

**CITY OF HUBBARD PLANNING COMMISSION
STAFF REPORT**

REPORT: October 13, 2022

HEARING: October 18, 2022

FILE No.: Major Variance, file #VAR 2022-02

LOCATION: 3735 5th Street, tax lot 041W33AA10100

APPLICANT: Lance Courtney

OWNERS: Lizette Marie Dubay Courtney & Lance T. Courtney

ZONE: R1 – Low Density Residential

REQUEST: Applicant requests Planning Commission approval of a Major Variance to reduce the street side yard setback for a garage in the R1 zone from the 20-foot minimum standard to 5 feet 4 inches. The purpose of the reduced setback is to rebuild a garage on a non-conforming historic garage pad and half walls.

CRITERIA: Hubbard Development Code (HDC):
Section 2.101 R1 – Low Density Residential District
Section 3.104 Variances
Section 3.110 Nonconforming Uses & Structures

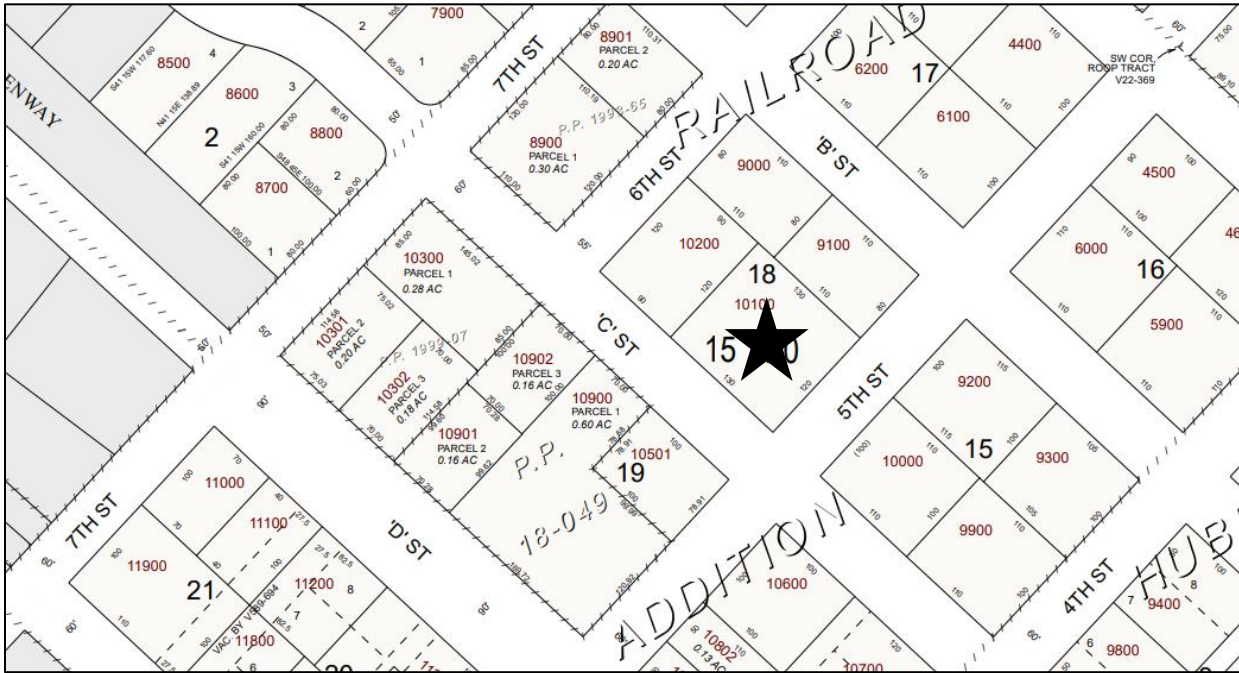
EXHIBITS A: Application submitted by applicant

I. PROCEDURE & AUTHORITY

A Major Variance is a Type II Action. A Type II action is a quasi-judicial review in which the Planning Commission applies a mix of objective and subjective standards that allow some discretion. Public notice and a public hearing are provided. An appeal of a Type II decision is to the City Council. Required public notice for a Type II action is a minimum 20-day notice to property owners within 100 feet of the subject property, consistent with HDC 3.202.02.

