

**Zoning Board of Appeals  
February 24, 2021 Regular Meeting**

**STAFF REPORT**

**Subject: ZBA 21-006; 1135 Birk Avenue**

**Summary:**

Jeffrey Heinz Willard, property owner, is requesting a variance of 27.5 percent from Section 5.16.6 (A)(2D) in order to construct a 917 square foot two-story detached garage. The ordinance allows a maximum of 35% of the rear open space to be impervious, the owner is requesting to occupy 62.5 percent of the rear open space. The owner is requesting relief from Section 5.32.2 Alteration to a Nonconforming Structure in order to construct a second story to the existing residence and to expand the existing front porch. The porch and second story will not encroach further into the required setbacks. The property is zoned R1D, Single-Family Dwelling.

**Background:**

The subject property is located on the northeast corner of Birk Avenue and Potter Avenue in the Allmendinger Heights neighborhood. The home was built in 1939 and is approximately 768 square feet in size.

**Description:**

The applicants are proposing to construct an approximate 917 (28.5'x32') square foot two-story detached garage that will replace the existing one car garage. The main residence has plans to expand the first floor to accommodate an expanded dining room and office area. The first-floor addition will extend to the east and will not encroach further into the front setback along Potter Avenue. The petition proposes a new second story that includes a master bedroom and walk-in closet, two additional bedrooms and a bathroom. The second story will not encroach further into the front setbacks but will be built directly above the first floor. The existing front porch will be expanded to the north side of the property but will not extend closer to Birk Avenue.

**Standards for Approval- Variance**

The Zoning Board of Appeals has all the power granted by State law and by Section 5.29.12, Application of the Variance Power from the UDC. The following criteria shall apply:

- (a). *That the practical difficulties are exceptional and peculiar to the property of the person requesting the variance and result from conditions which do not exist generally throughout the City.***

The applicant states the property is located on a corner lot which reduces the rear open space and allowable building envelope for a detached garage.

- (b). *That the practical difficulties will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return, or both.***

The applicant has researched moving the garage to the west and closer to the residence. This will result in the rear yard being broken into two sections and not user friendly. An attached garage does not meet the characteristics of the neighborhood as many of the surrounding properties have detached garages in the rear open space.

- (c). ***That allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this Chapter, the Practical difficulties that will be suffered by a failure of the Board to grant a variance, and the rights of others whose property would be affected by the allowance of the variance.***

The petitioner states the home addition and new garage are intentional in design to match and enhance the existing neighborhood. The owner intends to have the stormwater runoff diverted from the neighbor to the east.

- (d). ***That the conditions and circumstances on which the variance request is based shall not be a self- imposed practical difficulty.***

The applicants state the home and property conditions were built in 1939 prior to the current setbacks being applied and therefore creating the existing conditions.

- (e). ***A variance approved shall be the minimum variance that will make possible a reasonable use of the land or structure.***

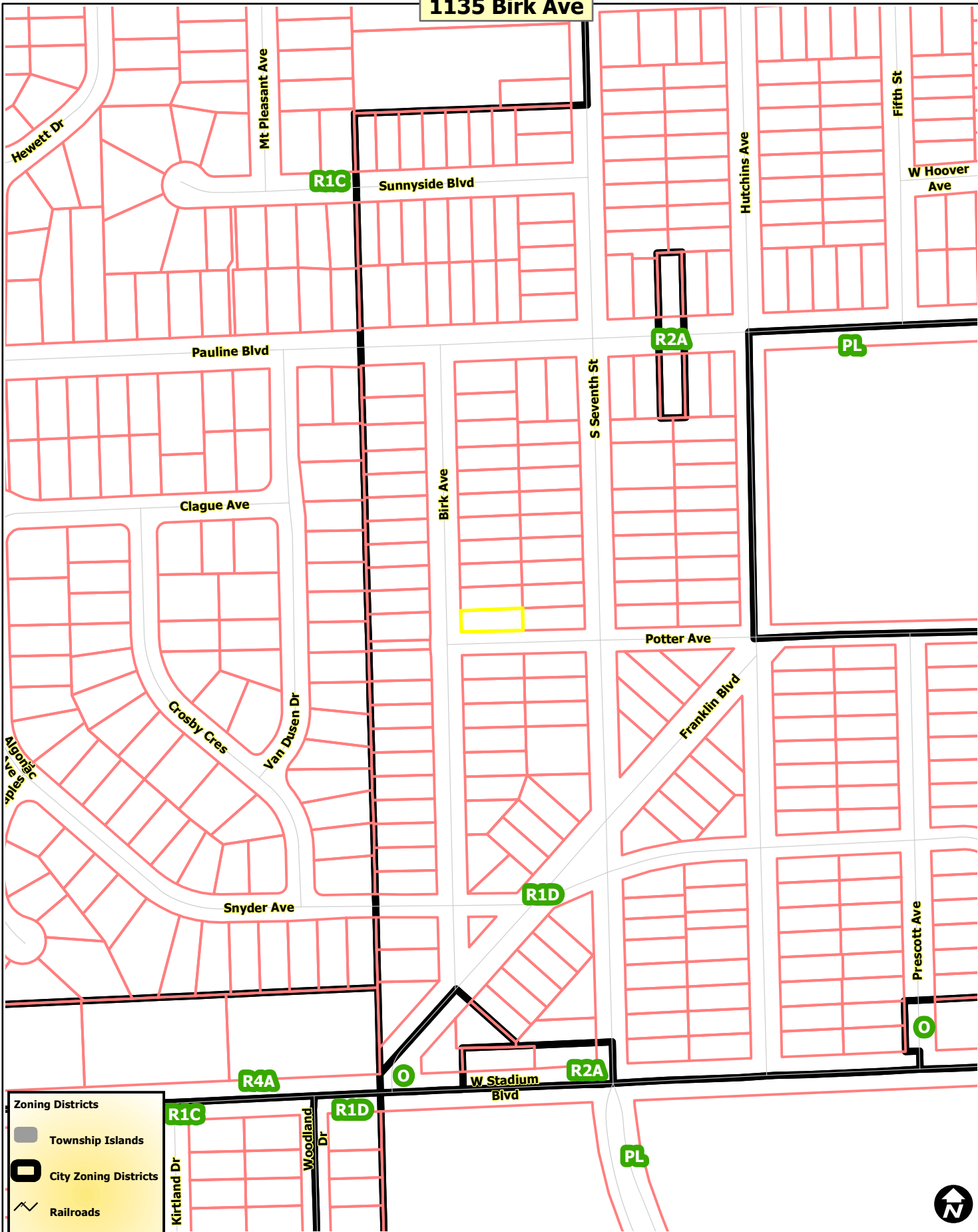
The owner contends the proposed construction project has been minimized to allow reasonable use of the land.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Jon Barrett". The signature is stylized and cursive.

**Jon Barrett**  
**Zoning Coordinator**

1135 Birk Ave



**Zoning Districts**

- Township Islands
- City Zoning Districts
- Railroads
- Huron River
- Tax Parcels






Map date: 2/1/2021  
 Any aerial imagery is circa 2020 unless otherwise noted  
 Terms of use: [www.a2gov.org/terms](http://www.a2gov.org/terms)



1135 Birk Ave

Birk Ave

Potter Ave

-  Railroads
-  Huron River
-  Tax Parcels



Map date: 2/1/2021  
 Any aerial imagery is circa 2020  
 unless otherwise noted  
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201 S First St




W Washington St

S First St

Alley

W Liberty St



-  Railroads
-  Huron River
-  Tax Parcels



Map date: 2/1/2021  
 Any aerial imagery is circa 2020  
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# ZONING BOARD OF APPEALS APPLICATION

City of Ann Arbor Planning Services

City Hall: 301 E Huron Street Ann Arbor, MI 48107-8647

Phone: 734-794-6265 Fax: 734-794-8460 Email: [planning@a2gov.org](mailto:planning@a2gov.org)

## PROPERTY INFORMATION

ADDRESS OF PROPERTY

1135 Birk Avenue Ann Arbor, MI

ZIP CODE

48103

ZONING CLASSIFICATION

Residential

NAME OF PROPERTY OWNER \*If different than applicant, a letter of authorization from the property owner must be provided

Jeffrey Heinz Willard

PARCEL NUMBER

09-09-32-215-022

OWNER EMAIL ADDRESS

jwill1914@yahoo.com

## APPLICANT INFORMATION

NAME

Jeffrey Heinz Willard

ADDRESS

1135 Birk Avenue

CITY

Ann Arbor

STATE

MI

ZIP CODE

48103

EMAIL

jwill1914@yahoo.com

PHONE

734.277.3324

APPLICANT'S RELATIONSHIP TO PROPERTY

Owner

## REQUEST INFORMATION

VARIANCE REQUEST

Complete Section 1 of this application

REQUEST TO ALTER A NONCONFORMING STRUCTURE

Complete Section 2 of this application

## REQUIRED MATERIALS

One hard copy application complete with all required attachments must be submitted. Digital copies of supportive materials included in the submitted hard copy will only be accepted in PDF format by email or accompanying the hard copy application on a USB flash drive.

