



## Building Services

W240N3065 Pewaukee Road  
Pewaukee, WI 53072  
(262) 691-9107 Fax (262) 691-6039

### **ZONING BOARD OF APPEALS MEETING NOTICE AND AGENDA**

**Tuesday, May 25, 2021**

**6:00 PM**

Common Council Chambers ~ Pewaukee City Hall  
W240N3065 Pewaukee Road ~ Pewaukee, Wisconsin 53072

- 
1. Call to Order and Pledge of Allegiance
  2. Discussion and possible action to approve the Zoning Board of Appeals minutes dated March 30, 2021
  3. **PUBLIC HEARING**, discussion and possible action regarding the request of Craig Caliendo, Kings Way Homes, for the property located at W249N2191 Fox Creek Court (PWC 0950033) for a variance from Section 17.0408f.(4) and 17.0436c.(5) to allow for a rear yard setback of 39.50-feet from the north property line, opposed to the required minimum 75-foot setback from a navigable stream.
  4. Adjournment

Kelly Tarczewski  
Clerk/Treasurer

April 23, 2021

#### **NOTICE**

It is possible that members of other governmental bodies of the municipality may be in attendance to gather information that may form a quorum. At the above stated meeting, no action will be taken by any governmental body other than the governmental body specifically referred to above in this notice.

Any person who has a qualifying disability under the Americans with Disabilities Act that requires the meeting or materials at the meeting to be in an accessible format must contact the Clerk/Treasurer, Kelly Tarczewski, at (262) 691-0770 three business days prior to the meeting so that arrangements may be made to accommodate your request.

**CITY OF PEWAUKEE  
ZONING BOARD OF APPEALS AGENDA ITEM 2.**

**DATE:** May 25, 2021

**DEPARTMENT:** Zoning Appeal

**PROVIDED BY:**

***SUBJECT:***

Discussion and possible action to approve the Zoning Board of Appeals minutes dated March 30, 2021

***BACKGROUND:***

***FINANCIAL IMPACT:***

***RECOMMENDED MOTION:***

**ATTACHMENTS:**

Description

ZBA Minutes 3/30/2021

**In attendance:**

R. Welcenbach, T. Matt, J. Tredwell and K. Marlin.

**Also Present:**

City Planner & Community Development Director N. Fuchs, Accounting & Payroll Specialist N. McMillian and Clerk/Treasurer K. Tarczewski.

1. Call to Order and Pledge of Allegiance

Ms. Marlin called the meeting to order at 6:06 p.m.

2. Discussion and Possible Action to Approve Zoning Board of Appeals Minutes dated December 1, 2020

**A motion was made and seconded (R. Welcenbach, J. Tredwell) to approve the meeting minutes dated December 1, 2020.** Motion Passed: 3-For, 0-Against, 1-Abstain (T. Matt).

3. Discussion and Possible Action to Approve Zoning Board of Appeals Minutes dated December 14, 2020

**A motion was made and seconded (R. Welcenbach, J. Tredwell) to approve the meeting minutes dated December 14, 2020.** Motion Passed: 3-For, 0-Against, 1-Abstain (T. Matt).

4. **PUBLIC HEARING**, Discussion and Possible Action Regarding the request of Craig Caliendo, Kings Way Homes, for the property located at W249N2191 Fox Creek Court (PWC 0950033) for a Variance from Section 17.0408f.(4) and 17.0436c.(5) to allow for a rear yard setback of 39.50-feet from the north property line, opposed to the required minimum 75-foot setback from a navigable stream.

Ms. Marlin stated the applicant could not attend the meeting.

Mr. Fuchs stated the lot was platted with a limited buildable area as shown on the plat of survey provided by the applicant. Mr. Fuchs stated there was a navigable stream behind the properties that requires a 75-foot setback. Mr. Fuchs stated that it was known it was a small building footprint and needed more of a custom home to be able to build on that lot. Mr. Fuchs stated staff is recommending denial of the variance and the applicant would need to take a closer look on designing a home to fit into the buildable area on the plat.

Ms. Marlin questioned if there was a buildable footprint to fit in this lot. Mr. Fuchs stated the lot is narrow, but that is how it was platted. Mr. Fuchs stated the City approved this plat with the expectation that this was the buildable area that would be utilized, not setbacks being encroached upon or variances granted.

Ms. Marlin questioned how many lots were left in the subdivision. Mr. Tredwell stated about 8 lots were left out of 60 or 70 lots. He stated the subdivision is a series of cul-de-sacs and this lot is one of the cul-de-sac lots that are left. Mr. Tredwell stated if he were the buyer, he would like the cul-de-sac location, but it is a narrow lot.

Ms. Marlin opened the public hearing.

Geza Garai (W249 N2196 Fox Creek Court) felt the applicant was trying to fit a standard higher-end home in the subdivision onto a narrow lot, which forces them towards the water. Mr. Garai felt the applicant

should look at a smaller design. He stated the documentation he received noted this would benefit him by improving the value of his home, but he does not agree. Mr. Garai stated there are other houses of that size, his included, but the lots are very different. He confirmed there are about half a dozen other lots open, many of which are bigger lots, just not in a cul-de-sac.

Ms. Marlin closed the public hearing.

Ms. Marlin reminded everyone of the test that the applicant needs to show us three things; an unnecessary hardship, the hardship conditions are unique to the property, and approving the variance would cause no harm to public interest or damage to the purpose or intent of the code. Ms. Marlin stated based on the materials provided, she is not sure if the tests are met and would like to hear from the applicant.

Ms. Tarczewski questioned Mr. Fuchs if Mr. Caliendo gave an estimate as to when he would be available. Mr. Fuchs stated no, the hearing would need to continue from this meeting and specify an exact date to reconvene or we can talk to the applicant and coordinate a new date and time, then re-notice the hearing.

Ms. Marlin stated the second option was the best route for everyone. Mr. Tredwell and Mr. Welcenbach agreed. Mr. Matt questioned if he could wait on comments for next meeting. Ms. Marlin stated that was fine and just wanted to give everyone a chance to speak since members of the public were there.