II. BACKGROUND

A. VICINITY MAP (Source Marion County Assessor Map):



B. EXISTING CONDITIONS (Source Google Streetview, image captured in 2013):

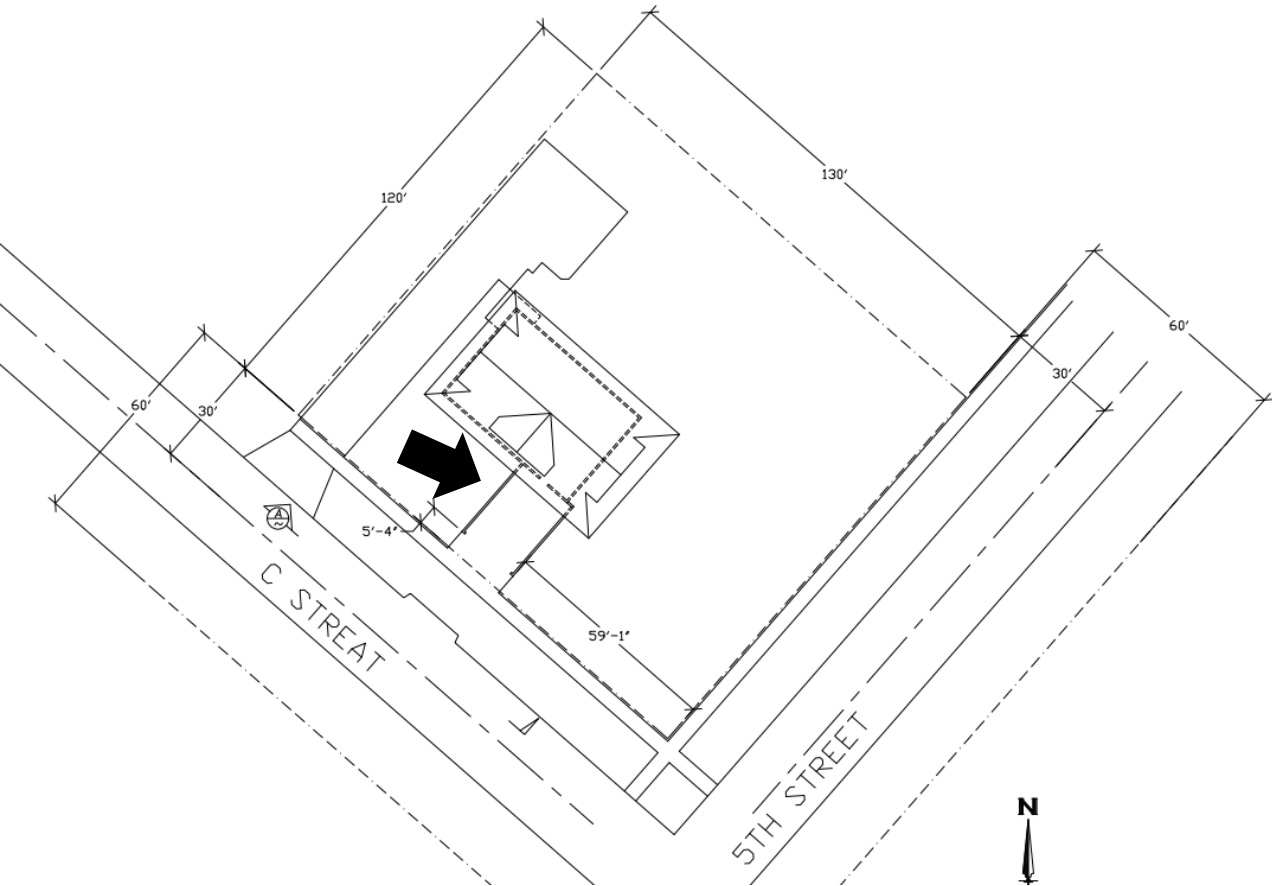


C. EXISTING CONDITIONS (Source Google Streetview, image capture 2013):

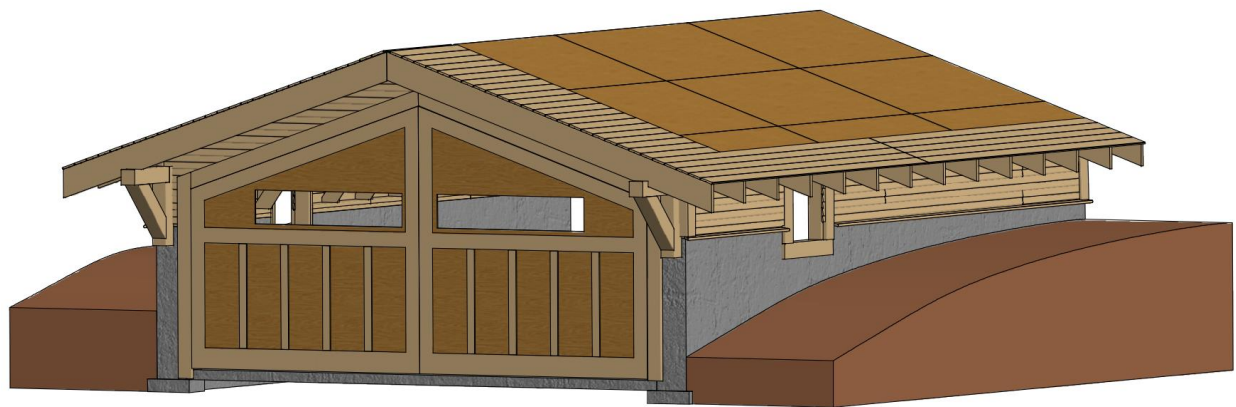
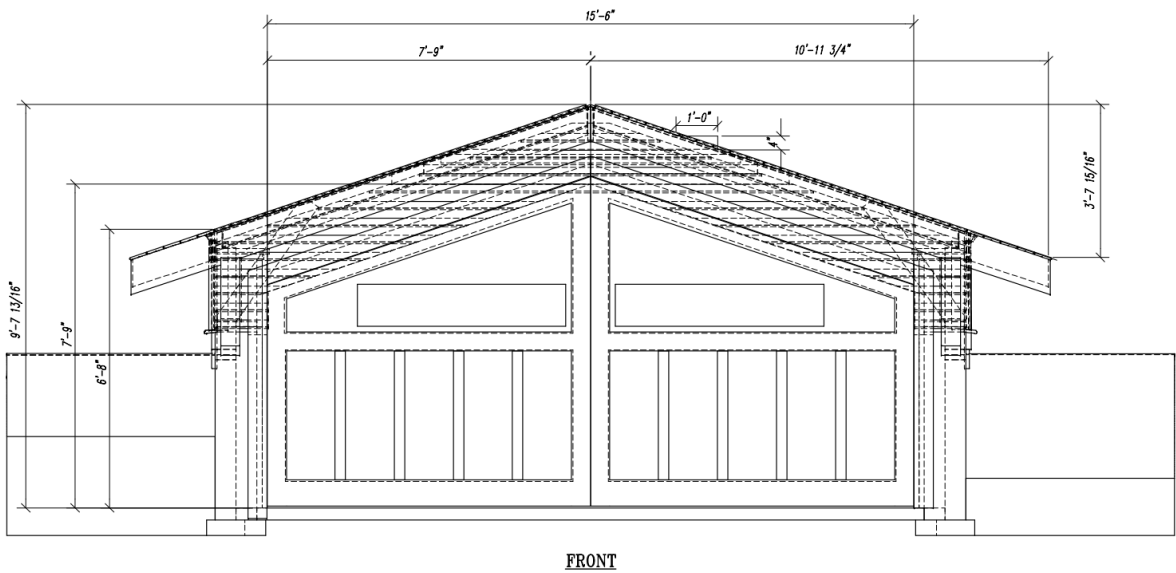
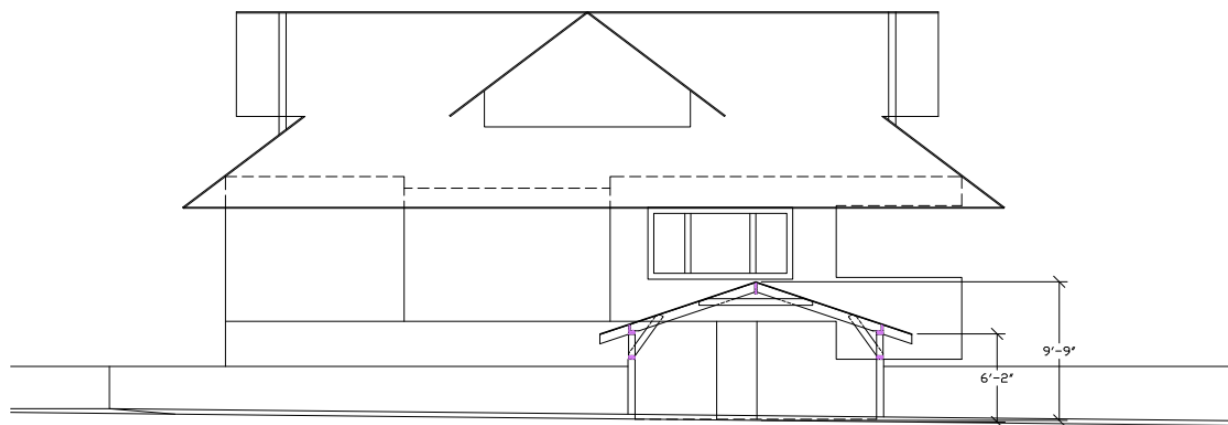


III. PROPOSED DEVELOPMENT

A. REPLACEMENT GARAGE SITE PLAN (Provided by the applicant):



B. PROPOSED GARAGE (as provided by the applicant):



IV. REVIEW STANDARDS/CRITERIA

The purpose of this section is to assist the Planning Commission in their analysis of the applicable decision criteria for the applicant's request. The following standards and criteria are found in the Hubbard Development Code (HDC).

2.100 ZONING DISTRICTS

2.101 LOW DENSITY RESIDENTIAL DISTRICT (R-1)

2.101.02 Permitted Uses

- A. Single-family dwelling unit,*
- C. Accessory structure or use*

FINDINGS: The subject property is zoned R1 – Low Density Residential. It is developed with an existing single-family house. Detached and attached accessory structures are permitted as an ancillary use to a primary single-family dwelling in this zone, subject to the dimensional standards and development standards of the R1 zone, detailed below. The proposed garage is a permitted use.

2.101.04 R1 Dimensional Standards

B. Minimum Yard Setbacks

1. Except as specified for detached accessory structures under Section 2.101.04.B.2 and 2.101.04.B.3 below, all structures shall maintain the following minimum yard setbacks:

- a. Front yard 15 feet*
- b. Rear yard 20 feet*
- c. Side Yard (adjacent to a street) setback to garage 20 feet*

C. Maximum Structure Height

- 1. Principal Structure 35 feet*
- 2. Accessory Structure 20 feet, except that no accessory structure shall exceed the height of the principal structure*

FINDINGS: The proposed garage is shown as attached to the primary dwelling. The garage meets the dimensional standards for front and rear setbacks. The garage is shown as 5 feet 4 inches from the side property line along C Street, rather than the minimum 20 feet required. This is the reason for the Major Variance application. This standard can only be satisfied if the associated variance is granted.

3.104 VARIANCES

3. 104.03 Criteria and Procedure – Major Variance

The Planning Commission may allow a variance from a requirement or standard of this Ordinance after a public hearing conducted in accordance with the Type II review procedures provided that the applicant provides evidence substantiating all the following and affirmatively answering the questions:

- A. Does compliance with the applicable requirement or standard of the Ordinance create a hardship due to one or more of the following conditions?*

- 1. The physical characteristics of the land, improvements, or uses are not typical of conditions in the zoning district and such physical characteristics do not result from the negligent or knowing violation of this Ordinance by the applicant.*
- 2. If the standard or requirement is applied, the applicant is not granted the preservation or enjoyment of a substantial property right possessed by other property owners in the same vicinity or district.*
- 3. Compliance with the requirement or standard would eliminate a significant natural feature of the property.*

APPLICANT RESPONSE: Garages of other historic homes in the same vicinity enjoy a similar setback from the street. Without a variance, removal of existing foundation and significant change to the landscape would be required. The existing foundation predates City ordinances.

FINDINGS: The garage footprint and partial walls remain from a historic garage attached to the dwelling at 3735 5th Street. The proposed partial walls and roof would complete the garage in the former footprint, using the remaining half walls. To do so, would be to reinstate/continue an existing non-conforming use. There are other such historic non-conforming garages in the same neighborhood. The Non-Conforming Use/Structure criteria is discussed below.

B. Strict adherence to the requirement or standard [is] unnecessary because the proposed variance will reasonably satisfy both the following objectives?

- 1. Granting the variance will not create significant adverse affects to the appearance, function or safety of the use or uses on the subject property, and*
- 2. Granting the variance will not impose limitations on other properties in the area, including uses, which would be allowed on vacant or undeveloped properties.*

APPLICANT RESPONSE: Granting the variance will result in improvement to the appearance, function, and safety with minimal disruption. Enclosing and roofing the garage space has no impact on the surrounding properties.

FINDINGS: The standard requested to be varied with this application is the 20-foot minimum side yard setback. The purpose of this standard is to ensure that a private property provides the minimum two off-street parking spaces per dwelling unit (garage plus driveway), to ensure that the length of the driveway is long enough to ensure that parked vehicles do not block the public sidewalk, and to provide drivers backing out of a garage sufficient sight distance prior to entering the public right of way. In this case, the subject property has a separate newer driveway to the northwest of the proposed garage which provides parking for several vehicles. Additionally, 2022 Marion County GIS aerial imagery shows that the property owners have erected a temporary carport in place of the proposed garage. The proposed permanent garage may provide an improved appearance to the temporary structure on the C Street property frontage. The City Engineer and Public Works Superintendent have reviewed the Variance request and commented that the applicant will need to pave the driveway from the garage structure to the current street pavement in the public right-of-way, similar to the other driveway on this property. The C Street pavement is currently narrower than the right-of-way, which means that backing drivers would have additional backing length prior to entering the driving surface of the right-of-way. Superintendent

Mike Krebs commented “The code states that there can be two drops if both are 36 feet or less... If both driveways can make this standard, I don’t see a problem with the two.”

Neighboring property owners within 100 feet of the subject property received a notice of the Major Variance public hearing. They have an opportunity to comment verbally or in writing on this variance application. No comments have been received to date.

The proposed rebuilt non-conforming garage may be found to meet these standards of no adverse impacts to the subject property and adjacent properties through the applicant’s compliance with the recommended conditions of approval related to paving the driveway apron serving the garage.

C. Approval of this application allows the property to be used only for purposes authorized by the zoning district?

APPLICANT RESPONSE: Enclosing and roofing the existing garage space is consistent with zoning.

FINDINGS: As previously discussed, attached and detached garage accessory structures are a permitted use in the R1 zone.

D. If approved, is the application still in compliance with the policies?

APPLICANT RESPONSE: there are no known conflicts with the comprehensive plan.

FINDINGS: All other applicable policies are discussed in this staff report.

3.110 NONCONFORMING USE AND DEVELOPMENT

3.110.01 Purpose and Scope

Within the zoning districts established by this Ordinance and amendments thereto, uses, structures, and lots exist which were lawful before the date of adoption or amendment of this Ordinance but which would be prohibited or restricted under the terms of this Ordinance. The general purpose of this Section is to encourage the conversion of such nonconforming uses, structures, and lots to conforming uses, structures, and/or lots. However, this Section allows nonconforming uses, structures, and/or lots to be continued, altered, restored or replaced subject to satisfaction of the review criteria specified in Subsection 3.110.03...

3.110.03 Review Criteria

A. The Planning Commission shall authorize alteration, restoration or replacement of a nonconforming use, structure, or lot in accordance with the Type II review procedures when any of the following circumstances apply:

- 1. the alteration is necessary to comply with any lawful requirements for alteration of said use, structure or lot; or*
- 2. restoration or replacement is made necessary because of a fire, other casualty, or natural disaster.*

FINDINGS: Neither of the above criteria in 3.110.03(A) 1 or 2 apply to this application. The Planning Commission should therefore look to the criteria in subsection (B) below.

