

**HENRICO COUNTY**  
**BOARD OF ZONING APPEALS AGENDA**

**November 21, 2024**

**9:00 AM**



**BOARD OF ZONING APPEALS**

John R. Broadway  
Terone B. Green  
Walter L. Johnson, Jr.  
Barry R. Lawrence  
Joseph S. Massie, III

**DEPARTMENT OF PLANNING**  
**CODE ADMINISTRATION DIVISION**

R. J. Emerson, Jr., AICP, Director of Planning  
Leslie A. News, PLA, Assistant Director of Planning  
Benjamin W. Blankinship, AICP, Division Manager  
Paul M. Gidley, CZA, County Planner  
Sara J. Rozmus, CZA, County Planner  
Janaya L. Poarch, Account Clerk

**COUNTY OF HENRICO, VIRGINIA**  
**BOARD OF ZONING APPEALS**  
**THURSDAY, NOVEMBER 21, 2024**

**BEGINNING AT 9:00**

**PLEDGE OF ALLEGIANCE**

**REQUESTS FOR DEFERRAL**

---

**CONDITIONAL USE PERMITS**

CUP-2024-101378 Jasha Delfiki: conditional use permit to allow a carport in the front yard at 108 W McClellan Street, Sandston, Varina. Parcel 826-718-0621. Zoning: R-3, One-Family Residence District. Code Section: 24-4404.A.1.

CUP-2024-101856 Steve Himelspach: conditional use permit to replace an accessory structure in the front and side yards at 9770 Osborne Landing, Newstead Farms, Varina. Parcel 807-670-8807. Zoning: A-1, Agricultural District. Code Section: 24-4404.A.1.

CUP-2024-101916 Cory Gibson: conditional use permit to build an accessory dwelling unit attached to the home at 3605 Smith Woods Place, Swanson Mill Run, Brookland. Parcel 768-777-0084. Zoning: R-1AC, One-Family Residence District (Conditional). Code Section: 24-4406.

CUP-2024-102121 Henry Martinez: conditional use permit to build a detached accessory dwelling unit at 2416 Poates Drive, Sedgfield Manor, Brookland. Parcel 774-754-3102. Zoning: R-3, One-Family Residence District. Code Section: 24-4406.

CUP-2024-102174 William Simpson: conditional use permit to build a detached garage in the side yard at 7600 Rudolph Terrace, Tuckahoe Park, Three Chopt. Parcel **WITHDRAWN** 760-751-3714. Zoning: R-3, One-Family Residence District. Code Section: 24-4401.A.1.

CUP-2024-102213 Amy Mogetz and Vladislav Akerman: conditional use permit to build a swimming pool in the side and rear yards at 5500 Axe Handle Lane, Westin Estates, Three Chopt. Parcel 731-774-8416. Zoning: A-1, Agricultural District. Code Section: 24-4404.A.1.

CUP-2024-102241 Carmen Ricks: conditional use permit to allow short-term rental of the dwelling at 3822 Tighe Court, Mitcheltree, Fairfield. Parcel 811-729-4669. Zoning: R-4, One-Family Residence District. Code Section: 24-4431.A.

---

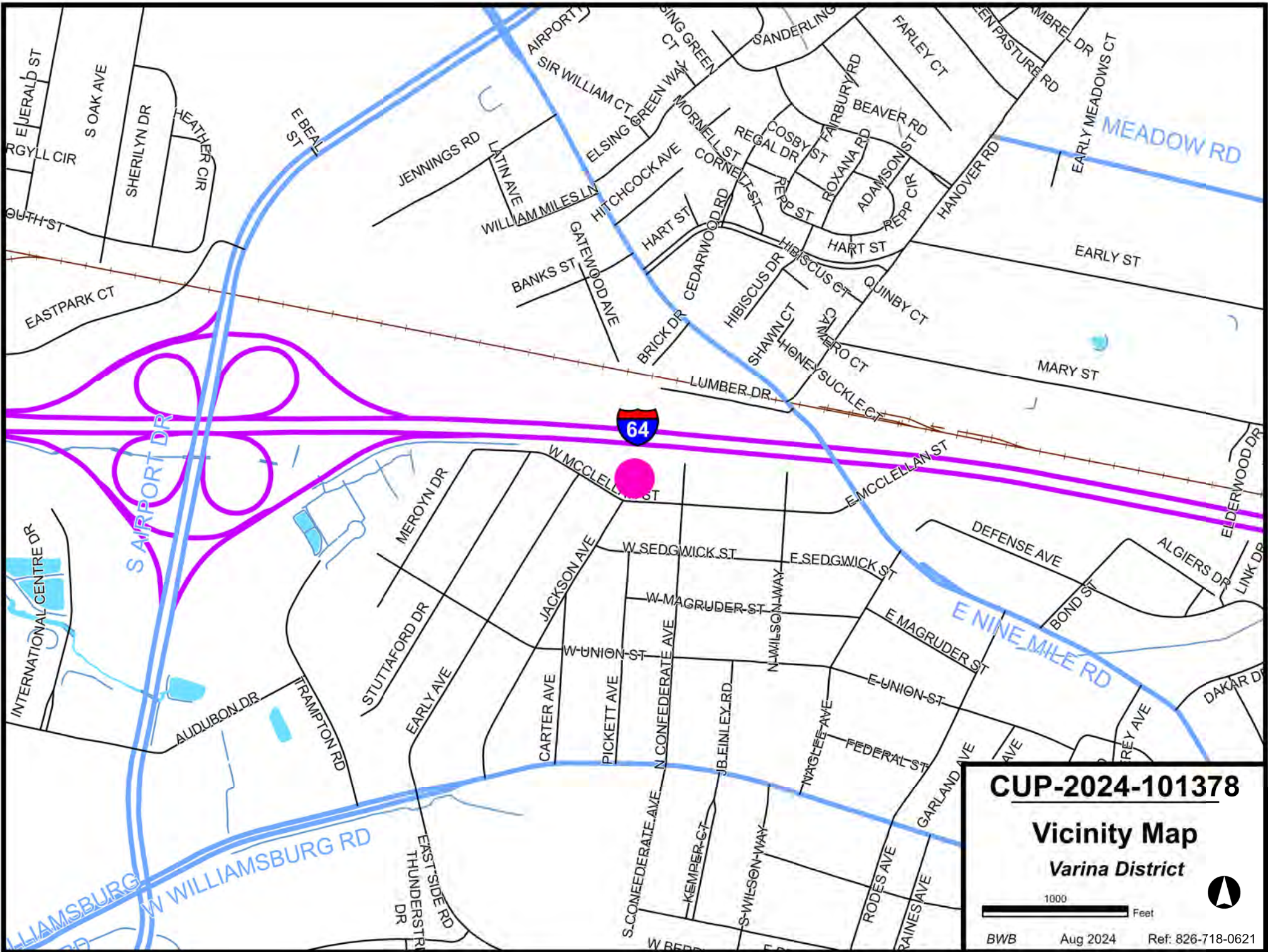
## **VARIANCES**

- VAR-2024-102113 Robert Hopson: variance from the rear yard setback to build a screened porch at 3028 Macallan Parkway, Castleton, Varina. The applicant has 21 feet rear yard setback where the Code requires 35 feet rear yard setback. The applicant requests a variance of 11 feet rear yard setback. Parcel 823-690-8356. Zoning: R-3AC, One-Family Residence District (Conditional). Code Section: 24-3310.D.
- VAR-2024-102144 James L. Russell, Sr.: variance from the public street frontage requirement to build a single-family dwelling at 10839 Good Oak Lane, Brookland. The applicant has 0 feet public street frontage where the Code requires 50 feet public street frontage. The applicant requests a variance of 50 feet public street frontage. Parcel 765-769-7941. Zoning: A-1, Agricultural District. Code Section: 24-4306.E.1.
- VAR-2024-102256 Peter and Erica Schmidt: variance from the rear yard setback to build a screened porch at 3812 Lady Vixen Court, Foxhall, Three Chopt. The applicant has 36 feet rear yard setback where the Code requires 45 feet rear yard setback. The applicant requests a variance of 9 feet rear yard setback. Parcel 730-759-2824. Zoning: R-2AC, One-Family Residence District (Conditional). Code Section: 24-3308.D.
- 

**APPROVAL OF MINUTES:** October 24, 2024

**OTHER NEW BUSINESS:**

**ADJOURNMENT**



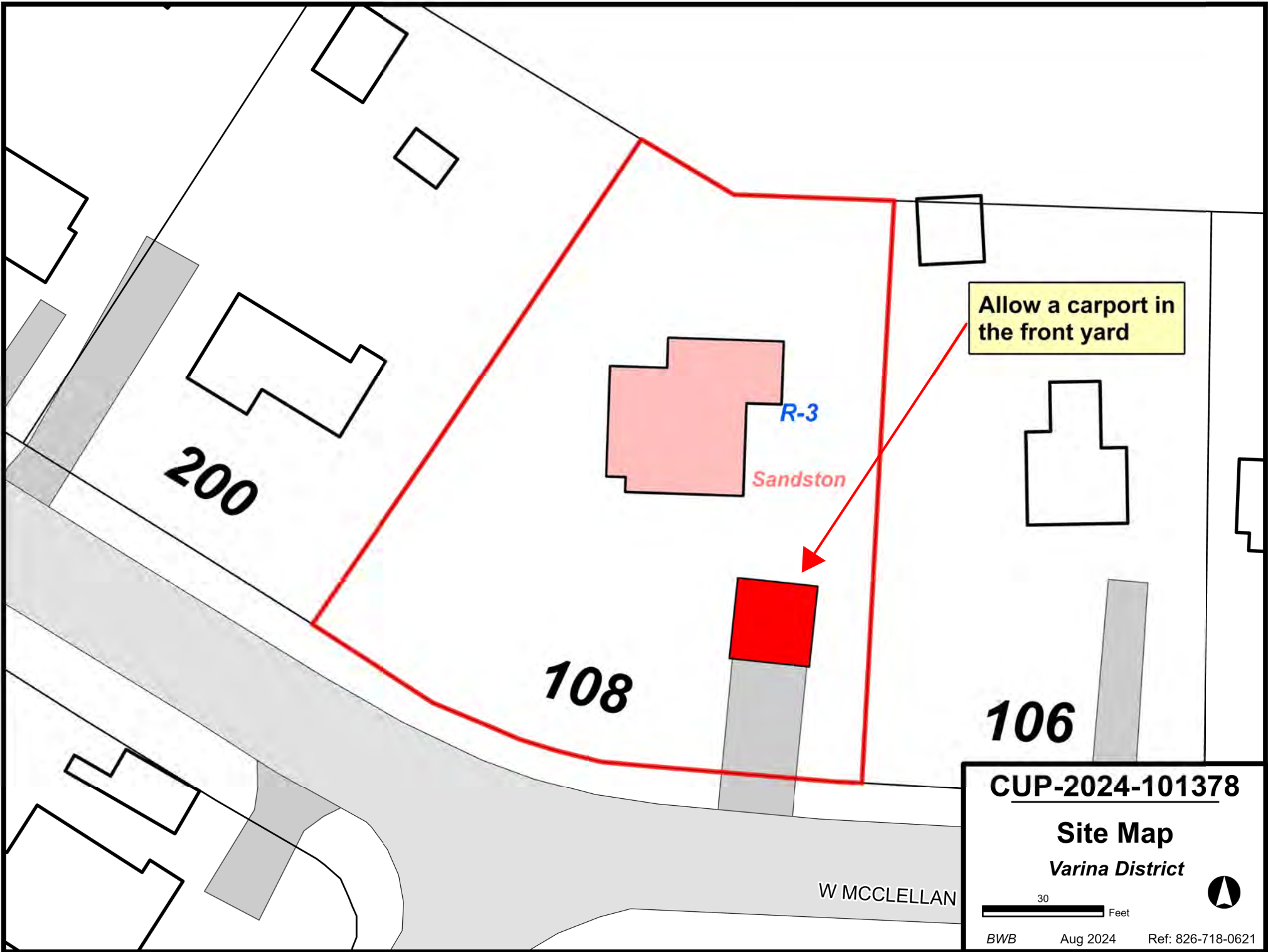
**CUP-2024-101378**

**Vicinity Map**

*Varina District*



BWB Aug 2024 Ref: 826-718-0621

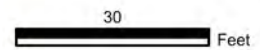




**CUP-2024-101378**

**2024 Aerial Photo**

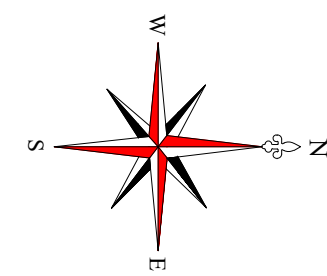
*Varina District*



BWB Aug 2024 Ref: 826-718-0621



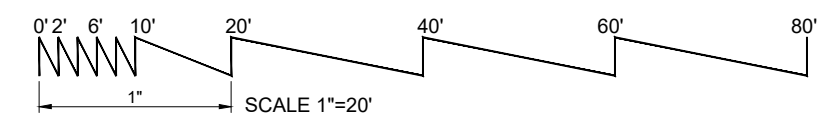
W McCLELLAN



JACKSON AVENUE

W McCLELLAN STREET

Staff Note: we found 28 feet for this measurement



<b>108 W MCCLELLAN ST SANDSTON, VA 23150</b>		Scale: 1"=20'	Date: 09-11-2024 Size: 11"x17"	Sheet 1 of 1
Parcel No. (APN)	826-718-0621	<p><b>THIS IS NOT A LEGAL SURVEY, NOR IS IT INTENDED TO BE OR REPLACE ONE</b></p> <p>This work product represents only generalized locations of features, objects or boundaries and should not be relied upon as being legally authoritative for the precise location of any feature, object or boundary.</p>		
Land Use	RESIDENTIAL SINGLE FAMILY RESIDENCE			
Buildings	1 Building			
Building Area	1,588 SF			
Lot Area	15,390 SF (0.35 ACRES)			
Zoning Code	R-3			



# CUP-2024-101378

## Jasha Delfiki

Staff Report for the Board of Zoning Appeals

---

*This report is prepared by the Planning Department staff to assist the Board of Zoning Appeals in considering this application. Additional information may be submitted by interested parties at the public hearing, and the final decision to grant or deny the application is reserved by law to the Board.*

---

<b>Public hearings:</b>	August 22, 2024	Deferred
	September 26, 2024	Deferred
	October 24, 2024	Deferred
	November 21, 2024	Pending

---

### **Property Identification and Location:**

**Property owner:** Connor Del Vecchio and Jasha R. Delfiki

**Applicant:** Jasha Delfiki

**Type of request:** Allow a carport in the front yard

**Property address:** 108 W McClellan Street

**Parcel Number:** 826-718-0621

**Property acreage:** 15,390 square feet (0.35 acre)

**Subdivision:** Sandston

**Magisterial District:** Varina

**2026 Comprehensive  
Plan Recommendation:** Suburban Residential 2 (SR2)

**Zoning of Property:** R-3, One-Family Residence District

**Zoning of Surrounding  
Property:** North: R-3, One-Family Residence District  
West: R-3, One-Family Residence District  
South: R-3, One-Family Residence District  
East: R-3, One-Family Residence District

**Staff Contact:** Sara Rozmus



## **BACKGROUND**

This application was deferred from the August meeting to allow time for the applicant to determine exactly where the carport may be located. The applicant provided an updated site plan and staff reviewed the information in the field. While it is not as precise as a survey, the applicant is willing to rely on it. If the Board approves the conditional use permit, there appears to be enough room to meet the 35-foot front yard setback without removing any trees.

The subject property is located in the Varina magisterial district on West McClellan Street, approximately 0.3 miles west of the intersection with East Nine Mile Road. The 1,588-square-foot cape cod-style house was built in 1950 and is situated on approximately 0.35 acres. The property was purchased by Connor Del Vecchio and Jasha R. Delfiki in 2017 and is currently zoned R-3, One-Family Residence District.

The applicant recently had a carport installed in the front yard. It consists of a standing-seam metal roof supported by columns. The sides are open. According to the concept plan, it measures 20 feet square. It was installed at the end of the gravel driveway, just in front of a large tree. It is located 20 feet from the neighbor to the east (106 W McClellan Street) but it is screened on that side by mature landscaping.

In addition to being located in the front yard (i.e., in front of the house), the carport also violates the front yard setback of 35 feet. If the Board approves the location of the carport in front of the house, it must be relocated to comply with the setback. In the absence of a formal survey staff measured the front yard setback based on our best estimate of the right-of-way location. Based on staff's measurements, the carport is 28 feet from the right of way at McClellan Street, 20 feet from the primary dwelling, and 7 feet from a large tree which is positioned between the carport and the dwelling. If the Board approves the carport to be in the front yard, staff recommends the applicant move the carport 7 feet towards the house so that it will be out of the front yard setback of 35 feet but will not require the applicant to remove a large, well-established tree.

## **APPLICANT'S NARRATIVE**

*(The following text was entered by the applicant through the Build Henrico online permitting system)*

Work Description: It is a fully installed carport in my front driveway. I was misinformed about the size restrictions involving permitted vs permit-less buildings. However, I'd like to apply for the permit as well as conditional use allowance due to my driveway being in my front yard. Without substantial rebuilding and demolition my driveway cannot be moved. I'd like to keep my carport; it is fully installed and cannot be removed without significant force and machinery. It was professionally installed and is rated against wind and securely bolted to the ground.

## **AGENCY COMMENTS**

This application was included on the preliminary agenda provided to the following agencies: Building Construction and Inspections, Community Revitalization, County Attorney's Office, Fire Safety, Information Technology, Permit Center, Police, Public Schools, Public Utilities, Public Works, and Recreation and Parks. The following comments were received.

## ***Recreation and Parks***

No park or recreation facilities or archeological impact. Staff Comments for information only: The parcel falls within the (043-6271) Fairfield-Sandston Historic District a listing on the National Register of Historic Places. The Cape Cod home, built ca. 1950, is not a contributing resource to the Fairfield-Sandston Historic District. The property falls within several Civil War battlefield areas identified by the Virginia Department of Historic Resources as: Battle of Garnett's and Golding's Farm; Oak Grove Battlefield; Seven Pines Battlefield; Savage Station Battlefield; Fair Oaks & Darbytown Road Battlefield.

## **EVALUATION**

***The Henrico County Zoning Ordinance, § 24-2308.D, authorizes the BZA to approve a conditional use permit only if it finds the proposed use meets the following standards.***

***1. The proposed use is consistent with the purposes, goals, and policies of the comprehensive plan and other applicable County-adopted plans***

The property is designated Suburban Residential 2 (SR2) on the 2026 Future Land Use Map. A single-family dwelling is consistent with that designation, and a detached carport can be allowed in the front yard by conditional use permit.

***2. The proposed use complies with all applicable standards in Articles 3, 4, and 5 of the Zoning Ordinance***

The property is zoned R-3, One-Family Residence District and complies with the lot area, lot width, and other zoning requirements of Article 3 for that zoning district. the dwelling meets the setback requirements; however, the carport is located 28 feet from the right-of-way where the code requires a front yard setback of 35 feet. If the carport is moved 7-feet towards the house, it will be compliant with the 35-foot front yard setback.

Article 4 allows a single-family dwelling as the principal use and a carport as an accessory use. Section 24-4404 provides that an accessory structure is allowed by right in the rear yard and may be approved by conditional use permit in the front or side yard (if relocated to comply with the setbacks).

Because the property was developed prior to 2021, the development standards of Article 5 do not apply to this request.

***3. The proposed use is appropriate for its location and is compatible with the general character of surrounding lands and the types, scale, and intensity of uses allowed in the zoning district where proposed***

The surrounding area is primarily single-family dwellings on lots of 0.25 to 1-acre with mature trees. There are no adjacent neighbors to the subject property with accessory structures in the front yard. In that sense, the carport is inconsistent with its surroundings and not compatible with the character of the neighborhood.

**4. *The proposed use will not adversely impact the public health, safety, and welfare***

The proposed carport does not impede the sight lines of the driveway, nor would it detrimentally impact the cars on McClellan Street. The structure does not have siding or lighting that would visually impact the nearest neighbor.

The current location of the carport is in violation of the 35-foot front yard setback. If the carport is moved 7-feet towards the house, based on staff measurements, it will no longer be in violation of the front yard setback. Since the applicant was unable to get a formal survey, staff is basing the recommendation off measurements we took in person. The concept plan submitted by the applicant does not accurately reflect the measurements taken by staff.

Three of the neighbors have called to ask about the application; none expressed opposition. However, this case came to the County's attention as the result of a complaint. If opposition is expressed at the public hearing, the Board must determine whether the proposed carport would be detrimental to the neighborhood.

**CONCLUSION**

The proposed conditional use permit is for a carport in the front yard of an existing single-family home in Sandston. The existing dwelling is on a 0.35-acre lot surrounded by mature trees and shrubs. The location of the carport in the front yard is due to the landscaping of the lot. Because it is in violation of the front yard setback, the carport must be moved. Based on measurements provided by the applicant and confirmed by staff, the carport can be moved 7 feet towards the dwelling to meet the 35-foot front yard setback. If the Board determines the carport is compatible with the surrounding neighborhood, this request should be approved subject to the following conditions. If the Board concludes that the carport is detrimental to the character of the surrounding neighborhood, this request should be denied.

**RECOMMENDED CONDITIONS**

1. This conditional use permit authorizes the construction of a carport in front of the house but meeting the 35-foot front yard setback. All other applicable regulations of the County Code remain in force.
2. This conditional use permit applies only to the improvements shown on the plot plan and building design filed with the application as amended by these conditions. Any additional improvements must comply with the applicable regulations of the County Code. Any substantial changes or additions to the design or location of the improvements will require a new conditional use permit.
3. The carport must be relocated to comply with all applicable setbacks, including the 35-foot front yard setback and the 10-foot setback from the dwelling. The applicant must provide a survey or similar evidence that this condition has been met by January 31, 2025.



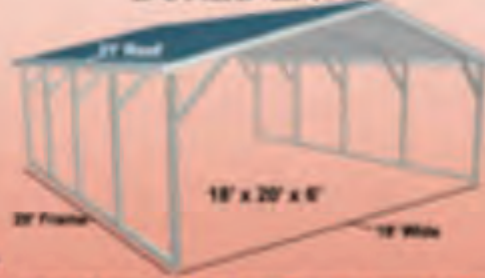
# QUALITY IS OUR FIRST PRIORITY

**STANDARD CERTIFIED 150/35**  
 12' to 24' Wide - Up To 16' Height - Any Length

## VERTICAL



## BOXED EAVE



## REGULAR



**ALL BUILDINGS INCLUDE:**

- 29 Gauge Roofing
- 4" Braces on Every Leg 8' or Taller
- Anchors Included
- 5' Centers

Roof Length is 18' Longer Than Frame Length  
**1 YEAR WORKMANSHIP WARRANTY (Limited)**  
 15 Year Warranty on 14ga. 2 1/2" Framing

**20 YEAR Limited Rust Through Warranty on:**

- Panels for Vertical Roofs Up To Any Length
- Regular and Boxed Eaves Up To 31'
- Framing 12ga. 2 1/4"

### Standard Heights 6'-16'

12 x 20 \$1,895	18 x 20 \$1,795	20 x 20 \$1,995	22 x 20 \$2,395	24 x 20 \$2,495
12 x 25 \$2,095	18 x 25 \$2,195	20 x 25 \$2,495	22 x 25 \$2,895	24 x 25 \$3,095
12 x 30 \$2,495	18 x 30 \$2,595	20 x 30 \$3,095	22 x 30 \$3,595	24 x 30 \$3,795
12 x 35 \$2,895	18 x 35 \$3,095	20 x 35 \$3,595	22 x 35 \$4,195	24 x 35 \$4,395
12 x 40 \$3,395	18 x 40 \$3,595	20 x 40 \$4,095	22 x 40 \$4,795	24 x 40 \$4,995
12 x 45 \$3,790	18 x 45 \$3,990	20 x 45 \$4,490	22 x 45 \$5,390	24 x 45 \$5,590
12 x 50 \$4,190	18 x 50 \$4,390	20 x 50 \$4,990	22 x 50 \$5,990	24 x 50 \$6,190

### Standard Heights 6'-16'

12 x 20 \$1,395	18 x 20 \$1,595	20 x 20 \$1,795	22 x 20 \$1,995	24 x 20 \$2,295
12 x 25 \$1,795	18 x 25 \$1,895	20 x 25 \$2,195	22 x 25 \$2,495	24 x 25 \$2,795
12 x 30 \$2,195	18 x 30 \$2,295	20 x 30 \$2,695	22 x 30 \$3,095	24 x 30 \$3,395
12 x 35 \$2,495	18 x 35 \$2,695	20 x 35 \$3,095	22 x 35 \$3,595	24 x 35 \$3,995

### Standard Heights 6'-16'

12 x 20 \$1,295	18 x 20 \$1,395	20 x 20 \$1,695	22 x 20 \$1,895	24 x 20 \$1,995
12 x 25 \$1,595	18 x 25 \$1,695	20 x 25 \$1,995	22 x 25 \$2,295	24 x 25 \$2,495
12 x 30 \$1,795	18 x 30 \$1,895	20 x 30 \$2,395	22 x 30 \$2,695	24 x 30 \$2,995
12 x 35 \$1,995	18 x 35 \$2,195	20 x 35 \$2,795	22 x 35 \$3,095	24 x 35 \$3,395

**Buildings over 35 feet long must be vertical roof style.**

**LAND MUST BE LEVEL PRIOR TO THE INSTALLATION OF THE BUILDING!**

PLEASE NOTE THAT THE COLORS MAY VARY DUE TO THE PRINTING PROCESS.



All Units Standard With

2" x 2" Single Leg, Single Beam Roof  
 1 1/2" x 1 1/2" Single Leg, Single Beam Roof, Reinforced  
 1 1/2" x 1 1/2" Double Leg, Double Beam Roof

[www.carolinacarports.com](http://www.carolinacarports.com)

American Built

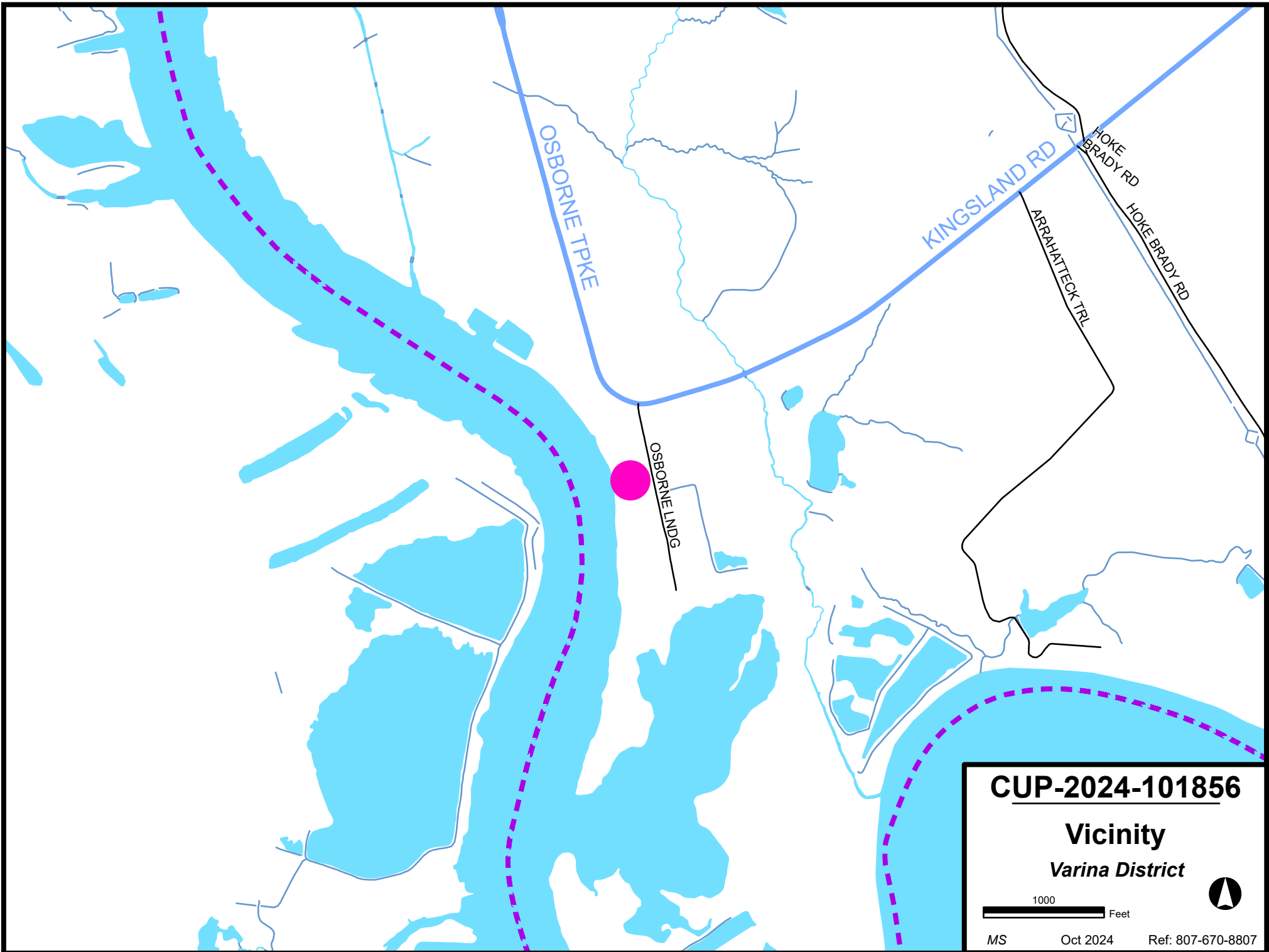


Carport from road



Carport

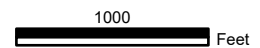
**CUP-2024-101378**



**CUP-2024-101856**

**Vicinity**

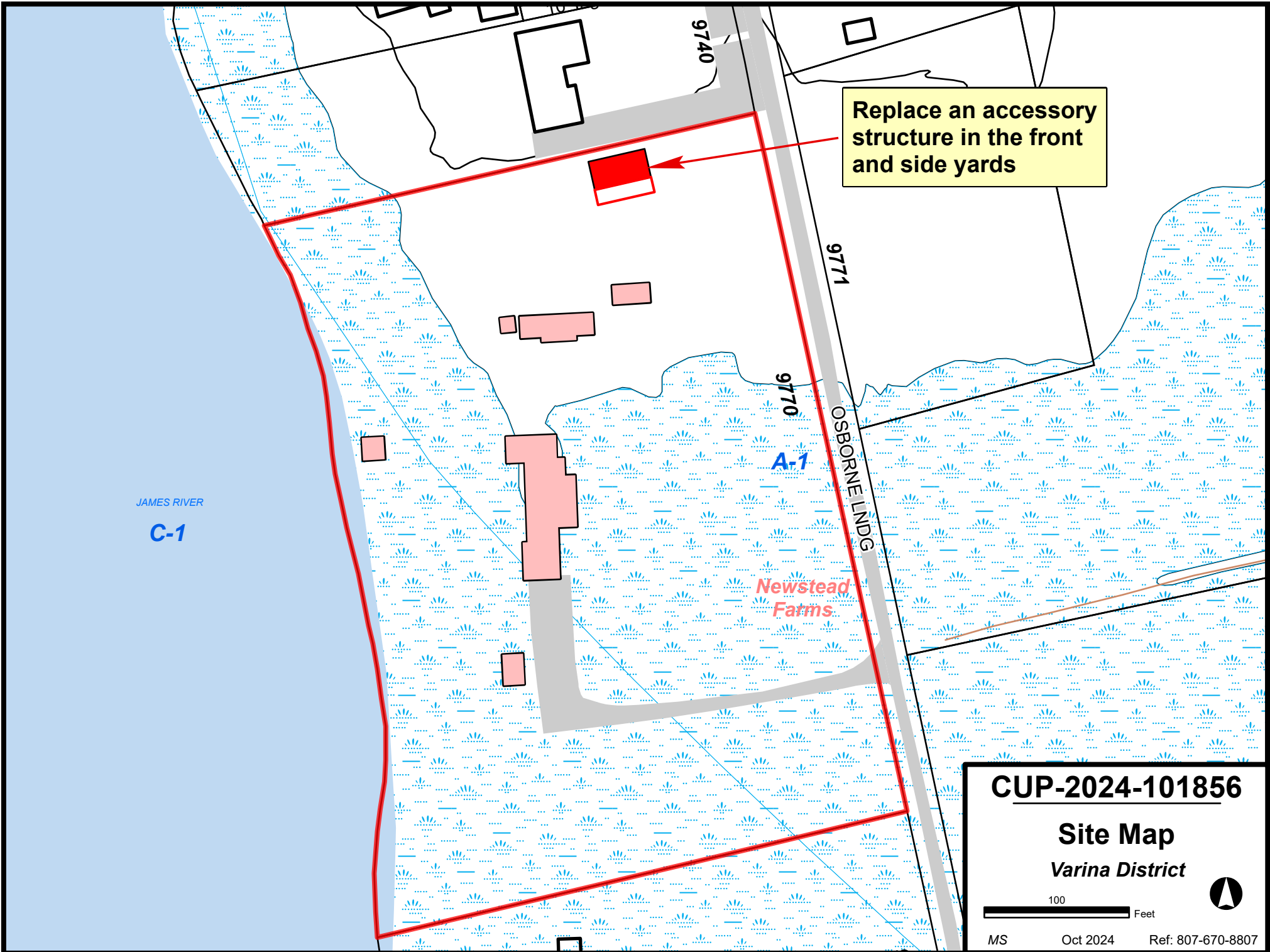
***Varina District***



MS

Oct 2024

Ref: 807-670-8807



Replace an accessory structure in the front and side yards

JAMES RIVER  
C-1

A-1

Newstead Farms

9771

9770

9740

OSBORNE LNDG

**CUP-2024-101856**

**Site Map**

*Varina District*

100 Feet





OSBORNE LINDG

**CUP-2024-101856**

**Aerial 2022**

*Varina District*

100 Feet



MS Oct 2024 Ref: 807-670-8807





# CUP-2024-101856

## Steve Himelspach

Staff Report for the Board of Zoning Appeals

---

*This report has been prepared by the Planning Department staff to assist the Board of Zoning Appeals in considering this application. Additional information may be submitted at the public hearing, and the final decision to approve or deny the application is reserved by law to the Board.*

<b>Public hearings:</b>	October 24, 2024	Deferred
	November 21, 2024	Pending

---

### **Property Identification and Location:**

**Property owner:** Steven James and Jean Kinney Himelspach

**Applicant:** Steve Himelspach

**Representative:** Steve Himelspach

**Type of request:** Replace an accessory structure in the front and side yards

**Property address:** 9770 Osborne Landing

**Parcel Number:** 807-670-8807

**Property acreage:** 3.89 acres

**Subdivision:** Newstead Farms

**Magisterial District:** Varina

**2026 Comprehensive Plan Recommendation:** Prime Agricultural (PA) and Environmental Protection Area (EPA)

**Zoning of Property:** A-1, Agricultural District

**Zoning of Surrounding Property:**  
North: A-1, Agricultural District  
West: C-1, Conservation District  
South: A-1, Agricultural District  
East: A-1, Agricultural District

**Staff Contact:** Paul Gidley

## **BACKGROUND**

The public hearing on this application was held on October 24. The neighbor to the north expressed concern with the size and location of the proposed building. After the public hearing was closed, the Board deferred action on this item to allow time for staff to meet with the applicant and the neighbor and attempt to resolve their differences.

The applicant requested a 44-by-24-foot building to be located six feet from the northern property line and 79 feet from the right-of-way of Osborne Landing. When staff met with the applicant, he agreed to locate the proposed building 50 feet from the northern property line, 50 feet from the right-of-way, and 40 feet from the special flood hazard area. However, the applicant was unwilling to reduce the size of the building.

When staff met with the neighbor, they expressed a lesser degree of opposition to the new proposed location. However, the neighbor still objects to the size of the building.

Osborne Landing serves eight homes. In addition to the applicant's home, four are north of the subject property, with the other three located south of the subject property. The occupants of the latter three homes drive by the first five homes, but there is little reason for anyone to drive by the homes at the southern end of the road because the road ends at the last house.

Two of the homes at the northern end of Osborne Landing have accessory buildings measuring approximately 24 by 24 feet, the size of a standard two-car garage. One is two-stories in height, and the other has a 12-by-24-foot carport attached. The other two homes near the subject property have smaller buildings. These buildings are all within sight of each other. In addition, there are two large accessory buildings at the southern end of the road, but as noted above, those buildings have no impact on any of the other houses on Osborne Landing.

