



MORGANTOWN BOARD OF ZONING APPEALS

November 29, 2012
6:30 PM
City Council Chambers

Board Members:

Bernie Bossio, Chair
Leanne Cardoso, Vice-Chair
George Papandreas
Jim Shaffer
Tom Shamberger

STAFF REPORT

CASE NO: V12-35 / Shelton and Squier / 300 Lebanon Avenue

REQUEST and LOCATION:

Request by Tom Tretheway of Smola Construction, on behalf of Deb Shelton and Donald Squier, for a variance relief from Article 1331.08 as it relates to accessory structures in residential districts at 300 Lebanon Avenue.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 37, Parcels 290 and 291; R-1, Single-Family Residential District

SURROUNDING ZONING:

R-1, Single-Family Residential District

BACKGROUND and ANALYSIS:

The petitioner seeks to construct a detached garage on the sloping portion of the property to the right side of the existing single-family house. Addendum A of this report illustrates the location of the subject site.

Article 1331.08(A)(9) provides that accessory structures in residential zoning districts may not exceed eighteen (18) feet in height. Article 133108(A)(10) provides that no accessory structure in a residential zoning district may be constructed with a cellar or below-grade story.

Because of the sloping nature of the property, the average height of the accessory structure is approximately 21.9 feet. Additionally, the petitioner seeks to utilize the foundation area created as a result of the site's topography to develop a cellar or garden tool storage area below the garage. Variance relief is therefore required to construct the accessory structure as proposed.

It should be noted that, at the request of the petitioner, the Planning Division permitted the construction of only the footers, foundation walls, and backfilling prior to obtaining the subject variance approval. The purpose of the petitioner's request to move forward accordingly was to take advantage of the favorable weather, which Staff believed to be a reasonable accommodation.

Mr. Tretheway was advised in the related building permit that he and his client assumed sole financial risk of work completed under the related building permit prior to the subject variance approval. Additionally, Mr. Tretheway was advised that should the Board deny in whole or in part the requisite variance petition, he and his client would be responsible for immediately correcting any related Planning and Zoning Code violations and that a stop work order and possible citations would be issued if work commenced beyond that associated with the accessory structure's footers, foundation walls, and backfilling.

Development Services

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431



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STAFF RECOMMENDATION:

The Board of Zoning Appeals must determine whether the proposed request meets the standard criteria for a variance by reaching a positive determination for *each* of the "Findings of Fact" submitted by the petitioner. Addendum B of this report provides Staff recommended revisions to the petitioner's findings of fact (deleted matter struck through; new matter underlined).

Staff recommends approval of Case No. V12-35 requested with the following conditions:

1. That no part of the subject accessory structure may be designed or used for sleeping purposes and no cooking fixtures may be placed or permitted therein.
2. That the exposed foundation walls must be finished in decorative masonry or cultured masonry materials as illustrated on the elevation drawings submitted with the petitioner's building permit application.
3. That the subject property owner combine Parcels 290 and 291 of Tax Map 37 by either:
 - a. Combining same by recorded plat with minor subdivision approval from the Planning Commission; or,
 - b. Combining same by recorded deed as provided in Article 1363.02(B)(3).

