



**AGENDA
BLOOMINGTON ZONING BOARD OF APPEALS
REGULAR MEETING
CITY HALL COUNCIL CHAMBERS
109 EAST OLIVE ST.
BLOOMINGTON, IL 61701
WEDNESDAY, NOVEMBER 21, 2018 at 4:00 P.M.**

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PUBLIC COMMENT**
- 4. MINUTES** Consideration, review and approval of Minutes from the October 17, 2018 meeting.
- 5. REGULAR AGENDA**
 - A. Z-24-18** Consideration, review and action of a petition submitted by Greg & Karen Wilson requesting a variance to allow a 15' reduction in the required rear yard setback from the 30' setback required at 71 Pebblebrook Ct., Bloomington. (Ward 2)
- 6. OTHER BUSINESS**
- 7. NEW BUSINESS**
- 8. ADJOURNMENT**

**DRAFT MINUTES
BLOOMINGTON ZONING BOARD OF APPEALS
REGULAR MEETING - 4:00 P.M.
WEDNESDAY, OCTOBER 17, 2018
COUNCIL CHAMBERS, CITY HALL
109 EAST OLIVE STREET
BLOOMINGTON, ILLINOIS**

Members present: Mr. Robert Schultz, Mr. Terry Ballantini, and Ms. Victoria Harris, Chairman
Tristan Bullington

Members absent: Mr. Jeff Brown, Mr. Veitengruber, Ms. Barbara Meek

Also present: Mr. George Boyle, Assistant Corporation Counsel
Mr. Bob Mahrt, Community Development Director
Ms. Izzy Rivera, Assistant City Planner

Chairman Bullington called the meeting to order at 4:03 p.m. Mr. Mahrt called the roll; with four members present, the Zoning Board of Appeals established a quorum.

PUBLIC COMMENT: None.

MINUTES: The Zoning Board of Appeals reviewed the September 19, 2018 regular meeting minutes. Ms. Harris corrected a name spelling error on page 2, it should read Mike Matejka. Ms. Harris motioned to approve the minutes as corrected. Seconded by Mr. Ballantini. The Board approved the minutes by voice vote, 4-0.

REGULAR AGENDA:

Z-20-18 Consideration, review and action on a petition submitted by Jason Taylor requesting a variance for the following: 1) an accessory structure greater than 1000 sf., a 200 sqft increase; and 2) an accessory structure greater than the principle building, 168 sqft increase; and 3) an accessory structure exceeding 14 ft in height, a 4.5 foot increase, to construct a garage at 1517 W. Graham St. (Ward 7).

Chairman Bullington introduced the case and swore in the petitioner, Mr. Jason Taylor, 1517 W. Graham. He also swore in Terrance Tay and Paul Segobiano. Mr. Taylor provided additional pictures numbered 1-6, marked as Exhibit A for the record. He reviewed the photographs for the Board. He reviewed the neighborhood view from across the street and surrounding areas and the garage he would like to take down. Mr. Taylor is requesting a larger garage because he needs additional storage. The home is small and with a finished basement he would not have any storage. He is requesting the additional height because that would give him the trusses that he would like. The pitch of the proposed garage would match the pitch of the house. The garage will not be a Morton building, it will be a stick built garage that will resemble the house. The petitioner stated that he has paid \$5100.00 a year in storage for the past ten years. Mr. Taylor stated that his property does not show up on any zoning maps and City staff was not originally sure what the zoning was. He stated that he would like to update the garage and stated that the height aspect of the proposed garage was important for the project. Chairman Bullington asked what physical characteristics his property had that

would make strict adherence to the code difficult. Mr. Taylor stated that he did not understand the question. Chairman Bullington explained physical characteristics that may make development difficult. Mr. Taylor stated that his property does not have any characteristics such as those. Mr. Ballantini asked why Mr. Taylor wanted to exceed the height requirements. Mr. Taylor stated that he needs the height of the pitch and truss in order to comfortably store his truck in the garage. He would also like to be able to load and unload his children's race cars, previously he has been unloading in the street. The house and the garage would match as well, if he had the pitch and truss that he wanted and the garage was sitting too low it would not be visually what he would like. Mr. Ballantini stated the request for the height appeared to have more to do with aesthetics than functionality. Mr. Taylor stated that his Ford F350 truck would not fit into a 7 foot garage. Mr. Schultz stated that in his experience architects would favor having the pitch of the house and the pitch of the garage match. Ms. Harris asked if the garage would be larger than the house. Mr. Taylor stated that the house would be 168 square feet larger than the home. He stated he would be willing to compromise on the square footage but not on height, as that is what is most important for the project to come out proper. Chairman Bullington asked staff if this was an addition to the house, there would not be any setback issues or issues with size. Staff confirmed that with an attached addition to the house, these particular issues would not exist. Mr. Taylor stated that he was given this information by other staff members. He didn't want the addition to look out of place with a deteriorating breezeway. Mr. Mahrt asked if the petitioner would be installing a lift in the garage. Mr. Taylor stated that he would not be, the appearance of the garage is his concern. He does not have neighbors to the north or to the west, he would not be obstructing views.

Terance Tay, 1518 W Graham, lives to the south of the petitioner. They have been neighbors for 6 years. He stated the property is maintained and the variance is for better aesthetics. He has a two story accessory carriage house, which is approximately 100 years old. The carriage house has a 12 foot pitch to match the house. He has no opposition to the variance, and is in favor. This would continue to improve the property. Mr. Ballantini asked when the accessory structures on his property were built. Mr. Tay stated approximately in the 1960's.

Paul Segobiano, 1501 W Graham Street, lives does the road to the east of the petitioner. He has lived there for 55 years, and is proud to be part of the "40 acres of Bloomington". He stated the house at 1517 was beginning to deteriorate. Mr. Taylor has come into the neighborhood and enhanced the house. He also owns a business in the 40 acres of Bloomington. He does not think the variance would be detrimental to the block. He stated there are other examples in town of garages which are not compatible with the surrounding homes. There are structures that are larger than the house.

Ms. Rivera stated that an attached structure would be considered an addition to the home with possible direct access to and from the accessory structure. She presented the staff report and the recommendation to deny the variance. Ms. Rivera provided the board with an overview of the general standards the Board uses to review Zoning Cases. Ms. Rivera provided pictures of the subject property, the surrounding properties and an aerial view of the neighborhood as well as the zoning view. She stated the site is located in a block which contains larger lots than those in the R-1B Medium Density Single Family Residence District. The proposed garage would exceed the 1000 square foot requirement and exceed the size of the principle structure. There are no encroachments in any yards because the lot is large. The structure

would exceed the limits to height and size. The specifications that are presented in the packet by the petitioner show that the garage would be used for storage only. Staff looked at the standards and if hardship exists. Staff found that there are no hardships and that the petitioner can make reasonable use of his property as it exists. The petitioner could reduce the size of the proposed garaged and not require a variance. Staff recommends denial of the variance.

Chairman Bullington declared the evidentiary hearing closed.

Ms. Harris stated she appreciates the aesthetic consideration to improve the neighborhood and his lot. Chairman Bullington stated he also appreciated the aesthetic considerations the petitioner is giving towards the project but he must consider the standards and apply them accordingly. Ms. Harris asked if the petitioner could amend the petition to reflect a connection to the structure. Mr. Mahrt stated if the Board rules unfavorably, the petitioner could secure a building permit for a new attached structure or a new structure with the existing breezeway, there would be no need to consider a variance as he would be able to do this by right.

The Board will consider each factor and take a position on each factor and state if the factor is “met” or “not met”. Mr. Mahrt called each factor and performed a roll call vote for each factor for a variance (44.13-4D) with the following votes cast:

Factor 1. Mr. Ballantini—not met; Ms. Harris—not met; Mr. Shultz—not me; Chairman Bullington—not met.

Factor 2. Mr. Ballantini—not met; Ms. Harris—not met; Mr. Shultz—not me; Chairman Bullington—not met.

Factor 3. Mr. Ballantini—not met; Ms. Harris—not met; Mr. Shultz—not me; Chairman Bullington—not met.

Factor 4. Mr. Schultz—abstain; Mr. Ballantini—not met; Ms. Harris—not met; Chairman Bullington—not met.

Factor 5. Mr. Ballantini—not met; Ms. Harris—not met; Mr. Shultz—not me; Chairman Bullington—met.

Chairman Bullington requested the Board vote in favor or against the petition for a variance, case Z-20-18. The variance was denied, 4-0, with the following votes called:

Mr. Ballantini—no; Ms. Harris—no; Mr. Schultz—no; Chairman Bullington—no.

Since there are less than 5 members present, the petitioner has the right to appeal to City Council.

Z-21-18 Consideration, review and action of a petition submitted by Amber Rogers and Bobby Heinrich for a variance to allow 2’ increase in fence height in the front yard, from the required 4 foot fence height at 1015 W MacArthur Ave. (Ward 6)

Chairman Bullington introduced the case and swore in the petitioner, Bobby Heinrich. He also swore in Carrie Van Gundy. Mr. Heinrich stated he did not understand why the location of the proposed fence would be considered a front yard. Chairman Bullington stated it was because he has a corner lot, the Zoning Code states he has two front yards. Mr. Heinrich stated he was not aware and he was not aware that he needed a permit to install a new fence since he was replacing a fence he removed because it was leaning toward the street. He stated that placing the fence further into the lot would cause the same leaning as the previous fence, this is the only good location for it, along the sidewalk. Chairman Bullington stated that the fence could be placed there, as long as it was 4 feet in height. Mr. Ballantini asked why 6 feet. Mr. Heinrich stated privacy reasons. He has only lived there for 3 months. There was some discussion of other fences in the area and the possible heights.

Carrie Van Gundy, stated the fence the petitioner would like to put up will look nice. The house and lot is raised, therefore a higher fence is necessary for privacy reasons. The previous owner did have a very small fence but did not have the difficulties the petitioner has. They have not shut out the neighbors and she feels completely in support. Ms. Van Gundy stated the fence will not be a visibility issue coming from the alley or from Western. She stated 6 feet is reasonable considering the height of the lot. Ms. Harris asked if other houses were raised, Ms. Van Gundy stated her home was not.

Ms. Rivera presented the staff report and the recommendation to deny the variance. Ms. Rivera provided pictures of the subject property, the surrounding properties and an aerial view of the neighborhood as well as the zoning view. The proposed fence could be placed at its current location, as the petitioner has already started. The fence would need to be 4 feet and would not necessitate a variance. Staff has not received any evidence that a fence would not be buildable further back on the property. There are some grading and sloping, however not significant enough to cause a hardship. There is documentation from other homes which have a fence that is 4 feet tall. This lot is a corner lot and is along a street that does not have homes that face each other. Staff was unable to locate any 6 foot tall fences in the front yard in the surrounding neighborhood. The Code calls for 4 foot fences in the front yard so that uninviting neighborhood and inhibited visibility are not promoted, for these reasons staff is recommending denial of the variance.

Chairman Bullington declared the evidentiary hearing closed.

The Board will consider each factor and take a position on each factor and state if the factor is “met” or “not met”. Mr. Mahrt called each factor and performed a roll call vote for each factor for a variance (44.13-4D) with the following votes cast:

Factor 1. Mr. Ballantini—not met; Ms. Harris—not met; Mr. Shultz—not me; Chairman Bullington—not met.

Factor 2. Mr. Ballantini—not met; Ms. Harris—not met; Mr. Shultz—not me; Chairman Bullington—not met.

Factor 3. Mr. Ballantini—not met; Ms. Harris—not met; Mr. Shultz—not me; Chairman Bullington—not met.

Factor 4. Mr. Schultz—not met; Mr. Ballantini—not met; Ms. Harris—not met; Chairman Bullington—not met.

Factor 5. Mr. Ballantini—not met; Ms. Harris—not met; Mr. Shultz—met; Chairman Bullington—not met.

Chairman Bullington requested the Board vote in favor or against the petition for a variance, case Z-21-18. The variance was denied, 4-0, with the following votes called: Mr. Ballantini—no; Ms. Harris—no; Mr. Schultz—no; Chairman Bullington—no.

Since there are less than 5 members present, the petitioner has the right to appeal to City Council.

