



To: Members of the Board of Adjustment, Applicants & Neighboring Property Owners
From: Jonathan B. Kanipe, Town Manager
Date: September 11, 2024
Re: **Board of Adjustment Meeting – September 23, 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 September 17th, 2024.

*****PROPOSED AGENDA*****

The following items of business will be considered by the Biltmore Forest Board of Adjustment on Monday, September 23, 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 August 26, 2024 regular meeting will be considered.
3. Hearing of Cases (Evidentiary Hearings, Deliberations & Determinations).

Case 1: 45 Hilltop Road-Special Use Permit request for an accessory building (detached garage); Variance Request for location in the side yard.

Site Visit – 2:45pm

Case 2: 417 Vanderbilt Road-Special Use Permit request for accessory structures (fire pit) and retaining wall; Variance Request for location in the front yard as part of a new home construction.

Site Visit – 3:15pm

5. Adjourn

MINUTES OF THE BOARD OF ADJUSTMENT
MEETING HELD MONDAY, AUGUST 26, 2024

The Board of Adjustment met at 4:00 p.m. on Monday, August 26, 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 4:00 p.m.

Chairman Goosmann swore in the following:

Mr. Jonathan Kanipe

Mr. Tony Williams

Mr. Charles True

Mr. Alfred Bottego

Mr. Justin Nicholas

A motion was made by Mr. Rhoda Groce to approve the minutes from June 24th, 2024, Ms. Lynn Kieffer seconded the motion. The minutes were unanimously approved.

HEARING (Evidentiary):

The first matter is for a Special Use Permit request for an accessory building and variance requests for location of an accessory building within the side yard setback and to exceed more than one accessory building (revised to reflect correct setback intrusion) at 105 Stuyvesant. Mr. Williams said the property owner is presenting plans for a 24'x30' two car garage. The garage would be located adjacent to the existing gravel drive near the rear of the home. The garage plan has required wing walls that would need to extend into the side setback. The garage would be set in the side and rear yard. There is an existing small garden shed located on the property. The application does not meet the requirements set forth in the ordinance, therefore requires a variance. Mr. Billy Clarke said the lot size is less than one acre and that the Board has previously allowed flexibility with setback encroachment in similar instances. Ms. Kieffer said the neighboring property owner has approved of this project. Mr. True said the building will provide a privacy buffer between Mr. True and the neighbors (Mr. Ray Dean and Ms. Hope Xenakis). They are putting mature arborvitaes and holly to buffer. Mr. Chandler asked if he would be willing to buffer additionally if needed. Mr. True said yes.

DELIBERATION AND DETERMINATION:

Mr. Williams restated the facts and said the property owner at 105 Stuyvesant Road is presenting plans for a 24'x30' two car garage. The garage would be located adjacent to the existing gravel drive near the rear of the home. The garage plan has required wing walls that would need to extend into the side setback. The garage would be set in the side and rear yard. There is an existing small garden shed located on the property. The application does not meet the requirements set forth in the ordinance, therefore would require a variance.

Ms. Martha Barnes moved that a Special Use Permit requested be granted to Charles True of 105 Stuyvesant Road and the facts as recited by Tony Williams and his summation be accepted as findings and facts to support this grant. The Board has inspected this site, and no 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. Rhoda Groce seconded the motion and was unanimously approved.

HEARING (Evidentiary):

The second matter is for a Special Use Permit request to install a deer fence within the rear yard and construct a new greenhouse. This application includes a variance request for installation of a greenhouse within the setback at 2 Arboretum Road. Mr. Williams said the property owners at 2 Arboretum Road are presenting plans for a greenhouse and deer fencing. The greenhouse is 12'x20' and located near the old greenhouse location in the rear yard and meets setback requirements. The proposed deer fencing will be six feet in height and located in the rear yard. There is more than one accessory building on the property. The application does not meet the requirements set forth in the ordinance for only one accessory building, therefore requires a variance.

Ms. Kieffer said there would be an eight-foot deer fence. Mr. Alfred Bottego and Mr. Justin Nicholas presented the matter. Mr. Chandler asked where the fence would be placed. Mr. Nicholas showed the board where it will be located. It will be placed behind the house. The property is approximately 2.7 acres. This is for a replacement greenhouse, and it will look less conspicuous.

DELIBERATION AND DETERMINATION:

Mr. Williams restated the facts and said the property owners at 2 Arboretum Road are presenting plans for a greenhouse and deer fencing. The greenhouse is 12'x20' and located near the old greenhouse location in the rear yard and meets setback requirements. The proposed deer fencing will be six feet in height and located in the rear yard. There is more than one accessory building on the property. The application does not meet the requirements set forth in the ordinance for only one accessory structure, therefore would require a variance.

Ms. Kieffer made a motion that a Special Use Permit and Variance be granted to Sabine Randon of 2 Arboretum Road and the facts as recited by Tony Williams and his summation be accepted as findings and facts to support this grant. The Board has inspected this site, and no 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. Groce seconded the motion and was unanimously approved.

The third matter was tabled until next month (56 Forest Road).

The next meeting is scheduled for Monday, September 23rd, 2024 at 4:00pm.

The meeting was adjourned at 4:19pm.

ATTEST:

Greg Goosmann

Chairman

Laura Jacobs

Town Clerk

§ 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)

Editor's note:

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

§ 153.049 FENCE, GATE AND WALL REGULATIONS.

The Board of Commissioners for the Town of Biltmore Forest that the following amendments to the Zoning Ordinance and subsequent regulations be placed on fence, gate, and wall construction and replacement as of the effective date of this section.

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

(1) The fence, gate, or wall is constructed entirely within the rear yard, is not located in any side or rear yard setbacks, and is constructed of materials deemed acceptable in § 153.049(D).

(2) Mature vegetation or other buffering sufficient to screen the fence, gate, or wall from neighboring properties shall be required to the extent necessary.

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

(1) The driveway gate and columns shall not be located in the front or side yard setback of a property.

(2) The driveway gate shall not be more than eight feet in height.

(3) The driveway gate must provide access for emergency services and first responders. This may be done via a lockbox code, strobe or siren activation switch, or other method with demonstrated reliability.

(4) The driveway gate must open wide enough to provide for ingress and egress of emergency vehicles. The minimum acceptable standard is for the gate access to be 14 feet wide with a 14 foot minimum height clearance.

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

(1) Existing chain link fences or gates shall not be replaced with new chain link fences or gates.

(2) Existing fences, gates, or walls in the front yard shall not be replaced. No new fences, gates, or walls shall be allowed in the front yard.

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

(D) Acceptable materials and standards for fences and walls/maintenance. The following materials and standards for fences and walls shall be deemed acceptable.

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

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

(3) No new chain link fencing or gates shall be allowed.

(4) Fences shall not exceed six feet in height except that fences designed to prevent deer or other wildlife from entering the property shall not exceed ten feet in height. Deer fences shall be constructed in accordance with North Carolina Wildlife Resources Commission standards for "Permanent Woven Wire Fencing" and "Permanent Solid-Wire Fencing." Copies of these standards are available at the Town Hall or at the following web address

<https://www.nxwildlife.org/Learning/Species/Mammals/Whitetail-Deer/Fencing-to-Exclude-Deer#42041180-permanent-fencing>).