### Required Attachments:

- Boundary Survey of the property including all existing and proposed structures, dimensions of property, and area of property.
- Building floor plans showing interior rooms, including dimensions.
- Photographs of the property and any existing buildings involved in the request.

## OFFICE USE ONLY

Fee Paid:

ZBA:

DATE STAMP

## ACKNOWLEDGEMENT

All information and materials submitted with this application are true and correct.

Permission is granted to City of Ann Arbor Planning Services and members of the Zoning Board of Appeals to access the subject property for the purpose of reviewing the variance request.

Property Owner Signature:

*Jeffrey Willard*

Date:

01/25/2021

# Section 1 City of Ann Arbor Planning Services – Zoning Board of Appeals Application

## VARIANCE REQUEST

ARTICLE(S) AND SECTION(S) FROM WHICH A VARIANCE IS REQUESTED: (Example: Article 3, Section 5.26)

required rear open space = 35%

REQUIRED DIMENSION: (Example: 40' front setback)

Feet: Inches: < 35%

PROPOSED DIMENSION: (Example: 32 foot 8 inch front setback)

Feet: Inches: \* 62.5% (is attached)

DESCRIPTION OF PROPOSED WORK AND REASON FOR VARIANCE:

Detached 2-car garage is proposed to be placed in rear of corner lot. Construction to occur @ same time as addition to primary residence. Detached 2-car garage will occupy approximately 62.5% of required rear open space

The City of Ann Arbor Zoning Board of Appeals has the powers granted by State law and City Code Chapter 55, Section 5:29. A variance may be granted by the Zoning Board of Appeals only in cases involving practical difficulties or unnecessary hardships when all of the following statements are found to be true. Please provide a complete response to each of the statements below.

The alleged hardships or practical difficulties, or both, are exceptional and peculiar to the property of the person requesting the variance, and result from conditions which do not exist generally throughout the city.

The property is a corner lot, which causes the formula for rear open space to be very restrictive to this lot.

The alleged hardships are practical difficulties, or both, which will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return, or both.

If the proposed garage was pushed clear to house to meet the 35% rear open space requirement, my backyard would be cut into two (2) sections, making it unusable for my family. If the proposed garage is made attached to home, the resulting structure will not meet neighbor hood character.

Allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this chapter, the individual hardships that will be suffered by a failure of the board to grant a variance, and the rights of others whose property would be affected by the allowance of the variance.

The currently proposed home addition & detached garage have been intentional in design to match & enhance the existing neighborhood. Open space, observable from multiple streets is maximized. The design is also intended to support reduced water run-off towards the home directly to east.

The conditions and circumstances on which the variance request is based shall not be a self-imposed hardship or practical difficulty.

The conditions & circumstances are not self-imposed.

A variance approved shall be the minimum variance that will make possible a reasonable use of the land or structure.

The variance proposed has been minimized to allow reasonable use of the land.

# Section 2 City of Ann Arbor Planning Services – Zoning Board of Appeals Application

## REQUEST TO ALTER A NONCONFORMING STRUCTURE

For the purposes of Article VI: Nonconformities Section 5.32.2 Nonconforming Structure, **alteration** is defined as any change in a Building that results in additional Floor Area being fit for occupancy, a greater number of dwelling or rooming units or an increase in the exterior dimensions of the Building.

A nonconforming structure may be maintained or restored, but permission to alter a nonconforming structure will only be approved by the Zoning Board of Appeals upon finding that it complies as nearly as practicable with the requirements of this Chapter and that it will not have a detrimental effect on neighboring property.

In the space below, describe the current use of the property, the proposed alteration, and the impact it would have on neighboring property.

- ①. Current south side (potter) of existing home is understood to be non-conforming. The proposed addition includes a continuation of main floor "bump-out" for an additional ~7' along existing plane towards the rear (EAST) of property. The proposed addition also includes a second (2nd) floor to follow the existing plane of the primary south wall upward.
- ②. Current west side (Birk) of existing home includes a 4'x8' front porch that is understood to be non-conforming. The proposed addition includes a continuation of the front porch's existing plane to the size of 4'x18'.

Please complete the table below as it relates to your request

Requirement	Existing Condition	Code Requirement
Lot Area		
Lot Width		
Floor Area Ratio		
Setbacks	front porch set back 24.2' potter st set-back 9.3' & 11.3'	5.32.2
Parking		
Landscaping		
Other		



(No Subject)

From: Jeffrey H. Willard (jeffrey.willard@cmsenergy.com)

To: jwill1914@yahoo.com

Date: Wednesday, January 27, 2021, 02:22 PM EST



Allowable Area		Proposed Area	
	47.7		20
less	9.3	less	5
equals	38.4	equals	15
factor	20	factor	32
equals	768	equals	480
factor	0.35	divide	768
equals	268.8	equals	0.625
Variance Appeal			
	480		
Less	268.8		
Variance Appeal	211.2		

62.5%

211.2 ft<sup>2</sup> "var" - Variance being requested.

