



**CPED STAFF REPORT**  
Prepared for the Board of Adjustment

BOA Agenda Item #9  
November 6, 2014  
BZZ-6892

**LAND USE APPLICATION SUMMARY**

*Property Location:* 5144 Drew Ave S  
*Project Name:* New Single-Family Home  
*Prepared By:* [Joseph.Giant@minneapolismn.gov](mailto:Joseph.Giant@minneapolismn.gov), City Planner, (612) 673-3489  
*Applicant:* Endres Custom Homes  
*Project Contact:* Dustin Endres  
*Request:* To construct a single-family home  
*Required Applications:*

<b>Variance</b>	<ul style="list-style-type: none"> <li>Variance to reduce the established front yard setback along Drew Ave S from 35 feet to 34.6 feet, measured to the structure.</li> </ul>
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**SITE DATA**

<b>Existing Zoning</b>	RIA Single-Family District
<b>Lot Area</b>	6,063 square feet
<b>Ward(s)</b>	13
<b>Neighborhood(s)</b>	Fulton
<b>Designated Future Land Use</b>	Urban Neighborhood
<b>Land Use Features</b>	NA
<b>Small Area Plan(s)</b>	NA

<b>Date Application Deemed Complete</b>	October 14, 2014	<b>Date Extension Letter Sent</b>	NA
<b>End of 60-Day Decision Period</b>	December 14, 2014	<b>End of 120-Day Decision Period</b>	NA

## BACKGROUND

**SITE DESCRIPTION AND PRESENT USE.** The subject property is a 6,063 square foot lot located at the northwest corner of Drew Ave S and 52<sup>nd</sup> St W in the R1A Single-Family District. The property has approximately 47 linear feet of frontage along Drew Ave S and approximately 128 linear feet of frontage along 52<sup>nd</sup> St W. A substantially built single-family home and detached garage currently exist on the property. The proposed gross floor area of the home is approximately 2,420 square feet, resulting in a floor area ratio of 0.40. The placement of the partially built home is the subject of this variance.

The as-built structure is subject to an established front yard setback along Drew Ave S of 35 feet. However, the home was constructed approximately 34.6 feet from the front lot line. Thus, it encroaches into the established front yard setback by 0.4 feet, requiring a variance.

The current structure is 6 feet from the interior property line to the north and approximately 13.4 feet from the corner side lot line to the south.

**SURROUNDING PROPERTIES AND NEIGHBORHOOD.** The subject property is located in the Fulton neighborhood in southwest Minneapolis, approximately two blocks southeast of the 50<sup>th</sup> and France commercial area. The predominant land use in the vicinity is single-family homes on lots with comparable dimensions to the subject property. With the exception of the subject property, the remaining properties on the block face contain 1-story ranch homes that are remarkably similar in age and architectural style. The opposite block face contains a mix of one and two-story single-family homes of varying age and architectural style.

**PROJECT DESCRIPTION.** The home on the subject lot was built in accordance with a site plan approved by CPED-Zoning Administration on July 25, 2014. The home passed a foundation inspection, occurring on August 4, 2014, and framing inspection, occurring on September 24, 2014. However, a subsequent zoning inspection revealed that a portion of the front of the home was constructed closer to the front lot line than the principal structure on the adjacent lot to the north. According to Section 546.160(b), the front façade of new homes may not be built closer to the front lot line than the facades of the immediately adjacent houses, so a variance would be required to legitimize the placement of the as-built structure. Because the specious placement of the home was not discovered until far along in the construction process, the home has been substantially completed, including the installation of exterior cladding, insulation, windows, and roofing materials. Several photos of the structure are available in the Additional Materials.

The labeled dimensions on the approved site plan show the front of the house to be 35.04 feet from the front lot line, slightly greater than the requisite distance of 35 feet. The home was constructed using the interior side lot line as a reference point, so the north wall of the home is approximately parallel with this boundary. On this particular property, however, the intersection of the side lot line and front lot line form slightly less than a 90-degree angle. By constructing the home parallel with the side lot line, the rectangular footprint of the home became slightly askew with the front lot line. As a result, the northern portion of the structure is approximately 7.2 inches closer to the front lot line than the southern portion. Consequently, the first 4.8 inches of the home were constructed in the established front yard setback.

**PUBLIC COMMENTS.** Any correspondence received prior to the public meeting will be forwarded to the Board of Adjustment for consideration.

## ANALYSIS

### VARIANCE

In accordance with Chapter 525, Article IX Variances, Section 525.520(1) “to vary the yard requirements, including permitted obstructions into required yards not allowed by the applicable regulations,” the Department of Community Planning and Economic Development has analyzed the application for variance based on the following findings:

- 1. Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.***

The applicant is proposing to legitimize the placement of a substantially constructed two-story home. The circumstances upon which the variance is requested are unique to the parcel of land due to the placement of the adjacent home to the north (the front façade is similarly askew with the front lot line) and the non-orthogonal shape of the lot. Although neither of these factors would prevent the applicant from constructing a house that did not require a variance, a practical difficulty is created by the combination of these factors in conjunction with the large front and corner side yard setbacks and the desire to preserve the established pattern of front yard setbacks.

The home is subject to an 8-foot required corner side yard setback and a 35-foot established front yard setback. These constraints are not unique, but they do limit the buildable area of a lot. In similar situations, builders typically place the front wall of homes as close as possible to the required or established setbacks in order to maximize buildable area and create open space in the rear of the lot. This practice is nearly ubiquitous for new single-family homes in Minneapolis. The development pattern is also desirable from an urban design perspective as it establishes a consistent building wall, contributing to visual order and a clear and consistent development pattern.

The applicant attempted to follow this existing pattern of front yard setbacks, but the cumulative effect of slight variations in the intersection of lot lines and the non-orthogonal placement of the home to the north made the established front yard setback difficult to ascertain. The platting of the lot and the placement of the adjacent home to the north are circumstances that were not created by the applicant.

- 2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.***

The proposed use is a single-family home with a detached garage. Single-family homes are a permitted use in the RIA district and are the primary land use in the surrounding area. The proposed front yard is consistent with the character of the area and the future land use map contained in the comprehensive plan.

According to Chapter 535.220 of the Minneapolis Code of Ordinances, the purpose of yard requirements is to provide for the orderly development and use of land and to minimize conflicts among land uses by governing the location of uses and structures. The variance proposes to reduce the established 35-foot front yard setback by less than 5 inches. The minor nature of this variance should not hinder orderly development or create conflicts among land uses. In all other regards the home meets the requirements of the zoning code and is consistent with the comprehensive plan.

The following policy from the comprehensive plan is particularly applicable to this application:

***Housing Policy 3.1.3.*** *Continue to streamline city development review, permitting, and licensing to make it easier to develop property in the City of Minneapolis.*

The existing structure was built in accordance with plans that were approved by City staff, and the setback issue was not brought up during either the foundation or the framing inspections. As a result, the unpermitted placement of the house was not discovered until very late in the construction process. Denial of the variance would result in a large financial loss for the applicant, necessitate a massive structural redesign, and prolong construction indefinitely. Denial of this variance would be in strong discord with this Comprehensive Plan policy.

- 3. The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.***

The proposed variance will not alter the character of the locality nor will it be injurious to the use or enjoyment of other property in the vicinity. Setbacks are required by the zoning code in order to create a consistent and predictable development pattern and to avoid development that may be obtrusive to neighboring properties.

A consistent and predictable setback distance is a desirable feature in traditional neighborhood development. Although the structure is a two-story home on a block face that consists entirely of one-story homes, a 4.8-inch differential in setback distance situated behind a 35-foot front yard does not significantly alter the established setback pattern, nor detract from its aesthetic value.

