

Torch Lake Township Zoning Board of Appeals (ZBA)

Regular Meeting Agenda

Wednesday, April 17, 2024

6:00 PM

Community Services Building, Torch Lake Township, Michigan

Please turn off cell phones.

- A. Call to order/Roll call
- B. Approval of Agenda
- C. Approval of February 21, 2024 Meeting Minutes
- D. Conflict of Interest
- E. Public Comment
- F. Communication(s)
- G. Hearing of Cases – None
- H. Miscellaneous Business
 - a. Mock Case
- I. Public Comment
- J. Summary of Action items before next ZBA Meeting
- K. Adjournment

TORCH LAKE TOWNSHIP
ANTRIM COUNTY, MICHIGAN
Community Service Building
Zoning Board of Appeals Training Meeting
Draft Minutes
February 21, 2024

Present: Laura Andersen, Chad Impellizzeri, Jeff Wynkoop, David Nussdorfer, Kristin Graves

Absent: Dan Swanson

Audience: 0

Others:

Recording Secretary: Jacqueline Petersen

A. Call to Order Regular Meeting / Record Members Present:

Meeting called to order at 6:00 pm by Andersen.

Pledge of Allegiance was recited

Roll call was conducted by Graves

B. Approval of Agenda

M/S to approve agenda; Andersen / Wynkoop vote: 5/0 motion passed.

C. Approval of November 15, 2023, Meeting Minutes

The ZBA members discussed capitalization of Chairperson, Trustee and Board. Graves wanted to add a deadline to Kopriva's making changes to the Rules of Procedure. Andersen says it's ok as is and made a motion to approve the meeting minutes from November 15, 2023 "as presented". Graves seconded the motion; vote 5/0 motion carried.

D. Conflict of interest

Andersen polled ZBA members asking if there were any conflicts of interest and there were none.

E. Public Comment - None

F. Communications - None

G. Hearing of Case - None

H. Miscellaneous Business

1. **Rules of Procedure** – The members reviewed and discussed the Rules of Procedure. The recommended changes will be presented to ZA Kopriva. Graves and Andersen will combine notes and give them to Kopriva.
M/S to adopt the Rules of Procedure, "Revised on 2024" with corrections. Andersen / Wynkoop. Roll call vote: Andersen: yea Wynkoop: yea Nussdorfer: yea Impellizzeri: yea Graves: yea Motion passes. 5/0
2. **Notice of Appeal Form** - The members reviewed and discussed the Notice of Appeal Form. The recommended changes will be presented to ZA Kopriva by Andersen. Andersen distributed her suggested items for revision to the other members to review and asked for their notes from reviewing. All member's suggested revision were discussed.
3. **PC Representative to ZBA's Report – No representative**
4. **Zoning Administrator's Report** – (February 2024) in packet

I. Public Comment -none

J. Summary of Action items before next ZBA Meeting

March 20, 2024, meeting has been cancelled

April 17, 2024 will be a training session (if no case hearing)– 6pm

The ZBA discussed the court's opinion and the case of the HeliPad.

K. Adjournment at 6:43pm

M/S to adjourn Nussdorfer / Wynkoop; vote: 5/0 motion carried.

project memorandum

Date: 04.11.2024
From: Sara Kopriva, AICP
To: Torch Lake Zoning Board of Appeals
Project: April ZBA Meeting


initiative

Enclosed in your packet is a mock case for a practice run with the new standards for approval that are in the zoning ordinance. While it has a site plan and building drawings from an actual case, this is intended to be hypothetical. Work through the case as you would a regular case and come prepared to talk through the case and answer the criteria as if this was a real hearing.

Beckett & Raeder, Inc.
535 West William
Suite 101
Ann Arbor, MI 48103

734.663.2622 ph
734.663.6759 fx

www.bria2.com

Petoskey Office
113 Howard Street
Petoskey, MI 49770

231.347.2523 ph
231.347.2524 fx

Traverse City Office
148 East Front Street
Suite 207
Traverse City, MI 49684

231.933.8400 ph
231.944.1709 fx

Grand Rapids Office
5211 Cascade Road SE
Suite 300
Grand Rapids, MI 49546

616.585.1295 ph

Torch Lake Township

Zoning Board of Appeals

Zoning Ordinance Regulation Variance Checklist & Findings of Fact Worksheet

Date: April 17, 2024

Case Number: Mock Case

NOTE:

- It is the applicant's responsibility to prove a practical difficulty. It is not the job of the ZBA to find the practical difficulty for the applicant.
- A non-conforming condition or conditions on neighboring lands may be considered but will not in and of itself or themselves be grounds for the issuance of a variance.
- **CONDITIONS OF APPROVAL** – In authorizing a variance, the ZBA may, in addition to the specific conditions of approval called for in the Torch Lake Township Zoning Ordinance, attach thereto such other conditions regarding location, character, landscaping or treatment reasonably necessary to the furtherance of the intent and spirit of this Ordinance and the protection of the public interest.

General Findings of Fact:

- 1.
- 2.
- 3.
- 4.

CRITERIA TO SUBSTANTIATE A PRACTICAL DIFFICULTY

- A. There is a unique circumstance that applies to the property.

Findings of Fact relevant to criteria A:

- B. The variance is consistent with the spirit of the ordinance and is fair to adjacent properties

Findings of Fact relevant to criteria B:

- C. The need for the variance is not self-created by the current or former owner?

Findings of Fact relevant to criteria C:

- D. The variance requested is the minimum necessary to remedy the practical difficulty.

Findings of Fact relevant to criteria D:

- E. Strict compliance with the zoning ordinance prevents the applicant from using the property for the purposes permitted in the zoning district.

Findings of Fact relevant to criteria E:

Additional Findings of Fact:

Notes/Questions:

**NOTICE OF APPEAL FORM
TORCH LAKE TOWNSHIP
ZONING BOARD OF APPEALS
(Revised 04.11.2024)**

Torch Lake Township
Zoning Board of Appeals
PO Box 713
Eastport, Michigan 49627
231-599-2036
231-599-2981 Fax

FOR OFFICE USE ONLY

Appeal Number: _____
Appeal Category:
a. Variance: _____
b. Interpretation: _____
c. Appeal of a Decision: _____
Date ZA received appeal: _____
Date ZA inspected property: _____
Date ZA verified completeness of appeal form: _____
Date ZBA received completed form : _____
Fee Received: Amt: \$ _____
Date: _____
HEARING DATE: _____
APPROVED: _____ DENIED: _____
APPROVED, WITH CONDITIONS: _____

Before you begin filling out this form.....

Read through the “Guidelines - Appeal Application” included with this appeal form. We are strict about compliance with these guidelines because they help us to better understand your request. Failure to accurately complete this form WILL RESULT in a delay to this process. If there is any part of the guidelines or application that you do not understand, do not hesitate to contact the Zoning Administrator with your questions(s). Because it is unusual for an applicant not to have questions before completing this form, we recommend that you start this process as soon as you know you will be seeking an appeal. If a question does not apply to your request, mark the form N/A. Add extra sheets as necessary to explain the request.

A site plan drawn to scale, showing lot, setback, and building lines, significant angles and dimensions, and other details relevant to the matter (waterfront, well and septic locations, roads, topographic features, front side and bird’s eye views of proposed structures, easements, etc. when applicable.)

1. Applicant Information:

John		Doe
First Name	Middle Initial	Last Name
1234	Anystreet	
Number	Street	Apt. Number
Example Town	MI	49666
City	State	Zip Code
Home Phone: (123)456-7890 Work Phone: _____ E-Mail: _____		
Area Code/Number		Area Code/Number

2. Reason for Appeal—Check one of the following:

- A. **Zoning Variance:** Complete Sections 1, 2, 3, 4 and 5
- B. **Zoning Ordinance Interpretation:** Complete Sections 1, 2 and 6
- C. **Appeal of Zoning Administrator’s Decision:** Complete Sections 1, 2, 3 and 6 (Completed Appeal Form must be submitted within thirty (30) calendar days after decision that is be appealed.)

- D. The variance requested is the minimum necessary to remedy the practical difficulty.
- E. Strict compliance with the zoning ordinance prevents the applicant from using the property for the purposes permitted in the zoning district.

No nonconforming use of neighboring lands, structures or buildings shall, in itself, be considered grounds for the issuance of a variance. It is recommended that the applicant look at the entire section of the zoning ordinance pertaining to variance requests.

Note: Approval or disapproval of this request by adjoining property owners, although a part of the Zoning Board of Appeal's consideration, does not in and of itself constitute grounds for approval or disapproval.

5. **Variance request details including reasons for the same.**

- A. State in detail the variance from the zoning that you are seeking. Reference that part of the zoning ordinance to which your request applies.

Variance request to decrease rear yard from 35 ft to 16 ft

Section V, R1 District Setbacks

- B. State, in detail, the reason(s) for the variance. Include any and all scale drawings and other information necessary to understand the request. (Use additional pages if necessary).

Due to the site being in a critical dune and high risk erosion area, setbacks on the lakeward side of the property are excessive. The property also has a road running through the middle of it, it is split by the road. The road has been abandoned and grown over, never used.

- C. State in detail how you believe you satisfy each of the following five criteria. All five conditions must be met in order to receive a variance.

- 1. Identify, in detail, all unique circumstances that apply to the property.

The large setback requirement from the lake due to critical dues as well as the road setback has made it so there is not a large enough area to build on the property.

2. State in detail how the variance is consistent with the spirit of the ordinance and is fair to adjacent property owners.

Most other properties in the district do not have multiple challenges as this property. Most do not have the required setbacks that this property has. The provisions of the ordinance makes no exception to the abandoned road.

3. Establish how the need for the variance is not self-created by the current owner or any former owners.

This is an existing lot that was created prior to zoning.

4. Demonstrate in detail how the variance requested is the minimum necessary to remedy the practical difficulty.

The variance will allow for the construction of a single family dwelling.

5. Explain in detail how strict compliance with the zoning ordinance prevents the owner from using the property for a permitted use in the zoning district.

Strict compliance will not allow construction of the house that we would like. The setback from the road and the critical dunes make it so the space to build is limited.

