



PLANNING COMMISSION MEETING AGENDA  
TUESDAY JUNE 21, 2022

**7:30 PM REGULAR MEETING**

1. Call to Order
2. Oath of Office for Newly Appointed Planning Commission Alternate – Timothy Usset
3. Roll Call
4. Approval of Minutes:
  - a. May 17, 2022, Planning Commission Meeting
  - b. June 7, 2022, City Council Meeting Minutes (For Information Only)
5. **PUBLIC HEARING:** John Zitzloff (Applicant/Owner) is requesting that the City consider the following action for the property located at 4224 Lake Sarah Dr. S. (PID No. 02-118-24-42-0002) in Independence, MN:
  - a. A variance to allow a detached accessory structure on the property that exceeds the height of the principal structure.
6. **TO BE TABLED TO JULY 19 - PUBLIC HEARING:** Jon Dailing/Windsong Farm Golf Club (Applicant) and David Meyer (Owner) are requesting the following action for the property generally located at and adjacent to 8590 County Road 92 N (PID No.s 32-118-24-23-0001, 32-118-24-22-0003, 32-118-24-22-0002, 32-118-24-13-0002, 32-118-24-12-0003 and 32-118-24-12-0004) in the City of Independence, MN:
  - a. Conditional use permit amendment to allow the development of a new 18-hole golf course and associated site improvements on the subject properties.
7. Open/Misc.
8. Adjourn.

MINUTES OF A MEETING OF THE  
INDEPENDENCE PLANNING COMMISSION  
MAY 17, 2022 – 7:30 P.M.

1. CALL TO ORDER

Pursuant to due call and notice thereof, a regular meeting of the Independence Planning Commission was called to order by Gardner at 7:30 p.m.

2. ROLL CALL

PRESENT: Commissioners Gardner, Dumas, Volkenant, Thompson, Tearse and Alternate Story  
STAFF: City Administrator Kaltsas, Assistant to Administrator Horner  
ABSENT: None  
VISITORS: See Sign-In Sheet

3. APPROVAL OF MINUTES:

- a. April 19, 2022, Planning Commission Meeting
- b. May 3, 2022, City Council Meeting Minutes (For Information Only)

**Motion by Thompson to approve the April 19, 2022 Planning Commission minutes, second by Volkenant. Ayes: Gardner, Dumas, Volkenant, and Thompson. Alternate Story. Nays: None. Absent: None. Abstain: None. Motion Approved.**

**4. PUBLIC HEARING:** Tony Post (Applicant/Owner) is requesting that the City consider the following action for the property located at 2791 Copeland Road (PID No. 18-118-24-41- 0002) in Independence, MN:

- a. A variance and conditional use permit to allow an accessory dwelling unit to be located within the existing accessory building that exceeds the maximum size.

***Request:***

Tony Post (Applicant/Owner) is requesting that the City consider the following action for the property located at 2791 Copeland Road (PID No. 18-118-24-41-0002) in Independence, MN:

- a. A variance and conditional use permit to allow an accessory dwelling unit to be located within the existing building that exceeds the maximum size.

***Property/Site Information:***

The property is located on the west side of Copeland Road and south of Highway 12. The property is comprised primarily of pasture and wetlands. The property has one large and connected building that houses the barn, riding arena, garage and principal residence. The building is really four buildings that have been connected together.

Property Information: 2791 Copeland Road

*Zoning: Agriculture*

*Comprehensive Plan:*

*Agriculture Acreage: 52  
acres*

***Discussion:***

The applicant is seeking a conditional use permit to allow an accessory dwelling unit inside a portion of the existing structure on the property. This property is unique in that there is one large, combined building that houses a series of spaces and uses, including the principal dwelling unit. The applicant approached the City prior to purchasing the property to inquire about building a second home on the property and maintaining the existing dwelling unit located within the combined building. It was noted that the property cannot have two (2) dwelling units so the existing space would need to be converted into something that conforms with applicable provisions of the City's zoning ordinance (i.e. accessory dwelling unit). Accessory dwelling units are a conditional use within the AG-Agriculture zoning district. There was some question relating to the existing residence and whether or not it really appears to look/feel/act as a principal dwelling unit. Staff visited the property and found that the existing space definitely felt and acted as a dwelling unit even though it is connected in a non-traditional manner to the barn and garage.

The space does have the potential to be converted into an ADU; however, the space associated with the existing dwelling unit is larger than the maximum size permitted of 1,200 SF. Staff discussed the possibility of converting a portion of the space and or closing off a portion of the space in order to meet the maximum ADU size of 1,200 SF. The dwelling unit is comprised of a semi-finished basement (currently is mostly finished with a bedroom, utility room, storage, family room and closet), main level with full kitchen, living and dining areas and an open second floor loft with bathroom and closet. There is also a laundry room and back "office/multipurpose" room that could be associated with the existing barn/arena or the dwelling unit.

The existing dwelling unit square footage is broken down as follows:

- Basement: 1,014 SF
  - First Floor: 1,317 SF
  - Second Floor: 554 SF
- TOTAL: 2,885 SF

The proposed ADU square footage is broken down as follows:

- Basement: 0 SF (closed off from remaining dwelling, closet removed, use as storage)
- First Floor: 798 SF (add door to close off 519 SF of utility/laundry/office/3/4 bath)
- Second Floor: 389 SF (City to not count ~165 SF of closet/bathroom with low ceiling) TOTAL: 1,187 SF

The applicant has provided a plan that indicates their proposed conversion of the space into a conforming ADU (gray areas to not be counted towards ADU square footage calculation). The proposal includes closing off the basement with a lockable door and closing off the laundry and office/multipurpose room and ¾ bath on the first floor with a lockable door. In order for the square footage to drop below 1,200, the City would also have to allow the second floor loft bathroom/closet to be excluded from the total square footage calculation. The applicant noted that this space has a low ceiling height.

The City adopted an ADU ordinance to allow for “mother in law” type units within an existing structure or as a stand-alone structure in the AG-Agriculture zoning district. The criteria established attempted to ensure that ADU’s would be clearly subordinate to the principal structure and not constitute a second home on an existing property. This building and the way it was constructed is definitely not typical of other single-family dwelling units within the City. Ironically, the City is seeing an increase in the number of “barndominiums” being proposed and constructed currently. This type of structure and their future conversion into ADU’s is something that the City may be faced with in the future.

Staff is seeking direction from the Planning Commission relating to this request. The City will need to determine if the proposed conversion of this space meets the intent of the ADU criteria. In addition, the City would need to determine if the square footage calculations (based on the proposed conversion) meet the intent of the ADU ordinance. The City has noticed this application and request as a conditional use permit and variance. The variance would allow the City to consider granting a variance to the maximum size limitations for an ADU (greater than 1,200 SF). The City could determine that the proposed changes do not meet the intent/criteria for granting an ADU based on exceeding the size limitations and could recommend granting a variance to allow an ADU that is larger than 1,200 SF. The City has not historically granted approval of an ADU that exceeds the size limitations.

In order to grant approval for an accessory dwelling unit, the applicant will need to demonstrate how they meet all applicable criteria for granting a conditional use permit. The City has criteria broadly relating to Conditional Use Permits and then more focused criteria relating specifically to accessory dwelling units.

An accessory dwelling unit must meet the following criteria:

*Subd. 2. "Accessory Dwelling Unit." A secondary dwelling unit that is:*

- (a) Physically attached to or within a single-family dwelling unit or within a detached<sup>a</sup> accessory building that has a principal structure on the parcel; and*

**The applicant is proposing to use the accessory dwelling unit located**



**within the existing detached accessory structure.**

- (b) *Subordinate in size to the single-family dwelling unit; and*

**The proposed accessory dwelling unit would be subordinate in size to the single-family dwelling unit.**

- (c) *Fully separated from the single-family dwelling unit by means of a wall or floor, with or without a door; and*

**The proposed accessory dwelling unit would be separated from the single-family home.**

- (d) *Architecturally compatible with the principal structure (using materials, finishes, style and colors similar to the principal structure); and*

**The proposed accessory structure is existing.**

- (e) *The lesser of 33% of the above ground living area of the principal structure or 1,200 square feet, and no less than 400 square feet; and*

**The proposed new principal structure will have more than 3,640 square feet of above ground space not including the basement.**

- (f) *Not in excess of the maximum square footage for accessory structures as permitted in this code; and*

**There is not a limitation on the total amount of accessory structure square footage for properties zoned Agriculture and greater than 10 acres.**

- (g) *Has permanent provisions for cooking, living and sanitation; and*

**The existing structure has permanent provisions for cooking; living and sanitation (see attached depiction).**

- (h) *Has no more than 2 bedrooms; and*

**The existing structure has one bedroom within the accessory dwelling unit.**

- (i) *Limited to relatives of the homesteaded owner occupants or the homesteaded owners of the principal structure. The total number of individuals that reside in both the principal dwelling unit and accessory dwelling unit may not exceed the number that is allowed by the building code; and*

**The applicant is proposing that the accessory dwelling unit be occupied solely by family members.**

- (j) *Uses the existing on-site septic system<sup>b</sup> or an approved holding tank; and*

**The structure is connected to the existing septic system on the property.**

- (k) *Respectful of the future subdivision of the property and the primary and secondary septic sites. The City may require a sketch of the proposed future subdivision of a property; and*

**The detached accessory building is a conforming structure that is currently in existence.**

- (l) *In compliance with the adopted building code relating to all aspects of the dwelling unit.*

**The proposed accessory structure will meet all applicable building codes and may be required to obtain requisite after-the-fact permits.**

*<sup>a</sup> On lots less than 2.5 acres, the accessory dwelling unit must be attached to the principal dwelling unit or located/constructed within an existing detached accessory structure that meets all criteria of this section.*

*<sup>b</sup> The existing on-site septic system will be required to be inspected by the City to ensure compliance with all applicable standards. Any system that does not meet all applicable standards shall be brought into compliance as a part of the approval of the accessory dwelling unit.*

There are several items that should be noted by the Planning Commission:

- The applicant is proposing to construct a new home on the subject property (see layout proposed). The proposed home has more than 3,640 SF of above ground square footage. The new home would allow for a 1,200 SF ADU on the subject property. Any approval of an ADU would be subject to the construction of a new home on the property.
- Even if the space is modified as proposed, the general living space will have the ability to function in a manner similar to that of a larger dwelling unit.
- The City has both historically and recently received similar conversion requests and or requests for ADU's that are larger than 1,200 SF. This is something that should be further discussed and considered by the City.
- If the City determines that a variance is warranted, the criteria for granting a variance would have to be satisfied.
- The location of the existing accessory building and its proximity to the surrounding properties does mitigate potential impacts of allowing a portion of the space to be used as an accessory dwelling unit. The surrounding properties are similar in character and have similar sized detached accessory buildings.

- The City has received letters of support from two of the adjacent property owners.

In addition to the requirements for allowing an accessory dwelling unit, the City has additional criteria which need to be considered for granting a conditional use permit

The criteria for granting a conditional use permit are clearly delineated in the City's Zoning Ordinance (Section 520.11 subd. 1, a-i) as follows:

1. The conditional use will not adversely affect the health, safety, morals and general welfare of occupants of surrounding lands.
2. The proposed use will not have a detrimental effect on the use and enjoyment of other property in the immediate vicinity for the proposes already permitted or on the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
3. Existing roads and proposed access roads will be adequate to accommodate anticipated traffic.
4. Sufficient off-street parking and loading space will be provided to serve the proposed use.
5. The proposed conditional use can be adequately serviced by public utilities or on-site sewage treatment, and sufficient area of suitable soils for on-site sewage treatment is available to protect the city form pollution hazards.
6. The proposal includes adequate provision for protection of natural drainage systems, natural topography, tree growth, water courses, wetlands, historic sites and similar ecological and environmental features.
7. The proposal includes adequate measures to prevent or control offensive odor, fumes, dust, noise, or vibration so that none of these will constitute a nuisance.
8. The proposed condition use is consistent with the comprehensive plan of the City of Independence.
9. The proposed use will not stimulate growth incompatible with prevailing density standards.

Consideration for the proposed conditional use permit should weigh the impact of having an accessory dwelling unit located on this property. The location of the proposed accessory dwelling unit and its compliance with all applicable setbacks does help to mitigate potential impacts resulting from the construction of the accessory dwelling unit. The City will need to consider if the accessory dwelling unit meets the requirements and criteria for granting a conditional use permit.

There are several factors to consider relating to granting a variance. The City's ordinance has established criteria for consideration in granting a variance.

*520.21. Standards for granting variances. Subdivision 1. The City Council may grant a variance from the terms of this zoning code, including restrictions placed on nonconformities, in cases where: 1) the variance is in harmony with the general purposes and intent of this zoning code; 2) the variance is consistent with the comprehensive plan; and 3) the applicant establishes that there are practical*

*difficulties in complying with the zoning code (Amended, Ord. 2011-08)*

*Subd. 2. An applicant for a variance must demonstrate that there are practical difficulties in complying with the zoning code. For such purposes, “practical difficulties” means:*

- (a) The property owner proposes to use the property in a reasonable manner not permitted by the zoning code;*
- (b) the plight of the property owner is due to circumstances unique to the property not created by the landowner;*
- (c) the variance, if granted, will not alter the essential character of the locality.*

*Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. (Amended, Ord. 2011-08)*

*Subd. 3. The City Council shall not grant a variance to permit a use that is not allowed under the zoning code based on the zoning classification of the affected property. (Amended, Ord. 2011- 08)*

*520.23. Conditions and restrictions. The board of adjustments may recommend and the City Council may impose conditions on a variance. Conditions must be directly related to and must bear a rough proportionality to the impact created by the variance. (Amended, Ord. 2011-08)*

Given the unique nature of the existing dwelling unit, its overall size, original intent to be a principal residence and the applications that have been submitted, staff is seeking more direction from the Planning Commission. The Planning Commission will need to determine if the proposed ADU as modified meets the intent of the City’s zoning ordinance. If the intent is not satisfied as proposed, the Planning Commission can make a determination that the criteria for granting a variance have been met by the applicant and could recommend approval of a variance to allow an ADU that exceeds the maximum size of an ADU (larger than 1,200 SF).

