

City of Park Hills

Board of Adjustment Meeting Minutes

October 17, 2019

Members in attendance:

David Fangman, Mark Koenig, Robert Sweet, and Cathleen Matchinga

Meeting opened at 6:30 pm. The following case was discussed:

BOA1909-0003 – 1047 Rose Circle.

- The applicant William Roth is requesting a variance from the "R1-FF" Residential One – FF Zone of the Park Hills Zoning Ordinance to allow the construction of a second story on an existing garage. The existing garage is setback 1'-1" from the common property line with 1045 Rose Circle, where a 5' setback is required. The existing garage is setback 10' from the common property line with 1002 Rose Circle where 15' is required.
- Staff presented the request to the Board and submitted a copy of the staff report for the record. Staff is recommending denial of the variance requests based on their findings provided on pages 4 & 5 of the staff report.
- The board had questions regarding the use of the 2nd story and how it fits into the character of the community. Staff referred to the applicant on the use and character. In addition, staff recommended if the variance was approved, a maintenance agreement with affected neighboring property owner and the agreement be recorded prior to the issuance of permits.

The applicant William Roth and legal counsel Jerry Dusing presented their request. The applicant stated the second story will be used as a hobby room for him and his children. They cannot use the garage for this area due to a tenant in the other unit of the building. The applicant stated he has no room in house for this type of space.

The expansion will provide French doors and a hoist to raise large pieces of wood and other materials into the second story. The applicant proposes window in the expansion and will have a walk-up access around the back side of the structure.

The applicant's counsel was taken back by the recommendation provide by PDS. According to the code, structures in the "R1-FF" district can be 35' tall. He feels this expansion will be consistent with the neighborhood. Existing structure, much like the neighboring structures were built in 1928 or 1929, predating zoning requirements. In his opinion, he feels this will improve the non-conforming situation. The applicant has looked at multiple configurations, however due to the existing patio and driveway he is unable to expand the structure in the opposite direction.

The applicants counsel advised the two-story garage is consistent with the character of the area since it is in the middle of multiple two store structures. The applicant proposes to use siding on the new structure and and will try to match the existing structure as much as possible. The applicant also

proposes to remove the gutters along the common property line to alleviate the need for the maintenance agreement.

Public Comments:

- Beth Stevenson at 1045 Rose Circle spoke in opposition of the request. She is of the opinion the expanded structure will mess with the character of the neighborhood. In addition, this will directly affect her views from her property. She also stated the applicant already started working on the removal of the roof. Beth also supplied pictures of her property and the proximity of the garage for the record.
- Chris and Annalee Maier at 1002 Rose Circle spoke in opposition of the request. The owner of the property directly behind the applicants. They advised the neighbor recently moved back after some time away from the property. When they built the addition onto the house, the applicant did work with them to allow vehicles/construction traffic through his property in order to provide access. Since the construction and the applicant moving back, they must install a new privacy fence to screen the properties from one another. They are concerned the applicant will not keep up the property and they have no way of screening the expanded structure. In addition, there are powerlines that run through the back yards and they are not permitted to plant any type of screening. They have also witnessed the applicant starting construction on the project.
- Kit Hammons 1006 Park Drive spoke in opposition of the request. While she has known the applicant for some time, she is concerned the expansion will be out of character. While she does not believe the applicant will cause undue harm on the neighbors, she feels this is not appropriate for the area.
- Chris Meijer who is the contractor for the applicant spoke in favor of the project. He provided some suggestions of modifying the design of the second story to accommodate the adjoining residents.

There were no other people who spoke in favor of or opposition to the request.

The board closed the public hearing and deliberated over the request. There was discussion to determine if the structure was consistent with the general character of the neighborhood. The board felt it was not consistent with the character of the area given the proposed materials and that most of the detached garages in the immediate vicinity are one story. In addition, the applicant and his contractor advised they have some ideas that could be used to create a design that conforms with code.

After some discussion, Mr. Koenig made a motion to deny the request based on the following based on the findings in the staff report, the testimony presented at the public hearing, and the deliberation of the board. Mr. Sweet second the motion.

The request for the variances were denied by a unanimous vote of 4-0.

The meeting closed shortly after the vote on the request.

Meeting minutes finalized December 3, 2019.

7/30 Board of Adjustment meeting 6:30 PM

Park Hills Fire house Garage

Masks, temp taken and names of all attended.

BEING HEARD : cs BOA2006-0002

IN ATTENDANCE:

Pat Debow PDS; Kathy Zembrodt, mayor; members: Charles Meyer, Cathy Matchinga, Rob Sweet, Mark Koenig, Dave Fangman

Tony Padget, Drees and Ray Neverovich, Drees

And Mary Grimes, direct left neighboring property and 10 other neighbors

START of meeting with Pledge

Pat Denbow presented the Case (see attached)

Mr. Meyer started the discussion with the fact that the plat had been done and the lot lines were already known when it was platted. Mr. Meyer didn't feel that they should be asking for a variance with that in mind. Most members agreed with that also.

