGHT SOURCE IS LOCATED DIRECTLY OVER EACH STAIR SECTION.

ENCLOSED ACCESSIBLE SPACE UNDER STAIRS SHALL HAVE WALLS. UNDER STAIRS SURFACE AND ANY SOFFITS PROTECTED ON THE ENCLOSED SIDE WITH 1/2 INCH GYPSUM BOARD

**HVAC**



DENOTES EXHAUST FAN VENTED TO OUTSIDE, MIN. 50 CFM

VENT DRYER AND BATH FANS TO OUTSIDE

PROVIDE COMBUSTION AIR FOR FURNACES BELOW 92% EFF. IN UNFINISHED AREA. 8" DIA. PIPE TERMINATED AT EXTERIOR OF HOME.

PROVIDE 3.5 AIR CHANGES PER HOUR BY MECHANICAL VENTILATION FOR ALL HABITABLE ROOMS IN BASEMENT.

SEE MFG DATA FOR PREFAB FIREPLACE INFORMATION. HEARTH TO BE FLUSH WITH FLOOR AND FIREBOX RAISED 12" HEARTH. HEARTH EXTENTIONS TO EXTEND A MINIUUM OF 16" IN FRONT OF AND 8" BEYOND EACH SIDE OF THE FIREBOX OPENING. WHEN THE FIREPLACE OPENING IS 6 SQ. FT. OR LARGER THE HEARTH EXTENTION IS TO EXTEND A MINIMUM OF 20" IN FRONT AND 12" MINIMUM BEYOND EACH SIDE OF THE FIREBOX OPENING. IF A DIRECT VENT FIREPLACE IS USED PROVIDE A PROTECTIVE COVER AT THE EXHAUST TERMINATION.

**MISCELLANEOUS**

MINIMUM R-6.0 INSULATION ON ALL BASEMENT FOUNDATION WALLS, STOP AT MIN. 30" BELOW LOWEST O.S. GRADE LINE

GRADE MUST SLOPE A MINIMUM OF 6 INCHES IN THE FIRST 10 FEET FROM THE BUILDING

IF ANY EXISTING SOFFIT VENTS ARE REMOVED DUE TO NEW RENOVATIONS, NEW SOFFIT VENT OF EQUAL SIZE AND NUMBER MUST BE INSTALLED IN ANOTHER LOCATION.

ALL INTERIOR AND EXTERIOR FINISHES(TRIM, MOLDINGS,ECT.) REMOVED DURING CONSTRUCTION ARE TO BE DUPLICATED AND REPLACED. EXISITNG INTERFERING CONSTRUCTION IS TO BE REMOVED. PATCH \ REPAIR DAMAGED FINISHES TO RESTORE TO ORIGINAL AS REQUIRED.

**SMOKE DETECTORS TO BE INSTALLED ALL FLOORS AND ALL SLEEPING AREAS AND 10'-0" (MAXIMUM) FROM ANY BEDROOM DOOR.**

**IF BEDROOM CEILING IS EXPOSED DURING RENOVATION USE HARD-WIRED WITH BATTERY BACK UP SMOKE DETECTORS, OTHERWISE BATTERY OPERATED SMOKE DETECTORS WILL BE USED.**

NUMBER	DATE	REVISION BY	DESCRIPTION

GARAGE ADDITION:  
GEORGE AND LINDA GEORGILIS  
10329 BIRKEMEYER DRIVE  
CINCINNATI, OH 45242

**GENERAL NOTES**

LEGACY BUILDERS GROUP  
DESIGN | BUILD | REMODEL

DATE:

1/12/2023

SCALE:

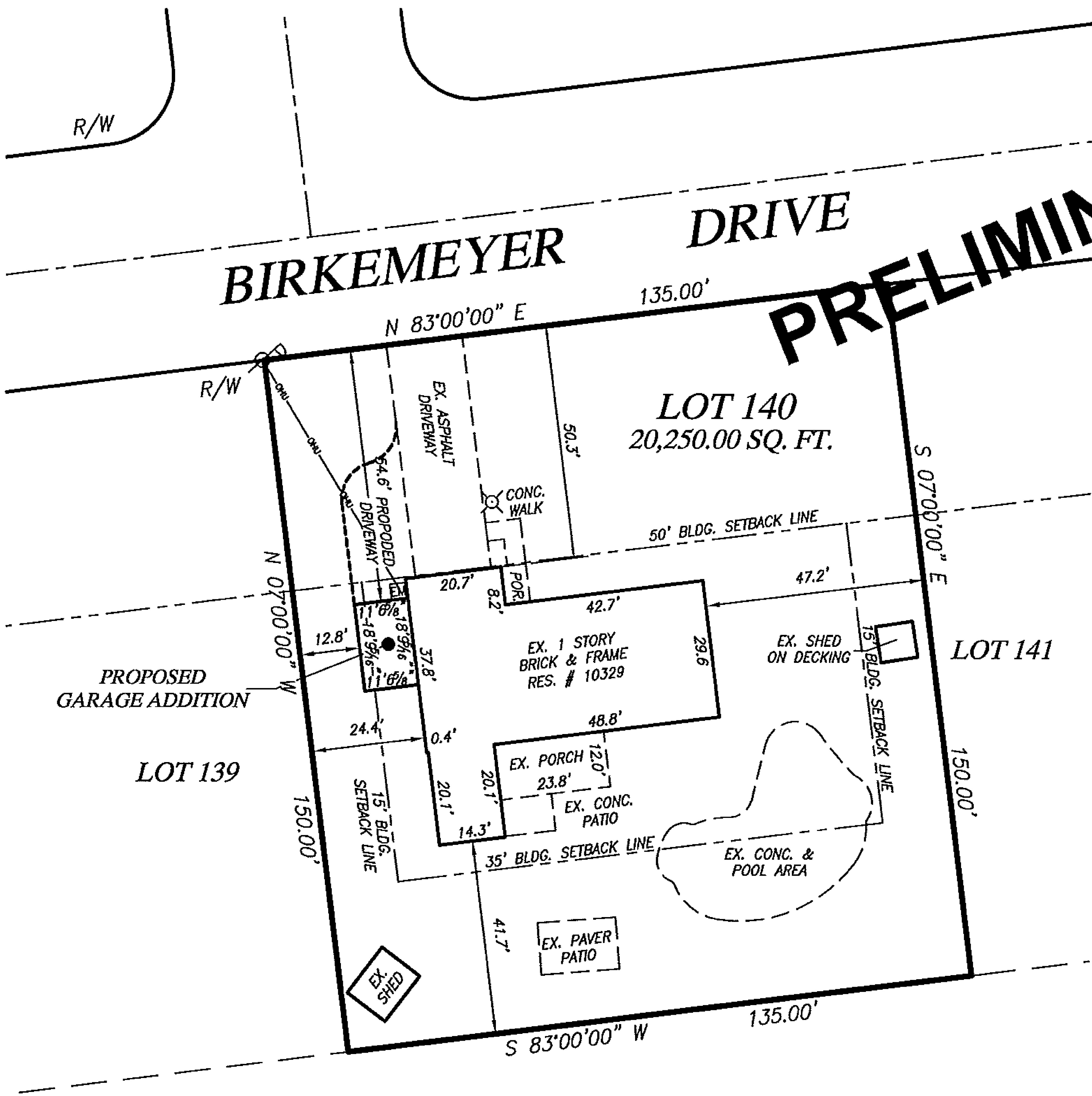
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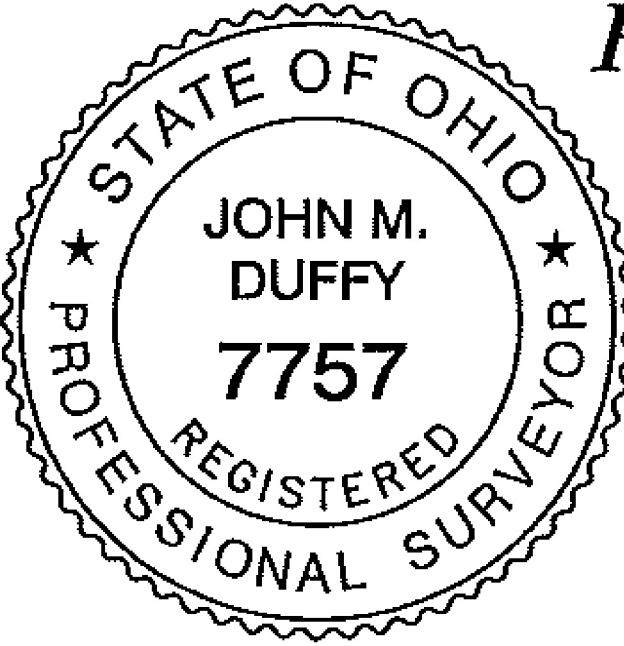
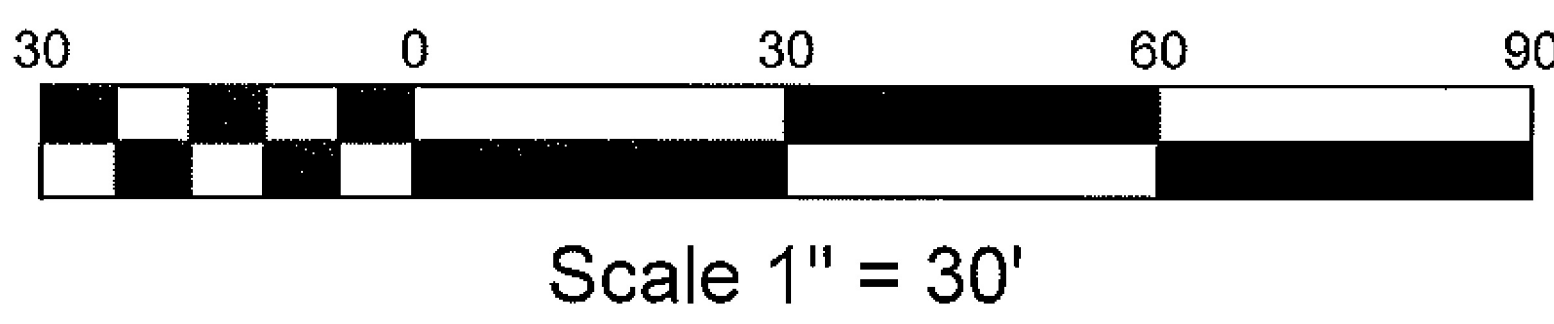
DRAWING INDEX	
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CONSIDERED DESIGN OPTIONS	8

NOTE: The professional surveyor has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership, title evidence, or any facts that an accurate and current title search may disclose.



