



# **CITY OF BAYPORT**

294 NORTH 3<sup>RD</sup> STREET  
BAYPORT, MN 55003

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## **PLANNING COMMISSION MEETING**

**City Hall - Council Chambers**

**June 15, 2009 – 6:00 p.m.**

**A. CALL TO ORDER**

**B. APPROVAL OF MINUTES**

- **March 9, 2009 regular meeting**

**C. PUBLIC HEARINGS**

- **Public hearing to consider a request for variances to build a new single-family home on the property located at 387 5<sup>th</sup> Street North**

**D. OLD BUSINESS**

**E. NEW BUSINESS**

**F. GENERAL INFORMATION**

**G. OPEN FORUM**

**H. ADJOURNMENT**

**CITY OF BAYPORT  
PLANNING COMMISSION MEETING MINUTES  
CITY COUNCIL CHAMBERS  
MARCH 9, 2009  
6:00 P.M.**

**CALL TO ORDER**

Pursuant to due call and notice thereof, Chairperson Mabie called the regular Bayport Planning Commission meeting of March 9, 2009, to order at 6:00 p.m.

**SWEARING IN OF NEW MEMBERS PAM HOYE AND DAN GOLDSTON**

Chairman Mabie administered the Oath of Office to Pam Hoye and Dan Goldston. Judy Seeberger and Ron Wolfe were thanked for their service to the Planning Commission.

**ROLL CALL**

Commissioners Present: Dan Goldston, Pam Hoye, and Tom Mabie

Commissioners Absent: David Levy and Jennifer Schneider

City Staff Present: Assistant City Administrator/Planner Sara Taylor and City Council Liaison Judy Seeberger

**ELECTION OF VICE CHAIRPERSON**

It was moved by Chairperson Mabie and seconded by Commissioner Hoye to appoint Dan Goldston as the Vice Chairperson of the Planning Commission for a term of two years, or until his term expires. Motion carried.

**APPROVAL OF MINUTES**

It was moved by Chairperson Mabie and seconded by Commissioner Hoye to approve the October 20, 2008 meeting minutes as presented. Motion carried.

**PUBLIC HEARINGS**

Consider a request for a conditional use permit (CUP) to allow five designated parking stalls to be used for overnight, outdoor storage of customer vehicles during non-business hours, for a proposed transmission and auto repair business, located at 120 3<sup>rd</sup> Street South: Planner Taylor reviewed a CUP application from Gordy and Suzanne Tellinghuisen to allow the designation of five parking stalls to be used for overnight, outdoor storage of customer vehicles, in conjunction with their planned transmission and auto repair business at 120 3<sup>rd</sup> Street South. The property is zoned B-2 and auto repair is a permitted use within the zoning district; however, city code requires that outdoor storage be regulated by a CUP. The proposed storage area would be located along the west side of the existing parking lot and screened from the adjoining property with a six-foot privacy fence. The parking spaces would be used for parking customer vehicles that are waiting to be picked up or have work completed, and all vehicles would be required to be licensed, operable and removed within seven days. The property and parking lot were updated in 2004 and no additional site improvements are necessary to comply with city code. Staff believes the proposed overnight, outdoor storage area is a reasonable request and consistent with other commercial uses in the city. As such, staff recommends approval of the CUP application.

Commissioners voiced concern with the potential for vehicles being parked close to Highway 95, for extended periods of time. Planner Taylor indicated the overnight storage would be set back from the highway, along the west side of the parking lot, and the suggested findings of fact also address potential parking issues.

The public hearing was opened by Chairperson Mabie, and no public comment was heard

It was moved by Chairperson Mabie and seconded by Commissioner Hoye to close the public hearing. Motion carried.

It was moved by Chairperson Mabie and seconded by Commissioner Hoye to recommend to the City Council to approve a conditional use permit (CUP) to allow five designated parking stalls to be used for overnight, outdoor storage of customer vehicles during non-business hours, for a proposed transmission and auto repair business, located at 120 3<sup>rd</sup> Street South. Motion carried.

**OLD BUSINESS** – None

**NEW BUSINESS**

Planner Taylor welcomed new Planning Commissioners Goldston and Hoye.

