



To: Members of the Board of Adjustment, Applicants & Neighboring Property Owners  
From: Jonathan B. Kanipe, Zoning Administrator  
Date: December 8, 2015  
Re: Board of Adjustment Meeting – Monday, December 21 at 4pm

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## **Applicants:**

You or your representative **must** be present at this meeting or your application will not be reviewed.

Members of the Board of Adjustment & the Zoning Administrator may visit the property prior to the meeting.

**Certificates of Zoning Compliance will be issued after review and approval from the Board of Adjustment & Design Review Board.**

## **Neighbors:**

You are receiving this notice because your property is adjacent to an applicant on this month's agenda.

You may review applications & plans for the projects on this agenda at Town Hall M-F 9am-5pm.

You are invited to attend the scheduled meeting and make comment.

The following items of business are scheduled to be addressed by the Biltmore Forest Board of Adjustment on **Monday, December 21, 2015** at 4:00 pm in the Town Hall Board Room.

- 1) The meeting will be called to order and roll call will be taken.
- 2) The minutes of the November 16, 2015 meeting will be presented for approval.
- 3) Hearing of Cases (Evidentiary Hearings, Deliberations & Determinations):

CASE 1: Mr. William Barkley, 124 Stuyvesant Road, is requesting a conditional use permit to locate a detached garage in the side yard of his property, as well as a variance request to exceed the maximum roof coverage allowance for the lot and maximum roof coverage allowance for the detached garage.

CASE 2: Dr. and Mrs. Steven Mendelsohn, 25 Busbee Road, are requesting a variance to construct a six (6) foot high fence and two (2) gates surrounding a potager in the rear yard.

- 4) Adjourn

MINUTES OF THE BOARD OF ADJUSTMENT MEETING  
HELD MONDAY, NOVEMBER 16, 2015

The Board of Adjustment met at 4:00 p.m. on Monday, November 16, 2015.

Members present: Goosmann, Pearlman, Kieffer, Groce, and Chandler. Mr. Jonathan Kanipe, Zoning Administrator, was also in attendance. Mr. William Clarke, Town Attorney, was also in attendance.

Chairman Goosmann called the meeting to order at 4:00 p.m.

Chairman Goosmann swore in the following:

Dr. Brown Crosby  
Mr. Calvin Bolling  
Mr. Phelps Clarke  
Mr. Ben Yoke  
Mr. Albert Snead  
Mr. Jim Hefley

Motion was made by Mr. Lowell Pearlman to approve the meeting minutes from October 19, 2015. The motion was seconded by Lynn Kieffer and unanimously approved.

Mr. Pearlman disclosed he was a member of the Board of Governors for the Biltmore Forest Country Club. Mr. William Clarke also stated that his son is a partial owner of Sugar Hollow Solar which is assisting Dr. Brown Crosby with his solar panel project. Mr. Clarke disclosed this to the Board before and wanted to assure the audience that he does not represent them.

HEARING (Evidentiary):

Dr. Brown Crosby, 26 Stuyvesant Road, was called forward to present the plans to have solar panels installed.

Dr. Crosby noted that the project was tabled in September due to the members not being able to see the panels displayed on the roof. Since then, on two different occasions, Sugar

Hollow Solar has put several panels on the roof for display to show what the panels would look like. Mr. Calvin Bolling, General Manager of the Biltmore Forest Country Club, indicated that a letter was sent to the Board of Adjustment saying the Club does oppose all things that would cause a glare or do not look proper from the perspective of the golf course. Mr. Bolling then indicated that he, BFCC President Dr. Gerald Travis, and several other Board members visited the site when the panels were displayed and did not see any major concerns with the placement of the solar panels on the roof. Chairman Goosmann thanked Mr. Bolling for attending.

Dr. Crosby said he wants to do this project because it will be a good investment for the future. Mr. Jonathan Kanipe said the materials for the panels are the same presented in last month's meeting. Dr. Crosby also showed before and after pictures with the solar panels. Mr. Phelps Clarke, representing Sugar Hollow Solar, spoke and said these are a premium panel which is a higher quality panel and has great durability. They should lose less than .7% productivity in a year.

Chairman Goosmann asked for the make and model of the panels. Mr. Ben Yoke said they are Solar World 285 watt modules. The size is 3.3' by 5.5'. There will be 28 total panels which would be four rows of seven panels. The total size of the panels is 38' 8" inches wide and 13' 3" up and down. The photo shopped image shows where they would be placed to scale. It is a nice symmetrical design.

Mr. Yoke noted the materials of the panels are glass, silicone, aluminum, and the anti-reflective coating on the glass. This coating is absorbing the light. Mr. Yoke noted that Sugar Hollow Solar has installed many other panels but not this particular kind. Chairman Goosmann asked Dr. Crosby if he would be willing to replace the large tree in front of the house that provides screening if the tree were to fall or be removed. Dr. Crosby said yes, he would be willing to replace it.

Mr. Jim Hefley made a comment saying he cared about the conservation of Biltmore Forest. He believes this is something that we should encourage other Biltmore Forest residents to do and as a golfer he did not object to the solar panels.

Chairman Goosmann asked how these panels would hold up being struck by a golf ball. Dr. Crosby said they are virtually indestructible. Chairman Goosmann thanked Dr. Crosby.

Mr. Clarke also noted that solar panels cannot be prohibited. You can regulate the screening and buffering but they cannot be prohibited in the Town.

### DELIBERATION & DETERMINATION

Mr. Robert Chandler summarized the facts and requests for a Conditional Use Permit. Dr. Brown Crosby of 26 Stuyvesant Road is seeking a Conditional Use Permit to install roof top solar panels 38'8" wide and 13' 3" up the roof. A total of 28 panels will be placed on the south facing roof which will be in four (4) rows of seven (7) panels. There are pictures which are available for everyone to see and a demonstration was also available for everyone to see in person. The panels are Sunmodule Plus SW280 mono black, which are premium panels. That is the summary for what is being requested. Dr. Crosby has agreed that there is a tree there now that provides some screening and that in the event that tree falls or removed, he would be open to screening that in the future. Chairman Goosmann also added the panels are black glass, silicone, aluminum, with an anti-reflective coating. They are being placed on the south southwest facing side of the home.

Chairman Goosmann asked for a motion. Mrs. Rhoda Groce made a motion to approve the Conditional Use Permit as requested be granted to Dr. Brown Crosby of 26 Stuyvesant Road for the installation of a 7.8 kW solar array on the south facing roof of this residence and that the facts and findings recited by Mr. Robert Chandler and his summation be accepted as findings of fact to support the grant. The Board has inspected the site and no neighboring property owner has objected.

