

City of Oxford
Community Development Department
STAFF REPORT

Board of Zoning Appeals

Case # BZA-2016-10

Date – November 16, 2016

APPLICATION

Applicant:	John Bennett
Location:	4965 College Corner Pike
Owner:	Christopher Wabrick
Action Request:	Variance to Section 1149.03(i) Retail Store Parking Space Maximum
Current Use:	Automobile Service Station
Zoning:	GB (General Business)
Surrounding Land Uses:	Light Industrial, Gas Station, Cemetery, Professional Office

DESCRIPTION

Mr. John Bennett, Architect of JT Designers, Inc, and Attorney Jay Bennett are requesting on behalf of Simon CRE Carp X, LLC, a variance from the City of Oxford Zoning code that limits the number of parking spaces for a proposed cellular phone retail store.

BACKGROUND

Oxford Zoning Code Section 1149.03(i) limits the number of parking spaces. The parking space limit was put into the Zoning Code as part of the 2014 comprehensive update to the parking and site access Chapter 1149. The maximum applies to all zones and uses that also have minimum parking requirements, except for single, two and three family residential uses. In August Simon CRE applied for a building and zoning permit to remove the existing building and construct a completely new site with building and parking. The zoning code requires a minimum of 6 and maximum of 9 parking spaces for a 1,800 square foot retail store. The requirement is based upon a minimum of 1 space for every 300 square feet of building floor area. The plans were approved to comply with



Zoning Code in October.

Based upon the applicant experience in this particular industry, their belief is that the approved parking will be insufficient. Therefore the variance request is for a total of 15 parking spaces, an increase of 6 parking spaces beyond the maximum permitted.

COMMENT FORMS

Notification was mailed to property owners within 200 feet and a sign was placed on the property. No public comments were received as of this writing.

AGENCY REVIEW

The variance request has been reviewed by City departments.

Fire	Returned with comments attached
Police	Returned with comments attached
Engineering	Returned without comments
Economic Development	Returned with comments attached

BZA SITE HISTORY

There are no documented records of prior BZA cases for the subject property.

ANALYSIS

The burden of proof is upon the Applicant to present reliable and substantial evidence that supports the request for variance(s) (Section 1139.02(c)(1)). Further, the BZA must find that practical difficulties exist that would render strict application of the Code unreasonable (Section 1139.02(c)(2)). In determining whether such difficulties exist which are sufficient to warrant a variance, the Board shall use the attached eight decision criteria (A-H) in its deliberation. See the enclosed letter addressing the review criteria from Mr. Bennett and Mr. Bennett. The staff's review of the criteria is included below.

Regarding criterion A, Staff believes that the property **can yield a reasonable return without the variance**. There could be a variety of different uses and sizes of buildings permitted. Only one has been proposed and approved. The variance request was submitted after zoning approval.

Regarding criterion B, Staff believes that the six additional parking spaces as proposed **are not substantial** as they are designed and located, in context with the surrounding development and the proposed location of the building. The parking space increase represents a 40% increase over the maximum. The proposal represents a parking ratio of 1 space per 120 square feet of building compared with the maximum allowed by code of 1 space per 200 square foot of building.

Regarding criterion C, Staff believes that the six additional parking spaces would not **negatively alter the essential character of the neighborhood**.

Regarding criterion D, Staff believes that the delivery of governmental services **is not negatively impacted**, with this request. Large vehicle and/or garbage truck access would likely be improved by having a double-loaded drive aisle typically available during closed hours.

Regarding criterion E, **property owner awareness of zoning restriction**, the property ownership has not changed since the maximum parking restriction was adopted by City Council in 2014.

Regarding criterion F, although the **owners' predicament has been obviated** by the approval of plans that are compliant with Zoning Code, Staff agrees with the applicant's narrative of the combination of the small site, highway location and potential employee and accessible parking spaces creates a predicament of insufficient parking to be obviated.

Regarding criterion G, Staff agrees with the applicant's narrative that the **spirit and intent** of the zoning requirement for the maximum parking would be achieved as well as substantial justice served by the granting of the variance due to the proposed design that is compliant with all other codes; particularly the front yard setback.

Regarding criterion H, staff believes **that relevant factors** are the 1,800 square foot building and the minimum number of accessible parking stalls.

RECOMMENDATION

If the BZA determines that difficulties exist which are sufficient to warrant the variance, the staff recommends that the BZA cite any new or different specific evidence not yet identified and approve the variance request. At the time of this report, **staff believes there is substantial evidence that supports the variance request.** If the BZA does approve the variances it can attach any appropriate conditions necessary.