~~Thank you~~

~~Jeffrey Willard~~

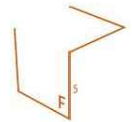
~~Consumers Energy~~

~~Enterprise Project Management~~

~~616-836-9173 (Cell 1)~~

~~734-277-3324 (Cell 2)~~

~~734-428-1082 (Office)~~



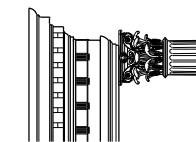
FormSurfaces  
Design Group

10913 Marcello Lane  
Whitmore Lake, MI 48189

PROPOSED RESIDENCE  
WILLARD RESIDENCE  
1135 Birk Avenue, Ann Arbor, MI

LAMBERTO  
CONSTRUCTION  
CORPORATION

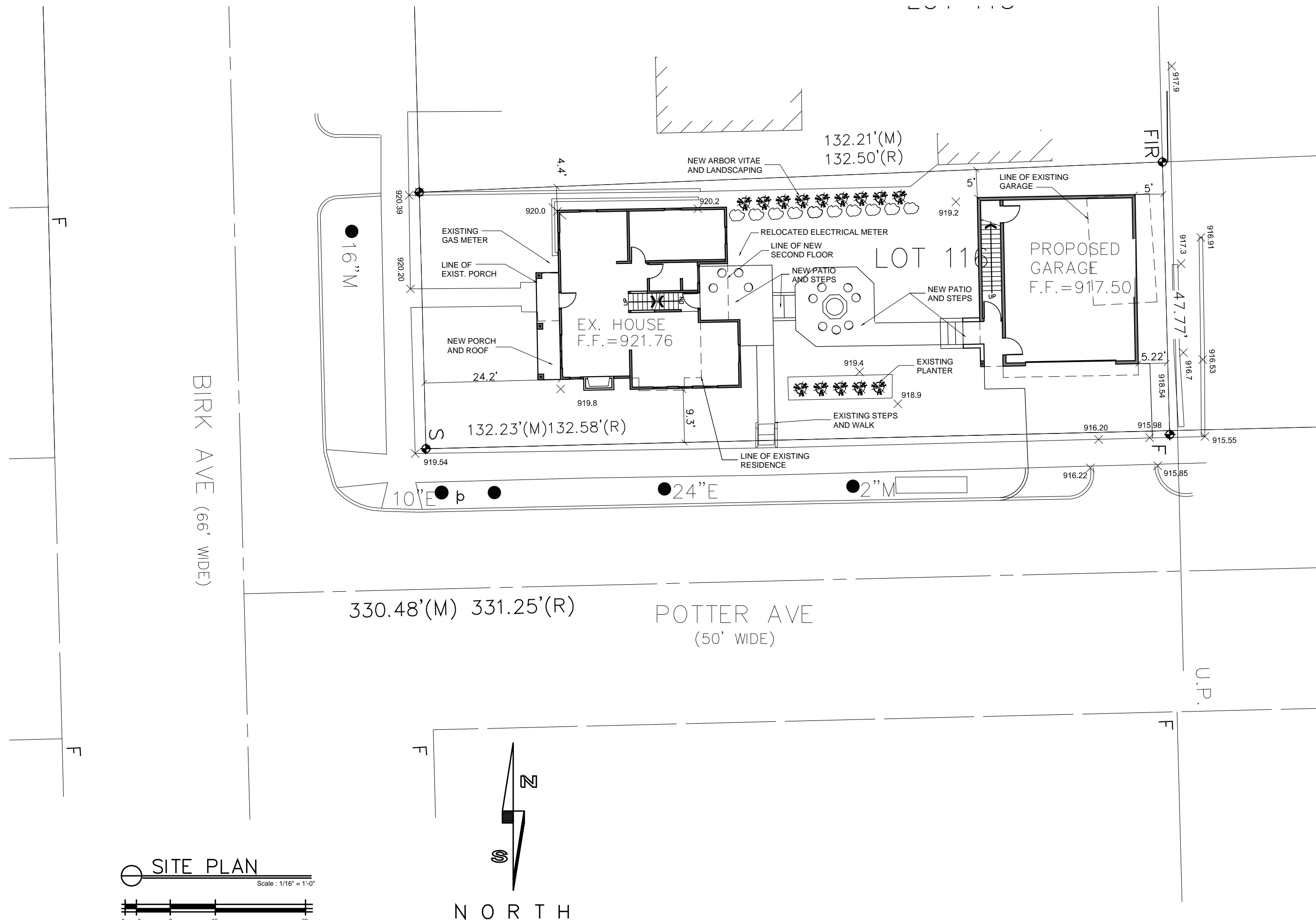
10913 MARCELLO LANE, WHITMORE LAKE, MI 48189  
TEL - 734.449.2581  
www.LambertoConsCorp.com



ISSUE DATE

January 25, 2021

S-1

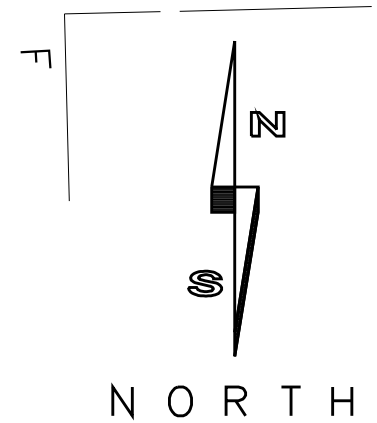


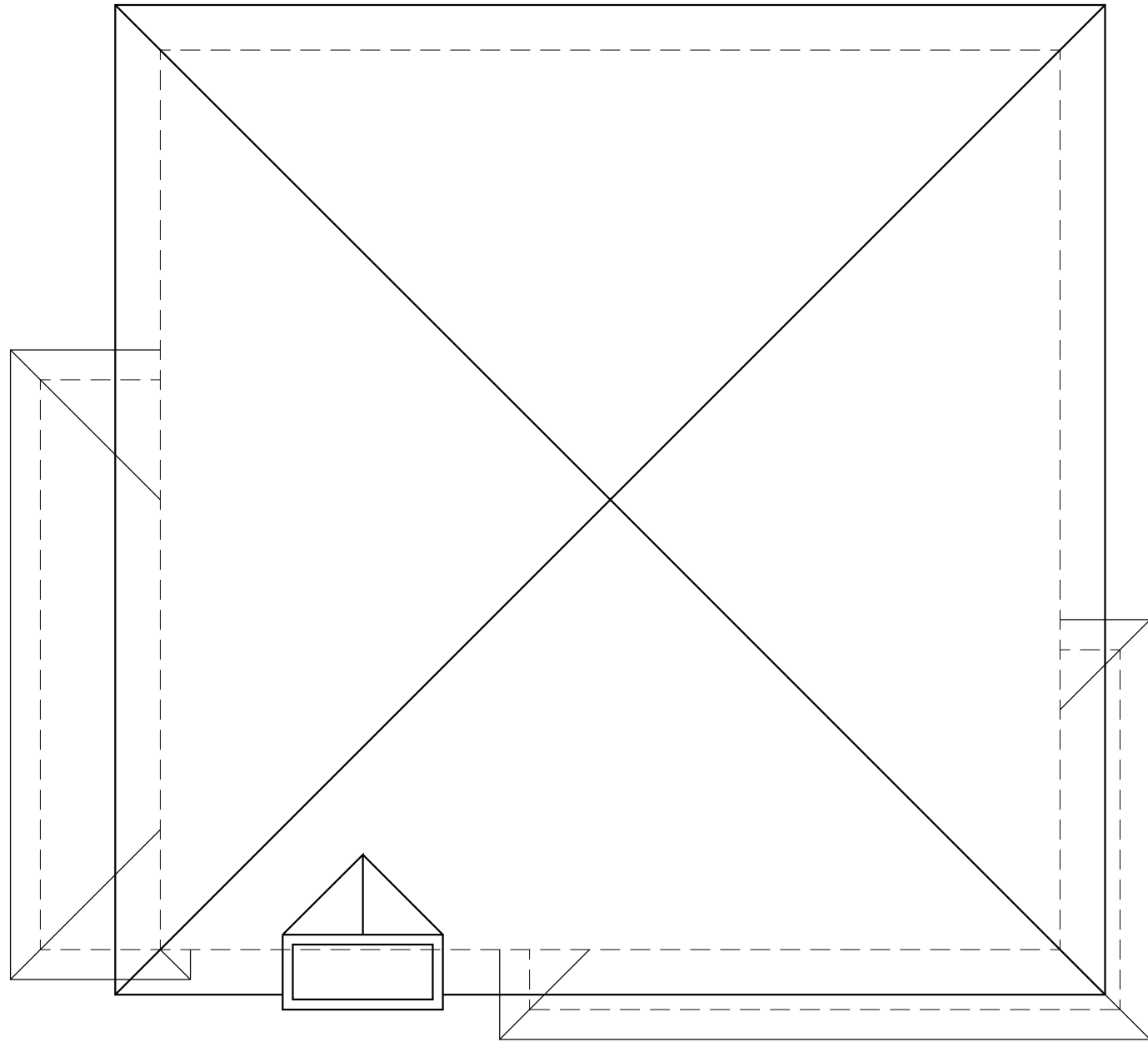
BIRK AVE (66' WIDE)

330.48'(M) 331.25'(R)