The adjacent property to the north would be most affected by this variance. Although the front façade of the neighboring house is 35 feet from the front lot line at its closest point, the portion of the neighboring home nearest the subject property is recessed from its front façade by approximately 5.3 feet. Thus, from this vantage point the subject structure appears to project further into the front yard setback than is conveyed by the request for a 4.8-inch variance. However, the visual impact from this location is similar to that which could be created without a

variance. The north wall of the subject structure was constructed 6 feet from the property line, exceeding the minimum interior side yard setback of 5 feet.<sup>1</sup> If the north wall of the subject structure had been built to the minimum setback, the interruption in sight lines from this portion of the neighboring structure would be similar to those created by the 4.8-inch encroachment into the established front yard setback. An open front porch projects from the front façade of the subject dwelling 6 feet into the established front yard setback. Open front porches are a permitted encroachment in the front yard setback as long as they project no more than 8 feet from the front façade of the structure.

The proposed home was subject to Administrative Site Plan Review for Single-Family Dwellings. With a detached garage, basement, quality materials, an open front porch, and a pitched roof, the home qualified for 17 of 24 possible points for new homes, exceeding the minimum of 15. As of October 1, 2014, the points system for new homes was revised to suit trends in development. If the home had been reviewed under the current and revised points schedule, it would have earned at minimum 13 out of a required 17 points. Points for tree preservation and stormwater management may have been earned, but documentation was not previously required for the implementation of these features under the former points system, so it is unclear if the home would have earned points for these conservation-related measures.

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<sup>1</sup> As of October 1, 2014, the interior side yard setback for this property was increased to 6 feet. However, the building permit for this home was approved in July 2014, so the structure was governed by the ordinance provisions that existed on that date, which required a 5-foot interior side yard setback.

## RECOMMENDATIONS

### **Recommendation of the Department of Community Planning and Economic Development for the Variance:**

The Department of Community Planning and Economic Development recommends that the Board of Adjustment adopt staff findings and **approve** the application for variance at 5144 Drew Avenue South to reduce the established front yard setback from 35 feet to approximately 34.6 feet, measured to the structure, subject to the following conditions.

1. Approval of the final site, elevation, and floor plans by the Department of Community Planning and Economic Development
2. All site improvements shall be completed by July 25, 2015 unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

## ATTACHMENTS

1. Zoning map
2. Written description and findings submitted by applicant
3. Letter to Ward 13 and Fulton Neighborhood Organization
4. Approved land survey
5. Land survey with additional dimensions
6. Elevation drawings and house plans
7. 3D rendering of proposed structure
8. Photos of as-built structure
9. Correspondence

Dustin Endres

13th

NAME OF APPLICANT

WARD



PROPERTY ADDRESS  
**5144 Drew Ave S**

FILE NUMBER  
**BZZ-6892**

## 5144 Drew Ave Variance Request Statement

### Background:

We have built a new home at 5144 Drew and have built the home exactly where the city approved it to be built. However, it has come to our attention that the front lot line is not square to our side lot line and therefore not square to our building and so part of our building encroaches the established front yard setback by up to 4.75 inches.

The approved front yard setback distance is 35 feet which was established by the distance of the property to the north from its front lot line. The Minimum front setback distance for this zoning district is 20 feet which we are well over. The SE corner of our building is at 35.2 feet but our NE corner is at 34.6 feet.

The home that is built exceeds all other minimum setback requirements and is designed with a low profile one-and-a-half story design on the exterior to compliment the neighboring properties.

1. Practical difficulties exist in complying with the ordinance because the home is already built. To move part of the home 4.75 inches would be detrimental to the integrity of the structure. It was not our intention to cross the established front property setback line. As mentioned previously the home is built where the city approved it to be built. The unintentional and unknown encroachment discovery did not happen until Steve Weckman, Zoning Inspector II brought it to our attention.
2. As mentioned previously this home is built where the city approved it to be built and to the approved plans and specifications which all keep with the spirit and intent of the ordinance which intends to keep setback distances of a block similar to each other in lieu of the minimum setback distance of 20 feet.
3. The proposed variance is not one that alters the character of the locality and is not one that will be injurious to the use or enjoyment of other property in the vicinity. Furthermore the proposed variance will not be detrimental to the health, safety or welfare of the general public or of those utilizing the property or nearby properties because the variance requested has no effect on the health, safety or welfare of the general public or of those utilizing the property or nearby properties.

I can be reached at:

612-221-2215

[dendres@endrescustomhomes.com](mailto:dendres@endrescustomhomes.com)

Endres Custom Homes  
15561 Dunberry Way  
Apple Valley, MN 55124

Thank you,

Dustin Endres

Letter to Ward 13 - Linea Palmisano via website contact form

Hello,

I am contacting you to inform you of a variance we are applying for. We have built a new home at 5144 Drew and have built the home exactly where the city approved it to be built. However, it has come to our attention that the front lot line is not square to our building and part of our building encroaches the established front yard setback by up to 4.75 inches. The approved set back distance is 35 feet which was established by the distance of the property to the north from its front lot line. The SE corner of our building is at 35.2 feet but our NE corner is at 34.6 feet. It was not our intention to cross the established front property setback line. As mentioned previously the home is built where the city approved it to be built. We are aware that we will need a variance for this encroachment discovery.

I can be reached at:

612-221-2215

[dendres@endrescustomhomes.com](mailto:dendres@endrescustomhomes.com)

Endres Custom Homes

15561 Dunberry Way

Apple Valley, MN 55124

Thank you,

Dustin Endres



[Home - Ward 13 - Linea Palmisano](#)

## Contact Ward 13 - Linea Palmisano

Name \*

Dustin Endres

E-mail Address \*

dendres@endrescustomhomes.com

Phone Number

(612) 221-2215

Cell

Address

5144 drew ave s

City

Minneapolis

State

Zip Code

MN

Question/Comment \*

Hello,

I am contacting you to inform you of a variance we are applying for. We have built a new home at 5144 Drew and have built the home exactly

Information you provide is subject to the Minnesota Govern

## Dustin Endres

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**From:** Dustin Endres <dendres@endrescustomhomes.com>  
**Sent:** Monday, October 13, 2014 10:43 AM  
**To:** 'info@fultonneighborhood.org'  
**Subject:** RE: 3700 W 52nd St

Hello Fulton Neighborhood Association,

I am contacting you to inform you of a variance we are applying for. We have built a new home at 5144 Drew and have built the home exactly where the city approved it to be built. However, it has come to our attention that the front lot line is not square to our building and part of our building encroaches the established front yard setback by up to 4.75 inches. The approved set back distance is 35 feet which was established by the distance of the property to the north from its front lot line. The SE corner of our building is at 35.2 feet but our NE corner is at 34.6 feet. It was not our intention to cross the established front property setback line. As mentioned previously the home is built where the city approved it to be built. We are aware that we will need a variance for this encroachment discovery.

I can be reached at:

612-221-2215

[dendres@endrescustomhomes.com](mailto:dendres@endrescustomhomes.com)

Endres Custom Homes  
15561 Dunberry Way  
Apple Valley, MN 55124

Thanks,

Dustin Endres

Endres Custom Homes

[endrescustomhomes.com](http://endrescustomhomes.com)

612-221-2215

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**From:** [dendres@endrescustomhomes.com](mailto:dendres@endrescustomhomes.com) [<mailto:dendres@endrescustomhomes.com>]

**Sent:** Saturday, June 14, 2014 8:41 PM

**To:** 'info@fultonneighborhood.org'

**Subject:** 3700 W 52nd St

Hello Fulton Neighborhood Association,

We are proposing to remove the existing structures and build a new single family home at 3700 W 52nd St. If you have any questions, comments or concerns please feel free to contact me.

Thank you,

Dustin Endres

Endres Custom Homes

[endrescustomhomes.com](http://endrescustomhomes.com)

612-221-2215

Building Permit Survey for:  
**ENDRES CUSTOM HOMES, INC.**  
 at 3700 52nd Street West

**PROPERTY DESCRIPTION**

Lot 12, AUDITOR'S SUBDIVISION NUMBER 374, Hennepin County, Minnesota.

