



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

*Planning Division*

m e m o r a n d u m

**TO:** Urbana Zoning Board of Appeals  
**FROM:** Kevin Garcia, Planner II  
**DATE:** September 13, 2019  
**SUBJECT:** ZBA-2019-MIN-03: A request by Ryan Millikan for a Minor Variance to allow a garage to encroach 2.375 feet into the required 10-foot rear yard at 304 East Kerr Avenue in the R-3, Single- and Two-Family Residential District.

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### **Introduction**

Ryan Millikan has applied for a minor variance to allow a garage to encroach 2.375 feet into the required 10-foot rear yard on his property at 304 East Kerr Avenue. The variance would allow Mr. Millikan to expand his house and garage. Section XI-3.C.2.(b)(1) allows the Zoning Board of Appeals to grant a minor variance to reduce a required rear yard by up to 25 percent. Minor variance requests may be granted by a simple majority vote.

### **Background**

Mr. Millikan would like to expand his house, which has an attached garage (see Exhibit C). The house faces Kerr Avenue, and runs east-west in the middle of the lot. The lot, which also runs east-west, is approximately 102 feet by 60 feet. Due to the location and layout of the building, the most logical direction to expand in is to the west. The lot is on the corner of Kerr Avenue and North Highlands Drive. Based on the definitions for yards in the Zoning Ordinance, the western side of the lot is considered the rear yard, despite it being to the side of the house. The northern side of the lot is considered the side yard.

Mr. Millikan's architect submitted plans for the expansion of the house and garage with the western yard identified on the plans as the side yard. It is logical to think that the western yard would be the side yard based on the layout of the house and because it faces Kerr Avenue, but rather than it being a side yard, it is a rear yard. The plans showed the addition being about 7.5 feet from the western property line, which is within the 10-foot required rear yard. Staff informed the architect and explained that Mr. Millikan could seek a variance to allow the addition depicted in the plans.

### **Description of Site**

Mr. Millikan's property is on the corner of Kerr Avenue and North Highlands Drive. The one-story, brick house is in the center of the lot, with the attached garage on the western side of the building. To the south is the Highland Green development, and to the west, north, and east is a neighborhood of mostly single-family homes.

Table 1 - Zoning and Land Use

Location	Zoning	Land Use
Site	R-3, Single- and Two-Family Residential	Single-Family Home
North	R-3, Single- and Two-Family Residential	Single-Family Home
South	R-4, Single- and Two-Family Residential	Townhomes
East	R-3, Single- and Two-Family Residential	Single-Family Home
West	R-3, Single- and Two-Family Residential	Single-Family Home

## Discussion

Mr. Millikan would like to increase the amount of living space and garage space in his home (see Exhibit E for site plans). The variance request would allow him to do that without causing any nuisance to neighboring property owners. The proposed plans meet all other development requirements.

## Variance Criteria

Section XI-3 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals to make findings based on variance criteria. The following is a review of the variance criteria as they pertain to these cases. The Zoning Ordinance does not require that all of the criteria be met, only that they be considered to make findings.

*1. Are there special circumstances or special practical difficulties with reference to the parcel concerned, in carrying out the strict application of the ordinance?*

There are special circumstances pertaining to this parcel. The lot configuration and location of the house make it difficult or impossible to expand the house and garage in a way that doesn't encroach into the required 10-foot rear yard.

*2. The proposed variance will not serve as a special privilege because the variance requested is necessary due to special circumstances relating to the land or structure involved or to be used for occupancy thereof which is not generally applicable to other lands or structures in the same district.*

Corner lots are often difficult to redevelop or build on, and there are likely other corner lots with similar circumstances, with respect to the location and orientation of the house on the lot. However, the circumstance are special. The situation Mr. Millikan is presented with is not applicable to the vast majority of lots in the R-3 zoning district. The variance will not serve as a special privilege.

*3. The variance requested was not the result of a situation or condition having been knowingly or deliberately created by the Petitioner.*

Mr. Millikan did not build the house or place it in the middle of the lot. The situation leading up to the variance request was only discovered when he submitted building permits for the expansion of the house.

*4. The variance will not alter the essential character of the neighborhood.*

The variance would allow for a modest expansion of the house and garage that will meet all other development regulations. Such an expansion would be allowed on other lots in the neighborhood without requiring a variance. The variance will not alter the essential character of the neighborhood.

5. *The variance will not cause a nuisance to the adjacent property.*

The variance will allow the addition to be less than two-and-a-half feet closer to the property line than if no variance were granted. The house will be about seven-and-a-half feet from the western property line instead of 10 feet from the property line. The closest building to the addition is the garage on the eastern side of the lot to the west of Mr. Millikan's property. The variance will not cause a nuisance to that property owner.

6. *The variance generally represents the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request.*

The building plans were created with the belief that the western side of the property was the side yard, and the plans did not fully expand the house to the edge of the assumed yard (which would have been five feet from the property line). Since the request is simply to allow the house expansion to be built as originally conceived, the variance request represents the minimum deviation necessary to allow Mr. Millikan to expand his house and garage.

### **Summary of Staff Findings**

1. Ryan Millikan has applied for a minor variance to allow a garage to encroach 2.375 feet into the required 10-foot rear yard at 304 East Kerr Avenue in the R-3, Single- and Two-Family Residential District.
2. The variance request would allow Mr. Millikan to put an addition on his home.
3. The variance request will not serve as a special privilege to the property owner because the lot configuration and location of the house are special circumstances that do not generally apply to other properties in the R-3 district.
4. The variance request was not the result of a situation knowingly created by the petitioner, as the house and its location were already in place when Mr. Millikan purchased the property.
5. The variance request will not alter the essential character of the neighborhood, as the expansion of the house will meet all other development regulations and similar expansions would be allowed on other properties in the neighborhood without requiring variances.
6. The variance request will not cause a nuisance to adjacent property owners, as the addition will be less than two-and-a-half feet closer to the western property line, and the closest building to the addition will be the garage on the adjacent lot.
7. The variance request represents the minimum deviation from the requirements of the Zoning Ordinance, as it would allow the house expansion to be built as originally conceived, when the western side of the lot was assumed to be the side yard.

## Options

The Zoning Board of Appeals has the following options in case ZBA-2019-MIN-03:

1. **Approve** the variance as requested based on the findings outlined in this memo;
2. **Approve** the variance as requested along with certain terms and conditions, and if so, articulate all terms, conditions, and findings; or
3. **Deny** the variance request, and if so, articulate findings supporting the denial.