SUBMITTED BY: _____

Sam Perry, AICP
Planner, Community Development Department

DATE: November 9, 2016

City of Oxford
Inter-Office Review Transmittal Sheet



Date: 10/13/2016

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

BZA-2016-10, 4965 College Corner Pike, Variance to Section 1149.03 maximum allowed parking spaces, John Bennett, JT Designers, Inc. Applicant/Agent

____X____ Review _____ Revisions _____ Other

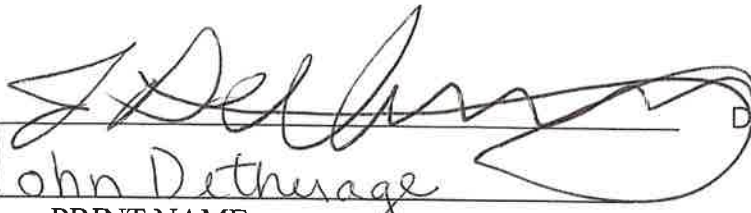
Comments or status update requested by: Lynn Taylor

Please return no later than: **11/7/2016** Note: If no comments are received, we will assume the project meets your department's standards.

.....
Drawings are returned: w/comments without/comments

Seems reasonable.

Drawings reviewed by:


John Dethrage
PRINT NAME

Date: 10-13-16

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 10/13/2016

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

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.....

Drawings are returned: w/comments without/comments

Drawings reviewed by: _____

H. Popescu

VICTOR POPESCU

PRINT NAME

Date: 10-28-16

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 10/13/2016

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

BZA-2016-10, 4965 College Corner Pike, Variance to Section 1149.03 maximum allowed parking spaces, John Bennett, JT Designers, Inc. Applicant/Agent

_____X_____ Review _____ Revisions _____ Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **11/7/2016** Note: If no comments are received, we will assume the project meets your department's standards.

.....

Drawings are returned: w/comments without/comments

*Handicap Signage in Drawings show a \$100 fine
The actual fine that should be listed is \$250*

"Handicap signage in drawings show a \$100 fine. The actual fine that should be listed is \$250.00"

Drawings reviewed by: *John A. Jones* Date: *10/13/16*
John A. Jones
PRINT NAME

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 10/13/2016

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

BZA-2016-10, 4965 College Corner Pike, Variance to Section 1149.03 maximum allowed parking spaces, John Bennett, JT Designers, Inc. Applicant/Agent

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: **11/7/2016** Note: If no comments are received, we will assume the project meets your department's standards.

.....

Drawings are returned: w/comments without/comments

This seems to be a reasonable request on a multitude of levels.

- First, this redevelopment project will greatly enhance the College Corner Pike Gateway.
- The redevelopment of this site will eliminate an existing non-conforming front yard set-back situation.
- The additional requested parking will not be visible from the front elevation.
- The additional requested parking will have no impact on the two abutting properties.
- I believe until recently, the Oxford Zoning Code would have required a minimum of 9 parking spaces for a 1,800 sq. ft. retail building. With no restriction on the maximum number of parking spaces.

Drawings reviewed by: 

Date: 11.2.16

G. ALAN KUYKEN
PRINT NAME



BZA-2016-10 **Surrounding** **Property Owners** **Map**

Legend

-  Subject Parcel
-  200 Ft. Buffer
-  Oxford Corporation Limit
-  Parcel
-  Vacated Right-of-Way
-  Building Footprint
-  Paved Roadway



1 inch = 100 feet

Prepared on Monday, October 31, 2016

The City of Oxford does not guarantee the dimensional accuracy of this map. Precise dimensional accuracy should be based upon recorded deeds, plats or a professional survey.



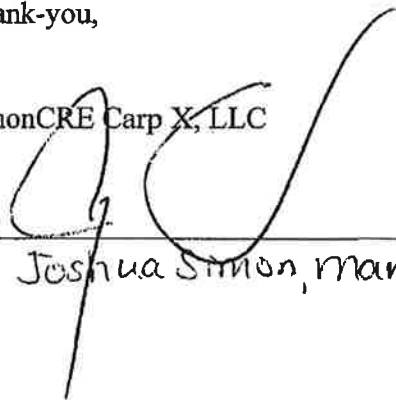
LETTER OF AGENCY

To Whom It May Concern:

Please be advised that Jay C. Bennett, attorney at law, is authorized to represent our interests before any and all boards, committees, or other administrative bodies of the City of Oxford and to act on our behalf in the pursuance and completion of a variance of site development standards [parking] for the November 2016 hearing and all subsequent hearings relative to this case regarding 4965 College Corner Pike, Oxford, Ohio 45056.

