



MORGANTOWN BOARD OF ZONING APPEALS

March 16, 2016
6:30 PM
City Council Chambers

Board Members:

Bill Burton, Vice-Chair
Linda Herbst
George Papandreas
Jim Shaffer

STAFF REPORT

CASE NO: V16-10 / Rising Sun Construction, LLC / 233 South Walnut Street

REQUEST and LOCATION:

Request by Chris Bailey of Rising Sun Construction, LLC, on behalf of Kirk and Kathleen Hazen, for variance relief from Article 1335.04 as it relates to a setback encroachment at 233 South Walnut Street.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 29, Parcel 430; R-1A, Single-Family Residential District

SURROUNDING ZONING:

R-1A, Single-Family Residential District

BACKGROUND and ANALYSIS:

The petitioner seeks to construct an open and covered porch on the side of a single-family dwelling at 233 South Walnut Street that will encroach into the minimum side setback standard. Addendum A of this report illustrates the location of the subject site.

Article 1335.04 provides that the minimum side setback be five (5) feet. The single-family dwelling with the proposed side porch addition will have a one foot, 3 and one fourth inches (1', 3.25") side yard setback. As such, a three foot, eight and three fourth inches (3', 8.75") side setback variance is required for the development as proposed.

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. If the Board disagrees with the petitioner's "Findings of Fact" and determines the proposed request does not meet the standard criteria for a variance, then the Board must state findings of fact and conclusions of law on which it bases its decision to deny the subject variance petition. [See WV State Code 8A-8-11(e) and 8A-7-11(b)].

Addendum B of this report restates the petitioner's responses to the Findings of Fact portion of the variance application. No revisions are recommended by Staff.

Staff recommends that a variance of a three foot, eight and three fourth inches (3', 8.75") be granted from the minimum side setback standard for Case No. V16-10 as requested without conditions.

Enclosures: Application and accompanying exhibits

Development Services

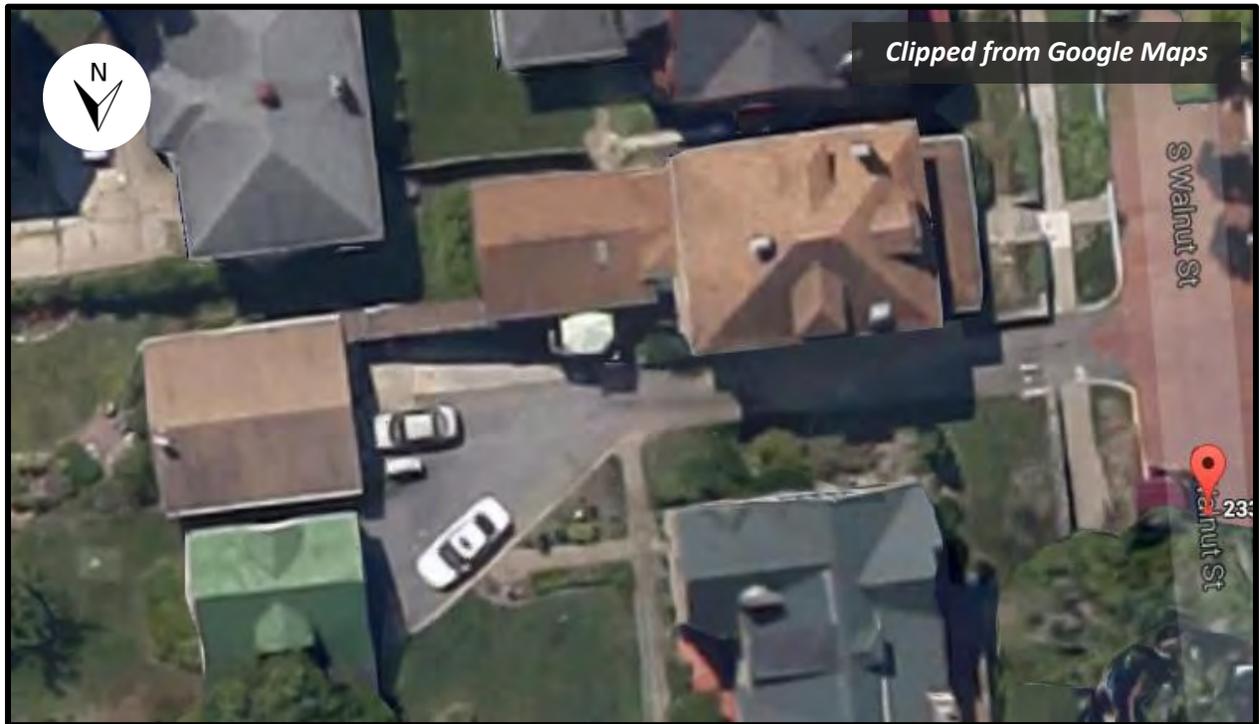
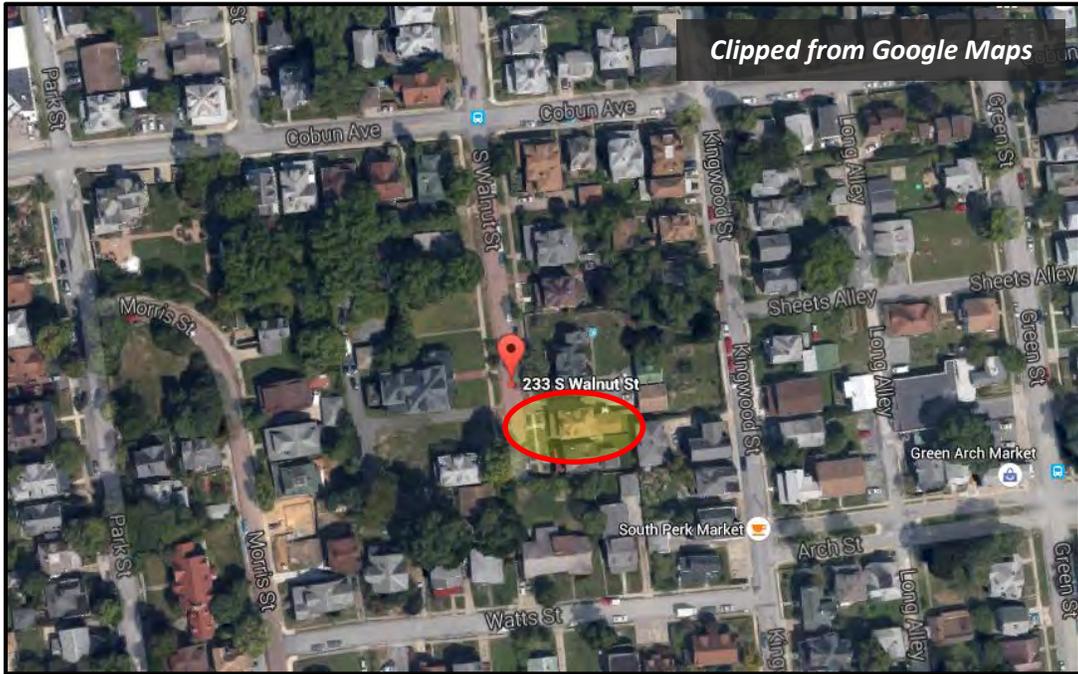
Christopher Fletcher, AICP
Director

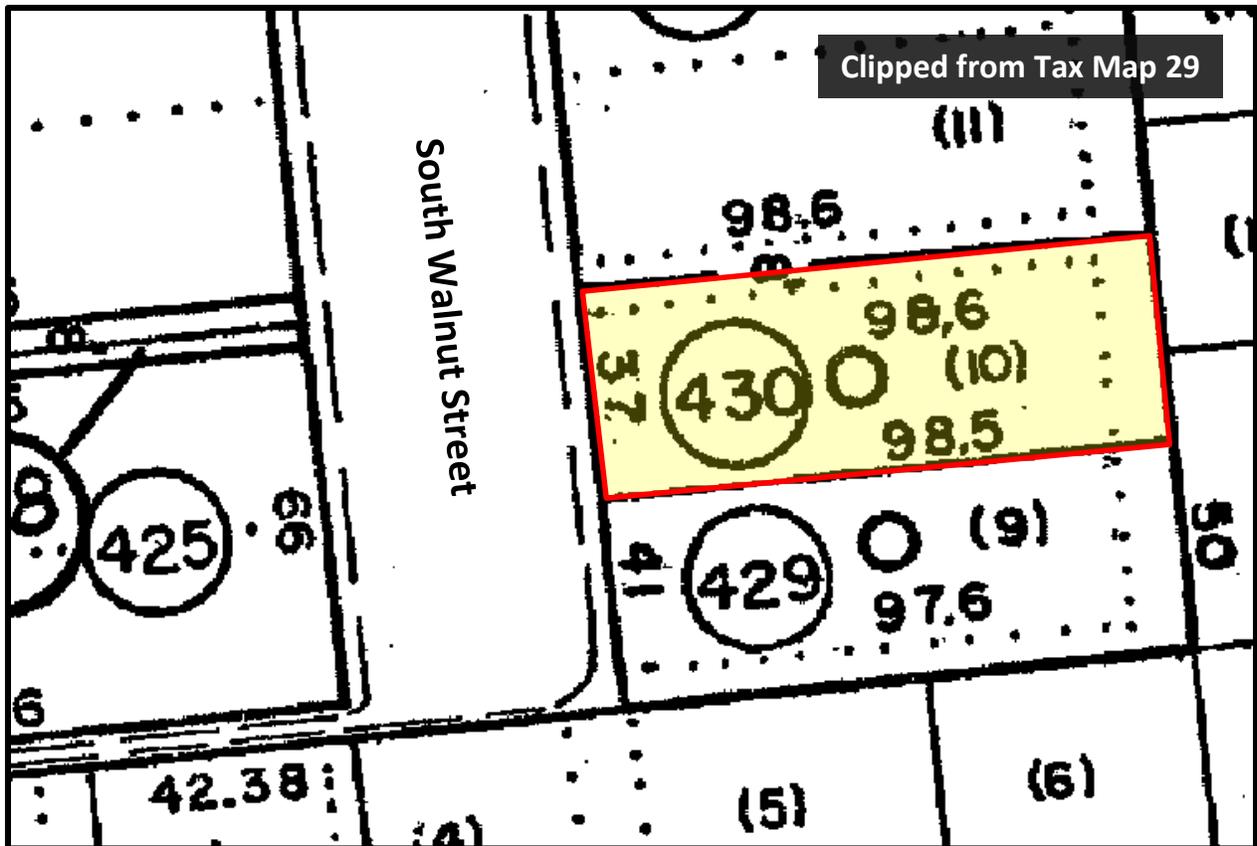
Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

STAFF REPORT ADDENDUM A

V16-10 / Rising Sun Construction, LLC / 233 S. Walnut Street





STAFF REPORT ADDENDUM B

V16-10 / Rising Sun Construction, LLC / 233 S. Walnut Street

The following restates the petitioner's responses to the Findings of Fact portion of the variance application. No revisions are recommended by Staff.

