

June 10, 2019

TO: Chairperson Carter, Planning Commission Members, & Administrator Meyer
FROM: Cynthia Smith Strack, Community Development Director
SUBJECT: Resolution 19-020: Non-Conforming Expansion Permit Front Yard Setback – 301 Main Street East

Kateryna McCloskey has applied for a non-conformance expansion permit under Section 1102.03 of the Code. If approved, the non-conformance expansion permit would allow reconfiguration and slight expansion of a dwelling destroyed by fire at 301 Main Street East.

The property is within the R-3 One and Two Family Residence District and is legal non-conforming relative to front and corner street side required setback. The new dwelling, as proposed, will conform to required corner street side yard setback. The new dwelling will not intensify the non-conforming front yard setback (i.e. go no closer to the front property line); however, the length of the non-conformity is proposed for expansion.

The proposed expansion meets other code performance standards. Site coverage is calculated at 3,000 square feet comparable to current coverage.

Wayne Schmidt, McCloskey's Contractor, is expected to be at the meeting to address the request and subsequent questions.

Attachments:

- Application for Non-Conforming Use Expansion Permit
- Site plan and elevation drawings
- Resolution 19-020(A) Resolution Recommending Approval of a Front Yard Setback Non-Conformance Expansion Permit Relating to a Proposed Dwelling at 301 Main Street East in the R-3 One and Two Family Residential District.
- Resolution 19-020(B) Resolution Recommending Denial of a Front Yard Setback Non-Conformance Expansion Permit Relating to a Proposed Dwelling at 301 Main Street East in the R-3 One and Two Family Residential District.

Representations by the Applicant

The Applicant represents:

- The property use is homestead one family residential.
- The previous dwelling was just over 1,000 square feet and lost to fire and the property owners propose to reconstruct.
- The previous dwelling was legal non-conforming pertaining to front yard setback (six feet) and corner street side setback (14 feet).
- The proposed dwelling retains the front yard setback (6 feet) but eliminates the corner street side non-conformity.



- The property consists of three base lots in the original townsite abutting Main Street combined under one PID and legal description.

Non-Conformance Expansion Permit Review

Section 1102.03, Subd. 2(3) establishes the following review criteria for non-conforming use expansion permits:

1. The proposed expansion is a reasonable use of the property, considering such things as:
 - a. Functional and aesthetic justifications for the expansion;
 - b. Adequacy of off-street parking for the expansion;
 - c. Absence of adverse off-site impacts such as things as traffic, noise, dust, odors, and parking; and
 - d. Improvement to the appearance and stability of the property and neighborhood.
2. The circumstances justifying the expansion are unique to the property, are not caused by the landowner, are not solely for the landowner's convenience, and are not solely because of economic considerations; and
3. The expansion would not adversely affect or alter the essential character of the neighborhood.

Potential Findings in Favor of the Non-Conformance Expansion Permit Request

1. The property is zoned and used for residential purposes.
2. An existing dwelling was destroyed by fire and demolished. The proposed structure is configured rectilinearly to the front street. The previous structure had an irregularly shaped footprint.
3. The adjacent locale consists of detached residential dwellings of similar front yard setbacks, dwelling design, dwelling orientation, and dwelling construction. The proposed dwelling addition will not adversely impact the use and enjoyment of other property in the immediate vicinity or alter the essential character of the surrounding neighborhood.
4. Placing the proposed structure so as to achieve required setbacks would appear unbalanced and misaligned as the dwelling would be shifted to the south east, not centered on the lot and noticeably further back from the street than adjacent existing development.
5. Status of the existing use is legal non-conforming.
6. The subject property consists of three lots previously combined under one parcel identification number and legal description.
7. The proposed dwelling location remedies a previous non-conformity applicable to street side yard and does not intensify nonconforming front yard setback encroachment.
8. The proposed dwelling addition is conforming in all other aspects and provides for reconstruction of a dwelling in the R-3 District.
9. The proposed new dwelling will improve the condition of the property, have a positive impact on the value of the property, and increase the livability of the residential use.
10. The adjacent locale is fully developed, the proposed addition will not adversely impact normal and orderly development and improvement of surrounding property.
11. No changes are proposed to existing utilities.

Potential Findings To Deny the Non-Conformance Expansion Permit Request

1. The proposed dwelling could be stepped back from the existing dwelling to accommodate the required 30-foot front yard setback thereby eliminating the need for a non-conformance expansion permit.
2. The subject parcel consists of three rectangular shaped parcels established in the original plat in a rectilinear grid pattern and oriented perpendicularly to the front street. The lot is void of

undevelopable areas such as wetlands, bluffs, and topographical fluctuations. The non-conformance expansion permit is not based on factors that are unique to the subject property but, rather, for the landowner's convenience.

Staff Recommendation

Staff recommends conditional approval of the non-conforming use expansion permit based on aforementioned discussion.