**A motion was made and seconded (R. Welcenbach, T. Matt) to adjourn to a new date to be determined for the property located at W249N2191 Fox Creek Court (PWC 0950033) for a variance from Section 17.0408f.(4) and 17.0436c.(5) to allow for a rear yard setback of 39.50-feet from the north property line, opposed to the required minimum 75-foot setback from a navigable stream.** Motion Passed: 4-For, 0-Against.

5. Discussion and possible action to determine when the Zoning Board of Appeals will start holding live meetings again versus virtual meetings

Through discussion, the Zoning Board of Appeals decided meeting in person would be fine for future meetings.

6. Adjournment

**A motion was made and seconded (R. Welcenbach, T. Matt) to adjourn the meeting at 6:20 p.m.** Motion Passed: 4-For, 0-Against.

Respectfully Submitted,

Nadine McMillian  
Accounting & Payroll Specialist



**CITY OF PEWAUKEE  
ZONING BOARD OF APPEALS AGENDA ITEM 3.**

**DATE:** May 25, 2021

**DEPARTMENT:** Zoning Appeal

**PROVIDED BY:**

***SUBJECT:***

**PUBLIC HEARING**, discussion and possible action regarding the request of Craig Caliendo, Kings Way Homes, for the property located at W249N2191 Fox Creek Court (PWC 0950033) for a variance from Section 17.0408f.(4) and 17.0436c.(5) to allow for a rear yard setback of 39.50-feet from the north property line, opposed to the required minimum 75-foot setback from a navigable stream.

***BACKGROUND:***

***FINANCIAL IMPACT:***

***RECOMMENDED MOTION:***

**ATTACHMENTS:**

Description

Still River Application

Still River Plans

Still River Staff Report



Office of the Planner & Community Development Director  
W240 N3065 Pewaukee Road  
Pewaukee, Wisconsin 53072  
Phone (262) 691-0770  
Fax (262) 691-1798  
[fuchs@pewaukee.wi.us](mailto:fuchs@pewaukee.wi.us)

### APPLICATION FOR VARIANCE REQUEST

TO THE HONORABLE MAYOR AND ZONING BOARD OF APPEALS OF THE CITY OF PEWAUKEE,  
WAUKESHA COUNTY, WISCONSIN

The undersigned hereby petitions the Zoning Board of Appeals of the City of Pewaukee, Waukesha County,  
Wisconsin requesting a variance from: Building Restrictions within the  
Primary Environmental Corridor

Legal description of property to be rezoned – Please attach.

Common property description or name: Lot 11, Still River Subdivision  
Property Address: W249 N2191 Fox Creek Ct. Tax Key Number(s): PWC 0950033  
Property owner(s) (Full Legal Name): Fox Creek LLC.  
Owner's Address: 700 Pilgrim Pkwy suite 100 City/State/Zip: Elm Grove, WI 53122  
Phone: 414-333-2059 Email: ccaliendo@kingswayhomes.com

Applicant (Full Legal Name):

Name: Craig Caliendo  
Company: Kings Way Homes LLC.  
Address: 700 Pilgrim Pkwy Suite 100  
City/State/Zip: Elm Grove, WI 53122  
Phone: 414-333-2059  
Email: ccaliendo@kingswayhomes.com

Contact Person (Full Legal Name):

Name: Craig Caliendo  
Company: Kings Way Homes LLC.  
Address: 700 Pilgrim Pkwy Suite 100  
City/State/Zip: Elm Grove, WI 53122  
Phone: 414-333-2059  
Email: ccaliendo@kingswayhomes.com

Variance submittals must include and be accompanied by the following:

- ☐ This Application form accurately completed with original signatures.
- ☐ Application Filing Fee, payable to the City of Pewaukee:
  - o \$400.00
  - o Note costs for publication, notice and all attorney fees related to the project shall be paid by the applicant and will be invoiced separately
- ☐ Five (5) complete collated sets of Application materials to include:
  - o A written project narrative detailing the request and site & building improvements.
  - o Scaled drawings, as may be applicable, including, but not limited to; a site plan, building elevations, colored renderings, and natural resource delineations.
- ☐ Variance Findings Form
- ☐ All application materials provided in a digital format (Adobe PDF). Materials may be submitted on a USB Flash Drive or emailed to [tarczewski@pewaukee.wi.us](mailto:tarczewski@pewaukee.wi.us).
- ☐ Note twelve (11) additional sets of plans will be required for the Zoning Board of Appeals following staff review of the initial submittal. These plans should be revised in response to staff comments as may be necessary.



Office of the Planner & Community Development Director  
W240 N3065 Pewaukee Road  
Pewaukee, Wisconsin 53072  
Phone (262) 691-0770  
Fax (262) 691-1798  
[fuchs@pewaukee.wi.us](mailto:fuchs@pewaukee.wi.us)

The applicant and property owner(s) hereby certify that:

- 1) all statements and other information submitted as part of this application are true and correct to the best of applicant's and property owner(s)' knowledge;
- 2) the applicant and property owner(s) has/have read and understand all information in this application; and
- 3) the applicant and property owner(s) agree that any approvals based on representations made by them in this Application and its submittal, and any subsequently issued building permits or other type of permits, may be revoked without notice if there is a breach of such representation(s) or any condition(s) of approval.

*(The applicant's signature must be from a Managing Member if the business is an LLC, or from the President or Vice President if the business is a corporation. A signed applicant's authorization letter may be provided in lieu of the applicant's signature below, and a signed property owner's authorization letter may be provided in lieu of the property owner's signature[s] below. If more than one, all of the owners of the property must sign this Application).*

PETITIONER'S/APPLICANT'S SIGNATURE: 

NAME & TITLE (PRINT): Craig Caliendo, President

SIGN AND DATED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

PROPERTY OWNER'S SIGNATURE: 

NAME & TITLE (PRINT): Craig Caliendo, Author Member

SIGN AND DATED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

PROPERTY OWNER'S SIGNATURE: \_\_\_\_\_

NAME & TITLE (PRINT): \_\_\_\_\_

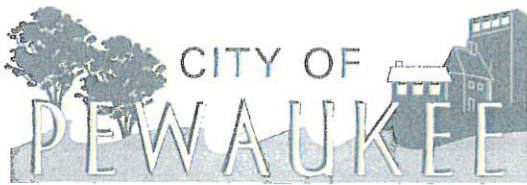
SIGN AND DATED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

City Staff-

RECEIVED at City Hall by: \_\_\_\_\_ on \_\_\_\_\_

Fee paid: \$ \_\_\_\_\_ Date: \_\_\_\_\_





Office of the Planner & Community Development Director  
W240 N3065 Pewaukee Road  
Pewaukee, Wisconsin 53072  
Phone (262) 691-0770  
Fax (262) 691-1798  
[fuchs@pewaukee.wi.us](mailto:fuchs@pewaukee.wi.us)

### VARIANCE FINDINGS FORM

It is recommended that this form be completed and submitted as part of all variance requests.

