



Board of Adjustment

Staff Report

CASE NUMBER: BA15-006
STAFF PLANNER: Lesley Davis
LOCATION/ADDRESS: 1035 West Fairway Drive
COUNCIL DISTRICT: 1
OWNER: Mike and Sara Miller
APPLICANT: Kerry McNeil

REQUEST: *Requesting a variance to allow a detached structure to encroach into the required side and rear yard in the RS-9 zoning district. (PLN2015-00060)*

SUMMARY OF APPLICANT'S REQUEST

The variance requested would allow a garage/RV structure to encroach into the required seven-foot side yard. The proposed structure encroaches approximately four-feet into the required seven-foot side yard.

STAFF RECOMMENDATION

Staff recommends denial of case BA15-006.

SITE CONTEXT

CASE SITE: Single Residence – Zoned RS-9
NORTH: Existing Single Residences – Zoned RS-9
EAST: Existing Single Residences – Zoned RS-9
SOUTH: (across W Greenway St) Existing Single Residences – Zoned RS-9
WEST: (across Fairway Dr) Existing Single Residences – Zoned RS-9

STAFF SUMMARY AND ANALYSIS

The applicant is requesting a variance to allow a detached garage to encroach four-feet into the required seven-foot side yard. As shown on the applicant's plans, the garage structure would be 41-feet wide and 40 and 43-feet deep (1,080 square-feet). The subject parcel is 18,709 square-feet and is located within the RS-9 Zoning District, which requires a minimum lot size of one acre. The proposed building is 11-feet, 4-inches high.

As justification for the requested variance, the applicant has noted: 1) the topography of the lot with a significant slope along Greenway restrict the ability to construct a practical storage/vehicle parking area in that portion of the yard; 2) there is a pre-existing driveway on the north side of the property that would provide a better access point and logical placement of a detached garage; 3) if the setback were adhered to, two-feet of the garage door would be obstructed by the existing home; 4) there are many detached garages on various lots in the surrounding area.

As proposed, the construction of the garage requires the granting of a variance. The Board of Adjustment must find the following items are present to approve a variance:

- a) *There are special conditions that apply to the land or building.*
- b) *The special condition was pre-existing and not created by the property owner.*
- c) *That strict compliance with the Code would deprive the property of privileges enjoyed by other properties in the same zoning district.*

- d) *The variance would not constitute a special privilege unavailable to other properties in the vicinity and zoning district of the subject property.*

The subject parcel is of similar size as other parcels within the subdivision. The lot does have an unusual shape and there is a significant slope on the south property line, however the lot has 18,709 square-feet, which is quite a bit larger than the minimum lot size in this zoning district, which is 9,000 square-feet. There appears to be sufficient space to have a detached garage without the need for a variance if the size of the garage were reduced in size to accommodate the side yard setback.

Staff believes the applicant has not provided sufficient justification related to the land, which is necessary to justifying the degree of variance with this request. Further, strict compliance with Code setback standards would not deprive the property of the ability to construct a detached garage storage structure.

FINDINGS:

- 1.1 The proposed detached accessory building would result in a four-foot encroachment into the required seven-foot side yard in the RS-9 district.
- 1.2 The lot is 18,709 square-feet in size and has been developed in a manner similar to surrounding properties.
- 1.3 The lot size exceeds the minimum lot size in the R5-9 district, which is 9,000 square-feet in area
- 1.4 The lot appears to have sufficient area available for the construction of a detached garage without the need for a variance if it were narrowed by four-feet, which would either be a reduction in the square-footage or the structure's location could be adjusted so that it is further east and or south to maintain the desired square-footage.
- 1.5 A detached accessory structure that is less than 15-feet in height may encroach into the rear setback as per section 11-30-17 of the City of Mesa Zoning Ordinance.
- 1.6 The applicant has not provided sufficient justification related to the land, which would justify the degree of the requested variance.
- 1.7 Further, strict compliance with Code setback standards would not deprive the property of the ability to construct a detached building as there is sufficient area to the sides and rear of the property to accommodate detached or attached structures.

ORDINANCE REQUIREMENTS:

Zoning Ordinance, Sec. 11-5-3 – Development Standards for the RS District:

RS-43 District – Front Yard: 22' Minimum to enclosed Livable Areas, Porches, Porte Cocheres, Front Yard: 30' Minimum Front Yard to Garage and carports, Rear Yard: Minimum - 30', Side Yard: Minimum one side - 10', both sides - 30' (paraphrased from table found in Sec. 11-5-3)

Zoning Ordinance, Sec 11-30-17 – Supplemental Standards Applicable to All Residential Districts:

B. **Detached Accessory Structures.** Detached accessory buildings or structures located on lots in single residence and AG districts, or located on lots with single residence uses in multiple residence districts, are permitted subject to the following provisions.

