

**CITY OF SHEBOYGAN**

**REQUEST FOR ZONING BOARD OF APPEALS CONSIDERATION**

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**ITEM DESCRIPTION:**

Address: 1822 Tivoli Lane

Parcel #: 451600

Owner's Name: Allen J Brotz

Zoning: SR-5

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**REPORT PREPARED BY:** Jeff Lutzke, Building Inspector

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**REPORT DATE:** 05/09/2022

**MEETING DATE:** 05/18/2022

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**BACKGROUND / ANALYSIS**

Property owner is proposing to construct an 18 foot x 18 foot gazebo ( 324 sq ft ).

Ordinance #: 15.206(8)(d)(1)(c) The maximum square footage of a shed, gazebo, greenhouse or other similar accessory structure is 200 square feet.

Requesting: 324 sq ft

Allowed: 200 sq ft

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Ordinance #:

Requesting:

Allowed:

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Ordinance #:

Requesting:

Allowed:

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**ATTACHMENTS:**

Application, pictures, and drawing

## APPLYING FOR A VARIANCE

Variances to zoning ordinances are considered by the CITY OF SHEBOYGAN Zoning Board of Appeals monthly on the third Wednesday at 3p.m. at a public hearing. In order to be considered for the next meeting, applications must be received in the Building Inspection Department Office **no later than 4:30p.m.** on the third Wednesday of the month prior to the scheduled public hearing:

\_\_\_\_\_  
Application Deadline Date

5/18/22  
\_\_\_\_\_  
Board of Appeals Meeting Date

**All applications must include:**

- 1) Application forms, signed and dated, which are available at the Building Inspection Department Office and online.
- 2) The non-refundable filing fee - \$250.00.
- 3) Photographs of the property.
- 4) A site sketch, drawn to scale indicating the location of all existing structures and the proposed construction. Also indicate lot lines, size of lot, streets and other public ways, driveways, off-street parking, loading areas, and existing and proposed front, side and rear yards. Please consult with Building Inspection staff for more information.

**Note:**

- a) The applicant can present any additional information to inform the Board of the facts.
- b) In addition to the application information noted above, a survey is strongly recommended.
- c) Applicants should be aware staff may require a survey as part of the application information in order to clarify specific variance(s) requested.
- d) Applicants should be aware the Board of Appeals may require a survey as part of the application review and/or as a condition of approval prior to issuance of a building permit if a variance is granted.
- e) Building permits must be acquired within 6 months of the granted approval or the approval will be voided.

**FAILURE TO SUPPLY ADEQUATE AND / OR ACCURATE INFORMATION AS REQUESTED ABOVE CAN BE GROUNDS FOR DISMISSAL OF THE APPEAL REQUEST.**

Applicants should be prepared to answer the following questions:

- \* *What hardship is created by the application of the Zoning Ordinance to this property? Is reasonable use of the property denied by the zoning regulations? In other words, is there an alternative plan that would comply with the ordinance?*
- \* *Is there a unique physical characteristic of the property which prevents development of the property in compliance with the Zoning Ordinance?*
- \* *Would granting the variance harm the public interest in any way? For example, would public safety be compromised? (Note: Lack of neighborhood opposition does not necessarily mean a variance would not harm the public interest.)*

A notice of the date and time of the hearing will be mailed to all property owners within 100 feet and municipal property within 1,000 feet of your property. Notice of hearing will also be sent to the City of Sheboygan Planning Department. It is important you discuss your proposal with the Building Inspection and Planning Departments.

The property owner or a representative shall be present at the public hearing to present his or her request to the Board and answer any questions the Board members may have. Should an appearance not be made, or insufficient information presented, the appeal will not be considered and may be either placed on the agenda for the next meeting or denied. The appellant will be required to pay the additional expense incurred because of postponement of the hearing. Appellants are reminded the filing fee for a variance request is non-refundable.

I have read the above and understand my responsibilities regarding my appeal to the Zoning Board of Appeals. I have also read and understand the "Three Tests" for a Variance included with this form.