Date: 2/10/21 Property Owner: Fox Creek LLC.  
Property Address: W249 N2191 Fox Creek Ct.

Section 17.1007 states, "No variance to the provisions of this Ordinance shall be granted by the Board unless it finds beyond a reasonable doubt that all the following facts and conditions exist and so indicates such in the minutes of its proceedings:

- a. Preservation of Intent: No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted principle use, permitted accessory use, or permitted conditional use in that particular district.

See attached

- b. Exceptional Circumstances: There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district, and the granting of the variance should not be of so general or recurrent nature as to suggest that the Ordinance should be changed.

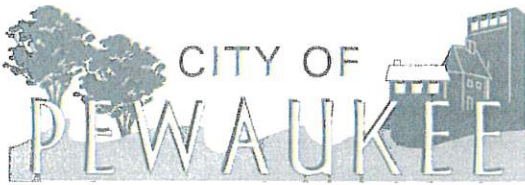
See attached

- c. Economic or Financial Hardship and Self-Imposed Hardship Not Grounds for Variance: No variance shall be granted on the basis of economic/ financial gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.

See attached

- d. Preservation of Property Rights: The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.

See attached



Office of the Planner & Community Development Director  
W240 N3065 Pewaukee Road  
Pewaukee, Wisconsin 53072  
Phone (262) 691-0770  
Fax (262) 691-1798  
[fuchs@pewaukee.wi.us](mailto:fuchs@pewaukee.wi.us)

- 
- 
- e. Absence of Detriment: No variance shall be granted that will create substantial detriment to adjacent property or that will materially impair or be contrary to the purpose and spirit of this Ordinance or the public interest.

---

*See attached*

---

---

- f. Additional Requirements in Floodplain District: No variance in or related to a floodplain\* shall be granted where:
- (1) A change in the boundaries or elevation of the base flood floodplain (F-1 District) would result.
  - (2) A lower degree of flood protection than a point two (2) feet above the 100-year recurrence interval base flood for the particular area would result.
  - (3) Any action contrary to the provisions of Chapter NR-116 of the Wisconsin Administrative Code would result. (See sub-section 17.0435 and WisDNR requirements)
  - (4) The lot or parcel is larger than one-half acre and is not contiguous to existing structures constructed below the regional (base) flood elevation.
  - (5) No good or sufficient cause can be shown; greater than a minimum relief is necessary; there is increased risk to public safety or nuisances; rescue and relief costs would be increased; and, it is contrary to the purposes of this ordinance.
  - (6) Such variance would allow alteration of an historical structure and/or use.

---

*See attached*

---

---

- g. When a floodplain variance is granted, the Board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 per coverage. A copy shall be maintained with the variance record.

---

*See attached*

---

---

## Project Narrative

Lot 11 (the "Lot") in the Still River Subdivision (the "Subdivision") currently has an environmental corridor that runs almost through the center of Lot, severely limiting the building pad. The development of this Subdivision over time has leant itself to larger, high-end homes. Kings Way Homes LLC ("Kings Way") would like to construct a home on this site that is a popular design and consistent with homes previously built in that Subdivision. The ranch home that is planned to be built is approximately 2,700 square feet on the first floor. To fit this size ranch, Kings Way needs a variance to the Primary Environmental Corridor setback.

a. The use of the Lot will be consistent with intended use. The Lot was originally planned to have a single-family home built on it; we intend to build a single-family home that abides by all the Subdivision restrictions and all other City Ordinance.

b. The onerously small building envelope on Lot 11 is a result of the exceptional and unusual circumstance of the Primary Environmental Corridor setback cutting the otherwise normal size building pad in half. The Lot is 23,600 square feet in size, but the building pad is less than half of the size of the building pads on adjacent lots in the Subdivision. Without the granting of a variance, it is impossible to build a single-family home on Lot that is anything close to the other homes constructed in the Subdivision. The fact that the Lot is a cul-du-sac lot exacerbates this problem.

c. The unreasonably small building pad on Lot 11 is not a self-imposed hardship. The variance relief requested is based upon feasibility, not financial hardship.

d. The environmental corridor severely hinders the preservation and enjoyment of substantial property rights that are possessed by the other properties in the same Subdivision. The only way to build a home consistent with the other single-family homes in the Subdivision is reliant on a variance to the environmental corridor setback.

