



County of Fairfax, Virginia

November 11, 2015

STAFF REPORT

APPLICATION VC 2015-MA-005

MASON DISTRICT

APPLICANTS/OWNERS: Ashebir Gebre
Birtukan Weldeab

LOCATION: 6416 Columbia Pike, Annandale 22041

SUBDIVISION: River View Heights

PARCEL: 61-3 ((12)) 21

LOT SIZE: 8,466 square feet

ZONING: R-2, HC

ZONING ORDINANCE PROVISION: 18-401

PROPOSAL: To permit construction of a dwelling located 5.8 ft. from the western lot line and 9.0 ft. from the eastern lot line.

STAFF RECOMMENDATIONS:

Staff recommends approval of VC 2015-MA-005 for the construction of a single family dwelling located 5.8 ft. from the western side lot line and 9.0 ft. from the eastern side lot line, subject to the proposed conditions set forth in Appendix 1.

It should be noted that it is not the intent of the staff to recommend that the Board, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

Erin M. Haley

The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

It should be noted that the content of this report reflects the analysis and recommendation of staff; it does not reflect the position of the Board of Zoning Appeals. A copy of the BZA's Resolution setting forth this decision will be mailed within five days after the decision becomes final.

For information, contact the Zoning Evaluation Division, Department of Planning and Zoning, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035-5505, (703) 324-1290. **Board of Zoning Appeals meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035.**



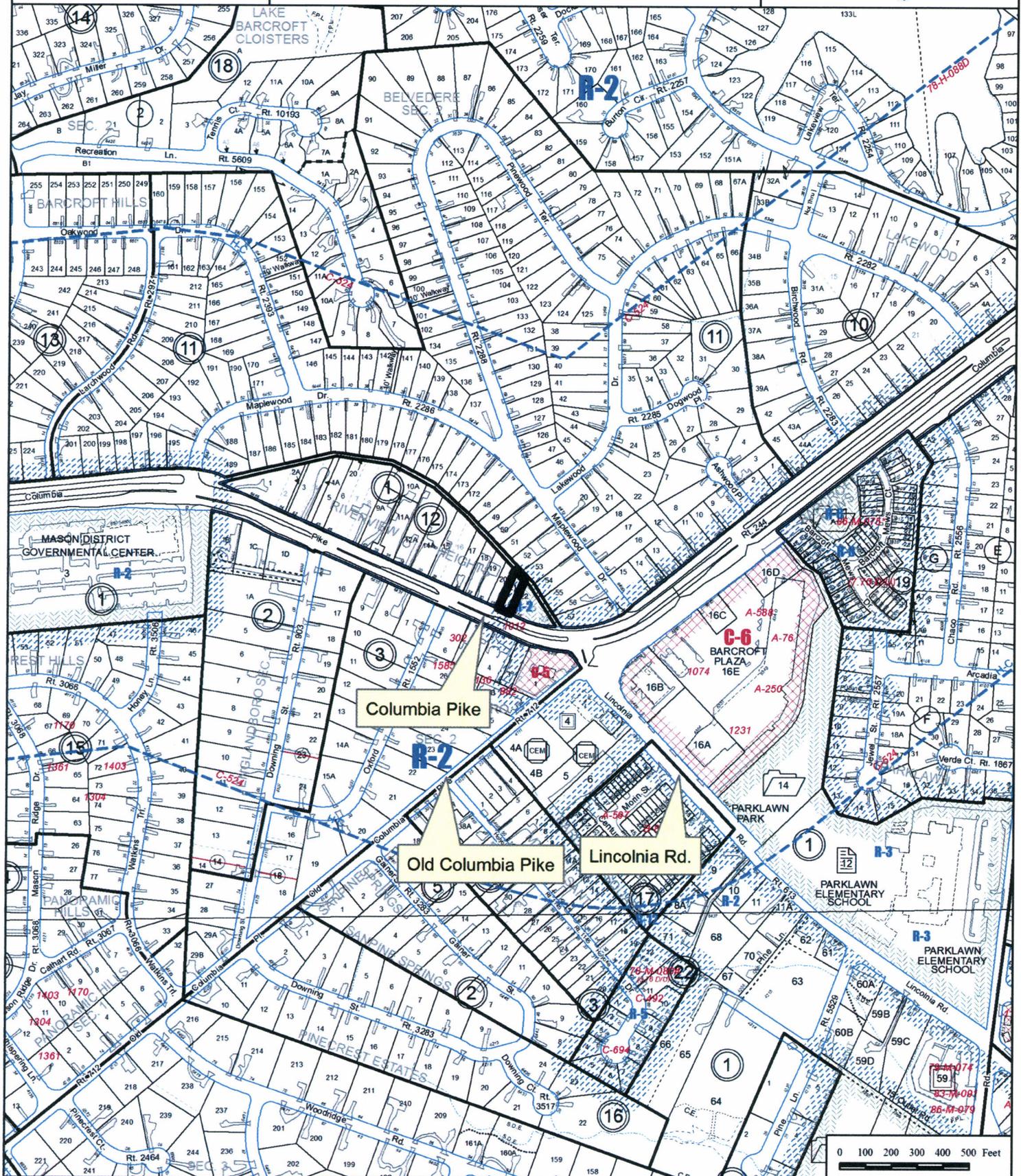
Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).



Variance Application

VC 2015-MA-005

ASHEBIR GEBRE AND BIRTUKAN WELDEAB



E/S LEGEND

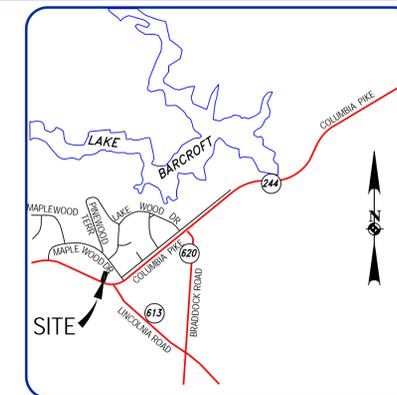
- PROP. CONTOURS
- LIMITS OF CLEARING AND GRADING
- +93.5 PROP. SPOT SHOT

EXISTING FEATURE LEGEND

- IPF—IRON PIPE FOUND
- IPS—IRON PIPE SET
- SB SETBACK LINE
- TREE
- PINE/FIR
- ⊕ POWERPOLE
- GUY WIRE
- E OVERHEAD ELECTRIC
- ohw OVERHEAD WIRE
- W WATER LINE
- ⊕ WATER METER
- S SAN. SEWER LINE
- ⊕ SEWER MANHOLE
- 220 EXISTING INDEX CONTOUR
- 221 EXISTING CONTOUR
- X 283.32 EX. SPOT SHOT

NOTE: NO JOINTLY OWNED OR OFFSITE TREES SHALL BE REMOVED WITHOUT WRITTEN CONSENT FROM TREE OWNER.

TOTAL DISTURBED AREA = 5,785 SQ. FT. or 0.13281 ACRES



VICINITY MAP
SCALE: 1" = 2000'

LS₂PC
LAND SURVEYING & CIVIL ENGINEERING
2890 EMMA LEE STREET SUITE 200
FALLS CHURCH, VIRGINIA 22042
703 - 241 - 5515 FAX 703 - 241 - 5516

NO.	DATE	DESCRIPTION
1	10/27/15	REFLECT UPDATED HOUSE PLANS

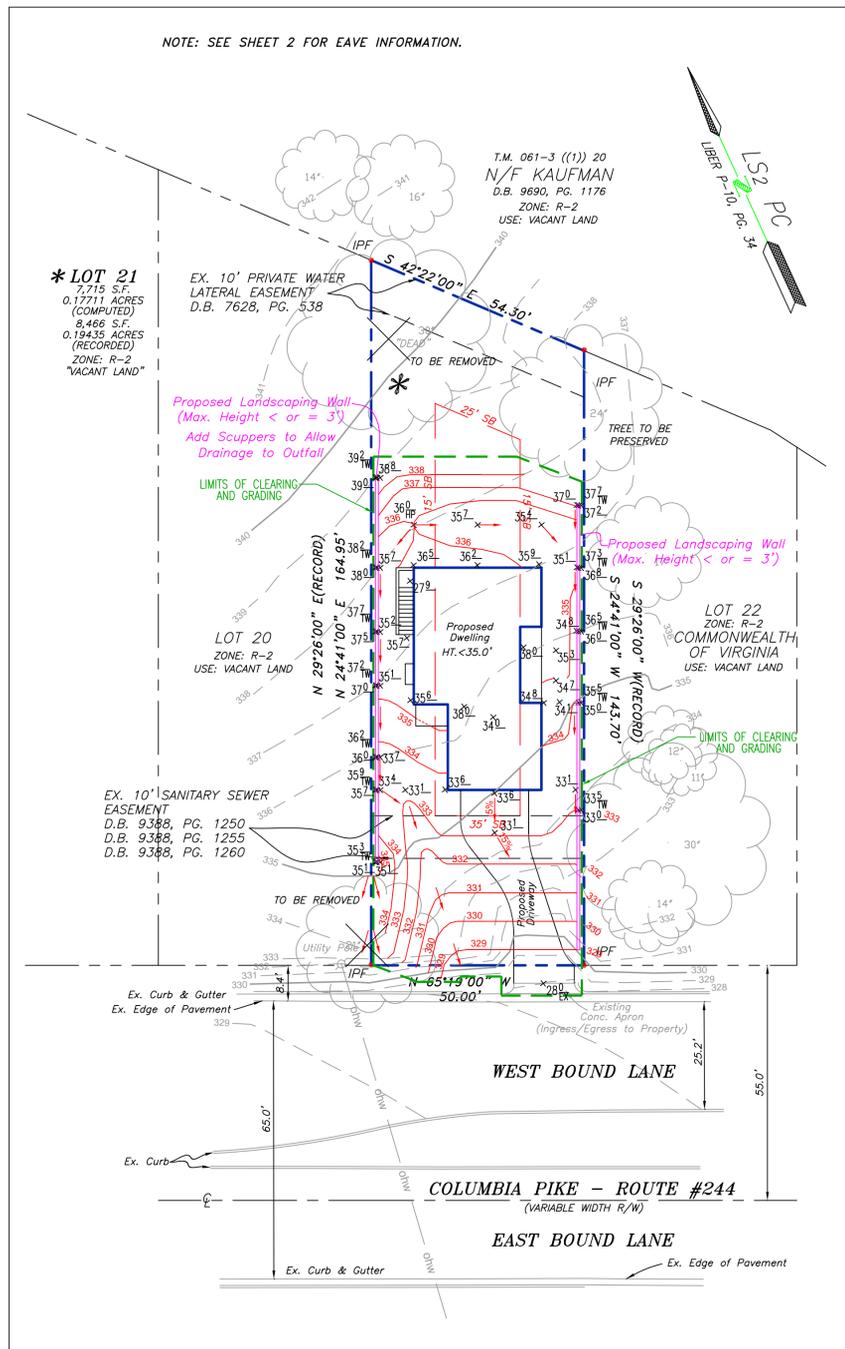
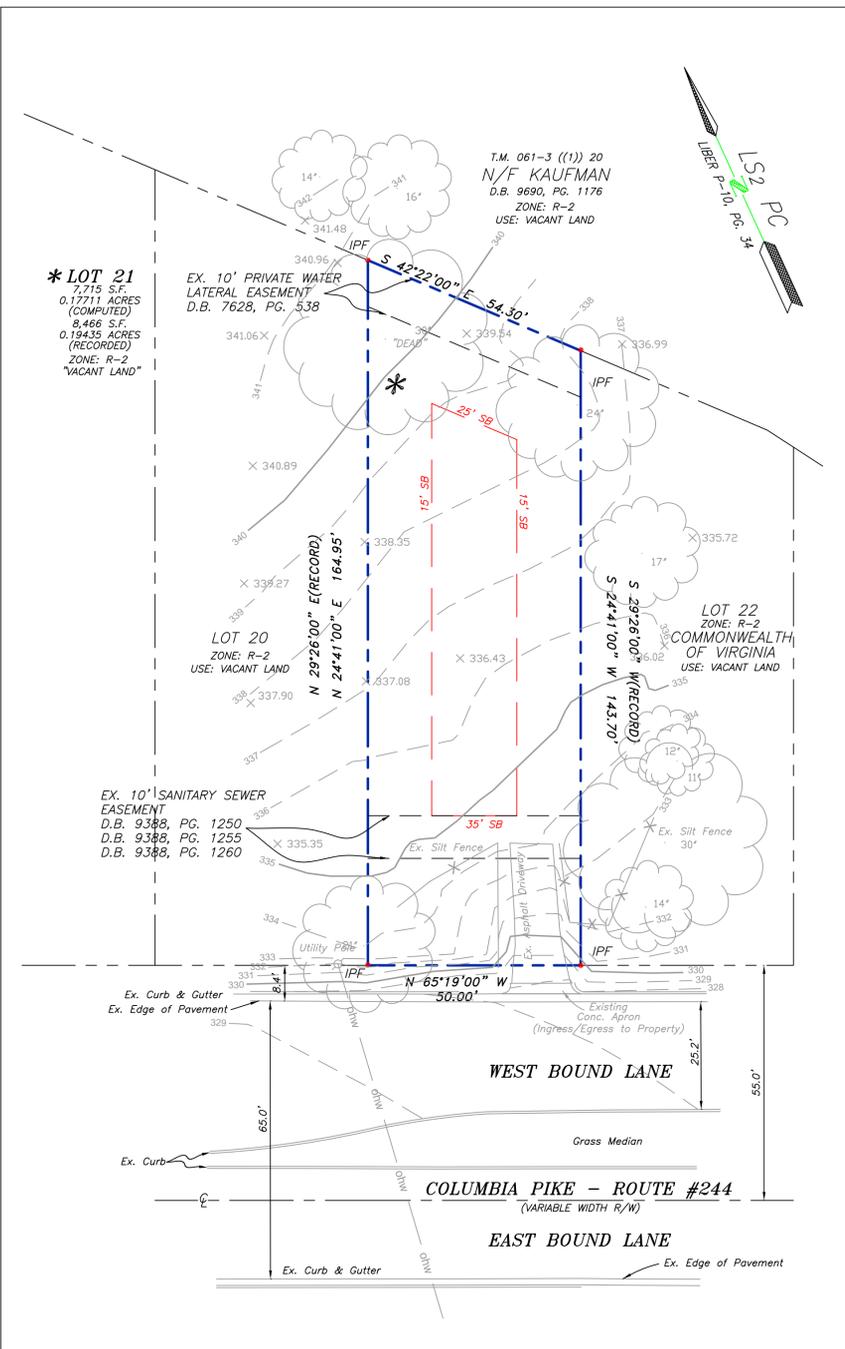
VARIANCE PLAT
EXISTING & PROPOSED CONDITIONS
LOT 21
RIVER VIEW HEIGHTS
LIBER P-10, PAGE 34
MASON DISTRICT
FAIRFAX COUNTY, VIRGINIA

SCALE: 1" = 20'
DATE: JUNE, 2015
DRAWN BY: MNS/ZS
DESIGNED BY: ZS
CHECKED BY: LHS/FPK

SHEET 1 OF 2

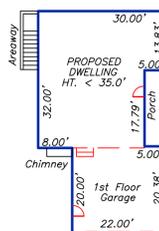
EXISTING CONDITIONS

PROPOSED CONDITIONS



HOUSE TEMPLATE

SCALE: 1" = 20'



PROPOSED GROSS FLOOR AREA

LIVING SPACE:
1ST FLOOR: 827 S.F.
2ND FLOOR: 740 S.F.
TOTAL: 1,567 S.F.

NOTE: BASEMENT IS CURRENTLY PLANNED TO BE UNFINISHED

GENERAL NOTES:

- CURRENT OWNER: ASHEBIR TADESSE GEBRE AND BIRTIKAN WELDEAB, DEED BOOK 22562, PAGE 1509, #6129 LEESBURG PIKE, APT. 1122, FALLS CHURCH, VA. 22041
- THE PROPERTY DELINEATED ON THIS PLAT IS IDENTIFIED ON ASSESSMENT MAP 61-3-(12) AS PARCEL 21 AND IS ZONED R-2.
- THE ADDRESS OF THIS PROPERTY IS #6416 COLUMBIA PIKE.
- ZONE: R-2
- USE: VACANT LAND
- LOT AREA: PARCEL 21 = 7,715 SQ. FT. (0.1771 AC.)
- BULK REGULATIONS:

FRONT YARD:	REQUIRED
SIDE YARD:	35'
REAR YARD:	15'
	25'
- BOUNDARY INFORMATION SHOWN HEREON IS BASED ON AVAILABLE DEEDS PLATS OF RECORD AND VERIFIED BY A CURRENT FIELD SURVEY BY THIS FIRM.
- BEARINGS BASED ON THE PLAT OF RIVER VIEW HEIGHTS RECORDED IN LIBER P-10, PAGE 34 AMONG THE LAND RECORDS OF FAIRFAX COUNTY, VIRGINIA.
- THIS PROPERTY IS CLASSIFIED AS ZONE X, AN AREA OF MINIMAL FLOOD HAZARD IN ACCORDANCE WITH FLOOD HAZARD BOUNDARY MAP NO. 51059C 0285E.
- TOPOGRAPHIC SURVEY WAS COMPILED BY LS2PC IN JULY, 2013.
- CONTOUR INTERVAL—ONE FOOT.
- VERTICAL INFORMATION BASED ON FAIRFAX COUNTY SANITARY SEWER M.H. 61-3-362, INVERT ELEVATION = 327.89.
- THIS PLAN HAS BEEN PREPARED WITH THE BENEFIT OF A TITLE REPORT AND REFLECTS ALL EASEMENTS, ENCUMBRANCES OR OTHER CIRCUMSTANCES AFFECTING THE TITLE TO THE SUBJECT PROPERTY; ALL TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.
- TO THE BEST KNOWLEDGE OF THE SURVEYOR AND DEVELOPER, THERE ARE NO EXISTING GRAVES ON-SITE.
- RESIDENTIAL USE — NO PARKING SPACES
- NO WELL OR SEPTIC FIELD ON SITE.
- RESIDENTIAL USE — NO FAR
- PROPERTY LOCATED IN A HIGHWAY CORRIDOR OVERLAY DISTRICT.
- THERE ARE NO EXISTING PUBLIC UTILITY EASEMENTS HAVING A WIDTH OF (25) FEET OR MORE.
- THERE ARE CURRENTLY NO PHYSICAL IMPROVEMENTS ON SITE.
- NO RPA
- THE STREET SHOWN HEREON IS A PUBLIC RIGHT-OF-WAY.
- THIS LOT WILL BE SERVED BY PUBLIC SEWER AND WATER.

GRAPHIC SCALE



SCALE: 1" = 20'

NOTE: THE TOPOGRAPHIC INFORMATION OF RIVER VIEW HEIGHTS, LOT 21 SHOWN HEREON WAS COMPILED UNDER THE DIRECT AND RESPONSIBLE CHARGE OF LAWRENCE H. SPILMAN, III, L.S. FROM AN ACTUAL GROUND SURVEY MADE UNDER HIS SUPERVISION; THAT THE IMAGERY AND/OR ORIGINAL DATA WAS OBTAINED ON JULY 29, 2013; AND THAT THIS PLAT, MAP, OR DIGITAL GEOSPATIAL DATA INCLUDING METADATA MEETS MINIMUM ACCURACY STANDARDS UNLESS OTHERWISE NOTED.