6. **Zoning Ordinance Interpretation/Appeal of Zoning Administrator’s Decision** [Not for use with variance appeals]. Be sure to include the following information:

- a. Zoning Ordinance Chapter(s), Title(s) and Sections that are in question.
- b. Detailed explanation and history of request.
- c. Clearly stated explanation of what you believe to be incorrect or open to interpretation.

The applicant(s) agrees and certifies that the information supplied in this application is accurate and true. This includes any additional material introduced before a final decision related to this appeal is rendered by the Zoning Board of Appeals. The applicant(s) understand that they are solely responsible for all material submitted. The Zoning Board of Appeals will be held harmless for any decision or finding based on inaccurate information or documents which do not include all pertinent information or which do not truthfully or fully represent the facts and conditions related to the request.

Further, it is understood by the applicant that, in signing this application form, he/she is allowing reasonable access to the property to which this application applies for both initial inspection(s) and subsequent/final inspections to ensure compliance. Please make sure all property lines are clearly marked and if on Grand Traverse Bay, the Ordinary Highwater Mark (OHWM 580.5’) is staked. In addition, if the applicant is not the owner of the property, he/she must have permission, in writing, of the owner to carry out the application requirements of the variance request. The owner’s written permission is to be included with this application.

Return this completed form to the Zoning Administrator at least 45 days prior to the scheduled hearing.

Be Aware.....

Zoning permits issued by the Torch Lake Township Zoning Administrator and zoning variance requests approved by the Torch Lake Township Zoning Board of Appeals for properties located in Torch Lake Township are not to be construed to be the only necessary permits for the intended activity in Torch Lake Township. Property owners are responsible for determining and obtaining from the various governmental agencies all necessary permits for the intended activity. These may include county permits covering soil erosion, building, wetlands and county road access. State of Michigan permits may include wetland permits, high-risk erosion permits for properties along Lake Michigan, critical dune permits and various permits associated with commercial development. An Army Corps of Engineers permit may be required for activities that effect wetlands along Lake Michigan. The coordination of such permits is also the responsibility of the property owner. Torch Lake Township is not responsible for any other such permits.

SITE PLAN DRAWING REQUIREMENT:

To the Applicant: Provide a drawing that shows the dimensional variation from zoning that you are seeking. Members of the ZBA, because of their experience, may have a more conforming, and often better, way for you to obtain the variance sought. To do this requires, what may seem to you, more information than you feel is needed. When done with the drawing, you might show the drawing to the Zoning Administrator for his/her input. Incomplete or lacking information can result in delays.

XXXX

Owner Signature

XXX

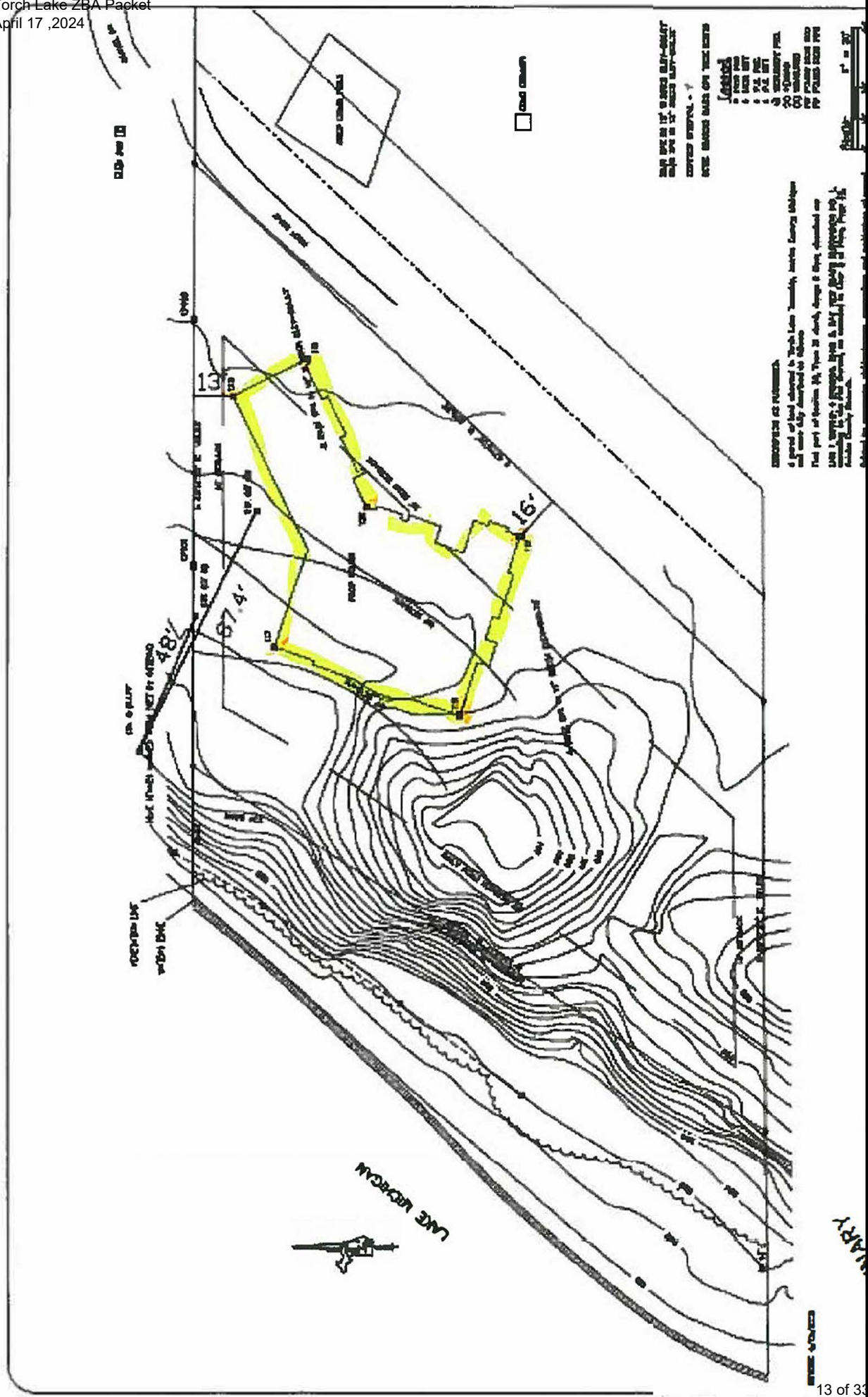
Date

Owner Signature

Date

Authorized Agent/ Representative Signature* Date

*Attach authorization letter



THIS MAP IS TO BE USED ONLY FOR THE PURPOSES OF THE ZONING ORDINANCE AND IS NOT TO BE USED FOR ANY OTHER PURPOSES.

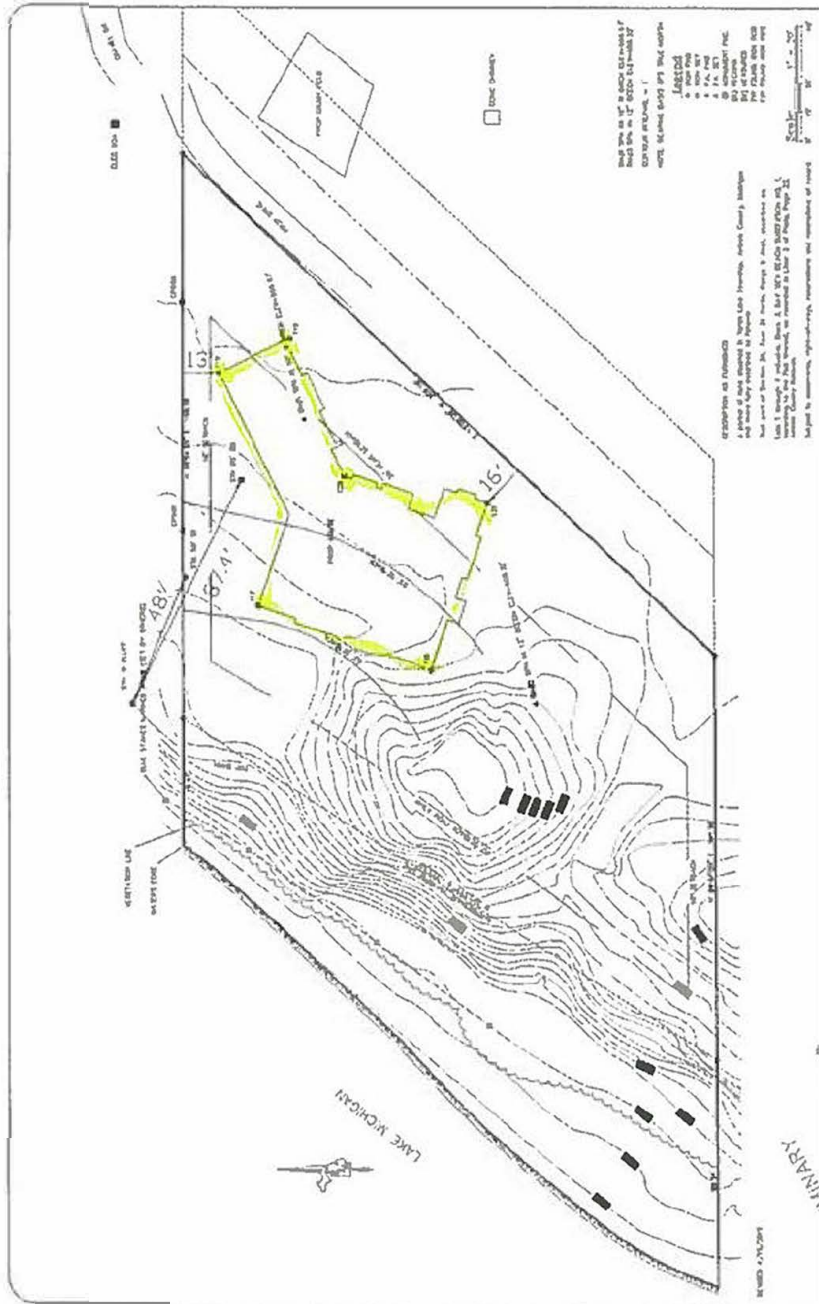
THESE MAPS SHALL BE THE BASIS FOR THE ZONING BOARD'S DECISIONS.

