



# MORGANTOWN BOARD OF ZONING APPEALS

July 19, 2017  
6:30 p.m.  
City Council Chambers

## STAFF REPORT

### Board Members:

Leanne Cardoso,  
Chair  
  
VACANT  
Vice Chair  
  
Harrison Case  
  
George Papandreas  
  
Jim Shaffer

**CASE NO:** V17-16 / Garlow / 332 Kingwood Street

### REQUEST and LOCATION:

Request by John Garlow for variance relief from Article 1335 concerning front and side setbacks at 332 Kingwood Street.

### TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 36, Part of Parcels 135 and 134; R-1A, Single Family Residential District

### SURROUNDING ZONING:

R-1A, Single Family Residential District

### BACKGROUND and ANALYSIS:

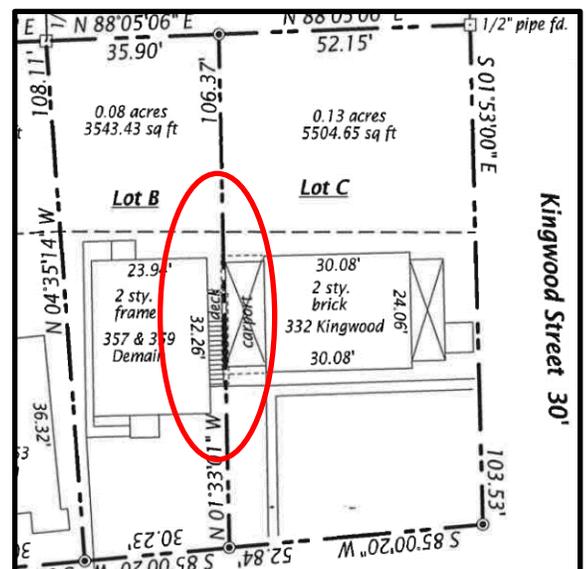
The petitioner seeks to enclose an existing porch/carport and construct a two-car garage to the south of the existing structure located at 332 Kingwood Street. Addendum A of this report illustrates the location of the subject site.

Section 1335.04(A)(4) provides a minimum rear setback standard of twenty (20) feet. The proposed addition and enclosure of the porch/carport will have a zero-foot rear setback. As such, a twenty (20) foot rear yard setback variance is required for the development as proposed.

On February 11, 2016, the Planning Commission approved a minor subdivision reconfiguring parcel boundaries in the vicinity under Case No. MNS16-02. The subdivision afforded 332 Kingwood Street two (2) side yards, while providing a zero-foot rear setback for the existing porch/carport. Staff has been made aware of encroachment issues with the porch/carport roof and the neighboring structure's roof at 357 Demain Avenue.

The survey plat indicates that the parcel boundary was created in such a manner to allow for both structure's encroachments onto the neighbor's parcels, as shown to the right.

Any improvements at 332 Kingwood would be required to be solely on the petitioner's parcel identified as Lot C on the March 2016 survey approved by the Planning Commission, unless further subdivision action is approved.



### Development Services

Christopher Fletcher, AICP  
Director

John Whitmore, AICP  
Planner III

### Planning Division

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431



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## **STAFF RECOMMENDATION:**

It is the duty of the Board of Zoning Appeals to 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 findings of fact responses. Staff makes no recommendation concerning whether the petitioner's findings should be modified.

Staff recommends variance relief under Case No. V17-16 be denied as requested based on the following negative findings of fact:

**Negative Finding of Fact No. 1** – The variance will adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because the extent of requisite variance relief sought gratuitously undermines the purposes of Article 1335 to protect single-family residential areas from intrusion that may cause deterioration and provide for adequate quiet and privacy for neighborhood residents.

**Negative Finding of Fact No. 2** – The variance does not sufficiently arise from special conditions or attributes which pertain to the property for which the variance is sought and which were not created by the person seeking the variance, because alternate design scenarios appear readily available to the petitioner to establish enclosed off-street parking in conformity with minimum building envelope requirements or in a manner that reduces the extent of variance relief sought.

**Negative Finding of Fact No. 3** – The variance will not eliminate an unnecessary hardship and permit a reasonable use of the land because, alternate design scenarios appear readily available to the petitioner to further develop the site in keeping with the intent of R-1A District site development standards.

**Negative Finding of Fact No. 4** – The variance will not allow the intent of the zoning ordinance to be observed and substantial just done, because alternate designs could in effect alleviate existing nonconformities with the rear porch/carport, instead of intensifying the rear yard setback nonconformity.

In the event the Board is resolved to grant some level of variance relief, Staff encourages the Board to carefully review each of the petitioner's Findings of Fact responses to ensure suitability and relevance. Additionally, Staff recommends the following conditions be included with said approval:

1. That the setback of the proposed garage addition be no less than five (5) feet from the western parcel boundary, to be in keeping with traditional R-1A side setback standards associated with a principal building fronting on Demain Avenue.