Proposed permit conditions:

1. Use of the subject property shall be limited to the following:
 - a. The principal use shall be defined as a dwelling (1,120 square foot foundation) with total site coverage not to exceed 3,000 square feet.
 - b. The dwelling shall be placed no closer than six (6) feet from the front property line.
2. The non-conforming use expansion permit is in effect for the property at 301 Main Street East and assigned to the current and/or any future owner of the property. The non-conforming use expansion permit may be revoked by the City following written notice to the property owner if the conditions of the permit as listed herein are not met and/or maintained.
3. The non-conforming use expansion permit will expire if a building permit is not secured within one (1) year of the date of issuance of the non-conforming use expansion permit.

Action:

The Planning Commission is to hold a public hearing and make a recommendation to the City Council pertaining to the request.



Legend

- City Limits
- Parcels (5/7/2019)
- Lot Lines
- Minnesota River Protected Waters
- Public Water Basin
- Public Water Wetland
- Protected Waters - Watercourse
- Boundary
- Footprint
- Image**
- Red: Red
- Green: Green
- Blue: Blue

**McCloskey
Property**



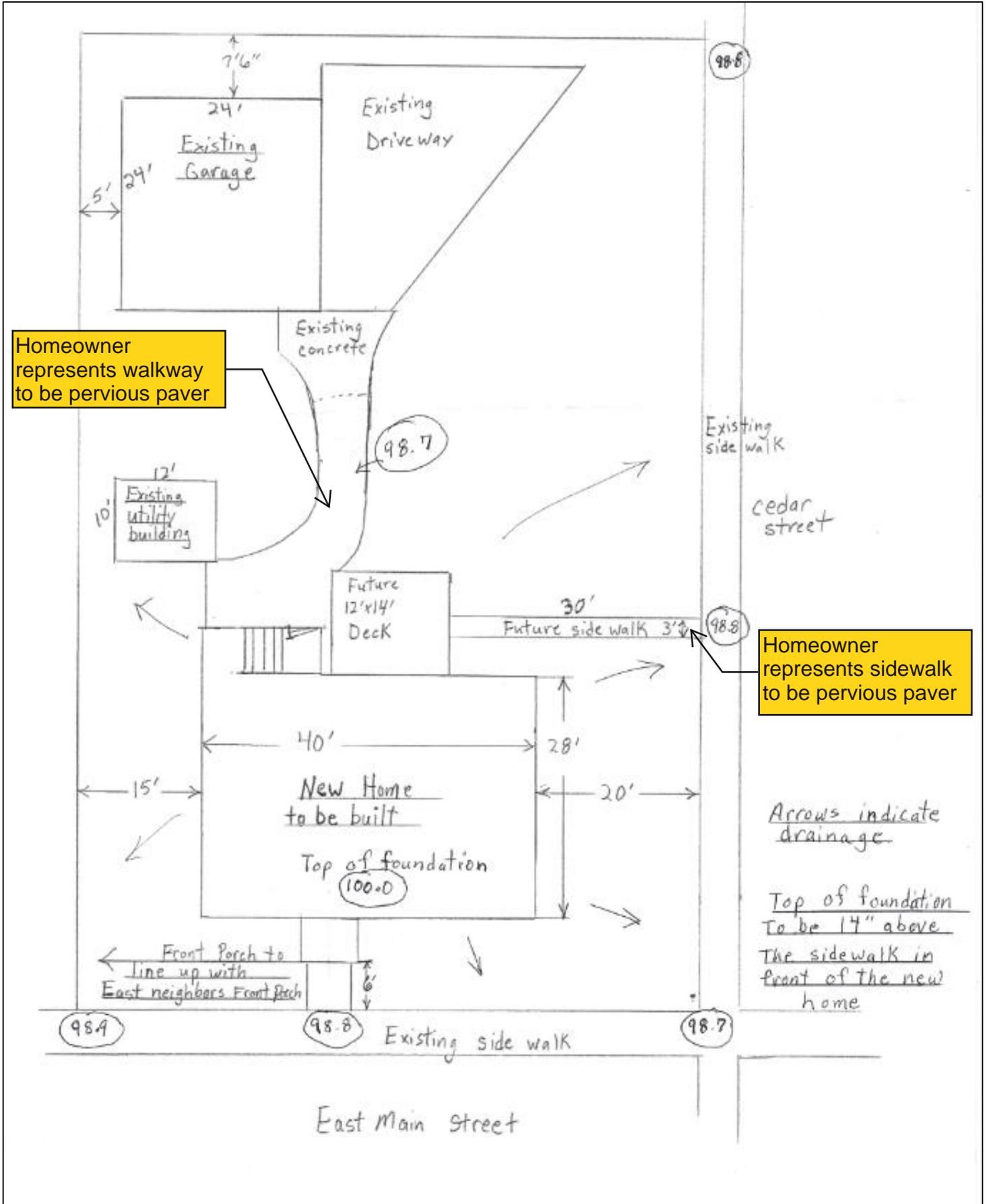
Disclaimer:

This drawing is neither a legally recorded map nor a survey and is not intended to be used as one. This drawing is a compilation of records, information, and data located in various city, county, and state offices, and other sources affecting the area shown, and is to be used for reference purposes only. The City of Belle Plaine is not responsible for any inaccuracies herein contained.