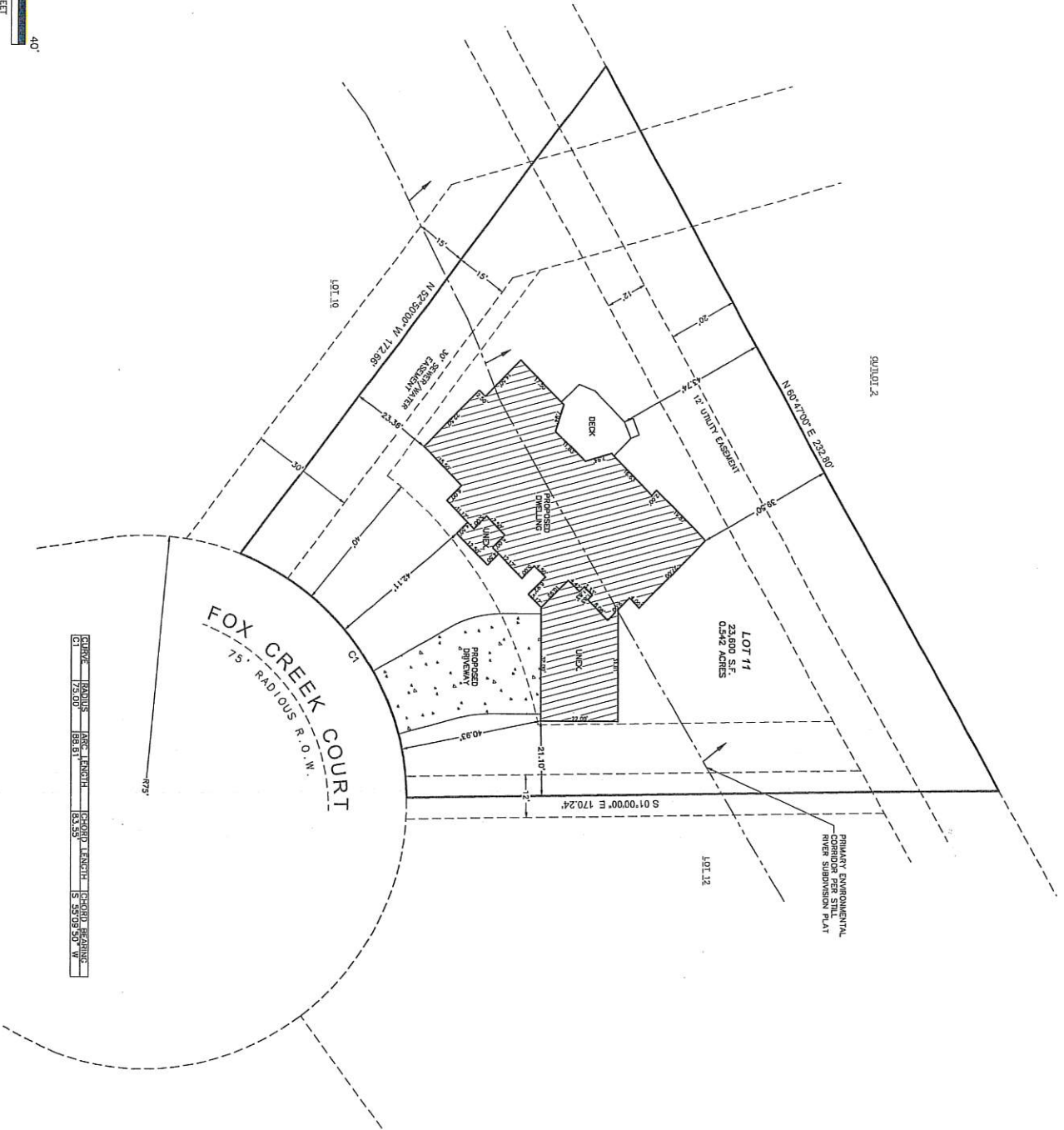
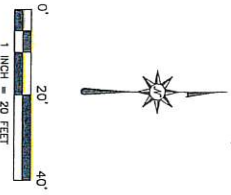
e. The granting of the requested variance will not create a detriment to any of the adjacent properties, or any other lot in the entire Subdivision. On the contrary, the variance would improve the overall design and quality of home to be constructed on the Lot, which would help preserve the value of the neighboring lots and overall perception of the Subdivision.

f. Not Applicable

g Not Applicable

# PLAT OF SURVEY

LOT 11 OF STILL RIVER SUBDIVISION, BEING A PART OF THE NE 1/4 OF THE NE 1/4 OF SECTION 21, AND PART OF THE NE, SE & NW 1/4S OF THE NW 1/4 OF SECTION 22, T1N, R1E, CITY OF PEWAUKEE, WALKER COUNTY, WISCONSIN.



SETBACK REQUIREMENTS:  
FRONT YARD = 40'  
SIDE YARD = 20'  
REAR YARD = 35'

SHEET 1 OF 1	JOB NO. 21014	DATE 07/18/2021	CLIENT KINGS WAY HOMES	LOCATION LOT 11 STILL RIVER PEWAUKEE WISCONSIN	REV.	
		PROJECT STILL RIVER BUILDERS	REV.			
		LAYOUT PRELIM. LAYOUT	REV.			
		DRAWING 21014 SURVEY.DWG	DRAWN BY LJS		CHECKED BY MT	REV.
		Page 7 of 30				

**LandTech**  
SURVEYING & LAND PLANNING  
111 W. 2ND STREET  
OCCONOMOWOC, WI 53066  
WWW.LANDTECHWI.COM  
(262) 367-7599

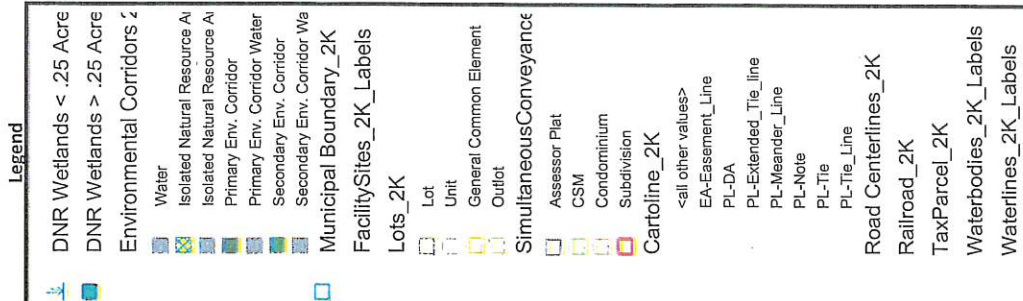












The information and depictions herein are for informational purposes and Waukesha County specifically disclaims accuracy in this reproduction and specifically admonishes and advises that if specific and precise accuracy is required, the same should be determined by procurement of certified maps, surveys, plats, Flood Insurance Studies, or other official means. Waukesha County will not be responsible for any damages which result from third party use of the information and depictions herein, or for use which ignores this warning.