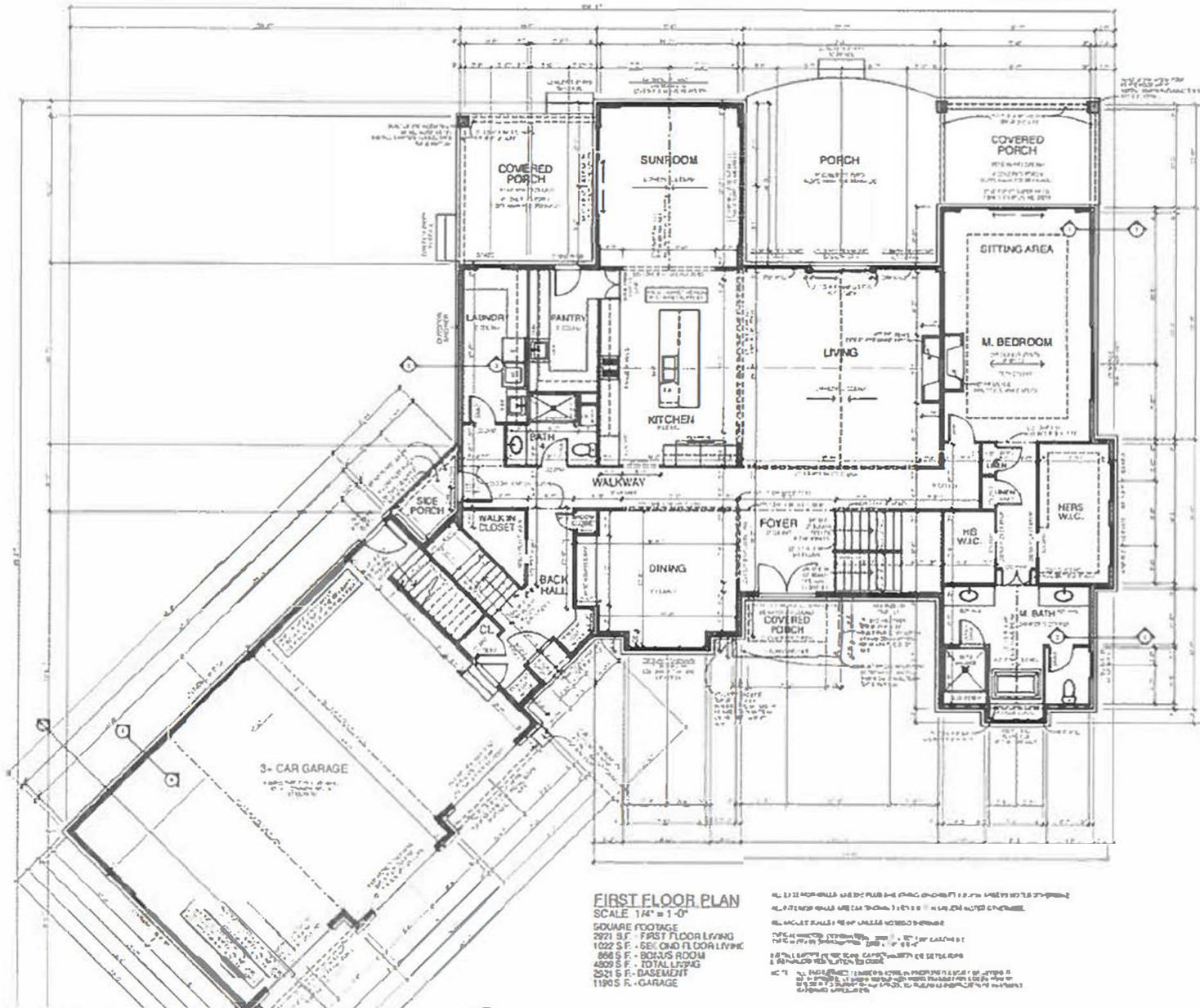
LEGEND

- 1. ZONING DISTRICT
- 2. ZONING DISTRICT BOUNDARIES
- 3. ZONING DISTRICT CODES
- 4. ZONING DISTRICT DESCRIPTIONS
- 5. ZONING DISTRICT MAPS
- 6. ZONING DISTRICT REGULATIONS
- 7. ZONING DISTRICT CONTACT INFORMATION

DISCLAIMER

This map is not intended to be used as a legal document. It is intended to provide a general overview of the zoning districts in the area. The zoning board reserves the right to change the zoning districts at any time without notice.



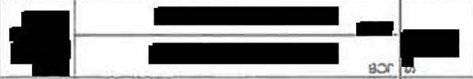


FIRST FLOOR PLAN
 SCALE 1/4" = 1'-0"
 SQUARE FOOTAGE
 2927 S.F. - FIRST FLOOR LIVING
 1092 S.F. - 2ND FLOOR LIVING
 866 S.F. - BOYS ROOM
 4809 S.F. - TOTAL LIVING
 2021 S.F. - BASEMENT
 1190 S.F. - GARAGE

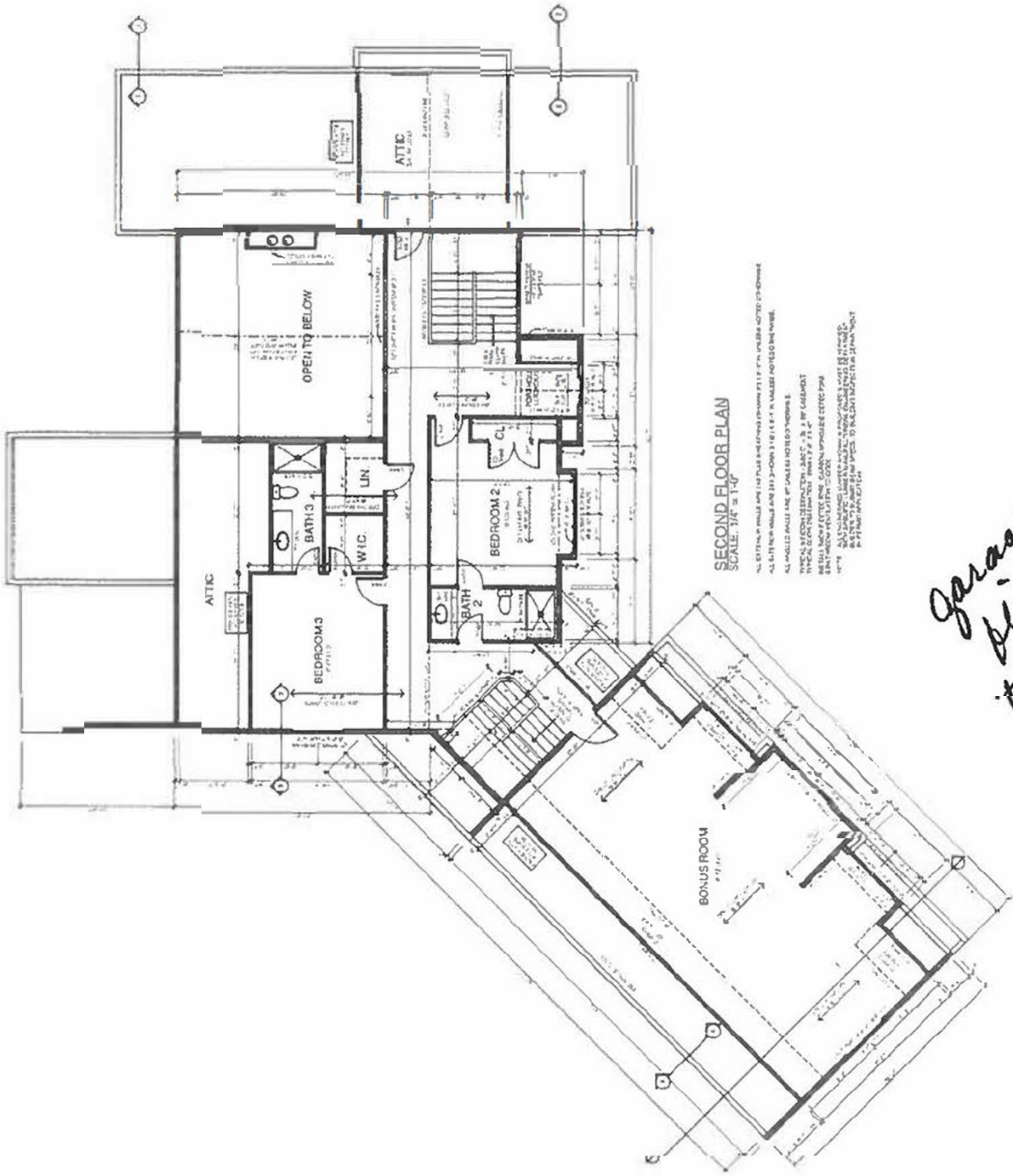
ALL 12" MINIMUMS UNLESS NOTED OTHERWISE
 ALL 20" MINIMUMS UNLESS NOTED OTHERWISE
 ALL 30" MINIMUMS UNLESS NOTED OTHERWISE
 ALL 48" MINIMUMS UNLESS NOTED OTHERWISE
 ALL 60" MINIMUMS UNLESS NOTED OTHERWISE
 ALL 72" MINIMUMS UNLESS NOTED OTHERWISE
 ALL 84" MINIMUMS UNLESS NOTED OTHERWISE
 ALL 96" MINIMUMS UNLESS NOTED OTHERWISE
 ALL 108" MINIMUMS UNLESS NOTED OTHERWISE
 ALL 120" MINIMUMS UNLESS NOTED OTHERWISE
 ALL 132" MINIMUMS UNLESS NOTED OTHERWISE
 ALL 144" MINIMUMS UNLESS NOTED OTHERWISE
 ALL 156" MINIMUMS UNLESS NOTED OTHERWISE
 ALL 168" MINIMUMS UNLESS NOTED OTHERWISE
 ALL 180" MINIMUMS UNLESS NOTED OTHERWISE
 ALL 192" MINIMUMS UNLESS NOTED OTHERWISE
 ALL 204" MINIMUMS UNLESS NOTED OTHERWISE
 ALL 216" MINIMUMS UNLESS NOTED OTHERWISE
 ALL 228" MINIMUMS UNLESS NOTED OTHERWISE
 ALL 240" MINIMUMS UNLESS NOTED OTHERWISE
 ALL 252" MINIMUMS UNLESS NOTED OTHERWISE
 ALL 264" MINIMUMS UNLESS NOTED OTHERWISE
 ALL 276" MINIMUMS UNLESS NOTED OTHERWISE
 ALL 288" MINIMUMS UNLESS NOTED OTHERWISE
 ALL 300" MINIMUMS UNLESS NOTED OTHERWISE