Further, Mrs. Groce moved that the Board find that granting this Conditional Use Permit, (a) would not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and improved, (b) met all required conditions and specifications of the Town of Biltmore Forest Zoning Ordinance, (c) would not substantially

injure the value of adjoining or abutting property, and (d) would be in general conformity with the plan of development of the Town of Biltmore Forest and its environs as set forth in Sections 1005.03 (2) and (3) of the above ordinance. The applicant has been informed that he is to report to the Zoning Administrator within seven (7) days of completion of the project in order that the Zoning Administrator can determine that the project has been completed in accordance with plans submitted to the Town.

Mrs. Kieffer seconded the motion and was unanimously approved.

The meeting was adjourned at 4:25 p.m.

The next meeting of the Board of Adjustment was scheduled for Monday, December 21, 2015 at 4:00 p.m.

ATTEST:

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Greg Goosmann  
Chairman

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Jonathan B. Kanipe  
Town Administrator



MEMORANDUM  
DECEMBER 21, 2015

To: Board of Adjustment  
From: Jonathan Kanipe, Town Administrator  
Re: Case Number 1 – 124 Stuyvesant Road  
Date: December 14, 2015

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**Case 1**

Property Owner: Mr. William Barkley  
Property Address: 124 Stuyvesant Road  
Zoning District: R-1  
Lot Size: 1.77 +/- acres  
Application Request: Conditional Use Permit request and Variance to construct a Detached Garage

Mr. Barkley requests permission from the Board of Adjustments to construct a detached garage in the side yard of his property. Mr. Barkley has no other accessory structures on his property, so this request would be in compliance with the Zoning Ordinance's provision to allow only one (1) accessory structure per lot.

Mr. Barkley has attempted to design a garage that is in conformity with the architectural style of his current home. In so doing, the garage will have larger overhangs than a traditionally roofed garage. Mr. Barkley's home has a hip roof with casement windows and brick walls, all of which are proposed for the new garage addition. The additional overhangs from the hip roof lead to Mr. Barkley's variance request for larger maximum roof coverage than allowable and larger maximum square footage for a detached structure.

The proposed garage is outside of all setbacks and is well back from the front yard of Stuyvesant Road, even when factoring in the unusual placement of the home on the lot.

- Conditional use permit request to construction of two (2) car detached garage.
- Variance request to exceed the maximum allowable roof coverage amount.
- Variance request to exceed the maximum allowable square footage of a detached structure.



# ZONING APPLICATION

Required for Board of Adjustment & Design Review Board

DATE

12/07/2015

## PROPERTY IDENTIFICATION

Owner Name	Property Address	PIN	Zoning	Lot Size (Acres)
William Barkley	124 Stuyvesant Rd.	964693111800000	R-1	1.77

## CONTACT INFORMATION

Applicant (if not owner) \_\_\_\_\_ Email **wybarkley@bellsouth.net**

Mailing Address **124 Stuyvesant Rd., Biltmore Forest, NC 28803**

Phone (Primary) **(828) 274-1308** Phone (Alt) \_\_\_\_\_

## PROPERTY REQUIREMENTS

Maximum Permitted Roof Coverage	<b>6,100</b>	Rear Yard Setback	<b>25</b>
Maximum Permitted Impervious Surface Coverage	<b>19,275</b>	Side Yard Setback	<b>20</b>

## SCOPE OF PROJECT

Does the project include increasing roof coverage? Yes ☒ No ☐

If yes, what is the proposed roof coverage? **6,534**

Is the proposed roof coverage greater than the permitted maximum roof coverage? Yes ☒ No ☐

Does the project include increasing the impervious surface coverage? Yes ☒ No ☐

If yes, what is the proposed impervious surface coverage? **11,504**

Is the proposed impervious surface greater than the permitted maximum impervious surface coverage? Yes ☐ No ☒

Will any part of the project fall within the front yard? Yes ☐ No ☒

Will any part of the project fall within the side yard or rear yard setback? Yes ☐ No ☒

## DESCRIPTION OF PROJECT

Brief Description of Project

**Detached two-car garage located on left side of house.**

Estimated Cost of Project **50,000**

Estimated Completion Date **06/01/2016**



# VARIANCE APPLICATION

I, William Barkley hereby petition the Board of Adjustment for a variance(s) from the provisions of the Zoning Ordinance for the real property located at 124 Stuyvesant Road.

## Variance to Zoning Ordinance Section(s):

- (a) *1118 Maximum Roof Coverage*
- (b) *Select Ordinance Requirement*
- (c) *Select Ordinance Requirement*

## Reason Variance is Requested:

*Request variance for roof coverage of project (detached two-car garage)*

*Base area of structure will be 720 square feet.*

*Roof coverage of structure will be 1092 square feet.*

*Coverage will exceed the 750 square foot requirement because of the large overhang on the hip roof.*

*Structure will have this roof style in order to be compatible with house architecture.*

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with the Zoning Ordinance. Violations of the provisions of the variance granted including any conditions or safeguards which are part of the granting of the variance, shall be deemed a violation of the Zoning Ordinance. I, William Barkley, hereby certify that all the information set forth above is true and accurate to the best of my knowledge.

12/07/2015

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date





# VARIANCE APPLICATION

I, William Barkley hereby petition the Board of Adjustment for a variance(s) from the provisions of the Zoning Ordinance for the real property located at 124 Stuyvesant Road.

## Variance to Zoning Ordinance Section(s):

- (a) *1118 Maximum Roof Coverage*
- (b) *Select Ordinance Requirement*
- (c) *Select Ordinance Requirement*

## Reason Variance is Requested:

*Request variance for total roof coverage on lot*

*Maximum permitted roof coverage for lot (1.77 acres) is 6,100 square feet.  
Roof coverage of house (5,442) and garage (1,092) will be 6,534 square feet.*

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with the Zoning Ordinance. Violations of the provisions of the variance granted including any conditions or safeguards which are part of the granting of the variance, shall be deemed a violation of the Zoning Ordinance. I, William Barkley, hereby certify that all the information set forth above is true and accurate to the best of my knowledge.

