

CITY BOARD OF ZONING APPEAL #22003

DATE SCHEDULED FOR PUBLIC HEARING:

August 26, 2022

ADDRESS: 620 South 55th Street

LEGAL DESCRIPTION: The north 55' of Lot 14, Randolph Acres, located in the NE 1/4 of Section 29-10-7, Lincoln, Lancaster County, Nebraska.

EXISTING LAND USE AND ZONING:

Residential	R-2 Residential
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SURROUNDING LAND USE AND ZONING:

North:	Residential	R-2
South:	Residential	R-2
East:	Residential	R-2
West:	Residential	R-2

TYPE(S) OF APPEAL(S):

THIS APPEAL IS DIRECTED TO THE BOARD RELATIVE TO A VARIANCE PER LINCOLN MUNICIPAL CODE 27.75.020(B)(1).

1. Lincoln Municipal Code (LMC) Section 27.72.020(A) - In the R-2 zoning district the side yard setback for primary buildings is 5', and the side yard setback for accessory buildings is 3'. If an accessory building is connected to a primary building or located less than 6' away, then the setback of the primary building applies.
2. Lincoln Municipal Code (LMC) Section 27.72.120(B) – Accessory buildings which are attached to or not located more than (1) six feet from the main building in the R-1 through R-8, O-1*, B-1*, and B-3* zoning districts and (2) 10 feet from the main building in the AG, AGR, O-2, O-3, B-4, B-5, all H, and I-2 zoning districts shall be considered a part of the main building and shall comply with the height, front, side, and rear yard requirements of the main building, except that an accessory building attached to the main building by an unenclosed deck or walkway shall not be considered part of the main building, nor subject to the height and yard requirements of the main building.
3. Lincoln Municipal Code (LMC) Section 27.72.120(C) - Accessory buildings which are not a part of the main building: a - May, if located not less than sixty feet from the front lot line, extend into the required side yard though not closer than two feet to the side lot line in the R-1 through R-8, O-1*, O-2, O-3, B-1*, B-3*, B-4, all H, and the I-2 zoning districts, provided that such accessory buildings

shall not be more than fifteen feet in height; b - May be located in the required rear yard, provided that such accessory buildings shall not be nearer than two feet to the side or rear lot line in the AG, AGR, R-1 through R-8, O-1*, O-2, O-3, B-1*, B-3*, B-4, B-5, all H, and the I-2 zoning districts.

STAFF FINDINGS:

1. The subject property is the north 55' of Lot 14, Randolph Acres in the northeast ¼ of Section 29-10-7, addressed as 620 South 55th Street. It is developed with a single-family dwelling and an attached garage still under construction.
2. The petitioner is requesting a variance to the side yard setback from 5' to 4.68' to allow the attached garage which is still under construction to remain. As constructed, the applicable side yard setback is 5'.
3. LMC 27.72.020(A) requires a 5' side yard setback for primary structures in the R-2 zoning district. The side yard setback for detached accessory structures is 2' provided it is both located more than 6' away from the primary structure and not attached to it. If the accessory does not comply with those criteria the required side yard setback becomes that of the primary structure, which is 5'.
4. It should be noted that the 2' side and rear setback of the Zoning Ordinance is only permitted by the Uniform Building Code if the walls adjacent to the side and rear lot lines are both fire-rated and have no openings. If not, the setback is increased to 3' and this is commonly used as the typical setback from side and rear lot lines. Providing the additional 1' of setback is the preference of most permittees as opposed to having to fire-rate the walls and have no openings such as doorways and windows.
5. The petitioner applied for a building permit for a detached accessory building that complied with the applicable 3' side yard setback and was approved for construction. That site plan submitted to the Department of Building and Safety did not show the garage attached to the home with a covered breezeway. Upon inspection after construction had commenced it was noted that the garage was attached to the dwelling by a covered patio structure which was not shown on the building permit plans. The setback was questioned and a survey of the property confirmed that the partially complete garage was set back only 4.68' and not the 5' required when attached to the dwelling.
6. The building permit would not have been approved had the plans submitted shown the garage attached to the dwelling and set back less than 5' from the side lot line. Removal of the attaching covering brings the garage into compliance with the Zoning Ordinance and Building and Safety will remove the hold on the building permit and allow the garage to be completed.

7. The error is regrettable but ultimately it is a self-imposed hardship as the covered breezeway was not approved for construction by Building and Safety. It does not meet the requirements of the Zoning Ordinance and coming into compliance does not deprive the petitioner a reasonable use of the property. The single-family dwelling will remain and can be used for that purpose, and if the breezeway is removed the garage can be completed and used as such.
8. The Board of Zoning Appeals is authorized to grant this variance per Section 27.59.110 and Neb. Rev. Stat. Section 3-312. Specifically, it shall allow variances where a literal application or enforcement of the regulations would result in a practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of the regulations.

