



TO: Town of Foxfield, Board of Adjustment
 FROM: Matthew Nilsen, Planner, SAFEbuilt Studio
 DATE: June 23, 2020
 SUBJECT: Staff Report – Variance Application: 17020 E Easter Ave

17020 E Easter Avenue Variance

BOA Date:	July 2, 2020	Planner:	Matthew Nilsen	Phone:	720-829-7360
Location:	17020 E Easter Ave, Foxfield, CO 80016 (Lot 3, Block 1, Arcadian Heights)				
Applicant:	Jesus and Nikki Montano	Owner:	Jesus and Nikki Montano		
Address:	17020 E Easter Ave Foxfield, CO 80016	Address:	17020 E Easter Ave Foxfield, CO 80016		

Case Summary

Request:	Requested approval of a Variance. The applicant is requesting a Variance be granted to permit the renovation of an existing nonconforming detached garage into an attached residential addition on their existing single-family dwelling.
Project Description:	Per Sec. 16-5-80-(c)-(2)-(b) (Nonconforming Structures) of the Town of Foxfield Municipal Code, <i>“if use a nonconforming structure is ancillary to the primary use on the site, changing the use in the nonconforming structure to any primary use allowed in the zoning district will be considered an increase in intensity of the nonconformance and will not be permitted unless a variance is granted for the nonconforming structure.”</i> The change in use from detached parking to attached residential is considered an increase in intensity and requires a variance.
Issues/Concerns:	<ul style="list-style-type: none"> • Impacts on adjacent properties • Compatibility with Town of Foxfield Master Plan
Key Approval Criteria:	<ul style="list-style-type: none"> • The use will not result in substantial or undue adverse effects on adjacent properties, or the character of the area. • This Variance will not result in the expansion or creation of any new nonconformities. • The proposed use complies with the Town of Foxfield Master Plan.
Staff Recommendation:	Approval
Current Zone District:	RR (Large Lot Rural Residential)
Comp Plan Designation:	Residential (Rural)

Attachments for Review

- Attachment A: Variance Request Letter
- Attachment B: Site and Floor Plans

Background Information

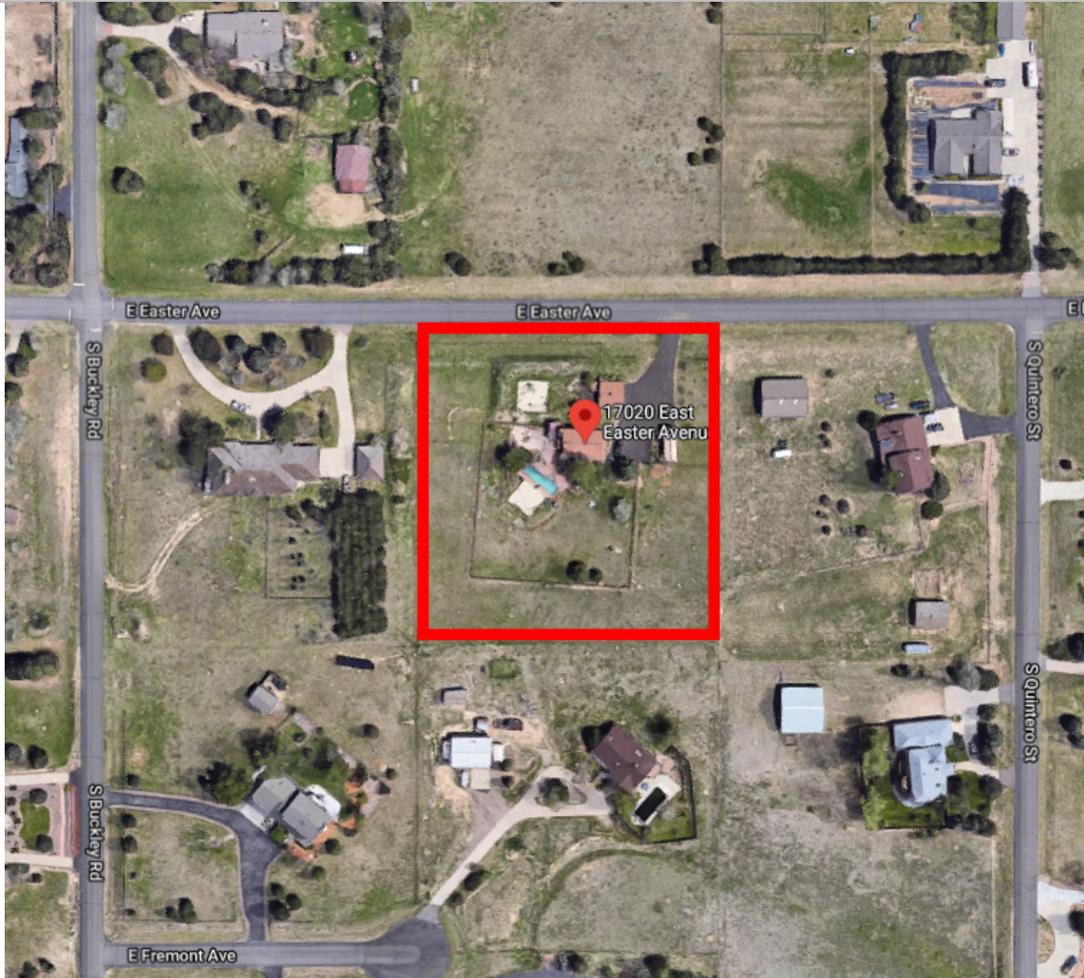
Site Information

Site Size:	2.31 acres (apx. 100,500 square feet)
Current Conditions:	1 single-family dwelling, 2 detached accessory garages (including one nonconforming detached garage with a 47ft front setback)
Existing Right-of-Way:	East Easter Avenue to the north
Existing Buildings:	1 single-family dwelling, 2 detached accessory structures
Buildings to Remain?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
Site in Floodplain?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Surrounding Properties

<u>Existing Land Use</u>		<u>Occupant</u>	<u>Zoning</u>
North	Vacant	Vacant	RR
South	Residential	Residence – 17021 E Fremont Ave	RR
East	Residential	Residence – 16920 E Easter Ave	RR
West	Residential	Residence – 7139 S Quintero St	RR

Site Map



Applicant's Request

The applicant is requesting the approval of a Variance to permit a change in use associated with the renovation of an existing nonconforming detached garage, currently used for accessory parking, into an attached residential addition on their existing single-family dwelling. The detached garage is considered nonconforming due to an existing front (north) setback of 47ft, where 50ft is required. The garage was built with the home in 1981, prior to the current iteration of the Town's municipal code (2012), which requires the 50ft setback. The site currently contains one primary single-family dwelling and two detached garages. If the Variance is granted, the proposal would see the westernmost nonconforming detached garage renovated into attached living space connected to the primary dwelling. The second, easternmost, detached garage (conforming) would then be demolished and replaced with a larger single garage to reduce outdoor vehicle parking on the site. The resulting number of individual structures would then be one primary single-family dwelling and one detached garage. The proposal would maintain the existing 47ft front (north) setback of the subject structure, and not result in the expansion or creation of any new dimensional nonconformities. The applicants also note that the proposal is meant to enhance and beautify their property by resulting in a consolidation of structures and reduction in outdoor vehicle parking.

Planning & Zoning Staff Analysis

Section 16-5-80-(c)-(2)-(b), Nonconforming Structures, of the Town of Foxfield Municipal Code requires: *"if use of a nonconforming structure is ancillary to the primary use on the site, changing the use in the nonconforming structure to any primary use allowed in the zoning district will be considered an increase in intensity of the nonconformance and will not be permitted unless a variance is granted for the nonconforming structure."*

The existing detached garage is considered nonconforming, per the Municipal Code definition, due to its existing 47ft front (north) setback, where a 50ft front setback is required (per Section 16-2-50-(c)-(4)). The structure was built in 1981 prior to the current iteration of the Town's Municipal code (2012), which established the 50ft front setback requirement. The existing use of the detached garage is for private accessory parking. The proposal to renovate this into attached living space connected to the primary dwelling will result in a change of use from "ancillary" parking to "primary" residential. Both uses are permitted by right in the Large Lot Rural Residential (RR) zone district. This change in use will be evidenced by exterior alterations which will not affect the northern façade, or existing 47ft front setback, of the structure. Proposed alterations will include attaching the structure to the primary residence via a new hallway attached to the south of the structure, and the removal of an existing east facing garage door, to be framed in as a solid wall.

