

**CITY OF ALBERT LEA  
BOARD OF APPEALS  
ADVISORY BOARD**

January 5, 2022, 10:00 a.m.  
City Hall—Council Chambers

AGENDA

- A. CALL TO ORDER AND ROLL CALL
  
- B. APPROVAL OF THE AGENDA
  
- C. APPROVAL OF MINUTES- July 21, 2021
  
- D. PUBLIC HEARINGS
  - a. 109 Ridge Road
  
- E. NEW BUSINESS
  
- F. COMMISSIONER COMMUNICATIONS
  
- G. STAFF COMMUNICATIONS
  - a. New Member(s) Introductions
  
- H. ADJOURNMENT



CITY OF ALBERT LEA  
BOARD OF APPEALS  
MEETING MINUTES

July 21, 2021 - 12:00 pm  
City Center – Council Chambers

**Board Members Present**

Rachelle Bizjak  
Colby Cunningham  
Steve Guenthner  
Craig Hoium, Chair

**Board Members Absent**

Larry Baker, Ex-Officio  
Rich Sydnes

**Staff in Attendance**

Megan Boeck, City Planner

**Interested Parties**

Lynn Kelley  
Robert Boelter

Board of Appeals Chair, Craig Hoium, called the meeting to order at 12:08 p.m.

**Approval of the Agenda**

Guenthner made a motion to approve the agenda and Cunningham seconded the motion. The agenda was approved unanimously on a voice vote.

**Approval of Minutes**

Guenthner made a motion to approve the minutes from November 24, 2020. Cunningham seconded the motion. The minutes were approved unanimously on a voice vote.

**Staff report prepared by Megan Boeck, City Planner, is to become part of these minutes by reference.**

**Appeal: VA2021-001**

Boeck stated that JD Kelley Properties, the owner of 106-108 North Shore Ave, is seeking a variance to impervious surface limits to allow for a paved horseshoe shaped driveway that will surround a water retention basin to eliminate added run off. Boeck also stated that gravel driveways are not uncommon in the community but are considered non-conformities and

would not be allowed in new construction and that the paved driveway will make it so the property more-so meets the character of the surrounding area.

**Public Hearing opened at 12:10 p.m.**

Lynn Kelley stated that the property is a rental and that the proposed improvements will help provide more adequate parking areas.

**Public Hearing closed at 12:24 p.m.**

Guenthner made a motion, seconded by Bizjak, to recommend to City Council the approval of a variance to allow an additional 850 sq. ft. of impervious surfaces for a paved horseshoe shaped driveway with the following conditions:

1. The paved horse-shoe driveway be graded in such a way that the water runs to the designed detention basin.

The motion passed on a 4-0 voiced vote.

**Appeal: VA2021-002**

Boeck stated that Robert Boelter has applied for a variance from the front setback requirement to allow an accessory structure (retaining wall) within City Right-of-Way. Boeck also stated that the property slopes significantly toward Oakwood Drive, which creates establishing a normal sidewalk, walkway, or approach more difficult and that a number of properties along Oakwood Drive have constructed similar retaining wall structures that are close to or within the City Right-of-Way.

**Public Hearing opened at 12:28 p.m.**

Robert Boelter stated that the retaining wall he constructed isn't any different from the others in the area and that only a portion of the wall sits within the Right-of-Way.

Commissioners questioned Boeck on after the fact permits and fees and also what repercussions exist if the variance is denied.

Boeck stated that a cease and desist order would be issued and that the structure would have to be removed.

**Public hearing closed at 12:59 pm.**

Guenthner made a motion, seconded by Bizjak, to recommend to City Council the approval of a variance to allow an additional a variance from the front yard setback requirement to allow a retaining wall within the City Right-of-Way with the following conditions:

1. Due to positioning within the Right-of-Way, the City can require that the retaining wall be removed at any time and for any reason.

The motion passed on a 3-1 voiced vote. Cunningham voted against.