***Neighbor Comments:***

The City has received written comments supporting the request for the proposed conditional use permit/variance to allow an accessory dwelling unit.

***Recommendation:***

The Planning Commission can make a recommendation relating to the requested Accessory Dwelling Unit by granting approval of a CUP/Variance. Should the Planning Commission make positive a recommendation to the City Council, the following findings and conditions should be considered:

1. The proposed Conditional Use Permit/Variance request meets all applicable conditions and restrictions stated in Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.

2. The conditional use permit is to allow an accessory dwelling unit to be located within the existing accessory structure on the property. The criteria for permitting an accessory dwelling unit shall be perpetually satisfied by the owner of the property. Any change in the use of the accessory dwelling not in compliance with the applicable criteria for the accessory dwelling unit will cause the conditional use permit to be revoked by the City.
3. The conditional use permit will be issued subject to the following items being completed:
  - a. The proposed accessory structure cannot be expanded or enlarged without the review and approval of the City. Any expansion will require an amendment to the conditional use permit following all applicable procedures.
  - b. Approval of the CUP allowing the accessory dwelling unit is subject to the construction of a new home on the property.
4. The Applicant shall pay for all costs associated with the City's review of the requested conditional use permit/variance.

Kaltsas explained that this is a request for a CUP to allow an ADU inside an existing structure. This structure is unique since it is one large structure that houses the residence, garage and riding arena and barn all in one.

Thompson asked about this property being a rental if it goes to its own property. Kaltsas said we don't restrict residential rental in the city. IT is a limitation on the owner if they keep it as an ADU so it is restricted to family only. The hard part is the way this home is set up. Once you walk in, it is set up as a house feel but nothing about the property is typical.

Gardner said he doesn't think we are setting a precedent since this is a unique situation. Kaltsas said this is a unique property because this was existing and it is hard to imagine more of these properties in the city. If someone comes in and asks to build a barndominium, we give them a set of rules if they want to convert it one day. We hopefully would get a smaller structure conversion. He has had a property owner recently building an ADU that had exceeded the 1,200sqft just because they wanted to build a packaged home that was 1,350sqft. There would be clear separation between brand new and this situation.

Thompson said variance seems like the best way to go. Are there passageways and mirages to not make it look like too much. Kaltsas said it was built so long ago and was built as the principle residence. Thompson said the exterior does not look like it would be a principal structure. The ADU would be subject to building a principal structure. It allows us to issue a permit for a principle dwelling unit.

**Motion by Thompson to approve CUP and variance subject to staff recommendations, second by Gardner. Ayes: Gardner, Dumas, Volkenant, and Thompson. Alternate Story. Nays: None. Absent: None. Abstain: None. Motion Approved.**

5. **PUBLIC HEARING:** Dan Vanderheyden (Applicant) and Michael Crees (Owner) are requesting that the City consider the following action for the properties located off of Maple Street with an unassigned address (PID No.s 24-118-24-11-0007 and 24-118-24-11-0006) in Independence, MN:

- a. A minor subdivision to allow a lot combination of the two subject properties.
- b. A variance seeking reduced building setbacks to allow the construction of a new home on the combined properties.

***Request:***

Dan Vanderheyden (Applicant) and Michael Crees (Owner) are requesting that the City consider the following action for the properties located off of “Maple Street” (PID No.s 24-118-24-11- 0007 and 24-118-24-11-0006) in Independence, MN:

- a. A minor subdivision to allow a lot combination of the two subject properties.
- b. A variance seeking reduced building setbacks to allow the construction of a new home on the combined properties.

***Property/Site Information:***

The subject properties are located along the south side of Lake Independence off of South Lake Shore Drive. The property is mostly wooded with a wetland and no structures. The property has the following site characteristics:

**Property Information: 4944 South Lakeshore Drive** Zoning: *Rural Residential (Shoreland Overlay)* Comprehensive Plan: *Rural Residential*

Acreage (Before):     *Lot 5 (East Lot) - .22 acres*  
                              *Lot 5 (West Lot) - .21 acres*  
Acreage (After): *.43 acres*

***Discussion:***

The applicant approached the City about the possibility of constructing a new home on the subject properties. The City noted that both lots independently, have building eligibilities and are considered lots of record in the City. The City also noted that a structure cannot be constructed across a property line and combining the lots would be possible. One aspect of this property that creates additional challenges relating to its development, is an existing

wetland in the northeast corner. The applicant delineated the wetland and determined that the wetland plus applicable wetland buffer would significantly limit the ability to construct a home on the property.

After discussing possible solutions that would facilitate the construction of a home, the applicant applied to the Minnesota Board of Water and Soil Resources to allow a reduction in the applicable wetland buffer from 20' to 10'. This application was considered and approved (see attached). The reduction in the requisite wetland buffer will help facilitate the construction of a new home. Even when combined, the applicable building setbacks limit the construction of a typical single-family home on the properties. There are several considerations that should be noted by the Planning Commission:

- The lots in their current condition would be able to take advantage of the 60% setback provisions permitted for lots located within the S-Shoreland overlay district for properties in existence prior to December 31, 1982. If the lots are combined, they would constitute a new lot and would not qualify for the 60% setback provision.
  - The applicable building setbacks without the 60% provision are as follows:

Front Yard Required:	85 ft from centerline or 50 ft. from right-of-way, whichever is greater
Side Yard Required:	30 feet
OWHL Required:	100 feet
Wetland Buffer:	10 feet
  - The applicable building setbacks with the 60% provision are as follows:

Front Yard Required:	51 ft from centerline or 30 ft. from right-of-way, whichever is greater
Side Yard Required:	18 feet
OWHL Required:	60 feet
Wetland Buffer:	10 feet
- The applicant is proposing to construct a new home on the property that would meet the 60% setback provisions and take advantage of the reduced wetland buffer setback.
  - The proposed building setbacks are as follows:

Front Yard:	50 ft from centerline (1 foot variance)
East Side Yard:	30 feet (no variance)
West Side Yard:	18 feet (12-foot variance)
OWHL:	67 feet (33-foot variance)
Wetland Buffer:	0 feet (10-foot variance)

Based on the requirements of the City's current zoning ordinance, the applicant will need a variance from the setback requirements in order to construct the proposed home on this property.

*520.21. Standards for granting variances. Subdivision 1. The City Council may grant a variance*

*from the terms of this zoning code, including restrictions placed on nonconformities, in cases where: 1) the variance is in harmony with the general purposes and intent of this zoning code; 2) the variance is consistent with the comprehensive plan; and 3) the applicant establishes that there are practical difficulties in complying with the zoning code (Amended, Ord. 2011-08)*

*Subd. 2. An applicant for a variance must demonstrate that there are practical difficulties in complying with the zoning code. For such purposes, "practical difficulties" means:*

- (a) The property owner proposes to use the property in a reasonable manner not permitted by the zoning code;*
- (b) the plight of the property owner is due to circumstances unique to the property not created by the landowner;*
- (c) the variance, if granted, will not alter the essential character of the locality.*

*Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. (Amended, Ord. 2011-08)*

*Subd. 3. The City Council shall not grant a variance to permit a use that is not allowed under the zoning code based on the zoning classification of the affected property. (Amended, Ord. 2011-08)*

*520.23. Conditions and restrictions. The board of adjustments may recommend and the City Council may impose conditions on a variance. Conditions must be directly related to and must bear a rough proportionality to the impact created by the variance. (Amended, Ord. 2011-08)*

**Consideration of the criteria for granting a variance:**

- a. The applicant is proposing to use the property in a manner consistent with the Rural Residential District.
- b. The combination of the properties into one lot will reduce the overall and allowable coverage permitted if it was to remain as two (2) properties. The applicant has demonstrated that the proposed site development will not exceed the maximum 25% impervious surface coverage limitation (22.54%)
- c. The character of the surrounding area is residential. The applicant is proposing to construct a principal structure which is similar to that found on the surrounding properties.
- d. "Maple Street" is not a public right of way or road. It is considered a private driveway. The applicant has the ability to utilize the private driveway through a shared driveway agreement with the surrounding properties. The City allows up to three (3) lots on a private driveway. The combined lot would aid in maintaining no more than three lots on this private driveway.



- e. The proposed home would be connected to City sewer.
- f. Once combined, the proposed lot has a width of 100 feet. If the applicable 30 foot side yard setbacks were applied, the remaining width would be 40 feet. This is less than a typical lot in this area. Similarly, if you applied the 100 foot setback from The OHWL along with the 50' front yard setback, there would be very little width remaining (see exhibit).
- g. The property located to the east of the subject lots does not meet all applicable setbacks. It can be seen from aerial photographs, and it is otherwise known that many lake properties do not fully comply with all applicable zoning requirements.
- h. The applicant has provided the City with the initial building plans and elevations. The proposed home is a rambler-walkout style home (see attached).

The applicant has been working with the City to construct a reasonable home on the subject property. The existence of the wetland somewhat complicates the development of the property. The combination of the two lots into one lot should mitigate development impacts compared to the development of both of the subject properties. The Planning Commission will need to determine if the requested variance meet the requirements for granting a variance. The minor subdivision to allow a lot combination appears to meet all applicable requirements. The applicant will need to provide the City with the requisite 10' perimeter drainage and utility easements.

***Neighbor Comments:***

The City has not received any written or verbal comments regarding the proposed variance and minor subdivision.

***Recommendation:***

Staff is seeking a recommendation from the Planning Commission for the requested variance and minor subdivision. If recommended for approval to the City Council, the following findings should be considered:

1. The proposed variance and minor subdivision meets all applicable criteria and conditions stated in Chapter V, Section 500, Planning and Land Use Regulations of the City of Independence Zoning Ordinance.
2. Prior to the City executing the minor subdivision to be recorded at the County, the applicant shall provide the City with the following items:
3. The Applicant shall provide a revised exhibit indicating the requisite perimeter drainage and utility easements and legal descriptions. The Applicant shall execute all documents to convey the easements to the City.
4. The Applicant shall provide the City with a more detailed grading plan in the area adjacent to the wetland.

5. The requested variances will allow the construction of the proposed home in accordance with the associated building plans (approved plans only - plans will become an exhibit of the resolution). The variances will allow the following setbacks:
  - Front Yard: 50 feet (1-foot variance)
  - West Side Yard: 18 feet (12-foot variance)
  - OWHL: 67 feet (33-foot variance)
  - Wetland Buffer: 0 feet (10-foot variance)
6. The newly created lot will be required to connect to the City's sewer at the time a building permit application for a new home is submitted to the City.
7. The Applicant shall pay for all costs associated with the City's review of the requested variance and minor subdivision.
8. The Applicant shall record the minor subdivision and City Council Resolution with the county within six (6) months of approval.

Kaltsas explained this is a minor subdivision and subsequent variance to allow construction of a new home. How the properties are set up now and the wetland that showed up on the property in wetland delineation. They would like to combine the properties into one and build a home on this new piece. It is zoned RR. The E lot .22 acres and W is .21 acres for a total of .43 acres overall in after condition if it was combined. This property is off of an easement called Maple St. This had smaller lots carved out of it. There is a lift station at the end of Maple St which is a private drive. These two lots have been sitting here for a long time. In order to construct a home on one or both properties they need to be combined. They could be individually constructed but the size of the lots is very small and difficult to build on. IT helps the city to create a nice lot and brought more into compliance with ordinances. They were platted before Dec 31, 1962, so they can take advantage of the 60% coverage but if they combined, they would not get this since it would be a new lot.

They are proposing a front yard setback of 50ft, East yard setback of 30ft, West yard setback of 18ft, waterfront setback of 67ft, and a wetland buffer of 0ft. The wetland that showed up on this property is fairly small and is like a perched wetland. A buffer is required from delineated edge of wetland, and they were looking for some relief of this buffer and it was granted. The buildable area if all setbacks were applied, it would be a very restricted area to build. They presented a house plan. We would like more detail on grading on the NE corner of house towards wetland buffer. IT is a walkout rambler style house. It is reasonable with what the lot offers. Criteria for granting a variance still need to be found. They are trying to the best they can with setbacks and wetland buffer. They are providing a reasonable offer to the city.

Thompson asked about the bonus wetland. The lot beforehand would be very hard to build on. Kaltsas said the city has to allow the reasonable use of a property. There are some other lots and houses on narrow lots.

Purchased both lots 3 years ago, went through wetland process and now looking to build on this lot. Thompson asked if the process took 3 years. Dan said no, we put it on the back burner and now we are ready to build. Dan said we played around with the lot, and this is what made the most sense. Story asked if this was going to be their primary residence. Dan said yes.

Gardner said this is a great solution. Thompson asked for any additional recommendations from Kaltsas. Kaltsas said it would be sewer, no park dedication.