No new nonconformities, or expansion of the existing nonconformity, are proposed with this proposal. As the applicant notes, multiple properties in the Town of Foxfield, including nearby properties bordering E Easter Avenue, contain nonconforming structures that were built prior the current iteration of the Town's Municipal Code and which no longer conform with various zoning requirements including setbacks.

Based on the building permit plans submitted by the applicant, the residential alterations and new detached garage (to replace the easternmost existing garage) will comply with all other zoning and development standards,

including but not limited to, all other setbacks, maximum impervious coverage, height, parking, etc. The existing primary character of the surrounding properties is residential in nature which this proposal will maintain.

Additionally, the Town’s Master Plan identifies the future land use for this site as Residential (Rrural), which the proposal also aligns with. Section 4.1, “Community Character” outlines the following goal: *“to enhance and protect the existing low density, single family, and rural character of the community.”* As proposed, this renovation and change in use will maintain the existing single family home and result in the aesthetic enhancement of the site.

If granted, the Variance must be followed by review of the previously submitted building permit application(s). It shall be understood that the Variance only applies to the change in use of the structure from parking to residential, and shall not influence, in any way, future Town decisions regarding the approval or denial of building permits.

Consistency with Variance Requirements

The property in question is subject to Variance approval criteria found in Section 16-5-70 of the Town of Foxfield Municipal Code. The owner of the property provided answers to the criteria from Sec. 16-5-70 in their Variance Request Letter. Below is a staff analysis of each point:

Criteria Met?	Approval Criteria	Rationale
<input checked="" type="checkbox"/>	Section 16-5-70-(a)-(2)-(a) The applicant would suffer hardship as a result of the application of this Chapter, which hardship is not generally applicable to other lands or structures in the same zone district because of the unusual configuration of the applicant’s property boundaries, because of unique circumstances related to the location of existing structures thereon or because of the existence of exceptional topographic conditions thereon.	The structure exists as a nonconforming structure and the proposal will not increase this nonconformity or create any new nonconformities. The applicant notes that the structure has a “thick, reinforced foundation” and denial of the variance would result in the owner having to demolish a structurally sound building, in order to move the structure back 3ft to comply with the 50ft setback requirement.
<input checked="" type="checkbox"/>	Section 16-5-70-(a)-(2)-(b) There are no design alternatives or alternative locations for structures that would obviate the need for the requested variance or would reduce the amount of the variance required.	Whether the detached garage remains as parking, or is approved for a change in use to residential, the design and location of the structure does not differ from what currently exists on the site. The applicants wish to expand their home and building a new conforming garage to reduce outdoor “vehicle clutter.” The requested variance is the only option for them to renovate the nonconforming garage.
<input checked="" type="checkbox"/>	Section 16-5-70-(a)-(2)-(c) The enforcement of the provisions of this Chapter deprives the applicant of rights enjoyed by a majority of the other properties in the same zone district under the terms of this Chapter.	As the applicant notes, multiple properties in the Town of Foxfield, including nearby properties bordering E. Easter Avenue, also contain nonconforming structures that were built prior to the current iteration of the Town’s Municipal Code and which no longer conform with various zoning requirements including setbacks.

Criteria Met?	Approval Criteria	Rationale
☒	Section 16-5-70-(a)-(2)-(d) The need for the variance does not result from the intentional, reckless or negligent actions of the applicant or his agent, a violation of any provision of this Code or a previously granted variance.	The existing garage was built with the original home, prior to the applicants owning the property. The applicants have made no alterations to the garage to cause the 47ft front setback.
☒	Section 16-5-70-(a)-(2)-(e) Reasonable protections are afforded adjacent properties.	The proposal will maintain the existing character of the property (and location of the structure in question), and result in the improved appearance and aesthetic enhancement of both the primary dwelling and all accessory structures. The variance will only apply to the change in use of the nonconforming structure, and the property must maintain compliance with all other development standards per the Town Municipal Code, Building Code, and Public Works Standards and Specifications.
☒	Section 16-5-70-(a)-(2)-(f) The requested variance will not cause an undesirable change in the character of the neighborhood or have an adverse effect on the physical or environmental conditions of the surrounding property.	The proposal will maintain the existing large lot rural residential character of the subject property and the surrounding neighborhood. The proposed architectural renovations will complement the existing aesthetic of the subject property and surrounding homes. The variance would not cause adverse effects on the physical or environmental conditions of surrounding properties.
☒	Section 16-5-70-(a)-(2)-(g) The variance is the minimum variance that will make possible the reasonable use of the land or structure.	Yes. This request is the minimum variance that would allow the property to be renovated.
☒	Section 16-5-70-(a)-(2)-(h) The granting of the variance will: <ol style="list-style-type: none"> 1. Observe the spirit of this Chapter; 2. Secure the public safety and welfare; 3. Ensure that substantial justice is done; and 4. Observe common sense. 	<ol style="list-style-type: none"> 1. Yes. This variance will maintain the residential nature of the surrounding area and is consistent with other lots in the Town of Foxfield. 2. This variance will not adversely affect public safety or welfare. 3. This variance will allow the current owners to renovate their property and use the subject structure to its fullest extent. 4. The subject structure currently exists in its nonconforming location and has since 1981. This variance would permit the structure to be renovated along with the rest of the structures on the property, and will not result in the expansion or creation of any new nonconformities.

Planning & Zoning Staff Recommendation

Based upon the analysis above, the Planning & Zoning Staff believe the application meets the criteria for a Variance, as set forth in Chapter 16 of the Town of Foxfield Municipal Code, and recommends that the Board of Adjustment approve the requested change in use of the nonconforming detached garage to attached residential, as outlined in the attached plans, subject to the following condition:

CONDITION:

- A. All future proposed site development, alterations and expansions shall obtain all requisite Town approvals, permits, and display conformance with all other applicable provisions and development standards of the Town of Foxfield Municipal Code.

Recommended Motion

To recommend approval subject to condition(s):

"I move that the Board of Adjustment find that the requested Variance for the property located at **17020 E Easter Avenue**, to allow a change in use of the nonconforming detached garage to attached residential, meets the criteria of Chapter 16 of the Town of Foxfield Municipal Code and, based upon such findings, approves the Variance request, subject to the following condition:

- A. All future proposed site development, alterations and expansions shall obtain all requisite Town approvals, permits, and display conformance with all other applicable provisions and development standards of the Town of Foxfield Municipal Code."

A virtual hearing in regard to the attached ordinance is acceptable to Nikki & Jesus Montano.

Our Reasons for filing a request for variance are as follows:

1. The applicant would suffer hardship as a result of the application of [Chapter 16], which hardship is not generally applicable to other lands or structures in the same zone district because of the unusual configuration of the applicant's property boundaries, because of unique circumstances related to the location of existing structures thereon or because of the existence of exceptional topographic conditions thereon.

Our existing garage was built with the home in 1981, prior to the ordinance going into effect. It has a thick, reinforced foundation is quite structurally sound. We would have to demo & rebuild this structure to conform to the 50' rule of the ordinance.

2. There are no design alternatives or alternative locations for structures that would obviate the need for the requested variance or would reduce the amount of the variance required.

We need to connect this structure to create a new larger garage to house our vehicle clutter and to create a master suite (additional square footage) to add value to our home.

3. The enforcement of the provisions of [Chapter 16] deprives the applicant of rights enjoyed by a majority of the other properties in the same zone district under the terms of this Chapter.

There are many homes in the district which have buildings built prior to ordinances evoked that do not meet the new ordinances requirements.

4. The need for the variance does not result from the intentional, reckless, or negligent actions of the applicant or his agent, a violation of any provision of this Code or a previously granted variance.

This building was built prior to us even owning the property. We're just trying to improve the homes appearance and property value.

5. Reasonable protections are afforded adjacent properties.

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6. The requested variance will not cause an undesirable change in the character of the neighborhood or have an adverse effect on the physical or environmental conditions of the surrounding property.

The architecture holds true to the area homes, as we are not a cookie cutter neighborhood and will be visually pleasing to the public.

7. The variance is the minimum variance that will make possible the reasonable use of the land or structure.

We are only asking for is required to keep in codes & regulations of Foxfield

8. The granting of the variance will:

- a. Observe the spirit of [Chapter 16];

?

- b. Secure the public safety and welfare;

?

- c. Ensure that substantial justice is done; and

?

- d. Observe common sense.

?



