



City of La Porte Zoning Board of Adjustment Meeting Agenda

Notice is hereby given of a **Regular Meeting and Public Hearing** of the La Porte Zoning Board of Adjustment to be held on **September 22, 2011**, 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 August 25, 2011, meeting minutes.
3. Consider Variance Request #11-93000009 for the property located at 217 Sylvan Street, further described by the Harris County Appraisal District as Lot 12, Block 3, Sylvan Beach First Subdivision, Volume 3, Page 72, Map Records of Harris County, Johnson Hunter Survey, Abstract No. 35, La Porte, Harris County, Texas. Barbra and Cletus Sheppard, property owners, seek a variance to build a two foot high deck with handicapped ramp over one foot height limits in the front yard, contrary to the provisions of Section 106-771 of the Code of Ordinances. This variance is being sought under the terms of Section 106-192(b) (2) of the Code of Ordinances.
 - A. Staff Presentation
 - B. Proponents
 - C. Opponents
 - D. Proponents Rebuttal
4. Close Public Hearing
5. Administrative Reports
6. Board Comments on matters appearing on agenda or inquiry of staff regarding specific factual information or existing policy
7. 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 September 22, 2011, agenda of items to be considered by the Zoning Board of Adjustment was posted on the City Hall bulletin board on the ____ day of _____, 2011.

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 August 25, 2011**

Members Present: George Maltsberger, Charles Schoppe, Chester Pool, T.J. Walker, and Lawrence McNeal (Alt. No 1).

Members Absent: Rod Rothermel, and Sherman Moore (Alt. No. 2).

City Staff Present: Traci Leach, Assistant City Manager; Masood Malik, City Planner; Clark Askins, City Attorney; Shannon Green, Planning Assistant.

1. Call to Order.

Chairman George Maltsberger called the meeting to order at 6:00 p.m.

2. Consider approval of the July 28, 2011, meeting minutes.

Motion by Charles Schoppe to approve the Minutes of July 28, 2011. Second by Lawrence McNeal. Motion carried.

Ayes: George Maltsberger, Charles Schoppe, Chester Pool, T.J. Walker, and Lawrence McNeal (Alt. No 1).

Nays: None

Abstain: None

3. Consider Variance Request #11-93000007 for the property located at 916 Seabreeze Avenue, further described by the Harris County Appraisal District as Lot 20, Parkway Block of Bay Shore Park, Volume 10, Page 22, Johnson Hunter Survey, Abstract No. 35, La Porte, Harris County, Texas. Richard Sparks, property owner, seeks a variance to reduce the rear building setback from 15' to 13'5" for an existing structure, contrary to the provisions of Section 106-333, Table B, of the Code of Ordinances. This variance is being sought under the terms of Section 106-192(b) (2) of the Code of Ordinances.

Chairman Maltsberger opened the Public Hearing at 6:03.

A. STAFF PRESENTATION

Masood Malik, City Planner, presented staff's report.

Twenty-seven public hearing notices were mailed to property owners within 200' of the subject property. The City received one response in favor and one was returned undeliverable.

B. PROPONENTS

Applicant Richard Sparks, spoke in favor variance 11-93000007.

C. OPPONENTS

There were none.

D. PROPONENTS REBUTTAL

There were none.

Motion by Charles Schoppe to approve Variance Request #11-93000007, for the property located at 916 Seabreeze to reduce the rear yard setback from 15' to 13'5" for an existing structure. Second by Lawrence McNeal. Motion carried.

Ayes: George Maltsberger, Charles Schoppe, Chester Pool, T.J. Walker, and Lawrence McNeal (Alt. No 1).

Nays: None

Abstain: None

4. Close Public Hearing

Chairman Maltsberger closed the public hearing at 6:09pm.

5. **Consider Variance Request #11-93000008 for the property located at 230 South Idaho Street, further described by the Harris County Appraisal District as Lots 26-29, Block 62, Bay Front to La Porte, Johnson Hunter Survey, Abstract No. 35, La Porte, Harris County, Texas. Rafael Aroca, property owner, seeks a variance to allow construction of a storage building in the side yard, contrary to the provisions of Section 106-741 of the Code of Ordinances. This variance is being sought under the terms of Section 106-192(b) (2) of the Code of Ordinances.**

Chairman Maltzberger opened the Public Hearing at 6:10pm.

A. STAFF PRESENTATION

Masood Malik, City Planner, presented staff's report.

Twenty public hearing notices were mailed to property owners within 200' of the subject property. The City received one returned undeliverable.

B. PROPONENTS

Applicant Rafael Aroca, spoke in favor of variance 11-93000008.

C. OPPONENTS

There were none.

D. PROPONENTS REBUTTAL

There were none.

Motion by Chester Pool to approve Variance Request #11-93000008, for the property located at 230 South Idaho to allow construction of a storage building in the side yard. Second by Charles Schoppe. Motion carried.

Ayes: George Maltzberger, Charles Schoppe, Chester Pool, T.J. Walker, and Lawrence McNeal (Alt. No 1).
Nays: None
Abstain: None

6. Close Public Hearing

Chairman Maltzberger closed the public hearing at 6:20pm.

7. Administrative Reports

The Planning and Zoning Commission is currently working with consultant on the Comprehensive Plan Update. The Commission reviewed Chapter 1 and Chapter 2 will be presented at the September 15th Planning & Zoning Commission Meeting.

The City is currently working with the perspective consultant on updating the Northside Neighborhood Plan which is about 10 years old.

8. Board Comments

Chairman Maltzberger requested staff to follow up on the maintenance of the Hwy 146 landscaping at the intersection. Masood Malik will contact TXDOT and update the board members.

9. Adjourn

Motion by Charles Schoppe to adjourn. Second by Lawrence McNeal. Motion Carried.

Ayes: George Maltzberger, Charles Schoppe, Chester Pool, T.J. Walker, and Lawrence McNeal (Alt. No 1).
Nays: None
Abstain: None

Chairman George Maltsberger adjourned the meeting at 6:26pm.

Submitted by,

Shannon Green
Secretary, Zoning Board of Adjustment

Approved on this ____ day of _____, 2011.