If the variance is approved the petitioner will be allowed to retain the covered breezeway attaching the garage to the dwelling. If the variance is denied the covered breezeway must be removed but the garage can be completed and used for that purpose.

Prepared by

Brian Will, 441-6362, bwill@lincoln.ne.gov

Planner

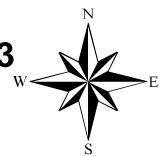
August 16, 2022

**APPLICANT/
CONTACT/
PETITIONER:**

Torrey Baker
620 South 55th Street
Lincoln, NE 68510
402-304-4018
Torrey.baker@doane.edu



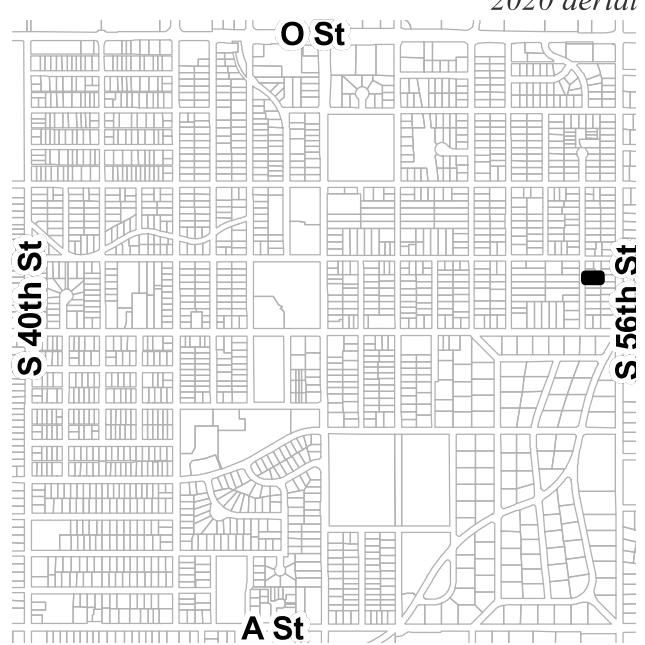
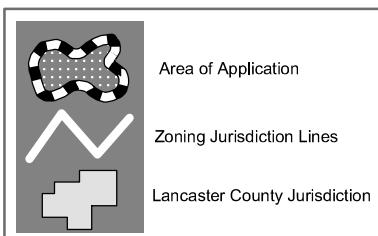
**Board of Zoning Appeals #: BZA22003
S 55th St & J St**



Zoning:

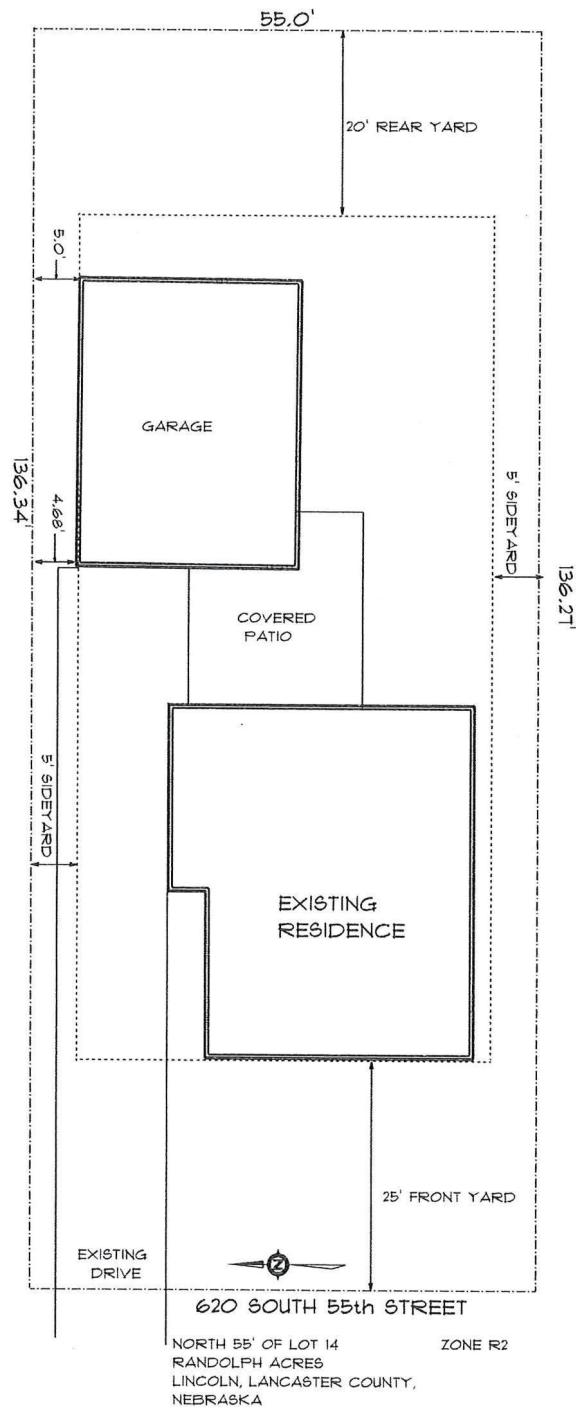
R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

