

THE TOWN OF  
**Windermere**



**DEVELOPMENT REVIEW BOARD**

**Chair: Frank Chase  
Peter Fleck  
Jennifer Roper  
Norma Sutton  
Stephen Withers  
Roger Heinz  
Gregg Anderson  
Council Liaison:**

***Agenda***

***Agenda***

**April 18, 2023  
6:30 PM**

**TOWN HALL  
520 MAIN STREET  
WINDERMERE, FL 34786**

**PLEASE TURN OFF ALL CELL PHONES AND PAGERS**

PLEASE NOTE: IN ACCORDANCE WITH F.S. 286.26: Person with disabilities needing assistance to participate in any such proceedings should contact the Office of the Clerk at least 48 hours beforehand at (407) 876-2563.

Pursuant to Resolution No. 2005-12 adopted on December 13, 2005, the following Civility Code shall govern all proceedings before the Town of Windermere Development Review Board:

1. All electronic devices, including cell phones and pagers, shall be either turned off or otherwise silenced.
2. Prolonged conversation shall be conducted outside Council meeting hall.
3. Whistling, heckling, gesturing, loud conversations, or other disruptive behavior is prohibited.
4. Only those individuals who have signed the speaker list and/or/who have been recognized by the Mayor (or Chair) may address comments to the Council.
5. Comments at public hearings shall be limited to the subject being considered by the Council
6. Comments at Open Forums shall be directed to Town issues.
7. All public comments shall avoid personal attacks and abusive language
8. No person attending a Development Review Board meeting is to harass, annoy, or otherwise disturb any other person in the room.

Any member of the public whose behavior is disruptive and violates the Town of Windermere Civility Code is subject to removal from the Development Review Board meeting by an officer and such other actions as may be appropriate. PLEASE NOTE: IN ACCORDANCE WITH F.S. 286.0105: Any person who desires to appeal any decision at this meeting will need a record of this proceeding. For this, such person may need to ensure that a verbatim record of such proceeding is made which includes the

## AGENDA

- **THE MEETING IS CALLED TO ORDER BY THE CHAIR**

### **1. OPEN FORUM / PUBLIC COMMENT (3-Minute Limit)**

### **2. NEW BUSINESS**

#### **a. Minutes**

i. Development Review Board Meeting Minutes: February 21, 2023 (Attachment - Board Option)

#### **b. General Items for Consideration**

i. Z23-06: 4414 Down Point Lane - Kevin and Megan Butler/Sheila Cichra – Variance to allow the reconstruction of a previous unpermitted boat dock at 10 feet from the side property line extended (Attachment)

ii. Z23-07: 804 Oakdale Street – Lacey Adams – Variance to allow 39.6% gross floor area, new front porch with front setback of 23.6 feet, and 100% increase of gross floor area of existing nonconforming detached accessory garage with a height greater than 18 feet (Attachment)

iii. Z23-08: 65 Pine Street – Nick and Susan Capone/Kevin Ball – Variance to allow a sport court in front of the principal structure (Attachment)

iv. Proposed LDC Change to 10% Limitation for Additions to Nonconforming Structures (Attachment - for DRB Direction)

### **3. ADJOURN**

**TOWN OF WINDERMERE**

**Development Review Board  
Meeting Minutes**

**February 21, 2023**

Present were Chair Frank Chase, Board Members Roger Heinz, Gregg Anderson, Jennifer Roper, and Peter Fleck. Town Manager Robert Smith, Town Council Liaison Bill Martini, Town Planner Brad Cornelius, and Town Clerk Dorothy Burkhalter were also present. Member Stephen Withers and Member Norma Sutton were absent.

Chair Chase called the meeting to order at 6:30pm. He then led everyone in the Pledge of Allegiance.

**1. OPEN FORUM/PUBLIC COMMENTS:**

There were no public speakers.

**2. NEW BUSINESS:**

**a. MINUTES:**

**i. January 17, 2023, Meeting Minutes**

Member Anderson made a motion to approve the minutes. Member Heinz seconded the motion. All were in favor.

**b. General Items for Consideration:**

**i. Z23-04 – 12150 Lake Butler Blvd – Sanjay and Kavita Pattani – Variance to allow a sport court in front of a principal residence**

Chair Chase turned the floor over to Mr. Brad Cornelius. Mr. Cornelius reviewed the request to place multi use sport court with lighting in the front yard. He then explained that the Code requires sports courts to be located in the side or rear yards, must meet the side setback requirement, and lighting meet shielding requirements. Mr. Cornelius stated that all setbacks have been met. He then stated that notices were sent out with four received in favor and two received in objection. Member Anderson questioned if the sports court could be placed in the back yard. Mr. Cornelius explained the court would be much smaller and closer to the neighbor. Member Anderson questioned if one of the objections was from that neighbor. Mr. Cornelius stated no. Member Heinz stated that an email from the owner was received that stated that the sports court was not built by the original builder as noted on the plans and the drain field was placed much further from the house than proposed on plans which won't allow the sports court to be built as placed as stated on the original plans. Member Heinz also questioned why this wasn't addressed sports court are required in the rear yard. Mr. Cornelius stated that the owner will need to answer that question. Member Roper questioned if the lot is being considered a corner lot. Mr. Cornelius explained that even being a corner lot, the sport court would meet the setbacks but not the required location. Mrs. Kavita Pattani owner of 12150 Lake Butler Blvd introduced herself. She then explained that in speaking with the previous builder, they were informed the Lake Butler Blvd was their front yard which is actually a side yard. Mrs. Pattani stated that the goal of the court is to get her family out of the house and active. Some discussion followed. Chair Chase opened the floor to the public. Ms. Christa Dinallo of 2956 Sunbittern Court introduced herself. She then commented on her response. Ms. Dinallo explained that the sounds and lighting area her concern. Chair Chase commented on the number of cars that travel down Park Avenue

**TOWN OF WINDERMERE**

**Development Review Board  
Meeting Minutes**

**February 21, 2023**

which cause noise. Ms. Dinallo stated pickle ball is loud. Member Heinz stated that there needs to be landscaping/hedge around the court/Lake Butler Blvd. and Park Avenue. Contractor commented on lighting and shielding. Some discussion followed regarding lighting, trees, hedge, landscaping, conservation area, odd shape of lot, and court colors. Member Fleck made a motion to recommend approval of the variance request as the site is unique/corner lot. Member Roper seconded the motion. Member Heinz recommending adding to the motion that a minimum of a six-foot hedge must be kept. Discussion regarding line of sight and landscape code was made. Member Heinz stated he would like to amend the motion to include a six-foot hedge other than the vision triangle at Lake Butler Blvd and Park Avenue. Member Fleck was amenable to the amended motion. Member Roper friendly to the amendment and second. All were in favor. Chair Chase advised the applicant that this Board is a recommending Board, and the Town Council will make the final decision at their next meeting March 14<sup>th</sup>.

**ii. Z23-05 – 126 Down Court – Brian and Tracy Bowen – Variance to allow an expansion of more than 10% for a non-conforming home**

Chair Chase turned the floor over to Mr. Cornelius. Mr. Cornelius introduced variance request Z23-05. He explained that this request is for an existing non-conforming home. Mr. Cornelius stated that an addition to the home is being proposed. He commented on the following: enclosing the existing carport, meeting all setbacks, addition of a second story to home, being within the 38%, reducing pervious area, and meeting all setbacks. Mr. Cornelius stated that the existing rear porch is non-conforming, therefore causing the request. He stated that notices were sent out with three in objection and eight in support received. Member Heinz questioned when the pool was built. Mr. Cornelius explained that he did not know but the non-conforming part is the porch. Some discussion followed regarding: seawall, flat lot, adding previous surface, existing screen porch, and objections. Member Heinz made a motion to recommend approval. Member Anderson seconded the motion. All were in favor. Chair Chase advised the applicant that this Board is a recommending Board, and the Town Council will make the final decision at their next meeting March 14<sup>th</sup>.

**4. ADJOURN:**

Member Heinz made a motion to adjourn. Member Anderson seconded the motion. All were in favor.

The meeting adjourned at 7:17pm.

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Dorothy Burkhalter, Town Clerk

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Frank Chase, Chair

# Town of Windermere

614 Main Street Windermere, FL 34786  
Office: (407) 876-2563 Fax: (407) 876-0103

Mayor  
JIM O'BRIEN



Town Manager  
ROBERT SMITH

Clerk  
DOROTHY BURKHALTER

## Development Review Board April 18, 2023

## Town Council May 9, 2023

**Case No.:** Z23-06

**Applicant/Representative:** Sheila Cichra

**Property Owners:** Kevin and Megan Butler

**Requested Action:** Variance to allow reconstruction of a previously unpermitted boat dock with a 10-foot side setback.

**Property Address:** 4414 Down Point Lane, Windermere, FL 34786

**Legal Description:** DOWN POINT SUB 2/97 LOT 1 & THAT PART OF THE EAST 1/2 OF THE NE 1/4 OF THE SW 1/4 AND THAT PART OF THE NW 1/4 OF THE SE 1/4 LYING SOUTH OF THE WESTERLY ESTENSION OF THE NORTH LINE OF LOT 1 IN SEC 9-23-28

**Future Land Use/Zoning:** Residential/Residential

**Existing Use:** Residential (Single Family)

### Surrounding Future Land Use/Zoning

**North:** Residential/Residential  
**East:** Residential/Residential  
**South:** Residential/Residential  
**West:** Lake Down

## **CASE SUMMARY:**

The applicant proposes to reconstruct a boat dock that was not previously permitted that is located 10 feet from the extended side property line. The Town's LDC requires docks to meet a 16 foot setback from the extended side property line.

Based on historic ariels, the dock appears to have existed at least since 1984, and appears to have been altered sometime between 1990 and 2005, without any permit. Consequently, any reconstruction must be compliant with current dock requirements. The previous unpermitted dock was setback 10 feet from the side extended property line, which is not compliant with the Town's LDC current requirement of a 16 foot setback from the side extended property line. The proposed reconstructed dock is the same footprint as the current dock and is also located at 10 feet from the extended side property line, which requires the variance.

Division 10.02.00 of the LDC empowers the Development Review Board to review and make recommendations for approval, approval with conditions or denial to the Town Council on variance requests.

Division 10.02.00 of the LDC requires the Town Council to consider the recommendation of the Development Review Board and to take final action to either approve or deny the variance request.

## **CASE ANALYSIS:**

Section 10.02.02 of the LDC provides the specific standards by which the Development Review Board and Town Council are to review to consider the approval or denial of a variance application. In addition, this Section requires a positive finding, based on substantial competent evidence, for each of the standards. These standards are summarized as follows:

1. The need for the variance arises out of the physical surroundings, shape, topographical condition or other physical or environmental conditions that are unique to the subject property. Variances should be granted for conditions peculiar to the property and not the result of actions of the property owner;
2. There are practical or economic difficulties in carrying out the strict letter of the regulation;
3. The variance request is not based exclusively upon a desire to reduce the cost of developing the site;
4. The proposed variance will not substantially increase congestion on surrounding public streets, the danger of fire or other hazard to the public;
5. The proposed variance will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site;

6. The effect of the proposed variance is in harmony with the general intent of this Land Development Code and the specific intent of the relevant subject areas of this Land Development Code; and
7. The variance will not encourage further requests for changes where such a land use would not be deemed appropriate.

It is also important to note that this Section also provides specific standards that are not to be considered in the review of a variance application. These standards are:

1. That the implementation of these regulations would impose an economic hardship on the cost of the building or redevelopment project;
2. That these regulations impose a hardship by decreasing the maximum density of a property in terms of the number of units, square footage of buildings, etc.; and
3. That other adjacent lands, structures or buildings not in conformance with these regulations provide a rationale for a lessening of their application in this specific case.

Section 10.02.02(c) of the LDC allows the imposition of conditions and restrictions as may be necessary to allow a positive finding to be made on any of the variance standards to minimize the negative effect of the variance. The conditions and restrictions should further the interest of the LDC.

**PUBLIC NOTICE:**

Public notices were mailed to property owners within 500 feet of the subject property. As of April 11, 2023, no responses were received. An update to any responses received after April 11, 2023, will be provided at the DRB meeting.



Date: February 6, 2023  
To: Brad Cornelius  
From: Sheila Cichra  
Re: Variance Request for 4414 Down Point Lane, Windermere  
Boat dock side setback from projected property line

The attached files are an application package for a side setback variance from 16' to 10' for a proposed boat dock renovation.

The parcel belongs to Kevin and Megan Butler.

We are in the process of obtaining an OC EPD boat dock permit with a setback waiver.

The adjacent property owner to the South has signed a setback waiver to reduce the required setback from 16' to 10'.

The reason for the variance request is that we are trying to renovate an existing boat dock that was never permitted previously. We are trying to remove and rebuild all of the walkway and deck area framing, but not alter the piling locations or the roof.

We believe that renovating the existing dock will cause a much smaller impact to the lake than starting over and moving the structure from the location that it has been in for decades to just 6' farther North.

Thank you for your consideration.





Date: February 6, 2023  
To: Brad Cornelius  
From: Sheila Cichra  
Re: Variance Request for 4414 Down Point Lane, Windermere  
Boat dock side setback from projected property line

*Special Conditions and Circumstances* are created by the fact that the boathouse is existing and is already non-compliant, due to the 10' setback.

*Not Self Created* - The dock was built long before the Butler's purchased the property.

*No Special Privilege Being Conferred:* Many docks in the Town of Windermere have been constructed at a reduced setback.

Regarding *Deprivation of Rights*, if this variance isn't approved, the owners will have to tear down the entire existing boat dock, instead of just repairing it.

We are requesting the *Minimum Possible Variance*. Since the encroachment is existing, it cannot be reduced.

