

Wednesday, June 21, 2023

4:30 PM

McFarland Municipal Center
Community Room

AGENDA

You are invited to this meeting through a Zoom webinar. The public may attend in-person or remotely through the webinar or telephone options listed below.

PLEASE CLICK THE LINK BELOW TO JOIN THE ZOOM WEBINAR:

<https://us02web.zoom.us/j/81660473058>

Or by Telephone: +1 (312) 626-6799

Webinar ID: 816 6047 3058

Press *9 to raise/lower hand. Press *6 to mute/unmute.

1. CALL TO ORDER, ROLL CALL.
2. ANNOUNCEMENT OF PROCEEDINGS
 - a. Review of meeting proceedings.
3. PUBLIC APPEARANCES.
 - a. This is an opportunity for members of the public to address the Board of Zoning Appeals for items that are not on the agenda. Please remember this is a hybrid meeting conducted in person and through the Zoom online meeting platform. Meeting attendees wishing to address the Board about items not on the agenda may do so at this time. Zoom attendees should type their name and address in the Question and Answer feature within the Zoom online meeting platform at this time. Members of the public who are present in person and wish to address the Board should fill out a public comment form and turn into the meeting chairperson. When you are called upon to speak, state your name, address, and provide your comments to the Board for their consideration. Please adhere to the 3-minute time limit. Additionally, you may send your public comments to community.development@mcfarland.wi.us to be included as part of the meeting.

Members of the public may also speak during their selected agenda item as they designate on the public comment form or in the Question and Answer feature on Zoom.
4. APPROVAL OF MINUTES.
 - a. Motion to approve the minutes of the January 12, 2022 Board of Zoning Appeals meeting.
5. PUBLIC HEARING
 - a. Public Hearing for a request by CHS for a variance to construct a 12' x 18' accessory structure within the front yard setback requirements of Sec. 62-72 of the M-IC Zoning District located at 4103 Triangle Street.
6. BUSINESS.
 - a. Discussion and action on a request by CHS for a variance to construct a 12' x 18' accessory structure within the front yard setback requirements of Sec. 62-72 of the M-IC Zoning District located at 4103 Triangle Street.

b. Discussion and action to approve updates to the Board of Zoning Appeals application.

7. SCHEDULE NEXT MEETING DATE.

a. To be determined

8. ADJOURNMENT.

Any person who has a qualifying disability as defined by the Americans with Disabilities Act that requires the meeting or materials at the meeting to be in an accessible location or format should contact the McFarland Municipal Center at (608)838-3153, 5915 Milwaukee Street, McFarland, Wisconsin, or village.clerk@mcfarland.wi.us by 2:00 p.m. at least 5 business days prior to the meeting so that any necessary arrangements can be made to accommodate each request. If the meeting or request is less than 5 business days from the meeting, requests for accommodations may still be made and reasonable efforts will be made to accommodate each request.

Board of Zoning Appeals - Announcement of Proceedings

This script is meant to be reviewed at the beginning of the Board of Zoning Appeals meetings so that applicants and members of the public who are not familiar with Board of Zoning Appeals learn 1) what a Board of Zoning Appeals is 2) what Wisconsin laws require that Board of Zoning Appeals base their decisions on and 3) what to expect during a Board of Zoning Appeals public hearing.

The Board of Zoning Appeals (BZA) functions like a court, and must follow state laws and local zoning ordinances. The BZA cannot change or ignore any part of the zoning ordinance or state laws, but must apply the laws as written. The BZA may only grant a variance, special exception or administrative appeal if the applicant provides evidence showing that they meet all of the legal standards for that decision. The legal standards the BZA will use to decide on each application have been provided to the applicant and are found within Sec. 62-366(e) of the Village of McFarland Municipal Code of Ordinances, and as provided on page two.

1. **Opening of Public Hearing.** The public hearing will be opened by the Chair.
 - a. Witness appearing during the public hearing will be asked to state their name, address, and the following oath:

I solemnly and sincerely declare and affirm that the evidence I shall give will be the truth, the whole truth, and nothing but the truth.
2. **Summary of Appeal.** Village Staff will summarize the appeal requested.
3. **Opening Statements.** The Applicant may make an opening statement followed by an opening statement by the Zoning Administrator or Village representative. Either party can waive their opportunity for an opening statement.
4. **Applicant's Case.** The applicant, and any agents of the applicant, will be sworn in and then present the reasons and evidence to support why they think they meet the legal standards for the application.
 - a. The BZA may ask questions of the applicant, its agents, or Village staff (examine witnesses).
 - b. Village Staff may ask questions of the applicant (cross examination).
5. **Village Staff's Case.** The Village Zoning Administrator, or representative, will review the staff report in the meeting packet and summarize reasons and evidence to support or deny the application.
 - a. The BZA may ask questions of the applicant, its agents, or Village staff (examine witnesses).
 - b. The Applicant may ask questions of Village Staff (cross examination).
6. **Public Statements & Rebuttal**
 - a. Public statements provided to Village Staff prior to the meeting will be read or included in the meeting packet.

- b. Members of the public may address the BZA. Please adhere to the 3-minute time limit. The BZA will start with individuals attending in-person and then move to those individual attending remotely via Zoom.
 - c. Rebuttal by Applicant. Applicants may address any questions raised by the public or rebuttal testimony.
 - d. Rebuttal by Village Staff. Village Staff may address any questions raised by the public or rebuttal testimony.
7. **Closing Statements.** The Applicant may make a closing statement followed by a closing statement by the Zoning Administrator or Village representative. Either party can waive their opportunity for a closing statement.
 8. **Close the Public Hearing.** The Chair will close the public hearing.
 9. **Business.** The BZA will deliberate the application or appeal and decide¹ whether the applicant has met the legal standards under Sec. 62-366(e) of the Municipal Code. Final decisions shall be made by a majority of the members present. In making its determination, the BZA shall state reasons for the BZA's determination.

The Board of Zoning Appeals shall admit all testimony having reasonable probative value, but shall exclude immaterial, irrelevant or unduly repetitious testimony. Basic principles of relevancy, materiality and probative force shall govern the proof of all questions of fact. Objections to evidentiary offers and offers of proof of evidence not admitted may be made and shall be noted in the record.

Following the meeting Village Staff will provide a written summary of the BZA's decision to the applicant. Any person aggrieved by any decision of the BZA may present to a court of record a petition, duly verified, setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the offices of the Board of Zoning Appeals.

Sec. 62-366(e) Standards for Granting Variances.

- (1) Unnecessary hardship. Variances shall be granted only where the applicant demonstrates the existence of an unnecessary hardship. An unnecessary hardship exists where compliance with the strict letter of the restrictions governing the property would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. When considering any variance, the Board of Zoning Appeals shall determine whether the particular restriction in question is unnecessarily burdensome in light of the underlying purpose of that restriction. The purpose of the regulation shall be the primary concern, not the burden upon the property owner. Variances may not be granted where they are contrary to the public interest or where granting the variance would violate the spirit of the regulation. A use variance may not be granted unless it is proved that there can be no reasonable use of the property absent a variance. The Board of Zoning Appeals

¹ Per Sec. 62-365(a) the BZA shall render its decision either at the termination of the hearing or within 30 days thereafter.

shall consider the following factors to determine whether an unnecessary hardship exists to justify issuance of an area variance:

- a. The purpose of the zoning restriction in question;
 - b. The effect of the restriction on the property; and
 - c. The effect of a variance on the neighborhood and the larger public interest.
- (2) Hardship may not be self-imposed. Variances may not be granted to remedy self-imposed hardships.
- (3) Hardships must be unique to the property. Where the same hardship is imposed upon other properties in the zoning district, a variance shall not be granted.

Board of Zoning Appeals

Working draft - MINUTES

January 12, 2022

Members Present: Gordon Kinder, Blake Draper, John Robertson, Joe Rademacher (A), Art Luetke

Members Absent: Ken Brost, Jeff Sorenson (A)

Staff Present: Andrew Bremer, Jim Trebian, Kong Thao, Karen Knoll

1. CALL TO ORDER

Kinder called the meeting to order at 4:30 p.m. Kinder certified that proper public notices and publication requirements had been met, and polled all members to verify they had no conflict of interest with the agenda item. Kinder noted that Alternate Member Joe Rademacher would serve in place of Regular Member Ken Brost who was absent.

2. ANNOUNCEMENT OF PROCEEDINGS

Bremer gave a brief background on the purpose and authority of the Board of Zoning Appeals along with the announcement of proceedings and procedure for the meeting as included in packets.

3. PUBLIC APPEARANCES.

None

4. APPROVAL OF MINUTES.

a. Review and possible approval of minutes from the October 19, 2020 Board of Zoning Appeals meeting.

Motion by Luetke to approve the minutes of the October 19, 2020 meeting. Seconded by Draper. Motion passed 5-0.

5. PUBLIC HEARING

a. Public Hearing on a request by Dawn Cherek for a variance to the setback requirements of Sec. 62-70 to construct a replacement single family home, with an additional 301 sq. ft. loft residence on the existing foundation. The property is addressed 5913 Lake Edge. The property is zoned R-1B.

Kinder opened the public hearing at 4:41 p.m.

Bremer gave a summary of the variance request as submitted in packets. Bremer stated this is a variance setback request in the R-1B district. The property abuts water on two sides; the lot is a little less than 3000 sq.ft. in size, making it a non-conforming lot size with a non-conforming structure on it. It does not meet the minimum front yard setback, nor the setbacks for a lot on navigable water. It is only conforming on the east side of the property. There is a gravel driveway and small shed on the property. As non-conforming structure, it could be razed and rebuilt like for like, same size and same footprint; doors and windows could be placed in different locations. What is being requested is razing the building, reconstructing it in the same footprint, approximately 800 sq. ft. and adding a loft space for additional living quarters. That portion of the building would also be in non-compliance of the setback. In packets are copies of a recent survey of the property. Bremer indicated the Building Inspector is in attendance at the meeting and available to address any questions in regards to the building code if needed.

Dawn Cherek –Cherek advised everything she wishes to do was covered by the information provided by Bremer. Cherek indicated her architect James McFadden would also like the variance and would like McFadden to speak on her behalf.

James McFadden – McFadden indicated they understand the building is non-conforming. What they are looking to do, using the same foundation, is build something a little taller in the footprint. McFadden discussed basics of their submittal as included in packets.

James McFadden 380 W. Washington Avenue, Madison, WI – took the oath and swore to tell the truth in his testimony.

Dawn Cherek, 2357 Effingham Way, Sun Prairie, WI – advised she swore by the truth also.

McFadden reviewed their proposal as provided in packets and advised he did not think the ordinance speaks to the living space, layout of rooms etc. McFadden stated there are other properties with full second stories, and felt this request will not set a precedent. McFadden stated the ordinance covers an owner has the right to raze and rebuild in the existing dimensions. McFadden went through their responses as submitted and provided in packets. McFadden indicated Cherek had visited the property prior to purchasing it and fell in love with the property and proceeded with the purchase. McFadden feels 800 sq. ft. is not a large home, and is not considered a large apartment by Madison standards.

Luetke questioned on the application they checked “yes” there had been a previous appeal made on this property, but the applicants did not indicate the outcome of that appeal. McFadden replied it is an error on their part, Cherek had spoken with staff about the property but there was no prior application made. Luetke inquired if the property currently had an occupant and could the Building Inspector provide his view of the condition of the property. Jim Trebian, Building Inspector advised he has not been inside of the structure and what he has seen from the outside it does not appear to have any visible major issues.

Rademacher inquired there currently is a gravel drive on the site, are they planning to pave a parking area and how would the drainage on the property be handled, would it be draining towards the neighboring property. Cherek responded she would like to pave the driveway and the drainage on the site would not be draining towards the neighboring property. Rademacher inquired if the Village had any future planning on the roads in this area. Bremer replied he could not directly confirm, as he does not know if there is anything in

the Public Works capital improvement plans for this area. Rademacher inquired if someone wanted to add a dormer to this property would that require a variance. Bremer replied if the dormer did not meet setbacks, they would have to apply for a variance; a roofline adjustment would not likely meet the setbacks.

