

CITY OF

NEWBERG

414 E. First Street

Newberg, OR 97132

STAFF MEMORANDUM

17 March 1981

TO: Planning Commission

FROM: Planning Department

RE: Appeal of File No. V-9-80, a variance to the height requirements for an accessory structure located on Tax Lot 3207DD-716, being 709 Jeffrey Court, Newberg, Oregon. The applicant's are Mr. & Mrs. David D. Bothum

On October 27, 1980 the Newberg Building Department issued a construction permit for an accessory building, that being a single story garage structure to be situated at 709 Jeffrey Court, Newberg, Oregon. During construction of the garage structure the applicant substantially modified the plans to make a fully usable second story upon the structure. These modifications were not submitted for review by the Building or Planning Departments and were not authorized under the permit issued. The applicants were then notified of a violation affecting the construction of the garage. The violation was:

1. That the revisions to the accessory structure were not approved by the Building Department; and
2. The Newberg Zoning Ordinance does not authorize a two story accessory structure within R-1 (Low Density Residential) zoning districts.

A copy of the notice of violation is attached for your review.

The applicants were allowed 30 days to correct the violation. Within the 30 day period the applicant submitted an application for a variance to the height requirements for an accessory structure in order that the now constructed garage may be allowed to remain. On January 30, 1981 a decision was made by the Newberg Planning Director after referral to all City department heads. The determination made by the Planning Director was to deny the variance request based upon findings and observations made pursuant to the variance criteria identified within the Newberg Zoning Ordinance. A copy of the decision of the Planning Director is also attached for your review.

The applicant has appealed the decision of the Planning Director and has provided a response which is also attached for your review. Within the response the applicant has indicated that the building height requirement is 14 feet. The Newberg Zoning Ordinance specifies that accessory buildings within the R-1 district are limited to one story in height but there is no exact footage requirement within the Ordinance. In addition, the applicant identifies within his appeal response that the building, in fact, does not create any hardships as stated within the first criteria of the variance, but in lieu of meeting this specific criteria, the applicant responds by indicating that the adjoining property owners have signed a petition indicating their general acceptance of the building. The Newberg Zoning Ordinance does not provide for alternative criteria to be substituted in lieu of those identified within the Zoning Ordinance. When a decision is reached relating to a variance, it must conform to the exact criteria identified within the Ordinance.

The applicant has indicated that there is an exceptional or extraordinary circumstance relating to the property in that the property has an entry way which is long and tapered which cuts down on the square footage and that a larger building would take up some of the future backyard area. In response as is noted within the letter of denial, the applicant's lot contains over 7,500 square feet in area which exceeds the minimum lot size requirements within the R-1 zone. It does appear based upon review of the plot plan that the lot could adequately handle a larger one-story outbuilding and still comply with the Newberg development codes. In addition, it is necessary to build within the code limitations identified by the Zoning Ordinance. The applicant did have the opportunity to purchase or not purchase the lot involved based upon the building limitations related to that property. The desire to build a larger garage storage structure is not adequate to comply with the variance criteria, especially when adequate land is available on the site to accommodate a larger structure while still meeting the minimum setback and height requirements.

It is suggested that you review the letter of denial relating to the variance requirements as signed by the Newberg Planning Director in that this document provides greater detail in responding to the variance criteria relating to this request.

RECOMMENDATION

Staff still finds, that based upon the investigation and evidence submitted, the request does not substantially conform to such criteria and, therefore, the decision of the Planning Director should be affirmed.



CITY OF

NEWBERG

414 E. First Street

Newberg, OR 97132

4 December 1980

David D. Bothum
709 Jeffrey Court
Newberg, OR 97132

RE: Building Violation, Building Permit No. 5470

Dear Mr. Bothum,

On October 31, 1980 the Newberg Building Department issued a building permit for a single car garage located at 709 Jeffrey Court, Newberg, Oregon. Approval of the building permit was based upon drawings submitted by yourself which indicate the floor plan, construction and general design of the structure. These plans were reviewed and approved as being generally consistent with the Newberg building and zoning codes. It has now come to our attention that you have altered the design of the structure to be significantly different from the plans which were approved as part of the above referenced building permit. The alterations that you have made were not submitted to the City of Newberg for review in accordance with our ordinances, and as it turns out, the alterations that you have made are in violation to the height requirements specified within the Newberg Zoning Ordinance No. 1968.

Section 474 Sub. 1-A of the Newberg Zoning Ordinance which relates to building height limitations reads in part as follows:

"Accessory buildings in the R-1, R-2, R-3 and R-P districts are limited to one story in height."

The alterations you have made to create a second story upon the structure is in direct violation of the Newberg Zoning Ordinance. The Newberg Zoning Ordinance also provides a method in which the City may use to remedy violations. This is found in Section 802 of the Newberg Zoning Ordinance and reads as follows:

"Violations and Penalties. Violation of any provision in this Ordinance is punishable by a fine not to exceed \$500. Each day of a continuing violation constitutes a separate Violation and may be punishable by a separate fine not to exceed \$500."

Page 2

4 December 1980

The construction of a second story upon the above referenced structure may be considered a continuing violation. This matter will be referred to the Newberg City Attorney if the violation has not been corrected within 30 days.

If you have any questions, feel free to contact either myself or the Newberg City Attorney.

Sincerely,

A handwritten signature in dark ink, appearing to read "Clay W. Moorhead", with a large, stylized loop at the end.

Clay W. Moorhead
Planning Director

CWM:bym

cc: Building Dept.
City Administrator



CITY OF

NEWBERG

414 E. First Street

Newberg, OR 97132

January 30, 1981

Mr. & Mrs. David D. Bothum
709 Jeffrey Court
Newberg, OR 97132

RE: V-9-80, A variance to the height requirements for an accessory structure located on T. L. 3207DD-716, 709 Jeffrey Court, Newberg, OR

Dear Mr. & Mrs. Bothum,

Please be advised that your request for a variance to the height restrictions of an accessory building within the R-1 zone has been processed in accordance with criteria found within the Newberg Zoning Ordinance (refer to Page 112, Section 678). A determination has been made to DENY your request based upon the following findings and observations.

- A. The Newberg Zoning Ordinance requires that in order to grant a variance, the strict or literal interpretation and enforcement of the specified regulation must result in practical difficulty or an unnecessary physical hardship inconsistent with the objectives of the Zoning Ordinance. The Newberg Zoning Ordinance indicates that a practical difficulty or unnecessary physical hardship may result from size, shape or dimensions of a site or the location of existing structures thereon, from geographic, topographic or other physical features on the site or in the immediate vicinity, or from population densities, street locations or traffic conditions in the immediate vicinity.

The variance is being requested for the purpose of allowing a two-story accessory structure within the R-1 (Low Density Residential) zoning district. The accessory structure has currently been constructed in violation of the standard zoning height restrictions which would allow accessory structures to be built provided they are limited to one-story in height. It appears from the site plan submitted with the application that the existing garage subject to this request is approximately 15 feet from the side and rear property lines. It does not appear by the drawing that the garage was limited to this specific site location only or that the first floor area be limited to 400 square feet. It does appear by the site drawing that adequate land within the lot is available which could accommodate a larger first floor area.

Because of these observations, it does not appear that a strict or literal interpretation of the one-story height requirement would result in a practical difficulty of situating such a structure on the lot. The existence of the structure now being located on the lot in violation to the height requirements would not serve as an argument for practical difficulty as such an argument circumvents the regulations and intent of the Newberg Zoning Ordinance.

- B. In order to grant a variance there must be an exceptional or extraordinary circumstance or condition applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zoning district. The subject property is considered to be a standard R-1 (Low Density Residential) subdivision lot. The dimensions of the lot are relatively standard and provide adequate opportunity for site design of a single-family structure and accessory buildings. A single-family structure and an accessory building could be situated on the property with no apparent difficulty as the lot is over 7,500 square feet in area. The applicant's have indicated that a single-car garage with a storage space upon the second floor was the only outbuilding applicable to the lot and their needs. It does appear that the lot could adequately handle a larger one-story outbuilding and still comply with the Newberg development codes. In addition, all lots within the subdivision surrounding the subject property are approximately the same size in square footage as the applicant's property. There does not appear to be an exceptional or extraordinary circumstance or condition applicable to the applicant's property which would not generally apply to all of the properties within the subdivision and, in fact, all other properties developed since the creation of the Low Density Residential minimum lot size requirements.
- C. In order to grant a variance, a strict or literal interpretation or enforcement of the one-story accessory structure height regulation must deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district. The ability to have a two-story accessory structure is not a privilege enjoyed by other owners of property within the same zoning district. The submission of a petition by current adjoining property owners indicating their acceptance of the structure would not satisfy this criteria as it must relate to a privilege enjoyed by other property owners within the Low Density Residential zoning district. Adjoining property owners do not enjoy the privileges of having a two-story accessory structure on their particular parcel.

- D. To grant a variance, the variance must not constitute a grant of a special privilege inconsistent with the limitations on other properties classified in the same zoning district. No other property owners within the R-1 zoning district may be authorized to have a two-story accessory building near the vicinity of this application and, therefore, if this application was approved, it would grant a special privilege which would not otherwise be authorized to adjoining property owners.
- E. The final criteria for granting a variance is that the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity. It does not appear that the structure would be materially injurious to properties or improvements in the vicinity, however, a violation of the Newberg Zoning Ordinance, by its nature, constitutes a detriment to the public health, safety or welfare of the community as a granting of the variance would constitute a circumvention of the zoning regulations.

A variance may only be granted where it can be demonstrated based upon the application, investigation, and evidence submitted that the request would substantially conform to the five criteria as indicated above. Based upon the investigation and evidence submitted, the Newberg Planning Department finds that the request does not substantially conform to such criteria and, therefore, the request for a variance has been denied.

An appeal to this decision may be made by the applicant, an adjoining property owner, or any person, firm or corporation affected by the decision. Any request for an appeal to this decision must be made within 10 days of the date of this letter by filing notice of appeal with the Newberg Planning Department. A notice requesting an appeal of this decision must specify how the Planning Department, in making its decision, failed to accurately interpret the specified regulations. Any appeal will stay all action of this request until the appeal is resolved.

Sincerely,



Clay W. Moorhead
Planning Director

CWM:bym
cc: City Attorney
City Administrator
Building Dept.
Adjoining Property Owners

February 4, 1981

TO WHOM IT MAY CONCERN:

In response to the letter of denial for a variance to the height requirements for an accessory structure located at 709 Jeffrey Court, Newberg, Oregon, the letter dated January 30, 1981 has failed to bring out all the facts concerned with this variance. It has failed to show that the Building Department has broken City Ordinance Regulations concerning height requirements for an R-1 Zoning District, such as this building is in.

The Building Department of the City of Newberg has on file the approved plans for this building, approving it for a height of 16 feet. When it specifically states in City Ordinances in this matter to be no more than 14 feet in height.

Not knowing all codes required, this gave me a very relaxed guide line to height requirements. This is a very loose interpretation of height requirements given to me by the Building Department.

This lead me to honestly believe at that time, the building was within City Code. This building is approximately 12 inches over the approved height.

RESPONSE TO THE FIVE POINTS OF CRITERIA FOUND WITHIN THE NEWBERG ZONING ORDINANCE, FOR A VARIANCE:

Criteria A: The Newberg Zoning Ordinance indicates that a practical difficulty or unnecessary physical hardship may result from size, shape or dimensions of a site or the location of existing structures thereon, from geographic, topographic or other physical features on the site or in the immediate vicinity or from population densities, street locations or traffic conditions in the immediate vicinity.

This building in fact, does not create any hardships as stated above. A petition was signed by immediate residents stating that they accepted the building and that it was not detrimental to their health, safety or welfare or materially injurious to properties or improvements in the vicinity. Also that they could not build one such as this on their own property.

Criteria B: An exceptional or extraordinary circumstance or condition applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zoning district.

Generally, the lots in this vicinity are four sided and can squeeze on a two car garage. But not in the case as on this property. As shown on the Plot-Plan which is accurate, the entrance to the property is long and tapered, cutting down the square footage of the lot greatly. This leaves it next to impossible to put a larger building in without taking most of the future back yard area. Also a much more expensive drive would have to be used, again taking more room.

Criteria C: The privilege enjoyed by other property owners within the Low Density Residential Zoning district, have not been deprived, having two car garages, but in fact I have been deprived since it is very difficult with property line limits, and how close you can build to them, also the dimensions of the parcel deprive building wider structures, as enjoyed by other adjoining owners.

The immediate owners have stated that they enjoy the design of the building, and

that we should fight to keep it!