## Staff Recommendation

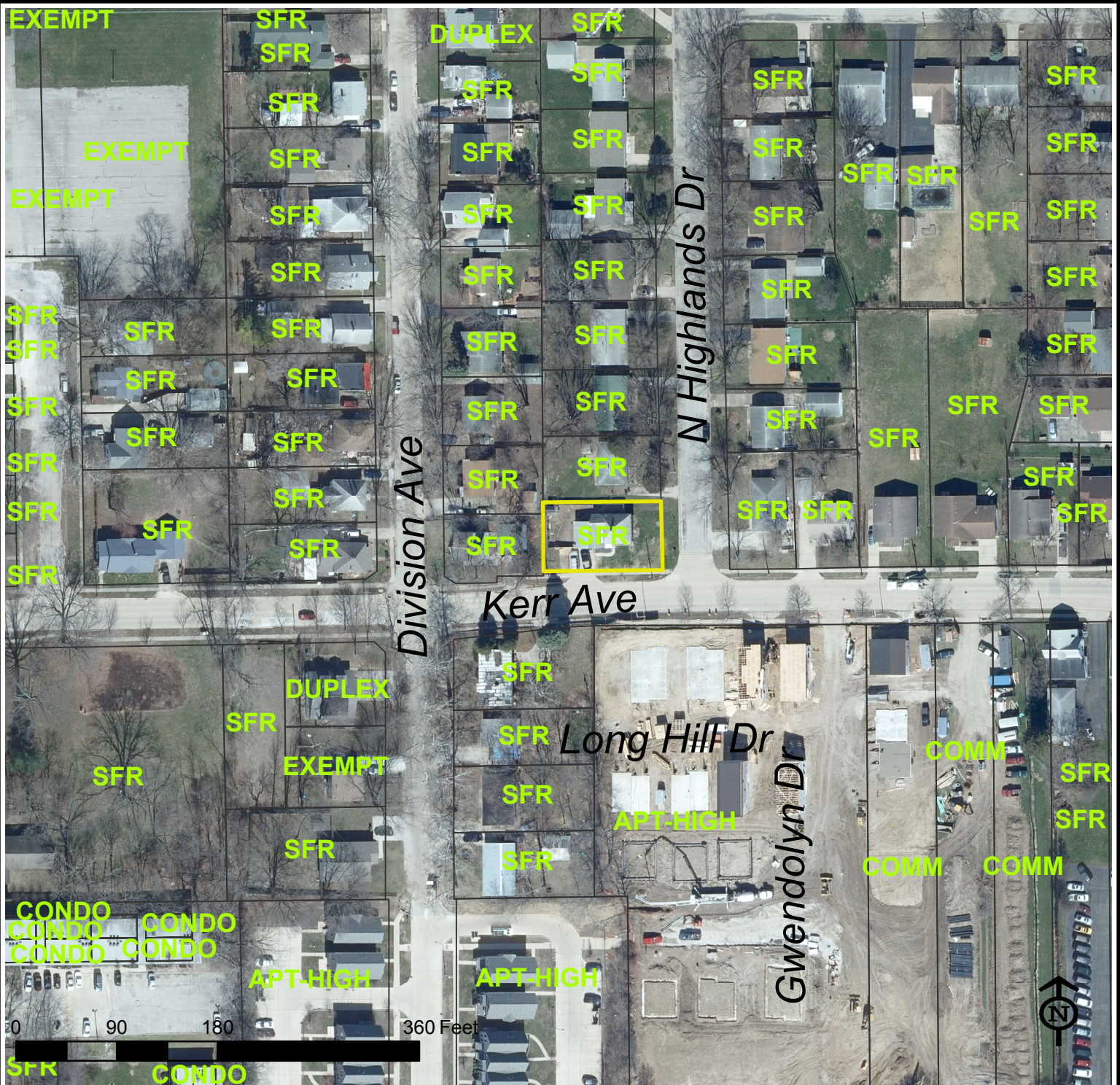
Based on the analysis and findings presented above, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that the Zoning Board of Appeals **APPROVE** the Minor Variance request.

Exhibits:           A: Location Map  
                          B: Zoning Map  
                          C: Site Photo  
                          D: Application  
                          E: Site Plans

