
Board of Zoning Appeals Agenda

June 20, 2023

City Hall

7:00 p.m.

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

Agenda Item 1

7933 Cooper Road – Matt Stanley, Legendary Homes, on behalf of Michele Stanley Homes, LLC, is requesting a variance to allow a new single-family dwelling to have side yard setbacks of 10.4' on both sides, where 15' is required per Schedule 151.1005 of the Montgomery Zoning Code.

Agenda Item 2

Hamilton County Parcel # 6030002003300 – Kevin Bleichner, Elevar Design Group, LLC, on behalf Greg Joseph of 9722 Montgomery Road LLC is requesting a variance to allow an accessory service building related to automobile sales to have a side yard setback of 5' on the north property line where 10' is required per Schedule 151.1205(A).

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

CITY OF MONTGOMERY BOARD OF ZONING APPEALS

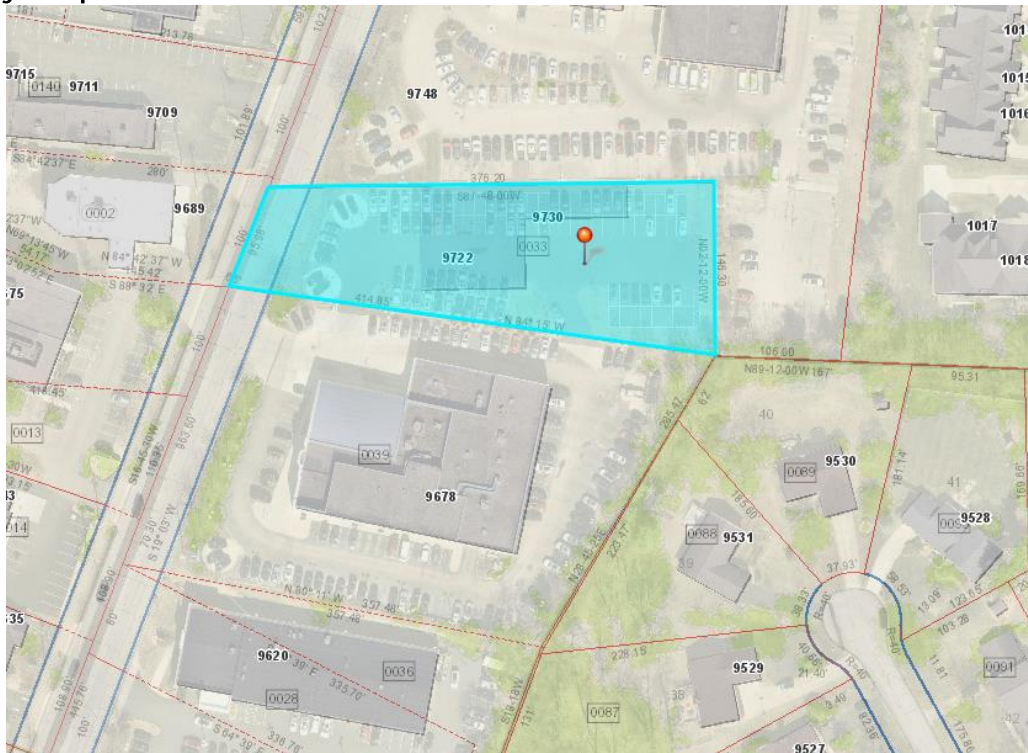
Application for Variance:
9678 Montgomery Road
(Hamilton County Parcel # 6030002003300)

June 20, 2023
Staff Report

Applicant: Kevin Bleichner, Elevar Design Group, LLC
555 Carr Street
Cincinnati, Ohio 45203

Property Owner: 9722 Montgomery Road LLC
C/O Greg Joesph

Vicinity Map:



Nature of Request:

Applicant is proposing to construct a new 3,406 square feet accessory use service building at Hamilton County Parcel # 6030002003300 which is associated with the Audi Dealership at 9678 Montgomery Road. The applicant is requesting a variance to allow the service building to have side yard setbacks of 5' where 10' is required per Schedule 151.1205(A) of the Montgomery Zoning Code.

Zoning:

The property is zoned 'GB' General Business and is used for Audi Connection. Car dealerships are a conditionally permitted use in the 'GB' District. The Board of Zoning Appeals granted a variance to allow for operation of the dealership on 1.929 acres on May 27, 2003. Schedule 151.2006 requires a minimum lot size of three acres for a car dealership in the 'GB' District. The property to the west, across Montgomery Road is zoned 'GB' and used as an office building. The property to the east is zoned 'GB' General Business with a property point adjacent that is zoned 'A' Single Family Residential and is used for single family residences. The adjacent property to the north is zoned 'GB' and used for a car dealership. The property to the south, 9678 Montgomery Road, is zoned 'GB' and is currently the main Audi Connection dealership building. For purposes of zoning regarding the Audi Dealership, this lot and the lot to the south are considered one Automobile/Truck Sales use which brings the property into compliance with the minimum 3-acre requirement for car dealerships.

Findings:

1. The applicant is proposing to construct a new single story service building on the car display lot associated with the Audi Connection at 9730 Montgomery Road.
2. In 2021 as a part of an Expansion of Conditional Use and Equivalency, Planning Commission and Council approved this lot and the main Audi Connection building to the south as one Automobile/Truck Sales use per the following condition:
 - a. Until such time as the parcels are either consolidated or under common ownership, this Application to allow Parcel 1/9722 to be used as Automobile/Truck Sales Agency and Automobile/Truck

Rental Agency, Conditional Use, is hereby approved, subject to the following condition: Parcel 1/9722 may be used for Automobile/Truck Sales Agency and Automobile/Truck Rental Agency, so long as both Hamilton County Auditor's Parcel Number 603-0002-0023 (Parcel 1/9722) and Hamilton County Auditor's Parcel Number 603-0002-0039 (Parcel 2/Audi Connection) are used generally as a single Automobile/Truck Sales Agency and Automobile/Truck Rental Agency operating under the same business entity. Parcel 1/ 9722 may not be separated from common control, nor used as a separately approved Conditional Use as an Automobile/Truck Sales Agency and Automobile/Truck Rental Agency without the common control of the Conditional Use by the permit holder of Parcel Hamilton County Auditor's Parcel Number 603-0002-0039. Without common control, or the separate transfer or sale of Parcel 1/9722 from the common operations of the Conditional Use, this approved Conditional Use for Parcel 1/9722 shall automatically terminate. Consistent with the Montgomery Zoning Code the Terms and Duration of the Conditional Use Permit apply to the approved Conditional Use.

3. Accordingly, the proposed accessory structure is permitted to be located on the separate lot, however, is still subject to side yard setback requirements.
4. The combined lots are approximately 3 acres in size, which meets the minimum required for a car dealership including minimum lot width of 75 feet.
5. The lot to the north is owned by essentially the same ownership group and operates as a Chevrolet Automobile Dealer.
6. While the distance has not been indicated, the applicant is proposing to meet the front yard setback (30') requirement and is meeting the rear yard setback exactly at 15' as is required in Section 151.1205(A).
7. The proposed service building will still require Planning Commission and City Council approval regarding the expansion of a Conditional Use.

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. *Are there special conditions and circumstances which are peculiar to the land or structure involved, which are not applicable generally to other lands or structures in the same zoning district?*

The lots in this area are devoted to automobile sales and service which is unique to Montgomery Road. The proposed service structure is desired by staff to be the least amount visible from Montgomery Road, less impactful to adjacent residential, while also preserving car display and parking.

Staff believes these lot conditions are unique and some amount of variance is warranted due to the difficulties of the lot.

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

Staff believes the property would yield a reasonable rate of return if the variance were not granted.

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

The variance from the required side-yard setbacks for the principal building is significant because the applicant is requesting a 50% reduction in the required side-yard setback. Staff is of the opinion that the variance request is reasonable and the minimum necessary for the accessory use to be located towards the rear of the lot and to be the least impactful to current parking and display area while still allowing adequate access to the potential service building.

4. *Will the character of the neighborhood be substantially altered? Would adjoining properties suffer substantial detriment as a result of the variance?*

Staff does not believe that the character of the neighborhood would be substantially altered by granting the variance. The subject lot and the northern lot are utilized for car dealership related activities as well as essentially owned by the same family/automobile group.

Therefore, Staff does not believe that granting the variance would have a negative impact on the impacted property to the north.

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 property owner was aware of the zoning restraint 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 action of the owner.

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

The applicant can move the building further south to meet the setback. However, that can jeopardize the current automobile display area and essentially moves the building further south closer to the residential properties on the (south)east side. Other options, per regulations, would allow the building to be located closer to Montgomery Road with only a 30-foot setback instead of the current proposal to locate the building on the rear of the site.

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

The spirit and intent of Sections 151.1205(A) would not be preserved by granting the variance for the accessory building because it could be possible to meet the requirements on the Zoning Code. However, it would impact potential car display and parking areas. The applicant had originally proposed to locate the building on the southern portion of the lot which would locate the building closer to the eastern residential properties; however, after discussion with Staff the applicant relocated the structure to be less visible from the residential uses and minimally visible from Montgomery Road with minor impacts to the related automobile use to the north.

Staff believes that it is the intent of the Zoning Code to modify improvements if it would not have a negative impact on the neighborhood or viability of the business and a practical difficulty has been established. Staff does not believe that granting the variances would negatively impact the neighborhood.

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 granting these variances would not confer on the applicant any special privilege that is denied to other properties in the district, as a practical difficulty has been established for the subject lot and granting the variance would not negatively impact the neighborhood.

Staff Comments and Recommendations

Staff believes that the based on trying to be the least impactful to adjacent residential uses and car display and parking area onsite, and trying to minimize visibility from Montgomery Road creates a practical difficulty that makes it challenging to build on the lot without some variance in regards to side-yard setbacks. Staff does not believe that the neighborhood would be negatively impacted by granting the variance as the applicant is locating closer than permitted by code to a very similar use on the northern parcel.

Approving the variance to allow for side yard setbacks of 5' in accordance with the accessory service structure as shown in plans dated May 25, 2023 where 10' side yard setback is required could be justified by criteria # 1, 3, 4, 5, 7, 8, 9 and 10.



May 23, 2023

City of Montgomery, OH
Attn: Melissa Hays, AICP, City Planner
10101 Montgomery Rd
Montgomery, OH 45242

RE: Variance request for The Audi Connection service building

Dear Melissa,

The following is a description of the proposed building location on the property.

The property currently contains a 24,300 sf dealership building on 3.326 acres. The proposed 3,406 sf service building would be located at the NE corner of the property abutting the adjacent Chevrolet property. The location will not impact the existing landscape limits.

The owner is requesting moving the building up to the existing edge of pavement on the north side that is 5' from the property line. The current building setback limits is 15'-0". The reason for the request is to provide as much space as possible for access and turning at the wash bay portion of the proposed building. Moving the building 5' from the property line provides approximately 38" of clear space. Locating the building within the limits of the 15' building setback reduces this distance to approximately 28'.

It is the intent to use the north and east building walls as retaining. There will not be a need for any new retaining walls independent of the building. Re-grading of the parking to the south of the proposed building will be required as well as adjusting the existing storm catch basins and storm line that extends to the existing underground detention.

Sincerely,

A handwritten signature in blue ink that reads 'Kevin R. Bleichner'.

Kevin Bleichner, RA



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APPLICATION FORM

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

Project Address (Location): 9678 Montgomery Road

Project Name (if applicable): Audi Service Building

Auditors Parcel Number: 603-0002-0039-00

Gross Acres: 3.008 Lots/Units 1 Commercial Square Footage 28,706

Additional Information: Commercial sf includes 3,406 sf proposed building

PROPERTY OWNER(S) Greg Joseph Contact Greg Joseph

Address 9880 Montgomery Rd Phone: 513-891-9400

City Montgomery State OH Zip 45242

E-mail address gjdealer@aol.com

APPLICANT Elevar Design Group, LLC Contact Kevin Bleichner

Address 555 Carr St. Phone: 513-721-0600

City Cincinnati State OH Zip 45203

E-mail address kbleichner@elevar.com

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

FOR DEPARTMENT USE

Print Name
Greg Joseph

Date 5/23/2023

Meeting Date:

Total Fee: 300.00 ch# 4908

Date Received: 5/31/23

Received By:



LETTER OF TRANSMITTAL

PROJECT: Audi Service Building
PROJECT No.: E-12072
DATE: 5/31/2023

TO: City of Montgomery
 10101 Montgomery Road
 Montgomery, OH 45242
 Attn: Melissa Hays
 Phone: 513-792-8347

FROM: Kevin Bleichner
 Elevar Design Group
 555 Carr Street
 Cincinnati, Ohio 45203
 Phone: (513) 721-0600

WE ARE SENDING YOU THE FOLLOWING ITEMS:

- PAY APPLICATION CHANGE ORDER ALLOWANCE AUTHORIZATION CD-ROM
 PLANS SAMPLES PRODUCT DATA OTHER

VIA:

- USPS FEDEX 8:30 AM FEDEX 10:30 AM FEDEX GROUND FEDEX NEXT DAY
 HAND DELIVERY COURIER UNDER SEPARATE COVER E-MAIL

COPIES	DATE	DESCRIPTION
13	5/25/2023	Site plan, Floor plan and Elevations 11x17
1	5/30/2023	Check #41908 for \$300.00
1	5/23/2023	Letter of description
1		Consideration for Approval of Dimensional Variance
1	5/21/2023	Consent of Owner(s) To Inspect Premises
1	5/23/2023	Application Form

THESE ARE TRANSMITTED AS CHECKED BELOW:

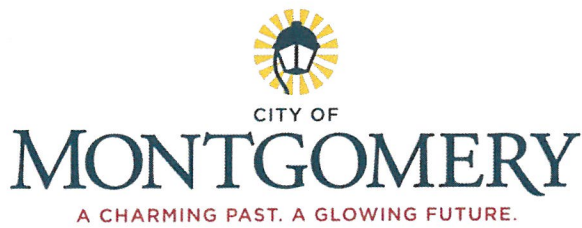
- FOR APPROVAL COPIES FOR DISTRIBUTION FOR REVIEW & COMMENT
 FOR YOUR USE RETURN CORRECTED PRINTS FOR SIGNATURE & RETURN
 AS REQUESTED RESUBMIT COPIES FOR REVIEW OTHER

REMARKS:

SIGNED: _____

DATE: _____

COPY: File



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.

Lot is an irregular shape that abuts a residential property. It narrows at Montgomery Road. This forces the building to the north side of the property and also leaves inventory toward Montgomery Road.

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

Yes

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

The variance is not substantial. Reduce building setback from 15' to 5'- existing line of edge of pavement.

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

No

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

No



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

Yes

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

No

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

Yes

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

Yes

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

No



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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 9678 Montgomery Rd., 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 Gregory G Joseph - Pres -

Print Name Gregory G Joseph 513.891.9400

Date 5-21-23

Board of Zoning Appeals Members:

Mary Jo Byrnes

Tom Molloy

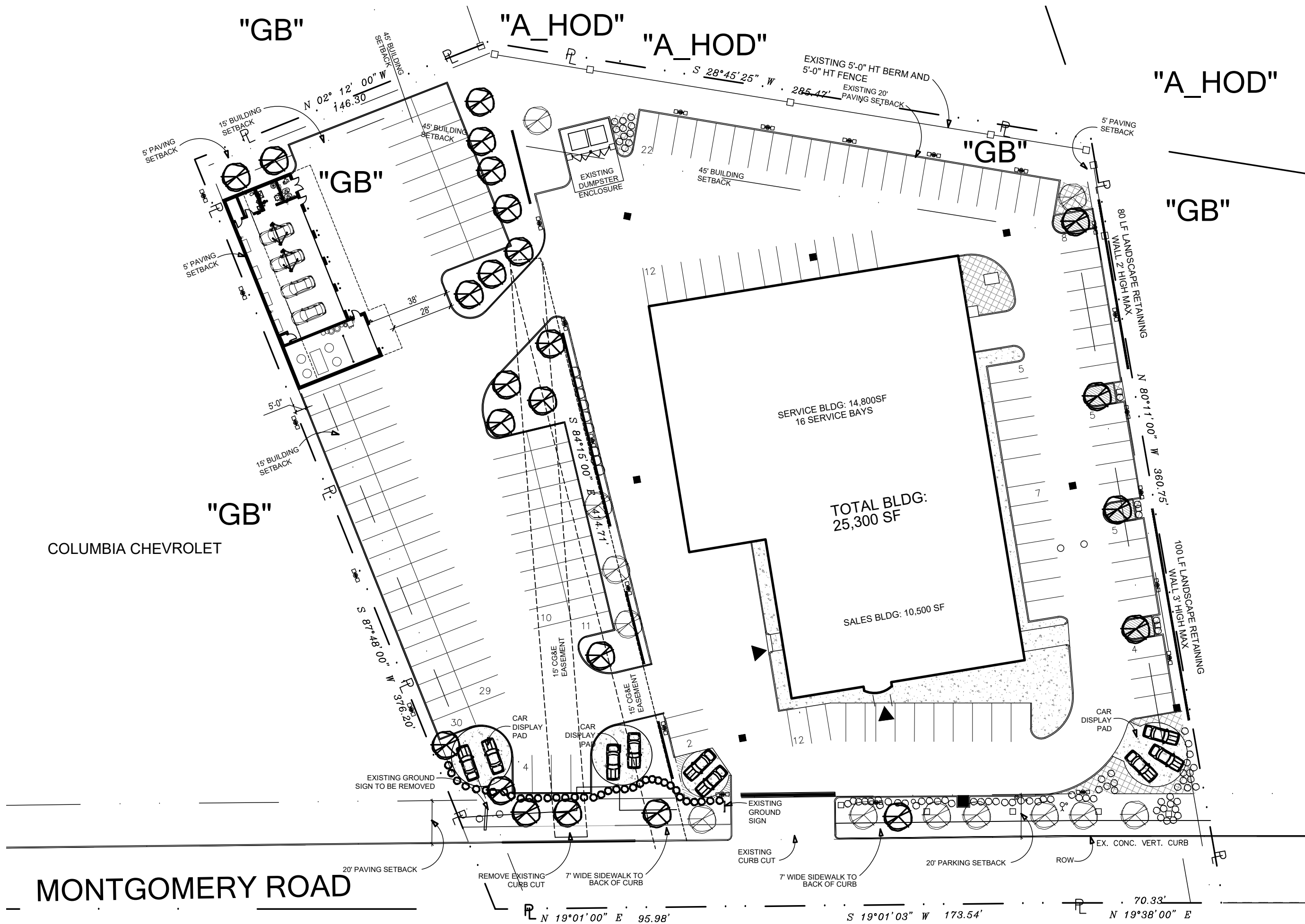
Catherine Mills Reynolds

Bob Saul

Jade Stewart

Steve Uckotter

Richard White

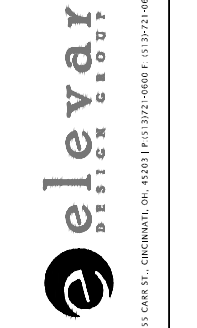


MONTGOMERY ROAD

COLUMBIA CHEVROLET

ARCHITECTURAL SITE PLAN
SCALE: 1"=20'-0"