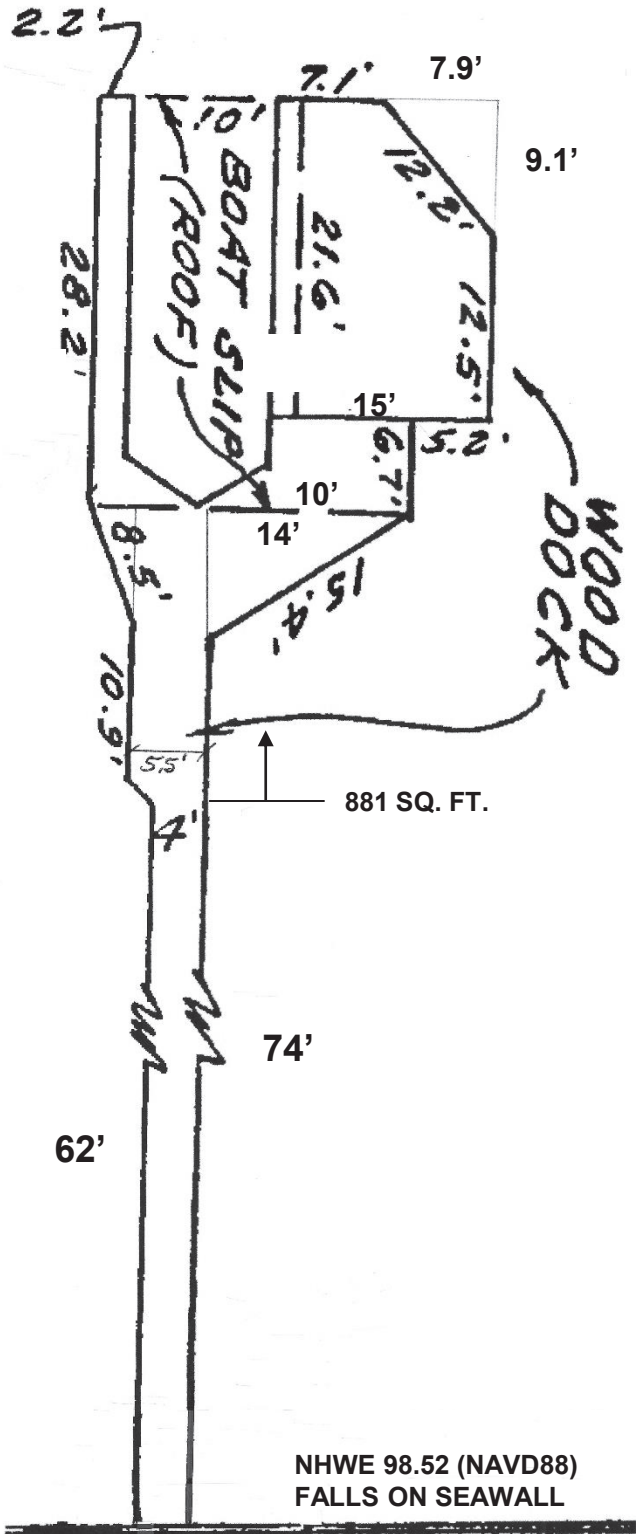
No one would be negatively impacted by the renovation of the boathouse and without the variance, the entire boat dock would have to be demolished and that is not in the best interest of the environment. We believe that is a good example of the *Purpose and Intent* of such a zoning variance.

# Plan View

REMOVE ALL DECKING & FRAMING FROM THE DOCK, DECK AND BOAT SLIP & REBUILD IN THE SAME FOOTPRINT

BOATHOUSE & DECK ROOFS NOT TO BE ALTERED

- 4' X 62' DOCK
- 5.5' X 20' DOCK
- 8.5' X 14' X .5 DECK AREA
- 3' X 8.5' X .5 DECK AREA
- 12.2' X 28.2' BOATHOUSE
- 10' X 6.7' DECK AREA
- 15' X 21.6' - 7.9' X 9.1' X .5 DECK AREA
- 881 SQ. FT. TERMINAL PLATFORM
- 1,129 TOTAL SQUARE FEET

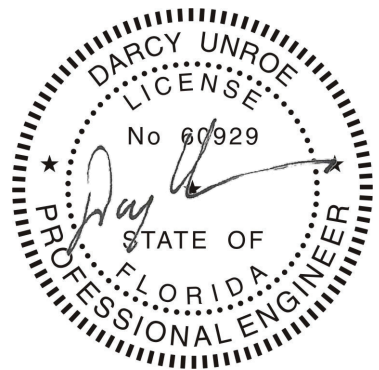
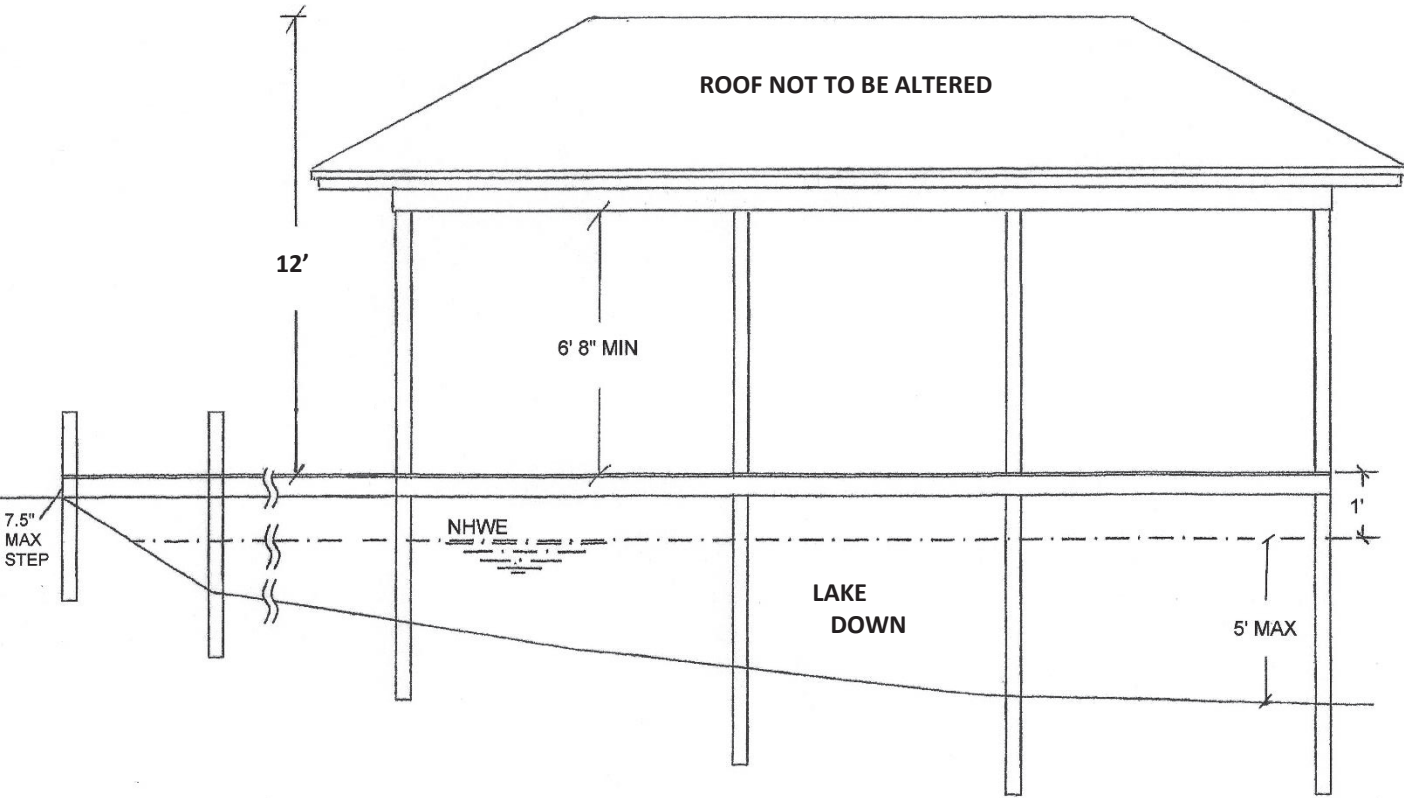


This item has been electronically signed and sealed by Darcy Unroe, PE 60929 on the date indicated using a Digital Signature. Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copy.

Butler

4414 Down Point Lane, Windermere

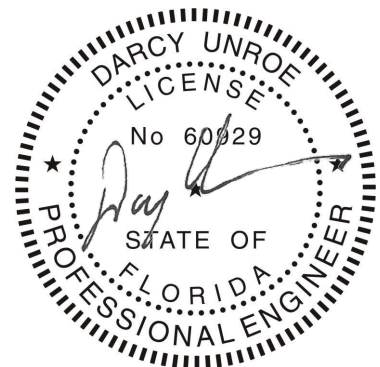
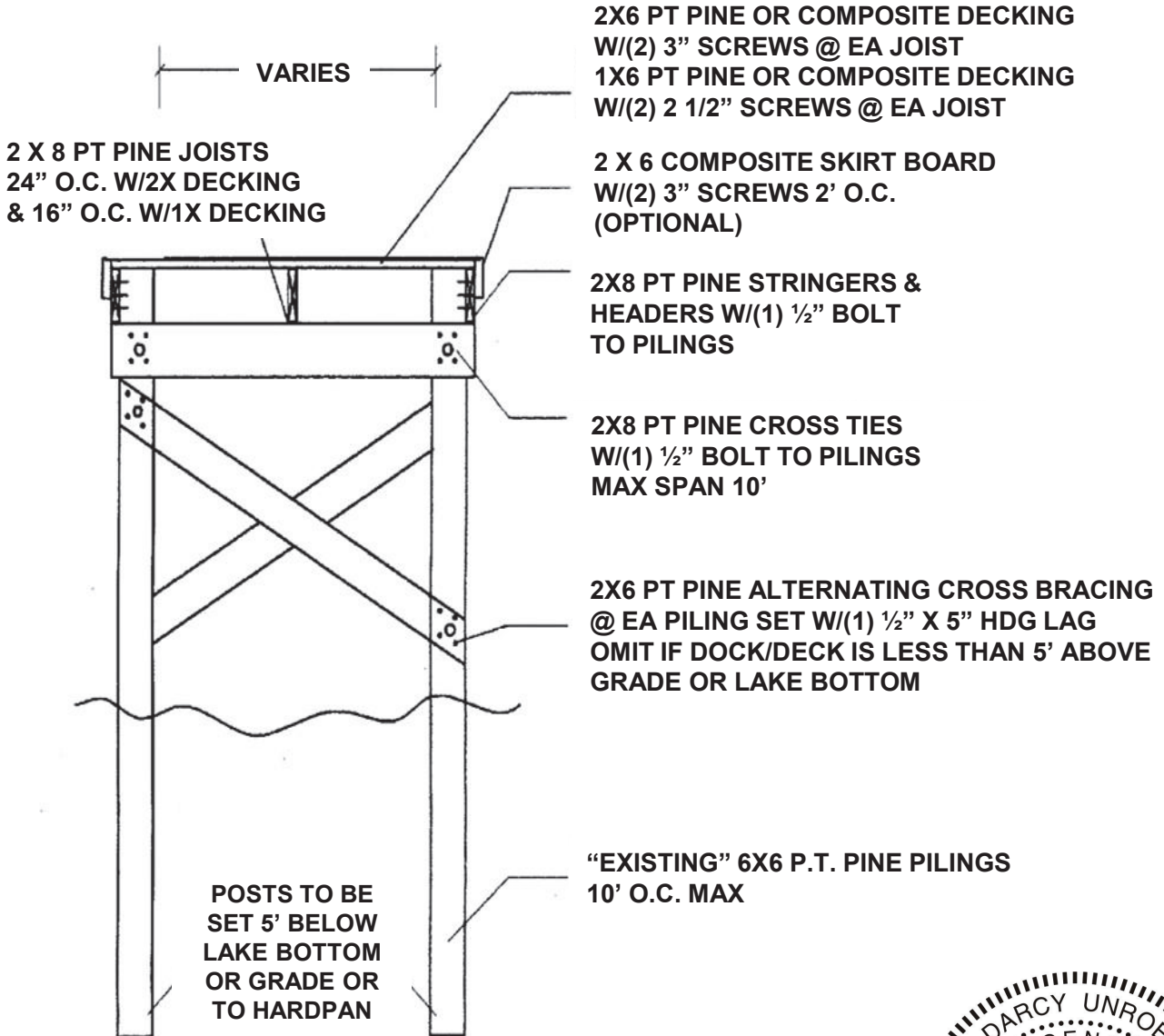
# Elevation



Butler

4414 Down Point Lane, Windermere

# Dock/Deck Framing Detail



Butler

4414 Down Point Lane, Windermere

# Design Standards

The following are general design standards. More stringent design standards may be noted on the plans.

## **General Requirements:**

Reproductions of contract drawings by contractor in lieu of preparation of shop drawings signifies acceptance of information shown as correct and obligates himself to any expense, real or implied, arising from their use. A change to the structural drawings due to the acceptance of alternates and/or substitutes is the responsibility of the contractor and must be submitted to the engineer for approval. The general contractor and each subcontractor shall verify all existing conditions prior to the start of any work. All inconsistencies shall be reported to the designer and/or structural engineer, if needed. Should contractor construct the premises in a fashion not consistent with the plans prepared by the designer and/or structural engineer, or in any fashion, change the plans and drawing without the review and approval from the designer and/or structural engineer. Then designer and/or structural engineer shall bear no responsibility or liability for the construction of premises and accuracy of the drawings.

## **Structural Aluminum:**

Conform to latest edition of Aluminum Association of Florida standard practice for aluminum design. All aluminum shall be 6061-T6 (E= 10,000 ksi; Fy = 35 ksi)

## **Timber :**

Design in accordance with the National Design specification for wood construction. All graded structural lumber shall be pressure treated and meet the following minimum requirements:

Minimum bending stress = 1250 psi

Young Modulus = 1,600 ksi

Maximum of 15% moisture content

Contractor to use - Southern Yellow Pine No. 2, U.N.O.

Lumber sizes shown are nominal sizes. Lumber shall be furnished in finished sizes meeting the requirement of the American Softwood Lumber Standard.

## **Galvanized Bolts:**

All bolts shall be galvanized be ASTM A36, threaded round stock with a minimum yield stress of 36,000 psi.

## **Design Loads:**

Pursuant to Chapter 16 –Table 1607.1

Deck Live Load: 60 psf

Deck Dead Load: 10 psf

Roof Live Load: 20 psf

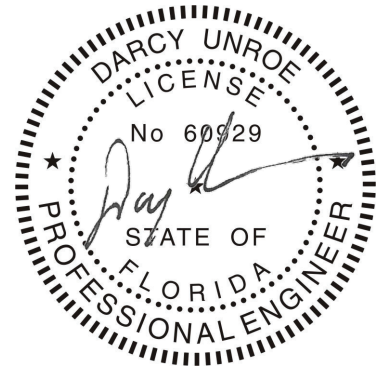
Handrail / Guardrails Post: 200 lbs acting horizontally on top of the Post, 42" A.F.F.

