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Christian R. Miller, Direct E-mail:  
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September 26, 2022

Christopher and Catherine Shelly  
867 Lexington Pl.  
Lewisberry, PA 17339

**VIA REGULAR MAIL**

**RE: Fairview Twp. Zoning Hearing Board – No. 2022-07**

To Whom It May Concern:

Enclosed please find the fully executed decision of the Fairview Twp. Zoning Hearing Board for Docket No. 2022-07 related to Christopher and Catherine Shelly's zoning hearing board application, heard and decided by the Zoning Hearing Board on September 15, 2022.

Thank you.

Very truly yours,

MPL LAW FIRM

A handwritten signature in blue ink, appearing to read 'Christian R. Miller'.

Christian R. Miller, Esquire

Enclosure

Cc: Fairview Township Zoning Hearing Board (c/o Stephen Waller, Zoning Officer)

**BEFORE THE FAIRVIEW TOWNSHIP  
ZONING HEARING BOARD**

**DECISION**

**IN RE:           APPLICATION OF CHRISTOPHER & CATHERINE SHELLY  
APPLICATION NO. 2022-07**

APPLICANT(S):           Christopher & Catherine Shelly, husband and wife  
HEARING DATE:           September 15, 2022  
DECISION DATE:         September 15, 2022  
APPEARANCES:           Christopher Shelly  
                                  Theo McCrackin (neighbor)  
                                  Stephen Waller, Township Zoning Officer  
EXHIBITS:                 Exhibit 1 – Application (including all submittals)  
LETTER SUBMITTAL:      Atland Correspondence (see below)  
SUBJECT PROPERTY:      867 Lexington Place, Lewisberry, PA 17339

**BACKGROUND**

This decision of the Fairview Township Zoning Hearing Board (the “*Board*”) is from an amended application filed with Fairview Township (the “*Township*”) on August 29, 2022 (the “*Application*”), seeking zoning relief under the Township’s Zoning Ordinance (the “*Ordinance*”), including: (i) a special exception under § 300-80.B of the Ordinance to erect an attached garage bay which encroaches on the current side yard setback, which is a dimensional nonconformity, and (ii) variances from Sections 300.80.B(1)(b)(1) and 300.16.A, Table 4-3 to construct said attached garage bay outside of the current nonconforming side setback line, which would be 14.67 ft from the property line. The subject property is located at 867 Lexington Place, Lewisberry, Pennsylvania, 17339, located in the Township’s Rural Living (RL) Zoning District.

A hearing was held on the Application on Thursday, September 15, 2022, with the meeting starting at 6:30 p.m. and the hearing on the Application starting at 7:45. The Zoning Hearing Board was represented by Mark Perry (Acting Chairman), Keith Bashore, and Daniel Alderman (as the acting alternate member). All published and posted notices were duly given, with no objection thereto being made in writing or orally at the time of the hearing. No testimony in opposition to the Application was offered or taken, and no parties attended the hearing in opposition. After hearing the testimony and viewing the evidence in this matter, the Board makes the following determinations:

**FINDINGS OF FACT**

1. Christopher & Catherine Shelly, husband and wife (“*Applicants*”), are the current owners of property located at 867 Lexington Place, Lewisberry, Pennsylvania, 17339 (the “*Property*”), which is used as their primary residential dwelling.

2. The Property is located in the Township's Rural Living (RL) Zoning District (the "**RL Zone**") and is improved with a residential dwelling, which includes an attached garage (the "**House**").

3. The House was constructed when the side yard setback was 20 ft., however the current side yard setback in the RL Zone is 30 ft.

4. The House currently has a right side yard setback of 22 ft. from the property line and a left side yard setback of 27.74 ft. from the property line.

5. Due to the RL Zone's side yard setback and the existing side yard setbacks for the House and the Property, the side yards constitute existing dimensional nonconformities related to each side yard setback.

6. Applicants seek to construct an additional garage bay to the left side of the House (as facing the House from the street) (the "**Garage**"), that would encroach on the current nonconforming side yard setback, and reduce the distance to the property line from 27.74 ft. to 14.67 ft.

7. The Garage would be 13 ft. wide by 25 ft. deep.

8. Given the layout of the Property and the location of the House, as well as the location of the well in the front yard and a tree in the front yard, the proposed location of the Garage (as shown on the plans submitted with the Application (referencing herein as Exhibit 1)) is the only feasible location to place the Garage.

9. Applicants' neighbors, located to the left of the Property and being the neighbors which would be most heavily impacted by the encroachment of the side yard setback, testified they have no concern with the request, and verified that the proposed location would be the most suitable location.

10. A second neighbor, Daniel Atland residing at 868 Lexington Place, submitted an email to the Township (via Zoning Officer Stephen Waller) voicing his consent with the zoning request, and supporting Applicants' testimony as to the feasibility of the proposed location.

11. Applicant seeks (i) a special exception under §300.80.B (related to the Expansion, Extension or Enlargement to existing nonconforming uses and structures) to erect the Garage which encroaches on the current side yard setback, which is a dimensional nonconformity and (ii) variances from §§ 300.80.B(1)(b)(1) and 300.16.A, Table 4-3 to construct the Garage outside of the current nonconforming side setback line, which would be 14.67ft from the property line.

### **CONCLUSIONS OF LAW**

1. The Applicants have established that the Property and the location of the House constitute existing dimensional nonconformities due to the existing side yard setbacks.

2. The Applicants have established the elements required by Section 300-80.B of the Ordinance in order to expand, extend, or enlarge an existing dimensional nonconformity, subject to the variances met herein.

3. The Applicants have established the elements required by Section 300-99(E)(3)(b) of the Ordinance regarding the general criteria for a special exception.

4. The Applicant has established the elements required by Section 300-99(E)(4) of the Ordinance regarding the general criteria for a variance in order to grant variances from §§ 300.80.B(1)(b)(1) and 300.16.A, Table 4-3 to construct the Garage outside of the current nonconforming side setback line, which would be 14.67ft from the property line

### DECISION

Mr. Bashore moved to grant the zoning relief requested by the Applicants in the Application, being (i) a special exception under § 300-80.B of the Ordinance to erect the Garage despite encroaching on the current side yard setback, which is a dimensional nonconformity, and (ii) variances from Sections 300.80.B(1)(b)(1) and 300.16.A, Table 4-3 to construct the Garage outside of the current nonconforming side setback line, which would be 14.67 ft from the property line.

Mr. Alderman seconded the motion. Upon a vote, the Fairview Township Zoning Hearing Board unanimously approved the motion.

