



To: Members of the Board of Adjustment, Applicants & Neighboring Property Owners  
From: Jonathan B. Kanipe, Town Manager  
Date: June 13, 2024  
Re: **Board of Adjustment Meeting – June 24, 2024**

**Applicants:**

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

Members of the Board of Adjustment & staff will conduct a site visit prior to the meeting. Site visit times listed are approximate.

**Neighbors:**

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

You may review applications & plans for the projects on this agenda at <http://www.biltmoreforest.org/board-of-adjustment>

You are invited to attend the scheduled meeting at the Town Hall and make comment when called upon.

Additional information regarding the meeting will be provided on the Town's website no later than June 19, 2024.

**\*\*\*PROPOSED AGENDA\*\*\***

The following items of business will be considered by the Biltmore Forest Board of Adjustment on Monday, June 24, 2024 at 4:00 p.m. at the Biltmore Forest Town Hall at 355 Vanderbilt Road, Biltmore Forest, NC 28803.

1. The meeting will be called to order and roll call taken.
2. The minutes of the May 20, 2024 regular meeting will be considered.
3. Hearing of Cases (Evidentiary Hearings, Deliberations & Determinations).

**Case 1: 25 Ridgefield Place – Request for Amendment to Existing Special Use Permit**

*Site Visit – 2:30pm*

**Case 2: 423 Vanderbilt Road – Special Use Permit Request for Accessory Structures**

*Site Visit – 3:15pm*

**Case 3: 33 Busbee Road – Special Use Permit Request for fence placement as part of new home construction.**

*Site Visit – 3:45pm*

**Case 4: 30 White Oak Road – Special Use Permit request for driveway gate and variance request for width and setback intrusion.**

*Site Visit – 3:30pm*

**Case 5: 9 Stuyvesant Crescent – Special use request for accessory structure and variance request for construction within side yard setback and within front yard.**

*Site Visit – 3:00pm*

**Case 6: 120 Stuyvesant Road – Special Use request for accessory structure (retaining wall) in side yard and accessory request for accessory structure in front yard and variance request for intrusion into the front yard setback.**

*Site Visit – 2:45pm*

5. Adjourn

MINUTES OF THE BOARD OF ADJUSTMENT  
MEETING HELD MONDAY, MAY 20, 2024

The Board of Adjustment met at 4:00 p.m. on Monday, May 20, 2024.

Chairman Greg Goosmann, Ms. Martha Barnes, Ms. Lynn Kieffer, Mr. Robert Chandler, Ms. Rhoda Groce, and Ms. Janet Whitworth were present. Mr. Jonathan Kanipe, Town Manager, Mr. Tony Williams, Town Planner, and Town Attorney Mr. Billy Clarke were also present.

Chairman Greg Goosmann called the meeting to order at 4:07 p.m.

Chairman Goosmann swore in the following:

Mr. Jonathan Kanipe

Mr. Tony Williams

Mr. John Kimberly

Ms. Liz Kimberly

Mr. John Widman

Ms. Roberta Widman

Mr. Wesley Wiseman

A motion was made by Ms. Lynn Kieffer and Ms. Groce seconded to approve the minutes from April 15, 2024. The minutes were unanimously approved.

HEARING (Evidentiary):

The first matter is a Rehearing for a Special Use Permit request for retaining walls and a variance request for intrusion into the side and rear yard setbacks and additional wall location within the front yard at 8 White Oak Road. Mr. Tony Williams shepherded the matter.

This is a rehearing from last month. The property owners are applying for a Special Use Permit and Variance. This will include the one wall that is along the driveway which is 150' long and 12-32" in height. It will require a Variance for intrusion into the front and side setback.

Chairman Goosmann said he would like to keep the facts today to only the new material.

Mr. John Kimberly said they have more details on the landscaping plan and he said Ms. Kimberly met with a designer at BB Barnes to provide specific plant varieties and counts. Mr. Kimberly said the dense hedge on the side of the wall will be a landscaping buffer but also a safety measure. In addition, they provided an opinion letter from a structural engineer on the construction and integrity of the retaining wall that speaks to its structure and function. It will also capture stormwater runoff from the adjacent property.

There has been some communication with Mr. Widman and the Kimberly's regarding guardrails on site. Ms. Groce asked about the guardrail details. Mr. Kimberly said they envisioned the possibility of something like this before the project which included a guardrail and curbing. Ms. Kimberly talked to Asheville fence to have a guardrail (similar to what is on the Blue Ridge Parkway) that is 26' in length between the narrowest part of the two driveways. Ms. Groce asked if the Kimberly's are doing it for their neighbor's benefit. Mr. Kimberly said yes. Mr. Kimberly said they will not be able to reach an agreement on where it should be located. They will most likely not reach an agreement about the location.

Ms. Barnes said the application is written for the retaining wall and landscaping. Ms. Kimberly said Mr. Widman did not respond until last Tuesday regarding guardrails. Ms. Barnes asked if they could look at the proposal as is and not consider the guardrail. Mr. Widman said he

did ask Mr. Kimberly to have both surveyors meet. Mr. Widman is questioning the setback, and they are requesting a five-foot setback. He feels like the setback is encroaching on their property. Ms. Barnes said the properties on White Oak are small and it is not unusual on White Oak. Ms. Barnes said the Kimberly's are trying to go above and beyond to help the Widman's. Ms. Barnes said we should vote on the application as is. Mr. Widman said on Kimberly's packet, the section on the wall, at the very top there are 24" inches minimum and he is asking for five feet. Ms. Groce and Ms. Whitworth said the guard rail is not part of the application.

#### DELIBERATION AND DETERMINATION:

Mr. Williams restated the facts and said the property owners at 8 White Oak Road are requesting a Special Use Permit and a Variance for a landscaping wall beside the driveway within the front yard. It will be 150' long and 12-32" in height. It will require a Variance for intrusion into the side setbacks and the front setbacks. The wall is not located within the Town's right-of-way.

Mr. Chandler asked about landscaping. Mr. Kimberly said in the rear of their property they have heavy plants. They are 6-8' tall and 6-8' wide. They would put 11 in the rear and 9 arborvitaes will be placed. Going to the road, they will have 11 more heavy type plants in this area. Mr. Chandler it is green and will be heavily landscaped. Ms. Kimberly said she had a professional landscaping plan from BB Barnes. Ms. Kimberly said all the plant sizes are what is available at the nursery. Ms. Kimberly said the plants will grow quickly and they are hardy. They are also deer resistant and low maintenance.

Ms. Barnes said there is not an ordinance that specifies the sizes of plants. Mr. Widman asked about the height of the wall. The highest point will be 28" when it is finished. Chairman Goosmann also said the strength of the wall can support the dirt as it is presently built.

Mr. Kanipe noted one of the findings stated they did not observe the construction of the retaining wall and cannot determine the long term stability of the wall. Mr. Kanipe also said the Town has an ordinance in place that requires a wall that fails to be rebuilt or be repaired. If the Kimberly's wall did fail, the Town can step in to require them to repair or rebuild the wall.



Ms. Barnes moved a Special Use Permit and Variance as requested be granted to John Kimberly of 8 White Oak Road for the retaining wall as built next to the driveway. It is 150' long and between 28"-32" high and the facts as recited by Tony Williams and his summation be accepted as findings and facts to support this grant. Ms. Barnes said the landscaping plan is also part of this matter. The Board has inspected this site, and the neighboring property owner has objected. She further moved the Board define that granting this Special Use Permit (a) would not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and improved, (b) met all required conditions and specifications of the Town of Biltmore Forest Zoning ordinance, (c) would not substantially injure the value of adjoining or abutting property, and (d) would be in general conformity with the plan of development of the Town of Biltmore Forest and its environs as set forth in Sections 153.110 (C)(2-3) of the above ordinance. The applicant has been informed that he/she is to report to the Zoning Administrator within seven (7) days of completion of the project in order that the Zoning Administrator can determine that the project has been completed in accordance with plans submitted to the Town.

Further, she moved that by granting this Variance further satisfies the applicable Sections of 153.110(D) and paragraphs one through four and would not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would, in this case, result in a practical difficulty or unnecessary hardship. She further moved the Board to find the spirit of the ordinance would be observed, public safety and welfare secured, and substantial justice done. The applicant has been informed that he/she is to report to the Zoning Administrator within seven (7) days of completion of the project in order that the Zoning Administrator can determine that the project has been completed in accordance with plans submitted to the Town.

Ms. Lynn Kieffer seconded the motion and was unanimously approved.

The meeting was adjourned at 5:02 pm.

The next meeting is scheduled for Monday, June 24th, 2024 at 4:00pm.

ATTEST:

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Greg Goosmann

Chairman

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Laura Jacobs

Town Clerk



## BOARD OF ADJUSTMENT MEETING

### STAFF MEMORANDUM

June 24, 2024

#### Case 1

**Property Owner:** Julian Moore  
**Property Address:** 25 Ridgefield Place

#### Project Description

The applicant requests a special use permit to increase the size of a pool in the rear yard that was approved previously. The approved size was 16'x20', the newly proposed pool size would be 16'x32', increasing the length by 12 feet. The application includes a description of the project proposed.

#### Special Use Request

The Town considers a pool as an accessory structure, pursuant to section 153.029 of the Towns Zoning Ordinance and would require Board approval as a special use. The proposed structure complies with setbacks and appears to meet all requirements.

The proposed application meets the requirements of Section 153.110 (C)(2)(b) regarding special use standards.



[Home](#) > [Departments](#) > [Planning & Zoning](#) >

# Special Use Permit

## Special Use Permit Application

Town of Biltmore Forest

### Name

First

Julian

Last

Moore

### Address

Address Line 1

25 Ridgefield Pl

### Phone

828-329-7705

### Email

Incrediblelandscapes@gmail

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

Increasing the Pool Size from 16x20' to 16x32' ✓

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

Please provide a description of the proposed project: \*

Put in a swimming pool - Compliance to all set-backs

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

It was approved earlier but I need the increase in size 12 feet

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

Signature

Julian Moore

Date

5/21/24



x Julian Moore

draw type

Submit

Save



Town of Biltmore Forest,  
NC

355 Vanderbilt Rd.  
Biltmore Forest, NC 28803  
(828) 274-0824

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[Home](#) > [Departments](#) > [Planning & Zoning](#) >

# Zoning Compliance

## Zoning Compliance Application

Town of Biltmore Forest

### Name

First

Julian

Last

Moore

### Property Address

Address Line 1

25 Ridgelyield Pl

### Phone

828 329-7705

### Email

incrediblelandscapes@gmail



Parcel ID/PIN Number

**ZONING INFORMATION**

Current Zoning \*

☒ R-1 ☐ R-2 ☐ R-3 ☐ R-4 ☐ R-5 ☐ P-S

Lot Size \*

Proposed Roof Coverage Total \*

*Must not exceed maximum coverage allowed*

Proposed Impervious Surface Coverage \*

*Must not exceed maximum coverage allowed*

Front Yard Setback \*

Side Yard Setback \*

Rear Yard Setback \*

Building Height \*

Description of the Proposed Project \*

Estimated Start Date \*

Estimated Completion Date \*

Estimated Cost of Project \*

**Supporting Documentation (Site Plan, Drawings, Other Information)**

or drag files here.

**Applicant Signature \***

**Date \***

\*Julian Moore

5/21/24

draw type



**Town of Biltmore Forest,  
NC**

355 Vanderbilt Rd.  
Biltmore Forest, NC 28803  
(828) 274-0824

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owner:  
Moore

# 25 Ridgefield Place Backyard Swimming Pool

18 Willton Bookhouse

Back Fence

Not To Scale

Back Property Line 125'

28' set back with concrete

42' with concrete  
44' setback  
56' steps

Pool

32'

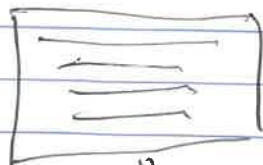
28' with concrete  
30' setback

Back Property Line

2 Foot Concrete Apron  
around pool

(4 foot steps at shallow end, lily side)

28'

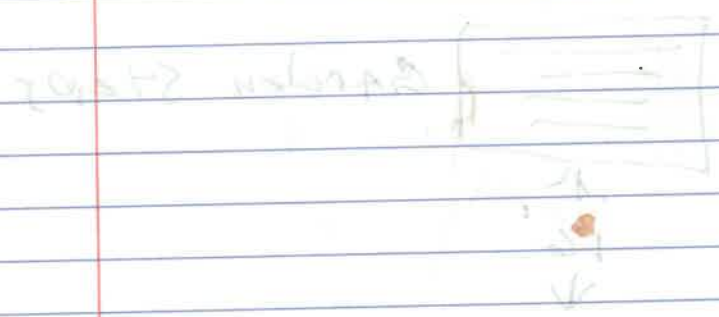
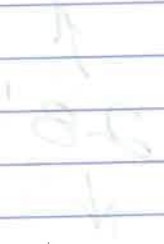
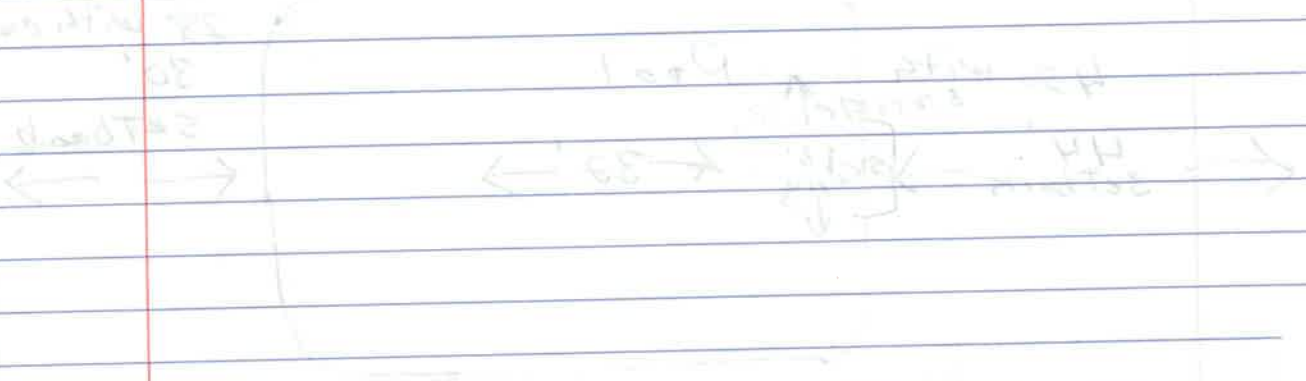


Garden Steps

12'  
16'

House

Turn in By 27th









## BOARD OF ADJUSTMENT MEETING

### STAFF MEMORANDUM

June 24, 2024

#### CASE 2

**Property Address:** 423 Vanderbilt Road

**Property Owner:** Emily Mashburn

**Request:** Special Use Permit request for Accessory Structures

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#### Background

The property owners request permission to construct an outdoor living and play area. The proposed project consists of a roughly a 40' x 80' play lawn which will be leveled using multiple low stacked boulder walls, ranging in height from 1' to 3' tall. A new fire pit area roughly 16' in diameter includes a built-in fire pit. Lastly, crab orchard slab steps and decorative boulders will be installed to connect the fire pit area and the existing brick patio.