**New Business**

None

**Commissioner Communications**

None.

**Staff Communications**

Boeck informed the Board the Mayor Rasmussen will appoint Jacob Peterson to the Board of Appeals at the next City Council meeting but that additional members are still needed.

**Adjournment**

The meeting was adjourned at 1:09 p.m. The motion to adjourn was made by Cunningham and seconded by Guenther. The motion to adjourn was approved unanimously on a voice vote.

Respectfully submitted,

---

Megan Boeck  
City Planner

---

Craig Hoium  
Chair, Board of Appeals





## GENERAL INFORMATION

Applicant: Matthew Johnson

Property Owner: Matthew Johnson

Purpose: To allow a 12x19 ft. garage addition (primary structure) within the required side yard setback.

Address: 109 Ridge Road, Albert Lea, MN

Parcel Number(s): 34.135.0990

Zoning: R-1 Single Family Residence District/Shoreland Management

Surrounding Land Use: R-1 Single Family Residence Development District

File Date/Publication Date: November 24, 2021/December 22, 2021

## BACKGROUND

This single family home was built in 1952 and has since been expanded. The property owner is proposing to build a 12ftx19ft garage addition and replace the existing flat roof with a pitched roof throughout. The existing garage is set back five feet from the west property line or side yard, which is a non-conformity as the required side yard setback from a primary structure is 10% of the lot width or a maximum setback of 8 ft. The proposed addition will continue along the same setback, which requires a variance.

## POLICY CONSIDERATIONS

**Chapter 50 – Zoning – Sec. 50.0199. – Tabulation of District Requirements.**

Zoning: R-1, Yard Setback (minimum requirements)

The minimum side, building line to property line is 10% of lot frontage up to maximum of 8 ft.

## REVIEW OF VARIANCE STANDARDS

Article II Administration and Enforcement

Section 50.0080 (3) states:

The Board of Appeals may recommend and the City Council may issue variances from the provisions of the zoning code. Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinances; and when the terms of the variance are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. Practical difficulties are as follows:

- (1) **The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.**

Staff agrees that the petitioner proposes to use the property in a reasonable residential manner. Once expanded, the total garage area will be 684 sq. ft. or 36x19', which by today's standards is still considerably minimal.

**(2) The plight of the landowner is due to circumstances unique to the property not created by the landowner.**

The non-conforming side yard setback was likely created when the original structure was built (1952) – prior to Albert Lea’s Zoning Controls, which were originally adopted in 1980.

**(3) The variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.**

Non-conforming setbacks are common in older residential neighborhoods where lots are narrower. Staff suspects the same issue exists on other properties along Ridge Road. Allowing a non-conforming side yard setback to continue (while not increasing the severity) an additional 12 feet will not alter the essential character of the locality.

**(4) The proposed variance will not impair an adequate supply of air and light to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the residents of the city.**

The proposed structure will not impair adequate air or light to adjacent properties. There is no anticipated impact to property values or the overall public health, safety and welfare of the area.

## **RECOMMENDATION**

Staff recommends that the Board of Zoning Appeals consider the legal standards set forth by Minnesota Statute 462.357 subd 6 when considering variance applications. This includes the three factor practical difficulties test:

- 1) Reasonableness- does the landowner intend to use the property in a reasonable manner?
- 2) Uniqueness- are there unique physical characteristics of the land, not personal preferences of the landowner that creates the circumstance?
- 3) Essential Character- will the resulting structure be out of scale, out of place or otherwise inconsistent with the surrounding area?

