



Board of Adjustment Case Report

City of Raleigh
Department of City Planning
One Exchange Plaza
Raleigh, NC 27601
(919) 996-2626
www.raleighnc.gov

Case File: A-73-15

Property Address: 2612 Village Manor Way

Property Owner: Capitol City Homes, LLC

Project Contact: Carie L. Briggs

Nature of Case: A request for a variance from all of the wooded area requirements set forth in Section 9.1.9.A. of the Unified Development Ordinance to allow for the construction of a detached house on a .66 acre property zoned Residential-6 Conditional Use and Urban Watershed Protection Overlay District and located at 2612 Village Manor Way.



2612 Village Manor Way – Location Map

To BOA: 9-11-15

Staff Coordinator: Eric S. Hodge, AICP

ZONING DISTRICTS: Residential-6 Conditional Use and Urban Watershed Protection Overlay District



2612 Village Manor Way – Zoning Map

VARIANCE STANDARDS: In accordance with UDO §10.2.10 Variance, before a variance request is granted, the Board of Adjustment shall show all of the following:

To Legalize the Existing Structure:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

2. **The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.**
3. **The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.**
4. **The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured and substantial justice is achieved.**

Sec. 9.1.9 Watershed Protection Overlay Districts

A. Except as otherwise provided below, every lot located within a -UWPOD, -FWPOD or -SWPOD must provide and maintain an area set aside for trees equal to at least 40% of the lot area. Within this area, trees must either be preserved or planted in accordance with the following:

1. Tree areas may be 1 contiguous area or scattered areas throughout the lot, but no required tree area may be less than 1/5 of the total gross land area required to be set aside for trees;
2. All areas required to be set aside for trees shall be maintained as wooded areas;
3. Wooded areas may consist of either areas where active tree preservation is observed or tree planting areas;
4. Each active tree preservation area must contain a minimum of 2 inches of tree caliper per every 100 square feet and within such areas, active tree preservation shall be followed;
5. Areas that are set aside for trees that do not meet the standards for active tree protection areas must be planted with shade trees; and
6. The minimum size and planting rate of new tree plantings used to fulfill this requirement shall be either 1 bare-root seedling at least 14 inches tall planted per 100 square feet (10 feet by 10 feet centers) or one 2-inch caliper tree planted per 200 square feet.

B. After wooded areas have been determined and prior to or concurrent to any subdividing of the property or issuance of building permit, the landowner shall record with the local County Register of Deeds a plat with metes and bounds descriptions of all wooded areas.

C. For lots located within areas designated "New Urban" by the Swift Creek Land Management Plan, the regulations of Sec. 9.1.9.A. above apply with the exception that only 25% of each lot must contain an area set aside for trees.

D. For lots located within a conservation development, areas set aside for trees may in lieu of being situated on the individual dwelling lots may instead be located within the required open space, provided that the overall acreage set aside for trees is not diminished.

E. The requirements of this section do not apply to lots devoted exclusively to stormwater control measures or to those lots located in those areas of the Comprehensive Plan designated for impervious surfaces in excess of 30%.

A-73-15



Planning & Development

Development Services
 Customer Service Center
 One Exchange Plaza
 Exchange Plaza, Suite 400
 Raleigh, North Carolina 27601
 Phone 919-996-2495
 Fax 919-516-2685
 100-2410-524100-000-00000-000000-000000000
 BOARD OF ADJUSTMENT \$200.00

Variance Application

Visa Tendered : \$200.00

		OFFICE USE ONLY
Nature of variance request (Submit addendum on separate sheet, if more space is needed.) SEE ATTACHED VARIANCE REQUEST		Transaction Number
Provide all previous transaction numbers for Coordinated Team Reviews, Due Diligence Sessions or Pre-Submittal Conferences. If this property was the subject of a previous variance request, provide the case number.		

GENERAL INFORMATION		
Property Address 2612 Village Manor Way	Date 08/13/2015	
Property PIN 1820939142	Current Zoning R-6-CB	
Nearest Intersection Village Manor Way at Village Springs Rd	Property size (in acres) .66	
Property Owner Colton, Daniel & Ann	Phone 301 512-3858	Fax
	Email danny@gbdevelops.com	
Project Contact Person Randy Smith	Phone 919 633-7656	Fax
	Email ncsunmysmith@gmail.com	
Property Owner Signature 	Email danny@gbdevelops.com	
Notary	Notary Signature and Seal 	
Sworn and subscribed before me this <u>13</u> day of <u>Aug</u> , 20 <u>15</u>	<div style="border: 1px solid black; padding: 5px;"> SYLVIA YOUNG Notary Public, North Carolina Wake County My Commission Expires January 06, 2018 </div>	

It is improper to contact any member of the Board of Adjustment prior to the disposition of a case to discuss the request. A variance application will not be considered complete until all required submittal components listed on the Variance Checklist have been received and approved.