1. May be located in the required side/rear yards if they are within the rear one-quarter of the lot and do not exceed 10 feet in height.
2. May be located in the required rear yard but outside of the required side yard if they do not exceed 15 feet in height.

3. May be located in the required side yard (outside of the rear $\frac{1}{4}$ of the lot), if they do not exceed 8 feet in height and 200 square feet of roof area, and are not located in a side yard required for vehicular access.
4. May be located in any required side yard, and be closer to the primary residence than 6-feet, provided all of the following are present:
 - a. Does not exceed 7-feet in height (at the peak of the roof) and 120 square feet in roof area.
 - b. Has no permanent attachment to the ground or permanent foundation.
 - c. Shall not have any electrical or plumbing fixtures installed.
 - d. Shall drain all stormwater back to the same lot or parcel as the accessory structure.
5. Shall not be located in the required front yard or in the area between the front of the principal dwelling and the front property line.
6. Shall not be located in the required rear yard of a corner lot closer to the street than any dwelling on an adjacent key lot.
7. Shall not exceed 30 feet in height when located within any part of the buildable lot area.
8. In the AG, RS-90, and RS-43 districts, shall not have an aggregate area of all such detached buildings greater than 100 percent of the roof area of the dwelling, unless a larger aggregate roof area is approved by Special Use Permit.
9. In the RS-35, RS-15, RS-9, RS-7, RS-6, DR-1 and DR-2 districts, and on lots in a multiple residence district with a single residence use, shall not have an aggregate area of all such detached buildings greater than 50 percent of the roof area of the dwelling.
10. Detached accessory structures in multiple residence districts shall not be located in any required yard when in conjunction with a multiple residence use.

February 19, 2015

RE: Variance Application
1035 West Fairway Drive, Mesa, AZ, 85201

Dear City of Mesa Planning Division:

An application has been filed with the City of Mesa for a variance to accommodate a detached garage. This letter is being provided to you as part of the application procedure.

I'm providing the following information to continue processing the request:

1. An application with property owner's signature (Mike Miller) was signed on 02/18/2015 authorizing the request filed by Kerry McNeil (KLM Builders). This was provided to Michael Gildenstern.
2. A justification and compatibility statement/narrative is as follows:
 - a. Special circumstances or conditions apply to this property that may not apply to other properties in this area or zoning district.

The shape, topography and slope of property along Greenway Street significantly restrict the ability of constructing a practical storage and vehicle parking structure. A driveway along Greenway Street would be extremely short and steep. Thus, access would be very precarious and not very practical. The southern side of property has shape irregularity and a large degree of slope that uses up to approximately 30' of side yard and backyard space that significantly reduces the usable backyard space as shown by the images below. The pre-existing driveway on the northeastern side of the property provides the most sensible and appropriate location for a detached garage.

