



AGENDA OF THE PLANNING  
COMMISSION  
CITY OF BIRCHWOOD VILLAGE  
WASHINGTON COUNTY, MINNESOTA  
May 25th, 2023  
7:00 P.M.

**CALL TO ORDER**

**PUBLIC FORUM**

**APPROVE AGENDA**

**REGULAR AGENDA**

- A. Approve April 27 2023 PC Meeting Minutes\* (pp. 2-6)
- B. Introduction of Ben Wikstrom, City Planner
- C. 2023-02-VB (127 Wildwood) Variance\* (pp. 7-22)
  - 1. Public Hearing
  - 2. Review and Discuss Variance Application\* (pp. 7-16)
  - 3. Review City Engineer Memo\* (pp. 17-21)
  - 4. Discuss and Recommendations to City Council
    - a. Commission Finding of Fact
    - b. Conditions of Support/Commission Action
- D. 2023-04-VB (423 Wildwood) Variance\* (pp. 23-41)
  - 1. Public Hearing
    - a. Resident Letter\* (p. 23)
  - 2. Review and Discuss Variance Application\* (pp. 24-37)
  - 3. Review City Planner Memo\* (pp. 38-41)
  - 4. Discuss and Recommendations to City Council
    - a. Commission Finding of Fact
    - b. Conditions of Support/Commission Action
- E. Solar Panels\* (pp. 42-48)
  - a. Review Proposed Ordinance
  - b. Discuss and Make Recommendations to City Council
- F. New Variance Application\* (pp. 49-55)
  - 1. Review Updates from April Meeting and Discuss

**ADJOURN**

\* Denotes items that have supporting documentation provided

MEETING MINUTES (Draft)

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Birchwood Planning Commission Regular Meeting

City Hall - 7:00 PM Regular Meeting 4/27/2023

Submitted by Michael Kraemer – secretary

COMMISSIONERS PRESENT: — Andy Sorenson - Chairman, Joe Evans, Michelle Maiers-Atakpu, Michael Kraemer

COMMISSIONERS ABSENT: Michael McKenzie

OTHERS PRESENT: Council Member - Justin McCarthy, City Engineer – Steve Thatcher, Susan Wells, David Buerke, Sandra Kriz Herbert Buerke

TO ORDER Meeting called to order by Chairman Andy Sorenson at 7:00 PM.

1. PUBLIC FORUM – No one present
2. APPROVE AGENDA
  - a. Maiers-Atakpu moved, 2<sup>nd</sup> by Evans, to approve the agenda as presented.  
Vote: Yes – 4, No – 0. Motion to approve agenda passed.
3. REGULAR AGENDA
  - a. Item A – Review/Approve March 26, 2023, Meeting Minutes
    - i. Motion by Evans, 2<sup>nd</sup> by Sorenson to approve the minutes. Vote: Yes – 4, No – 0, Motion to approve the minutes passed.
  - b. Item B – 2023-03-VB (529 Lake Ave) Variance.
    - i. Public Forum – no one present to speak to topic.
    - ii. Review Variance Application
      1. Susan Wells, David Buerke, Sandra Kriz Herbert Buerke present to speak to the variance application.
      2. Susan Wells indicated discussions with City had indicated a variance to City Code 302.055.2.a.4 – Grading and filling within 20 feet of White Bear Lake OHW, would be required. The variance submitted indicated slope stabilization, retaining wall development, and shoreline rip rapping within the Shoreland District.
    - iii. Review City Engineer Memo
      1. Steve Thatcher – City Engineer discussed his review memo indicating reasons that could be used to deny or approve the variance request.
        - a. Engineer Thatcher’s memo indicated that the variance application submitted was deficient lacking recognition that variance requests from City Code 302.020 – STRUCTURE LOCATION REQUIREMENTS (prohibiting



retaining walls within 50' of White Bear Lake OHW and variance from City Code 302.050 IMPERVIOUS SURFACES (additional impervious generated by retaining wall) must be submitted and taken into account in addition to the shoreline grading/rip rap variance application.

iv. **Commission Finding of Fact.**

1. The shoreline slope at 529 Lake Ave is deteriorating, constitutes a practical difficulty unique to the lot, and warrants stabilization.
2. Rip rapping of the shoreline per DNR guidelines, stabilizing the slope using terracing, intermittent retaining walls, and erosion control and screening perennial plantings appears to be a practical solution to stabilizing the deteriorating slope.
3. It is the opinion of the Planning Commission that the stabilization of the slope as proposed including the walls and plantings are consistent with the intent of, and in harmony with, the City's comprehensive plan to control and protect shoreline and water bodies. Advisory Vote: Yes – 4, No – 0.
4. The Planning Commission supports combining all three required variances into one application consideration (when provided) and supports the granting the variance(s) provided the "Conditions of Support" listed herein are met and meet the approval of the City Planner and City Engineer. Advisory Vote: Yes – 4, No -0.
5. It is the opinion of the Planning Commission that if the "Conditions of Support" outlined below are completed to the satisfaction of the City Planner and City Engineer, that the variance applications do not need to come back to the Commission. Advisory Vote: Yes – 4, No – 0.

**6. Conditions of Support/Commission Action:**

- a. The initial submittal is deficient and needs to be expanded and resubmitted (before Council consideration) to include variance application from City Codes 302.020 – STRUCTURE LOCATION REQUIREMENTS (prohibiting retaining walls within 50' of White Bear Lake OHW and variance from City Code 302.050 IMPERVIOUS SURFACES. Advisory Vote: Yes – 4, No – 0.
- b. The initial variance submittal is deficient in construction and material details making it difficult for Commission to complete their review. As a condition of Planning Commission support, and before the variance is submitted for Council consideration, the deficient construction info shall be submitted to the City Planner and City Engineer

for review and approval: (Advisory Vote: Yes – 4, No – 0)  
Examples of deficient anticipated construction details and material info includes the following:

i. Retaining Wall & Stairway Info

1. Designers name and qualifications
2. Design details such as wall and stairway foundation details, depth of bury, calculations of over-turn, connection details, seepage and drainage materials and details, dead-man and earth anchor locations and layouts, stairway layout and details. The Planning Commission would support the use of native boulder materials as and alternative retaining wall material.
3. Material specifications (I.e. stairways, wall timbers, connectors, dead-man, earth anchors, geotextile, erosion control fabric.)
4. Erosion control measures proposed during construction.

ii. Plantings Info

1. Proposed layouts and positioning plan of perennial plantings for erosion, slope stabilization, and screening.
2. Materials listing and specifications (species, sizes, quantities, bedding, ground cover, mulch, etc.)

c. Item C – New Variance Application Form Review

i. Discussion:

1. The Commission reviewed a sample revised Variance Application form submitted by Council Member Hankins. We applaud Councilor Hankins effort to make city forms as simple and useful as possible.

ii. Commission Input:

1. Commission would support the use of the revised form as presented with following suggested edits.
2. Item L – Replace “If so” with “Shall”. Commission would recommend this impervious calculation be preformed for any variance application whether or not the property is over or under the 25% threshold.
3. Section – Planning Commission Finding of Fact (table)

- a. Item 1 – Add: **Other** \_\_\_\_\_ at bottom of list incase there are others not on the list.
  - b. Item 6 – Review Questions 1 – 4 to make sure they are pertinent. Commission not sure of intent. Add: **Explain** \_\_\_\_\_ line to questions 1 – 4 for further refinement of Commissions intent.
  - c. Item 7- 9 – Add: **Explain** \_\_\_\_\_ line for further refinement of Yes or No answer.
- d. Item D – Impervious Surface Code Revisions
  - i. Item D1 – Discuss Proposed ORDINANCE REPEAILING AND REPLACING 302.050 IMPERVIOUS SURFACES IN THE CITY CODE.
    - 1. Discussion
      - a. DNR would like to see a restoration of shoreland to promote habitat and water quality as a condition of allowing properties to create more than 25% Impervious surface.
      - b. Some Commissioners feel the proposed 8% buffer creation for each 1% of impervious allowed over 25% is excessive and should be in the range of 2 to 1 more like wetland mitigation.
      - c. Stormwater Management Plan Compliance Testing Thresholds
        - i. Stormwater Management Plan compliance testing method and measurement threshold are not presented in detailed in the proposed ordinance is negotiated at the time of each variance application.
          - 1. Since storm water management systems operations tend to vary based on weather patterns and sequencing of maintenance some commission members would encourage some flexibility be given to enforcement action thresholds. (I.e. action threshold set at 70% of design parameters)
      - d. Stormwater Management Maintenance Review Fee
        - i. The 5-year Stormwater Management Maintenance Review Fee was suggested to be lowered to \$100
    - 2. **Commission Action:**
      - a. Correction: Item -2. Definitions – c, Retention Volume. Correct the example formula to reflect its intent of showing a 30% factor. Correct the 35% factor to 30%.

b. Advisory Motion by Sorenson, 2<sup>nd</sup> by Maiers-Atakpu to support the Ordinance as written with the edits identified herein. Vote: Yes – 4, No – 0. Motion passed.

ii. Item D2 – Discuss ORDINACE AMENDING 302.020 LAND USE DEFINITIONS in City Code.

1. Discussion to review the proposed removal of 302.050 Impervious Surfaces and Lot Coverage. 2. Definitions. 23. - Impervious Surfaces and put it in Section 302.050.

2. **Commission Action:**

a. Advisory motion by Sorenson, 2<sup>nd</sup> by Evans to support the proposed change. Vote: Yes – 4, No – 0. Motion passed.

iii. Item D3 - Discuss Proposed Ordinance regarging Stormwater Management Maintenance Review fee schedule.

1. **Commission Action:**

a. Advisory motion by Sorenson, 2<sup>nd</sup> by Maiers-Atakpu, to change the amount of the (once every 5 years) Stormwater Management Maintenance Review fee to \$100. Vote: Yes – 4, No – 0.

e. Item E – Variance Findings Form Review

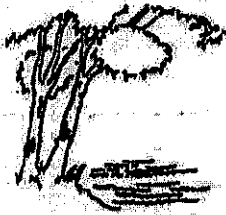
i. **Commission Action:**

1. It was determined that the Variance Findings Form included in the packet was the existing form and had already be discussed during the review of the proposed upgraded/revised form submitted by Councilor Hankins in Agenda Item C and that no action was necessary.

ii.

4. ADJOURN 9:24 PM

a. Motion by Maiers-Atakpu, 2<sup>nd</sup> by Evans to adjourn meeting. Vote: Yes – 4, No – 0. Motion passed.



**City of Birchwood Village**  
**Petition for Variance Application**

207 Birchwood Ave, Birchwood, MN 55110  
Phone: 651-428-3403 Fax: 651-428-7747  
Email: info@cityofbirchwood.com

**FOR OFFICIAL USE ONLY**

Application Received Date: 2/28/2023 Amount Paid: \$ 3600.00  
Payment Type (Circle One): Cash  Check / Money Order / Credit Card  
Check/Money Order # 5005 (\$3000); 5006 (\$600)  
Application Complete? Yes  No  If no, date application was deemed complete: \_\_\_\_\_  
Signature of City Planner: [Signature] Date: 3/2/2023

*Completed requests for variances submitted prior to the first Thursday of the month will be considered by the Planning Commission at its next meeting on the fourth Thursday of the month. Requests submitted after the first Thursday of the month will be considered at the following meeting. All final decisions on variance applications are made by the City Council, which meets on the second Tuesday every month.*

- Name of Applicant(s) Alan & Susan Reiss (AI & Spc)  
Address 20693 N. Enchantment Dr.  
City Surprise State AZ Zip Code 85387  
<sup>Cell</sup> Business Phone 612-418-4066 Home Phone N/A
- Address of Property Involved if different from above: \_\_\_\_\_  
127 Wildwood Ave., Birchwood, MN 55110
- Name of Property Owner(s) if different from above and describe Applicant's interest in the property:  
N/A
- Specific Code Provision from which Variance is requested: See Exhibit A attached
- Describe in narrative form what the Applicant is proposing to do that requires a variance:  
See Exhibit A attached

6. Type of Project:

- New Construction (empty lot)
- Addition
- Demolition
- Landscaping
- Repair or removal of nonconforming structure

Other (describe) Relocation of 2 non-conforming pre-existing structures

7. Type of Structure Involved:

- |  |  |
|--|--|
| <input type="checkbox"/> Single Dwelling | <input type="checkbox"/> Double Dwelling |
| <input type="checkbox"/> Garage          | <input type="checkbox"/> Addition        |
| <input type="checkbox"/> Tennis Court    | <input type="checkbox"/> Pool            |
| <input type="checkbox"/> Grading/Filling |  |

Other (describe) Deck and 'Steps to Lawn'

8. Using the criteria from the City Code for a variance (see last page), explain why a variance is justified in this situation and describe what "Practical Difficulties" exist:

see Exhibit A attached

9. Describe any measures the Applicant is proposing to undertake if the variance is granted, including measures to decrease the amount of water draining from the property:

see Exhibit A attached

10. Describe any alternatives the Applicant considered (if any) that do not require a variance:

see Exhibit A attached

11. Can an emergency vehicle (Fire Truck or Ambulance) access all structures on the property after the proposed change? Yes  No

12. Does the proposed change bring any other nonconforming use into conformity with the City Building Code? Yes  No

If yes, explain: However, it reduces/lessens the severity of the non-conformance - see Exhibit A attached for details.

13. Are there other governmental regulations that apply to the proposed action, including requirements of the Rice Creek Watershed District? Yes  No

If yes, please identify the regulations AND attach evidence demonstrating compliance:

N/A

14. Please provide the applicable information in the following Table:

	Approved Remodel EXISTING In Progress	PROPOSED	CHANGE
1. Total Square Footage of Lot	8,417	8,417	0
2. Maximum Impervious Surface (25% of item 1)	2,104	2,104	0
3. Roof Surface	1,919	1,919	0
4. Sidewalks	204	204	0
5. Driveways	64	64	0
6. Other Impervious Surface	238	238	0
7. Total of Items 3-6	2,424	2,424	0
8. Percent Impervious Surface	28.8%	28.8%	0

15. Please attach the following:

- Legal description of property.
- Plot plan drawn to scale showing existing and proposed new and changed structures on the lot. Also show existing structures on adjacent lots.

**Criteria for Granting a Variance.** Pursuant to Minn. Stat. Sec. 462.357, subd. 6, as it may be amended from time to time, the Planning Commission may issue recommendations to the City Council for variances from the provisions of this zoning code. A variance is a modification or variation of the provisions of this zoning code as applied to a specific piece of property.

Variances to the strict application of the provisions of the Code may be granted, however, no variance may be granted that would allow any use that is prohibited within the City. Conditions and safeguards may be imposed on the variances so granted. A variance shall not be granted unless the following criteria are met:

**SUBD. 1.**

- A. Variances shall only be permitted
  - i. when they are in harmony with the general purposes and intent of the ordinance and
  - ii. when the variances are consistent with the comprehensive plan.
- B. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance.

**SUBD. 2.** "Practical difficulties," as used in connection with the granting of a variance, means that

- i. Special conditions or circumstances exist which are peculiar to the land, structure, or building involved.
- ii. The condition which result in the need for the variance were not created by the applicant's action or design solution. The applicant shall have the burden of proof for showing that no other reasonable design solution exists.
- iii. The granting of a variance will result in no increase in the amount of water draining from the property.
- iv. Granting the variance will not impair an adequate supply of light and air to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the residents of the City.
- v. No variance shall be granted simply because there are no objections or because those who do not object outnumber those who do.
- vi. Financial gain or loss by the applicant shall not be considered if reasonable use for the property exists under terms of the Zoning Code.

**NOTICE:**

**\*The City and its representatives accept no responsibility for errors and/or damages caused due to incomplete and/or inaccurate information herein. It is the responsibility of the applicant to ensure the accuracy and completeness of this information.**

**\*The City will hold applicant responsible for any damage to public property that occurs in the course of performing the activities of this permit.**

**\*Under penalty of perjury the applicant declares that the information provided in and enclosed herewith is complete and all documents represented are true and correct representations of the actual project/building that will be built in conformance with such representation if approved.**

Signature of Applicant: Susan S. Reiss Date: 2-20-2023  
Alan T. Reiss



**127 Wildwood Avenue, Birchwood Village, MN**  
**Variance Application**  
**Exhibit A**

**Variance Form #4 - Specific Code Provision from which Variance Is requested:**

1. Minimum Setback Requirement. Variance is requested for relocation of a deck and "Steps to Lawn" from City Code 302.020 (2) that states the minimum setback requirement from the High Water Level of White Bear Lake is 50'.

**Variance Form #5 - Describe in narrative form what the Applicant is proposing to do that requires a variance:**

1. Background:

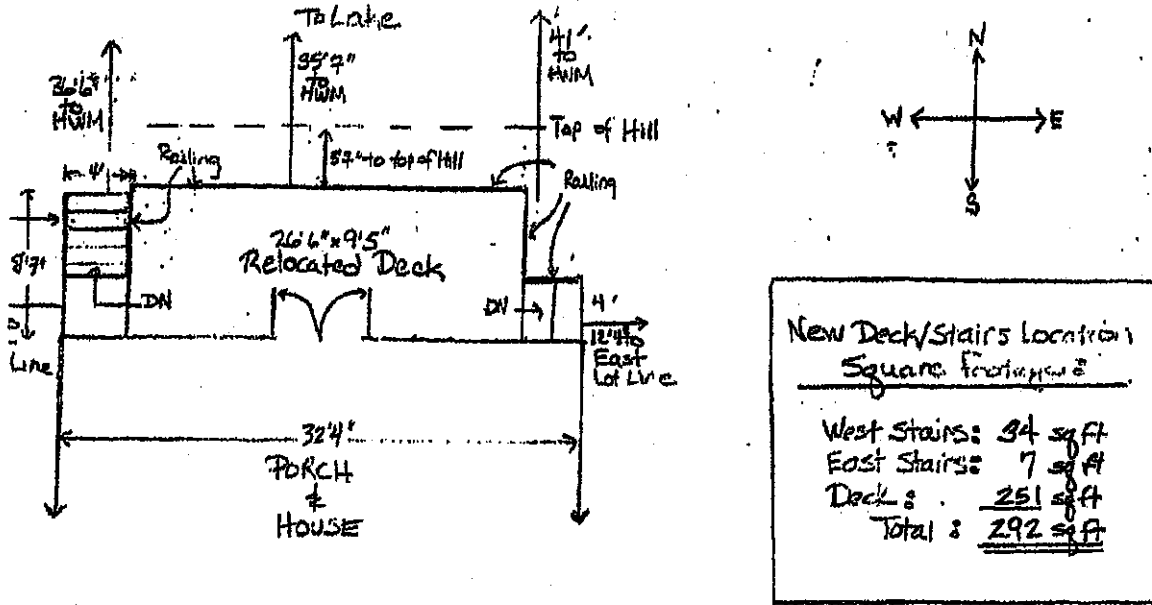
- a. The property currently has a non-conforming pre-existing deck at the water's edge. Details of existing deck:
  - i. Setback from the High Water mark: 8'
  - ii. Setback from the West lot line: 0' (deck is abutting the lot line)
  - iii. Setback from the East lot line: (N/A – located on West side of property)
  - iv. Dimensions: 17'9"x13'8", Area: 242.64 square feet
- b. The property currently has non-conforming pre-existing "Steps to Lawn". They are located on the Northwest side of the house. Details of the steps:
  - i. Setback from the High Water mark: 42'
  - ii. Setback from the West lot line: 4' (infringement of side lot line setbacks)
  - iii. Setback from the East lot line: (N/A – located on West side of property)
  - iv. Dimensions: 3'8"x 13'5", Area: 49.58 square feet

2. Proposal:

- a. We would like to clean up the lakeshore by relocating the existing deck and attaching it as a new structure to the North side of the house. Along with the deck relocation, we would like to relocate the "Steps to Lawn" as a new structure attached to and servicing the deck. Their new locations would still be non-conforming, but this proposal lessens the severity of the non-conformance. Details of the deck area (deck and steps) in the new location:
  - i. Setback from High Water mark: 35'7" (moving the deck area from 8' from the High Water mark to 35'7" making it 27'7' further away from the High Water mark, a significant improvement)
  - ii. Setback from the West lot line: 10' (the deck and steps would be relocated out of the West side lot line setback area making the deck and steps compliant with side lot line code, another significant improvement)
  - iii. Setback from the East lot line: 12' 4" (keeping deck and steps out of the East lot line setback area)
  - iv. Dimensions: Irregular, Area: 292 square feet (basically the same size as existing deck and steps combined (242.64+49.58=292.22))
- b. The drawing at the top of the next page shows the specifics of the new deck and steps location in more detail.

**127 Wildwood Avenue, Birchwood Village, MN  
Variance Application  
Exhibit A**

**Relocated Deck and Steps Plan**



**Variance Form #8 – Using the criteria from the City Code for a variance (see last page), explain why a variance is justified in this situation and describe what “Practical Difficulties” exist:**

**1. SUBD 1 A.:**

**i. Harmony with the General Purposes and Intent of the Ordinance:**

We believe the relocation of two non-conforming pre-existing structures (deck and “Steps to Lawn”) are in harmony with the general purposes and intent of the ordinance. While the deck and steps new location would still be non-conforming, it would significantly lessen the severity of the non-conformance by moving the new combined structure further away from the High Water mark – from 8’ to about 35’7” an improvement of 27’7” AND, it would eliminate their side lot line setback infringements. In addition, the old rickety structure at the water’s edge (the deck) would no longer be an eye-sore from the lake as it would be relocated as a new structure away from the lake. The relocations would be preferred to their current locations and would, therefore, better harmonize with the purpose and intent of the ordinance.

**ii. Consistent with the Comprehensive Plan:**

Per the Comprehensive Plan, maintaining the historical perspective of the community is extremely important. Our house was built in 1910, 11 years before Birchwood was incorporated as a village and later as a city. The house and its

**127 Wildwood Avenue, Birchwood Village, MN**  
**Variance Application**  
**Exhibit A**

location on the lot embodies that historical perspective as it was originally built as a lake home and has a deck on the lakeside - a quintessential feature of the house. The first bullet point under Community Goals states; "Maintain the existing character of the community through preservation of the single-family residential land use and neighborhood patterns". We believe a deck area on the lakeside of the house is important; it promotes the historical perspective of why the house was initially built - lake enjoyment.

**2. SUBD 2 (Practical Difficulties):**

- i. Our lot is undersized and the house's original non-conforming pre-existing location on the lot offers no space for a compliant lakeside deck.
- ii. In order to have a lakeside deck area, there are two options:
  - Option 1: "Keep, maintain, and perform incidental alterations" to the current deck and "Steps to Lawn" in their current locations. This option would not make any improvement toward code compliance.
  - OR
  - Option 2: Relocate the deck to clean up the shoreline and bring it into significantly better compliance with the High Water mark setback requirement. In addition, relocate the "Steps to Lawn" and add them as part of the deck structure. The deck and steps relocations would eliminate their side setback infringements and bring their side lot line setbacks into compliance.

