



445 Hamilton Avenue, 14th Floor
White Plains, New York 10601
T 914 761 1300
F 914 761 5372
cuddyfeder.com

Jessica Zalin, Esq.
jzalin@cuddyfeder.com

January 9, 2024

VIA ELECTRONIC MAIL AND FEDERAL EXPRESS

Chairman John Lorenzini
and Members of the Zoning Board of Appeals
Town of Wappinger
20 Middlebush Road
Wappingers Falls, New York 12590

Re: Application for an Area Variance
Owner: Joshua Indorf
Premises: 2505 Route 9D, Wappingers Falls, New York (Tax Grid No.: 6157-01-243907)

Dear Chairman Lorenzini and Members of the Zoning Board of Appeals:

On behalf of our client Joshua Indorf (the “Applicant”), owner of the above-referenced parcel (the “Premises”), we respectfully submit this letter and enclosures in support of the Applicant’s Application for an Area Variance (the “Application”) to maintain the existing large residential barn structure (the “Barn”) on the Premises. The Premises is an approximately 0.56-acre parcel located on the west side of Route 9D, and is classified in the R20/R40 One-Family Residence Zoning District within the Town of Wappinger (the “Town”) near the border of the Village of Wappinger. The Premises is currently improved by an existing two (2)-story multi-family residence and the large Barn. *See Exhibit A – Images of the Premises and Surrounding Area.*

The Applicant proposes to perform certain repairs and renovations to the Barn (which renovations would be conducted within the footprint of the existing structure), which work must be completed in order for the existing Barn structure to be insured by the Applicant’s insurance company. *See Exhibit B – Insurance Company Removal of Coverage Letter.* The Applicant recently applied to the Town Building Department for a Building Permit to complete this work. *See Exhibit C – Building Permit Application.* However, pursuant to the letter issued by Town Deputy Zoning Administrator, Judith Subrize, dated November 19, 2024 (the “Denial Letter”), the Applicant’s Building Permit Application was denied because a small portion of the rear of the existing Barn does not presently comply with the side yard setback requirement. *See Exhibit E – Denial Letter.*¹ The Applicant is therefore seeking an area variance from the applicable side yard setback requirement to maintain the rear portion of the existing Barn, which was constructed prior to the Applicant’s ownership of the Premises. For avoidance of doubt, the relief requested herein is limited to the small rear portion of the Barn – we understand that the Barn is otherwise legal non-conforming.

¹ Note: Pursuant to our conversations with the Town’s Zoning Administrator, we understand that it’s the Town’s position that certain renovations to the rear of the Barn were previously performed, prior to the Applicant’s ownership of the Premises. The Applicant first took title to the Premises in December 2023.



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For the reasons set forth herein and in the referenced enclosures, it is respectfully submitted that the area variance requested by the Applicant is *de minimis*, and maintenance of the existing conditions at the Premises would pose no detriment to the character of the neighborhood or health and safety of the community. As such, the requested area variance should be granted in its entirety.

AREA VARIANCE RELIEF REQUESTED

Pursuant to the Denial Letter attached hereto as **Exhibit E**, one (1) area variance is required. The Applicant respectfully requests that the Zoning Board of Appeals (the “ZBA” or this “Board”) grant area variance relief from Town Zoning Code Section 240-37 / 240 Attachment 3: Schedule of Dimensional Regulations – Residential Districts, which require a minimum side yard setback of 20 feet. The rear area of the Barn is presently located 1.5 feet from the lot line of the Premises at its closest point, therefore the Applicant is requesting a variance of 18.5 feet, which request is limited to the rear portion the existing Barn.

THE FIVE FACTORS BALANCE IN FAVOR OF GRANTING THE AREA VARIANCE

New York State Town Law Section 267-b(3)(b) and Town Zoning Code Section 240-107(B)(2)(b)[2][a] provide a balancing test for a zoning board to consider when determining whether to grant an area variance. Specifically, in considering the requested variances, the Board shall weigh the benefit to the applicant if the variance is granted against the detriment to the health, safety, and welfare of the neighborhood or community by such grant.

In conducting the aforementioned balancing test, the zoning board shall consider: “(i) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (ii) whether the benefit sought by the applicant can be achieved by some method, feasible to the applicant to pursue, other than the area variance; (iii) whether the requested area variance is substantial; (iv) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (v) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.” N.Y. TOWN LAW § 287-b(3)(b); *see also* Town Zoning Code § 240-107(B)(2)(b)[2][a][i]-[v].

The five (5) area variance factors set forth in these provisions and outlined above are a tool for the ZBA to use in determining whether to grant the requested relief. It is important to note that no single factor is determinative in assessing an area variance application. For the following reasons and based on the evidence in the record, we respectfully submit that upon balancing the variance criteria, the granting of the requested area variance relief is warranted.



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1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

Granting the requested area variance would neither produce an undesirable change in the character of the neighborhood, nor result in a detriment to nearby properties. Rather, the variance requested is wholly consistent with the existing conditions at the Premises and the character of development within the surrounding neighborhood. Preserving such existing conditions would not result in any impact upon nearby properties.

The existing neighborhood character, and more specifically, the character of the existing Premises, is such that there would be no adverse impact to the surrounding community by granting the variance. The Premises is located within a predominantly residential area, in which the majority of lots are developed with primary residences along with as accessory residential structures. The presence of the existing Barn at the Premises, in its existing development configuration, is consistent with the established land use pattern in the surrounding area.

Maintenance of the rear portion of the Barn in its current location would be entirely consistent with the existing use and development of the Premises. The Premises is presently improved by the Barn, which the Applicant proposes to renovate in the same location and with the same footprint, without decreasing or otherwise impacting the existing setback distance of this structure. Based upon a review of historic aerial photographs of the Premises, it appears that the Barn, including the improvement at the rear, has been in its existing location and development configuration since at least 1980, if not earlier – well before the Applicant took title to the Premises in December 2023. See **Exhibit A** – Images of the Premises and Surrounding Area.

It should be noted that, in an attempt to identify the date on which the Barn was renovated to its present condition, the Applicant filed a Freedom of Information Law (“FOIL”) request with the Town and reviewed copies of the Town’s records related to the Premises. The Town’s records do not appear to contain this information. In fact, prior to the issuance of the Denial Letter, there was no indication within the Town’s records that the Barn was not compliant with the applicable setback requirements. This only came to light when the Applicant sought to conduct the roof and barn door repairs necessary to insure the existing residential Barn structure.

Accordingly, the Applicant merely proposes to preserve the existing conditions at the Property by maintaining the rear improvement to the Barn in its current location and with its current side yard setback distance. This would not result in any visual, noise, or other impacts to the adjoining residences. Therefore, when viewed in the totality of the circumstances, the requested variance would not cause any undesirable change or detrimental impact to the character of the neighborhood or detriment to nearby properties.



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2. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

It is respectfully submitted that the requested variance would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Granting the variance would simply allow the Applicant to maintain the existing conditions at the Premises, which conditions existed well before the Applicant acquired the Premises. Therefore, the requested variance would not adversely impact the environment.

The requested area variance constitutes an action exempt from the New York State Environmental Quality Review Act ("SEQRA"), because both the granting of the individual setback variance and the underlying repair and renovation of the Barn are Type II Actions. *See* 6 NYCRR § 617.5(C)(1), (2) and (16). Nevertheless, we have included with this submission a Short Environmental Assessment Form ("EAF"), which demonstrates that granting the requested area variance would not create any significant adverse environmental impacts. *See Exhibit F – Short EAF.*

3. Whether the benefit sought by the applicant can be achieved by some method feasible to the applicant to pursue, other than the area variance.

New York State Town Law Section 267-b(3)(b)(2) and Town Zoning Code Section 240-107(B)(2)(b)[2][a][ii] require the Board to consider "whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance." The range of appropriate alternatives is limited by two standards: first, the alternative must still provide the benefit sought by the applicant; and second, the alternative must be feasible for the applicant to pursue. A zoning board may not deny a variance and attempt to relegate an applicant to an alternative design that is a "profound departure" from, or substantially more costly than, the design proposed in the variance. Corporation of Presiding Bishop of Church of Jesus Christ of Latter Day Saints v. ZBA of Town/Village of Harrison, 296 A.D.2d 460 (2d Dept. 2002). *See also* Baker v. Brownlie, 248 A.D.2d 527 (2d Dept. 1998); Salkin, New York Zoning Law & Practice § 29:36 Administrative Relief from Zoning Regulations: Variances.

In the instant matter, the Applicant is proposing to preserve the existing conditions at the Premises by maintaining the improvement at the rear of the Barn in its present location. Absent the Board's granting of the requested setback variance, the Applicant is unable to achieve this objective. Should the Town decline to grant the variance, the Applicant would be forced to remove or relocate this limited portion of the Barn to an alternate location on the Premises, which alternatives are impractical and economically wasteful. Conversely, granting the requested variance would not introduce a new structure or otherwise alter the Premises, but would merely serve to maintain the existing residential use and development of the Premises.



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In light of the foregoing, it is respectfully submitted that there are no feasible alternatives that the Applicant can pursue other than the requested variance.

4. Whether the requested area variance is substantial.

Upon consideration of the facts and circumstances of this Application, the requested area variance is not substantial. The substantiality of a variance cannot be judged solely by a comparison of the percentage deviation from the mandated requirements of the Zoning Code. Indeed, the overall effect of granting the relief is the appropriate inquiry. As discussed in further detail below, there would be no adverse impact to neighboring properties as a result of granting the variance.

In considering whether a variance is substantial, the Board shall examine the totality of the circumstances within an application. *See Friends of Shawangunks, Inc. v. Zoning Bd. of Appeals of Town of Gardiner*, 56 A.D.3d 883, 886, 867 N.Y.S.2d 238, 241 (3d Dep't 2008) (although variances were substantial the ZBA properly determined area variances will not have a substantial impact on the community); *see also Schaller v. New Paltz Zoning Bd. of Appeals*, 108 A.D.3d 821, 824, 968 N.Y.S.2d 702, 705 (3rd Dep't 2013) (upholding ZBA determination that an area variance was not substantial when compared to the nearby buildings). Indeed, "[s]ubstantiality cannot be judged in the abstract; rather, the totality of relevant circumstances must be evaluated in determining whether the variance sought is, in actuality, a substantial one." *Lodge Hotel v. Town of Erwin Zoning Bd. of Appeals*, 2007 WL 5649523 No. 94817 (Jan. 24, 2007) *1, affirmed, 43 A.D.3d 1447, 843 N.Y.S.2d 744 (4th Dep't 2007).

It is respectfully submitted that the requested area variance is not substantial. Although the dimensional relief requested (i.e., 18.5 feet, as compared to the 20-foot side yard setback requirement) may appear to be significant, the requested area variance is entirely consistent with the existing character of the Premises and the existing setback for the larger Barn itself, and is not anticipated to have any impact upon the surrounding community. Granting the variance would serve only to maintain the existing previously installed improvement to the Barn, and will not introduce a new structure or otherwise alter the Premises. Any variance required to allow the mere continuation of the present conditions, which have existed for several decades, should not be considered substantial.

To the extent that this Board may believe otherwise, we respectfully remind the Board that the mere fact that a variance may be deemed "substantial," or fails to meet one of the other five factors, does not preclude application of the *overall* balancing test. *Church of Jesus Christ of Latter Day Saints v. ZBA of Town/Village of Harrison*, 296 A.D.2d 460 (2d Dept. 2002) (determination that a request that was determined "substantial" did not excuse Zoning Board of Appeals from applying the overall balancing test).



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5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board, but shall not necessarily preclude the granting of the area variance.

The area variance requested herein is not self-created. Rather, the Applicant is before the Board due to the existing conditions at the Premises. As noted above, the Barn, including the improvement at the rear, appears to have been in its present configuration, with its existing side yard setback distance, since at least 1980, if not earlier. The Applicant is trying to repair the Barn structure's roof and barn doors in response to the insurance company's Removal of Coverage Letter. Furthermore, the Applicant's due diligence performed in connection with the Applicant's purchase of the Premises in 2023 and review of the Town's records related to the Premises provided no indication that the rear portion of the existing Barn was not compliant with the applicable setback requirements. Therefore, the variance relief requested herein is not self-created and is the result of existing conditions.