**One Square Mile:
Sec.29 T10N R07E**



PLOT

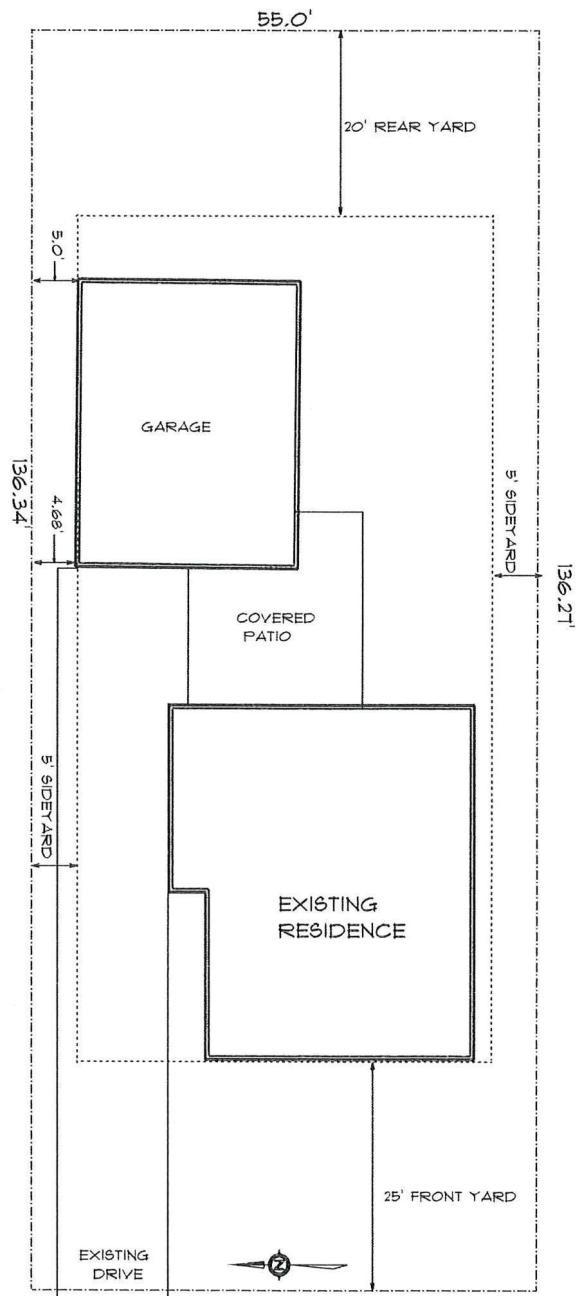
SCALE: 1" = 20'-0"



Project: <i>Sayre</i> Lincoln, Nebraska	
Project:	402-360-0018
Address:	620 South 55th Street Lincoln, Ne
Garage - Patio Cover	
Approved By	
 SAYER DRAFTING AND DESIGN <small>by Paul Sayer 402-360-0018</small> <small>These plans are the property of the architect and the owner is given all dimensions and specifications prior to construction. The owner assumes all liability of design and construction and the architect assumes no liability for the same. Owner to be sure construction conforms to all building codes.</small>	
Plot	
DRAWN BY:	
SCALE: As Noted	
DATE: Tuesday, July 12, 2022	
PAGE: 3 / 3	

