

**IN THE MATTER OF** : **BEFORE THE FAIRVIEW TOWNSHIP**  
**THE APPLICATION OF** : **ZONING HEARING BOARD**  
**PAUL HOLZER and MATTHEW** : **YORK COUNTY, PENNSYLVANIA**  
**SHELLHAMMER** : **DOCKET NO. 2020-03**

**DECISION GRANTING A VARIANCE TO THE SIDE YARD  
SETBACK REQUIREMENTS OF SECTION 300-16 OF THE FAIRVIEW TOWNSHIP  
ZONING ORDINANCE**

The Applicants applied for a variance to Section 300-16, Area and Design Requirements, of the Fairview Township Zoning Ordinance for their property in the Rural Living Zoning District at 747 Ridge Road, Lewisberry, Fairview Township, PA 17339. A hearing on the application was held on June 11, 2020 at 6:30 p.m., at the Fairview Township Municipal Building, 599 Lewisberry Road, New Cumberland, PA 17070 and simultaneously conducted remotely via GoToMeeting in light of COVID-19 precautions.

**FINDINGS OF FACT**

1. The Applicants are Paul Holzer and Matthew Shellhammer, 747 Ridge Road, Lewisberry, Pennsylvania, 17339. The Applicants are the owners of a one (1) acre lot which is the subject of this application.
2. The Applicants are requesting a side yard setback variance to Section 300-16 of the Zoning Ordinance which establishes the lot area and design requirements in the Rural Living Zoning District. They are requesting relief from the required 30-foot side yard setback to allow for the construction of a 20' x 20' addition to the existing attached garage.
3. The Applicants wish to construct the addition for use as an art and pottery workshop.

4. Notice of the hearing was properly advertised; the property was properly posted; and all neighboring property owners required to be notified of the hearing were notified in accordance with the Township Ordinance and the Pennsylvania Municipalities Planning Code.<sup>1</sup>

5. The Applicants wish to construct the addition in a nonconforming location, eight (8) feet into the setback area, which will make it twenty-two (22) feet from the side yard property line.

6. The Applicants submitted drawings and photographs which depict the proposed location of the addition, the shape of the lot, the slope of the property line to the interior and rear of the existing garage, and the existing topography of the property.

7. The topography of the lot is the primary basis for the requested dimensional variance. By locating the addition to the northwest line of the existing garage, the Applicants will avoid building on a steeply sloped area to the interior and rear of the lot which would be necessitated to be in strict conformity with the Ordinance. In addition, the lot is somewhat irregularly shaped, narrowing from the front to the rear so that the 30-foot side yard setback requirement is a substantial constraint towards the rear of the lot.

### CONCLUSIONS

1. The Applicants have the burden of establishing their entitlement to the requested dimensional variance in accordance with Fairview Township Zoning Ordinance Section 300-99.E(4).

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<sup>1</sup> The hearing was originally scheduled, and public notice was made for the hearing to be April 16. The hearing could not be held at that time in view of the coronavirus pandemic and the subsequent Emergency Declaration of the Governor limiting public meetings. The Board, therefore continued the hearing twice: first until May 21 and then until the June 11 date when it could be held in accordance with the Governor's modified emergency orders and pursuant to Act 15 of 2020 which authorized local governmental meetings using approved telecommunications devices. A supplemental public notice, providing for the Act 15 procedures, was made for the June 11 hearing date and time.

2. On the basis of the testimony and documentary evidence presented, the Board concludes that the Applicants have established, on the basis of topography and other characteristics of the lot, entitlement to the dimensional variance related to the side yard setback requirement. A variance to allow for the construction of a 20' x 20' addition to the existing attached garage with an 8' setback nonconformity (allowing the new structure to be 22' from the property line) should be granted.

### **DECISION**

On the basis of the foregoing findings and conclusions and on the basis of all the testimony and evidence presented at the hearing, the Zoning Hearing Board hereby grants the request for the eight (8) feet side yard setback variance.

The application was approved upon the motion made by Mr. Perry, seconded by Mr. Bashore and adopted 3-0 by the Board members present and voting.

