STAFF REPORT
DATE: 4/13/2020
PUBLIC HEARING

TO: Planning Commission
FROM: Ben Prchal, City Planner
AGENDA ITEM: Variance Request for 9495 Stillwater Blvd.
REVIEWED BY: Ken Roberts, Planning Director

BACKGROUND:

The City has received variance a request from applicant Greg Kotaska, for the property located at 9495 Stillwater Blvd. The applicant is requesting a setback variance in order to expand an accessory building that is considered non-conforming due to its location in the front yard of the property. Accessory buildings are not allowed to be located closer to the front lot line than the principle structure. With the applicant wanting to expand the structures footprint, the need for a variance is triggered due to the non-conformity of the building location.

Staff has met with the resident to discuss and understand the constraints of the site. With the shed being damaged in 2019 due to a storm, the applicant would now like to capitalize on the opportunity to expand the structure so it can better meet the applicant's needs. The former shed was 512 sq. ft. in size and the applicant would like to rebuild the structure so it would be 576 sq. ft. in size. To do so, the applicant needs City approval a front yard setback variance because of its proposed location relative to the home and the front lot line of the property.

ISSUE BEFORE COMMISSION:

The Commission is being asked to hold a public hearing, review, and make a recommendation(s) on the requested variance.

REVIEW/ANALYSIS:

PID	15.029.21.34.006
Existing Land Use/Zoning:	Single-family zone as Rural Single Family.
Surrounding Land Use/ Zoning:	Single family homes zoned as Rural Single Family.
History:	Used as Single Family
Deadline for Action:	Application Complete – 3/19/2020 60 Day Deadline – 5/18/2020 Extension Letter Mailed – N/A 120 Day Deadline – N/A
Applicable Regulations:	• Article V - Zoning Administration and Enforcement • Article XI – Rural Districts

PROPOSED VARIANCE

Variance Request. The applicant is requesting to rebuild an accessory building that is closer to the front lot line than the principle structure. If the applicant chose to rebuild the structure with the exact same square footage the City would not require a variance. However, because the building is non-conforming (due to its location) and is proposed to be expanded in size, the City requires a variance because of the proposed location. The applicant would like to increase the size of the building from 512 sq. ft. to 576 sq. ft. Although the size difference is only 64 sq. ft., the City considers the proposal an expansion, which triggers the need for a variance.

Standard	Required	Proposed
Setback from the Front Property Line.	30 ft. Or The Principle Structure	The distance to the front property line and the water would not change.

Reason for Variance Requests
The applicant is requesting the variance so the structure may be expanded and remain located closer to the front lot line than the Code would normally allow. Geographic constraints and lay out of the lot cause issues for a new location, such as the slope in the rear yard, the location of the home and the drainfield leaves very limited space for an alternative location. The applicant also wants to reuse the existing building site.

APPLICABLE CODE
When reviewing the criteria for an accessory structures a few different sections of the City Code may become applicable. However, the applicant is only needing a variance from the front yard setback listed in 154.406.

154.406 Accessory Structures, Rural Districts.) D. *Structure Location, Rural Districts.* No detached garages or other accessory buildings shall be located nearer the front lot line than the principal building on that lot.

Setback:
As previously noted, accessory buildings cannot be located closer to the front property line than the principle structure or be less than 30 ft. from the lot line. Geographic constraints coupled with the location of the home and septic system make construction in the side or rear yard difficult. With the driveway and septic system on the eastern side of the property, there is limited space on the east while the land to the south and west would struggle with slopes and setback requirements from the pond.

Staff is proposing a condition of approval that the setback for the new structure from the pond and the front lot line not be reduced. This means the shed dimensions will need to expand to the south towards the home and the rear will need to cinch to the east.

AGENCY REVIEW
There have not been any comments submitted from other agencies or departments.

Neighboring Comments:
The applicant did provide Staff with a "petition" with the signatures of the surrounding neighbors who found no issue with the project.

- Staff received an email from Wayne & Lori Goiffon at 9519 Stillwater Blvd. stating that they had no objections to the request.
- Todd Alguire at 9447 Stillwater Blvd, who shares a driveway with the applicant, provided Staff with an email stating that they had no issues with the variance request.