## **APPLICANT'S NARRATIVE**

*(The following text was entered by the applicant through the Build Henrico online permitting system)*

As the property owners of 9770 Osborne Landing, we are seeking to remove and replace an accessory structure on Lot 9 of our property. The existing structure (to be removed) and the replacement structure, are located in the front/interior side yard. The accessory structure houses the property's drinking well mechanical equipment, in addition to providing storage.

The layout of Newsted Farms lots does not allow for construction in the rear yard due to the SFHA and James River RPA. All Newstead Farms properties located on Osborne Lndg have accessory structures located in the front and side yards due to this constraint.

This Conditional Use Permit is necessitated by the BZA's action on VAR-2022-00014, VAR-2024-101257, and VAR-2024-101288.

## **AGENCY COMMENTS**

This application was included on the preliminary agenda provided to the following agencies: Building Construction and Inspections, Community Revitalization, County Attorney's Office, Fire Safety, Information Technology, Permit Center, Police, Public Schools, Public Utilities, Public Works, and Recreation and Parks. The following comments were received.

### ***Department of Public Works***

#### ***Design Division***

- All proposed improvements must comply with all applicable Public Works plan of development requirements.
- Land disturbance greater than 2500 sq feet will require an Environmental Compliance Plan.
- The site must comply with applicable stormwater quality and quantity requirements.
- Analyze and provide solutions to minimize drainage impacts on downstream properties.
- Traffic Engineering will determine if any right-of-way dedication or road improvements are required.
- Based on information in the County's GIS, there appears to be 100-year floodplain present on the site.
- It appears there may be an SPA Stream and/or an RPA stream on the property.
- Based on GIS, Waters of the U.S. and/or hydric soils are present (indicating possible wetlands). Corps of Engineers and DEQ permits may be required.

#### ***Floodplain Review***

Given further information provided in a meeting with the applicant as well as a meeting with the Henrico County Planning Department, DPW Floodplains recommends this project for approval at this time. The previous language was not as accurate and the updated reflection of the one accessory building will be removed without a new structure on that location and a new accessory building will be build in another location on the property.

The CUP is proposing development (any man-made change) in the setbacks of the FEMA Special Flood Hazard Area (SFHA) and FEMA 500-year floodplain. As development is occurring in where there are multiple FEMA SFHAs and the 500-year floodplain, these boundaries need included and will be necessary to include in the building permit process for demolition, temporary construction access, and final design before any development may occur.

The proposed development (any man-made change) must meet all applicable requirements of Chapter 10, Article 1. However, at a minimum, the proposed development activities would be required to have an approved Floodplain Development Permit prior to beginning any development activities (Sec. 10-8) and buildings must be constructed so the lowest floor is elevated at least 1' above the base flood elevation (BFE) (Sec. 10-9(o)). Additional requirements may apply once a more detailed plan set is provided.

#### ***Recreation and Parks***

No park or recreation facilities, historical, or archeological impact. Staff comments for information only: the parcel is identified by the Virginia Department of Historic Resources (VDHR) as: 043-0167 Osborne's Landing. A 19th century ferry operated along this bend transporting people and cargo to the south side of the river. The parcel is also the site of 043-6600 Cox Cemetery which will not be impacted by the proposed structure. The parcel falls within the Civil War battlefield area identified by the VDHR as: 043-0307 New Market Heights Battlefield.

## **EVALUATION**

***The Henrico County Zoning Ordinance, § 24-2308.D, authorizes the BZA to approve a conditional use permit only if it finds the proposed use meets the following standards.***

- 1. The proposed use is consistent with the purposes, goals, and policies of the comprehensive plan and other applicable County-adopted plans***

The property is designated Prime Agricultural (PA) and Environmental Protection Area (EPA) on the 2026 Future Land Use Map. A single-family dwelling is consistent with this designation and an accessory structure located outside the floodplain would also be consistent.

- 2. The proposed use complies with all applicable standards in Articles 3, 4, and 5 of the Zoning Ordinance***

The property is zoned A-1, Agricultural District. A single-family dwelling is a principal permitted use in the A-1 district. An accessory structure may be placed in the front yard with the approval of a conditional use permit.

- 3. The proposed use is appropriate for its location and is compatible with the general character of surrounding lands and the types, scale, and intensity of uses allowed in the zoning district where proposed***

There are a variety of lot sizes on this side of the street, ranging from 1/4 acre to 3.68 acres (the subject property). Two other homes (in addition to the subject property) have accessory structures in the front yards. The proposed building has the appearance of a small barn, and would be compatible with the surrounding area. However, it would be located very close to the adjoining property at 9740 Osborne Landing.

- 4. The proposed use will not adversely impact the public health, safety, and welfare***

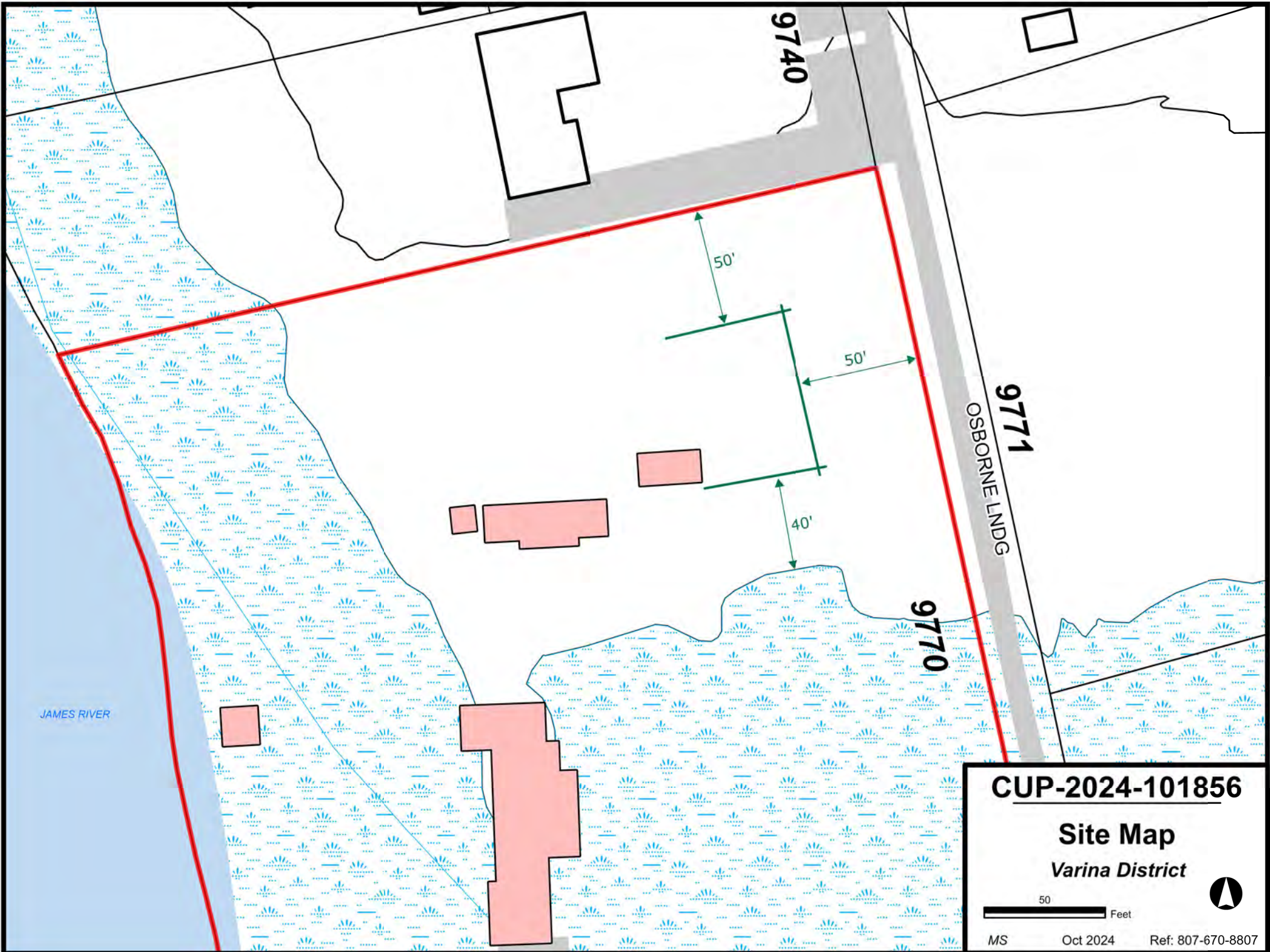
The applicant and the neighbor have reached a compromise on the proposed location of the building. However, the applicant is still proposing to build a 44-by-24-foot building and the neighbor considers anything larger than 24 by 24 feet to be out of character with the cluster of homes around the intersection of Osborne Turnpike and Osborne Landing.

## **CONCLUSION**

The applicant intends to demolish an existing storage building and to build a new, larger building in a different location. The neighbor to the north has expressed opposition based on the location and size of the building. The applicant and the neighbor have reached a compromise regarding the location; however, the applicant is unwilling to reduce the size of the building below 24 by 44 feet. The neighbor considers a building that large to be detrimental to the character of the nearby property. Staff recommends approval of the agreed-upon location at the size the Board determines will be consistent with the area and will not be detrimental to nearby property, subject to the following conditions.

## **RECOMMENDED CONDITIONS**

1. This conditional use permit authorizes the construction of a detached accessory building in the front yard. All other applicable regulations of the County Code remain in force.
2. This conditional use permit applies only to one building as described in these conditions. Any substantial changes or additions to the design or location of the improvements will require a new conditional use permit. Any additional improvements must comply with the applicable regulations of the County Code.
3. The building must be located at least 50 feet from the right-of-way of Osborne Landing, 40 feet from the Special Flood Hazard Area, 50 feet from the northern property line, and 15 feet from any active well.
4. The building must be limited to one story and must be no larger than \_\_\_ feet by \_\_\_ feet enclosed area plus a roofed but unenclosed area \_\_\_ feet by \_\_\_ feet.
5. The building is to be used for well equipment and household storage and must not be occupied for any residential or business use.
6. Any exterior lighting must be shielded to direct light away from adjacent property and Osborne Landing.
7. Before beginning any clearing, grading, or other land disturbing activity, the applicant must obtain approval of an environmental compliance plan from the Department of Public Works. The site must comply with applicable stormwater quality and quantity requirements.
8. Before beginning any development (man-made change) within or adjacent to the Special Flood Hazard Area (SFHA), the applicant must obtain approval of a Floodplain Development Permit from the Department of Public Works. The development must comply with all applicable requirements of Chapter 10, Article 1.
9. The applicant must obtain building permits to demolish the existing accessory structure and build the proposed replacement by November 21, 2026, or this conditional use permit will expire. If the building permit is cancelled or revoked after that date due to failure to diligently pursue construction, this conditional use permit will expire at that time.

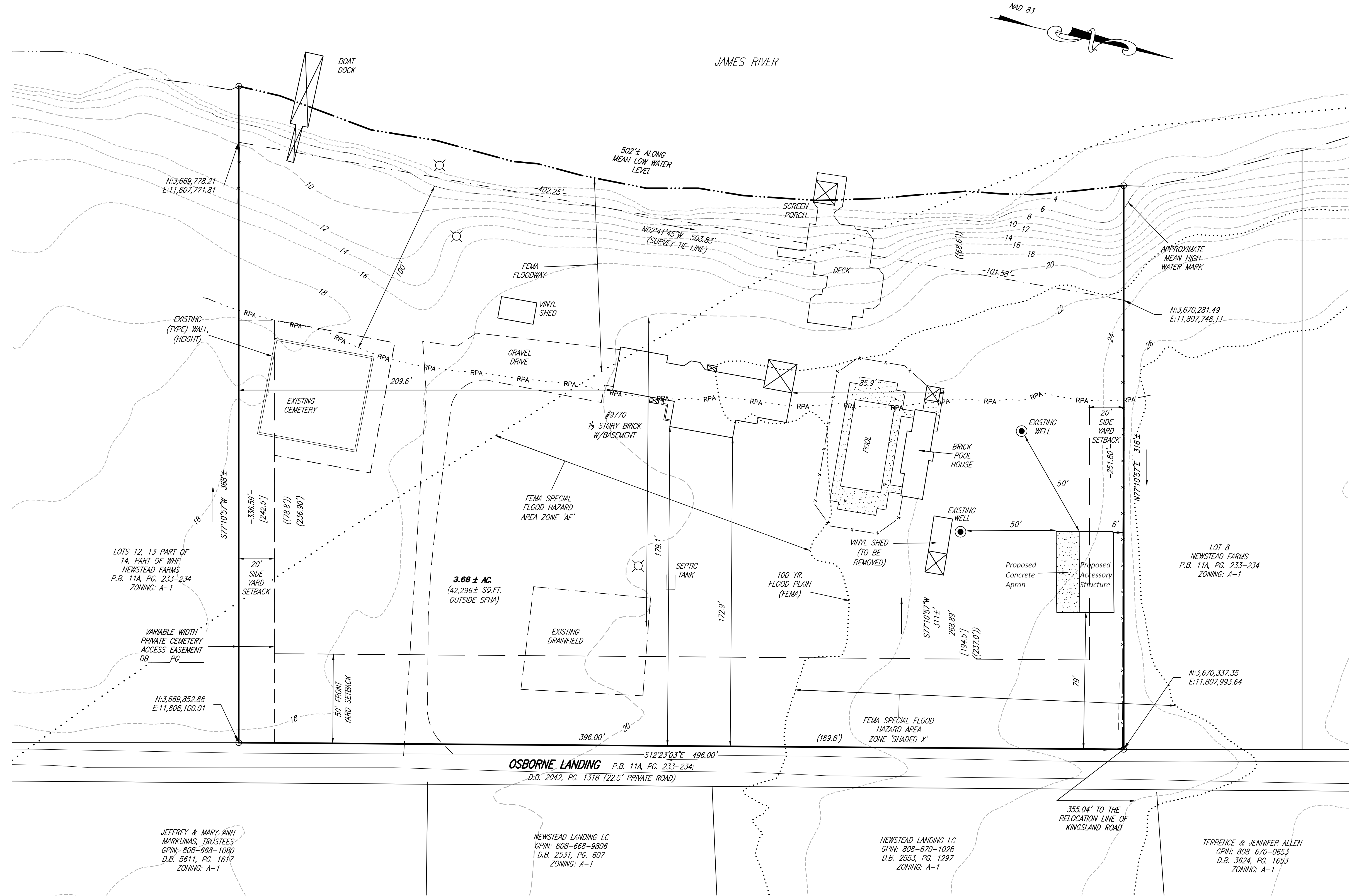
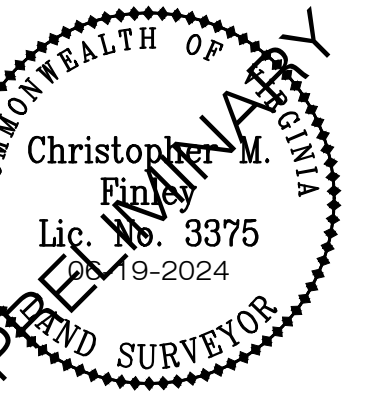


# NO CONSTRUCTION ACTIVITY IS PROPOSED WITH THIS PLAN



**BALZER  
& ASSOCIATES**  
PLANNERS / ARCHITECTS  
ENGINEERS / SURVEYORS

Roanoke / Richmond  
New River Valley / Staunton  
Harrisonburg / Lynchburg  
[www.balzer.cc](http://www.balzer.cc)  
15871 City View Drive  
Suite 200  
Midlothian, VA 23113  
804.794.0571



**LEGEND**  
 -XX.XX'- DENOTES TIE TO SURVEY TIE LINE  
 [XX.X'] DENOTES TIE TO RPA  
 ((XX.X')) DENOTES TIE TO SFHA  
 (XX.XX') DENOTES TIE TO EASEMENT

**HIMELSPACH**  
**OVERALL PLAN**  
 VARINA DISTRICT  
 HENRICO COUNTY, VIRGINIA

DRAWN BY: BCH  
 DESIGNED BY:  
 CHECKED BY: CMF  
 DATE: 06-19-2024  
 SCALE: 1"=30'  
 REVISIONS:

J:\54005656540027\_00 HIMELSPACH FAMILY DIVISION - HENRICO COUNTY\54005656540027\_SOUTH.WMG PLOTTED: 01/19/2024 12:10:18 PM

**C02**  
 PROJECT NO. 55240027.00







Existing structure



View to right side neighbor

**CUP-2024-101856**

3608

SMITH WOODS PL

3609

3605

3607

Swanson  
Mill Run

R-1AC

Build an accessory dwelling unit  
attached to the home

**CUP-2024-101916**

**Site Map**

*Brookland District*

40 Feet

MS

Nov 2024

Ref: 768-777-0084

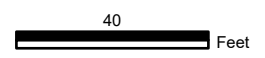
SMITH WOODS PL

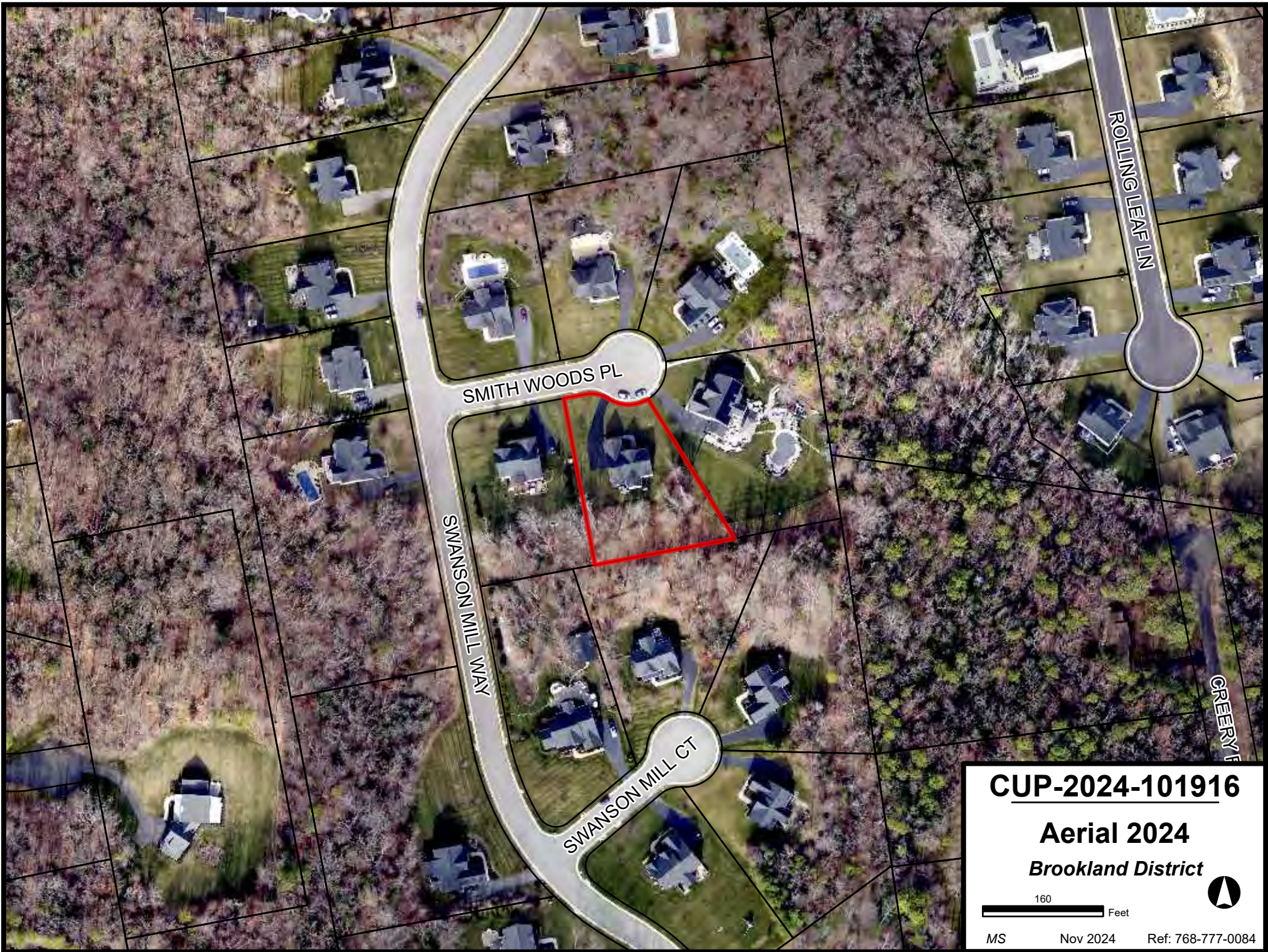


**CUP-2024-101916**

**Aerial 2024**

*Brookland District*





SMITH WOODS PL

SWANSON MILL WAY

SWANSON MILL CT

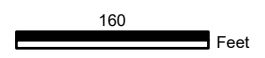
ROLLING LEAF LN

GREERY F

**CUP-2024-101916**

**Aerial 2024**

*Brookland District*





# CUP-2024-101916

## Cory Gibson

Staff Report for the Board of Zoning Appeals

---

*This report has been prepared by the Planning Department staff to assist the Board of Zoning Appeals in considering this application. Additional information may be submitted at the public hearing, and the final decision to approve or deny the application is reserved by law to the Board.*

**Public hearings:** November 21, 2024 Pending

---

### **Property Identification and Location:**

**Property owner:** Cory J. and Roslin J. Gibson

**Applicant:** Cory Gibson

**Representative:** Cory Gibson

**Type of request:** Build an accessory dwelling unit attached to the home

**Property address:** 3605 Smith Woods Place

**Parcel Number:** 768-777-0084

**Property acreage:** 31,471 square feet (0.72 acre)

**Subdivision:** Swanson Mill Run

**Magisterial District:** Brookland

**2026 Comprehensive  
Plan Recommendation:** Rural Residential (RR)

**Zoning of Property:** R-1AC, One-Family Residence District (Conditional)

**Zoning of Surrounding  
Property:** North: R-1AC, One-Family Residence District (Conditional)  
West: R-1AC, One-Family Residence District (Conditional)  
South: R-1AC, One-Family Residence District (Conditional)  
East: R-1AC, One-Family Residence District (Conditional)

**Staff Contact:** Sara Rozmus

## **BACKGROUND**

The subject property is located at 3605 Smith Woods Place in the Brookland Magisterial District. The dwelling was built in 2015 as part of the Swanson Mill Run Subdivision. It was rezoned R-1AC, One-Family Residence District, in 2004 (C-62C-04). Among other requirements, the proffers from that rezoning case require brick or stone foundations, prohibit cantilevered bay windows and similar features, require stoops and steps to be brick, and regulate the materials of chimneys.

The two-story home was purchased by the applicants in 2015. The applicants have applied for a conditional use permit to build an accessory dwelling unit as an addition onto their house to accommodate a family member.

The property is almost  $\frac{3}{4}$  acre in area, and the dwelling was built 41.5 feet from the right (western) side lot line. The R-1AC zoning requires a side yard setback of 15 feet, so the applicant has 26.5 feet to build an addition. The preliminary plan was slightly larger than that, but when staff explained the setback, the applicant redesigned the proposed addition to 26-by-26-feet. The design also includes a screened porch on the rear and a small stoop on the side, both of which fit within the setbacks. The proposed elevations match the style and roof pitch of the existing dwelling.

## **APPLICANT'S NARRATIVE**

*(The following text was entered by the applicant through the Build Henrico online permitting system)*

An in-law suite that will be attached to a single-family home. This is the second revision. We've done a better job of showing where the ADU will go within the plat. We've also removed the covering on the porch to allow the stairs to the ADU to encroach into the 15 foot setback to avoid the need for a variance.

## **AGENCY COMMENTS**

This application was included on the preliminary agenda provided to the following agencies: Building Construction and Inspections, Community Revitalization, County Attorney's Office, Fire Safety, Information Technology, Permit Center, Police, Public Schools, Public Utilities, Public Works, and Recreation and Parks. The following comments were received.

### ***Department of Public Works***

- Land disturbance greater than 2500 sq feet will require an Environmental Compliance Plan.
- Analyze and provide solutions to minimize drainage impacts on downstream properties.

## **EVALUATION**

***The Henrico County Zoning Ordinance, § 24-2308.D, authorizes the BZA to approve a conditional use permit only if it finds the proposed use meets the following standards.***

- 1. The proposed use is consistent with the purposes, goals, and policies of the comprehensive plan and other applicable County-adopted plans***

The property is designated Rural Residential (RR) on the 2026 Future Land Use Map. A single-family dwelling with accessory uses and structures is consistent with that designation.

- 2. The proposed use complies with all applicable standards in Articles 3, 4, and 5 of the Zoning Ordinance***

The property is zoned R-1AC, One-Family Residence District (Conditional), and complies with the dimensional standards and other requirements of Article 3. A single-family dwelling is a principal use permitted by right under Article 4. An accessory dwelling unit is a permitted use in the R-1AC district with the approval of a conditional use permit.

Because this is a single-family development that was approved prior to 2021, the standards of Article 5 are not applicable.

- 3. The proposed use is appropriate for its location and is compatible with the general character of surrounding lands and the types, scale, and intensity of uses allowed in the zoning district where proposed***

The homes in the R-1AC zoning district are positioned on lots of at least 21,500 square feet. The Swanson Mill Run neighborhood has homes ranging from 3,000 to 4,000 square feet in floor area. The addition of an accessory dwelling unit as part of the home at 3605 Smith Woods Place will be generally compatible with the size and scale of the homes in the surrounding area. Because of the size of the lots and the location of the proposed addition, it will only be visible from the neighbor to the west (3609 Smith Woods Place), and it will be over 60 feet from that house. The size and location of the accessory dwelling unit should have no detrimental impact on the adjoining property.

- 4. The proposed use will not adversely impact the public health, safety, and welfare***

The proposed accessory dwelling unit will be an addition on to the existing home at 3605 Smith Woods Place. The accessory dwelling unit will include a bedroom, bathroom, kitchen, and small living area totaling approximately 696 square feet, which is allowed by the Zoning Ordinance. The location of the accessory dwelling unit will be 17.5 feet from the right side (east) lot line, which meets the required 15-foot setback for this district. As a result, staff does not anticipate any adverse impact on the public's health, safety or welfare.

## **CONCLUSION**

The applicant is requesting a conditional use permit to allow an accessory dwelling unit to be built as an addition on their existing home. The 696-square-foot accessory dwelling unit is permitted by the ordinance and will be built 17.5 feet from the adjoining property line. The size and impact of the proposed addition will be generally compatible with the character of the surrounding neighborhood and staff does not anticipate any detrimental impact. Staff recommends approval of this request subject to the following conditions.

## **RECOMMENDED CONDITIONS**

1. This conditional use permit authorizes an attached accessory dwelling unit. All other applicable regulations of the County Code remain in force.
2. This conditional use permit applies only to the improvements shown on the plot plan and building design titled, "Gibson Addition" dated October 2, 2024, and filed with the application. Any additional improvements must comply with the applicable regulations of the County Code. Any substantial changes or additions to the design or location of the improvements will require a new conditional use permit.
3. The new construction must match the existing dwelling as nearly as practical in materials and color.
4. Approval of this request does not imply that a building permit will be issued. Building permit approval is contingent on Health Department requirements, including, but not limited to, soil evaluation for a septic drainfield and reserve area, and approval of a well location.
5. Before beginning any clearing, grading, or other land disturbing activity, the applicant must obtain approval of an environmental compliance plan from the Department of Public Works. The applicant may be required to analyze and provide solutions to minimize drainage impacts on downstream properties.
6. The applicant must obtain a building permit for the proposed accessory dwelling unit by November 21, 2026, or this conditional use permit will expire. If the building permit is cancelled or revoked after that date due to failure to diligently pursue construction, this conditional use permit will expire at that time.



Swanson Mill Run Homeowners Association, Inc.  
812 Moorefield Park Dr  
North Chesterfield, VA 23236

October 11, 2024  
Reference: 3605 Smith Woods Place

Cory & Roslin Gibson  
3605 Smith Woods Place  
Glen Allen, VA 23059

Dear Cory & Roslin Gibson,

Your Request for an Architectural Modification on your property at 3605 Smith Woods Place has been approved by the Architectural Request Committee of Swanson Mill Run Homeowners Association, Inc.. Specifically, you have approval to proceed with the following request as submitted: - **Add in-law suite to side of the home and replace the deck at the rear of the home with a covered porch. Install a stamped concrete patio in the back yard as well.&nbsp;**

Please note that the ARC reserves the right to make a final inspection to ensure that your project is compliant with the Architectural Design Standards applicable to your neighborhood.

Thank you for adhering to the architectural guidelines of the community. We appreciate your patience while this information was being reviewed.

Sincerely,

Swanson Mill Run Homeowners Association, Inc.

---

This Community is Professionally Managed By:  
CPVA Management, Inc.  
(804) 378-5000

THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY BE SUBJECT TO EASEMENTS OF RECORD THAT ARE NOT SHOWN ON THIS PLAT.

**RYAN HOMES**

TOPO SHOWN IS PER GRADING SHOWN ON THE APPROVED CONSTRUCTION PLANS AND HAS NOT BEEN FIELD VERIFIED BY YOUNGBLOOD TYLER & ASSOCIATES, P.C.

WELLED EXIT LOCATION MAY BE FIELD MODIFIED DUE TO GRADE OR OTHER HOUSE OPTIONS

BUILDER TO ADJUST MFF PER FIELD CONDITIONS.

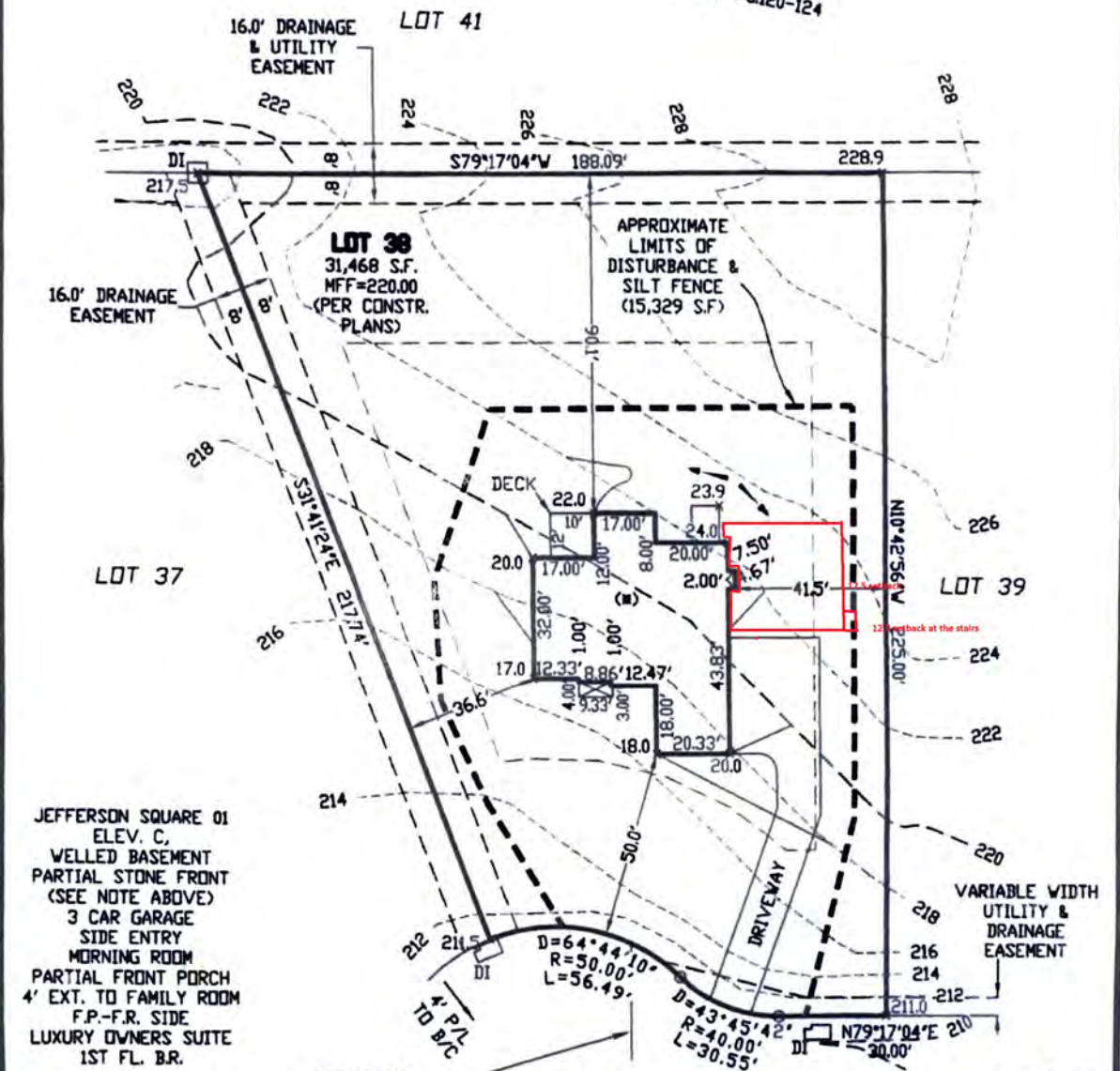
BY SIGNING THIS PLAT, THE PURCHASER ACKNOWLEDGES THEY HAVE RECEIVED THE SIZE OF THE DRIVEWAY AT THE SIDE OF THEIR HOME. PURCHASER UNDERSTANDS THAT RYAN HOMES MAKES NO REPRESENTATION CONCERNING PURCHASER'S ABILITY TO TURN INTO OR PULL OUT OF THE GARAGE. ANY DISTANCE LESS THAN 25 FEET IS LESS THAN IDEAL AND MAY LIMIT THE SIZE OR TYPE OF VEHICLE THAT CAN PROPERLY USE THIS DRIVEWAY.

THE STORMWATER REQUIREMENTS FOR THIS CONSTRUCTION ARE COVERED BY THE OVERALL SWM PLAN DEVELOPED FOR THIS SUBDIVISION.

DIMENSIONS DO NOT INCLUDE STONE VENEER.