To the extent that the Board may believe that the need for the variance is self-created, we respectfully remind the Board that this factor does not alone justify denial of an area variance under New York State Town Law Section 267-b(3)(b)(5) and Town Zoning Code Section 240-107(B)(2)(b)[2][a][v]. *See also Daneri v. Zoning Bd. Of Appeals of Town of Southold*, 98 A.D.3d 508, 510 (2d Dep't 2012) (self-created nature of difficulty is not preclusive of the ability to obtain an area variance).

CONCLUSION

For the reasons set forth above, and as will be further discussed at the public hearing on this matter, the Applicant requests that the aforementioned area variance be granted to provide relief from the Town Zoning Code and allow the Applicant to maintain the existing improvement at the rear of the Barn at the Premises. It is respectfully submitted that the benefit to the Applicant if the variance is granted clearly outweighs any possible detriment to the health, safety, and welfare of the neighborhood or community by such grant.

In support of this Application, enclosed please find one (1) original and seven (7) copies of the following materials:

- Exhibit A:** Images of the Premises and Surrounding Area;
- Exhibit B:** Insurance Company Coverage Removal Letter;
- Exhibit C:** Building Permit Application for Repairs to Barn;
- Exhibit D:** Application for an Area Variance and Owner Consent Form;



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- Exhibit E:** Denial Letter from Town of Wappinger Deputy Zoning Administrator, dated November 19, 2024;
- Exhibit F:** Short Environmental Assessment Form;
- Exhibit G:** Survey of the Premises; and
- Exhibit H:** Plans, prepared by Herbert Feuerstein, Architect, dated October 30, 2024.

Additionally, enclosed please find a check payable to the Town in the amount of \$375.00 representing the Application fee. Please note that copies of this letter and all referenced materials have also been provided to the Town via electronic mail.

We look forward to appearing at this Board's regular meeting on January 28, 2025 to discuss this Application. In the meantime, should the Board or Town Staff have any questions or comments with regard to the foregoing, please do not hesitate to contact me. Thank you for your time and consideration of this matter.

Sincerely,

Jessica Zalin

Jessica Zalin

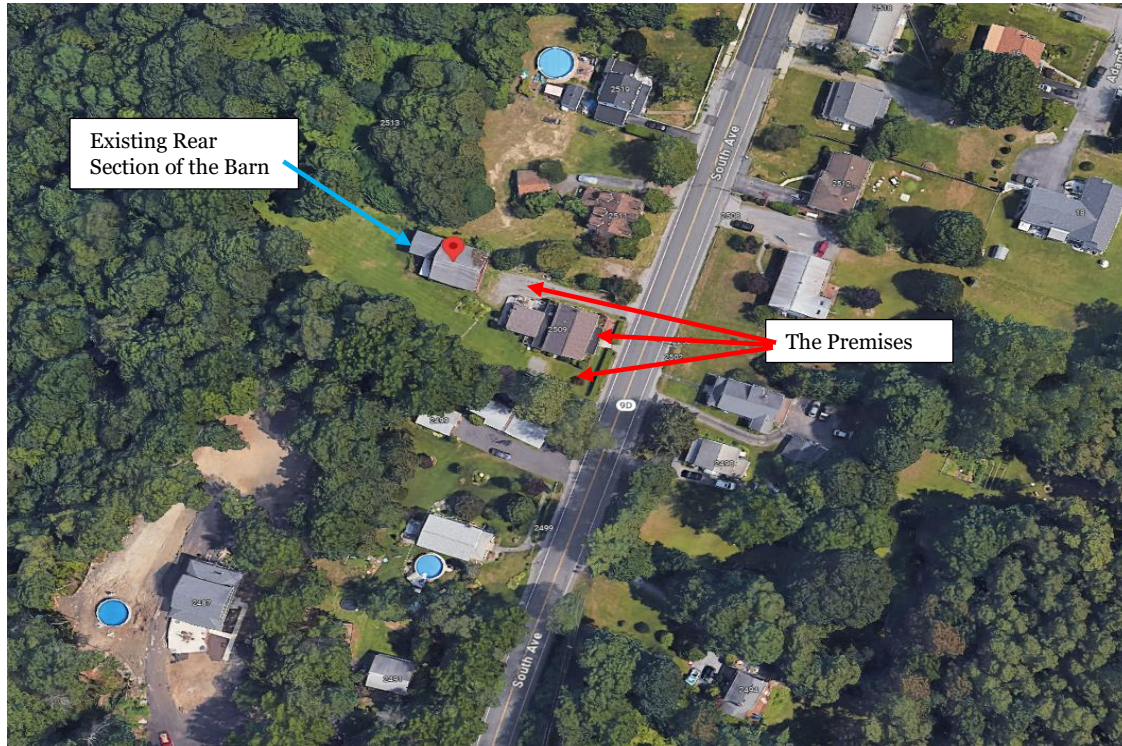
Enclosures

cc: Barbara Roberti, Town of Wappinger Director of Strategic Planning and Municipal Codes
Judith Subrize, Town of Wappinger Deputy Zoning Administrator
Rebecca A. Valk, Esq., Attorney to the Zoning Board of Appeals
Joshua Indorf
Taylor M. Palmer, Esq.

Exhibit A

Exhibit A: Images of the Premises and Surrounding Area

Google Maps Aerial Image of the Premises:



Dutchess County Parcel Access Viewer Image of Premises:



Exhibit A: Images of the Premises and Surrounding Area (cont.)

Google Maps Street View – Route 9D Looking West Toward Premises (Barn Not Visible):

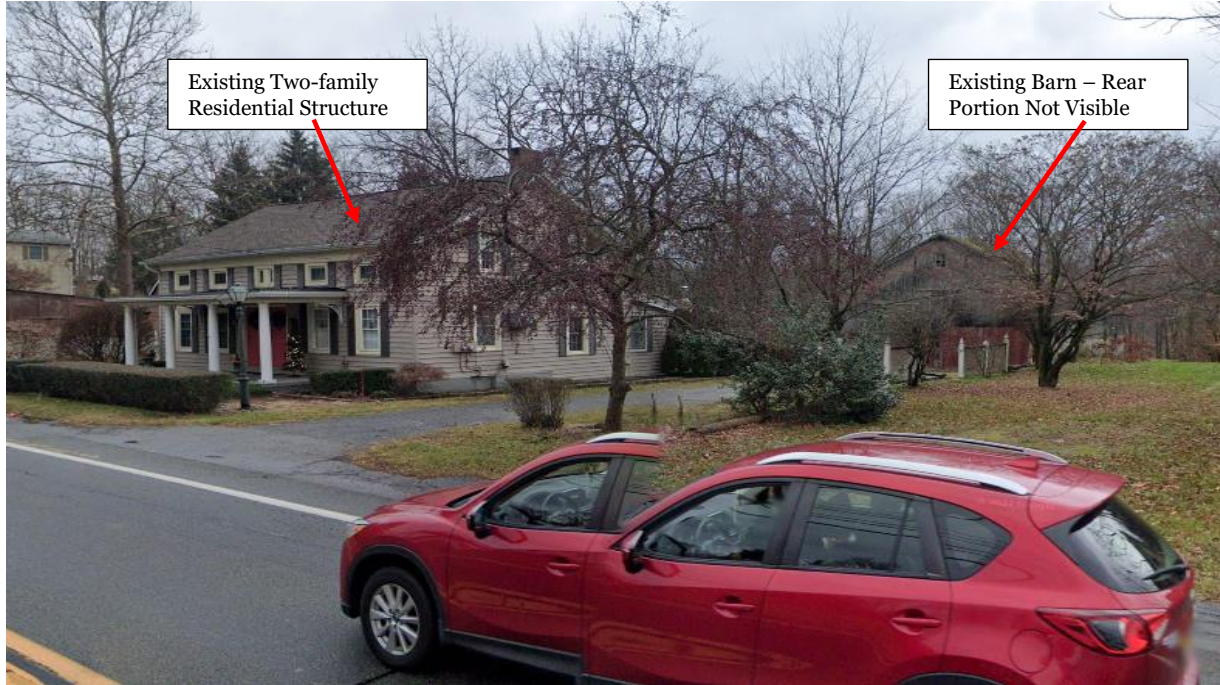


Google Maps Street View – Route 9D Looking Northwest Toward Premises (Rear Portion of Barn Not Visible):



Exhibit A: Images of the Premises and Surrounding Area (cont.)

Google Maps Street View – Route 9D Looking Southwest Toward the Premises:



Google Maps Street View – Route 9D Looking Southwest Toward the Premises:



Exhibit A: Images of the Premises and Surrounding Area (cont.)

Dutchess Parcel Access – Historical Aerial Images of the Premises – 1990 Aerial:

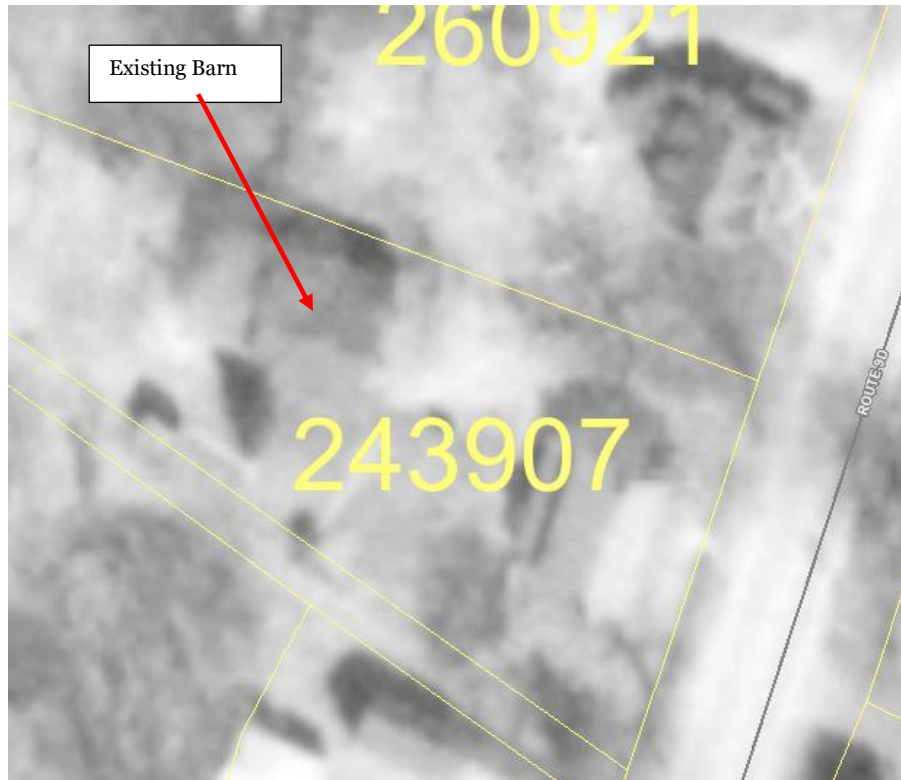


Dutchess Parcel Access – Historical Aerial Images of the Premises – 1980 Aerial:



Exhibit A: Images of the Premises and Surrounding Area (cont.)

Dutchess Parcel Access – Historical Aerial Images of the Premises – 1970 Aerial:



Dutchess Parcel Access – Historical Aerial Images of the Premises – 1966 Aerial:



Exhibit A: Images of the Premises and Surrounding Area (cont.)