**Motion by Thompson to approve the variance and minor subdivision, second by Story. Ayes: Gardner, Dumas, Volkenant, and Thompson. Alternate Story. Nays: None. Absent: None. Abstain: None. Motion Approved.**

7. Open/Misc.

Kaltsas said the city appointed a second alternate at the last meeting, Tim Usset. He will be sworn in at the next meeting.

Thompson said the city put so much effort into the CUP regulations, is there anything available coming out of that. Kaltsas said this summer we plan on doing a round of compliance checks. We want to do every other year ideally but Covid set us back. We do keep an active report with regulations and conditions. As we go through, we can bring planning commission in on the reporting.

8. Adjourn.

**Adjourned at 8:38 p.m.**

Respectfully Submitted,

---

Amber Simon / Recording Secretary

MINUTES OF A REGULAR MEETING OF THE  
INDEPENDENCE CITY COUNCIL  
TUESDAY June 7, 2022–6:30 P.M.  
City Hall Chambers

1. CALL TO ORDER.

Pursuant to due call and notice thereof, a regular meeting of the Independence City Council was called to order by Mayor Johnson at 6:30 p.m.

2. PLEDGE OF ALLEGIANCE.

Mayor Johnson led the group in the Pledge of Allegiance.

3. ROLL CALL

PRESENT: Mayor Johnson, Councilors Spencer, Betts, McCoy and  
Grotting (virtual)

ABSENT: None

STAFF: City Administrator Kaltsas, Assistant to Administrator  
Horner, Administrative Assistant Simon

VISITORS: Tony Post, Dan Vanderheyden, Chanel Crees

*All votes were roll call votes*

4. \*\*\*\*Consent Agenda\*\*\*\*

All items listed under Consent Agenda are considered to be routine by Council and will be acted on by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

- a. Approval of City Council Minutes from the May 17, 2022, Regular City Council Meeting.
- b. Approval of Accounts Payable (Batch # 1; Checks Numbered 21256 and Batch # 2; Checks Numbered 21257-21283).
- c. Personnel Committee Recommendations:
  - i. Approval of Assistant City Administrator Position Appointment
  - ii. Approval of Administrator/Planner Contract Amendment

**Motion by Betts, second by McCoy to approve the Consent Agenda. Ayes: Johnson, Spencer, Grotting, McCoy and Betts. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.**

5. SET AGENDA – ANYONE NOT ON THE AGENDA CAN BE PLACED UNDER OPEN/MISC.

6. REPORTS OF BOARDS AND COMMITTEES BY COUNCIL AND STAFF

1

**Grotting attended the following meetings:**

- Planning
- Workshop
- Funeral for Norm Wenck

**Spencer attended the following meetings:**

- Planning
- Workshop

**McCoy attended the following meetings:**

- Memorial Services (2)
- Maple Plain Party in the Park
- Gala for MN Teen Challenge
- Workshop
- Fire District Meeting

**Betts attended the following meetings:**

- Workshop

**Johnson attended the following meetings:**

- Planning
- Coffee with Steve Bohl on the Otten Property
- Orono Healthy Youth
- Small Cities Council – NLC (virtual)
- Orono High School Awards night
- Funeral for Bruce Frahm
- Funeral for Norm Wenck
- Funeral for Carroll Gabriel
- Funeral for Vern Genzlinger
- Sensible Land Use
- MetCouncil ES Hearing (virtual)
- Senior Community Services Board Training and Regular Meeting (virtual)
- Memorial Services on Memorial Day
- Fire District Meeting
- Interviews for the two applicants for sergeant
- Haven Homes
- MP Party in the Park
- Workshop

**Horner attended the following meetings:**

- Workshop

**Kaltsas attended the following meetings:**

- Workshop

7. Tony Post (Applicant/Owner) is requesting that the City consider the following action for the property located at 2791 Copeland Road (PID No. 18-118-24-41-0002) in Independence, MN:

- a. **RESOLUTION 22-0607-01:** considering a variance and conditional use permit to allow an accessory dwelling unit to be located within the existing accessory building that exceeds the maximum size.

Kaltsas said this is a request for a CUP and variance to allow an ADU to be allowed within the existing building on the property. The property is 52 acres in overall size and is located on the West side of Copeland Rd, and South of Hwy 12. There is a unique structure that acts as the principal structure on this property. There is a dwelling unit within this structure and is comprised of 3 different structures. They are asking to allow an ADU for the existing residential portion of the building to build a new principle structure on the property. The building that is there was the principle, but it is not really built for a residence. Once inside, it makes up the residential space. It is 2,800sqft total with 1,000sqft in the basement. There is then the main floor and a second floor that has a loft with just a bedroom and bathroom. The city suggested reducing the sqft by eliminating some spaces because of how the layout is. They can take the basement out by eliminating the livable portion and using it as storage instead. On the back side there is utility and laundry which they could close off some of that. On the upper floor we could exclude the closet. The goal is to try to get under 1,200 sqft. They could ask for a variance for the additional sqft. The layout is unique since the barn, garage and house is all connected. PC considered allowing space to be cut up or broken off from the space. The property overall does have the ability to be subdivided to create a new rural view lot.. The location, size of property and surrounding properties are in support of the second residence. PC suggested granting a variance for 1871sqf to allow the ADU. PC suggested approval of CUP and variance to council. It is a unique structure, and it was done prior to our current ordinances. If someone just wanted a larger structure just for larger structure that would not pass, but that is not the case.

Johnson said it is a unique situation with the house on one side and riding arena on the other side. Applicant is here tonight and asked if it was described properly. Post said yes.

**Motion by McCoy, second by Spencer to approve RESOLUTION 22-0607-01 granting a CUP and variance to allow an ADU to be located within existing accessory structure. Ayes: Johnson, Spencer, Grotting, McCoy and Betts. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.**

8. Dan Vanderheyden (Applicant) and Michael Crees (Owner) are requesting that the City consider the following action for the properties located off of Maple Street with an unassigned address (PID No.s 24-118-24-11-0007 and 24-118-24-11-0006) in Independence, MN:

- a. **RESOLUTION 22-0607-02:** considering a minor subdivision to allow a lot combination of the two subject properties a variance seeking reduced building setbacks to allow the construction of a new home on the combined properties.

Kaltsas said this is a request for a minor subdivision and lot combination. There are two existing lots of record on Maple St; it is a private driveway. There is one home that comes off that and one vacant lot. These lots are up against the south shoreline of Lake Independence. The total acres would be 0.45 if the properties were combined. These are very small lots for our standards. They would like to construct a home on the property. There is a potential wetland on the property and wetland delineation did confirm this. The wetland causes some issues with the location of a structure on this property. In existing condition, they can take advantage of the 60% but if lots were combined, they could not take advantage of this rule. They also must meet the required setbacks. The allowable building area once setbacks were applied on the combined lot plan, the building space is very small. They are asking for a 0ft buffer rather than 10ft. They are asking for a reduced front yard setback of 50ft of centerline of Maple St and a West side yard setback reduction of 18ft. They would meet the East side yard setback. The adjacent property showed support for this plan. Kaltsas said they are making the situation better by combining the two lots and giving it more reasonable use. It is really constricted on where you would build a house. PC noted individual lots don't support a home of any reasonable size. The combination would be to the benefit of the city. PC recommended approval of a minor subdivision and variances requested. The updated survey for drainage and utility easements have been received and the applicants will work with the city to meet all requirements.

Johnson asked if we had a sewer stub available for both lots. Kaltsas said both lots are considered stubbed and of existing record. Johnson asked if the cartway is going down over there. He asked how much of an easement is needed for the driveway getting to the house. Kaltsas said 24 ft is needed for the easement, but the road is narrower. Johnson asked if it is public so there are not road agreements with neighbors. Kaltsas said it is a private street and the city just has an agreement for access to the lift station. There is a private road agreement on file. Kaltsas said we plow it to get to the lift station more often than not. There is no sign for Maple St on that road. McCoy asked about the address for this one. Kaltsas said it would probably be by South Lake Shore Drive. Johnson said it is a beautiful, isolated lot.

**Motion by Spencer, second by Betts to approve RESOLUTION 22-0607-02 approving a minor subdivision. Ayes: Johnson, Spencer, Grotting, McCoy and Betts. Nays: None. Absent: None. Abstain: None. MOTION DECLARED CARRIED.**

11. Open/Misc.

a. City of Independence on TV

Johnson said MetCouncil has the City of Independence population at 3795, up a few people from last year. The major difference might be from the Vinland Center. We are getting closer to 4,000, but we are better off being under 5,000.

Johnson said Jane Hubbard KSTP-TV is doing a program from 9-10am next Tuesday morning on Independence. She asked Johnson to come down to do a feature.

Johnson asked if we are getting a resolution for a comp plan from MetCouncil. Kaltsas said we won't see it until they are done with it. Kaltsas said they are trying to finish the grant stuff first and then finish ours.

10. Adjourn.

**Motion carried by McCoy, second by Spencer to adjourn the meeting at 7:09pm.**

---

Respectfully Submitted,  
Amber Simon / Recording Secretary

DRAFT



## City of Independence

### ***Request for a Variance to Allow an Accessory Structure Which Exceeds the Height Limitations of the City's Zoning Ordinance for the Property Located at 4224 Lake Sarah Drive S.***

---

<i>To:</i>	Planning Commission
<i>From:</i>	Mark Kaltsas, City Planner
<i>Meeting Date:</i>	November 9, 2015
<i>Applicant:</i>	John Zitzloff
<i>Owner:</i>	John Zitzloff
<i>Location:</i>	4224 Lake Sarah Dr. S.

#### ***Request:***

John Zitzloff (Applicant/Owner) is requesting that the City consider the following action for the property located at 4224 Lake Sarah Dr. S. (PID No. 02-118-24-42-0002) in Independence, MN:

- a. A variance to allow a detached accessory structure on the property that exceeds the height of the principal structure.

#### ***Property/Site Information:***

The subject property is located at 4224 Lake Sarah Dr. S. which is on the east side of the road approximately ¼ mile north of the CSAH 11/Lake Sarah Drive S. intersection. The property has an existing single-family home and is comprised of a mix of wetlands and upland.

Property Information: 4224 Lake Sarah Dr. S.

Zoning: *AG-Agriculture*

Comprehensive Plan: *Rural Residential*

Acreage: 3.75 acres

4224 Lake Sarah Drive South (blue outline)



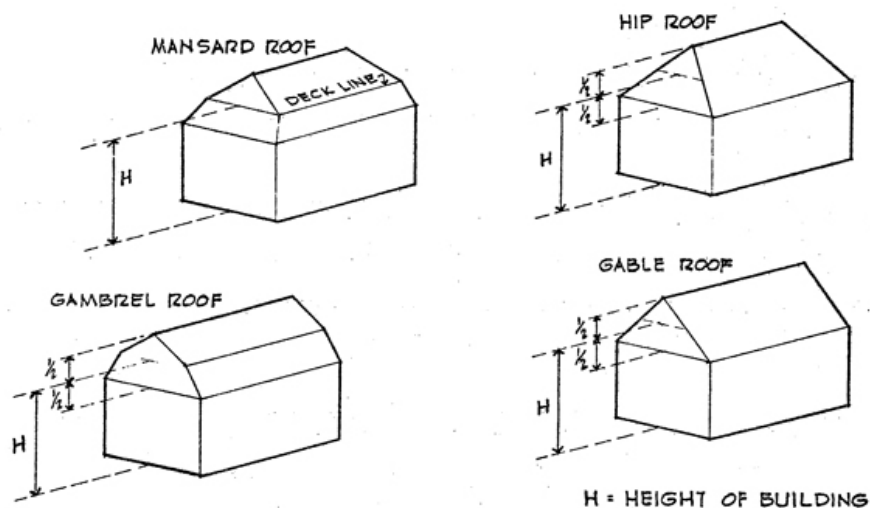
***Discussion:***

The applicant would like to construct a detached accessory structure on the property. There is currently an existing home and small detached shed located on the property. The City regulates the total square footage permitted for detached accessory structures using a formula contained

within the zoning ordinance. The formula allows a property owner to construct an accessory building which does not exceed 2% of the upland square footage of the property. In this case, the City has determined that the upland portion of the property is 2.56 acres. The City's water resource consultant visited the property several weeks ago to confirm the wetland boundary. Based on this determination, the total allowable square footage for a detached accessory structure is 2,230 SF (2.56 acres - 111,482 sf \* .02 = 2,230 SF).