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The roof line will not affect, interfere, or change the surrounding environment or use of said environment since the roofing will not obstruct any existing features, is to the rear of the home, and will only be utilized as weather protection for the back deck. The existing home and decking are already located past the setback area, and would therefore be unaffactive to existing conditions considering its remote location.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

Due to the derelict conditions of their existing entry to their home from their existing deck, an unsafe living situation exists through hazardous construction and insufficient weather protection. The client sought help for this unsafe living situation in the design of the reconstruction of their deck for a code compliant, weather protected outdoor area.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The roofing will deter the unsafe conditions caused by the poor construction, and hardship of the weather/climate over the new decking access to their home, while also eliminating the derelict entry, and providing the only available space for a covered, private outdoor area to the client.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The covered existing decking area, in relation to the existing conditions, will provide a safer living condition for the residents and visitors of the dwelling while also giving equity of their existing addition in relevance of their neighboring areas. Therefore, the variance would create a solution to their existing derelict entry into their residence while greatly reducing the risk of injury to persons on the premises.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V116-10
RECEIVED:	

(PLEASE TYPE OR PRINT IN BLACK INK)

ck 3066

Fee: \$75

I. APPLICANT		Name:	Rising Sun Construction LLC		
Mailing Address:	Street	2203 Circle Drive		Phone:	3043814972
	City	State	Zip	Mobile:	
	Morgantown	WV	26505	Email:	risingsunconstructionllc@yahoo.com

II. PROPERTY		Street Address:			
Owner:	Kirk & Kathleen C. Hazen			Zoning:	R-1
Mailing Address:	Street	233 South Walnut Street		Tax Map No:	29
	City	State	Zip	Parcel No:	430
	Morgantown	WV	26501	Phone:	3043814972

III. NARRATIVE	Please describe the nature and extent of your variance request(s).
<p>The variance application is asking for permission of a newly designed roof to extend into the property setback line by 3' - 8 3/4" on the North, while keeping the roof line 2' - 10" to the South facing boundaries of the lot. The existing home, roof, and decking area is currently constructed past the setback to North, East, and South.</p>	

V. ATTEST		
<p>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 Development Services 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.</p>		
Chris Bailey		2/5/16
Type/Print Name of Applicant/Agent	Signature of Applicant/Agent	Date

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.



APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V11e-10
RECEIVED:	

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.

- 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: 1370

Estimated number of employees: n/a No. of dwelling units: 1 No. of bedrooms: 3-4

Additional structure-related details:

- Additional Information (as required by Staff):

- 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



**APPLICATION FOR
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V112-10
RECEIVED:	

VII. FINDINGS OF FACT | COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.

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. The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The roof line will not affect, interfere, or change the surrounding environment or use of said environment since the roofing will not obstruct any existing features, is to the rear of the home, and will only be utilized as weather protection for the deck area. The existing home and decking are already located past the setback area, and would therefore be unaffactive to existing conditions considering its remote location.

2. The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

Due to the derelict conditions of their existing entry to their home from their existing deck, an unsafe living situation exists through hazardous construction and insufficient weather protection. The client sought help for this unsafe living situation in the design of the reconstruction of their deck for a code compliant, weather protected outdoor area.



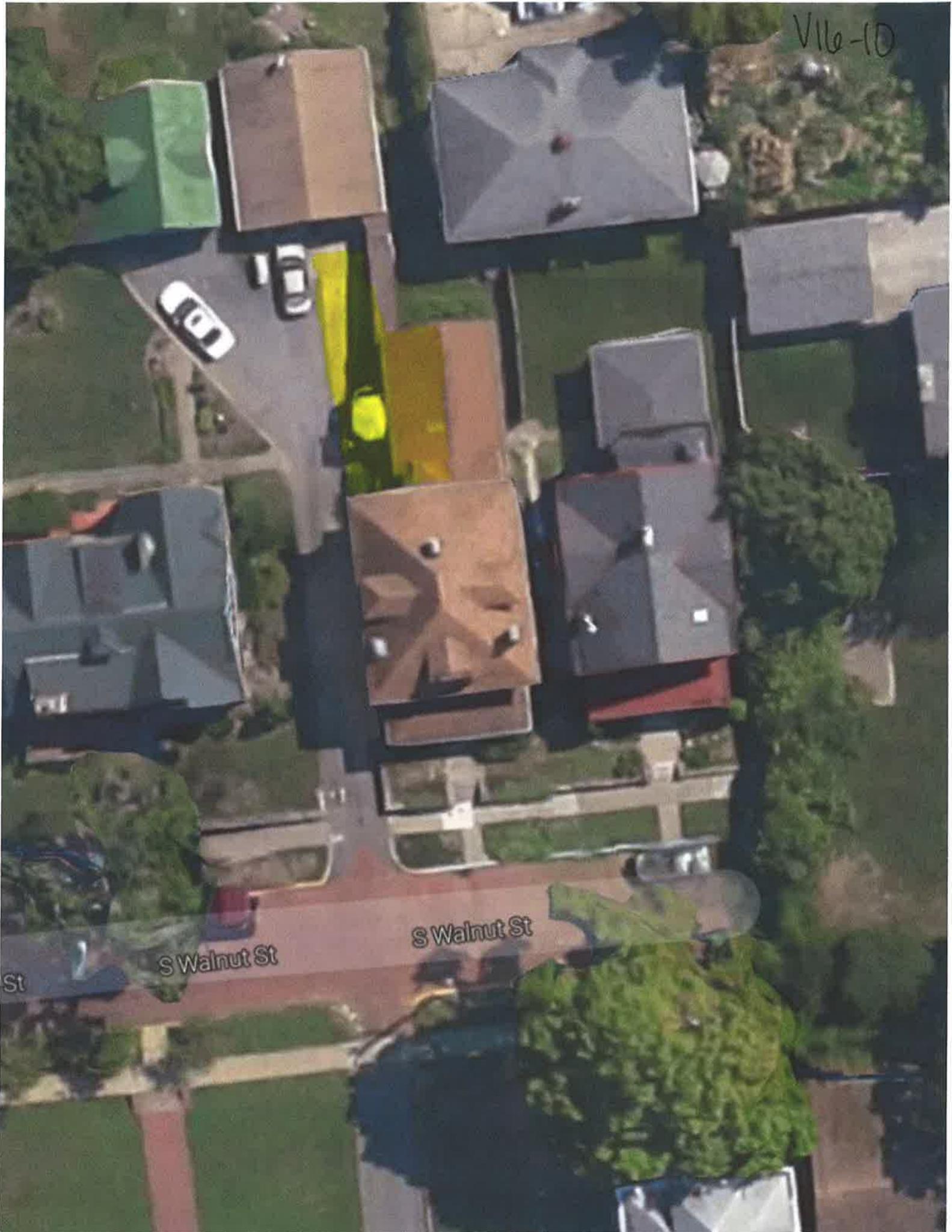
City of Morgantown, West Virginia

**APPLICATION FOR
VARIANCE PETITION**

OFFICE USE	
CASE NO.	V16-10
RECEIVED:	

VII. FINDINGS OF FACT	COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.
<p>3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:</p> <p>The roofing will deter the unsafe conditions caused by the poor construction, and hardship of the weather/climate over the new decking access to their home, while also eliminating the derelict entry, and providing the only available space for a covered, private outdoor area to the client.</p>	
<p>4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:</p> <p>The covered existing decking area, in relation to the existing conditions, will provide a safer living condition for the residents and visitors of the dwelling while also giving equity of their existing addition in relevance of their neighboring areas. Therefore, the variance would create a solution to their existing derelict entry into their residence while greatly reducing the risk of injury to persons on the premises.</p>	