Drees reps had spoken to present their case that the set back was on 2 sides since a corner and in a lot of cases in other cities in the county, the one set back would be reduced to ½ for concession at times. The Dree's reps also had shown that a house that they removed that was existing on the property facing Audubon was less than 20 ft from the curb at the time it was removed. They felt that the house that was the best look for the neighborhood consistency was the plan they had presented that needed the variance. They were asking for the concession with comments that the water run off to the neighbor to the left could be worked out.

Mr. Grimes spoke of his conversation with the Drees prior to the meeting and they discussed how they would help in the run off that was draining across his back yard. Mr. Grimes would like to see a Drees home there and not another builder in knowing that Drees did a good job and held up to their agreements in the past.

Other residents spoke up as well in support of Drees doing the home and the variance to get it done as it was shown. They didn't want someone else building a less desirable home that was any smaller that may affect their values.

The members and Drees discussed the issues and Mark Koenig made a motion to take a vote and Rob Sweet seconded it. Mr. Koenig recommended his approval to give the valiance and did voice his concerns as well. Mr. Sweet said yes also but wanted to put conditions on the approval that would amend the variance approval with the wording to correct the water drainage/run off onto the neighbors

property, Mr. Grimes, to negate the issue but also to have no repercussion against the city or cause the city to have any duty to any of the issues of water drainage.

The variance was granted and was passed with 4 ayes with the conditions and 1 nay.

Meeting adjourned 7:29 pm



PDS Planning and Development
Services of Kenton County

Serving the community of communities since 1961

TO: Park Hills Board of Adjustment Members

FROM: Patrick Denbow, AICP
Senior Planner

SUBJECT: BOA1909-0003

DATE: October 10, 2019

Staff has published notice for a public hearing of the Park Hills Board of Adjustment at **6:30 PM on Thursday, October 17, 2019** in the Park Hills City Building. We submit this case review and recommendation for your consideration prior to the hearing.

The applicant will explain his/her reasons for this request during the hearing and address how he/she believes it meets legal requirements established in law. Staff will lay out the case, provide our findings and a recommendation, and address your comments and/or questions.

If you need additional information or clarification prior to then, don't hesitate to contact me.

PD

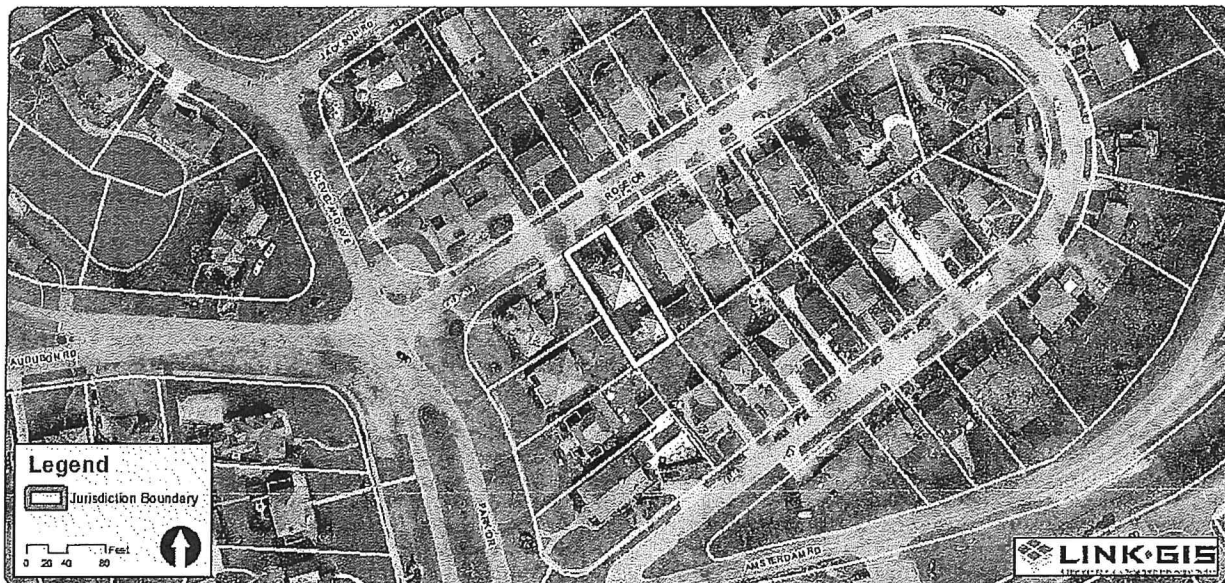
cc: William Roth, Owner/Applicant

BOARD OF ADJUSTMENT: VARIANCES

Case No: BOA1909-0003
Jurisdiction: Park Hills
Applicant: William Roth
Staff Review: Patrick Denbow, AICP, Senior Planner

GENERAL CASE INFORMATION

1. **Request:** To vary from the required side and rear yard setbacks in an R-1FF (Residential One-FF) Zone of the Park Hills Zoning Ordinance; the applicant proposes to construct a second floor addition to an existing garage with a side yard setback of 1 foot 1 inch from the property line in common with 1045 Rose Circle where 5 feet is required and a rear yard setback of 10 feet from the property line in common with 1002 Rose Circle where 15 feet is required.
2. **Location:** 1047 Rose Circle, Park Hills