Sherry Brog  
Signature

April 28, 2022  
Date

**APPEAL FROM RULING OF THE BUILDING INSPECTOR  
AND/OR ZONING ADMINISTRATOR**

CASE NO: \_\_\_\_\_  
FILING DATE: \_\_\_\_\_  
RECEIPT NO: \_\_\_\_\_  
ZONING DIST: \_\_\_\_\_

**TO: THE ZONING BOARD OF APPEALS, CITY OF SHEBOYGAN, SHEBOYGAN COUNTY, WI**

- 1). Appeal Location (address): 1822 Tivoli Lane
- 2). Applicant: Sherry Brotz Telephone #: (920) 918-8346  
Address: 1822 Tivoli Lane
- 3). Legal Property Description (Lot, Block, Subdivision, etc.) SE 1/4 of the SW 1/4 of  
Section 3, Town 14 North, Range 23E, City of  
Sheboygan
- 4). Type of Building (Circle): Commercial - Residential
- 5). Request for (Circle): New Construction - Repairs - Alterations - Addition - Nonconforming Use - Other  
(if other) please list: Gazebo 18 x 18
- 6). If the request is for a nonconforming use:  
Your intended use: family recreation  
Date last occupied as a nonconforming use: \_\_\_\_\_  
By Whom: \_\_\_\_\_ Previous use: \_\_\_\_\_
- 7). Applicants interest in property: owner
- 8). On a separate letter to the Board describe the requested variance and include what unnecessary hardship or difficulty is caused by following the regulations or requirements of the ordinance. See the attached "The Three Tests for a Variance" and be prepared to argue how you pass the THREE TESTS FOR A VARIANCE.

**I HEREBY CERTIFY THAT THE ABOVE APPLICATION AND/OR APPEAL AND ALL ATTACHMENTS THERETO ARE TRUE, CORRECT AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF.**

Date: April 28, 2022

Signature: Sherry Brotz  
Printed Name: Sherry Brotz  
Mailing Address: 1822 Tivoli Lane  
Sheboygan, WI 53081

### THE THREE "TESTS" FOR A VARIANCE

The CITY OF SHEBOYGAN adheres to a set of Zoning Ordinances to make certain your proposed construction is consistent with neighboring developments, a development does not infringe on the enjoyment of property belonging to neighboring owners, it does not detract from surrounding buildings or lots and is not out of character with the neighborhood, and a project meets necessary public health and safety standards. If your proposed construction cannot meet the requirements of the zoning or sign code, a **VARIANCE** is needed.

To obtain a variance, you must establish, due to some peculiarity of the property's size, shape, topography, etc., it would be a hardship or practical difficulty to meet zoning code requirements. ***These circumstances must not be self-imposed or self-created.*** In short, your proposed construction must meet and pass the three "tests" for a variance listed below.

IT IS RECOMMENDED YOU MEET WITH THE STAFF IN THE CITY'S PLANNING DEPARTMENT AND BUILDING INSPECTION DEPARTMENT BEFORE SUBMITTING YOUR APPLICATION FOR A VARIANCE. BUILDING INSPECTION STAFF WILL REVIEW THE STANDARDS FOR A VARIANCE (BELOW) PRIOR TO YOUR FILLING OUT THE APPLICATION AND PAYING THE NON-REFUNDABLE FILING FEE.

#### TEST #1: UNNECESSARY HARDSHIP

The Wisconsin Supreme Court has ruled that unnecessary hardship only exists when the zoning ordinance denies ***all reasonable use*** of the property. ***If there is an alternative plan that is within the bounds of the zoning ordinance, a variance is not warranted.***

The hardship experienced ***must not be self-imposed***; loss of profit, expense already incurred and additional expense incurred to comply with zoning ordinances ***are not*** unnecessary hardships.

#### TEST #2: UNIQUE PROPERTY LIMITATIONS

Unique physical characteristics of your property must prevent you from completing your proposed construction in compliance with the ordinance. The **property** must qualify for the variance, **not your particular situation**.

Additionally, existing violations on other properties or improper variances previously granted are not grounds for a variance.

#### TEST #3: NO HARM TO PUBLIC INTEREST

The Board members will be taking into account the reason for the existence of the zoning ordinance in applying this test. Lack of opposition ***does not*** necessarily mean the proposed construction would not harm the public interest.

The Board, in granting a variance, may impose conditions on the proposed construction to assure the public's interests are protected. Board members may only grant the ***minimum relief*** necessary for the reasonable use of the property.

Your proposed construction must meet all three "tests" to qualify for a variance. Variances are meant to be an ***infrequent remedy*** where an ordinance imposes a unique and substantial burden. ***They are not intended as an accommodation for a property owner's convenience.*** A variance decision may be appealed within 30 days of the filing of the decision in the office of the board.

