

**WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE
APPEAL FOR VARIANCE
STAFF REPORT**

DATE: September 9, 2020

FILE NO.: BA62

OWNER: Lohny and Christine Seeber
S17 W36850 Henry Street
Dousman, WI 53118

AGENT: Nick Kerzner
1200 Capitol Drive
Oconomowoc, WI 53066

TAX KEY NO.: OTWT 1594.022

LOCATION:

The subject property is described as follows: Lot 6, in Block 3, Plat of Gramling Homesites, located in part of the NW ¼ of Section 3, T6N, R17E, Town of Ottawa. More specifically, the property is located at S17 W36850 Henry Street.

REQUEST:

Variance from the **Section 3.09(3) offset** requirements of the Waukesha County Zoning Code to permit the construction of a garage addition to the existing residence.

ZONING CLASSIFICATION: R-3 Residential District.

LOT CONFIGURATION:

The property is 24,337 sq. ft. in size, with approximately 124 ft. of frontage on Henry St. The existing and required average lot width, average lot depth and lot size are shown in the following table.

	Average Lot Width	Average Lot Depth*	Lot Size
Existing	124 ft. +/-	196 ft. +/-	24,337 sq. ft.
Required	120 ft.	n/a	20,000 sq. ft.

*excluding the established road right-of-way of 33 ft. from the centerline

PREVIOUS BOARD OF ADJUSTMENT ACTION ON THE SUBJECT PROPERTY:

None

PENDING ACTIONS:

None

PROPOSAL AND STAFF ANALYSIS:

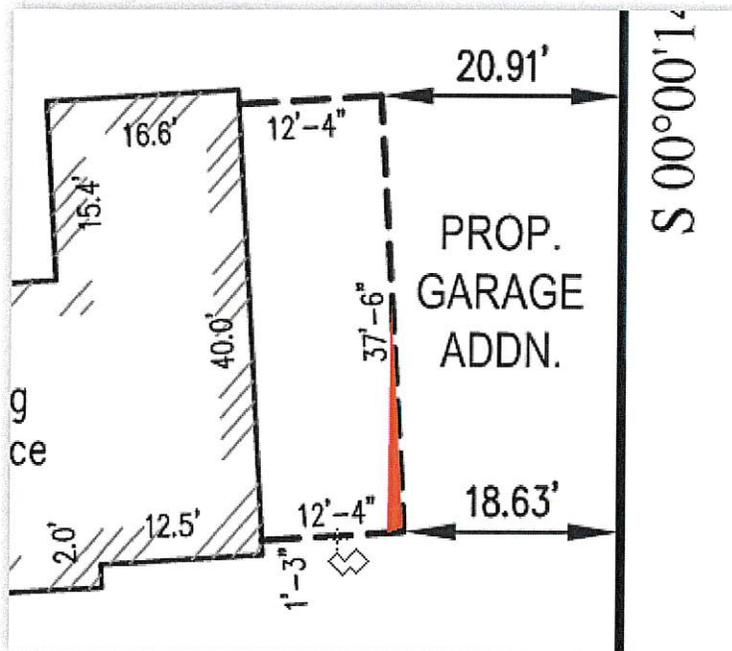
The property is located adjacent to the intersection of Henry Street and Saint Bruno Avenue, in the Town of Ottawa, near the municipal border with the Village of Dousman. The lot was platted in 1956 and is adjacent to the Glacial Drumlin Trail, which is located to the north. Overhead power lines which serve the neighborhood run across the central portion of the lot.

The lot contains a single story, single-family residence with a one-car garage. There is a deck behind the home and a storage shed in the back yard.

The petitioners are proposing a 12.3' wide by 37.5' deep attached garage addition on the east side of the structure. The table below summarizes the existing and proposed improvements. A site plan showing existing and proposed improvements is attached as Exhibit A. Building plans showing the proposed improvements are attached as Exhibit B.

	1 st floor (sq. ft.) living space	Attached Garage Space (sq. ft.)	Basement (sq. ft.)	Acc. Bldgs. (sq. ft.)	Beds	Baths
Existing	1,400	312	800	120	3	1
Proposed	No change	774	No change	120	3	1

Due to the orientation of the residence relative to the side-lot line, the south east corner, approximately 10 sf., of the proposed garage would extend into the 20' offset area, as illustrated by the shaded area shown in the graphic below. The petitioners could also theoretically move the proposed garage addition to the north approximately 25' feet and comply.



The proposed garage addition requires variances from the offset requirements, as summarized in the following table.

PROVISION	ZC	EXISTING	NON-CONFORMING ? 3.17/ 3(o)	PROPOSED	REQUIRED	VARIANCE ?
ROAD SETBACK	3.09(1)	50'	N	51'	50' (min)	N
OFFSET (E)	3.09(3)	30'	N	18.63'	20' (min)	Y
OFFSET (W)	3.09(3)	35'	N	35'	20' (min)	N
TOTAL BUILDING FOOTPRINT	3.11(5)	1,720 sf	N	2,165 sf	4,259 sf (max)	N
ACCESSORY FOOTPRINT	3.11(4)	120 sf	N	120 sf	750 sf (max)	N

PETITIONERS’ COMMENTS:

The petitioners’ comments are as follows:

“Proposed structure is being built for additional vehicle storage. Currently there is a small 13’6” x 23’1” one car garage attached to the house. Recently, Christine Seeber had knee surgery (Exhibit A) and Lohny Seeber is scheduling complete knee replacement in the next 24 months (delayed due to Covid 19). The new structure would allow both Lohny and Christine Seeber covered ingress and egress to vehicles on days where snow accumulates and provides a slip hazard.”