**Notes:**

Printed: 1/19/2021



CUSTOMER INFORMATION

Customer Name: JORDAN & ASHLEY NAPOLI  
Job Number: NAP5613

JOB SITE INFORMATION

Lot Number: 25  
Subdivision: KOHLER RIDGE  
Municipality: CITY OF NEW BERLIN  
County: WAUKESHA

CUSTOMER SIGNATURE & DATE

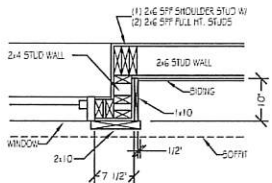
*As* 9-24-2020

CONSTRUCTION SUPERINTENDENT & DATE

*Cy*

SHEET INDEX

1. FRONT ELEVATION
2. FIRST FLOOR PLAN
3. BASEMENT PLAN
4. SIDE ELEVATIONS
5. REAR ELEVATION & GARAGE TRUE VIEW ELEVATIONS
6. SECTION & DETAILS
7. FIRST FLOOR ELECTRICAL PLAN
8. SHEAR WALL BRACING PLAN

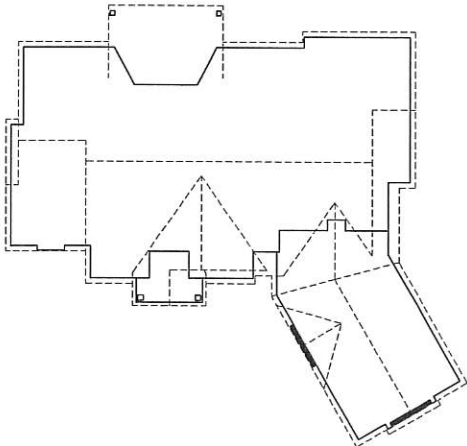


BOX WINDOW DTL.  
SCALE: 3/4"=1'-0"



FRONT ELEVATION

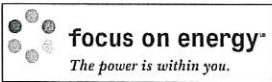
SCALE: 1/4"=1'-0"



ROOF PLAN

SCALE: 1/8"=1'-0"

THIS HOME IS BUILT TO THE STANDARDS  
OF THE FOCUS ON ENERGY PROGRAM



MARVIN ESSENTIALS ULTREX  
WINDOWS & PATIO DOORS

DWELLING SQUARE FOOTAGES

LIVING AREAS:	
FIRST FLOOR LIVING AREA:	2737 S.F.
SECOND FLOOR LIVING AREA:	5 S.F.
FINISHED LOWER LEVEL LIVING AREA:	5 S.F.
TOTAL LIVING AREA:	2737 S.F.
TOTAL LIVING AREAS:	
FRONT PORCH AREA:	94 S.F.
GARAGE AREA:	826 S.F.
UNFINISHED BASEMENT AREA:	2656 S.F.
LOCK AREA:	253 S.F.