9/17

*General flipped plan
 N side*



BCF



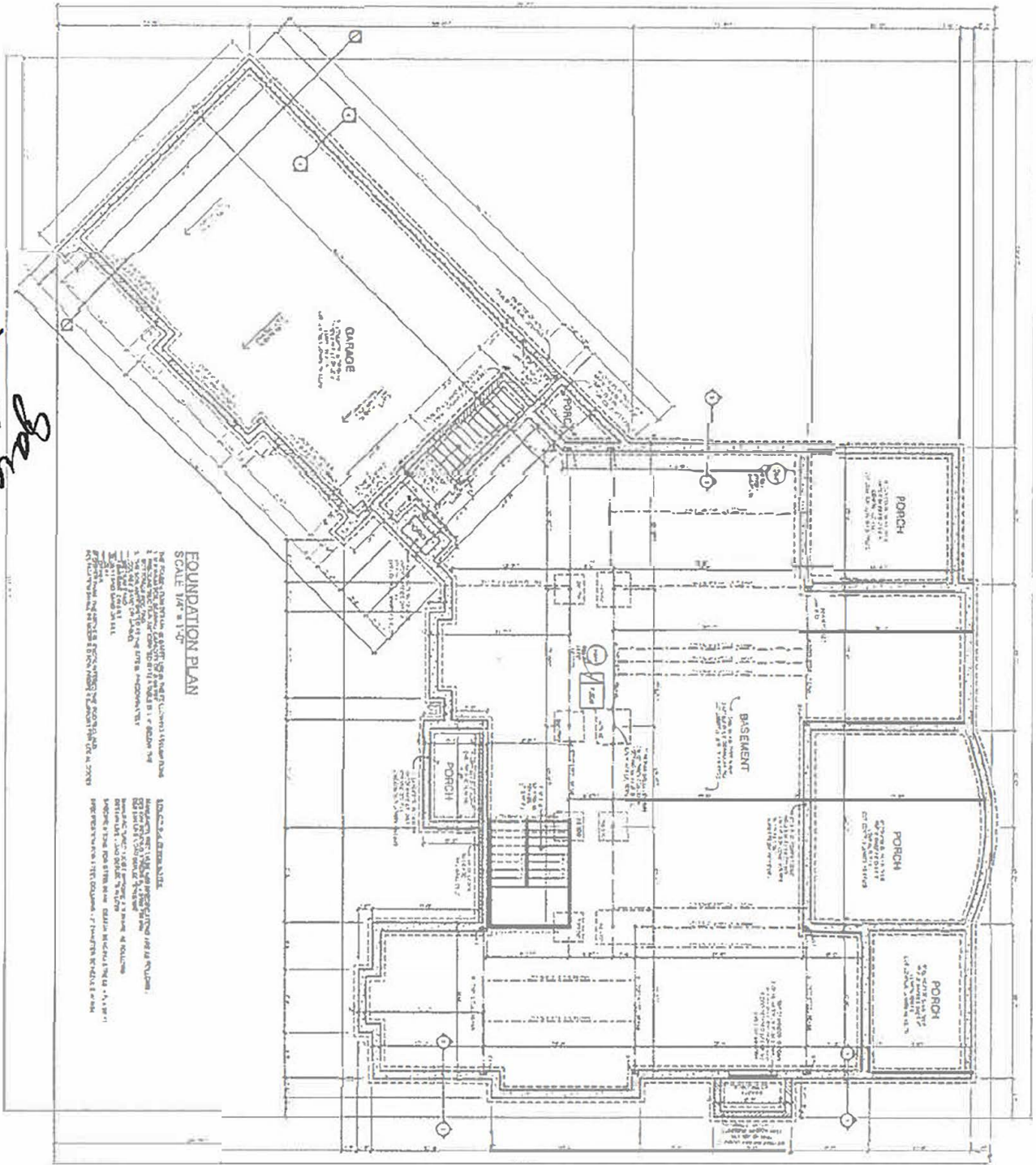
SECOND FLOOR PLAN
SCALE: 1/8" = 1'-0"

ALL SETBACKS SHALL BE 10' FROM ALL PROPERTY LINES UNLESS OTHERWISE NOTED.
ALL EXTERIOR WALLS SHALL BE 3'-0" MIN. TO 3'-6" MAX. UNLESS NOTED OTHERWISE.
ALL PUBLIC WALLS SHALL BE 3'-0" MIN. TO 3'-6" MAX. UNLESS NOTED OTHERWISE.
TYPICAL ROOM DIMENSIONS: JAMB. = 3'-0" GABRIOT
TYPICAL DOOR DIMENSIONS: 3'-0" x 7'-0"
STAIRS SHALL BE 3'-0" MIN. TO 3'-6" MAX. UNLESS NOTED OTHERWISE.
ALL DIMENSIONS SHALL BE TO FACE UNLESS OTHERWISE NOTED.
ALL DIMENSIONS SHALL BE TO FACE UNLESS OTHERWISE NOTED.

*Garage
slipped
to N. side*

4/17

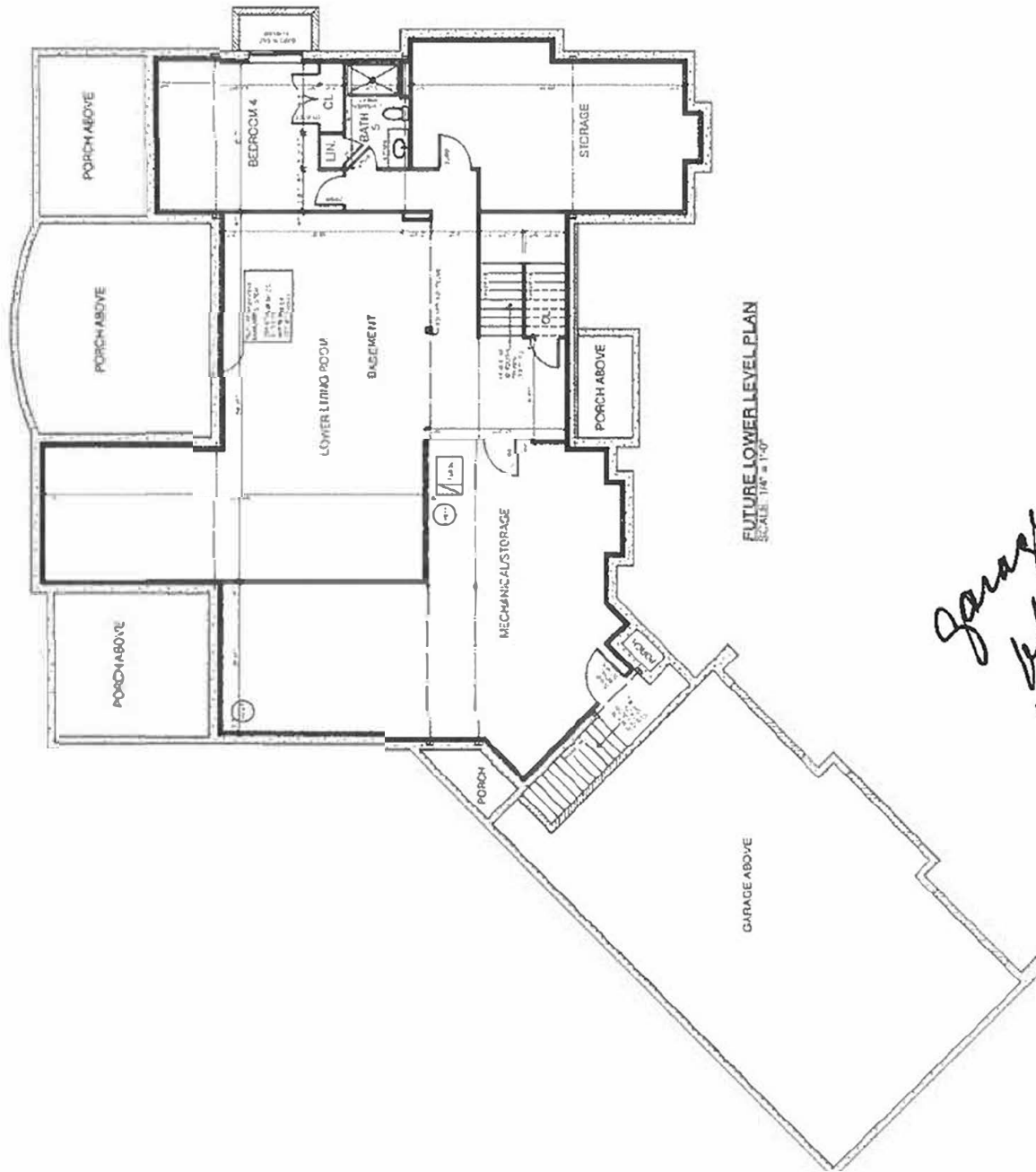
Garage to be changed to 2.5 car



FOUNDATION PLAN
SCALE 1/4" = 1'-0"