CC: Ryan Millikan



# Exhibit A: Location & Existing Land Use Map

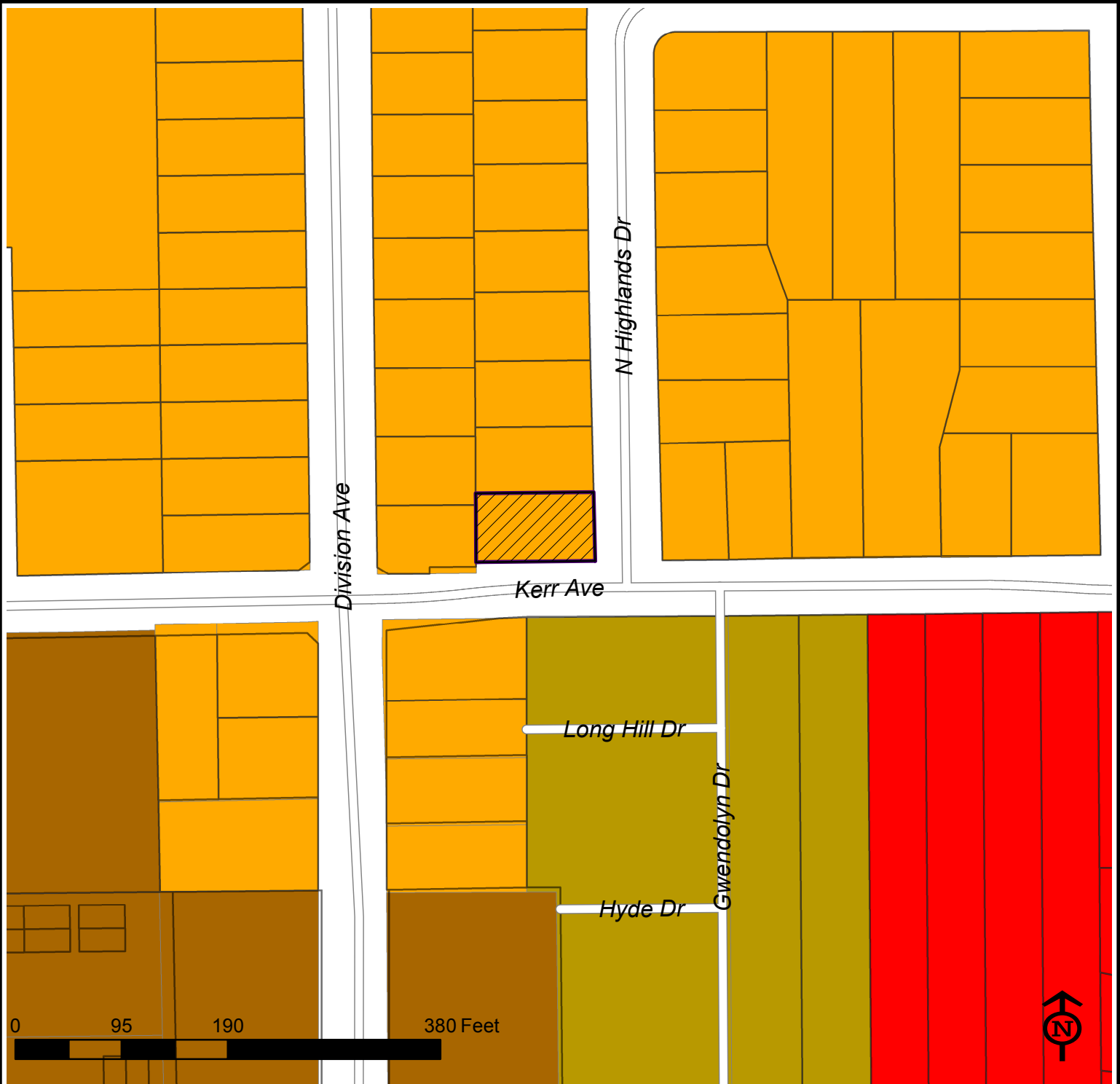


Case: ZBA-2019-MIN-03  
 Subject: Millikan Garage Minor Variance  
 Location: 304 Kerr Avenue  
 Petitioner: Ryan Millikan

 Subject Property



# Exhibit B: Zoning Map



Case: ZBA-2019-MIN-03  
 Subject: Millikan Garage Minor Variance  
 Location: 304 Kerr Avenue  
 Petitioner: Ryan Millikan

- B3
- R3
- R4
- R5
- Subject Property





# Application for Variance

# ZONING BOARD OF APPEALS

The application fee must accompany the application when submitted for processing. Please refer to the City's website at <http://www.urbanaininois.us/fees> for the current fee associated with this application. The Applicant is also responsible for paying the cost of legal publication fees. Estimated costs for these fees usually run between \$75.00 and \$225.00. The applicant will be billed separately by the News-Gazette.

### DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY

Date Request Filed 08-19-2019 ZBA Case No. ZBA-2019-MIN-03  
Fee Paid - Check No. \_\_\_\_\_ Amount \_\_\_\_\_ Date \_\_\_\_\_

### PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

A VARIATION is requested in conformity with the powers vested in the Zoning Board of Appeals to permit the following variation (*Describe the extent of the Variation Requested*)

\_\_\_\_\_ on the property described below, and in conformity with the plans described on this variance request.

#### 1. APPLICANT CONTACT INFORMATION

Name of Applicant(s): RYAN MILLIKAN Phone: 217-  
Address (street/city/state/zip code): 304 E. KERR, URBANA, IL 61801  
Email Address: millikanmasonry@yahoo.com  
Property interest of Applicant(s) (Owner, Contract Buyer, etc.): OWNER

#### 2. OWNER INFORMATION

Name of Owner(s): RYAN MILLIKAN Phone: \_\_\_\_\_  
Address (street/city/state/zip code): 304 E. KERR, URBANA, IL 61801  
Email Address: millikanmasonry@yahoo.com  
Is this property owned by a Land Trust?  Yes  No  
*If yes, please attach a list of all individuals holding an interest in said Trust.*

#### 3. PROPERTY INFORMATION

Location of Subject Site: 304 E. KERR  
PIN # of Location: 91-21-08-276-028  
Lot Size: 60.0' x 101.7' = 6,102 S.F.



Current Zoning Designation: R-3

Current Land Use (vacant, residence, grocery, factory, etc): SINGLE FAMILY RESIDENCE

Proposed Land Use: SINGLE FAMILY RESIDENCE

Legal Description (If additional space is needed, please submit on separate sheet of paper):

**4. CONSULTANT INFORMATION**

Name of Architect(s): ANDREW FELL ARCH & DESIGN

Phone: 217-363-2890

Address (street/city/state/zip code): 515 NORTH HICKORY, #101, CHAMPAIGN, IL 61820

Email Address: andrew.fell@andrewfell.com

Name of Engineers(s):

Phone:

Address (street/city/state/zip code):

Email Address:

Name of Surveyor(s):

Phone:

Address (street/city/state/zip code):

Email Address:

Name of Professional Site Planner(s):

Phone:

Address (street/city/state/zip code):

Email Address:

Name of Attorney(s):

Phone:

Address (street/city/state/zip code):

Email Address:

**5. REASONS FOR VARIATION**

Identify and explain any special circumstances or practical difficulties in carrying out the strict application of the Zoning Ordinance with respect to the subject parcel.

SEE ATTACHED

Explain how the variance is necessary due to special conditions relating to the land or structure involved which are not generally applicable to other property in the same district.

Explain how the variance is not the result of a situation or condition that was knowingly or deliberately created by you (the Petitioner).

Explain why the variance will not alter the essential character of the neighborhood.

Explain why the variance will not cause a nuisance to adjacent property.

Does the variance represent the minimum deviation necessary from the requirements of the Zoning Ordinance? Explain.

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***NOTE: If additional space is needed to accurately answer any question, please attach extra pages to the application.***

***By submitting this application, you are granting permission for City staff to post on the property a temporary yard sign announcing the public hearing to be held for your request.***

**CERTIFICATION BY THE APPLICANT**

I certify all the information contained in this application form or any attachment(s), document(s) or plan(s) submitted herewith are true to the best of my knowledge and belief, and that I am either the property owner or authorized to make this application on the owner's behalf.

        *T. JM*          
Applicant's Signature

        8-17-19          
Date

**PLEASE RETURN THIS FORM ONCE COMPLETED TO:**

City of Urbana  
Community Development Department Services  
Planning Division  
400 South Vine Street, Urbana, IL 61801  
Phone: (217) 384-2440  
Fax: (217) 384-2367



## 5. REASONS FOR VARIATION

*Identify and explain any special circumstances or practical difficulties in carrying out the strict application of the Zoning Ordinance with respect to the subject parcel.*

One of the goals of this project is to increase the single car garage space on the subject property. In designing the addition to the residence, the garage was existing on the west side of the site and expanding the single garage footprint necessitate expansion to the west. In order to gain the required area for the expanded garage, it will extend into the rear yard setback approximately 2.5' ( to maintain standards as a minor variance).

Exaggerating the problematic nature of the existing residence is the fact that the original construction was set back substantially beyond both front yard setbacks, leaving less room for expansion to the north or west. The simple fact that the lot is a corner lot with two front yard setbacks, makes it more difficult to add to the residence.

Structural requirements for the garage structure prevent it from being any shorter. The combination of the required overhead door sizes in conjunction with the wall structure (as required to compensate for wind shear) as shown on the drawings represent the overall minimum practical garage width.