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2. That the porch/carport feature may not be enclosed with northern and western exterior walls nor the portion of the southern wall area that would not be encumbered by the proposed garage addition.

### **Development Services**

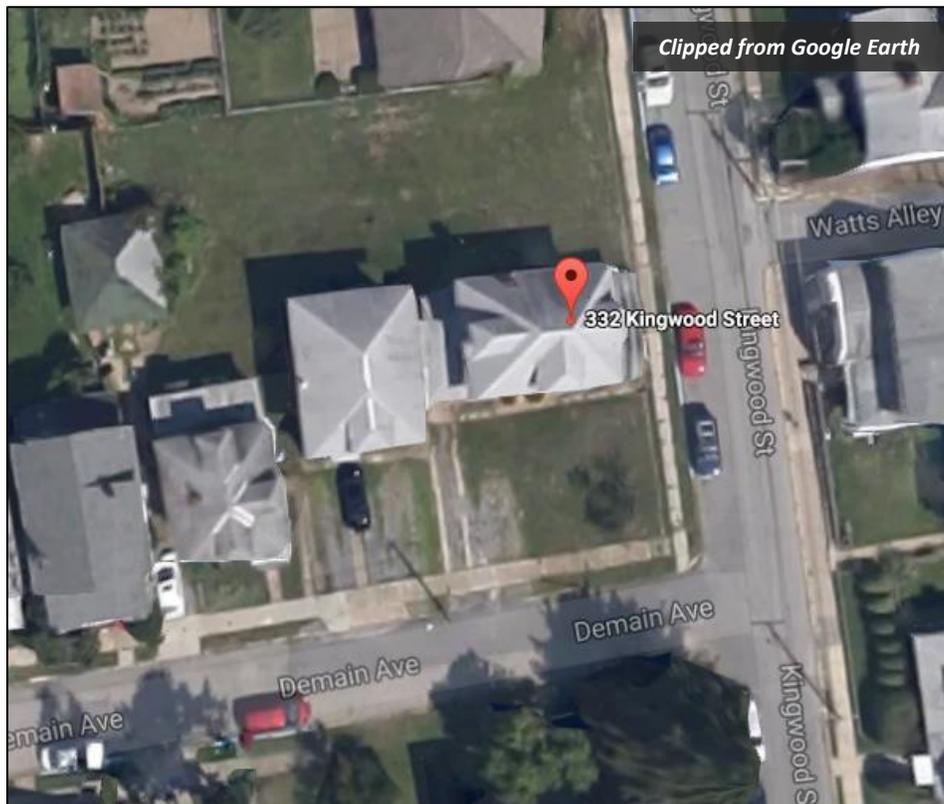
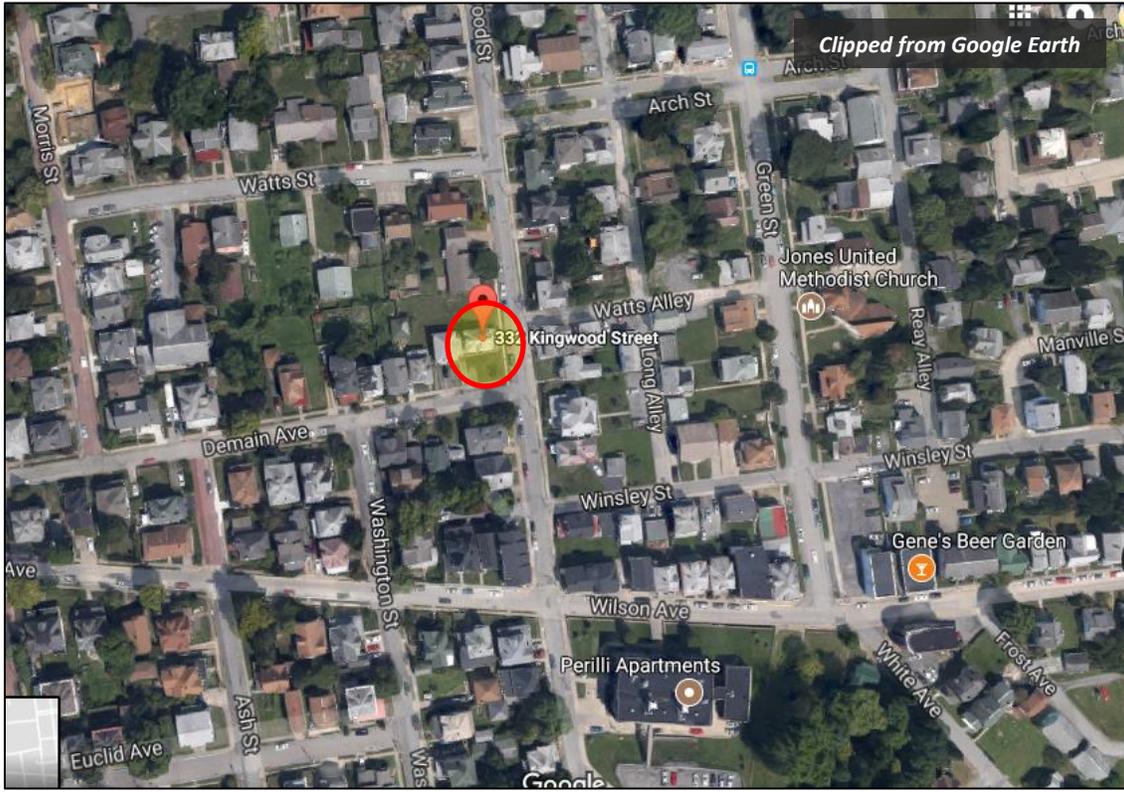
Christopher Fletcher, AICP  
Director

