

COUNTY OF FAIRFAX, VIRGINIA

VARIANCE RESOLUTION OF THE BOARD OF ZONING APPEALS

N. ELIZABETH KELLEHER & P. ROSS TAYLOR, VC 2011-DR-006 Appl. under Sect(s). 18-401 of the Zoning Ordinance to permit construction of one addition 16.1 ft. from one front lot line and 11.5 ft. from other front lot line and another addition 10.9 ft. from front lot line. Located at 2304 Highland Ave. on approx. 10,007 sq. ft. of land zoned R-4. Dranesville District. Tax Map 40-4 ((18)) 11. (Admin. moved from 6/29/11 at appl. req.). Mr. Smith moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on July 27, 2011; and

WHEREAS, the Board has made the following findings of fact:

1. The applicants are the owners of the land.
2. The present zoning is R-4.
3. The area of the lot is 10,007 square feet.
4. In this case the applicants have done a significant amount of homework. There is a lot of support from the directly impacted surrounding property owners.
5. It certainly seems like it would be an improvement to the neighborhood.
6. It will alleviate a difficult condition relative to the drainage that was pointed out.
7. The Board adopts the Statement of Justification provided by the applicants.
8. It is noted that the subject property was acquired in good faith.
9. The subject property has at least one of the following characteristics:
 - A. Narrowness, it is less than the required width for an R-4 zoned property.
 - B. There are some exceptional topographic conditions on the property.
 - C. It is unusual that it has the three front yards.
 - D. In this case also it has what is effectively an alley on two sides.
10. Also, being at the top of the hill and the water drainage issue, there is an extraordinary situation or condition on the subject property that the condition or situation of the property, or the intended use of the property, is not of so general or recurring in nature as to make reasonably practicable the formulation of a general regulation adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
11. In this case, the strict application of the Ordinance would produce an undue hardship.
12. The hardship is not shared generally by other properties in the same zoning district in the same vicinity.
13. In this case there actually is a benefit, as was pointed out by the applicants.
14. The applicants could have gone higher.
15. The applicants could have built out towards Highland Avenue, which would, frankly, have a more detrimental effect on the surrounding property in the community with the loss of the large tree out front.
16. If you look at the location of the existing garage, the setback from what is effectively the rear of the property is actually less where it is 7.7 now and that changes to 11.5.

17. There is a pretty minimal change on the left side as you are looking at the house of the property, which is still a front yard, but that is going from 16.5 to 16.1, so it is relatively minimal impact there.
18. It is not going to have an adverse impact on property owners as was confirmed with the letters of support that have been received.

This application meets all of the following Required Standards for Variances in Section 18-404 of the Zoning Ordinance:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property, or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict all reasonable use of the subject property, or
 - B. The granting of a variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the applicant.
7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purpose of this Ordinance and will not be contrary to the public interest.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has satisfied the Board that physical conditions as listed above exist which under a strict interpretation of the Zoning Ordinance would result in practical difficulty or unnecessary hardship that would deprive the user of reasonable use of the land and/or buildings involved.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED** with the following limitations:

