



COUNTY OF KENOSHA

December 2012

Department of Planning and Development

VARIANCE APPLICATION

Owner: Jason V. Rossi Dec. Trust & Kristen C. Rossi Dec. Trust

Mailing Address: 328 S Cumberland Ave

Park Ridge IL 60068

Phone Number(s): 773-551-6930

RECEIVED
JUL - 9 2021
Kenosha County
Planning and Development

To the Kenosha County Board of Adjustment:

Please take notice that the undersigned was refused a Zoning Permit by the Kenosha County Department of Planning and Development for lands described below for the reason that the application failed to comply with the Kenosha County General Zoning and Shoreland/Floodplain Zoning Ordinance. The owner or assigned agent herewith appeals said refusal and seeks a variance.

Parcel Number: 95-4-119-073-0735 Zoning District: R-3

Property Address: 40131 85th Street Shoreland: Yes

Subdivision: AC Hesings Powers Lake Sub. Lot(s): Pt. 43, 44, Pt. 45 Block: -

Current Use: 2017-built s.f. residence & 1960-built boathouse.

Proposal: To construct a detached garage in the street yard.

REQUIRED BY ORDINANCE		VARIANCE REQUESTED
Section: <u>III.P12.18.4-5(b)</u>	<u>Accessory buildings shall be located in</u>	<u>Street Yard Placement</u>
	<u>the side or rear yard only.</u>	
Section: _____	- _____	_____

Section: _____	- _____	_____

An Area Variance is authorization by the Kenosha County Board of Adjustments to vary one or more of the dimensional or physical requirements of the applicable zoning law, code or ordinance in connection with some proposed construction.

The burden will be on you as property owner to provide information upon which the board may base its decision. At the hearing, any party may appear in person or may be represented by an agent or attorney. You or your agent must convince the zoning board to make a ruling in your favor. The board must make its decision based only on the evidence submitted to it at the time of the hearing. Unless you or your agent is present, the board may not have sufficient evidence to rule in your favor and must then deny your application.

(1) Describe alternatives to your proposal such as other locations, designs and construction techniques. Attach a site map showing alternatives you considered in each category below:

(A) Alternatives you considered that comply with existing standards. If you find such an alternative, you can move forward with this option with a regular permit. If you reject compliant alternatives, provide the reasons you rejected them.

1. Wedging the garage between the existing home and property line.
- Insufficient room to build
2. In the middle of the property
- Septic field is located here, so we cannot build here

(B) Alternatives you considered that require a lesser variance. If you reject such alternatives, provide the reasons you rejected them.

None available.

(2) Will there be an unnecessary hardship to the property owner to strictly comply with the ordinance?

Unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose (leaving the property owner without any use that is permitted for the property) or would render conformity with such restrictions unnecessarily burdensome.

An applicant may not claim unnecessary hardship because of conditions which are self-imposed or created by a prior owner (for example, excavating a pond on a vacant lot and then arguing that there is no suitable location for a home or claiming that they need more outbuilding space than that permitted to store personal belongings). Courts have also determined that economic or financial hardship does not justify a variance. When determining whether unnecessary hardship exists, the property as a whole is considered rather than a portion of the parcel. The property owner bears the burden of proving unnecessary hardship.

N/A

(3) Do unique physical characteristics of your property prevent compliance with the ordinance? If yes, please explain.

Unique physical limitations of the property such as steep slopes or wetlands that are not generally shared by other properties must prevent compliance with the ordinance requirements. The circumstances of an applicant (growing family, need for a larger garage, etc.) are not a factor in deciding variances. Nearby ordinance violations, prior variances or lack of objections from neighbors do not provide a basis for granting a variance.

Unable to build within 75 feet of the lake on the south side of the property

(4) What would be the effect on this property, the community or neighborhood and the public interest if the variance was granted? How can these impacts be mitigated.

These interests are listed as objectives in the purpose statement of an ordinance and may include: drainage, visual impact, and fire safety and building code requirements.

Many homes on Powers Lake' north side have separate garages in their front yards with a normal 30 foot setback from the road

The undersigned hereby attests that the above stated information is true and accurate and further gives permission to Planning & Development staff and Board of Adjustment members to view the premises, in relation to the Appeal request made herein, during reasonable daylight hours.

Owners Signature: 

Agent:  Signature: 

Agents Address: _____

Phone Number(s): 773-551-6930



COUNTY OF KENOSHA

Department of Planning & Development

19600 75th Street, Suite 185-3
Bristol, WI 53104-9772
Phone: (262) 857-1895
Fax: (262) 857-1920

ZONING PERMIT APPLICATION

1. What is the Property Address (must include house number) or Tax Key Parcel Number?

2. Who owns the subject property (property owner)?

Property Owner Name: Jason V. Rossi Dec. Trust & Kristen C. Rossi Dec. Trust

Property Owner Mailing Address: 328 S Cumberland Ave, Park Ridge IL 60068

Property Owner Phone Number: 773-551-6930

Property Owner Email Address: jvrossi51@gmail.com

3. Who is applying for and will be signing for this permit (applicant)?

Applicant Name: Jason Rossi

Applicant Mailing Address: 328 S Cumberland Ave, Park Ridge IL 60068

Applicant Phone Number: 773-551-6930

Applicant Email Address: jvrossi51@gmail.com

4. Who is constructing the proposed structures (contractor)?

Contractor Name: John Matustik Builders

Contractor Mailing Address: 672 W. Main St #533 Lake Geneva, WI 53147

Contractor Phone Number: 888.840.9947

Contractor Email Address: info@matustikbuilders.com

5. What is it you are proposing to construct?

You can apply for up to four separate structures on this permit application.

STRUCTURE DESCRIPTION	TYPE OF CONSTRUCTION	SIZE (FENCE) (L' @ H')	SIZE (BLDG.) (L' x W')	AREA (sq. feet)	HEIGHT (feet)	# OF STORIES
Accessory Structure	Wood Frame		29' x 40'	1160	18	2

6. This section is only applicable for properties within the unincorporated townships of Kenosha County (townships of Brighton, Paris, Randall, Somers & Wheatland).

If you are proposing to construct a principal building such as a new residence or new commercial building, an addition thereto, or a detached accessory building >150 sq. ft. in area, it is required that a professional surveyor be hired to complete a foundation survey of the property after the foundation is installed for the permitted building and submit said survey document to this office in order to prove that the proposed building has been constructed in the correct location and meets setback requirements.

This section is not applicable for sheds ≤150 sq. ft. in area or other accessory structures such as decks, fences and pools.

I anticipate that a foundation survey will be submitted to this office no later than TBD (insert date).

We understand this deadline needs to be flexible due to reasons such as weather, construction delays, etc., however a due date later than 18 months from the date of permit issuance will not be accepted. If a foundation survey is not received by the anticipated

due date, the property owner will receive an automated letter notifying them of past due status. If a mutually agreed revised due date is not set, and a foundation survey is not submitted, violation and enforcement will proceed.

7. This section is only applicable for properties within the Village of Somers.

If you are proposing to construct a principal building such as a new residence or new commercial building, it is required that a [professional surveyor](#) be hired to complete a foundation survey of the property after the foundation is installed for the permitted building and submit said survey document to this office in order to prove that the proposed building has been constructed in the correct location and meets setback requirements.

I anticipate that a foundation survey will be submitted to this office no later than _____ (insert date).

If you are proposing to construct a residential or commercial building addition or detached accessory building >150 sq. ft. in area you have the option to hire a [professional surveyor](#) to complete a foundation survey of the property after the foundation is installed for the permitted building and submit said survey document to this office in order to prove that the proposed building has been constructed in the correct location and meets setback requirements.