I HEREBY CERTIFY THAT ALL APPROPRIATE COUNTY APPROVALS WERE OBTAINED IN ACCORDANCE WITH THE PROCESS REQUIRED BY THE SUBDIVISION ORDINANCE IN EFFECT AT THE TIME OF THE CREATION OF LOT 21. THE LOT WAS CREATED AS PART OF RIVER VIEW HEIGHTS APPROVED BY FAIRFAX COUNTY IN OCTOBER, 1929 AND RECORDED IN LIBER P-10 AT PAGE 34 IN FAIRFAX COUNTY LAND RECORDS, ALL TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

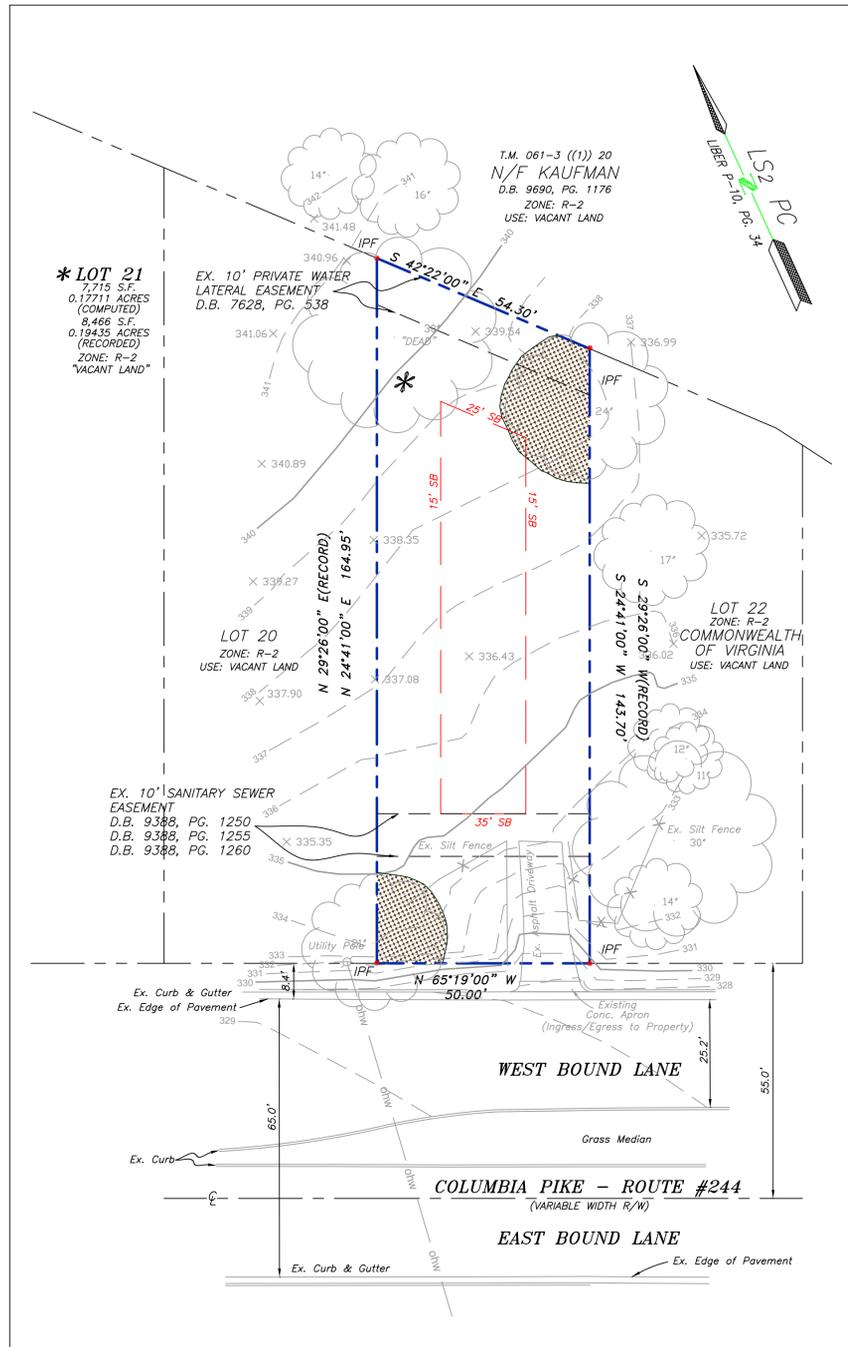
E/S LEGEND

- PROP. CONTOURS
- LIMITS OF CLEARING AND GRADING
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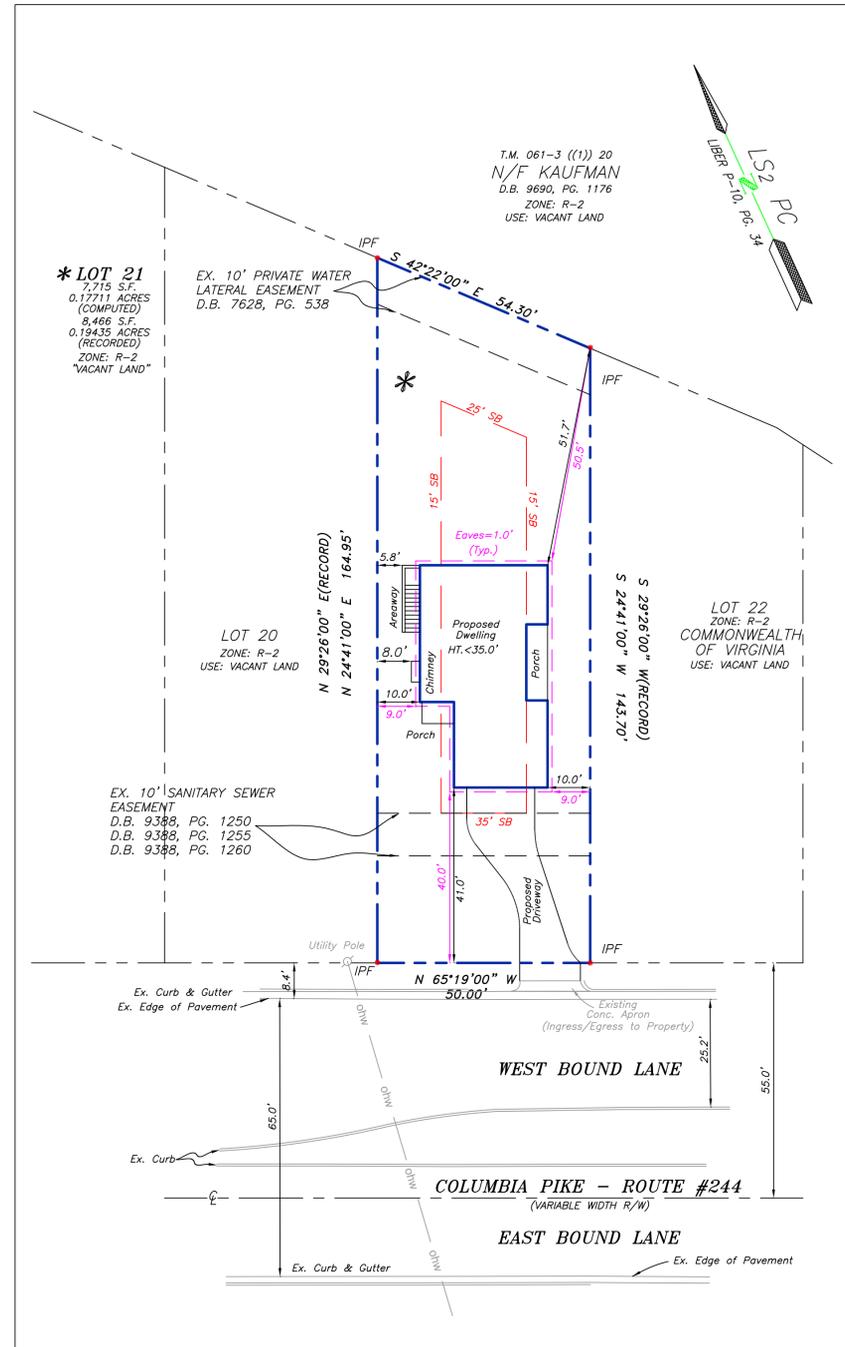
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- PINE/FIR
- POWERPOLE
- GUY WIRE
- E — OVERHEAD ELECTRIC
- ohw — OVERHEAD WIRE
- W — WATER LINE
- WATER METER
- S — SAN. SEWER LINE
- S — SEWER MANHOLE
- 220 — EXISTING INDEX CONTOUR
- 221 — EXISTING CONTOUR
- X 283.32 EX. SPOT SHOT

EXISTING VEGETATION MAP



PROPOSED BUILDING PLACEMENT



NOTE:
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EXISTING VEGETATION MAP/PROP. BUILDING
LOT 21
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MASON DISTRICT
FAIRFAX COUNTY, VIRGINIA

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DESIGNED BY: ZS
CHECKED BY: LHS/FKP



DESCRIPTION OF THE APPLICATION

The applicants request a variance for reduction of minimum side yards to permit construction of a new two-story single family detached dwelling with 1,567 square feet of gross floor area on an existing lot. The lot is comprised of approximately 8,466 square feet and has a width of 50 feet. The proposed dwelling would be located 5.8 feet from the western side lot line, measured to the basement areaway, and 9.0 feet from the eastern side lot line, measured to the eaves. The dwelling includes a rear deck and stairs to the basement.

A reduced copy of the variance plat titled, "Variance Plat, Lot 21, River View Heights, Liber P-10, Page 34," prepared by Lawrence H. Spilman III, dated June 18, 2015, as revised through October 27, 2015, is included in the front of the staff report. Copies of the proposed development conditions, the applicant's statement of justification, and affidavit are included in Appendices 1, 2 and 3, respectively.

CHARACTER OF THE SITE AND SURROUNDING AREA

The property is vacant, undeveloped land. Based upon County records and aerial photography, it appears the property has never been developed. An initial attempt to develop the property and the adjacent property to the west was made in 1991, but the building permit was ultimately canceled. An existing curb cut and dilapidated driveway provide access from Columbia Pike to the eastern side of the property. An existing 10.0 foot private water lateral easement runs across the rear lot line. An existing 10.0 foot sanitary sewer easement runs across the property approximately 35.0 feet back from Columbia Pike. The lot is generally flat with a slight slope from north to south and has some mature trees and vegetation at the rear.



Figure 1: House Location
For illustrative purposes only

The subject lot is 50.0 feet in width, which is less than the standard required lot width of 100.0 feet for an R-2 zoned property. The property immediately adjacent to the west and the three properties beyond that to the northwest are all approximately 50.0 feet in width. The adjacent property to the west is also vacant land. Other properties in the nearby area are also non-conforming with regard to the lot width requirement and are developed with single family detached dwellings.

The subject property and surrounding properties are zoned R-2. The adjacent lots to the north, east, and west are vacant land. The lots to the south are developed with single family detached dwellings.

BACKGROUND

- October 17, 1929 – Lot 21 was created through subdivision by deed (see deed plat in Appendix 4). Since the subject property was created in 1929, prior to the adoption of the current Zoning Ordinance, it has been deemed a legal, buildable lot under Sect. 2-405.1 of the Zoning Ordinance.
- April 27, 1951 – Land was taken by the Commonwealth for the widening of Columbia Pike, leaving the parcel in its current configuration and size (Appendix 4). The width of the lot was not changed.
- According to the Department of Tax Administration, the applicant purchased the property on September 17, 2012. County records and historical aerial photos indicate that the property has never been developed.

Since the adoption of the current Zoning Ordinance in 1978, the Board of Zoning Appeals has heard other applications for reductions to minimum required yards in this immediate area.

- VC 85-M-059: Approved for construction of a dwelling 11 feet from both side lot lines (15 feet minimum required) at 6424 Columbia Pike. This lot has a width of 49.94 feet.
- VC 89-M-151: Approved for construction of a dwelling 11 feet from a side lot line (15 feet minimum required) at 6407 Columbia Pike. This lot has a width of approximately 50 feet.

More information about similar applications is included in Appendix 5.

ANALYSIS

Comprehensive Plan Provisions

Plan Area: Area IV, Rose Hill Planning District
Planning Sector: Wilton Woods Community Planning Sector (RH5)
Plan Map: Residential, 2-3 du/ac

LAND USE ANALYSIS

The proposed dwelling has a footprint of 30.0 feet in width and 52.0 feet in length, with a western side yard of 5.8 feet to the basement areaway and an eastern side yard of 9.0 feet to the eaves. The R-2 District requires minimum side yards of 15 feet. The Virginia Department of Transportation (VDOT) owns the vacant property adjacent to the east and has stated that this property will never be developed but could possibly be sold. Staff suggested that the applicants attempt to purchase a portion of this property to create a lot large enough that would allow them to construct a house by-right, but the applicants declined to pursue that option.

The applicant has worked with staff to revise the proposed dwelling to be more in keeping with the character of the surrounding area. Other houses along the northern side of Columbia Pike are constructed with a variety of materials and are characterized by having parking or garages to the rear of the property and front-facing entrances with windows, dormers, and other architectural elements. The original proposal had a front-loading, two-car garage with the entrance to the house located on the eastern side of the house from a porch and no entrance or any other architectural elements on the street façade. Although the applicant has kept a front-loading, two-car attached garage, they have added an entrance stoop and two windows to the façade facing the street. The applicant has indicated that the exterior walls will have vinyl siding, which would be similar to materials used by some neighboring properties.



Figure 2: Proposed architectural elevation

TRANSPORTATION ANALYSIS (APPENDIX 6)

VDOT reviewed this application and has stated that the driveway must be relocated to the western side of the property to maximize the limited sight distance available at this location. The proximity of the property, exacerbated by the existing curb cut, to the intersection of Maplewood Drive and Columbia Pike creates a safety concern with regard to traffic traveling west on Columbia Pike. Staff has requested that the applicants make this change, but the applicants have declined to do so stating that it is their belief sight distance is adequate at the existing driveway. A development condition is provided that would allow the driveway location to be shifted as determined by VDOT.

URBAN FORESTRY ANALYSIS (APPENDIX 7)

The plat does not indicate how the applicants will meet the tree preservation target and ten year tree canopy requirements. These requirements must be met at the time of approval of the lot grading plan. Development conditions have been proposed to require conformance with the preservation target and 10-year canopy standards. Also, a site visit revealed that a maple tree is intruding into the power lines along Columbia Pike. This tree should be removed due to conflicts with the power lines and the proposed grading to occur onsite. Should this tree prove to be co-owned with the adjacent property owner to the west, written approval from the adjacent property owner must be obtained prior to removal of the tree.

Zoning District Standards

Bulk Standards (R-2)		
Standard	Required	Proposed
Lot Size	15,000 sf.	8,466 sf.*
Lot Width	Interior: 100 feet	50.0 feet
Building Height	35 feet	< 35.0 feet
Front Yard	35 feet	40.0 feet
Side Yard	15 feet	Western side: 5.8 feet Eastern side: 9.0 feet
Rear Yard	25 feet	50.5 feet

* The subject parcel was created in 1929, prior to the adoption of the current Zoning Ordinance; therefore it is considered a legal, buildable lot under Sect. 2-405.1 of the Zoning Ordinance.

Variance Requirements (Appendix 8)

- Code of Virginia Sec. 15.2-2309, as amended

In addition to meeting the definition of variance, an application must satisfy a specific set of criteria in order for the Board to grant a variance. According to the recently amended Virginia State Code, Sec. 15.2-2309, a variance meeting the definition shall be granted if the following elements are met:

The evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance (Sect. 15.2-2309.2)

The 50-foot wide lot falls short by half of the minimum required lot width of 100 feet for the R-2 District and is narrower compared to other lots in the vicinity. To construct a house in conformance with minimum yard requirements would allow a width of only 20 feet. Staff finds that some relief is reasonable to alleviate a hardship due to the physical constraints of the lot.

The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance (Sect. 15.2-2309.2(i))

Staff believes the property was acquired in good faith based on the information contained in the applicants' statement of justification. The hardship for which the variance is being requested was not created by the applicants as the property was subdivided in 1929 and they purchased it in 2012; therefore the applicants did not create the narrowness of the lot. Staff believes the applicants satisfy this standard.

The granting of the variance will not be of substantial detriment to the adjacent property and nearby properties in the proximity of that geographical area (Sect. 15.2-2309.2(ii))

The adjacent properties to the north, east, and west are vacant land. The property to the east is owned by VDOT. VDOT has no plans to dispose of the property and has stated that this property will not be developed. The property to the north consists of a long, narrow strip of land 0.61 acres in size that has been deemed Non-Buildable. The northern and eastern properties are heavily vegetated, which provides additional buffering to nearby residential properties. The proposed house is relatively modest in scale and provides side yards that will measure 5.8 feet to the basement access staircase (10 feet to the actual house) and 9.0 feet, respectively. In staff's opinion, the proposed side yards are reasonable given the width of the lot. Therefore, staff believes that the proposed house will not detrimentally impact adjacent properties.

The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general reduction to be adopted as an amendment to the ordinance (Sect. 15.2-2309.2(iii))

The R-2 District requires a minimum lot width of 100 feet. The subject lot was established in 1929, before the adoption of the current Zoning Ordinance. Only a few other properties nearby have the same lot width. Staff believes that the condition of the property is not of so general or recurring a nature as to require an amendment to the Ordinance.

The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property (Sect. 15.2-2309.2(iv))

The property is zoned R-2 and is intended for low-density residential development. The applicants are proposing a single family dwelling which is similar in height, size, and design to other residentially zoned lots in the area. The granting of the variance will not result in a use that is not otherwise permitted on such a property or a change in the zoning classification of the property.

The relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A4 of § 15.2-2286 at the time of the filing of the variance application (Sect. 15.2-2309.2(v))

The variance application is the only mechanism to provide the relief requested.

CONCLUSION AND RECOMMENDATION

The subject property was established before the adoption of the current Ordinance; it is 50 feet wide, which is half the width required by its current R-2 zoning district. If the property were developed by-right and met the required 15 foot side yard setbacks, it would result in a house that was a maximum of 20 feet wide. Staff believes that some relief is reasonable to allow for construction of a house that is not exceptionally narrow and might be more visually prominent than what is proposed. The proposed dwelling is modest in scale and its character is consistent with the surrounding neighborhood.

Based on the findings stated above, staff recommends approval of VC 2015-MA-005, subject to the proposed conditions set forth in Appendix 1.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals.

The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

APPENDICES

1. Proposed Development Conditions
2. Statement of Justification
3. Affidavit
4. Deeds showing creation of subject property
5. Similar Case History
6. VDOT memo, dated August 14, 2015
7. Urban Forestry memo, dated August 12, 2015
8. Code of Virginia Sec. 15.2-2309, as amended

PROPOSED DEVELOPMENT CONDITIONS**VC 2015-MA-005****November 11, 2015**

If it is the intent of the Board of Zoning Appeals to approve VC 2015-MA-005 located at 6416 Columbia Pike, Tax Map 61-3 ((12)) 21, for the construction of a single family dwelling located 5.8 ft. from the western side lot line and 9.0 ft. from the eastern side lot line, pursuant to Section 18-401 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions:

1. This variance is approved for the single family dwelling as shown on the variance plat titled, "Variance Plat, Lot 21, River View Heights, Liber P-10, Page 34," prepared by Lawrence H. Spilman III, dated June 18, 2015, as revised through October 27, 2015, as submitted with this application and is not transferable to other land.
2. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
3. All applicable building permits and final inspections shall be obtained for the single-family detached dwelling.
4. The architectural style and materials of the dwelling shall be compatible with the architectural elevations depicted in Attachment 1 to these Development Conditions.
5. Prior to the approval of a lot grading plan, the applicant shall obtain approval from the Virginia Department of Transportation (VDOT) for the location of the driveway curb cut on Columbia Pike. The driveway may be shifted if determined necessary by VDOT.
6. Prior to the approval of a lot grading plan, the Urban Forestry Management Division shall determine that the plan meets the tree preservation target and ten year tree canopy requirements.
7. Prior to establishment of the use, the maple tree located at the southwest corner of the property shall be removed. Should the tree prove to be co-owned with the adjoining property to the west, written approval from the adjacent property owner shall be obtained prior to removal of the tree.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards including requirements for building permits.

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.

JUN 26 2015

Zoning Evaluation Division

STATEMENT OF JUSTIFICATION

The Applicants are the owners of an undeveloped single family lot at 6416 Columbia Pike, Annandale, Virginia. The lot is zoned R-2 and contains 7.715 square feet per plat filed herewith. The lot is fifty feet (50') in width. The lot was created prior to the effective date of the Zoning Ordinance and therefore is a nonconforming buildable lot even though it does not meet all requirements of the current Zoning Ordinance.

The Applicants are seeking a variance to permit construction of a house with a width of thirty feet (30'), thus resulting in side yards of 5.8 feet from the stairwell to one side lot line and 9.0 to the eave of the other side lot line, instead of the required fifteen feet (15'). The distance to the wall of the house will be 10 feet from each side lot line. The application complies with the required standards for a variance as set forth below:

1. The subject property was acquired in good faith.
2. The subject property was in existence as of "the effective date of the ordinance, August 14, 1978" and as such had the characteristic of exceptional narrowness at the time of the effective date of the ordinance as a result of the change to the ordinance.
3. The condition or situation of the subject property is not of so general or reoccurring nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amended to the zoning ordinance.
4. The strict application of this ordinance would produce undue hardship.
5. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity. The strict application of the zoning ordinance would unreasonably restrict reasonable use of the subject property.

6. The authorization of the variance will not be of a substantial detriment to adjacent property.
7. The character of the zoning district will not be changed by the granting of the variance.
8. The variance will be in harmony with the intended spirit and purposes of this ordinance and will not be contrary to the public interest.

Additionally, the zoning regulations regulating the shape, size of the lot and the size and location of the building proposed to be built on the lot, unreasonably restrict the utilization of the property. Granting the variance would not be contrary to the purpose of the zoning ordinance.