V16-10

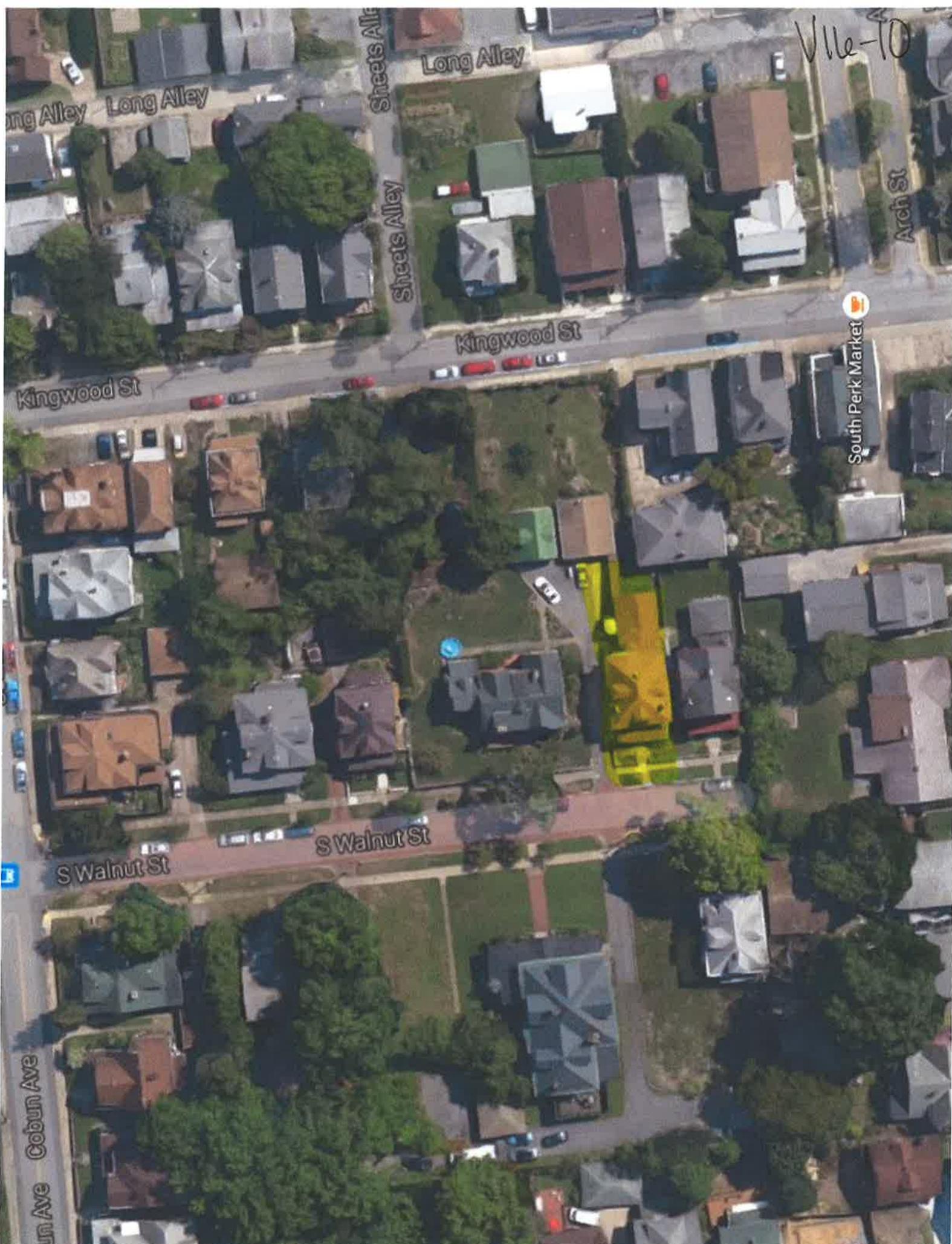


S Walnut St

S Walnut St

St

Ville-10



Long Alley Long Alley

Long Alley

Sheets Alley

Sheets Alley

Arch St

Kingwood St

Kingwood St

South Perk Market

S Walnut St

S Walnut St

Cobun Ave



S Walnut St

S Walnut St

MG-10



116-10

V116-10



V116-10





The City of Morgantown

389 SPRUCE STREET
MORGANTOWN, WEST VIRGINIA 26505
(304) 284-7405 TDD (304) 284-7512

OFFICE OF CITY MANAGER

March 15, 2001

Kirk & Kathleen Hazen
233 South Walnut Street
Morgantown, WV 26505

Dear Owners:

It was recently brought to the City's attention that in 1930 the owners of Lots 9,10, 11, 12, 13,14, 15, and 16 of the Crestholm Addition executed an agreement to terminate the existence of a dedicated alley running along the rear of their lots. A copy of the 1930 Agreement and a plat showing the alley in question are attached.

Inasmuch as the City has never formally annulled the alley, it still exists on the City's street map. For that reason, I will be recommending to Morgantown City Council, at its March 27th Committee of the Whole meeting, that it officially annul the alley by ordinance. A copy of the proposed ordinance is enclosed. I suspect that City Council will direct that the ordinance be placed on the April 3rd Council agenda. Inasmuch as the County Tax Maps already show you as the owner of the portion of the alley abutting your realty, the use and enjoyment of the realty that you and prior owners have exercised will not be diminished by Council's annulment action. The action by Council will only serve to officially remove the alley from its street map.

The purpose of this letter is to explain why the matter will be presented to Council for action, and to invite you to attend Council's March 27th meeting on the matter, should you like to observe or make a comment.

Please give me a call if you have any questions.

Respectfully,

Dan Boroff
City Manager

DB/ji
Attachments



① Design CS
12" = 1'-0"

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Chris Bailey
Morgantown, WV
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RisingSunConstructionLLC@gmail.com

PROJECT: HAZEN RESIDENCE

DRAWING USE:
VARIANCE

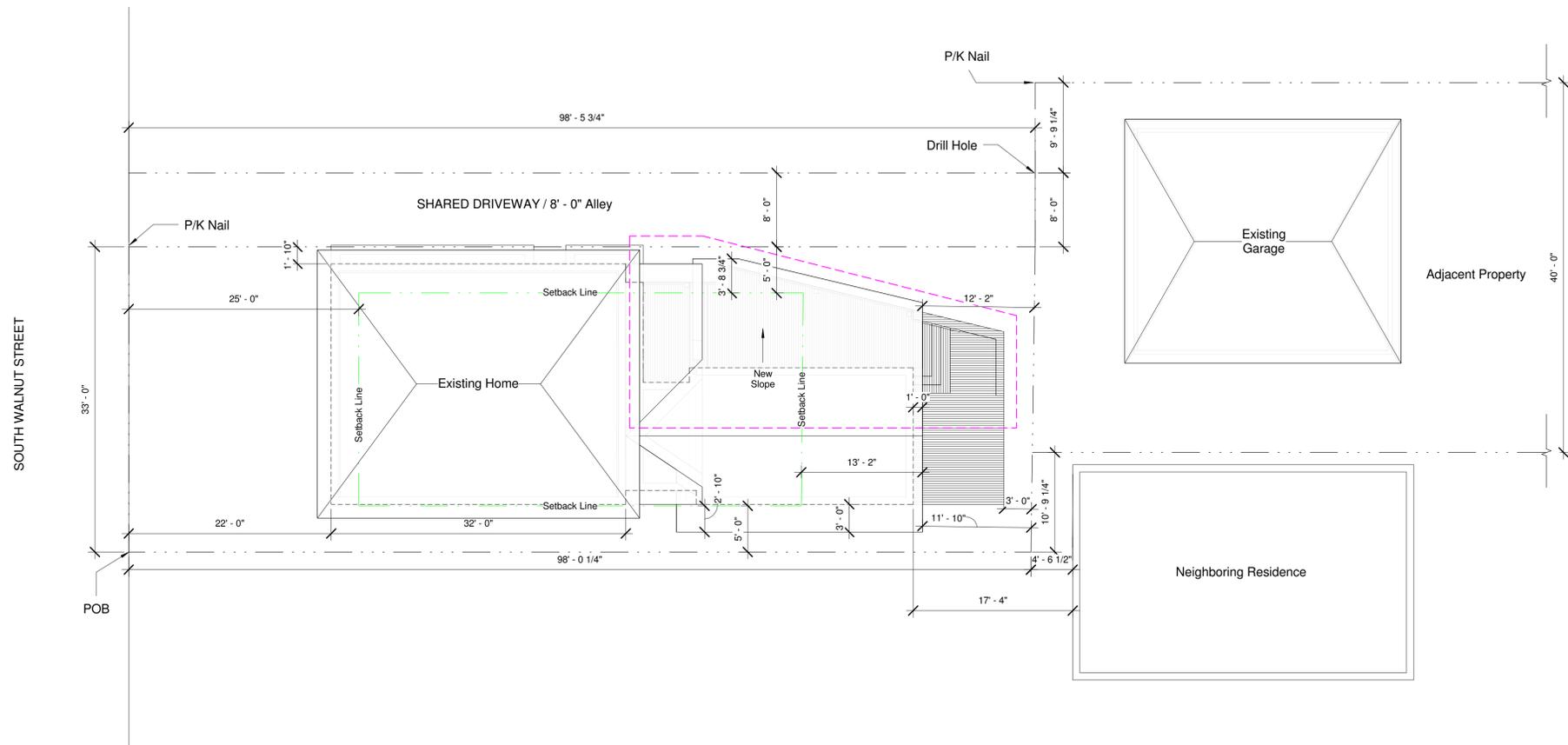
DRAWING FOR:

Cover Sheet

Designed by	TKP
Date	2/5/2016 8:41:43 AM
Drawn by	TKP
Checked by	CB

CS

Scale 12" = 1'-0"



Legend	
Existing House	-----
Property Line	-----
Property Setbacks	-----
Variance Area	-----