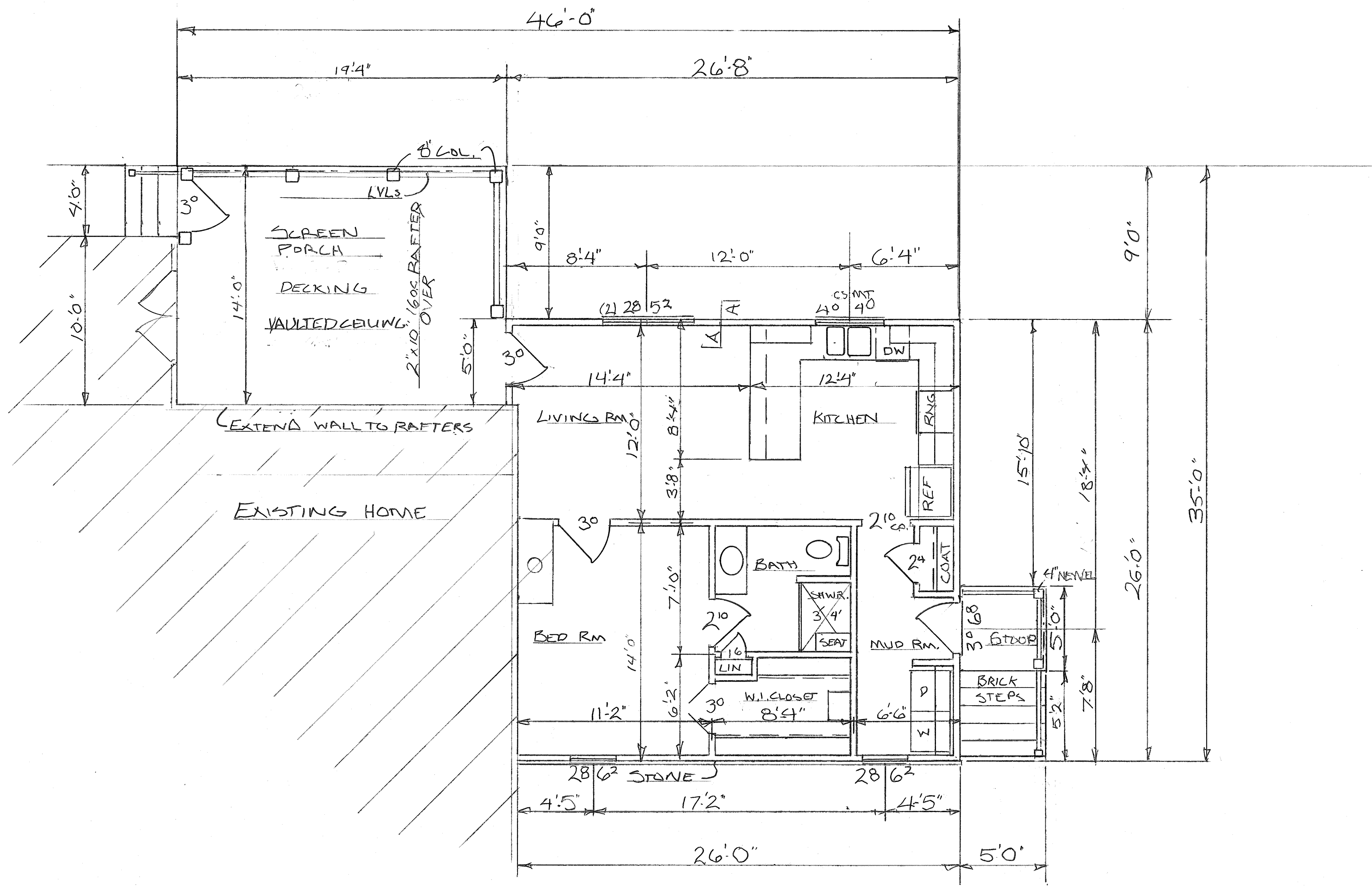


SWANSON MILL RUN  
SECTION 1  
PB.130 PG.120-124



PROPOSED IMPROVEMENTS ON  
**LOT 38**  
**SWANSON MILL RUN**  
**SECTION 1**

**YOUNGBLOOD, TYLER & ASSOCIATES, P.C.**  
CIVIL ENGINEERS, PLANNERS & LAND SURVEYORS  
7309 HANOVER GREEN DRIVE  
P.O. BOX 517 MECHANICSVILLE, Va. 23111  
DATE: DEC. 22, 2014 SCALE: 1" = 40'  
DRAWN BY: BMS



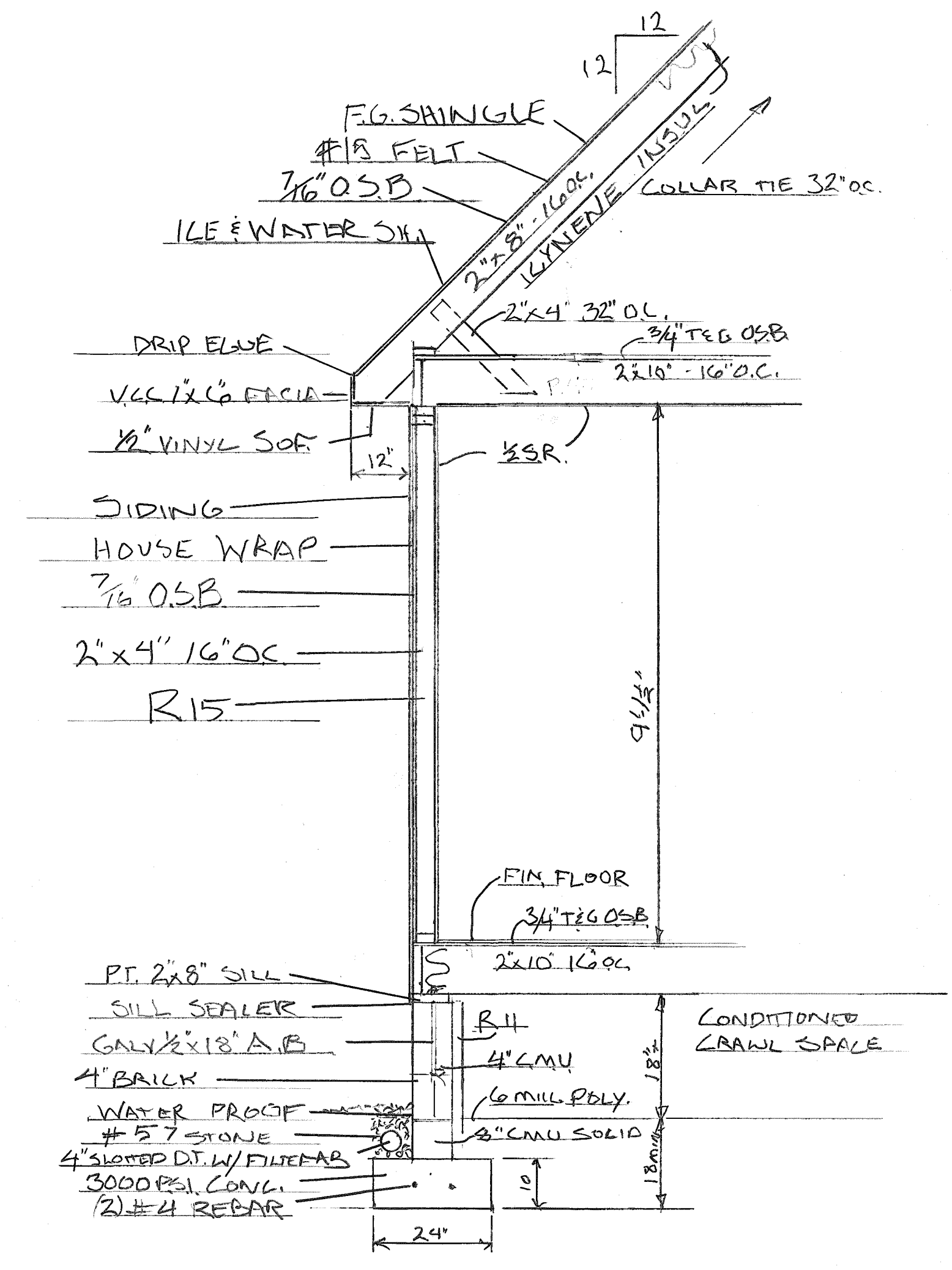
FLOOR PLAN

SCALE 1/4" = 1'

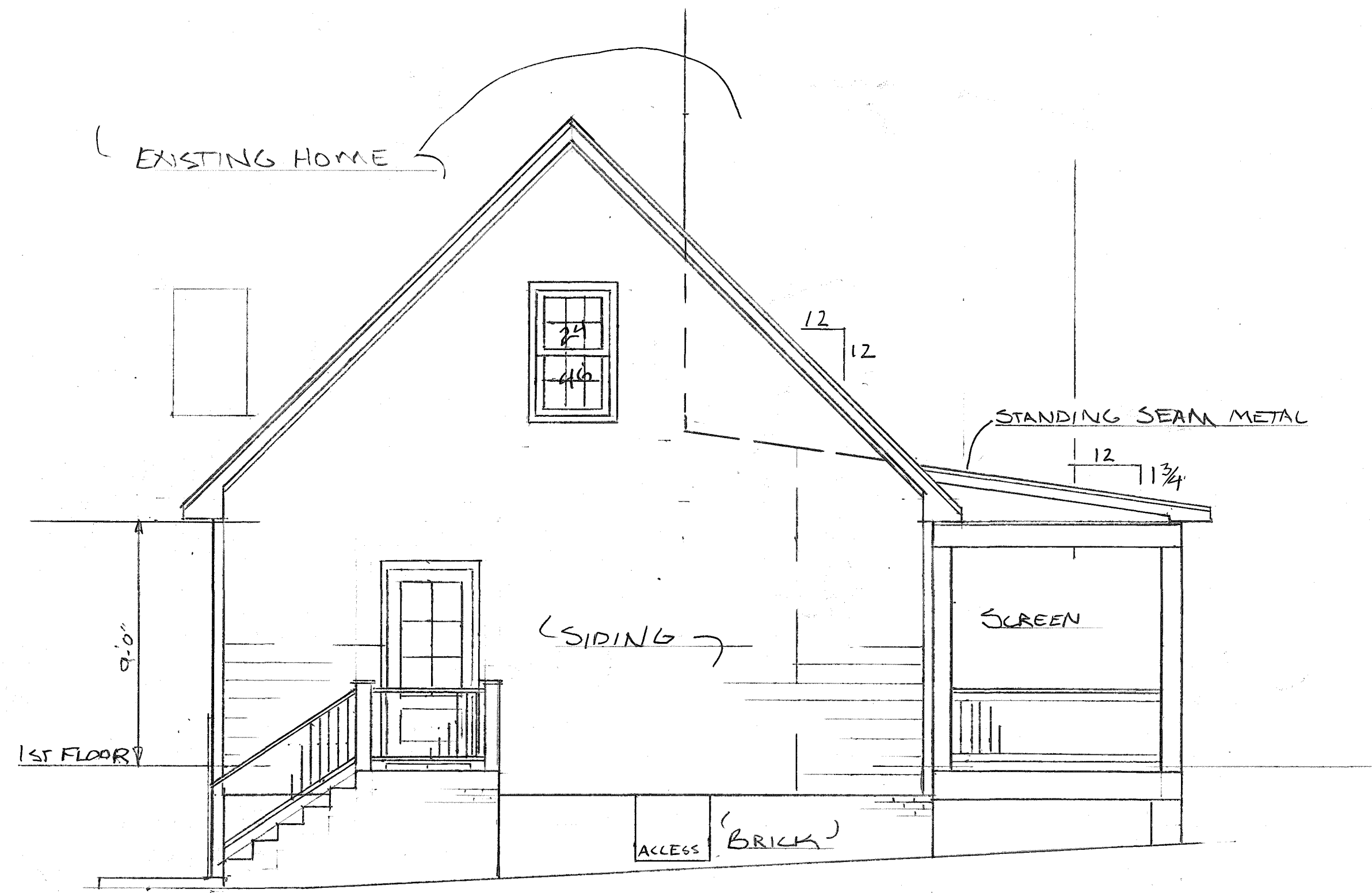


REAR ELEVATION

SCALE 1/4" = 1'

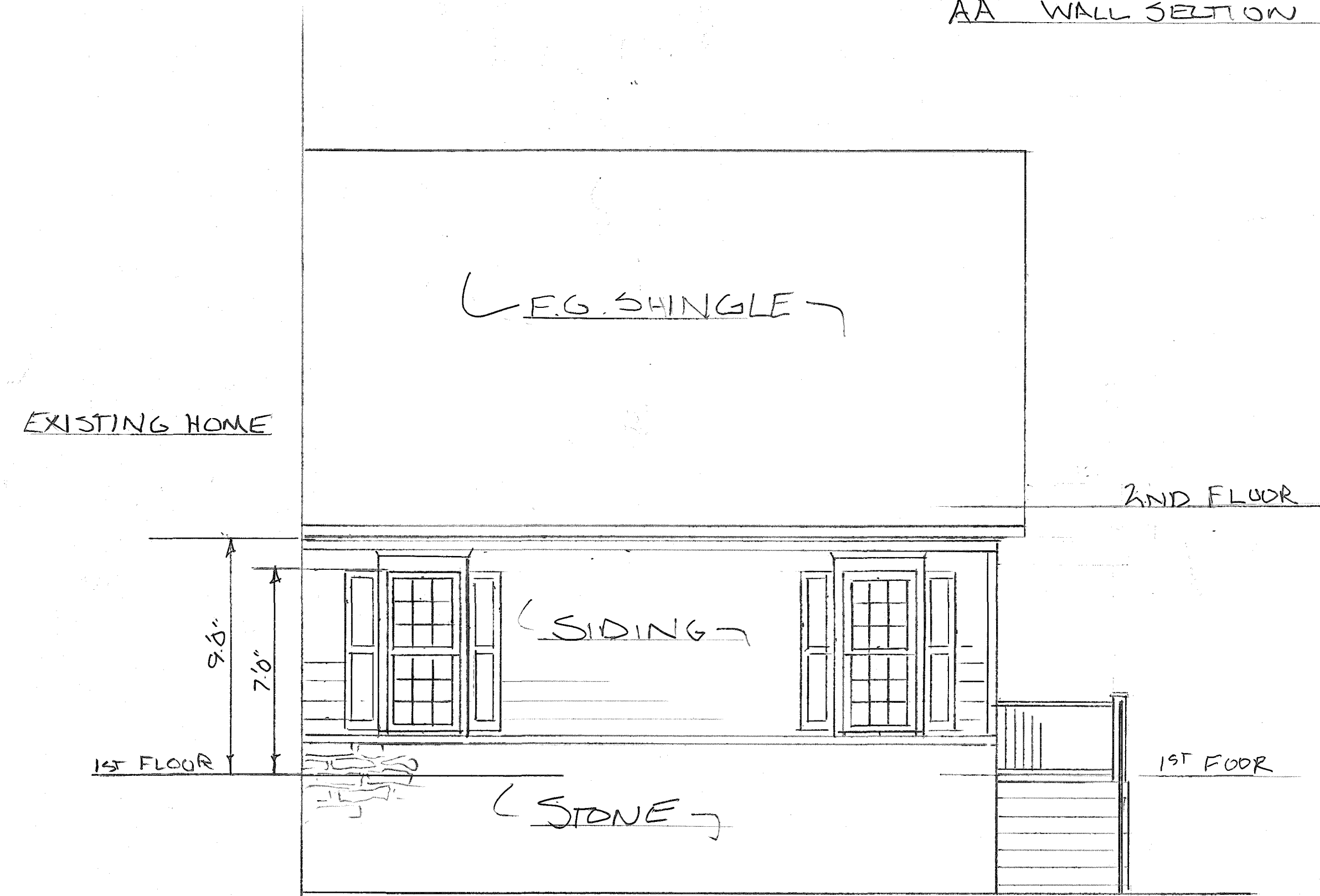


'AA' WALL SECTION SCALE 1/2" = 1'



RIGHT SIDE ELEVATION

SCALE 1/4" = 1'



FRONT ELEVATION

SCALE 1/4" = 1'



Front of residence



Rear yard

**CUP-2024-101916**

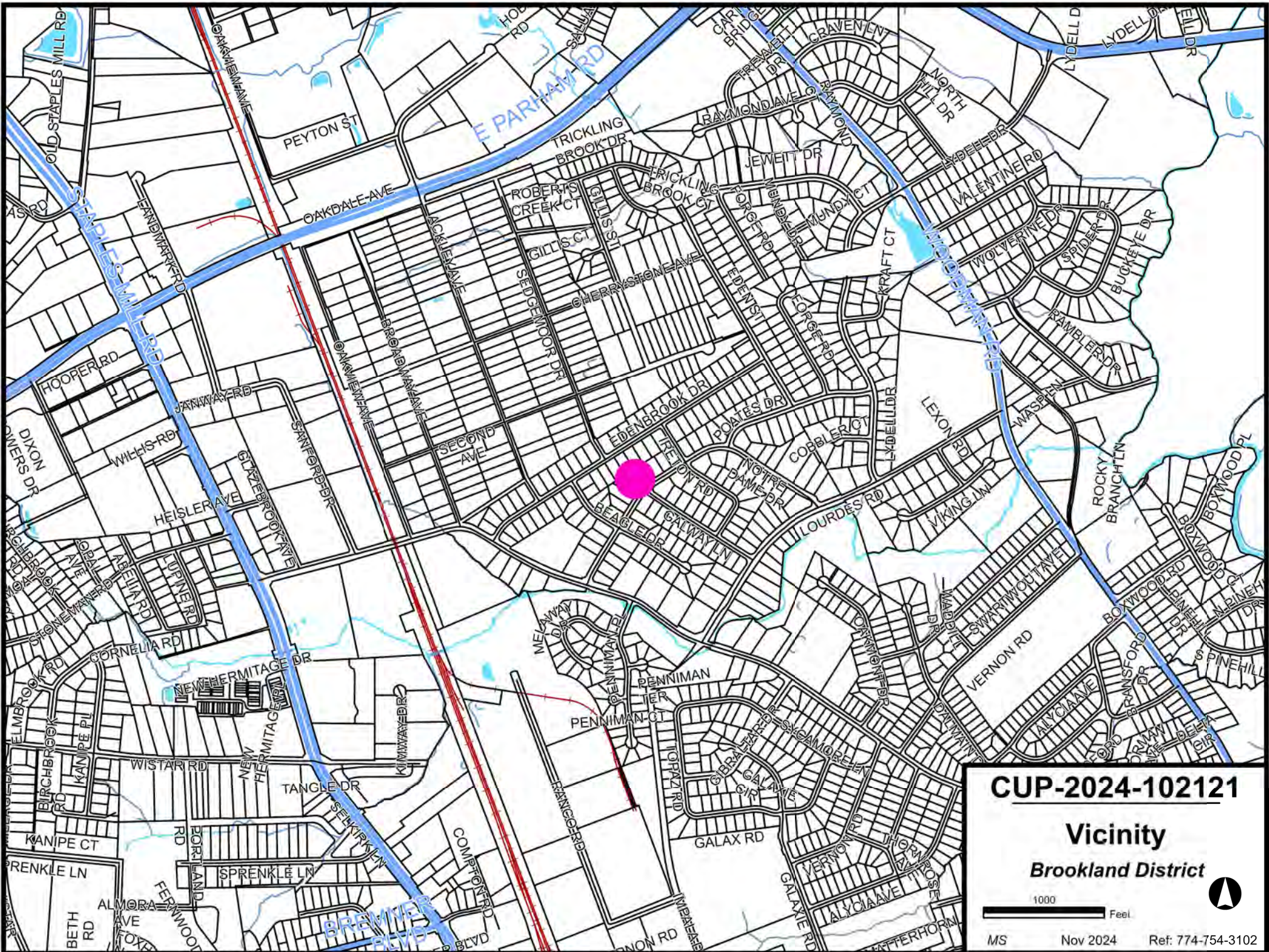


ADU location with driveway



ADU location

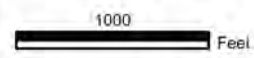
**CUP-2024-101916**



**CUP-2024-102121**

**Vicinity**

**Brookland District**



Build a detached accessory dwelling unit

R-3

Sedgefield Manor

2414

2416

POATES DR

2418

CUP-2024-102121

Site Map

Brookland District

30 Feet



MS Nov 2024 Ref: 774-754-3102

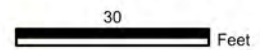




**CUP-2024-102121**

**2024 Aerial**

*Brookland District*



MS

Nov 2024

Ref: 774-754-3102



# CUP-2024-102121

## Henry Martinez

Staff Report for the Board of Zoning Appeals

---

*This report has been prepared by the Planning Department staff to assist the Board of Zoning Appeals in considering this application. Additional information may be submitted at the public hearing, and the final decision to approve or deny the application is reserved by law to the Board.*

**Public hearings:** November 21, 2024 Pending

---

### **Property Identification and Location:**

**Property owner:** Henry M. and Miriam P. Martinez

**Applicant:** Henry Martinez

**Representative:** Henry Martinez

**Type of request:** Build a detached accessory dwelling unit

**Property address:** 2416 Poates Drive

**Parcel Number:** 774-754-3102

**Property acreage:** 15,054 square feet (0.35 acre)

**Subdivision:** Sedgefield Manor

**Magisterial District:** Brookland

**2026 Comprehensive Plan Recommendation:** Suburban Residential 2 (SR2)

**Zoning of Property:** R-3, One-Family Residence District

**Zoning of Surrounding Property:**  
North: R-3, One-Family Residence District  
West: R-3, One-Family Residence District  
South: R-3, One-Family Residence District  
East: R-3, One-Family Residence District

**Staff Contact:** Sara Rozmus

## **BACKGROUND**

The subject property is located at 2416 Poates Drive in the Brookland Magisterial District. The dwelling was built in 1967 as part of the Sedgefield Manor Subdivision. The area is zoned R-3, One-Family Residence District, and is characterized by single-family homes, some with accessory structures, on 1/4- to 1/3-acre lots.

The tri-level home was purchased by the applicant in 2019. The applicant has applied for a conditional use permit to build a detached accessory dwelling unit in the rear yard. The property is 0.35 acres in area with the primary dwelling situated on the southeast end of the lot. An accessory structure is located in the northeast (right-rear) corner of the lot. The applicant is requesting to build the accessory dwelling unit in the northwest (left-rear) corner of the property, 5 feet from the left side property line and 8 feet from the rear property line. The accessory dwelling unit would be over 30 feet from the primary dwelling and 106 feet from the nearest neighbor in the rear. The proposed accessory dwelling unit would be 672 square feet in area with a 160-square-foot porch along the front.

## **APPLICANT'S NARRATIVE**

*(The following text was entered by the applicant through the Build Henrico online permitting system)*

Build 21' x 32' detached accessory dwelling unit with 5' x 32' covered porch

## **AGENCY COMMENTS**

This application was included on the preliminary agenda provided to the following agencies: Building Construction and Inspections, Community Revitalization, County Attorney's Office, Fire Safety, Information Technology, Permit Center, Police, Public Schools, Public Utilities, Public Works, and Recreation and Parks. The following comments were received.

### ***Department of Public Works***

- Land disturbance greater than 2500 sq feet will require an Environmental Compliance Plan.
- Analyze and provide solutions to minimize drainage impacts on downstream properties.
- Based on GIS, Waters of the U.S. and/or hydric soils are present (indicating possible wetlands). Corps of Engineers and DEQ permits may be required.

## **EVALUATION**

***The Henrico County Zoning Ordinance, § 24-2308.D, authorizes the BZA to approve a conditional use permit only if it finds the proposed use meets the following standards.***

- 1. The proposed use is consistent with the purposes, goals, and policies of the comprehensive plan and other applicable County-adopted plans***

The property is designated Suburban Residential 2 (SR2) on the 2026 Future Land Use Map. The single-family dwelling is consistent with that designation. An accessory dwelling unit is also consistent with this designation.

**2. *The proposed use complies with all applicable standards in Articles 3, 4, and 5 of the Zoning Ordinance***

The property is zoned R-3, One-Family Residence District, and complies with the dimensional standards and other requirements of Article 3. A single-family dwelling is a principal use permitted by right under Article 4.

None of the development standards of Article 5 apply to the proposed use.

**3. *The proposed use is appropriate for its location and is compatible with the general character of surrounding lands and the types, scale, and intensity of uses allowed in the zoning district where proposed***

The subject property is consistent with the surrounding subdivision, which consists of single-family dwellings on lots of approximately 1/4 acre. Many of the surrounding homes have detached accessory structures, such as garages and storage buildings.

**4. *The proposed use will not adversely impact the public health, safety, and welfare***

The proposed accessory dwelling unit will be located in the northwest corner of the lot, behind the primary dwelling. The accessory dwelling unit will be 672 square feet, which is within the maximum of 680 square feet allowed for a dwelling this size. The structure will be approximately 5 feet from the west side property line and 8 feet from the rear property line. The nearest house to the rear of the lot will be approximately 106 feet from the accessory dwelling unit. The property has ample driveway space to accommodate an additional car for the accessory dwelling unit. The lot is also home to many mature, tall trees which provide a natural buffer to the surrounding neighbors.

**CONCLUSION**

The applicant is requesting a conditional use permit to construct a detached accessory dwelling unit in the rear yard of their primary residence. The proposed accessory dwelling unit will be 672-square-feet and will be located in the northwest side of the rear yard. The structure will be over 100-feet from the nearest rear neighbor and will be shielded by mature trees and vegetation. Staff does not anticipate any detrimental impact to the surrounding area and recommends approval subject to the following conditions.

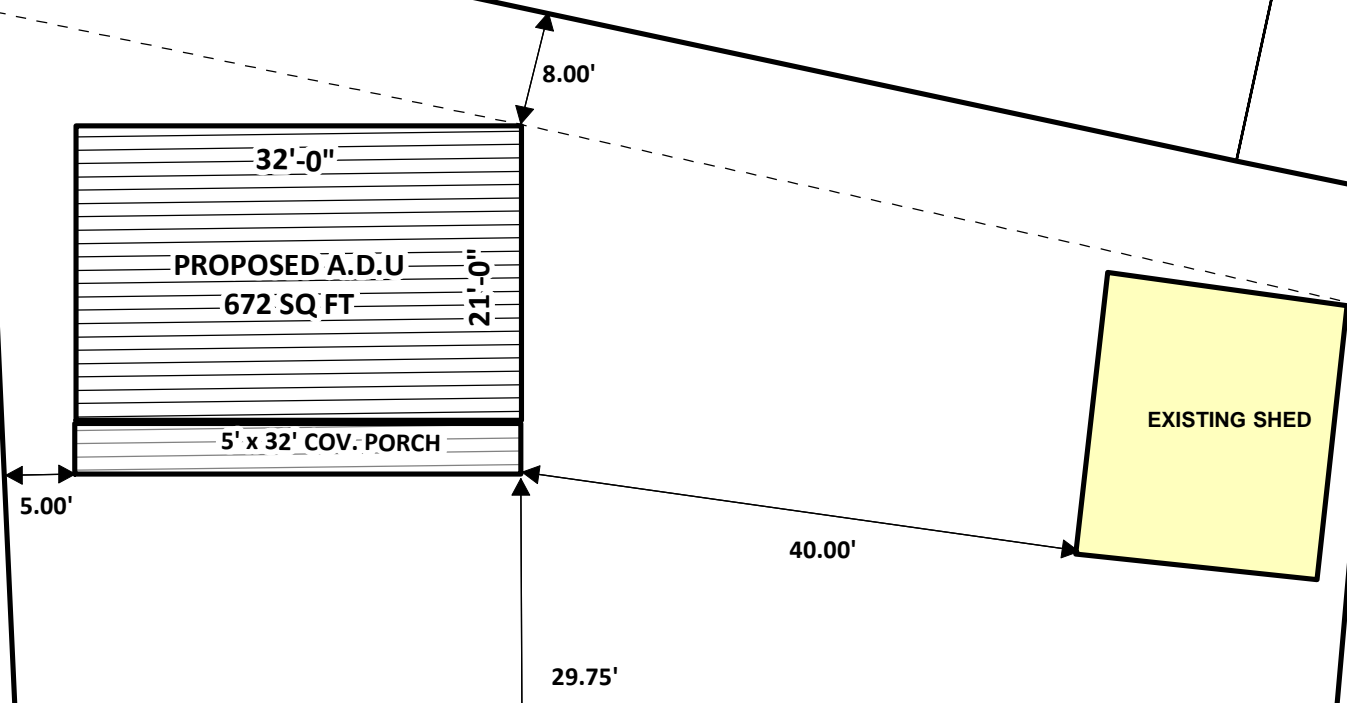
**RECOMMENDED CONDITIONS**

1. This conditional use permit authorizes a detached accessory dwelling unit. All other applicable regulations of the County Code remain in force.
2. This conditional use permit applies only to the improvements shown on the plot plan and building design filed with the application. Any additional improvements must comply with the applicable regulations of the County Code. Any substantial changes or additions to the design or location of the improvements will require a new conditional use permit.

3. Before beginning any clearing, grading, or other land disturbing activity, the applicant must obtain approval of an environmental compliance plan from the Department of Public Works. The applicant may be required to analyze and provide solutions to minimize drainage impacts on downstream properties. Corps of Engineers and DEQ permits may be required.
4. The applicant must obtain a building permit for the proposed accessory dwelling unit by November 21, 2026, or this conditional use permit will expire. If the building permit is cancelled or revoked after that date due to failure to diligently pursue construction, this conditional use permit will expire at that time.