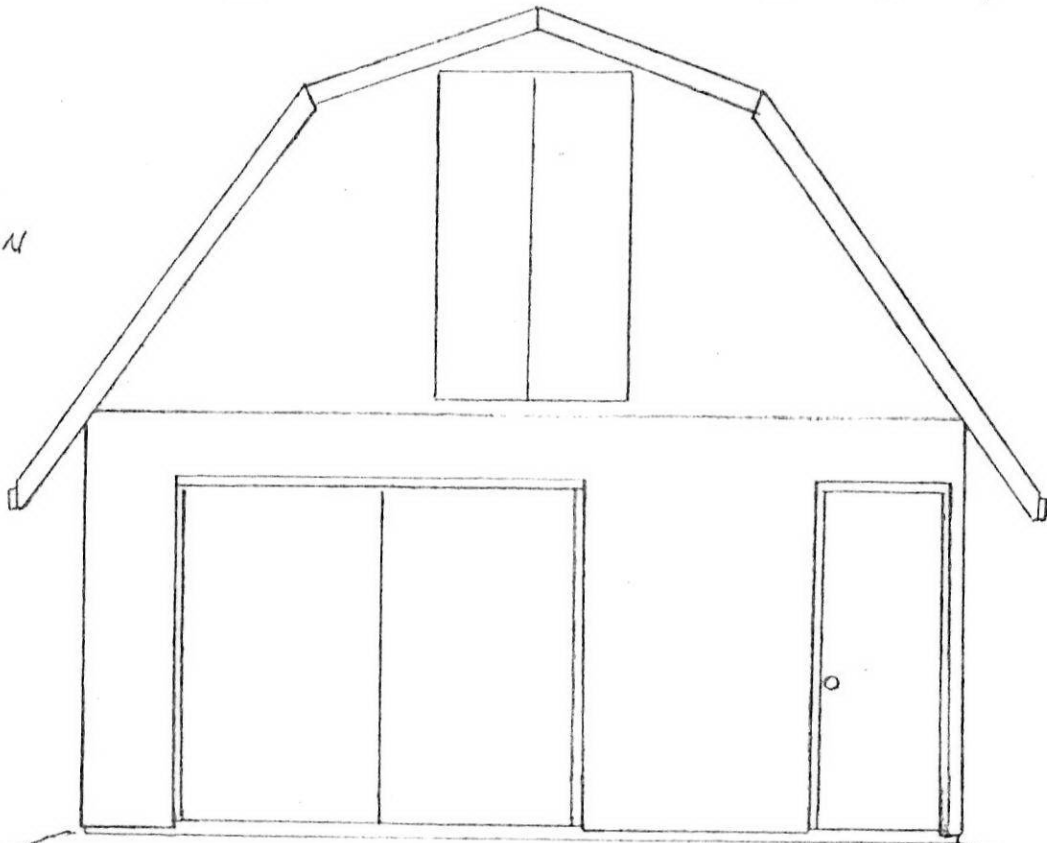
Criteria D: This has already been accepted by adjoining property owners that they could not be authorized to build a structure such as this one on their own property.

Criteria E: This building will not in any way be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity. Since in fact, that there has been only one complaint filed by one private citizen.

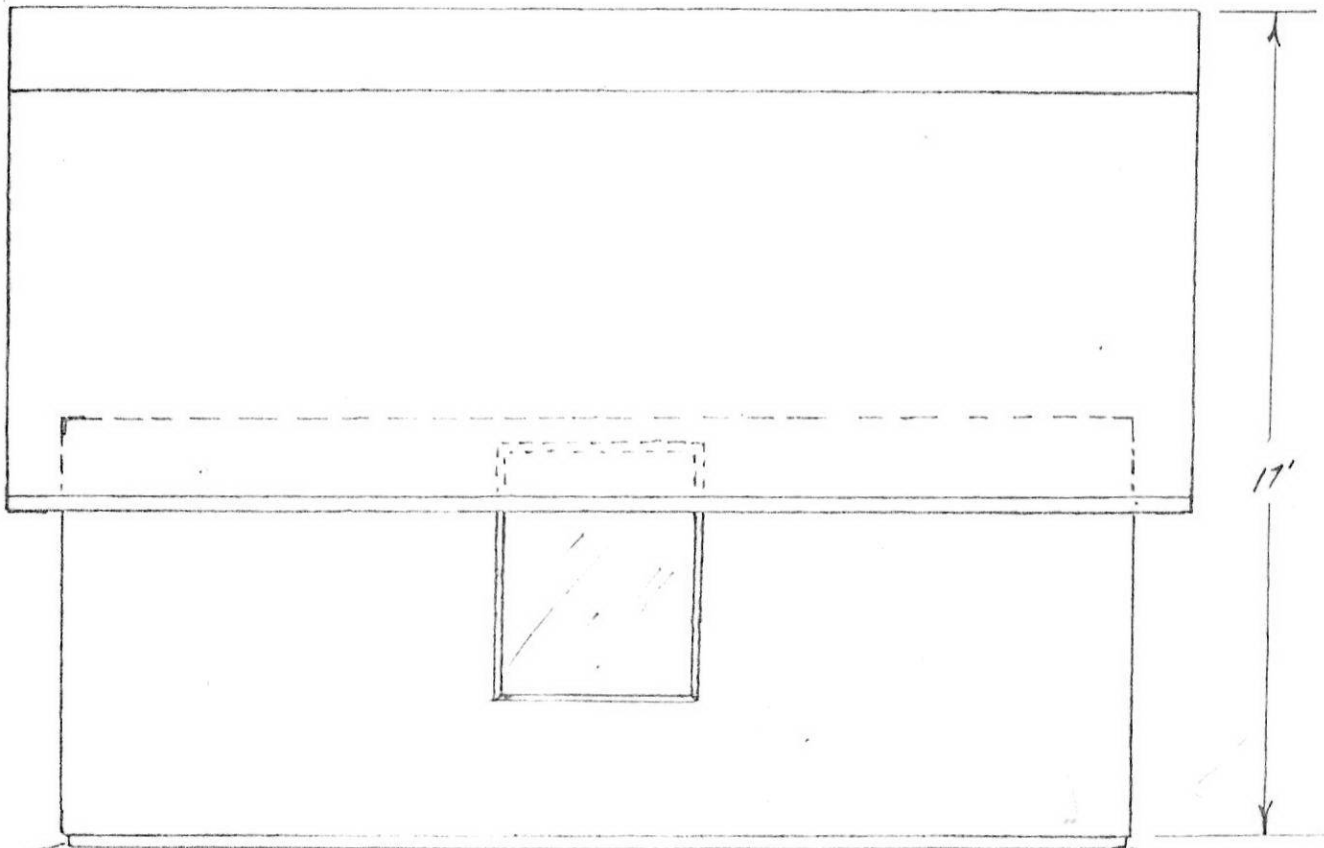
EXISTING
STRUCTURE

NOTE: ROOF ELEVATION IS 14" HIGHER
ON ORIGINALLY APPROVED PLAN.

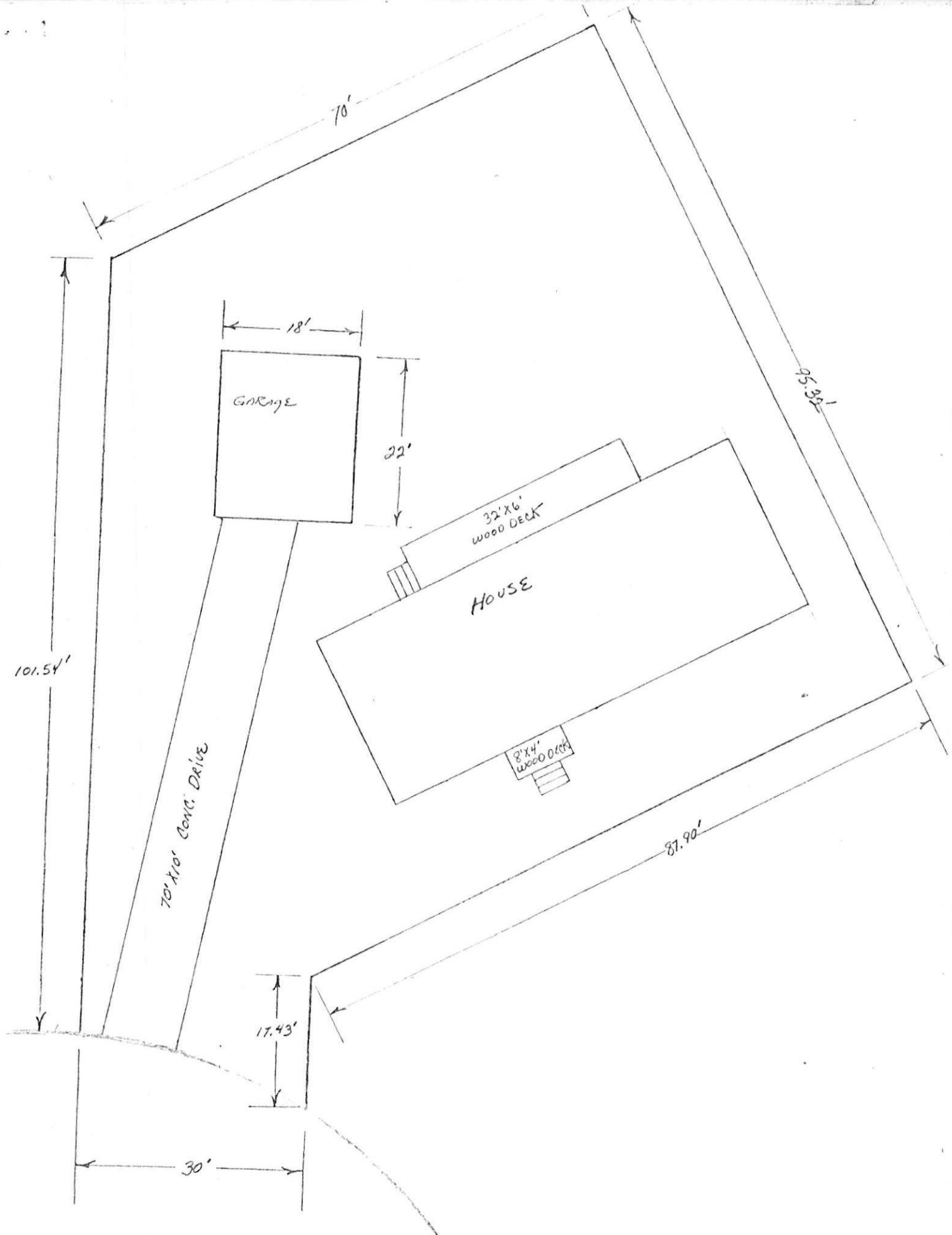
FRONT
ELEVATION



RIGHT
ELEVATION



NOTE 1/4" = 1'



SCALE: $\frac{1}{16}" = 1'$

ORIGINAL APPROVED
APPLICATION + PLAN

CITY OF NEWBERG

APPLICATION FOR BUILDING PERMIT

Date 10/27/80 Bldg. Fee 156.00 Permit No. 5470
Est. Value 1800.00 State % 1.12 Valuation 3920.00
Square Ft. 396 Plan Ck. Fee 121.00 Date Issued 10-31-80
396 x .005 = 1.98 Storm Sewer 1.98 Approved K. W. W. W. W.
Builders Board # - 31186 Traffic Control 0 Rec. # 01885
TOTAL \$ 45.10

Job Address 709 JEFFREY COURT, NEWBERG, ORE.
Permit No. 5470
Owner DAVID D. BOTHUM

NEW

ADDITION

REMODELING

REPAIR

DEMOLITION

OTHER

Two sets of plans and plot plans must be furnished with application.

