



To: Members of the Board of Adjustment, Applicants & Neighboring Property Owners
From: Jonathan B. Kanipe, Zoning Administrator
Date: November 28, 2017
Re: **Board of Adjustment Meeting – December 11, 2017**

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.

You or your representative **must** also attend the Design Review Board meeting on **Thursday, December 14th at 5:30pm** to complete the approval process.

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 or online at <http://www.biltmoreforest.org/board-of-adjustments>.

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 11, 2017 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 13, 2017 regular meeting and special call meeting will be presented for approval.
- 3) Hearing of Cases (Evidentiary Hearings, Deliberations & Determinations):

Case 1: Mr. Gaylon and Ms. Kristi Owens, 18 Hemlock Road, present plans for a new construction, 2-story single family residence and request a conditional use permit for a detached workshop accessory structure.

Case 2: Ms. Gail Dosik, 66 Chauncey Circle, is presenting plans for a new construction, single family residence and requests a conditional use permit for a detached accessory use, specifically, a fire pit.

Case 3: Mr. Jay Stingel, 21 Cedar Hill Drive, requests a variance and conditional use permit to construct four (4) stone columns and one (1) pair of gates in the front driveway.

Case 4: Mr. Heath Shuler, 120 Stuyvesant Road, requests a variance to allow the continued use of a chain-link fence in the side and rear yard setbacks constructed without a permit.

- 4) Adjourn

MINUTES OF THE BOARD OF ADJUSTMENT MEETING
HELD MONDAY, NOVEMBER 13, 2017

The Board of Adjustment met at 4:00 p.m. on Monday, November 13, 2017.

Members present: Goosmann, Groce, Kieffer, and Landau. Mr. Jonathan Kanipe, Town Manager, and Mr. William Clarke, Town Attorney, were also present.

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

The meeting minutes from Monday, October 16, 2017 were presented. Mrs. Rhoda Groce made a motion to approve the minutes. The minutes were seconded by Mrs. Lynn Kieffer. The motion was unanimously approved.

A variance and conditional use permit from Mr. Jay Stingel, 21 Cedar Hill Drive, was scheduled for this Board of Adjustments meeting. Mr. Stingel was not present for the Board of Adjustment meeting. The application will be shown to the Board of Commissioners tomorrow.

Mr. William Clarke suggested a motion be made to defer action until the Board of Adjustment meeting next month. A motion was made by Dr. Rich Landau. The motion was seconded by Mrs. Lynn Kieffer and unanimously approved.

Chairman Goosmann adjourned the meeting at 4:11 p.m.

The next Board of Adjustment meeting is scheduled for Monday, December 11th at 4:00pm.

ATTEST:

Greg Goosmann
Chairman

Jonathan B. Kanipe
Town Manager

355 Vanderbilt Rd | Biltmore Forest, NC
Po Box 5352 | Biltmore Forest, NC 28803
P (828) 274-0824 | F (828) 274-8131

www.biltmoreforest.org



George F. Goosmann, III, Mayor
Fran G. Cogburn, Mayor-Pro Tem
E. Glenn Kelly, Commissioner
Doris P. Loomis, Commissioner

Jonathan B. Kanipe,
Town Manager

MEMORANDUM

To: Board of Adjustments Members
From: Jonathan Kanipe, Town Manager
Re: Board of Adjustments Case Number 1 (18 Hemlock Road)
Date: December 4, 2017

The applicants have proposed a new, single-family residence at 18 Hemlock Road. The new home and lot coverage falls into the required limits for maximum roof coverage and impervious surface. The proposed roof coverage for the home and proposed detached garage is 5,279 square feet. The maximum amount allowable by the ordinance is 5,500 square feet. The proposed impervious surface coverage on the 1.39 acre lot is 9,609 square feet. The ordinance allows a maximum of 15,146 square feet, or 25 percent of the lot area.

The applicants request a conditional use permit to allow the construction of a detached workshop accessory building. The proposed detached workshop is 395 square feet of roof coverage and is 18 ½ feet tall from the grade. The proposed accessory building is a gabled building with carriage doors, and is in keeping with the main design and aesthetic character of the planned home. The detached accessory building is in compliance with the setbacks and the roof coverage and height requirements for detached buildings. The requirements for accessory buildings as a conditional use are found below.

§ 153.008 CONDITIONAL USES.

(8) Accessory buildings.

(a) All accessory buildings shall meet the standards of the State Building Code where applicable.

(b) All accessory buildings shall be of a design compatible with the principal building on the lot and with the structures in the neighborhood.

(c) An additional parking space shall be required when an accessory building is permitted for use as a dwelling by a family member.

(d) Accessory buildings shall comply with the district's setback requirements.

The Board must also find that the conditional use request for an accessory building meets the following requirements, as established in the Zoning Ordinance's General Regulations.

§ 153.029 ACCESSORY STRUCTURES AND BUILDINGS.

(A) Accessory structures and/or necessary buildings shall not detract from nor interfere with adjacent properties. No accessory structure or building shall be constructed, erected, or located within any front yard or within any side yard or rear yard setback.

(B) (1) In addition, the following standards are established for accessory structures and accessory buildings:

- (a) The maximum number of accessory buildings permitted on a lot shall be one;*
- (b) The maximum roof coverage area for accessory buildings shall be 750 square feet;*
- (c) The maximum height for accessory buildings shall be 25 feet;*
- (d) The accessory building must be screened by vegetation or other buffer as set forth in § 153.008;*
- (e) The accessory building must be located behind a line parallel to the rear of the principal structure on the lot;*
- (f) The accessory building must be designed in the same architectural style as the principal structure;*
- (g) Any accessory structure and/or accessory building shall be included in the calculation of allowable roof coverage and allowable impervious surface coverage on the lot pursuant to §§ 153.043 and 153.048.*

As noted above, the proposed workshop is under the maximum allowable square footage and the building height is 6 ½ feet below the maximum allowable height. There are no variance requests for this project. Please let me know if you have any additional questions or need further information.

Zoning Application

Property Identification

Name

Gaylon & Kristi Owens

Address

18 Hemlock Drive, Biltmore Forest, North Carolina 28803

Phone

(828) 253-1124

Email

nick@samselarchitects.com

Zoning

R-1

Lot Size (Acres)

1.39 acres (60,548.4 sf)

Email -Submission Verification

nick@samselarchitects.com

Scope of Project-Roof Coverage

Does the project include increasing roof coverage?

Yes

What is the proposed roof coverage?

5,279

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?

Yes

What is the proposed impervious surface coverage?

9,609

Is the proposed impervious surface coverage greater than the permitted maximum 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)?

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 Construction, 2-story Single Family Residence over Crawl Space with (1) Accessory Structure (detached workshop). 3,200 Total SF Heated/Enclosed.

Estimated Cost of Project

1,200,000

Estimated Completion Date

3/21/2019

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

Owens_Zoning&DesignReview_171117.pdf

Conditional Use Permit Application

I hereby petition the Board of Adjustment to issue a Conditional Use Permit for:

Name

Gaylon & Kristi Owens

Property Address

18 Hemlock Drive

Phone

(828) 253-1124

Email

nick@samselarchitects.com

Type of Conditional Use

802.07 Accessory Buildings

Email-Submission Verification

nick@samselarchitects.com

Description of Project

New Construction, 2-story Single Family Residence over Crawl Space with (1) Accessory Structure (detached workshop). Workshop has 395 square feet of roof coverage and is 18.5' tall from grade.

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

The detached accessory structure, a gabled workshop with carriage doors, is within the side yard setback at the rear of the property, and will maintain the character of the main house, including stucco finish, stained wood/timber brackets & trim, steep sloped slate roof, & general "english cottage" stylistic treatment. The structure is 5' lower than the max. allowable height and does not contribute a significant area of roofed or impermeable surface, at only 395 square feet. The structure also features windows or doors on all four facades.

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**

11/17/2017

OWENS RESIDENCE - 17.18

18 HEMLOCK RD / LOT 5, BILTMORE FOREST, NC, 28803



ABBREVIATIONS

AC	Acoustic	FO	Face of	PLAM	Plastic Laminate
ACT	Acoustic Ceiling Tile	FOC	Face of Concrete	PLBG	Plumbing
AD	Access Door	FOM	Face of Masonry	PLY	Plywood
ADJ	Adjacent	FOS	Face of Stud(s)	POLY	Polyethylene
AFF	Above Finished Floor	FOW	Face of Wall	PNBD	Panelboard
AHU	Air Handling Unit	FP	Fire Protection	PR	Pair
ALT	Alternate	FRGWB	Fire Rated Gypsum Wallboard	PSF	Pounds per Square Foot
ALUM	Aluminum	FRP	Fiber Reinforced Panel	PSI	Pounds per Square Inch
AP	Access Panel	FT	Foot/Feet	PSL	Parallel Strand Lumber
BEV	Beveled	FTG	Footing	PT	Pressure Treated
BLDG	Building	FUT	Future	PTD	Painted
BO	Bottom of	GA	Gage	PVC	Polyvinyl Chloride
BOW	Bottom of Wall	GALV	Galvanized	QT	Quarry Tile
BLKG	Blocking	GC	General Contractor	R	Riser
BRD	Board	GL	Glass/Glazing	RAD	Radius
BRG	Bearing	GWB	Gypsum Wallboard	REG	Register
CAB	Cabinet	H	Heigh/Height	REQ'D	Required
CER	Ceramic	HD HT	Head Height	RET	Return
CJ	Control Joint	HDWD	Hardwood	REV	Revised/Revision(s)
CL	Closet	HDWR	Hardware	RO	Rough Opening
CLG	Ceiling	HM	Hollow Metal	SAN	Sanitary
CLR	Clear(ance)	HORIZ	Horizontal	SF	Square Foot/Feet
CMU	Concrete Masonry Unit	HC	Handicapped	SIM	Similar
COL	Column	HVAC	Heating, Ventilation & Air Conditioning	SLNT	Sealant
CONC	Concrete	INSUL	Insulation	SPF	Spruce/Pine/Fir
CONT	Continuous	INT	Interior	S/S	Stainless Steel
DEMO	Demolish/Demolition	KD	Kiln Dried	STD	Standard
DET	Detail	LAV	Lavatory	SUSP	Suspend(ed)
DF	Drinking Foundation	LCC	Lead Coated Copper	SYP	Southern Yellow Pine
DIM	Dimension	LVL	Laminated Veneer Lumber	T	Tread
DISP	Dispenser	LVR	Louver	T&G	Tongue & Groove
DMT	Demountable	MAX	Maximum	TELE	Telephone
DN	Down	MDF	Medium Density Fiberboard	THRU	Though
DNSP	Downspout	MDO	Medium Density Overlay	TO	Top of
DWG	Drawing(s)	MECH	Mechanical	TOB	Top of Beam
DWR	Drawer	MEMB	Membrane	TOD	Top of Decking
EA	Each	MFR	Manufacturer	TOF	Top of Footing
EJ	Expansion Joint	MIN	Minimum	TOPL	Top of Plate
EL	Elevation	MISC	Miscellaneous	TOS	Top of Slab
ELEC	Electric(al)	MO	Masonry Opening	TOSTL	Top of Steel
ELEV	Elevator	MLDG	Moulding	TOW	Top of Wall
EQ	Equal	MR	Moisture Resistant	TRTD	Pressure Treated Lumber
EQUIP	Equipment	MTD	Mounted	TYP	Typical
EXIST	Existing	MTL	Metal	UL	Underwriters Laboratory
EXP	Expansion	NIC	Not In Contract	UNF	Unfinished
EXT	Exterior	NO	Number	UNO	Unless Noted Otherwise
FD	Floor Drain	NOM	Nominal	VAR	Varies
FEC	Fire Extinguisher Cabinet	NTS	Not to Scale	VB	Vapor Barrier
FF	Finish Face	OC	On Center(s)	VCT	Vinyl Composition Tile
FG	Fixed Glass	OD	Outside Diameter	VERT	Vertical
FIN	Finish(ed)	OPNG	Opening	W/	With
FIN FL	Finished Floor	OSB	Oriented Strandboard	W/O	Without
FL	Floor	OPP	Opposite	WP	Waterproofing
FLG	Flooring	PAN	Panel	WR	Water Resistant
FLSH	Flashing	PARTN	Partition	WRB	Water-resistive Barrier
FNDN	Foundation	PERF	Perforated	WWF	Welded Wire Fabric