John Whitmore, AICP  
Planner III

### **Planning Division**

389 Spruce Street  
Morgantown, WV 26505  
304.284.7431

**STAFF REPORT ADDENDUM A**  
**V17-16 / Garlow / 332 Kingwood Street**



**STAFF REPORT ADDENDUM A**  
**V17-16 / Garlow / 332 Kingwood Street**



## STAFF REPORT ADDENDUM B

### V17-16 / Garlow / 332 Kingwood Street

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The following restates the petitioner's Findings of Fact responses. Staff makes no recommendation concerning whether the petitioner's findings should be modified in the affirmative.

**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:

John will properly seal off and contain demolition of any potential lead based painted walls, clean up will be washing and vacuuming with HEPA Vac. He does not expect lead based paint for garage addition, but if encountered, he will dispose of according to regulations. The roof overhang and thus all of the construction will not cross any property lines. All construction will be within Lot C boundaries.

**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:

There is a preexisting carport that borders the property line. To avoid demolition of this carport, the garage will extend along the property line, in the same sense as the preexisting carport.

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

With this variance John will not have to remove the existing carport and cause minimal (no) interference with telephone pole guy wires, while allowing owner to park in a garage rather than in yard.

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

The carport that exists on the house runs against the property line, so this garage will just be an extension of that carport. Both garage and preexisting carport will share a roofline and be enclosed.



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	V17-116
RECEIVED:	5/15/17

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

<b>I. APPLICANT</b>		Name:	John R. Garlow	
Mailing Address:	17 Highland Street		Phone:	304-282-4564
	Street	Morgantown WV 26501	Mobile:	304-282-4564
	City	State Zip	Email:	rygarlow@gmail.com
<b>II. PROPERTY</b>		Street Address:	332 Kingwood Street, Morgantown WV 26501	
Owner:	John R. Garlow		Zoning:	R-1A
Mailing Address:	17 Highland Street		Tax Map No:	36
	Street	Morgantown WV 26501	Parcel No:	135
	City	State Zip	Phone:	
<b>III. NARRATIVE</b>		Please describe the nature and extent of your variance request(s).		
<p>I wish to install a garage with entrance off Demaria Ave. and collapse carport. 2 car garage w/roof overhang<sup>ending</sup> on property line. This is simply an extension and enclosure of the <sup>existing</sup> car part. Will be enclosed by 2x4<sup>framed</sup> walls. Roof will be extended from existing car part.</p>				
<b>V. ATTEST</b>		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.		
John R. Garlow				5-15-2017
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent		Date

PAID PAID

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.

V17-16



City of Morgantown, West Virginia

APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	
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
  - Two-Family Dwelling
- Townhouse 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: 2160

Estimated number of employees: \_\_\_\_\_      No. of dwelling units: \_\_\_\_\_      No. of bedrooms: 3

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.	V17-16
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: *John will properly seal off and contain demolition of any potential lead based painted walls, clean up will be washing and vacuuming with HEPA vac. HE does not expect lead based paint for garage addition, but if encountered, HE will dispose of according to regulations. The roof overhang and thus all of the construction will not cross any property lines. All construction will be within LOT C boundaries.*

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:

*There is a preexisting carport that borders the property line. To avoid demolition of this carport, the garage will extend along the property line, in the same sense as the preexisting carport.*

V17-16



City of Morgantown, West Virginia

# APPLICATION FOR VARIANCE PETITION

OFFICE USE	
CASE NO.	
RECEIVED:	