**GENERAL INFORMATION** – None

**OPEN FORUM** – None

**ADJOURN**

It was moved by Chairperson Mabie and seconded by Commissioner Goldston to adjourn the meeting at 6:12 p.m. Motion carried.

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# MEMORANDUM

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**DATE:** June 9, 2009

**TO:** Planning Commission (June 15<sup>th</sup> meeting)  
Mike McGuire, City Administrator

**FROM:** Sara Taylor, Assistant Administrator/Planner

**SUBJECT:** Public hearing to consider a request for variances to build a new single-family home on the property located at 387 5<sup>th</sup> Street North

## A. BACKGROUND

The property is located at 387 5<sup>th</sup> Street North and is legally described as Lot 1 of Block 47, Bayport, Washington County, Minnesota. Its dimensions are approximately 140' on the north and south lot lines, and 50' along the east and west lot lines, with a total lot area of 6,994 square feet. The subject property is surrounded by residential uses and is zoned R-2 Single-family urban.

The applicant and property owner, Duane Johnson, plans to demolish the remnants of the existing single-family home on the property, which was recently damaged by fire, and rebuild a new single-family home. The applicant is proposing to use a portion of the foundation of the existing home for the new home. However, because the existing foundation does not conform to the side yard setbacks required by the zoning code, variances are required.

Notice of the Planning Commission's public hearing was mailed to all property owners within 350' of the subject property and published in the Stillwater Gazette on June 3, 2009

The following informational items are attached:

- survey of the property with existing conditions and proposed single-family home
- narrative by the property owner
- exterior elevations of the proposed home

## B. STAFF COMMENTS

Prior to the recent fire, the existing house on the property had an average north side yard setback of approximately 12 feet, which does not comply with the required setback of 20 feet for a corner lot. In addition, the existing house had a south side yard setback of approximately 7 feet, which also does not comply with the required setback of 10 feet for an interior lot.

To help facilitate the construction of a new house, the applicant plans to utilize the existing foundation, with a slight modification to the north wall, to eliminate a slight jog, and an addition to the rear. As such, the dimensions for the proposed house would be 32 feet x 46 feet and setbacks would be the same as, or similar to the home that had existed on the property.

	REQUIRED	EXISTING	PROPOSED	VARIANCE REQUIRED
LOT AREA	10,000 SQ FT	6,994 SQ FT	NO CHANGE	NA
FRONT YARD SETBACK	20 FT	20 FT	20 FT	NONE
NORTH SIDE YARD SETBACK	20 FT	10 - 14.6 FT	11 FT	9 FT
SOUTH SIDE YARD SETBACK	10 FT	6.9 FT	NO CHANGE	3.1 FT
REAR YARD SETBACK	30 FT	87 FT	74 FT	NONE
LOT COVERAGE	35% MAX	≈ 31%	34.7%	NONE

This property is somewhat unique in that it abuts a large right-of-way (3<sup>rd</sup> Avenue North), which includes a portion of Perro Creek. As a result, a majority of this right-of-way is green buffer area, rather than paved street, leaving approximately 38 feet between the edge of the street pavement and the property line of this lot. For this reason, staff feels that visually, the proposed location for the new house would not alter the character of the neighborhood, nor interfere with visibility at the intersection of 3<sup>rd</sup> Avenue North and 5<sup>th</sup> Street North, if a variance were to be granted, as requested. In addition, it should be noted that the 11 foot setback proposed for the north property line will be less than the average setback of 12 feet that previously existed for the house in this location and the new house will not encroach any further into the south side yard setback than the house that previously existed on the property

### **C. SUGGESTED FINDINGS OF FACT AND CONDITIONS OF APPROVAL**

Minn Stat. 462 357 requires that a variance request must meet all three criteria of an undue hardship for the variance to be granted. The criteria is as follows (1) the property in question cannot be put to a reasonable use if used as required by this Zoning Code; and (2) the plight of the landowner is due to circumstances unique to the property and not created by the property owner; and (3) the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of the ordinance.