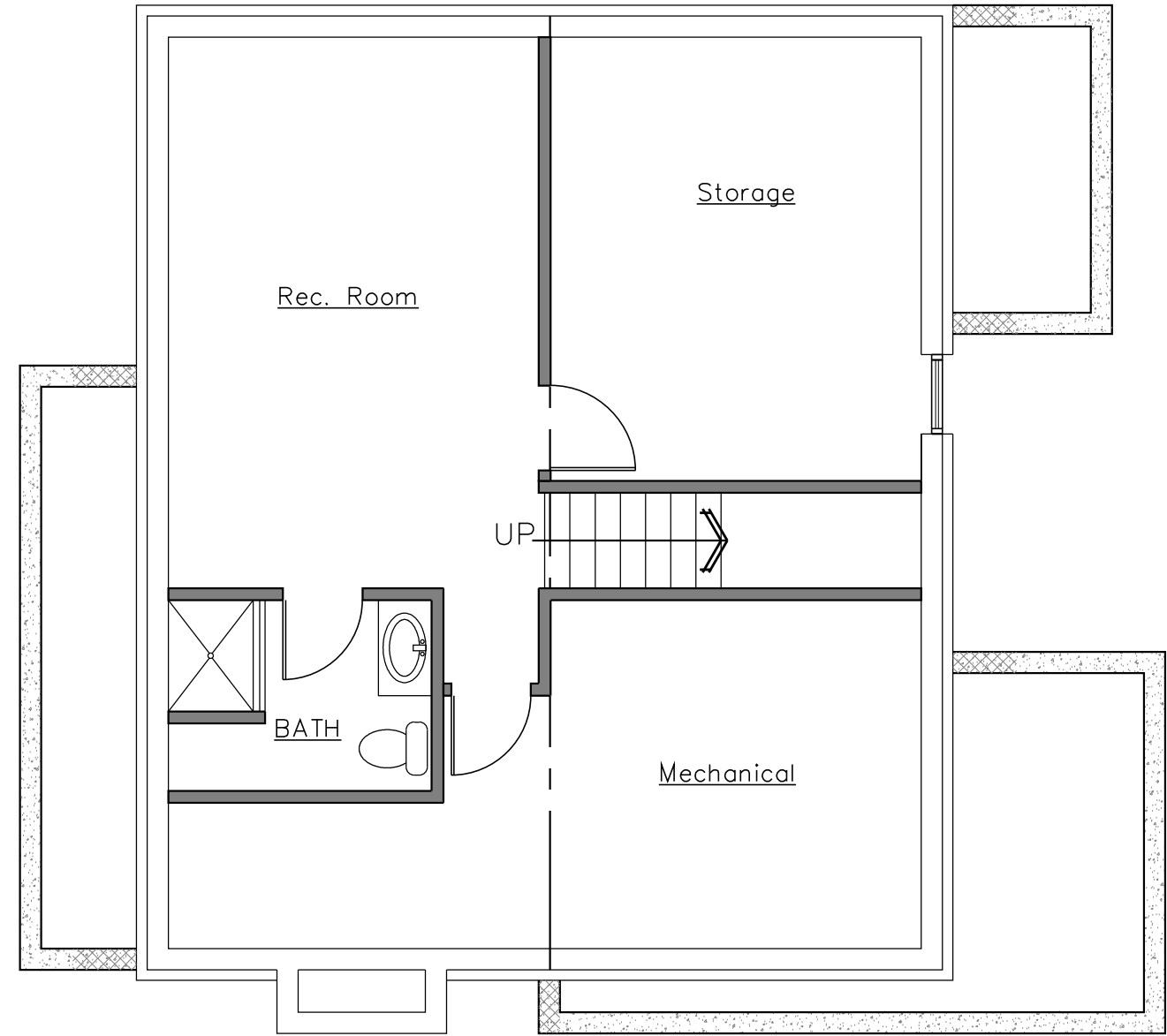
POTTER AVE  
(50' WIDE)

U.P.

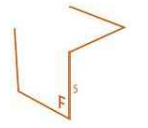




ROOF PLAN  
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BASEMENT PLAN  
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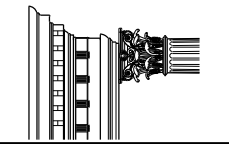


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PROPOSED RESIDENCE  
 WILLARD RESIDENCE  
 1135 Birk Avenue, Ann Arbor, MI

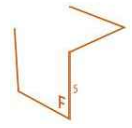
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R-1

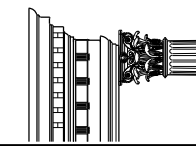


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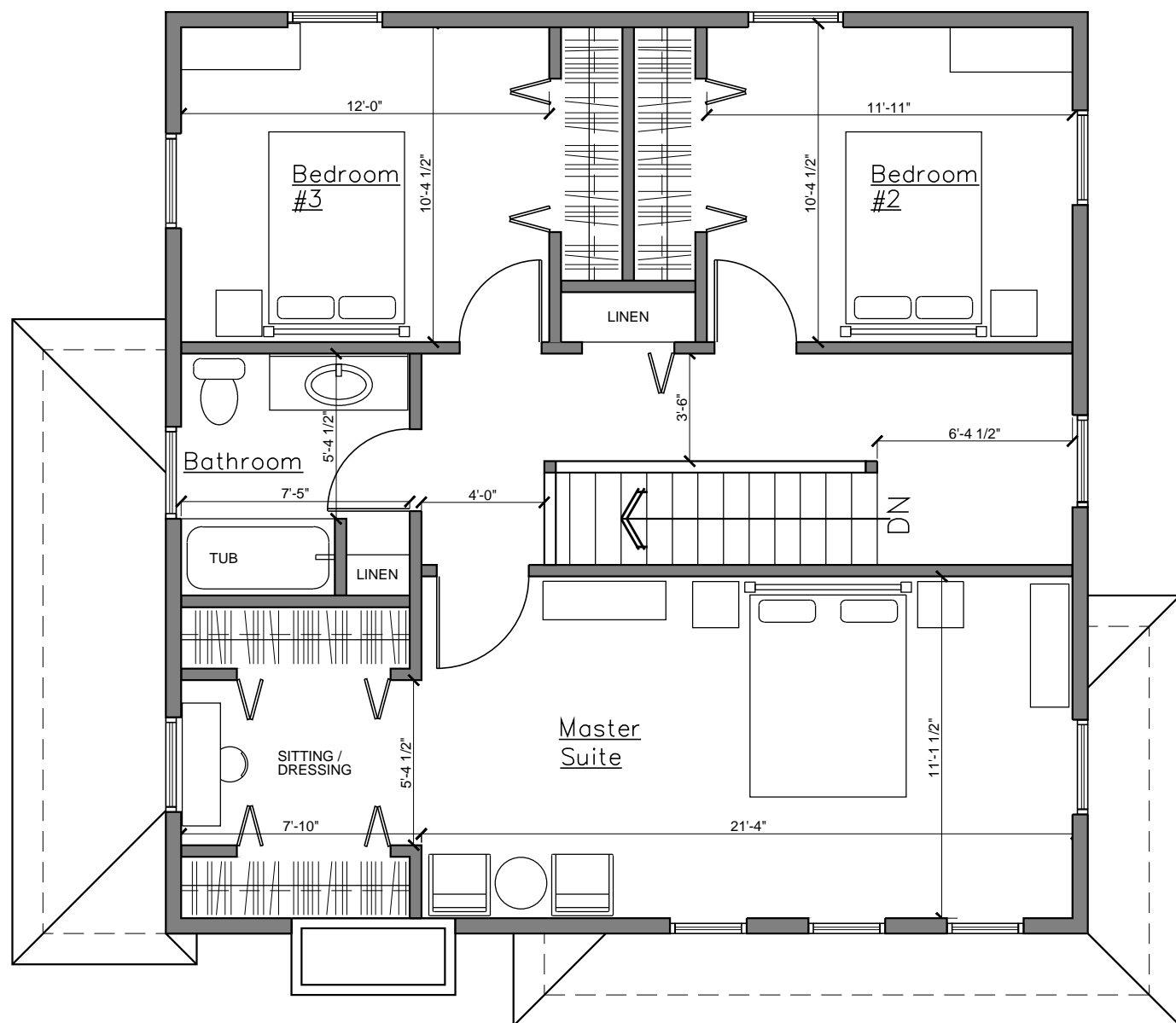
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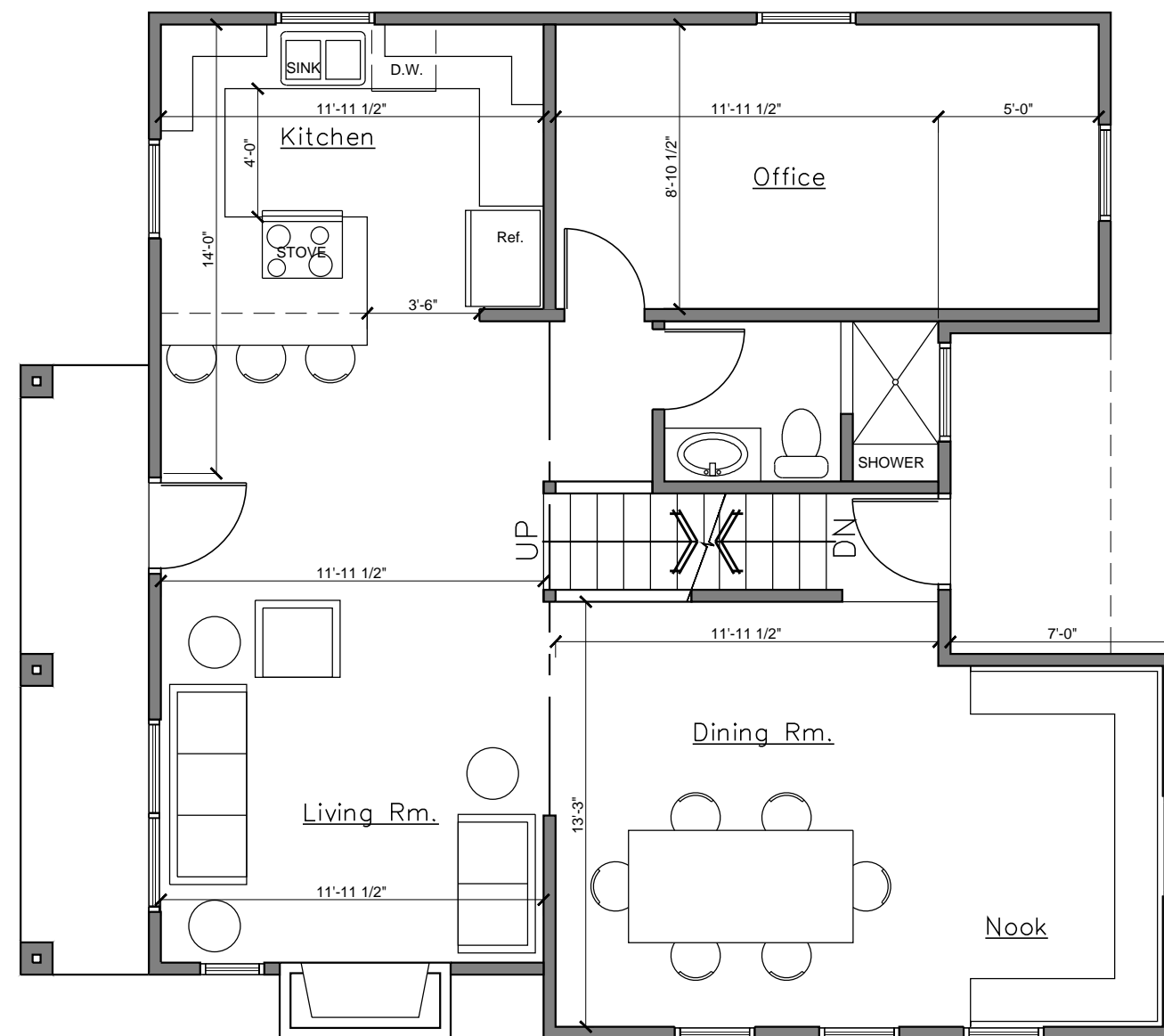
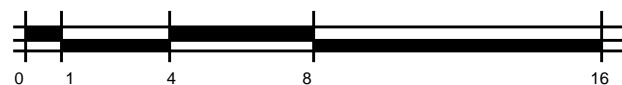
January 25, 2021

