



City of La Porte Zoning Board of Adjustment Meeting Agenda

Notice is hereby given of a **Regular Meeting** of the La Porte Zoning Board of Adjustment to be held on **February 23, 2012**, at **6:00 P.M.** at City Hall Council Chambers, 604 West Fairmont Parkway, La Porte, Texas, regarding the items of business according to the agenda listed below:

1. Call to order
2. Consider approval of December 29, 2011, meeting minutes.
3. Consider Variance Request #12-93000001 for the property located at 10 Bay Oaks Drive, further described as Lot 3, Block 14, Bay Oaks Subdivision, W. P. Harris Survey, Abstract No. 30, La Porte, Harris County, Texas. The applicant seeks to construct an accessory structure up to 20 feet high exceeding the height limit of 15', contrary to the provisions of Section 106-741 of the Code of Ordinances. The variance is being sought under the terms of Section 106-192 (b) (2) of the City's Code of Ordinances.
 - A. Staff Presentation
 - B. Proponents
 - C. Opponents
 - D. Proponents Rebuttal
4. Administrative Reports
5. Board Comments on matters appearing on agenda or inquiry of staff regarding specific factual information or existing policy
6. Adjourn

A quorum of City Council members may be present and participate in discussions during this meeting; however, no action will be taken by Council.

In compliance with the Americans with Disabilities Act, the City of La Porte will provide for reasonable accommodations for persons attending public meetings. To better serve attendees, requests should be received 24 hours prior to the meetings. Please contact Patrice Fogarty, City Secretary, at 281.470.5019.

CERTIFICATION

I certify that a copy of the February 23, 2012, agenda of items to be considered by the Zoning Board of Adjustment was posted on the City Hall bulletin board on the ____ day of _____, 2012.

Title: _____

Out of consideration for all attendees of the meeting, please turn off all cell phones and pagers, or place on inaudible signal. Thank you for your consideration.

MINUTES

**Zoning Board of Adjustment
Minutes of December 29, 2011**

Members Present: George Maltsberger, Rod Rothermel, Charles Schoppe, T.J. Walker, Lawrence McNeal (Alt. No 1), and Sherman Moore (Alt. No. 2).

Members Absent: Chester Pool.

City Staff Present: Traci Leach, Assistant City Manager; Tim Tietjens, Director of Planning; Masood Malik, City Planner; Knox Askins, City Attorney; and Shannon Green, Planning Assistant.

1. Call to Order.

Vice Chairman Rod Rothermel called the meeting to order at 6:00p.m.

2. Consider approval of the September 22, 2011, meeting minutes.

Motion by Rod Rothermel to approve the Minutes of September 22, 2011. Second by Sherman Moore. Motion carried.

Ayes: George Maltsberger, Rod Rothermel, Charles Schoppe, T.J. Walker, Lawrence McNeal (Alt. No 1), and Sherman Moore (Alt. No. 2).

Nays: None

Abstain: None

3. Consider Variance Request #11-93000011 for the property located at 1718 Roscoe Street, further described as 12.5 feet of Lot 13, all of Lots 14 through 24, Block 27, Bayfront Addition to the Town of La Porte, Johnson Hunter Survey, Abstract No. 35, La Porte, Harris County, Texas. The applicant seeks to construct an accessory structure up to 19 ½ feet high exceeding the height limit of 15', contrary to the provisions of Section 106-741 of the Code of Ordinances. The variance is being sought under the terms of Section 106-192(b) (2) of the City's Code of Ordinances.

Chairman Rod Rothermel opened the Public Hearing at 6:02pm.

A. STAFF PRESENTATION

Masood Malik, City Planner, presented staff's report. Mr. Malik informed the Board the applicant has been permitted and is developing a new residence with an attached garage and a detached garage on one acre of land located at 1718 Roscoe Ave. The attached garage is for automobiles, while the detached garage is for small, single person watercraft, lawn equipment, and other miscellaneous maintenance equipment.

In addition to these two structures, the owner is proposing to build a separate accessory structure to keep a larger boat on the property. The accessory building is intended to house and store the boat from public view.