RECEIVED
Department of Planning & Zoning
JUN 26 2015
Zoning Evaluation Division



THE GEBRE RESIDENCE

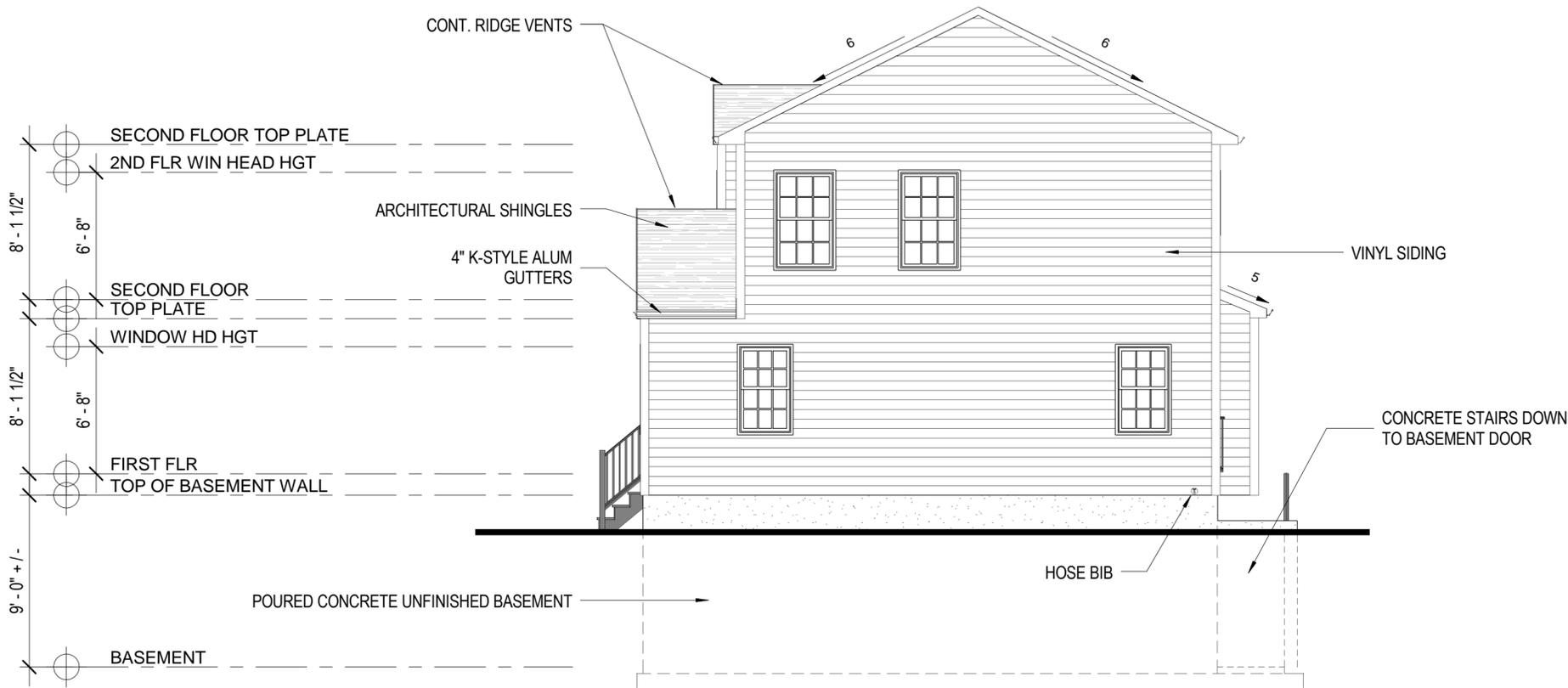
FOR PERMIT

OCTOBER 21, 2015

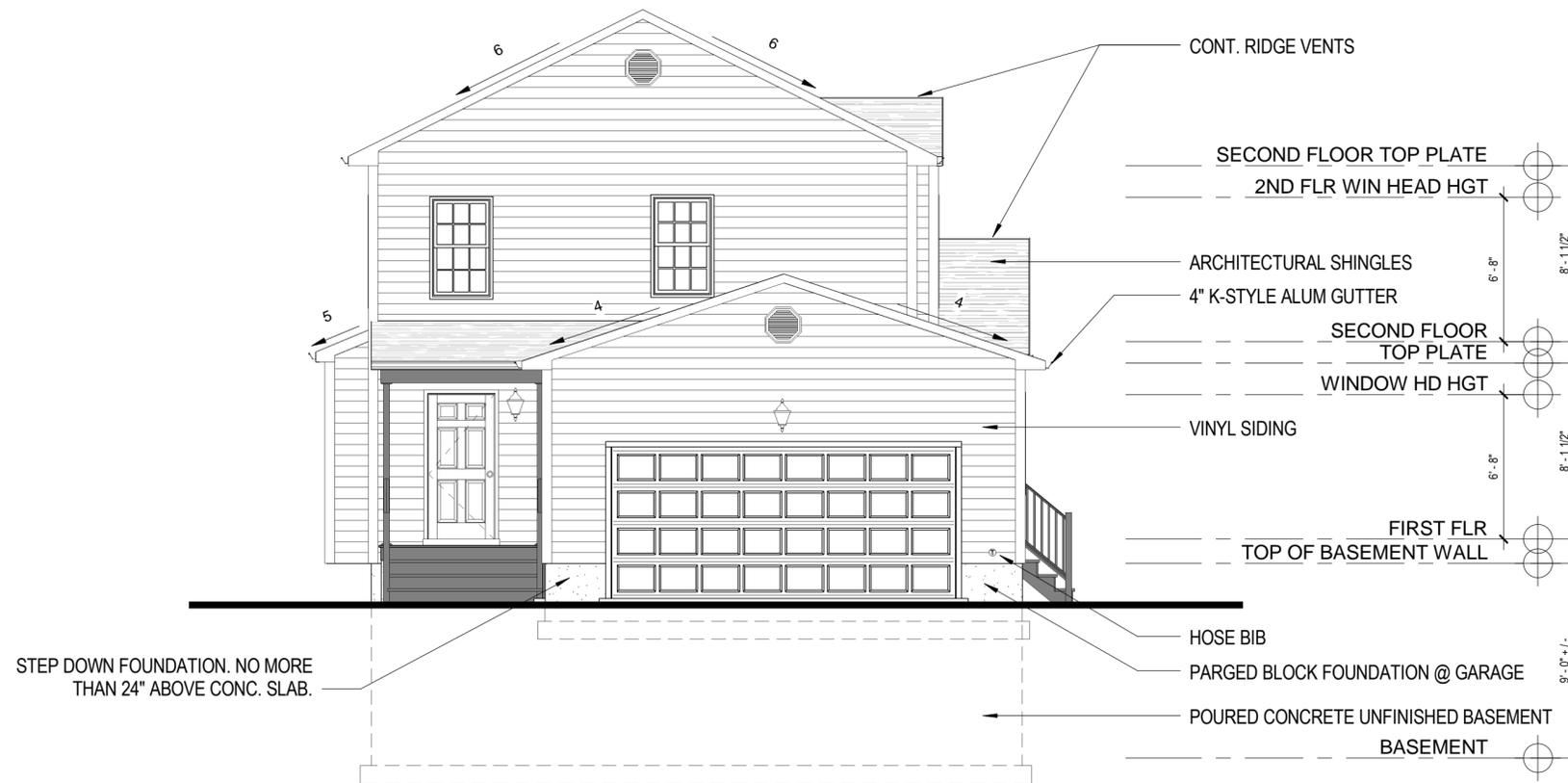
MITCHELL HOMES, INC.

1650 HOLLY HILLS ROAD POWHATAN, VA 23139
PHONE: 804-378-5211 FAX: 804-378-0811
www.MITCHELLHOMESINC.com

ALL WORK SHALL CONFORM WITH ALL GOVERNING LAWS, CODES AND ORDINANCES INCLUDING, BUT NOT LIMITED TO, THE VIRGINIA RESIDENTIAL CODE (2012).



① REAR ELEVATION
3/16" = 1'-0"



② FRONT ELEVATION
3/16" = 1'-0"



THE MADISON PLAN - ELEV. A

SCALE:

3/16" = 1'-0"

JOB NUMBER:

21400029

DATE:

10.21.2015

DRAWN BY:

csey@mittchellhomesinc.com

MITCHELL HOMES, INC.

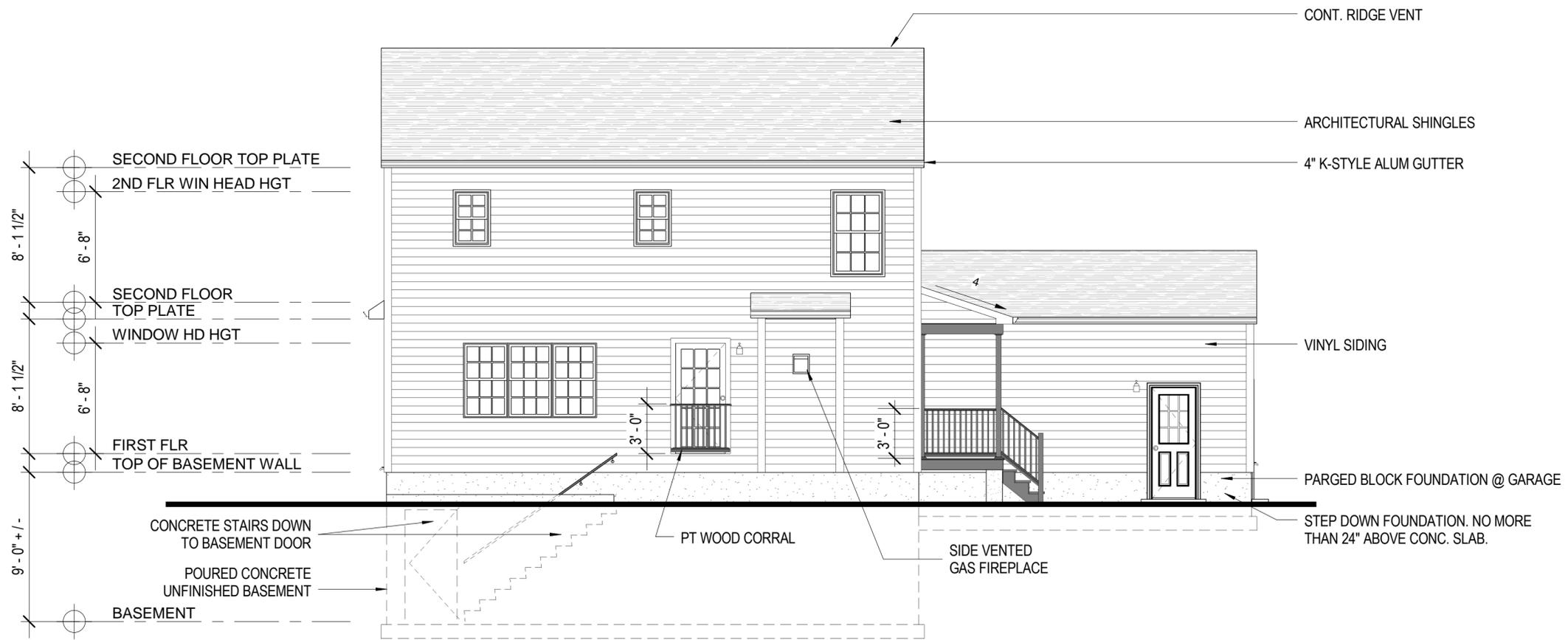
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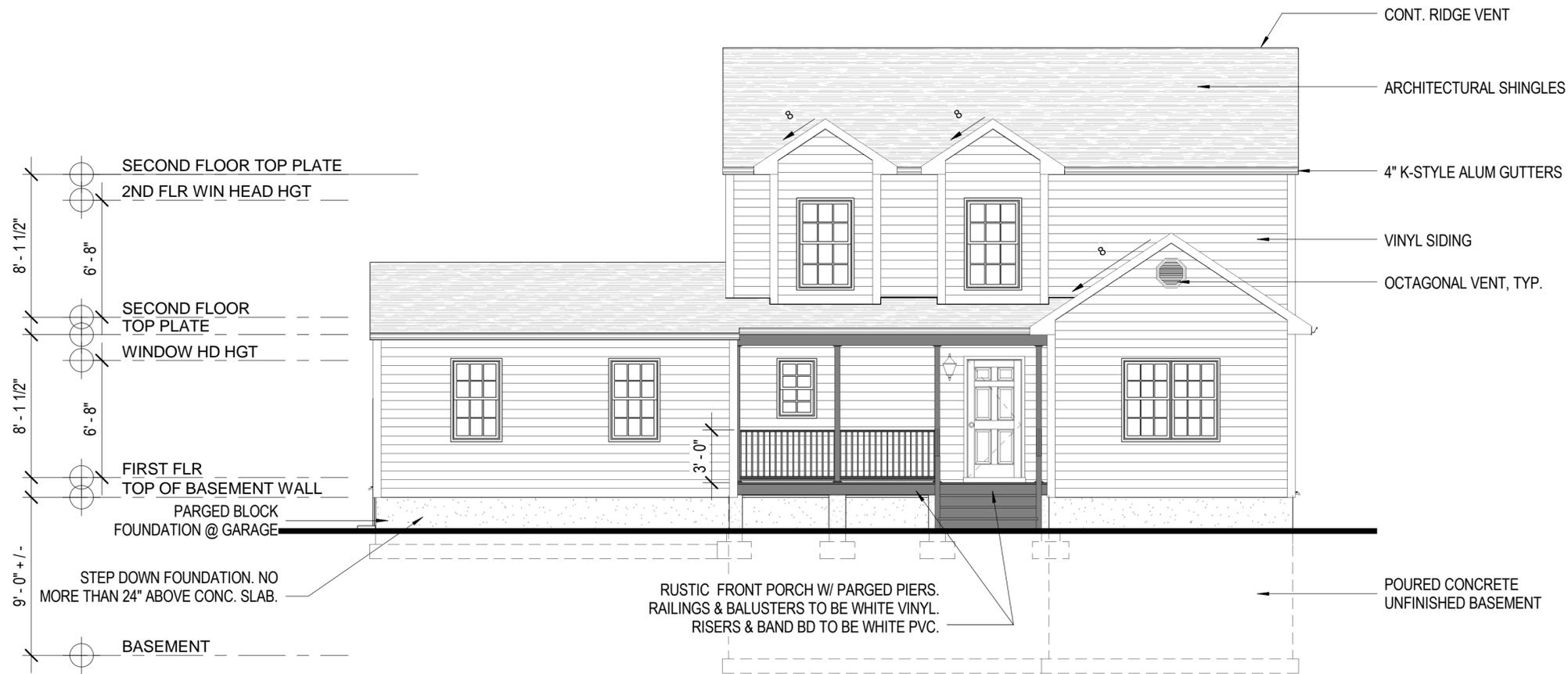
THE GEBRE RESIDENCE

FRONT & REAR ELEVATIONS
FAIRFAX COUNTY, VA

A2.1



① LEFT ELEVATION
 3/16" = 1'-0"



② RIGHT ELEVATION
 3/16" = 1'-0"



THE MADISON PLAN - ELEV. A

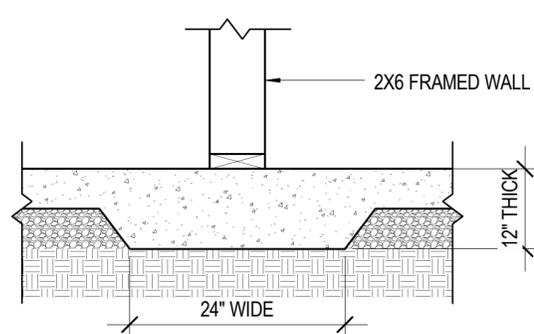
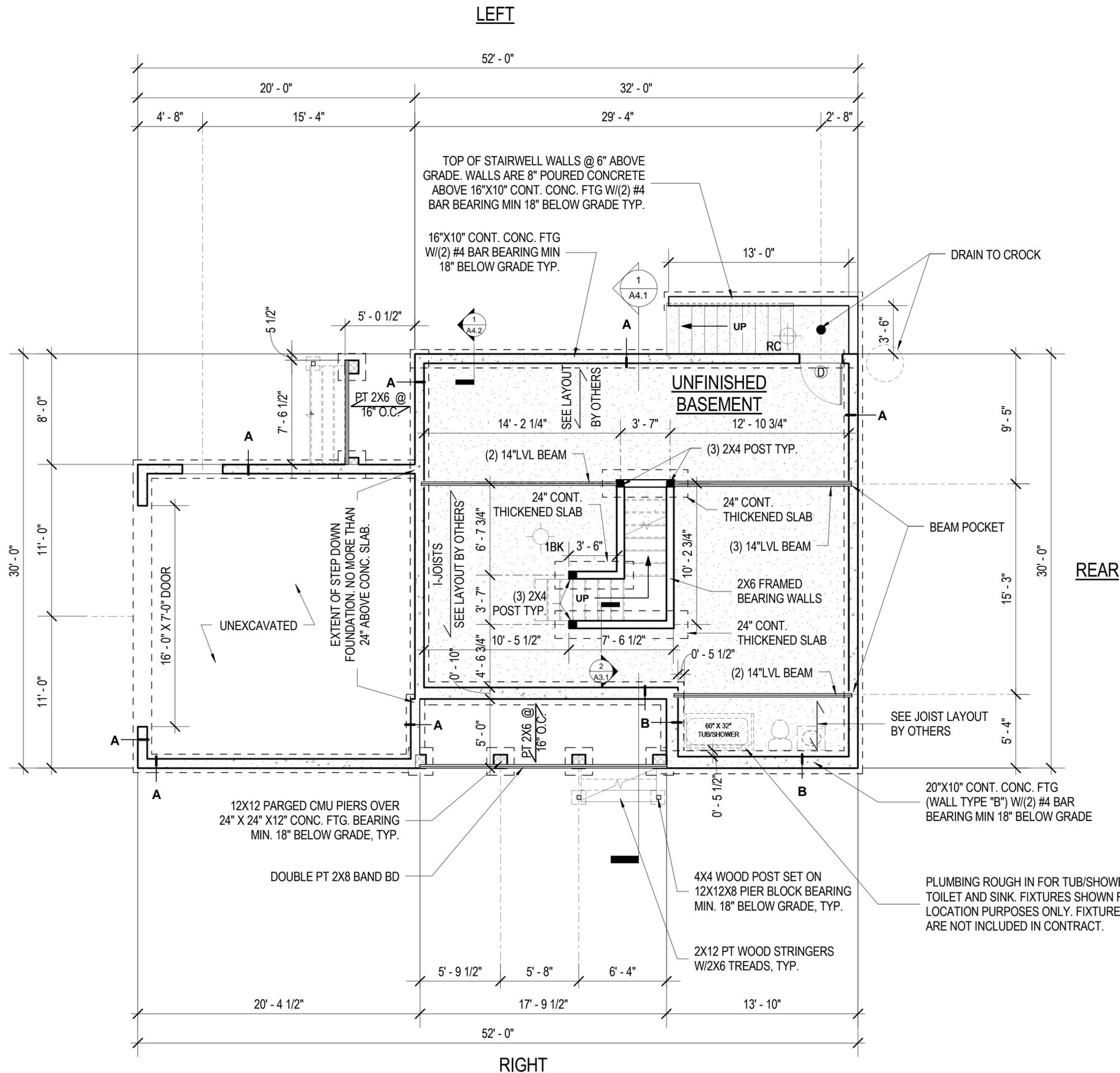
SCALE:	3/16" = 1'-0"	JOB NUMBER:	21400029
DATE:	10.21.2015	DRAWN BY:	csey@mittchellhomesinc.com

MITCHELL HOMES, INC.
 1650 HOLLY HILLS ROAD POWHATAN, VA 23139
 PHONE: 804-378-5211 FAX: 804-378-0811
 WWW.MITCHELLHOMESINC.COM



THE GEBRE RESIDENCE
 SIDE ELEVATIONS
 FAIRFAX COUNTY, VA

A2.2



② THICKENED SLAB DETAIL
 1" = 1'-0"

- LEGEND**
- A 8" POURED CONCRETE
 - B 10" POURED CONCRETE
 - - - - FOOTING BELOW



① FOUNDATION PLAN
 3/16" = 1'-0"