Guardrails and handrails : 50 plf at top rail

Guardrail in fill components: 50 psf

Stair L.L. : 100 psf

Components and cladding, design wind pressures + 38psf / -38psf



Butler

4414 Down Point Lane, Windermere

# Town of Windermere

614 Main Street Windermere, FL 34786  
Office: (407) 876-2563 Fax: (407) 876-0103

Mayor

JIM O'BRIEN



Town Manager  
ROBERT SMITH

Clerk

DOROTHY BURKHALTER

## Development Review Board April 18, 2023

## Town Council May 9, 2023

**Case No.:** Z23-07

**Applicant/Representative:** Lacey Adams

**Property Owner:** Lacey Adams

**Requested Action:** Variance to allow expansion of a nonconforming accessory garage by 100% (adding second story) and a height exceeding 18 feet, add front porch to house at 23.68 feet to the front property line (Oakdale Street), expand total gross floor area to 39.6%.

**Property Address:** 804 Oakdale Street, Windermere, FL 34786

**Legal Description:** PLAT OF WINDERMERE G/36 LOT 111

**Future Land Use/Zoning:** Residential/Residential

**Existing Use:** Residential (Single Family)

### Surrounding Future Land Use/Zoning

**North:** Residential/Residential

**East:** Residential/Residential

**South:** Residential/Residential

**West:** Residential/Residential

### CASE SUMMARY:

The applicant's home at 804 Oakdale Street is nonconforming with its existing setbacks

from E 8<sup>th</sup> Street, (14.6 feet – 15 feet required) and Oakdale Street (23.63 feet – 25 feet required). The existing detached accessory garage is noncompliant with the required setback from the west property line (12 feet – 35 feet required). The existing impervious areas is also slightly noncompliant (45.1% - 45% required). The current total gross floor area is compliant (33.1% - 38% required).

The applicant proposes the following improvements to the existing home:

1. Convert a portion of the interior home from open-to-below space to living area.
2. Add a front porch to the home (Oakdale Street side) at a setback of 23.63 feet.
3. Add a second story bonus room to the detached garage.
4. Remove pavement with open lattice blocks.

These improvements require the following variances:

1. Allow the expansion of the existing gross floor area from 33.1% to 39.6%, which exceeds the allowed 38% gross floor area.
2. Allow the additional of the front porch at 23.63 feet, which is less than the required 25 foot setback (location is in line with the existing front porch).
3. Allow the expansion of the existing nonconforming detached garage by 100% (add a second story) and a height of more than 18 feet.

The impervious area will decrease to 44% with the proposed improvements with the use of open lattice blocks.

Division 10.02.00 of the LDC empowers the Development Review Board to review and make recommendations for approval, approval with conditions or denial to the Town Council on variance requests.

Division 10.02.00 of the LDC requires the Town Council to consider the recommendation of the Development Review Board and to take final action to either approve or deny the variance request.

### **CASE ANALYSIS:**

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2. There are practical or economic difficulties in carrying out the strict letter of the regulation;
3. The variance request is not based exclusively upon a desire to reduce the cost of developing the site;
4. The proposed variance will not substantially increase congestion on surrounding public streets, the danger of fire or other hazard to the public;
5. The proposed variance will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site;
6. The effect of the proposed variance is in harmony with the general intent of this Land Development Code and the specific intent of the relevant subject areas of this Land Development Code; and
7. The variance will not encourage further requests for changes where such a land use would not be deemed appropriate.

It is also important to note that this Section also provides specific standards that are not to be considered in the review of a variance application. These standards are:

1. That the implementation of these regulations would impose an economic hardship on the cost of the building or redevelopment project;
2. That these regulations impose a hardship by decreasing the maximum density of a property in terms of the number of units, square footage of buildings, etc.; and
3. That other adjacent lands, structures or buildings not in conformance with these regulations provide a rationale for a lessening of their application in this specific case.

Section 10.02.02(c) of the LDC allows the imposition of conditions and restrictions as may be necessary to allow a positive finding to be made on any of the variance standards to minimize the negative effect of the variance. The conditions and restrictions should further the interest of the LDC.

**PUBLIC NOTICE:**

Public notices were mailed to property owners within 500 feet of the subject property. As of April 11, 2023, no responses were received. An update to any responses received after April 11, 2023, will be provided at the DRB meeting.



March 22, 2023

DOROTHY BURKHALTER, TOWN CLERK  
TOWN OF WINDERMERE  
WINDERMERE, FL 34786  
(407) 876-2563

Re: Variance Request for 804 Oakdale Street

Hello! I am writing to request a variance for the renovation of existing structures on my property at 804 Oakdale Street. I purchased the home in January of 2022 with intention to raise my family in a strong and vibrant community. We are active participants in many community events, supporters of local business, and attend Family Church.

I work from home full-time and have aging family that we plan to care for within our home in the future. We would like to renovate our existing space to better meet those needs. We are asking for the following variances as we are looking to modify the non-confirming lot more than 10%.

- 1.) Add a second story to the existing detached garage as bonus room / family room.
  - a. Not going beyond existing setbacks
  - b. The garage is unable to be moved due to the pool location...the only available direction is up
- 2.) Renovate / reconfigure 2<sup>nd</sup> floor of main house (within 10% rule)
- 3.) Build front porch addition on Oakdale St side to establish clear & distinct front of house facing Oakdale, as our address suggests (expansion maintains the existing porch setback to the East)

With these changes, the resulting measurements and calculations would be:

1.6% additional FAR (39.6% instead of max 38%)

.7' into the North (8<sup>th</sup> Street) setback (14.3' instead of 15')

1.37' into the East (Oakdale Street) setback (23.63' instead of 25')

23' into the West setback (12' instead of 35') as the entire existing garage is within the setback and unable to be moved due to the pool location.

\*All setbacks are existing and the only 'change' is the porch expansion, which will maintain the existing porch setback to the East.

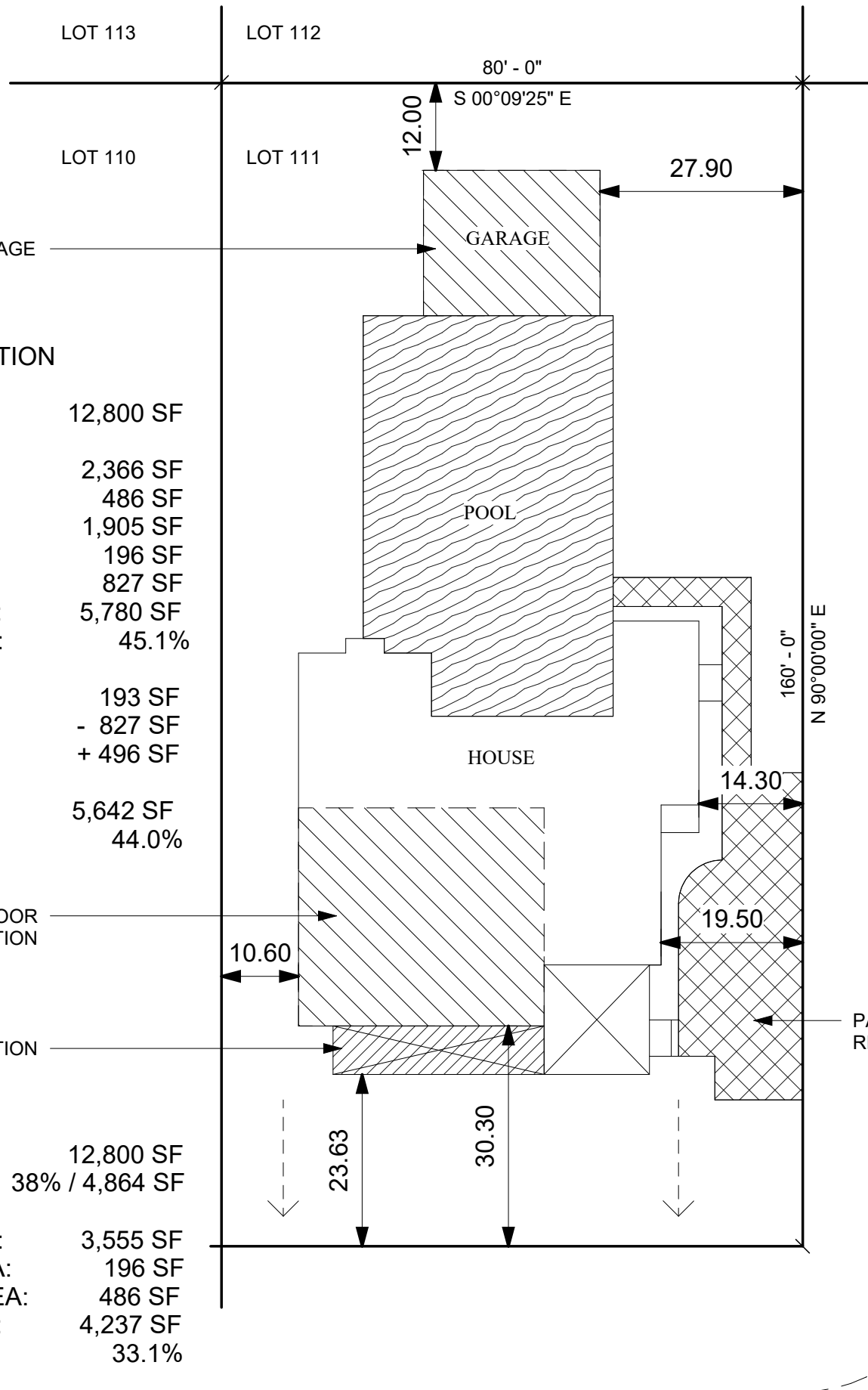
In addition, as I highly value green space, I am willing to take measures for reduction in impervious by removing driveway pavers and replacing with lattice turf blocks. Where previously there had been gravel in front of the garage, it is now lawn.

Thank you very much for your consideration.

Sincerely,

Lacey Adams

\*EXISTING LOT DRAINS TOWARDS  
OAKDALE STREET - NO CHANGE TO  
DRAINAGE REQUIRED\*



**EIGHTH AVE**

**IMPERVIOUS CALCULATION**

LOT AREA:	12,800 SF
HOUSE AREA:	2,366 SF
GARAGE AREA:	486 SF
POOL AREA:	1,905 SF
PORCH AREA:	196 SF
PAVER AREA:	827 SF
TOTAL EXISTING AREA:	5,780 SF
EXISTING IMPERVIOUS:	45.1%
ADDED AREA (PORCH)	193 SF
REPLACEMTN PAVERS (40% PERMEABLE)	- 827 SF + 496 SF
NEW AREA:	5,642 SF
NEW IMPERVIOUS:	44.0%

2ND FLOOR  
RENOVATION

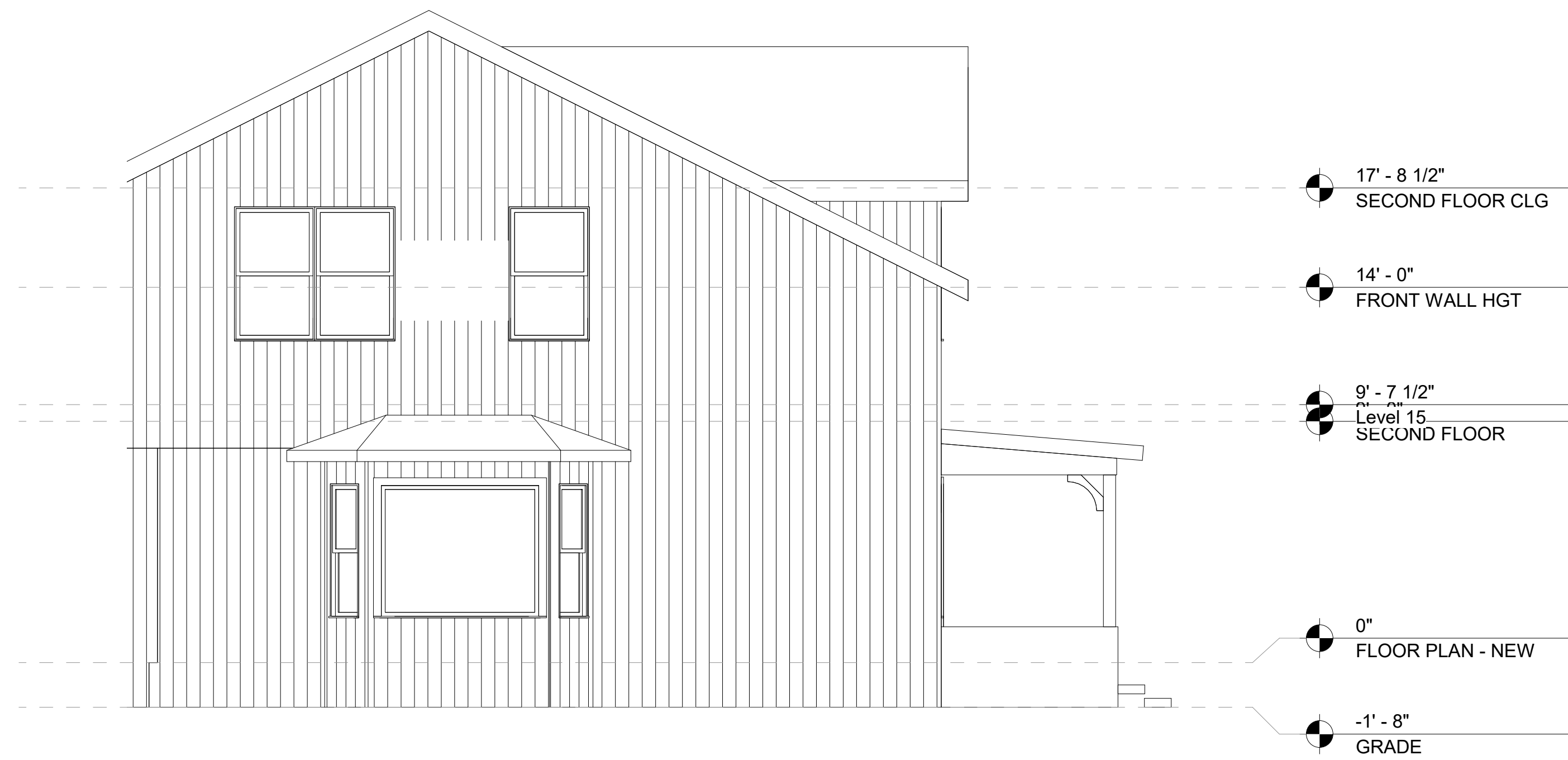
PORCH ADDITION

PAVERS TO BE  
REPLACED

**FAR CALCULATION**

LOT AREA:	12,800 SF
MAX FAR	38% / 4,864 SF
EXISTING LIVING AREA:	3,555 SF
EXISTING PORCH AREA:	196 SF
EXISTING GARAGE AREA:	486 SF
TOTAL EXISTING AREA:	4,237 SF
EXISTING FAR:	33.1%
ADDED LIVING:	154 SF
ADDED PORCH:	193 SF
ADDED BONUS(GARAGE):	486 SF
NEW AREA:	5,074 SF
NEW FAR:	39.6%