If the Board of Zoning Appeals approves this variance request based on the criteria for consideration, staff recommends the following conditions:

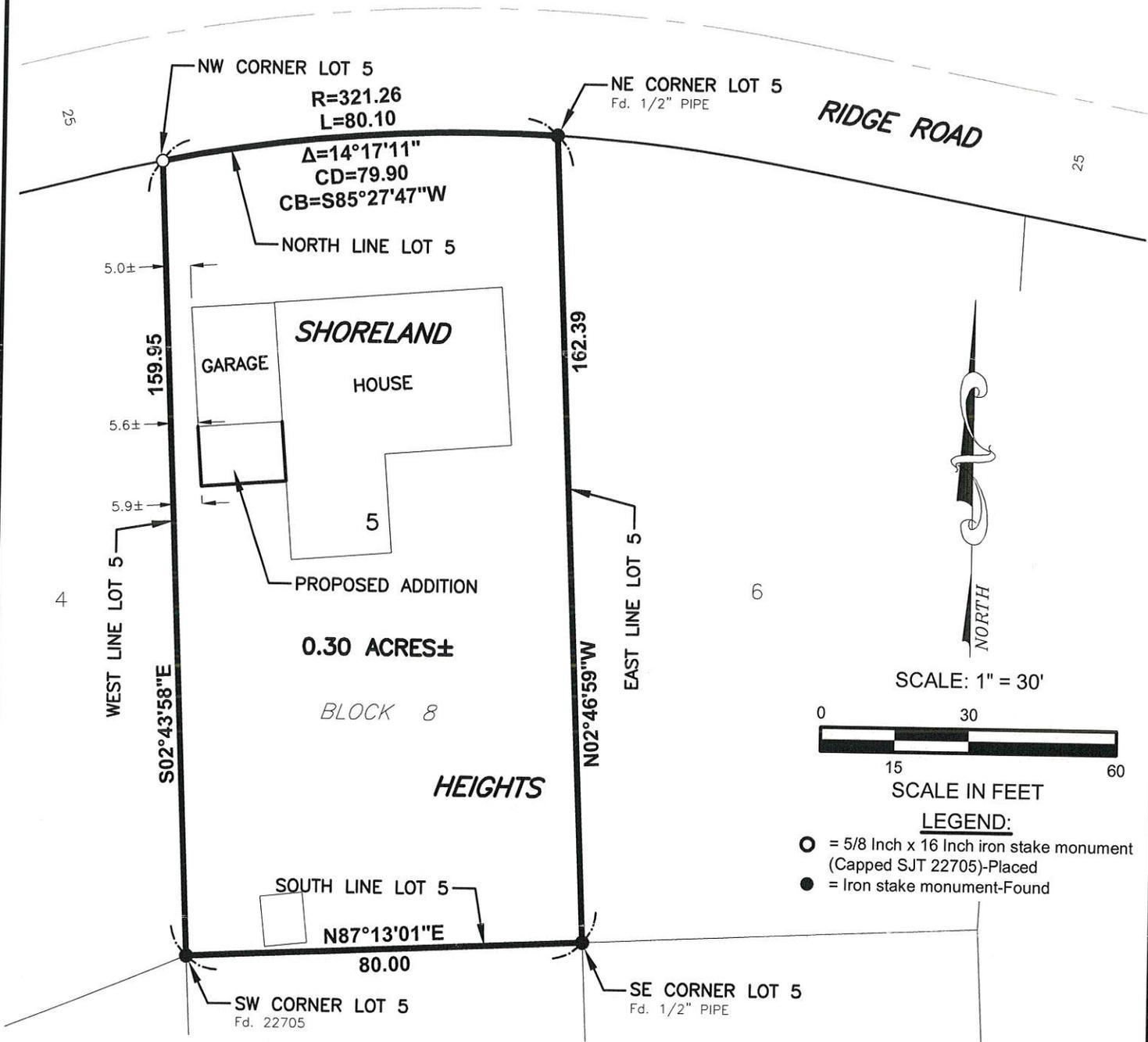
1. The side yard setback at the NW corner of the garage remain at 5 ft.
2. The side yard setback at the SW corner of the garage be allowed at 5 ft. 9 inches.

