

**WHITE LAKE TOWNSHIP
ZONING BOARD OF APPEALS**

**REPORT OF THE
COMMUNITY DEVELOPMENT DEPARTMENT**

TO: Zoning Board of Appeals
FROM: Justin Quagliata, Staff Planner
DATE: January 25, 2024

Agenda item: 8c

Appeal Date: January 25, 2024

Appellant: Brian D. Pendley

Address: 5335 Wayne Road
White Lake, MI 48383

Zoning: R1-D Single Family Residential

Location: 5335 Wayne Road
White Lake, MI 48383

Property Description

The approximately 0.16-acre (7,055 square feet) parcel identified as 5335 Wayne Road is located on Grass Lake and zoned R1-D (Single Family Residential). The property is not zoned Neighborhood Mixed Use as is indicated on the submitted variance application. The existing house on the property utilizes a private well for potable water and a private septic system for sanitation.

Appellant's Proposal

Brian D. Pendley, the Appellant, is requesting post-construction variances to allow an accessory building (shed) to remain located within the Natural Features Setback.

Planner's Report

The Township was made aware of unpermitted construction activity on the property. On November 17, 2023 the Building Official, after a site visit, sent the Appellant a letter stating application for a building permit in pursuance of erecting the building in question had not been made and received by the Township. The letter advised the Appellant the ongoing work required permits and inspections, and referenced Zoning Ordinance standards applicable to accessory buildings. A Stop Work Order was issued.

Variance #1

Section 3.11.Q of the Zoning Ordinance prohibits buildings or structures from being located closer than 25 feet to any regulated wetland, submerged land, watercourse, pond, stream, lake or like body of water. At its closet point, the accessory structure is located 23.2 feet from the water's edge of Grass Lake.

Variance #2

The Zoning Ordinance allows walls in an accessory building to be 14 feet in height; the submitted north elevation indicates the total wall height is 17 feet from grade.

Variance #3

With the accessory building, the lot coverage is 23.5% (1,660 square feet), which is 3.5% (249 square feet) beyond the allowable limit (1,411 square feet).

Note the site plan prepared by the Appellant is inconsistent with the submitted survey. Based on the survey, the house is nonconforming to setbacks (front and sides) and the accessory building is located 3.2 feet from the east side lot line. The required accessory building setback (including roof overhangs) from side lots lines is five feet. Section 7.27.vii of the Zoning Ordinance prohibits the Zoning Board of Appeals from granting a variance to permit a setback of less than five feet from a side lot line for safety reasons.

The requested variances are listed in the following table.

Variance #	Ordinance Section	Subject	Standard	Requested Variance	Result
1	Article 3.11.Q	Natural Features Setback	25 feet	1.8 feet	23.2 feet
2	Article 5.7.C	Wall Height	14 feet	3 feet	17 feet
3	Article 3.1.6.E	Maximum Lot Coverage	20%	3.5%	23.5%

Zoning Board of Appeals Options:

Approval: I move to approve the variance requested by Brian Pendley from Article 3.11.Q of the Zoning Ordinance for Parcel Number 12-17-103-011, identified as 5335 Wayne Road, in order to allow an accessory building (shed) to encroach 1.8 feet into the required Natural Features Setback. A variance from Article 5.7.C is granted to allow the accessory building to exceed the allowed wall height by 3 feet. A variance from Article 3.1.6.E is also granted to allow the accessory building to exceed the allowed lot coverage by 3.5%. This approval will have the following conditions:

- The Appellant shall obtain all necessary permits from the White Lake Township Building Division.
- By March 25, 2024 the Appellant shall move the accessory building to eliminate encroachment within five feet of the side lot line as the Zoning Board of Appeals is without authority to grant a variance with regard to the side yard setback. Once moved, an as-built survey shall be required to verify the setbacks and lot coverage.

Denial: I move to deny the variances requested by Brian Pendley for Parcel Number 12-17-103-011, identified as 5335 Wayne Road, due to the following reason(s):

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The Appellant shall remove the accessory building from the property by March 25, 2023.

Postpone: I move to postpone the appeal of Brian Pendley *to a date certain or other triggering mechanism* for Parcel Number 12-17-103-011, identified as 5335 Wayne Road, to consider comments stated during this hearing.

Attachments:

1. Variance application dated December 28, 2023.
2. Applicant's written statement dated December 28, 2023.
3. Survey dated December 20, 2023.
4. Building elevations and floor plan dated December 3, 2023.
5. Stop Work Order from the Building Official dated November 17, 2023.
6. Letter of denial from the Building Official dated November 29, 2023.
7. Photo of shed before remodel.

7.37 STANDARDS

General variances: The Zoning Board of Appeals may authorize a variance from the strict application of the area or dimensional standard of this Ordinance when the applicant demonstrates all of the following conditions "A - E" or condition F applies.

- A. Practical difficulty: A practical difficulty exists on the subject site (such as exceptional narrowness, shallowness, shape or area; presence of floodplain; exceptional topographic conditions) and strict compliance with the zoning ordinance standards would unreasonably prevent the owner from using of the subject site for a permitted use or would render conformity unnecessarily burdensome. Demonstration of a practical difficulty shall have a bearing on the subject site or use of the subject site, and not to the applicant personally. Economic hardship or optimum profit potential are not considerations for practical difficulty.
- B. Unique situation: The demonstrated practical difficult results from exceptional or extraordinary circumstances or conditions applying to the subject site at the time the Ordinance was adopted or amended which are different than typical properties in the same zoning district or the vicinity.