Z-22-18 Consideration, review and action on a recommendation to the Planning Commission on the proposed text and map amendments to the Zoning Ordinance, Chapter 44, Division 9 of the Bloomington City Code. *(possible actions include recommending approval as drafted, recommending approval with amendments, or recommending denial)*

Mr. Mahrt gave a brief history of the commencement of the comprehensive update with the hiring of Houseal Lavigne and Associates. They looked at the variances that were being requested and what anomalies were recurring. Three major updates were produced: Lots and Yards 9.3, Permitted Encroachments 9.4, and Fences 9.10. Mr. Mahrt pointed out the parts of the Ordinance that have been updated or consolidated and found in the Board members packet. The changes help clarify how lots and yards are being defined, and allow staff to better interpret the Code. Ms. Harris sought an example of a lot not having adequate area and dimension. The Board members discussed the highlighted portions of the updated Code found in their packet.

Chairman Bullington stated Section 9 will not be encountered only when a petitioner will go before the Board for a variance. He stated any changes the Board would like see in this section should be called out.

Mr. Mahrt stated that section 9.10 for fences have been refined. A table has been added and the changes that have been made, make the section more clear and staff more able to interpret and apply the code. The Board discussed fence grade and applying the Code to variance cases.

Chairman Bullington stated they could recommend changes or make no recommendations at all. Mr. Boyle stated that the numbering will be updated as well, for clarity and for usability purposes.

Chairman Bullington stated that he has no strong recommendations for Division 9. Mr. Shultz seconded the motion to give no recommendation and no motion. Since there were no recommendation or motions, the Board proceeded to the next agenda item.

Z-23-18 Consideration, review and action on a recommendation to the Planning Commission on the proposed text and map amendments to the Zoning Ordinance, Chapter 44, Division 17 of the Bloomington City Code. *(possible actions include*

recommending approval as drafted, recommending approval with amendments, or recommending denial)

Chairman Bullington introduced the case. Mr. Boyle stated Division 17 is appropriate for the Zoning Board to review, as well as direction given by City Council. There have already been suggestions to the consultant, such as renumbering for coherence, board procedure to include best practices, and revisions to public hearing procedures. Mr. Boyle suggested the Board review the sign code appeals, and the standards for the variance for signs. Mr. Boyle stated staff is recommending that the same set of standards for variances be used for sign variances. This draft is different from the previous ordinance, in regards to sign code appeals. In this draft, they are appealable to City Council.

Chairman Bullington suggested review of:

Division 17-2 Decision Making Bodies (BZA, HPC, PC) Section A.2.a: Officers and Section A.2.d: “The Secretary to shall have the following duties:”

He suggested the removal of “secretary” in this draft. Staff has been responsible for the duties outlined, and there is no desire from the Board to take on those responsibilities. Ms. Harris agreed with the recommendation.

Chairman Bullington motioned to recommend:

Division 17- Administrative Procedures and Enforcement

	Revision	Justification
17-2 A.2.a	Revise language to remove reference to “secretary”	Staff is currently in role
17-2 A.2.d	Revise to remove in its entirety	Staff is currently in role

Seconded by Ms. Harris. The motion was approved, 4-0, with the following votes cast on roll call: Mr. Ballantini—yes; Ms. Harris—yes; Mr. Schultz—yes; Chairman Bullington—yes.

Chairman Bullington suggested review of:

Division 17-7 Special Uses, H: Standards of Approval.

This section lists the 6 factors the Board is to consider when granting a special use. Chairman Bullington suggests the way this is currently written appears that the standards 1-4 are optional and 5-6 are required to be found together. The intent, and what the Board has done in the past, is ensure that each of the factors are mandatory. He suggested that the language should be changed to state: “No special use application shall be recommended by the Board of Zoning Appeals or approved by the City Council unless all of the following factors are found:”

This recommendation will make it clear that all standards are mandatory and are to be found in order to grant a special use. Ms. Harris agreed with the change.

Chairman Bullington motioned to recommend:

Section 17-7 Special Uses, H: Standard of Approval

	Revision	Justification
17-7 H	Revised to read: No special use application shall be recommended by the Board of Zoning Appeals or approved by the City Council unless all of the following factors are found:	Language is more clear

Seconded by Ms. Harris. The motion was approved, 4-0, with the following votes cast on roll call: Mr. Ballantini—yes; Ms. Harris—yes; Mr. Schultz—yes; Chairman Bullington—yes.

Chairman Bullington suggested review of:

Section 17-8 Variations, F: Standards for Variations.

This is similar to his previous suggestion. Chairman Bullington would like to make it clear that all the 5 standards are mandatory. Therefore he suggests changing the language from, “A variation from the terms of this Code shall not be granted by the Board of Zoning Appeals unless and until findings of fact are submitted demonstrating:” to “A variation from the terms of this Code shall not be granted by the Board of Zoning Appeals unless and until findings of fact are submitted demonstrating all of the following factors are met.” The intent is to make it clear that these are not 5 things to consider but that they are all requirements.

Chairman Bullington motioned to recommend

Section 17-8 Variations, F: Standards for Variations

	Revision	Justification
17-8 F	Revised to read: A variation from the terms of this Code shall not be granted by the Board of Zoning Appeals unless and until findings of fact are submitted demonstrating <u>all of the following factors are met:</u>	Language is more clear

Seconded by Mr. Ballantini.

Mr. Schultz discussed standard 4, “granting the variation requested will not give the applicant special privilege that is denied to others by the Code” He suggests the standard may be unfair at times as there are many parts of the City that have been established before the Code, giving them the privilege that is now not being given to new applicants. Chairman Bullington stated he understood his concerns. His objective with the recommended revision would be to make it clear that all 5 standard should be mandatory and met. Mr. Boyle stated all of these factors do contain the word “and” after each, which does make it clear that the standards are to be viewed together. Chairman Bullington would still like to make things clear with the revision.

The motion was approved, 4-0, with the following votes cast on roll call: Mr. Ballantini—yes; Ms. Harris—yes; Mr. Schultz—yes; Chairman Bullington—yes.

Chairman Bullington suggested review of:

Section 17-8 Variations, H: Sign Code Appeals and Variations #1

Chairman Bullington stated the language in this section limits the Board. If the Board were to consider an appeal that the Administrator has denied, the Board would only be allowed to uphold or reverse the decision. This would not give the Board the ability to have the Administrator consider something else, go back and review and then make a decision. He would like to include a middle ground, which allows the Board to remand the matter back to the Administrator for further consideration consistent with the Boards ruling.

Chairman Bullington motioned to recommend

Section 17-8 Variations, H: Sign Code Appeals and Variations #1, last sentence

	Revision	Justification
17-8 H	Revised to read: The Board may direct the Administrator to issue the permit or statement permitting the sign in accordance with its decision or may remand the matter for further consideration and investigation consistent with the Boards ruling	Language provided by ZBA

Seconded by Ms. Harris. The motion was approved, 4-0, with the following votes cast on roll call: Mr. Ballantini—yes; Ms. Harris—yes; Mr. Schultz—yes; Chairman Bullington—yes.

Chairman Bullington suggested review of:

Section 17-8 Variations, H Sign Code Appeals and Variations #3,4

This section allows for different variation standards for sign cases instead of using the standards for all other variations. He does not think there should be different criteria for any variances. His recommendation would be to remove #3 and 4 and in its place state, “The Board may grant a variation from the provisions or requirements of Chapter 3 of this code only where the standards for variations contained in 17-8 F (17-8 Variations, F: Standards for Variations) are met” this will refer the matter back to the same standards the Board has for every other variance request.

Mr. Ballantini asked about the reference to 800 square feet in regards to the size of signs. Chairman Bullington stated that has never been relevant when doing sign variations since he has been on the Board. Mr. Boyle stated staff has discussed this as well with the consultant, and they do not believe the reference to 800 square feet is useful. Staff would also recommend making the same standards for all variations. Section H #3,4 are not clear nor helpful when looking at sign variations.

Chairman Bullington motioned to recommend

Section 17-8 Variations, H: Sign Code Appeals and Variations #3 and 4 to read:

	Revision	Justification
17-8 H.3	Revised to read: The Board may grant a variation from the provisions or requirements of Chapter 3 of this code only where the standards for variations contained in Section: 17-8. F. are met.	Language provided by ZBA
17-8 H.4	Revised to remove in its entirety	Language provided by ZBA

Seconded by Ms. Harris.

Mr. Ballantini asked if Chairman Bullington wanted to eliminate all the standards for signs. Chairman Bullington stated he does because the other standards are even more broad and similar to the sign variance standards and this would also make the variations consistent. If the Board decides to no change #3, he would motion to eliminate #4. #4 suggests another hearing to review standards that do not make sense. Mr. Ballantini asked if the parameters referenced for signs would be changed. Mr. Boyle stated that section is the Sign Code and it will be redrafted and updated as well. Staff reviewed the standard for variances and compared them to the standards for sign variances, they are the same except for the reference to 800 square feet. Staff did not feel the need for two set of standards for variances. Ms. Harris stated section #4 could allow for arguments in many direction and does not have value. Chairman Bullington suggested the language is outdated as well.

The motion was approved, 4-0, with the following votes cast on roll call: Mr. Ballantini—yes; Ms. Harris—yes; Mr. Schultz—yes; Chairman Bullington—yes.

Chairman Bullington suggested review of:

Section 17-8 Variations, I: Decisions

Chairman Bullington suggests removing the petitioner’s ability to appeal to City Council and instead give them the normal rights someone would have when appealing a decision, and appeal it to the Court. He suggested the Board’s decision is final unless the petitioner would like to follow the Administrative Appeal Act. This applies to the majority of circumstances except for the Zoning Board.

Mr. Schultz stated this would eliminate the petitioner’s ability to appeal to City Council completely. Chairman Bullington stated that City Council would not be able to overturn the Board when they have unanimously voted to grant or deny something. Mr. Schultz disagrees with the suggestion. Mr. Boyle stated if the Zoning Board were to be the final decision maker the petitioner would have 35 days to appeal under the Administrative Review Act. Mr. Boyle has not seen the exception of “fewer than 5” member rule, however he has not surveyed every code. This make the Board’s ruling sometimes final and sometimes not final.

Ms. Harris stated the Board does its due diligence and assesses every standard with discussions. City Council may not necessarily be going through the process and can overturn the Board’s decision, giving the Board no power. She agrees with Chairman Bullington. Chairman

Bullington stated the Board is appointed and not beholden to constituents. He doesn't believe the Board is needed if City Council would still be able to overturn a decision. Mr. Ballantini stated the Board could have a responsibility to City Council since the Board is not elected, but they are all appointed by the Mayor. Chairman Bullington stated if Council could amended the Code to reflect what they would like the Board to do. Ms. Harris stated that Board is given a protocol to follow. Mr. Schultz gave an example of when the City Council was able to overturn a decision by the Board that was beneficial to the community. He does not feel that City Council overturns the Boards decision often and he will vote to maintain the current Code as written for this section. He stated the Court is available for those who have the time and money to appeal and the appeal to City Council may be others only option. Chairman Bullington stated it appears Mr. Schultz has pointed out a flaw with the way the Code is written. Chairman Bullington stated the solution is to amend the Code, not give City Council the decision to overturn a decision. Mr. Schultz stated there could be a different outcome if there is trial by jury or judge. Chairman Bullington stated going to the Court is an opportunity to determine if the Code was applied correctly by the Board.

The Board discussed further on the merits of both arguments to remove the opportunity to appeal to City Council based on a Board of less than 5 members. Mr. Boyle gave some observations. He stated the consultant and staff have discussed reviewing the Code every 2 years to see what is working and not working. Another alternative could be to change less than 5 members to less than 4 members. He stated another section of the Code reads something along the lines of "4 concurrent votes is necessary for a petition to be accepted". Mr. Ballantini asked how many cases have been overturned. Mr. Boyle stated about 2-3 a year. Chairman Bullington stated the last case was unanimously denied by the Board and then City Council overturned the decision without looking at the standards. Ms. Harris stated the Board is mandated to have rationale for every decision that is made and City Council did not give any rationale.

Chairman Bullington motioned to amend:

Section 17-8 Variations. I: Decisions

	Revision	Justification
17-8 I.1	Revised to read: Decisions of the Board of Zoning Appeals on variations initiated hereunder shall be final and reviewable only in the Court in accordance with the applicable Statues of the State of Illinois (735 ILCS 5/3-101, et. Seq.),	Language provided by ZBA
17-8 I 1.1,2	Revised to remove in its entirety	Recommendation provided by ZBA
17-8 I #2	Revised to remove in its entirety	Recommendation provided by ZBA
17-8 I #3	Revised to remove in its entirety	Recommendation provided by ZBA

The motion was seconded by Ms. Harris. The motion was approved 3-1, with the following votes cast on roll call: Mr. Ballantini—yes; Ms. Harris—yes; Mr. Schultz—no; Chairman Bullington—yes.