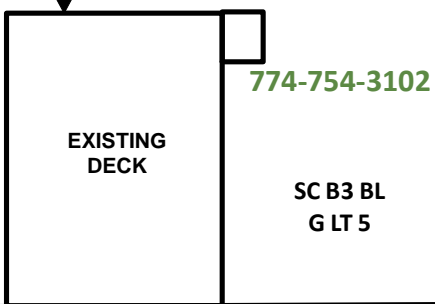
774-754-1208  
SC E BL  
GLT 11

SC E BL  
GLT 9  
774-754-2818

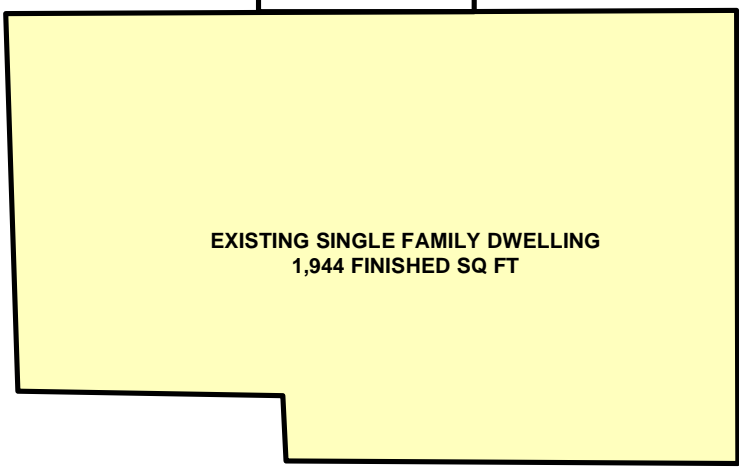


SC F BL  
GLT 21

774-753-2395

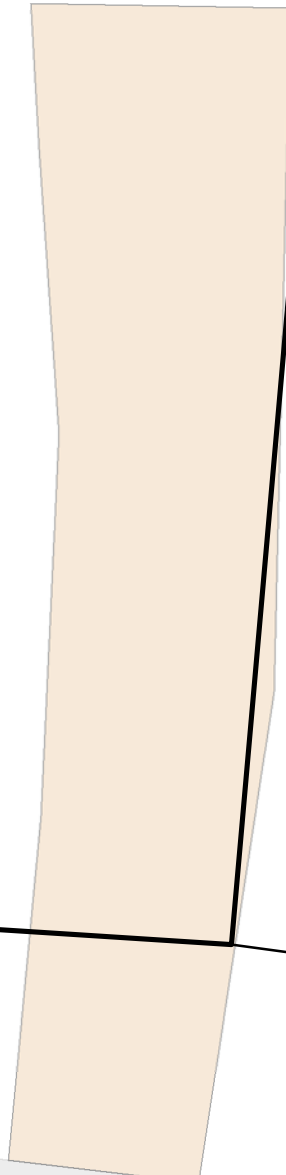


SC B3 BL  
GLT 5



SC B3 BL  
GLT 4

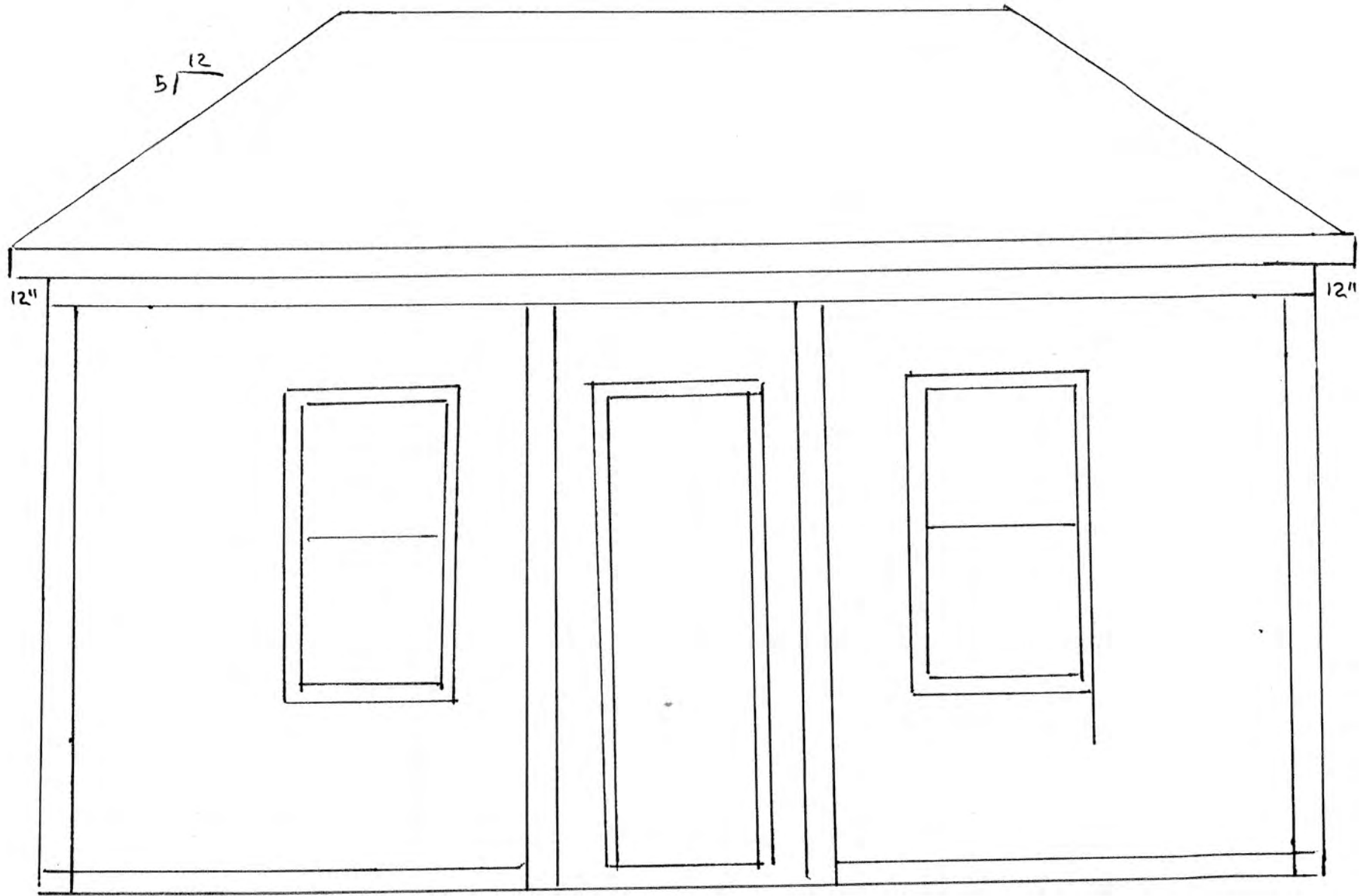
774-754-3806

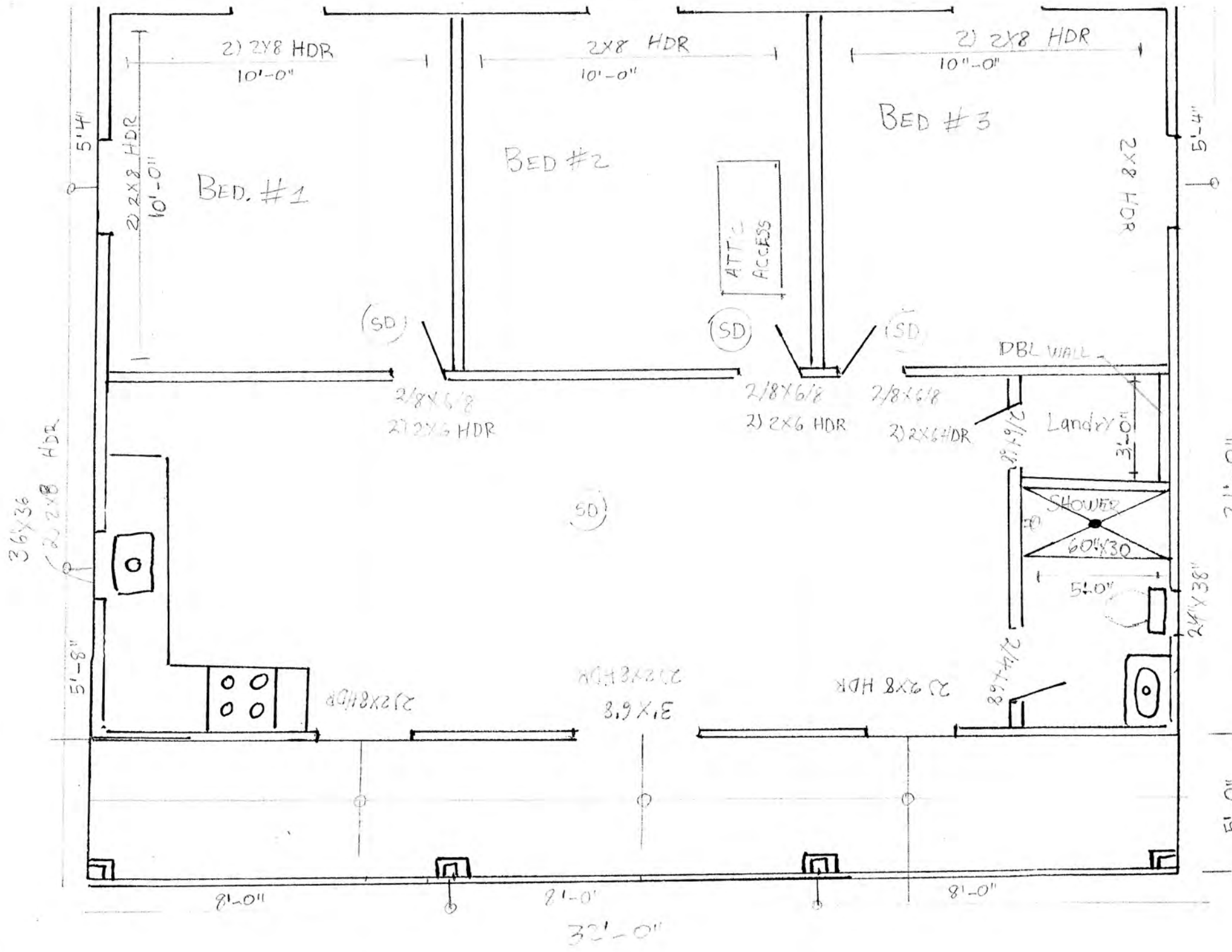


2416 Poates Dr  
Sedgefield Manor | Section B3 | Block G | Lot 5  
GPIN: 774-754-3102

0 10 20 40 Feet











Street view of property



Rear view of property

**CUP-2024-102121**

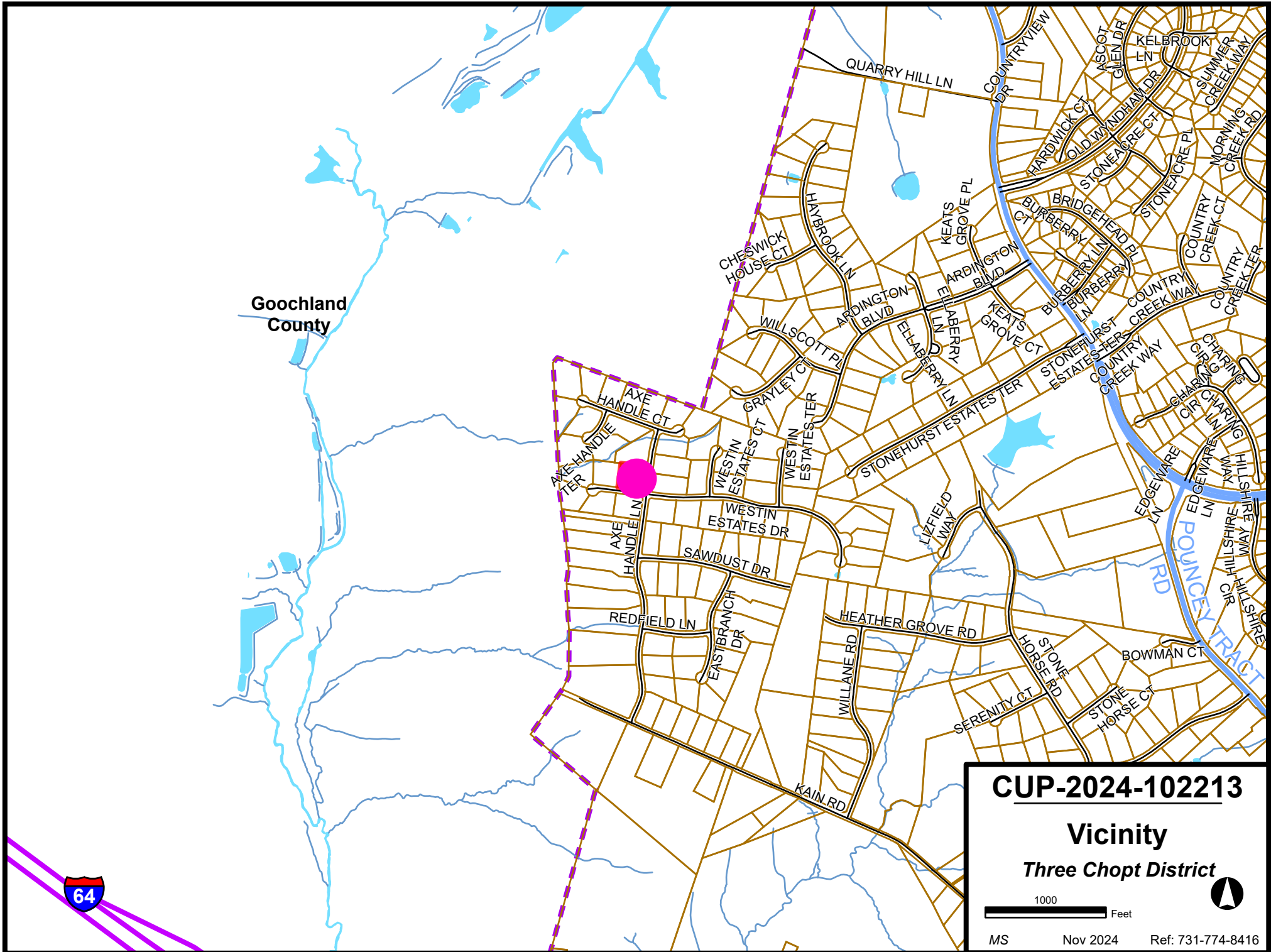


Rear neighbor



ADU Location

**CUP-2024-102121**



Goochland  
County

64

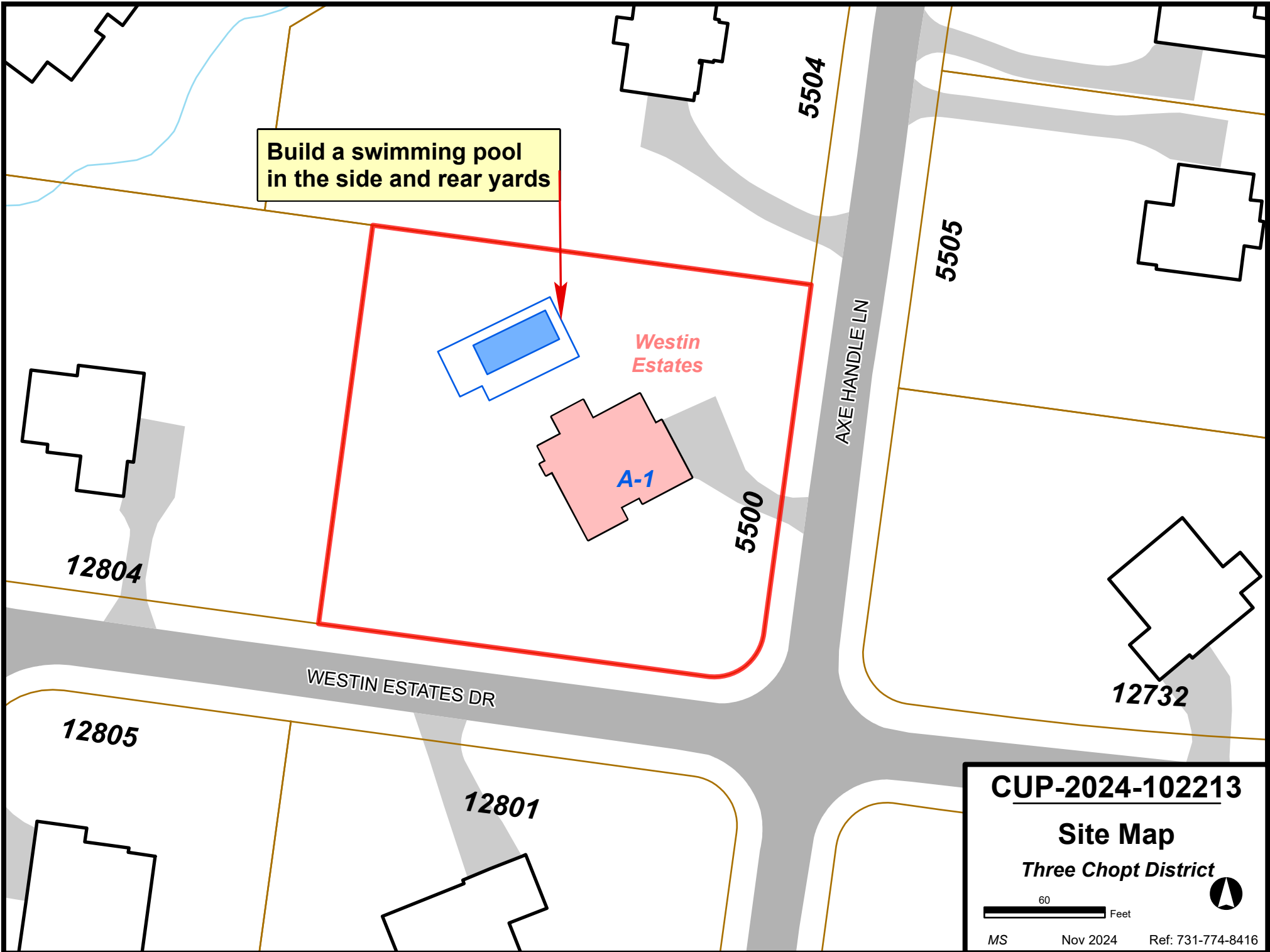
**CUP-2024-102213**

**Vicinity**

**Three Chopt District**

1000 Feet

MS Nov 2024 Ref: 731-774-8416



Build a swimming pool  
in the side and rear yards

Westin  
Estates

A-1

12804

5504

5505

AXE HANDLE LN

5500

12732

WESTIN ESTATES DR

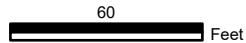
12805

12801

**CUP-2024-102213**

**Site Map**

*Three Chopt District*





WESTIN ESTATES DR

AXE HANDLE LN

**CUP-2024-102213**

**Aerial 2024**

*Three Chopt District*

60 Feet





# CUP-2024-102213

## Amy Mogetz and Vladislav Akerman

Staff Report for the Board of Zoning Appeals

---

*This report has been prepared by the Planning Department staff to assist the Board of Zoning Appeals in considering this application. Additional information may be submitted at the public hearing, and the final decision to approve or deny the application is reserved by law to the Board.*

**Public hearings:** November 21, 2024 Pending

---

### **Property Identification and Location:**

**Property owner:** Amy Mogetz and Vladislav Akerman

**Applicant:** Amy Mogetz and Vladislav Akerman

**Representative:** James Farinholt

**Relationship:** Custom Pools and Landscapes (Contractor)

**Type of request:** Build a swimming pool in the side and rear yards

**Property address:** 5500 Axe Handle Lane

**Parcel Number:** 731-774-8416

**Property acreage:** 1.01 acres

**Subdivision:** Westin Estates

**Magisterial District:** Three Chopt

**2026 Comprehensive Plan Recommendation:** Rural Residential (RR)

**Zoning of Property:** A-1, Agricultural District

**Zoning of Surrounding Property:** North: A-1, Agricultural District  
West: A-1, Agricultural District  
South: A-1, Agricultural District  
East: A-1, Agricultural District

**Staff Contact:** Paul Gidley

## **BACKGROUND**

The subject property is located at the northwest corner of the intersection of Westin Estates Drive and Axe Handle Lane in the Westin Estates subdivision. It contains a two-story, 4,232-square-foot dwelling located on a one-acre lot. The property was purchased by the current owners in 2019.

The application was submitted by a pool contractor hired by the property owners. The plans call for an inground swimming pool located primarily in the rear yard. A corner of the proposed pool, however, would encroach into the side yard. Due to the presence of environmental constraints and buffers in the rear yard, there is limited flexibility to relocate the proposed pool. As a result, the applicant has applied for a conditional use permit to allow a portion of the pool to be located in the side yard.

## **APPLICANT'S NARRATIVE**

*(The following text was entered by the applicant through the Build Henrico online permitting system)*

Build inground swimming pool where some of pool would be in the side yard. House is on an angle and side yard seems to be back yard

## **AGENCY COMMENTS**

This application was included on the preliminary agenda provided to the following agencies: Building Construction and Inspections, Community Revitalization, County Attorney's Office, Fire Safety, Information Technology, Permit Center, Police, Public Schools, Public Utilities, Public Works, and Recreation and Parks. The following comments were received.

### ***Department of Public Works***

- Land disturbance greater than 2500 sq feet will require an Environmental Compliance Plan.
- Analyze and provide solutions to minimize drainage impacts on downstream properties.
- Based on GIS, Waters of the U.S. and/or hydric soils are present (indicating possible wetlands). Corps of Engineers and DEQ permits may be required.
- There is an area of wetlands/waters of the U.S. on the northern property line that is surrounded by a required 25' Natural Area Buffer that cannot be encroached upon. Questions regarding this buffer may be directed to the DPW Environmental Services Division.

## **EVALUATION**

***The Henrico County Zoning Ordinance, § 24-2308.D, authorizes the BZA to approve a conditional use permit only if it finds the proposed use meets the following standards.***

- 1. The proposed use is consistent with the purposes, goals, and policies of the comprehensive plan and other applicable County-adopted plans***

The property is designated Rural Residential (RR) on the 2026 Future Land Use Map. A single-family subdivision consisting of large, roughly one-acre lots is consistent with this designation, and the proposed swimming pool would remain consistent with it.

- 2. The proposed use complies with all applicable standards in Articles 3, 4, and 5 of the Zoning Ordinance***

The property is zoned A-1, Agricultural District. A single-family dwelling is a permitted use in the A-1 district and an inground swimming pool is a customary accessory use.

- 3. The proposed use is appropriate for its location and is compatible with the general character of surrounding lands and the types, scale, and intensity of uses allowed in the zoning district where proposed***

It is not uncommon for homeowners in this neighborhood to have backyard swimming pools. The adjacent property to the west, 12804 Westin Estates Drive, has a swimming pool in the rear yard, as does the home across the street at 12805 Westin Estates Drive and the house at the end of the street, 12809 Westin Estates Drive. As a result, the applicant's proposed swimming pool is compatible with the surrounding neighborhood.

- 4. The proposed use will not adversely impact the public health, safety, and welfare***

The proposed swimming pool would be located almost entirely in the backyard, except for a small corner. The pool would be located approximately 120 feet from the house to the north and 150 feet from the house to the west. The rear yard contains a wooded area of wetlands and accompanying buffer that would screen the pool from the neighbor to the rear. As a result, staff does not believe the proposal would adversely impact the public's health, safety or welfare.

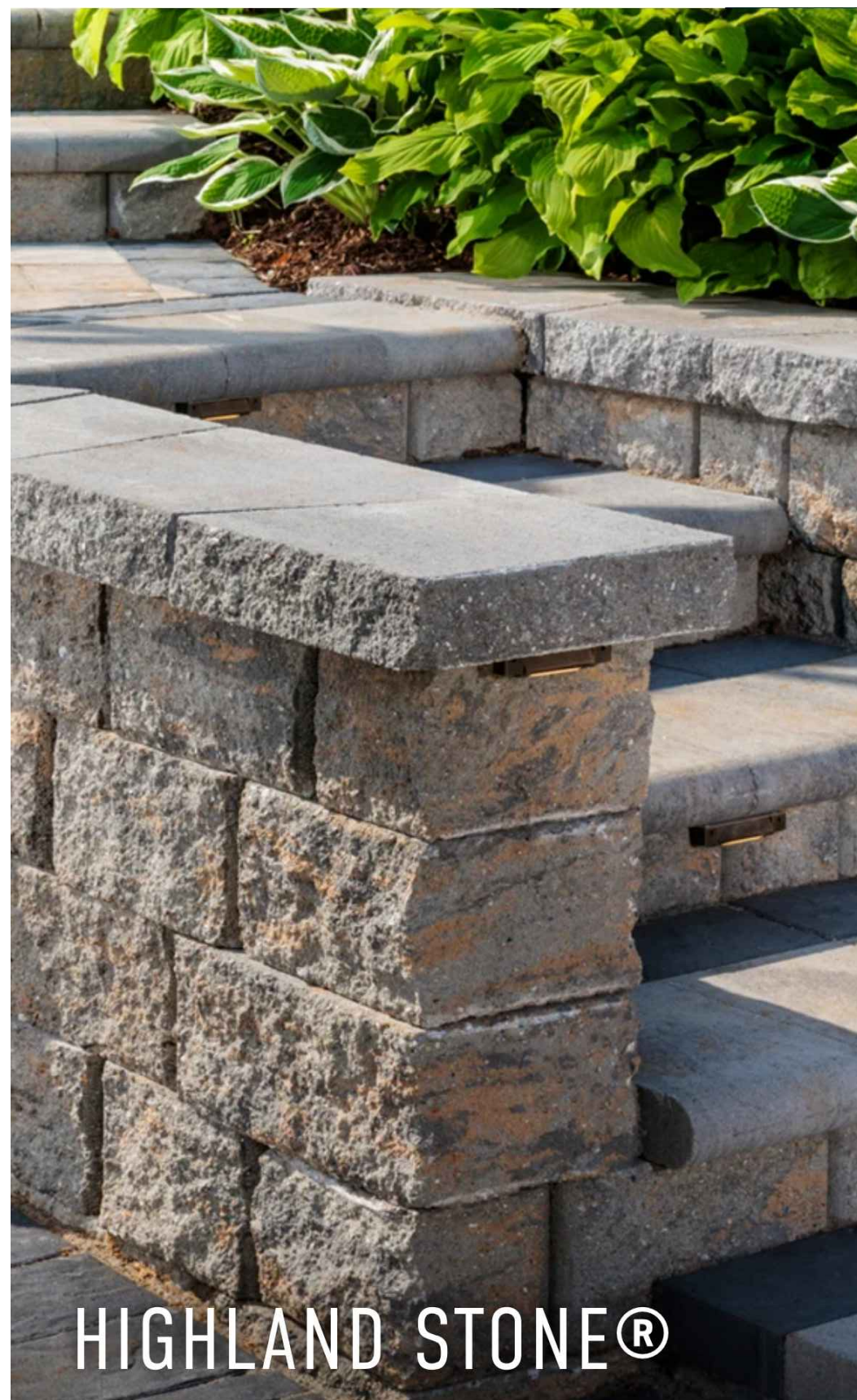
## **CONCLUSION**

The applicant would like to construct an inground swimming pool that would be located almost entirely in their rear yard, with the exception of a small corner that would be located in the side yard. The neighbor on the side has a swimming pool in the rear yard and the neighbor to the rear is screened by a wooded wetlands buffer. Staff does not anticipate any detrimental impact resulting from the proposed pool and recommends approval of this request subject to the following conditions.

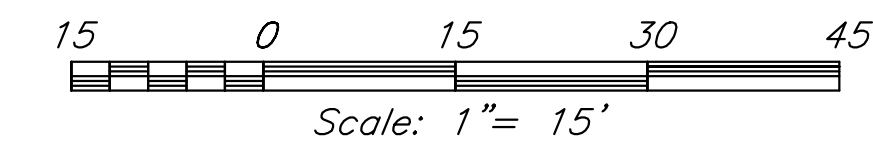
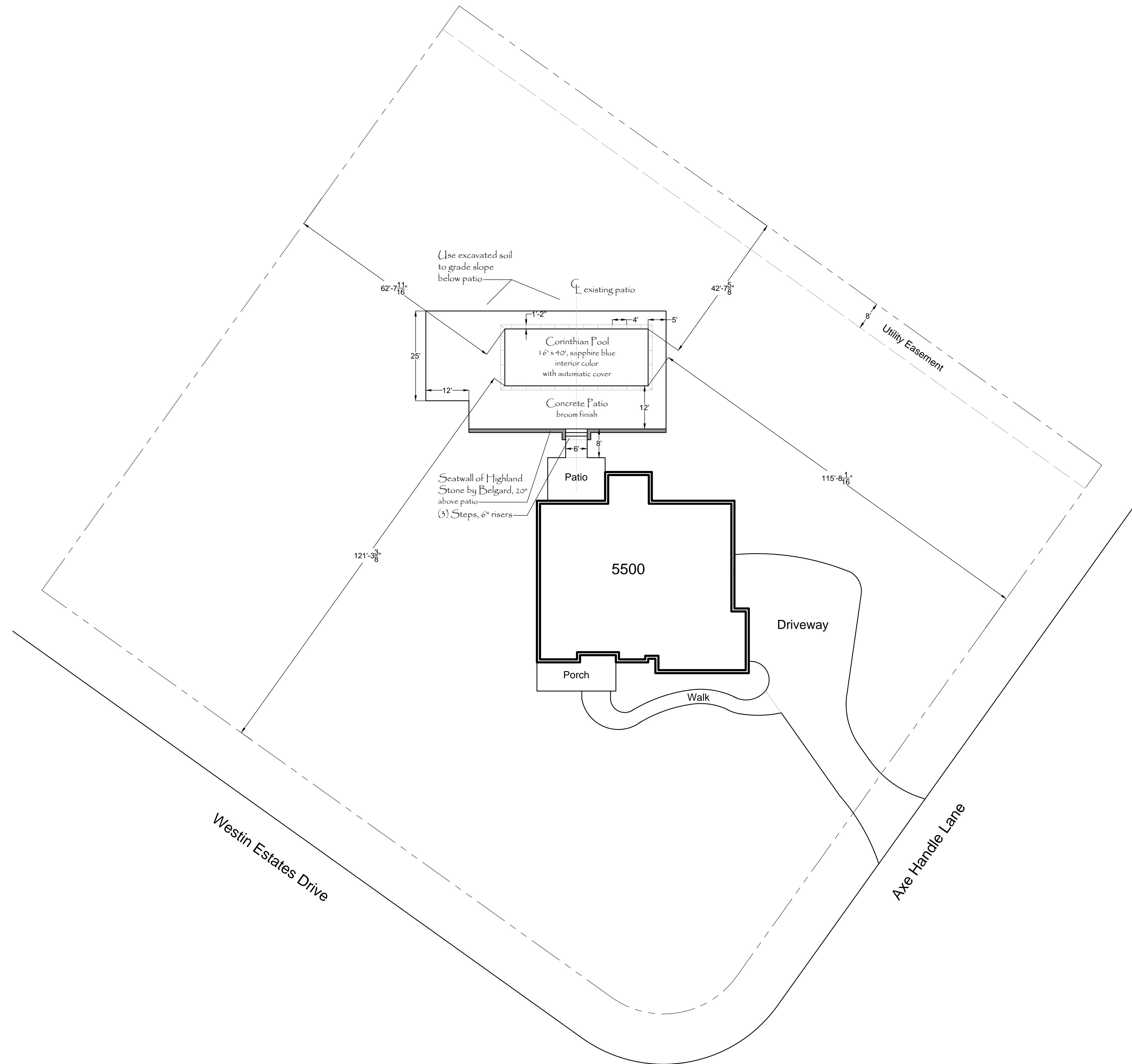


## **RECOMMENDED CONDITIONS**

1. This conditional use permit authorizes an inground swimming pool in the side and rear yard. All other applicable regulations of the County Code remain in force.
2. This conditional use permit applies only to the improvements shown on the plan titled "Pool Layout Mogetz Residence" by Custom Pools and Landscapes, dated 7-27-24, filed with the application. Any additional improvements must comply with the applicable regulations of the County Code. Any substantial changes or additions to the design or location of the improvements will require a new conditional use permit.
3. Before beginning any clearing, grading, or other land disturbing activity, the applicant must obtain approval of an environmental compliance plan from the Department of Public Works. The applicant may be required to analyze and provide solutions to minimize drainage impacts on downstream properties. Corps of Engineers and DEQ permits may be required.
4. Approval of this request does not imply that a building permit will be issued. Building permit approval is contingent on Health Department requirements, including, but not limited to, evaluation of the septic drainfield and well location.
5. The swimming pool must be enclosed as required by the Building Code.
6. The applicant must obtain a building permit for the proposed inground swimming pool by November 21, 2026, or this conditional use permit will expire. If the building permit is cancelled or revoked after that date due to failure to diligently pursue construction, this conditional use permit will expire at that time.



Seatwall and steps in Jefferson color



**Pool Layout**  
For construction

**Mogetz Residence**  
5500 Axe Handle Drive  
Glen Allen, Virginia 23059

Date: 7-27-24	Revision Block
Scale: 1" = 15'	Sheet 1 of 1



Rear of home



NE view of home

**CUP-2024-102213**

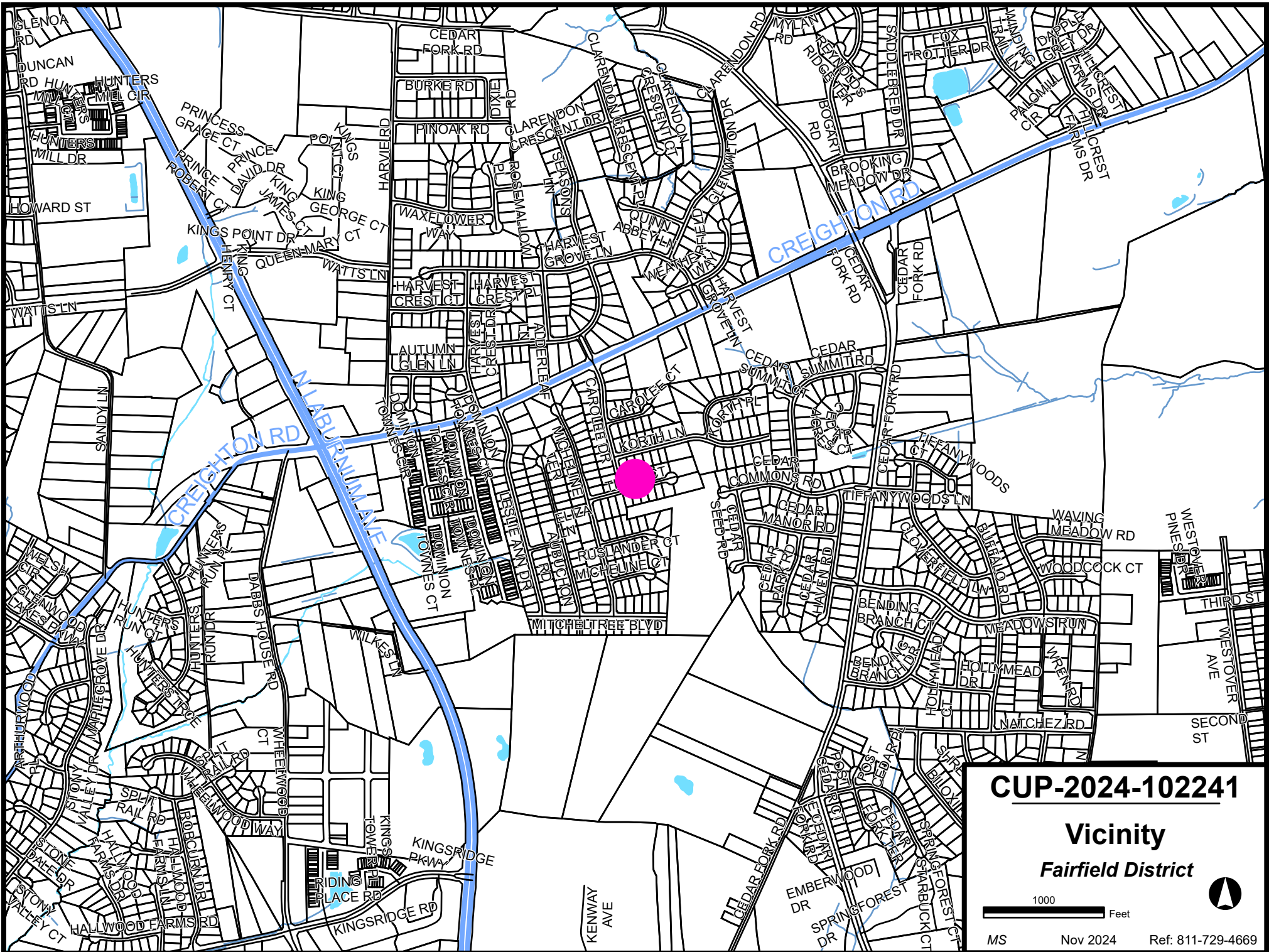


Proposed pool location



Western view of neighbor

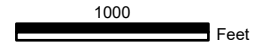
**CUP-2024-102213**



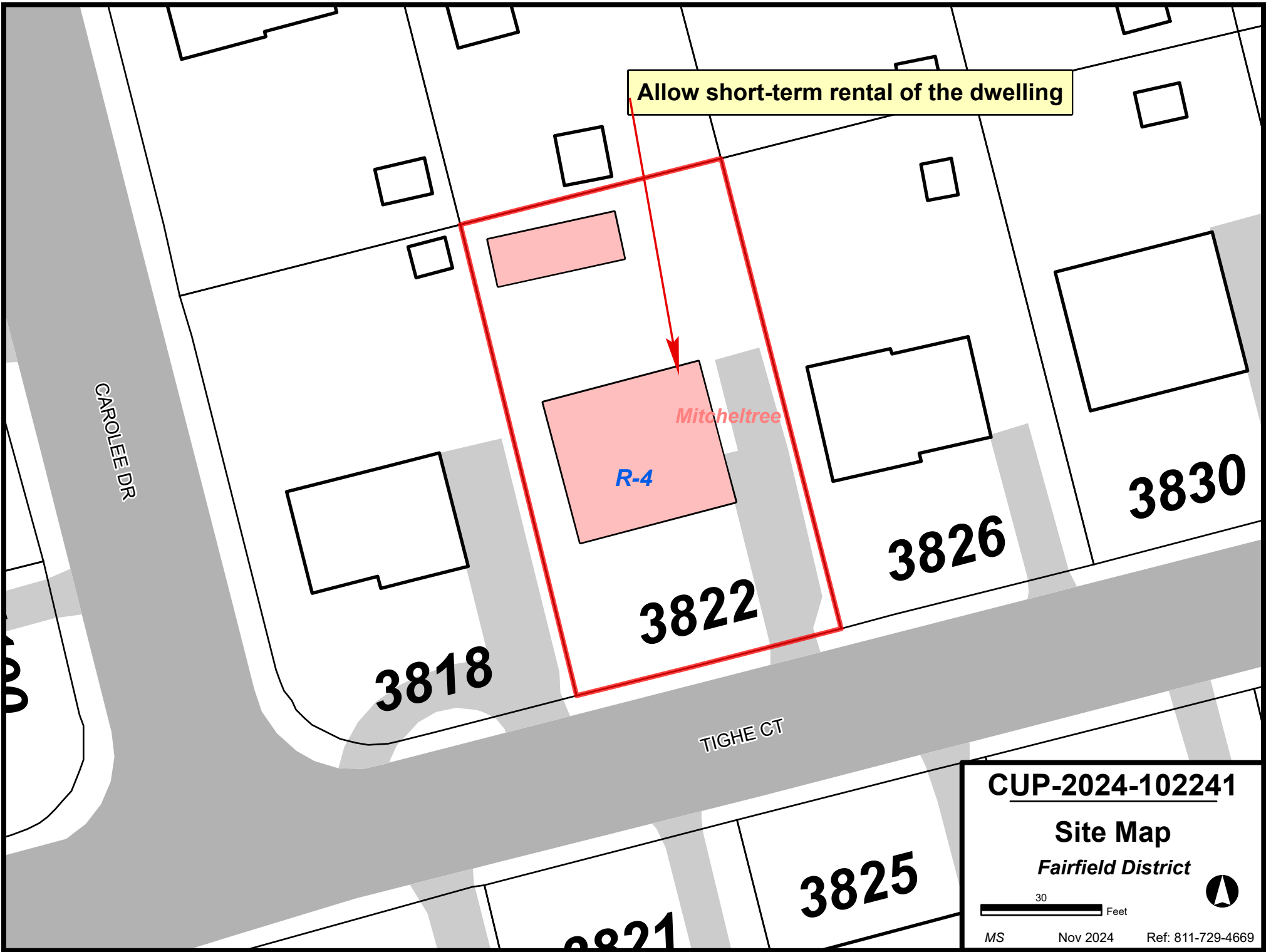
**CUP-2024-102241**

**Vicinity**

**Fairfield District**



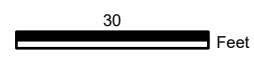
Allow short-term rental of the dwelling



**CUP-2024-102241**

**Site Map**

*Fairfield District*





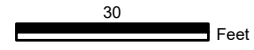
CAROLEE DR

TICHE CT

**CUP-2024-102241**

**Aerial 2024**

*Fairfield District*





# CUP-2024-102241

## Carmen Ricks

Staff Report for the Board of Zoning Appeals

---

*This report has been prepared by the Planning Department staff to assist the Board of Zoning Appeals in considering this application. Additional information may be submitted at the public hearing, and the final decision to approve or deny the application is reserved by law to the Board.*

**Public hearings:** November 21, 2024 Pending

---

### **Property Identification and Location:**

**Property owner:** Stevie L. and Carmen M. Ricks

**Applicant:** Carmen Ricks

**Representative:** Carmen Ricks

**Type of request:** Allow short-term rental of the dwelling

**Property address:** 3822 Tighe Court

**Parcel Number:** 811-729-4669

**Property acreage:** 8,182 square feet (0.19 acre)

**Subdivision:** Mitchelltree

**Magisterial District:** Fairfield

**2026 Comprehensive Plan Recommendation:** Suburban Residential 2 (SR2)

**Zoning of Property:** R-4, One-Family Residence District

**Zoning of Surrounding Property:**  
North: R-4, One-Family Residence District  
West: R-4, One-Family Residence District  
South: R-4, One-Family Residence District  
East: R-4, One-Family Residence District

**Staff Contact:** Benjamin W. Blankinship, AICP



## **BACKGROUND**

The subject property is located ½ mile east of the intersection of Laburnum Avenue and Creighton Road. Mitcheltree subdivision was recorded in 1988 and the dwelling on the property was built in 1989. The applicant has owned the property since 1996.

The lot is rectangular and includes a one-story, 1,344-square-foot dwelling. According to real estate assessment records, it contains three bedrooms and two full bathrooms. In the rear yard is a detached storage building measuring 12 by 20 feet, as well as a patio and deck. A concrete driveway with an asphalt extension provides room for at least four vehicles. The two houses to the sides are 25 and 30 feet apart, and the three houses to the rear are approximately 100 feet away.

The owner would like to offer the property for short-term rental, both hosted and unhosted stays. Because the lot has less than 80 feet of frontage, some unhosted stays would be included, and there may be more than 60 stays per year, a conditional use permit is required.

## **APPLICANT'S NARRATIVE**

*(The following text was provided by the applicant)*

Short term rental of home (un-hosted). All three bedrooms will be available for rental in the event that there are more than four guests. I'm requesting hosted and non-hosted stays. If anytime there is a booking of more than four guests, I will exit the home. I plan on being in the home for most stays. I will be available for any complaints that may arise as I will be no more than 20 minutes away.

I anticipate being in the home during most stays at least half of the year if not more. I am not able to anticipate how many days the rental will be listed right now. I would estimate at least 60 days depending how well things go.

## **AGENCY COMMENTS**

This application was included on the preliminary agenda provided to the following agencies: Building Construction and Inspections, Community Revitalization, County Attorney's Office, Fire Safety, Information Technology, Permit Center, Police, Public Schools, Public Utilities, Public Works, and Recreation and Parks. No comments were received from any of the agencies.

## **EVALUATION**

***The Henrico County Zoning Ordinance, § 24-2308.D, authorizes the BZA to approve a conditional use permit only if it finds the proposed use meets the following standards.***

- 1. The proposed use is consistent with the purposes, goals, and policies of the comprehensive plan and other applicable County-adopted plans***

The property is designated Suburban Residential 2 (SR2) on the 2026 Future Land Use Map. A single-family dwelling is consistent with that designation, and the proposed short-term rental would not affect the future land use classification.

**2. *The proposed use complies with all applicable standards in Articles 3, 4, and 5 of the Zoning Ordinance***

The property is zoned R-4, One-Family Residence District, and complies with the lot area, lot width, setbacks, and other standards of Article 3.

Article 4 allows a single-family dwelling as a principal use permitted by right. Short-term rental of the dwelling can be allowed by right if it meets certain criteria. In this case, the lot has less than 80 feet of frontage, some of the stays would be unhosted, and the applicant hopes to rent the house more than 60 days per year, so a conditional use permit is required. All short-term rentals are subject to the requirements of Section 24-4431.

None of the development standards of Article 5 apply to this request.

**3. *The proposed use is appropriate for its location and is compatible with the general character of surrounding lands and the types, scale, and intensity of uses allowed in the zoning district where proposed***

Mitcheltree includes 234 single-family dwellings on ¼-acre lots. Most of the surrounding area is developed in a similar style, with townhouses to the west and lower-density subdivisions to the east. Dominion Village shopping center is approximately 1/3 mile away, almost within walking distance. The dwelling is consistent with the surrounding development pattern. If managed well, short-term rental of the dwelling should also be in character with the neighborhood.

**4. *The proposed use will not adversely impact the public health, safety, and welfare***

According to the applicant, Mitcheltree does not have a property owners association, and they have talked to the neighbors, who have no objections at this time. As noted above, at least four cars can fit in the driveway, so the narrow street frontage should not cause any traffic or parking issues. The rear yard is enclosed by a privacy fence, which should mitigate any noise or glare from the proposed rentals. At the time this report was drafted, staff was not aware of any detrimental impacts on public health, safety, or welfare.

**CONCLUSION**

The applicant has owned the subject property for almost 30 years and would like to offer it for occasional short-term rental. A conditional use permit is necessary because the property has less than 80 feet of frontage, some of the stays would be unhosted, and they hope to rent it for more than 60 days per year. The location is appropriate for short-term rental and the property is large enough to accommodate six guests comfortably. According to the applicant, the neighbors are aware of the request and have no objections. Unless concerns are expressed at the public hearing, staff recommends approval subject to the following conditions.