The structure will be located in the rear corner of the lot more than 30 feet behind the main residence and has 10 foot setbacks at the rear and side property lines in an effort to retain the trees in close proximity. The square footage of the structure is 998 and does not occupy more than 25% of the total rear yard. Access to the accessory building will be from Lobit Ave.

In order for the owner to use this accessory structure to park his boat, while on the trailer, the door height must clear 14'-4". The accessory building design requires that the roof structure be raised above the door's clear height. Taking into account the framing, roof structure and 5:12 roof slope, the overall average roof height is 19'-6", which exceeds the maximum allowable by 4'6".

Nineteen public hearing notices were mailed to property owners within 200' of the subject property. The City received no response and two notices were returned undeliverable.

B. PROPONENTS

Owner representative, Mark Atkins of Masa Studio Architects, spoke in favor of the variance.

C. OPPONENTS

There were none.

D. PROPONENTS REBUTTAL

There were none.

Chairman Rod Rothermel closed the Public Hearing at 6:19pm.

Motion by Charles Schoppe to approve Variance Request #11-93000011 for the property located at 1718 Roscoe Street to construct an accessory structure up to 19 ½ feet high exceeding the height limit of 15'. Second by George Maltsberger. Motion carried.

Ayes: George Maltsberger, Rod Rothermel, Charles Schoppe, T.J. Walker, Lawrence McNeal (Alt. No 1), and Sherman Moore (Alt. No. 2).
Nays: None
Abstain: None

4. **Consider Variance Request #11-93000010 for Lots 13-18, 21-24, 29-32, 37-40, and 44-49, Block 2, Lakes at Fairmont Greens, Section 1, W. P. Harris Survey, A-30, La Porte, Harris County, Texas. The property owner seeks a reduction on the front building setback of the cul-de-sac lots from 20' to 15' in order to construct homes in accordance with building plans and specifications. The variance is being sought under the terms of Section 106-192(b) (2) of the City's Code of Ordinances.**

A. STAFF REPORTS

Masood Malik, City Planner, presented staff's report. D.R. Horton is the designated builder of this subdivision, otherwise known as Lakes at Fairmont Greens, Section 1 located at the intersection of Wharton Weems Blvd. and State Highway 146.

The applicant is seeking a variance reduction on the front building setback of the cul-de-sac lots from 20' to 15' in order to construct homes in accordance with building plans and specifications. In addition, building these homes with a variance will allow consistent product and will be more esthetically pleasing. Seven home plans are currently under review with the Inspections Division. Building permits will be issued pending approval of these building setbacks and other cleanup efforts from the developer.

Four public hearing notices were mailed to property owners within 200' of the subject property. The City received no response.

B. PROPONENTS

There were none.

C. OPPONENTS

There were none.

D. PROPONENTS REBUTTAL

There were none.

Chairman Rod Rothermel closed the Public Hearing at 6:29pm.

Motion by T.J. Walker to approve Variance Request #11-93000010 for Lots 13-18, 21-24, 29-32, 37-40, and 44-49, Block 2, Lakes at Fairmont Greens Section 1, for a reduction on the front building setback of the cul-de-sac lots from 20' to 15' in order to construct homes in accordance with building plans and specifications. Second by Sherman Moore. Motion carried.

Ayes: George Maltsberger, Rod Rothermel, Charles Schoppe, T.J. Walker, Lawrence McNeal (Alt. No 1), and Sherman Moore (Alt. No. 2).

Nays: None

Abstain: None

5. Administrative Reports

Tim Tietjens thanked the Board for their service.

6. Board Comments

Sherman Moore asked staff to review possible updates to ordinances. Staff will provide a report in the near future.

7. Adjourn

Vice Chairman Rod Rothermel adjourned the meeting at 6:36pm.

Submitted by,

Shannon Green
Secretary, Zoning Board of Adjustment

Approved on this ____ day of _____, 2012.

