



**Board of Adjustments
Meeting Agenda
July 23, 2025
Bentonville City Hall
Meeting Time: 4:00 PM**

Registration Link: <https://us02web.zoom.us/j/88531163462>

- I. Call to Order**
- II. Approval of Minutes**
 - 1. July 9th Meeting Minutes** **Approval of Meeting Minutes**
- III. New Business**
 - 1. Dadi & Dadi** **Variance***
 - 2305 Northeast Steinback Drive ([VAR25-0019](#))
 - Section 401.10 PUD setbacks*
- IV. Old Business**
- V. Other Business**
 - 1. FOIA Changes with the 2025 Legislative Session** **Informational**
- VI. Adjournment**



**Board of Adjustments
Meeting Agenda
July 9, 2025
Bentonville City Hall
Meeting Time: 4:00 PM**

Recording Link: <https://bentonvillear.portal.civicclerk.com/event/1619/media>

I. Call to Order

- Meeting called to order at 4:00 PM by chairman Dean Kruithof.
- Members present: BJ Phillips, Celia Swanson, Kevin Barrington, Danny Bennett, Dean Kruithof
- Members absent: None
- Staff present: Tom Adler, Casey Hackler, Claire Wise

II. Approval of Minutes

1. June 25th Meeting Minutes

Approval of Meeting Minutes

- Motion to approve by Swanson, second by Phillips.
- Minutes are approved 5-0.

III. New Business

1. Johnson

Variance*

901 Northeast Second Street ([VAR25-0018](#))

Section 401.7 of Zoning Code (Side Yard Setback)

- Chairman Kruithof opens the public hearing.
- Staff provides overview.
- Chairman Kruithof closes the public hearing.
- Courtney Austin, the applicant, and Chad O'Malley, the developer, are present for any questions.
- Commissioners conclude that the variance requests are clear and can be interpreted predictably, and that the requests are reasonable.
- Phillips makes a motion to approve, with the condition that the portion of the flag lots adjacent to the roadways does not become enclosed with a fence.
- The variance is approved 4-1. Barrington voted no.

IV. Old Business

1. VAR25-0011/12 follow up

Informational

On June 25, 2025 the Board gave conditional approval for VAR25-0011 and VAR25-0012 based on legal review. Legal has reviewed and concurs.

V. Other Business

VI. Adjournment

- Swanson makes a motion to adjourn, Barrington seconds.
- Chairman Kruithof adjourns the meeting.

**Dadi & Dadi**

2305 Northeast Steinback Drive

BOA Date: 7/23/2025**Staff Report Details**

Project Number	VAR25-0019
Applicant / Current Owner	Swope Engineering / Shekar Dadi and Saroja Dadi
Site Area	0.33 acres
Current Zoning	PUD, Planned Unit Development
Variance Request	Front setback variance
Related projects	

Property Description

The subject property is located at 2305 Northeast Steinback Drive (Lot 29 of Grammercy Park Subdivision). The property is presently zoned PUD, Planned Uni Development, with a future land use designation of Neighborhood Suburban.

Regulation

Article 401 Zoning District Regulations, Section 401.10 PUD, Planned Unit Development. The PUD for this subdivision has established the following setbacks: 30' front (dwelling), 20' front (garage), and 25' rear.

Variance Request

Setback variance requested: A 10-foot variance on the front building setback to allow for a 20-foot front building setback instead of the required 30-foot front setback.

Background

Background

Background

The applicant is requesting a 10-foot variance to allow for a 20-foot front building setback, instead of the 30-foot front building setback required of the PUD, Planned Unit Development. The applicant states that the rear lot topography combined with the variable width drainage easement, which encompasses approximately 32% of the lot, significantly reduces the lot's buildable area, and is seeking to shift the proposed home towards the front of the property line. Please see provided plans for clarification. The front setback requirement of 30 feet was set previously through the Planned Unit Development Process.

This report will consider and analyze this request based upon the six conditions of approval from the Zoning Code. Said conditions of approval will be bolded to differentiate from staff commentary.

1. The applicant demonstrates that:

a. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structure or buildings in the same district;

The applicant states that special circumstances and conditions exist due to the rear yard topography and the drainage easement of the lot.

b. That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;

The applicant states that the literal interpretation of the setback ordinance would mean a much smaller house would need to exist on this lot, which does not conform to the existing scale, character, context, and form of the existing neighborhood. The applicant writes that this ultimately reduces the property values of its neighbors and the subdivision as a whole.

c. That special conditions and circumstances do not result from the actions of the applicant; and

The applicant states that neither the lot topography nor the existing drainage easement a result of the current lot owner, but that the existing lot grades and drainage easement appear to be a result of subdivision design and construction.

d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

The applicant states the variance requested will not confer any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district. The applicant is seeking a variance in order to build a home that confers with the surrounding neighborhood to ensure cohesion.

2. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

The applicant makes no mention of nonconforming uses of neighboring lands, structures, or buildings in the same district.

3. The board of adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the

Background

minimum variance that will make possible the reasonable use of land, building or structure.

The applicant has provided a site design demonstrating how their requested variance is only needed for a portion of the rear of the building. The existing front setback of 30' is depicted to show how far the proposed dwelling would exceed current code.

4. The board of adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The variance requested appears to have no detrimental impact to the public welfare.

5. Conditions. In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

The Board has the authority to attach any conditions to a variance request that it deems appropriate. Any conditions proposed with a variance approval should be clearly stated into the record in the approval motion.