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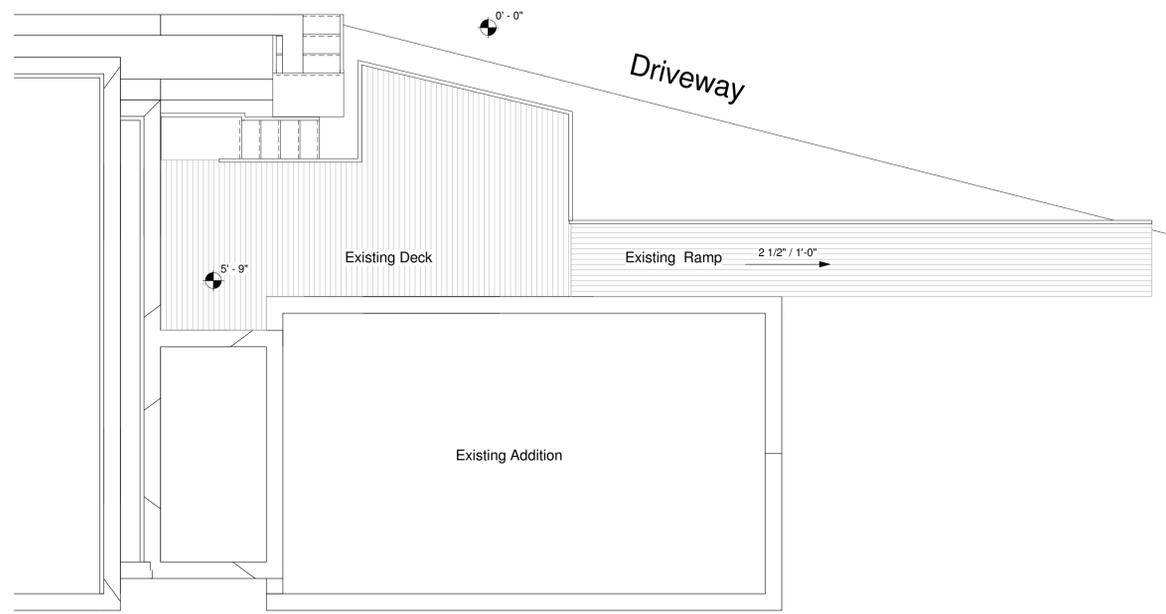
PROJECT: HAZEN RESIDENCE

DRAWING FOR: **VARIANCE**

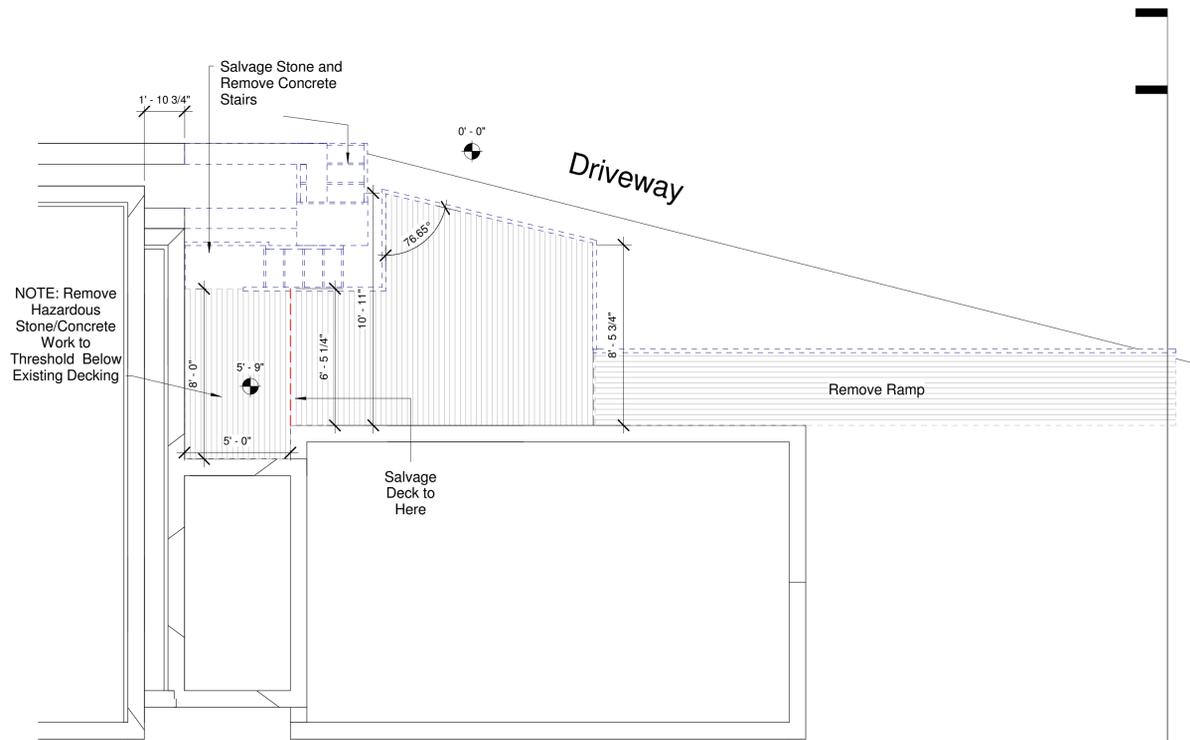
DRAWING USE:

Site	
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Date	2/5/2016 8:43:59 AM
Drawn by	TKP
Checked by	CB
S100	
Scale	1/8" = 1'-0"





① As-Built - Callout 1
1/4" = 1'-0"



② As-Built - Callout 2 DEMO
1/4" = 1'-0"



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PROJECT: HAZEN RESIDENCE

DRAWING FOR: VARIANCE

DRAWING USE:

As-Built / Demo

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Date 2/5/2016 8:44:39 AM
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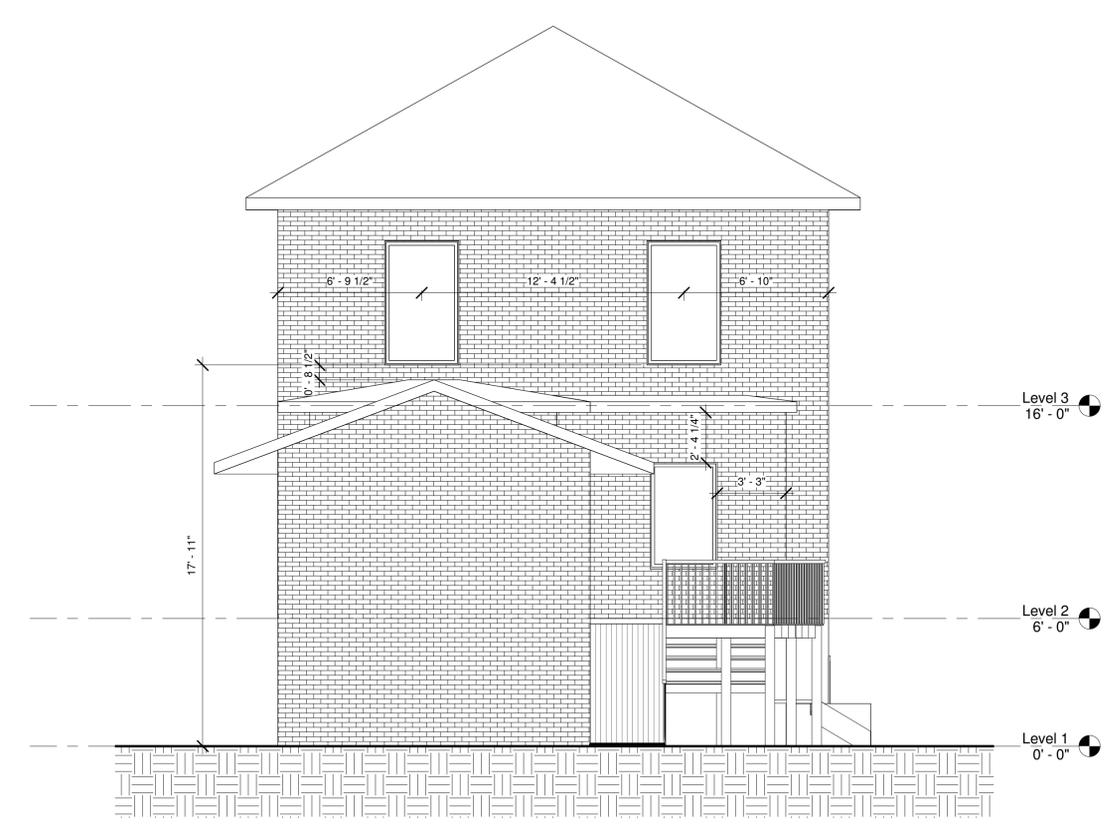
AE101

Scale 1/4" = 1'-0"