“The new structure remains consistent with the current architecture of the existing home. Given the proposed structure encroaches on the side set back by less than a foot and a half there should be no aesthetic impact on the neighborhood (Exhibit B). The only neighbor impacted is to the east and is in support of this variance (Exhibit C).”

Exhibits noted in the petitioner’s comments are in reference to exhibits submitted with the application for variance.

STAFF RECOMMENDATION:

The Planning and Zoning Division staff recommends **approval** of the request for a variance from the offset requirements of the Waukesha County Zoning Code, to permit the construction of a garage addition to the existing residence. This recommendation is based upon the analysis of the below tests for a variance, as analyzed below.

AREA VARIANCE TEST CRITERIA ANALYSIS

State law, case law, and County ordinances require that the petitioner demonstrate that their request meet the following tests for a variance. The below Staff analysis assesses the merits of the subject application relative to the tests:

- 1. Compliance with the ordinance would cause the owner to experience an unnecessary hardship. Unnecessary hardship is proven by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner's property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome. A property owner bears the burden of proving that the unnecessary hardship is based on special conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner. Hardships should not be financial or economic in nature. Variances are intended to provide only the minimum amount of relief necessary, and the purposes of the Ordinance shall be observed.**

The property is bounded by a public recreational trail, bisected by overhead power lines and located directly on a three way intersection. These factors limit or might otherwise discourage development within many conforming areas of the lot. It should also be noted that due to their driveway accessing the road directly at the intersection, the owners recently had an incident in which a drunk driver crashed into a car parked in their driveway, confusing their driveway as an extension of the road.

The petitioners currently have around 1,400 sq. ft. of living space, a 312 sq. ft. attached garage and a storage shed. By right, the petitioners could add a garage addition that was approximately eleven (11) feet in width, or as previously noted, they could relocate the desired 12.3' wide garage addition 25 feet to the north, and comply with the 20 foot offset. The petitioners have not demonstrated that without relief, they are unable to utilize the property for a permitted purpose.

Having said that, a 12' 4" wide garage bay is fairly typical by today's standards, as is two-car garage parking in this neighborhood. Requiring the petitioners to relocate the improvement 25 feet back in order to achieve a more typical width two-car garage and avoid a minor offset encroachment of 1.37' would be unnecessarily burdensome and can be considered appropriate justification to demonstrate a hardship.

- 2. The granting of the variance will not adversely affect the general public interest/welfare or be detrimental to nearby properties/improvements or the natural resources in the area. Lack of local opposition does not mean a variance will not harm the public interest.**

The encroachment into the offset is extremely minor and will not impact side-yard drainage. Furthermore, were the petitioners to build the desired attached garage in a conforming location, it would require them to extend the depth of residence by twenty five feet and making it appear bulkier. This could have a more profound impact to the adjacent neighbor and users of the public recreational trail, in terms of aesthetics and reductions in views of nearby open space.

Respectfully submitted,

Ben Greenberg

Ben Greenberg
Senior Land Use Specialist
Phone: 262-548-7790

Reviewed and approved by:

Jason Fruth

Jason Fruth
Planning and Zoning Manager

Exhibits: A and B

EXHIBIT "A"

RECEIVED 8.7.20
DEPT OF PARKS & LAND USE

RECEIVED 8.26.20
DEPT OF PARKS & LAND USE

PLAT OF SURVEY

NOTION: (Per Document No.: 2321006)