B. In any other circumstance, the alteration, restoration or replacement of a nonconforming use or structure may be authorized by the Planning Commission, provided that the applicant demonstrates that the proposal satisfies the following criteria:

1. the alteration would result in a reduction in nonconformity of the use,

FINDINGS: The applicant states that the garage construction will occupy the same footprint as the historic structure, utilizing the existing concrete walls. The nonconforming setback of the walls would remain the same, before and after construction. Developing the required driveway apron to serve the proposed garage will reduce the nonconformity of the existing pad, which is already used for parking without a paved access to the C Street public right-of-way.

2. the alteration would have no greater adverse impact on the neighborhood,

FINDINGS: The existing concrete pad is used as a parking space without a driveway apron, and with a temporary carport structure. Building out the rest of the garage and paving the driveway connection to the public street is not anticipated to have a greater adverse impact on the neighborhood.

3. the use or occupancy of the structure has not been discontinued for a period of one (1) year, and

FINDINGS: While the roof and upper portions of the walls were removed years ago (date unknown by the property owner), the concrete pad and lower walls have remained in place, and have continued to be used as a parking space.

4. the nonconforming use and any subsequent use of the property and structure involved conforms to the requirements of this Ordinance and any other applicable laws, ordinances, and regulations.

FINDINGS: This application deals with a non-conforming structure, rather than a nonconforming use. The proposed use of an accessory structure is an outright permitted use in the R1 zone. The proposed structure is subject to Marion County Building Department review of all required permitting, including but not limited to structural, electrical, plumbing, etc. Additionally, construction of the new garage will require a paved driveway constructed to City standards, and Public Works approval to work in the public right-of-way.

V. CONCLUSIONS & RECOMMENDATION

Based upon the findings contained in this report, Staff concludes that the application (File VAR 2022-02) can be found to comply with the applicable criteria, subject to compliance with the recommended conditions of approval listed below.

VI. RECOMMENDED CONDITIONS OF APPROVAL

Should the Planning Commission approve the requested Major Variance, the following conditions of approval are recommended.

A. COMPLIANCE: Pursuant to HDC 3.110.05, compliance with conditions imposed in granting a permit for alteration, restoration or replacement of a nonconforming use, structure, or lot and adherence to the approved plan shall be required. Any departure from these conditions of approval and approved plans constitutes a violation of this Ordinance. The City Recorder may revoke any permit issued hereunder for failure to comply with any prescribed condition of approval, or for any other violation of this Ordinance.

B. CODES: It is the responsibility of the applicant to obtain copies of and be familiar with all applicable codes and standards.

C. COST OF IMPROVEMENTS: Applicant shall be responsible for all costs of improvements associated with the proposed development.

D. BUILDING PERMITS: Structural permits are required. Permits are reviewed, issued, and inspected by Marion County Building Department in partnership with the City of Hubbard.

E. UTILITIES: All utilities serving the garage structure shall be installed in compliance with the City of Hubbard Public Works Construction Design Standards. Work within the C Street public right-of-way requires Public Works permitting prior to construction.

F. DRIVEWAY: Prior to final occupancy of the garage, applicant shall pave the driveway apron from the existing pad to the C Street pavement. Sidewalk curb drops shall be reviewed, permitted, and approved by the City of Hubbard Public Works prior to construction.

G. PARKING: Applicant shall not park vehicles in front of the garage blocking the public sidewalk.

H. LIGHTING: Lighting shall be directed entirely onto the subject property, shall not cast a glare or reflection onto moving vehicles on public rights-of-way.

I. EXPIRATION OF APPROVAL: Variance approval shall be effective for a period of two (2) years from the date of approval. If the variance request has not been implemented within the two (2) year period, the approval shall expire. Variance approval shall be voided immediately if the use established on site does not substantially conform to the approval granted by the Planning Commission. The Planning Commission may, upon written request by the applicant and payment of the required fee, grant one (1) additional extension for a period not to exceed one (1) year pursuant to the criteria and procedures in HDC 3.104.05.

VII. PLANNING COMMISSION OPTIONS

- | | |
|----|---|
| A. | Motion to <u>APPROVE</u> Major Variance file #VAR 2022-02, and adopt the recommended findings and conditions of approval contained in the Staff Report, as presented. |
|----|---|
- B. Motion to APPROVE Major Variance file #VAR 2022-02, and adopt the recommended findings and conditions of approval contained in the Staff Report, as REVISED by the Planning Commission (stating those revisions).
- C. Motion to DENY Major Variance file #VAR 2022-02 with amended findings that the application does not meet the applicable approval criteria.
- D. Motion to CONTINUE the public hearing, to a date and time certain, if additional information is needed to determine whether applicable standards and criteria are sufficiently addressed.

EXHIBIT A:
APPLICATION MATERIALS SUBMITTED BY APPLICANT

MAJOR VARIANCE APPLICATION

CITY OF HUBBARD

3720 2nd Street (P.O. Box 380)

Hubbard, OR 97032

Phone: (503) 981-9633; Fax: (503) 981-8743

<http://www.cityofhubbard.org>

To Be Filled Out by Staff:

FILE: VA 2022-01

DATE: 8/10/2022

FEE: 2000 -

RECEIPT NO: 9.003956

APPLICANT: Lance Courtney

PHONE: 503 680 5181 EMAIL ADDRESS: Lancecourtney@gmail.com

ADDRESS: 3735 5th Street, Hubbard, OR 97032

OWNER(S): Lance Courtney, Lizette DuBay Courtney
(If different from above)

PHONE: _____ EMAIL ADDRESS: _____

ADDRESS: _____

REQUEST: Enclose and roof existing garage space
so we request waiving garage setback requirement.

PROPERTY DESCRIPTION:

ADDRESS: 3735 5th Street

MAP PAGE AND TAX LOT NUMBERS: 04TW3344 10100 ZONE: R1

CURRENT USE/STRUCTURES: residential SQUARE FOOTAGE OF SITE: 15,680

FINDINGS:

Hubbard Development Code Section 3.104.03 specifies that the following approval criteria that must be addressed before granting a major variance. Applicants are responsible for providing information demonstrating the following: (if necessary, please use additional page(s) for your response):

A. Compliance with the applicable requirement or standard of the Ordinance would create a hardship due to one or more of the following conditions:

1. The physical characteristics of the land, improvements or uses on the subject property are not typical of conditions in the zoning district.

N/A

DATE: 9/19/08

2. Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same vicinity or district.

Garages of other historic homes in the same vicinity enjoy a similar setback from the street.

3. Compliance with the requirement or standard (without a variance) would eliminate a significant natural feature of the property.

Without a variance, removal of existing foundation and significant change to the landscape would be required.

4. The special conditions and circumstances on which the application is based do not result from the negligent or knowing violation of this Ordinance by the applicant.

The existing foundation pre-dates city ordinances.

B. Strict adherence to the requirement or standard is unnecessary because the proposed variance will reasonably satisfy both of the following objectives:

1. Granting the variance will not create significant adverse affects to the appearance, function or safety of the use or uses on the subject property; and

Granting the variance will result in improvement to appearance, function and safety with minimal disruption.

2. Granting the variance will not impose limitations on other properties in the area, including uses which would be allowed on vacant or underdeveloped properties.

Enclosing and roofing the garage space has no impact on the surrounding properties.

C. Approval of this application will allow the property to be used only for purposes authorized by the zoning district.

Enclosing and roofing the existing garage space is consistent with zoning.

D. Approval of the application does not conflict with policies and objectives of the Comprehensive Plan.

There are no known conflicts with the comprehensive plan.

ATTACHMENTS:

Please submit one paper copy and one (1) electronic copy (PDF format preferred of the following application materials:

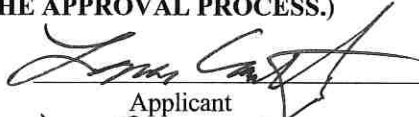
1. A legible **site plan** drawn to scale on 8 ½ x 11 or 11 x 17 inch paper, or eight (8) full size copies (typically 18 x 24 inches or larger) that shows the following information:
 - ☐ existing and proposed structures,
 - ☐ driveways and vehicular circulation,
 - ☐ parking,
 - ☐ landscaping, and
 - ☐ significant natural features.

I HEREBY CERTIFY THAT ALL STATEMENTS CONTAINED HEREIN, ALONG WITH THE EVIDENCE SUBMITTED, ARE IN ALL RESPECTS TRUE AND CORRECT; AND THAT THE REQUEST DOES NOT VIOLATE ANY DEED RESTRICTIONS THAT MAY BE ATTACHED OR IMPOSED UPON THE SUBJECT PROPERTY. (NOTE: ALL OWNERS MUST SIGN THIS APPLICATION OR SUBMIT LETTERS OF CONSENT. INCOMPLETE OR MISSING INFORMATION MAY DELAY THE APPROVAL PROCESS.)