Signature

Date

12/07/2015



# CONDITIONAL USE PERMIT APPLICATION

I, William Barkley hereby petition the Board of Adjustment to issue a  
Conditional Use Permit for 802.07 Accessory Buildings  
for the property located at 124 Stuyvesant Road and described as follows:

**Description of the Project:**

*Detached 24 by 30 foot two-car garage*

**Explain why the project would not adversely affect the public interest of those living in the neighborhood:**

*Architecture (casement windows, brick walls, and hip roof) will be same as house.*

*Building will meet side and rear setback requirements.*

*Closest building corner will be 120 feet behind 80 foot setback line (200 feet from Stuyvesant Road).*

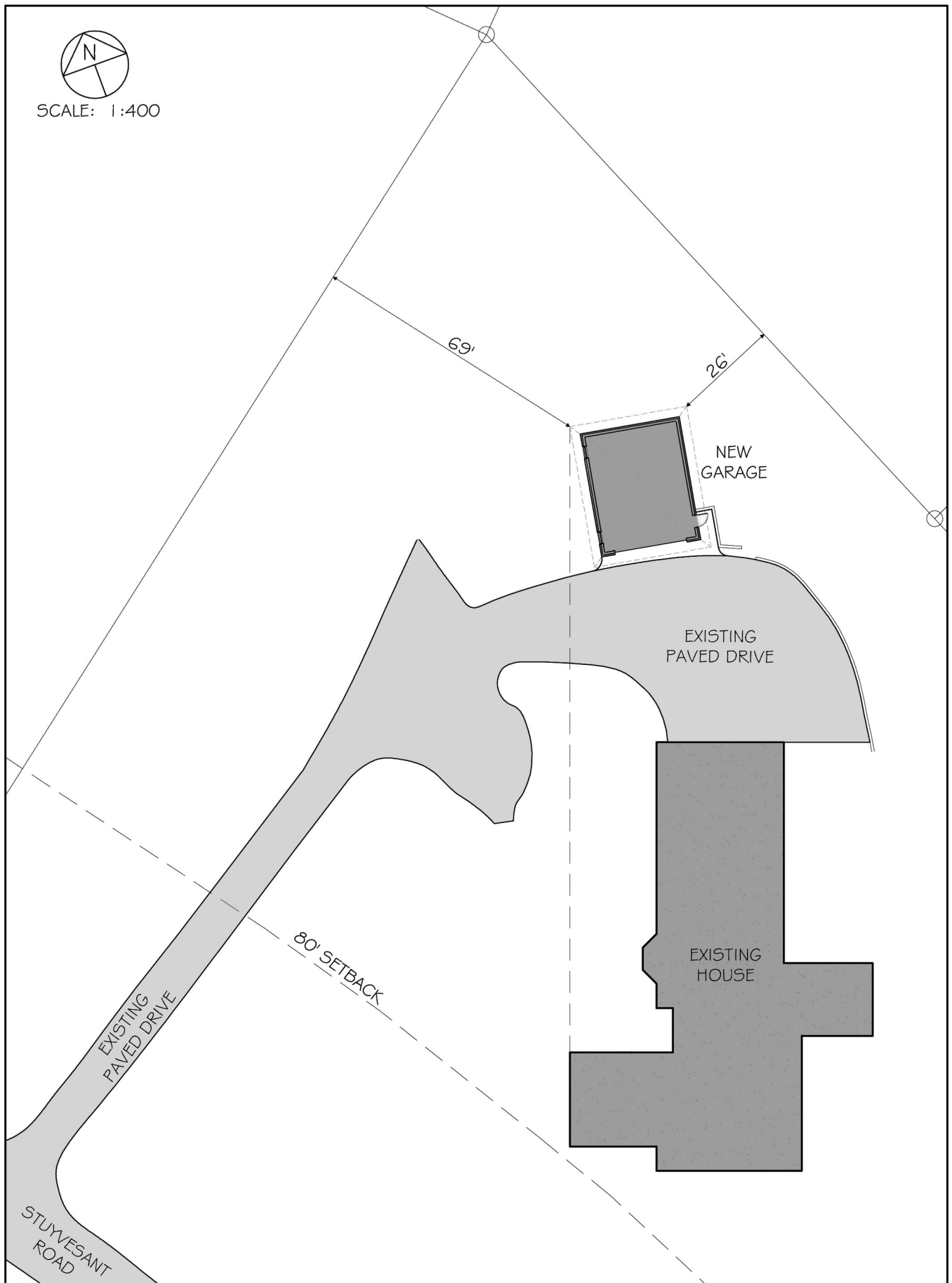
I certify that the information presented by the undersigned in this application is accurate to the best of my knowledge, information and belief.

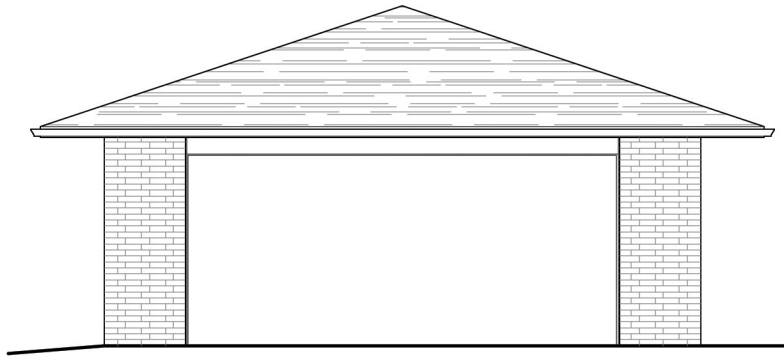
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date  
*12/7/2015*