Enclosures: Application and accompanying exhibits

Development Services

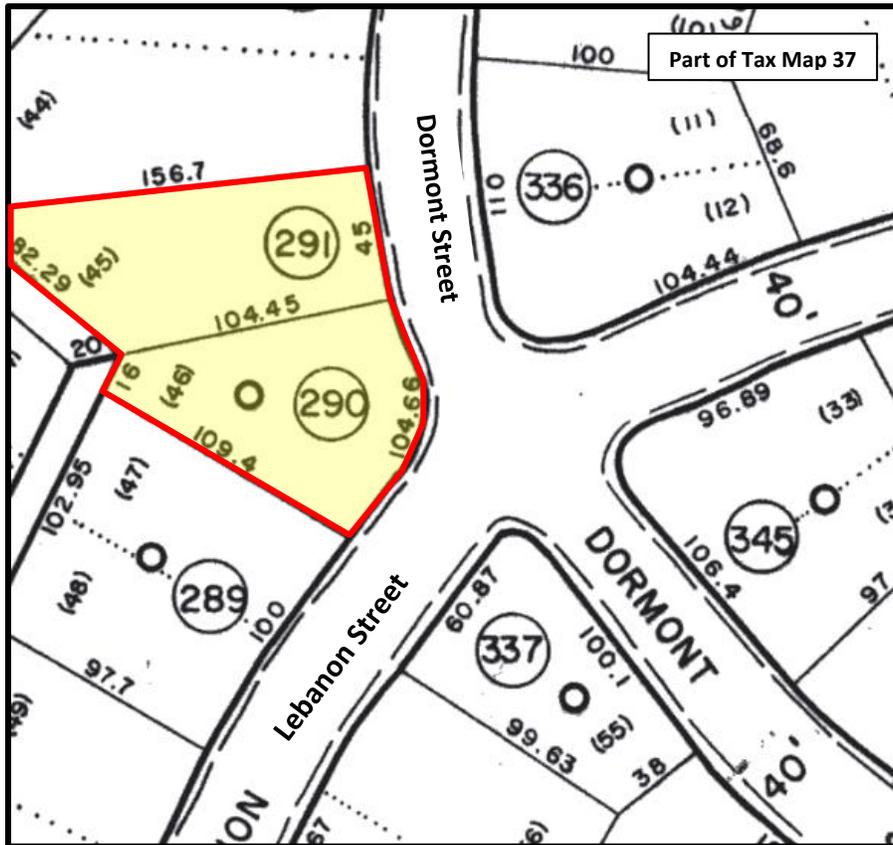
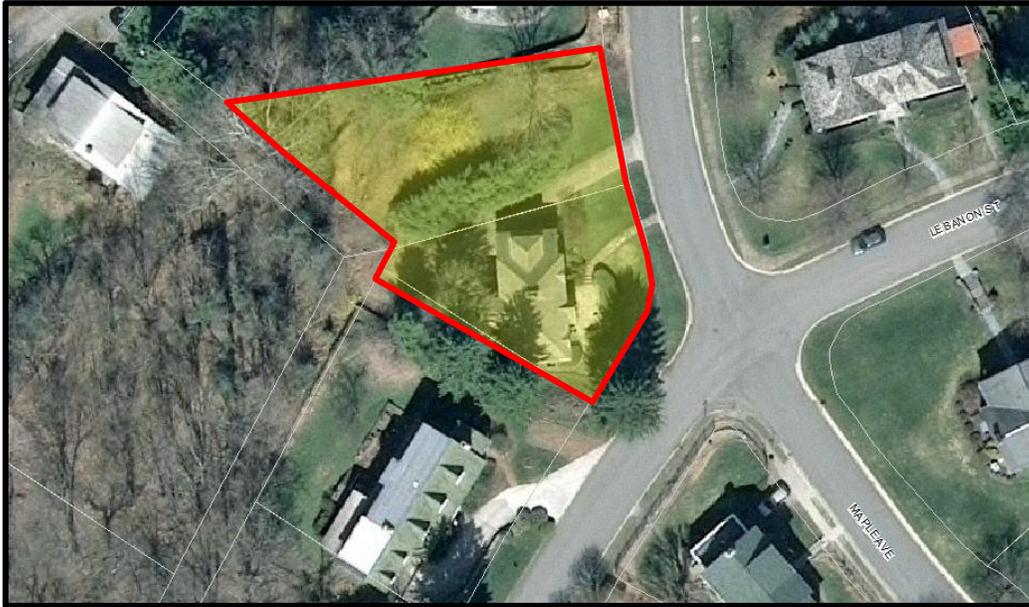
Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

STAFF REPORT ADDENDUM A

V12- 35 / Shelton and Squier / 300 Lebanon Avenue





STAFF REPORT ADDENDUM B

V12-35 / Shelton and Squire / 300 Lebanon Avenue

Staff recommended revisions to petitioner's Findings of Fact (deleted matter struck through; new matter underlined)

Finding of Fact #1 – There are exceptional or extraordinary circumstances or conditions applicable to this property or to the intended use, that generally do not apply to other properties or uses in the same vicinity, because:

The topography slope from front to rear appears to make compliance with the maximum building height requirement for accessory structures unachievable. The proposed foundation wall design selection over a pier design appears to best reflect the development patterns within the immediate area, which creates an opportunity to incorporate additional storage space without detracting from the property or surrounding area.