**OAKDALE ST**



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



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



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

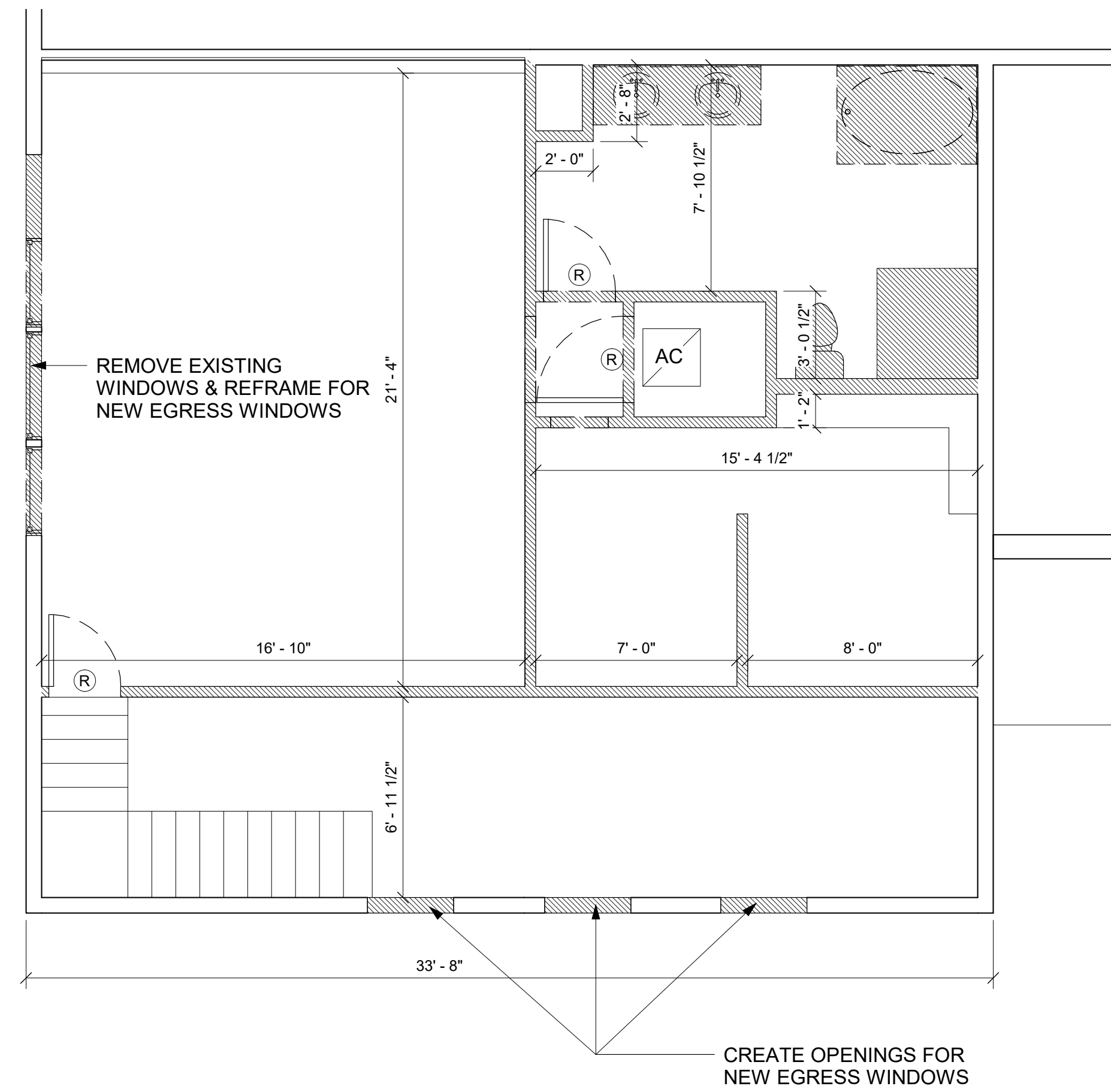
#	DESCRIPTION	DATE	BY

**BUMPUS AND ASSOCIATES, INC.**  
ARCHITECTURE - INTERIOR DESIGN  
www.BUMPUSANDASSOCIATES.com  
668 FRONT STREET  
CELEBRATION, FLORIDA 34747  
Ph: (407) 566-0200  
Fax: (407) 566-0222  
AR 0008045

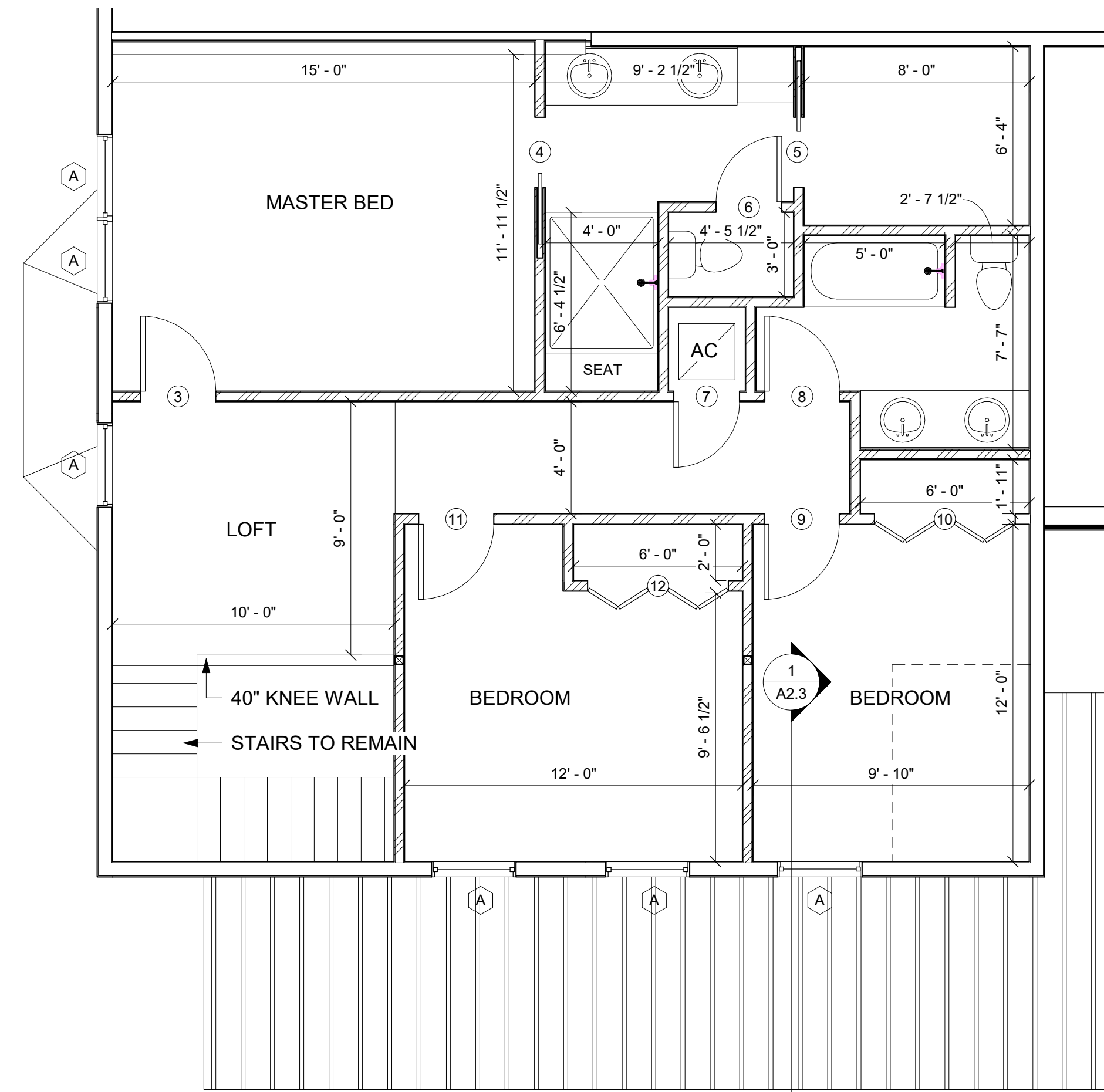
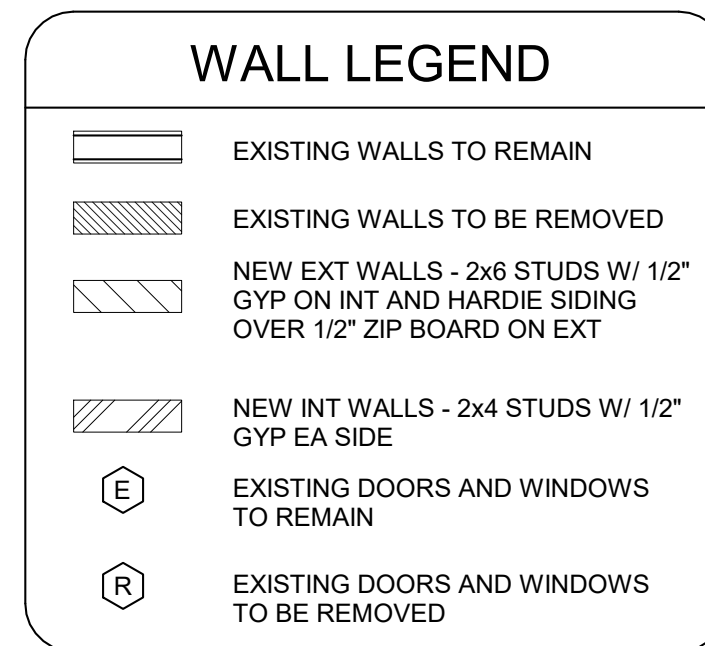
Approved By:  
Daniel L. Bumpus  
AR 0008045  
Date

**ADAMS  
HOME RENOVATION**  
804 OAKDALE ST  
WINDERMERE, FL

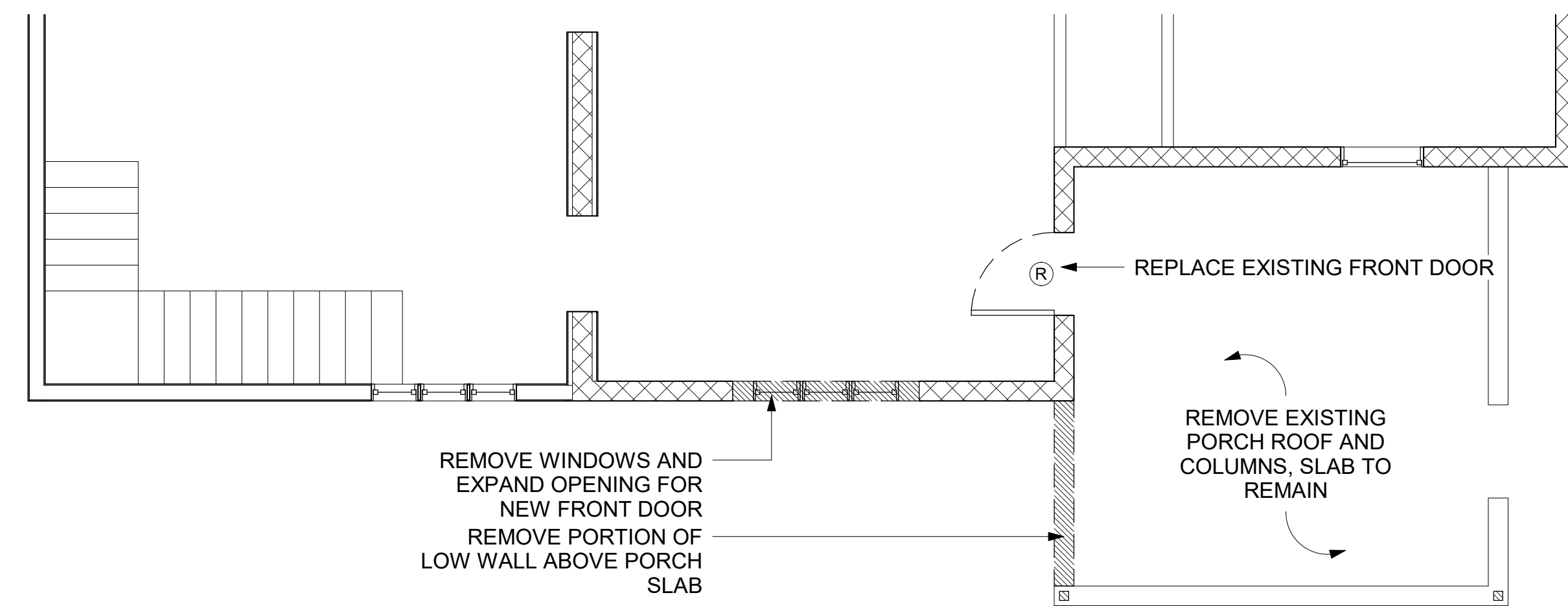
DRWN: BAA APVD: DLB  
DATE:  
3-28-22  
SCALE:  
AS SHOWN  
JOB NUMBER:  
22104  
SHEET:  
**A1**