**APPLICANT SHALL ABIDE BY ALL FEDERAL, STATE AND LOCAL LAWS, REGULATIONS AND ORDINANCES PERTAINING TO PERMISSIONS GRANTED BY THIS DECISION.**

**APPLICANT SHALL PROCEED PURSUANT TO THIS DECISION IN ACCORDANCE WITH THE TESTIMONY AND EXHIBITS PRESENTED AT THE HEARING.**

Date: 9-23-2022

Mark Perry  
Mark Perry, Acting Chairmen

**ANY PERSON AGGRIEVED BY THIS DECISION OF THE FAIRVIEW TOWNSHIP ZONING HEARING BOARD MAY APPEAL TO THE COURT OF COMMON PLEAS OF YORK COUNTY, PENNSYLVANIA. THE APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS FROM THE MAILING OF THESE FINDINGS OF FACT, CONCLUSIONS OF LAW AND THE ABOVE DECISION.**

MAIL DATE: 9-26-22

# FAIRVIEW TOWNSHIP

## ZONING HEARING BOARD APPLICATION YORK COUNTY, PENNSYLVANIA

**FILE COPY**

❖ **Part 1:**

**APPLICANT(S)/EQUITABLE OWNER**  
Name: Christopher + Catherine Shelly  
Address: 867 Lexington Pl.  
Lewisberry PA 17339  
Phone: 717-599-6225

**EXISTING OWNER OF PROPERTY:**  
Name: Christopher + Catherine Shelly  
Address: 867 Lexington Pl.  
Lewisberry PA 17339

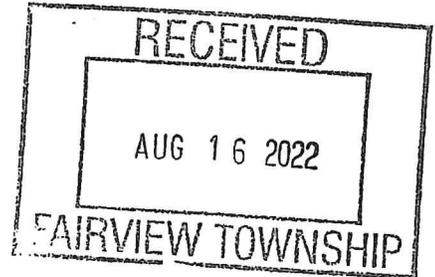
**PROPERTY LOCATION:**  
Address: 867 Lexington Pl.  
Lewisberry PA 17339  
Lot Size: 1.051 Acres  
Date Purchased: November 23 2015  
Location: \_\_\_\_\_

**PRESENT USE OF PROPERTY:**  
Single Family Dwelling  
\_\_\_\_\_  
\_\_\_\_\_  
**EXISTING ZONE:** RL Rural Living  
Zoning District

❖ **Part 2:**

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

- SUBSTANTIVE CHALLENGE
- SPECIAL EXCEPTION
- 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:**

Art. IV (Rural Area Zoning District), § 300-16 A (Area and Design Requirements),  
Table 4-3 (Setback, Side)

❖ **Part 3:**

**DESCRIPTION OF REQUEST:**

See attached sheet.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Part 3:

DESCRIPTION OF REQUEST:

I am requesting a variance to the side set back on the left side of my property for the construction of an attached garage bay to be located at the end of my driveway. The current set back on the right side is approximately 22' since the house was constructed when the setback requirement was only 20'.

I have considered construction of an additional bay off the front of the house. This is not my first choice because the well for the house is in the front yard. Also, the walk to the front door would need to be relocated and will come close to an existing spruce tree that will likely encroach on the walk some time in the near future. Additionally, the driveway curves into this proposed area and additional grading would likely be required to widen it enough to allow vehicle swing. Also, this option in my opinion will negatively impact the current curb appeal of the property.

I have considered construction in the back yard as a non-attached structure. This concerns me as the natural water flow is across the property from left to right. The grade in this area is very shallow so the structure and the added driveway could possibly obstruct the water flow and cause some pooling. Also due to our deck on the back of the house the garage would need to be a good distance from the usable exits of the house.

Also, one of the reasons for adding the new garage is that I am purchasing a new pickup truck (smaller than a full size), to be my primary everyday vehicle, and as such an attached structure is significantly more desirable for staying out of the weather. Additionally, since my driveway is only 24.5 ft wide to swing the truck into the existing garage would require jockeying several times for every entry and exit increasing the odds of an incident. The truck will also be a much tighter fit in the garage than any of our current vehicles. Thus, a straight on entry into a longer garage would be considerably more attractive for not only myself but for any future owner who may also own a large vehicle.

❖ Part 4

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

NAME	ADDRESS	USE TYPE
Louis + Kathleen Mahodski	661 Revere Cir. Lewisberry PA 17339	Residential SFD
Lynn Craker	665 Revere Cir. Lewisberry PA 17339	Residential SFD
Payton Sholly	669 Revere Cir. Lewisberry PA 17339	Residential SFD
Kevin + Tammy Baker	854 Lexington Pl. Lewisberry PA 17339	Residential SFD
Greg + Jamie Alt	858 Lexington Pl. Lewisberry PA 17339	Residential SFD
Rodney + Lillian Ost	862 Lexington Pl. Lewisberry PA 17339	Residential SFD
Daniel + Sharon Altland	868 Lexington Pl. Lewisberry PA 17339	Residential SFD
Deborah Caldwell	870 Lexington Pl. Lewisberry PA 17339	Residential SFD
Theo + Kathy McCracken	869 Lexington Pl. Lewisberry PA 17339	Residential SFD
Patricia Trainer	865 Lexington Pl. Lewisberry PA 17339	Residential SFD
Costas + Lynne Petrides	863 Lexington Pl. Lewisberry PA 17339	Residential SFD

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❖ *Part 5 For office use only:*