7-30-22
Date

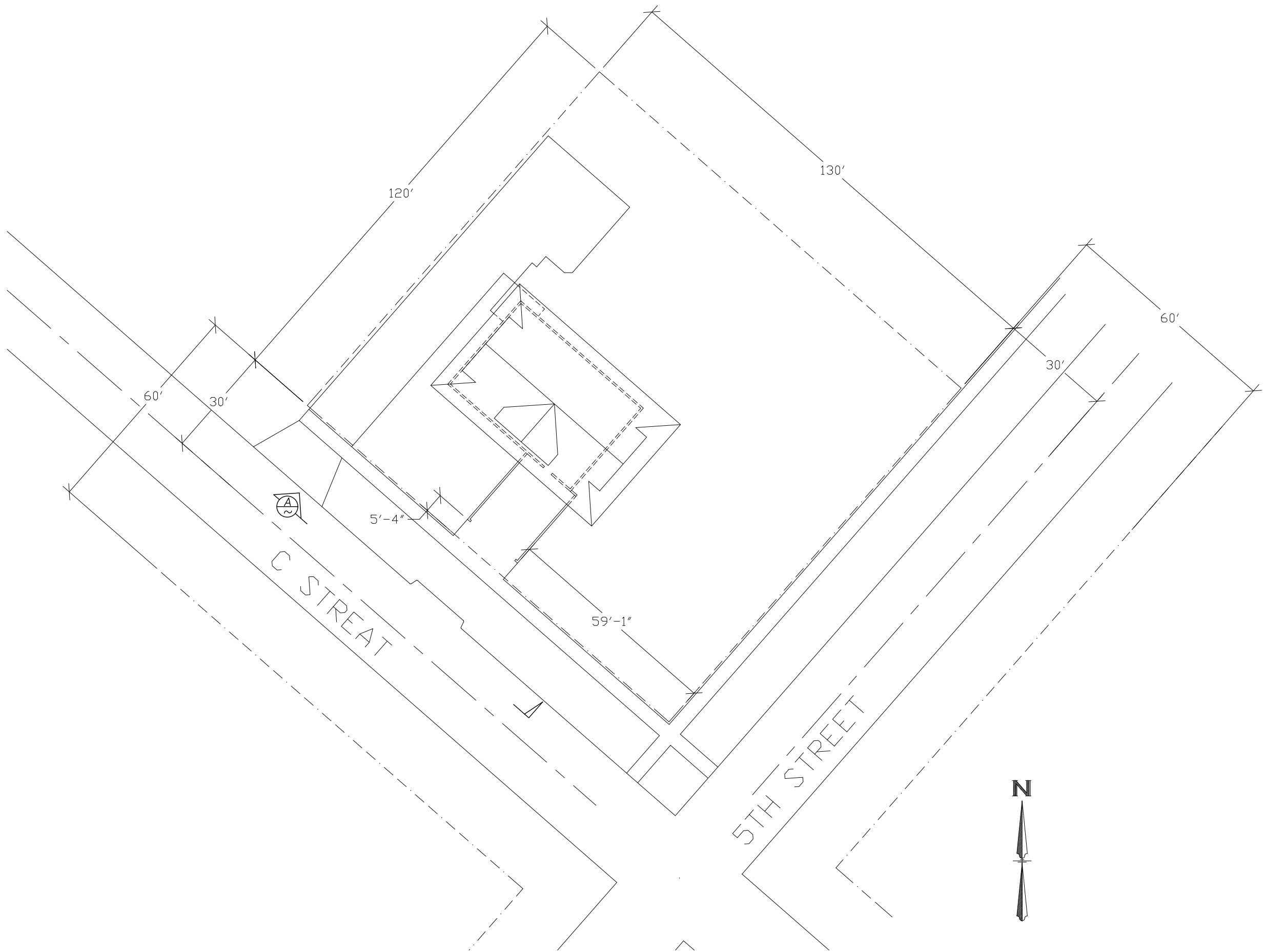
7-30-22
Date

07-30-2022
Date


Applicant

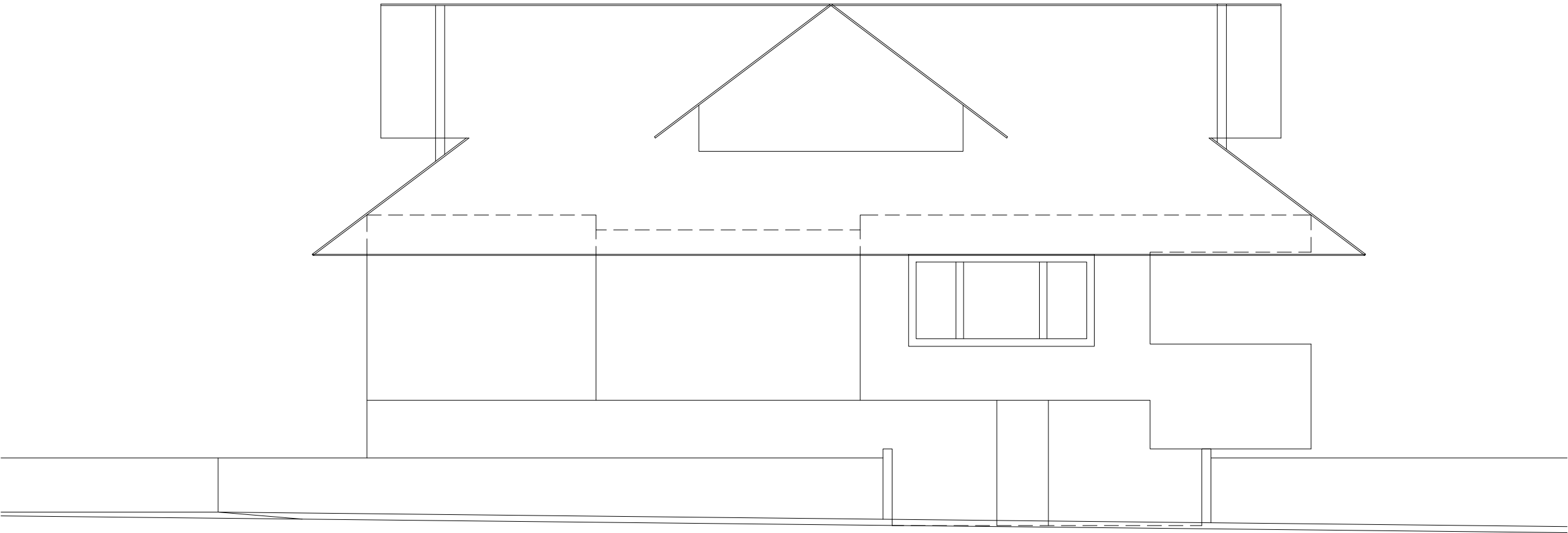

Owner(s)


Owner(s)



SITE PLAN - CURRENT

General Notes		
No.	Revision/Issue	Date
Project Name and Address		
GARAGE REHAB 3735 5TH ST.		
Project	Sheet	
Date		
Scale		