Address 709 JEFFREY COURT, NEWBERG, ORE. 97132
Lot No. 31 Blk. No. Jeffrey Park Plat Jeffrey Park Tax Lot No. Jeffrey Park
Owner DAVID D. BOTHUM Address 962 NW 2ND ST. HILLSBORO, ORE. 97123 Ph. 640-6360
Builder BOTHUM CONSTRUCT. CO. Address HILLSBORO Ph. 647-5724

Building Use: Single Res. ☒ Multi. Res. No. Comm. Industrial No. Bedrooms SINGLE CAR GARAGE FOR ONE RESIDENCE

No. Stories 1 Total Height 14' Lot Size 7000 sq ft. Zoning
Set Backs: Front Back Sides Garage

If any of the following installations or operations are contemplated, permits and/or specifications may be required:

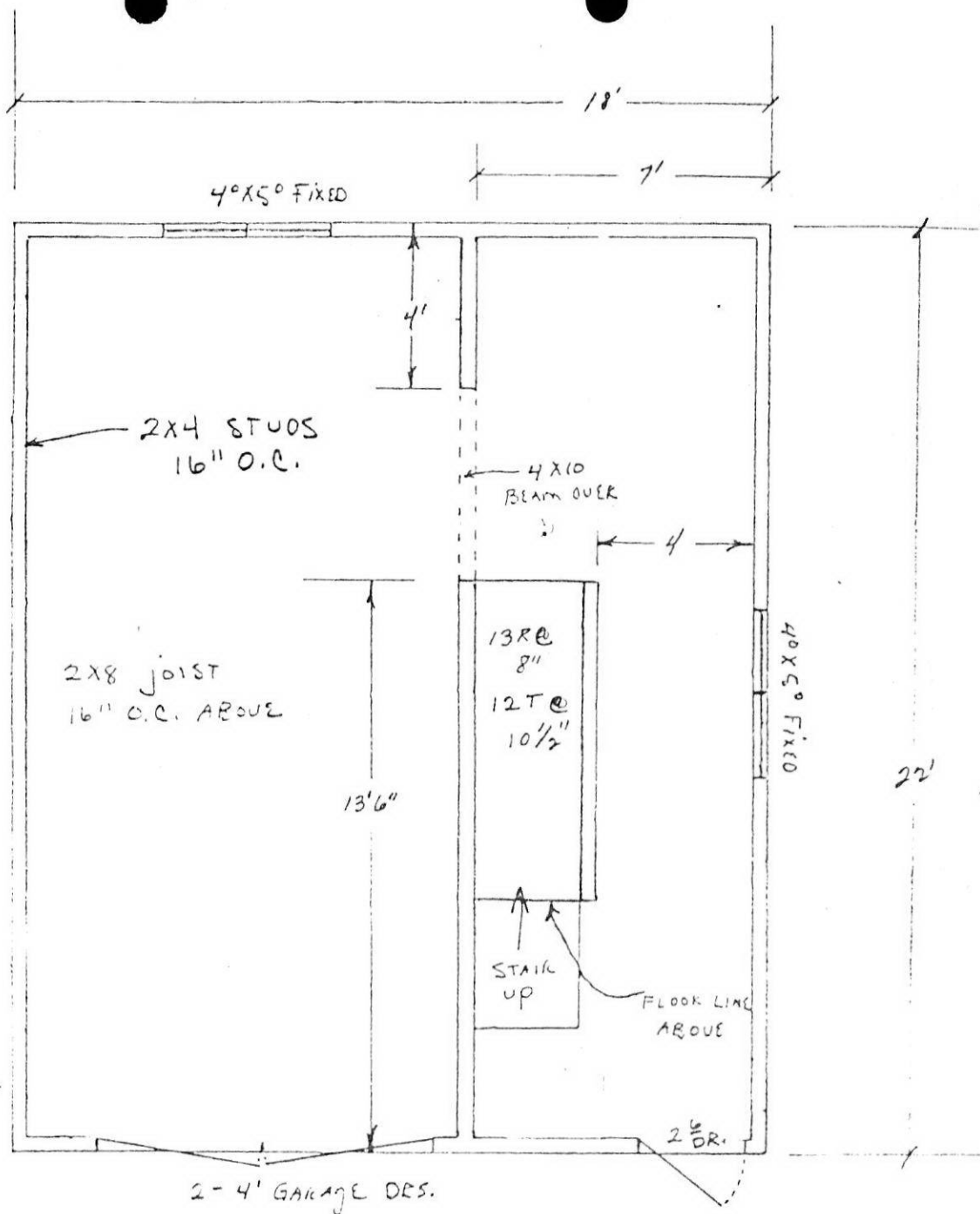
Permit or Specs.	Needed	Pmt. #	Permit or Specs.	Needed
Excavation & Grading			Sidewalk & Driveway	
Moving			Road Open	
Water & Sewer			Street	
Sign Permit			Mechanical	
Demolition			Plumbing	
Occupancy			Other	

I hereby acknowledge that I have read this application and state that the above is correct and agree to comply with all city ordinances and state laws regulating building construction.

Applicant or Owner

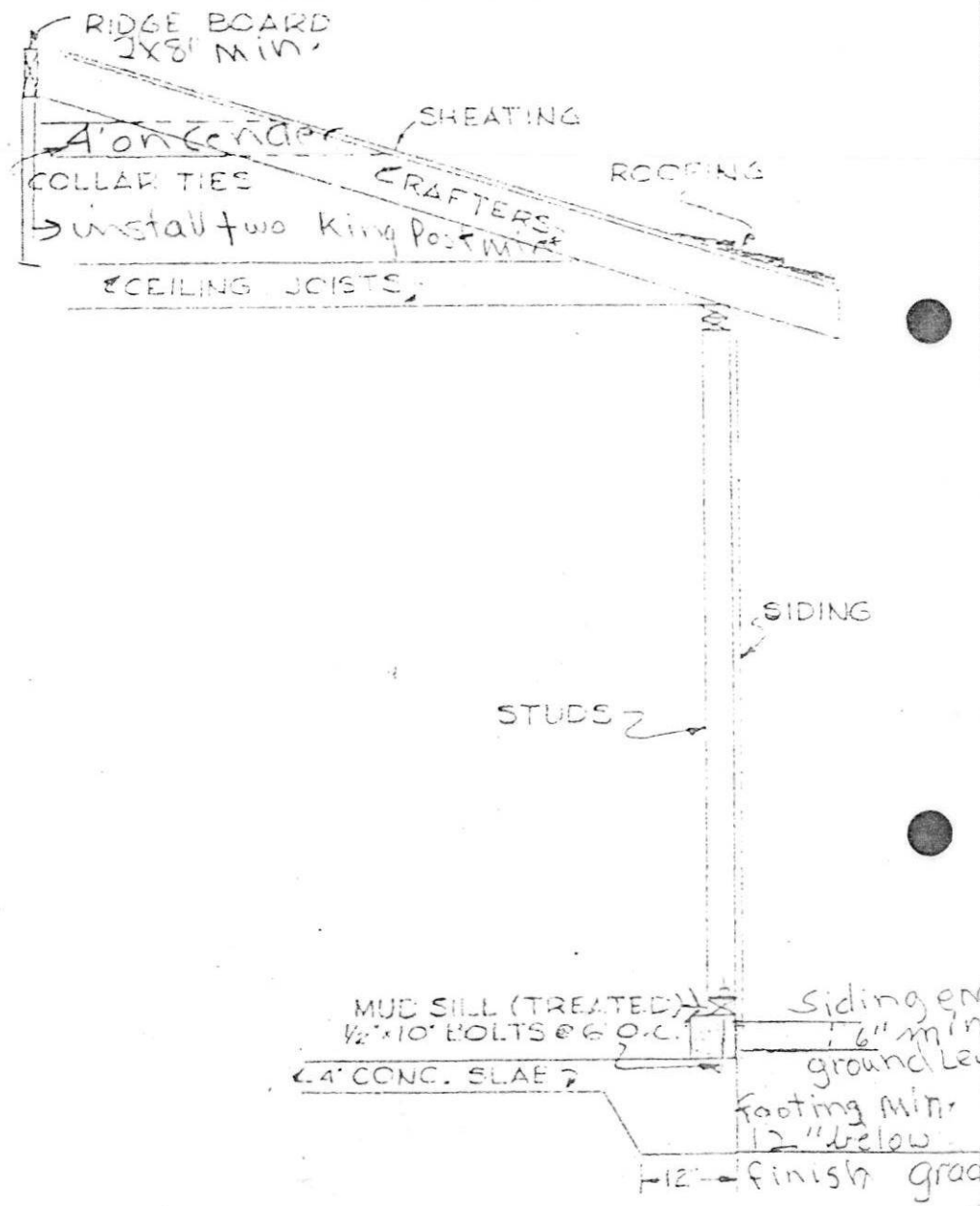
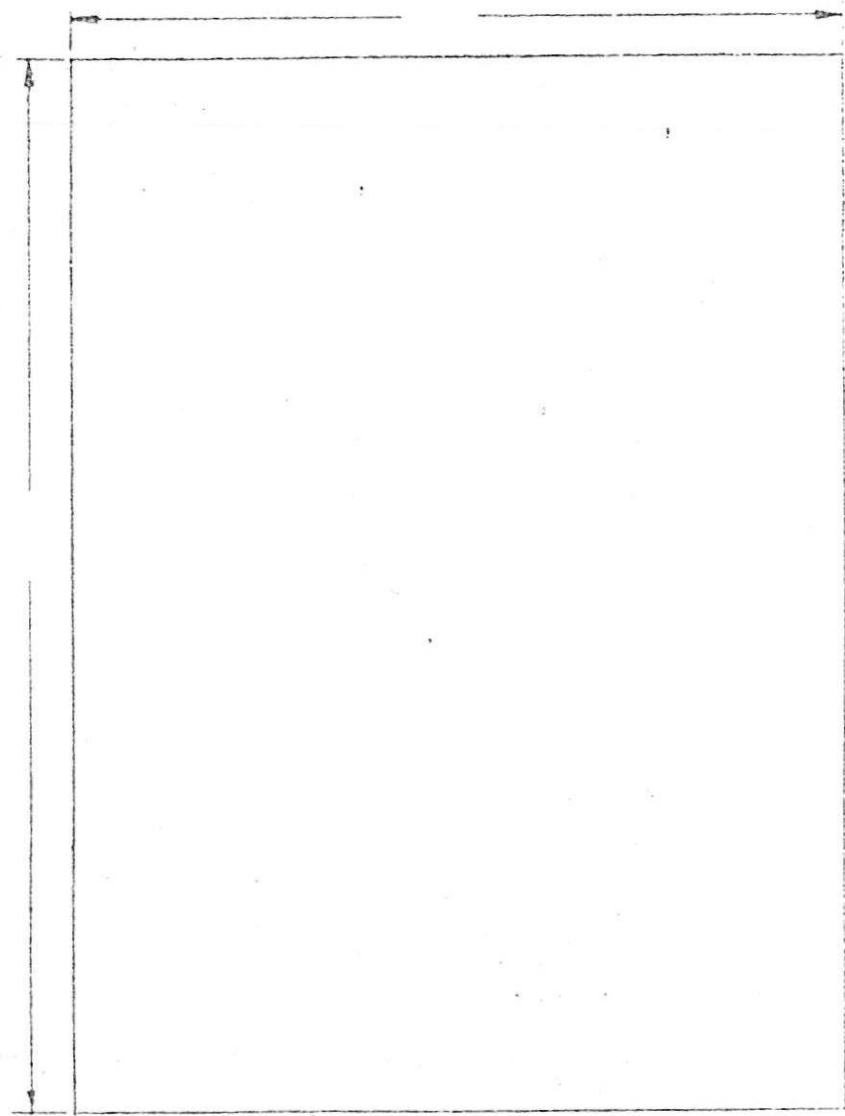
David D. Bothum