George Maltsberger
Chairman, Zoning Board of Adjustment

VARIANCE REQUEST

FOR

217 SYLVAN STREET

EXHIBITS:

STAFF REPORT

APPLICATION FOR VARIANCE

EXHIBIT A – AREA MAP

EXHIBIT B – SURVEY PLAN

EXHIBIT C - SECTION 106-771, CODE OF ORDINANCES

EXHIBIT D - PUBLIC NOTICE RESPONSE

(None received as to date)

Variance Request #V11-93000009

Requested by: Barbara and Cletus Sheppard (Property Owners)

Requested for: A two foot high deck with handicapped ramp exceeding one foot over the height limits in the front yard of Lot 12, Block 3, Sylvan Beach First Subdivision, La Porte, Harris County, Texas.

Location: 217 Sylvan Street

Zoning: Low Density Residential (R-1)

Background: Per the Harris County Appraisal District (HCAD) record, this residential single-family house was built in 1950 with land area of 7,400 S. F. The primary residence is a one story frame house on blocks with a total living area of 1,196 S. F.

Applicants are proposing a 15’x20’ deck with handicapped ramp in front of the house. The deck will be located within 25’ front building setback and will be built two foot high above the height of the exterior finished grade elevation. Per the applicants, the reason for building higher is to have safe access in and out for a confined wheelchair person.

As per Section 106-771 of the Code of Ordinance, deck shall not extend more than one foot above the height of the exterior finish grade. Upon a request for building permit, it is found that the bottom part of the deck is one foot above the height limits and is not allowed by the ordinance.

This variance request seeks to allow a two foot high deck with handicapped ramp to build in the front yard. The owners submitted specifications/ plans for a proposed deck and stated that a deck will be a finished out structure with all the trim work matching the house. In addition, it would serve as a safe access for a handicapped person in the house.

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.*

Definition:

In general, a deck is a flat surface capable of supporting weight, similar to a floor, but typically constructed outdoors, often elevated from the ground, and usually connected to a building.

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.

In determining if granting the applicant’s request would be contrary to the public interest, Staff recognizes that the development of the deck may not create a visual obstruction issue with the adjoining properties.

A survey of surrounding properties shows that this non-compliance with the ordinance is common to the neighborhood. In viewing the specific grounds for granting a variance, Staff points out that the condition, as it exists, was the “...result of the applicant or property owner’s own actions...” contrary to the provisions of Section 106-192. We also find no grounds to justify “...unnecessary hardship because of exceptional narrowness, shallowness, shape topography, or other **extraordinary** or exceptional physical situation **unique** to the property in question.” This property represents a typical example of standard lots on the curve within subdivisions throughout the City.

Conclusion:

Variance Request #V11-93000009, which seeks a variance for 1’ over the height limit, by allowing proposed deck with handicapped ramp to build in the front yard, is contrary to the provisions of the Code of Ordinances. In addition, the parameters for the requested variance appear to meet the provisions established by Section 106-192.

While recognizing the circumstances associated with the physical situation of the property owner, the Board could consider:

- Allowing a deck to be built two foot high, over the height limits (variance granted).
- Allowing the owner to comply with the requirement of the ordinance (variance denied).

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.

CITY OF LA PORTE
ZONING BOARD OF ADJUSTMENT
VARIANCE REQUEST

OFFICE USE ONLY: Fee: \$150.00
Application No.: 1-93000009
Date Received: 8-24-11
Receipt No.:

Note: This Fee is Non-Refundable Regardless of the Board's Decision

Applicant: Barbara + Melus Sheppard
Name
4434 Green Tee Dr. Raytown, 77521 281-435-1682
Address Phone

I am the owner of the herein described property. I have authorized _____
to act on my behalf in this matter.

Owner*: Melus + Barbara Sheppard
Name
217 Sylvan LaPorte 77571 281-435-1682
Address Phone

I am requesting a variance to Sect. _____ of the City Zoning regulations Chapter 106 of the
Code of Ordinance.
I am requesting this variance for property located at 217 Sylvan St
Street Address

Legal Description

- Site Plan
- Major Development Site Plan
- Minor Development Site Plan
- General Plan

A Site Plan of the property is attached. Also, I have listed the information requested below on the
following pages of this form.

- a) All facts concerning the matter that has led up to this request.
- b) The type of relief I am seeking (setbacks, lot coverage, etc.).
- c) The grounds upon which I am making this request.

* If applicant is NOT the owner, he must provide Authorization to act on the Owner's behalf.

8/26/11
Date
Barbara Sheppard
Applicant's Signature

Office Use Only
Site Plan and Authorization (if applicable) attached? Yes () No ()
Date transmitted to the Board of Adjustments: _____
Meeting Date: _____ Applicant Notified of Date: _____
Notice to surrounding property owners- Date: _____
Board's Decision: Approved () Denied ()
Notice of Boards Decision mailed to Applicant/Owner: _____

TYPE OF RELIEF BEING SOUGHT:

We want to build a 20' by 15' deck with
handicapped ramp for access into home

THE GROUNDS FOR THE REQUESTS:

The owner needs safe access in & out of
home (confined to wheel chair)



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Estimate Prepared for:

TOMMY TOMMY
//////
BAYTOWN, TX 77521
2812457374

Store Information:

6507 - 4915 GARTH ROAD #6507
BAYTOWN, TX 77521
(281) 428-5091

Estimate Created: 08/25/2011

Days Valid: 14

Estimate Prepared by:

JAMES

Decks Total Price (pre-tax):

\$2,172.59

"Please take this quote to the Contractor Services or Special Services Desk."

"Products and prices shown online may vary from those at The Home Depot store near you. Prices shown on this quote may be different due to changes in product availability and market conditions. Prices for identical items may also vary from store to store."

"Los productos y precios demostrados en linea pueden variar de los en el almacen The Home Depot cerca de usted. Los precios demostrados en esta cotizacion pueden ser diversos debido a los cambios en condiciones de la disponibilidad y del mercado del producto. Los precios para los articulos identicos pueden tambien variar de almacen al almacen."

"* Special Order Items where price is not included in total - Please take to The Home Depot Special Services Desk for a price quote."