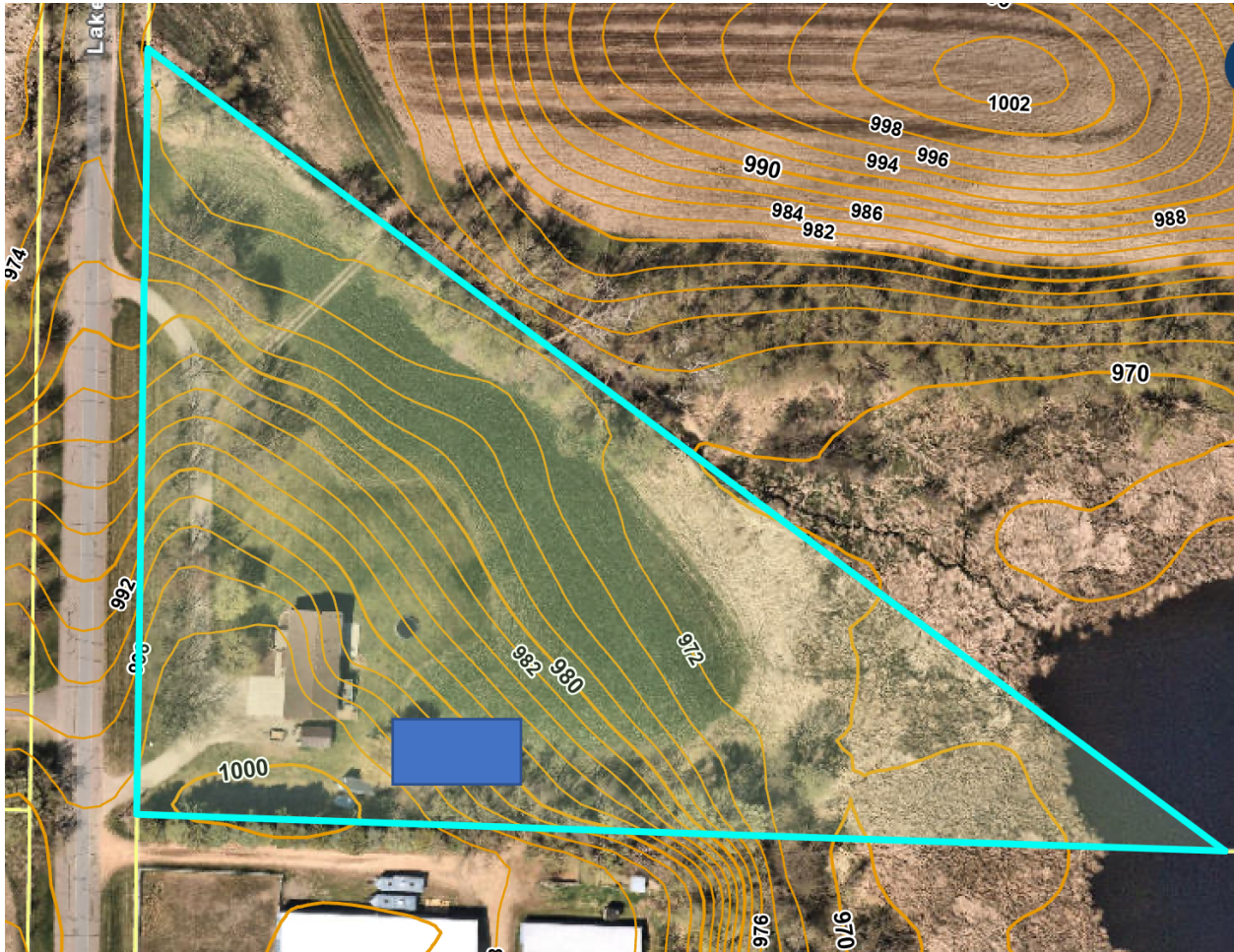
The applicant is proposing to construct a 2,226 square foot detached accessory structure (53' x 42') which is just less than the maximum size permitted. The current plan depicting a 42' x 60' will be revised to reflect the maximum size permitted. In addition to the limitation on building size, the City regulates the maximum height of detached accessory structures. The maximum height of an accessory structure shall not exceed the height of the principal structure.

<sup>3</sup> The height of an accessory structure shall not exceed the height of the principal structure. The height of the principle and accessory structure shall be measured in accordance with the definition provided in this ordinance, Section 510.05, Subdivision 10.



The City measured the mid roof height of the principal structure to be 13'-6". The applicant would like the City to permit the detached accessory building to be 20' -6" in height. In order for the applicant to construct a building higher than that which is permitted, the City will need to consider a 7' variance. The applicant is proposing to locate the building approximately 30' east of the rear line of the principal structure. The elevation of the proposed accessory building (994) is approximately 4' lower than the elevation of the principal home (998). This differential in elevation would aid in mitigating adverse effects resulting from the taller accessory building.





The proposed accessory structure is proposed to meet applicable building setbacks. Setbacks for detached accessory structures are as follows:

<u>SETBACKS</u>	<u>REQUIRED SETBACKS</u>	<u>PROPOSED</u>
Front Yard:	85' from CL of road	N/A (beyond 100')
Side Yard:	15'	16'
Rear Yard:	40'	N/A (beyond 100')

There is an existing driveway that would provide access to the proposed building. The proposed building will be used by the applicant for an office, storage, workshop, canning and fish cleaning kitchen. The City noted that the “range” label shown in the kitchen area of the plans should be removed to address any issue that could be construed as an accessory dwelling unit. The proposed building is 3 stories with a “walk out” lower level, main level and second story. The building would be sided with board and batten steel siding and a metal roof.

There are several factors to consider relating to granting a variance. The City's ordinance has established criteria for consideration in granting a variance.

*520.21. Standards for granting variances. Subdivision 1. The City Council may grant a variance from the terms of this zoning code, including restrictions placed on nonconformities, in cases where: 1) the variance is in harmony with the general purposes and intent of this zoning code; 2) the variance is consistent with the comprehensive plan; and 3) the applicant establishes that there are practical difficulties in complying with the zoning code (Amended, Ord. 2011-08)*

*Subd. 2. An applicant for a variance must demonstrate that there are practical difficulties in complying with the zoning code. For such purposes, "practical difficulties" means:*

- (a) The property owner proposes to use the property in a reasonable manner not permitted by the zoning code;*
- (b) the plight of the property owner is due to circumstances unique to the property not created by the landowner;*
- (c) the variance, if granted, will not alter the essential character of the locality.*

*Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. (Amended, Ord. 2011-08)*

*Subd. 3. The City Council shall not grant a variance to permit a use that is not allowed under the zoning code based on the zoning classification of the affected property. (Amended, Ord. 2011-08)*

*520.23. Conditions and restrictions. The board of adjustments may recommend and the City Council may impose conditions on a variance. Conditions must be directly related to and must bear a rough proportionality to the impact created by the variance. (Amended, Ord. 2011-08)*

Consideration of the criteria for granting a variance:

- a. The applicant is proposing to use the property in a manner consistent with the Agriculture District. The applicants have attempted to locate the building to meet all other applicable setbacks for properties zoned Agriculture.
- b. The potential impacts of the requested variance will be somewhat mitigated as a result of the existing elevations, size of the property and existing screening due to vegetation and elevations.
- c. The character of the surrounding area is a mixture of agriculture and residential. The proposed detached accessory building is generally in keeping with the intent and typical use of properties zoned Agriculture.

- d. The adjacent property to the south has several large, detached accessory structures. The property to the north has several large agricultural buildings.

The City discussed the recently adopted ABRC review process and applicable criteria. The requirements for setbacks from the principal building (75' separation) and increased side yard setbacks (30' instead of 15') would create additional issues relating to placement of the building as determined by the applicant. As a result, the request for a variance was pursued for this property. The Planning Commission will need to determine if the requested variance meets the requirements for granting a variance.

***Neighbor Comments:***

The City has not received any written comments regarding the proposed variance.

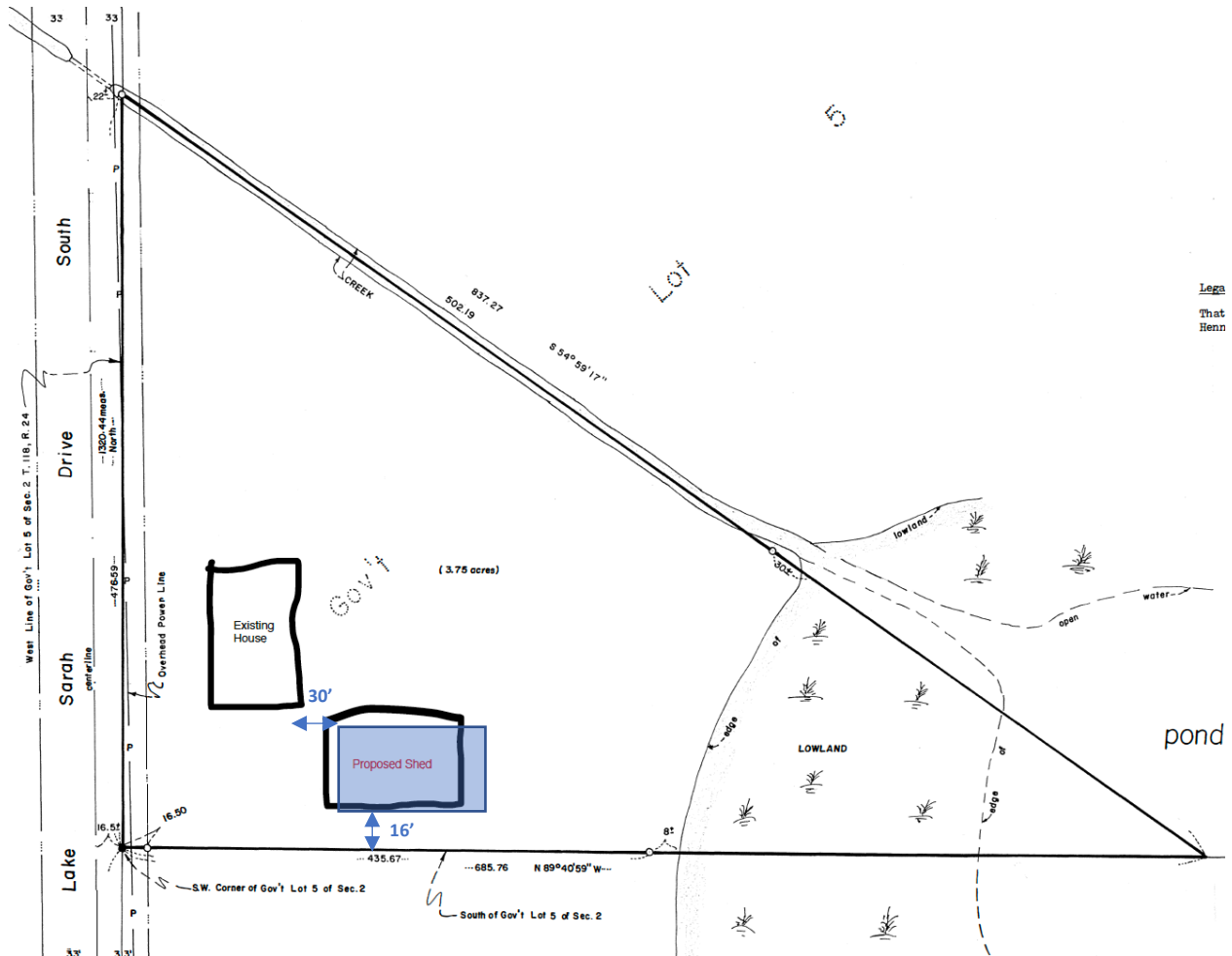
***Recommendation:***

Staff is seeking a recommendation from the Planning Commission for the requested Variance with the following findings and conditions:

1. The proposed Variance request meets all applicable conditions and restrictions stated in Chapter V, Section 520.19, Procedures on variances, in the City of Independence Zoning Ordinance.
2. The 7-foot variance will allow the detached accessory building to have a maximum height of 20'-6" feet as measured in accordance with City standards.
3. The proposed building cannot be used for a commercial business or storage.
4. The applicant shall provide the City with a revised set of plans showing the building dimensions to be 53' x 42' prior to City Council review and consideration.
5. The applicant shall provide the City with a grading plan prior to City Council review and consideration.
6. The Applicant shall pay for all costs associated with the City's review of the requested variance.
7. Any future improvements made to this property will need to be in compliance with all applicable standards relating to the Rural Residential and Shoreland Overlay zoning districts.