FLOOR PLAN

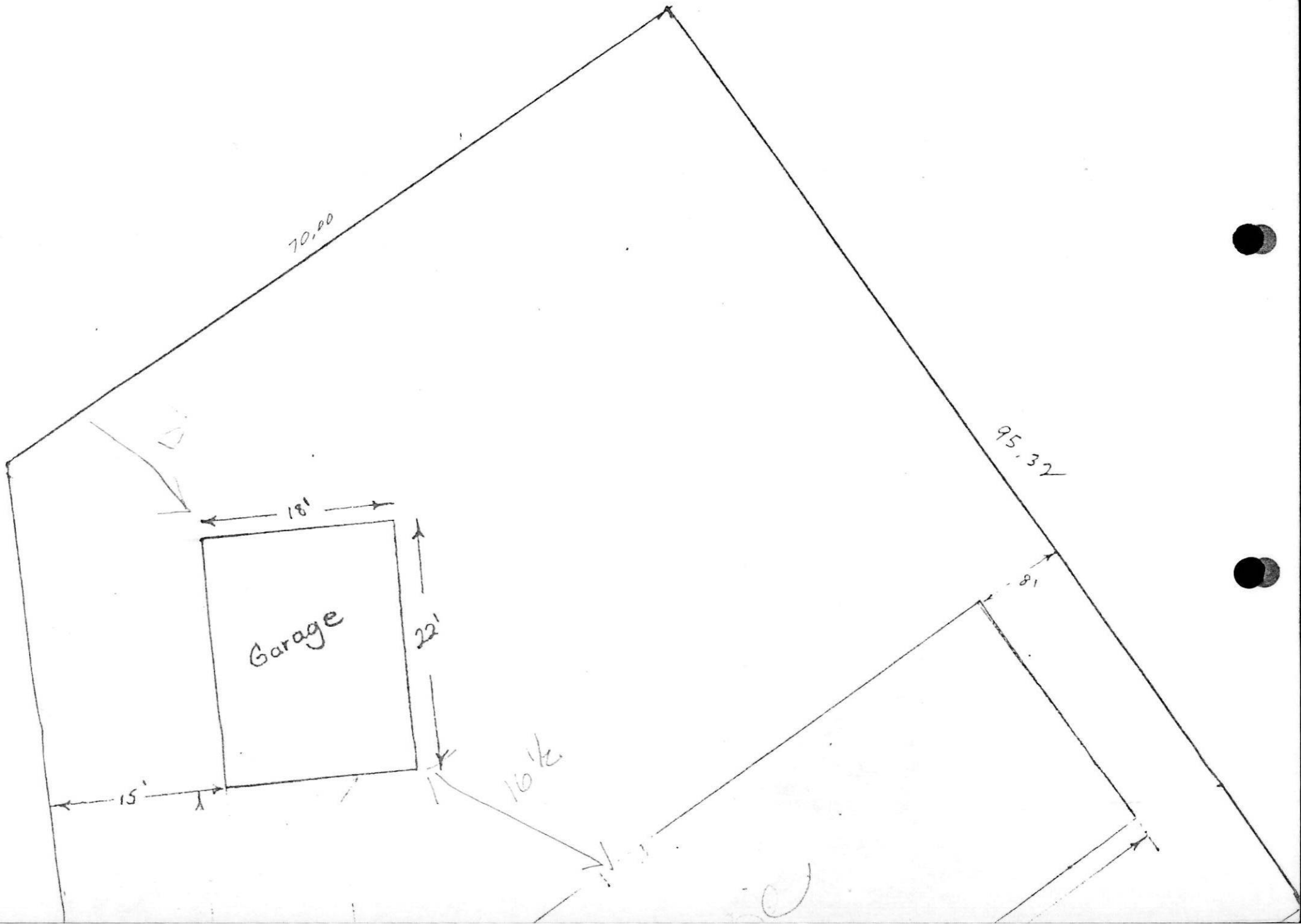


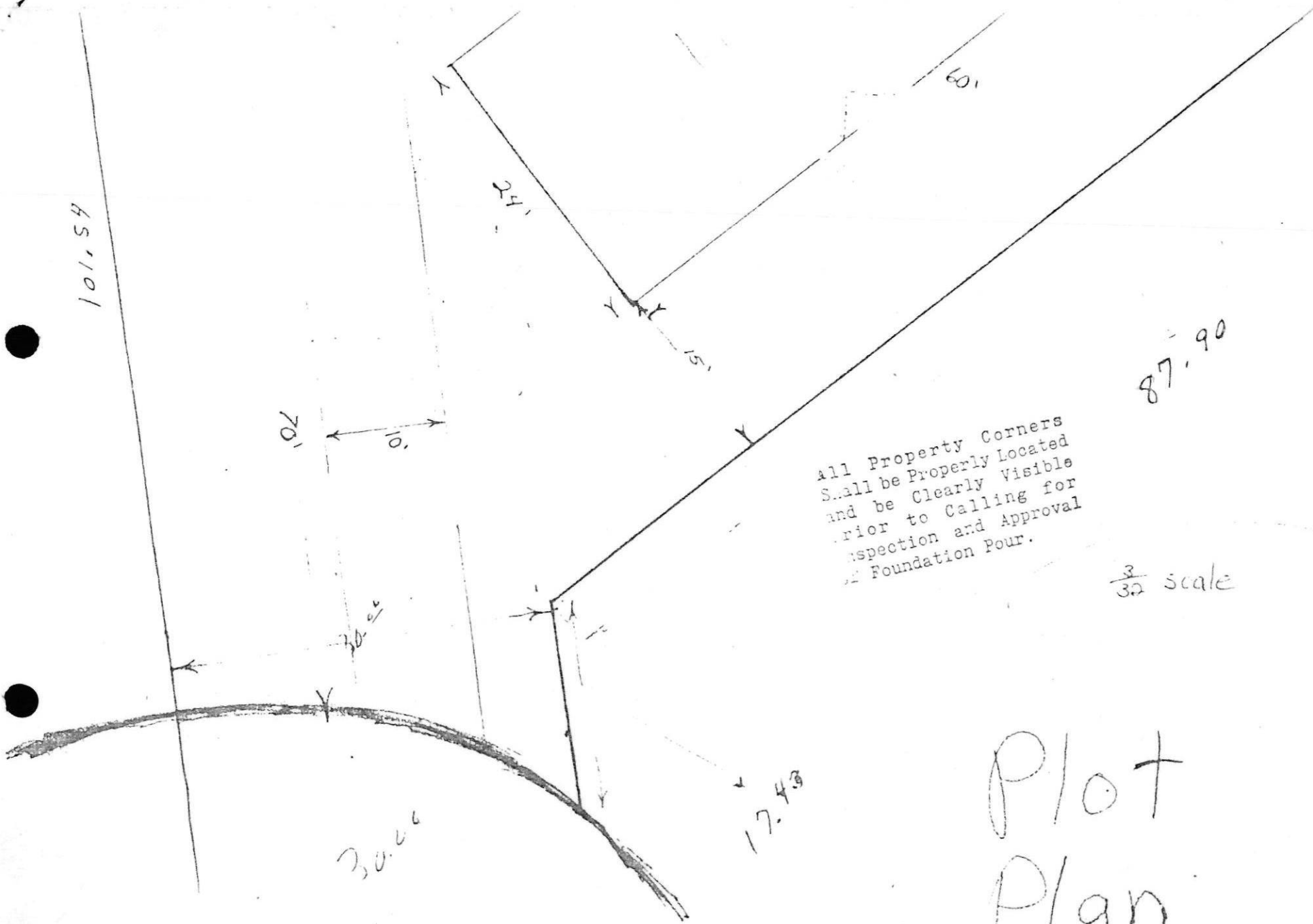
Stairs - 8" Max. Rise, 9" Min. Tread,
30" Min. Width Staircase, 6'6" Min.
Headroom. Handrails Required. Private
Under 10 Occupant. U.B.C. Sec. 3305

SCALE: 1/4" = 1'



DAVID W. D. AD.





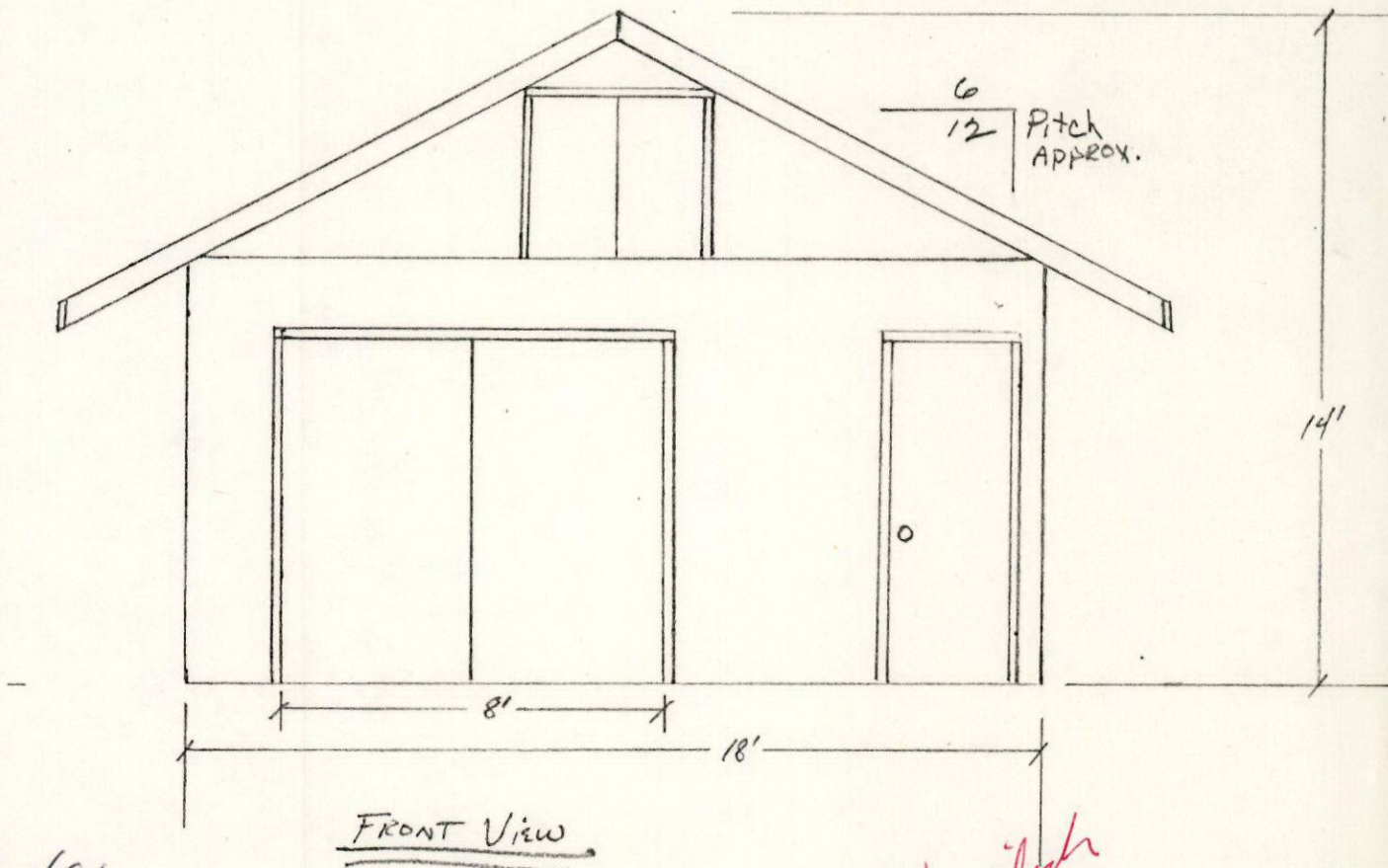
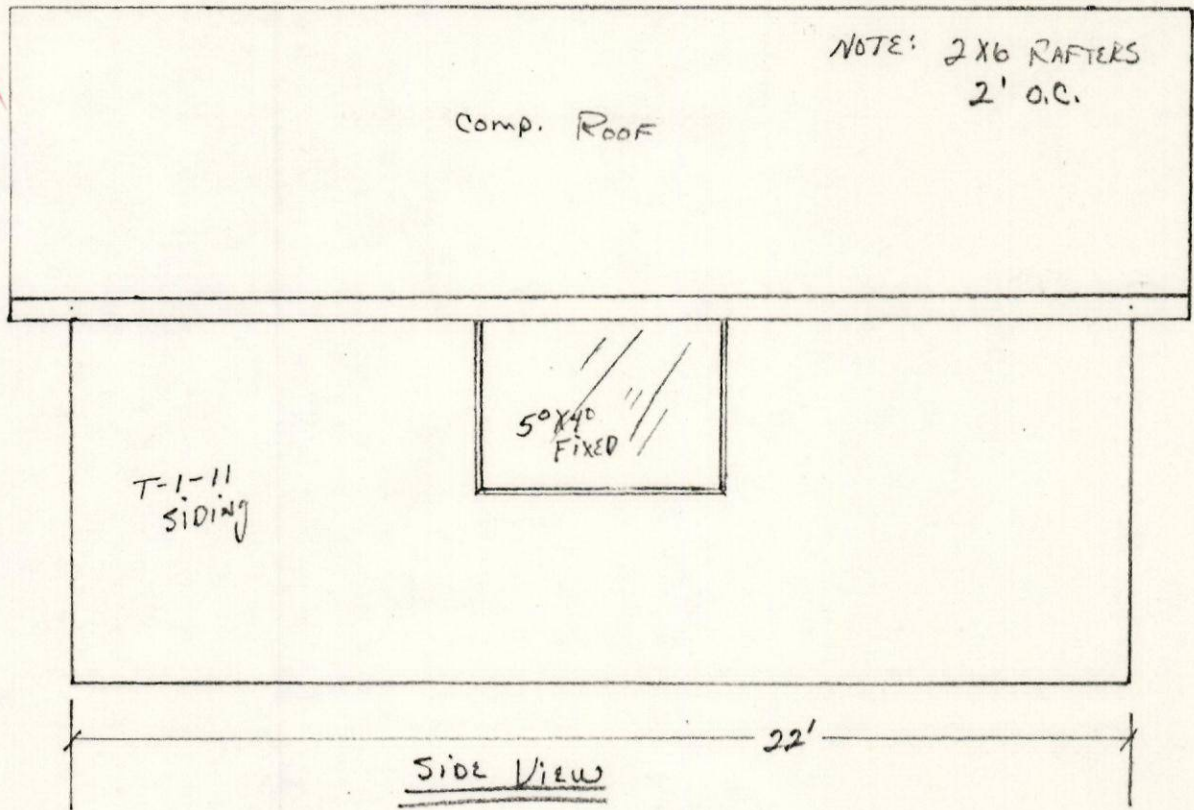
All Property Corners
shall be Properly Located
and be Clearly Visible
prior to Calling for
Inspection and Approval
of Foundation Pour.

$\frac{3}{32}$ scale

Plot
Plan

ROOF ELEVATIONS

Clay



3/19/81

CONVENTIONALLY FRAMED ROOF

Steve C. Bocher

OK Bob Wessink

SCALE 1/4" = 1'

LOCATED IN A PORTION OF THE WILLIAM T. WALLACE D.L.C. NO. 47
IN THE S.E. 1/4 OF SEC. 7, AND THE S.W. 1/4 OF SEC. 8, T. 3 S., R. 2 W.,
W.M., CITY OF NEWBERG, YAMHILL COUNTY, OREGON.