"* Los Articulos de la Orden Especial donde el precio no se incluye en total - Favor de llevar a la Mesa de Servicios Especiales del Home Depot para una cotizacion del precio."

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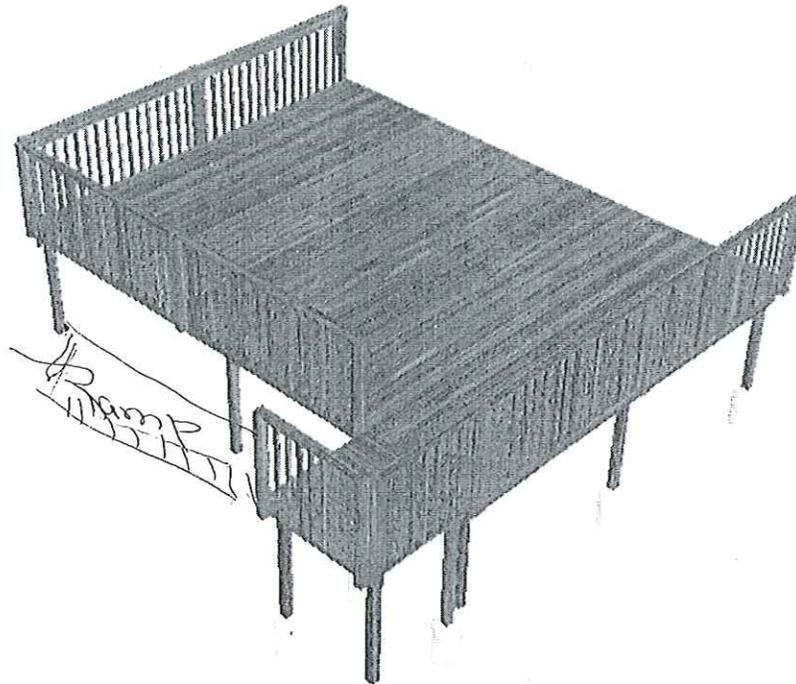
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3D View



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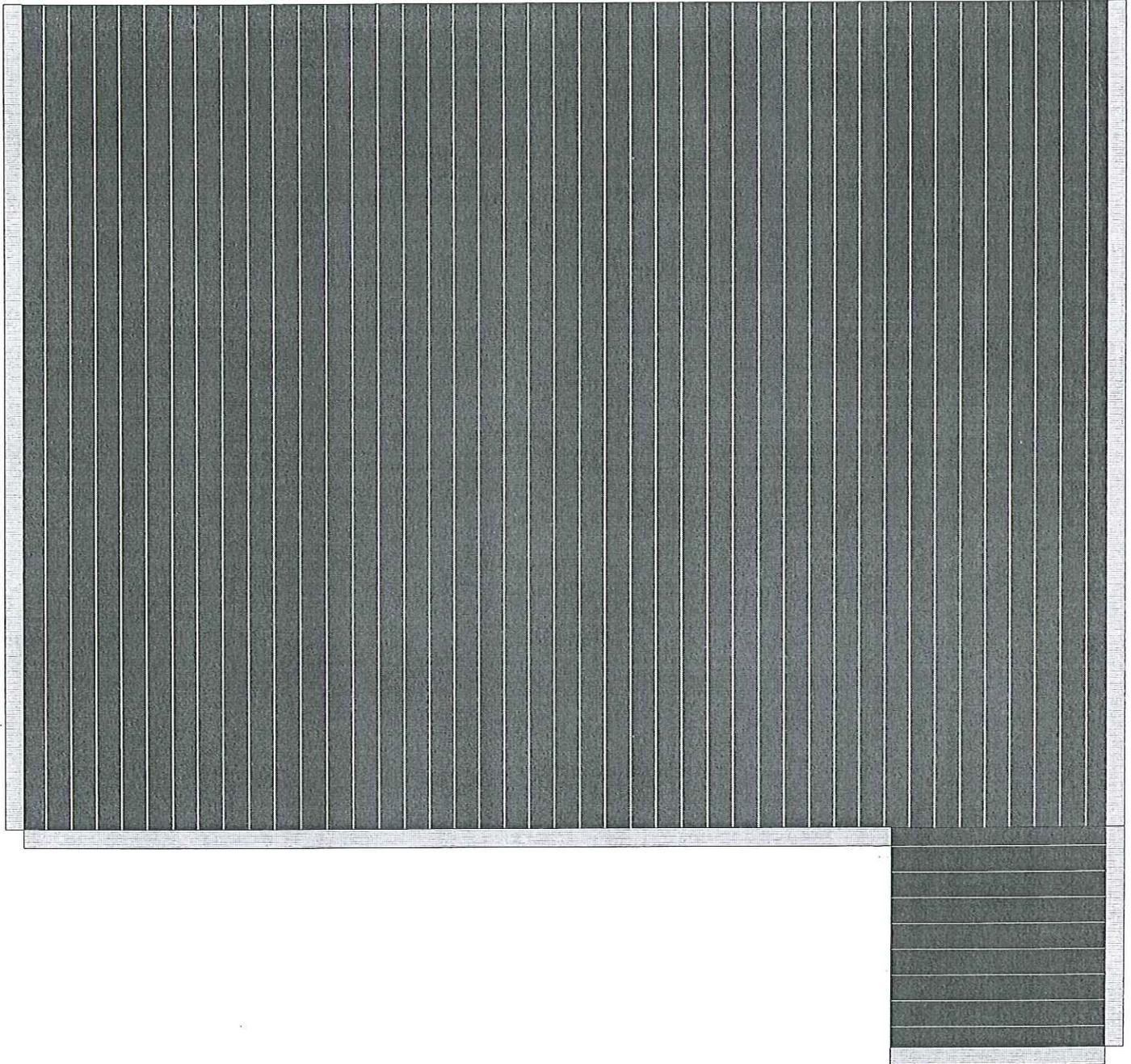
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Plan View