Chairman Bullington suggested review of:

Section 17-12 Administrative Appeals, K: Decision.

Chairman Bullington stated this section discusses the same thing just discussed, which allows administrative appeals from the Board, to be appealed to City Council if there are fewer than 5 members. His recommendation would be to remove everything after K., 1, and the citation to the statue. Mr. Boyle stated K.1 was inadvertently put into the draft. The Code which the City of Bloomington is currently operating under does not have this appeal to City Council. Mr. Boyle state the changes Chairman Bullington is suggesting would keep the code as it is currently. In respects to administrative appeals, the Zoning Board is the final decision maker. Chairman Bullington stated removing this section would remove layers of bureaucracy.

Chairman Bullington motioned to recommend:

Section 17-12 Administrative Appeals, K: Decision

	Revision	Justification
17-12 K.1	Revised to read: All decisions of the Board of Zoning Appeals on appeals initiated hereunder shall be final and reviewable only in the Courts in accordance with the applicable Statues of the State of Illinois (735 ILCS 5/3-101, et seq.)	Language provided by ZBA
17-12 K.1 a) b)	Revised to remove in its entirety	Recommendation provided by ZBA
17-12 K #2	Revised to remove in its entirety	Recommendation provided by ZBA
17-12 K #3	Revised to remove in its entirety	Recommendation provided by ZBA

Seconded by Ms. Harris. The motion was approved, 4-0, with the following votes cast on roll call: Mr. Ballantini—yes; Ms. Harris—yes; Mr. Schultz—yes; Chairman Bullington—yes.

Chairman Bullington referred the Board back to Section 17-8 Variations, I, and stated the Board has recommended everything after the statue be removed and opened a discussion to add something else in its place or leave it as previously recommended. Mr. Boyle stated that in the

current code in Ch. 44 Section 13 E (c) (d) (8) it states that a “concurring vote of four (4) members of the Board of Zoning Appeals shall be required to approve or recommend approval of a petition” He stated this could be in the current draft and something that the Board could recommend or not recommend for consistency reasons. Chairman Bullington asked if there were 4 members and only 3 agreed it would not be able to move forward but with the change and under the current situation the Board would have to unanimously agree to move forward, if there were 4 Board members.

Chairman Bullington stated the Board could add a #2 after the amended recommendation previously voted on. An affirmative vote of 4 members of the Zoning Board of Appeals is required to grant a variance.

Since the numbers may not be correct, he suggested an addition to Section 17-8 Variations I: Decisions regardless if the previous recommendation is followed, and state that the Boards decision are only valid if 4 members support it.

Chairman Bullington motioned an addition:

Section 17-8 Variations, I: Decisions

	Revision	Justification
17-8 I New section	Revised to read: An affirmative vote of four (4) members is required to approve the variance	Language provided by ZBA

Seconded by Ms. Harris. The motion was approved, 4-0, with the following votes cast on roll call: Mr. Ballantini—yes; Ms. Harris—yes; Mr. Schultz—yes; Chairman Bullington—yes.

ADJOURNMENT

Chairman Bullington motioned to adjourn. Seconded by Mr. Schultz. The motion was approved by voice vote. The meeting adjourned at 6:23 p.m.

Respectfully Submitted,
Izzy Rivera
Assistant City Planner

**CITY OF BLOOMINGTON
REPORT FOR THE BOARD OF ZONING APPEALS
NOVEMBER 21, 2018**

CASE NUMBER:	SUBJECT:	TYPE:	SUBMITTED BY:
Z-24-18	71 Pebblebrook Ct	Variance	Izzy Rivera Assistant City Planner

PROJECT DESCRIPTION:
Reduce the required rear yard setback from 30 feet to 15 feet, for the construction of a new home
PETITIONER'S REQUEST:

Section of Code: 44.4-5D Lots and Yards

Type of Variance	Request	Required	Variation
Rear yard reduction	15' reduction in rear yard	30'	15'

STAFF RECOMMENDATION:	<p>Staff finds that the variance will not give special privilege nor be detrimental to the character of the neighborhood.</p> <p><i>Staff recommends the Zoning Board of Appeals approve the variances for 71 Pebblebrook Ct.</i></p>
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71 Pebblebrook Ct.

NOTICE

The application has been filed in conformance with applicable procedural requirements and legal, public notice for the hearing was published in *The Pantagraph* on November 5, 2018.

GENERAL INFORMATION

Owner and Applicant: Greg and Karen Wilson

PROPERTY INFORMATION

Legal description: PEBBLEBROOK SUB LOT 6

Existing Zoning: R-1B, Medium Density Single Family Residence District
Existing Land Use: Vacant
Property Size: Approximately 12,984 square feet
PIN: 20-13-451-010

Surrounding Zoning and Land Uses

Zoning

North: R-1B, Medium Density Single Family
South: S-2, Public Lands and Institutions
South: R-1B, Medium Density Single Family
East: R-1B, Medium Density Single Family
West: S-2, Public Lands and Institutions

Land Uses

North: Single family home(s)
South: Fox Creek Golf Course
South: Single family home
East: Vacant
West: Fox Creek Golf Course

Analysis

Submittals

This report is based on the following documents, which are on file with the Community Development Department:

1. Application for Variance
2. Site Plan
3. Aerial photographs
4. Site visit

PROJECT DESCRIPTION

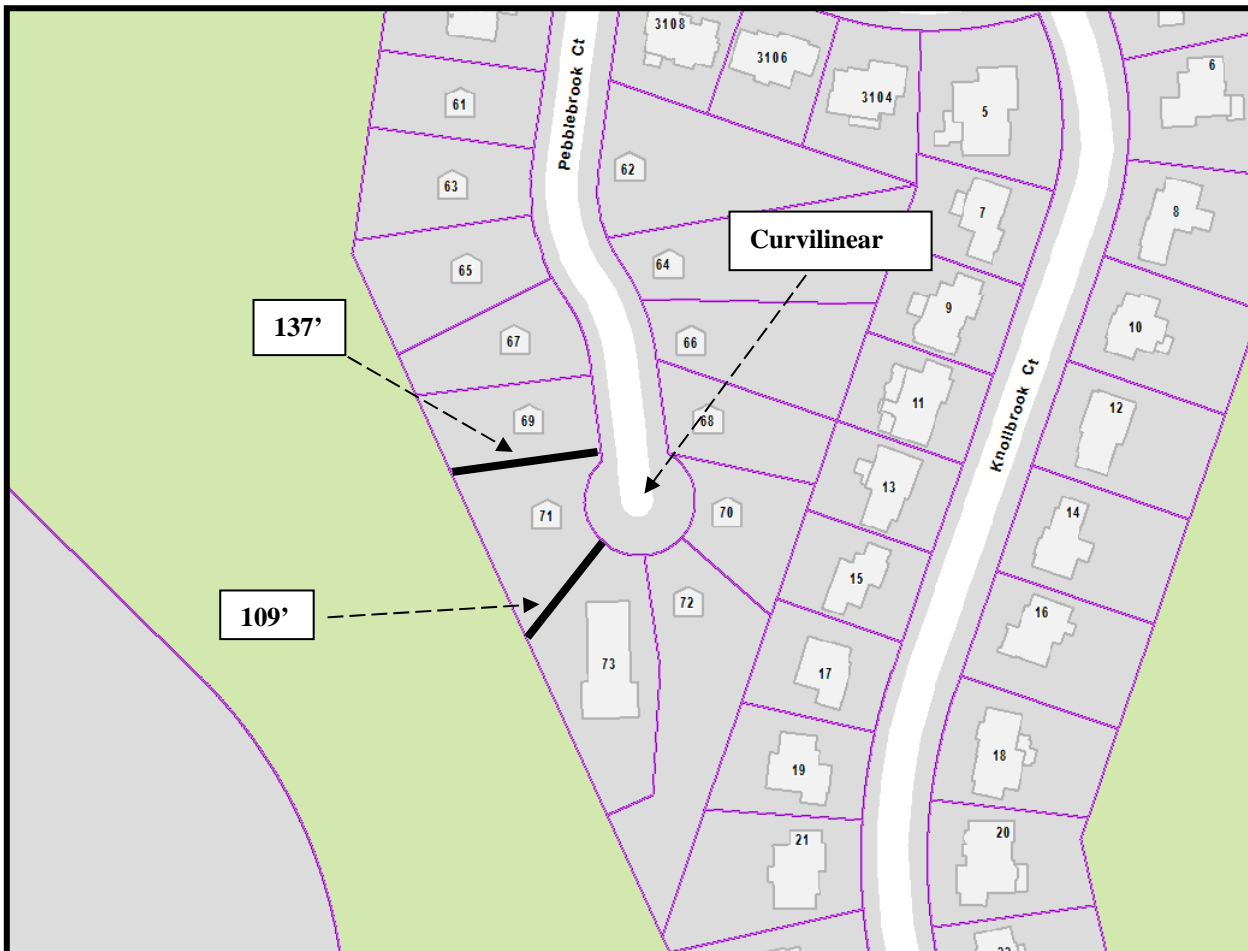
Background.

71 Pebblebrook Court, the subject property, is located in the Pebble Brook Subdivision, south of Fox Creek Road. The site is part of an annexation into the City that took place in 1994. The site is zoned R-1B, Medium Density Single Family Residence District, and is currently vacant. The final plat for Pebble Brook Subdivision was approved by City Council on March 13th 2007. The approved final plat records a fifteen (15) foot rear yard utility easement and a thirty (30) foot front yard building setback. The R-1B zoning districts requires thirty (30) foot front and rear yards, and six (6) foot side yards. The most



Agenda Item 5A
Z-24-18
71 Pebblebrook Ct.

restrictive setback should be used. The final plat also shows a utility easement within the thirty (30) foot front yard setback. The site is irregularly shaped, relatively flat, and contains a portion of the curvilinear street design that makes up the cul-de-sac. The irregular shape of the lot, impacts the east side of the lot, which would be the front yard. The irregular shape also impacts the depth measurements, making the lot deeper on the north side. This reduced the buildable area of the lot. As seen below, lots 71 and 70 have a shorter depth, the buildable area will be reduced when the thirty (30) foot rear and front yard setbacks are calculated. For 71 Pebblebrook Court the available buildable area, after subtracting the square footage from the required thirty (30) foot setbacks, is approximately 5,500 square feet, reducing it by over 50 percent. The other lots in the subdivision have more buildable area and can comply with the setback requirements because they have more depth.



Currently there is only one site improved with a single family home at 73 Pebblebrook Ct. The site extends further to the south, creating a larger space for development, as seen above. The subject property is adjacent to Fox Creek Golf Course and no development is expected behind the site. Changes in the rear yard setback should not have a direct, negative impact on any future or existing residents. While this is new construction, the goal is to build an accessible home. The construction of accessible housing aligns with the goals in the Comprehensive Plan in section H-1.3, to provide housing for everyone, including those who may require special accommodations.

Project Description: The petitioner would like to construct a new home. Based on the needs of the petitioner, the home will be single story home, with some adjustments to accommodate wider doorways, shorter distances between rooms and elimination of stairs. The proposed home would extend all the way to the fifteen (15) foot utility easement in the rear yard and extend all the way to the thirty (30) foot front yard setback line. The new construction will encroach fifteen (15) feet into the R-1B required rear yard setback, necessitating a variance. Rear yard is defined in Chapter 44 of the Bloomington City Code as the yard across the rear of the lot between the rear lot line and a principle structure. Front yard setbacks are measured as the distance between the foundation of the principal structure and the front property line. The proposed home will be compliant with the side yards and front yard.

The following is a summary of the requested variations:

Applicable Code Sections:

Section of Code: 44.4-5D Lots and Yards

Type of Variance	Request	Required	Variation
Rear yard reduction	15' rear yard	30'	15' decrease in the rear yard setback

Analysis

Variations from Zoning Ordinance

The Zoning Board of Appeals may grant variances only in specific instances where there would be practical difficulties or particular hardships in carrying out strict adherence to the Code. Staff's findings of fact are presented below. It is incumbent on each Zoning Board of Appeals member to interpret and judge the case based on the evidence presented and each of the Findings of Fact.

FINDINGS OF FACT

The petitioner has outlined the request for variation in the attached narrative and drawings. The Zoning Ordinance requires that the petition meet the findings of fact as outlined below.