1. FOUNDATION SHALL BE CONCRETE ON GRAVEL. ALL FOUNDATION SHALL BE 12" MINIMUM THICKNESS UNLESS OTHERWISE NOTED.
2. ALL FOUNDATION SHALL BE FINISHED WITH 1/2" POLISHED SAND CONCRETE.
3. ALL FOUNDATION SHALL BE FINISHED WITH 1/2" POLISHED SAND CONCRETE.
4. ALL FOUNDATION SHALL BE FINISHED WITH 1/2" POLISHED SAND CONCRETE.
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9. ALL FOUNDATION SHALL BE FINISHED WITH 1/2" POLISHED SAND CONCRETE.
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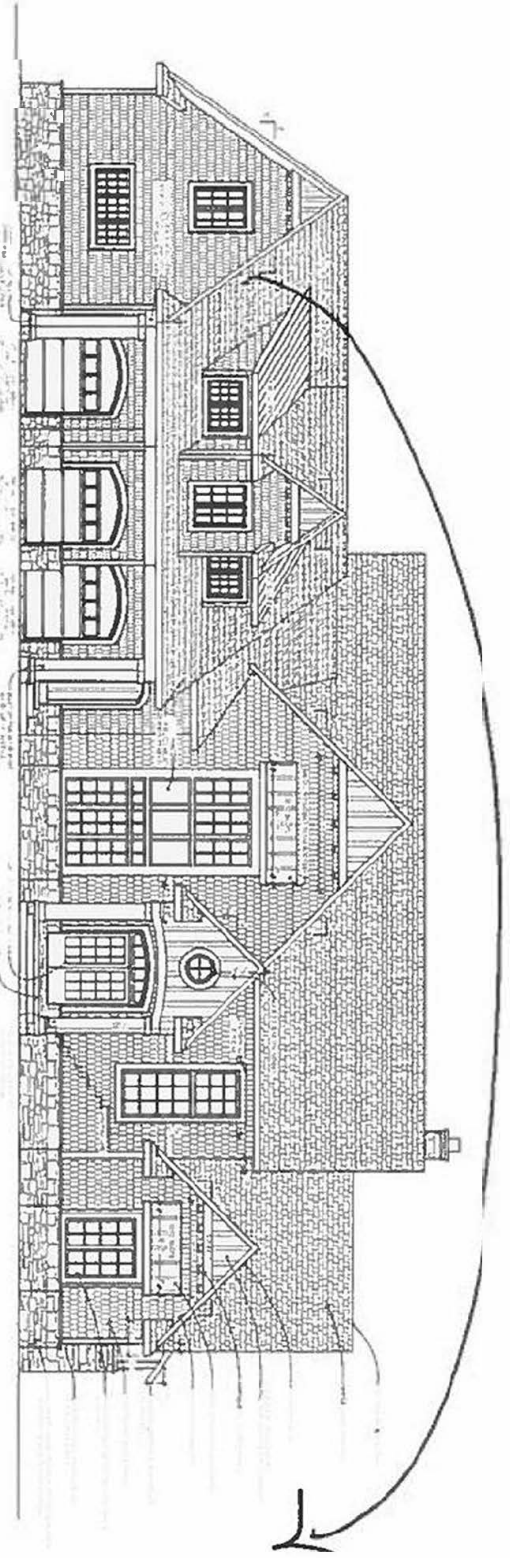
11. ALL FOUNDATION SHALL BE FINISHED WITH 1/2" POLISHED SAND CONCRETE.
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18. ALL FOUNDATION SHALL BE FINISHED WITH 1/2" POLISHED SAND CONCRETE.
19. ALL FOUNDATION SHALL BE FINISHED WITH 1/2" POLISHED SAND CONCRETE.
20. ALL FOUNDATION SHALL BE FINISHED WITH 1/2" POLISHED SAND CONCRETE.