Image of Barn & Rear Portion of Barn Taken from Insurance Company Removal of Coverage Letter, a Copy of Which is Enclosed as Exhibit B – Image Looking East from the Rear of Applicant's Property:

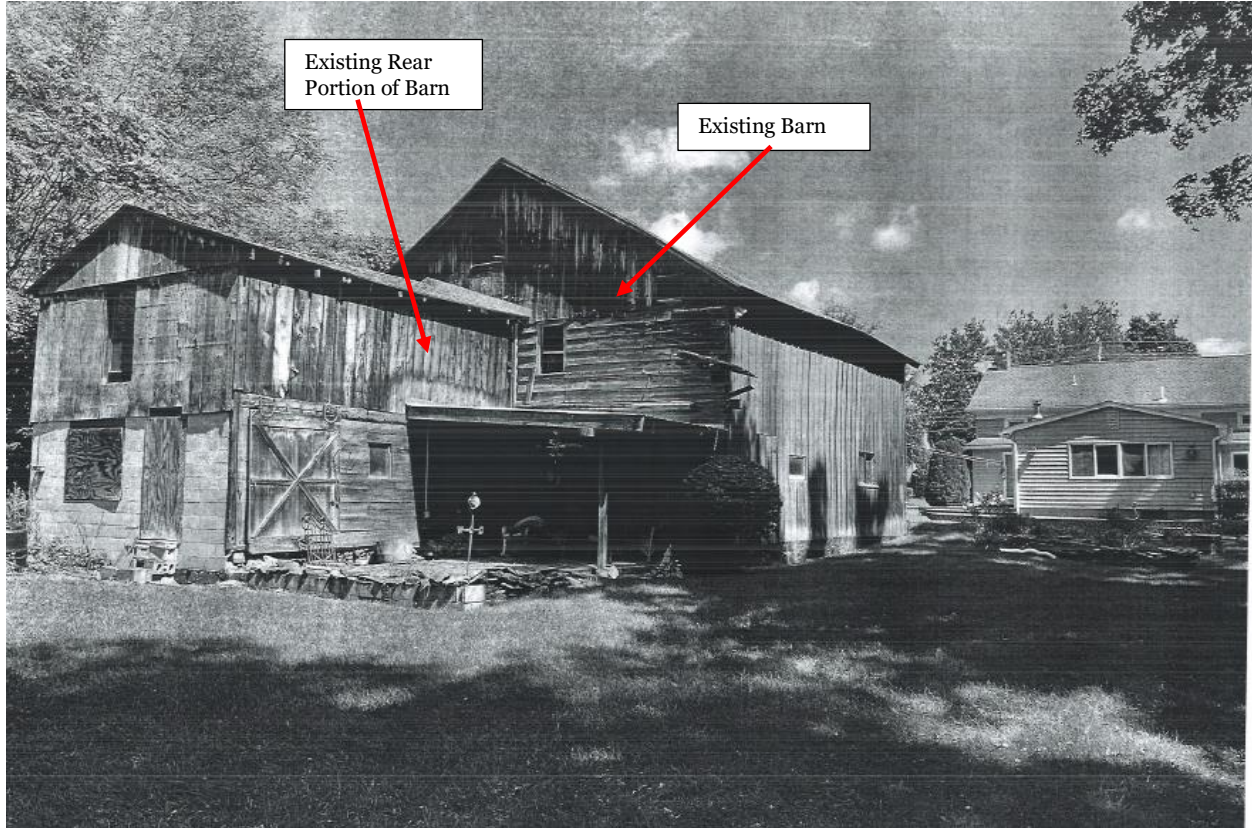


Exhibit B



RELATED PRIVATE STRUCTURES EXCLUSION ENDORSEMENT

Refer to Supplemental Declarations if information is not shown on this form.
The information on this endorsement is subject to the *terms* contained in the General Policy Provisions.

We do not cover the listed related private structures located on the *insured premises* under Coverage B of this policy.

At *your* request, *we* agree that this policy does not cover the following structures under Coverage B:

Barn

All other *terms* and conditions remain unchanged.

Insured's Agreement

I have read this Related Private Structures Exclusion Endorsement and consent to its attachment to my policy. I realize that it restricts coverage to the extent described in this form.

02/05/2024

Date

joshua g indorf

Your Signature



the wise choice for all your insurance needs

11/14/2024

Jerrico Holdings LLC/Joshua Indorf
1042 Main Street Suite B
Fishkill, NY 12524

RE: Sterling Policy # LP23060816 2505 Route 9D Wappingers Falls, NY 12590

To whom it may concern,

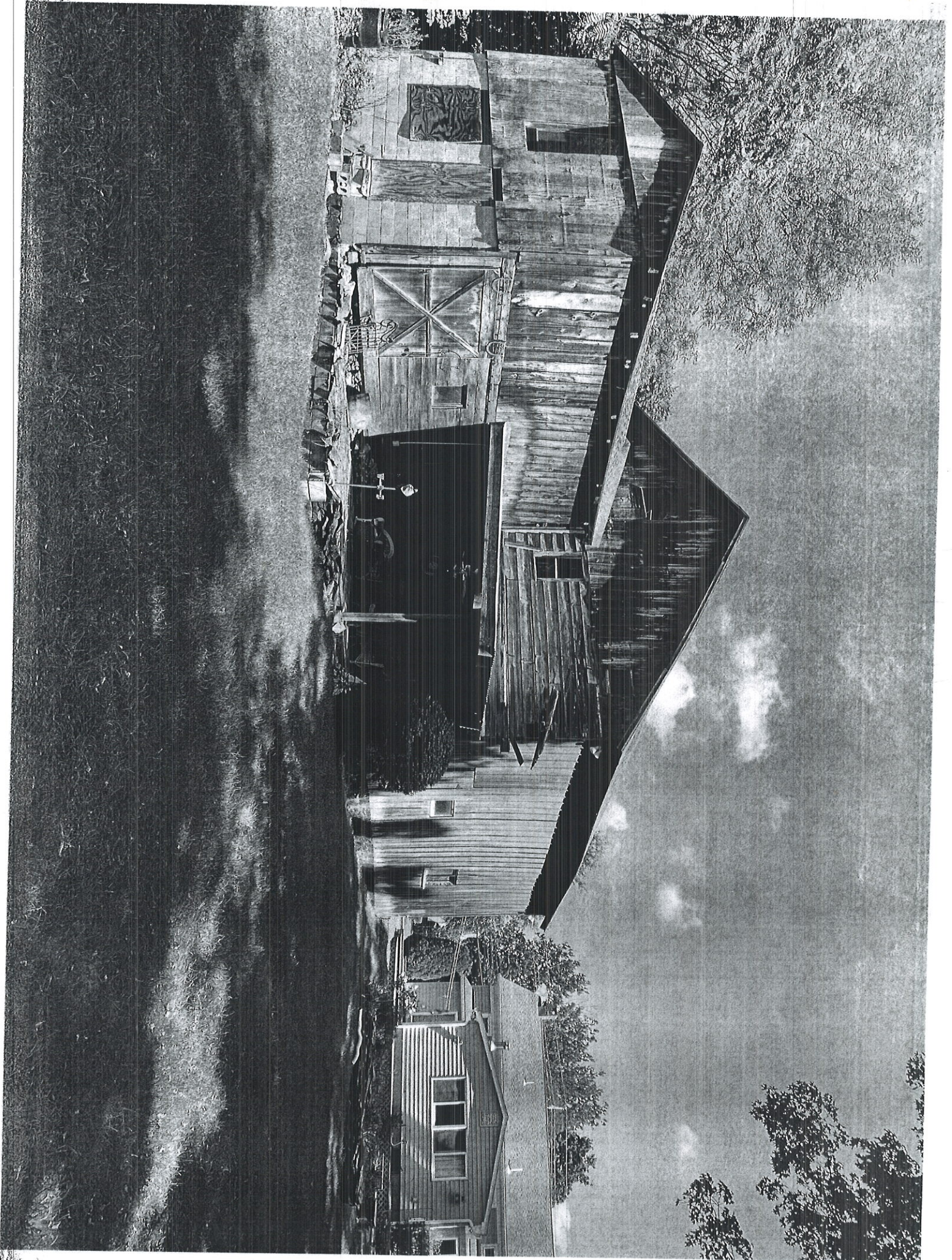
Property insurance coverage for the barn on the property of 2505 Route 9D Wappingers Falls, NY 12590 at this time and as such since 2/5/2024 has been removed from the policy per the company's request and will remain excluded until proper documentation can be submitted showing that the roof has been repaired and is in favorable condition. Our client can not get property coverage on the barn until this documentation is provided to the insurance carrier.

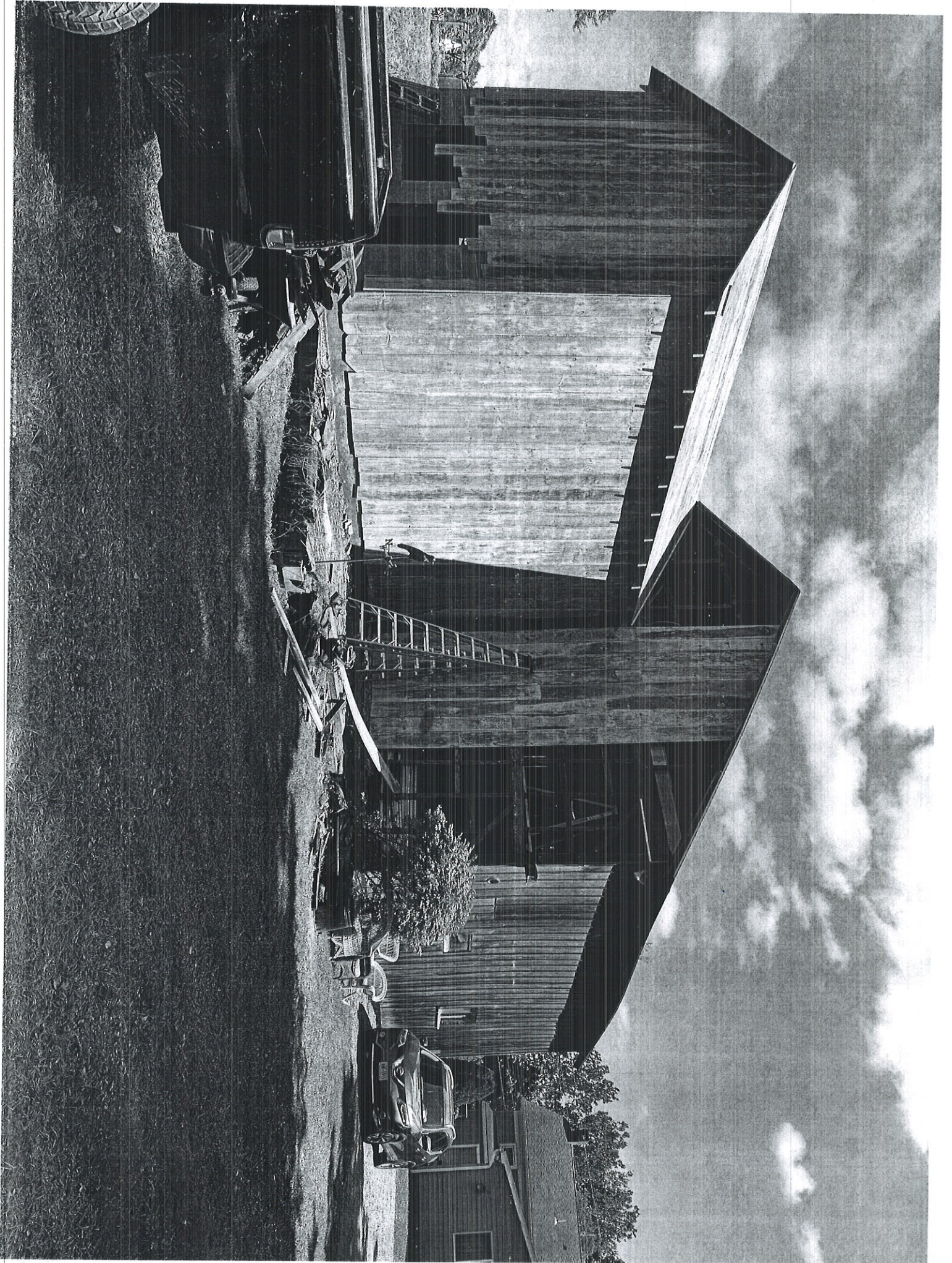
If you have any additional questions please contact me at 845-592-0332 or at marybeth@mjlinsuranceagency.com.