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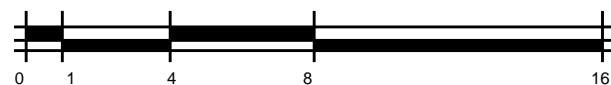
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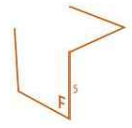
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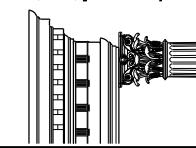


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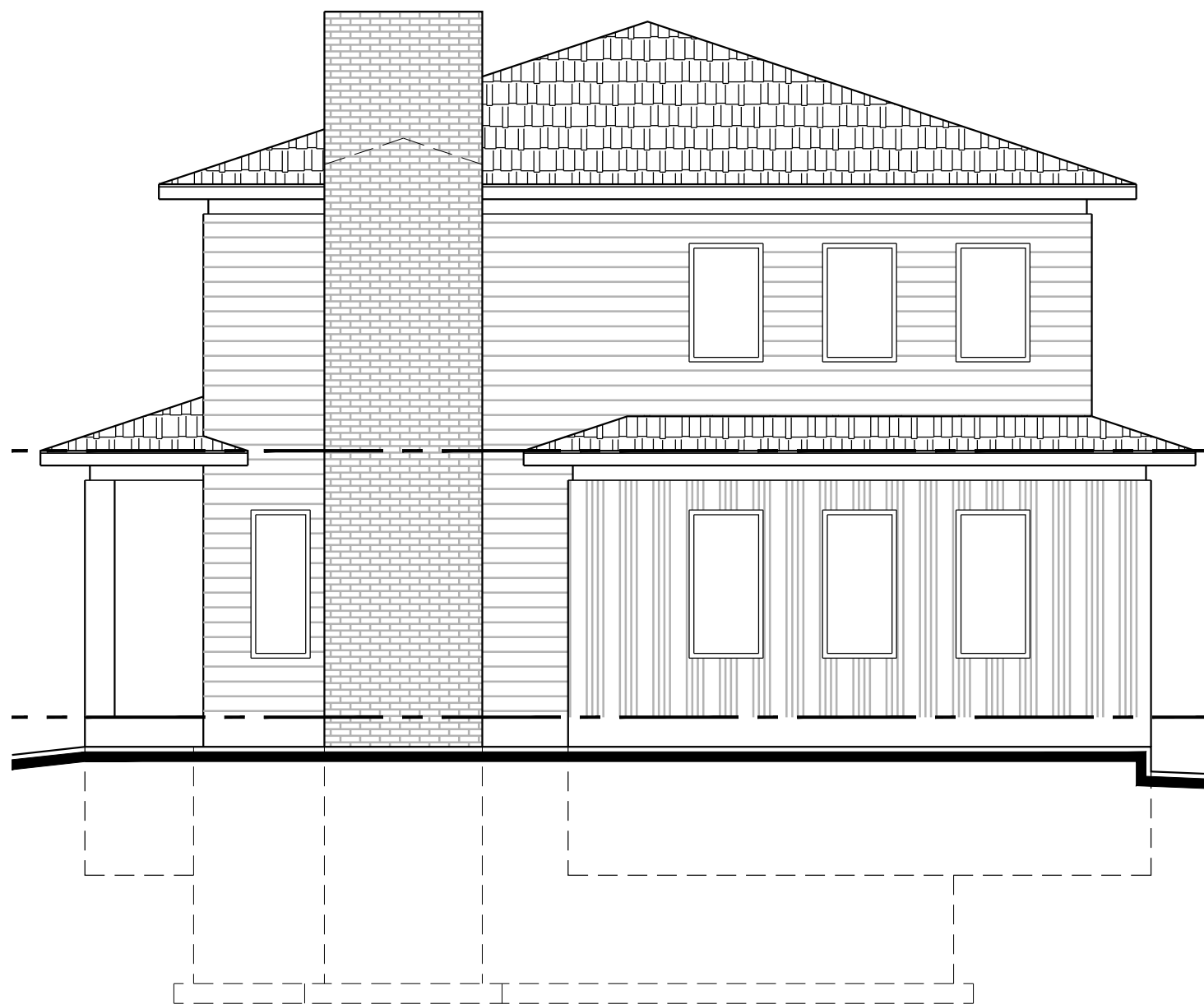
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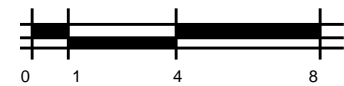
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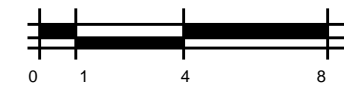
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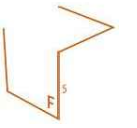