## **ATTACHEMENTS**

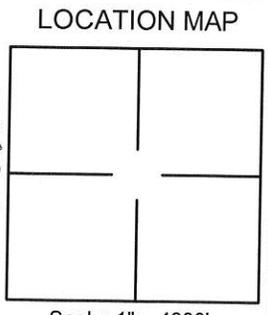
1. Boundary Survey
2. Elevation Drawings

# CERTIFICATE OF SURVEY

IN LOT 5, BLOCK 8, SHORELAND HEIGHTS  
ALBERT LEA, FREEBORN COUNTY, MINNESOTA



**FOR: MATTHEW JOHNSON**



Date: 7/9/2020  
 Revised date: 12/9/21  
 Drawn by: ADM  
 Survey: SJT  
 Coord-System: MNDOT CO. NAD83 1996  
 Page 1 of 1  
 Job No: 20-196.DWG

**COPYRIGHT**  
 This document is the property of Jones, Haugh & Smith Inc. and may not be used, copied or duplicated without prior written consent.

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

*Signature*  
 Steven J. Thompson,  
 L.S. No. 22705  
 Date: 12-9-21

**JONES HAUGH SMITH**  
 Engineers + Surveyors

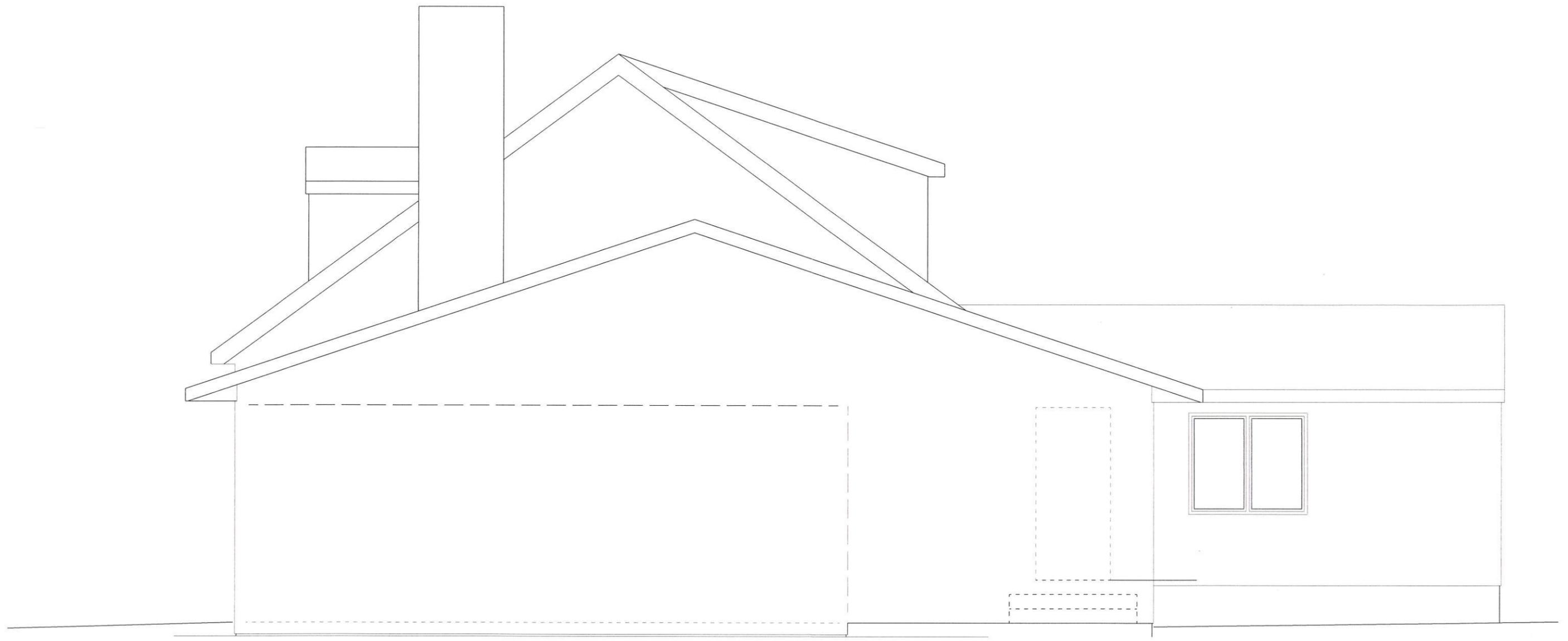
515 South Washington Ave.  
 Albert Lea, MN 56007  
 507-373-4876

