

Board of Zoning Adjustment

Staff Report

February 6, 2023



Case No:	22-VARIANCE-0107
Project Name:	Youngland Avenue Variance
Location:	1727 Youngland Avenue
Owner/Applicant:	Eric Johnson / Michael Marsh
Jurisdiction:	Louisville Metro
Council District:	3 - Vacant
Case Manager:	Molly Clark, Planner II

REQUEST:

- **Variance** from the Land Development Code Table 5.2.2 to allow a primary structure to encroach into the side yard setback.
- **Variance** from Land Development Code section 5.4.1.D.2 to allow a private yard area to be less than the required 30% of the area of the lot.

Location	Requirement	Request	Variance
Side Yard Setback	3 ft	0.5 ft	2.5 ft
Private Yard Area	30% 5,050 sq ft	11% 1,971 sq ft	19% 3,079 sq ft

CASE SUMMARY/BACKGROUND

The subject site is zoned R-5 Single Family Residential in the Traditional Neighborhood Form District. The property is currently a 0.38 acre vacant lot with a recorded 20 foot private access easement along the west property line. The applicant proposing to construct a single-family home with a detached storage structure to store his personal vehicles in. The proposed structures will encroach into both the side yard setback along the recorded 20-foot private access easement and the private yard area.

STAFF FINDINGS

Staff finds that the request for a private yard variance and the side yard variance are adequately justified and meet the standards of review.

Based upon the information in the staff report, and the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards for granting a variance established in the Land Development Code.

TECHNICAL REVIEW

No outstanding technical issues.

INTERESTED PARTY COMMENTS

No interested party comments were received by staff.

RELATED CASES:

None.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM TABLE 5.2.2 (Side Yard Setback)

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all applicable building codes and the Land Development Code, except where relief is requested.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The structure will not alter the essential character of the general vicinity as it will be built with material that is in character with the surrounding residential neighborhood. In addition, there are other primary structures along Youngland Avenue that appear to encroach into the side yard setback.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public because the structure must be constructed to comply with all building codes.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations as the location of the proposed structure is similar to others in the neighborhood.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance does not arise from special circumstances which do generally apply to the land in the generally vicinity or the same zone as the lot is larger in size and shape in comparison to the surrounding properties.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant as the proposed single family home footprint could be modified removing the need for a side yard variance.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant has not begun construction.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.4.1.D.2 Private Yard Area:

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all applicable building codes, including fire codes, and the Land Development Code, except where relief is requested.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The proposed private yard area reduction will not alter the essential character of the general vicinity as many properties in the area seemingly have reduced private yard areas.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public because the structure must be constructed to comply with all building codes. There is sufficient space between the proposed structures and property lines to conduct maintenance without crossing over into other properties.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed accessory structure will comply with all other regulations, except where relief is requested, and there are other properties within the block that have seemingly reduced open space between the principal and accessory use areas.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance does not arise from special circumstances which do not generally apply to the land in the general vicinity or the same zone as the lot is larger in size and shape in comparison to the surrounding properties. The property is adjacent to an alleyway which serves a commercial use that fronts Dixie Highway.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant as the proposed plan could be modified to reduce its encroachment into the private yard area.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The applicant has not begun construction.

VARIANCE PLAN REQUIREMENT

In accordance with LDC Section 11.5B.1.C (Requirement to Follow Approved Plan), a variance shall be approved only on the basis of the plan approved by the Board and shall be valid only for the location and area shown on the approved plan. All construction and operations must be conducted in accordance with the approved plan and conditions attached to the variance.