Kinder inquired on their response to question number four of the variance application where they state this is not exclusively a desire to increase the property value or the income potential, is this going to be owner occupied or is this going to be a rental. Cherek replied this is likely to be a rental or it may be a cottage later on for her family.

Luetke inquired about it being on the same footprint, have the applicants done enough research to know they can do this on the same foundation. McFadden replied they hope to be able to use the same foundation, but will have to do inspections first to determine if they can.

Kinder inquired about the closeness to the street, are they looking at any added provision for the inherent safety issues. McFadden discussed the possibility of moving the building five-foot in on the property, which they would be amenable too; there is also the possibility of bollards set along the property line. He feels there is a variety of things, which they are open to discussion on.

Kinder asked of Bremer for a summary of the request. Andrew Bremer, Community and Economic Development Director, and Zoning Administrator for the Village of McFarland took the oath that the evidence he will give is the truth.

Bremer summarized this is a unique property, in an area which was platted in 1951. Bremer reviewed the staff report and opinions to the applicant's submission as included in packets. Highlighting the areas of the proposal, the applicant is not denied the usage of the property as a single family residence in the R-1B zoning, the existing home can continue to be used as permitted, can be renovated, or raised and rebuilt in its same form without the need for a variance. There is no mandate requiring a home to have two bedrooms or be of a certain height. The applicant did not indicate on their application why they could not construct a comfortable energy efficient home without a variance, and there is plenty of room for additional windows for light. The applicant has indicated to staff they wish to use this as short-term rentals, which would indicate a financial reason. This request could set a precedent for other non-conforming structures.

Bremer discussed with members questions regarding:

- Clarification when speaking about what the variance is about, is it just the livable space. Bremer advised it is not just the livable space but any part of the structure, in this instance height, and any part of the structure that is increased that is non-compliant.
- To rebuild without any variance there would need to be a floor plan, which match the current structure like for like, volume replacement.
- Adding of more non-compliance by allowing the variance.
- Adding height violates the setback requirements of the site.

- The flood plain and high water lines along with the 100-year flood plain and how it affects the property.
- Allowing additional non-conformance when there are others in the area, the intent of the zoning is not to increase non-conformities
- The purpose of a variance is not to increase the value or income potential of the property.
- The applicant's willingness to trade off moving the structure to allow for the increase in the height. The BZA is charged with reviewing what is submitted, not a possible submission, which is not being vetted, and the public has not had the opportunity to view.

Kinder asked for any public statements at this time. For the record, there was no one in person wishing to speak.

Via ZOOM with Kinder, swearing them in to confirm that their testimony is the truth:

Angela Kellesvig - 1260 Elise Street, Ft. Atkinson, WI – Cherek's realtor spoke in favor of the variance.

Corbin Ace – 3507 Summer Shine Drive #3, Madison, WI - Cherek's contractor spoke in favor of the variance.

Bremer indicated there was one letter of support in the packet from Mr. and Mrs. Mueller at 5912 Lake Edge Road, McFarland.

Kinder advised this is the time for rebuttals:

McFadden advised he felt they had covered what they needed to cover.

Bremer reviewed staff's opinion regarding not increasing the non-conformity. What is proposed is a structural increase therefore would be an increase in the non-conformity, while the applicant is not bringing the foundation any closer to the front, side or rear than what currently exists; it is a structural non-conforming volume increase and therefore an increase in non-conformity.

Kinder asked for closing statements:

McFadden stated they do not feel they are encroaching in any direction in any sort of way, they are respecting the existing footprint, they are looking to add some height, 7'7" to the property. They want to provide a light, airy, and cheerful home worthy of the site.

Bremer stated while this is a unique property and what is being proposed is a relatively small structure, the Village's view is it is increasing the non-conformity. The applicant is not denied the reasonable use of the property, or the ability to reconstruct as is and make it more airy with skylights and additional windows along with gaining energy efficiencies through modern insulation. Those items can be achieved through the rebuild as is, while not ideal, denial of the variance does not restrict unreasonable use of the property. There are not enough unique instances in this situation that would not make other non-conforming homeowners in the Village want to also build up and increase the amount of their structure that may not meet setback requirements.

Kinder closed the public hearing at 6:00 p.m.

6. BUSINESS.

a. Discussion and possible action on a request by Dawn Cherek for a variance to the setback requirements of Sec. 62-70 to construct a replacement single family home, with an additional 301 sq. ft. loft residence on the existing foundation. The property is addressed 5913 Lake Edge. The property is zoned R-1B.

Kinder polled members on their thoughts on the proposal and justifications for granting or denying the variance request. Members discussed the request as presented.

Draper stated their mission is to review items as submitted along the lines of the six application criteria for which they are mandated to operate. While the proposal includes one to beautify or provide benefits for the property owner, that does not follow the criteria which is to be followed. The decision needs to be made based on the submittal and the six criteria. The property can be rebuilt without the addition of more non-conformity. This is not a unique property.

Luetke indicated he was ready to make a motion at this point.

Robertson had conflicting feelings, he was not sure on the options.

Rademacher advised he can see the benefit, but can also see other options that were not part of the proposal, he felt the six conditions were fairly well covered, but felt items such as safety could be discussed at a staff level.

Kinder understands what the applicant is trying to do, but it is not a hardship as they have options to remodel or tear down and rebuild the same size structure as is currently there. It

is not a hardship to not have a view of the lake when you purchase a property. Wanting to bring beautification and enhancing the neighborhood is not a reasonable hardship.

Luetke moved to approve the request. His reasons for approval are:

- He does not feel the variance impacts the 100-year flood plain.
- There are already three setbacks on the current property, which will be dealt with satisfactorily per the presentation.
- The safety concern is addressed as road does not allow people to drive more than 10 miles per hour.
- Per the concern of precedent, he feels each application is of a separate nature, and should be ruled on as such. Not sure that there are any other properties that have three variances (non-conforming setbacks) that they have to be dealing with.
- He feels the application addresses the variances and stays within what is currently there.
- The current property is a hunting shack, we should allow for a structure to improve the site and a 300 sq. ft. addition seems acceptable.

Robertson seconded the motion.

Kinder polled members for the vote and asked for the reasons of approving or disapproving of the motion.

Draper – voted no, the application does not meet all six requirements, this is not a hardship.

Rademacher – voted in favor – the hardship conditions have been met, changes are technically minimal to the property and this is not an issue of setting a precedent.

Luetke – voted in favor –the application satisfactorily addresses and meets the requirements.

Robertson – voted in favor – the applicant has met the requirements, feels it is reasonable for a property of this size to be more livable.

Kinder – voted no – he concurs with concerns of the Village staff, it violates the spirit and intent of the regulation of the zoning codes. This is not a hardship, which was self-induced, but one that was in place, it is a buildable lot and the house can be replaced, there are also safety concerns. The purpose of a variance is not based on desire but meeting the six requirements, granting this would be detrimental to the public welfare, each approval affects a future one. This can be made better by replacing what is currently there with no variance.

Motion carried 3-2.

Kinder indicated the request has been approved; the applicant will receive a letter from staff indicating as such.

7. SCHEDULE NEXT MEETING DATE.

Next meeting to be scheduled as needed

8. ADJOURNMENT.

Motion by Draper to adjourn, seconded by Rademacher. Motion passed 5-0. Meeting adjourned at 6:25 p.m.


VILLAGE OF
McFarland
SUMMARY SHEET

MEETING DATE: Wednesday, June 21, 2023

SECTION: Business

DEPARTMENT: Community Development

CONTACT: Andrew Bremer, Comm & Eco Dev Director

AGENDA ITEM: Public Hearing for a request by CHS for a variance to construct a 12' x 18' accessory structure within the front yard setback requirements of Sec. 62-72 of the M-IC Zoning District located at 4103 Triangle Street.

PREVIOUS ACTION:

ISSUE SUMMARY:

CHS Petroleum, owner and applicant, is requesting a variance for an accessory structure to be located within approximately 5'-6" of the front lot line of the front yard at 4103 Triangle Street. The accessory structure will be 12'x18' and stand 10' tall. The structure's footprint measures 218 square feet and is intended to replace a previous shed for storage of emergency response equipment and private use. Note, this is a replacement of a previous safety shed that was located in the center of the truck rack approach driveways adjacent to the current terminal office building. During a recent driveway reconstruction project, the applicant, for safety reasons, decided the prior location was no longer viable and began partial construction of the new accessory shed prior to being notified by Department staff that they needed to obtain a building permit, site design review permit, and variance permit. The proposed location is intended to provide efficiency in emergency response to the truck rack.

For this request, the applicant must acquire both a site design review permit from the Plan Commission and be granted a variance by the Board of Zoning Appeals (BZA), as the proposed shed does not meet the minimum front yard building setback of 35 feet. The Plan Commission is scheduled to consider the site design review permit at their June 20 meeting.

RELEVANT PREVIOUS APPROVALS

In January 2012, the applicant was granted a 7' variance to the 35' front yard setback to construct a new truck/unload rack building, set 28' from the right-of-way adjacent to Triangle Street. The following year, in January 2013, the applicant was granted a 13' variance to the 35' front yard setback for the reconstruction of an electrical building, set 22' from the right-of-way. The location of the shed is within 5'6" of the property line, in the 35' front yard setback on the property. The street facing frontage of accessory structure is intended to be consistent with the adjacent terminal office building to the south.

EXISTING PROPERTY CONDITIONS

The property is 8.1 acres and zoned M-IC Manufactured Intensive Commercial. The property has nine existing structures on the property, which include: six petroleum storage tanks, a drive-



through loading bay for tanker vehicles, an office building, and an electrical structure. There is a security fence which wraps around the entire property's lot line.

Adjacent to the north is a similar property owned and operated by Sunoco, a petroleum manufacturer also zoned M-IC. Adjacent to the east are three undeveloped parcels of land within the City of Madison. The adjacent property to the south is owned by CHS and consists of a landscaping business, also zoned M-IC. Adjacent to the west is Triangle Street, then further is US HWY 51.

Standards for Granting a Variance - Comments Regarding Applicant's Responses

The BZA variance application includes six questions, or standards, or review and approval of a variance application. For the BZA to grant a variance, it must find all six items are met.

Note upon initial review of the application, Staff had a number of questions related to the application and requested the applicant provide supplemental responses to the original application which are provided in the packet. The following are Staff's comments regarding the Applicant's responses, and whether, in Staff's opinion, the responses or desired development meets the standard.

1. Why the denial of the variance may result in hardship to the property owner due to physiographical consideration. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Code should be changed.
 - The Applicant has indicated the request for a variance is prompted following the completion of an environmental excavation and driveway resurface project. Before that time, a shed was previously located within the center of the truck rack approach driveways. Due to its potential risk to driving lanes and the discovered safety concerns, the proposed location was selected to provide the site for ideal use and safe access to its equipment. The area east of the driveway located within the tank containment berms is classified as Class 1 Div 2 environments and requires additional personal protective equipment (PPE) and atmospheric monitoring equipment per CHS policy and OSHA regulations to access. In Staff's opinion, there are physiographical limitations that prevent the shed from being located further into the property and due to the purpose of the structure, it is desirable to have be located in closer proximity to the truck rack. In addition, the applicant is proposing the minimum amount of relief as the location of the proposed shed is located just off the existing driveway and is no closer to the front property line than other structures on the site. In Staff's opinion, the applicant's response is reasonable.
2. The hardship must not be self-created.
 - The applicant has indicated that the site was originally designed prior to Village zoning requirements and the unique characteristics of the use/site require placement of the accessory structure near the loading rack in the front yard setback area. In Staff's opinion, the applicant's response is reasonable.
3. The conditions upon which a petition for a variance is based are unique to the property



for which the variance is being sought and that such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and vicinity.