## **RECOMMENDED CONDITIONS**

1. This conditional use permit authorizes short-term rental of the dwelling for up to six guests at a time. All other applicable regulations of the County Code remain in force.
2. This conditional use permit applies only to the improvements currently on the property. Any additional improvements must comply with the applicable regulations of the County Code. Any substantial changes or additions to the nature of the request will require a new conditional use permit.
3. This approval is subject to the County noise ordinance (Sec. 10-67 through 10-69), registry ordinance (Sec. 20-280 through 20-282), and short-term rental development standards (Sec. 24-4431). The dwelling must be occupied by the property owner for at least 185 days per year.
4. Whenever the property is available for short-term rental, the privacy fence enclosing the rear yard must be maintained.
5. All vehicles associated with the short-term rental must be parked on the property, not on the right-of-way of Tighe Court or Carolee Drive.
6. Any exterior lighting associated with the short-term rental must be shielded to direct light away from adjacent property and streets.
7. Before listing the property for short-term rental, the applicant must obtain approval for the change of use from the Department of Building Construction and Inspections and complete the online registration process. Approval and registration must be obtained no later than November 21, 2026, or this conditional use permit will expire.



Front of Residence



Rear of Residence

**CUP-2024-102241**

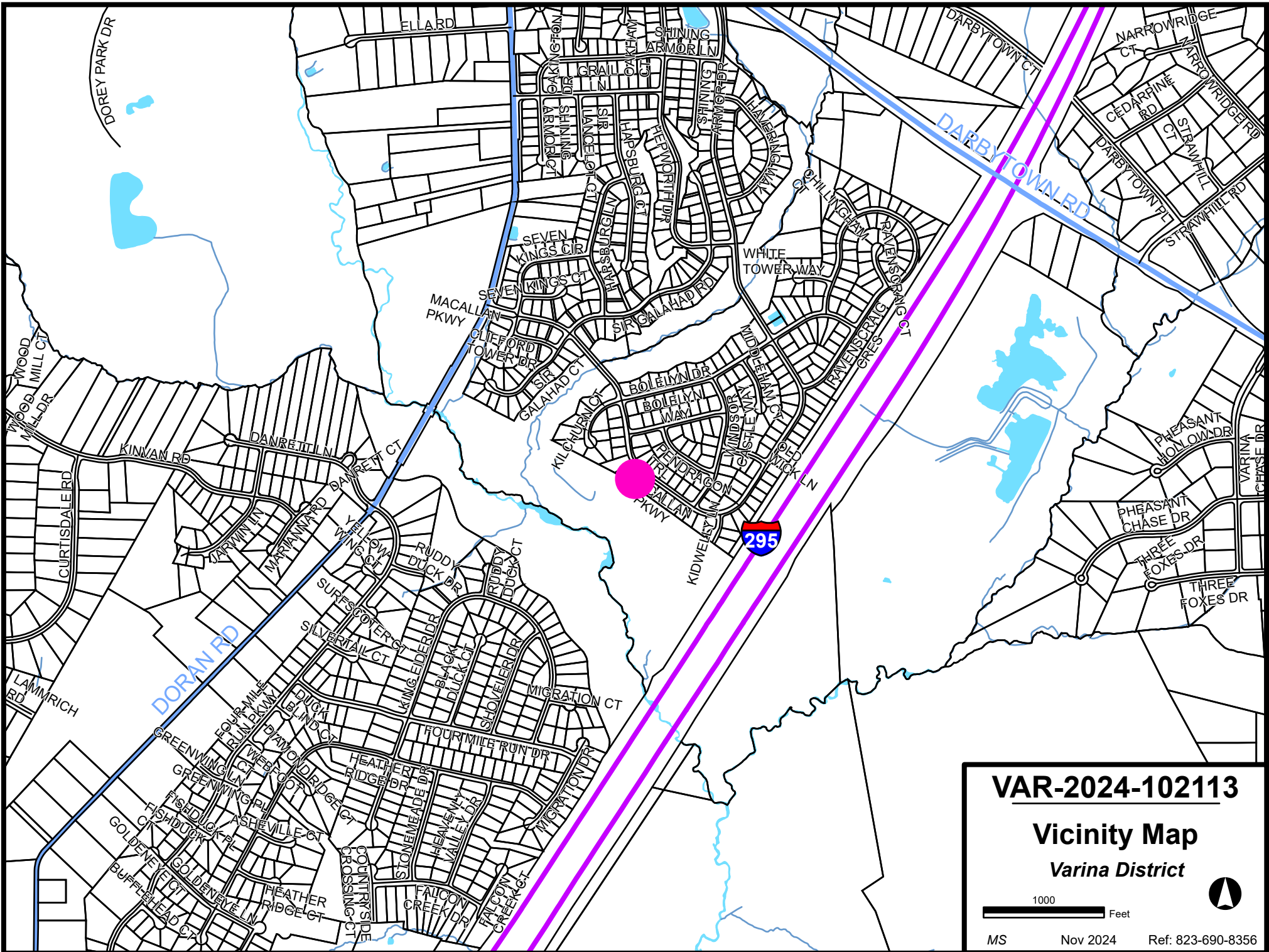


Driveway and right-side neighbor



Left side neighbor

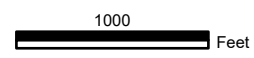
**CUP-2024-102241**



**VAR-2024-102113**

**Vicinity Map**

*Varina District*



Rear yard setback  
to build a screen porch

3024

3031

3028

MACALLAN PKWY

3030

Castleton

R-3AC

3032

3036

50' COLONIAL PIPE

**VAR-2024-102113**

**Site Map**

*Varina District*

30 Feet



MS Nov 2024 Ref: 823-690-8356

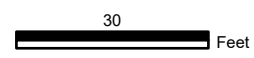


MACALLAN PKWY

**VAR-2024-102113**

**Aerial 2024**

*Varina District*







# VAR-2024-102113

## Robert Hopson

Staff Report for the Board of Zoning Appeals

---

*This report has been prepared by the Planning Department staff to assist the Board of Zoning Appeals in considering this application. Additional information may be submitted at the public hearing, and the final decision to approve or deny the application is reserved by law to the Board.*

**Public hearings:** November 21, 2024 Pending

---

### **Property Identification and Location:**

**Property owner:** Agnes Collette and Robert J. Hopson

**Applicant:** Robert Hopson

**Representative:** Robert Hopson

**Type of request:** Rear yard setback: 21 feet where the Code requires 35 feet

**Intended use:** Build a screened porch

**Property address:** 3028 Macallan Parkway

**Parcel Number:** 823-690-8356

**Property acreage:** 10,289 square feet (0.24 acre)

**Subdivision:** Castleton

**Magisterial District:** Varina

**2026 Comprehensive  
Plan Recommendation:** Suburban Residential 1 (SR1)

**Zoning of Property:** R-3AC, One-Family Residence District (Conditional)

**Zoning of Surrounding  
Property:** North: R-3AC, One-Family Residence District (Conditional)  
West: R-3AC, One-Family Residence District (Conditional)  
South: R-3AC, One-Family Residence District (Conditional)  
East: R-3AC, One-Family Residence District (Conditional)

**Staff Contact:** Sara Rozmus

## **BACKGROUND**

The subject property is located at 3028 Macallan Parkway in the Varina magisterial district. The dwelling was built in 2008 as part of the Castleton subdivision. The property was purchased by Mr. Hopson in 2021. The colonial-style home is typical of the homes in the surrounding area in size and character. The area is zoned R-3AC, One-Family Residence District (Conditional). The subdivision consists of residential lots of approximately 0.24 acres in size. The R-3A district requires a 35-foot rear yard setback and allows a deck to extend up to 10 feet into the setback, for a setback of 25 feet. An enclosed porch, however, must meet the full 35-foot setback.

The applicant is seeking a variance to the 35-foot rear yard setback to build a screened in porch on the existing deck. The porch would extend 14 feet from the house and be 23 feet, 8 inches wide.

## **APPLICANT'S NARRATIVE**

*(The following text was entered by the applicant through the Build Henrico online permitting system)*

Rear Yard Setback for screened porch

## **AGENCY COMMENTS**

This application was included on the preliminary agenda provided to the following agencies: Building Construction and Inspections, Community Revitalization, County Attorney's Office, Fire Safety, Information Technology, Permit Center, Police, Public Schools, Public Utilities, Public Works, and Recreation and Parks. The following comments were received.

### ***Recreation and Parks***

No park or recreation facilities, historical, or archeological impact. Staff comments for information only: The parcel falls within two battlefield areas identified by the Virginia Department of Historic Resources as: 043-5071 Darbytown & New Market Roads Battlefield and 043-5072 Darbytown Road Battlefield.

**EVALUATION OF THE THRESHOLD REQUIREMENT (Code of Virginia, § 15.2-2309)**

***A variance should be granted only if the applicant proves one of the following.***

- 1. The strict application of the terms of the ordinance would unreasonably restrict the utilization of the property.***

**APPLICANT'S RESPONSE**

*(The following text was entered by the applicant through the Build Henrico online permitting system)*

Single Family Dwelling only

**STAFF ANALYSIS**

***This test is not met.*** The Zoning Ordinance requires a 35-foot setback for the dwelling. A deck may extend up to 10 feet into the setback, for an effective setback of 25 feet. The next seven lots to the southeast on Macallan Parkway are similar in size and shape, each is improved with a single-family dwelling, and all of them meet the rear yard setback. Staff is not aware of any reason the setback is unreasonable as applied to this lot.

- 2. The variance would alleviate a hardship due to a physical condition relating to the property or improvements at the time of the effective date of the ordinance.***

**APPLICANT'S RESPONSE**

*(The following text was entered by the applicant through the Build Henrico online permitting system)*

No hardships

**STAFF ANALYSIS**

***This test is not met.*** The applicant stated that there is no hardship, and staff agrees. The setbacks have not changed since the property was developed.

- 3. The variance would alleviate a hardship by granting a reasonable modification for a person with a disability.***

**APPLICANT'S RESPONSE**

*(The following text was entered by the applicant through the Build Henrico online permitting system)*

Not applicable

**STAFF ANALYSIS**

***This test is not applicable.***

***Because none of the threshold tests are met, staff cannot recommend approval.***

## **EVALUATION OF ADDITIONAL STATUTORY REQUIREMENTS**

***If the Board concludes from the evidence that the applicant has proved one of the three threshold requirements listed above, the applicant must also prove all of the following.***

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

### **APPLICANT'S RESPONSE**

*(The following text was entered by the applicant through the Build Henrico online permitting system)*

No hardships

### **STAFF ANALYSIS**

***This test is not met.*** The applicant stated that there is no hardship, and staff concurs. If there is a hardship, it is self-created.

- (ii) The granting of the variance will not be of substantial detriment to adjacent and nearby property.***

### **APPLICANT'S RESPONSE**

*(The following text was entered by the applicant through the Build Henrico online permitting system)*

None. Land behind property is large common area that includes open space and heavily wooded areas.

### **STAFF ANALYSIS**

The nearest homes to the subject property are the adjacent neighbors at 3024 and 3032 Macallan Parkway on the southeast and northwest sides. The neighbor to the southeast side (left) would be approximately 42 feet from the proposed screened porch. The property to the rear is vacant land and part of the floodplain.

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

### **APPLICANT'S RESPONSE**

*(The following text was entered by the applicant through the Build Henrico online permitting system)*

Common to other property in the area

### **STAFF ANALYSIS**

***This test is not met.*** The applicant stated the situation is common to other property in the area, and staff concurs. The arrangement of the subject house on the lot is similar to many

lots located on Macallan Parkway. Staff is not aware of any condition or situation that would justify a variance in this case.

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

A single-family home is a principal permitted use in the R-3AC, One-Family Residence District. Approval of the variance would not result in a use variance or a change in zoning.

**(v) *The relief or remedy sought by the variance application is not available through a special exception or modification.***

A special exception or modification is not available for the applicant's request.

### **CONCLUSION**

**This case does not meet the legal requirements for a variance.**

- The rear yard setback of 35 feet for the dwelling is reasonable, and there is no reason it should not apply to an addition such as a porch.
- As stated by the applicant, there is no hardship. The setbacks have not changed since the property was developed.
- There has been no request for a reasonable accommodation for a person with a disability.
- As stated by the applicant, there is no hardship. The hardship, if any, is self-imposed.
- As stated by the applicant, there are no conditions specific to this lot that justify a variance.

Because the request does not meet the legal requirements for a variance, staff recommends denial.

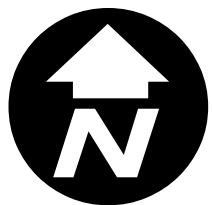
## **RECOMMENDED CONDITIONS**

***Although staff recommends denial, if the Board approves the application, staff recommends the following conditions.***

1. This variance applies only to the rear yard setback for a porch for one dwelling only. All other applicable regulations of the County Code remain in force.
2. This variance applies only to the improvements shown on the plot plan and building design filed with the application. Any additional improvements must comply with the applicable regulations of the County Code. Any substantial changes or additions to the design or location of the improvements will require a new variance.
3. The new construction must match the existing dwelling as nearly as practical in materials and color. As required by the conditions proffered with rezoning case C-39C-90, the exterior portions of the foundation of the porch must be brick or stone.
4. The applicant must obtain a building permit for the proposed porch by November 21, 2026, or this variance will expire. After that date, if the building permit is cancelled or revoked due to failure to diligently pursue construction, this variance will expire at that time.

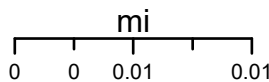


This map has been produced on Henrico County's Geographical Information System using the best data available to the County. This map is to be used for reference purposes only and the County of Henrico makes no warranty as to its completeness or accuracy. Any determination of topography or contours, or any depiction of physical features, property lines or boundaries is for general information only and shall not be used for the design, modification, or construction of any public or private work or for any other plain determination.



© Henrico County, Virginia  
Internet User

# Henrico GIS

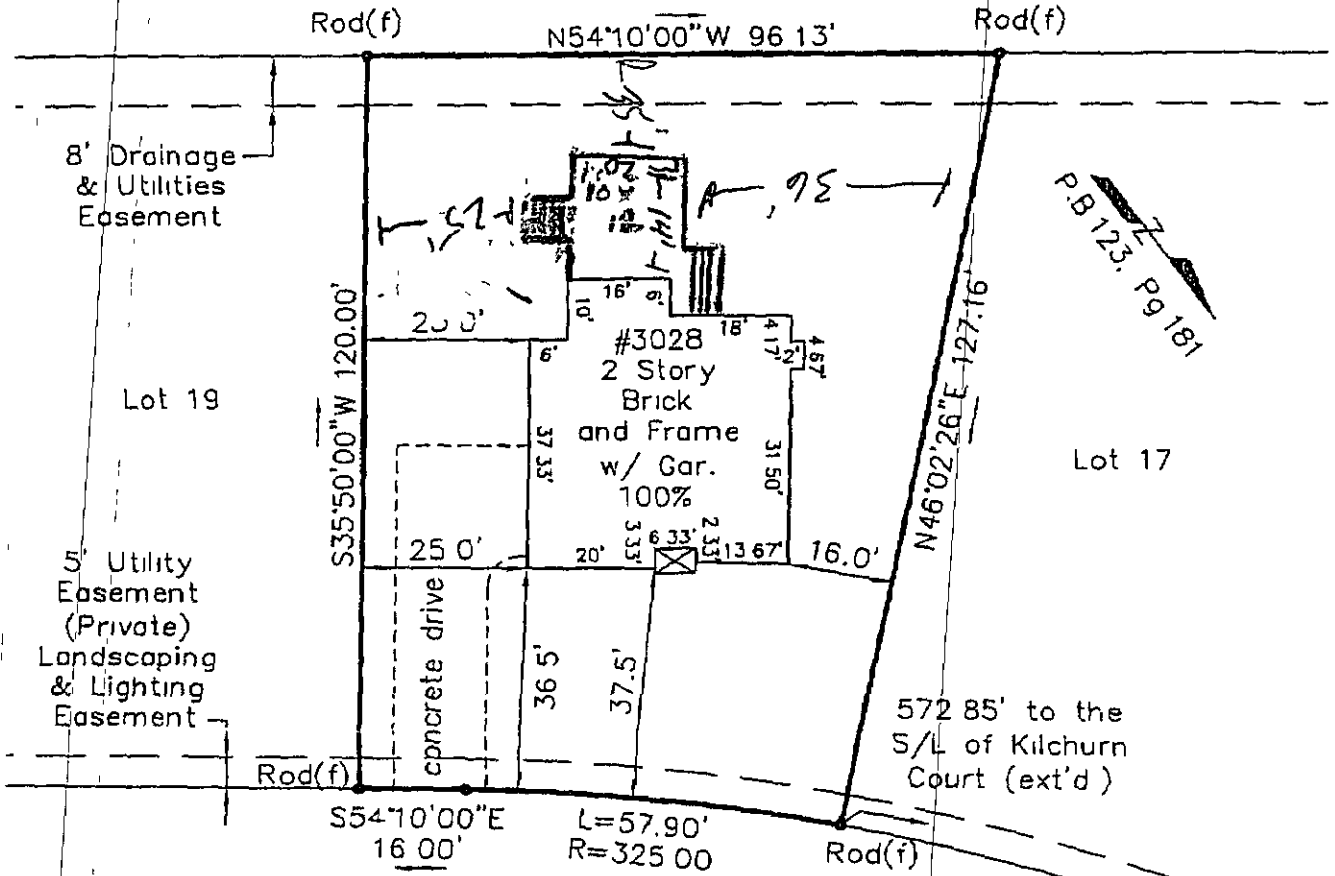


9/9/2024



IS TO CERTIFY, THAT AN ACTUAL FIELD SURVEY OF THE PREMISES SHOWN HEREON HAS BEEN PERFORMED UNDER MY SUPERVISION, THAT ALL IMPROVEMENTS AND VISIBLE EVIDENCE OF IMPROVEMENTS ARE SHOWN HEREON AND THAT THERE ARE NO ENCROACHMENTS BY IMPROVEMENTS EITHER FROM ADJOINING PREMISES OR FROM SUBJECT PREMISES OTHER THAN SHOWN HEREON. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND IS SUBJECT TO INFORMATION WHICH MAY BE DISCLOSED BY SUCH PROPERTY SHOWN HEREON IS LOCATED IN ZONE AS SHOWN ON FLOOD INSURANCE RATE MAP COMMUNITY PANEL NUMBER 51087C 0230 C, EFFECTIVE DATE 12-18-2007

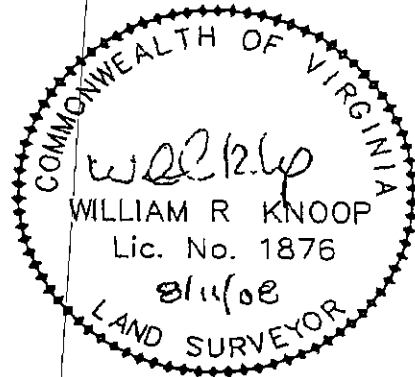
Future Development  
Ross Run, L.L.C.



MACALLAN PARKWAY  
50' R/W

R-3AC 2007

35, 10, 25, 35



**BDA**  
BARTHOL DESIGN ASSOCIATES  
civil engineering & land surveying

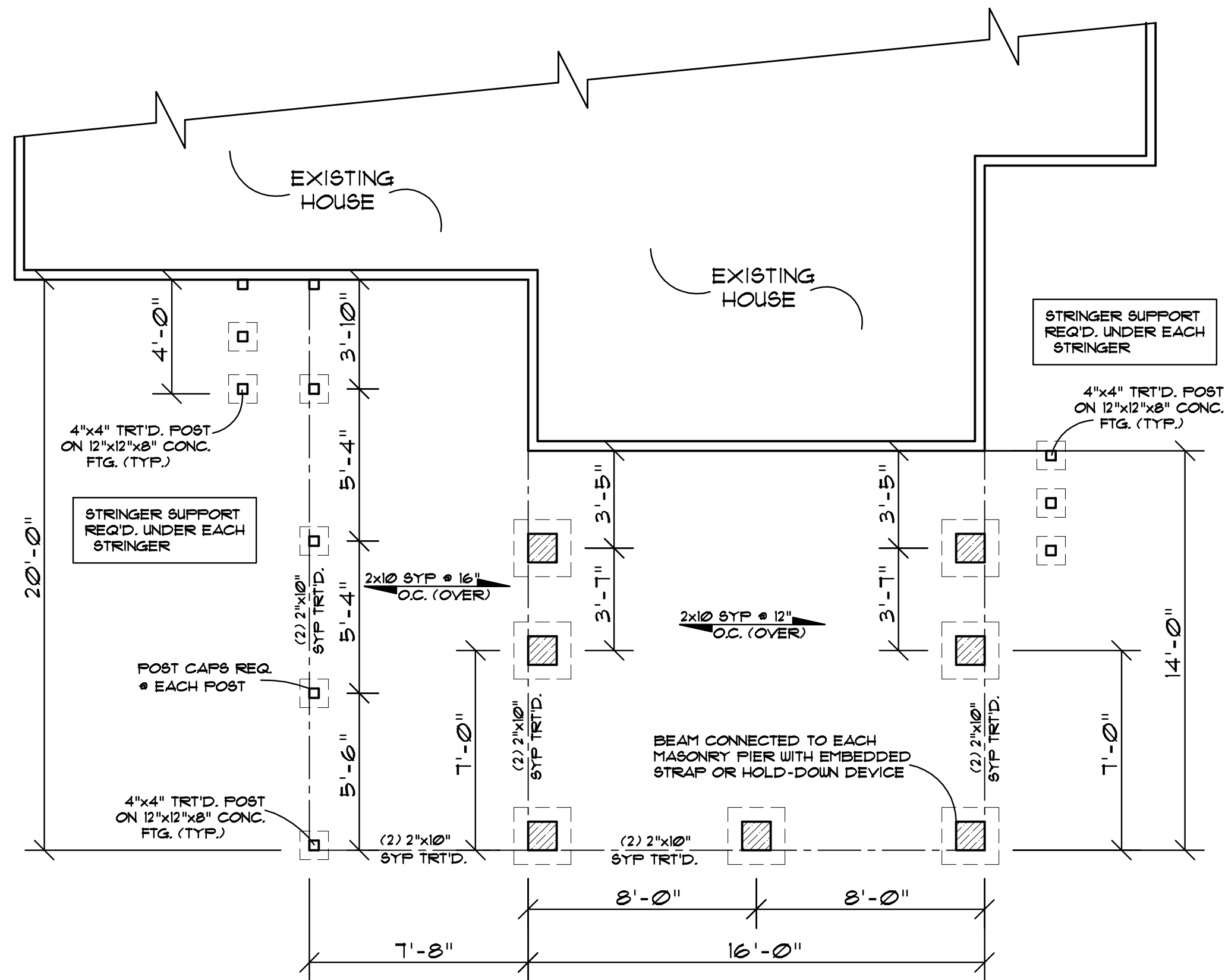
550 Southlake Boulevard, Richmond Virginia 23236  
Phone (804) 379-1640 \* Fax (804) 379-1752

Improvements on  
LOT 18, BLOCK A, SECTION 1  
CASTLETON

Varina Magisterial District,  
Henrico County, Virginia

Date: 8-11-08 Scale: 1"=30' Job#: 08-177-50





### FOUNDATION PLAN

CHECK AND VERIFY ALL DIMENSIONS ON JOB SITE

This plan cannot be used, copied, traced or reproduced, in whole or part or manner whatsoever without written permission from TURNER DESIGNS LLC. ©

DRAWN BY: MICHAEL TURNER
OCCUPATION: DESIGNER
REVISIONS:

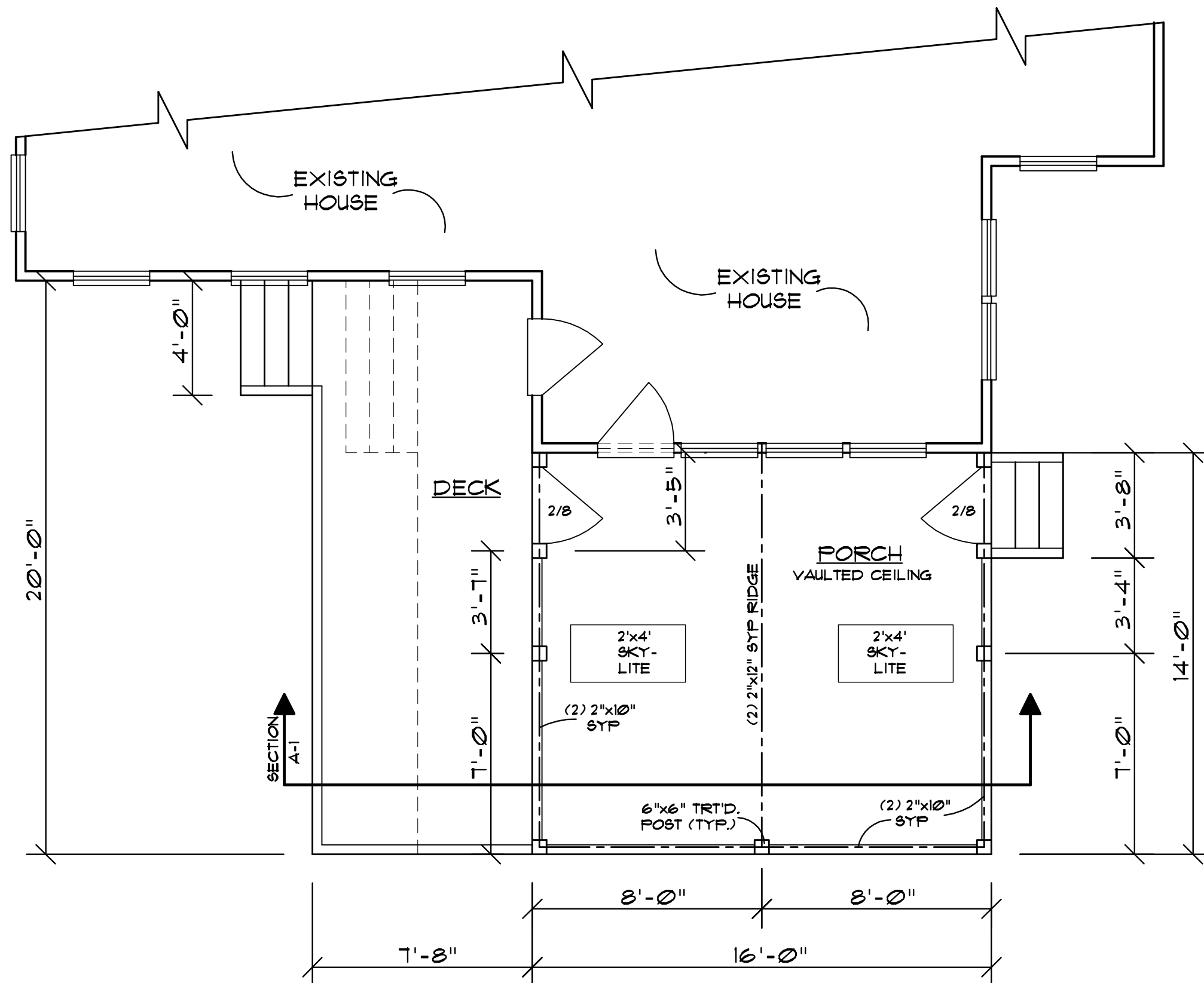
- 1) The contractor and each subcontractor shall be required to check and verify that the plans conform with all requirements and local ordinances, building codes, and manufacturer's recommendations prior to signing the contract or beginning work.
- 2) The contractor and each subcontractor shall verify dimensions and details shown on the drawings and shall field check before laying out or proceeding with the work, and shall be held responsible for any errors resulting from his failure to exercise such verification.

- 3) Specific implementation of the plans shall be the responsibility of the contractor who represents he has the skill and expert knowledge to execute the work required.
- 4) Bottom of all footings shall extend below frostline. Verify depth.
- 5) Exact size and reinforcement of all concrete footings shall be determined by local soil conditions and acceptable practices of construction. verify design with local engineer.

DATE: 8/1/2024  
 SCALE: 1/4"=1'-0"  
 SHEET NO. 1 OF 4

PLAN NO.  
 24  
 154

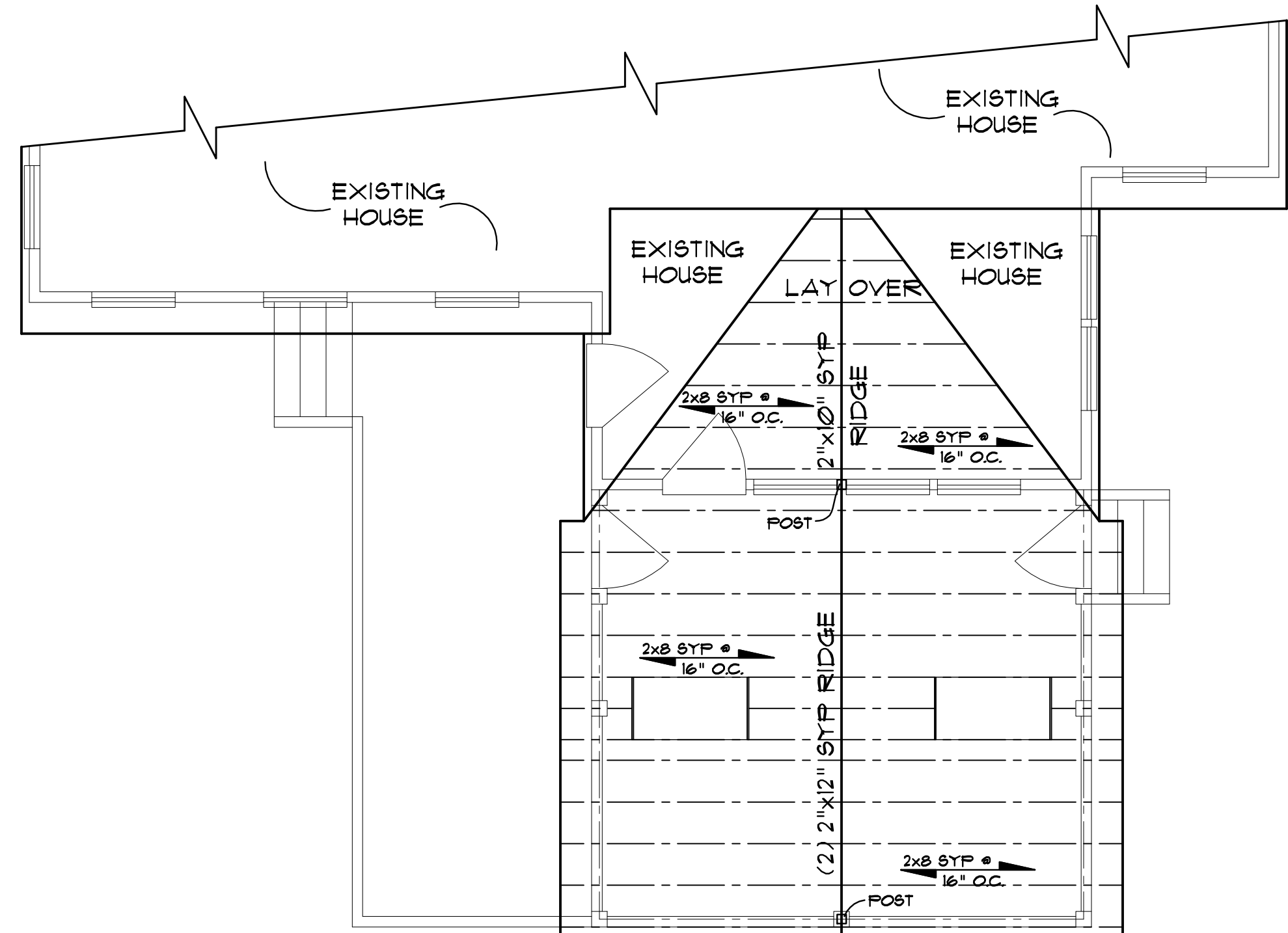
**COTMAN**  
**Turner Designs LLC.**  
 430 Southlake Blvd., Ste. 9  
 Richmond, Va. 23236  
 (804) 378-3472



**FIRST FLOOR PLAN**

224 SQ. FT. (SCREEN PORCH)  
153 SQ. FT. (DECK)

CHECK AND VERIFY ALL DIMENSIONS ON JOB SITE



**ROOF PLAN**

This plan cannot be used, copied, traced or reproduced, in whole or part or manner whatsoever without written permission from TURNER DESIGNS LLC. ©

DRAWN BY: MICHAEL TURNER
OCCUPATION: DESIGNER
REVISIONS:

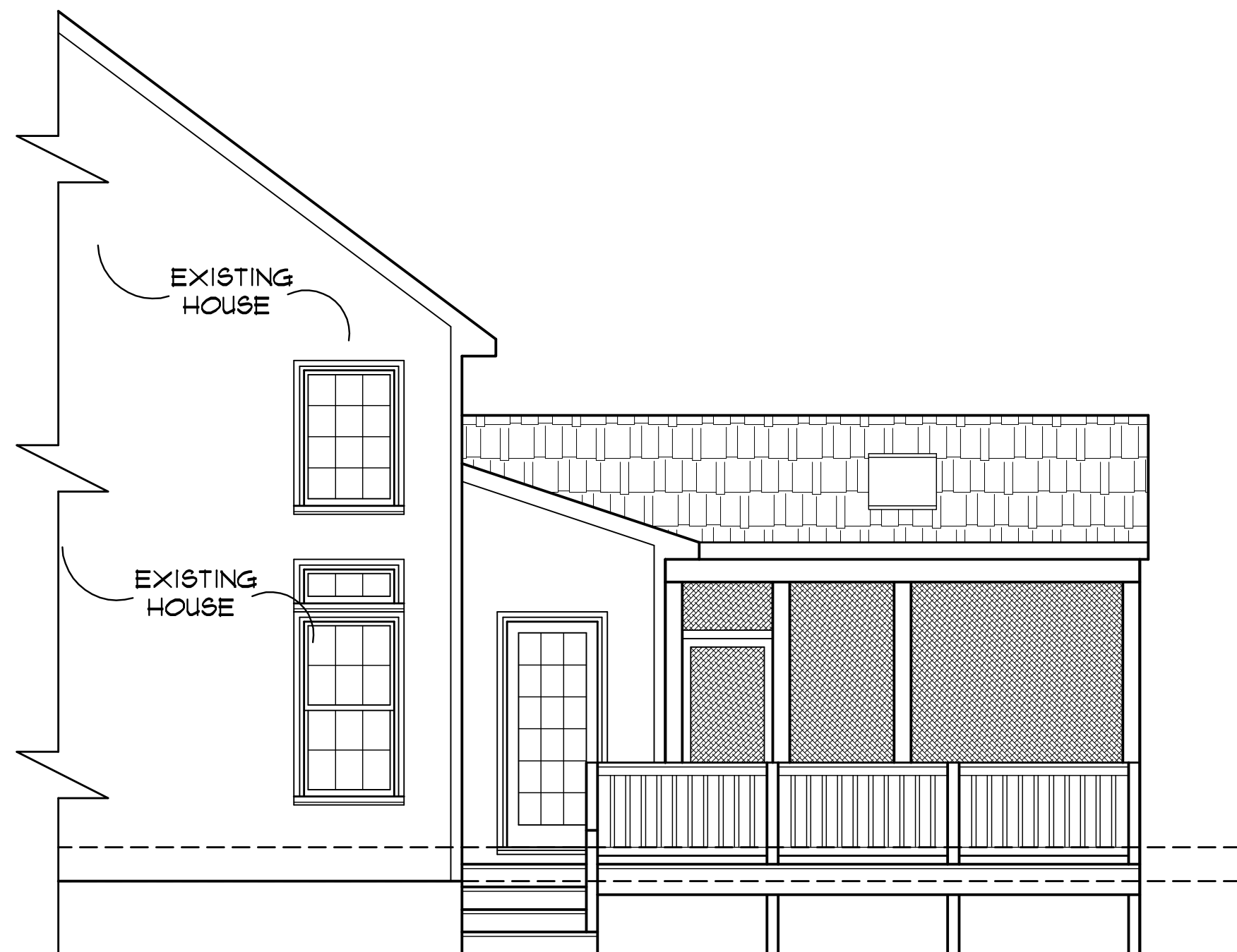
- 1) The contractor and each subcontractor shall be required to check and verify that the plans conform with all requirements and local ordinances, building codes, and manufacturer's recommendations prior to signing the contract or beginning work.
- 2) The contractor and each subcontractor shall verify dimensions and details shown on the drawings and shall field check before laying out or proceeding with the work, and shall be held responsible for any errors resulting from his failure to exercise such verification.

- 3) Specific implementation of the plans shall be the responsibility of the contractor who represents he has the skill and expert knowledge to execute the work required.
- 4) Bottom of all footings shall extend below frostline. Verify depth.
- 5) Exact size and reinforcement of all concrete footings shall be determined by local soil conditions and acceptable practices of construction. verify design with local engineer.