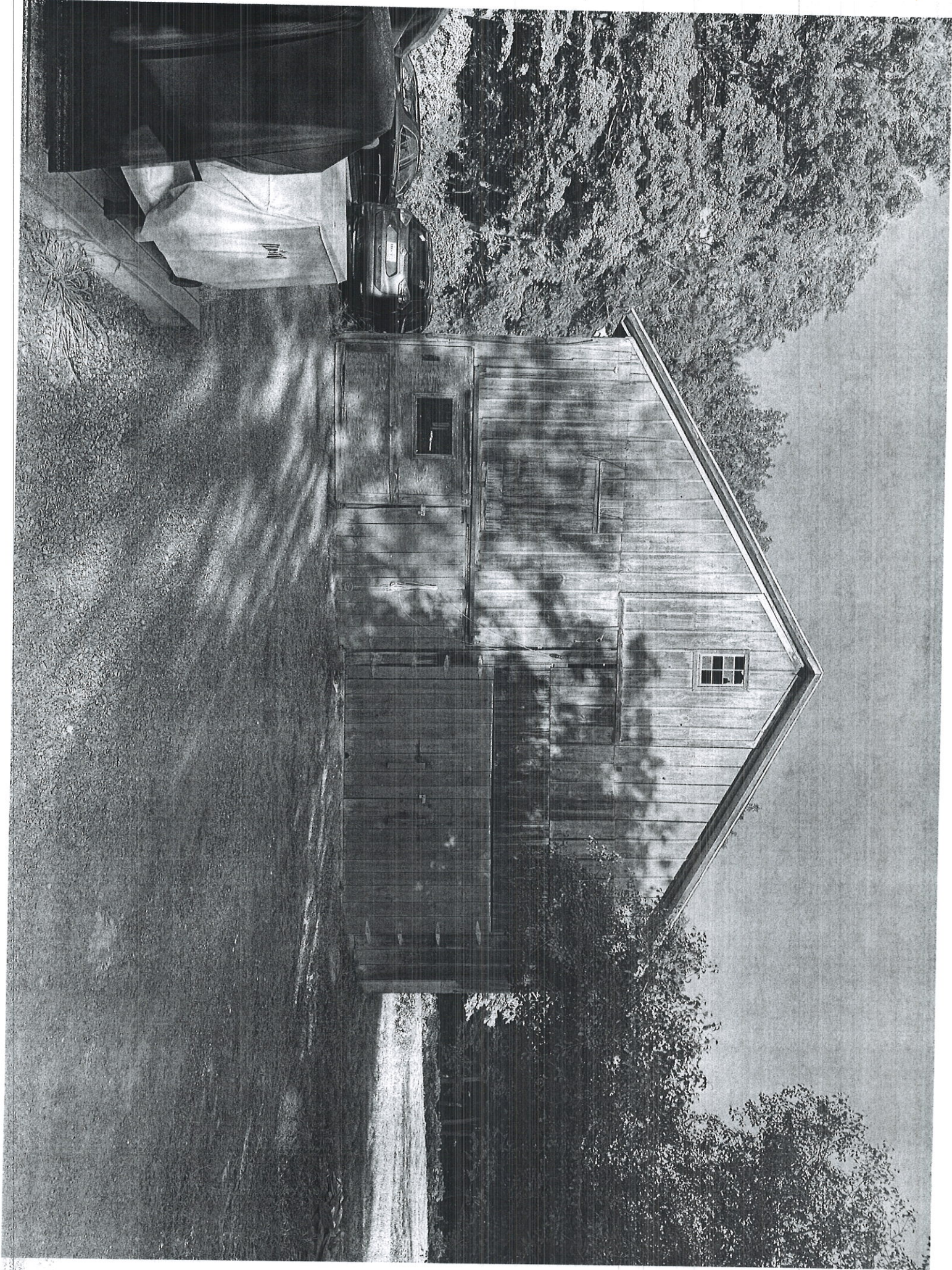
Sincerely,

MaryBeth Abrams

MJL Insurance Agency, Inc.







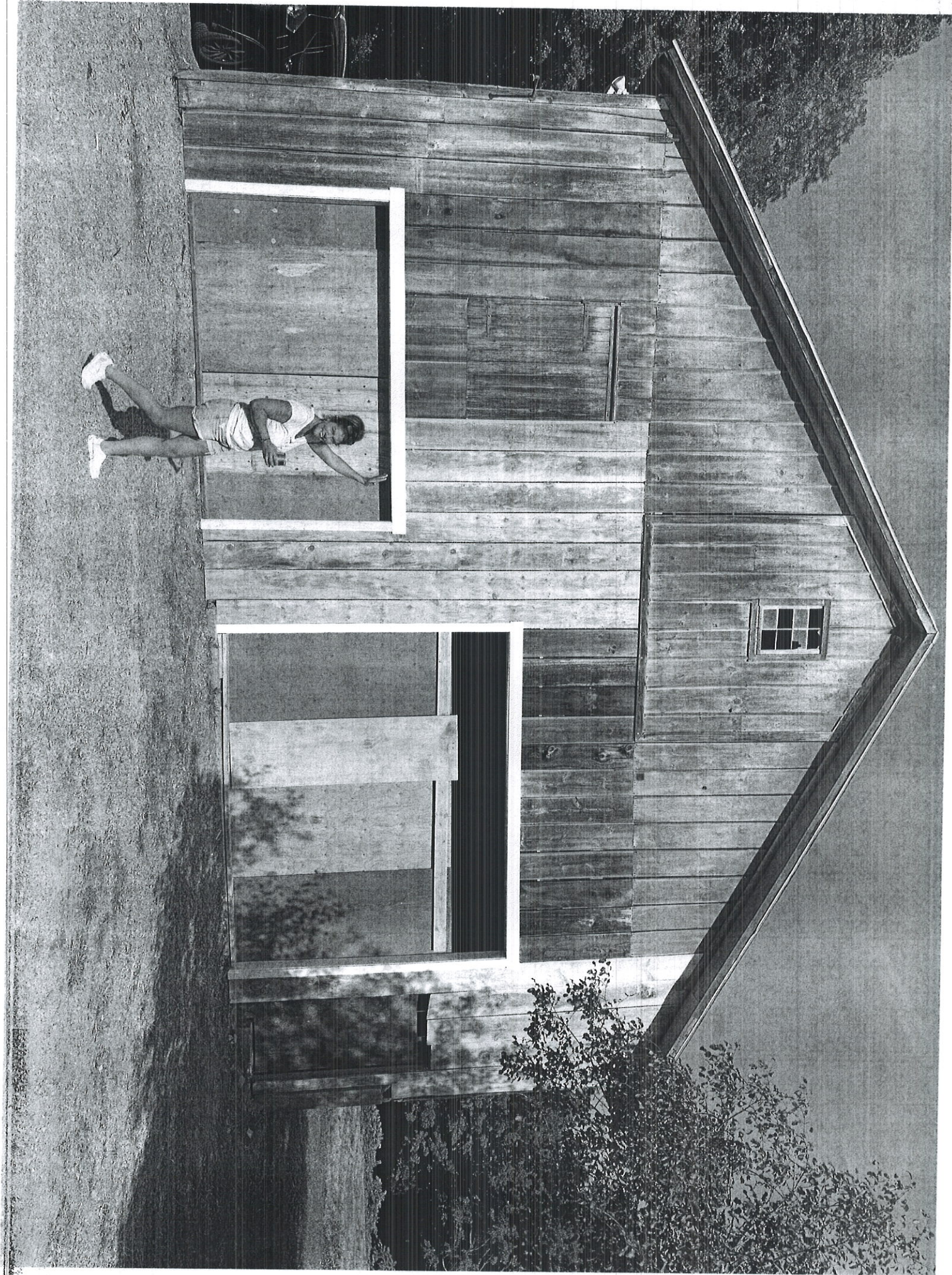


Exhibit C



TOWN OF WAPPINGER BUILDING DEPARTMENT

20 Middlebush Road, Wappingers Falls, N.Y. 12590
telephone: 845-297-6256 fax: 845-297-0579

APPLICATION FOR BUILDING PERMIT

APPLICATION TYPE:

☒ Residential
☐ New Construction
☐ Commercial
☒ Renovation/Alteration
☐ Multiple Dwelling

ZONE: R20/40

DATE: 8/15/24

APPL #: 44970

PERMIT #

GRID: 2 6157-01-243907

APPLICANT NAME:

JOSHUA G. INDORE

ADDRESS: 140 Old Hopewell rd WAPP NY

TEL #: 914 906 6811 CELL: same FAX #: E-MAIL: JOSNEJERRICOINC.COM

NAME OWNER OF BUILDING/LAND:

JOSHUA G. Indorf - Per Parcel Access 11/7/2024

PROJECT SITE ADDRESS: 2505 90 WAPP NY 12590

MAILING ADDRESS: 140 Old Hopewell rd WAPP NY 12590

TEL #: CELL: 914 906 6811 FAX #: E-MAIL: JOSNEJERRICOINC.COM

BUILDER/CONTRACTOR DOING WORK:

COMPANY NAME:

FDSU INC

ADDRESS: 1042 MAIN ST FISHKILL NY 12524

TEL #: CELL: 914 906 6811 FAX #: E-MAIL: same

DESIGN PROFESSIONAL NAME:

TEL #: CELL: FAX #: E-MAIL:

APPLICATION FOR:

Remove 2nd Fl walls/roof roll in
new roof over entire structure
Remove & Replace roof structure over patio & replace.
Renovate entire structure including misc fourth
* All to remain in existy footprint. HAS existy elec

Barn only

SETBACKS: FRONT: REAR: L-SIDEYARD: R-SIDEYARD: 1'

SIZE OF STRUCTURE: 33x34 & 18x24

ESTIMATED COST: 2500 TYPE OF USE: BARN/Storage now Habitat

NON-REFUNDABLE APPL. FEE: 150- PAID ON: 11/7/24 CHECK # 106 RECEIPT #: 2024-01878

Legalization BALANCE DUE: 250- PAID ON: 11/7/24 CHECK # 105 RECEIPT #: 2024-01879

APPROVALS: SWO Fire-250- 11/7/24 105 2024-01877

ZONING ADMINISTRATOR:

11/19/24

FIRE INSPECTOR:

O Approved O Denied Date:

Signature of Applicant

Signature of Building Inspector

Print Name or Company Name(if applicable)

TOWN OF WAPPINGER



BUILDING DEPARTMENT
20 MIDDLEBUSH ROAD
WAPPINGERS FALLS, NY 12590-0324
(845) 297-6256
FAX: (845) 297-0579

OWNER CONSENT FORM

BUILDING PERMIT # _____ APPLICATION # 44970

SITE LOCATION: 61 2505 Route 9D

GRID: # 6157-01 243907

☒ Name of APPLICANT: JOSHUA G INDOORF
(Person PHYSICALLY coming in to apply) (IF other than the Owner)

~ CERTIFICATION ~

NOTICE TO APPLICANTS: 240-109 Certificate of Occupancy

It shall be unlawful for a building owner to use or permit the use of any building or premises or part thereof hereafter created, erected, changed, converted or enlarged, wholly or partly, in its use or structure until a Certificate of Occupancy shall have been issued by the Building Inspector and the Zoning Administrator.

FAILURE TO COMPLY MAY RESULT IN COURT PROCEEDINGS.

☒ I, [Signature], owner of the land/site/building hereby give my permission for the Town of Wappinger to approve or deny the above application in accordance with local and state codes and ordinances. I understand that this permit will not be closed out unless all proper inspections are completed which can include the building inspector having access to the interior of my residence. If this permit is not closed before the expiration date it will remain as a violation on my property until it is closed out. After the expiration date the permit fee and application will have to be re-submitted in order to close out the permit. I understand that I am ultimately responsible for the closure of this permit.