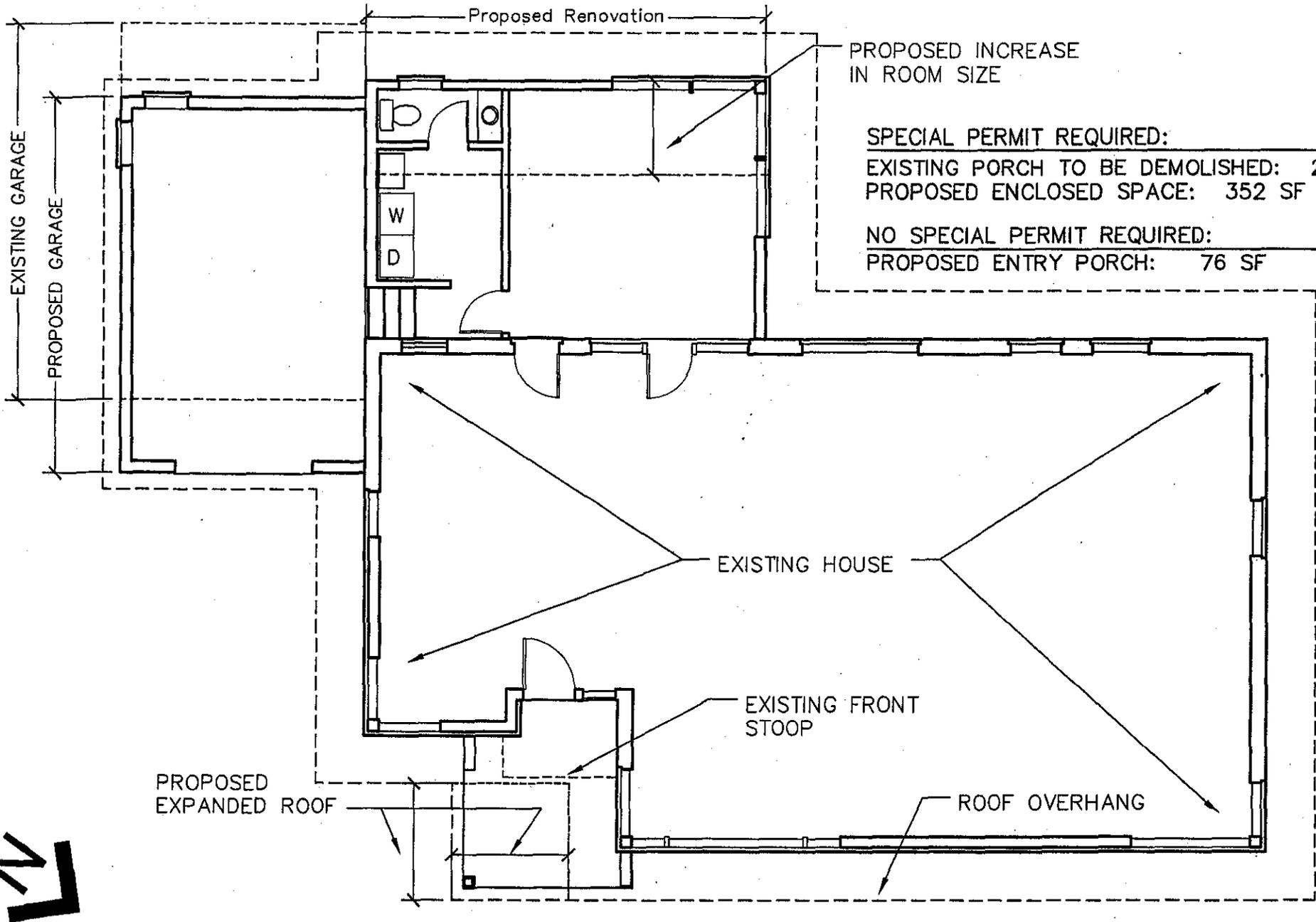
1. This variance is approved for the additions as shown on the plat prepared by APEX Surveys dated July 31, 2009, revised through April 10, 2011, submitted with this application and is not transferable to other land.

2. The additions shall be generally consistent with the architectural renderings and materials depicted on the plat and included in Attachment 1 to these conditions.

This approval, contingent upon the above-noted conditions, shall not relieve the applicants from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Pursuant to Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, thirty (30) months after the date of approval unless construction has commenced and has been diligently prosecuted. The Board of Zoning Appeals may grant additional time to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the variance. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

Ms. Gibb seconded the motion, which carried by a vote of 7-0.