**PRELIMINARY**

**PROPOSED VARIANCE  
JONES FARM SUBDIVISION  
BLOCK "C"  
SECTION 4, TOWN 4, E. RANGE 1  
SYCAMORE TOWNSHIP  
SECTION 34, TOWN 5, E. RANGE 1  
SYMMES TOWNSHIP  
CITY OF MONTGOMERY  
HAMILTON COUNTY, OHIO**



**JOHN J. DUFFY & ASSOCIATES, INC.**  
ENGINEERS-SURVEYORS  
4838-E DUFF DRIVE CINCINNATI, OHIO 45246  
(513) 874-1811 Email: jjduffy@fuse.net

SCALE: 1"=30'	DRAWN: M.C.F	CHECKED: JMD
DATE: 10/20/22		JOB NO.: 22-111

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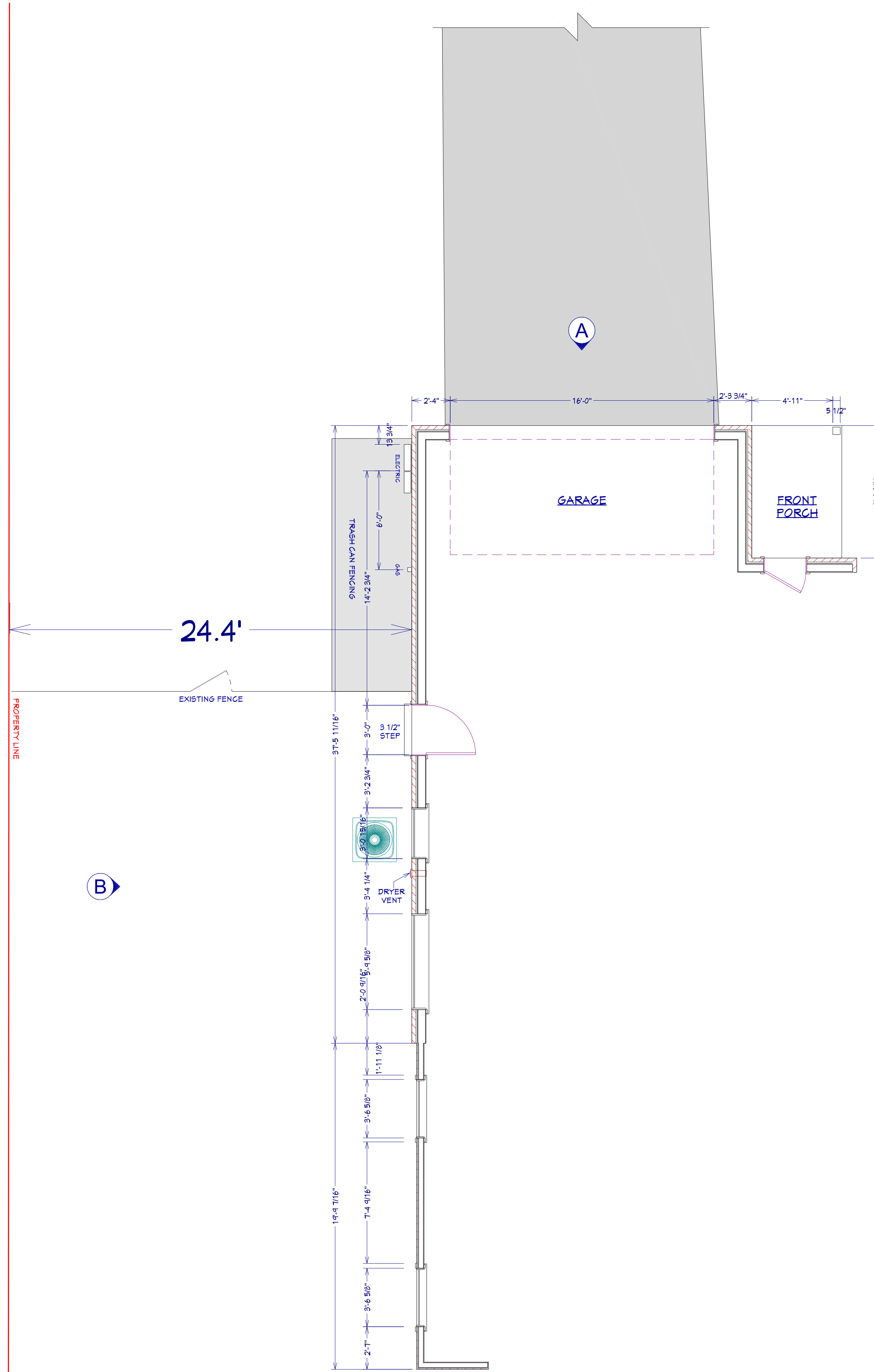
**SITE PLAN**



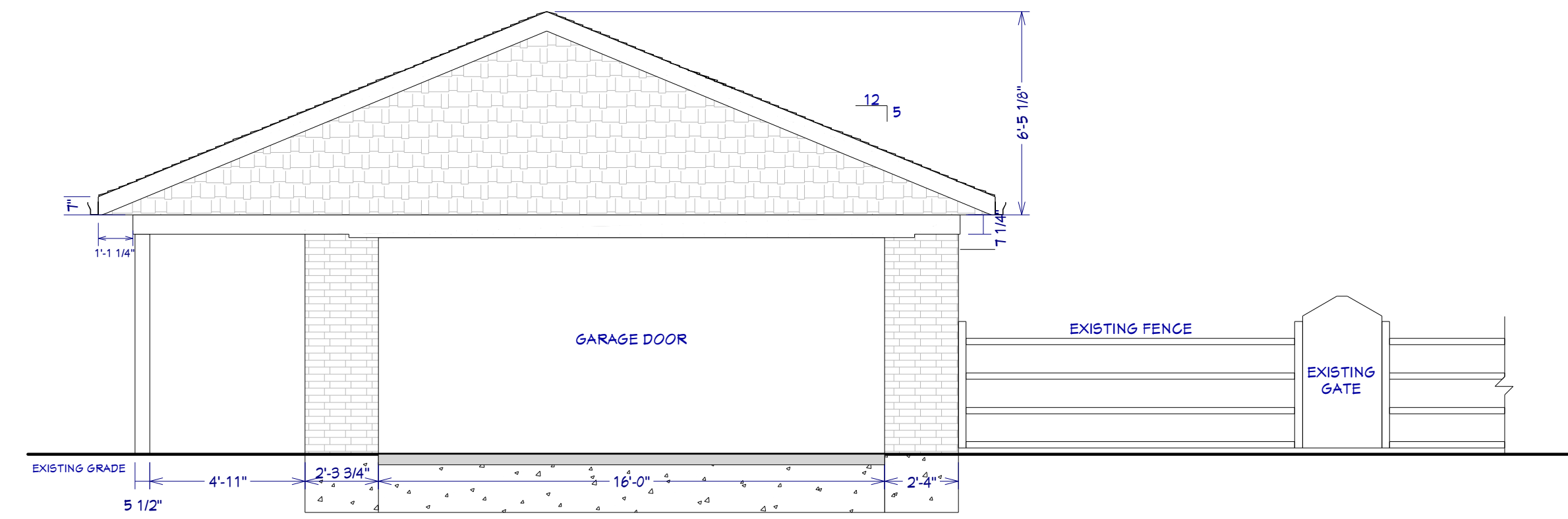
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1/12/2023

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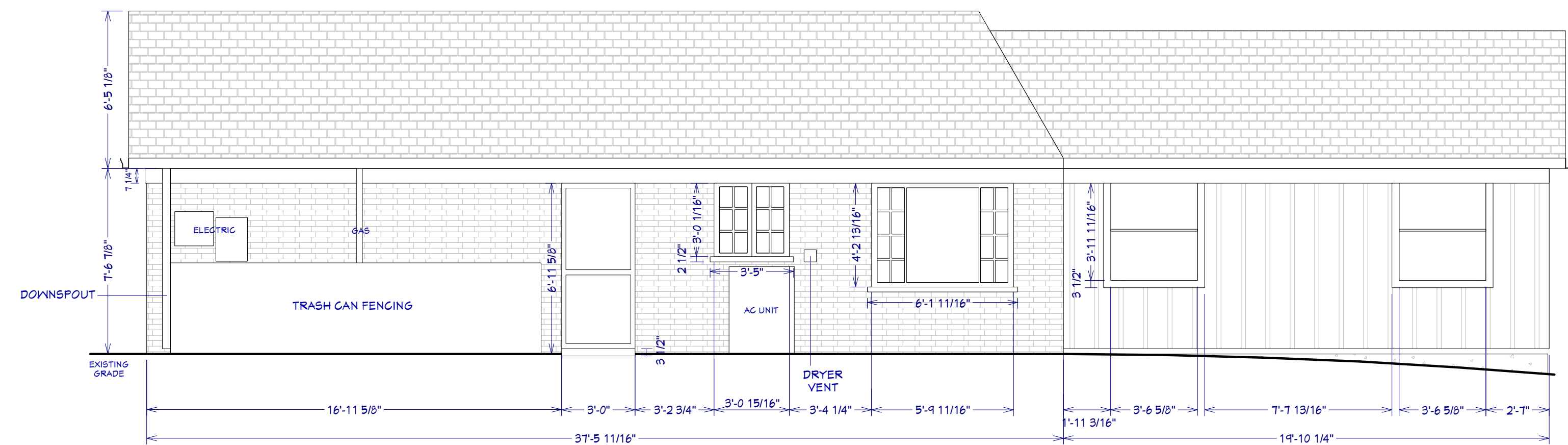
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AS-BUILT PLAN SCALE: 1/4"



AS-BUILT FRONT ELEVATION SCALE: 1/4"



AS-BUILT SIDE ELEVATION SCALE: 1/4"

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AS-BUILT PLAN &  
 ELEVATIONS

LEGACY BUILDERS GROUP  
 DESIGN | BUILD | REMODEL

DATE:

1/12/2023

SCALE:

1/4"

SHEET:

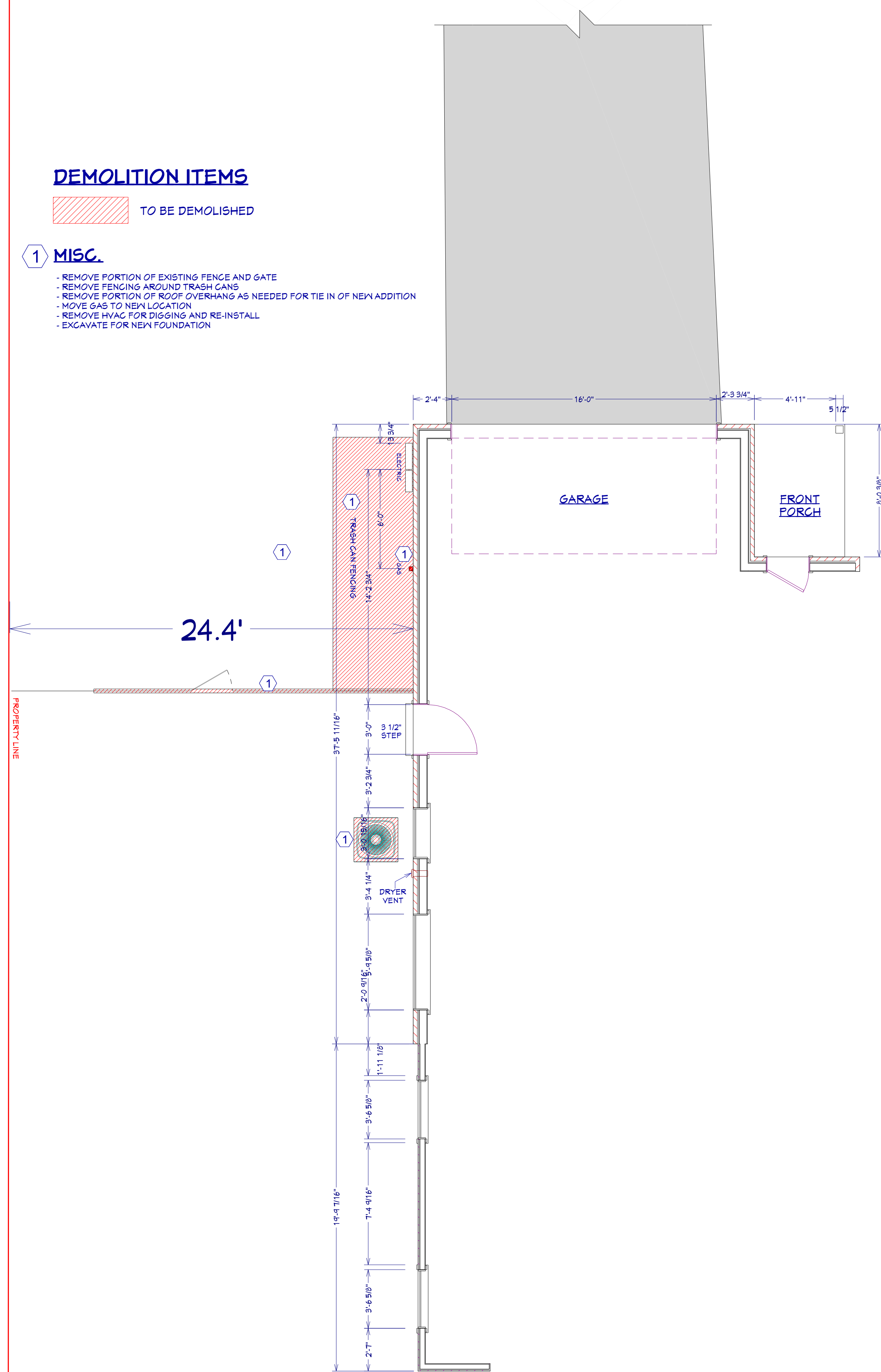
P-3

**DEMOLITION ITEMS**

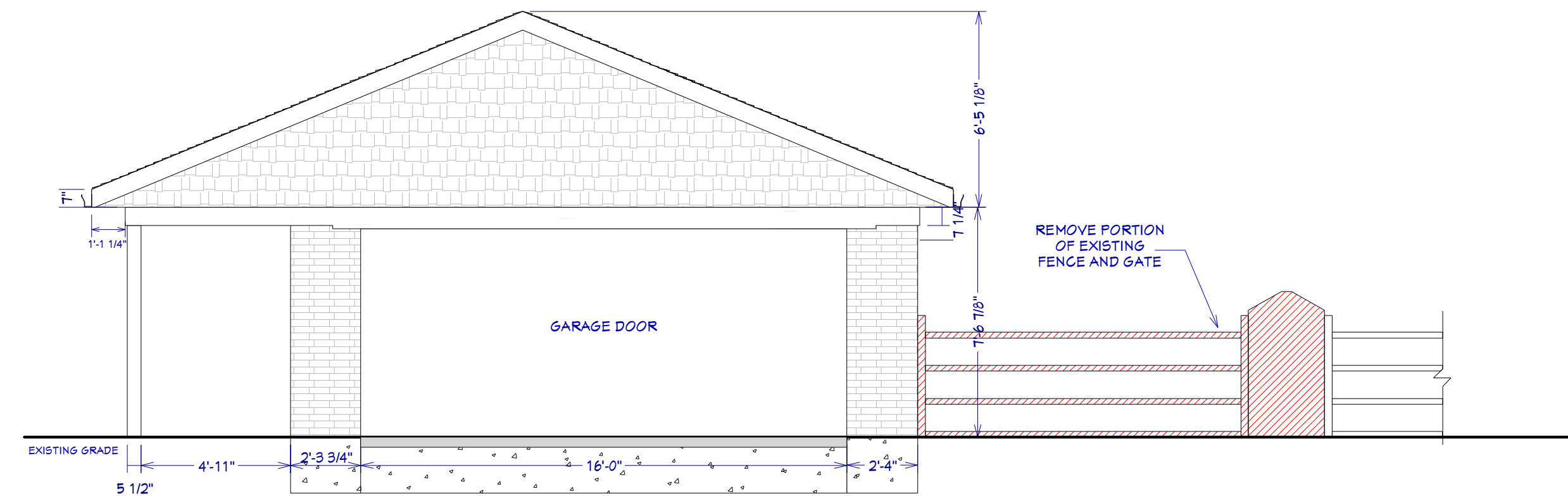
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**1 MISC.**

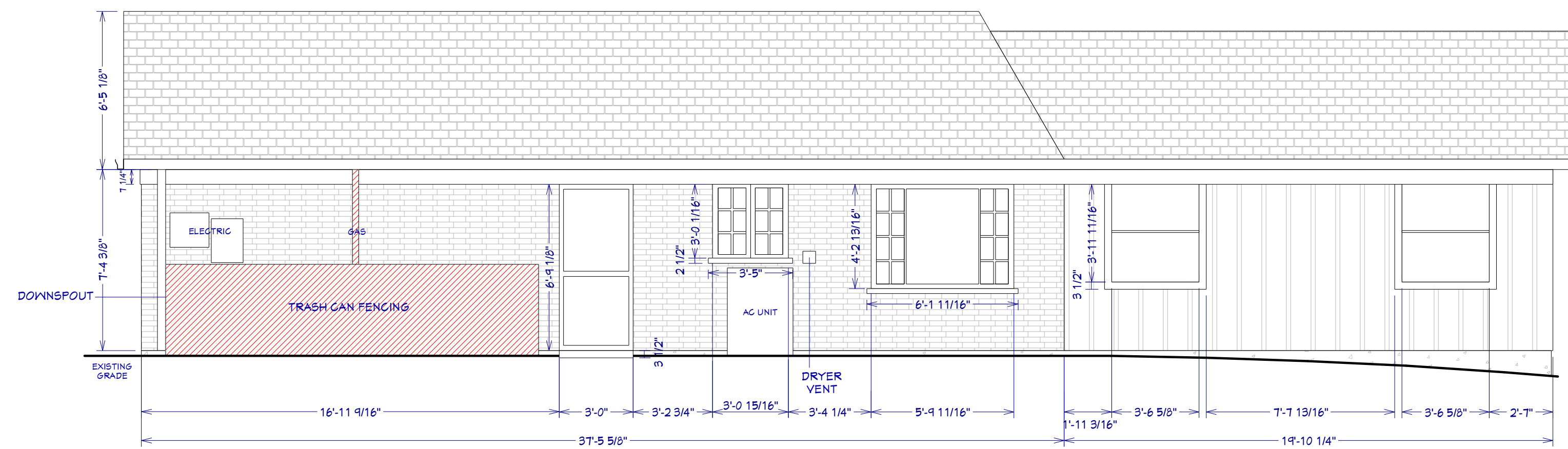
- REMOVE PORTION OF EXISTING FENCE AND GATE
- REMOVE FENCING AROUND TRASH CANS
- REMOVE PORTION OF ROOF OVERHANG AS NEEDED FOR TIE IN OF NEW ADDITION
- MOVE GAS TO NEW LOCATION
- REMOVE HVAC FOR DIGGING AND RE-INSTALL
- EXCAVATE FOR NEW FOUNDATION



**DEMO PLAN SCALE: 1/4"**



**DEMO FRONT ELEVATION SCALE: 1/4"**



**DEMO SIDE ELEVATION SCALE: 1/4"**

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GARAGE ADDITION:  
 GEORGE AND LINDA GEORGIIS  
 10329 BIRKMEYER DRIVE  
 CINCINNATI, OH 45242

**DEMO PLAN &  
 ELEVATIONS**

DRAWINGS PROVIDED BY:  
**LEGACY BUILDERS GROUP**  
 DESIGN | BUILD | REMODEL

DATE:

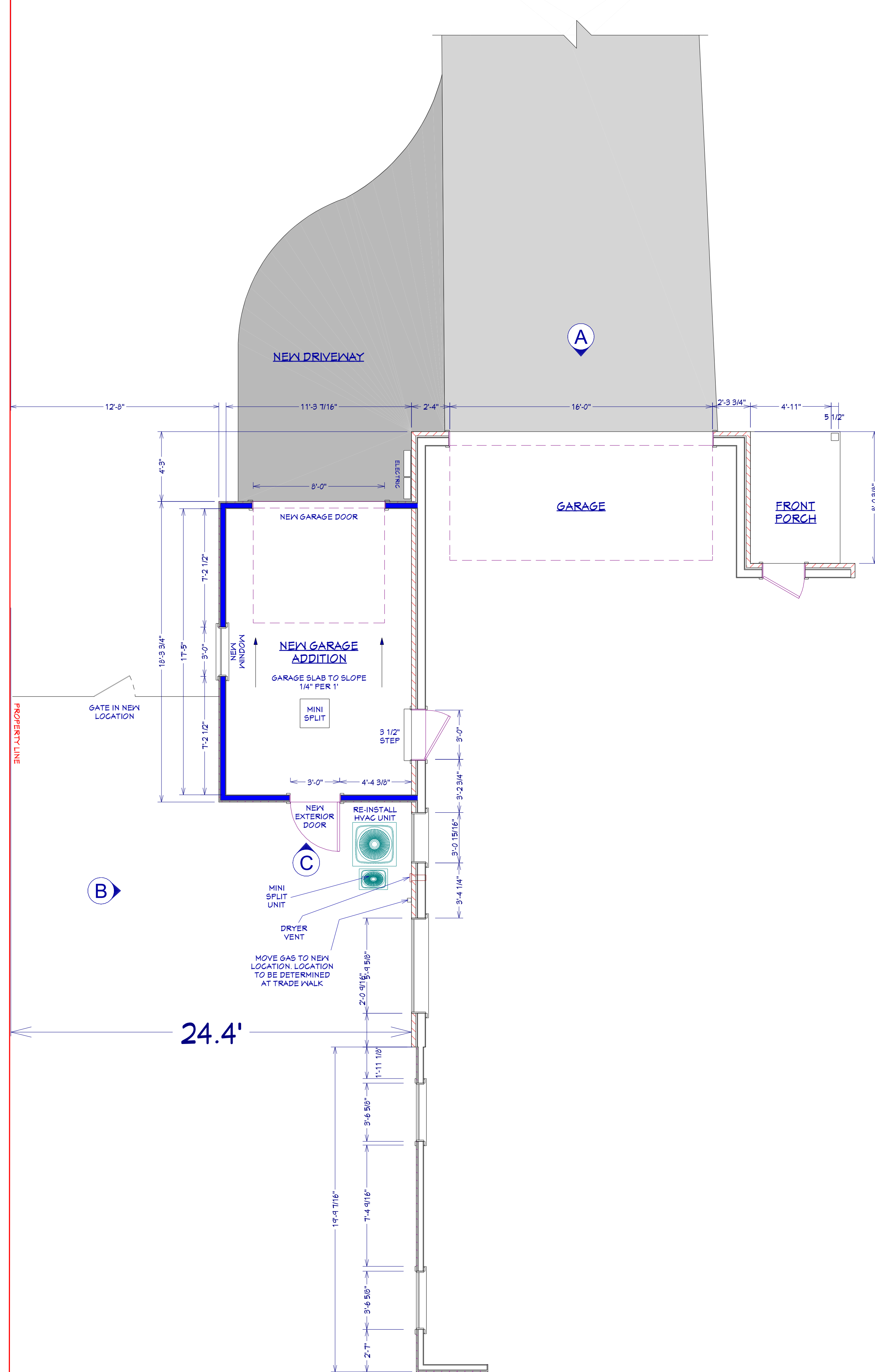
1/12/2023

SCALE:

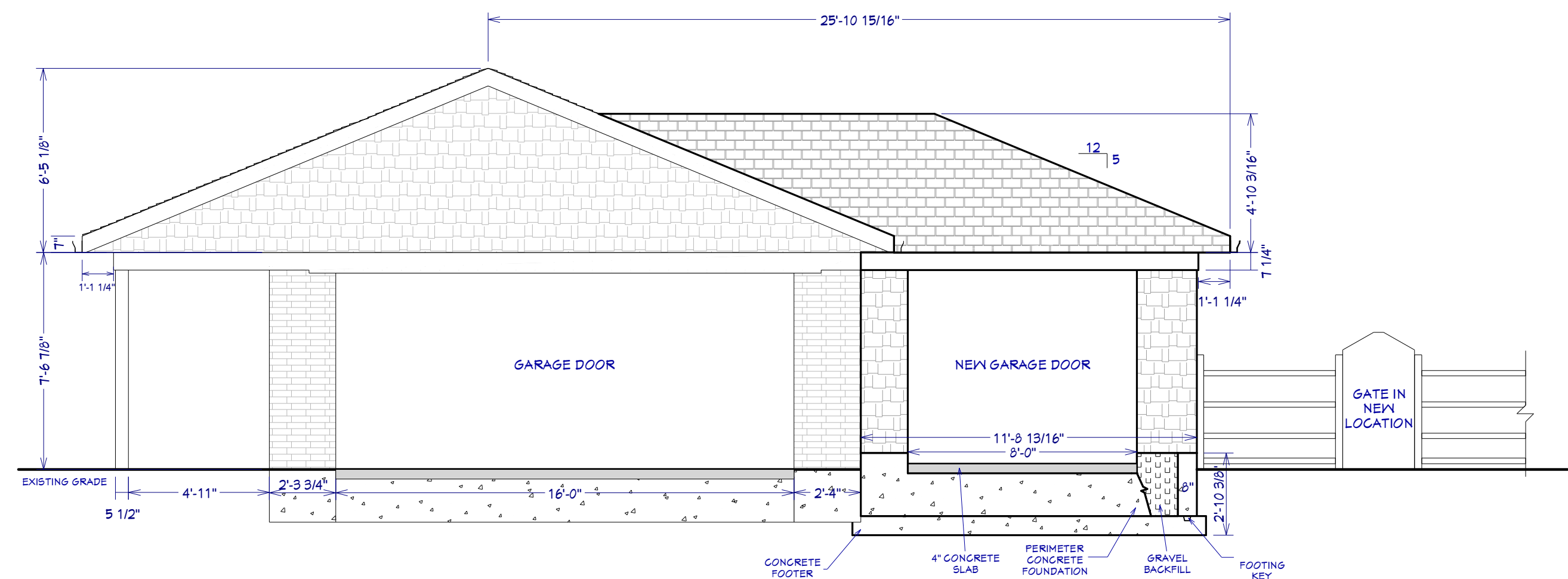
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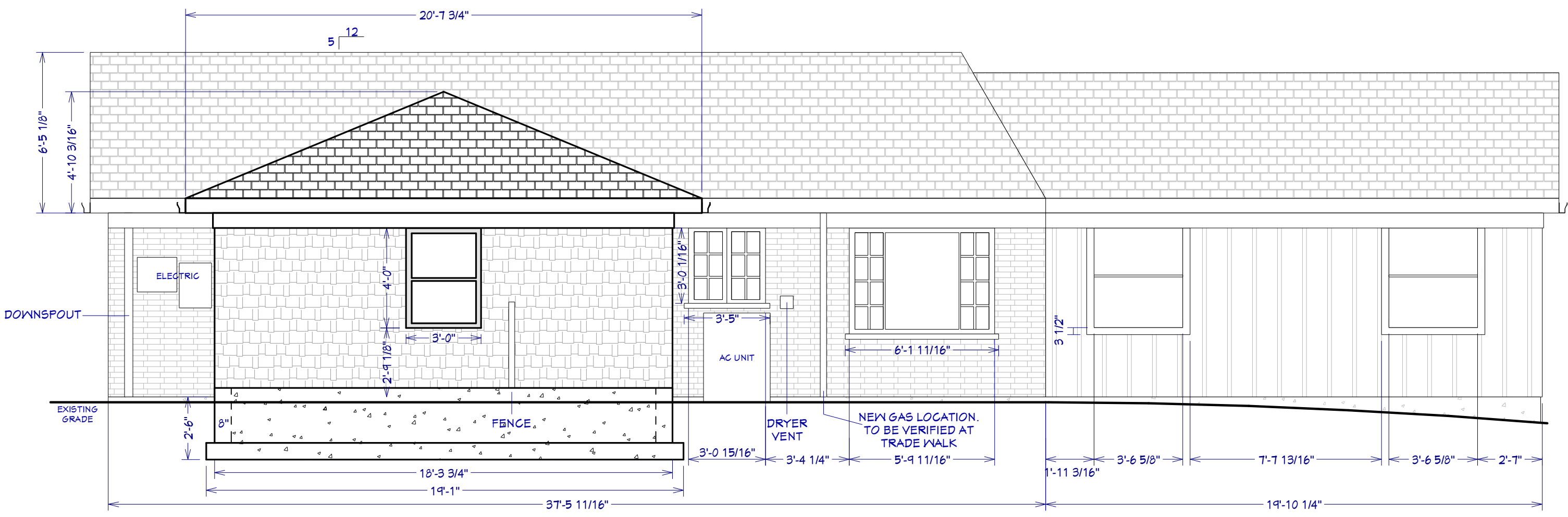
P-4