**APPROVED SITE PLAN**

**LEGEND**

- Iron Monument Found
- Iron Monument Set
- ⊗ Proposed Elevation
- ⊙ Existing Elevation
- Proposed Surface Drainage
- DS Proposed Downspout
- \* Proposed Light
- Proposed Silt Fence
- Hub
- AC Air Conditioner
- DS Downspout

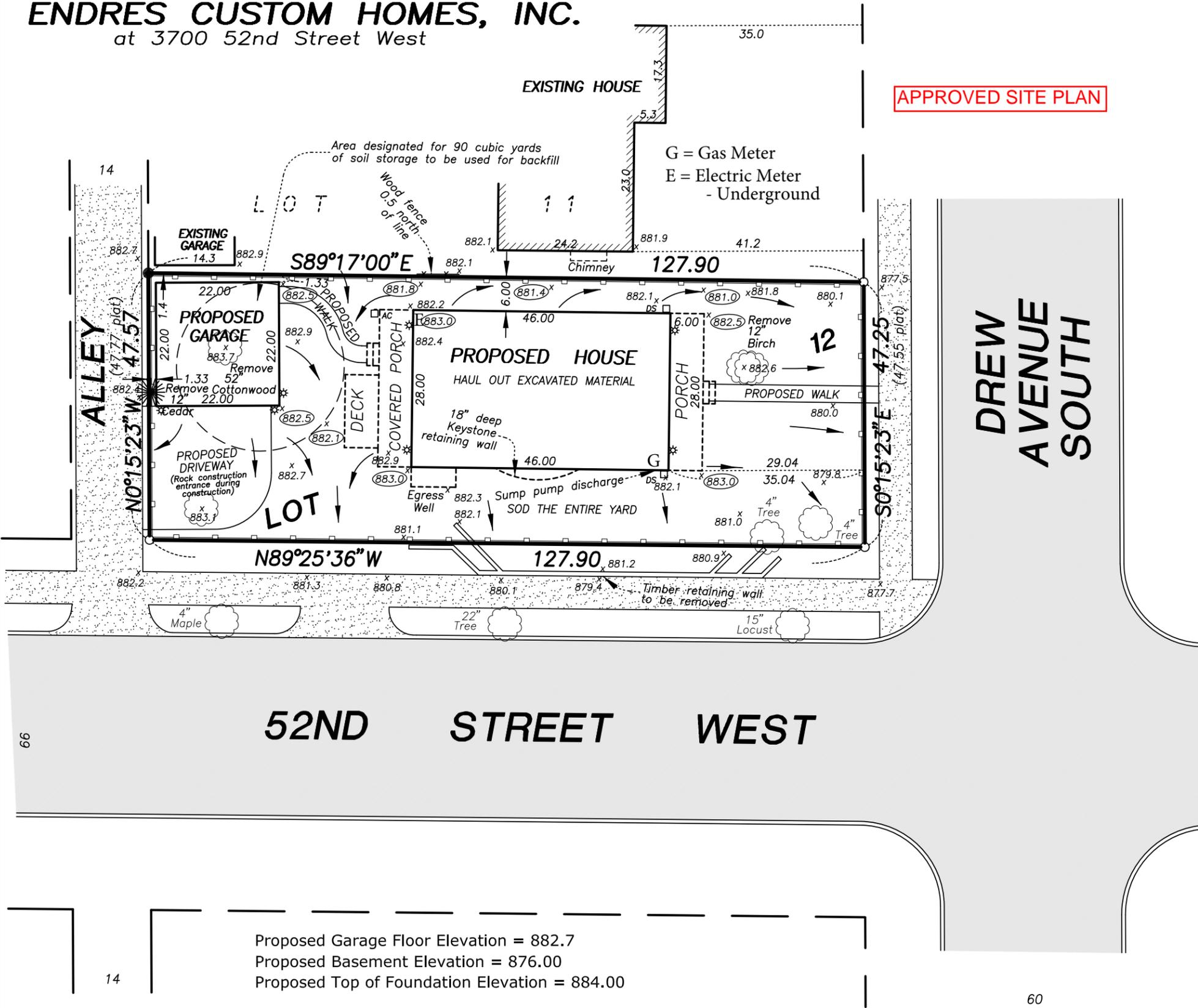


Scale: 1 inch = 20 feet

Area = 6,063 square feet (0.14 acre)

**AREAS**

- Garage = 484 square feet
- House = 1,288 square feet
- Drive = 415 square feet
- Sidewalk = 83 square feet
- Deck = 78 square feet
- Front Porch = 168 square feet
- Rear Porch = 168 square feet



Proposed Garage Floor Elevation = 882.7  
 Proposed Basement Elevation = 876.00  
 Proposed Top of Foundation Elevation = 884.00

NOTE: This survey was prepared without the benefit of a title commitment. Easements of record, if any, are not shown.

I hereby certify that this is a true and correct representation of a survey of the boundaries of the land above described and of the location of a proposed house.

Dated this 5th day of June, 2014

REHDER & ASSOCIATES, INC.