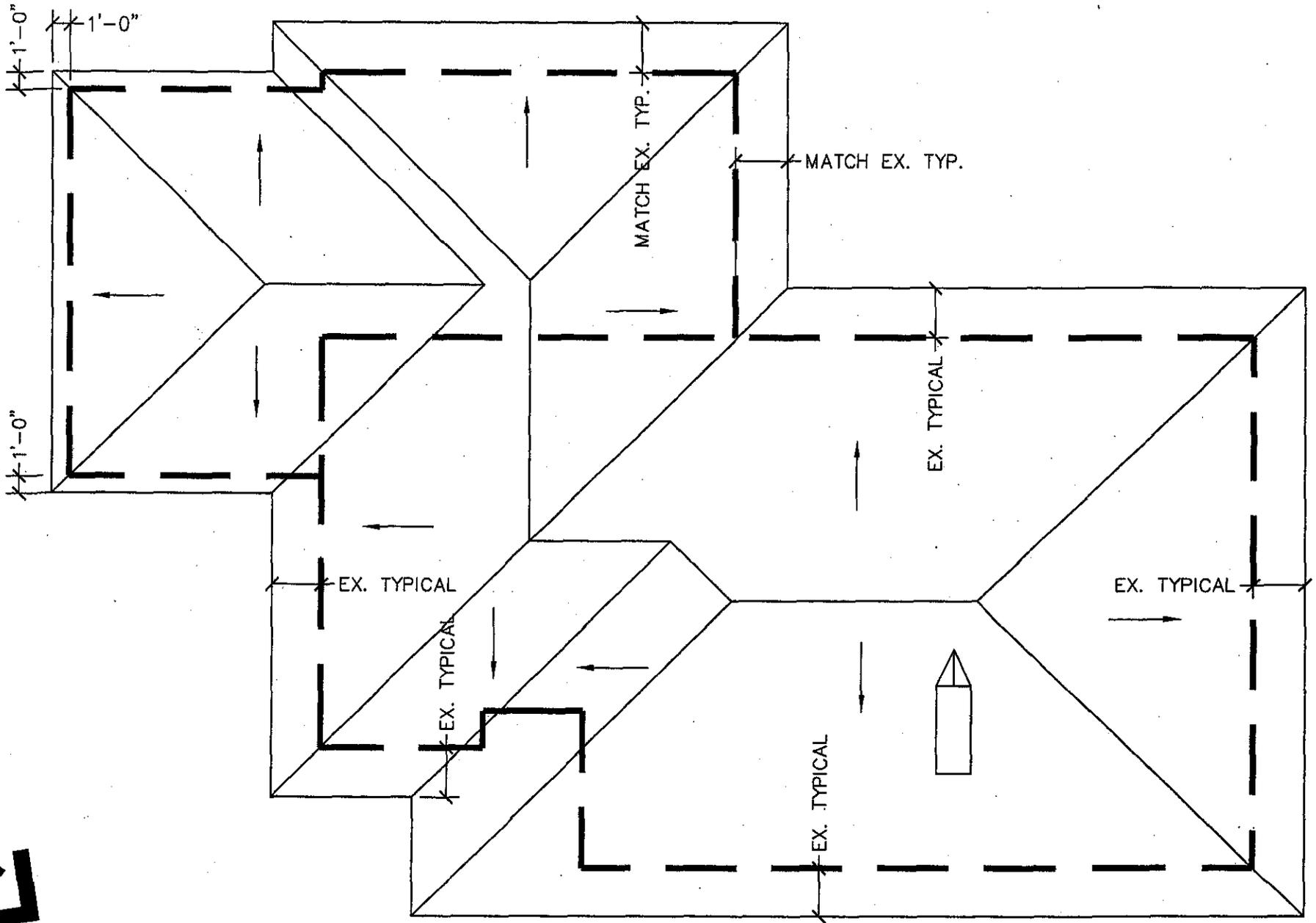


2304 HIGHLAND AVE. / LOT 11
 BRYANTS ADDITION TO ELLISON HEIGHTS
 FAIRFAX COUNTY, VIRGINIA

Proposed Floor Plan - Ground
 1/8" = 1'-0"
 26 March 2010

AP01

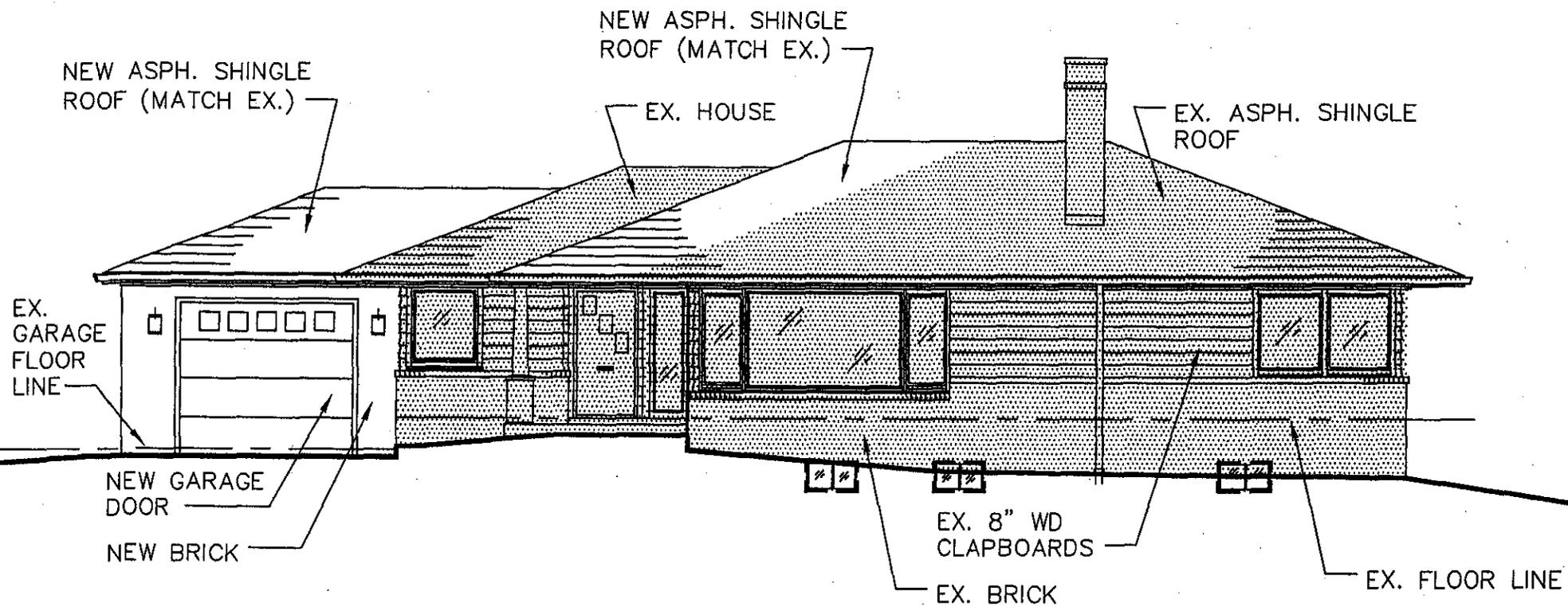