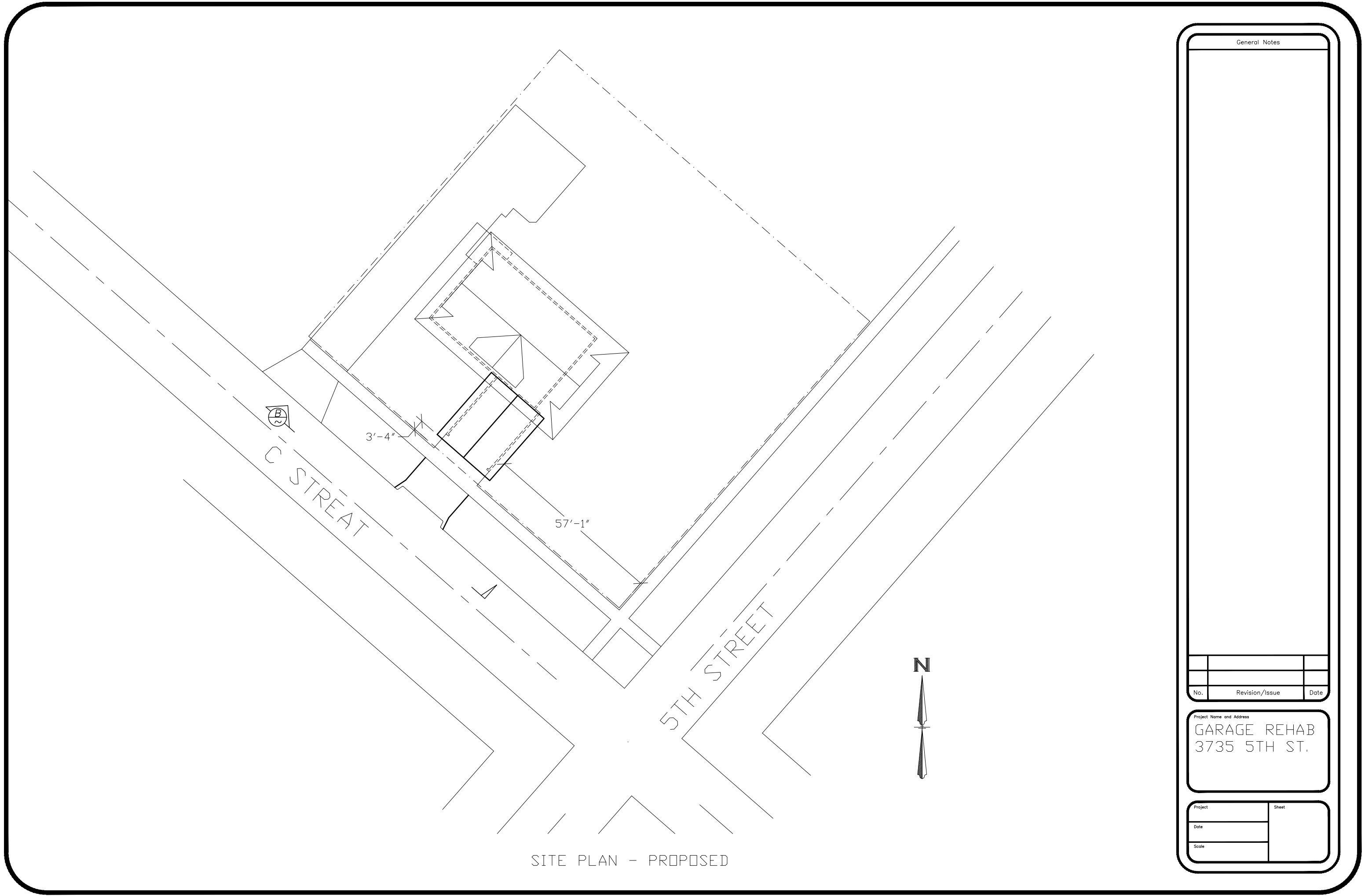
A VIEW

General Notes

No.	Revision/Issue	Date

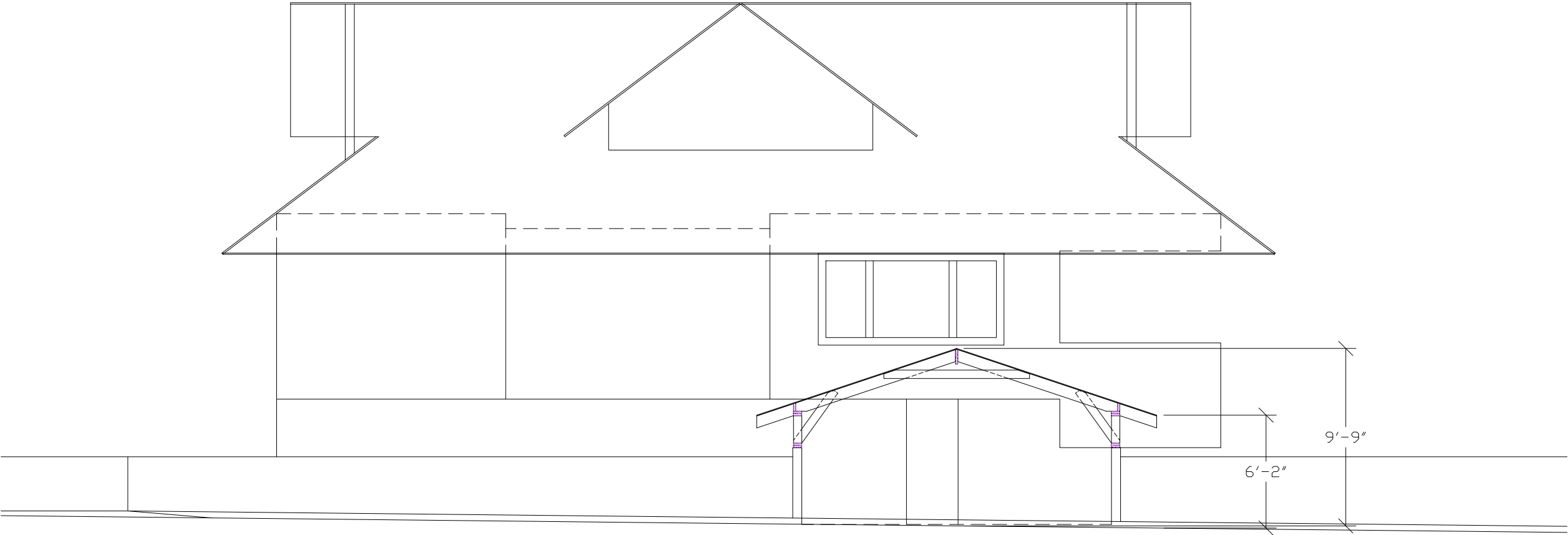
Project Name and Address
GARAGE REHAB
3735 5TH ST.

Project	Sheet
Date	
Scale	



SITE PLAN - PROPOSED

General Notes		
No.	Revision/Issue	Date
Project Name and Address		
GARAGE REHAB 3735 5TH ST.		
Project		
Date		
Scale		



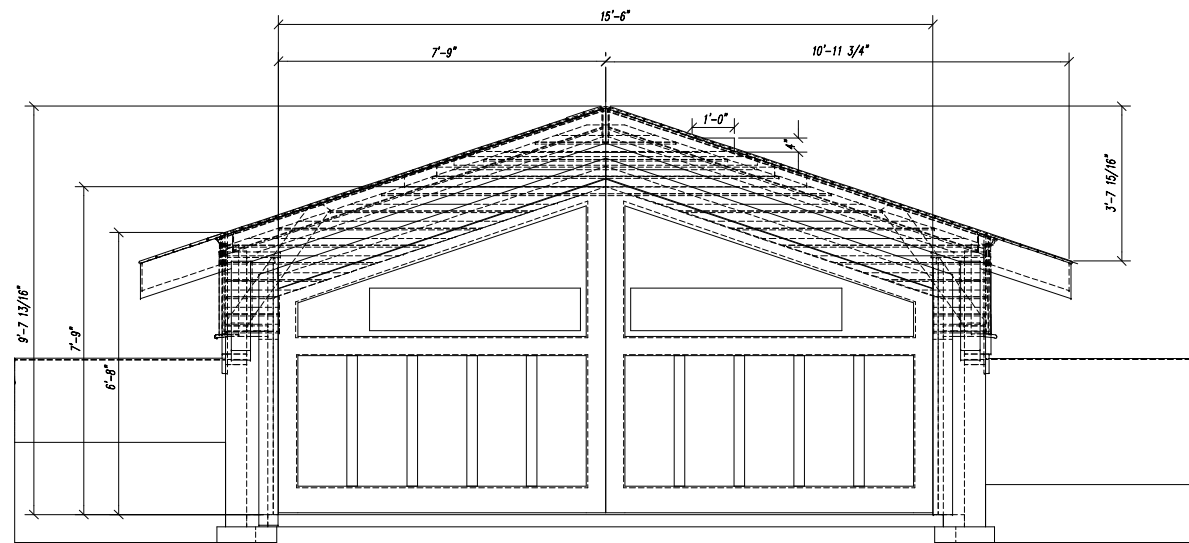
B VIEW

General Notes

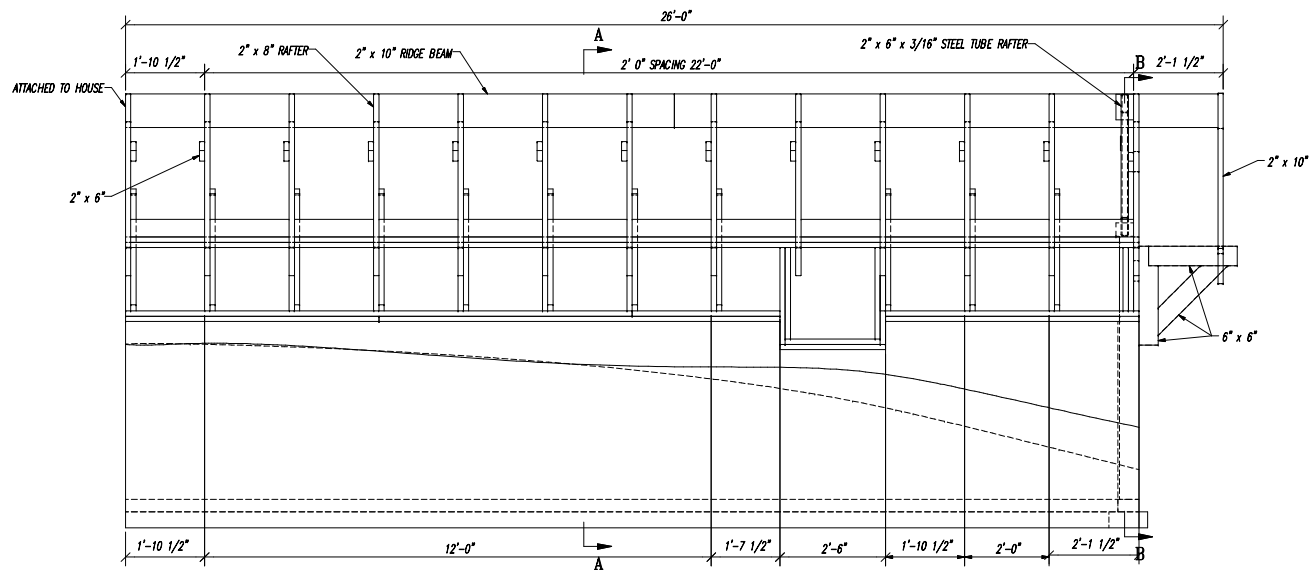
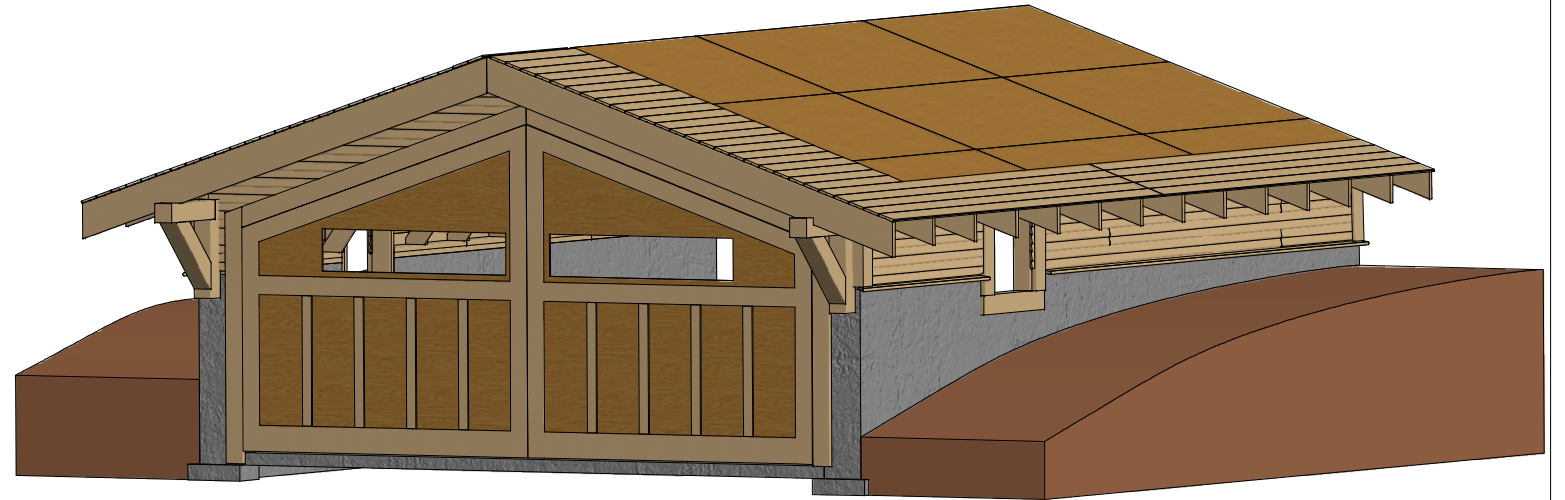
No.	Revision/Issue	Date

Project Name and Address
GARAGE REHAB
3735 5TH ST.