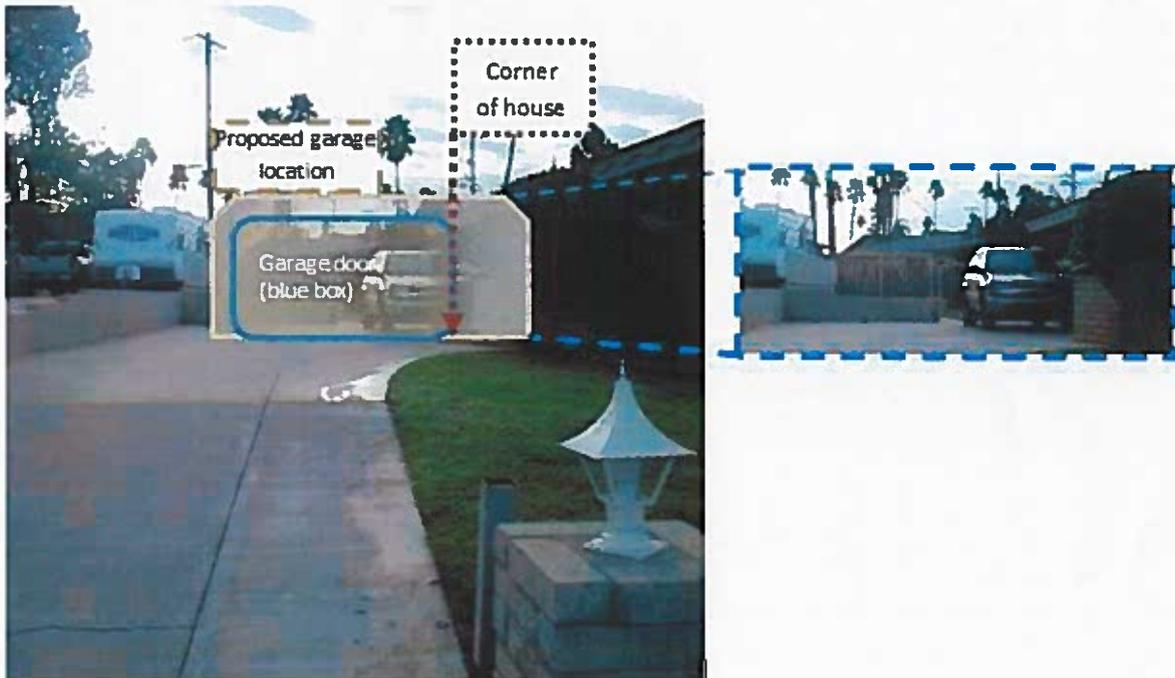


My intention is to construct a detached garage that is contained within in a rear section of the property behind the house as indicated by the circle in the image below.



The proposed location for a detached garage at 1035 W. Fairway is only requesting for a for side setback variance. The side variance provides proper garage door alignment with the pre-existing driveway. The detached garage door opening would be obstructed by the house without the variance.

The construction of the northeastern garage wall would maintain a side setback space of 3' according to the variance request. This requested variance would accommodate a 2' wide section of front facing garage wall and the width of the garage door without obstructing vehicle access. The image below is intended to roughly illustrate the alignment of the garage (brown box) and garage door opening (blue box) to show how well the fit would be.



b. Special circumstances or conditions cited above are pre-existing and not self-imposed. The conditions of the lot are pre-existing. The shape and topography of the lot are not caused by the homeowner. The slope of land is pre-existing by nature and the location of Greenway Street was determined by the city. The location of the driveway is also a pre-existing condition of the home.

c. Strict compliance of the Zoning or Sign Ordinance would deprive the property of uses or development options available to other properties in the same zoning district.

I'm requesting to construct an appropriate structure to provide enclosed and secure vehicle parking, trailer parking, and storage. Personal property will be enclosed and not visible to the neighbors. Storage of yard equipment, vehicles, trailers, and other personal belongings will be left out in the elements without the garage. This is an effort to improve the integrity and clean appearance of the neighborhood. I want to mention that the construction of detached garage is planned to be extremely complimentary to the pre-existing construction of the residence. There will be a cohesive appearance achieved by using similar slump block, painted block and a matching color scheme. The design is a conscious effort to preserve the integrity of the property.

d. The requested variance will not grant special privilege or unusual favor to this property or development over other sites with similar circumstances and zoning.

The variance will provide secure vehicle parking, traller parking, and storage. This is not an unusual favor to the property, but instead a means of providing secure and concealed storage of personal property. The variance will actually allow for a clean looking design that looks extremely complimentary to the property and the surroundings. Additionally, several residences within the neighborhood have received a variance and constructed a detached garage or storage building with a reduced side setback. Providing a variance would not be considered as an unusual favor since variances have been provided to other surrounding properties. An example of such a variance is located across the street. My Neighbor across the street at 1040 W. Fairway Dr. was granted multiple variances for a garage that they had built. 1040 W. FAIRWAY DR was granted a height variance and side setback variance as shown by the image below:



(Example of detached garage at 1040 W. Fairway Drive)

3. I'm providing the additional information to explain how other options have been exhausted and the reasons why the variance is requested:

- a. A garage measuring 30' x 36' being requested and cannot be entirely located within the rear ¼ of the lot.

The detached garage is planned for northeastern section of the lot with a 3' side setback variance to provide proper access to a garage door for vehicle side by side parking. The pre-existing location of the home will obstruct access to the garage opening. Approximately ¼ of the garage door opening will be obstructed by the existing home without the variance. Allowing a northeastern side variance will provide proper alignment with the existing driveway. This location of the garage with a variance will provide the home owner proper access to the garage. Since the garage is intended for enclosed and secure vehicle parking, trailer parking, and storage, limiting the construction to just the rear 1/4 doesn't provide enough depth for parking of both vehicle and trailer.



- b. Information regarding the proposed height of the garage.

The side walls of the garage are to be 8'. The height of the garage is planned to be <15' at its highest point. Please reference submitted plans for overall roof pitch and height.

- c. Existing power lines/pole near the rear corner of the lot minimally affects the placement of the garage.

There is no utility pole on 1035 W. Fairway Dr. property. There is a utility pole located on neighbor's property at 1025 W. Fairway Drive. In fact, SRP recently moved the utility pole several feet further away from 1035 W. Fairway Drive and more onto the neighbor's property at 1025 W. Fairway. The mentionable matter pertaining to a utility pole would be a guy wire anchor point that is located within 3' of the back eastern corner fence. No easement is specified for the back eastern section of the lot at 1035 W Fairway Drive. However, my recommendation, as the homeowner, is to have a distance of 6' to 7' from the back of lot fence in order to accommodate ample clearance for the guy wire connected to the utility pole that is located on neighbor's property. I have provided a picture of the guy wire below.



d. Additional information describing why the garage shouldn't be placed on the opposite side of the lot along Greenway Street?