RECOMMENDED FINDINGS

An applicant must establish and demonstrate compliance with the variance criteria set forth in Lake Elmo City Code Section 154.017 before an exception or modification to city code can be granted. These criteria are listed below, along with comments from Staff regarding applicability of these criteria to the applicant's request.

1) **Practical Difficulties**. A variance to the provision of this chapter may be granted by the Board of Adjustment upon the application by the owner of the affected property where the strict enforcement of this chapter would cause practical difficulties because of circumstances unique to the individual property under consideration and then only when it is demonstrated that such actions will be in keeping with the spirit and intent of this chapter.
   - *Definition of practical difficulties* - "Practical difficulties" as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control.

FINDINGS:

- **Variance for Accessory Building Setback:** *The request does appear to be reasonable for multiple reasons. The applicant would like to use the existing building pad and marginally increase the size of the structure, which is far below the maximum allowed size for the property. Furthermore, the site was more or less established to accommodate the existing configuration of the buildings. Also, the drainfield on the east side of the lot and slopes surrounding the western side and rear of the property make it impractical to place an accessory building in the rear.*

2) **Unique Circumstances**. The plight of the landowner is due to circumstances unique to the property not created by the landowner.

FINDINGS:

- **Variance for Accessory Building Setback:** *With the majority of the property overtaken by water there is limited space available for improvements on site. With the home and existing structure being built prior to the current owner, there is no way the applicant would have been able to suggest a location that would accommodate the desires of Zoning Code. Beyond limited space in the rear of the home, due to steep slopes, and the required setback from the pond. The east side of the property holds the septic system, which also requires a 20 ft. setback. Also, with the property being wooded and in a shoreland district, tree removal on slopes is discouraged by the Code. Staff believes this criteria is met.*

3) **Character of Locality**. The proposed variance will not alter the essential character of the locality in which the property in question is located.

FINDINGS:

- **Variance for Accessory Building Setback:** *It is questionable whether an expansion to the accessory building by 64 sq. ft. will be noticeable to the surrounding properties. With the building being rebuilt in the same location the character will remain intact. Also, the petition containing the signature from the neighbors could lead to the belief that the existing neighborhood does not consider the request as a negatively change the locality.*

4) **Adjacent Properties and Traffic**. The proposed variance will not impair an adequate supply of light and air to properties adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood.

FINDINGS.

- **Variance for Accessory Building Setback:** *The location of the structure would not shade the neighboring properties or structures, nor would it impair air flow. Furthermore, the location would not cause an increase of traffic or congestion of traffic, or diminish the property values of the area.*

RECOMMENDED CONDITIONS

1. That the Applicant obtain all applicable permits including but not limited to a City building permit.
2. That the exterior finish of the structure must be similar to the principle structure in terms of design and color. Exterior design materials must be submitted with the building permit application.
3. If approved this variance approval is valid for 1 year and will expire on XXX. (date set after council approval)
4. The existing setback to the pond and the front lot line must not be reduced by the construction of the new building.

FISCAL IMPACT:

The proposed variance is not expected to have fiscal impact to the City.

OPTIONS:

The Commission may:

- Recommend approval of the proposed variance, subject to recommended findings and conditions of approval.
- Amend the recommended findings and conditions and recommend approval of the variance, subject to the newly outlined findings and conditions of approval.
- Move to recommend denial of all variance, citing findings for denial.

RECOMMENDATION:

Staff recommends approval of the variance request to expand a non-conforming structure (due to its location to the front lot line) with the following motion:

"Move to recommend approval of the request from Greg Kotaska at 9495 Stillwater Blvd. for a variance from the following standard: accessory structure setback from the front property line, subject to recommended conditions of approval."

ATTACHMENTS:

1) Narrative and Petition
2) Site Plan(s)
3) Building Plans
4) Additional Pictures

Variance Application Explanations

Pre-Application Meeting with City Planners:

Met with city planners on three different occasions to discuss the options on replacing my accessory building after an August 13th 2019 storm caused a tree to fall on and destroy my original building. Mr. Prchal and Mr. Roberts explained that building code now requires accessory buildings must be built at least four feet behind primary structure and if I were to stay within the original square footage of the former building this would not require a variance and could be grandfathered in.