- C. Not self created: The applicants problem is not self created.
- D. Substantial justice: The variance would provide substantial justice by granting the property rights similar to those enjoyed by the majority of other properties in the vicinity, and other properties in the same zoning district. The decision shall not bestow upon the property special development rights not enjoyed by other properties in the same district, or which might result in substantial adverse impacts on properties in the vicinity (such as the supply of light and air, significant increases in traffic, increased odors, an increase in the danger of fire, or other activities which may endanger the public safety, comfort, morals or welfare).
- E. Minimum variance necessary: The variance shall be the minimum necessary to grant relief created by the practical difficulty.
- F. Compliance with other laws: The variance is the minimum necessary to comply with state or federal laws, including but not necessarily limited to:
 - i. The Michigan Right to Farm Act (P.A. 93 of 1981) and the farming activities the Act protects;
 - ii. The Americans with Disabilities Act of 1990 (as amended), and the needs of handicapped individuals the Act protects, including accessory facilities, building additions, building alterations, and site improvements which may not otherwise meet a strict application of the standards of this Ordinance.

Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

CHARTER TOWNSHIP OF WHITE LAKE
ZONING BOARD OF APPEALS APPLICATION
Community Development Department, 7525 Highland Road,
White Lake, Michigan, 48383
(248) 698-3300 x5

APPLICANT'S NAME: Brian D Pendley PHONE: 248 860 7908
ADDRESS: 5335 Wayne Road, White Lake, MI 48383
APPLICANT'S EMAIL ADDRESS: bwardp1995@gmail.com
APPLICANT'S INTEREST IN PROPERTY: OWNER BUILDER OTHER: _____

ADDRESS OF AFFECTED PROPERTY: 5335 Wayne Road PARCEL # 12-17-103-011
CURRENT ZONING: NMU PARCEL SIZE: 7055

STATE REQUESTED VARIANCE AND ORDINANCE SECTION: Article 3.1.6
Article 5.7(C) Article 3.1.13(D) Article 5.3
VALUE OF IMPROVEMENT: \$ 5,000.00 SEV OF EXISTING STRUCTURE: \$ 500.00

STATE REASONS TO SUPPORT REQUEST: (ATTACH WRITTEN STATEMENT TO APPLICATION)

APPLICATION FEE: \$385.00 (CALCULATED BY THE COMMUNITY DEVELOPMENT DEPARTMENT)
APPLICANT'S SIGNATURE: [Signature] DATE: 12/28/2023

RECEIVED

DEC 28 2023

BUILDING
DEPARTMENT

REASONS TO SUPPORT REQUEST

WRITTEN STATEMENT BY:
GIANNA ROSE PENPLEY

- 1) CONFLICTING STATE BUILDING CODE
- 2) EXISTING NON-CONFORMING LOT+STRUCTURE
- 3) RIGHT TO REASONABLE RETURN
- 4) SUBSTANTIVE JUSTICE
- 5) PUBLIC ENDANGERMENT

EVIDENCE TO BE PRESENTED
TO BOARD

SIGNED:



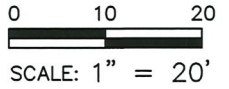
12/28/23

CERTIFICATE OF SURVEY

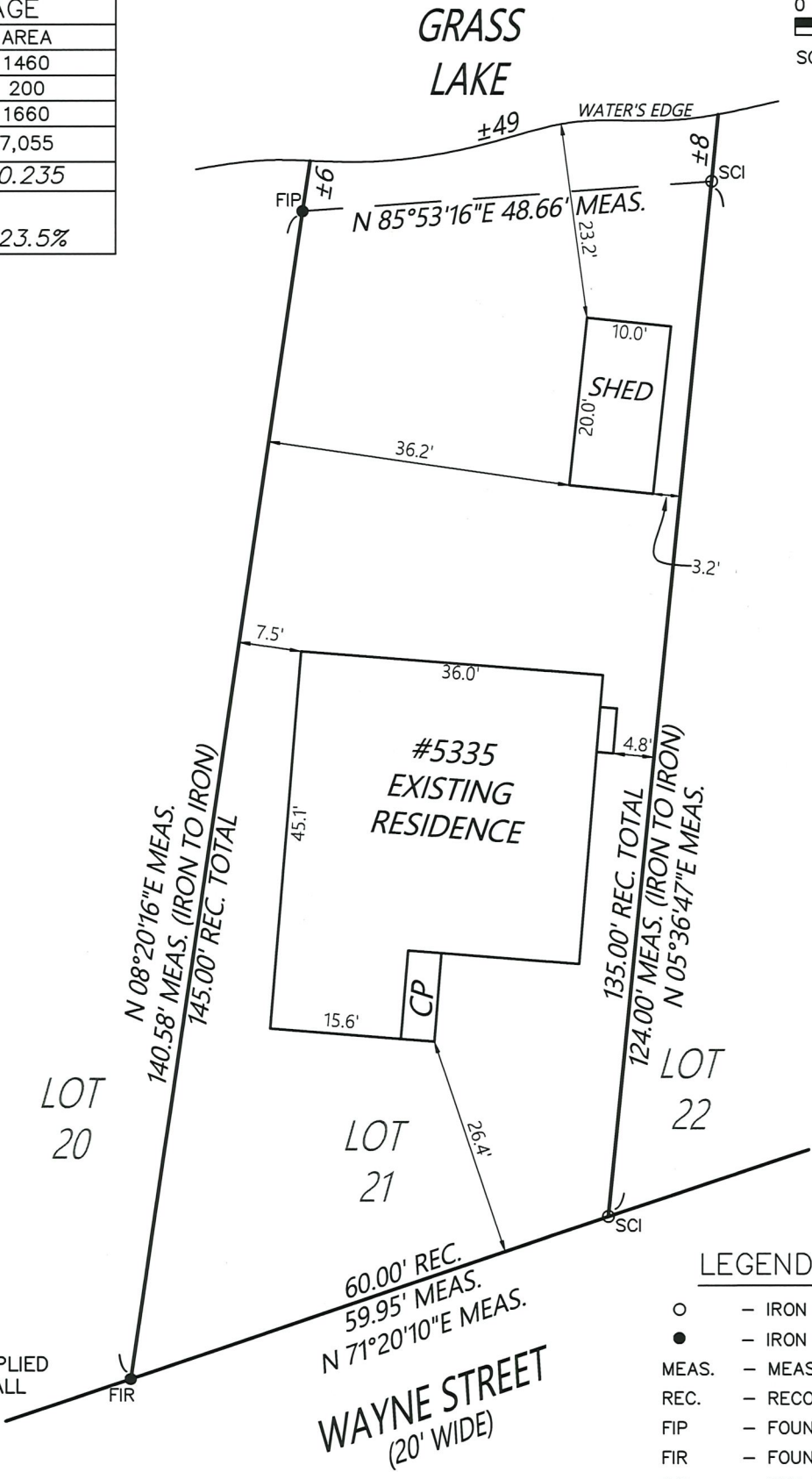
Prepared For: BRIAN PENDLEY

Legal Description: PARCEL ID: 12-17-103-011

Lot 21 of RAYWOOD PARK, a subdivision of part of the NW 1/4 of Section 17, T. 3 N., R. 8 E., White Lake Township, Oakland County, Michigan as recorded in Oakland County Records.



LOT COVERAGE	
	AREA
HOUSE	1460
SHED	200
TOTAL	1660
ENTIRE LOT	7,055
1660/7055	=0.235
TOTAL LOT COVERAGE = 23.5%	



NOTES:
NO TITLEWORK WAS SUPPLIED BY CLIENT, THEREFORE ALL EASEMENTS OF RECORD MAY NOT BE SHOWN.

BEARING BASIS:
HELD BEARING ALONG AS PER PLAT OF RECORD.

- LEGEND**
- - IRON SET
 - - IRON FOUND
 - MEAS. - MEASURED
 - REC. - RECORDED
 - FIP - FOUND IRON PIPE
 - FIR - FOUND IRON ROD
 - SCI - SET CAPPED IRON
 - *— - EXISTING FENCE LINE

I hereby certify only to the parties hereon, that we have surveyed, at the direction of said parties, the above described lot, and that we have found or set as noted hereon, permanent markers at the exterior corners of said lot and that all visible encroachments of a permanent nature upon said lot, are as shown on this survey. Said lot subject to all easements and restrictions of record.



KAROL L. GROVE
LICENSED PROFESSIONAL SURVEYOR #39975

ALPINE
Land Surveying, Inc.

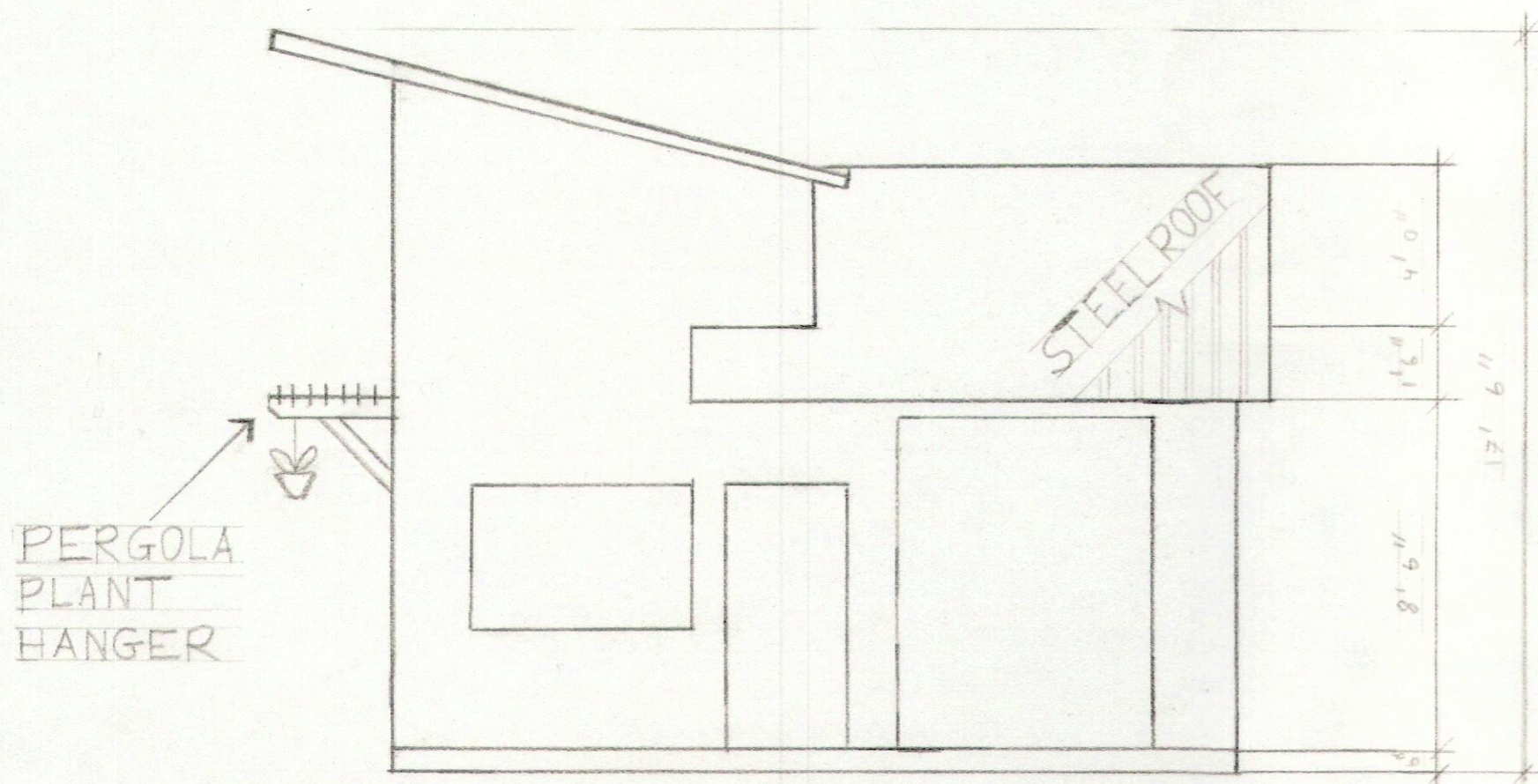
376 BEECH FARM CIRCLE SUITE # 1293
HIGHLAND, MICHIGAN, 48357
PHONE: 810-207-8050