PROJECT TEAM

ARCHITECT:
Samsel Architects, P.A.
60 Biltmore Avenue
Asheville, NC 28801
P: 828.253.1124
F: 828.254.7316

INTERIOR DESIGNER

CONTRACTOR:

GEOTECHNICAL ENGINEER:

LANDSCAPE ARCHITECT:

MECHANICAL ENGINEER:

SQUARE FOOTAGE SUMMARY

FINISHED CONDITIONED SPACE:

Lower Level:	0	s.f.
Main Level:	2,140	s.f.
Upper Level:	1,060	s.f.
Attic Level:	313	s.f.
Total (Main Level & Upper Level):	3,200	s.f.

UNFINISHED/ UNCONDITIONED SPACE:

(includes porches, terraces, decks, garages, mechanical/storage rooms, etc.)

Lower Level:	0	s.f.
Main Level Garage/Workshop	1,045	s.f.
Main Level Screened Porch	441	s.f.
Main Level Stone Terrace	1,278	s.f.
Upper Level Unfinished:	698	s.f.
Total:	3,462	s.f.

DRAWING INDEX					
SHEET	SHEET TITLE	DATE	DATE	DATE	
G-001	COVER SHEET	##.##.##			
L-101	SITE PLAN				
A-102	MAIN LEVEL FLOOR PLAN				
A-103	UPPER LEVEL FLOOR PLAN				
A-105	ROOF PLAN				
A-201	EXTERIOR ELEVATIONS				
A-202	EXTERIOR ELEVATIONS				

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-PRELIMINARY-
NOT FOR
CONSTRUCTION

PROJECT:

OWENS
RESIDENCE

18 HEMLOCK RD / LOT 5
BILTMORE FOREST, NC
28803

SHEET TITLE:

COVER SHEET

DATE:	DESCRIPTION:
11.17.17	B.F. ZONING DESIGN REVIEW

PROJECT #:

17.18

DRAWN BY: NJM
CHECKED BY: NWB

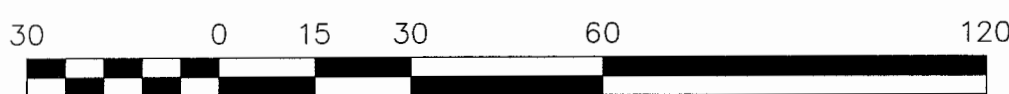
SHEET #:

G-001

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1 SITE PLAN

SCALE: 1" = 30'



Notes:

1. Property is subject to all easements, restrictions and right of ways of record.
2. The locations of underground utilities are based on above-ground structures and record drawings provided to the surveyor. Locations of underground utilities/structures may vary from locations shown hereon. Additional buried utilities/structures may be encountered.
3. Surveyor has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other facts that an accurate title search may disclose.
4. The certification of survey and plat was prepared for the entity named in the title block hereon and does not extend to any other entity, unless recertified by the professional land surveyor.
5. All miscellaneous survey related materials, including but not limited to, project plans, deed and ROW research, maps, field notes and data, survey reports, record title report, calculations, working drawings, estimates, and other materials acquired and/or prepared by the surveyor as instruments of service shall remain the property of the surveyor and assigns.
6. This drawing is not valid unless the original signature and stamp are attached. Any reproduction or variance to this survey by electronic or any other means are not to be considered issued by the professional surveyor.
7. Not for Recordation.
8. Contours are at 2' intervals.
9. Property is located in Zone X (Minimal Flood Hazard) as per FRIS Map Panel 9646, Map # 3700964600J effective date 1/6/2010.

Course	Bearing	Distance
L1	S 03°27'38" W	17.69'
L2	S 72°03'39" W	173.10'

Curve	Radius	Length	Chord	Chord Bear.
C1	200.30'	172.25'	166.99'	S 47°25'31" W

Building Setbacks shown as per Biltmore Forest R-1 Zoning:
Front: 60'
Side: 20'
Rear: 25'
Maximum Height: 40'

Building Setbacks as per P.B. 57, Pg. 136:
Front: 75'
Side: 20'
Rear: 25'

5' drainage & utility easement on side and back lines

20' Storm & Drainage Easement (10' each side of drain lines or ditches outside of road row)

5
1.39 Acres
Area By Coordinate Computation

ZONING CALCULATIONS:

LOT AREA: 1.39 ACRES = 60,548.4 SF

ROOF COVERAGE: 5,500 SF*
(MAX FOR 1.2-1.5 ACRE LOTS = 5,500 SF)

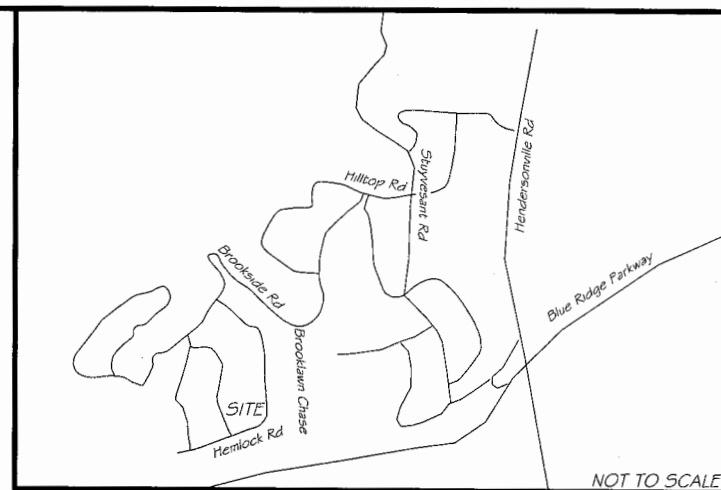
IMPERVIOUS SURFACE COVERAGE: 9,409 SF*
(MAX FOR 1-3 ACRE LOTS = 11,979 SF)

BUILDING HEIGHT (AVG. GRADE TO TICHMNEY): 39'-2"
(MAX. HEIGHT = 40')

HEIGHT OF ACCESSORY STRUCTURE: 18'-6"
(MAX. HEIGHT = 25')

ROOF COVERAGE OF ACCESSORY STRUCTURE: 395 SF
(MAX. ROOF COVERAGE = 750 SF)

* INCLUDES DETACHED ACCESSORY STRUCTURE & BREEZEWAY
** INCLUDES DETACHED ACCESSORY STRUCTURE, BREEZEWAY, OPEN & COVERED TERRACES, DRIVES, & DRIVE COURT



Vicinity Map



I, Cameron S. Baker, certify that this plat was drawn under my supervision from an actual survey made under my supervision, (deed description recorded in book 3626, page 62...) that the ratio of precision as calculated by latitudes and departures does not exceed 1:10,000 and that this map was prepared in accordance with The Standards of Practice for Land Surveying in North Carolina.
Witness my hand and seal this, 23 day of MAY, 20 17.
Cameron S. Baker
Professional Land Surveyor No. L-4920

Global Positioning System Certification (RTK)
The Positional Accuracy Of The RTK Derived Positional Information Is 0.03' Horizontal & 0.03' Vertical

Horizontal Positional Are Referenced to NAD 83 (NSRS 2011)

Vertical Positions Are Referenced To NAVD 88 (Geoid 12)

Combined Factor 0.99978238 (Ground To Grid)

Equipment Used: Carlson Supervisor + GPS Tablet

TBM
ECM
0.2' Below Ground
N = 661941.65092
E = 946394.39907
Elev. = 2135.78'

TREE FOR REMOVAL TYP.

STONE PAVED TERRACE & BREEZEWAY

DETACHED ACCESSORY STRUCTURE: WORKSHOP

2-CAR ATTACHED GARAGE

GRAVEL DRIVE COURT

SCREENED PORCH

2-STORY PRIMARY RESIDENCE

PAVED STONE THRESHOLD

COVERED PORCH

GRAVEL DRIVE

PAVED STONE APRON

ECM
0.3' Below Ground
N = 661757.70218
E = 946105.67536

Lot 5 of
Biltmore Forest - Block U
Recorded at P.B. 57, Pg. 136

Map of Topographic Survey For

Gaylon Owens

-Owners-
Roberta D. Bainum
D.B. 3626, Pg. 62

Revised: 5/23/17; Changed building setbacks to reflect Biltmore Forest R-1 Zoning.

Pin: 9646-61-2911-00000

Limestone Township	Buncombe County, NC
ASSOCIATED LAND SURVEYORS & PLANNERS P.C.	
P.O. BOX 578 * HORSE SHOE, NC 28742	
(828) 890-3507 NC BUSINESS LICENSE NO. C-2774	
SCALE: 1 Inch = 30 Feet	DATE: May 16, 2017
JOB NO.: S-17-157	DRAWN BY: JTB
C&G 7.0	

Legend:
EIP = Existing Iron Pipe
EIS = Existing Iron Stake
IPS = Iron Pipe Set
O = Unmarked Point, Unless Otherwise Noted
ROW/MON = Right of Way Monument
ROW = Right of Way
DI = Drop Inlet
SSMH = Sanitary Sewer Manhole

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PROJECT:

OWENS
RESIDENCE

18 HEMLOCK RD / LOT 5
BILTMORE FOREST, NC
28803

SHEET TITLE:

SITE PLAN

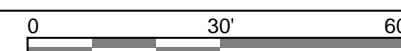
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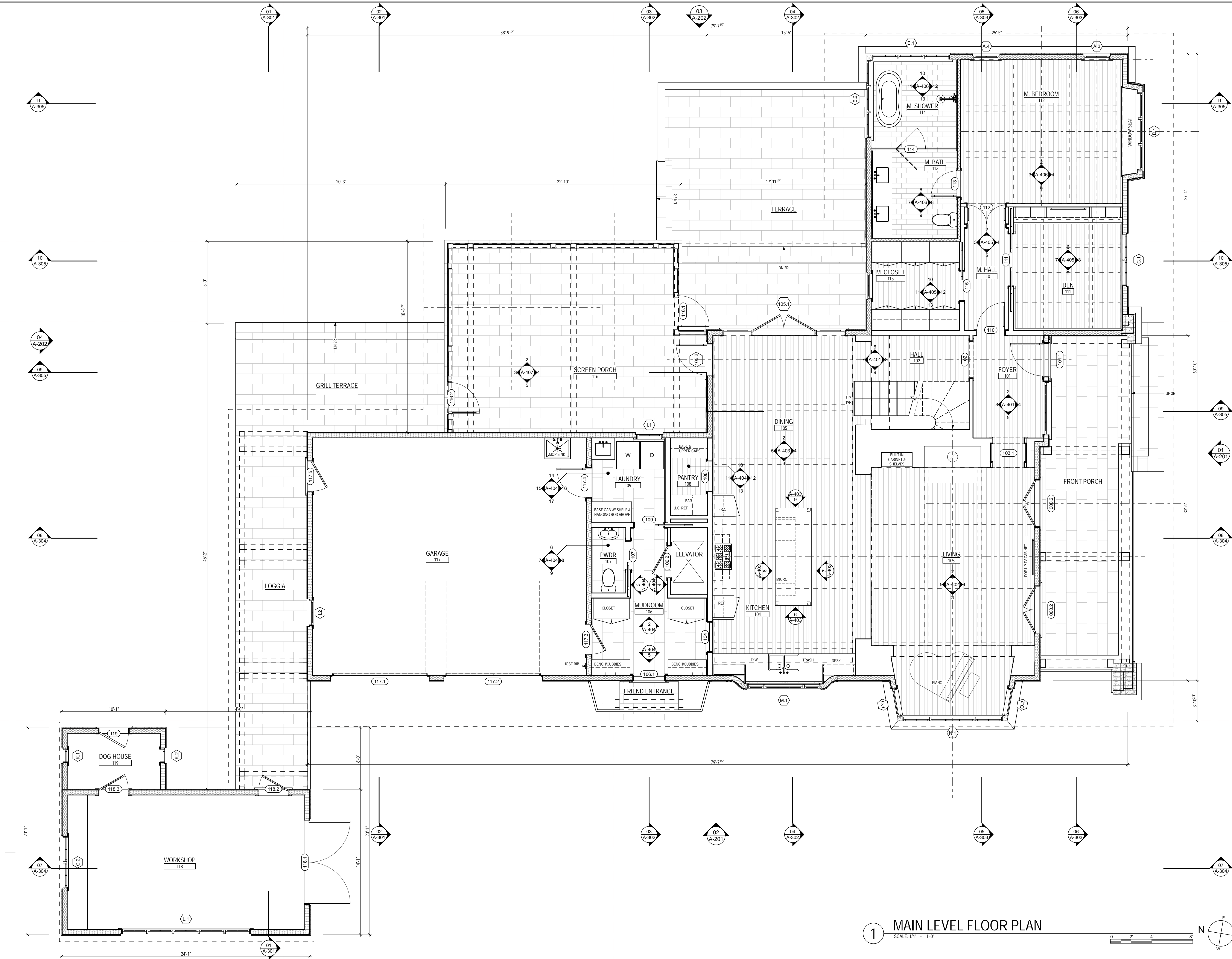
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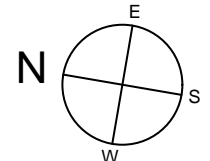
CREATION DATE: 11/17/17



1 MAIN LEVEL FLOOR PLAN

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

0 2' 4' 8'



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PROJECT:
**OWENS
RESIDENCE**

18 HEMLOCK RD / LOT 5
BILTMORE FOREST, NC
28803

SHEET TITLE:
**MAIN LEVEL
FLOOR PLAN**

DATE:	DESCRIPTION:
11.17.17	B.F. ZONING/DESIGN REVIEW

PROJECT #:
17.18
DRAWN BY: NJM
CHECKED BY: NWB
SHEET #:

A-102

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PROJECT:

OWENS
RESIDENCE

18 HEMLOCK RD / LOT 5
BILTMORE FOREST, NC
28803

SHEET TITLE:

UPPER LEVEL
FLOOR PLAN

DATE:	DESCRIPTION:
11.17.17	B.F. ZONING/DESIGN REVIEW

PROJECT #:

17.18

DRAWN BY:

NJM

CHECKED BY:

NWB

SHEET #:

A-103

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11
A-305

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A-302

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A-305

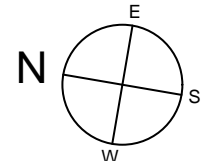
01
A-301

1

UPPER LEVEL FLOOR PLAN

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

0 2' 4' 8'



-PRELIMINARY-
NOT FOR
CONSTRUCTION

PROJECT:

OWENS
RESIDENCE

18 HEMLOCK RD / LOT 5
BILTMORE FOREST, NC
28803

SHEET TITLE:

ROOF PLAN

DATE:	DESCRIPTION:
11.17.17	B.F. ZONING/DESIGN REVIEW

PROJECT #:

17.18

DRAWN BY:

NJM

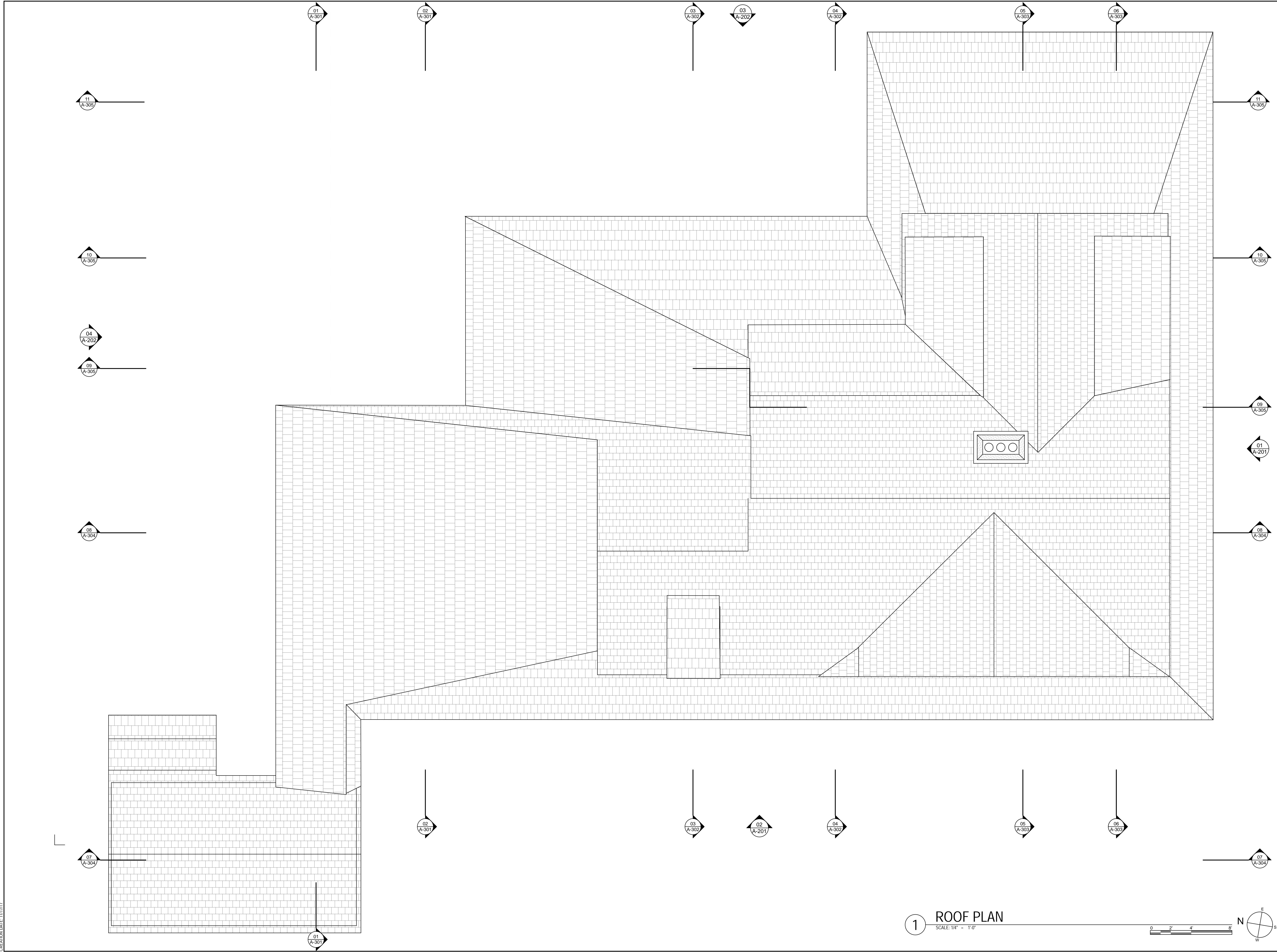
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NWB

SHEET #:

A-105

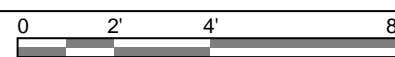
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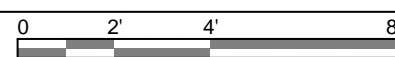
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02 WEST ELEVATION
SCALE: 1/4" = 1'-0"



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



- MATERIALS LEGEND
- CEMENT PLASTER (STUCCO)
 - HORIZONTAL WOOD SIDING
 - VERTICAL WOOD SIDING
 - WOOD TIMBER OR TRIM
 - STONE VENEER
 - SLATE SHINGLES
 - GLASS

PROJECT:

OWENS
RESIDENCE

18 HEMLOCK RD / LOT 5
BILTMORE FOREST, NC
28803

SHEET TITLE:

EXTERIOR
ELEVATIONS

DATE:	DESCRIPTION:
11.17.17	B.F. ZONING DESIGN REVIEW

PROJECT #:
17.18
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A-201

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RESIDENCE

18 HEMLOCK RD / LOT 5
BILTMORE FOREST, NC
28803

SHEET TITLE:

EXTERIOR
ELEVATIONS

DATE:	DESCRIPTION:
11.17.17	B.F. ZONING DESIGN REVIEW

PROJECT #:	17.18
DRAWN BY:	NJM
CHECKED BY:	NWB
SHEET #:	

A-202

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SAMSEL ARCHITECTS, P.A.



MATERIALS LEGEND

	CEMENT PLASTER (STUCCO)
	HORIZONTAL WOOD SIDING
	VERTICAL WOOD SIDING
	WOOD TIMBER OR TRIM
	STONE VENEER
	SLATE SHINGLES
	GLASS
	SCREEN



355 Vanderbilt Rd | Biltmore Forest, NC
Po Box 5352 | Biltmore Forest, NC 28803
P (828) 274-0824 | F (828) 274-8131

www.biltmoreforest.org



George F. Goosmann, III, Mayor
Fran G. Cogburn, Mayor-Pro Tem
E. Glenn Kelly, Commissioner
Doris P. Loomis, Commissioner

Jonathan B. Kanipe,
Town Manager

MEMORANDUM

To: Board of Adjustments Members
From: Jonathan Kanipe, Town Manager
Re: Board of Adjustments Case Number 2 (66 Chauncey Circle)
Date: December 4, 2017

The applicants have proposed a new, single-family residence at 66 Chauncey Circle. The new home and lot coverage falls into the required limits for maximum roof coverage and impervious surface. The proposed roof coverage for the home is 4,778 square feet. The maximum amount allowable by the ordinance is 5,060 square feet. The proposed impervious surface coverage on the 1.11 acre lot is 6,881 square feet. The ordinance allows a maximum of 12,088 square feet, or 25 percent of the lot area.