Jesus Montano



Nikki Montano

TOWN OF FOXFIELD Permit # _____

PROPERTY OWNER Jesus Montano	PHONE (720) 480-0655
MAILING ADDRESS 17020 E Easter Ave	EMAIL nikkimontano@me.com
CONTRACTOR-GENERAL KJ Remodeling	PHONE (303) 710-5419
CONTRACTOR ADDRESS 257 7th Ave Deer Trail, CO 80109	CELL (720) 208-6325
ELECTRICAL On Point Electric - Seth Leckman	
PLUMBING Quality First	HEATING U.S. Mechanical
ADDRESS OR DIRECTION TO JOB SITE 17020 E Easter Ave, Foxfield, CO	
SUBDIVISION	PARCEL#
Distance from Lot Lines: N 47' S 187' E 32' W 144'	
Required setbacks (for office use only) N _____ S _____ E _____ W _____	

IMPORTANT - COMPLETE ALL ITEMS AND MARK ALL APPLICABLE BOXES

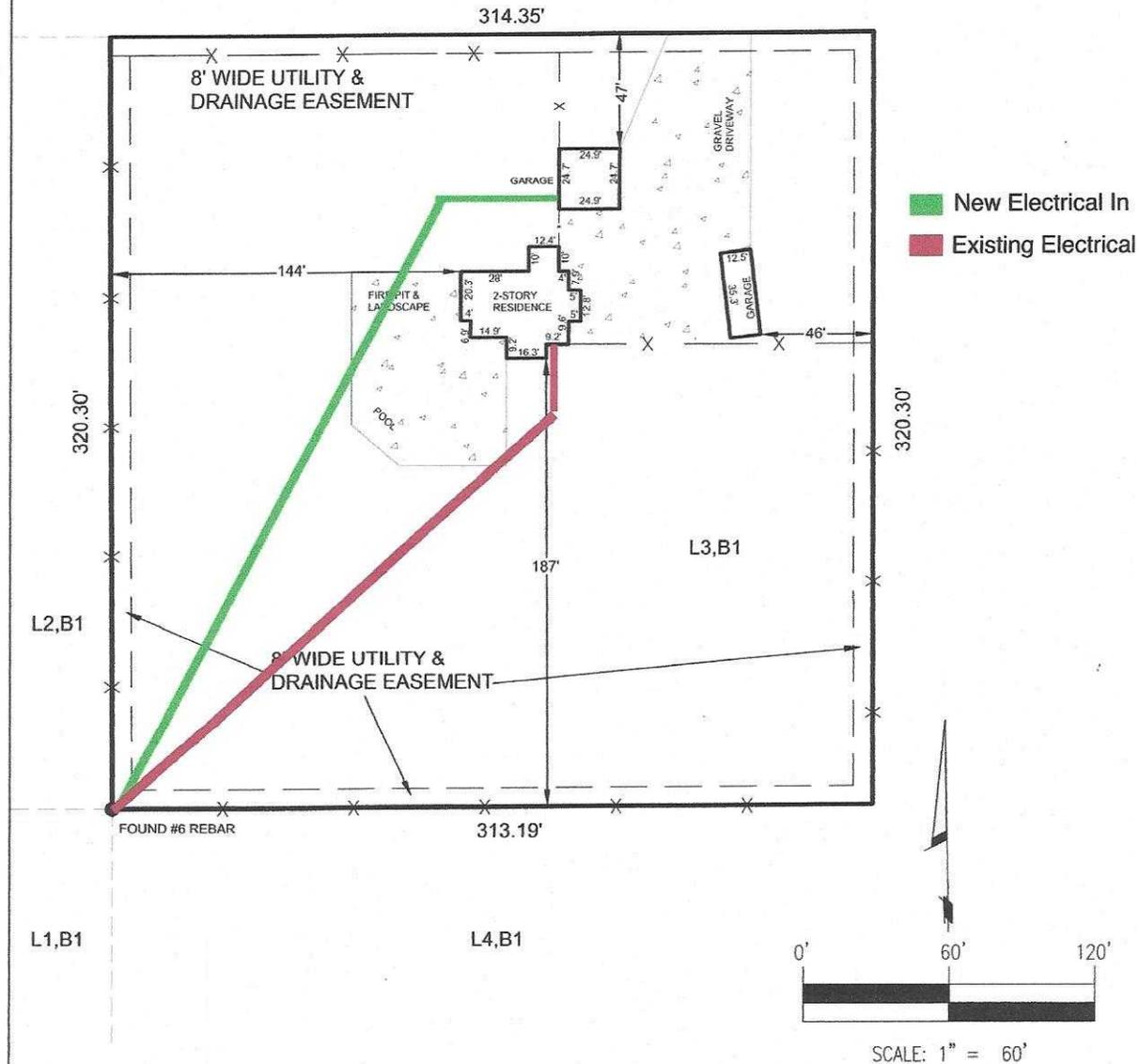
<p>A. TYPE OF IMPROVEMENT</p> <p><input checked="" type="checkbox"/> New Building</p> <p><input checked="" type="checkbox"/> Addition</p> <p><input checked="" type="checkbox"/> Remodel \ Finish</p> <p><input type="checkbox"/> Sprinkler system</p> <p><input type="checkbox"/> Repair, replacement</p> <p><input type="checkbox"/> Movable Structure</p> <p><input type="checkbox"/> Fence</p> <p><input checked="" type="checkbox"/> Water Heater</p> <p><input checked="" type="checkbox"/> HVAC</p> <p><input type="checkbox"/> Other _____</p>	<p>C. PROPOSED USE</p> <p><u>Residential</u></p> <p><input checked="" type="checkbox"/> One Family</p> <p><input type="checkbox"/> Multi Family - Enter number of units - _____</p> <p><input type="checkbox"/> Hotel, motel, or dormitory - Enter number of units - _____</p> <p><input checked="" type="checkbox"/> Garage - Single _____ Double <input checked="" type="checkbox"/> Attached _____ Detached <input checked="" type="checkbox"/></p> <p><input type="checkbox"/> Carport - Attached _____ Detached _____</p> <p><input type="checkbox"/> Patio - Attached _____ Detached _____</p> <p><input type="checkbox"/> Basement - Partial _____ Full _____ Finished _____ Unfinished _____</p> <p><input type="checkbox"/> Fireplace - Masonry _____ 0-Clearance _____</p> <p><input type="checkbox"/> Other _____</p> <p><u>Commercial</u></p> <p><input type="checkbox"/> Shell Only</p> <p><input type="checkbox"/> Tenant Finish</p> <p><input type="checkbox"/> Remodel / Addition</p> <p><input type="checkbox"/> New Building</p> <p><input type="checkbox"/> Electrical Valuation \$ _____</p>	<p>D. FEES</p> <p>Permit Fee _____</p> <p>Electrical _____</p> <p>C. Meter _____</p> <p>Plan Review _____</p> <p>Other _____</p> <p>Total SAFEbuilt _____</p> <p>Use Tax _____</p> <p>Foxfield Surcharge _____</p> <p>Engineering Fee _____</p> <p>Other _____</p> <p>_____</p> <p>_____</p> <p>Total Town _____</p> <p>Total Fees \$ _____</p>	
<p>B. TOTAL VALUE</p> <p>\$ 70,000</p> <p>PLAN # ON FILE _____</p> <p>OPTION # _____</p>	<p>NOTES:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>		
<p>E. CONSTRUCTION TYPE</p> <p><input checked="" type="checkbox"/> Wood Frame</p> <p><input checked="" type="checkbox"/> Structural Steel</p> <p><input type="checkbox"/> Masonry</p> <p><input type="checkbox"/> Other _____</p> <p>F. HEATING FUEL TYPE</p> <p><input type="checkbox"/> Gas</p> <p style="padding-left: 20px;">LP or NG</p> <p><input checked="" type="checkbox"/> Electricity</p> <p><input type="checkbox"/> Solar</p> <p><input type="checkbox"/> Other _____</p>	<p>G. TYPE OF SEWAGE DISPOSAL</p> <p><input type="checkbox"/> Public</p> <p><input checked="" type="checkbox"/> Individual (Septic tank)</p> <p>H. TYPE OF WATER SUPPLY</p> <p><input checked="" type="checkbox"/> Tap Size _____</p> <p>Supplier Well</p> <p>OCCUPANCY</p> <p>Group _____</p> <p>Division _____</p> <p>Construction Type _____</p> <p>Use _____</p>	<p>I. TYPE OF MECHANICAL</p> <p><input checked="" type="checkbox"/> Central Air Conditioning</p> <p><input checked="" type="checkbox"/> Electric</p> <p><input type="checkbox"/> Hydronic</p> <p>J. MISCELLANEOUS</p> <p>Number of stories _____</p> <p>Total Land area _____</p> <p>Parking Spaces _____</p> <p style="padding-left: 40px;">Enclosed _____ Outdoors _____</p> <p>K. RESIDENTIAL ONLY</p> <p># of Bedrooms 1</p> <p># of Baths Full 1 3/4 _____ 1/2 _____</p>	<p>L. SQUARE FOOTAGE</p> <p>Main Floor + 903 ft²</p> <p>Add. Floors _____</p> <p>Basement _____</p> <p>Crawlspace _____</p> <p>Covered Porch _____</p> <p>Decks _____</p> <p>Garage + 657 ft² = 1560 ft²</p> <p>Other _____</p>