SOUTH ELEVATION  
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WEST ELEVATION  
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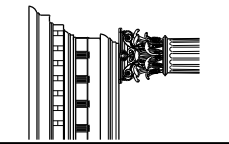


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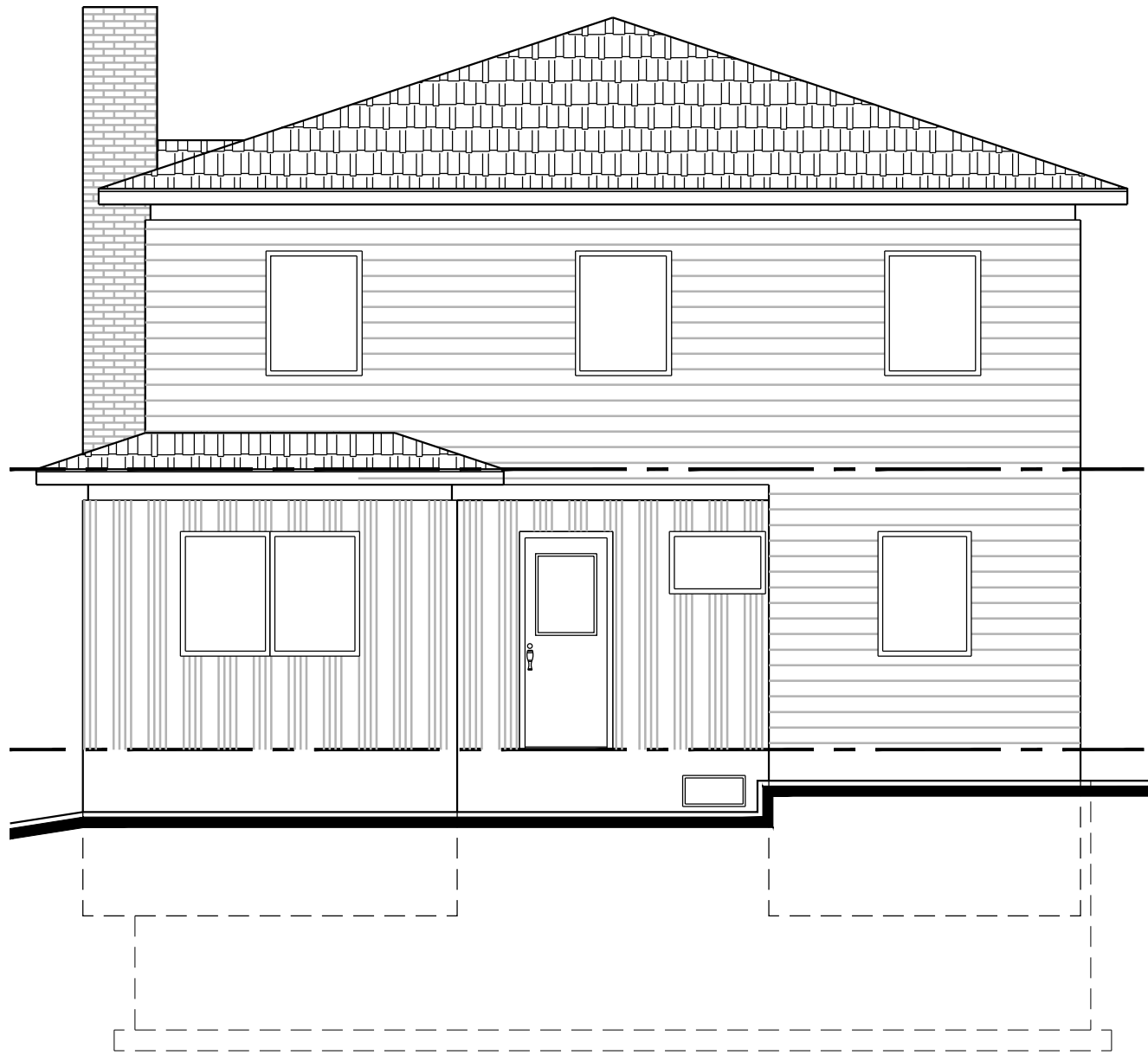
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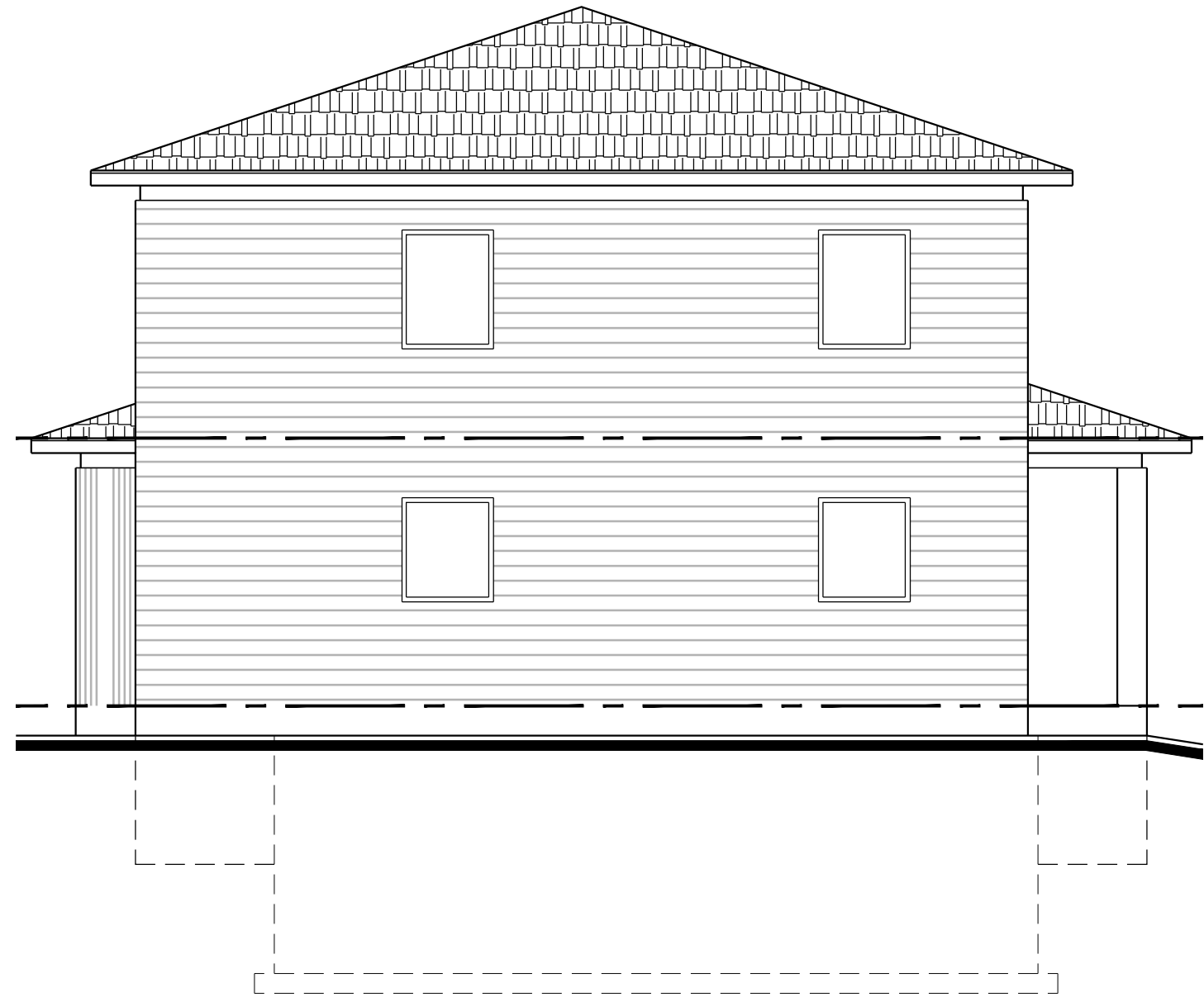
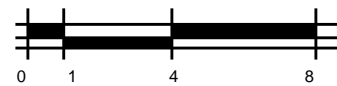
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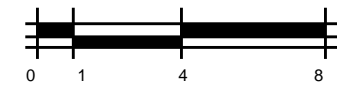
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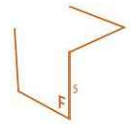
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NORTH ELEVATION