- Staff observed that the adjacent property to the north, 4009 Triangle Street (7.1 acres), would be most comparable to the applicant's property in regards to its physical characteristics and current use. Both properties are gas and petroleum manufacturers, both have similarly aligned petroleum storage tanks, a water retention stream in the rear yard, adjacent to the City of Madison, and both properties include a curved driveway for tanker vehicle accessibility. However, the curvature of Triangle Street provides 4009 Triangle Street with a larger front yard space, while 4103 Triangle Street does not receive this benefit. This detail would provide 4103 Triangle Street with a characteristic unique to its location. In Staff's opinion, the applicant's response is reasonable.
- 4. The purpose of the variance is not based exclusively upon a desire to increase the value or income potential of the property.
 - The applicant has indicated that the purpose of the accessory structure is to replace a removed shed. If replaced at its previous location, the structure may pose a safety hazard to the site and its location. In Staff's opinion, the request for a variance does not appear to be based on increasing the value of the site. In addition, the applicant's submittal does not include mounted signs on the structure, which would add advantages in property marketability. In Staff's opinion, the applicant's response is reasonable.
- 5. The granting of the variance will not be detrimental to the public welfare of injurious to the other property or improvements in the neighborhood in which the property is located.
 - The applicant has indicated in their submittal that access to the existing fire hydrant nearby would not be impeded by the proposed location of the accessory structure. Triangle Street also does not include sidewalks or walkways for pedestrian traffic at this time and the shed is separated from the street by a security fence. There are no known emissions, lights, or sound being emitted from the accessory structure that would cause a disturbance to the adjacent properties. In Staff's opinion, the applicant's response is reasonable.
- 6. The proposed variance will not undermine the spirit and general and specific purposes of the Zoning Code, specifically the purpose in Subdivision II - Conditional Uses - Section 62-105.
 - In Staff's opinion, the request for a variance does not appear to undermine the spirit and general and specific purpose of the Zoning Code. The general purpose of setback regulations is to provide a measure of public safety, health and comfort between structures and adjacent streets, watercourses, and structures. Setback areas act as "buffers" from adjacent right of ways, watercourses, and other structures. The buffers provide a greater measure of safety from veering traffic, flooding events, fire separation from adjacent structures, solar access between adjacent structures, noise separation, and potential space for future utility or roadway improvements. Given the intent, size and scope of the accessory structure, in Staff's opinion, the proposed variance will not undermine the spirit and general and specific purposes of the Zoning Code. In Staff's



opinion, the applicant's response is reasonable.

PUBLIC COMMENTS

The Department did not receive any written comments or concerns prior to the publication of this packet.

FINANCIAL/BUDGET IMPACT:

None.

VILLAGE PLAN REFERENCE:

Terminal and Triangle Street District, 2005. The property is located within the Meinders/Triangle Subdistrict of the Terminal and Triangle Street District Plan. The area connects the planned single family residential communities of the City of Madison with the variety of industrial and commercial purposes of the Village. The overview for the subdistrict states, *"The overall focus will be on manufacturing, distribution, offices, and support uses, with a greater emphasis on high-quality buildings and site design."*

Comprehensive Plan, 2017. The Future Land Use Map 6 identifies the property as Industrial.

The submittal does not include a change to the current use and remains consistent with the planned use.

ORDINANCE REFERENCE:

Sec. 62-366. - Variances

BOARD, COMMISSION OR COMMITTEE RECOMMENDATION:

Discussion only. Action on the variance request will be considered under Agenda Item 6.a. after completion of the public hearing.

ATTACHMENTS:

1. 6.21.23 - 4103 Triangle Street - BZA notice
2. 4103 Triangle Street_CHS Board of Zoning Appeals_05.05.2023
3. 4103 Triangle Street CHS_Supplement to Notice of Appeal and Application for Review_05.31.2023
4. 4103 Triangle - CHS Parts Shed - MFR Site Design Review 6.5.23

Please publish in the
McFarland Thistle on
June 1, 2023, and June 8, 2023

**VILLAGE OF MCFARLAND
NOTICE OF PUBLIC HEARING BEFORE
THE BOARD OF ZONING APPEALS**

NOTICE IS HEREBY GIVEN that there will be a Public Hearing Wednesday June 21, 2023, at 4:30 p.m. in the Community Room of the Municipal Center, McFarland, Wisconsin, at which time interested parties and citizens shall have an opportunity to be heard concerning the following:

Request by CHS for a variance to the setback requirements of Sec. 62-72 for the M-IC Zoning District to construct a 12' x 18' accessory structure at 4103 Triangle Street

Information regarding this request is available for review online at www.mcfarland.wi.us/pendingrequests or at the Village of McFarland Municipal Center lobby, 5915 Milwaukee Street, McFarland, WI 53558 (Monday-Friday, 8:00 a.m. to 4:30 p.m.).

Residents wishing to attend the meeting can do so in-person at the municipal center or via Zoom by visiting <https://us02web.zoom.us/j/81660473058> or Telephone: Dial (for higher quality, dial a number based on your current location): US: +1 (312) 626-6799 Webinar ID: 816 6047 3058

If you cannot attend the meeting, you may submit your written comments to the Board of Zoning Appeals by email to community.development@mcfarland.wi.us or by mail to Community Development Department, Village of McFarland, P.O. Box 110, McFarland, WI 53558-0110. Submission must be received no later than the Wednesday prior to the meeting date.

Notice of Appeal and Application for Review

TO: The Board of Zoning Appeals, Village of McFarland, WI

*\$450.00 filing fee required with each application.
 Applicant is responsible for publication fees and notification charges, plus actual legal, engineering and financial consulting costs incurred by the Village, to be billed later. No permits can be issued until all monies owed are paid. Filing fee is non-refundable.*

1) **Name of Appellant/Applicant** CHS
Address 4103 Triangle St., McFarland WI, 53558
Phone 608-630-7925

2) **Address of Property Street** 4103 Triangle St., McFarland WI, 53558
Parcel No. 071037383203
Lot NA

Present use of property Pipeline terminal
Proposed use of property Pipeline terminal
Zoning classification M-IC
Owner's name/address
(if other than shown in #1)

3) **Has a previous appeal or application been made with respect to this property?** Yes No **If "yes", state nature of previous appeal:**

Disposition of previous appeal: Approved

Date of decision in previous case: 2012 and 2013

4) **Date of decision or order of administrative official from which appeal is taken:** N/A

Date of notice of such decision received by applicant N/A

5) Purpose and grounds of appeal.
Check below the relief requested by this appeal.

(A) Request for interpretation of zoning ordinance and reversal of order, requirement, decision, or determination of administrative official. Use the lines provided below stating the reasons why you claim this order, requirement, decision, or determination is erroneous.

(B) Request for variance.

- Use lines below each item for the purpose of explanation.
- For the Board of Appeals to grant a variance, it must find that all six items are met:

1. Why the denial of the variance may result in hardship to the property owner due to physiological consideration. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Code should be changed.

Construction of said additional building must be constructed in the proposed location to allow for safe access to existing loading rack, while maintaining efficient access to site specific equipment and parts.

2. The hardship must not be self-created.

The building is aligned with existing site infrastructure and with in the site fencing

3. The conditions upon which a petition for a variance is based are unique to the property for which the variance is being sought and that such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and vicinity.

The placement of the shed aligned with existing buildings and infrastructure therefore it will not block or encroach on other properties or public right of ways.

4. The purpose of the variance is not based exclusively upon a desire to increase the value or income potential of the property.

The additional building is a replacement of a parts shed that was previously removed in October of 2022.

5. The granting of the variance will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.

The additional building is aligned with existing site infrastructure and with in the site fencing. The shed will not affect existing right of way drainage or access to fire hydrant.

6. The proposed variance will not undermine the spirit and general and specific purposes of the Zoning Code, specifically the purpose in Subdivision II – Conditional Uses – Section 62-105.

The proposed variance does not question the existing zoning of the property or the purpose of the Zoning Code. Due to site constraint, such as access to tank farm, and efficient/safe access to equipment and parts that will be stored in the building, the building can not be constructed in other areas of the site.

(C) Other: _____

State relief requested on the lines given below giving reasons why appellant is entitled to such relief.

- 6) Do you grant permission for the Board of Zoning Appeals and staff, either individually or as a group, to enter onto the subject property for a site inspection? Yes No

NOTE: Entry to the facility must be coordinated with CHS terminal personnel due to site safety controls and personal protective equipment (PPE) requirements at the facility.

Each application for appeal must be accompanied by a scale drawing showing the location and size of property, existing improvements, all abutting properties and improvements thereon and the requested change or addition.

I hereby swear that all of the above statements and the statements contained in any papers or plans submitted herewith are true to the best of my knowledge and belief.

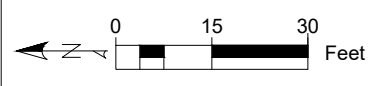
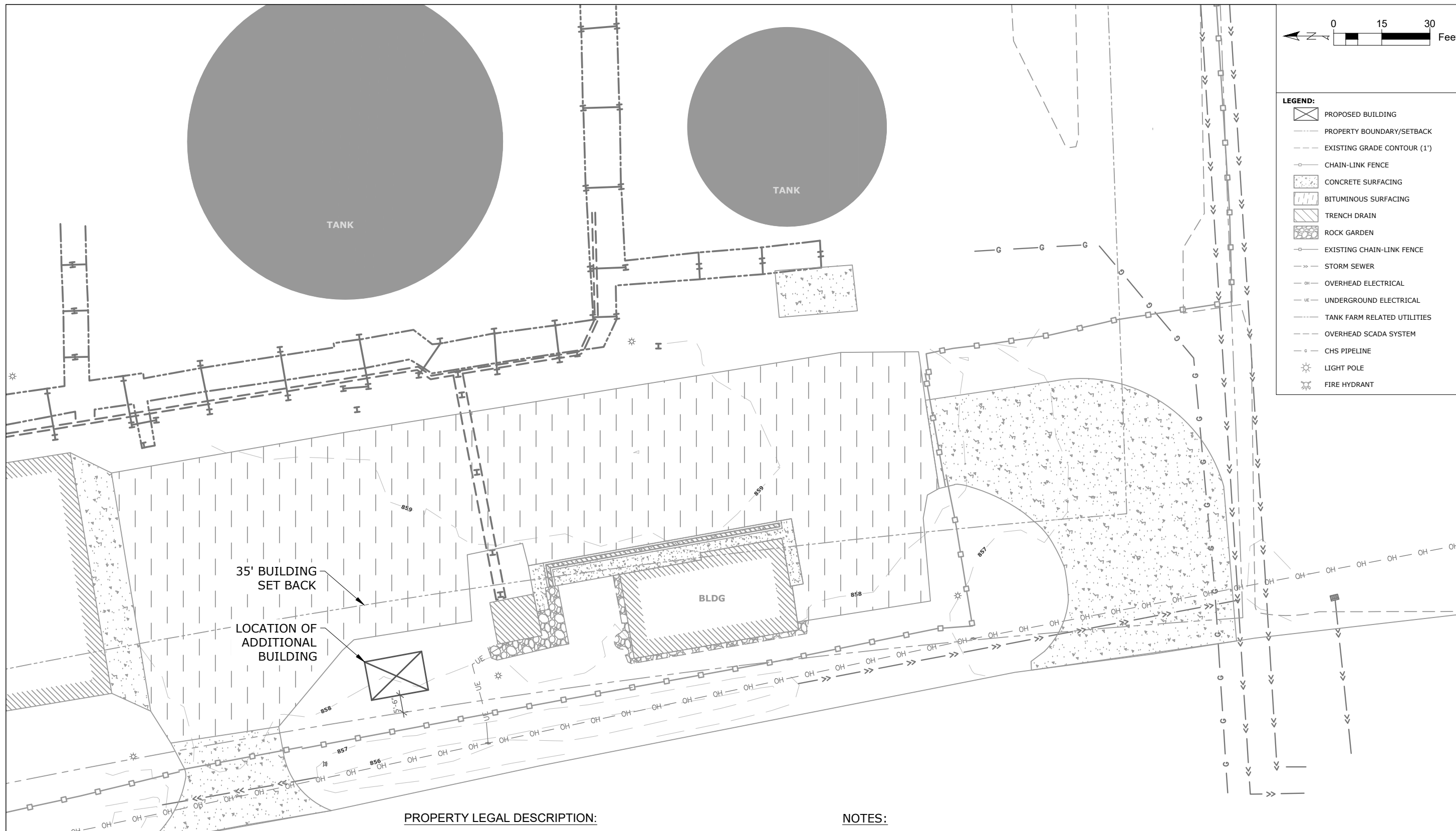