Thank-you,

SimonCRE Carp X, LLC

By: 

Joshua Simon, Manager

10-13-16
Date

LETTER OF AGENCY

To Whom It May Concern:

Please be advised that John Bennett, architect, is authorized to represent our interests before any and all boards, committees, or other administrative bodies of the City of Oxford and to act on our behalf in the pursuance and completion of a variance of site development standards [parking] for the November 2016 hearing and all subsequent hearings relative to this case regarding 4965 College Corner Pike, Oxford, Ohio 45056.

Thank-you,

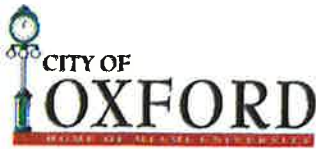
SimonCRE Corp X, LLC

By:

Joshua Simon, Manager

10-13-16

Date



Internal Use Only:

Case No.

BZA-2016-10

Date Filed

10/10/16

Petition for Zoning Variance

Petitioner Information

Attach a Letter of Agency if the Petitioner is not the property owner.

Name * John Bennett - JT Designers, Inc.

Mailing Address * 338 S. Arlington Ave - Suite 103

City, State & Zip Code * Indianapolis, IN 46219

Telephone Number(s) * 317-828-1166

Email Address jtdesignersinc@gmail.com

Location of Property * 4965 College Corner Pike

Name of Building * Verizon Wireless

Owner Information

Name * SimonCRE Carp X, LLC

Mailing Address * 6900 E. 2nd Street

City, State & Zip Code * Scottsdale, AZ 85251

Telephone Number(s) * 480-745-2477

Email Address david.friedberg@simoncre.com

Variance and Lot Information

Requested Variance. Indicate the nature of variance and applicable section(s) of the Planning and Zoning Code.

Section 1149.03 - Maximum allowed parking spaces - Request to exceed the maximum count by 6 spaces

- The project is 1800 sq. ft. of retail; parking ratio of 1:300 requires 6 spaces minimum, with a maximum of 9 spaces.

Verizon is requesting 15 spaces as presented in submitted documents.

Location of Requested Variance * 4965 College Corner Pike

Legal Description * See attached

Zoning District * GB Total Acreage * .795

Existing Use of Site * Retail

Proposed Use (if applicable). A description of operations, including type of goods sold, services performed, and expected number of customers, clientele, delivery, and service vehicles, and the hours of operation.

The proposed project is a retail store for Verizon. Standard hours of operation are 9 am to 9 pm. The expected occupant loading would be 3 staff (+2 seasonal) and 8 to 10 customers. Deliveries will be on LTL loads, early am once a week.

- D. Whether the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage);
- E. Whether the property owner purchased the property with knowledge of the zoning restriction;
- F. Whether the property owners' predicament feasibly can be obviated through some method other than a variance;
- G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.
- H. Any other relevant factor.

Fees & Receipt

The variance fee is \$200.00, plus \$100.00 for each additional variance request up to a maximum of \$1,000.00 plus postage charge.

Fees may increase if staff determines that you need more variances.

To calculate postage charges, multiply the number of adjoining properties by current postage rate³.

Sign and Date

Petitioner Signature *

Date *

09/16/16

John Bennett

Submit Application, Plans and Documentation, and Fees

We will not accept incomplete applications and/or plans and documentation.

Send or drop off this application with required plans and documentation as attachments and a check for fee(s) and postage charges made payable to **City of Oxford**, to Community Development Director, 101 East High Street, Oxford, OH 45056.

Direct questions to the Community Development Department at (513) 524-5204. The application will be placed on the next possible agenda.

Note: You must adhere to notification and publication requirements. Submit materials 30 days prior to the Board of Zoning Appeals meeting at which the action is requested. City Staff will place a public hearing sign on the subject property. **The Petitioner is responsible for removing the signage at the completion of the hearing(s).**

For Staff Use Only

Fee Paid Date *

10/10/16

Receipt Number *

118053

¹ Butler County Auditor Real Estate Search: <http://www.butlercountyauditor.org/>

² City of Oxford Codified Ordinances: <http://www.cityofoxford.org/fees-ordinances-and-charter>

³ The United States Postal Service: <http://www.usps.com/>

Decision Standards from Oxford Codified Ordinances Section 1139.02(c)(2)

A. Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance:

The specific intended use will not yield a reasonable return without a variance. The existing building has most recently been used as an auto repair facility that is too small to house most service oriented retail uses. This severely limits the economic potential usefulness of the existing premises at this location.