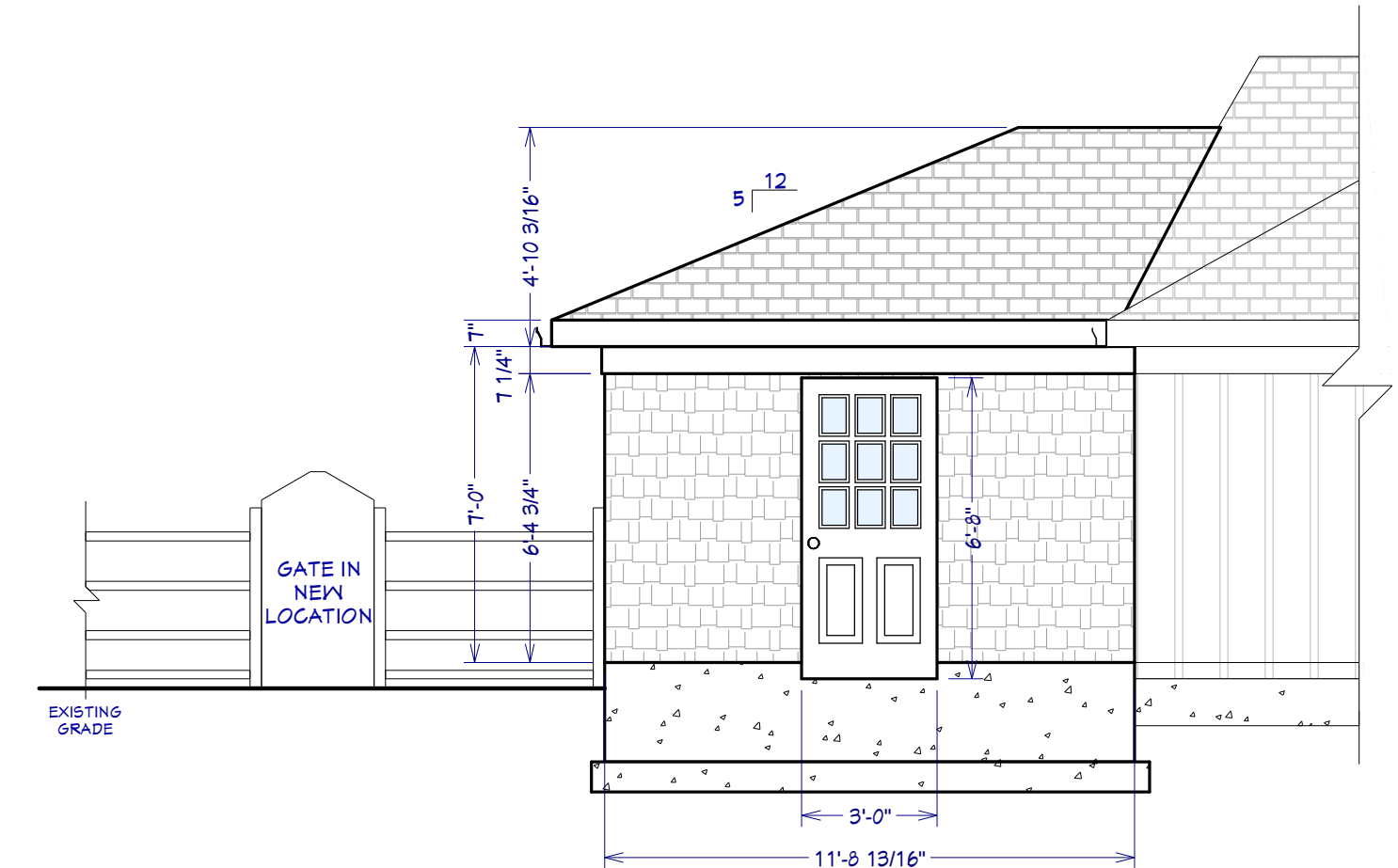
**PROPOSED PLAN SCALE: 1/4"**



**PROPOSED FRONT ELEVATION SCALE: 1/4"**



**PROPOSED SIDE ELEVATION SCALE: 1/4"**



**PROPOSED SIDE ELEVATION SCALE: 1/4"**

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SITE PLAN	2
AS-BUILT PLAN AND ELEVATIONS	3
DEMO PLAN AND ELEVATIONS	4
PROPOSED PLAN AND ELEVATIONS	5
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CONSIDERED DESIGN OPTIONS	7
CONSIDERED DESIGN OPTIONS	8

NUMBER	DATE	REVISION BY	DESCRIPTION

GARAGE ADDITION:  
 GEORGE AND LINDA GEORGIIS  
 10329 BIRKEMEYER DRIVE  
 CINCINNATI, OH 45242

**PROPOSED PLAN &  
 ELEVATIONS**

DRAWINGS PROVIDED BY:  
**LEGACY BUILDERS GROUP**  
 DESIGN | BUILD | REMODEL

DATE:

1/12/2023

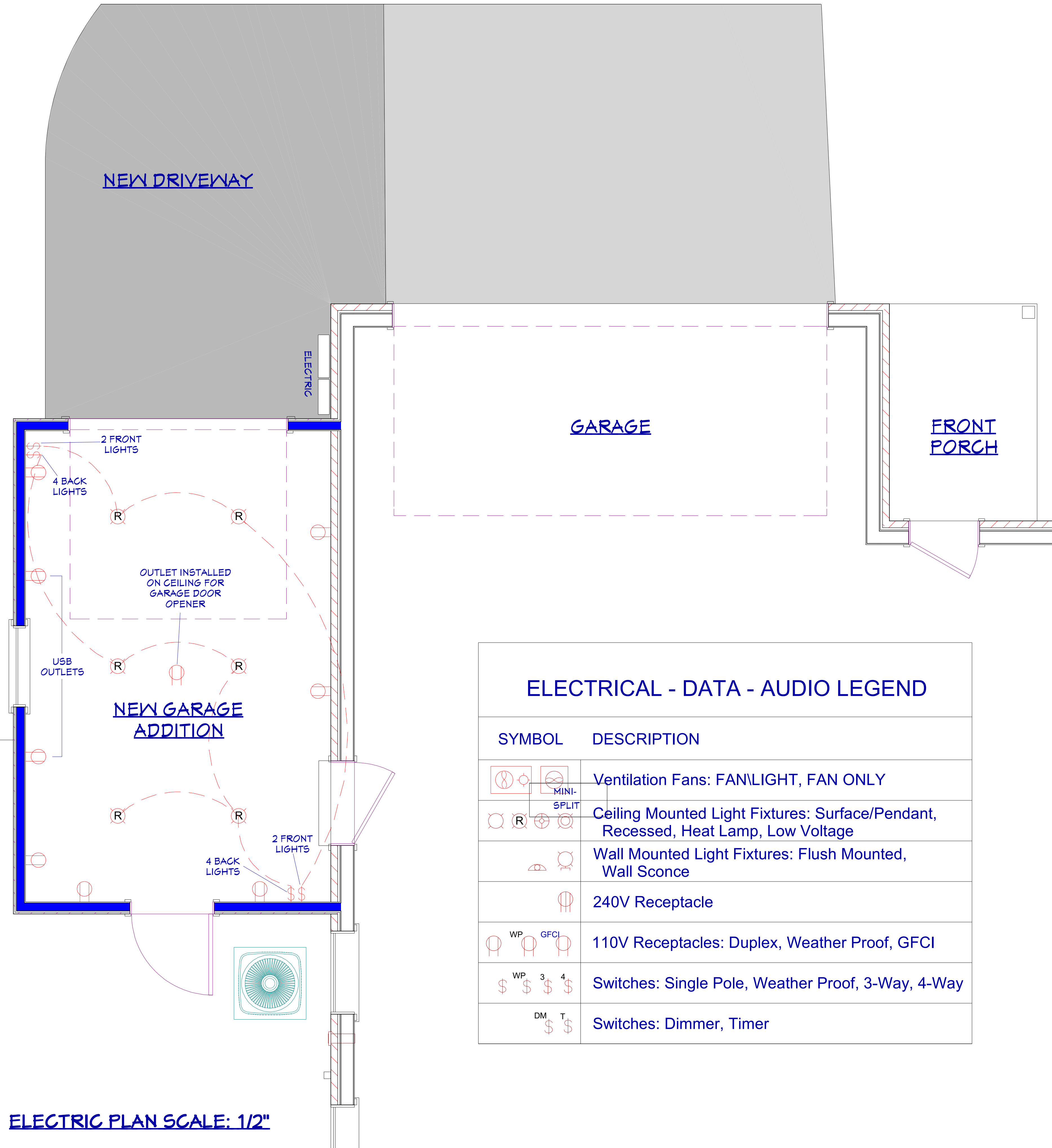
SCALE:

1/4"

SHEET:

**P-5**

PROPERTY LINE



ELECTRIC PLAN SCALE: 1/2"

ELECTRICAL - DATA - AUDIO LEGEND	
SYMBOL	DESCRIPTION
	Ventilation Fans: FANLIGHT, FAN ONLY
	Ceiling Mounted Light Fixtures: Surface/Pendant, Recessed, Heat Lamp, Low Voltage
	Wall Mounted Light Fixtures: Flush Mounted, Wall Sconce
	240V Receptacle
	110V Receptacles: Duplex, Weather Proof, GFCI
	Switches: Single Pole, Weather Proof, 3-Way, 4-Way
	Switches: Dimmer, Timer

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REVISION TABLE			
NUMBER	DATE	REVISION BY	DESCRIPTION

GARAGE ADDITION:  
 GEORGE AND LINDA GEORGIIS  
 10329 BIRKEMEYER DRIVE  
 CINCINNATI, OH 45242

ELECTRIC PLAN

DRAWINGS PROVIDED BY:  
**LEGACY BUILDERS GROUP**  
 DESIGN | BUILD | REMODEL

DATE:

1/12/2023

SCALE:

1/2"