*Explain how the variance is necessary due to special condition relating to the land or structure involved which are not generally applicable to other property in the same district.*

As stated above the existing residence is already placed much further to the north and west as was required for the initial construction. The layout of the house necessitates it be expanded to the west to in order to provide additional garage space.

Should this lot be located any place but on a corner, the setback in question would be the side yard and not the rear yard (as per the location of the front door) and no variance would be required.

*Explain how the variance is not the result of a situation or condition that was knowingly or deliberately created by you (the petitioner).*

As the garage to be expanded is located on the west side of the residence, the garage expansion could only be towards the west. There is no other available access point for the garage.

Logic would say that the yard in question is a side yard as it is on the side of the house next to the front door, and the north yard is the rear yard as it is the yard on the opposite side of the front door. However, the Zoning Ordinance states that in this case, the rear yard is the narrower of the two sides of the lot and the side yard is the longer of the two sides.

Again, if logic followed as above, no variance would be required.

*Explain how the variance will not alter the essential character of the neighborhood.*

In reviewing all the existing and proposed setback and encroachment data, it is clear that this will not have any negative impact. With the exception of the requested variance, all other facades of the residence are well within the required setbacks.

Front setback on the south is 15'. Actual proposed setback is 18'-9.5"

Front setback on the east is 15'. Actual proposed setback = 22'-0.5"

Side setback on the north is 5'. Actual proposed setback = 11'-4"

Rear setback on the west is 10'. Actual proposed setback = 7'-8.5"

Actually, if we built to the current side and rear yard setbacks, we could construct an addition substantially larger than the one proposed. Alternatively, if the east end of the house was constructed at the setback line, we would have enough room to extend the footprint almost an additional five feet beyond what we currently show – and still be within the required west setback.

The structure resulting from this project, in its entirety, is in character with the neighborhood in both scale and neighborhood impact.

*Explain why the variance will not cause a nuisance to adjacent property.*

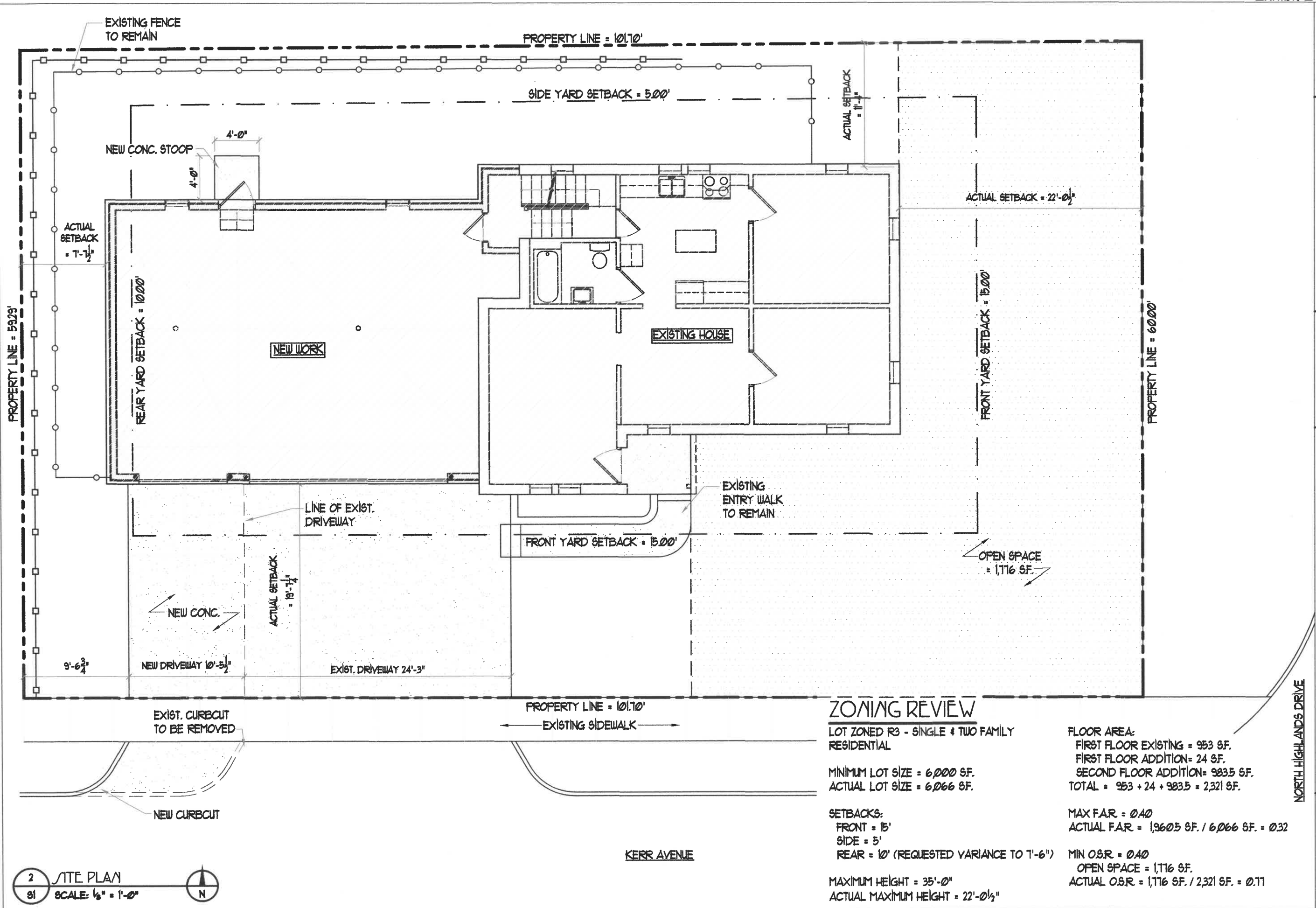
There are no other variances or exemptions requested for this project. It will conform to all requirements for F.A.R., open space, height, etc. And in fact, it will be substantially below the maximums for these items.

The only possible 'nuisance' introduced is the garage wall slightly closer to the west neighbor. However, the neighbor's garage is on the east side of their property, so the impact is negligible as no living space of the neighbor is affected. If this were a side yard, the garage could, in fact, be 2.5' closer to the property line by right.

*Does the variance represent the minimum deviation necessary from the requirements of the Zoning Ordinance? Explain.*

I believe it does, as the Owner could actually construct an addition that is substantially larger in footprint than what is proposed. Again – if the original construction of the residence placed the house more to the east (within the setback), this addition would easily fit within the required west rear yard setback.

The garage structure is also the minimum length required to meet door and structural requirements.