The original building was a 16' wide by 32' long structure equaling 512 square feet, the proposed building is planned to be 24' wide by 24' long for a total square footage of 576 square feet. Because of the change in size and the revised location it will need a setback variance. This building is to be used to store my tractor and implements which I use to maintain the neighborhood private road.

Circumstances requiring the Variance:

I own a seven acre lot that consists of four acres of pond and three of elevated land. Due to adhering to the 150 ft setback from the pond water and not being able to build over the septic or well areas – see attached site plan, the spot selected turns out to be the only buildable area for this structure. There is also a steep 30 ft elevation drop from the back of the house to the water.

Staying in character of the neighborhood:

There are six neighbors in our unique neighborhood that borders the NW corner of the Lake Elmo park reserve. All of us own at least one acre lots and five of those six have accessory buildings. Three of these five buildings are in front of the primary residence as would be the situation I am requesting. There is no direct traffic that passes any of these homes and it ends up being six homes tucked back out of visibility from the normal population.

I have also visited each of these neighbors and discussed the plan of replacing my original building with a new one and asked if they would be willing to sign a petition stating there are no objections and they all gladly did so, which I've included with this application and lists their addresses/email/phone #'s for your reference.

In Summary:

This request will fit right in line with what the surrounding neighbors have already developed. The situation of six neighbors located over 200 yards off of Stillwater Blvd. and not visible to local traffic will make this structure only visible to three of the six neighbors. My intent is only to replace the structure that was presently there albeit increasing the size by 64 sq ft to accommodate the tractor and implements.

Thank You for your consideration.

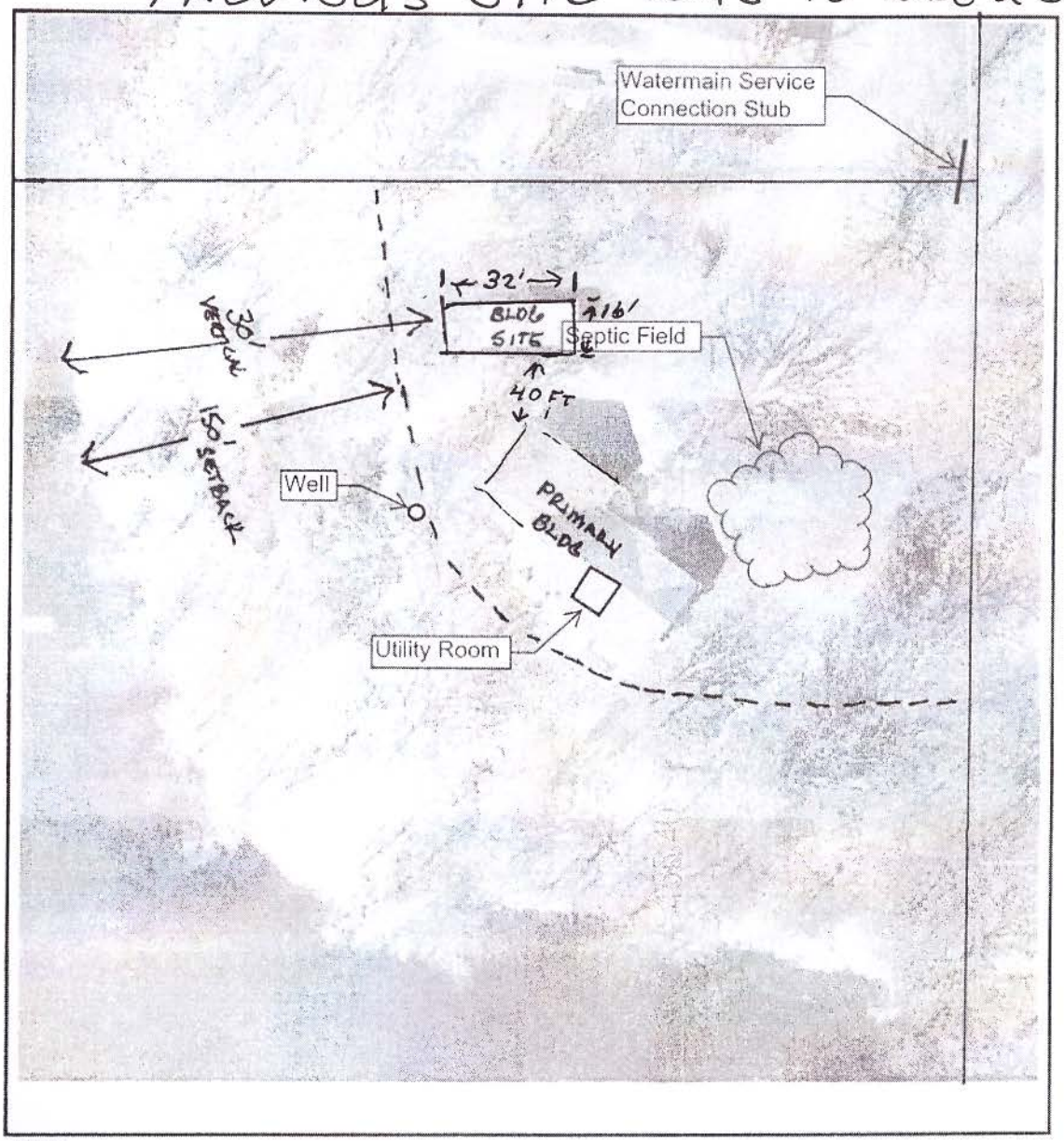
Greg Kotaska 9495 Stillwater Blvd Lake Elmo Mn. 612.366.7081