## ZONING HEARING BOARD CHECKLIST

Application Received: \_\_\_\_\_

Property Zoned: \_\_\_\_\_

Asking for Special Exception, Variance or Appeal: \_\_\_\_\_

Case No.: \_\_\_\_\_

Fees Paid: \_\_\_\_\_

Hearing Date: \_\_\_\_\_

Draft Public Notice sent to Attorney for review: \_\_\_\_\_

Notice sent to Newspaper: \_\_\_\_\_

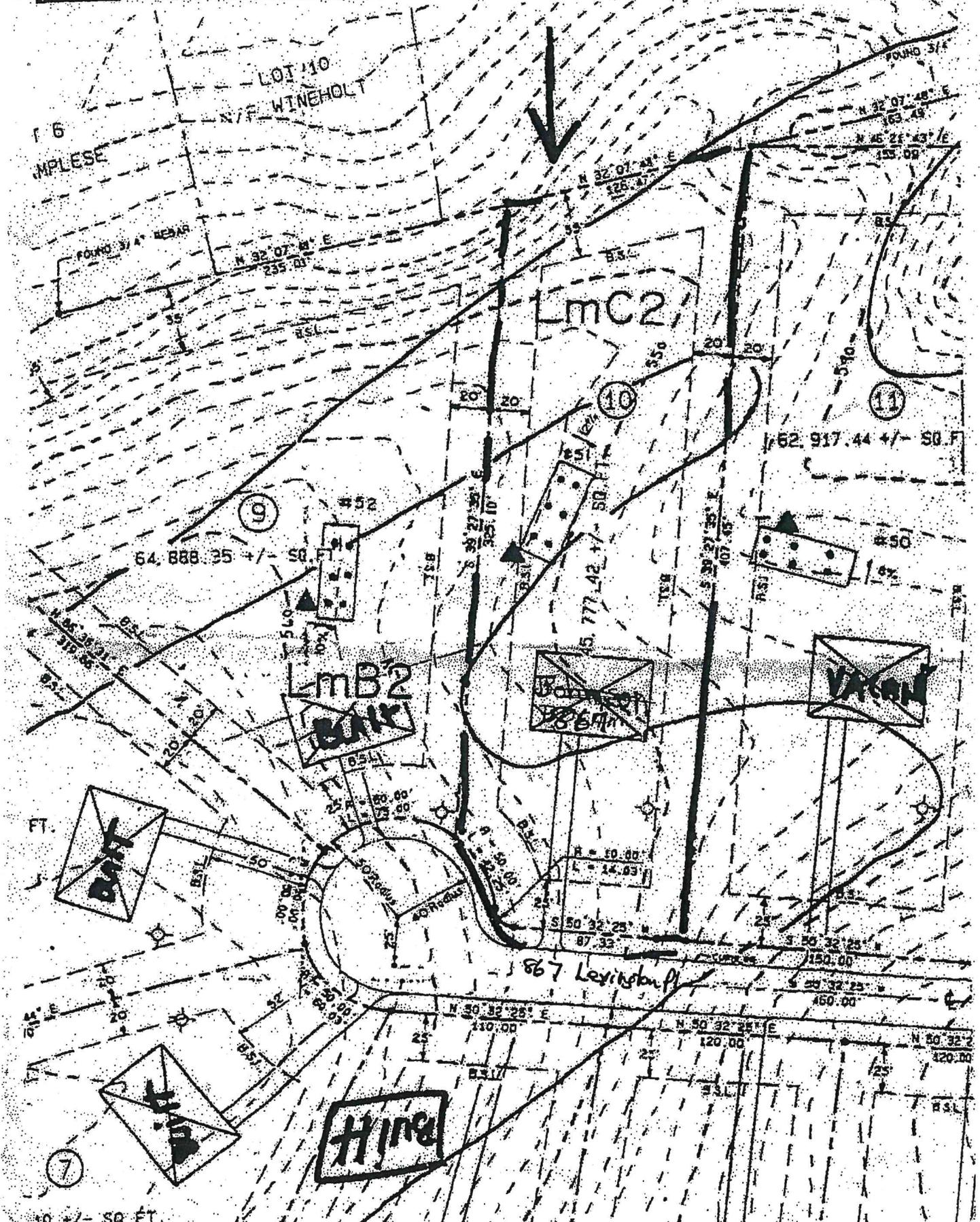
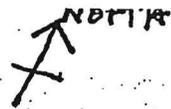
Notice Published in Newspaper: \_\_\_\_\_

Notice Mailed to Property Owners in 225ft. Buffer: \_\_\_\_\_

Public Notice Posted on Property: \_\_\_\_\_

ZHB Packets Mailed and Emailed: \_\_\_\_\_

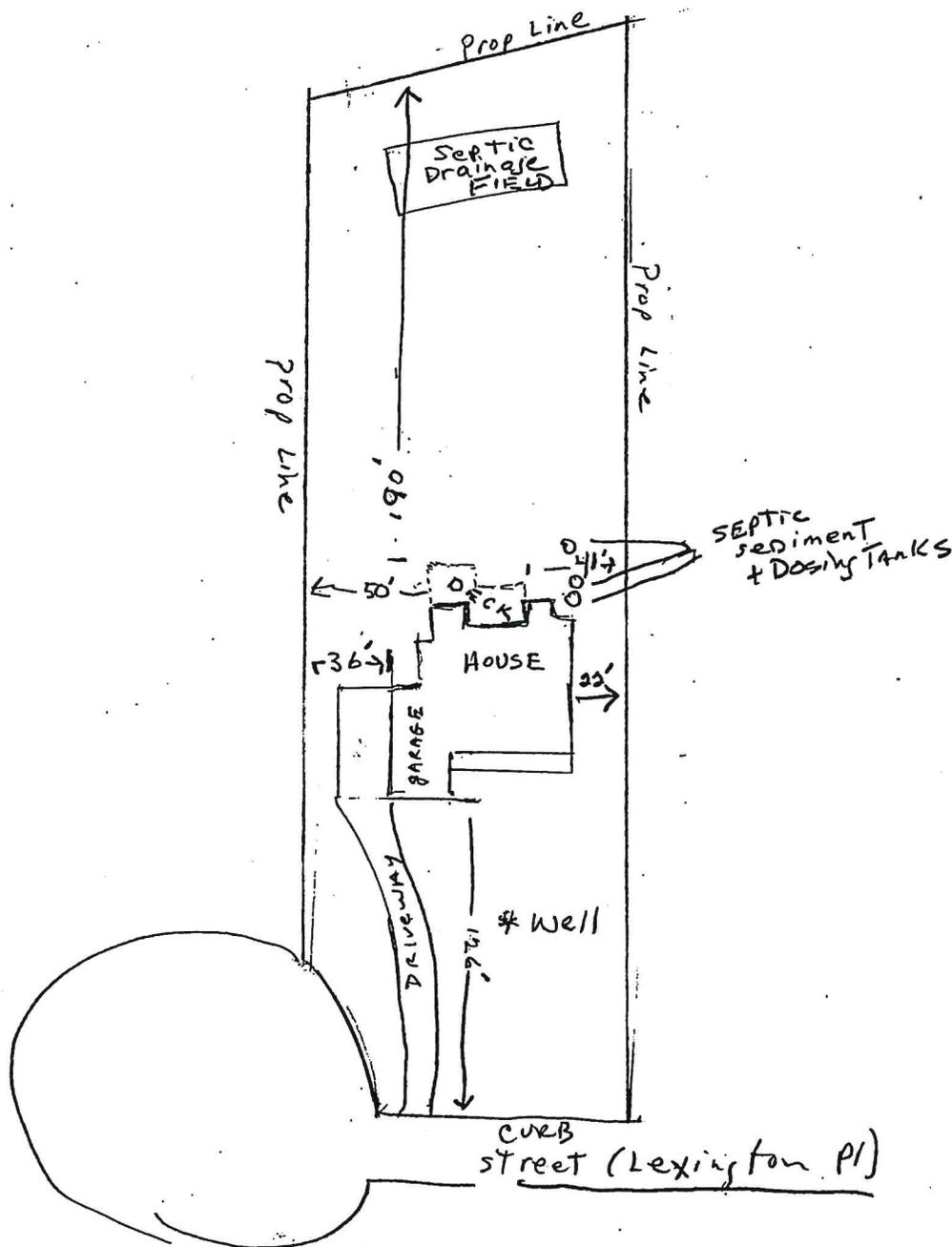
Table 4-3 Area and Design Requirements RL Rural Living Zoning District				
Area/Design Features	Permitted Uses			
	Single-Family Detached Dwelling (SFD)		All Other Nonresidential Non-Forestry/ Non-Agriculture Uses (other than specified in Article X of this chapter)	Accessory use or structure (other than specified elsewhere this chapter including Articles VII-X of this chapter)
	New SFD Sited Along an Existing Street after the Effective Date of this Chapter	New SFD Sited Along a New Street after the Effective Date of this Chapter		
Setback, front (minimum)	150 ft. along an arterial street <sup>1</sup>		150 ft.	Not permitted to be located in the required front setback nor within the front yard if principal building is less than 150 ft. from street right-of-way
	125 ft. along a collector street <sup>1</sup>			
	100 ft. along an existing local street <sup>1</sup>			
	75 ft. along a new local street <sup>1</sup>			
Setback, side (minimum each side)	30 ft.	30 ft.	75 ft.	20 ft. SFD/50 ft. all other nonresidential, nonagriculture uses
Setback, rear (minimum)	50 ft.	50 ft.	75 ft.	20 ft. SFD/50 ft. all other nonresidential, nonagriculture uses
Impervious lot coverage (maximum)	20%	30%	15%	Included as part of total maximum impervious coverage for principal use