2 SITE PLAN  
 91 SCALE: 1/8" = 1'-0"  
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**ZONING REVIEW**

LOT ZONED R3 - SINGLE & TWO FAMILY RESIDENTIAL  
 MINIMUM LOT SIZE = 6,000 SF.  
 ACTUAL LOT SIZE = 6,066 SF.  
 SETBACKS:  
 FRONT = 15'  
 SIDE = 5'  
 REAR = 10' (REQUESTED VARIANCE TO 7'-6")  
 MAXIMUM HEIGHT = 35'-0"  
 ACTUAL MAXIMUM HEIGHT = 22'-0 1/2"

FLOOR AREA:  
 FIRST FLOOR EXISTING = 953 SF.  
 FIRST FLOOR ADDITION = 24 SF.  
 SECOND FLOOR ADDITION = 983.5 SF.  
 TOTAL = 953 + 24 + 983.5 = 2,321 SF.  
 MAX FAR = 0.40  
 ACTUAL FAR = 1,960.5 SF. / 6,066 SF. = 0.32  
 MIN O.S.R. = 0.40  
 OPEN SPACE = 1,116 SF.  
 ACTUAL O.S.R. = 1,116 SF. / 2,321 SF. = 0.11

PROJECT # 19015  
 DATE: 2019.AUG.15  
 REV/NOV:

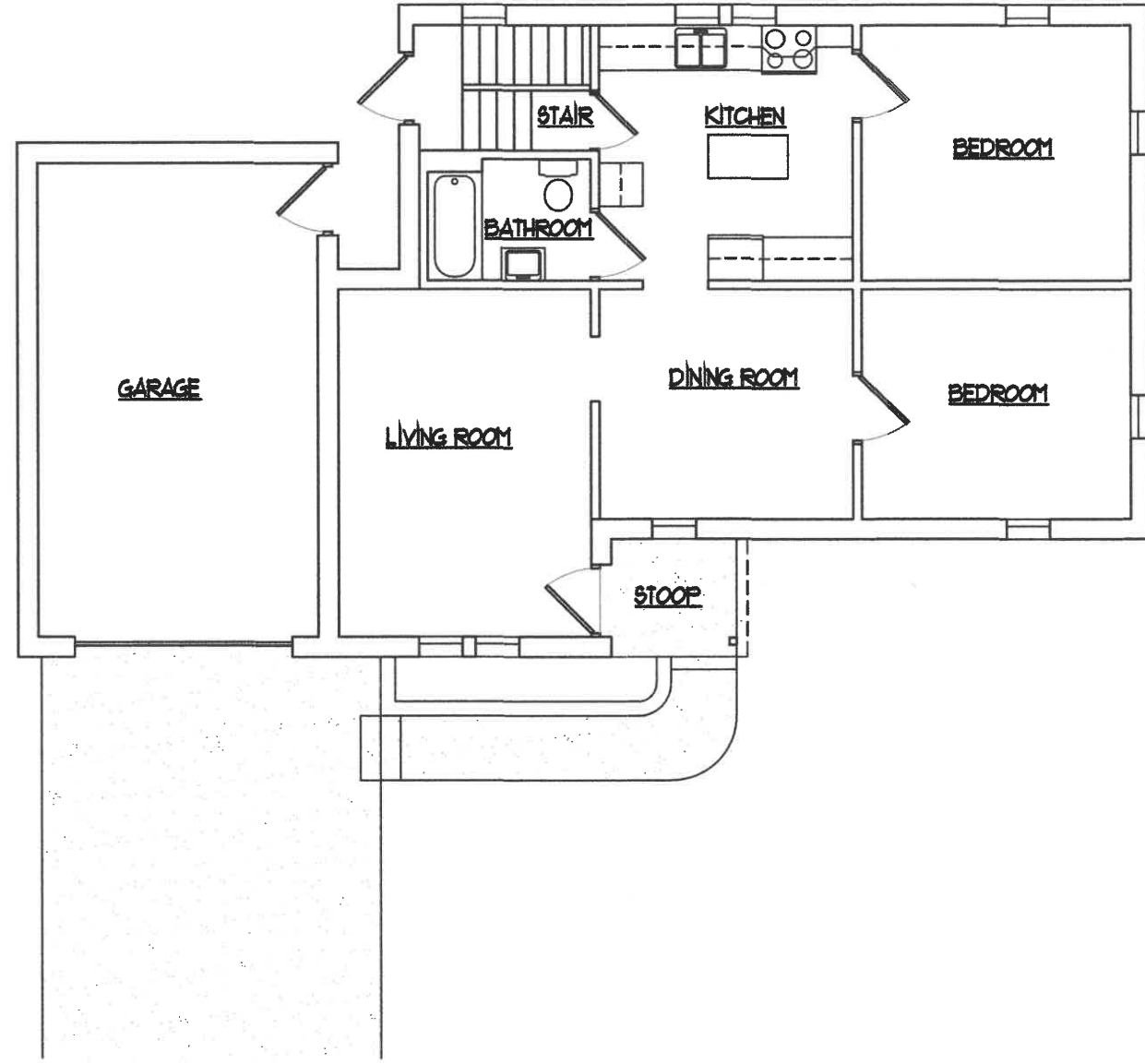
**A N D R E W F E L L**  
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 616 NORTH HICKORY STREET, SUITE 101  
 CHICAGO, ILLINOIS 60680  
 PHONE: 312.363.5990  
 WWW.ANDREWFEELL.COM  
 EMAIL: andrew@andrewfellow.com

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**MILLIKAN RESIDENCE**  
 ADDITION & REMODEL  
 304 E. KERR AVENUE  
 URBANA, ILLINOIS







PROJECT # 19015
DATE : 2019.AUG.15
REVISION :