Planning & Development

*** D U P L I C A T E ***
 Development Services
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 Phone 919-996-2495
 Fax 919-516-2685
 100-2410-524100 000-00000-00000-00000000
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	Email danny@gbdevelops.com	
Project Contact Person Randy Smith	Phone 919 633-7656	Fax
	Email ncsunnysmith@gmail.com	
Property Owner Signature <i>[Signature]</i> DANIEL COLTON	Email danny@gbdevelops.com	
Notary Sworn and subscribed before me this <u>14</u> day of <u>August</u> , 20 <u>15</u>	Notary Signature and Seal <i>[Signature]</i> KELLY L. FROST NOTARY PUBLIC - STATE OF MARYLAND ANNE ARUNDEL COUNTY My Commission Expires 1/7/17	

It is improper to contact any member of the Board of Adjustment prior to the date of submission of the request. A variance application will not be considered complete until all required submittal components listed on the Variance Checklist have been received and approved.

[Home](#)

Wake County Real Estate Data Account Summary

[iMaps](#)[Tax Bills](#)Real Estate ID **0322582** PIN # **1820939142**[Account Search](#)

Location Address Property Description
2612 VILLAGE MANOR WAY **LT47 WKFLD PLTN FAIRVIEW P2 BM2004-00676**

[Pin/Parcel History](#) [Search Results](#) [New Search](#)

NORTH CAROLINA [Account](#) | [Buildings](#) | [Land](#) | [Deeds](#) | [Notes](#) | [Sales](#) | [Photos](#) | [Tax Bill](#) | [Map](#)



For real estate accounts created or new construction built after January 1, 2015: Property values are under review for tax year 2016. Land and building values on these properties will reflect an assessment based on the January 1, 2008 Schedule of Values until late 2015 or early 2016 at which time the January 1, 2016 revaluation values for both land and buildings will be available.

Property Owner COLTON, DANIEL I & ANN (Use the Deeds link to view any additional owners)	Owner's Mailing Address 2612 VILLAGE MANOR WAY RALEIGH NC 27614-8097	Property Location Address 2612 VILLAGE MANOR WAY RALEIGH NC 27614-8097
Administrative Data Old Map # 215-00000-0000 Map/Scale 1820 04 VCS 19RA031 City RALEIGH Fire District Township WAKE FOREST Land Class VACANT ETJ RA Spec Dist(s) Zoning CUD R-6 History ID 1 History ID 2 Acreage .66 Permit Date Permit #	Transfer Information Deed Date 5/11/2007 Book & Page 12544 1835 Revenue Stamps 820.00 Pkg Sale Date Pkg Sale Price Land Sale Date 5/11/2007 Land Sale Price \$410,000 Improvement Summary Total Units 0 Recycle Units 0 Apt/SC Sqft Heated Area	Assessed Value Land Value Assessed \$322,000 Bldg. Value Assessed Tax Relief Land Use Value Use Value Deferment Historic Deferment Total Deferred Value Use/Hist/Tax Relief Assessed Total Value \$322,000 Assessed*

*Wake County assessed building and land values reflect the market value as of January 1, 2008, which is the date of the last county-wide revaluation. Any inflation, deflation or other economic changes occurring after this date does not affect the assessed value of the property and cannot be lawfully considered when reviewing the value for adjustment.

The January 1, 2008 values will remain in effect until the next county-wide revaluation, which begins January 1, 2016. Until that time, any real estate accounts created or new construction built is assessed according to the 2008 Schedule of Values.

For questions regarding the information displayed on this site, please contact the Revenue Department at RevHelp@wakegov.com or call 919-856-5400.