That the property has physical characteristics that pose unreasonable challenges which make strict adherence to the Code difficult; and the subject property was platted with a fifteen (15) foot utility easement and a thirty (30) front yard setback that contains an easement as well. The required rear and front yard setback for the R-1B Zoning District is thirty (30) feet. No construction is permitted within and over an easement, therefore the new construction would not be able to be shifted toward the east side (front), to make a less intense variance request for a rear yard setback reduction. Also, a front yard projection is less favorable to a rear yard projection because a front yard projection has a larger impact on the neighborhood's character visible from a public street. Additionally the site is located along a curvilinear street design to accommodate a cul-de-sac which reduces the buildable lot space toward the east side of the lot. The shape of the lot and platted utility easement create a physical hardship that makes strict adherence to the Code difficult. **The standard is met.**

That the variances would be the minimum action necessary to afford relief to the applicant; and the proposed house could not be shifted toward the east to reduce the front yard setback because there is an easement within the setback. The petitioner has looked at several designs to accommodate the thirty (30) foot setbacks in the front and in the rear, however the layout of the site and the irregular shape, along with the need to build an accessible and inclusive housing product, have limited the design possibilities. Also, reducing the front yard setback could be more impactful for future development. However, there will be no future residential development toward the west of the site. Directly to the west sits Fox Creek Golf Course, which has installed a landscaped berm toward 71 Pebblebrook Court. The variance is the minimum action necessary and **the standard is met.**

That the special conditions and circumstances were not created by any action of the applicant; and the variance is directly related to the site limitations based on the shape of the lot. The curvilinear design coupled with the smaller lot size poses constraints to future development. The average lot depth for the subdivision is 178 feet. This site, with a depth of 96 feet, is one of two of the lots, with lot depths under 150 feet. The average area per dwelling unit for the R-1B Zoning Classification is 10,000 square feet. With the required setbacks, the site only provides approximately 7,000 square feet. **The standard is met.**

That granting the variation request will not give the applicant any special privilege that is denied to others by the Code; and the subdivision is unique and unlike the neighborhood surrounding it. The majority of the lots in the Pebblebrook Subdivision are longer and the subdivision has more irregular shaped lots, although many of these lots exceed the minimum lot requirements for the R-1B district. The subject property, however, is smaller than other lots in the neighborhood and has a smaller buildable area due to the shape of the lot. The variance allows the petitioner to make reasonable use of the property without granting a privilege not afforded to others. **The standard is met.**

That the granting of the variation will not be detrimental to the public welfare, alter the essential character of the neighborhood, nor unreasonably impair the use of development of adjoining properties. Granting the variance will not alter the essential character of the neighborhood nor be detrimental to the public welfare. The proposed construction would not impose on any future development, and the distance from the golf course to new residential development has been done at 73 Pebblebrook Court, with a setback of fifteen (15) feet. Granting this variance would allow construction of a home with wider doorways, shorter distances between rooms and no stairs, which could also promote the Comprehensive Plan Goal H-1.3 of, “fostering housing stock that meets the needs of residents of all ages and abilities”. **The standard is met.**

STAFF RECOMMENDATION: Staff finds that the variance will not give special privilege nor be detrimental to the character of the neighborhood.

*Staff recommends the Zoning Board of Appeals **approve** the variances for 71 Pebblebrook Ct. to allow a reduction in the rear yard setback to 15’.*

Respectfully submitted,
Izzy Rivera
Assistant City Planner

Attachments:

- Variance Application
- Petitioner Statement of Findings of Fact
- Site Plan
- Aerial Map
- Zoning Map
- Newspaper notice and neighborhood notice
- List of notified property owners

2.24.18

APPLICATION TO ZONING BOARD OF APPEALS

Please consider this as our petition for a variance from the requirement(s) of the Zoning Code. I have provided all information requested herein and attached our site plan and fee.

Site Address: 71 Pebblebrook Ct Bloomington, IL 61705

Site Address: _____

Petitioner: Greg & Karen Wilson Phone: [REDACTED]

Petitioner's Email Address: [REDACTED]

Petitioner's Mailing Address Street: [REDACTED]

City, State, Zip Code: _____

Contractual interest in the property yes no

Signature of Applicant [REDACTED]

Brief Project Description:

ranch house designed to be handicapped accessible - no stairs from garage entrance, wider doorways, walk-in shower, shorter distance between rooms to minimize walking

Code Requirements Involved:

30' rear yard setback

Variances(s) Requested:

15' rear yard setback

Reasons to Justify Approval by the Zoning Board of Appeals: Your justifications for approval must also be provided in the statement of Findings of Fact.

15' rear yard setback would allow for house designed as an adaptable and accommodating layout for handicapped owner. Granting of variance would not affect adjoining properties or the integrity of the neighborhood.

OCT 19 2018

STATEMENT OF FINDINGS OF FACT
(Must be answered by the Petitioner)

Chapter 44, Section 9.40(d)

A variation from the terms of this Code shall not be granted by the Zoning Board of Appeals unless and until findings of fact are submitted demonstrating:

1. That the property has physical characteristics that pose unreasonable challenges which make strict adherence to the Code difficult; and

The radius of the cul-de-sac makes the depth of the lot 15 ft less than a normal lot, and therefore does not accommodate house layout.

2. That the variance would be the minimum action necessary to afford relief to the applicant; and

The 15' ft being necessary for the home design. The design is required due to owner physical limitations.

3. That the special conditions and circumstances were not created by any action of the applicant; and

Solely the radius of the cul-de-sac.

4. That the granting of the variance requested will not give the applicant any special privilege that is denied to others by the Code; and

Granting of the variance would mean that the proposed house could be built, but it is one that almost all properties could accommodate.

5. That the granting of this variance will not be detrimental to the public welfare, alter the essential character of the neighborhood, nor unreasonably impair the use or development of adjoining properties.

Having a 15' rear yard backset would not affect properties on either side and there will not be anyone building behind. Property does not have any lots behind it. There is more than enough footage between adjoining properties.

We are asking for a 15' rear yard backset variance which would allow us to build a home that is designed to be both handicap accessible now and adaptable for necessary changes in the years to come without appearing to be a "special needs" home. Karen was born with cerebral palsy, a neurological condition which causes mobility issues which can differ from person to person. Karen's cerebral palsy affects both her walking and how she uses her right hand. She now has both knee and foot problems which cause joint pain, which are made worse by overuse and/or overdoing everyday life. It is to the point where stairs and walking are more difficult. Karen has always been independent and self-sufficient, wishing to remain so for as long as possible. We are at a point where we need to have a home which can be entered without using stairs and has less distance between rooms. We have been unable to find an existing home that meets Karen's current needs and will also be adaptable for new challenges that arise in the years to come. The radius of the cul-de-sac is the only reason that we are unable to build the home we have designed.

