



CITY OF INDIANOLA BOARD OF ADJUSTMENT MEETING

June 7, 2023

6:00 PM

City Council Chambers

Agenda

- 1. Call to Order**
- 2. Roll Call**
- 3. Agenda Approval**
 - A. Approval of June 7th's meeting agenda.
- 4. Minutes Approval**
 - A. Approval of May 3rd's meeting minutes.
- 5. New Business**
 - A. Consider request from Josiah Robinson for a variance to driveway paving standards to permit a gravel driveway at 1003 South 1st Street
- 6. Comments**
- 7. Adjourn**



MEMORANDUM

To: Board of Adjustment
From:
Date: June 7, 2023
Subject: Approval of June 7th's meeting agenda.

Recommendation:

Attachments: None



CITY OF INDIANOLA BOARD OF ADJUSTMENT MEETING

May 3, 2023

6:00 PM

City Council Chambers

Minutes

1. Call to Order

The meeting was called to order at 6:05.

2. Roll Call

Board members present: Amy Mitchell, Jane Whalen, Rene Soldwisch, Lee Bash

Staff members present: Charlie Dissell, Emily Rizvic, Miranda Chadwick

3. Agenda Approval

A. Approval of the May 3rd agenda.

Lee Bash made a motion to approve the agenda.

Amy Mitchell seconded the motion.

The motion was passed.

4. Minutes Approval

A. Approval of the meeting minutes from April 5th's meeting.

Lee Bash made a motion to approve the meeting minutes from April 5th.

Jane Whalen seconded the motion.

The motion was passed.

5. New Business

A. Consider request from Rod and Angela McKelvey for a variance for a property located at Lot 62 of the Millbrook Plat 2 Subdivision

Lee Bash made a motion to approve the request as submitted.

Rene Soldwisch seconded the motion.

The request was not approved.

B. Consider a request from Sandhills Energy LLC, on behalf of Indianola Municipal Utilities, for a Special Use Permit for ground mounted solar energy systems located at 1602 South K Street

Jane Whalen made a motion to approve the request as submitted.

Lee Bash seconded the motion.

The motion was approved.

6. Comments

7. Adjourn

The meeting was adjourned at 7:08.



MEMORANDUM

To: Board of Adjustment

From:

Date: June 7, 2023

Subject: Consider request from Josiah Robinson for a variance to driveway paving standards to permit a gravel driveway at 1003 South 1st Street

Recommendation:

Attachments:

1. 1. Staff Report
2. 2. Application
3. 3. Blue Prints
4. 4. Elevations



COMMUNITY DEVELOPMENT

110 N. First Street, Indianola IA 50125-0299 • www.indianolaiowa.gov
(515) 961-9430 • comdev@indianolaiowa.gov

STAFF REPORT

BOARD OF ADJUSTMENT

Date of Meeting: June 7, 2023

Agenda Item: 5.A Consider request from Josiah Robinson for a variance to driveway paving standards to permit a gravel driveway at 1003 South 1st Street

Application Type: Variance

Applicant: Josiah Robinson

Property Owner: Josiah Robinson

Property Address/Parcel: 1003 South 1st Street

Zoning: R-2, Single-Family Residential Attached Zoning District

Application Summary

Josiah Robinson is requesting a variance for a property located at 1003 South 1st Street. The request is for a variance to allow for a gravel driveway at 1003 South 1st Street. Gravel driveways are not a permitted paving surface under Chapter 165.07 of the City of Indianola Zoning Code.



APPLICABLE CODE SECTIONS

A. A written application of a variance is submitted demonstrating:

Agenda Item: 5.A Consider request from Josiah Robinson for a variance to driveway paving standards to permit a gravel driveway at 1003 South 1st Street

- (1) That 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;
- (2) 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;
- (3) That the special conditions and circumstances do not result from the actions of the applicant;
- (4) 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. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of land, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

B. Notice of public hearing shall be given as in subsection 2(B) above.

C. The public hearing shall be held. Any party may appear in person, or by agent or by attorney.

D. The Board of Adjustment shall make findings that the requirements of paragraph A of this subsection have been met by the applicant for a variance.

E. 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 the land, building or structure.

F. 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.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. 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 and punishable under Section 165.23 of this chapter. 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.