ADDENDUM A

Variance Application: 2612 Village Manor Way
Raleigh, NC 27614
PIN 1820939142

Lot 47 Wakefield Plantations Subdivision,
Fairview Phase II

Applicant: Ann Colton (Owner)

Ann Colton respectfully requests that the Board of Adjustment (“Board”) grant relief from the strict requirements of UDO § 9.1.9.A., entitled Watershed Protection Overlay Districts, which states that “every lot located within a -UWPOD, - FWPOD or -SWPOD must provide and maintain an area set aside for trees equal to at least 40% of the lot area.” CCH requests an 88% variance and in support of this request, Applicant shows the following:

Background

The Subject Parcel is 0.66 acres, zoned R-6-CB, and currently within the Urban Watershed Protection Overlay District (“UWPOD”) as defined in the City’s UDO. It is identified at Lot No. 47 on the final subdivision plat for Wakefield Plantations Fairview Phase II.

Wakefield was approved as a cluster unit development under the previous ordinance (the “City Code”). The new rules in the UDO were adopted by City Council on February 18, 2013 and became effective September 1, 2013. Staff informed CCH prior to its pre-application conference that the consultant preparing the UDO erroneously consolidated all watershed protection overlay requirements in the UDO. According to Staff, this resulted in the unintended application of the forty (40) percent forestation minimum to lots within the urban watershed overlay, which had no such limitation under the City Code.

Although the subdivision of land creating the Subject Parcel has already been approved and the final plat recorded, UDO § 9.1.9.B. prohibits the issuance of a building permit without recordation of a plat showing metes and bounds descriptions of wooded areas that satisfy the 40% minimum lot coverage which leads to the request made in the variance application.

Variance Elements

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made from the property.

Based on the background of the urban watershed overlays in their various forms under the City Code and UDO as described above, application of UDO § 9.1.9.A. to the Subject Parcel imposes undue and unnecessary hardship because the

property cannot be reasonably developed for its use and purpose (as approved by the City of Raleigh) with 40% of its area committed to forestation.

2. *The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.*

The hardship results from the size of the Subject Parcel combined with its location within the OWPOD. The fact that the subdivision approval, which created the Subject Parcel, occurred prior to the time the City adopted its first unified development ordinance results in conditions that are peculiar to a very narrow number of properties. None of the conditions identified result from CCH's personal circumstances, nor are they common to the entire neighborhood or general public.

3. *The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.*

The hardship is a result of the adoption of the UDO, and the inadvertent consolidation of all watershed overlay districts, which made a minimum forestation requirement applicable to urban watershed protection areas for the first time.

4. *The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured and substantial justice is achieved.*

The requested variance will allow for infill development of property in harmony with the surrounding community and in total compliance with the standards applicable to the Wakefield Subdivision's prior approval. The safety of the public is not adversely affected. Providing relief from regulations which were not intended to be applied to the Subject Parcel and which materially impair its lawful development would promote substantial justice in this circumstance.

Wakefield Plantations Fairview Phase II

Subject Property: 2612 Village Manor Way, Raleigh NC 27614 - (Lot 47 Fairview Manor)

Owner / Applicant: Daniel & Ann Colton

PIN for Subject Property: 1820939142

Property Owners within 100 ft of Subject Property

PIN	Owner	Address	City	St	Zip
1820938306	Napolitano, Gerardo & Susan	2607 Village Manor Way	Raleigh	NC	27614
1820939324	Arakelian, Peter A & Lisa A	2611 Village Manor Way	Raleigh	NC	27614
1830030341	Kabir, Athiff & Fathima N	14460 Falls Of Neuse Rd Ste 149-306	Raleigh	NC	27614
1830031279	Bricker, Christopher A & Jennifer D	2619 Village Manor Way	Raleigh	NC	27624
1830030079	Filomena, Anthony P II & Carol A	3747 Power Drive	Carmel	IN	46033
1820938104	Bank Of America Na	Ocwen Loan Servicing LLC 1661 Worthington Rd Ste 100	West Palm Beach	FL	33409