Date: 9/4/2018

Scale: As Noted

Sheet #: 3 of 3

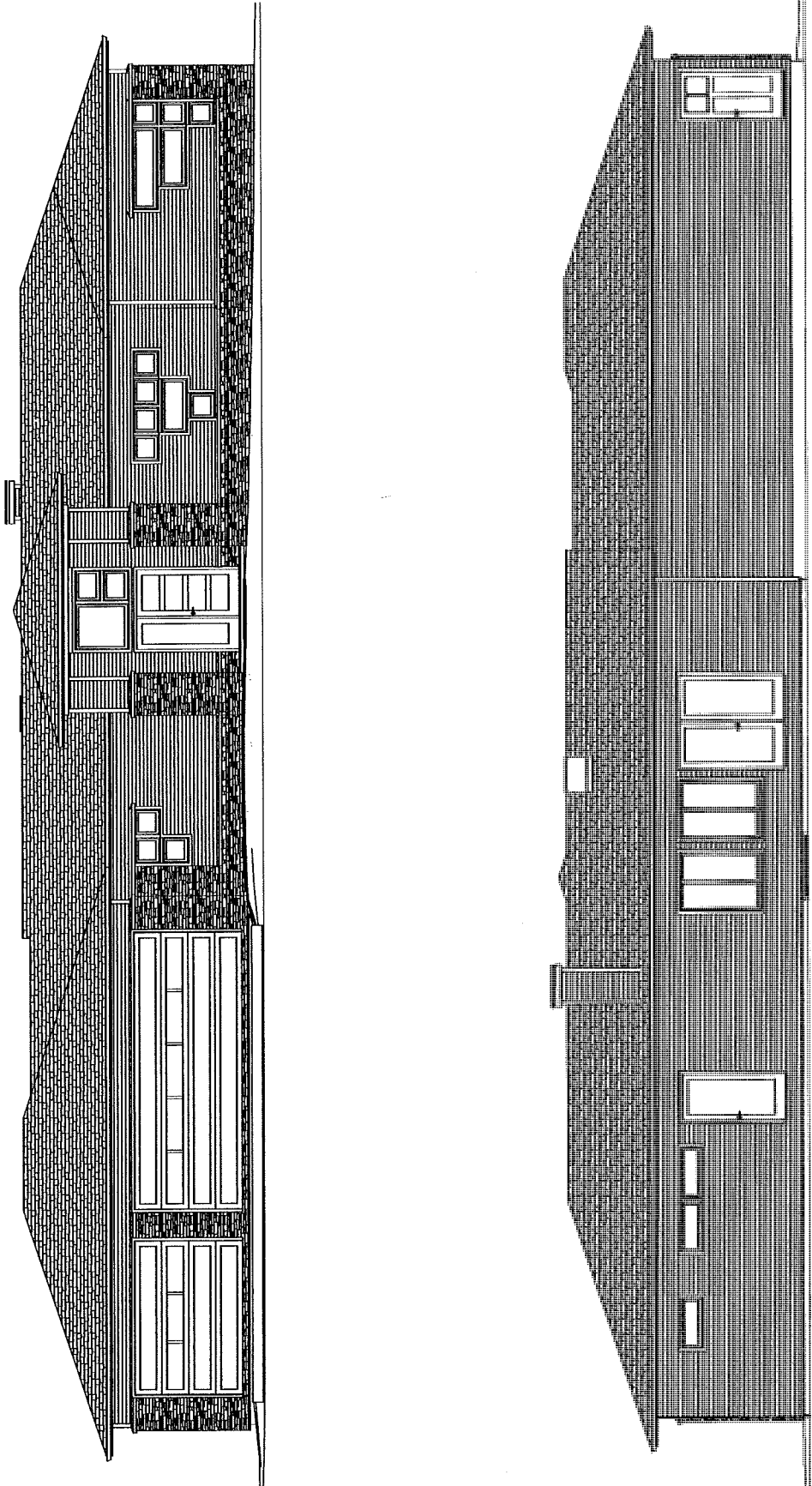
Job: Wilson Home

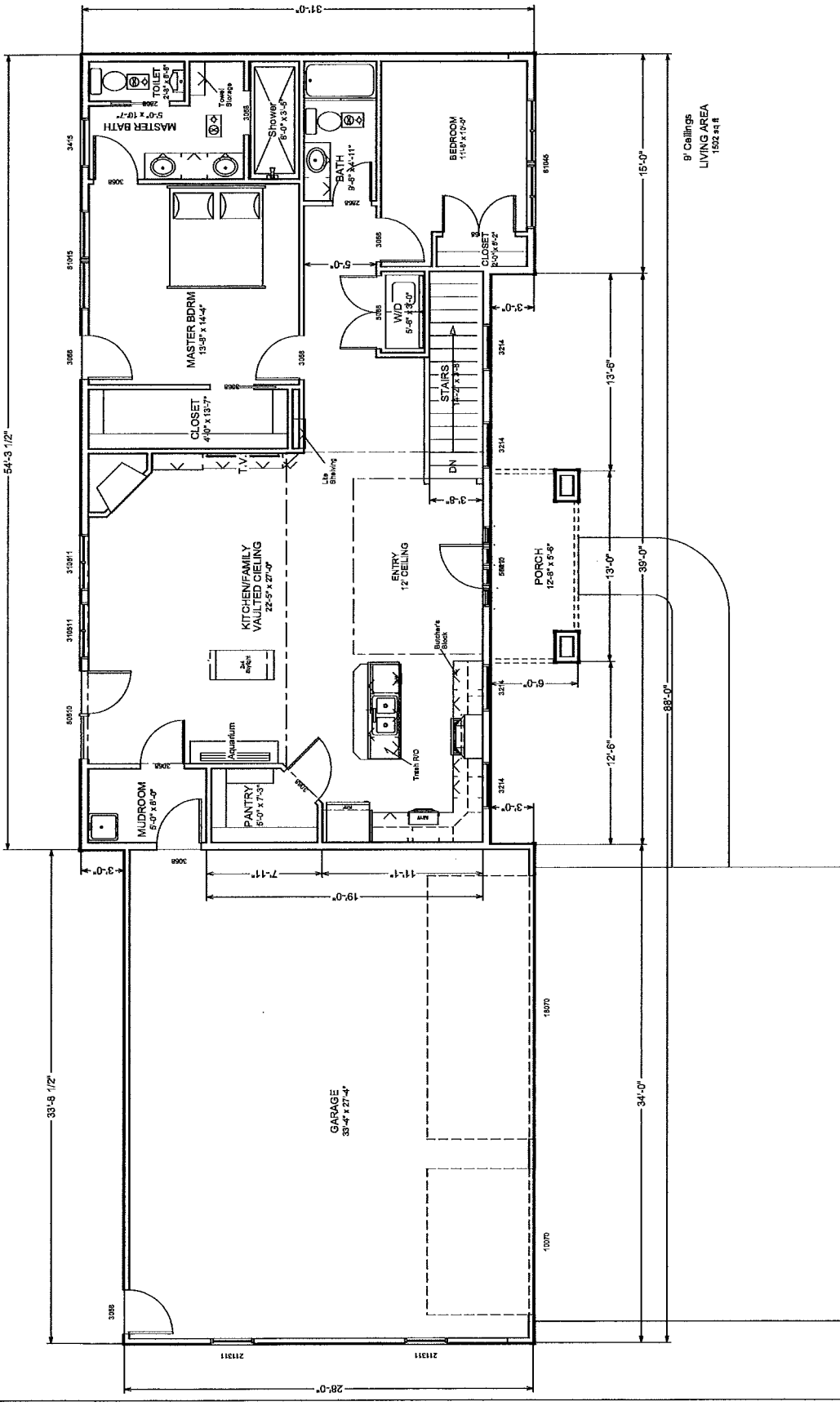
Subject: Revision 1 Elevations

Drwn By: TB

DorKholder Inc.
2601 Fox Creek Rd.
Bloomington IL 61701
Ph. 309-275-0241
Fax. 309-827-3426

Scale: 3/32"=1'





Scale: 1/4" = 1'

9' Ceilings
 LIVING AREA
 1502 sq ft

Scale: 1/4" = 1'

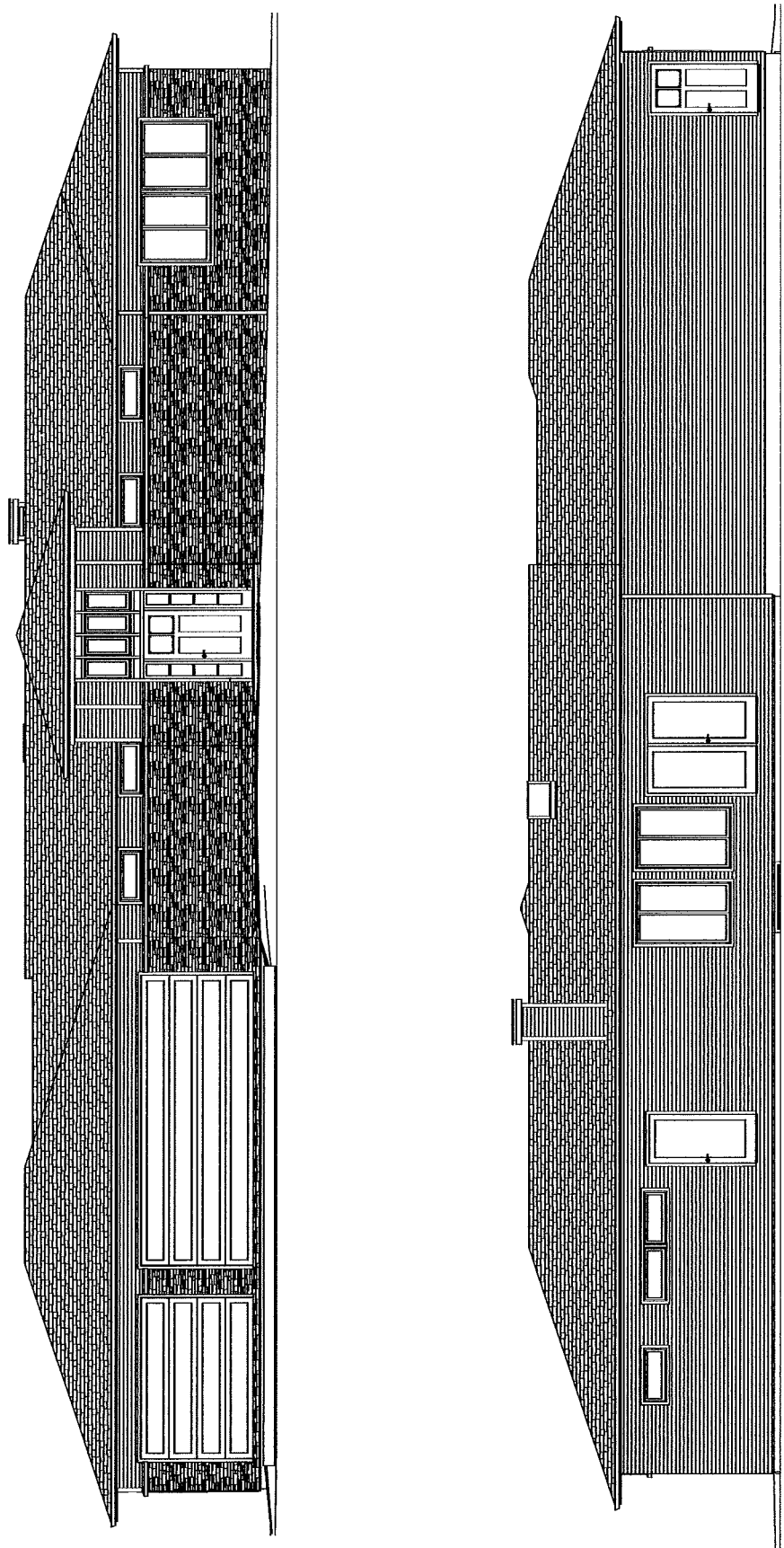
Sheet #:
As Noted
Date: 8/30/2018

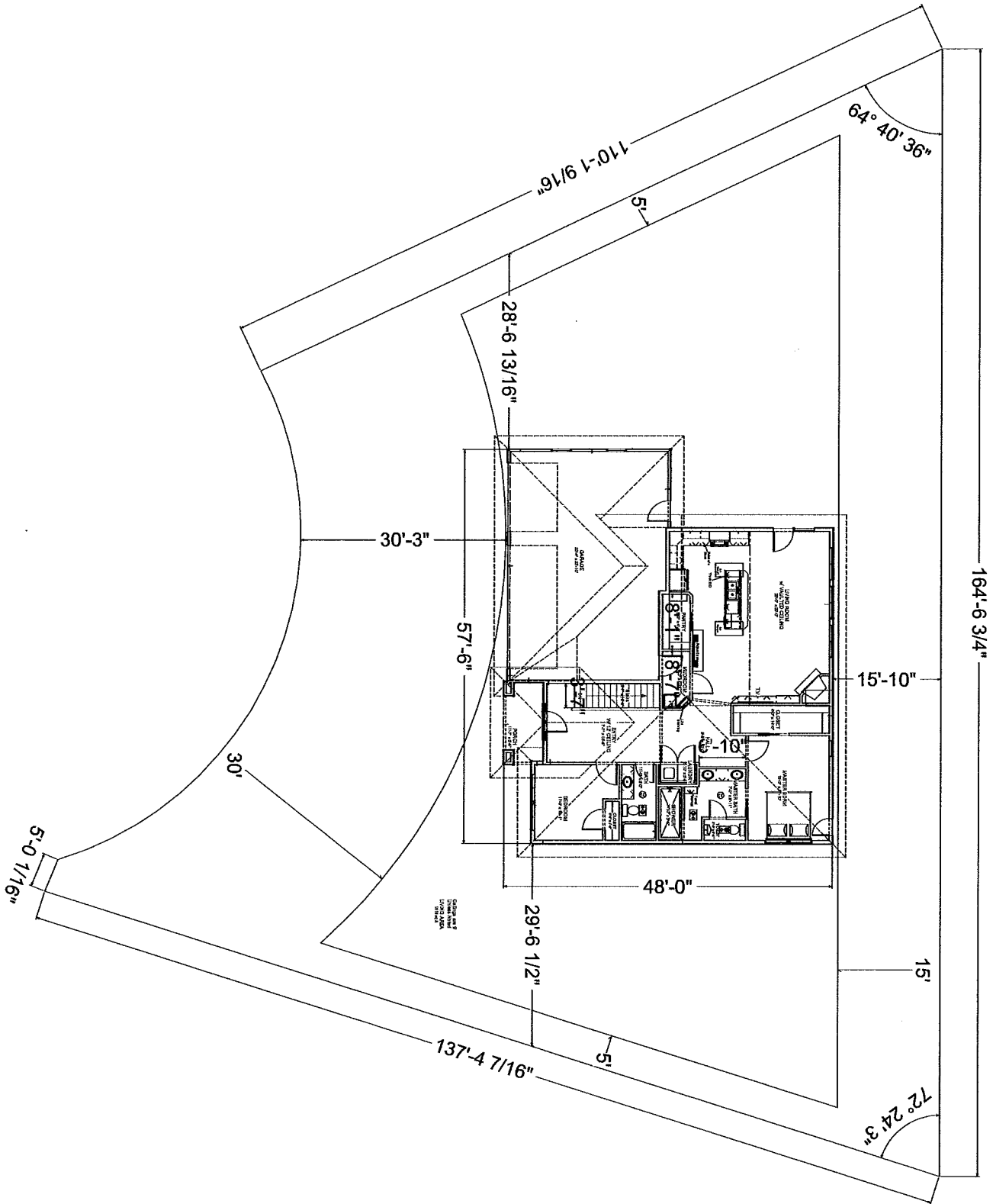
Subject: Sunroom West Elevation
Job: Wilson Home

Drawn By: TB

2601 Fox Creek Rd.
Bloomington IL 61701
Ph. 309-275-0241
Fax. 309-827-3426

Bottkolder Inc.

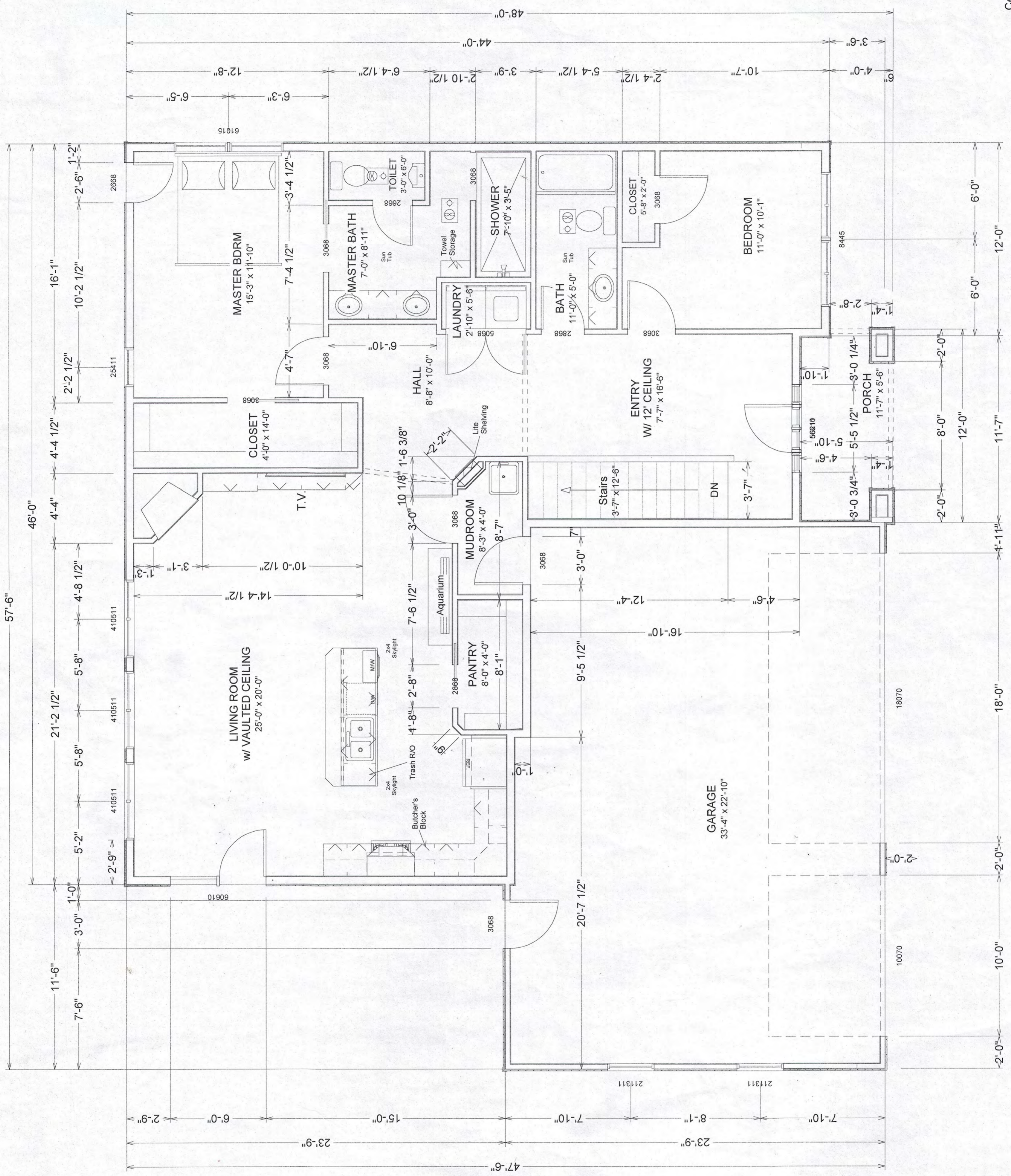




Scale: 3/64" = 1'