M. OTHER INFORMATION: Describe in detail the proposed use and type of construction, dimension, square footage and materials:

IMPROVEMENT LOCATION CERTIFICATE

17020 EAST EASTER AVENUE, FOXFIELD COLORADO 80016

EAST EASTER AVENUE 60' RIGHT-OF-WAY

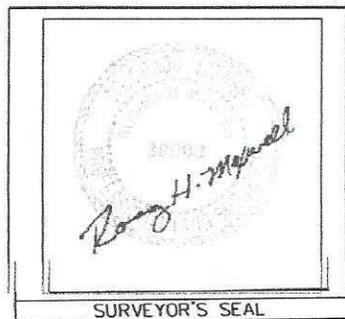


IMPROVEMENT LOCATION CERTIFICATE SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THIS IMPROVEMENT LOCATION CERTIFICATE WAS PREPARED FOR NIKKI MONTANO AND THAT IT IS NOT A LAND SURVEY PLAT OR IMPROVEMENT SURVEY PLAT, AND THAT IT IS NOT TO BE RELIED UPON FOR THE ESTABLISHMENT OF FENCE, BUILDING, OR OTHER FUTURE IMPROVEMENT LINES.

I FURTHER CERTIFY THAT THE IMPROVEMENTS ON THE ABOVE DESCRIBED PARCEL ON THIS DATE, 4/1/16, EXCEPT UTILITY CONNECTIONS, ARE ENTIRELY WITHIN THE BOUNDARIES OF THE PARCEL, EXCEPT AS SHOWN, THAT THERE ARE NO ENCROACHMENTS UPON THE DESCRIBED PREMISES BY IMPROVEMENTS ON ANY ADJOINING PREMISES, EXCEPT AS INDICATED, AND THAT THERE IS NO APPARENT EVIDENCE OR SIGN OF ANY EASEMENT CROSSING OR BURDENING ANY PART OF SAID PARCEL, EXCEPT AS NOTED.

RODNEY H. MAXWELL,
COLORADO P.L.S.# 38083
ELECTRONICALLY STAMPED



NOTE:
ALL PROPERTY DISTANCES AND EASEMENTS WERE OBTAINED FROM THE OFFICIAL PLAT "ARCADIAN HEIGHTS", RECORDED IN THE ARAPAHOE COUNTY CLERK AND RECORDER'S OFFICE. NO OTHER DOCUMENTS WERE PROVIDED TO THE SURVEYOR. OWNERSHIP OF FENCES NOT DETERMINED BY THE SURVEYOR. ILC IS BASED ON LINES OF OCCUPATION. DRIVEWAY AND CONCRETE DRAWN NOT TO SCALE. ALL MEASURED DISTANCES ARE APPROXIMATE.

PROPERTY ADDRESS: 17020 EAST EASTER AVENUE, AURORA COLORADO 80016

LEGAL DESCRIPTION: LOT 3, BLOCK 1, ARCADIAN HEIGHTS, COUNTY OF ARAPAHOE, STATE OF COLORADO.

ORDERED BY:
NIKKI MONTANO

REVISIONS	
DATE PREPARED: 4/2/16	P.O. BOX 181551 DENVER, CO 80218 303.668.7540
DRAWN BY: M. ROBERT JOB # 16-3-141	



Lookup Detail View

Licensee Information

This serves as primary source verification of the license.*

**Primary source verification: License information provided by the Colorado Division of Professions and Occupations, established by 24-34-102 C.R.S.*

Name	Public Address
Seth Everett Leckman	Bennett, CO 80102-8458

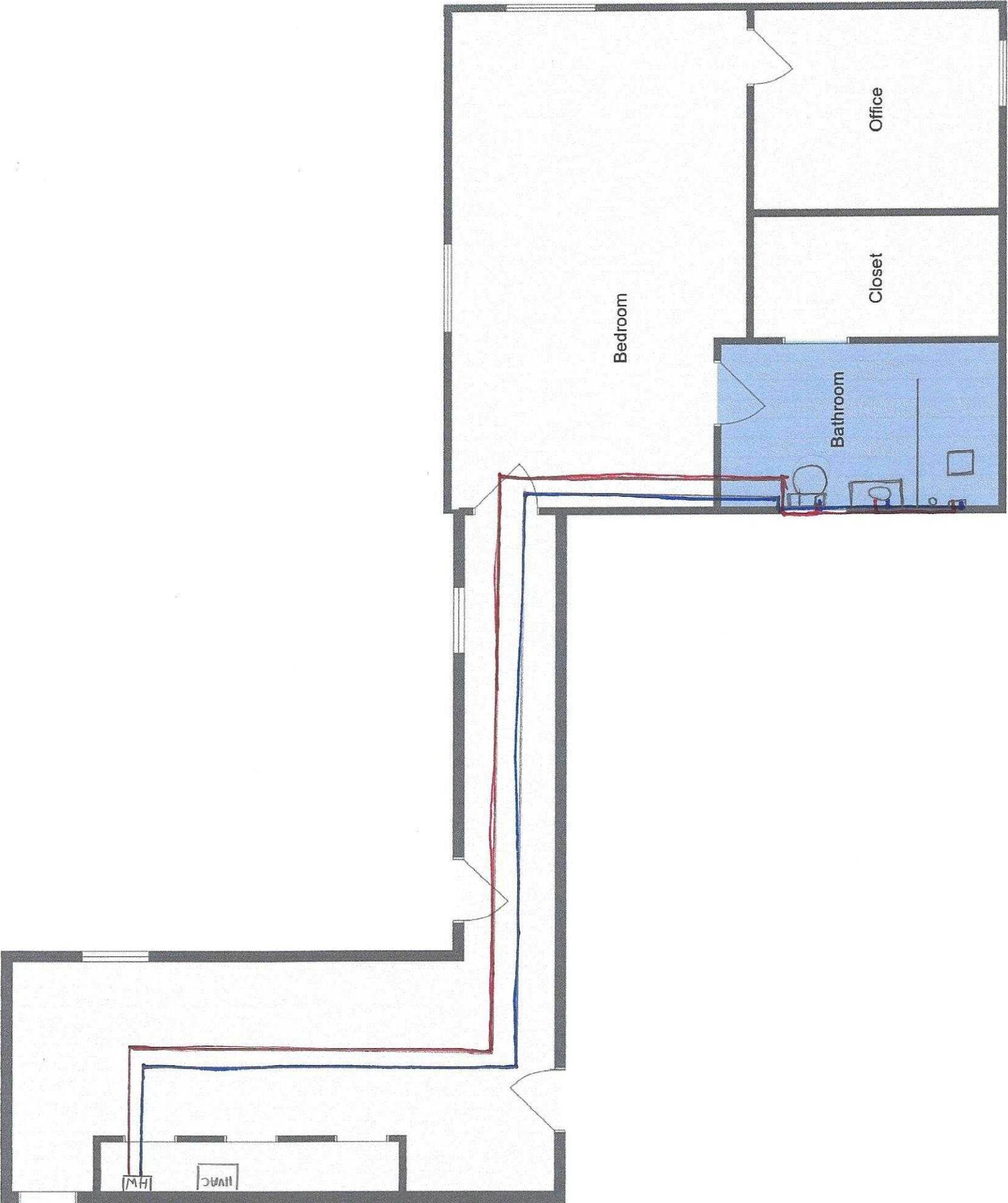
Credential Information

License Number	License Method	License Type	License Status	Original Issue Date	Effective Date	Expiration Date
RW.0600375	Examination	Residential Wireman	Active	06/10/2017	06/10/2017	09/30/2020