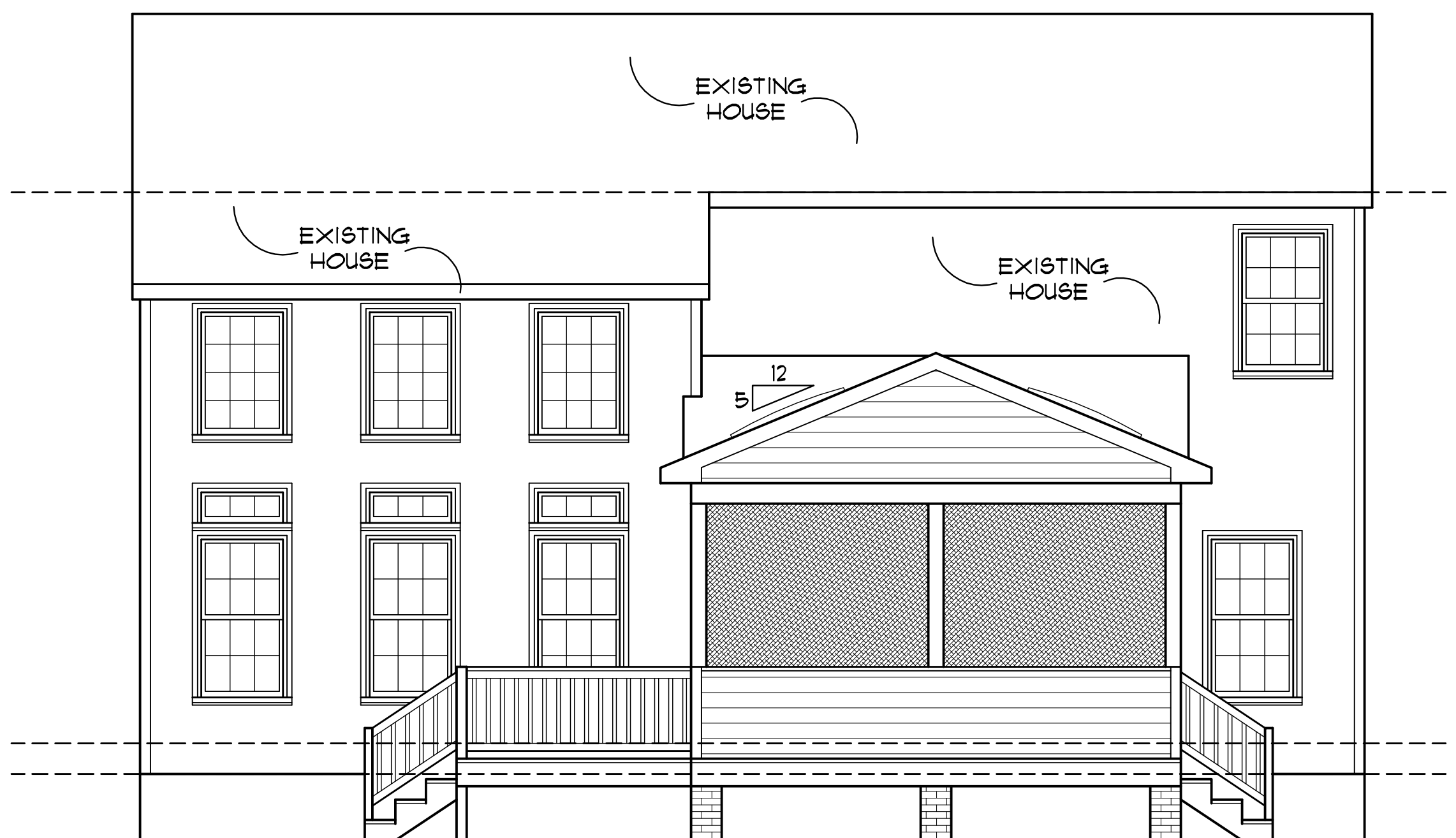
DATE: 8/1/2024  
SCALE: 1/4"=1'-0"  
SHEET NO. 2 OF 4

PLAN NO.  
24  
154

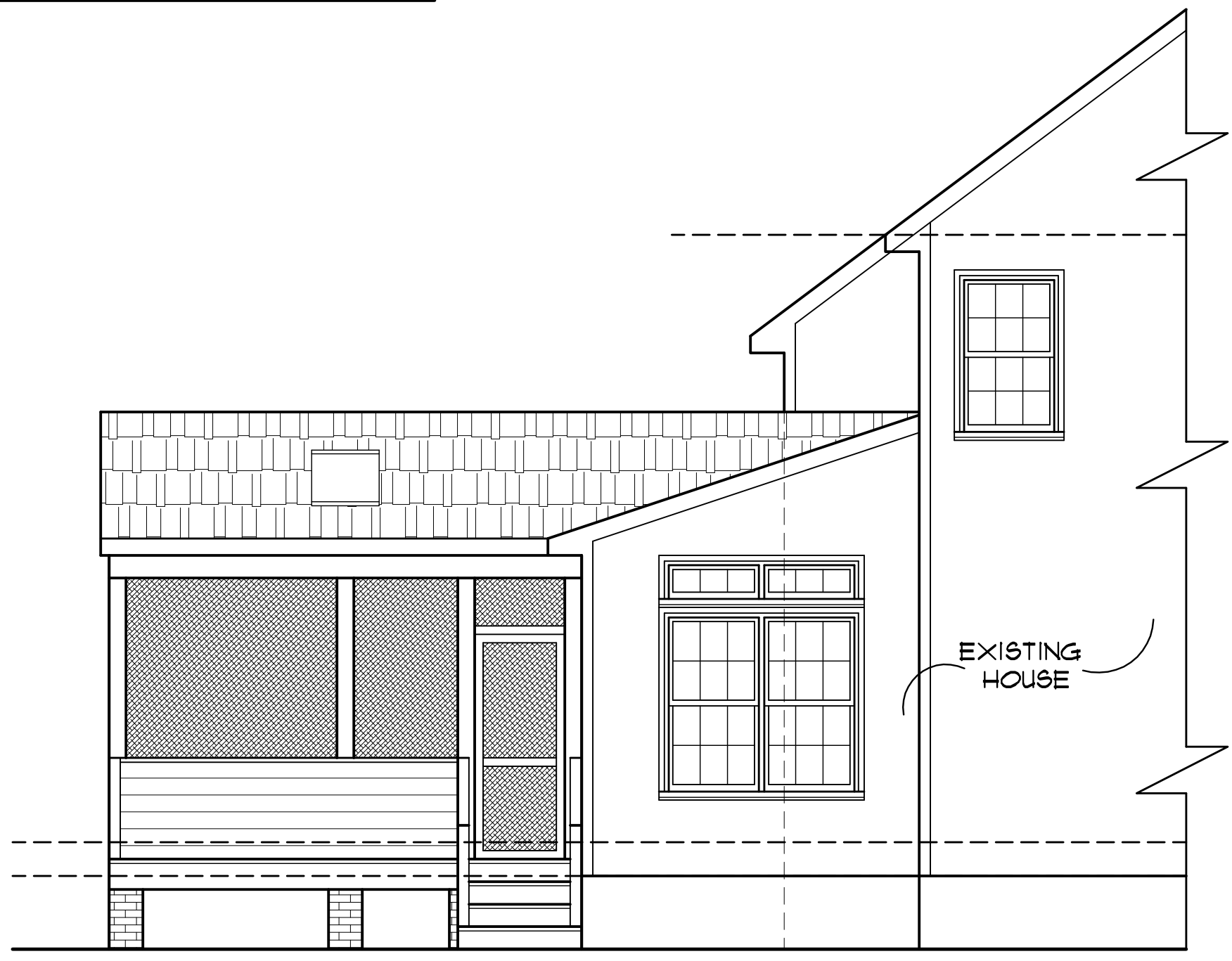
**COTMAN**  
**Turner Designs LLC**  
430 Southlake Blvd., Ste. 9  
Richmond, Va. 23236  
(804) 378-3472



LEFT SIDE ELEVATION



REAR ELEVATION



RIGHT SIDE ELEVATION

This plan cannot be used, copied, traced or reproduced, in whole or part or manner whatsoever without written permission from TURNER DESIGNS LLC. ©

DRAWN BY: MICHAEL TURNER  
 OCCUPATION: DESIGNER  
 REVISIONS:

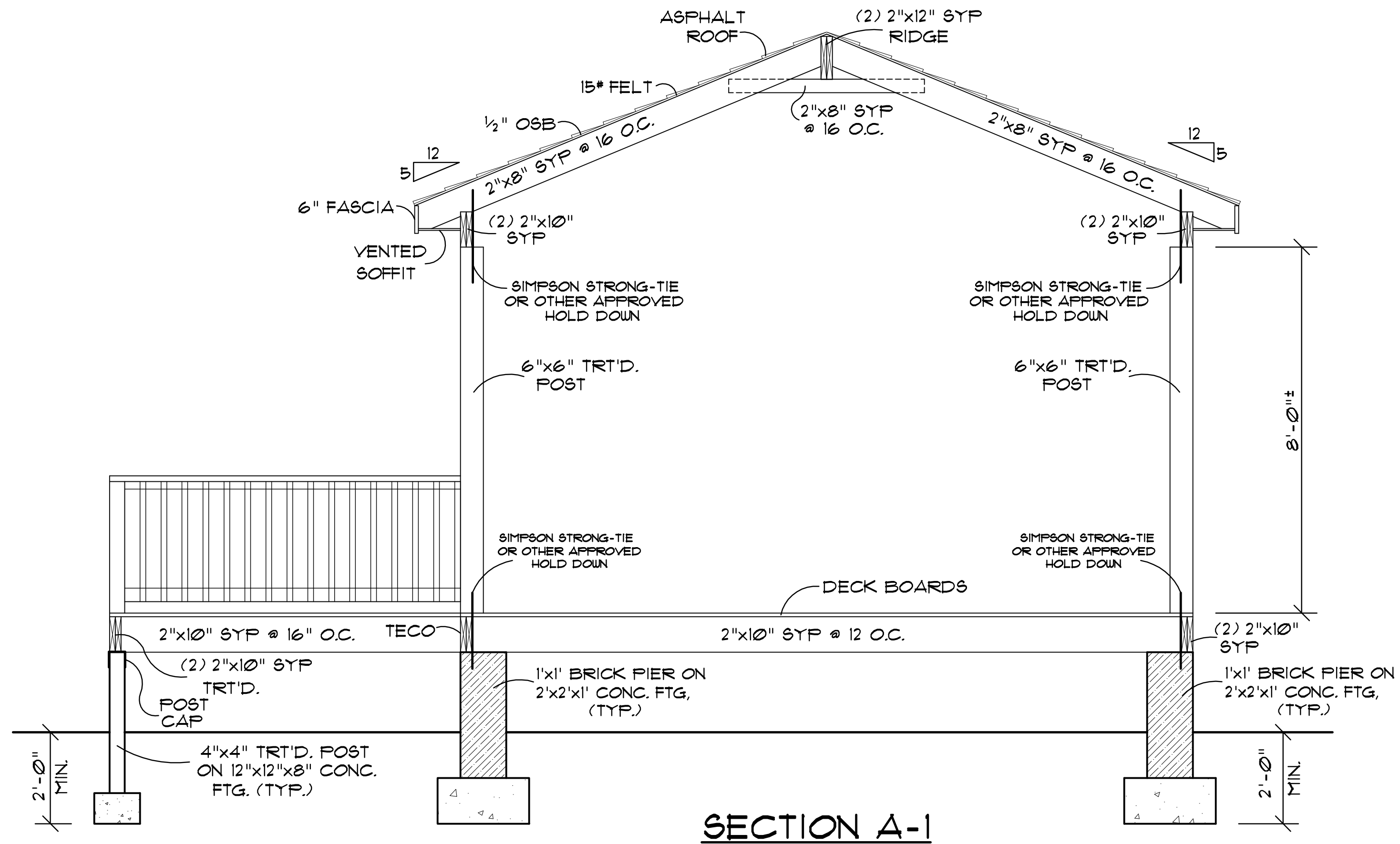
1) The contractor and each subcontractor shall be required to check and verify that the plans conform with all requirements and local ordinances, building codes, and manufacturer's recommendations prior to signing the contract or beginning work.  
 2) The contractor and each subcontractor shall verify dimensions and details shown on the drawings and shall field check before laying out or proceeding with the work, and shall be held responsible for any errors resulting from his failure to exercise such verification.

3) Specific implementation of the plans shall be the responsibility of the contractor who represents he has the skill and expert knowledge to execute the work required.  
 4) Bottom of all footings shall extend below frostline. Verify depth.  
 5) Exact size and reinforcement of all concrete footings shall be determined by local soil conditions and acceptable practices of construction. verify design with local engineer.

DATE: 8/1/2024  
 SCALE: 1/4"=1'-0"  
 SHEET NO. 3 OF 4

PLAN NO.  
 24  
 154

COTMAN  
 Turner Designs LLC.  
 430 Southlake Blvd., Ste. 9  
 Richmond, Va. 23236  
 (804) 378-3472



**SECTION A-1**

This plan cannot be used, copied, traced or reproduced, in whole or part or manner whatsoever without written permission from TURNER DESIGNS LLC. ©

DRAWN BY: MICHAEL TURNER
OCCUPATION: DESIGNER
REVISIONS:

- 1) The contractor and each subcontractor shall be required to check and verify that the plans conform with all requirements and local ordinances, building codes, and manufacturer's recommendations prior to signing the contract or beginning work.
- 2) The contractor and each subcontractor shall verify dimensions and details shown on the drawings and shall field check before laying out or proceeding with the work, and shall be held responsible for any errors resulting from his failure to exercise such verification.

- 3) Specific implementation of the plans shall be the responsibility of the contractor who represents he has the skill and expert knowledge to execute the work required.
- 4) Bottom of all footings shall extend below frostline. Verify depth.
- 5) Exact size and reinforcement of all concrete footings shall be determined by local soil conditions and acceptable practices of construction. verify design with local engineer.

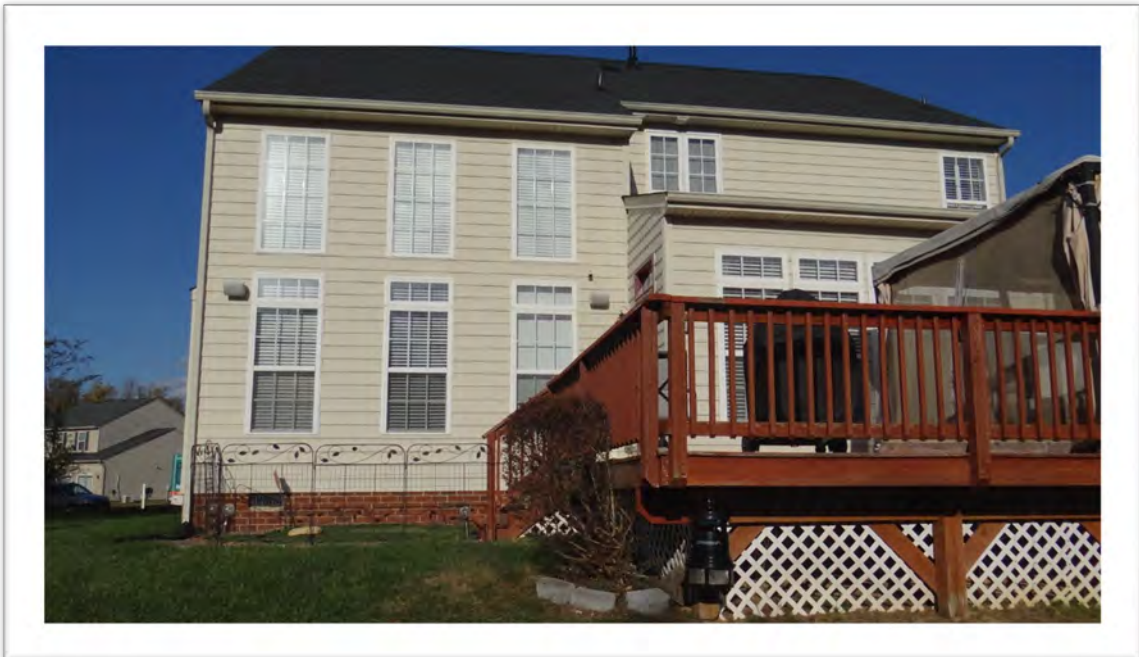
DATE: 8/1/2024  
 SCALE: 1/2"=1'-0"  
 SHEET NO. 4 OF 4

PLAN NO. 24
154

**COTMAN**  
**Turner Designs LLC.**  
 430 Southlake Blvd., Ste. 9  
 Richmond, Va. 23236  
 (804) 378-3472

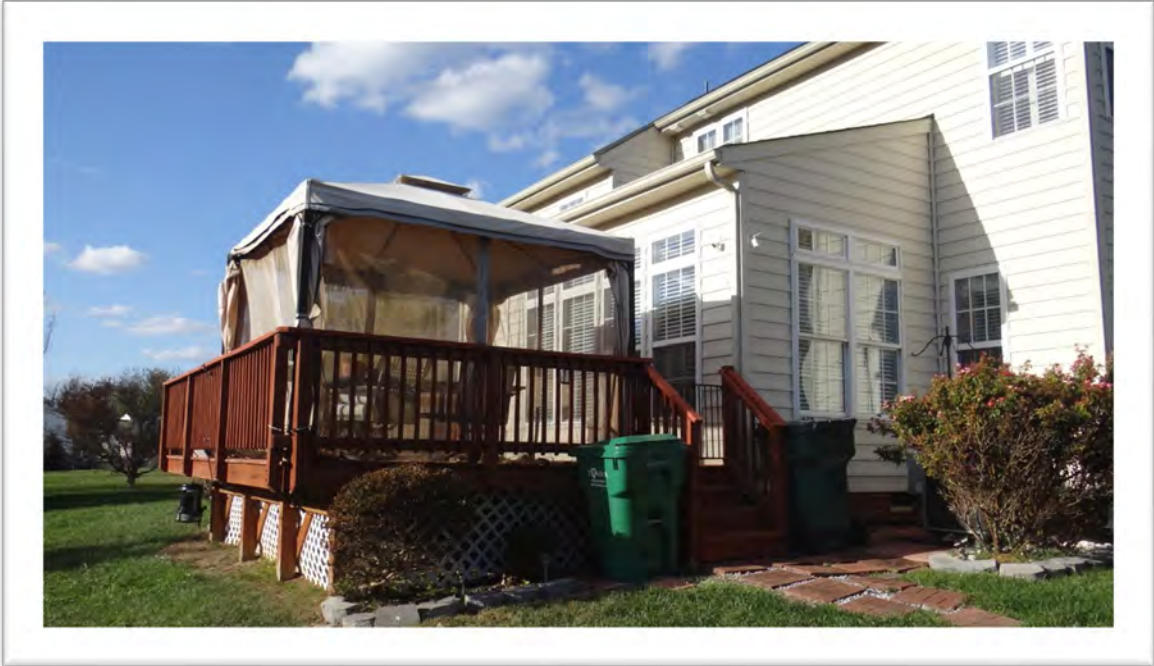


Front of residence

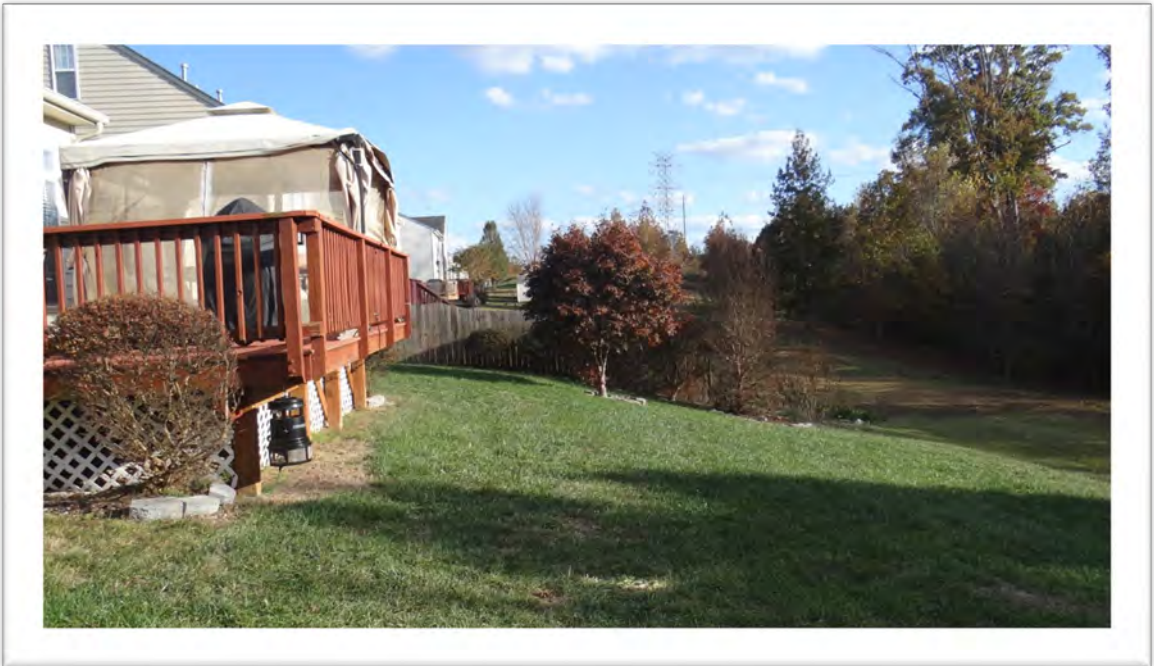


Rear of residence

**VAR-2024-102113**

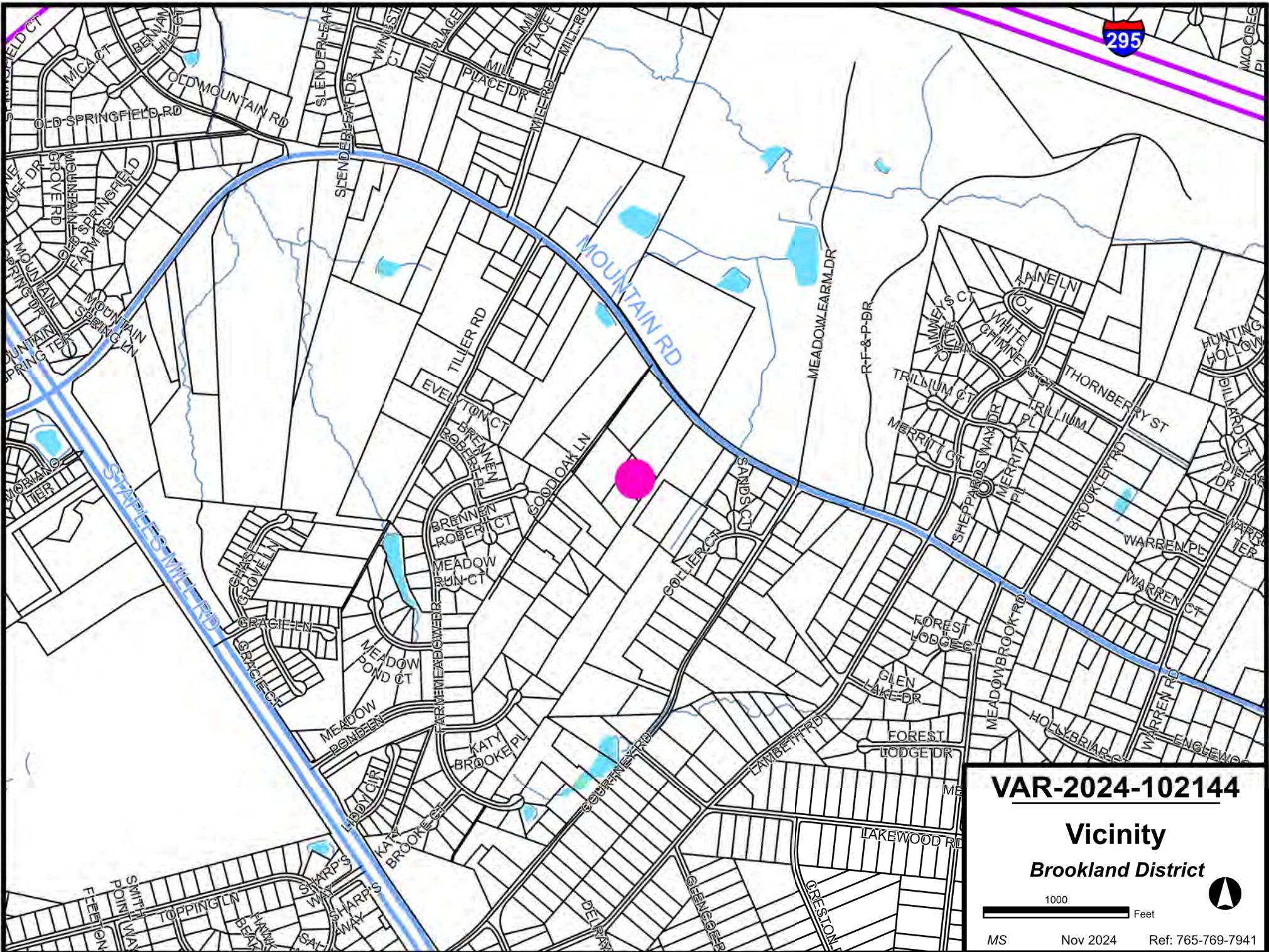


Existing Deck



Left side neighbor

**VAR-2024-102113**



**VAR-2024-102144**

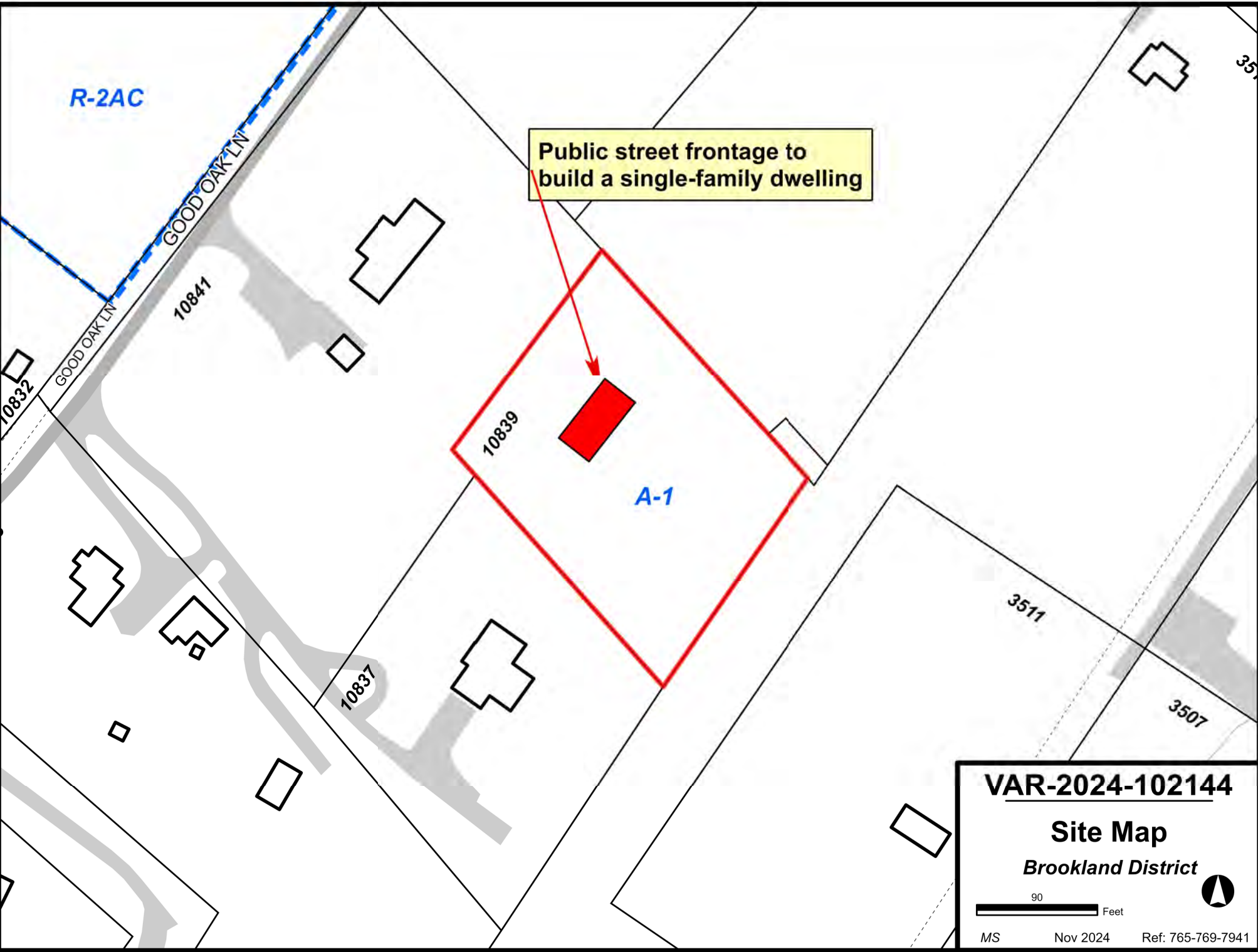
**Vicinity**

**Brookland District**



R-2AC

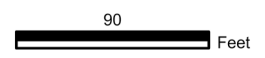
Public street frontage to  
build a single-family dwelling



**VAR-2024-102144**

**Site Map**

*Brookland District*





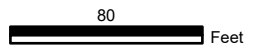


GOOD OAK LN

**VAR-2024-102144**

**Aerial 2024**

*Brookland District*





# VAR-2024-102144

**James L. Russell, Sr.**

Staff Report for the Board of Zoning Appeals

---

*This report has been prepared by the Planning Department staff to assist the Board of Zoning Appeals in considering this application. Additional information may be submitted at the public hearing, and the final decision to approve or deny the application is reserved by law to the Board.*

**Public hearings:** November 21, 2024 Pending

---

## **Property Identification and Location:**

**Property owner:** James L. Russell, Sr.

**Applicant:** James L. Russell, Sr.

**Representative:** Jennifer Swepston, Clayton Homes (Contractor)

**Type of request:** Public street frontage: 0 feet where the Code requires 50 feet

**Intended use:** Build a single-family dwelling

**Property address:** 10839 Good Oak Lane

**Parcel Number:** 765-769-7941

**Property acreage:** 1.00 acre

**Magisterial District:** Brookland

**2026 Comprehensive  
Plan Recommendation:** Suburban Residential 1 (SR1)

**Zoning of Property:** A-1, Agricultural District

**Zoning of Surrounding  
Property:** North: A-1, Agricultural District  
West: A-1, Agricultural District  
South: A-1, Agricultural District  
East: A-1, Agricultural District

**Staff Contact:** Benjamin W. Blankinship, AICP

## **BACKGROUND**

The subject lot was part of a 4.4-acre tract acquired by the Russell family in 1935. The original parcel fronted on Good Oak Lane, a private road. In 1995 a one-acre lot was divided from the rest, and in 2001 a dwelling was built on that lot (10837 Good Oak Lane). Later that same year, a dwelling was built on the front of the remaining 3.4-acre parcel (10841 Good Oak Lane).

In 2007, another one-acre parcel was divided and given to the applicant. That parcel is the subject of this request. Because it was a family division, it was exempt from the subdivision ordinance at that time. (In 2011, specific provisions for family divisions were added to the code, but those requirements were not in place when the subject lot was created.) Although the division was allowed, the lot is still subject to the Zoning Ordinance requirement that a dwelling must have direct access to a public street.

A similar variance was approved in 2018 (VAR2018-00024). According to the applicant's testimony at that public hearing, this was his parents' and grandparents' home, and they are buried on the land. Although the variance was approved, the property owner was unable to build a dwelling within two years, so the variance expired. There have been no substantial changes to the circumstances since the previous variance was approved.

The lot is approximately square, and slopes down from front to back (west to east). It is located approximately 450 feet south of Mountain Road and 250 feet east of Good Oak Lane. It is mostly wooded. Most of the area south of Mountain Road is developed with single-family dwellings on lots of one to two acres, but there are subdivisions on both sides: Meadow Farms to the west and Church Glen to the east. The site is also near a water tower (350 feet to the west) and an electrical substation (60 feet to the east).

The plat shows an existing 50-foot easement extending east from Good Oak Lane, and a proposed extension of that easement to the north to serve the property. If the variance is approved, the applicant will be required to demonstrate that he has legal access from the property through Good Oak Lane to Mountain Road.

## **APPLICANT'S NARRATIVE**

*(The following text was entered by the applicant through the Build Henrico online permitting system)*

New single family home

## **AGENCY COMMENTS**

This application was included on the preliminary agenda provided to the following agencies: Building Construction and Inspections, Community Revitalization, County Attorney's Office, Fire Safety, Information Technology, Permit Center, Police, Public Schools, Public Utilities, Public Works, and Recreation and Parks. The following comments were received.

### ***Department of Public Utilities***

County water is available 250' from the property in Good Oak Lane. Property owner should provide for a private easement along the access easement for the driveway. A water meter would be set at the Good Oak Lane drive entrance and the private water service would be extended along the driveway. The service would be connected to the 3" water main. Sewer is not available.

### ***Department of Public Works***

- Land disturbance greater than 2500 sq feet will require an Environmental Compliance Plan.
- Analyze and provide solutions to minimize drainage impacts on downstream properties.
- Based on GIS, Waters of the U.S. and/or hydric soils are present (indicating possible wetlands). Corps of Engineers and DEQ permits may be required.

**EVALUATION OF THE THRESHOLD REQUIREMENT (Code of Virginia, § 15.2-2309)**

***A variance should be granted only if the applicant proves one of the following.***

- 1. The strict application of the terms of the ordinance would unreasonably restrict the utilization of the property.***

**APPLICANT'S RESPONSE**

*(The following text was entered by the applicant through the Build Henrico online permitting system)*

Building a new single-family home

**STAFF ANALYSIS**

***This test is met.*** The property is suitable for a dwelling and is not suitable for any other use permitted in the A-1 district. If the variance is granted, the owner can make reasonable use of the property as a single-family dwelling on a one-acre lot. If it is denied, the only use the lot could serve is as additional yard area for the existing dwellings to the west and south.

- 2. The variance would alleviate a hardship due to a physical condition relating to the property or improvements at the time of the effective date of the ordinance.***

**APPLICANT'S RESPONSE**

*(The following text was entered by the applicant through the Build Henrico online permitting system)*

Building a new single-family home

**STAFF ANALYSIS**

***This test is met.*** The property was divided legally at a time when family divisions were exempt from the Subdivision Ordinance. Although it did not meet the Zoning Ordinance requirements for a dwelling at that time, there was no way to meet the requirement, because the family's original 4.4-acre parcel never had public street frontage. The hardship is due to the change in the zoning ordinance that required public street frontage.

- 3. The variance would alleviate a hardship by granting a reasonable modification for a person with a disability.***

**APPLICANT'S RESPONSE**

*(The following text was entered by the applicant through the Build Henrico online permitting system)*

Building a new single-family home

**STAFF ANALYSIS**

***This test is not applicable.***

***Because the threshold test has been met, the Board has the authority to grant the variance if the following five tests are also met.***

## **EVALUATION OF ADDITIONAL STATUTORY REQUIREMENTS**

***If the Board concludes from the evidence that the applicant has proved one of the three threshold requirements listed above, the applicant must also prove all of the following.***

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

### **APPLICANT'S RESPONSE**

*(The following text was entered by the applicant through the Build Henrico online permitting system)*

Building a new single family home

### **STAFF ANALYSIS**

The hardship was created when the public street frontage requirement was added to the zoning ordinance. The applicant did not cause the hardship.

- (ii) The granting of the variance will not be of substantial detriment to adjacent and nearby property.***

### **APPLICANT'S RESPONSE**

*(The following text was entered by the applicant through the Build Henrico online permitting system)*

None.

### **STAFF ANALYSIS**

The proposed dwelling would be approximately 180 feet from the neighbor to the north and 120 feet from the neighbor to the west. The other two neighbors are an unimproved pasture and an electrical substation. A single-family dwelling on a one-acre lot should have no detrimental impacts on the surroundings.

At the public hearing in 2018 there was some discussion about the access easement. Staff understands that issue has been resolved, but in any case, it is outside of the Board's control. If the variance is approved, the applicant must demonstrate that he has obtained legal access to the property before a building permit will be issued.

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

### **APPLICANT'S RESPONSE**

*(The following text was entered by the applicant through the Build Henrico online permitting system)*

Building a new single family home

## **STAFF ANALYSIS**

Since 2010, the Subdivision Ordinance has included a provision to allow family subdivisions that create lots with no public street frontage. However, the subject property was divided before that regulation was adopted. Although the situation is not unique, it was not addressed by the ordinance amendment, so a variance is the last resort.