**SITE LOCATION AND BACKGROUND**

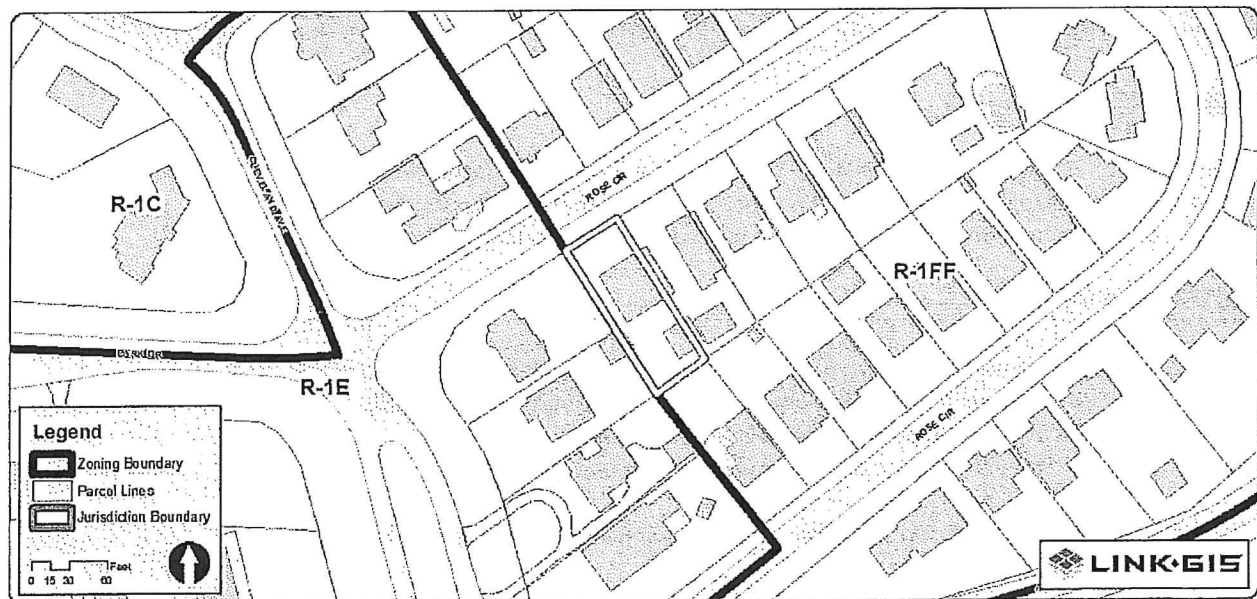
1. The site in question, containing an area of approximately 0.15 acres, is located on Rose Circle, east of the intersection with Cleveland Avenue and Park Drive. All of these streets are classified within the mobility element of *Direction 2030: Your Voice Your Choice* as local streets.
2. The site is currently occupied by a two-family residence with a driveway and existing garage in the rear. The garage currently has setbacks of 1 foot 1 inch on the side where 5 feet is required and 13 feet in the rear where 15 feet is required, making the garage nonconforming.

ANALYSIS – Current Zoning

	ZONING	MIN LOT SIZE	MAX DENSITY
SITE: CURRENT	R-1FF	6,000 sq. ft. single-family 9,000 sq. ft. two-family	9.7 du/na
NORTH OF THE SITE	R-1FF	6,000 sq. ft. single-family 9,000 sq. ft. two-family	9.7 du/na
SOUTH OF THE SITE	R-1FF	6,000 sq. ft. single-family 9,000 sq. ft. two-family	9.7 du/na
EAST OF THE SITE	R-1FF	6,000 sq. ft. single-family 9,000 sq. ft. two-family	9.7 du/na
WEST OF THE SITE	R-1E	7,500 sq. ft.	5.8 du/na

The site in question is currently zoned R-1FF (Residential One-FF). The R-1FF Zone currently single-family and two-family dwellings subject to the following area and height requirements:

- Minimum lot area – 6,000 sq. ft. for single-family and 9,000 sq. ft. for two-family
- Minimum lot width at building setback line – 50 feet for single-family and 70 feet for two-family
- Minimum front yard depth – 25 feet
- Minimum side yard width – 5 feet (on each side)
- Minimum rear yard depth – 25 feet
- Maximum building height – 35 feet



ANALYSIS – Current Land Use

	DESCRIPTION
SITE: CURRENT	Two-family residential
NORTH OF THE SITE	Single-family residential
SOUTH OF THE SITE	Single-family residential
EAST OF THE SITE	Two-family residential
WEST OF THE SITE	Single-family residential



SUBMISSION MATERIALS

The applicant has submitted the following information and materials (attached):

- a. a letter detailing the nature and reasons for the submitted requests; and
- b. a site plan and drawings detailing the proposed garage addition.