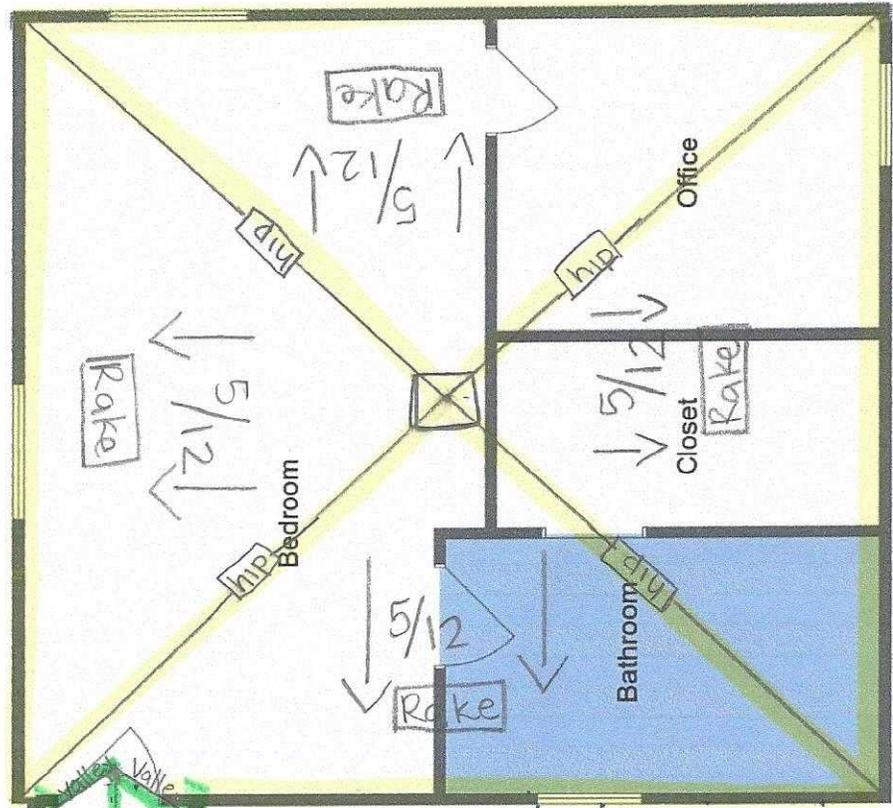
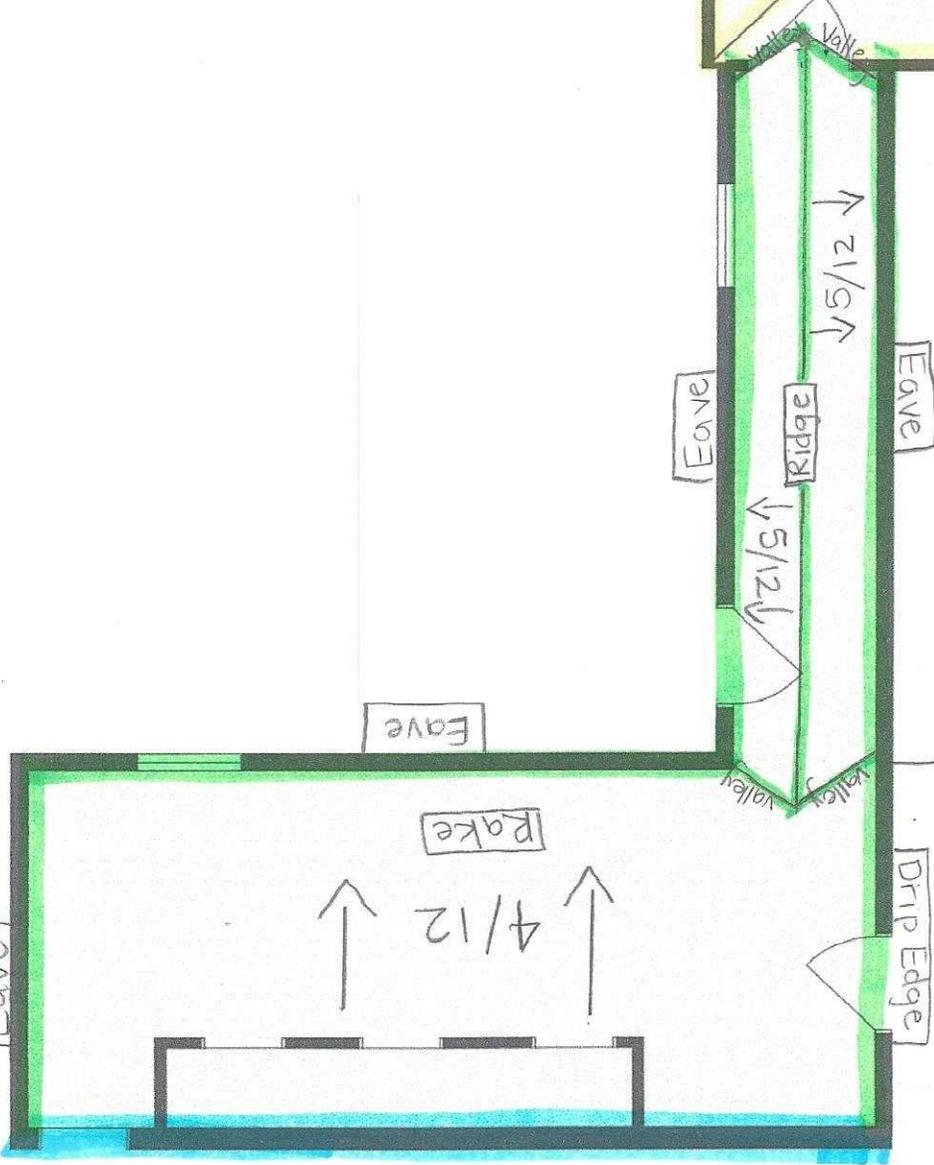
Board/Program Actions

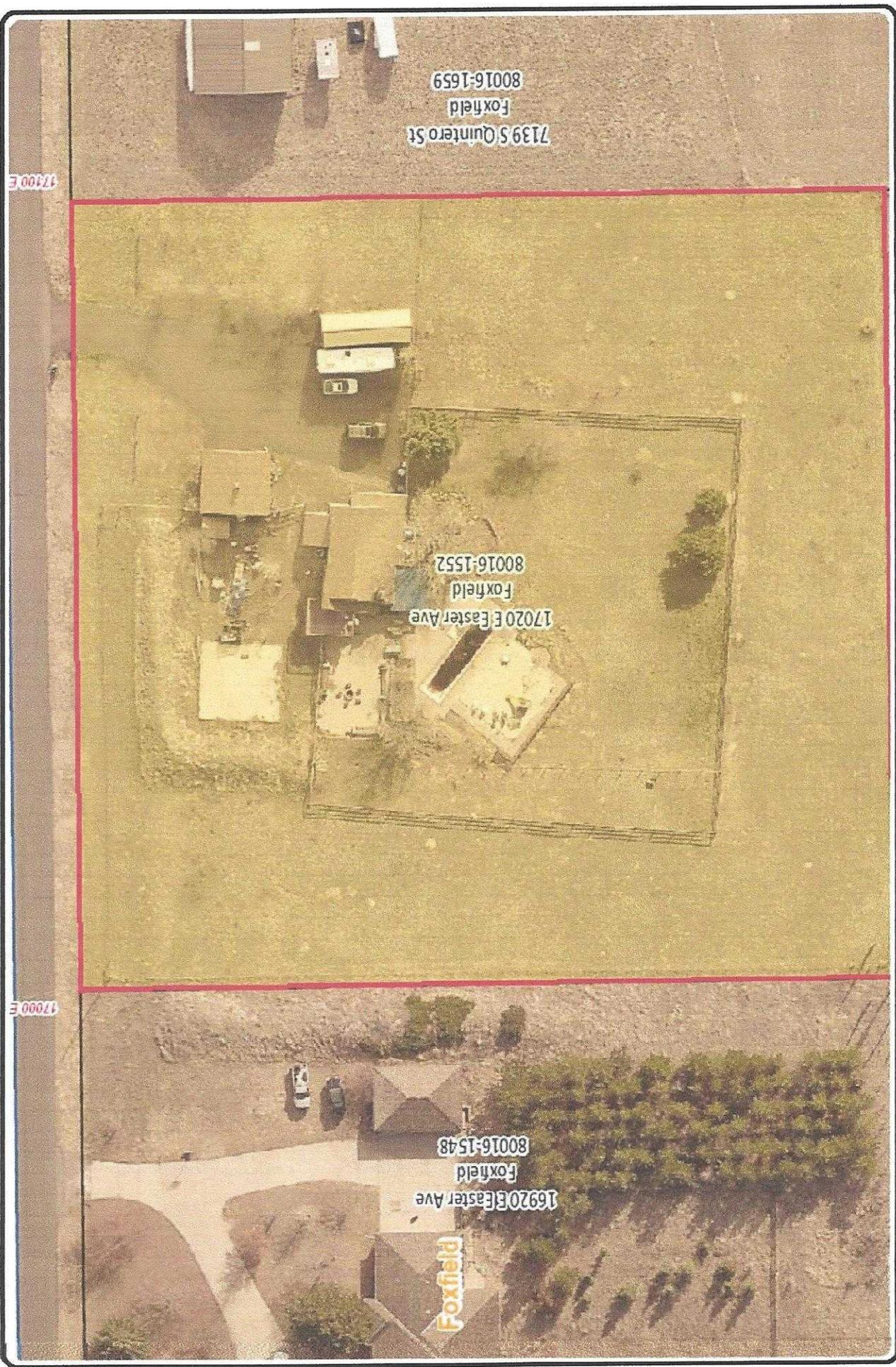
Discipline
There is no Discipline or Board Actions on file for this credential.