FX CONC. VERT CURR



AUDI SERVICE BUILDING
9678 Montgomery Road Cincinnati, OH 45242
Joseph Development
285 Chiquita Center Cincinnati, OH 45202

NOT FOR CONSTRUCTION

ISSUED	DATE
OWNER REVIEW	02 / 15 / 2023
OWNER REVIEW	04 / 05 / 2023
ZONING APPEAL	05 / 25 / 2023

SHEET TITLE
ARCHITECTURAL SITE PLAN

SCALE: COMM. NO.
DRAWN BY: E-12072.00

SHEET #
AS100

FINISH	MATERIAL	MANUFACTURER	PRODUCT	COLOR	FINISH	LOCATION
P-1	COATING	SHERWIN WILLIAMS	ARMORSEAL 800	SW 7016 MINDFUL GRAY	SATIN	SERVICE, CLEANUP, FLUIDS, STORAGE
P-2	PAINT	SHERWIN WILLIAMS	S/W WATERBORNE ACRYLIC DRYER ALL 842	SW 7005 PURE WHITE	FLAT	ROOF DECK AND EXPOSED STRUCTURE
P-3	PAINT	SHERWIN WILLIAMS	S/W PRIMA MAX 200 INTERIOR LATEX	SW 1007 COLLECTORS WHITE	SEMI GLOSS	RESTROOM, ELEC
P-4	PAINT	SHERWIN WILLIAMS	WATER BASED CATALYZED EPOXY	SW 4021 FILAMENT	EGGSHELL	SERVICE, CLEANUP, FLUIDS, STORAGE, RESTROOM, ELEC
P-5	COATING	TEX-COTE	WASH-GUARD COOL-WALL	GRAY BUTION 13C-3P	SATIN	CAR WASH
P-6	EPOXY	SIGNHARD	SIGNTEC EXPRESS	GLACIER PEAK		CAR WASH

- DOOR HARDWARE**
- MANUFACTURERS**
- SA Sargent /ASSA Aablov
 - HA Hager Companies
 - RO Rodwood
- FINISHES**
- AL Aluminum, Mill Finish
 - MIL Satin Chromium Plated
 - US25D Stainless Steel Metal, Satin
 - US32D

Qty Item **HARDWARE SETS** **Model No.** **Finish** **Mfr**

SET #1 CARWASH 100, SERVICE 101, 101A, 101B, 101C
CLOPAY GLASS OVEHEAD AUTOMATIC DOOR

SET #2 CARWASH 100A, SERVICE 101D

3	Hinges	3 5/8" x 3 5/8" F 179	US32D	SA
1	Lockset	6205-L	US32D	SA
1	Closer	351-31-DT	US25D	SA
1	Threshold	412S	MIL	HA
1	Sill Sweep	783S	MIL	HA
1	Weather Stripping	801SN	MIL	HA

SET #3 - FLUIDS 105

6	Hinges	3 5/8" x 3 5/8" F 179	US32D	SA
1	Lockset	28 110 04-LL	US25D	SA
1	Flush Ball	331D	US25D	HA
1	Closer	351-31-DT	US25D	SA
1	Hold Open	600H	US25D	SA
1	Threshold	412S	MIL	HA
1	Sill Sweep	783S	MIL	HA
2	Weather stripping	801SN	MIL	HA

SET #4 - SINGLE USE RESTROOM 103

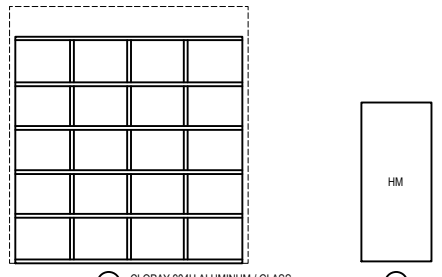
3	Hinges	3 5/8" x 3 5/8" F 179	US32D	SA
1	Lockset	28 110 04-LL	US25D	SA
1	Occupancy Indicator	3216	US25D	HA
1	Closer	351-31-DT	US25D	SA
1	Protection Plate	K1050 10" x 34"	US32D	RO
1	Door Stop	474	US25D	RO
3	Door Silencer	608C	US32D	RO
1	Sign ADA-RESTROOM	BF089	GREY	RO

SET #5 STORAGE 102, ELEC 106

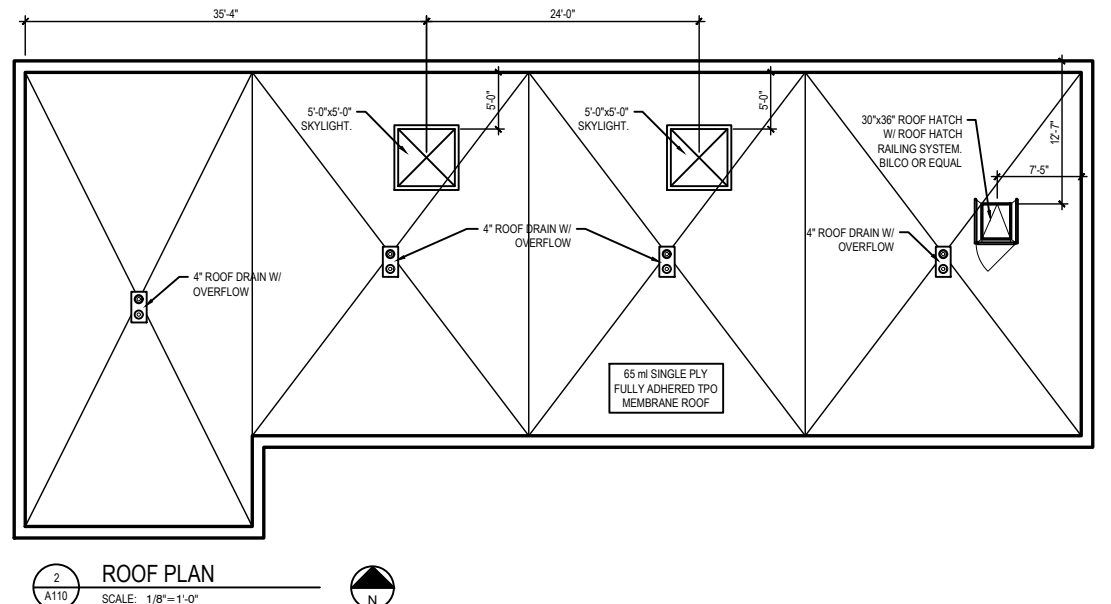
3	Hinges	3 5/8" x 3 5/8" F 179	US32D	SA
1	Lockset	28 110 04-LL	US25D	SA
1	Closer	351-31-DT	US25D	SA
1	Protection Plate	K1050 10" x 34"	US32D	RO
3	Door Silencer	608C	GREY	RO

DOOR SCHEDULE													
DOOR #	TYPE	RATING	DOORS				FRAME		HARDWARE		REMARKS	DOOR #	
			MAT'L	WIDTH	HEIGHT	GLAZING	COLOR	TYPE	MAT'L	GLAZING			SET
100A	D1		HM	3'-0"	7'-0"		P-2	F2	HM	15	INSULATED	100A	
100D	D1		HM	3'-0"	7'-0"		P-2	F2	HM	15	INSULATED	100D	
100	D2		AL	12'-0"	10'-0"	INSULGL	CLR ANOD	F6	HM	3		100	
101	D2		AL	10'-0"	10'-0"	INSULGL	CLR ANOD	F6	HM	3		101	
101A	D2		AL	10'-0"	10'-0"	INSULGL	CLR ANOD	F6	HM	3		101A	
101B	D2		AL	10'-0"	10'-0"	INSULGL	CLR ANOD	F6	HM	3		101B	
101C	D2		AL	10'-0"	10'-0"	INSULGL	CLR ANOD	F6	HM	3		101C	
102	D1		HM	8'-0"	7'-0"		P-2	F2	HM	7		102	
102B	D1		HM	3'-0"	7'-0"		P-2	F2	HM	13		102B	
105	D1		HM	8'-0"	7'-0"		P-2	F2	HM	8	INSULATED	105	
106	D1		HM	8'-0"	7'-0"		P-2	F2	HM	7		106	

ABBREVIATIONS	DESCRIPTION AND FINISH		
	TYPE	DESCRIPTION AND FINISH	
AL	ALUMINUM	D1	HOLLOW METAL DOOR, INSULATE EXTERIOR DOORS, PAINT TO MATCH ADJACENT WALL COLOR. EXTERIOR DOORS PAINT P-1
ANOD	ANODIZED	D2	CLOPAY GLASS SECTIONAL OVERHEAD DOOR MODEL 9044 CLEAR INSULATING GLASS. COLOR TO MATCH P-1
CLR	CLEAR		
GL	GLASS		
HM	HOLLOW METAL		



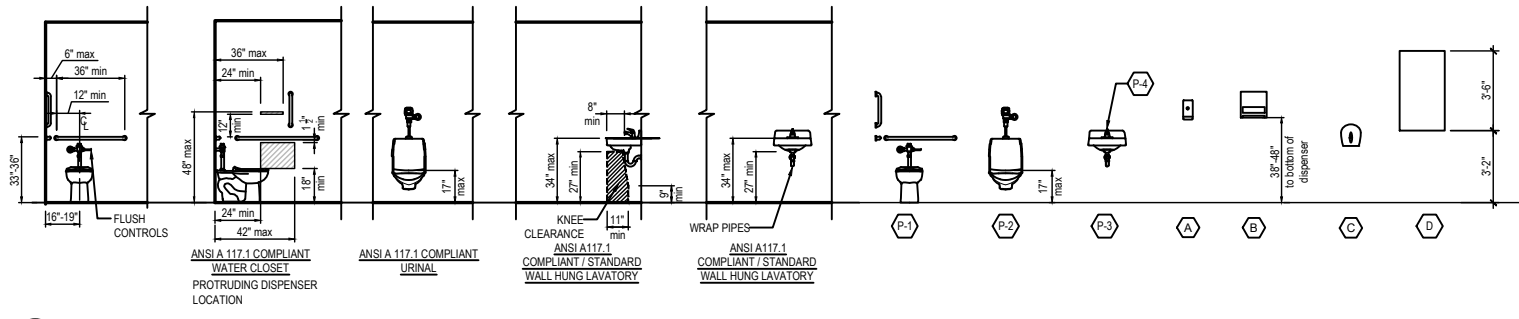
5 DOOR TYPES
SCALE: 1/4"=1'-0"



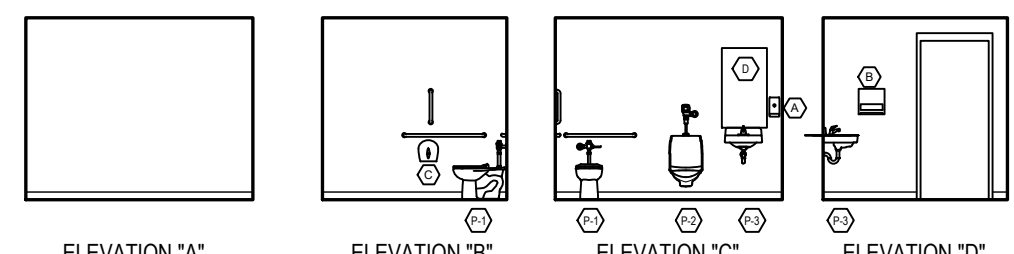
2 ROOF PLAN
SCALE: 1/8"=1'-0"

ITEM	DESCRIPTION
P-1	WC, WATER CLOSET, ADA COMPLIANT, AMERICAN STANDARD, "MODERNA FLOW" SE W / AMERICAN STANDARD BELLEFONTAIN 1.28 GPF PISTON SENSOR FLUSH VALVE
P-2	URINAL, AMERICAN STANDARD WASHBOOK W/ 3/4" T OF 3/8"UD AND AMERICAN STANDARD #101051 FLUSH VALVE
P-3	LAVATORY, AMERICAN STANDARD, RED ALYN WALL MOUNTED LAVATORY
P-4	FALUET, AMERICAN STANDARD MONTERAY MODEL # 50 01 T0
P-5	MUST BE 28CF LAUNDRY TUB W/ FAUCET

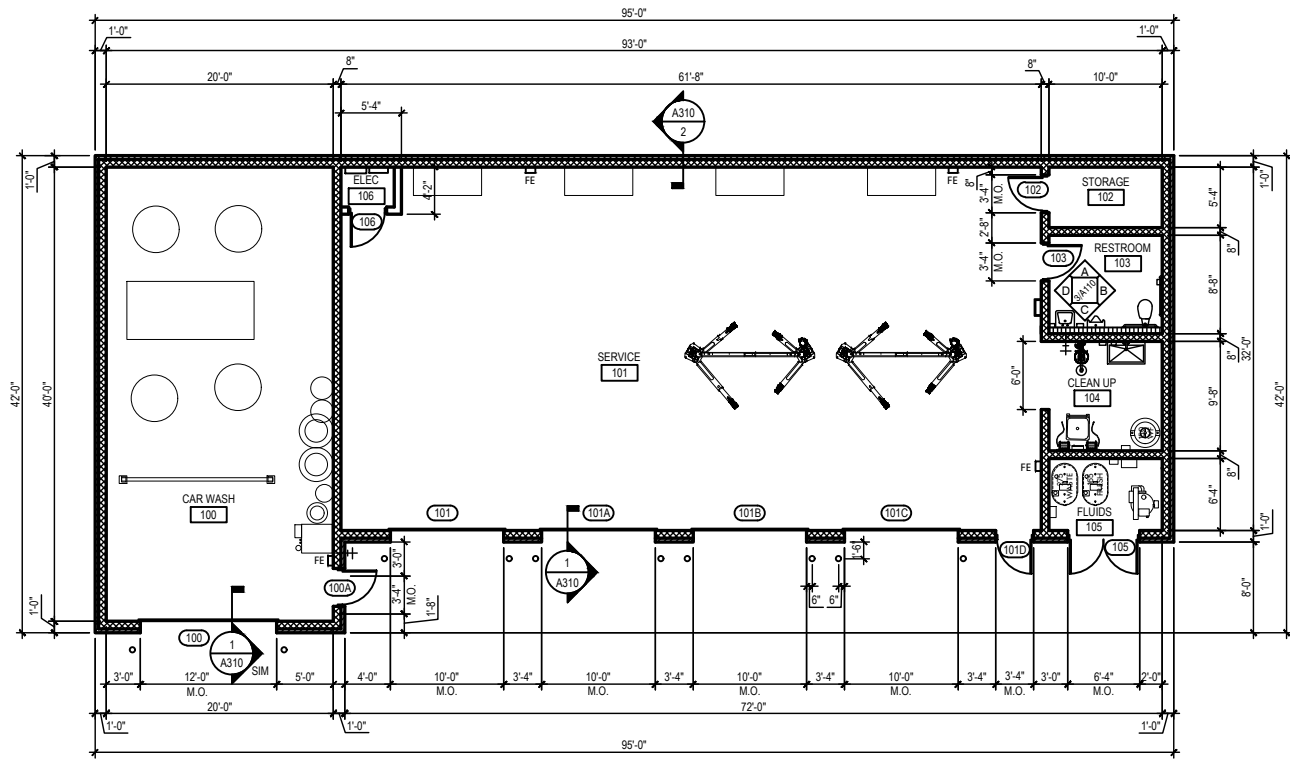
PLUMBING ACCESSORIES
A SOAP DISPENSER AS SELECTED BY OWNER
B ULINE H-7554, STAINLESS STEEL FOLDED PAPER TOWEL DISPENSER
C BOBERICK B-2888 SURFACE MOUNTED TOILET TISSUE DISPENSER
D 1/4" GLASS MIRROR W/ SPRING LOADED MIRROR CLIPS



8 FIXTURE AND ACCESSORY MOUNTING HEIGHTS
SCALE: 1/4"=1'-0"

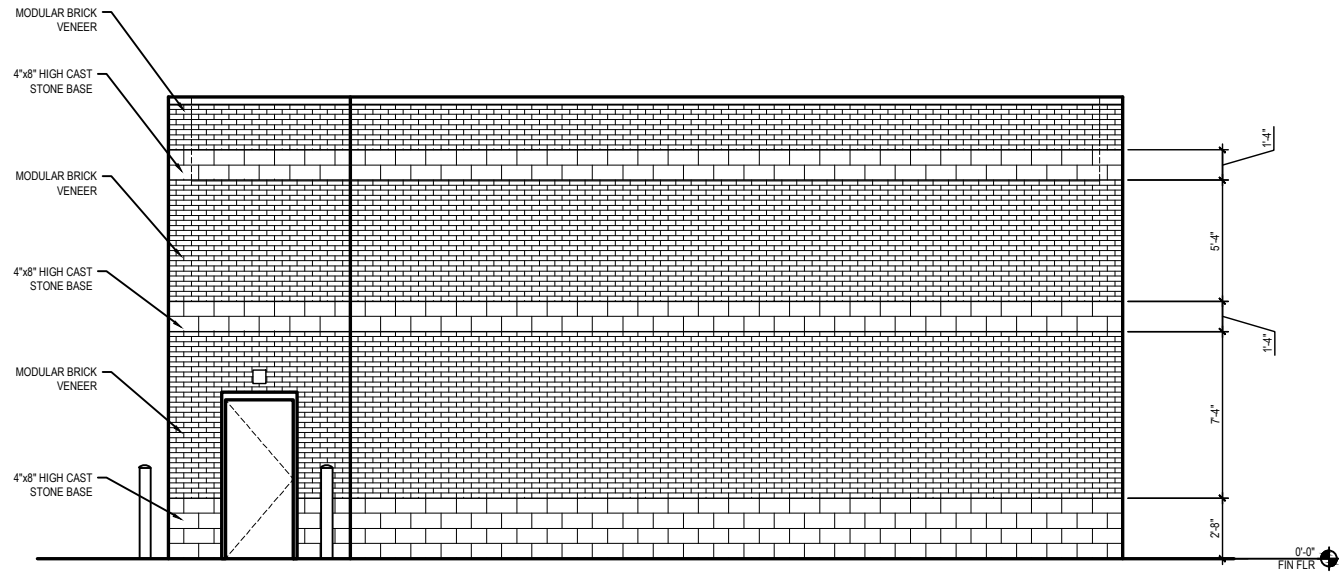


ELEVATION "A"
ELEVATION "B"
ELEVATION "C"
ELEVATION "D"
3 RESTROOM
SCALE: 1/4"=1'-0"