#### Special Use Permit

Section 153.029 (attached) of the Town's Zoning Ordinance regulates accessory structures and requires a special use permit from the Board of Adjustment. These proposed structures comply with setbacks and appear to meet all requirements.

The proposed application meets the requirements of Section 153.110 (C)(2)(b) regarding special use standards.



# Zoning Compliance Application

Town of Biltmore Forest

**Name**

Emily Kuhns Mashburn

**Property Address**

423 Vanderbilt Road

**Phone**

(828) 712-1881

**Email**

kuhns.emily@gmail.com

**Parcel ID/PIN Number**

## ZONING INFORMATION

**Current Zoning**

R-1

**Lot Size**

2.42

**Proposed Roof Coverage Total**

n/a

**Proposed Impervious Surface Coverage**

n/a

**Front Yard Setback**

60 feet (R-1 District)

**Side Yard Setback**

20 feet (R-1 District)

**Rear Yard Setback**

25 feet (R-1 District)

**Building Height**

n/a

**Description of the Proposed Project**

Phase one of this landscape enhancement project includes a backyard fire pit and a grass play area created within the existing clearing. The roughly 40' x 80' play lawn will be leveled using low stacked boulder walls, ranging from 1' to 3' tall. A new fire pit area roughly 16' in diameter includes a built-in stone or brick (TBD) fire pit, and decorative gravel surfacing. 8-10 stone steps (crab orchard slabs) and decorative boulders will be installed to connect the fire pit area and the existing brick patio.

**Estimated Start Date**

6/1/2024

**Estimated Completion Date**

8/1/2024

**Estimated Cost of Project**

\$40,000.00

**Supporting Documentation (Site Plan, Drawings, Other Information)**

423 Vanderbilt - Landscape Master Plan 4.27.24.pdf

**Applicant Signature**

**Date**  
5/5/2024

*Emily K Mashburn*

# Special Use Permit Application

Town of Biltmore Forest

**Name**

Emily Mashburn

**Address**

423 Vanderbilt Road

**Phone**

(828) 712-1881

**Email**

kuhns.emily@gmail.com

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

Accessory Structures

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

**Please provide a description of the proposed project:**

Phase one of this landscape enhancement project includes a backyard fire pit and a grass play area created within the existing clearing. The roughly 40' x 80' play lawn will be leveled using low stacked boulder walls, ranging from 1' to 3' tall. A new fire pit area roughly 16' in diameter includes a built-in stone or brick (TBD) fire pit, and decorative gravel surfacing. 8-10 stone steps (crab orchard slabs) and decorative boulders will be installed to connect the fire pit area and the existing brick patio.

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

This project has been designed by a landscape architect and the use of natural materials will improve the overall aesthetic of what is there now. Prior to us purchasing the home, a number of large trees had been removed that has left some less than ideal aesthetics. We feel that this project will be an improvement to the current look and function of the property.

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

**Signature**

**Date**

5/14/2024

A handwritten signature in black ink, appearing to read 'EMILY MASHBURN', written in a cursive, flowing style.

### **153.029 ACCESSORY STRUCTURES AND BUILDINGS.**

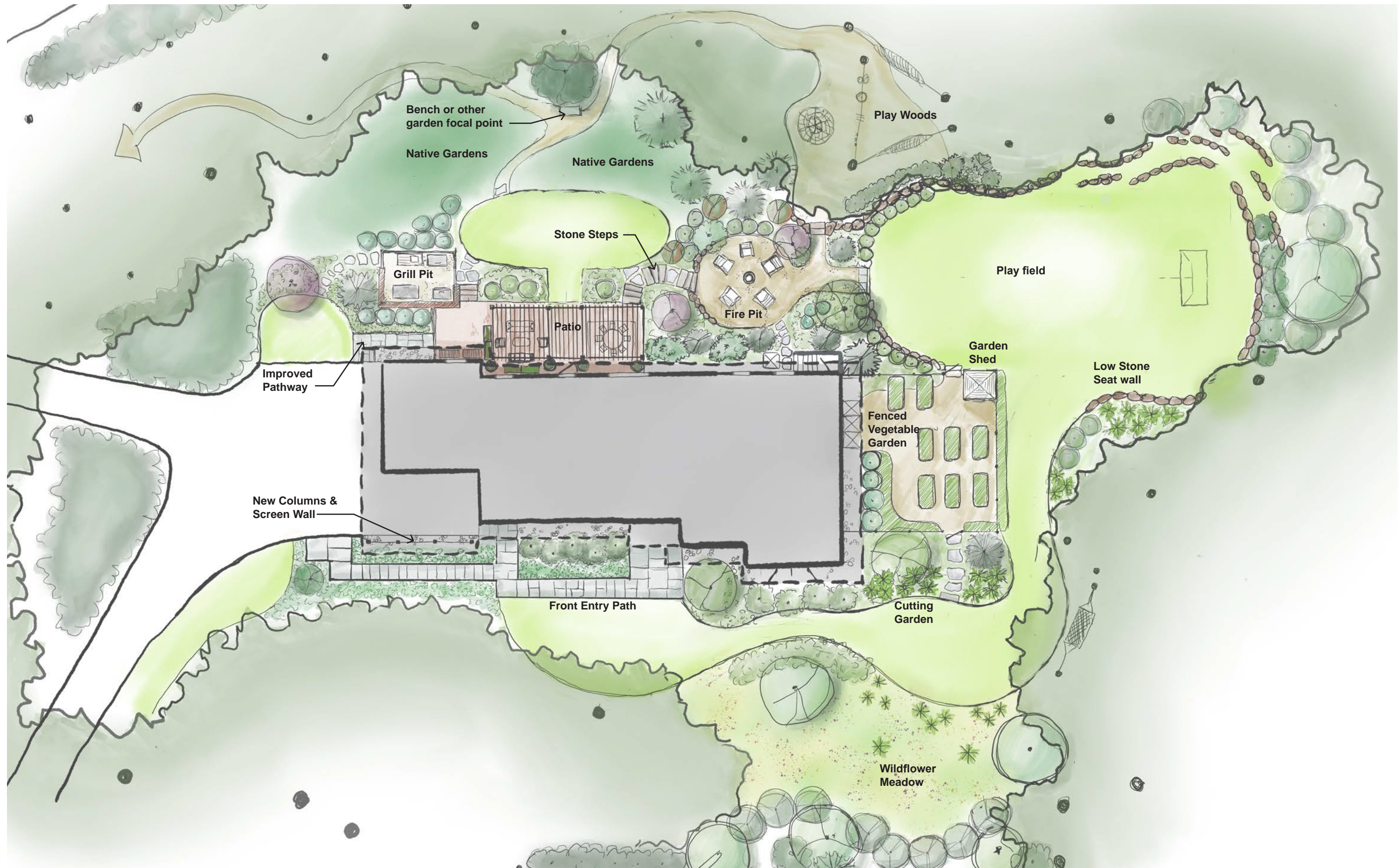
(A) Accessory structures and/or necessary buildings shall not detract from nor interfere with adjacent properties. No accessory structure or building shall be constructed, erected, or located within any front yard or within any side yard or rear yard setback.

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

- (a) The maximum number of accessory buildings permitted on a lot shall be one;
  - (b) The maximum roof coverage area for accessory buildings shall be 750 square feet;
  - (c) The maximum height for accessory buildings shall be 25 feet;
  - (d) The accessory building must be screened by vegetation or other buffer as set forth in § [153.008](#);
  - (e) The accessory building must be located behind a line parallel to the rear of the principal structure on the lot;
  - (f) The accessory building must be designed in the same architectural style as the principal structure;
  - (g) Any accessory structure and/or accessory building shall be included in the calculation of allowable roof coverage and allowable impervious surface coverage on the lot pursuant to §§ [153.043](#) and [153.048](#); and
  - (h) Solar collectors shall be regulated in accordance with G.S. § 160D-914.
- (2) For all satellite dishes less than 24 inches in diameter, an application for a zoning compliance certificate shall be made directly to the Zoning Administrator; the Zoning Administrator shall issue a zoning compliance certificate.
- (3) Fences, gates, and walls shall be regulated in accordance with § [153.049](#) of this Zoning Ordinance.

(Ord. passed 10-19-1983; Ord. passed 6-8-2021)





Landscape Concept Plan - 20 Scale





<b>Address:</b>	423 Vanderbilt Ave			
<b>Lot size (per survey):</b>	105, 444 SF / 2.42 Acres			
<b>Existing Impervious Surface</b>		<b>Proposed Impervious Surface</b>		
<i>Surface type</i>	<i>Area (SF)</i>	<i>Surface type</i>	<i>Area (SF)</i>	<i>Phase</i>
Asphalt Driveway	4085	Gravel Fire Pit Area (including steps)	560	Phase 1
Roof Footprint	3988	Grilling Patio	225	Future Phase
Brick Patio	475	Entry Path Expansion (addtl SF)	140	Future Phase
Concrete Entry Path	285	Other stone paths	95	Future Phase
Total	8833	Total	1020	
<b>Phase 1</b>				
Total disturbance area (SF):	8,035 SF			
Percentage of Lot	7.60%			



## BOARD OF ADJUSTMENT MEETING

### STAFF MEMORANDUM

June 24, 2024

#### CASE 3

**Property Address:** 33 Busbee Rd

**Property Owner:** George Off

**Request:** Special Use Request for A Fence as Part of New Construction

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#### Background

The property owners are presenting plans for a fence as part of a new home construction project. The fence will be 4 feet in height and made of black ornamental aluminum. The fence will be located within the rear yard and meets the setback requirements as seen on the plans.

#### Special Use

Section 153.049 (attached) of the Town's Zoning Ordinance regulates fences and requires a special use permit from the Board of Adjustment. The proposed structure complies with setbacks and appears to meet all requirements.



# Zoning Compliance Application

Town of Biltmore Forest

**Name**

George Off

**Property Address**

33 Busbee Rd

**Phone**

(610) 570-3933

**Email**

georgewoff@gmail.com

**Parcel ID/PIN Number**

9647-61-4990-00000

## ZONING INFORMATION

**Current Zoning**

R-1

**Lot Size**

1.65

**Proposed Roof Coverage Total**

5,435 sf

**Proposed Impervious Surface Coverage**

10,298 sf

**Front Yard Setback**

60 feet (R-1 District)

**Side Yard Setback**

20 feet (R-1 District)

**Rear Yard Setback**

25 feet (R-1 District)

**Building Height**

17.5'

**Description of the Proposed Project**

New residential construction with 3,330sf heated space, 3-car garage and driveway to Busbee Rd. NOTE: Our survey shows a front setback of 75' but this application only allowed a choice of 60'. We are well within the setbacks so this is not material.

**Estimated Start Date**

7/8/2024

**Estimated Completion Date**

8/29/2025

**Estimated Cost of Project**

\$1,100,000.00

**Supporting Documentation (Site Plan, Drawings, Other Information)**

Site Plan Full 06 03 2024.pdf

Site Plan Tree Schedule 06 03 2024.pdf

Site Plan Tree Replanting Plan 06 03 2024.pdf

Phelps Floor Plan & Elevations 06 03 2024.pdf

**Applicant Signature**

**Date**  
6/3/2024

*George W. Off*

# Special Use Permit Application

Town of Biltmore Forest

**Name**

George Off

**Address**

33 Busbee Rd

**Phone**

(610) 570-3933

**Email**

georgewoff@gmail.com

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

Accessory Structures

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

**Please provide a description of the proposed project:**

Fence around small lawn area in backyard - 4' high black aluminum. See site plan submitted with Zoning Compliance application for location of fence.

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

This fence cannot be seen from the street or by any neighbors due to the heavily wooded natural area surrounding the property.

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

**Signature**

**Date**

6/3/2024

A handwritten signature in black ink that reads "George W Off". The signature is written in a cursive, flowing style with a large, stylized "G" and "W".

Hi Tony

Here are the answers to your three questions

1. The highest point of the structure is 23' at the crawl space access door (from Greg Cloos)
2. The average height for the entire structure from grade is 17' 9" ( from Greg Cloos)
3. Colors and materials to be used:
  - Roof - A standing seam metal roof in black
  - Window color - black

House

- Hoopers Creek Natural Stone, dry stack
- Horizontal, nickel gap siding in a neutral color.