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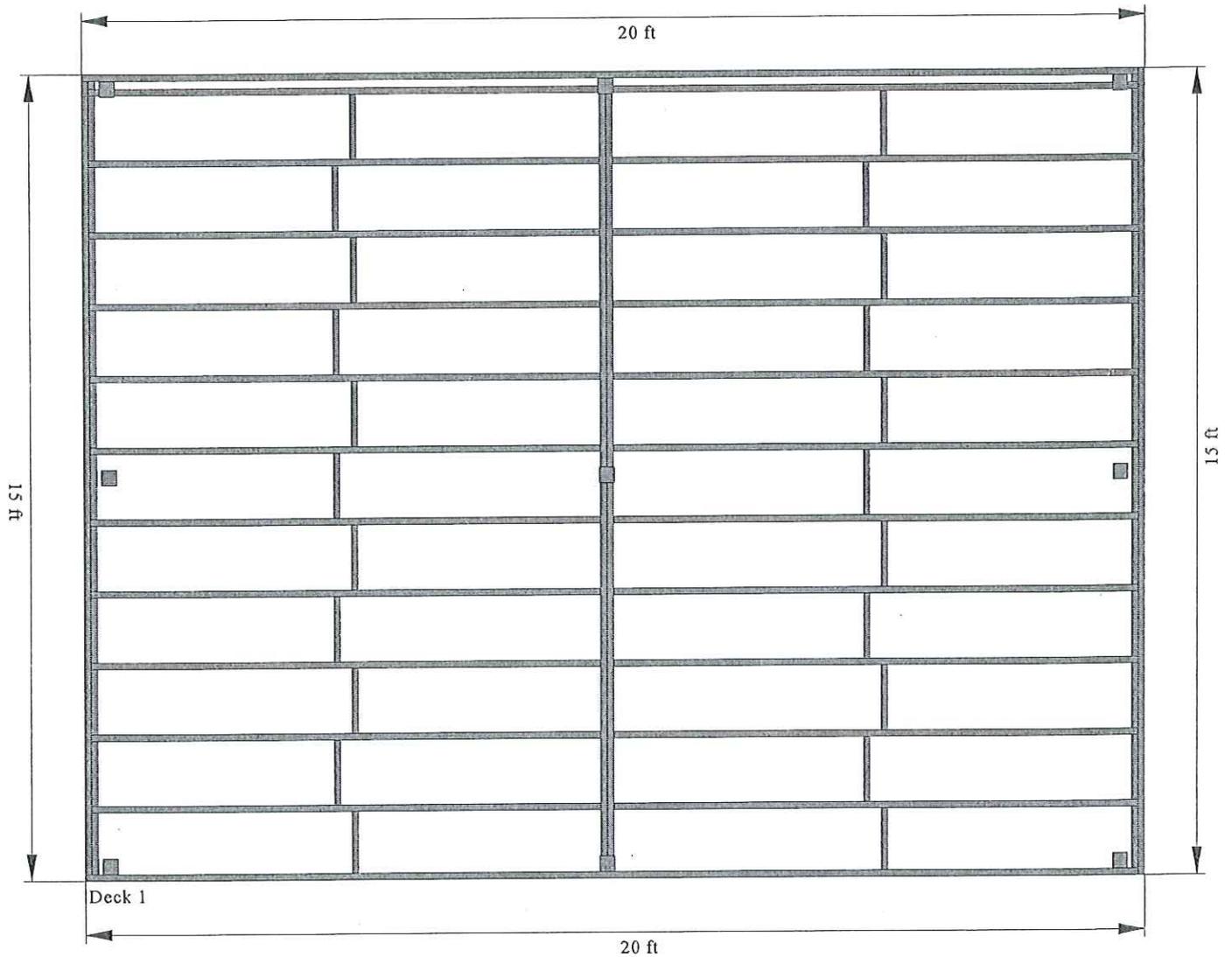
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Dimension View - Deck Number 1



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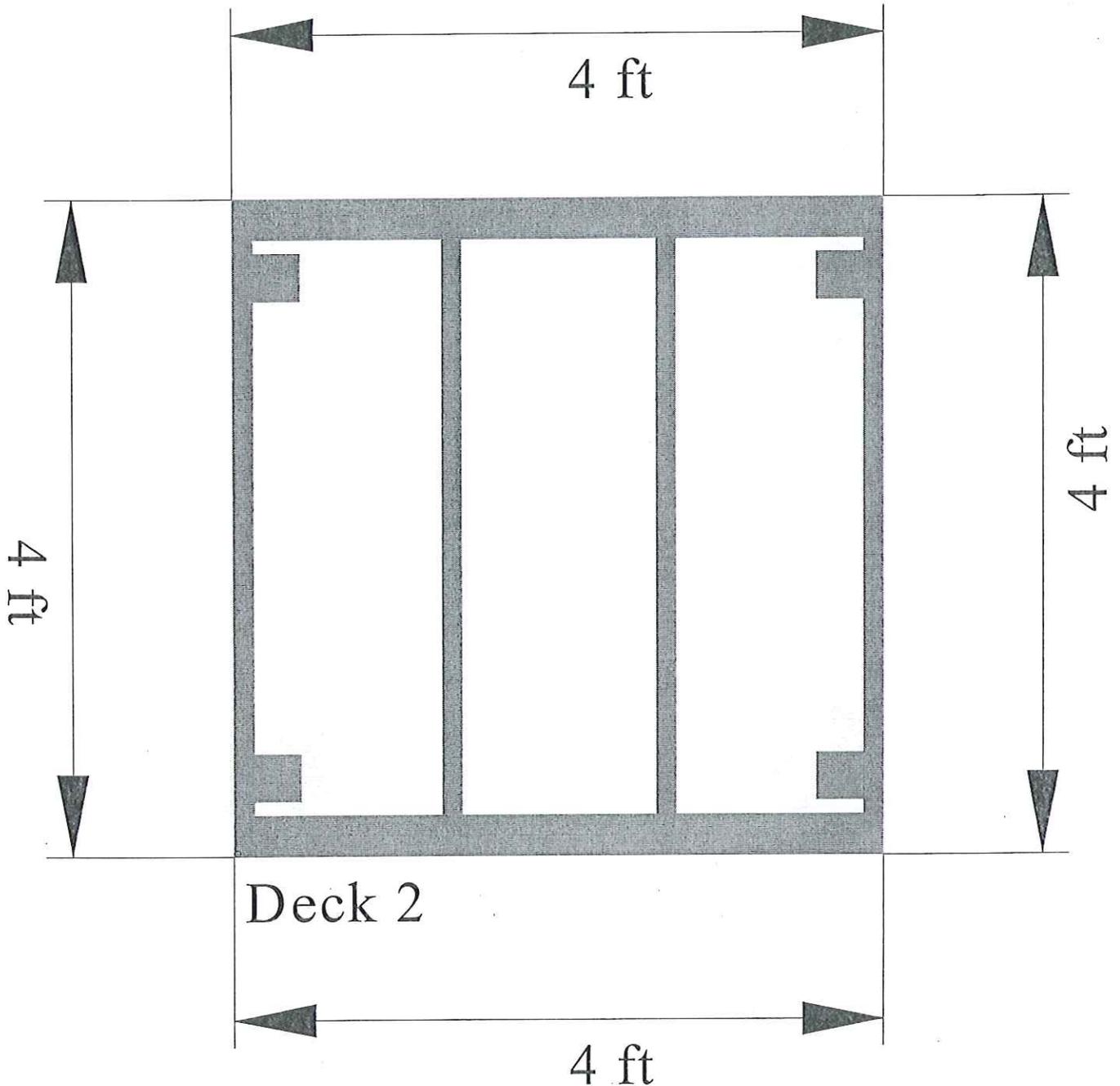
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Dimension View - Deck Number 2