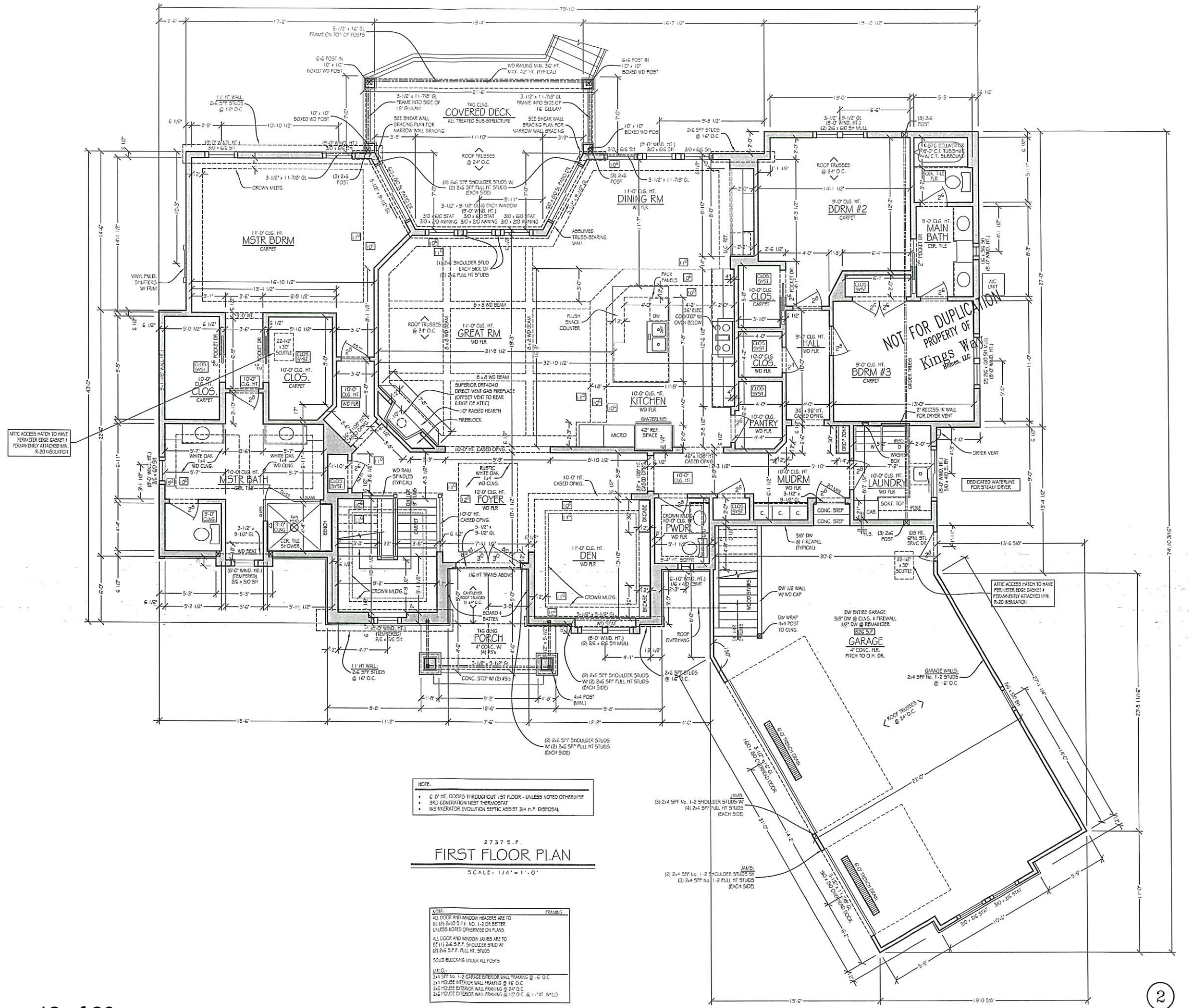
PURCHASE ORDER  
Required

**KINGS WAY**  
HOMES, L.L.C.  
700 PILGRIM PARKWAY  
SUITE 100  
ELM GROVE, WI.  
Phone (262) 797-3600

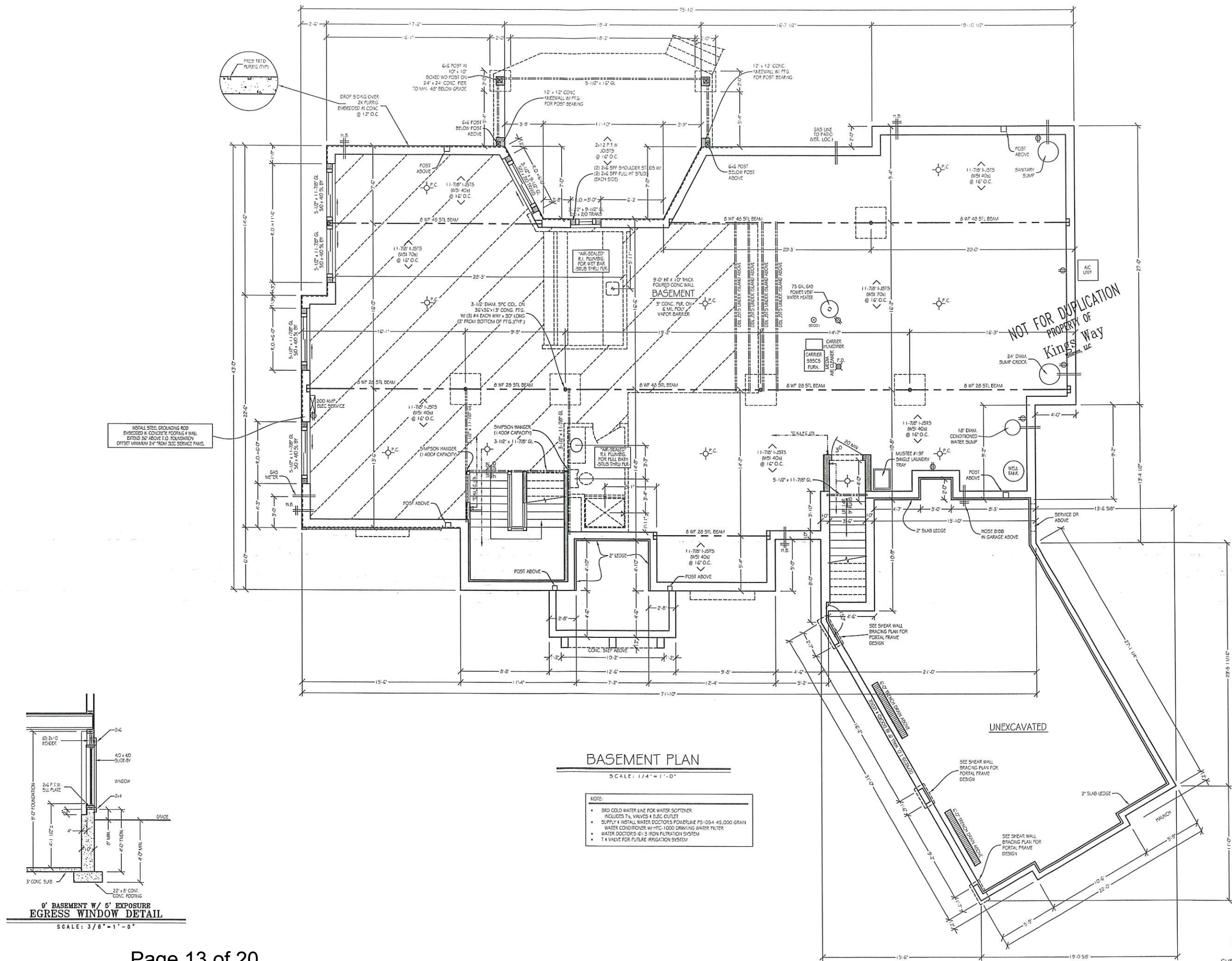
MERITAGE	
RESIDENCE FOR:	
JORDAN & ASHLEY NAPOLI	
DATE REVISED	SHEET NO. #
07/16/20 05/21/20 07/17/20 09/01/20 08/03/20 09/11/20 08/04/20 09/15/20	1