Alternatively, the property owner may sign a waiver of liability of foundation survey waiving their obligation to have to hire a professional surveyor at this time, stating that they will build the structure according to code and that if the structure is ever found to violate the code requirements they agree to comply with said ordinance by removal of and relocation of said structure and pay all associated and consequent costs and damages. This waiver document is a legal document that is recorded against the property title in the Register of Deeds. *In the future a lending agency (such as a bank) or a prospective buyer of the property may require that said waiver be released prior to commencing with a loan or sale transaction. To do so, a plat of survey will need to be completed by a professional surveyor showing the location of the permitted structure. If said structure is found by this department to be constructed in the correct location and meets setback requirements, then a release of waiver document will be prepared at the cost of 20.00-dollars to the applicant and issued to the property owner or real estate agent so that it can be recorded with the Register of Deeds, thereby effectively releasing the original waiver of liability document.*

Choose one of the following options:

I anticipate that a foundation survey will be submitted to this office no later than _____ (insert date).

or

I anticipate that the property owner will visit Planning & Development to have their signature notarized (driver's license required) and pay for the recordation of a waiver of liability document in the form of 30.00-dollars cash or check payable to the "Register of Deeds" no later than _____ (insert date).

8. Does your project involve the placement of any fill material on the subject property such as dirt, gravel, landscape timbers, rock, shoreline protection material, etc....?

If so, what type of material and how much?

IF ISSUED, THIS ZONING PERMIT IS ISSUED SUBJECT TO:

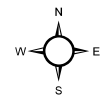
1. ANY FEDERAL, STATE OR LOCAL RESTRICTIONS AND/OR DEED RESTRICTIONS.
2. EACH APPLICANT FOR A ZONING PERMIT IS CHARGED WITH KNOWLEDGE OF THE MUNICIPAL ZONING ORDINANCE. COPIES OF THE TEXT OF THIS OR PORTIONS THEREOF AND COPIES OF THE OFFICIAL ZONING MAPS ARE AVAILABLE FOR SALE, COPYING OR INSPECTION UPON REQUEST. ANY STATEMENT MADE, SITE PLAN SUBMITTED, ASSURANCE GIVEN OR PERMIT ERRONEOUSLY ISSUED CONTRARY TO THIS ORDINANCE IS NULL AND VOID.
3. THIS PERMIT SHALL EXPIRE EIGHTEEN (18) MONTHS FROM DATE OF ISSUANCE.
4. ANY ADDITIONAL CONDITIONS WRITTEN BY THE ZONING ADMINISTRATOR ISSUING THE ZONING PERMIT.

NOTICE: YOU ARE RESPONSIBLE FOR COMPLYING WITH STATE AND FEDERAL LAWS CONCERNING CONSTRUCTION NEAR OR ON WETLANDS, LAKES, AND STREAMS. WETLANDS THAT ARE NOT ASSOCIATED WITH OPEN WATER CAN BE DIFFICULT TO IDENTIFY. FAILURE TO COMPLY MAY RESULT IN REMOVAL OR MODIFICATION OF CONSTRUCTION THAT VIOLATES THE LAW OR OTHER PENALTIES OR COSTS. FOR MORE INFORMATION, VISIT THE DEPARTMENT OF NATURAL RESOURCES WETLANDS IDENTIFICATION WEB PAGE <http://dnr.wi.gov/topic/wetlands/locating.html> OR CONTACT A DEPARTMENT OF NATURAL RESOURCES SERVICE CENTER (262) 884-2300.

Kenosha County



SUBJECT
PROPERTY



1 inch = 100 feet

THIS MAP IS NEITHER A LEGALLY RECORDED MAP NOR A SURVEY AND IS NOT INTENDED TO BE USED AS ONE. THIS DRAWING IS A COMPILATION OF RECORDS, DATA AND INFORMATION LOCATED IN VARIOUS STATE, COUNTY AND MUNICIPAL OFFICES AND OTHER SOURCES AFFECTING THE AREA SHOWN AND IS TO BE USED FOR REFERENCE PURPOSES ONLY. KENOSHA COUNTY IS NOT RESPONSIBLE FOR ANY INACCURACIES HEREIN CONTAINED. IF DISCREPANCIES ARE FOUND, PLEASE CONTACT KENOSHA COUNTY.

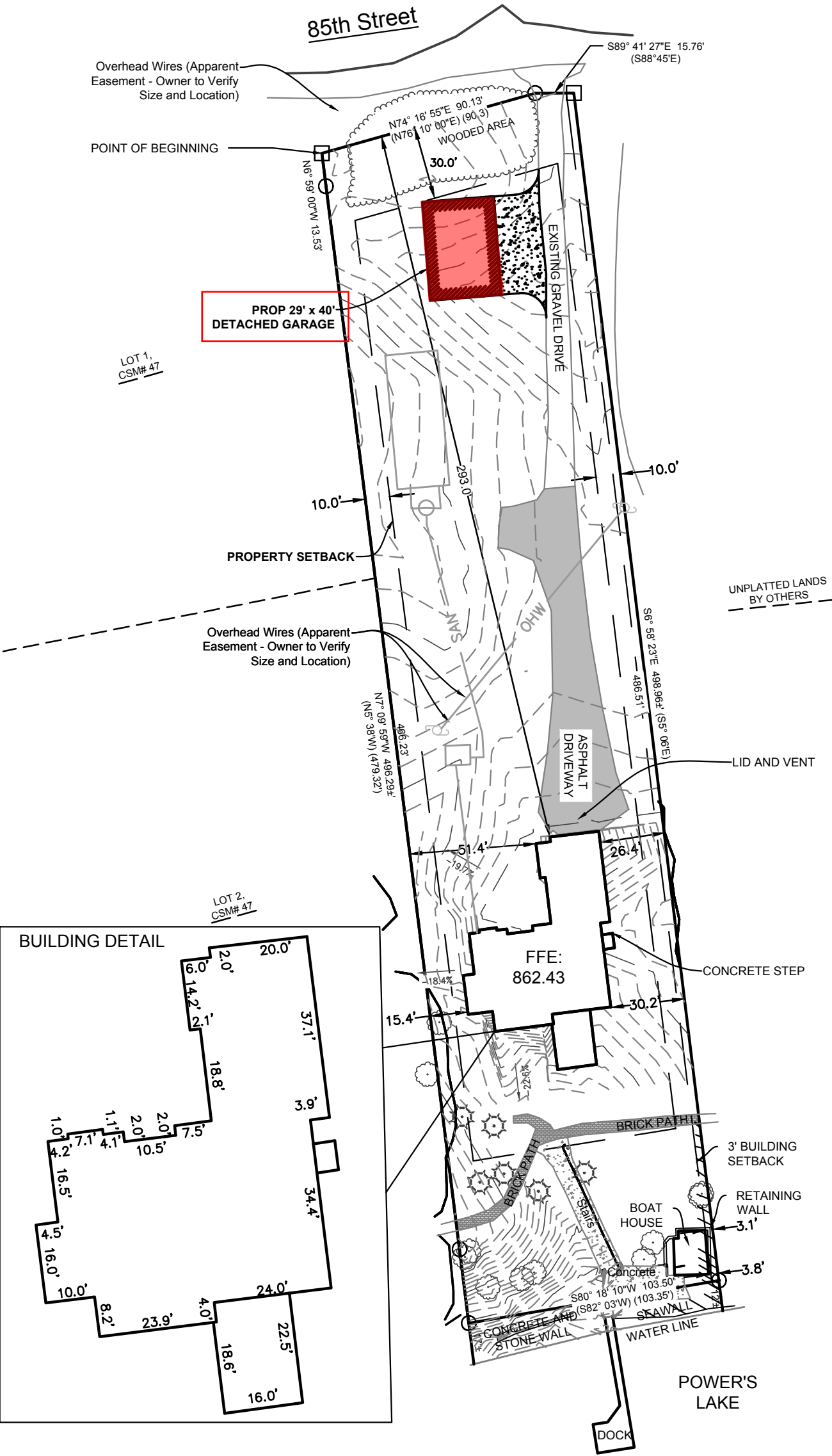


February 8, 2021
LOCATION: 40131 85th Street Genoa City, Wisconsin
PREPARED FOR: Matustik Builders
LEGAL DESCRIPTION:

PART OF LOT 43, ALL OF LOTS 44 AND PART OF 45 OF A. C. HESING'S POWERS LAKE SUBDIVISION. A SUBDIVISION OF RECORD IN WISCONSIN, AND BEING A PART OF THE SOUTHWEST QUARTER OF SECTION 7 AND THE NORTHWEST QUARTER OF SECTION 18, TOWNSHIP 1 NORTH, RANGE 19 EAST OF THE FOURTH PRINCIPAL MERIDIAN, LYING AND BEING IN THE TOWNS OF WHEATLAND AND RANDALL, KENOSHA COUNTY, WISCONSIN, AND BEING MORE PARTICULARLY DESCRIBED AS: BEGINNING AT THE INTERSECTION OF THE EAST LINE OF LOT 1 OF CERTIFIED SURVEY MAP NUMBER 47 AND THE SOUTHERLY LINE OF 85TH STREET; THENCE N74°16'55"E ALONG SAID SOUTHERLY LINE, 90.13 FEET; THENCE CONTINUING ALONG SAID SOUTHERLY LINE, S89°41'27"E, 15.76 FEET; THENCE S6°58'23"E, 498.96 FEET, MORE OR LESS, TO THE SHORELINE OF POWERS LAKE; THENCE SOUTHWESTERLY ALONG SAID SHORELINE TO THE EAST LINE OF CSM 47 AND A POINT WHICH LIES S7°09'59"E OF THE POINT OF BEGINNING; THENCE N7°09'59"W, ALONG THE EAST LINE OF CSM SAID 47, 496.29 FEET, MORE OR LESS, TO THE POINT OF BEGINNING. SAID LANDS CONTAIN 51,900 SQUARE FEET / 1.190 ACRES, MORE OR LESS.

PERMIT PLAT

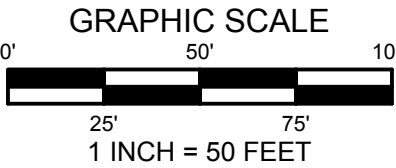
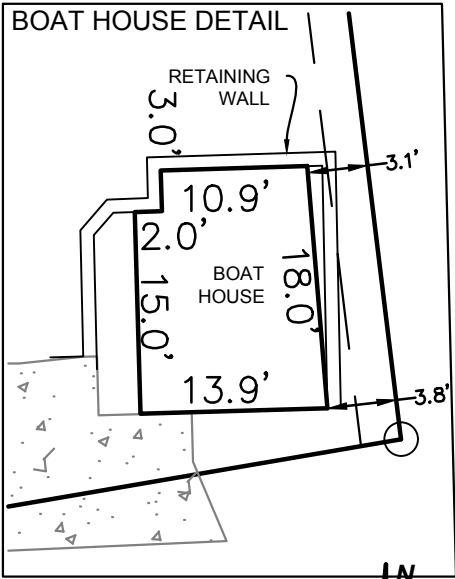
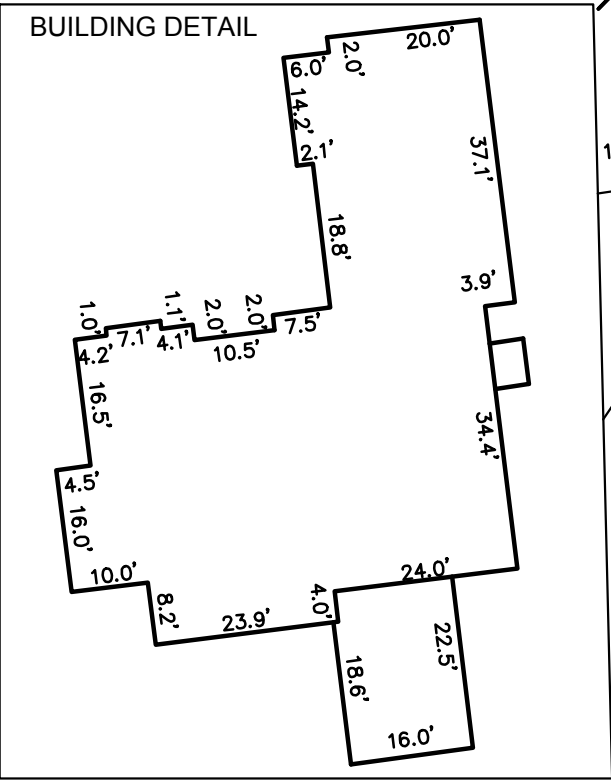
Survey No. 17.5084



LEGEND

- 1" Iron Pipe - Found
- 3/4" Iron Bar - Found
- Set 5/8" Iron Bar with Cap
- Power Pole
- Telephone Pedestal
- Cable TV Pedestal
- Transformer
- Curb stop
- Manhole
- Mailbox
- (xxx) "Recorded As" data

BEARINGS BASED ON THE SOUTH LINE OF 85TH ST., ASSUMED TO BEAR N74° 16' 55"E.



I have surveyed the above-described property and the above map is a true representation thereof and shows the size and location of the property, its exterior boundaries, the location and dimensions of all structures thereon, fences, apparent easements and roadways, and visible encroachments, if any.

No title commitment or results of a title search were provided to this office pertaining to this survey. This Plat Of Survey may not reflect easements of record, encumbrances, restrictions, ownership, title evidence, or other facts that a current and accurate title search may disclose.

This survey is made for the exclusive use of the present owners of the property, and also those who purchase, mortgage, or insure the title thereto within one (1) year from date hereof; and as to them I warrant the accuracy of said survey map.