FIELD: KG	DATE: 12-20-2023
DRAWN: DJS	JOB NO: 23-6313
CHECKED: KG	SHEET: 1 OF 1
REVISED:	

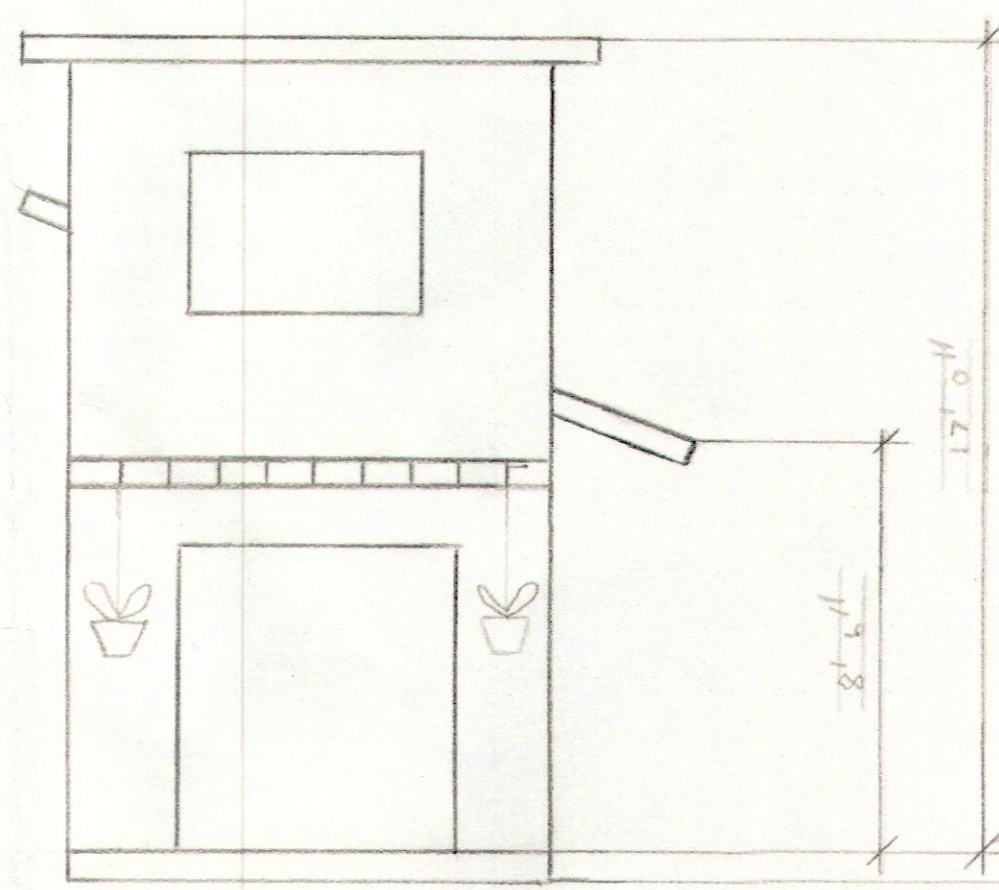
RECEIVED

DEC 04 2023

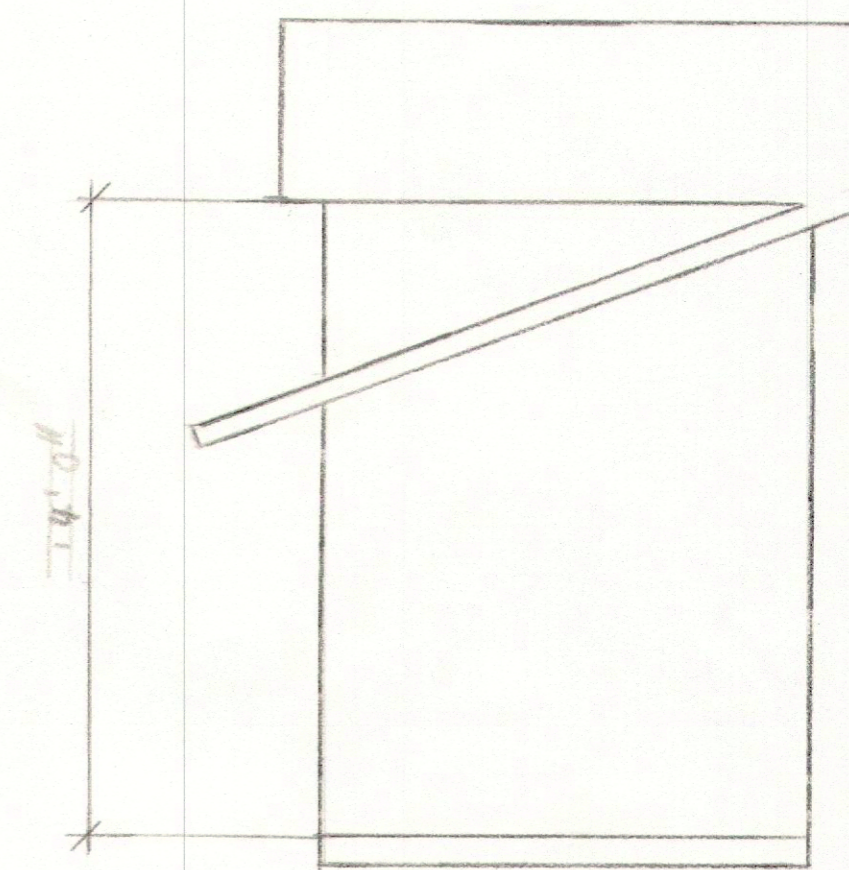