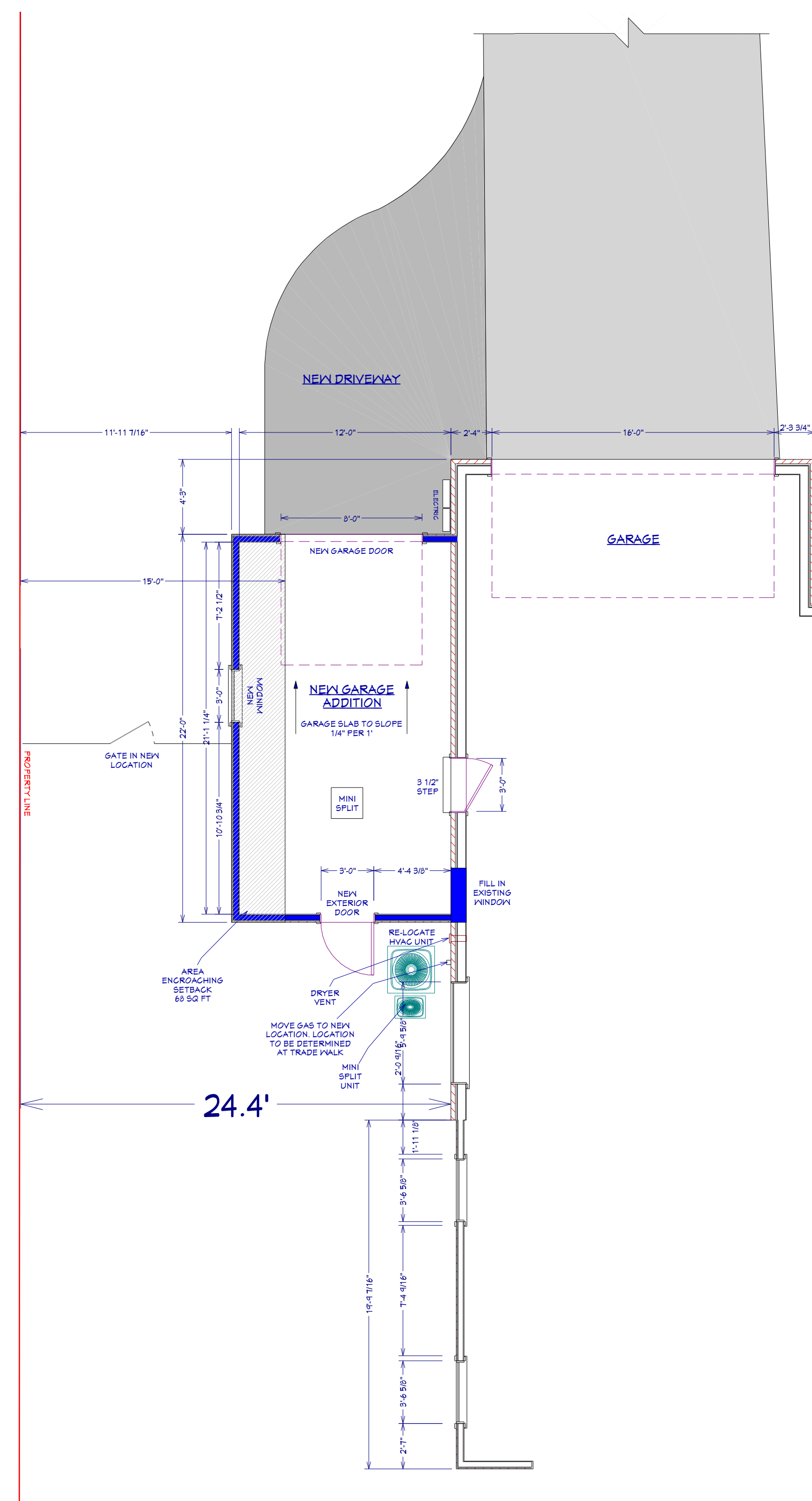
SHEET:

P-6



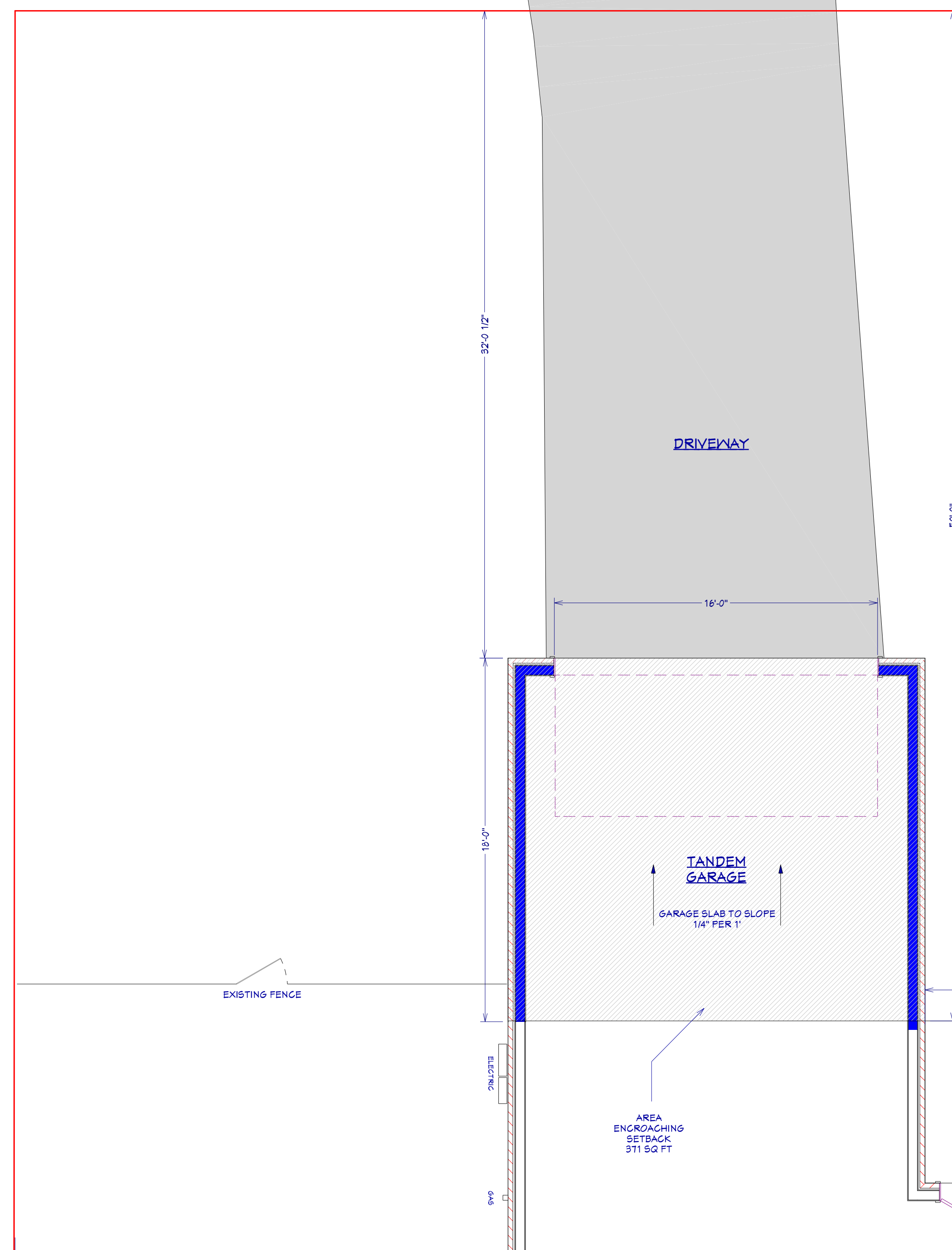
AVERAGE SINGLE CAR GARAGE SIZE: 12' X 22' OR 14' X 22' INTERIOR

Options A through D are options that we considered with the homeowners before landing on the design that we have submitted for variance.



**OPTION A SCALE: 3/16"**

Both a 12' wide and 14' wide garage was considered but encroached upon the set back even further. What we have submitted for variance is what we deem the minimum needed for a single car garage.



**OPTION B SCALE: 3/16"**

Plan B was one consideration but is drastically encroaching upon the front set back and is not desirable from a design standpoint.

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GARAGE ADDITION:  
GEORGE AND LINDA GEORGILIS  
10329 BIRKMEYER DRIVE  
CINCINNATI, OH 45242