PRELIMINARY PLOT PLAN FOR

PHIL MILLER CONSTRUCTION

LOT 47, WAKEFIELD PLANTATION

FAIRVIEW PHASE II

2612 VILLAGE MANOR WAY

REF: B.M. 2004, PAGES 2044-2045

CITY OF RALEIGH

WAKE COUNTY, NORTH CAROLINA

AUGUST 11, 2015

ZONED R-6-CUD



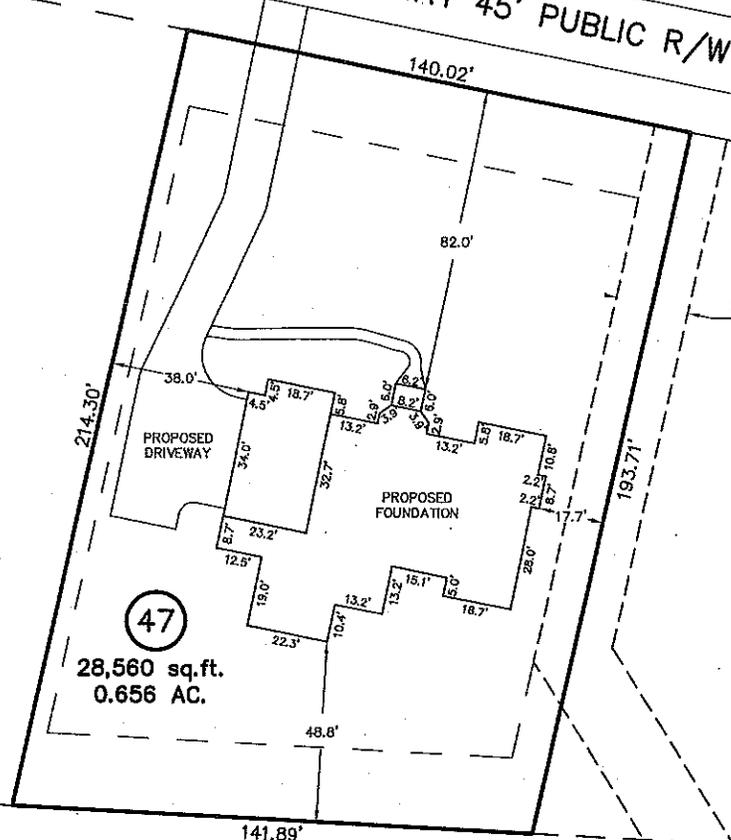
SCALE 1"=40'



VILLAGE MANOR WAY 45' PUBLIC R/W

46

48



47

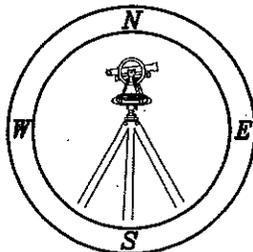
28,560 sq.ft.
0.656 AC.

IMPERVIOUS SURFACE TABLE

HOUSE	4,218 S.F.
DRIVEWAY	2,251 S.F.
SIDEWALKS	215 S.F.
TOTAL IMPERVIOUS AREA	6,684 S.F.
TOTAL LOT AREA	28,560 S.F.
PERCENTAGE OF IMPERVIOUS AREA	23.40%

N/F
TOURNAMENT PLAYERS CLUB
OF RALEIGH, LLC
PIN# 1820.04-92-4924
D.B. 9349, PG. 22
B.M. 1998, PG. 1292

THIS SURVEYOR DOES NOT
WARRANTY THE ACCURACY
OF ARCHITECTURAL DIMENSIONS.
THEY ARE TO BE VERIFIED BY
THE CONTRACTOR.



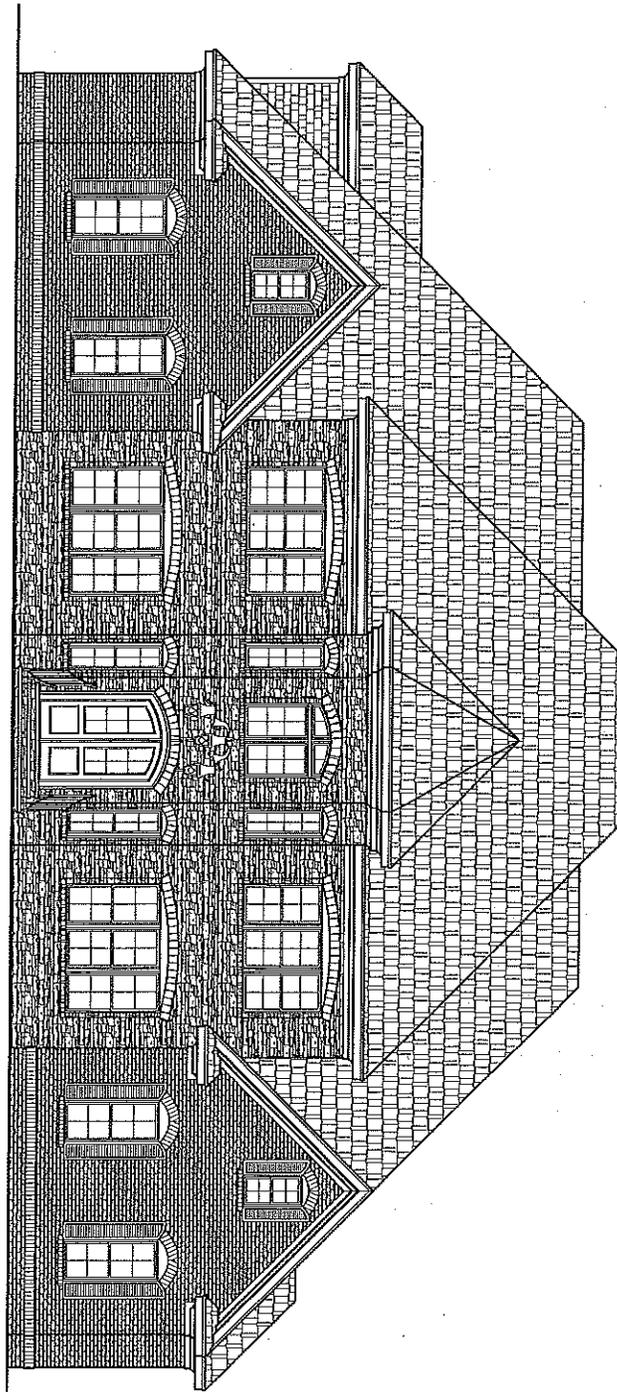
CAWTHORNE, MOSS & PANCIERA, P.C.