**Attachments:**

1. Application
2. Building Plans
3. Site Survey





**CITY OF  
INDEPENDENCE  
MINNESOTA**

**Applicant Information**

Name: John Zitzloff

Address: 4224 S Lake Sarah Dr  
Independence, Minnesota  
55359

Primary Phone: 763-286-3872

Email: johnz@bergexteriors.com

**Owner Information**

Name: John Zitzloff

Address: 4224 S Lake Sarah Dr  
Independence, Minnesota  
55359

Primary Phone: 763-286-3872

Email: johnz@bergexteriors.com

Property Address:

PID:

Planning Application Type: Variance

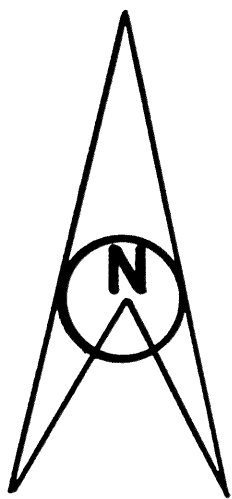
Description:

Supporting Documents: Site Survey (Proposed Conditions), Building Plans

Signature:



# Certificate of Survey



● denotes iron monument found  
○ denotes iron monument set marked R.L.S. 14343

## Legal Description:

That part of Government Lot 5 of Section 2, Township 118, Range 24, Hennepin County, Minnesota, described as follows:

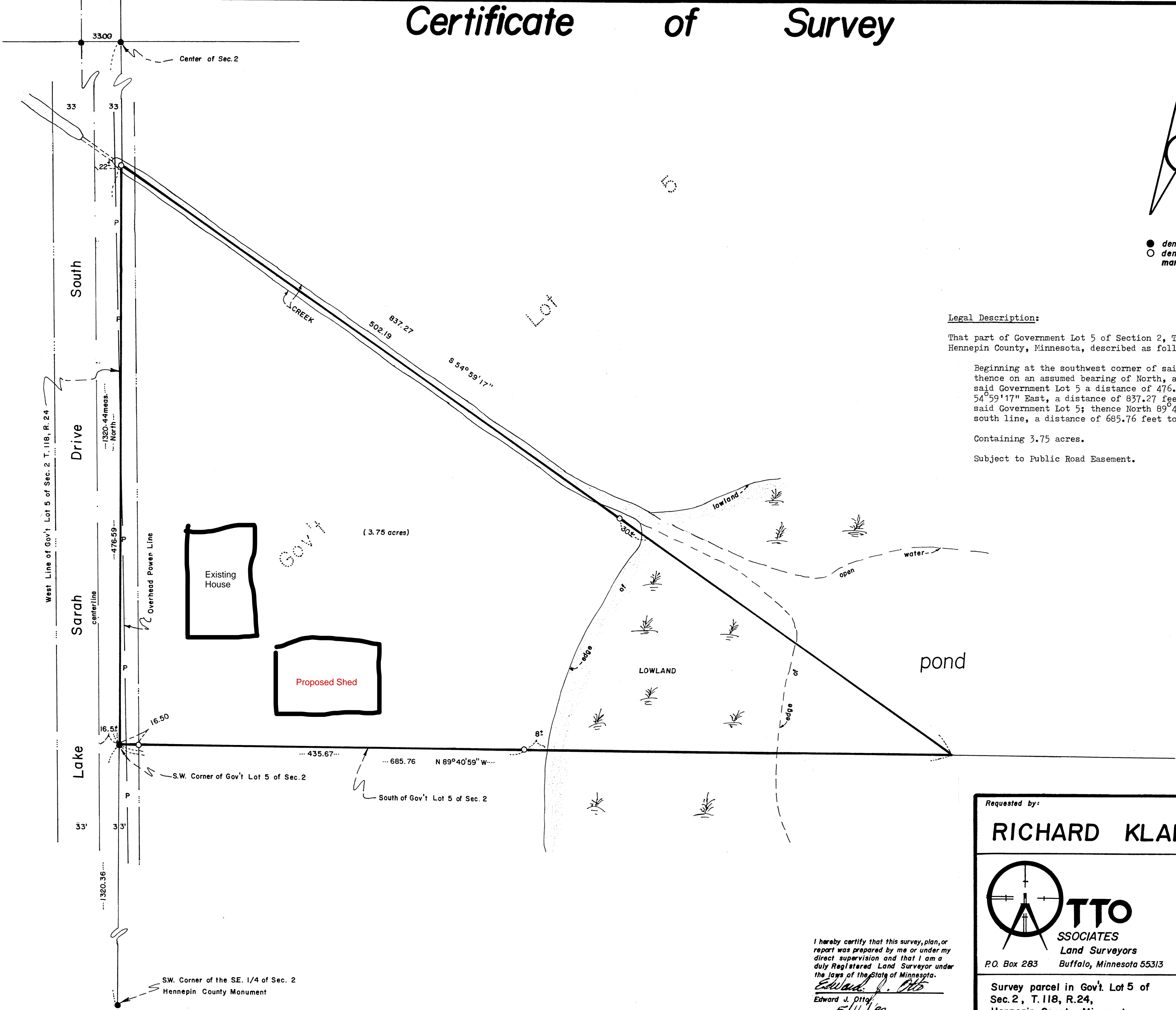
Beginning at the southwest corner of said Government Lot 5; thence on an assumed bearing of North, along the west line of said Government Lot 5 a distance of 476.59 feet; thence South 54°59'17" East, a distance of 837.27 feet to the south line of said Government Lot 5; thence North 89°40'59" West, along said south line, a distance of 685.76 feet to the point of beginning.

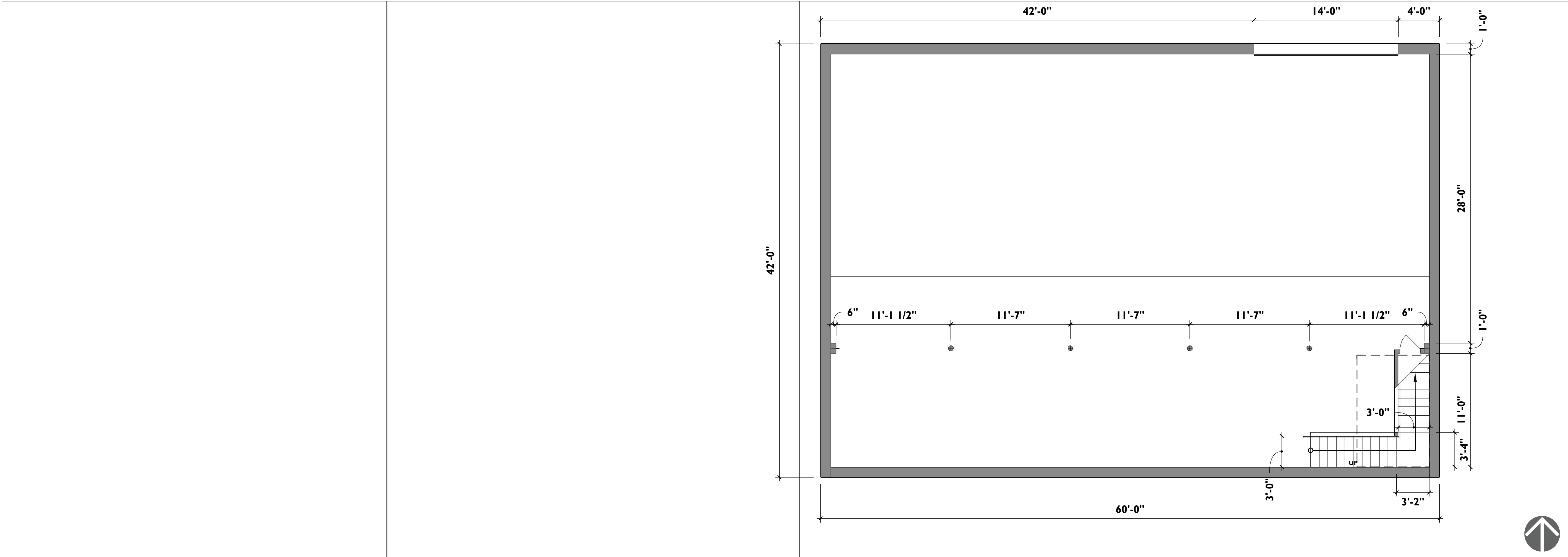
Containing 3.75 acres.

Subject to Public Road Easement.

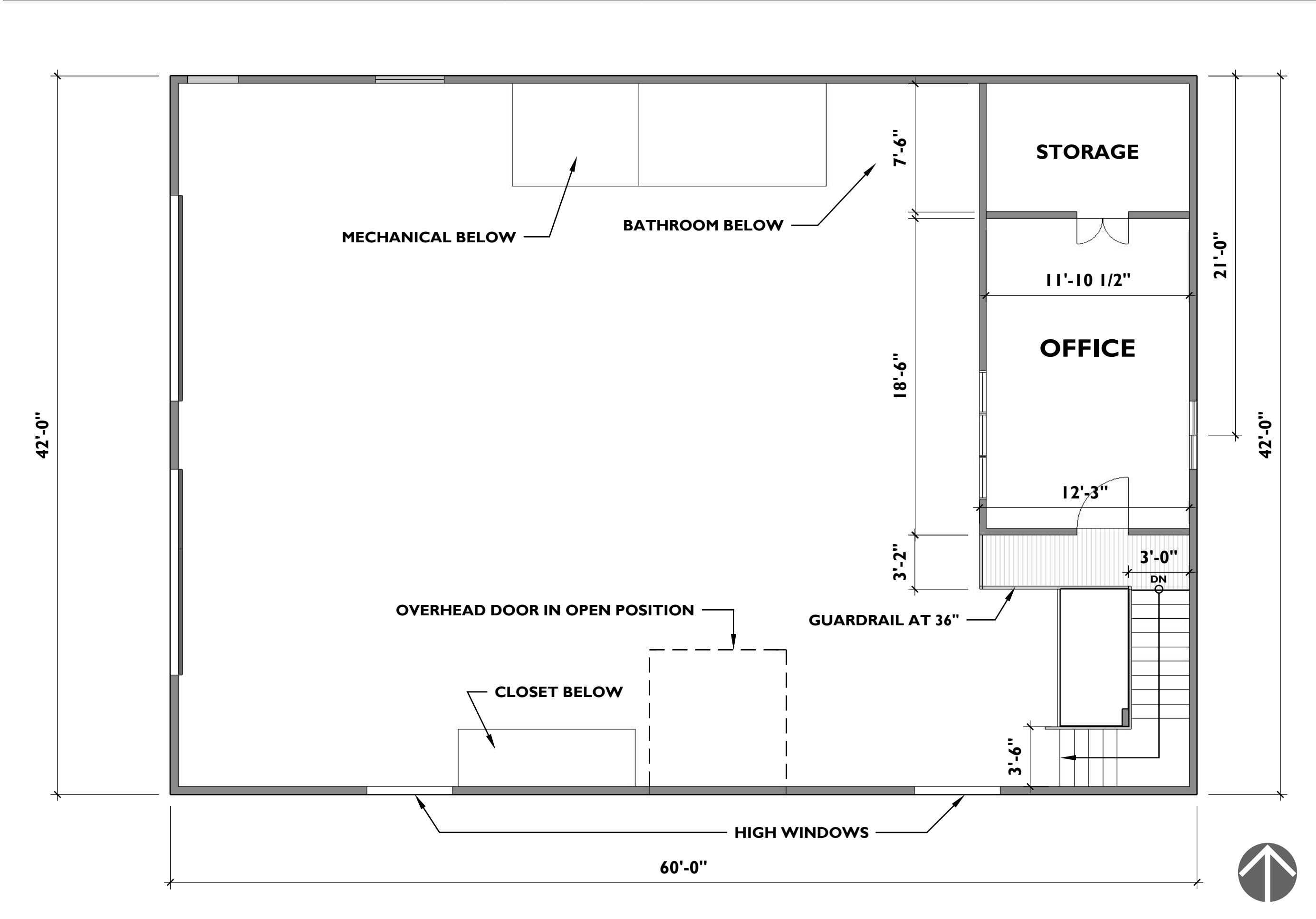
I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.  
*Edward J. Otto*  
Edward J. Otto  
Date: 5/11/82 Registration No. 14343

Requested by:	
RICHARD KLAERS	
 SSOCIATES Land Surveyors P.O. Box 283 Buffalo, Minnesota 55313 682-4727	Date: 5/10/1982
	Drawn by: e.j.o.
	Scale: 1" = 50'
	Checked by:
	Revised
Survey parcel in Gov't. Lot 5 of Sec. 2, T. 118, R. 24, Hennepin County, Minnesota.	
Job no. 8258	

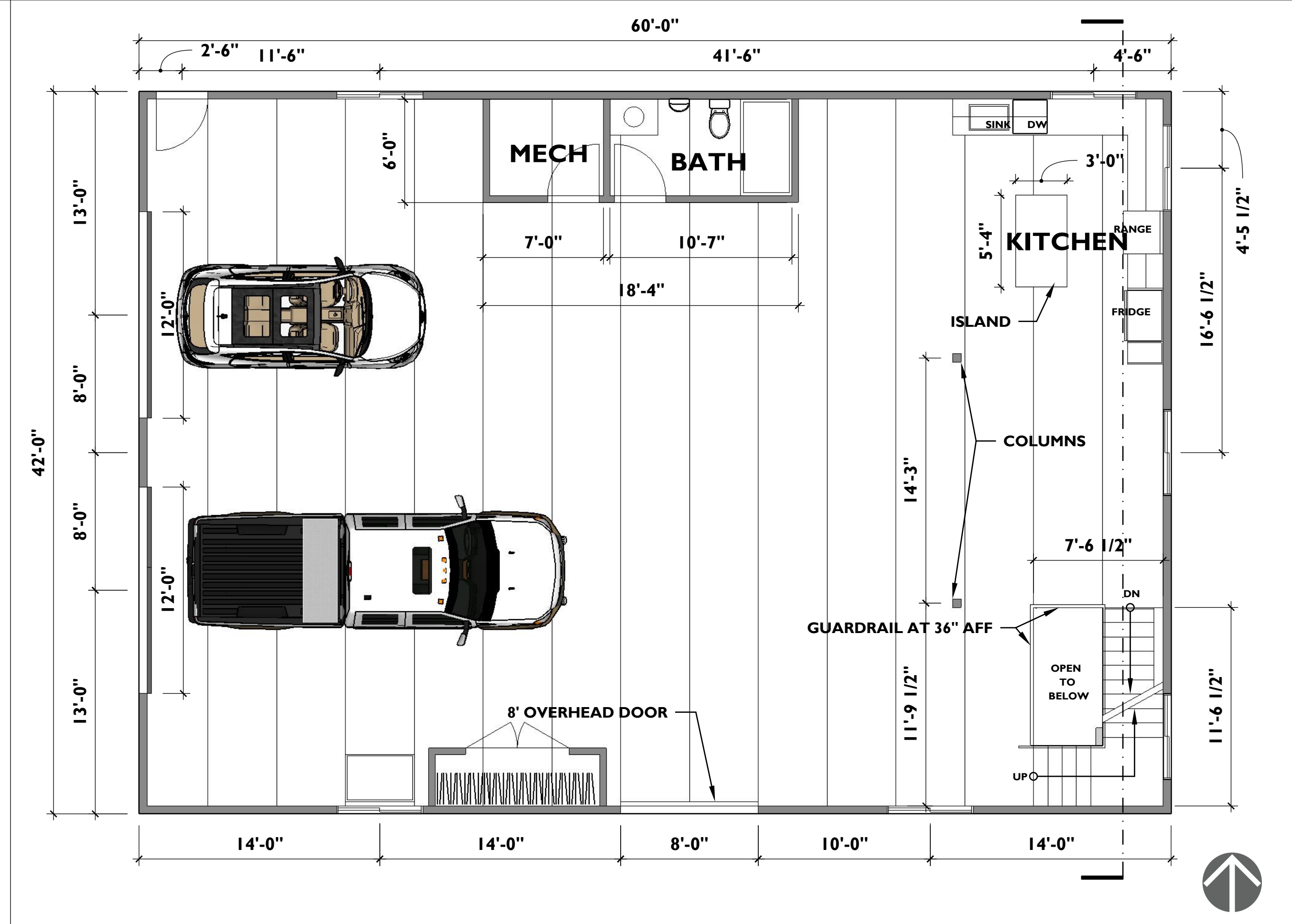




1/4" = 1'-0	8	1/4" = 1'-0	6	LOWER LEVEL PLAN	3/16" = 1'-0	2
-------------	---	-------------	---	------------------	--------------	---