***Please contact the staff at the City's Planning Department and/or Building Inspection Department if you have any further questions.***

April 28, 2022

Building Inspection Department  
828 Center Avenue, Suite 208  
Sheboygan, WI 53081

Board of Appeals

Dear Board Members,

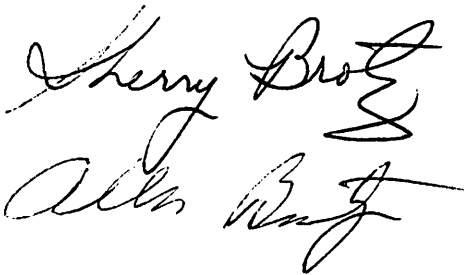
We are applying for a variance to build a gazebo in our back yard that will be large enough to place a table and chairs, or picnic table, that will be large enough to accommodate our family. We enjoy outdoor meals, games, etc. We are hoping to build it 18 feet x 18 feet, however the current rules are allowing only 14 feet x 14 feet.

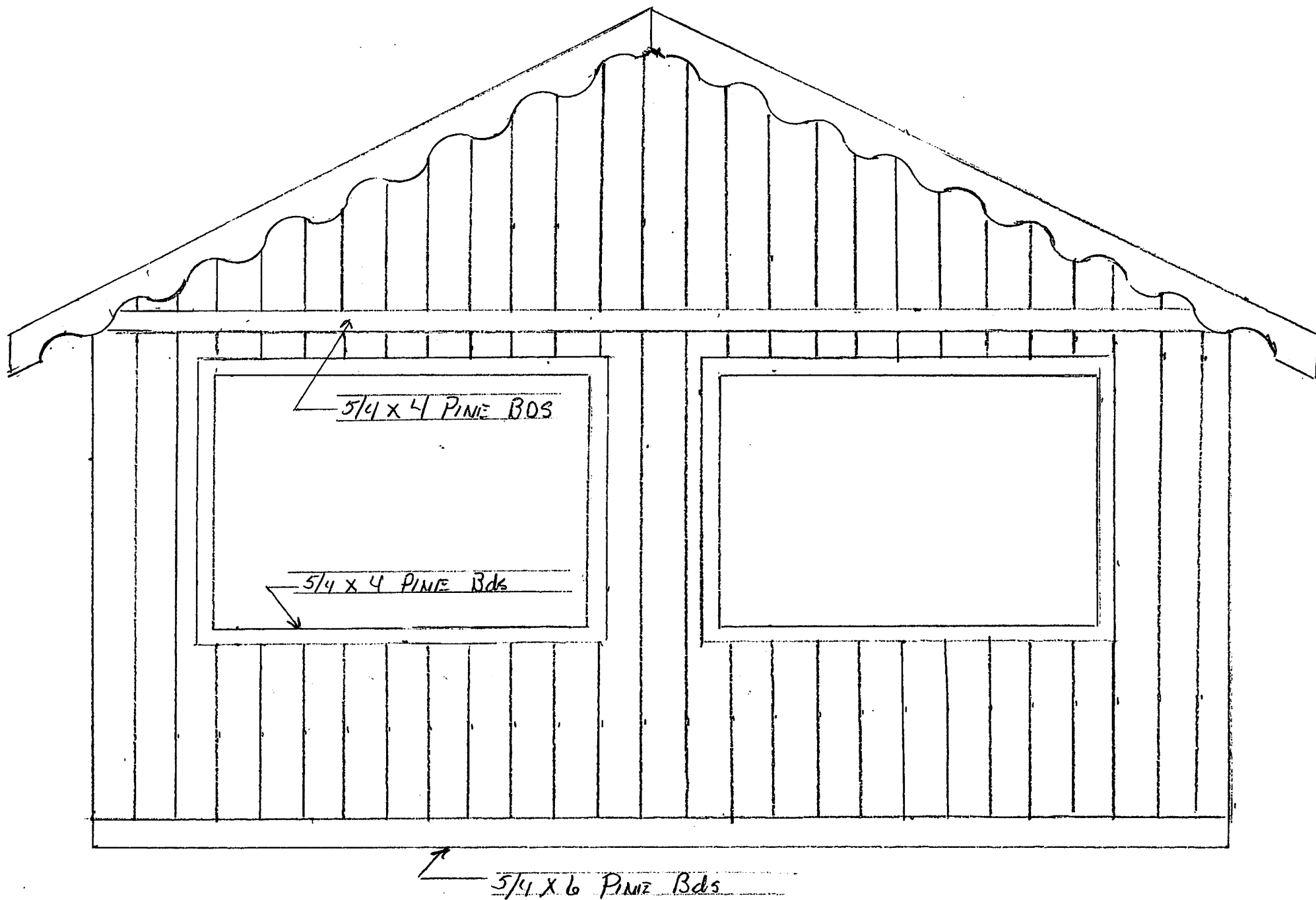
We have a large backyard, two-thirds of an acre, that is in a rural setting. There is plenty of space to assure the gazebo is aesthetically pleasing to our property and the neighborhood, without annoyance to any neighbors.