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- pre existing roof
- new roof
- pre existing wall in home





2073-28-3-06-001

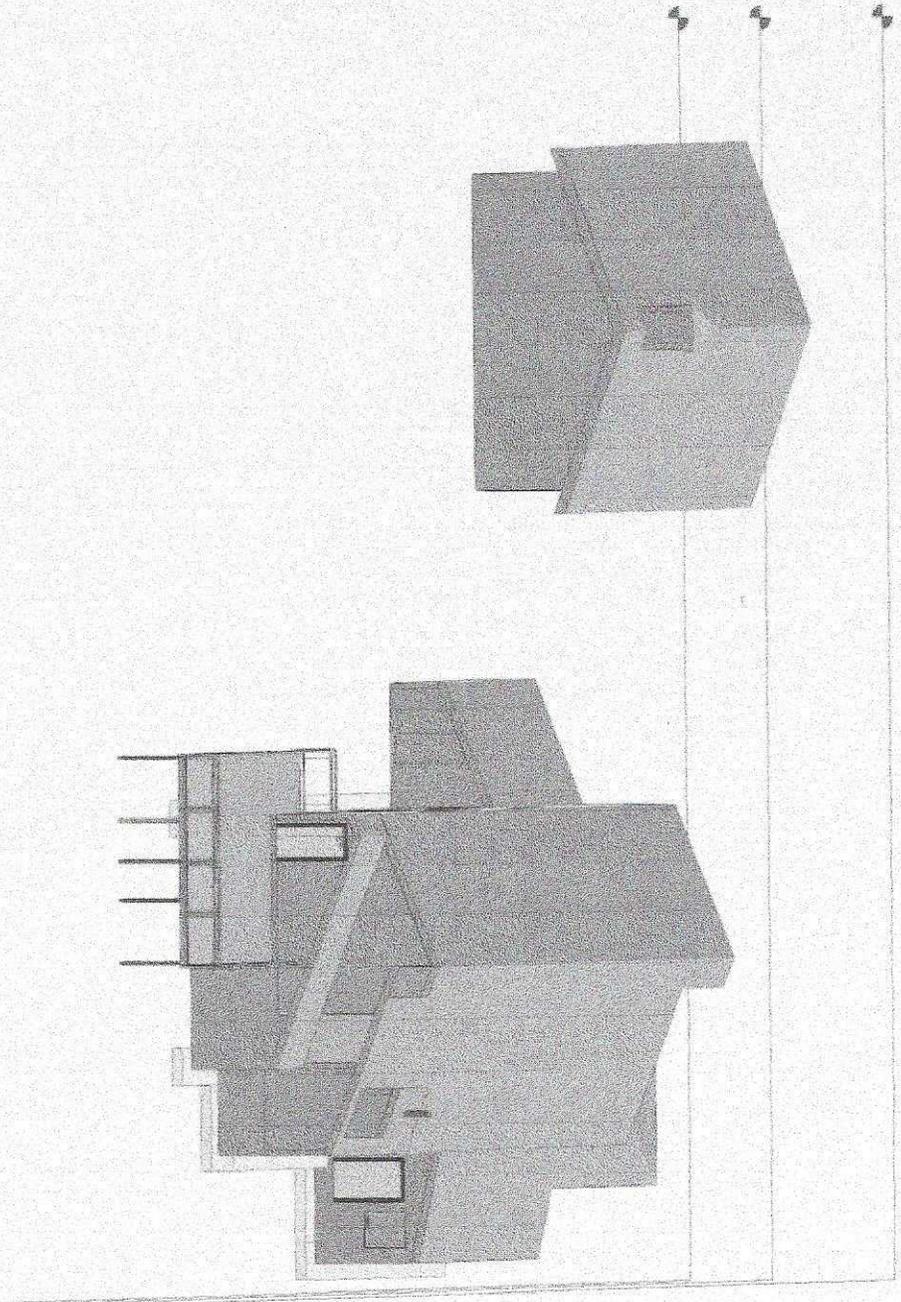
ARAPAHOE COUNTY MAKES NO REPRESENTATION OR WARRANTY AS TO THE ACCURACY OF THIS MAP OR THE DATA THAT IT DISPLAYS. ARAPAHOE COUNTY ASSUMES NO RESPONSIBILITY OR LIABILITY TO ANY USER. THIS MAP IS NOT A LEGAL DOCUMENT. IT IS INTENDED TO SERVE AS AN AID IN GRAPHIC REPRESENTATION ONLY.



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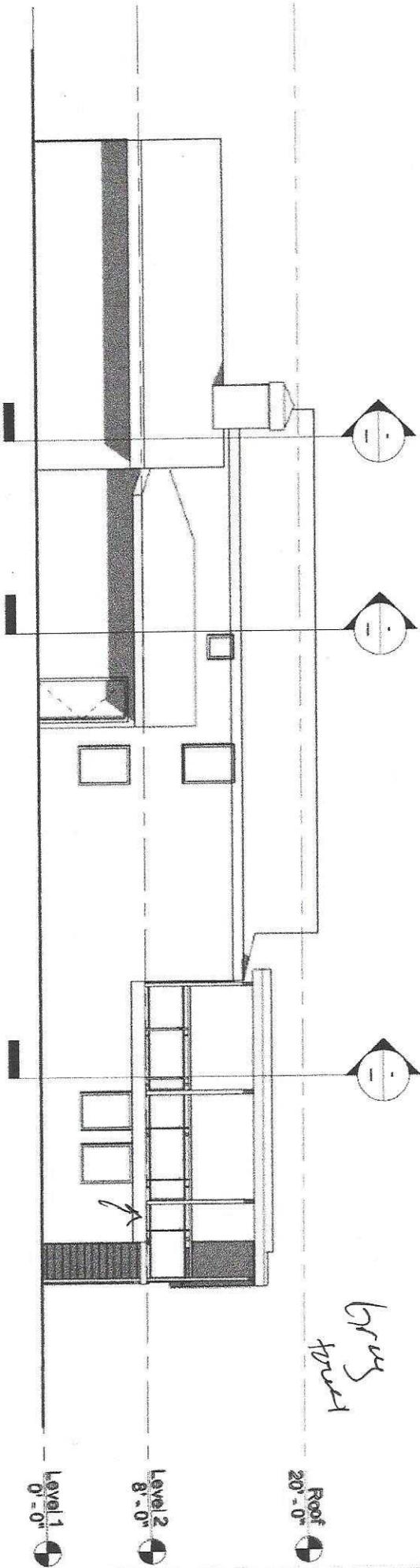
Map Location