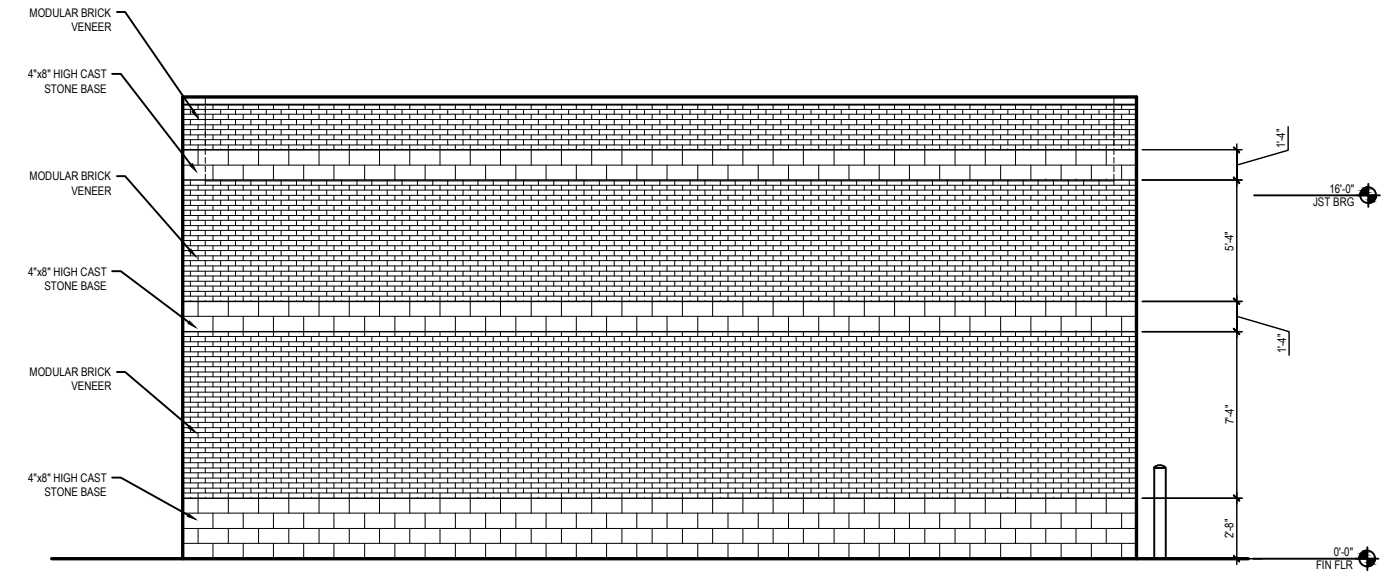


1 FLOOR PLAN
SCALE: 1/8"=1'-0"

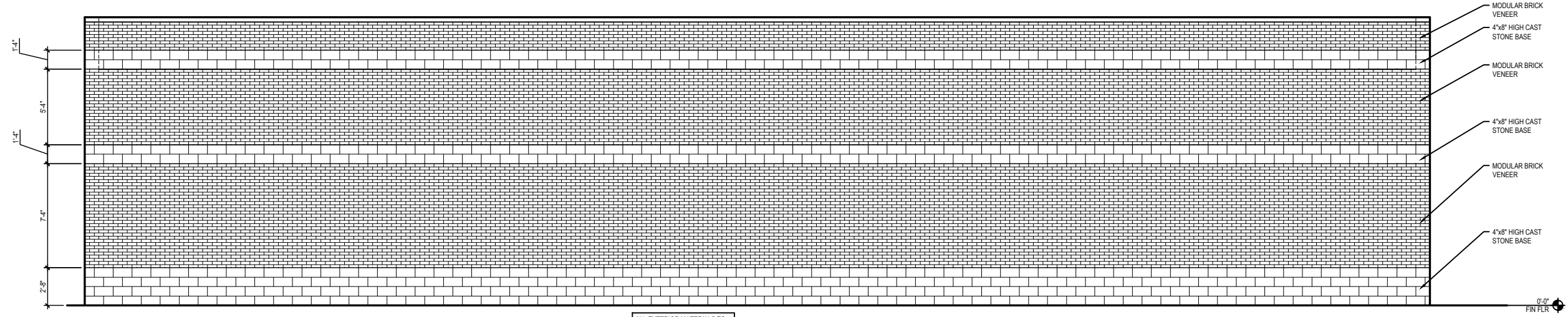
ISSUED	DATE
OWNER REVIEW	02/15/2023
OWNER REVIEW	04/05/2023
ZONING APPEAL	05/25/2023
SHEET TITLE	FLOOR PLANS AND SCHEDULES
SCALE	COMM NO
DRAWN BY	E-12072.00
DATE	
SHEET #	A110



3 EAST ELEVATION
A200 SCALE: 1/4"=1'-0"

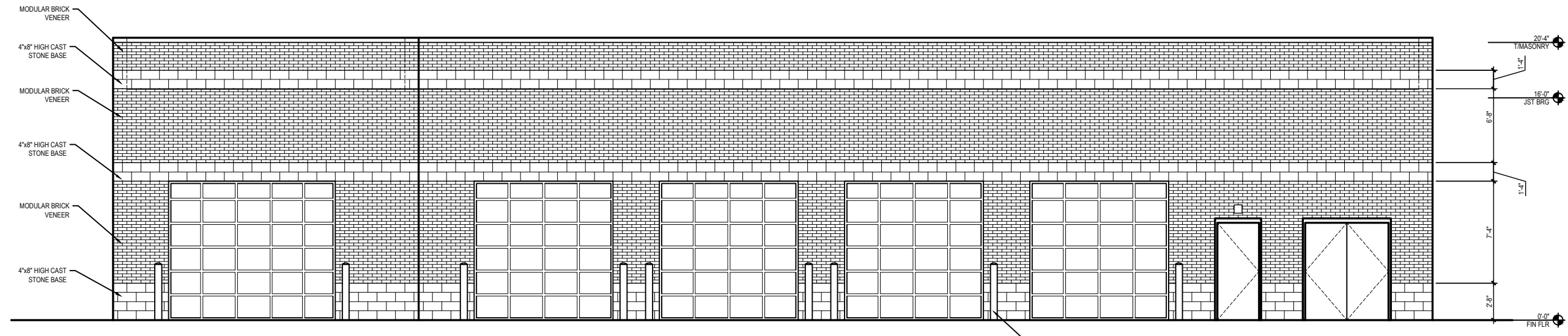


4 WEST ELEVATION
A200 SCALE: 1/4"=1'-0"



2 NORTH ELEVATION
A200 SCALE: 1/4"=1'-0"

ALL EXTERIOR MATERIALS TO MATCH THE EXISTING BUILDING MATERIALS AND COLORS



1 SOUTH ELEVATION
A200 SCALE: 1/4"=1'-0"

4" HIGH BOLLARD
PAINT SAFETY YELLOW
TYP ALL

NOT FOR CONSTRUCTION

ISSUED	DATE
OWNER REVIEW	02 / 15 / 2023
OWNER REVIEW	04 / 05 / 2023
ZONING APPEAL	05 / 25 / 2023

SHEET TITLE
EXTERIOR ELEVATIONS

SCALE	COMM. NO.
DRAWN BY	E-12072.00
	DATE

SHEET #
A200

CITY OF MONTGOMERY BOARD OF ZONING APPEALS

Application for Variance: *7933 Cooper Road*

June 20, 2023
Staff Report

Applicant: Matt Stanley, Legendary Homes
P.O. Box 43186
Montgomery, Ohio 45140

Property Owner: Michele Stanley Homes, LLC

Vicinity Map:



Nature of Request:

Applicant is proposing to construct a new single-family dwelling at 7933 Cooper Road. The applicant is requesting a variance to allow a portion a new single-family dwelling to have side yard setbacks of 10.4' on both sides where 151' is required per Schedule 151.1005 of the Montgomery Zoning Code.

Zoning:

This property is zoned 'A' single family residential. The surrounding properties are also zoned 'A' single family residential. In addition, this property is within the city's Heritage Overlay District.

Findings:

1. The applicant is proposing to construct a new two-story house on the vacant lot at 7933 Cooper Road with a front entry garage.
2. The lot is approximately 10,233 square feet in size, which is significantly less than the required 20,000 square foot minimum lot size in the 'A' district.
3. The width of the property is 64' which is less than the 80' minimum required in the 'A' district.
4. The current home has side yard setbacks of 9.4' on the western side and 14.5' on the eastern side. Neither meets the current setback requirement for the district.
5. The applicant is proposing to meet the front yard setback requirement based upon Section 151.1005(B) which allows for a reduced front yard setback, as more than 40% of the homes located on this block do not meet the current setback requirement. The applicant is proposing a 20' front yard setback and a 64.8' rear yard setback.
6. This submittal was heard at the June 8, 2023 Landmarks Commission meeting. The Landmarks Commission was in support of the project.

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. *Are there special conditions and circumstances which are peculiar to the land or structure involved, which are not applicable generally to other lands or structures in the same zoning district?*

The lot size and lot width are legal non-conforming making constructing a new home on the lot challenging. The lot is approximately 10,233 square feet, approximately half of our minimum required square footage of 20,000 and the width is 64' which is 16 feet less than our required 80' lot width. Staff believes these lot conditions are unique and some amount of variance is warranted due to the difficulties of the lot.

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

Staff believes the non-conforming lot width and size would negatively impact the rate of return of the lot.

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

The variance from the required side-yard setbacks for the principal building is significant because the applicant is requesting a 30% reduction in the required side-yard setbacks. Staff is of the opinion that the variance request is reasonable and the minimum necessary for a new single family dwelling unit of standard size to be centered on the lot. Staff believes some reduction in side-yard setbacks is warranted due to the non-conforming lot width and lot size.

4. *Will the character of the neighborhood be substantially altered? Would adjoining properties suffer substantial detriment as a result of the variance?*

Staff does not believe that the character of the neighborhood would be substantially altered by granting the variance. The subject lot and the lots to the east and west on the block are small and relate to the Heritage District in terms of lot size and width. A majority of the lots within this area are legal nonconforming with regards to lot width, size and side yard setbacks. Therefore, Staff does not believe that granting the variances would have a negative impact on the properties to the northwest or southeast.

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 property owner was aware of the zoning restraint 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 action of the owner.

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

The subject lot has a narrow lot width and small overall square footage; therefore, it would be difficult to build on the property without some amount of a variance for side-yards setbacks.

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

The spirit and intent of Sections 151.50 would not be preserved by granting the variance for the principal building because non-conforming structures which are demolished are required to meet the requirements on the Zoning Code; however, Staff does not believe that it is the intent of the Zoning Code to inhibit improvements if it would not have a negative impact on the neighborhood and a practical difficulty has been established. The subject lot is narrow and has small square footage which creates a practical difficulty and Staff does not believe that granting the variances would negatively impact the neighborhood.

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 granting these variances would not confer on the applicant any special privilege that is denied to other properties in the district, as a practical difficulty has been established for the subject lot and granting the variance would not negatively impact the

neighborhood. In addition, similar variances have been previously approved:

- 2006 for 7735 and 7733 Cooper Road to allow for side yard setbacks of 8' where 15' was required for two new single family dwellings;
- 2016 for 7549 Cooper allowing side yard setbacks of 8' where 15' was required;
- 2017 for 7547 Cooper Road to allow side yard setbacks of 8' where 15' was required for a new single family.
- 2019 for 7941 Cooper Road to allow a side yard setback of 10.5' where 15' was required for a new single family.
- All of these lots were also non-conforming in lot width and lot size.

Staff Comments and Recommendations

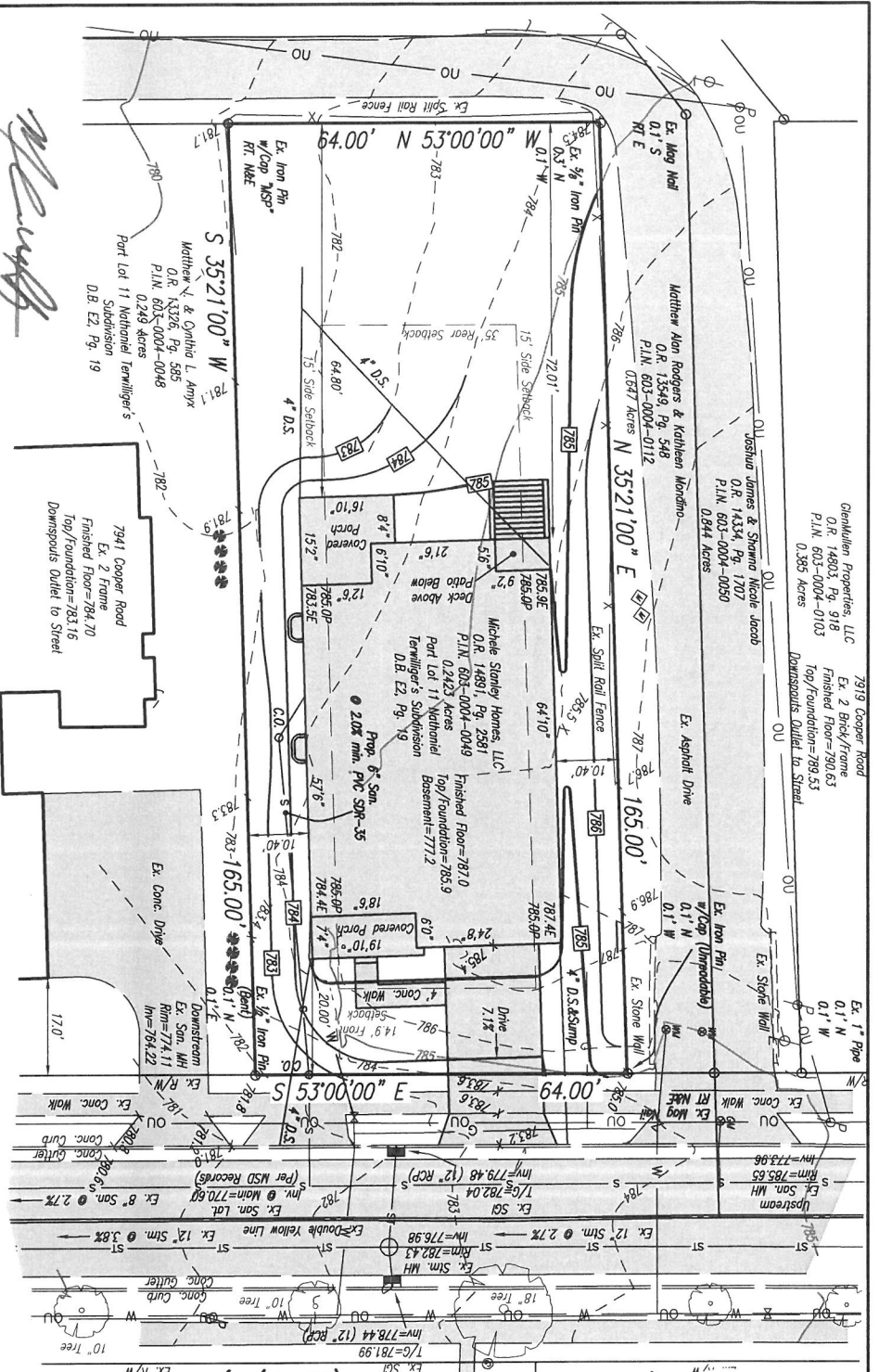
Staff believes that the narrow lot width and reduced overall lot size for this property creates a practical difficulty that makes it challenging to build on the lot without some variance in regards to side-yard setbacks. Staff does not believe that the neighborhood would be negatively impacted by granting the variance as the applicant must adhere to the standards required in the Heritage Overlay District. In addition, the Landmarks Commission supports the proposed new single family dwelling.

Approving the variance to allow for side yard setbacks of 10.4' in accordance with the house as shown in plans dated May 24, 2023 where 15' side yard setback is required could be justified by criteria # 1, 2, 3, 4, 5, 7, 8, 9 and 10.



5/24/23

Melvin W. Pistor, Jr.