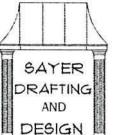
PLOT

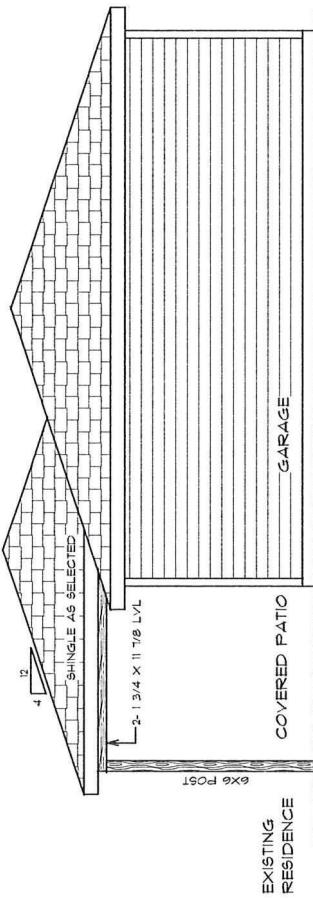
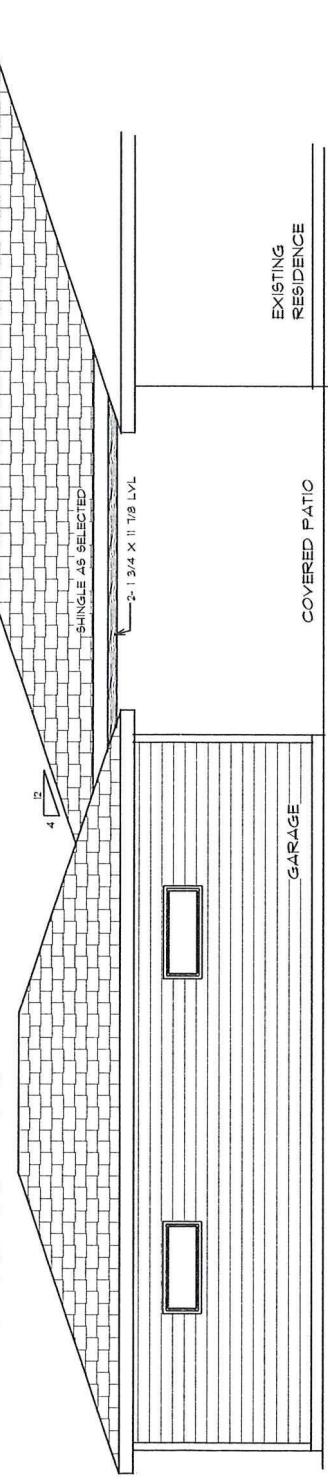
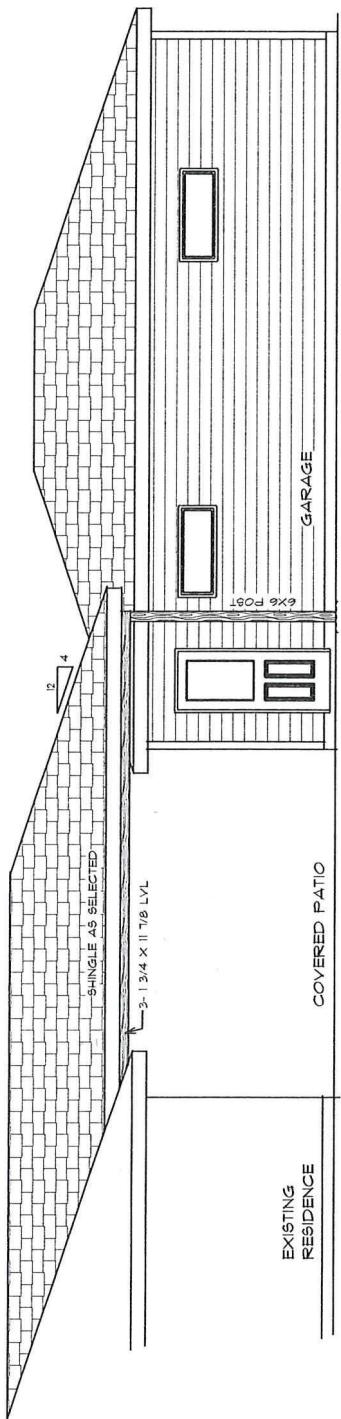
SCALE: 1" = 20'-0"