 Signature of Applicant

4/5/2023

 Date

Office Use Only	
Received By	
Date Received	
Fee Received	
Hearing Date	
Notice Published	
Notice Mailed	
Billed	



LEGEND:

- PROPOSED BUILDING
- PROPERTY BOUNDARY/SETBACK
- EXISTING GRADE CONTOUR (1')
- CHAIN-LINK FENCE
- CONCRETE SURFACING
- BITUMINOUS SURFACING
- TRENCH DRAIN
- ROCK GARDEN
- EXISTING CHAIN-LINK FENCE
- STORM SEWER
- OVERHEAD ELECTRICAL
- UNDERGROUND ELECTRICAL
- TANK FARM RELATED UTILITIES
- OVERHEAD SCADA SYSTEM
- CHS PIPELINE
- LIGHT POLE
- FIRE HYDRANT

NO.	DATE	ISSUE/REVISION	DRWN	CHKD

**ISSUED FOR PERMITTING
NOT FOR CONSTRUCTION**

Pinnacle Engineering
 11541 95th Ave N.
 Minneapolis, MN 55369
 (763) 315-4501
 www.pineng.com

DATE:	3/14/2023
DRAWN:	GRR
DESIGNED:	GRR
CHECKED:	MJB
APPROVED:	MJB

PROJECT: CHS - PETROLEUM TERMINAL
 4103 TRIANGLE ST
 MCFARLAND WI

CLIENT:

PROPERTY LEGAL DESCRIPTION:

SEC 27-7-10 PRT SW1/4 COM SEC E1/4 COR TH S88DEGW 2644.69 FT TH S 798.51 FT TO POB TH CONT S 545.35 FT TH S87DEGW 606.85 FT TH ALG CRV TO L RAD 3030.93 FT L/C N9DEGW 549.31 FT TH N87DEGE 688.23 FT TO POB ALSO PIPELINE R/W LYG W OF USH 51 & TERMINALDR SUBJ TO R/W ESMT IN DOC #4434933.

- NOTES:**
1. LOT AREA: 8.1 ACRES
 2. ADDITIONAL BUILDING AREA: 216 SF
 3. EXISTING/PROPOSED PAVED AREA: 35,245 SF
 4. ADDITIONAL BUILDING HEIGHT: 10 FT
 5. EXISTING/PROPOSED ZONING: M-IC
 6. EXTERIOR OF ADDITIONAL BUILDING TO MATCH EXISTING BUILDINGS (GRAY)
 7. BUILDING TOP OF SLAB TO MATCH EXISTING GRADE. SURROUNDING GRADE SHALL NOT BE MODIFIED.
 8. EXISTING SITE DRAINAGE SHALL NOT BE MODIFIED
 9. PROPERTY BOUNDARY PROVIDED BY CHS PRIOR SURVEY AND IS APPROXIMATE.

DRAWING TITLE	SITE PLAN
PROJECT NO.	EM20191818
DRAWING NO.	001
SCALE	AS NOTED

Drawing File: N:\Projects\C-D Clients\CHS - Pipelines and Terminals\2021\EM20191818 CHS McFarland\CHS McFarland_C400_Permit.dwg
 Plotted Date: Apr 05, 2023



LEGEND:
 - - - - - PROPERTY BOUNDARY

NO.	DATE	ISSUE/REVISION	DRWN	CHKD

ISSUED FOR PERMITTING
 NOT FOR CONSTRUCTION

Pinnacle Engineering
 11541 95th Ave N.
 Minneapolis, MN 55369
 (763) 315-4501
 www.pineng.com