FRONT YARD SETBACK AVERAGE:
 7913 COOPER ROAD - 23.2'
 7919 COOPER ROAD - 10.7'
 7941 COOPER ROAD - 17.0'
 7945 COOPER ROAD - 8.6'
 SETBACK AVERAGE - 14.9'

BUILDER
 LEGENDARY CUSTOM HOMES
 7832 LAUREL AVENUE
 CINCINNATI, OHIO 45243
 PH: (513) 226-3638

SCALE	DATE	JOB NO.	DRWN	REV.
1"=20'	5-24-23	23-0041	MP	1
				4

SECTION 3, TOWN 4, ENTIRE RANGE 1
 MIAMI PURCHASE, SYCAMORE TOWNSHIP
 CITY OF MONTGOMERY, HAMILTON COUNTY, OHIO

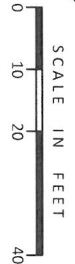
PROPOSED IMPROVEMENTS

Abercrombie
 & Associates, Inc.
 Civil Engineering + Surveying
 8111 Cheviot Road, Suite 200 - Cincinnati, Ohio 45247
 513-385-5757 • www.abercrombie-associates.com

COOPER ROAD (50' R/W)

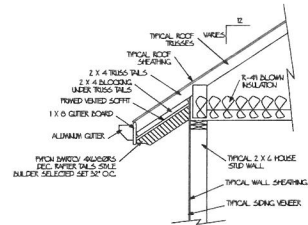
○	Ex. Utility Pole
□	Ex. Electric Meter
◇	Ex. A.C. Unit
△	Ex. Fire Hydrant
▽	Ex. Water Valve
⊙	Ex. Water Meter
⊗	Ex. Gas Valve
⊕	Ex. Gas Meter
⊖	Ex. Clean Out
○	Ex. Sanitary Sewer Manhole
—	Ex. Overhead Utility Lines

LEGEND

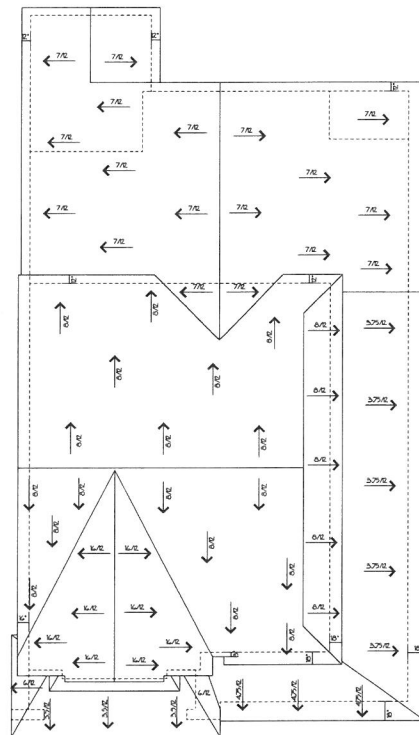


GENERAL NOTES:

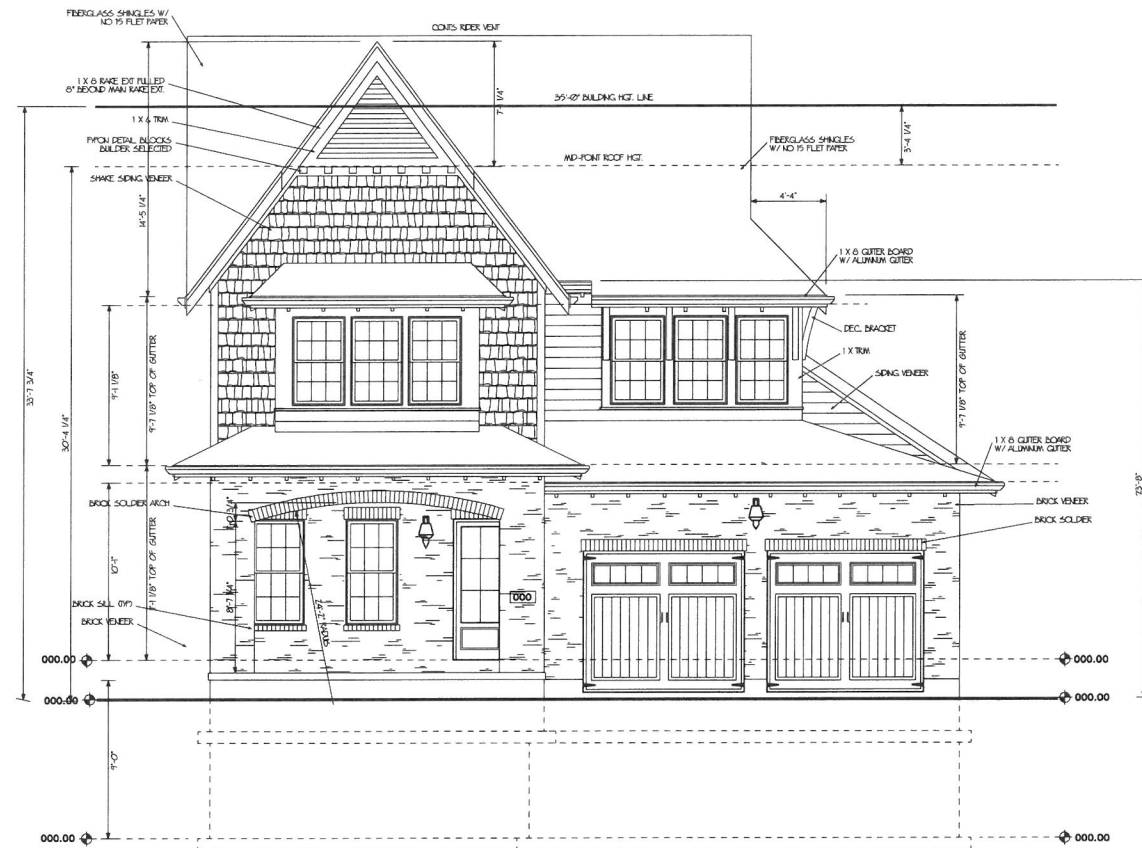
1. HOUSE DESIGN TO MEET ALL REQUIREMENTS OF RESIDENTIAL CODE OF OHIO - 2018 RCO
2. ANY 3 OR MORE WOOD BEAMS MUST BE BOLTED W/ 1/2" DIA BOLTS
3. 2" O/C STAGGERED
4. ALL SMOKE DETECTORS 10 VOLTS W/ WIRE, INTER CONNECT, BATTERY BACK UP EACH LEVEL TO HAVE MIN ONE LOCATION AND ONE PHOTOELECTRIC SMOKE DETECTOR OR ONE COMB UNIT SMOKE DETECTORS OUTSIDE SLEEPING AREA TO BE MIN PHOTOELECTRIC PER SECTION R203.4
5. ALL WALKS AND DRIVEWAYS 3 1/2" MINIMUM THICKNESS
6. ALL EXPOSED WINDOWS TO HAVE MIN OPENING HEIGHT OF 24" WITH OF 30" AND MAX 4" SILL HGT
7. 2" MIN DEPTH FROM NOSE OF WATER CLOSET, 30" MIN WIDTH
8. ALL ATTIC ACCESS PANELS TO BE MINIMUM 22" X 30"
9. VENT DRYER AND ALL BATHROOM EXHAUSTS TO THE OUTSIDE
10. PROVIDE ONE BATH FAN TO RUN CONTINUOUS AT 50 CFM LOCATION TO BE DETERMINED ON PLANS
11. ALL EXIT DOORS TO HAVE 3" X 3" MIN LANDING, SHALL NOT BE MORE THAN 8 1/4" BELOW THE TOP OF THRESHOLD
12. PROVIDE BRIDGING FOR ALL FLOOR JOINT
13. INSTALL COMBUSTION AIR TO FIREPLACES
14. PROVIDE FRISTOPPING FOR ALL HOR. AND VER. OPENINGS BETWEEN FLOORS
15. WALL BRACING METHOD C-115/F CONTINUOUS SHEATHING METHODS TO BE USED WITH 7/8" SHEATHING AT ALL EXTERIOR WALL SURFACES. USE CODE TABLE 602.3(3) FOR ATTACHMENT REQUIREMENTS USE PORTAL FRAME WALL DETAIL AT GARAGE DOOR OPENING WHERE SHOWN W/ SHEAR WALLS LOCATION ON PLANS
16. 4" O/C
17. ENGINEERED TRUSS DRINKS TO BE SUPPLIED TO BLDG INSPECTOR PRIOR TO FRAMING INSPECTION W/ ALL UNIFORM SPECIES AND GRADES SIGNED BY DESIGN PROFESSIONAL
18. ALL WALL SHEATHING SEAMS TO BE BACKED BY BLOCKS EQUAL TO STEP SIZE
19. CONCRETE PSI RATINGS FOOTINGS & BASEMENT SLABS 3000 PSI FOUNDATION WALLS 3000 PSI EXTERIOR CONC. FLAT WORK & GARAGE FLOORING 4500 PSI GARAGE FLOORS & EXTERIOR CONCRETE & FOUND. WALLS REGULAR SI TO 75 ENTRANCEMENT
20. PROVIDE INSIDE/OUTSIDE STAIRWAY ILLUMINATION OPENCOVERED PORCHES, SCREENED PORCHES, DECKS, ECT. W/ MIN 50 CFM
21. METALL ALL RES-BRAND PRODUCTS ON THIS HOUSE PER MANF. SPEC.
22. ALL GLASS GLAZING U_g = 0.32 MAX.
23. ALL DOORS HAVING GLASS PANELS SLOUGHT/TRANSOMS TO BE TINT GLASS
24. ALL EXPOSED FASTENERS TO BE HOT-DIPPED GALVANIZED OR STAINLESS STEEL
25. PROVIDE CARBON MONOXIDE ALARM IN EACH AND DIRECTLY OUTSIDE ALL SLEEPING AREAS
26. RESIDENCE ENERGY COMPLIANCE USING OSHA ALTERNATIVE CODE COMPLIANCE PATH #2 FOLLOW ALL CHAPTER 1 CODE REQUIREMENTS
27. HOUSE TO HAVE PROGRAMMABLE THERMOSTAT



TYPICAL EAVE DETAIL
SCALE: 1/2" = 1' - 0"

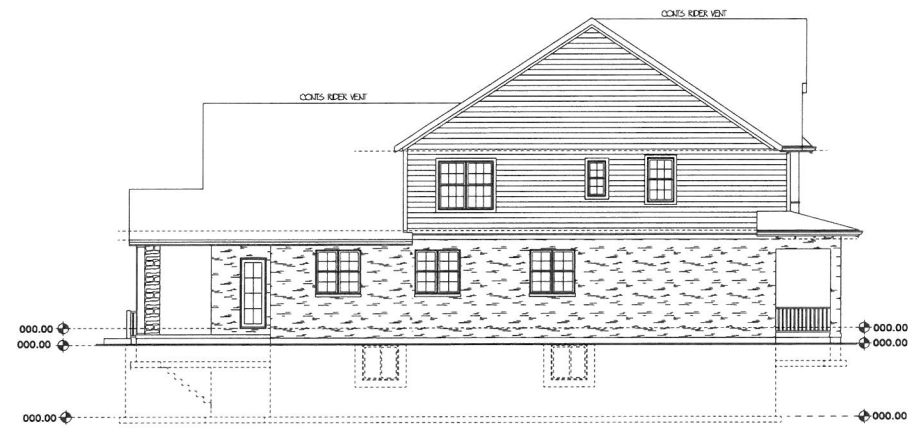


ROOF PLAN
SCALE: 1/8" = 1' - 0"

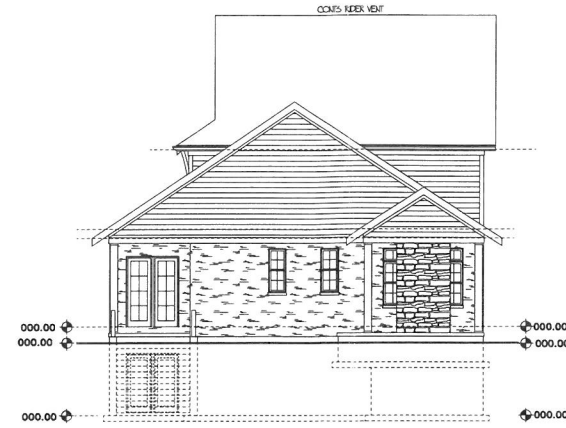


FRONT ELEVATION
SCALE: 1/4" = 1' - 0"

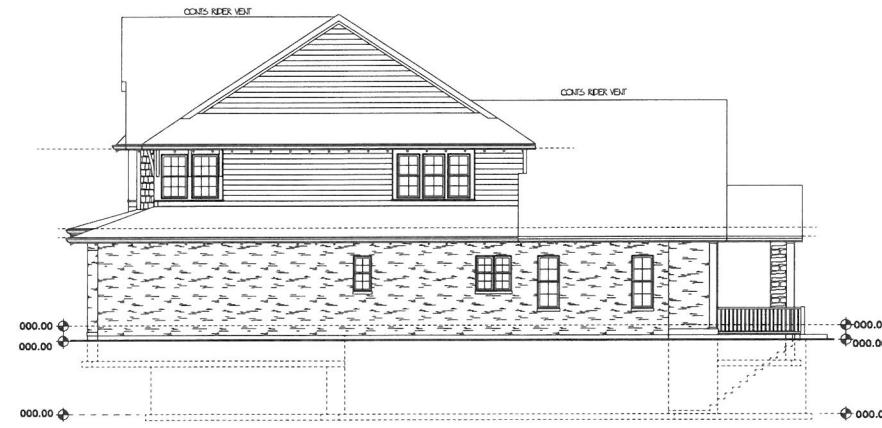
FIRST FLOOR = 000.00
GARAGE FLOOR = 000.00
BASEMENT FLOOR = 000.00



LEFT SIDE ELEVATION
SCALE: 1/8" = 1' - 0"



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



RIGHT SIDE ELEVATION
SCALE: 1/8" = 1' - 0"

Matthew Kirsch
10881 WILSON RD. #1000
CINCINNATI, OH 45241
753-472-7521

Drawn by	M. KIRSCH
Checked by	
Date	



EVERY EFFORT HAS BEEN MADE IN THE PREPARATION OF THESE PLANS TO INSURE THEIR ACCURACY. HOWEVER, THE ARCHITECT ASSUMES NO LIABILITY FOR ANY OMISSIONS, ERRORS, OR INADEQUACIES IN THE PLANS. THE USER OF THESE DOCUMENTS TO CHECK ALL DIMENSIONS, SPECIFICATIONS, AND CONDITIONS AND ASSUME RESPONSIBILITY FOR VERIFICATION OR CORRECTIVE ACTION.

RESIDENCE FOR:
MARKET HOUSE

Address: **7933 COOPER ROAD**

Home Type: **CUSTOM**

Lot No.

Sheet No. **1**

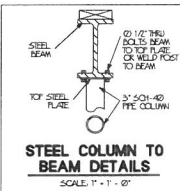
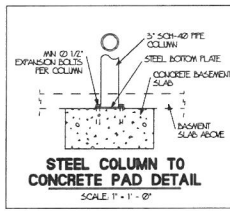
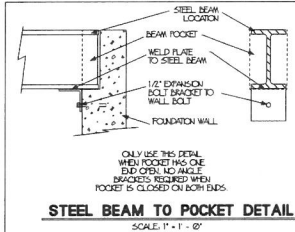
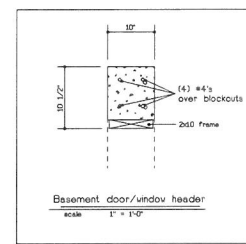
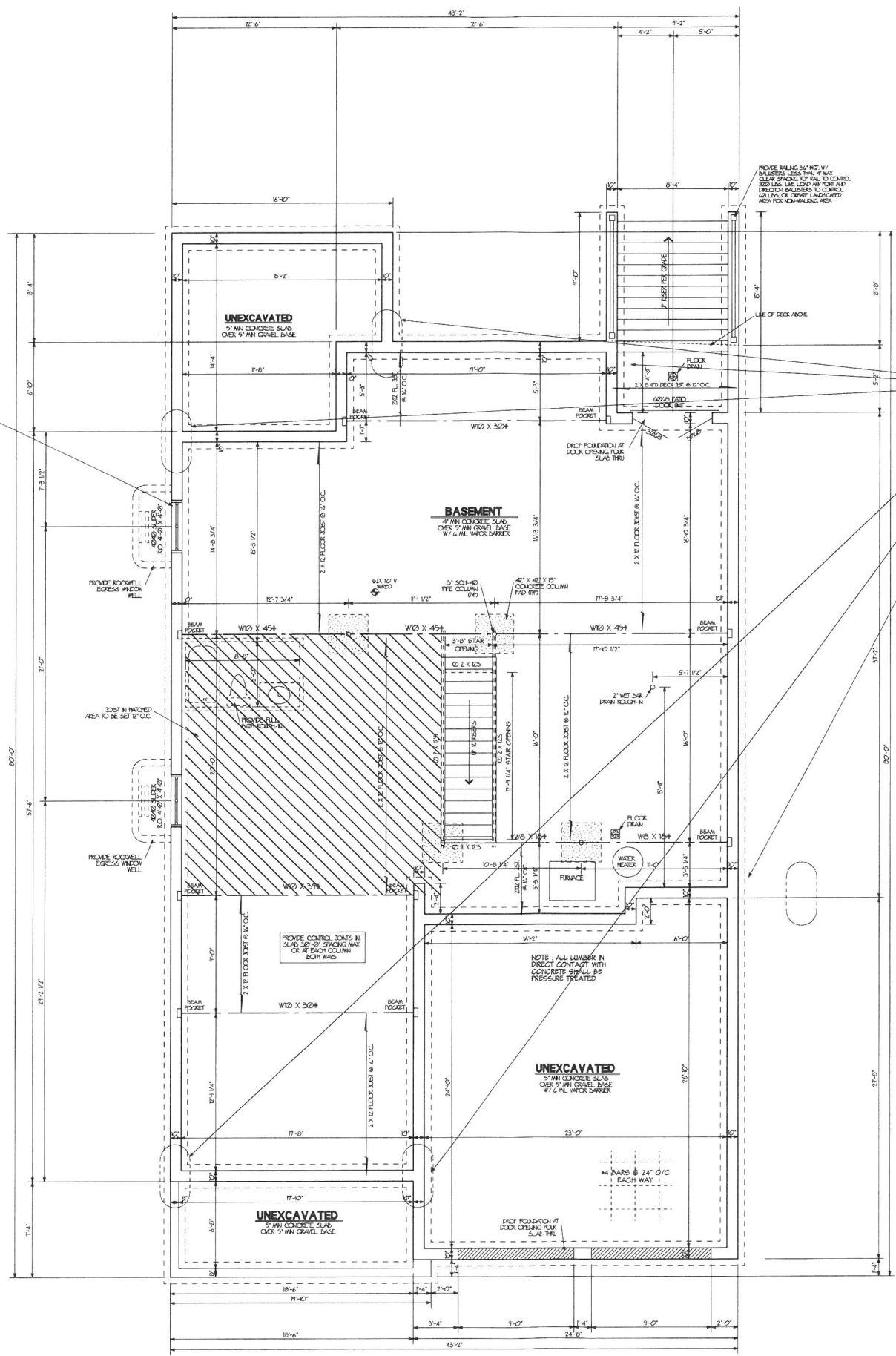
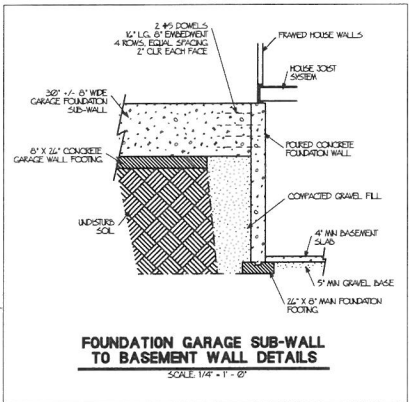
Matthew Kirsch
 15306 N. Highway 10, South
 Elmhurst, IL 60120
 (630) 477-7581

