



To: Members of the Board of Adjustment, Applicants & Neighboring Property Owners
From: Jonathan B. Kanipe, Zoning Administrator
Date: July 7, 2020
Re: **Board of Adjustment Meeting – July 20, 2020**

Applicants:

You or a representative **MUST** attend the Zoom meeting in order to have the matter considered.

Members of the Board of Adjustment & staff may visit each property prior to the meeting. If this occurs, the property owner will be notified beforehand and asked if they approve the visit. If so, the visit will be conducted in a socially distant manner consistent with North Carolina state orders related to preventing the spread of Covid-19.

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

You are invited to attend the scheduled meeting via Zoom and make comment when called upon. Any additional information regarding the Zoom meeting will be provided on the Town's website no later than July 17, 2020.

The following items of business are scheduled to be addressed by the Biltmore Forest Board of Adjustment on Monday, July 20, 2020 at 4:00 pm in the Town Hall Board Room via Zoom. The format for the meeting and instructions for attending the meeting via Zoom can be found on the second page of this agenda. The link for the Zoom meeting can be found at the bottom of the second page.

1. The meeting will be called to order and roll call taken.
2. The minutes of the June 15, 2020 regular meeting will be considered.
3. Hearing of Cases (Evidentiary Hearings, Deliberations & Determinations).

Case 1: A special use permit is requested for construction of a detached garage at 28 Cedarcliff Road. A variance is requested for location of the garage in the side yard setback.

Case 2: A special use permit is requested for property located at 16 Westwood Road for construction of a deer fence. A variance is requested for location of the deer fence within the side and rear yard setbacks.

Case 3: A special use permit is requested for property located at 20 White Oak Road for accessory structures as part of a landscaping plan. A variance is requested for a parking area in the front yard setback and extension of the driveway into the side yard setback.

Case 4: A variance is requested for a port cochere to be constructed within the rear and side yard setbacks at 375 Vanderbilt Road.

4. Adjourn

Process and Procedure for July 20, 2020 Board of Adjustment Meeting held via Zoom

- All participants attending will be held in the “waiting room” prior to admittance by Town staff. Once admitted into the meeting, please mute audio until called upon by the Board chair.
- The meeting will be called to order at 4:00 p.m. by the Chair. All interested parties and applicants will be virtually sworn-in at this time.
- Each matter will be called forward and Town staff will authorize video and audio for the applicants and any person with standing for that particular case. If an applicant would like to present visual evidence, they must provide this evidence to Town staff no later than Friday, July 17, 2020.
- The Board chair, or other Board of Adjustment member, will specifically ask questions to the applicant and ask for any evidence that they would like to present.
- The Board chair, or other Board of Adjustment member, will then specifically ask for any person with standing for that specific matter to provide comment. Town staff will moderate this comment period but will ensure each person who wishes to speak or provide evidence is able to do so.
- When all evidence and testimony has been provided, the Board will deliberate and render a decision, then move on to the next matter where the process will be repeated.

How to Access the July 20, 2020 Board of Adjustment Meeting via Zoom

In order to access the Board of Adjustment meeting, please visit <http://zoom.us> to sign up, for free, for a Zoom account. This will enable you to participate with your desktop or laptop computer as you see fit. The Zoom link and log-in credentials are at the bottom of this page.

You may also download the free Zoom app from the Apple Store or Google Play on your mobile iOS or Android device. This app will walk you through setting up a free account.

If you are unable to access the meeting through a web or app based format, but would still like to listen and participate in the meeting, you may do so by calling one of the phone numbers listed below and entering the meeting ID and password.

Dial by your location

+1 301 715 8592 US (Germantown)

+1 312 626 6799 US (Chicago)

+1 646 876 9923 US (New York)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 408 638 0968 US (San Jose)

+1 669 900 6833 US (San Jose)

Meeting ID: 847 9842 3360

Password: 704470

Join Zoom Meeting

<https://us02web.zoom.us/j/84798423360?pwd=amZJbVhhYnphaVpvcjJLOFBocTBkdz09>

Meeting ID: 847 9842 3360

Password: 704470

MINUTES OF THE BOARD OF ADJUSTMENT MEETING
HELD MONDAY, JUNE 15, 2020.

The Board of Adjustment met at 4:00 p.m. on Monday, June 15, 2020. The meeting was held virtually via Zoom.

Members present at the Town Hall: Goosmann, Groce, Kieffer, and Pearlman. Members Landau and Chandler attended virtually. Mr. Jonathan Kanipe, Town Manager, Ms. Adrienne Isenhower, Town Planner, and Mr. Harry Buckner, Public Works Director were also present at the Town Hall. Mr. William Clarke, Town Attorney was also present at the Town Hall.

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

Mr. Goosmann swore in the following:

Mr. Brett Fuhrman
Mr. Tom Young
Ms. Joyce Young
Mr. Richard Leader
Ms. Carrie Leader
Mr. Mark Rudolph
Mr. Adam Merrill
Mr. Mark Rudolf
Mr. Jason Norton
Mr. Chris Barlas
Mr. Robert Montague
Mr. David Bevan
Ms. Keagan Cecil
Mr. Chuck Hutchison
Mr. Paul Dismukes
Mr. Sam Olesky
Ms. Laura Olesky
Mr. Mark Connelly
Mr. Charles Reynolds
Ms. Barbara Veach
Mr. Eric Weilbaeher
Ms. Angela Weilbaeher
Mr. Brad Hepner
Mr. Clay Mooney

Mr. Oliver Binns
Ms. Vanessa Binns

A motion was made by Mr. Lowell Pearlman to approve the minutes from February 24, 2020. Ms. Rhoda Groce seconded the motion. The minutes were approved unanimously.

HEARING (Evidentiary):

Mr. Brett Fuhrman, Chief Financial Officer, represented Carolina Day School. The modular units were still in use at the Key School. Mr. Fuhrman said unfortunately these modulars are still needed so they would like to request a five-year extension. Mr. Pearlman asked Mr. Fuhrman if he had any additional comments. Mr. Fuhrman said the modulars are sound structures. Mr. Pearlman asked if Mr. Fuhrman if another extension would be needed five years later. Mr. Fuhrman said the Key School is progressing and trying to get the work done as quickly as possible. Mr. Goosmann asked if Carolina Day School still anticipates removing these after three years or if this is still uncertain at this time. Mr. Fuhrman said it is still uncertain at this time, especially with COVID-19 present. Mr. Goosmann asked if there were any further questions or comments. There were no further questions or comments.

DELIBERATION AND DETERMINATION:

Mr. Pearlman recited the facts and stated a Special Use Permit is requested by Mr. Brett Fuhrman of 1345 Hendersonville Road for a five-year extension of modular classrooms. The modulars were originally approved by the Board in April 2015. Another five-year extension was requested since the original proposal in 2015.

Ms. Lynn Kieffer made a motion to move that a Special Use Permit be granted to Carolina Day School at 1345 Hendersonville Road for a five year extension for using the already placed modular classrooms and the facts as recited by Lowell Pearlman be accepted as findings and facts to support this grant. The Board has inspected this site and no neighboring property owner has

objected. Ms. Kieffer further moved that granting this Special 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 153.110 (C)(2-3) of the above ordinance. The applicant has been informed that he/she 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.

The motion was seconded by Ms. Rhoda Groce and unanimously approved.

HEARING (Evidentiary):

A Special Use Permit is requested for construction of an accessory building at 1 Frith Drive. Mr. Tom Young and Ms. Joyce Young were present. Mr. Steve Bourne the architect was also present representing the applicant. Mr. Bourne was unable to get sworn in due to an audio issue he was having with the Zoom meeting. Ms. Rhoda Groce shepherded the matter. Ms. Groce stated the Board visited 1 Frith Drive and asked for Mr. & Ms. Young to give an overview of what they are proposing to have done. Mr. Young stated they would like to have a two-car garage installed with one door. In addition, a small “bump out” room would be constructed on the side toward the backyard. It will be the same elevation as the existing driveway. There will be no plumbing except for a hose bib outside. The driveway would extend into the paved area of the garage. It will not be visible from the road. This will not encroach in the setback. There will be a small retaining wall constructed as well which is part of the plan. Mr. Young said additional landscaping will be added if needed.

DELIBERATION AND DETERMINATION:

Ms. Rhoda Groce recited the facts and stated a Special Use Permit is requested by Mr. Tom Young & Ms. Joyce Young of 1 Frith Drive for construction of an accessory building which will be 750 square feet. The building will be the same architectural style as the residential home. The

driveway will also be expanded 340 feet and will not encroach on any setback. It will be located behind the primary dwelling. The homeowners have agreed to place additional buffering if needed. Dr. Rich Landau clarified the driveway will add an additional 340 square feet. There were no additional comments.

Mr. Lowell Pearlman made a motion that a Special Use Permit be granted to Mr. Tom Young and Ms. Joyce Young at 1 Frith Drive and the facts as recited by Ms. Rhoda Groce and her summation be accepted as findings and facts to support this grant. The Board has inspected this site and no neighboring property owner has objected. Mr. Pearlman further moved that granting this Special 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 153.110 (C)(2-3) of the above ordinance. The applicant has been informed that he/she 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.

The motion was seconded by Ms. Lynn Kieffer and unanimously approved.

HEARING (Evidentiary):

A Special Use Permit is requested for construction of a stone column mailbox at 3 Eastwood Road. Ms. Lynn Kieffer shepherded the matter and asked for a description of the potential project. Ms. Leader said there is currently a mailbox at the front of the driveway and they would like to replace it with a stone column mailbox to make it more attractive. Ms. Kieffer verified the structure was 38 inches square and 56 inches high. Ms. Leader said yes. Ms. Kieffer asked where the column will be placed at the end of the drive from the edge of the road. Mr. Leader

said the current one will be removed from the road and will adhere to the United States Postal Service guidelines. Mr. Leader said it would be roughly three feet off the edge of the street.

Mr. Goosmann asked Mr. Kanipe what the right-of-way is along Eastwood Road. Mr. Kanipe said the right-of-way from the edge of the pavement is five feet. Mr. Kanipe asked the homeowners if they would be willing to move the mailbox two feet further back in order to meet the five-foot threshold. Mr. Leader said no. Ms. Kieffer verified that Mr. Leader said no. Once again, Mr. Leader said no. Dr. Landau asked what Mr. Leader's reasoning was for saying no. Mr. Leader said the postal service vehicles have a driver on the right side of the vehicle as opposed to the standard vehicle that is driven in the United States. Mr. Leader would like to comply with the guidelines of the postal service. Mr. Leader said this would be the most simple and cost efficient way of having their mail delivered. Mr. Leader said any other way would be far more complicated.

Mr. Clarke referenced North Carolina General Statute 160A-296. Mr. Clarke agreed that the postal service has regulations but the Town has issues in the past with structures in the right-of-way. Mr. Clarke said he would be reluctant to have the Board of Adjustment approve a stone structure within the right-of-way of Eastwood Road.

Ms. Kieffer said a 38-inch square stone structure would interfere and would provide more of an obstacle than just a mailbox at this placement. Mr. Leader asked what would define an obstacle. Mr. Clarke responded with an example if someone were driving and slid off the road into the potential structure; this person could make a claim against the Town for having an obstruction in the right-of-way. Ms. Kieffer added this has happened in the Town before. Mr. Leader said the *Citizen-Times* newspaper boxes could also cause an accident. Mr. Leader said trees are also a threat. Mr. Clarke said the Town has a program where trees are removed if they are obstructing the right-of-way. Mr. Clarke also said the *Citizen-Times* boxes are much less of an obstruction. Mr. Leader asked Mr. Clarke what the speed limit is on Eastwood Road. Mr. Clarke said the speed limit is 25 mph. Ms. Kieffer said since Mr. & Ms. Leader are the first house off Hendersonville Road, one may like to think people drive the speed limit, but this doesn't always happen.

Ms. Kieffer asked how Mr. and Mrs. Leader would like to proceed. Mr. Leader said they would like to keep their current mailbox. Ms. Kieffer said the request would be withdrawn. Ms. Kieffer said they could bring back the application that would meet the guidelines. Mr. Leader asked for the application to remain in front of the Board and requested a vote on the matter.

DELIBERATION AND DETERMINATION:

Ms. Kieffer recited the facts and stated Mr. Richard Leader and Ms. Carrie Leader of 3 Eastwood Road are requesting a Special Use Permit for a stone mailbox which is 38 inches square and 56 inches high that would be located within the right of way of the Town which would be about three feet from the edge of the pavement. Mr. Leader added the mailbox would be built around the current mailbox location which has been there for three years and hasn't caused a problem.

Ms. Rhoda Groce moved that a Special Use Permit be granted to Mr. Richard Leader and Ms. Carrie Leader of 3 Eastwood Road for a 38 inches square by 56 inches high stone mailbox within the Town's right of way and the facts as recited by Ms. Lynn Kieffer and her summation be accepted as findings and facts to support this grant. The Board has inspected this site and no neighboring property owner has objected. Ms. Groce further moved that granting this Special 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 153.110 (C)(2-3) of the above ordinance. The applicant has been informed that he/she 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.

There was no second to the motion by any of the Board members. Mr. Goosmann said there was a lack of a second motion and the case was denied.

HEARING (Evidentiary):

A Variance is requested for 57 Chauncey Circle for exceeding the maximum allowed roof coverage. The matter was shepherded by Mr. Robert Chandler. Mr. Adam Merrill, Mr. Mark Rudolf, and Mr. Jason Norton represented the homeowner. Mr. Chandler said this originally started with new construction. The homeowner has requested 110 square feet over the maximum roof coverage exceeds by 2.8% overage.

One of the interior doors needs additional roof coverage for protection and ensuring the warranty is maintained on the door. In general, the overall square footage of the house is modest, but the applicant has requested additional roof coverage. They are also well under the impervious surface area. The location of the area that is being added on to is completely obscured from the road and neighbors. There is a large sliding door that has minimal threshold to it and the interest in protecting that, and maintaining the warranty was to give extra coverage to that by preventing as much rainwater splatter as possible to that threshold area.

DELIBERATION AND DETERMINATION:

Mr. Chandler recited the facts and said 57 Chauncey Circle is applying for a Variance to exceed the maximum roof coverage. The new proposed roof coverage is 4,789 square feet or 110 square feet over the maximum allowed. The request is for an overage of 2.8%. The overage of the roof results in the extension of the master bedroom and a sliding door and the reason and hardship wanting to do this is for aging in place including product warranty on the door as needed for that area. Impervious coverage is not an issue. Mr. Norton added the structure has a green roof on a section of it. The square footage of the green roof is in excess of the variance requested. There were no additional questions about the proposal.

Ms. Lynn Kieffer moved that a Variance as requested be granted to Chris Barlas of 57 Chauncey Circle for 2.8% overage roof coverage and the facts as recited by Robert Chandler be accepted as findings and facts to support this grant. The Board has inspected this site and no neighboring property owner has objected. Further, Ms. Kieffer moved that granting a Variance satisfies the applicable Sections of 153.110(D) and paragraphs one through four, and would not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would, in this case, result in a practical difficulty or unnecessary hardship. She further moved the Board to find that the spirit of the ordinance would be observed, public safety and welfare secured and substantial justice done. The applicant has been informed that he/she 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.

Mr. Lowell Pearlman seconded the motion. The motion was unanimously approved.

HEARING (Evidentiary):

A Special Use Permit is requested for property located at 1 Hilltop Road for replacement of a chain link fence with a wrought iron fence. Dr. Landau shepherded the case. Mr. Robert Montague represented the homeowner. On the east side of the property, there is a carport and circular driveway. A fence is requested to be placed in this area to give the homeowner more privacy. It would be a horizontal wood structure and would have a gate and open up to the backyard. It would extend to the back corner of the existing carport. It would meet up with the existing chain link fence which would then be covered up with plant material. On the back of the property, plant material will be placed to cover the neighbor's chain link fence. There are two fences on the west side of the property; one is an existing chain link fence, the other fence is an old farm fence. The proposal is to replace the old farm fence and take down the chain link fence and replace with an aluminum fence.

Mr. David Bevan asked if the fences would be replaced or relocated. Mr. Montague said the fencing will be approximately 25-30 feet from Mr. Bevan's property line. Mr. Bevan approved the proposal.

DELIBERATION AND DETERMINATION:

Dr. Landau recited the facts and stated that Mr. Robert Montague representing Mr. Marshall King at 1 Hilltop Road is requesting a replacement of an existing fence. The fence will tie into a neighbor's fence. Various materials will be used at different locations. Buffering will be placed as well. Mr. Bevan, an adjacent property owner, approved the project and no neighboring property owner has objected.

Rhoda Groce moved that a Special Use Permit be granted to Marshall King of 1 Hilltop Road for replacement of a chain link fence with materially compliant fence and the facts as recited by Dr. Richard Landau and his summation be accepted as findings and facts to support this grant. The Board has inspected the site and no neighboring property owner has objected. Ms. Groce further moved that granting this Special 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 153.110 (C)(2-3) of the above ordinance. The applicant has been informed that he/she 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.

The motion was seconded by Ms. Lynn Kieffer and unanimously approved.

HEARING (Evidentiary):

A Special Use Permit is requested for property located at 85 Forest Road for construction of a deer fence. A Variance is requested for location of the deer fence within the side and rear yard setbacks. Mr. Lowell Pearlman shepherded the matter. Ms. Keagan Cecil said they would like to have a fence built along the perimeter of the back yard. The property borders the Biltmore Estate. A deer fence would be placed along the perimeter of the back yard. It would not be visible from the road.

It will connect to the back part of the house and it would be within one yard of the property line along the setback. The Variance is requested because a portion of the fence would encroach into the setback line in the rear. Mr. Pearlman asked if they would be willing to change it to where it would not encroach on the setback line. Ms. Cecil asked Mr. Pearlman to explain the setback requirement. Mr. Kanipe said the setback requirement for the side yard is 20 feet and the rear yard is 25 feet. The Variance in the rear yard setback would actually attach to the Biltmore Estate fence that is existing. Mr. Kanipe said the homeowner has already been given permission to do that. The second portion of it is on an adjoining property owner's side. It would be located one foot off that property line setback back on the side. Ms. Cecil said it would not be ideal to do the 20 feet on the side and 25 feet in the rear. Ms. Cecil said they would be cutting out a lot of their property. Ms. Cecil asked the Board about a deer fence approval for 7 Frith Drive that was approved last year on the perimeter of their property and was within one foot of adjoining neighboring property.

Mr. Kanipe told Ms. Cecil that in the case with 7 Frith Drive, this was an existing fence that was being replaced so it was a different circumstance.

DELIBERATION AND DETERMINATION:

Ms. Cecil decided to withdraw her application for now and come back with a new proposal. The matter was tabled.

HEARING (Evidentiary):

A Special Use Permit is requested for construction of a fence and driveway gate at 8 Westwood Road. A Variance is requested for location of the fence in the front yard setback, as well as extension of fencing to connect with fencing located in the setback. Ms. Rhoda Groce shepherded the matter. Mr. Hutchison is asking for a Variance to extend the side fence on both sides of his property as well as a Variance for the distance on the front of the property. The plant material would conceal both sides of the fence.

Ms. Groce said our current regulations do not approve fencing in the front yard. Mr. Clarke said accessory structures and fences are not allowed in the front. Mr. Hutchison asked if there were any fences erected within the past five years. Mr. Clarke said there are some homes with front yard fences but was unsure when they were erected. Mr. Clarke said the Board of Commissioners has recently amended the fence ordinance and makes it pretty clear fences are not allowed in front yards. Mr. Clarke said Mr. Hutchison is allowed to ask for a Variance but the Ordinance prohibits fences in the front yard.

Ms. Kieffer said to Mr. Hutchison that he currently has a temporary fence, which runs along the front. Mr. Hutchison agreed but said it doesn't look as aesthetically pleasing as a permanent fence would. Ms. Groce said it would be an issue of visibility on Westwood Road. Ms. Kieffer said as far as the gate goes, has Mr. Hutchison considered a cattle gate. Mr. Hutchison said yes, as a last resort. He does not find cattle gates attractive. Mr. Hutchison asked if the fence were not visible at all, would the Board members approve the front yard fence. Ms. Groce said front yard fences are not allowed.