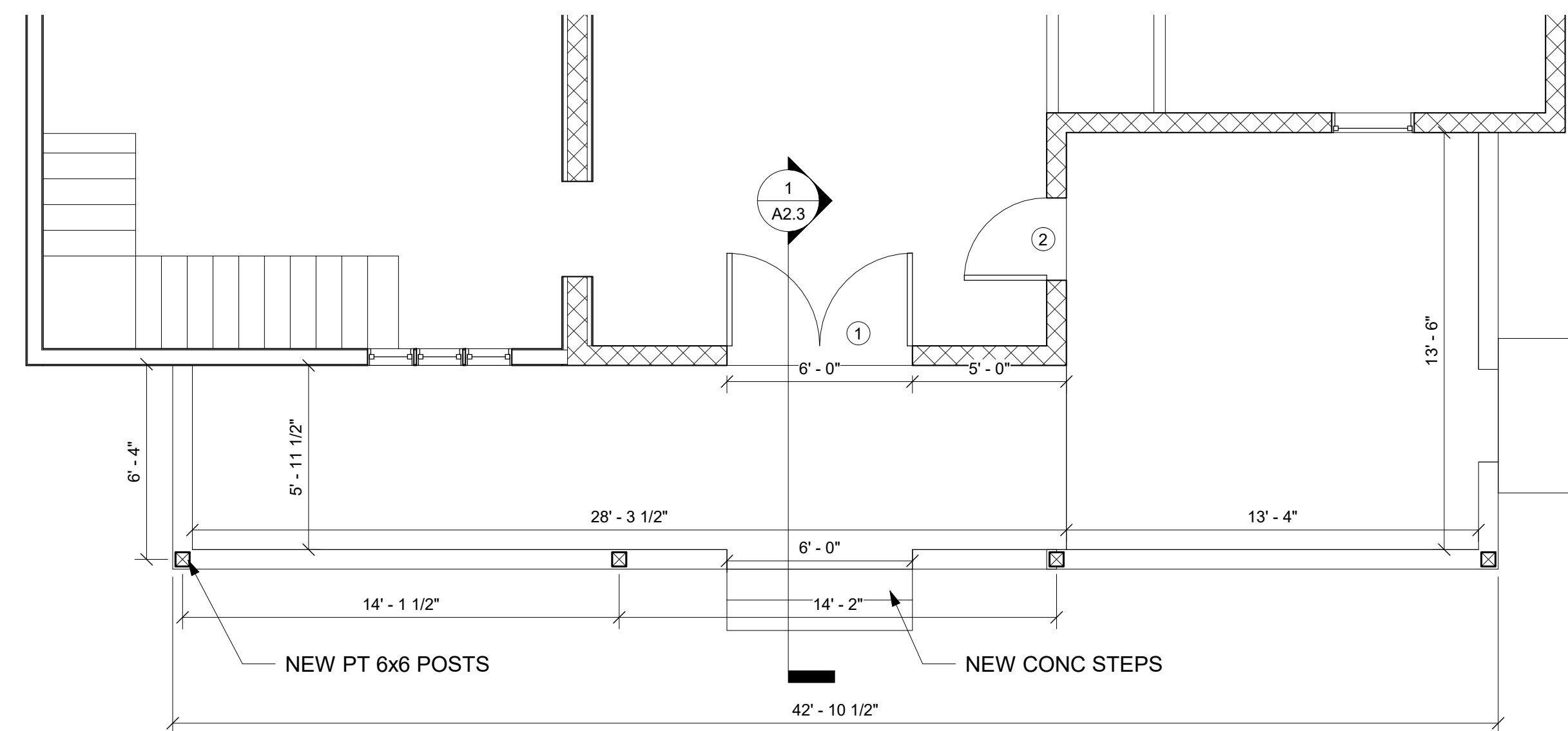
SECOND FLOOR - EXISTING  
SCALE: 1/4" = 1'-0"



SECOND FLOOR - NEW  
SCALE: 1/4" = 1'-0"



FLOOR PLAN - DEMO  
SCALE: 1/4" = 1'-0"



FLOOR PLAN - NEW  
SCALE: 1/4" = 1'-0"

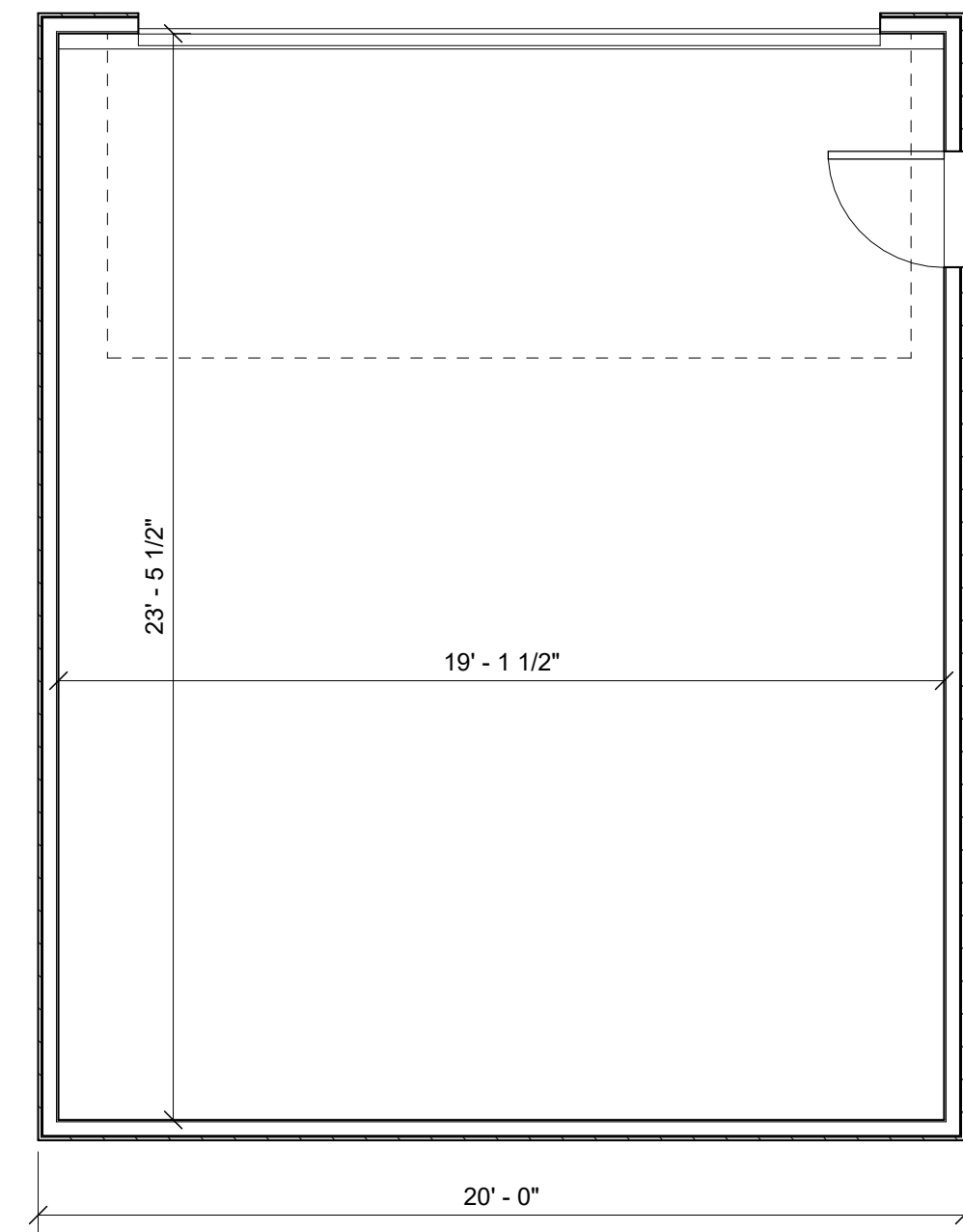
#	DESCRIPTION	DATE	BY

**BUMPUS AND ASSOCIATES, INC.**  
ARCHITECTURE - INTERIOR DESIGN  
www.BUMPUSANDASSOCIATES.com  
668 FRONT STREET  
CELEBRATION, FLORIDA 34747  
Ph: (407) 566-0200  
Fax: (407) 566-0222  
AR 0008045

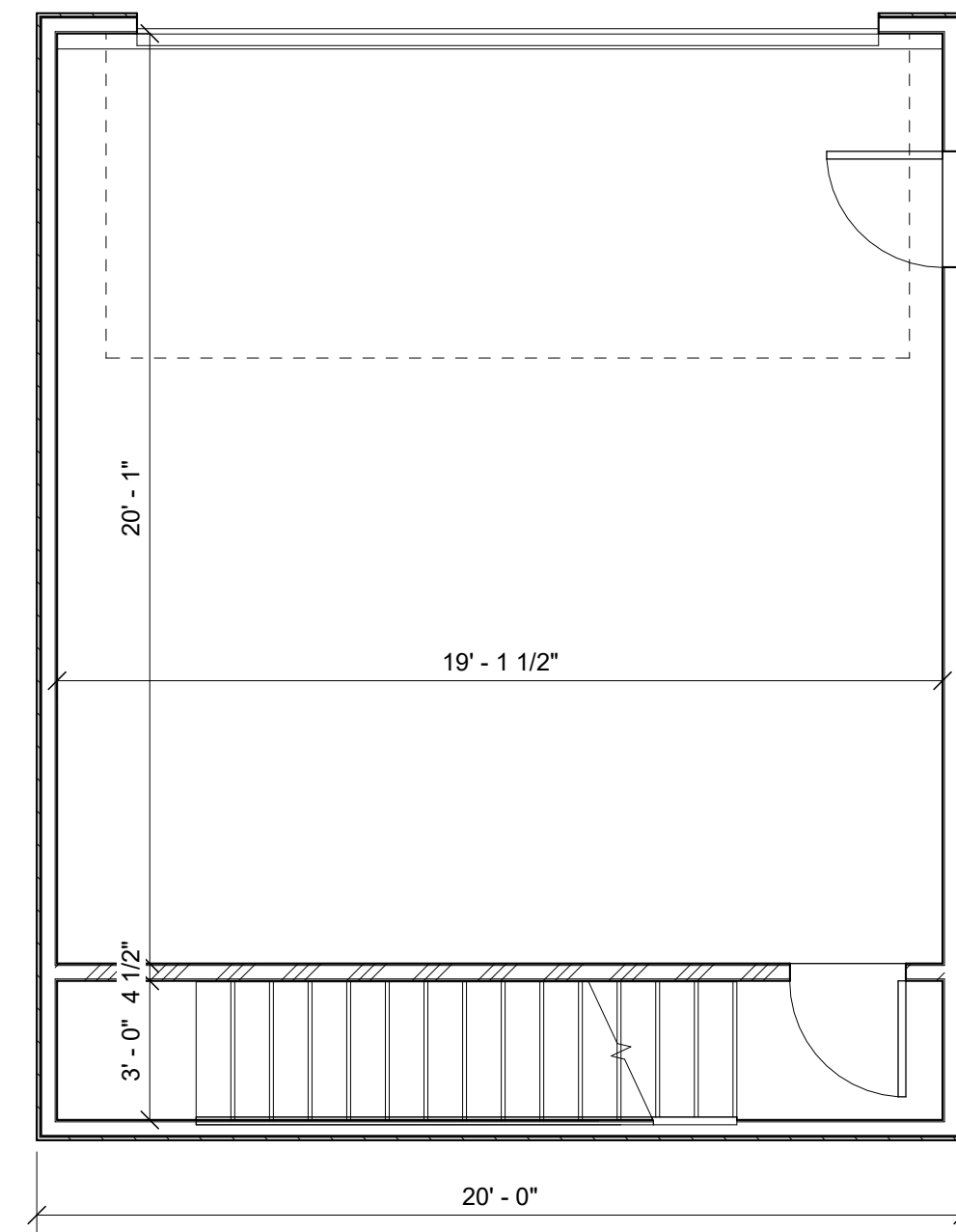
Approved By: \_\_\_\_\_  
Date: \_\_\_\_\_  
Daniel L. Bumpus  
AR 0008045

**ADAMS HOME RENOVATION**  
804 OAKDALE ST  
WINDERMERE, FL

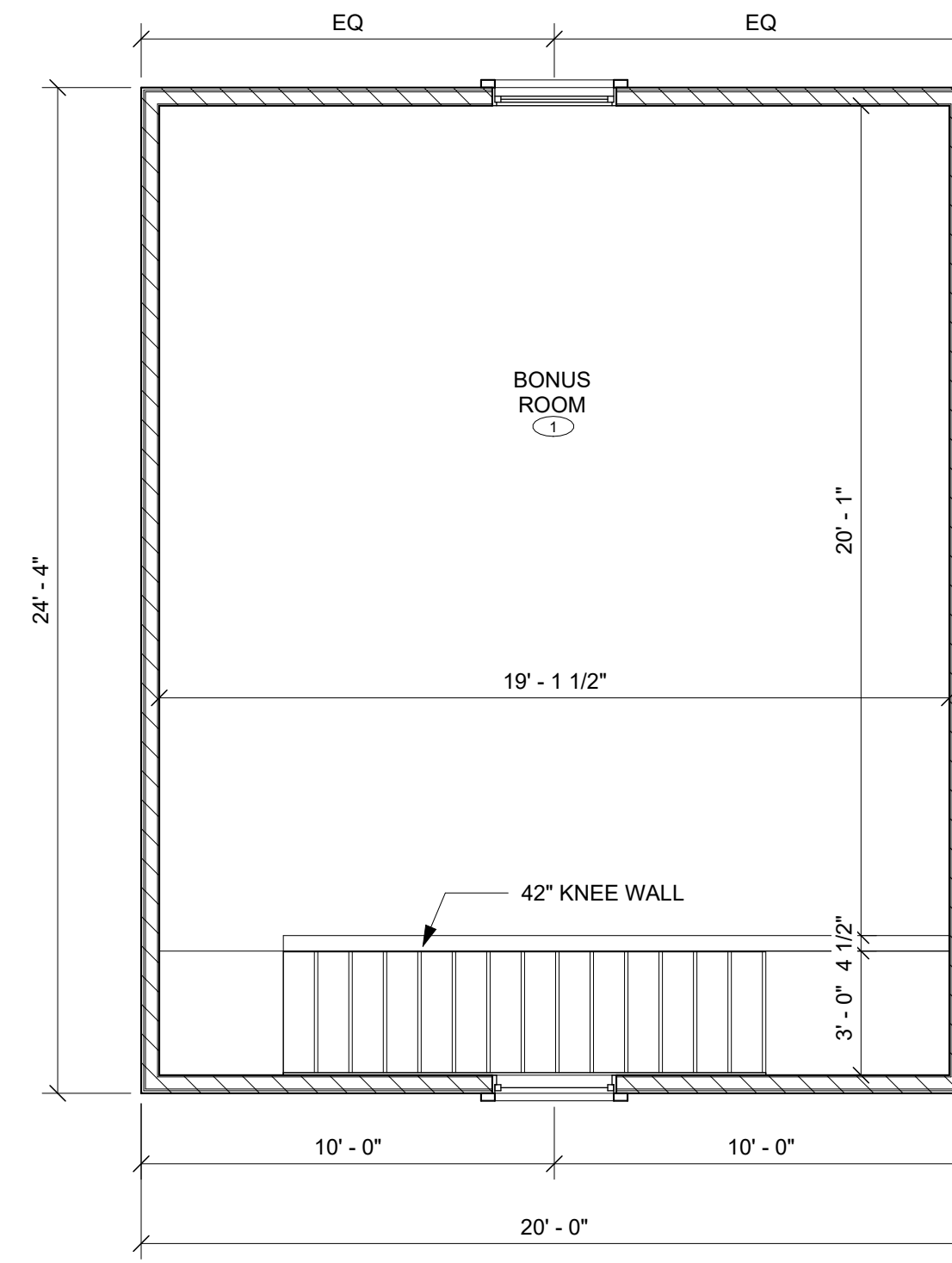
DRWN: SEC APVD: DLB  
DATE: 3-28-22  
SCALE: AS SHOWN  
JOB NUMBER: 22104  
SHEET: **A2**