Drawn by:	M. KIRSCH	DATE:	
Checked by:		DATE:	
Scale:	1/4" = 1'-0"	Scale:	
Project:		Project:	
Client:		Client:	



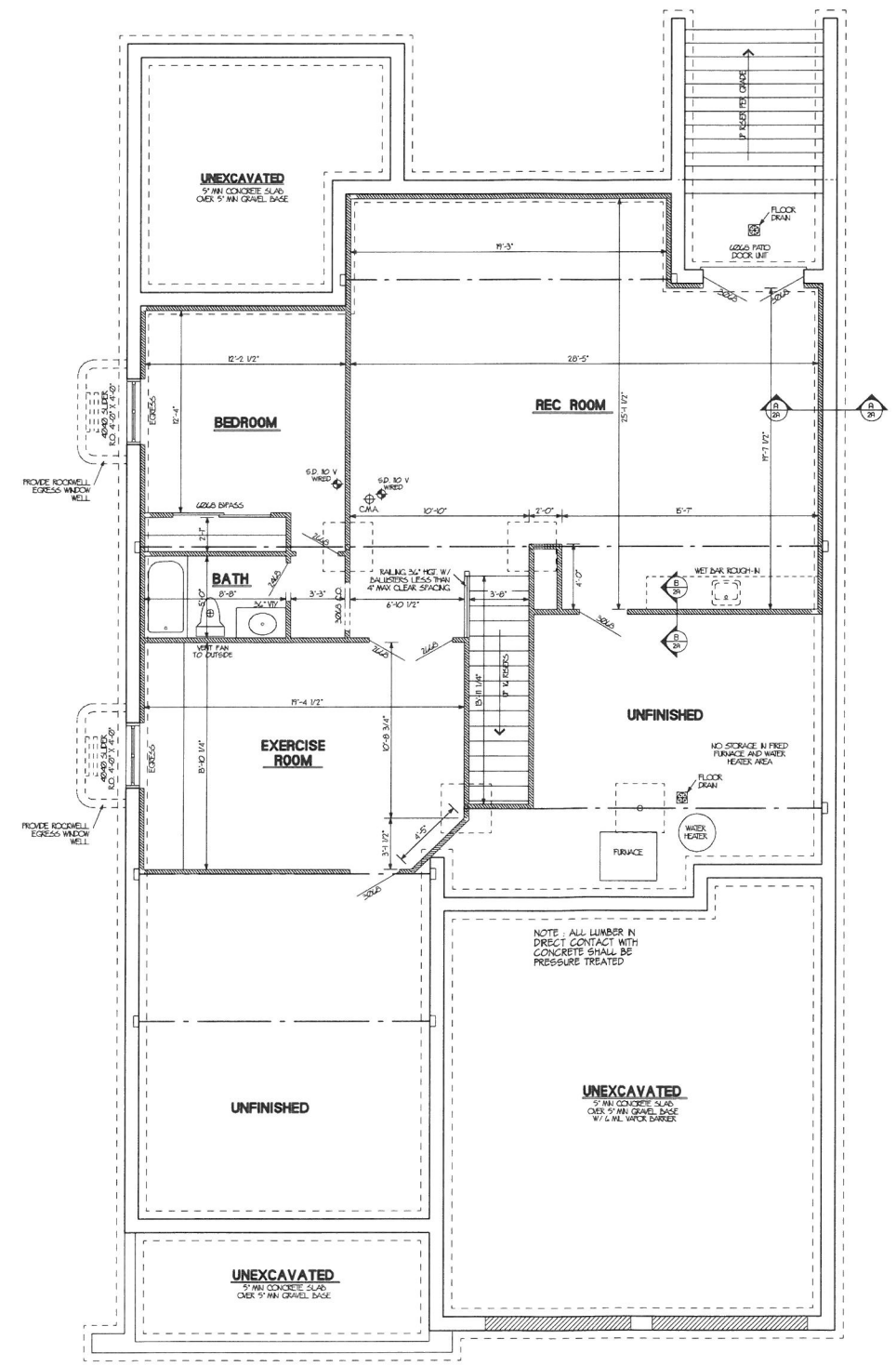
EVERY EFFORT HAS BEEN MADE IN THE PREPARATION OF THESE PLANS TO INSURE THEIR ACCURACY. HOWEVER, THE CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND CONDITIONS ON THE JOB. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND FOR VERIFYING THE EXISTING CONDITIONS OF THE SITE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF ALL DIMENSIONS AND CONDITIONS ON THE JOB. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF ALL DIMENSIONS AND CONDITIONS ON THE JOB.

RESIDENCE FOR:	MARKET HOUSE
Address:	7933 COOPER ROAD
Home Type:	CUSTOM
Lot No.	
Sheet No.	2

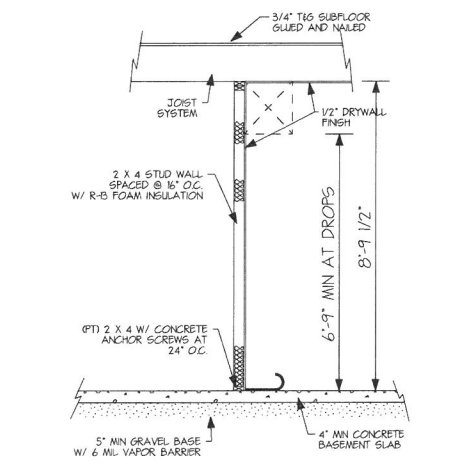
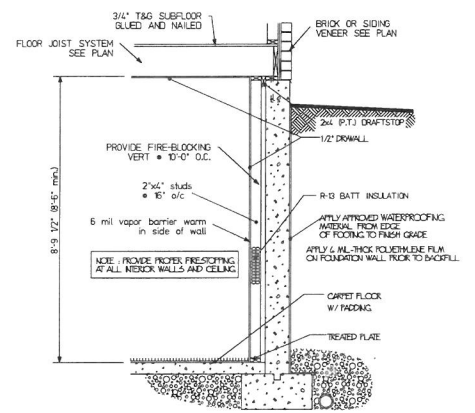


- FOUNDATION NOTES:**
- Do not scale drawings. Foundation contractor to take care to note location of all plates for the purpose of location of the anchor bolts.
 - Footings - typical 26" w x 8" concrete continuous and a full keyway. Footing to bear on solid undisturbed earth or engineered piers. Bottom of footings to be a minimum 30" below grade.
 - Provide 1/2" hot-dipped galvanized anchor bolts at 32" o.c. min. (2) per plate max. 12" from corners. Min. 7" embedment.
 - Provide slab control joints at max. 30'-0" each way.
 - Foundation walls to be coated with spray or brush applied bituminous material. If habitable room are to be located below grade, walls are to be waterproofed with 6 mil. polyethyl chloride membrane or equal.
 - All lumber in direct contact with concrete to be pressure treated.
 - Provide outside combustion air intake for furnace and water heater as required.
 - All foundation walls to be 9'-0" in hgt. and 10" thick unless stated otherwise.
 reinforcing horiz. #1 - #4 bar within 12" of top of wall and 1 - #4 bar near third point in wall story.
 reinforcing vert. :
 w/ 9 feet back fill #4 @ 30" o.c.
 w/ 8 feet back fill #5 @ 30" o.c.
 w/ 7 feet back fill #5 @ 30" o.c.
 6 feet back fill no vert. steel per code table 404.1.2(B)
 - All windows shown to be as manufactured by Fibra Encompass window units.
 - All exposed fasteners to be hot-dipped galvanized or stainless steel.
 - Provide full depth backing in all joint cavities immediately adjacent to the foundation wall, in areas where the joint parallel the foundation wall. Spacing to match the joint spacing in each area.
 - Basement will be provided with mechanical vent, capable of providing .25 air changes per hour section 303.1 of the 2018 IRC provide insulated duct from outside to the return duct of furnace.

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



**1271 SQ. FT.
FINISHED LOWER LEVEL PLAN**
SCALE: 1/4" = 1' - 0"

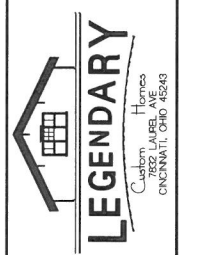


FINISHED BASEMENT

- NOTE:
framing
1.) moisture-resistant gypsum wallboard is required on all walls surrounding shower and tub areas.
2.) R-13 min. in walls (ext.)
3.) apply approved waterproofing material from edge of footing to finish grade habitable space
1.) habitable rooms will be provided with artificial light complying with section 303.1 of the 2019 rco
2.) habit. rooms will be provided with mechanical vent, capable of providing 35 air changes per hour; section 303.1 of the 2019 rco provide insulated duct from outside to the return duct of furnace
3.) habitable basement ceiling heights:
7'-0" min. ceiling hgt. / 6'-8" min. at drops.
4. All windows shown to be as manufactured by customer selected window brand.
5. All exposed fasteners to be hot-dipped galvanized or stainless steel.
6. Provide outside combustion air intake for furnace and water heater as required.
7. All Lumber in direct contact with concrete to be pressure treated.
- mechanical
1.) all exhaust fans must be vented to the exterior of the home.
min. 50 CFM for all exhaust fans in bathrooms.
2.) 120,000 BTU
96,000 BTU output
3.) no sleeping is permitted in any basement space unless an egress window/door is provided.
4. All smoke detectors to be 110 volt with battery backup and connected so that if one sounds all sound. each level to have min one ionization and one photoelectric smoke detector or one combo unit. smoke detectors outside sleeping area to be min. photoelectric.
per section rco 314
5.) provide carbon monoxide alarm outside each separate sleeping area in the immediate vicinity of the bedrooms

Matthew Kirsch
1888 Highway 13 North
Buckeye, OH 44826
Phone: 419-775-1551

Drawn by	M. KIRSCH	DATE	12/23/23
Checked by	M. KIRSCH	DATE	12/23/23
Designated by	M. KIRSCH	DATE	12/23/23
Reviewed by	M. KIRSCH	DATE	12/23/23



EVERY EFFORT HAS BEEN MADE IN THE PREPARATION OF THESE PLANS TO INSURE THEIR ACCURACY. HOWEVER, OWNER CANNOT AND DOES NOT GUARANTEE AGAINST OMISSIONS OR ERRORS. THE BUYER OR THE ULTIMATE USER OF THESE DOCUMENTS TO CHECK ALL DIMENSIONS, SPECIFICATIONS AND DRAWING REQUIREMENTS FOR ACCURACY AND REPORT ANY DISCREPANCIES TO OWNER FOR REVISION AT CORRECTIVE COST.

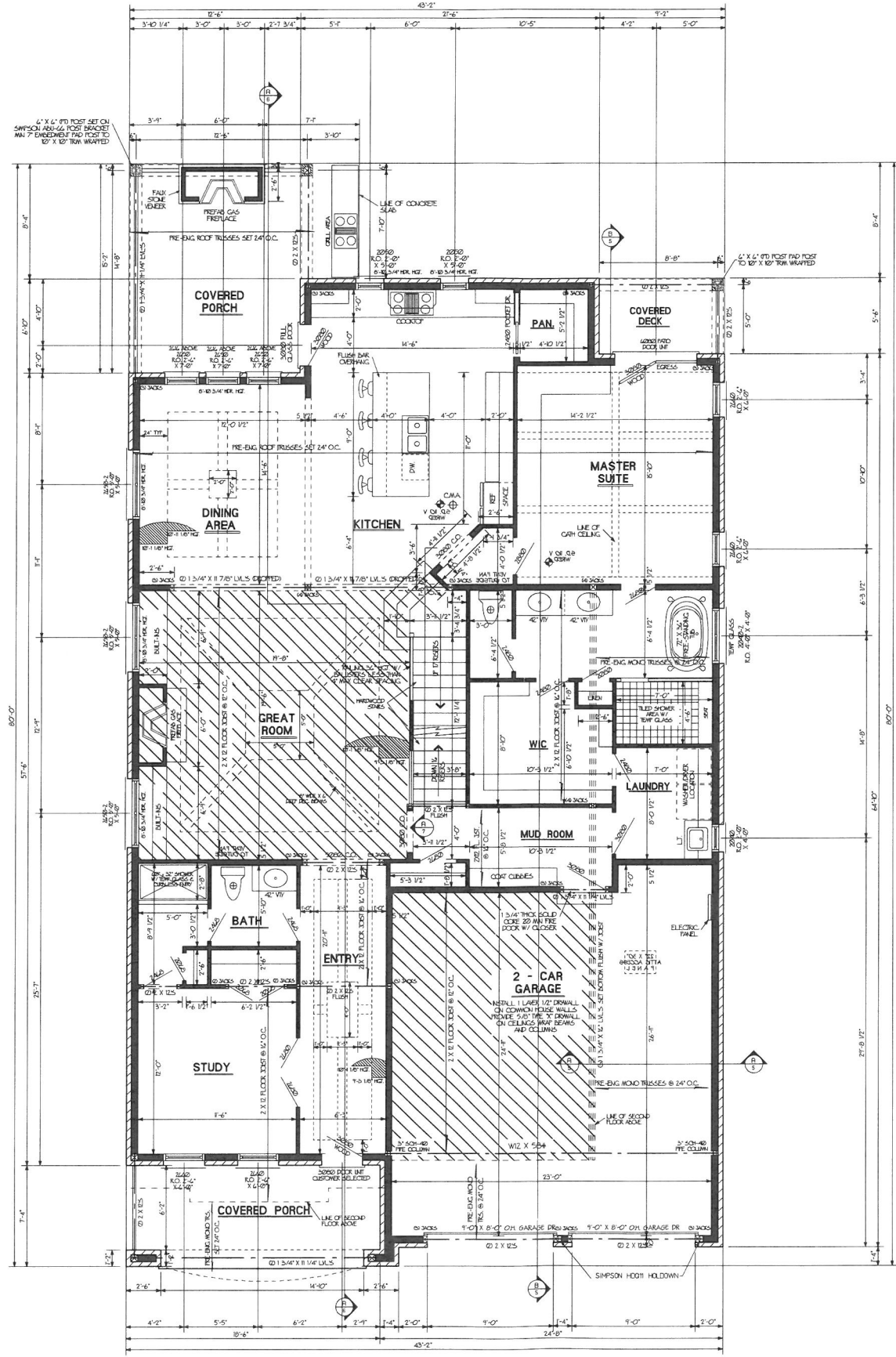
RESIDENCE FOR:
MARKET HOUSE

Address: **7933 COOPER ROAD**

Home Type:
CUSTOM

Lot No.

Sheet No.
2A



**2080 SQ. FT.
FIRST FLOOR FRAMING LAYOUT**
SCALE: 1/4" = 1' - 0"

- FLOOR PLAN NOTES:**
- Do not scale drawings.
 - All temp glass locations to follow 2019 RCD code R08 and connected so that if one sounds all sound.
 - All smoke detectors to be 10 volt with battery backup and connected so that if one sounds all sound.
 - All windows shown to be as manufactured by Vinyl Plus Encompass windows.
 - Standard window header height this floor to be 7'-0 3/4" A.F.F. unless noted otherwise.
 - Ceiling height this floor to be 10'-1 1/8" A.F.F. (rough) unless noted otherwise.
 - All inside/outside stairway/open/covered porch/screened porch/deck/etc., shall be properly illuminated.
 - All wall sheathing seams backed by blocking equal to stud size. Sheathing to run conts. over all plate seams. all sheathing seams shall break over studs or at the midpoint of the rim joist. Sheathing for this floor to be 7/8" o.s.b. attach w/ 16d nails 3" lg. @ 6" o.c. on all intermediate edges and 3" o.c. @ boundary edges.
 - Install guardrails 36" above nosing on all open stairs over 30" high. Guardrails 36" min. above floor on all floors/decks over 30" high. Guardrails shall not allow an object 4" or more in diameter to pass through and shall not be constructed in any pattern that results in a ladder effect.
 - Type 5/8" type X gypsum board for garage ceilings between habitable rooms shall be installed perpendicular to the ceiling framing and shall be fastened at maximum 6 inches o.c. by minimum 1 1/8 inches sd coated nails or equivalent drywall screws.
 - All hall width to be a min. of 36" finished per.
 - All exposed fasteners to be hot-dipped galvanized or stainless steel.
 - No sleeping in area other designated as bedroom areas.
 - provide carbon monoxide alarm in each and directly outside all sleeping areas.
 - All exterior walls to be 2 x 6 studs set 16" o.c. unless stated otherwise.
 - All interior walls to be 2 x 4 studs set 16" o.c. unless stated otherwise.
 - All interior and exterior doors for this floor to be 8 foot tall.

Matthew Kirsch
15586 Highway 10 North
Blair, CT 06009
(860) 477-7551

DATE	DESCRIPTION



EVERY EFFORT HAS BEEN MADE IN THE PREPARATION OF THESE DRAWINGS TO PROVIDE AN ACCURATE REPRESENTATION OF THE GENERAL CONTRACTOR, THE BUILDER OR THE ULTIMATE HOMEOWNER. THE ARCHITECT ASSUMES NO RESPONSIBILITY FOR ANY DISCREPANCIES OR OMISSIONS. THE ARCHITECT WILL NOT BE RESPONSIBLE FOR ANY DISCREPANCIES OR OMISSIONS. THE ARCHITECT WILL NOT BE RESPONSIBLE FOR ANY DISCREPANCIES OR OMISSIONS. THE ARCHITECT WILL NOT BE RESPONSIBLE FOR ANY DISCREPANCIES OR OMISSIONS.