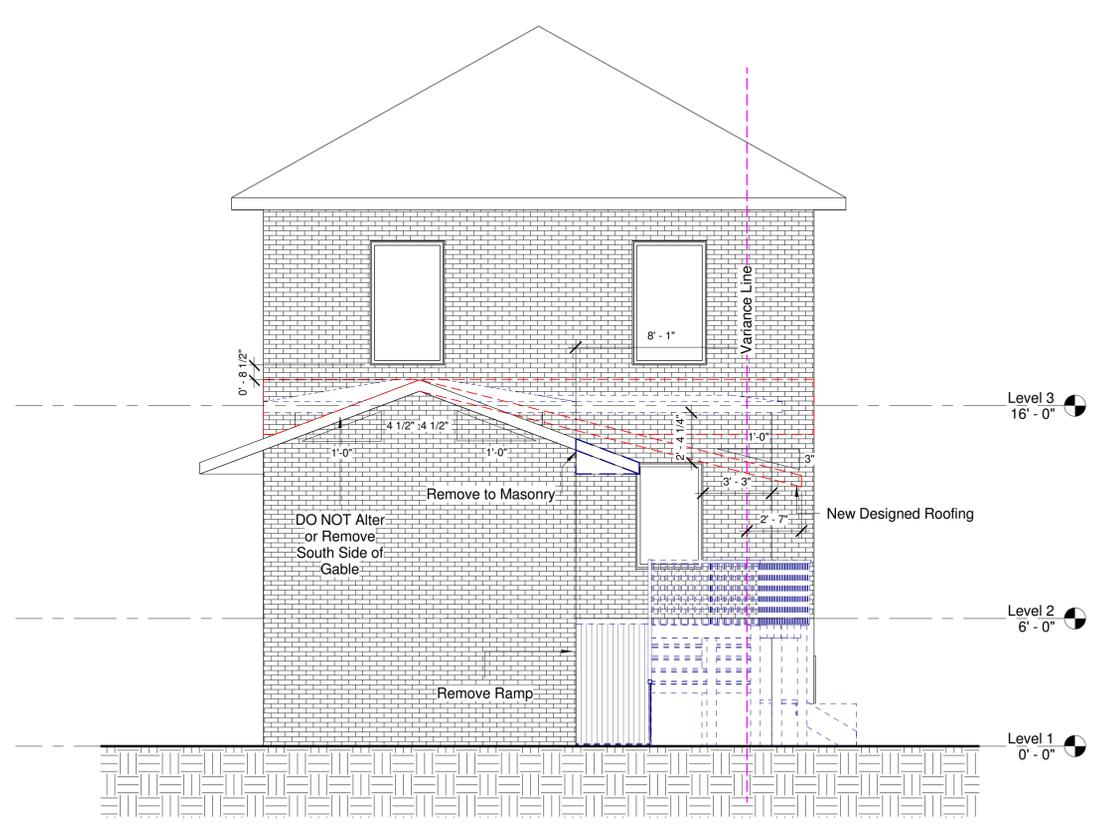
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① Existing West
 1/4" = 1'-0"



② Demo West
 1/4" = 1'-0"

PROJECT: HAZEN RESIDENCE

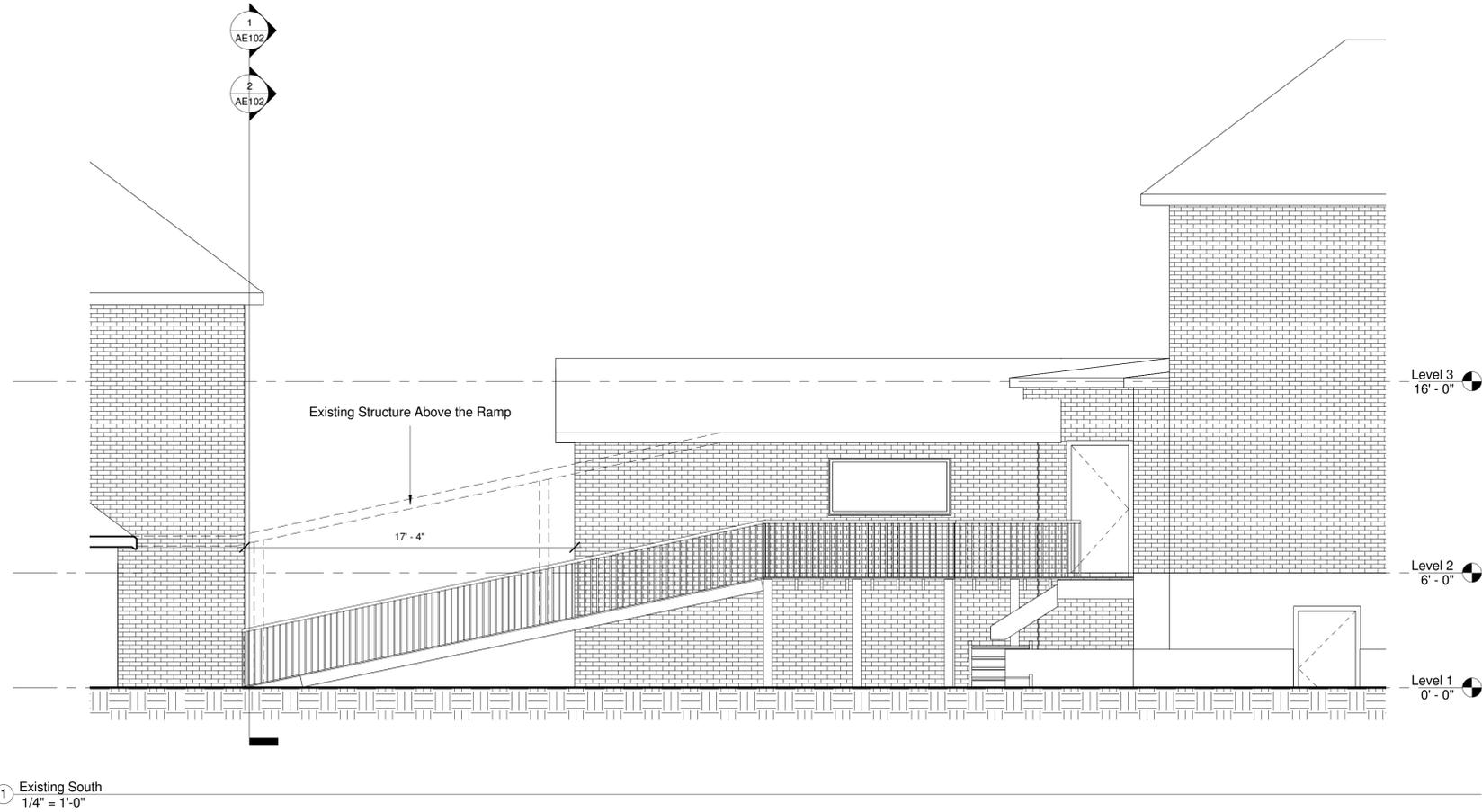
DRAWING FOR: VARIANCE

Elevation

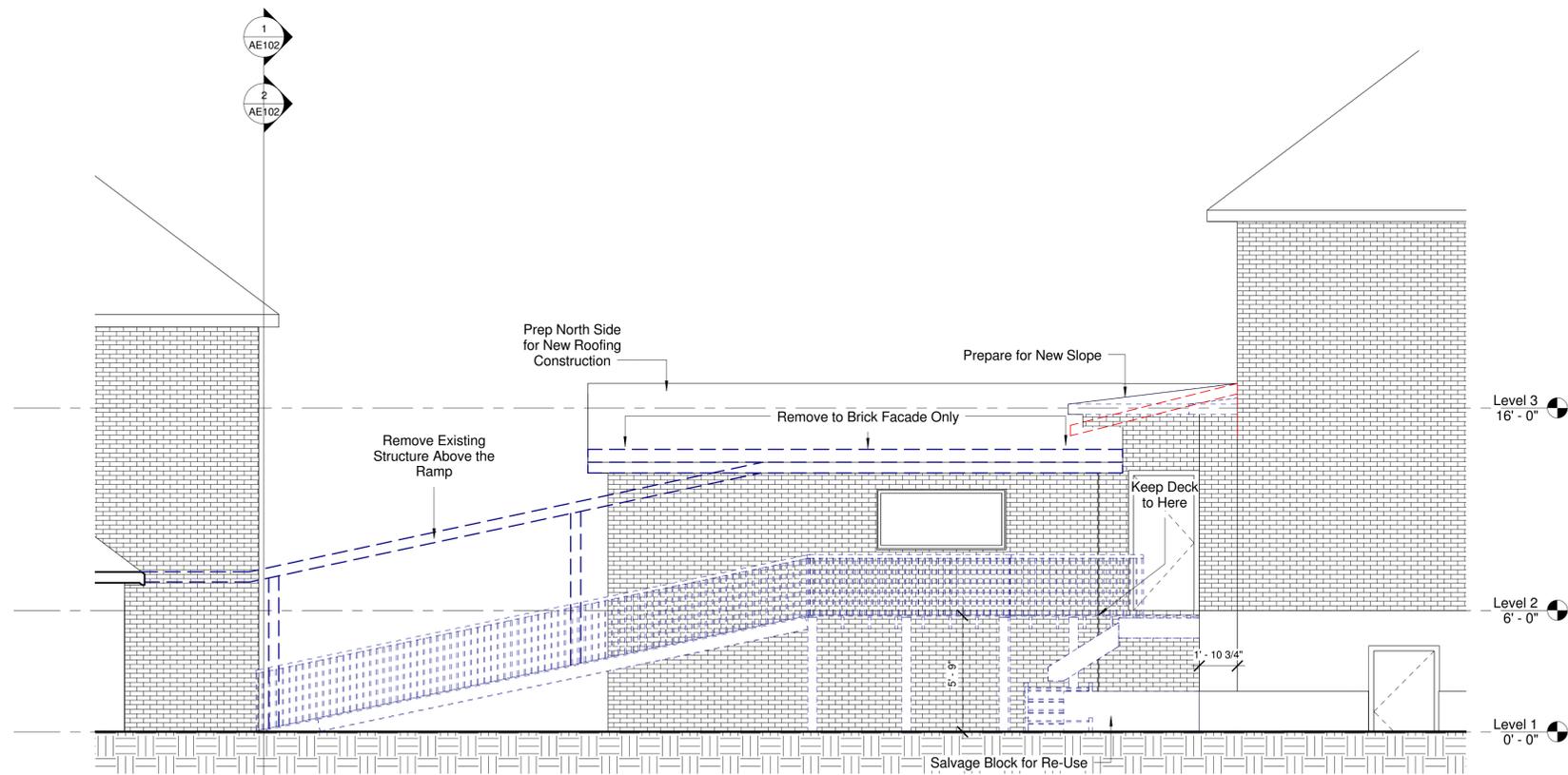
Designed by TKP
 Date 2/5/2016 8:45:29 AM
 Drawn by TKP
 Checked by CB