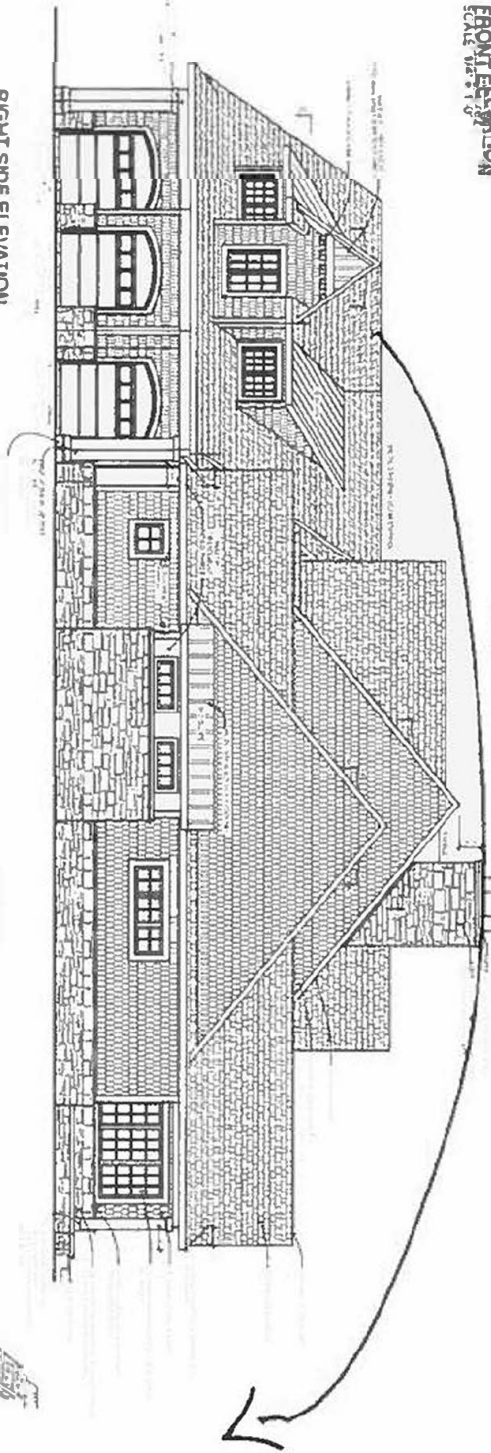
*Garage
to be
added to
N. side*

13/17

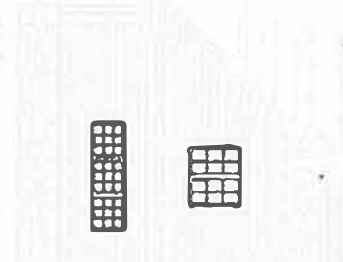
FRONT ELEVATION



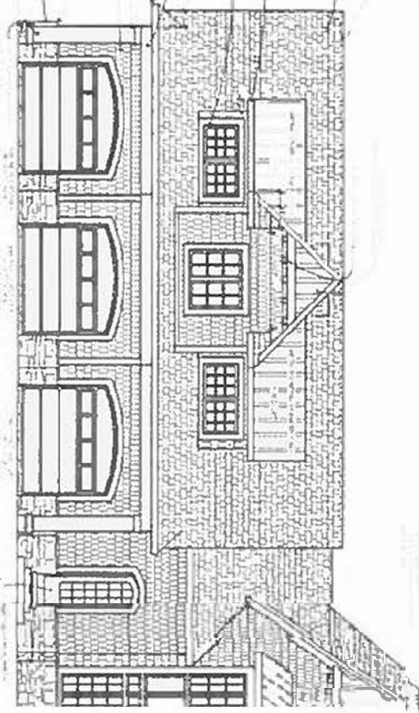
RIGHT SIDE ELEVATION



GARAGE

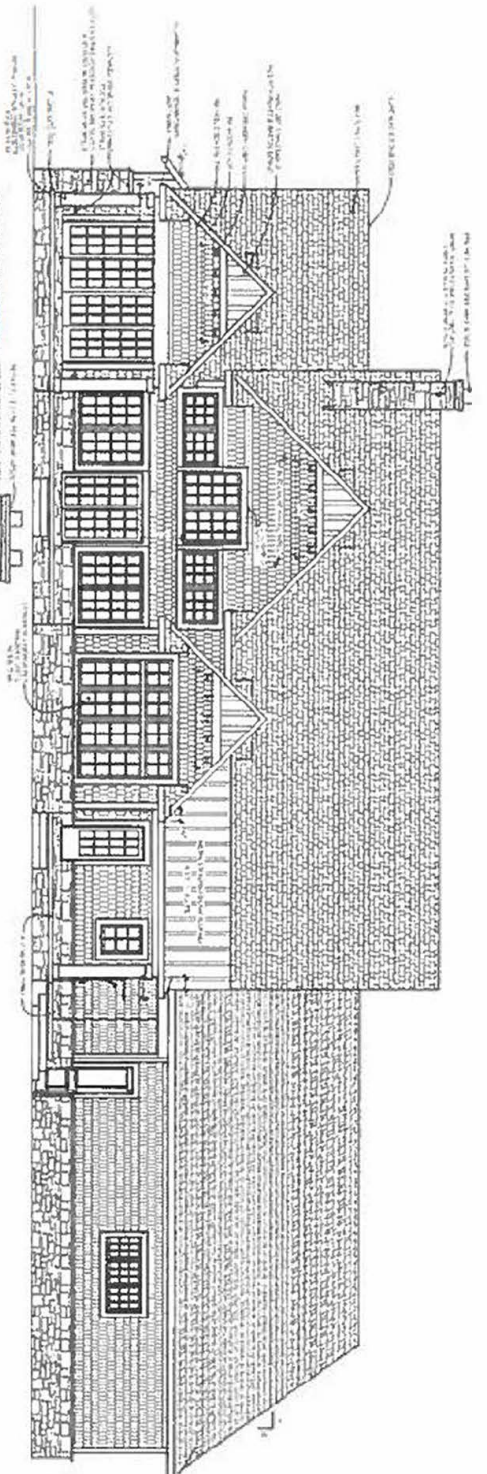


GARAGE FRONT ELEVATION

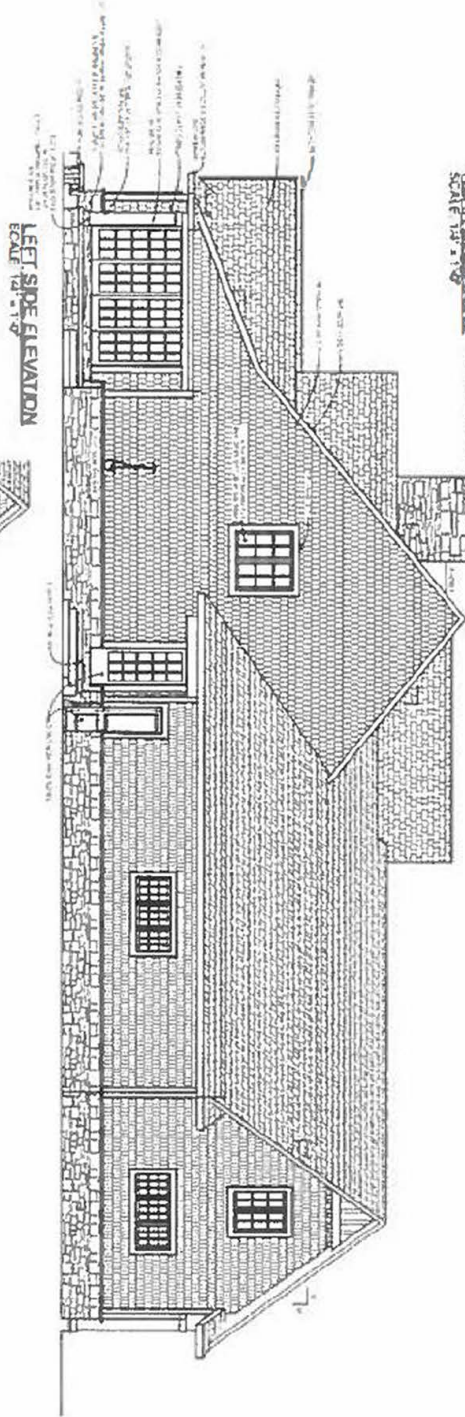


4/17

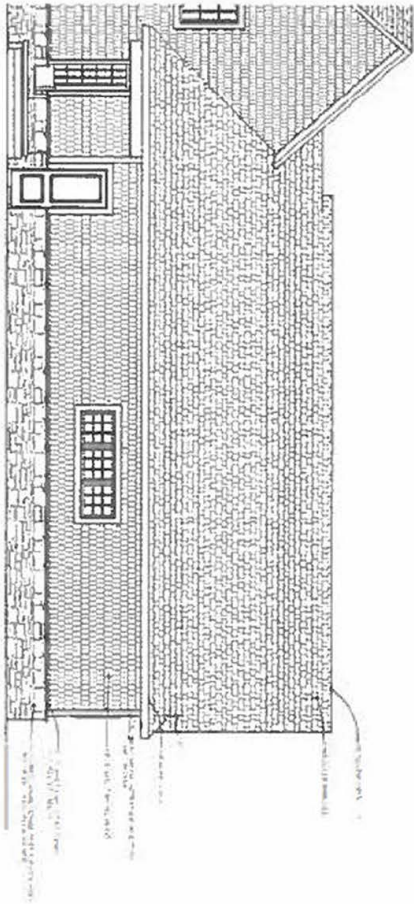
REAR ELEVATION
SCALE 1/8" = 1'-0"

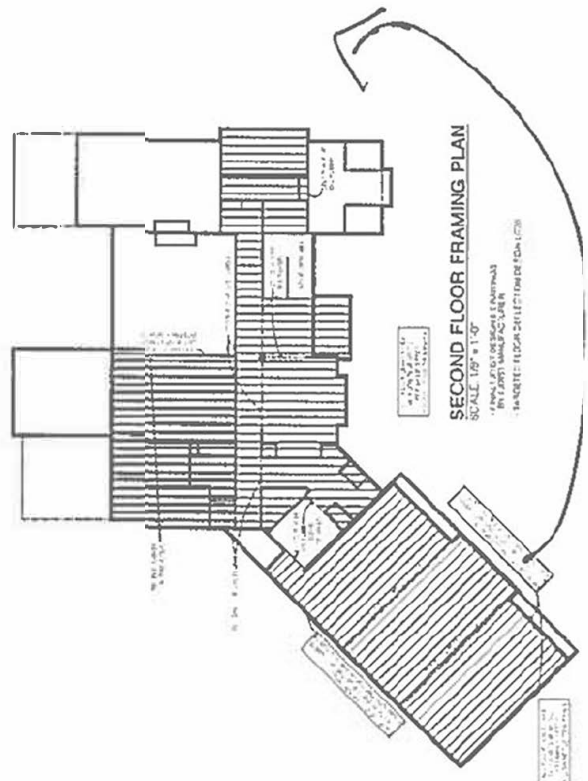
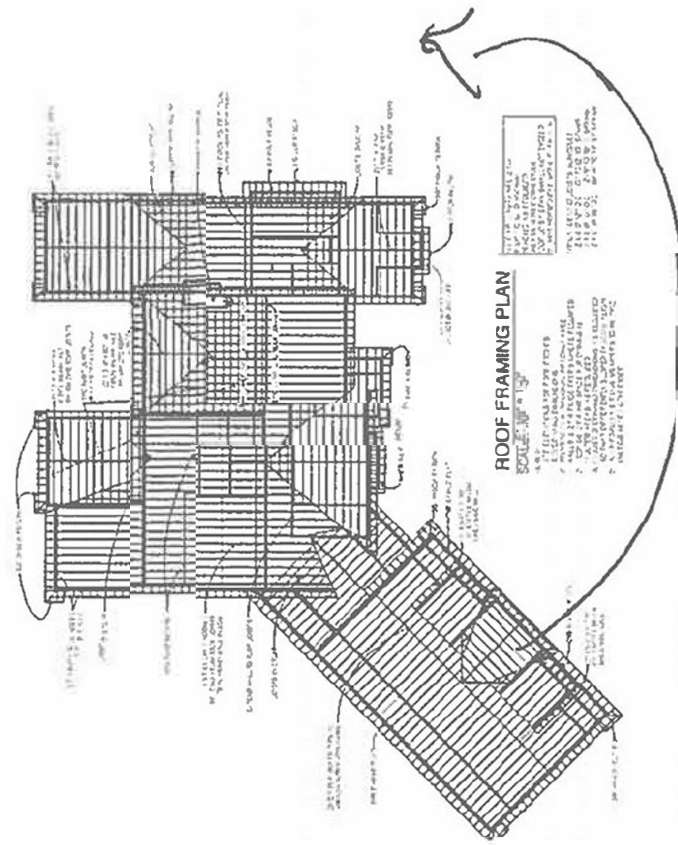
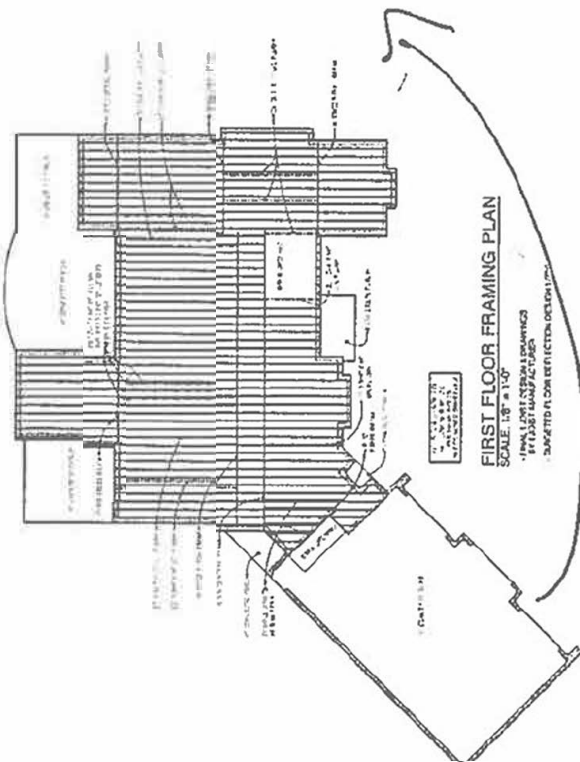


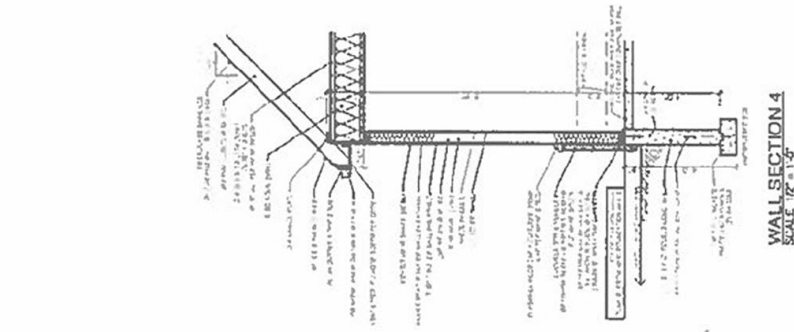
LEFT SIDE ELEVATION
SCALE 1/8" = 1'-0"



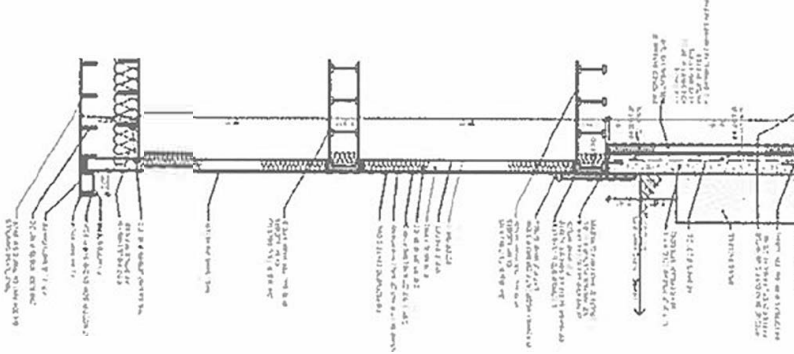
GARAGE REAR ELEVATION
SCALE 1/8" = 1'-0"



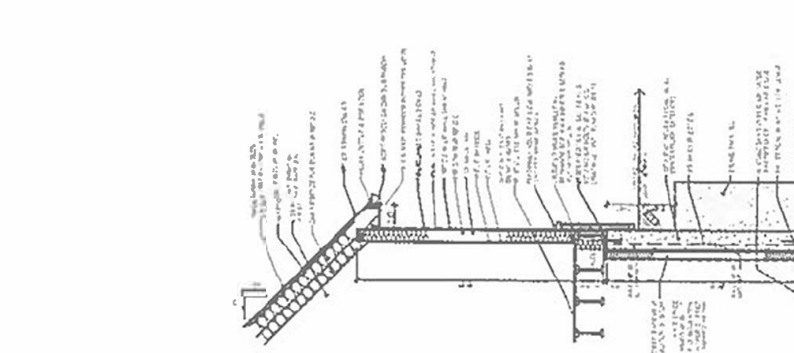




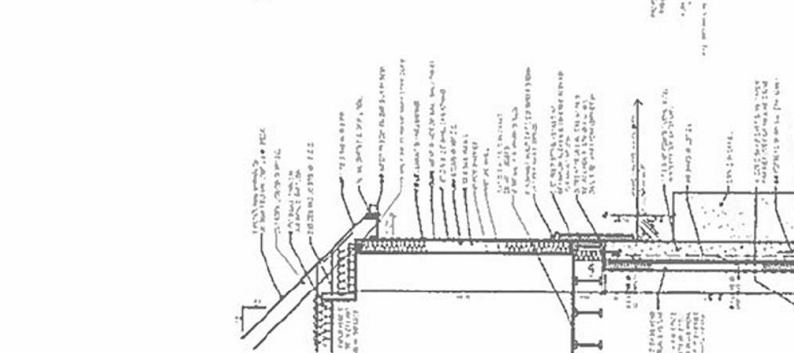
WALL SECTION 4
SCALE 1/2" = 1'-0"