*Thomas J. Adam*

Thomas J. Adam, Land Surveyor  
 Minnesota License No. 43414

Revised June 16, 2014  
 Revised June 19, 2014  
 Revised July 17, 2014

**Rehder and Associates, Inc.**

CIVIL ENGINEERS AND LAND SURVEYORS

3440 Federal Drive • Suite 110 • Eagan, Minnesota • Phone (651) 452-5051

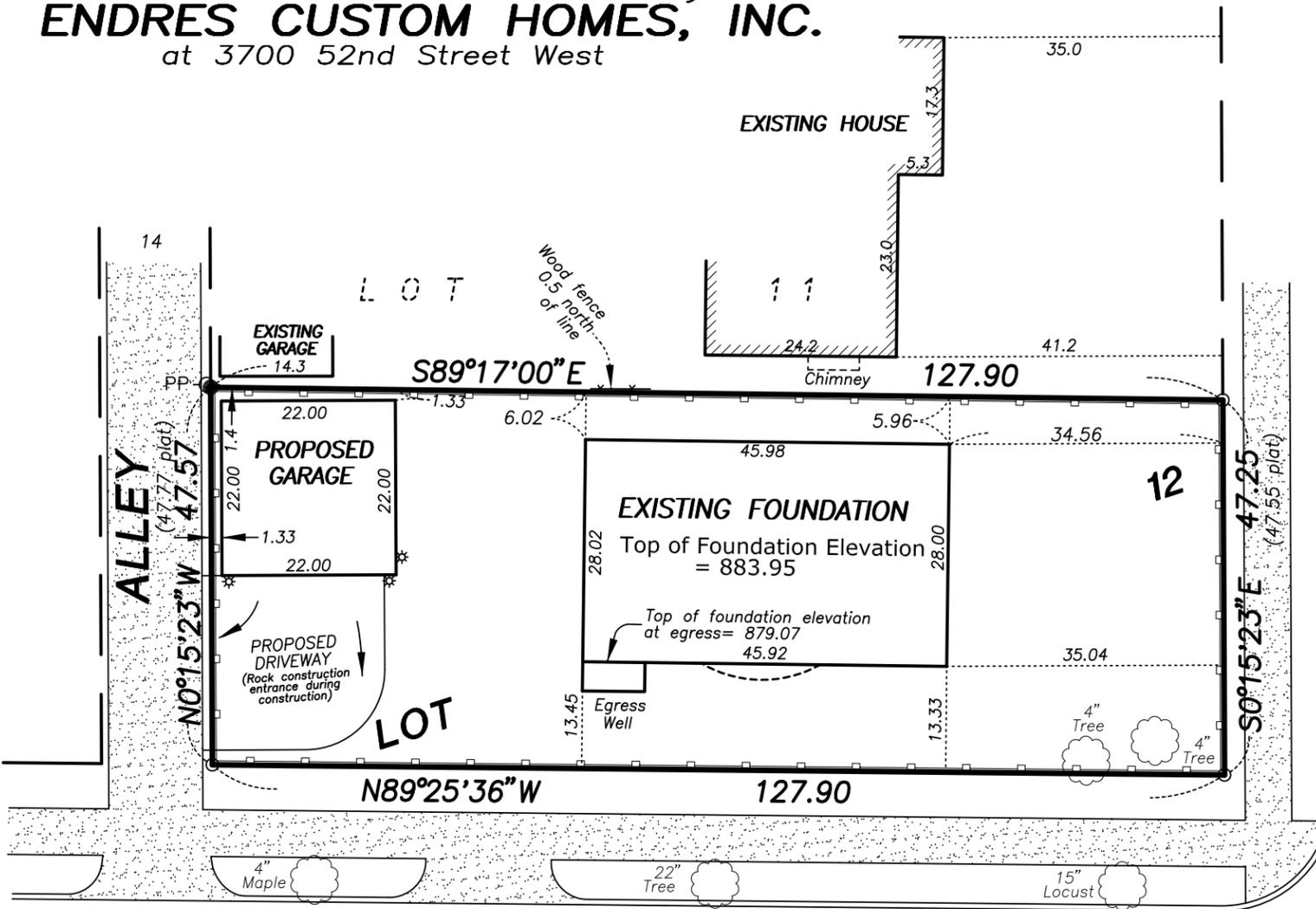
JOB: 144-2200.064

Foundation As Built Survey for:  
**ENDRES CUSTOM HOMES, INC.**  
 at 3700 52nd Street West

**PROPERTY DESCRIPTION**

Lot 12, AUDITOR'S SUBDIVISION NUMBER 374, Hennepin County, Minnesota.

AS-BUILT SURVEY



DREW AVENUE SOUTH



Scale: 1 inch = 20 feet  
 Area = 6,063 square feet (0.14 acre)

52ND STREET WEST

I hereby certify that this survey was prepared by me or under my direction and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Dated this 18th day of August, 2014.  
 REHDER & ASSOCIATES, INC.

*Thomas J. Adam*  
 Thomas J. Adam, Land Surveyor  
 Minnesota License No. 43414

Proposed Garage Floor Elevation = 882.7  
 Proposed Basement Elevation = 876.00  
 Proposed Top of Foundation Elevation = 884.00

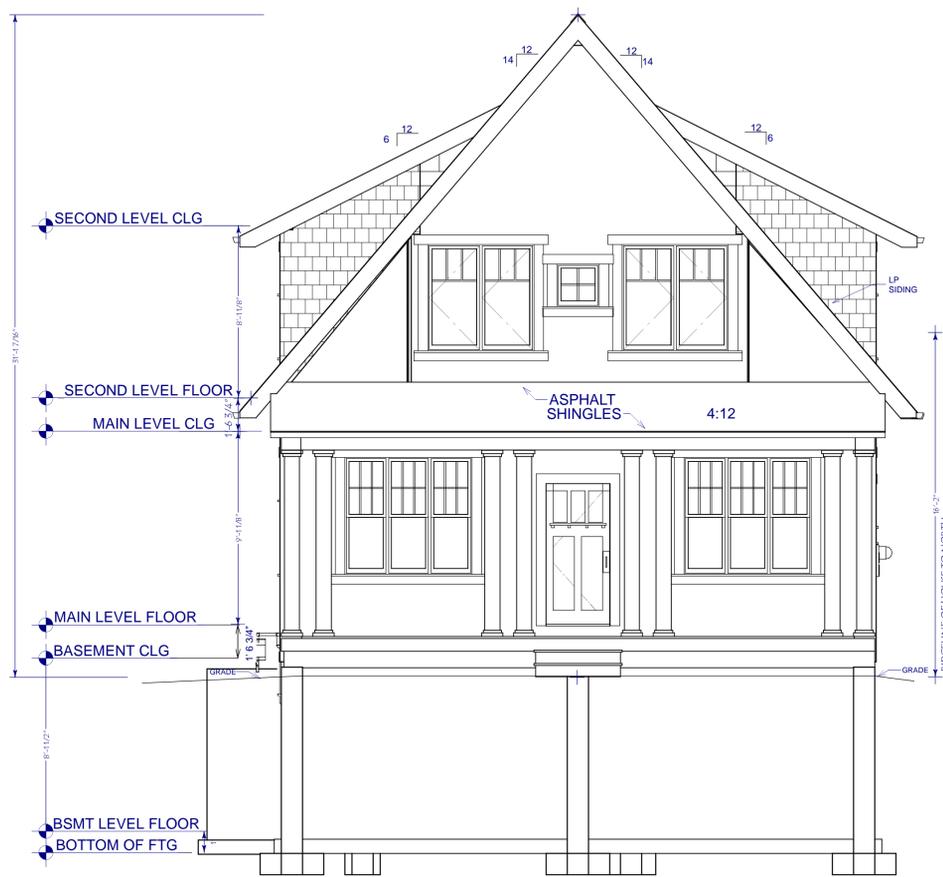
NOTE: This survey was prepared without the benefit of a title commitment. Easements of record, if any, are not shown.

**Rehder and Associates, Inc.**

CIVIL ENGINEERS AND LAND SURVEYORS  
 3440 Federal Drive • Suite 110 • Eagan, Minnesota • Phone (651) 452-5051

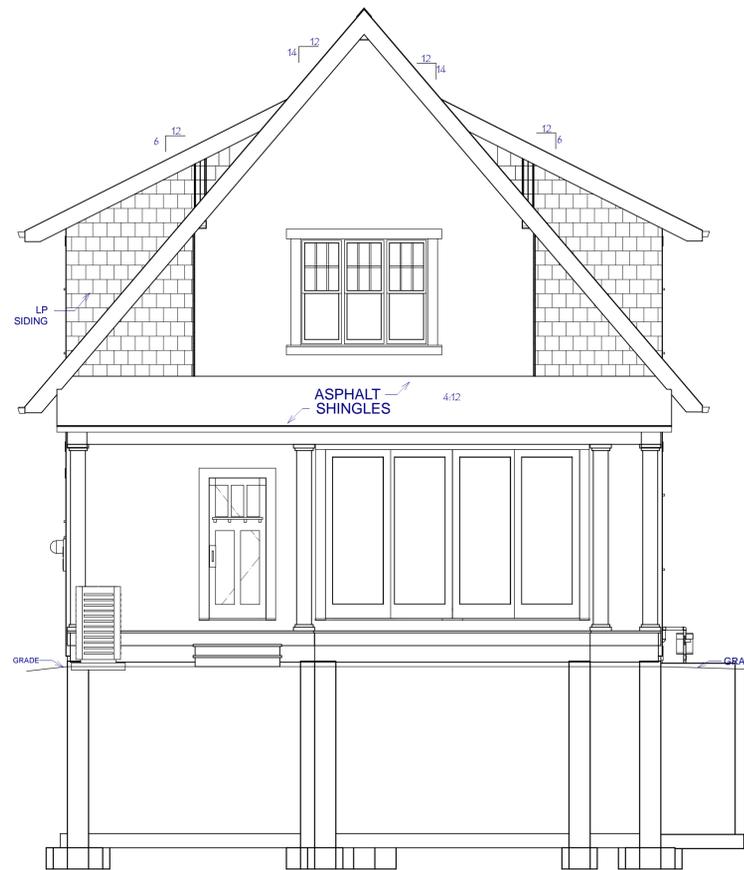
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LAYOUT PAGE TABLE			
LABEL	TITLE	DESCRIPTION	COMMENTS
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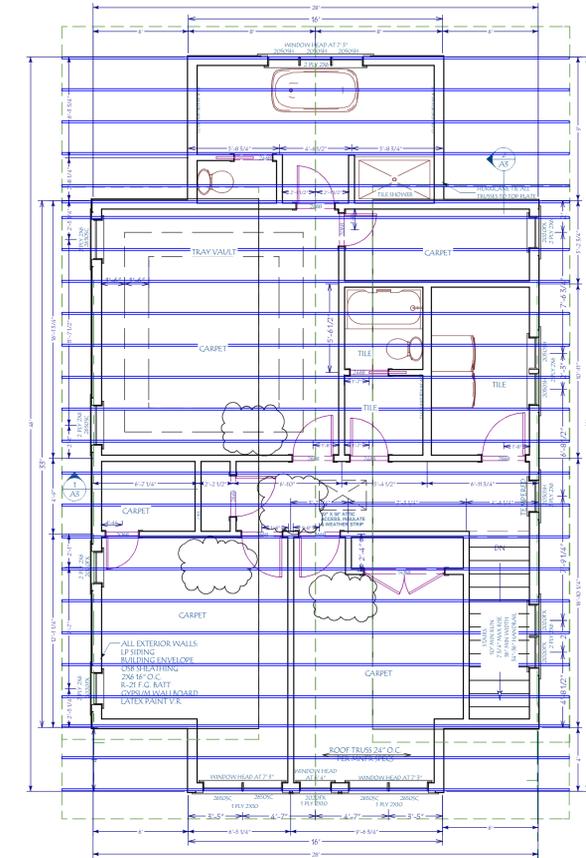
**1**  
**A1** FRONT ELEVATION  
SCALE: 1/4" = 1' 0"