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

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

(Ord. passed 2-11-2020; Ord. passed 6-8-2021)

153.110 POWERS AND DUTIES OF THE BOARD OF ADJUSTMENT.

(C) *Special uses.*

(1) Upon application, the Board of Adjustment may grant in particular cases and subject to appropriate conditions and safeguards, permits for special uses as authorized by this chapter, and set forth as special uses under the various use districts.

(2) A special use permit may be granted by the Board of Adjustment only after making the following findings:

(a) An application for the special use has been submitted as prescribed by this chapter;

(b) 1. If the Board of Adjustment finds, in the particular case in question, that the use, including any proposed structures:

a. Will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;

b. Meets all required conditions and specifications of this chapter and other applicable rules, regulations, and standards;

c. Will not substantially injure the value of adjoining or abutting property;

d. Will be in general conformity with the plan of development of the town and its environs;

e. Will be reasonably compatible with significant natural and topographic features on the site and within the immediate vicinity of the site given the proposed site design and structure design;

f. Will be in harmony with scale, bulk, height, coverage, density, and character of the area or neighborhood in which it is located; or

g. Is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities, and will not cause undue traffic congestion or create a traffic hazard.

2. In granting such a permit, the Board of Adjustment may designate such conditions in connection therewith that will, in its opinion, assure that the proposed use will conform to the requirements and spirit of this chapter. However, the Board of Adjustment shall not impose conditions on special use permits that the town is not statutorily allowed to impose.

(c) Before any special use permit is issued, the Board shall make written findings certifying compliance with the specific rules governing the individual special use (see § [153.008](#)), and that satisfactory provision and arrangement has been made for at least the following, where applicable:

1. Satisfactory ingress and egress to property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow, and control;

2. Provision of off-street parking and loading areas where required, with particular attention to the items in division (C)(2)(c)1. above, and the economic, noise, and odor effects of the special use on adjoining properties in the area;

3. Adequate and proper utilities, with reference to locations, availability, and compatibility;

4. Buffering, with reference to type, location, and dimensions;

5. Signs, if any, and proposed exterior lighting, with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

6. Playgrounds, open spaces, yards, landscaping, access ways, pedestrian ways, with reference to location, size, and suitability;

7. Buildings and structures, with reference to location, size, and use;

8. Hours of operation, with particular reference to protecting and maintaining the character of the neighborhood;

9. With the exception of Americans with Disabilities Act, being 42 U.S.C. § 12101, lighting requirements and street lighting, the design standards as outlined in § [153.047](#), "Site Design and Form and Mass Commercial Buildings," shall apply when exterior lighting is proposed and/or required;

10. A site plan has been submitted as required in § [153.008](#); and

11. The applicant/landowner must provide written consent to conditions placed on a special use permit by the Board of Adjustment.

(d) 1. The Zoning Administrator shall make periodic inspections during construction as well as a final inspection after construction is complete to determine whether the conditions imposed and agreements made in the issuance of the permit have been met as well as whether all other requirements of this chapter have been met. The Zoning Administrator shall report his or her findings to the Board of Adjustment.

2. If at any time after a special use permit has been issued, the Board of Adjustment determines that the conditions imposed and agreements made have not been or are not being fulfilled by the holder of a special use permit, the permit shall be terminated and the operation of such use discontinued.

3. If a special use permit is terminated for any reason, it may be reinstated only after reapplying for a special use permit.

(D) **Variations.** Upon application, when unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

(1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;

(2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from conditions that are common to the neighborhood or the public may not be the basis for granting a variance;

(3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship; and

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

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

Editor's note:

This amendatory language was passed during a Board meeting, May 14, 2014



BOARD OF ADJUSTMENT MEETING

STAFF MEMORANDUM

September 23, 2024

CASE 1

Property Address: 45 Hilltop Rd
Property Owner: Grant Henegan
Request: Special Use and Variance Request for a Garage/Storage Building

Background

The property owner is presenting plans for a 728 square foot garage. The structure is proposed in the side yard but meets the setback requirements. However, the location does not meet the requirements for an accessory building to be located in the rear yard, and therefore requires a variance approval from the Board.

Special Use

Section 153.029 (attached) of the Town's Zoning Ordinance regulates accessory structures and buildings which require a special use permit from the Board of Adjustment. Special use findings are covered in section 153.110 (C) (attached) of the Towns Zoning Ordinance.

Variance

The proposed accessory building does not comply with the placement of the structure being in the rear yard and therefore would require a variance. Section 153.110 (D) (attached) addresses the approval requirements for a variance.

Zoning Compliance Application

Town of Biltmore Forest

Name

Grant Henegan

Property Address

45 Hilltop Road, Biltmore Forest, NC 28803

Phone

(980) 202-6541

Email

ghenegan@viridien.com

Parcel ID/PIN Number

964665806800000

ZONING INFORMATION

Current Zoning

R-1

Lot Size

1.95

Proposed Roof Coverage Total

840 sqft.

Proposed Impervious Surface Coverage

1645 sqft.

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

10'6"

Description of the Proposed Project

Renovation and addition with a detached garage/storage area.

Estimated Start Date

10/1/2024

Estimated Completion Date

6/1/2025

Estimated Cost of Project

\$700,000.00

Supporting Documentation (Site Plan, Drawings, Other Information)

240823 - HENEGAN ZONING APPLICATION.pdf

Applicant Signature

Date
8/23/2024

Kelsey N. Peem

Special Use Permit Application

Town of Biltmore Forest

Name

Grant Henegan

Address

45 Hilltop Road Biltmore Forest NC 28803

Phone

(954) 610-6815

Email

ghenegan@viridien.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:

Building garden shed/ golf cart storage.

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

1. Not visible to neighbours, from street and will be in line with aesthetics of existing house.

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

Signature



Date

7/9/2024

Have you paid the \$100 special use permit application fee? Your permit application will not be reviewed until payment has been received. You can visit the link below to pay. Copy & paste the link in your browser.

Yes

VARIANCE APPLICATION

Town of Biltmore Forest

Name

Grant Henegan

Address

45 Hilltop Road, Biltmore Forest, NC 2803

Phone

(908) 202-6541

Email

ghenegan@viridien.com

Current Zoning/Use

Requested Use

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

What would you like to do with your property?

Build an accessory structure.

What does the ordinance require?

The building to be located behind a line parallel to the rear of the principal structure on the lot.

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

REQUIRED FINDINGS: Please provide a thorough response to each.

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

The proposed structure will not be located behind the principal structure on the lot.

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

The location of the accessory building has been located in response to the existing driveway and topography to the site. This proposed location causes the least amount of impact/disturbance to the site. This is also a location that will be hidden by existing trees and landscaping.

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

This hardship is a result of existing site conditions.

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.

We have kept the structure low profile and will be screened by existing trees and landscaping with minimal visibility from the road or surrounding properties. Building materials and design will align with the existing house.