We think Option 2 (deck and steps relocation) is the better option for us, our neighbors, and the City of Birchwood Village.

- iii. The impervious surface will not change – see commentary under Variance Form #9 in the next section.
- iv. Granting the variance will not impair an adequate supply of light and air to adjacent properties. We feel property values of neighboring properties would only benefit from a cleaned-up lakeshore and a well-constructed deck area that would replace poorly located structures.

**Variance Form #9 - Describe any measures the Applicant is proposing to undertake if the variance is granted, including measures to decrease the amount of water draining from the property:**

1. Deck and stairs in their new locations will be built compliant to Code 300.020 (23) Exception 1 ("open joints ¼ inch wide per 8 inch wide board"). As such, impervious surface would not be increased.

**127 Wildwood Avenue, Birchwood Village, MN**  
**Variance Application**  
**Exhibit A**

**Variance Form #10 – Describe any alternatives the Applicant considered (if any) that do not require a variance:**

As mentioned previously, there are two options for the deck and stairs. See #ii under practical difficulties.

**Variance Form #15 – Please attach the following:**

Legal Description of the property:

**LEGAL DESCRIPTION**

All of Lot A, Block 3, of LAKEWOOD PARK FIRST DIVISION, according to the plat thereof on file and of record in the office of the Register of Deeds in and for Washington County, Minnesota, except the Southeasterly 100 feet of Lot 1 of BIRCHWOOD being that part thereof lying West of a line drawn parallel to the West line of said Lot 1 and 55 feet Easterly thereof, together with that portion of Wildwood Avenue vacated by Court Decree filed in Book 64 of Deeds, page 151, including any portion of any street or alley adjacent thereto, vacated or to be vacated.

AND

Westerly 51.12 feet of Lot A, Block 3, LAKEWOOD PARK FIRST DIVISION.

Plot Plan drawn to scale showing existing and proposed new and changed structures on the lot. See Page 5 of this Exhibit.

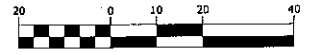
Also show existing structures on adjacent lots. See Page 5 of this Exhibit.



# CERTIFICATE OF SURVEY

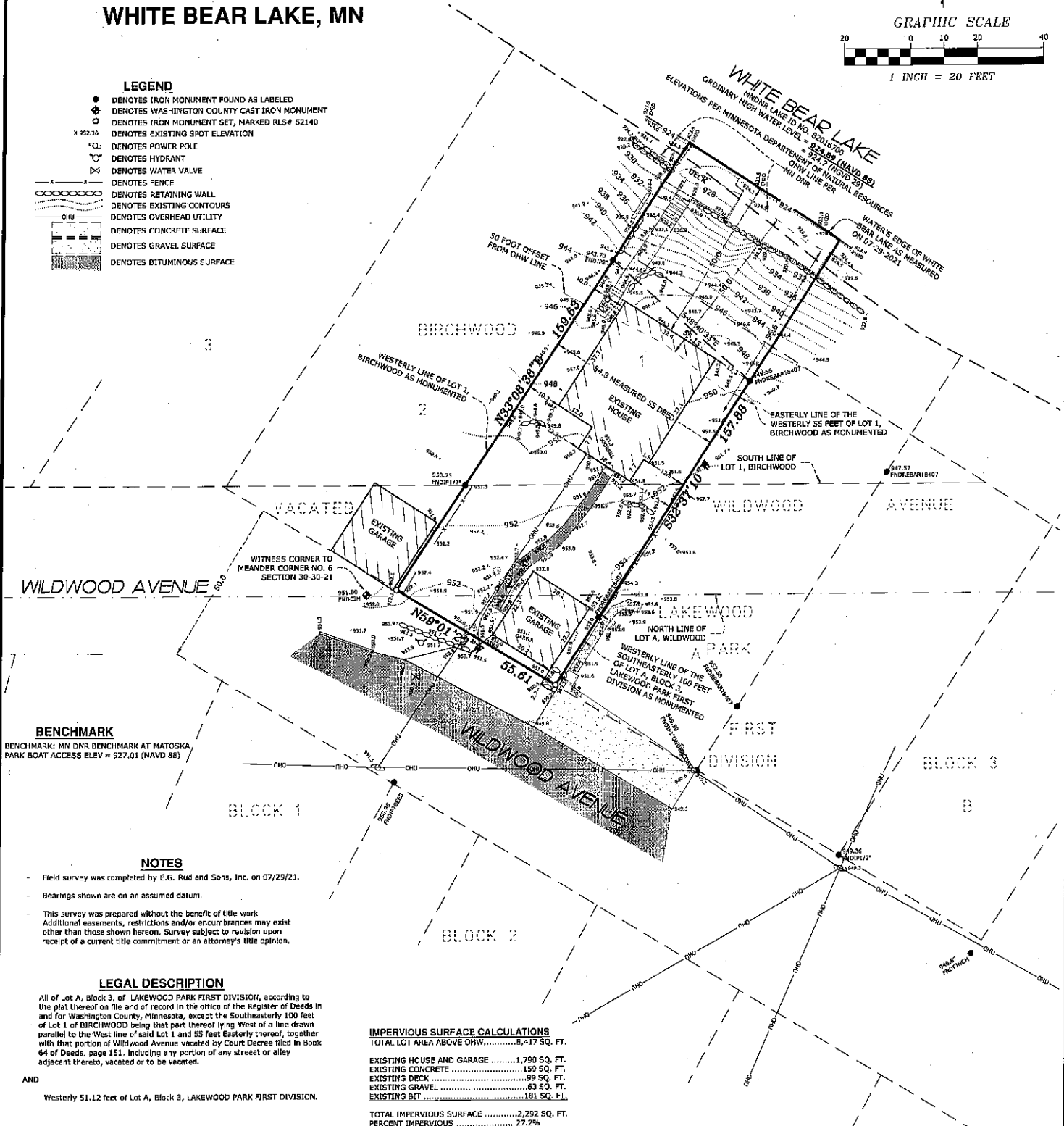
~for~ SUE REISS  
 ~of~ 127 WILDWOOD AVENUE  
 WHITE BEAR LAKE, MN

GRAPHIC SCALE



## LEGEND

- DENOTES IRON MONUMENT FOUND AS LABELED
- ⊕ DENOTES WASHINGTON COUNTY CAST IRON MONUMENT
- DENOTES IRON MONUMENT SET, MARKED RLS# 52140
- 1952.76 DENOTES EXISTING SPOT ELEVATION
- ⊕ DENOTES POWER POLE
- ⊕ DENOTES HYDRANT
- ⊕ DENOTES WATER VALVE
- DENOTES FENCE
- DENOTES RETAINING WALL
- DENOTES EXISTING CONTOURS
- DENOTES OVERHEAD UTILITY
- DENOTES CONCRETE SURFACE
- DENOTES GRAVEL SURFACE
- DENOTES BITUMINOUS SURFACE



**BENCHMARK**  
 BENCHMARK: MY DNR BENCHMARK AT MATOSKA PARK BOAT ACCESS ELEV = 927.01 (NAVD 88)

## NOTES

- Field survey was completed by E.G. Rud and Sons, Inc. on 07/29/21.
- Bearings shown are on an assumed datum.
- This survey was prepared without the benefit of title work. Additional easements, restrictions and/or encumbrances may exist other than those shown hereon. Survey subject to revision upon receipt of a current title commitment or an attorney's title opinion.

## LEGAL DESCRIPTION

All of Lot A, Block 3, of LAKEWOOD PARK FIRST DIVISION, according to the plat thereof on file and of record in the office of the Register of Deeds in and for Washington County, Minnesota, except the Southeastely 100 feet of Lot 1 of BIRCHWOOD being that part thereof lying West of a line drawn parallel to the West line of said Lot 1 and 55 feet Easterly thereof, together with that portion of Wildwood Avenue vacated by Court Decree filed in Book 64 of Deeds, page 151, including any portion of any street or alley adjacent thereto, vacated or to be vacated.

## IMPERVIOUS SURFACE CALCULATIONS

TOTAL LOT AREA ABOVE OHW.....	5,417 SQ. FT.
EXISTING HOUSE AND GARAGE.....	1,790 SQ. FT.
EXISTING CONCRETE.....	159 SQ. FT.
EXISTING DECK.....	99 SQ. FT.
EXISTING GRAVEL.....	83 SQ. FT.
EXISTING BIT.....	184 SQ. FT.
<b>TOTAL IMPERVIOUS SURFACE.....</b>	<b>2,292 SQ. FT.</b>
<b>PERCENT IMPERVIOUS.....</b>	<b>27.2%</b>

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

*D.S.H.*  
 DANIEL S. HANSEN

Date: 08/30/2021 License No. 52140

DRAWN BY: BCD	JOB NO: 210862TS	DATE: 07/28/2021	
CHECK BY: DSH	FIELD CREW: DT/CT		
1	8-26-2021	BUILDING OFFSET DISTANCES DSH	
2	8-30-2021	AREA ABOVE OHW UPDATED DSH	
3			
NO.	DATE	DESCRIPTION	BY

**E.G. RUD & SONS, INC.**  
 EST. 1977  
 Professional Land Surveyors  
 6776 Lake Drive NE, Suite 110  
 Lino Lakes, MN 55014  
 Tel. (651) 361-8200 Fax (651) 361-8701

**CITY OF BIRCHWOOD VILLAGE  
MEMORANDUM**

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**TO:** Rebecca Kellen, City of Birchwood Village Administrator-Clerk  
**FROM:** Thatcher Engineering, Inc.  
**DATE:** March 2, 2023  
**REGARDING:** Variance Application  
**APPLICANT:** Al and Sue Reiss, 20693 N. Enchantment Drive, Surprise, AZ 85387  
**PROPERTY OWNER(S):** Al and Sue Reiss  
**LOCATION:** 127 Wildwood Avenue, Birchwood Village, MN 55110

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**BACKGROUND**

On February 28, 2023, the City Birchwood Village (City) received an application for one (1) variance for 127 Wildwood Avenue signed by both Al and Sue Reiss (Applicant) on February 20, 2023 (Application). The property owner intends to do the following:

1. Relocate two (2) non-conforming pre-existing structures (the existing deck located at White Bear Lake (WBL) water's edge and the existing "Steps to Lawn" located between WBL and the existing house).
2. The proposed structures will be attached to the north side (lake side) of the existing house.

The Applicant is making the request because they would like to clean up the lakeshore.

**REQUEST**

The Application requests the following variance:

**Variance Request #1 (Minimum Setback Requirements):** The Applicant is requesting a variance from City Code 302.020.2 MINIMUM SETBACK REQUIREMENTS.

City Code 302.020.2 STRUCTURE LOCATION REQUIREMENTS - MINIMUM SETBACK REQUIREMENTS:

1. City Code 302.020.2: the required minimum setback from the "Ordinary High Water Level of White Bear Lake, Hall's Marsh, and other wetlands" to "All Other Structures" is fifty (50) feet.
  - a. A variance is needed from this requirement because the Application shows the proposed structures to be less than the City Code required minimum setback of fifty (50) feet.

**SITE CHARACTERISTICS**

The size of the existing lot above the Ordinary High Water Level (OHWL) of WBL is 8,417 square feet according to a certificate of survey prepared by E. G. Rud & Sons, Inc. dated August 30, 2021 (attached). The lot is small and narrow (about 55 feet wide) and contains a single-family residence and detached garage.

**PRACTICAL DIFFICULTY**

The lot is small and extremely narrow and long.

**STATUTORY REQUIREMENTS FOR PERMITTING VARIANCES**

Minnesota State Statute 394.27 subdivision 7 states:

Variations shall only be permitted when they are in harmony with the general purposes and intent of the official control and when the variations are consistent with the comprehensive plan. Variations may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the official control. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties...

**CITY CODE REQUIREMENTS FOR PERMITTING VARIANCES**

Sec 304.040 of the City Code states:

Standards for Variations. Variations may be granted when the applicant for the variance establishes:

1. That there are practical difficulties in complying with the zoning ordinance;



2. That the proposed structure or use is in harmony with the general purposes and intent of the ordinance; and

3. That the proposed structure or use is consistent with the City's comprehensive plan.

"Practical difficulties", as used in connection with the granting of a variance, means that i.) the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance, ii.) the plight of the landowner is due to circumstances unique to the property not created by the landowner; and iii.) the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.

## **ANALYSIS**

The existing structures are non-conforming pre-existing structures because of the following:

1. City Code 302.015 states: "Any lot of record as of January 1, 1975, which remains in its then-existing dimensions and which does not meet the requirements of this Code may nevertheless be utilized for single-family detached dwelling purposes provided the requirements of 302.010 are at least 60% of those as required."
  - a. The size of the existing lot above the Ordinary High Water Level (OHWL) of White Bear Lake is 8,417 square feet.
  - b. City Code 302.010.1 requires a minimum lot size for a lot abutting a lake of 15,000 square feet.
  - c. The existing lot size (8,417 square feet) is less than the City Code required minimum lot size of 9,000 square feet (15,000 feet x 60%).
2. The existing house is setback about 46 feet from the Ordinary High Water Level of White Bear Lake (according to the certificate of survey prepared by E. G. Rud & Sons, Inc.) which is less than the City Code required minimum setback of 50 feet (City Code 302.020.2).
3. The existing deck is within the City Code required minimum setback.
4. The existing "Steps to Lawn" is within the City Code required minimum setback.

A Variance for existing lot size is not required for the following reason:

1. A variance is not required for lot size because the existing lot size (8,417 square feet) is a preexisting condition.

A Variance for impervious surface is not required for the following reason:

1. The work proposed does not increase the impervious surface coverage of the lot because the impervious surface coverage will not change and the impervious surfaces are within one stormwater drainage basin (watershed).

Based on TEI's understanding that this lot will continue to contain one dwelling unit, a variance is not needed from the minimum lot width requirement because the lot width (approximately 55 feet) is more than the City Code required minimum lot width of 48 feet (80 feet x 60%).

The Application proposes no grading work between the existing house and WBL. Thus, no variance is needed for this work because no work will be within 20 feet of WBL.

## **REASONS FOR RECOMMENDING VARIANCE APPROVAL**

### **Variance request #1 (Minimum Setback Requirements):**

1. The lot is small and extremely narrow and long.
2. This project would preserve the essential character of the locality.

## **REASONS FOR RECOMMENDING VARIANCE DENIAL**

### **Variance request #1 (Minimum Setback Requirements):**

1. A primary goal of the City of Birchwood Village's Zoning Ordinance is "to ensure that a non-conforming use is not intensified and that, over time, the non-conforming use will, where possible, be brought into conformity with the Zoning Code."
2. The following could be argued:
  - a. That the Application is not in harmony with the general purposes and intent of the ordinance.
  - b. That the variance is not consistent with the comprehensive plan.
  - c. That the Applicant for the variance has not established that there are practical difficulties in complying with the zoning ordinance.

## **ADDITIONAL INFORMATION**

Additional information or variance requests from other City Code requirements may be required by the City depending on the work proposed by the Applicant and the information provided to show the proposed work.

## **CONDITIONS**

In accordance with City Code 304.035, a variance shall become null and void one year after it was granted, unless made use of within the year or such longer period as prescribed by the Council.

In accordance with City Code 302.050.1.k., a variance shall not be valid unless the applicant properly records the variance at the property records office at Washington County and a copy of the recording is properly returned to the City for verification.

If approved, a requested variance may be approved subject to the following conditions:

1. All application materials, maps, drawings, and descriptive information submitted with this application shall become part of the building permit.
2. Land alteration may not cause adverse impact upon abutting property.



207 Birchwood Avenue  
Birchwood Village, MN 55110  
651-426-3403 (tel) / 651-426-7747 (fax)  
Info@CityofBirchwood.com  
www.CityofBirchwood.com

Re: Variance 2023-02-VB Extension

April 28, 2023

Al and Sue Reiss  
20693 ENCHANTMENT DR N  
SURPRISE, AZ 85387

Dear Mr. and Mrs. Reiss,

The City of Birchwood Village received a request for variance with a case number of 23-02-VB; and the City will be extending the final decision-making deadline on such variance until June 13<sup>th</sup>, 2023, due to the need to send renotification of the public hearing to the surrounding residents referencing the correct property address. We invite you to attend the City Council meeting on June 13<sup>th</sup>, 2023, at 6:45 PM as well as the Planning Commission Meeting on May 25<sup>th</sup> at 7:00 PM, where a public hearing for the variance request will be held. Please let me know if you have any questions.

Regards,  
Rebecca Kellen  
City Administrator

## 423 Wildwood Ave building variance

Jon Fleck <jon@makinbacon.com>

Tue 5/9/2023 3:17 PM

To: **City of Birchwood Village** <info@cityofbirchwood.com>

Planning Commission members;

Thank you all for all that you do! I know it is thankless - and yet important work that you do on behalf of Birchwood.

Thank you for the notification regarding the construction of a home at 423 Wildwood. My wife, Susan and I were the previous owners of the 423 Wildwood property and currently own 160 feet of frontage at 400 Wildwood, as well as our primary residence at 425 Hall Ave. I'm well versed on that lot having contemplated construction there myself.

We are thrilled to have a young family invest in a new home on that lot. When we sold it - their young family is what we really embraced!

I discourage the applicants from seeking a setback variance from the road. It will result in a non compliant structure that brings with it a short driveway on a hill. Carving out a garage in to that hillside, with an attached home, lends itself well to that topography. A detached garage and an outdoor walk down to a home in my view is far less desirable, unsafe and counter to staying within the street setback code.

I do not believe there is a practical difficulty on the north side of the lot that would support a variance. I am opposed to this request. If anything, that home/garage should be placed further from the structures that are both currently within a few feet of that property line. Frankly, I would stay away from either of those structures for a number of reasons.

Although I appreciate the challenges of building on that lot - it appears that both of these requests are driven by preference vs practical difficulty.

I will not be able to attend the 25th but do appreciate your service, your investment in our community and our soon to be new neighbors!

Sincerely,

Jonathan Fleck  
400 Wildwood  
425 Hall



# City of Birchwood Village

## Petition for Variance Application

207 Birchwood Ave, Birchwood, MN 55110

Phone: 651-426-3403 Fax: 651-426-7747

Email: info@cityofbirchwood.com

### FOR OFFICIAL USE ONLY

Application Received Date: 4/19/23

Amount Paid: \$3600.00

Payment Type: **Check**

Check#290 (fee) #291 (escrow)

Application Complete? Yes No If no, date application was deemed complete: \_\_\_\_\_

Signature of City Planner: \_\_\_\_\_ Date: \_\_\_\_\_

*Completed requests for variances submitted prior to the first Thursday of the month will be considered by the Planning Commission at its next meeting on the fourth Thursday of the month. Requests submitted after the first Thursday of the month will be considered at the following meeting. All final decisions on variance applications are made by the City Council, which meets on the second Tuesday every month.*

1. Name of Applicant(s) Kevin & Jamie Heisdorffer

Address 423 Wildwood Ave

City Birchwood Village State MN Zip Code 55406

Business Phone \_\_\_\_\_ Home Phone 972-467-6565

2. Address of Property Involved if different from above: \_\_\_\_\_

3. Name of Property Owner(s) if different from above and describe Applicant's interest in the property:  
\_\_\_\_\_  
\_\_\_\_\_

4. Specific Code Provision from which Variance is requested: 302.020

5. Describe in narrative form what the Applicant is proposing to do that requires a variance:

1) Build garage setback 26.01' from property line along Wildwood Ave, placed in-line with existing structures on adjacent properties.

2) Build new garage setback 8.02' from northern property line.

6. Type of Project:

- New Construction (empty lot)
- Addition
- Demolition
- Landscaping
- Repair or removal of nonconforming structure
- Other (describe) \_\_\_\_\_

7. Type of Structure Involved:

- |   |  |
|---|--|
| <input type="checkbox"/> Single Dwelling        | <input type="checkbox"/> Double Dwelling |
| <input checked="" type="checkbox"/> Garage      | <input type="checkbox"/> Addition        |
| <input type="checkbox"/> Tennis Court           | <input type="checkbox"/> Pool            |
| <input type="checkbox"/> Grading/Filling        |  |
| <input type="checkbox"/> Other (describe) _____ |  |

8. Using the criteria from the City Code for a variance (see last page), explain why a variance is justified in this situation and describe what “Practical Difficulties” exist:

The lot is practically difficult to build on based on the existing topography of the lot (not practical to push the garage further down the hill), width of the lot (not practical for side entry garage), and encroachments of existing adjacent properties (both over the property line, as well as within current setback requirements). We plan to locate the garage in-line with existing structures on adjacent properties and believe this location is in harmony with the intent of the ordinance, consistent with comprehensive plan, and maintains the character of Birchwood.

9. Describe any measures the Applicant is proposing to undertake if the variance is granted, including measures to decrease the amount of water draining from the property:

Applicant is proposing to build new family home on vacant lot to add to the character of the neighborhood and increase revenue for the City. Applicant will decrease the amount of water draining from the property by means of rain garden, terracing, and pervious surface.

10. Describe any alternatives the Applicant considered (if any) that do not require a variance:

Many alternatives were considered. Attached garage not practical due to existing topography of the lot (steep slope). Side entry garage not practical due to width of lot. Entry from unimproved Park Ave not practical. Tuck-under garage and building consolidation not practical due to height restrictions.

11. Can an emergency vehicle (Fire Truck or Ambulance) access all structures on the property after the proposed change?      Yes       No

emergency vehicle access from Wildwood Ave and un-improved Park Ave

12. Does the proposed change bring any other nonconforming use into conformity with the City Building Code?      Yes       No

If yes, explain: \_\_\_\_\_  
 \_\_\_\_\_

13. Are there other governmental regulations that apply to the proposed action, including requirements of the Rice Creek Watershed District?      Yes       No

If yes, please identify the regulations AND attach evidence demonstrating compliance:  
 \_\_\_\_\_

14. Please provide the applicable information in the following Table:

	<b>EXISTING</b>	<b>PROPOSED</b>	<b>CHANGE</b>
<b>1. Total Square Footage of Lot</b>	12,808 SF	12,808 SF	0
<b>2. Maximum Impervious Surface (25% of item 1)</b>	3,202 SF	3,202 SF	0
<b>3. Roof Surface</b>	0	2,882 SF (h + g)	2,882
<b>4. Sidewalks</b>	110 SF	172 SF	62
<b>5. Driveways</b>	0	0	0
<b>6. Other Impervious Surface</b>	0	148 SF (future)	148
<b>7. Total of Items 3-6</b>	110 SF	3,202 SF	3,092
<b>8. Percent Impervious Surface</b>	0.9 %	25.0 %	24.1%

15. Please attach the following:

- Legal description of property.
- Plot plan drawn to scale showing existing and proposed new and changed structures on the lot. Also show existing structures on adjacent lots.

\* Please see attached Site Survey, Proposed Site Plan, Proposed Grading Plan, and preliminary Design Documents attached to this application.