BUILDING DEPARTMENT



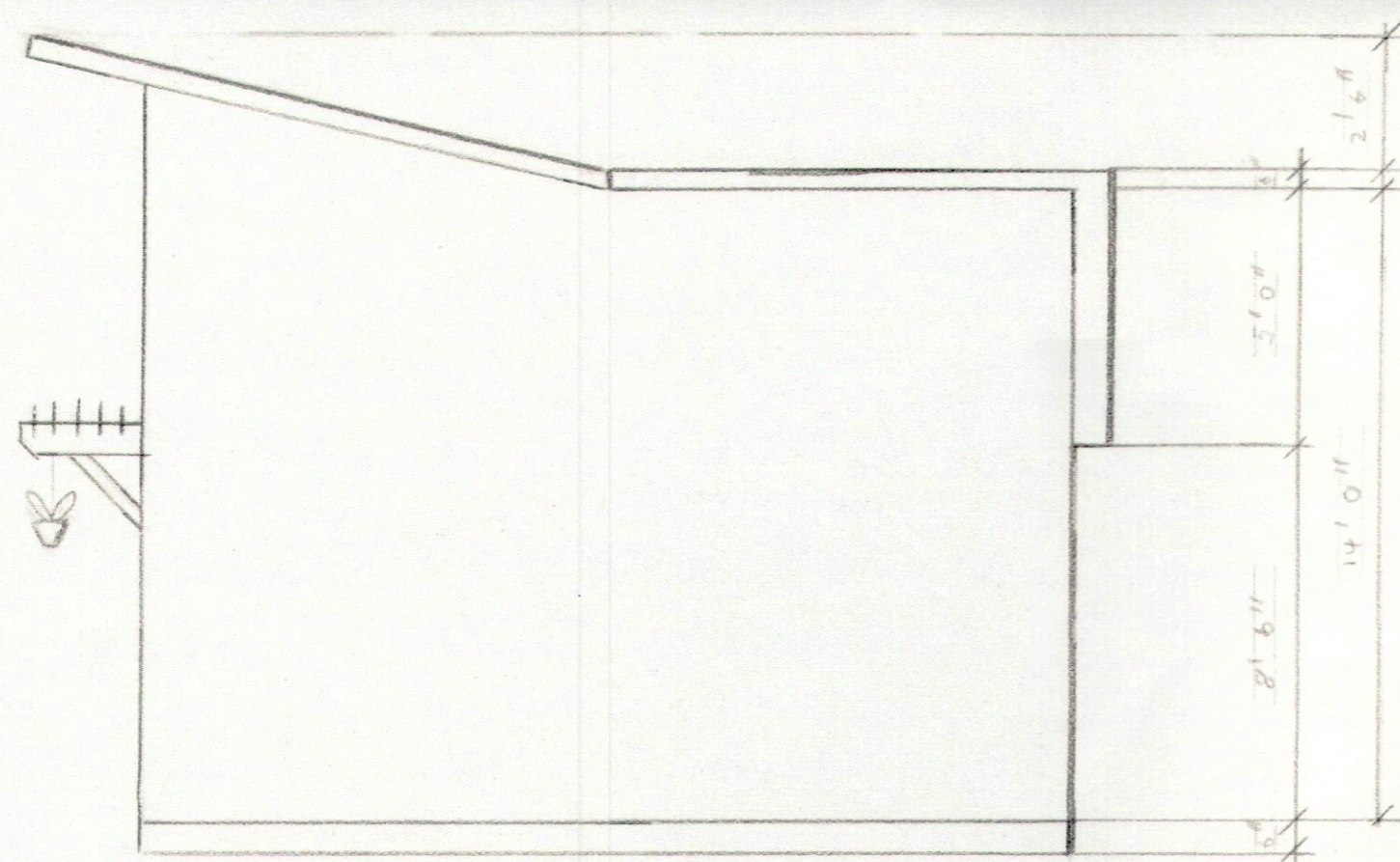
WEST ELEVATION



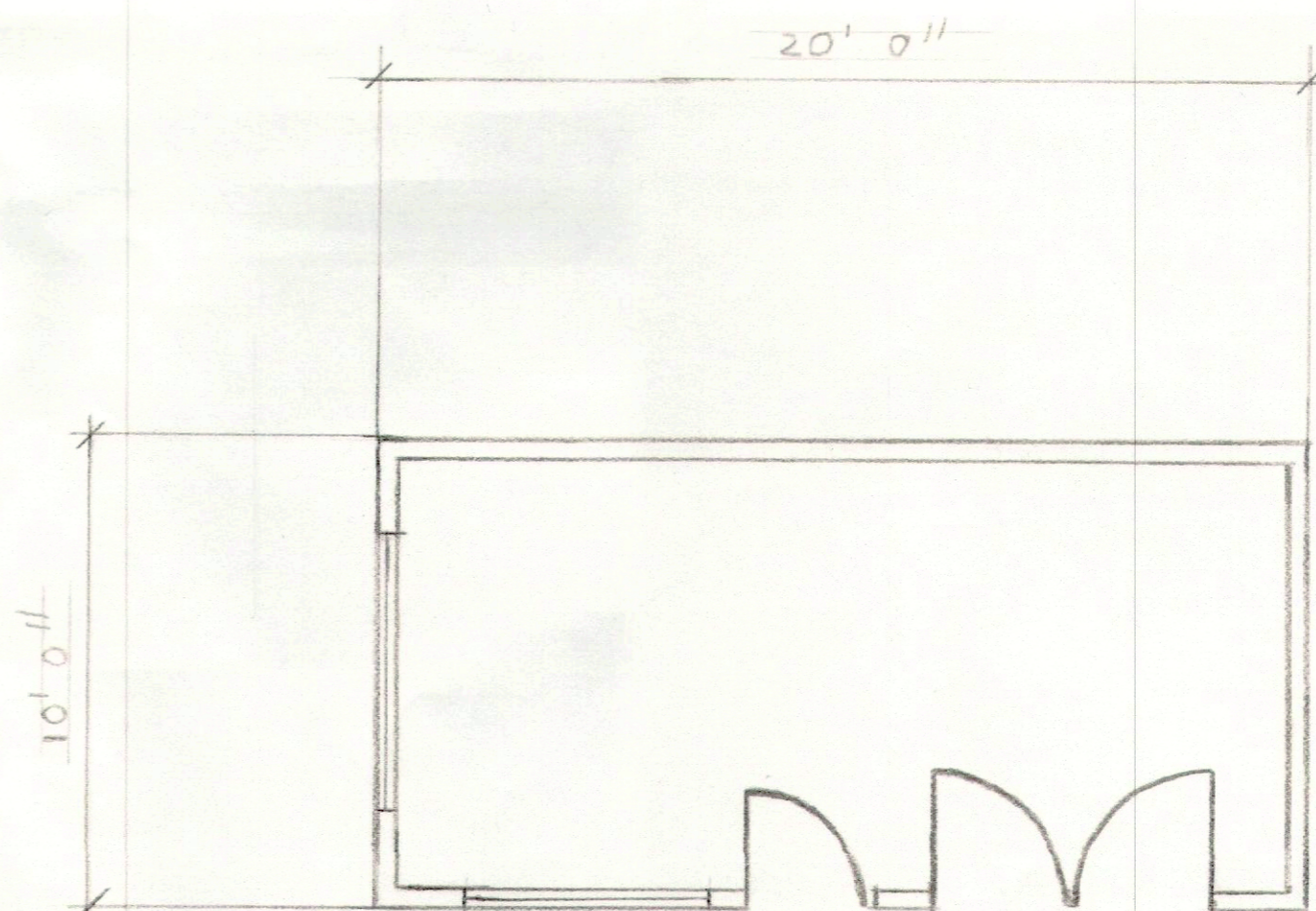
NORTH ELEVATION



SOUTH ELEVATION



EAST ELEVATION