AE102

Scale 1/4" = 1'-0"



① Existing South
1/4" = 1'-0"



② Demo South
1/4" = 1'-0"

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PROJECT: HAZEN RESIDENCE

DRAWING FOR: VARIANCE

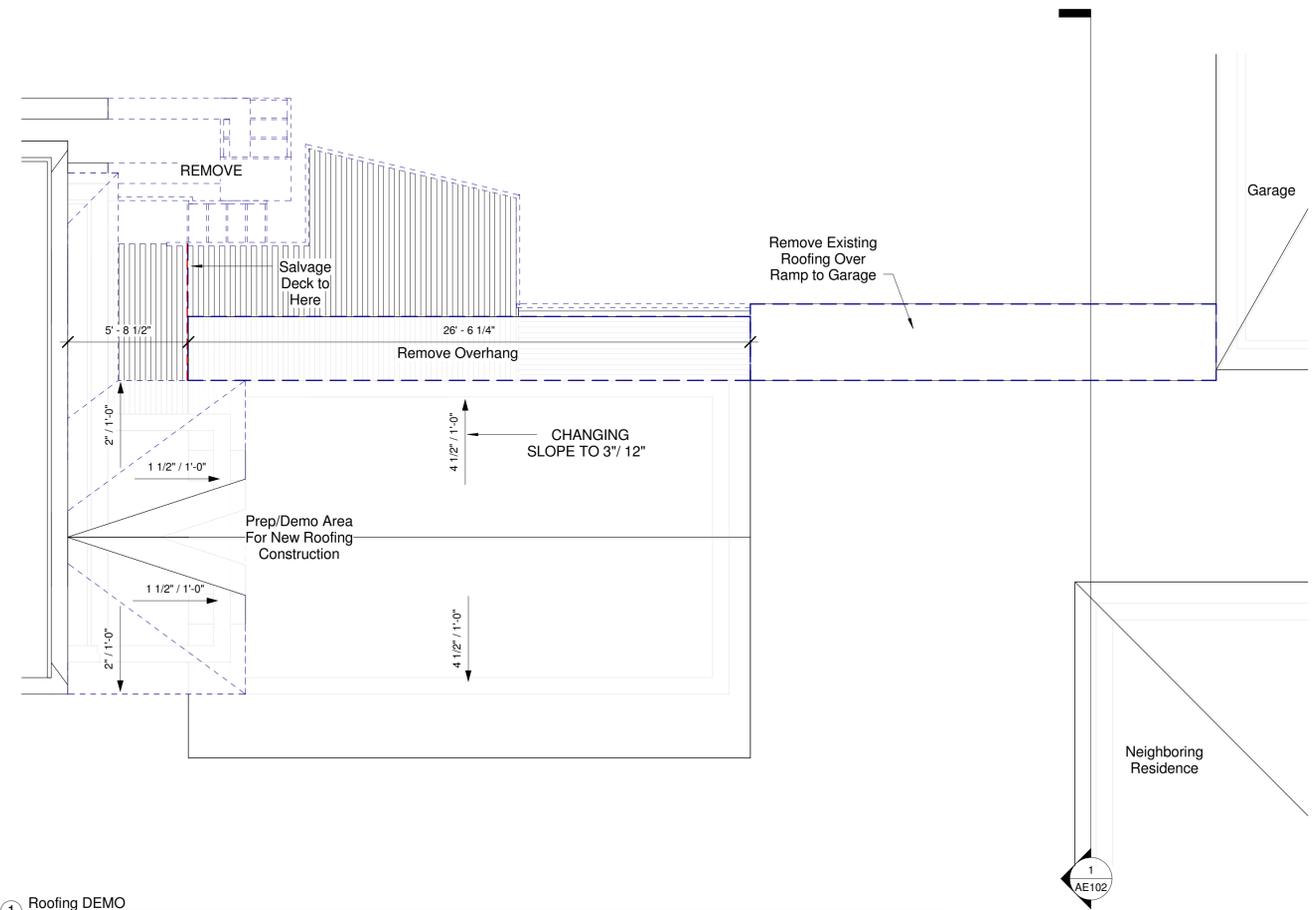
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Elevation

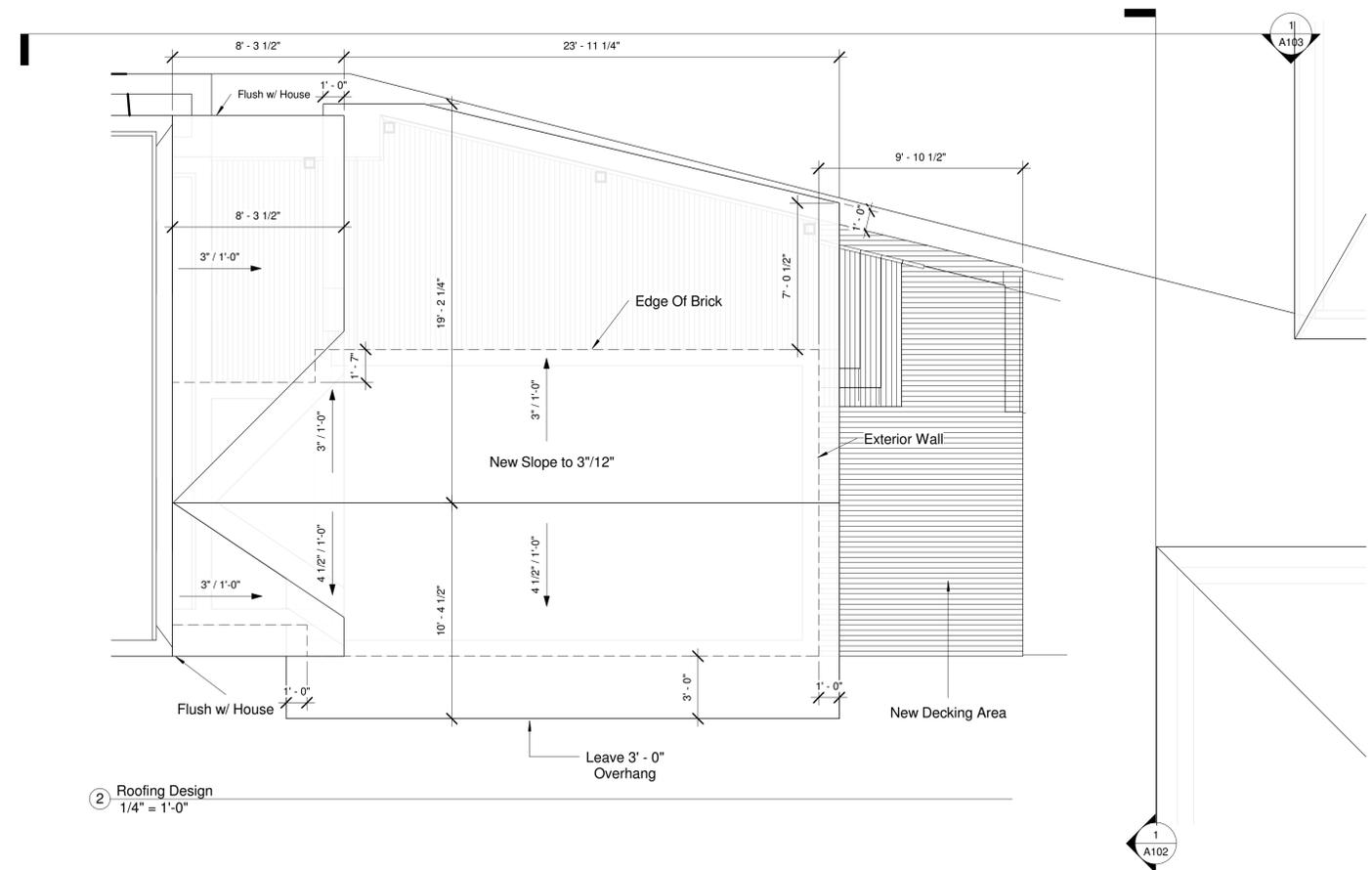
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Date	2/5/2016 8:45:51 AM
Drawn by	TKP
Checked by	CB

AE103

Scale 1/4" = 1'-0"



① Roofing DEMO
1/4" = 1'-0"



② Roofing Design
1/4" = 1'-0"