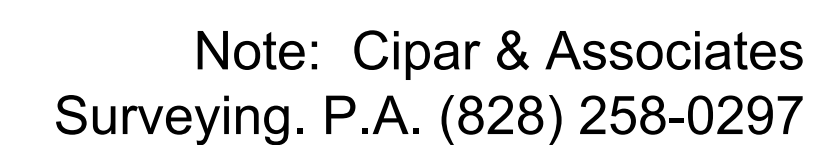
Fence

- 4ft high, black aluminum fence, with a puppy picket on the bottom, commonly seen in the neighborhood. (See picture attached)

Please let us know if you have any other questions. Thanks for your help

George Off





Wright Family  
Custom Homes  
P.O. Box 25067  
Asheville, NC 28813



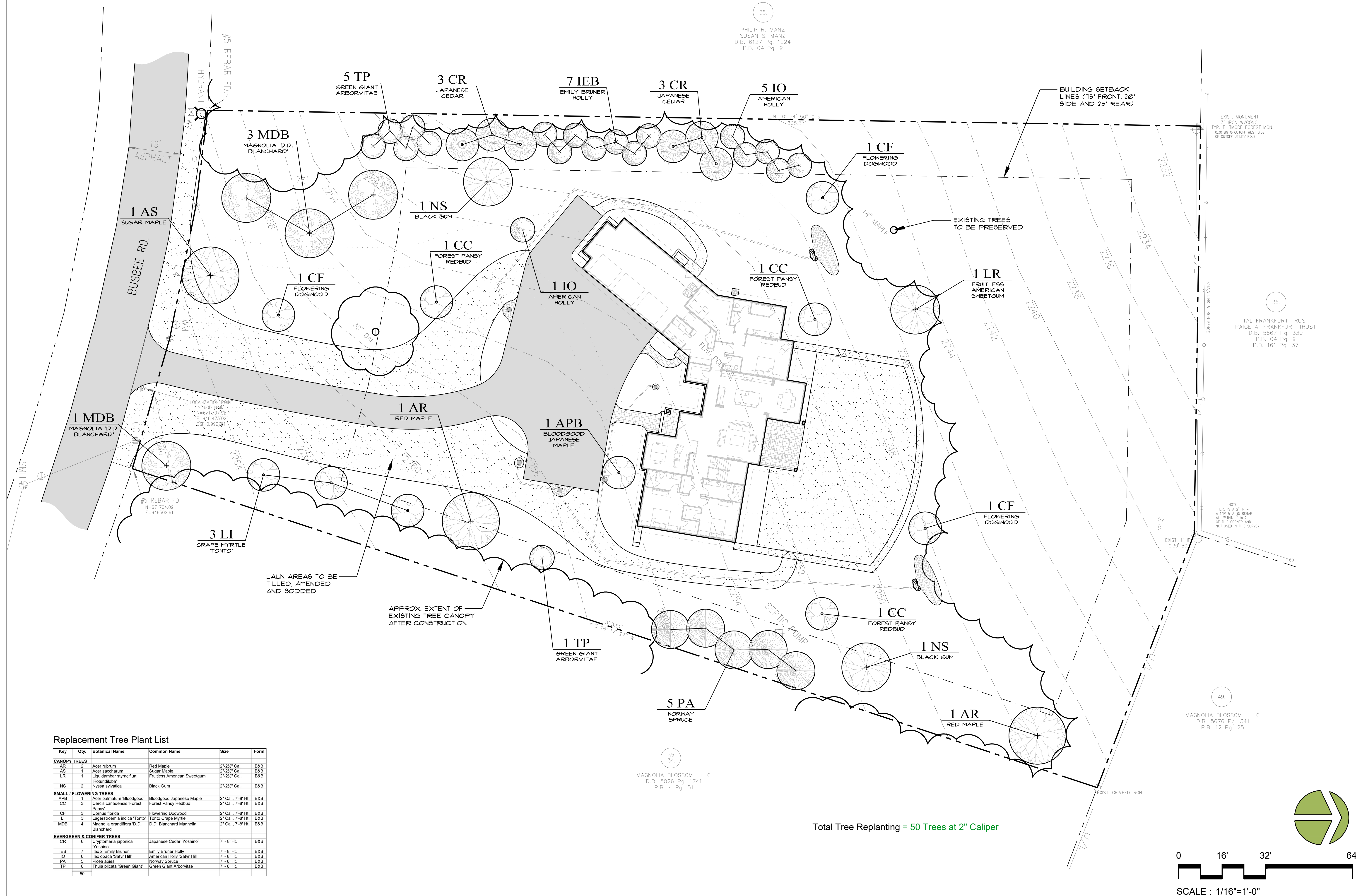
George & Tara Off Residence  
33 Busbee Road, Lot 34P  
Town of Biltmore Forest, NC

## Site Plan

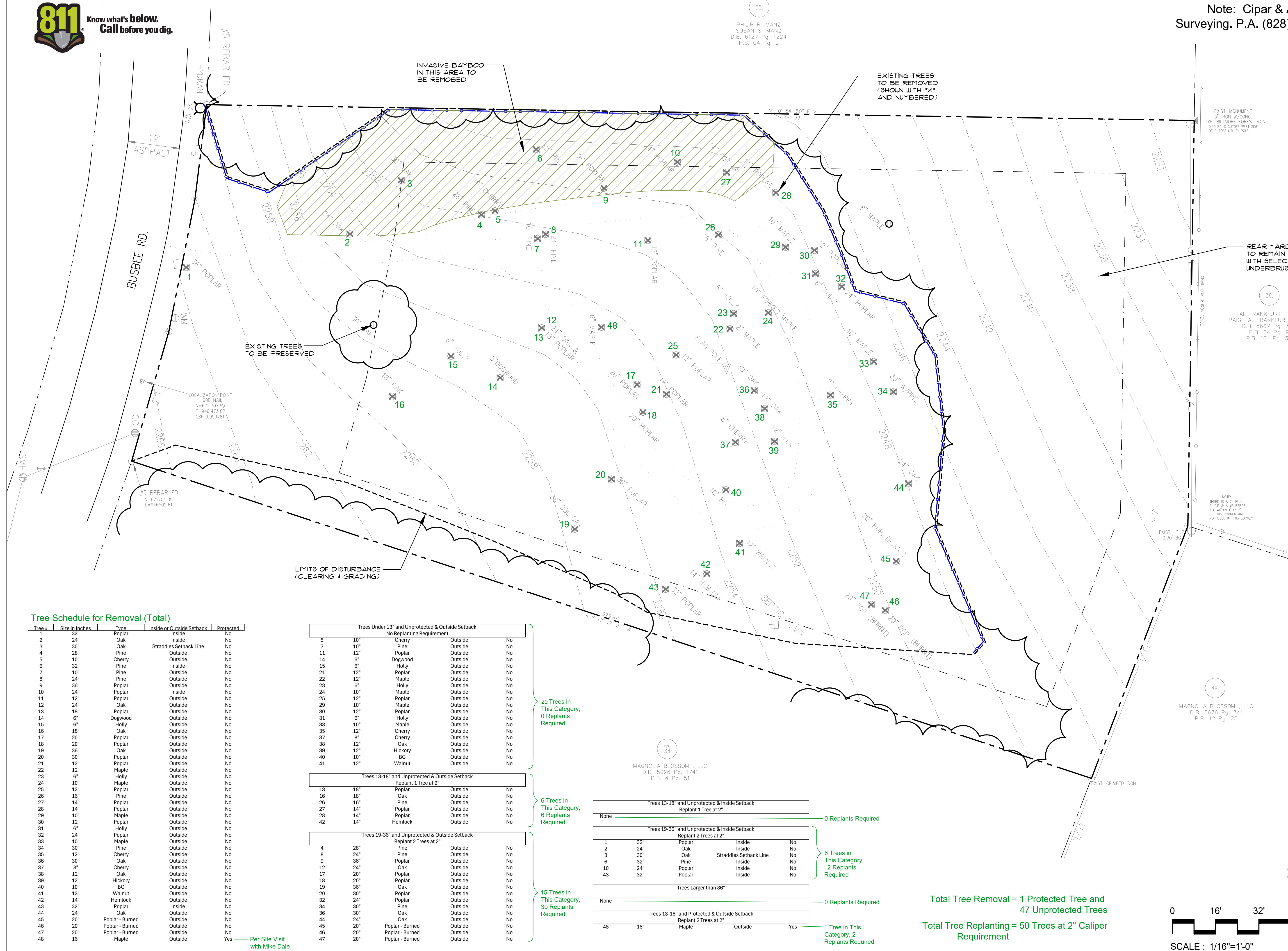
Date: June 3, 2024

**SP-1**

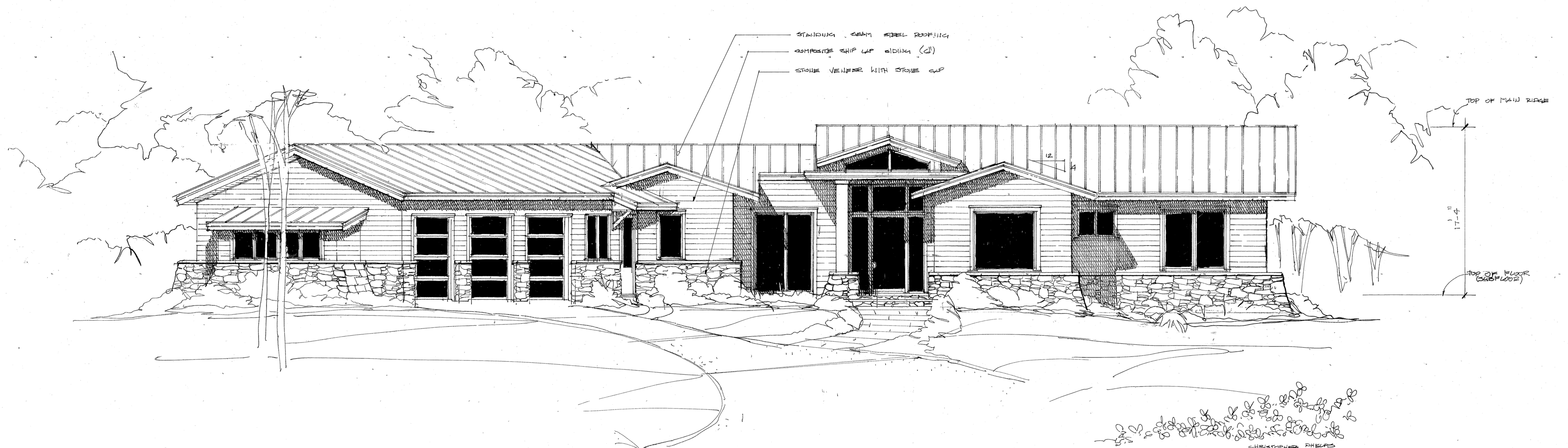








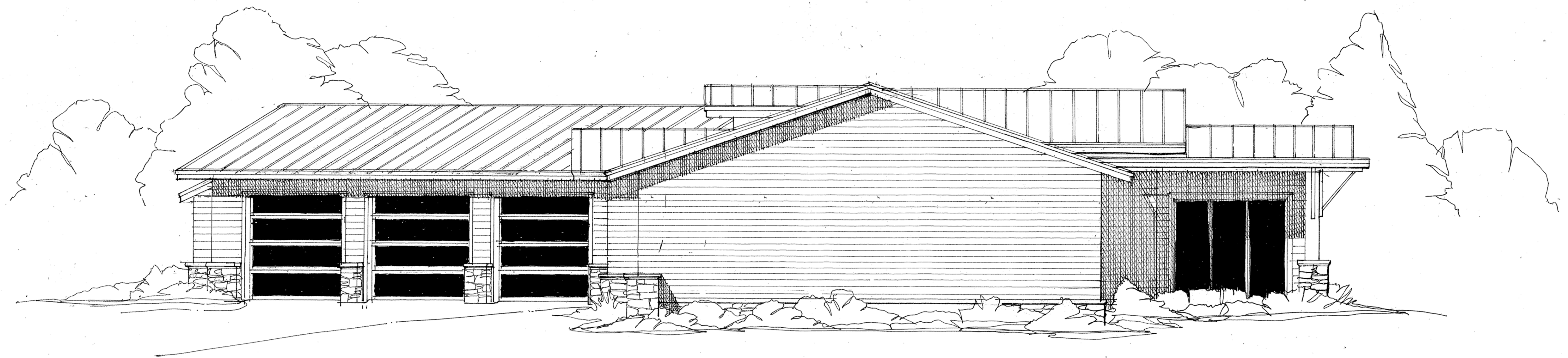




FRONT ELEVATION RENDERING  
(SOUTH)

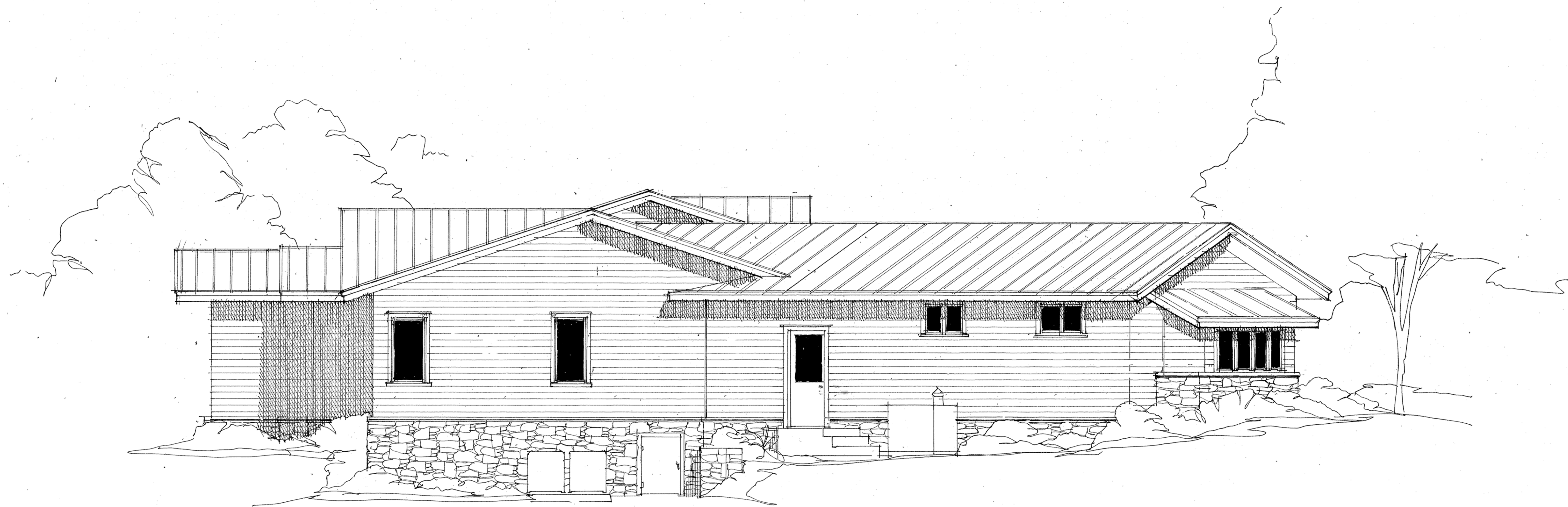
THE OFF RESIDENCE  
33 BUSBEE ROAD BILTMORE FOREST, NORTH CAROLINA





RIGHT SIDE ELEVATION RENDERING  
(EAST)

THE OFF RESIDENCE  
33 BUSBEE ROAD BILTMORE FOREST, NORTH CAROLINA



LEFT SIDE ELEVATION RENDERING  
(WEST)

THE OFF RESIDENCE  
33 BUSBEE ROAD BILTMORE FOREST, NORTH CAROLINA

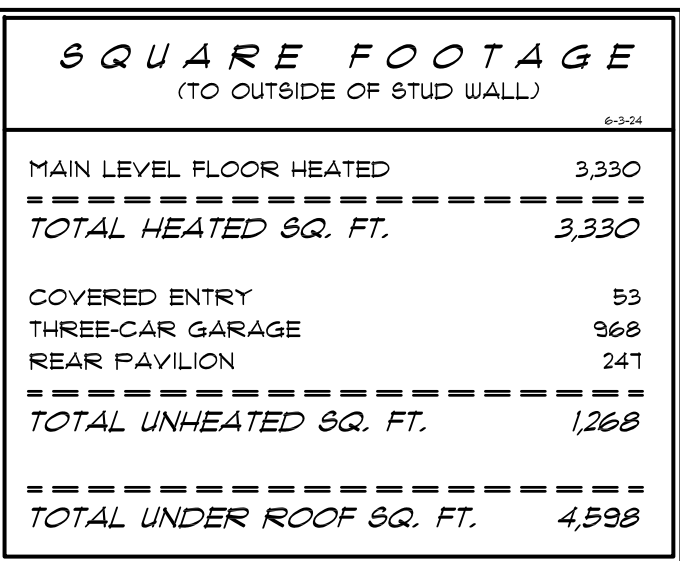




REAR ELEVATION RENDERING  
(NORTH)

THE OFF RESIDENCE  
33 BUSBEE ROAD BILTMORE FOREST, NORTH CAROLINA





All square footage calculations have been derived from preliminary design sketches. Without exact dimensions that do not exist on preliminary design sketches, these square footage calculations are considered approximate.