VII. FINDINGS OF FACT	COMPLETE THE FOLLOWING STATEMENTS IN THIRD PERSON.
3. The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:	<p>With this variance I will not have to remove the existing carport and cause minimal interference with telephone pole guy wires, while allowing owner to park in a garage rather than in yard.</p>
4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:	<p>The carport that exists on the house runs against the property line, so this <sup>garage</sup> will just be an extension of that carport. Both garage and preexisting car port will share a roofline and be enclosed.</p>

# City of Morgantown Application for Building Permit

**COPY**

<b>Application Date</b> <u>5 / 17 / 2017</u>	<b>Type of Work:</b> <input type="checkbox"/> New Construction SFD <input type="checkbox"/> SFD Addition <input type="checkbox"/> New Construction Rental/Commercial <input type="checkbox"/> Rental/Commercial Addition	<input checked="" type="checkbox"/> Garage- attached <input type="checkbox"/> Garage- detached	<b>Is Applicant Owner?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
---	--	---	--

**PROPERTY INFORMATION:**

Street address: 332 Ringwood Street Map# \_\_\_\_\_ Parcel# \_\_\_\_\_ Ward \_\_\_\_\_ Zoning \_\_\_\_\_

**PROPERTY OWNER INFORMATION:**

Name: John R. Garlow Business name: \_\_\_\_\_  
 Address: 17 Highland Street, Westover WV, 26501 Phone: 304-282-4564  
 Email: rygarlow@gmail.com  property owner  contractor

**CONTRACTOR INFORMATION:**

TYPE:	Contractors Business Name	City License Number
Architect/Engineer		
General Contractor		
Excavation	<u>Terry Harvey</u>	
Concrete	<u>Central</u>	
Carpentry		
Electrical	<u>Lynn King Action Electric</u>	
Plumbing		
Sewer		
Mechanical		
Roofing		
Masonry		
Drywall/Lathing		
Sprinkler		
Paving		
Fire Alarm		

Est. value of building \$ 11,000 Electrical value \$ 1,000

Square footage of build 634.3 Square footage of grading -

**\*\*\*Must attach detailed construction plans and site plan\*\*\***

I hereby certify that I am the owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the code official or the code official's authorized representative shall have the authority to enter areas covered by such permit at any reasonable hour to enforce the provisions of the code(s) applicable to this permit.

  
SIGNATURE OF APPLICANT

17 Highland Street  
ADDRESS OF APPLICANT

304-282-4564  
PHONE

PRINT NAME: John R. Garlow

**Detailed Description of Work to be Done:**

garage addition

**STRUCTURAL FRAME INFORMATION:**

Steel     Masonry     Concrete     Wood     Other (identify) \_\_\_\_\_

**EXTERIOR WALL INFORMATION:**

Steel     Masonry     Concrete     Wood     Other (identify) \_\_\_\_\_

Street Frontage (FEET)	Stories (NUMBER)	Lot Area (SQ. FT.)
Front Setback (FEET)	Bed Rooms (NUMBER)	Total Building Area (SQ. FT.)
Rear Setback (FEET)	Full Baths (NUMBER)	Parking Area (SQ. FT.)
Left Setback (FEET)	Partial Baths (NUMBER)	Living Area (SQ. FT.)
Right Area (FEET)	Garages (NUMBER)	Basement Area (SQ. FT.)
Height Above Grade (FEET)	Windows (NUMBER)	Garage Area (SQ. FT.)
New Residential Units (NUMBER)	Fireplaces (NUMBER)	Office/Sales Area (SQ. FT.)
Existing Residential Units (NUMBER)	Enclosed Parking (NUMBER)	Service Area (SQ. FT.)
Elevators/Escalator (NUMBER)	Outside Parking (NUMBER)	Manufacturing Area (SQ. FT.)

**ELECTRICAL INFORMATION:**

Size of underground conductor \_\_\_\_\_  
Size of grounded conductor \_\_\_\_\_  
Size of grounding conductor \_\_\_\_\_  
Type of grounding system (water pipe, ground rods, etc) \_\_\_\_\_  
Size of conduit used \_\_\_\_\_  
Electrician license number \_\_\_\_\_

OFFICE USE ONLY

APPROVALS:

Engineering Department Approval Notes:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of person reviewing: \_\_\_\_\_

DATE

Planning Department Approval Notes:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of person reviewing: \_\_\_\_\_

DATE

Code Enforcement Approval Notes:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of person reviewing: \_\_\_\_\_

DATE

Fire Department Approval Notes:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of person reviewing: \_\_\_\_\_

VALIDATION:

Permit Number: <i>Garage Residential - 2017-000000646</i>	Fee <i>44.40</i>
Electrical:	Fee <i>50.00</i>
Other:	Fee
Other:	Fee
Stop Work Order:	Fee

Application Accepted and Processed By: \_\_\_\_\_

Approved By: \_\_\_\_\_

Total Fee

DATE

Signature of Person Picking Up Building Permit: \_\_\_\_\_

DATE

Print Name of Person Picking up Permit: \_\_\_\_\_



N 88°05'06" E 35.90'      N 88°05'06" E 52.15'      1/2" pipe fd.