6. Uses. Under no circumstances shall the board of adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.

The applicant's request does not include a variance of use.

Conclusion

The applicant is requesting a 10-foot variance to allow for a 20-foot front building setback instead of the 30-foot front building setback required by the PUD. The applicant states that special circumstances and conditions exist due to the rear yard topography of the lot as well as the existing drainage easement. The topography of the north side of the lot (the rear of the lot) is creating the hardship, according to the applicant. The applicant states that the literal interpretation of the setback ordinance would mean a much smaller house would need to exist on this lot, which does not conform to the existing scale, character, context, and form of the existing neighborhood. The applicant claims that this ultimately reduces the property values of its neighbors and the subdivision as a whole. The applicant further states that neither the lot topography nor the existing drainage easement is a result of the current lot owner, but the existing lot grades and drainage easement are a result of the subdivision design and construction.

Ultimately, the Board must find all six criteria to have been met for the approval of a variance request.

Public Comment

Has Staff received Public Comment at the time of this report?: **No**

Conditions of Approval

If the Board approves the variances, the following conditions of approval are proposed:

1. The approved variance shall be for the proposed layout and setbacks, as provided by the applicant within this application.
2. The applicant shall be required to obtain an approved building permit for the structure.

Section 301.10.c, Standards of Approval, of the Zoning Code

Standards for approval. A variance from the terms of this chapter shall not be granted by the board of adjustment unless and until:

(1) The applicant demonstrates that:

- a. special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;
- b. that literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;
- c. that special conditions and circumstances do not result from the actions of the applicant; and,
- d. that granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

(2) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(3) The board of adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of land, building or structure.

(4) The board of adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(5) *Conditions.* In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

(6) *Uses.* Under no circumstances shall the board of adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.



Pending BOA
Item



Swope



NE GRAMMERCY RD

NE CHAUCER ST



VAR25-0019

Swope

2305 NE STEINBECK DR





June 25, 2025

City of Bentonville

305 SW A Street

Bentonville, AR

RE: Front Building Setback Variance – 30' to 20'

LOT 29, GRAMMERCY PARK SUBDIVISION, PHASE 1, BENTONVILLE, BENTON COUNTY, ARKANSAS, AS PER PLAT RECORDED IN PLAT BOOK 2009 AT PAGES 76 THROUGH 78.

To whom it may concern, please consider a front building setback variance of 10 feet (30' required, 20' requested) for Lot 29 of Grammercy Park Subdivision Phase 1. This lot has its own set of challenges and requires some accommodations to make it work. See the following responses, below, to the required criteria.

The special condition and circumstance that exists for the lot is the rear yard topography. This lot is not buildable well into the rear buildable area of the lot; therefore, the proposed home needs shifted to the front. Additionally, a variable width drainage easement encompasses approximately 32% of the lot.

Literal interpretation of the setback ordinance would mean a much smaller house would have to exist on this lot, thereby not conforming to the existing scale, character, context and form of the existing neighborhood and ultimately reducing property values of its neighbors and the subdivision as a whole.

The special condition in this case, the lot topography nor the existing drainage easement are not the result of the current lot owner. The existing lot grades and drainage easement appear to be the result of subdivision design and construction.

The developer will ensure that there are no encroachments into the setback/utility easements including but not limited to the slab/footings.

In summary, we believe this setback variance request meets the standard criteria established for granting variances. This letter is submitted for your review and approval.

Sincerely,

Jon Stanley, ASLA
Senior Project Manager

PRELIMINARY PLAT
LEGEND

FEATURE LINES AND SURVEY SYMBOLS

- PROPERTY LINE
OFFSITE PROPERTY LINE
CENTERLINE OF ROAD
RIGHT-OF-WAY
FENCE
ACCESS EASEMENT
BUILDING SET BACK
UTILITY EASEMENT
CURB AND GUTTER
ASPHALT PAVEMENT
SET/FOUND REBAR
FENCE CORNER POST
FOUND STONE
STATE MONUMENT
SET/FOUND ALUM. MONUMENT
SET/FOUND COTTON SPINDLE
SET / FOUND MAG NAIL
RAILROAD SPIKE
BENCH MARK (ELEV.)
FOUND PIPE

UTILITY SYMBOLS

- FLARED END SECTION
CURB INLET
AREA INLET
JUNCTION BOX
GRATE INLET
SANITARY SEWER
SEWER SERVICE
FIRE HYDRANT ASSEMBLY
WATER VALVE
WATER SERVICE
WATER METER
POWER POLE
LIGHT
ELECTRICAL BOX
TELEPHONE PEDESTAL
GAS METER

HATCHES

- ASPHALT
CONCRETE
FLOOD ZONE
GRAVEL
WET
POND

THIS LEGEND MAY CONTAIN SOME SYMBOLS NOT SHOWN WITHIN THE PLAN OR PLAT VIEW

WETLANDS INFORMATION

THERE ARE NO KNOWN WETLANDS ON THIS SITE.

MISCELLANEOUS INFORMATION

BASIS OF BEARING:
ARKANSAS STATE PLANE,
COORDINATE SYSTEM,
(NAD-83) NORTH ZONE.