Professional Land Surveyors
C-1525

333 S. White Street
Post Office Box 1253
Wake Forest, N.C. 27588
(919)556-3148

NOTES:

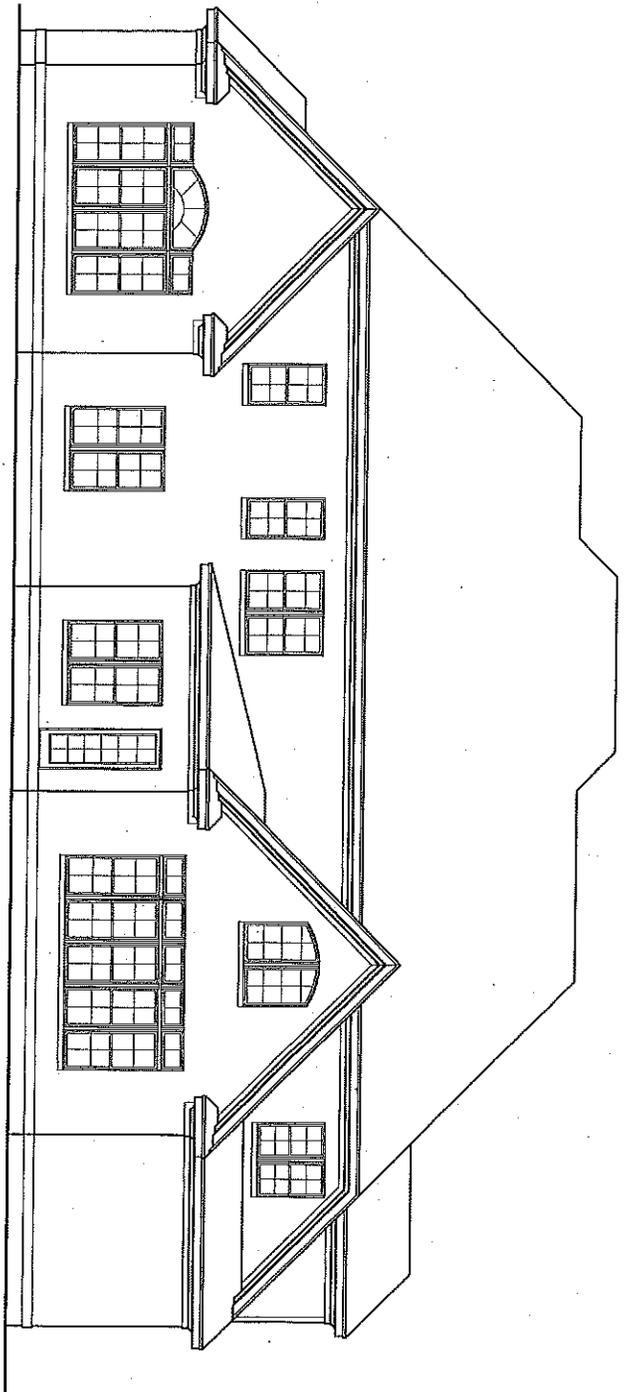
- THIS PLAN DOES NOT REFLECT AN ACTUAL SURVEY. IT IS A PRELIMINARY PLAN AND SHOULD BE USED FOR ITS INTENDED PURPOSE ONLY.
- NOT FOR RECORDATION, CONVEYANCES, OR SALES.