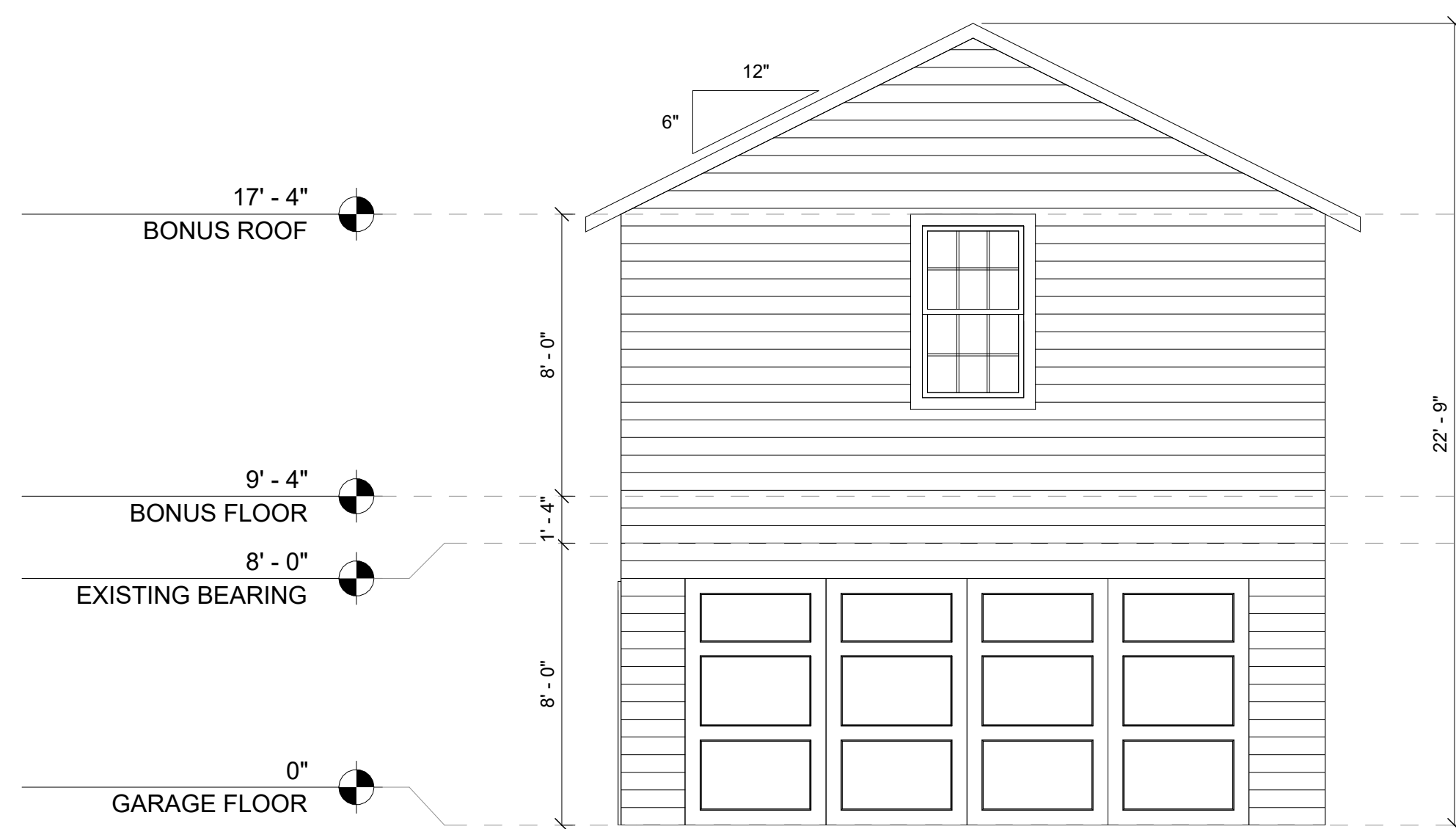
FLOOR PLAN - EXISTING  
SCALE: 1/4" = 1'-0"



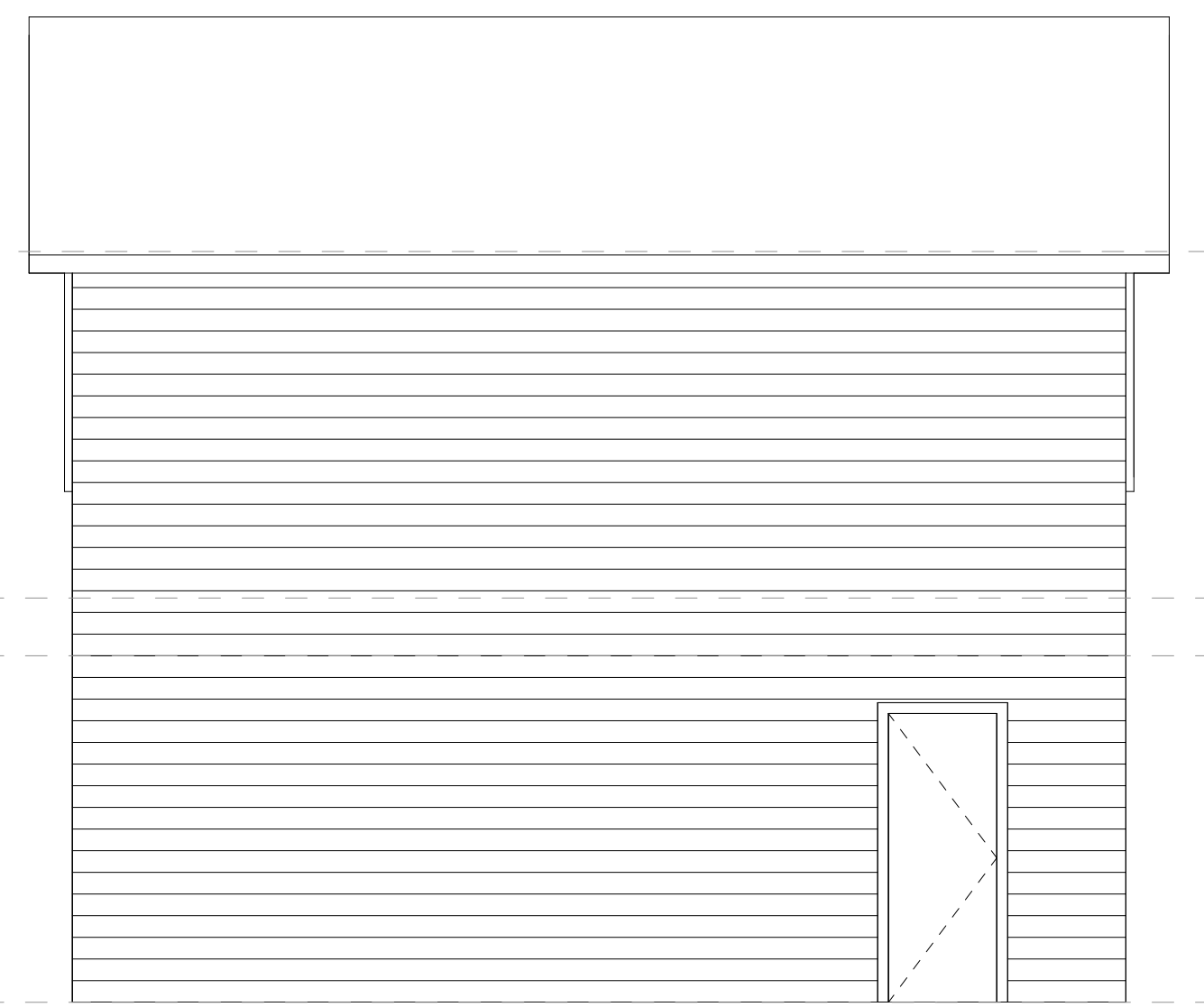
FLOOR PLAN - NEW  
SCALE: 1/4" = 1'-0"



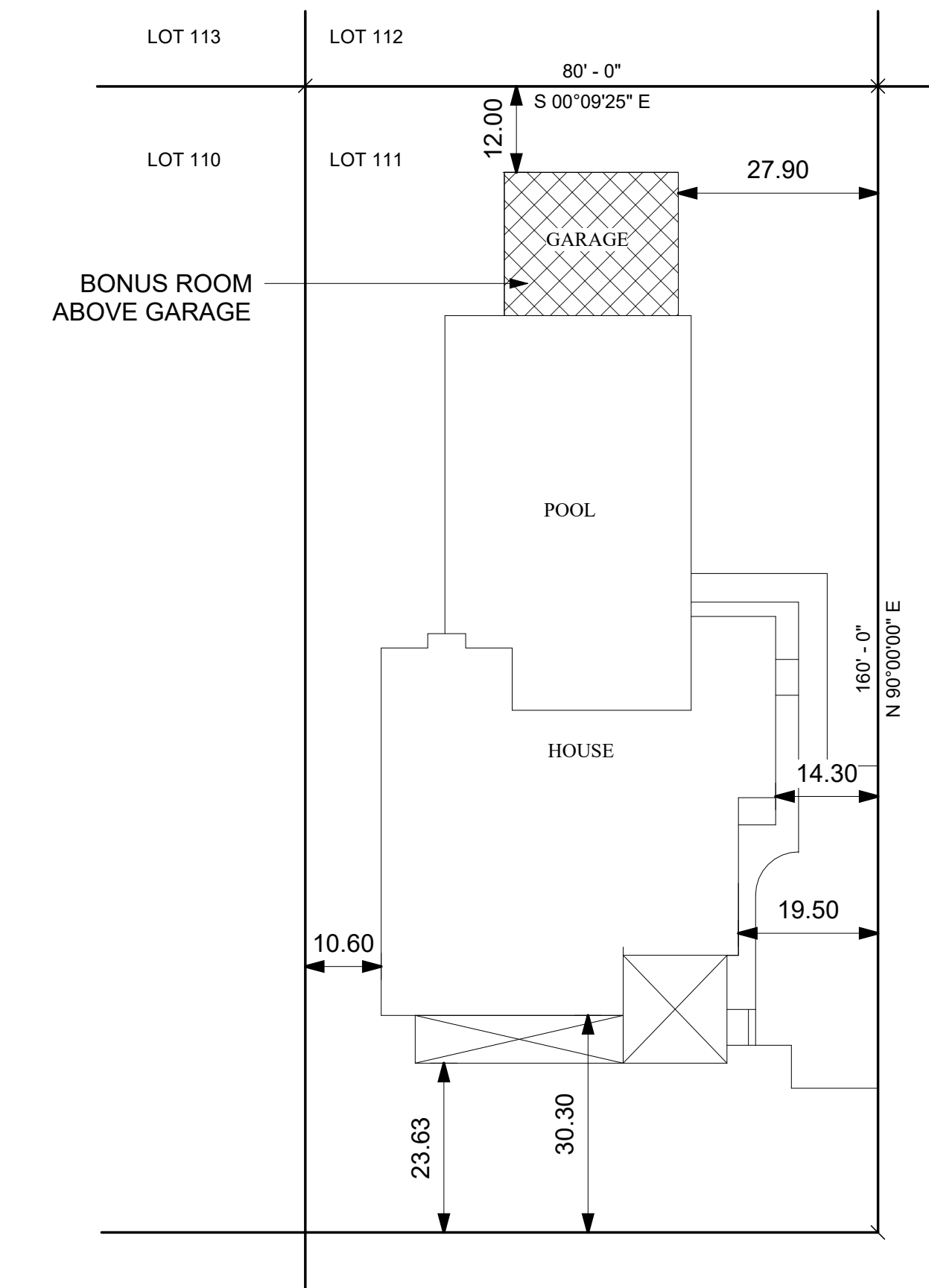
BONUS FLOOR  
SCALE: 1/4" = 1'-0"



4 NORTH - NEW  
A2.1 SCALE: 1/4" = 1'-0"



5 EAST - NEW  
A2.1 SCALE: 1/4" = 1'-0"



OAKDALE ST

EIGHTH AVE

SITE PLAN1  
SCALE: 1" = 20'-0"

#	DESCRIPTION	DATE	BY

**BUMPUS AND ASSOCIATES, INC.**  
ARCHITECTURE - INTERIOR DESIGN  
www.BUMPUSSANDASSOCIATES.com  
608 FRONT STREET  
CELEBRATION, FLORIDA 34747  
Ph: (407) 566-0200  
Fax: (407) 566-0222  
AA C002051 AR 0008045

Approved By:  
Daniel L. Bumpus  
AR 0008045  
Date

**ADAMS**  
**BONUS ROOM**  
804 OAKDALE ST  
WINDERMERE, FL

DRWN: BAA APVD: DLB  
DATE:  
4/4/2023  
SCALE:  
AS SHOWN  
JOB NUMBER:  
22104  
SHEET:  
**A2.1**

# Town of Windermere

614 Main Street Windermere, FL 34786  
Office: (407) 876-2563 Fax: (407) 876-0103

Mayor

JIM O'BRIEN



Town Manager  
ROBERT SMITH

Clerk

DOROTHY BURKHALTER

## Development Review Board April 18, 2023

## Town Council May 9, 2023

**Case No.:** Z23-08

**Applicant/Representative:** Kevin Ball

**Property Owner:** Nick and Susan Capone

**Requested Action:** Variance to allow a sport court in front of the principal structure.

**Property Address:** 65 Pine Street, Windermere, FL 34786

**Legal Description:** PLAT OF WINDERMERE G/36 LOT 465 & N 30 FT OF VAC R/W ON THE SOUTH DESC: BEG AT THE SW CORNER OF LOT 465 TH N18-04-01W 457.83 TH S68-45-32E 116.35 FT TH S18-04-01E 420 FT TH S75-37-39W 91.21 FT TH N18-04-01W 30.06 FT TO THE POB & OCCUPIED PT OF LAKE

**Future Land Use/Zoning:** Residential/Residential

**Existing Use:** Vacant (Single-family home in permitting – Permit 23-03-035)

### Surrounding Future Land Use/Zoning

**North:** Residential/Residential  
**East:** Residential/Residential  
**South:** Residential/Residential  
**West:** Lake

## **CASE SUMMARY:**

Currently, a new single-family home is in the permitting process for 65 Pine Street (Permit 23-03-025). As part of the new single-family home site plan, a sport court is proposed. The proposed sport court will be sunken in the ground approximately 6.5' to 7' and surrounded by hedges and trees around the top.