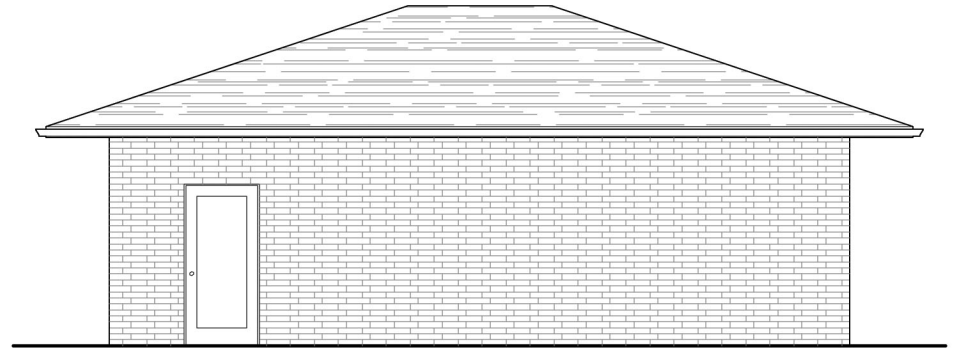


SCALE: 1:400

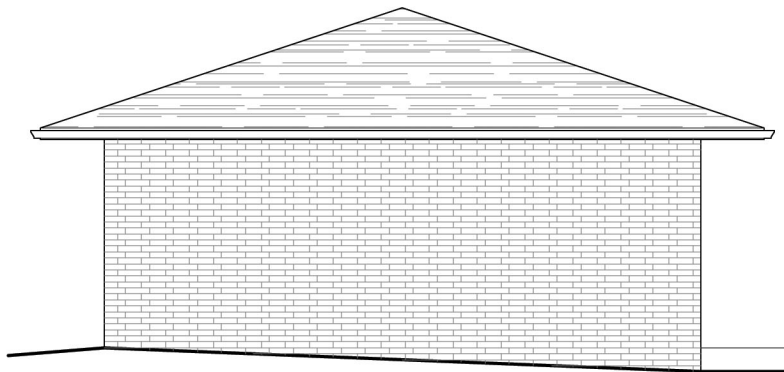




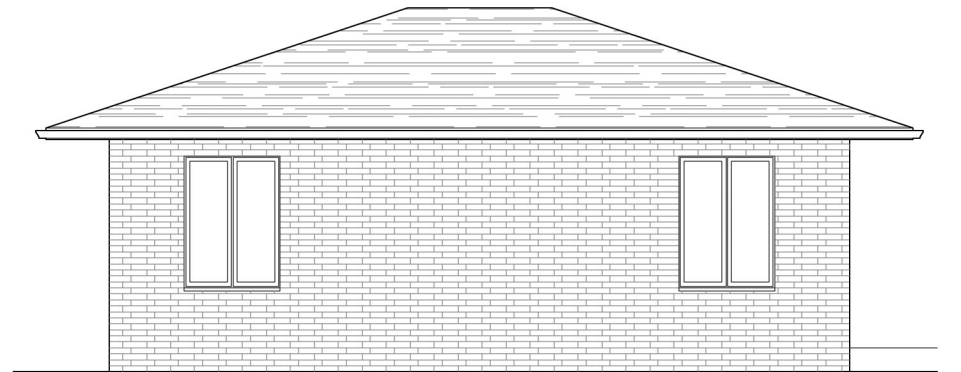
SOUTH ELEVATION



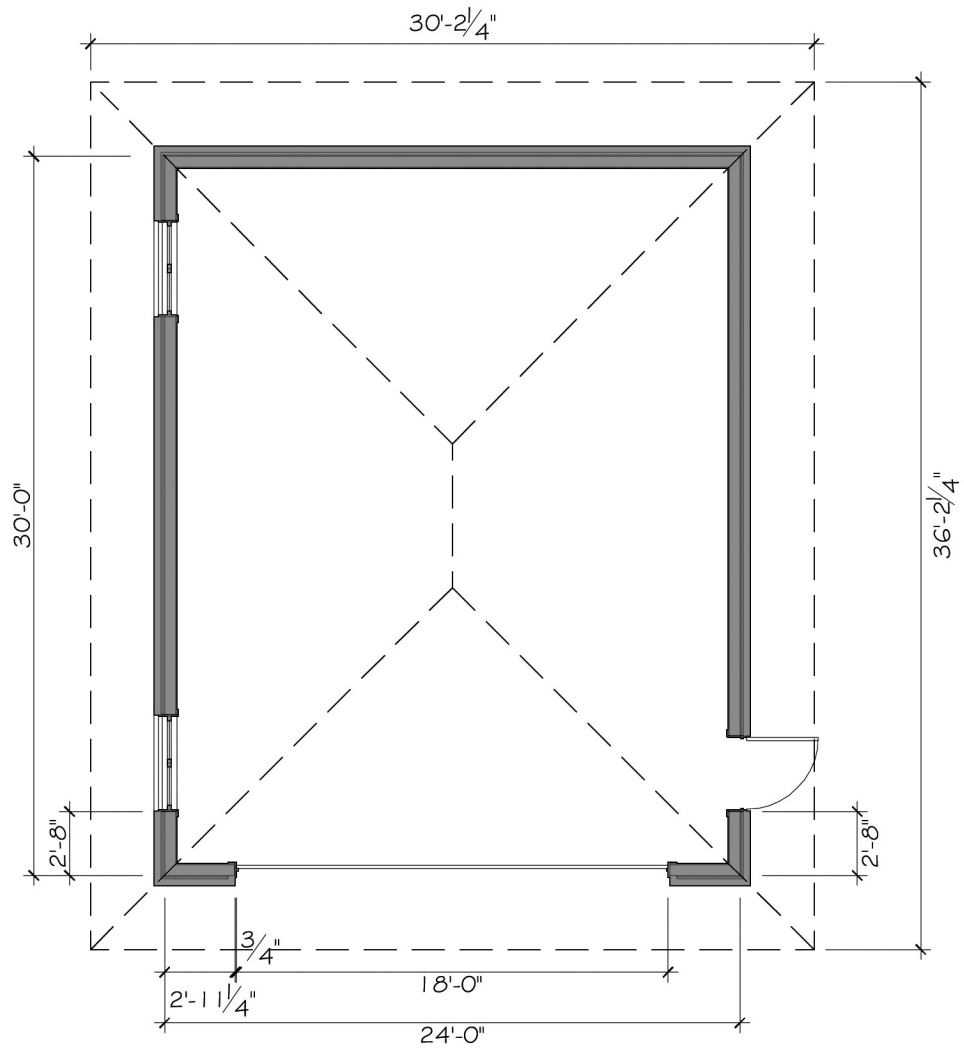
EAST ELEVATION



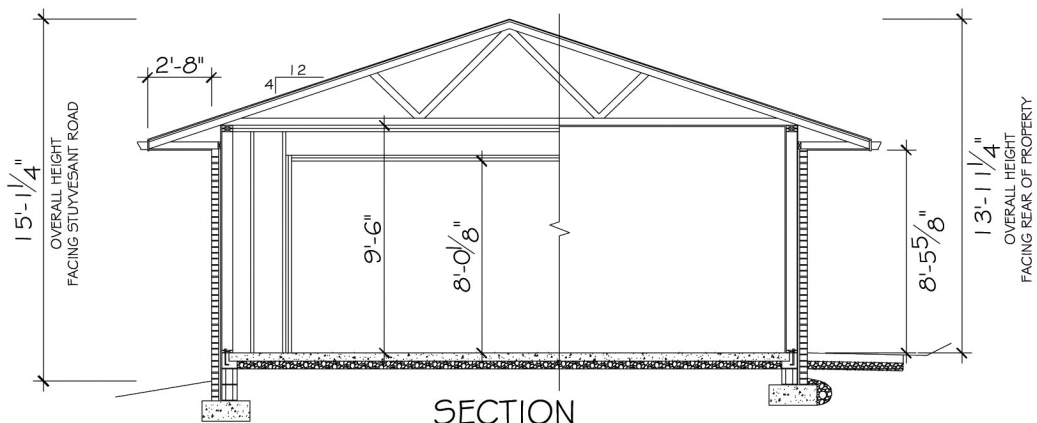
NORTH ELEVATION



WEST ELEVATION



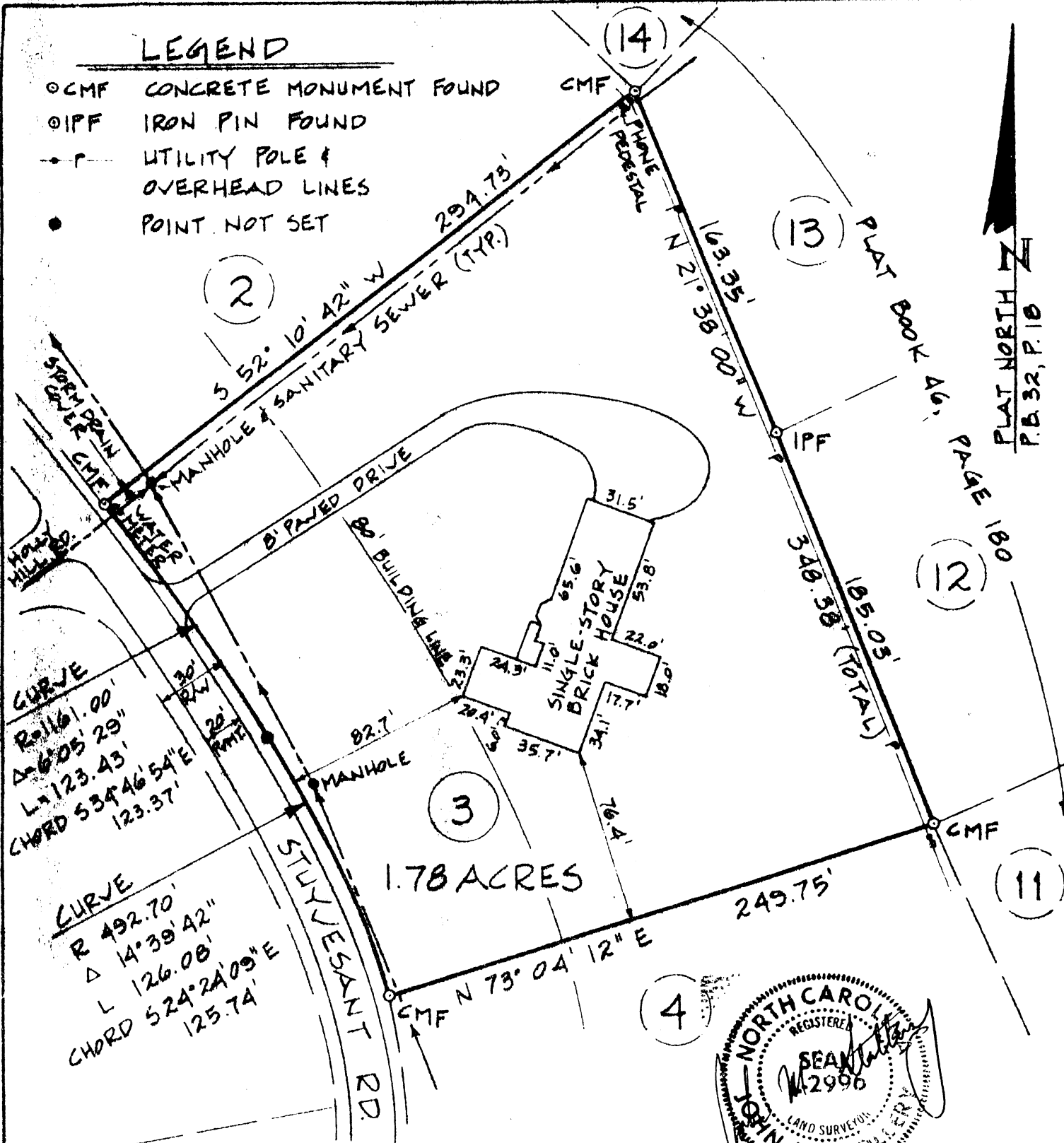
**PLAN**  
SCALE: 1/8" = 1'-0"



**SECTION**  
SCALE: 1/8" = 1'-0"

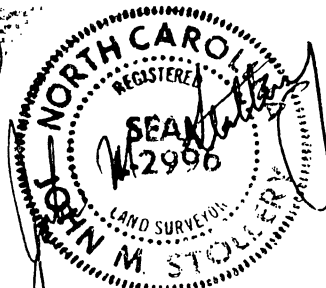
# LEGEND

- CMF CONCRETE MONUMENT FOUND
- IPF IRON PIN FOUND
- P — UTILITY POLE & OVERHEAD LINES
- POINT NOT SET



## REFERENCES

DEED BOOK 1155, PAGE 401  
 PLAT BOOK 32, PAGE 18, LOT 3  
 BILTMORE FOREST BLOCK R



JOHN W. & DIANE S.  
**MODAFF**

LIMESTONE TOWNSHIP  
 BUNCOMBE COUNTY, N.C.

Scale: 1" = 60'

Date: JUNE 30, 1988

RAY E. ANDERS  
 REGISTERED SURVEYOR

FILE NO.	DATE	REVISIONS
574B		



MEMORANDUM  
DECEMBER 21, 2015

To: Board of Adjustment  
From: Jonathan Kanipe, Town Administrator  
Re: Case Number 2 – 25 Busbee Road  
Date: December 14, 2015

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**Case 2**

Property Owner: Dr. and Mrs. Steven Mendelsohn  
Property Address: 25 Busbee Road  
Zoning District: R-1  
Lot Size: 2.866 +/- acres  
Application Request: Variance Request to Construct a Six (6) Foot High Fence and Two (2) Gates Surrounding a Potager in the Rear Yard

Dr. and Mrs. Mendelsohn request permission from the Board to construct a six (6) foot high fence around a potager in the rear yard. The fence will be a continuation of a hand rail that is to surround a main patio, stairway, and stone patio. There are some planting currently in place that would block the fence, but the applicants have proposed adding sixteen (16) emerald Arborvitae around the proposed fence. The eastern side of the fence is to be located sixteen (16) inches behind an existing stone retaining wall.

- Variance request to exceed the maximum number of accessory structures or uses.
- Variance request to construct a six (6) foot high fence with two (2) gates in the rear yard.
- Conditional use permit to allow an accessory use.