George Maltsberger
Chairman, Zoning Board of Adjustment

VARIANCE REQUEST

FOR

10 BAY OAKS

EXHIBITS:

STAFF REPORT

APPLICATION FOR VARIANCE

EXHIBIT A – AREA MAP

EXHIBIT B – SURVEY PLAN

EXHIBIT C – ACCESSORY STRUCTURE PLANS

EXHIBIT D – PHOTOS

EXHIBIT E - SECTION 106-741, CODE OF ORDINANCES

EXHIBIT F - PUBLIC NOTICE RESPONSE

(None received as to date)

Variance Request #12-93000001

- Requested by:** James R. Lattner, Property Owner
- Requested for:** Additional height of 5 ft. exceeding the maximum 15' allowed for an Accessory Structure
- Location:** 10 Bay Oaks
(Lot 3, Block 14, Bay Oaks Subdivision, W. P. Harris Survey, Abstract No. 30, La Porte)
- Zoning:** Low- Density Residential (R-1)
- Background:** The applicant is requesting an additional height of five feet for an accessory building exceeding the maximum fifteen feet allowed per Section 106-741(b) of the Code of Ordinances. The purpose is to construct a 21'x 24' detached workshop for his personal use. Proposed development is classified as an accessory structure and can be located in the rear yard per Code of Ordinances.
- Harris County Appraisal District (HCAD) record shows the house was built in 1927 along the Galveston Bay. The applicant bought this property in 2005. This property lies within the 100 - year flood plain Zone 'VE' & 'AE' per FIRM (Flood Insurance Rate Map) Panel No. 48201C1085J. Earlier, the applicant proposed garage/workshop combination to match with the primary structure. Upon review, it was determined that flood zones bisect a portion of garage with a 17' VE zone on one side of the line and a 14' AE zone on the other side. Per requirement, an entire structure needs to be designed for VE zone compliance.
- Under the circumstances, garage/workshop has been split into two separate structures. The garage has been permitted per 17'VE zone standards, while proposed shop or accessory structure will comply with 14' AE flood zone and will be elevated one foot above the 100-year floodplain for insurance and other obvious reasons. Therefore, average height of the proposed structure equals 20' above the natural grade, which exceed 5' over a 15' height restriction for an accessory structure per City's Code of Ordinances.
- Proposed building neither exceeds 1,000 sq. ft. of floor area nor occupies more than 25% of a rear yard in compliance with the Code of Ordinances. The applicant has stated that accessory building will be designed to aesthetically blend with the primary structure with same architectural style and will incorporate same building materials.
- Analysis:** Section 106-192(b)(1), in the Code of Ordinances, defines a *variance as a deviation from the literal provisions of the chapter which is granted by the Board when strict conformity to the chapter would cause an unnecessary hardship because of the circumstances unique to the property on which the variance is granted.*

Except as otherwise prohibited, the board is empowered to authorize a variance from a requirement when the board finds that all of the following conditions have been met.

- ❖ *That the granting of the variance will not be contrary to the best public interest.*
- ❖ *That literal enforcement of the chapter will result in unnecessary hardship because of exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional physical situation unique to the specific piece of property in question. "Unnecessary hardship" shall mean physical hardship relating to the property itself as distinguished from a hardship relating to convenience, financial considerations or caprice, and the hardship must not result from the applicant or property owner's own actions; and*
- ❖ *That by granting the variance, the spirit of the chapter will be observed.*

The Board is charged with determining if the applicant's variance request to Section 106-741, general provisions, is reasonable and whether all of the above conditions were met.

To determine if granting the applicant's request would be contrary to the general public, Staff considered the fact that garage and accessory building are proposed at the same time and both structures will be consistent in design. Staff also recognizes that the development of the property may not create a problem with adjoining properties. Adjoining properties are also single-family residential.

Whether the Board does or does not grant the applicant's request, development of detached garage will proceed after issuance of a City permit. However, the applicant wants to build an accessory structure as a part of an overall project.

When looking at the next test, Staff determined that granting the variance would still observe the spirit of the law. The spirit of the ordinance is assumed to be public safety. If one considers the spirit of the law is to ensure uniformity and property maintenance throughout the City. It does not appear that the applicant's request will create a negative impact to the property or the surrounding area.