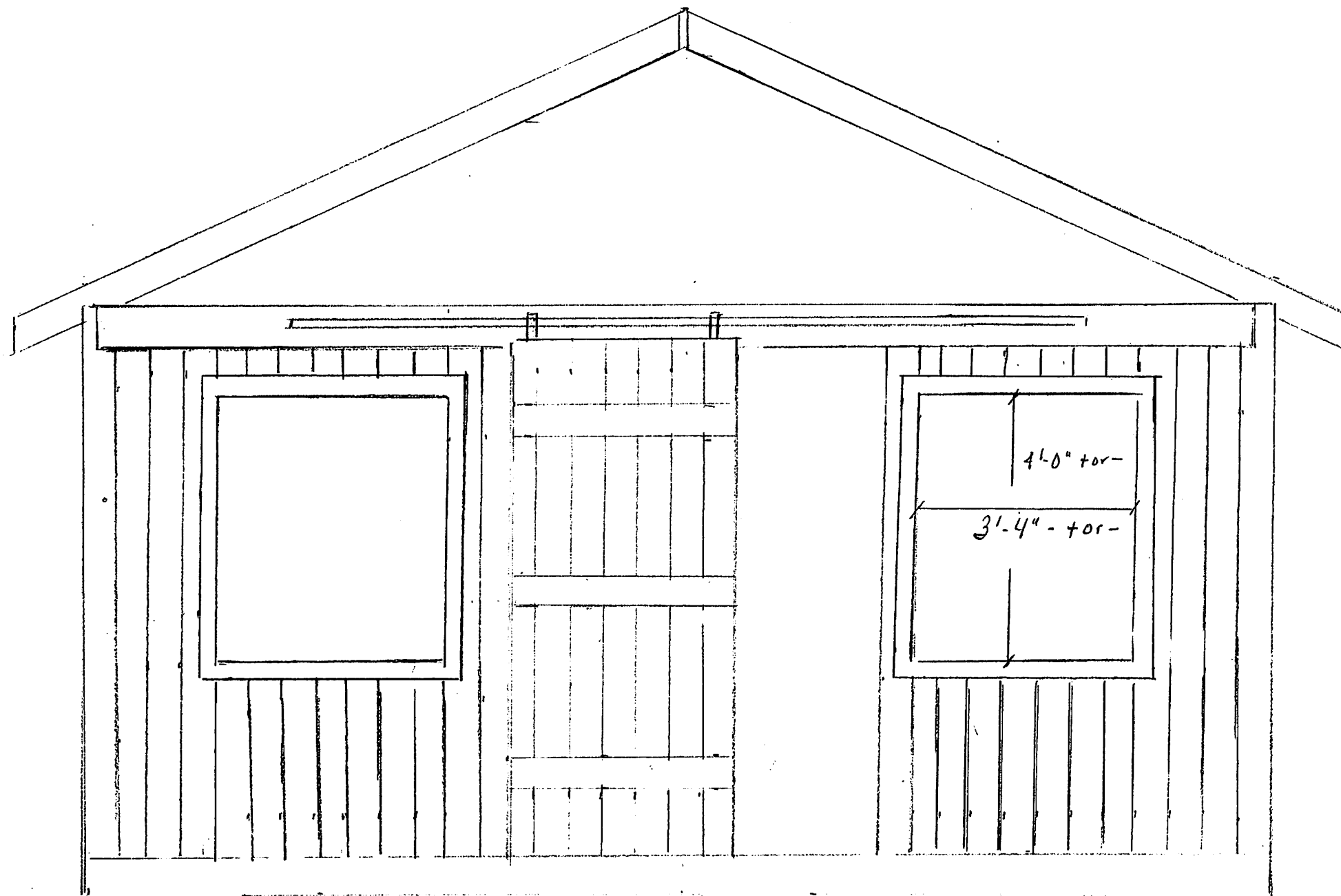
We look forward to a favorable decision and appreciate your attention to this matter.