FLOOR PLAN

PROJECT

STORAGE SHED

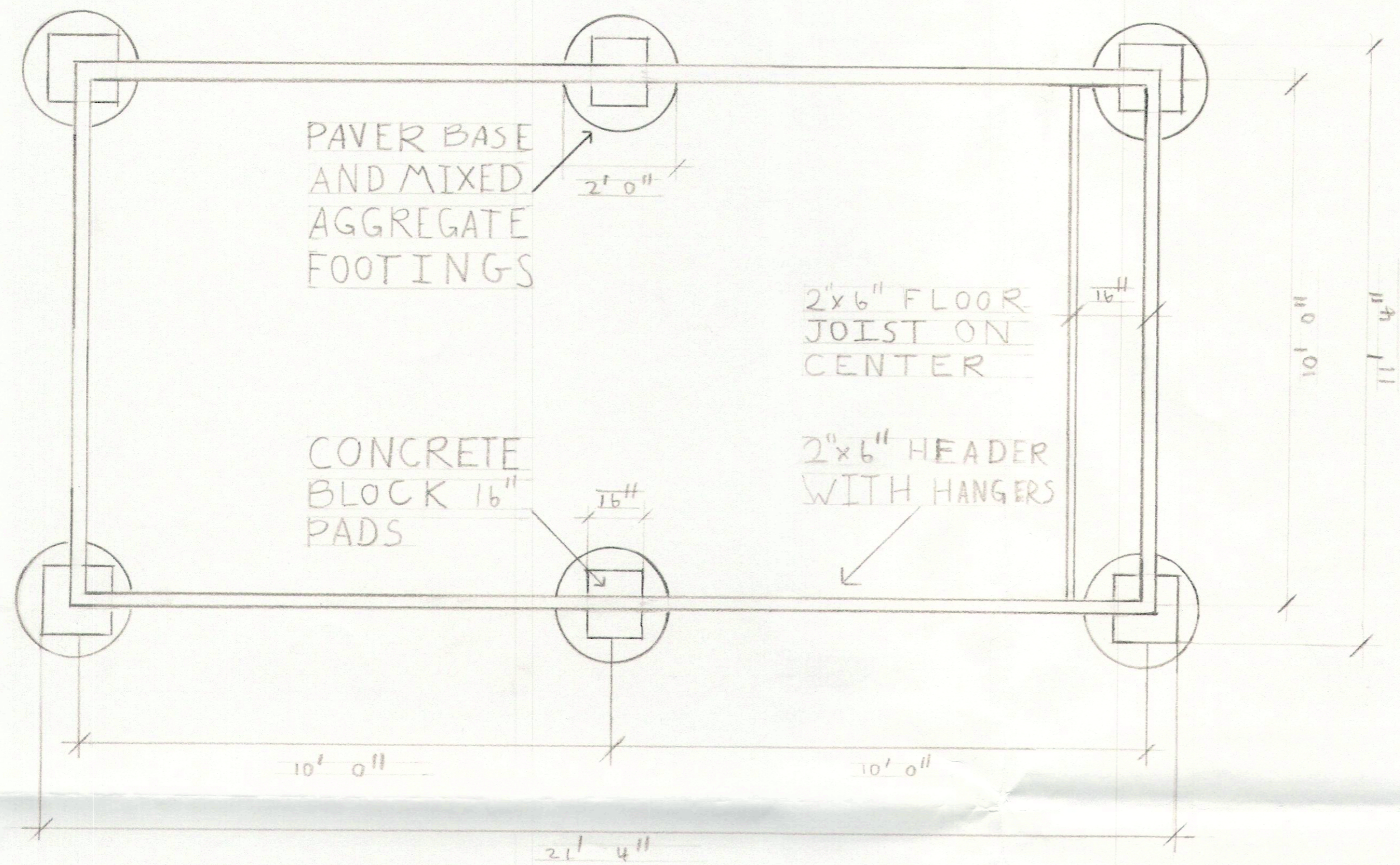
BRIAN PENDLEY
5335 WAYNE ROAD, WHITE LAKE
MICHIGAN 48383
U.S.M.C. ENGINEER SGT. VETERAN
SHED PLANS
DATE: 2023 12 03