Colonial Acres Plot plan

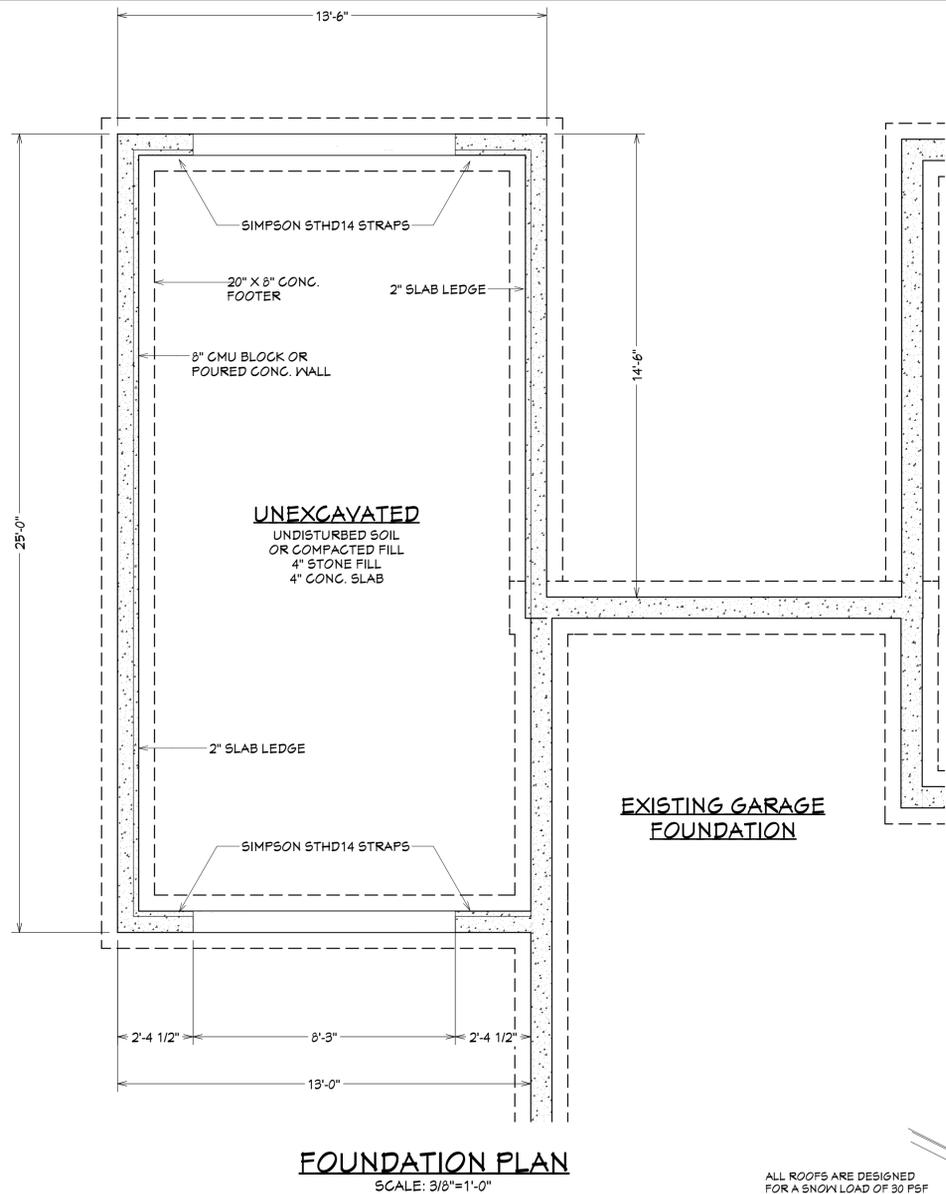
867 Lexington Pl  
Lewisberry, PA

North  
↑



\*see Colonial Acres plot plan for Lot dimensions

1" = 60'