☒ Date 8/15/24
☒ Owner's Telephone Number 914 906 6811

☒ Owner's Signature [Signature]
☒ Print Name JOSHUA G INDOORF
☒ Print Owner's Address 140 old hopewell rd wappingers falls ny

FOR OFFICE USE ONLY

Code Enforcement Official: _____

SAVE COMPLETED FORM

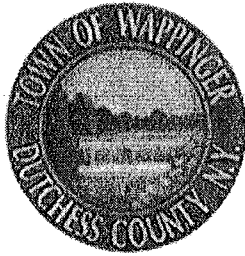
Exhibit D

**ZONING BOARD OF APPEALS
AREA VARIANCE
CHECKLIST**

THE FOLLOWING ITEMS MUST BE PRESENTED ON THE SUBMISSION DATE:

- ☒ Application: Must state if the applicant is the owner, if not, consent will be required
- ☒ Signatures: Must be original signatures
- ☒ Letter of Consent: If required
- ☒ EAF: Short Form is required (Environmental Assessment Form)
- ☒ Survey: Survey of property is required
- ☒ Application Fee: Application fee may be paid in cash, check or by credit card. Checks over \$500.00 must be a certified check, bank, or money order made payable to the "Town of Wappinger" (Separate checks are required for application fees and escrow)
- ☒ Escrow: submitted 12/2/2024 Escrow may be paid in cash, or if paying by check, it must be certified check, bank, or money order made payable to the "Town of Wappinger" (Separate checks are required for the application fees and escrow)
- 8 Plans: Number of Plans to be delivered with application to ZBA Secretary

TOWN OF WAPPINGER



PLANNING BOARD & ZONING BOARD OF APPEALS

20 MIDDLEBUSH ROAD
WAPPINGERS FALLS, NY 12590
PH: 845-297-6256
Fax: 845-297-0579

Application for an Area Variance

Appeal No.: 44970

Date: _____

TO THE ZONING BOARD OF APPEALS, TOWN OF WAPPINGER, NEW YORK:

I (We), Joshua Indorf residing at 140 Old Hopewell Road,
Wappingers Falls, NY 12590, (phone) 914-906-6811, hereby,

appeal to the Zoning Board of Appeals from the decision/action of the Zoning Administrator,
dated November 19, 2024, and do hereby apply for an area variance(s).

Premises located at: 2505 Route 9D, Wappingers Falls, NY 12590

Tax Grid No.: 6157-01-243907-0000

Zoning District: R20/40

1. Record Owner of Property:

Joshua Indorf

Address: 140 Old Hopewell Road, Wappingers Falls, NY 12590

Phone Number: 914-906-6811

Owner Consent dated: 12/17/24

Signature: _____

Print Name: Joshua G Indorf

2. Variance(s) Request:

Variance No. 1

I (We) hereby apply to the Zoning Board of Appeals for a variance(s) of the following
requirements of the Zoning Code. Section 240-37 and 240 Attachment 3 (Schedule of
Dimensional Regulations - Residential Districts) of the Zoning Laws of the Town of Wappinger.

(Indicate Article, Section, Subsection and Paragraph)

Required: 20 foot side yard

Applicant(s) can provide: 1.5 foot side yard

Thus requesting: an 18.5 foot side yard setback variance

To allow: maintenance of the existing conditions at the property.

Town of Wappinger Zoning Board of Appeals
Application for an Area Variance
Appeal No.: _____

Variance No. 2

I (We) hereby apply to the Zoning Board of Appeals for a variance(s) of the following requirements of the Zoning Code.

(Indicate Article, Section, Subsection and Paragraph)

Required: _____
Applicant(s) can provide: _____
Thus requesting: _____
To allow: _____

3. Reason for Appeal (Please substantiate the request by answering the following questions in detail. Use extra sheet, if necessary):

- A. If your variance(s) is (are) granted, how will the character of the neighborhood or nearby properties change? Will any of those changes be negative? Please explain your answer in detail.

Please see the attached narrative.

- B. Please explain why you need the variance(s). Is there any way to reach the same result without a variance(s)? Please be specific in your answer.

Please see the attached narrative.

- C. How big is the change from the standards set out in the zoning law? Is the requested area variance(s) substantial? If not, please explain in detail why it is not substantial.

Please see the attached narrative.

- D. If your variance(s) is (are) granted, will the physical environmental conditions in the neighborhood or district be impacted? Please explain in detail why or why not.

Please see the attached narrative.

Town of Wappinger Zoning Board of Appeals
Application for an Area Variance
Appeal No.: _____

E. How did your need for an area variance(s) come about? Is your difficulty self-created?

Please explain your answer in detail.

Please see the attached narrative.

F. Is your property unique in the neighborhood that it needs this type of variance? Please explain your answer in detail.

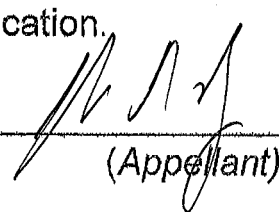
Please see the attached narrative.

4. List of attachments (*Check applicable information*)

- ☒ Survey dated: July 31, 2024, Last revised July 31, 2024 and
Prepared by: Larry L. Lynn, L.S., Land Surveyor, P.C.
- ☐ Plot Plan dated: _____
- ☒ Photos
- ☒ Drawings dated: October 30, 2024
- ☒ Letter of Communication which resulted in application to the ZBA.
(e.g., *recommendation from the Planning Board/Zoning Denial*)
Letter from: Judith Subrize, Deputy Zoning Administrator Dated: November 19, 2024
- ☐ Other (*Please list*): _____

5. Signature and Verification

Please be advised that no application can be deemed complete unless signed below. The applicant hereby states that all information given is accurate as of the date of application.

SIGNATURE: 
(Appellant)

DATED: 12/17/24

SIGNATURE: _____
(If more than one Appellant)

DATED: _____

FOR OFFICE USE ONLY

1. THE REQUESTED VARIANCE(S) (☐) **WILL** / (☐) **WILL NOT** PRODUCE AN UNDESIRABLE CHANGE IN THE CHARACTER OF THE NEIGHBORHOOD.
2. (☐) **YES** / (☐) **NO**, SUBSTANTIAL DETRIMENT WILL BE CREATED TO NEARBY PROPERTIES.
3. THERE (☐) **IS (ARE)** / (☐) **IS (ARE)** NO OTHER FEASIBLE METHODS AVAILABLE FOR YOU TO PURSUE TO ACHIEVE THE BENEFIT YOU SEEK OTHER THAN THE REQUESTED VARIANCE(S).
4. THE REQUESTED AREA VARIANCE(S) (☐) **IS** (☐) **ARE** NOT SUBSTANTIAL.
5. THE PROPOSED VARIANCE(S) (☐) **WILL** / (☐) **WILL NOT** HAVE AN ADVERSE EFFECT OR IMPACT ON THE PHYSICAL OR ENVIRONMENTAL CONDITIONS IN THE NEIGHBORHOOD OR DISTRICT.
6. THE ALLEGED DIFFICULTY (☐) **IS** / (☐) **IS NOT** SELF-CREATED.

CONCLUSION: THEREFORE, IT WAS DETERMINED THE REQUESTED VARIANCE IS
(☐) **GRANTED** (☐) **DENIED**

CONDITIONS / STIPULATIONS: The following conditions and/or stipulations were adopted by the resolution of the Board as part of the action stated above:

(☐) **FINDINGS & FACTS ATTACHED.**

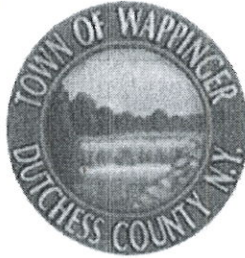
DATED: _____

ZONING BOARD OF APPEALS
TOWN OF WAPPINGER, NEW YORK

BY: _____
(Chairman)

PRINT: _____

TOWN OF WAPPINGER



PLANNING BOARD & ZONING BOARD OF APPEALS

20 MIDDLEBUSH ROAD
WAPPINGERS FALLS, NY 12590
PH: 845-297-6256
Fax: 845-297-0579

Owner Consent Form

Project No: 44970

Date: _____

Grid No.: 6157-01-243907-0000

Zoning District: R20/40

Location of Project:

2505 Route 9D, Wappingers Falls, NY 12590

Name of Applicant:

Joshua Indorf 914-906-6811

Print name and phone number

Description of

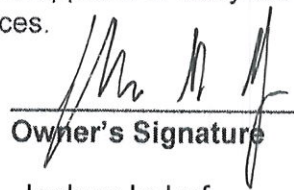
Project: Applicant requests a side yard setback variance to maintain the existing conditions at the property.

I Joshua Indorf, owner of the above land/site/building hereby give permission for the Town of Wappinger to approve or deny the above application in accordance with local and state codes and ordinances.

Date

12/17/24
914-906-6811

Owner's Telephone Number


Owner's Signature

Joshua Indorf

Print Name and Title ***

*** If this is a Corporation or LLC, please provide documentation of authority to sign.

If this is a subdivision application, please provide a copy of the dead.

Exhibit E

Town of Wappinger
20 Middlebush Rd.
Wappingers Falls, NY 12590
(845) 297-6256

To: Joshua G Indorf
140 Old Hopewell Road
Wappinger Falls NY 12590

SBL: 6157-01-243907-0000
Date of this Notice: 11/19/2024

Zone: R20/40
Application: 44970

For property located at: 2505 Route 9D, Wappinger Falls, NY 12590

Your application to:

BARN - REMOVE 2ND FLOOR WALLS, NEW ROOF OVER ENTIRE BARN STRUCTURE PATIO - REMOVE & REPLACE ROOF OVER PATIO, RENOVATE ENTIRE STRUCTURE IN SAME FOOTPRINT AND EXISTING ELECTRIC

is denied for the following deficiency under Section 240-37 of the Zoning Laws of the Town of Wappinger.

This Application has been denied by the Zoning Department.

The illegal renovation changes done to the Barn do not meet setbacks.

The second floor on the rear section of the Barn was constructed without permits.

	REQUIRED:	WHAT YOU CAN PROVIDE:
REAR YARD:	_____ ft.	_____ ft.
SIDE YARD (LEFT):	_____ ft.	_____ ft.
SIDE YARD (RIGHT):	<u>20</u> ft.	<u>1.5</u> ft.
FRONT YARD:	_____ ft.	_____ ft.
SIDE YARD (LEFT):	_____ ft.	_____ ft.
SIDE YARD (RIGHT):	_____ ft.	_____ ft.

You have the right to appeal this decision to the Zoning Board of Appeals within 60 days of the date of this letter. This Zoning Board of Appeals meets the second and fourth Tuesday of the month. The area variance appeal will require at least two meetings, one for discussion and one for a Public Hearing. The required forms can be obtained at this office or on our website at www.townofwappingerny.gov

Very Truly,

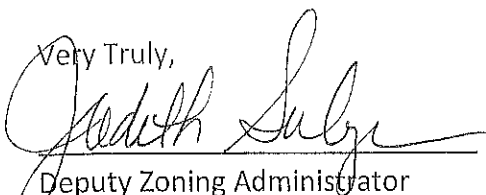

Deputy Zoning Administrator
Town of Wappinger

Exhibit F

Short Environmental Assessment Form

Part 1 - Project Information

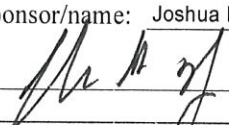
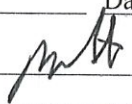
Instructions for Completing