SCALE

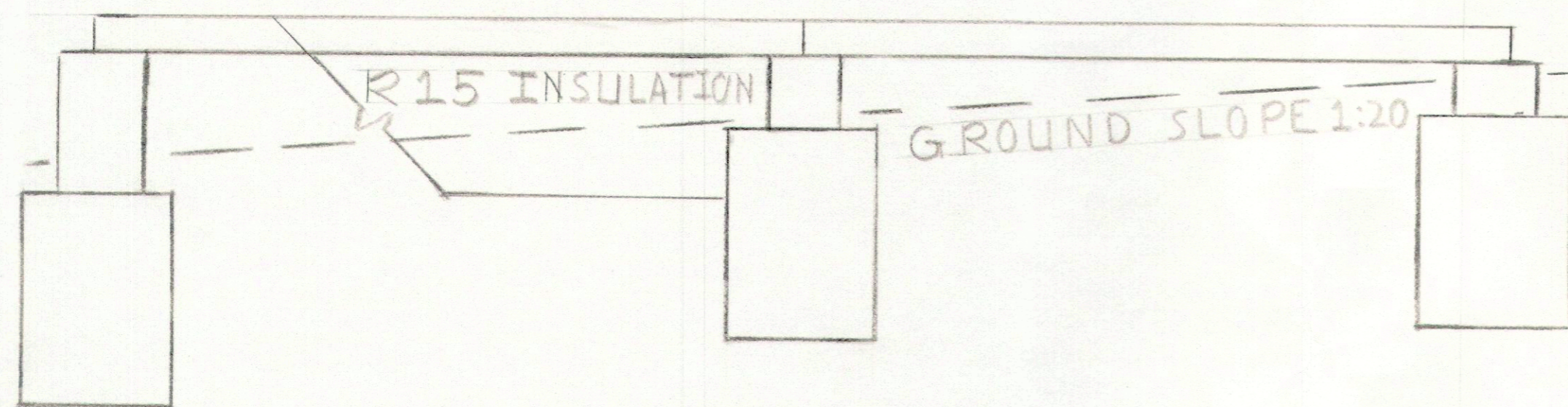
1/4" = 1' 0"

SHEET NO:

10F3



FOOTING PLAN



WEST ELEVATION

PROJECT

STORAGE SHED

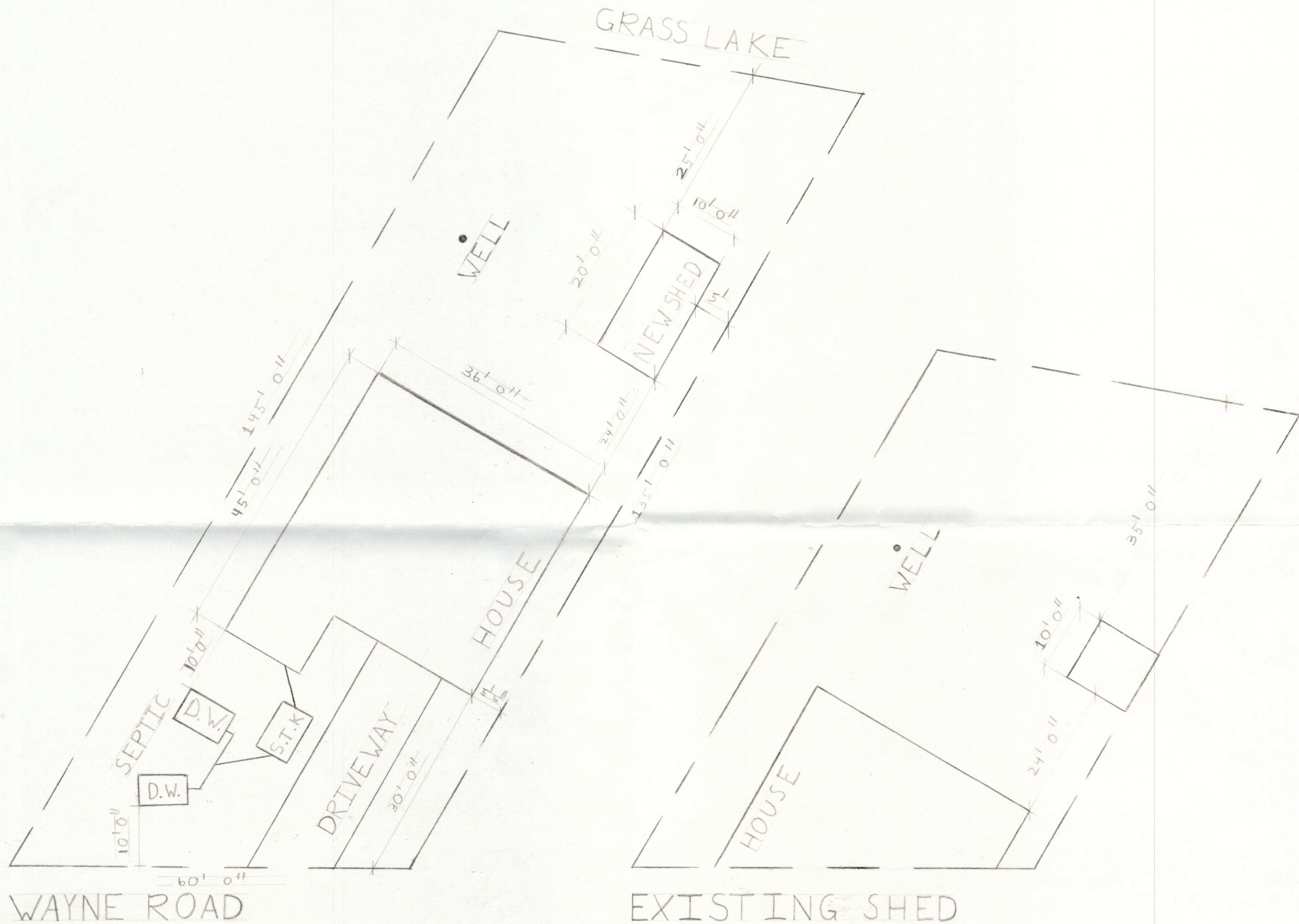
BRIAN PENDLEY
 5335 WAYNE ROAD, WHITE LAKE
 MICHIGAN 48383
 U.S.M.C. ENGINEER SGT. VETERAN
 FOOTING PLAN
 DATE: 2023 12 03