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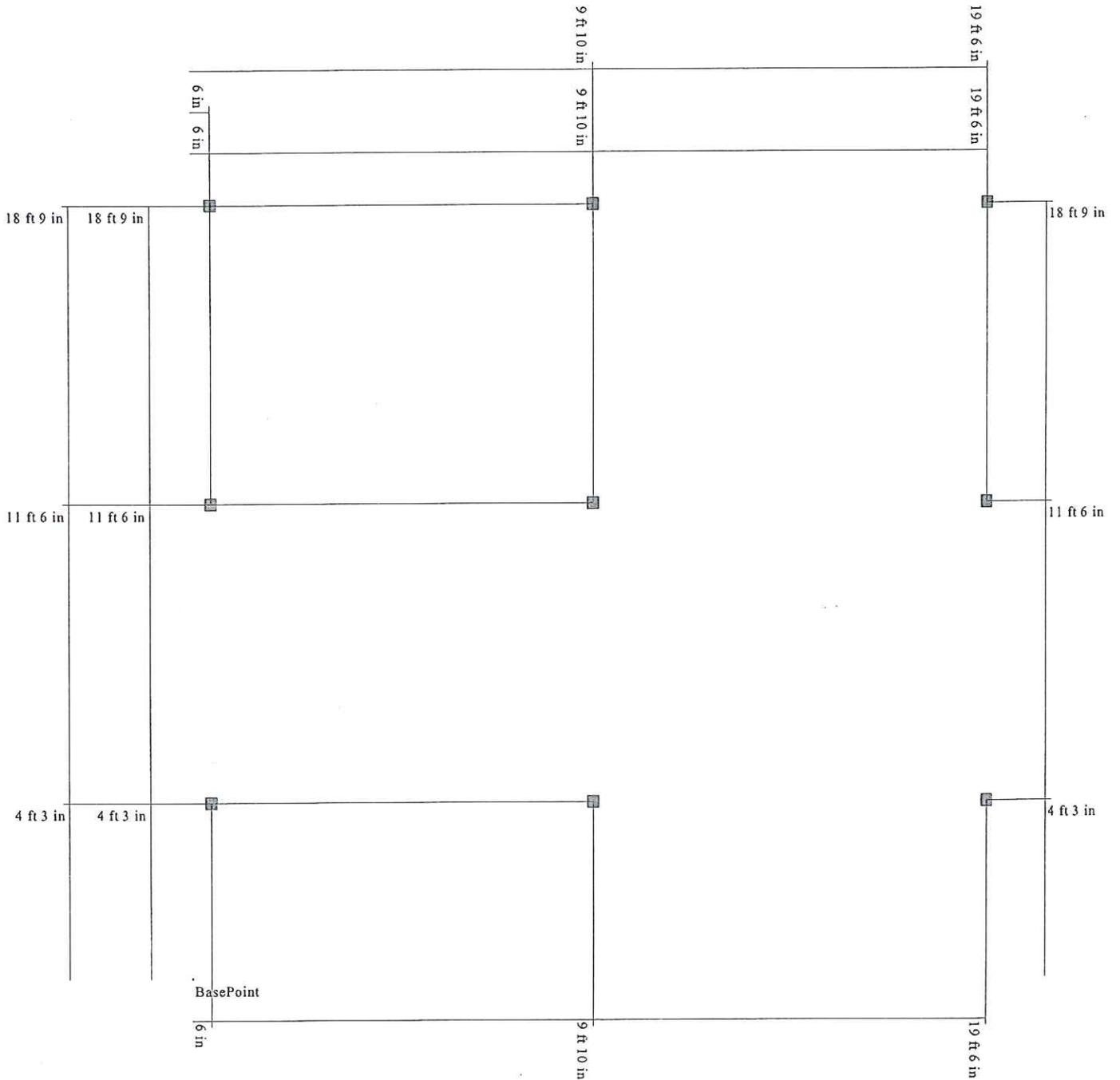
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Post View - Deck Number 1