0.08 acres  
3543.43 sq ft

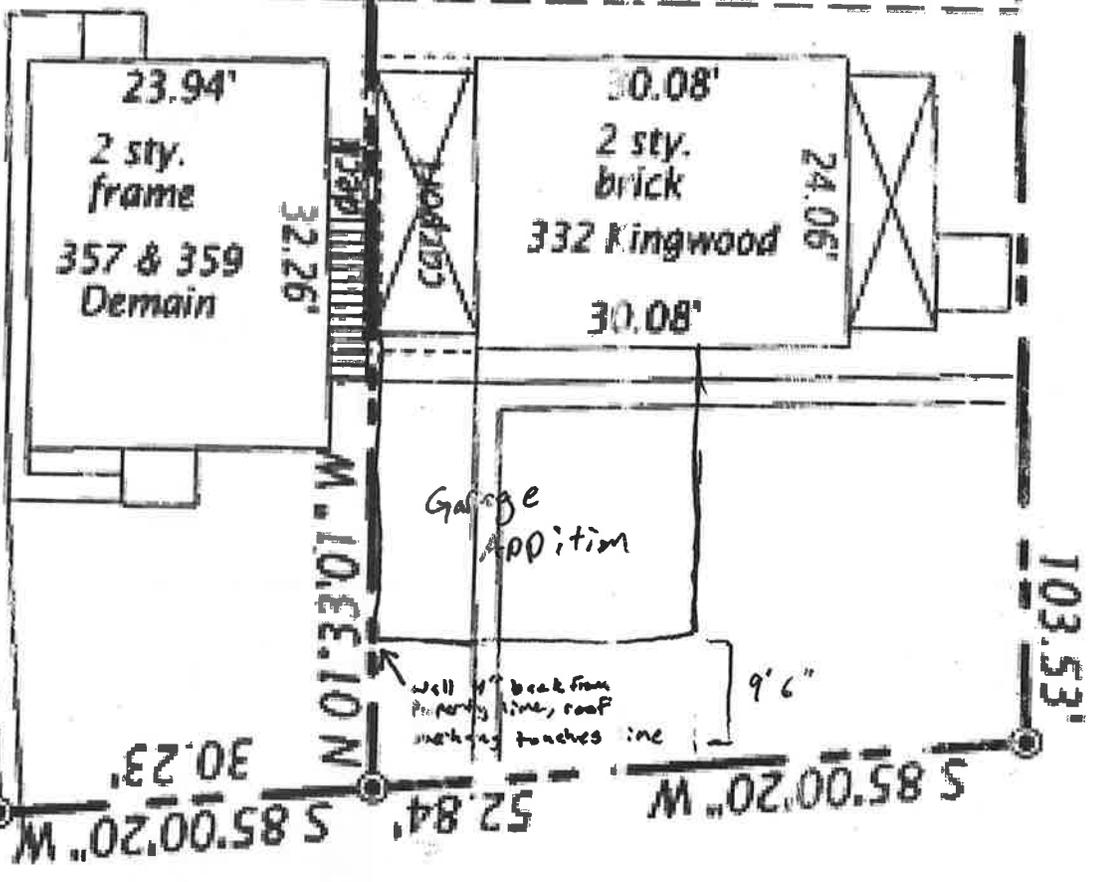
0.13 acres  
5504.65 sq ft

Lot B

Lot C

S 01°53'00" E

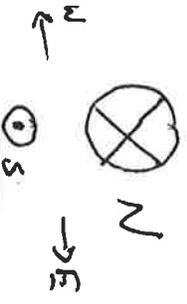
Kingwood Street 30'