0 33 Feet



301 MAIN STREET EAST



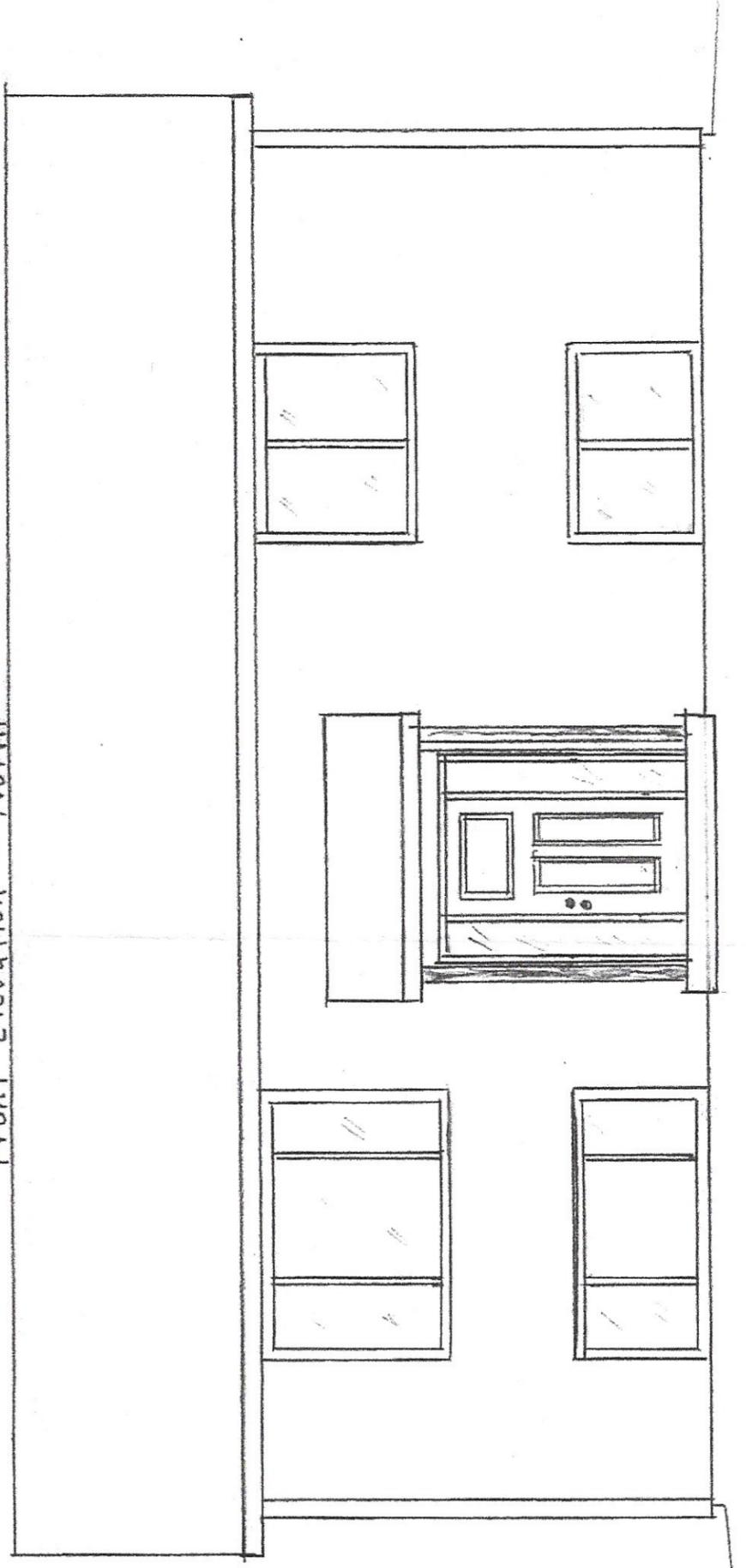
Homeowner represents walkway to be pervious paver