The final test involves unnecessary hardship due to floodplain issues. Here, the applicant's request meets the physical hardship test, as the flood zone contours cut through a portion of the structure.

While aesthetic and view to the bay should be paramount public interest, preserving historical character should also be considered. With the construction of these two structures (garage and workshop), a view to this architectural style house and the bay will be obstructed. Spacious yard along Bay Oaks will be limited and workshop may interfere with a large tree in the yard as well.

Conclusion:

Variance Request seeks relief from building height for proposed accessory building in the rear yard, appears to be contrary to the City's Code of Ordinances. The circumstance, however, for the requested variance request is due to flood zone issues associated with this property.

While the reasons for the variance relating to the height of the building do not strictly conform to "physical hardship relating to the property itself" may be taken into consideration when rendering a decision. The applicant's variance request may appear to meet the spirit of the Ordinance.

While recognizing the grounds for the request associated with the property, the Board could consider:

- Allowing an accessory building to be 20' in height, in excess of the 15' allowed by ordinance (variance granted).
- Deny the variance for an accessory building to be 20' in height, over the limit allowed by the ordinance.

Appeals:

*As per Section 106-196 of the Code of Ordinances of the City of La Porte:
Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board or bureau of the city may present to a court of record a petition for a writ of certiorari, as provided by V.T.C.A., Local Government Code Section 211.011, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten days after the filing of the decision in the office of the Board of Adjustment.*

A variance is a “deviation from the literal provisions of the Zoning Ordinance.” The City’s Board of Adjustments may NOT grant a variance that does not meet all of the following conditions:

- 1) The variance must not be contrary to the public interest.
- 2) Literal enforcement of the Zoning Ordinance must result in a hardship. This hardship must be unique to the property in question. Property that is undevelopable due to its unusual shape, narrowness, shallowness, or topography constitutes the primary example of hardship. Hardships that are financial in nature or due to the owner’s actions cannot be granted.
- 3) Granting the variance must not violate the spirit of the Zoning Ordinance.
- 4) No variance that allows a use that is prohibited within the Use zone in question may be granted. For example, a variance allowing a commercial use in a residential zone is not allowable.

Please remember it is the Applicant’s responsibility to prove that a variance will meet the above conditions.

If there is not adequate room on the remainder of this form to list all pertinent information, please feel free to attach an additional letter or any information and exhibits you feel the Board should consider.

FACTS RELEVANT TO THIS MATTER:

I am building a Garage and Workshop at my residence at 10 Bay Oaks. The house was built in 1927, and the detached garage fell down in the early 2000’s, before I bought the property in 2005. I have been rebuilding the house in the “Arts and Crafts” architectural style that was predominant in that era. I designed a single structure garage/workshop combination to match the architectural style. Upon review of the plans with Rodney Slayton, we discovered that a flood zone contour cuts through a portion of the garage, with a “17 ft VE” zone on one side of the line, and a “14 ft AE” zone on the other. Even though only a small portion of the structure was in the “V” zone, the requirement is for the entire structure to be designed according to “V” zone requirements. The “V” zone requires break-away wall construction, making an attractive Arts and Crafts architectural style difficult.

I was able to re-design the garage to meet the “V” zone requirements with breakaway walls, but was not able to come up with a breakaway wall design that would satisfy my architectural appearance requirements for the workshop. Furthermore, I wished to elevate the workshop about 3 ft above the natural grade, so that it would be at 15 ft above sea level and above the level that hurricane Ike had reached (about 13.5’ at my location). This would also put the workshop completely out of the “14 ft AE” flood zone, which is very desirable to me for insurance and other obvious reasons.

The best solution that Rodney and I came up with was to separate the workshop from the garage, building separate structures. The garage is built to the “V” zone standard, while the workshop is built in the “AE” zone and would be elevated one foot above the 100 yr flood level.