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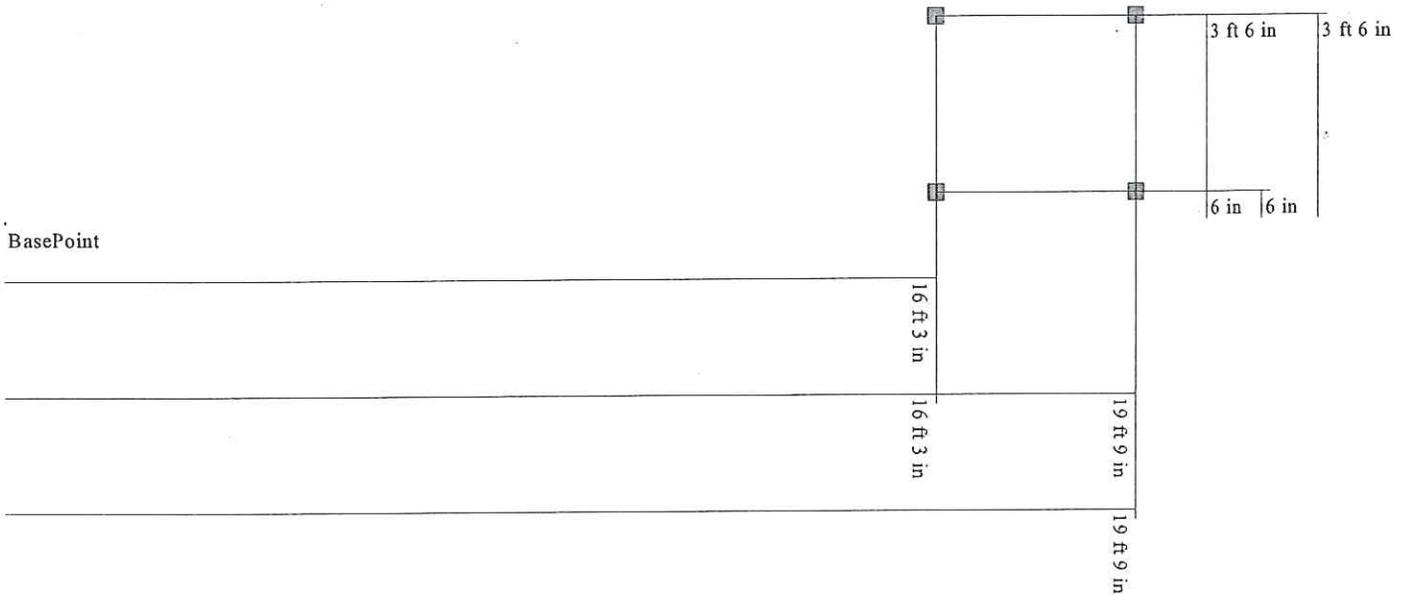
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Post View - Deck Number 2



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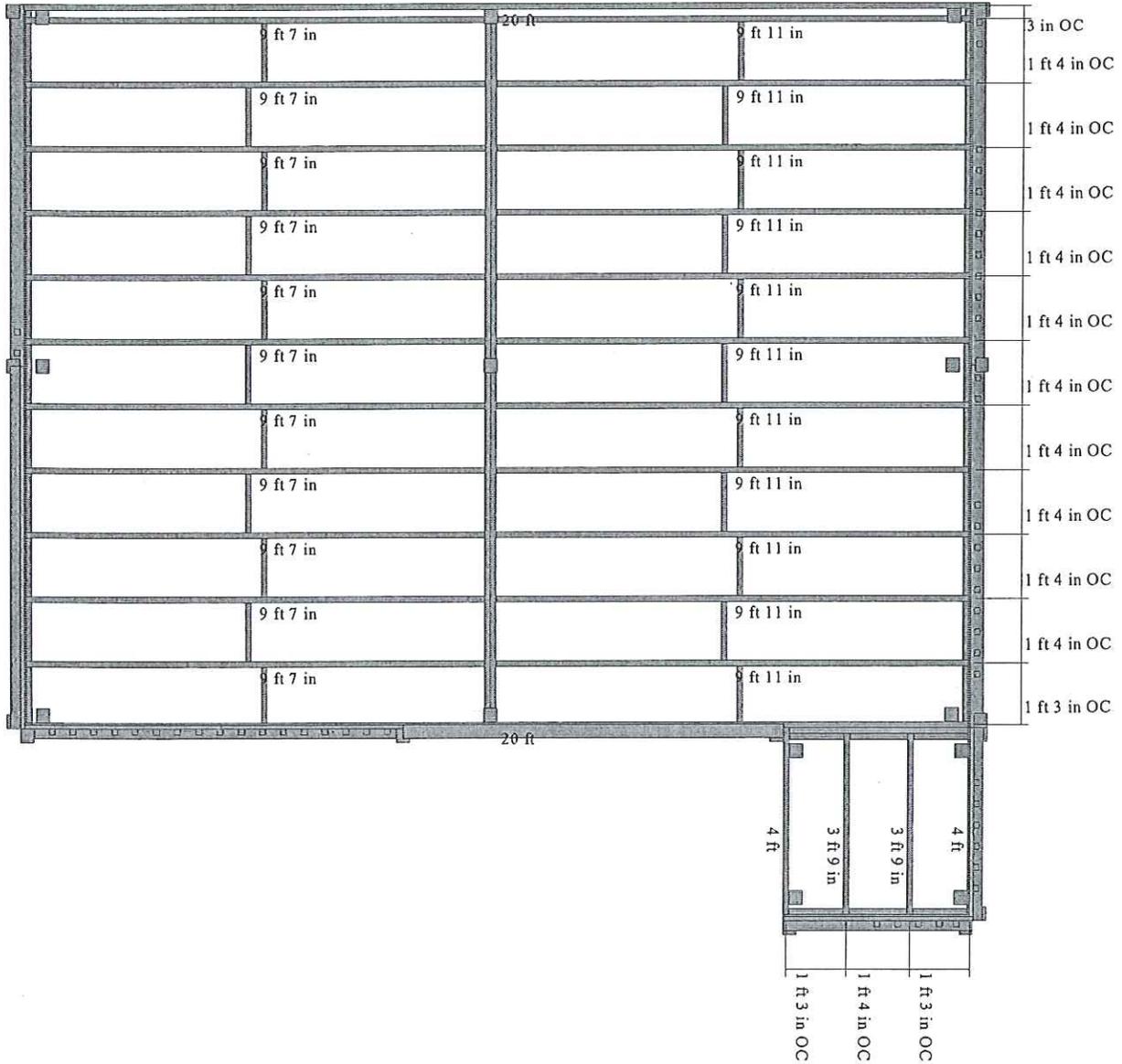
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Joist Layout View



Notes:

All joist and stringer spacing dimensions are measured in OC.