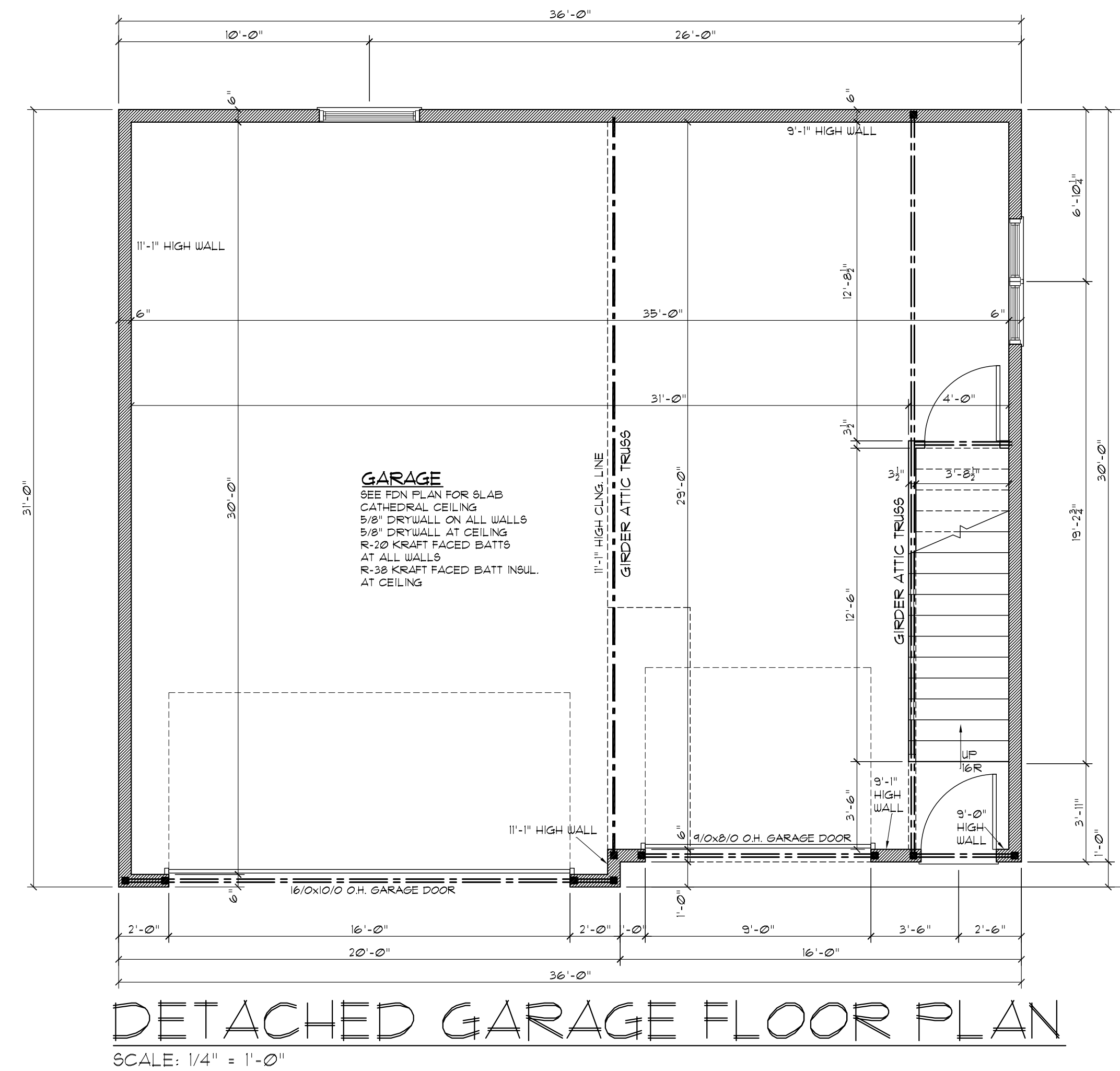
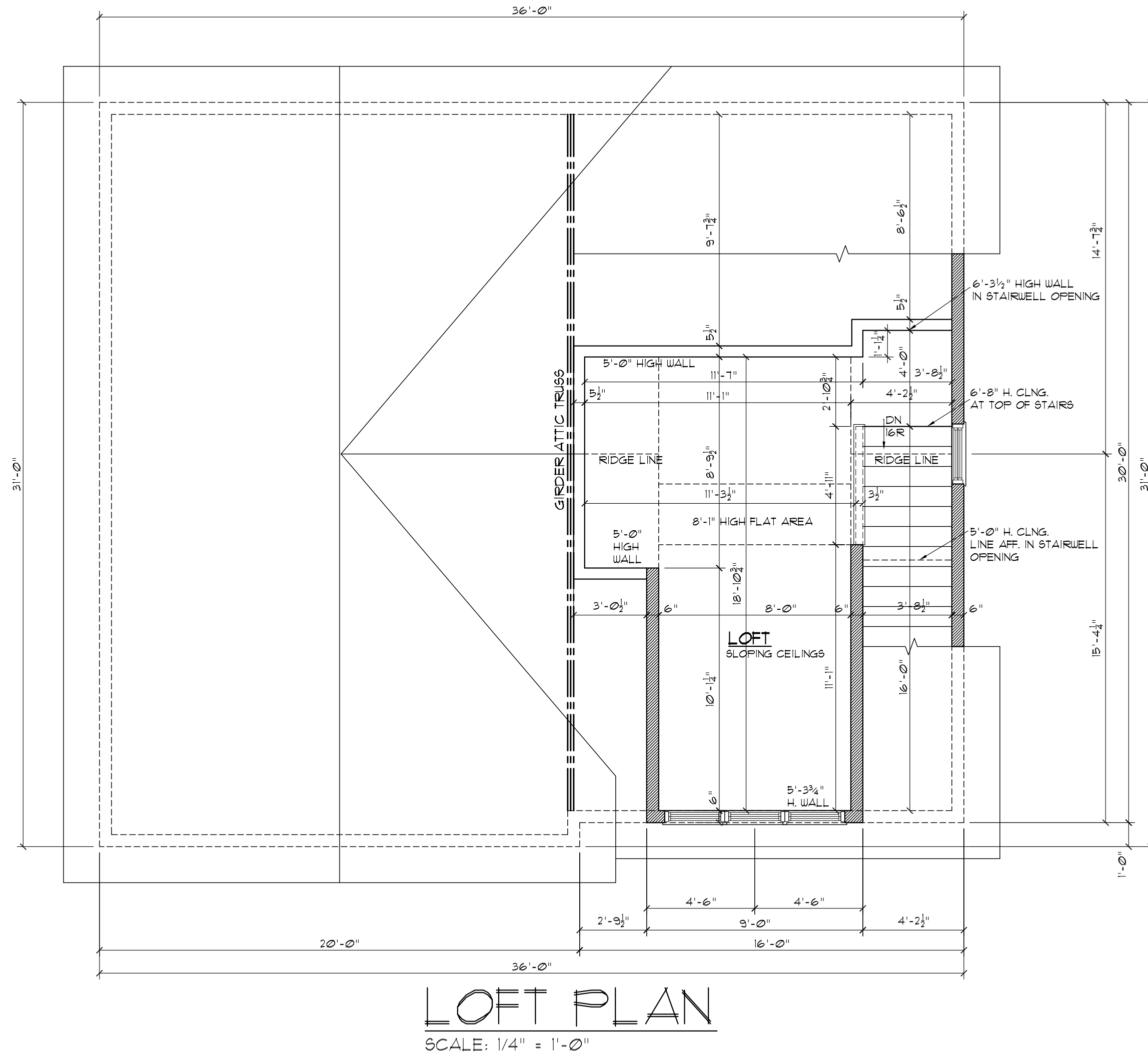
LYNCH & ASSOCIATES
ENGINEERING CONSULTANTS, LLC

5482 S. WESTRIDGE DRIVE
NEW BERLIN, WI 53151
(262) 402-5040

440 MILWAUKEE AVENUE
BURLINGTON, WI 53185
(262) 248-3697

DRAWING BY: BEN
FIELD WORK BY: LG

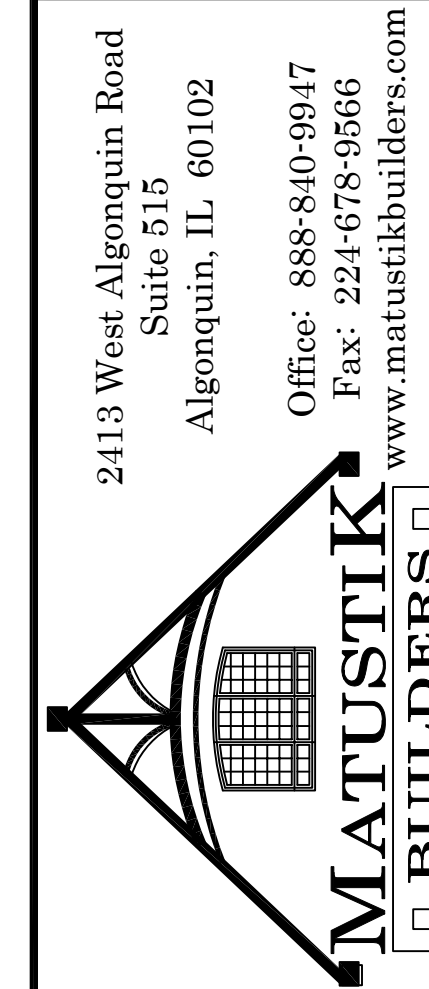
**PROPOSED BUILDING
FOOTPRINT WILL BE 29' X
40' OR SMALLER PER SITE
PLAN. THESE
ARCHITECTURAL
RENDERINGS ARE FOR
CONCEPT ONLY -
DISREGARD BUILDING
FOOTPRINTS ON PAGES A1
& A2.**