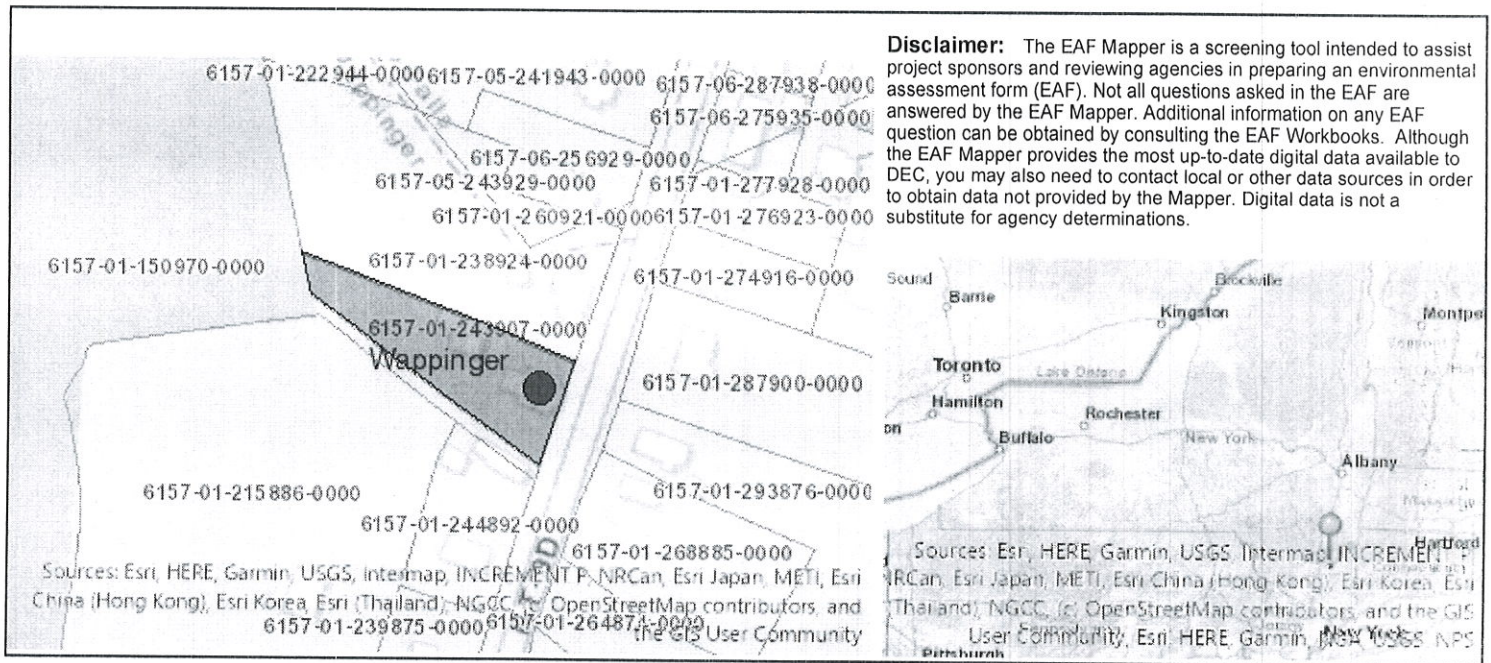
Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information			
Name of Action or Project: Joshua Indorf			
Project Location (describe, and attach a location map): 2505 Route 9D, Wappingers Falls, NY 12590 (6157-01-243907-0000)			
Brief Description of Proposed Action: Applicant requests a side yard setback variance due to the location of the existing barn and to maintain the existing conditions at the property.			
Name of Applicant or Sponsor: Joshua Indorf		Telephone: 914-906-6811	
		E-Mail: josh@jerricoinc.com	
Address: 140 Old Hopewell Road			
City/PO: Wappingers Falls		State: NY	Zip Code: 12590
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>
			YES <input checked="" type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:			NO <input type="checkbox"/>
			YES <input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action? .56 acres			
b. Total acreage to be physically disturbed? 0 acres			
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? .56 acres			
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)			
<input checked="" type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify):			
<input type="checkbox"/> Parkland			

5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?	NO	YES	
If Yes, identify: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
b. Are public transportation services available at or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements?	NO	YES	
If the proposed action will exceed requirements, describe design features and technologies: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply?	NO	YES	
If No, describe method for providing potable water: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities?	NO	YES	
If No, describe method for providing wastewater treatment: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____			

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered? Northern Long-eared Bat, At...	NO	YES
	<input type="checkbox"/>	<input checked="" type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO	YES
a. Will storm water discharges flow to adjacent properties?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe:	<input type="checkbox"/>	<input type="checkbox"/>
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor/name: Joshua Indorf Date: 12/17/24		
Signature:  Title: 		



Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	No
Part 1 / Question 12b [Archeological Sites]	Yes
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
Part 1 / Question 15 [Threatened or Endangered Animal]	Yes
Part 1 / Question 15 [Threatened or Endangered Animal - Name]	Northern Long-eared Bat, Atlantic Sturgeon, Shortnose Sturgeon, Indiana Bat
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	No

Exhibit G

NOTES:
1) DUE TO A LARGE ERROR OF CLOSURE IN THE DEED DESCRIPTION THE WESTERLY & SOUTHERLY PROPERTY LINES WERE COMPUTED TO MATCH ADJOINING PARCELS AND EVIDENCE RECOVERED.

LEGEND


XXXXXX FENCE

DH'D SVC. WIRES OVERHEAD SERVICE WIRES

ASP. ASPHALT

I.P. IRON PIN

N/F NOW OR FORMERLY

 UTILITY POLE

CHPE

L1708/P0507 DEED LIBER/PAGE

TPN: 243907
AREA=0.584± ACRES
#2505 ROUTE 9D

TPN: 238924
N/F
VON BURG
L22024 P50914

F.O.P.

E.O.P.

OH'D SVC. WIRES

OH'D * SVC. WIRES

14025

-- I HEREBY CERTIFY TO --

JERRICO
HOLDINGS, INC
TOWN OF WAPPINGER
COUNTY OF DUTCHESS
STATE OF NEW YORK
JULY 31, 2024

44-41

III.

THIS SURVEY IS ACCURATE
AND CORRECT BY:
LARRY L. LYNN, L.S.

WAPPINGERS FALLS, NY
N.Y.S.P.I. S. No. 050531

PREPARED BY LARRY L. LYNN, L.S. *LARRY L. LYNN, LAND
SURVEYS, P.C. 66 MIDDLEBUSH RD. STE. G107 WAPPINGERS
CREEK, NY 12590, (845) 463-7733
PLAN COMPLETED BY ME OR UNDER MY DIRECT SUPERVISION ON
JULY 31, 2024. BASED ON A FIELD SURVEY COMPLETED BY ME
OR UNDER MY SUPERVISION ON JULY 26, 2024.
UNAUTHORIZED ALTERATION OR ADDITIONS TO THIS PLAN IS A
VIOLATION OF SECTION 7209(2) OF THE NEW YORK STATE
EDUCATION LAW.
SUBJECT TO THE FINDINGS OF A CURRENT TITLE SEARCH.
SUBJECT TO COVENANTS, EASEMENTS, RESTRICTIONS AND
INTERESTS OF RECORD.
COPYRIGHT © 2024 LARRY L. LYNN. ALL RIGHTS RESERVED.

ALL CERTIFICATIONS HEREON ARE VALID
FOR THIS MAP AND COPIES THERE OF
ONLY IF SAID MAP OR COPIES BEAR THE
IMRESSED SEAL OF THE SURVEYOR
WHOSE SIGNATURE APPEARS HEREON.
THE CERTIFICATIONS HEREIN ARE NOT
TRANSFERABLE

Exhibit H

GENERAL NOTES

CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND EXISTING CONDITIONS, NOTIFYING THE ARCHITECT AND OWNER OF ANY DISCREPANCIES PRIOR TO COMMENCING THE WORK.

THE CONTRACTOR SHALL COORDINATE ALL PORTIONS OF THE WORK AS DESCRIBED IN THE CONSTRUCTION DOCUMENTS.

THE CONTRACTOR SHALL PATCH AND REPAIR TO MATCH EXISTING WALLS, FLOORS, CEILINGS OR OTHER SURFACES DISTURBED DURING THE INSTALLATION OF ARCHITECTURAL, MECHANICAL, PLUMBING OR ELECTRICAL WORK.

ALL WORK SHALL COMPLY WITH THE REQUIREMENTS OF APPLICABLE LOCAL, STATE AND FEDERAL CODES AND ORDINANCES.

ALL WORK SHALL COMPLY WITH THE REQUIREMENTS OF THE 2020 BUILDING CODE OF NYS

ALL METHODS AND MATERIALS SHALL COMPLY WITH THE REQUIREMENTS OF THE NEW YORK STATE ENERGY CODE.

ALL ELECTRICAL AND MECHANICAL WORK SHALL BE FILED UNDER SEPARATE PERMIT APPLICATIONS.

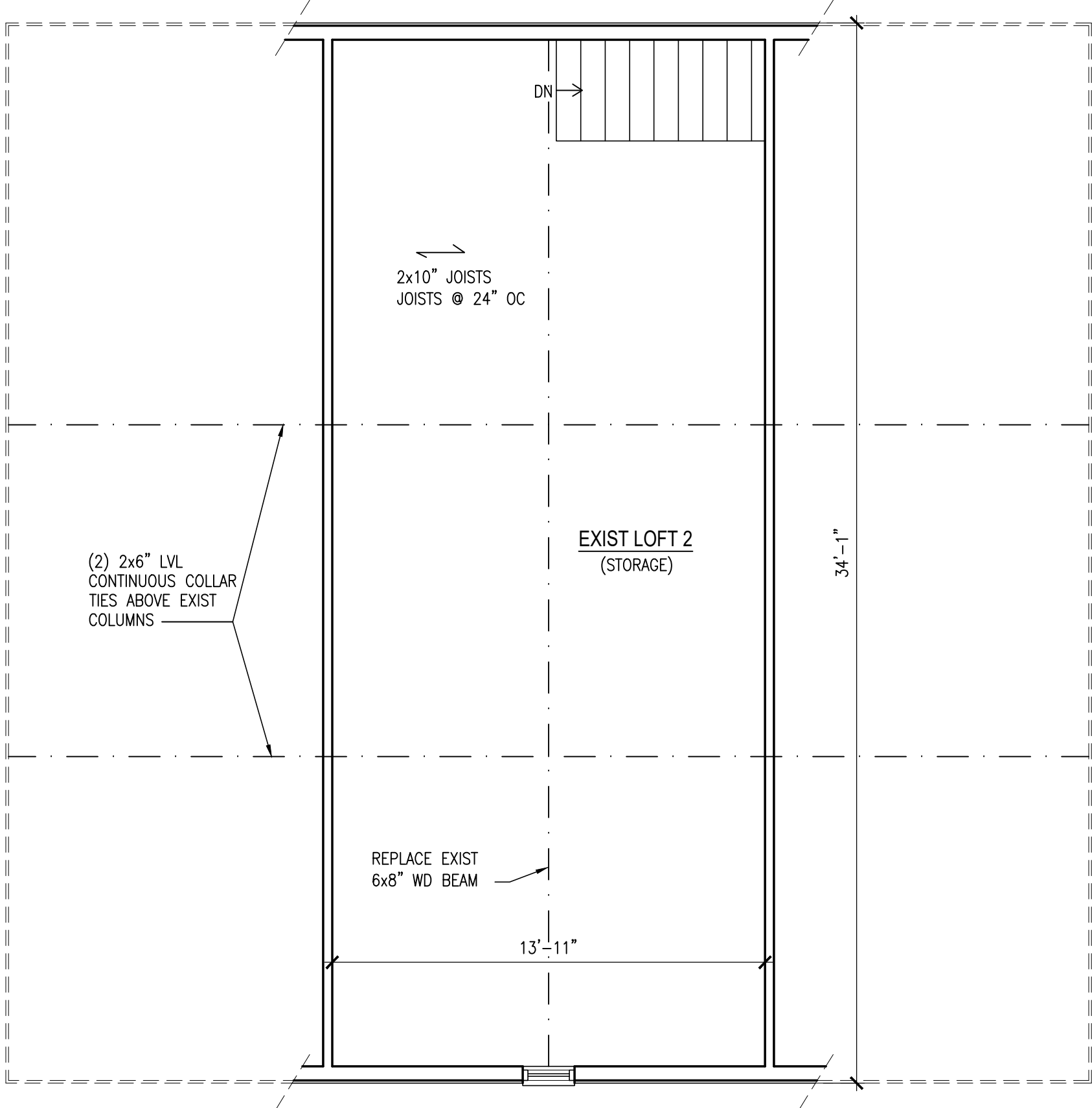
ALL FRAMING LUMBER SHALL BE DOUGLAS FIR #2 OR BETTER, CONSTRUCTION GRADE AND SHALL CONFORM TO THE NATIONAL DESIGN SPECIFICATION FOR STRESS - GRADE LUMBER AND ITS FASTENERS ACCORDING TO THE NATIONAL LUMBER MANUFACTURERS ASSOCIATION.

ALL CONCRETE WORK SHALL CONFORM TO ACI-318-71. CONCRETE SHALL DEVELOP A MINIMUM OF 3000 PSI AT 28 DAYS.