ATTACHMENT 1



2304 HIGHLAND AVE. / LOT 11
 BRYANTS ADDITION TO ELLISON HEIGHTS
 FAIRFAX COUNTY, VIRGINIA

Proposed Roof Plan
 1/8" = 1'-0"
 26 March 2010

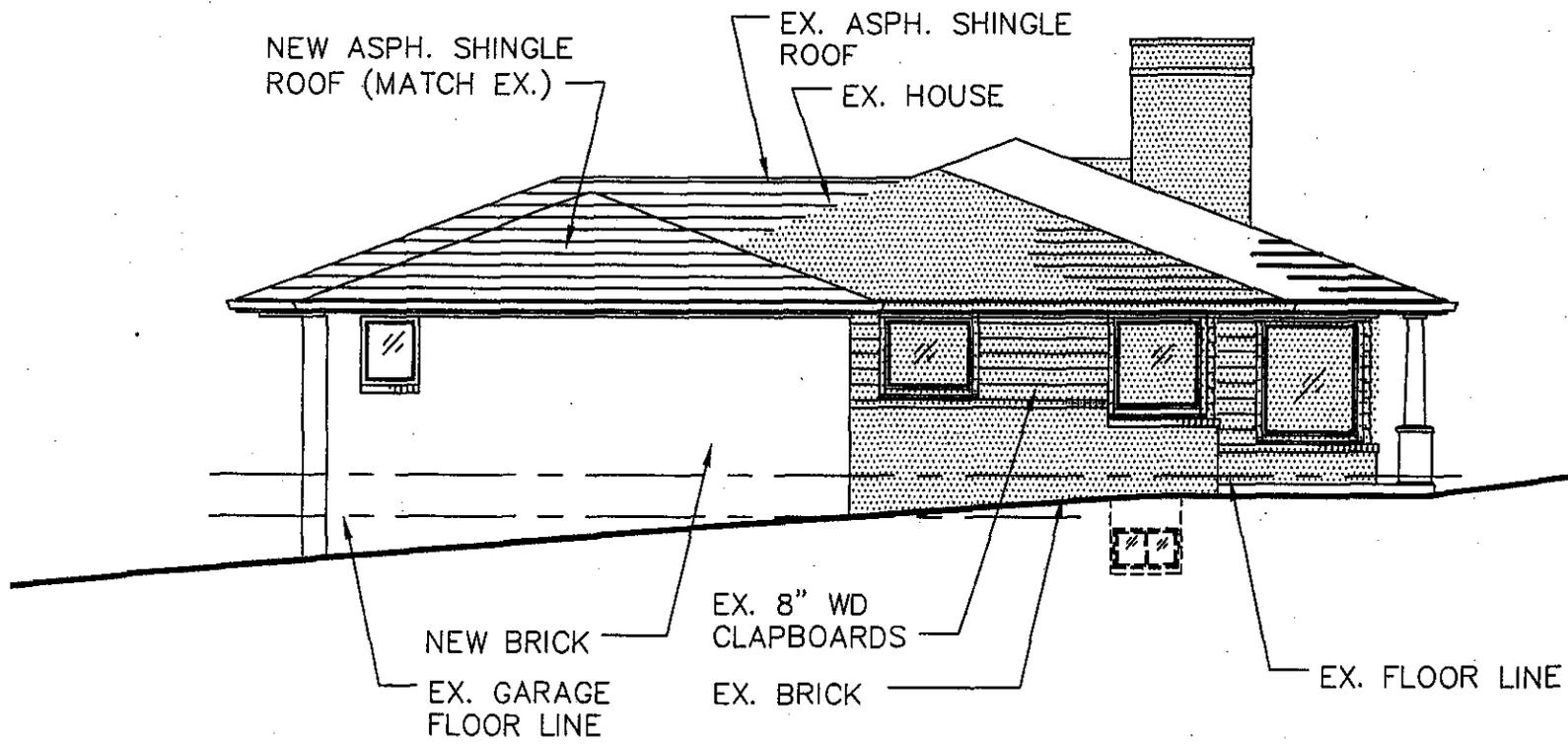
AP02



2304 HIGHLAND AVE. / LOT 11