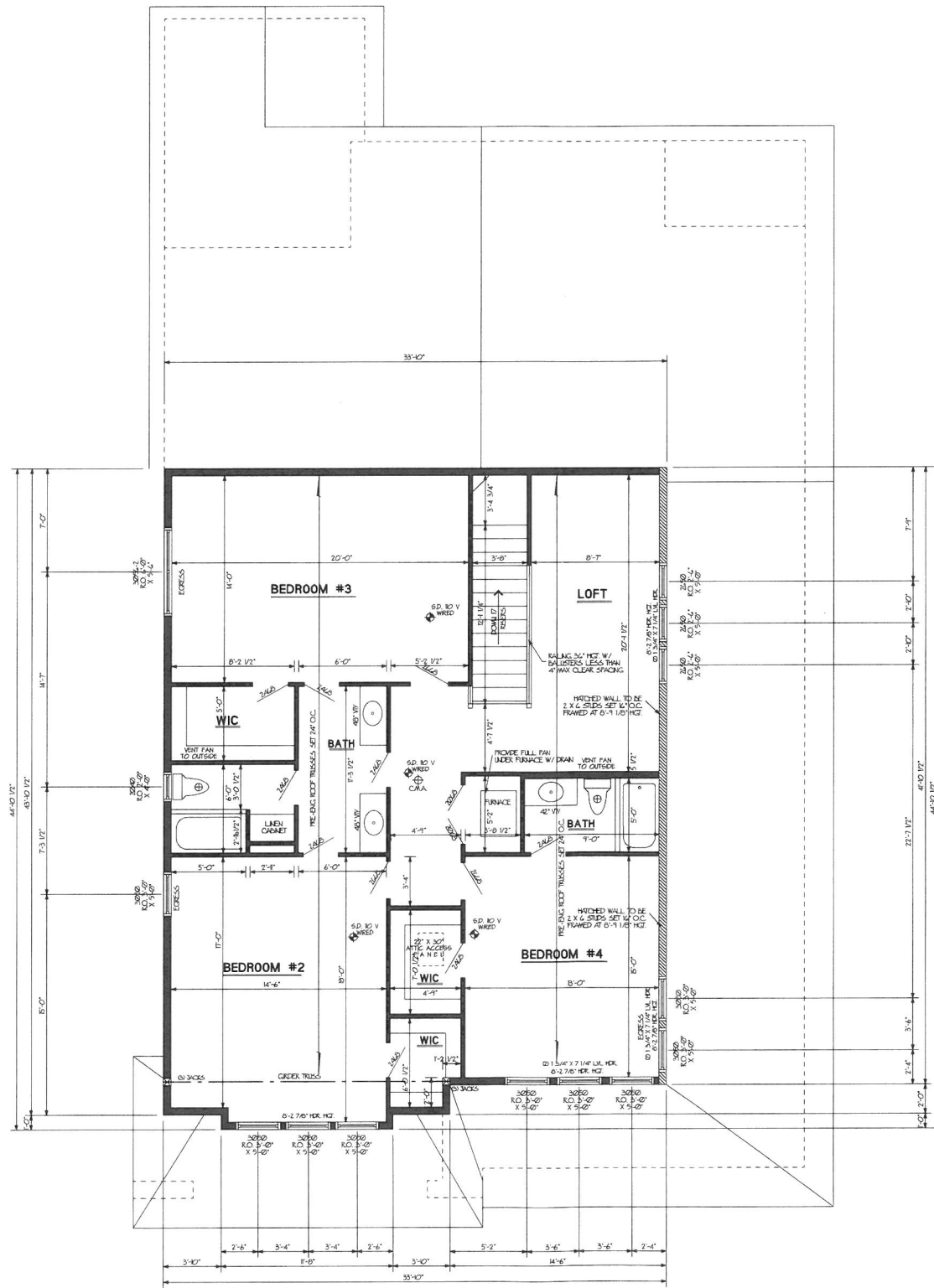
RESIDENCE FOR:
MARKET HOUSE

Address: **933 COOPER ROAD**

Home Type:
CUSTOM

Lot No.

Sheet No.
3



**1470 SQ. FT.
SECOND FLOOR FRAMING LAYOUT**
SCALE: 1/4" = 1' - 0"

- FLOOR PLAN NOTES:**
1. Do not scale drawings.
 2. All temp glass locations to follow 2019 RCD code R008
 3. All smoke detectors to be 10 watt with battery backup and connected so that if one sounds all sound. each level to have min one ionization and one photoelectric smoke detector or one combo unit, smoke detectors outside sleeping area to be min. photoelectric. per section 205.
 4. All windows shown to be as manufactured by Vinyl Plus Encompass windows.
 5. Standard window header height this floor to be 7'-0" 3/4" A.F.F. unless noted otherwise.
 6. Ceiling height this floor to be 9'-1 1/8" A.F.F. (rough) unless noted otherwise.
 7. All inside/outside stairway/open/covered porches/screened porches/decks, etc., shall be properly illuminated.
 8. All wall sheathing seams backed by blocking equal to stud size. Sheathing to run contin. over all plate seams. all sheathing seams shall break over studs or at the mid-point of the rim joist. Sheathing for this floor to be 7/8" o.s.b. attach w/ fast nails 3" to 6" o.c. on all intermediate edges and 3" o.c. all boundary edges.
 9. Install guardrails 3 1/2" above nosing • all open stairs over 30" high. Guardrails 30" min. above floor • all floor/decks over 30" high. Guardrails shall not allow an object 4" or more in diameter to pass through and shall not be constructed in any pattern that results in a ladder effect.
 10. Type 5/8" type X gypsum board for garage ceilings beneath habitable rooms. shall be installed perpendicular to the ceiling framing and shall be fastened at maximum 6 inches o.c. by minimum 1 7/8 inches hot coated nails or equivalent drywall screws.
 11. All hall width to be a min. of 36" finished per
 12. All exposed fasteners to be hot-dipped galvanized or stainless steel.
 13. No sleeping in area other designated as bedroom areas
 14. provide carbon monoxide alarm in each and directly outside all sleeping areas
 15. All exterior walls to be 2 x 6 studs set 16" o.c. unless stated otherwise.
 16. All interior walls to be 2 x 4 studs set 16" o.c. unless stated otherwise.

Matthew Kirsch
1568 Highway 10 north
Bates, KY 40008
606-427-1511

DATE	BY
12-22-23	M. KIRSCH
12-22-23	M. KIRSCH
12-22-23	M. KIRSCH
12-22-23	M. KIRSCH

LEGENDARY Custom Homes
7933 COOPER AVE
CINCINNATI, OH 45243

EVERY EFFORT HAS BEEN MADE IN THE PREPARATION OF THESE PLANS TO INSURE THEIR ACCURACY. HOWEVER, THE USER OF THESE DOCUMENTS TO CHECK ALL DIMENSIONS, ABSTRACT AND REPORT ANY DISCREPANCIES TO OWNER FOR VERIFICATION OF CORRECTIVE ACTION.

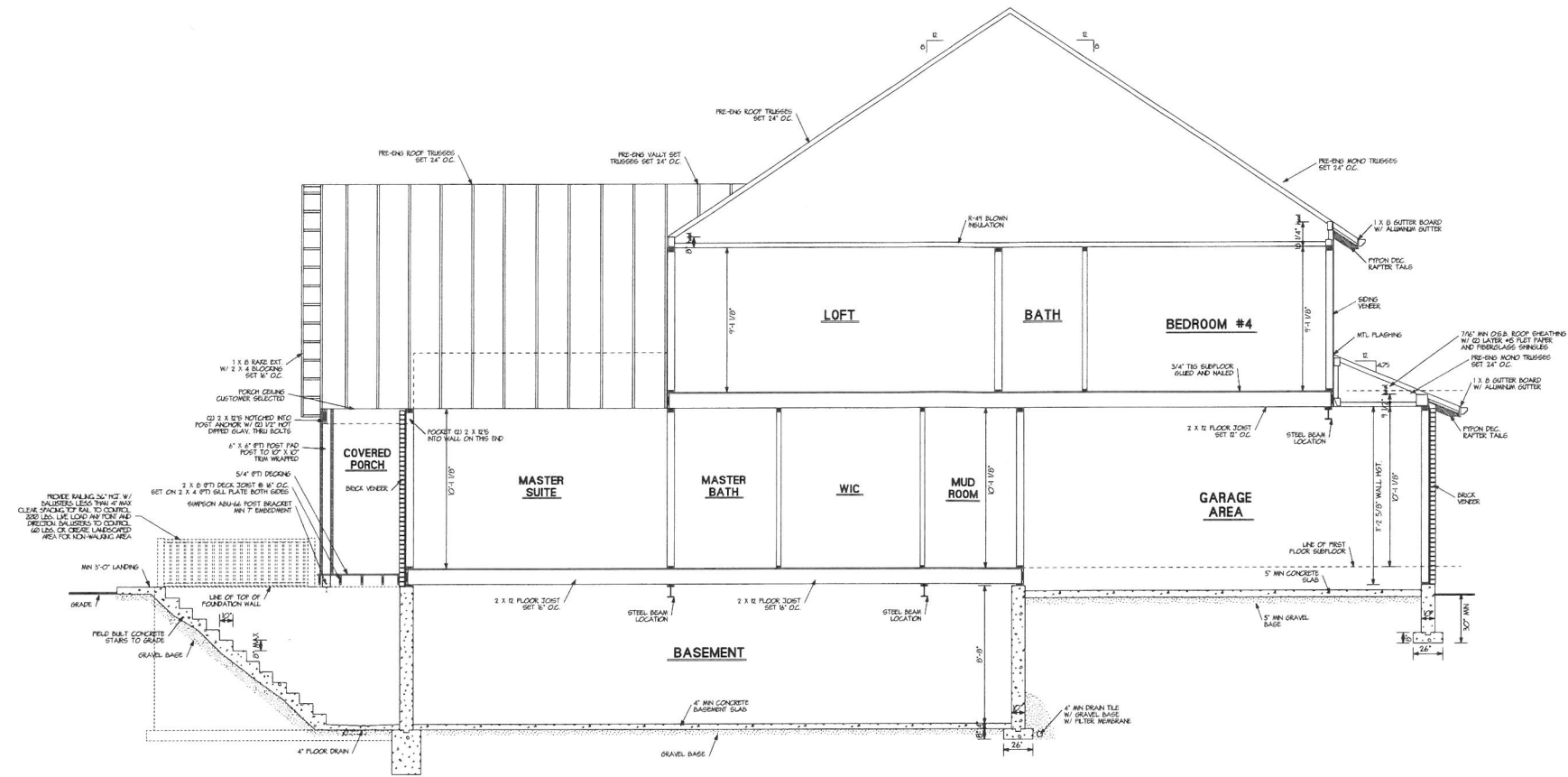
RESIDENCE FOR:
MARKET HOUSE

Address:
7933 COOPER ROAD

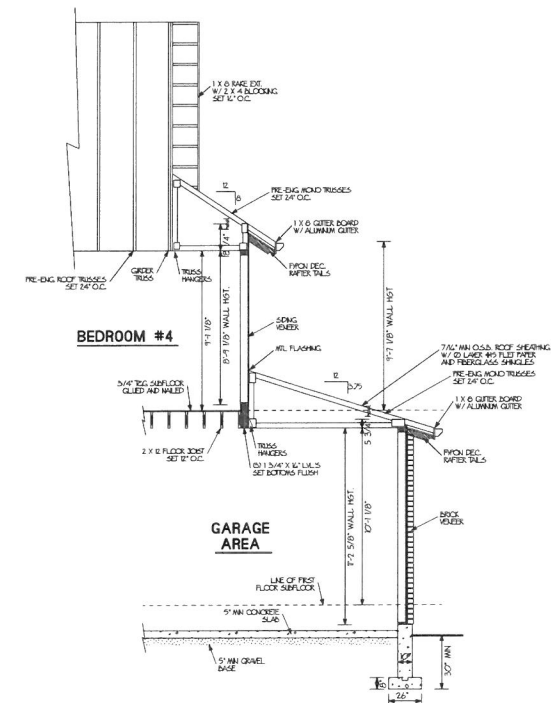
Home Type:
CUSTOM

Lot No.

Sheet No.
4



B HOUSE / GARAGE CUT SECTION
5 SCALE: 1/4" = 1' - 0"



A HOUSE / GARAGE CUT SECTION
5 SCALE: 1/4" = 1' - 0"

Matthew Kirsch

15000 Highway 101 North
Springfield, MA 01103
401-727-2333

DATE	BY

DATE	BY



7933 LABEL AVE.
CINCINNATI, OHIO 45243

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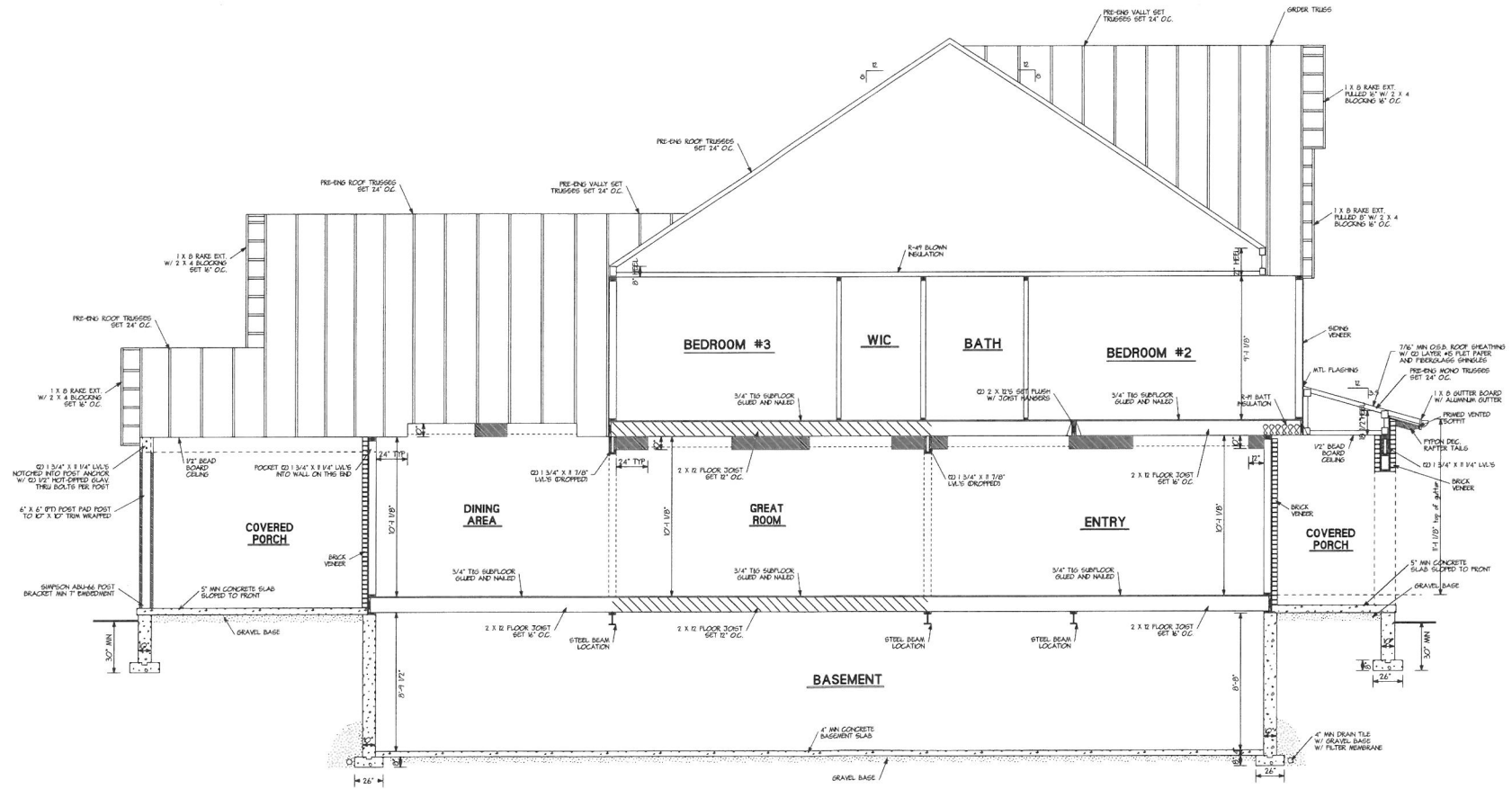
RESIDENCE FOR:
MARKET HOUSE

Address:
7933 COOPER ROAD

Home Type:
CUSTOM

Lot No.

Sheet No.
5



B HOUSE / GARAGE CUT SECTION
 5 SCALE: 1/4" = 1' - 0"

Matthew Kirsch
 12586 Highway 10 North
 Cincinnati, Ohio 45243
 (513) 477-7321

Drawn by	M. KIRSCH
Checked by	
Date	
Project	



EVERY EFFORT HAS BEEN MADE IN THE PREPARATION OF THESE DRAWINGS TO SHOW THE BEST PRACTICES OF THE TRADE. HOWEVER, THE ARCHITECT ASSUMES NO LIABILITY FOR ANY OMISSIONS, ERRORS, OR INACCURACIES IN THE DRAWINGS. THE USER OF THESE DRAWINGS SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND FOR VERIFYING THE ACCURACY OF ALL INFORMATION PROVIDED TO THE ARCHITECT. THE ARCHITECT'S RESPONSIBILITY IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE PROJECT AS SHOWN ON THESE DRAWINGS.

RESIDENCE FOR:	MARKET HOUSE
Address:	7933 COOPER ROAD
Home Type:	CUSTOM
Lot No.	
Sheet No.	6

EVERY EFFORT HAS BEEN MADE IN THE PREPARATION OF THESE PLANS TO INSURE THEIR ACCURACY. HOWEVER, MAKER CANNOT AND DOES NOT GUARANTEE AGAINST HUMAN ERRORS. IT IS THE RESPONSIBILITY OF THE USER OF THESE DOCUMENTS TO CHECK ALL DIMENSIONS, SPECIFICATIONS AND DRAWING REQUIREMENTS FOR ACCURACY AND REPORT ANY DISCREPANCIES TO MAKER FOR VERIFICATION OR CORRECTIVE ACTION.

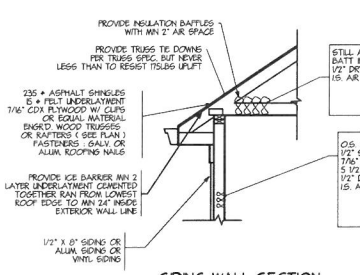
RESIDENCE FOR:
MARKET HOUSE

Address: **1933 COOPER ROAD**

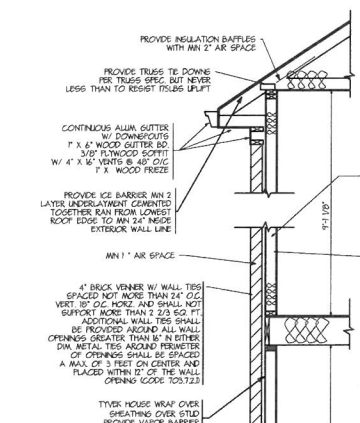
Home Type:
CUSTOM

Lot No.