Findings of fact to approve the variances. Strict application of the ordinance in this particular case would constitute an undue hardship, because all three of the required criteria are met. Specifically:

- (1) The house that previously existed on the property was unintentionally destroyed by fire and due to the size of the lot, there is little buildable area to construct a new house that meets all setback requirements of city code. In order to permit reasonable use, and allow construction of a new house similar in size and impervious coverage to the previous house, variances would be appropriate
- (2) Because the subject property is a corner lot, setbacks are more restrictive than an interior lot, to allow for adequate traffic visibility. Due to the size of the abutting right-of-way, the proposed house would not interfere with visibility at the intersection of 3<sup>rd</sup> Avenue North and 5<sup>th</sup> Street North. Therefore, a setback similar to an interior lot (10 feet) would be justified
- (3) The boulevard area between the edge of the street pavement and the property line of this lot will provide a "green" buffer similar to adjacent properties. The setbacks for the proposed house will be similar to the previous house, as well as consistent with adjacent properties and the character of the neighborhood. For this reason, the location of the proposed house would not alter the character of the neighborhood.

### **D. RECOMMENDATION**

Staff recommends approval of Application 2009-03, to build a new single-family home on the property located at 387 5<sup>th</sup> Street North, with a variance for a north side yard setback of 11 feet and a variance for a south side yard setback of 6.9 feet. Suggested findings of fact are as stated in section "C" of the staff report and are subject to the following conditions of approval:

- This application may be subject to the review and approval of the Middle St. Croix Watershed Management Organization (MSCWMO). Any conditions required by the MSCWMO shall be implemented as part of this application

- ❑ Prior to any demolition, a permit will need to be secured from the city, in addition to any inspections deemed necessary by city staff or other agencies.
- ❑ Prior to the issuance of a building permit, a complete set of construction and grading plans for the proposed house shall be submitted by the applicant, in accordance with the approved variances, for review and approval by city staff.
- ❑ The type and color of the exterior siding and shingles for the proposed house and existing garage shall be consistent with one another.
- ❑ The front and rear sidewalks identified on the survey for the property shall consist of pervious pavers, porous pavement, or the like, to reduce water runoff, and be installed to the specifications recommended by city staff and required by city code.
- ❑ The rain garden identified on the survey shall be installed according to specifications directed by the city engineer and the MSCWMO or Washington Conservation District
- ❑ Prior to the issuance of a certificate of occupancy, the house, pervious sidewalks, and rain garden must be completed per construction plans and specifications.
- ❑ Vegetative landscaping and/or sod must be restored/installed on all areas of the property not covered by structures no later than October 1, 2009.
- ❑ Sod must be restored/installed on all areas of the public right-of-way that were disrupted as part of the construction for this property no later than October 1, 2009.
- ❑ The proposed north and west entry steps shall be constructed as uncovered stoops, to comply with section 602.03 of city code.
- ❑ An as-built survey that delineates all structures and impervious coverage will need to be completed by the land surveyor by October 1, 2009.
- ❑ The addition of a deck to the east (rear) yard will require a separate building permit, which will not be issued until an as-built survey is completed by the land surveyor.

The Planning Commission is asked to make a recommendation on the request for City Council consideration. The City Council will consider the request at its meeting on July 6, 2009.

Notes:

"M." Ind. meas. value.  
 "R." Ind. recovered value.  
 o Indicates #13774 iron pipe set  
 • Indicates iron found, as noted  
 Offsets shown to existing structures are measured to the outside building wall line unless shown or noted otherwise. Any projection from said wall line will impact indicated offsets.

# CERTIFICATE OF SURVEY

Notes:

Bearing system is an assumed datum.  
 Underground or overhead, public or utilities, on or adjacent the parcel, were not located in conjunction with this survey, unless shown or noted otherwise.  
 ---OU--- Indicates overhead utility lines observed in place.

BARNETT M. STACK  
 SULLY WATER MINN. 55082  
 MINNESOTA REGISTERED  
 LAND SURVEYOR  
 1A N. 439-3630

SURVEY MADE EXCLUSIVELY FOR Mr. Duane Johnson, 11747 Upper 56th Street SW, Oak Park Hts. MN 55082

DESCRIPTION As supplied by the above named client

Lot 1, Block 47, Bayport (formerly South Stillwater) Washington County Minnesota

Spot and Floor Elevation shown herein are based on National Geodetic Vertical Datum (NGVD) 1929 Adjustment and are referenced to the following described BENCHMARK: Topmost operating nut of fire hydrant located in the SW 1/4 quadrant of Fifth St. No. and 3rd Ave. No., having an elevation of 716.52 feet, NGVD 1929 Adj. Use this BENCHMARK for future site elevation control.