Homeowner represents sidewalk to be pervious paver

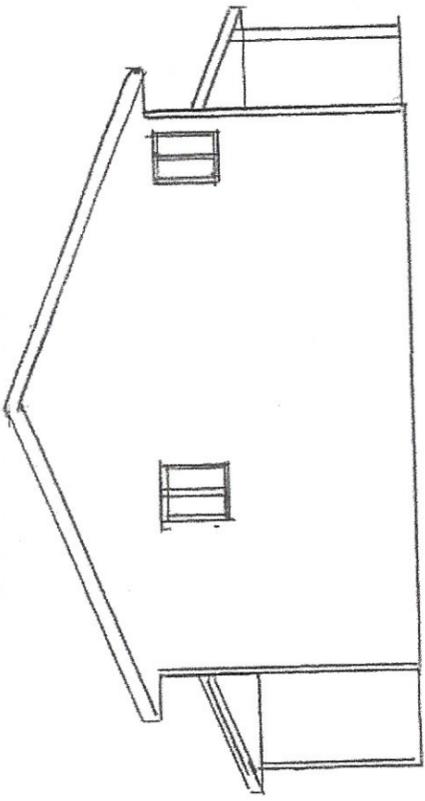
Arrows indicate drainage

Top of foundation to be 14" above the sidewalk in front of the new home

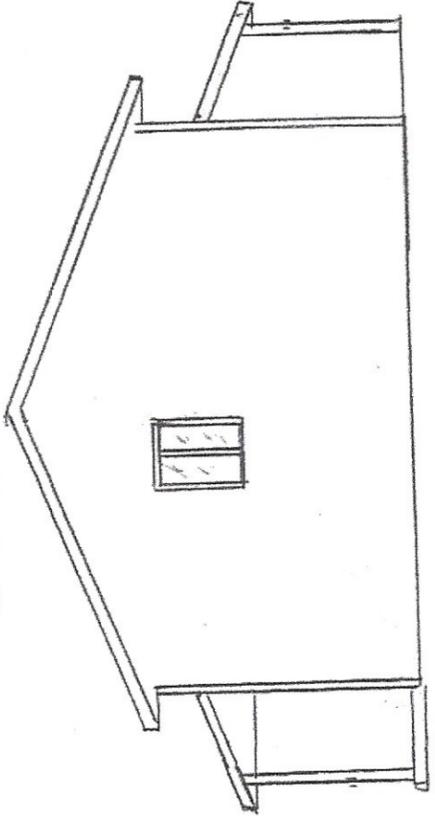
Front Elevation - North



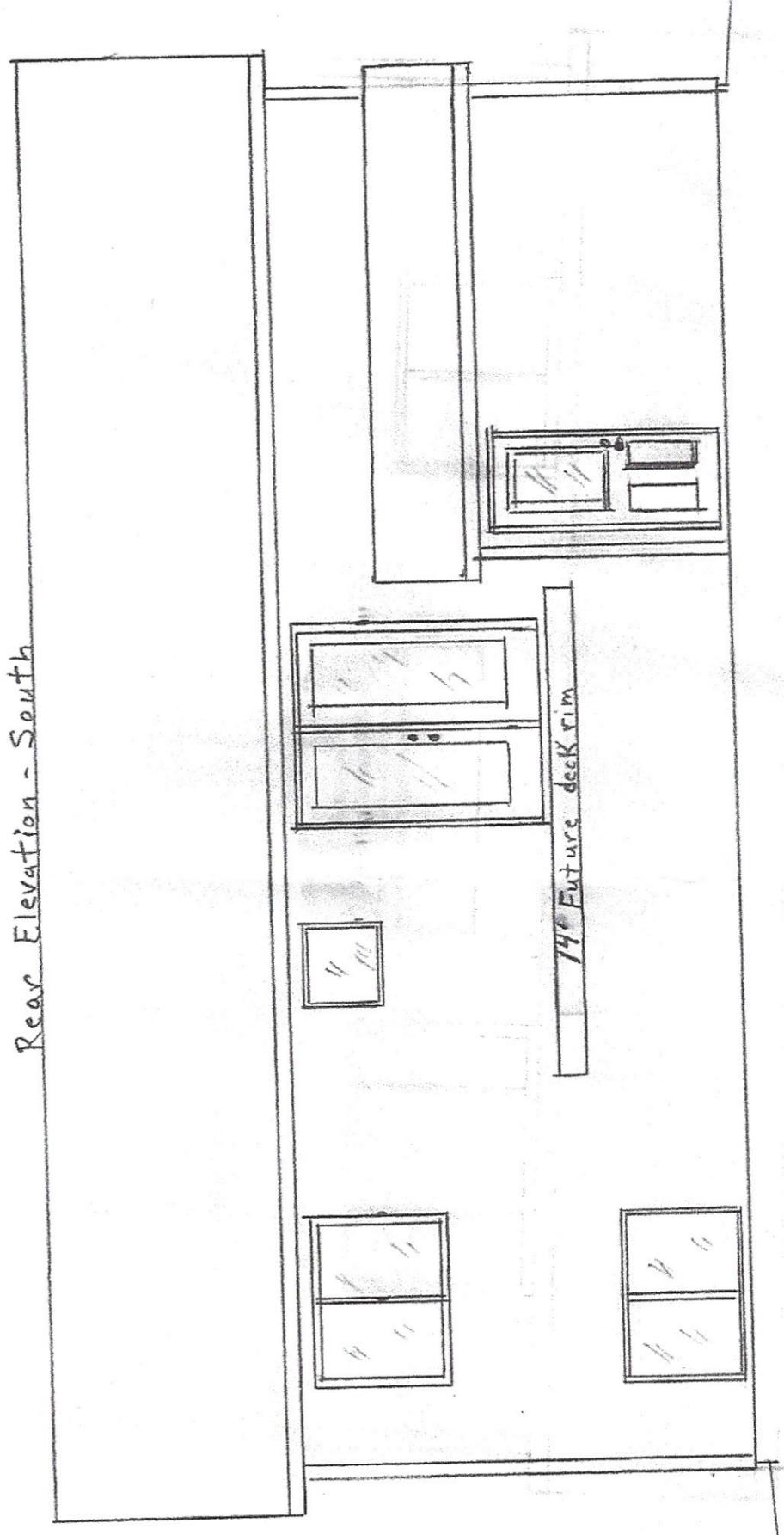
Side Elevation - East