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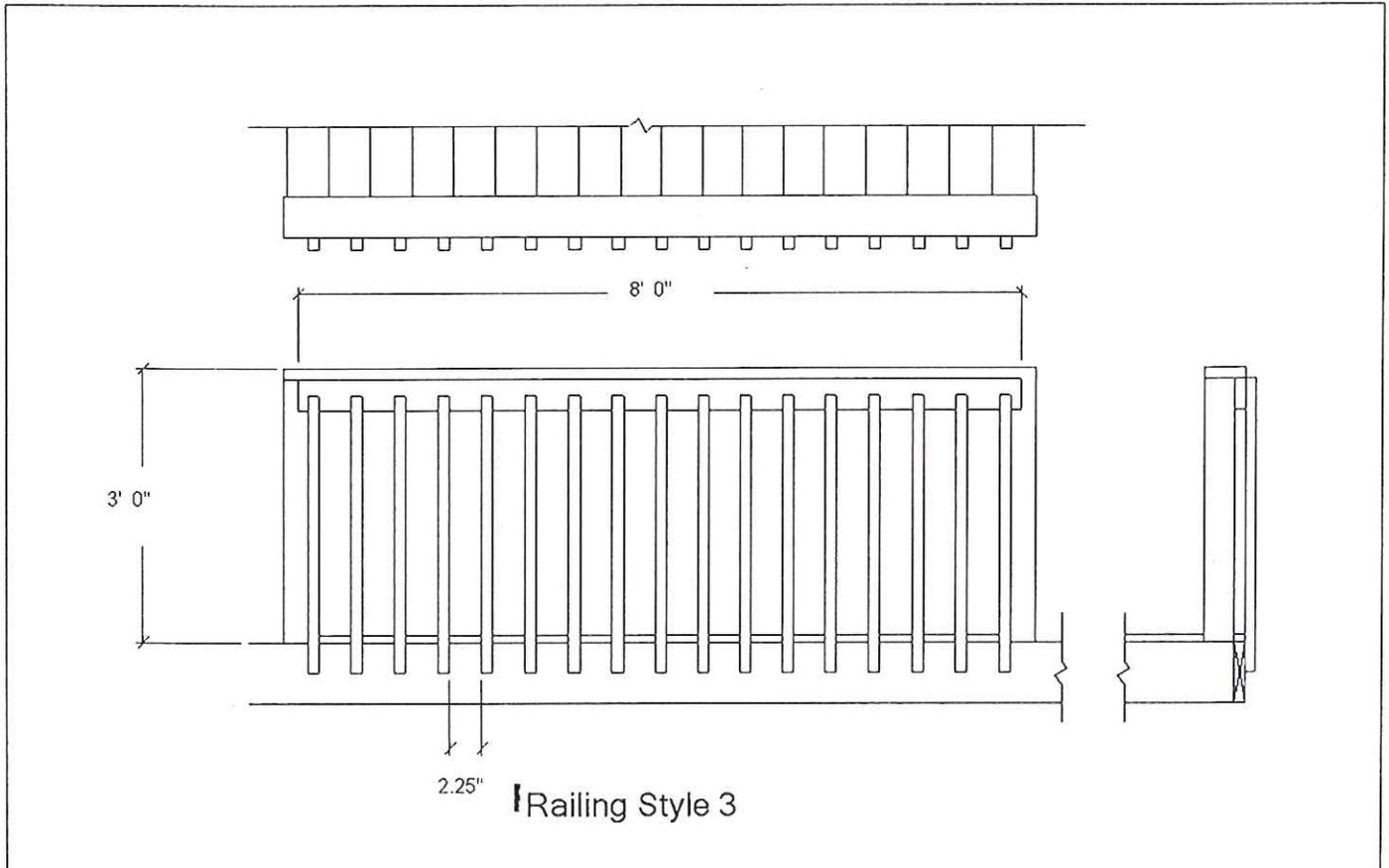
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Railing Details View