DATE:	3/14/2023
DRAWN:	GRR
DESIGNED:	GRR
CHECKED:	MJB
APPROVED:	MJB

PROJECT
 CHS - PETROLEUM TERMINAL
 4103 TRIANGLE ST
 MCFARLAND WI

CLIENT

DRAWING TITLE SITE OVERVIEW	DRAWING NO. 002
PROJECT NO. EM20191818	SCALE AS NOTED

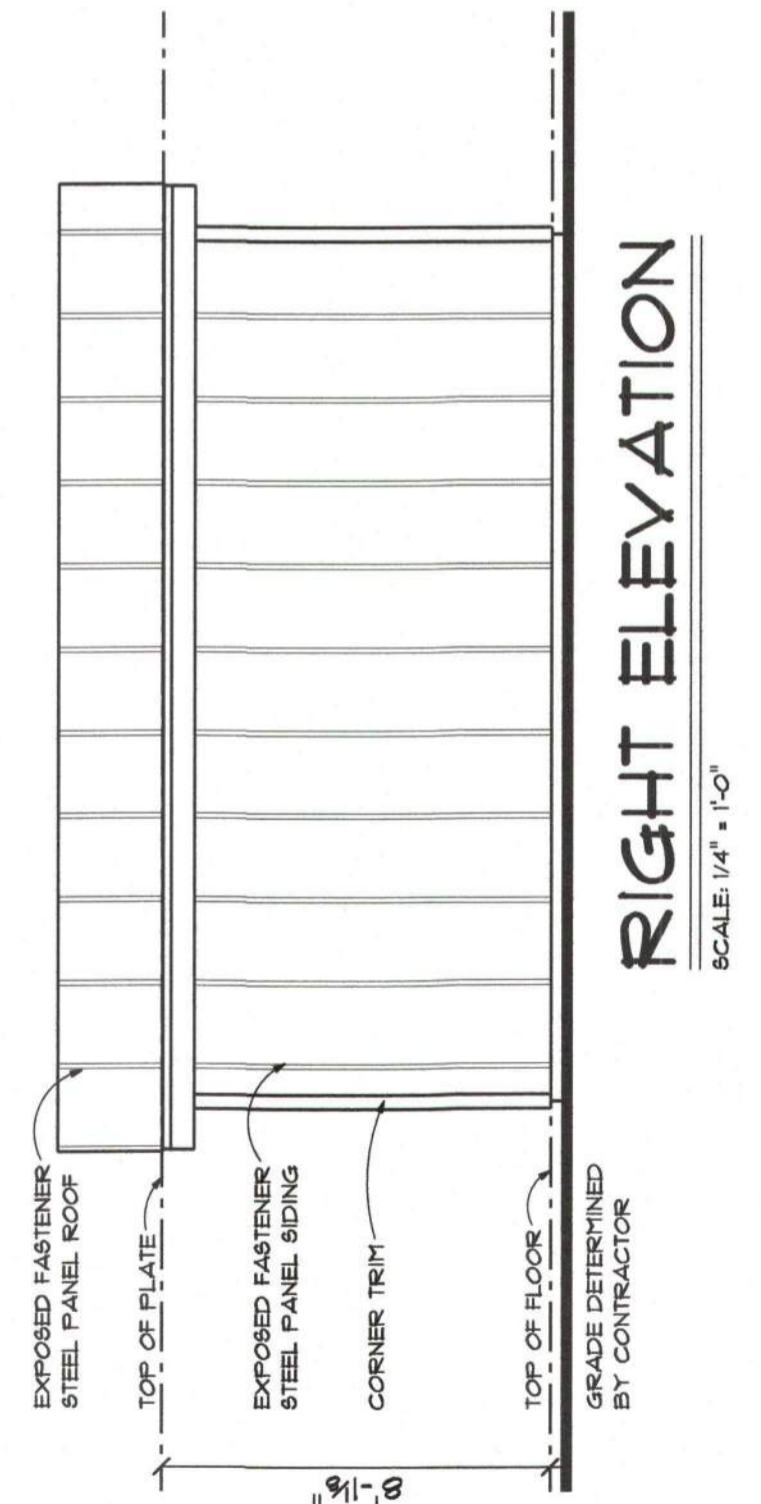
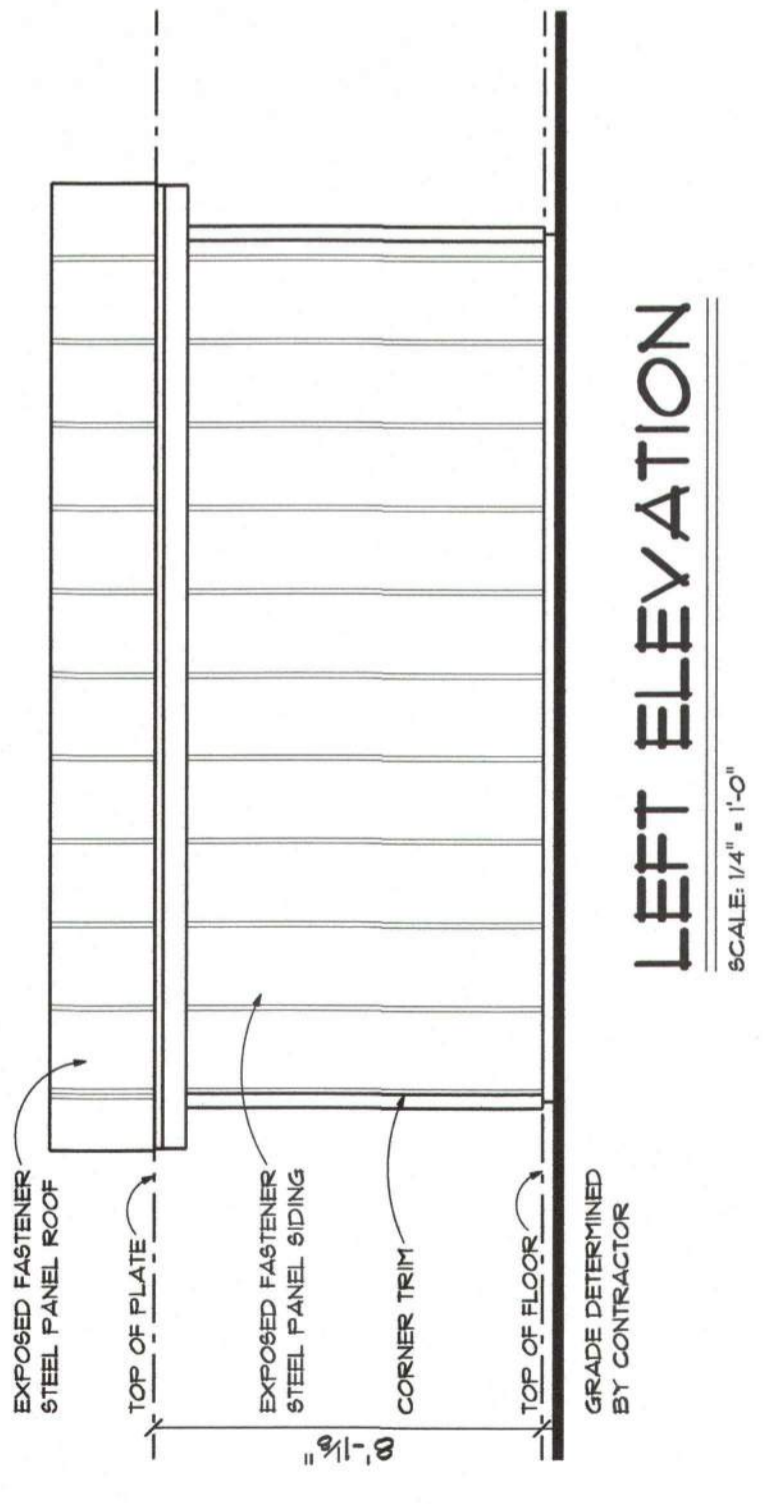
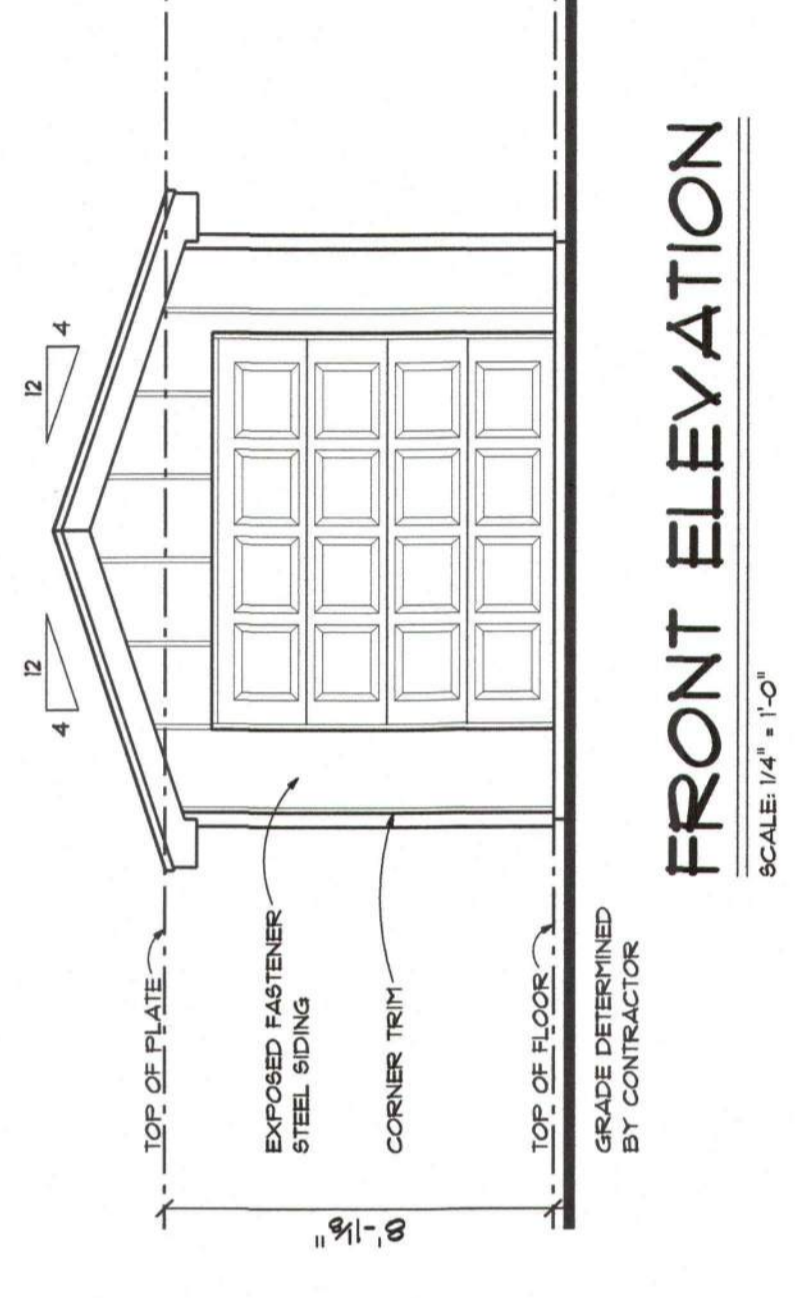
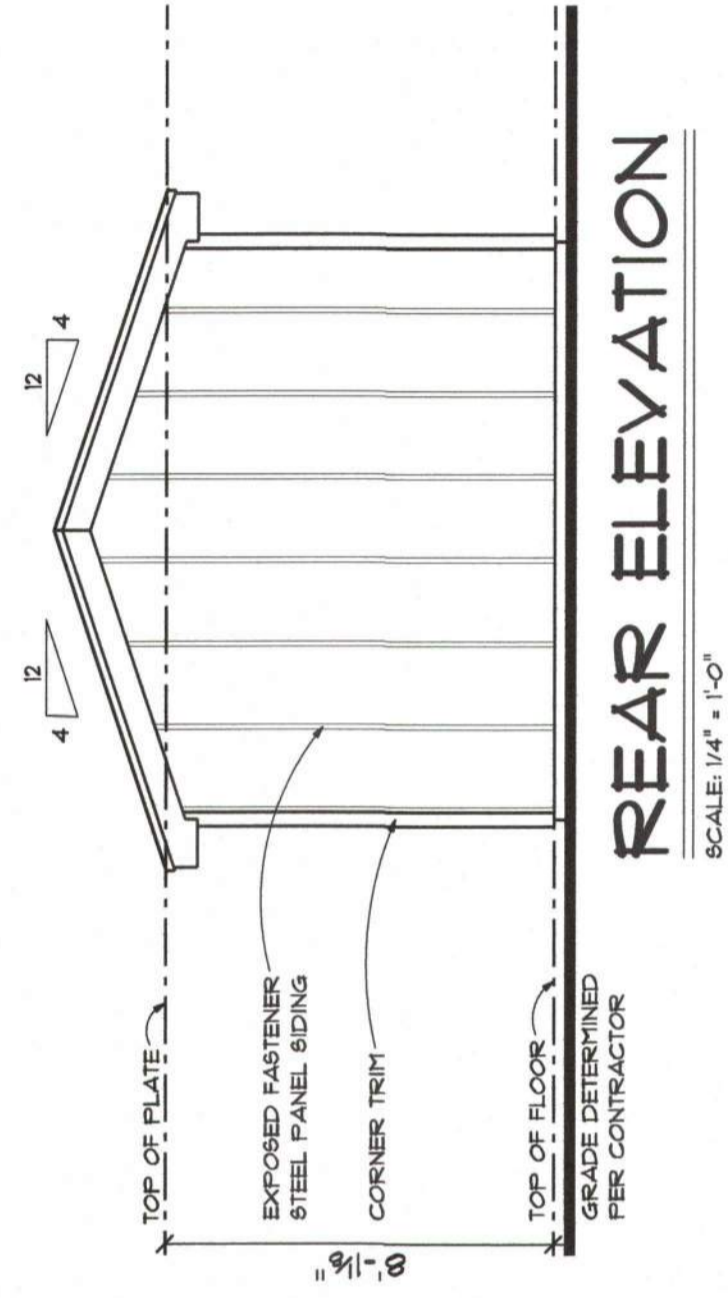
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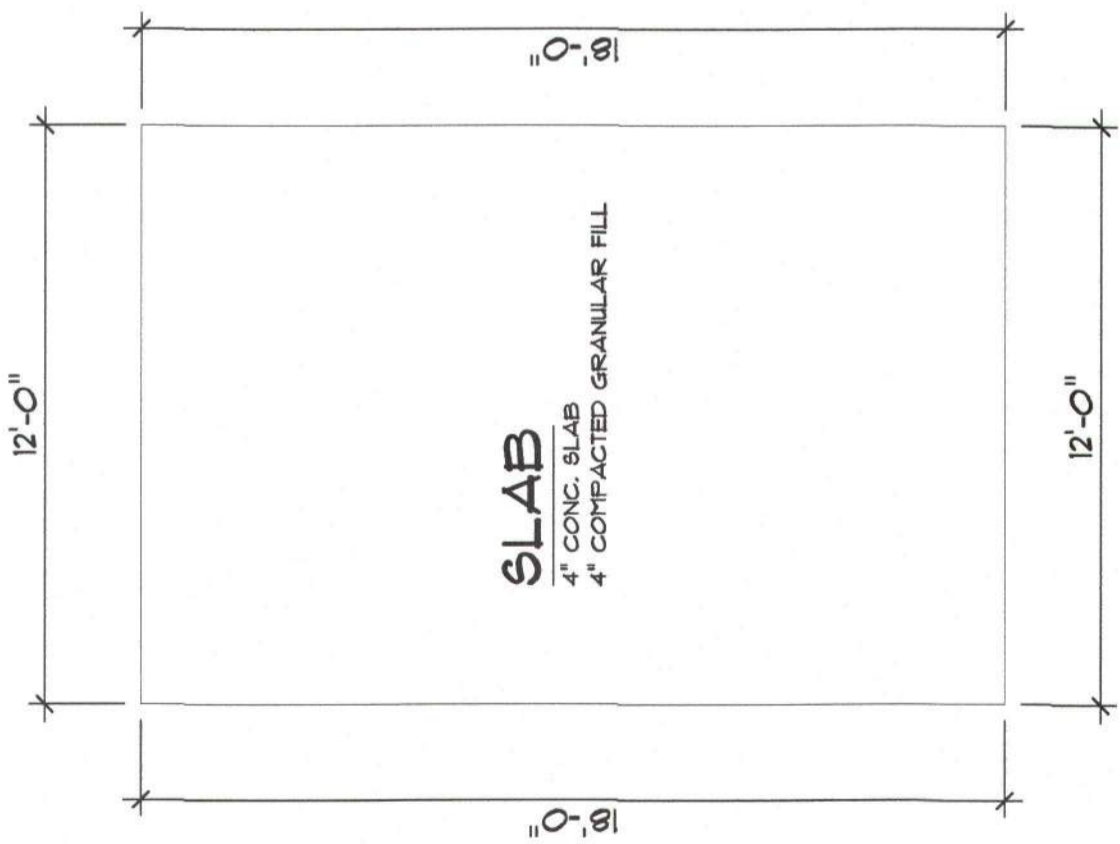


Derok DFX

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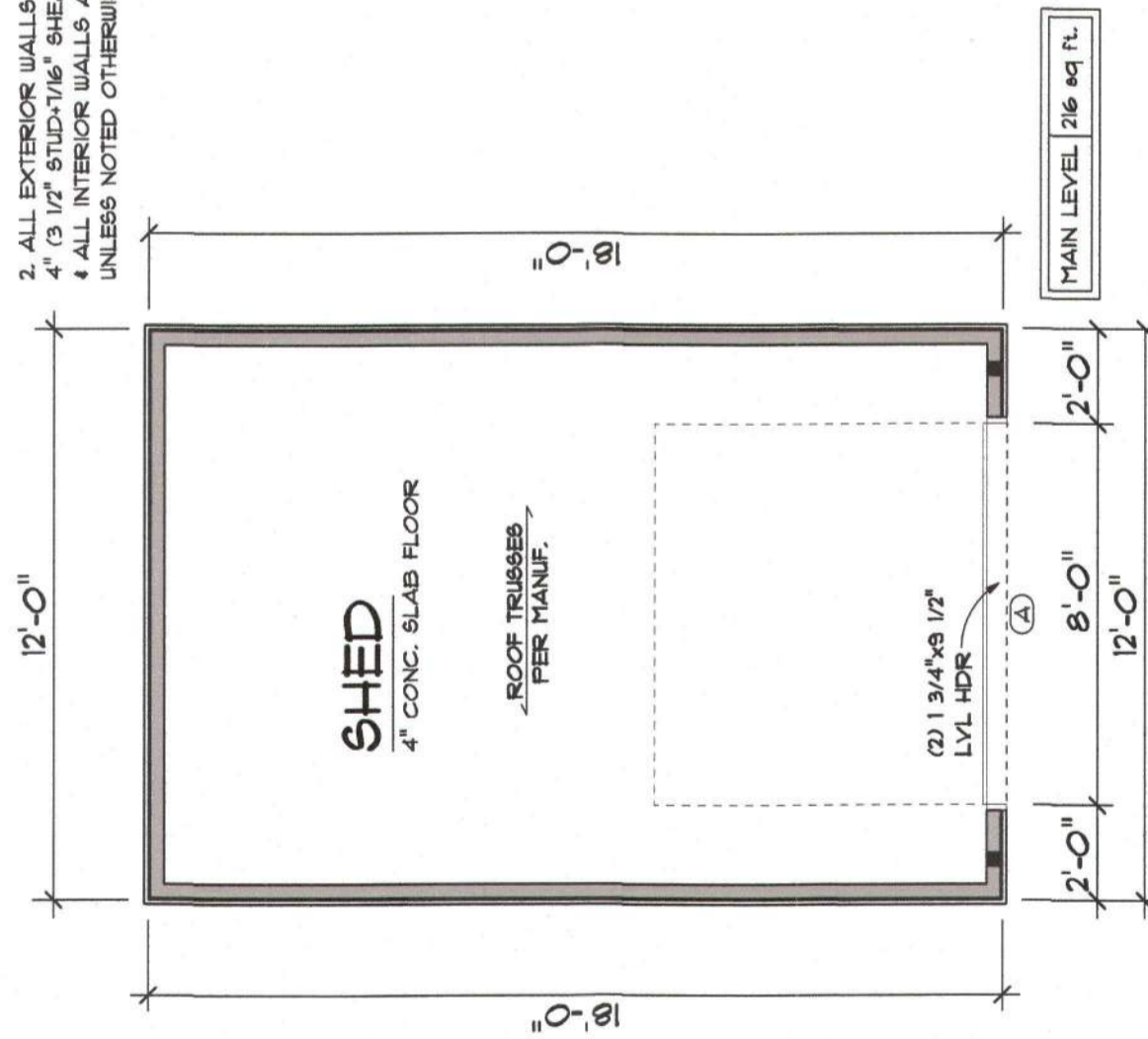
SLAB FOUNDATION PLAN