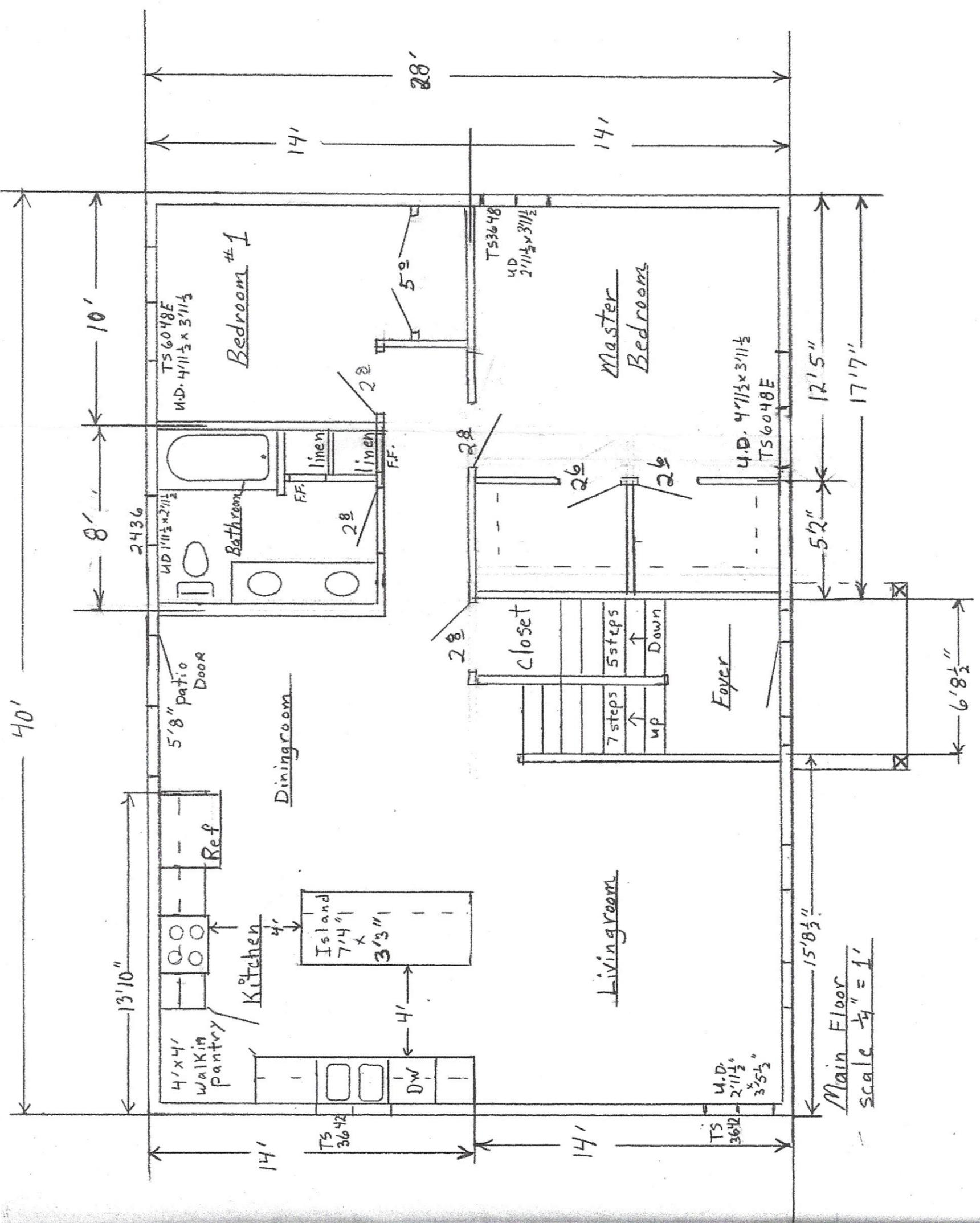


Side Elevation - West

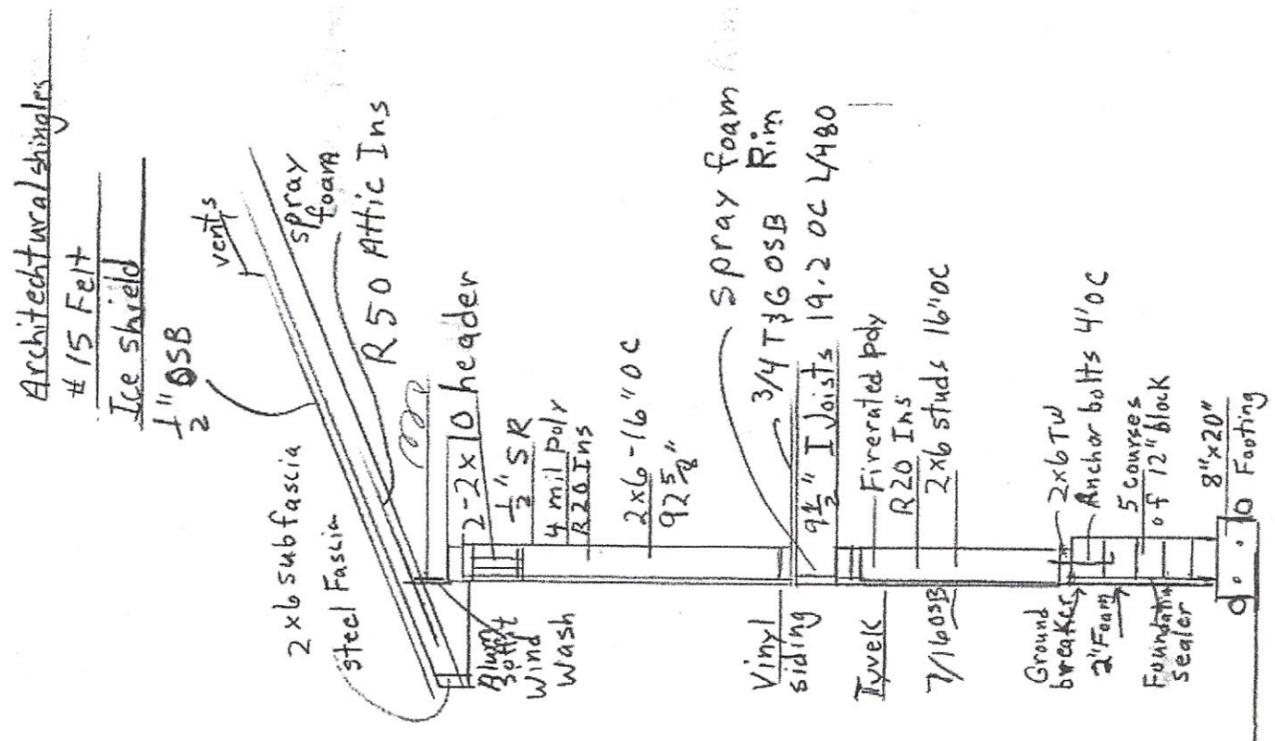
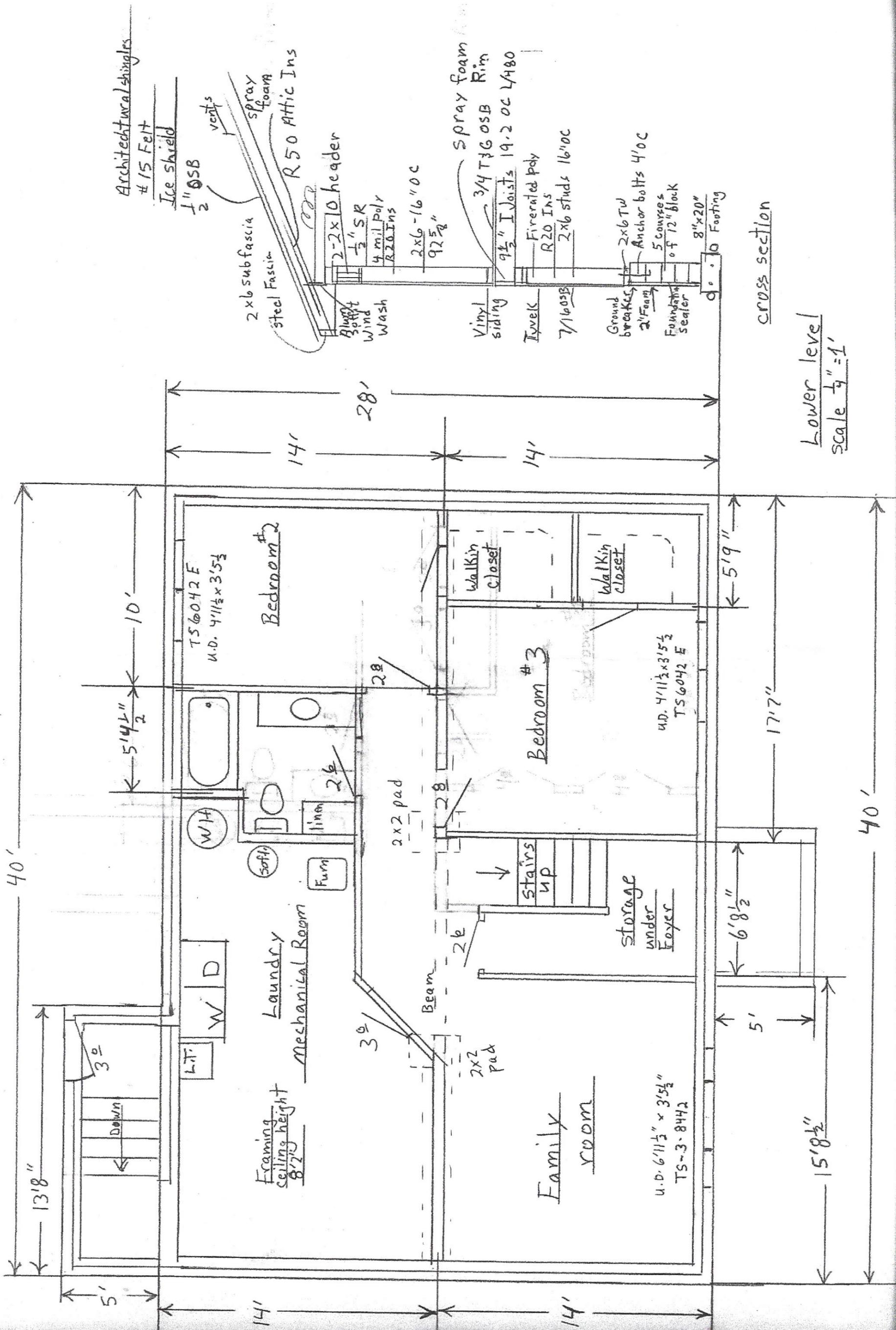