165.07 OFF-STREET PARKING REGULATIONS

2. Off-Street Parking Spaces.

(1) All parking and storage of vehicles, trailers, recreational vehicles, campers, boats and similar recreation equipment shall occur only upon paved surfaces designed and constructed per the regulations contained herein this Chapter. Unlicensed or inoperable vehicles and equipment shall not be stored outside unless part of an approved storage area on a property located within the M-1 or M-2 zoning districts. In all zoning districts space for parking and storage of vehicles and trailers shall be provided in accordance with the Off-Street Parking Required Table and the standards contained herein this Chapter. Required off-street parking facilities shall be primarily for the parking of private passenger automobiles of occupants, patrons, or employees of the principal use served.

3. Parking Area Design Requirements.

Every lot or parcel of land hereafter used as a public or private parking area, including a commercial parking lot, shall be developed and maintained in accordance with the following requirements. At the discretion of the Zoning Administrator, any design standard contained herein may be superseded by the standards contained in the Statewide Urban Design and Specifications (SUDAS) as maintained by the Institute for Transportation at Iowa State University.

A. Access Drive and Driveways. An access drives (or driveway) is required to provide access to all off-site parking areas and to any garage.

(4) Paving. All driveways, access drives, and off-street parking and loading areas shall be paved with hot mix asphalt (HMA), Portland Cement Concrete (PCC), or pavers (including permeable pavement and paver systems). The design and construction of said pavement or pavers shall be of sufficient thickness, reinforcement, and sub-base necessary to provide a durable, dustless surface designed and rated for the traffic it is anticipated to carry. All paved areas shall be so graded and drained as to dispose of all surface water accumulation within the area and shall be so arranged and marked as to provide for orderly and safe loading or

unloading and parking and storage of self-propelled vehicles. No vehicles or trailers shall be parked or strage upon an unpaved surface except as may be permitted within a designated and approved outdoor storage area. See Chapter 165.06, Section 4 for specific design standards.

ANALYSIS

Subject Property

Josiah Robinson is requesting a variance for their property located at 1003 South 1st Street to vary from surfacing standards for driveways. The parcel is currently a vacant and has a building permit application on file for a new single-family dwelling. The parcel was recently split through a Minor Subdivision late 2022.

The subject property is a standard single-frontage lot, zoned for the R-2 '*Single-Family Residential Attached*' Zoning District. The subject property fronts along South 1st Street, a gravel local street that is publically owned. In 19998, the Iowa Department of Transportation (IDOT) estimated that the Annual Average Daily Traffic (AADT) for South 1st Street was 640 vehicles.



Figure 1. Street view of the Subject Property (June 2021)

Future Land Use

According to the "Elevate Indianola" Comprehensive Plan, the future land use of this area is designated as low-density residential. Low-density residential guides for a density of 2-5 dwelling units per gross acres. Additionally, low-density residential guides for uses such as single-family detached dwellings, accessory dwelling units, innovative/non-traditional single-family forms when compatible, civic uses and places of worship, and lastly, parks, open spaces, and trails.

To the south of the Robinson Subdivision, the Comprehensive Plan guides for an east-west road connection for a major residential collector which would connect West 12th Avenue to East Plainview Avenue, which would relieve traffic along West 2nd Avenue/Hwy 92. Major colelctors are moderate-capacity streets that primarily serve to connect the local street network to arterials. Such roadways will typically have two lanes for traffic, with a speed limit ranging from 25 to 35 miles per hour, and may provide on-street parking on one side of the street.

The city does not currently have plans to pave South 1st Street however, if it were to be paved in the future, those costs could be assessed back to surrounding property owners, including lots within the Robinson Subdivision.

FINDINGS OF FACT

According to Section 165.02.3.B.(3)b. of Indianola's Zoning Code, in deciding whether to grant a variance request, the Board of Adjustment shall consider all the following legal principles. **All legal principles shall be satisfied in order for the Board of Adjustment to grant a variance.**

- i. **That 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;**

Staff Comment: This finding of fact asks for the Board to find whether special conditions or circumstances exist which are peculiar to the land and which are not applicable to other lands in the R-2 'Single-Family Residential Attached' Zoning District. The property fronts along South 1st Street, a public, gravel road. While it is certainly unique for a residential property to front along a gravel street within a city, the condition/circumstance does not impede the applicant/property owner from providing a paved driveway. As a result, staff finds that this finding cannot be seen favorably.