SCALE: 1/4" = 1'-0"

OPENING ID	TYPE	PRODUCT CODE	SIZE	COUNT
A	GARAGE	36x84 - 4 PANEL	8'-0" x 11'-0"	1

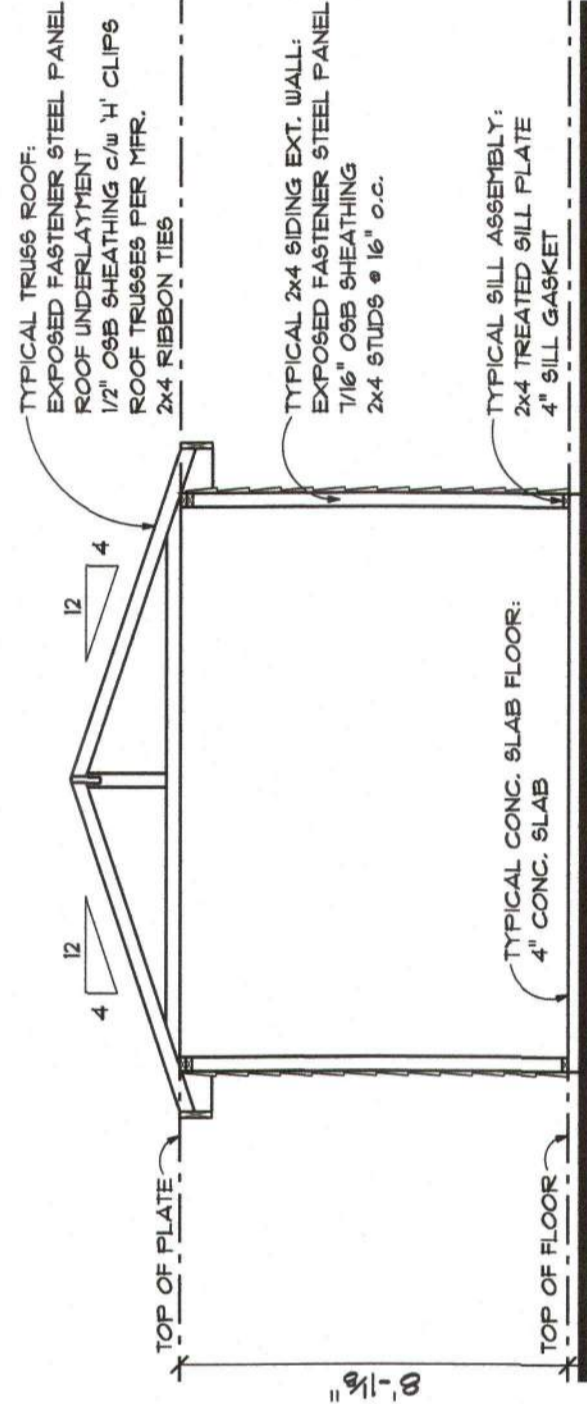
GENERAL NOTES:

- ALL MAIN LEVEL WALLS ARE 8'-1 1/8" HIGH UNLESS NOTED OTHERWISE
- ALL EXTERIOR WALLS ARE 4" (3 1/2" STUD-7/16" SHEATHING)
- ALL INTERIOR WALLS ARE 3 1/2" UNLESS NOTED OTHERWISE



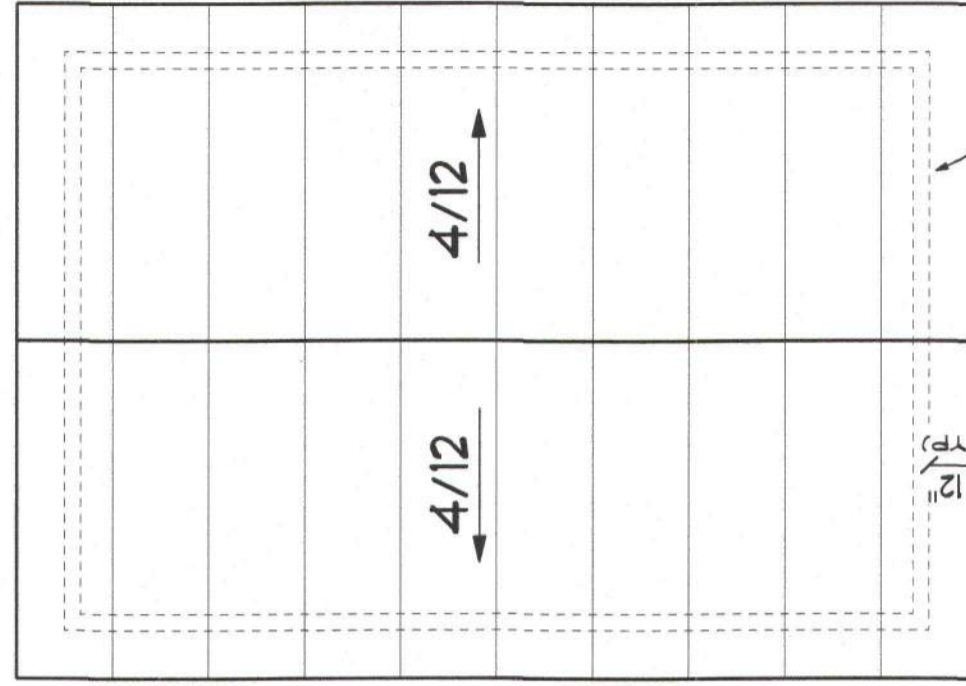
MAIN LEVEL FLOOR PLAN

SCALE: 1/4" = 1'-0"



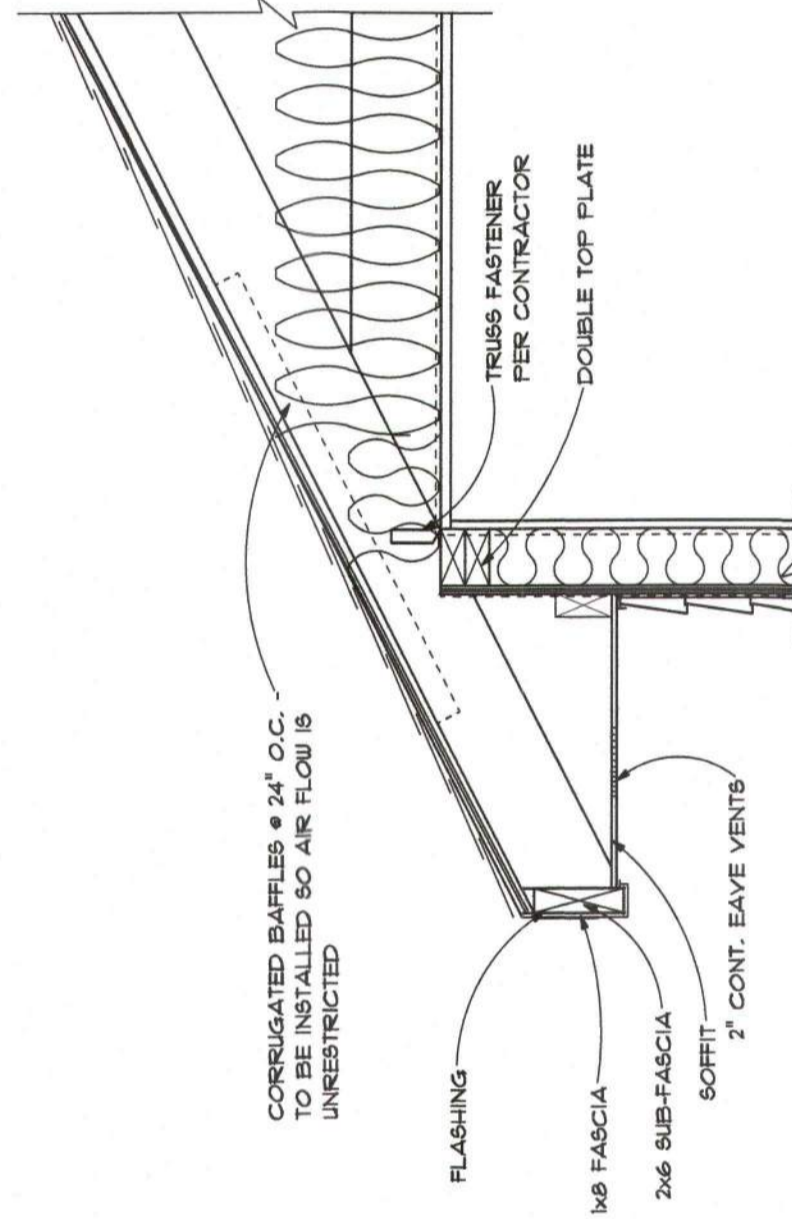
CROSS SECTION

SCALE: 1/4" = 1'-0"



ROOF PLAN

SCALE: 1/4" = 1'-0"



EAWE VENT

SCALE: 1 1/2" = 0"

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FINAL
02-06-2023
REVISION

DEREK TUKI



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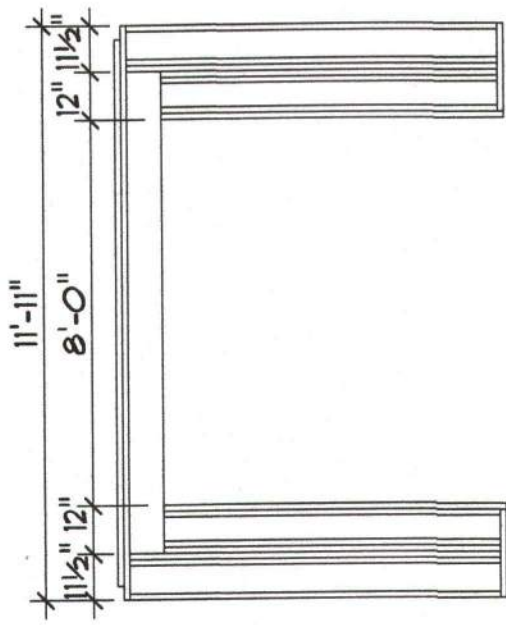
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SHEET
3
OF
4

100% SCALE = 18" x 24"

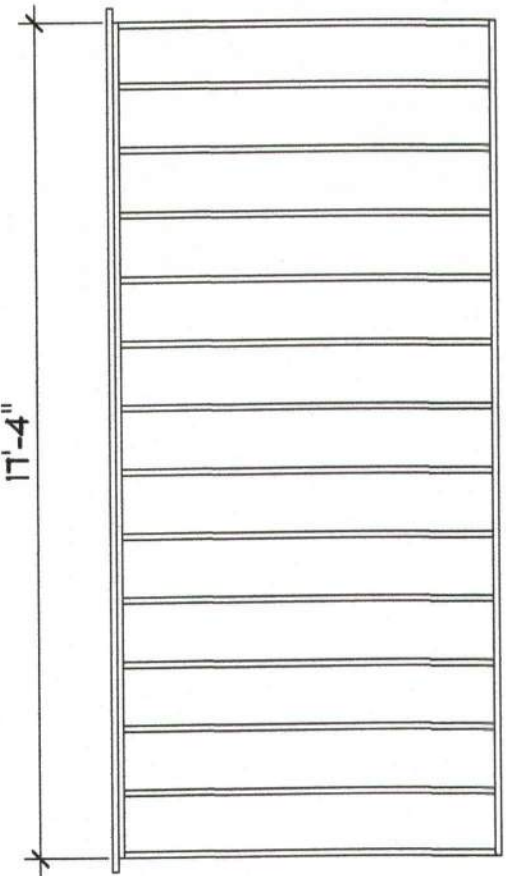
GENERATED 2/7/2023
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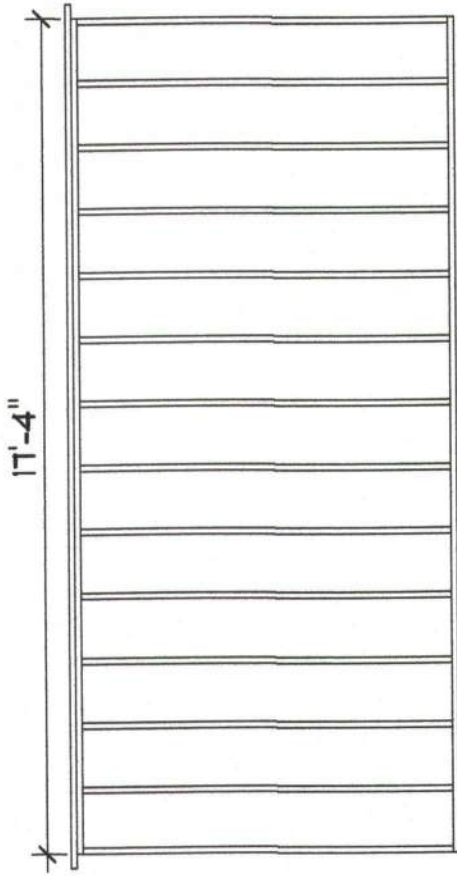