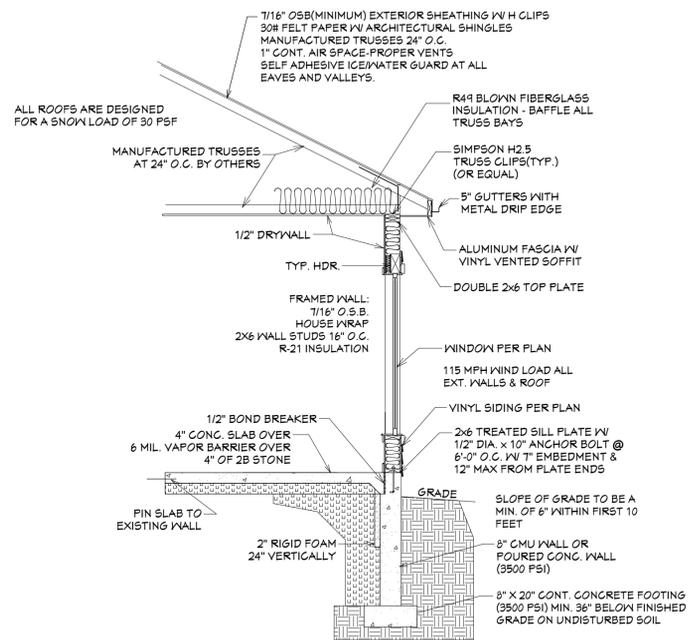


**FOUNDATION PLAN**  
SCALE: 3/8"=1'-0"

**FOUNDATION NOTES**

1. CONCRETE FOOTING TO BE 8" THICK POURED 2500 P.S.I.
2. 10" POURED CONCRETE FOUNDATION WALL WITH STEEL REINFORCEMENT PER BUILDING CODE
3. DAMP PROOFING TO BE APPLIED TO FULL BASEMENT WALLS. STOP DAMP PROOFING 12" BELOW TOP OF WALL.
4. INSTALL P.T. SILL PLATE, BOLTED TO FOUNDATION WALL WITH 1/2" DIAMETER ANCHOR BOLTS AT 6'-0" O.C. MAXIMUM AND MIN. OF TWO (2) BOLTS PER SILL PLATE. 12" MIN. FROM CORNERS. ANCHOR BOLTS SHALL BE INSTALLED IN THE MIDDLE THIRD OF THE WIDTH OF THE SILL PLATE PER IRC R403.1.6
5. FOUNDATION WALLS, GARAGE SLABS AND EXTERIOR CONCRETE SHALL HAVE 5% MIN. / 7% MAX. AIR ENTRAINMENT
6. FINISHED GRADE SHALL SLOPE AWAY FROM FOUNDATION WALLS 6" MINIMUM IN THE FIRST 10'-0" RUN

EXISTING GARAGE FOUNDATION



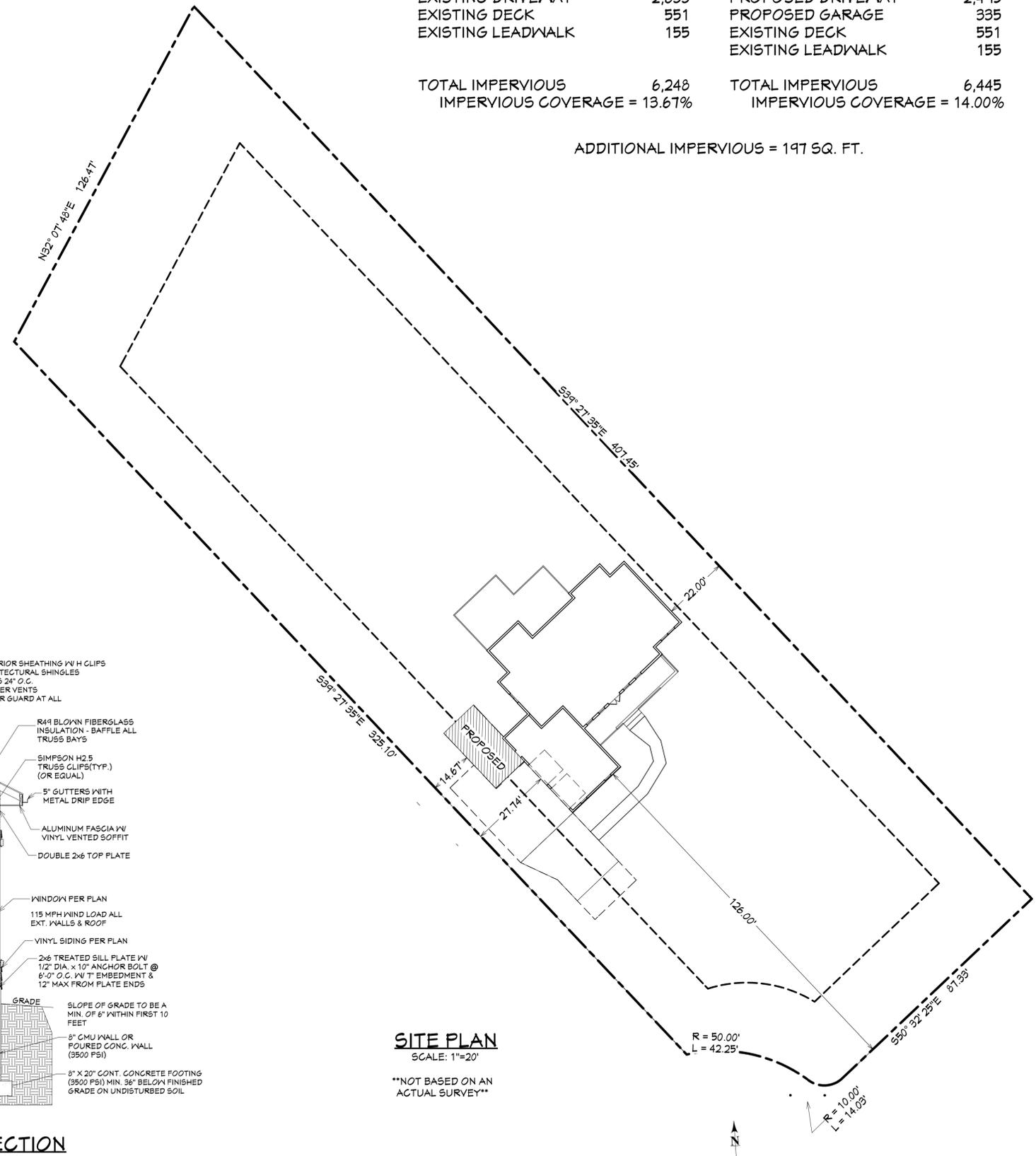
**CROSS SECTION**  
SCALE: 3/8"=1'-0"

**IMPERVIOUS COVERAGE**

LOT SIZE = 45,738.0 SQ. FT.

EXISTING HOUSE	2,909	PROPOSED HOUSE	2,909
EXISTING DRIVEWAY	2,633	PROPOSED DRIVEWAY	2,495
EXISTING DECK	551	PROPOSED GARAGE	335
EXISTING LEADWALK	155	EXISTING DECK	551
		EXISTING LEADWALK	155
<b>TOTAL IMPERVIOUS</b>	<b>6,248</b>	<b>TOTAL IMPERVIOUS</b>	<b>6,445</b>
<b>IMPERVIOUS COVERAGE = 13.67%</b>		<b>IMPERVIOUS COVERAGE = 14.00%</b>	

ADDITIONAL IMPERVIOUS = 197 SQ. FT.