# Zoning Application

## Property Identification

**Name**

Dr. and Mrs. Steven Mendelsohn

**Address**

25 Busbee Road, Biltmore Forest, North Carolina 28803

**Phone**

(828) 775-0657

**Email**

johnsmom919@aol.com

**Zoning**

R-1

**Lot Size (Acres)**

2.866

## Scope of Project-Roof Coverage

**Does the project include increasing roof coverage?**

No

**Is the proposed roof coverage greater than the permitted maximum roof coverage?**

No

## Scope of Project-Impervious Surface

**Does the project include increasing the impervious surface coverage?**

No

## Scope of Project-Setbacks

**Does any part of the project fall within the front yard?**

No

**Does any part of the project fall within the side/rear yard setback(s)s?**

No

## Scope of Project-Accessory Structures

**Does the project include a detached structure or building?**

Yes

An application for a conditional use permit will be required in addition to this zoning application.

**Will there be more than the approved number of accessory structures/buildings?**



No

## **Project Description**

### **Brief Description of Project**

New welded,painted steel guard and handrails around recently constructed terrace for safety and Building Code compliance. Guardrail/fencing design matches existing porch railing. A continuation of guardrail around garden (potager) with gates to secure and protect a garden space from deer and other pests. Garden is for herbs and vegetables for Owner's consumption.

### **Estimated Cost of Project**

25,000

### **Estimated Completion Date**

2/29/2016

**Please attach any drawings, renderings, photographs or other supporting documentation.**

# Variance Application

I hereby petition the Board of Adjustment for a variance(s) from the provisions of the Zoning Ordinance for the real property stated below.

**Name**

Dr. and Mrs. Steven Mendelsohn

**Property Address**

25 Busbee Road

**Email**

johnsmom@919aol.com

**Phone**

(828) 775-0657

**Variance to Zoning Ordinance Section(s) (Select all that apply)**

1104 Accessory Structures & Accessory Buildings

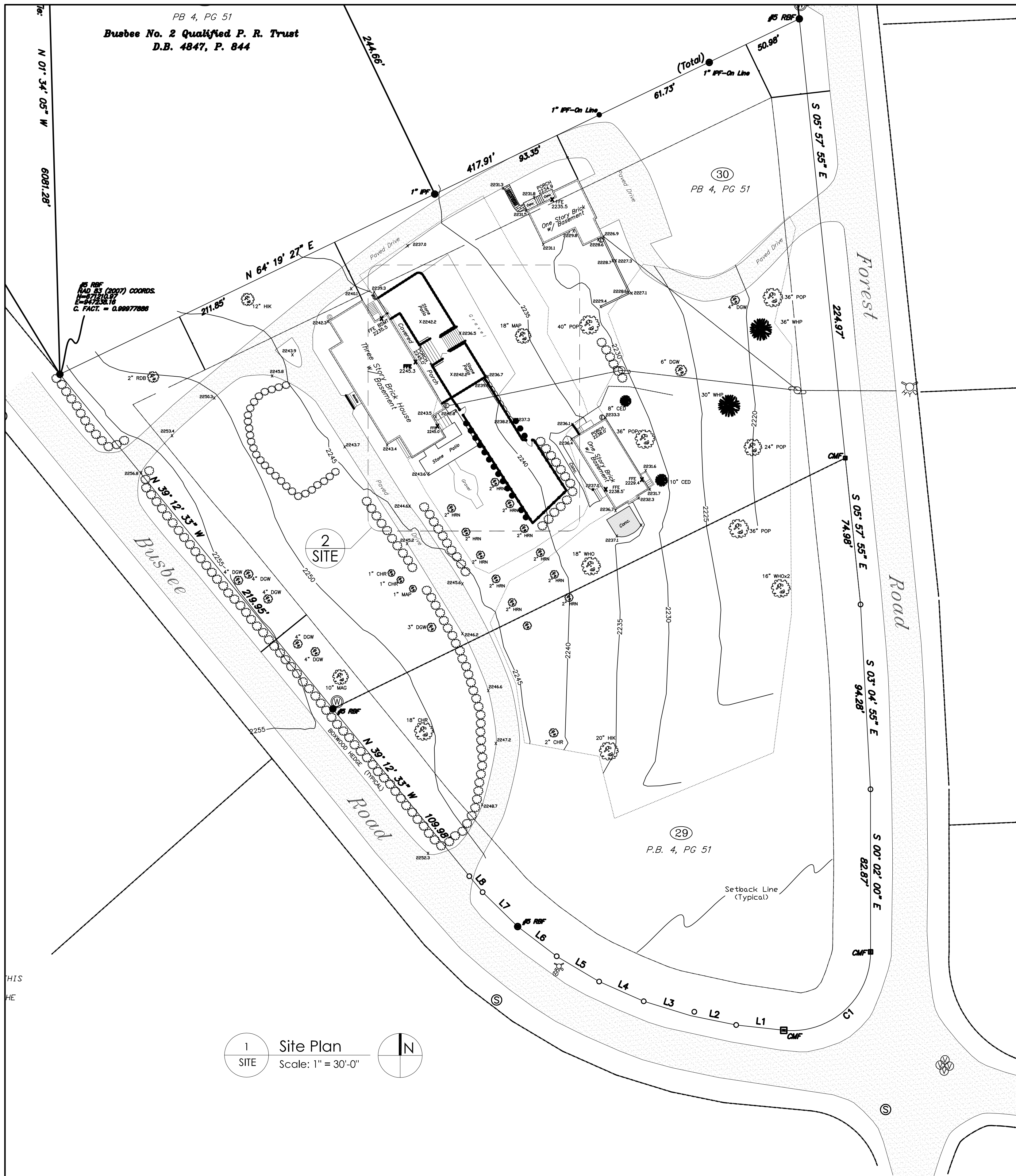
**Reason Variance(s) is(are) being requested:**

Guardrail and handrails at terrace are for safety and Building Code compliance. Fenced in garden is to secure plantings from deer and other detrimental pests.