Thank you,

Allen and Sherry Brotz

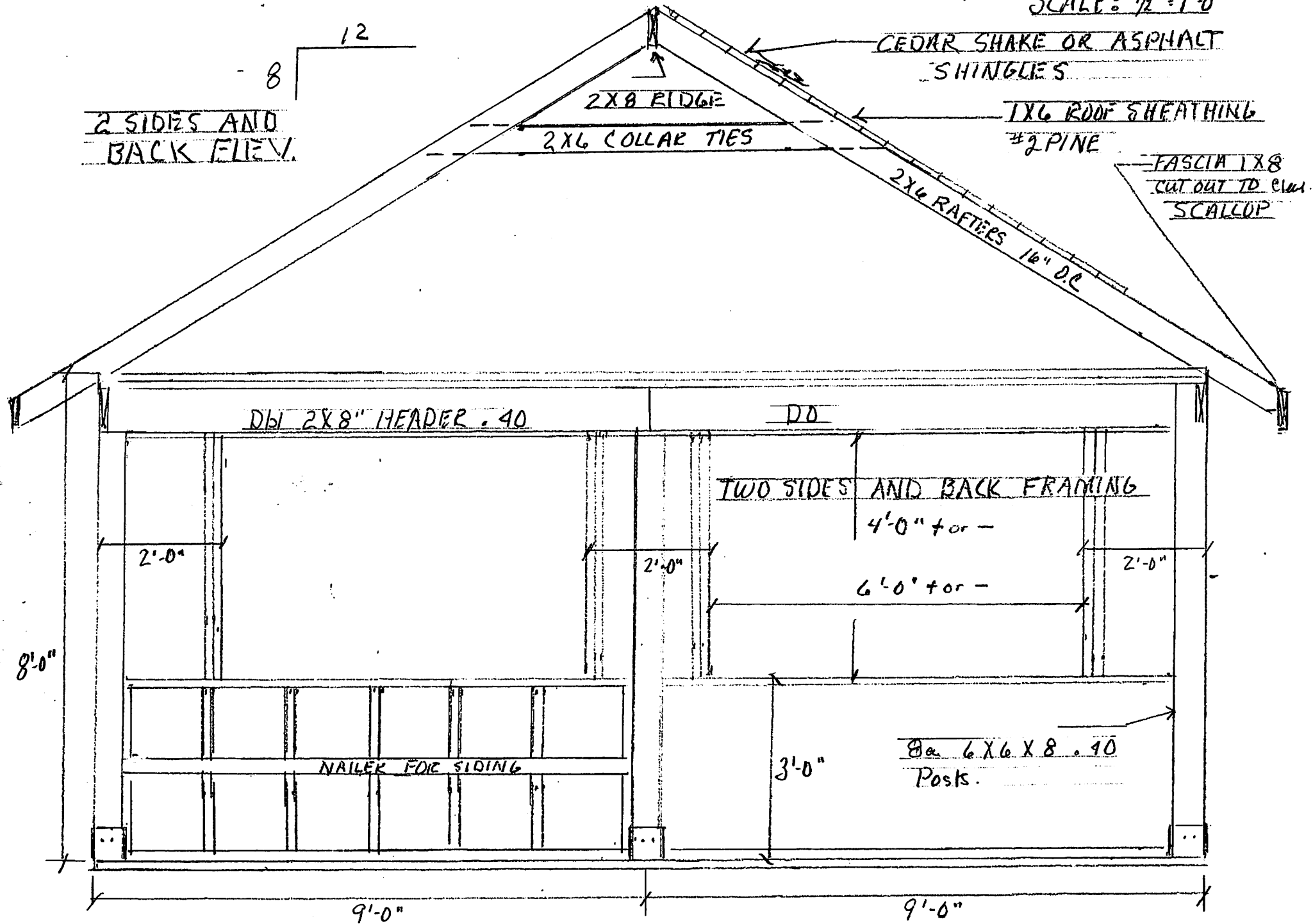
The block contains two handwritten signatures in black ink. The top signature is 'Sherry Brotz' and the bottom signature is 'Allen Brotz'. Both are written in a cursive, flowing style.