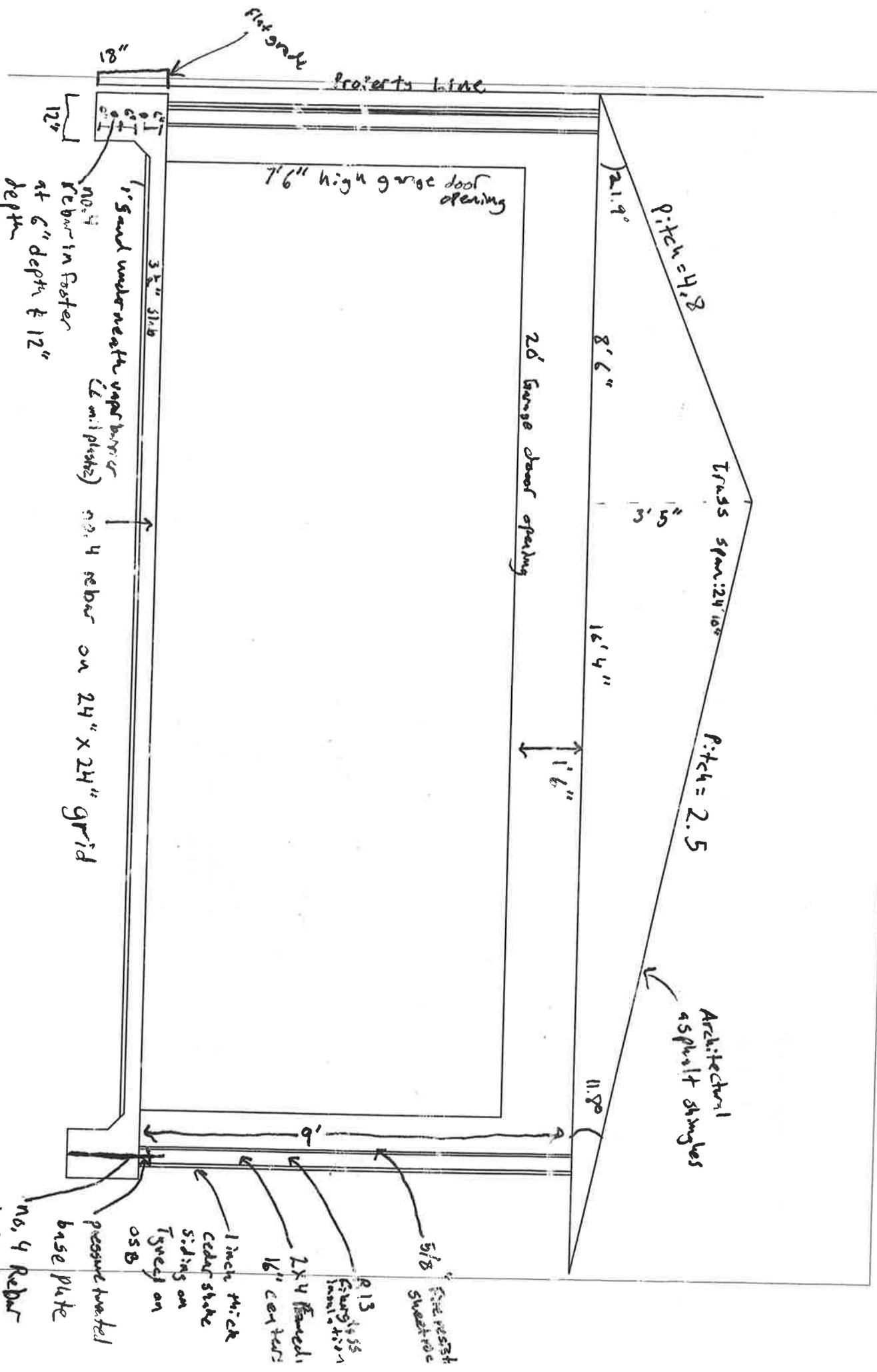
103.53'

S 85°00'20" W 30.23'      N 01°33'01" W 10.33'      S 85°00'20" W 52.84'      S 85°00'20" W 58.58'

Demain Avenue 40'



3/8" = 1'



1" sand underneath vapor barrier (6 mil plastic) no. 4 rebar in footer at 6" depth & 12" depth

no. 4 rebar on 24" x 24" grid

5/8" Fire resistant sheath for  
 2x13 Ceiling joist Insulation  
 5/8" Fire resistant sheath for  
 16" centers  
 2x4 Rafters  
 1 inch thick cedar shake siding on Tiesel on OSB  
 pressure treated base plate  
 no. 4 Rebar to tie into base

Architectural asphalt shingles

Truss span: 24'10"