FRONT ELEVATION

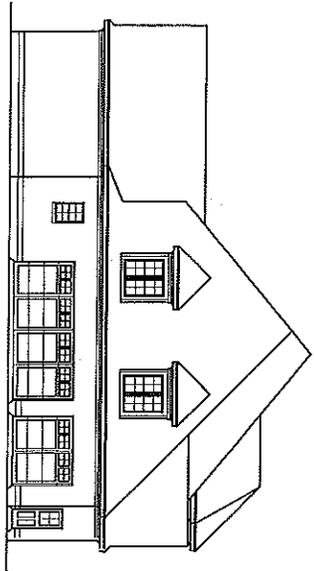
SCALE: 1/4"=1'-0"

<p>PHIL MILLER CONSTRUCTION</p>	<p>DESIGNTECH Inc. 401 N. BAYLAN AVE. RALEIGH, NC 27603 919-239-9922 WWW.DESIGNTECH10.COM</p>	<p>CONTRACTOR SHALL VERIFY ALL CONDITIONS AND FOUNDATIONS PRIOR TO BEGINNING ANY EXCAVATION OR CONSTRUCTION SHALL BE REPORTED TO STATE LOCAL, INC. FOR CORRECTION OR JUSTIFIED APPROX. CONTRACTOR MUST COMPLY WITH ALL LOCAL, STATE AND FEDERAL REGULATIONS TO BE IN FULL COMPLIANCE WITH ALL ENGINEERING STANDARDS AND ALL PROFESSIONAL CONTRACTORS MUST CONSULT WITH LOCAL ENGINEERS FOR ALL NECESSARY PERMITS. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS PRIOR TO BEGINNING CONSTRUCTION. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS PRIOR TO BEGINNING CONSTRUCTION.</p>
<p>ALL Bids. OF 1</p>	<p>REVISIONS: DATE: _____ NAME: _____ CHECKED BY: _____ DATE: 1/18/13 PLAN NO. 20-24-06-DT</p>	<p>REVISIONS: DATE: _____ NAME: _____</p>



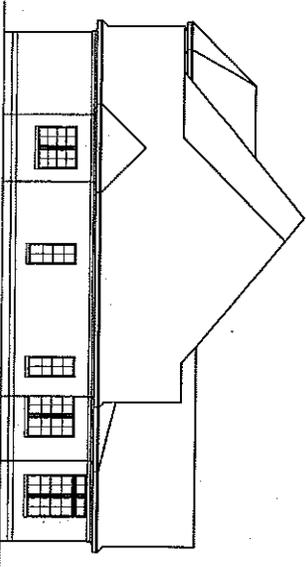
REAR ELEVATION

SCALE: 1/8"=1'-0"



LEFT ELEVATION

SCALE: 1/8"=1'-0"



RIGHT ELEVATION

SCALE: 1/8"=1'-0"

CONTRACTOR SHALL VERIFY ALL CONDITIONS AND HAZARDOUS WASTE BY CONSTRUCTION ANY FLOOR OR CEILING SHALL BE REPORTED TO INSPECTOR, INC. FOR REMEDIATION. IN THE EVENT CONTRACTOR DOES NOT COMPLY WITH ALL LOCAL, STATE AND FEDERAL REQUIREMENTS AND FEDERAL CONTRACTOR MUST COMPLY WITH LOCAL, STATE AND FEDERAL REQUIREMENTS. CONTRACTOR SHALL VERIFY ALL CONDITIONS AND HAZARDOUS WASTE BY CONSTRUCTION ANY FLOOR OR CEILING SHALL BE REPORTED TO INSPECTOR, INC. FOR REMEDIATION. IN THE EVENT CONTRACTOR DOES NOT COMPLY WITH ALL LOCAL, STATE AND FEDERAL REQUIREMENTS AND FEDERAL CONTRACTOR MUST COMPLY WITH LOCAL, STATE AND FEDERAL REQUIREMENTS. CONTRACTOR SHALL VERIFY ALL CONDITIONS AND HAZARDOUS WASTE BY CONSTRUCTION ANY FLOOR OR CEILING SHALL BE REPORTED TO INSPECTOR, INC. FOR REMEDIATION. IN THE EVENT CONTRACTOR DOES NOT COMPLY WITH ALL LOCAL, STATE AND FEDERAL REQUIREMENTS AND FEDERAL CONTRACTOR MUST COMPLY WITH LOCAL, STATE AND FEDERAL REQUIREMENTS.