Rear Elevation - South





Main Floor
 Scale 1/4" = 1'



Cross section

Lower level
Scale 1/4" = 1'



Prior to demolition
View from Cedar Street (corner side)
Proposed dwelling will conform to corner setback



Prior to demolition
View from Cedar & Street



Prior to demolition
From Main Street

**BELLE PLAINE PLANNING COMMISSION
RESOLUTION PZ 19-020(A)**

**A RESOLUTION RECOMMENDING APPROVAL OF A FRONT YARD SETBACK NON-
CONFORMANCE EXPANSION PERMIT RELATING TO A PROPOSED DWELLING AT
301 MAIN STREET EAST IN THE R-3 ONE AND TWO FAMILY RESIDENTIAL DISTRICT**

PID: 200017200

Legal: Lots 1,2, and 3, Block 123, City of Belle Plaine

WHEREAS, Kateryna McCloskey has submitted an application for a non-conformance expansion permit to allow a construction of a new dwelling to replace an existing dwelling destroyed by fire at 301 Main Street East; and,

WHEREAS, the subject property use is existing residential in the R-3 One and Two Family Residential District with an existing legal non-conforming front yard setback of six feet; and,

WHEREAS, the Applicant represents:

1. The property use is homestead one family residential.
2. The previous dwelling was just over 1,000 square feet and lost to fire and the property owners propose to reconstruct.
3. The previous dwelling was legal non-conforming pertaining to front yard setback (six feet) and corner street side setback (14 feet).
4. The proposed dwelling retains the front yard setback (6 feet) but eliminates the corner street side non-conformity.
5. The property consists of three base lots in the original townsite abutting Main Street combined under one PID and legal description.

WHEREAS, the Planning Commission conducted a public hearing on the proposed non-conformance expansion permit request on June 10, 2019 following mailed and published notice; and,

WHEREAS, The Planning Commission has reviewed criteria for granting a non-conformance expansion permit and has found:

1. The property is zoned and used for residential purposes.
2. An existing dwelling was destroyed by fire and demolished. The proposed structure is configured rectilinearly to the front street. The previous structure had an irregularly shaped footprint.
3. The adjacent locale consists of detached residential dwellings of similar front yard setbacks, dwelling design, dwelling orientation, and dwelling construction. The proposed dwelling addition will not adversely impact the use and enjoyment of other property in the immediate vicinity or alter the essential character of the surrounding neighborhood.
4. Placing the proposed structure so as to achieve required setbacks would appear unbalanced and misaligned as the dwelling would be shifted to the south east, not centered on the lot and noticeably further back from the street than adjacent existing development.
5. Status of the existing use is legal non-conforming.
6. The subject property consists of three lots previously combined under one parcel identification number and legal description.
7. The proposed dwelling location remedies a previous non-conformity applicable to street side yard and does not intensify nonconforming front yard setback encroachment.
8. The proposed dwelling addition is conforming in all other aspects and provides for reconstruction of a dwelling in the R-3 District.
9. The proposed new dwelling will improve the condition of the property, have a positive impact on the value of the property, and increase the livability of the residential use.
10. The adjacent locale is fully developed, the proposed addition will not adversely impact normal and orderly development and improvement of surrounding property.