FLOOD INFORMATION

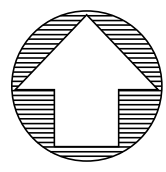
THIS PROPERTY DOES NOT LIE IN ZONE 'A/AE' (SPECIAL FLOOD HAZARD AREAS INUNDATED BY 100-YEAR FLOOD) AS DETERMINED FROM THE F.I.R.M. MAPS OF BENTON COUNTY, ARKANSAS, AND INCORPORATED AREAS, MAP NUMBER 05007C0235K, EFFECTIVE DATE SEPTEMBER 28, 2007.

PROJECT ENGINEER

PHIL SWOPE, P.E.
SWOPE ENGINEERING
7 HALSTED CIRCLE, SUITE 210
ROGERS, ARKANSAS 72756
479.685.8399 OFFICE



Know what's below.
Call before you dig.



GRAPHIC SCALE

1 inch = 10 feet

PROPERTY INFO

GROSS SITE	14,457 S.F.	0.33 AC
LOT COVERAGE	26%	
ZONING	PUD	

SETBACKS

FRONT (Dwelling)	30'
FRONT (Garage)	20'
SIDE (Interior)	7'
SIDE (R.O.W)	20'
REAR	25'

FOR NEW CONSTRUCTED SINGLE AND TWO-FAMILY RESIDENTIAL STRUCTURES: 1 SHADE TREE SHALL BE PLANTED IN EACH YARD ADJACENT TO ROADWAY AND 1 SHADE TREE SHALL BE PLANTED IN EACH RIGHT-OF-WAY ADJACENT TO ROADWAY.

NO STRUCTURES, OVERHANGS, OR FOOTINGS SHALL ENCROACH ON THE EXISTING UTILITY EASEMENTS. ALL STRUCTURES SHALL MAINTAIN 10' SEPARATION FROM ALL PUBLIC UTILITIES.



SITE PLAN

GRAMMERCY PARK SUBDIVISION LOT 29

SETBACK VARIANCE

SHEKAR & SAROJA DADI

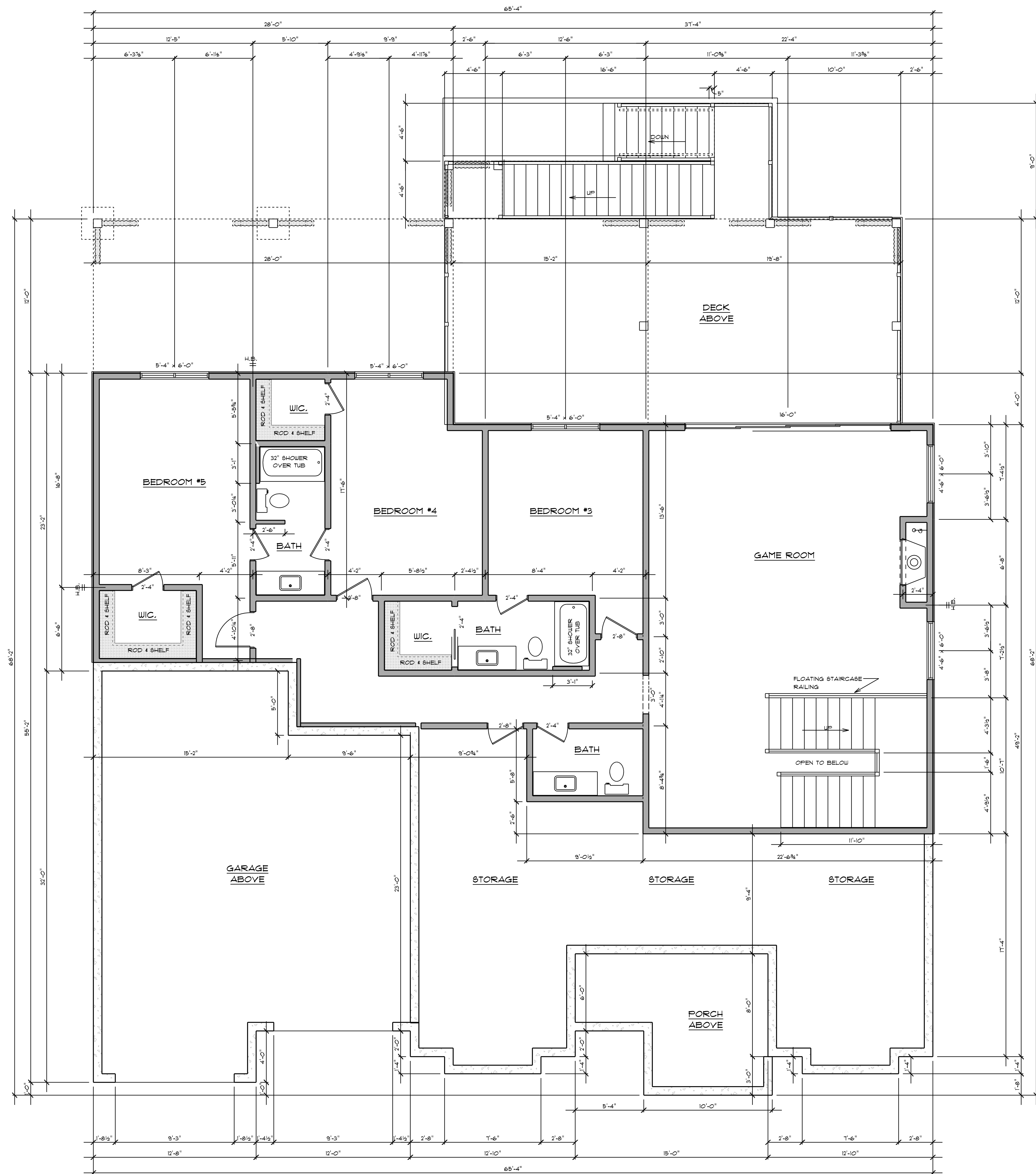
OWNER ADDRESS: 4506 SW SWINTON DR. BENTONVILLE, AR 72713