See Sheet 1 of 2 Sheets for Existing Site Conditions.

Proposed New House Location and Floor Grades:

Proposed New House Location and proposed floor grades are as directed by Mr. Duane Johnson. See complete house plans and specific floor plans as prepared by others.

"P. P." Indicates proposed location of new pervious paver walks. These areas are not included in the below new impervious Area calculations.

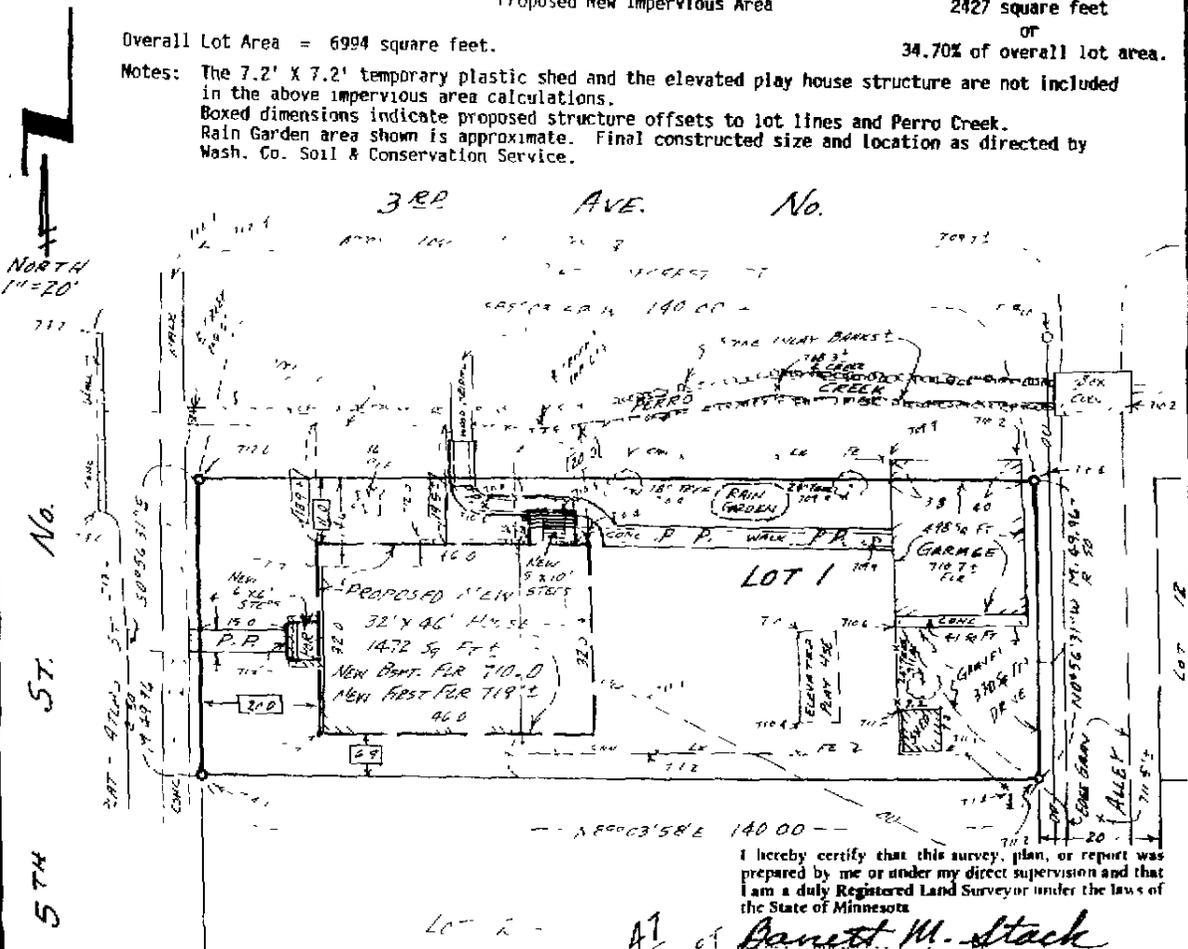
Proposed New Developed Parcel Impervious Surface Areas:

New house basement footprint: (32' X 46')	1472 square feet
Westerly entry steps: (6' X 6')	36 square feet
Northerly entry steps: (5' X 10')	50 square feet
Portion of Existing Garage on Lot 1, Block 47, Bayport	498 square feet
Approximate gravel driveway area to garage:	330 square feet
Concrete garage apron along south line garage	41 square feet
<b>Proposed New Impervious Area</b>	<b>2427 square feet</b>

OR  
 34.70% of overall lot area.