**Criteria for Granting a Variance.** Pursuant to Minn. Stat. Sec. 462.357, subd. 6, as it may be amended from time to time, the Planning Commission may issue recommendations to the City Council for variances from the provisions of this zoning code. A variance is a modification or variation of the provisions of this zoning code as applied to a specific piece of property.

Variances to the strict application of the provisions of the Code may be granted, however, no variance may be granted that would allow any use that is prohibited within the City. Conditions and safeguards may be imposed on the variances so granted. A variance shall not be granted unless the following criteria are met:

**SUBD. 1.**

- A. Variances shall only be permitted
  - i. when they are in harmony with the general purposes and intent of the ordinance and
  - ii. when the variances are consistent with the comprehensive plan.
- B. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance.

**SUBD. 2.** "Practical difficulties," as used in connection with the granting of a variance, means that

- i. Special conditions or circumstances exist which are peculiar to the land, structure, or building involved.
- ii. The condition which result in the need for the variance were not created by the applicant's action or design solution. The applicant shall have the burden of proof for showing that no other reasonable design solution exists.
- iii. The granting of a variance will result in no increase in the amount of water draining from the property.
- iv. Granting the variance will not impair an adequate supply of light and air to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the residents of the City.
- v. No variance shall be granted simply because there are no objections or because those who do not object outnumber those who do.
- vi. Financial gain or loss by the applicant shall not be considered if reasonable use for the property exists under terms of the Zoning Code.

**NOTICE:**

**\*The City and its representatives accept no responsibility for errors and/or damages caused due to incomplete and/or inaccurate information herein. It is the responsibility of the applicant to ensure the accuracy and completeness of this information.**

**\*The City will hold applicant responsible for any damage to public property that occurs in the course of performing the activities of this permit.**

**\*Under penalty of perjury the applicant declares that the information provided in and enclosed herewith is complete and all documents represented are true and correct representations of the actual project/building that will be built in conformance with such representation if approved.**

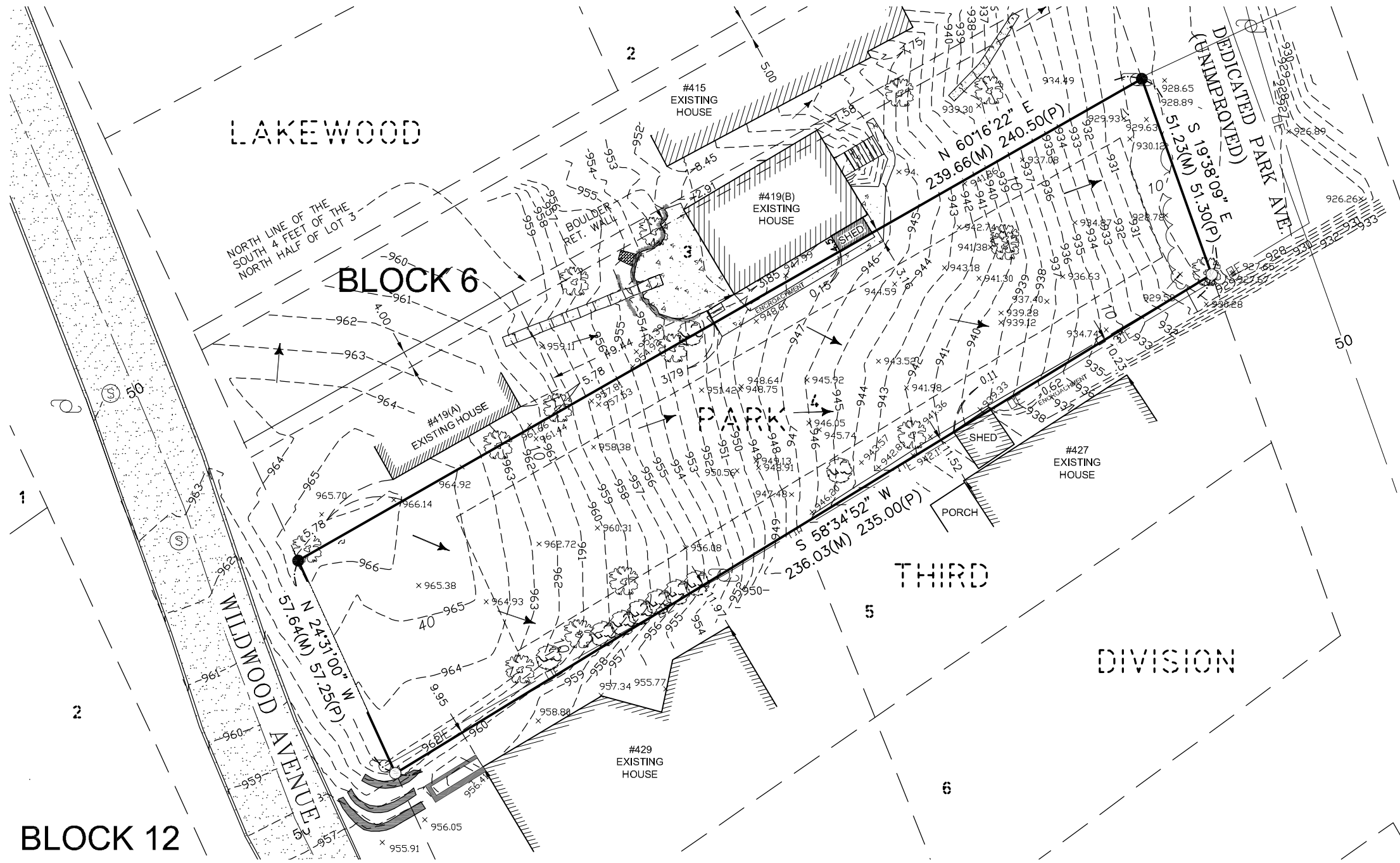
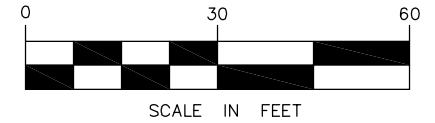
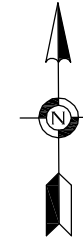
Signature of Applicant: Kevin & Jamie Heisdorffer Date: 4/7/2023

# EXISTING TOPOGRAPHY

-for-

## KEVIN HEISDORFFER

Call 48 Hours before digging  
**GOPHER STATE ONE CALL**  
 Twin Cities Area 651-454-0002  
 MN. Toll Free 1-800-252-1166



### LEGEND

- DENOTES FOUND PROPERTY IRON
- DENOTES SET 1/2" X 18" REBAR WITH PLASTIC CAP "PLS 25105"
- DENOTES BOUNDARY LINE
- DENOTES LOT LINE
- - - DENOTES PROPERTY LINE
- x999.99 DENOTES EXISTING SPOT ELEVATION
- DENOTES CONCRETE SURFACE
- - - 999 - - - DENOTES EXISTING CONTOUR LINE
- FFE DENOTES FINISH FLOOR ELEVATION
- ▨ DENOTES BITUMINOUS SURFACE
- ⊕ DENOTES BUSH
- ⊕ DENOTES DECIDUOUS TREE
- ⊕ DENOTES TREE LINE
- OE— DENOTES OVERHEAD ELECTRIC
- DENOTES WOOD FENCE
- ⊕ DENOTES ELECTRIC POWER POLE
- ⊕ DENOTES SANITARY MANHOLE
- DENOTES RETAINING WALL
- (M) DENOTES MEASURED DISTANCE
- (P) DENOTES PLATTED DISTANCE
- ← DENOTES DRAINAGE FLOW

### NOTES

1. THE BASIS OF THE BEARING SYSTEM IS ASSUMED.
2. NO SPECIFIC SOIL INVESTIGATION HAS BEEN COMPLETED
3. CONTRACTOR SHALL VERIFY PROPOSED ELEVATIONS.
4. NO TITLE INFORMATION WAS PROVIDED FOR THIS SURVEY. THIS SURVEY DOES NOT PURPORT TO SHOW ALL EASEMENTS OF RECORD.
5. EXISTING UTILITIES AND SERVICES SHOWN HEREON OWNER LOCATED EITHER PHYSICALLY ON THE GROUND DURING THE SURVEY OR FROM EXISTING RECORDS MADE AVAILABLE TO US OR BY RESIDENT TESTIMONY. OTHER UTILITIES AND SERVICES MAY BE PRESENT. VERIFICATION AND LOCATION OF UTILITIES AND SERVICES SHOULD BE OBTAIN FROM THE OWNERS OF RESPECTIVE UTILITIES BY CONTACTING GOPHER STATE ONE CALL AT (651) 454-0002 PRIOR TO ANY DESIGN, PLANNING OR EXCAVATION.

### BUILDING SETBACKS

ZONING: R1-1 - LOW DENSITY  
 SINGLE FAMILY-ISLAND  
 HOUSE: FRONT = 40 FT.  
 REAR = 10 FT.  
 SIDE = 10 FT.

### EXISTING HARDCOVER

PORTION OF EXISTING SHED 4 SQ. FT.  
 EXISTING CONC. SURFACE 110 SQ. FT.  
 TOTAL IMPERVIOUS AREA 114 SQ. FT.  
 TOTAL LOT AREA 12,808 SQ. FT.  
 EXISTING HARDCOVER 0.89%

### REFERENCE BENCHMARK

ELEVATION = 919.53 (NGVD 29) MNDOT DISK "MICHEL".

### LEGAL DESCRIPTION

Lot 4, Block 6, LAKEWOOD PARK THIRD DIVISION, Washington County, Minnesota, according to the recorded plat thereof.

NO.	DATE	DESCRIPTION	BY

**ENGINEERING DESIGN & SURVEYING**  
 6480 Wayzata Blvd. Minneapolis, MN 55426  
 OFFICE: (763) 545-2800 FAX: (763) 545-2801  
 EMAIL: info@edsmn.com WEBSITE: http://edsmn.com

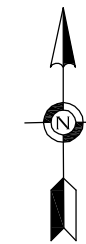
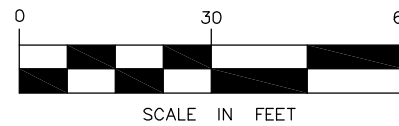
I HEREBY CERTIFY THAT THIS SURVEY WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION, AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

*Vlad Sivriev*  
 VLADIMIR SIVRIEV L.S. NO. 25105 DATED: 03/09/2023

JOB NAME: **KEVIN HEISDORFFER**  
 LOCATION: 423 WILDWOOD AVENUE  
 WHITE BEAR LAKE, MN 55110

FIELD WORK DATE: 11/09/2022  
 DRAWN BY: GST  
 PROJECT NO.: 22-209  
 FIELD BOOK NO.: EDS-15  
 CHECKED BY: VS  
 SHEET NO. 28

# SITE PLAN



Call 48 Hours before digging  
**GOPHER STATE ONE CALL**  
 Twin Cities Area 651-454-0002  
 MN. Toll Free 1-800-252-1166

## LEGEND

- DENOTES FOUND PROPERTY IRON
- DENOTES SET 1/2" X 18" REBAR WITH PLASTIC CAP "PLS 25105"
- DENOTES BOUNDARY LINE
- - - DENOTES LOT LINE
- - - DENOTES PROPERTY LINE
- x999.99 DENOTES EXISTING SPOT ELEVATION
- DENOTES CONCRETE SURFACE
- - - DENOTES EXISTING CONTOUR LINE
- FFE DENOTES FINISH FLOOR ELEVATION
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- DENOTES WOOD FENCE
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- ⊙ DENOTES SANITARY MANHOLE
- DENOTES RETAINING WALL
- (M) DENOTES MEASURED DISTANCE
- (P) DENOTES PLATTED DISTANCE
- ← DENOTES DRAINAGE FLOW

## PROPOSED LEGEND

- DENOTES PROPOSED 2-STORY HOUSE
- DENOTES PROPOSED 1 STORY GARAGE & OFFICE
- DENOTES PROPOSED DECK
- DENOTES PROPOSED SHED
- DENOTES PROPOSED CONCRETE
- xxx.x DENOTES PROPOSED GRADE
- DENOTES PROPOSED BOULDER RETAINING WALL
- DENOTES PROPOSED DOWNSPOUT

## NOTES

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2. NO SPECIFIC SOIL INVESTIGATION HAS BEEN COMPLETED
3. CONTRACTOR SHALL VERIFY PROPOSED ELEVATIONS.
4. NO TITLE INFORMATION WAS PROVIDED FOR THIS SURVEY. THIS SURVEY DOES NOT PURPORT TO SHOW ALL EASEMENTS OF RECORD.
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NO.	DATE	DESCRIPTION	BY

BLOCK 12

LAKEWOOD

BLOCK 6

THIRD

DIVISION

### BUILDING SETBACKS

ZONING: R1-I - LOW DENSITY  
 SINGLE FAMILY-ISLAND  
 HOUSE: FRONT = 40 FT.  
 REAR = 10 FT.  
 SIDE = 10 FT.

### EXISTING HARDCOVER

PORTION OF EXISTING SHED	4 SQ. FT.
EXISTING CONC. SURFACE	110 SQ. FT.
TOTAL IMPERVIOUS AREA	114 SQ. FT.
TOTAL LOT AREA	12,808 SQ. FT.
EXISTING HARDCOVER	0.9%

### PROPOSED HARDCOVER

PROPOSED 2-STORY HOUSE	1,610 SQ. FT.
PROPOSED FUTURE SHED	89 SQ. FT.
PROPOSED 1-STORY GARAGE	1,272 SQ. FT.
PROPOSED CONCRETE SIDEWALKS	172 SQ. FT.
PROPOSED FUTURE HOT TUB	49 SQ. FT.
TOTAL IMPERVIOUS AREA	3,192 SQ. FT.
TOTAL LOT AREA	12,808 SQ. FT.
PROPOSED HARDCOVER	24.9%

NOTE: 100% CREDIT APPLY TO PERMEABLE DRIVEWAY AND SIDEWALKS

### REFERENCE BENCHMARK

ELEVATION = 919.53 (NGVD 29) MNDOT DISK "MICHEL".

### LEGAL DESCRIPTION

Lot 4, Block 6, LAKEWOOD PARK THIRD DIVISION, Washington County, Minnesota, according to the recorded plat thereof.

I HEREBY CERTIFY THAT THIS SURVEY WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION, AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

*Vlad Sivriver*  
 VLADIMIR SIVRIVER L.S. NO. 25105 DATED: 03/09/23

JOB NAME: KEVIN HEISDORFFER

LOCATION: 423 WILDWOOD AVENUE  
 BIRCHWOOD VILLAGE, MN 55110

FIELD WORK DATE: 11/09/2022

FIELD BOOK NO.: EDS-15

DRAWN BY: GST

CHECKED BY: VS

PROJECT NO.: 22-209

SHEET NO. 02

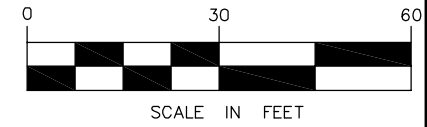


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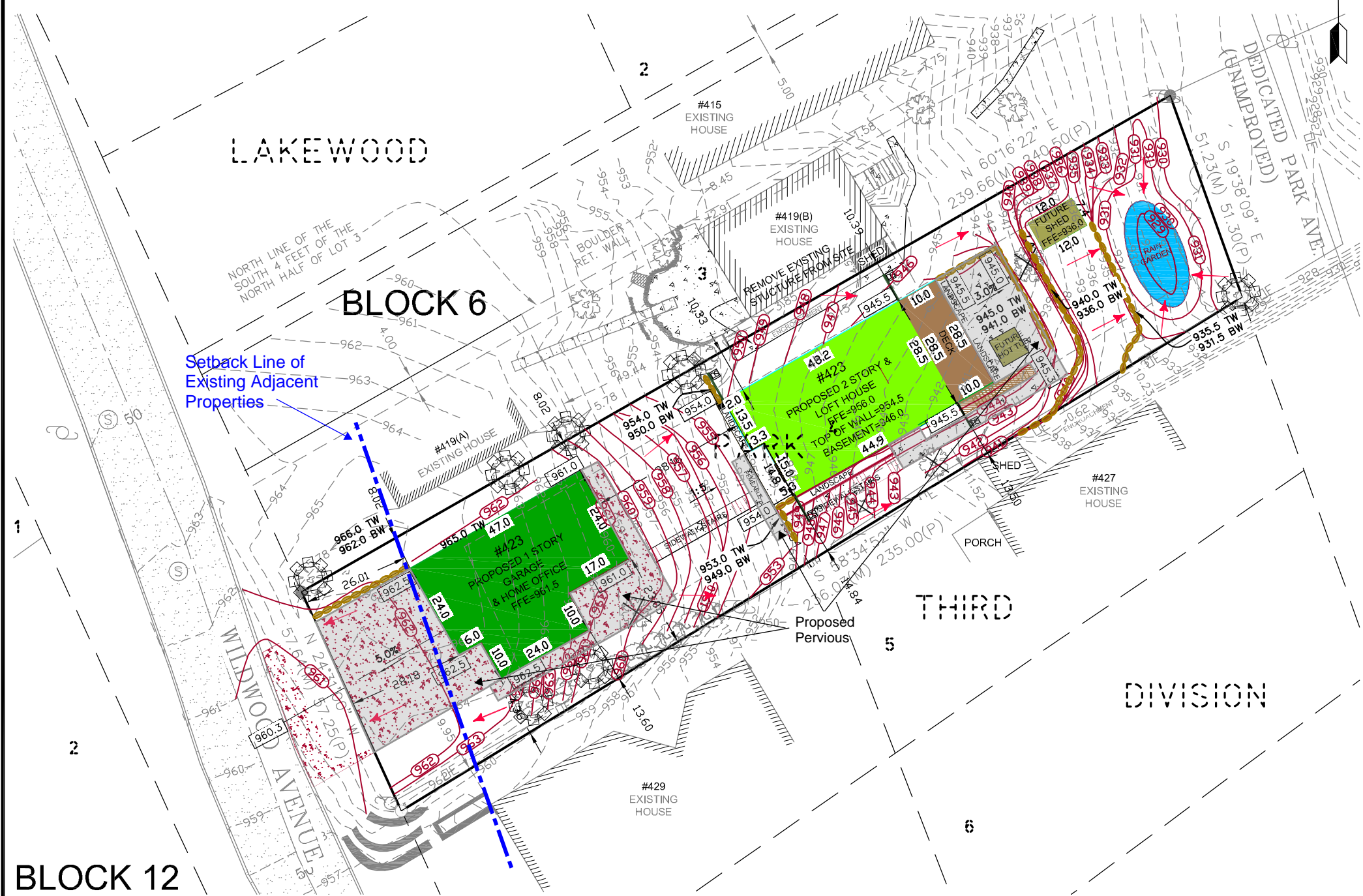




# GRADING AND DRAINAGE PLAN



Call 48 Hours before digging  
**GOPHER STATE ONE CALL**  
 Twin Cities Area 651-454-0002  
 MN. Toll Free 1-800-252-1166



### LEGEND

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- DENOTES PROPOSED SHED
- DENOTES PROPOSED CONCRETE
- XXX.X DENOTES PROPOSED GRADE
- DENOTES PROPOSED GRAIN GARDEN
- DENOTES PROPOSED BOULDER RETAINING WALL
- DENOTES PROPOSED DOWNSPOUT
- DENOTES TREE TO BE REMOVED
- DENOTES TREE TO BE SAVED
- XXX.X DENOTES PROPOSED CONTOURS
- ← DENOTES PROPOSED DRAINAGE FLOW

### NOTES

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4. NO TITLE INFORMATION WAS PROVIDED FOR THIS SURVEY. THIS SURVEY DOES NOT PURPORT TO SHOW ALL EASEMENTS OF RECORD.
5. EXISTING UTILITIES AND SERVICES SHOWN HEREON OWNER LOCATED EITHER PHYSICALLY ON THE GROUND DURING THE SURVEY OR FROM EXISTING RECORDS MADE AVAILABLE TO US OR BY RESIDENT TESTIMONY. OTHER UTILITIES AND SERVICES MAY BE PRESENT. VERIFICATION AND LOCATION OF UTILITIES AND SERVICES SHOULD BE OBTAIN FROM THE OWNERS OF RESPECTIVE UTILITIES BY CONTACTING GOPHER STATE ONE CALL AT (651) 454-0002 PRIOR TO ANY DESIGN, PLANNING OR EXCAVATION.

NO.	DATE	DESCRIPTION	BY

### LEGAL DESCRIPTION

Lot 4, Block 6, LAKEWOOD PARK THIRD DIVISION, Washington County, Minnesota, according to the recorded plat thereof.

### REFERENCE BENCHMARK

ELEVATION = 919.53 (NGVD 29) MNDOT DISK "MICHEL".

### PROPOSED HARDCOVER

PROPOSED 2-STORY HOUSE	1,610 SQ. FT.
PROPOSED FUTURE SHED	89 SQ. FT.
PROPOSED 1-STORY GARAGE	1,272 SQ. FT.
PROPOSED CONCRETE SIDEWALKS	172 SQ. FT.
PROPOSED FUTURE HOT TUB	49 SQ. FT.
TOTAL IMPERIOUS AREA	3,192 SQ. FT.
TOTAL LOT AREA	12,808 SQ. FT.
PROPOSED HARDCOVER	24.9%

NOTE: 100 % CREDIT APPLY TO PERMEABLE DRIVEWAY AND SIDEWALKS

### BUILDING SETBACKS

ZONING: R1-I - LOW DENSITY  
 SINGLE FAMILY-ISLAND  
 HOUSE: FRONT = 40 FT.  
 REAR = 10 FT.  
 SIDE = 10 FT.