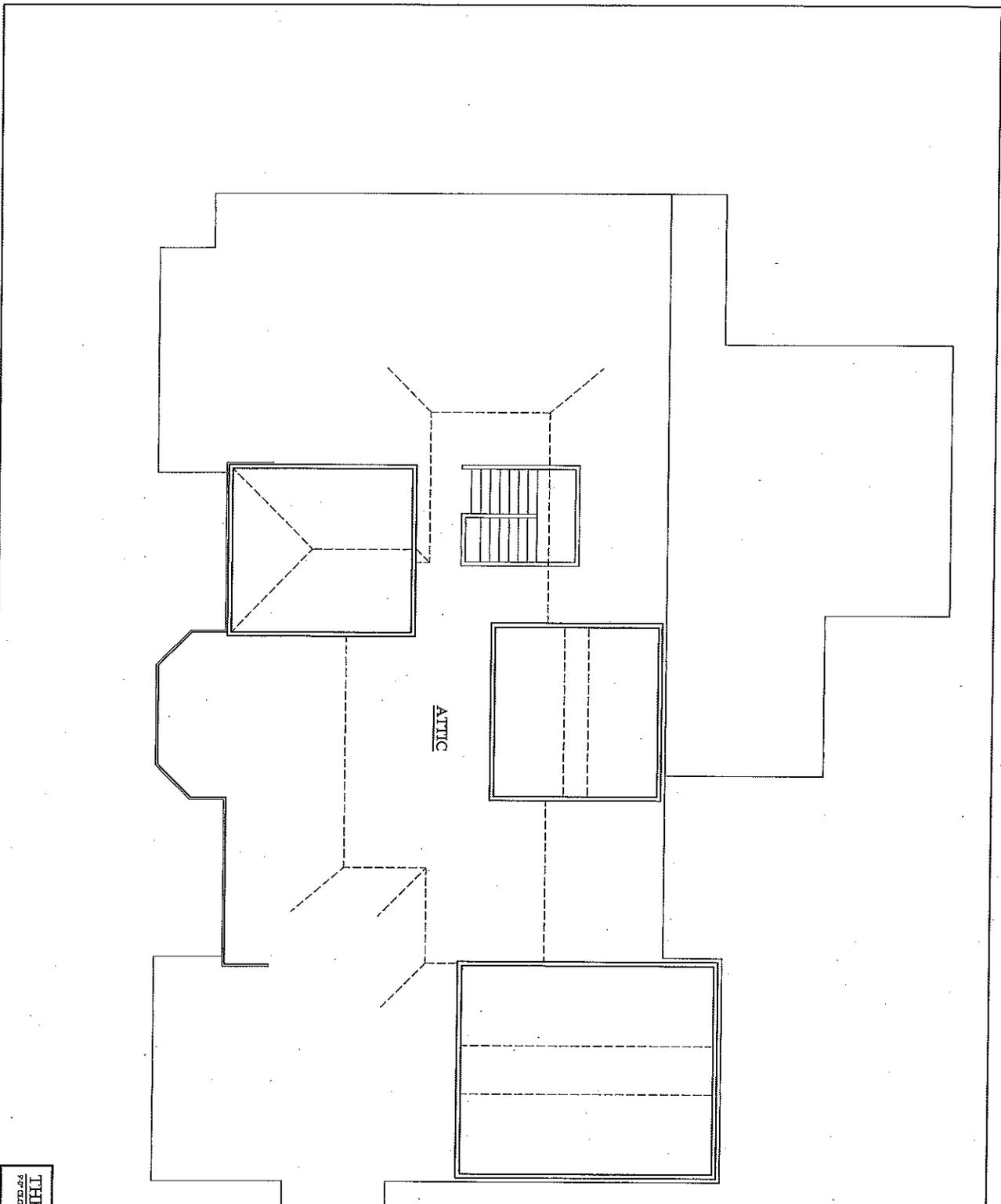
DATE	REVISIONS
11/04/13	ISSUED FOR PERMITS
02/04/14	REVISED PER PERMITS
02/04/14	REVISED PER PERMITS
02/04/14	REVISED PER PERMITS

DESIGNTECH INC.
 405 N. BOYLAN AVE.
 RALEIGH, NC 27603
 919.239.4972
 WWW.DESIGNTECH.COM

PHIL MILLER CONSTRUCTION

ALL
 B.D.
 OF
2
 SHEET NO.