PROPERTY ADDRESS: 2305 STEINBECK DR. BENTONVILLE, AR 72712

NO.	DATE	REVISION
1	06/25/2025	FIRST SUBMITTAL



DRAWN BY:	JON	JOB NUMBER:	#####
SUBMITTAL DATE:	06/25/2025	CITY NUMBER:	#####
DRAWING NAME:	25-232PR.DWG		
SHEET NUMBER:	####		



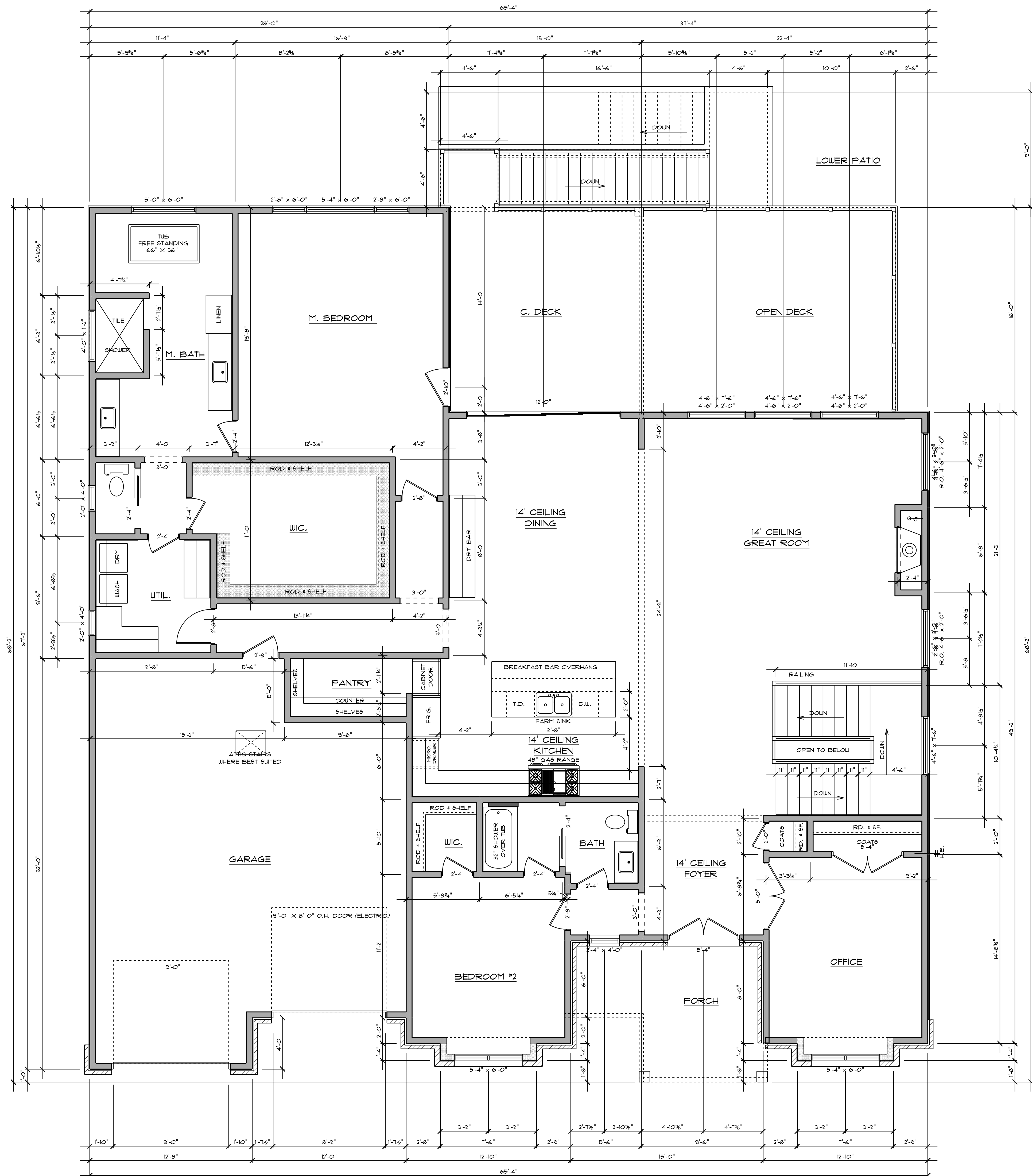
BUILDER: RAVI DADI

BASEMENT PLAN

AREAS:
1800 S.F. FRAME +/-

NOTES:
10' 1 1/8" CLG. HGT
UNLESS OTHERWISE NOTED
8'-0" TALL DOOR B/L FLOOR
UNLESS NOTED OTHERWISE
ALL C.O.S. TO BE SQUARE
WORK* 2025-2025
SCALE: 1/4" = 1' 0"

PAGE #
2 OF 6



BUILDER: RAVI DADI

FLOOR PLAN

AREAS:

2868 S.F. FRAME +/-
S.F. BRICK +/-
S.F. GARAGE +/-
S.F. C. DECK +/-
S.F. PORCH +/-

NOTES:

12" x 19" CLG. HST
UNLESS OTHERWISE NOTED
8'-0" TALL DOOR 1ST FLOOR
UNLESS NOTED OTHERWISE
ALL C.O.S. TO BE SQUARE
WORK* 2025-2025
SCALE: 1/4" = 1' 0"

PAGE #

3 OF 6



REAR ELEVATION



FRONT ELEVATION

BUILDER: RAYI DADI

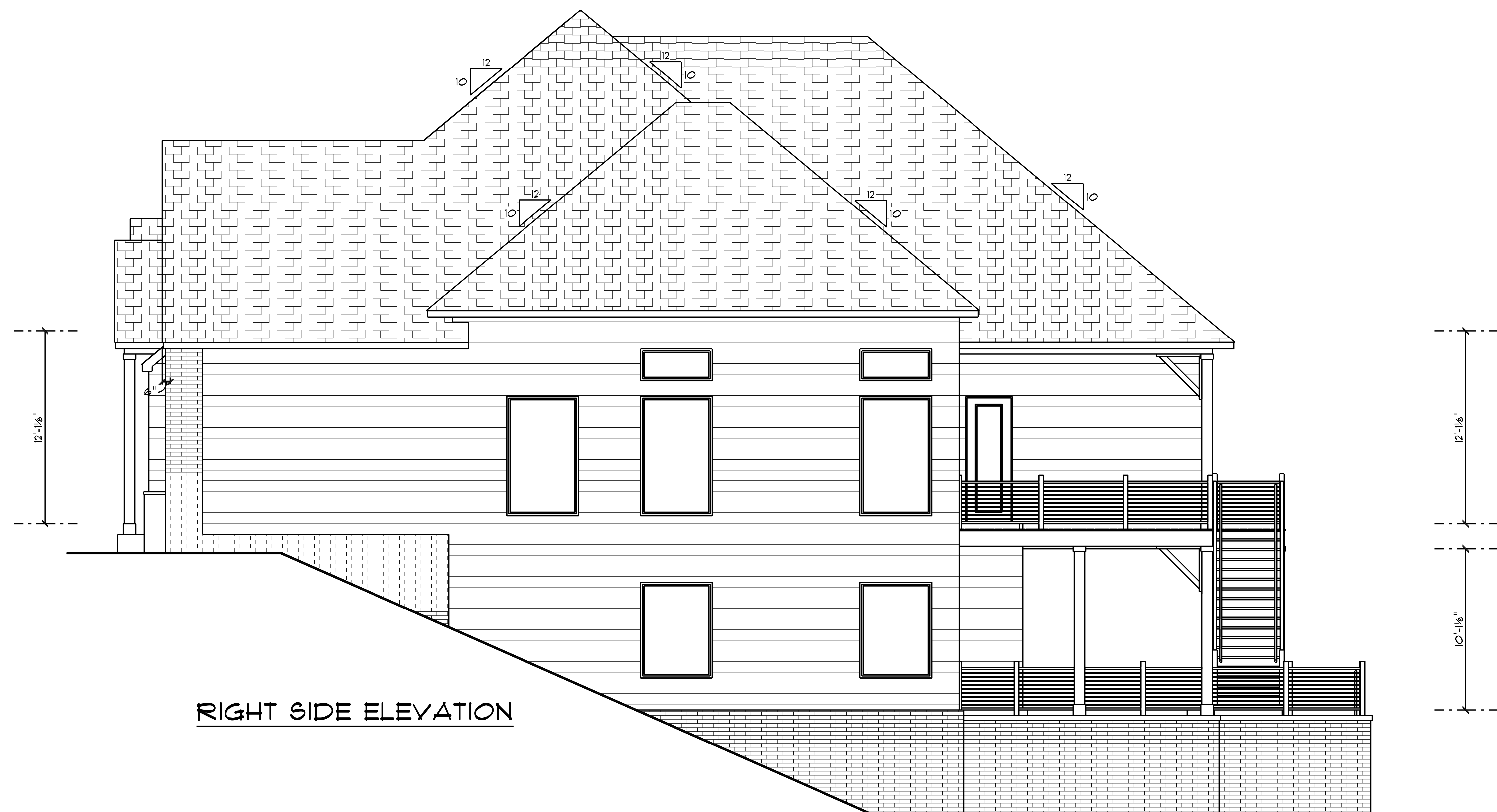
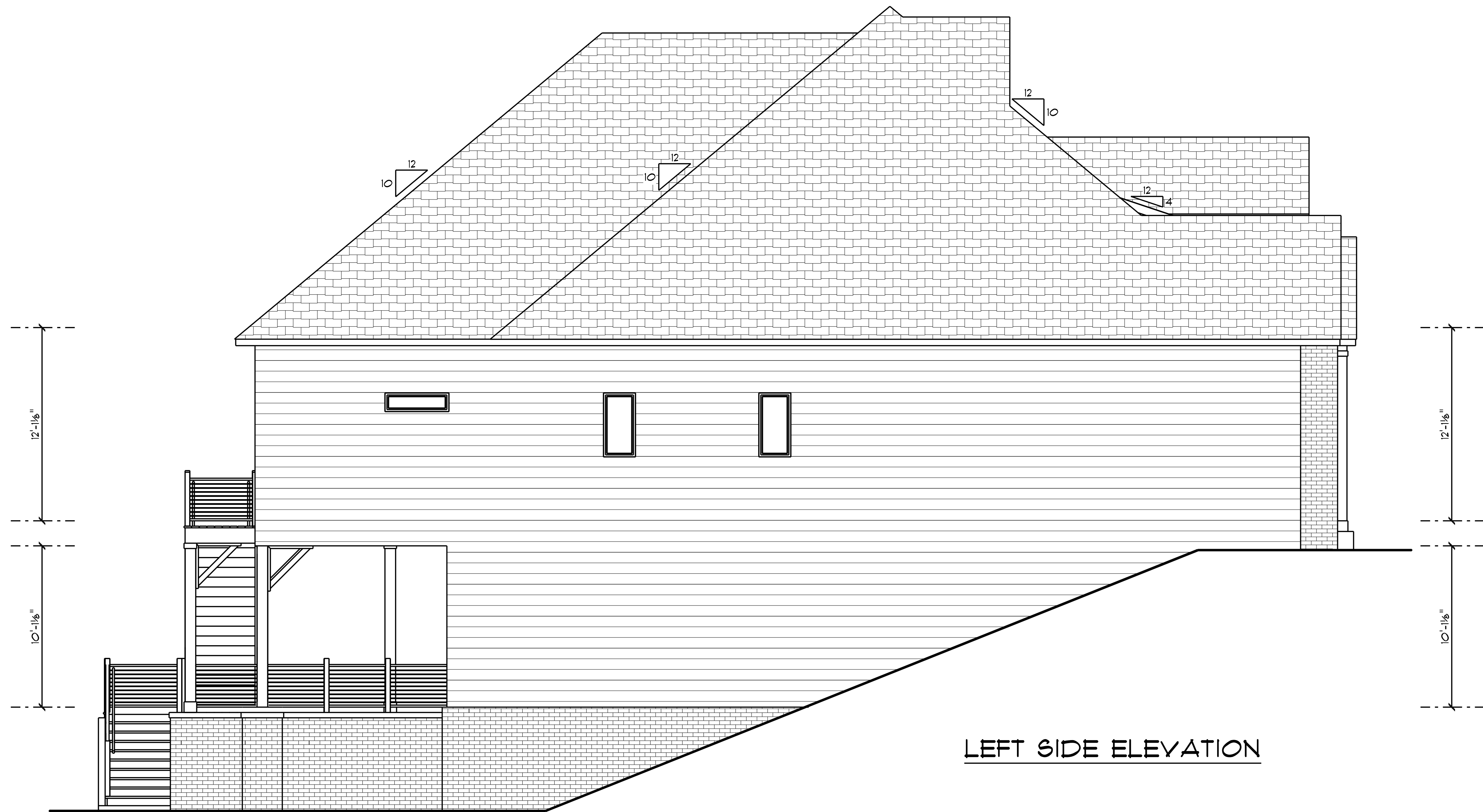
ELEVATIONS PLAN