Mr. Clarke said it is acceptable for Mr. Hutchison to have a temporary fence in the front yard. Mr. Clarke wasn't sure how long temporary is defined as but it sounds like the current fencing is protecting his plants. Mr. Hutchison said it was erected to keep deer out and he wanted to put the fence up to get feedback and see if there are any issues or concerns from residents/neighbors. To Mr. Hutchison's knowledge, he has not heard any feedback.

Dr. Landau says this does put the Board in a very difficult position because front yard fencing is not allowed. It also opens the door to other people putting front yard structures in their front yard who may not be as diligent as Mr. Hutchison. Dr. Landau said Mr. Hutchison might want to withdraw the application for now and talk to neighbors about their current thoughts about this matter. Dr. Landau does not think that as members of the Board of Adjustment have any options but to enforce the existing rule; he does not like it, but this is what they have to do at this time. Mr. Hutchison appreciated the comments.

Ms. Kieffer also suggested talking to the Board of Commissioners. Ms. Kieffer suggesting tabling the matter and going to the Board of Commissioners or just sticking with the temporary fence. Dr. Landau also suggested speaking with the Board of Commissioners as well. Mr. Goosmann asked if there were any additional comments.

Mr. Hutchison decided to withdraw the proposal and will come back to the Board later.

Dr. Landau asked if there was a way to make the temporary fence less visible to the neighbors. Mr. Hutchison said he can landscape his neighbors' side of the fence so the temporary fence won't be visible. Mr. Paul Dismukes inquired about an easement at this property. Mr. Goosmann said there was no easement discussed. Mr. Goosmann said this is regarding Mr. Hutchison possibly allowing a temporary fence or some other proposal. Mr. Goosmann said Mr. Hutchison may need to seek approval from the Board of Commissioners to allow something to be altered in the existing Ordinance.

DELIBERATION AND DETERMINATION:

Mr. Hutchison said within the next 30 days, he would have a discussion with Mayor Goosmann for the proposal in accepting this request to change the Ordinance. When Mayor Goosmann gives Mr. Hutchison an idea, Mr. Hutchison will use this as his temporary timeline.

Mr. Hutchison withdrew his request and will resubmit a new proposal at the next Board of Adjustment meeting. Mr. Goosmann asked if Mr. Dismukes was comfortable with this. Mr. Dismukes said yes. There were no further questions or concerns regarding this proposal.

HEARING (Evidentiary):

The next matter was regarding a review of required landscaping for new house construction at 22 Cedarcliff Road. Ms. Lynn Kieffer shepherded the matter. Mr. Olesky said they are looking for a review of the Variance they were granted for their retaining wall for the parking space next to their workshop. Mr. Connelly said there are two plans for the Board to look at. The idea is to provide a buffer as dense as possible but also make sure the plant species do not overcrowd themselves. It would be a space of approximately 120-140 feet. There would be approximately 14-16 trees. It would consist of fast growing trees, which means they may grow up to three feet per year. All of the trees are evergreen. If there were cooperation from the neighbor, they would like to space the landscaping in a triangular pattern. This would make the planting denser. The stand-alone version would be to stick to the Olesky property.

Ms. Kieffer asked when the house construction would be completed. The completion of the construction would be approximately September or October. Ms. Kieffer said she had doubts anything would be done until the construction of the retaining wall is complete. Mr. Olesky asked if the Board could clarify as early as possible if the wall needs to be moved, it would be very helpful and take up much less time and expense.

Ms. Kieffer clarified there are two different types of plans, one is on the Olesky property and the other one is a plan where there is a staggering of trees on the Reynolds' property. The Reynolds' also want the retaining wall moved. Mr. Clarke said this is a tough issue for the Board because they issued a Variance and Special Use Permit for the project. One of the conditions was the landscaping be sufficient and satisfactory to the neighbor (Reynolds). It is difficult for the Board to make a determination if the landscaping is sufficient until the landscaping is actually put in. Mr. Clarke suggested not making a ruling at this time.

Mr. Goosmann said as a Board, they cannot require any work to be done on the Reynolds' side without their permission. The Board's decision did not require any landscaping on the

Reynolds' property, it required the landscaping to be placed on the Olesky property. Mr. Clarke said a ruling cannot be made until the construction is done and an actual plan is proposed.

Mr. Kanipe confirmed with Ms. Barbara Veach that she and the Oleskys worked together in the fall in terms of coming up with a plan. Any overall landscaping plan should be looked at by the Veaches and signed off before any kind of plans were finalized. Ms. Veach agreed with Mr. Kanipe and said that is correct. Mr. Kanipe said there should be some type of plan from the Oleskys that is agreeable to both neighbors. At that point, the Board wouldn't really have to make any type of determination.

Mr. Reynolds said he believed what the Oleskys are asking for is some kind of guidance as to what will happen so the Oleskys don't have to spend more money if something is going to change. Mr. Reynolds said this was a fair request. Mr. Reynolds said his landscape person indicated neither plan will work or satisfy the buffering requirements. Mr. Reynolds believes the landscaping will eventually fail due to the trees being too tight together. Mr. Reynolds said in February 2019 he didn't see this plan working. Mr. Reynolds was also against the parking spot saying there is not enough room.

Ms. Kieffer asked Mr. Reynolds if he is totally opposed to the landscaping. Mr. Reynolds said a plan should be created for both parties. Mr. Reynolds said there is not enough land or dirt for this parking spot. Mr. Reynolds said he stated this for the past 15 months. Mr. Reynolds said this landscaping plan will not work. Mr. Reynolds said the Oleskys are free to try the plan if they want to.

Ms. Kieffer said the Variance has already been granted. Ms. Kieffer also stated Mr. Clarke suggested that it is not reasonable to pull the Variance after it was granted. Mr. Reynolds said the Variance also included saying that the area had to be heavily landscaped and meet Mr. Reynold's satisfaction. Mr. Clarke said that is the correct language that was stated but the Board cannot make a determination based on the three sets of plans. Mr. Clarke said it would be great to get Mr. Reynold's landscaper to put in writing stating the plan will not work. Mr. Kanipe said this information is in the packet. The Board doesn't have sufficient evidence to say that the plan will not work. The Board cannot make this determination tonight.

Mr. Pearlman wants clarification on what the options are. Mr. Clarke said the Variance can be revoked or no action can be taken. Mr. Pearlman wanted to know what would happen if no action was taken. Mr. Clarke said it doesn't prevent Mr. Reynolds from coming back and saying the landscaping isn't sufficient. Mr. Reynolds can come back once he sees what the plans will look like.

Mr. Goosmann said the Oleskys can proceed and put in the landscaping by coming back with a plan. Mr. Clarke said a Variance has been granted.

Dr. Landau said he doesn't feel like he has enough evidence to make a decision. Dr. Landau wanted to know if additional buffering could be done on Mr. Reynolds property. Mr. Reynolds said when the Variance was granted, it didn't say the landscaping would be on his property. Mr. Reynolds doesn't feel he should have to lose property so the Variance can be met. Mr. Reynolds didn't find it appropriate. Mr. Pearlman said the Oleskys need to solve this problem. Mr. Reynolds said there is not enough footage to properly put in plants in order to create privacy so the trees can get a proper amount of sun. As far as the motor court, Mr. Reynolds is willing to work with the Oleskys. Mr. Reynolds feels there is not enough area for the parking space. Mr. Reynolds said B.B. Barnes said it will fail. Mr. Reynolds said he will see this fail and he doesn't want the Oleskys to spend money on something that will fail.

Ms. Kieffer asked Mr. Reynolds if the Oleskys are willing to get rid of the Norway spruce tree that does not provide buffering and replace with landscaping that would work. Ms. Kieffer said the Variance has already been approved and asked if he can work something out with the Oleskys where a plan would work. Mr. Reynolds said the Norway spruce will die and the tree needs to be removed. Mr. Reynolds said the plan will not work and he can see from every room in his house and he can see every aspect of the construction. A single line of trees will not create enough privacy. Ms. Kieffer asked Mr. Reynolds if some of that staggering could spill over and have something planted in this area where it was fast growing, would Mr. Reynolds approve this buffering. Mr. Reynolds said the trees will not grow properly die to not getting enough sun. Mr. Reynolds said there is not enough real estate there.

Mr. Olesky what the level of buffering is required from them if the retaining wall is moved. Mr. Clarke said a Special Use Permit would be required and the Board can require buffering. Mr.

Clarke said if Mr. Olesky wanted to come back with this proposal, the Board could consider it. Mr. Reynolds said in order for him to be satisfied, the parking spot will have to be taken out.

DELIBERATION AND DETERMINATION:

Mr. Olesky said they will table the matter for now. Ms. Veach said they are looking forward to seeing the plans from the Oleskys.

HEARING (Evidentiary):

A Special Use Permit was requested for construction of a detached garage at 28 Cedarcliff Road. A Variance is requested for location of the garage in the side yard setback. Mr. Robert Chandler shepherded the case. It will be a primary renovation and expansion of the house. The living room, main floor master, garage rework, and a proposed porte cochere will be placed in the current location of the driveway, which is in the side yard setback. The projection into the setback is 7.5 feet, which there is a request in reduction from 20 feet to 12.5 feet. There is an existing retaining wall. They are proposing to revise the existing retaining wall. If need be, they can work within that footprint for the majority of that location.

Ms. Kieffer asked if anyone has heard from the neighbors. Mr. Kanipe has not heard anything from the neighbors. Ms. Kieffer asked if the Weilbaechers discussed this proposal with their neighbors. Ms. Weilbaecher said no. Ms. Kieffer asked if the retaining wall would intrude into the setback. Mr. Kanipe said yes. The current retaining wall is also currently in the setback. An existing retaining wall will be torn down and replaced. Because of the configuration of the new garage, the proposed retaining wall is longer than the existing retaining wall. Ms. Groce added that it goes further in as well.

Mr. Pearlman asked what the hardship is to move this retaining wall. Mr. Clarke said given the configuration of the lot and the topography on the other side, one could make an argument that due to the existing site conditions, an undue hardship if you weren't allowed to replace the retaining wall with further encroaching in the Variance. Mr. Clarke said it would be helpful to

know how the neighbor on that side of the property felt about this. Mr. Clarke said this could qualify as a sufficient hardship due to the existing retaining wall already at this location.

Mr. Goosmann asked if the replacement of the existing retaining wall to go closer to the line for the sole purpose of the proposed house or garage that is going to go at the rear. Mr. Goosmann also asked if it is possible if the garage indents further into the property and replace where the existing retaining wall currently encroaches. Mr. Hepner said it is possible to maintain the existing footprint of the existing retaining wall. Mr. Goosmann said if it did that and stayed where the existing wall was, it seems like it would be like replacing an existing wall and the Board may be more inclined to agree to this. Mr. Hepner said this is reasonable and they could possibly get this to work.

DELIBERATION AND DETERMINATION:

The matter was tabled until next month so they could discuss it with the neighbor and look hard at minimizing any encroachment.

HEARING (Evidentiary):

A Variance is requested for property located at 24 Ridgefield Place for construction of an attached garage in the front yard setback and for exceeding the maximum allowed roof coverage. The matter was shepherded by Mr. Pearlman. Mr. Mooney clarified the impervious area and the roof area will not exceed what is allowed. However, the front setback will be intruded by two feet. It will be a renovation for a house that was built in 1955. It will be a standard length garage of 22 feet. Two additional parking spaces will also be replaced where the old driveway was so they can enter and exit the house in a safe manner.

DELIBERATION AND DETERMINATION:

Mr. Pearlman recited the facts. Roberta Blecke is applying for a Variance for an attached garage at 24 Ridgefield Place. This garage will extend two more feet into the front setback requirement. The Variance is based on safety hazards and entering/exiting the egress of 24

Ridgefield Place. Mr. Clarke added they will add grass to replace the existing driveway. There were no addition to the facts.

A motion was made by Mr. Robert Chandler and requested a Variance be granted to Roberta Blecke of 24 Ridgefield Place for the construction of an attached garage. The garage will extend two more feet into the front setback requirement and the facts as recited by Lowell Pearlman be accepted as findings and facts to support this grant. The Board has inspected this site and no neighboring property owner has objected. Further, Mr. Chandler moved that granting a Variance satisfies the applicable Sections of 153.110(D) and paragraphs one through four, and would not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would, in this case, result in a practical difficulty or unnecessary hardship. She further moved the Board to find that the spirit of the ordinance would be observed, public safety and welfare secured and substantial justice done. The applicant has been informed that he/she 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.

The motion was seconded by Ms. Rhoda Groce and unanimously approved.

HEARING (Evidentiary):

A Special Use Permit is requested for construction of raised rock garden/landscaping beds at 3 Cedar Chine. A Variance is requested for location of the raised rock garden/landscaping beds in the front yard setback. Mr. Goosmann mentioned that he has a legal relationship with the applicant and Mr. Goosmann will not offer any comment or vote. Ms. Rhoda Groce shepherded the case. The Juniper bushes were they previously had were a safety hazard. The max height of the landscaping beds are 21 inches. The reason for raising the beds is that the property is slightly below grade and everything that washes off the road adds to poor quality soil. They are trying to keep the plants and the grass down alive.

Ms. Groce said there were 18 letters that were submitted in support of this project however, the beds are in the Town's right of way. Ms. Groce said they are jeopardizing the Town to a lawsuit because the stone is in the Town right of way. Ms. Binns pointed out said there is nothing in the Town Ordinances that say a landscaping bed cannot be placed by the road. Ms. Groce said, the Binns' should have gotten permission before doing this project and this is always encouraged.

Mr. Clarke said at least a portion of these beds is in the right of way of Cedar Chine and the right of way there is ten feet. The North Carolina General Statute 160A-296, which imposes a duty on the Town to keep the public streets, sidewalks, alleys, and bridges open for travel and free from unnecessary obstructions. The Town was involved in a lawsuit five or six years ago where there was an obstruction in the right of way and there was a serious accident. Essentially the law states if the right of way is not kept free from obstructions, one can be sued for negligence. The Board cannot allow this obstruction in the Town's right of way.

Mr. Kanipe added that the right of way is not all the same within the Town. The newer side of Town have ten-foot rights of way off the edge of the pavement. The older section of Town are five feet of the edge of the pavement. There are some places where the rights of way are not the same.

Ms. Kieffer asked how far off the pavement the beds are. Ms. Binns said they are 3.5 feet from the pavement.

Mr. Pearlman said knowing the facts as they are now known, Mr. Pearlman is not willing to place the Town of Biltmore Forest in legal liability. Mr. Pearlman does not support this.

Ms. Binns said the primary reason they created this project was for safety purposes when they removed the juniper bushes. Dr. Landau indicated the Board did not feel good about this at all, but the Board is in a very difficult position when the Attorney says they cannot approve it.

Ms. Binns said the Town right of way is not listed in the Ordinances and discussed prior projects that were approved within the setback.

Ms. Binns said her and Mr. Binns did their due diligence before starting this project and have spent thousands of dollars on this.

Mr. Kanipe referred to Section 91.02 C (2) in the Town Code of Ordinances which states, “The construction of curbing or obstructions across the town right-of-way is prohibited.” Ms. Binns asked Mr. Kanipe what the Town’s right-of-way is. Mr. Kanipe said it does not state a specific number.

Ms. Binns referred to Section 153.060, which states, “Improve standards for quantity, location, size, spacing, protection, and maintenance of plants and other screening materials to assure a high level of quality in the appearance of the town while allowing flexibility to promote well-designed and creative landscape plantings.” Ms. Binns said that is the only statement she saw in the Ordinances the applied to this project. Ms. Binns said the Ordinances need to be updated.

DELIBERATION AND DETERMINATION:

Mr. Goosmann said the beds have to be pulled back about five or six feet and then they could stay. Mr. Goosmann said he doesn’t know of another option as to how this current project would be approved. Mr. Binns thanked the Board for their time. Mr. Binns asked for a motion to amend the Ordinances so they are clearer. Mr. Clarke said the Board of Adjustment does not write the Ordinances, the Board of Commissioners writes the Ordinances. Mr. Clarke said the Binns’ can make a request to the Board of Commissioners. Mr. Binns thanked the Board for their time.

Chairman Goosmann adjourned the meeting at 6:59 pm. The next Board of Adjustment meeting was scheduled for Monday, July 20, 2020 at 4:00 pm.

ATTEST:

Greg Goosmann
Chairman

Laura Jacobs
Town Clerk

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 (28 Cedarcliff Road)
Date: July 12, 2020

Request for a Special Use Permit for Construction of an Accessory Building Request for a Variance for Reduction of the Side Yard Setback

A special use permit for construction of a three-car garage which will be attached to the primary residence via an open air walkway. The overall plan includes the demolition and rebuilding of a garage behind the house which will require extension of the current driveway into a proposed auto court. The access to the auto court and garage area will be in line with the current driveway where a porte cochere is planned.

A variance is requested for location of the porte cochere in the side yard setback. The placement of the porte cochere is based on the location of the current driveway, which is already located within the side yard setback. All roof coverage and impervious surface requirements are in compliance with ordinance requirements.

Note: This application was reviewed by the Board of Adjustment during last month's meeting. The Board requested feedback and information being provided to the adjoining property owner at 30 Cedarcliff Road. The applicants have done so and provided a letter to this effect from the property owner at 30 Cedarcliff Road. I also received a note from the adjoining property owner at 26 Cedarcliff Road who reviewed the plans and did not have any concern with the proposal.

Zoning Compliance Application

Town of Biltmore Forest

Name

Derek Weilbaecher

Property Address

3785 N Stratford Rd NE

Phone

(404) 433-0043

Email

derekweilbaecher@hotmail.com

Parcel ID/PIN Number

9647-62-3364

ZONING INFORMATION

Current Zoning

R-1

Lot Size

1.77 acre

Maximum Roof Coverage

6,100 square feet (Up to 2 acres)

Proposed Roof Coverage Total

6039.75 sf

Maximum Impervious Surface Coverage

1-3 acres (25 percent of lot area)

Proposed Impervious Surface Coverage

13406.75

Front Yard Setback

60 feet (R-1 District)

Side Yard Setback

20 feet (R-1 District)

Rear Yard Setback

25 feet (R-1 District)

Building Height

20'

Description of the Proposed Project

Addition and improvements to existing home to include a proposed expansion of the kitchen, living, and master suite, proposed porte cochere, and the demolition of the existing two-car garage and replacement with a proposed three-car garage and the breezeway connected to the primary dwelling.

Estimated Start Date

6/1/2020

Estimated Completion Date

2/28/2021

Estimated Cost of Project

\$900,000.00

Supporting Documentation (Site Plan, Drawings, Other Information)

19117 Weilbaecher Zoning Review 04-20-2020 (1).pdf

Applicant Signature

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Date

4/28/2020



VARIANCE APPLICATION

Town of Biltmore Forest

Name

Derek Weilbaecher

Address

28 Cedarcliff Rd

Phone

(404) 433-0043

Email

derekweilbaecher@hotmail.com

Current Zoning/Use

Requested Use

APPLICATION REQUIREMENTS: An application to the Board of Adjustment for a variance must be submitted to the Town of Biltmore Forest Town Manager at least 21 days prior to the meeting at which the application will be considered. A pre-application meeting with Town staff is required prior to application submittal to the Board of Adjustment.

What would you like to do with your property?

As part of our home renovation plans, we are requesting a reduction of the side yard setback from 20'-0" to 12' - 6" to allow for an open-air porte Co here, which will be attached to the primary residence.

What does the ordinance require?

The ordinance requires a 20' - 0" side yard setback.

BOARD OF ADJUSTMENT: N.C.G.S. 160A-388(D) requires that the Board of Adjustment shall vary the provisions of the Zoning Ordinance only upon a showing of ALL the items below. The Board of Adjustment must follow strict procedure and all determinations must be decided by a concurring vote of four-fifths of the members of the Board. It is important to provide detailed supporting documentation for the Board of Adjustment to review. If necessary, additional sheets may be attached to this application.

REQUIRED FINDINGS: Please provide a thorough response to each.

Unnecessary hardship would result from the strict application of the ordinance.