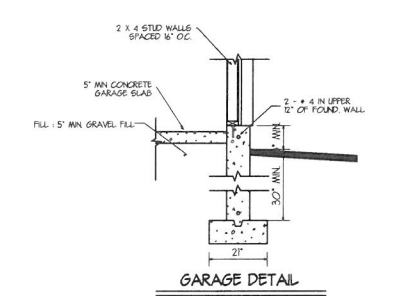
Sheet No.
7



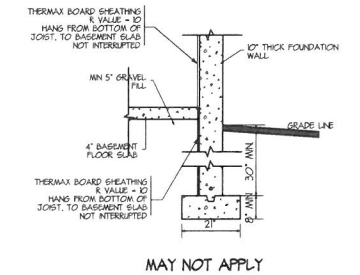
SIDING WALL SECTION



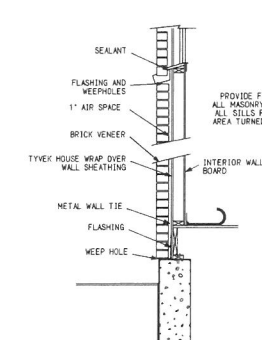
BRICK WALL SECTION



GARAGE DETAIL



MAY NOT APPLY WALKOUT FOUNDATION CUT

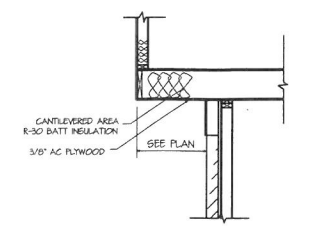


MAY NOT APPLY MASONRY FLASHING DETAIL

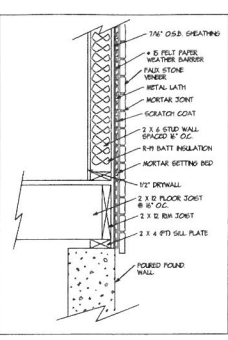
allowable spans for lintels supporting masonry veneer a,b,c,d.

size of steel angle (inches) c,c,d.	no story above	one story above	two stories above	no. of 1/2" or equivalent reinforcing bars
3 x 3 x 1/4	6'-0"	4'-6"	3'-0"	1
4 x 3 x 1/4	8'-0"	6'-0"	4'-6"	1
5 x 3 1/2 x 5/16	10'-0"	8'-0"	6'-0"	2
6 x 3 1/2 x 5/16	14'-0"	9'-6"	7'-0"	2
2-6 x 3 1/2 x 5/16	20'-0"	12'-0"	9'-6"	4

For SI inch = 25.4 mm, 1 foot = 304.8 mm.
a. Long leg of the angle shall be placed in a vertical position.
b. Depth of reinforced lintels shall not be less than 8 inches and all cells of hollow masonry lintels shall not be grouted solid. Reinforcing bars shall extend not less than 8 inches into the support.
c. Steel members indicated are adequate typical examples, other members meeting structural design requirements may be used.
d. Either steel angle or reinforced lintel shall span opening.



TYP. CANTILEVER DETAIL



STONE VENEER INSULATION

DESIGN LOAD :

LOAD TYPE	LOAD VALUE
LIVE LOADS - LIVING SPACE FLOORS	40 + PER 50 FT. DECSG (EXTRACT)
ROOFS	20 + PER 50 FT. WIND
GARAGE	50 + PER 50 FT. CEILING
SNOW	20 + PER 50 FT. ATTICE
SUCTION	40 + PER 50 FT. 200 + ANT POINT
STAIRS	40 + 500 PER TREAD

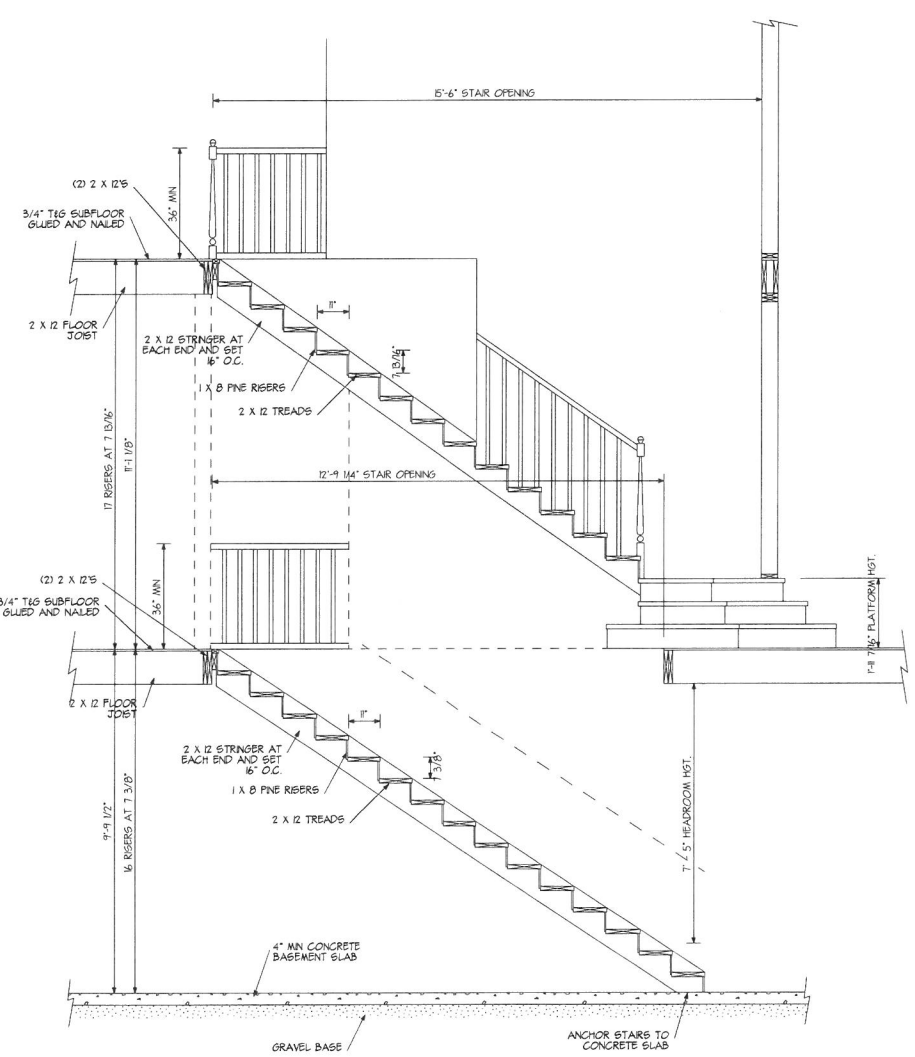
DEAD LOADS - AS CALCULATED
SOIL BEARING - ASSUMED - 8000 PSF MIN.

NOTE: ALL LUMBER FOR FINISHING
2 X 10 @ 16" O.C. VALVES - 800
2 X 12 @ 16" O.C. VALVE - 100
2 X 12 @ 16" O.C. VALVE - 100
STUDS TO BE 6" STUD GRADE OR EQUAL.

ALLOWABLE DEFLECTION OF STRUCTURAL MEMBERS

STRUCTURAL MEMBER	ALLOWABLE DEFLECTION
Roofers having slopes greater than 3/10 with finished ceiling attached to rafters	L/240
Roofers having slopes greater than 3/10 with no finished ceiling attached to rafters	L/240
Floors	L/360
Walks	W/240
Roofers having slopes less than 3/10 with no finished ceiling attached to rafters	L/240
Roofers having slopes less than 3/10 with finished ceiling attached to rafters	L/240

CLAS. SPEC.	NO. MEMBERS	HEADERS SPEC.	NO. MEMBERS
4" x 6" O.C. LVL	2 @ 1 x 10"	4" x 6" O.C. LVL	1
4" x 6" x 4" x 6"	2 @ 1 x 10"	4" x 6" x 4" x 6"	1
4" x 6" x 4" x 6"	2 @ 1 x 10"	4" x 6" x 4" x 6"	1
4" x 6" O.C. LVL	2 @ 1 x 10"	4" x 6" O.C. LVL	1
4" x 6" O.C. LVL	2 @ 1 x 10"	4" x 6" O.C. LVL	1
4" x 6" O.C. LVL	2 @ 1 x 10"	4" x 6" O.C. LVL	1



A STAIR CUT SECTION
SCALE: 1/2" = 1' - 0"

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**CITY OF MONTGOMERY
BOARD OF ZONING APPEALS REGULAR MEETING**

CITY HALL · 10101 MONTGOMERY ROAD · MONTGOMERY, OH 45242

May 22, 2023

<u>PRESENT</u>		
<u>GUESTS & RESIDENTS</u>		<u>STAFF</u>
Louis H. Katz, Esq. Wood & Lamping 600 Vine Street, Suite 2500 Cincinnati, OH 45202	Kathy McKee 10737 Wellerwoods Dr., 45242 Lucy Steadman 10630 Convo Court, 45242	Melissa Hays, City Planner Karen Bouldin, Secretary <u>ALL BOARD MEMBERS PRESENT</u> Mary Jo Byrnes, Chairman Richard White, Vice-Chairman Catherine Mills Reynolds Tom Molloy Bob Saul Jade Stewart Steve Uckotter
Peg Lewin 10729 Wellerwoods Dr., 45242	Aaron Willis Martha Willis 8271 Weller Road 45242	

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. Saul, Mr. Molloy,* (7)
Ms. Stewart, Chairman Byrnes

ABSENT: (0)

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 the Board will be conducting one public hearing. A public hearing is a collection of testimony from City Staff, the applicant, and anyone wishing to comment on the case. All discussions by the Board of Zoning Appeals and all decisions will take place within the business session of this meeting, which immediately follows the public hearing. Everyone is welcome to stay for the

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29 business session of the meeting, however, the Board will not take any further public comment
30 during the portion of the meeting, unless clarification is needed by a Board member.

31 Chairman Byrnes noted that anyone not agreeing with the Board's decision has the option of
32 appealing to Hamilton County Common Pleas Court, under the procedures established by that
33 court.

34

35 She asked all guests to turn off their cell phones.

36

37 Chairman Byrnes asked that anyone planning to speak to the Board please stand to be sworn in
38 (which includes the applicant). Chairman Byrnes swore in everyone planning to speak.

39

Guests and Residents

41 Chairman Byrnes asked if there were any guests or residents who wished to speak about items
42 that were not on the agenda. There were none.

43

44 She welcomed Peg Lewin, who had previously served on the Planning Commission, and was
45 attending as a guest this evening.

46

Old Business

48 There was no old business to discuss.

49

50 Mr. Uckotter recused himself from the upcoming case, as Mr. Katz and Ms. Willis were his
51 clients. He took a seat in the audience.

52

New Business

54 *A request for a variance from Ryan and Lucy Steadman, property owners of 10630 Convo
55 Court, Montgomery, OH 45242 to allow a 4 foot high fence in the front yard area, where 2
56 feet is the maximum permitted, per Section 151.1009(I) (1) of the Montgomery Zoning Code.*

57

Staff Report

59 Ms. Hays reviewed the Staff Report dated May 23, 2023, "Application for Variance: Ryan and
60 Lucy Steadman". Referring to page 4 of the Staff Report, Ms. Hays stated that Mr. Steadman
61 later sent an email, correcting his statement for Item 6, stating that he was not aware of the
62 zoning restraint when he purchased the property. She noted that Weller Road was a high volume
63 roadway. She asked if there were any questions from The Board, noting that the applicant was
64 present.

65

66 Ms. Hays showed drawings on the wide screen for all to see, to provide more understanding of
67 the Staff Report.

68

69 She indicated that she had received a letter of support for the variance, from a resident on
70 Wellerwoods Drive, which was included in the Board's packet.

71

72 Mr. Molloy asked if Staff knew when the fence on the Woodgate subdivision was installed.

73 Ms. Hays believed it was installed in the 90s, which would have been prior to the 2002 change in

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74 the Code, eliminating the 4 foot high fencing. Mr. Molloy stated that he noticed that fence was
75 more decorative in nature, as an entranceway to Woodgate, versus a property fence. Ms. Hays
76 agreed.

77
78 Chairman Byrnes asked if the applicant wished to speak.

79
80 **Lucy Steadman, 10630 Convo Court, 45242** stated that they were hoping to install a fence in
81 the backyard area, which they now understood was considered a front yard. When they
82 purchased the home, they would not have known that was something they should have
83 considered or asked about. In fact, when they bought the home, they stood on the back porch
84 with the owner and he said, “Wouldn’t it be great if this yard was fenced in?” because he knew
85 they had 3 children and a dog. For the safety of the children and their (now) 2 dogs, they would
86 like to put up a fence. She stated that it was a busy road, noting there is constantly trash thrown
87 into the yard and dog waste, which they continually clean up. She pointed out that they have
88 done much to improve visibility around the bend; they have cut down multiple bushes and
89 trimmed trees to allow for more visibility because the bend can be problematic. She stated that
90 they would never obstruct visibility with the fence; it will be a see-through and open fence.
91 She asked if there were any questions.

92
93 Mr. Molloy asked if this rendering of the fence was the only layout they had looked at, in terms
94 of how it was placed on the property. Ms. Steadman stated that the fence company suggested it,
95 after they surveyed the property, based upon the landscaping. They told her that she would get
96 the most yard, yet keep the fence back far enough so that it would look nice. She noted that this
97 fence butts off of another fence, which has two different styles. She pointed out the wrought iron
98 fence and a privacy fence, on the wide screen.

99
100 Mr. White asked what color the fence would be. She noted that it would be a stained wood, she
101 was not sure of the stain color. Mr. White felt that the only area that would be visible to anyone
102 would be between the two large evergreen trees. Ms. Steadman stated that the backyard was
103 more open, and you could see it from there, but it would go between the trees (as he stated); for
104 the most part, it would be behind shrubbery, for 8 to 10 feet. Mr. White suggested that a darker
105 stain would be less visible. He stated that this was not a variance concern, just a suggestion.

106
107 Mr. Molloy asked if the fence would have wire on it. Ms. Steadman stated that it would, to keep
108 the pets in, and others out. Mr. Saul spoke about a fence that was a little further up Weller,
109 noting that it looked nice, and it was made of aluminum. Ms. Steadman stated that they had
110 looked at aluminum, and because of the size of their dogs, it would allow the opportunity for the
111 dogs to go right through it. Mr. Saul felt that the proposed fence was very prominently seen.

112
113 Ms. Stewart asked about the fence across the street – noting it was a bright white.

114 Ms. Steadman confirmed.

115
116 Mr. White liked the design.

117

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118 Ms. Catherine Mills-Reynolds also liked the fence. She felt that you wouldn't see it, and she
119 didn't feel it was that much of a distraction.

120
121 Ms. Stewart would hope that in that S-curve, you would be looking at the road, not the fence.

122
123 Chairman Byrnes asked if we knew of many problems, with relation to accidents. Ms. Hays was
124 not aware of any in particular but was not sure of the exact number of accidents in that location.

125
126 Ms. Mills-Reynolds asked if there was a mirror on the opposite side. Ms. Hays stated that unless
127 they are on private property, the City does not install mirrors.

128
129 Chairman Byrnes asked if any guests or residents had comments.

130
131 **Louis Katz, Esq., Wood & Lamping, 600 Vine Street, Suite 2500, Cincinnati, OH 45202**
132 stated that he was representing Dr. Craig and Martha Willis at 8271 Weller Road, right on the
133 bend. Martha and their younger son, Aaron were present tonight.

134
135 Mr. Katz stated that they were not concerned with the aesthetics – the color of the boards, but
136 they were concerned with a very dramatic safety issue. If Ms. Hays would have checked, she
137 would have found that there have been lots of accidents here. On this bend, there are actually
138 some pieces of a car left on the bend.

139
140 He had many questions for the City Engineer and noted that it was unfortunate that he was not in
141 attendance. Mr. Katz wanted to know the process that was performed for the line of sight,
142 because he stated that he (Mr. Katz) did it, and it is completely different. He stated that the
143 Willis' wanted to be good neighbors.

144
145 Mr. Molloy asked who performed this study. Mr. Katz stated it wasn't a study, but that
146 Dr. Willis did it. Mr. Molloy asked if Dr. Willis was an engineer. Mr. Katz replied that he was
147 not. Mr. Katz gave handouts to all of the Board. He stated that if you would look at it, you
148 would see the view, from an average vehicle sitting in the Willis' driveway, trying to exit onto
149 Weller. He noted that Aaron was in the process of getting his driver's license. He stated that
150 they have delivery trucks coming in and out that have to back out onto Weller Road.

151
152 Referring to his handout, Mr. Katz stated that if you looked at the line of sight on the second and
153 third pages, the distance and the time from coming around the bend to the Willis', at 25mph (and
154 no one drives 25mph around that bend), is less than 2 seconds. Any blocking of the vision,
155 particularly, the farthest one around the bend, would be to everyone's peril, and there will be
156 accidents. Mr. Katz further explained his familiarity and legal experiences with accidents and
157 visibility.

158
159 He felt that this fence, as proposed, for landscaping purposes for a unique situation, will affect
160 the value of the Willis property, if you don't have good, safe, ingress and egress from their
161 property. It won't affect the value of the Steadman's property. He noted that this was a horrible

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162 bend, and to create a situation that obstructs any vision that is available now is virtually criminal.
163 There will be accidents if this is allowed.

164
165 He suggested that they move it back, so it is not in the line of sight from the Willis' driveway.
166 They could still protect their children and dogs. He stated that his photos showed how critical the
167 view was, and that the fence as proposed, would block their view, in and out of the Willis'
168 driveway.

169
170 Mr. Katz suggested that they move the fence back, and the Willis' would have no objection to it.

171
172 Chairman Byrnes asked if the Board had any questions.

173
174 Mr. Molloy asked how far back the fence would need to be moved to provide adequate sight (in
175 Mr. Katz's estimation). Mr. Molloy asked if he had any data on this. Mr. Katz did not have data
176 or exact measurements, but stated that it would be pretty obvious from car level, not from a
177 bird's-eye view.