NORTH 55' OF LOT 14
RANDOLPH ACRES
LINCOLN, LANCASTER COUNTY,
NEBRASKA

ZONE R2

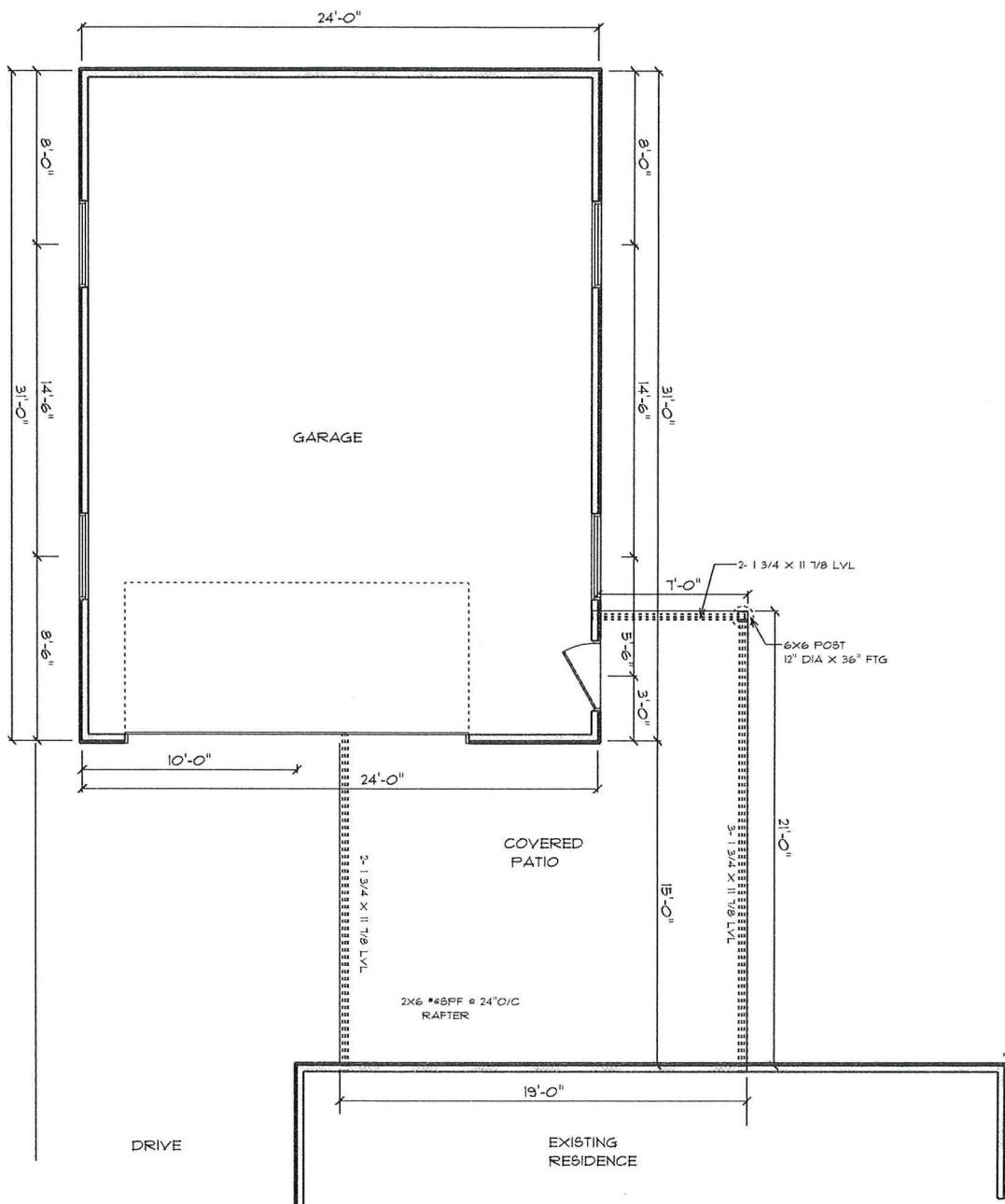
Terry / <i>[Signature]</i> Landscape Architecture	
402-364-0218	
Project:	620 South 55th Street
Address:	Lincoln, NE
Approved By:	SAYER DRAFTING AND DESIGN
	
THESE PLANS ARE THE PROPERTY OF THE OWNER AND ARE ACTIVE EMPLOYMENT. ALL RIGHTS RESERVED AND SPECIFICATIONS FURNISHED TO CONTRACTORS ARE THE PROPERTY OF OWNER AND ARE ALL LIABILITIES OF DESIGN AND CONSTRUCTION. NO COPIES FROM THIS DRAWING MAY BE MADE CONTRARY TO ALL BUILDING CODES.	
By Paul Sayer 402-364-0218	
DRAWN BY:	Plot
SCALE:	As Noted
DATE:	Tuesday, July 12, 2022
PAGE: 3 / 3	



DRAWN BY:	
SCALE: As Noted	
DATE: Tuesday, July 12, 2022	
PAGE: 1 / 3	
DRAFTING AND DESIGN	
SATER	
620 South 55th Street Lincoln, Ne 68502-3016	
Project No. 402-30-4018	
Address	
Approved by:	