The applicants request a conditional use permit to allow the construction of a detached fire pit and patio. The proposed detached fire pit and patio is located in the rear yard and in compliance with all setback requirements of the R-3 district. A fire pit and patio qualifies as an accessory structure in the Town's Zoning Ordinance. As such, this installation does require a conditional use permit review and approval by the Board following the parameters as outlined below.

§ 153.029 ACCESSORY STRUCTURES AND BUILDINGS.

(A) Accessory structures and/or necessary buildings shall not detract from nor interfere with adjacent properties. No accessory structure or building shall be constructed, erected, or located within any front yard or within any side yard or rear yard setback.

(B) (1) In addition, the following standards are established for accessory structures and accessory buildings:

- (a) The maximum number of accessory buildings permitted on a lot shall be one;*
- (b) The maximum roof coverage area for accessory buildings shall be 750 square feet;*
- (c) The maximum height for accessory buildings shall be 25 feet;*
- (d) The accessory building must be screened by vegetation or other buffer as set forth in § 153.008;*
- (e) The accessory building must be located behind a line parallel to the rear of the principal structure on the lot;*

(f) The accessory building must be designed in the same architectural style as the principal structure;

(g) Any accessory structure and/or accessory building shall be included in the calculation of allowable roof coverage and allowable impervious surface coverage on the lot pursuant to §§ 153.043 and 153.048.

As noted above, the proposed fire pit and patio are located in the rear yard behind the principal structure on the lot. The applicants have indicated this structure will not require a permanent masonry foundation and that it will be located so as not to be visible from the public street. There is no variance required as this accessory structure is in compliance with the applicable setback requirements and requirements for location of an accessory structure.

Zoning Application

Property Identification

Name

Gail Dosik

Address

7208 Legacy Oaks Place, Asheville, North Carolina 28803

Phone

(646) 279-3718

Email

thetoughcookie66@gmail.com

Zoning

R-3

Lot Size (Acres)

1.11

Email -Submission Verification

acm@acmdesign.net

Scope of Project-Roof Coverage

Does the project include increasing roof coverage?

Yes

What is the proposed roof coverage?

4,778

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?

Yes

What is the proposed impervious surface coverage?

6,881

Is the proposed impervious surface coverage greater than the permitted maximum 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?

No

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

No

Project Description

Brief Description of Project

Single Family Residence.

Estimated Cost of Project

1,200,000

Estimated Completion Date

12/31/2018

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

2107-1127_TownofBiltmoreForestReviewSet.pdf

Conditional Use Permit Application

I hereby petition the Board of Adjustment to issue a Conditional Use Permit for:

Name

Gail Dosik

Property Address

66 Chauncey Circle, Biltmore Forest, NC

Phone

(646) 279-3718

Email

thetoughcookie66@gmail.com

Type of Conditional Use

802.07 Accessory Buildings

Email-Submission Verification

acm@acmdesign.net

Description of Project

Fire pit design as a subtle landscape feature in the rear yard landscape of a new single family residence at 66 Chauncey Circle in The Ramble. The fire pit area will be fairly simple; it will consist of a freestanding metal fire pit on a pea gravel surface edged with rock curbing,

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

The fire pit design will entail a free standing metal firepit. It will be located in the backyard, will not be a permanent structure, and will not require retaining walls or a masonry structure. It will blend in with the overall landscape design and will not be a large, or permanently structured, design element. The location of the fire pit in the rear yard will prevent it from being seen from the public streets.

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**

11/29/2017



Dosik-Stevens-Gigliotti Residence

The Ramble Biltmore Forest

Lot #17, The Ramble
Biltmore Forest



Siding & Trim

Fiber Cement Siding and Trim

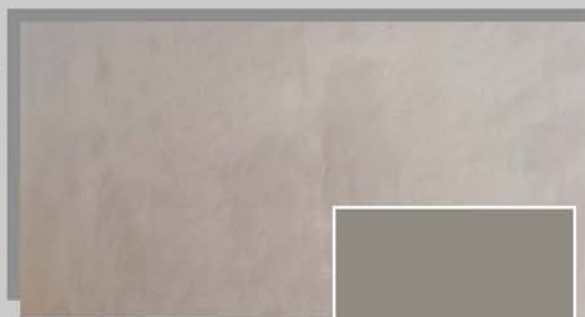


SW 7675
"Sealskin"

STONE SIDING
Buechel Stone Corp.
"Fond Du Lac" Tailored Blend



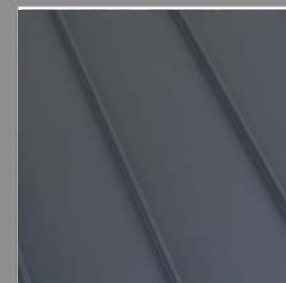
BICK SIDING
Pine Hall Brick
"Chesapeake Pearl"



STUCCO
Smooth Finish
SW7018
"Dovetail"



PRIMARY ROOF
Certainteed
Landmark, "Driftwood"



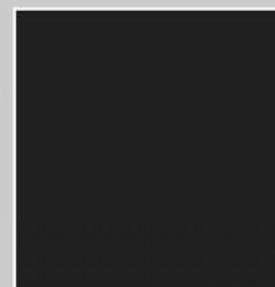
ACCENT ROOF
Aluminum Standing Seam
"Vermont Slate"

Roofing



Gutter & Downspout

Aluminum
"Galvalume"

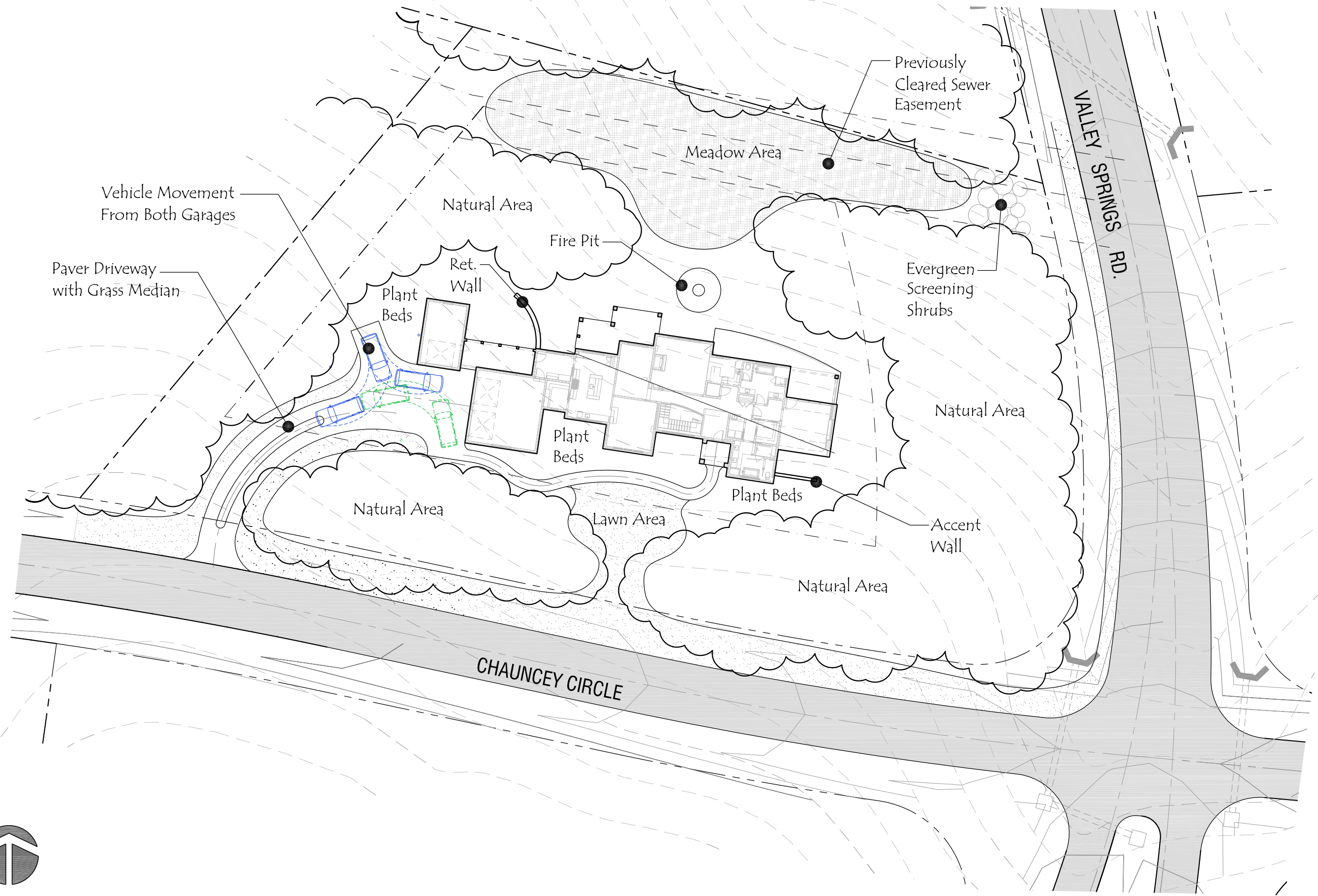


Windows
WINDOW CLAD
Quaker
"Dark Bronze"





Note: Survey Info from
Sanders Surveying &
Mapping, Inc. is Pending



0 16' 32' 64' 96'
SCALE : 1/16"=1'-0"

Note: Client is responsible for obtaining structural design from registered engineer for any retaining wall over 5' tall.



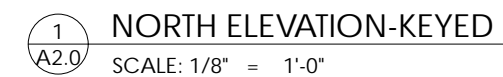
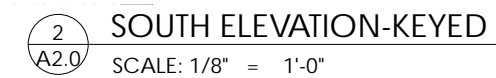
Cloos Landscape Architecture, P.A.
47 YELLOWWOOD LANE - HORSE SHOE, NC 28742
PHONE: 828-243-1070 - EMAIL: gcl00s@msn.com



Dosik-Stevens-Gigliotti Residence
Lot 17, 66 Chauncey Circle
The Ramble Biltmore Forest

Preliminary Site/
Landscape Plan
Date: November 20, 2017





NOT FOR
CONSTRUCTION

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A New Home for
Dosik-Stevens-Gigliotti
66 Chauncey Circle
Blittmore Forest, North Carolina

LOWER LEVEL
FLOOR PLAN

PROJECT NUMBER:
201710
ISSUE DATE:

11/21/17 4:37 PM

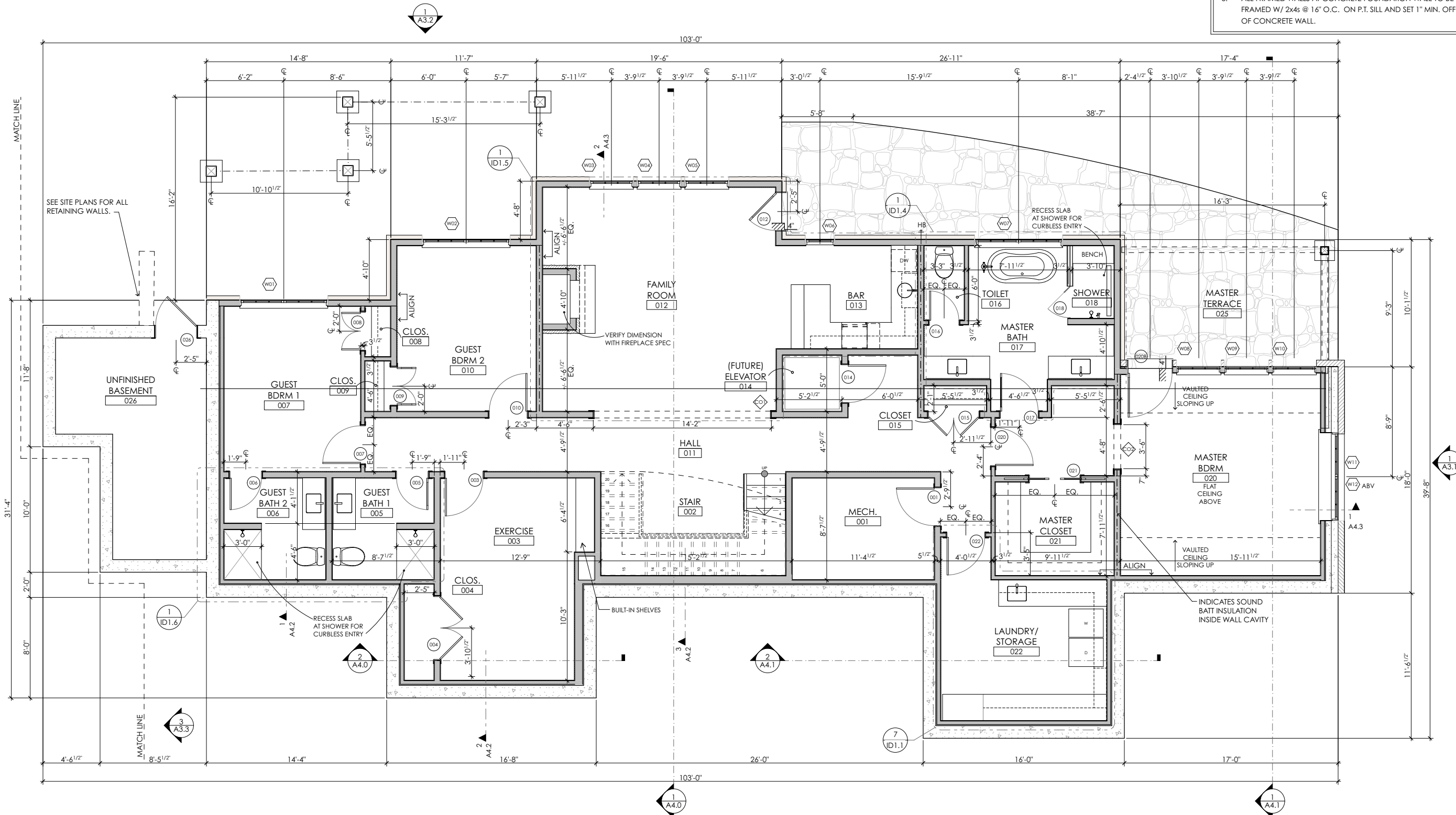
SHEET:

A2.1

/ArchiCAD/DSG.pln

GENERAL NOTES

- DIMENSIONS ARE SHOWN TO FACE OF CONCRETE WALL, FACE OF WOOD FRAMING, CENTERLINE OF DOORS AND WINDOWS, AND CENTERLINE OF COLUMNS UNLESS NOTED OTHERWISE.
- ALL EXTERIOR AND INTERIOR WOOD FRAMED WALLS TO BE CONSTRUCTED WITH 2x6 WOOD STUDS AT 16" O.C. UNLESS NOTED OTHERWISE.
- FOR ALL WOOD FRAMED WALLS THAT ARE SET ON TOP OF CONCRETE FOUNDATION WALLS, ALIGN OUTSIDE FACE OF WOOD STUD WITH OUTSIDE FACE OF CONCRETE FOUNDATION WALL. WOOD FRAMED WALLS SHALL BE SET ON A CONTINUOUS 2x8 PRESSURE TREATED WOOD SILL ON CONTINUOUS SILL SEALER.
- ALL STRUCTURAL MEMBERS AND CONNECTIONS, INCLUDING BUT NOT LIMITED TO FOUNDATION WALL CONSTRUCTION AND FLOOR, WALL AND ROOF ASSEMBLIES SHALL BE DESIGNED BY OTHERS. SEE STRUCTURAL.
- ALL WALLS ON LOWER LEVEL TO BE FRAMED W/ 2x6s @ 16" O.C. ON P.T. SILL UNLESS OTHERWISE NOTED.
- ALL FRAMED WALLS AT CONCRETE FOUNDATION WALL TO BE FRAMED W/ 2x4s @ 16" O.C. ON P.T. SILL AND SET 1" MIN. OFF FACE OF CONCRETE WALL.



1 A2.1 LOWER LEVEL FLOOR PLAN
SCALE: 1/4" = 1'-0"



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A New Home for
Dosik-Stevens-Gigliotti
66 Chauncey Circle
Blittmore Forest, North Carolina

MAIN LEVEL FLOOR PLAN

PROJECT NUMBER:
201710
ISSUE DATE:

11/21/17 4:37 PM

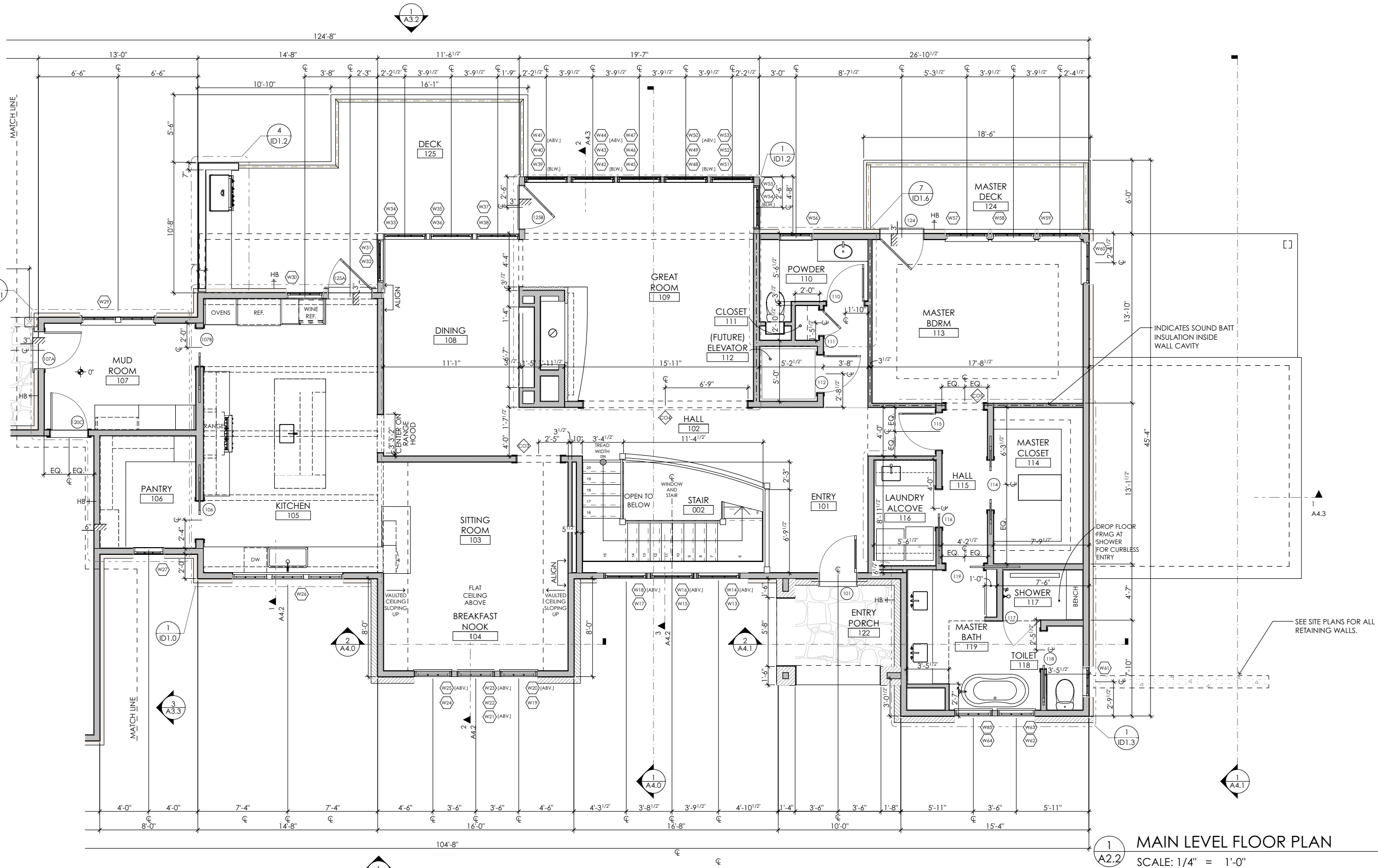
SHEET:

A2.2

/ArchICAD/DSG.pln

GENERAL NOTES

- DIMENSIONS ARE SHOWN TO FACE OF CONCRETE WALL, FACE OF WOOD FRAMING, CENTERLINE OF DOORS AND WINDOWS, AND CENTERLINE OF COLUMNS UNLESS NOTED OTHERWISE.
- ALL EXTERIOR AND INTERIOR WOOD FRAMED WALLS TO BE CONSTRUCTED WITH 2x6 WOOD STUDS AT 16" O.C. UNLESS NOTED OTHERWISE.
- FOR ALL WOOD FRAMED WALLS THAT ARE SET ON TOP OF CONCRETE FOUNDATION WALLS, ALIGN OUTSIDE FACE OF WOOD STUD WITH OUTSIDE FACE OF CONCRETE FOUNDATION WALL. WOOD FRAMED WALLS SHALL BE SET ON A CONTINUOUS 2x8 PRESSURE TREATED WOOD SILL ON CONTINUOUS SILL SEALER.
- ALL STRUCTURAL MEMBERS AND CONNECTIONS, INCLUDING BUT NOT LIMITED TO FOUNDATION WALL CONSTRUCTION AND FLOOR, WALL AND ROOF ASSEMBLIES SHALL BE DESIGNED BY OTHERS.