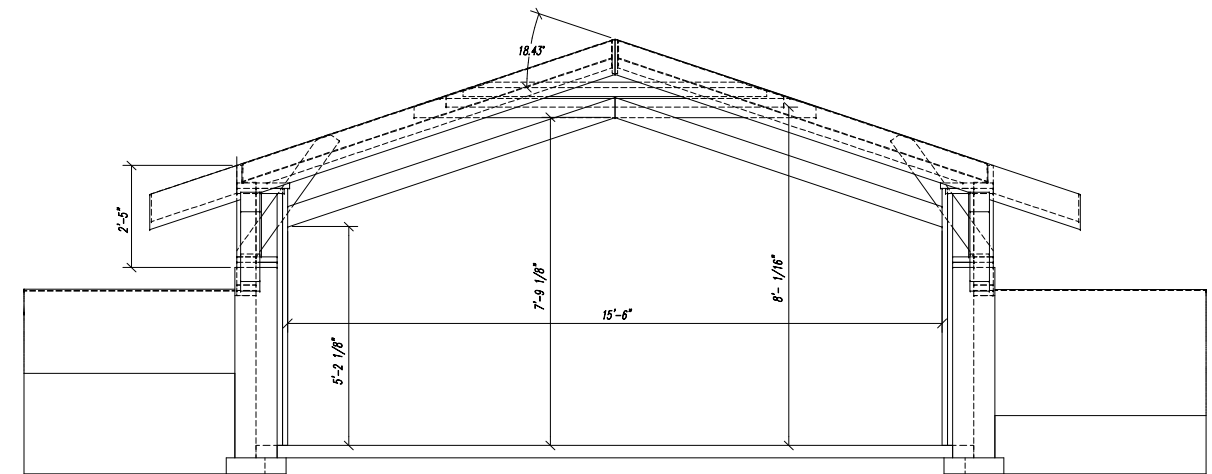
Project	Sheet
Date	
Scale	



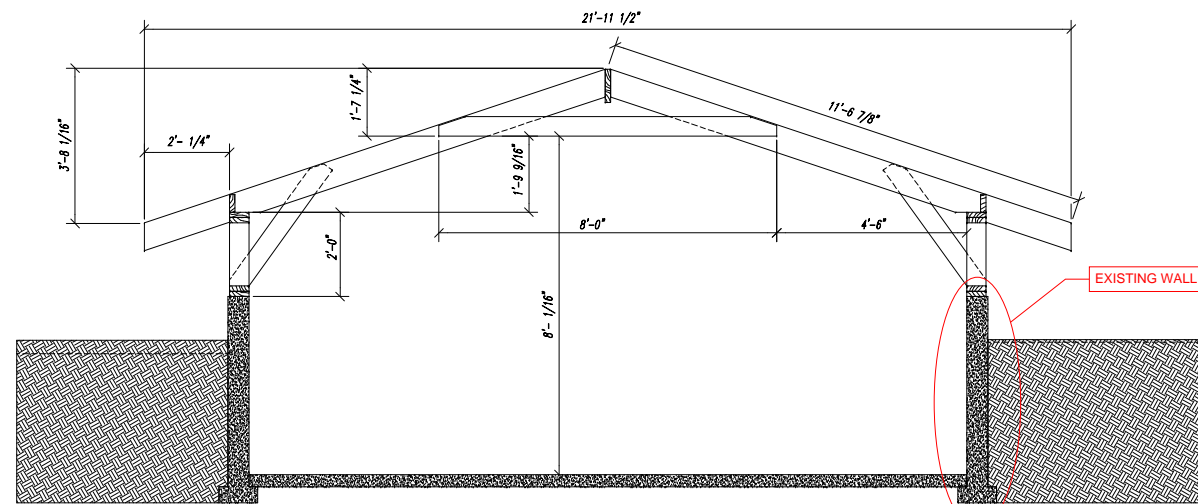
FRONT



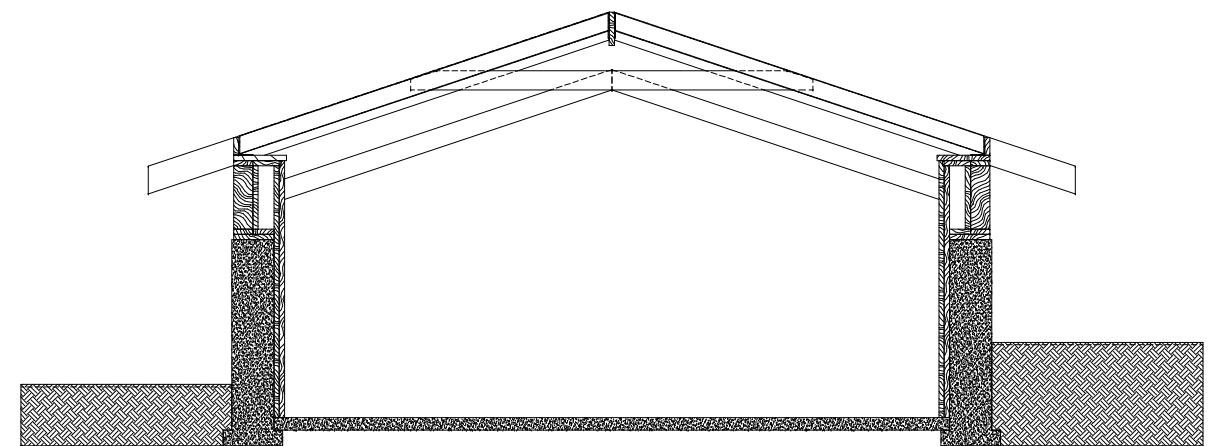
LEFT SIDE



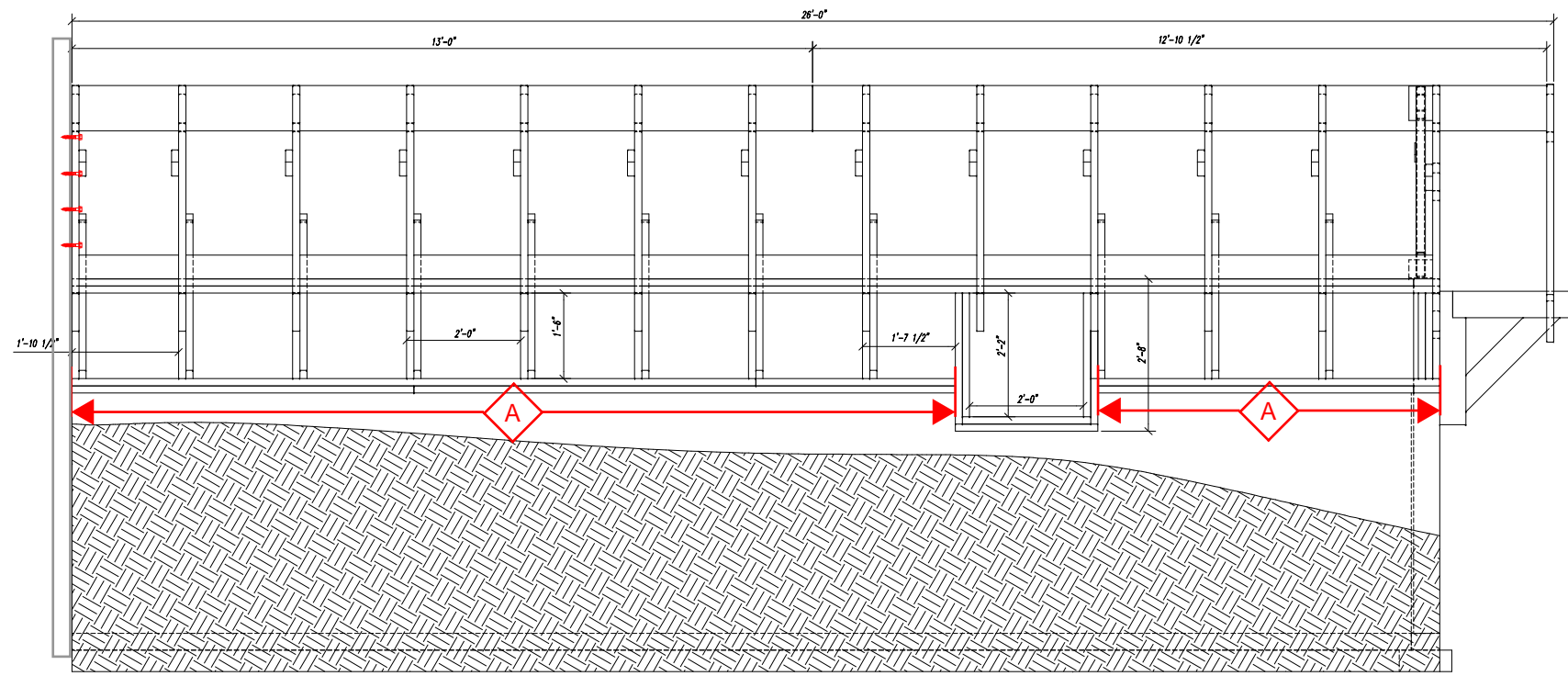
FRONT



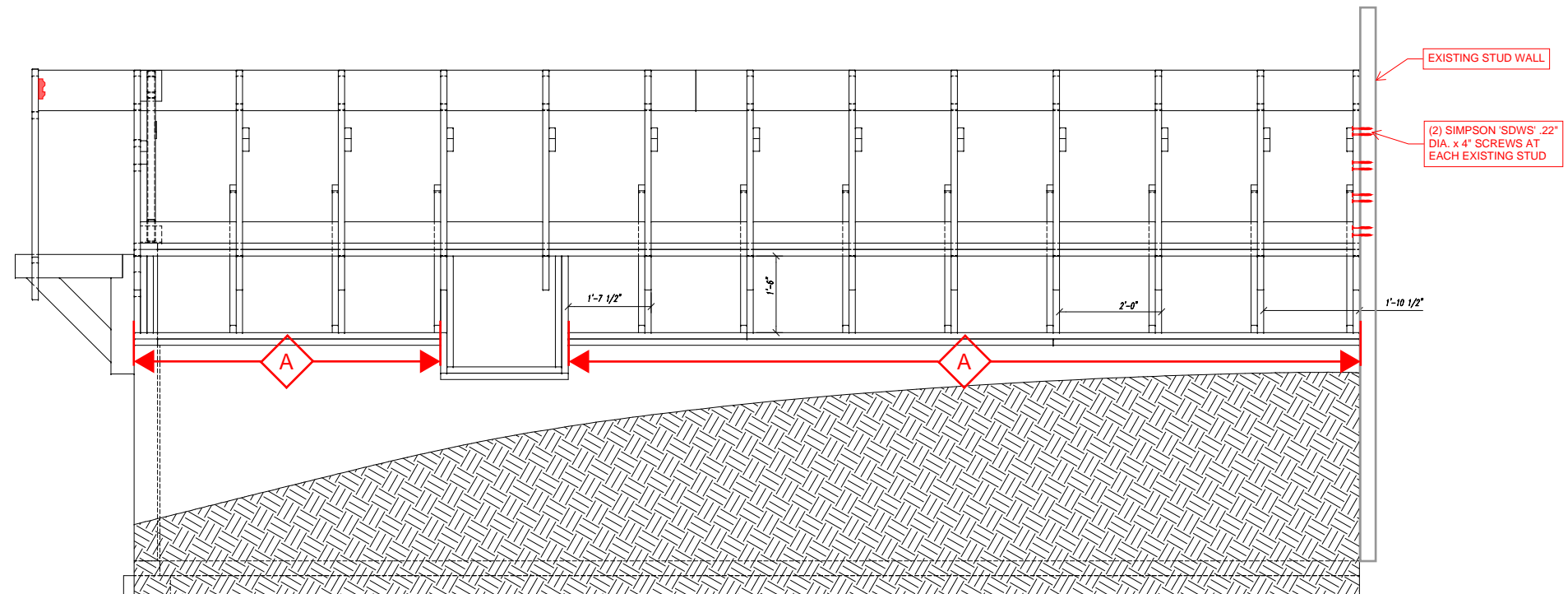
SECTION A-A



SECTION B-B

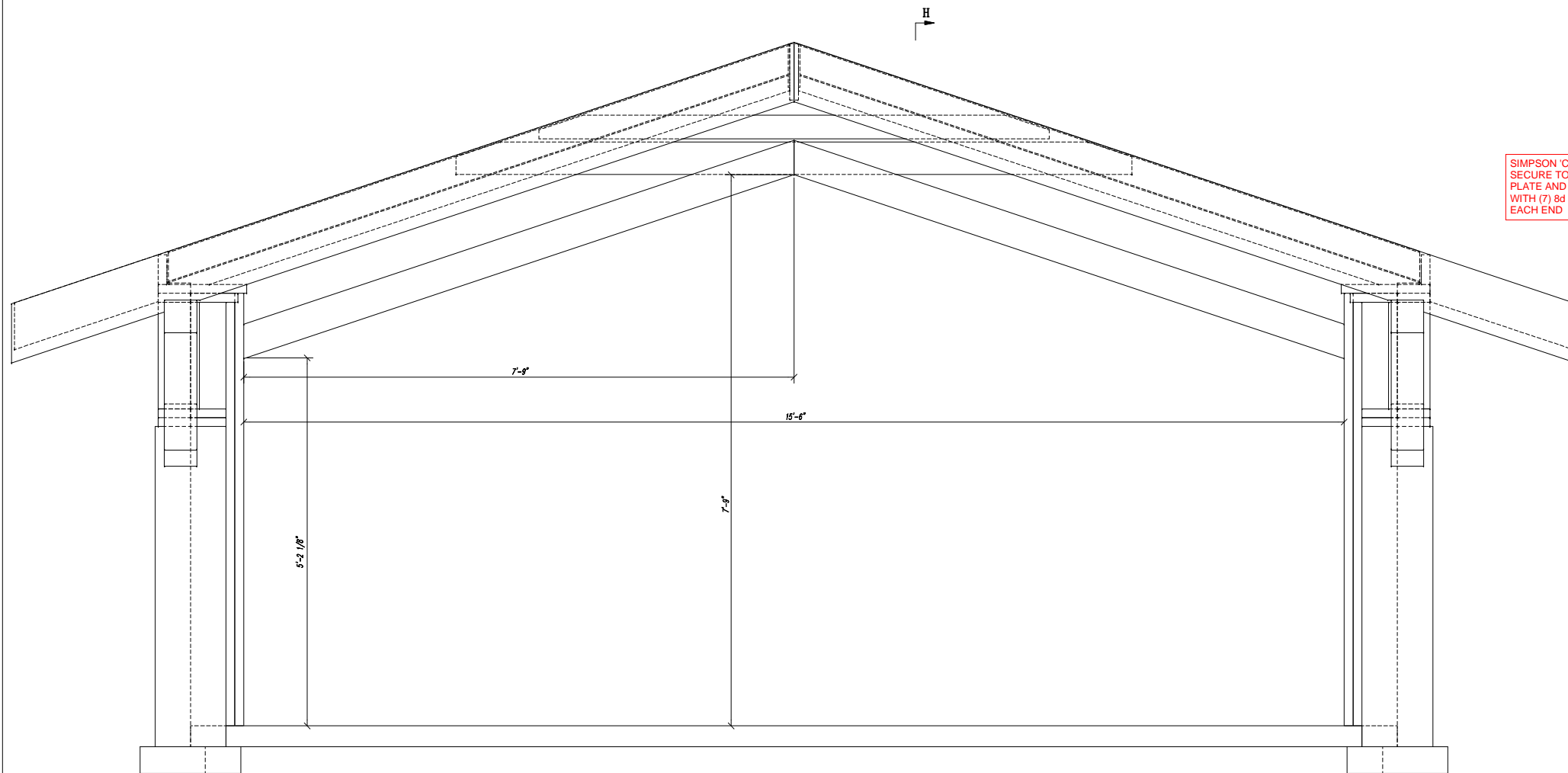


VIEW E-E

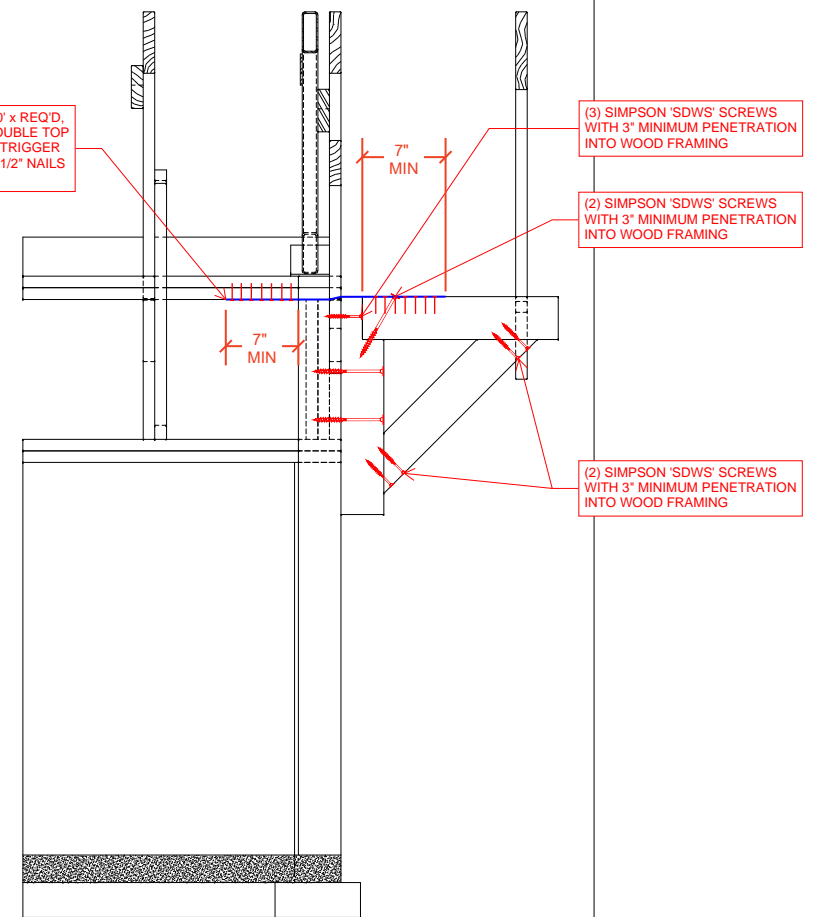


VIEW F-F

NOTE:
SEE SHEET S-1 FOR
SHEAR WALL SCHEDULE



VIEW G-G



SECTION H-H

NOTES:

1. CONTRACTOR TO VERIFY ALL DIMENSIONS AND ELEVATIONS PRIOR TO CONSTRUCTION.

2. ROOF DESIGN CRITERIA:
 DEAD LOAD = 15 PSF
 ROOF LIVE LOAD = 20 PSF
 DEFLECTION = LL/360, TL/240

3. ROOF SHEATHING TO BE APA RATED EXPOSURE I SHEATHING WITH MINIMUM SPAN RATING OF 40/20 AND A MINIMUM THICKNESS OF 19/32".