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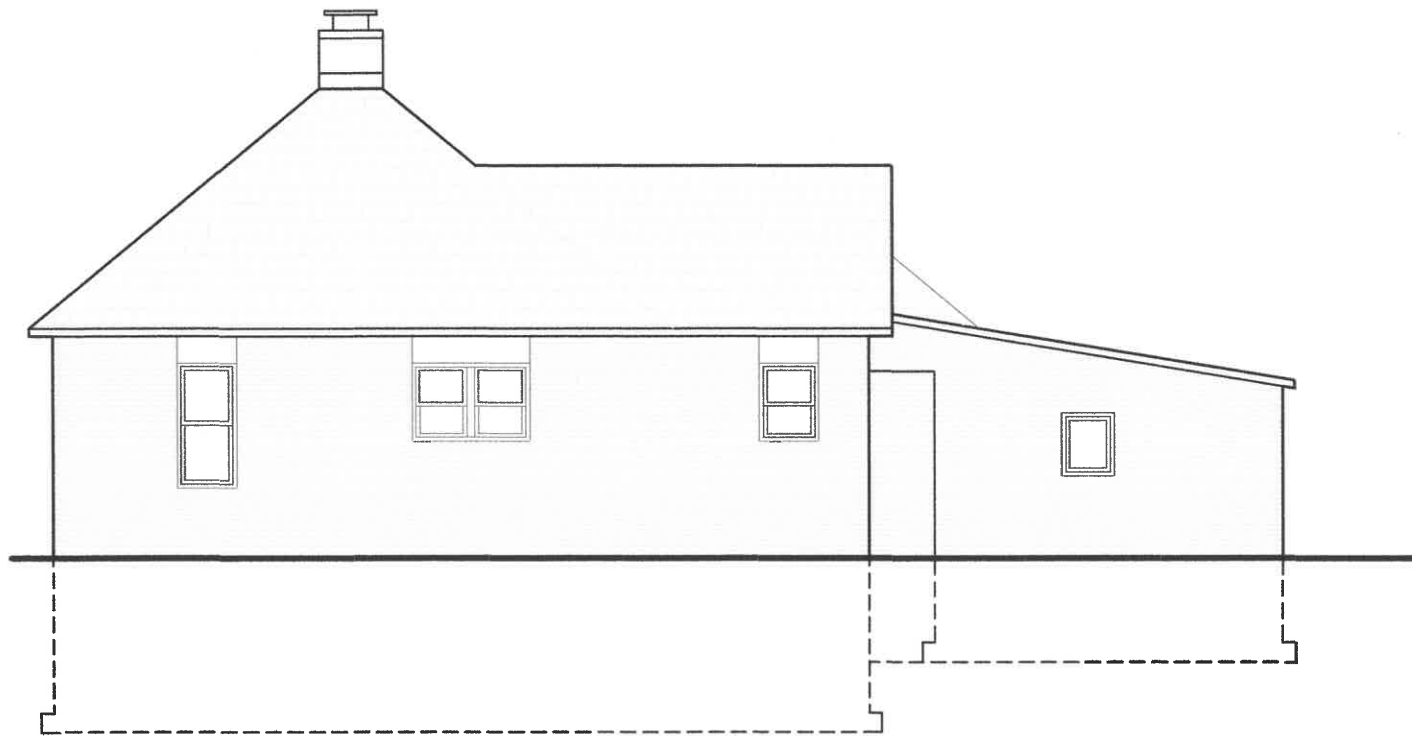
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 ADDITION & REMODEL  
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 URBANA, ILLINOIS



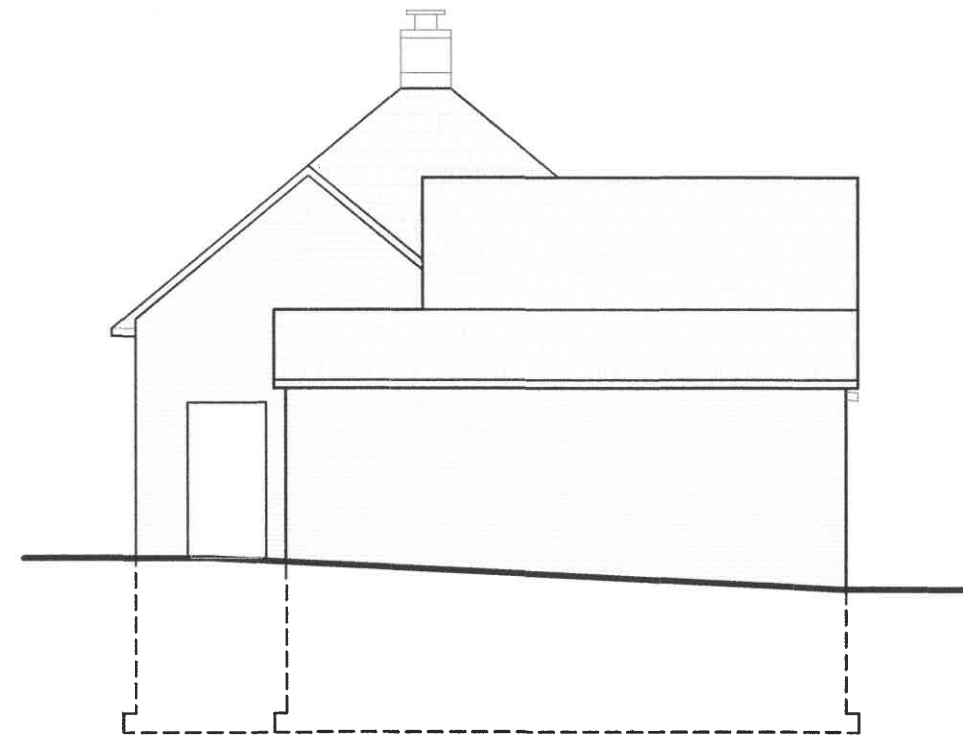
1 EXIST. SOUTH ELEVATION  
A2 SCALE: 1/8" = 1'-0"