JANUARY 1979
SCALE 1" = 50'



SOUTHWEST CORNER OF THE
WILLIAM T. WALLACE D L C NO 47
PER PLAT OF GREEN VALLEY SUBD.

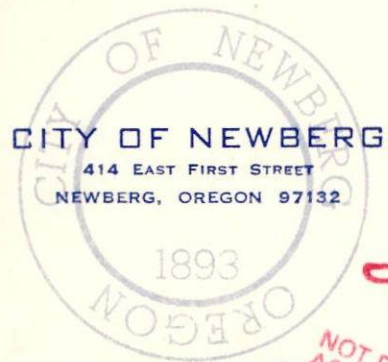


- 1) 1' x 60' ACCESS BARRIER HEREBY DEEDED TO THE PUBLIC FOREVER.
- 2) A 5' UTILITY EASEMENT SHALL EXIST ALONG ALL LOT LINES ABUTTING STREETS.

LOT NO	DELTA	RADIUS	LENGTH	CHORD	CHORD BEARING
13	90° 10' 40"	20.00	31.47	28.33	N 45° 08' 00" W
18	89° 49' 20"	20.00	31.35	28.24	N 44° 52' 00" E
19	90° 00' 00"	20.00	31.42	28.28	N 45° 13' 25" W
19	49° 59' 40"	20.00	17.45	16.90	N 24° 46' 30" E
20	75° 44' 20"	50.00	66.09	61.39	N 11° 54' 10" E
21	34° 22' 40"	50.00	30.00	29.55	N 43° 09' 20" W
22	61° 50' 40"	50.00	53.97	51.39	N 88° 44' 00" E
23	34° 22' 40"	50.00	30.00	29.55	N 40° 37' 20" E
24	58° 58' 35"	50.00	51.47	49.22	N 6° 03' 20" W
25	14° 40' 30"	50.00	12.81	12.77	N 42° 52' 50" W
25	49° 50' 40"	20.00	17.45	16.90	N 25° 13' 15" W
25	90° 00' 00"	20.00	31.42	28.28	N 44° 46' 40" E
27	90° 00' 00"	20.00	31.42	28.28	N 45° 13' 25" W
27	49° 59' 40"	20.00	17.45	16.90	N 24° 46' 30" E
27	14° 40' 30"	50.00	12.81	12.77	N 42° 26' 05" E
28	58° 58' 35"	50.00	51.47	49.22	N 5° 36' 30" E
29	34° 22' 40"	50.00	30.00	29.55	N 41° 04' 05" W
30	60° 02' 20"	50.00	52.39	50.02	N 88° 16' 35" W
31	34° 22' 40"	50.00	30.00	29.55	N 44° 30' 55" E
32	77° 32' 40"	50.00	67.67	62.62	N 11° 26' 45" W
33	49° 59' 40"	20.00	17.45	16.90	N 25° 13' 15" W
33	90° 00' 00"	20.00	31.42	28.28	N 44° 46' 35" E

I HEREBY CERTIFY THIS TO BE A COPY
OF THE PLAT OF "JEFFREY PARK"

Johann Wimmer



RETURNED
TO
SENDER
NOT DELIVERABLE
AS ADDRESSED —
UNABLE TO FORWARD

Lutz Development Co.
% R. Willcuts
~~207 N. Meridian~~
Newberg, OR 97132



Lutz Development
8925 S.W. Beaverton-Hillsdale Hwy
Portland, Ore 97225



CITY OF

NEWBERG

414 E. First Street

Newberg, OR 97132

January 30, 1981

Mr. & Mrs. David D. Bothum
709 Jeffrey Court
Newberg, OR 97132

RE: V-9-80, A variance to the height requirements for an accessory structure located on T. L. 3207DD-716, 709 Jeffrey Court, Newberg, OR

Dear Mr. & Mrs. Bothum,

Please be advised that your request for a variance to the height restrictions of an accessory building within the R-1 zone has been processed in accordance with criteria found within the Newberg Zoning Ordinance (refer to Page 112, Section 678). A determination has been made to DENY your request based upon the following findings and observations.

- A. The Newberg Zoning Ordinance requires that in order to grant a variance, the strict or literal interpretation and enforcement of the specified regulation must result in practical difficulty or an unnecessary physical hardship inconsistent with the objectives of the Zoning Ordinance. The Newberg Zoning Ordinance indicates that a practical difficulty or unnecessary physical hardship may result from size, shape or dimensions of a site or the location of existing structures thereon, from geographic, topographic or other physical features on the site or in the immediate vicinity, or from population densities, street locations or traffic conditions in the immediate vicinity.

The variance is being requested for the purpose of allowing a two-story accessory structure within the R-1 (Low Density Residential) zoning district. The accessory structure has currently been constructed in violation of the standard zoning height restrictions which would allow accessory structures to be built provided they are limited to one-story in height. It appears from the site plan submitted with the application that the existing garage subject to this request is approximately 15 feet from the side and rear property lines. It does not appear by the drawing that the garage was limited to this specific site location only or that the first floor area be limited to 400 square feet. It does appear by the site drawing that adequate land within the lot is available which could accommodate a larger first floor area.

Because of these observations, it does not appear that a strict or literal interpretation of the one-story height requirement would result in a practical difficulty of situating such a structure on the lot. The existence of the structure now being located on the lot in violation to the height requirements would not serve as an argument for practical difficulty as such an argument circumvents the regulations and intent of the Newberg Zoning Ordinance.

- B. In order to grant a variance there must be an exceptional or extraordinary circumstance or condition applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zoning district. The subject property is considered to be a standard R-1 (Low Density Residential) subdivision lot. The dimensions of the lot are relatively standard and provide adequate opportunity for site design of a single-family structure and accessory buildings. A single-family structure and an accessory building could be situated on the property with no apparent difficulty as the lot is over 7,500 square feet in area. The applicant's have indicated that a single-car garage with a storage space upon the second floor was the only outbuilding applicable to the lot and their needs. It does appear that the lot could adequately handle a larger one-story outbuilding and still comply with the Newberg development codes. In addition, all lots within the subdivision surrounding the subject property are approximately the same size in square footage as the applicant's property. There does not appear to be an exceptional or extraordinary circumstance or condition applicable to the applicant's property which would not generally apply to all of the properties within the subdivision and, in fact, all other properties developed since the creation of the Low Density Residential minimum lot size requirements.
- C. In order to grant a variance, a strict or literal interpretation or enforcement of the one-story accessory structure height regulation must deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district. The ability to have a two-story accessory structure is not a privilege enjoyed by other owners of property within the same zoning district. The submission of a petition by current adjoining property owners indicating their acceptance of the structure would not satisfy this criteria as it must relate to a privilege enjoyed by other property owners within the Low Density Residential zoning district. Adjoining property owners do not enjoy the privileges of having a two-story accessory structure on their particular parcel.

- D. To grant a variance, the variance must not constitute a grant of a special privilege inconsistent with the limitations on other properties classified in the same zoning district. No other property owners within the R-1 zoning district may be authorized to have a two-story accessory building near the vicinity of this application and, therefore, if this application was approved, it would grant a special privilege which would not otherwise be authorized to adjoining property owners.
- E. The final criteria for granting a variance is that the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity. It does not appear that the structure would be materially injurious to properties or improvements in the vicinity, however, a violation of the Newberg Zoning Ordinance, by its nature, constitutes a detriment to the public health, safety or welfare of the community as a granting of the variance would constitute a circumvention of the zoning regulations.

A variance may only be granted where it can be demonstrated based upon the application, investigation, and evidence submitted that the request would substantially conform to the five criteria as indicated above. Based upon the investigation and evidence submitted, the Newberg Planning Department finds that the request does not substantially conform to such criteria and, therefore, the request for a variance has been denied.

An appeal to this decision may be made by the applicant, an adjoining property owner, or any person, firm or corporation affected by the decision. Any request for an appeal to this decision must be made within 10 days of the date of this letter by filing notice of appeal with the Newberg Planning Department. A notice requesting an appeal of this decision must specify how the Planning Department, in making its decision, failed to accurately interpret the specified regulations. Any appeal will stay all action of this request until the appeal is resolved.

Sincerely,



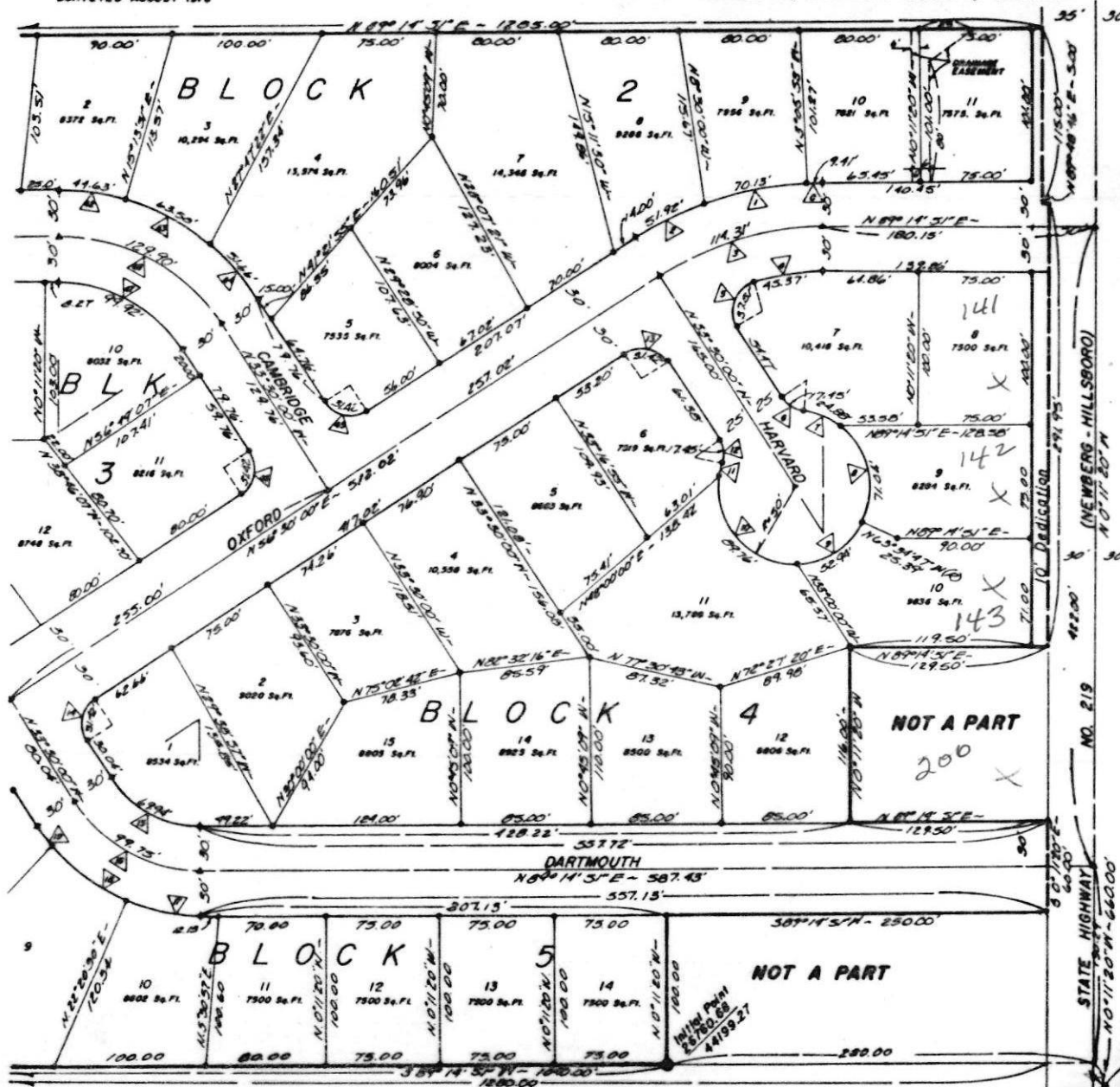
Clay W. Moorhead
Planning Director

CWM:bym
cc: City Attorney
City Administrator
Building Dept.
Adjoining Property Owners

BARCLAY FARMS

SECTION 7, T.3.S., R.2.W., W.M.
CITY OF NEWBERG, YAMHILL COUNTY, OREGON

SURVEYED AUGUST 1978

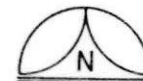


BY: BURTON ENGINEERING
3944 S.E. HAWTHORNE BLVD.
PORTLAND, OREGON 97214
78-107

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Thomas R. Burton

OREGON
JANUARY 18, 1961
THOMAS R. BURTON
599



SCALE 1" = 50'

NOTES:
- Set 5/8" x 30" Iron Rod at all Subdivision Boundary and
Curve Points and Set 1/2" x 24" Iron Rod at all Lot Corners,
unless otherwise noted.
- Indicates - Monument, 1" x 30" Iron Pipe
- 6" Utility Easement along all Lot Lines adjacent to R/W