MAIN LEVEL FLOOR PLAN

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



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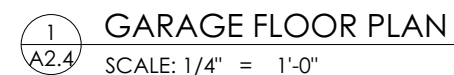
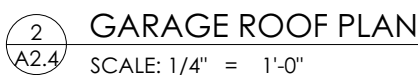
PROJECT NUMBER:
201710
ISSUE DATE:

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SHEET:

A2.4

/ArchiCAD/DSG.pln



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A New Home for
Dosik-Stevens-Gigliotti
66 Chauncey Circle
Blitmore Forest, North Carolina

SOUTH
ELEVATION

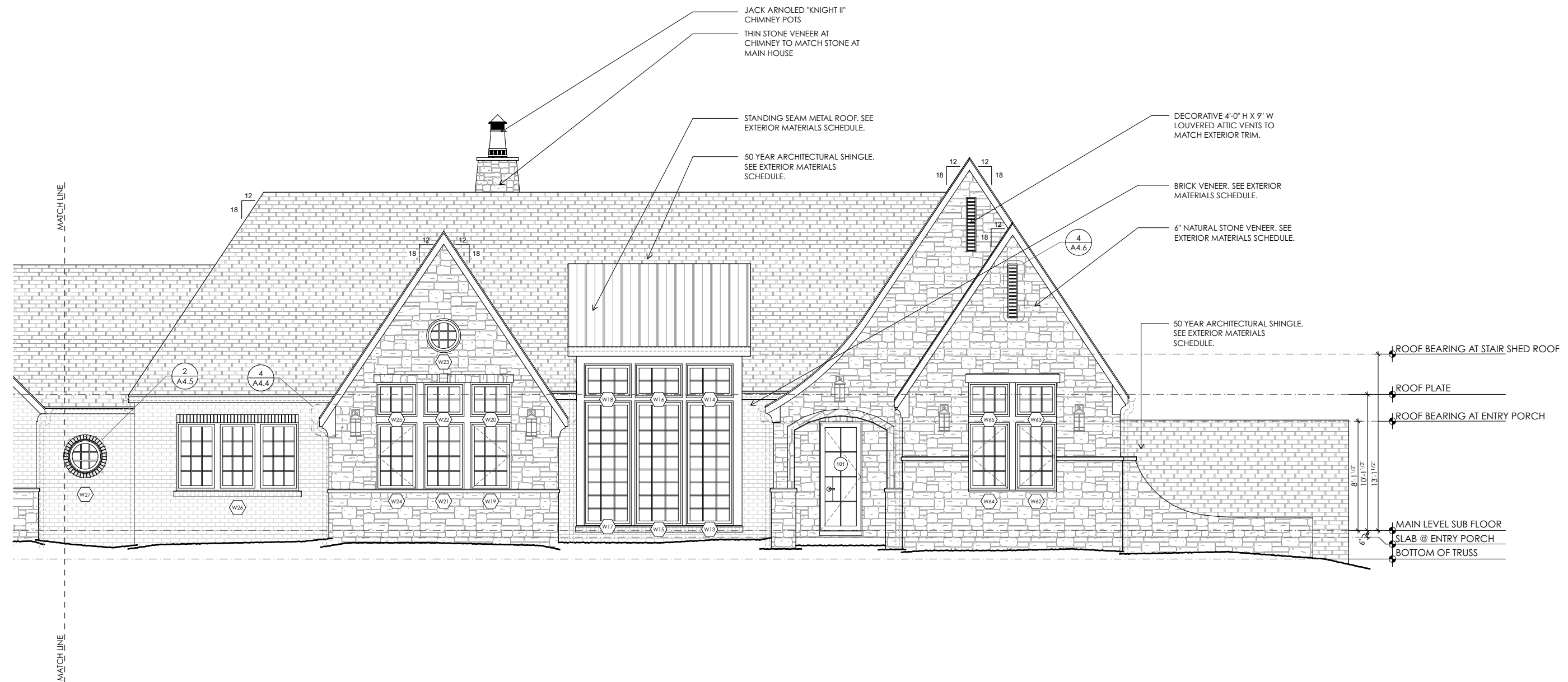
PROJECT NUMBER:
201710
ISSUE DATE:

11/21/17 4:37 PM

SHEET:

A3.0

/ArchICAD/DSG.pln





2 WEST ELEVATION-GARAGE
A3.1 SCALE: 1/4" = 1'-0"



1 EAST ELEVATION-BEDROOM
A3.1 SCALE: 1/4" = 1'-0"

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A New Home for
Dosik-Stevens-Gigliotti
66 Chauncey Circle
Blittmore Forest, North Carolina

EAST/ WEST
ELEVATIONS

PROJECT NUMBER:
201710
ISSUE DATE:

11/21/17 4:37 PM

SHEET:

A3.1

/ArchICAD/DSG.pln

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A New Home for
Dosik-Stevens-Gigliotti
66 Chauncey Circle
Blittmore Forest, North Carolina

NORTH
ELEVATION

PROJECT NUMBER:
201710
ISSUE DATE:

11/21/17 4:37 PM

SHEET:

A3.2

/Arch/CAD/DSG.pln



1 NORTH ELEVATION-REAR
A3.2 SCALE: 1/4" = 1'-0"

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A New Home for
Dosik-Stevens-Gigliotti
66 Chauncey Circle
Blittmore Forest, North Carolina

GARAGE
ELEVATIONS

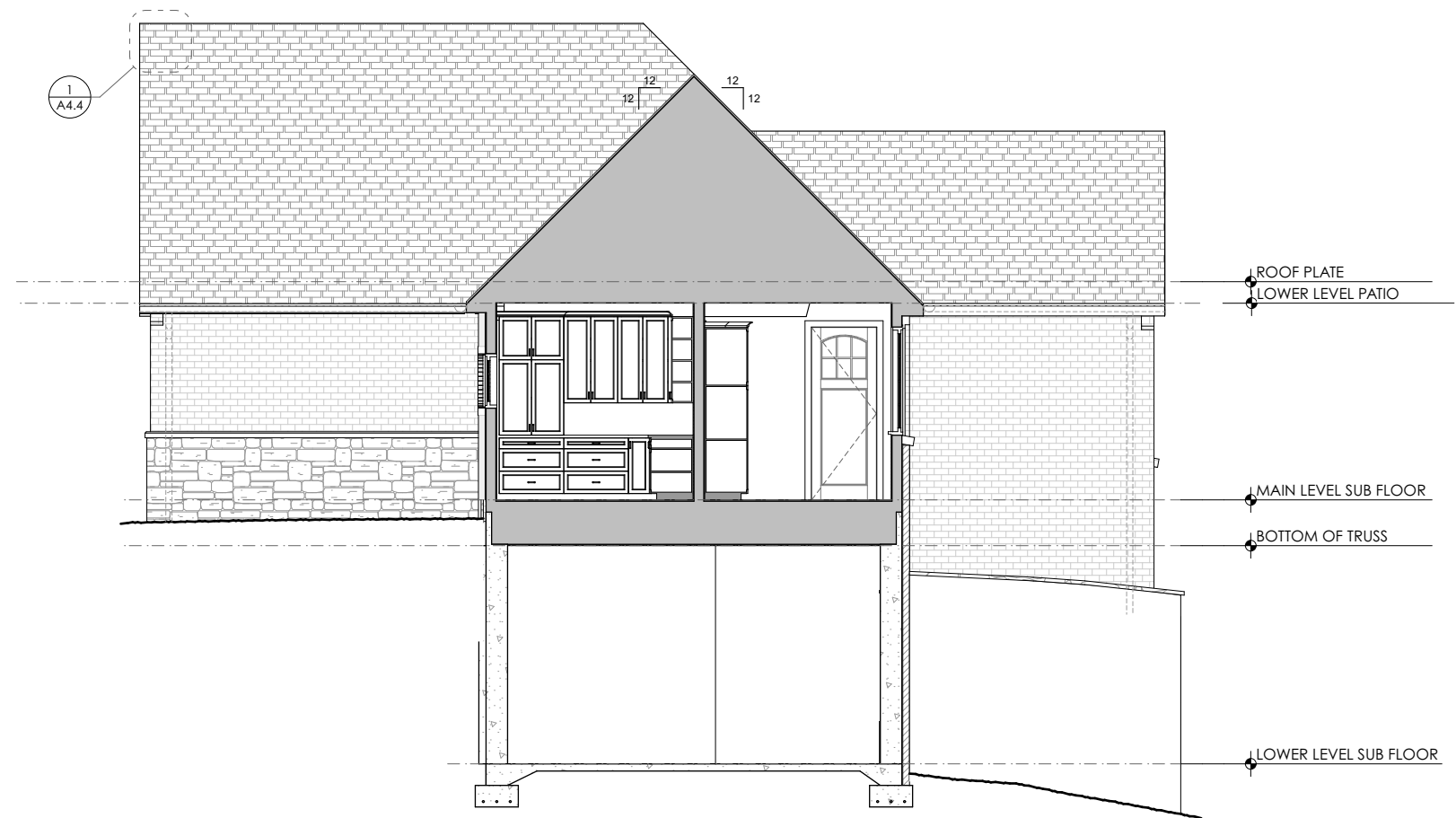
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ISSUE DATE:

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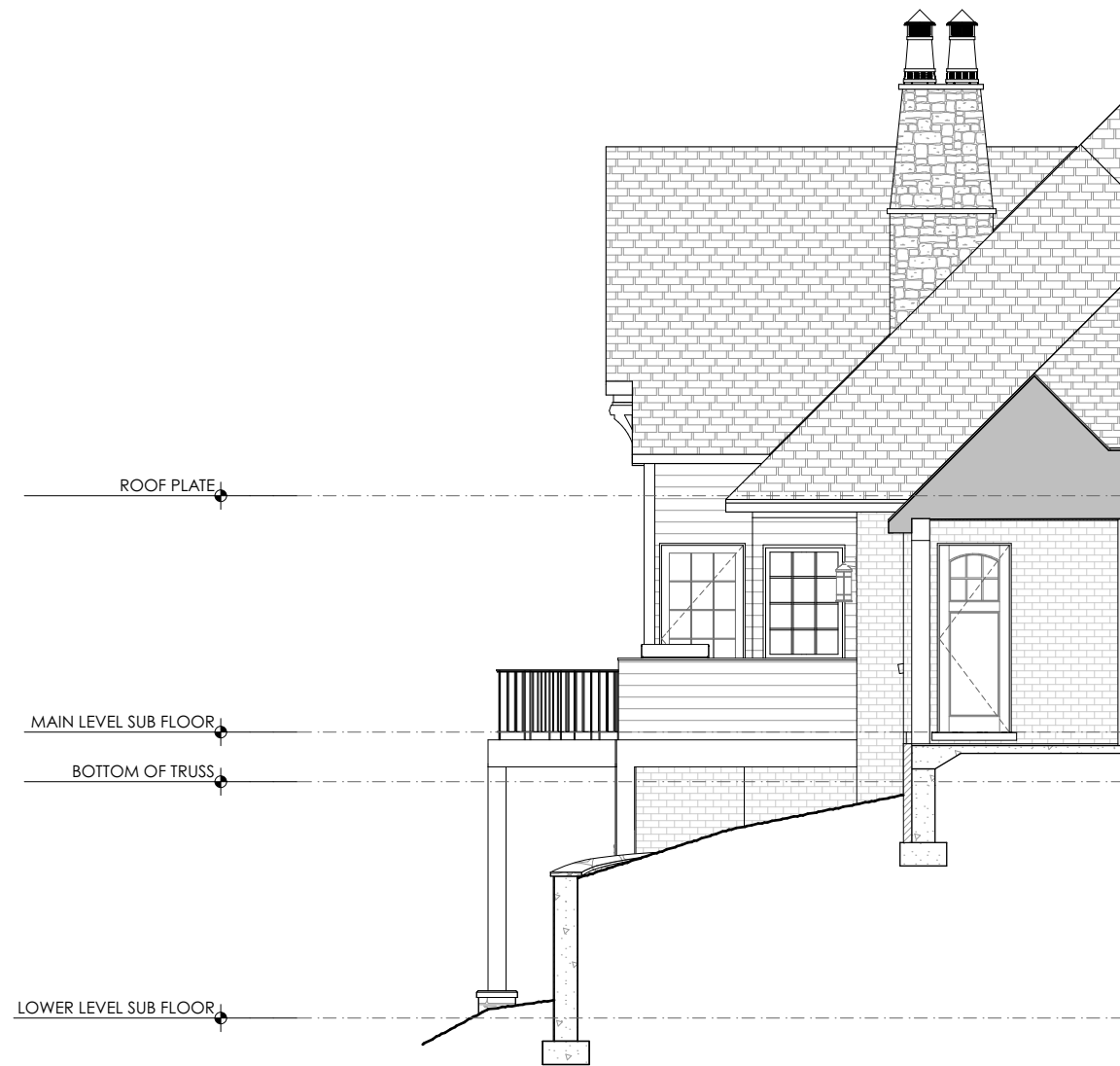
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A3.3