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

Signature

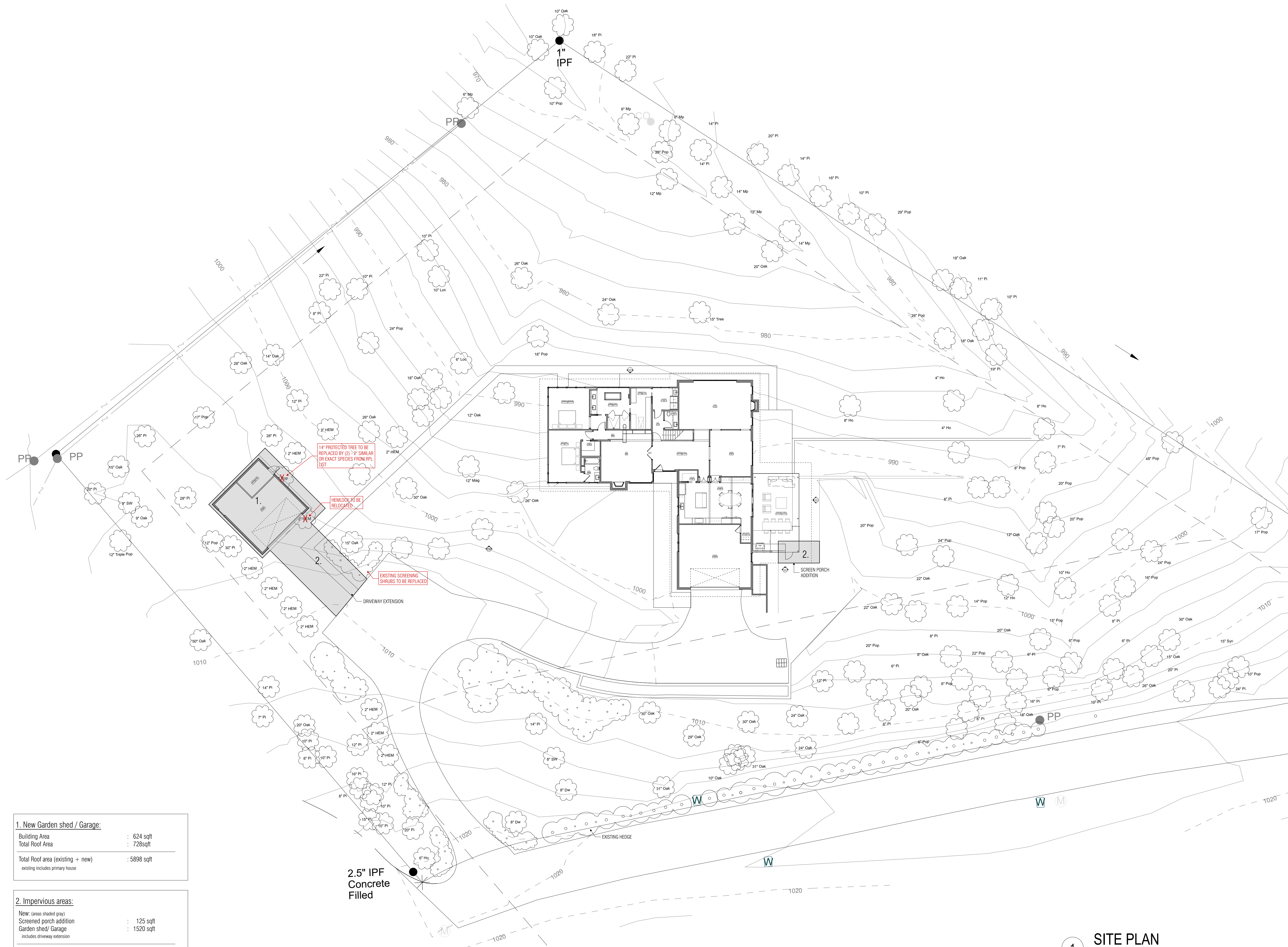
Date

9/11/2024

Kelsey N. Peem

Have you paid the \$300 variance application fee? Your permit application will not be reviewed until payment has been received. You can visit the link below to pay. Copy & paste the link in your browser.

I plan to pay in person or mail a check



1. New Garden shed / Garage:	
Building Area	: 624 sqft
Total Roof Area	: 728sqft
Total Roof area (existing + new)	
existing includes primary house	: 5898 sqft

2. Impervious areas:	
New: (areas shaded gray)	
Screened porch addition	: 125 sqft
Garden shed/ Garage	: 1520 sqft
includes driveway extension	
Total impervious area (existing + new)	
existing includes sidewalks/pavers, gravel, driveway, house footprint	: 13300 sqft

14" PROTECTED TREE TO BE REPLACED BY (2) 2" SIMILAR OR EXACT SPECIES FROM SPS LIST

HEMLOCKS TO BE RELOCATED

EXISTING SCREENING SHRUBS TO BE REPLACED

2.5" IPF Concrete Filled

1 SITE PLAN
SCALE: 1/16" = 1'-0"
0 8' 16' 32'

NOT FOR CONSTRUCTION

HARDING HUEBNER

573 fairview road / suite 1
asheville nc 28803
828.333.9018
www.hardinghuebner.com

Project Name & Address:

Project Name
45 HILLTOP RD.
BILTMORE FOREST, NC
28803

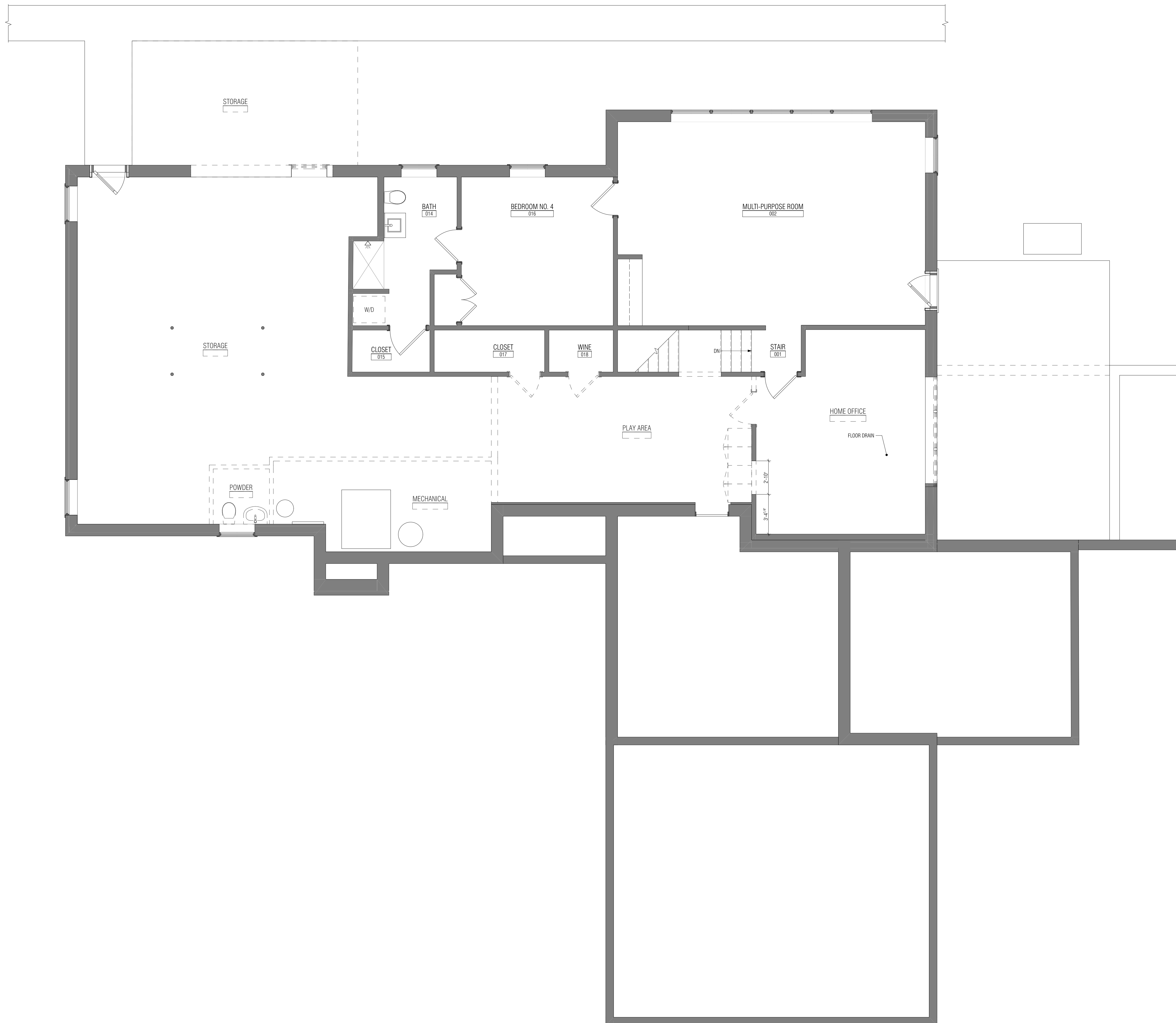
Project Number:
22.01

Issued For:
SD PROGRESS

Issue Date:
11 September 2024

SITE PLAN

A1.00



HARDING HUEBNER

573 fairview road / suite 1
 asheville nc 28803
 828.333.9018
 www.hardinghuebner.com

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 45 HILLTOP RD.
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 28803

Project Number:

22.01

Issued For:

SD PROGRESS

Issue Date:

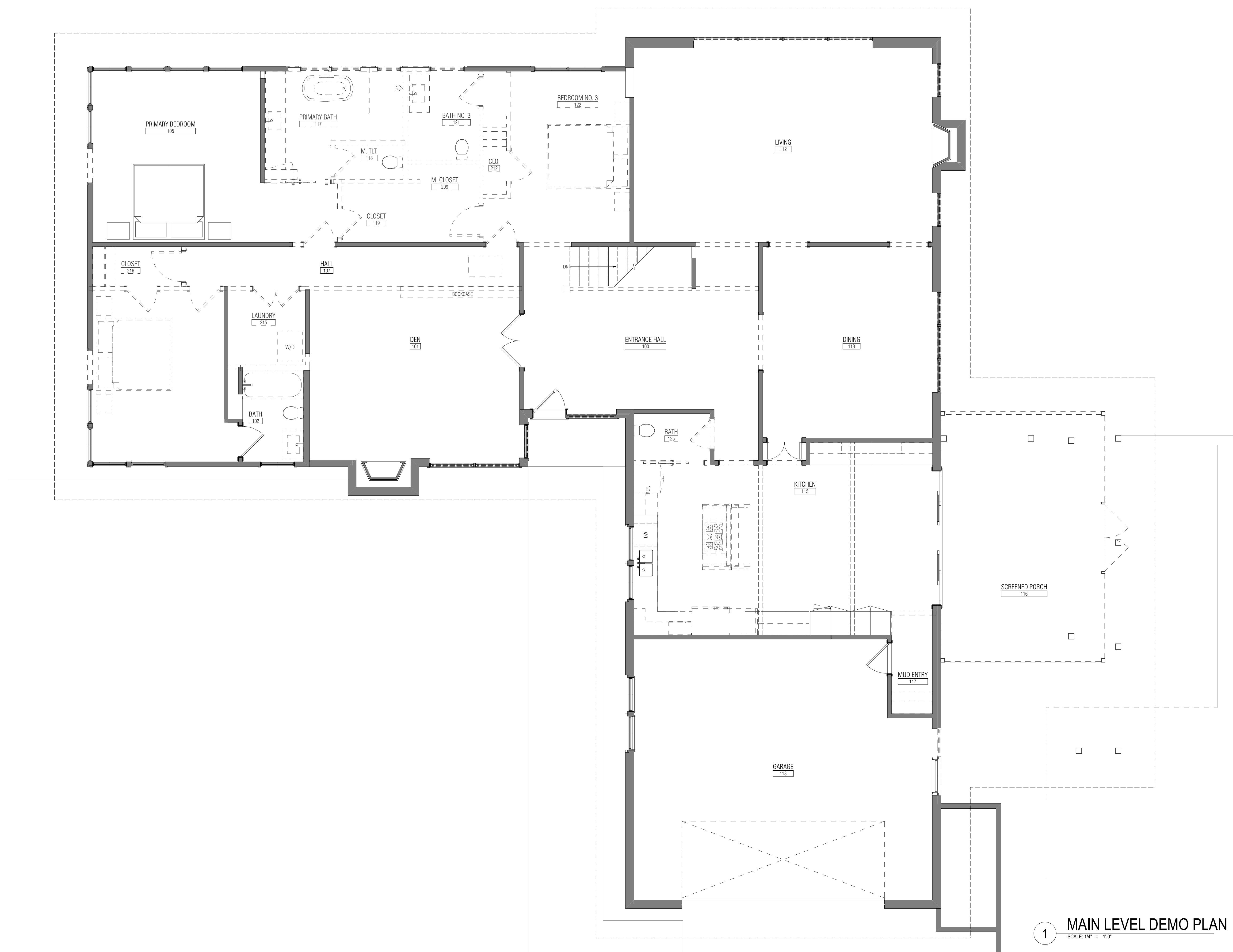
18 June 2024

NOT FOR CONSTRUCTION

EXT. LOWER
 LEVEL FLOOR
 PLAN

A2.00

1 LOWER LEVEL DEMO PLAN
 SCALE: 1/4" = 1'-0"



HARDING HUEBNER

573 fairview road / suite 1
 asheville nc 28803
 828.333.9018
 www.hardinghuebner.com

Project Name & Address:

Project Name
 45 HILLTOP RD.
 BILTMORE FOREST, NC
 28803

Project Number:

22.01

Issued For:

SD PROGRESS

Issue Date:

18 June 2024

NOT FOR CONSTRUCTION

EXT. MAIN LEVEL
 FLOOR PLAN

A2.01

1 MAIN LEVEL DEMO PLAN
 SCALE: 1/4" = 1'-0"



HARDING HUEBNER

573 fairview road / suite 1
 asheville nc 28803
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Project Name & Address:

Project Name
 45 HILLTOP RD.
 BILTMORE FOREST, NC
 28803

Project Number:

22.01

Issued For:

SD PROGRESS

Issue Date:

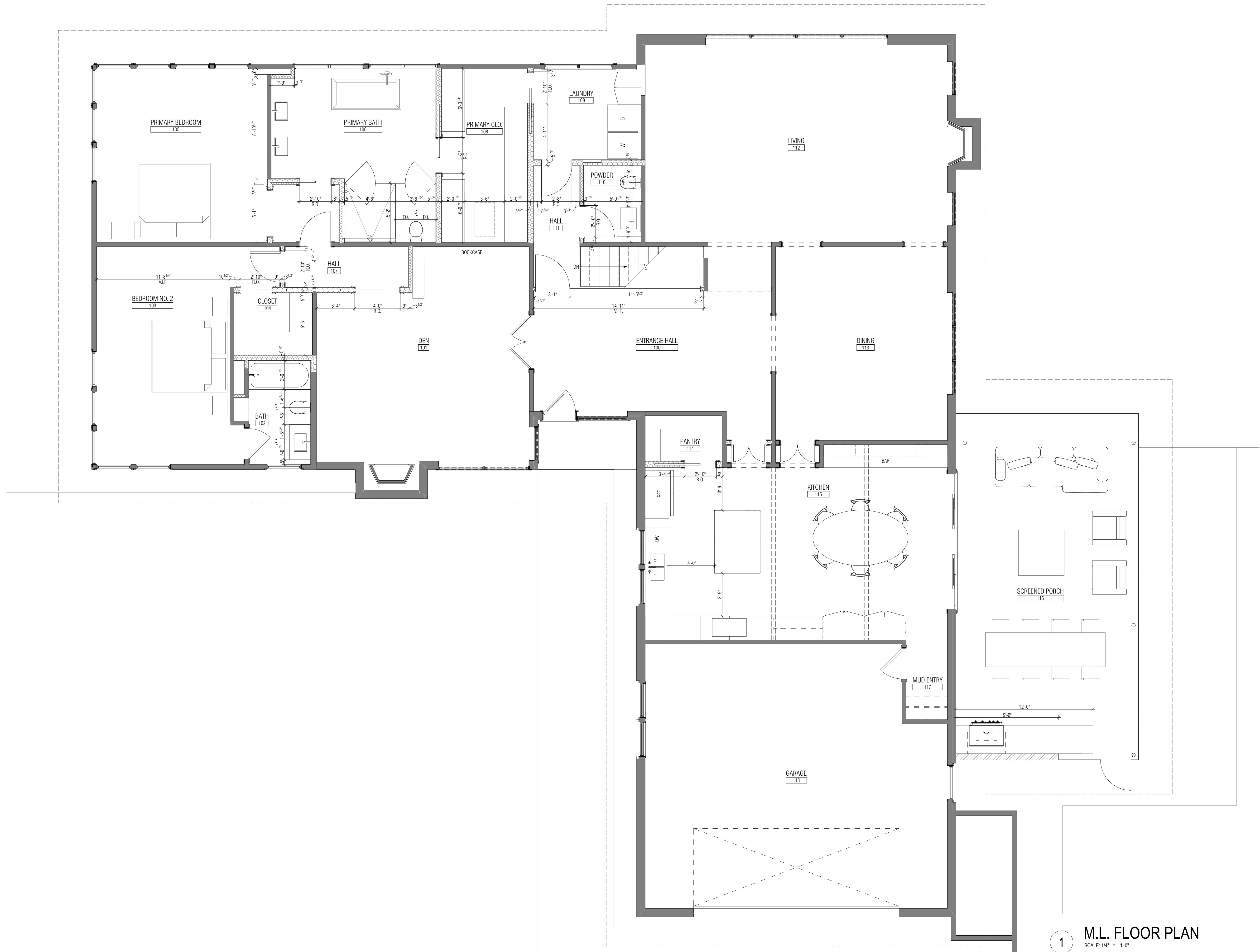
18 June 2024

NOT FOR CONSTRUCTION

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

NEW LOWER
 LEVEL FLOOR
 PLAN

A2.02



HARDING HUEBNER

573 fairview road / suite 1
 asheville nc 28803
 828.333.9018
 www.hardinghuebner.com

Project Name & Address:

Project Name
 45 HILLTOP RD.
 BILTMORE FOREST, NC
 28803

Project Number:

22.01

Issued For:

SD PROGRESS

Issue Date:

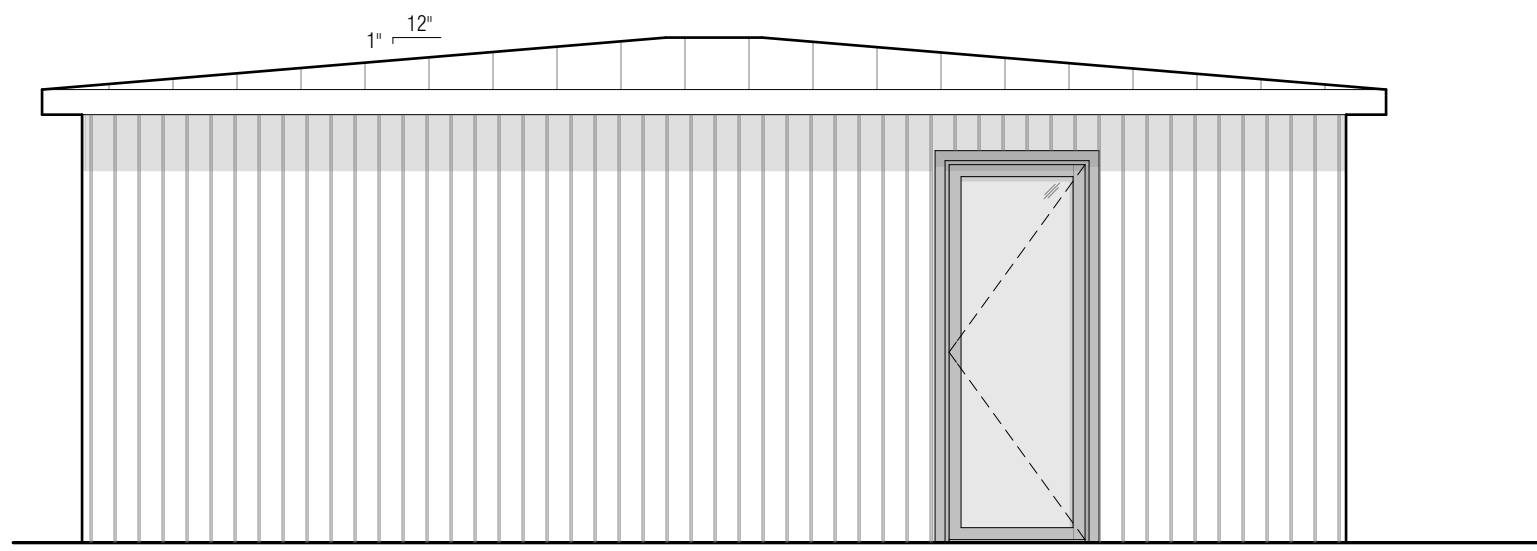
18 June 2024

NOT FOR CONSTRUCTION

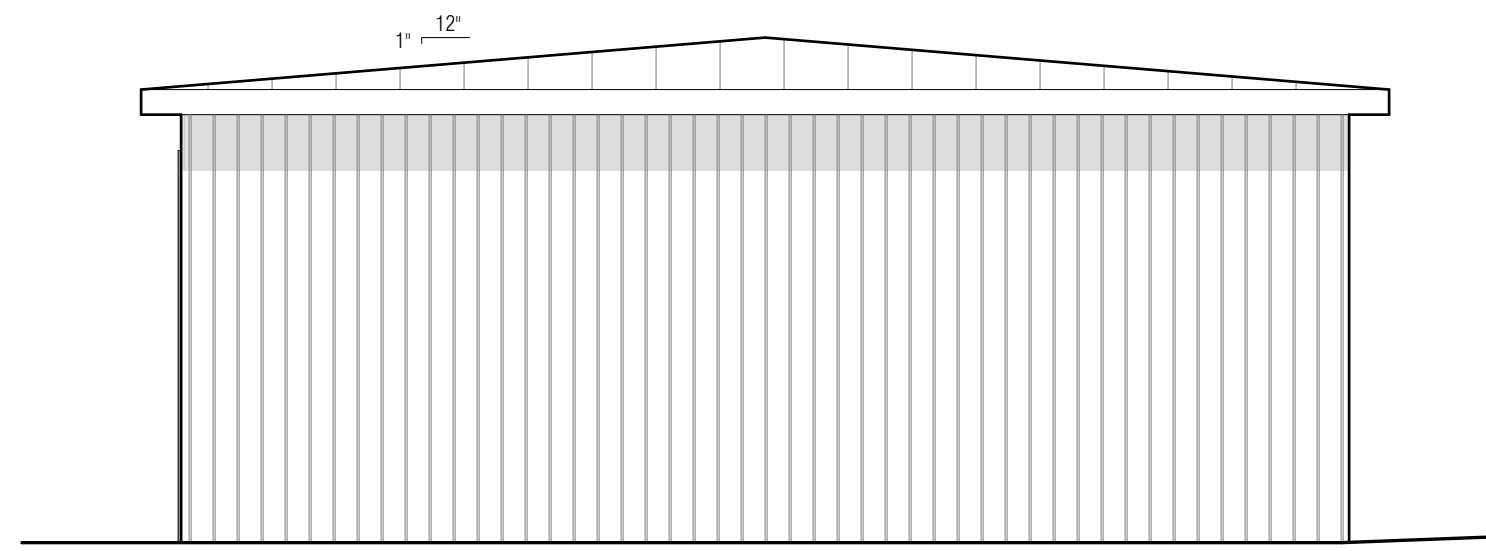
1 M.L. FLOOR PLAN
 SCALE: 1/4" = 1'-0"

NEW MAIN LEVEL
 FLOOR PLAN

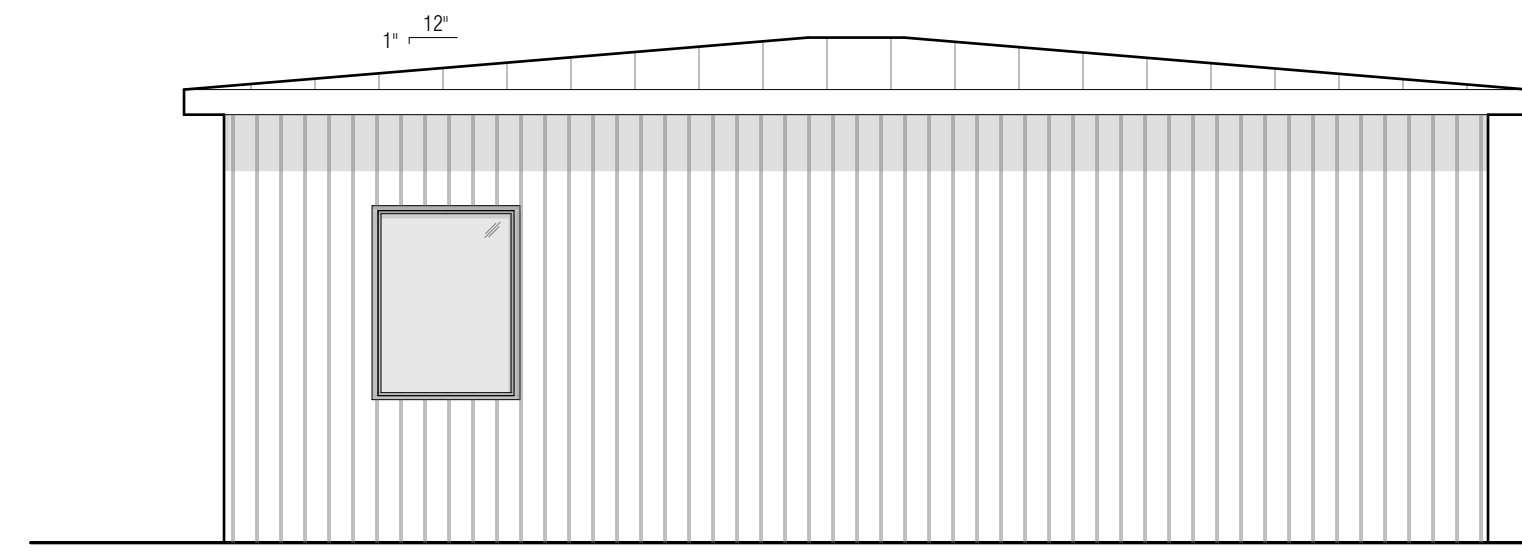
A2.03



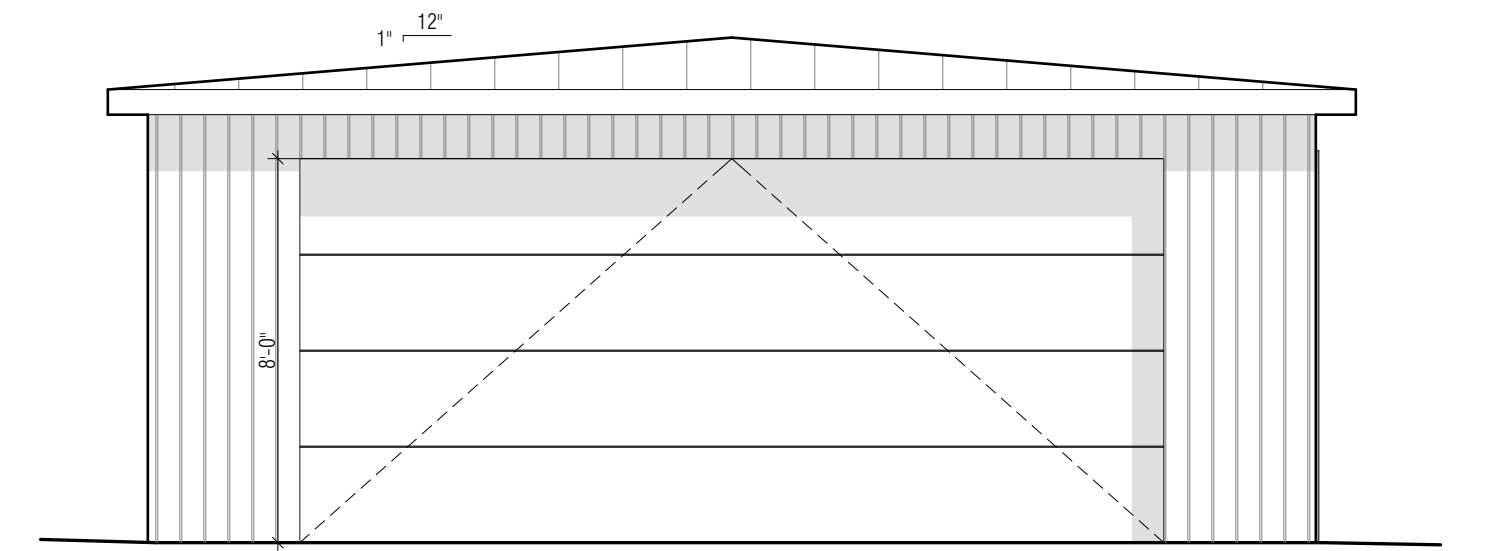
6 EAST ELEVATION
SCALE: 1/4" = 1'-0"