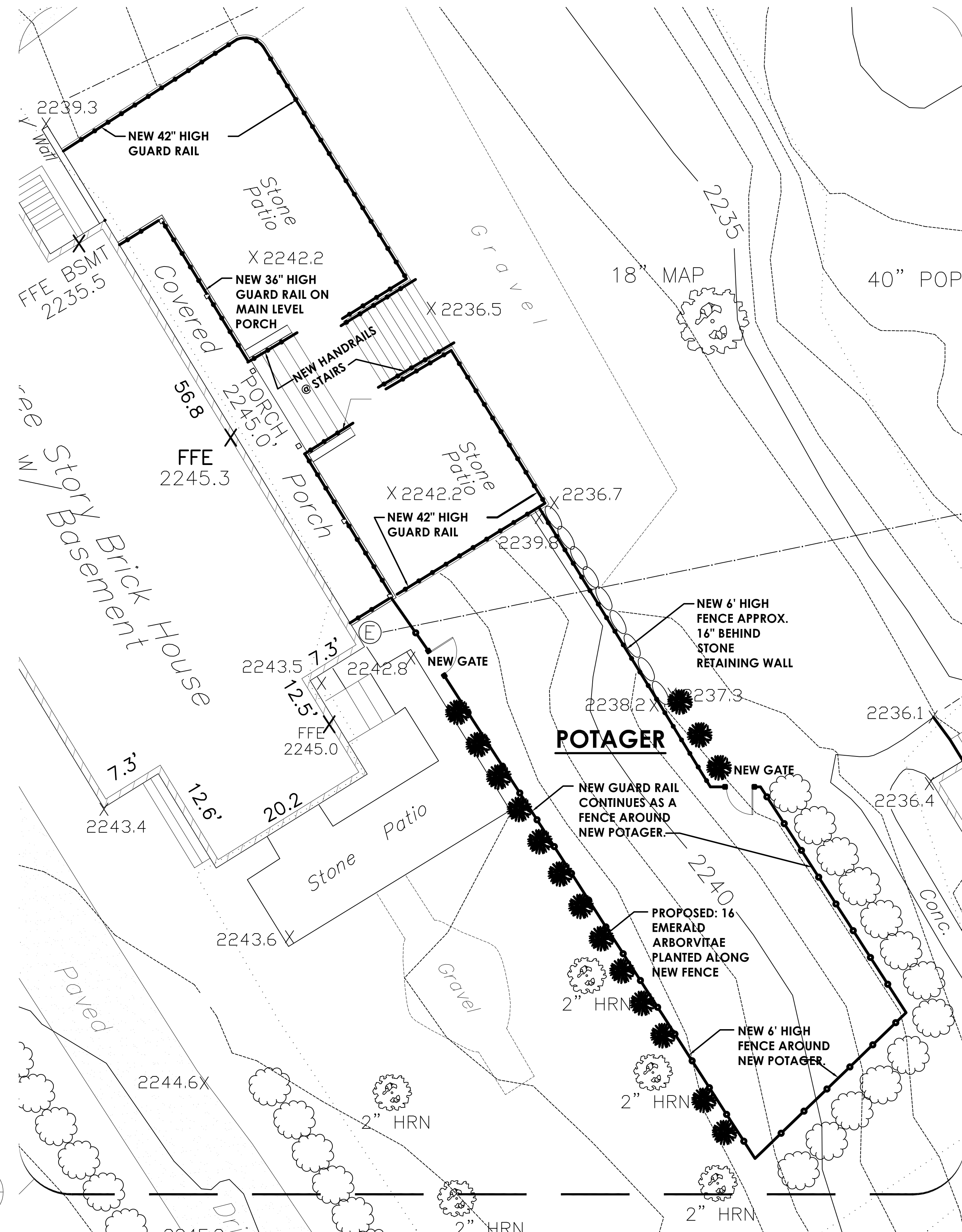
In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with the Zoning Ordinance. Violations of the provisions of the variance granted including any conditions or safeguards which are part of the granting of the variance, shall be deemed a violation of the Zoning Ordinance. I hereby certify that the information set forth above is true and accurate to the best of my knowledge.

**Signature**A handwritten signature in black ink, appearing to read 'S. Mendelsohn', written over a horizontal line.**Date**

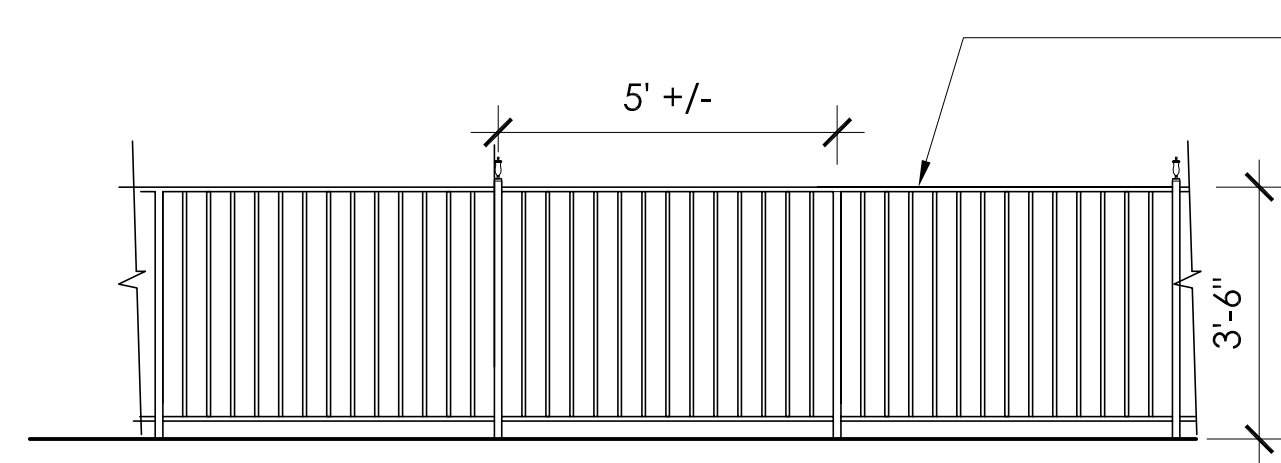
12/7/2015



1 SITE  
Site Plan  
Scale: 1" = 30'-0"



2 SITE  
Detail Site Plan  
Scale: 1/8" = 1'-0"



3 SITE  
Elevation - Guard Rail  
Scale: 3/8" = 1'-0"

STEEL GUARD @ EXST'G  
STONE PATIO. SPINDLES  
5/8" SQ. SOLID. NEWELS  
1-1/4" SQ. TUBE W/ FINIALS  
AT 10' C/C.  
NOTE: NEW GUARD AT  
EXST'G MAIN LEVEL PORCH  
SHALL BE SAME AS ABOVE  
EXCEPT 36" HIGH.