2x4 WALL NO. 1

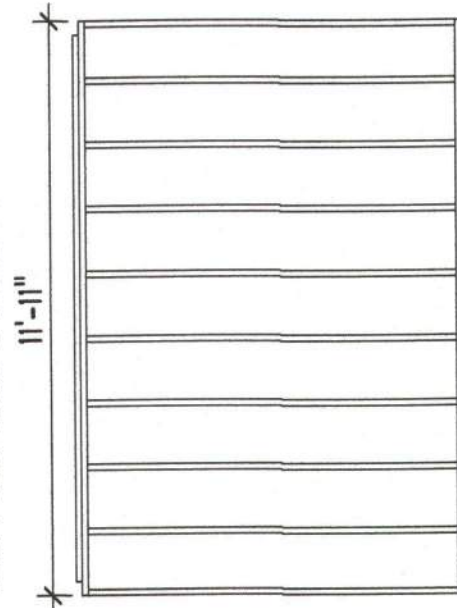
VERIFY ALL ROUGH OPENINGS BEFORE FRAMING



2x4 WALL NO. 2



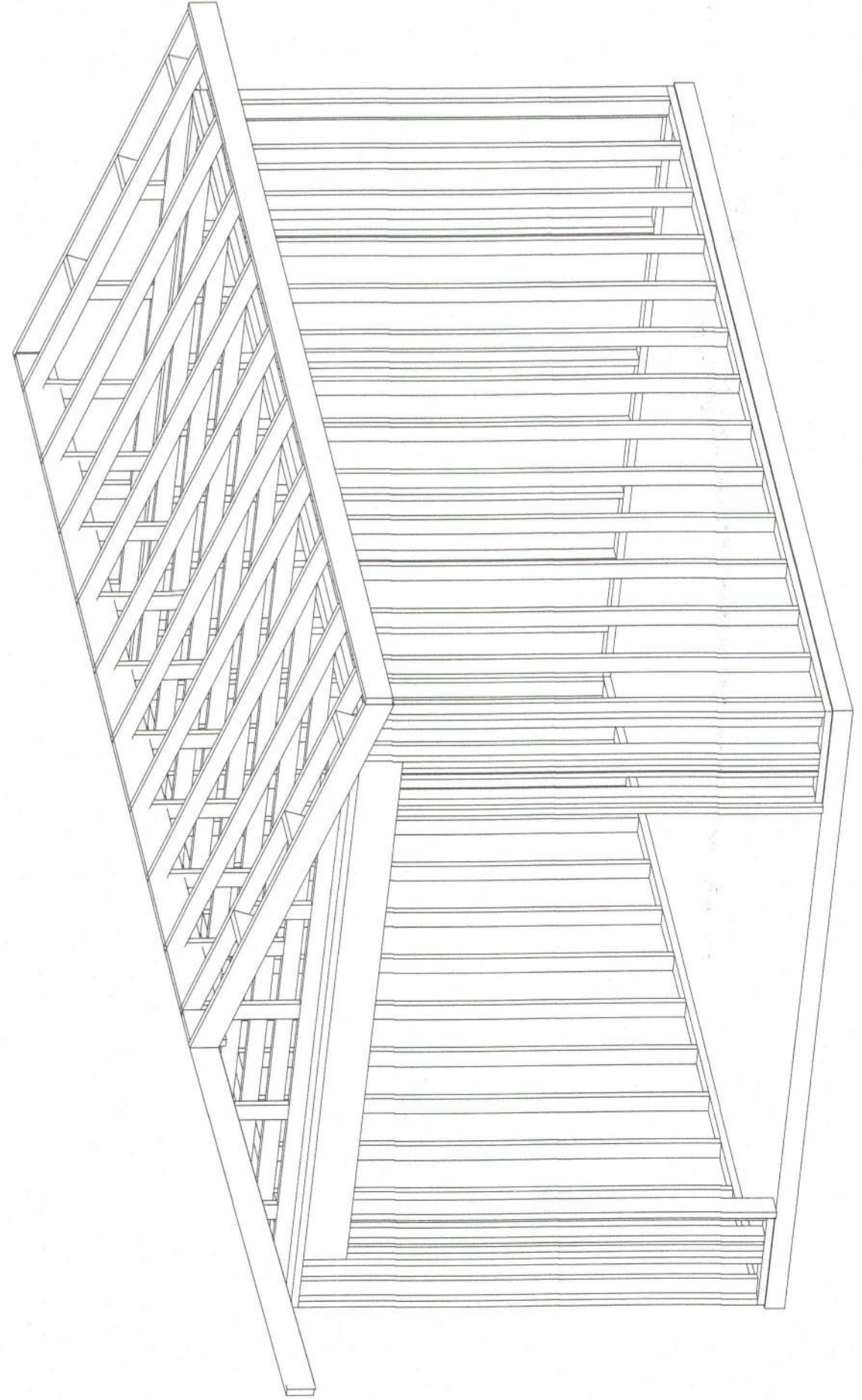
2x4 WALL NO. 4



2x4 WALL NO. 3

WALL PANELS

SCALE: 1/4" = 1'-0"



FRAMING DIAGRAM

NOT TO SCALE

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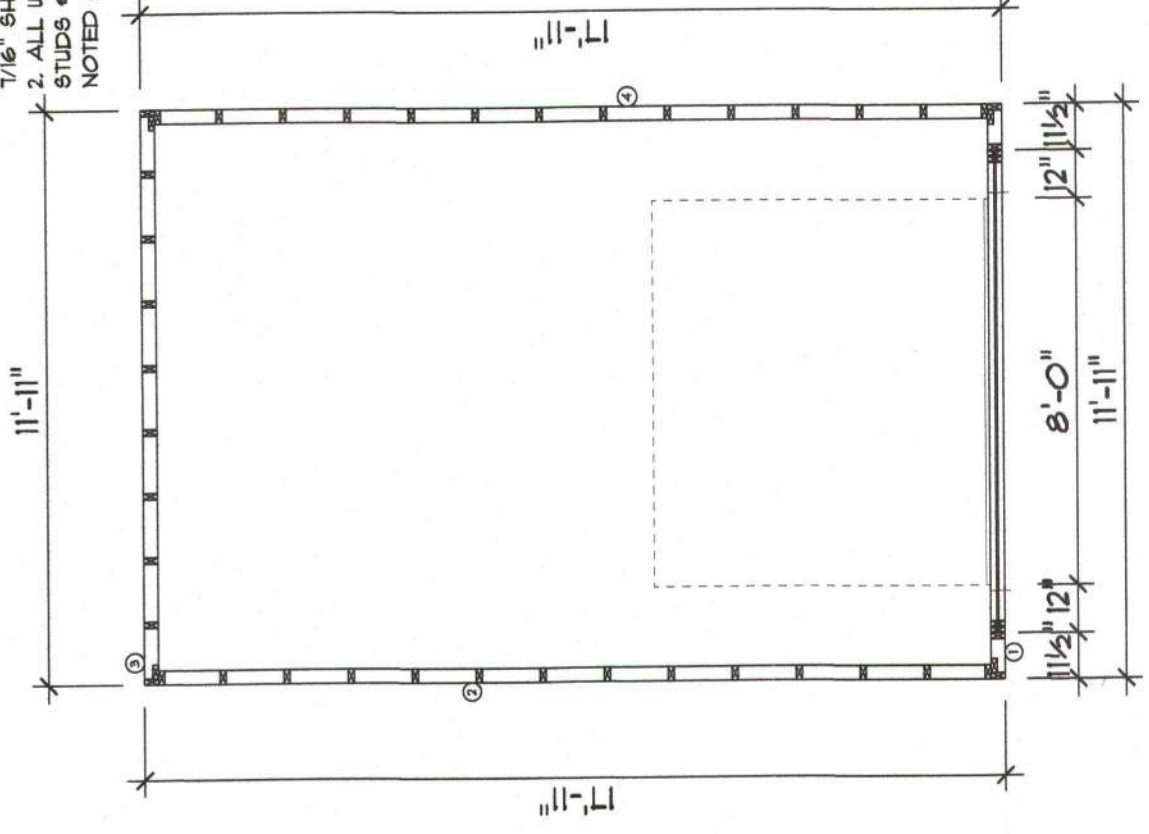
SHEET
4 OF 4

100% SCALE = 18"x24"

MAIN LEVEL FRAMING PLAN

SCALE: 1/4" = 1'-0"

NOTE:
1. DIMENSIONS TO FRAMING
ONLY - DOES NOT INCLUDE
7/16" SHEATHING.
2. ALL WALLS ARE 2x4
STUDS @ 16" C. UNLESS
NOTED OTHERWISE.



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GENERATED 2/17/23

Supplement to Notice of Appeal and Application for Review (Page 2 (B) Request for variance)

1. *Page 2, (B)(1) - Construction of said additional building must be constructed in the proposed location to allow for safe access to existing loading rack, while maintaining efficient access to site specific equipment and parts.*

a. *Could you elaborate on what the building will be used for and why it needs to be in this location various another location on the property.*

The replacement storage structure has and will continue to store truck rack maintenance and emergency response equipment. This equipment was originally stored in a previous structure, located in the center of the truck rack approach driveways adjacent to the current terminal office. While it is not clear when the original storage structure was built, it was housed within the original loading rack canopy and was left in place after the canopy was demolished. After removal of the old loading rack structure, this location was found to pose a potential safety risk to terminal personnel based on its proximity to terminal truck traffic. To facilitate the completion of an environmental excavation and surface recompletion, the previous shed structure had to be removed, and when project planning discussions touched on the replacement/reconstruction of the shed, it was decided that in order to address the safety issues present with the previous location, the new structure should be constructed in a location that would not impede on the drive lane or pose a safety hazard to terminal or carrier personnel.

b. *What physiographical limitations impact the ability to locate the shed elsewhere?*

In regard to its location, all areas east of the driveway would be located within the tank containment berms, which are classified as Class I Div 2 environments and require additional personal protective equipment (PPE) and atmospheric monitoring equipment per CHS policy and OSHA regulation. The current location of the storage shed was chosen to allow for quick and safe access to both rack maintenance and emergency response equipment, especially for those situations where an emergency were to occur during after-hours operations. Any other non-classified locations within the facility would be unacceptably far to access emergency response materials and equipment in the event of an emergency at the rack.

2. Page 2, (B)(2) - The building is aligned with existing site infrastructure and within the site fencing.

a. Can you elaborate further on the situation as to why/how this was not self-created? How is not having this accessory structure in this location a hardship?

When the terminal was originally constructed in 1959, there was not a 35ft front yard setback rule. Therefore, the existing buildings were constructed in such a manner that encroaches on the now 35ft setback but utilizes the property efficiently and logically. Terminal employees must access equipment, tools, and supplies in an efficient and safe manner, especially those that would be required to address emergency situations. The previous location of the structure was becoming unsafe with truck traffic, especially during winter conditions. To efficiently access supplies the structure could not be placed on the opposite side of the tank farm and/or loading rack or along the south property line. Placing the structure on the opposite side of the tank farm or on the south property line would force employees to take unnecessary time to maintain the terminal efficiently and safely.