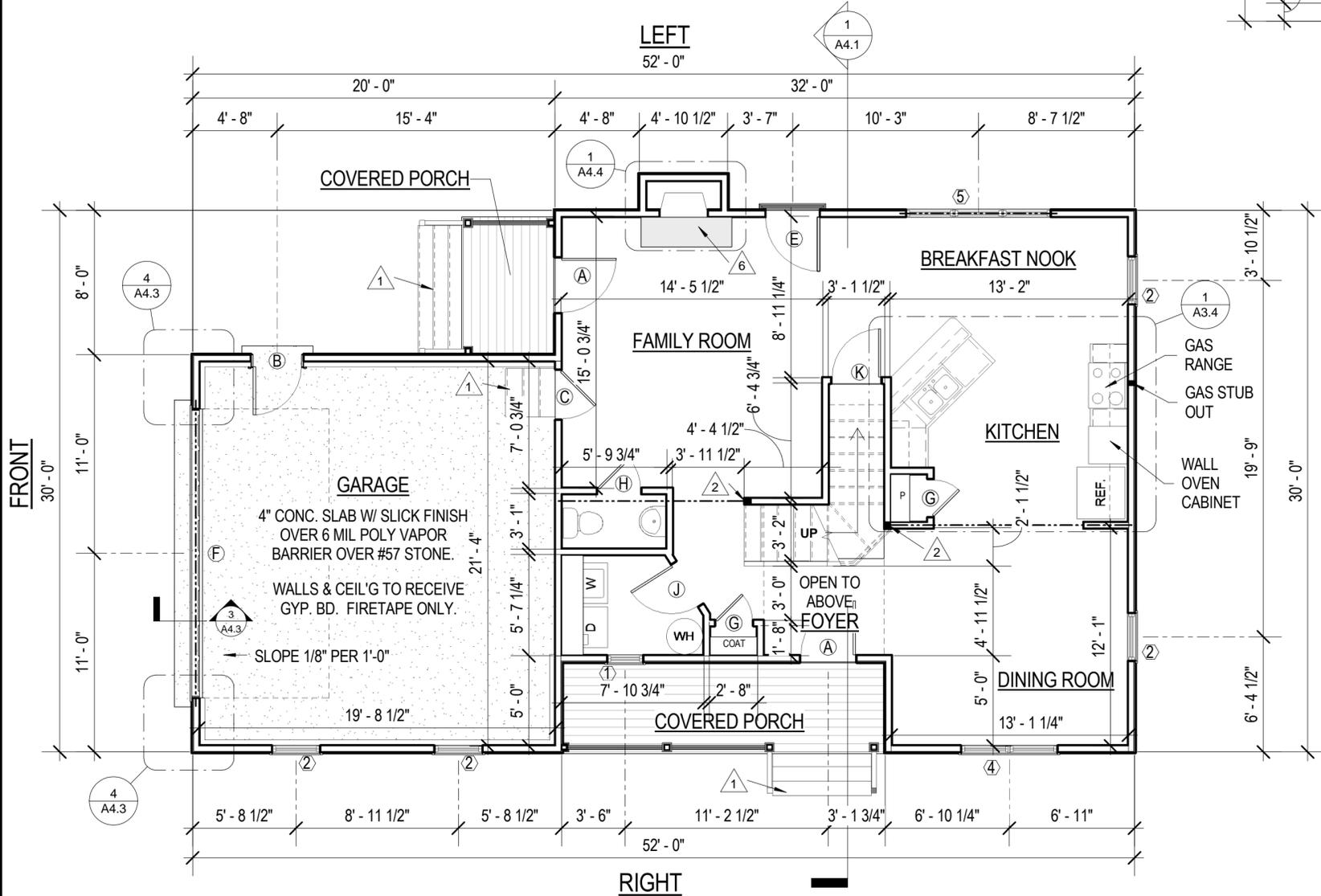
THE MADISON PLAN - ELEV. A	SCALE:	As indicated	JOB NUMBER:	21400029
	DATE:	10.21.2015	DRAWN BY:	cseye@mitchellhomesinc.com

DOORS						
MARK	SIZE	STYLE	DESCRIPTION	COUNT	USE	HDR
A	30/68	FIBERGLASS	RAISED PANEL W/ DEADBOLT	2	Exterior	(2) 2X10
B	28/68	STEEL	9 LITE W/ DEADBOLT	1	Exterior	(2) 2X10
C	28/68	STEEL	RAISED PANEL	1	Exterior	(2) 2X10
D	30/68	STEEL	RAISED PANEL W/ DEADBOLT	1	Exterior	(2) 2X10
E	30/68	STEEL	SINGLE FRENCH 3X5 LITE, EXT	1	Exterior	(2) 2X10
F	160/70	STEEL	OVERHEAD GARAGE	1	Exterior	(2) 14" LVL
G	20/68	COMP	RAISED PANEL	4	Interior	(2) 2X4
H	24/68	COMP	RAISED PANEL	2	Interior	(2) 2X4
I	26/68	COMP	RAISED PANEL	2	Interior	(2) 2X4
J	28/68	COMP	RAISED PANEL	1	Interior	(2) 2X4
K	28/68	SOLID	RAISED PANEL W/ WEATHERSTRIPPING ALL 4 SIDES	1	Interior	(2) 2X4
L	210/68	COMP	RAISED PANEL	2	Interior	(2) 2X4
M	30/68	COMP	RAISED PANEL-DOUBLE	2	Interior	(2) 2X4

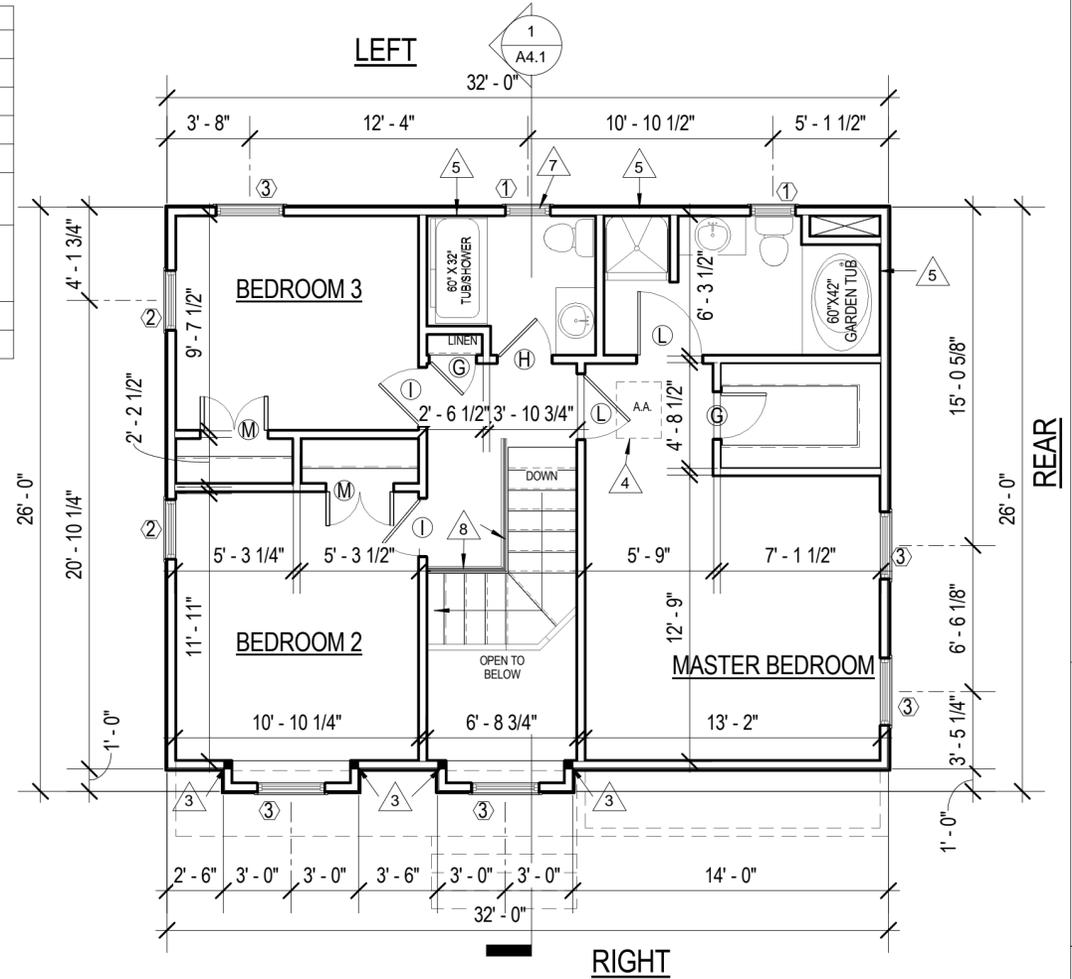
WINDOWS - SINGLE HUNG W/ LOW E GLASS					
MARK	SIZE	STYLE	DESCRIPTION	COUNT	HDR
1	20/32	INSUL	SINGLE HUNG	3	(2) 2X8
2	28/46	INSUL	SINGLE HUNG	6	(2) 2X8
3	30/50		SINGLE HUNG	5	
4	28/46 TWIN	INSUL	SINGLE HUNG	1	(2) 2X10
5	28/46 TRIPLE	INSUL	SINGLE HUNG	1	(2) 9-1/2" LVL

PLAN NOTES	
NUM	NOTE
1	NUMBER OF STEPS DEPENDENT ON GRADE. (3 STEPS INCLUDED)
2	(3) 2X4 POST. FLUSH BEAM ABOVE. SEE JOIST LAYOUT BY OTHERS.
3	(2) 2X4 POST. GIRDER TRUSS ABOVE. SEE LAYOUT BY OTHERS.
4	FRAMER TO INSULATE AND WEATHERSTRIP HATCH TO CODE
5	FRAMER TO PROVIDE R-15 BATT INSULATION & AIR BARRIER TO CODE BEHIND TUB AND SHOWER PRIOR TO INSTALLATION.
6	36" PREFAB GAS FIREPLACE, EXT. CANTILEVERED, SIDE VENTED W/ STONE RAISED HEARTH, SURROUND & MANTEL. SEE FIREPLACE DETAIL SHEET A4.4 & MANUF. SPEC FOR DETAILS.
7	TEMPERED WINDOW
8	RAILING

NOTE: ALL DIMENSIONS ARE FROM OUTSIDE EDGE OF EXTERIOR WALL SHEATHING OR FACE OF STUD OR CENTERLINE OF WALL, U.N.O.



THE MADISON PLAN - ELEV. A



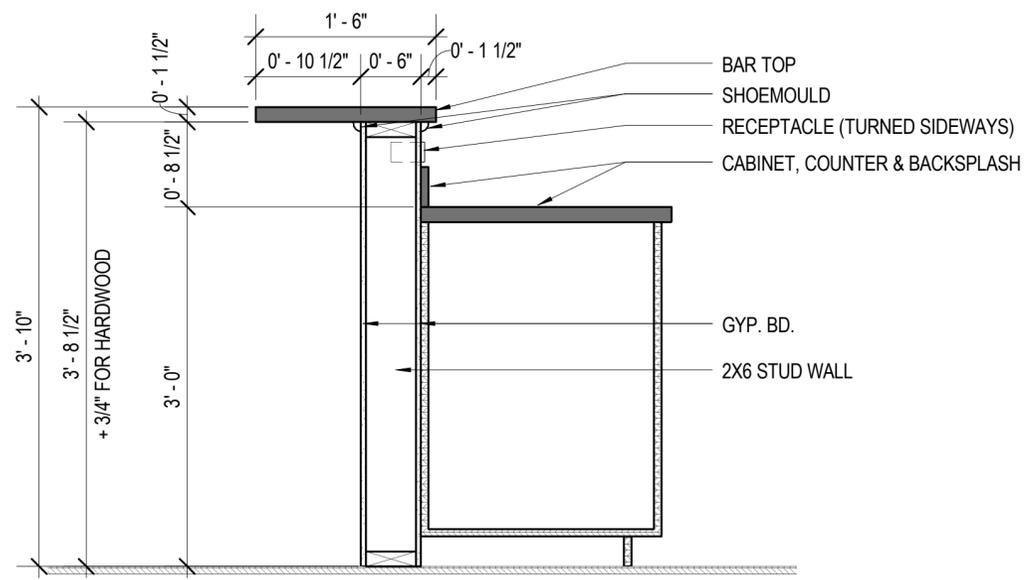
SCALE:	3/16" = 1'-0"	JOB NUMBER:	21400029
DATE:	10.21.2015	DRAWN BY:	cseye@mitchellhomesinc.com

MITCHELL HOMES, INC.
1650 HOLLY HILLS ROAD POWHATAN, VA 23139
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WWW.MITCHELLHOMESINC.COM

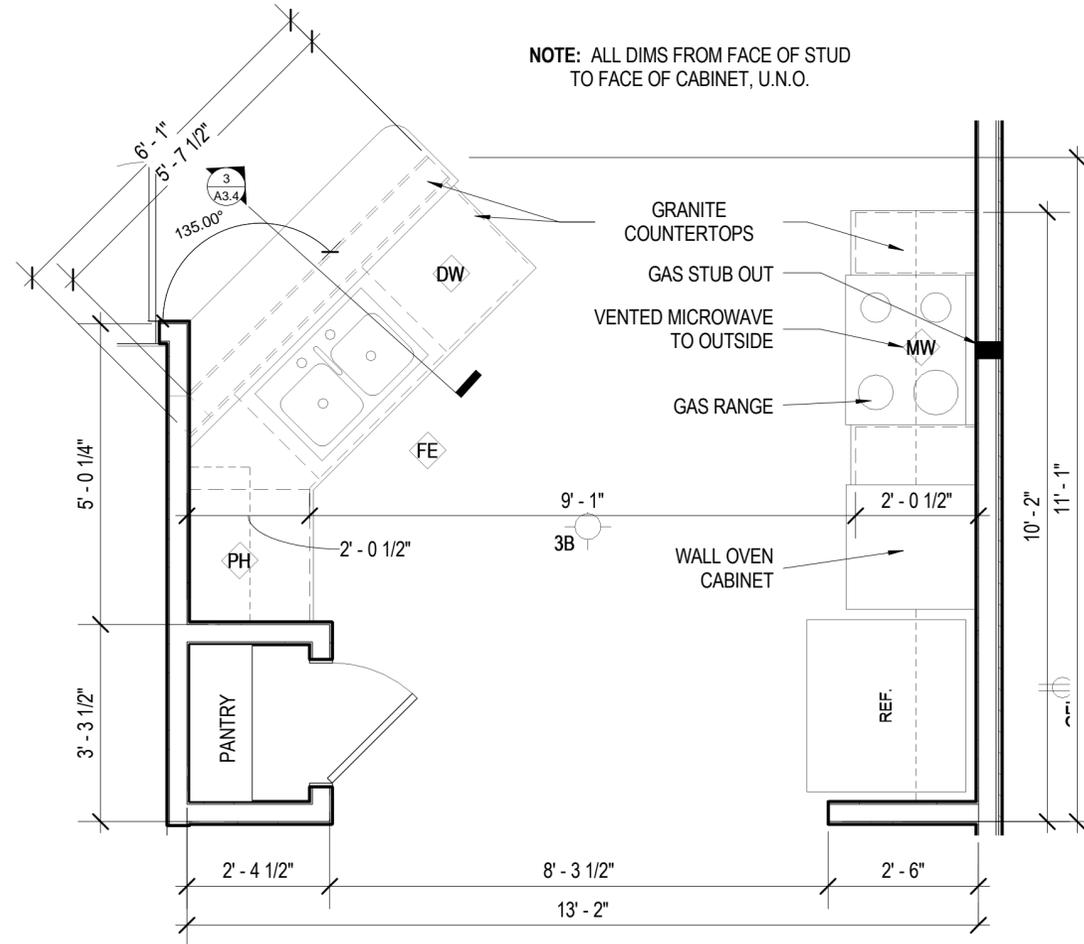


THE GEBRE RESIDENCE
FRAMING PLAN
FAIRFAX COUNTY, VA

A3.2



③ @ BAR TOP
1" = 1'-0"

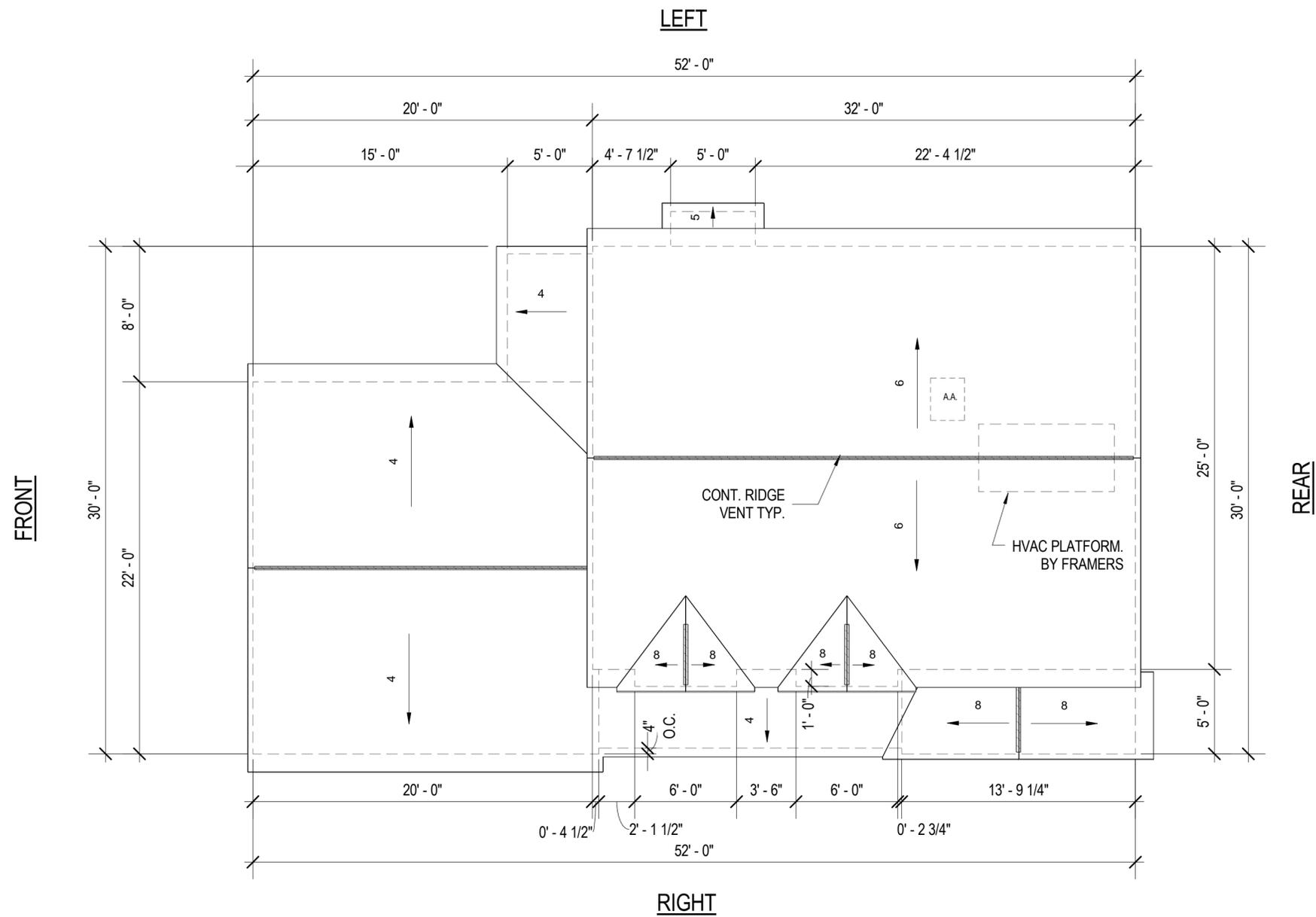


NOTE: ALL DIMS FROM FACE OF STUD TO FACE OF CABINET, U.N.O.

① ENLARGED KITCHEN PLAN
1/2" = 1'-0"



SCALE:	As indicated	JOB NUMBER:	21400029
DATE:	10.21.2015	DRAWN BY:	cseay@mitchellhomesinc.com



① ROOF PLAN
 3/16" = 1'-0"

LEGEND

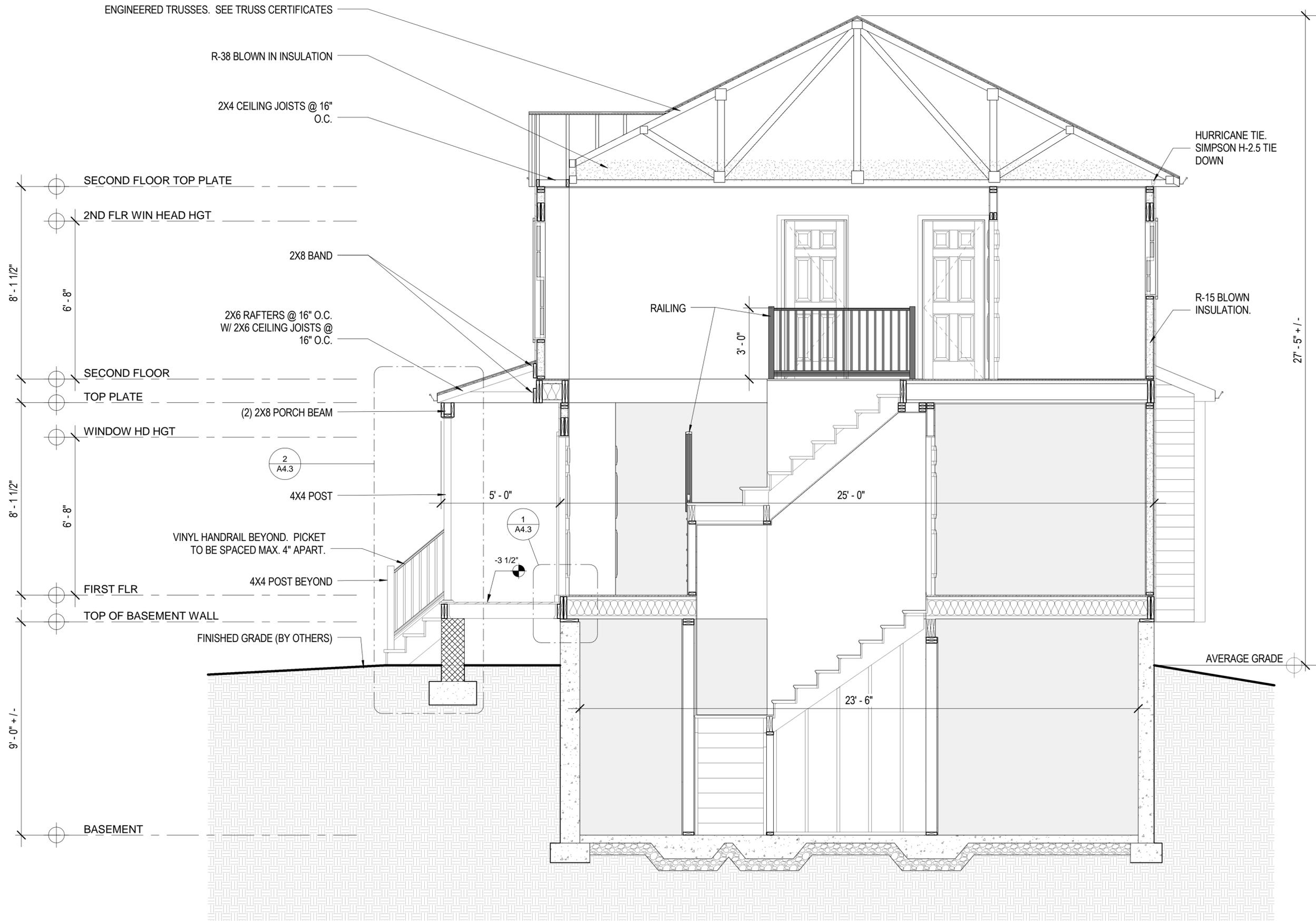
- LINE OF BEARING
- # → RAFTER SLOPE & DIRECTION



THE MADISON PLAN - ELEV. A

SCALE:	3/16" = 1'-0"	JOB NUMBER:	21400029
DATE:	10.21.2015	DRAWN BY:	csey@mitchellhomesinc.com

NOTE: SEE TYPICAL WALL SECTION FOR ROOF & WALL DETAILS



1 BUILDING SECTION
3/8" = 1'-0"

THE MADISON PLAN - ELEV. A

SCALE:

3/8" = 1'-0"

JOB NUMBER:

21400029

DATE:

10.21.2015

DRAWN BY:

csey@mitchellhomesinc.com

MITCHELL HOMES, INC.