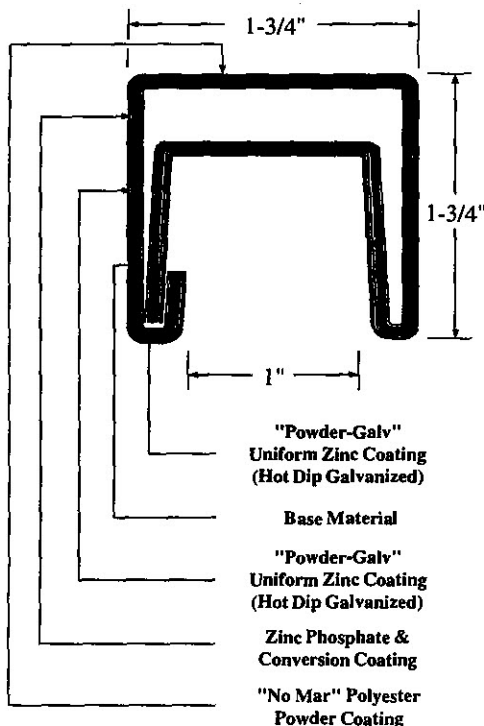
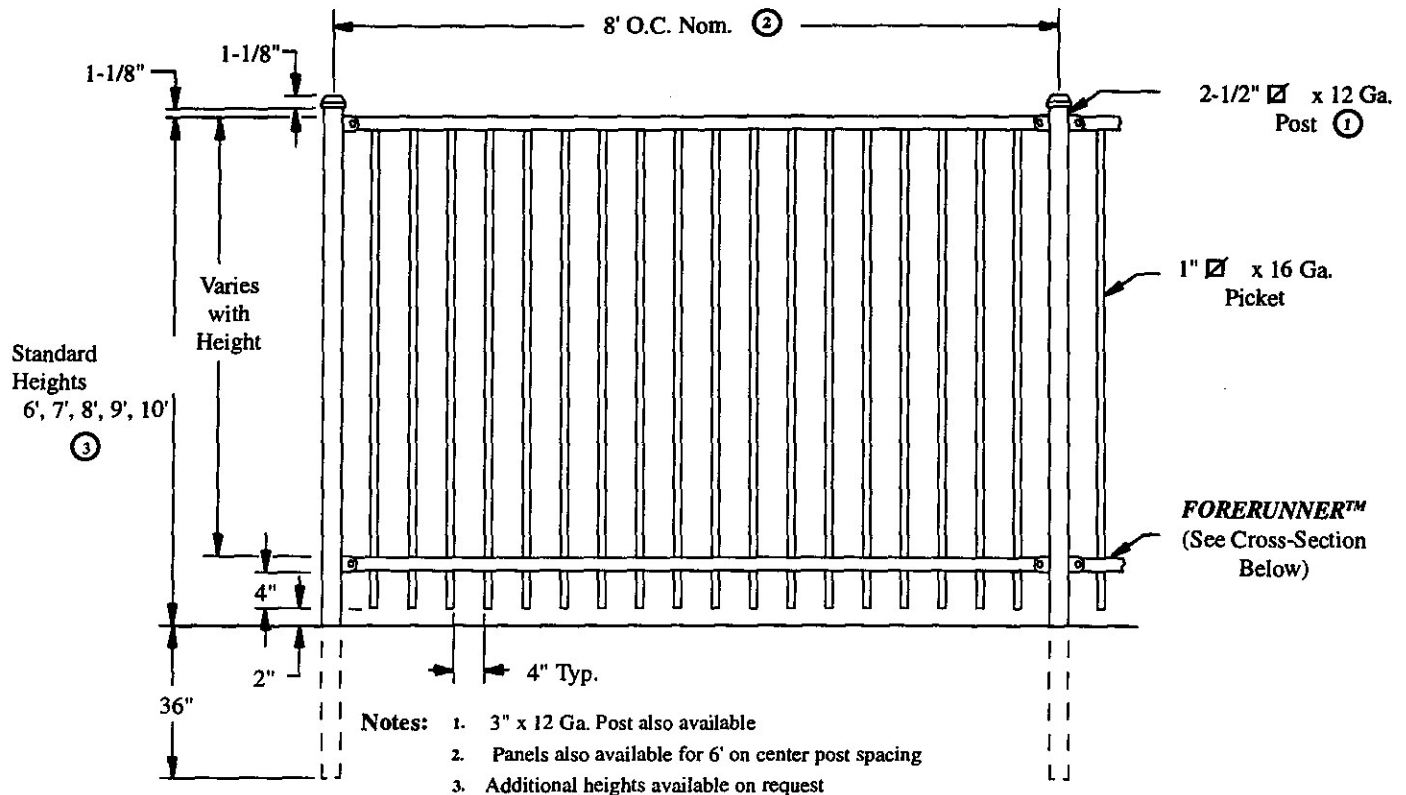


GEORGE STOWE • ARCHITECT  
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ph 828-251-2357 • fax 828-225-0530  
gstowearchitect@bellsouth.net  
www.GeorgeStoweArchitect.com

DATE:  
12-07-2015  
REVISIONS:

Guard Rail + Garden Enclosure  
**MENDELSON RESIDENCE**  
25 Busbee Road  
Blomire Forest, NC

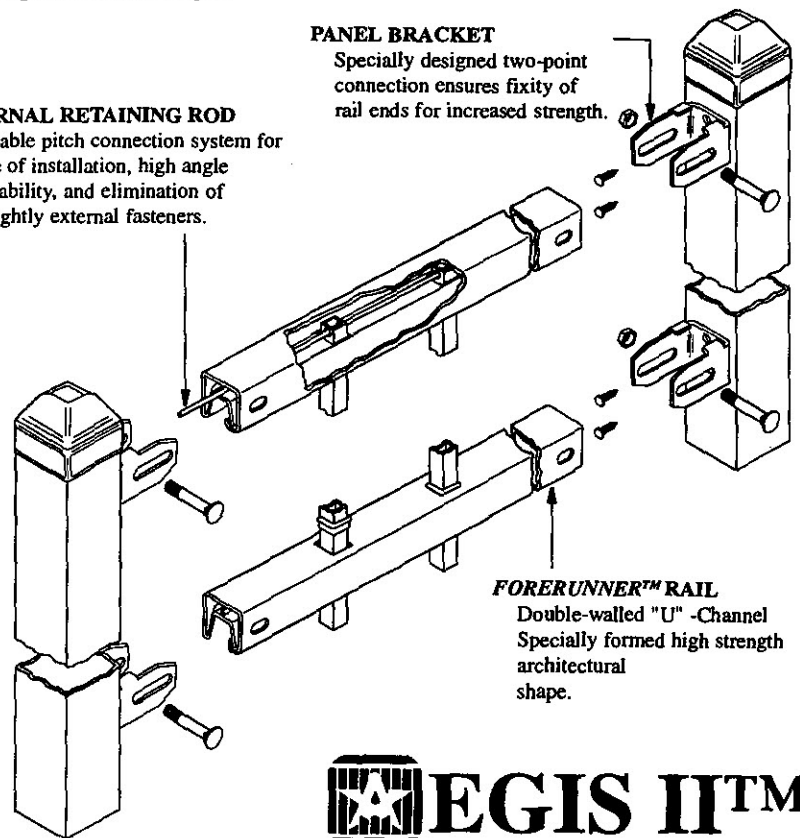
SITE

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BY: SCN	PAGE: 1 OF 1	DATE: 1-1-94
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