3. Page 2, (B)(3) The placement of the shed aligned with existing buildings, and infrastructure therefore it will not block or encroach on other properties or public right of ways.

a. Could you provide a more specific response on what previously approved decisions were made to allow the existing structures and buildings to be located less than the 35' front yard setback?

Original existing infrastructure was constructed in 1959, prior to the current 35ft front yard setback requirements. More recently, a variance was given to allow the new loading rack to encroach upon the 35ft front yard setback. The loading rack was placed to allow for proper turning radii for semi traffic and to allow for safe paths for employees and truck drivers to walk. Similar considerations were taken into account when deciding the location for the accessory structure.

b. Could you also explain why other open area spaces on the property, such as the area near the south-central lot line would not be suitable for an accessory structure?

With consideration to the current shed contents, placement in any other non-classified area of the facility would place undue hardship on both terminal personnel and carrier operators during both normal and emergency response operations. CHS would also like to continue to store emergency response equipment on the south side of the truck rack to provide those materials on either side of the rack in the event response materials stored

in the shed located north of the rack cannot be accessed. Again, it would be our preference to maintain that equipment in a location as close to the rack as possible to minimize response time to any potential emergency. In addition, a portion of the site also drains to the south and east and currently flows overland into a low area in the southeast portion of the site. There is a storm sewer that flows east/west along the southern portion of the property to facilitate drainage of that area, and placing a structure in this area could affect the surface flow or block access to this storm sewer for maintenance.

4. *Page 2, (B)(4) The additional building is a replacement of a parts shed that was previously removed in October of 2022.*

a. *Could you elaborate on why the previous parts shed needed to be removed?*

The previous storage structure was removed to provide access for an environmental remediation dig in the area underlying the previous loading rack structure. When project planning discussions touched on the replacement/reconstruction of the shed, it was decided that in order to address the safety issues present with the previous location, the new structure should be constructed in a location that would not impede on the drive lane or pose a safety hazard to terminal or carrier personnel. The location of the previous structure was impeding terminal truck traffic and posing a safety hazard to terminal and carrier personnel, especially during winter conditions. CHS took the opportunity provided by the environmental project to remedy the hazardous conditions posed by the previous location by constructing the replacement storage structure in its current location after demolition/deconstruction of the previous structure.

5. *Page 2, (B)(5) The additional building is aligned with existing site infrastructure and within the site fencing. The shed will not affect existing right of way drainage or access to fire hydrant.*

a. *Could you elaborate on the location of this shed to the front property line in relation to the distances of the existing buildings to the front property line?*

The additional structure is aligned with existing structures and is no closer to the property line than the structures already on site. The office building currently sits approximately 5-6ft from the property line depending on where you measure from, the accessory structure is located approximately 5.5ft from the property line.

McFarland

VILLAGE OF

Fire & Rescue

www.mcfarland.wi.us | 5915 Milwaukee St, McFarland, WI 53558 | 608.838.3278

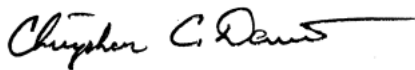
June 5, 2023

Re: 4103 Triangle Street, CHS Parts Shed Site Design

We reviewed the application for a site design of 4103 Triangle Street (CHS McFarland Terminal) for the addition of a parts shed. The application was complete and provided the required information for Fire & Rescue Department review. One item of note is the Applicant Address appears to be a typo on the application indicating 4310 instead of 4103.

Based on the submitted information the Fire & Rescue Department has determined that the proposed site design is acceptable without additional requirements.

Sincerely,



Christopher C. Dennis, EFO
Fire & Rescue Chief
Village of McFarland


VILLAGE OF
McFarland
SUMMARY SHEET

MEETING DATE: Wednesday, June 21, 2023

SECTION: Business

DEPARTMENT: Community Development

CONTACT: Andrew Bremer, Comm & Eco Dev Director

AGENDA ITEM: Discussion and action on a request by CHS for a variance to construct a 12' x 18' accessory structure within the front yard setback requirements of Sec. 62-72 of the M-IC Zoning District located at 4103 Triangle Street.

PREVIOUS ACTION:

ISSUE SUMMARY:

All of the items regarding this agenda item are found under Agenda Item 5a.

FINANCIAL/BUDGET IMPACT:

VILLAGE PLAN REFERENCE:

ORDINANCE REFERENCE:

BOARD, COMMISSION OR COMMITTEE RECOMMENDATION:

Motion, second, to approve a variance to the front yard setback requirements of Sec. 62-72 to construct a 12'x18' accessory structure as submitted.

Staff recommends a motion to approve the variance request as presented by CHS. In Staff's opinion, the applicant's response to all the standards for granting a variance under Sec. 62-366(e) of the Municipal Code is reasonable. Staff's justification for recommending approval of the variance includes:

1. The layout of the petroleum tanks predates the Village zoning regulations and the characteristics of those tanks and related apparatus, including applicable federal safety design requirements, limit locations on the property to place the accessory structure in compliance with the front yard setback requirements.
2. Alternative locations for the construction of an accessory structure within the property would diminish the effective use and intent of the accessory shed to improve on-site safety in the event of an emergency.
3. The request for a variance is in keeping with previous variances approved for the property and the setback distances of existing buildings to the front lot line.
4. The desire for the accessory structure is not financially motivated.

ATTACHMENTS:



None


VILLAGE OF
McFarland
SUMMARY SHEET

MEETING DATE: Wednesday, June 21, 2023

SECTION: Business

DEPARTMENT: Community Development

CONTACT: Andrew Bremer, Comm & Eco Dev Director

AGENDA ITEM: Discussion and action to approve updates to the Board of Zoning Appeals application.

PREVIOUS ACTION:

ISSUE SUMMARY:

Department Staff have prepared an update to the BZA variance application. The purposes for this update include:

1. Update the application to meet the Village's new brand standards.
2. Modernize the application to include pdf fillable forms.
3. More clearly state the type of appeal requested (e.g. administrative appeal, use variance, or area variance).
4. Update the Standards for Granting a Variance (page 4) to more accurately align with the requirements under Sec. 62-366(e). The exception is standard #6 (financially motivated). This is currently not listed under Sec. 62-366(e) but has historically been considered as part of BZA reviews. Questions 1-5 speak directly to typical criteria for granting a variance under state statutes (unnecessary hardship, unique property limitations, no harm to public interests). Local communities may also specify additional requirements. For example, the UW-Extension Zoning Board Handbook, 2006, identifies financial hardship as a potential additional standard a BZA may apply.

FINANCIAL/BUDGET IMPACT:

VILLAGE PLAN REFERENCE:

ORDINANCE REFERENCE:

Sec. 62-363(c) provides that appeals to the BZA shall be made upon forms furnished by the Village which have been approved by the Board of Zoning Appeals. Staff is seeking BZA approval to utilize the new application form.

BOARD, COMMISSION OR COMMITTEE RECOMMENDATION:

Motion, and second, to approve updates to the Board of Zoning Appeals application as presented.

ATTACHMENTS:

1. Board of Zoning Appeals Application_2023





www.mcfarland.wi.us/communityandeconomicdevelopment | 5915 Milwaukee St, McFarland, WI 53558 | 608.838.3154

**Application for Administrative Appeal,
Use Variance, and Area Variance**

TO: The Board of Zoning Appeals, Village of McFarland, WI

Per Sec. 62-363(e), a filing fee of \$450.00 is required with each application submittal. The Applicant is responsible for publication fees and notification charges, plus actual legal, engineering and financial consulting costs incurred by the Village, to be billed later. No permits can be issued until all monies owed are paid. Filing fee is non-refundable.

NOTE: The Village recommends all Applicants read the "Letter to Applicants" as supplemental to the purpose and intent of this application. Applicants are encouraged to submit additional pages to answer application questions in full as needed.

Name of Appellant/Applicant _____

Address _____

**Owner's name/address
(if different than Applicant)** _____

Phone _____

Email _____

Address of Property _____

Parcel No. _____

Lot # _____

Lot Size _____

Current Use of Property _____

Proposed Use of Property _____

Zoning Classification _____

Applicants should complete Sections #1, #3, and #4 and either Sections 2A, 2B, or 2C on the following pages.

- 1) **Prior Appeals/Variations.** Has there been a past appeal or application with respect to this property? Yes No (If yes, provide a summary of the previous appeal below.)

Disposition of previous appeal: _____

Date of decision in previous case: _____

How does this appeal differ from the previous request?

- 2) **Stating the purpose and grounds of your appeal.**

Check the box (A, B or C) which best meets the relief request of your appeal then answer only those questions within that section. You may include an attached sheet with your response if there is not enough space.

(A) Administrative Appeal.

This request is for a review of zoning ordinance and/or petition of order, requirement, decision, or determination of administrative official. Please include any additional documentation, letters or forms you received which is associated with this appeal. Use the lines provided below stating the reasons why you claim this order, requirement, decision, or determination is erroneous.

- 1) Date of notice of such decision received by applicant: _____

- 2) In the lines below, provide a summary of the order of administrative official from which appeal was taken:

- 3) In the lines below, provide reasoning why the requirement, decision, or determination is erroneous.

(B) Use Variance

Any use variance granted shall be limited to the specific use described in the BZA decision and shall not permit variances in yard, area, or other requirements of the districts in which located.

- 1) Is this property located in a designated Floodplain or Wetland and Conservancy District? Yes No

- 2) Has the applicant previously applied for a zoning amendment or a conditional use permit? Yes No

(If yes, provide the following information in the lines below.)

Date when request was determined: _____

Was this request approved? Yes No

Describe the specific proposed use of the subject property for which a use variance is requested:

- 3) Describe why no lawful and feasible use of the subject property can be made in the absence of such a variance.

(C) Area Variance.

An area variance is a request for a modification(s) to a dimensional, physical, or locational requirement such as setback, frontage, height, bulk, or density restriction for a structure.

Describe the area variance you are requesting, including the specific section(s) of the Zoning Code:

Sec. 62-366(e) Standards for Granting a Variance. In the lines below, answer each question thoroughly for each item listed. For the Board- of Zoning Appeals to grant a variance, it must find that all conditions are met.

1. Unnecessary Hardship.

- a. The Purpose of the Zoning Restriction in Question. The Board of Zoning Appeals shall determine whether the particular restriction in question is unnecessarily burdensome in light of the underlying purpose of that restriction. The purpose of the regulation shall be the primary concern, not the burden upon the property owner. The granting of the variance should not be so general or recurrent in nature as to suggest the Zoning Code should be changed. Describe why granting of the variance will not undermine the general intent and purposes of the Zoning Code and the specific purpose of the regulation in question?

- b. The Effect of the Restriction on the Property. An unnecessary hardship exists where compliance with the strict letter of the restrictions governing the property would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. Describe the effect of the zoning restriction on your property and how this impacts the reasonable use of your property or would render conformity unnecessarily burdensome?

- c. The Effect of a Variance on the Neighborhood and Larger Public Interest. Describe why granting of the variance will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.

2. **Hardship May Not Be Self-Imposed.** Variances may not be granted to remedy self-imposed hardships. Describe why you feel the hardship is not self-imposed?

3. **Hardship Must Be Unique To The Property.** Where the same hardship is imposed upon other properties in the zoning district, a variance shall not be granted. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district. The conditions upon which a petition for a variance are unique to the property for which the variance is being sought and that such a variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and vicinity. Describe the circumstances that exist which make this issue unique to the property?

4. **Purpose Must Not Be Financially Motivated.** Describe why the purpose of the variance is not based exclusively upon a desire to increase the value or income potential of the property?

- 3) **Site Inspection.** Do you grant permission for the Board of Zoning Appeals and staff, either individually or as a group, to enter onto the subject property for a site inspection?
 Yes No
- 4) **Site Plan.** Per Sec. 62-363(c) of the Municipal Code of Ordinance, each application for appeal must be accompanied by a scale drawing showing the location and size of property, existing improvements, all abutting properties, and improvements thereon and the requested change or addition.

DISCLAIMER

I hereby swear that all of the above statements and the statements contained in any papers or plans submitted herewith are true to the best of my knowledge and belief.

Signature of Applicant

Date