CURVE DATA

0. Δ=8°20'43" R=230.00 L=8.41 C=9.41 N 88°04'35"E	1. Δ=17°28'05" R=230.00 L=70.13 C=69.85 N 78°10'04"E	2. Δ=12°35'59" R=230.00 L=51.92 C=51.91 N 62°57'59"E
3. Δ=32°44'51" R=200.00 L=114.31 C=112.76 S 72°52'25"W	4. Δ=13°17'24" R=170.00 L=45.37 C=45.23 N 81°36'05"E	5. Δ=107°27'27" R=20.00 L=37.51 C=32.25 N 20°13'44"E
6. Δ=49°55'41" R=20.00 L=17.45 C=16.90 N 58°29'51"W	7. Δ=28°30'50" R=50.00 L=24.88 C=24.63 N 69°14'14"W	8. Δ=81°24'02" R=50.00 L=71.04 C=65.21 N 14°16'52"W
9. Δ=60°40'05" R=50.00 L=52.94 C=50.50 N 58°45'15"E	10. Δ=108°51'17" R=50.00 L=89.76 C=78.18 S 41°29'05"E	11. Δ=6°33'08" R=50.00 L=5.72 C=5.71 S 13°12'50"W
12. Δ=49°55'41" R=20.00 L=17.45 C=16.90 S 8°30'08"E	13. Δ=90°00'00" R=20.00 L=31.42 C=28.28 S 78°50'01"E	14. Δ=89°39'36" R=20.00 L=31.48 C=28.29 N 17°29'58"E
15. Δ=57°44'55" R=70.00 L=69.94 C=67.07 N 62°07'23"W	16. Δ=57°15'05" R=100.00 L=89.93 C=85.62 N 62°07'35"W	17. Δ=83°02'29" R=130.00 L=82.77 C=82.41 N 79°07'24"W
18. Δ=27°23'00" R=130.00 L=62.13 C=61.84 N 83°48'10"W	19. Δ=8°36'40" R=130.00 L=13.00 C=14.99 N 38°48'20"W	20. Δ=18°30'00" R=100.00 L=63.58 C=63.17 N 63°25'04"W
21. Δ=15°28'00" R=180.00 L=44.63 C=46.49 N 62°45'35"W	22. Δ=28°46'05" R=180.00 L=63.58 C=63.17 N 63°25'04"W	23. Δ=18°30'00" R=100.00 L=63.58 C=63.17 N 63°25'04"W
24. Δ=30°00'00" R=20.00 L=31.42 C=28.28 N 78°50'01"W	25. Δ=30°00'00" R=20.00 L=31.42 C=28.28 S 11°30'00"W	26. Δ=57°15'05" R=100.00 L=89.93 C=85.62 S 62°07'34"E

S.E. Corner
James Murrell S.L.C. No. 48



CITY OF

NEWBERG

414 E. First Street

Newberg, OR 97132

January 30, 1981

Mr. & Mrs. David D. Bothum
709 Jeffrey Court
Newberg, OR 97132

RE: V-9-80, A variance to the height requirements for an accessory structure located on T. L. 3207DD-716, 709 Jeffrey Court, Newberg, OR

Dear Mr. & Mrs. Bothum,

Please be advised that your request for a variance to the height restrictions of an accessory building within the R-1 zone has been processed in accordance with criteria found within the Newberg Zoning Ordinance (refer to Page 112, Section 678). A determination has been made to DENY your request based upon the following findings and observations.

- A. The Newberg Zoning Ordinance requires that in order to grant a variance, the strict or literal interpretation and enforcement of the specified regulation must result in practical difficulty or an unnecessary physical hardship inconsistent with the objectives of the Zoning Ordinance. The Newberg Zoning Ordinance indicates that a practical difficulty or unnecessary physical hardship may result from size, shape or dimensions of a site or the location of existing structures thereon, from geographic, topographic or other physical features on the site or in the immediate vicinity, or from population densities, street locations or traffic conditions in the immediate vicinity.

The variance is being requested for the purpose of allowing a two-story accessory structure within the R-1 (Low Density Residential) zoning district. The accessory structure has currently been constructed in violation of the standard zoning height restrictions which would allow accessory structures to be built provided they are limited to one-story in height. It appears from the site plan submitted with the application that the existing garage subject to this request is approximately 15 feet from the side and rear property lines. It does not appear by the drawing that the garage was limited to this specific site location only or that the first floor area be limited to 400 square feet. It does appear by the site drawing that adequate land within the lot is available which could accommodate a larger first floor area.

Because of these observations, it does not appear that a strict or literal interpretation of the one-story height requirement would result in a practical difficulty of situating such a structure on the lot. The existence of the structure now being located on the lot in violation to the height requirements would not serve as an argument for practical difficulty as such an argument circumvents the regulations and intent of the Newberg Zoning Ordinance.

- B. In order to grant a variance there must be an exceptional or extraordinary circumstance or condition applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zoning district. The subject property is considered to be a standard R-1 (Low Density Residential) subdivision lot. The dimensions of the lot are relatively standard and provide adequate opportunity for site design of a single-family structure and accessory buildings. A single-family structure and an accessory building could be situated on the property with no apparent difficulty as the lot is over 7,500 square feet in area. The applicant's have indicated that a single-car garage with a storage space upon the second floor was the only outbuilding applicable to the lot and their needs. It does appear that the lot could adequately handle a larger one-story outbuilding and still comply with the Newberg development codes. In addition, all lots within the subdivision surrounding the subject property are approximately the same size in square footage as the applicant's property. There does not appear to be an exceptional or extraordinary circumstance or condition applicable to the applicant's property which would not generally apply to all of the properties within the subdivision and, in fact, all other properties developed since the creation of the Low Density Residential minimum lot size requirements.
- C. In order to grant a variance, a strict or literal interpretation or enforcement of the one-story accessory structure height regulation must deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district. The ability to have a two-story accessory structure is not a privilege enjoyed by other owners of property within the same zoning district. The submission of a petition by current adjoining property owners indicating their acceptance of the structure would not satisfy this criteria as it must relate to a privilege enjoyed by other property owners within the Low Density Residential zoning district. Adjoining property owners do not enjoy the privileges of having a two-story accessory structure on their particular parcel.

- D. To grant a variance, the variance must not constitute a grant of a special privilege inconsistent with the limitations on other properties classified in the same zoning district. No other property owners within the R-1 zoning district may be authorized to have a two-story accessory building near the vicinity of this application and, therefore, if this application was approved, it would grant a special privilege which would not otherwise be authorized to adjoining property owners.
- E. The final criteria for granting a variance is that the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity. It does not appear that the structure would be materially injurious to properties or improvements in the vicinity, however, a violation of the Newberg Zoning Ordinance, by its nature, constitutes a detriment to the public health, safety or welfare of the community as a granting of the variance would constitute a circumvention of the zoning regulations.

A variance may only be granted where it can be demonstrated based upon the application, investigation, and evidence submitted that the request would substantially conform to the five criteria as indicated above. Based upon the investigation and evidence submitted, the Newberg Planning Department finds that the request does not substantially conform to such criteria and, therefore, the request for a variance has been denied.

An appeal to this decision may be made by the applicant, an adjoining property owner, or any person, firm or corporation affected by the decision. Any request for an appeal to this decision must be made within 10 days of the date of this letter by filing notice of appeal with the Newberg Planning Department. A notice requesting an appeal of this decision must specify how the Planning Department, in making its decision, failed to accurately interpret the specified regulations. Any appeal will stay all action of this request until the appeal is resolved.

Sincerely,



Clay W. Moorhead
Planning Director

CWM:bym

cc: City Attorney
City Administrator
Building Dept.
Adjoining Property Owners



CITY OF

NEWBERG

414 E. First Street

Newberg, OR 97132

January 30, 1981

Mr. & Mrs. David D. Bothum
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Sincerely,



Clay W. Moorhead
Planning Director

CWM:bym
cc: City Attorney
City Administrator
Building Dept.
Adjoining Property Owners

SENDER

Complete items 1, 2, and 3.

Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one.)

☒ Show to whom and date delivered. 45¢☐ Show to whom, date and address of delivery. ¢☐ RESTRICTED DELIVERY

Show to whom and date delivered. ¢

☐ RESTRICTED DELIVERY.

Show to whom, date, and address of delivery. \$ _____

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:

David D. Bothum
 709 Jeffrey Court
 Newberg, Or. 97132

3. ARTICLE DESCRIPTION:

REGISTERED NO.

CERTIFIED NO.

INSURED NO.

P219232079

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE

☐ Addressee☐ Authorized agent

4.

DATE OF DELIVERY

POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S
INITIALS

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.

- Complete items 1, 2, and 3 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, \$300



**RETURN
TO**



(Name of Sender)

CITY OF NEWBERG

(Street or P.O. Box)

Newberg, Oregon

(City, State, and ZIP Code)

ORIGINAL APPROVED
APPLICATION + PLAN

CITY OF NEWBERG

APPLICATION FOR BUILDING PERMIT

Date 10/27/80 Bldg. Fee 08.00 Permit No. 5470
Est. Value 1800.00 State % 1.12 Valuation 3920.00
Square Ft. 396 Plan Ck. Fee 14.00 Date Issued 10-31-80
396 x .005 = 1.98 Storm Sewer 1.98 Approved K. Wood Jackson
Builders Board # - 31186 Traffic Control Rec. # 01885
TOTAL \$ 45.10

NEW

ADDITION

REMODELING

REPAIR

DEMOLITION

OTHER

Two sets of plans and plot plans must be furnished with application.

Address 709 JEFFREY COURT : NEWBERG, ORE. 97132Lot No. 31 Blk. No. Plat Jeffrey Park - Tax Lot No. Owner DAVID D. BOTHUM Address 962 NW 2ND ST. HILLSBORO, ORE. 97123 Ph. 640-6360Builder BOTHUM CONSTRUCT. CO. Address HILLSBORO Ph. 647-5724Building Use: Single Res. ☒ Multi. Res. No. Comm. Industrial No. Bedrooms SINGLE CAR GARAGE FOR ONE RESIDENCENo. Stories 1 Total Height 14' Lot Size 7000 sq ft. Zoning Set Backs: Front Back Sides Garage

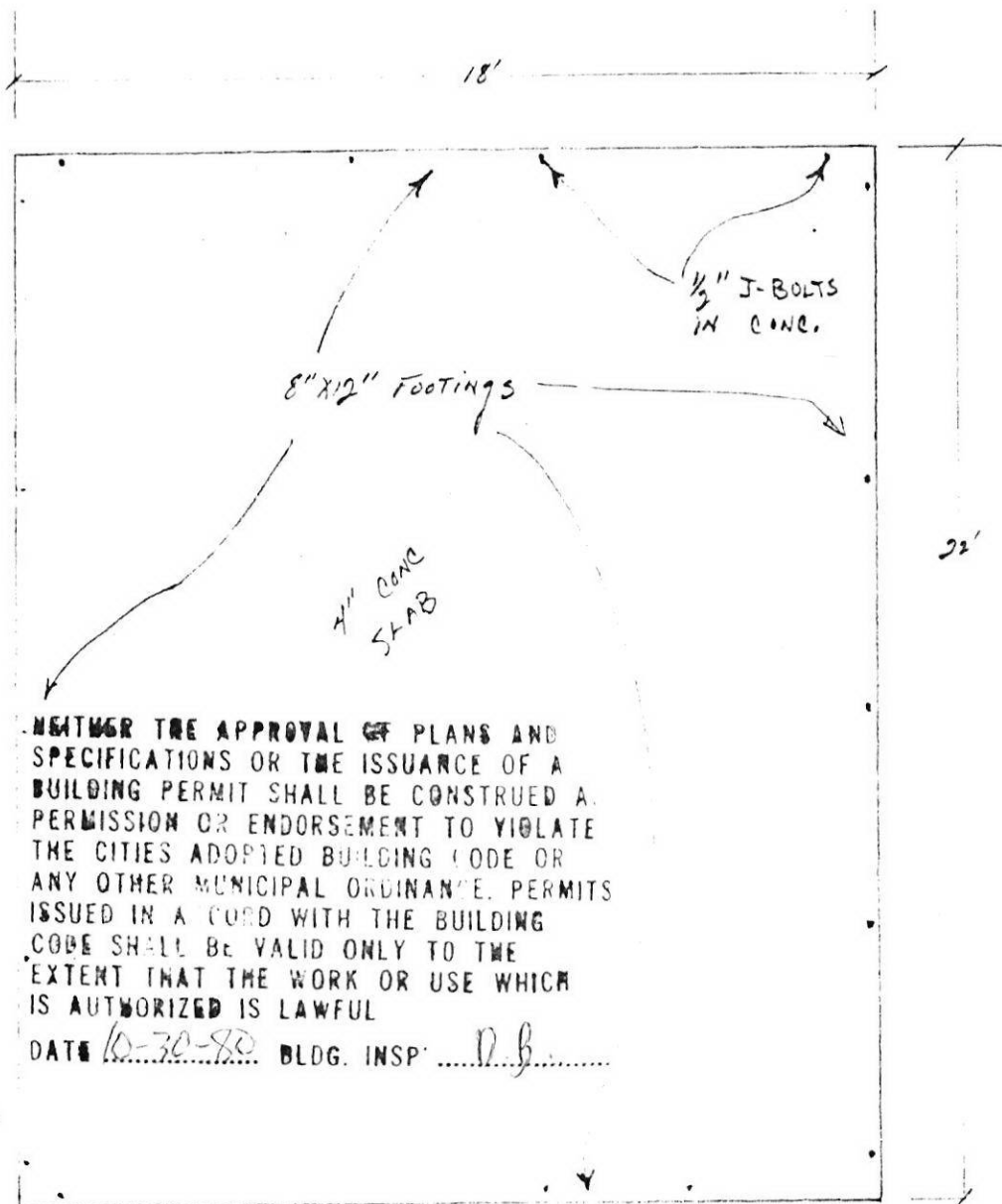
If any of the following installations or operations are contemplated, permits and/or specifications may be required:

Permit or Specs.	Needed	Pmt. #	Permit or Specs.	Needed
Excavation & Grading			Sidewalk & Driveway	
Moving			Road Open	
Water & Sewer			Street	
Sign Permit			Mechanical	
Demolition			Plumbing	
Occupancy			Other	

I hereby acknowledge that I have read this application and state that the above is correct and agree to comply with all city ordinances and state laws regulating building construction.