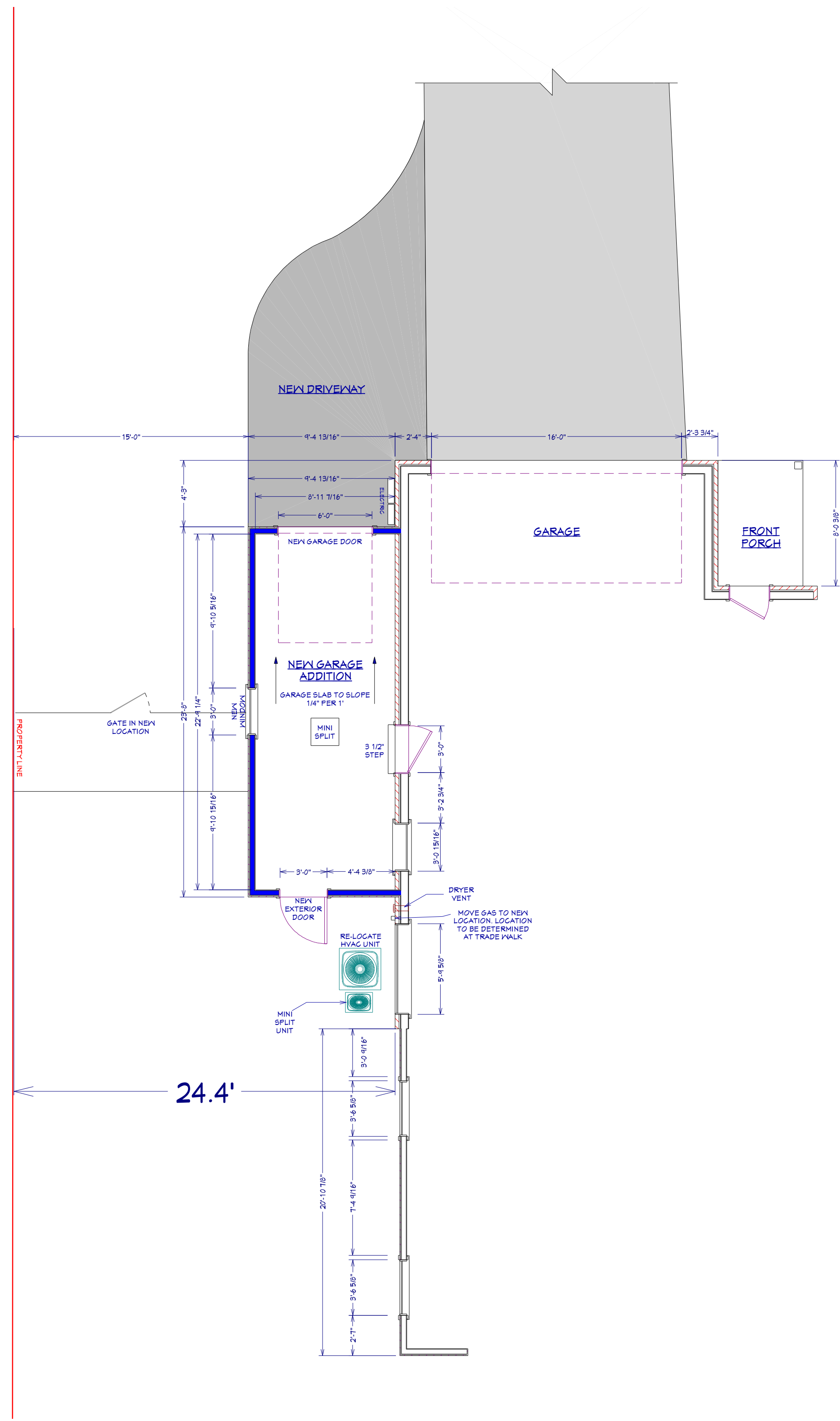
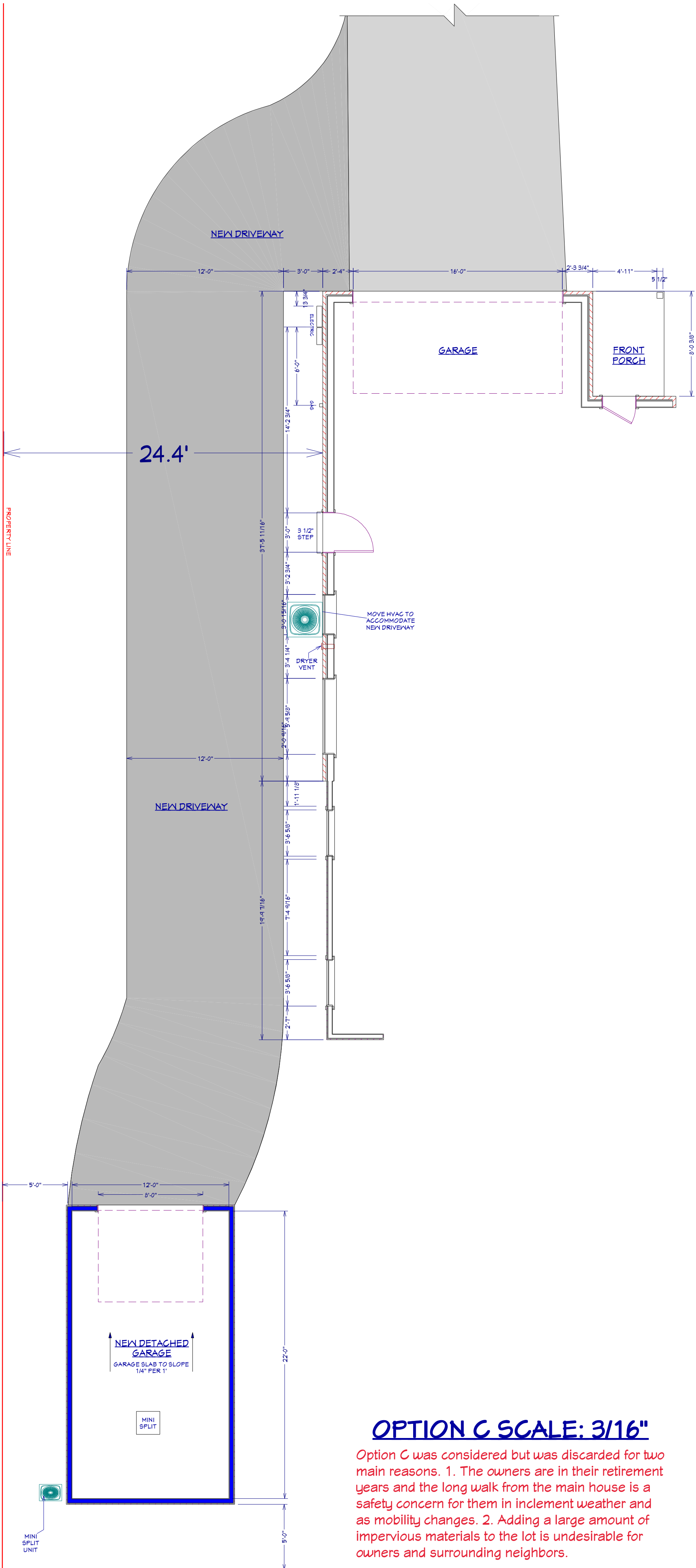
CONSIDERED DESIGN  
OPTIONS

DRAWINGS PROVIDED BY:  
**LEGACY BUILDERS GROUP**  
DESIGN | BUILD | REMODEL

DATE:  
1/12/2023

SCALE:  
3/16"

SHEET:  
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NUMBER	DATE	REVISION BY	DESCRIPTION

GARAGE ADDITION:  
 GEORGE AND LINDA GEORGIIS  
 10329 BIRKMEYER DRIVE  
 CINCINNATI, OH 45242

CONSIDERED DESIGN  
 OPTIONS

DRAWINGS PROVIDED BY:  
**LEGACY BUILDERS GROUP**  
 DESIGN | BUILD | REMODEL

DATE:  
 1/12/2023

SCALE:  
 3/16"

SHEET:  
 P-8

**CITY OF MONTGOMERY  
BOARD OF ZONING APPEALS REGULAR MEETING  
CITY HALL • 10101 MONTGOMERY ROAD • MONTGOMERY, OH 45242**

**January 24, 2023**

<u>PRESENT</u>		
<u>GUESTS &amp; RESIDENTS</u>		<u>STAFF</u>
<b>Lee Ann Bissmeyer</b> Vice Mayor City Council	<b>Mr. Terry Donnellon</b> City of Montgomery Law Director Donnellon, Donnellon & Miller 9079 Montgomery Road, 45242	<b>Melissa Hays, Zoning and Code Compliance Officer</b>  <b>Karen Bouldin, Secretary</b>
		<u>ALL BOARD MEMBERS PRESENT</u>
		<b>Mary Jo Byrnes, Chairman</b>
		<b>Richard White, Vice-Chairman</b>
		<b>Catherine Mills Reynolds</b>
		<b>Tom Molloy</b>
		<b>Bob Saul</b>
		<b>Steve Uckotter</b>
		<u>MEMBERS NOT PRESENT</u>
		<b>Jade Stewart</b>

Chairman Byrnes called the meeting to order at 7:00 p.m.

**Roll Call**

*The roll was called and showed the following responses / attendance:*

***PRESENT: Ms. Mills Reynolds, Mr. Uckotter, Mr. White, Mr. Molloy, Mr. Saul,*** (6)  
***Ms. Stewart, Chairman Byrnes***

***ABSENT: Ms. Jade Stewart*** (1)

***All members were present.***

**Pledge of Allegiance**

All of those in attendance stood and recited the Pledge of Allegiance.

Chairman Byrnes gave a brief explanation of tonight’s proceedings: She stated that tonight there would be no public hearings; there were no witnesses.

**Guests and Residents**

There were no guests or residents present.

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## **Board of Zoning Appeals Meeting**

January 24, 2023

28 **Old Business**

29 There was no old business to discuss.

30

31 **New Business**

32 There was no new business to discuss.

33

34 **Other Business**

35 ***Legal training provided by Terry Donnellon, City of Montgomery Law Director,***  
36 ***Donnellon, Donnellon & Miller, 9079 Montgomery Road, 45242.***

37

38 Chairman Byrnes welcomed and introduced Mr. Donnellon.

39

40 Chairman Byrnes pointed out that the City of Cincinnati recently announced that no more  
41 parking lots would be permitted. She asked if cities have that authority to stop any variety of  
42 issues? Mr. Donnellon stated that as long as you can show that it is a legitimate exercise of your  
43 police power, a city has that right. He noted that you must justify it.

44

45 Mr. Donnellon outlined his training agenda:

46

47 1. How the BZA Board process / activities are carried out, behind the scenes.

48 2. Where the variances fit in.

49 3. When do I recuse myself?

50

51 1. **BZA Process**

52

53 Mr. Donnellon referred to the Comprehensive Community Plan, with the last version being from  
54 2007. This Plan sets the template for zoning rules; the Zoning Code is adopted from this Plan.  
55 He pointed out that we are currently in the process of updating this Plan. Some communities  
56 never update theirs, but we do.

57

58 From the 2007 Comprehensive Plan, Mr. Donnellon read about a housing issue that had been  
59 impacting the community in 2007. One of the strategies to address the issue was to create  
60 additional zoning and design regulations. He cited an instance a few years ago, where this  
61 housing issue had come up, and so, instead of variances, the City changed the zoning for a  
62 portion of Montgomery Road, including where Lucke's villa development is located.

63

64 Mr. Molloy noted that the Comprehensive Community Plan takes input from the community,  
65 Boards, and various others. He noted that we have never referenced that, as the Board of Zoning  
66 Appeals.

67

68 Mr. Donnellon cited an example, where we were challenged on the regulations, and the case  
69 went all the way to the Ohio Supreme Court. They went back to the Comprehensive Community  
70 Plan (CCP) that supported the ruling, noting that the appeal was contrary to the Plan's  
71 statements, and the City of Montgomery won the case.

72

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## **Board of Zoning Appeals Meeting**

January 24, 2023

73 In creating a new CCP, there will be the analysis of housing stock, stakeholders will be  
74 interviewed, there will be a comprehensive review of the City's undeveloped and  
75 underdeveloped, and plans for what we need to do differently.

76  
77 After the CCP, then you refer to the Land Usage Code which talks about use regulations, height  
78 and dimensional regulations. He noted that in the Zoning Code, under the Purposes Section, it is  
79 basically a condensed version of the CCP.

80  
81 Mr. Molloy asked if a copy of this is on our website. Ms. Hays did not believe it was. She noted  
82 that the update was made in the overall City Strategic Plan. She stated that they will start soon  
83 on a new one for this year, noting that there will be heavy public involvement for this new one.  
84 He offered copies to each member, and Ms. Hays stated that she would email it to the Board.

85  
86 Chairman Byrnes asked if there would be an outside consultant involved. Ms. Hays stated there  
87 was not one at this time, but she felt they might go in that direction.

### 88 89 2. Need for Variances

90  
91 Mr. Donnellon stated that even though you develop all of these rules and regulations, and they  
92 are constantly under review as to what needs to be changed or updated – you can't plan in 2007  
93 for everything that will come forward. This is why we have variances, because some of the  
94 regulations that have been put in place, could have a different impact at a later time. A variance  
95 is a minor departure /modification of a strict code enforcement. He cited the tornado of 1999 as  
96 an example, explaining how they handled the situation, with a blanket variance, among others.

97  
98 Mr. Donnellon reviewed the list of what to consider when granting a variance: the 10  
99 considerations (listed on the Staff Report for each case). He explained that this template was  
100 developed from a case law in the 1980s. There was much discussion about home owners saying  
101 they did not know they weren't permitted to do what they had hoped to do. Ms. Hays noted that  
102 what she hears the most is that the real estate agent told the home owner something (which  
103 wasn't true).