Pitch = 4:8

Pitch = 2.5

2d Garage door opening

7'6" high garage door opening

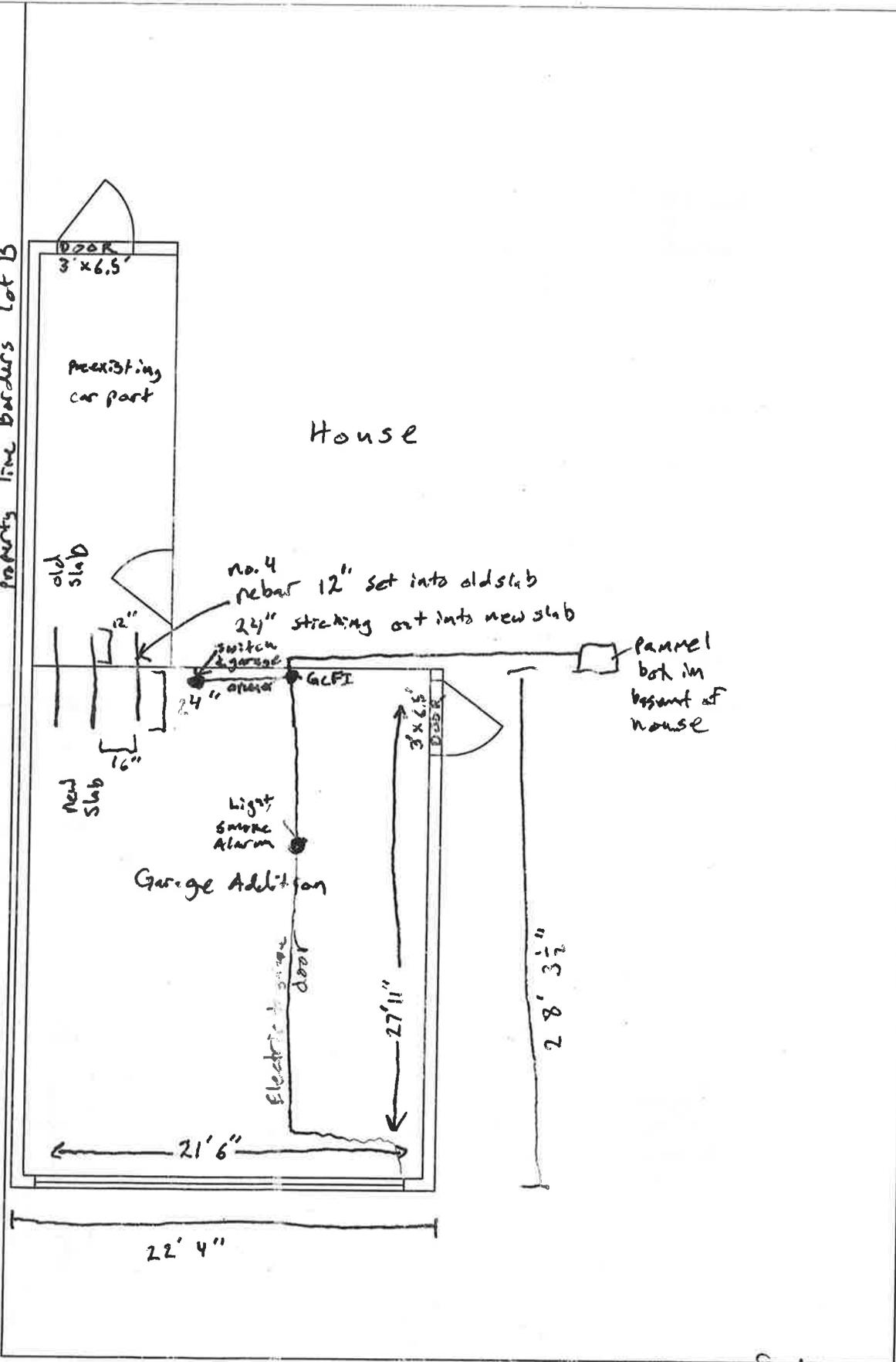
flat grade property line

1/8" = 1'



Property line Borders Lot B

Property line Borders Kingwood street



3' x 6.5'

existing car port

House

old slab

no. 4 rebar 12" set into old slab  
24" straking out into new slab

switch & ground

GCFI

Panel box in basement of house

new slab

Light smoke Alarm

Garage Addition

Electric to garage

door

3' x 6.5'

27' 11"

28' 3 1/2"