5 EXIST. EAST ELEVATION  
A2 SCALE: 1/8" = 1'-0"



2 EXIST. NORTH ELEVATION  
A2 SCALE: 1/8" = 1'-0"



6 EXIST. WEST ELEVATION  
A2 SCALE: 1/8" = 1'-0"

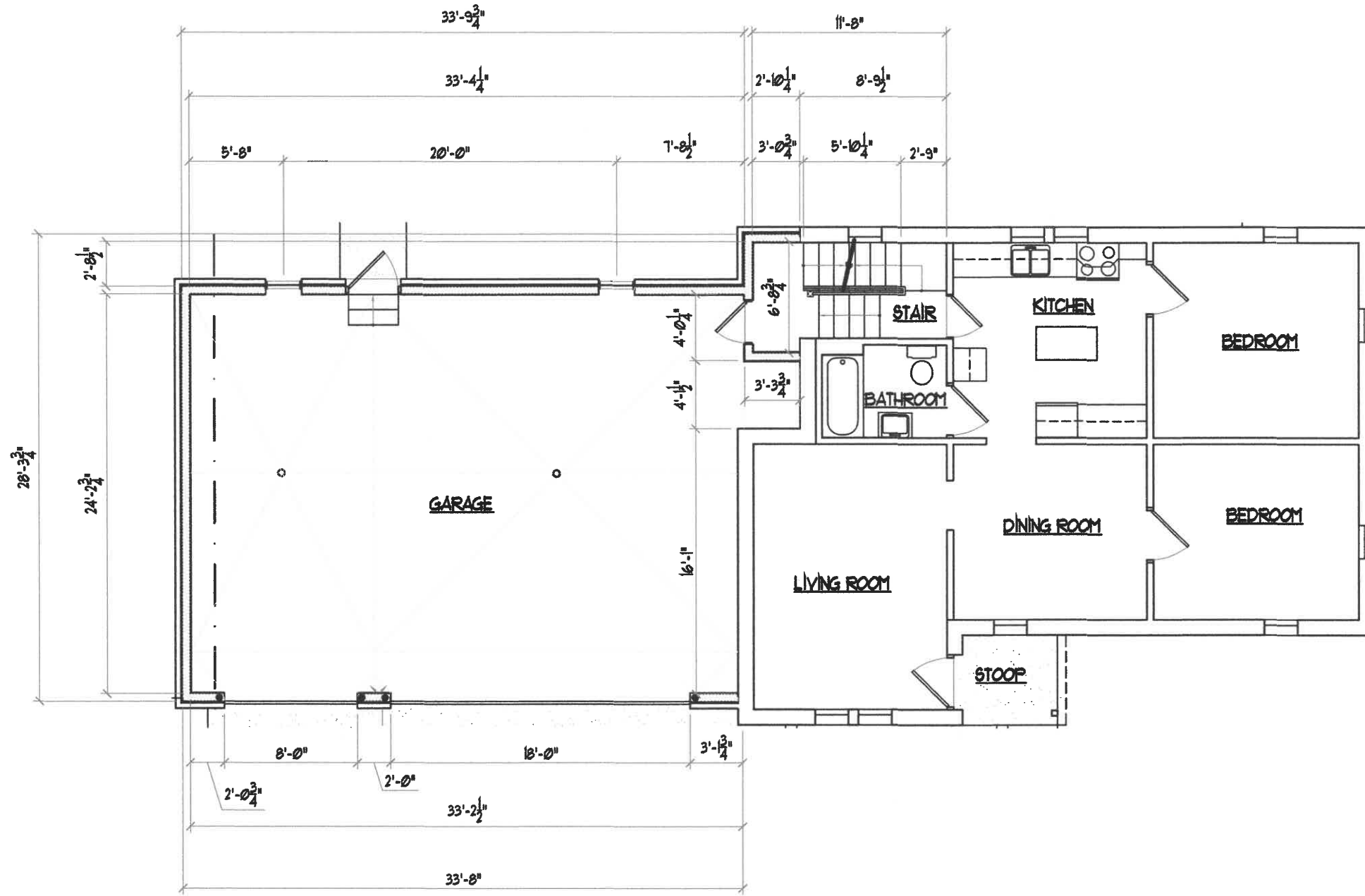
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304 E. KERR AVENUE  
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FEET



2 FIRST FLOOR PLAN  
 A3 SCALE: 1/8" = 1'-0"  
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PROJECT # 19015  
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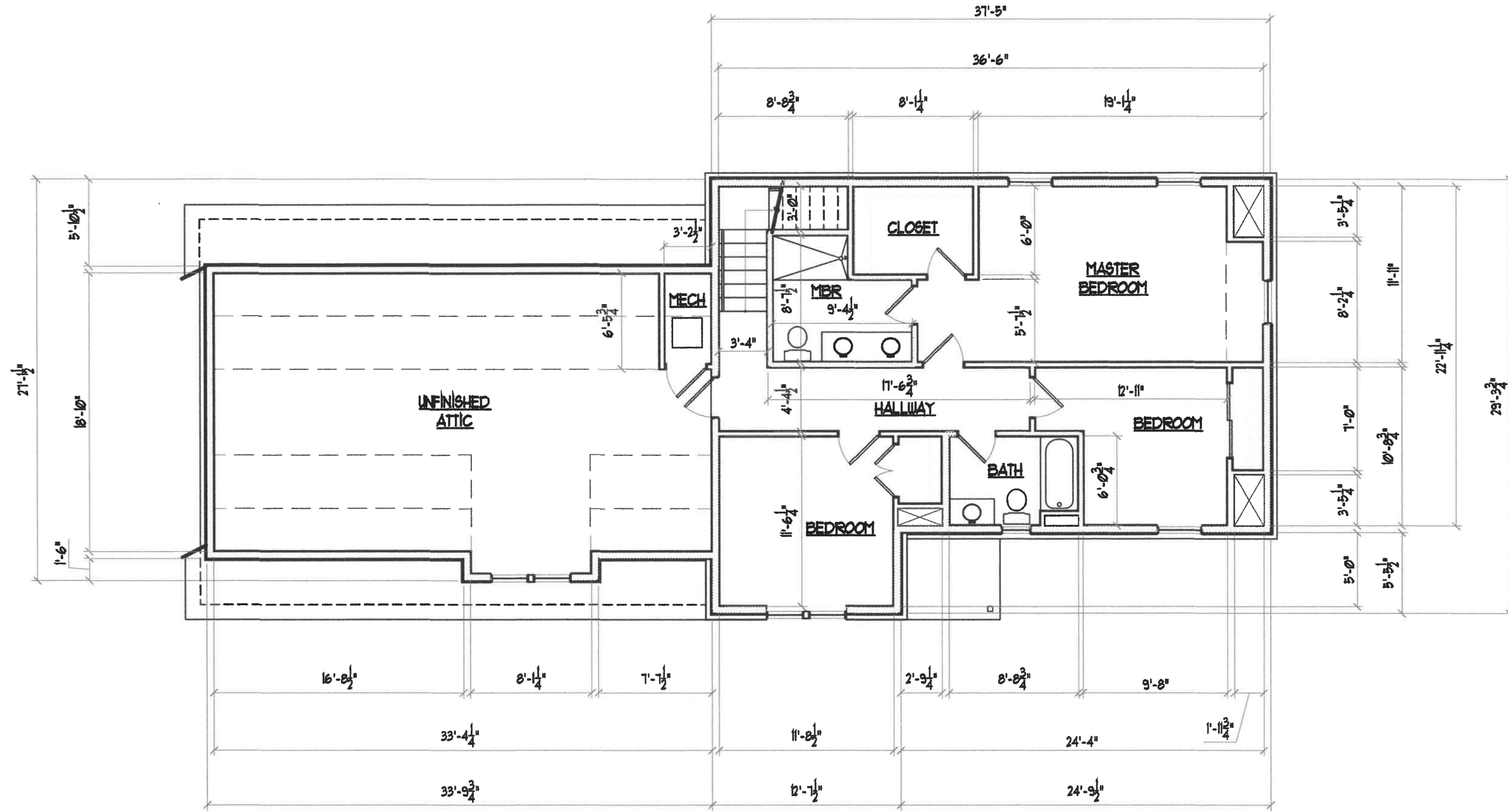
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1/2" = 1'-0"