BLOCK 12

**ENGINEERING DESIGN & SURVEYING**  
 6480 Wayzata Blvd. Minneapolis, MN 55426  
 OFFICE: (763) 545-2800 FAX: (763) 545-2801  
 EMAIL: info@edsmn.com WEBSITE: http://edsmn.com

I HEREBY CERTIFY THAT THIS SURVEY WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION, AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

*Vlad Sivriver*  
 VLADIMIR SIVRIVER L.S. NO. 25105 DATED: 03/09/23

JOB NAME: KEVIN HEISDORFFER  
 LOCATION: 423 WILDWOOD AVENUE  
 BIRCHWOOD VILLAGE, MN 55110

FIELD WORK DATE: 11/09/2022  
 FIELD BOOK NO.: EDS-15

DRAWN BY: GST  
 CHECKED BY: VS

PROJECT NO.: 22-209  
 SHEET NO. C3

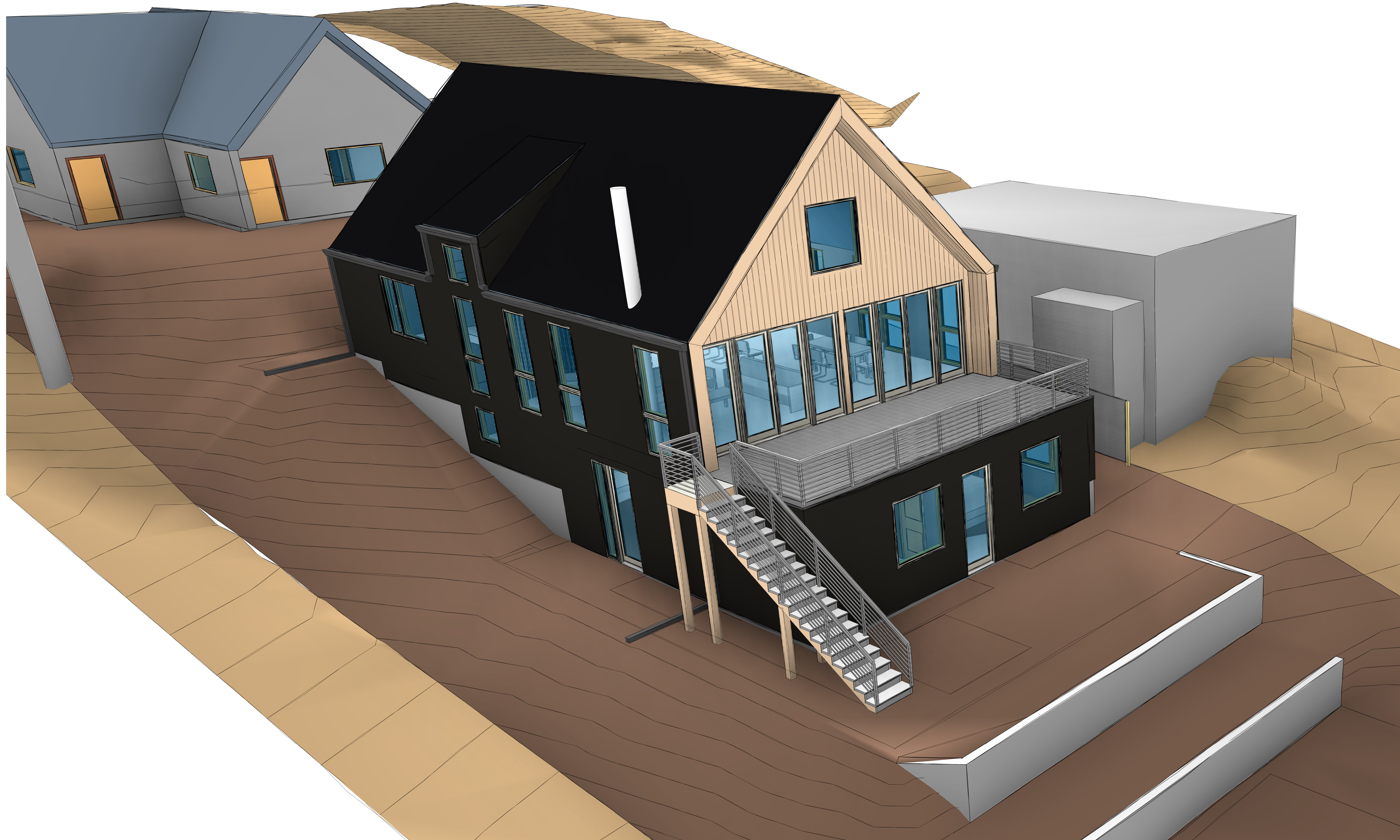


# Heisdorffer House Proposal

423 Wildwood Avenue, White Bear Lake, MN 55110

## SHEET LIST

1	COVER	4/7/23
2	SITE AND FOUNDATION PLAN	4/7/23
3	FLOOR PLANS	4/7/23
4	HOUSE ELEVATIONS EXTERIOR	4/7/23
5	SECTIONS	4/7/23
6	GARAGE PLAN AND ELEVATIONS	4/7/23
7	ISOMETRIC VIEWS EXTERIOR	4/7/23



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HEISDORFFER HOUSE  
423 WILDWOOD AVENUE  
WHITE BEAR LAKE, MN  
KEVIN & JAMIE HEISDORFFER

SHEET ISSUED: 4/7/23

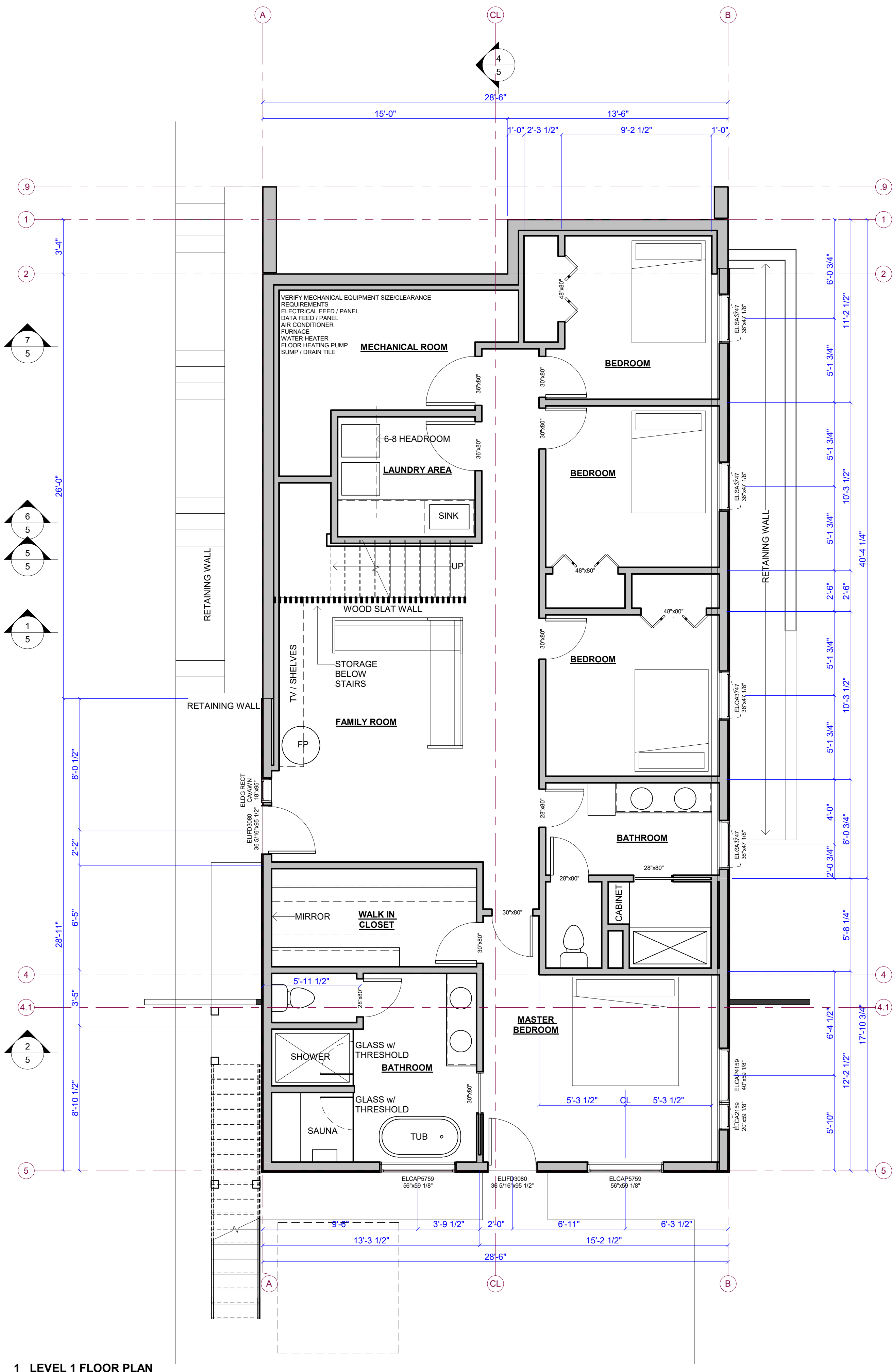
COVER

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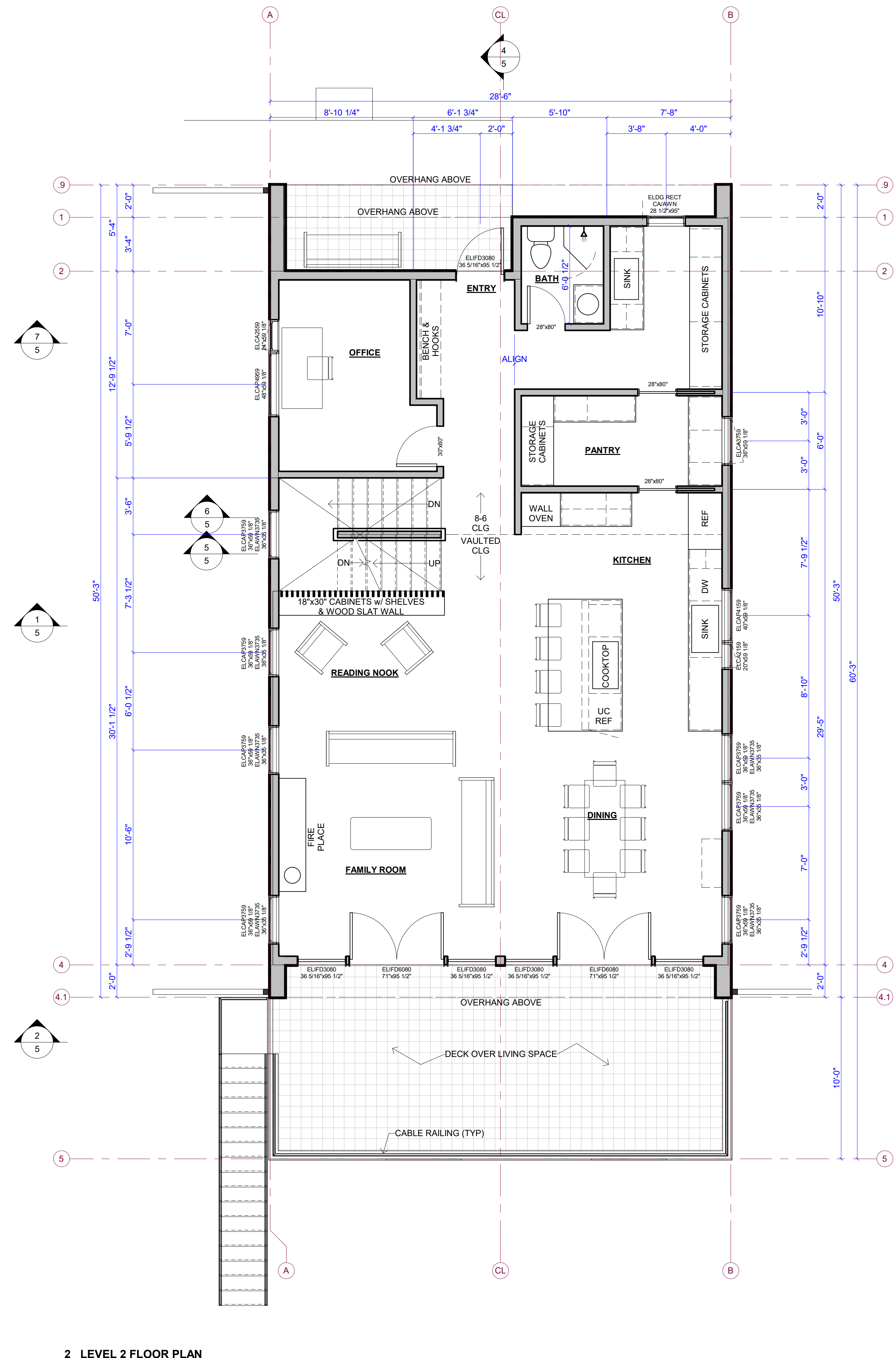




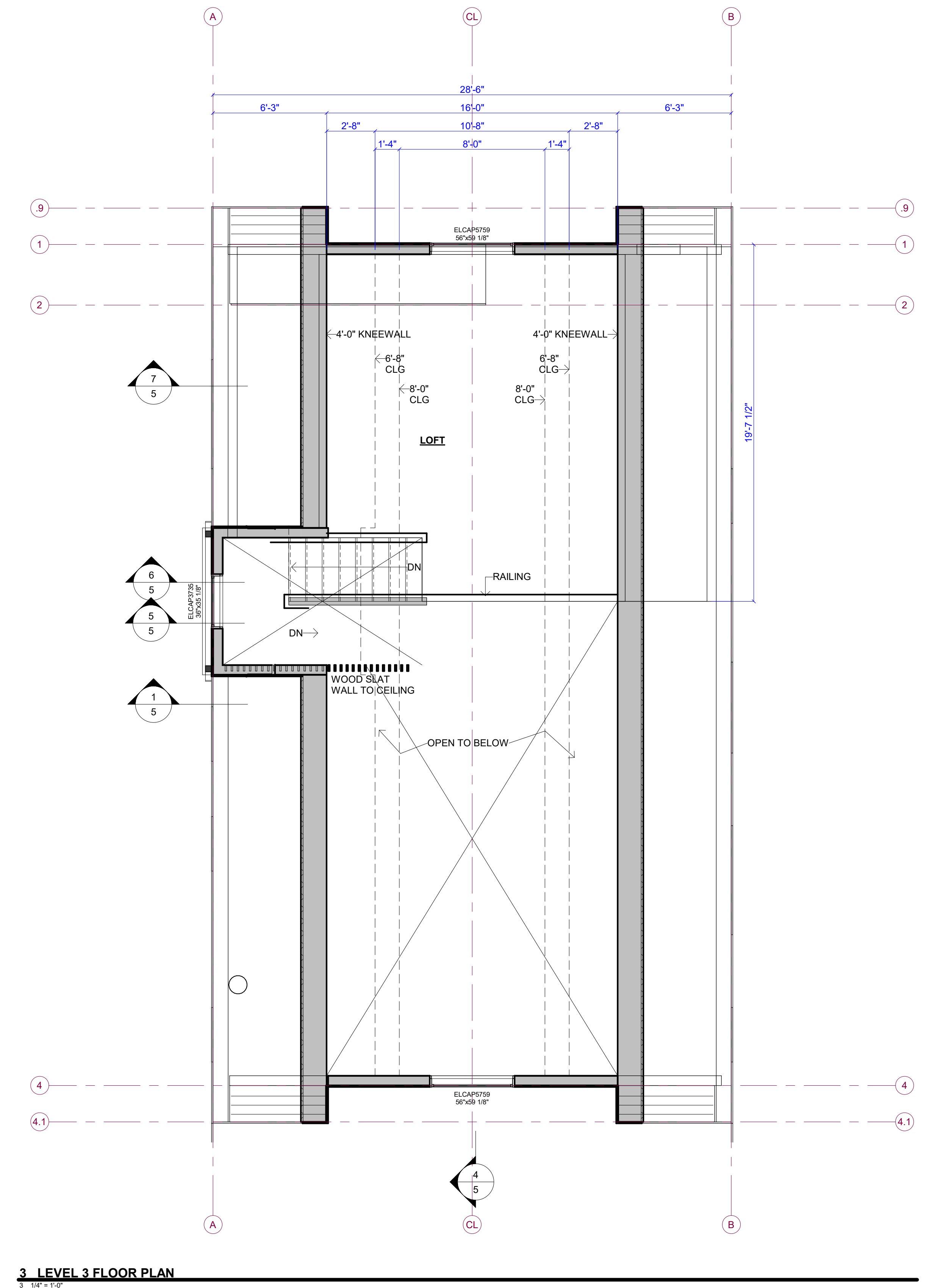




1 LEVEL 1 FLOOR PLAN  
3-10-17



2 LEVEL 2 FLOOR PLAN  
3-10-17

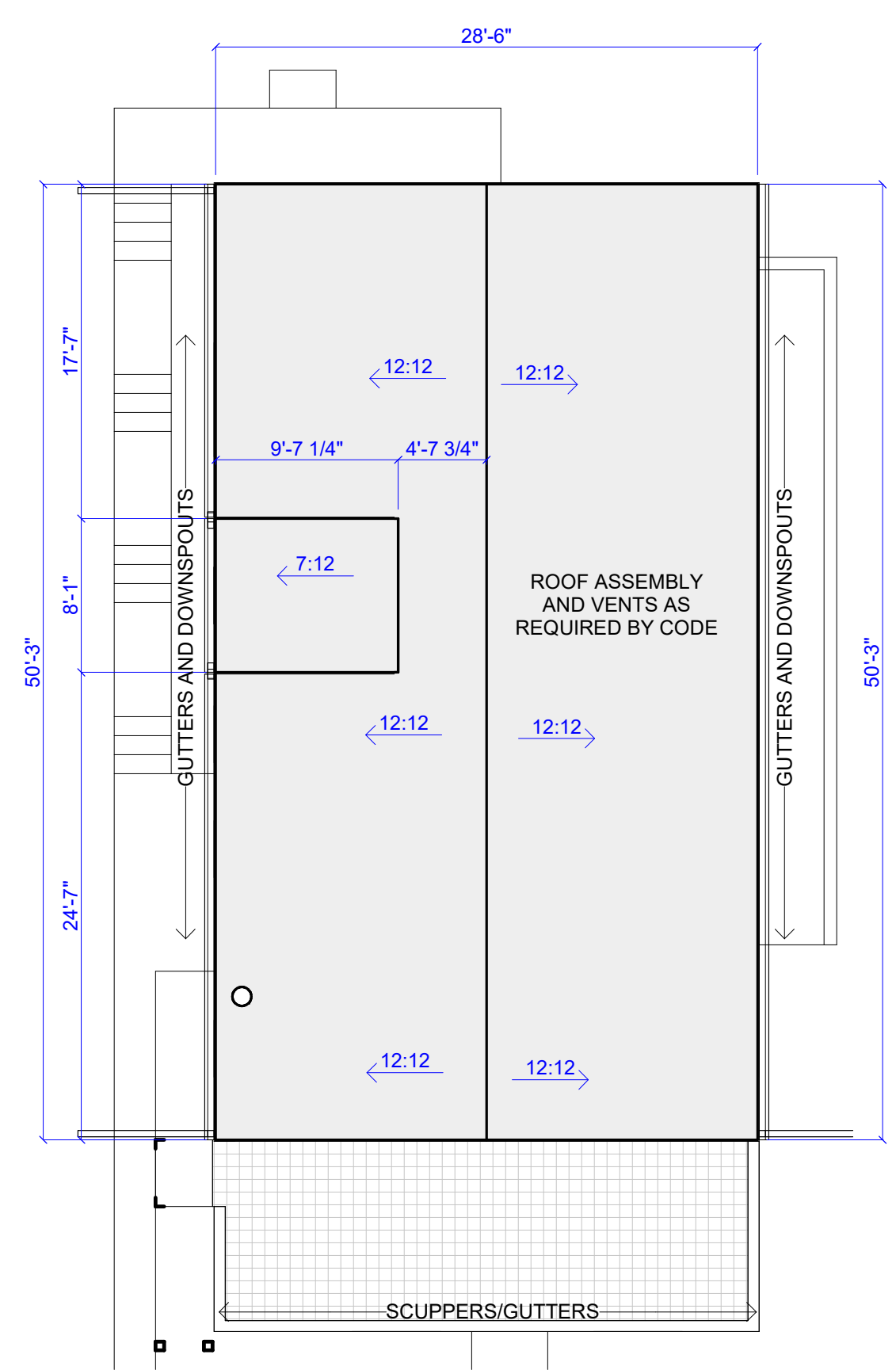


3 LEVEL 3 FLOOR PLAN  
3-10-17

DOOR SCHEDULE						
MANUFACTURER	TYPE	SIZE	TYPE MARK	LEVEL	QTY	
	Door-Garage-Embossed_Panel	8'-0" x 7'-0"	2-4x6-16	GARAGE FLOOR	3	
TYPE TBD	6-PANEL SWINGING	28' x 80"	2-4x6-8	GARAGE FLOOR	1	
TYPE TBD	6-PANEL SWINGING	36' x 80"	3-0x6-8	GARAGE FLOOR	3	
TYPE TBD	INT 6-PANEL POCKET	28' x 80"	(P) 2-4x6-8	L1 FLOOR (LOWER)	1	
TYPE TBD	INT 6-PANEL SWINGING	28' x 80"	2-4x6-8	L1 FLOOR (LOWER)	3	
TYPE TBD	INT 6-PANEL SWINGING	30' x 80"	2-6x8-8	L1 FLOOR (LOWER)	5	
TYPE TBD	INT 6-PANEL POCKET	30' x 80"	(P) 2-4x6-8	L1 FLOOR (LOWER)	1	
TYPE TBD	INT 6-PANEL SWINGING	36' x 80"	3-0x6-8	L1 FLOOR (LOWER)	2	
TYPE TBD	INT PANEL BH-FOLD	48" DBL	4-0x6-8	L1 FLOOR (LOWER)	3	
Marvin Windows and Doors	Door-Entry-Marvin-Inswinging_1_Panel_French_Door-Elevate	ELIFD3080	2-6x6-12	L1 FLOOR (LOWER)	2	
TYPE TBD	INT 6-PANEL POCKET	28' x 80"	(P) 2-4x6-8	L2 FLOOR (MAIN)	2	
TYPE TBD	INT 6-PANEL SWINGING	28' x 80"	2-4x6-8	L2 FLOOR (MAIN)	1	
TYPE TBD	INT 6-PANEL SWINGING	30' x 80"	2-6x8-8	L2 FLOOR (MAIN)	1	
Marvin Windows and Doors	Door-Entry-Marvin-Inswinging_1_Panel_French_Door-Elevate	ELIFD3080	2-6x6-12	L2 FLOOR (MAIN)	5	
Marvin Windows and Doors	Door-Entry-Marvin-Inswinging_2_Panel_French_Door-Elevate	ELIFD6080	2-6x6-11	L2 FLOOR (MAIN)	2	
					35	

WINDOW SCHEDULE						
MANUFACTURER	TYPE	SIZE	TYPE MARK	LEVEL	QTY	
	generic TYPE TBD	7'2" x 48"	22	GARAGE FLOOR	3	
Marvin Windows and Doors	Window-Casement-Marvin-Picture-Elevate	CUSTOM 18"x95"	2-6x8-14	L1 FLOOR (LOWER)	1	
Marvin Windows and Doors	Window-Awning-Marvin-Elevate	ELAWN3735	2-6x8-1	L1 FLOOR (LOWER)	1	
Marvin Windows and Doors	Window-Casement-Marvin-Elevate	ELCA2159	2-6x8-3	L1 FLOOR (LOWER)	1	
Marvin Windows and Doors	Window-Casement-Marvin-Elevate	ELCA3747	2-6x8-2	L1 FLOOR (LOWER)	4	
Marvin Windows and Doors	Window-Casement-Marvin-Picture-Elevate	ELCAP4159	2-6x8-7	L1 FLOOR (LOWER)	1	
Marvin Windows and Doors	Window-Casement-Marvin-Picture-Elevate	ELCAP759	2-6x8-9	L1 FLOOR (LOWER)	2	
Marvin Windows and Doors	Window-Awning-Marvin-Picture-Elevate	CUSTOM 28-1/2"x95"	2-6x8-15	L2 FLOOR (MAIN)	1	
Marvin Windows and Doors	Window-Awning-Marvin-Elevate	ELAWN3735	2-6x8-1	L2 FLOOR (MAIN)	7	
Marvin Windows and Doors	Window-Casement-Marvin-Elevate	ELCA2159	2-6x8-3	L2 FLOOR (MAIN)	1	
Marvin Windows and Doors	Window-Casement-Marvin-Elevate	ELCA2599	2-6x8-4	L2 FLOOR (MAIN)	1	
Marvin Windows and Doors	Window-Casement-Marvin-Elevate	ELCA3759	2-6x8-5	L2 FLOOR (MAIN)	1	
Marvin Windows and Doors	Window-Casement-Marvin-Picture-Elevate	ELCAP759	2-6x8-11	L2 FLOOR (MAIN)	7	
Marvin Windows and Doors	Window-Casement-Marvin-Picture-Elevate	ELCAP4159	2-6x8-7	L2 FLOOR (MAIN)	1	
Marvin Windows and Doors	Window-Casement-Marvin-Picture-Elevate	ELCAP4959	2-6x8-8	L2 FLOOR (MAIN)	1	
Marvin Windows and Doors	Window-Casement-Marvin-Picture-Elevate	ELCAP3735	2-6x8-6	L3 FLOOR (LOFT)	1	
Marvin Windows and Doors	Window-Casement-Marvin-Picture-Elevate	ELCAP759	2-6x8-9	L3 FLOOR (LOFT)	2	
					36	