Petition for Variance Approval

We the neighbors of Greg Kotaska, Located at 9495 Stillwater Blvd, Lake Elmo Mn. have no objections to the replacement of his original out-building destroyed in last August's storm to the new proposed 24' by 24' building in the same location.

Printed Name	Address	email	Phone #	Signature
LORI A. GOIFFON	9519 STILLWATER BLVD. N.	lgoiffon@gmail.com	651-492-0849	Lori A. Goiffon
Wayne J. Goiffon	9519 Stillwater Blvd. N.	lgoiffonw@msn.com	651-773-7544	Wayne J. Goiffon
JEFF TOWNSEND	9521 STILLWATER BLVD N	JEFFREYTOWNSEND@LIVE.COM	904-654-3798	
Andrea O'Shea	9517 Stillwater Blvd N	aowelcome@gmail.com	612.269.3814	Andrea O'Shea
Richard Hayek	9523 Stillwater Blvd. N	r.e.hayek@att.net		Richard Hayek
Todd Algeire	9447 Stillwater Blvd N	toddalgeire@gmail.com		

PREVIOUS SITE WAS 16' WIDE X 32' LENGTH



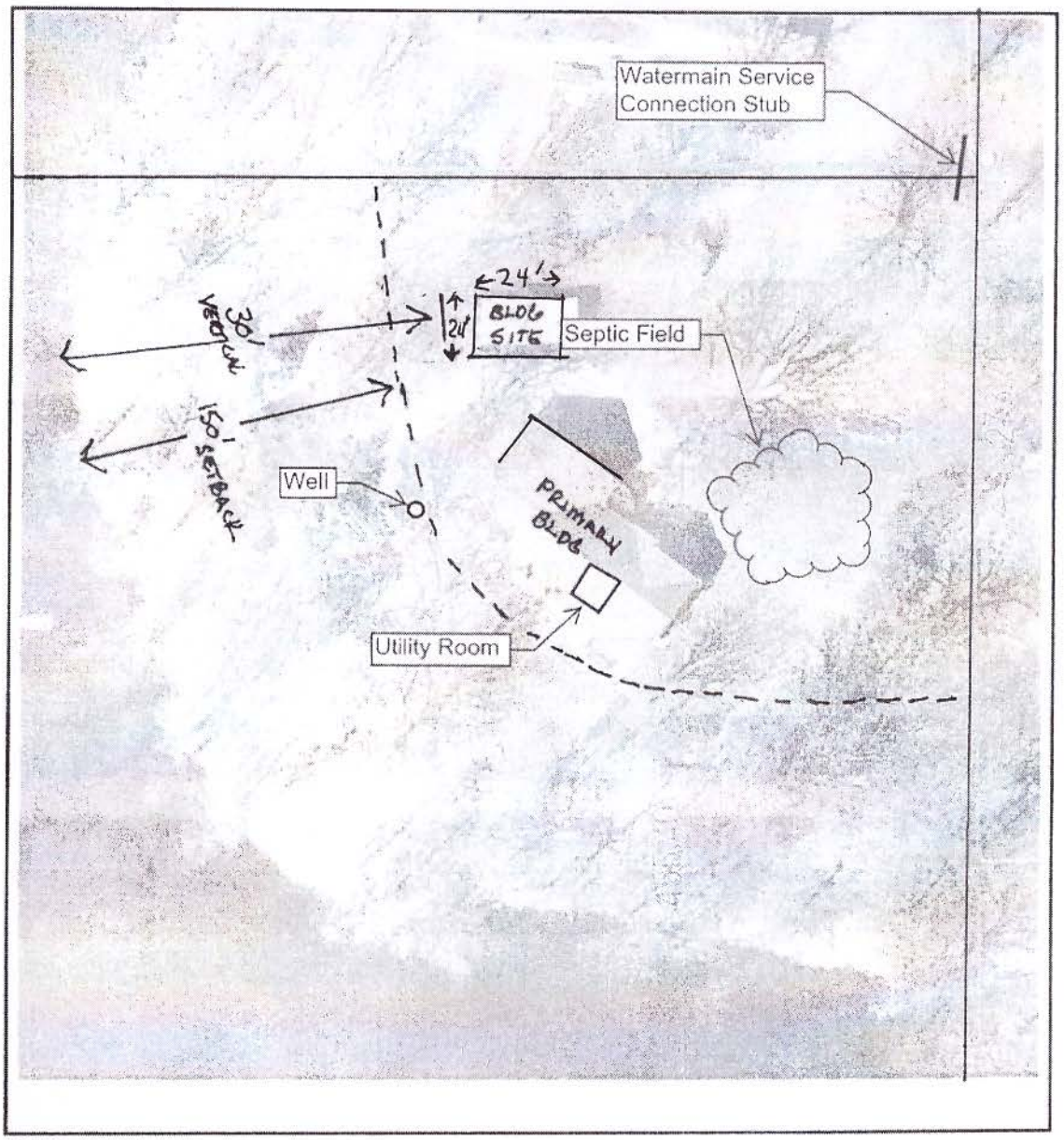
N.T.S.

Address: 9495 Stillwater Blvd N Owner: Greg Kotaska Phone #: 612-366-7081

Contact Email: gwkotaska@trane.com

☐ Well ☐ Utility Room ☐ Septic System ☐ BOC to FOH: _____ ☐ MPCA Notice

NEW PROPOSAL 24'X 24 BLDG



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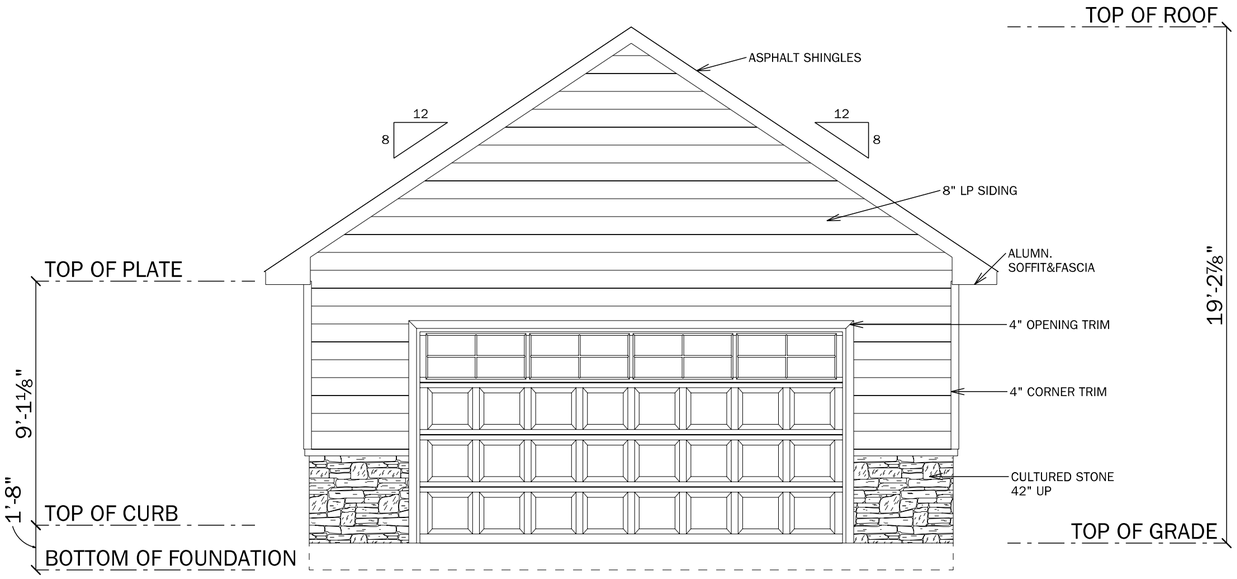
Contact Email: gwkotaska@trane.com