Current home build



A

Elevation North side - Street side of house



Grass house

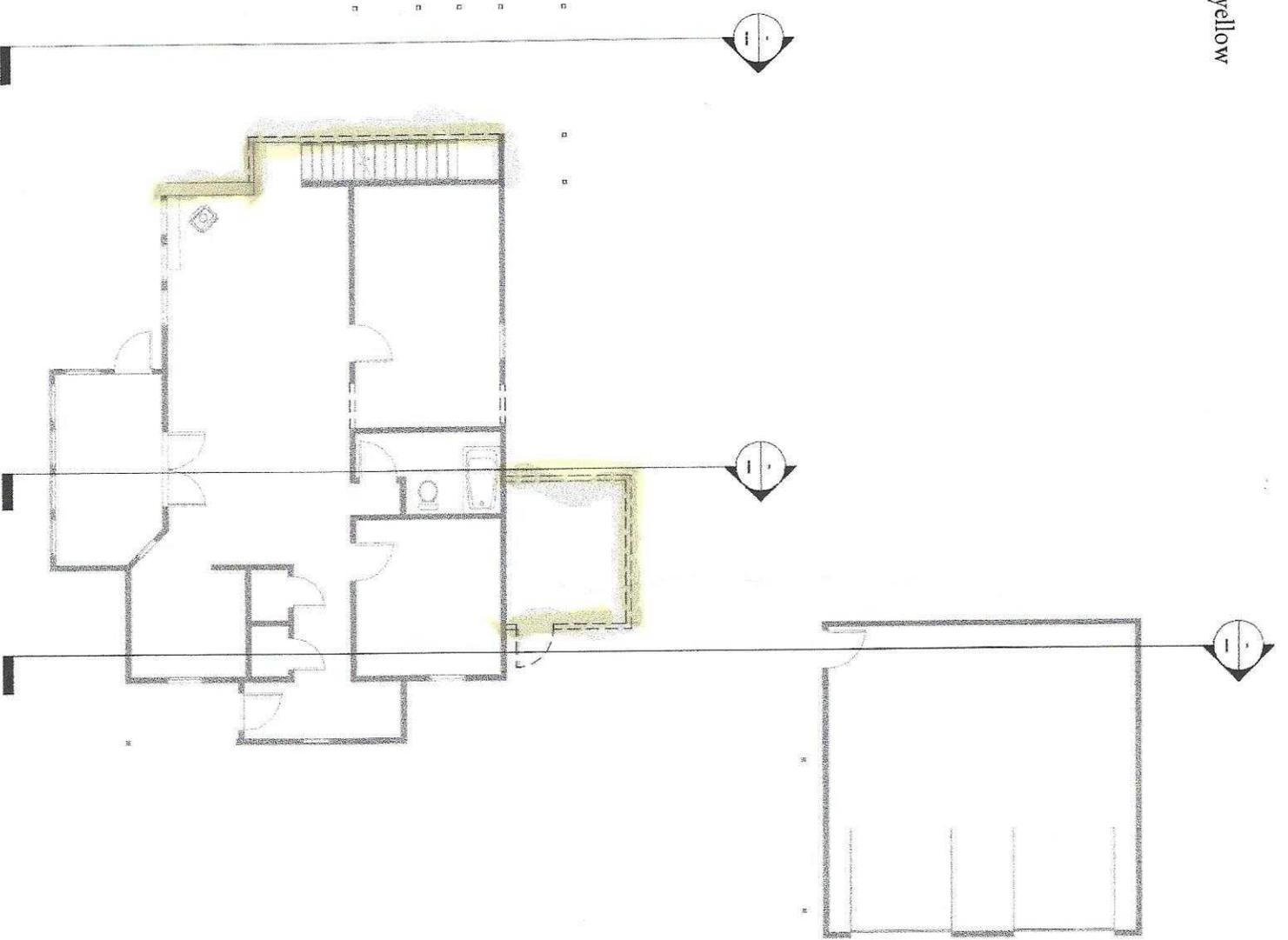
Wood look

Level 1
0'-0"

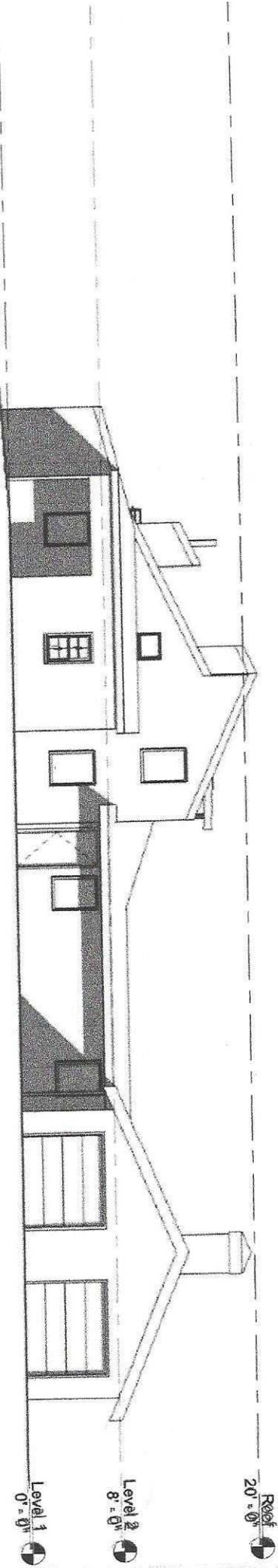
Level 2
8'-0"

Roof
20'-0"