This criteria is not met.

Applicant Comment: Given that the road is gravel I feel that a gravel driveway ties in better with the road and landscape.

- ii. **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.**

Staff Comment: This finding of fact asks whether the applicant is deprived of a right that is commonly enjoyed by other properties within the same zoning district. A gravel driveway is not a right that other residential properties within the R-2 Zoning District or other residential zoning districts have. All residential drives, approaches, and non-required parking spaces are required by code to be hard surfaced. The code does not allow for exceptions from the requirement based on the surfacing of the abutting public or private street.

Nonconforming but legal gravel driveways are permitted as they pre-exist current day zoning code requirements. For properties that contain legal non-conforming driveways, there are minimum maintenance requirements in order for the property to continue being able to have a gravel driveway. When properties containing gravel surfacing fail to adequately maintain these drives, these drives must be removed and brought to code. Likewise, properties with such surfacing are not allowed to expand upon the non-conforming surfacing.

The purpose and intent of this related code section is to outline standards and regulations for paved surfaced that are necessary and customarily associated with and are appropriate to the principal use and general neighborhood. An approval of the variance would adversely affect the order, convenience, and/or general welfare of the neighborhood, as a gravel drive would not meet neighborhood expectations of enforcement and compliance with City Zoning Regulations. Customarily, variances run with the land, meaning that

zoning decisions made by variance cases are permanent and are not temporary. This means that even if the street were to be paved, the decision to allow for a gravel driveway is indefinite and cannot be retroactively pulled.

As a result, staff finds that this finding of fact cannot be answered favorably, and should the request be denied and the regulation to provide a hard-surfaced driveway is enforced, the property owner would not be denied reasonable use of the property

This criteria is not met.

Applicant Comment: This portion of the road is not paved.

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

Staff Comment: The need for a variance is the result of the preference of the property owner to utilize a gravel driveway as opposed to a hard-surfaced drive. The applicant has presented cost-related reasons. Although the cost to install a hardsurfaced driveway may be a financial consideration to the applicant themselves, it is not a basis for granting a variance. Staff finds that this finding of fact cannot be found favorably as the result of actions taken by the applicant are within the applicant's control.

This criteria is not met.

Applicant Comment: The city doesn't have this portion of the road paved, if it had been paved prior to my construction of the house I would have put in a paved driveway.

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

Staff Comment: Granting the variance would not be in harmony with the intent and purpose of the Zoning Code and Ordinance. The variance is being requested not because the the Zoning Code provides a hardship that would deny the applicant of reasonable use of the property but because of financial considerations made by the current property owner. The substandard surfacing may result in adverse impacts to adjoining properties by causing dust, erosion control, public safety access, and aesthetic issues.

Likewise, the installation of the driveway is a cost of development of this site, just as it is of each development or construction project. If the variance were to be granted, it would convey a privilege that other residential properties, including those within the R-2 Zoning District, do not consistently enjoy.

Lastly, as noted in the second finding of fact, nonconforming, gravel driveways that pre-exist current day zoning codes are legal as long as they are maintained as such. Such pre-existing gravel driveways cannot be expanded upon and when failed to be maintained, these drives must be removed and brought to code. While neighboring properties may be

a consideration made by the current property owner, nonconforming gravel driveways that pre-exist the zoning code cannot be considered as grounds for the issuance of a variance.

This criteria is not met.

Applicant Comment: All neighboring properties on this section of gravel road, both business and residential, have gravel driveways. I am simply requesting the same privilege that they enjoy.