☐ Well ☐ Utility Room ☐ Septic System ☐ BOC to FOH: _____ ☐ MPCA Notice

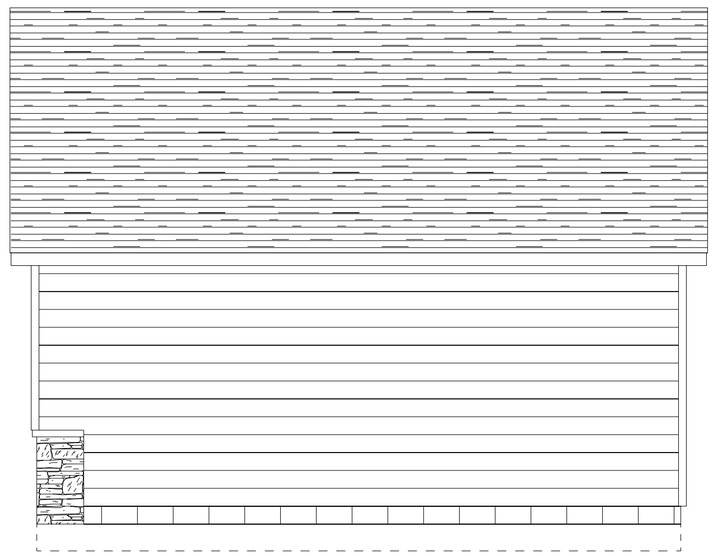

X


X


X



FRONT ELEVATION
SCALE: 1/4" = 1’-0"



RIGHT ELEVATION
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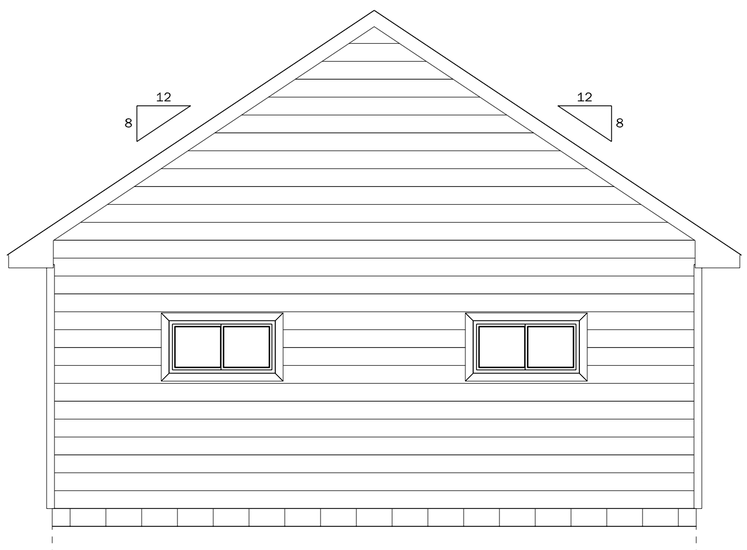

REAR ELEVATION
SCALE: 1/4" = 1’-0"

LEFT ELEVATION
SCALE: 1/4" = 1’-0"

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

DRAWN BY: MATT SWIONTEK

Thursday, October 3, 2019

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