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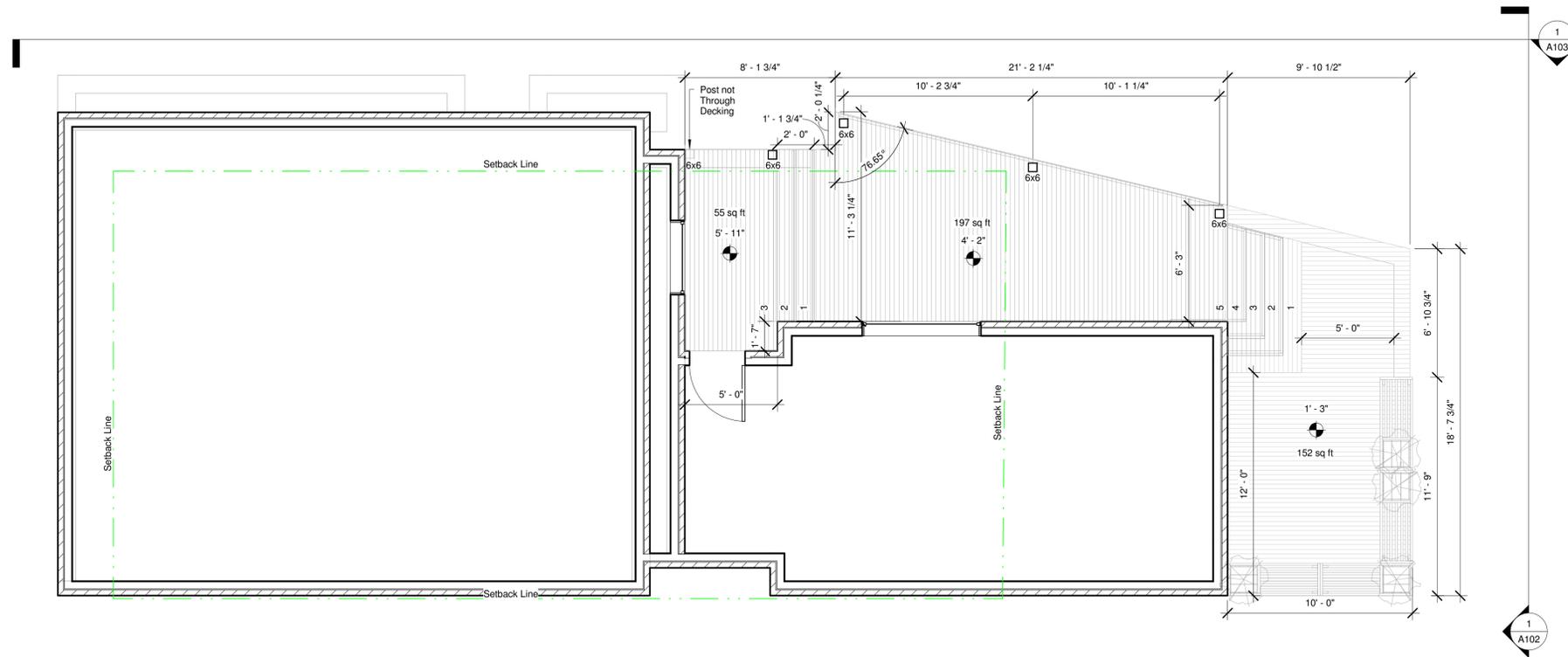


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PROJECT: HAZEN RESIDENCE
DRAWING FOR: VARIANCE
DRAWING USE:

Roofing
Designed by TKP
Date 2/5/2016 8:46:27 AM
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AE104
Scale 1/4" = 1'-0"





1 ft Depth of Run & 7" Risers for All Steps / Stair.
 2x8 Decking w/ 6"x 6" Post Supports
 68" x 80" Double Door Entry



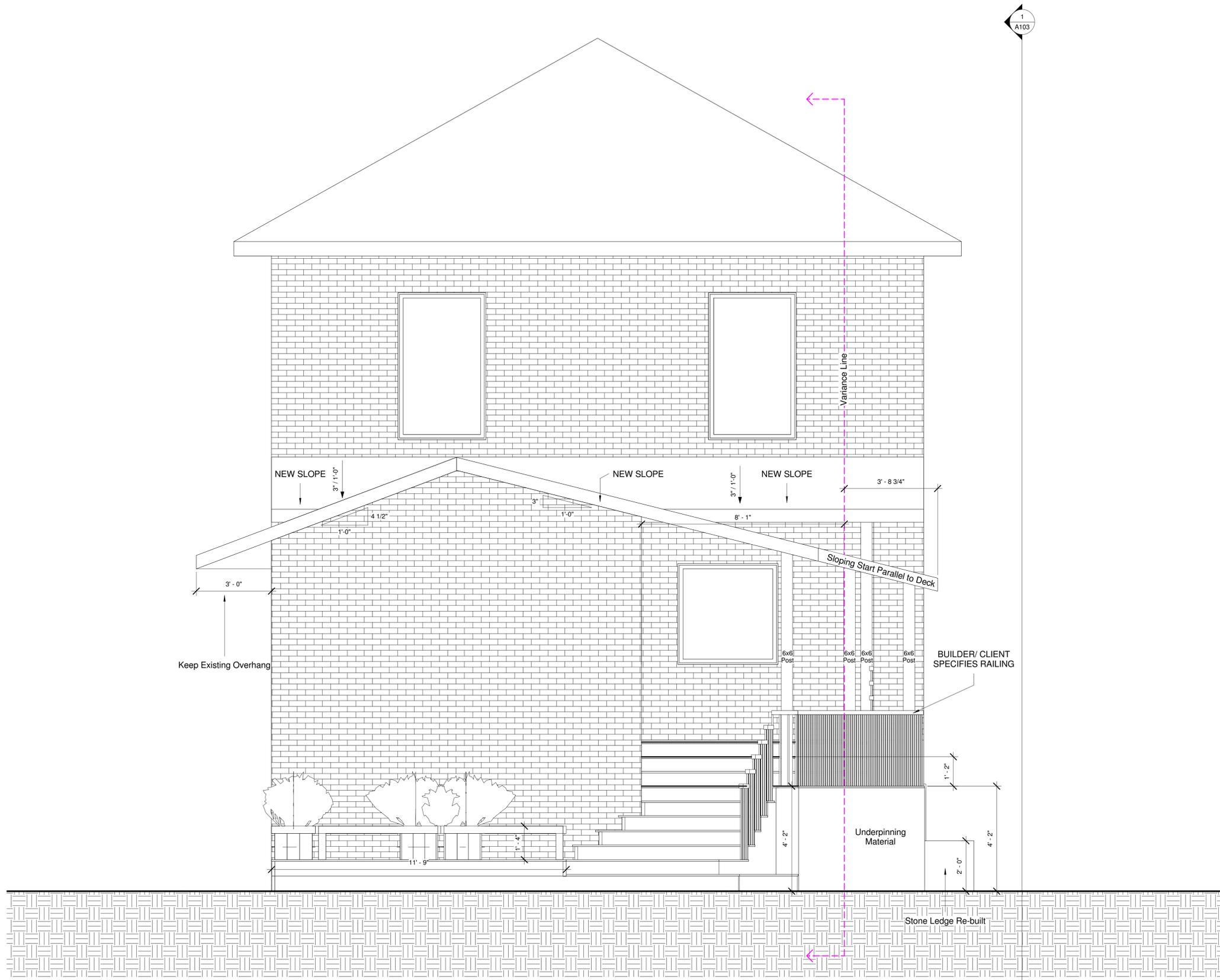
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PROJECT: HAZEN RESIDENCE
 DRAWING FOR: VARIANCE
 DRAWING USE: VARIANCE

Design
 Designed by TKP
 Date 2/5/2016 8:46:52 AM
 Drawn by TKP
 Checked by CB
A101
 Scale 1/4" = 1'-0"



1 Grill Area West
1/2" = 1'-0"

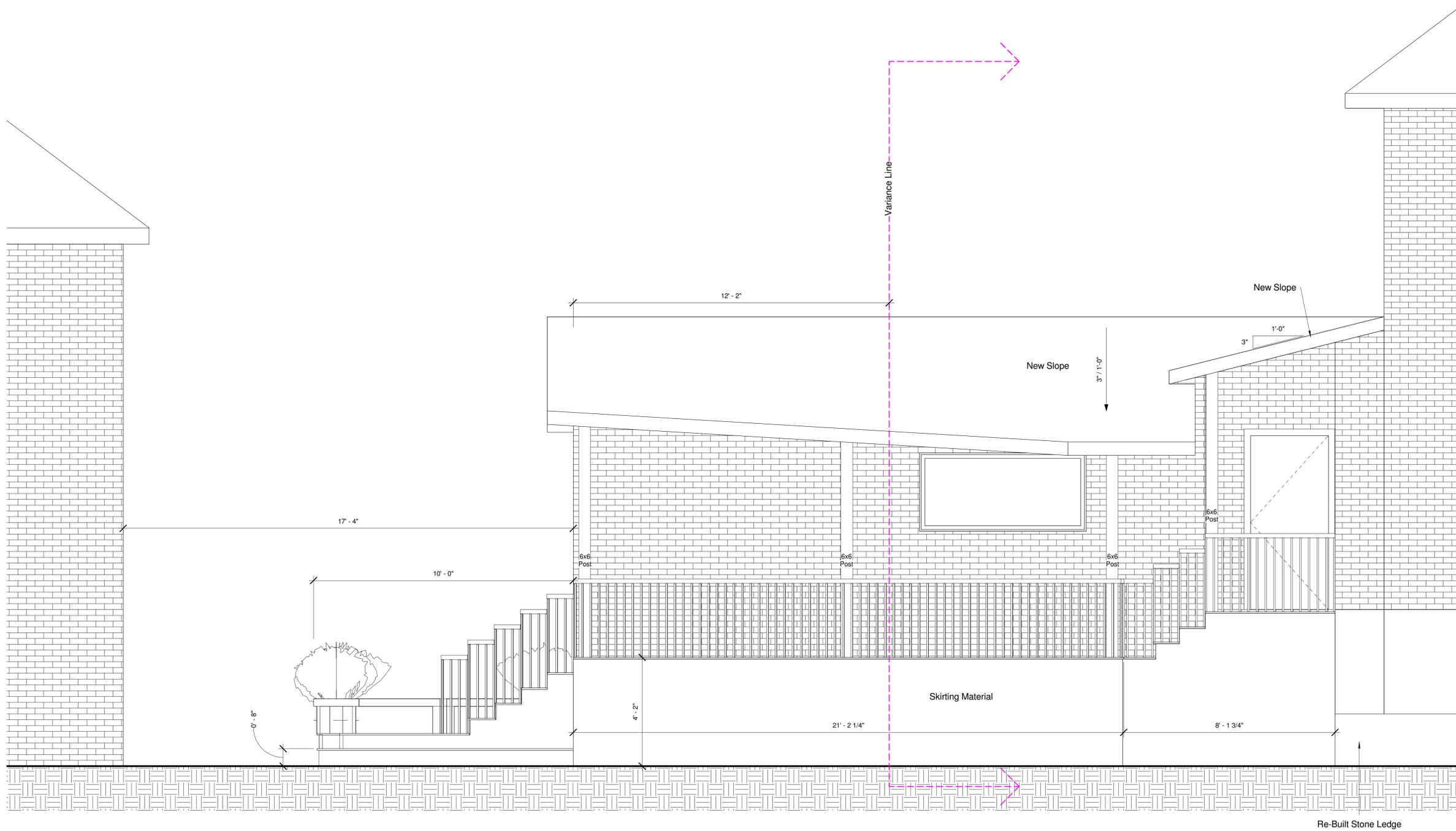
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PROJECT: HAZEN RESIDENCE
DRAWING FOR: VARIANCE
DRAWING USE: VARIANCE