Finding of Fact #2 – The variance is necessary for the preservation and enjoyment of a substantial property right that is possessed by other properties in the same vicinity and zoning district, but which denied to this property, because:

It appears that the majority of garages within the neighborhood are attached and located below the house in the basement or lowest levels. The geometry and topography of the subject petitioner's property appear to limit design alternatives to the proposed detached garage design.

Finding of Fact #3 – The granting of this variance not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because:

This The proposed design solutions appears to provides for adequate slope of the patio's of to a 2:1 slope, which & avoids the construction of retaining walls & and steep grades. It also avoids "dead space" under the structure by incorporating what appear to be high quality building materials that match the existing house.

Finding of Fact #4 – The granting of this variance will not alter the land-use characteristics of the vicinity and zoning district, or diminish the market value of adjacent properties, or increase traffic congestion on public streets, because:

It's a 2-car garage used just for the owners of the residence. The nature of the variance cannot contribute to nor mitigate existing traffic congestion patterns; the proposed design solution appears to best reflect the development patterns within the neighborhood; and, the foundation wall design should foster a more positive influence to market values over a pier design, which should not be diminished by additional cellar storage space.



City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	V12-35
RECEIVED:	10/18/12
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

I. APPLICANT		Name:	SMOLA CONSTRUCTION		
Mailing Address:	Street	411 CANYON RD	Phone:	304 574 3444	
	City	MORGANTOWN	State	WV	Zip
			Mobile:	304 276 3136	
			Email:	thetheway@gmail.com	
II. PROPERTY		Street Address:	300 LEBANON AVE		
Owner:	DEB SHELTON & DONALD SQUIER		Zoning:	R-1	
Mailing Address:	Street	300 LEBANON	Tax Map No:	37	
	City	MORGANTOWN	State	WV	Zip
			Parcel No:	290/291	
			Phone:	304 276 3136	

III. NARRATIVE	Please describe the nature and extent of your variance request(s).
HEIGHT VARIANCE FOR A DETACHED STRUCTURE WE HAVE AN EXISTING SLOPING LOT TOWARD THE REAR OF THE PROPERTY. IN ORDER TO MAKE UP GROUND WE PROPOSE TO INCORPORATE A LOWER STORAGE AREA BELOW THE GARAGE LEVEL - MATERIALS USED WILL MATCH THE EXISTING HOUSE I.E. - NATURAL FIELD STONE, WOOD SHAKE, SLATE ROOF.	

V. ATTEST	
I hereby certify that I am the owner of record of the named property, or that this application is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. The granting of a variance does not presume to give authority to violate or cancel the provisions of any other federal, state, or local law regulating construction or the performance of construction. I certify that the information submitted herein and attached hereto is true and accurate and understand that if found otherwise may result in the denial of this request or subsequent revocation of any and all related approvals. The undersigned has the power to authorize and does hereby authorize City of Morgantown representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions. I hereby authorize the Planning Department to erect a notification sign on the subject property approximately 15 days prior to the BZA hearing. I further agree to maintain said signage and hereby accept responsibility in case of destruction or removal.	
Tom Tretheway	
Type/Print Name of Applicant/Agent	Signature of Applicant/Agent
	Date: 10-16-12

You or a representative **MUST** be present at the scheduled hearing to present the request and answer questions. Failure to appear at the hearing will result in your request being tabled.



City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	V12-35
RECEIVED:	10/18/12
COMPLETE:	

VI. SUPPLEMENTAL INFORMATION

Depending on the type of variance request and the scale and scope of the development proposal, supplemental information may be needed to assist the Board of Zoning Appeals in rendering a variance decision. Staff will check the appropriate boxes below that must be addressed.

[X] Land Use Characteristics (complete only those that apply)

- Residential Single-Family Dwelling Townhouse Dwelling
- Two-Family Dwelling Multi-Family Dwelling
- Non-Residential or Mixed (please explain)

[] Structure Characteristics (complete only those that apply)

Total number of buildings: 1 Gross floor area of each building: 676 sq ft

Estimated number of employees: _____ No. of dwelling units: _____ No. of bedrooms: _____

Additional structure-related details: _____

[] Additional Information (as required by Staff):

[X] Site Plan A scaled site plan may be required to assist the Board in rendering a variance decision. The following features must be represented, as required by Staff.