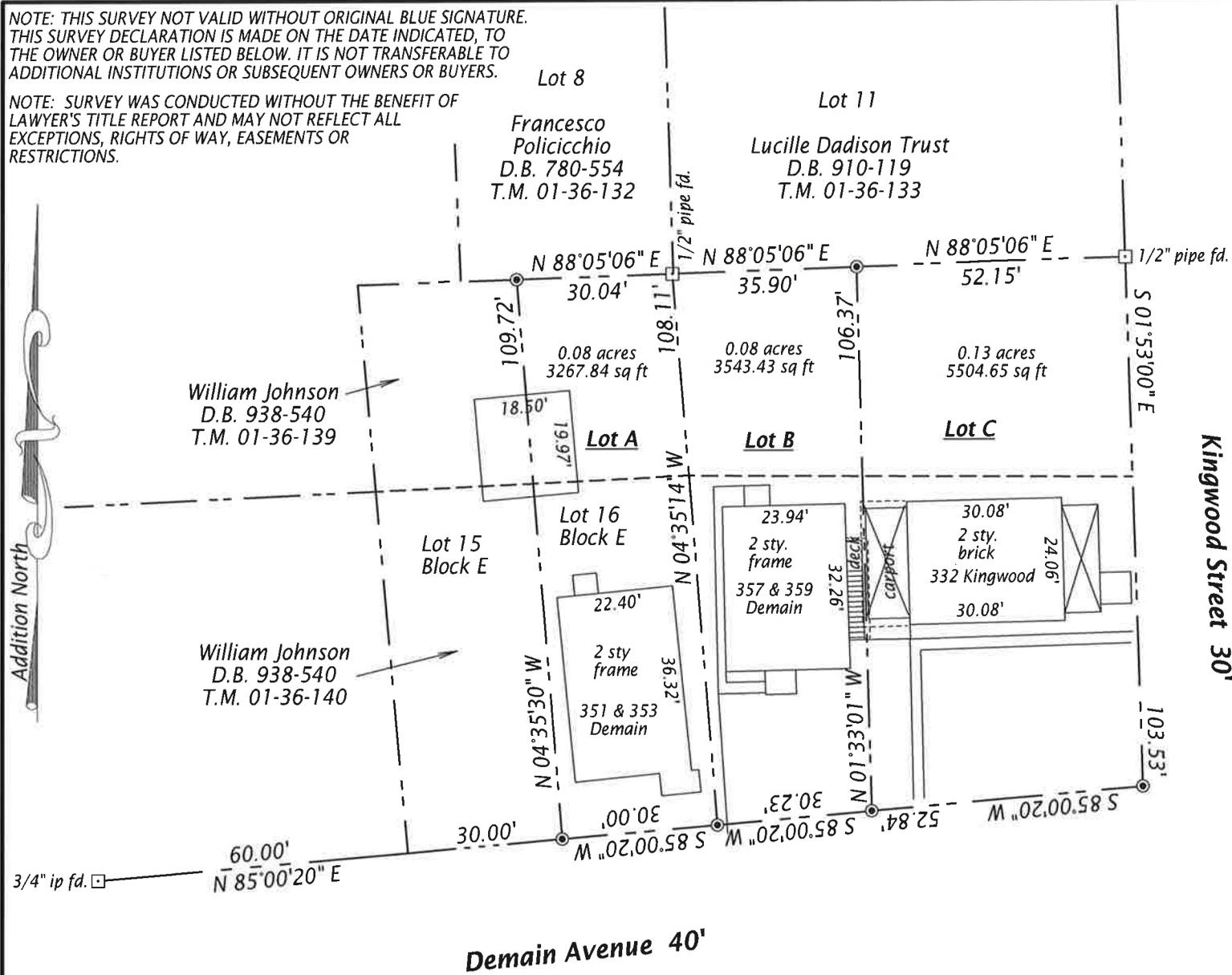
21' 6"

22' 4"

Property line Border Domain Ave

NOTE: THIS SURVEY NOT VALID WITHOUT ORIGINAL BLUE SIGNATURE.  
 THIS SURVEY DECLARATION IS MADE ON THE DATE INDICATED, TO  
 THE OWNER OR BUYER LISTED BELOW. IT IS NOT TRANSFERABLE TO  
 ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS OR BUYERS.

NOTE: SURVEY WAS CONDUCTED WITHOUT THE BENEFIT OF  
 LAWYER'S TITLE REPORT AND MAY NOT REFLECT ALL  
 EXCEPTIONS, RIGHTS OF WAY, EASEMENTS OR  
 RESTRICTIONS.



Note: All corners 5/8" iron pins set, except where noted.  
 Deed Ref. 727-257 & 1110-417  
 Plat Ref. 142-464  
 Tax Map 01-36-134, 135, 136, 137 & 138  
 Property Zoned R-1A, Single Family Residential

THIS SUBDIVISION HAS BEEN APPROVED BY THE  
 MORGANTOWN PLANNING COMMISSION OR ASCERTAINED  
 TO MEET THE MORGANTOWN SUBDIVISION REGULATIONS  
 ON \_\_\_\_\_, 2016 AND IS  
 READY FOR RECORDING BY THE MONONGALIA  
 COUNTY CLERK OF THE COURT

AUTHORIZED AGENT

**CITY OF MORGANTOWN  
 PLANNING DEPARTMENT**

TITLE

JUN 28 2017

**RECEIVED**

Watts Alley 15'

Plat of Lot 16, & Parcel, Block E Wiles Addition &  
 Lots 1, 2, 3 and Parcel, Block H, Wiles Addition  
 Subdivided For

**Teresa Eddy, Sheila R. Gallon,  
 Francine Leinbach & Marcella Leon**

2nd Ward City of Morgantown  
 Monongalia Co. West Virginia  
 Scale 1"=30' March 2016



*Paul D. Harbert* PS No. 862  
 Paul D. Harbert, PS  
 McCoy Land Surveying  
 Monongah, WV (304) 534-5562