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

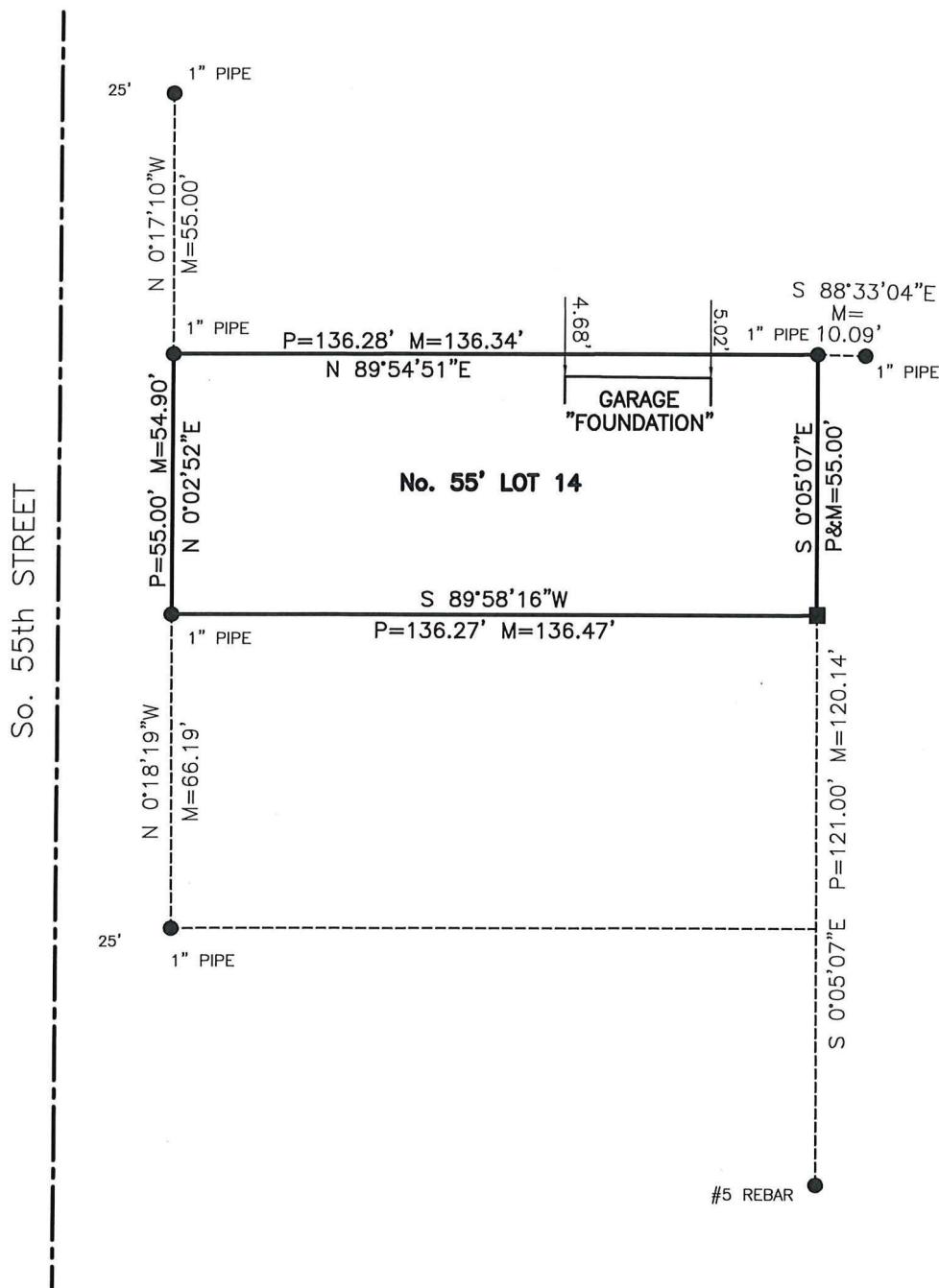


Project Address		Approved By	
Garage - Patio Cover			
 <p>SAYER DRAFTING AND DESIGN</p> <p>by Paul Sayer 402 569 5016</p> <p>These plans are the property of SAYER DRAFTING & DESIGN. DO NOT COPY OR REPRODUCE ALL DIMENSIONS AND SPECIFICATIONS FROM THESE PLANS. CONSTRUCTION: GOWER ASSUMES NO RESPONSIBILITY FOR THE ACCURACY OF THESE PLANS. GOWER IS NOT RESPONSIBLE FOR THE CORRECTNESS OF THE CONSTRUCTION. GOWER IS TO ENSURE CONSTRUCTION CONFORMS TO ALL BUILDING CODES.</p>			
		<h3>First Floor</h3> <p>DRAWN BY:</p> <p>SCALE: As Noted</p> <p>DATE: Tuesday, July 12, 2022</p>	
		PAGE: 2	/ 3