FAIRVIEW TOWNSHIP ZONING HEARING  
BOARD

Dated: July 16, 2020

By:   
Keith Bashore, Vice-Chairman

Distribution:  
*Applicants*



BOARD of SUPERVISORS  
Dr. Larry Cox, *Chairman*  
Korey Leslie, *Vice-Chairman*  
Christopher L. Allen, *Supervisor*  
John W. Jones, *Supervisor*  
Mario D. Pirritano, *Supervisor*

MANAGER  
Donald F. Martin, III

## NOTICE

The Fairview Township Zoning Hearing Board will meet on **Thursday, June 11, 2020 at 6:30 p.m.** All members of the Zoning Hearing Board will not be physically present at the Fairview Township Building located at 599 Lewisberry Road, New Cumberland, PA 17070, but instead will conduct a virtual meeting utilizing authorized telecommunications devices. The format is authorized by Act 15 of 2020 as a result of the state of emergency in Pennsylvania regarding COVID-19 (Coronavirus). The Zoning Hearing Board, its Solicitor, the Zoning Officer and the stenographer will meet electronically via "GoToMeeting" with the applicants, their attorneys and witnesses. The meeting will be live-streamed for public viewing on the Fairview Township website (<https://twp.fairview.pa.us/Links>) beginning at 6:30 p.m. At the beginning of the broadcast and on the notice posted at the entrance to the Township Building and on the Township website, a telephone number will be provided for interested parties to call in to ask questions. Any persons other than the Applicants who may wish to testify are requested to notify the Zoning Officer no later than June 8. In addition, any questions concerning the applications may be emailed to [stephenw@twp.fairview.pa.us](mailto:stephenw@twp.fairview.pa.us) or mailed to the attention of the Zoning Officer at the Township building address provided the questions are received no later than June 8, 2020. The Zoning Hearing Board will hear the following application:

**Docket No. 2020-03:** Paul Holzer and Matthew Shellhammer, 747 Ridge Road, Lewisberry, PA 17339. The Applicants are requesting a variance to the sideyard setback requirement of 30 feet under §300-16 of the Zoning Ordinance. The Applicants are proposing to construct an addition to the attached garage which would be 22 feet from the side property line. The property is located at 747 Ridge Road, Lewisberry, PA 17339, and is in the Rural Living District.

Persons with disabilities may contact the Township office at (717) 901-5200 or [stephenw@twp.fairview.pa.us](mailto:stephenw@twp.fairview.pa.us) during regular office hours to discuss how best to accommodate your needs.



BOARD of SUPERVISORS  
Dr. Larry Cox, *Chairman*  
Korey Leslie, *Vice-Chairman*  
Christopher L. Allen, *Supervisor*  
John W. Jones, *Supervisor*  
Mario D. Pirritano, *Supervisor*

MANAGER  
Donald F. Martin, III

The Fairview Township Zoning Hearing Board will hold a Public Hearing on Thursday, **April 16, 2020**, at 6:30 p.m., at the Fairview Township Municipal Building, 599 Lewisberry Road, New Cumberland, PA 17070, to discuss the following:

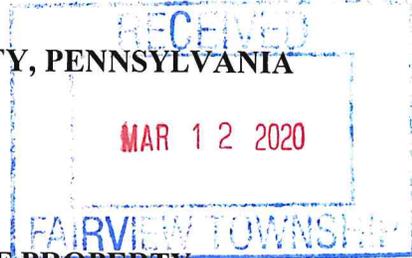
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2020-03

ZONING HEARING BOARD APPLICATION

YORK COUNTY, PENNSYLVANIA



❖ Part 1:

APPLICANT(S)/EQUITABLE OWNER

Name: Paul Holzer and Matthew Shellhammer  
Address: 747 Ridge Road, Lewisberry, PA 17339

Phone: 717-510-8728

PROPERTY LOCATION:

Address: 747 Ridge Road, Lewisberry, PA 17339

Lot Size: 1 acre

Date Purchased: March 17, 2015

Location:

Parcel 27000QF0105U000000

EXISTING OWNER OF PROPERTY:

Name: Paul Holzer and Matthew Shellhammer  
Address: 747 Ridge Road, Lewisberry, PA 17339

PRESENT USE OF PROPERTY:

Single family dwelling

EXISTING ZONE: Rural

❖ Part 2:

ZONING REQUEST (Identification of the applicable request(s)):

- ( ) SUBSTANTIVE CHALLENGE
- ( X ) SPECIAL EXCEPTION
- ( X ) VARIANCE
- ( ) APPEAL OF THE ZONING OFFICERS DECISION

SECTION(S) OF ZONING ORDINANCE WHICH APPLY TO THIS REQUEST - Please identify the specific section(s) of the Zoning Ordinance involved in the request):

(a) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of this chapter in the neighborhood or zoning district in which the property is located;

- (b) That because of such physical circumstances or conditions, there is not a possibility that the property can be developed in strict conformity with the provisions of this chapter and that the authorization of a variance is therefore necessary to enable reasonable use of the property;
- (c) That such unnecessary hardship has not been created by the appellant;
- (d) That the variance, if authorized, will not alter the essential character of the zoning district or neighborhood in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, and will not be detrimental to the public welfare;
- (e) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulations in issue;
- (f) The proposed use complies with Article VI of this chapter relating to Floodplain Overlay Zoning District (FPO) and Chapter 151, relating to floodplains;

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❖ *Part 3:*

**DESCRIPTION OF REQUEST:**

I would like to request a variance to the zoning ordinance which requires a 30' side yard setback distance for any principle structure.

In light of the permit application which my builder, Bob Ketterline, recently submitted; I am proposing to construct a 20' x 20' addition (336 sq. ft.) attached to the rear corner of my attached garage I have confirmed with your office that this will be considered as an addition to the principle structure, and not an accessory building, since both the existing garage and the proposed addition will both be attached to the home.

As such, the setback requirement distance for a side yard principle structure is a distance of 30' per the purchase drawing of the home footprint from 2015 when the home was built. The placement of my attached addition, as proposed, will only be a distance of 22' from the side property line, representing an 8' deficiency.

I request a variance and special exception to allow this reduced distance because of the following factors:

1. Per the attached survey drawing, you will see the property line where I am proposing the addition is irregular in shape. In addition, the downward sloping topography of my rear yard will not allow for a reasonably flat alternate location on which to place the addition.
2. Because of both physical conditions stated above, I am unable to make the addition in strict conformity with the provisions of the ordinance. Therefore, receiving a variance to the setback distance is necessary in order for me to gain reasonable use of my property.

3. I have not created this hardship, the topography of my land and the shape of the property existed when I purchased the lot.
4. The variance, if granted, will not alter the essential character of my neighborhood, which is zoned as Rural Living. To the contrary, the addition will be aesthetically pleasing and in character with the architectural style and color scheme of my home and garage. Because the addition would not impede on the neighboring property line, I do not feel it will substantially or permanently impede on the use or development of the neighboring property.
  - a. The owner of the effected neighboring property has provided a written statement, which I have attached, indicating that he supports my request and does not have any objection to the variance.
5. The variance, if granted, will represent the minimum variance which will afford relief and require minimal modification to the regulation. I am requesting to be forgiven a mere distance of 8'.
6. The proposed use of my addition applies with Article VI relating to Floodplain overlay and Chapter 151 relating to floodplains. Furthermore, my property is not located within a floodplain.

Attachments include:

Exhibit A: Plot Plan

Exhibit B: Proposed Art Studio Elevation

Exhibit C: Proposed Art Studio Floorplan

Exhibit D: 3-D Rendering of proposed 336 sq. ft. Art Studio

Exhibit E: Photo 1 View showing irregular lot

Exhibit F: Photo 2 View showing irregular lot

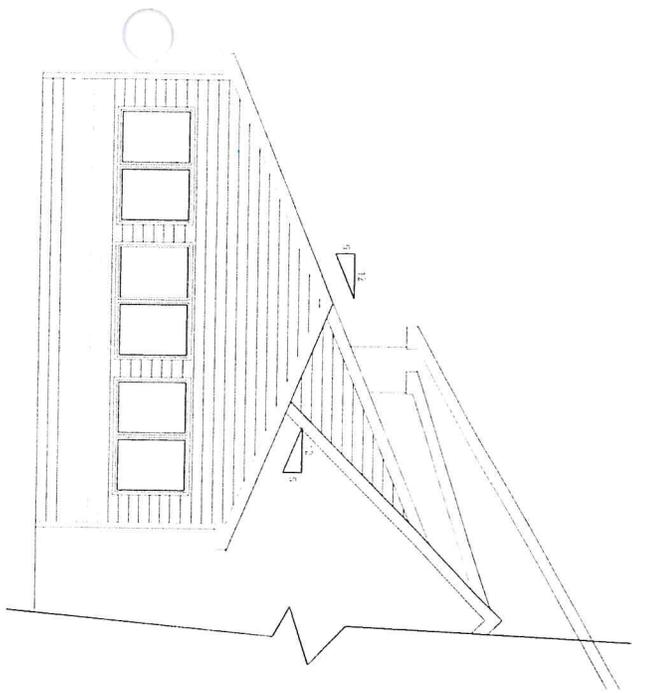
Exhibit G: Neighboring property owners' written supporting statement

❖ *Part 4*

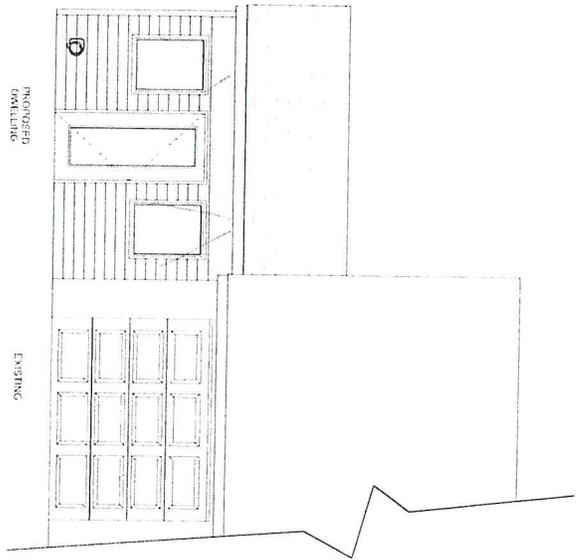
LIST ALL INDIVIDUAL PROPERTY OWNERS WITHIN 200 FEET OF THE PERIMETER OF THE ENTIRE PROPERTY.

NAME	ADDRESS	USE TYPE
Michael Smith Angela Watson	755 Ridge Road, Lewisberry, PA 17339 Parcel: 27000QF0105E000000	Residential
Andrew Shultz Deborah Shultz	745 Ridge Road, Lewisberry, PA 17339 Parcel: 27000QF0105M000000	Residential
Kevin Garber Demery Garber	754 Ridge Road, Lewisberry, PA 17339 Parcel: 27000QF0105V000000	Residential
Matthew Kido	760 Ridge Road, Lewisberry, 17339 Parcel: 27000QF0105P000000	Residential