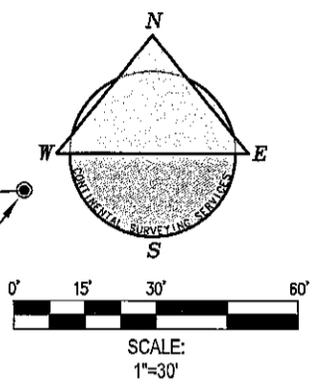
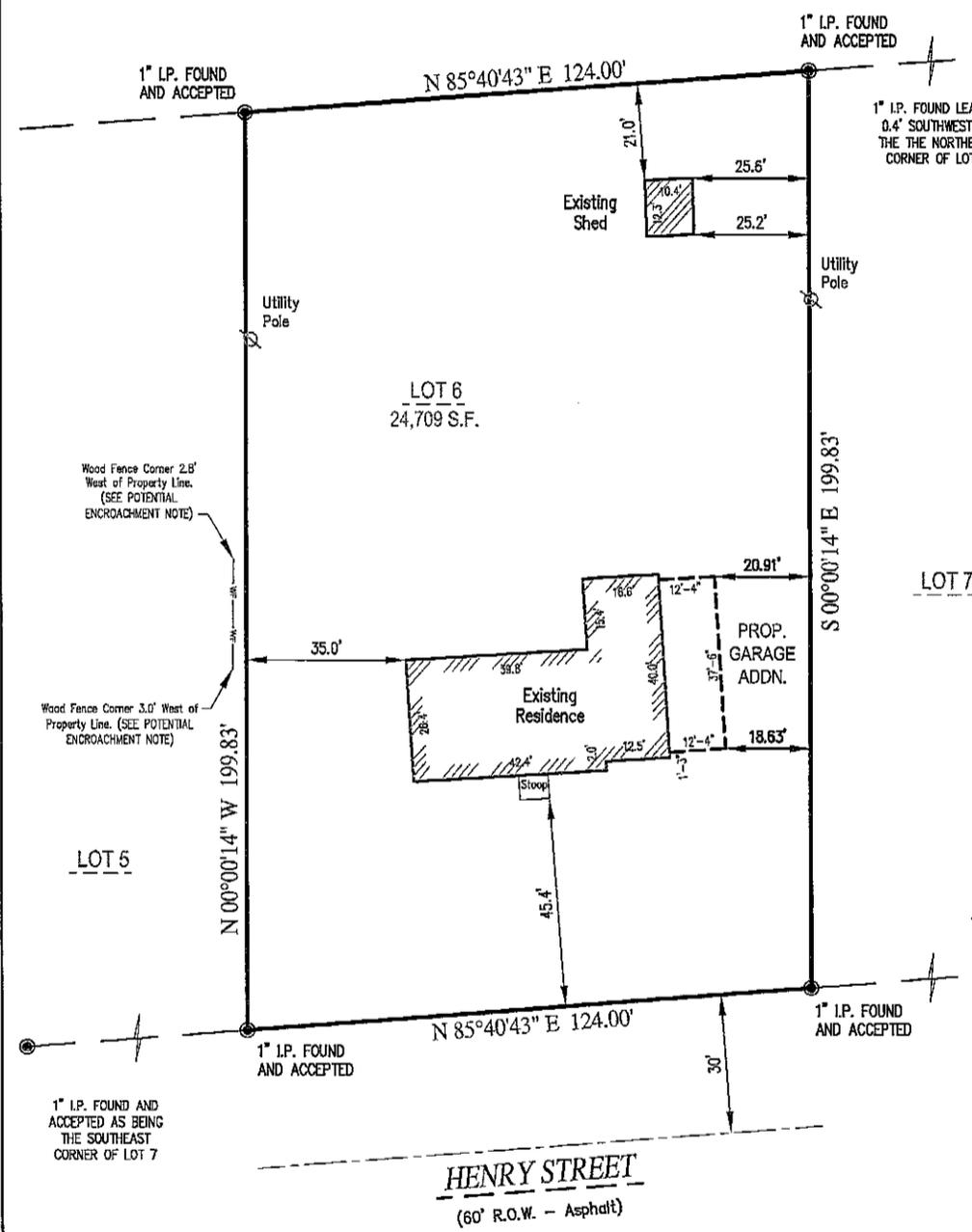
Lot 6, in Block 3, Plat of Gramling Homesites, being a part of the Northwest 1/4 of section 3, Township 6 North, Range 17 East, Town of Ottawa, Waukesha county, Wisconsin.

For questions regarding underground utilities please contact:
DIGGERS HOTLINE
PHONE: Wisconsin 1 Call center 1 (800) 242-8511

NOTE: Title Policy
No Title Policy has been provided AND unless an ALTA/NSPS Survey has been ordered this Note shall remain on the face of this map. Without performing an ALTA/NSPS Survey this Plat of Survey does not guarantee the existence, size and location of any easements, encumbrances, restrictions or other facts that could otherwise be disclosed in an ALTA/NSPS Survey.

NOTE: Underground Utilities
Location of Underground utilities are not part of the agreement made between the Surveyor AND Client named on this map, therefore none are shown.

Statement of Potential Encroachments:
At the time this survey was performed the surveyor visually inspected the subject property and at his discretion has measured and has now shown on the face of this map certain features that appear to be on, near, or along a property line and is shown in reference to a property line. Surveyor has not identified the ownership of said feature or features. Surveyor has identified its location and is shown hereon to the nearest 0.1 of a foot, and does not, nor will not guarantee an accuracy greater than 0.1 of a foot in regards to the location of said feature or features. These measurements may vary from future measurements due to equipment placement, backsight/baseline setup, the specific location of the shot, and the physical condition of respective feature. Therefore, it is possible that certain measurements may exceed tolerances greater than 0.1 of a foot for reasons mentioned. This includes any statements regarding distances for the location of any feature shown on this map. **PLEASE CALL WITH ANY CONCERNS REGARDING THIS STATEMENT.**



Conversion Table	
Decimal to Inches	Inches to Decimal
0.1' = 1 1/2"	1" = 0.083'
0.2' = 2 1/2"	2" = 0.166'
0.3' = 3 1/2"	3" = 0.250'
0.4' = 4 1/2"	4" = 0.333'
0.5' = 6"	5" = 0.416'
0.6' = 7 1/4"	6" = 0.500'
0.7' = 8 1/2"	7" = 0.583'
0.8' = 9 1/2"	8" = 0.666'
0.9' = 10 1/2"	9" = 0.750'
1.0' = 12"	10" = 0.833'
	11" = 0.916'
	12" = 1.000'

This map was drafted by: RRR

LEGAL NOTICE: UNAUTHORIZED REVISIONS, MODIFICATIONS, ALTERATIONS, AND OR MAKING CHANGES OF ANY KIND AND THEN USE AND OR DISTRIBUTE THIS MAP, CONTINENTAL SURVEYING SERVICES LLC'S NAME, OR THE SURVEYOR'S NAME NAMED ON THIS MAP WITHOUT CONSENT MAY BE A FEDERAL OFFENSE IN VIOLATION OF COPYRIGHT AND OR PLAGIARISM LAWS WHICH MAY RESULT IN LEGAL ACTION.