3/16" = 1'-0	5	OFFICE LEVEL
--------------	---	--------------



3/16" = 1'-0	1	MAIN LEVEL PLAN
--------------	---	-----------------

gregg hackett architect

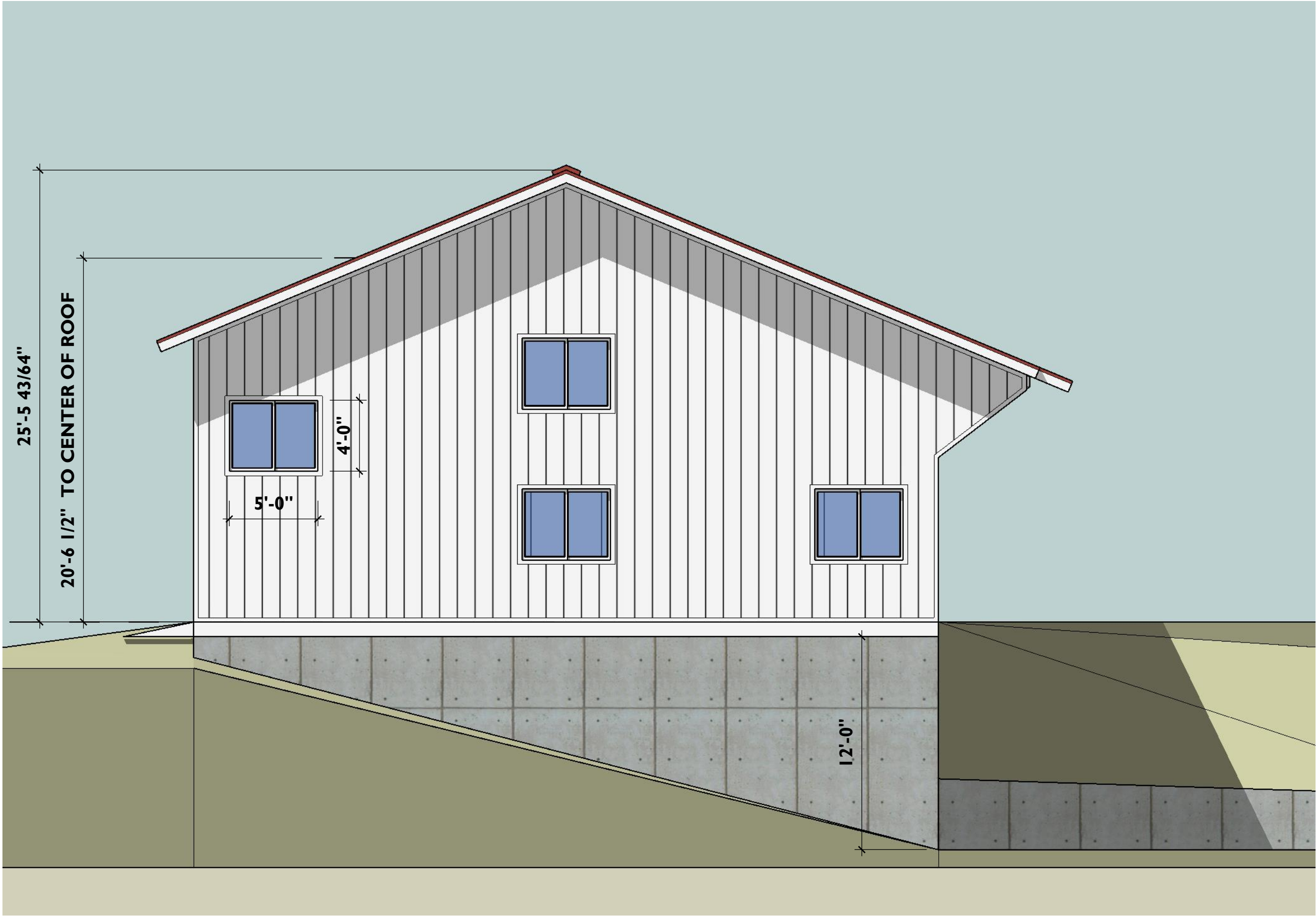
4342 abbott avenue south  
minneapolis mn 55410