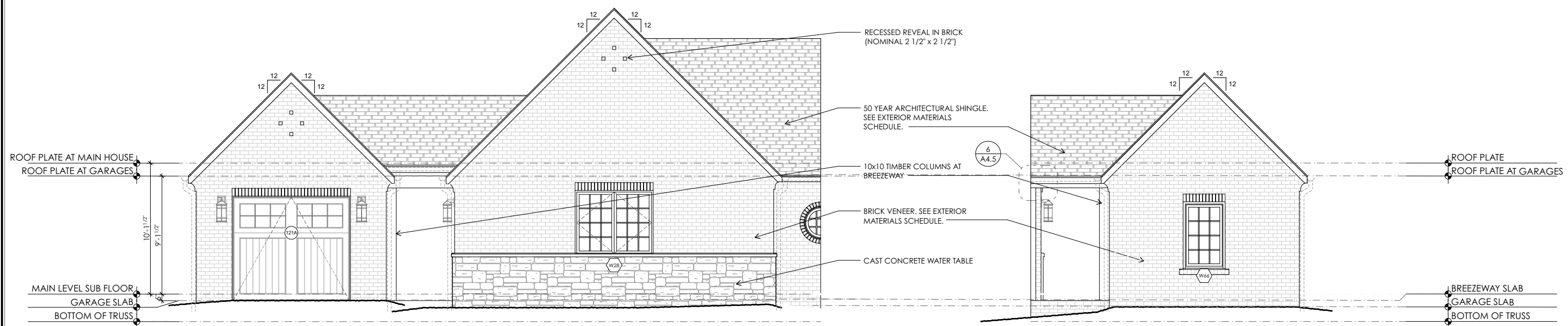
/ArchiCAD/DSG.pln



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



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



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

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







From: [John Miles Smith](#)
To: [Jonathan Kanipe](#)
Subject: Fire Pit at 66 Chauncey Circle (BOA Meeting 12/11/2017)
Date: Tuesday, December 05, 2017 4:48:21 PM

Mr. Kanipe

As long as the fire pit is used in accordance with the State Fire Code, then we have no objection.

As we understand, the fire code requires that:

- the smoke not cause a nuisance,
- the fire pit be 15' away from combustible materials,
- there be a means for extinguishing the fire,
- the fire pit be attended while burning.

Thank you for contacting us on this matter.

—John Miles Smith

355 Vanderbilt Rd | Biltmore Forest, NC
Po Box 5352 | Biltmore Forest, NC 28803
P (828) 274-0824 | F (828) 274-8131

www.biltmoreforest.org



George F. Goosmann, III, Mayor
Fran G. Cogburn, Mayor-Pro Tem
E. Glenn Kelly, Commissioner
Doris P. Loomis, Commissioner

Jonathan B. Kanipe,
Town Manager

MEMORANDUM

To: Board of Adjustments Members
From: Jonathan Kanipe, Town Manager
Re: Board of Adjustments Case Number 3 (21 Cedar Hill Drive)
Date: December 4, 2017

Request for Condition Use Permit to Construct Stone Entrance Columns
Request for Variance to Construct Gate Across Driveway in Front Yard

The applicant requests a variance from the Board of Adjustments in regards to Section 153.029 of the Town Zoning Ordinance. This ordinance defines where accessory structures and buildings may be constructed on a lot. The specific language of the ordinance is as follows:

§ 153.029 ACCESSORY STRUCTURES AND BUILDINGS.

- (A) **Accessory structures and/or necessary buildings shall not detract from nor interfere with adjacent properties. *No accessory structure or building shall be constructed, erected, or located within any front yard or within any side yard or rear yard setback.*** (emphasis added)

While this section of the ordinance governs accessory structures in the front yard, a separate section of the ordinance specifies that the Board of Adjustments *may* consider and grant approval of entrance columns as a conditional use permit without requiring variance approval. This language is included as Footnote 5 to the dimensional requirements for each district, and states the following:

§ 153.007 DIMENSIONAL REQUIREMENTS

- (B) (4) **Footnote 5. Accessory structures, including driveways, shall meet all setback requirements. Notwithstanding the foregoing, setback requirements for driveway entrance columns or driveway entrance walls may be waived or modified by the Board of Adjustment with the granting of a conditional use permit in accordance with § 153.110(C), without the need for a variance pursuant to § 153.110(D).**

This provision allows the Board discretion to consider the four (4) entrance columns as a conditional use permit only, but the request for a gate in the front yard still requires a variance approval from the Board in consideration of § 153.029 as laid out above.

One additional item of note is the application indicates the columns will be located 50-60 feet from edge of the road. The front yard setback for the R-1 district is 60 feet. A previous visit by the Board of Adjustments to this property revealed the location of the columns and proposed gate was beyond 60 feet.

Mr. Stingel has provided his rationale for the variance request in the attached application and included a revised mockup of the stone columns, entrance gate, and associated specifications. The Board of Adjustments conducted a driving tour after the site visit last month and found several other instances of columns and flared walls. Two driveway gates were constructed in the Cedar Hill subdivision between 2000 and 2005. Please note, the two mockups represent Mr. Stingel's preferred column and wall design (first rendering) and the finished product once landscaping is planted and installed (second rendering).

The Board did meet on site at this property last month prior to this item's inclusion on the Board agenda last month. The Board did not consider any action on this matter as the applicant was not at the meeting. Please let me know if you have any questions or would like additional information.



ZONING APPLICATION

Required for Board of Adjustment & Design Review Board

DATE

10/27/2019

PROPERTY IDENTIFICATION

Owner Name Jay Stingel Property Address 21 Cedar Hill Dr 964642618700000 Zoning 964642513000000 Lot Size (Acres) 5 acres

CONTACT INFORMATION

Applicant (if not owner) Email jaystingel@gmail.com
Mailing Address 21 Cedar Hill Drive
Phone (Primary) 828-277-3720 Phone (Alt) 828-231-1232

Maximum Permitted Roof Coverage

Rear Yard Setback

Maximum Permitted Impervious Surface Coverage

Side Yard Setback

Does the project include increasing roof coverage?

Yes ☐

No ☒

If yes, what is the proposed roof coverage? _____

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? _____

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

Stone columns (4) and (1) pair of gates

see attached design

Estimated Cost of Project \$ 8,000.00

Estimated Completion Date May, 2018



CONDITIONAL USE PERMIT APPLICATION

I, Jay Stingel hereby petition the Board of Adjustment to issue a
Conditional Use Permit for Specific Conditional Use

for the property located at 21 Cedar Hill Drive and described as follows:

Description of the Project:

Stone columns (4) and automatic gates (1) and additional panels between columns
(2)

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

No impact on neighbors, others in neighborhood already have similar columns and gates

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

Signature

A handwritten signature in dark ink, appearing to read "Jay Stingel", is written over a horizontal line.

Date

10-27-17



VARIANCE APPLICATION

I, Jay Stingel hereby petition the Board of Adjustment for a variance(s) from the provisions of the Zoning Ordinance for the real property located at 21 Cedar Hill Drive.

Variance to Zoning Ordinance Section(s):

- (a) *Select Ordinance Requirement*
- (b) *Select Ordinance Requirement*
- (c) *Select Ordinance Requirement*

Reason Variance is Requested:

Request for Variance

Numerous drive-throughs occur randomly, morning, noon, night, and even midnight

Style would be aesthetically pleasing and compliment the design of the house

A crime deterrent

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, Jay Stingel, hereby certify that all the information set forth above is true and accurate to the best of my knowledge.

Signature

Date

Jay Stingel

21 Cedar Hill Drive

Column Dimensions

32" x 32" Square base

72" high

Driveway columns will be 14' between columns; the existing drive is 12' wide.

Secondary columns placed to the right and left of the driveway columns will be 10' from the driveway columns.

The secondary columns will be the same dimension as the driveway columns, but will be at a lower elevation.

The columns will be a 50' to 60' feet setback from the edge of the road.



Preferred Column and Wall Design



Stingel - 21 Cedar Hill Drive
Gate Proposal

355 Vanderbilt Rd | Biltmore Forest, NC
Po Box 5352 | Biltmore Forest, NC 28803
P (828) 274-0824 | F (828) 274-8131

www.biltmoreforest.org



George F. Goosmann, III, Mayor
Fran G. Cogburn, Mayor-Pro Tem
E. Glenn Kelly, Commissioner
Doris P. Loomis, Commissioner

Jonathan B. Kanipe,
Town Manager

MEMORANDUM

To: Board of Adjustments Members
From: Jonathan Kanipe, Town Manager
Re: Board of Adjustments Case Number 4 (120 Stuyvesant Road)
Date: December 4, 2017

Town staff was alerted to a new fence construction in early October that was done without approval of the Board of Adjustments. Upon inspection, it was determined that a substantial portion of this fence was constructed new and some was constructed as replacement to the old fence. The fence, as constructed, was located within the rear setback and within the side yard setback.

The attached notice of zoning violation was mailed to the residents on October 10, 2017. This letter details the various portions of the Zoning Ordinance which were not met with the construction of the fence. These violation include the construction of a fence (including replacement) without Board of Adjustments approval, the installation of a chain-link fence which is not allowed by the Ordinance, and the encroachment upon the rear and side yard setbacks without Board of Adjustments approval. The applicant was asked to remove the fence or apply for a variance from the Board of Adjustments. This meeting was the first that request was eligible for consideration.

The applicant has included a variance application detailing plantings to buffer the fence, as well as photos showing an example of the fence portions that were replaced. Please let me know if you have any questions.

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

Heath Shuler

Property Address

120 Stuyvesant Rd

Email

jhshuler@gmail.com

Phone

(828) 550-2803

Email-Submission Verification

jhshuler@gmail.com

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

1112 Accessory Structures or Buildings Utilized as Dwellings

N.C.G.S. 160A-388(D) requires that the Board of Adjustments shall vary the provisions of the Zoning Ordinance only upon a showing of ALL the following:

- 1) Unnecessary hardship would result from the strict application of the ordinance.
- 2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- 3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- 4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

State specific hardship that results in variance request to not comply with the Zoning Ordinance

After many attempts, including deer fencing, new trash cans, locks and moving our grill inside, to keep the bears from destroying our property. I replaced the old fencing and added additional sections. Not only has the bears not caused any more damage but my young niece and nephew now feel safe to play in the back yard.