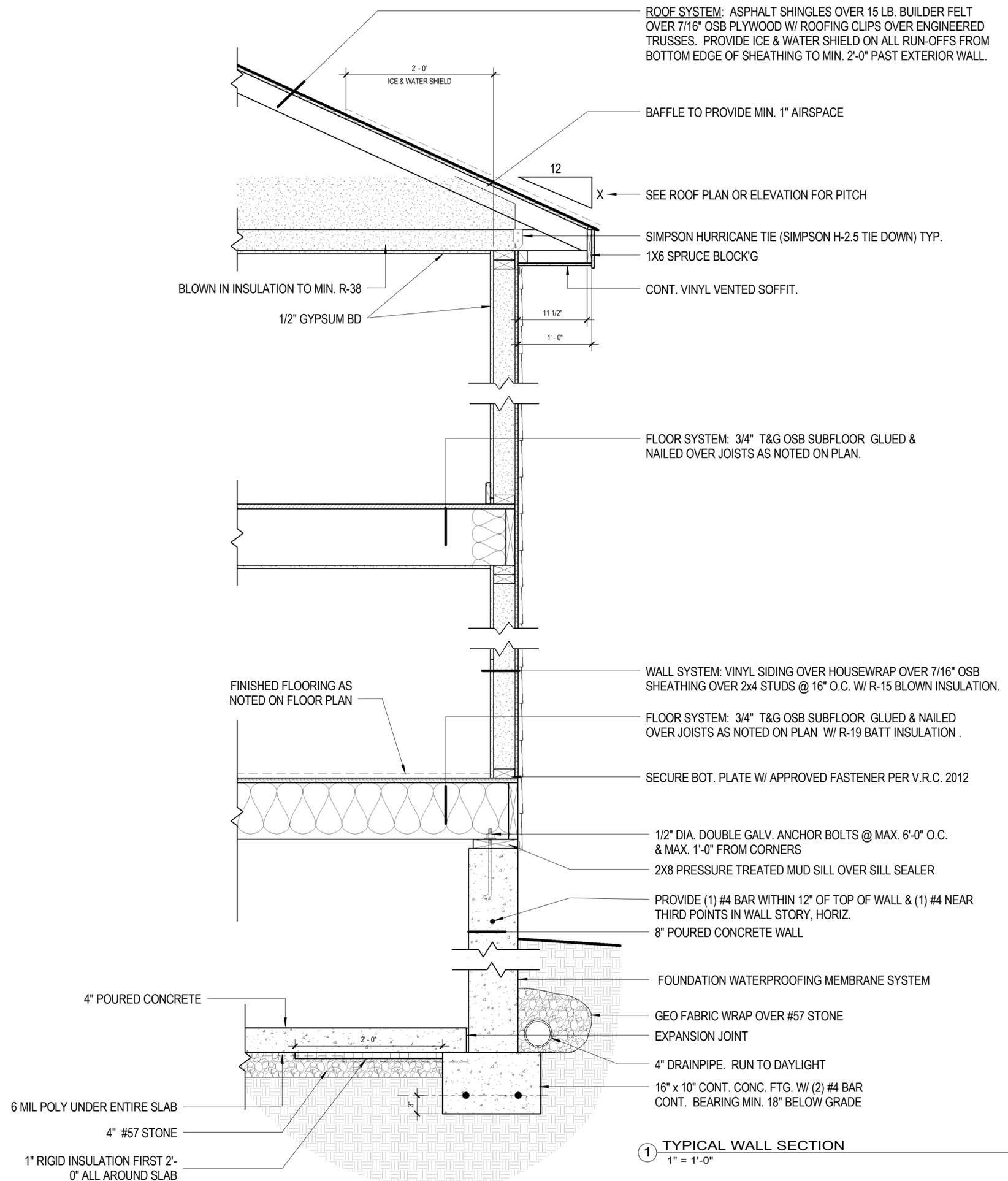
1650 HOLLY HILLS ROAD POWHATAN, VA 23139
PHONE: 804-378-5211 FAX: 804-378-0811
WWW.MITCHELLHOMESINC.COM



THE GEBRE RESIDENCE

BUILDING SECTION
FAIRFAX COUNTY, VA

A4.1

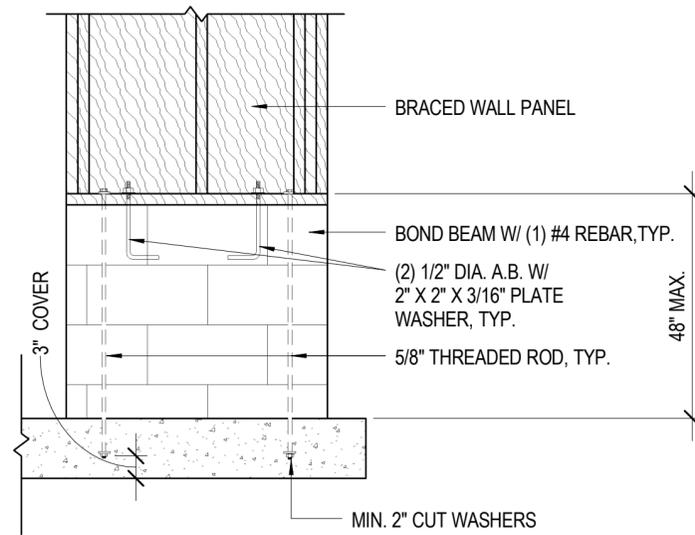


① TYPICAL WALL SECTION
 1" = 1'-0"

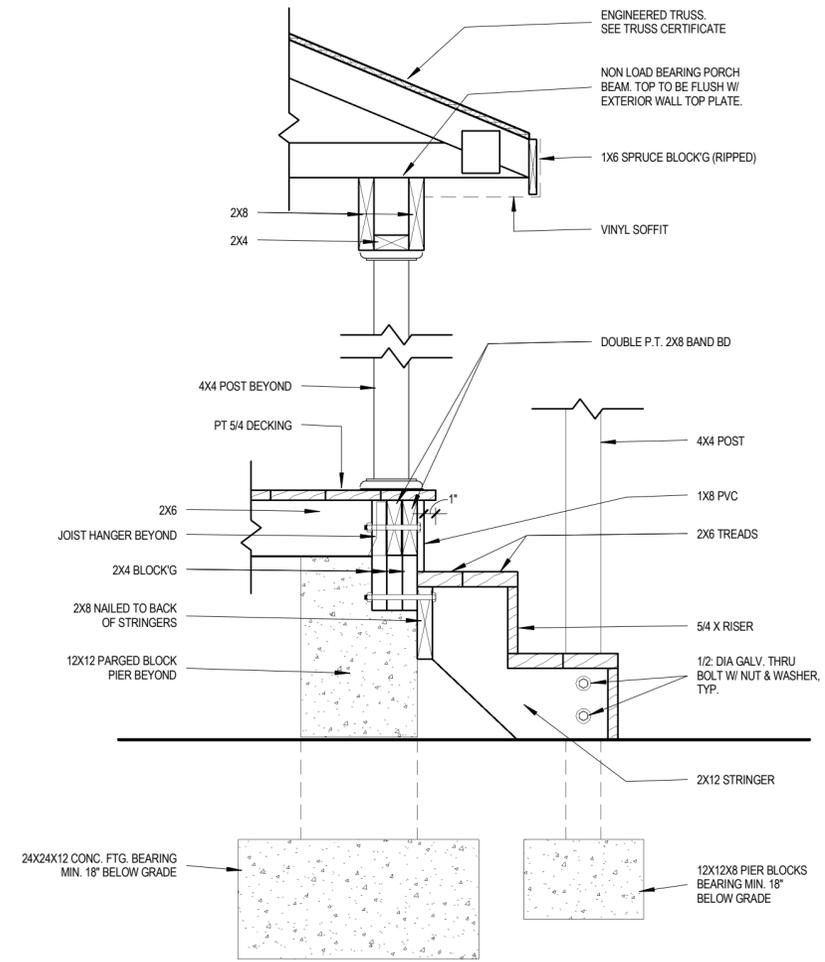


THE MADISON PLAN - ELEV. A

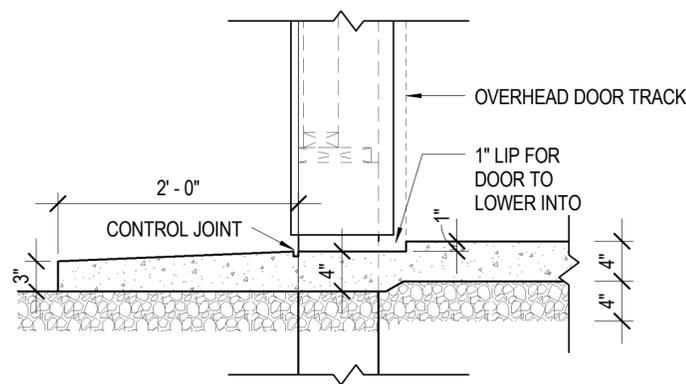
SCALE:	1" = 1'-0"	JOB NUMBER:	21400029
DATE:	10.21.2015	DRAWN BY:	csey@mitchellhomesinc.com



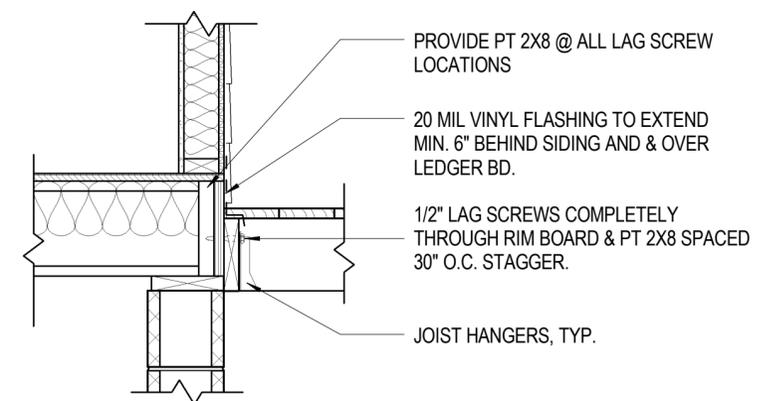
④ OPTIONAL STEM WALL REINFORCEMENT
3/4" = 1'-0"



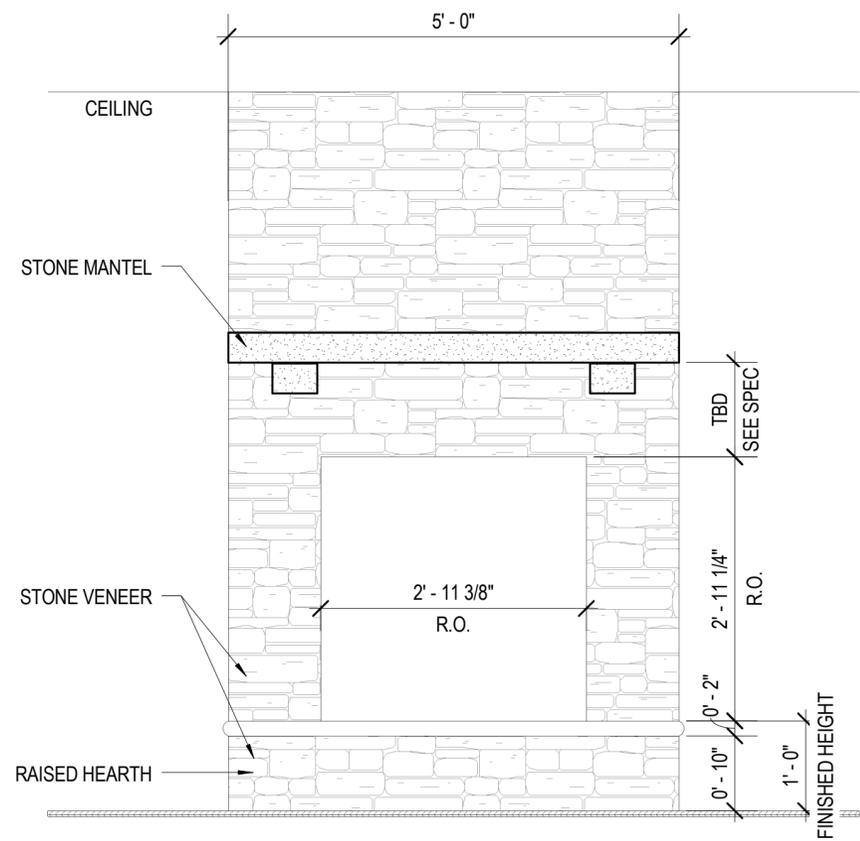
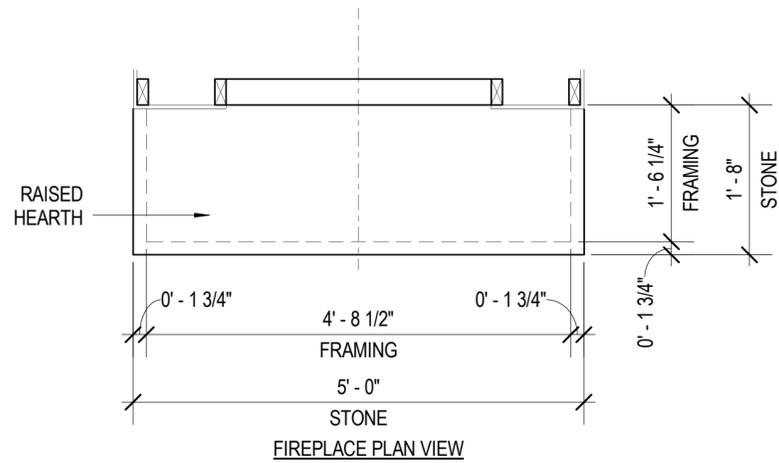
② PORCH DETAIL - RUSTIC
1" = 1'-0"



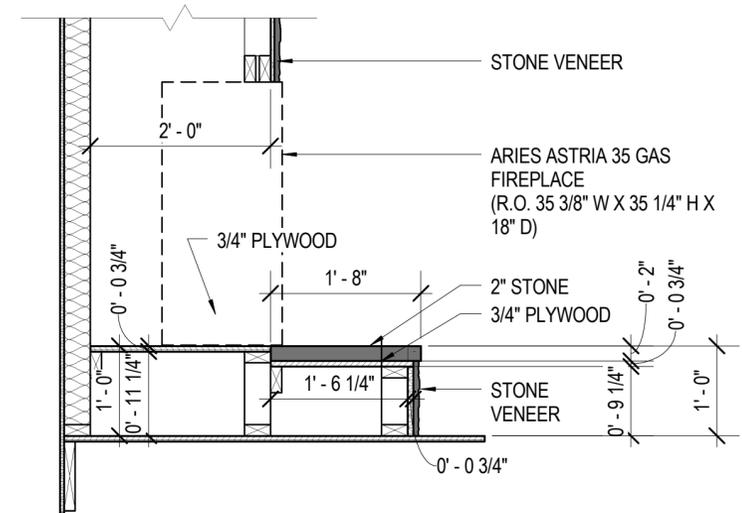
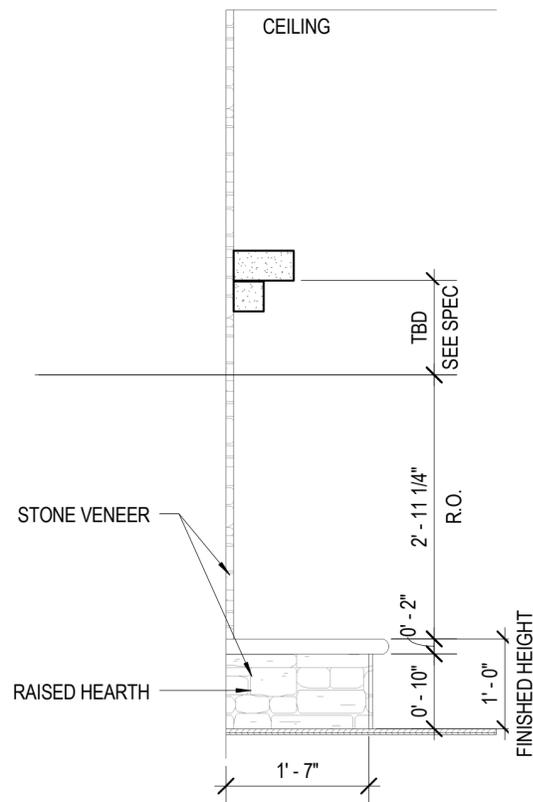
③ GARAGE SLAB DETAIL
1" = 1'-0"



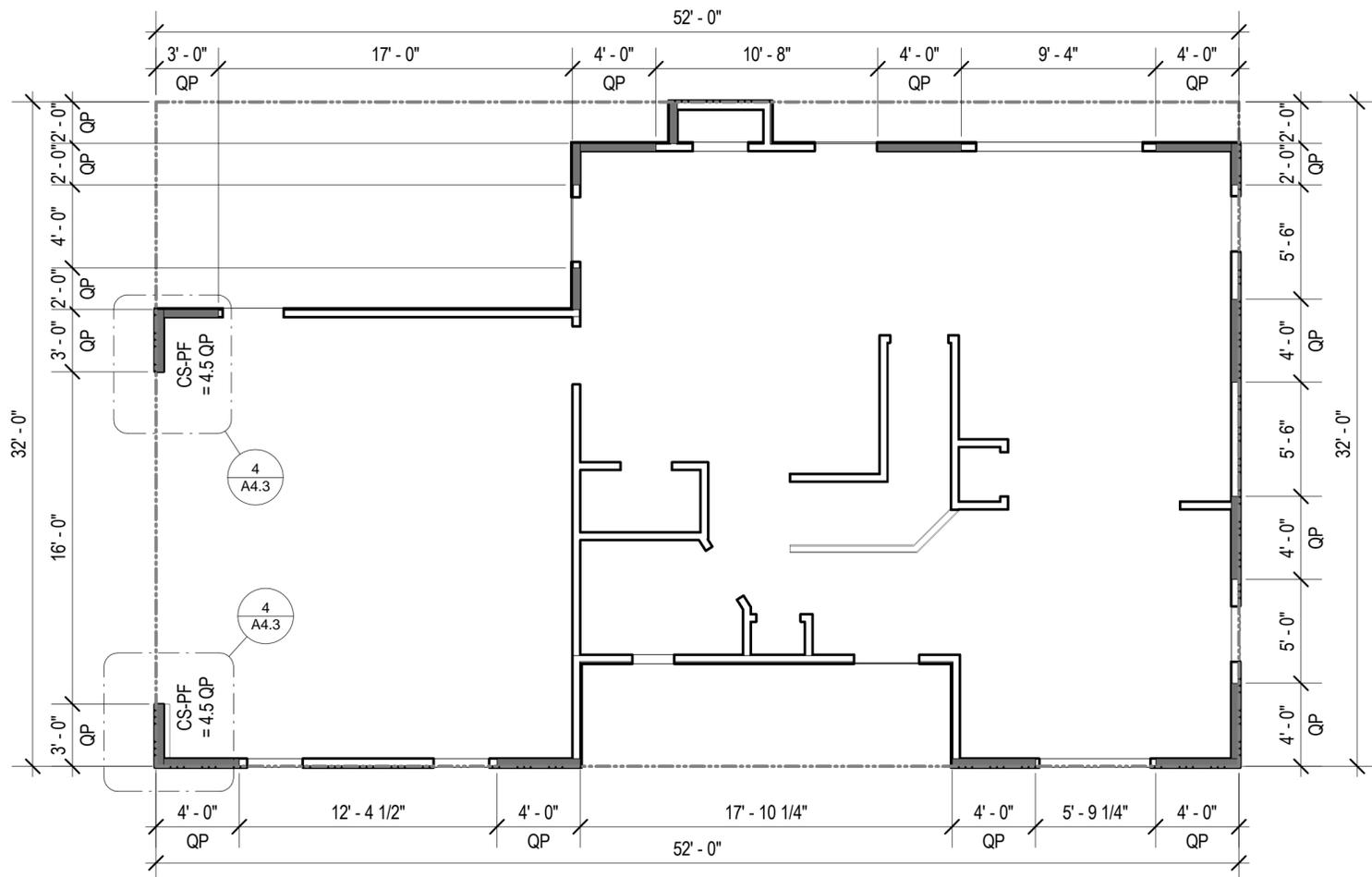
① DECK ATTACHMENT DETAIL
1" = 1'-0"