The primary purpose of the proposed porte cochere is to provide a secure and sheltered means of entering and exiting the home that does not currently exist. The structure would 1) protect the family in times of severe or inclement weather when arriving and leaving the home, 2) provide a point at which the property can be better secured from gaining access to the rear of the home, and 3) further screen views from the public right-of-way to the autocourt and garage.

The hardship results from conditions that are peculiar to the property, such as location, size, or topography.

The shape of the lot, the position of the existing house, and the topography of the lot create a hardship necessitating the variance request.

1) The lot is much narrower at the rear than at the street causing the side yard setbacks to angle inward to the lot, making the buildable area much less at the location of the existing home.

2) The location of the existing home is severely offset toward the southwest side yard setback.

Additionally, the home is not positioned parallel to the side yard setback, and thus magnifies the restriction of the setback. Had the home been positioned parallel to the side yard setback, a variance may have been avoided.

3) Along the northeast side of the property where greater room exists between the home and the side yard setback, the topography drops off significantly and would require significant retaining walls, grading, and loss of trees to locate a structure on that side of the home.

The hardship did not result from actions taken by the applicant or the property owner.

No work has been done to the property since the current owners have taken possession in the Fall of 2019.

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.

If granted, the requested variance would remain consistent with the spirit of current ordinances in that the proposed porte cochere would not negatively impact neighboring properties.

- 1) It would allow for continued access to daylight, views, and air within the property and to the adjacent neighbors.
- 2) It would provide additional security to the residents in their daily use of the property, and further their ability to secure their property, persons, and possessions.
- 3) The additions and improvements to the property would protect against future blight and secure the value and architectural standards of the neighborhood.D

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

Signature

Date

4/6/2020

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right, positioned over a thin horizontal line.

Special Use Permit Application

Town of Biltmore Forest

Name

Derek Weilbaecher

Address

28 Cedarcliff Rd, Biltmore Forest, NC 28803

Phone

(404) 433-0043

Email

derekweilbaecher@hotmail.com

Please select the type of special use you are applying for:

Accessory Structures

The applicant must show that the proposed use will not materially endanger public health or safety or injure value of adjoining or abutting property. In addition, the proposed use must be in general conformity with the plan of development of the town and be in harmony with scale, bulk, height, coverage, density, and character of the neighborhood.

Please provide a description of the proposed project:

Addition and improvements to existing home to include a proposed expansion of the kitchen, living, and master suite, proposed porte cochere, and the demolition of the existing two-car garage and replacement with a proposed three-car garage and breezeway connected to primary dwelling.

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

The proposed project aims to improve the security and utility of the property, while at the same time beautifying the property.

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

Signature



Date

4/28/2020

The
WEILBAECHER RESIDENCE

28 Cedarcliff Road • Biltmore Forest • North Carolina 28803

ARCHITECT

BRADLEY E HEPPNER ARCHITECTURE, LLC

574 Hascall Road

Atlanta, GA 30309

404-745-9339

brad@bradleyheppner.com

NOTES

These drawings are the property of Bradley E. Heppner Architecture, LLC and may not be used or reproduced in part or whole without written permission from Bradley E. Heppner

Bradley E. Heppner Architecture, LLC assumes no liability for any structure constructed from these drawings. It is the responsibility of the purchaser of these drawings to acquire the services of a qualified contractor licensed where applicable. The contractor shall be responsible for including, but not limited to, the following prior to the commencement of construction.

1. Contractor must verify all dimensions prior to proceeding with construction or ordering materials in order to identify any and all discrepancies between the drawings and the field conditions.
2. Contractor must verify compliance with all applicable codes and regulations for the jurisdiction in which the structure is to be constructed.
3. The contractor must address all site conditions, structural, mechanical, electrical, plumbing, and other engineering requirements.
4. Any discrepancies, inconsistencies, or ambiguities found within the drawings, or between the drawings, specifications, and site conditions shall be immediately reported to the Architect. The Architect will promptly correct the same in writing. Work done by the contractor after the discovery of such discrepancies, inconsistencies, or ambiguities shall be done at the contractor's risk.
5. The contractor is responsible for construction details and quality of fit and finish that meet or exceed industry standards.

These drawings should consist of the following sheets:

LIST OF DRAWINGS

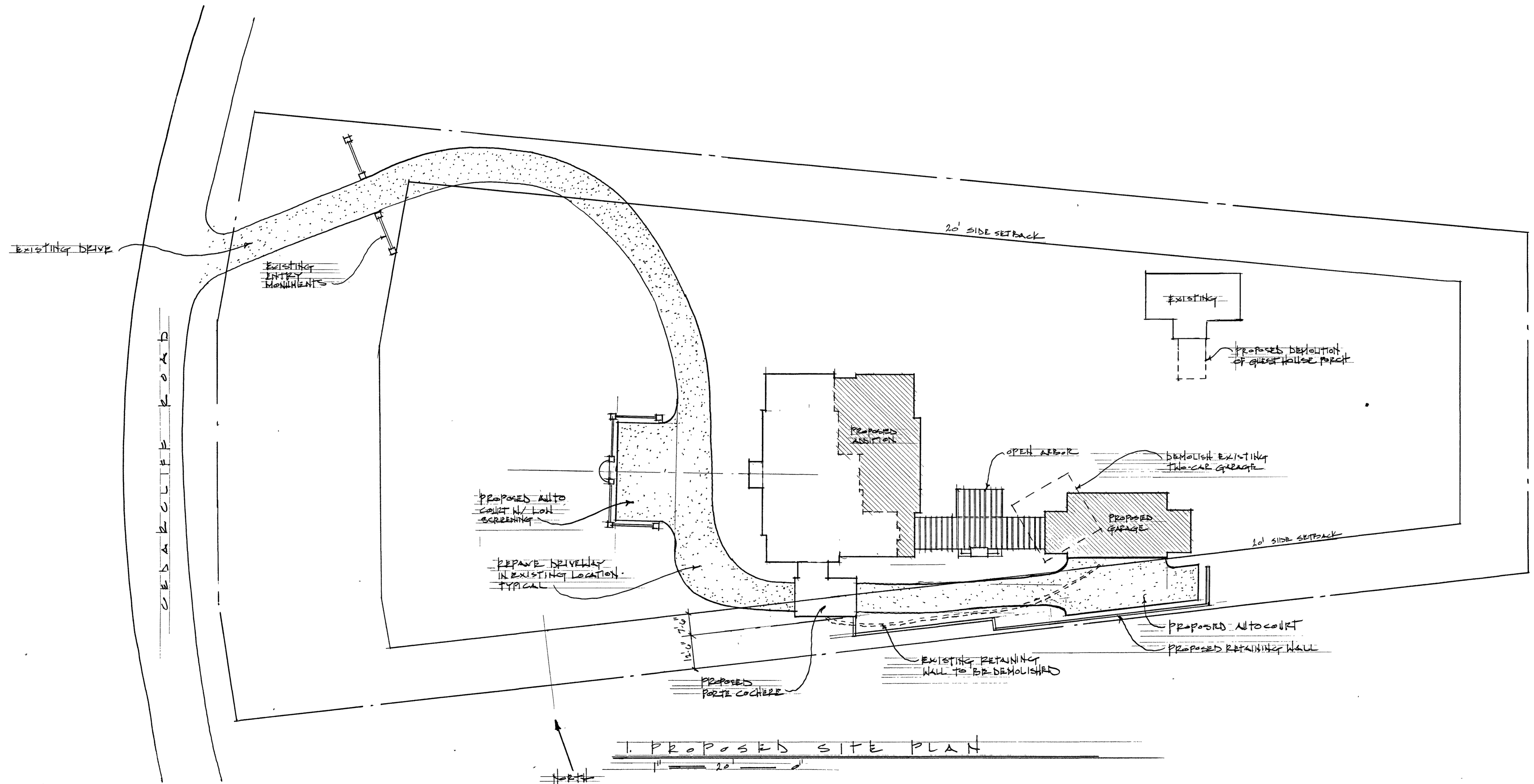
COVER SHEET

C1.1	PROPOSED SITE PLAN
AB1.1	ASBUILT MAIN LEVEL FLOOR PLAN
A1.1	PROPOSED MAIN LEVEL FLOOR PLAN
A1.2	PROPOSED UPPER LEVEL FLOOR PLAN
A1.3	PROPOSED GARAGE & ARBOR FLOOR PLANS
A1.4	PROPOSED GARAGE & ARBOR ROOF PLAN
A2.1	ARRIVAL ELEVATION
A2.2	NORTHEAST SIDE ELEVATION
A2.3	GARDEN ELEVATION
A2.4	ELEVATION at PORTE COCHERE
A2.5	GARAGE ELEVATIONS

ZONING REVIEW SET

20 APRIL 2020

RELEASED FOR CONSTRUCTION



MAXIMUM ROOF COVERAGE CALCULATIONS

Existing Main House	2,518.5 SF
Proposed additions to Main House	1,782.25 SF
Garage	1,082.5 SF
Existing Guest House (with proposed removal of existing porch)	676.5 SF
TOTAL	6,039.75 SF

ALLOWABLE ROOF COVERAGE 6,100.00 SF

IMPERVIOUS SURFACE COVERAGE

STRUCTURES	6,039.75 SF
TERRACES	732.00 SF
DRIVEWAYS	6,635.00 SF
TOTAL	13,406.75 SF

ALLOWABLE COVERAGE 19,275.3 SF
(Lot size 1.77 acre x 43,560 SF x .25)

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Bradley E. Heppner
ARCHITECTURE
Limited Liability Company

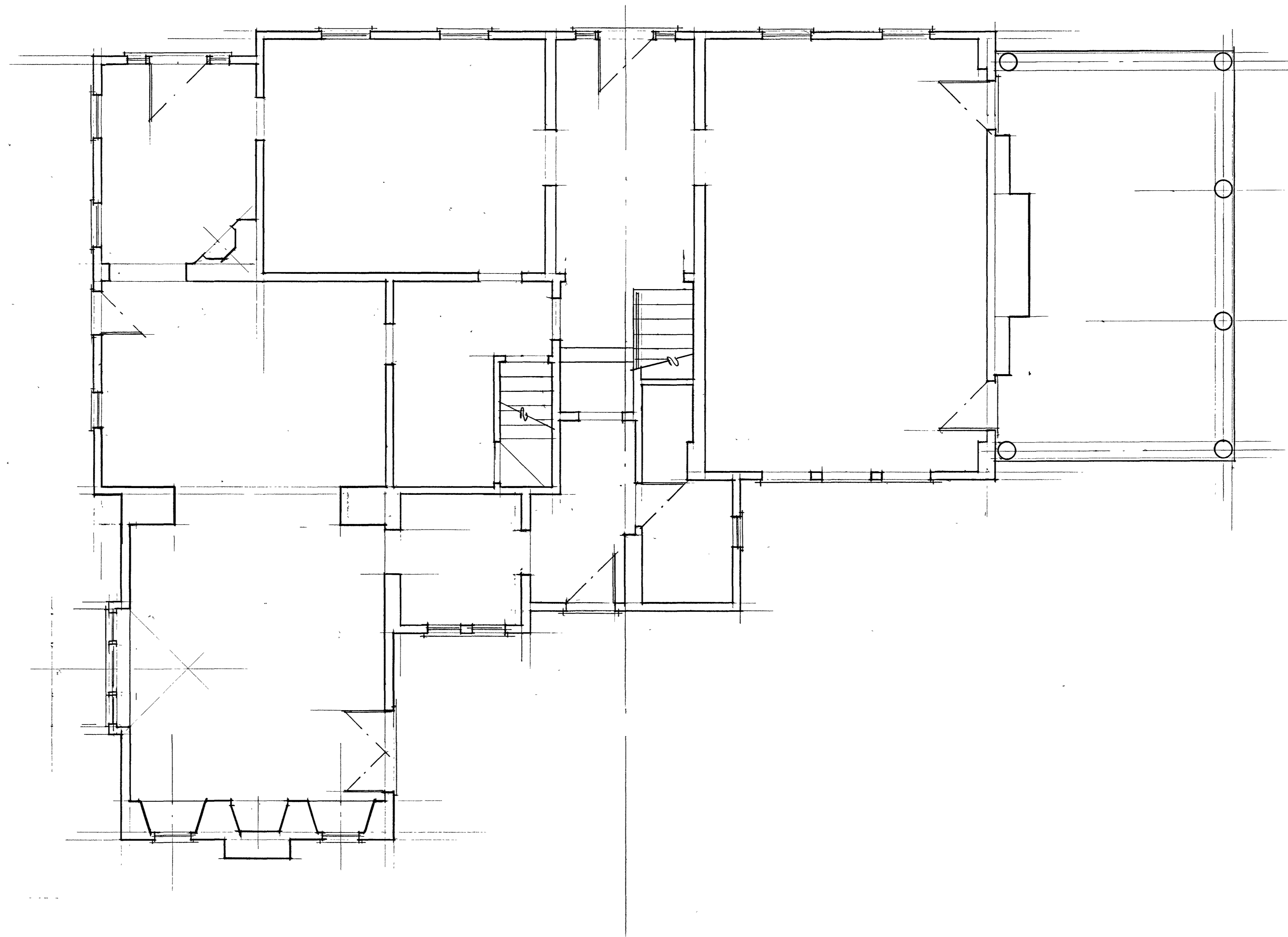
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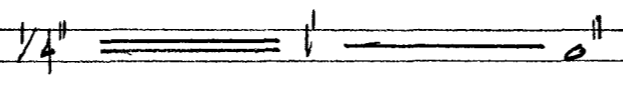
28 Cedarcliff Road • Biltmore Forest • North Carolina 28803

SCALE	As Noted	APPROVED BY	DRAWN BY
DATE	20 APR 2020		B.E.H.

C1.1



ASBUILT MAIN LEVEL FLOOR PLAN



Note to Contractor
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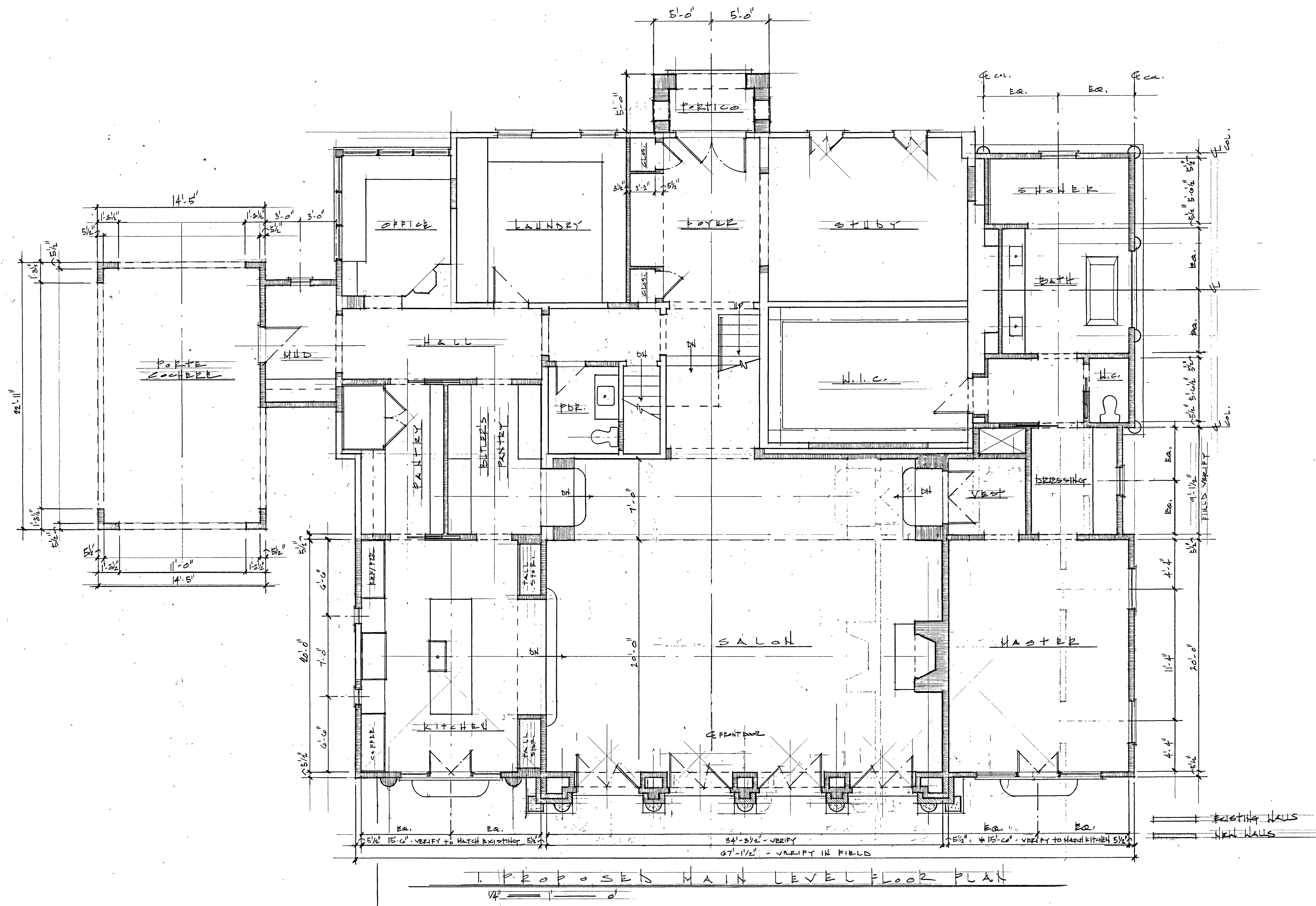
THE
WEILBAECHER RESIDENCE

28 Cedarcliff Road • Blitmore Forest • North Carolina 28803

SCALE As Noted	APPROVED BY	DRAWN BY B.E.H.
DATE 24 Jan 2022		

AB1.1

NOT RELEASED FOR CONSTRUCTION



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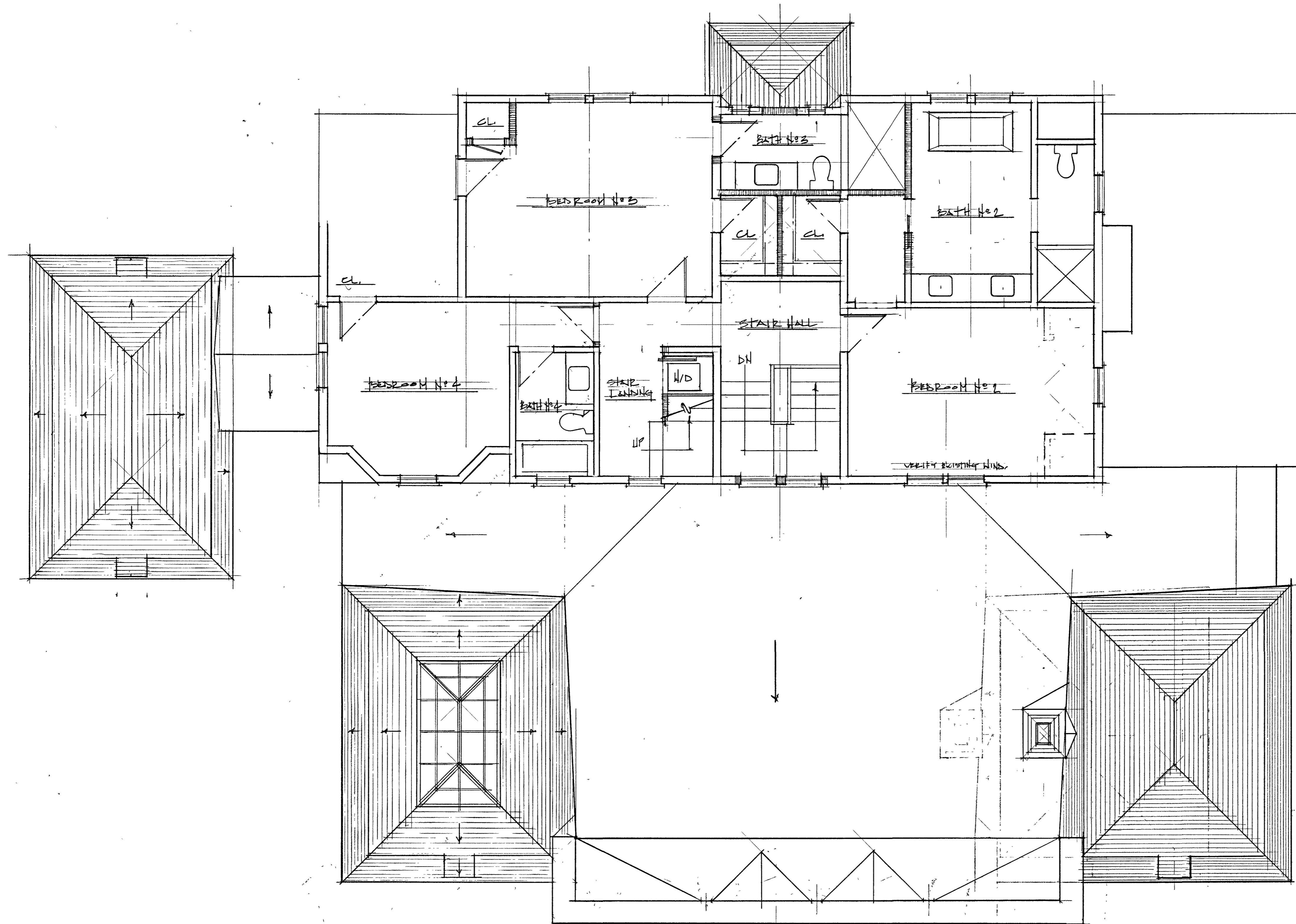
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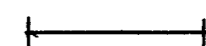