© COPYRIGHT 2021 MIDWEST DESIGN GROUP

[illegible]X-ROSSI
GARAGE.dwg

DETACHED GARAGE:
THE ROSSI RESIDENCE
40131 85th STREET
GENOA CITY, WI



2413 West Algonquin Road
Suite 515
Algonquin, IL 60102

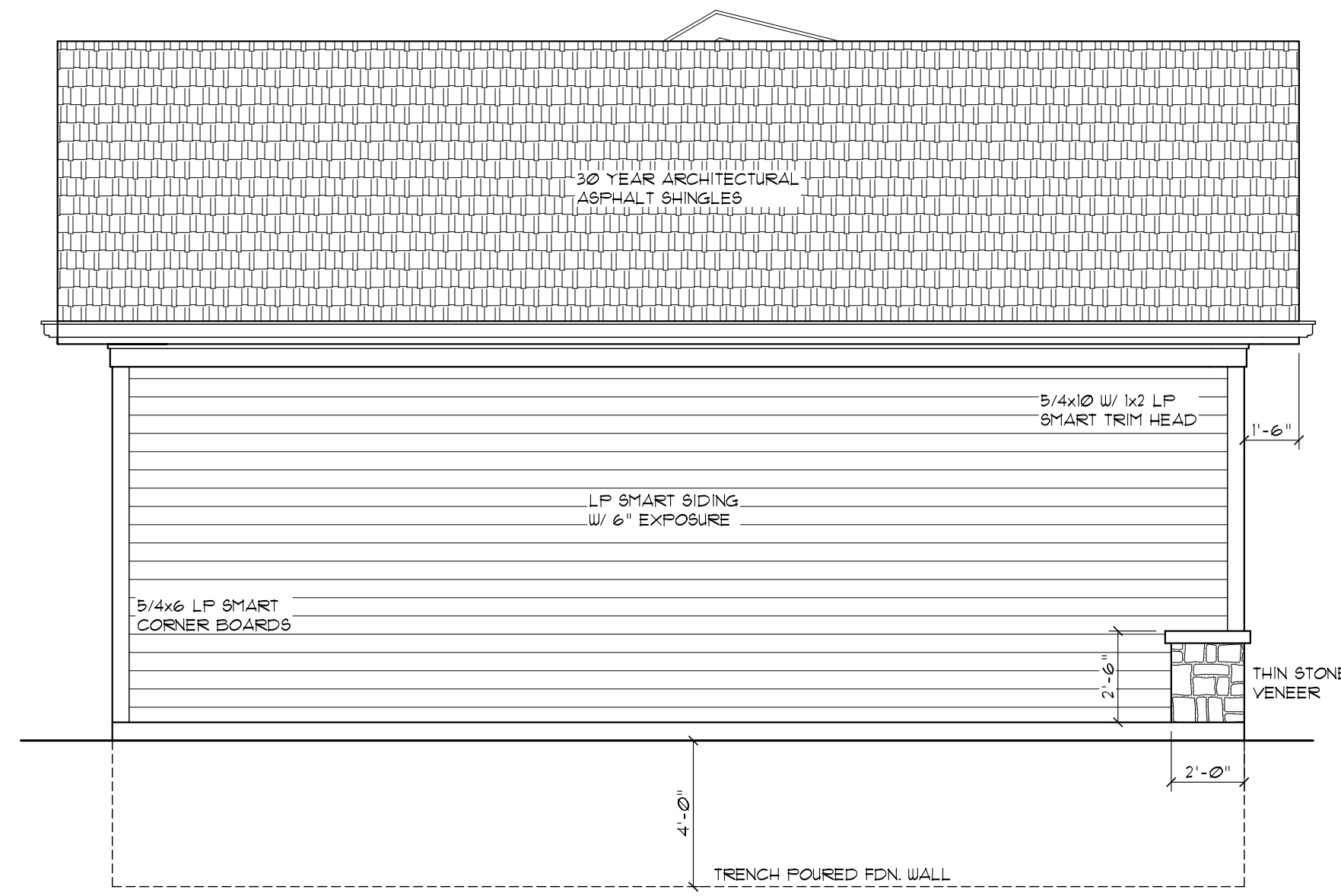
Office: 888-840-9947
Fax: 224-678-9566
 www.matustikbuilders.com