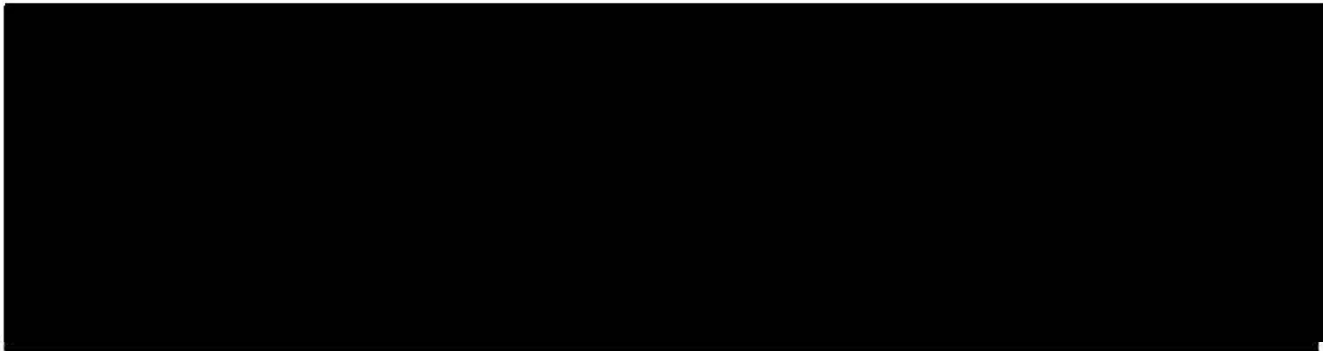
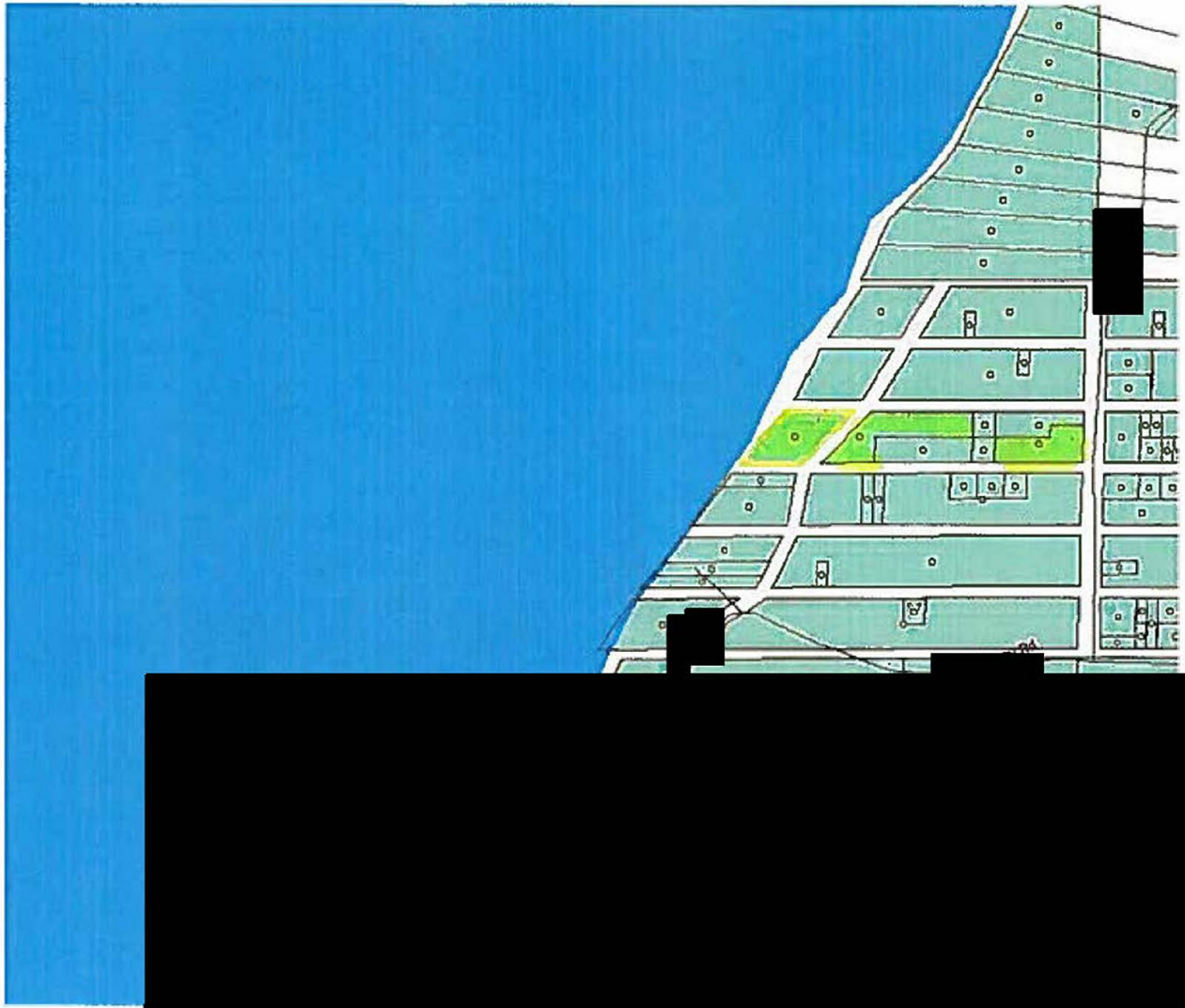
WALL SECTION 3
SCALE 1/2" = 1'-0"



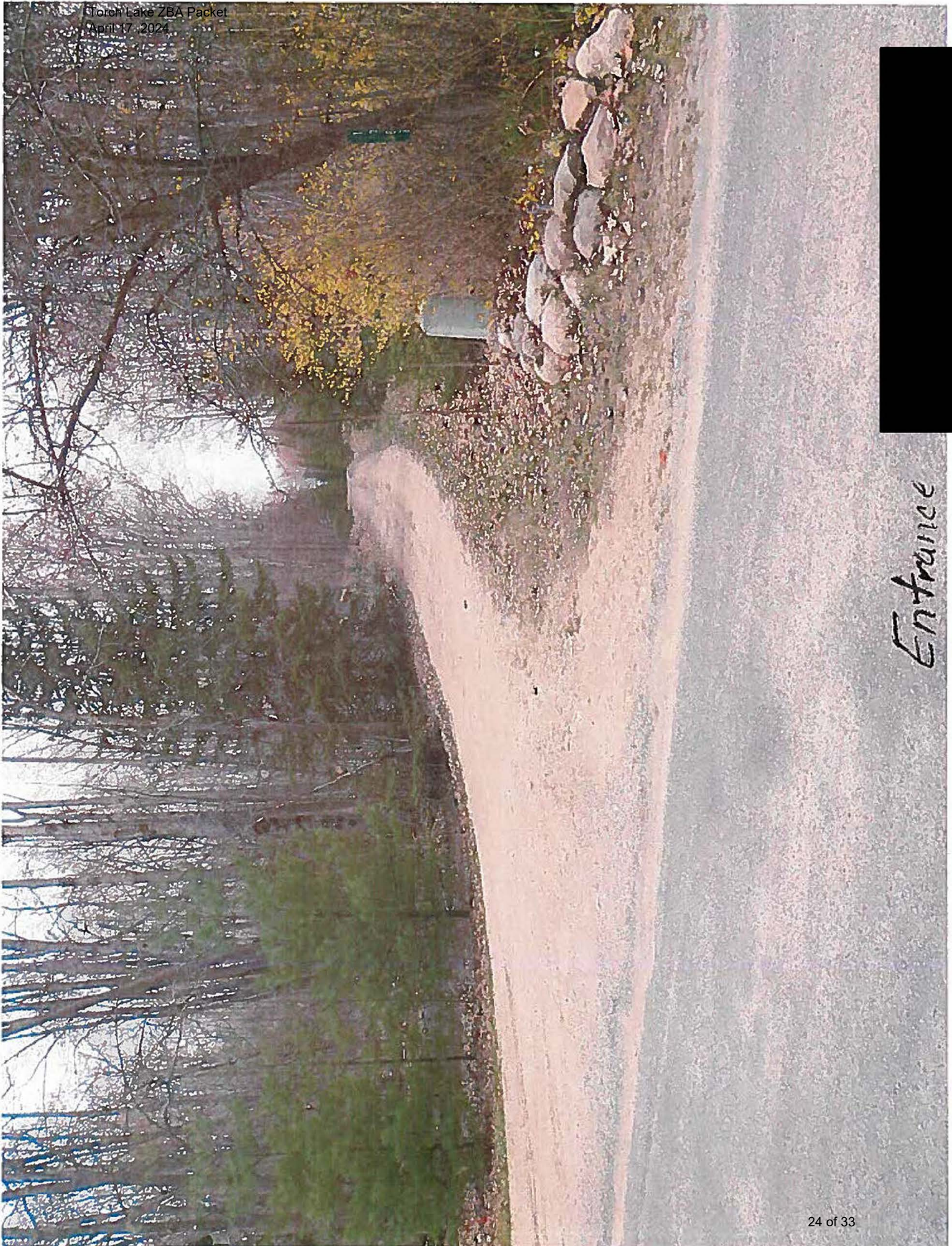
WALL SECTION 2
SCALE 1/2" = 1'-0"



WALL SECTION 1
SCALE 1/2" = 1'-0"



17/17



Entrance





**RULES OF PROCEDURE
TORCH LAKE TOWNSHIP
ZONING BOARD OF APPEALS**
(Revised 02/2024)

PREAMBLE

These rules are comprised of verbatim sections of the Torch Lake Zoning Ordinance, plus other supplementary rules of procedure that were felt necessary to perform the duties assigned to the Torch Lake Township Zoning Board of Appeals hereinafter referred to as ZBA. Nothing herein shall be construed to give or grant to the ZBA the power or authority to alter or change the Zoning Ordinance, including the zoning map, which authority is reserved for the Township Board of Trustees. In the case where these Rules of Procedure conflict with the Township Zoning Ordinance, the Zoning Ordinance shall prevail.