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SCALE	AS SHOWN	APPROVED BY		DRAWN BY	B.E.H.
DATE	24 JAN 2020				

A1.1

NOT RELEASED FOR CONSTRUCTION



 EXISTING WALLS
 NEW WALLS

1. PROPOSED UPPER LEVEL FLOOR PLAN
 1/4" = 1' 0"

Note to Contractor
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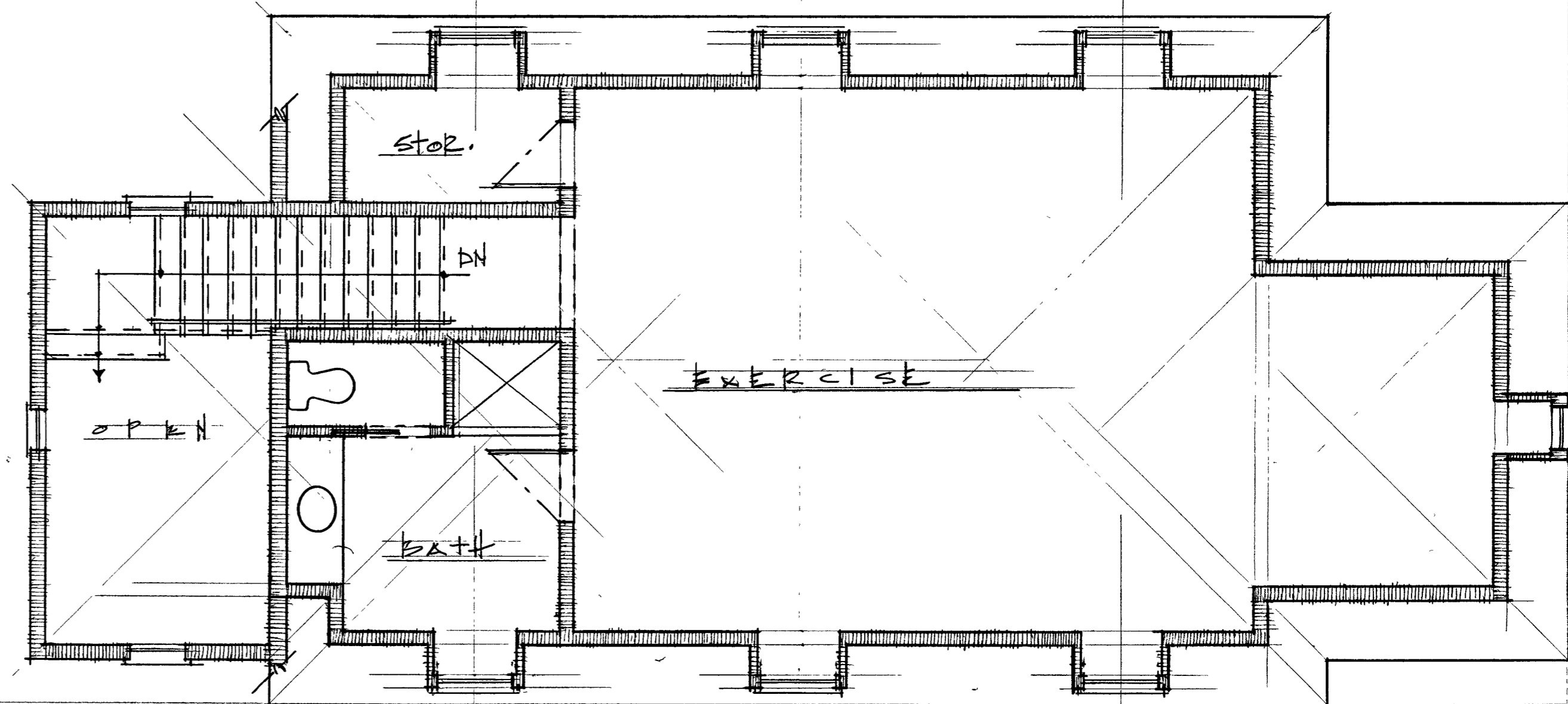
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THE
WEILBAECHER RESIDENCE
 28 Cedarcliff Road • Biltmore Forest • North Carolina 28803

SCALE	AS NOTED	APPROVED BY	DRAWN BY
DATE	24 JAN 2020		B.E.H.

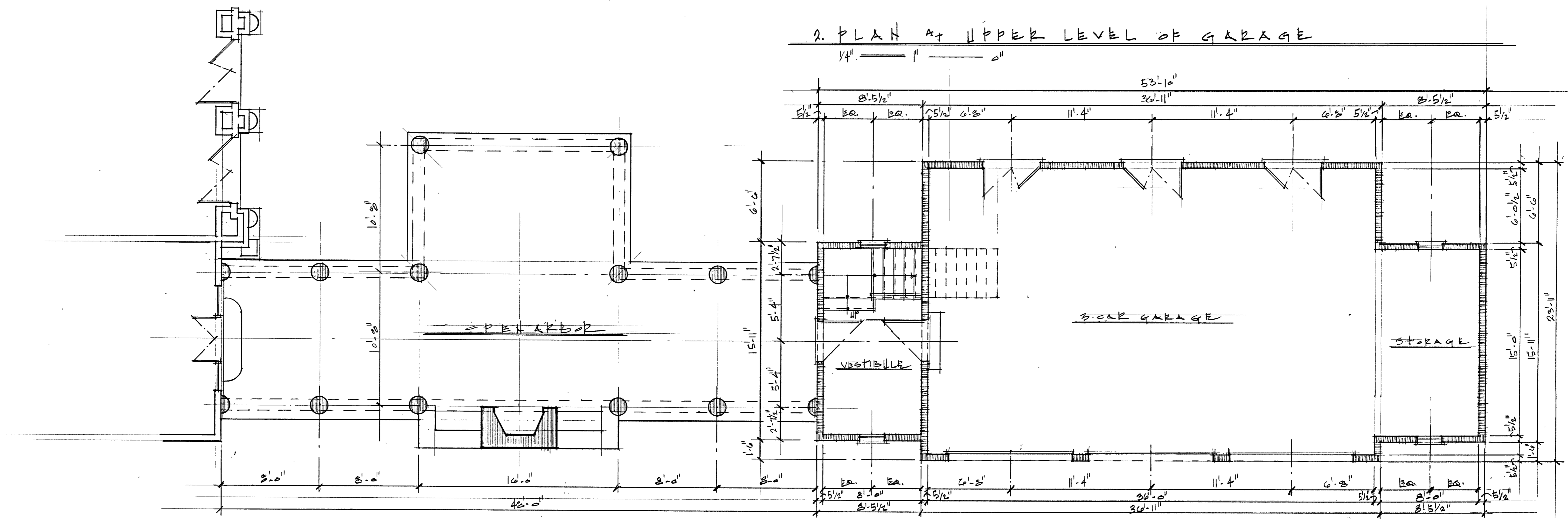
A1.2

NOT RELEASED FOR CONSTRUCTION



2. PLAN AT UPPER LEVEL OF GARAGE

1/4" = 1' 0"



1. PLAN AT GARAGE LEVEL

1/4" = 1' 0"

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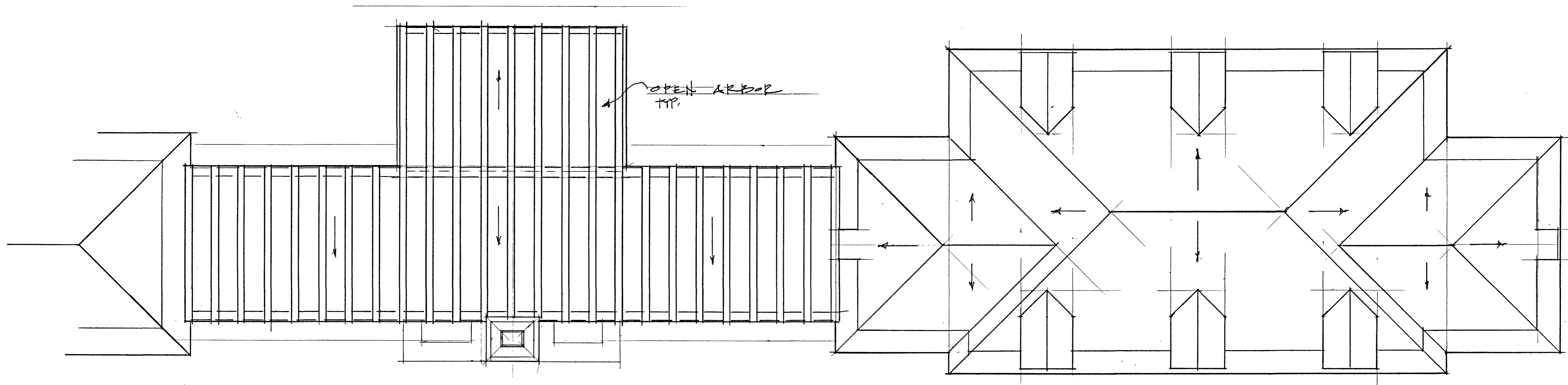
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THE
WEILBAECHER RESIDENCE
28 Cedarcliff Road • Biltmore Forest • North Carolina 28803

SCALE	AS NOTED	APPROVED BY	DRAWN BY
DATE	20 APR 2020		B. E. H.
			A1.3



1. ROOF PLAN & GARAGE: A-K BOK

Note to Contractor:
 Any discrepancies, inconsistencies, or ambiguities found within the drawings, or between the drawing, specifications, and site conditions shall be immediately reported to the architect in writing. The architect will promptly correct the same in writing. Work done by the contractor after discovery of such discrepancies, inconsistencies or ambiguities shall be done at the contractor's risk.

This drawing is the property of Bradley E. Heppner Architecture, LLC and is not to be reproduced or copied in whole or in part, the dimensions of which are 24" x 36". It is only to be used for the project and site specifically identified herein and is not to be used on any other project without written permission from the architect. The contractor is responsible for verifying all field measurements, quantities, dimensions, and related field construction criteria.

Bradley E. Heppner
ARCHITECTURE
 Limited Liability Company

574 Hascall Road
 Atlanta, GA 30309
 (c) 404 745 9339
 (m) 404 734 6687
 brad@bradleyheppner.com

THE
WEILBAECHER RESIDENCE
 28 Cedarcliff Road • Billmore Forest • North Carolina 28803

SCALE: *As Noted*

DATE: *20.11.2020*

APPROVED BY:

DRAWN BY: *B.E.H.*

A1.4



ARRIVAL ELEVATION
 1/4" = 1'-0"

Note to Contractor
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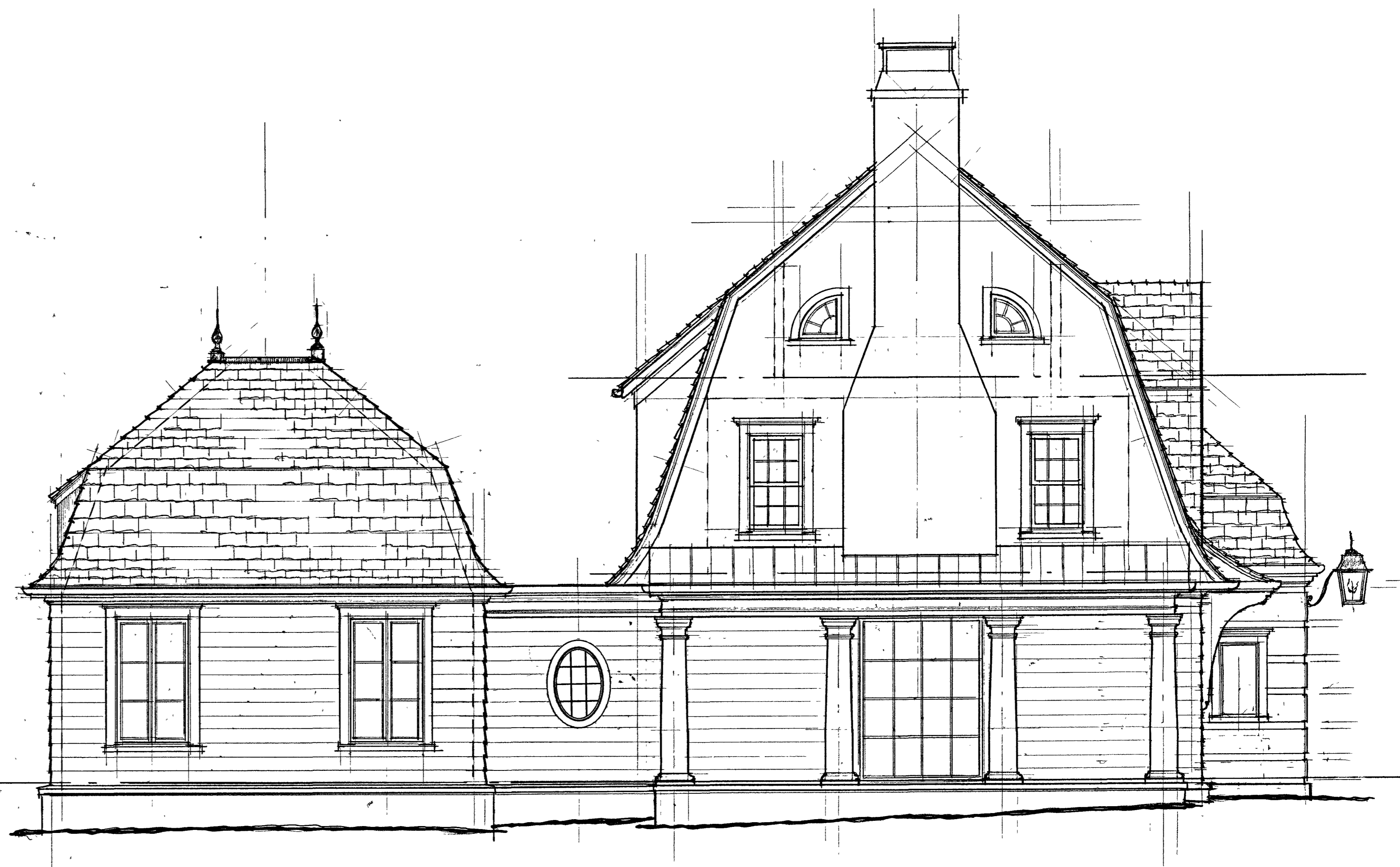
Bradley E. Heppner
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 Limited Liability Company

574 Hascall Road Atlanta, GA 30309
 (o) 404.745.8339 (m) 404.734.6687
 brad@bradleyheppner.com

THE
WEILBAECHER RESIDENCE

28 Cedarcliff Road • Biltmore Forest • North Carolina 28803

SCALE As Shown	APPROVED BY	DRAWN BY B.E.H.
DATE 10/27/2020		
		A2.1



NORTHEAST SIDE ELEVATION
 1/4" = 1'-0"

Note to Contractor
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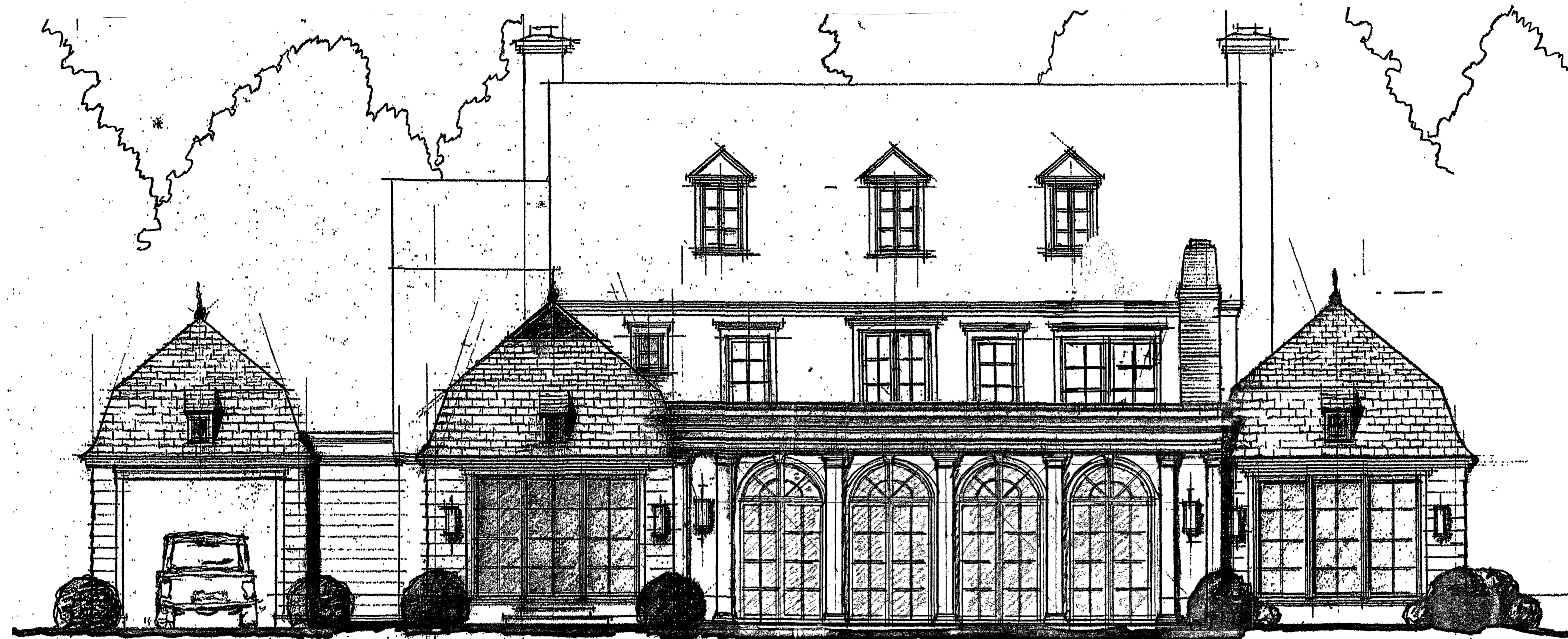
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THE
WEILBAECHER RESIDENCE
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SCALE	As Noted	APPROVED BY	DRAWN BY
DATE	20 APR 2020		B.E.H.