The construction of the detached garage is planned for northeastern section of lot with a 3' side setback variance to avoid further reduction of usable backyard space which is already impacted by lot shape irregularity and slope. In general, the southwestern side of property has a shape irregularity that significantly reduces the usable backyard space. The shape and slope of the lot along Greenway is not practical for a garage. The slope is roughly about 40 degrees (possibly more). The slope approaches about 25-30 feet into the lot on Greenway Street side of property. Since there is already an existing driveway on the northern side of the lot to facilitate the location of a detached garage, it's ideal. I provided pictures of lot and slope below with circles indicating areas of discussion. The detached garage is proposed to be constructed near the circle by the driveway.



e. Information regarding property line easements.

There are no easements on the northern, eastern, western, or southern property line that is known. The owner was specifically told that no easement is specified for back eastern section of the lot at 1035 W Fairway Drive. This information was provided to me by Lesley Davis.

f. Information regarding the livable square footage of the home and the general roof area of the home.

The residence has about 2635 livable square feet with roof coverage of approximately 4000 square feet.

g. Information regarding remodels and additions pertaining to this request.

No other additions or remodels are proposed within this request. The request is only for a detached garage. There is no existing detached garage or addition to this property.

Sincerely,
Mike and Sara Miller

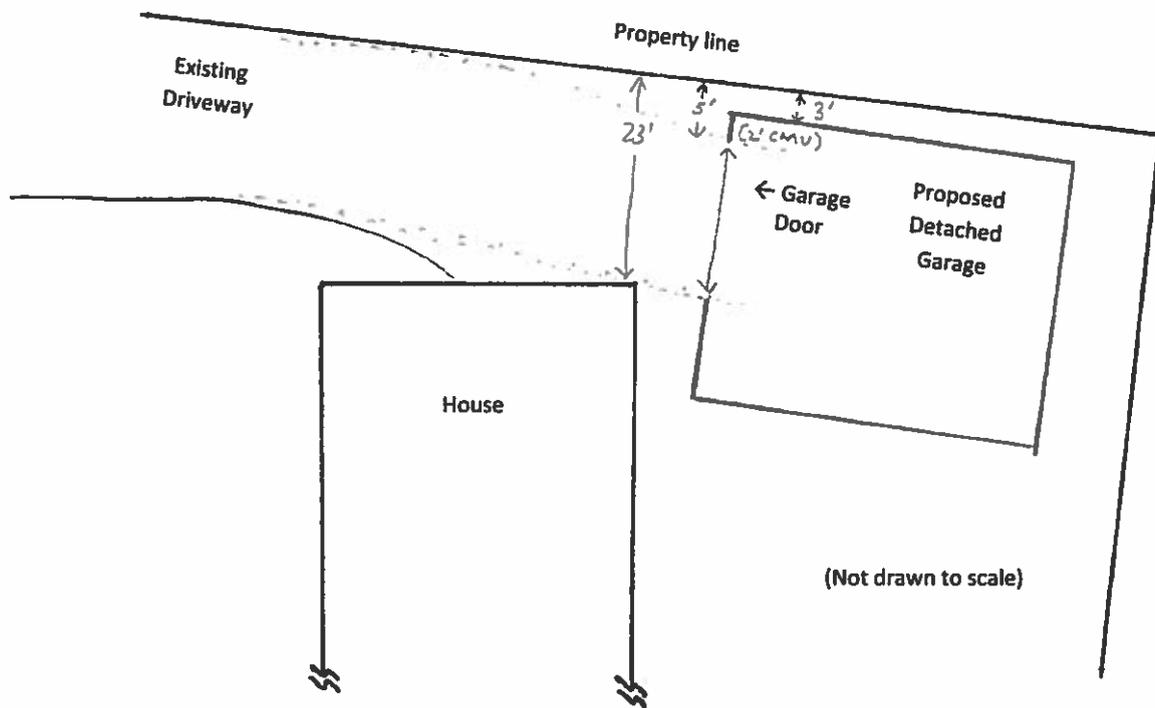
February 25, 2015

RE: Detached Garage Variance Application (Supplemental Information)
1035 West Fairway Drive, Mesa, AZ, 85201

Dear City of Mesa Planning Division:

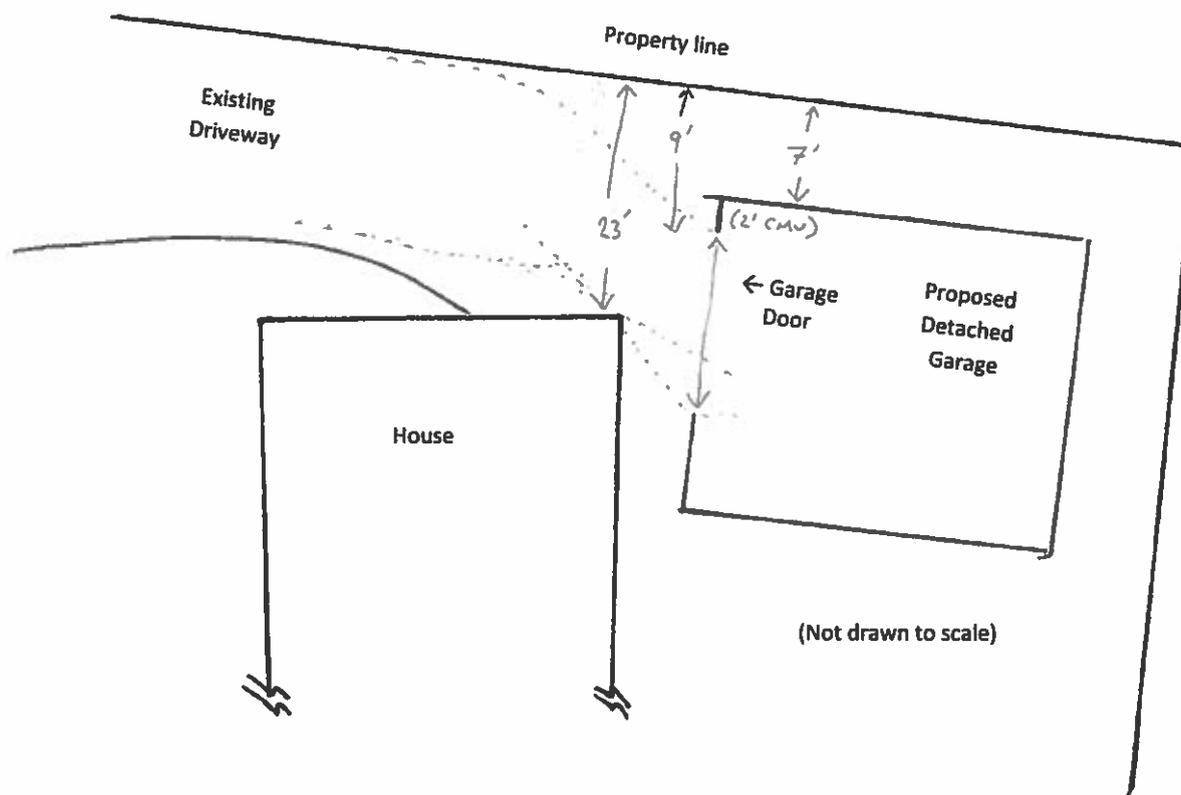
A variance application letter dated February 19, 2015 was provided to the City of Mesa regarding a variance request to accommodate a detached garage. The variance has since been assigned the case number BA15-006. This letter (dated February 25, 2015) is intended to furnish additional information regarding the original application letter.

The first diagram drawn below is intended to show how the proposed detached garage would align with the pre-existing driveway of the residence if the requested variance is approved. The placement of the garage door opening will be perfectly aligned with the driveway providing full and proper access for vehicle(s). The distance between the back section of the house and the property line is 23 ft. The opening of the garage door closest to the property line will be at 5 ft. This placement of the detached garage will accommodate a 3 ft. setback and a 2ft. wide concrete masonry unit (CMU) section of garage wall.



The second diagram drawn below is intended to show how the proposed detached garage would inadequately align with the pre-existing driveway if the requested variance is not granted. Without the

variance, the placement of the garage door opening will be significantly offset and obstructed. This offset will cause a considerable hardship because nearly $\frac{1}{4}$ of the garage door opening will be obstructed. Vehicle access will be extremely limited and complicated due to the offset. The misalignment of the garage door opening with the driveway will be due to the opening of the garage door being located 9 ft. back from the indicated property line. This offset will be caused by a 7 ft. setback and a 2ft. wide concrete masonry unit (CMU) section of garage wall.



This additional information is intended to provide further justification of the requested side setback variance at 1035 W. Fairway regarding the proposed construction of a detached garage.

Sincerely,
Mike and Sara Miller

March 16, 2015

RE: Case No. BA15-006
Supplemental Information #2
1035 West Fairway Drive, Mesa, AZ, 85201

Dear City of Mesa Planning Division:

A variance application letter dated February 19, 2015 was provided to the City of Mesa regarding a variance request to accommodate a detached garage. The variance application has since been assigned the case number BA15-006. A supplemental letter (dated February 25, 2015) was provided to furnish additional information regarding the original application letter.

This letter (dated March 16, 2015) is intended to furnish additional information regarding similar detached garages/buildings that appear to have been granted permission to construct with a possible variance that are located near the applicant property.