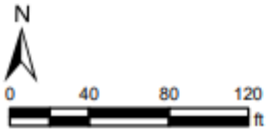
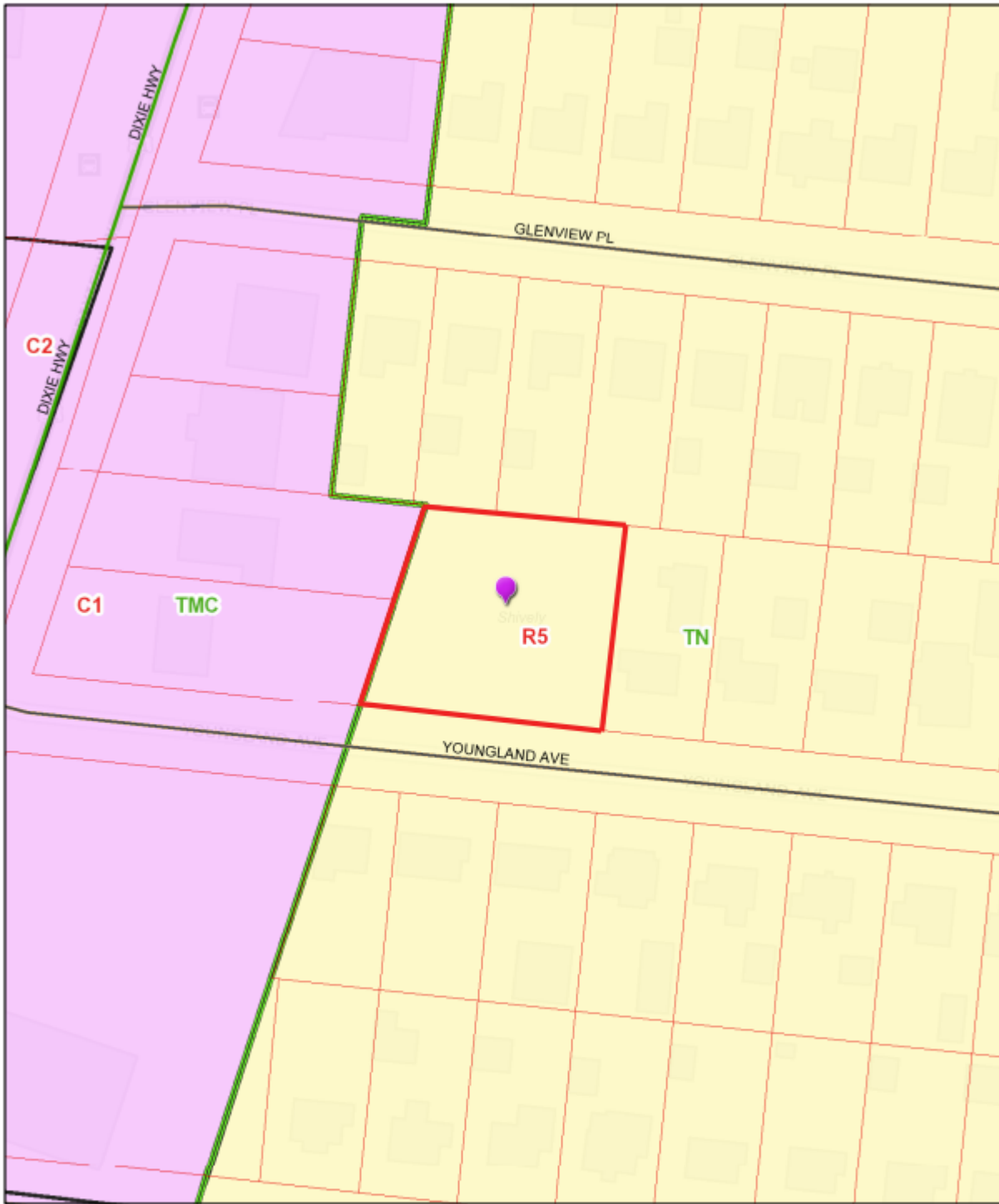
NOTIFICATION

Date	Purpose of Notice	Recipients
1/20/2022	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District
1/26/2022	Hearing before BOZA	Notice posted on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Elevations
5. Site Photos

1. Zoning Map



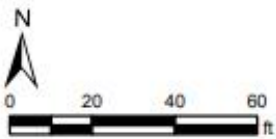
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2. Aerial Photograph