Applicant or Owner David D. BothumJob Address 709 JEFFREY COURT, NEWBERG, ORE.
Permit No.
Owner David D. Bothum

CONCRETE PLAN



NEITHER THE APPROVAL OF PLANS AND SPECIFICATIONS OR THE ISSUANCE OF A BUILDING PERMIT SHALL BE CONSTRUED A PERMISSION OR ENDORSEMENT TO VIOLATE THE CITY'S ADOPTED BUILDING CODE OR ANY OTHER MUNICIPAL ORDINANCE. PERMITS ISSUED IN ACCORD WITH THE BUILDING CODE SHALL BE VALID ONLY TO THE EXTENT THAT THE WORK OR USE WHICH IS AUTHORIZED IS LAWFUL

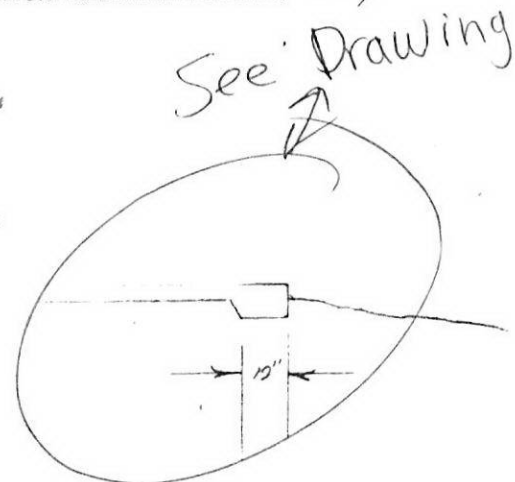
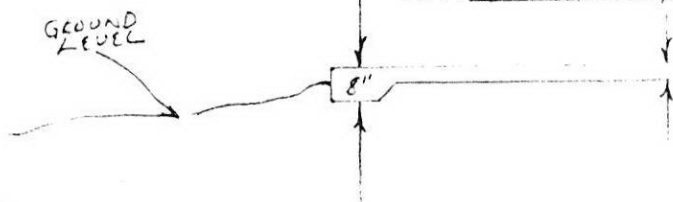
DATE 10-30-80 BLDG. INSP. D.B.

APPROVED

R. W. Wasonback, D.B.

BUILDING INSPECTOR
CITY OF NEWBERG, ORE.

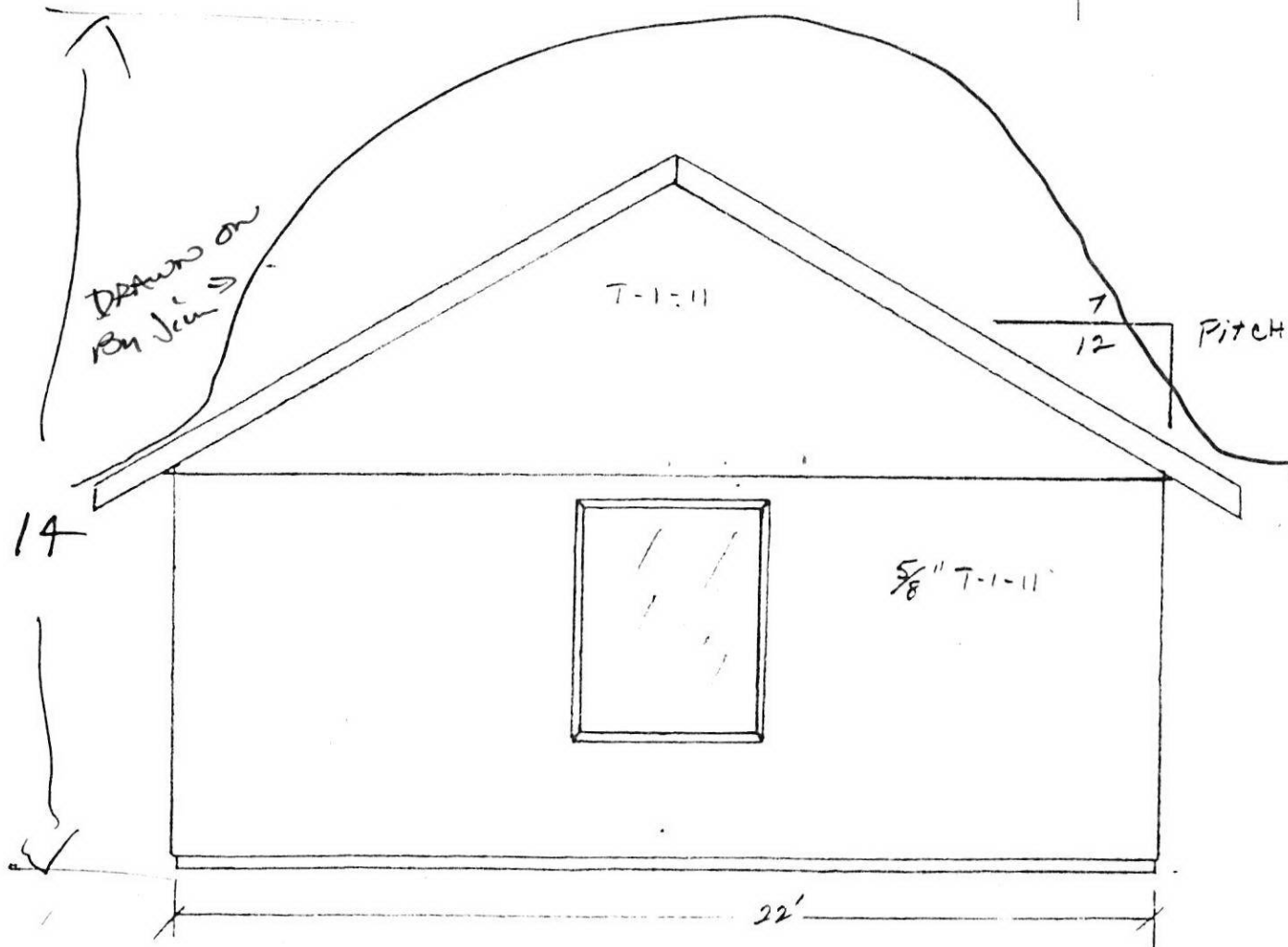
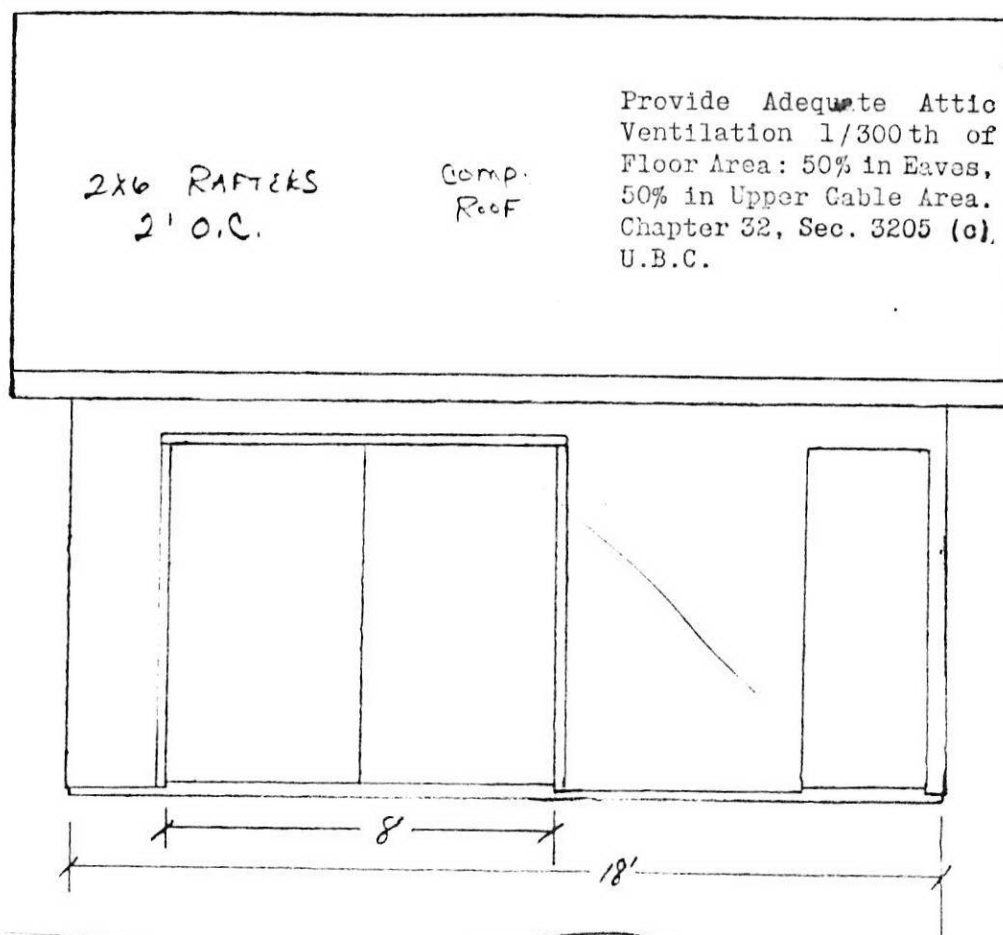
DATE 10-30-80



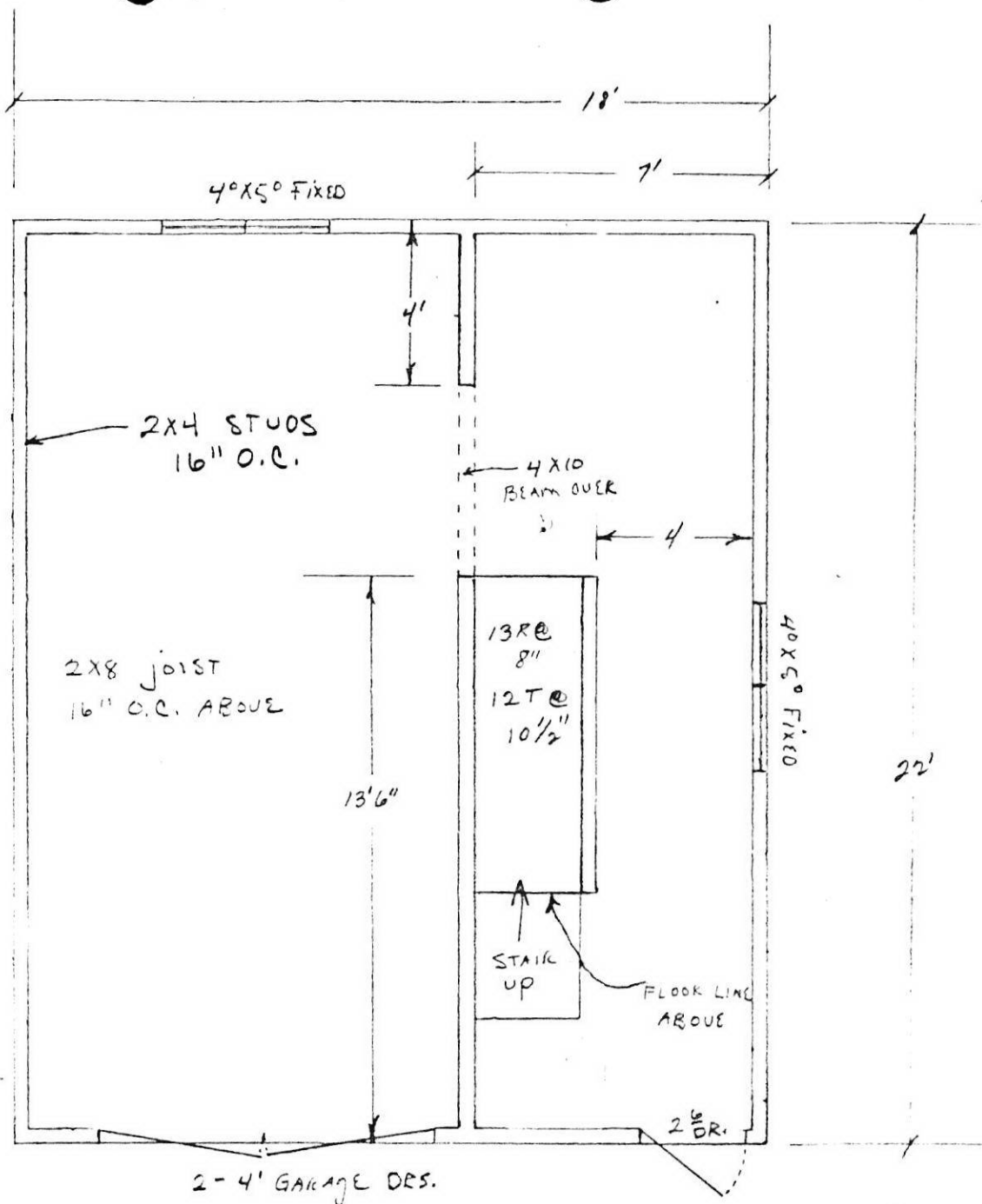
SCALE: 1/4" = 1'