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

© 2024 COPYRIGHT - THE STUDIO OF CHRISTOPHER PHELPS TR. THESE PLANS ARE PROTECTED UNDER THE FEDERAL COPYRIGHT LAWS. THE ORIGINAL PURCHASER OF THIS PLAN IS AUTHORIZED TO CONSTRUCT ONE AND ONLY ONE HOME USING THIS PLAN. MODIFICATION OR REUSE OF THIS PLAN IS PROHIBITED.

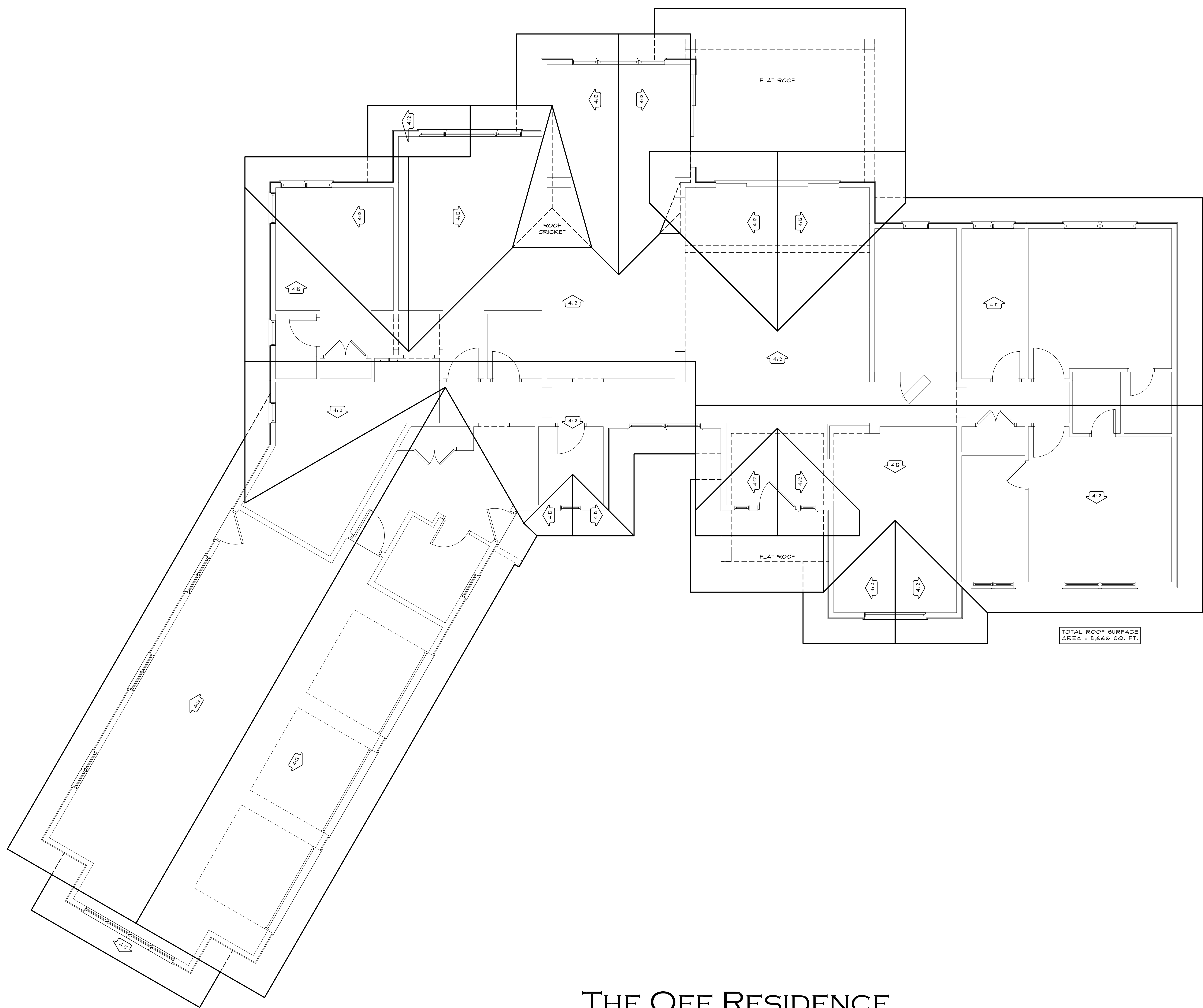
JUNE 3, 2024 RDW

Christopher  
**PHELPS**™  
Inspiring Homes for Life

321 East Blvd., Suite 4, Charlotte, NC 28203  
Tel. 704.377.5569  
2023-042 THE OFF RESIDENCE

THE OFF RESIDENCE  
33 BUSBEE ROAD BILTMORE FOREST, NORTH CAROLINA





**PRELIMINARY ROOF PLAN**

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

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JUNE 3, 2024 RDW

Christopher  
**PHELPS**<sup>™</sup>  
Inspiring Homes for Life

321 East Blvd., Suite 4, Charlotte, NC 28203  
Tel. 704.377.5569  
2023-042 THE OFF RESIDENCE

**THE OFF RESIDENCE**  
33 BUSBEE ROAD BILTMORE FOREST, NORTH CAROLINA









## BOARD OF ADJUSTMENT MEETING

### STAFF MEMORANDUM

June 24, 2024

#### CASE 4

**Property Address:** 30 White Oak Rd

**Property Owner:** Fred Koon

**Request:** Special Use and Variance Request for A Driveway Gate

---

#### Background

The property owners are presenting plans for a driveway gate. The proposed gate will stand approximately 6 feet tall with an opening of approximately 12 feet and made of galvanized steel with a black powder coat finish. The application does not meet the requirements set forth in the ordinance, therefore would require a variance.

#### Special Use

Section 153.049 (attached) of the Town's Zoning Ordinance regulates fences, gates and walls which require a special use permit from the Board of Adjustment.

#### Variance

The proposed structure does not comply with the side setback of 15 feet nor the required open width size of 14 feet per 153.049 (B)(4) and would therefore require a variance. Section 153.110 (D) addresses the approval requirements for a variance.

# Zoning Compliance Application

Town of Biltmore Forest

**Name**

Fred Koon

**Property Address**

30 White Oak Rd

**Phone**

(828) 691-9092

**Email**

frkoon@gmail.com

**Parcel ID/PIN Number**

964699464600000

## ZONING INFORMATION

**Current Zoning**

R-2

**Lot Size**

.42 Acres

**Proposed Roof Coverage Total**

N/A

**Proposed Impervious Surface Coverage**

N/A

**Front Yard Setback**

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

**Side Yard Setback**

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

**Rear Yard Setback**

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

**Building Height**

15'

**Description of the Proposed Project**

Install driveway gate on right side drive to the rear of house

**Estimated Start Date**

7/8/2024

**Estimated Completion Date**

8/2/2024

**Estimated Cost of Project**

\$6,000.00

**Supporting Documentation (Site Plan, Drawings, Other Information)**

Site Plan with New Driveway Gate\_06.03.2024.pdf

Screenshot 2024-06-03 at 15-04-36 Dual Swing Driveway Gates - 12-Foot - ALEKO.png



**Applicant Signature**

**Date**  
6/3/2024

*F. R. Koon*

# Special Use Permit Application

Town of Biltmore Forest

**Name**

Fred Koon

**Address**

30 White Oak Rd

**Phone**

(828) 691-9092

**Email**

frkoon@gmail.com

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

Accessory Structures

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

**Please provide a description of the proposed project:**

Proposed project is to install a driveway gate on the drive that accesses the rear of the house. Our drive is currently 11' in width and constrained by the property line, fence, and trees to the right while the the actual house and mechanical equipment constrain it to the left. We have fencing on all property lines to the rear of the house and this project will allow us to complete a full containment area for our pets. Approval of this proposal will require a variance due to the gate being only 12' in width and located in the side yard setback area. Variance application will be submitted under separate cover.

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

Having a driveway gate is not unusual for our street in that 2 of our immediate neighbors have side yard driveway gates. Our gate of choice is very appealing and would compliment the property and enhance our value.

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

**Signature**

**Date**

6/3/2024

A handwritten signature in cursive script that reads "F. R. Koon". The signature is written in black ink and is positioned below the printed name "Fred Koon" at the top of the page.



# VARIANCE APPLICATION

Town of Biltmore Forest

**Name**

Fred Koon

**Address**

30 White Oak Rd

**Phone**

(828) 691-9092

**Email**

frkoon@gmail.com

**Current Zoning/Use**

Residential

**Requested Use**

Same

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

**What would you like to do with your property?**

Install a driveway gate (12' in width) to complete the fencing that is currently around all property lines to the side and rear of the house.

**What does the ordinance require?**

Ref 153.049 for requirements. The proposed gate would meet all requirements with the exception of the width (proposed 12' width) and location, which would be in the side yard setback.

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

**REQUIRED FINDINGS: Please provide a thorough response to each.****Unnecessary hardship would result from the strict application of the ordinance.**

Strict application of the ordinance would prevent us from utilizing our backyard in a safe and responsible manner.

We have several neighbors that have gates /fences that enclose their backyards for the safety of their pets. Our dog Lily is deaf and has always remained within our sight however our concern is that she will lose her sense of direction and begin wandering. It would be nice to know she is in the safety of an enclosed back yard. In addition, when our daughter comes to visit, she brings her 2 dogs who are bigger and more lively. We have many walkers with dogs on White Oak and we'd like to prevent any unforeseen conflicts between the pets. We believe keeping the dogs contained, and out of sight in our backyard, is what's best for the street. We want to be good neighbors and believe this addition enhances the property and neighborhood.

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

Drives that access the rear of the house are very common on White Oak. In most cases these drives are located in the side setback area because of the the size of the house and time period it was built. We have fencing along the property lines to the rear and sides. The left side fencing returns to the house to give us

full containment on this side. The right side is contained with the exception of the drive. The proposed gate would complete a containment area for our pets.

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

The side drive and existing fencing were in place when we purchased the property. The fencing contains 95% of our backyard and with this small addition we will be able to provide 100% containment. We believe this addition is an enhancement and will not only provide a safer environment for our pets but also for our neighbors.

**The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.**

The width of the proposed gate could be viewed as a safety issues, however because our driveway is only 11' in width and constrained by mechanical equipment located along the drive, as well as trees to the other side, access is limited to vehicles under 11' in width.

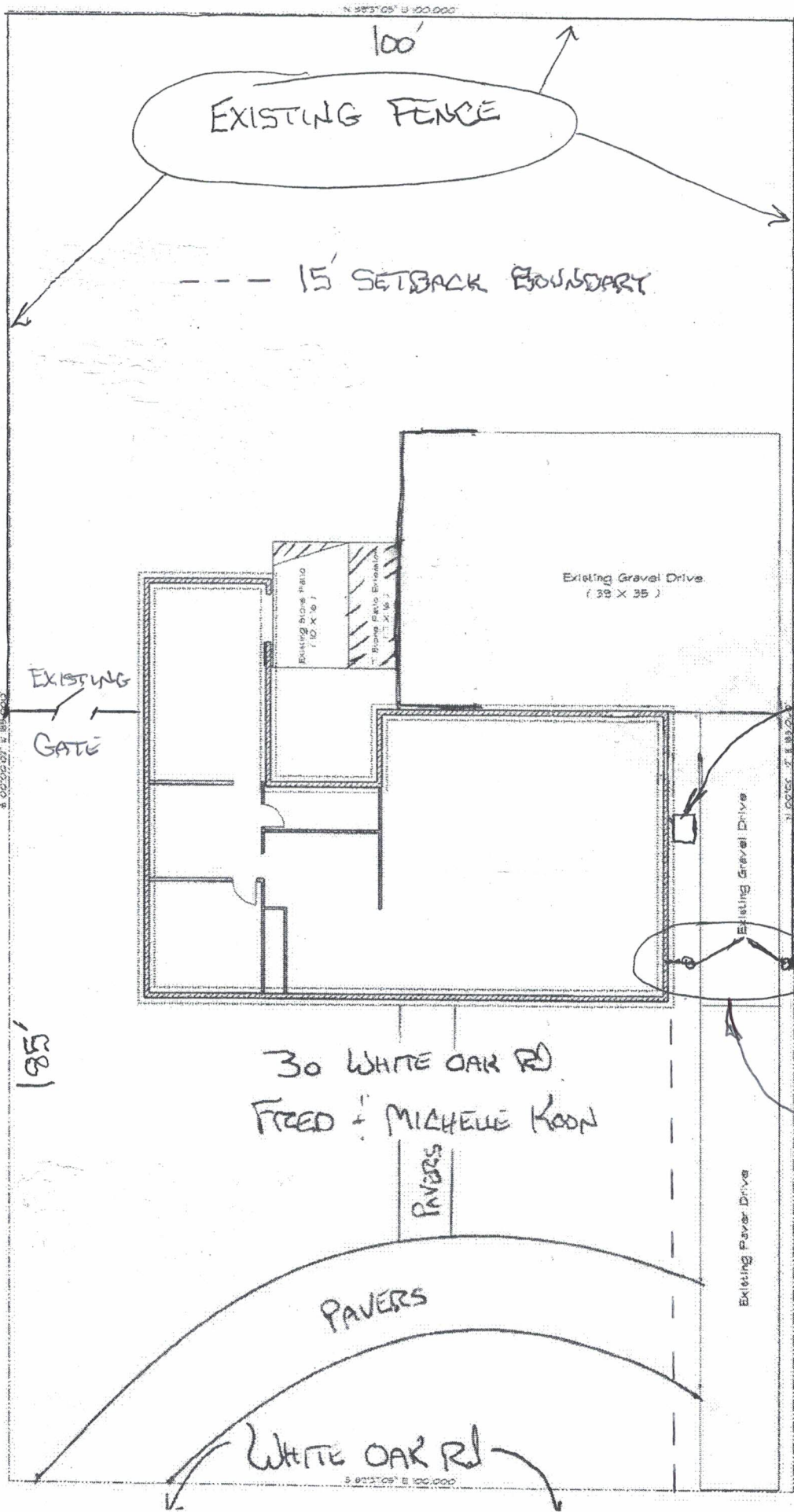
**I hereby certify that all of the information set forth above is true and accurate to the best of my knowledge.**