 BRYANTS ADDITION TO ELLISON HEIGHTS
 FAIRFAX COUNTY, VIRGINIA

Proposed Front Elevation - North
 1/8" = 1'-0"
 26 March 2010

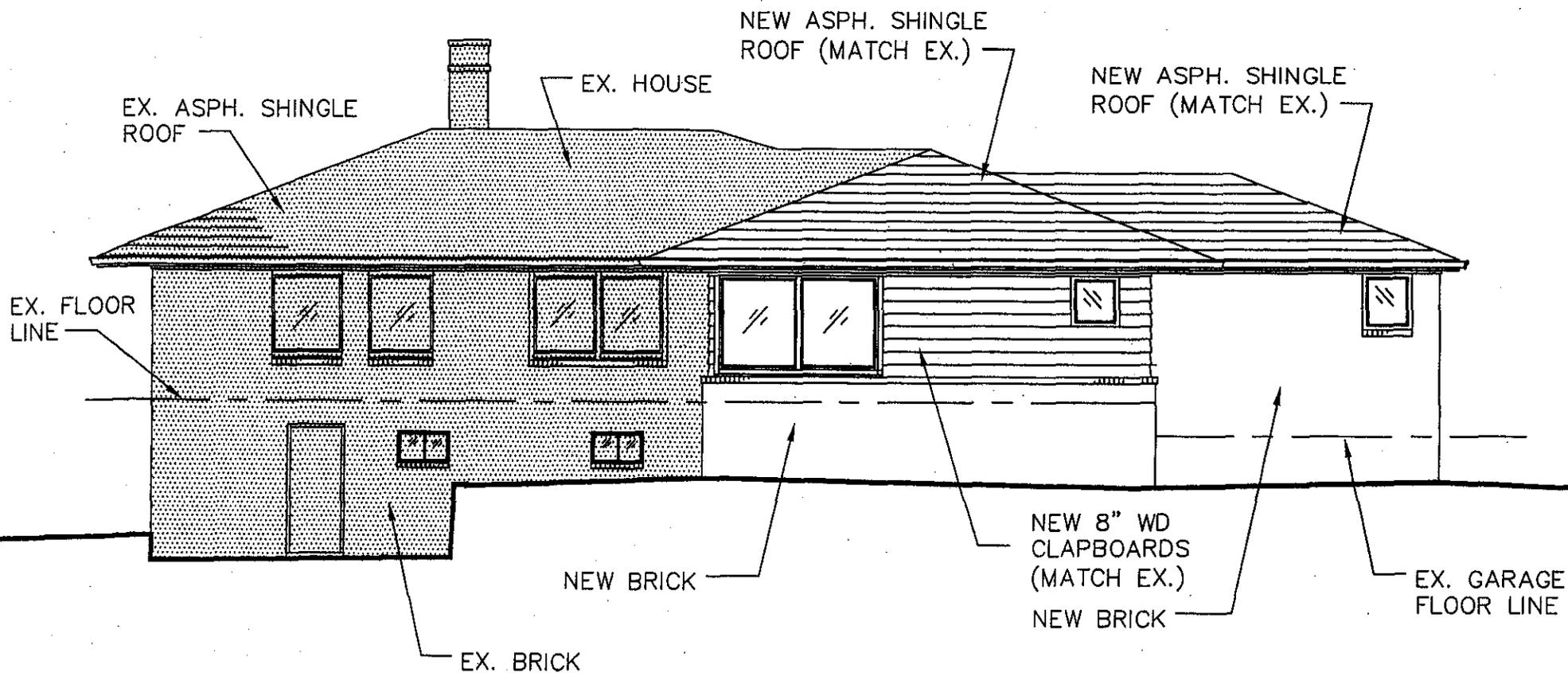
AP03



2304 HIGHLAND AVE. / LOT 11
 BRYANTS ADDITION TO ELLISON HEIGHTS