415 West North Street  
 Owatonna, MN 55060  
 507-451-4598

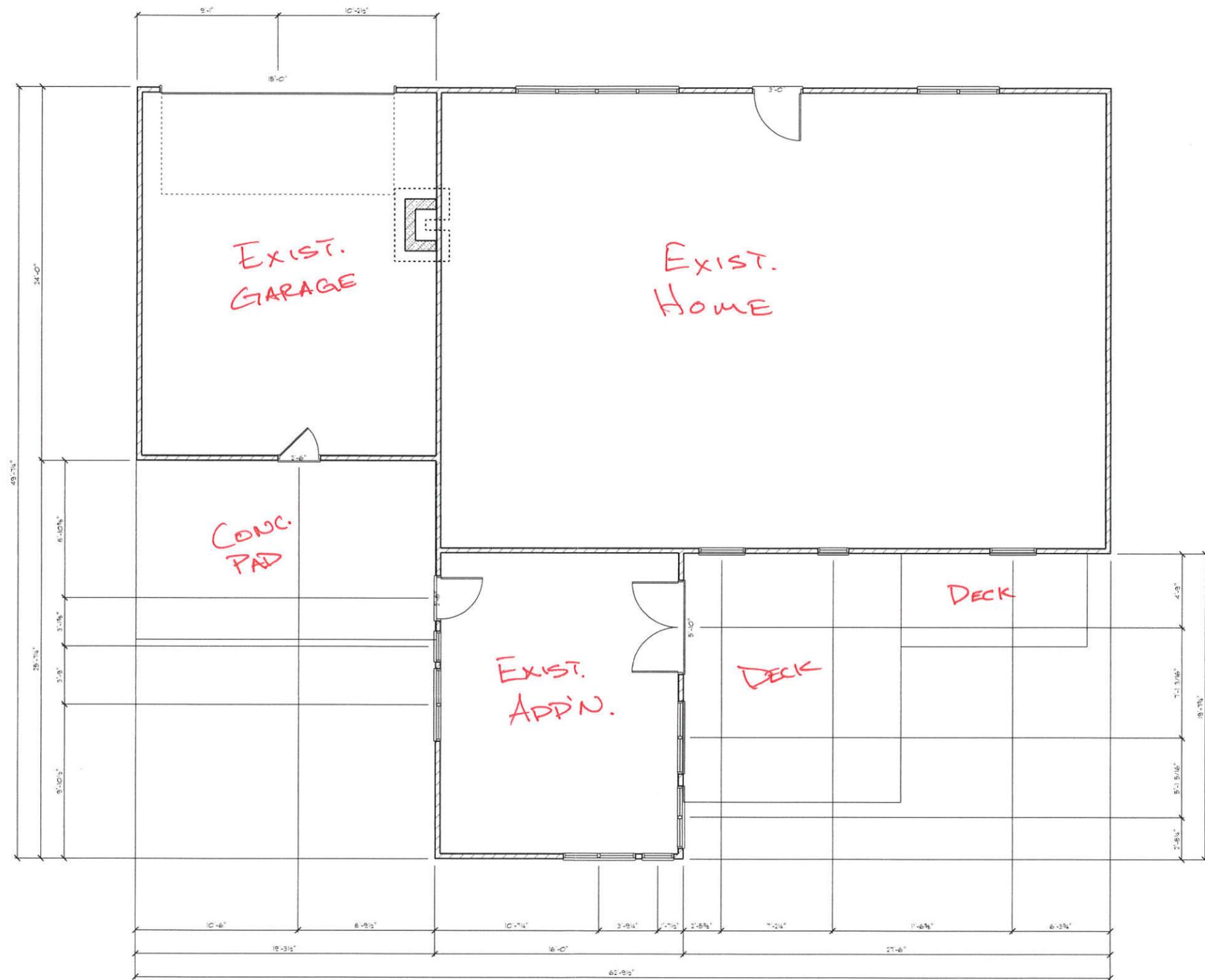




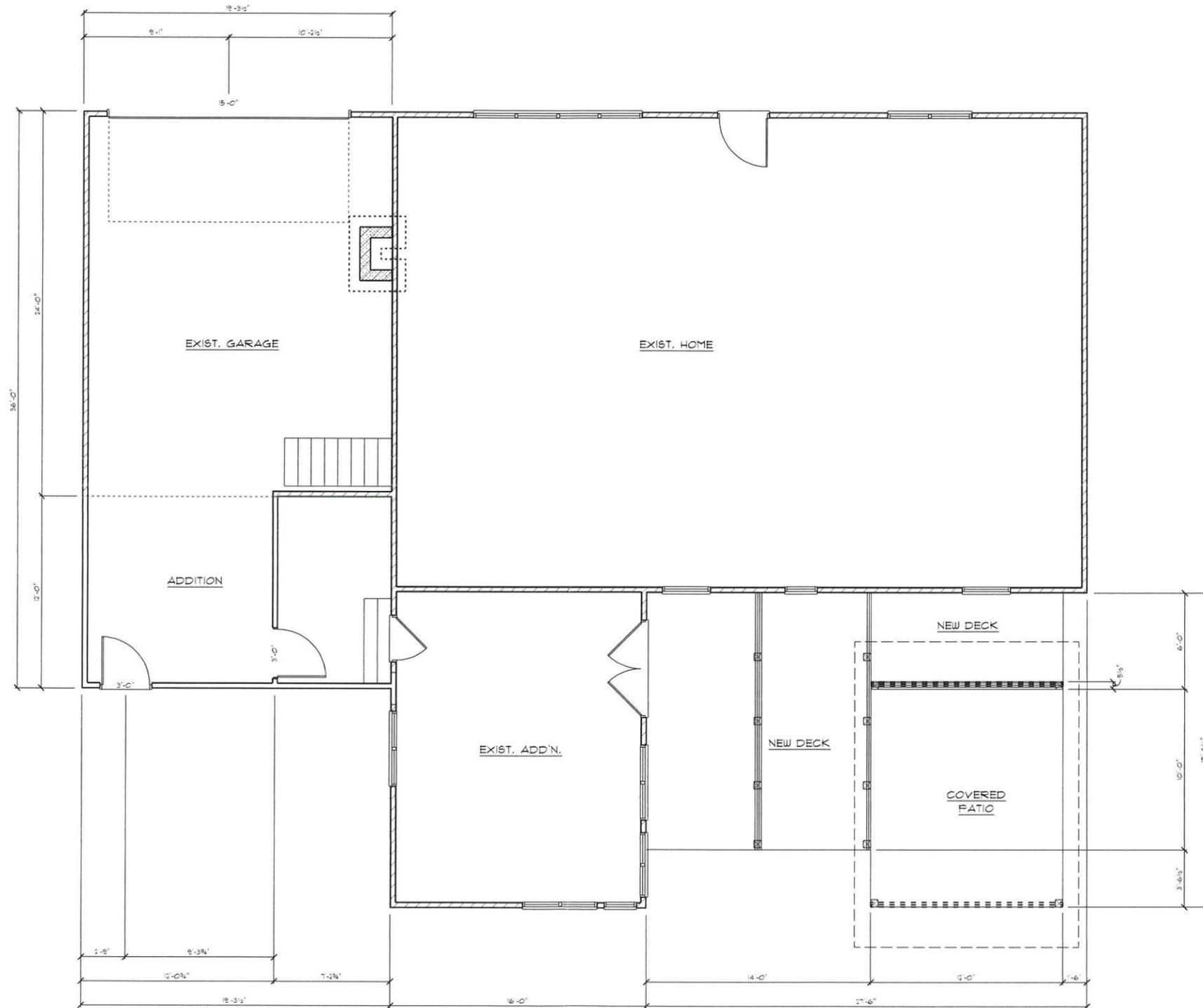
NORTH ELEV.