- Location, shape, exterior dimensions, and number of stories of each building on the site.
- Standard yard setbacks for the applicable zoning district
- Location, grade, and dimensions of paved surfaces, and all abutting streets
- Existing and proposed contours, at an interval of at least two (2) feet
- Complete traffic circulation plan showing dimensions, entrance/exit drives, planters, and similar improvements
- Location of landscaped areas (to be detailed on landscape plan), fences, walls, and other screen required

For simple variance requests (as determined by Staff), please use the graph area on the following page to illustrate applicable features listed above.



City of Morgantown, West Virginia

**APPLICATION FOR
ZONING VARIANCE**

OFFICE USE

CASE NO. V12-35
RECEIVED: 10/18/12
COMPLETE: _____

Suggested Scale: 1 square = 5'

SEE SITE PLAN BUILDING PLANS & ELEVATIONS



APPLICATION FOR
ZONING VARIANCE

OFFICE USE

CASE NO. V12-35
RECEIVED: 10/18/17
COMPLETE: _____

VII. FINDINGS OF FACT

The Board of Zoning Appeals may grant a variance request only if each of the following "Findings of Fact" criteria is determined to be in the positive. Applicants must give their own responses to the following criteria statements.

1. There are exceptional or extraordinary circumstances or conditions applicable to this property or to the intended use, that generally do not apply to other properties or uses in the same vicinity, because: THE TOPOGRAPHY SLOPE FROM FRONT TO REAR

2. The variance is necessary for the preservation and enjoyment of a substantial property right that is possessed by other properties in the same vicinity and zoning district, but which denied to this property, because:

3. The granting of this variance will not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because: THIS SOLUTIONS PROVIDES FOR ADEQUATE SLOPE RATIOS OF 2:1 & AVOIDS RETAINING WALLS & STEEP GRASSES. IT ALSO AVOIDS "DEAD SPACE" UNDER THE STRUCTURE BY INCORPORATING HIGH QUALITY BUILDING MATERIALS THAT MATCH THE EXISTING HOUSE.

4. The granting of this variance will not alter the land-use characteristics of the vicinity and zoning district, or diminish the market value of adjacent properties, or increase traffic congestion on public streets, because:

IT'S A 2 CAR GARAGE USED JUST FOR THE OWNERS OF THE RESIDENCE



Smola Construction Company, Inc.
 491 Canyon Road
 Morgantown, West Virginia
 26508
 ph. 304.594.3444
 fx. 304.594.3883

COMPANY NAME:

PROJECT NAME:
DEBORAH SHELTON AND DONALD SQUIER RESIDENCE

Key Plan:



Rev.	Date	Description
	10-05-2012	Issued for Permit
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JOB NO:

12-0900

DRAWN BY:

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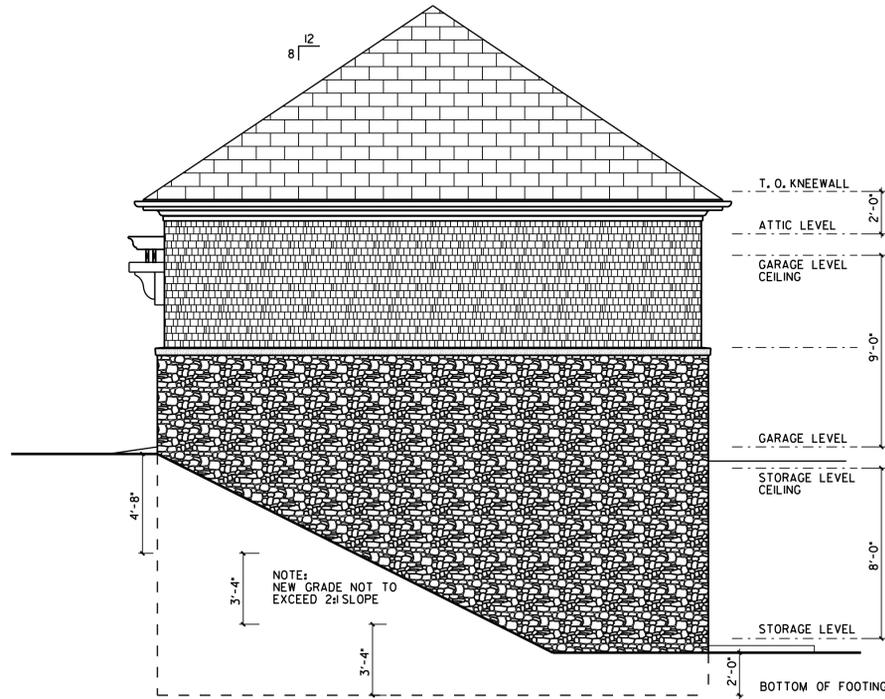
Sheet Title:

ELEVATIONS

Issue Date:

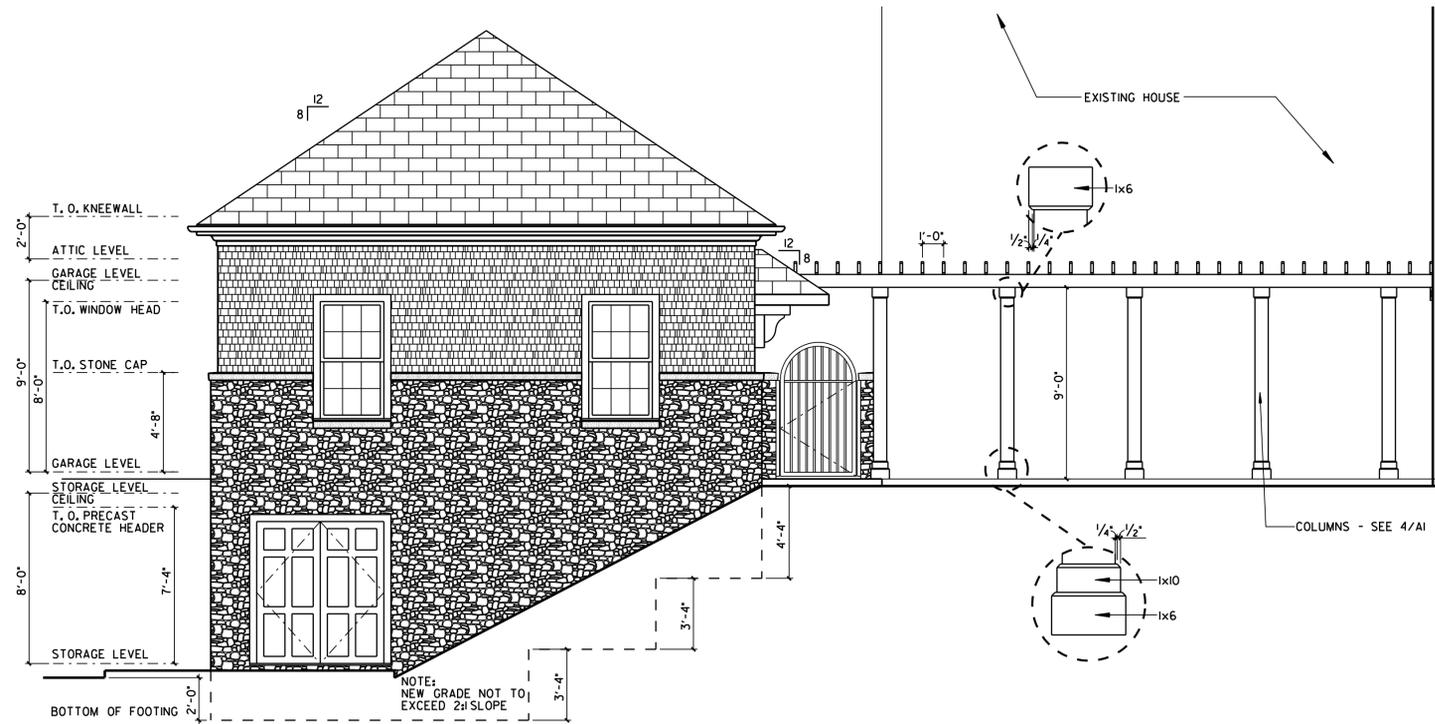
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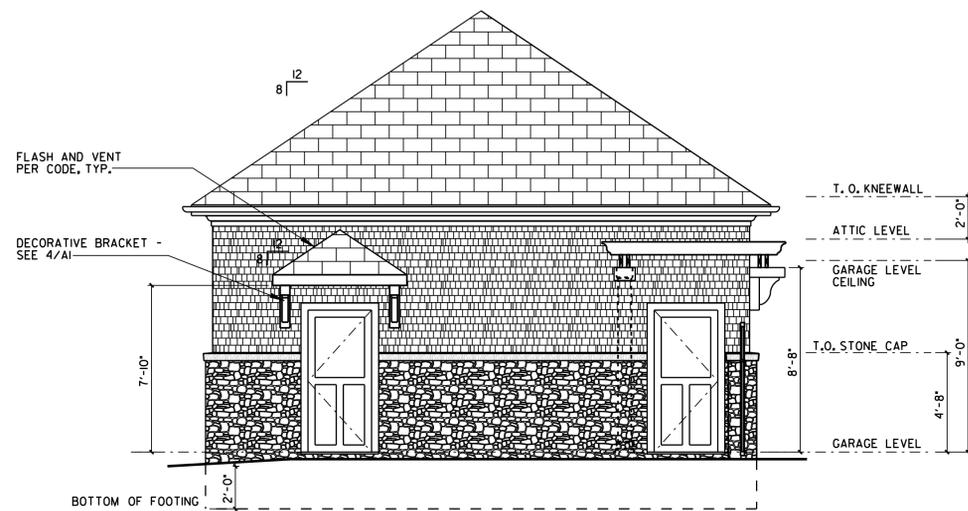
4 RIGHT SIDE ELEVATION