AREAS:

NOTES:

PAGE #

4 OF 6



BUILDER: RAYI DADI

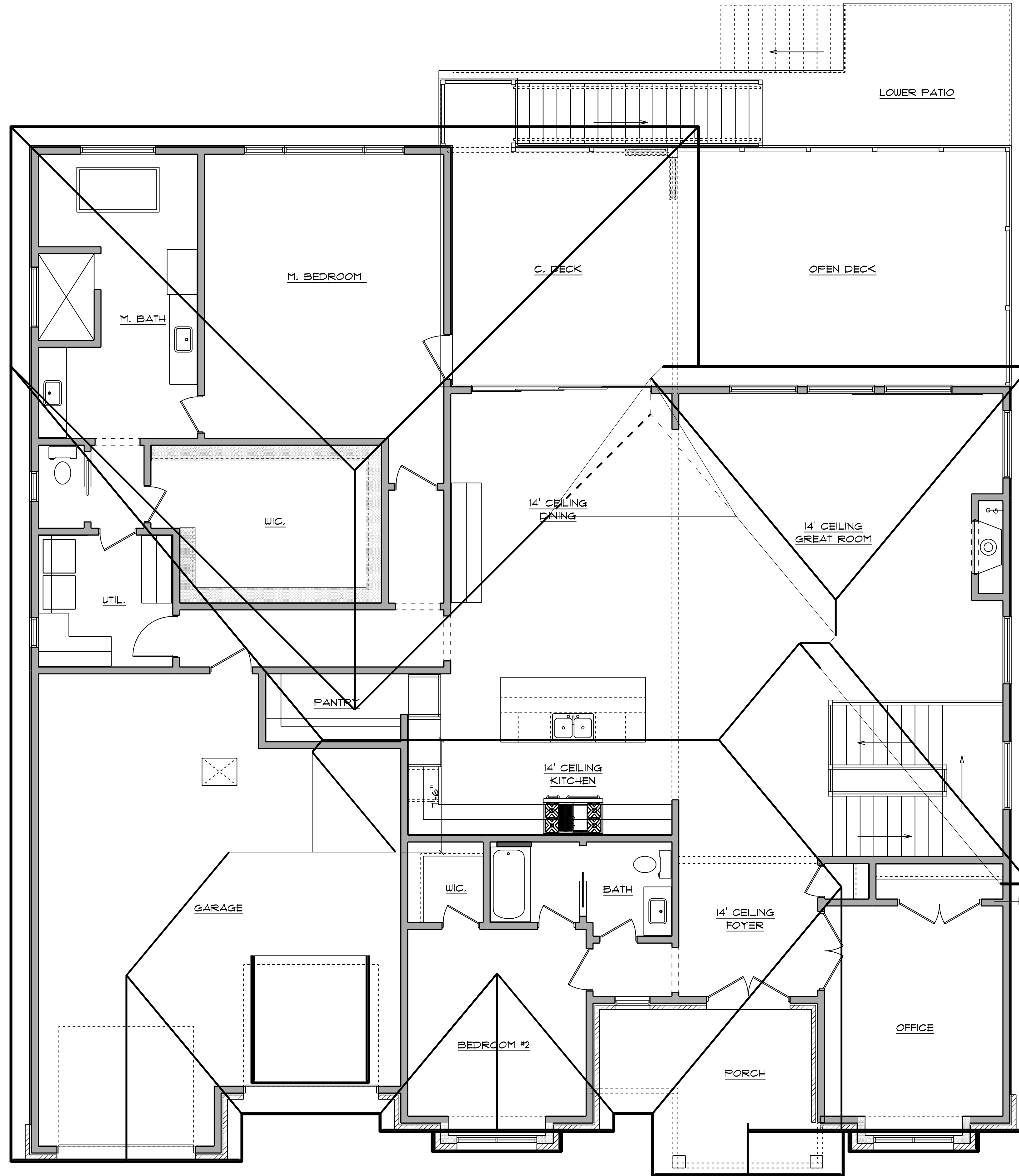
ELEVATIONS PLAN

AREAS:

NOTES:

PAGE #

5 OF 6



BUILDER: RAYI DADI

ROOF PLAN

AREAS:

NOTES:

PAGE #

6 OF 6



FOIA Changes with the 2025 Legislative Session

BOA Date: 7/23/2025

Staff Report Details

Project Number	2025-599
Applicant / Current Owner	
Site Area	+/- [Site_Area] Acres
Current Zoning	
Requested Zoning	
Current Future Land Use Map Designation	
Requested Future Land Use Map Designation	
Development Type / Use	
Related projects	

Property Description

Please find the link to SB 227 (Act 505)

here: <https://arkleg.state.ar.us/Home/FTPDocument?path=%2FACTS%2F2025R%2FPublic%2FACT505.pdf>

The video link with a summary of the changes can be found here starting at the 1hour 33 minute mark:

<https://bentonvillear.portal.civicclerk.com/event/1591/media>

Regulation

Variance Request

Background

Public Comment
Has Staff received Public Comment at the time of this report?: No

Conditions of Approval

Section 301.10.c, Standards of Approval, of the Zoning Code

Standards for approval. A variance from the terms of this chapter shall not be granted by the board of adjustment unless and until:

(1) The applicant demonstrates that:

- a. special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;
- b. that literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;
- c. that special conditions and circumstances do not result from the actions of the applicant; and,
- d. that granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

(2) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(3) The board of adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of land, building or structure.

(4) The board of adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(5) *Conditions.* In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

(6) *Uses.* Under no circumstances shall the board of adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.

2025 FOIA Update

Public Meetings

- ▶ Definition of Public Meeting: the formal gathering together, in a special or regular gathering, of a governing body, whether in person or remotely.
 - ▶ Public Meeting does not include: the gathering together, whether in person or remotely, of the members of the governing body to discuss the settlement of a cause of action in a court-ordered alternative dispute resolution process, including without limitation a settlement conference or mediation.
- ▶ Definition of Informal Meeting: the gathering of two (2) or more members of a governing body outside of a public meeting.
- ▶ Definition of Governing Body: the governing body of a public entity.
- ▶ Definition of Public Entity: A political subdivision of the state, including municipalities, counties, and boards of education.

2025 FOIA Cont. 1

- ▶ To lawfully hold a public meeting, the governing body shall ensure each of the following:
 - ▶ Prior notice of the public meeting has been provided as follows:
 - ▶ Notification is made at least three (3) days before the public meeting (unless it is an emergency meeting where at least two (2) hours of notice is required);
 - ▶ The time, place, and date of a public meeting shall be published online; and
 - ▶ The governing body shall furnish the most current agenda for a public meeting online, at least three (3) days prior.
 - ▶ The public meeting shall be recorded in a manner that allows for the capture of sound, including:
 - ▶ A sound-only recording;
 - ▶ A video recording with sound and picture; or
 - ▶ A digital or analog broadcast capable of being recorded.
 - ▶ If a member of the governing body attends a public meeting remotely, the remote portion of the public meeting shall be recorded in the format in which it is conducted.

2025 FOIA Cont. 2

- ▶ The public is permitted reasonable access to the public meeting, and the members of the governing body attend the meeting in the appropriate manner; and
- ▶ The public meeting is conducted in a manner that allows the public to attend and hear all of the governing body's meaningful discussion and deliberation on official business.
 - ▶ A governing body shall ensure that Arkansas residents have reasonable access to attend a public meeting, including through remote means, if such remote means are utilized by the governing body.

2025 FOIA Cont. 3

Attendance

- ▶ A member of the governing body shall be physically present at a public meeting to be counted for purposes of establishing a quorum or to vote.
- ▶ If the Governor declares a disaster emergency under State law, a governing body may conduct a public meeting remotely.
- ▶ Definition of Remotely: through electronic means, including without limitation by telephone, video conference, or video broadcast.