Sheet #: 1 of 1	Scale: As Noted	Subject: Plot Plan	Drwn By: TB	Borkholder Inc. 2601 Fox Creek Rd. Bloomington IL 61701 Ph. 309-275-0241 Fax. 309-827-3426
	Date: 11/1/2018	Job: Wilson Home		

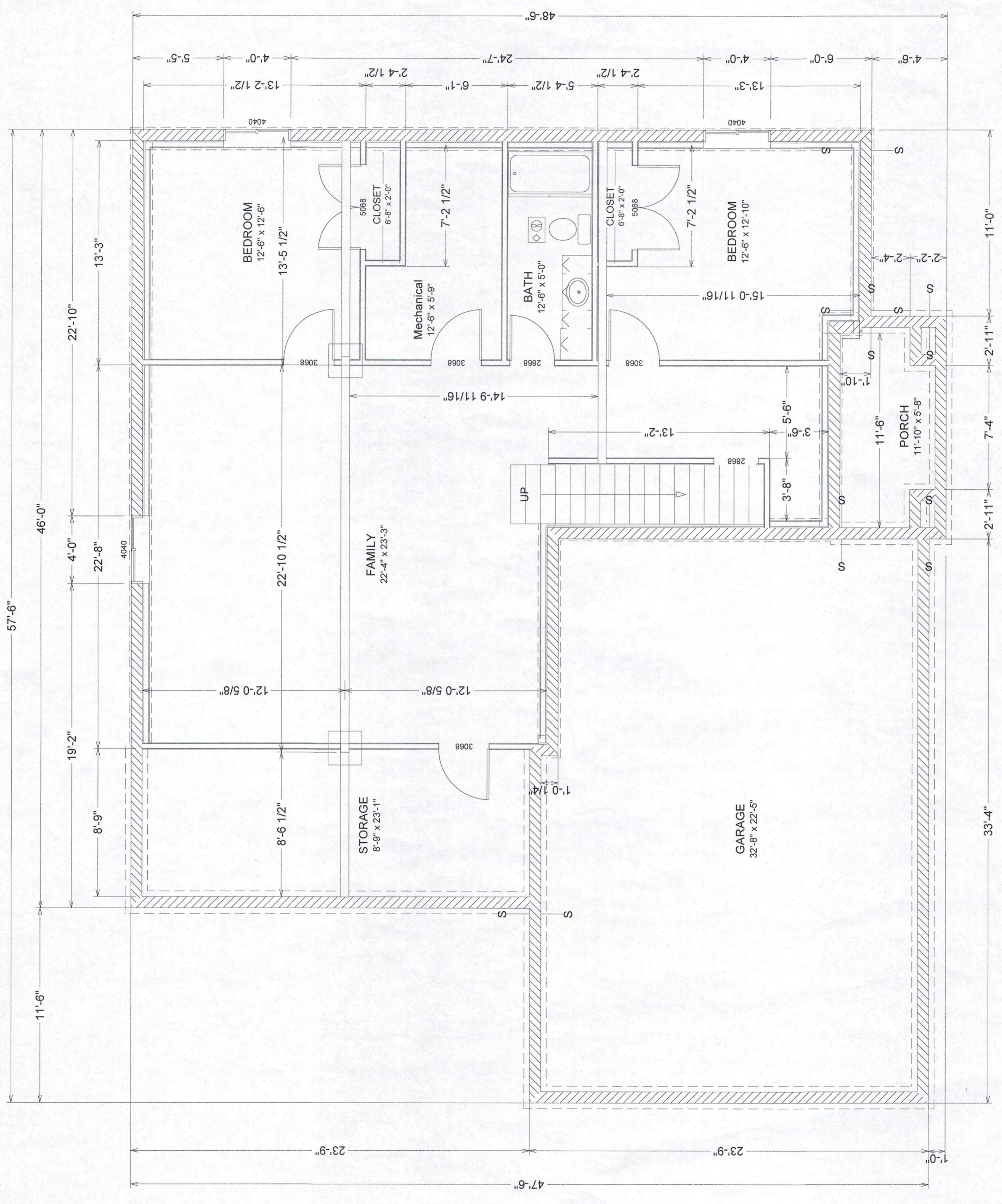
Ceilings are 9'
 Unless Noted
 LIVING AREA
 1518 sq ft

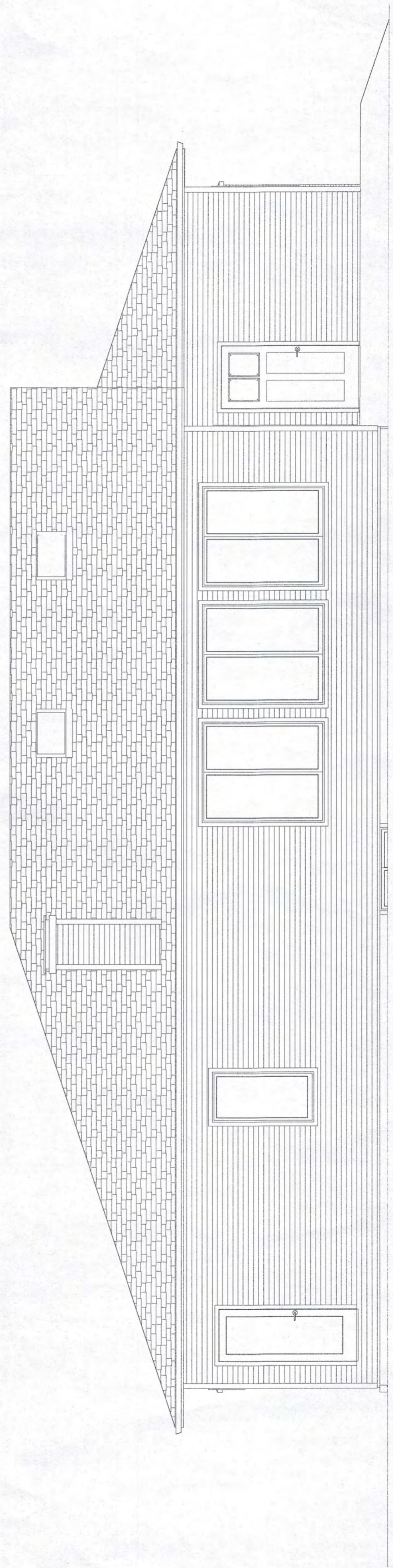
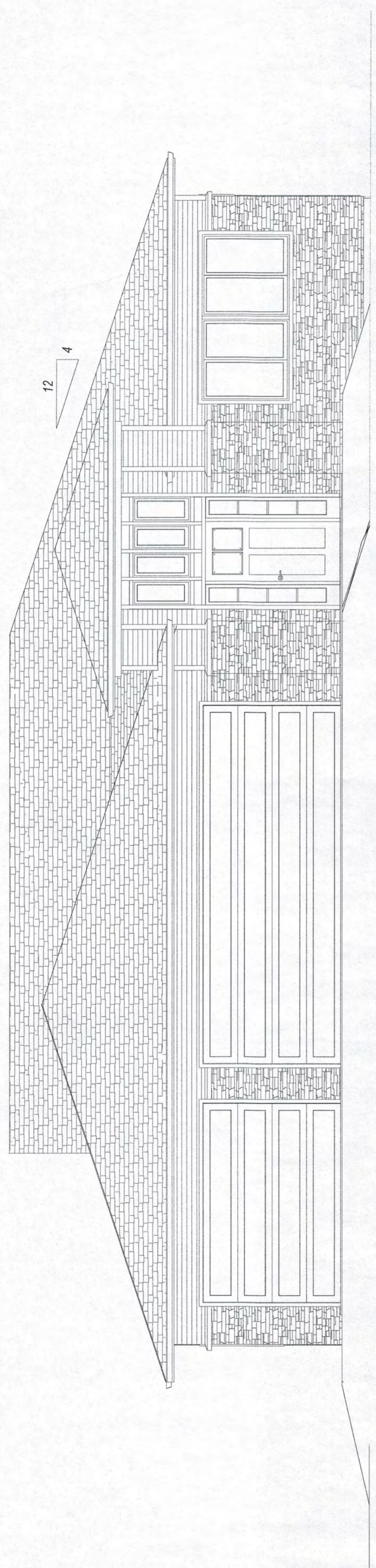