65 Pine Street is a unique property that is a flag lot and is accessed by a private easement connecting to Pine Street. Because of this unique lot configuration, a variance is required to place the proposed sport court in front of the principal structure.

The proposed sport court is compliant with all other requirements (meets setback requirements, impervious area and stormwater runoff accounted for within the permit for the new single-family home, any lighting will be directed only to the sport court).

Division 10.02.00 of the LDC empowers the Development Review Board to review and make recommendations for approval, approval with conditions or denial to the Town Council on variance requests.

Division 10.02.00 of the LDC requires the Town Council to consider the recommendation of the Development Review Board and to take final action to either approve or deny the variance request.

## **CASE ANALYSIS:**

Section 10.02.02 of the LDC provides the specific standards by which the Development Review Board and Town Council are to review to consider the approval or denial of a variance application. In addition, this Section requires a positive finding, based on substantial competent evidence, for each of the standards. These standards are summarized as follows:

1. The need for the variance arises out of the physical surroundings, shape, topographical condition or other physical or environmental conditions that are unique to the subject property. Variances should be granted for conditions peculiar to the property and not the result of actions of the property owner;
2. There are practical or economic difficulties in carrying out the strict letter of the regulation;
3. The variance request is not based exclusively upon a desire to reduce the cost of developing the site;
4. The proposed variance will not substantially increase congestion on surrounding public streets, the danger of fire or other hazard to the public;
5. The proposed variance will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site;

6. The effect of the proposed variance is in harmony with the general intent of this Land Development Code and the specific intent of the relevant subject areas of this Land Development Code; and
7. The variance will not encourage further requests for changes where such a land use would not be deemed appropriate.

It is also important to note that this Section also provides specific standards that are not to be considered in the review of a variance application. These standards are:

1. That the implementation of these regulations would impose an economic hardship on the cost of the building or redevelopment project;
2. That these regulations impose a hardship by decreasing the maximum density of a property in terms of the number of units, square footage of buildings, etc.; and
3. That other adjacent lands, structures or buildings not in conformance with these regulations provide a rationale for a lessening of their application in this specific case.

Section 10.02.02(c) of the LDC allows the imposition of conditions and restrictions as may be necessary to allow a positive finding to be made on any of the variance standards to minimize the negative effect of the variance. The conditions and restrictions should further the interest of the LDC.

**PUBLIC NOTICE:**

Public notices were mailed to property owners within 500 feet of the subject property. As of April 11, 2023, no responses were received. An update to any responses received after April 11, 2023, will be provided at the DRB meeting.



March 22nd, 2023

Town of Windermere Development Review Board

Re: 65 Pine Street, Pickleball Court Variance Request

Request:

The property owners would like to construct a pickleball court on their property. This lot has a very unique configuration as access to the property is through an access easement. If the location of the 'front of the lot' is where the driveway intersects the street, then this proposed court is not in front of the residence, as the house and court are the same distance back from that point. We are submitting this request because there is a question about the true 'front' of the lot. Additionally, because this lot was previously split, it is not wide enough to place the court beside the house.

To avoid any possibility of the court being seen from any adjacent property, we lowered the court to be below grade and there is a minimum 6' tall wall surrounding the court. This will reduce any noise from the court. In addition to the walls, the court has a 6' tall hedge and 14' tall trees surrounding it so it will be impossible to see it from any adjacent property.

The court would be a hardship to construct in the back yard, because if they screen the court with walls to reduce noise and visibility it will also block their view to the lake. We can screen the court much heavier in the proposed location than we could on the lakeside the house.

The court will be lit with domed moonlighting only that does not cast light on the neighboring properties.

Should you have any questions, please feel free to contact me.



Scott Redmon  
REDMON DESIGN COMPANY, PA



**REDMON  
DESIGN  
COMPANY, PA**

**Landscape Architecture**

**92 South Lakewood  
Circle**

**Maitland, FL 32751**

**Tel (407) 647-2006  
Fax (407) 647-3314**

**FL RLA Lic.# 6666670**

[www.RedmonDesign.com](http://www.RedmonDesign.com)

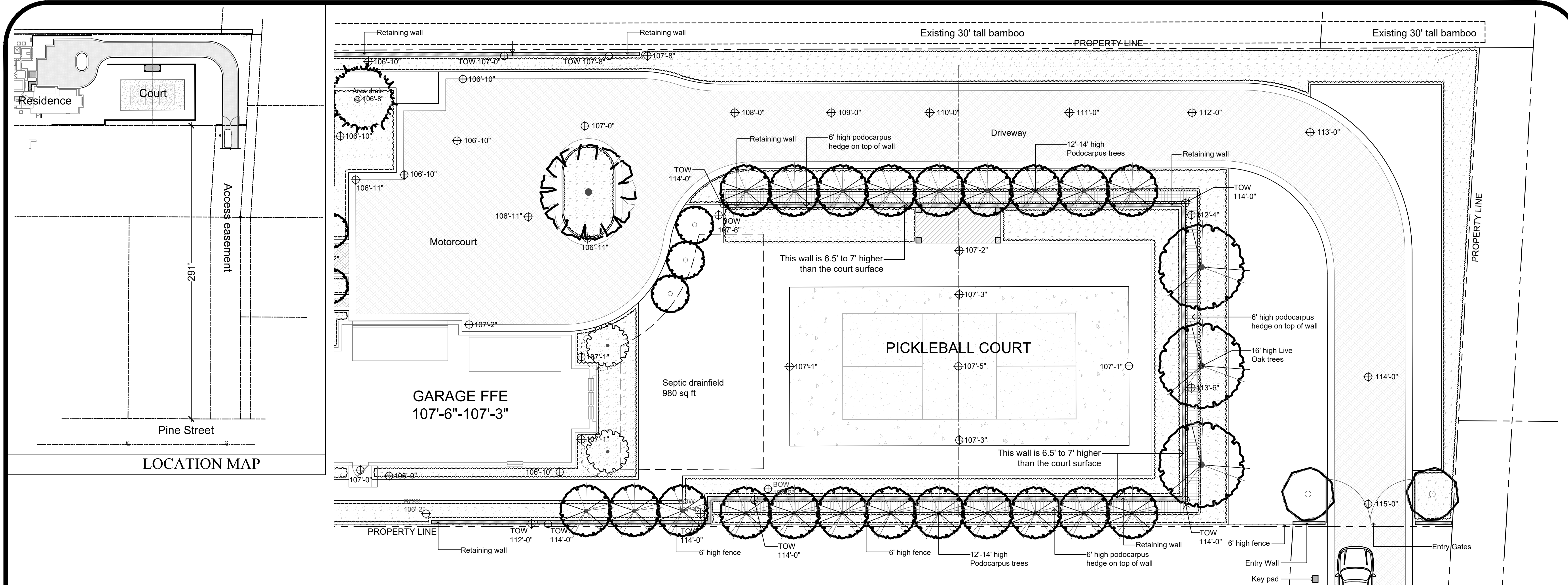




Revisions	
Date	By
3/22/23	BG

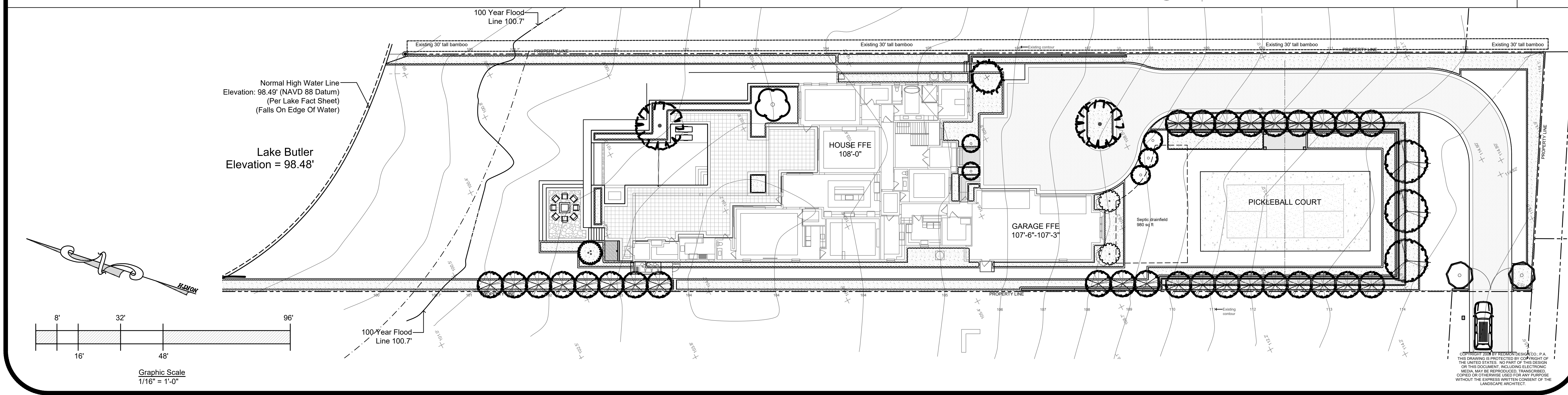
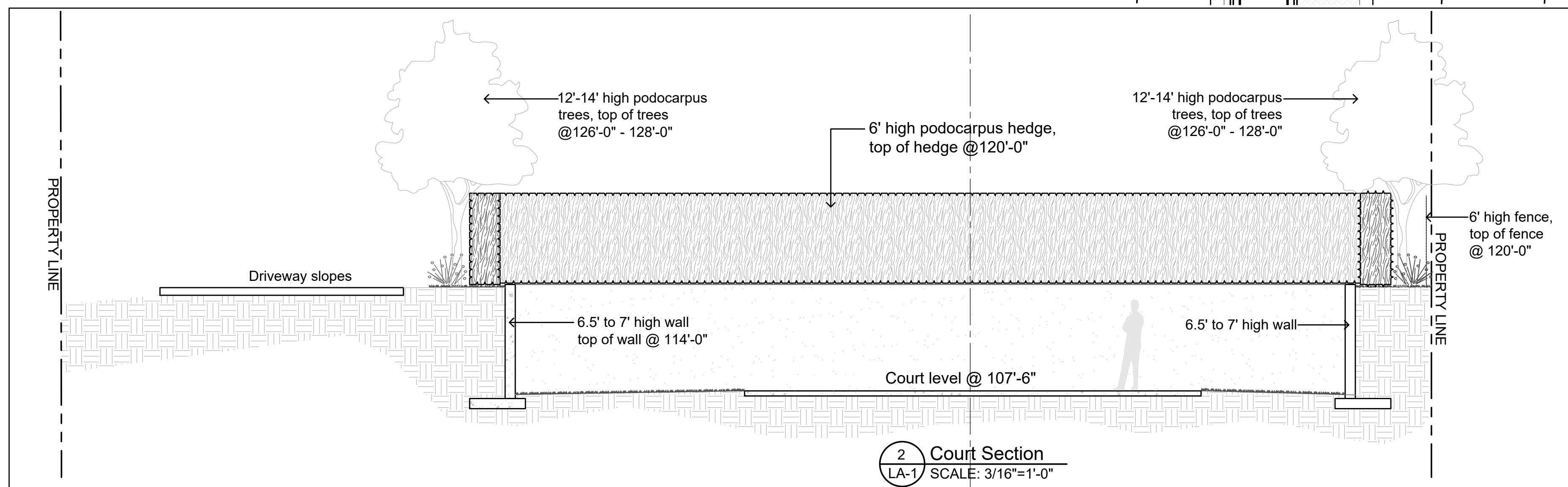
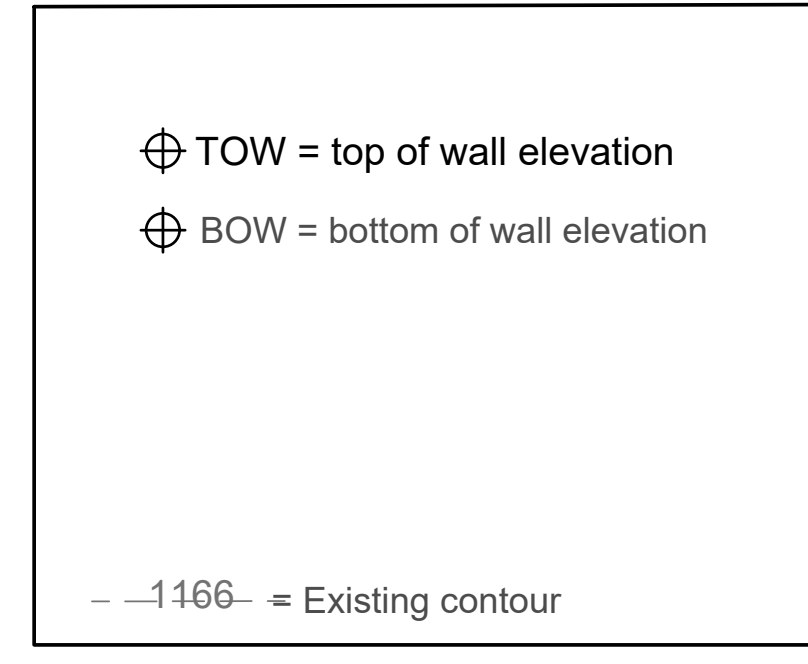
The Capone Residence  
Site Landscape Plan  
65 Pine Street, Windermere, FL

02/29/2023	Date
AS INDICATED	Scale
S. REDMON	Designed By
B. GRAHAM	Drawn By
	Job #



**AREA SUMMARY**

TOTAL LOT AREA	100%	41,200 SQ FT
DRIVEWAY, WALKS, WALLS AND EQUIPMENT PADS		5,906 SQ FT
POOL AND POOL DECK		2,325 SQ FT
SPORT COURT		1,920 SQ FT
AREA 1ST FLOOR		7,165 SQ FT
<hr/>		
TOTAL IMPERVIOUS	42%	17,316 SQ FT
TOTAL PERVIOUS	60%	23,884 SQ FT



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# AGENT AUTHORIZATION FORM

I/WE, (PRINT PROPERTY OWNER NAME) Nick and Susan Capone, AS THE OWNER(S) OF THE REAL PROPERTY DESCRIBED AS FOLLOWS, 65 Pine Street, DO HEREBY AUTHORIZE TO ACT AS MY/OUR AGENT (PRINT AGENT'S NAME), Kevin C. Ball, TO EXECUTE ANY PETITIONS OR OTHER DOCUMENTS NECESSARY TO AFFECT THE APPLICATION APPROVAL REQUESTED AND MORE SPECIFICALLY DESCRIBED AS FOLLOWS, \_\_\_\_\_, AND TO APPEAR ON MY/OUR BEHALF BEFORE ANY ADMINISTRATIVE OR LEGISLATIVE BODY IN THE COUNTY CONSIDERING THIS APPLICATION AND TO ACT IN ALL RESPECTS AS OUR AGENT IN MATTERS PERTAINING TO THE APPLICATION.