**GENERAL NOTES:**  
 GENERAL CONTRACTOR TO REVIEW ALL STRUCTURAL, MECHANICAL, FINISH COMPONENTS, AND OVERALL BUILDING DESIGN ARE COMPLIANT WITH CODES AND APPROPRIATE INSTALLATION STANDARDS.  
 \*EXTERIOR WALL AND ROOF CONSTRUCTION TBD.  
 -INTERIOR WALL FINISH MATERIAL TBD.  
 \*INTERIOR WALLS TO BE 2X4 + WALL FINISH MATERIAL TBD.  
 \*CEILING FINISH MATERIAL TBD.  
 \*FLOOR FINISHES TBD.  
 -VERIFY ALL FLOOR FINISHES WITH OWNER AND GENERAL CONTRACTOR.  
 \*WINDOWS ARE DRAWN WITH GENERIC-SIZE PLACEHOLDERS.  
 -SPECIFY WINDOW TYPE (CASEMENT, DBL HUNG, ETC) TBD.  
 \*EXTERIOR FINISHES:  
 VERIFY ALL EXTERIOR FINISH MATERIALS WITH OWNER AND GENERAL CONTRACTOR, VERIFY IMPACT OF EXTERIOR FINISHES WITH OTHER ELEMENTS INCLUDING WINDOWS, DOORS, AND MECHANICAL.  
 -SIDING - TBD.  
 -ROOF - TBD.  
 -SOFFIT/FASCIA - TBD.  
 \*ROOF AND FLOOR STRUCTURES AND SUPPORTING MEMBERS INCLUDING FOOTINGS, WALLS, RETAINING WALLS, HEADERS, COLUMNS, BEAMS, ETC TO BE TO BE STRUCTURALLY DESIGNED BY GENERAL CONTRACTOR.  
 -WHEN THE STRUCTURAL MEMBERS ARE SELECTED, CAREFULLY REVIEW THE IMPACT OF THE MEMBER SIZES WITH THE BUILDING DESIGN AND LAYOUT.  
 \*LIGHTING AND CEILING FANS TBD.  
 -MECHANICAL SIZES AND CLEARANCES TO BE VERIFIED PRIOR TO CONSTRUCTION. CHECK MECHANICAL ROOM SIZE REQUIREMENTS.  
 -ROUTING OF ALL MEP WORK BY GENERAL CONTRACTOR, VERIFY ROUTING REQUIREMENTS WITH FRAMING AND FINISHES.  
 \*FIRE, SMOKE, AND CARBON MONOXIDE DETECTORS TO BE INSTALLED AS REQUIRED BY CODE.  
**ROOF NOTES:**  
 \*ROOF AND SOFFIT VENTS AS REQUIRED.  
 \*ROOF UNDERLAY MATERIALS AS REQUIRED PER CODE.  
 \*INSULATION AND VAPOR BARRIER AT INTERIOR AS REQUIRED BY CODE.



4 ROOF PLAN  
3-10-17

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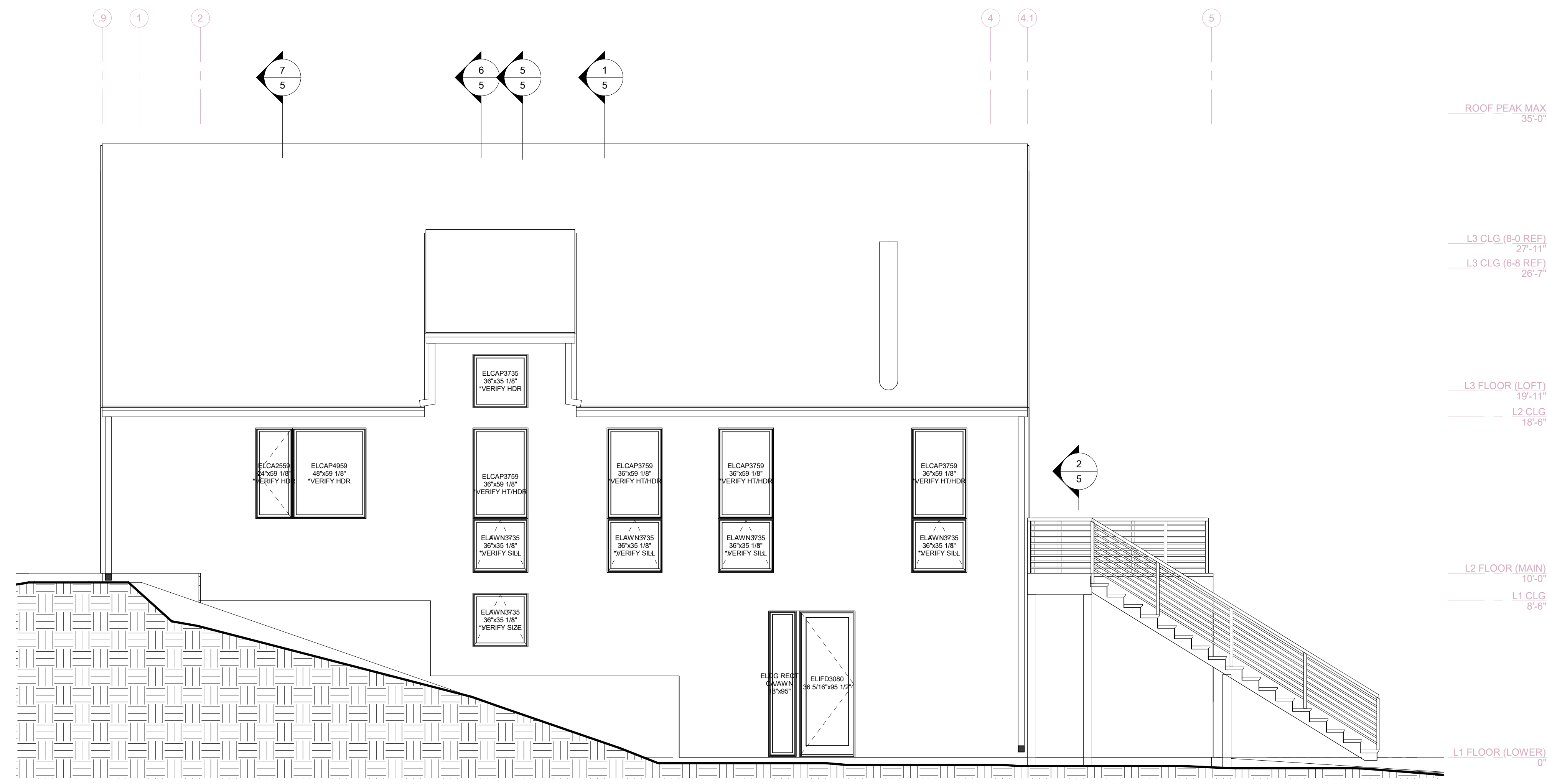
**PROJECT:**  
 HEISDORFFER HOUSE  
 423 WILDWOOD AVENUE  
 WHITE BEAR LAKE, MN  
 KEVIN & JAMIE HEISDORFFER

SHEET ISSUED: 4/7/23

**FLOOR PLANS**

**3**





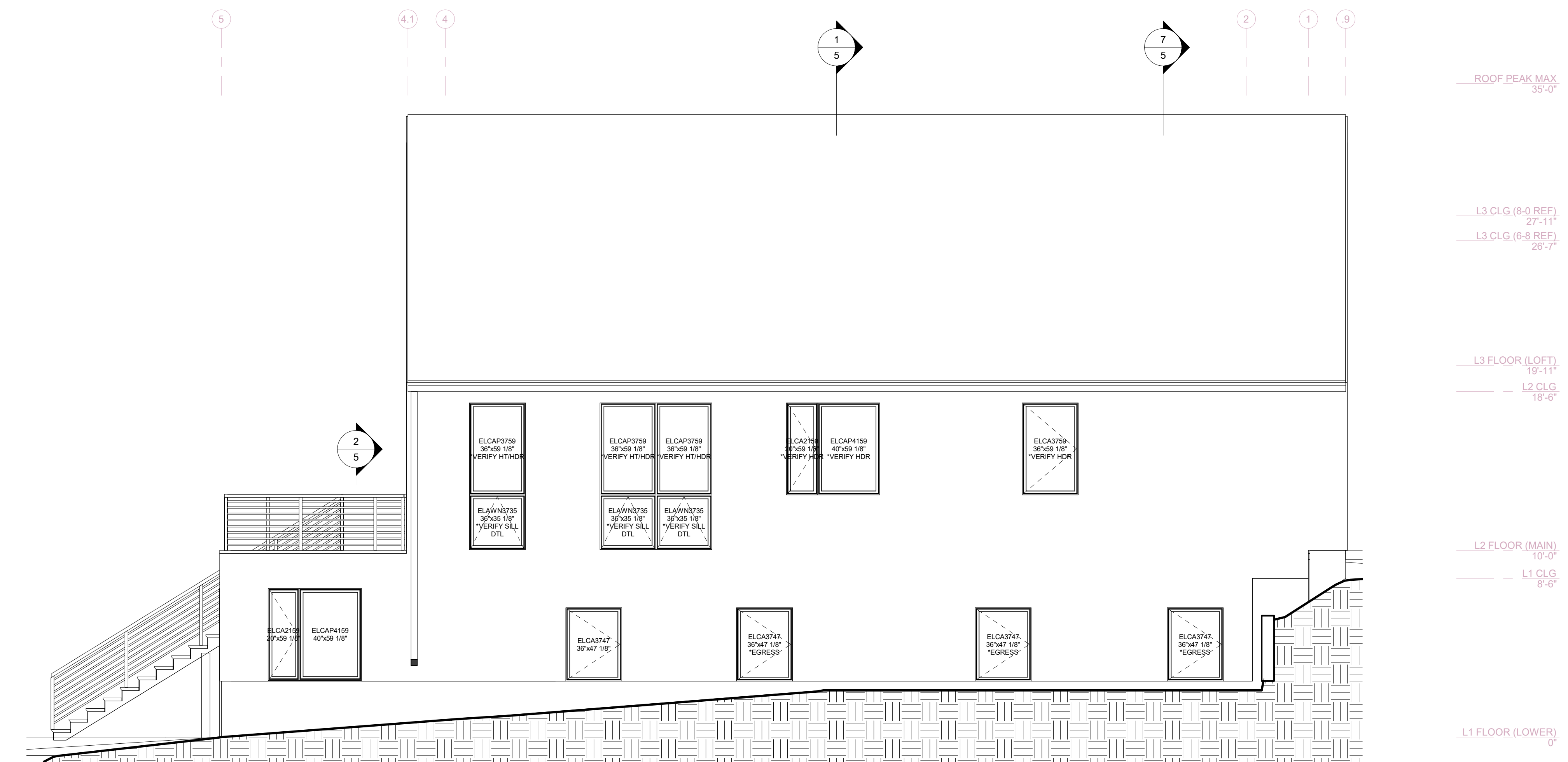
1 HOUSE SOUTH ELEVATION (SIDE)

4/25/23



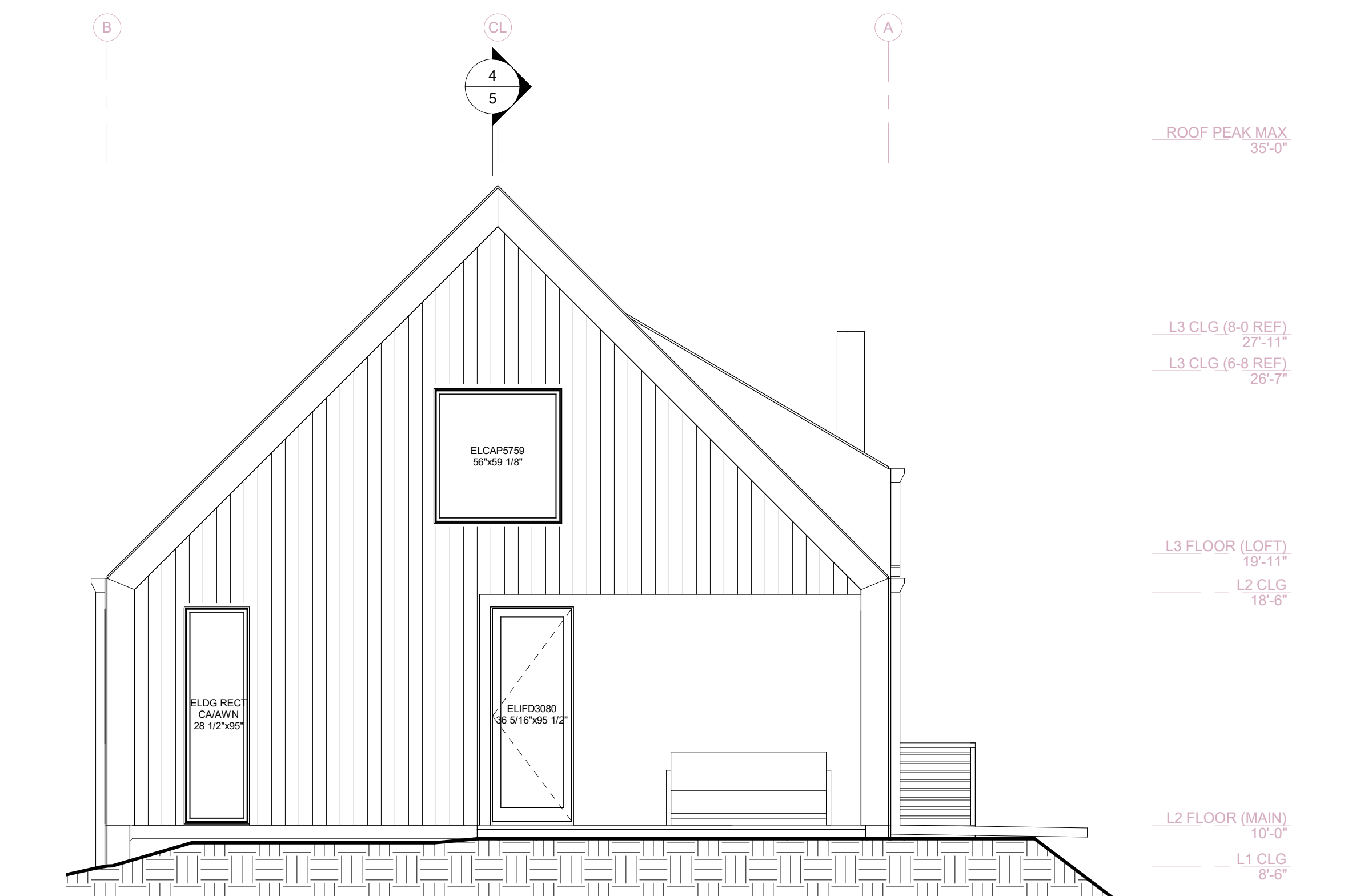
2 HOUSE EAST ELEVATION (PARK/LAKE)

4/25/23



3 NORTH ELEVATION (SIDE)

4/25/23



4 HOUSE WEST ELEVATION (WILDWOOD/GARAGE)

4/25/23

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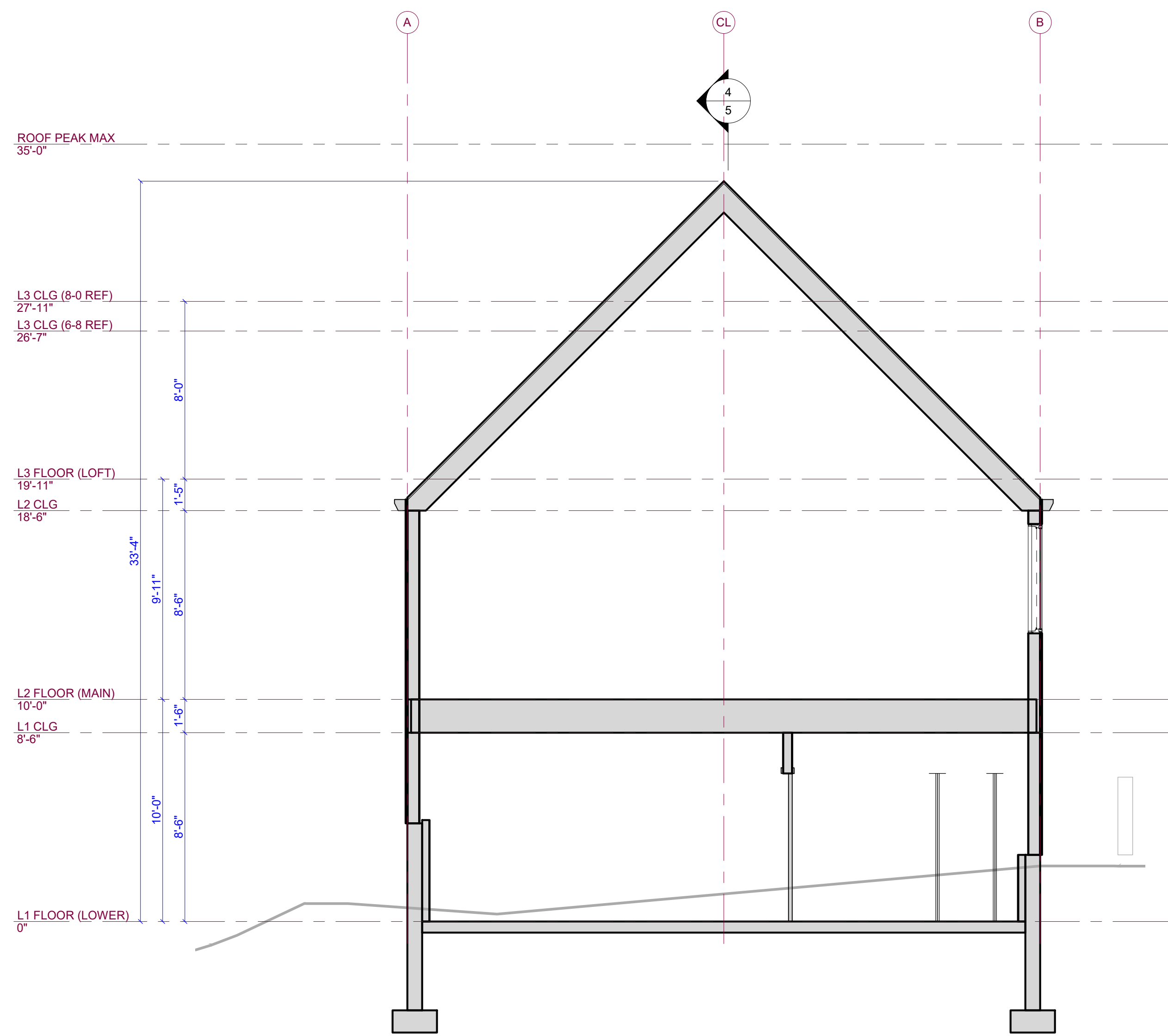
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HOUSE ELEVATIONS EXTERIOR