DESIGNERS
HUNTLEY, IL. 60142
OFFICE: 224-800-3030
EMAIL: ADAM.MDG@GMAIL.COM
PROFESSIONAL DESIGN FIRM
LICENSE# 184-004261

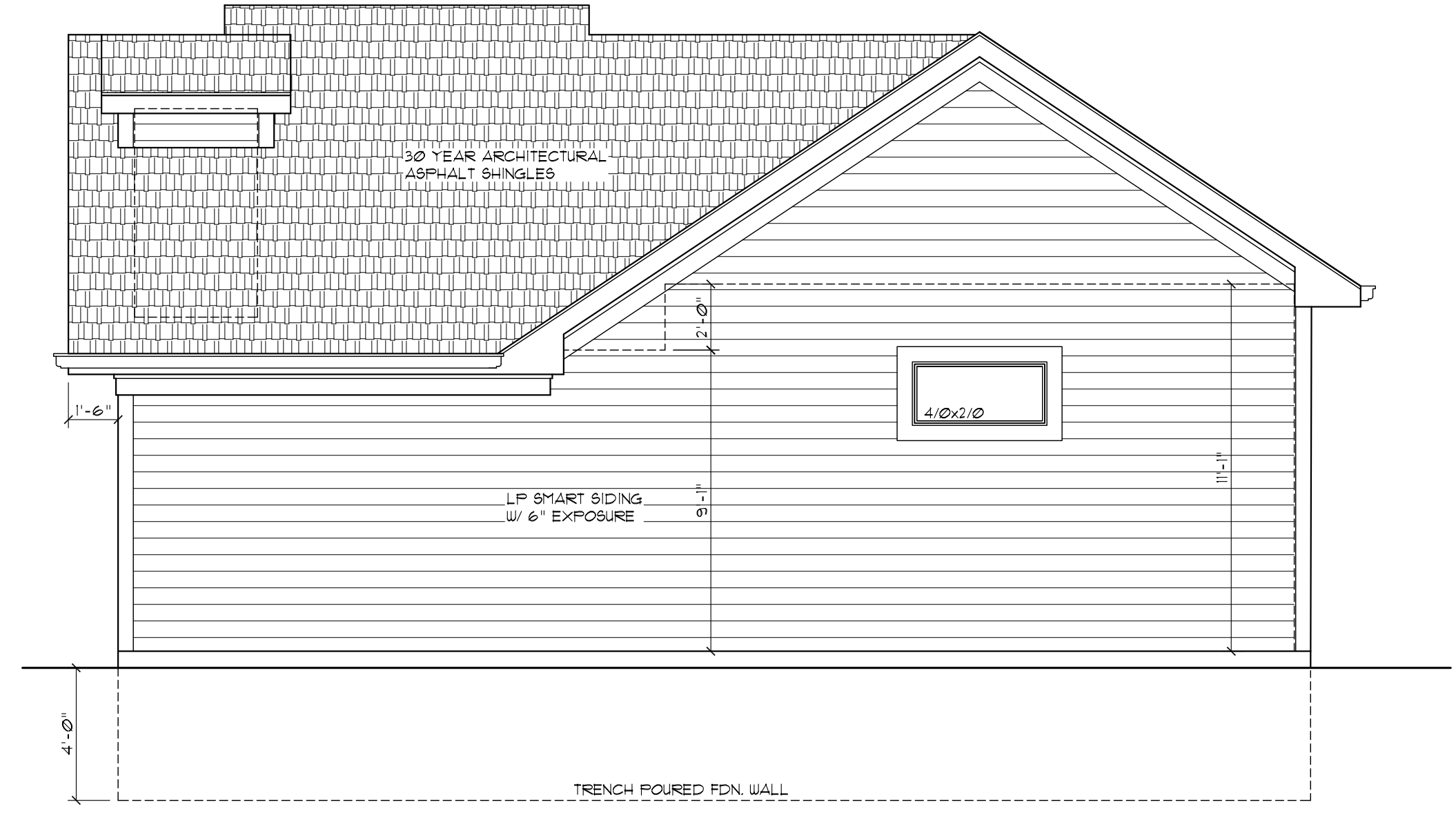


MIDWEST
DESIGN
GROUP

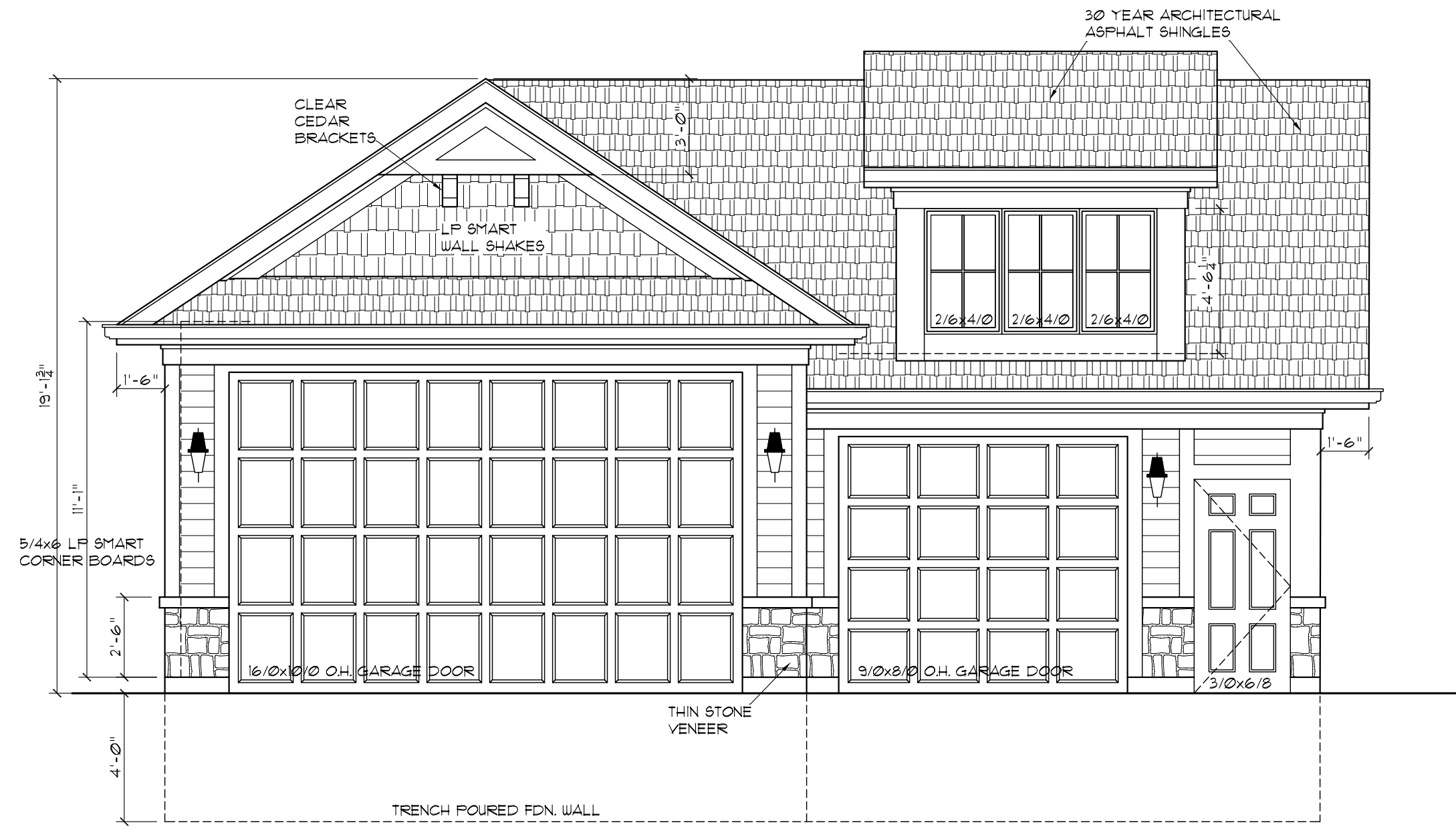
PROPOSED BUILDING
FOOTPRINT WILL BE 29' X
40' OR SMALLER PER SITE
PLAN. THESE
ARCHITECTURAL
RENDERINGS ARE FOR
CONCEPT ONLY -
DISREGARD BUILDING
FOOTPRINTS ON PAGES A1
& A2.



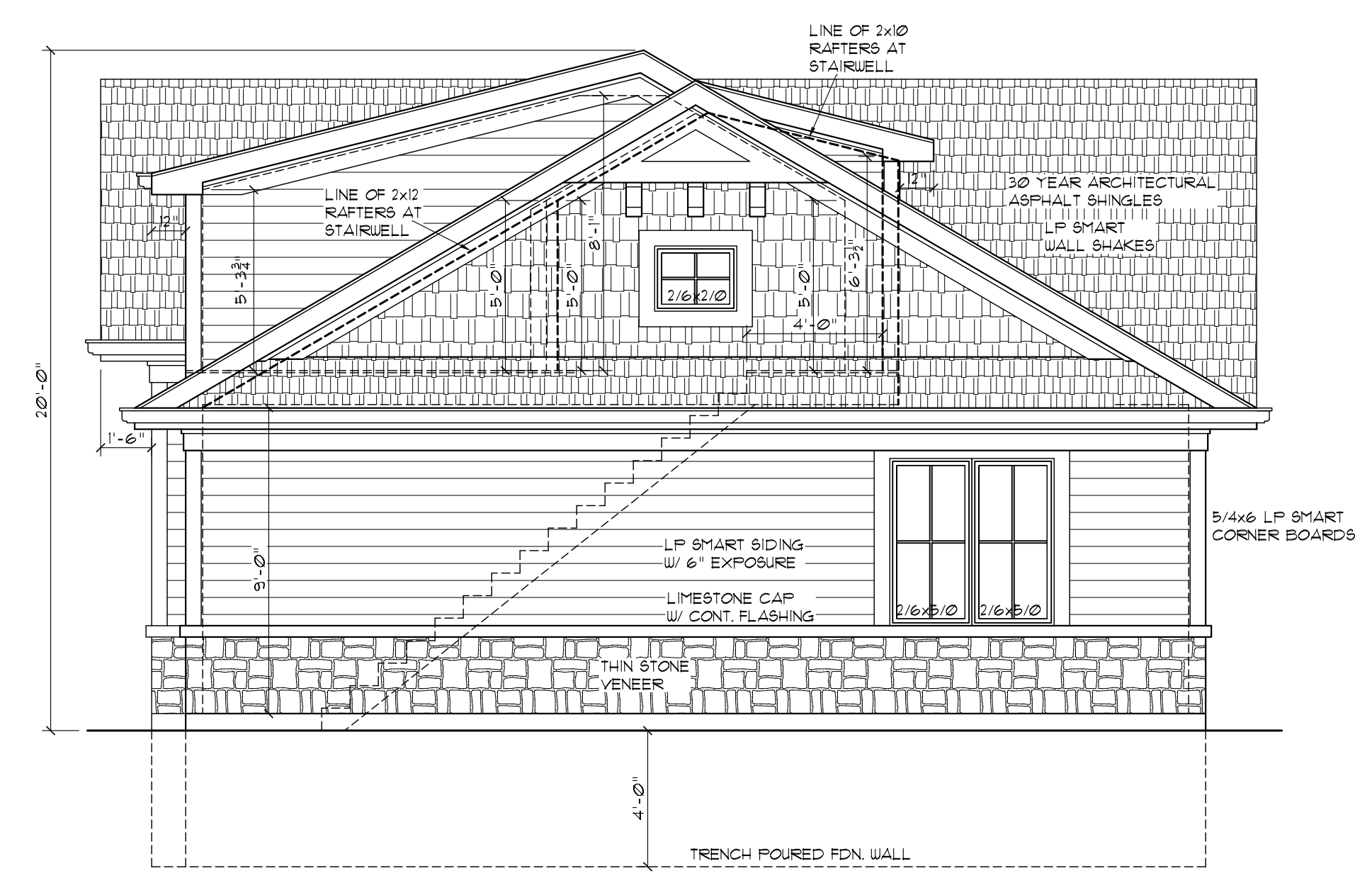
DETACHED GARAGE
REAR ELEVATION
SCALE: 1/4" = 1'-0"