A2.2



GARDEN ELEVATION

Note to Contractor:
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THE
WEILBAECHER RESIDENCE

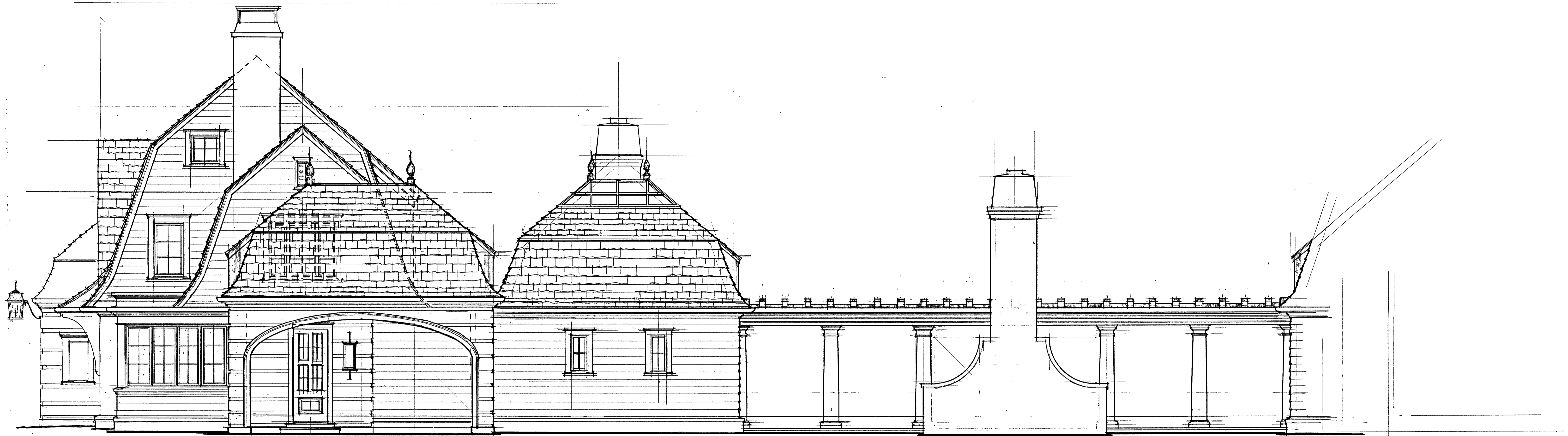
28 Cedarcliff Road • Biltmore Forest • North Carolina 28803

SCALE	AS NOTED
DATE	20 APR 2020

APPROVED BY	

DRAWN BY	B. E. H.

A2.3



1. SIDE ELEVATION & PORTE COCHERE
 1/4" = 1'-0"

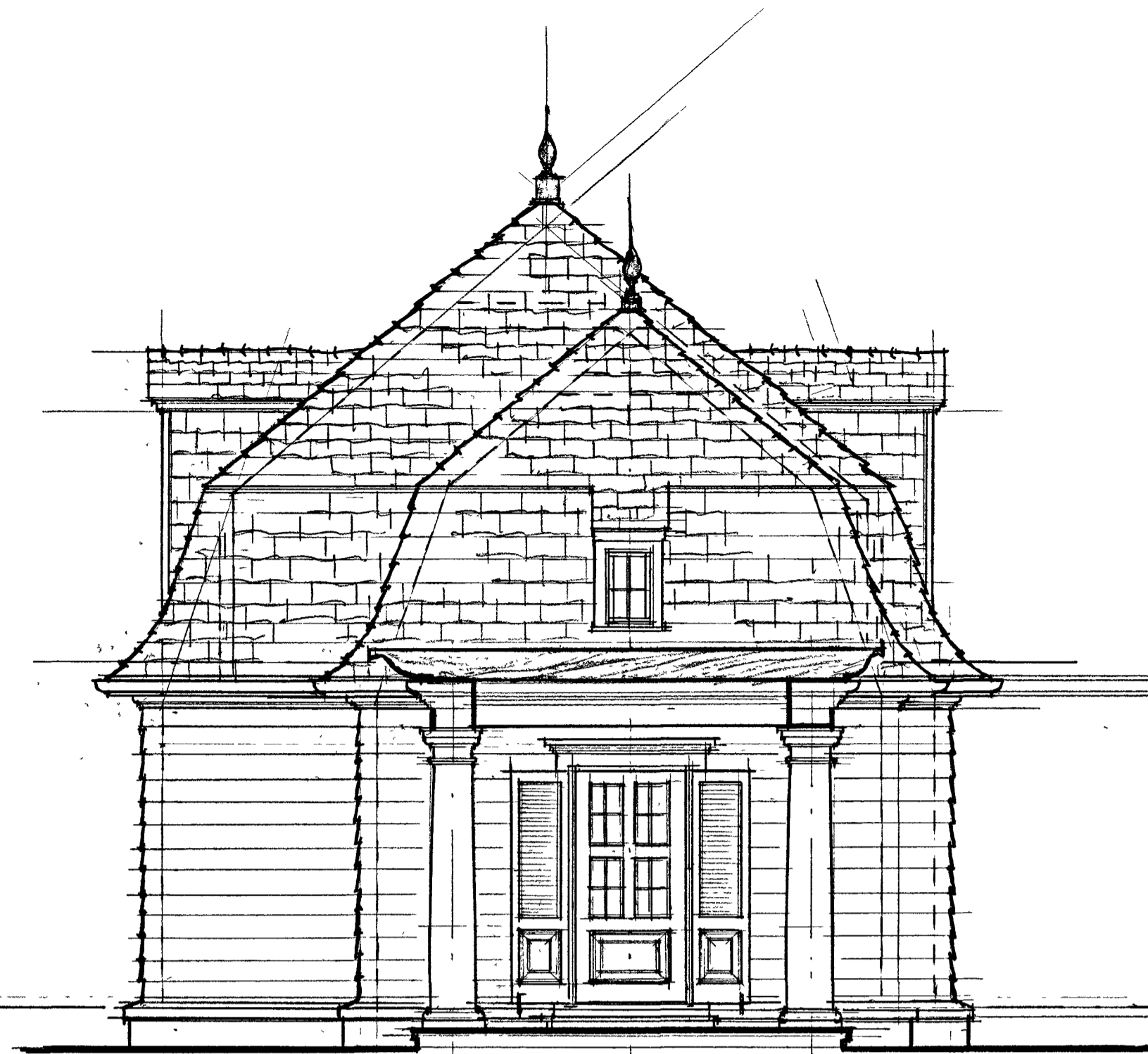
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THE
WEILBAECHER RESIDENCE
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SCALE As Shown	APPROVED BY	DRAWN BY B.E.H.
DATE 20 APR 2020		
		A2.4



2. GARAGE + ARBOR

1/4" = 1'-0"



1. GARAGE + AUTO COURT

1/4" = 1'-0"

Note to Contractor:
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ARCHITECTURE
Limited Liability Company

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(o) 404.745.9339
(m) 404.734.6887

THE
WEILBAECHER RESIDENCE

28 Cedarcliff Road • Biltmore Forest • North Carolina 28803

SCALE: <u>As Noted</u>	APPROVED BY:	DRAWN BY: <u>B.E.H.</u>
DATE: <u>20 APR 2020</u>		

A2.5



BRADLEY E HEPPNER

▪ ARCHITECTURE, LLC ▪

To the members of Biltmore Forest Board of Adjustments,

On June, 20, 2020 I reviewed the proposed plans for 28 Cedarcliff Rd with the homeowners, Derek and Angela Weilbaecher, with regard to their request for variance for the construction of a porte cochere and associated retaining walls for the construction of a proposed three-car garage. In reviewing the plans, I have no objections to the proposed locations of the structures or requested variance as long as the area between the retaining walls and the garage and 30 Cedarcliff Rd will have professional landscaping to minimize the visual disturbance.

Sincerely,

Tal Frankfurt

Name (print)

30 Cedarcliff Rd.

Asheville, NC 28803

Address

July 6th, 2020

Date

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 (16 Westwood Road)
Date: July 12, 2020

Request for Special Use Permit for Accessory Structures
Request for Variance for Construction within Rear Setback

A Special Use Permit is requested for a 6'7" mesh deer fence in the rear yard. The applicant has provided a site plan showing the proposed fence and is in compliance with side yard setbacks. It is possible the applicant is in compliance with the rear yard setback as well, but a variance was requested until this could be determined by the Board of Adjustment during the site visit. The property does have a 10' Duke Energy power line easement on the rear of the property, and the fence is not able to be located within this easement area.

The Town's current fence ordinance (adopted by the Board of Commissioners in March 2020) allows fencing in the rear yard up to 10 feet tall (specifically for deer fences) as a special use if in compliance with setbacks and other regulations. A copy of this ordinance is attached to this memorandum for reference with the pertinent section highlighted.

§ 153.049 - Fence, Gate, and Wall Regulations

WHEREAS, Biltmore Forest, originally part of the Vanderbilt Estate, was established almost 100 years ago; and

WHEREAS, Since its establishment, Biltmore Forest has been a forested residential community with substantial open space; and

WHEREAS, Historic continuity and preservation of the forest environment requires substantial open space for trees, plants and wildlife; and

WHEREAS, Given the Town's proximity to the Biltmore Estate, the Estate's large deer population, and the prevalence of other species including bear, the Town, through its Board of Adjustment, has received and continues to receive requests to approve fences and gates; and

WHEREAS, The Board of Commissioners is committed to preservation and protection of the forested residential community while accommodating reasonable requests from its residents;

WHEREAS, Current and prospective residents can participate in the preservation and protection of the forested residential community and preserve open space by landscaping with plants that will not attract deer, confining dogs and other household pets with invisible fencing, limiting the construction of new fences, gates, and walls, and removing and not replacing existing fences, gates, and walls.

NOW, THEREFORE BE IT ORDAINED, by the Board of Commissioners for the Town of Biltmore Forest that the following amendments to the Zoning Ordinance and subsequent regulations be placed on fence, gate, and wall construction and replacement as of the effective date of this ordinance.

(A) New fences, gates, or walls may be approved by the Board of Adjustment as a special use, so long as the gate, fence or wall meets the following requirements.

- (1) The fence, gate, or wall is constructed entirely within the rear yard, is not located in any side or rear yard setbacks, and is constructed of materials deemed acceptable in 153.049(D)
- (2) Mature vegetation or other buffering sufficient to screen the fence, gate, or wall from neighboring properties shall be required.

(B) A driveway gate and supporting columns may be approved by the Board of Adjustment as a special use so long as it meets the following requirements:

- (1) The Driveway Gate and columns shall not be located in the front or side yard setback of a property.
- (2) The Driveway Gate shall not be more than eight (8) feet in height.
- (3) The Driveway Gate shall provide access for emergency services and first responders. This may be done via a lockbox code, strobe or siren activation switch, or other method with demonstrated reliability.
- (4) The Driveway Gate shall open wide enough to provide for ingress and egress of emergency vehicles. The minimum acceptable standard is for the gate access to be fourteen (14) feet wide with a fourteen (14) foot minimum height clearance.

(C) Replacement of existing fences, gates, and walls shall be approved by the Board of Adjustment as a special use so long as the replacement fence is constructed of materials deemed acceptable in 153.049 (D) and meets the requirements below. A special use permit application to replace an existing fence, gate, or wall shall include a photograph of the existing fence or wall, specify the type of replacement fence, gate, or wall, include a map or sketch depicting the height and length of the replacement fence, gate, or wall and state whether or not the replacement fence, gate, or wall is located within any setbacks.

- (1) Existing chain link fences or gates shall not be replaced with new chain link fences or gates.
- (2) Existing fences, gates, or walls in the front yard shall not be replaced. No new fences, gates, or walls shall be allowed in the front yard.
- (3) Repair of more than half of an existing fence, gate, or wall shall be considered a replacement and shall be subject to this ordinance.

(D) Acceptable Materials and Standards for Fences and Walls / Maintenance. The following materials and standards for fences and walls shall be deemed acceptable.

- (1) Wooden fencing or gates shall be of natural color or painted in a manner compatible with the residence and the lot.
- (2) Non-wooden fencing and gates shall be black, dark green or brown and shall blend with surrounding trees or vegetation.
- (3) No new chain link fencing or gates shall be allowed.
- (4) Fences shall not exceed six (6) feet in height except that fences designed to prevent deer or other wildlife from entering the property shall not exceed ten (10) feet in height.
- (5) Fences designed to prevent deer or other wildlife from entering the property shall be constructed in accordance with North Carolina Wildlife Resources Commission standards for “Permanent Woven Wire Fencing” and “Permanent Solid-Wire Fencing”. Copies of these standards are available at the Town Hall or at the following [web address \[https://www.ncwildlife.org/Learning/Species/Mammals/Whitetail-Deer/Fencing-to-Exclude-Deer#42041180-permanent-fencing\]](https://www.ncwildlife.org/Learning/Species/Mammals/Whitetail-Deer/Fencing-to-Exclude-Deer#42041180-permanent-fencing).
- (6) Walls shall be constructed of stone or similar material, and shall be compatible with the construction materials of the house located on the same property.
- (7) When a fence, gate, or wall is not properly maintained or fails to comply with condition(s) imposed by the Board of Adjustment, the Town shall require the property owner to repair the fence, gate, or wall, or, remove the fence, gate, or wall at the property owner's expense. If the property owner fails to repair or remove the fence, gate, or wall, the Town may remove the fence, gate, or wall and recover the cost of removal, including the cost of disposal, if any, from the property owner.

Zoning Compliance Application

Town of Biltmore Forest

Name

Amy
First

Sherman
Last

Property Address

16 Westwood Rd Asheville, NC
Address Line 1

Phone

(919) 815-5981

Email

sixshermies@gmail.com

Parcel ID/PIN Number

ZONING INFORMATION

Current Zoning

R-1 R-2 R-3 R-4 R-5 P-S

Lot Size

1.09 acres

Maximum Roof Coverage

3,520 square feet (Up to .75 acres)
Choose appropriate lot size

Proposed Roof Coverage Total

N/A
Must not exceed maximum coverage allowed

Maximum Impervious Surface Coverage

Up to 1 acre (27.5 percent of lot area)
Choose appropriate lot size

Proposed Impervious Surface Coverage

n/a
Must not exceed maximum coverage allowed

Front Yard Setback

60 feet (R-1 District)

Side Yard Setback

20 feet (R-1 District)

Rear Yard Setback

25 feet (R-1 District)

Building Height

15 ft

Description of the Proposed Project

Mesh, see through 6' 7' deer fence - Only in the back yard.

Estimated Start Date

7/1/2020

Estimated Completion Date

7/2/2020

Estimated Cost of Project

\$2,000.00

Supporting Documentation (Site Plan, Drawings, Other Information)

IMG_5296.jpeg

Applicant Signature



A handwritten signature in black ink, appearing to read 'Amy S...', written over a horizontal line.

Date

6/10/2020

VARIANCE APPLICATION

Town of Biltmore Forest

Name

Amy
First

Sherman
Last

Address

16 Westwood Rd Asheville, NC
Address Line 1

Phone

(919) 815-5981

Email

sixshermies@gmail.com

Current Zoning/Use

residential

Requested Use

residential

APPLICATION REQUIREMENTS: An application to the Board of Adjustment for a variance must be submitted to the Town of Biltmore Forest Town Manager at least 21 days prior to the meeting at which the application will be considered. A pre-application meeting with Town staff is required prior to application submittal to the Board of Adjustment.

What would you like to do with your property?

Add a mesh, black 6' deer fence in the back yard only

What does the ordinance require?

plastic, black meshing and stabilization poles

BOARD OF ADJUSTMENT: N.C.G.S. 160A-388(D) requires that the Board of Adjustment shall vary the provisions of the Zoning Ordinance only upon a showing of ALL the items below. The Board of Adjustment must follow strict procedure and all determinations must be decided by a concurring vote of four-fifths of the members of the Board. It is important to provide detailed supporting documentation for the Board of Adjustment to review. If necessary, additional sheets may be attached to this application.

REQUIRED FINDINGS: Please provide a thorough response to each.

Unnecessary hardship would result from the strict application of the ordinance.

The deer are eating everything - even "deer resistant" plants & I do not believe in using poisons to deter
Explain.

The hardship results from conditions that are peculiar to the property, such as location, size, or topography.

The deer end up on my property disproportionately due to neighboring fences/ concrete yards or large dogs... (All are which are completely okay with me - it just makes my yard a deer oasis :D - I just want to protect the back - the deer can eat in the front all they want.
Explain.

The hardship did not result from actions taken by the applicant or the property owner.

The back has had little work done to it - so the deer enjoying my back yard is no one's fault - it's just normal.

Explain.

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.

The fence will be more "organic" than pesticides or other deterrents. It is mesh and black and covered in year around greenery - at no point is it highly visible to any neighbor. It is common in the neighborhood.

Explain.

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

Signature

Date

6/11/2020

Two handwritten signatures in black ink. The first signature is a cursive name, and the second is a stylized signature with a long horizontal line extending to the right.

Special Use Permit Application

Town of Biltmore Forest

Name

Amy
First

Sherman
Last

Address

16 Westwood Rd Asheville, NC
Address Line 1

Phone

(919) 815-5981

Email

sixshermies@gmail.com

Please select the type of special use you are applying for:

Accessory Structures

The applicant must show that the proposed use will not materially endanger public health or safety or injure value of adjoining or abutting property. In addition, the proposed use must be in general conformity with the plan of development of the town and be in harmony with scale, bulk, height, coverage, density, and character of the neighborhood.

Please provide a description of the proposed project:

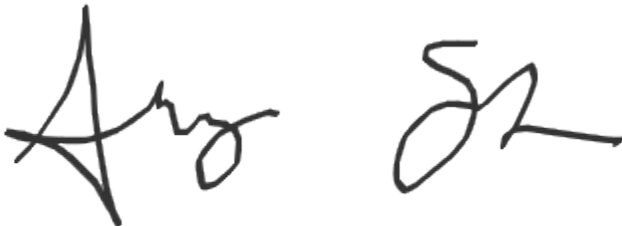
Back yard only, plastic, black mesh and metal post deer fence. 6' - 7' tall.

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

It is the same as others in the neighborhood, mostly invisible and only within my back yard. Most importantly, it allows plant growth without chemicals to deter deer while allowing growth for plants which are helpful for humming birds and bees.