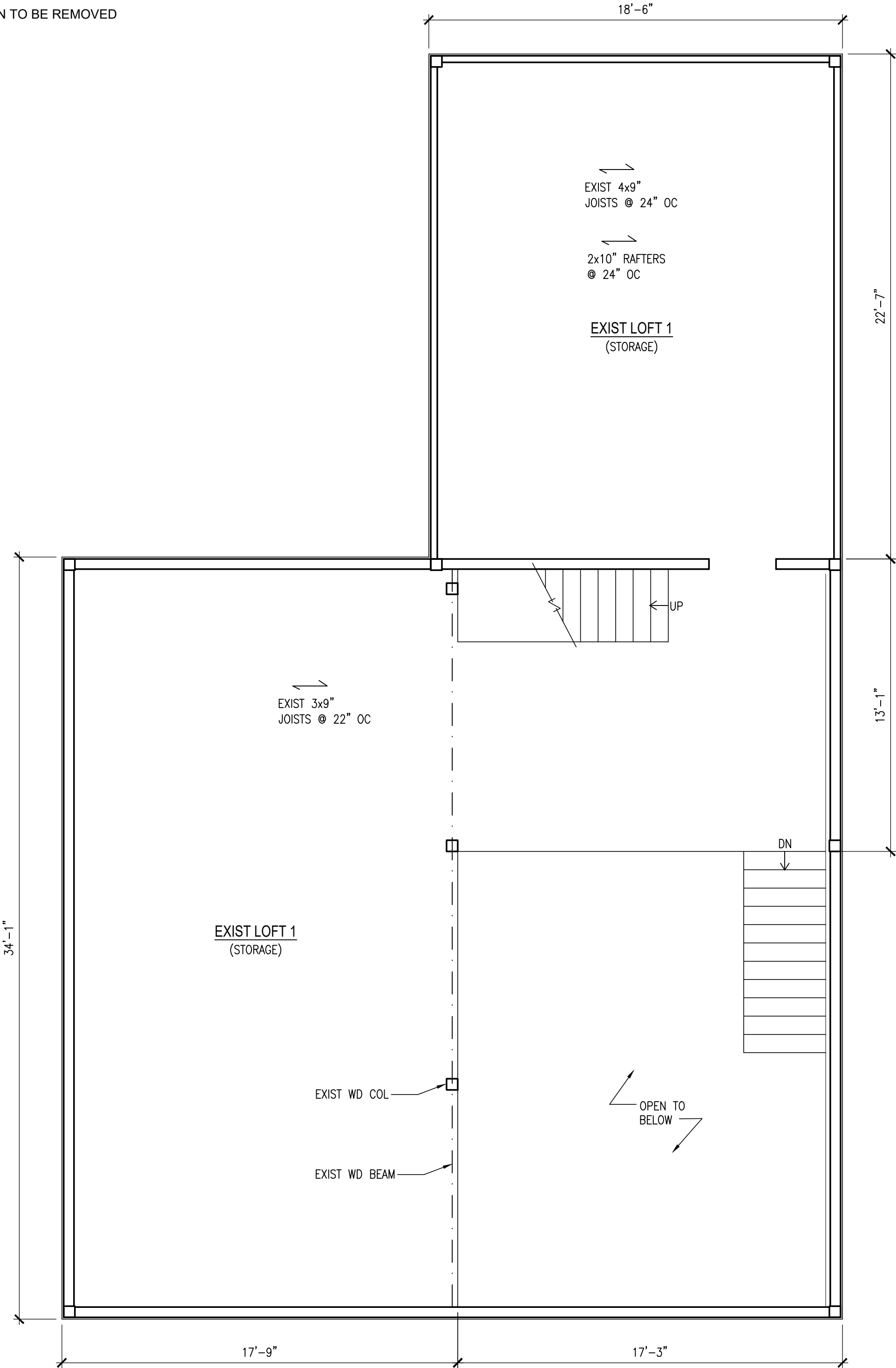
ALL FOOTINGS SHALL REST ON UNDISTURBED SOIL OR ROCK HAVING A MINIMUM BEARING CAPACITY OF TWO (2) TONS PER SQUARE FOOT.

LEGEND

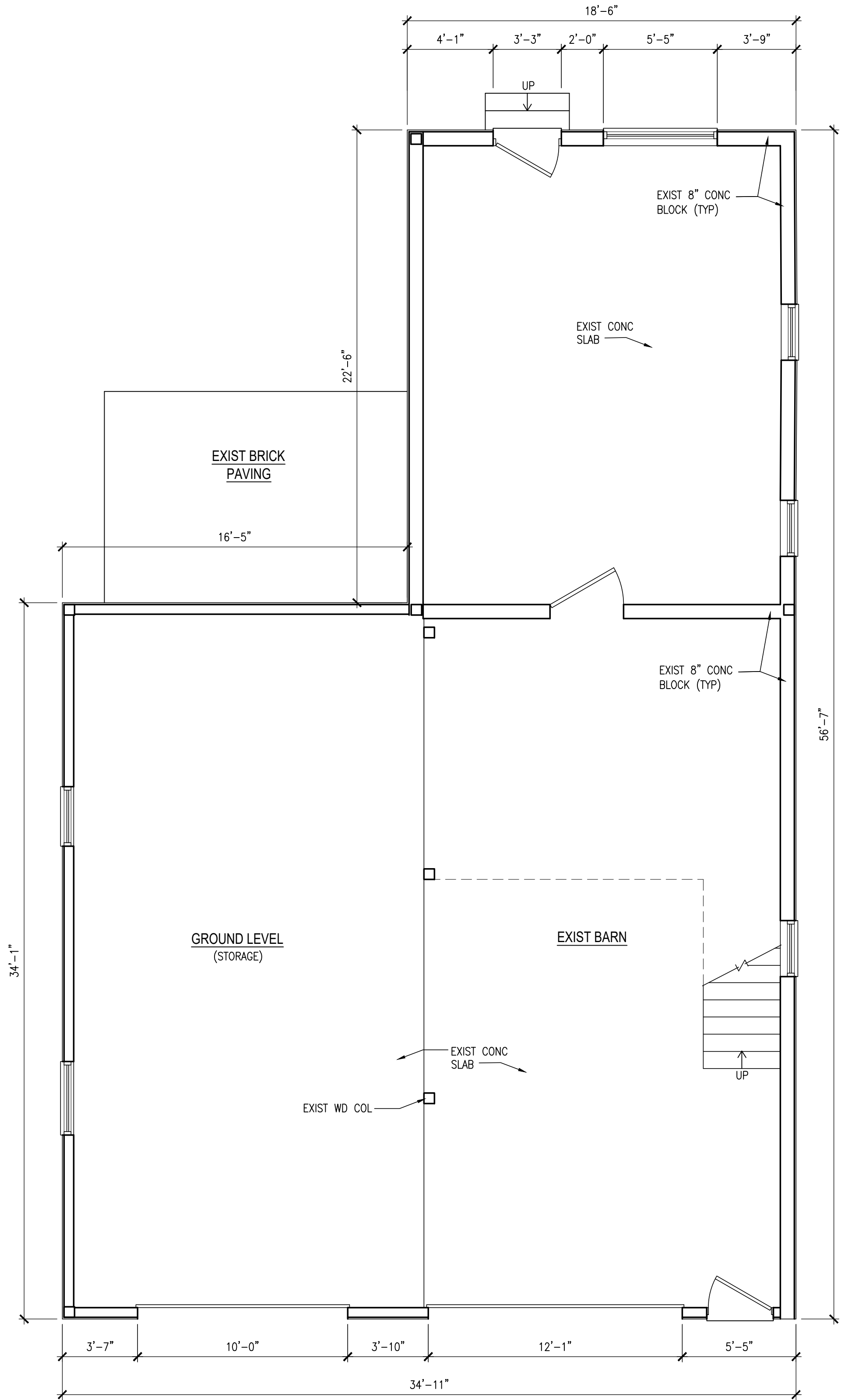
- NEW CONSTRUCTION
- EXIST CONSTRUCTION TO REMAIN
- EXIST CONSTRUCTION TO BE REMOVED