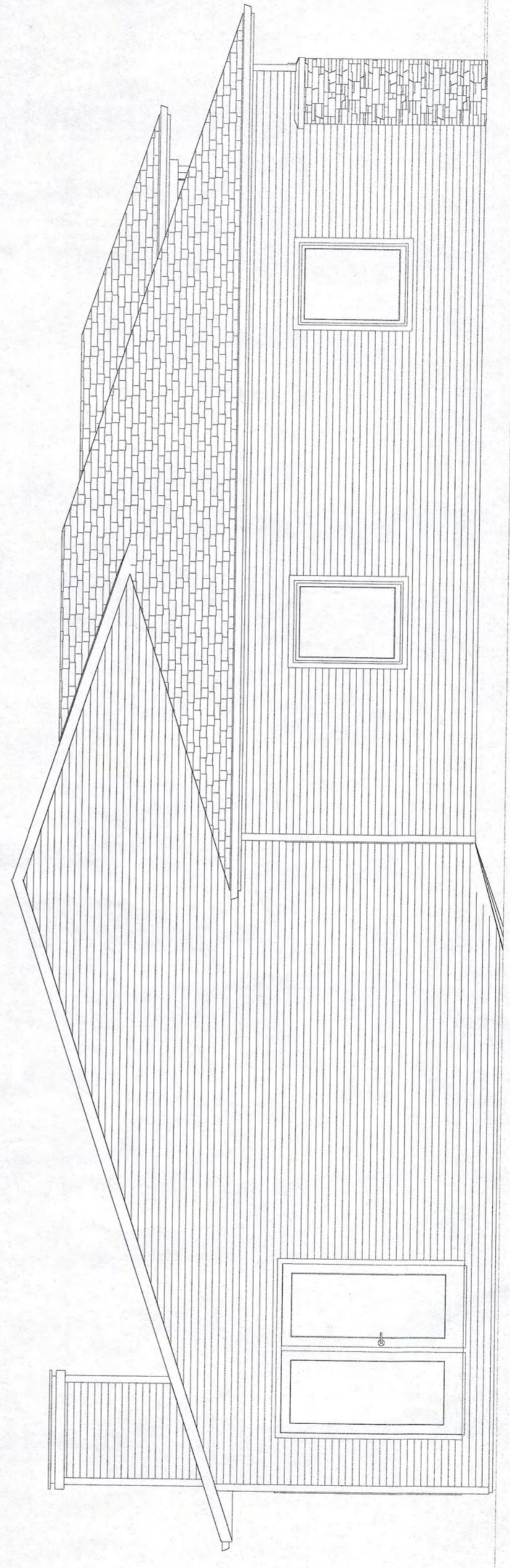
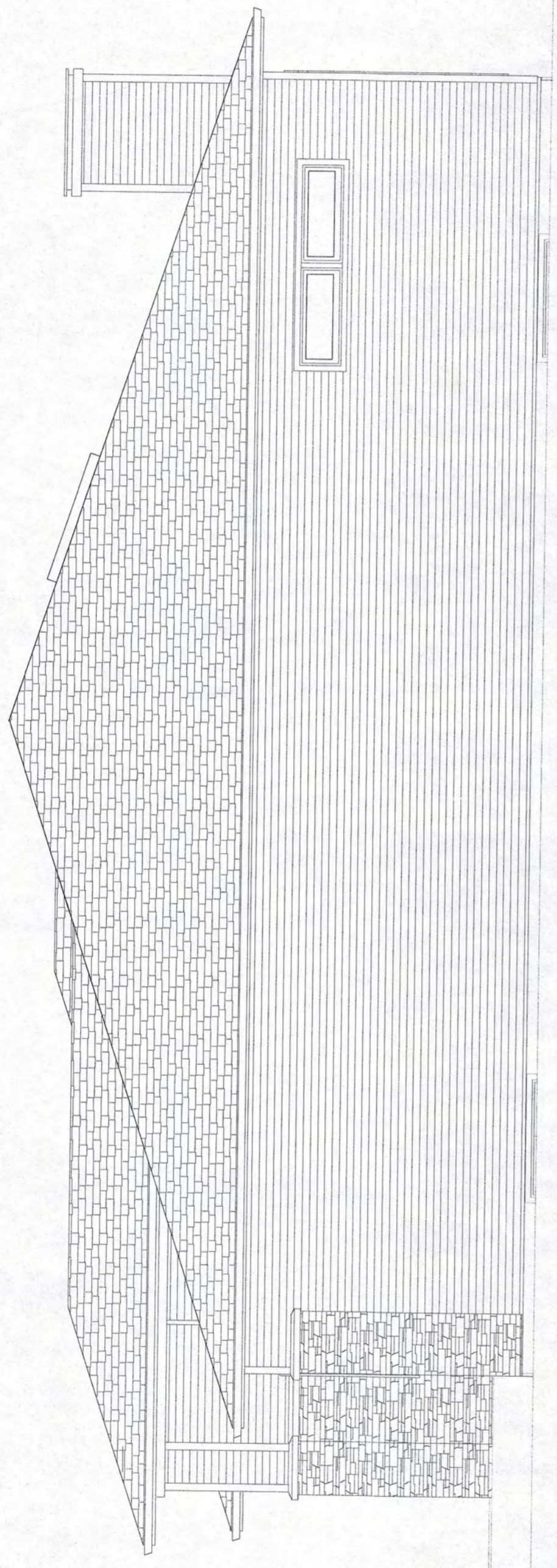
9' Ceilings
LIVING AREA
1347 sq ft

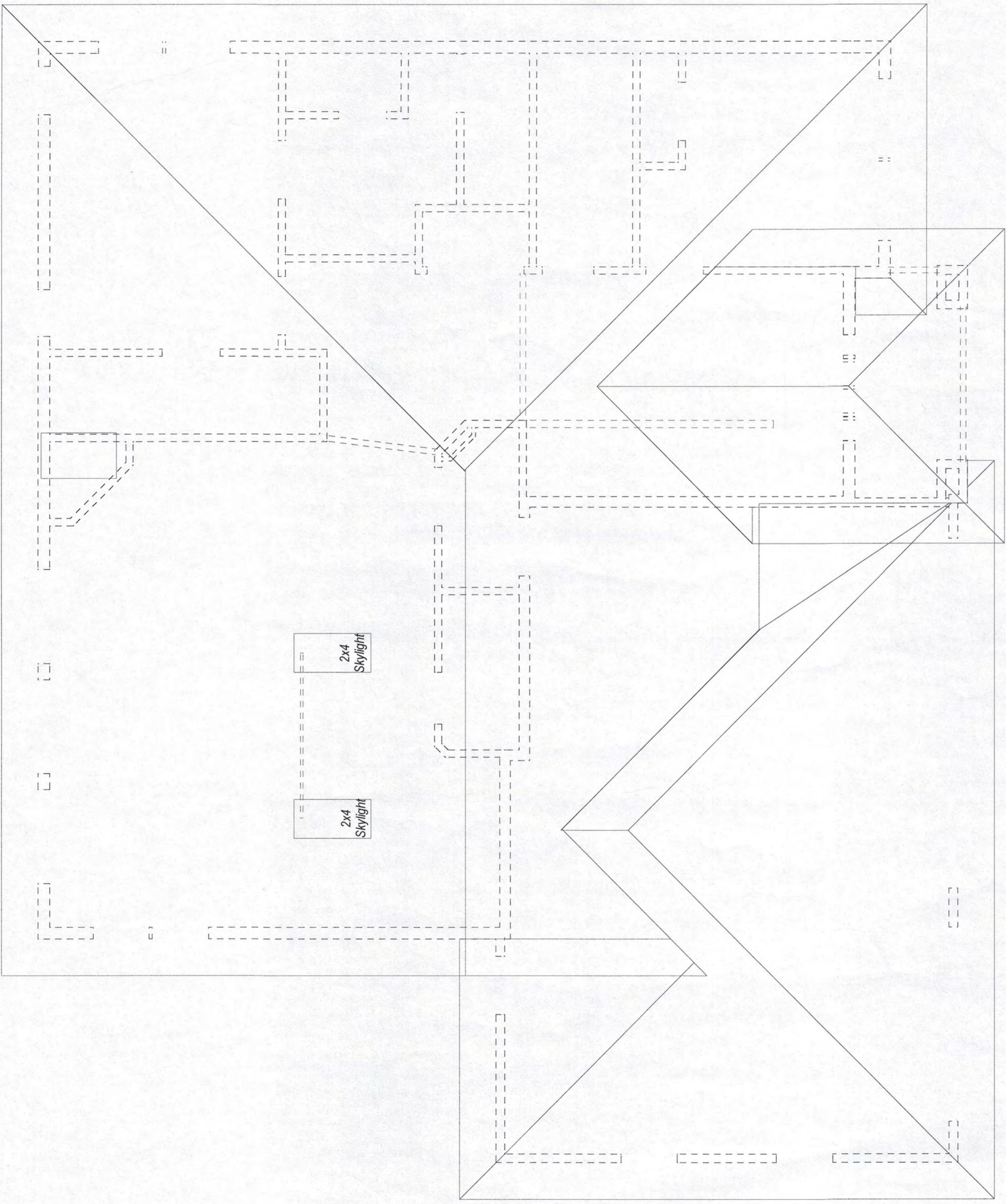
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Drawn By: TB
Job: Greg and Karen Wilson

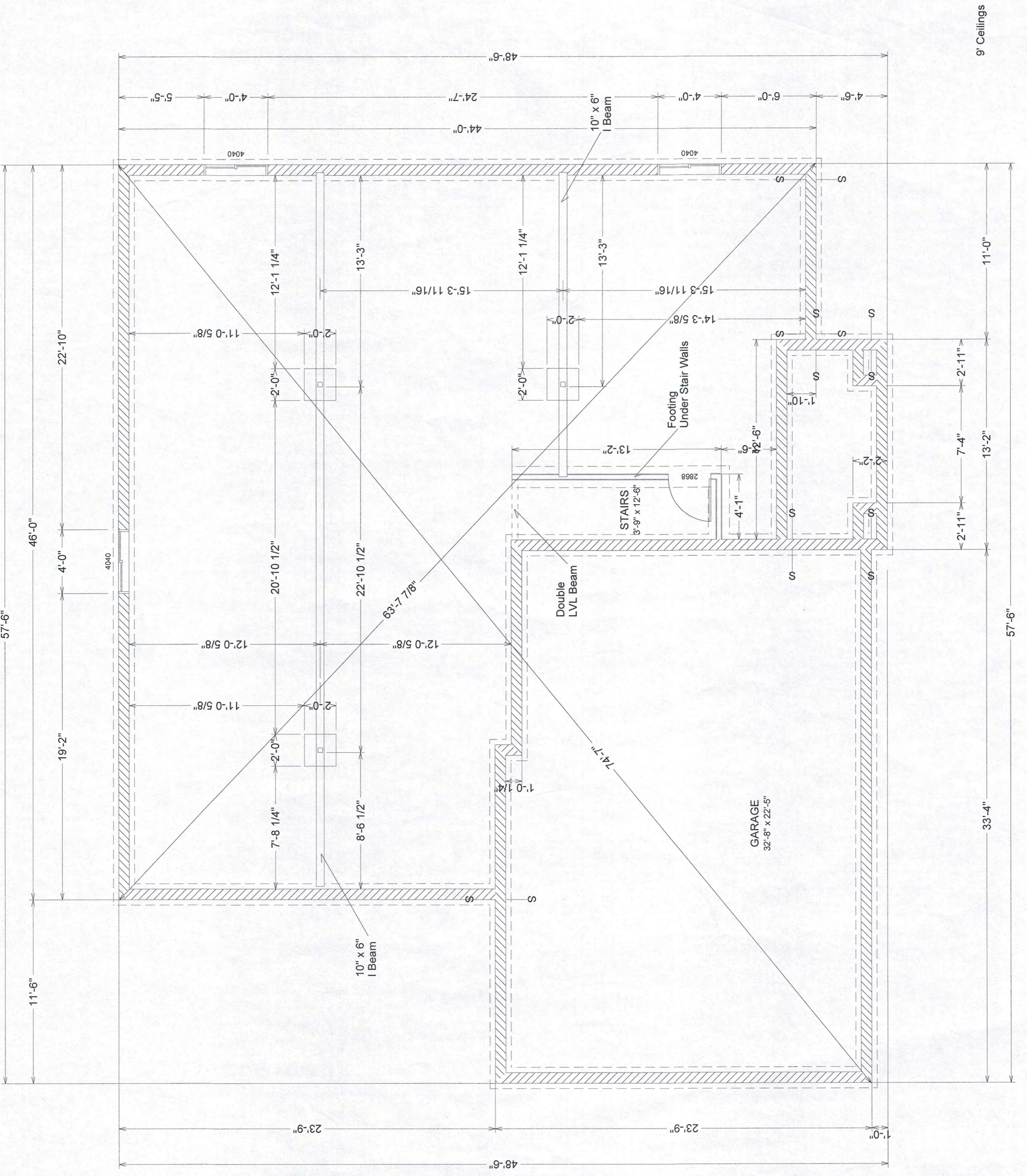
Donkater, Inc.
2601 Fox Creek Rd.
Birmingham, AL 37171
PH: 308-275-0241