The following addresses and images are intended to point out some of the detached garages and buildings located near the applicant property that appear to have been granted some form of variance regarding the placement or height:

1040 W. Fairway Drive



1002 W. Fairway Drive



917 W. Greenway Street



824 W. 11th Place



929 W. Mountain View

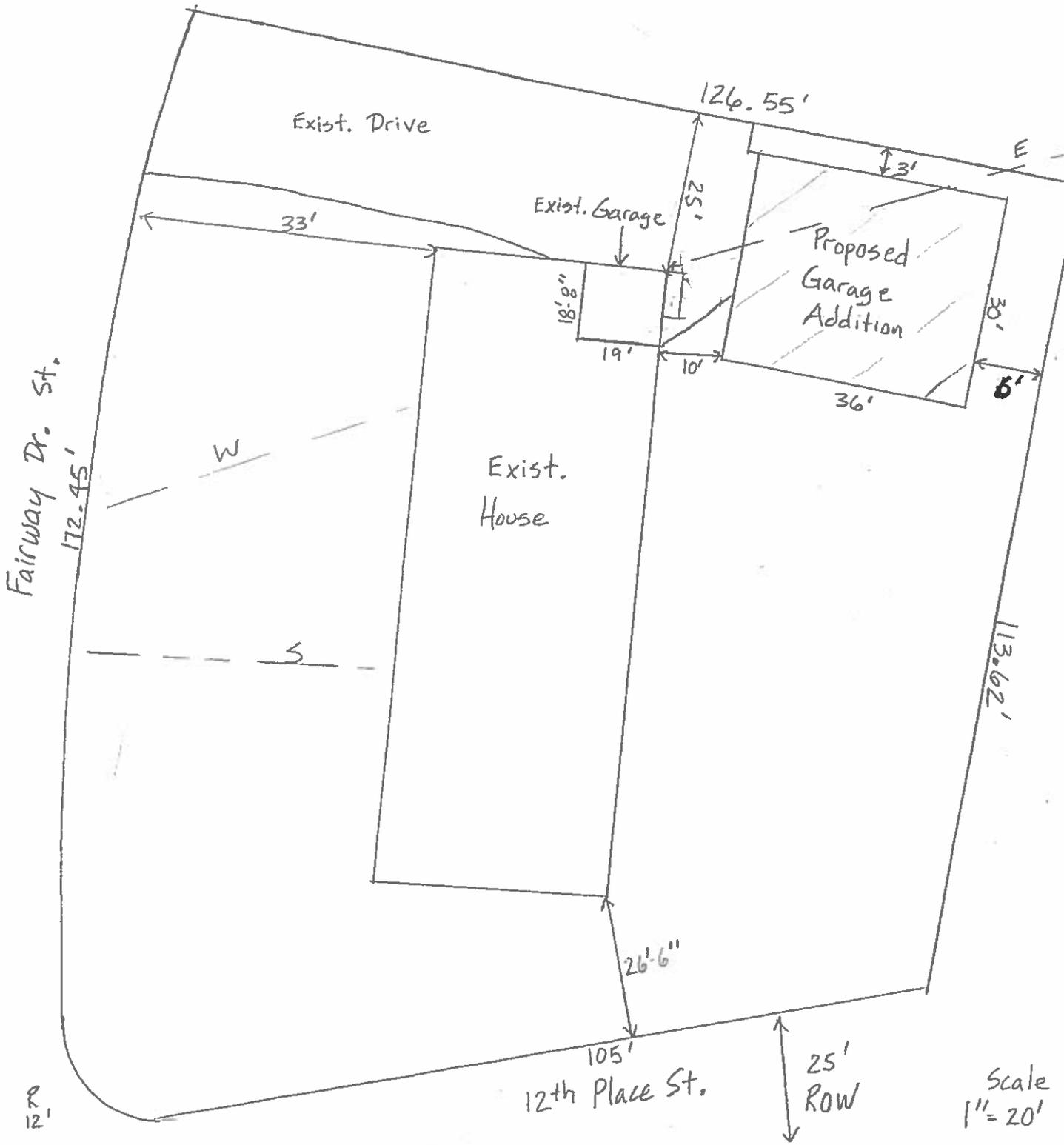


1221 N. Westwood Cir



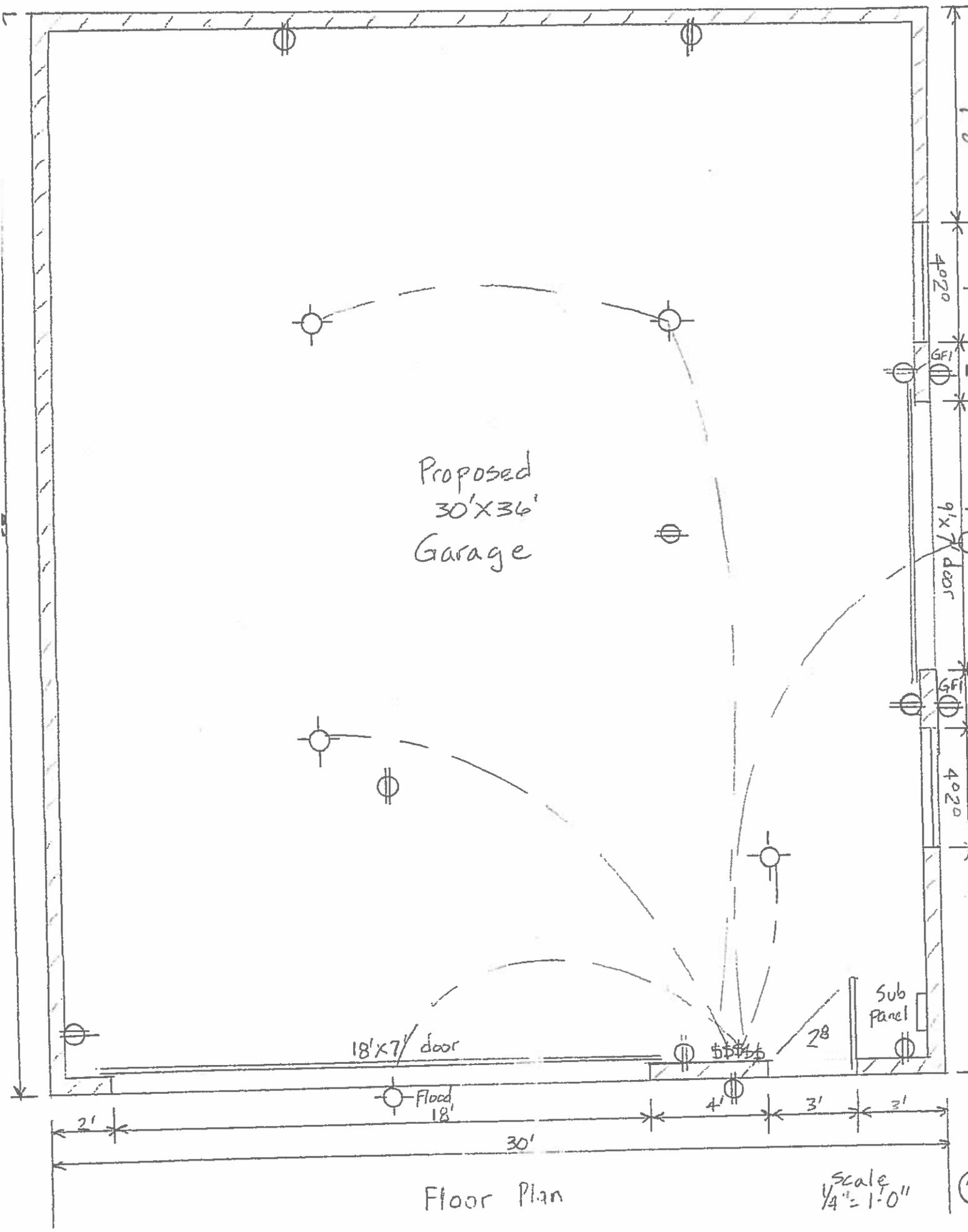
Sincerely,
Mike and Sara Miller

1035 W. Fairway Dr.
Lot 35
Hillcrest Terrace

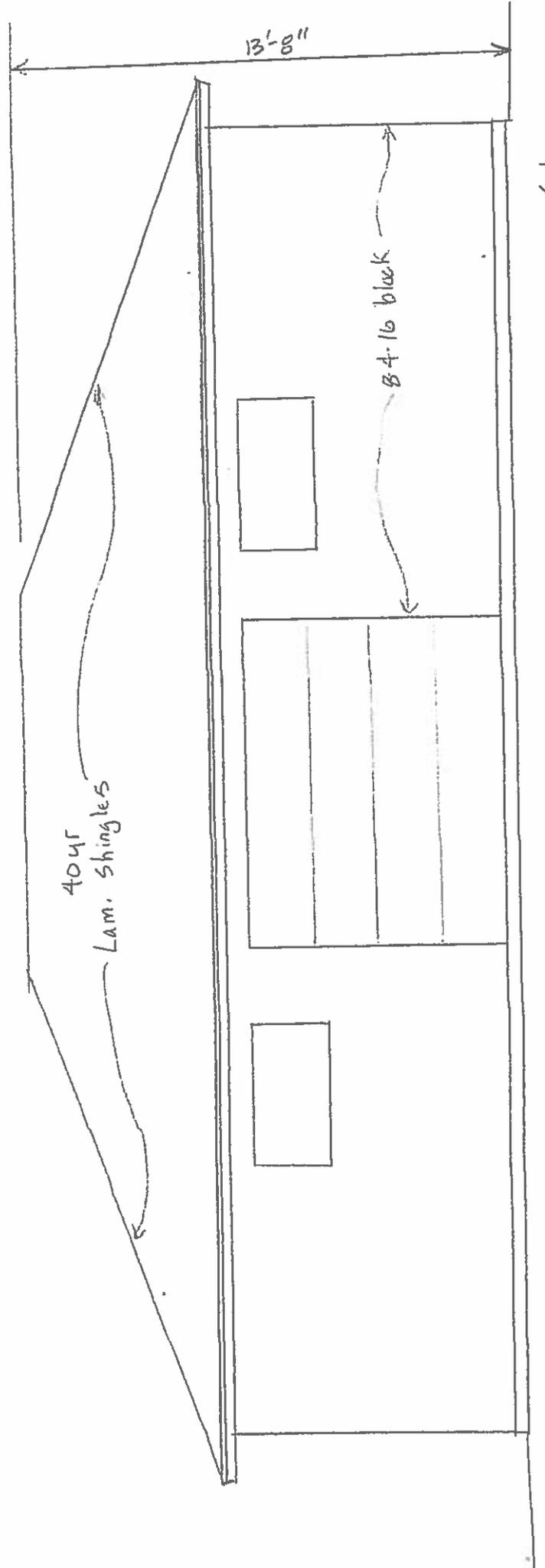