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AREA MAP



**LOCATION OF PROPERTY
(217 SYLVAN AVE.)**



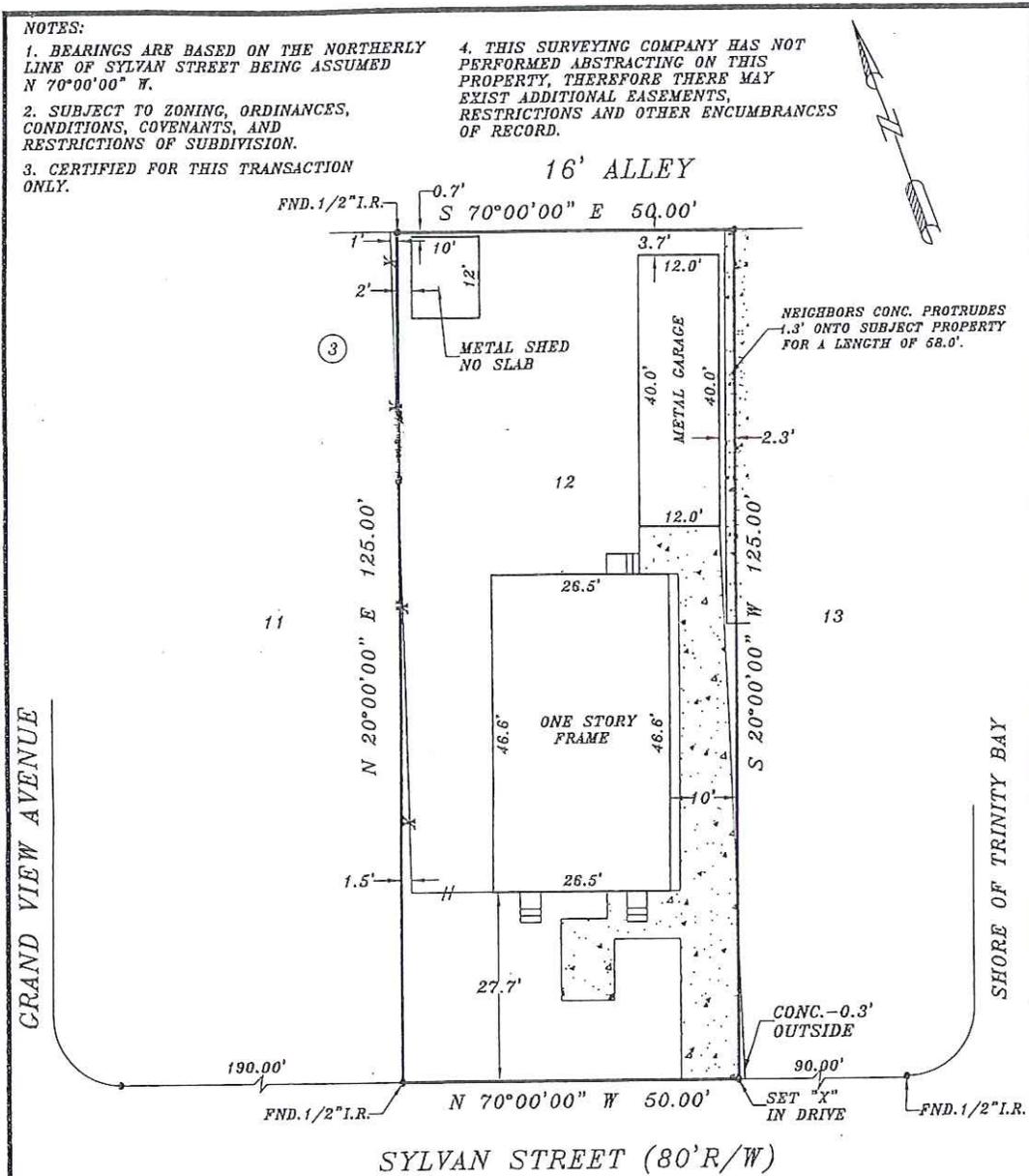
1 inch = 100 feet

A

NOTES:

1. BEARINGS ARE BASED ON THE NORTHERLY LINE OF SYLVAN STREET BEING ASSUMED N 70°00'00" W.
2. SUBJECT TO ZONING, ORDINANCES, CONDITIONS, COVENANTS, AND RESTRICTIONS OF SUBDIVISION.
3. CERTIFIED FOR THIS TRANSACTION ONLY.

4. THIS SURVEYING COMPANY HAS NOT PERFORMED ABSTRACTING ON THIS PROPERTY, THEREFORE THERE MAY EXIST ADDITIONAL EASEMENTS, RESTRICTIONS AND OTHER ENCUMBRANCES OF RECORD.



BORROWER: CLETUS SHEPPARD & BARBARA SHEPPARD
 ADDRESS: 217 SYLVAN STREET - LA PORTE, TEXAS 77571

LEGAL DESCRIPTION: LOT TWELVE (12), IN BLOCK THREE (3), OF SYLVAN BEACH FIRST SUBDIVISION, AN ADDITION IN HARRIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 3, PAGE 72 OF THE MAP RECORDS OF HARRIS COUNTY, TEXAS.

This lot DOES lie in the 100 year flood plain and is in ZONE "A-3" as located by the Federal Insurance Administration designated Flood Hazard Area Community Panel No. 48201C 0945L dated 6-18-07. No responsibility assumed for Flood Plain Determination or Floodway.

LENDER:

TITLE COMPANY: STEWART TITLE

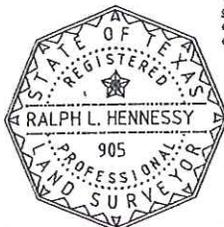
I do certify that this survey was this day made on the ground and that this plat correctly represents the property legally described hereon. That the facts found at the time of this survey show the improvements and that there are no discrepancies apparent on the ground except as shown. This survey is based on the title commitment referenced in G.P. No. 1120134953. This survey is certified for this transaction only.

G.F. NO. 1120134953

SCALE: 1"=20'

DATE: 06-14-11

JOB NO. 060711-27



Ralph L. Hennessy
 TEXAS STAR SURVEYING
 16502 Old Galveston Road, Webster, Texas 77598
 PHONE (281) 331-8474 FAX (281) 486-0666

EXHIBIT B

Sec. 106-751. Shipping containers.

Shipping containers may be used as temporary material storage facilities on construction sites in all zoning districts except residential (R-1, R-2, and R-3). In addition, commercial construction allowed in residential zoning districts may use shipping containers as temporary material storage facilities. (Note: Certificate of occupancy shall not be issued until shipping container is removed from the site.)

(Ord. No. 1501-II, § 7, 3-27-00; Ord. No. 1501-NNNN, § 6(Exh. F), 4-25-05)

Secs. 106-752—106-770. Reserved.

DIVISION 3. AREA REQUIREMENTS**Sec. 106-771. Yard requirements.**

The following shall not be considered as encroachments on yard setback requirements:

- (1) *Chimneys, flues, belt courses, etc.* Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, steps, stoops, and the like, provided they do not project more than four feet into any front or rear yard, and two feet into any side yard.
- ✓ (2) *Terraces, decks, patios, etc.* Terraces, decks, patios, or similar features, provided they do not extend more than one foot above the height of the exterior finish grade elevation, or to a distance less than two feet from any lot line, or encroach upon any utility easement. Further, pools shall not be considered as an encroachment on a front yard setback, provided that such pools are located in a front yard adjacent to Galveston Bay, and provided further that such pool does not extend more than one foot above the exterior finish grade elevation, or to a distance less than two feet from any lot line or encroach upon any utility easement.
- (3) *Rear yards only.* An unenclosed, attached patio cover, awning, or canopy, provided that no portion of such patio covers, awnings, or canopies shall encroach into any utility easements, or any vertical projection thereof, and provided further that no portion of such patio covers, awnings, or canopies shall be located at a distance less than five feet from the side property line or three feet from the rear property line, or any vertical projection thereof.
- (4) *Front and side yard carports.* Front and side yard carports shall be permitted for single-family detached homes subject to the following requirements:
 - a. Carports in a required front or side yard shall not be located closer than five feet from any front or side property line.