The existing Oxford Verizon store is attempting to relocate to a larger building and more strategically positioned location. Though the current Verizon location has more than 70 parking spaces available that are shared between three retailers, the store is not large enough to meet applicant's current needs.

With as many as five employees working during peak times and two parking spaces being designated for ADA for the proposed site the allowable maximum parking per ordinance would leave only two available parking spaces for non-ADA customers. Verizon has extensive operating history to determine the minimum parking needed to meet customer demand. They have determined that a minimum of 15 parking spaces is needed to sufficiently meet the needs of their customers for a store of this size. Without the requested variance the intended use of the property is not feasible.

B. Whether the variance is substantial:

The variance will allow the proposed development to have 6 more parking spaces than what is allowed per ordinance. The additional parking would abut an adjacent commercial lot and would be screened from College Corner Pike by vegetation. Despite the proposed numerical increase in parking spaces, the proposed development will have less pavement than what is currently located on the site. While an increase of parking spaces from 9 to 15 may be considered numerically substantial, in light of the foregoing, such a variance would have virtually no impact upon the premises from a land use impact standpoint.

C. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance:

Should the BZA approve the petition, the effect on the neighborhood and adjoining parcels is negligible. Specifically, the additional parking would reduce congestion on the site for customers and city utilities providing safer access to and from the site on College Corner Pike.

Additionally, the site currently has more pavement than what is proposed in the plans for development. The developer will be relocating the parking from the front of the site as it is currently situated, to the side of the store in the proposed development. Applicant will also add landscaping along the frontage and remove pavement, all of which will make the site more aesthetically appealing than its current condition and improve the character of the area.

The proposed improvements will not negatively alter nor affect the essential character of the neighborhood. The Ohio Supreme Court has held that unlike use variances, area variances do not alter the character of the district or surrounding neighborhood. *Kisil v. City of Sandusky*, 12 Ohio St. 3d 30, 32, 465 NE2d 848, 851 (1984).

D. Whether the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage):

No delivery of governmental services will be affected by the variance.

E. Whether the property owner purchased the property with knowledge of the zoning restriction:

Applicant has not purchased the property but has an option to purchase contingent upon the approval of the variance sought.

In addition, the Ohio Supreme Court has held that this standard is primarily applicable to use variances subject to the “unnecessary hardship” standard rather than the “practical difficulties” standard considered for area variances like the one applied for. *Kisil v. City of Sandusky*, 12 Ohio St. 3d 30, 32, 465 NE2d 848, 851 (1984).

F. Whether the property owners’ predicament feasibly can be obviated through some method other than a variance:

The applicant’s predicament cannot be obviated through some method other than the granting of the variance sought herein.

G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance:

With respect to the specific nature of this section of the ordinance, one aspect of its spirit is to prevent large retailers from having a “sea of pavement” which is aesthetically unappealing and the elimination of which encourages more alternative methods of transportation due to a high density populous. The location of the property is not in a retail corridor that is typically accessed by pedestrians and cyclists. Most customers will be driving to access the store.

H. Any other relevant factor:

Verizon's business is sensitive to seasonal fluctuations ranging from holiday shopping for the newest tablets and phones to bi-annual releases of iPhones, iPads, and Samsung phones and tablets. All of these can draw crowds. During these times the store will add additional personnel which may be another factor reducing parking for customers.

The applicant calculates customer traffic by a tracking device used by Verizon. Verizon typically has eighteen to twenty-two parking spaces at their free standing stores. The average number of customers during peak hours varies based on time of day, time of year. Applicant's busiest hours there can be 12 customers in the store.

The tracking device that counts the number of times the front door of the store opens (customers entering the premises) is based upon a device that counts the door swings of the door available only to patrons. The company average (nationally) of door swings are 2,265 per month per store. The current store in Oxford averages approximately 1,810 door swings per month, for a store that is undersized and wholly outdated.

The projected number of door swings per month for the proposed facility is 2,500 – 3,000 per month (80 – 100 swings per day) which is consistent with the freestanding stores throughout the Midwestern states. The data heretofore described allows Verizon to accurately project the number of customers and their vehicles that will visit the proposed location during the year. This figure is a primary basis for the request for variance allowing 6 additional parking spaces.