ALL DIMENSIONS TO OS SHEATHING  
BUILDING TO BE CONSTRUCTED PER  
IRC 2006 CODE W/ MN AMENDMENTS

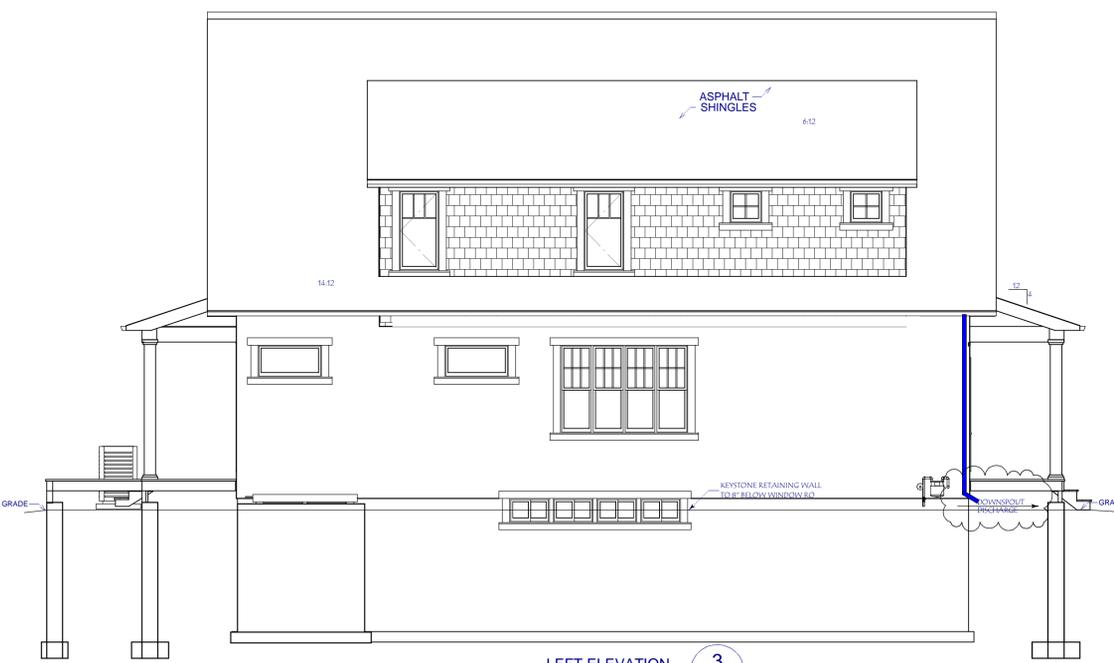


REAR ELEVATION  
SCALE: 1/4" = 1' 0"

**2**  
**A1**

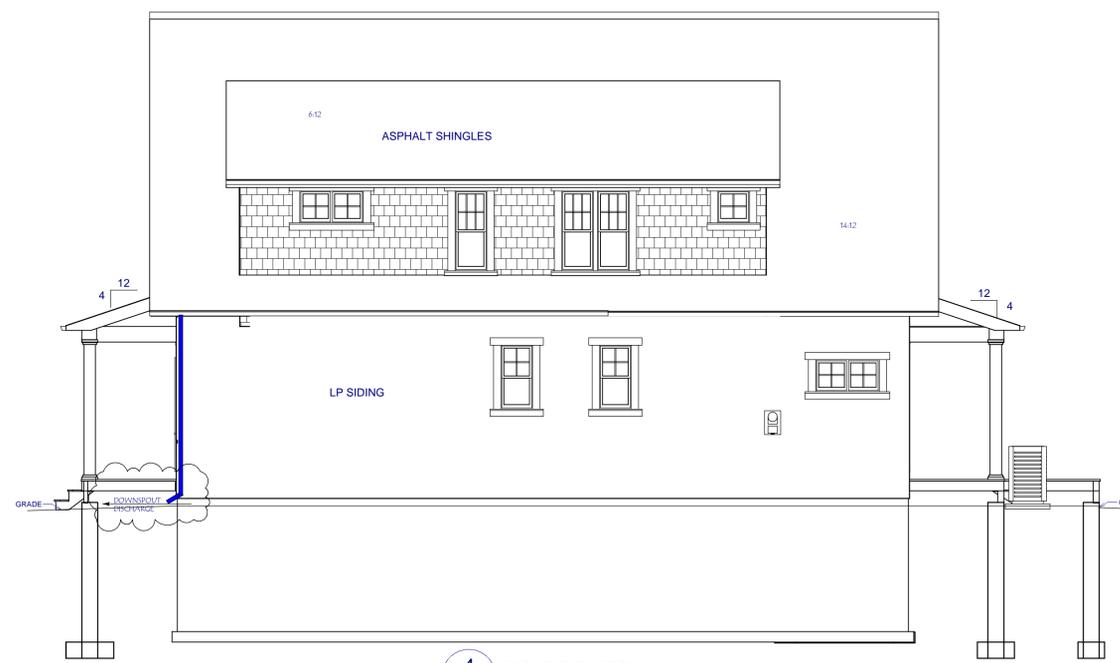


**5**  
**A1** ROOF LAYOUT  
SCALE 3/16" = 1' 0"



LEFT ELEVATION  
SCALE: 3/16" = 1' 0"

**3**  
**A1**



RIGHT ELEVATION  
SCALE: 3/16" = 1' 0"