11. No changes are proposed to existing utilities.

NOW THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF BELLE PLAINE THAT: It hereby recommends the City Council approve a front yard setback non-conformance expansion permit as requested by Kateryna McCloskey (Property Owner) to allow front yard setback of six feet to accommodate construction of a new dwelling to replace a dwelling destroyed by fire at 301 Main Street East, provided:

1. Use of the subject property shall be limited to the following:
 - a. The principal use shall be defined as a dwelling (1,120 square foot foundation) with total site coverage not to exceed 3,000 square feet.
 - b. The dwelling shall be placed no closer than six (6) feet from the front property line.
2. The non-conforming use expansion permit is in effect for the property at 301 Main Street East and assigned to the current and/or any future owner of the property. The non-conforming use expansion permit may be revoked by the City following written notice to the property owner if the conditions of the permit as listed herein are not met and/or maintained.
3. The non-conforming use expansion permit will expire if a building permit is not secured within one (1) year of the date of issuance of the non-conforming use expansion permit.

The adoption of the foregoing resolution was duly moved by Commissioner _____ and seconded by Commissioner _____, and after full discussion thereof and upon a vote being taken thereon, the following Commissioners voted in favor thereof:

And the following voted against the same:

Whereupon said resolution was declared duly passed and adopted. Dated this 10th day of June, 2019.

Planning Commission Chairperson

Cynthia Smith Strack
Community Development Director

**BELLE PLAINE PLANNING COMMISSION
RESOLUTION PZ 19-020(B)**

**A RESOLUTION RECOMMENDING DENIAL OF A FRONT YARD SETBACK NON-CONFORMANCE
EXPANSION PERMIT RELATING TO A PROPOSED DWELLING AT 301 MAIN STREET EAST
IN THE R-3 ONE AND TWO FAMILY RESIDENTIAL DISTRICT**

PID: 200017200

Legal: Lots 1,2, and 3, Block 123, City of Belle Plaine

WHEREAS, Kateryna McCloskey has submitted an application for a non-conformance expansion permit to allow a construction of a new dwelling to replace an existing dwelling destroyed by fire at 301 Main Street East; and,

WHEREAS, the subject property use is existing residential in the R-3 One and Two Family Residential District with an existing legal non-conforming front yard setback of six feet; and,

WHEREAS, the Applicant represents:

1. The property use is homestead one family residential.
2. The previous dwelling was just over 1,000 square feet and lost to fire and the property owners propose to reconstruct.
3. The previous dwelling was legal non-conforming pertaining to front yard setback (six feet) and corner street side setback (14 feet).
4. The proposed dwelling retains the front yard setback (6 feet) but eliminates the corner street side non-conformity.
5. The property consists of three base lots in the original townsite abutting Main Street combined under one PID and legal description.

WHEREAS, the Planning Commission conducted a public hearing on the proposed non-conformance expansion permit request on June 10, 2019 following mailed and published notice; and,

WHEREAS, The Planning Commission has reviewed criteria for granting a non-conformance expansion permit and has found:

1. The proposed dwelling could be stepped back from the existing dwelling to accommodate the required 30-foot front yard setback thereby eliminating the need for a non-conformance expansion permit.
2. The subject parcel consists of three rectangular shaped parcels established in the original plat in a rectilinear grid pattern and oriented perpendicularly to the front street. The lot is void of undevelopable areas such as wetlands, bluffs, and topographical fluctuations. The non-conformance expansion permit is not based on factors that are unique to the subject property but, rather, for the landowner's convenience.

NOW THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF BELLE PLAINE THAT: It hereby recommends the City Council deny a front yard setback non-conformance expansion permit as requested by Kateryna McCloskey (Property Owner) to allow front yard setback of six feet to accommodate to accommodate construction of a new dwelling to replace a dwelling destroyed by fire at 301 Main Street East.

The adoption of the foregoing resolution was duly moved by Commissioner _____ and seconded by Commissioner _____, and after full discussion thereof and upon a vote being taken thereon, the following Commissioners voted in favor thereof:

And the following voted against the same:

Whereupon said resolution was declared duly passed and adopted. Dated this 10th day of April, 2019.

Planning Commission Chairperson

Cynthia Smith Strack
Community Development Director