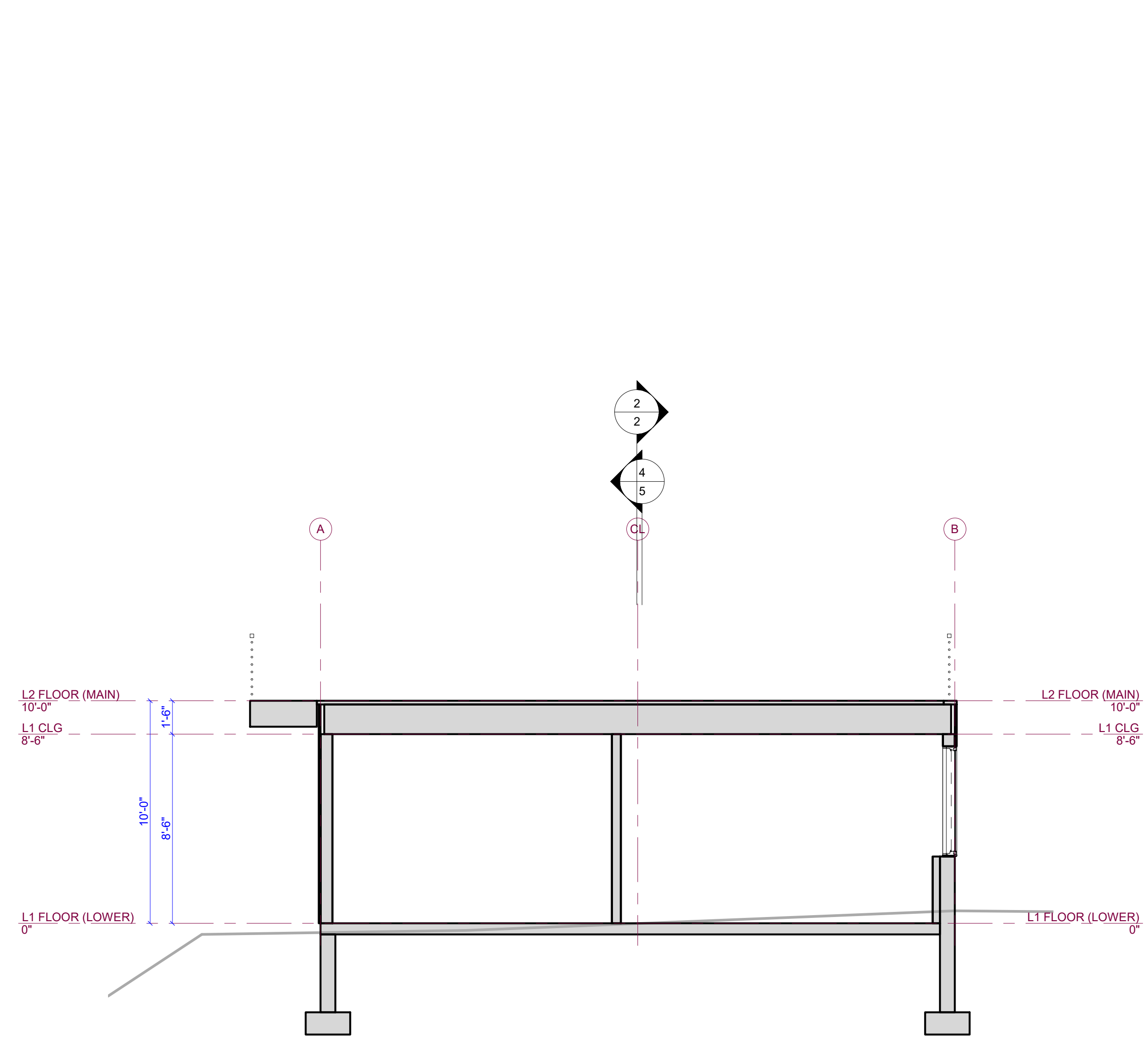
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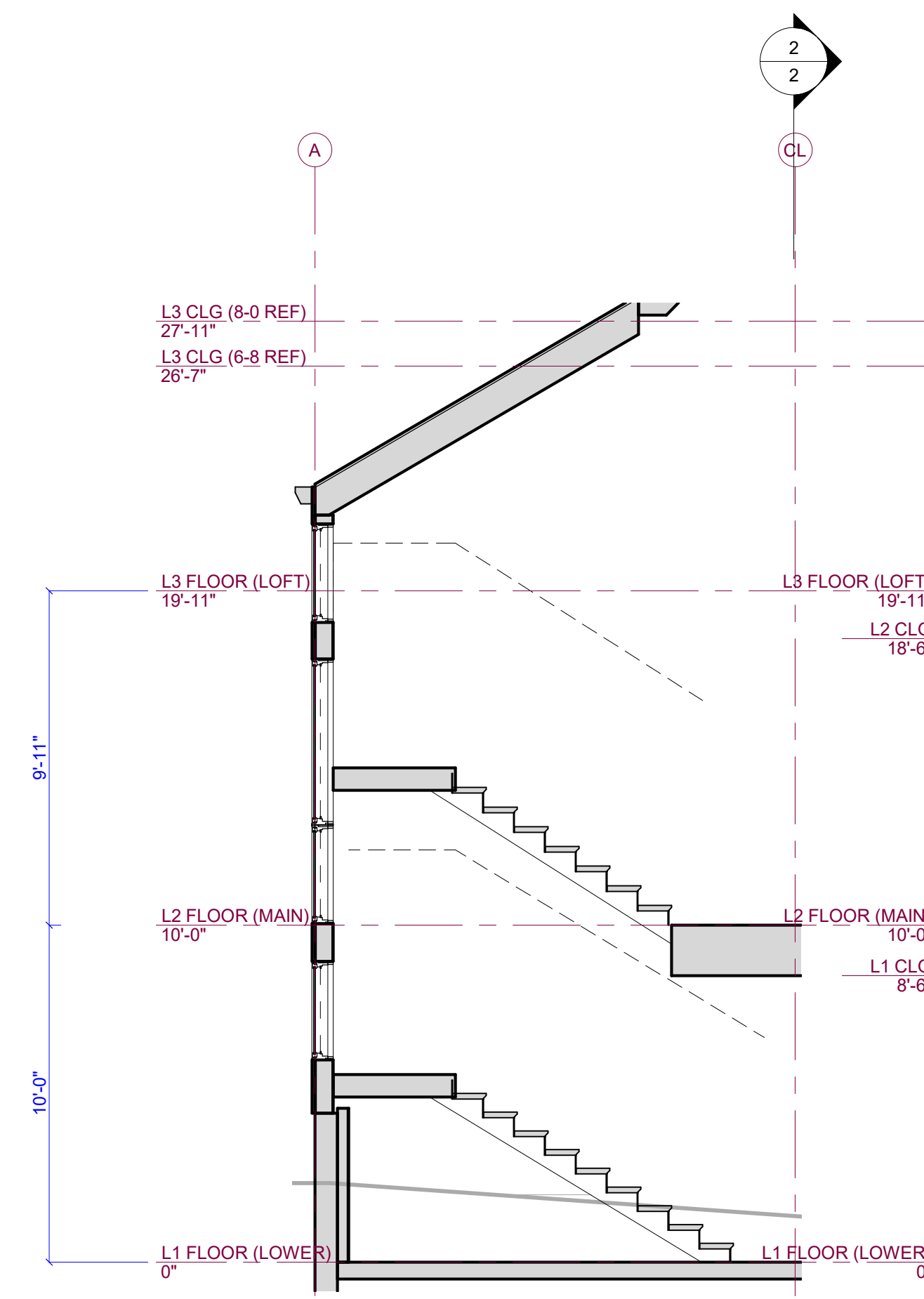




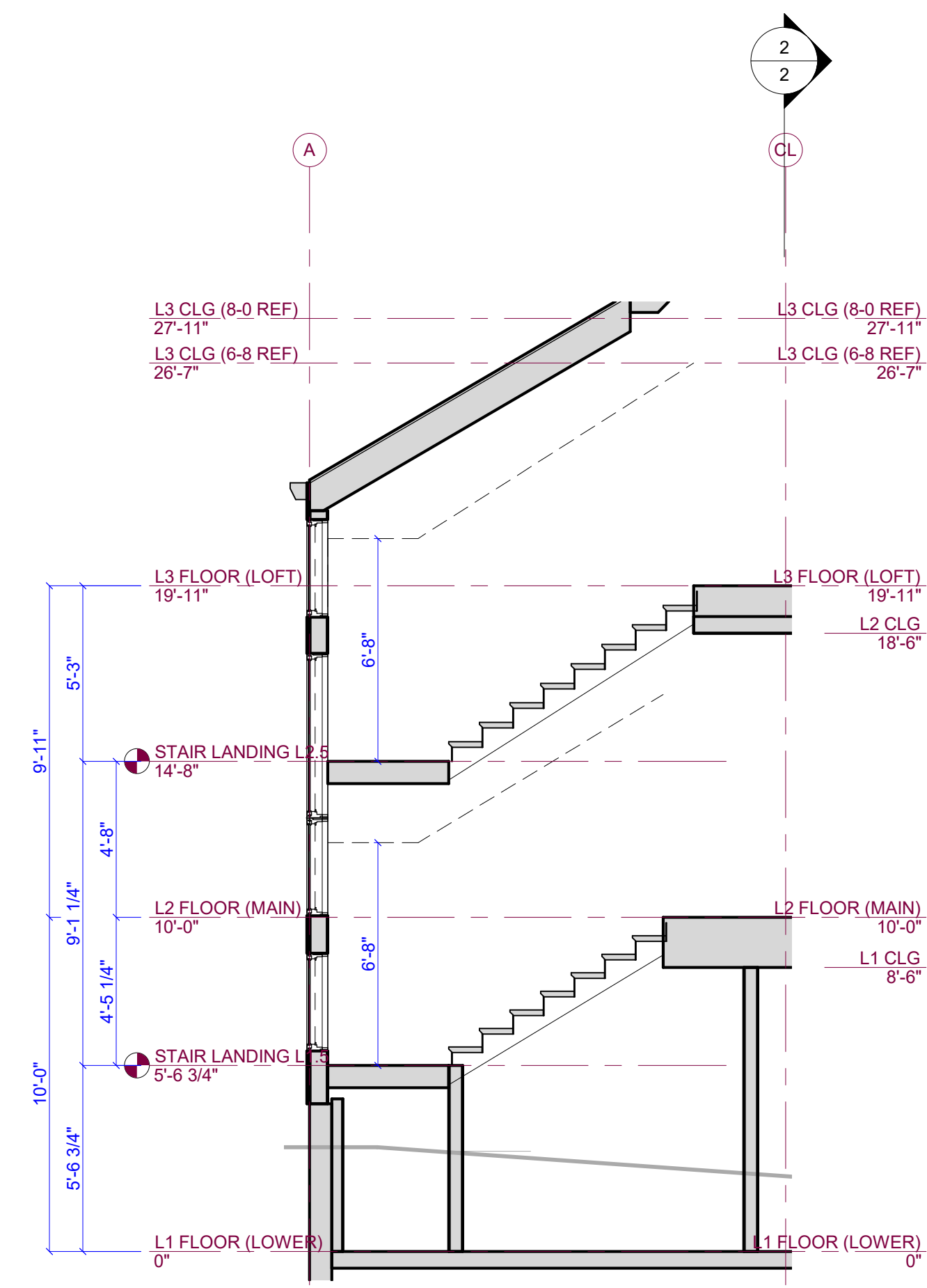
1 Section 1 - WIDTH THROUGH L1 AND L2



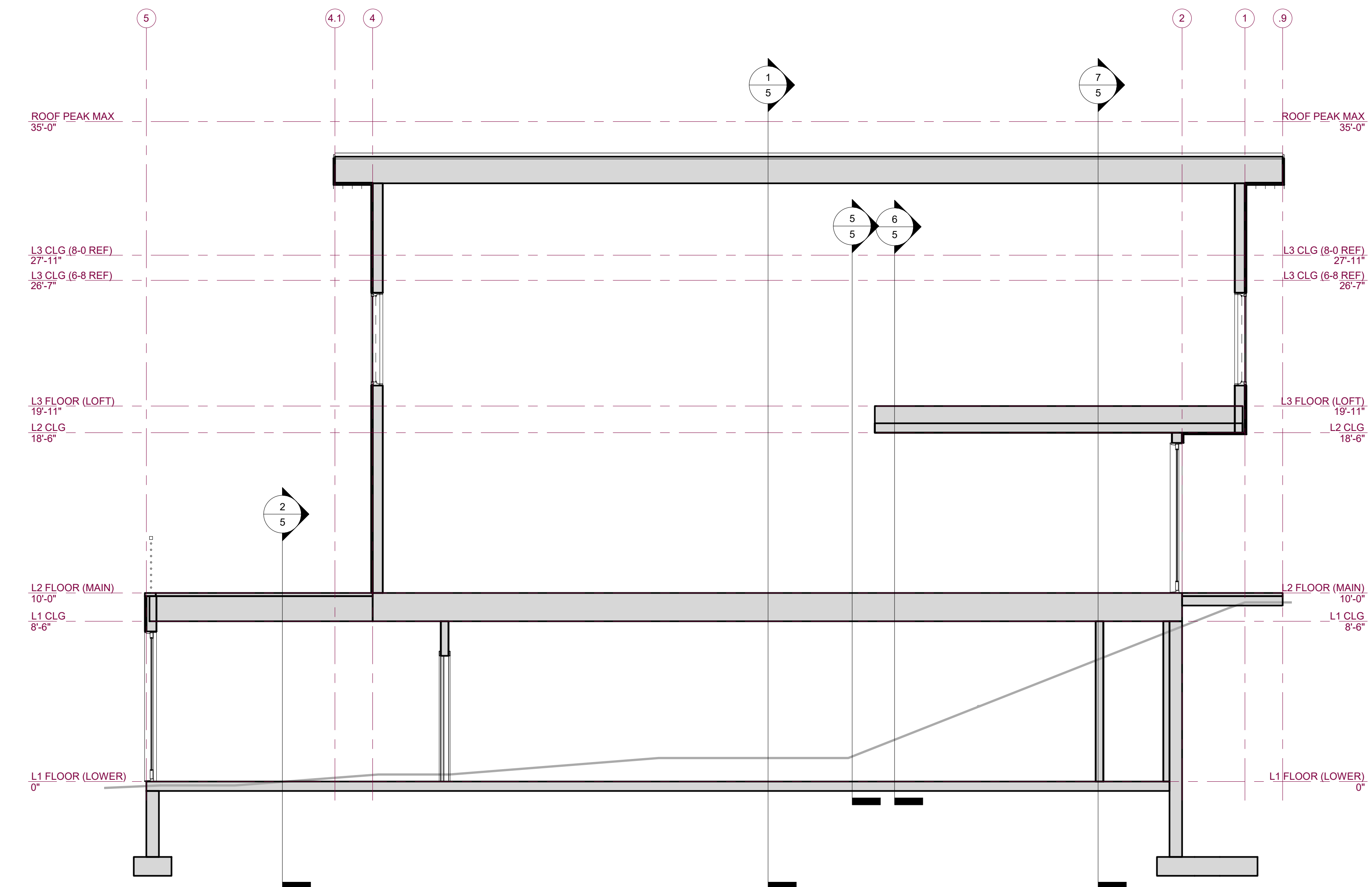
2 Section 2 - WIDTH THROUGH L1 AND DECK



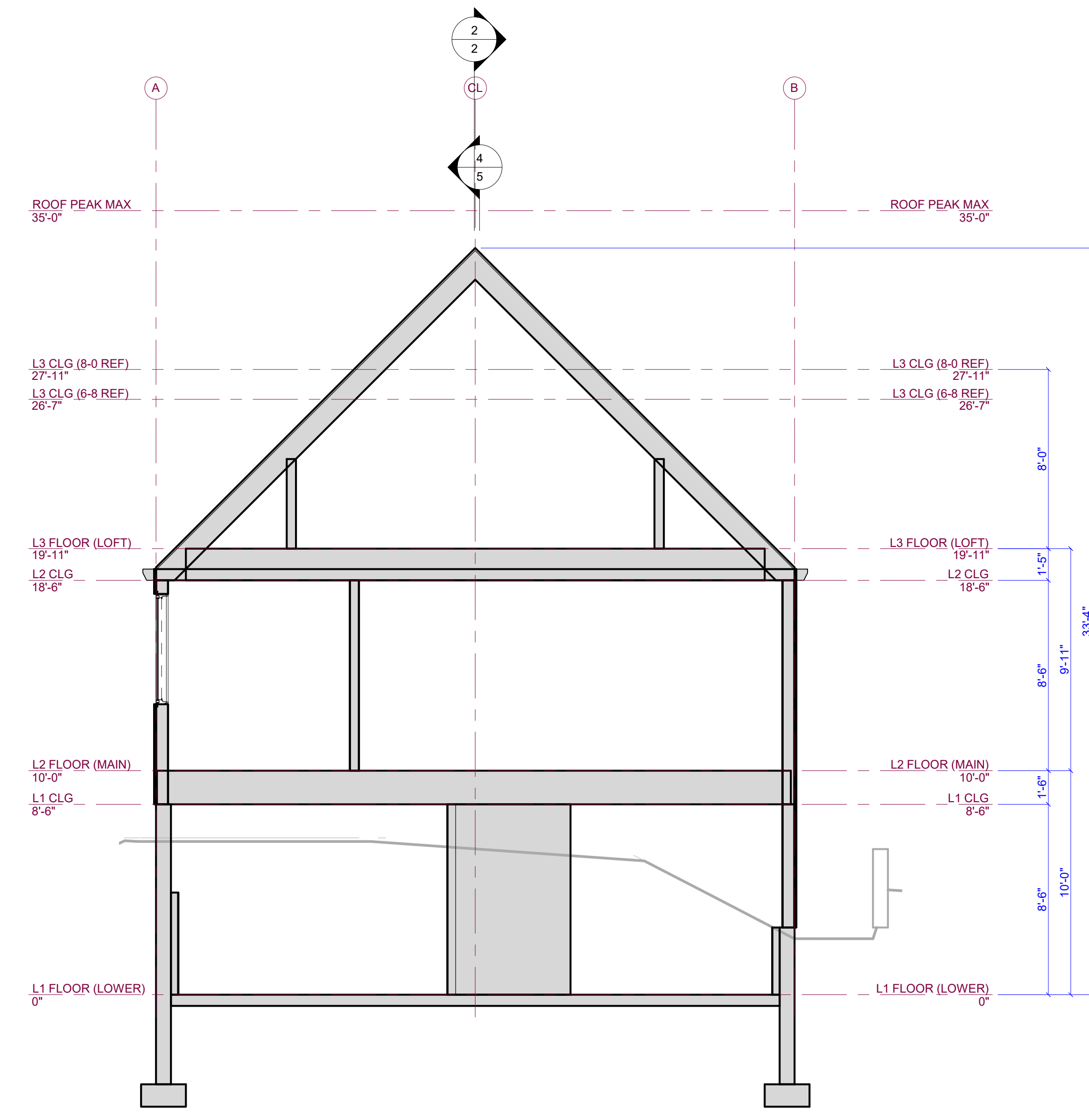
5 Section - STAIRS 1



6 Section - STAIRS 2



4 Section 4 - LENGTH



7 Section 5 - WIDTH THROUGH ALL LEVELS

BUILDING SECTIONS ARE INTENDED TO BE GENERIC.

WALL, ROOF, FOUNDATION, AND OTHER DETAILS TO BE PROVIDED BY THE STRUCTURAL ENGINEER, ARCHITECT, AND CONTRACTORS FOR THE RELATED SCOPE OF WORK.