Survey Of: THE NORTH 55' OF LOT 14, RANDOLPH ACRES, LOCATED IN THE NORTHEAST QUARTER OF

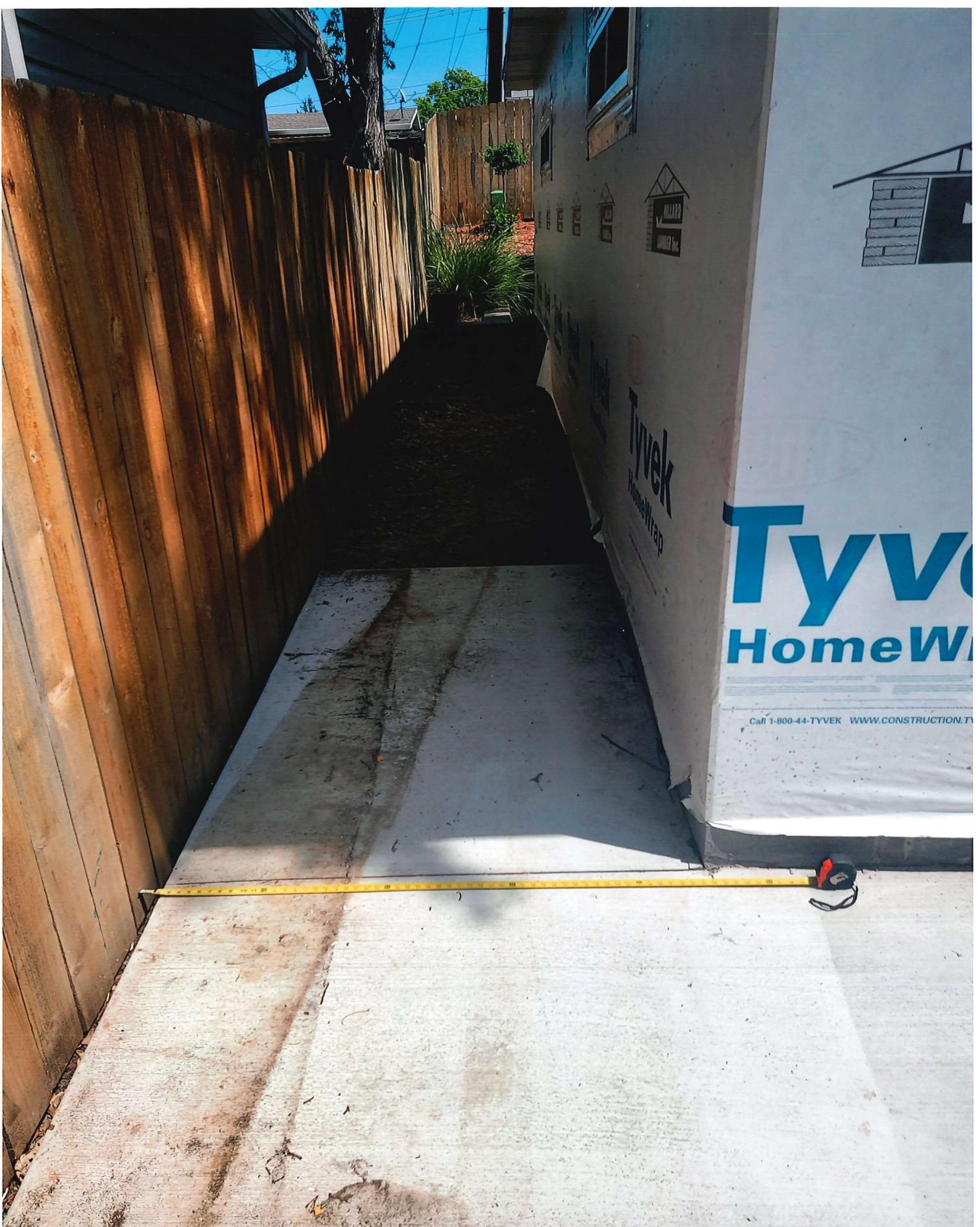
Section: 29 , T 10 N, R 7 E, of the 6th P.M. LINCOLN, LANCASTER County, Nebraska

620 So. 55th STREET

















Torrey Baker
620 S 55th St
Lincoln, NE 68510
8/4/22

City Board of Zoning Appeals
555 S 10th St, Ste 213
Lincoln, NE 68508

Members of the Board:

I am requesting a variance regarding the offset for the north side of the new garage-patio structure connected to my house which was built by my contractor at less than five feet. Currently, the garage's NE corner is five feet from my north property line while the NW corner is only at 4.68 feet. Unknown to me, Goings Homes, the company I hired to build this structure, input a building permit for only the garage without the patio attachment included on the plans. Goings Homes has since gone bankrupt and no longer responds to my calls or emails. The garage-patio is fully framed, sheeted, and shingled with electrical fully installed.

For a distance of less than four inches on the garage's NW corner, I am requesting a variance so I can amend my current building permit or request a new permit so I can finish this project without removing the patio connecting the house and garage. It would come at great monetary cost and time to tear down the patio structure. I truly had no idea the garage was not constructed to meet zoning regulation, as I had contracted Goings Homes for major remodeling projects in the past and trusted them to input the building permit properly and build the structure to meet all city zoning regulations. The neighbors on my north property line have no issues with the current configuration of the garage-patio nor do they object to where the garage currently sits. The present condition of the garage's NW corner is imperceptible from the street and does not present an eyesore for the neighborhood.

I have enclosed copies of a land survey for my property, new design plans for the garage-patio, the garage's truss design plans, the original garage design plans submitted by Goings Homes for the building permit, and photographs of the structure as it stands right now.

Thank you for your time and consideration regarding this request.