ROOF ELEVATIONS

11-7-79

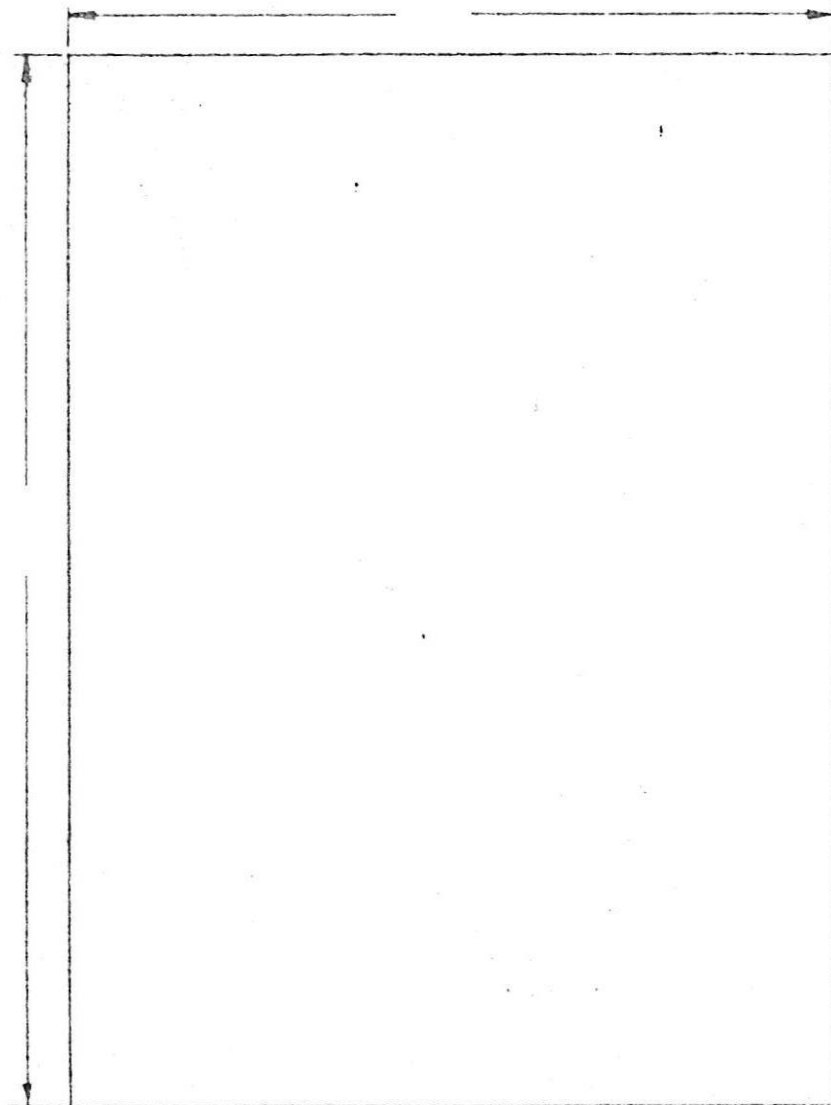
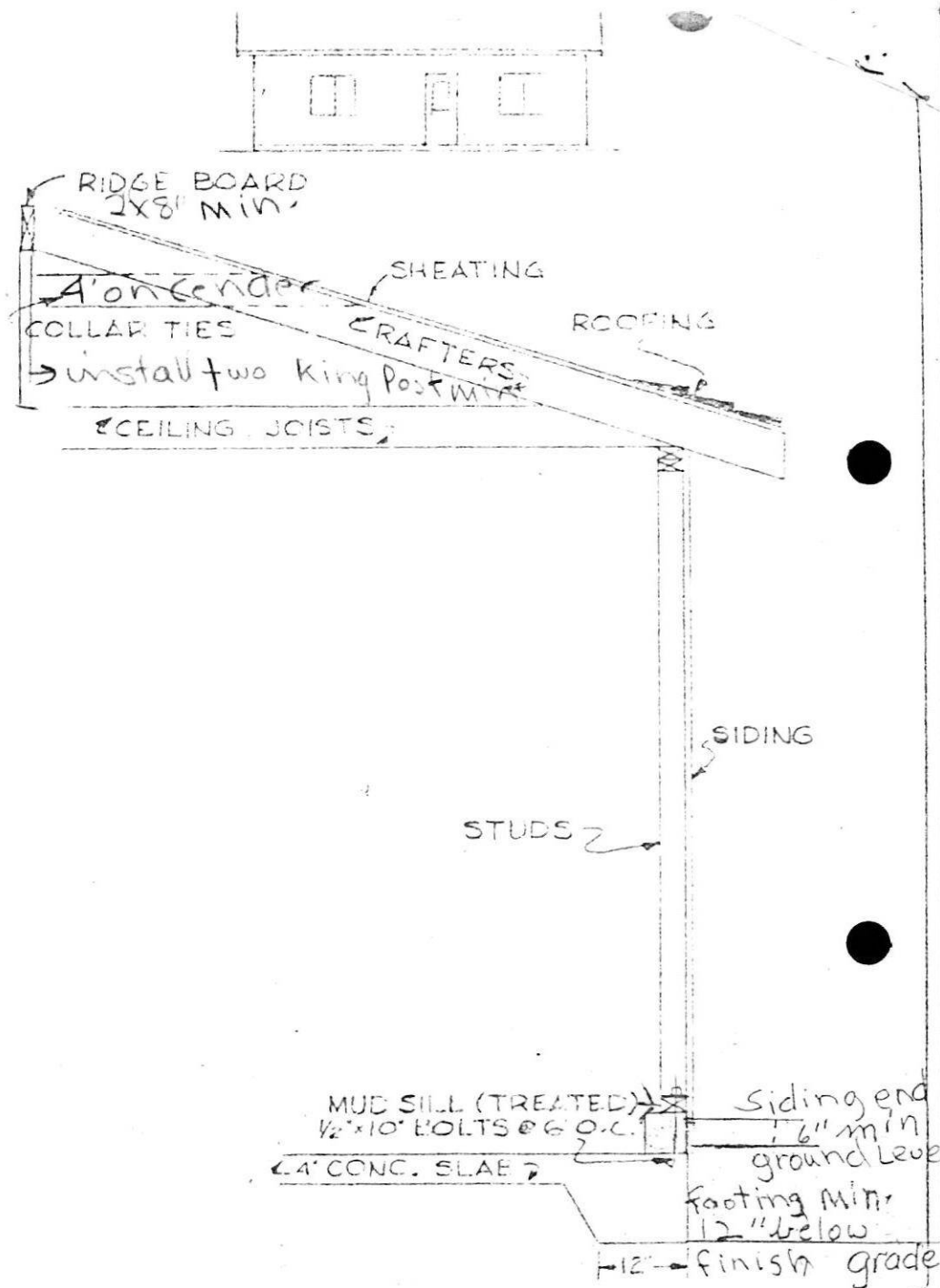


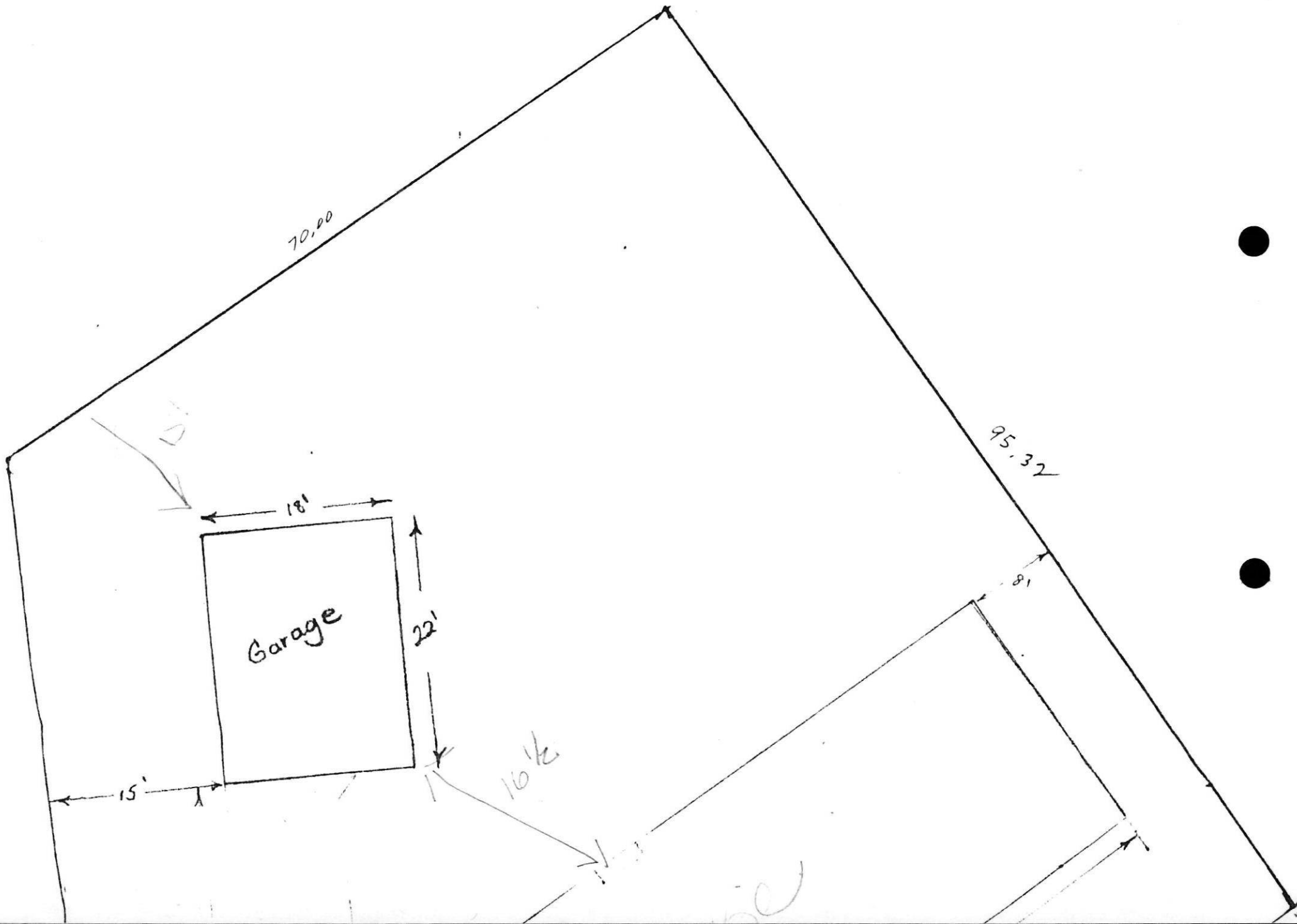
FLOOR PLAN



Stairs - 8" Max. Rise, 9" Min. Tread,
30" Min. Width Staircase, 6'6" Min.
Headroom. Handrails Required. Private
Under 10 Occupant. U.B.C. Sec. 3305

SCALE: 1/4" = 1'





101.54

70' 10'

24'

60'

15'

87.90

All Property Corners
Shall be Properly Located
and be Clearly Visible
Prior to Calling for
Inspection and Approval
of Foundation Pour.

$\frac{3}{32}$ scale

30.00

17.43

Plot
Plan