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



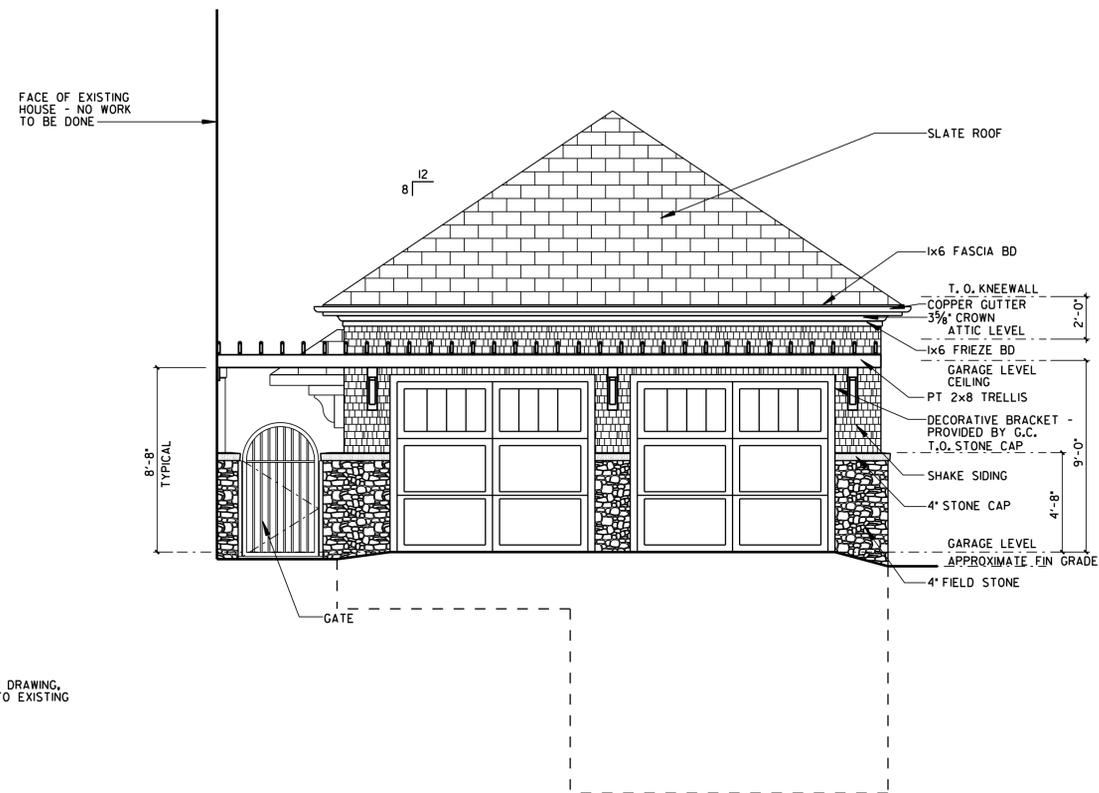
3 REAR ELEVATION

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



2 LEFT SIDE ELEVATION

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



1 FRONT ELEVATION

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

NOTE: COPPER DOWNSPOUTS NOT SHOWN ON DRAWING, G.C. TO LOCATE IN FIELD AND TIE INTO EXISTING STORM WATER DISCHARGE, TYPICAL.