The problem created by this solution is that the workshop, which has been classified as an auxiliary building, has a 15’ height restriction above the natural grade. Because of my desire to elevate the workshop out of the flood plain, the height is about 17’ above the natural grade.

20’
JRL

TYPE OF RELIEF BEING SOUGHT:

JRL

I would like to obtain a variance, allowing me to build the workshop at an elevation above the flood plain, with the overall height (to half-way up the gable) of about 20 ft above the natural grade. This is a deviation from the 15 ft height requirement for auxiliary structures.

THE GROUNDS FOR THE REQUESTS:

My situation is unusual because of the "V" flood zone contour, causing me to build separate structures for the garage and workshop. Had I been able to combine the structures into a single structure, the overall height would have been within the 20 ft allowable for a garage and no variance would have been needed.

Furthermore, if I were to be required to stay within the 15 ft height requirement, I would have to place the workshop at grade, putting it in the flood plain. This would not be in my best interest, nor do I think it would be in the City of La Porte's best interest to have additional investment within the flood plain.

Further still, from the street view the workshop and garage will appear as a single structure. The main residence is about 30 ft above natural grade and will still dominate the profile as viewed from the street. As can be seen from the attached drawings, the structure will be an attractive Arts and Crafts architectural style, matching that of the main residence.



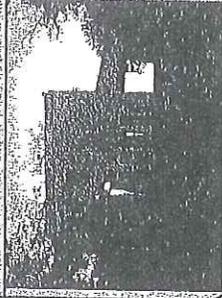
1 inch = 100 feet

LOCATION OF PROPERTY

CF NO. 05132377 STEWART TITLE
 ADDRESS: 10 BAY OAKS ROAD
 LA PORTE, TEXAS 77571
 BORROWER: JAMES LATTNER

**LOT 3 BLOCK 14
 BAY OAKS**

ACCORDING TO THE MAP OR PLAT THEREOF RECORDED
 IN VOLUME 10, PAGE 9 OF THE MAP RECORDS
 OF HARRIS COUNTY, TEXAS.



THIS PROPERTY LIES WITHIN THE
 100 YEAR FLOOD ZONE PER FRM
 PANEL NO. 48201C 1005 J
 MAP REVISION: 11-06-1996
 BASED ONLY ON VISUAL EXAMINATION OF MAPS,
 INACCURACIES OF FEMA MAPS PREVENT EXACT
 DETERMINATION WITHOUT DETAILED FIELD STUDY.