**4**  
**A1**

REVISION TABLE	REVISOR	DESCRIPTION
NUMBER	DATE	

Project Overview

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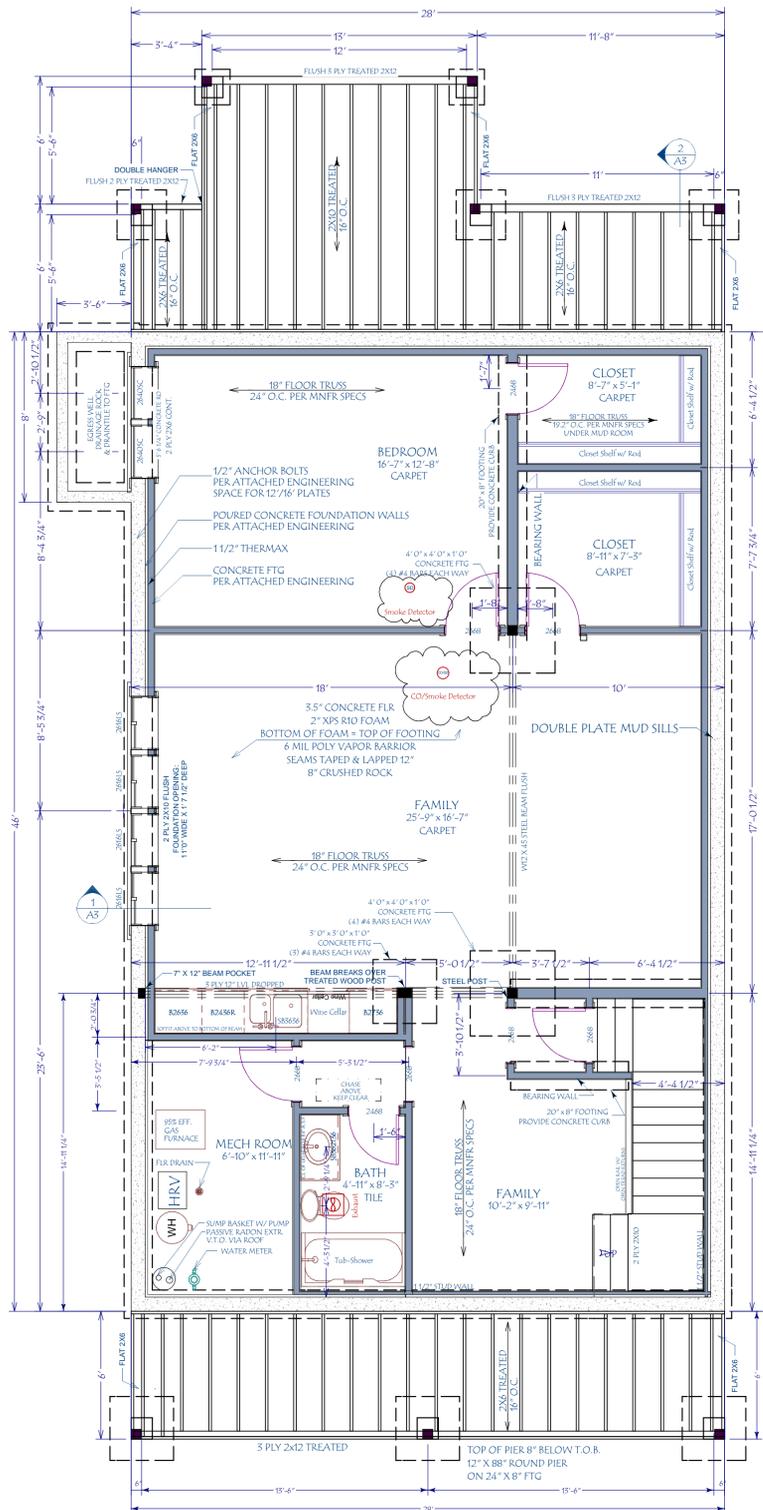
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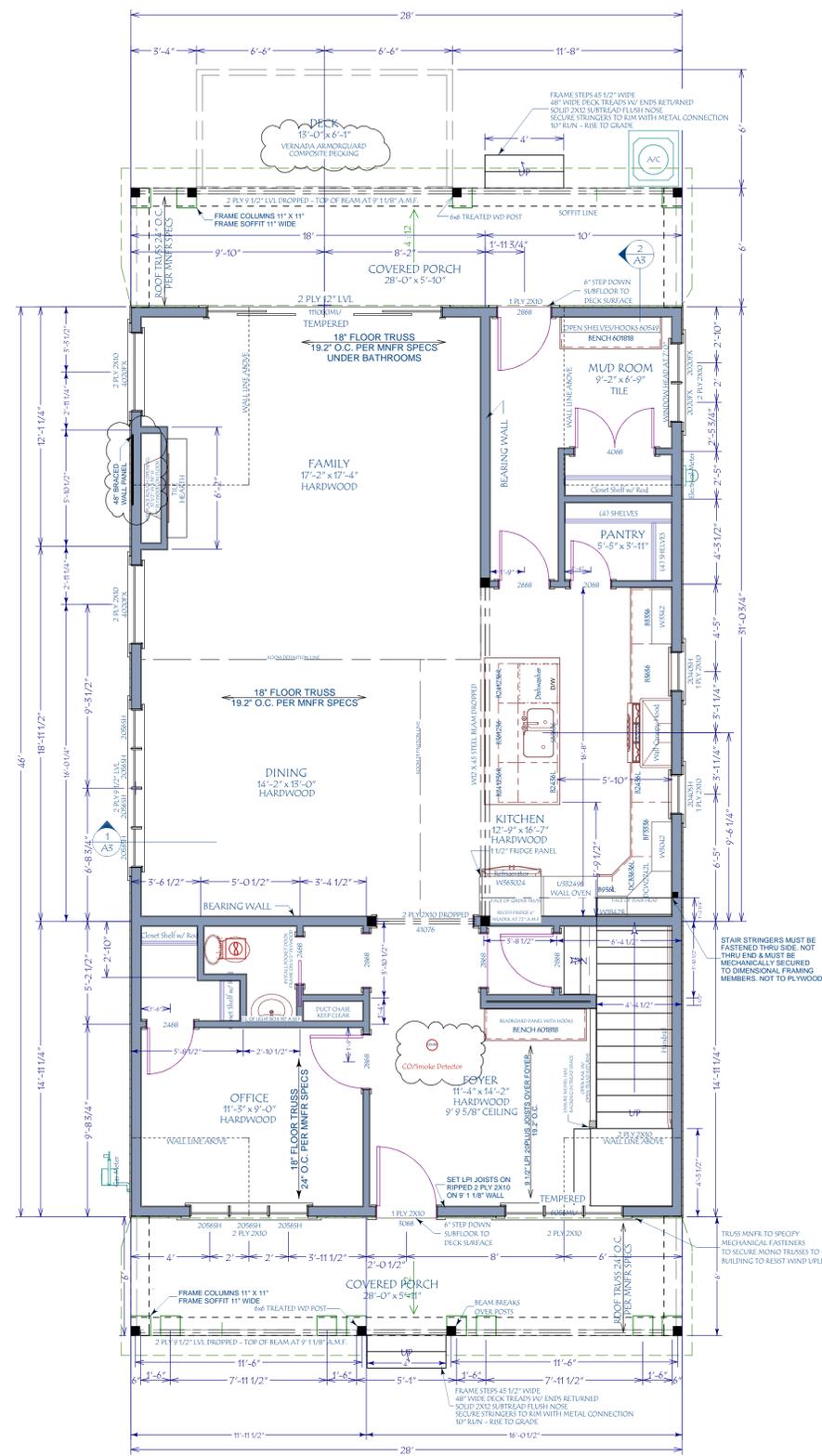
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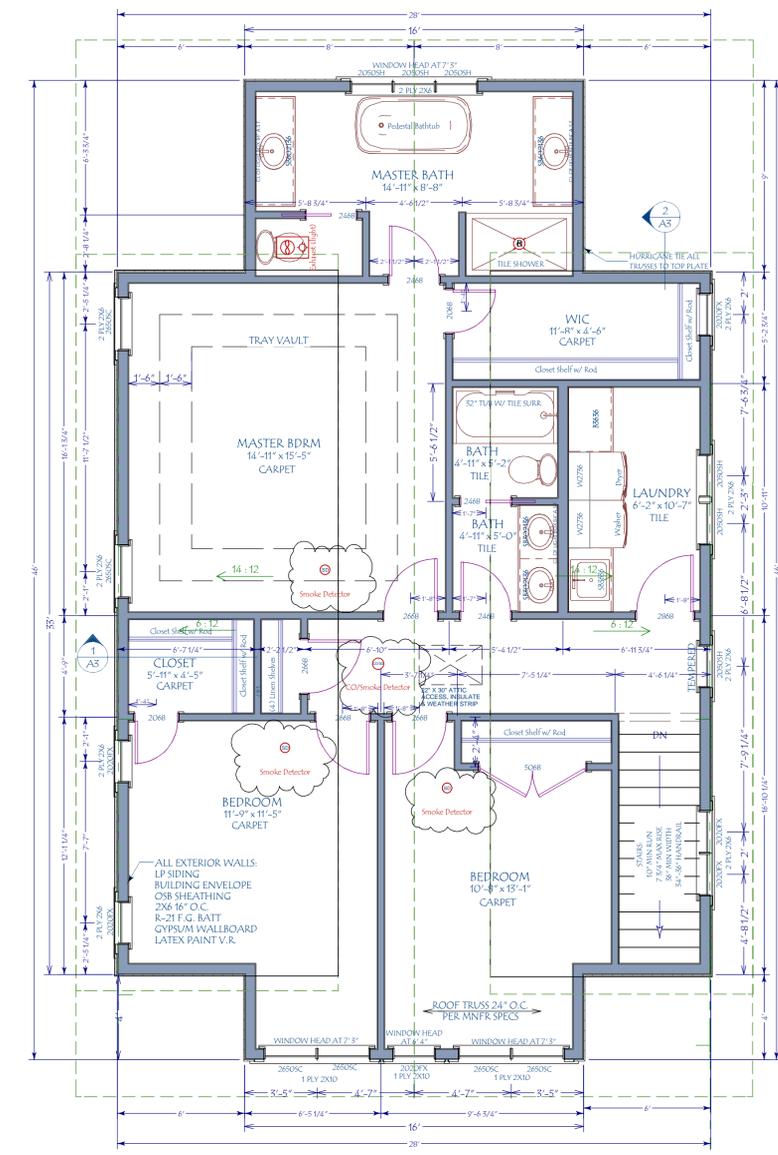
P-1