CLIENT NAP5613











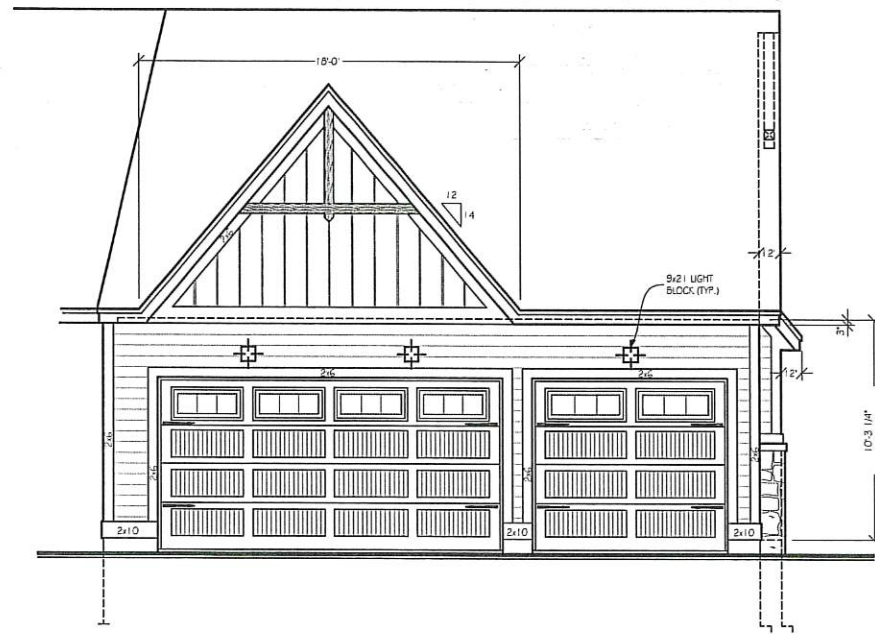






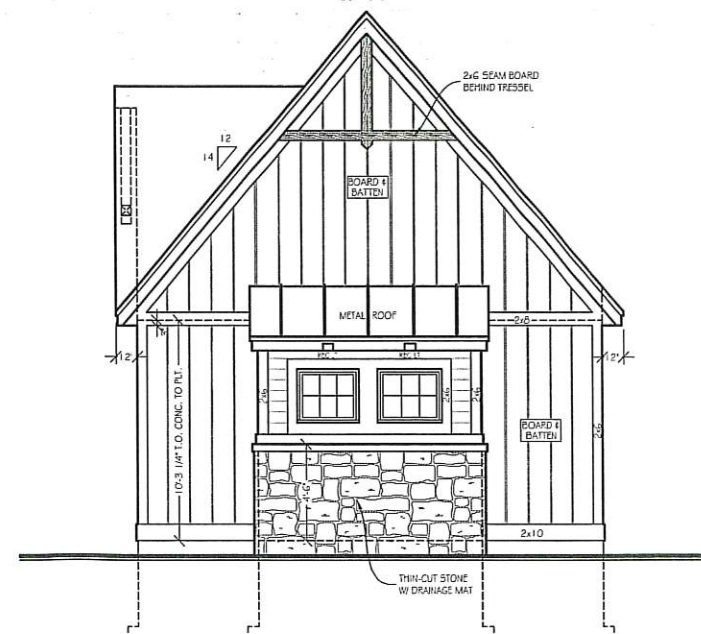
REAR ELEVATION

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



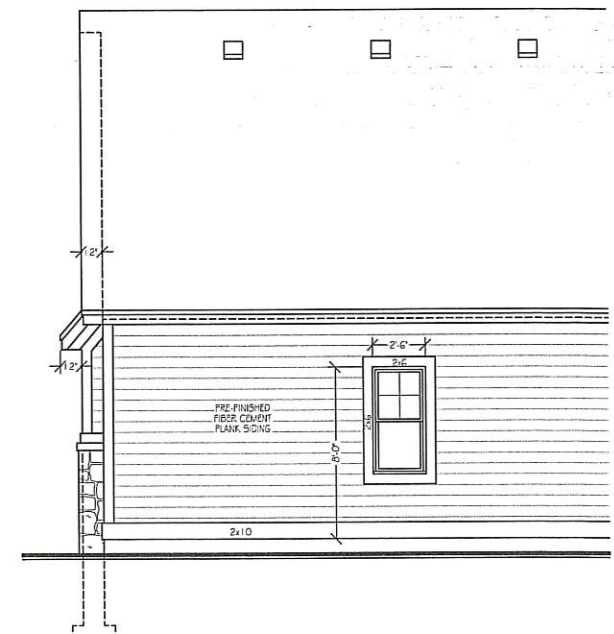
LEFT SIDE ELEVATION

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



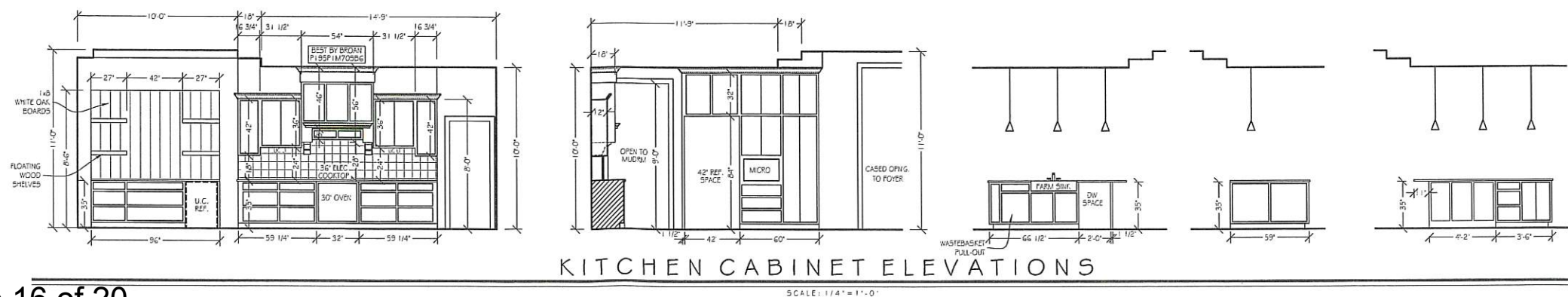
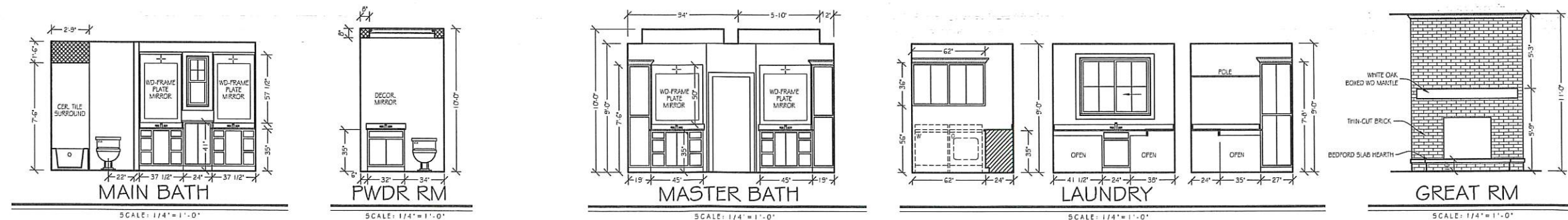
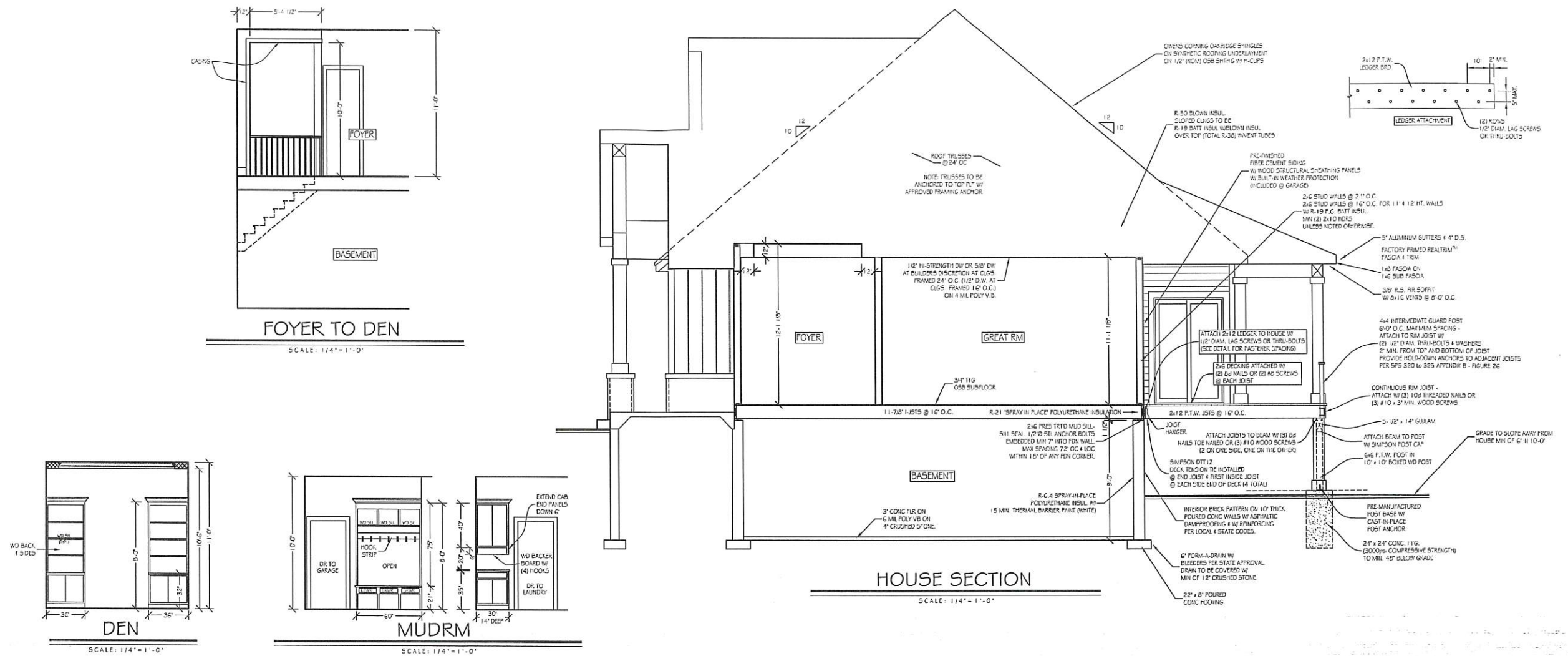
FRONT ELEVATION