We installed 350' of Black fencing. 150' replaced the old and dilapidated fence. We installed 22 Green Giant Arborvitaes, 15 Otto Luyken Laurels, 20 English Laurels to help screen the fencing.

Not only has the fence keep the bears out but it now helps keep our dog from getting out of the invisible fence which he did often. About 4 weeks ago he chased a squirrel across Stuyvesant Rd where he was hit by a car. Lucky he was not injured but caused significant damage to Stephen Weinrib's car.

State what conditions are peculiar to the property that require a variance.

We still have part of the old fencing that was in stalled a couple of decades ago on our south property line. I replaced a large section of the old fence with new.

Did the hardship result from actions taken by the applicant or property owner?

NC

State how the requested variance is consistent with the spirit, purpose, and intent of the ordinance.

NC

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

Date

11/7/2017



SPEED
LIMIT
25

SLOW
CHILDREN
AT PLAY









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George F. Goosmann, III, Mayor
Fran G. Cogburn, Mayor-Pro Tem
E. Glenn Kelly, Commissioner
Doris P. Loomis, Commissioner

Jonathan B. Kanipe,
Town Manager

October 10, 2017

JOSEPH HEATH SHULER
NIKOL DAVID SHULER
120 STUYVESANT ROAD
BILTMORE FOREST, N.C. 28803

Re: Notice of Town Zoning Ordinance Violation
Section 153.029 (C) (3) – Accessory Structures (New Fences and Walls)
Section 153.007 – Dimensional Requirements

Dear Mr. and Mrs. Shuler,

This letter is to serve as an official Notice of Zoning Violation from the Town of Biltmore Forest in regards to a black fence erected on your property within the past week. Town staff was made aware of this fence installation on Monday, October 9, 2017.

Section 153.029 of the Town of Biltmore Forest Zoning Ordinance requires that all fencing be approved by the Town of Biltmore Forest Board of Adjustments and meet certain conditions before being erected on a property. Further, any new fencing must meet certain conditions before being allowed. The Town Board of Commissioners amended this ordinance in June 2017 and new fence installation is only allowed as a conditional use in very specific circumstances. If a fence does meet all conditions for approval by the Board of Adjustments, the type and material of the fence is still limited, and chain-link fencing is expressly prohibited. I have attached a full copy of the ordinance for your review.

Section 153.007 of the Town of Biltmore Forest Zoning Ordinance requires that certain setbacks be maintained for main or accessory structures. The Board of Adjustments have authority to approve variance requests for the setbacks provided that hardships are demonstrated and other statutory requirements are met. It appears this fence, as installed, is along the rear property line and is possibly within the 30 foot side yard setback as required by this ordinance.

Please take appropriate steps to remove the fence from the property by October 24, 2017, or alternatively, contact the Town to request a zoning application and variance approval from the Board of Adjustments at their next meeting. Please note, however, that the Board of Adjustments may disapprove this request if they find a variance from the ordinance is not warranted, with the result being the required removal of the fence. I am more than happy to provide additional information regarding this Board of Adjustments request and process.

The penalty for failure to rectify this zoning violation is set forth in Section 153.999 of the Town's Zoning Ordinance and includes a possible fine of \$50.00 per day for each day the zoning violation is not corrected. Please make every effort to address this issue prior to October 24, 2017 in order to avoid this penalty. Please contact me if you have questions regarding this violation notice.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jonathan B. Kanipe". The signature is stylized with a large initial "J" and a long horizontal stroke.

Jonathan B. Kanipe
Town Manager

[Print](#)

Biltmore Forest, NC Code of Ordinances

§ 153.007 DIMENSIONAL REQUIREMENTS.

(A) *Table.* The following table sets out dimensional requirements.

<i>Districts</i>	<i>Minimum Lot Area In Square Feet</i>	<i>PUD Residential Density Maximum Number of Dwellings Per Acre (applicable to residential unites in PUDs which are conditional users)</i>	<i>Minimum Yard Setback Requirement in Feet (FN5)</i>				
			<i>Minimum Lot Width At Building Line in Feet</i>	<i>Front Yard From Street Line</i>	<i>Side Yard</i>	<i>Rear Yard</i>	<i>Maximum Height In Feet</i>
R-1	43,560	0	150	60	20	25	40
R-2	20,000	0	100	50	15	20	40
R-3	20,000	8	100	50	15	20	40
R-4	20,000	2	100	50	15	20	40
R-5		8	100	50	15	20	40
PS	No Min.	0	No Min.	No Min.	No Min.	No Min.	Not App.

(B) *General provisions.* The following are footnotes applicable to the table in division (A).

(1) *Footnote 1.* The minimum lot area for lots not served by public water and/or sewer shall be subject to approval by the County Health Department to ensure the proper operation of septic tanks and wells. In no case, however, shall minimum lot area be less than those specified in the table in division (A).

(2) *Footnote 3.* The minimum lot width at the street line shall be 125 feet in the R-1 District, and 80 feet in the R-2, R-3, and R-4 Districts.

(3) *Footnote 4.* On all corner lots, a 30-foot side yard setback is required.

(4) *Footnote 5.* Accessory structures, including driveways, shall meet all setback requirements. Notwithstanding the foregoing, setback requirements for driveway entrance columns or driveway entrance walls may be waived or modified by the Board of Adjustment with the granting of a conditional use permit in accordance with § 153.110(C), without the need for a variance pursuant to § 153.110(D).

(5) *Footnote 6.* Height requirements may be varied upon approval of the Board of Adjustment.

(Ord. passed 10-19-1983; Ord. passed 8-12-2013)

§ 153.029 ACCESSORY STRUCTURES AND BUILDINGS.

(A) Accessory structures and/or necessary buildings shall not detract from nor interfere with adjacent properties. No accessory structure or building shall be constructed, erected, or located within any front yard or within any side yard or rear yard setback.

(B) (1) In addition, the following standards are established for accessory structures and accessory buildings:

- (a) The maximum number of accessory buildings permitted on a lot shall be one;
- (b) The maximum roof coverage area for accessory buildings shall be 750 square feet;
- (c) The maximum height for accessory buildings shall be 25 feet;
- (d) The accessory building must be screened by vegetation or other buffer as set forth in § 153.008;
- (e) The accessory building must be located behind a line parallel to the rear of the principal structure on the lot;
- (f) The accessory building must be designed in the same architectural style as the principal structure;
- (g) Any accessory structure and/or accessory building shall be included in the calculation of allowable roof coverage and allowable impervious surface coverage on the lot pursuant to §§ 153.043 and 153.048; and
- (h) Solar collectors shall be regulated in accordance with G.S. § 160A-201.

(2) For all satellite dishes less than 24 inches in diameter, an application for a zoning compliance certificate shall be made directly to the Zoning Administrator; the Zoning Administrator shall issue a zoning compliance certificate.

(C) (1) The town is a unique community concerned with historic continuity. The town, originally part of the Vanderbilt Estate, was established 100 years ago. Since its establishment, Biltmore Forest has been a forested residential community with substantial open space. Preservation of the forest environment requires substantial open space for trees, plants and wildlife.

(2) Given Biltmore Forest's proximity to the Biltmore Estate, and the Estate's large deer population, a number of residents have had problem with deer. In response to resident requests, the Board of Adjustment has approved a number of requests for temporary deer fencing. Over the last several years, the town has attempted to reduce the number of deer through depredation. The Board of Commissioners is committed to preservation and protection of the forested residential community concept. Current and prospective residents can participate in this effort by landscaping with plants that will not attract deer, confining dogs and other household pets with invisible fencing, limiting the construction of new fences and walls, and removing and not replacing existing fences and walls. In addition, fences and walls inhibit access to properties by the Police Department, Skyland Fire Department and other first responders.

(3) As of the effective date of this section, construction of new fences or walls is allowed only as follows:

- (a) The fence or wall is necessary for safety, the protection of public health, or is required as a condition of obtaining homeowner's insurance. Examples include the installation of a fence or wall around a swimming pool or along a steep grade or bank to prevent injury resulting from a fall. The property owner should provide written information from an insurance company documenting the need for the fence.

(b) Where a retaining wall is part of a landscape plan, and there is a structural requirement for the wall. Structural requirements for retaining walls must be in accordance with *The Retaining Wall Ordinance of the Buncombe County Code of Ordinances* as the same may be amended from time to time, and must be certified by a professional engineer licensed in the state of North Carolina. The wall must otherwise comply with this section.

(c) On those properties abutting Hendersonville Road where, in the discretion of the Board of Adjustment, a fence or wall is necessary to provide protection from pedestrians and motorists on Hendersonville Road.

(d) Properties abutting the Blue Ridge Parkway and the Biltmore Estate shall be allowed to construct appropriate fencing to protect the property from deer. Such fencing shall be subject to review and approval by the Board of Adjustment.

(e) The Board of Adjustment may require a property owner to construct a wall or fence to provide buffering between incompatible land uses. See § 153.063.

(f) Except as set forth in division (C)(3)(d), the Board of Adjustment shall not approve a fence for the purpose of confining or protecting dogs, other household pets or children, or for the purpose of preventing wild animals from entering a property.

(g) Electrified fences, defined as an above ground fence carrying an electric voltage intended to deliver a shock if touched by a person or animal are not allowed. Existing electrified fences should be removed within 180 days of the adoption of this section whether or not the fences are currently carrying an electric voltage. Invisible fences, defined as underground cable systems carrying an electric voltage intended to trigger a shock through a compatible pet collar, are allowed.

(h) In granting permission to construct a new fence or wall, or to repair or replace an existing fence or wall, the Board of Adjustment may impose reasonable conditions, including a requirement that the fence or wall be buffered with vegetation so that it is not visible from adjacent properties and that the fence or wall be removed if the purpose or condition for which it was constructed is no longer in effect.

(4) *Replacement of existing fences and walls.* Replacement of an existing fence or wall is a conditional use subject to the approval of the Board of Adjustment and the requirements of this zoning ordinance. An application to replace an existing fence or wall must include a photograph of the existing fence or wall, specify the type of fence or wall, include a map or sketch depicting the height and length of the fence, and state whether or not the fence is in any setbacks.

(a) Existing chain link fences may not be replaced with new chain link fences.

(b) Existing fences or walls in the front yard may not be replaced. No new fences or walls shall be allowed in the front yard.

(c) Repair of more than half of an existing fence or wall shall be considered a replacement and shall be subject to this section.

(5) *Acceptable materials for fences and walls/maintenance.* The following materials and fences shall be deemed acceptable for fence construction.

(a) Wooden fencing shall be of natural color or painted in a manner compatible with the residence and the lot.

(b) Non-wooden fencing shall be black, dark green or brown to blend with surrounding trees or vegetation.

(c) No new chain link fencing shall be allowed.

(d) Walls should be constructed of stone or similar material, and should be compatible with the construction materials of the house located on the same property.

(e) When a fence or wall is not properly maintained or fails to comply with a condition imposed by the Board of Adjustment, the town may require the property owner to repair the fence or remove the fence at the property owner's expense. If the property owner fails to repair or remove the fence, the town may remove the fence and recover the cost from the property owner.

(Ord. passed 10-19-1983; Ord. passed 8-12-2013; Ord. passed --)

Editor's note:

This amendatory language was passed during a Board meeting, July 9, 2013