**ZITZLOFF BARN**  
4224 SOUTH LAKE  
SARAH DRIVE  
INDEPENDENCE, MN  
55359

27 APRIL 2022  
FLOOR PLANS

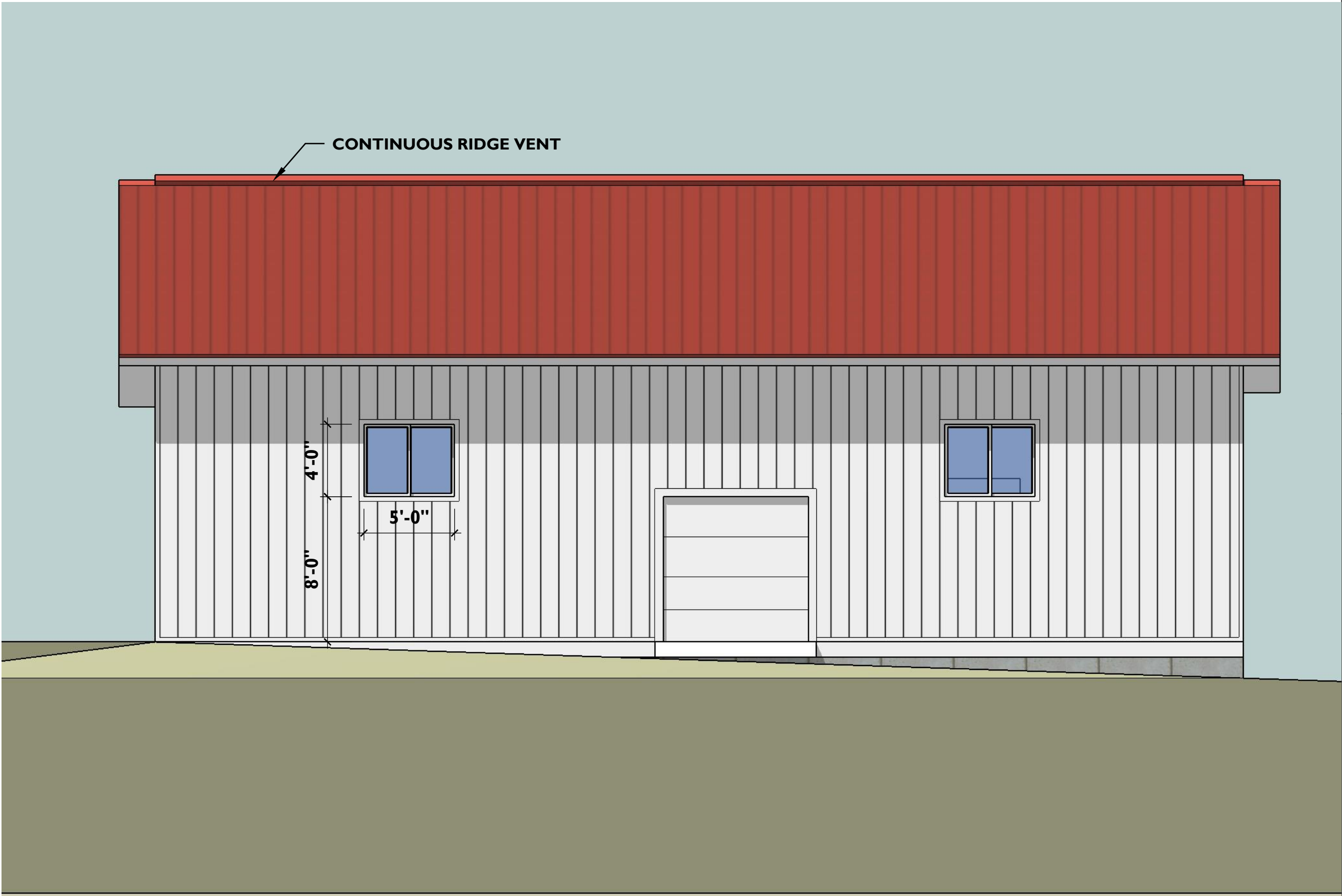
**A1.0**





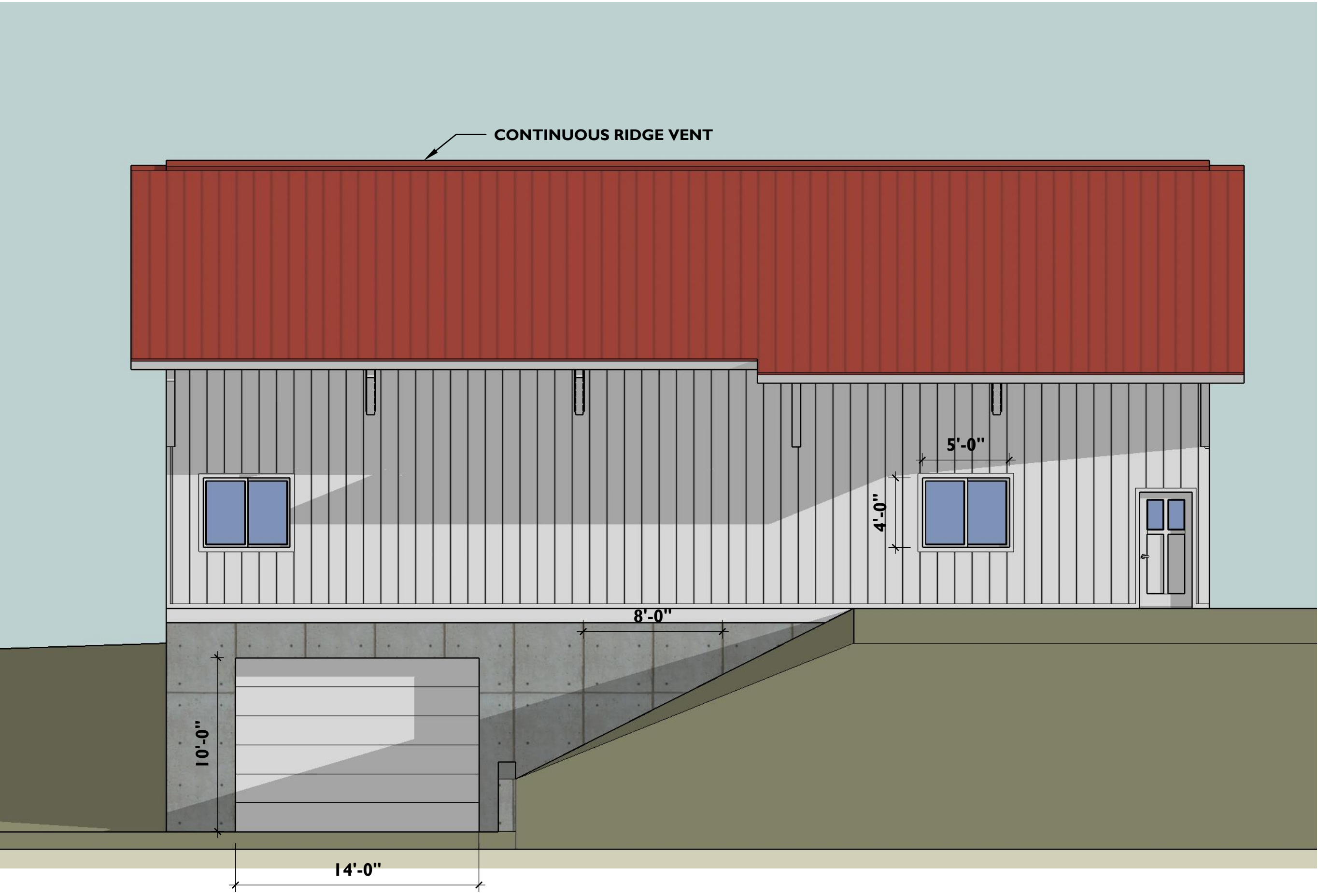
ELEVATION EAST

3/16" = 1'-0" 6



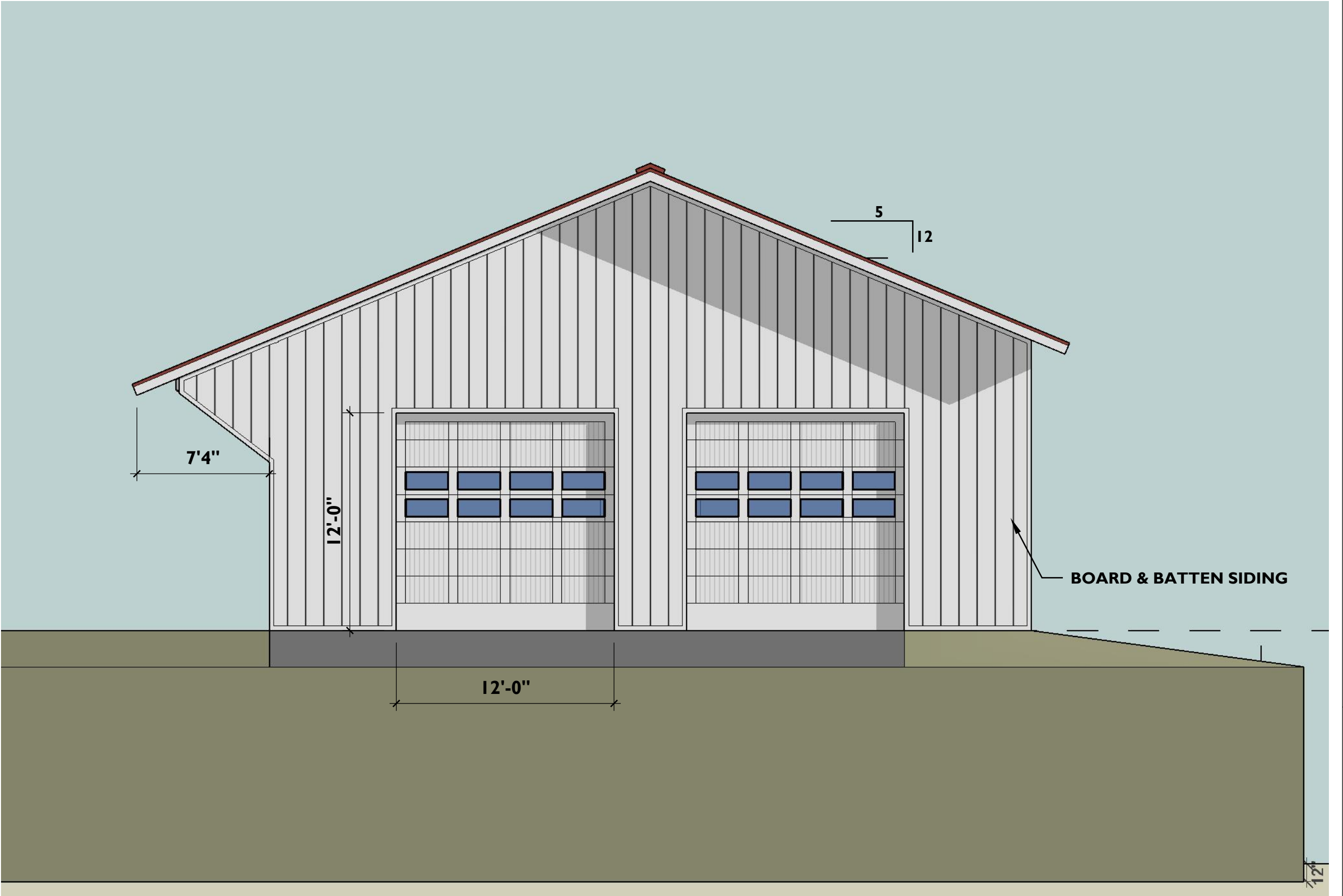
ELEVATION SOUTH

3/16" = 1'-0" 2



OFFICE LEVEL

3/16" = 1'-0" 5



MAIN LEVEL PLAN

3/16" = 1'-0" 1



gregg hackett architect

4342 abbott avenue south  
minneapolis mn 55410

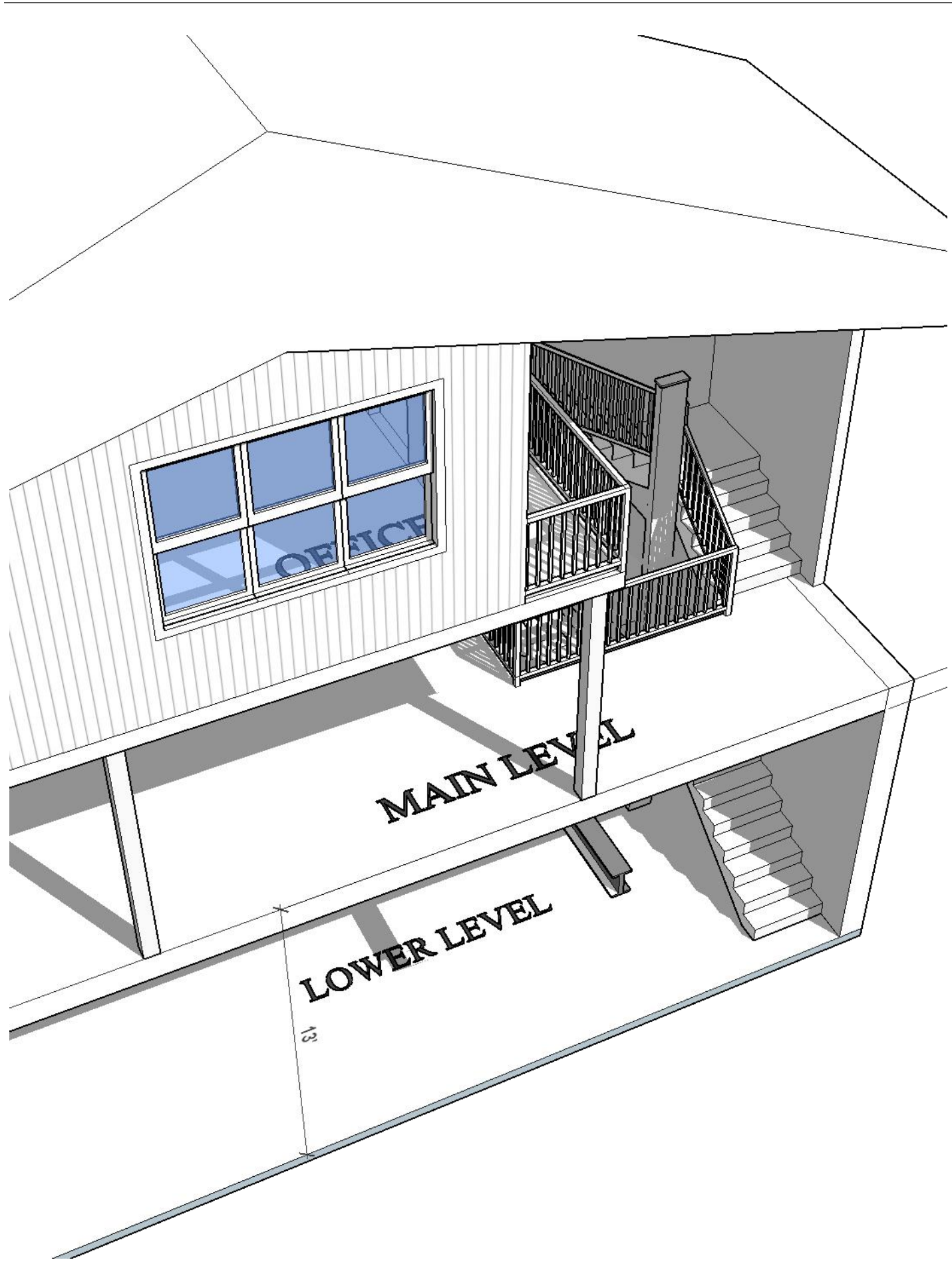
ZITZLOFF BARN  
4224 SOUTH LAKE  
SARAH DRIVE  
INDEPENDENCE, MN  
55359