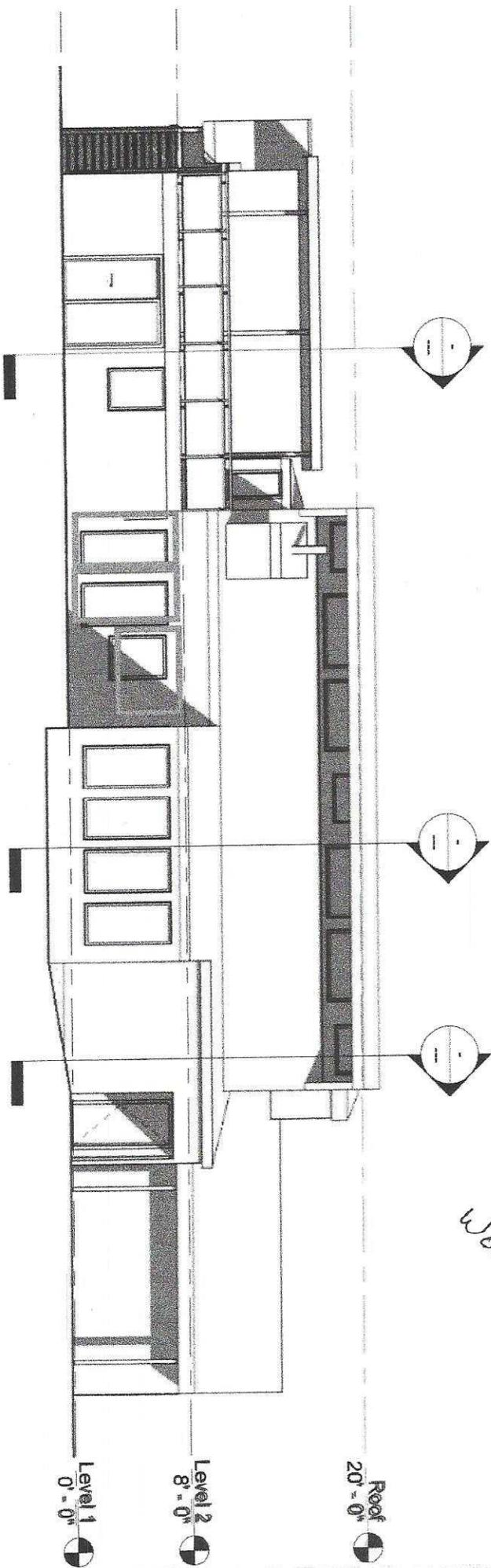
Demo in yellow



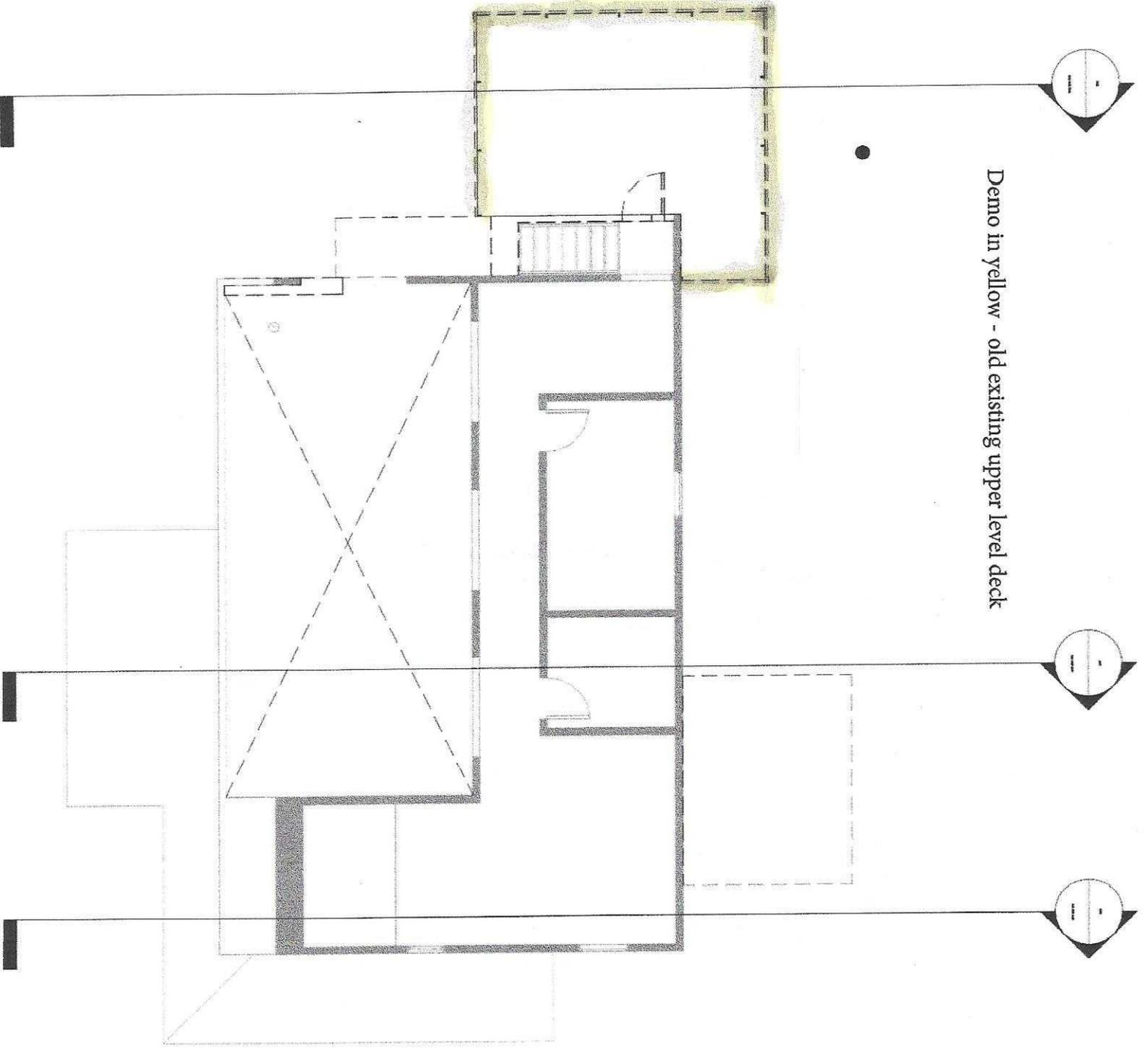
elevation East side - Front of house



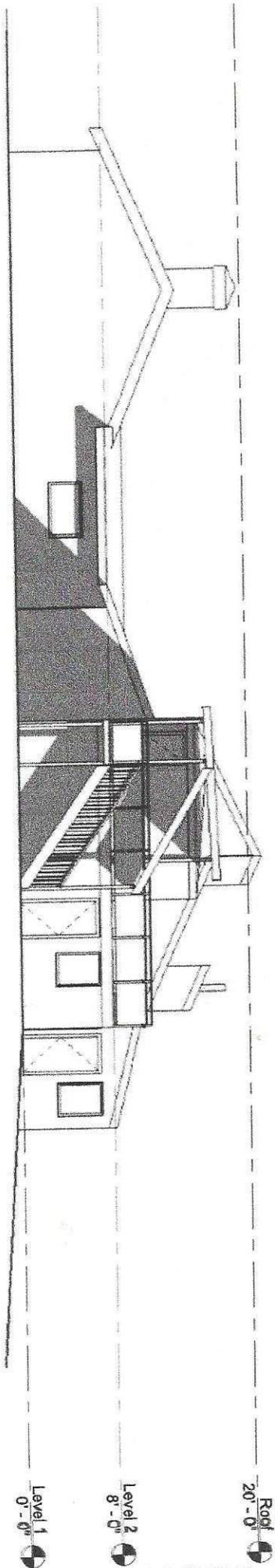
Elevation South side - Back house faces yard & views



Demo in yellow - old existing upper level deck



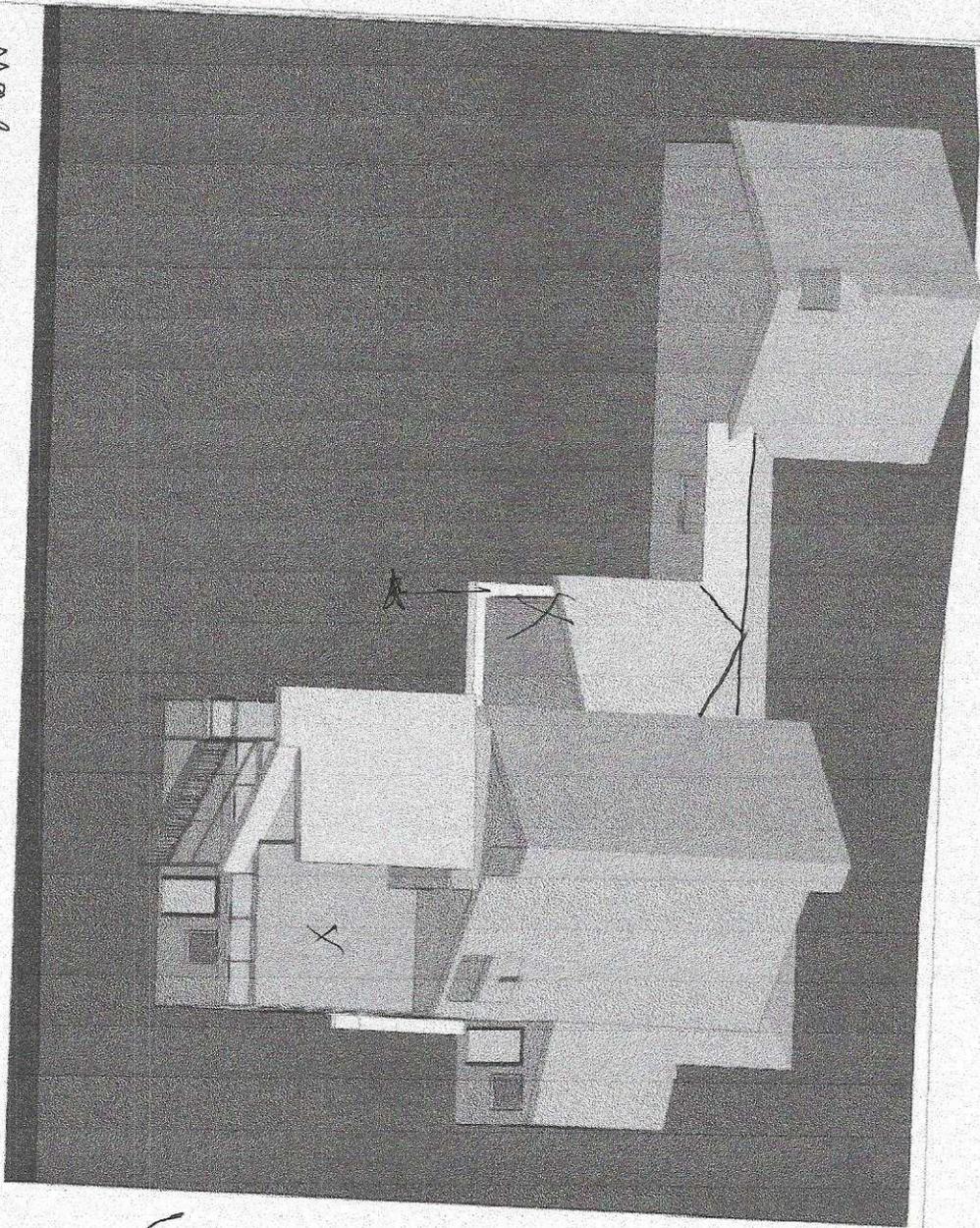
Elevation West side - Side of bedroom addition and upper deck



Proposed New Build

Possible Material used / Engineering Day Deck
Kerolan Vinyl Flooring

(C)



More

Furniture
with +

9x9