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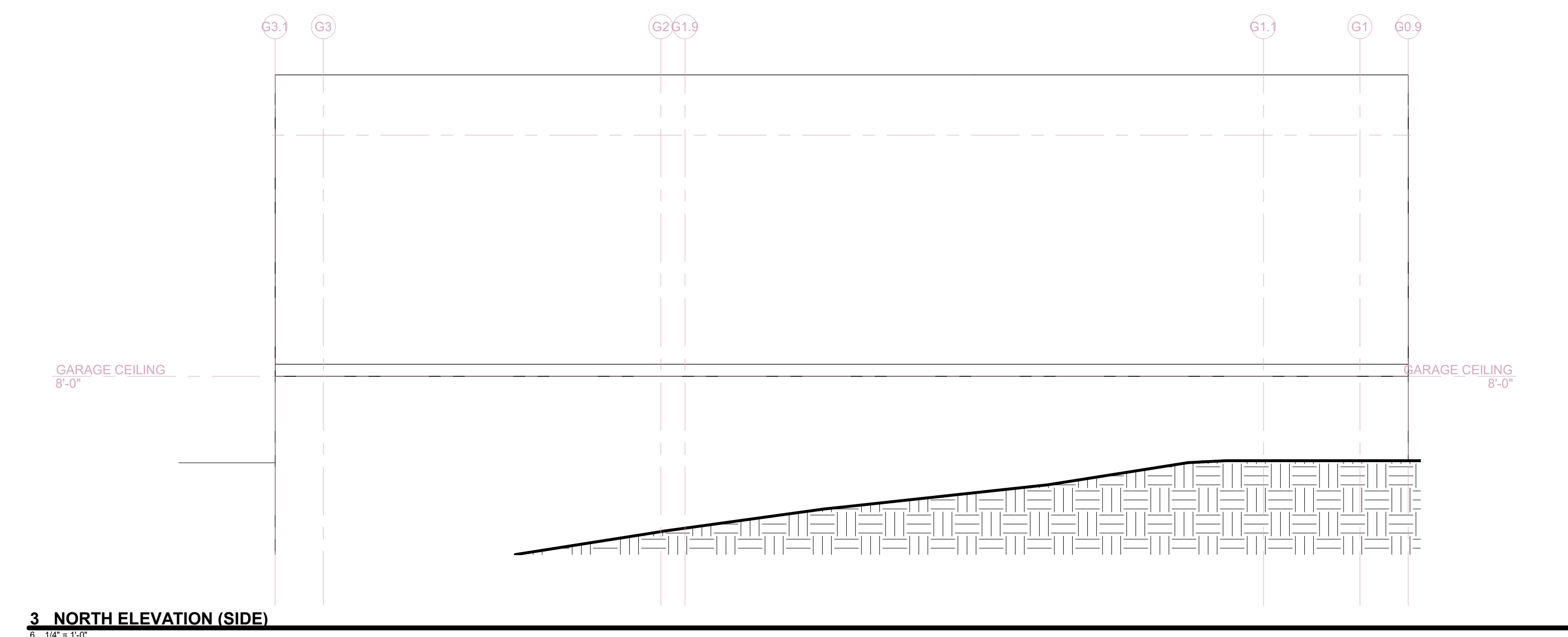
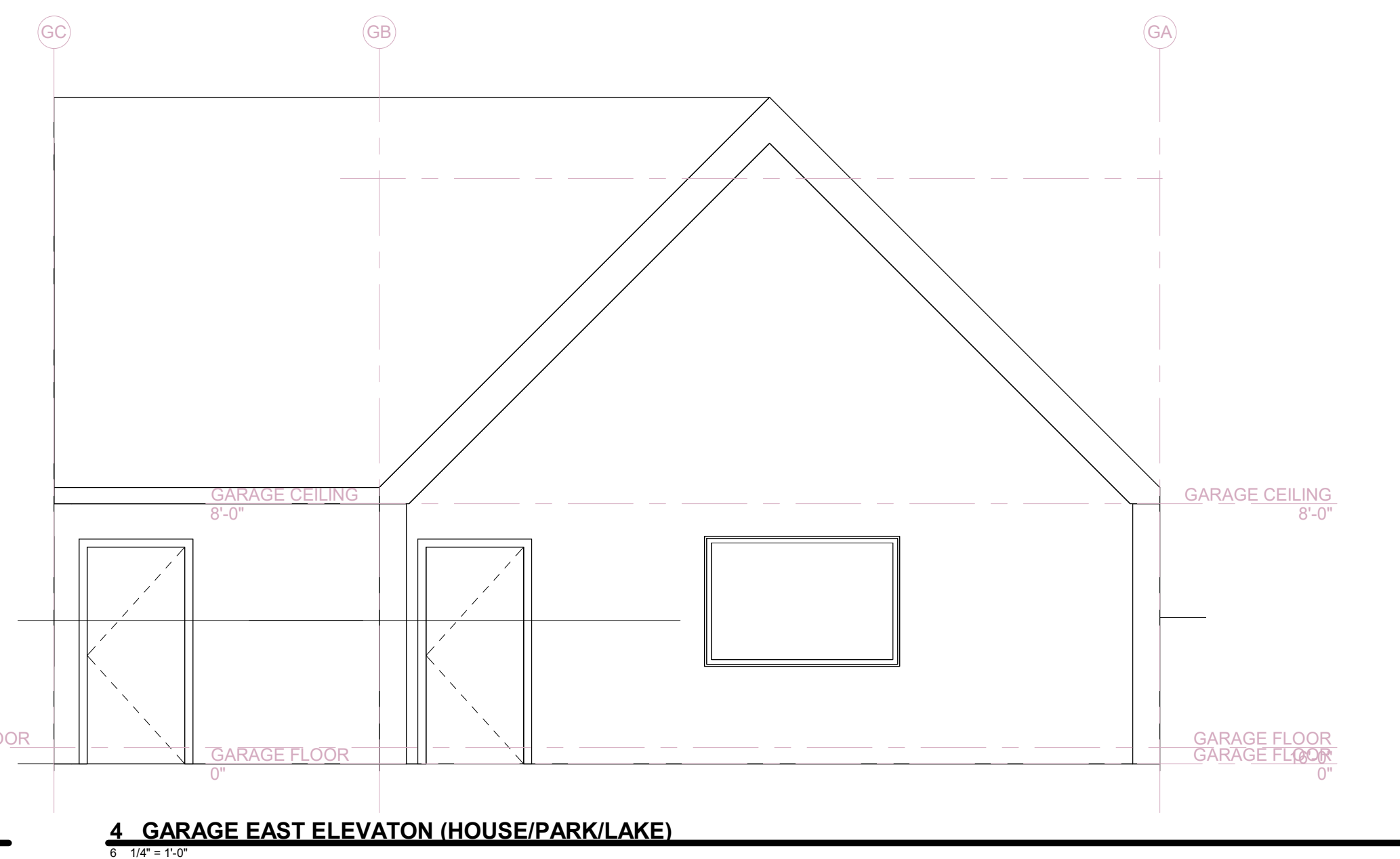
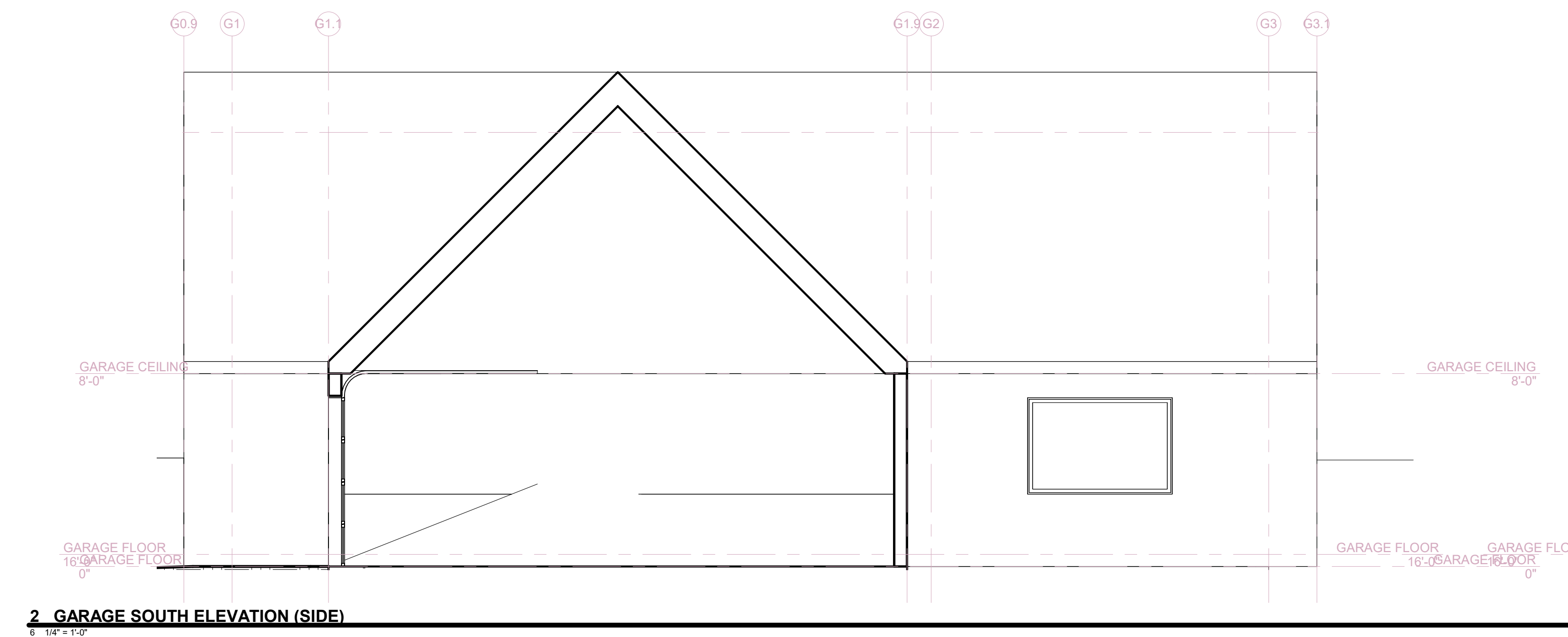
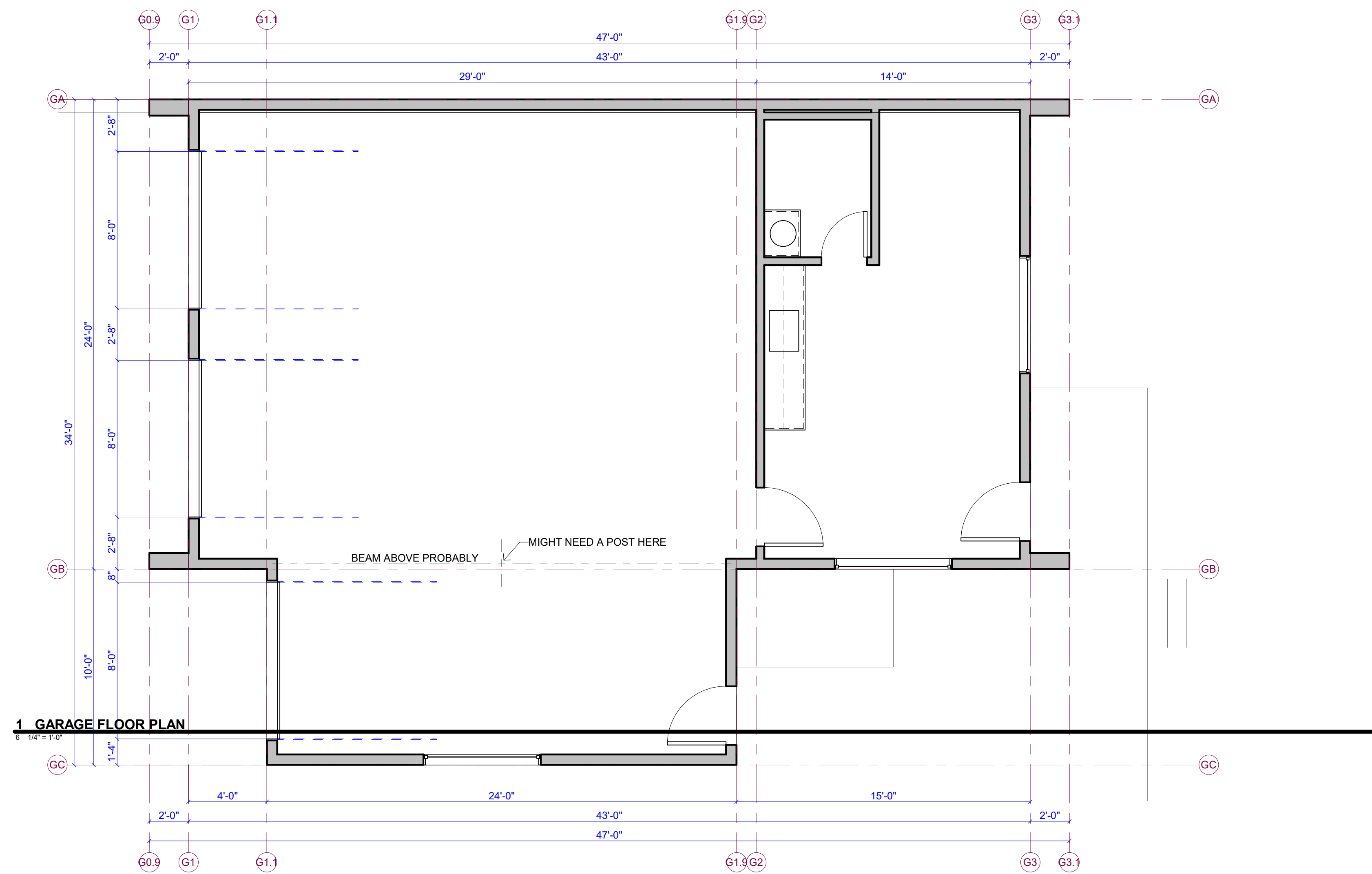
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WHITE BEAR LAKE, MN  
KEVIN & JAMIE HEISDORFFER

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SECTIONS

5

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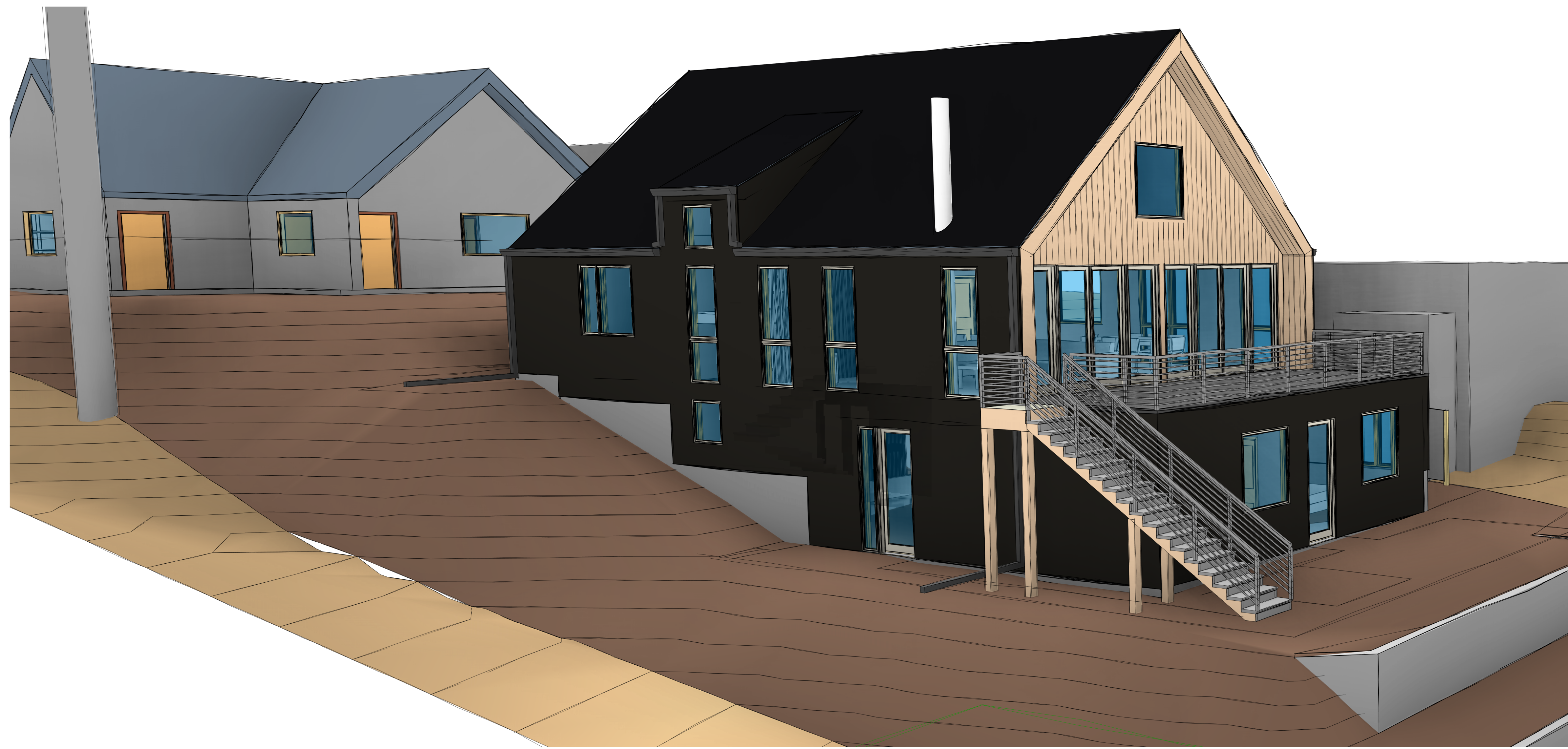
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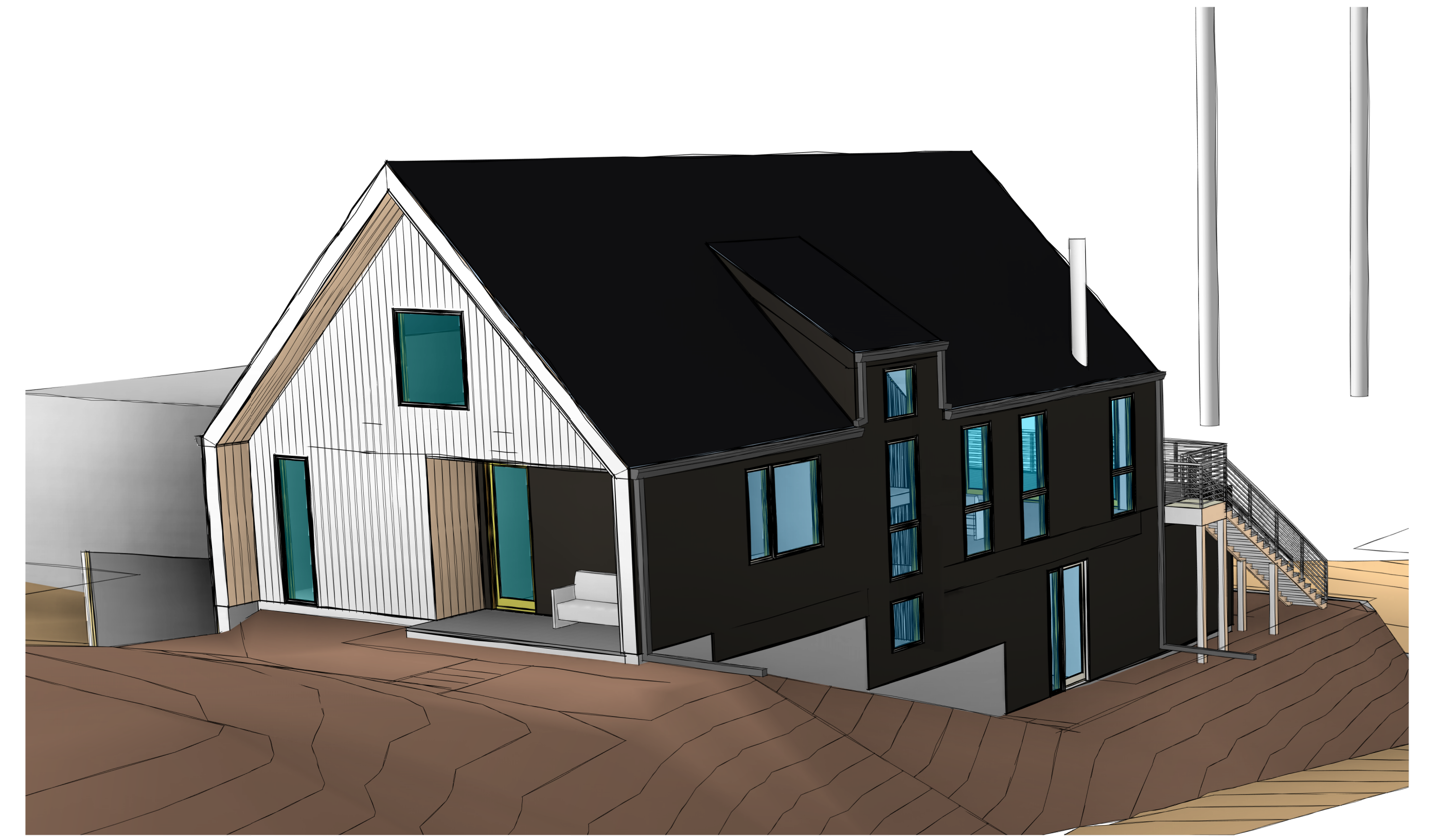
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GARAGE PLAN AND ELEVATIONS

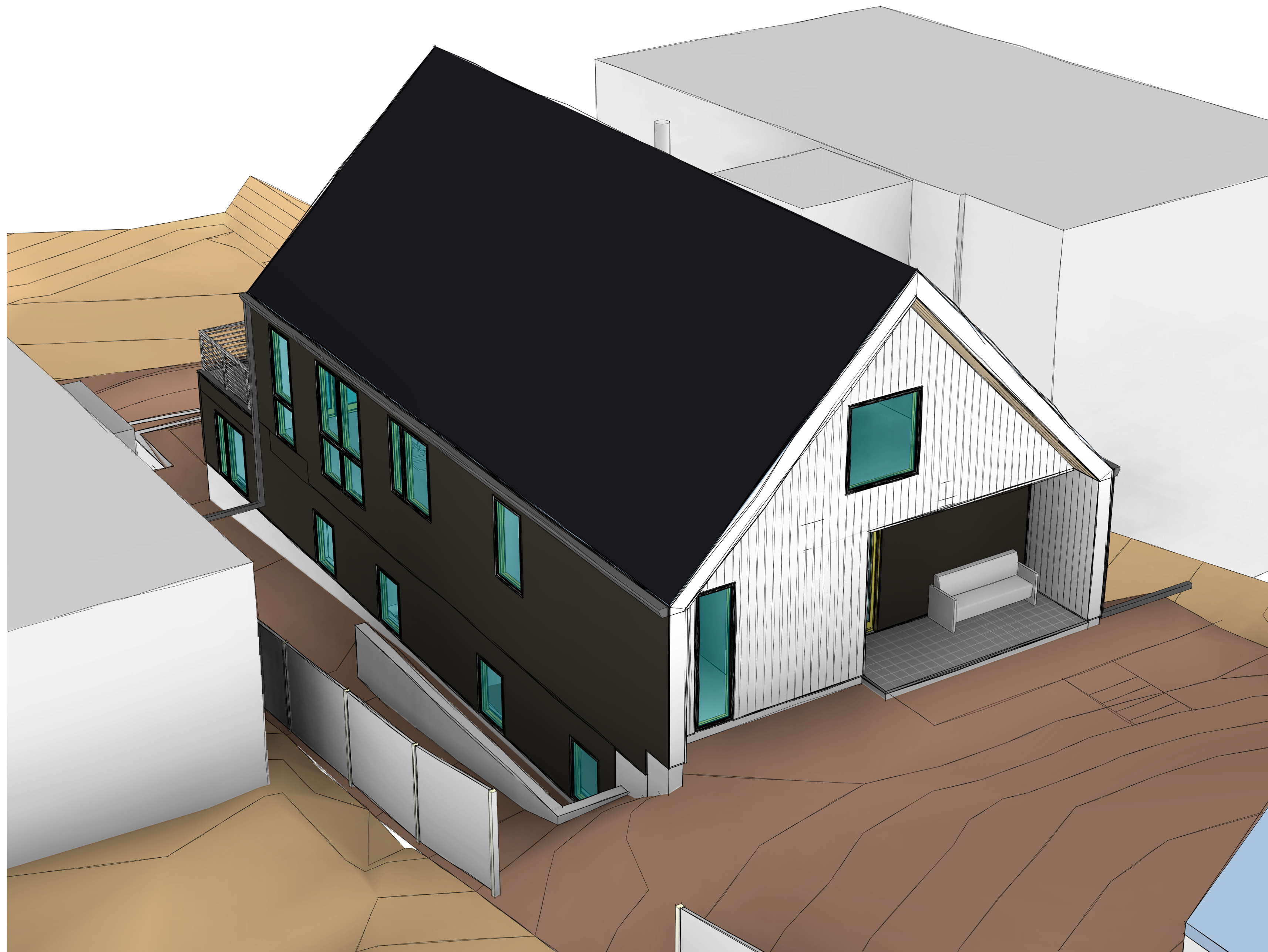




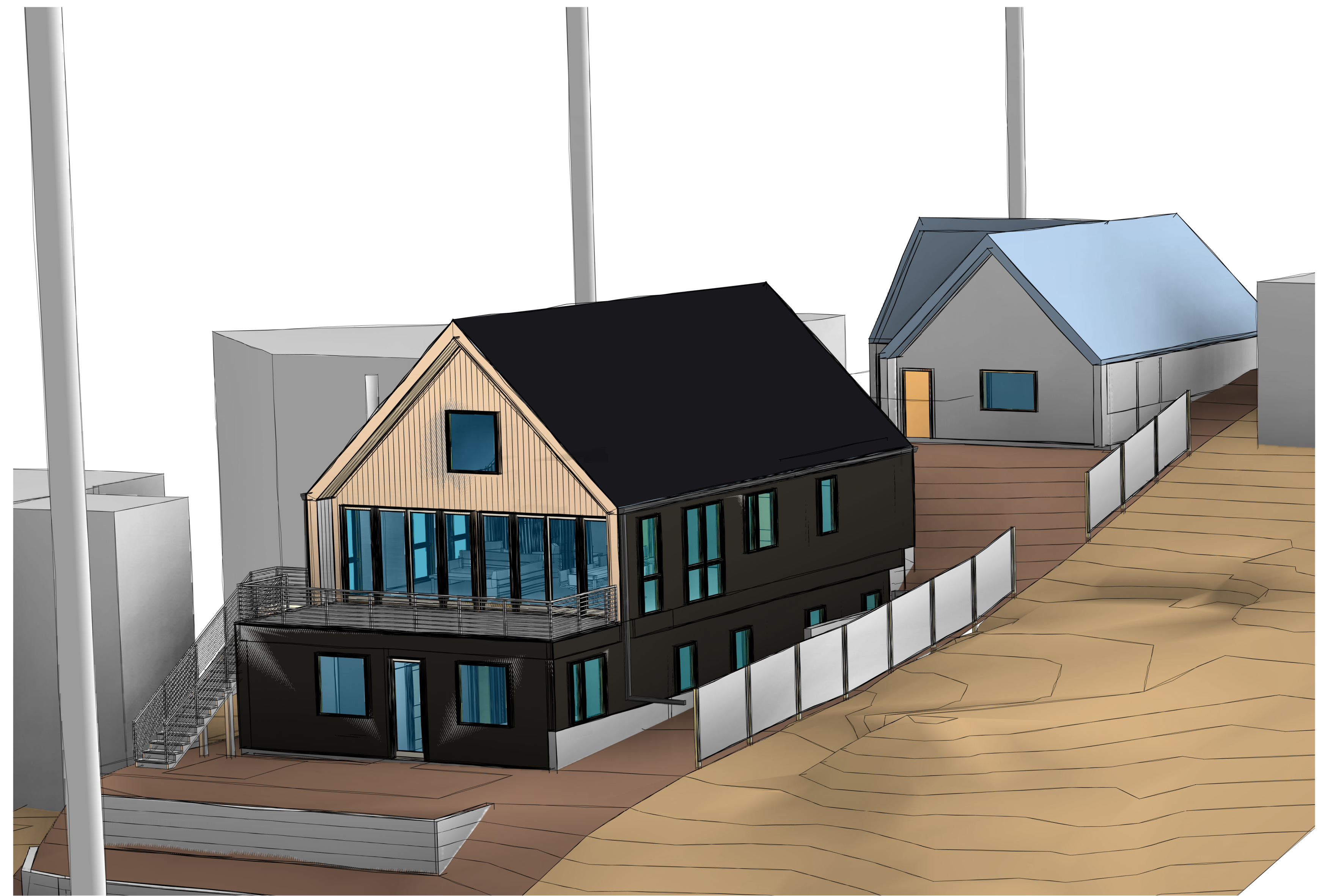
1 ISO4



4 ISO5



3 ISO2



2 ISO3

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KEVIN & JAMIE HEISDORFFER

SHEET ISSUED: 4/7/23

ISOMETRIC VIEWS EXTERIOR



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# STAFF REPORT

---

**Meeting Date(s):** May 25, 2023 Planning Commission  
June 2023 City Council

**Scope:** Front and Side Yard Setback Variances  
**Applicant:** Kevin and Jamie Heisdorffer

**Representative:**  
**Property Location:** 423 Wildwood Avenue  
**P.I.D.:**  
**Zoning:**

Report prepared by Ben Wikstrom, Planning Consultant

---

## ATTACHMENTS

1. Application
2. Existing Conditions
3. Site Plan
4. Grading and Drainage Plan
5. Renderings and Building Plans

## BACKGROUND

Kevin and Jamie Heisdorffer have applied for front and side yard setback variances to allow construction of a detached garage that does not meet the required setbacks. The applicants are constructing a single-family home on the vacant lot at 423 Wildwood Avenue. See the aerial and site plan/survey below for more information.