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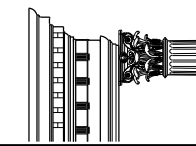


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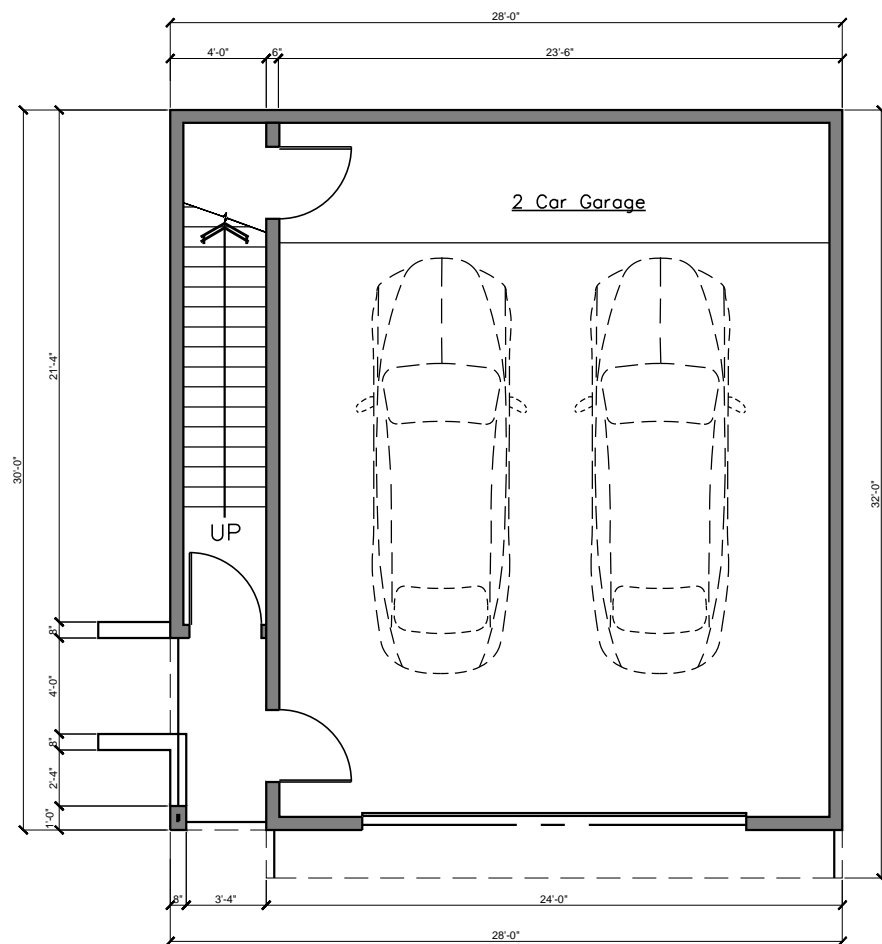
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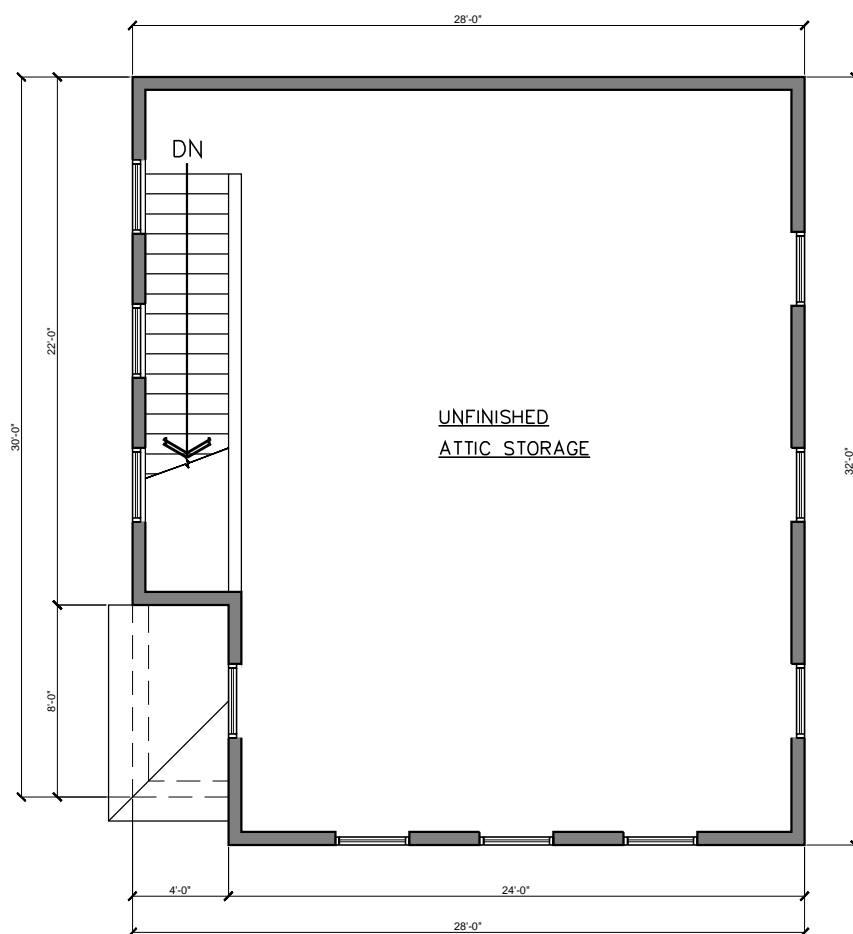
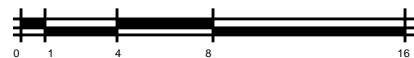
January 25, 2021

A-5



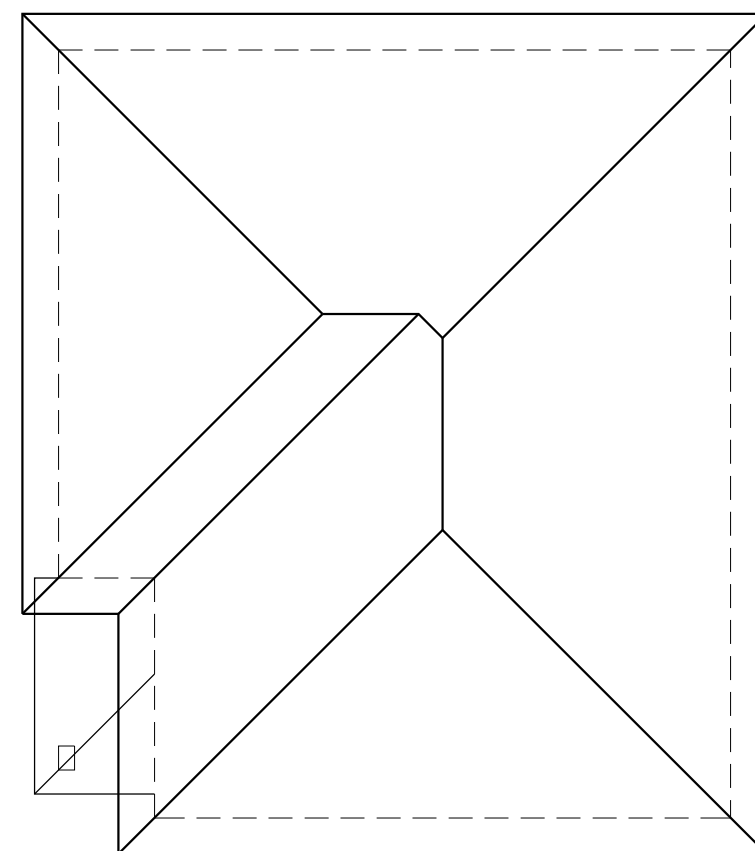
FIRST FLOOR

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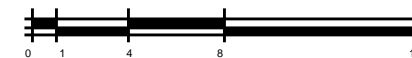
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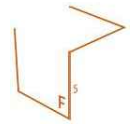
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ROOF PLAN