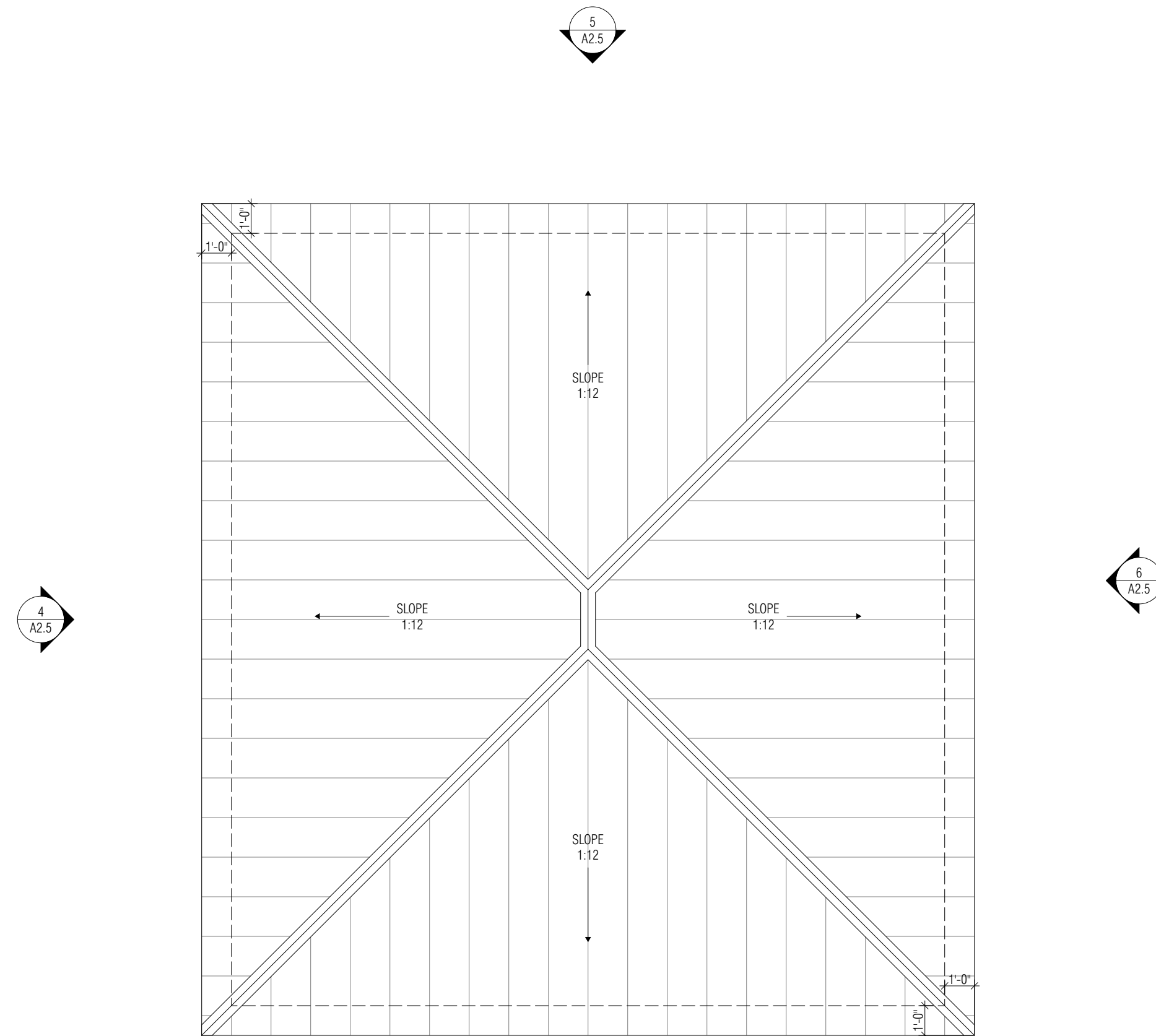
5 NORTH ELEVATION
SCALE: 1/4" = 1'-0"



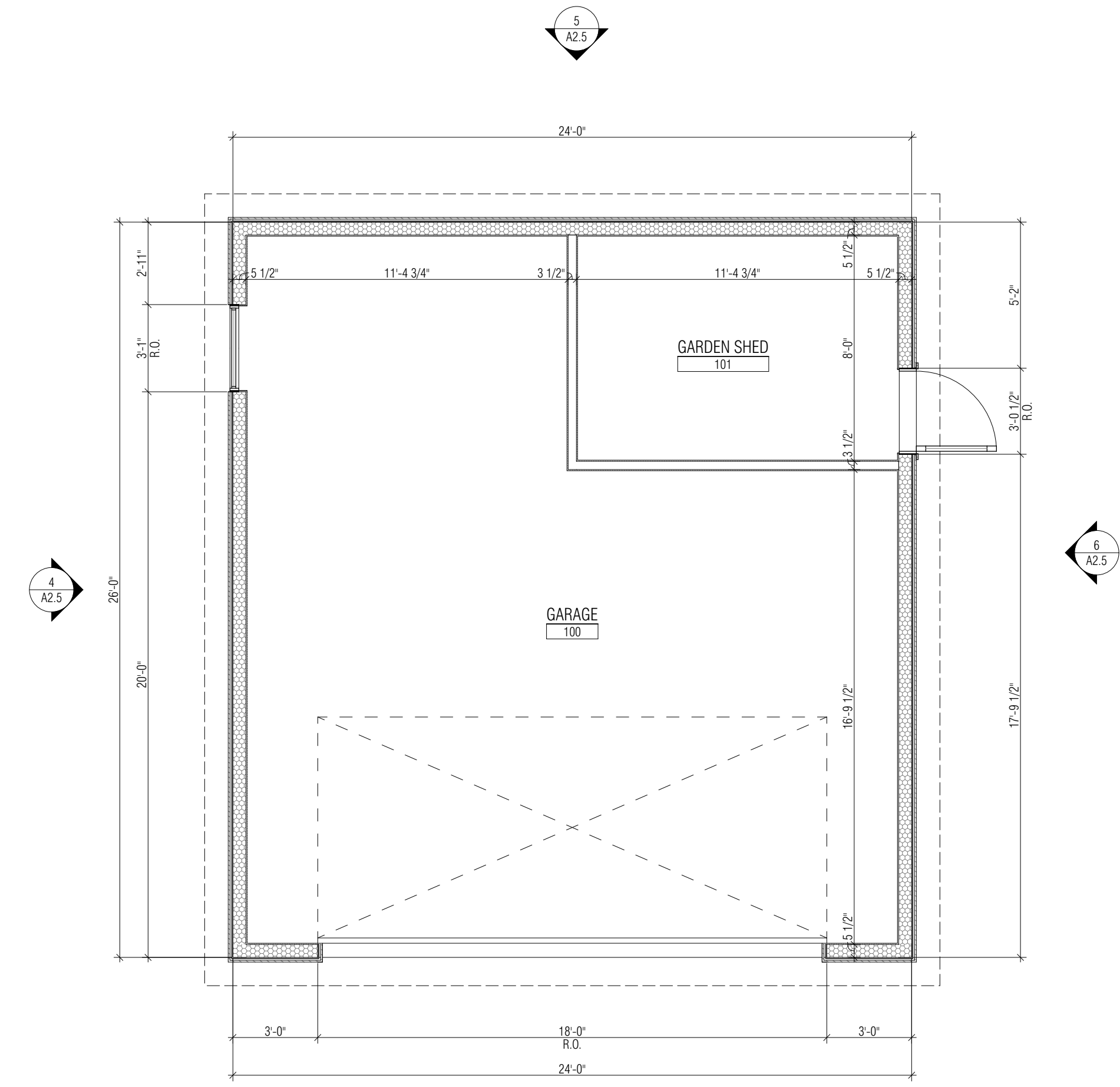
4 WEST ELEVATION
SCALE: 1/4" = 1'-0"