A SUBSURFACE INVESTIGATION
 WAS BEYOND THE SCOPE OF THIS SURVEY

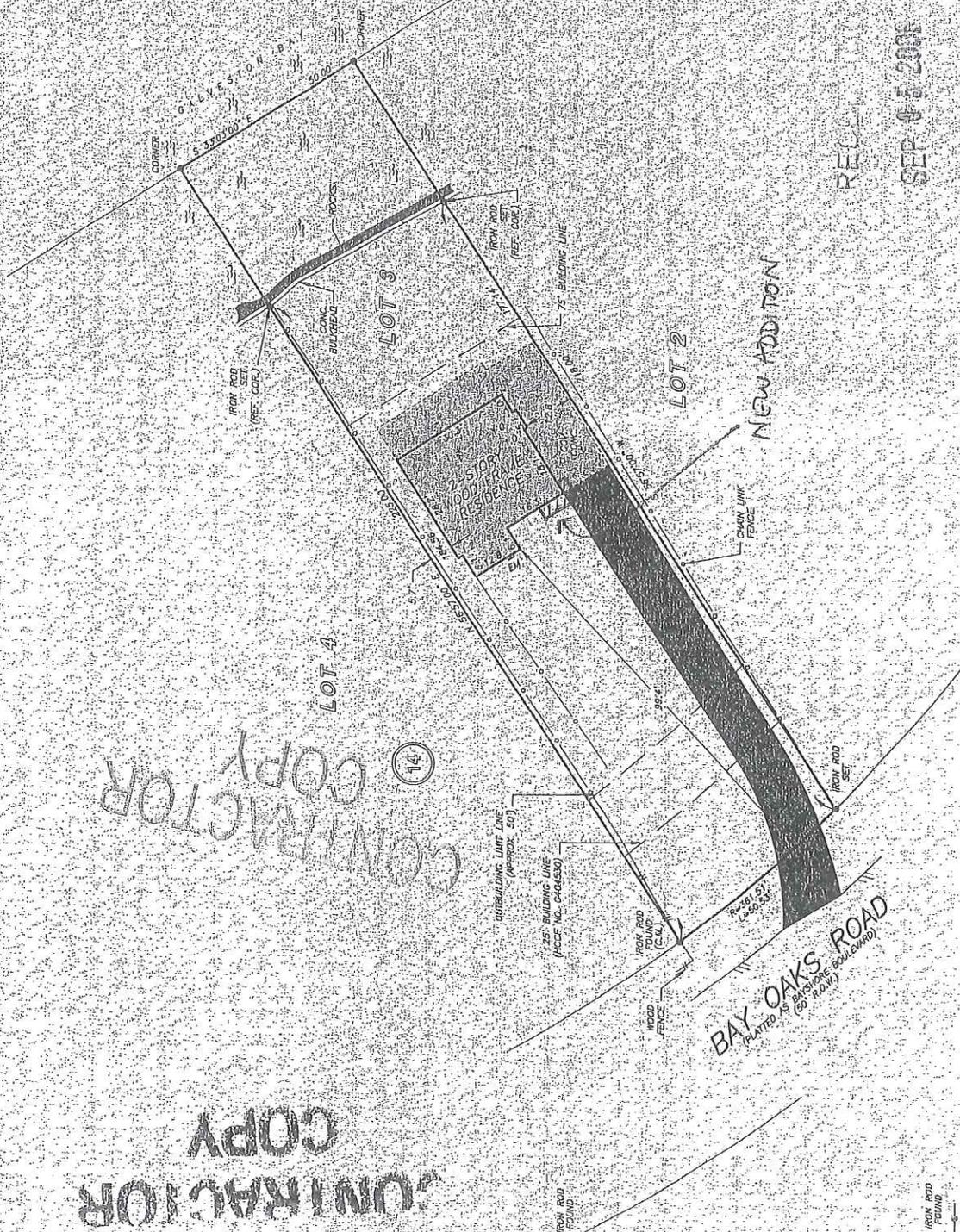
RECORD BEARING: VOL. 10, PG. 9, H.C.M.R.
 I HEREBY CERTIFY THAT THIS SURVEY WAS MADE
 ON THE GROUND, THAT THIS PLAT CORRECTLY
 REPRESENTS THE FACTS FOUND AT THE
 TIME OF THE SURVEY, AND THAT THERE ARE NO
 ENCUMBRANCES APPARENT ON THE GROUND,
 EXCEPT AS SHOWN HEREON. THIS SURVEY IS
 CERTIFIED FOR THIS TRANSACTION ONLY AND
 DOES NOT CONSTITUTE A COMMITMENT TO BE
 REFERENCED TITLE COMMITMENT WAS MADE
 UPON IN PREPARATION OF THIS SURVEY.

ALLEN D. HUGHES
 PROFESSIONAL LAND SURVEYOR
 NO. 38915
 EXPIRES 12-31-12-30
 DECEMBER 27, 2005



DRAWN BY: 1

SCALE: 1" = 30'