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



DETACHED LEFT RIGHT ELEVATION
SCALE: 1/4" = 1'-0"

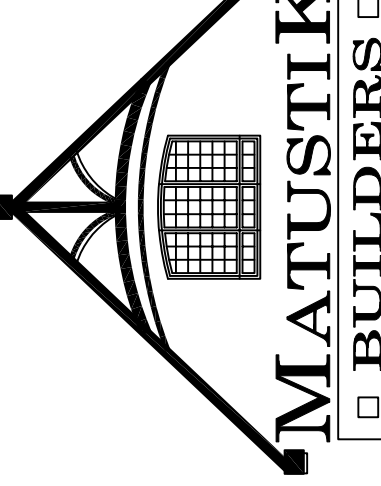


DETACHED GARAGE
FRONT ELEVATION
SCALE: 1/4" = 1'-0"



DESIGNERS
HUNTLEY, IL 60142
OFFICE: 224-800-3030
EMAIL: ADAM.MDG@GMAIL.COM
PROFESSIONAL DESIGN FIRM
LICENSE# 184-004261

2413 West Algonquin Road
Suite 515
Algonquin, IL 60102
Office: 888-840-9947
Fax: 224-678-9566
www.matustikbuilders.com



DETACHED GARAGE:
THE ROSSI RESIDENCE
40131 85th STREET
GENOA CITY, WI.

DATE	REV#	DESCRIPTION OF REVISION
4-12-21	1	PRELIMINARY PLAN FOR REVIEW
4-21-21	2	REVISED PRELIMINARY PLANS

BOARD OF ADJUSTMENTS SCHEDULE FOR 2021 PUBLIC HEARINGS

*Third Thursday of each month at 6:00 p.m.
Kenosha County Center, 19600 75th Street, Bristol, Wisconsin
Conference Room A (unless published otherwise)*

*This schedule includes all areas under general zoning regulations in the following townships:
BRIGHTON, PARIS, RANDALL, SOMERS, WHEATLAND*

HEARING DATES

<u>JANUARY 21</u>	Filing Date: December 21 Published: Jan. 8 & Jan. 13	<u>JULY 15</u>	Filing Date: June 15 Published: July 2 & July 7
<u>FEBRUARY 18</u>	Filing Date: January 18 Published: Feb. 5 & Feb. 10	<u>AUGUST 19</u>	Filing Date: July 19 Published: Aug. 6 & Aug. 11
<u>MARCH 18</u>	Filing Date: February 18 Published: March 5 & March 10	<u>SEPTEMBER 16</u>	Filing Date: August 16 Published: Sept. 3 & Sept. 8
<u>APRIL 15</u>	Filing Date: March 15 Published: April 2 & April 7	<u>OCTOBER 21</u>	Filing Date: September 21 Published: Oct. 8 & Oct. 13
<u>MAY 20</u>	Filing Date: April 20 Published: May 7 & May 12	<u>NOVEMBER 18</u>	Filing Date: October 18 Published: Nov. 5 & Nov. 10
<u>JUNE 17</u>	Filing Date: May 17 Published: June 4 & June 9	<u>DECEMBER 16</u>	Filing Date: November 16 Published: Dec. 3 & Dec. 8

CHAPTER 12, KENOSHA COUNTY GENERAL ZONING AND SHORELAND/FLOODPLAIN ZONING ORDINANCE STATES:

12.06-4 LEGAL NOTICE REQUIREMENTS AND TIME LIMITS: Any petition or other matter requiring the publication of a legal notice must be submitted at least one month prior to the requested hearing date as scheduled by the Planning, Development & Extension Education Committee or Board of Adjustments. For purposes on this section, "one month prior to the requested hearing date" shall be defined to mean not later than 4:30 p.m. on the same calendar date of the month preceding the scheduled hearing, or the last day county offices are open prior to the aforementioned deadline. For purposes of the Open Meetings Law, the Planning and Development Administrator shall be delegated the responsibility of informing the county clerk of both scheduled open and closed meetings so that proper notices may be given.



COUNTY OF KENOSHA

Department of Planning and Development

VARIANCE PROCEDURES BEFORE THE BOARD OF ADJUSTMENTS

- ☐ 1. Contact the Department of Planning & Development and set an appointment. Bring the following for your pre-application meeting.
- ☐ 2. Complete a Zoning Permit Application at the Department of Planning & Development.
- ☐ 3. Complete a Variance Application.
 - ☐ A. A copy of your Tax Bill or a copy of the recorded Deed of Transfer if you have owned the property for less than a month. (This is to provide proof of ownership) If you are in the process of purchasing the property you need to provide a signed and accepted purchase agreement or if you are a realtor or contractor, a letter from the current owner granting you agent status to act on their behalf.
 - ☐ B. A Survey of the property with the following information provided. **NOTE:** The Board of Adjustments strongly advises that for any new residential construction an area for a detached or attached garage should be shown for present or future construction.
 - ☐ ❖ Size and location of all existing structures on the property and their distances from property lines -- (street yard setback should be taken from the edge of the road right of way).
 - ☐ ❖ Location and dimensions of the proposed structure(s) or where the addition is to be placed on an existing structure.
 - ☐ ❖ Show what the resulting setbacks will be for proposed structure.
 - ☐ ❖ Location of the well and on-site waste disposal system -- (septic systems must show both the septic tank size and dimensions of the field).
 - ☐ C. A filing fee of \$550 (non-refundable) is required at application time to cover the costs of publishing.
- ☐ 4. Submit the above information by the filing deadline (see Board of Adjustment Schedule handout) with the Department of Planning and Development.
- ☐ 5. Submit the above information to your local Township for placement on the agenda of the Town Planning Commission and/or the Town Board.
- ☐ 6. Your first meeting will be with the Town Planning Commission, except for the Town of Wheatland. The Town of Somers has a Board of Appeals. **NOTE:** You must attend or the Commission/Board will not be able to act on your request.