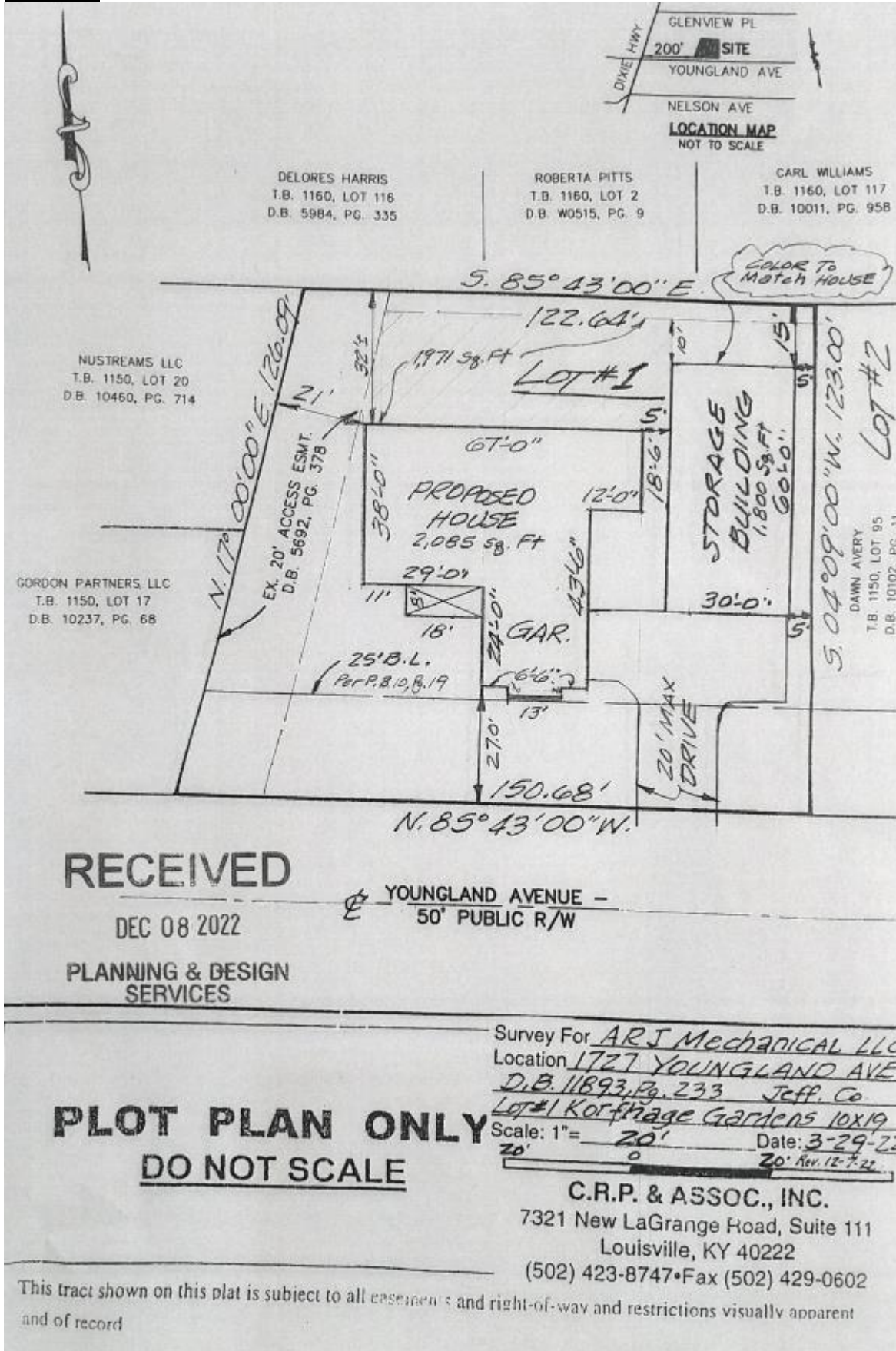
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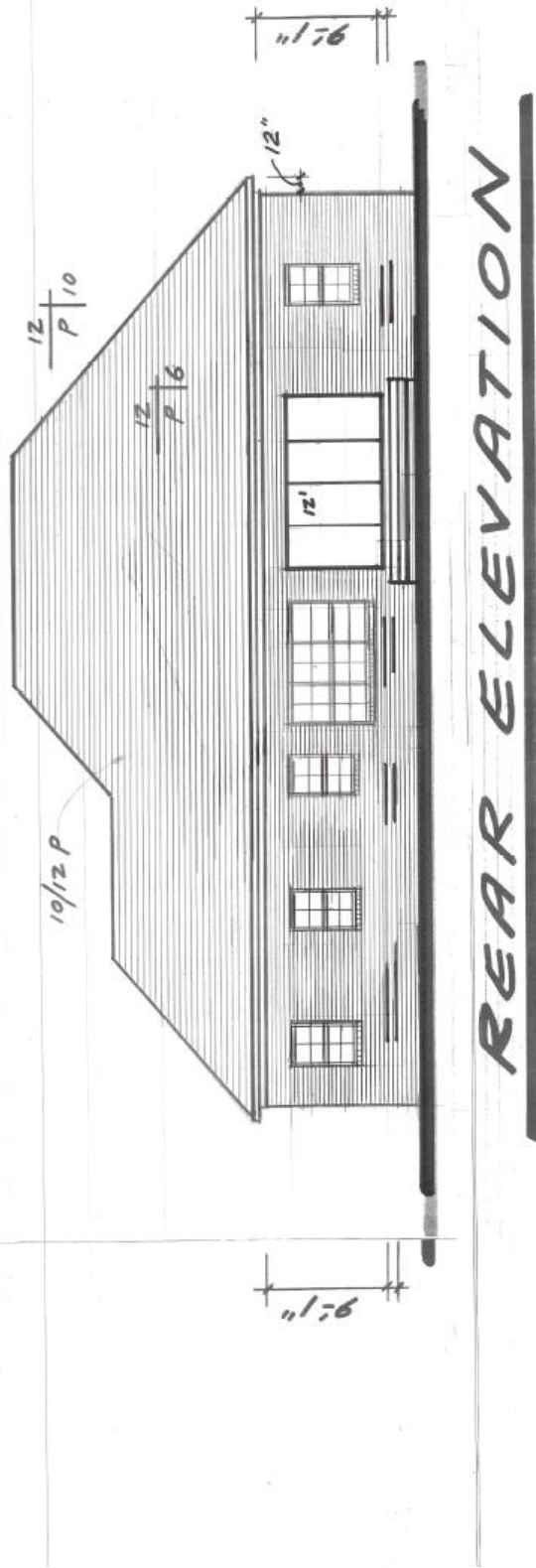
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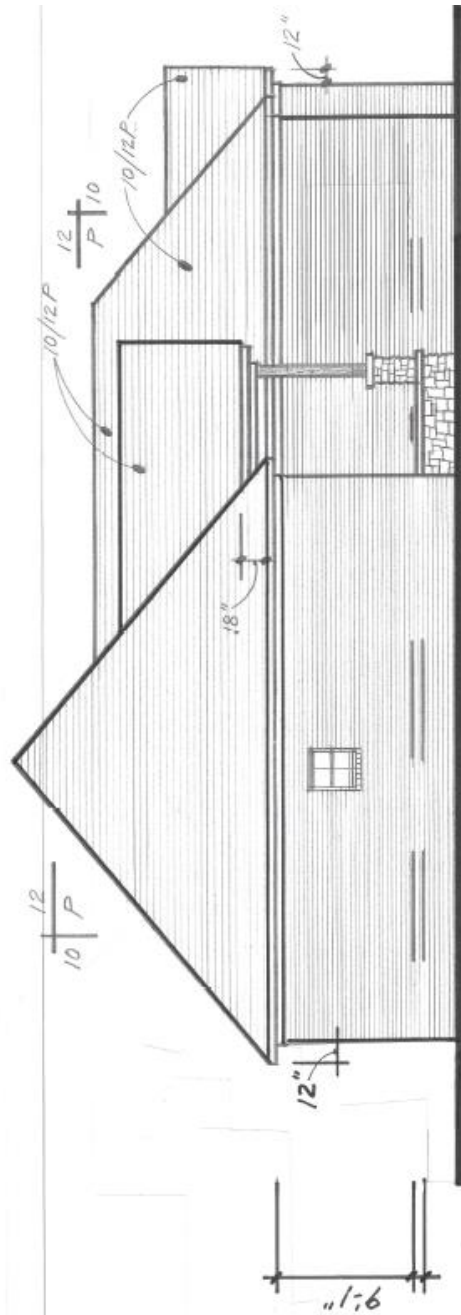
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Site Plan