**SITE PLAN**  
SCALE: 1"=20'

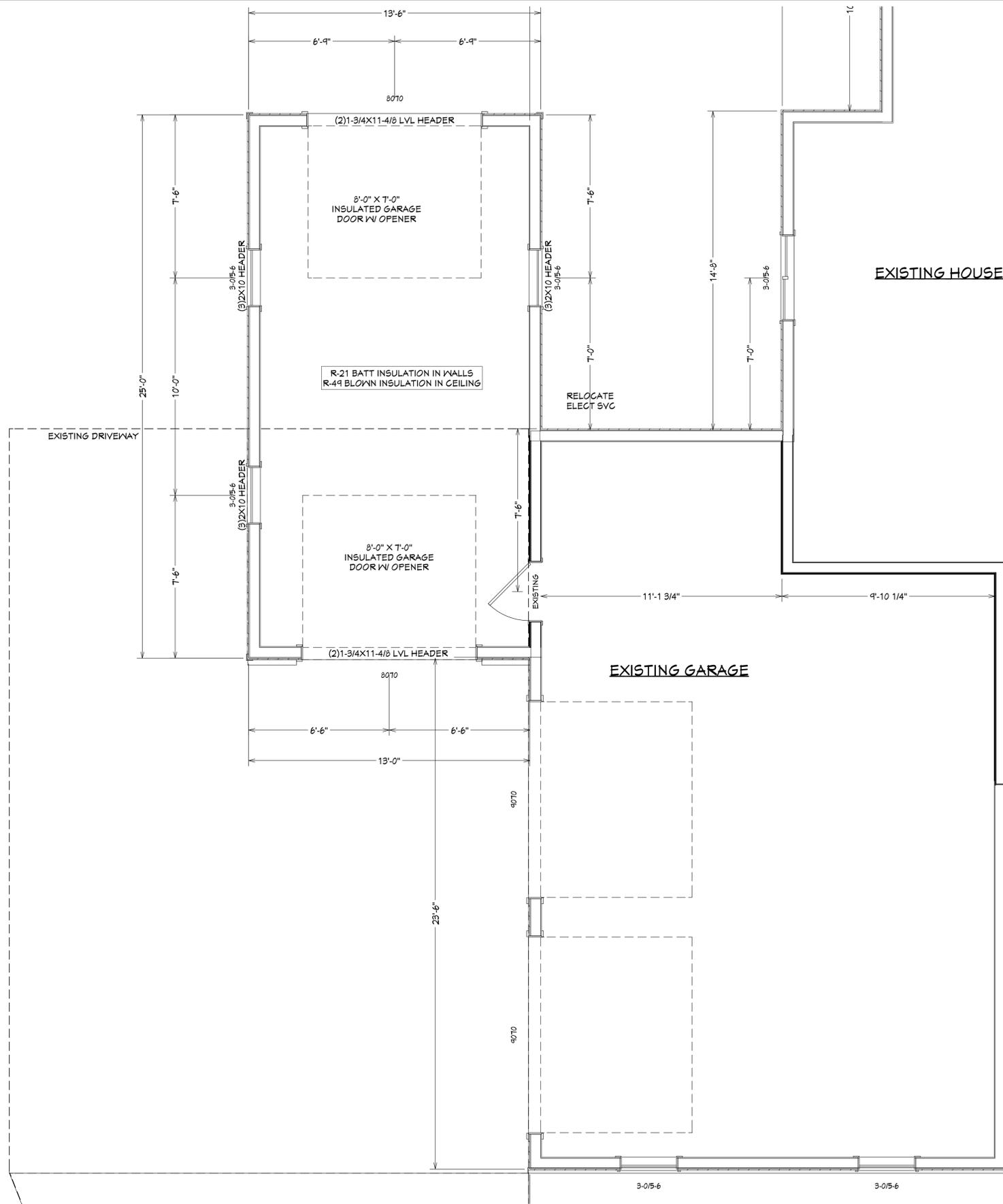
\*\*NOT BASED ON AN ACTUAL SURVEY\*\*

**PLAN INDEX**

- A101-FOUNDATION PLAN
- A102-FLOOR PLANS
- A103-ELECTRICAL LAYOUT/  
EXTERIOR ELEVATIONS

PLAN INDEX

A101-FOUNDATION PLAN  
A102-FLOOR PLANS  
A103-ELECTRICAL LAYOUT/  
EXTERIOR ELEVATIONS



FLOOR PLAN  
SCALE: 3/8" = 1'-0"

TYPICAL WALL SYSTEM

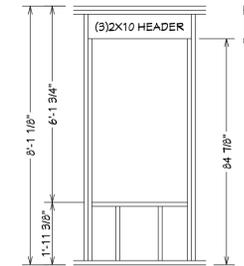
1. FRAME EXTERIOR WALLS 2" X 6" SPF STUDS AT 16" O.C. WITH R-21 INSULATION.
2. INTERIOR BEARING WALLS TO BE FRAMED TO MATCH JOIST LAYOUT
3. 7/16" O.S.B. SHEATHING ON EXTERIOR. USE HOUSEWRAP ON ALL EXTERIOR AND GABLE WALLS. SEAL ALL SEAMS WITH TAPE.
4. BRICK OR STONE AREAS TO RECEIVE 7/16" O.S.B. SHEATHING WITH D RATED PAPER ON EXTERIOR SIDE FOR VAPOR BARRIER.
5. 1/2" GYPSUM WALL BOARD TO BE INSTALLED ON ALL WALLS AND CEILING EXCEPT GARAGE AREAS ADJACENT TO LIVING SPACE. GARAGE WALLS AND CEILING AREAS ADJACENT TO LIVING SPACE TO RECEIVE TYPE "X" FIRE RATED GYPSUM WALL BOARD.
6. ALL BATHROOM SHOWER AND TUB AREAS TO RECEIVE 1/2" WATER RESISTANT GYPSUM
7. ALL DIMENSIONAL LUMBER TO BE SPF #2 OR BETTER.
8. WALLS TO BE CONSTRUCTED IN ACCORDANCE WITH BRACING METHOD #3.
9. ALL EXTERIOR WALL PENETRATIONS ARE TO BE FLASHED OR CAULKED