178
179 Ms. Hays pointed out that the City Engineer calculates his measurements from the car eye sight.
180 Mr. Katz stated that the engineer was not here. Ms. Hays stated that she has worked with him on
181 this in other situations, and he uses ODOT's requirements to develop his analysis.

182
183 Mr. Katz asked what time of day he did the sight line, and where the angle of the sun had been.
184 Ms. Hays did not know.

185
186 Ms. Mills-Reynolds stated that she actually backed out of the Willis' driveway today, and it was
187 certainly manageable; albeit a lot of traffic. She stated that his photos did not seem accurate.
188 She stated that on his photo he portrayed the fence a lot further than what was proposed on the
189 applicant's site plan. She also pointed out that the fence on Mr. Katz's handout was a privacy
190 fence, and the applicant was proposing a see-through fence.

191
192 Mr. Katz stated that the picture on the first page was not intended to be a fence, it was
193 representative of what a 4 foot high fence would look like. Mr. White stated that it was shown
194 closer to the street than what was proposed.

195
196 Ms. Stewart stated that she lived near there, not close enough that she would need to recuse
197 herself, but that she drives by this home multiple times every day, and has done this for 10 years.
198 She asked if Mr. Katz had a drawing that showed the proposed fence's dimensions on his
199 pictures. Mr. Katz stated he did not. Ms. Stewart felt that the arrows on his pictures were not
200 consistent with where the fence would actually be. She asked if he could give her dimensions to
201 refute her assumption. Mr. Katz stated he could not. She asked if he had any objective data,
202 other than a personal assessment. He did not. She asked him if he had an engineering
203 background. Mr. Katz stated he did not. She asked if he had an accident reconstructions
204 background. He stated that he did not. She asked if he had a background in fair market
205 evaluation of real estate. He did not. She asked if there was someone here today that would

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206 opine that this would reduce his client's fair market value, from a real estate value. Mr. Katz
207 stated that Martha Willis was perfectly well-suited to testify as to the value of the home.

208
209 Ms. Stewart asked, if the applicant planted bushes in this gap right here (she pointed to the wide
210 screen), they would not be entitled to do that because of your client's driveway. She pointed out
211 that his clients have only lived there for about 10 years. He stated they had been there for 21
212 years. Ms. Stewart stated that this bend existed before they moved in. Mr. Katz stated that they
213 bought the house, knowing the bend was there, just like the applicants had bought their home.

214
215 Ms. Stewart stated that these homeowners (the applicant) did not need a variance to plant bushes
216 or trees along this property line. And that would be far more obstructive to his client's vision.
217 So, if you think in terms of overall safety, they could plant tall trees around their entire property
218 line, and it would completely obstruct the view from the driveway of your client. She pointed
219 out that this fencing was far less obtrusive to the sight line, than other options that existed.
220 Mr. Katz understood and agreed.

221
222 Ms. Stewart stated that he has given the Board pictures of vehicles with arrows, but he did not
223 have anything actually showing the measurements of the proposed fence, relative to his
224 drawings. Mr. Katz agreed. She asked him, when the photos were taken, if he knew how far the
225 proposed fence was from the property line around the bend. Mr. Katz stated that they used the
226 diagram of the proposed fence and determined where it was and then put it on the computer to
227 show it on the picture. Mr. Katz stated that the third picture that looks like the privacy fence
228 shows it. There was more discussion to gain clarity about Mr. Katz's handouts.

229
230 **Aaron Willis, 8271 Weller Road, Montgomery, OH 45242** stated that he was part of the
231 photo-taking process, and at the time, the applicant's engineer had come out and posted a stake
232 in the applicant's yard. Mr. Willis stated that they took a photo from that stake, and it shows
233 where that is. Ms. Hays asked if it was a wooden stake, with a hot pink flag on it. Aaron
234 concurred. She stated that it was probably the property line corner. She could see where that
235 would be confusing, but explained that the stake was not depicting the fence line, it was showing
236 the property line corner. She stated that this fence was not proposed to be on the property line.

237
238 Chairman Byrnes asked how far from the property line the fence was proposed. Ms. Hays stated
239 that the proposed fence was approximately 30 feet behind that stake. Mr. Katz stated that there
240 would still be loss of vision of the bend in the road.

241
242 Chairman Byrnes stated that Jay Korros was the City's professional Senior Traffic Engineer, and
243 he evaluated this intersection, and did not see any obstruction due to the proposed fence.

244
245 **Martha Willis, 8271 Weller Road, Montgomery, OH 45242** stated that she was the
246 homeowner, and wanted to be a good neighbor. She was also a pediatric nurse, and her biggest
247 concern was with safety, and with keeping children safe. She didn't disagree with the fence to
248 protect her neighbor's children, but she had concerns with the teenage children who would be
249 exiting from her driveway.

250

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251 When they moved in 21 years ago, Ms. Willis stated that the tree line was not there. It was
252 planted prior to the Steadman's and has been there for many years. At that point in time, she had
253 brought up the issue of the curve and egress from their driveway, and asked if they could get one
254 of those beveled mirrors placed across the street. Since it was not their property, they were told
255 they could not. She noted that she was also concerned for her elderly relatives who visit, as their
256 reaction time was much slower.

257
258 Ms. Willis did not see listed on the engineer's report, the amount of time / seconds it takes to go
259 from 0 to 25mph (and for people who have driven that road, we all know that people drive
260 around that curve much faster than that). She restated that there were still metal car pieces across
261 the street on the barrier from a previous accident when a car drove up on the barrier – it was a
262 teenage boy and his father. She knew this because she had responded to the scene. And, she
263 noted that this teenager had a lot of experience because his father was a AAA driving instructor.

264
265 Ms. Willis understood that the fence was setback, but even with that kind of fence, depending on
266 where you pull up, and how far you pull up, it can be more obstructive because of the 3 rails. If
267 she stays back, she can see through the trees, but if she pulls forward, she has to pull almost out
268 into the street, before she can see the view of the street. She showed members on the wide
269 screen.

270
271 Chairman Byrnes stated that Mr. Katz had referred to lots of accidents; she asked Ms. Willis if
272 she knew how many accidents were in the last year. Ms. Willis stated that there have been 2
273 major accidents, and that they also hear a lot of scuffing and scraping on the curb; a lot of
274 braking and screeching. She pointed out that the buses are a problem as well, coming around the
275 bend – with their large size.

276
277 Ms. Stewart asked if the accidents were caused due to people leaving her driveway or if they
278 were from cars driving on Weller. Ms. Willis stated they both were on Weller – one coming up
279 into her front yard. Ms. Stewart asked if she thought this fence would impact the people driving
280 down Weller Road. Ms. Willis stated that she was not a traffic expert, but she would be
281 concerned with the first sight of it, headed toward Montgomery Road. She felt that the fence
282 could make the S curve more dangerous, if you were going into the S curve (going west toward
283 the I-275 bridge), not coming out of it.

284
285 Mr. Molloy stated that the pictures they have seen were daylight photos, and understood that in
286 the dark, it would be worse. He asked if there was any lighting along Weller Road. Ms. Willis
287 stated that there was one dim public light.

288
289 Ms. Byrnes asked if Ms. Willis had ever talked to the City about putting up a sign saying
290 "Hidden driveway". She had not, they had just asked for a mirror to be put up across the street
291 from them in the green space, so that you could see from either direction. She stated that they
292 had a lot of signs with arrows, going into the curve, but many had been hit and knocked down,
293 and it would always take a while for them to be put back up again.

294

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295 Ms. Hays stated that she could talk with the Public Works Director about evaluating the current
296 signage, and if it can be improved.

297
298 Regarding mirrors, Ms. Hays understood they were not permitted in the public right of way. She
299 realized people find them beneficial, but believed they could not be installed based on previous
300 conversations with Public Works. Ms. Hays noted that people can privately put them up.

301
302 As a realtor, Chairman Byrnes stated that this proposed fence would never affect the Willis'
303 property value.

304
305 Mr. Saul asked if Ms. Willis had considered putting in a turnaround in the driveway, so that they
306 could pull out on the street, and not have to back out. Ms. Willis stated that they do not have a
307 turnaround, but they have a wide area near the garage that they can turn around, so they don't
308 have to back out onto Weller; unless they have a lot of guests visiting with their cars.

309
310 She noted that the trucks – Amazon and UPS have to back out, albeit, they do sit a bit higher.
311 And, she noted that there are people who make a mistake, and instead of going to Indian Woods,
312 they turn around in her driveway.

313
314 Mr. Willis stated that he is learning how to drive and has a temporary permit. He noted that he
315 has taken all of his Driver's Education classes (between AAA and the State of Ohio). In that
316 course, the main topic they talk about is safety, and with more and more of his friends getting
317 their temps and visiting him, it is very difficult for them to back out of the driveway.

318
319 **Peg Lewin, 10729 Wellerwoods Dr., 45242** stated that she drives this curve daily. She wanted
320 to thank the Board for volunteering, and for their hard work. She had some questions about the
321 application. She asked if the fence would truly be only four feet, because if they added a finial
322 or a post cap, it would take it over 4 feet, and Ms. Steadman should state that now, so the
323 application could be amended.

324
325 Ms. Lewin was supportive of this fence. She suggested that the Board put a condition that the
326 fence not be a solid fence. She didn't understand where the external access was to the fence --
327 the gate. Ms. Steadman showed 2 locations for 2 gates, on the wide screen. She felt that color
328 should be made a condition, as you didn't want it to be a bright color.

329
330 Ms. Lewin felt that since the fencing was going through the trees, it was not going to be very
331 visible, nor would it obstruct the view. Ms. Steadman stated that it would be behind sidewalk,
332 landscaping, and then the fence. She stated that the fence would be 5 to 10 feet back, even from
333 the landscaping.

334
335 Chairman Byrnes asked about the colors of the stain palate. Ms. Mills-Reynolds stated that
336 typically stains are of natural wood colors. She pointed out that usually the fence company does
337 not do the staining, it is the homeowner. She felt that stains ran the gamut from light to dark
338 browns/blacks for fences. Ms. Mills-Reynolds stated that perhaps this was something we would

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339 want to address in the Code. Ms. Steadman stated that they would use a natural wood stain,
340 basically to seal the wood.

341
342 Noting that the Code permitted 2 foot high fences, Ms. Willis asked the applicant why she chose
343 4 feet instead of 2 feet. Ms. Steadman stated that the dogs were little, but they could jump over 2
344 feet.

345 346 **Adjournment**

347 Ms. Stewart moved to close the public hearing.

348 Ms. Mills-Reynolds seconded the motion.

349 The public hearing adjourned at 8:00p.m.

350
351 Chairman Byrnes opened the business session at 8:00p.m.

352 353 **Business Session**

354 *A request for a variance from Ryan and Lucy Steadman, property owners of 10630 Convo*
355 *Court, Montgomery, OH 45242 to allow a variance to for a 4 foot high fence in the front yard*
356 *area, where 2 feet is the maximum permitted per Section 151.109(I) (1) of the Montgomery*
357 *Zoning Code.*

358
359 Mr. Saul was not in favor of this application because of precedent. Chairman Byrnes stated that
360 there were other precedents already set in this area. Ms. Mills-Reynolds felt that this application
361 was unique in that it was the only one that had a main road behind it; and several streets around
362 the property. She asked Staff if there were other properties that were comparable. Ms. Hays did
363 not think so. There was more discussion about past applications and the denials.

364
365 Mr. Molloy felt that we should rely on the City Engineer's study that was done on the sight
366 visibility and safety.

367
368 Mr. Molloy believed that this proposed fence was intruding into 2 front yards, and he would feel
369 more comfortable if it only intruded into 1 front yard. He believed that this would set precedent
370 for others with 2 front yards. In the past we have not allowed owners with 2 front yards to put a
371 fence in them. He suggested that the fence come off of the northeast corner of the house and not
372 protrude into the northern front yard; it would only protrude into the eastern front yard.
373 As it stands now, he was not in favor of this variance, for that reason.

374
375 Chairman Byrnes thought they had 3 front yards. Staff confirmed, and wanted to clarify what
376 Mr. Molloy was saying. She showed all on the wide screen, how Mr. Molloy suggested the
377 fence be placed.

378
379 Ms. Stewart asked if that would change the number of front yards. Ms. Hays stated that it would
380 not. Nor would it reduce the variance, but for precedent setting, Mr. Molloy was suggesting to
381 request the minimal amount. Ms. Stewart pointed out that several homes on Weller had fences
382 that were similar to this application. Ms. Hays confirmed, and stated that there were many along
383 Weller that were legal, non-conforming.

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384

385 Ms. Stewart asked if all of the fences along Weller came off of the house, at the same 90 degree
386 angle, relative to the house. Staff confirmed, noting that even along The Reserve, there were a
387 lot of HOA (Home Owner Association) properties that buffer between private property and
388 others.

389

390 Mr. Molloy agreed that there were many examples of this proposed application, all through the
391 City, but they were either put in prior to 2002, or were a replacement of an existing fence. He
392 did not feel the applicant would lose a lot of the back yard fenced-in area by making this change.

393

394 Ms. Stewart supported this proposed fence, and felt that there were many houses in similarly
395 situated lots that had the same fence. Regardless of the year they were built, she felt they should
396 be afforded the same fence for the same reasons. She agreed with Mr. Molloy, regarding the
397 City Engineer's report. She felt that this variance was reasonable, in light of all the other
398 circumstances the Board needed to consider and all of the other similarly situated fences on
399 Weller.

400

401 Mr. White was in favor of this fencing, as proposed. He felt this was such an unusual situation
402 that it couldn't be replicated.

403

404 For reference, Ms. Hays stated that if the applicant modified the proposal to Mr. Molloy's
405 comment, it would set it back even further behind the sidewalk. Currently, it was proposed at 6
406 feet behind the sidewalk. And, with Weller running on an angle, it would then be 15 to 20 feet at
407 the nearest point, behind the sidewalk if the applicant modified according to Mr. Molloy's
408 suggestion.

409

410 There was discussion among the Board about the number of front yards. There was then a
411 difference of interpretation as to if Mr. Molloy's suggestion would then mean the fence was only
412 in one of the front yards or two. Mr. Molloy believed it would only be in the front yard, to the
413 east of the house. It would be a fence-free yard on the north side and on the west side.

414

415 Ms. Hays stated that what made it unclear was the bend. Technically, the property line goes to
416 the street center line. She did not agree with Mr. Molloy in how to define the 3 front yards,
417 because there was no way to break it up, due to the curve. She also understood that Mr. Molloy
418 had a point in how he interpreted the way to determine the front yard lines.

419

420 Mr. Molloy was not comfortable with the fence going any further than the northern plane of the
421 house. He was strongly concerned about this and felt it would be a difficult precedent to defend
422 in the future if this application was approved. He felt that anyone with 2 front yards could come
423 in and say that they were willing to give up 1 of the front yards unencumbered by the fence. He
424 agreed that this application required a variance to put up their fence, but he questioned where it
425 be placed.

426

427 Chairman Byrnes asked if Staff agreed with Mr. Molloy's thinking. Ms. Hays noted that the
428 Board's decision should be evaluated on if this was the minimum necessary.

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Mr. Saul proposed that we have a discussion at a future meeting to review front and rear lot determinations.

Ms. Mills-Reynolds pointed out that precedent is set, based on the same facts, so if you had 3 front yards and somebody else only had 2, then your facts were not the same to compare – and would not fall under that precedent. She believed this would exclude people with 2 front yards.

Chairman Byrnes asked for a vote. She stated that if this motion was not approved, then the applicant would need to wait for 6 months before she could reapply. For an approved motion, 4 affirmative votes were needed.

Ms. Hays asked Ms. Steadman if she understood Mr. Molloy’s suggestion about moving the fence location; she showed her again, on the rendering. Ms. Hays stated that the Board will vote tonight on the proposed fence location that has been submitted. The other option would be for her to request the case be tabled, and Ms. Steadman could come back with a modified plan.

Chairman Byrnes asked Ms. Steadman if she wanted to move forward for a vote, or if she wished to table the application. The applicant wished to go forward with the proposed application.

Mr. Molloy moved to approve the request for a variance from Ryan and Lucy Steadman, property owners of 10630 Convo Court, Montgomery, OH 45242 to allow fencing 4 feet in height in the front yard area along Weller Road, where Section 151.1009(I) (1) of the Montgomery Zoning Code does not permit fences over 2 feet in height in the front yard, as described in the City of Montgomery Staff Report, dated May 23, 2023.

This approval is in accordance with the survey dated April 4, 2023, and is based on installation of a “Kentucky Board” style fence, as submitted in the application, with the following conditions:

- 1) Stain to be a natural wood color.***
- 2) No post-caps or finials on top of the fence.***

This approval is justified by criteria # 1, 3, 4, 5, 6, 7, 8, 9 &10, as outlined in Montgomery Codified Ordinance Chapter 150.2010 (d) for granting variances.

Mr. Saul seconded the motion.

The roll was called and showed the following vote:

<i>AYE: Ms. Stewart, Ms. Mills Reynolds, Mr. White, Chairman Byrnes</i>	<i>(4)</i>
<i>NAY: Mr. Saul, Mr. Molloy</i>	<i>(2)</i>
<i>ABSENT:</i>	<i>(0)</i>
<i>ABSTAINED: Mr. Uckotter</i>	<i>(1)</i>

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474 ***This motion is approved.***

475

476 **Adjournment**

477 Mr. Saul moved to close the business session.

478 Ms. Stewart seconded the motion.

479 The business session adjourned at 8:25p.m.

480

481 Chairman Byrnes opened the public hearing at 8:25p.m.

482

483 Mr. Uckotter took his seat at the dais.

484

485 **Other Business**

486 Many of the Board member attended the Montgomery Quarter event and enjoyed it very much.

487

488 **Council Report**

489 Ms. Bissmeyer was not present, and there was no report.

490

491 **Minutes**

492 Mr. Saul moved to approve the minutes of April 25, 2023 as written.

493 Mr. White seconded the motion.

494 The Board unanimously approved the minutes.

495

496 **Adjournment**

497 Mr. Uckotter moved to adjourn. Ms. Stewart seconded the motion.

498 The meeting adjourned at 8:30p.m.

499

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505 _____
Karen Bouldin, Clerk

_____ Date

_____ Mary Jo Byrnes, Chairman

_____ Date

506

507 /ksb

508