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Page 2

Sincerely,



Torrey J. Baker

Enclosure:

Property Land Survey - created 6/8/22
Garage-Patio Design Plans – created 7/12/22
Garage truss design plans – created 2/3/21
Goings Homes garage plans submitted 10/21/20 for Building Permit #B2003704
Photographs taken 8/2/22

Notice to Owners and Builders: It is the responsibility of the owner or builder to determine that this construction does not violate any easement rights of any person or entity, including the City or violate any private covenant, and the issuance of building or other permits is not to be considered a review or approval for such items.

APPROVED

BY BUILDING AND SAFETY DEPARTMENT

CITY OF LINCOLN, NEBR.
THIS APPROVED DRAWING
SHALL NOT BE CHANGED,
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WITHOUT PERMISSION
FROM THE BUILDING AND
SAFETY DEPT.

THIS APPROVED DRAWING
SHALL BE KEPT ON THE
CONSTRUCTION PREMISES
AT ALL TIMES DURING
WHICH THE WORK AUTH-
ORIZED IN PROGRESS
AND SHALL BE OPEN TO
INSPECTION BY PUBLIC
OFFICIALS.

DATE _____

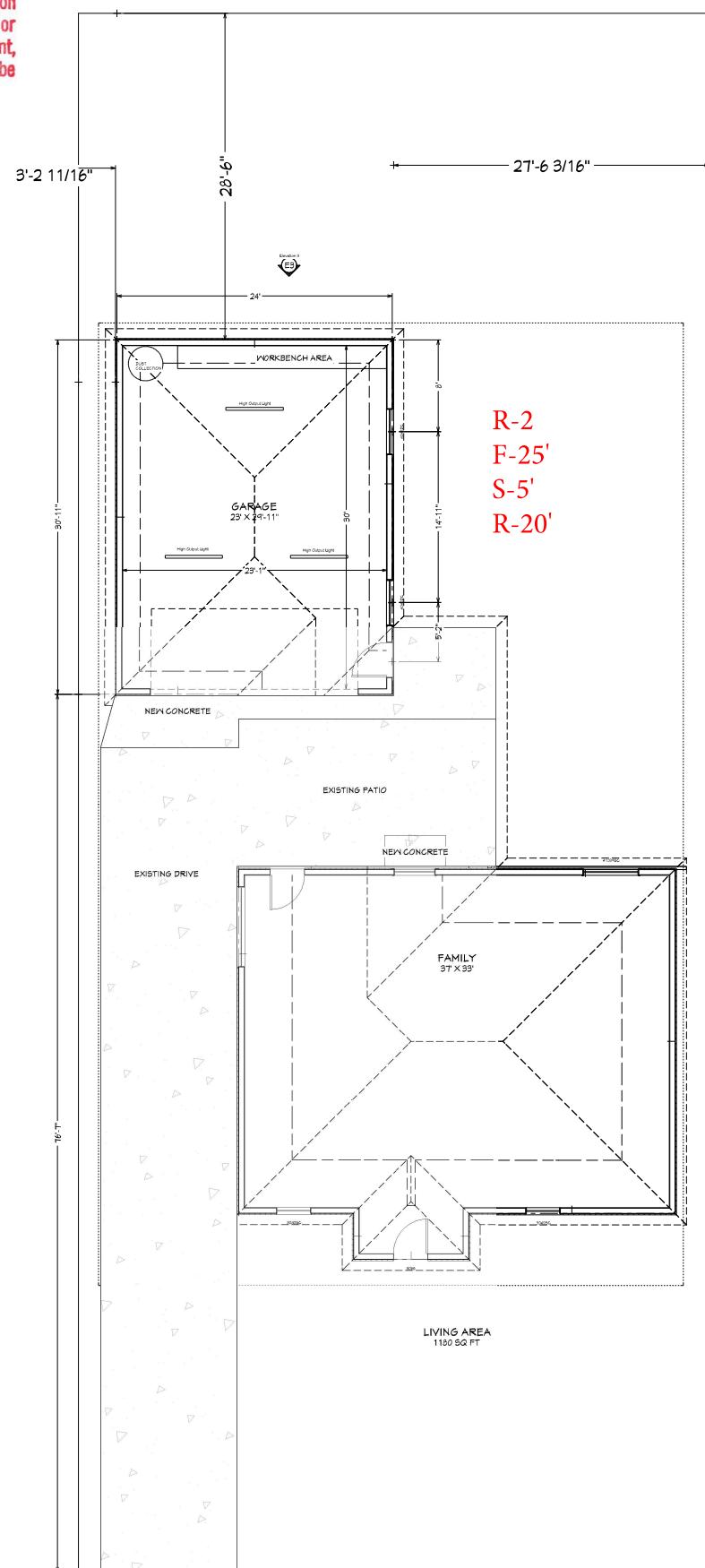
10/21/20

REVIEWER _____

JS

PERMIT # _____

B2003704



SOUTH 55TH ST