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

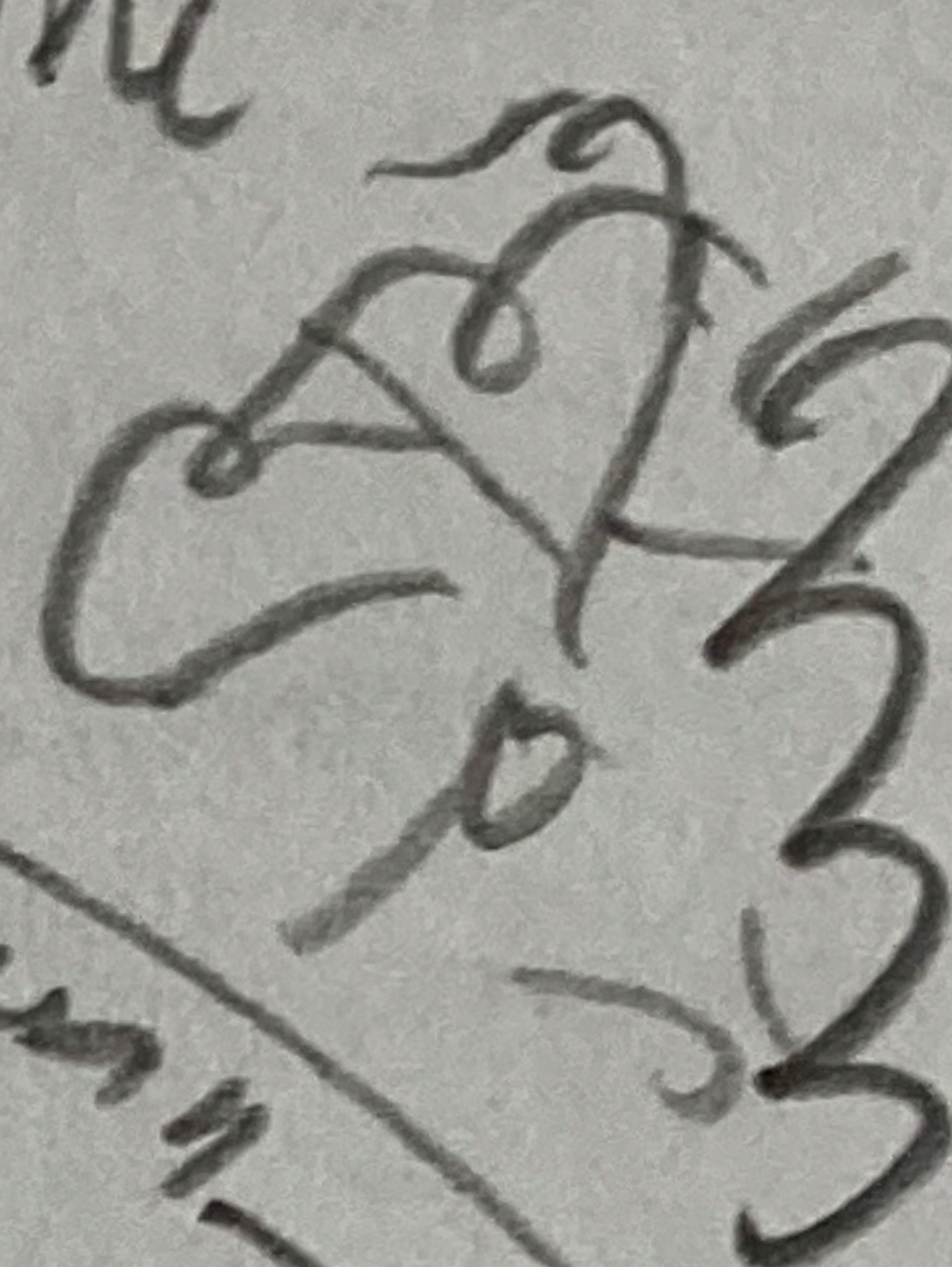
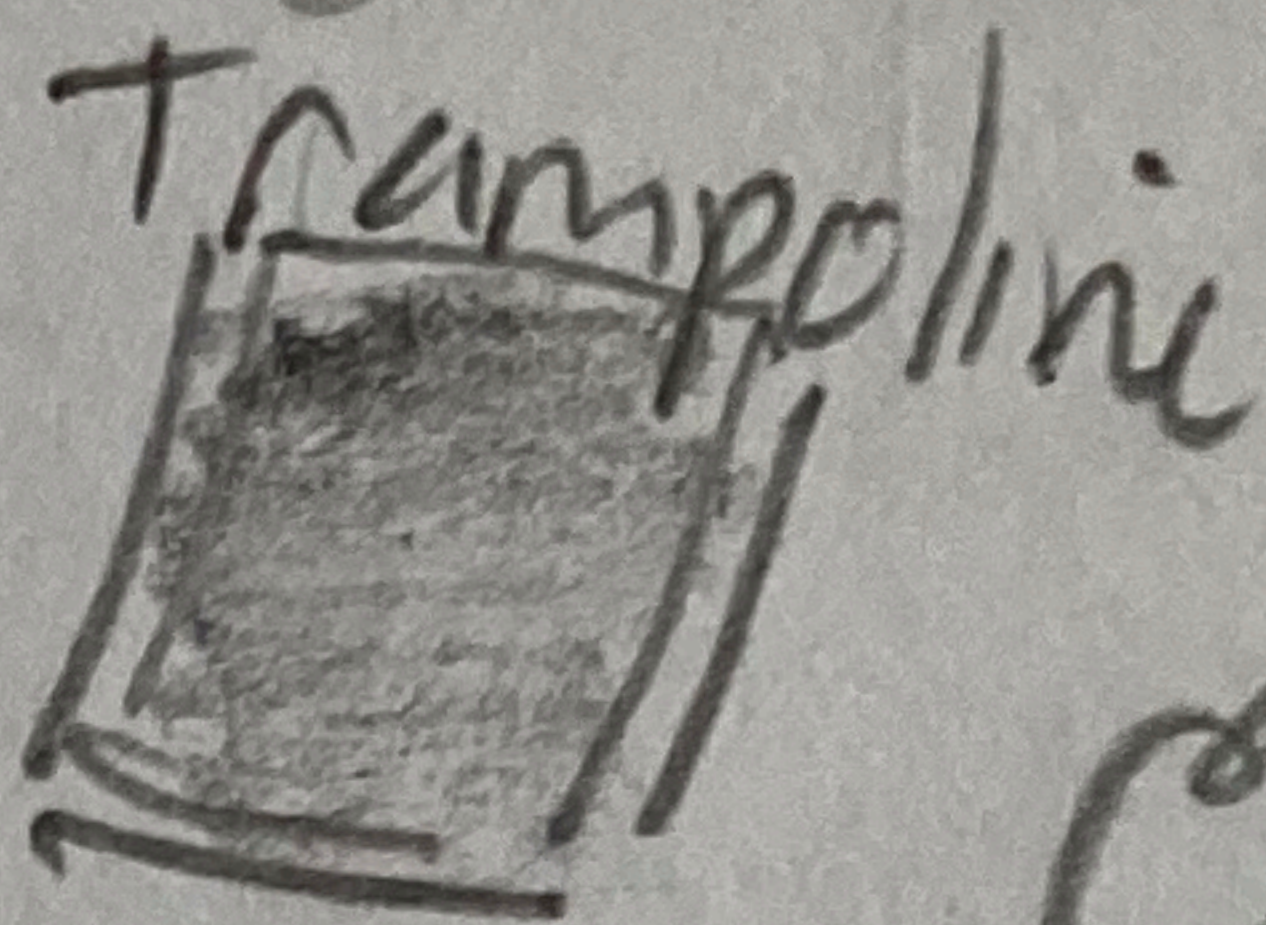
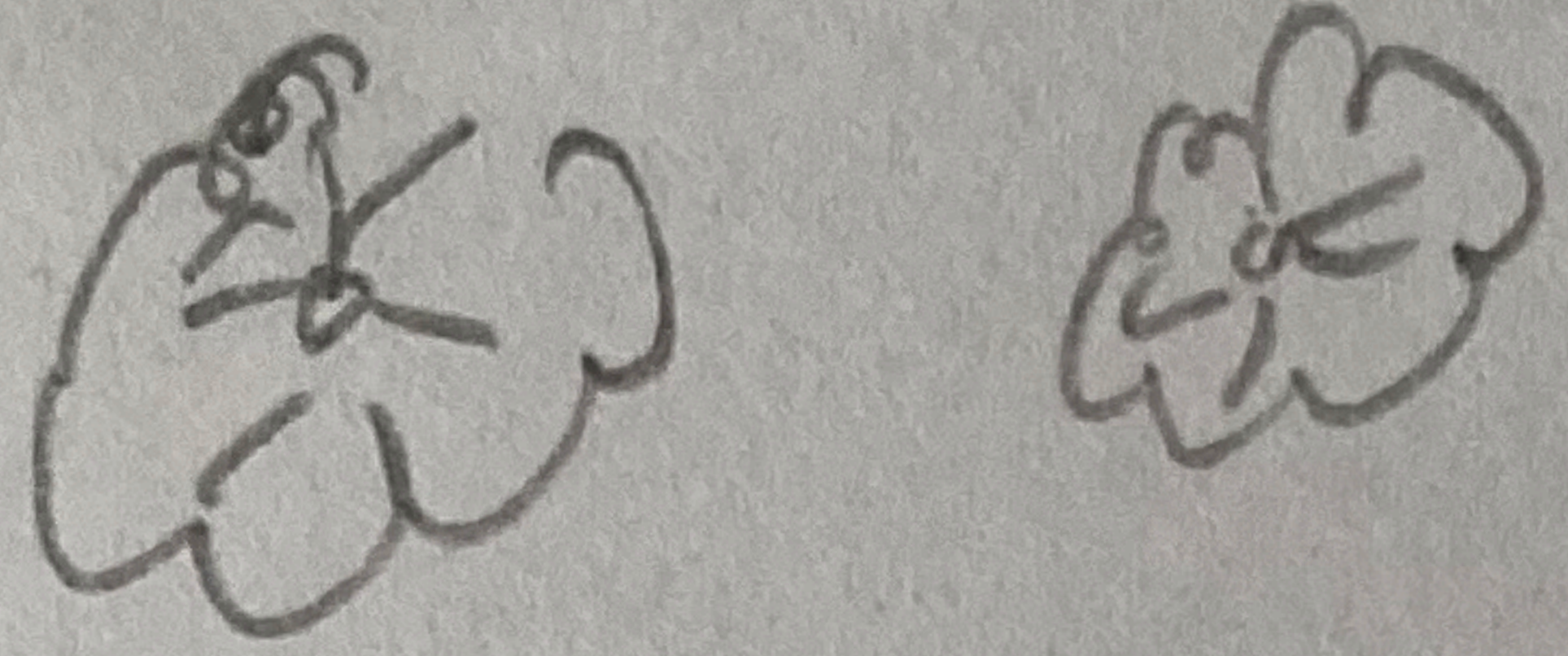
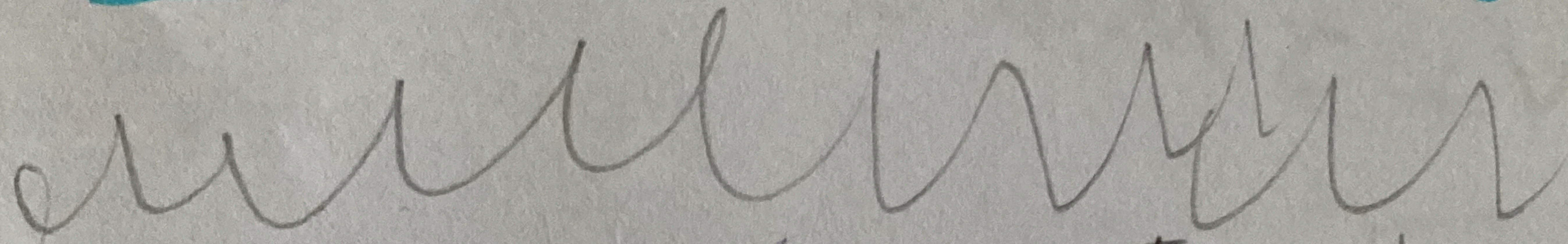
Signature



Date

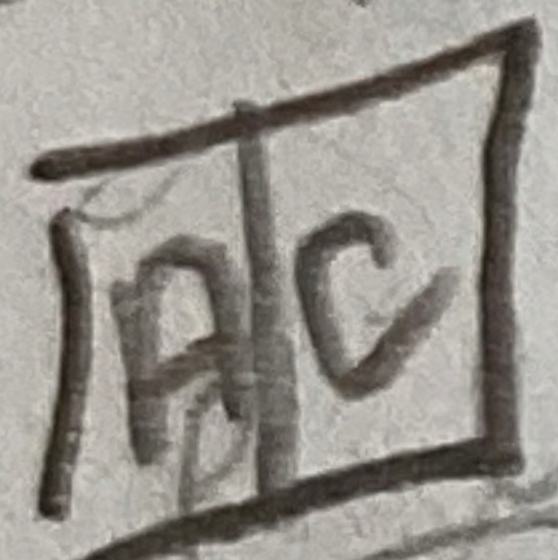
6/10/2020

deer fence

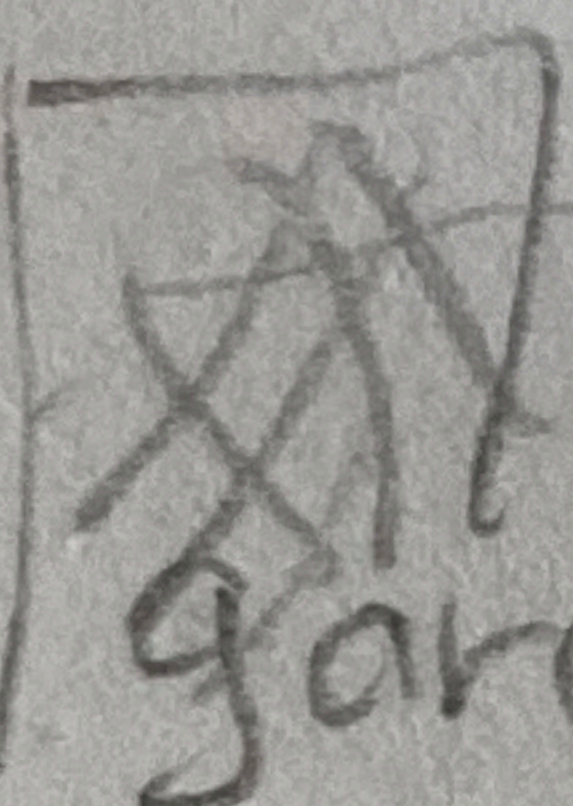
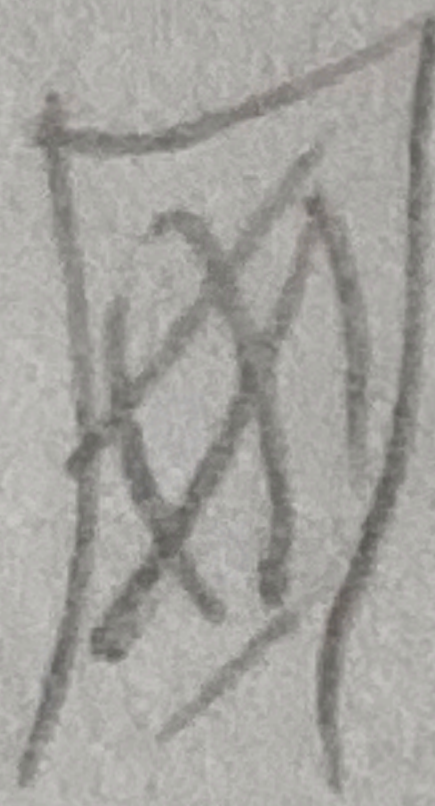


— grass —

woods

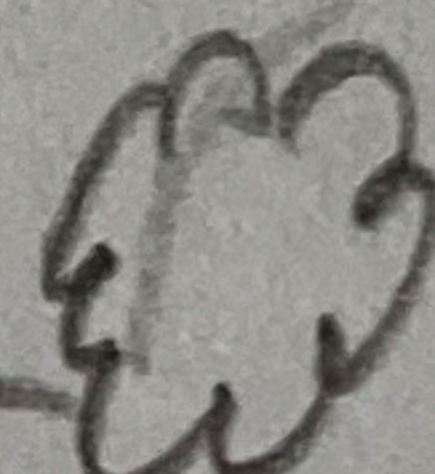
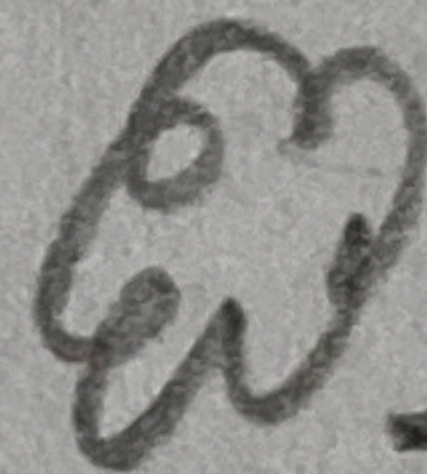


wall

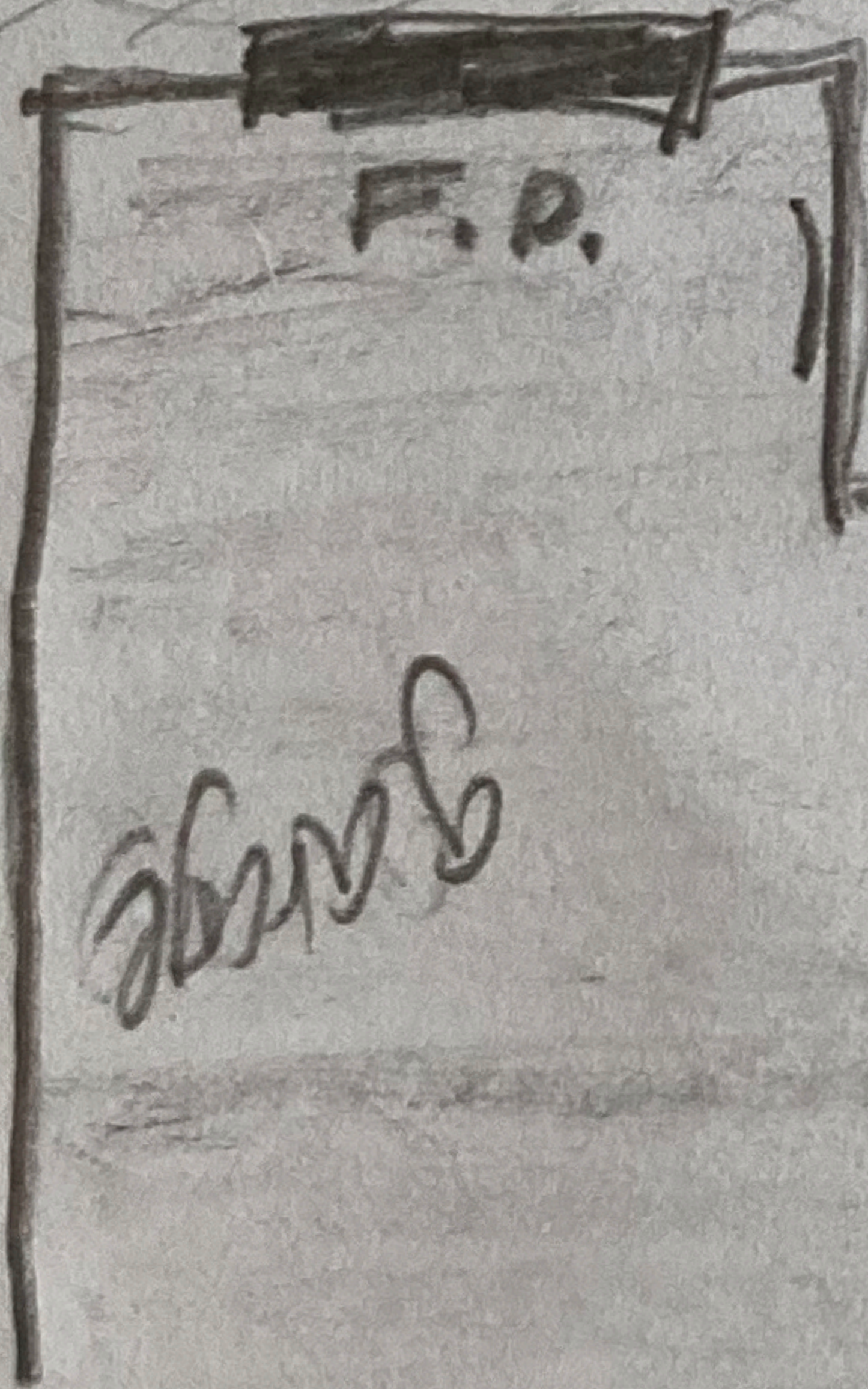


garden

wall wall



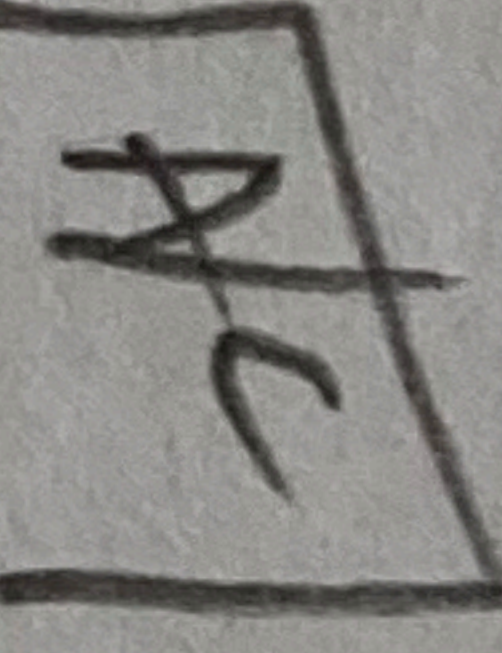
wall



F.P.