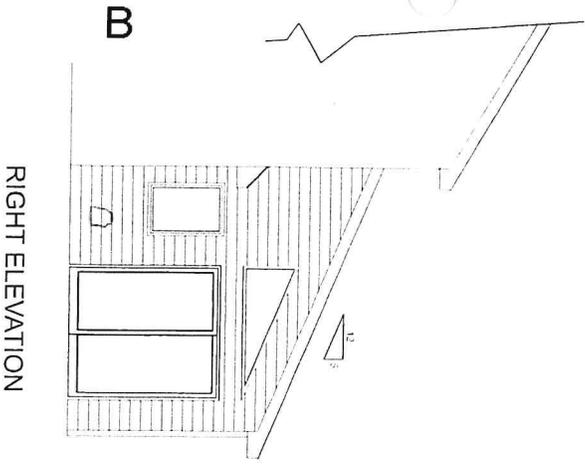




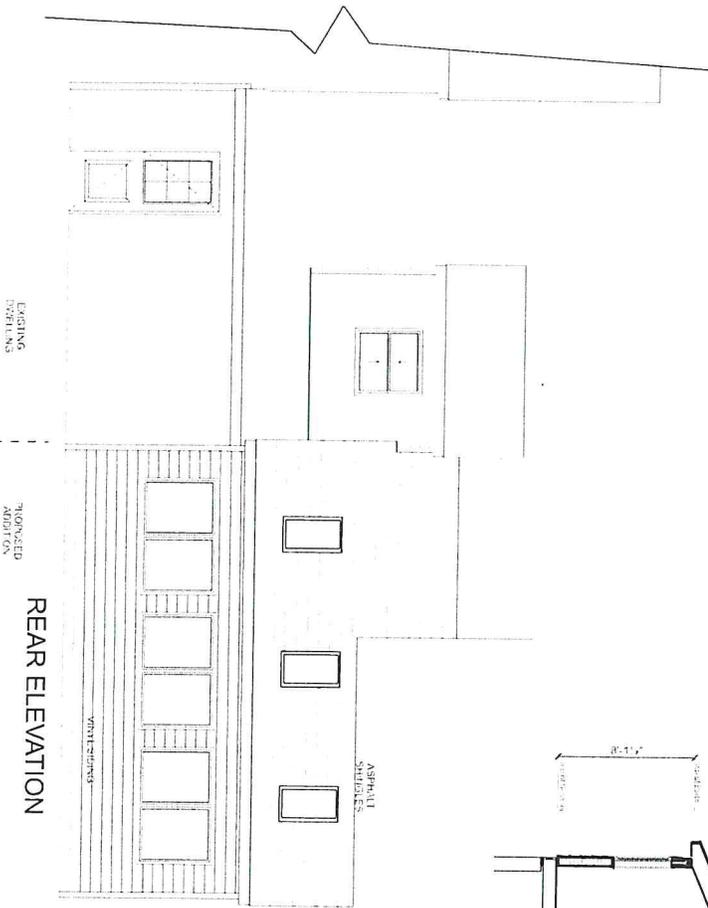
LEFT ELEVATION



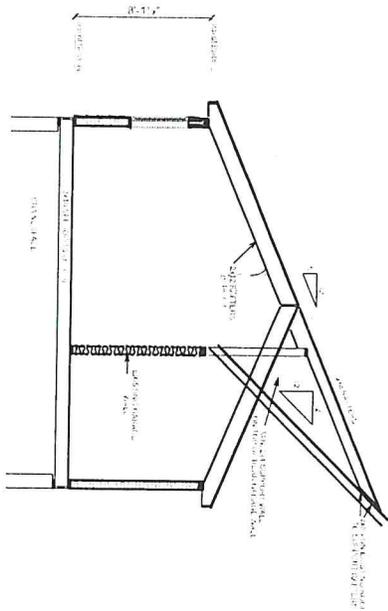
FRONT ELEVATION



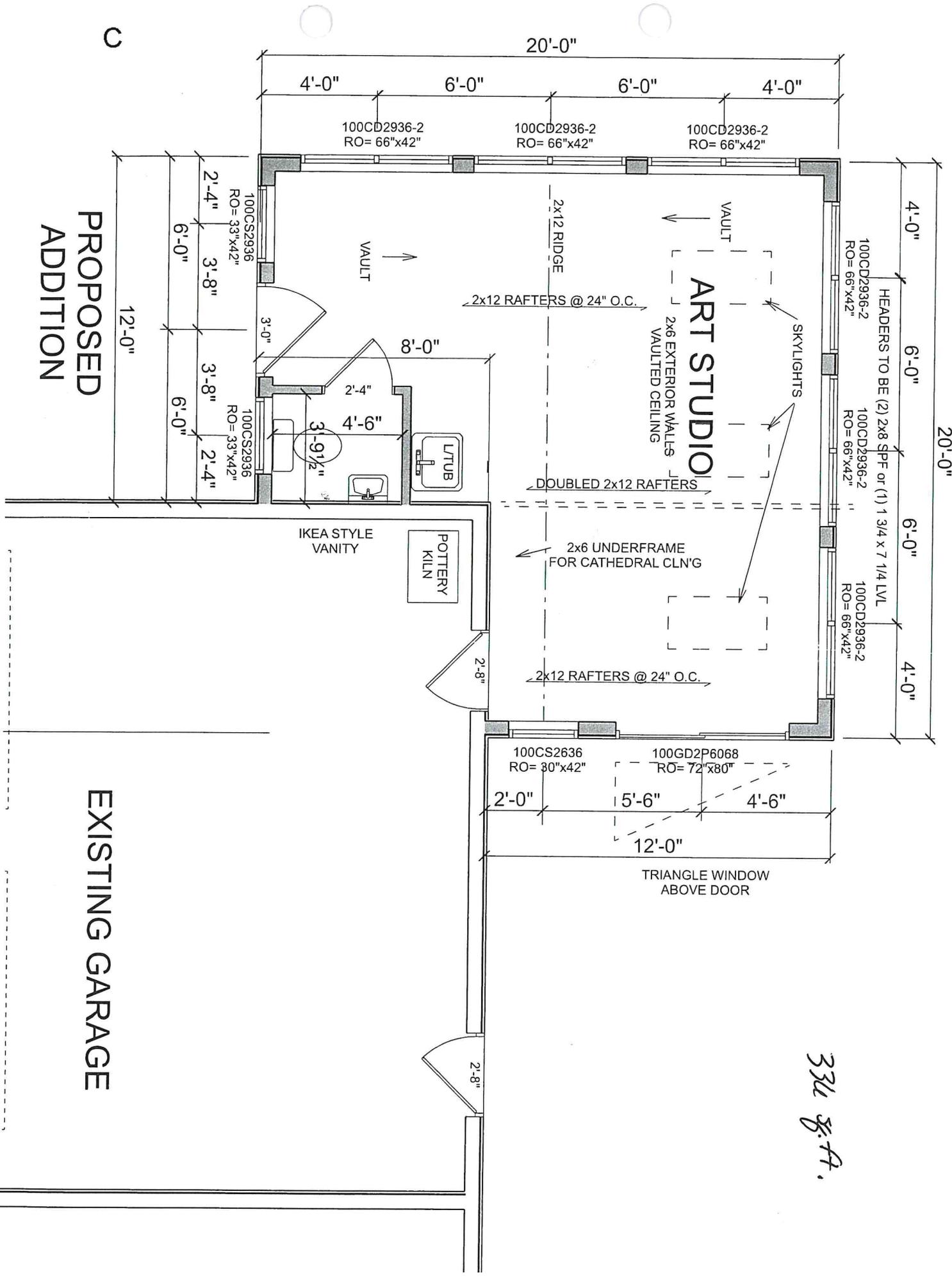
RIGHT ELEVATION



REAR ELEVATION



CROSS SECTION



**PROPOSED  
ADDITION**

**EXISTING GARAGE**

**ART STUDIO**

*334 S.F.A.*

C

100CD2936-2  
RO= 66"x42"

100CD2936-2  
RO= 66"x42"

100CD2936-2  
RO= 66"x42"

100CS2936  
RO= 33"x42"

100CS2936  
RO= 33"x42"

100CD2936-2  
RO= 66"x42"

100CD2936-2  
RO= 66"x42"

100CD2936-2  
RO= 66"x42"

100CS2636  
RO= 30"x42"

100GD2P6068  
RO= 72"x80"

IKEA STYLE  
VANITY

POTTERY  
KILN

L/TUB

TRIANGLE WINDOW  
ABOVE DOOR

2x12 RAFTERS @ 24" O.C.

DOUBLED 2x12 RAFTERS

2x6 UNDERFRAME  
FOR CATHEDRAL CLN'G

2x12 RAFTERS @ 24" O.C.

HEADERS TO BE (2) 2x8 SPF or (1) 1 3/4 x 7 1/4 LVL

2x6 EXTERIOR WALLS  
VAULTED CEILING

VAULT

VAULT

SKYLIGHTS

2x12 RAFTERS @ 24" O.C.