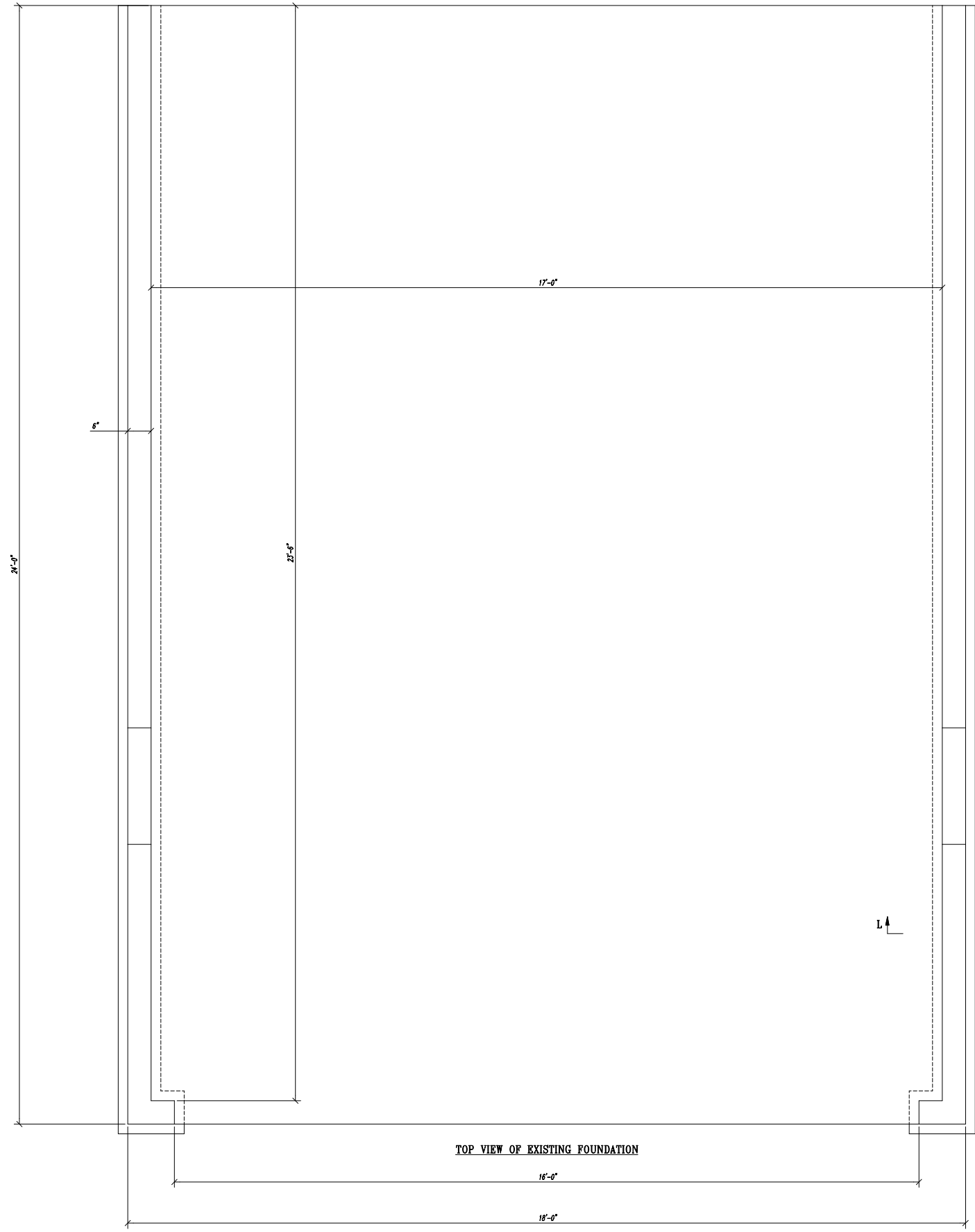
4. ROOF NAILING TO BE 10d COMMON OR GALVANIZED BOX NAILS. NAIL AT 6" O.C. AT ALL SUPPORTED PANEL EDGES AND AT 12" O.C. AT INTERMEDIATE SUPPORTS. BLOCKING IS NOT REQUIRED.

5. SPLICE DOUBLE TOP PLATE AT ALL EXTERIOR WALLS AND SHEARWALLS BY LAPPING 6'-0" MINIMUM AND NAILING WITH 16d NAILS AT 6" O.C. STAGGERED.

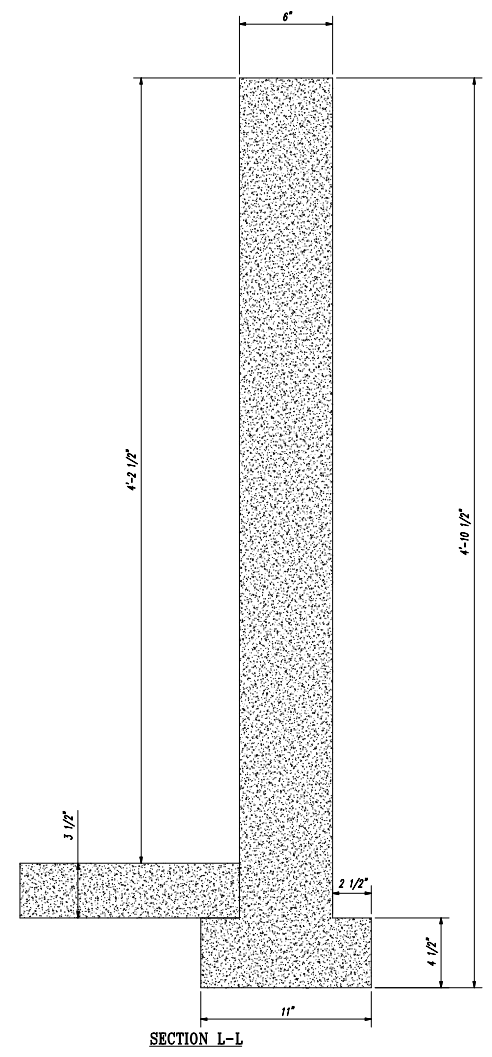
6. ALL EXTERIOR WALLS TO BE SHEATHED PER SHEAR WALL TYPE 'A'. SEE SCHEDULE FOR REQUIREMENTS.

7. SOLID BLOCK AT RIM LOCATIONS WHERE POSTS OR BUILT-UP STUDS ARE BEARING.

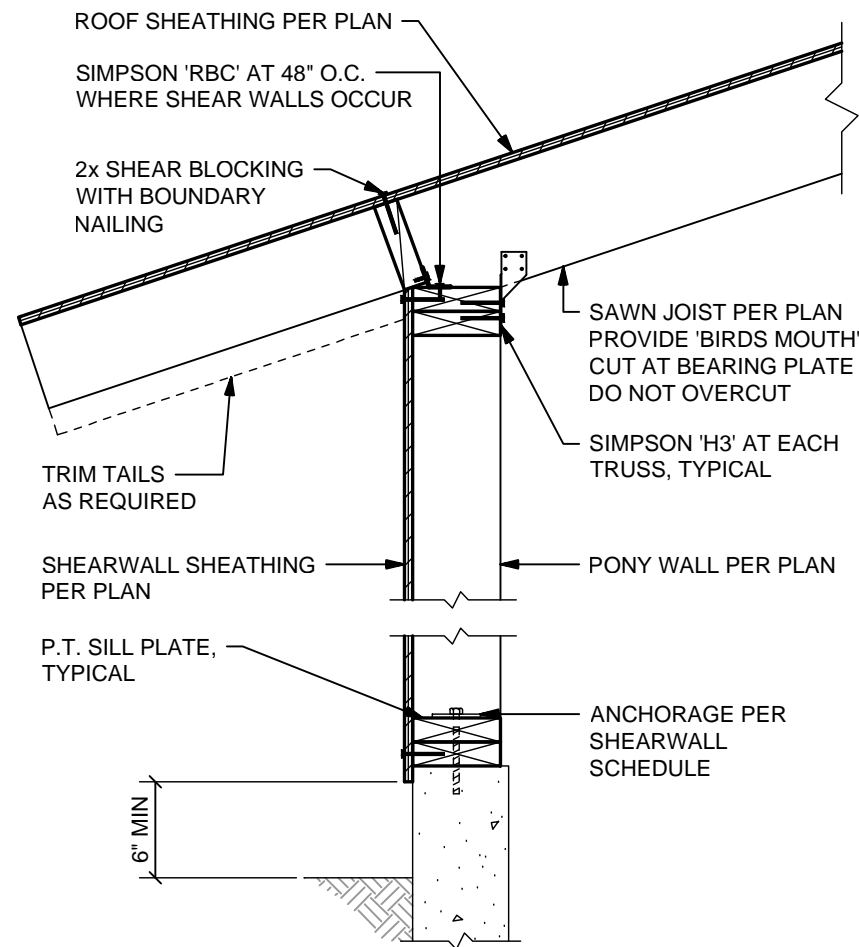
NOTE:
 SEE SHEET S-1 FOR
 SHEAR WALL SCHEDULE



TOP VIEW OF EXISTING FOUNDATION



SECTION L-L



1
S-1

FRAMING DETAIL

W125.dwg

1" = 1'-0"

WOOD STUD SHEARWALL SCHEDULE - 8d NAILS (CATEGORY D, E & F)

MARK	SHEATHING AND NAILING	SILL PLATE AND ANCHORAGE	CAPACITY	NOTES
<div>A</div>	15/32" APA RATED, EXPOSURE 1 SHEATHING, ONE SIDE, ALL EDGES BLOCKED, WITH 8d COMMON WIRE NAILS AT 6" O.C. ALL PANEL EDGES AND 12" O.C. IN-FIELD	UPPER WALL: 2x SOLE PLATE WITH 16d NAILS AT 6" O.C. STAGGERED FOUNDATION: 2x P.T. SILL PLATE WITH 3/8" DIA ANCHOR BOLTS AT 48" O.C.	260 PLF	TYPICAL EXTERIOR WALLS U.O.N.

WOOD STUD SHEARWALL SCHEDULE NOTES (CATEGORY D, E & F)

1. INSTALL SHEATHING HORIZONTAL OR VERTICAL. NO PIECE SMALLER THAN 2'-0" x 2'-0".
2. AT POSTS EMBEDDED IN SHEAR WALLS, ATTACH SHEATHING PER THE EDGE NAILING REQUIREMENTS FOR THAT SHEAR WALL.
3. ALL SHEAR WALL NAILS TO BE COMMON WIRE (8d DIA = 0.131") OR GALVANIZED BOX NAILS (8d DIA = 0.113"). MINIMUM PENETRATION TO BE 1 3/8" FOR 8d NAILS. STAPLES ARE NOT AN ACCEPTABLE SUBSTITUTION.
4. ANCHOR BOLTS TO BE STANDARD 3/8" DIA. x 2" (MIN) EMBED SIMPSON 'TITEN HD' STAINLESS STEEL SCREW ANCHOR AT 48" O.C.
5. PROVIDE PLATE WASHERS - MINIMUM OF 1/4" x 3" x 3" IN SIZE, AT ALL SILL PLATE ANCHOR BOLTS.

COURNEY GARAGE REHAB

3735 5TH ST.
HUBBARD, OR 97032

DATE
APRIL 8, 2021

SCALE
AS NOTED

PROJ. NO.
20210211

DRAWN
JAU

CHECKED
JCS

3933 S Kelly Avenue
Portland, Oregon 97239
503.222.4453
VLMK.COM

VLMK

ENGINEERING + DESIGN

S-1