**VARIANCE PROCEDURES &
PUBLIC HEARING VARIANCE STANDARDS**

- ☐ **7.** Your second meeting will be with the Town Board. **NOTE:** You must attend or the Board will not be able to act on your request.

- ☐ **8.** Your third meeting will be with the County Board of Adjustments. **NOTE:** You must attend or the Board of Adjustments will not be able to act on your request. At this meeting you will be asked to brief the Board on your request for a variance and state your reasons for hardship (see Public Hearing Variance Standards handout).

- ☐ **9.** If the Board of Adjustments grants your variance request you may obtain your Zoning Permit from the Office of Planning and Development the day after the meeting. The permit will be issued if all requirements from this office have been addressed, including sanitation, if you are the current owner of the property, and subject to signing the Statement of Appeal Process (see attached handout). If you do not sign the Statement of Appeal Process you will need to wait 30 days from the date of approval before the zoning permit can be issued. PLEASE NOTE, THAT ACCORDING TO SECTION VII.B.12.36-15(c) VARIANCES GRANTED BY THE B.O.A. SHALL EXPIRE WITHIN SIX (6) MONTHS FROM THE DATE OF APPROVAL, UNLESS A ZONING PERMIT HAS BEEN ISSUED AND "SUBSTANTIAL CONSTRUCTION" – THE VALUE OF SUCH WORK THAT HAS COMMENDED EQUIVALENT TO 25% OF THE PROJECTED COST OF THE PROJECT AS NOTED ON THE APPLICATION FOR THE ZONING PERMIT, HAS COMMENCED.

- ☐ **10.** Follow the Permitting Process for New Construction or for Additions to Existing Structures, Accessory Structures, Decks, Pools, and/or Fences (see handout).

- ☐ **11.** If the Board of Adjustments denies your variance you have thirty (30) days to file an appeal with circuit court (see Statement of Appeal Process handout).

IMPORTANT TELEPHONE NUMBERS

Kenosha County Center	
Department of Planning & Development	
19600 - 75 th Street, Post Office Box 520	
Bristol, Wisconsin 53104-0520	
Division of County Development (including Sanitation & Land Conservation)	857-1895
Facsimile #.....	857-1920
Public Works Division of Highways.....	857-1870
Administration Building	
Division of Land Information	653-2622
Brighton, Town of.....	878-2218
Paris, Town of	859-3006
Randall, Town of	877-2165
Salem, Town of	843-2313
Utility District	862-2371
Somers Town of	859-2822
Wheatland, Town of	537-4340
Wisconsin Department of Natural Resources - Sturtevant Office	884-2300
Wisconsin Department of Transportation - Waukesha Office	548-8722

PUBLIC HEARING VARIANCE STANDARDS

- ❑ YOUR PUBLIC HEARING WILL BE BASED ON THE FOLLOWING STANDARDS FROM THE KENOSHA COUNTY GENERAL ZONING AND SHORELAND/FLOODPLAIN ZONING ORDINANCE.

CHAPTER 12.36-1 **INTENT**

- ❑ It is the intent of this section of the Ordinance to recognize that under certain conditions and circumstances, it may be necessary to obtain a variance from the terms of this Ordinance so long as said variance will not be contrary to the public interest, and where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship or practical difficulties and where the granting of such variance will uphold the spirit of this Ordinance and contribute to the justice of the particular case in question. Any variance granted under the terms of this ordinance shall, however, relate only to area requirements and not to use. Furthermore, it is the intent of this section to establish a Board of Adjustments for the purpose of reviewing applications for variances as well as reviewing orders and decisions made by the Office of Planning and Development.

CHAPTER 12.36-13 **STANDARDS AND GUIDELINES**

- ❑ In determining whether a variance is to be granted, the following standards and guidelines must be met in view of the evidence presented and in making its decision, these standards and guidelines shall be addressed by the board of adjustment:
 1. The existence of special conditions or exceptional circumstances on the land in question.
 2. The experiencing of unnecessary hardships or practical difficulties on the land in question either presently or in the future.
 3. That these hardships or difficulties are the result of the aforementioned special conditions existing on the land and are not self-inflicted.
 4. That the existence of these special conditions will restrict the use of the land if the Ordinance is applied literally so as to render the land useless.
 5. That the limitation on the use of the land does not apply generally to other properties in the district.
 6. That limiting the use of the property does not afford compensating gains to the public health, safety and welfare.
 7. That the variance(s) requested are the minimum variance(s) needed to alleviate difficulties or hardships.
 8. That the use of the parcel in question presently does conform to the ordinance.

9. That granting the variance applied for will not affect the public health, safety, morals and welfare of the community and other properties in the area.
10. That with respect to those areas located within the floodland districts, a variance would not permit filling and development contrary to the purpose and intent of the Camp Lake/Center Lake FWO Floodway Overlay District; would not permit a change in the boundaries of the FPO Floodplain Overlay District, FWO Camp Lake/Center Lake Floodway Overlay district or the FFO Camp Lake/Center Lake Floodplain Fringe Overlay District; would not permit a lower degree of flood protection in the floodland districts than the residential, commercial, institutional, or park basement or crawlway to be located below the 100-year recurrence interval flood elevation; would not allow a change or alteration of an historic structure, including its use, which would result in the structure; further, that the variance for the proposed action would not require amendment to the floodplain zoning ordinance' and furthermore, that the variance would not have the effect of granting or increasing a use property which is prohibited in the floodland districts or any action contrary to the provisions of Chapter NR 116 of the Wisconsin Administrative Code.

- ☐ Variances may be granted for example for reasons of topography, environmental protection or where permitted by state statute but in no event may a variance be granted where the primary reason for obtaining a variance is to obtain a more profitable use of the property, personal inconvenience, construction errors, economic reasons, self-created hardships, or where the property is presently a non-conforming use. Furthermore, variances may not be granted for the purpose of altering the sanitary requirements of this ordinance except for existing structures.
- ☐ The Board of Adjustments in considering the propriety of granting a variance shall not consider the number of persons for or against the granting of a variance but shall base their decision solely upon the equities of the situation involved.
- ☐ Variances may be granted in the form of an area or distance variance, however, use variances shall be specifically prohibited under this Ordinance.

Statutory Standards

- ☐ The applicant for a variance must clearly show the Board of Adjustments that three statutory standards that govern granting a variance will be met. These three standards require the existence of an unnecessary hardship, the presence of a unique property limitation, and the protection of the public interest.
- ☐ Unnecessary Hardship
 - ❖ A situation where, in the absence of a variance, an owner can make no feasible use of a property, or strict conformity is unnecessarily burdensome.
 - ❖ The hardship or difficulty must be peculiar to the zoning parcel in question and different from that of other parcels, not one which affects all parcels similarly.

**VARIANCE PROCEDURES &
PUBLIC HEARING VARIANCE STANDARDS**

- ❑ Unique Property Limitation
 - ❖ Unique physical characteristics of the property must prevent the applicant from developing in compliance with the zoning ordinance.
- ❑ Protection of the Public Interest
 - ❖ Granting of a variance must neither harm the public interest nor undermine the purposes of the ordinance. The public interest includes the interests of the public at large, not just that of nearby property owners.
 - ❖ Conditions may be attached to a variance to protect adjoining properties and to preserve the essential character of the neighborhood.
 - ❖ A variance should include only the minimum relief necessary to allow reasonable use of a property.

NOTES

VARIANCE WORKSHEET

YOUR THREE STATUTORY STANDARDS TO PROVE BEFORE THE BOARD OF
ADJUSTMENTS. (BE READY TO DISCUSS AT THE MEETING)

UNNECESSARY HARDSHIP -

UNIQUE PROPERTY LIMITATION -

PROTECTION OF THE PUBLIC INTEREST -