3 SECOND LOFT LEVEL PLAN
1/4" = 1'-0"



2 FIRST LOFT LEVEL PLAN
1/4" = 1'-0"



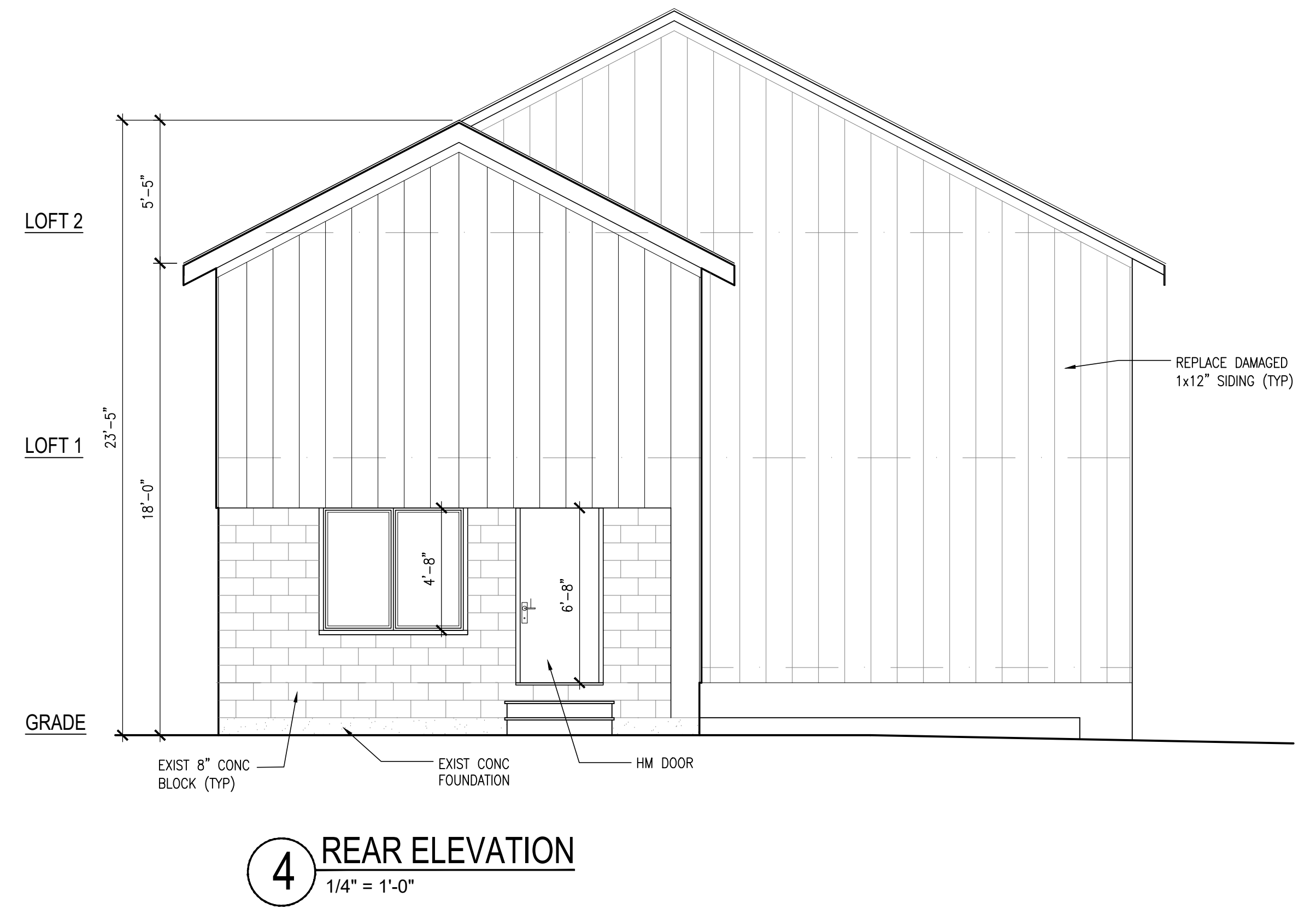
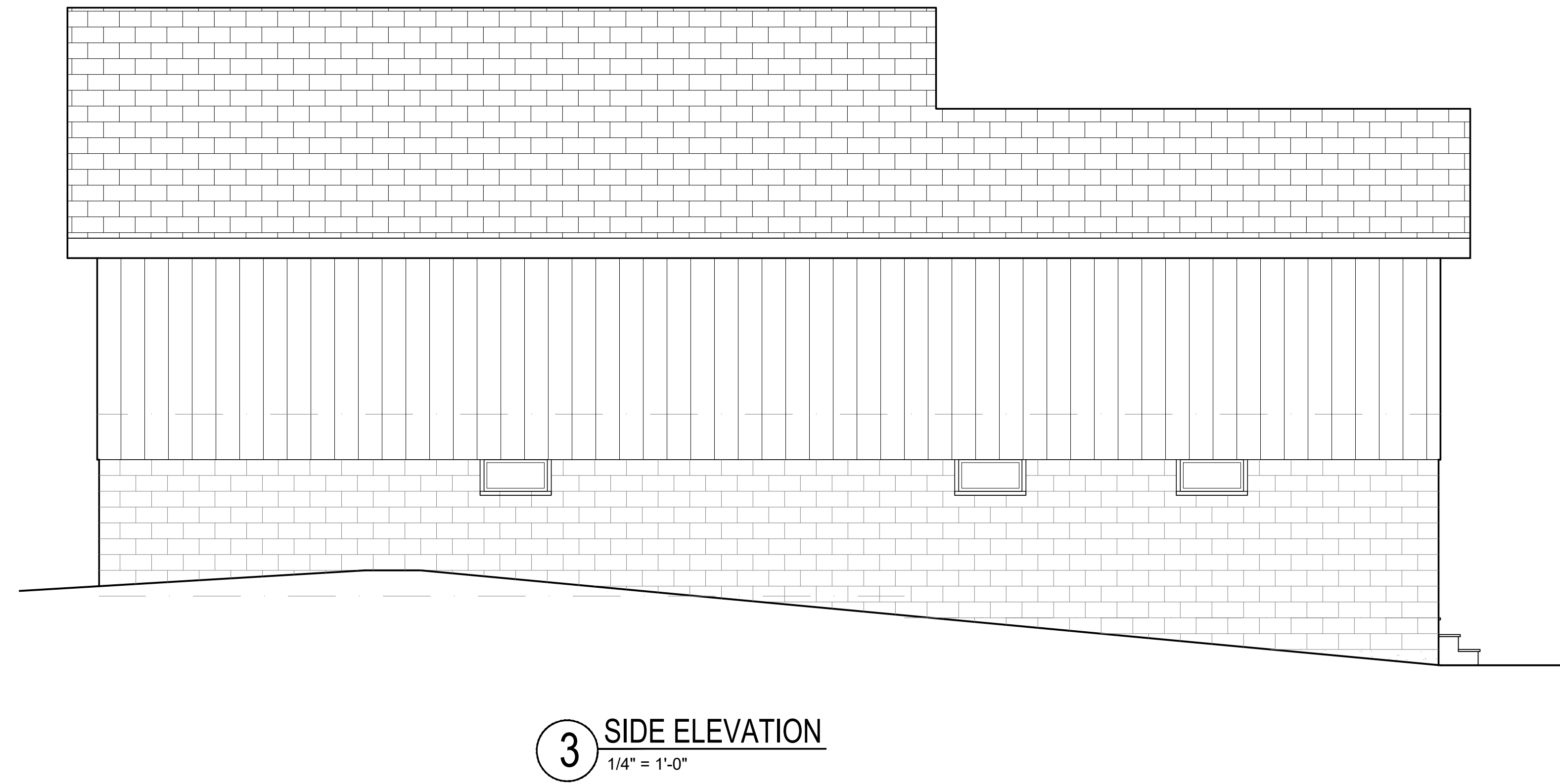
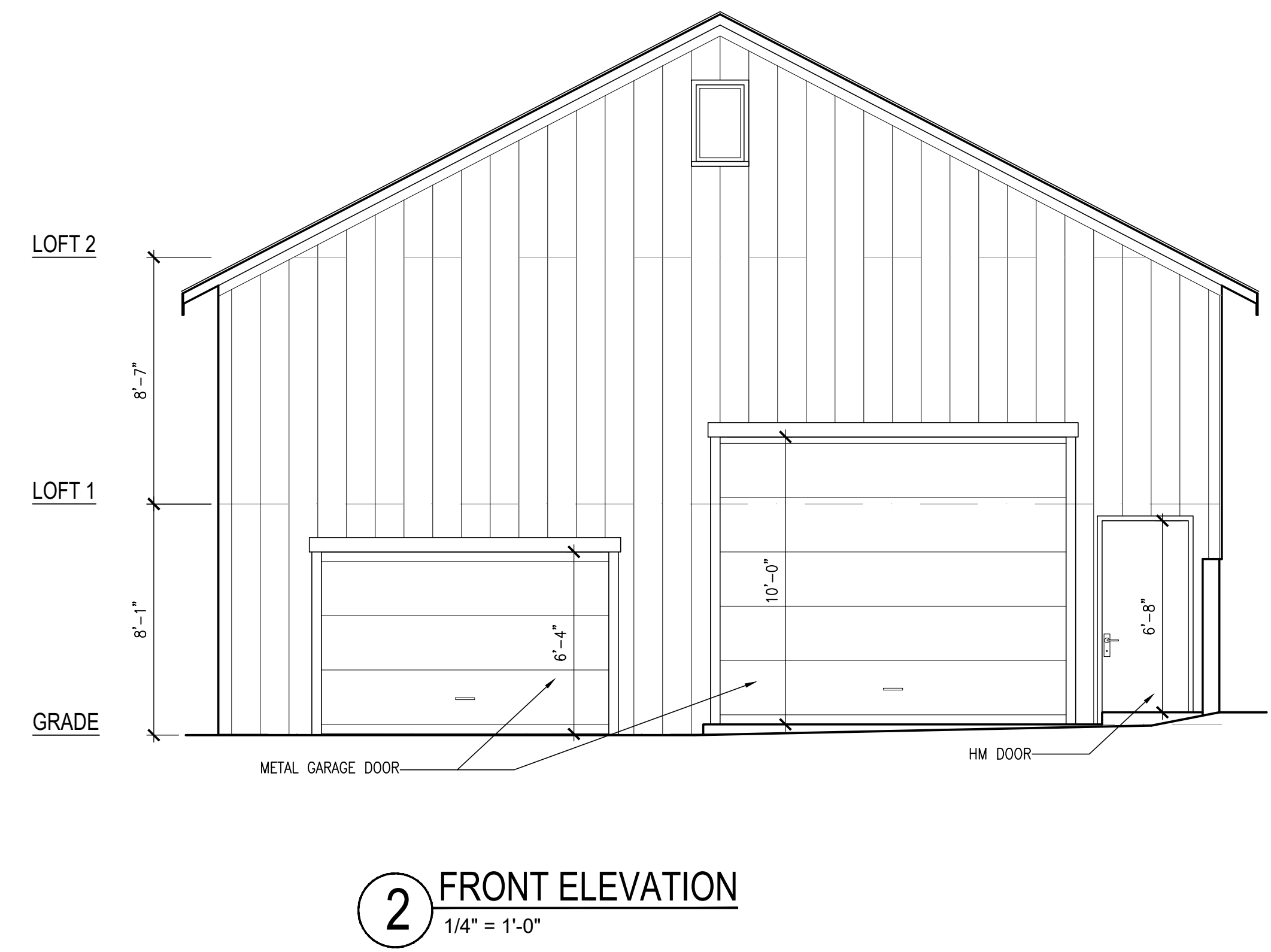
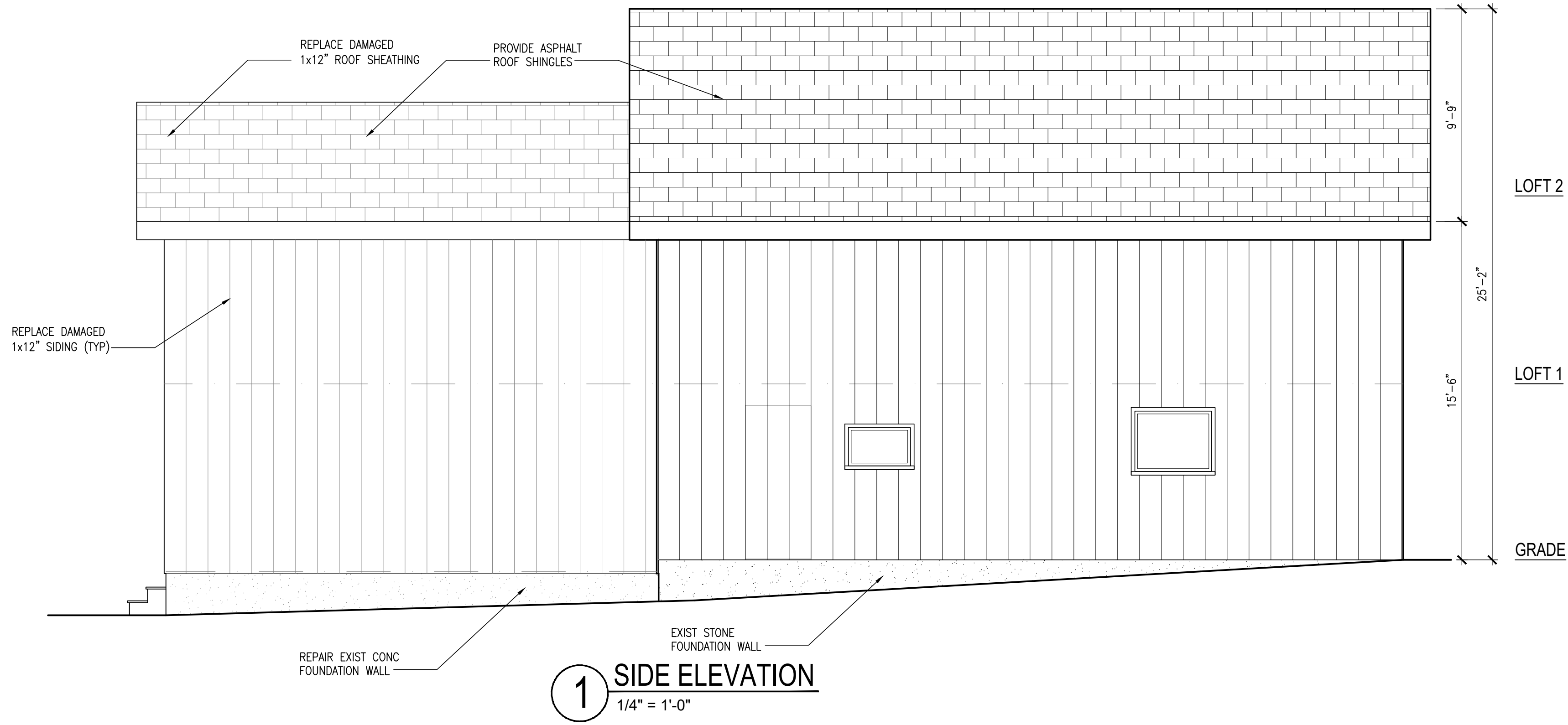
1 GROUND LEVEL PLAN
1/4" = 1'-0"



GENERAL NOTES, GROUND, FIRST LOFT & SECOND LOFT LEVEL PLANS

JERRICO HOLDINGS, INC. 2505 ROUTE 9D WAPPINGERS FALLS, NY 12590	SCALE AS NOTED JOB NO 779 DATE 10/30/24
<input type="checkbox"/> HERBERT FEUERSTEIN, ARCHITECT 443 FIFTH AVENUE PELHAM, NY 10803 914-355-2200	DRAWN BY AG REV1 - REV2 -

A1



FRONT, REAR & SIDE ELEVATIONS			
JERRICO HOLDINGS, INC. 2505 ROUTE 9D WAPPINGERS FALLS, NY 12590		SCALE AS NOTED	A2
		JOB NO 779	
		DATE 10/30/24	
<input type="checkbox"/> HERBERT FEUERSTEIN, ARCHITECT 443 FIFTH AVENUE PELHAM, NY 10803 914-355-2200		DRAWN BY AG	
		REV1 - REV2 -	

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