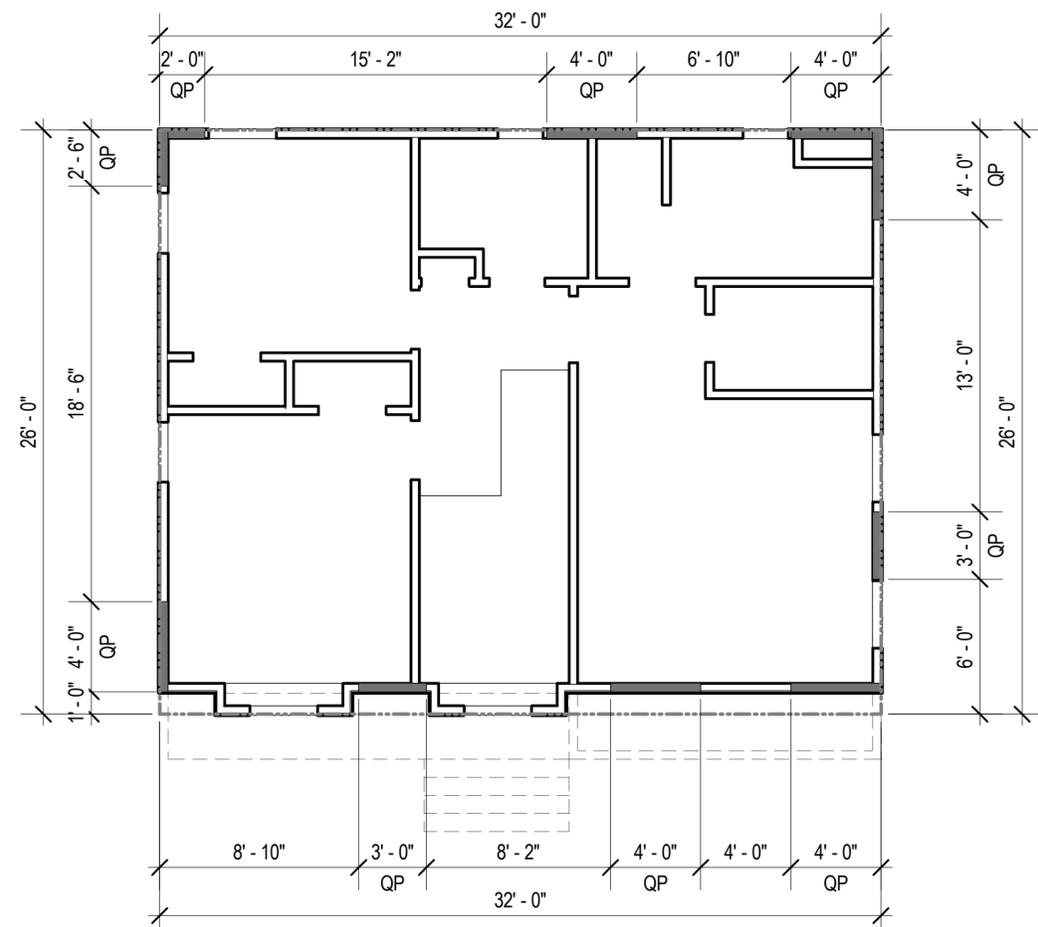
NOTE: HOLD FIREPLACE UP 2" OFF HEARTH FRAMING TO ALLOW FOR STONE VENEER.



① STONE VENEER FIREPLACE DETAIL
 3/4" = 1'-0"



1 FIRST FLOOR BRACED WALL LAYOUT
3/16" = 1'-0"



2 SECOND FLOOR BRACED WALL LAYOUT
3/16" = 1'-0"

PRACTICAL WALL BRACING WORKSHEET PER THE 2012 VIRGINIA RESIDENTIAL CODE

WIND SPEED (MPH)	90								
RECTANGLE SIZE (ft)	FRONT/REAR 52		LEFT/RIGHT 32		ASPECT RATIO: PASS				
RECTANGLE SIDE	FRONT		REAR		LEFT		RIGHT		
NUMBER OF FLOOR LEVELS ABOVE	1		1		1		1		
EAVE-TO-RIDGE HEIGHT (ft)	9.5		9.5		9.5		9.5		
EXTERIOR BWP MATERIAL	Wood Structural Panels		Wood Structural Panels		Wood Structural Panels		Wood Structural Panels		
TABULAR REQUIRED (ft)	9.60		9.60		15.00		15.00		
ADJUSTMENT	EXPOSURE	B	1.00	B	1.00	B	1.00	B	1.00
	WALL HEIGHT (ft)	8.00	0.90	8.00	0.90	8.00	0.90	8.00	0.90
	OMIT FINISHED INTERIOR	NO	1.00	NO	1.00	NO	1.00	NO	1.00
	REDUCED FASTENER SPACING	NO	1.00	NO	1.00	NO	1.00	NO	1.00
REQUIRED BWP LENGTH (ft)	8.64		8.64		13.50		13.50		
VALUE FROM COMMON RECTANGLE SIDE	8.64		8.64		13.50		13.50		
TOTAL REQUIRED BWP LENGTH (ft)	8.64		8.64		13.50		13.50		
ACTUAL BWP CONTRIBUTING LENGTH (ft)	BWP	LOCATION	LENGTH	LOCATION	LENGTH	LOCATION	LENGTH	LOCATION	LENGTH
	1	EXTERIOR	4.00	EXTERIOR	3.00	EXTERIOR	2.00	EXTERIOR	2.00
	2	EXTERIOR	4.00	EXTERIOR	4.00	EXTERIOR	2.00	EXTERIOR	4.00
	3	EXTERIOR	4.00	EXTERIOR	4.00	EXTERIOR	2.00	EXTERIOR	4.00
	4	EXTERIOR	4.00	EXTERIOR	4.00	EXTERIOR	4.50	EXTERIOR	4.00
	5				EXTERIOR	4.50			
	6								
7									
ACTUAL BWP LENGTH (ft)	16.00		15.00		15.00		14.00		
ACTUAL ≥ REQUIRED?	PASS		PASS		PASS		PASS		
BWPs ≤ 20' APART?	YES		YES		YES		YES		
BWP WITHIN 12' OF CORNERS?	YES		YES		YES		YES		
COMPLIANT NUMBER OF BWPs	YES		YES		YES		YES		
BWL COMPLIANCE PASS-FAIL	PASS		PASS		PASS		PASS		

GENERAL NOTES:

- 1) WALL BRACING METHOD TO BE CONTINUOUS SHEATHING - WOOD STRUCTURAL PANEL (CS-WSP), U.N.O.
- 2) ALL PANELS TO BE 7/16" OSB SHEATHING OVER 2X4 STUDS & 16" O.C. WITH DOUBLE TOP PLATE & SINGLE BOTTOM PLATE. SHEATHING TO EXTEND FROM BOTTOM EDGE OF BOTTOM PLATE TO TOP EDGE OF LOWER DOUBLE PLATE.
- 3) NAILING PATTERN AND FASTENERS SHALL CONFORM TO V.R.C. 2012 CODE.

SEE ATTACHED WIND CALCULATION SHEET

LEGEND
 - - - - - BRACED WALL LINE
 ——— BRACED WALL PANEL



PRACTICAL WALL BRACING WORKSHEET PER THE 2012 VIRGINIA RESIDENTIAL CODE

WIND SPEED (MPH)	90								
RECTANGLE SIZE (ft)	FRONT/REAR 32		LEFT/RIGHT 26		ASPECT RATIO: PASS				
RECTANGLE SIDE	FRONT		REAR		LEFT		RIGHT		
NUMBER OF FLOOR LEVELS ABOVE	0		0		0		0		
EAVE-TO-RIDGE HEIGHT (ft)	9.5		9.5		9.5		9.5		
EXTERIOR BWP MATERIAL	Wood Structural Panels		Wood Structural Panels		Wood Structural Panels		Wood Structural Panels		
TABULAR REQUIRED (ft)	4.40		4.40		5.20		5.20		
ADJUSTMENT	EXPOSURE	B	1.00	B	1.00	B	1.00	B	1.00
	WALL HEIGHT (ft)	8.00	0.90	8.00	0.90	8.00	0.90	8.00	0.90
	OMIT FINISHED INTERIOR	NO	1.00	NO	1.00	NO	1.00	NO	1.00
	REDUCED FASTENER SPACING	NO	1.00	NO	1.00	NO	1.00	NO	1.00
REQUIRED BWP LENGTH (ft)	3.96		3.96		4.68		4.68		
VALUE FROM COMMON RECTANGLE SIDE	3.96		3.96		4.68		4.68		
TOTAL REQUIRED BWP LENGTH (ft)	3.96		3.96		4.68		4.68		
ACTUAL BWP CONTRIBUTING LENGTH (ft)	BWP	LOCATION	LENGTH	LOCATION	LENGTH	LOCATION	LENGTH	LOCATION	LENGTH
	1	EXTERIOR	3.00	EXTERIOR	2.00	EXTERIOR	2.50	EXTERIOR	4.00
	2	EXTERIOR	4.00	EXTERIOR	4.00	EXTERIOR	4.00	EXTERIOR	3.00
	3	EXTERIOR	4.00	EXTERIOR	4.00				
	4								
	5								
	6								
7									
ACTUAL BWP LENGTH (ft)	11.00		10.00		6.50		7.00		
ACTUAL ≥ REQUIRED?	PASS		PASS		PASS		PASS		
BWPs ≤ 20' APART?	YES		YES		YES		YES		
BWP WITHIN 12' OF CORNERS?	YES		YES		YES		YES		
COMPLIANT NUMBER OF BWPs	YES		YES		YES		YES		
BWL COMPLIANCE PASS-FAIL	PASS		PASS		PASS		PASS		

MITCHELL HOMES, INC.
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 WWW.MITCHELLHOMESINC.COM



THE GEBRE RESIDENCE

BRACED WALL LAYOUT
 FAIRFAX COUNTY, VA

A5.1

SCALE:	3/16" = 1'-0"	JOB NUMBER:	21400029
DATE:	10.21.2015	DRAWN BY:	cseye@mitchellhomesinc.com

JUN 04 2015

Zoning Evaluation Division

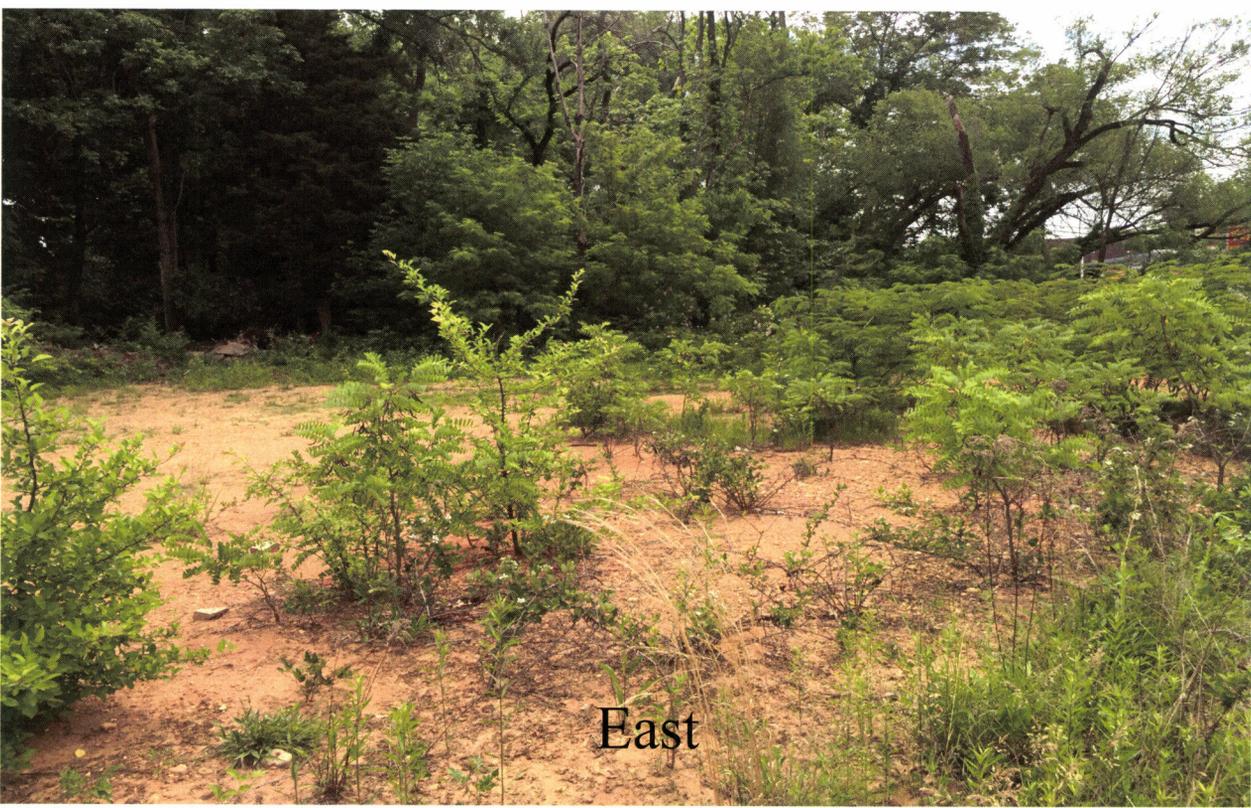


JUN 04 2015

Zoning Evaluation Division



North (Driveway)



East

RECEIVED
Department of Planning & Zoning

MAY 15 2015

Zoning Evaluation Division

Subj: **Ashebir House Picture**
Date: 3/25/2015 6:33:28 P.M. Eastern Daylight Time
From: ashebretu@gmail.com
To: baskinjack@aol.com

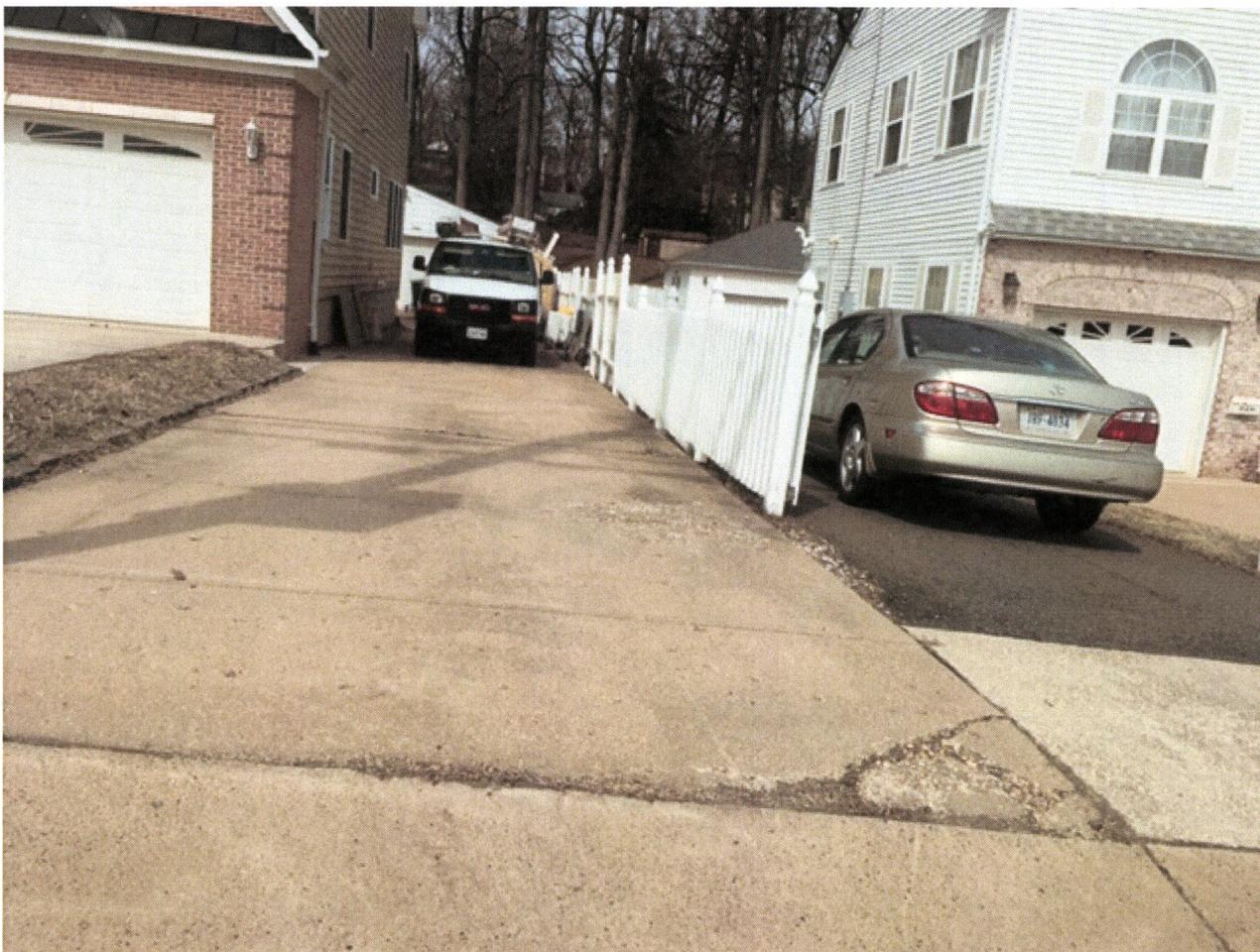
Dear Mr. Baskin,

Here are the photos that you requested of houses with very short distances between them. Most of these houses are on the same street as the land that we are trying to build on. Thank you!