PETITION REVIEW

1. The existing lot is nonconforming in a several ways for a two family residence within the R-1FF Zone:
 - a. Lot area of approximately 6,534 square feet (9,000 square feet required)
 - b. Lot width of approximately 50 feet (70 feet required)
 - c. Side yard setback of approximately one foot (five feet required)
2. The submitted site plan and application materials show the following (see attached):
 - a. An existing garage.
 - i. 630 square feet (with overhangs)
 - ii. 21.5 feet by 21.5 feet (462.3 sq. ft) measured from walls
 - b. A vertical addition to the existing garage
 - i. Removal of existing roof
 - ii. Eight foot tall room addition with a six foot tall roof (to the peak)

- iii. 19 foot total average height
 - iv. 2nd floor French doors
 - v. No openings facing side yard
 - vi. Rear stairway projecting three feet out from rear
 - vii. No overhang (other than gutters) on side
 - viii. Side yard setback of one foot, one inch
 - ix. Rear yard setback of 10 feet
3. Section 7.0 of the Park Hills Zoning Ordinance limits private garages to 800 square feet in area, per dwelling unit.
 4. Section 9.10., F., of the Park Hills Zoning Ordinance states that accessory structures shall be permitted to extend into the minimum rear yard area in all zones, but by never more than 10 feet.
 5. KRS 100.243 states:
 - a. Before any variance is granted, the Board must find that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the board shall consider whether:
 - i. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
The garage on this property exists with nonconforming setbacks, which does create a special circumstance for a vertical expansion.
 - ii. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship of the applicant; and
Although limited, there does appear to be enough yard space adjacent to the garage for a horizontal expansion. A horizontal expansion of the same size as the proposed vertical expansion would however greatly reduce the amount of lawn area available on this property.
 - iii. 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 identified the need for this variance through the normal permitting process.
 - b. The board shall deny any request for a variance arising from circumstances that are the result of willful violations of this ordinance by the applicant subsequent to the adoption of this ordinance.

RECOMMENDATION: Unfavorable recommendation to vary from the required side and rear yard setbacks in an R-1FF (Residential One-FF) Zone of the Park Hills Zoning Ordinance; the applicant proposes to construct a second floor addition to an existing garage with a side yard setback of 1 foot 1 inch from the property line in common with 1045 Rose Circle where 5 feet is required and a rear yard setback of 10 feet from the property line in common with 1002 Rose Circle where 15 feet is required.

SUPPORTING INFORMATION/BASES FOR STAFF RECOMMENDATION

1. Granting the variance will not adversely affect the public health, safety, or welfare, and will not be an unreasonable circumvention of the zoning regulations.
 - a. The proposed expansion will not result in a greater encroachment to the side yard as what is currently existing. The proposed expansion will result in a rear setback that is three feet closer than the existing garage (from 13 feet to 10 feet), however, this further encroachment will be due to a proposed stairway and not the edge of the structure.

2. Granting the variance will cause a hazard or public nuisance and will alter the essential character of the general vicinity.
 - a. There will be an inherent difficulty in maintaining a two-story structure this close to the property line. The applicant would likely have to encroach on the neighboring property owner in order to effectively maintain the structure over time.
 - b. Although detached garages which do not meet the setback requirements are very common within this vicinity, adding a second story to a nonconforming garage would alter the character of the general vicinity.

ADDITIONAL INFORMATION

1. Although staff is providing an unfavorable recommendation on this request, staff would like to also recommend that if the Board chooses to make a motion for approval, that the motion should contain a condition that the applicant acquire a maintenance agreement with the affected neighboring property owner(s) and that the agreement be recorded prior to the issuance of permits.

Submission letter

For Requesting a variance to the existing setback law
Enforced at 1047 Rose Circle, Park Hills, Ky. 41011.

Hello,

My name is Bill Roth. I am a lifetime resident of Park Hills and am very proud/lucky to say that, I currently live at 1047 Rose Circle and wish to add on (vertically only) to my detached garage. New laws have protected us for many years for good reasons. Today I am asking you for a variance to one of your setback laws. Please consider and thanks.

Statement of project:

Project includes turning the existing roof on my detached garage into a floor and then adding four walls approximately 8' high/tall to create a new room above the garage. Then complete the structure by adding new 4 to 1 slope trusses and a new three dimensional roof shingle.

There will be a set of French doors added on the driveway side of the new space for ease of loading and unloading storage stuff/toys/crafts. These can be seen on section AA and the building plan which I will provide at the meeting on 9/19.

There will also be an access door on the opposite wall or back wall of the property that will be used as access to the new space on a regular basis.

There will be two windows on the property's driveway side of the new room addition. This can also be seen on the building plan.

No windows will be location on the requested variance side of the room addition and all building materials on that side will be fire rated per building code.

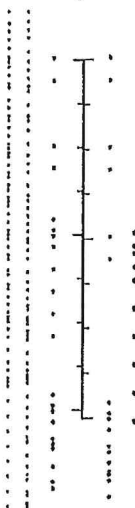
The builder I have hired tells me he will start the project shortly after approval (hopeful) has been granted. I understand that the Park Hills board meets on October 17 and if I get the go ahead then the contractor says he will be finished by Thanksgiving week.