**ARTICLE I
ORGANIZATION**

1. There is hereby created a ZBA of five (5) members. The first member of the ZBA shall be a member of the Township Planning Commission, the second member may be a member of the Township Board of Trustees; and the remaining members and up to two (2) alternates, who may function in place of a member who is absent, shall be selected by the Township Board of Trustees from among the electors residing in the unincorporated areas of the Township provided that no elected officer of the Township nor any employee of the Township Board of Trustees may serve simultaneously as the additional member of, or as an employee of the ZBA. Members shall serve for a period of three (3) years. At the end of the member's term, the individual ceases to be a member unless the individual is re-appointed by the Board of Trustees. The total amount allowed such ZBA in any one (1) year as per diem payments or as expenses actually incurred in the discharge of their duties shall be a reasonable sum that shall be provided annually by the Township Board of Trustees.

2. The Chairperson shall preside over the meetings of the ZBA. In case of the absence of the Chairperson, the Vice Chairperson shall preside. The ZBA shall conduct meetings pursuant to Robert's Rules of Order except as modified by these rules. The presiding officer, subject to these rules, shall decide all points of order or procedure.

3. The Secretary shall assist with all clerical work of the ZBA and perform such other further duties as may be requested by the ZBA.
4. The ZBA shall keep minutes of its proceedings, showing the action of the ZBA, the reasons on which it bases its action, and the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official action, all of which shall be filed promptly in the Township Offices and shall be public record. Findings of Fact shall be included in the record.
5. Conflict of Interest:
 - A. Each member of the ZBA shall declare conflicts of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office. As used here a conflict of interest shall include, but not necessarily be limited to the following:
 1. Issuing, deliberating on, voting on, or reviewing a case concerning himself or herself.
 2. Issuing, deliberating on, voting on, or reviewing a case concerning work on property owned by him or her or which is within 300 feet of property owned by him or her.
 3. Issuing, deliberating on, voting on, or reviewing a case involving a corporation, company, partnership, LLC, or any other entity in which he or she is a part owner, or any other relationship where he or she may stand to have a financial gain or loss.
 4. Issuing, deliberating on, voting on, or reviewing a case that may result in a pecuniary benefit to him or her.
 5. Issuing, deliberating on, voting on, or reviewing a case concerning his or her relatives, in-laws, or close friends,
 6. Issuing, deliberating on, voting on, or reviewing a case where his or her employer:
 - a. Is an applicant or agent for an applicant, or has direct interest in the outcome.
 - b. When a conflict of interest exists, the member of the ZBA shall do all of the following immediately, upon first knowledge of the case and determining that conflict exists:
 1. Declare that a conflict exists.
 2. Cease to participate in the portion of the ZBA meeting involving the issue, and refrain from any participation in

- the case at any other meeting or outside any actual meeting.
3. During deliberation of the item before the ZBA he or she shall absent himself or herself from the meeting and shall not participate in any way until that agenda item is completed.
 4. If a person recuses himself or herself, he or she may be asked to state the reason.
6. The Township Attorney may be consulted in cases where the powers of the ZBA are not clearly defined, or where there is a legal issue involving a matter before the ZBA for which the Chairperson, Vice-Chairperson or a majority of the ZBA desire an opinion and, in such case, the Township Supervisor shall be consulted before seeking a legal opinion from Township Attorney.

ARTICLE II

MEETINGS

1. The ZBA shall schedule meetings, as needed, during the year, to be held at 6:00 p.m. at the Community Service Building in Torch Lake Township on the third Wednesday of the month (or the fourth Wednesday if the third Wednesday is a legal holiday), to hear appeals and other matters within the ZBA's jurisdiction. An annual organizational meeting shall be held the third Wednesday of November each year at which officers are to be elected and calendar of meetings for the following year is approved.
2. All ZBA meetings shall be open to the public and shall be preceded by notice, pursuant to requirements of the Township's Zoning Ordinance and the *Open Meetings Act*.
3. Special meetings may be called by the Chairperson of the ZBA at his/her discretion or by a majority of the ZBA when there is a matter of urgency that cannot be delayed until the next scheduled meeting of the ZBA.

ARTICLE III

PROCEDURE

1. A resolution supported by two-thirds of the members present may temporarily suspend any rule or procedure or change the date or time of meetings as set forth in these rules.
2. When it is a decision of the ZBA to discontinue a hearing and to reconvene the hearing at a later date, there shall be no additional charge for this meeting to the appellant unless the ZBA determines that the reason for the re-convening of the hearing is solely due to the applicant's failure to provide requested or required information which was under the applicant's control.
3. The presence of three (3) regular members shall constitute a quorum. The concurring vote of three (3) members of the ZBAs shall be necessary to reverse any order, requirement, decision or determination of the Planning Commission or Zoning Administrator not specifically exempt from the ZBA review by other provisions of the Township's Zoning Ordinance, or to decide in favor of the applicant on any matter upon which it is required to pass by of the Township's Zoning Ordinance or to grant variations from the requirement of the Township's Zoning Ordinance.
4. A copy of each resolution passed by said ZBA shall be submitted to the Clerk of the township and to the Secretary of the Planning Commission.
5. The business at the ZBA meetings shall include the following:
 - A. Call to Order / Roll call
 - B. Approval of Agenda
 - C. Approval of minutes of previous meeting
 - D. Conflict of Interest
 - E. Public Comment
 - F. Communication(s)
 - G. Hearing of cases
 - H. Miscellaneous business
 - I. Public Comment
 - J. Adjournment

ARTICLE IV

APPEALS

1. Applications for appeal, for interpretation, variance or appeal of an administrative decision pursuant to the requirements of the Zoning Ordinance shall be made on the official appeal form (a copy of which may be obtained from the Zoning Administrator). The information shall include:
 - A. An accurately completed *Notice of Appeal*, along with any additional information and requirements referred to in these *Rules of Procedure* and the *Guidelines-Appeal Application*.
 - B. A scale map or sketch showing the location of the parcel and the location of all pertinent structures thereon (See *Guidelines - Appeal Application*)
 - C. A site plan drawn to scale, showing lot lines, setback requirements, building lines [measured from the drip line of the roof overhang], and location of all appropriate property lines, significant angles and accurate dimensions and other details relevant to the matter including waterfront, well and septic locations, roads, topographic features, front, side and bird's eye view of proposed structures, easements, etc. when applicable. The area of a requested variance must be clearly defined on this drawn-to-scale site plan.
 - D. Any lot lines relevant to a variance request must be clearly staked by a professional surveyor.
 - E. The Application shall be accompanied by such fee as established by the Township Board of Trustees.
2. The order of procedure of hearings shall be:
 - A. Chairperson's explanation to the audience of the proceedings
 - B. Presentation of official records of the case by the Zoning Administrator
 - C. Secretary of the ZBA presentation of the any communications
 - D. Applicant's presentation of his/her case
 - E. Interested persons in support
 - F. Interested persons in opposition
 - G. Rebuttals in similar order
 - H. Chairperson closes the hearing, noting the time thereof.
 - I. ZBA Members deliberate the application.
 - J. Hearing re-opens; decision rendered

In the conduct of a hearing, all comments shall be directed to the Chairperson.

3. The ZBA may require of the applicant such additional information and data as is deemed essential to fully advise the ZBA with reference to the appeal. Refusal or failure to comply shall be grounds for dismissal of the application by the ZBA.
4. The ZBA shall not be bound by strict rules of evidence; it may exclude irrelevant, immaterial, incompetent, or unduly repetitious testimony or evidence.
5. When the applicant fails to appear at a properly scheduled meeting of the ZBA, the ZBA Chairperson may entertain a motion from the ZBA to dismiss the case for want of prosecution. In the absence of a motion by the ZBA, the Chairperson shall rule. In cases that are dismissed for want of prosecution, the applicant will be furnished written notice of the action by the ZBA. The applicant shall have seven (7) calendar days from the date of notice of dismissal to apply for reinstatement of the case. In such cases, the applicant must file a written request with the Secretary for reinstatement. Reinstatement shall be at the discretion of the Chairperson for good cause shown. In all cases reinstated in the above-described manner, the cases will be docketed and advertised in the manner prescribed for new cases and the applicant shall be responsible for the costs of reinstatement.

ARTICLE V

VARIANCES

Variations shall be heard and decided in accordance with the Torch Lake Township Zoning Ordinance.

ARTICLE VI

DISPOSITION OF APPEAL

1. The ZBA shall decide all applications and appeals within 30 calendar days after the final hearing thereon. Such decision shall be binding upon the Zoning Administrator and observed by him/her, and s/he shall incorporate the terms and conditions of the same in the permit to the applicant or appellant whenever a permit is authorized by the ZBA.
2. The motion that decides the issue shall be in the form of a statement or resolution reciting the Findings of Fact and shall state the reasons for the findings as well as the conclusions and any conditions of approval imposed by the ZBA.

3. Any applicant may withdraw his/her application at any time prior to the hearing on the application.
4. Failure of an applicant or subsequent owner of the property in question to comply with the terms of any decision, including any conditions imposed thereunder, shall be in violation of the Zoning Ordinance and such terms and penalties thereunder may be enforced to halt and correct any such violation.

A file of materials and decisions relating to each case shall be maintained at the township as part of the records of the ZBA. All records shall be public records.

ARTICLE VII

AMENDMENTS

1. These *Rules of Procedure* may be amended at any regular or special meeting upon an affirmative vote of a majority of the total membership of the ZBA.
2. The foregoing rules and regulations are hereby adopted by the ZBA of Torch Lake Township on the February 21, 2024.