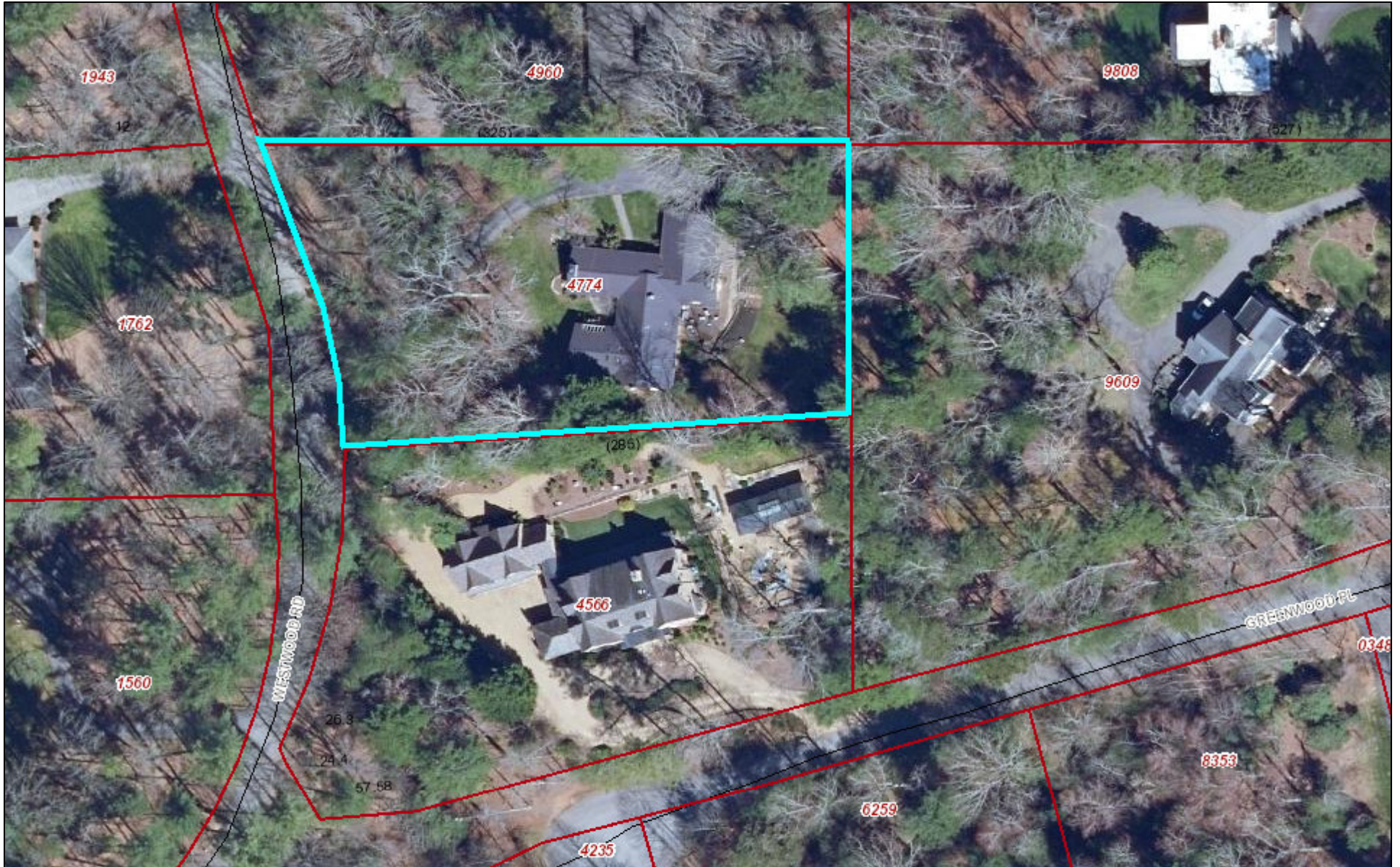
Back Porch

garage

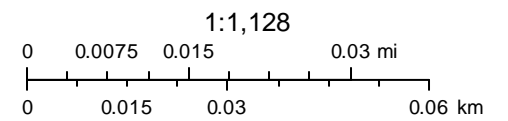


driveway

16 Westwood Rd



July 13, 2020



16 Westwood_Mosaic



02/04/2016 - 04/10/2016

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 (20 White Oak Rd)
Date: July 12, 2020

Request for Special Use Permit for Accessory Structures and Hardscapes
Request for a Variance for a Parking Space in the Front Yard Setback
Request for a Variance for Extension of the Driveway into the Side Yard Setback

A Special Use Permit is requested for hardscapes and accessory structures included in an overall landscaping plan. In addition to various new plantings, the landscaping plan includes rock retaining walls in the front yard, a fire pit in the backyard, and addition of a side deck and improvement to an existing side porch, widening of the existing driveway, and a gravel area for temporary parking. The goal of the plan is to enhance the aesthetics of the property while improving drainage and erosion issues.

The applicant notes the need for better vehicular and pedestrian access as the rationale for a variance requesting an additional parking space in the front yard and encroachment into the side yard setback. The existing driveway is located within the side yard setback and the extension will encroach further into this area. The proposed gravel area for temporary parking will be located in the front yard setback. The applicant states no improvements have taken place in several years, creating the need for additional driveway access and parking.

Note: This item was on the agenda last month but removed prior to the meeting by applicant. The plans presented are more up to date than those presented during last month's meeting.

Zoning Compliance Application

Town of Biltmore Forest

Name

Lydia Harrell

Property Address

20 White Oak Rd.

Phone

(828) 506-8173

Email

harrell.lydia@gmail.com

Parcel ID/PIN Number

ZONING INFORMATION

Current Zoning

R-2

Lot Size

.38 Acres

Maximum Roof Coverage

2,874 square feet (Up to .5 acres)

Proposed Roof Coverage Total

4552

Maximum Impervious Surface Coverage

Up to 1 acre (27.5 percent of lot area)

Proposed Impervious Surface Coverage

4552

Front Yard Setback

50 feet (R-2, R-3, R-4, and R-5 Districts)

Side Yard Setback

15 feet (R-2, R-3, R-4, and R-5 Districts)

Rear Yard Setback

20 feet (R-2, R-3, R-4, and R-5 Districts)

Building Height

Height of Home

Description of the Proposed Project

As part of a landscaping improvement project to the lot for access (vehicular and pedestrian), aesthetics, usage, drainage and erosion Eleventh Hour designs has developed a plan that includes: rock walls no higher than the current elevation in the front yard, leveling of the existing front yard, plantings, a gravel area for temporary parking, a side deck, improvement to the existing side porch, driveway widening to standard modern size, removal of concrete ramp, a fire pit in the back yard with stone benches and gravel flooring, and steps in a sloped area of the back yard. For over 10 years before we purchased the home it was rented and for probably at least 10 years before that no real updating of the landscaping/hardscaping has taken place and we would like to invest in the lot for our enjoyment and improved utilization. A rough draft of the plans have been uploaded. The final plans are still in development and then will be contingent upon approval. I'd be happy to deliver a copy of the final draft to the Town Hall if that would be helpful.

Estimated Start Date

5/1/2020

Estimated Completion Date

5/31/2020

Estimated Cost of Project

\$20,000.00

Supporting Documentation (Site Plan, Drawings, Other Information)
Lot Plans.JPG

Applicant Signature

Date
2/12/2020



Handwritten signature of Stephen Hand, written in black ink over a horizontal line.

VARIANCE APPLICATION

Town of Biltmore Forest

Name

Lydia Harrell

Address

20 White Oak Rd.

Phone

(828) 506-8173

Email

harrell.lydia@gmail.com

Current Zoning/Use

Residential

Requested Use

Landscaping/Hardscaping

APPLICATION REQUIREMENTS: An application to the Board of Adjustment for a variance must be submitted to the Town of Biltmore Forest Town Manager at least 21 days prior to the meeting at which the application will be considered. A pre-application meeting with Town staff is required prior to application submittal to the Board of Adjustment.

What would you like to do with your property?

As part of a landscaping improvement project to the lot for access (vehicular and pedestrian), aesthetics, usage, drainage and erosion Eleventh Hour designs has developed a plan that includes: rock walls no higher than the current elevation in the front yard, leveling of the existing front yard, plantings, a gravel area for temporary parking, a side deck, improvement to the existing side porch, driveway widening to standard modern size, removal of concrete ramp, a fire pit in the back yard with stone benches and gravel flooring, and steps in a sloped area of the back yard. For over 10 years before we purchased the home it was rented and for probably at least 10 years before that no real updating of the landscaping/hardscaping has taken place and we would like to invest in the lot for our enjoyment and improved utilization. A rough draft of the plans have been uploaded. The final plans are still in development and then will be contingent upon approval. I'd be happy to deliver a copy of the final draft to the Town Hall if that would be helpful.

What does the ordinance require?

I believe we need specific permission for the hardscaping improvements that are being proposed, including some stone steps, low terraced walls for planting purposes, a fire pit in the backyard and a deck expansion to the existing kitchen stair landing. We are also asking to include a gravel temporary parking place in the right of way and potentially exceeding our impervious surface allotment.

BOARD OF ADJUSTMENT: N.C.G.S. 160A-388(D) requires that the Board of Adjustment shall vary the provisions of the Zoning Ordinance only upon a showing of ALL the items below. The Board of Adjustment must follow strict procedure and all determinations must be decided by a concurring vote of four-fifths of the members of the Board. It is important to provide detailed supporting documentation for the Board of Adjustment to review. If necessary, additional sheets may be attached to this application.

REQUIRED FINDINGS: Please provide a thorough response to each.

Unnecessary hardship would result from the strict application of the ordinance.

The visiting cars would remain in the road, obstructing traffic. The yard would continue to be slopping entirely toward the backyard, not conducive to functional use and maintenance. The yard will continue to be muddy and torn up if the driveway is not expanded to accommodate modern cars. The main family entrance on the kitchen landing, if not expanded will continue to expose the ugly exposed mud pit to the side of our basement that is not functional due to the slope of the yard and retaining wall that was put in

place when the home was originally built.

The hardship results from conditions that are peculiar to the property, such as location, size, or topography.

The lot is very small, which suits us - we very much enjoy the White Oak/Buena Vista block and our neighbors. Due to the recent temporary occupants/renters, there are several of these larger scale projects. While potentially creating a discrepancy with our impervious allotment, they should not negatively affect the current drainage patterns. Since the entire lot slopes backward we would like to create some level areas for more formal landscaping and play/social areas for our young children. We would like to modernize the kitchen landing and cover a potentially dangerous retaining wall original to the house with an expanded deck.

The hardship did not result from actions taken by the applicant or the property owner.

Cars used to be narrower and not require a wider thoroughfare. Our driveway and under-house garage does not seem to have been expanded since the house was built in 1949.

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.

The right of way is maintained for the street, probably the traffic pattern is improved. Our deck would only be 10 feet closer to the setback line than the current kitchen landing that is the main family entrance in and out of the house.

I hereby certify that all of 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 "Dyckin" followed by a stylized monogram or initials.

Date

2/12/2020

Special Use Permit Application

Town of Biltmore Forest

Name

Lydia Harrell

Address

20 White Oak Rd.

Phone

(828) 506-8173

Email

harrell.lydia@gmail.com

Please select the type of special use you are applying for:

Home Occupations

The applicant must show that the proposed use will not materially endanger public health or safety or injure value of adjoining or abutting property. In addition, the proposed use must be in general conformity with the plan of development of the town and be in harmony with scale, bulk, height, coverage, density, and character of the neighborhood.

Please provide a description of the proposed project:

As part of a landscaping improvement project to the lot for access (vehicular and pedestrian), aesthetics, usage, drainage and erosion Eleventh Hour designs has developed a plan that includes: rock walls no higher than the current elevation in the front yard, leveling of the existing front yard, plantings, a gravel area for temporary parking, a side deck, improvement to the existing side porch, driveway widening to standard modern size, removal of concrete ramp, a fire pit in the back yard with stone benches and gravel flooring, and steps in a sloped area of the back yard. For over 10 years before we purchased the home it was rented and for probably at least 10 years before that no real updating of the landscaping/hardscaping has taken place and we would like to invest in the lot for our enjoyment and improved utilization. A rough draft of the plans have been uploaded. The final plans are still in development and then will be contingent upon approval. I'd be happy to deliver a copy of the final draft to the Town Hall if that would be helpful.

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

Our house is very close to the street and the aesthetic of our lot would definitely be improved. The gravel pull out for temporary parking would be similar to other pull outs on the street and would prevent obstruction of the main road since there are times that street parking is necessary for our household. While in the right of way we acknowledge that this area could be modified per the Town of Biltmore Forest's needs. Same for the proposed terracing of the gradient, which would be required to be altered if the town required that right of way. There is an existing tree where the hardscaping would be installed so it would not be an additional barrier. Only the very narrow side of the deck would be visible from the street and would make a portion of our yard that is currently unusable, a functional part of our home.

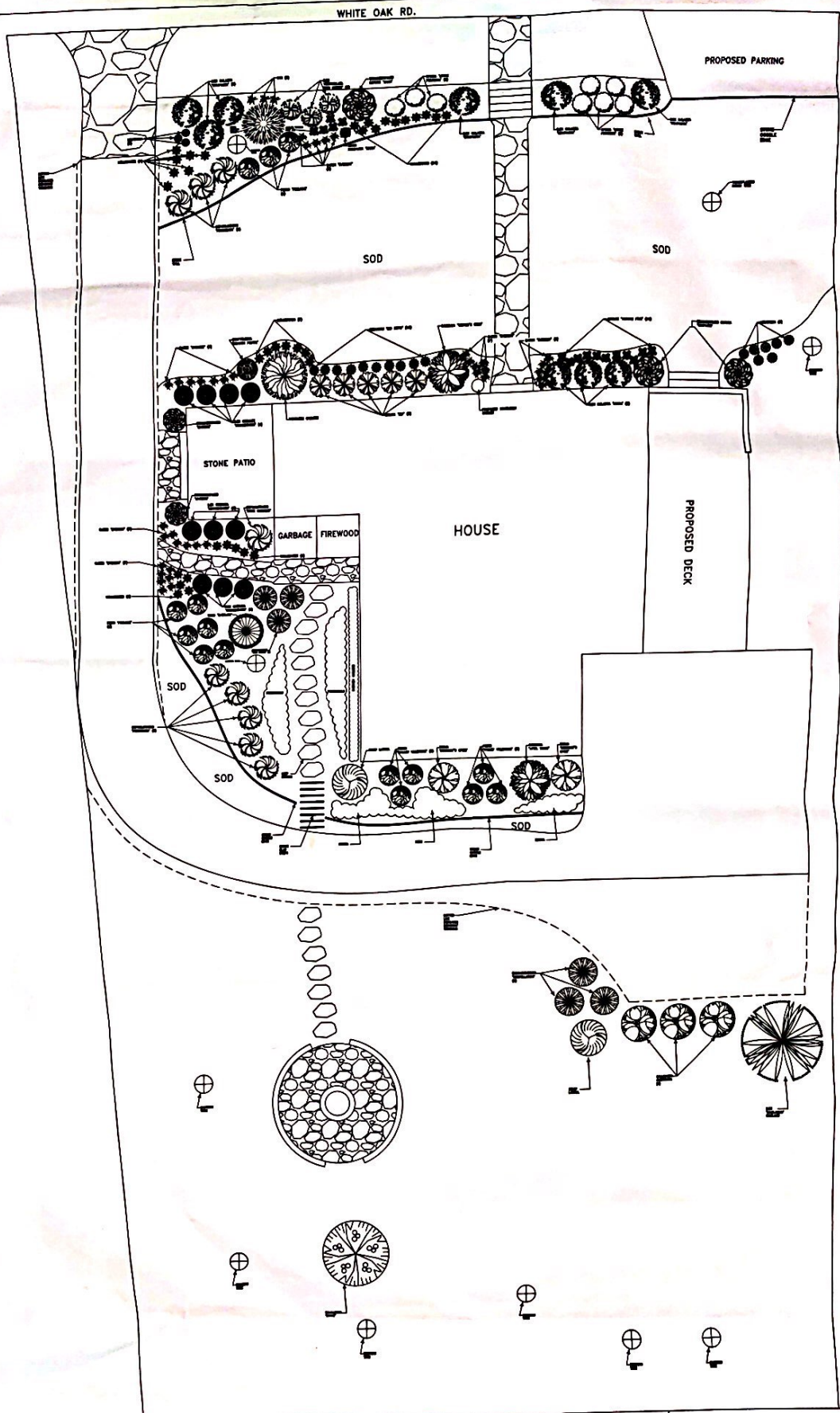
I hereby certify that all of the information set forth above is true and accurate to the best of my knowledge.

Signature



A handwritten signature in black ink, appearing to read "John H. M.", written above a horizontal line.

Date
2/12/2020



1
 HS-1
 1:10 (WHEN PRINTED 24X18)
 HARRELL HOUSE LANDSCAPE PLAN



DATE		REVISIONS
2/25/20	PER SITE MARKUP FROM ELEVENTH HOUR	
CUSTOMER		
PROJECT: HARRELL HOUSE		
DRAWN BY: A.W. TOLAND		
DATE: 7/29/20		
NOTES/COMMENTS		
DESCRIPTION		
SHEET		
HS-1		

ANDREW & LYDIA HARRELL
 20 WHITE OAK RD.
 ASHEVILLE, NC 28803

**ELEVENTH
 HOUR
 DESIGNS**

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 (375 Vanderbilt Road)
Date: July 12, 2020

Request for a Construction of a Porte Cochere within Rear and Side Yard Setback

A variance is requested for the construction of a porte cochere within the rear and side yard setback. This proposal is part of an overall garage renovation for this area. The proposed porte cochere would be placed over an existing impervious surface that is used as the parking area for the existing detached garage.

The applicant requests the variance due to the existing driveway for the garage being located within the rear and side yard setbacks. The proposed porte cochere would be out of compliance by 1 foot on the side property line and 8 feet on the rear property line.

Two neighbors have contacted me regarding this proposal, and neither have expressed objections. One of the two neighbors asked that sufficient buffering and planting be installed if any trees are removed as part of the project. A copy of that email is attached to this memorandum.

Zoning Compliance Application

Town of Biltmore Forest

Name

Jeremy

First

Ledford

Last

Property Address

375 Vanderbilt Rd

Address Line 1

Phone

(919) 451-1421

Email

drjeremy@ashevilledental.com

Parcel ID/PIN Number

ZONING INFORMATION

Current Zoning

R-1 R-2 R-3 R-4 R-5 P-S

Lot Size

0.55 acres

Maximum Roof Coverage

2,874 square feet (Up to .5 acres)

Choose appropriate lot size

Proposed Roof Coverage Total

NA

Must not exceed maximum coverage allowed

Maximum Impervious Surface Coverage

Up to 1 acre (27.5 percent of lot area)

Choose appropriate lot size

Proposed Impervious Surface Coverage

NA

Must not exceed maximum coverage allowed

Front Yard Setback

60 feet (R-1 District)

Side Yard Setback

20 feet (R-1 District)

Rear Yard Setback

25 feet (R-1 District)

Building Height

15 ft

Description of the Proposed Project

Renovating dilapidated Garage and adding a Port Cochere

Estimated Start Date

6/16/2020

Estimated Completion Date

8/16/2020

Estimated Cost of Project

\$20,000.00

Supporting Documentation (Site Plan, Drawings, Other Information)
200219 375 VANDERBILT_S100-1.pdf

Applicant Signature

A handwritten signature in black ink, appearing to read "Aron [unclear]", written over a horizontal line.

Date

6/2/2020

VARIANCE APPLICATION

Town of Biltmore Forest

Name

Jeremy Ledford

Address

375 Vanderbilt Rd

Phone

(919) 451-1421

Email

jled1082@gmail.com

Current Zoning/Use

Requested Use

APPLICATION REQUIREMENTS: An application to the Board of Adjustment for a variance must be submitted to the Town of Biltmore Forest Town Manager at least 21 days prior to the meeting at which the application will be considered. A pre-application meeting with Town staff is required prior to application submittal to the Board of Adjustment.

What would you like to do with your property?

I would like to add a port cochere to my garage to provide a covered area for a car to park. This port cochere would not expand onto the driveway and would stay within its confines.

What does the ordinance require?

I would need to add on to the garage and the desired port cochere would be within the confines of the current driveway.