SUMMARY OF FINDINGS

The following summary of findings are provided as resonings to deny the variance request:

- 1) The variance is not favorable towards one or more findings of fact, outlined in the Zoning Code.
- 2) Granting the variance would provide a right and privilege that other properties do not have under the City of Indianola's Zoning Code Regulations.
- 3) Deviation from the Zoning Code Regulations would not be in harmony with the intent and prupose of the zoning code.
- 4) The variance is not created by the regulations within the zoning code but rather arises from an action (desire) of the applicant to construct a gravel driveway rather than hardsurface the driveway.
- 5) Financial considerations are preferential to the property owner and cannot be basis for granting a variance request.
- 6) Neighboring properties with nonconforming but legal gravel drives cannot be considered for grounds of issuing a variance request.
- 7) The substandard surfacing may result in adverse impacts to adjoining properties by causing dust, erosion control, public safety access, and aesthetic issues.
- 8) Frontage along a gravel public or private street does not impede a property owner from providing a hardsurfaced driveway.
- 9) An unnecessary hardship does not exist if the request is denied, as the applicant can still make reasonable and economically viable use of the property.

If the Board finds that the applicant has a hardship specifically related to the property, then a variance should be granted based on findings. If the Board finds that the request is the result of a preference and not a hardship, then a variance shall not be granted. In order for the Board to grant a variance, findings of a hardship, as discussed in this staff report, must be stated.

As a result, if the variance were to be granted, the Board of Adjustment should be prepared to summarize, for inclusion in the minutes of the meetings, its reasons to approve, which will serve as the applications decision and order.

COMMENTS FROM THE GENERAL PUBLIC

Notification letters were mailed to surrounding property owners regarding the variance request the week of May 26, 2023. No comments were received at the time of the writing of this report.

ALTERNATIVES

The City of Indianola Board of Adjustment may consider the following alternatives:

- 1) The City of Indianola Board of Adjustment approves the variance request, as submitted.
- 2) The City of Indianola Board of Adjustment approved the variance request, with conditions.
- 3) The City of Indianola Board of Adjustment denies the variance request.**
- 4) The City of Indianola Board of Adjustment remands the variance request back to the applicant and/or staff for further review and/or modifications and directs staff to place this item on a future Board of Adjustment agenda.

RECOMMENDATION

Staff recommends that the Indianola Board of Adjustment move alternative 3, to deny the variance request, as submitted.

BOARD OF ADJUSTMENT APPLICATION

Community Development

110 North 1st Street, Indianola, Iowa 50125-0299
(515) 961-9430 • comdev@indianolaiowa.gov



PROPERTY OWNER

(Last Name) _____
(First Name) _____
(Address) _____
(City) _____ (State) _____ (Zip) _____
(Phone) _____ (Email) _____

APPLICANT (if not Property Owner)

(Last Name) _____
(First Name) _____
(Address) _____
(City) _____ (State) _____ (Zip) _____
(Phone) _____ (Email) _____

☐ APPEAL

Submittal Requirements:

*All submittal requirements must be completed.
Incomplete applications will not be considered*

- ☐ Completed Application
- ☐ Filing Fee: \$300 per request
- ☐ Written narrative indicating where it is alleged there is error in any order, requirement, decision, or determination made by the Administrative Officer in the enforcement of this Code of Ordinances of Indianola, Iowa .
- ☐ Other Information as required by Director

☐ SPECIAL USE PERMIT

Submittal Requirements:

*All submittal requirements must be completed.
Incomplete applications will not be considered*

- ☐ Property Address: _____
- ☐ Completed Application
- ☐ Filing Fee: \$300 per request
- ☐ Site Plan and Elevations as outlined in 165.06
- ☐ Written narrative indicating the special use permit sought and response to the criteria outlined in Section 165.02(3)(B)(3)(c)(v) of the Code of Ordinances of Indianola, Iowa
- ☐ Other Information as required by Director

☐ VARIANCE

Submittal Requirements:

*All submittal requirements must be completed.
Incomplete applications will not be considered*

- ☐ Property Address: _____
- ☐ Completed Application
- ☐ Filing Fee: \$300 per request
- ☐ Site Plan and Elevations
- ☐ Written narrative indicating justification for proposed variance and response to the criteria outlined in Section 165.02(3)(B)(3)(b) of the Code of Ordinances of Indianola, Iowa
- ☐ Other Information as required by Director

I certify that the information and exhibits submitted are true and correct to the best of my knowledge and that in filing this application I am acting with the knowledge, consent and authority of the owner(s) of the property. Pursuant to said authority, I hereby permit City officials to enter upon the property for the purpose of inspection related to this application.