CONTRACTOR SHALL VERIFY ALL CONDITIONS AND HAZARDOUS WASTE BY CONSTRUCTION ANY FLOOR OR CEILING SHALL BE REPORTED TO INSPECTOR, INC. FOR REMEDIATION. IN THE EVENT CONTRACTOR DOES NOT COMPLY WITH ALL LOCAL, STATE AND FEDERAL REQUIREMENTS AND FEDERAL CONTRACTOR MUST COMPLY WITH LOCAL, STATE AND FEDERAL REQUIREMENTS. CONTRACTOR SHALL VERIFY ALL CONDITIONS AND HAZARDOUS WASTE BY CONSTRUCTION ANY FLOOR OR CEILING SHALL BE REPORTED TO INSPECTOR, INC. FOR REMEDIATION. IN THE EVENT CONTRACTOR DOES NOT COMPLY WITH ALL LOCAL, STATE AND FEDERAL REQUIREMENTS AND FEDERAL CONTRACTOR MUST COMPLY WITH LOCAL, STATE AND FEDERAL REQUIREMENTS.



ATTIC

THIRD FLOOR PLAN SCALE 1/4"=1'-0"
 PER CLG. NOT UNCLG.

ACCESSORIES LEGEND

- 1) SEE CHAPTER 4 OF 2015 NRCB FOR WALL CONSTRUCTION.
- 2) VERTICAL CLASPS TO BE USED AT ALL SAFETY NONG SECTION 208.4.
- 3) DWELLING/COMMERCIAL FIRE SEPARATION SHALL PER TABLE 208.4 OF THE NRCB. VERT LIGHT/VENTILATION & EGRESS AS REQUIRED IN 2015 NRCB SECTIONS 208.1 AND 210.
- 3) ALL ANCHOR WALLS ARE 4" UNLESS NOTED OTHERWISE.
- 4) VERIFY ALL WINDOW SIZES, RAISE, AND DETAILS WITH ARCHITECT/MANUFACTURER.
- 5) LOCATE DOORSWEEP FACE TO ALLOW 4" MIN. BELOW WINDOW FRAME.
- 6) FLOOR PLAN NOTATIONS GOVERN OVER ALL OTHER NOTATIONS.
- 7) ALL CORNER REINFORCING ANCHORS TO BE VERIFIED WITH ARCHITECT/MANUFACTURER FROM CURBSET MANUF. FOR ALL CORNERS TO BE CHANGED.
- 8) ALL FLOOR COVERINGS AND FINISHES BY OWNER/HLN. COORDINATE REVISIONS DUE TO THE CHANGES.
- 9) FINISHES OF ROOMS PER CHAIRMAN'S COMMENTS TO BE VERIFIED WITH ARCHITECT/MANUFACTURER FROM CURBSET MANUF. FOR ALL ROOMS TO BE CHANGED.
- 10) FINISHES FOR CEILING SHALL BE VERIFIED WITH ARCHITECT/MANUFACTURER FROM CURBSET MANUF. FOR ALL ROOMS TO BE CHANGED.
- 11) FINISHES FOR ALL INTERIOR BASE BOARD, C.C. SHALL BE VERIFIED WITH ARCHITECT/MANUFACTURER FROM CURBSET MANUF. FOR ALL ROOMS TO BE CHANGED.

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PHIL MILLER CONSTRUCTION  DESIGNTECH INC. 406 N. BOLAN AVE. SUITE 200 BIRMINGHAM, AL 35202 WWW.DESIGNTECH.COM	DRAWN BY: RBY/ACD/CAS CHECKED BY: DATE: 11-10-15 PLAN NO: 20140929T	CONTRACTOR SHALL VERIFY ALL CONDITIONS AND DIMENSIONS PRIOR TO CONSTRUCTION. ANY DISCREPANCIES SHALL BE REPORTED TO DESIGN TECH INC. FOR CORRECTION OR REVISION. CONTRACTOR SHALL VERIFY ALL LOCAL BUILDING CODES WHICH MAY BE DIFFERENT FROM THE SPECIFICATIONS LISTED IN ANY PERMITTED CONSTRUCTION MUST COMPLY WITH LOCAL ORDINANCES FOR ALL APPLICABLE. CONTRACTOR SHALL VERIFY ALL DIMENSIONS PRIOR TO CONSTRUCTION.
	SHEET NO. 5 OF	ALL Bids FOR