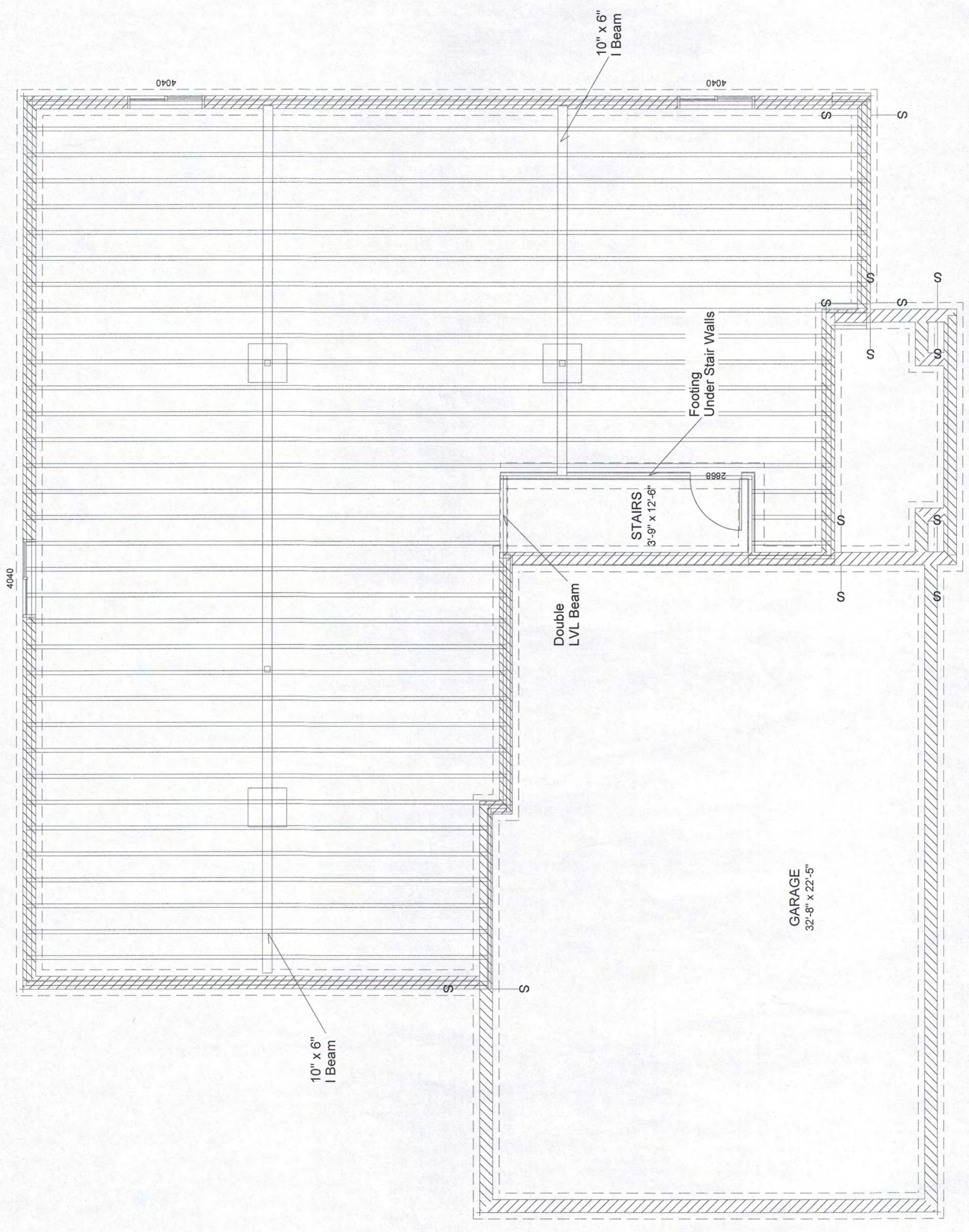


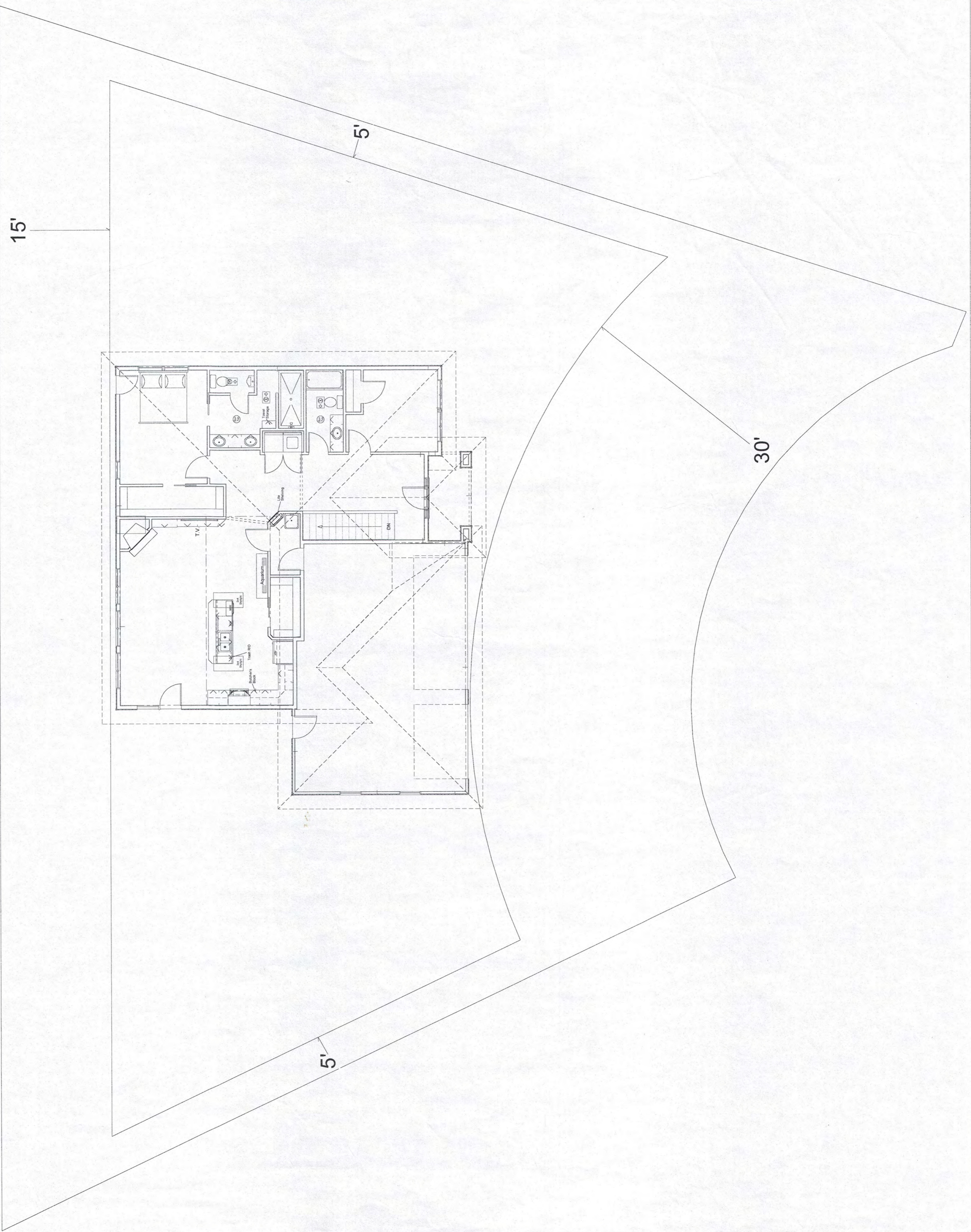








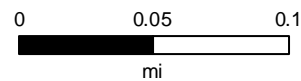




71 Pebblebrook Ct. Aerial Map



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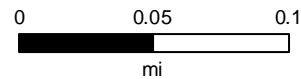
71 Pebblebrook Ct. Zoning Map



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, © OpenStreetMap contributors, and the GIS User Community, McGIS



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20533
CITY OF BLOOMINGTON
PUBLIC HEARING NOTICE
ZONING BOARD OF APPEALS
NOVEMBER 21, 2018

Notice is hereby given that the Zoning Board of Appeals of the City of Bloomington, Illinois, will hold a public hearing scheduled for Wednesday, November 21, 2018 at 4:00 p.m. in the Council Chambers of City Hall Building, 109 E. Olive St., Bloomington, Illinois, for the following petitions:

Greg & Karen Wilson of 24 Lone Oak Ct. Bloomington, IL is requesting a Variance at 71 Pebblebrook Ct. Bloomington, IL. PIN 20-13-451-010 (PEBBLEBROOK SUBLot 6). The petitioners are requesting a 15' rear yard setback, a 15' reduction of the 30' setback code requirement to build a new home.

All interested persons may present their views upon such matters pertaining to the above referenced cases at the public hearing. The petitioner or his/her Counsel/Agent must attend the meeting. In compliance with the Americans with Disabilities Act and other applicable federal and state laws, the hearing will be accessible to individuals with disabilities. Persons requiring auxiliary aids and services should contact the City Clerk, preferably no later than five days before the hearing.

The City Clerk may be contacted either by letter at 109 E. Olive St., Bloomington, IL 61701, by telephone at 309-434-2240, or email cityclerk@cityblm.org. The City Hall is equipped with a text telephone (TTY) that may also be reached by dialing 309-829-5115.

Published: November 5, 2018



Department of Community Development
115 E Washington St, Ste 201
Bloomington IL 61701

November 5, 2018

Dear Property Owner or Resident:

The Zoning Board of Appeals will hold a public hearing on **Wednesday November 21, 2018 at 4:00PM in the Council Chambers, 109 E. Olive Street, Bloomington, Illinois**, to hear testimony for a petition submitted by Greg & Karen Wilson for approval of a variance request, for the property at **71 Pebblebrook Ct., Bloomington** at which time all interested persons may present their views upon such matters pertaining thereto. The petitioner or his/her Counsel/Agent must attend the meeting.

REQUEST

The petitioner is requesting a 15 ft reduction in the required rear yard setback from the 30 feet requirement to 15 feet, to construct a new home.

LEGAL DESCRIPTION: PEBBLEBROOK SUB LOT 6

You are receiving this courtesy notification since you own property within a 500 foot radius of the land described above (refer to attached map). All interested persons may present their views upon said petition, or ask questions related to the petitioner's request at the scheduled public hearing. Copies of the submitted petition are available for public review at the Department of Community Development, 115 E. Washington St. Bloomington, IL 61701. Communications in writing in relation to the petition may be sent to the Department of Community Development prior to the hearing, or presented at such hearing.

In compliance with the Americans with Disabilities Act and other applicable federal and state laws, the hearing will be accessible to individuals with disabilities. Persons requiring auxiliary aids and services should contact the City Clerk at (309) 434-2240, preferably no later than five days before the hearing. Please note that cases are sometimes continued or postponed for various reasons (i.e lack of quorum, additional time needed, etc.). The date and circumstance of the continued or postponed hearing will be announced at the regularly scheduled meeting.

The agenda and packet for the hearing will be available prior to the hearing on the City of Bloomington website at www.cityblm.org.

If you desire more information regarding the proposed petition or have any questions you may email me at irivera@cityblm.org or call me at (309) 434-2341.

Sincerely,

A handwritten signature in black ink, appearing to read 'Izzy Rivera'.

Izzy Rivera, Assistant City Planner

Attachments:

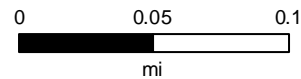
Map of notified properties within 500 ft of subject property



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, © OpenStreetMap contributors, and the GIS User Community



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JOHN & MARY JACOBS
59 PEBBLEBROOK CT
BLOOMINGTON, IL 61705

RUJUTA HETULKUMAR PATEL
14 KNOLLBROOK CT
BLOOMINGTON, IL 61705

MICHAEL & LINDA BLAIZE
12 KNOLLBROOK CT
BLOOMINGTON, IL 61705

MICHAEL POWELL
11 KNOLLBROOK CT
BLOOMINGTON, IL 61704

DAVID & MELISSA DESANTY
21 KNOLLBROOK CT
BLOOMINGTON, IL 61705

JOHN & PAMELA RICE
5 KNOLLBROOK CT
BLOOMINGTON, IL 61705

PHIL STOKES
13 KNOLLBROOK CT
BLOOMINGTON, IL 61705

MARK & JILL KASTELLO
73 PEBBLEBROOK CT
BLOOMINGTON, IL 61705

JAY HIEB
3104 SUNNINGDALE LN
BLOOMINGTON, IL 61704

MATTHEW COLEMAN
16 Knollbrook Ct
BLOOMINGTON, IL 61705

JEREMEY & ERICA WELCH
19 KNOLLBROOK CT
BLOOMINGTON, IL 61705

LEE RIES
3106 SINNINGDALE LN
BLOOMINGTON, IL 61704

RC SQUARED PROPERTIES LLC
CHARLES W TUNT 9975 DELTA CIRCLE
BLOOMINGTON, IL 61705

ALLAN & SONIA THOMPSON FAMILY
LLP
5345 E MCLELLAN RD UNIT 11
MESA, AZ 85205

SCOTT & THERESA LAGE
9 KNOLLBROOK CT
BLOOMINGTON, IL 61704

KELLY CRAIG HASSET
10 KNOLLBROOK CT
BLOOMINGTON, IL 61705

MICHAEL LASTUKA
20 KNOLLBROOK CT
BLOOMINGTON, IL 61705

JOSEPH LUTTERBIE
15 KNOLLBROOK CT
BLOOMINGTON, IL 61705

JON & BRENDA MICHAELS
23 KNOLLBROOK CT
BLOOMINGTON, IL 61701

ANDREW KIESEWETTER
7 KNOLLBROOK CT
BLOOMINGTON, IL 61704

WILLIAM & SHIRLEY VARELA
17 KNOLLBROOK
BLOOMINGTON, IL 61704

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DR
BLOOMINGTON, IL 61701

MESA, AZ 852053413