Signature _____

Name (printed) _____

Date _____

FOR OFFICE USE ONLY:

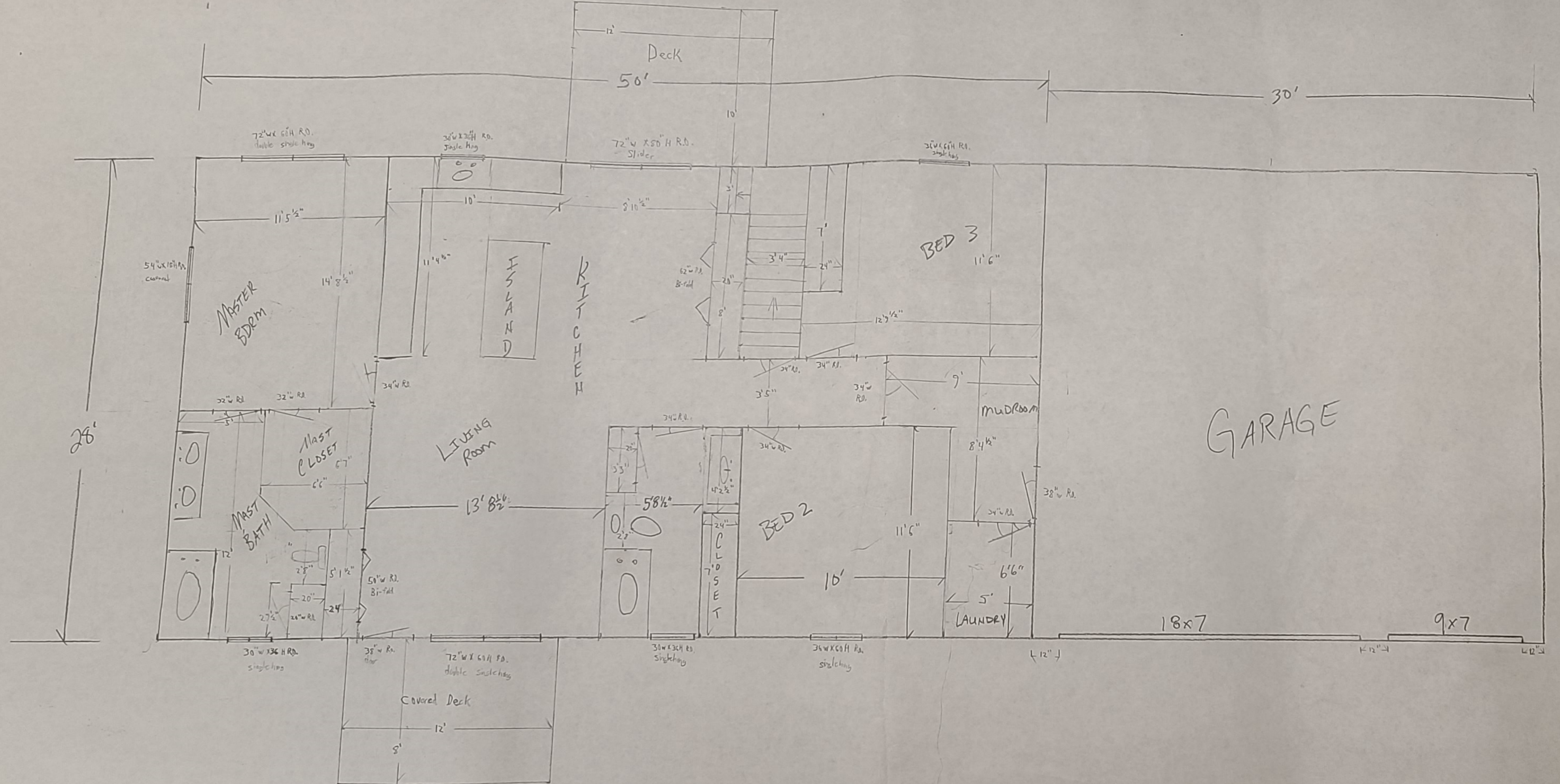
Code to 45180

Date Received: _____

Receipt No: _____

Receipt Amount: _____

BOA Agenda Date: _____



REAR ELEVATION W/OUT