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



RIGHT SIDE ELEVATION

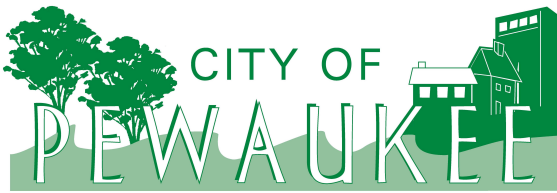
SCALE: 1/4" = 1'-0"











**Office of the Planner & Community Development Director**  
W240 N3065 Pewaukee Road  
Pewaukee, Wisconsin 53072  
Phone (262) 691-0770 Fax (262) 691-1798  
[fuchs@pewaukee.wi.us](mailto:fuchs@pewaukee.wi.us)

## REPORT TO THE ZONING BOARD OF APPEALS

Meeting of March 30, 2021

---

**Date:** February 22, 2021

**Project Name:** Lot 11 Still River Variance Request

**Project Address/Tax Key No.:** W249N2191 Fox Creek Court/PWC 0950033

**Applicant:** Craig Caliendo, Kings Way Homes, LLC

**Property Owner:** Fox Creek, LLC

**Current Zoning:** Rs-4 Single-Family Residential District and LC Lowland Conservancy District

**Proposed Zoning:** Same

**2050 Land Use Map Designation:** Low Density Residential

**Use of Surrounding Properties:** SEWRPC Environmental Corridor to the north and single-family residential to the south, east and west

---

### **Project Description/Analysis:**

The applicant filed a Variance Application requesting a variance from Section 17.0408f.(4) and 17.0436c.(5) to allow for the construction of a new home upon property located at W249N2191 Fox Creek Court with a rear yard setback of 39.50-feet from the north property line, opposed to the required minimum 75-foot setback from a navigable stream.

The subject property is zoned Rs-4 Single-Family Residential District and LC Lowland Conservancy District. The majority of the property is zoned Rs-4 District; however, a small strip of land along the rear property line is zoned LC District.

The applicant is proposing an approximately 2,700 square foot ranch style home. The home also includes a 94 square foot front porch, an 826 square foot attached garage, and a 293 square foot deck. The footprint of the structure significantly extends into the required setback as shown on the attached survey.

The applicant has indicated that due to the 75-foot setback, there is a limited buildable area to construct a home that is consistent with the other homes within the subdivision. In the attached project narrative, the applicant provides responses to the Findings outlined in Section 17.1007 of the City's Zoning Code. Section 17.1007 states that the Zoning Board of Appeals shall not grant a variance "unless it finds beyond a reasonable doubt that all the following facts and conditions exist and so indicates in the minutes of its proceedings."

### **Recommendation:**

Staff finds that the Still River Subdivision was approved and planned for a home to be constructed within the buildable area as shown on the subdivision plat. It was known at that time that a smaller, custom home would be required to fit within that building envelope.

Furthermore, staff does not find that an attempt has been made or alternative designs considered that may comply with the required setbacks. This is evident by the proposal of a ranch style home with 2,737 square feet of living area, a front porch, 3-car garage, and large deck.

Staff contends that a smaller home with a two-car garage could be designed to better fit this lot and buildable area. Moreover, a 2-story home should be considered to reduce the size of the building footprint.

Staff recommends denial of the variance request based on the comments above.