The use of this added space will continue to be residential. Plumbing will not be added and no living quarters would ever be permitted. This space is necessary for storage (2-family), hobby playtime with race car & train sets and possible light woodworking with my two boys (now grown and out).

Thankyou,

Bill Roth
Property owner.

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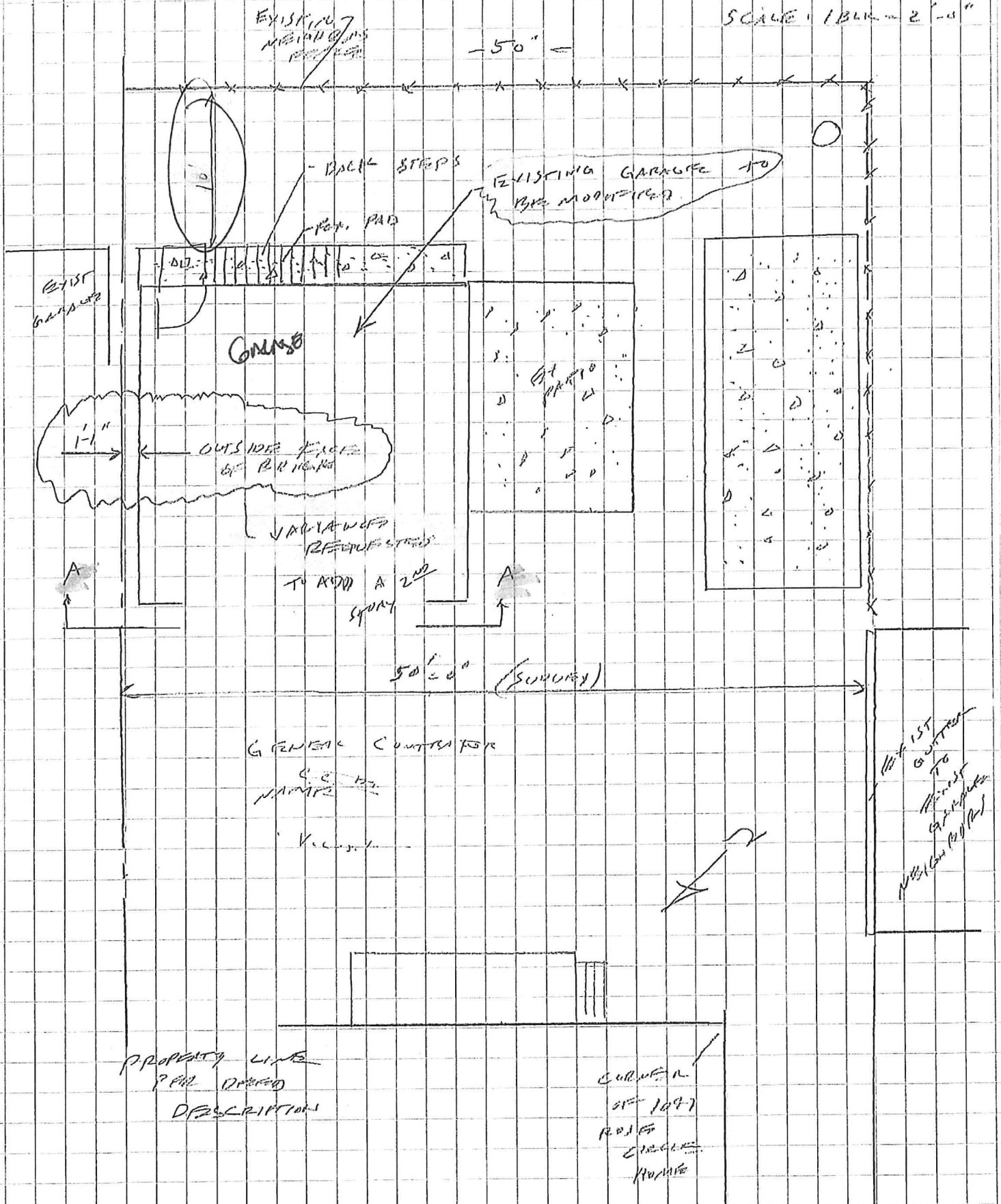