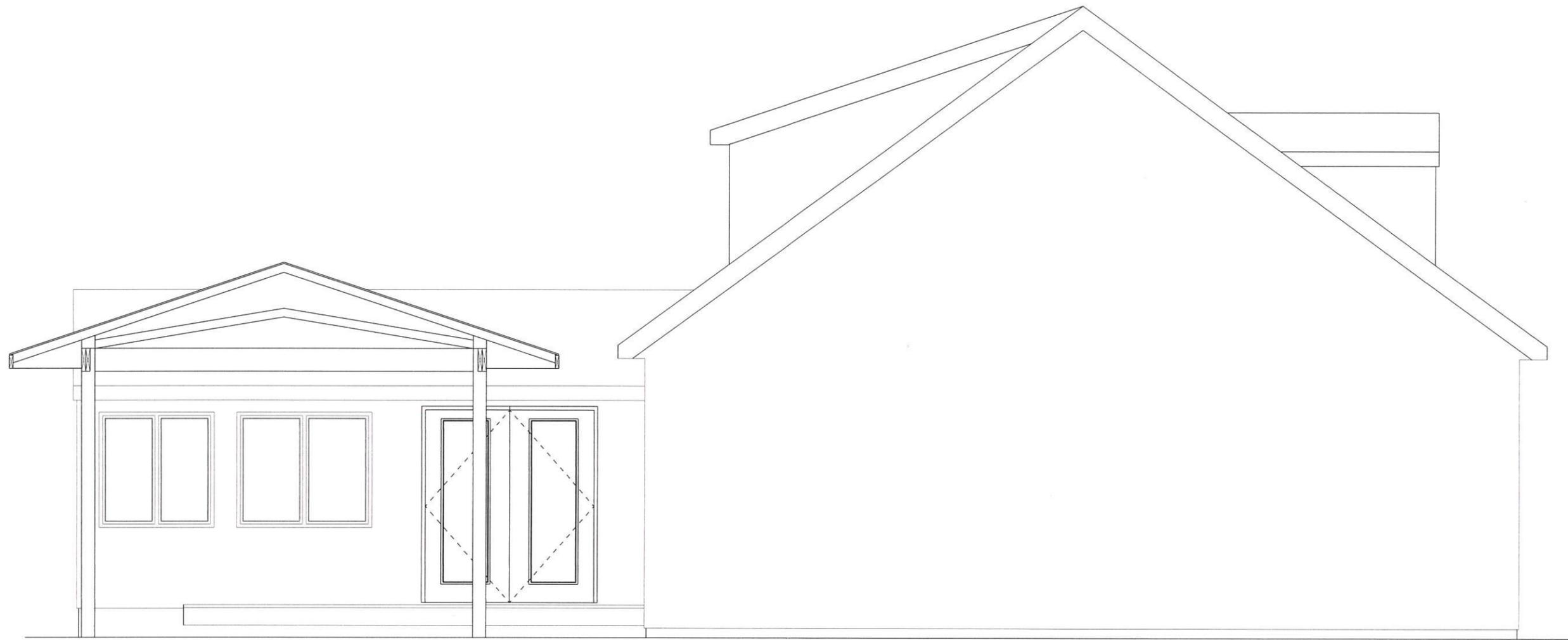
WEST ELEV.



EXIST. PLANS



PROPOSED



EAST ELEV.