SCALE

1/2" = 1'

SHEET NO:

20F3



PROJECT:

STORAGE SHED

BRIAN PENDLEY
 5335 WAYNE ROAD, WHITE LAKE
 MICHIGAN 48383
 SURVEY: ALPINE LAND SURVEYING
 PLOT PLAN NEW AND EXISTING
 DATE: 2023 12 03



SCALE

1" = 10'

SHEET NO:

3 OF 3

Rik Kowall, Supervisor
Anthony L. Noble, Clerk
Mike Roman, Treasurer



Trustees
Scott Ruggles
Liz Fessler Smith
Andrea C. Voorheis
Michael Powell

WHITE LAKE TOWNSHIP

7525 Highland Road • White Lake, Michigan 48383-2900 • (248) 698-3300 • www.whitelaketwp.com

November 17, 2023

Brian Pendley
5335 Wayne Rd
White Lake, MI 48383

RE: Work Without Permit

Please be advised that the Building Department has observed work being completed on your property which requires permits and inspections. A **STOP WORK ORDER** is being issued on this property as of 11/17/23. The Building Department has not received the necessary paperwork, and no permits have been issued for any work; including, but not limited to:

- Accessory Structure or Addition

By State Code, accessory structures over 200 sq ft and/or accessory structures with more than one story require permits. Likewise, all accessory structures are required to meet the zoning standards for the district in which they are being constructed, as well as the accessory structure standards. These standards can be found in The White Lake Township Clear Zoning Ordinance.

Submit applicable plans and a permit application to the Building Department within the next 10 days. A **STOP WORK ORDER** will remain in effect on this property until the proper permits are in place. Applications can be found online at www.whitelaketwp.com or at the township office. If work continues without permit, a civil infraction will be issued.

If you have any questions call the White Lake Township Building Department at (248)698-3300, ext. 2.

Best Regards,

Nick Spencer, Building Official
White Lake Township

Rik Kowall, Supervisor
Anthony L. Noble, Clerk
Mike Roman, Treasurer



Trustees
Scott Ruggles
Liz Fessler Smith
Andrea C. Voorheis
Michael Powell

WHITE LAKE TOWNSHIP

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November 29, 2023

Brian Pendley
5335 Wayne Rd
White Lake, MI 48383

RE: Proposed Accessory Structure

Based on the submitted plans, the proposed structure does not satisfy the White Lake Township Clear Zoning Ordinance for Accessory Structures.

Article 3.1.6 of the White Lake Township Clear Zoning Ordinance: Requires a minimum lot area of 12,000 sq ft, minimum lot width of 80 ft, and maximum lot coverage of 20%

Article 5.7 (C) of the White Lake Township Clear Zoning Ordinance: Maximum building wall height of 14 ft.

The existing lot is legal non-conforming. The approximate 6,752 sq ft, 60 ft wide lot, contains a non-conforming residential structure. The proposed accessory structure would have a 5 ft side yard setback on the east side. The total lot coverage of all structures would be approximately 23.2%. Further, the North Elevation indicates the proposed total wall height to be 17 ft from grade.

It should also be noted that the overhangs on the accessory structure are proposed to extend approximately 1 ft beyond the side wall. Article 5.3 states, in no instance shall any portion of the proposed structure, including overhangs and gutters, project closer than 5 ft to either side yard lot line. No board, commission or department can grant approval to any structure, or portion of structure within the 5 ft side yard setback.

Approval of the building plans is subject to a variance to the schedule of regulations, Article 7 of the White Lake Township Clear Zoning Ordinance. To be eligible for the January 25th Zoning Board of Appeals (ZBA) meeting, complete application must be submitted to the White Lake Township Planning Department no later than December 28th at 4:30 PM. ***Be advised, a certified boundary and location survey showing the proposed structure will be required by the ZBA.*** The Planning Department can be reached at (248)698-3300, ext. 5

Sincerely,

A handwritten signature in black ink, appearing to read "Nick Spencer".

Nick Spencer, Building Official
White Lake Township