CONTINENTAL SURVEYING SERVICES LLC

Main Office:
2059 Hwy 175, Suite "A"
Richfield WI. 53076
Phone: (262) 389-9200
Website: www.csssurveys.com
Email: survey@csssurveys.com

CLIENT:
Nick Kerzner
S17 W36850 Henry Street
Dousman, WI 53118
PROPERTY ADDRESS:
S17 W36850 Henry Street
Dousman, Wisconsin 53118
PARCEL INFO:
TAX KEY NUMBER: OTWT 1594022
PROJECT NO.: 20200706_MTG0002
SERVICE PERFORMED: MTG

I HEREBY CERTIFY THAT I HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY AND IN MY PROFESSIONAL OPINION THIS MAP IS A TRUE REPRESENTATION THEREOF AND IS MADE IN ACCORDANCE WITH THE RECORDS OF THE REGISTER OF DEEDS AS NEARLY AS PRACTICAL. THIS SURVEY COMPLES WITH WISCONSIN ADMINISTRATIVE CODE AE-7 EXCEPT FOR THOSE ITEMS WAIVED, IF ANY, AND IS BOUND BY WISCONSIN STATE STATUTE 89.337 THAT DEFINES STATUTE OF LIMITATIONS IN REGARDS TO SURVEYS.

Rick R. Hillmann S-3005
Dated this 22nd Day of JULY, 2020.



By the Graces of God and the talents given to us, we strive to provide the most Honest and Reliable Land Surveying Services

EXHIBIT "B"

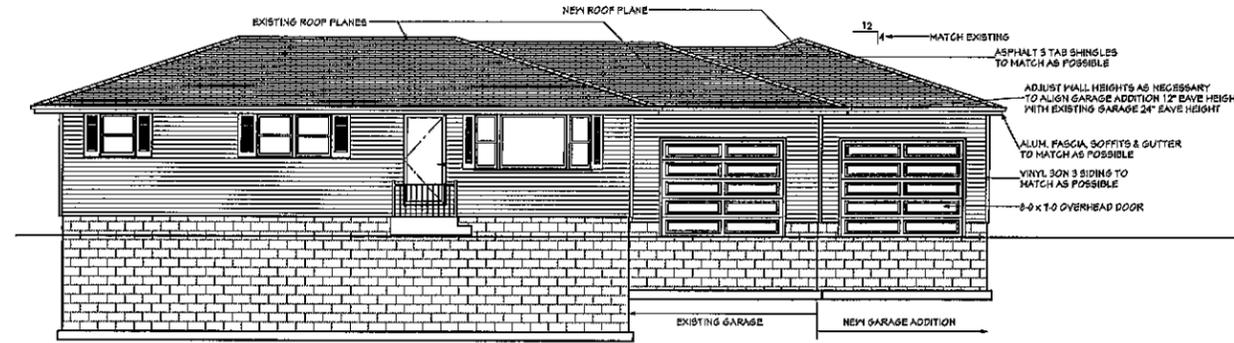
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DEPT OF PARKS & LAND USE

THESE DRAWINGS ARE THE PROPRIETARY WORK PRODUCT AND PROPERTY OF KERZNER REMODELING & CONSTRUCTION, DEVELOPED FOR THE EXCLUSIVE USE OF KERZNER REMODELING & CONSTRUCTION. USE OF THESE DRAWINGS AND CONCEPTS CONTAINED THEREIN WITHOUT THE WRITTEN PERMISSION OF KERZNER REMODELING & CONSTRUCTION IS PROHIBITED AND MAY SUBJECT YOU TO A CLAIM FOR DAMAGES UNDER COPYRIGHT LAWS.

DRAWINGS PROVIDED BY:
CHRIS EDGNER
ARCHITECT



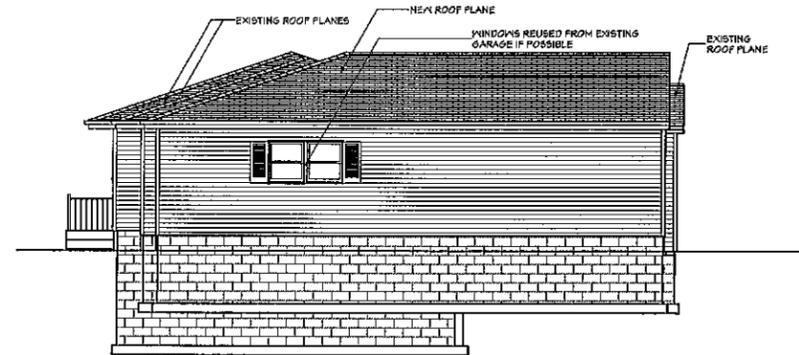
EXISTING FRONT ELEVATION #1
1/8" = 1'-0"



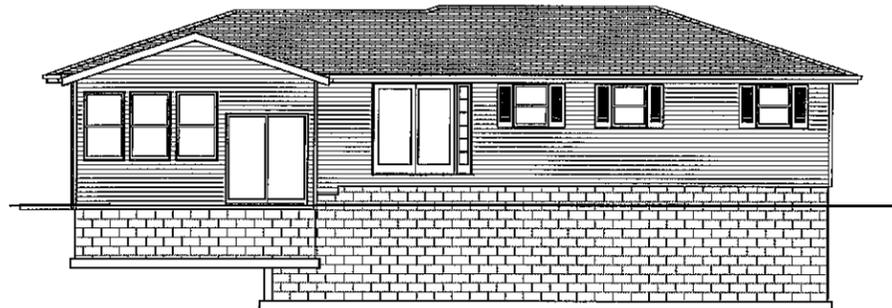
PROPOSED FRONT ELEVATION #1
1/8" = 1'-0"