**1**  
**A2** **BASEMENT** LIVING AREA  
SCALE: 1/4" = 1'-0"  
1284 sq ft



**2**  
**A2** **MAIN FLOOR** LIVING AREA  
SCALE: 1/4" = 1'-0"  
1250 sq ft  
MAIN FLOOR WINDOW HEADS @ 7'-11" U.N.O.



**3**  
**A2** **SECOND FLOOR** LIVING AREA  
SCALE: 1/4" = 1'-0"  
1072 sq ft  
2ND FLOOR WINDOW HEADS @ 6'-11" U.N.O.

NUMBER	DATE	REVISION BY	DESCRIPTION

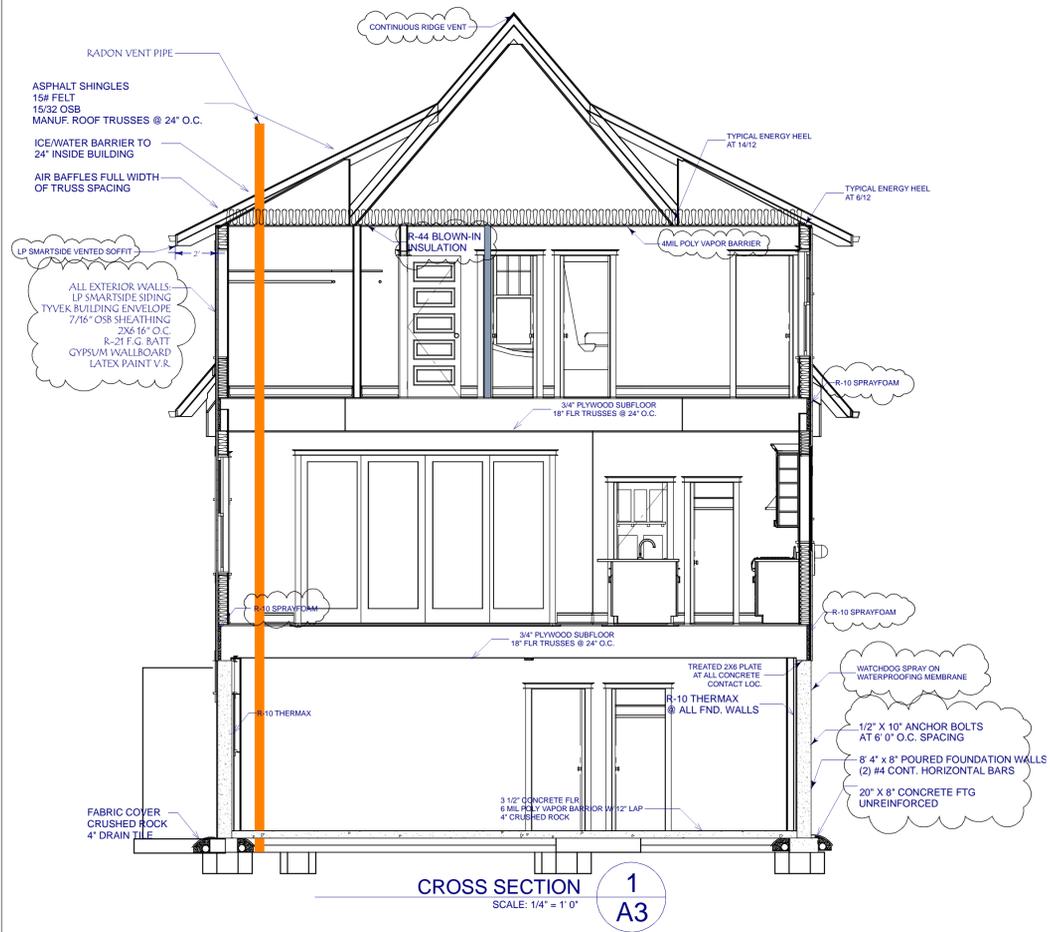
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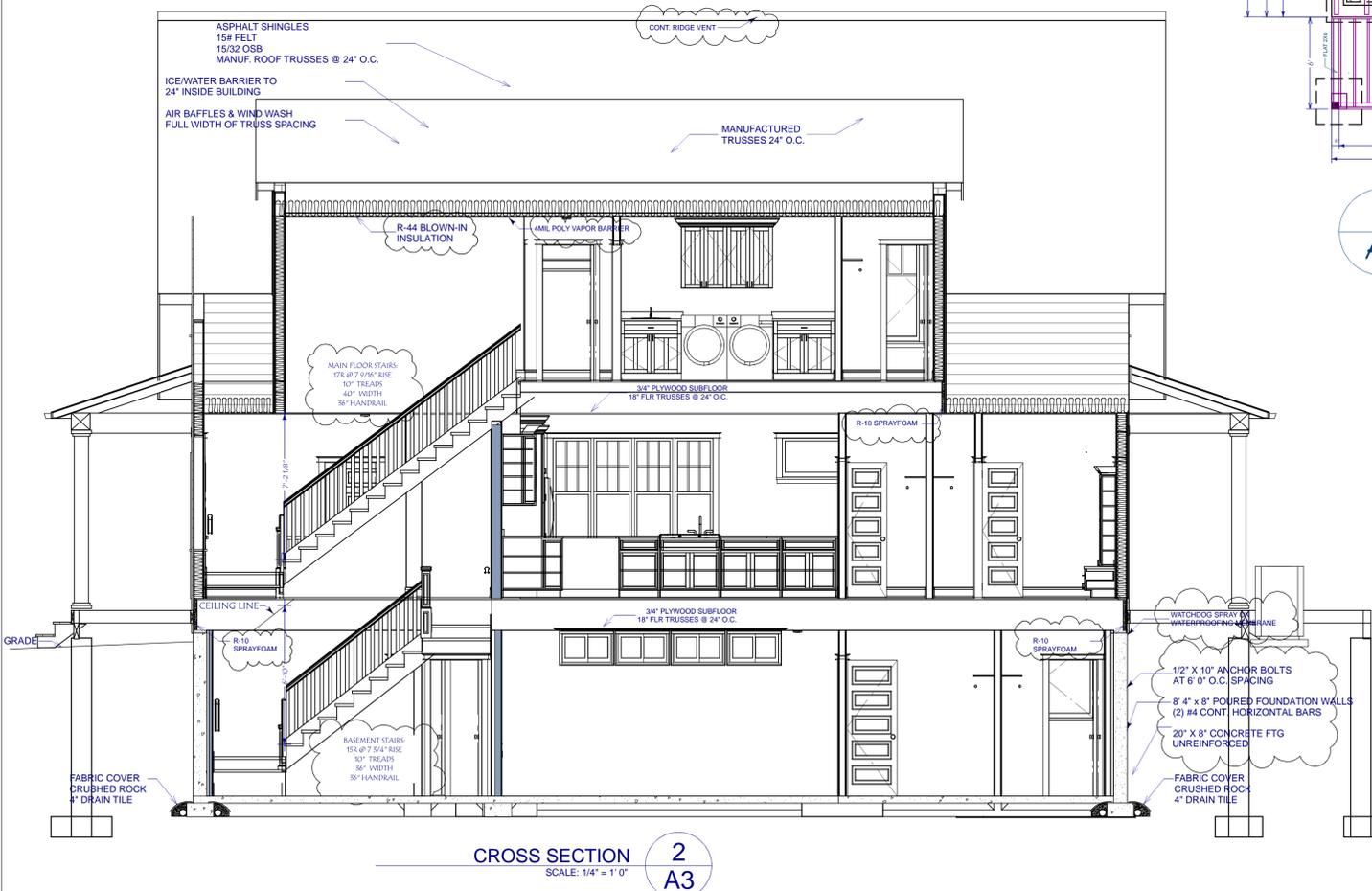
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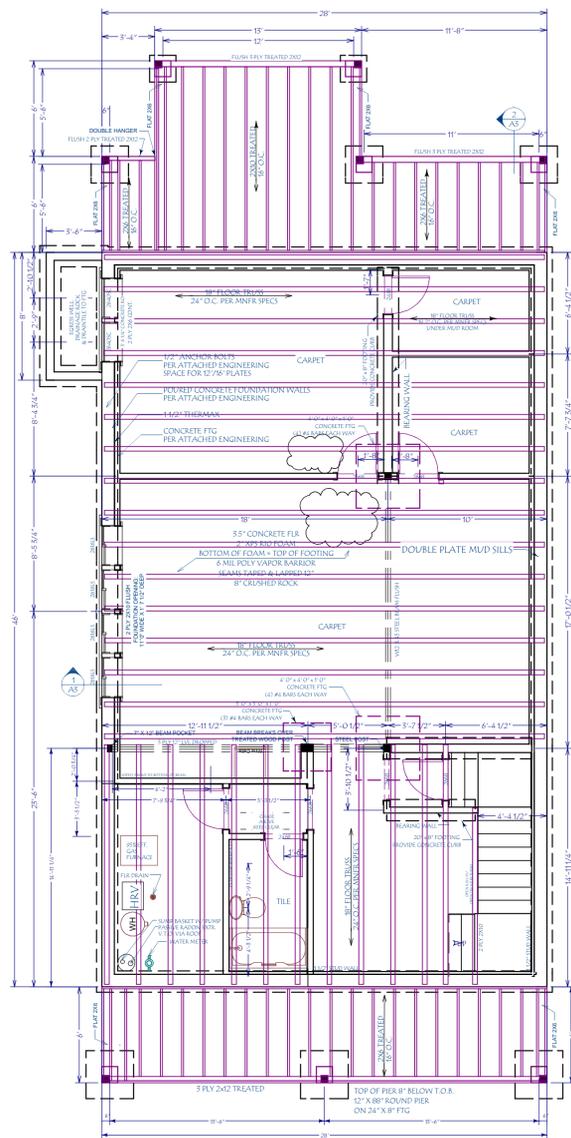
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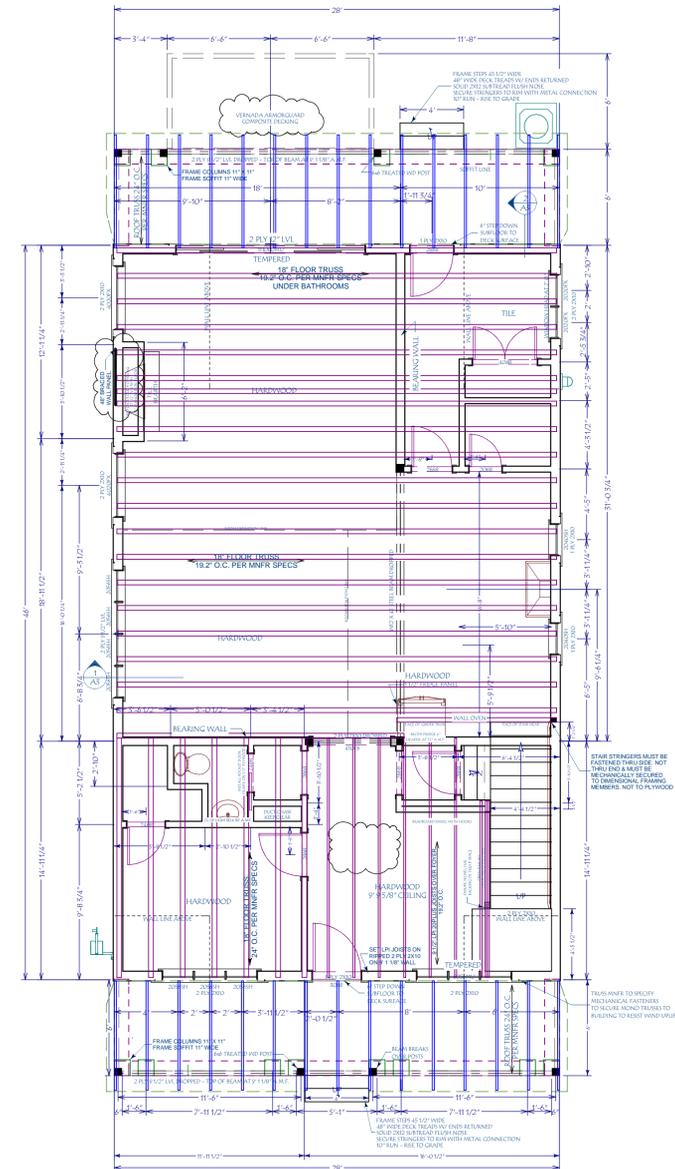
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CROSS SECTION 2 A3 SCALE: 1/4" = 1' 0"



3 MAIN FLOOR JOIST LAYOUT SCALE 3/16" = 1' 0"



4 SECOND FLOOR JOIST LAYOUT SCALE 3/16" = 1' 0"

NUMBER	DATE	REVISION BY	DESCRIPTION

DRAWINGS PROVIDED BY:

DATE: 7/17/2014

SCALE:

SHEET:

5144 Drew Ave



Front yard



South yard

5144 Drew Ave



Front yard



South yard

5144 Drew Ave



Back yard



South yard



North yard—Note that front walls of buildings are not parallel to each other

**From:** [Hovland, Ron](#)  
**To:** [Giant, Joseph R](#)  
**Subject:** 5144Drew Variance-BZZ-6892  
**Date:** Saturday, October 25, 2014 10:46:22 AM

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Joe,

My wife, Gloria, and I live at 5141 Drew Avenue South. We have no issues with the requested variance regarding 5144 Drew Avenue South of a front setback of 34.6 feet versus the code of 35 feet. In fact, we feel that when the request is simply inches that does not encroach on a neighbor's yard (and this request does not encroach on a neighbor yard), that the city should have a simpler, more cost-effective approach to grant such a variance.

Cheers,

~Ron Hovland