 FAIRFAX COUNTY, VIRGINIA

Proposed Side Elevation - East
 1/8" = 1'-0"
 26 March 2010

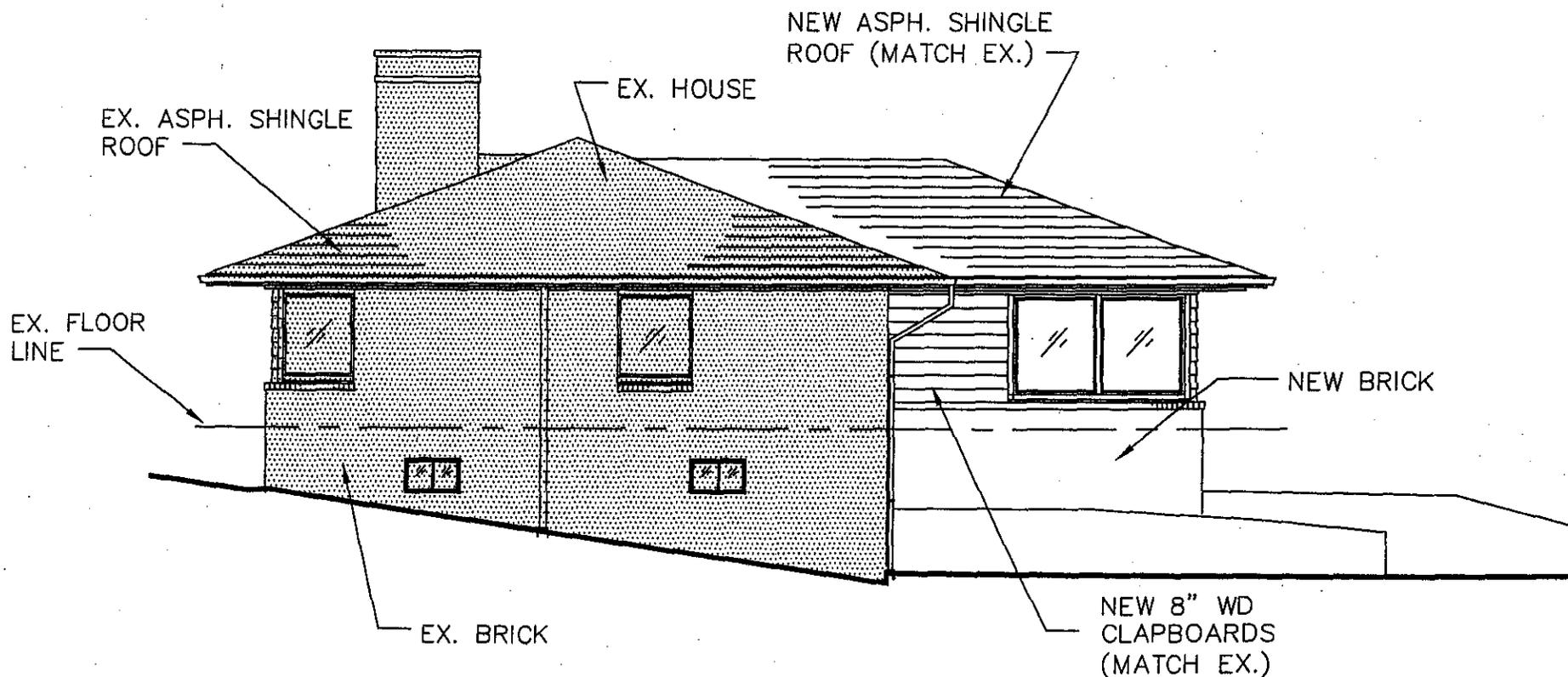
AP04



2304 HIGHLAND AVE. / LOT 11
 BRYANTS ADDITION TO ELLISON HEIGHTS
 FAIRFAX COUNTY, VIRGINIA

Proposed Rear Elevation - South
 1/8" = 1'-0"
 26 March 2010

AP05



2304 HIGHLAND AVE. / LOT 11
 BRYANTS ADDITION TO ELLISON HEIGHTS
 FAIRFAX COUNTY, VIRGINIA

Proposed Side Elevation - West
 1/8" = 1'-0"
 26 March 2010

AP06