18'-0"

SCALE: 1/2" = 1'-0"



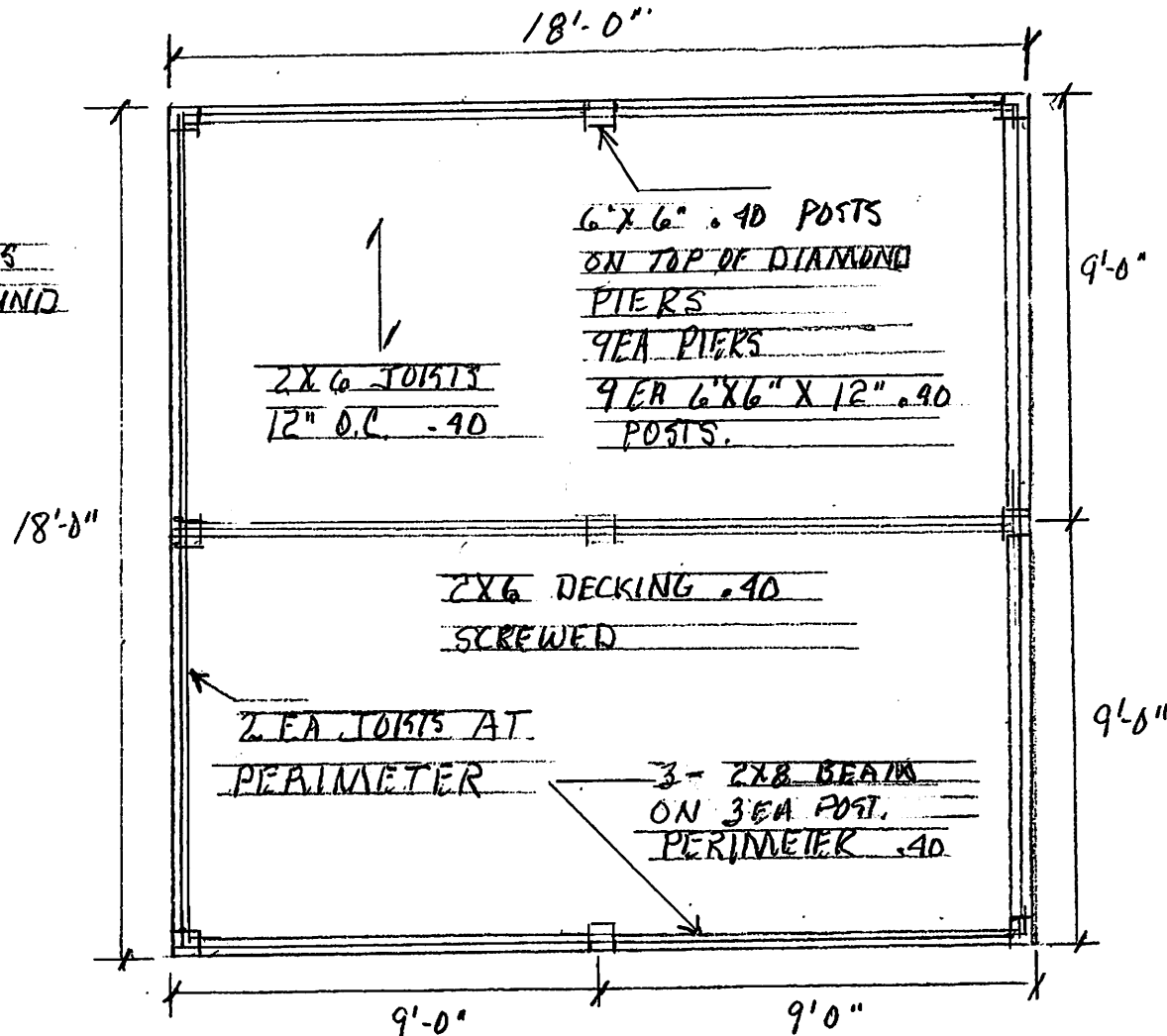


GAZEBO JOISTS AND  
PIERS PLAN END PLAN

SCALE: 1/4" = 1'-0"

18' X 18' = 324 sq. ft.

DIAMOND PIERS  
DUG INTO GROUND



August 17, 2021

I am in agreement that Al and Sherry Brotz can build a gazebo in their backyard, in addition to the existing storage shed.

Name	Address
ERIC SWARTZ	1815 TIVOLI LN
Patti Stabbe	4404 Idetwild Ln
Dan Thij	1904 Tivoli Ln.
Dan Diener	4408 S. 18 <sup>th</sup> St.
Sandy Kasten	1904 Tivoli Ln.
C.P.R.	1920 Tivoli Ln.
Lat	1920 TIVOLI LN
ROBERT W. PUCKETT II	1928 TIVOLI LN
Catherine Lee	4412 S. 18 <sup>th</sup> St