Date: 3-10-23

Nick Capone  
Signature of Property Owner

Nick Capone  
Print Name Property Owner

Date: 3-10-23

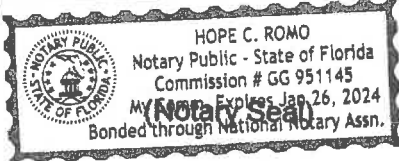
Susan Capone  
Signature of Property Owner

Susan Capone  
Print Name Property Owner

STATE OF FLORIDA :  
COUNTY OF Orange :

I certify that the foregoing instrument was acknowledged before me this 13<sup>th</sup> day of MARCH, 2023 by Susan Capone. He/she is personally known to me or has produced Florida Drivers License as identification and did/did not take an oath.

Witness my hand and official seal in the county and state stated above on the 13<sup>th</sup> day of MARCH, in the year 2023.



Hope C. Romo  
Signature of Notary Public  
Notary Public for the State of Florida

My Commission Expires: 01-26-2024

Legal Description(s) or Parcel Identification Number(s) are required:
PARCEL ID #: <u>17-23-28-9336-04-650</u>
LEGAL DESCRIPTION:

# Town of Windermere

614 Main Street Windermere, FL 34786  
Office: (407) 876-2563 Fax: (407) 876-0103



Mayor

JIM O'BRIEN

Town Manager  
ROBERT SMITH

Clerk

DOROTHY BURKHALTER

To: Development Review Board

From: Brad Cornelius, AICP, Wade Trim, Inc. – Contracted Town Planner

Date: April 11, 2023

Re: Proposed Change to 10% Limitation for Nonconforming Structures

One of the most common variance requests is expanding the gross floor area of nonconforming structures more than the 10% limitation provided in the Town's Land Development Code (LDC). Most often, the proposed expansions beyond the 10% are comprised of additions that are compliant with the current zoning requirements (i.e., setbacks, height, maximum gross floor area, impervious area, etc.).

Variances that request a greater than 10% expansion and are fully compliant with all other zoning standards are typically recommended for approval by the DRB and approved by the Town Council. However, variances that request a greater than 10% expansion and are not fully compliant with all other zoning standards are typically recommended for denial by the DRB and denied by the Town Council.

When particular variances are regularly approved, that is often a sign that the zoning provision that is subject to the variance may need to be revised to no longer require a variance.

Based on the pattern of approval of variances for greater than 10% expansion of gross floor area of nonconforming structure with all additions fully compliant with current zoning requirements and not expanding the nonconformity, it is my recommendation that the Town consider amending this portion of the LDC.

Attached is a proposed revision to the LDC to eliminate the 10% expansion limitation and replace with the following:

- Allows additions that do not expand the nonconformity and are fully compliant with current zoning requirements;
- Establishes that nonconformities are not a reason for additions or new development to be built not in compliance with existing zoning requirements;

- Clarifies that structures damaged or destroyed by fire or other recognized disaster under a declared state of emergency may be repaired or rebuilt to match the condition the day before the fire or disaster as long as a permit is submitted within 180 days of the event. Any other repair or demolition must be done in compliance with the existing zoning requirements;
- Clarifies the FEMA 100-year flood zone nonconforming requirements apply (50% substantial improvement rule);
- Clarifies that the Orange County dock ordinance regulates nonconforming docks due to the Town adopting the County's dock requirements; and
- Removes an old provision that required nonconforming structures be registered with the Town by 1993.

I believe this change will support and remove a hurdle in improving existing older homes and provide for a more consistent and common approach to nonconforming structures.

If the DRB is supportive of this proposed change, then an ordinance will be prepared for the Town Council's consideration to amend the LDC to implement this revised approach to nonconforming structures.

Please do not hesitate to contact me with any questions prior to the April 18, 2023, DRB meeting. I can be reached at 813-415-4952 or [bcornelius@wadetrim.com](mailto:bcornelius@wadetrim.com).

**PART III - LAND DEVELOPMENT CODE**  
**Article X - HARDSHIP RELIEF**  
**DIVISION 10.01.00. EXISTING NONCONFORMING DEVELOPMENT**  
**PROPOSED AMENDMENT TO REMOVE 10% EXPANSION LIMITATION AND**  
**OTHER UPDATES**  
**DRAFT**  
**APRIL 11, 2023**

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***DIVISION 10.01.00. EXISTING NONCONFORMING DEVELOPMENT***

**Sec. 10.01.01. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Nonconforming development* means development or land that does not conform to the [land](#) use regulations ~~in article II,~~ and/or the development design and improvement standards [of this Land Development Code](#) ~~in article VI,~~ and/or the future land use map.

**Sec. 10.01.02. Continuation.**

Subject to the provisions in this division for terminating nonconforming development, such development may, if otherwise lawful and in existence on the date of enactment of this Land Development Code, remain in use in its nonconforming state [and may only be expanded or improved consistent with the requirements within this Division of this Land Development Code.](#) ~~until the year 2000, but shall not be expanded or improved.~~

**Sec. 10.01.03. ~~Termination~~ [Expansion or improvement](#) of nonconforming development or structure.**

- (a) *Generally.* Nonconforming development or structures [shall only be expanded or improved if the expansion or improvement is fully compliant with the requirements of this Land Development Code, and the nonconforming condition is not](#) increased as a result of the new construction. [Nonconforming development is also subject to the following requirements:](#) ~~must be brought into full compliance with the use regulations in article II of this Land Development Code, and the development design and improvement standards in article VI of this Land Development Code, in conjunction with the following activities:~~
- (1) [If a nonconforming development or structure is voluntarily fully or partially demolished, any reconstruction must meet all requirements of this Land Development Code.](#) ~~The gross floor area of the development or structure is expanded by more than ten percent. Repeated expansions of a development, constructed over any period of time commencing with the effective date of this Land Development Code, shall be combined in determining whether this threshold has been reached.~~
  - (2) Reconstruction of ~~the a nonconforming principal~~ structure after the structure has been ~~substantially damaged or~~ destroyed by fire or ~~other~~ [natural disaster with a declared state of emergency by the Town](#) ~~may be repaired or rebuilt as it existed the day prior to the damage or destruction. However, if a building permit is not submitted to the Town within 180 days after the fire or natural disaster to repair or rebuild the nonconforming structure, then any repair or reconstruction must meet all requirements of this Land Development Code ~~calamity. A structure is substantially destroyed if the cost of reconstruction is 50 percent or more of the fair market value of the structure before the calamity. If there are multiple principal structures on a site, the cost of reconstruction shall be compared to the combined fair market value of all the structures.~~~~

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~~(3) It is the intent of this Land Development Code to permit those nonconformities that existed on June 10, 1975, to continue until they are removed, but not to encourage their survival. Those few structures shall not be enlarged upon, expanded or extended. Owners of such properties must apply in writing to the town by January 1, 1993, for recognition of their status, providing such proof, as is available, of their existence in a nonconforming status as of June 10, 1975.~~

(3) Any nonconforming property that existed on June 10, 1975, but has changed its usage to a single-family residence shall not be permitted to revert back to duplex usage.

(b) *Special provisions for specific nonconformities.*

(1) *Nonconformity with the stormwater management requirements of this Land Development Code.* ~~In addition to the activities listed in subsection (a) of this section, a~~ An existing development that does not comply with the stormwater management requirements of this Land Development Code must be brought into full compliance when the use of the development is intensified, resulting in an increase in stormwater runoff or added concentration of pollution in the runoff.

(2) *Nonconformity with floodplain requirements of the Floodplain Management Ordinance of Chapter 16, Code of Ordinances.* Any structure or development that does not meet the requirements of the Floodplain Management Ordinance in Chapter 16, Code of Ordinances, shall be subject to requirements of Chapter 16, Code of Ordinances, to come into compliance.

(3) *Nonconforming boathouses and docks.* Boathouses and docks that do not meet the requirements of Section 7.02.05 of this Land Development Code are subject to the requirements for repairs and reconstruction, as provided in Section 7.02.05 of this Land Development Code, under Orange County's ordinances regulating, restricting, and otherwise addressing boat dock construction, as such ordinances may be amended from time-to-time.

~~(24)~~ *Nonconforming with the parking and loading requirements of this Land Development Code.* ~~In addition to the activities listed in subsection (a) of this section, f~~ Full compliance with the requirements of this Land Development Code shall be required where the seating capacity or other factor controlling the number of parking or loading spaces required by this Land Development Code is increased by ten percent or more.

(35) *Nonconforming signs.*

a. *Defined.* Any sign within the town on the effective date of this Land Development Code or a sign existing within any area annexed to the town after the effective date of this Land Development Code, and except for subdivision signs erected prior to 1990, which is prohibited by, or does not conform to the requirements of, this Land Development Code; except that signs that are within ten percent of the height and size limitations of this Land Development Code, and that in all other respects conform to the requirements of this Land Development Code, shall be deemed to be in conformity with this Land Development Code.

b. *Amortization.*

1. *Alternative A.*

(i) All nonconforming signs with a replacement cost of less than \$100.00, and all signs prohibited by division 8.02.00, prohibited signs, of this Land Development Code, shall be removed or made to conform within 60 days of the enactment of this Land Development Code.

(ii) All other nonconforming signs shall be removed or altered to be conforming within seven years of the effective date of this Land Development Code, unless an earlier removal is required by subsection (a) or (b)(3)b.2(ii)C of this section.

2. *Alternative B.*

- (i) All nonconforming signs with a replacement cost of less than \$100.00, and all signs prohibited by division 8.02.00, prohibited signs, of this Land Development Code, shall be removed or made to conform within 60 days of the enactment of this Land Development Code.
- (ii) Unless an earlier removal is required by subsection (a) or (b)(3)b.2(ii)C of this section, all other nonconforming signs may be maintained for the longer of the following periods:
  - A. Two years from the date upon which the sign became illegal under this Land Development Code;
  - B. A period of three to seven years from the installation date or most recent renovation date that preceded the enactment of this Land Development Code according to the amortization table in this subsection. If the date of the more recent renovation is chosen as the starting date of the amortization period, the period of amortization shall be calculated according to the cost of the renovation and not according to the original cost of the sign;

Sign Cost or Permitting Years Renovation from Installation Cost or Renovation Date	
\$101.00 to \$1,000.00	3 years
\$1,001.00 to \$3,000.00	4 years
\$3,001.00 to \$10,000.00	5 years
More than \$10,000.00	7 years

- C. Any owner of a sign who requests an amortization period longer than two years shall, within one year from the date of enactment of these regulations, file with the town manager a statement setting forth the cost of the sign, the date of erection, or the cost and date of most recent renovation and a written agreement to remove the sign at or before the expiration of the amortization period applicable to the sign; or
  - D. The development review board may grant a variance from the terms of the foregoing amortization schedule for up to one additional year where it finds such additional period of time is necessary in order to avoid unnecessary hardship not caused by the petitioner, and such variance is not contrary to the public interest. Multiple one-year extensions may be granted where warranted, but may only be granted one year at a time.
- (c) *Continuation of nonconforming signs.* Subject to the limitation imposed by the amortization schedule above, and subject to the restrictions in subsection (a) or (b)(3)b.2(ii)A and B of this section, a nonconforming sign may be continued and shall be maintained in good condition as required by this Land Development Code, but it shall not be:
- (1) Structurally changed to another nonconforming sign, but its pictorial content may be changed.
  - (2) Structurally altered to prolong the life of the sign, except to meet safety requirements.
  - (3) Altered in any manner that increases the degree of nonconformity.
  - (4) Expanded.
  - (5) Reestablished after damage or destruction if the estimated cost of reconstruction exceeds 50 percent of the appraised replacement cost as determined by the town manager.
  - (6) Continued in use when a conforming sign or sign structure shall be erected on the same parcel or unit.



- 
- (7) Continued in use when the structure housing the occupancy is demolished or requires renovations the cost of which exceeds 50 percent of the assessed value of the structure.
  - (8) Continued in use after the structure housing the occupancy has been vacant for six months or longer.

Should any of the conditions in this subsection (c) be violated, the sign shall be removed within 60 days.

- (d) *Nonconforming signs along federal highways.* If it is determined that nonconforming signs along a federal interstate or primary aid highway may not be removed pursuant to the above provisions, the town council shall develop a plan for their expeditious removal in accordance with state and federal law.