Overall Lot Area = 6994 square feet.

Notes: The 7.2' X 7.2' temporary plastic shed and the elevated play house structure are not included in the above impervious area calculations.  
 Boxed dimensions indicate proposed structure offsets to lot lines and Perro Creek.  
 Rain Garden area shown is approximate. Final constructed size and location as directed by Wash. Co. Soil & Conservation Service.



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

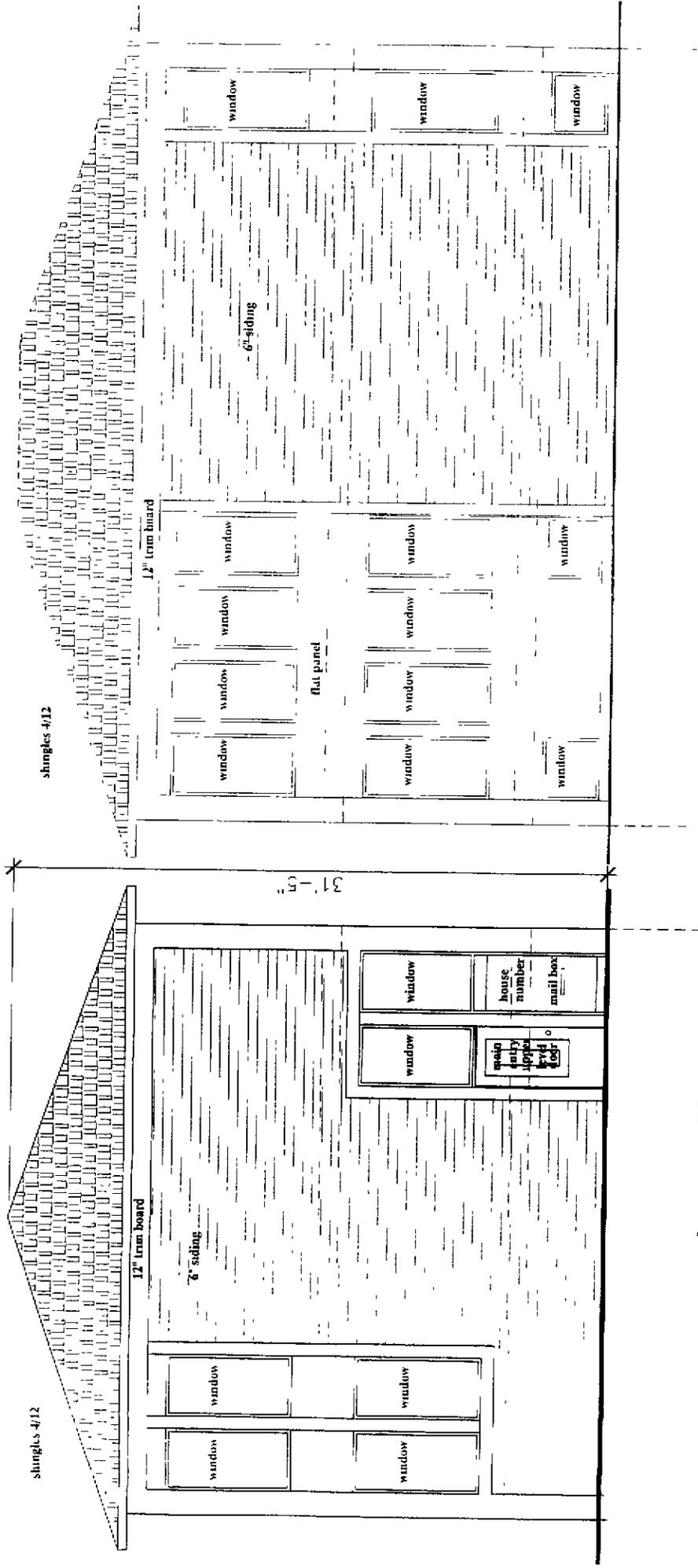
BL-47  
 BARNETT M. STACK  
 Date March 23, 2009 Reg No 13774