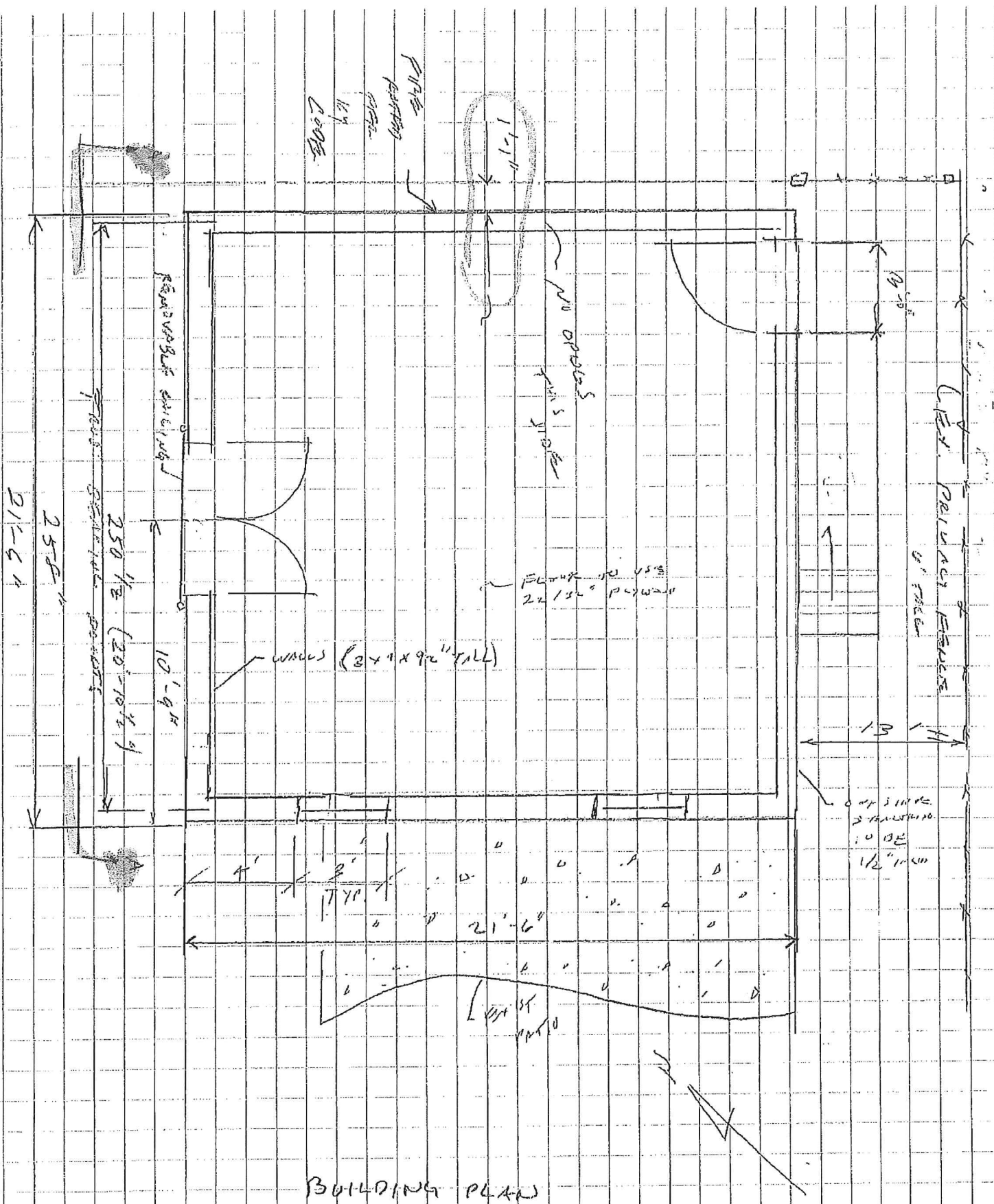


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SITTING PLEASE

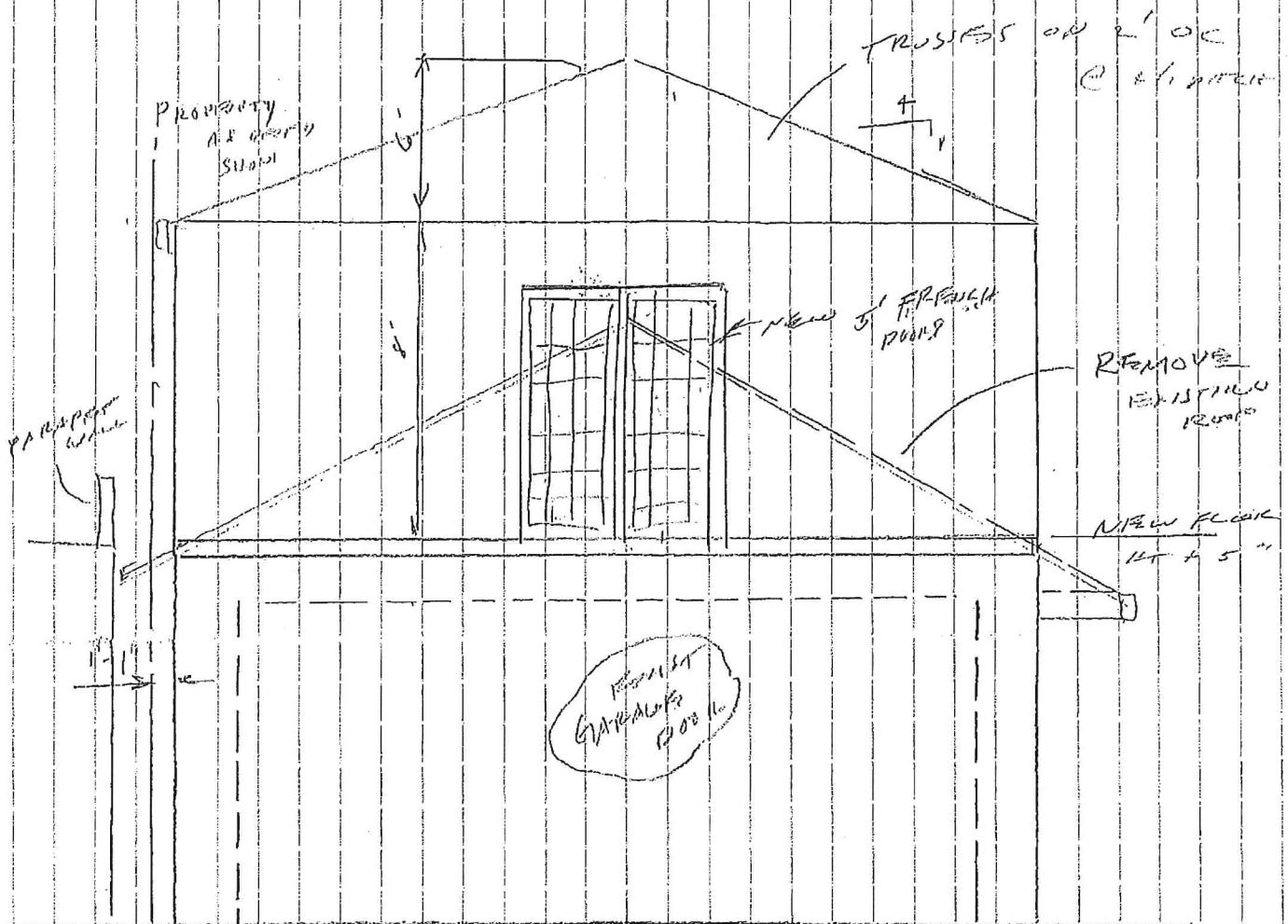
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SCALE