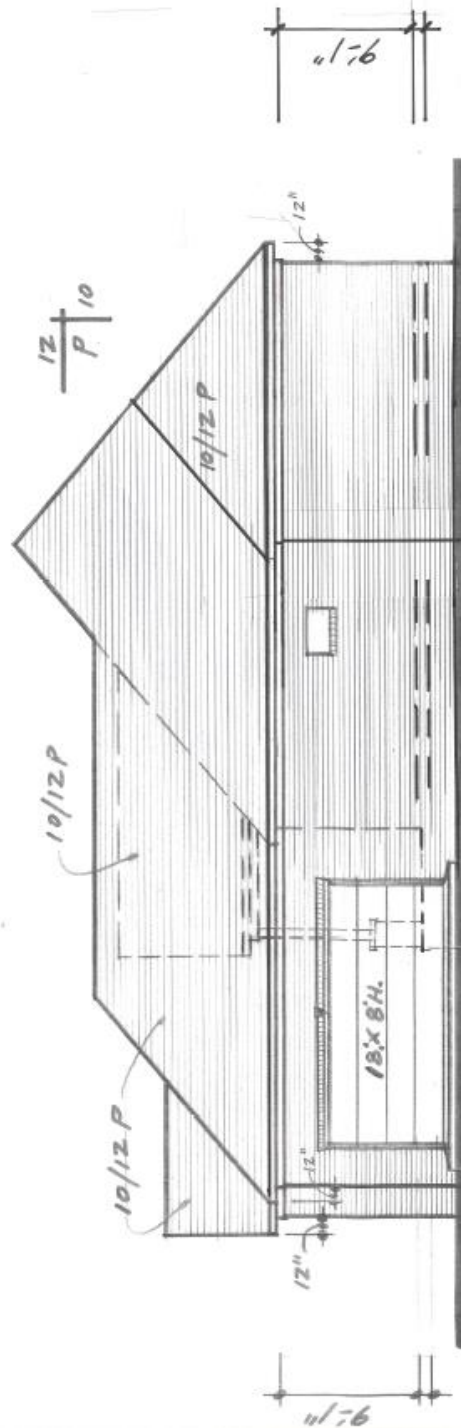


Elevations





LEFT ELEVATION



RIGHT ELEVATION

3. Site Photos



Front of Subject Site.



View of existing 20 ft private access easement



Another view of 20 ft private access easement



View of Subject Property from 20 ft Access Easement



Across the Street



Next door to the right of subject site