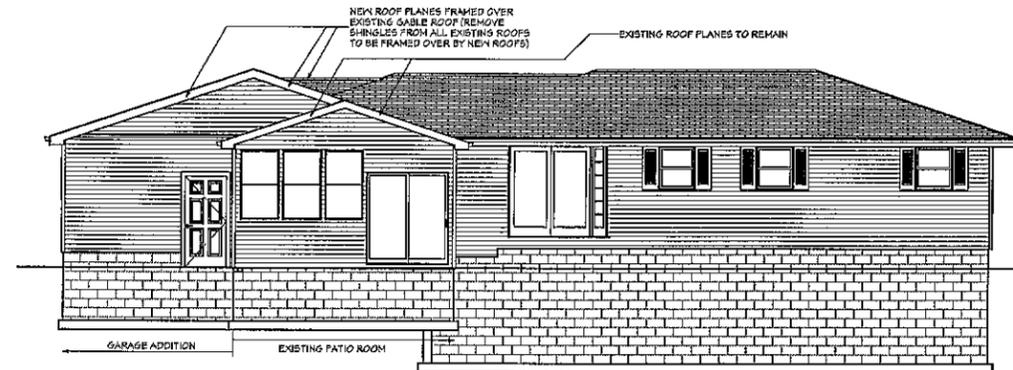
EXISTING SIDE ELEVATION #2
1/8" = 1'-0"



PROPOSED SIDE ELEVATION #2
1/8" = 1'-0"



EXISTING REAR ELEVATION #3
1/8" = 1'-0"



PROPOSED REAR ELEVATION #3
1/8" = 1'-0"

PROJECT DESCRIPTION:

GARAGE ADDITION

OWNER(S):

LOHNY & CHRISTINE SEEBER
517 W66050 HENRY ST.
DOUSMAN, WI. 53



KERZNER REMODELING & CONSTRUCTION
1200 CAPITOL DR.
OCONOMOWOC, WI. 53066

DATE:

5/29/2020

SCALE:

1/8" = 1'-0"

SHEET:

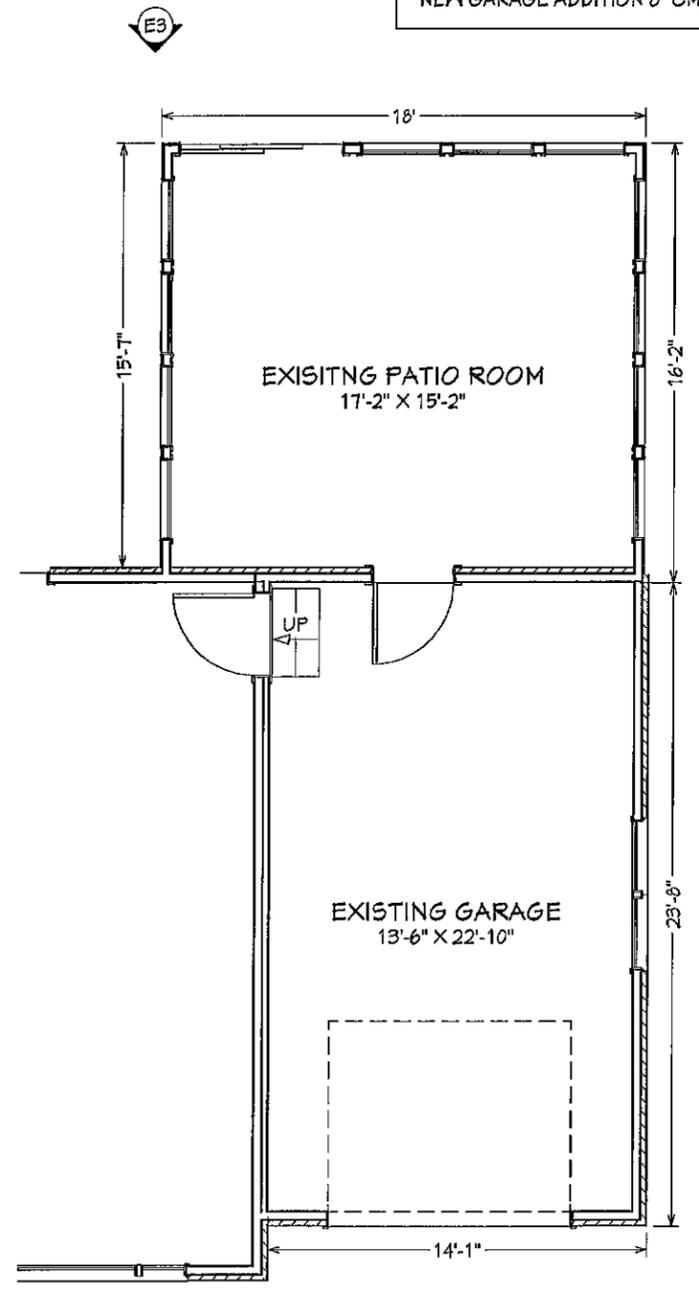
A-1

EXHIBIT "B"