1 BLK = 1'



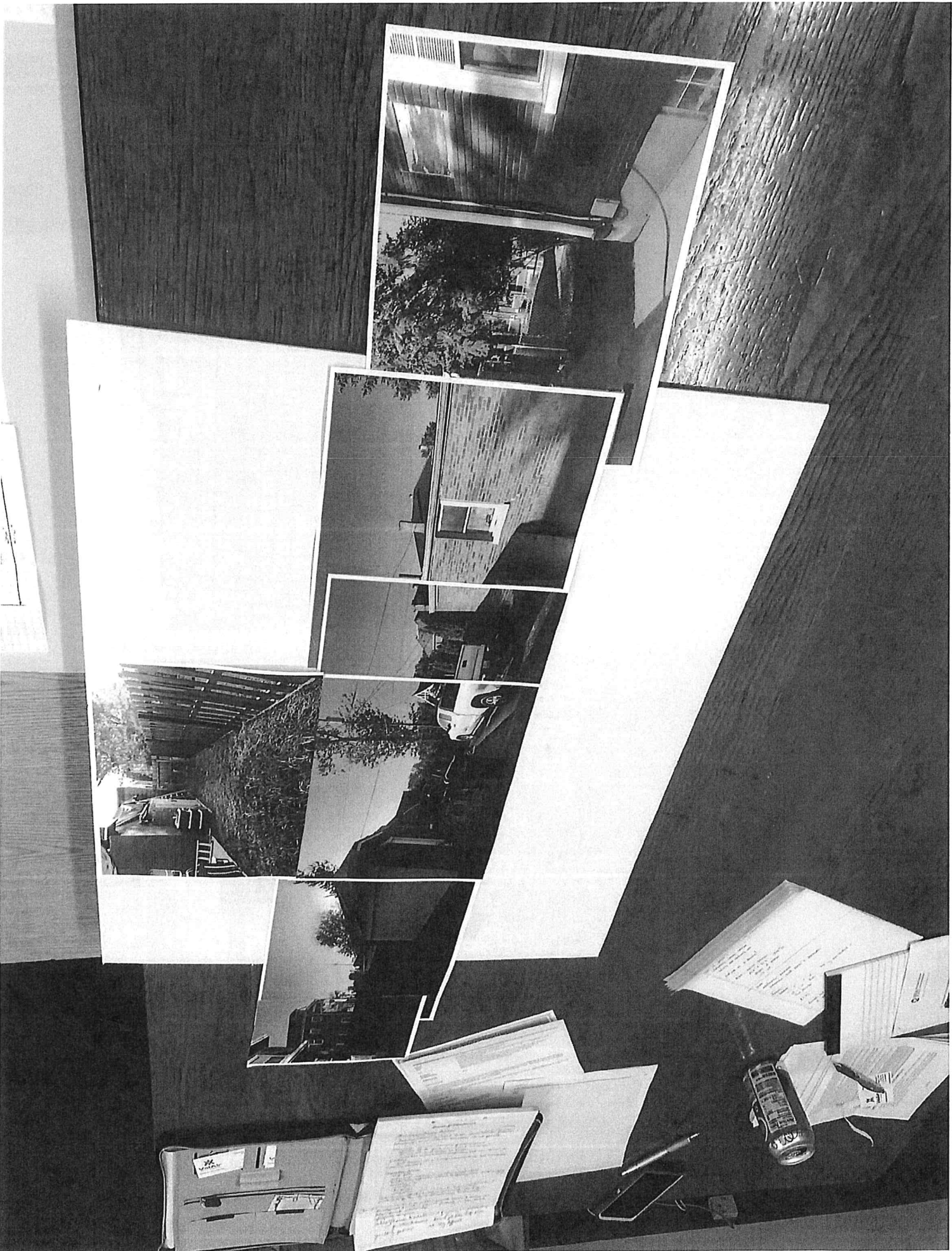
SECTION

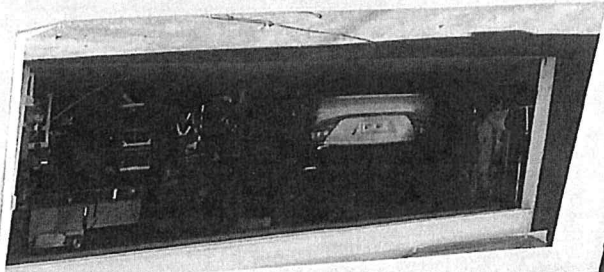
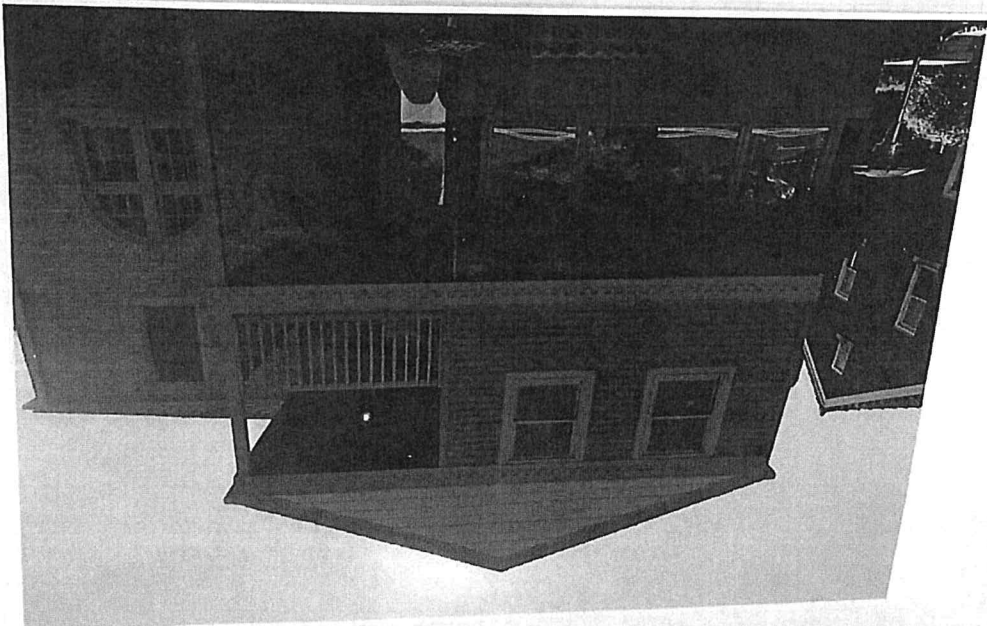