**Signature**

**Date**

6/3/2024

*F.R. Moon*

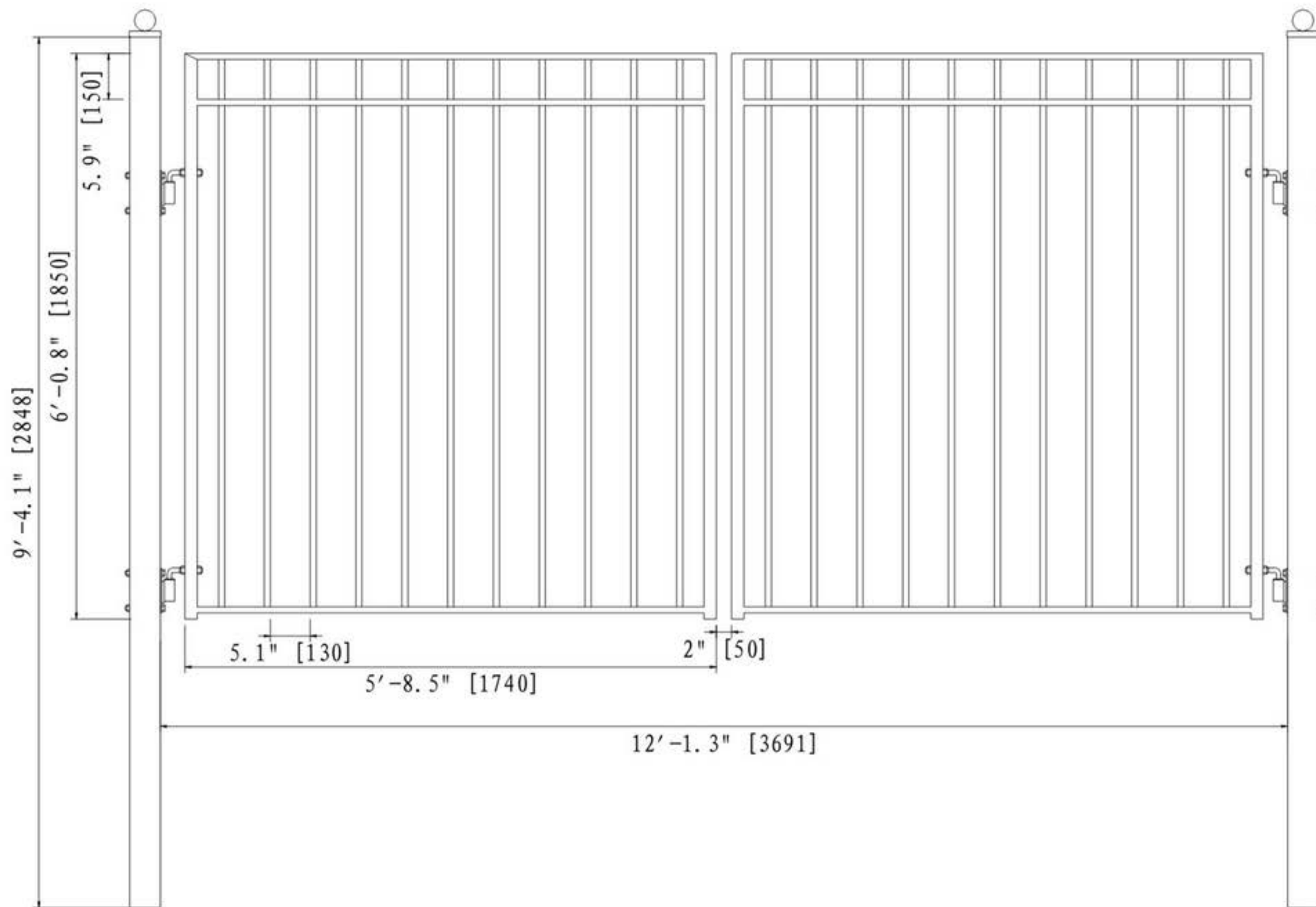


HOME SPA ▾

OUTDOOR LIVING ▾

MARKETPLACE ▾

Deals





## BOARD OF ADJUSTMENT MEETING

### STAFF MEMORANDUM

June 24, 2024

#### CASE 5

**Property Address:** 9 Stuyvesant Crescent

**Property Owner:** Cindy Pomeroy

**Request:** Special Use Request for A Wall as Part of New Construction

---

#### Background

The property owners are presenting plans for a wall as part of a home addition project. The boulder abutment wall will range in height from 2 feet to 4 feet depending on grade, with an approximate length of 120 feet. The wall meets all setback requirements but is located within the side yard, and front yard as seen on the plans, which would require a variance.

#### Special Use

Section 153.049 (attached) of the Town's Zoning Ordinance regulates fences, gates, and walls and requires a special use permit from the Board of Adjustment. The proposed structure complies with setbacks but does not meet the requirement to be totally within the rear yard, therefore requiring a variance.

#### Variance

A variance would be required for a wall that is not installed entirely within the rear yard per section 153.049. Section 153.110 (D) (attached) covers variance approvals.



# Zoning Compliance Application

Town of Biltmore Forest

**Name**

Cindy Pomeroy

**Property Address**

9 Stuyvesant Cres

**Phone****Email**

cindypomeroy1@gmail.com

**Parcel ID/PIN Number**

964693327000000

## ZONING INFORMATION

**Current Zoning**

R-1

**Lot Size**

1 ac.

**Proposed Roof Coverage Total**

3,833 sf

**Proposed Impervious Surface Coverage**

9,558 sf

**Front Yard Setback**

60 feet (R-1 District)

**Side Yard Setback**

20 feet (R-1 District)

**Rear Yard Setback**

25 feet (R-1 District)

**Building Height**

16'

**Description of the Proposed Project**

Proposed addition to existing home, including renovation/expansion of primary bedroom and two car garage

**Estimated Start Date**

8/1/2024

**Estimated Completion Date**

2/3/2025

**Estimated Cost of Project**

\$400,000.00

**Supporting Documentation (Site Plan, Drawings, Other Information)**

**Applicant Signature**

**Date**  
6/4/2024

*Cindy Pomeroy*

# VARIANCE APPLICATION

Town of Biltmore Forest

**Name**

Cindy Pomeroy

**Address**

9 Sturvesant Cres

**Phone****Email****Current Zoning/Use**

Residential

**Requested Use**

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

**What would you like to do with your property?**

Construction of a retaining wall in the side setback, in order to minimize land disturbance area and maximize tree preservation area.

**What does the ordinance require?**

The ordinance requires that proposed walls in the side setback requires a Variance.

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

**REQUIRED FINDINGS: Please provide a thorough response to each.****Unnecessary hardship would result from the strict application of the ordinance.**

Due to the existing slope on site, If the retaining wall is not installed, additional grading and land disturbance will occur. In addition, significant additional trees would need to be removed.

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

The slope is existing. The proposed placement of the new garage requires the least amount of land disturbance and makes the most sense functionally and architecturally.

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

The proposed retaining wall allows for the most responsible addition to the existing home. Architecturally, the proposed placement of the new garage is the only viable option on site, given the existing slopes.

**The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.**

The proposed retaining wall will allow for maximum tree preservation, minimize the disturbed area, and allow for proper stormwater drainage around the home. The proposed wall will not be visible from

adjacent properties.

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

**Signature**

**Date**

6/10/2024

*Cindy Pomeroy*

# Special Use Permit Application

Town of Biltmore Forest

## Name

<input type="text" value="Cindy"/>	<input type="text" value="Pomeroy"/>
First	Last

## Address

<input type="text" value="9 Stuyvesant Cres."/>
Address Line 1

## Phone

<input type="text" value="(828) 273-1772"/>
---

## Email

<input type="text" value="cindypomeroy1@gmail.com"/>
--

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

<input type="text" value="Accessory Structures"/>
---

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

## Please provide a description of the proposed project:

<input type="text" value="The proposed retaining wall is part of a home renovation project. The proposed wall will help reduce the amount of disturbance on site and increase the number of existing trees that can be saved. The proposed wall would be natural stone with appropriate landscaping."/>
---

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

<input type="text" value="The proposed wall will help minimize site disturbance, increase the number of existing trees to be saved, thus having minimal impact to the neighborhood and helping retain the landscape character of the neighborhood."/>
---

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

**Signature**

**Date**

5/29/2024

*Cindy Pomeroy*

LOT SIZE: 1.05 AC  
MAX. ALLOWABLE ROOF COVERAGE: 4,509SF  
PROPOSED ROOF COVERAGE AREA: 3,833 SF

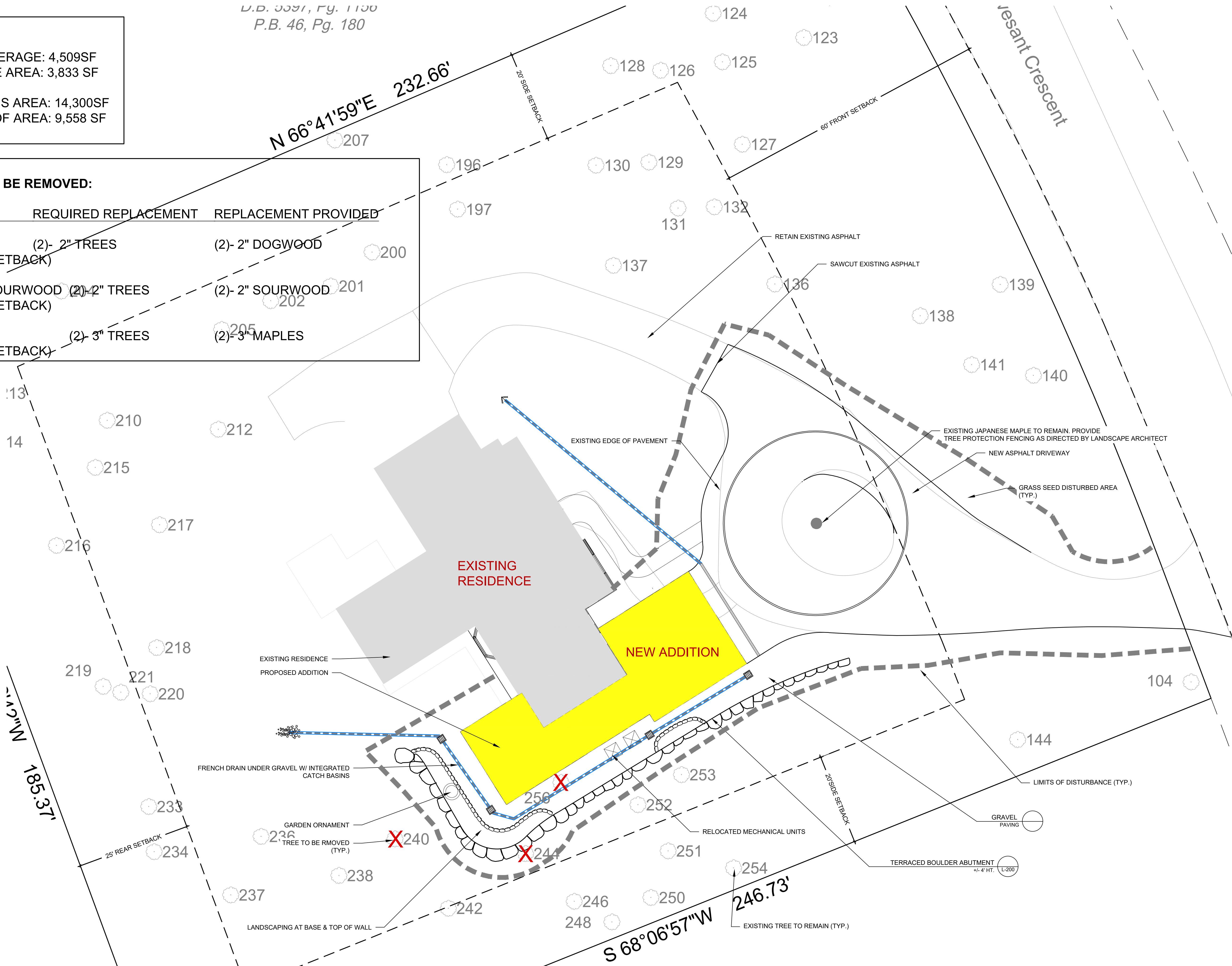
MAX. ALLOWABLE IMPERVIOUS AREA: 14,300SF  
PROPOSED IMPERVIOUS ROOF AREA: 9,558 SF

REPLACEMENT OF TREES TO BE REMOVED:

TREE NO.	TREE	REQUIRED REPLACEMENT	REPLACEMENT PROVIDED
240	14" PINE (OUTSIDE SETBACK)	(2)- 2" TREES	(2)- 2" DOGWOOD
244	6" AND 8" SOURWOOD (OUTSIDE SETBACK)	(2)- 2" TREES	(2)- 2" SOURWOOD
250	26" POPLAR (OUTSIDE SETBACK)	(2)- 3" TREES	(2)- 3" MAPLES

EXISTING TREE LEGEND

Point	Description
104	18"SPRUCE
122	30"PINE
123	18"OAK
124	28"OAK
125	14"PINE
126	24"OAK
127	16"SOURWOOD
128	14"OAK
129	30"OAK
130	24"PINE
131	30"OAK
132	24"PINE
136	24"MAPLE
137	30"OAK
138	18"OAK
139	2X10"SOURWOOD
140	36"OAK
141	8"OAK
144	24"OAK
196	24"POPLAR
197	12"SOURWOOD
200	28"PINE
201	20"POPLAR
202	30"OAK
204	18"PINE
205	10"SOURWOOD
207	24"OAK
210	34"MAPLE
212	6"DOGWOOD
213	18&12&8"SOURWOOD
214	16"PINE
215	16"MAPLE
216	18"PINE&10"SOURWOOD
217	36"OAK
218	32"OAK
219	12"SOURWOOD
220	32"POPLAR
221	12"POPLAR
233	20"OAK
234	28"OAK
236	28"OAK
237	22"PINE
238	8"SOURWOOD
240	14"PINE
242	14"SOURWOOD&12"OAK
244	8&6"SOURWOOD
245	18"PINE
246	36"PINE
248	14" TREE
250	26"POPLAR
251	12"SOURWOOD
252	14"SOURWOOD
253	14"SOURWOOD
254	22"PINE
256	22"PINE