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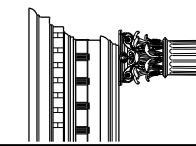


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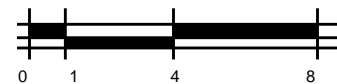
January 25, 2021

A-6



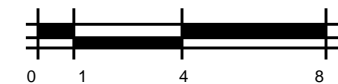
WEST ELEVATION

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SOUTH ELEVATION

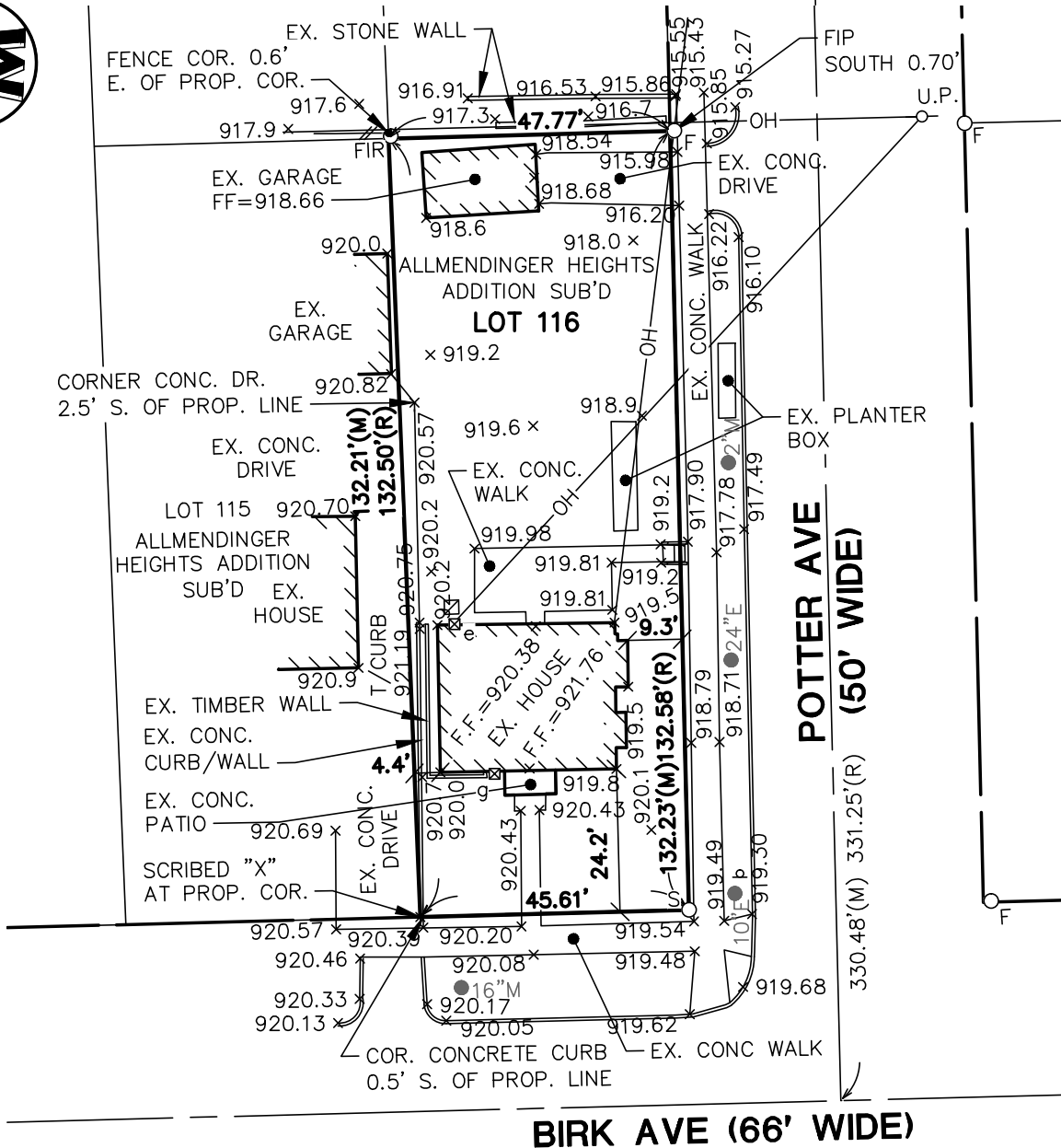
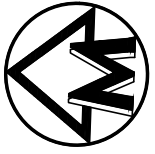
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# CERTIFIED SURVEY

SEVENTH AVE  
(66' WIDE)



BENCHMARK  
ELEV=922.45'

## LEGEND

×836.2	EXIST. SPOT ELEVATION	○ S	SET IRON PIPE
○ U.P.	EXIST. UTILITY POLE	○ F	FOUND IRON PIPE
— OH —	EXIST. OVERHEAD UTILITY LINE	○ FIR	FOUND IRON ROD
⊕	EXIST. HYDRANT	●	POST
P	SIGN	☒	EXIST. AC UNIT
⊠ <sup>e</sup>	ELECTRIC METER	(M)	MEASURED
⊠ <sup>g</sup>	GAS METER	(R)	RECORDED
—//—	FENCE	● E	ELM
FF	FINISH FLOOR ELEVATION	● M	MAPLE

## PROPERTY INFORMATION

ADDRESS: 1135 BIRK AVE., ANN ARBOR  
TAX PARCEL ID: 09-09-32-215-022  
AREA: ±0.142 ACRES (6,173 SQ. FT.)

ZONED: R1D  
FRONT SETBACK: 25'  
SIDE SETBACK: 3' (6' TOTAL)  
REAR SETBACK: 20'

I HEREBY CERTIFY THAT I HAVE SURVEYED AND MAPPED THE ABOVE PARCEL HEREON DESCRIBED ON January 22, 2021 AND THAT THE RELATIVE POSITIONAL PRECISION OF EACH CORNER IS WITHIN THE LIMITS ACCEPTED BY THE PRACTICE OF PROFESSIONAL SURVEYING AND THAT ALL REQUIREMENTS OF SURVEYING AND THAT ALL REQUIREMENTS OF P.A. 132 1970, AS AMENDED, HAVE BEEN COMPLIED WITH.

CLIENT: WILLARD	DATE: 01/22/2021
JOB NO.: <b>21008</b>	SHEET 1 OF 2
SECTION: 32 TOWN: 2S RANGE: 6E	SCALE: 1in.= 30 ft.
CITY OF ANN ARBOR	BOOK: 1036
WASHTENAW COUNTY, MICHIGAN	BY: SSH

Mark Vander Veen PS NO. 56788



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# LEGAL DESCRIPTION

(per Warranty Deed, as recorded in L. 4973, P. 959)

Lot 116, Allmendinger Heights Addition, as recorded in Liber 3 of Plats, Pages 21 and 22, Washtenaw County Records.

# BENCHMARK

BENCHMARK: TOP NUT OF HYDRANT LOCATED ON THE WEST SIDE OF BIRK AVE. AND  $\pm 60'$  NORTH OF THE C/L OF POTTER AVE. ELEVATION= 922.45' (NAVD88 DATUM)

I HEREBY CERTIFY THAT I HAVE SURVEYED AND MAPPED THE ABOVE PARCEL HEREON DESCRIBED ON January 22, 2021 AND THAT THE RELATIVE POSITIONAL PRECISION OF EACH CORNER IS WITHIN THE LIMITS ACCEPTED BY THE PRACTICE OF PROFESSIONAL SURVEYING AND THAT ALL REQUIREMENTS OF SURVEYING AND THAT ALL REQUIREMENTS OF P.A. 132 1970, AS AMENDED, HAVE BEEN COMPLIED WITH.

CLIENT: WILLARD	DATE: 01/22/2021
JOB NO.: <b>21008</b>	SHEET 2 OF 2
SECTION: 32 TOWN: 2S RANGE: 6E	SCALE: 1in.= ft.
CITY OF ANN ARBOR	BOOK: 1036
WASHTENAW COUNTY, MICHIGAN	BY: SSH



**M I D W E S T E R N**  
**C O N S U L T I N G**

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