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

A dwelling is a principal permitted use in the A-1, Agricultural District. Approval of the variance would not result in a use variance or a change in zoning.

- (v) *The relief or remedy sought by the variance application is not available through a special exception or modification.***

A special exception or modification is not available for the applicant's request.

## **CONCLUSION**

**This case meets the legal requirements for a variance.**

- The property is otherwise suitable for a dwelling but cannot be used for that purpose.
- The hardship is due to changes in the zoning ordinance after the property was defined.
- The applicant for the variance did not cause the hardship.
- Staff does not anticipate any detrimental impacts from the proposed dwelling.
- The conditions are specific to this lot, the use is allowed, and no other relief is available.

Staff recommends approval subject to the attached conditions.

## **RECOMMENDED CONDITIONS**

1. This variance applies only to the public street frontage requirement for one dwelling only. All other applicable regulations of the County Code remain in force.
2. This variance applies only to the improvements shown on the plot plan titled "Site Plan, Parcel 765-769-7941, 10839 Good Oak Lane" prepared by Ironwood Surveying PLC and dated August 10, 2024. Any dwelling on the property must be similar in appearance to the photographs submitted with the application. Any additional improvements must comply with the applicable regulations of the County Code. Any substantial changes or additions to the design or location of the improvements will require a new variance.
3. Before beginning any clearing, grading, or land disturbing activity, the applicant must obtain approval of an environmental compliance plan from the Department of Public Works. The applicant may be required to analyze and provide solutions to minimize drainage impacts on downstream properties. Corps of Engineers and DEQ permits may be required.

4. Any dwelling on the property must be served by public water connected to the 3-inch water main in Good Oak Lane. The owner must provide for a private utility easement along the access easement for the driveway.
5. At the time of building permit application, the applicant must provide evidence of Health Department approval of an onsite sewage disposal system applying current VDH standards, including identification of primary and 100% reserve drainfield areas.
6. At the time of building permit application, the applicant must present evidence that a legal access to the property has been obtained. Prior to certificate of occupancy, the driveway must be improved with a durable asphalt or compacted gravel surface sufficient to provide access for police, fire, emergency medical services, and other vehicles. The surface must be at least 10 feet wide with 12 feet of horizontal clearance and 14 feet of overhead clearance. The owners of the property, and their heirs or assigns, must maintain access to the property.
7. The applicant must obtain a building permit for the proposed dwelling by November 21, 2026, or this variance will expire. After that date, if the building permit is cancelled or revoked due to failure to diligently pursue construction, this variance will expire at that time.



- NOTES:**
1. ALL CONSTRUCTION SHALL CONFORM TO V.D.O.T. AND HENRICO COUNTY STANDARDS AND SPECIFICATIONS.
  2. THIS SITE IS TREE COVERED.
  3. TOPOGRAPHY SHOWN HEREON WAS FIELD SHOT.
  4. ALL DISTURBED AREAS WILL BE SEEDED AND STRAWED IN ACCORDANCE WITH VIRGINIA EROSION & SEDIMENT CONTROL REGULATIONS STANDARDS MS-1, MS-2, & MS-3.
  5. ALL MATERIALS AND EQUIPMENT ARE TO BE STOCKPILED WITHIN THE LIMITS OF LAND DISTURBANCE.
  6. THE CONTRACTOR IS TO NOTIFY MISS UTILITY PRIOR TO ANY CONSTRUCTION, FOR A COMPLETE AND EXACT LOCATION OF ALL EXISTING UNDERGROUND UTILITIES.
  7. HOUSE DIMENSIONS SHOWN HEREON ARE BASED ON INFORMATION PROVIDED BY THE OWNER/BUILDER.
  8. THE SETBACKS SHOWN ARE ACCORDING TO HENRICO COUNTY REQUIREMENTS, AND DO NOT REFLECT SUBDIVISION COVENANT REQUIREMENTS. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO VERIFY COVENANT REQUIREMENTS PRIOR TO ANY CONSTRUCTION.
  9. EASEMENTS MAY EXIST, WHICH ARE NOT SHOWN HEREON.
  10. DRIVEWAY CULVERT SIZE TO BE VERIFIED ON SITE TO ENSURE PROPER COVER.
  11. BOUNDARY INGRATATION TAKEN FROM DEEDS AND PLATS OF RECORD.
  12. PROVIDE STONE CONSTRUCTION ENTRANCE PRIOR TO CONSTRUCTION.
  13. CONTRACTOR IS RESPONSIBLE FOR KEEPING GOOD OAK LANE FREE OF MUD AND DEBRIS ADJACENT TO THE PROPOSED DRIVEWAY.
  14. UPON REMOVAL OF ALL EROSION AND SEDIMENT CONTROL DEVICES, ALL TRAPPED SEDIMENT IS TO BE REMOVED FROM THE LOT AND PROPERLY DISPOSED OF.
  15. PROPERLY IS TO BE SERVED BY PRIVATE WELL AND SEPTIC SYSTEM APPROVED BY THE VIRGINIA DEPARTMENT OF HEALTH.
  16. GRADES AROUND BUILDING TO ACHIEVE SIX (6) INCHES OF FALL AWAY FROM BUILDING IN THE FIRST TEN (10) FEET.
  17. CONTRACTOR IS TO ACHIEVE PROPER GRADING AND PREVENT ANY PONDING OF WATER AROUND THE FOUNDATION.

(SF) - SILT FENCE      (EB) - CONSTRUCTION ENTRANCE

ACCORDING TO F.A.R.M. COMMUNITY PANEL # 51087C0042D, DATED APRIL 25, 2024, THIS LOT APPEARS TO BE LOCATED IN ZONE X\*.



**SITE PLAN**  
**PARCEL #765-769-7941**  
**10839 GOOD OAK LANE**  
 BROOKLAND DISTRICT      HENRICO COUNTY, VA  
 AUGUST 10, 2024      SCALE 1"=50'  
 JOB #: 24-1054

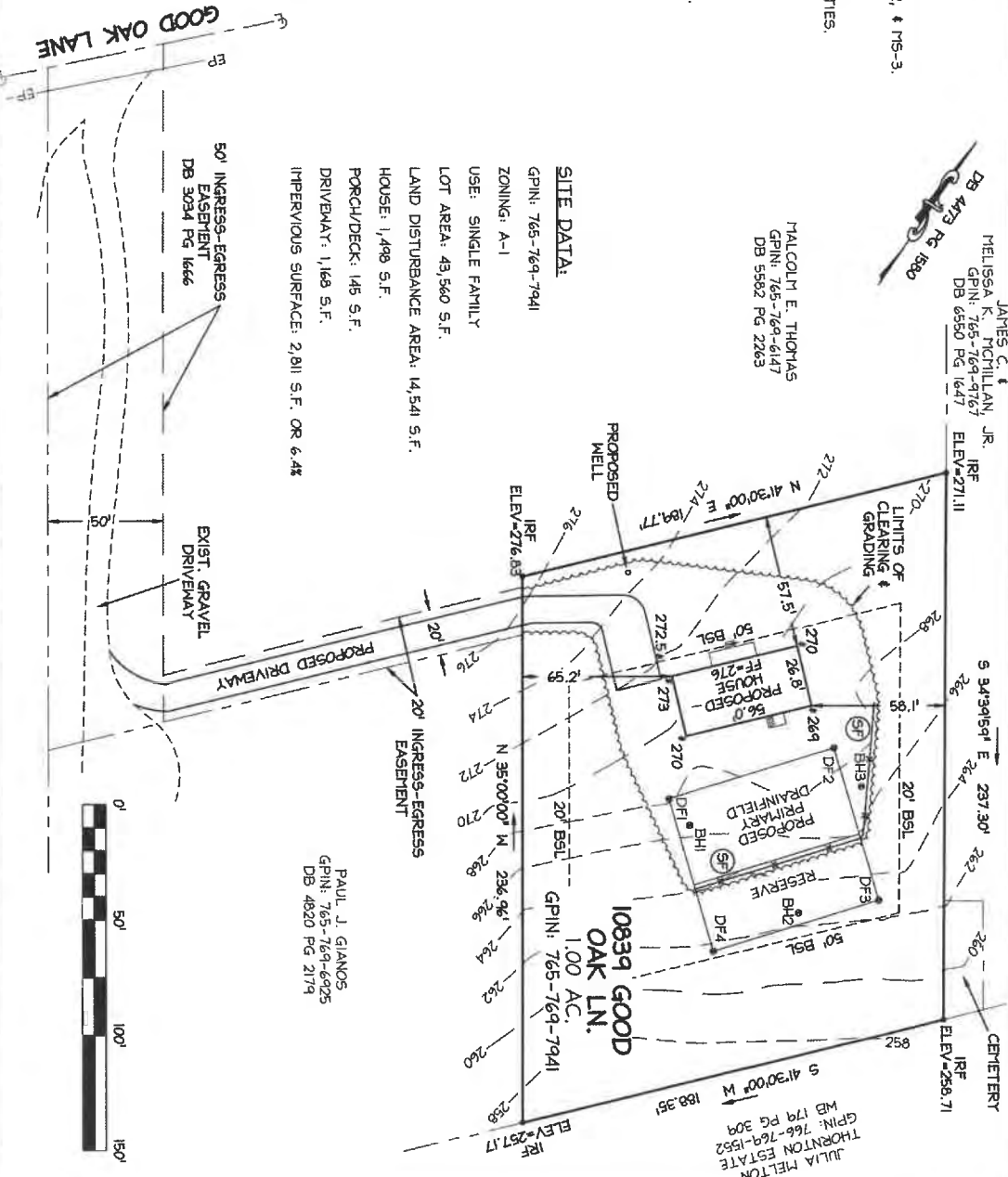
**SITE DATA:**  
 GPIN: 765-769-7941  
 ZONING: A-1  
 USE: SINGLE FAMILY  
 LOT AREA: 43,560 S.F.  
 LAND DISTURBANCE AREA: 14,541 S.F.  
 HOUSE: 1,498 S.F.  
 PORCH/DECK: 145 S.F.  
 DRIVEWAY: 1,168 S.F.  
 IMPERVIOUS SURFACE: 2,811 S.F. OR 6.4%

MALCOLM E. THOMAS  
 GPIN: 765-769-6147  
 DB 5582 PG 2263

JAMES C. & MELISSA K. TCHILLAN, JR.  
 GPIN: 765-769-9767  
 DB 6550 PG 1647  
 ELEV=271.11

CENTERLY  
 GPIN: 766-769-1552  
 WB 179 PG 309  
 ELEV=258.71

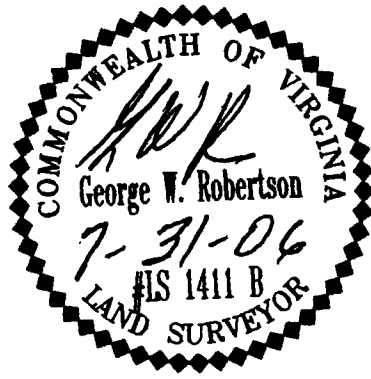
JULIA MELTON THORNTON ESTATE  
 GPIN: 766-769-1552  
 WB 179 PG 309  
 ELEV=257.17



**IRONWOOD**  
 SURVEYING, PLC

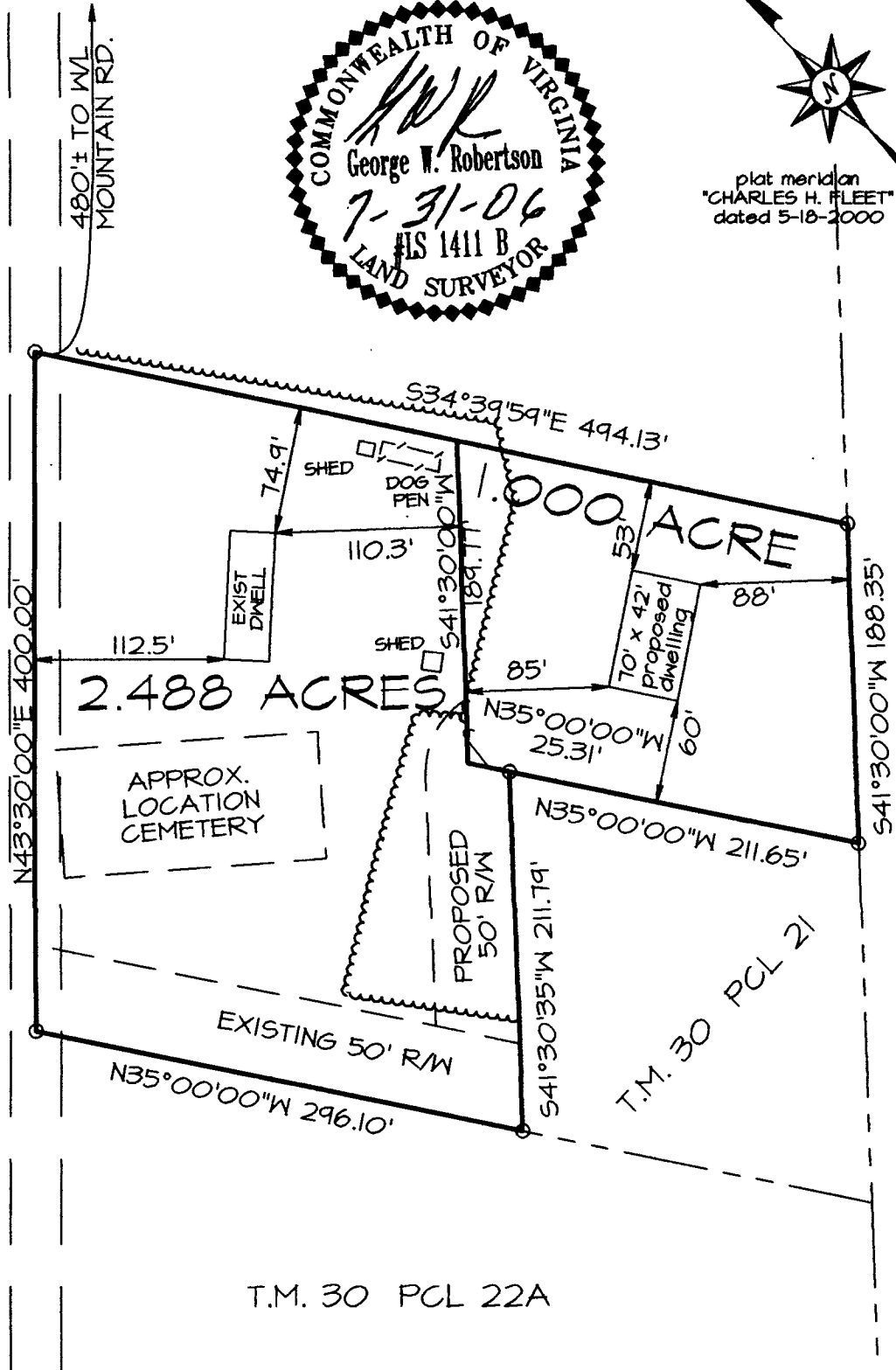
7349 Diascund Creek Way      New Kent, VA 23124  
 Office: (340) 645-5708      www.ironwoodsurveying.com

PAUL J. GIANDOS  
 GPIN: 765-769-6925  
 DB 4820 PG 2179



plat meridian  
"CHARLES H. FLEET"  
dated 5-18-2000

GOOD OAK LANE



T.M. 30 PCL 32A

T.M. 30 PCL 22A

PLAT SHOWING PROPOSED FAMILY DIVISION ON T.M.30 PCL 21 SITUATED ON THE S/E SIDE OF GOOD OAK LANE

IN HENRICO COUNTY, VIRGINIA

revised:

JN: 060707

SCALE: 1" = 100'

DATE: 07-31-2006

FBK:

# DOWNING SURVEYS, INC.

305 S WASHINGTON HWY SUITE "K" ASHLAND, VA. 23005  
(PH) 798-6795 & 748-3609 (FAX) 798-3546





Front of 10837 Good Oak Lane

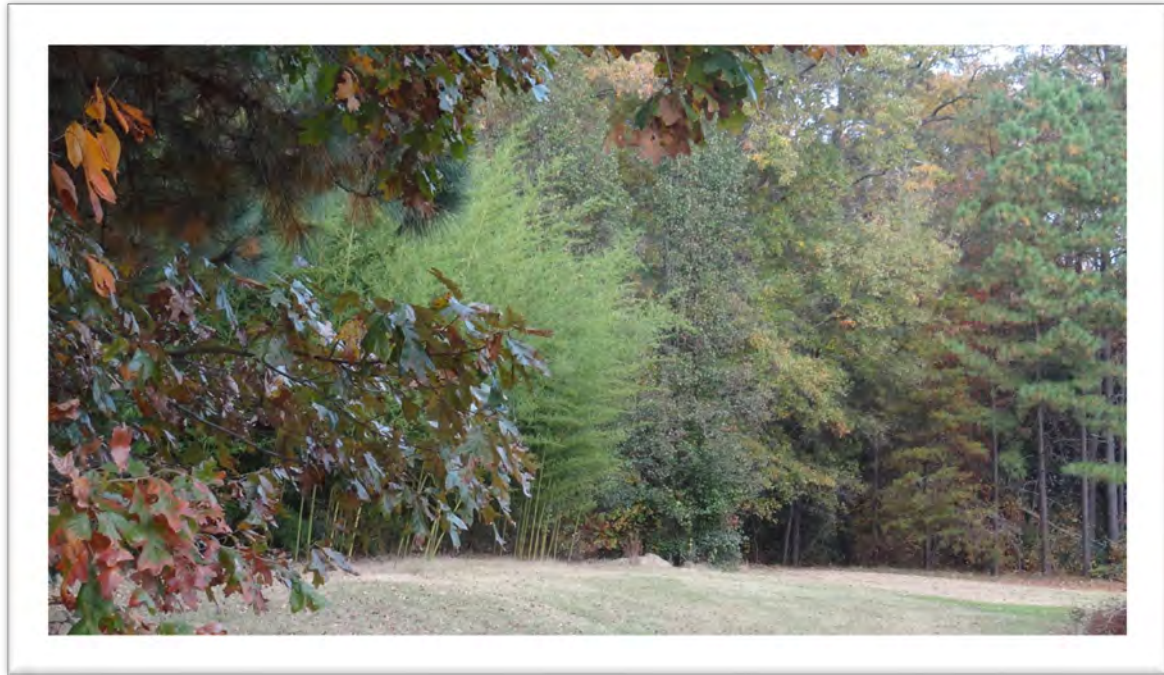


Access driveway to property

**VAR-2024-102144**

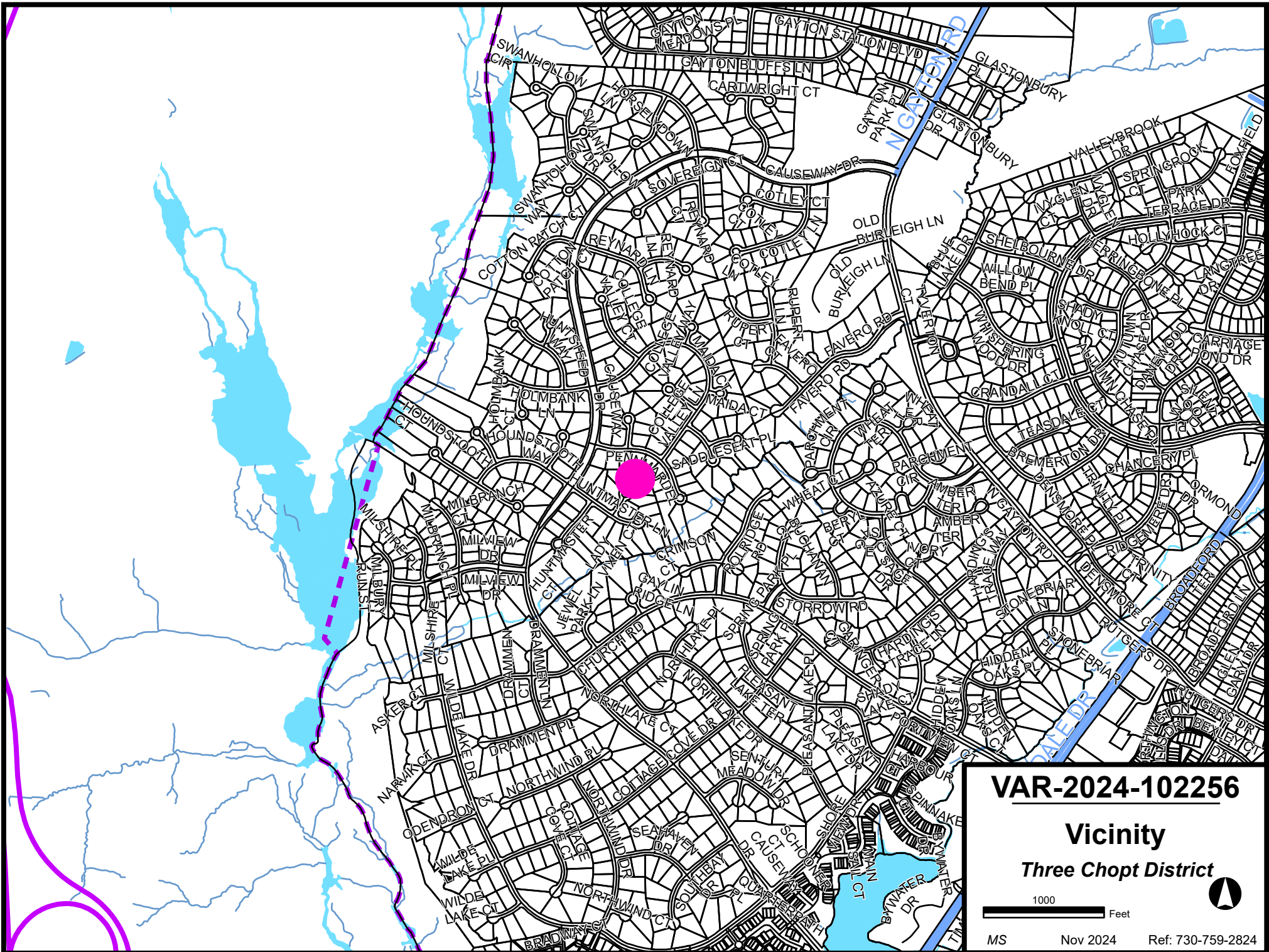


Drive way on east side of 10837 Good Oak Lane



View of proposed site

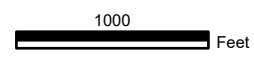
**VAR-2024-102144**

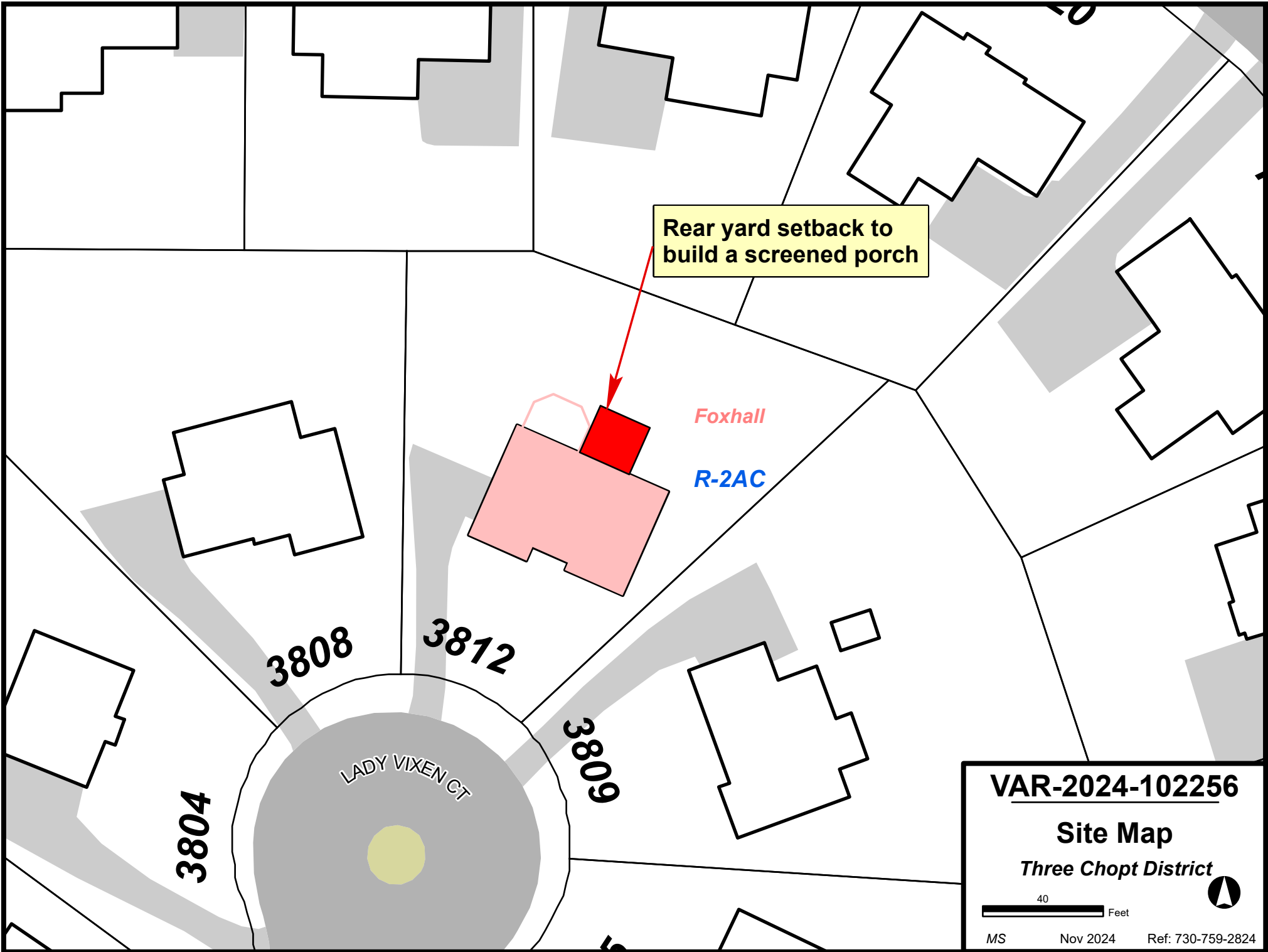


**VAR-2024-102256**

**Vicinity**

**Three Chopt District**





Rear yard setback to build a screened porch

Foxhall

R-2AC

3808

3812

3809

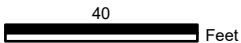
3804

LADY VIXEN CT

**VAR-2024-102256**

**Site Map**

*Three Chopt District*



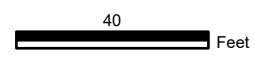


LADY VIXEN CT

**VAR-2024-102256**

**Aerial 2024**

*Three Chopt District*





# VAR-2024-102256

## Peter and Erica Schmidt

Staff Report for the Board of Zoning Appeals

---

*This report has been prepared by the Planning Department staff to assist the Board of Zoning Appeals in considering this application. Additional information may be submitted at the public hearing, and the final decision to approve or deny the application is reserved by law to the Board.*

**Public hearings:** November 21, 2024 Pending

---

### **Property Identification and Location:**

**Property owner:** Peter C. and Erica R. Schmidt

**Applicant:** Peter and Erica Schmidt

**Representative:** Cameron Bachman, Tri-Build Construction (Contractor)

**Type of request:** Rear yard setback: 36 feet where the Code requires 45 feet

**Intended use:** Build a screened porch

**Property address:** 3812 Lady Vixen Court

**Parcel Number:** 730-759-2824

**Property acreage:** 15,307 square feet (0.35 acre)

**Subdivision:** Foxhall

**Magisterial District:** Three Chopt

**2026 Comprehensive Plan Recommendation:** Suburban Residential 1 (SR1)

**Zoning of Property:** R-2AC, One-Family Residence District (Conditional)

**Zoning of Surrounding Property:** North: R-2AC, One-Family Residence District (Conditional)  
West: R-2AC, One-Family Residence District (Conditional)  
South: R-2AC, One-Family Residence District (Conditional)  
East: R-2AC, One-Family Residence District (Conditional)

**Staff Contact:** Paul Gidley



## **BACKGROUND**

The subject property is located on a cul-de-sac in the Fox Hall subdivision. It contains a two-story dwelling constructed in 1997. The applicants have lived there since 2021. They have an existing deck that extends nine feet into the rear yard setback as allowed by the Zoning Ordinance. In addition, they are proposing to build a screened porch beside the existing deck that would also encroach nine feet into the required 45-foot rear yard setback. Unlike a deck, a screened porch must comply with the same 45-foot rear yard setback as the dwelling. As a result, the applicants are requesting a nine-foot rear yard setback variance.

## **APPLICANT'S NARRATIVE**

*(The following text was entered by the applicant through the Build Henrico online permitting system)*

We want to build a screen porch off the back of house. Currently, the rear yard setback does not allow for a size we desire.

We applied for building permit BLD-2024-11361; but got denied due to setbacks.

## **AGENCY COMMENTS**

This application was included on the preliminary agenda provided to the following agencies: Building Construction and Inspections, Community Revitalization, County Attorney's Office, Fire Safety, Information Technology, Permit Center, Police, Public Schools, Public Utilities, Public Works, and Recreation and Parks. No comments were received from any of the agencies.

**EVALUATION OF THE THRESHOLD REQUIREMENT (Code of Virginia, § 15.2-2309)**

***A variance should be granted only if the applicant proves one of the following.***

- 1. The strict application of the terms of the ordinance would unreasonably restrict the utilization of the property.***

**APPLICANT'S RESPONSE**

*(The following text was entered by the applicant through the Build Henrico online permitting system)*

Unable to build a screen porch off the back of house with reasonable dimensions.

**STAFF ANALYSIS**

***This test is not met.*** The Board of Supervisors has required sunrooms and screened porches to meet the same setbacks as the main dwelling, while allowing decks to extend up to 10 feet into the setback. Like many homes in Fox Hall, the applicant's property has been improved with a dwelling that has a backyard deck. There is no reason the setback, which applies to every lot in the subdivision, is unreasonable as applied to this property.

- 2. The variance would alleviate a hardship due to a physical condition relating to the property or improvements at the time of the effective date of the ordinance.***

**APPLICANT'S RESPONSE**

*(The following text was entered by the applicant through the Build Henrico online permitting system)*

n/a

**STAFF ANALYSIS**

***This test is not met.*** The applicant indicates this test is not applicable, and staff concurs. This section of Fox Hall was recorded in 1996. The rear yard setback has been in effect since 1960. As a result, there is not a hardship due to a physical condition that existed prior to the effective date of the zoning ordinance's rear yard setback requirement.

- 3. The variance would alleviate a hardship by granting a reasonable modification for a person with a disability.***

**APPLICANT'S RESPONSE**

*(The following text was entered by the applicant through the Build Henrico online permitting system)*

n/a

**STAFF ANALYSIS**

***This test is not met.*** The applicant indicates this test is not applicable and staff concurs.

***This application does not meet the legal requirements for a variance.***

## **EVALUATION OF ADDITIONAL STATUTORY REQUIREMENTS**

***If the Board concludes from the evidence that the applicant has proved one of the three threshold requirements listed above, the applicant must also prove all of the following.***

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

### **APPLICANT'S RESPONSE**

*(The following text was entered by the applicant through the Build Henrico online permitting system)*

The homeowner desires to build screen porch but unable to.

### **STAFF ANALYSIS**

***This test is not met.*** The property owner acquired the property in good faith. The property owner, however, is responsible for the proposed design of the screened porch, which would encroach into the setbacks. If there is any hardship, it is self-imposed.

- (ii) The granting of the variance will not be of substantial detriment to adjacent and nearby property.***

### **APPLICANT'S RESPONSE**

*(The following text was entered by the applicant through the Build Henrico online permitting system)*

No negative effects; would bring up property value.

### **STAFF ANALYSIS**

There is modest screening between the applicant's property and those neighbors to the rear. In a neighborhood of spacious lots, there would be some loss of privacy, but staff does not believe it would rise the level of being a substantial detriment to nearby property.

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

### **APPLICANT'S RESPONSE**

*(The following text was entered by the applicant through the Build Henrico online permitting system)*

It was common with other properties in the area that also had to request a variance to build a screen porch.

### **STAFF ANALYSIS**

***This test is not met.*** Staff concurs with the applicant that the condition is common to all the property in this subdivision. The Board has seen several similar requests in recent months and had three similar cases on last month's agenda. Two of the neighbors to the rear and one side neighbor would face a similar constraint if they wanted to build the same structure onto their homes. This is clearly a general and recurring situation that can be

reviewed by the Board of Supervisors. Any relief to this general and recurring situation should come from the legislative body, the Board of Supervisors, rather than the Board of Zoning Appeals in effect amending the zoning ordinance on its own.

None of the other homes in the cul-de-sac or behind the applicant have obtained a variance for a sunroom or screened porch, although a request at 12801 Huntmaster Lane for a screened porch over a deck was denied in 2022.

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

A single-family dwelling is a principal permitted use in the R-2A zoning district. Approval of the variance would not result in a use variance or a change in zoning.

***(v) The relief or remedy sought by the variance application is not available through a special exception or modification.***

A special exception or modification is not available for the applicant's request.

**CONCLUSION**

**This case does not meet the legal requirements for a variance.**

- The rear yard setback is reasonable as applied to this property.
- There is no reason this property should be treated differently from every other lot in the subdivision.
- The request is not an accommodation for a person with a disability.
- The hardship, if any, is self-imposed.
- This is a general and recurring situation that should be addressed by the Board of Supervisors.

Because the application does not meet the legal requirements for a variance, staff recommends denial.

**RECOMMENDED CONDITIONS**

***Although staff recommends denial, if the Board approves the application, staff recommends the following conditions.***

1. This variance applies only to the rear yard setback requirement for one dwelling only. All other applicable regulations of the County Code remain in force.
2. This variance applies only to the improvements shown on the plot plan and building design filed with the application. Any additional improvements must comply with the applicable regulations of the County Code. Any substantial changes or additions to the design or location of the improvements will require a new variance.

3. The new construction must comply with the conditions proffered with rezoning case C-17C-07 and match the existing dwelling as nearly as practical in colors and materials.
4. The applicant must obtain a building permit for the proposed screened porch by November 21, 2026, or this variance will expire. After that date, if the building permit is cancelled or revoked due to failure to diligently pursue construction, this variance will expire at that time.