TYPICAL ROOF SYSTEM

1. 2 x 4 TRUSSES AT 24" O.C. (UNLESS NOTED OTHERWISE)
2. DESIGN LOADS ARE: 30# LIVE LOAD AND 50# TOTAL LOAD (PSF) BOTTOM CHORD LIVE LOAD OF 40 PSF AND DEAD LOAD OF 10 PSF APPLIED TO ROOM
3. 14" HEEL HEIGHT BY TRUSS DESIGNER
4. 7/16" O.S.B. SHEATHING WITH "H" CLIPS. SPAN RATING OF 24/16
5. 30# FELT UNDERLAYMENT
6. LIMITED LIFETIME ARCHITECTURAL SHINGLES
7. ROOF VENTILATION EQUAL TO 1:150th OF INSULATED CEILING AREA
8. FLASHING SHALL BE INSTALLED AT WALL AND ROOF INTERSECTIONS AND WHERE THERE IS A CHANGE IN SLOPE OR DIRECTION. FLASHING SHALL BE INSTALLED TO DIVERT WATER AWAY FROM THE EAVE WHERE A SLOPED ROOF INTERSECTS A VERTICAL WALL

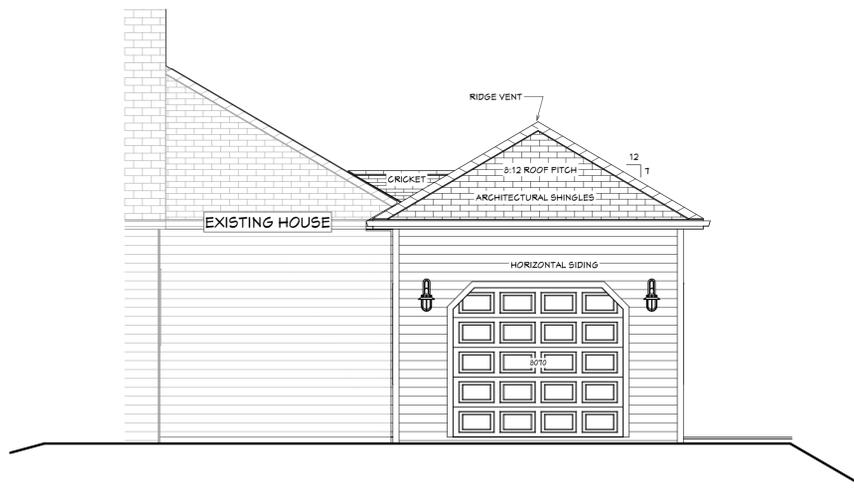
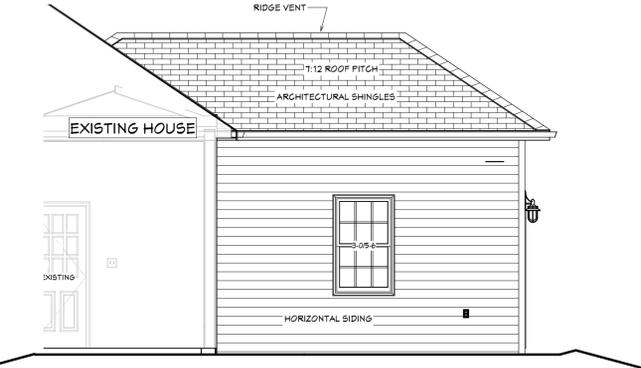
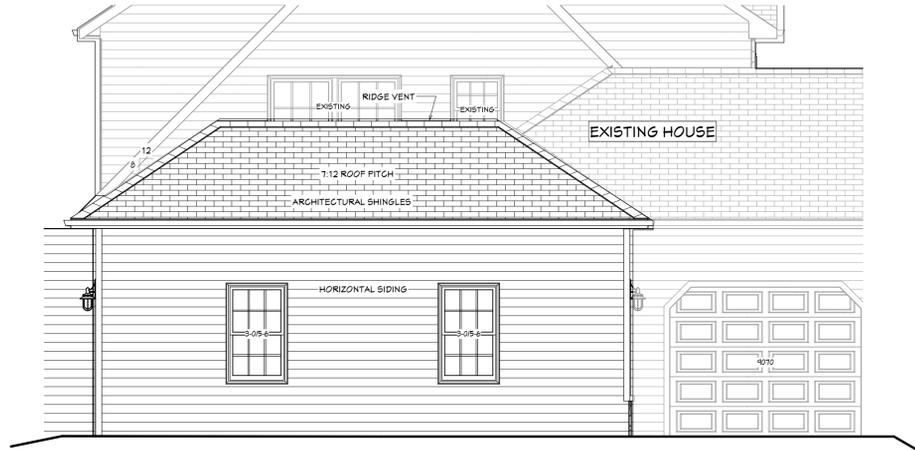
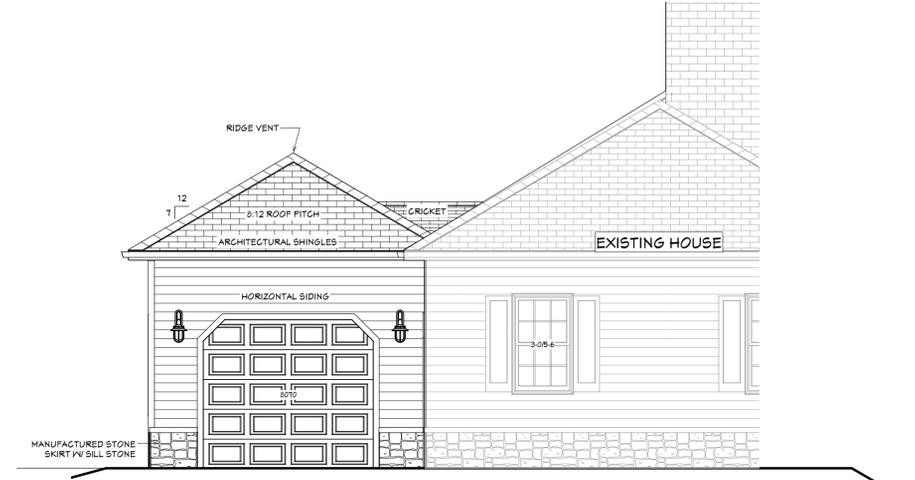
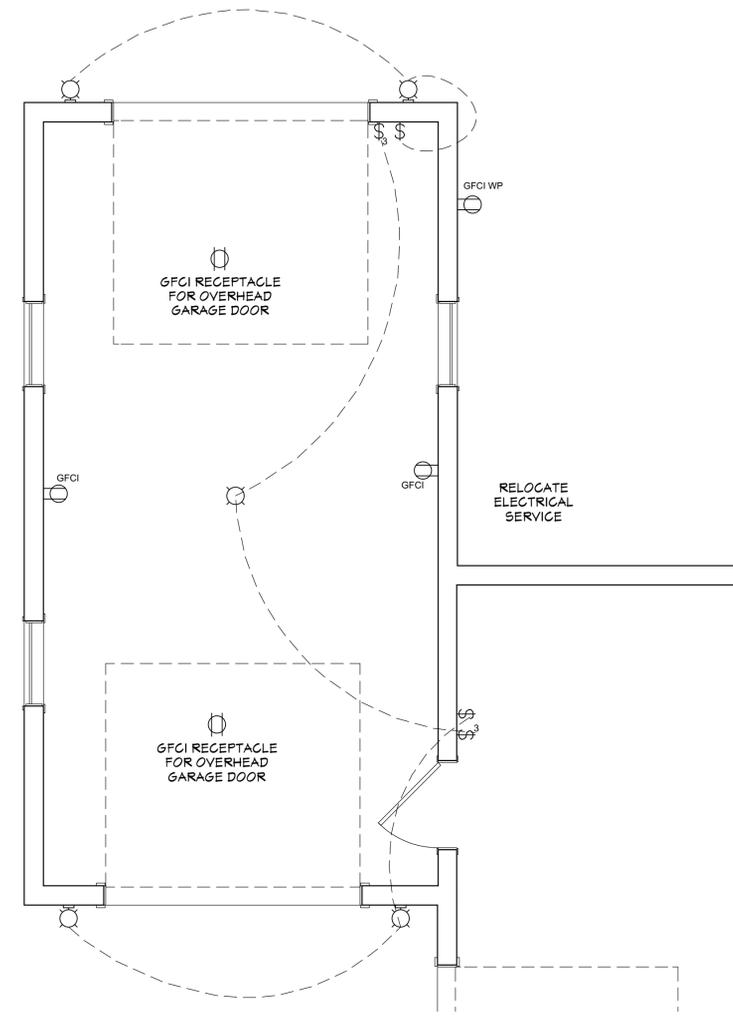
DOOR & WINDOW NOTES:

1. ALL EXTERIOR DOORS SHALL BE RAISED 3/4" ABOVE SUBFLOOR TO ACCEPT FLOOR COVERINGS.
2. INSTALL SILL PAN UNDER ALL EXTERIOR DOORS
3. ALL WINDOWS ARE ANDERSON UNLESS OTHERWISE NOTED. BUILDER TO SUPPLY U-VALUE AND S.H.G.C. TO TOWNSHIP
4. SET TOP OF FIRST FLOOR WINDOWS AT 85" ABOVE FLOOR
5. ALL WINDOWS TO HAVE FLEXIBLE SILL WRAP WITH STRAIGHT FLASHING ON SIDES AND HEAD.



ANY OPENING GREATER THAN 6'-0" TO HAVE (2) JACK STUDS

HEADER DETAIL  
SCALE: 3/8" = 1'-0"



- ELECTRICAL NOTES:**
- SEE FLOOR PLANS FOR NOTES AND DIMENSIONS
  - ALL LOCATIONS OF MECHANICAL EQUIPMENT ARE SUBJECT TO CHANGE DUE TO SITE CONDITIONS
  - SMOKE DETECTORS AS REQUIRED BY GOVERNING CODE, ALL DETECTORS TO BE HARD WIRED AND INTERCONNECTED FOR SIMULTANEOUS ACTIVATION (BATTERY BACK-UP). SMOKE DETECTORS TO BE INSTALLED IN ACCORDANCE WITH 2018 IRC SECTION R314.3 AND R314.3.1
  - CARBON MONOXIDE DETECTOR TO BE WIRED WITH SMOKE DETECTOR SYSTEM PER CODE
  - ALL FAMILY ROOMS, KITCHENS, LAUNDRY ROOMS, DINING ROOMS, LIVING ROOMS, PARLORS, LIBRARIES, DENS, BEDROOMS, SUNROOMS, RECREATION ROOMS, CLOSETS, AND HALLWAYS ARE TO BE PROTECTED BY ARC FAULT BREAKERS AT THE PANEL
  - RECEPTACLES TO BE TAMPER PROOF PER CODE
  - NOTCHED TOP PLATES SHALL BE REINFORCED WITH 16 GAUGE STEEL X 1 1/2"
  - VENTING OF APPLIANCES SHALL BE RIGID METAL WITH OUT SCREWS
  - INSTALL OUTLETS AT BASE MOULDING HEIGHT IN AREAS THAT HAVE MAINSCOTING TRIM DETAILS.
  - DISHWASHER AND GARBAGE DISPOSAL CIRCUIT TO BE AFCI AND GFCI
  - OUTSIDE 15 AND 20 AMPERE 120-VOLT RECEPTACLES SHALL BE LISTED AND LABELED "WEATHER RESISTANT"
  - ALL 15 AND 20 AMPERE 120-VOLT RECEPTACLES LOCATED IN LAUNDRY AREAS REQUIRE AFCI AND GFCI PROTECTION
  - A SEPARATE 20 AMP BRANCH CIRCUIT IS REQUIRED TO SERVE RECEPTACLE OUTLETS OF ATTACHED AND DETACHED GARAGES.
  - A RECEPTACLE OUTLET MUST BE LOCATED IN EACH VEHICLE BAY IN A GARAGE. OUTLETS TO BE NO MORE THAN 5'-6" ABOVE THE FLOOR IN A GARAGE.

ELECTRICAL LEGEND			
○	DUPLEX RECEPT.	⚡	SINGLE POLE SWITCH
⊕	GROUND FAULT INTERRUPTER	⚡	3-WAY SWITCH
⊕	220 VOLT DUPLEX RECEPT.	⚡	4-WAY SWITCH
⊕	REFRIGERATOR RECEPT.	⊠	FLUORESCENT LIGHT FIXTURE
⊕	WATERPROOF RECEPT.	⊠	FANLIGHT
⊕	GARBAGE DISPOSAL	⊠	CEILING MOUNT LIGHT FIXTURE
⊕	MICROWAVE RECEPT.	⊠	RECESSED LIGHT FIXTURE
⊕	TELEVISION	⊠	WALL MOUNTED LIGHT FIXTURE
⊕	TELEPHONE	⊠	CEILING FAN
⊕	DOOR CHIME	⊠	BLANK PLATE
⊕	THERMOSTAT	⊠	SMOKE/CARBON
⊕	SMOKE DETECTOR		