Sincerely,

Ashebir Gebre





RECEIVED
Department of Planning & Zoning

MAY 15 2015

Zoning Evaluation Division



RECEIVED
Department of Planning & Zoning

MAY 15 2015

Zoning Evaluation Division



RECEIVED
Department of Planning & Zoning

MAY 15 2015

Zoning Evaluation Division



RECEIVED
Department of Planning & Zoning

MAY 15 2015

Zoning Evaluation Division



RECEIVED
Department of Planning & Zoning
MAY 15 2015
Zoning Evaluation Division



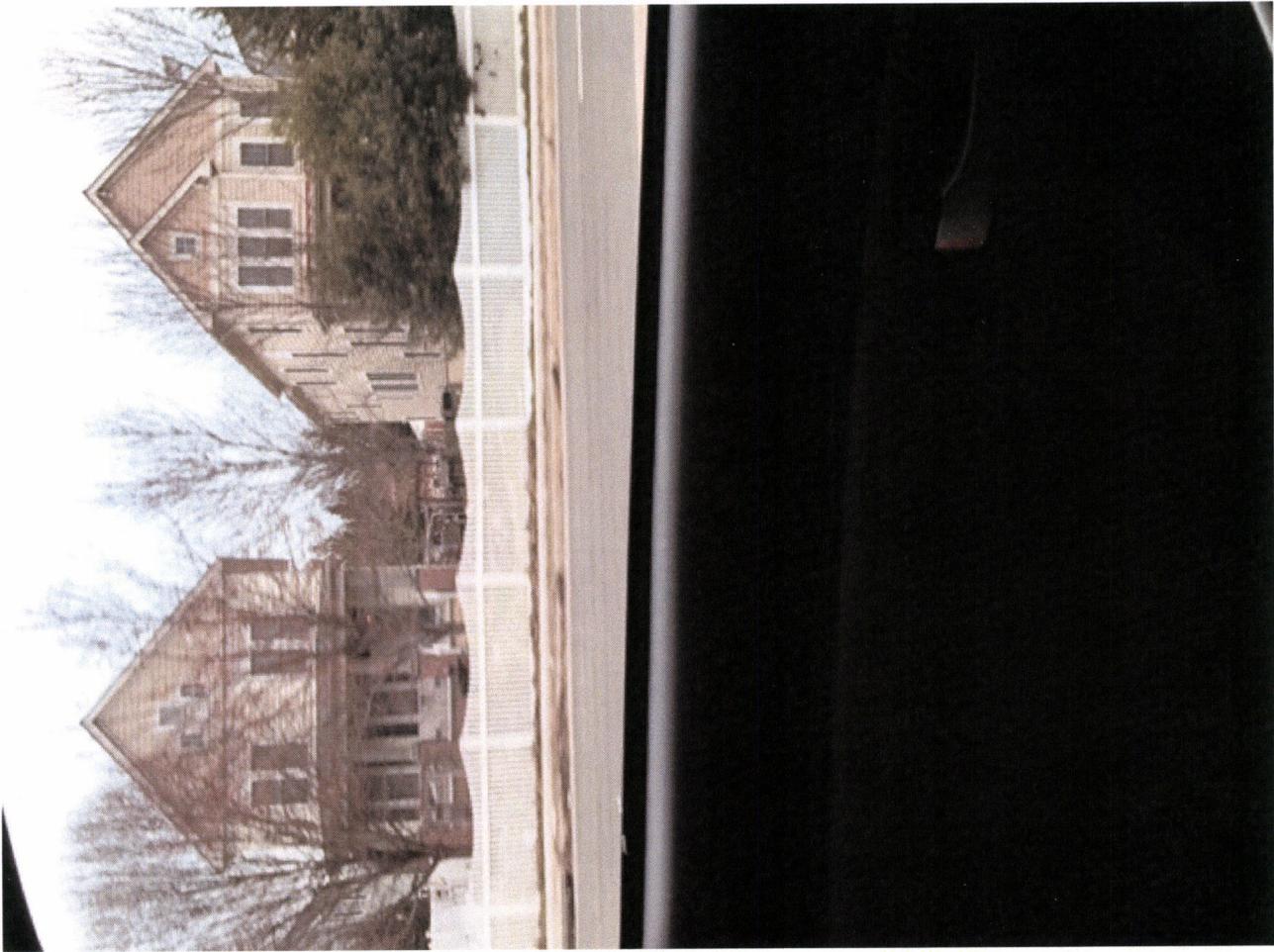
RECEIVED
Department of Planning & Zoning
MAY 15 2015
Zoning Evaluation Division



RECEIVED
Department of Planning & Zoning

MAY 15 2015

Zoning Evaluation Division



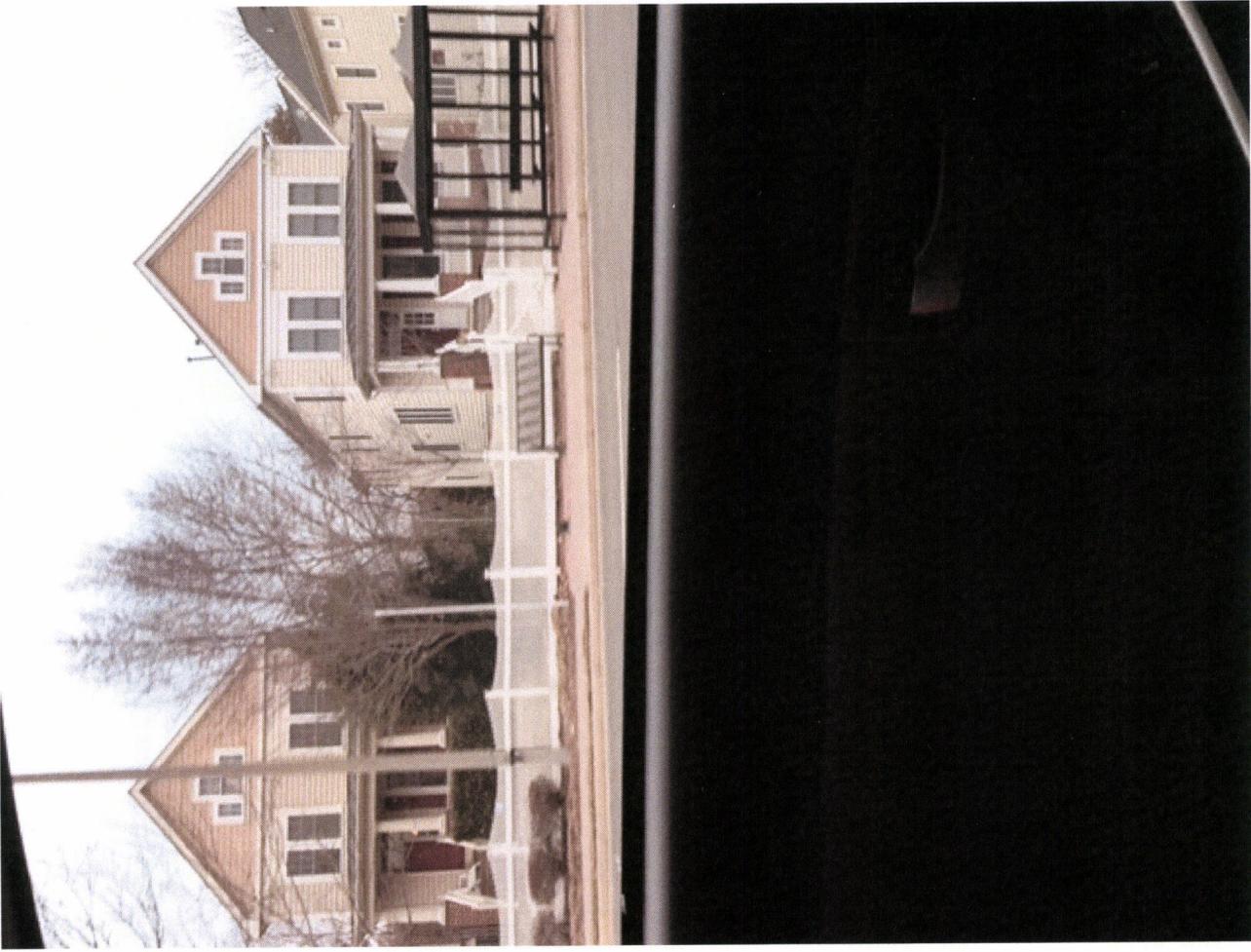
RECEIVED
Department of Planning & Zoning
MAY 15 2015
Zoning Evaluation Division



RECEIVED
Department of Planning & Zoning

MAY 15 2015

Zoning Evaluation Division



RECEIVED
Department of Planning & Zoning
MAY 15 2015
Zoning Evaluation Division

Application No.(s): VC 2015-MA-005
 (county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: May 15, 2015
 (enter date affidavit is notarized)

129762

I, William M. Baskin, Jr., do hereby state that I am an
 (enter name of applicant or authorized agent)

(check one) applicant
 applicant's authorized agent listed in Par. 1(a) below

and that, to the best of my knowledge and belief, the following is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE,**** each **BENEFICIARY** of such trust, and all **ATTORNEYS and REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
Ashebir Gerbre	6129 Leesburg Pike, #1218 Falls Church, Virginia 22041	Applicant/Owner/Agent of Tax Map 061-3-12-0021
Birtukan Weldeab	6129 Leesburg Pike, #1218 Falls Church, Virginia 22041	Applicant/Owner/Agent of Tax Map 061-3-12-0021
Baskin, Jackson & Lasso, PC Agent: William M. Baskin, Jr. David R. Lasso	301 Park Avenue Falls Church, Virginia 22046	Attorney/Agent for the Applicant Attorney/Agent for the Applicant Attorney/Agent for the Applicant
LS2PC Agent: Lawrence H. Spilman, III	2890 Emma Lee Street, #200 Falls Church, Virginia 22042	Engineers/Agent for the Applicant Engineers/Agent for the Applicant

(check if applicable) There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.

** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: May 15, 2015
(enter date affidavit is notarized)

129762

1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include **SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS** herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

Baskin, Jackson & Lasso, PC
301 Park Avenue
Falls Church, VA 22046

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below

NAMES OF SHAREHOLDERS: (enter first name, middle initial, and last name)

William M. Baskin, Jr.
John G. Jackson

(check if applicable) There is more corporation information and Par. 1(b) is continued on a "Special Permit/Variance Attachment 1(b)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. ***In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.*** Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

Page ____ of ____

Special Permit/Variance Attachment to Par. 1(b)

DATE: May 15, 2015
(enter date affidavit is notarized)

129762

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

LS2PC
2890 Emma Lee Street, #200
Falls Church, Virginia 22042

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)

Lawrence H. Spillman, III

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)

(check if applicable) There is more corporation information and Par. 1(b) is continued further on a "Special Permit/Variance Attachment to Par. 1(b)" form.

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: May 15, 2015
(enter date affidavit is notarized)

129762

1(c). The following constitutes a listing*** of all of the **PARTNERS**, both **GENERAL** and **LIMITED**, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, and zip code)

(check if applicable) The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. **General Partner, Limited Partner, or General and Limited Partner**)

(check if applicable) There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: May 15, 2015
(enter date affidavit is notarized)

129762

1(d). One of the following boxes **must** be checked:

In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land:

Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on the line below.)

NONE

(check if applicable) There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: May 15, 2015
(enter date affidavit is notarized)

129762

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)

NONE

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) [] There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. **That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.**

WITNESS the following signature:

(check one) [] Applicant [x] Applicant's Authorized Agent

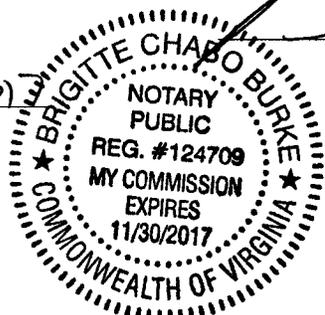
William M. Baskin, Jr.

William M. Baskin, Jr.
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 15th day of May 2015, in the State/Comm. of Virginia, County/City of Falls Church

Brigitte Chabo Burke
Notary Public

My commission expires: 11-30-2017



ghe

State and County aforesaid.

Given under my hand this 30th day of Oct. 1929.

A. E. Bradshaw.
Notary Public.

In the Clerk's Office of the Circuit Court of Fairfax County, Va., Nov. 15, 1929

At 9 O'Clock A. M.

This deed was received, duly authenticated and admitted to record.

Teste.

F. W. Richardson

Clerk.

Cert
11

THIS DEED made and entered into this 17th day of October, 1929, by and between C. W. Oliver and Annie F. Oliver, his wife, parties of the first part; and John S. Lucas and Virginia K. Lucas, his wife, parties of the second part:-

WITNESSETH:- That the parties of the first part, for and in consideration of the sum of Ten Dollars, the receipt of which is hereby acknowledged, do grant, bargain, sell and convey, with general warranty of title, unto the parties of the second part as joint tenants as hereinafter set forth, with all rights, ways, easements and improvements thereunto belonging, those certain tracts or parcels of land in Fairfax County, Virginia, known as Lots Nos. 1, 2 and 3 of the subdivision known as River View Heights, and a plat showing said subdivision is attached hereto and made a part hereof, and said subdivision is the residue of that certain tract of land containing 42.41 Acres, which was conveyed to the said C. W. Oliver by The Alexandria Water Company, a Corporation, by deed dated the 7th day of February, 1914, and recorded in Liber S, No. 7, Page 346 of the land records of said County, and reference is hereby made to said deed and subdivision for a more particular description of the said land hereby conveyed.

To have and to hold the said land unto the parties of the second part as joint tenants, with the right of survivorship expressly retained, it being understood and agreed that the part of the one first dying shall pass and belong to the survivor in fee simple.

The said lots are conveyed to the parties of the second part subject to the following restrictions which shall be deemed covenants running with the land:-

(1) No buildings shall be erected on said lots within twenty feet from the northwest side of the right of way of the concrete County Road, leading from Annandale to Bailey's Cross Roads.

(2) No residences shall be erected on said lots costing less than \$4000.00.

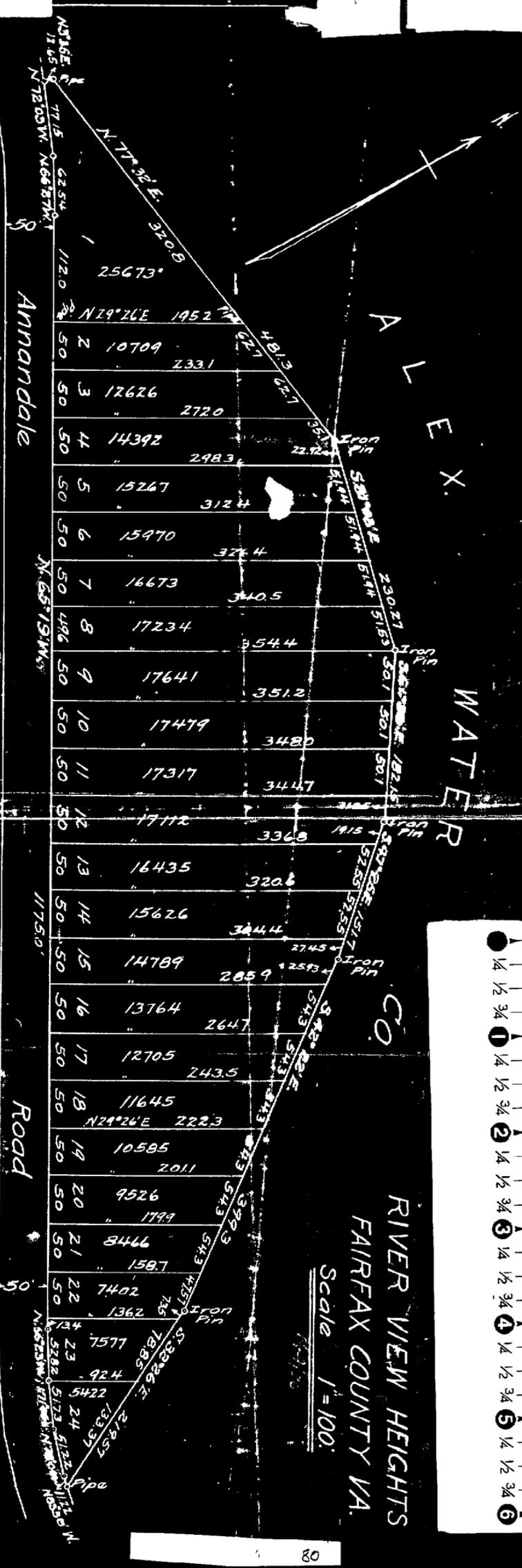
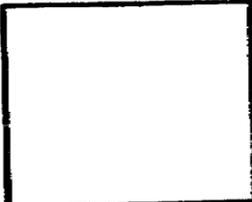
(3) No garages, barns or other buildings costing less than \$4000.00, erected on the said lots, shall be used as a temporary residence for a period exceeding twelve months.

(4) The said lots shall not be leased, rented, sold or conveyed to, or occupied by, any person or persons not of the Caucasian Race. Subject to said reservations, the parties of the first part covenant that they have the right to convey said land; that they have done no act to encumber the same; that the parties of the second part shall have quiet and peaceable possession thereof, free from defect or encumbrance, and that they will execute such other and further assurances thereof as may be requisite.

WITNESS the following signatures and seals:

C. W. Oliver. (Seal)
Annie F. Oliver. (Seal)

11-22-29
mailed to
C. W. Oliver
Alex Va
R. S.



I, Joseph Berry, a duly authorized Civil Engineer, do hereby certify that the land embraced in the subdivision shown on this plat as "River View Heights" is now in the name of C. W. Oliver and is a part of that tract of land acquired by him by deed dated Feb. 7th, 1914, and recorded in deed book Liber S, No. 7, at page 347, of the land records of Fairfax County, Virginia, from the Alexandria Water Company and that the land included in the said subdivision is within the boundaries of the original tract of the said owner and is properly and lawfully described in the description by meets and bounds, courses and distances, calculated to the true meridian, prepared by me this day to be included in the deed of dedication dedicating the said property, that there are monuments of iron pipe marking the outer corners of the subdivision, two feet in the ground and they are located upon the plat.

Given under my hand this 23rd day of October, 1929.

Joseph Berry
 Berry & Clark, C.E.



RIVER VIEW HEIGHTS
 FAIRFAX COUNTY VA.

Scale 1" = 100'

A COPY TESTE:

THOMAS P. CHAPMAN, JR., CLERK

By: *Andrew S. Jones*
 Deputy Clerk

1951

July 14, 1951 - Mailed to:
Dept. of Highways, Richmond, Va.

This Deed, Made this 27th day of April, 1951, by
and between Edna M. Dean, widow (also known of record as Edna Mae Dean and Edna May Dean)

of Fairfax County, Virginia, hereinafter designated as grantor (even though more than one), and
the **COMMONWEALTH OF VIRGINIA**, Grantee

Witnesseth; In consideration of the benefits accruing or to accrue to the said grantor, by reason of the location and construction, or other improvement of part of State Highway Route 244, Project 2529-03 between 1.059 Mi. W. Int. Rt. 7 at Bailey's Crossroads and Int. Rt. 236 at Annandale along, through, or over the lands of the grantor, and for further consideration paid by the grantee to the grantor, receipt of which is hereby acknowledged, the said grantor hereby grants and conveys unto said grantee with general warranty the land of the grantor needed for the location and construction or other improvement of said highway, the said land being as shown on a plan and survey of the said highway, on file in the office of the Department of Highways at Richmond, identified as Sheet No. 6, Project 2529-03, Route 244, all of said land being located in Falls Church Magisterial District, in Fairfax County, and described as follows

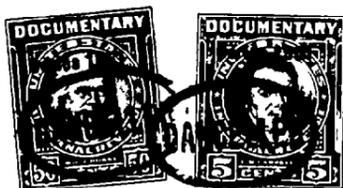
Being as shown on plans approved July 6, 1950, and lying on both sides of the survey centerline and adjacent to the existing south Right of Way line of Route 244 from the lands of H. B. Howard at approximate Sta. 339+92 to the lands of C. W. Oliver at approximate Sta. 341+42, and containing 0.05 acre, more or less, land, together with the right and easement to use the additional areas shown as being required for the proper execution and maintenance of the work; and being a part of the same land acquired by the grantor by deed recorded in Deed Books 12W and 13K, Pages 327 and 365 in the office of the Clerk of the Circuit Court of said County.

For a more particular description of the land herein conveyed, reference is made to photo copy of said Sheet No. 6, showing outlined in red the land conveyed in fee simple (and outlined in green the land conveyed for an easement) which photo copy is hereto attached as a part of this conveyance and recorded simultaneously herewith in the State Highway Plat Book.

The said grantor covenants that he has the right to convey the said land to the grantee, that he has done no act to encumber the said land, that the grantee shall have quiet possession of the land, free from all encumbrances, and that he will execute such further assurance of the said land as may be requisite

The said grantor covenants and agrees for himself, his heirs and assigns and successors, that the considerations hereinabove mentioned and paid to him shall be in lieu of any and all claims to compensation and damages by reason of the location, construction, and maintenance of said highway, including such drainage facilities as may be necessary

WITNESS the following signatures and seals



Edna M. Dean [SEAL]
____ [SEAL]
____ [SEAL]

STATE OF VIRGINIA,

County of Fairfax, To-wit

I, Ellen B. Costa, a Notary Public in and for

the County aforesaid, in the State of Virginia, do certify that Edna M. Dean

~~is~~ whose names ^{is} ~~are~~ signed to the foregoing writing,

bearing date on the 27th day of April, 1951, has ~~be~~

acknowledged the same before me in my County aforesaid

My term of office expires October 21, 1952.