LT 146

LT 145

LT 144

X

Foxhall Section 7 Correction 1

LT 153

LT 154

Foxhall Section 7

3812

Foxhall Section 7 Correction 2

Foxhall Section 7 Correction 3

APPROVED

BY M DATE 7/13/2017

X

LT 155

3809

181-320007

LADY VIXEN CT

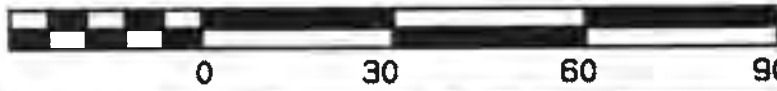
# 3812 Lady Vixen Ct

1 inch = 21 feet

N

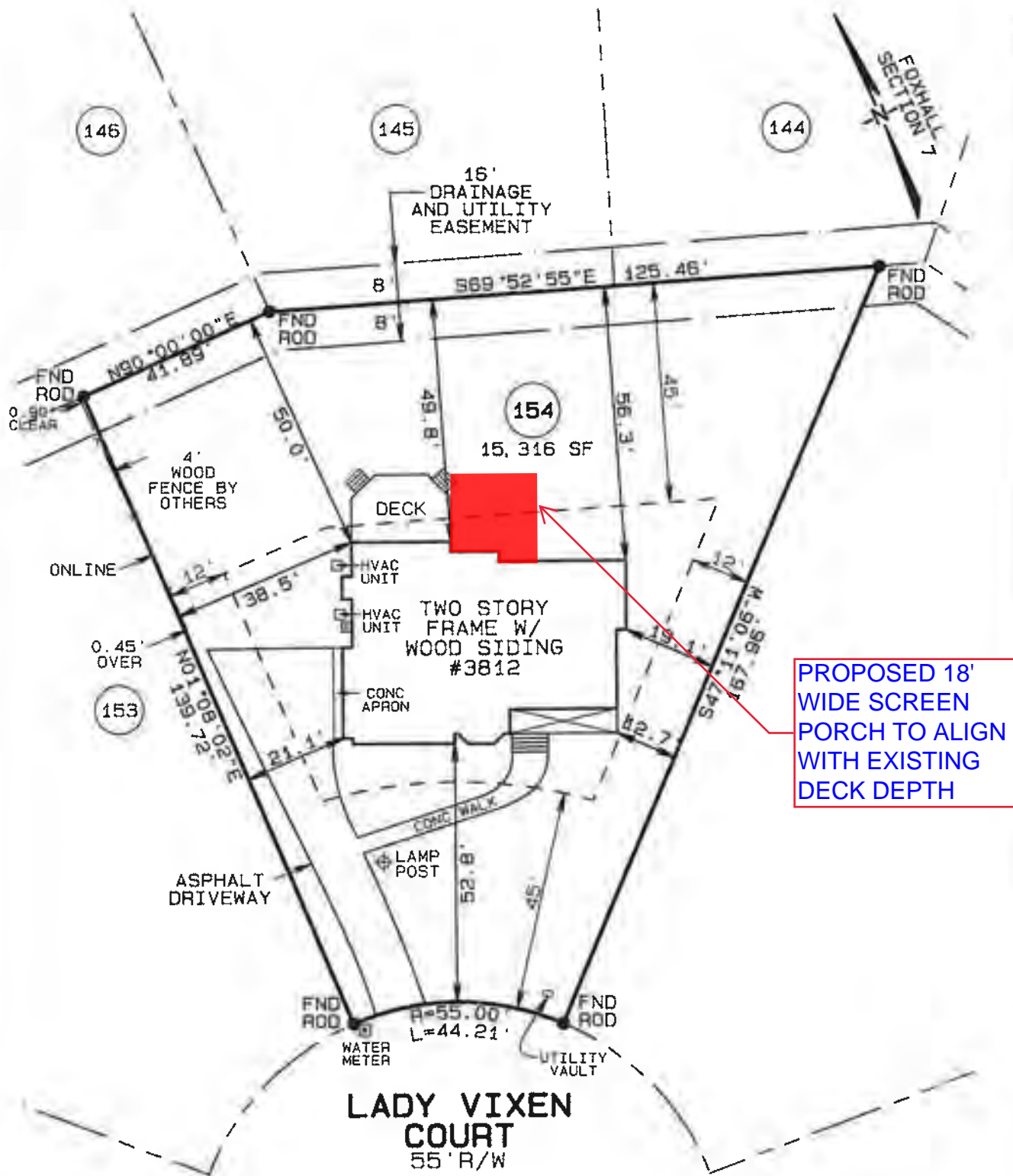


This map has been produced on Henrico County's Geographical Information System using the best data available to the County. This map is to be used for reference purposes only and the County of Henrico makes no warranty as to its completeness or accuracy. Any determination of topography or contours, or any depiction of physical improvements, property lines or boundaries is for general information only and shall not be used for the design, modification, or construction of improvements to real property or for flood plain determination.



REFERENCE: TRI-BUILD OF VA.

THIS PROPERTY APPEARS TO FALL WITHIN ZONE 'X' AS SHOWN ON FIRM FLOOD INSURANCE RATE MAP.  
THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT.

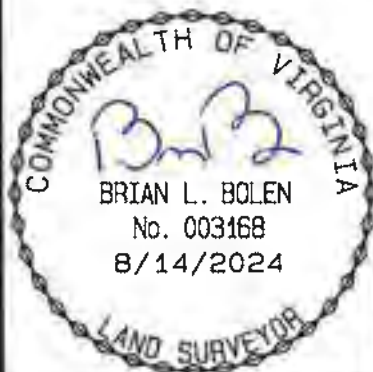


**PROPOSED 18' WIDE SCREEN PORCH TO ALIGN WITH EXISTING DECK DEPTH**

**PLAT SHOWING EXISTING IMPROVEMENTS  
ON LOT 154, BLOCK B, SECTION 7  
FOXHALL SUBDIVISION**

THREE CHOPT DISTRICT, HENRICO COUNTY, VIRGINIA

I HEREBY CERTIFY THAT THIS SURVEY, TO THE BEST OF MY KNOWLEDGE AND BELIEF, IS CORRECT AND COMPLIES WITH THE MINIMUM PROCEDURES AND STANDARDS ESTABLISHED BY THE VIRGINIA STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, LANDSCAPE ARCHITECTS AND CERTIFIED INTERIOR DESIGNERS.

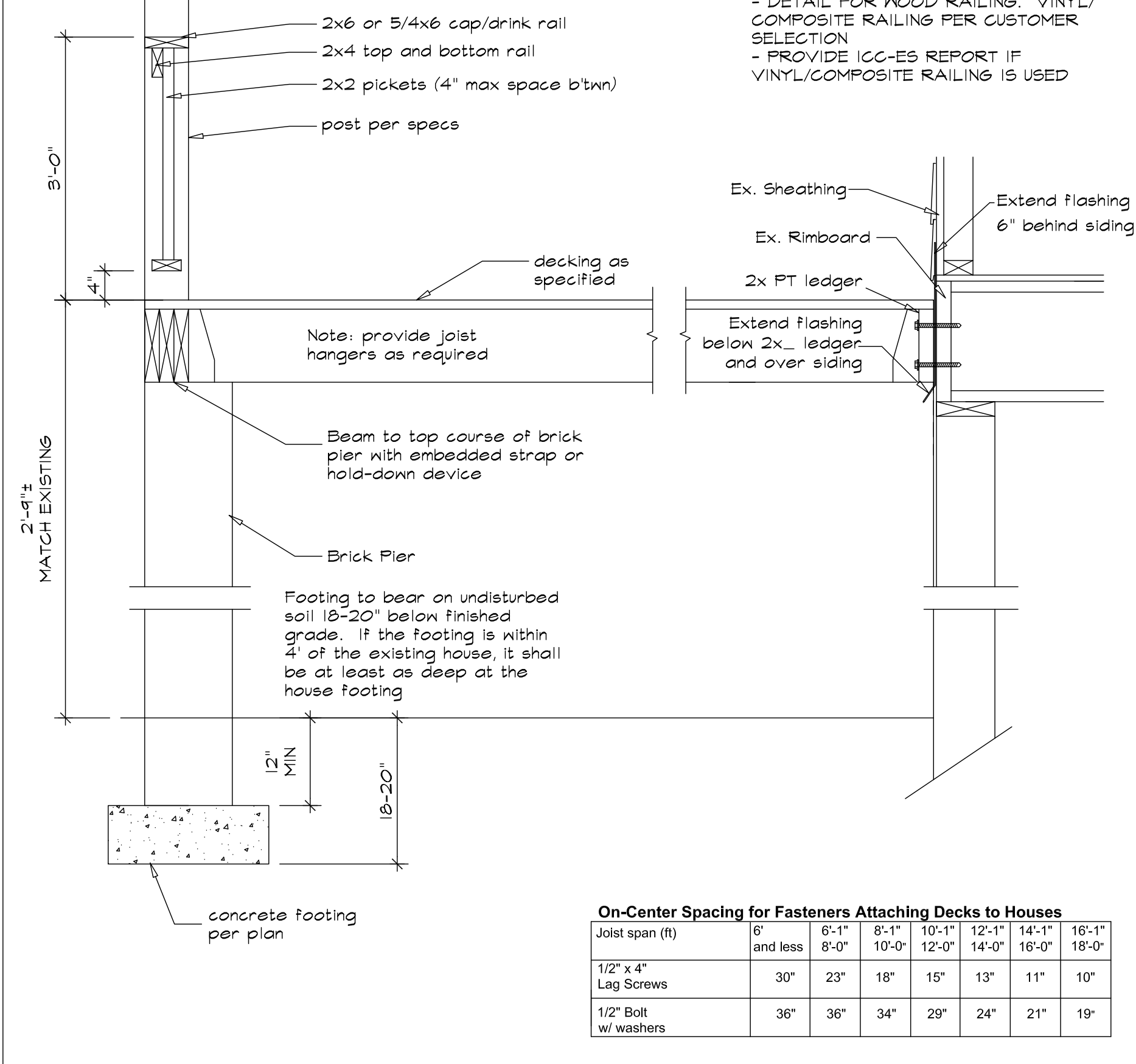


**ENGINEERING DESIGN ASSOCIATES, INC.**

P.O. BOX 50067 RICHMOND, VIRGINIA 23250 (804) 236-0190

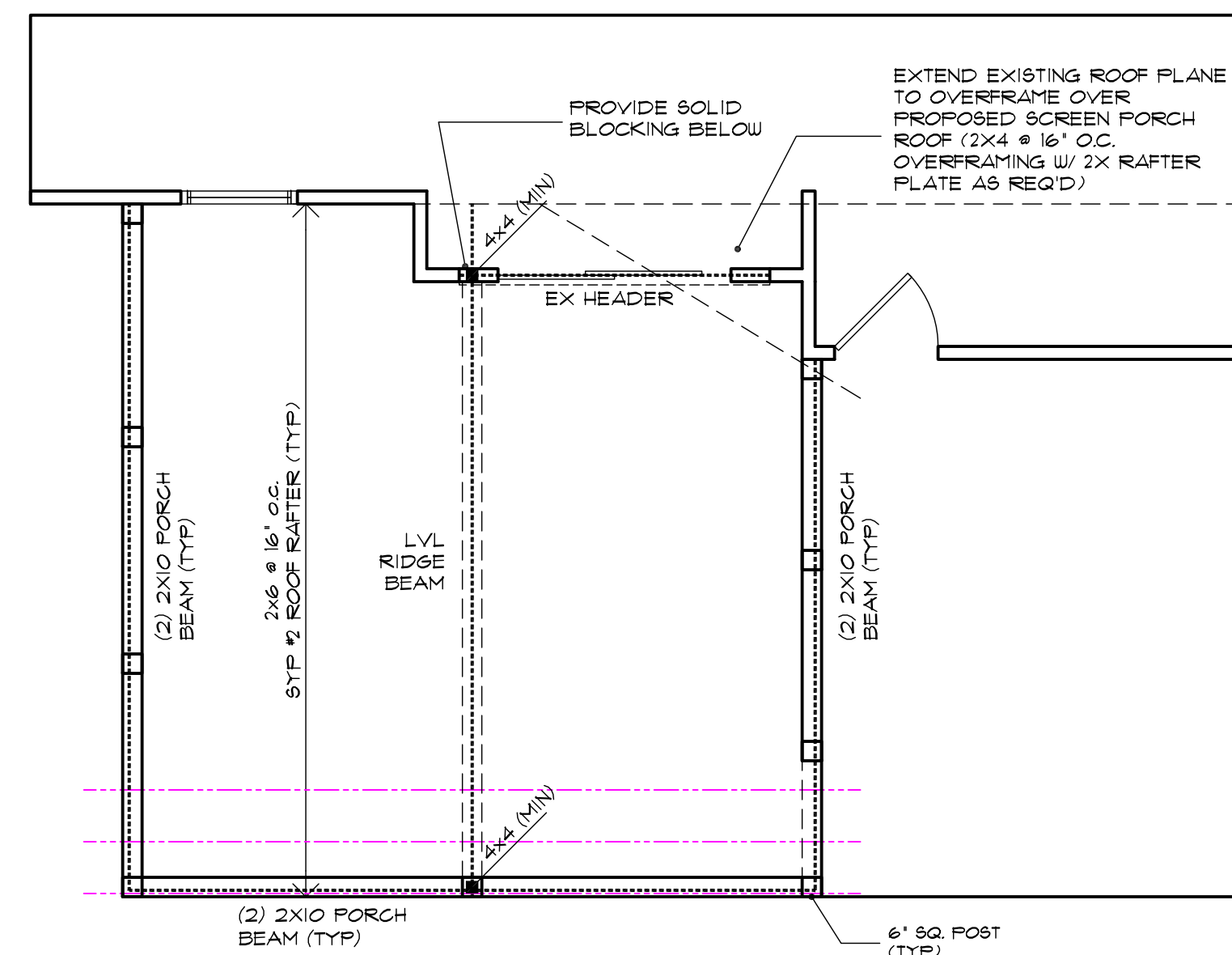
DATE: AUGUST 14, 2024 SCALE: 1"=30' JOB No: 2024-406

COVD DECK DETAIL-LEDGER



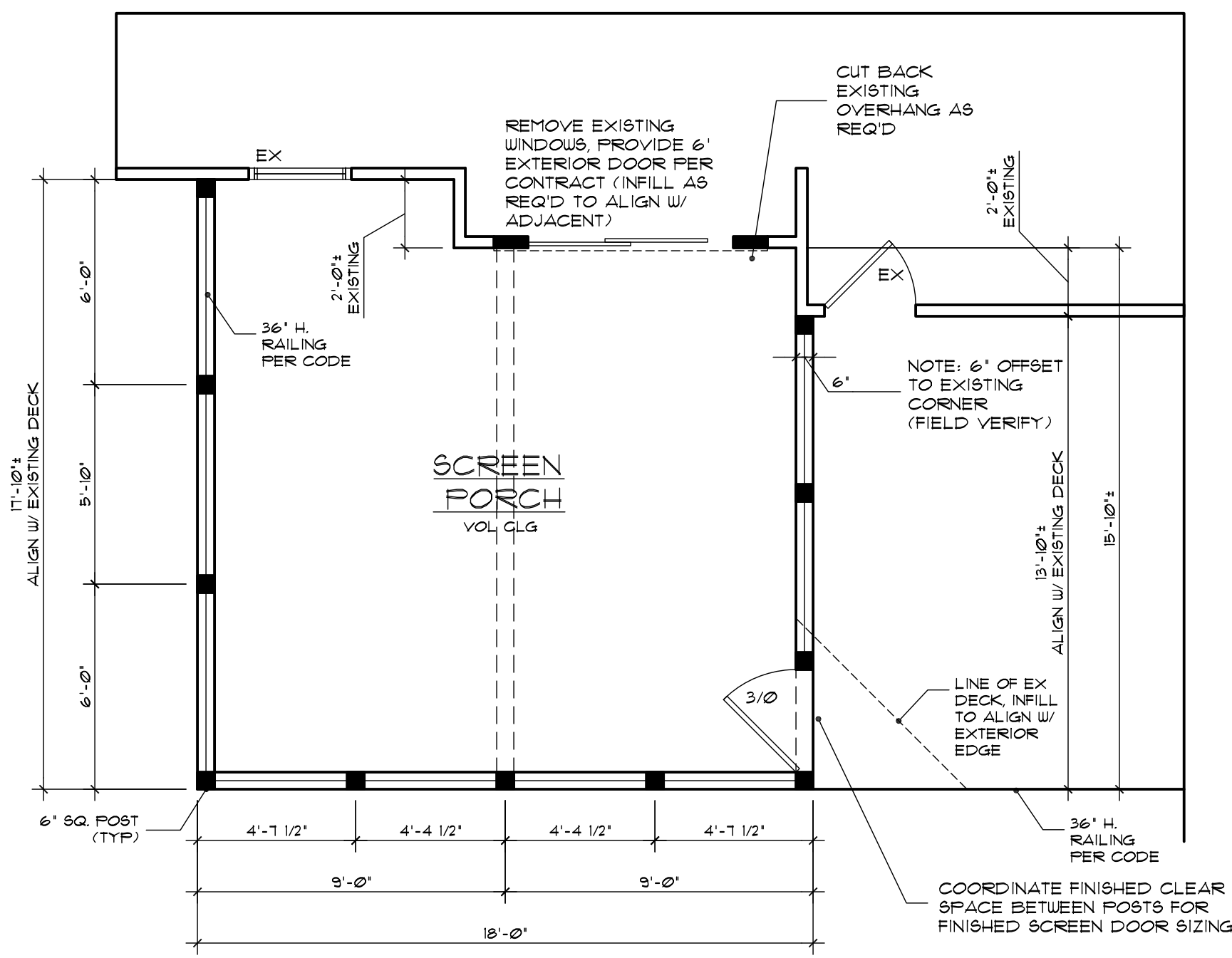
**On-Center Spacing for Fasteners Attaching Decks to Houses**

Joist span (ft)	0' and less	0'-1'	1'-1'	2'-1'	3'-1'	4'-1'	5'-1'	6'-1'
1/2" x 4" Lag Screws	30"	23"	18"	15"	13"	11"	10"	
1/2" Bolt w/ washers	36"	36"	34"	29"	24"	21"	19"	

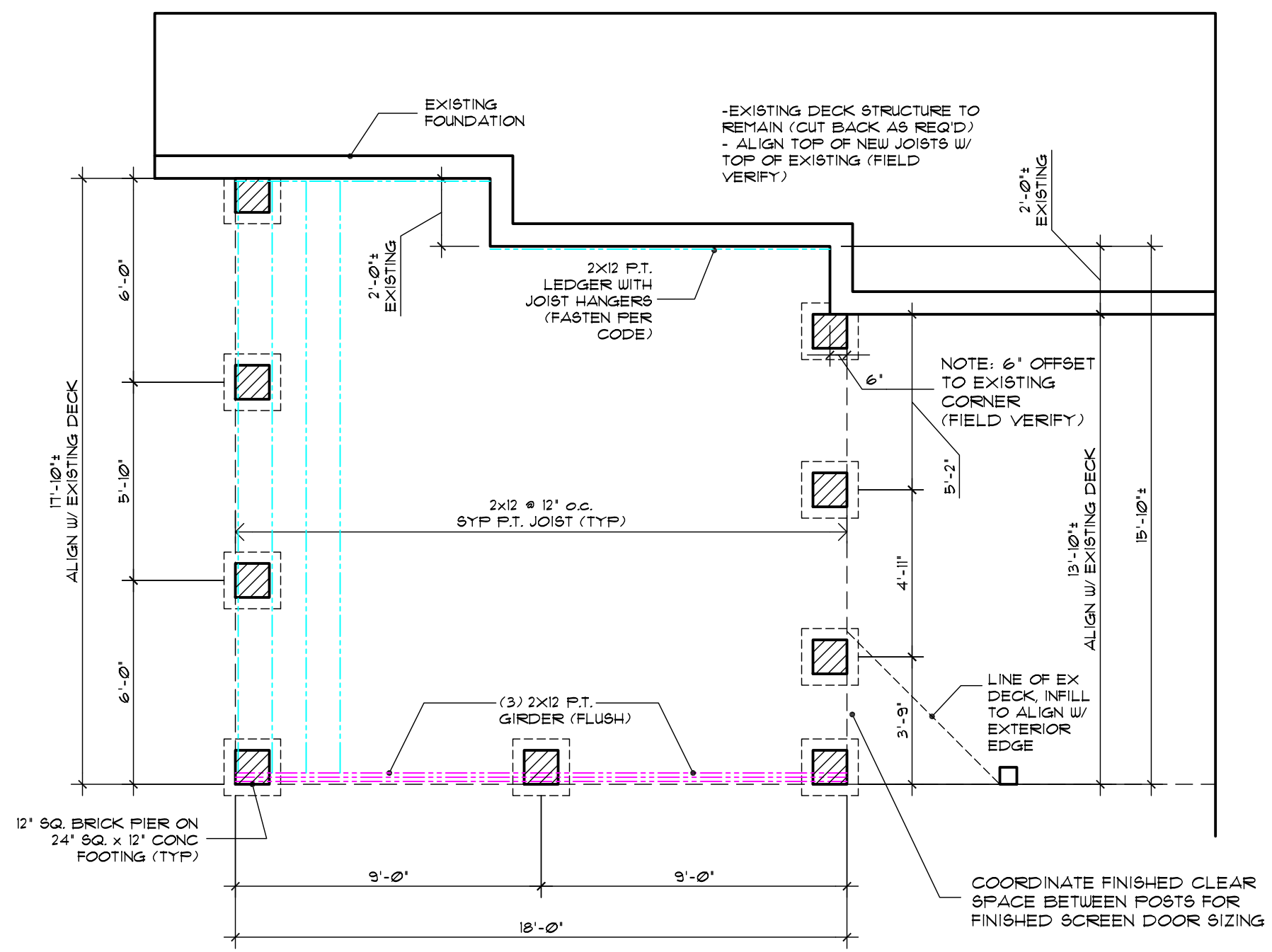


**ROOF FRAMING PLAN**  
1/4" = 1'-0"

POST TO BEAM CONNECTION WITH MANUF CAP OR PER COUNTY SPECIFICATIONS  
NOTE: CONTRACTOR TO VERIFY EXISTING STRUCTURAL INTEGRITY AT EXISTING AND ALTERED SPACES. CONSULT WITH A PROFESSIONAL ENGINEER TO EVALUATE ANY CONCERNS



**FLOOR PLAN**  
1/4" = 1'-0"

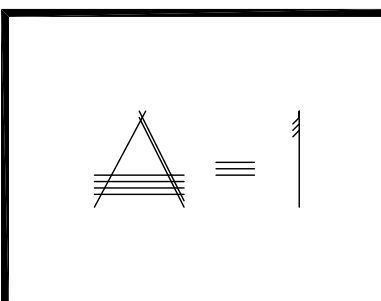


**FLOOR FRAMING PLAN**  
1/4" = 1'-0"

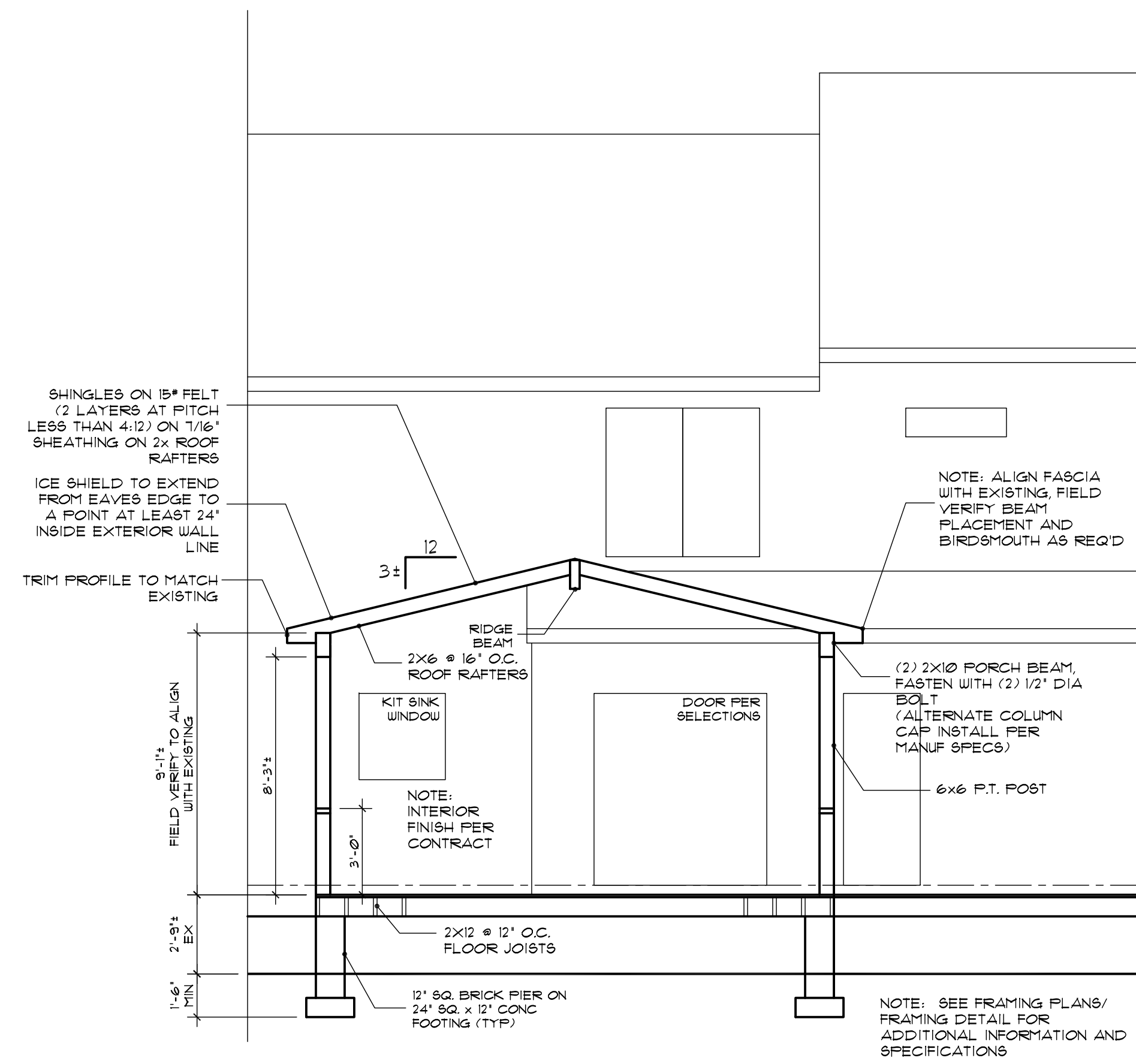
**MICHAEL FRANK REPSHER**  
ARCHITECT  
PO Box 3507  
Glen Allen, VA 23058-3507  
804.994.3000

NO.	REVISION	DATE

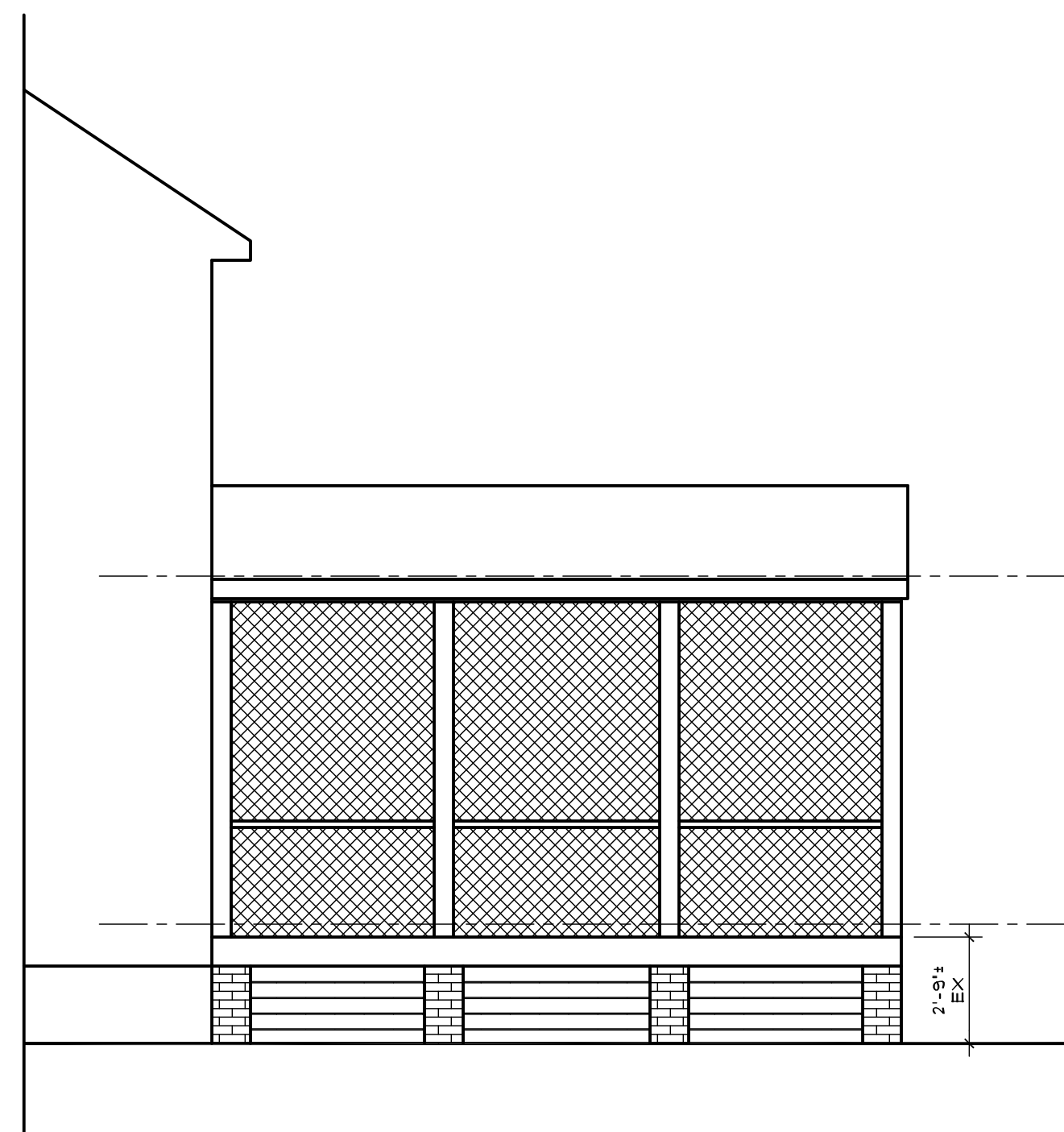
Proposed Screen Porch for  
3812 Lady Vixen Ct  
Henrico County, VA



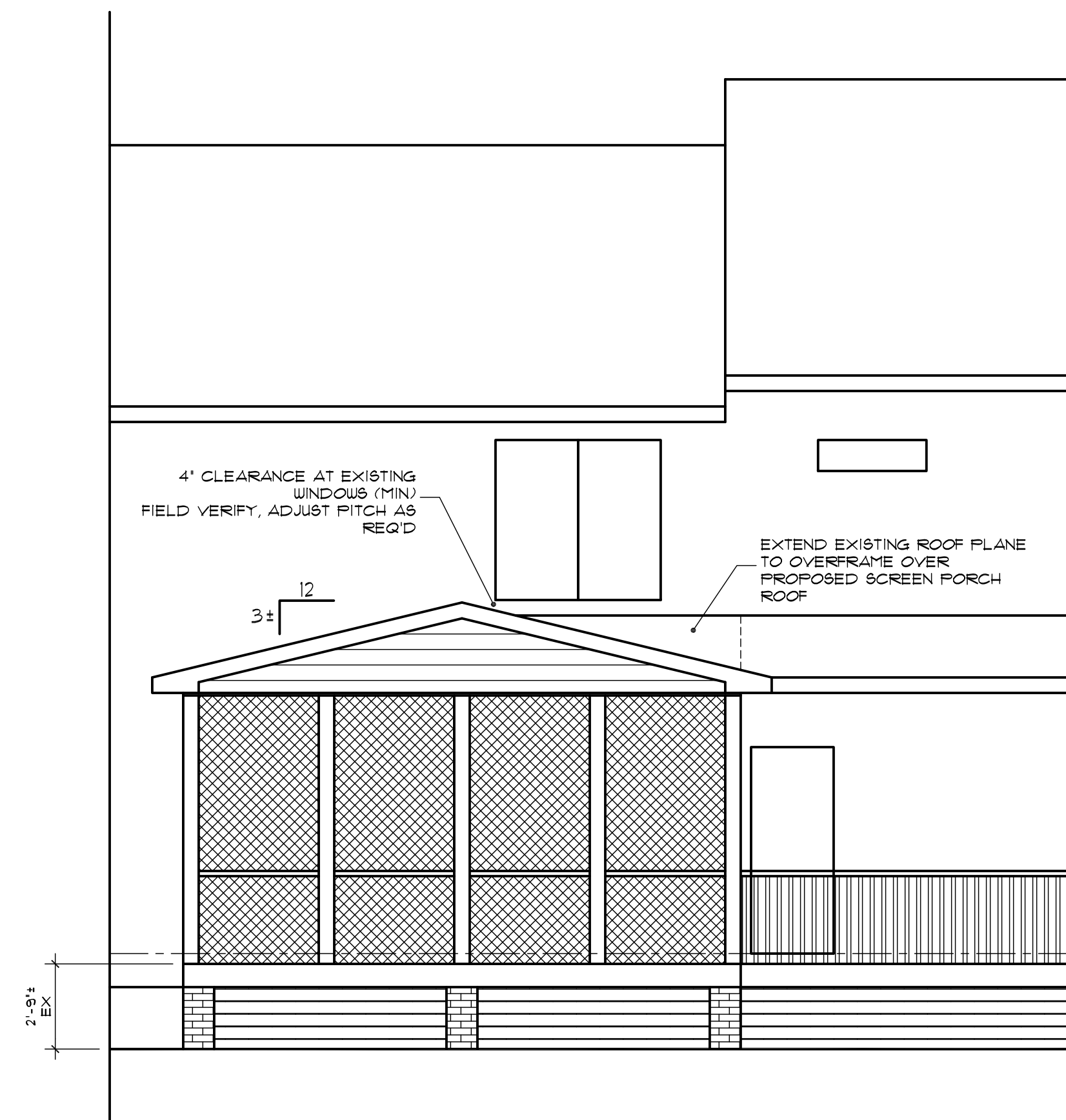




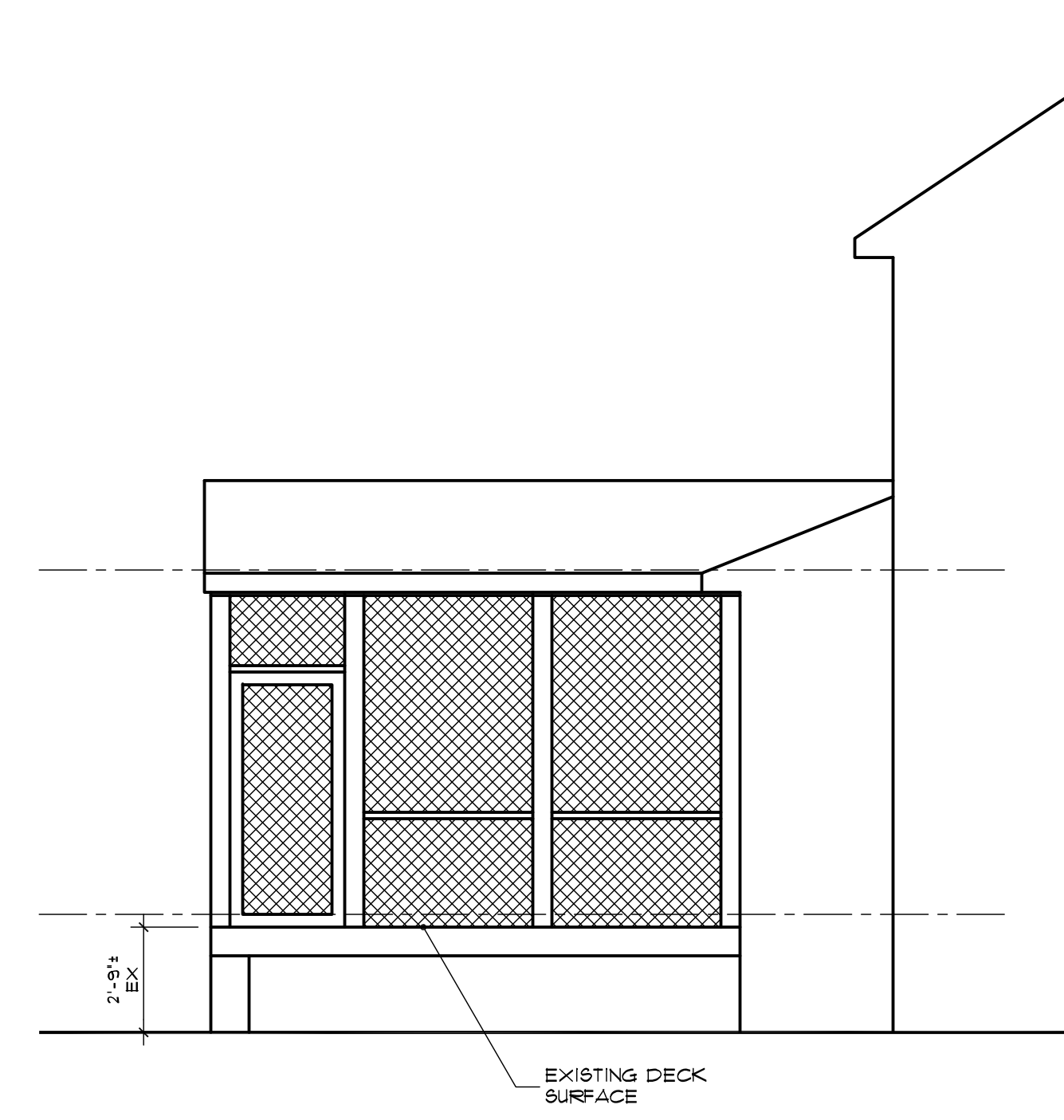
TYPICAL SECTION  
1/4" = 1'-0"



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



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

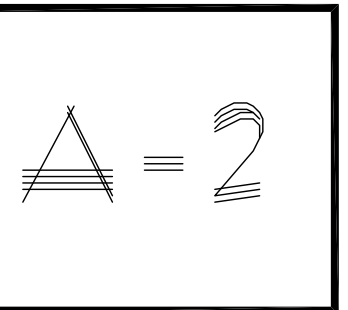


LEFT ELEVATION  
1/4" = 1'-0"

MICHAEL FRANK REPSHER  
ARCHITECT  
PO Box 3507  
Glen Allen, VA 23058-3507  
804.994.3001

NO.	REVISION	DATE
1	revised section notes	6.6.2024

Proposed Screen Porch for  
3812 Lady Vixen Ct  
Henrico County, VA





Front of residence



Site of proposed screen porch

**VAR-2024-102256**



Rear left neighbor



Left side neighbor

**VAR-2024-102256**