Site Plan

Scale
1" = 20'

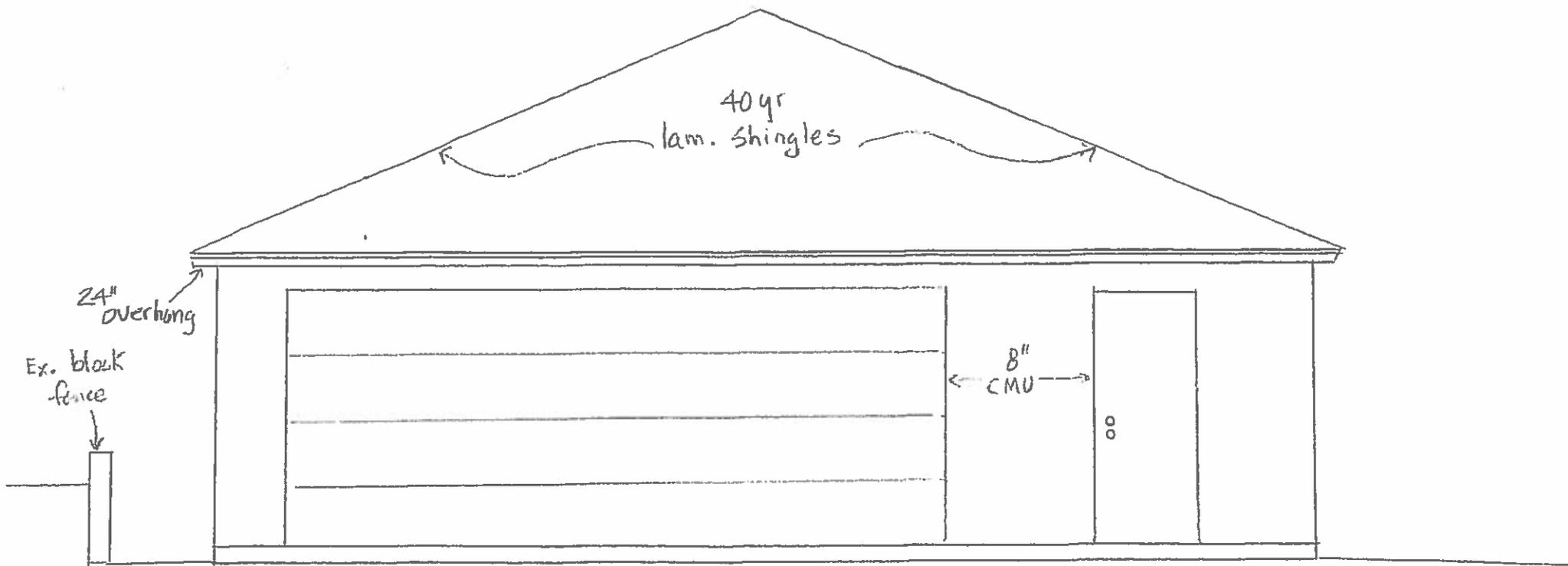


7



Scale
1/4" = 1'-0"

South Elevation



West Elevation

Scale
 $\frac{1}{4}" = 1'-0"$



Google earth

feet
meters

100

40



4.52

16' x 20'
ADDITION

≈ 28' x 30'
GARAGE

135-61-028

lot 35

Hillcrest Terrace