Elevation
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Date 2/5/2016 8:47:20 AM
Drawn by TKP
Checked by CB
A102
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① DesignSouth
1/2" = 1'-0"

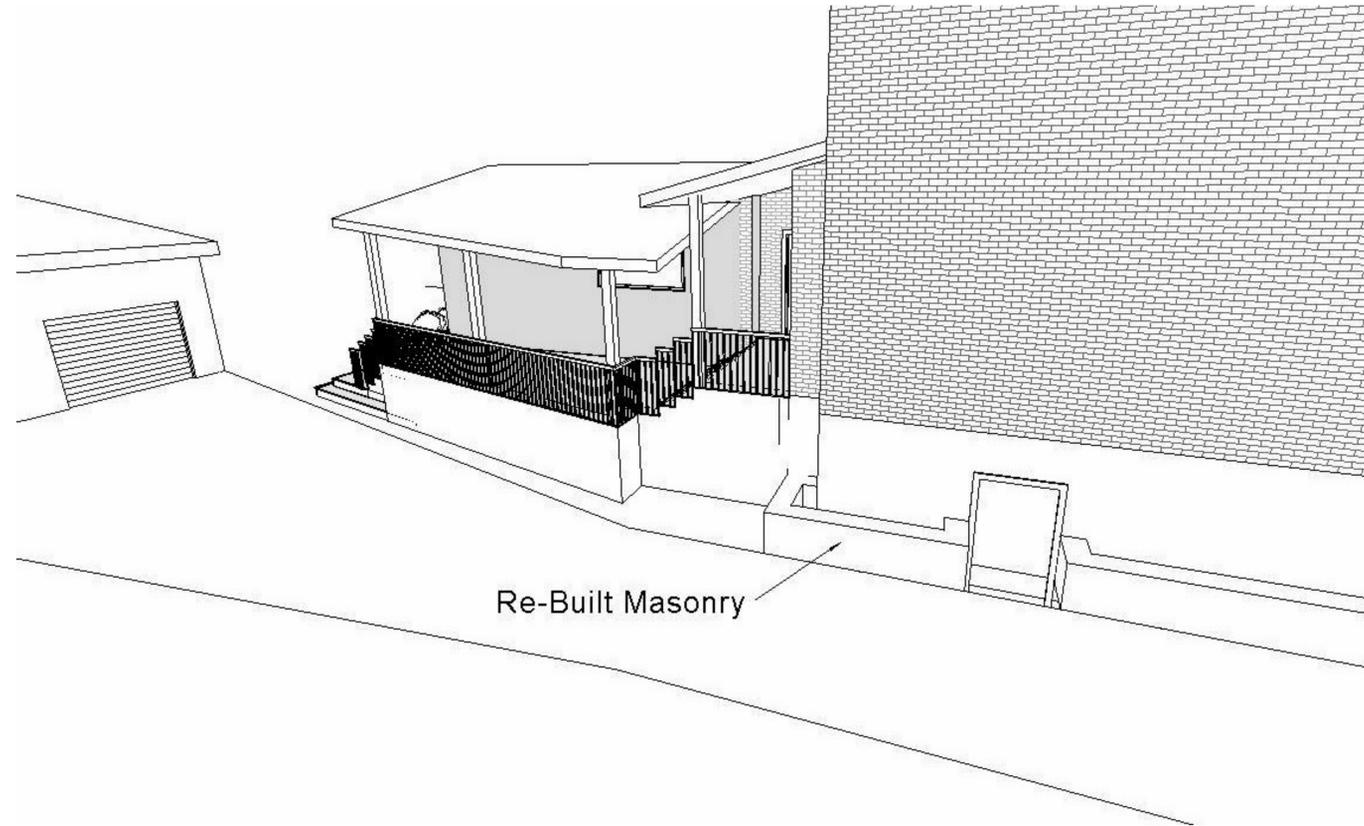
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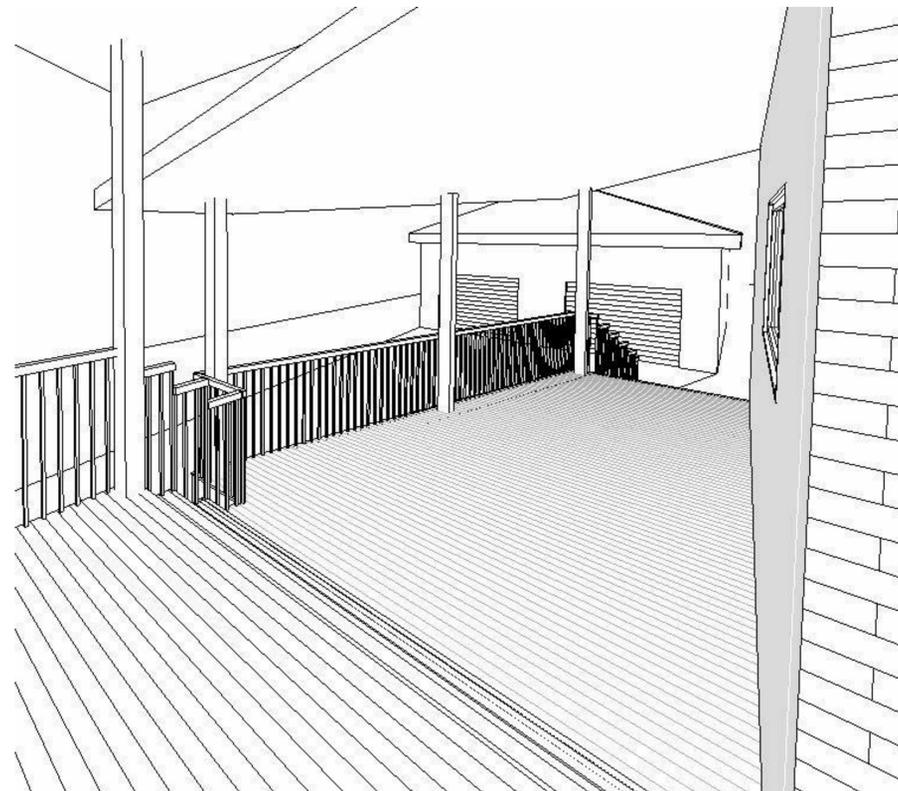
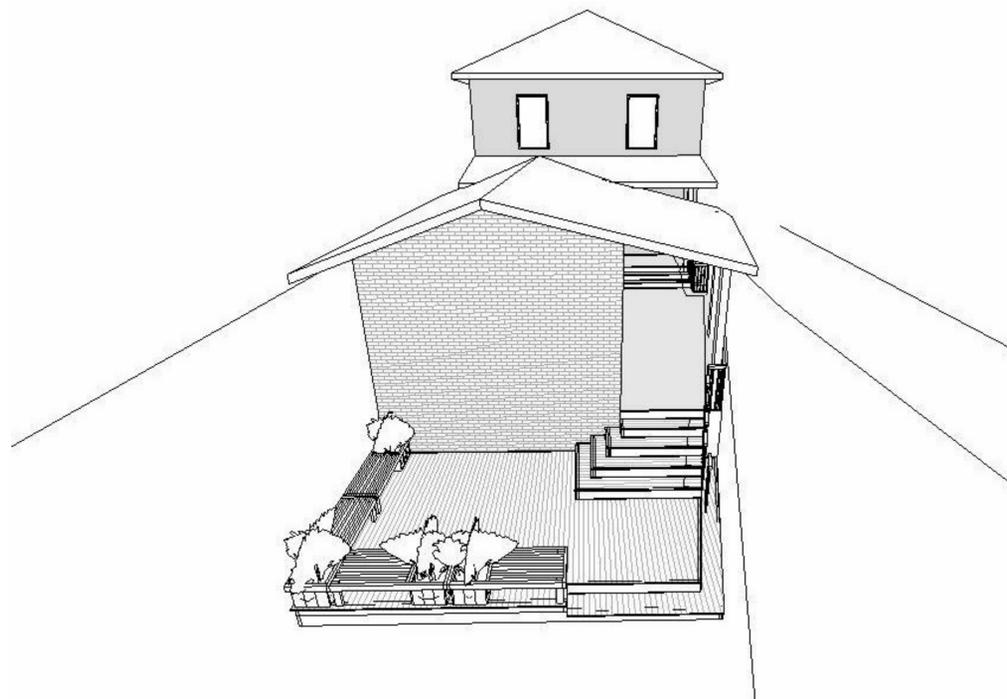
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PROJECT: HAZEN RESIDENCE
DRAWING FOR: VARIANCE
DRAWING USE: VARIANCE

Elevation
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A103
Scale 1/2" = 1'-0"



Re-Built Masonry



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PROJECT: HAZEN RESIDENCE
 DRAWING FOR: VARIANCE
 DRAWING USE:

3D Views / Images
 Designed by TKP
 Date 2/5/2016 8:49:58 AM
 Drawn by TKP
 Checked by CB
A104
 Scale