REVISIONS		
NO.	REMARKS	DATE



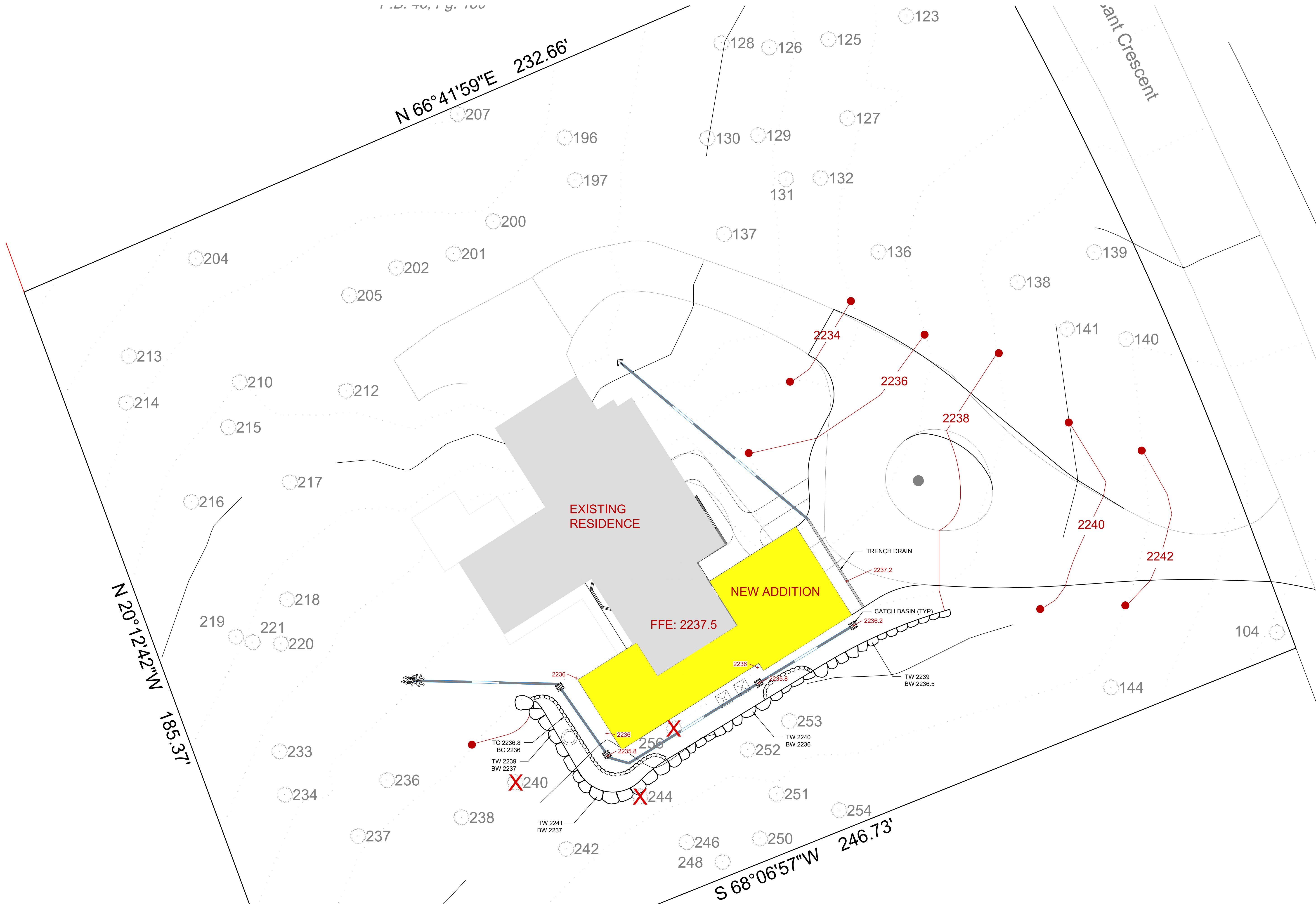
DATE:  
5.29.2024  
SHEET TITLE:

SCHEMATIC  
SITE PLAN

SHEET NO.

L-100





CONSULTANT

POMEROY RESIDENCE

PREPARED FOR:  
**WILLIAM AND CINDY POMEROY**  
9 STUYVESANT CRES.  
BILTMORE FOREST, NC 28803

REVISIONS		
NO.	REMARKS	DATE

**NOT FOR CONSTRUCTION**

DATE:  
5.29.2024

SHEET TITLE:

SCHEMATIC  
GRADING PLAN

SHEET NO.  
**L-300**



QTY	BOTANICAL NAME	COMMON NAME	CONT	CAL	REMARKS
<b>TREES</b>					
2	Acer x freemanii Autumn Blaze	Autumn Blaze maple	B & B	3" Cal	REQUIRED FOR
2	Cornus florida 'Cherokee Princess'	Cherokee Princess Dogwood	B & B	2" MIN	REQUIRED FOR
2	Oxydendrum arboreum	Sourwood Tree	B & B	2" MIN	REQUIRED FOR

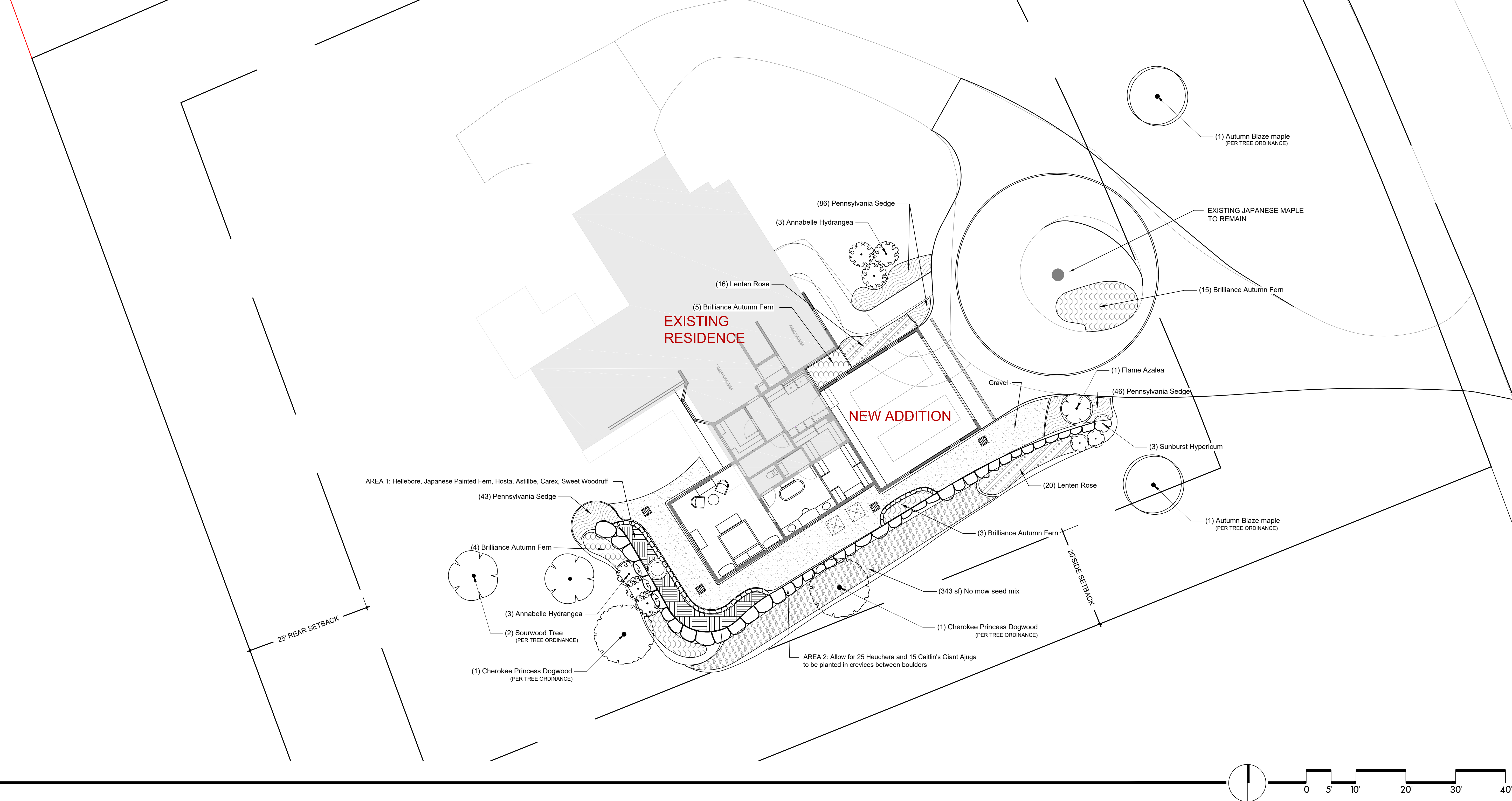
QTY	BOTANICAL NAME	COMMON NAME	CONT	REMARKS
<b>SHRUBS</b>				
6	Hydrangea arborescens 'Annabelle'	Annabelle Hydrangea	3 gal	
3	Hypericum frondosum 'Sunburst'	Sunburst Hypericum	3 gal	
1	Rhododendron calendulaceum	Flame Azalea	7 gal	

QTY	BOTANICAL NAME	COMMON NAME	CONT	SPACING	REMARKS
<b>GROUND COVERS</b>					
175	Carex pensylvanica	Pennsylvania Sedge	1 gal	12" o.c.	
33	Dryopteris erythrosora 'Brilliance'	Brilliance Autumn Fern	3 gal	36" o.c.	
343 sf	Fescue 'Lynx' Blend	No mow seed mix	seed		
36	Helleborus orientalis 'Brandywine Hybrids'	Lenten Rose	1 gal	24" o.c.	

AREA 1  
 Aspidistra 'Color Flash' - False Goat's Beard - 1 gal  
 Athyrium niponicum pictum- Japanese Painted Fern - 1 gal  
 Carex pensylvanica - Sedge - 1 gal  
 Galium odoratum - Sweet Woodruff - 1 gal  
 Helleborus orientalis 'Brandywine Hybrids' - Hellebore - 1 gal  
 Hosta 'Abiqua Drinking Gourd' - Hosta - 1 gal

AREA 2: To be planted in crevices between boulder; Contractor to determine final number

-25 Heuchera villosa 'Autumn Bride' - 1 gal  
 -15 Ajuga reptans 'Catlin's Giant' - 1 gal



THIS DOCUMENT IS THE PROPERTY OF SITEWORK STUDIOS, PLLC. IT IS TO BE USED FOR THIS SPECIFIC PROJECT ONLY AND IS NOT TO BE USED OTHERWISE WITHOUT OBTAINING WRITTEN CONSENT FROM SITEWORK STUDIOS, PLLC.

**sitework**  
STUDIOS

LANDSCAPE ARCHITECTURE

82 Patton Avenue | Suite 700 | Asheville, NC 28801 | 828.225.4945

## CONSULIANI

# POMERoy RESIDENCE

PREPARED FOR:

9 STUYVESANT CRES.  
BILTMORE FOREST, NC 28803

## REVISIONS

NO.	REMARKS	DATE

NOT FOR CONSTRUCTION

DATE:

5.29.2024

**SHEET TITLE:**

## LANDSCAPE PLAN

HEET NO

# L-400

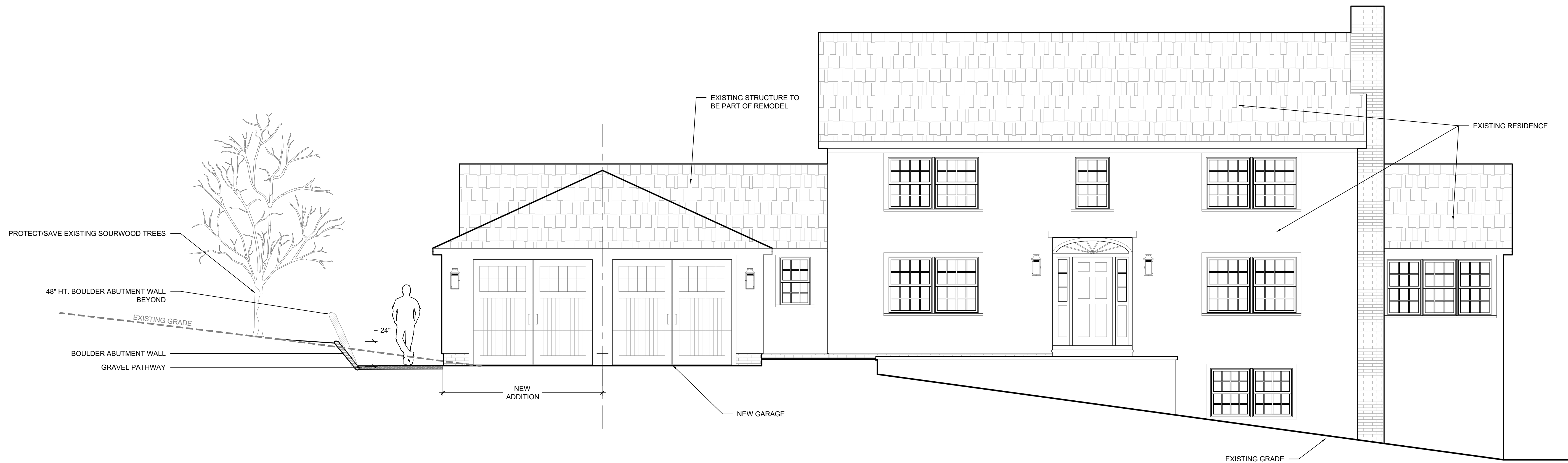




1

BOULDER ABUTMENT WALL - Design Intent

NTS



3

SECTION

NTS

REVISIONS		
NO.	REMARKS	DATE

**NOT FOR CONSTRUCTION**

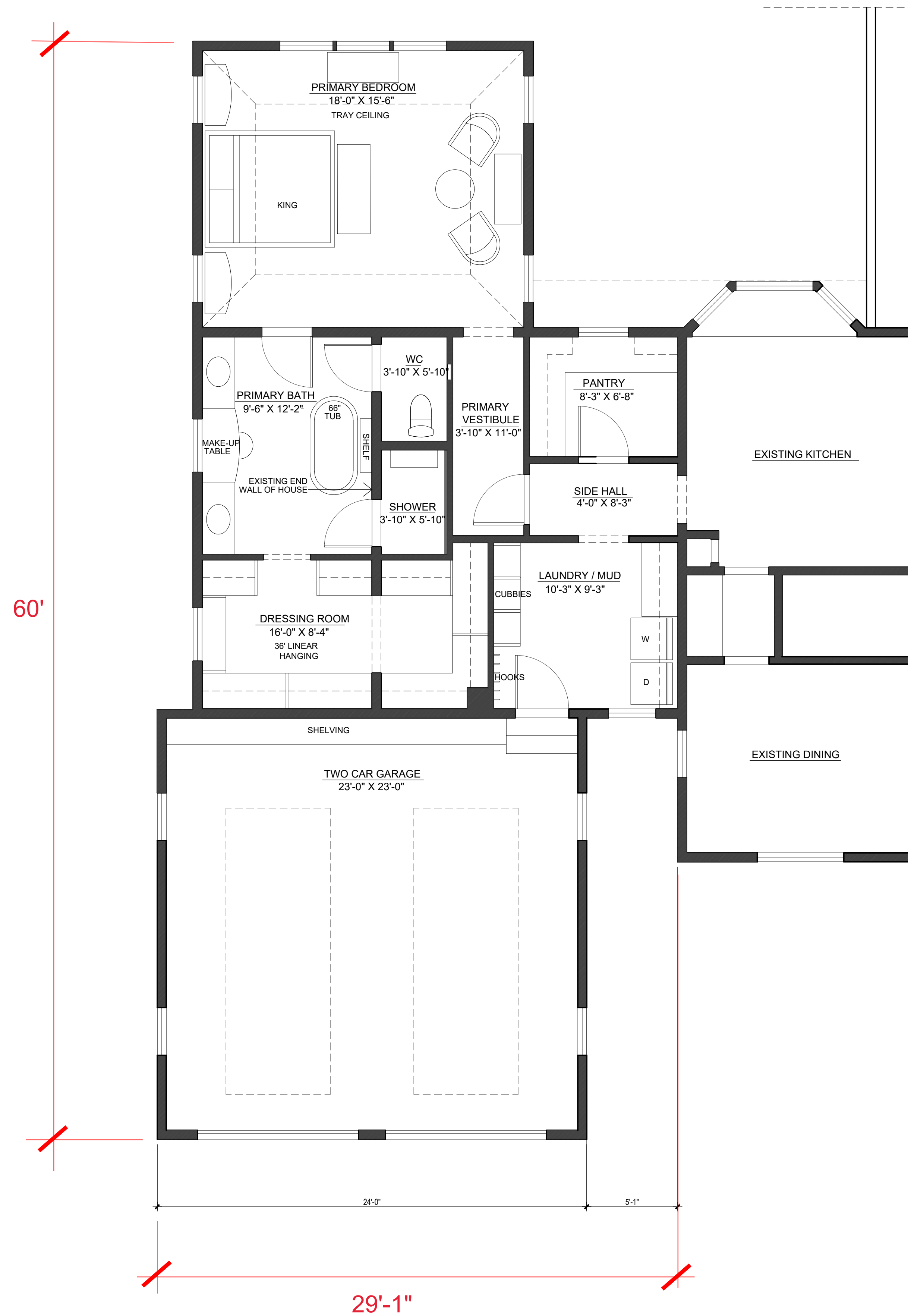
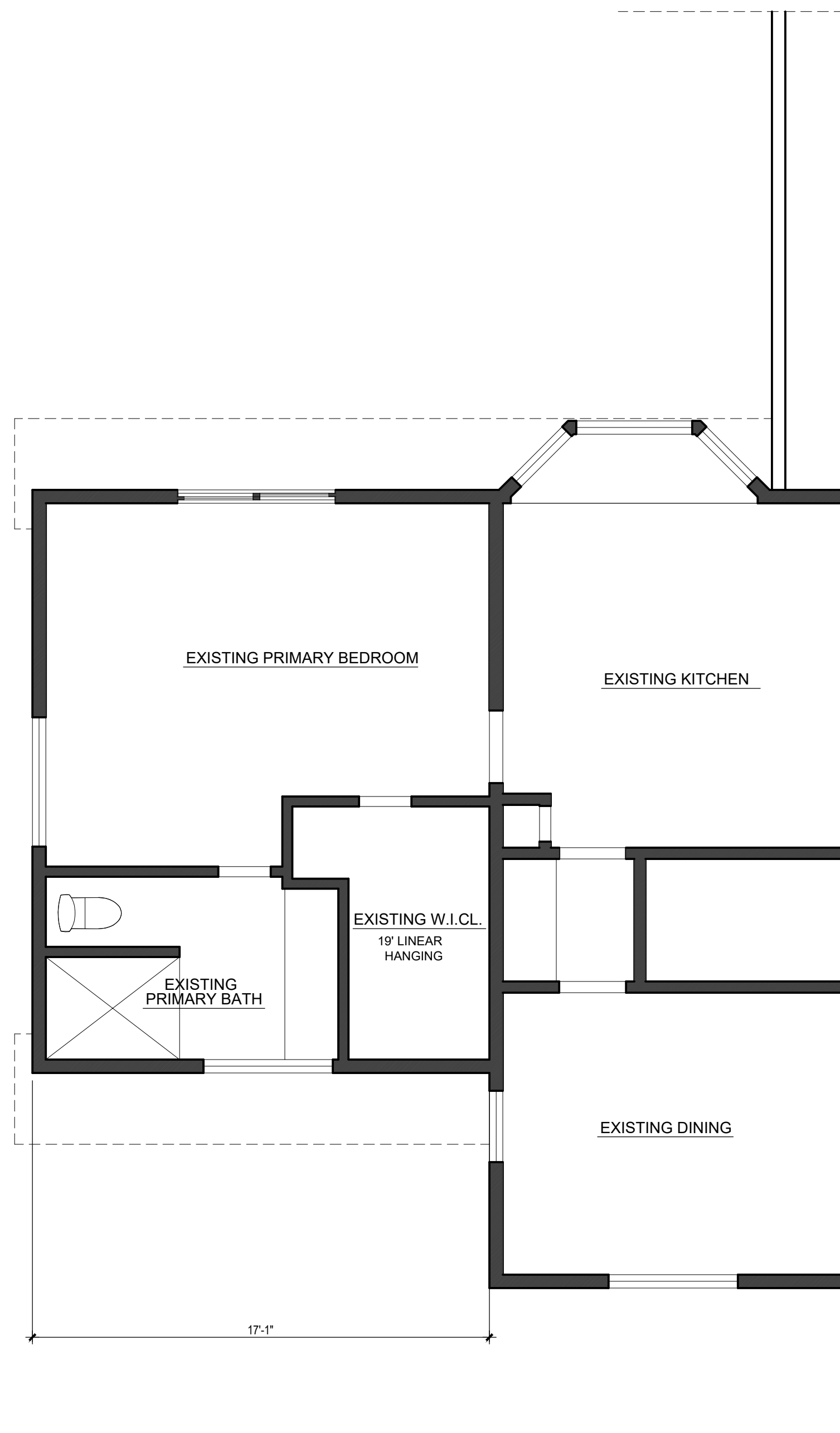
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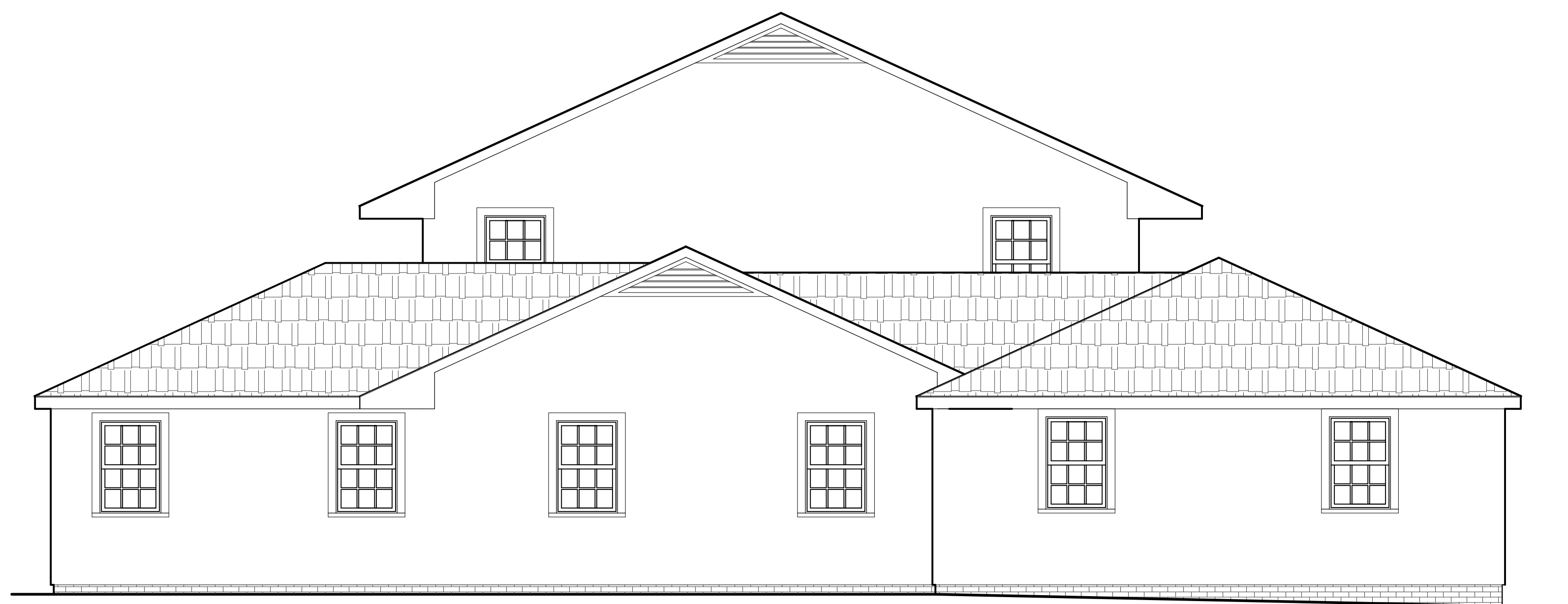
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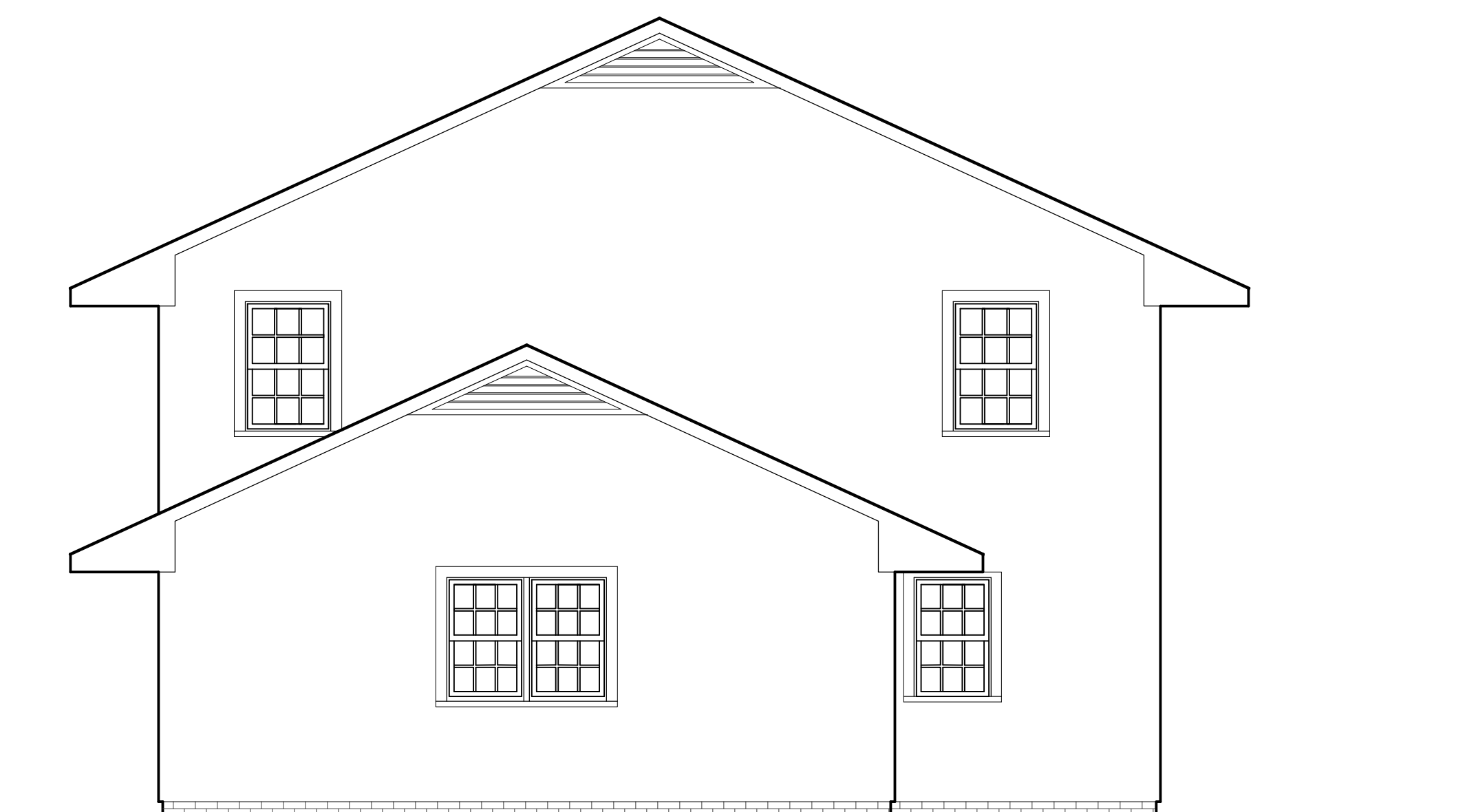