To whom it may concern,

I would like to rebuild my house on 387 N 5<sup>th</sup> St. To do this I need variances for the north, south and West. These variances will basically be in the foot print of the old house excluding the east where it will be elongated. North to south was 33" and will be 32", east to west was 33" and will be 34" plus a deck. It is a corner lot by the creek so there will not be any visual obstruction at the corner. The hard cover on the property will be less than 35%. Please see the exterior plans, I think this house will look much better for Bayport than the old house.

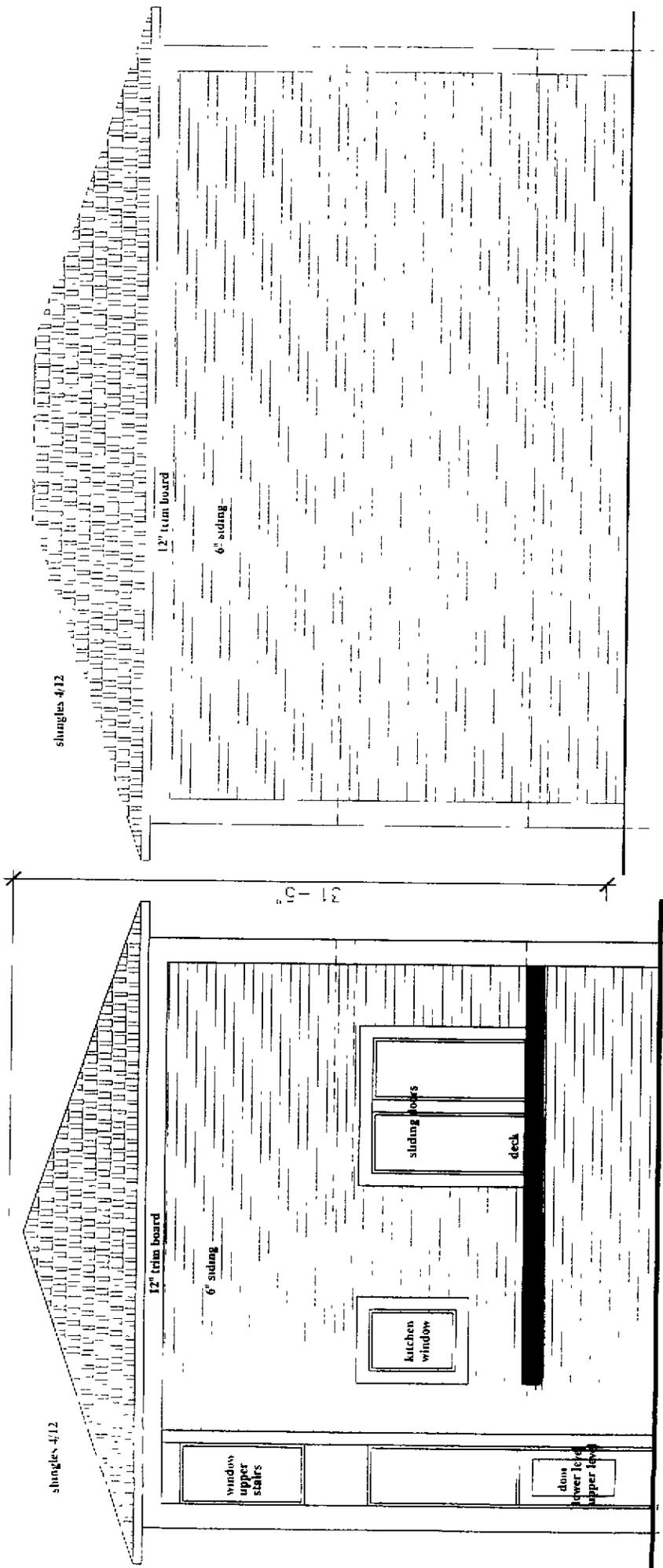
Sincerely,

Duane Johnson



WEST ELEVATION

NORTH ELEVATION



SOUTH ELEVATION

EAST ELEVATION