BOARD OF ADJUSTMENT: N.C.G.S. 160A-388(D) requires that the Board of Adjustment shall vary the provisions of the Zoning Ordinance only upon a showing of ALL the items below. The Board of Adjustment must follow strict procedure and all determinations must be decided by a concurring vote of four-fifths of the members of the Board. It is important to provide detailed supporting documentation for the Board of Adjustment to review. If necessary, additional sheets may be attached to this application.

REQUIRED FINDINGS: Please provide a thorough response to each.

Unnecessary hardship would result from the strict application of the ordinance.

Because the current garage is close to the property lines any addition to it is within the current setbacks.

The hardship results from conditions that are peculiar to the property, such as location, size, or topography.

Because of the location of the garage and property lines a variance is necessary.

The hardship did not result from actions taken by the applicant or the property owner.

Correct

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.

The port cochere would be consistent with the architecture and would not infringe on my neighbors views.

I hereby certify that all of the information set forth above is true and accurate to the best of my

knowledge.

Signature

Date
7/7/2020



A handwritten signature in black ink, appearing to be 'Drew Johnson', written in a cursive style. The signature is positioned above a horizontal line that spans the width of the page.

Buncombe County



0
0

Sources: Esri, HE
FAO, NPS, NRCA

Cancel

Print

GENERAL NOTES

STRUCTURAL DESIGN CRITERIA (APPENDIX B)

BUILDING CODE: NORTH CAROLINA BUILDING CODE, 2018 EDITION
 BUILDING OCCUPANCY CATEGORY: II

DESIGN LOADS: LIVE LOAD (PSF) 20 SUPERIMPOSED DEAD LOAD (PSF) 10

ROOF: Ce = 1.0, I = 1.0, Pg = 15 PSF

DRIFTING SNOW: Ce = 1.0, I = 1.0, Pg = 15 PSF

WIND LOAD CRITERIA (ASCE 7-10):
 WIND VELOCITY: 115 MPH
 EXPOSURE FACTOR: C
 IMPORTANCE FACTOR: 1.0
 PORTE COCHERE BASE SHEAR: Vx = 2.40K Vy = 1.60K

FOUNDATIONS

DESIGN SOIL BEARING PRESSURE: 2000 PSF
 FROST DEPTH: 24"; BOTTOM OF ALL EXTERIOR FOOTINGS AND TURNED-DOWN SLABS SHALL BEAR AT OR BELOW SPECIFIED FROST DEPTH.

CONCRETE

DESIGN COMPRESSIVE STRENGTH AT 28 DAYS (fc): 3000 PSI
 REINFORCING STEEL: ASTM A615, GRADE 60
 CONCRETE COVER FOR REINFORCEMENT:
 1. UNFORMED SURFACE CAST AGAINST EARTH: 3"
 2. FORMED SURFACE EXPOSED TO EARTH OR WEATHER: 2"

STRUCTURAL STEEL

DESIGN STANDARDS:
 AISC, STEEL CONSTRUCTION MANUAL, FOURTEENTH EDITION
 AMERICAN WELDING SOCIETY, "STRUCTURAL WELDING CODE - STEEL", AWS D1.1.

GRADE OF STEEL:
 PLATES, ANGLES AND BARS: ASTM A36 OR A572, GRADE 50
 WIDE FLANGE COLUMNS: ASTM A992, GRADE 50
 ANCHOR RODS: ASTM F1554, GRADE 36
 THRU BOLTS: ASTM A307, GRADE A

PAINTING & GALVANIZING:
 1. PREPARE STEEL SURFACES AND PRIME PAINT ALL STEEL WITH FABRICATOR'S STANDARD NON-LEAD PRIMER, MIN. 1.5 MILS THICKNESS, WITH HAND TOOL CLEANING (SSPC-SP-2) OR POWER TOOL CLEANING (SSPC-SP-3).

2. HOT DIP GALVANIZE ALL EXTERIOR EXPOSED STRUCTURAL STEEL AND BOLTED CONNECTIONS.

NON-SHRINK GROUT:

1. PREMIXED NON-METALLIC, NON-CORROSIVE, NON-STAINING GROUT CONTAINING SILICA SANDS, PORTLAND CEMENT, SHRINKAGE COMPENSATING AGENTS, PLASTICIZING, AND WATER REDUCING AGENTS. COMPLY WITH CRD-C621-80, MINIMUM ASTM C 109 COMPRESSIVE STRENGTH SHALL BE 2500 PSI AFTER ONE DAY, AND 7000 PSI AFTER 28 DAYS.

ROUGH CARPENTRY

DESIGN STANDARDS:
 AMERICAN FOREST AND PAPER ASSOCIATION, "NATIONAL DESIGN SPECIFICATION FOR WOOD CONSTRUCTION" (ANSI/AF&PA NDS-2012) WITH "NDS SUPPLEMENT", 2012 EDITION.

APA - THE ENGINEERED WOOD ASSOCIATION, "ENGINEERED WOOD CONSTRUCTION GUIDE", 2011 EDITION, AND "PANEL DESIGN SPECIFICATION", 2008 EDITION.

SPECIES:

BEAMS, RAFTERS, POSTS AND STUDS: SOUTHERN PINE (SPIB)

LUMBER GRADE (MINIMUM): NO. 2 OR BETTER

SHEATHING STRESS RATINGS:

WALL SHEATHING: 32/16
 ROOF SHEATHING: 40/20

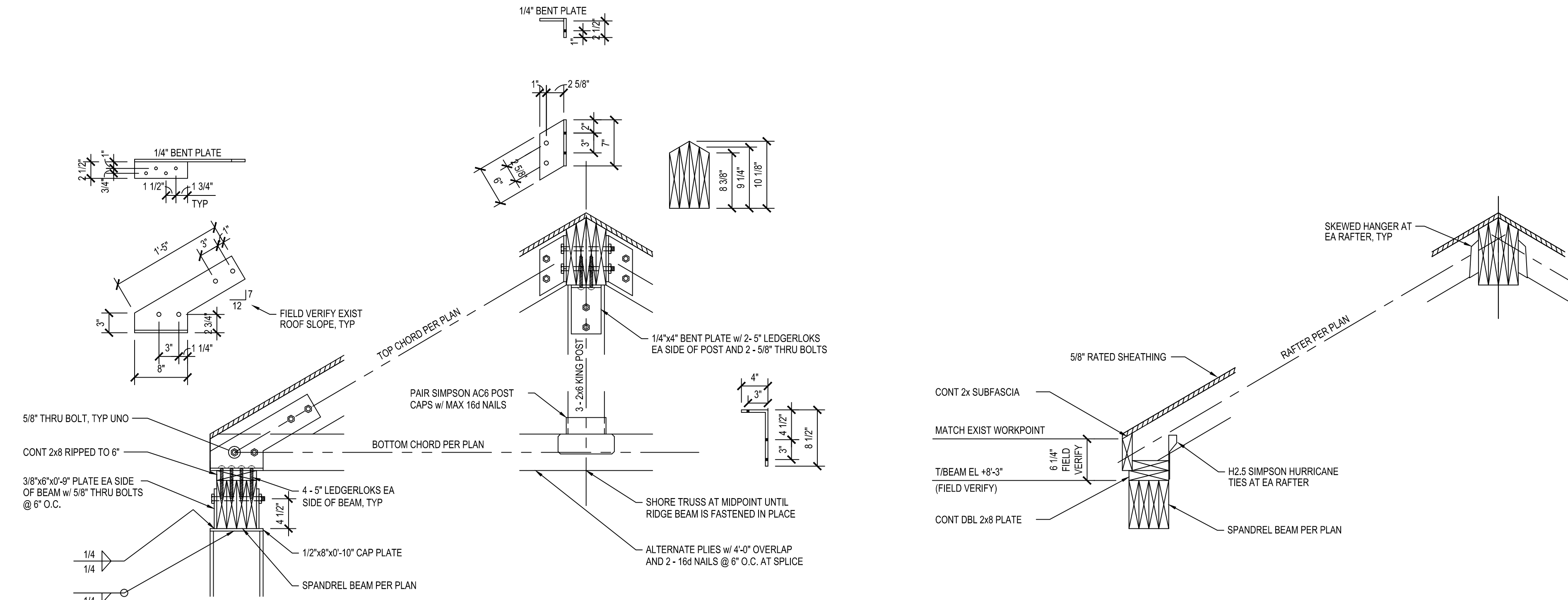
STRUCTURAL COMPOSITE LUMBER (SCL): EVALUATED IN CONFORMANCE WITH ASTM D 5456 WITH DESIGN VALUES RECOGNIZED IN EVALUATION REPORTS BY ICC EVALUATION SERVICE (ICC-ES) OR PRODUCT REPORTS ISSUED BY APA- THE ENGINEERED WOOD ASSOCIATION. SCL INCLUDES ALL MEMBERS

LVL - LAMINATED VENEER LUMBER, 2.0E MIN

ALL ATTACHMENTS OF WOOD FRAMING SHALL NOT BE LESS THAN THAT DESCRIBED IN "TABLE 2304.9.1-FASTENING SCHEDULE" WITHIN THE NORTH CAROLINA BUILDING CODE.

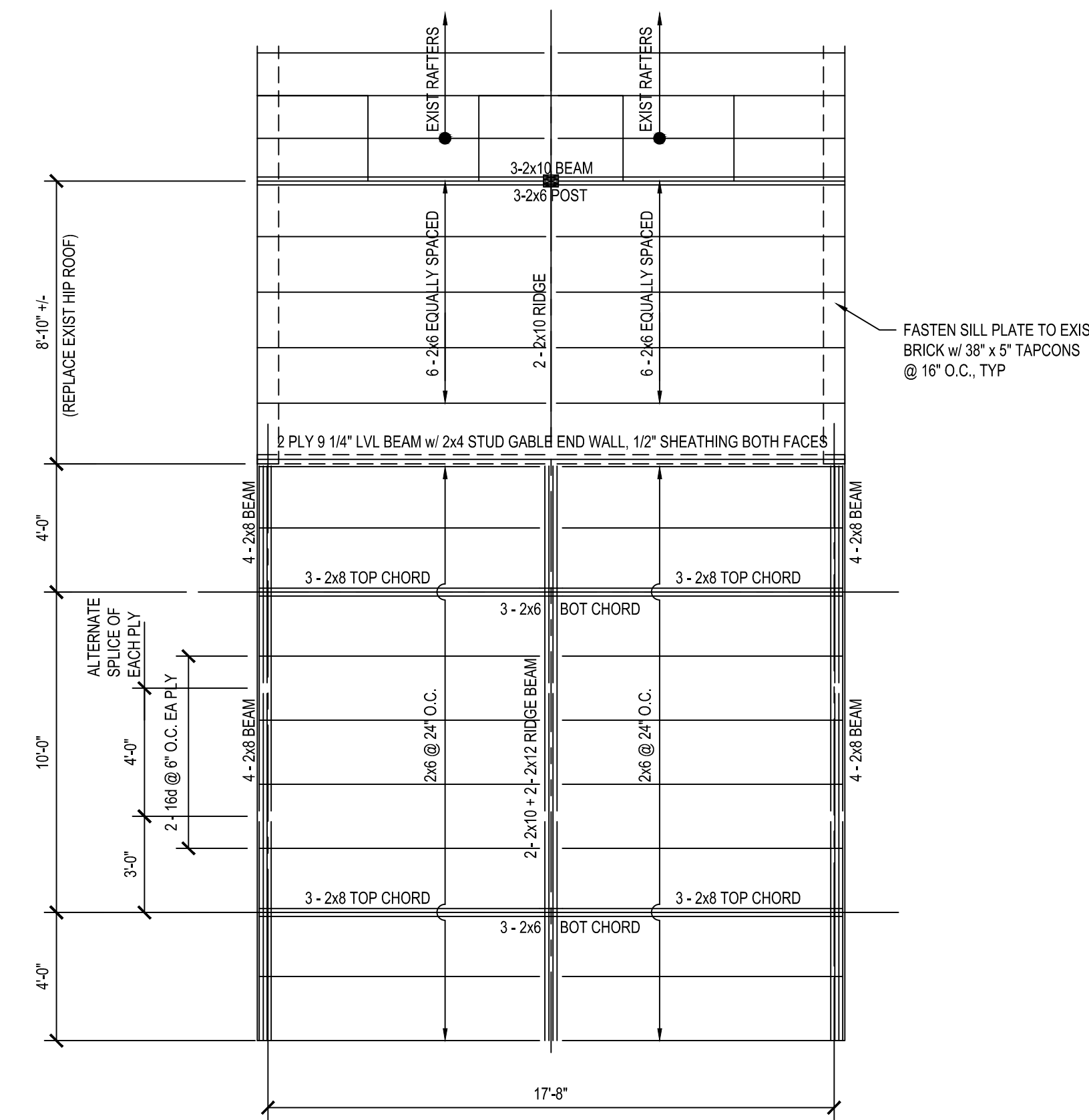
FRAMING REQUIREMENTS:

- ALL WOOD SHEATHING SHALL BE IDENTIFIED WITH THE APPROPRIATE GRADE TRADEMARK OF THE ENGINEERED WOOD ASSOCIATION (APA) AND SHALL MEET THE REQUIREMENTS OF U.S. PRODUCT STANDARD PS-1 OR PS-2.
- ALL SHEATHING PANELS SHALL BE 4'-0" x 8'-0" EXCEPT AT DISCONTINUITIES OR CHANGES IN FRAMING. ROOF AND FLOOR SHEATHING PANELS SHALL BE PLACED WITH LONG DIMENSION (GRAIN) PERPENDICULAR TO SUPPORTS. PANELS SHALL BE CONTINUOUS OVER THREE OR MORE SUPPORTS. END JOINTS SHALL BE STAGGERED. PANEL ENDS SHALL BE SUPPORTED ON FRAMING MEMBERS.
- ALL EDGES AND ENDS OF WALL PANELS SHALL BE FASTENED TO FRAMING MEMBERS OR BLOCKING.
- MINIMUM ATTACHMENT OF SHEATHING:
 FASTENERS SHALL BE LOCATED AT LEAST 3/8" FROM EDGES OF PANELS AND STAGGERED WITH ADJACENT PANEL.
 CONNECTOR TYPE: 10D COMMON NAILS
 SPACING: 6" O.C. ALL PANEL EDGES TO FRAMING
 12" O.C. AT INTERMEDIATE SUPPORTS



CONNECTION DETAILS

1/4"=1'-0"

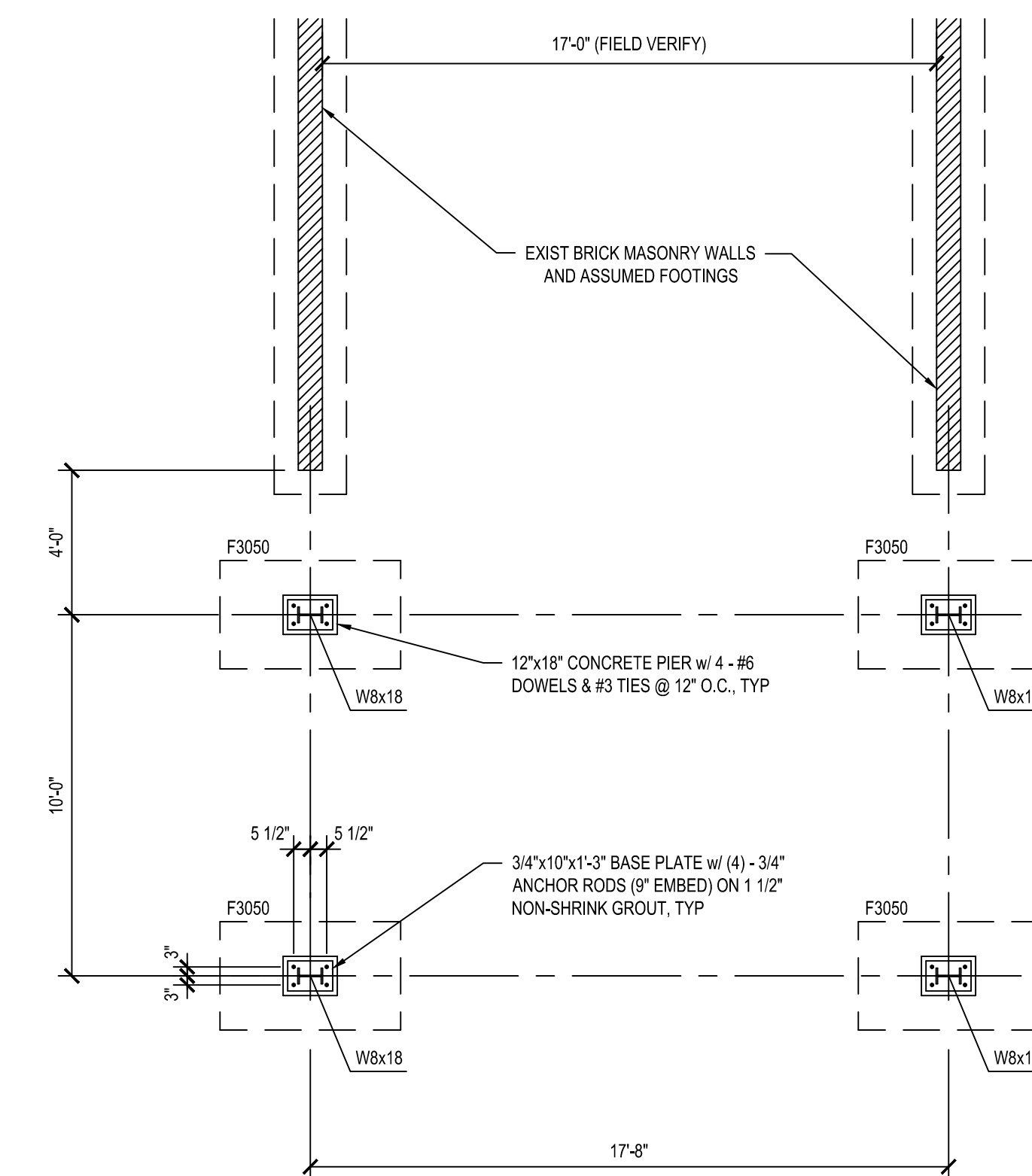


ROOF FRAMING PLAN

1/4"=1'-0"

NOTES:

- PROVIDE 5/8" ROOF SHEATHING AND TOOTH INTO EXISTING 4'-0" WITH ALTERNATE PANELS. FASTEN TO SUPPORTS PER GENERAL NOTES.
- EXPOSED WOOD OR WOOD IN CONTACT W/ MASONRY SHALL BE PRESSURE TREATED. WRAP NON-PRESSURE TREATED MEMBERS.
- FASTEN EACH PLY OF BEAMS AND TRUSSES W/ 2 - 16d NAILS @ 12" O.C. EXCEPT AT SPLICES AS INDICATED ON PLAN AND IN DETAILS.
- VERIFY EXISTING ELEVATIONS AND DIMENSIONS PRIOR TO FABRICATING STRUCTURAL ELEMENTS.
- NOTIFY ENGINEER OF DISCREPANCIES.



FOUNDATION PLAN

1/4"=1'-0"

NOTES:

- F3050 FOOTINGS SHALL BE 3'-0" x 5'-0" x 1'-4" THICK AND REINFORCED W/ 6 - #4 SHORT WAY AND 4 - #5 LONG WAY TOP AND BOTTOM BARS. TOP OF FOOTINGS SHALL BE 6" BELOW GRADE AND TOP OF PIER SHALL BE 4" ABOVE GRADE.
- VERIFY EXISTING ELEVATIONS AND DIMENSIONS PRIOR TO FABRICATING STRUCTURAL ELEMENTS.
- NOTIFY ENGINEER OF DISCREPANCIES.

Dunn Structural Engineering, PLLC
 125 S Lexington Ave, Suite 308
 Asheville, NC 28801
 Phone: (828) 775-5110

2/19/2020

No.	Description	Date

Porte Cochere
 for
 375 Vanderbilt
 Residence

Biltmore Forest, NC
 28803

Plans and Connection Details

Project number 20-130
 Date 19 February, 2020

Drawn by PTD

Checked by PTD

S100

Scale