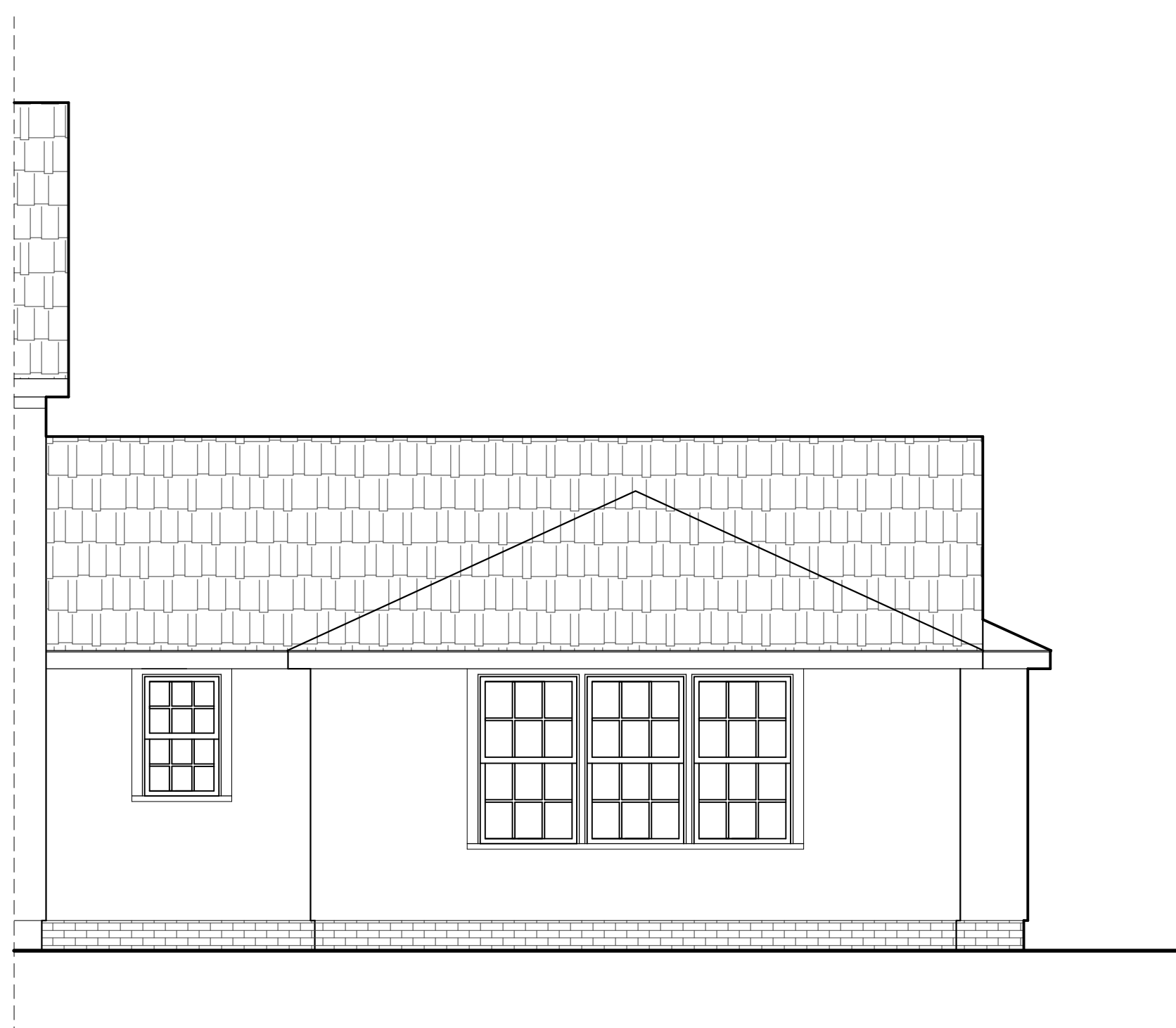




PROPOSED SOUTH ELEVATION



EXISTING SOUTH ELEVATION



PROPOSED WEST ELEVATION



## BOARD OF ADJUSTMENT MEETING

### STAFF MEMORANDUM

June 24, 2024

#### CASE 6

**Property Address:** 120 Stuyvesant Rd

**Property Owner:** TJ & Kirby Finger

**Request:** Special Use and Variance Request for Two Retaining Walls and Eight Concrete Balls

---

#### Background

The property owners are presenting plans for two retaining walls and eight concrete balls lining the driveway. The first wall is located at the end of the home and would range in height from 24 inches to 36 inches and has a small section within the rear setback. The second proposed wall would be in the rear of the home, 24 inches high and is located within the rear setback. The balls are in place lining each side of the driveway with six of the eight balls being located within the front setback. The application does not meet the requirements set forth in the ordinance, therefore would require a variance.

#### Special Use

Section 153.049 (attached) of the Town's Zoning Ordinance regulates walls which require a special use permit from the Board of Adjustment. The balls along the driveway would be considered accessory structures and require a special use approval from the Board, accessory structures are addressed in section 153.029(attached). Special use findings are covered in section 153.110(C) (attached) of the Town's Zoning Ordinance.

#### Variance

The proposed walls do not comply with the rear setback of 25 feet therefore would require a variance. Six of the eight balls are in the front setback of 60 feet while two are within the front yard, all which would require a variance. Section 153.110 (D) (attached) addresses the approval requirements for a variance.

# Zoning Compliance Application

Town of Biltmore Forest

**Name**

TJ & Kirby Finger

**Property Address**

120 Stuyvesant Rd

**Phone**

(828) 318-4550

**Email**

kirbyfinger@gmail.com

**Parcel ID/PIN Number**

964683765100000

## ZONING INFORMATION

**Current Zoning**

R-1

**Lot Size**

1.68

**Proposed Roof Coverage Total**

??

**Proposed Impervious Surface Coverage**

??

**Front Yard Setback**

60 feet (R-1 District)

**Side Yard Setback**

20 feet (R-1 District)

**Rear Yard Setback**

25 feet (R-1 District)

**Building Height**

2-3ft

**Description of the Proposed Project**

-8 Concrete balls along driveway (4 on each side)

-24-36" Block wall to retain grade on (if facing house) to the left side

-24" block wall to retain grade in dog lot to be able to plant trees

**Estimated Start Date**

6/17/2024

**Estimated Completion Date**

9/17/2024

**Estimated Cost of Project**

\$100,000.00

**Supporting Documentation (Site Plan, Drawings, Other Information)**

LA-Finger-Site Plan-013.pdf

**Applicant Signature**

**Date**  
6/3/2024

*Kirby Finger*



# Special Use Permit Application

Town of Biltmore Forest

**Name**

Kirby & TJ Finger

**Address**

120 Stuyvesant Rd

**Phone**

(828) 318-4550

**Email**

kirbyfinger@gmail.com

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

Accessory Structures

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

**Please provide a description of the proposed project:**

The driveway is steep and has a definite sharp curve. These outline the drive and assist drivers young and old to stay on the pavement, outlined by the balls. Failure to stay on the pavement could result in a vehicle traveling into the ravine resulting in a personal injury as well as potential litigation if it were a visitor. Also, because of the light color they are visible at night.

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

The driveway is steep and has a definite sharp curve. These outline the drive and assist drivers young and old to stay on the pavement, outlined by the balls. Failure to stay on the pavement could result in a vehicle traveling into the ravine resulting in a personal injury as well as potential litigation if it were a visitor. Also, because of the light color they are visible at night.

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

**Signature**

**Date**

6/3/2024

A handwritten signature in cursive script that reads "Kirby Finger". The signature is written in black ink and is positioned below the printed name and signature line.

# VARIANCE APPLICATION

Town of Biltmore Forest

**Name**

Kirby & TJ Finger

**Address**

120 Stuyvesant Rd

**Phone**

(828) 318-4550

**Email**

kirbyfinger@gmail.com

**Current Zoning/Use**

R

**Requested Use**

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

**What would you like to do with your property?**

We would like to place eight 17-inch concrete orbs along either side of our front driveway. 4 on each side. A wall at the end of our home as well as a small retaining wall at the dog lot.

**What does the ordinance require?**

The Front yard setback for our R1 District is 60ft, so this would allow us to place six out of the eight orbs within the front yard setback. The rear setback is 25' and we are within that setback by a few inches for one wall and a few feet for the dog lot wall.

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

**REQUIRED FINDINGS: Please provide a thorough response to each.****Unnecessary hardship would result from the strict application of the ordinance.**

Safety Concerns: Without the concrete orbs along the driveway, there is a higher risk of vehicles veering off the steep and sharply curved driveway, potentially leading to accidents, personal injuries, and possible litigation. Visibility: The light-colored orbs enhance nighttime visibility, providing a clear outline of the driveway. Without them, it would be harder for drivers to stay on the pavement, especially in low-light conditions. Erosion and Safety: Without the wall, the bank in our dog lot will continue to erode over time, making the area increasingly unsafe and more dangerous. Privacy: The wall and the trees planted on top provide a necessary privacy screen for us and our neighbors. Without it, both our privacy and that of our neighbors would be compromised.

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

The driveway is steep with a definitive sharp curve. These orbs will outline the driveway and assist drivers, young and old, in staying on the pavement. Failure to could result in a vehicle traveling into the ravine, potentially causing personal injury and possible litigation if it were a visitor. Additionally, the light color of

the orbs makes them visible at night, further enhancing safety.

wall on the side:

When we bought the property, the grade on the side is steep and there is not a safe way to get around the side rear area, and we're just trying to update it to ensure safety by adding the wall and a walkway and stop the erosion of the bank at the same time.

wall in dog lot:

When we bought the property, it was already like this, and we are just trying to improve the screening for both us and our neighbors. We would like to build a 24' wall to retain grade, in the back of our dog lot and plant trees on top of it to create a privacy screen for us and the neighbors.

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

The existing lay out of the property when purchased.

**The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.**

The upgrades would make our property safer and consistent with the spirit of the ordinance.

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

**Signature**

**Date**

6/13/2024

*TJ Finger*

LANDSCAPE DEMOLITION

1. Remove demolished materials from site. Disposal by burning and/or burying is prohibited.
2. Contact the local underground service update for utility location and identification prior to demolition.
3. The location of existing utilities as shown on the plans may vary in relation to actual existing conditions; additional utilities not shown on the drawings may exist. Verify in the field the data shown, and call any discrepancies to the attention of the Landscape Architect or Site Representative before starting work.
4. Perform excavation in the vicinity of existing utilities by hand where applicable. The Contractor is responsible for damage to existing utilities caused by any person, vehicle, equipment or tool related to the execution of the Contract.
5. Perform excavation in the vicinity of existing trees shown to remain by hand where applicable. The contractor is responsible for damage to existing trees.

LAYOUT NOTES

1. For dimensions of buildings, garages, trash enclosures and related work, refer to the architectural drawings. Copies of these drawings are available from the owner.
2. Written dimensions take precedence over scale. Do not scale drawings.
3. Where dimensions are called as "equal," space referenced items equally, measured to their center lines unless otherwise noted.
4. Measurements are to face of building, wall or the fixed site improvement. Dimensions to center lines is indicated.
5. Install intersecting elements at 90 degree angles to each other unless otherwise noted.
6. Provide expansion joints where concrete or mortar set stone or brick flatwork meets vertical structures such as walls, curbs, steps and building elements.
7. See civil engineers plans for the layout of roadway edge of pavement and curb. Verify that dimensions shown for site elements are consistent with layout information from engineers. Bring all discrepancies to the attention of the Landscape Architect prior to construction.

GRADING AND DRAINAGE

1. Existing underground utilities are shown per available records. Verify the actual location and elevation in the field prior to beginning construction of the new facilities. Protect existing utilities and be responsible for damage to utilities encountered during construction.
2. Request inspection as required 48 hours in advance of performing any work unless otherwise noted on this sheet.
3. Debris created by removal operations become the property of the Contractor and is to be legally disposed of away from the job site.
4. Notify local underground service companies for utility finds 48 hours prior to any excavation.
5. Refer to structural drawings for connections to drains over structure.
6. Refer to architectural drawings for waterproofing of slab penetrations.
7. Refer to Civil Engineer's drawings for connections to drains.

SITE NOTES

**Impervious Surface**  
Lot Size: 1.68 AC  
Max Impervious: 18,352 SF  
  
Existing Impervious  
Home 5,487 SF  
Patios 1,672 SF  
Driveway 5,717 SF  
Basketball Court 1,950 SF  
Total 14,826 SF

Proposed New Impervious  
New Paths 943 SF  
Total 943 SF

Combined Total Impervious  
Total 15,769 SF

**Project Total Disturbed Area**  
Total 6,880 SF  
Percentage of Lot 6.0%

**Existing Tree Legend**  
Map. Maple Tree  
Pop. Tulip Popular Tree  
Loc. Locust Tree  
WP. White Pine  
Holly American Holly  
WO. White Oak  
Hky Hickory Tree  
Saw. Sawtooth Oak

	Inside Setback		Outside Setback	
	Protected	Unprotected	Protected	Unprotected
6"-12"			4	
13"-18"	2	1	2	
19"-36"	1			

**Required Replacements**  
Trees 2" DBH - 13 Trees  
Trees 3" DBH - 2 Tree  
Screening Buffer Trees - 3 trees

Screening along Stuyvesant Crescent will be a mix of evergreen trees to give a natural look and also maximize screening from surrounding lots and roads. Trees will far exceed requirement by Town UDO. Evergreen Trees in mix are as follows:  
Japanese Cedar  
Nellie Stevens Holly  
Dawn Redwood  
Thuja Green Giant  
Norway Spruce  
Thunderhead Japanese Black Pine  
White Pine

Grading designed to minimize walls and provide sustainable slopes for landscaping

Existing driveway access  
Landscaped slope using native flowering shrubs and perennials

Natrual stone steps to match existing native stone  
Blue Stone paving with 24" block wall to retain grade, finished with decorative texture

24" block wall to retain grade, finished with decorative texture

Court 6" off setback  
Existing boulder retaining

Court 6" off setback

Basketball court previously approved

Existing retaining wall  
Existing driveway access

Drake Design Concepts  
Landscape Architecture + Design  
8 Ozark Spring Lane  
Asheville, NC 28805  
828.337.9952

Finger Residence  
120 Stuyvesant Road  
Asheville, North Carolina 28803

ISSUE DATE: 11/22/2023

#	DATE	DESCRIPTION
1	12/10/2023	Design and Notation Revisions
2	01/01/2024	Design and Notation Revisions
3	01/21/2024	Revised plan
4	05/08/2024	Play Lawn

DRAWN: DF REVIEWED: RF



Site  
Play Lawn

SHEET NUMBER

L1-1