Given under my hand this 6th day of June, 1951

Ellen B. Costa

Notary Public
WAS COMMISSIONED A NOTARY PUBLIC BY
ELLEN SAWYER BRISTOW

In the Clerk's Office of the Circuit Court of Fairfax County,

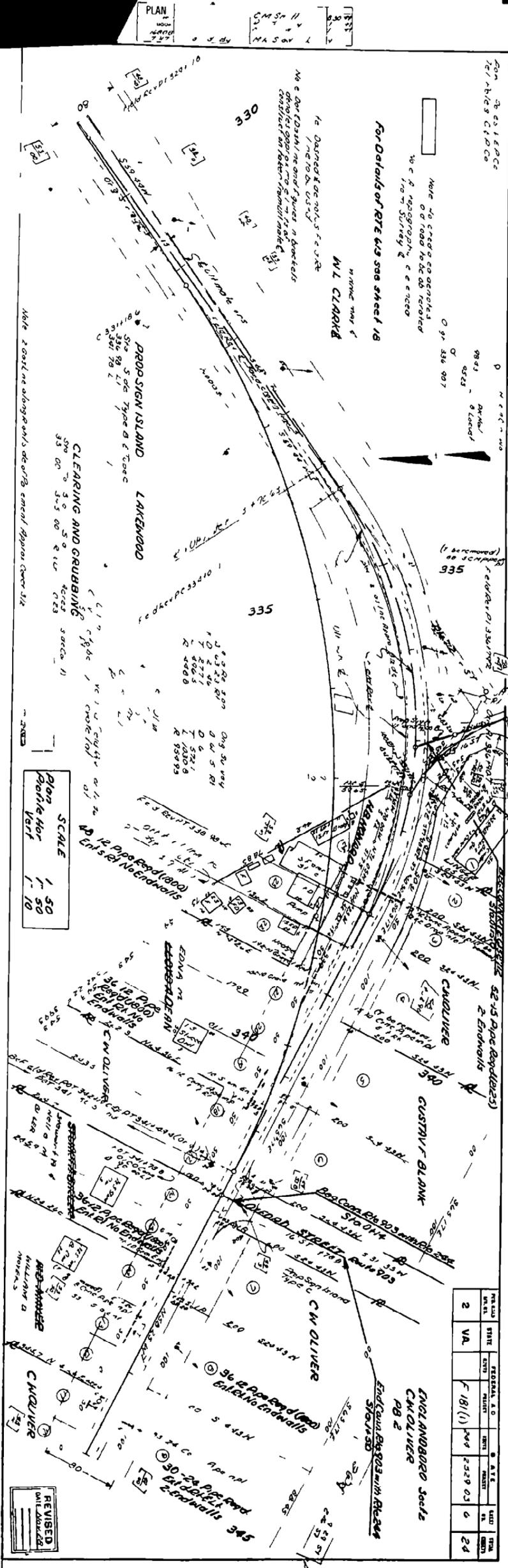
Virginia, JUN 15 1951 at 9:17 AM

with plat attached

This Instrument was received and, with the certificate annexed, admitted to record

Teste:

Thomas S. Chapman, Jr. Clerk



Photographed at 80%

Similar Case History

Group: 01-M-130

VC 01-M-130

APPLICANT: STEPHEN J & IRMA K SHEEHY
STATUS: APPLICATION APPROVED
STATUS/DECISION DTE: 10/23/2001
ZONING DISTRICT: R-2
DESCRIPTION: TO PERMIT CONSOLIDATION AND RESUBDIVISION OF TWO LOTS HAVING A LOT WIDTH OF 75 FEET EACH
****THE BOARD WAIVED THE 8 DAY WAITING PERIOD****
LOCATION: 6436, 6438 & 6440 COLUMBIA PIKE, ANNANDALE, VA 22003
TAX MAP #S:
 0613 12 0009 0613 12 0010 0613 12 0011

Group: 85-M-059

VC 85-M-059

APPLICANT: RAJ SIGNH
STATUS: APPLICATION APPROVED
STATUS/DECISION DTE: 11/12/1985
ZONING DISTRICT: R-2
DESCRIPTION: CONSTRUCTION OF DWELLING 11 FEET FROM BOTH SIDE LOT LINES (15 FEET MIN. REQ'D)
LOCATION: 6424 COLUMBIA PIKE
TAX MAP #S:
 0613 12 0017

Group: 87-M-072

VC 87-M-072

APPLICANT: HOWARD, WOODROW A. AND ELLEN A.
STATUS: APPLICATION APPROVED
STATUS/DECISION DTE: 07/31/1987
ZONING DISTRICT: R-2
DESCRIPTION: TO ALLOW CONSTRUCTION OF AN ADDITION TO DWELLING TO 28FT. FROM THE FRONT LOT LINE OF A
 CORNER LOT (35 FT. MIN. FRONT YARD REQ.)
LOCATION: 6388 LAKEWOOD DRIVE
TAX MAP #S:
 0613 11 0046

Group: 89-M-151

VC 89-M-151

APPLICANT: MEHDI & AKHTAR MIRSHAHI
STATUS: APPLICATION APPROVED
STATUS/DECISION DTE: 02/21/1990
ZONING DISTRICT: R-2
DESCRIPTION: REDUCTION OF SIDE YARD REQUIREMENT TO 2 FEET (MINIMUM OF 15 FT. SIDE YARD REQ.) FOR
 DWELLING (BOARD APPROVED 11 FEET FROM SIDE LOT LINE) PLATS SUBMITTED 8/90
LOCATION: 6407 COLUMBIA PIKE
TAX MAP #S:
 0613 03 0003

Haley, Erin M.

From: Kraucunas, Paul J. (VDOT), P.E. <Paul.Kraucunas@VDOT.Virginia.gov>
Sent: Friday, August 14, 2015 3:44 PM
To: Haley, Erin M.
Subject: VC 295-MA-005, Ashebir Gebre and Birtukan Weldeab

Erin,
VDOT has reviewed the subject application. The driveway must to be located on the other side of the lot to maximize what sight distance is available at this location.
Please contact me if you have any questions.
Thank you,
Paul K.



County of Fairfax, Virginia

MEMORANDUM

DATE: August 12, 2015

TO: Erin M. Haley, Staff Coordinator
Zoning Evaluation Division, DPZ

FROM: Rachel Habig-Myers, Urban Forester II
Forest Conservation Branch, DPWES

SUBJECT: River View Heights Lot 21: VC 2015-MA-005

This review is based upon the Variance application, VC 2015-MA-005, stamped "Received Department of Planning and Zoning, June 4, 2015" and the Variance Plat stamped "Received Department of Planning and Zoning, June 26, 2015." A site visit was conducted on August 4, 2015 as part of this review.

1. **General Comment:** It is unclear how the applicant will meet the tree preservation target and ten year tree canopy requirements based on the information provided. These issues should be addressed at site plan. Also, a site visit revealed a maple tree intruding into the power lines along Columbia Pike. This tree should be removed due to conflicts with power lines and proposed grading onsite. This tree might be co-owned with the adjoining property and will require written approval from the adjacent property owner prior to removal.

Please feel free to contact me with any further question or concerns.

RHM/

UFMDID #: 202408

cc: DPZ File

Department of Public Works and Environmental Services
Urban Forest Management Division
12055 Government Center Parkway, Suite 518
Fairfax, Virginia 22035-5503
Phone 703-324-1770, TTY: 711, Fax: 703-653-9550
www.fairfaxcounty.gov/dpwes



CHAPTER 597

An Act to amend and reenact §§ 15.2-2201, 15.2-2308, 15.2-2309, and 15.2-2314 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 15.2-2308.1, relating to variances.

[H 1849]

Approved March 26, 2015

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-2201, 15.2-2308, 15.2-2309, and 15.2-2314 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 15.2-2308.1 as follows:

§ 15.2-2201. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Affordable housing" means, as a guideline, housing that is affordable to households with incomes at or below the area median income, provided that the occupant pays no more than thirty percent of his gross income for gross housing costs, including utilities. For the purpose of administering affordable dwelling unit ordinances authorized by this chapter, local governments may establish individual definitions of affordable housing and affordable dwelling units including determination of the appropriate percent of area median income and percent of gross income.

"Conditional zoning" means, as part of classifying land within a locality into areas and districts by legislative action, the allowing of reasonable conditions governing the use of such property, such conditions being in addition to, or modification of the regulations provided for a particular zoning district or zone by the overall zoning ordinance.

"Development" means a tract of land developed or to be developed as a unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units. The term "development" shall not be construed to include any tract of land which will be principally devoted to agricultural production.

"Historic area" means an area containing one or more buildings or places in which historic events occurred or having special public value because of notable architectural, archaeological or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation.

"Incentive zoning" means the use of bonuses in the form of increased project density or other benefits to a developer in return for the developer providing certain features, design elements, uses, services, or amenities desired by the locality, including but not limited to, site design incorporating principles of new urbanism and traditional neighborhood development, environmentally sustainable and energy-efficient building design, affordable housing creation and preservation, and historical preservation, as part of the development.

"Local planning commission" means a municipal planning commission or a county planning commission.

"Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under jurisdiction of the U.S. Department of Defense, including any leased facility, or any land or interest in land owned by the Commonwealth and administered by the Adjutant General of Virginia or the Virginia Department of

Military Affairs. "Military installation" does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

"Mixed use development" means property that incorporates two or more different uses, and may include a variety of housing types, within a single development.

"Official map" means a map of legally established and proposed public streets, waterways, and public areas adopted by a locality in accordance with the provisions of Article 4 (§ 15.2-2233 et seq.) hereof.

"Planned unit development" means a form of development characterized by unified site design for a variety of housing types and densities, clustering of buildings, common open space, and a mix of building types and land uses in which project planning and density calculation are performed for the entire development rather than on an individual lot basis.

"Planning district commission" means a regional planning agency chartered under the provisions of Chapter 42 (§ 15.2-4200 et seq.) of this title.

"Plat" or "plat of subdivision" means the schematic representation of land divided or to be divided and information in accordance with the provisions of §§ 15.2-2241, 15.2-2242, 15.2-2258, 15.2-2262, and 15.2-2264, and other applicable statutes.

"Preliminary subdivision plat" means the proposed schematic representation of development or subdivision that establishes how the provisions of §§ 15.2-2241 and 15.2-2242, and other applicable statutes will be achieved.

"Resident curator" means a person, firm, or corporation that leases or otherwise contracts to manage, preserve, maintain, operate, or reside in a historic property in accordance with the provisions of § 15.2-2306 and other applicable statutes.

"Site plan" means the proposal for a development or a subdivision including all covenants, grants or easements and other conditions relating to use, location and bulk of buildings, density of development, common open space, public facilities and such other information as required by the subdivision ordinance to which the proposed development or subdivision is subject.

"Special exception" means a special use; that is a use not permitted in a particular district except by a special use permit granted under the provisions of this chapter and any zoning ordinances adopted herewith.

"Street" means highway, street, avenue, boulevard, road, lane, alley, or any public way.

"Subdivision," unless otherwise defined in an ordinance adopted pursuant to § 15.2-2240, means the division of a parcel of land into three or more lots or parcels of less than five acres each for the purpose of transfer of ownership or building development, or, if a new street is involved in such division, any division of a parcel of land. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided and solely for the purpose of recordation of any single division of land into two lots or parcels, a plat of such division shall be submitted for approval in accordance with § 15.2-2258.

"Variance" means, in the application of a zoning ordinance, a reasonable deviation from those provisions regulating the **shape, size, or area** of a lot or parcel of land; or the size, **height, area, bulk,** or location of a building or structure

when the strict application of the ordinance would ~~result in unnecessary or unreasonable hardship to the property owner~~ *unreasonably restrict the utilization of the property*, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the ~~intended spirit and~~ purpose of the ordinance, ~~and would result in substantial justice being done~~. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

"Zoning" or "to zone" means the process of classifying land within a locality into areas and districts, such areas and districts being generally referred to as "zones," by legislative action and the prescribing and application in each area and district of regulations concerning building and structure designs, building and structure placement and uses to which land, buildings and structures within such designated areas and districts may be put.

§ 15.2-2308. Boards of zoning appeals to be created; membership, organization, etc.

A. Every locality that has enacted or enacts a zoning ordinance pursuant to this chapter or prior enabling laws, shall establish a board of zoning appeals that shall consist of either five or seven residents of the locality, appointed by the circuit court for the locality. Boards of zoning appeals for a locality within the fifteenth or nineteenth judicial circuit may be appointed by the chief judge or his designated judge or judges in their respective circuit, upon concurrence of such locality. Their terms of office shall be for five years each except that original appointments shall be made for such terms that the term of one member shall expire each year. The secretary of the board shall notify the court at least thirty days in advance of the expiration of any term of office, and shall also notify the court promptly if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves. Members of the board shall hold no other public office in the locality except that one may be a member of the local planning commission. A member whose term expires shall continue to serve until his successor is appointed and qualifies. The circuit court for the City of Chesapeake and the Circuit Court for the City of Hampton shall appoint at least one but not more than three alternates to the board of zoning appeals. At the request of the local governing body, the circuit court for any other locality may appoint not more than three alternates to the board of zoning appeals. The qualifications, terms and compensation of alternate members shall be the same as those of regular members. A regular member when he knows he will be absent from or will have to abstain from any application at a meeting shall notify the chairman twenty-four hours prior to the meeting of such fact. The chairman shall select an alternate to serve in the absent or abstaining member's place and the records of the board shall so note. Such alternate member may vote on any application in which a regular member abstains.

B. Localities may, by ordinances enacted in each jurisdiction, create a joint board of zoning appeals that shall consist of two members appointed from among the residents of each participating jurisdiction by the circuit court for each county or city, plus one member from the area at large to be appointed by the circuit court or jointly by such courts if more than one, having jurisdiction in the area. The term of office of each member shall be five years except that of the two members first appointed from each jurisdiction, the term of one shall be for two years and of the other, four years. Vacancies shall be filled for the unexpired terms. In other respects, joint boards of zoning appeals shall be governed by all other provisions of this article.

C. With the exception of its secretary and the alternates, the board shall elect from its own membership its officers who shall serve annual terms as such and may succeed themselves. The board may elect as its secretary either one of its members or a qualified individual who is not a member of the board, excluding the alternate members. A secretary who is not a member of the board shall not be entitled to vote on matters before the board. ~~For~~ *Notwithstanding any other provision of law, general or special, for* the conduct of any hearing, a quorum shall be not less than a majority of all the members of the board *and the board shall offer an equal amount of time in a hearing on the case to the applicant, appellant or other person aggrieved under § 15.2-2314, and the staff of the local governing*

body. Except for matters governed by § 15.2-2312, no action of the board shall be valid unless authorized by a majority vote of those present and voting. The board may make, alter and rescind rules and forms for its procedures, consistent with ordinances of the locality and general laws of the Commonwealth. The board shall keep a full public record of its proceedings and shall submit a report of its activities to the governing body or bodies at least once each year.

D. Within the limits of funds appropriated by the governing body, the board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services. Members of the board may receive such compensation as may be authorized by the respective governing bodies. Any board member or alternate may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court that appointed him, after a hearing held after at least fifteen days' notice.

E. Notwithstanding any contrary provisions of this section, in the City of Virginia Beach, members of the board shall be appointed by the governing body. The governing body of such city shall also appoint at least one but not more than three alternates to the board.

§ 15.2-2308.1. Boards of zoning appeals, ex parte communications, proceedings.

A. The non-legal staff of the governing body may have ex parte communications with a member of the board prior to the hearing but may not discuss the facts or law relative to a particular case. The applicant, landowner or his agent or attorney may have ex parte communications with a member of the board prior to the hearing but may not discuss the facts or law relative to a particular case. If any ex parte discussion of facts or law in fact occurs, the party engaging in such communication shall inform the other party as soon as practicable and advise the other party of the substance of such communication. For purposes of this section, regardless of whether all parties participate, ex parte communications shall not include (i) discussions as part of a public meeting or (ii) discussions prior to a public meeting to which staff of the governing body, the applicant, landowner or his agent or attorney are all invited.

B. Any materials relating to a particular case, including a staff recommendation or report furnished to a member of the board, shall be made available without cost to such applicant, appellant or other person aggrieved under § 15.2-2314, as soon as practicable thereafter, but in no event more than three business days of providing such materials to a member of the board. If the applicant, appellant or other person aggrieved under § 15.2-2314 requests additional documents or materials be provided by the locality other than those materials provided to the board, such request shall be made pursuant to § 2.2-3704. Any such materials furnished to a member of the board shall also be made available for public inspection pursuant to subsection F of § 2.2-3707.

C. For the purposes of this section, "non-legal staff of the governing body" means any staff who is not in the office of the attorney for the locality, or for the board, or who is appointed by special law or pursuant to § 15.2-1542. Nothing in this section shall preclude the board from having ex parte communications with any attorney or staff of any attorney where such communication is protected by the attorney-client privilege or other similar privilege or protection of confidentiality.

D. This section shall not apply to cases where an application for a special exception has been filed pursuant to subdivision 6 of § 15.2-2309.

§ 15.2-2309. Powers and duties of boards of zoning appeals.

Boards of zoning appeals shall have the following powers and duties:

1. To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this article or of any ordinance adopted pursuant thereto. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. *The determination of the administrative officer shall be presumed to be correct. At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence.* The board shall consider ~~the purpose and intent of~~ any applicable ordinances, laws, and regulations in making its decision. *For purposes of this section, determination means any order, requirement, decision or determination made by an administrative officer. Any appeal of a determination to the board shall be in compliance with this section, notwithstanding any other provision of law, general or special.*

2. ~~To authorize~~ *Notwithstanding any other provision of law, general or special, to grant* upon appeal or original application in specific cases ~~such a~~ variance as defined in § 15.2-2201 ~~from the terms of the ordinance as will not be contrary to the public interest, when, owing to special conditions a literal enforcement of the provisions will result in unnecessary hardship;~~ provided that ~~the spirit of the ordinance shall be observed and substantial justice done, as follows:~~ *the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in § 15.2-2201 and the criteria set out in this section.*

~~When a property owner can show that his~~ *Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and (i) the property interest for which the variance is being requested was acquired in good faith and where by reason of the exceptional and any hardship was not created by the applicant for the variance; narrowness, shallowness, size, or shape of a specific piece of property at the time of the effective date of the ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the utilization of the property or where the board is satisfied, upon the evidence heard by it, that the granting of the variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the ordinance. (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; (iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance; (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and (v) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A4 of § 15.2-2286 at the time of the filing of the variance application.*

~~No such variance shall be authorized by the board unless it finds:~~

~~a. That the strict application of the ordinance would produce undue hardship relating to the property;~~

~~b. That the hardship is not shared generally by other properties in the same zoning district and the same vicinity; and~~

~~c. That the authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.~~

No variance shall be ~~authorized~~ **considered** except after notice and hearing as required by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

~~No variance shall be authorized unless the board finds that the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.~~

In ~~authorizing~~ **granting** a variance, the board may impose such conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest; and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. Notwithstanding any other provision of law, **general or special**, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

3. To hear and decide appeals from the decision of the zoning administrator after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

4. To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by § 15.2-2204, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

5. No provision of this section shall be construed as granting any board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.

6. To hear and decide applications for special exceptions as may be authorized in the ordinance. The board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

No special exception may be granted except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately

across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

7. To revoke a special exception previously granted by the board of zoning appeals if the board determines that there has not been compliance with the terms or conditions of the permit. No special exception may be revoked except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. If a governing body reserves unto itself the right to issue special exceptions pursuant to § 15.2-2286, and, if the governing body determines that there has not been compliance with the terms and conditions of the permit, then it may also revoke special exceptions in the manner provided by this subdivision.

8. The board by resolution may fix a schedule of regular meetings, and may also fix the day or days to which any meeting shall be continued if the chairman, or vice-chairman if the chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting in accordance with § 15.2-2312 shall be conducted at the continued meeting and no further advertisement is required.

§ 15.2-2314. Certiorari to review decision of board.

Any person or persons jointly or severally aggrieved by any decision of the board of zoning appeals, or any aggrieved taxpayer or any officer, department, board or bureau of the locality, may file with the clerk of the circuit court for the county or city a petition that shall be styled "In Re: date Decision of the Board of Zoning Appeals of [locality name]" specifying the grounds on which aggrieved within 30 days after the final decision of the board.

Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the board of zoning appeals and shall prescribe therein the time within which a return thereto must be made and served upon the secretary of the board of zoning appeals or, if no secretary exists, the chair of the board of zoning appeals, which shall not be less than 10 days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

Any review of a decision of the board shall not be considered an action against the board and the board shall not be a party to the proceedings; however, the board shall participate in the proceedings to the extent required by this section. The governing body, the landowner, and the applicant before the board of zoning appeals shall be necessary parties to the proceedings *in the circuit court*. The court may permit intervention by any other person or persons jointly or severally aggrieved by any decision of the board of zoning appeals.

The board of zoning appeals shall not be required to return the original papers acted upon by it but it shall be sufficient to return certified or sworn copies thereof or of the portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

~~If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take evidence as it may direct and report the evidence to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the~~

~~determination of the court shall be made.~~ The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

In the case of an appeal from the board of zoning appeals to the circuit court of an order, requirement, decision or determination of a zoning administrator or other administrative officer in the administration or enforcement of any ordinance or provision of state law, or any modification of zoning requirements pursuant to § 15.2-2286, the findings and conclusions of the board of zoning appeals on questions of fact shall be presumed to be correct. The appealing party may rebut that presumption by proving by a preponderance of the evidence, including the record before the board of zoning appeals, that the board of zoning appeals erred in its decision. Any party may introduce evidence in the proceedings in the court. The court shall hear any arguments on questions of law de novo.

In the case of an appeal by a person of any decision of the board of zoning appeals that denied or granted an application for a variance, ~~or application for a special exception,~~ the decision of the board of zoning appeals shall be presumed to be correct. The petitioner may rebut that presumption by ~~showing to the satisfaction of the court that the board of zoning appeals applied erroneous principles of law, or where the discretion of the board of zoning appeals is involved, the decision of the board of zoning appeals was plainly wrong and in violation of the purpose and intent of the zoning ordinance~~ *proving by a preponderance of the evidence, including the record before the board of zoning appeals, that the board of zoning appeals erred in its decision.*

In the case of an appeal by a person of any decision of the board of zoning appeals that denied or granted application for a special exception, the decision of the board of zoning appeals shall be presumed to be correct. The petitioner may rebut that presumption by showing to the satisfaction of the court that the board of zoning appeals applied erroneous principles of law, or where the discretion of the board of zoning appeals is involved, the decision of the board of zoning appeals was plainly wrong, was in violation of the purpose and intent of the zoning ordinance, and is not fairly debatable.

In the case of an appeal from the board of zoning appeals to the circuit court of a decision of the board, any party may introduce evidence in the proceedings in the court in accordance with the Rules of Evidence of the Supreme Court of Virginia.

Costs shall not be allowed against the locality, unless it shall appear to the court that it acted in bad faith or with malice. In the event the decision of the board is affirmed and the court finds that the appeal was frivolous, the court may order the person or persons who requested the issuance of the writ of certiorari to pay the costs incurred in making the return of the record pursuant to the writ of certiorari. If the petition is withdrawn subsequent to the filing of the return, the locality may request that the court hear the matter on the question of whether the appeal was frivolous.