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



2 STORAGE ROOF PLAN
SCALE: 1/4" = 1'-0"



1 STORAGE FLOOR PLAN
SCALE: 1/4" = 1'-0"

HARDING HUEBNER

573 fairview road / suite 1
asheville nc 28803
828.333.9018
www.hardinghuebner.com

Project Name & Address:

Project Name
45 HILLTOP RD.
BILTMORE FOREST, NC
28803

Project Number:
22.01

Issued For:
SD PROGRESS

Issue Date:
11 September 2024

NOT FOR CONSTRUCTION

GARDEN SHED/
GARAGE

A2.5

HENSEMAN
49 HILLTOP ROAD

MAIN HOUSE IS
OBSCURED BY THIS
MAPLE VEGETATION



GARAGE WILL BE
TUCKED BACK HERE
BEHIND THESE TREES











BOARD OF ADJUSTMENT MEETING

STAFF MEMORANDUM

September 23, 2024

CASE 2

Property Address: 417 Vanderbilt Rd
Property Owner: ELLEN & MICHAEL HAINEN
Request: New Construction with Special Use and Variance Request for
Accessory Structures

Background

The property owner has plans for a new residential dwelling. As part of the new construction, they would like to have a retaining wall with an average height of 21 feet and a length of approximately 70 feet in the front yard. They would also like a fire pit that is 18 feet in diameter with an area for seating in the front yard. The application does not meet the requirements set forth in the ordinance for accessory structure location, therefore would require a variance.

Special Use

Section 153.029 (attached) of the Town's Zoning Ordinance regulates accessory structures and buildings which require a special use permit from the Board of Adjustment. Special use findings are covered in section 153.110 (C) (attached) of the Town's Zoning Ordinance.

Variance

The proposed structures do not comply with the placement of the structures within the rear yard and therefore would require a variance. Section 153.110 (D) (attached) addresses the approval requirements for a variance.

Zoning Compliance Application

Town of Biltmore Forest

Name

Jonathan Ball

Property Address

(417) Lot #18 Vanderbilt Road, Biltmore Forest, NC 28803

Phone

(828) 772-0726

Email

jball@carlton-edwards.com

Parcel ID/PIN Number

964656741000000

ZONING INFORMATION

Current Zoning

R-1

Lot Size

1.28 acres

Proposed Roof Coverage Total

5,044 sq ft

Proposed Impervious Surface Coverage

10,806 sq ft

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

30' 1"

Description of the Proposed Project

New construction of a single-family residence.

Estimated Start Date

10/1/2024

Estimated Completion Date

4/1/2026

Estimated Cost of Project

\$3,245,000.00

Supporting Documentation (Site Plan, Drawings, Other Information)

2024-08-21 Hainen zoning permit submittal.pdf

Applicant Signature

Date
8/21/2024

Jonathan Ball

Special Use Permit Application

Town of Biltmore Forest

Name

Jonathan Ball

Address

417 Vanderbilt Rd Lot #18

Phone

(828) 772-0726

Email

jball@carlton-edwards.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:

We are proposing to add 2 "accessory structures". A retaining wall at the guest parking at the front of the property. The retaining wall has an average height of 21". It will be built out of CMU and clad in stone veneer to match the proposed house. The total length of the wall is approximately 70' and will follow the guest parking.

A firepit area will be approximately 18' in diameter. It will contain a 4' diameter fire pit at the center with an area for seating. The ground cover will be decorative gravel.

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

The retaining wall will be minimally visible from the road and will be buffered with giant green arborvitae to minimize visibility from the neighbor. Each of the elements will be discrete and well screened. Due to the natural grade of the property, the existing and new plantings, the elements will be barely visible from the road.

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

Signature

Date
9/6/2024

Jonathan Ball

Have you paid the \$100 special use permit application fee? Your permit application will not be reviewed until payment has been received. You can visit the link below to pay. Copy & paste the link in your browser.

Yes

VARIANCE APPLICATION

Town of Biltmore Forest

Name

Jonathan Ball

Address

417 Vanderbilt Road Lot 18 Biltmore Forest, NC 28803

Phone

(828) 772-0726

Email

jball@carlton-edwards.com

Current Zoning/Use

Residential

Requested Use

Residential

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

What would you like to do with your property?

On behalf of our clients, the Hainens, we would like to build a retaining wall and firepit at the front of the proposed building.

What does the ordinance require?

The ordinance requires a variance application and special use permit be submitted for accessory structures in the front of the building and approval from the Board of Adjustment.

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

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

The retaining wall is needed at the front of the house to help with grading along the driveway and guest parking to limit the amount of disturbance.

My clients are seeking a variance to allow a fire pit in the front yard due to the unique layout and environmental conditions of their property. The rear yard is steeply sloped, limiting its usability and posing safety concerns for outdoor gatherings. Additionally, the forest in the rear is denser, resulting in a greater fire hazard than at the front of the house. Given these constraints, the front yard offers a safer, more accessible location for a fire pit, which is central to my clients' desire for outdoor family activities.

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

The wall is required to manage a few key elements:

The severity of the driveway slope, accessibility, and site disturbance. The wall allows for the driveway to be positioned on the property to minimize the slope to make for a more safe/gentle access to the home.

The property's steep slope and density of trees at the rear of the property pose a safety and accessibility concern for the location of the firepit. Due to these constraints, the front yard presents a safer and more accessible location for the fire pit which is central to my clients' desire for outdoor family activities.

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

The hardship is created due to the natural topography of the site and our desire to limit site disturbance for both the retaining wall and fire pit

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 requested variance for both the fire pit and retaining wall is consistent with the ordinance in that we are requesting permission from the Board of Adjustments. This request does not interfere with the interest of those living in the neighborhood. Both structures will be set back far enough from the road to allow for the planting of an adequate buffer, helping them blend seamlessly with the neighborhood's visual aesthetic.

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

Signature

Date

9/6/2024

Jonathan Ball

Have you paid the \$300 variance application fee? Your permit application will not be reviewed until payment has been received. You can visit the link below to pay. Copy & paste the link in your browser.

Yes