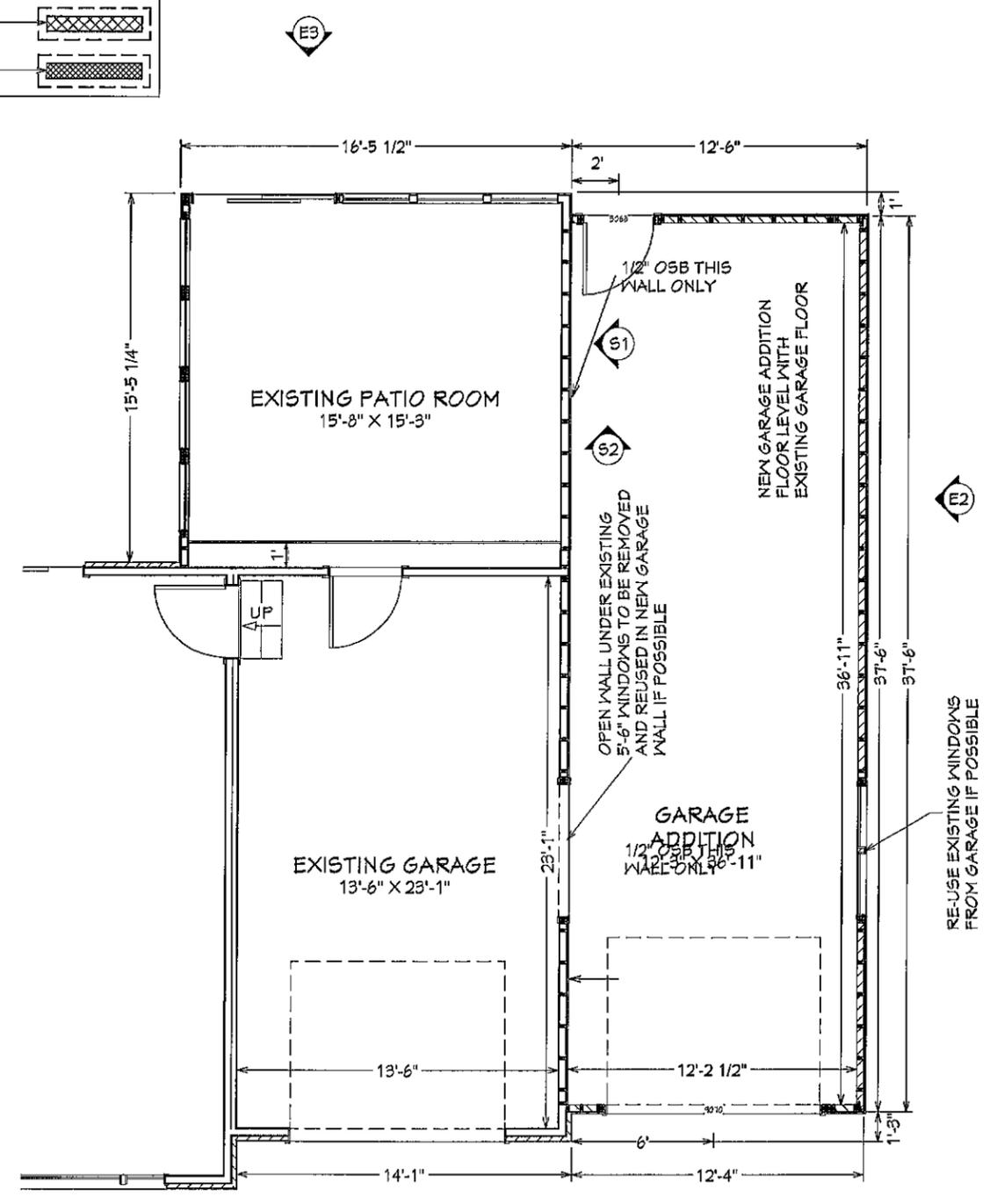
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WALL LEGEND

- EXISTING HOUSE & GARAGE EXTERIOR 2x4 WALL
- EXISTING PATIO ROOM 2x4 WALL
- NEW GARAGE ADDITION 2x4 WALL
- EXISTING HOUSE & GARAGE CMU BLOCK FOUNDATION WALL
- NEW GARAGE ADDITION 8" CMU BLOCK FOUNDATION WALL



EXISTING FIRST FLOOR PLAN VIEW
1/4" = 1'-0"



PROPOSED FIRST FLOOR PLAN VIEW
1/4" = 1'-0"

DRAWINGS PROVIDED BY:
CHRIS EGGNER
ARCHITECT

PROJECT DESCRIPTION:
GARAGE ADDITION

OWNER(S):
LOHNY & CHRISTINE SEEBER
517 W66850 HENRY ST.
DOUSMAN, MI. 53



KERZNER REMODELING & CONSTRUCTION
1200 CAPITOL DR.
OCCONOMOC, MI. 53066

DATE:

5/29/2020

SCALE:

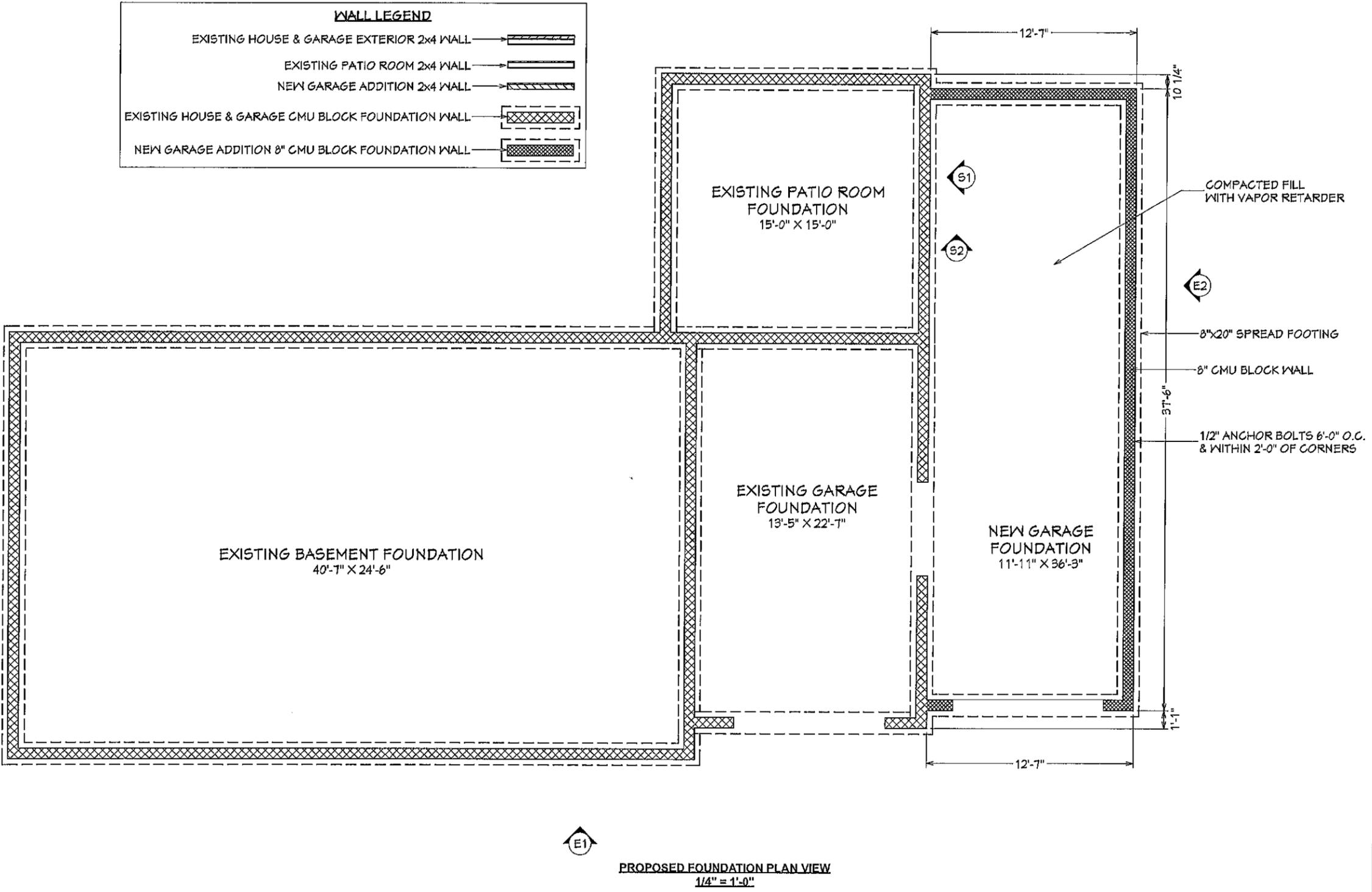
1/4" = 1'-0"

SHEET:

A-2

EXHIBIT "B"

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CHRIS EGGNER
ARCHITECT

PROJECT DESCRIPTION:
GARAGE ADDITION

OWNER(S):
LOHNY & CHRISTINE SEEBER
517 W6650 HENRY ST.
DOUSMAN, MI. 53



KERZNER REMODELING & CONSTRUCTION
1200 CAPITOL DR.
OCONOMOWOC, MI. 53066

DATE:

5/24/2020

SCALE:

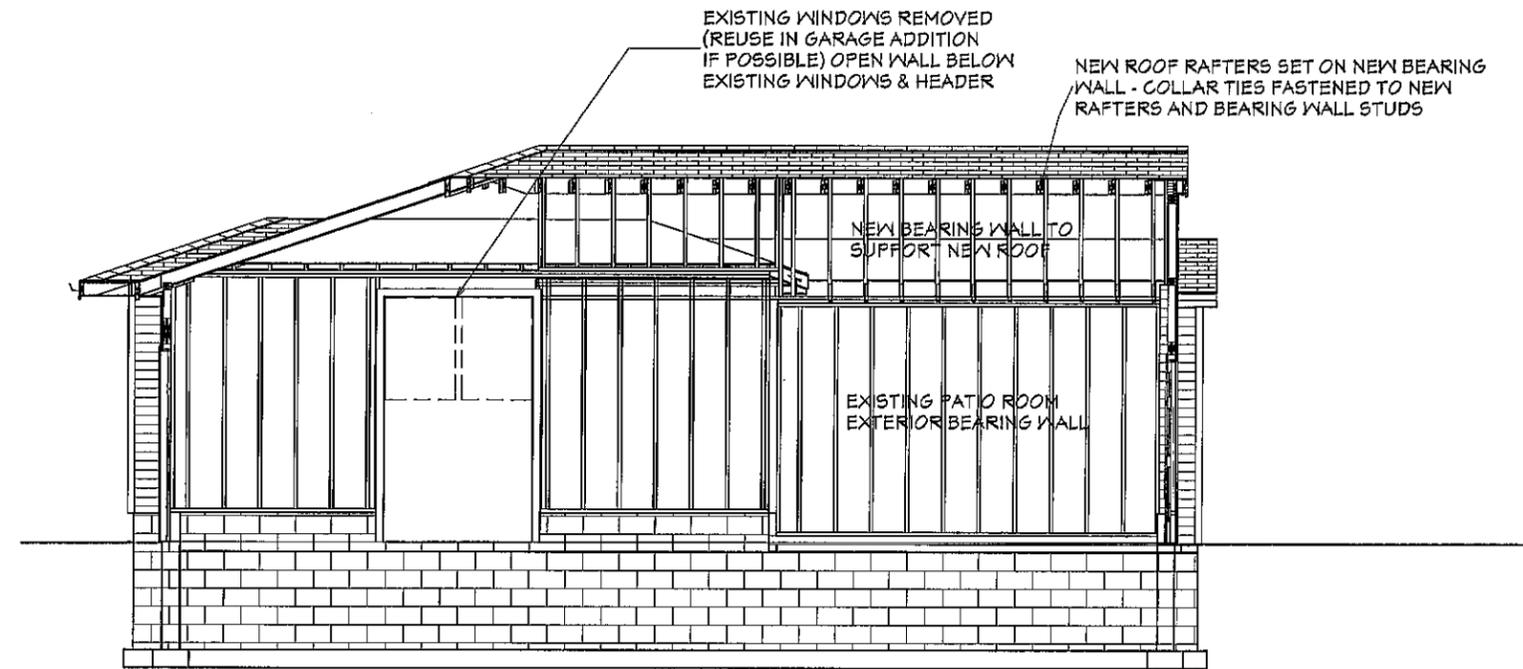
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SHEET:

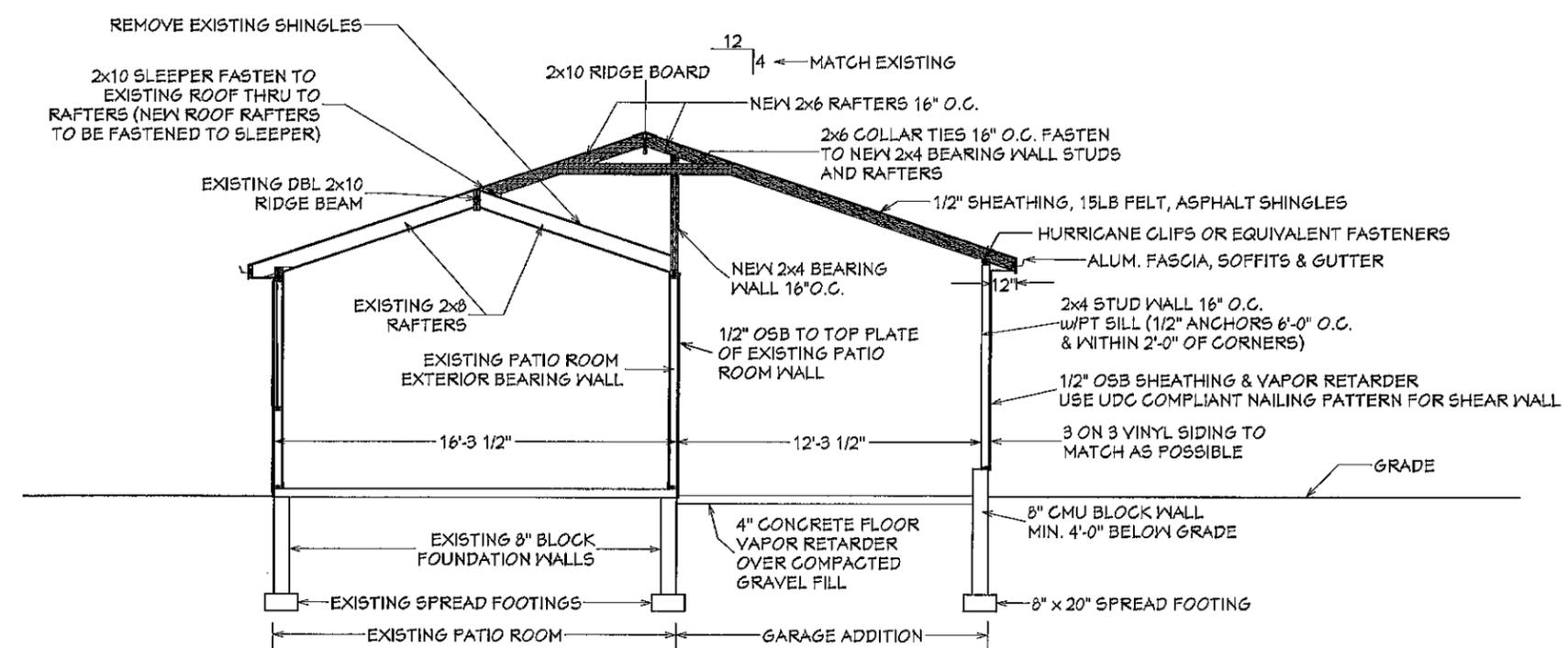
A-3

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CROSS SECTION #1
1/4" = 1'-0"



CROSS SECTION #2
1/4" = 1'-0"

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KERZNER
REMODELING & CONSTRUCTION

PROJECT DESCRIPTION:
GARAGE ADDITION

OWNER(S):
LOHNY & CHRISTINE SEEBER
517 W66950 HENRY ST.
DOUSMAN, MI. 59



KERZNER
REMODELING & CONSTRUCTION
1200 CAPITOL DR.
OCONOMOWOC, MI. 53066

DATE:

5/29/2020

SCALE:

1/4" = 1'-0"

SHEET:

A-4