REC'D
 SEP 08 2005

James Lattner

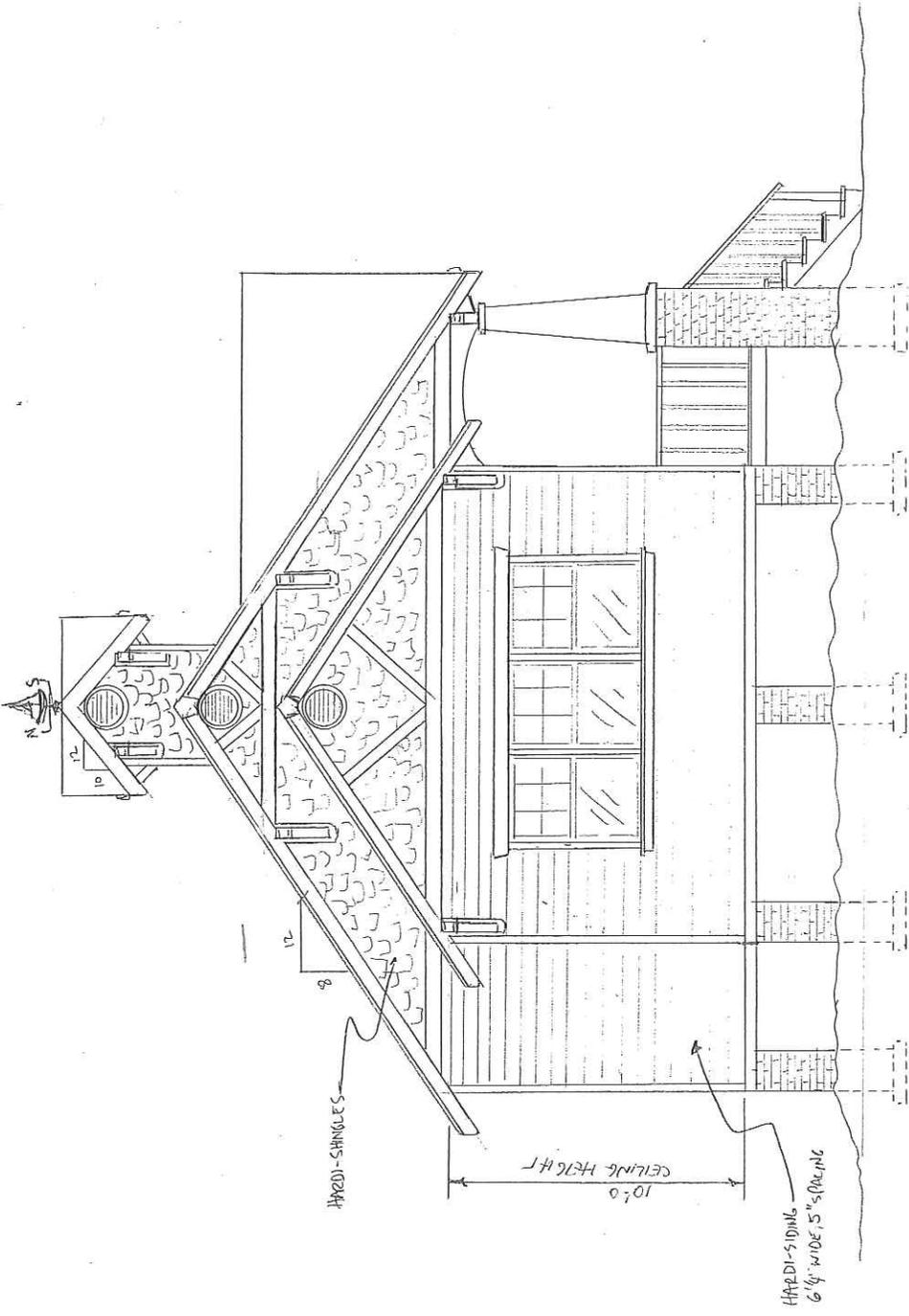


stewart
 -the-
 REHONDA TRAIL
 281-488-6683

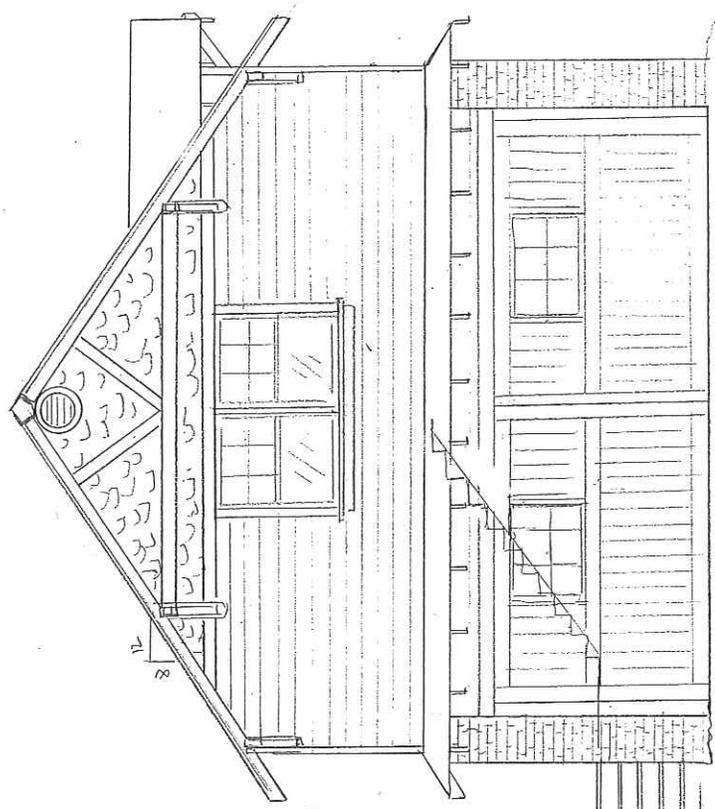
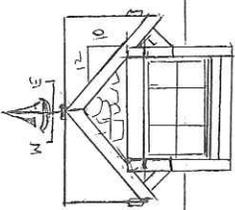
PRECISION SURVEYORS, INC.

1-800-LANDSURVEY
 1-800-526-3747
 14925 MEGROW
 SUITE 8100 HOUSTON, TEXAS 77079

EXHIBIT B



WORKSHOP ELEVATION
LOOKING EAST
(VIEW FROM STREET)
SCALE 1/4" = 1'-0"



EXIST GRADE

EXIST GRADE

WORKSHOP + GARAGE
 ELEVATION LOOKING NORTH
 SCALE 1/4" = 1'-0"



J.R. LATTNER
 10 BAY DAKS
 GARAGE / WORKSHOP PROJECT
 JRL 12/14/11







DIVISION 2. ACCESSORY BUILDINGS, USES AND EQUIPMENT

Sec. 106-741. General provisions.

(a) No accessory buildings, uses or structures shall be erected or located in any required yard other than the rear yard except:

- (1) A detached private garage as defined, may be permitted in side yards, provided:
 - a. It complies with all the requirements of this section;
 - b. It shall be five feet or more from side lot lines; and
 - c. The side yard does not abut a street right-of-way.
- (2) Accessory buildings built on a skid foundation, no larger than 120 square feet and no more than one story in height may be located in utility easements in required rear yards, except that they may not be located closer than three feet from a side or rear property line or closer than six feet from any other structure.

(b) Accessory buildings, uses and structures shall not exceed 15 feet in height, shall be three feet or more from all lot lines, shall be six feet or more from any other building or structure on the same lot, and shall not be located upon any utility easement.

(c) Private garage structures with vehicular access doors facing public alleys, as defined in the public improvement construction policy and standards, shall be 20 feet or more from the alley right-of-way. Detached garages located in rear yards of corner lots shall be set back a minimum ten feet from the property line abutting the side street right-of-way.

(d) Detached private garages, as defined, may be 20 feet in height, or the height of the principal structure, whichever is less.

(e) Floor area.

- (1) *Generally.* No accessory building, or carport garage for single-family dwellings shall occupy more than 25 percent of a rear yard, nor exceed 1,000 square feet of floor area.
- (2) *Large lot residential only.* Accessory buildings in single-family residential large lots may not exceed 2,000 square feet of floor area. Accessory buildings with a floor area in excess of 1,000 square feet must be located at least 30 feet from any property line and 30 feet behind the rear of the primary structure.

(f) No permit shall be issued for the construction of more than one detached private garage or carport structure for each dwelling.

(g) Wind generators, for producing electricity or other forms of energy shall not be located in any yards other than the rear yard and must be set back 150 feet from all property lines or the height of the structure, whichever is greater.