## SURROUNDING USES

North: Single-family home and detached garage (setbacks encroached)

East: Unimproved Park Avenue and Tighe-Schmitz Park

South: Two single-family homes (setbacks encroached by one house and a shed)

West: Wildwood Avenue and single-family homes

## PROPOSED CONSTRUCTION

The single-family home will sit on the east half of the lot, shown in light green on the depiction below, as excerpted from the submitted site plan. The home will meet the required setbacks.

There is a rain garden proposed to filter runoff on the east and lower end of the property (see grading and drainage plan attached to the application). The proposed construction is within the impervious surface limits required by ordinance, as can be seen by the calculations shown in the application and on the site plan.

The detached garage is proposed to be a three-stall garage with an office area on the east side, toward the house. The proposed setbacks for the garage are as follows:

**Street side: 26.01' (40' required by ordinance)**

**South side: 13.60' (10' required by ordinance)**

**North side: 8.02' (10' required by ordinance)**



**APPLICANT COMMENT**

From the application:

*“The lot is practically difficult to build on based on the existing topography of the lot (not practical to push the garage further down the hill), width of the lot (not practical for side entry garage), and encroachments of existing adjacent properties (both over the property line, as well as within current setback requirements). We plan to locate the garage in-line with existing structures on adjacent properties and believe this location is in harmony with the intent of the ordinance, consistent with comprehensive plan, and maintains the character of Birchwood.”*

and

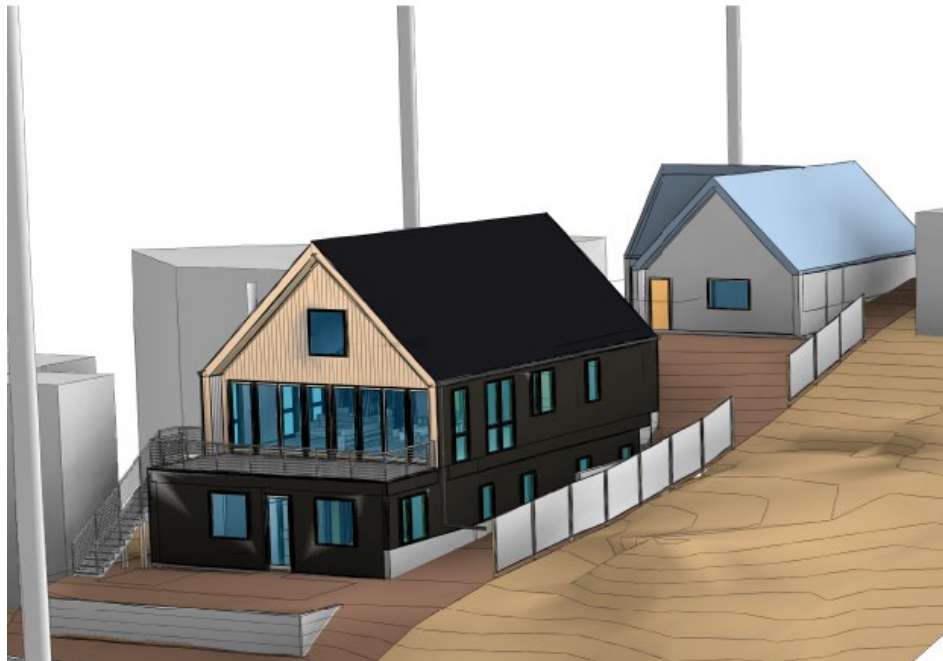
*“Many alternatives were considered. Attached garage not practical due to existing topography of the lot (steep slope). Side entry garage not practical due to width of lot. Entry from unimproved Park Ave not practical. Tuck-under garage and building consolidation not practical due to height restrictions.”*

**STAFF ANALYSIS**

The house meets the requirements of the ordinance, so the analysis that follows pertains to the detached garage and office structure.

The outer wall dimensions of the detached garage and office are 34' X 43'. The two-stall portion of the garage is 24' X 29', which is typical. The third stall is 10' X 24'. The office takes up the remainder of the structure, roughly 24' X 14'. Note that the dimensions shown on the site plan excerpt above are slightly larger; this is the roof dimension for the purpose of measuring impervious surface.

A rendering of the proposed construction is shown here (garage in background):



The proposed location of the structure is in line with neighboring structures along Wildwood Avenue (the blue line on the site plan excerpt above shows the line). With the spacing from the house and steps needed to descend the slope, the front setback is seen as reasonable and the variance request results from the natural grade of the site.

The side setback on the north side is not out of character for the neighborhood, and even the adjacent properties. There is room to have a conforming (as it pertains to the side yard setbacks) location, as explained in the staff comment section at the end of this report. The character and reasonableness "tests" are met with the proposed location, while the practical difficulty of the north-south placement should be addressed by the applicant.

For a further explanation of a variance analysis, here is an excerpt from the ordinance:

SUBD. 1.

*A. Variances shall only be permitted*

*i. when they are in harmony with the general purposes and intent of the ordinance and*

*ii. when the variances are consistent with the comprehensive plan.*

*B. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance.*

SUBD. 2. *"Practical difficulties," as used in connection with the granting of a variance, means that:*

*i. Special conditions or circumstances exist which are peculiar to the land, structure, or building involved.*

*ii. The condition which result in the need for the variance were not created by the applicant's action or design solution. The applicant shall have the burden of proof for showing that no other reasonable design solution exists.*

*iii. The granting of a variance will result in no increase in the amount of water draining from the property.*

*iv. Granting the variance will not impair an adequate supply of light and air to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the residents of the City.*

*v. No variance shall be granted simply because there are no objections or because those who do not object outnumber those who do.*

*vi. Financial gain or loss by the applicant shall not be considered if reasonable use for the property exists under terms of the Zoning Code.*

### **STAFF COMMENT**

The proposed front setback matches the character of the neighborhood and the variance seems to be warranted based on topography, surrounding uses (and placements), and overall practical difficulty in moving the proposed location east and down the hill or shrinking the proposed size.

The only practical – from a location standpoint – solution would be to remove the office from the rear of the garage and locate the structure further from the road. However, the applicant is within the impervious limits allowed by ordinance (so a building of the proposed size is allowed), and the aforementioned surrounding uses seem to make the proposed location reasonable.

The proposed north side setback of 8.02' also meets the character of the neighborhood test, and the width of the structure is reasonable for a three-car garage. Whether the garage can be shifted south 2' to meet both side yard setbacks without the need for the side yard setback variance should be addressed by the applicant.

To: Birchwood Planning Commission  
From: Ryan Hankins  
Re: Solar Ordinance

The planning commission reviewed a solar code proposal and a model ordinance. This proposed ordinance integrates and modifies solar requirements in our city code.



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING ORDINANCES NO. 301 TITLED “ZONING CODE: GENERAL PROVISIONS,” NO. 302 TITLED “ZONING CODE: REQUIREMENTS AND PERFORMANCE STANDARDS,” AND NO. 306 TITLED “ZONING CODE: CONDITIONAL USE PERMITS”**

**The City Council of The City of Birchwood Village, Minnesota ordains:**

**Section 1.** Findings and Purpose.

*Solar installations have become commonplace in surrounding areas, but shade in Birchwood has made our own solar development proceed more slowly. As Birchwood’s high tree cover diminishes due to emerald ash borer, sunlight will fall more directly onto houses and garages. Moreover, the Metropolitan Land Use Plan in Minn. Stat. § 473.859 calls for “an element for protection and development of access to direct sunlight for solar energy systems”*

*A conditional use permit for rooftop solar systems no longer makes sense; these systems can be regulated administratively without planning commission or city council oversight. Ground mount systems have significant enough potential impacts, however, that more oversight may ensure that aesthetic concerns can be addressed.*

*Because Minn. Stat. § 462.358 Subd. 6 provides that “unusual hardship includes, but is not limited to, inadequate access to direct sunlight for solar energy systems,” we should allow variances.*

**Section 2.** Ordinance No. 302 titled “Zoning Code: Requirements and Performance Standards” is amended to insert section 302.100, to read:

**302.100. SOLAR ENERGY INSTALLATIONS**

**1. Definitions.**

- a. **Building-integrated Solar Energy Systems.** A solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include, but are not limited to, photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.

- b. Grid-intertie Solar Energy System. A photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.
  - c. Ground-mount. A solar energy system mounted on a rack or pole that rests or is attached to the ground. Ground-mount systems can be either accessory or principal uses.
  - d. Photovoltaic System. A solar energy system that converts solar energy directly into electricity
  - e. Roof-mount. A solar energy system mounted on a rack that is fastened to or ballasted on a structure roof. Roof-mount systems are accessory to the principal use.
  - f. Solar Collector. The panel or device in a solar energy system that collects solar radiant energy and transforms it into thermal, mechanical, chemical, or electrical energy. The collector does not include frames, supports, or mounting hardware.
  - g. Solar Energy System. A device, array of devices, or structural design feature, the purpose of which is to provide for generation or storage of electricity from sunlight, or the collection, storage and distribution of solar energy for space heating or cooling, daylight for interior lighting, or water heating.
2. Intent. Solar energy is an abundant, renewable, and nonpolluting energy resource and its conversion to electricity or heat is beneficial. The intent of this ordinance is to:
- a. preserve the health, safety and welfare of the community by promoting the safe, effective and efficient use of solar energy systems; and
  - b. promote sustainable building design and management practices to serve current and future generations; and
  - c. implement the solar resource protection element required under the Metropolitan Land Planning Act; and
  - d. reduce dependence on nonrenewable energy resources and decrease air and water pollution that results from the use of conventional energy sources; and
  - e. enhance the reliability and power quality of the power grid and make more efficient use of electric distribution infrastructure; and
  - f. maintain the aesthetic qualities of the City, minimize the visibility of solar systems from roads and shorelands, and reduce impact on neighboring properties.
3. Height and Setback. Solar energy systems must meet the following height and setback requirements:

- a. Building- or roof-mounted solar energy systems shall not exceed the maximum allowed height. For purposes for height measurement, solar energy systems other than building-integrated systems shall be given an equivalent exception to height standards as chimneys and flues.
  - b. Ground- or pole-mounted solar energy systems shall not exceed 4 feet in height when oriented at maximum tilt.
  - c. Solar energy systems must meet the structure setback for the lot on which the system is located, except as allowed below.
  - d. The collector surface and mounting devices for roof-mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built, unless the collector and mounting system has been explicitly engineered to safely extend beyond the edge and setback standards are not violated. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side-yard exposure. Solar collectors mounted on the sides of buildings and serving as awnings are considered to be building-integrated systems and may project as permitted in § 302.020 Subd. 1.
  - e. Ground-mounted solar energy systems may not extend into any setback when oriented at minimum design tilt, except as otherwise allowed for building mechanical systems.
4. Visibility. Solar energy systems in residential districts shall be designed to minimize visual impacts from the public right-of-way, to the extent that doing so does not affect the cost or efficacy of the system. The following standards shall apply:
- a. Building Integrated Photovoltaic Systems. Building integrated photovoltaic solar energy systems shall be allowed regardless of whether the system is visible from the public right-of-way, provided the building component in which the system is integrated meets all required setbacks and performance standards.
  - b. Aesthetic restrictions.
    - i. Ground-mount solar energy systems shall not be visible from the shoreline or the closest edge of any public right-of-way. Conditions of approval may be required to ensure ground-mount solar systems are not visible.
    - ii. Roof-mount systems shall have the same finished pitch as the roof and shall be no more than ten inches above the roof.
  - c. Reflectors. All solar energy systems using a reflector to enhance solar production shall minimize glare from the reflector affecting adjacent or nearby properties.
5. Ground Mount Systems.
- a. Lot Coverage. Ground Mount Solar Systems shall:

- i. not exceed 30% of the building footprint of the principal structure in total collector area; and
    - ii. not count toward accessory structure limitations; and
    - iii. be exempt from impervious surface standards if the surface under the collector is not impervious surface.
  - b. Roof-mount infeasible. Ground-mount systems shall be permitted on a lot only where the applicant shows that a roof-mount solar installation is infeasible.
6. Plan Approval Required. All solar energy systems requiring a building permit from the City shall provide a site plan for review, including to-scale horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or on the property for a ground-mount system, including the property lines.
7. Compliance with Codes and Standards.
  - a. Electric solar energy system components must have a UL or equivalent listing and solar hot water systems must have an SRCC rating.
  - b. All solar energy installations shall be consistent with the State of Minnesota Building Code and shall meet approval of local officials.
  - c. All photovoltaic systems shall comply with the Minnesota State Electric Code.
  - d. Solar thermal systems shall comply with applicable Minnesota State Plumbing Code requirements and with HVAC-related requirements of the Energy Code.
8. Utility Notification. All grid-intertie solar energy systems shall comply with the interconnection requirements of the electric utility.
9. Permits Required. All solar installations require a building permit.
10. Exception from Conditional Use Permit. A conditional use permit is required in addition to all other permits required, except for:
  - a. building-integrated installations; and
  - b. roof-mount solar installations no more than ten inches above the roof, with the same pitch as the roof and within the bounds of the roof surface.
11. Variances. An applicant with inadequate access to direct sunlight for solar energy systems or another practical difficulty under the terms of § 302.100 may apply for a variance. The variance application shall meet the requirements for plan approval and shall also demonstrate why the requirements of the code cannot be met without practical difficulty.

**Section 3.** Section 306.060 titled “Solar Energy Systems” of Ordinance No. 306 titled “ZONING CODE: CONDITIONAL USE PERMITS” is repealed.

**Section 4.** Section 301.070 titled “Conditional Uses” of Ordinance No. 301 titled “ZONING CODE: GENERAL PROVISIONS” is amended to read:

301.070. CONDITIONAL USES. Certain accessory uses permitted within the City have greater than usual chances to present safety hazards, impact on neighboring people and property, reduced aesthetics and nuisance situations. Because of these greater effects, the City requires these uses to be covered under Conditional Use Permits. Applications for Conditional Use Permits must comply with all provisions of Section 306. CONDITIONAL USE PERMITS.

1. A Conditional Use Permit shall be required for the following projects:

- a. Any land disturbance activity where the slope is toward a lake, pond, wetland, or watercourse leading to such waters, and the alteration is closer to such waters than the structure setback requirement. See Note at end of Section 301.070.
- b. Any land disturbance activity where such work involves an area greater than four hundred (400) square feet and/or more than fifty (50) cubic yards in volume. See Note at end of Section 301.070.
- c. Any swimming pool with a capacity over three thousand (3000) gallons or with a depth of over three and one-half (3 1/2) feet of water.
- d. Any tennis court.
- e. Any solar energy system ~~for heating, cooling, electrical generation or other purposes for which § 302.100 does not provide an exception.~~

NOTE: A separate Conditional Use Permit is not required for a land disturbance activity in conjunction with construction as part of a building permit as granted. However, as part of the Building Permit Application, the applicant shall provide information required pursuant to Section 306.030 and shall follow all provisions of Sections 302.050 IMPERVIOUS SURFACES and 302.055 LAND DISTURBANCE ACTIVITY STANDARDS.

**Section 5.** This ordinance becomes effective from and after its passage and publication.

Passed by the City Council of The City of Birchwood Village this \_\_\_\_\_ day of Month, Year.

Mayor

Attested:

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City Clerk

To: Birchwood Planning Commission  
From: Ryan Hankins  
Re: New Variance Application Form

The following variance application form hews more closely to our variance requirements. The City Attorney has reviewed it. Since this is a template for the Planning Commission, I would like to get your feedback as well, before making it official!

If you have variance

Please let me know of any suggestions.



**CITY OF BIRCHWOOD VILLAGE  
VARIANCE APPLICATION**

**207 Birchwood Ave., Birchwood, MN 55110  
651-426-3403 • info@cityofbirchwood.com**

**FOR OFFICIAL USE ONLY**  
(per Minn. Stat. 15.99)

Application Received Date: \_\_\_\_\_

Amount Paid: \$ \_\_\_\_\_

Date of Payment: \_\_\_\_\_

Payment Type:

- Cash
- Check (Number: \_\_\_\_\_ )
- Credit Card

Application Complete:

Yes

No - Other

Deficiency: \_\_\_\_\_

Date of Determination: \_\_\_\_\_

Date Notice of Deficiency Sent: \_\_\_\_\_

Application Withdrawn by Applicant  
Date: \_\_\_\_\_

- Variance Deadline Extended, because:
- Applicant requested extension.
- City staff require additional time to evaluate the application.
- The state or another agency must review the application.
- The application was received too late for city staff to process and place on the agenda of the next Planning Commission meeting.

Date Variance Extension Letter Sent: \_\_\_\_\_

Length of Extension: \_\_\_\_\_ days

*Completed applications for variances submitted on or before the **first of each month** will generally be considered by the Planning Commission at its next meeting on the fourth Thursday of that month. Applications submitted after the first of the month will generally be considered the following month.*



*Upon recommendation of the Planning Commission, the City Council will consider and decide the variance application at the City Council's next meeting.*

A. Applicant's Name:

Telephone:

Home:

Work/Cell:

B. Address (Street, City, State, ZIP):

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C. Property Owner's Name (If different from above):

Telephone

Home: \_

Work/Cell:

D. Location of Project:

E. Legal Description:

F. Description of Proposed Project:

G. Specify each section of the City Code for which a variance is sought: \_\_\_\_\_

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H. Explain how you wish to vary from the applicable provisions of the ordinance:

I. Please attach a site plan or accurate survey as may be required by ordinance, a Plot plan drawn to scale showing existing and proposed new and changed structures on the lot, and existing structures on adjacent lots.

J. Please answer the following questions as they relate to your specific variance request:

1. In your opinion, is the variance in harmony with the purposes and intent of the ordinance?

Yes

No

Why or why not?

2. In your opinion, is the variance consistent with the comprehensive plan?

Yes

No

Why or why not?

3. In your opinion, does the proposal put property to use in a reasonable manner?

- Yes       No

Why or why not?

4. In your opinion, are there circumstances unique to the property?

- Yes       No

Why or why not?

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5. In your opinion, will the variance maintain the essential character of the locality?

- Yes       No

Why or why not?

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K. Are other governmental permits required for the project, including requirements of the Rice Creek Watershed District? Please attach copies of permits, or evidence they are unnecessary.

- Yes       No

Which permits are required?

L. After the proposed project, will the impervious surface of the lot exceed 25 percent?

- Yes       No

Please include the information in the following table.

	EXISTING	PROPOSED	CHANGE
1. Total Square Footage of Lot			
2. Maximum Impervious Surface			
3. Roof Surface			
4. Sidewalks			
5. Driveways			
6. Other Impervious Surface			
7. Total of Items 3-6			
8. Impervious Surface Infiltrated			
9. Item 8 subtracted from Item 7			
10. Percent Impervious Surface			

The Planning Commission and City Council must make affirmative findings on each of the five criteria in question J in order to grant a variance. The applicant for a variance has the burden of proof to show that all of the criteria have been satisfied.

The City and its representatives accept no responsibility for errors and/or damages caused due to incomplete and/or inaccurate information herein. It is the responsibility of the applicant to ensure the accuracy and completeness of this information.

The applicant declares that they are familiar with application fees and other associated costs and with the procedural requirements of the City Code and other applicable ordinances, and that, with the exception of the City Code listed in question G, the proposed project conforms to the City Code, that the information provided in and enclosed herewith is complete and that all documents represented are true and correct representations of the actual project/building that will be built in conformance with such representation if approved.

Applicant's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Fee Owner's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

### Planning Commission Findings of Fact

Does the project have practical difficulties not created by the owner?

- Yes
- No

1. What is the practical difficulty?

- The parcel is too narrow.
- The parcel is too small.
- The parcel is elevated too little above the OHWL.
- The front lot line is too short.
- The property has an unusual slope or topography.
- The primary practical difficulty is that the cost of conformance is too high.
- The primary purpose is to increase the value of the land.
- Some other practical difficulty exists (state the difficulty).

2. Was the practical difficulty created by the owner or the design solution?

- Yes
- No

3. Is there a reasonable use for the property without the variance? Why or why not?

- A dwelling of reasonable size can be designed in some other way.
- No reasonable use for the property exists.
- Some other reasonable use for the property exists (state the use).

4. Are the circumstances that prevent reasonable use unique to the property?

- There are extraordinary physical surroundings, shape or topographical conditions of the specific parcel, that go beyond mere inconvenience.
  - The circumstances generally do not apply to other similar properties.
5. If the variance is granted, will it alter the essential character of the locality?
- The proposed variance impairs an adequate supply of light or air to adjacent property.
  - The variance allows sufficient access to structures within the confines of the lot.
  - The proposed variance increases street congestion.
  - The variance alters the essential character of the locality in some other way. How?
6. Is the variance in harmony with the purposes and intent of the ordinance?
1. What is the intent of the ordinance from which the variance is requested?
  2. Does the variance maintain the intent of the ordinance?
    - Yes
    - No
  3. Does the applicant's design compensate for the impact of the non-conformity on the intent of the ordinance? How?
    - Yes
    - No
  4. Does the variance increase the risk of fire, compared to conformity?
    - Yes
    - No
7. Is the variance consistent with the comprehensive plan? Why or why not?
- Maintain the existing character of the community through preservation of the single-family residential land use and neighborhood patterns
  - Preserve, protect and educate the community about the value and preservation of the City's natural areas including woodlands, wetlands, and lakes.
  - Work to identify opportunities to reduce energy usage by 10% per year.
  - Continue to support efforts to maintain a balanced housing supply and focus on opportunities to provide housing for people at all income levels.
  - Embrace and welcome diversity in all of its neighborhoods and support such diversity in both owner-occupied and renter-occupied housing
  - Encourage and promote lifecycle housing within the existing housing stock, and in any new or redeveloping areas of the community.
  - Maintain and enhance the existing housing stock that supports diversity in both owner-occupied and renter-occupied housing to promote the long-term sustainability of the community.
  - Protect the existing single-family detached housing density and neighborhood quality.

Yes

No

Why is the code consistent or inconsistent with the comprehensive plan?

8. Will the proposed variance endanger public safety or diminish property values nearby?

Yes

No

9. Does the planning commission recommend any conditions be attached to the grant of the variance?

Yes

No