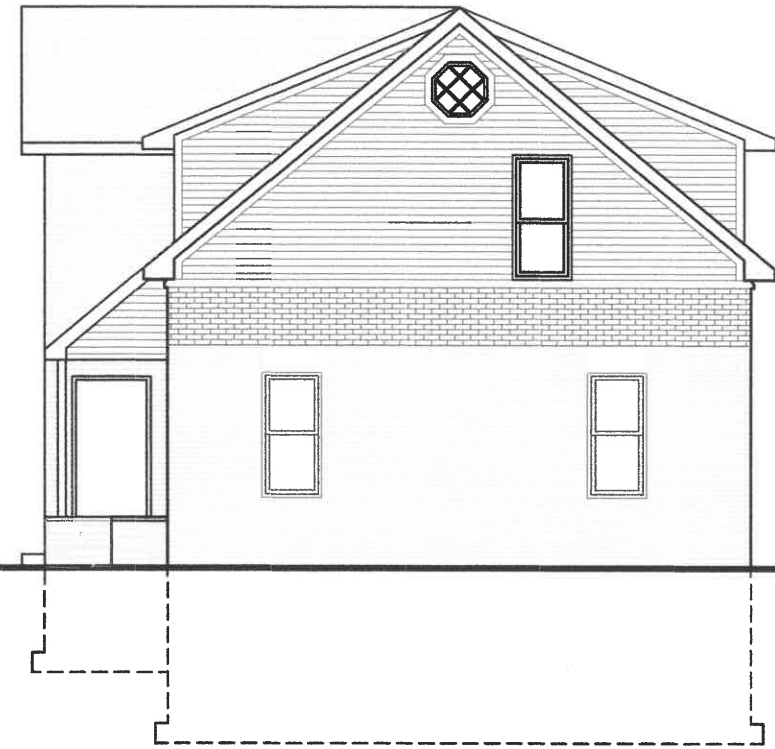
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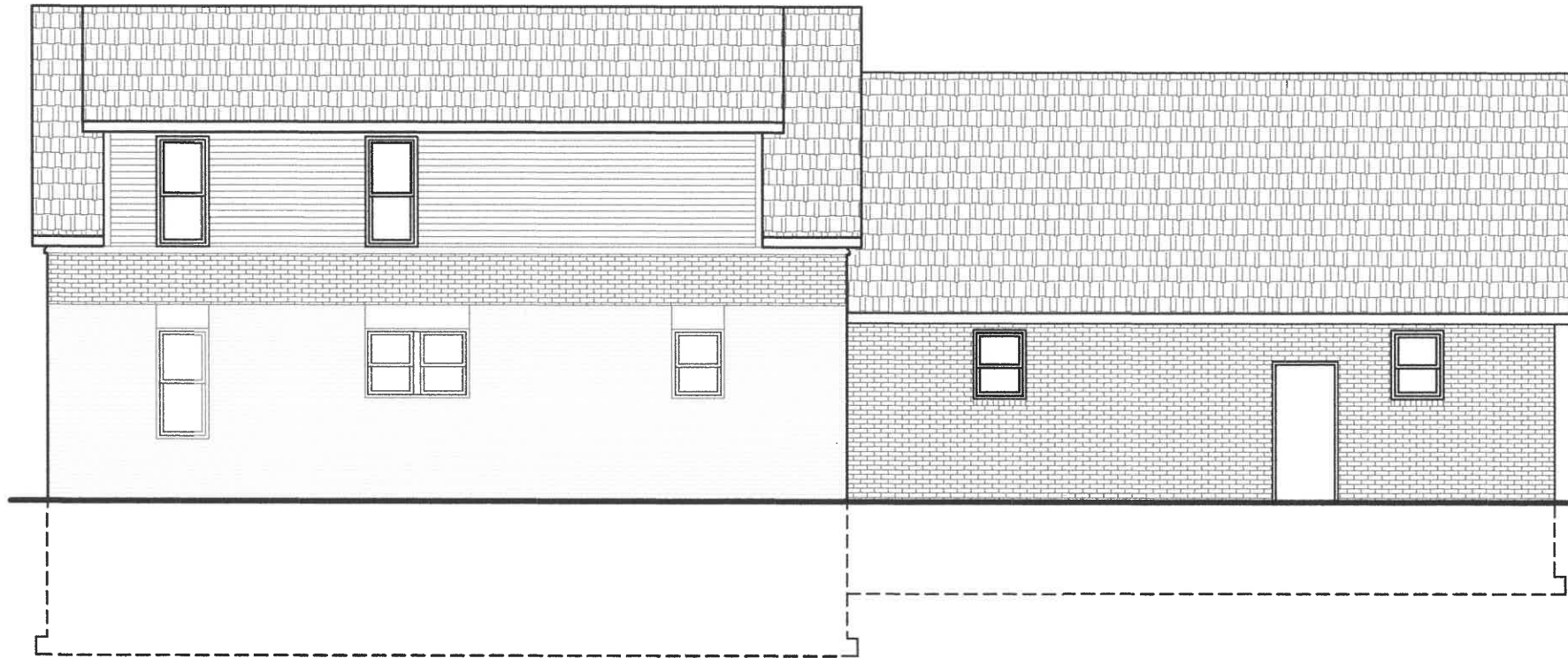
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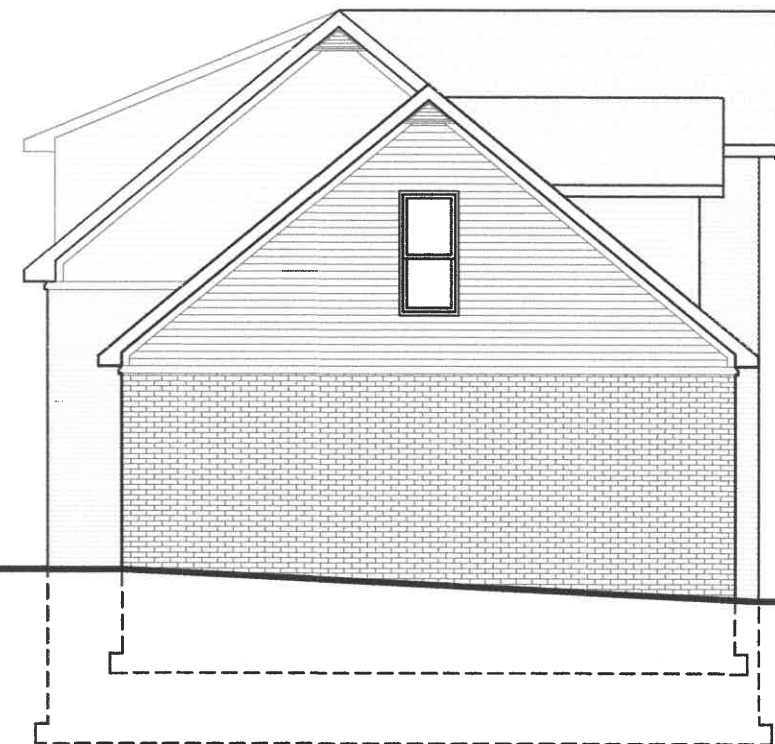
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