27 APRIL 2022

ELEVATIONS

A2.0





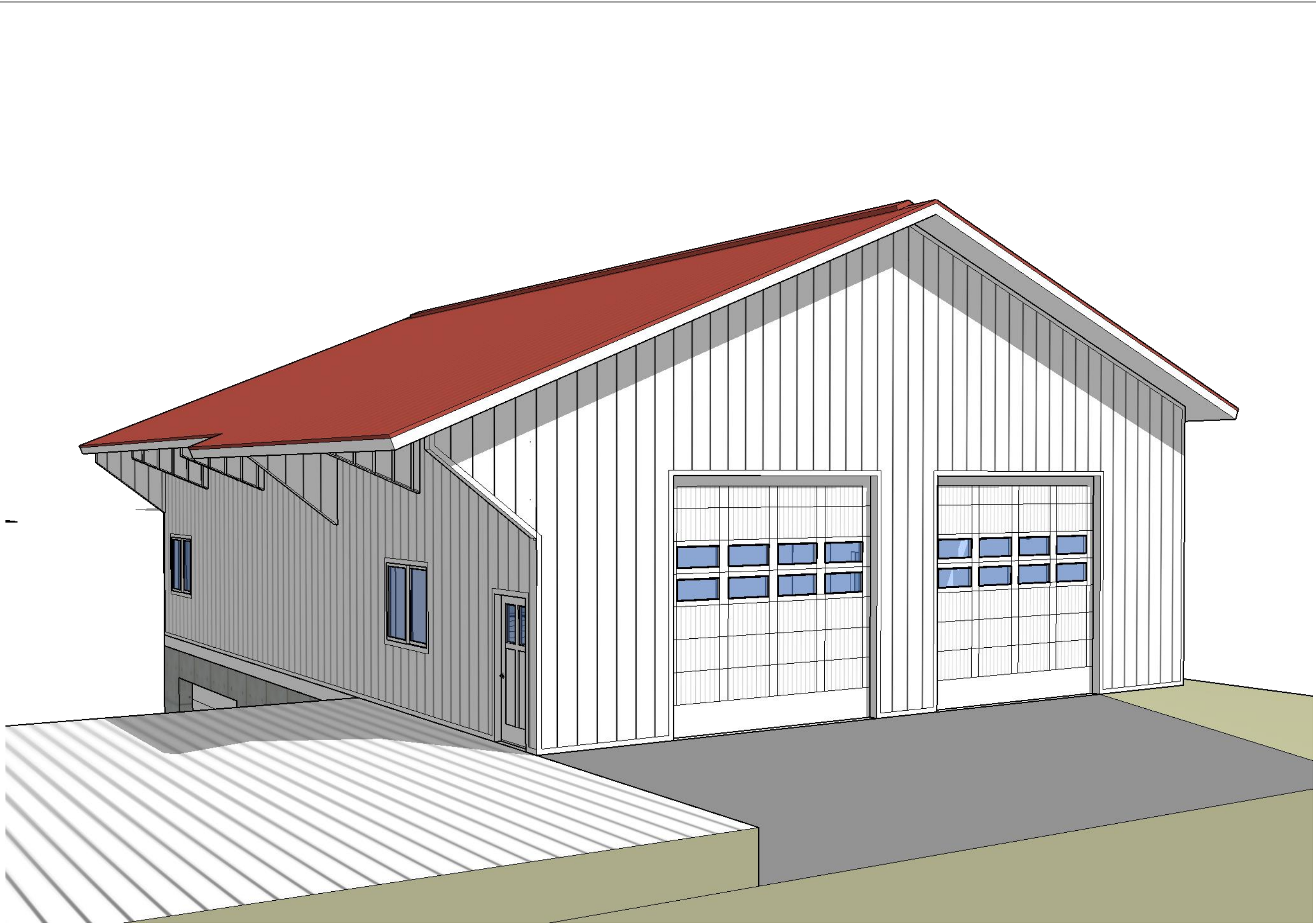
STAIR VIEW THREE

8



STAIR VIEW TWO

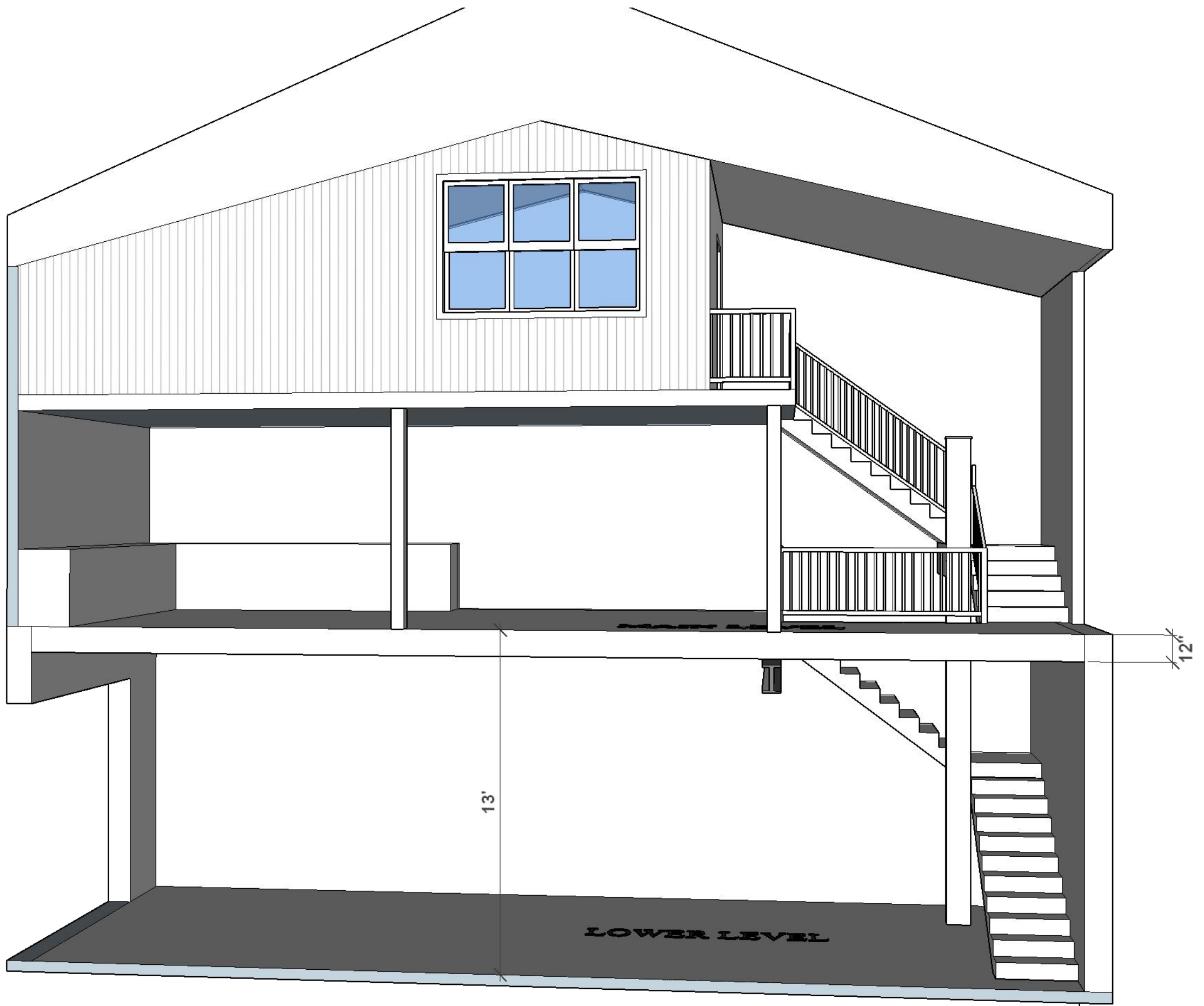
6



3D VIEW FROM THE NORTH WEST

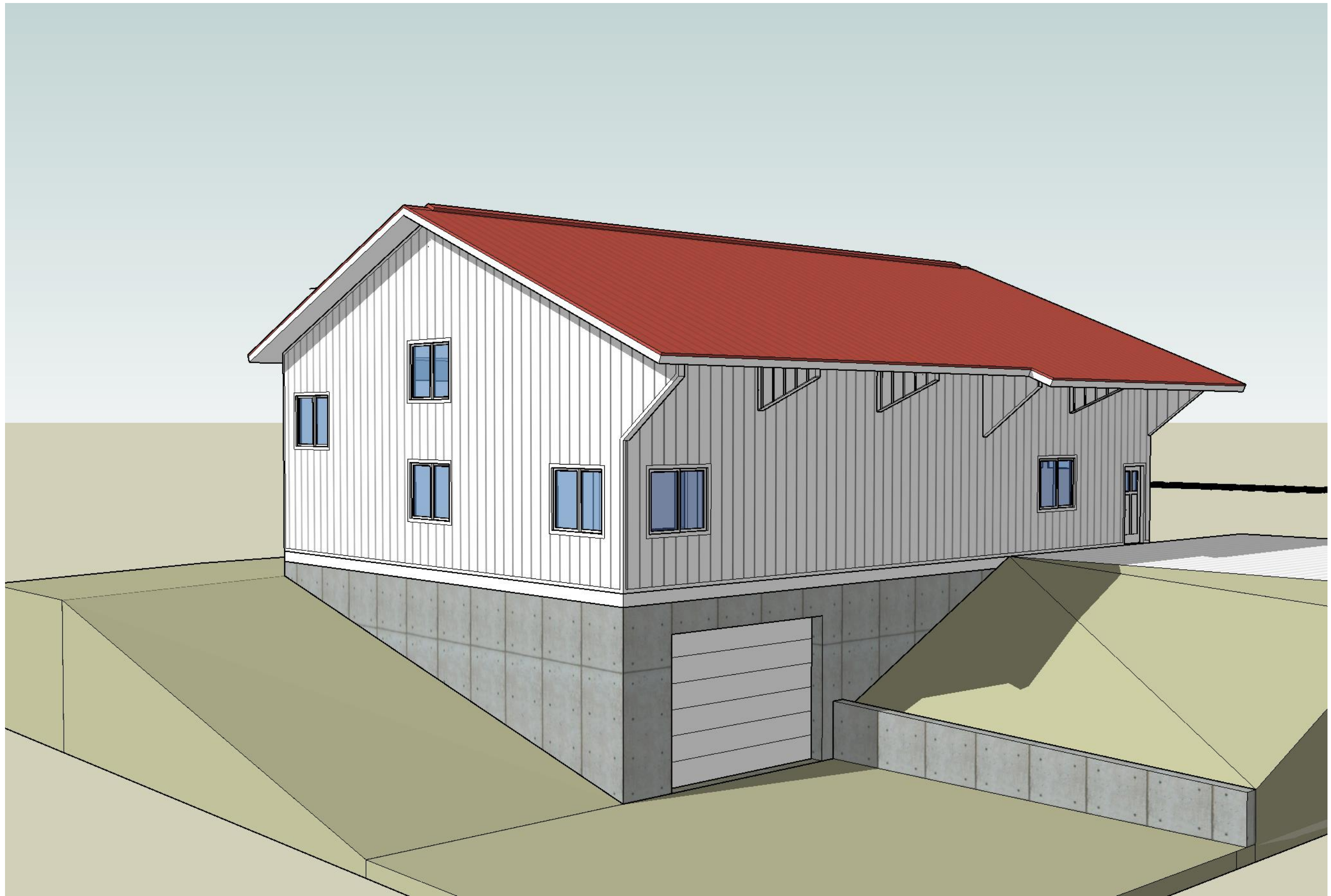
1/4" = 1'-0"

2



STAIR VIEW ONE

5



3D VIEW FROM THE NORTH EAST

1



gregg hackett architect

4342 abbott avenue south  
minneapolis mn 55410

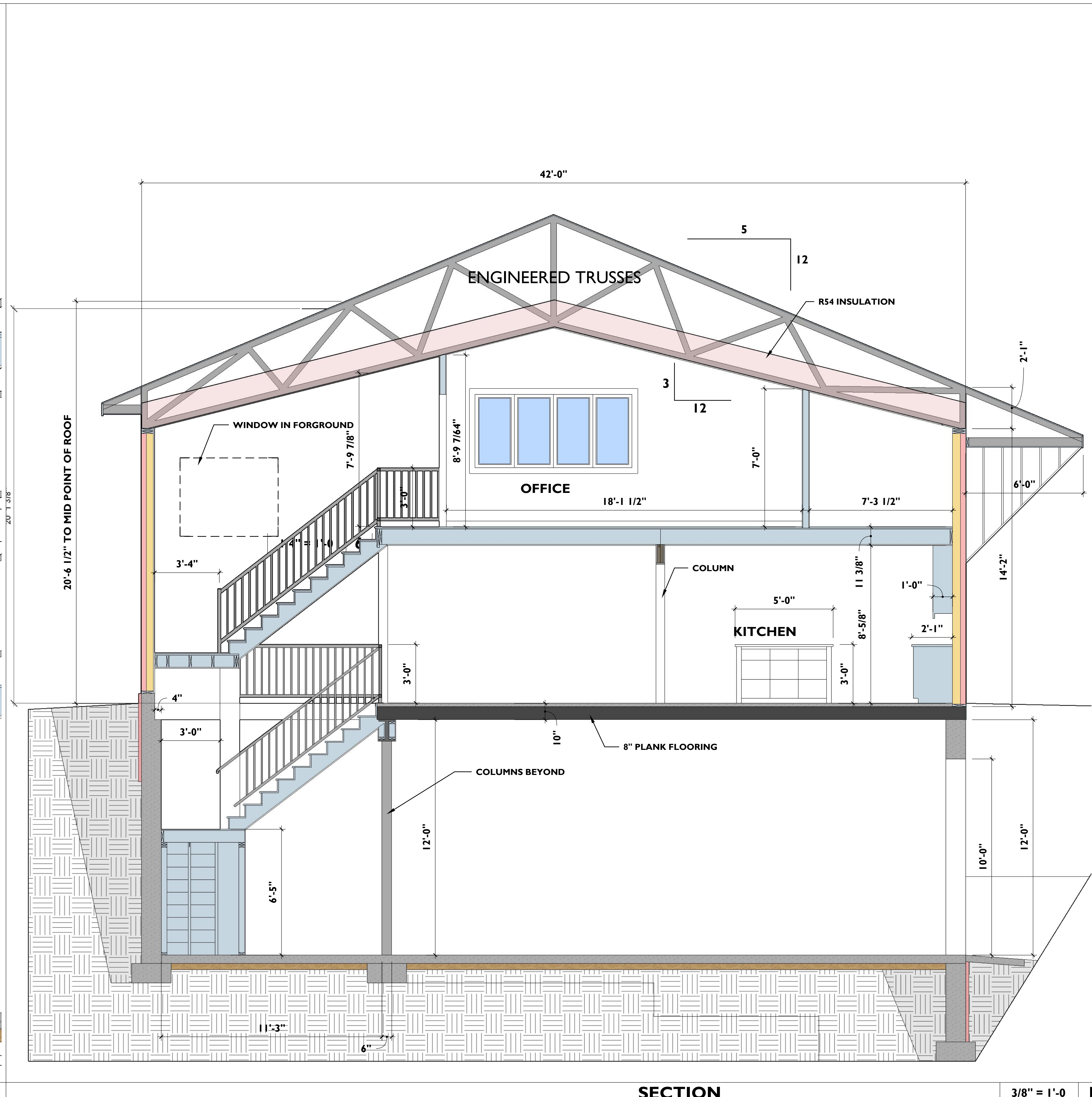
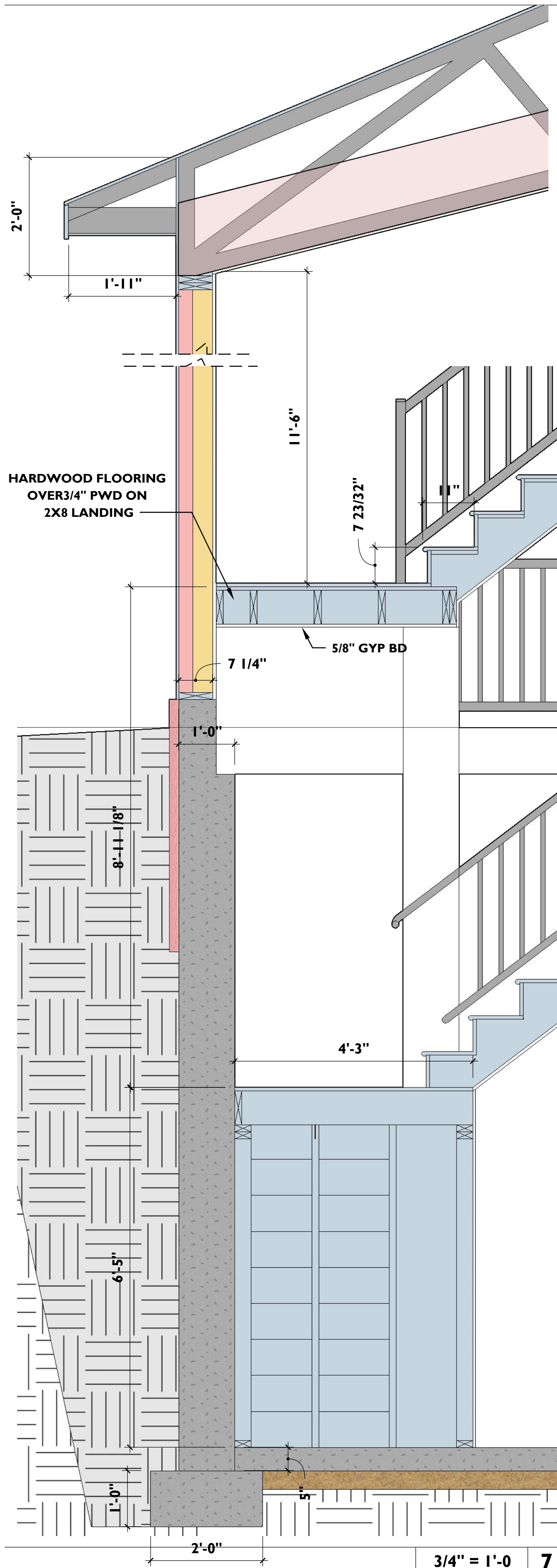
**ZITZLOFF BARN**  
4224 SOUTH LAKE  
SARAH DRIVE  
INDEPENDENCE, MN  
55359

27 APRIL 2022

3D VIEWS

**A3.0**





gregg hackett architect

4342 abbott avenue south  
minneapolis mn 55410

**ZITZLOFF BARN**  
4224 SOUTH LAKE  
SARAH DRIVE  
INDEPENDENCE, MN  
55359

27 APRIL 2022  
SECTION

**A4.0**

SECTION

3/8" = 1'-0"

I