104  
105 Ms. Catherine Mills-Reynolds asked for an example of any use variance that was ever granted in  
106 the City. Mr. Donnellon stated that it would typically be a use in that District that is not  
107 permitted or conditionally permitted, but it is in another District. He gave an example.  
108 Ms. Mill-Reynolds stated that she used to apply for variances, through her job. If you were  
109 going for a permit variance for a fence, it was ok, like a dimensional variance, but if you wanted  
110 to add barbed wire, then it was a use variance. She couldn't understand that. Mr. Donnellon  
111 stated that the typical argument is that a use variance is really a zone change. So, why don't you  
112 redefine the District and apply for a zone change? This is rarely used, but most variances are the  
113 dimensional variances.

114  
115 Ms. Mills-Reynolds stated that the City of Cincinnati never used to require permits for  
116 residential fences. Now you have to get a Certificate of Approval, but not a permit. She stated it  
117 required you to go through essentially the same process, but you had to pay a fee. She asked if

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## **Board of Zoning Appeals Meeting**

January 24, 2023

118 this was a trend Mr. Donnellon was seeing. Mr. Donnellon stated it was either a Building Permit  
119 versus a Zoning Certificate. Most communities do not require a Building Permit for construction  
120 of a fence; but you must get a Zoning Certificate before you can construct the fence, which  
121 shows that your proposed construction is in compliance with the code. Ms. Hays stated that this  
122 varies, some communities have it and some don't.

123  
124 Mr. Donnellon felt that it was important to ask questions...can you put it here, can you do this,  
125 etc. - so that you develop a record, that it is not just based on your opinion. Mr. Donnellon stated  
126 that it was important that you did your analysis, heard the facts from the neighbor, from Staff,  
127 from the applicant, and applied the standards, to allow you to come to your conclusion.  
128 He stressed the importance that your decision was based on only what you heard within these  
129 four walls, not from neighbors or anyone, or anywhere else. He agreed that you should go and  
130 look at the property, but you cannot take testimony from neighbors, outside of this room.

131  
132 He noted that even an approved variance can be appealed. He gave an example, where the  
133 neighbors appealed, but were not successful. Mr. Donnellon pointed out how easy the process  
134 was to make an appeal. Both parties do not have to appear at the same time. A record is  
135 required to be filed – and the record is our minutes (not the recording), even though they are not  
136 word-for-word transcript.

137  
138 This is why your minutes are important to say that you heard the information, you made a  
139 decision and here is what you are doing. This is what would be taken to court, if ever  
140 needed. There should be enough substantial evidence to draw this conclusion. The burden is on  
141 the appellant, to say why it is wrong.

142  
143 Mr. Donnellon stated that if a decision is made, and the applicant wants you to reconsider it, if it  
144 is within a six-month window of when you made the decision, then you have to find that there is  
145 a reasonable cause or substantial cause to rehear it. Many times it is due to new evidence.

146  
147 Mr. Saul noted that it is not easy to know what is in our rights. He would like to have a search  
148 capability in the zoning code. Mr. Donnellon stated that if you go through American Legal, it  
149 permits the search in our document. It is important to narrow down what word you are looking  
150 for. Mr. Donnellon stated that anyone can do this in the public realm.

151  
152 Ms. Bissmeyer left at 6:30pm to attend an event sponsored by the police.

153  
154 Mr. Donnellon stated that about every 2 years, all of the newer ordinances are inserted into the  
155 online document by American Legal. There was more discussion about applicants not being  
156 aware of the code, and the need to be educated. Chairman Byrnes felt that Ms. Hays did a great  
157 job of informing them. Mr. Saul would like to have something informing residents before they  
158 even got to BZA. Ms. Hays pointed out that it was difficult because there are various zoning  
159 classifications, and each home was unique. This made it hard to even come up with a standard,  
160 general example of what you can / can't do. She stated that they could have more diagrams of  
161 the most common issues, available to the residents.

162

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## **Board of Zoning Appeals Meeting**

January 24, 2023

163 Mr. Uckotter added that Melissa was not permitted to coach the resident, or hint that the Board  
164 would not approve it. She must remain neutral. Ms. Hays stated that she can give her opinion,  
165 telling the applicant that as a Staff person, she may not be supportive of this, and can suggest that  
166 they reduce the amount of variance requested, etc. She will try to educate them on the process,  
167 to a degree, but would not prevent them from coming to BZA. There was more discussion.

168  
169 Mr. Donnellon commended the Board on doing a great job. Chairman Byrnes agreed, and felt  
170 that the Board members were a great team; they listened to the applicant, and she felt that, in  
171 itself, was a big part of what made a difference to the resident. Mr. Donnellon agreed, citing  
172 examples on how the Board tried to help the applicant find another way.

173  
174 Past cases were discussed, that had been appealed, but had not come to fruition.

175  
176 Mr. Uckotter asked if Mr. Donnellon reviewed all of BZA's cases. Mr. Donnellon stated that he  
177 did not, that whoever the Council liaison was (Lee Ann Bissmeyer) reports to City Council.  
178 The reports take place on the second of every month. He noted this is not a requirement, but  
179 allows for the connectivity between the community and Council. Ms. Hays also puts it in her  
180 weekly update, which is distributed to all staff and to City Council each week. If there was a  
181 problem, it would be communicated very quickly.

182  
183 3. When Do I Recuse Myself?  
184

185 Mr. White brought up recusal, and gave an example of a past case. Mr. Donnellon stated that if  
186 you have an interest in the outcome, that is when you should recuse yourself. But, there is  
187 always a decision on how many degrees of separation it must be. If it is your neighbor or on  
188 your street, it is best to recuse yourself. If it is in your subdivision, probably not. The most  
189 common is, if it is your church.

190  
191 The most important issue is if you have an economic interest in the case, you have to recuse  
192 yourself, because it is a conflict of interest by statute (and you can be turned over to the  
193 prosecutor). Is there is an appearance of impropriety by you making a decision? Is your  
194 objectivity in any way compromised by participating in this decision? Mr. Donnellon stated that  
195 you can always call him to discuss.

196  
197 Mr. Donnellon stated that it is helpful to start out the meeting by saying it, and then step down.,  
198 or you can say, "I think I can be objective". And then you ask if there is anyone on the Board or  
199 in the audience that disagrees. If you receive a mailer for a variance request, which is sent within  
200 a 300-foot radius of the applicant (the zone of influence), then you would typically recuse  
201 yourself. If you do recuse yourself, you may leave if there are no other cases, or sit outside the  
202 room, if there are. You may also sit in the audience; if you decide to speak, you must make it  
203 known that you are speaking as a guest, not as a Board member. Mr. Donnellon cited a past case  
204 as an example. There is no black & white, other than an economic interest.

205

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## **Board of Zoning Appeals Meeting**

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206 If someone asked you a question about a possible variance they might propose, but it was not in  
207 the works yet, Mr. Donnellon suggested that you have the person call Tracy Henao, Kevin  
208 Chesar or Ms. Hays. It is not in your best interest to address the question yourself.

209  
210 Chairman Byrnes asked about trends, she felt that there may be more concern of property  
211 owners' rights over random zoning.

212  
213 Mr. Donnellon stated that the City of Cincinnati uses form-based code, which is based / adjusted  
214 on neighborhood by neighborhood, as to what the neighborhood needs; as opposed to a code  
215 stating that all single-family homes should look like this, etc. He believes this is becoming too  
216 flexible, and he is not sure where this will lead. If you have too restrictive of a code, you could  
217 be taking the person's property, but if you turn it over to each community to determine the  
218 standards, at what point in time do you lose that objectivity? He felt that the Community  
219 Council has a big say in it. Mr. Donnellon considered this a trend.

220  
221 Mr. Molloy asked about Home Owners Associations (HOA) versus our Code, noting that it  
222 comes up frequently. Mr. Donnellon stated that they can be more restrictive than us, but not less,  
223 because they are still subject to our Code. We do not recognize or enforce HOA rules.  
224 Mr. Donnellon stated that the only part of an HOA rule that we would enforce is if there was an  
225 easement for stormwater, for a detention area.

226  
227 Mr. Donnellon has sometimes seen where the Fair Housing Act (ADA) conflicted with the  
228 Code. Nothing trumps ADA.

229  
230 Mr. Donnellon pointed out that the state is now trying to regulate Air BnBs, and override our  
231 Code. Currently, the City of Montgomery has taken the stance of not permitting them, if it is  
232 less than a 30-day stay. There is a big lobby on behalf of these rental associations, and  
233 Mr. Donnellon thinks it will come up in the near future.

234  
235 Ms. Mills-Reynolds asked if there was a percentage of subsidized housing that local  
236 communities must have. Mr. Donnellon stated that there is a cooperative agreement that has to  
237 be signed every 10 years or so, stating that if you want to participate in a community block grant  
238 program, you have to agree to accept subsidized housing in your community. He noted that the  
239 City has signed it every time - we don't want to cut out the block grants. It has never been an  
240 issue. It is based upon population; we may be allotted 12 units, or so.

241  
242 Mr. Donnellon noted that another trend is the Montgomery Quarter. Because it has become so  
243 successful, do we need to look at zoning for a 'Quarter West' – the auto dealer, strip center,  
244 medical office building, the prior Houdini House. He discussed several other locations, but  
245 stated that there are no active developments on the horizon. These are in the Comprehensive  
246 Plan, to look at opportunities down the road, for future, but nothing active.

247  
248 There was discussion about the Montgomery Quarter. Mr. Donnellon stated that another trend is  
249 that many are working from home, which has shifted the market for office space. He noted that  
250 if you work more than 20 days in the municipality, then you claim that as your tax base.



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**Board of Zoning Appeals Meeting**

January 24, 2023

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**Council Report**

There was no other business to report.

**Minutes**

Mr. Saul moved to approve the minutes of November 22, 2022, as written.

Ms. Mills-Reynolds seconded the motion.

The Board unanimously approved the minutes.

Mr. Molloy moved to approve the minutes of November 29, 2022, as written.

Mr. Uckotter seconded the motion.

The Board unanimously approved the minutes.

**Adjournment**

Mr. White moved to adjourn. Mr. Saul seconded the motion.

The meeting adjourned at 7:05p.m.

---

Karen Bouldin, Clerk

Mary Jo Byrnes, Chairman

Date

/ksb