Executive Session

- ▶ An executive session shall be permitted only for the following purposes:
 - ▶ Considering the employment, appointment, promotion, demotion, disciplining, or resignation of any public officer or employee;
 - ▶ Discussing how the governing body will respond to an attack on or other breach of the cybersecurity of the public entity governed by the governing body; or
 - ▶ Considering, evaluating, or discussing matters pertaining to a public water system's security or municipally owned utility system's security pursuant to A.C.A. 25-19-105(b)(17).
 - ▶ Executive sessions shall not be called for the purpose of defeating the reason or spirit of the freedom of information act.
 - ▶ An Action taken in an executive session is void unless the governing body conducts a public vote on the matter discussed in the executive session at the conclusion of the executive session.

2025 FOIA Cont. 5

Communications of the Governing Body

- ▶ A member of the governing body shall not participate in a communication, whether oral, written, electronic, or otherwise, that:
 - ▶ He or she knows or reasonably should know is a poll; or
 - ▶ Occurs outside of a public meeting with another member of the governing body about a matter on which official action will foreseeably be taken by the governing body.
- ▶ Definition of Poll: A series of communications:
 - ▶ Between:
 - ▶ One (1) or more persons paid by a public entity or agents of employees of that public entity; and
 - ▶ One (1) or more members of the governing body of that public entity;
 - ▶ Concerning any matter on which official action will foreseeably be taken by the governing body;
 - ▶ To determine:
 - ▶ How the member of the governing body intends to vote; or
 - ▶ Whether the member of the governing body supports or opposes certain proposed action by the governing body; and
 - ▶ For the purpose of exercising a responsibility, authority, power, or duty of the governing body.

2025 FOIA Cont. 6

Violations

- ▶ It is a violation if a secretary or administrative assistant of a governing body communicates with one (1) or more members of the governing body to schedule a public meeting of the governing body, or set the agenda for a public meeting of the governing body, and the communication functionally conducts substantive business of the governing body concerning any matter on which official action would foreseeably be taken by the governing body.
- ▶ It is a violation if an employee or agent of a public entity communicates to a member of the governing body of the public entity:
 - ▶ How another member of the governing body intends to vote; or
 - ▶ Whether another member of the governing body supports or opposes a certain proposed action by the governing body
- ▶ It is a violation if a member of a governing body engages in any communication with one (1) or more members of the same governing body that constitutes deliberation as deliberation may only occur at a public meeting of the governing body.
- ▶ An informal meeting that includes deliberation or that is for the purpose of exercising a responsibility, authority, power, or duty of a governing body is strictly prohibited.

2025 FOIA Cont. 7

- ▶ Definition of Deliberation: An exchange of information or opinion between two (2) or more members of a governing body that:
 - ▶ Seeks, discloses, or inquires about a decision by a member of the governing body concerning any matter on which official action will be foreseeably be taken by the governing body; or
 - ▶ Solicits, discloses, or inquires about the support or opposition of a member of the governing body concerning any matter on which official action will foreseeably be taken by the governing body.

2025 FOIA Cont. 8

Not a Violation

- ▶ It is not a violation if a secretary or administrative assistant of a governing body communicates in writing with one (1) or more members of the governing body for the purpose of conducting a ministerial act, including without limitation, scheduling a public meeting of the governing body or setting the agenda for a public meeting of the governing body.
- ▶ It is not a violation if an employee or agent of a public entity communicates background and nondecisional information to one (1) or more members of the governing body of the public entity.
- ▶ It is not a violation if a member of a governing body communicates background and nondecisional information to one (1) or more members of the same governing body.
- ▶ Two or more employees or agents of a public entity may communicate for the purpose of exercising an authorized responsibility, authority, power, or duty of an employee or agent of the public entity outside of a public meeting.

2025 FOIA Cont. 9

- ▶ Definition of Background and Nondecisional Information: Information that is not deliberation.
- ▶ Definition of Deliberation (again): An exchange of information or opinion between two (2) or more members of a governing body that:
 - ▶ Seeks, discloses, or inquires about a decision by a member of the governing body concerning any matter on which official action will be foreseeably be taken by the governing body; or
 - ▶ Solicits, discloses, or inquires about the support or opposition of a member of the governing body concerning any matter on which official action will foreseeably be taken by the governing body.

2025 FOIA Cont. 10

Ramifications

- ▶ If a circuit court finds that a governing body is in violation, the circuit court may invalidate any action the governing body took at the unlawful public meeting.
- ▶ If a circuit court finds that a member of a governing body engaged in prohibited communication, or in a prohibited informal meeting, the circuit court may invalidate any action the governing body took that is the direct or indirect result of the prohibited communication or prohibited informal meeting.
- ▶ If a circuit court finds that a governing body, or member of a governing body, violated the Freedom of Information Act concerning the issuance of bonds, the circuit court may only invalidate the action by the governing body authorizing the issuance of bonds within thirty (30) days of the date the action occurred.
- ▶ If a circuit court finds that a governing body, or member of a governing body, violated the Freedom of Information Act concerning the issuance of bonds, after thirty (30) days of the date the action occurred, the governing body shall cure the violation within thirty (30) days after the circuit courts finding by:
 - ▶ Providing notice of the violation in compliance with the law;
 - ▶ Disclosing the violation at a public meeting; and
 - ▶ Authorizing the action in question at the public meeting.
- ▶ The circuit court shall impose a civil penalty of one thousand dollars (\$1,000.00) on each individual member of the governing body, up to the entire membership of the governing body, who the circuit court finds committed or was otherwise responsible for the violation.