2x12 RIDGE

8'-0"

4'-6"

3'-9 1/2"

2'-4"

6'-0"

3'-8"

3'-8"

6'-0"

2'-4"

12'-0"

2'-8"

2'-8"

20'-0"

4'-0"

6'-0"

6'-0"

4'-0"

4'-0"

6'-0"

6'-0"

4'-0"

20'-0"

20'-0"

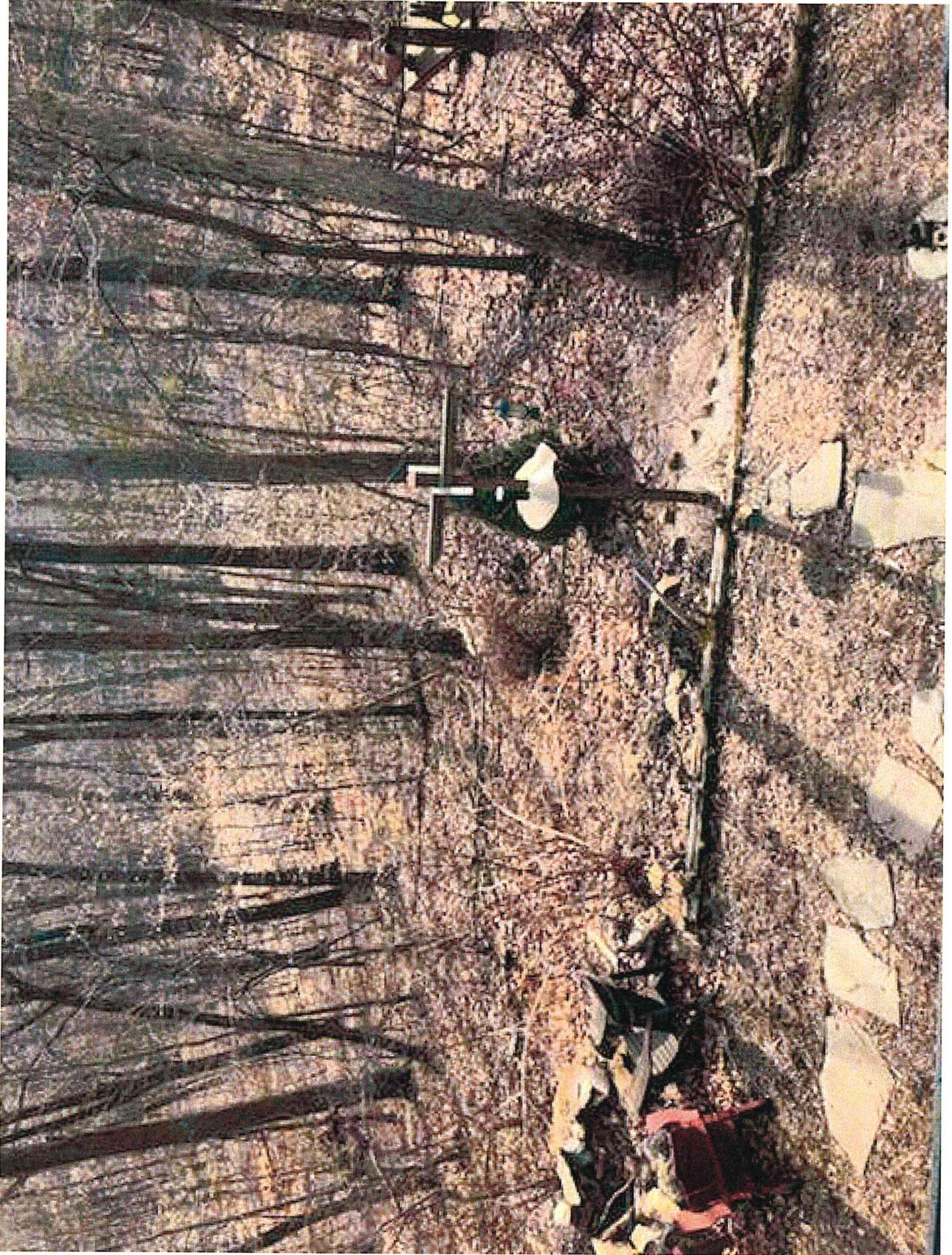
D



E



F



G

March 4, 2020

To Whom it May Concern,

This letter is in support of Paul Holzer's request for a variance on the set back of his proposed art studio. We own and live at 755 Ridge Road, immediately adjacent to Mr. Holzer's property. Given the irregular shape of Mr. Holzer's lot, we have no issue with the reduced setback measurement or his request for a variance.

Sincerely,



Angela Watson



Mike Smith