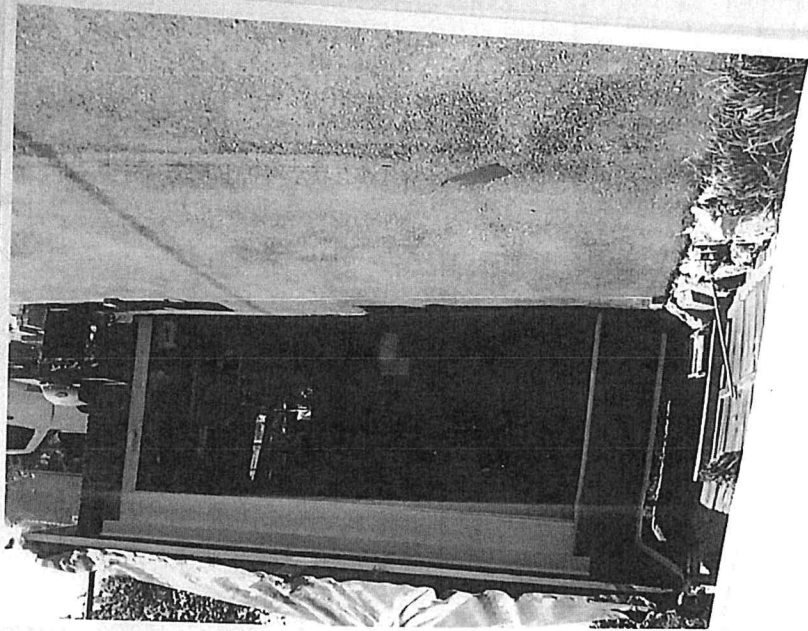
CHRIS MAIER

Kit Hammons

Beth Stephenson

1045 -





SITE PLAN

SCALE: 1 inch = 2' 0"