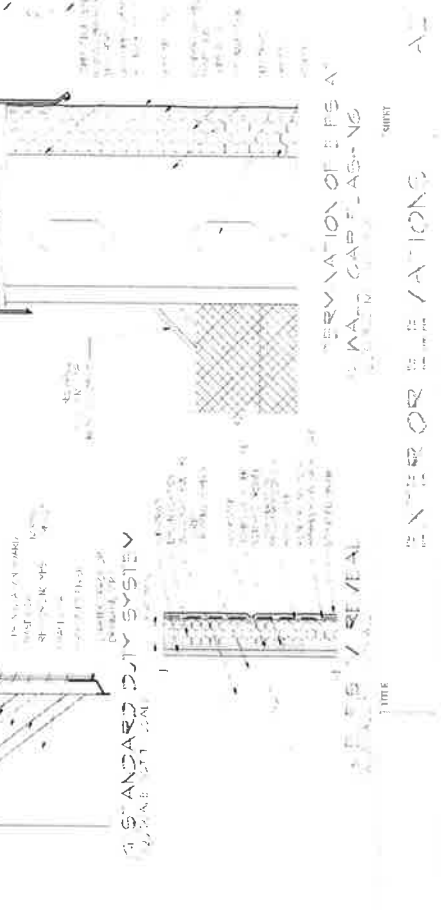
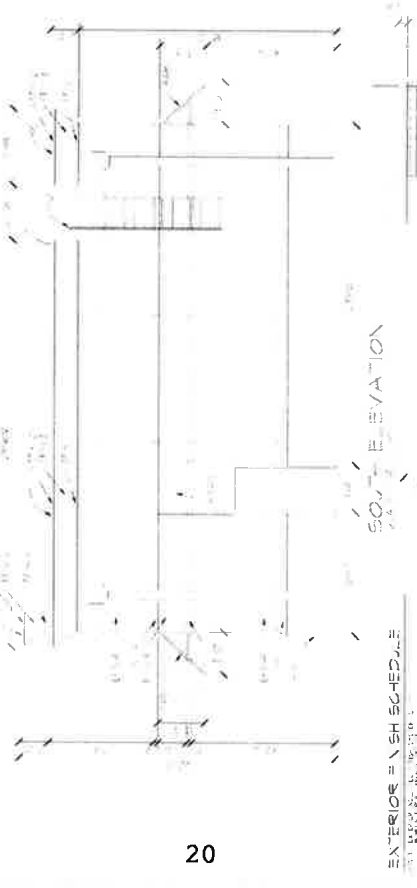
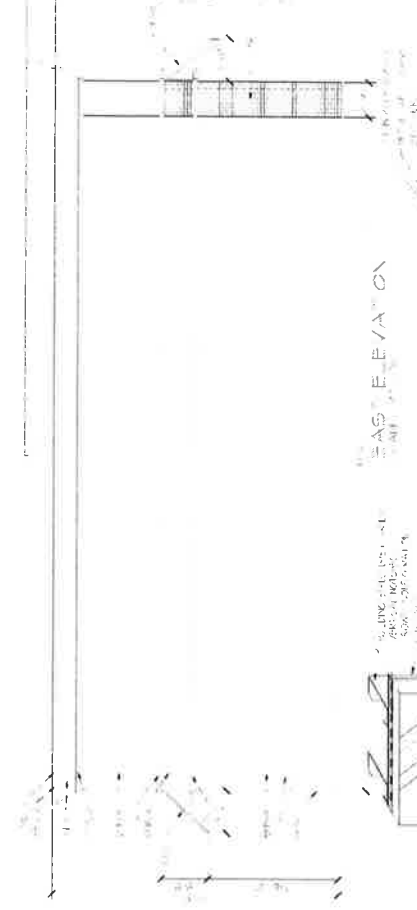
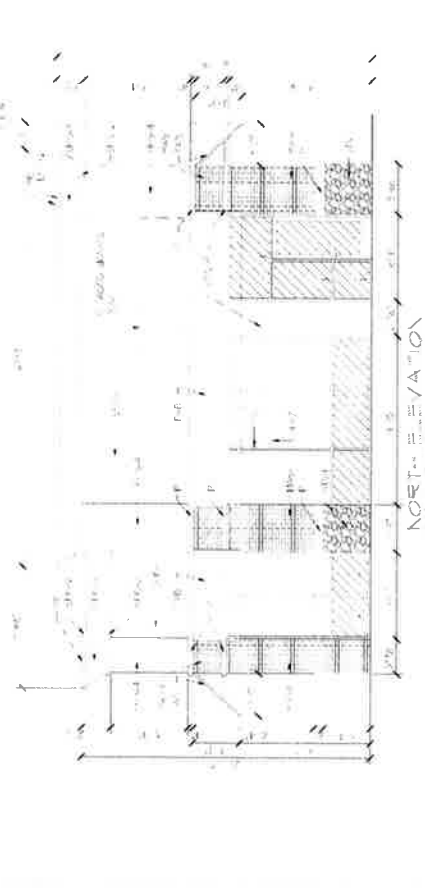
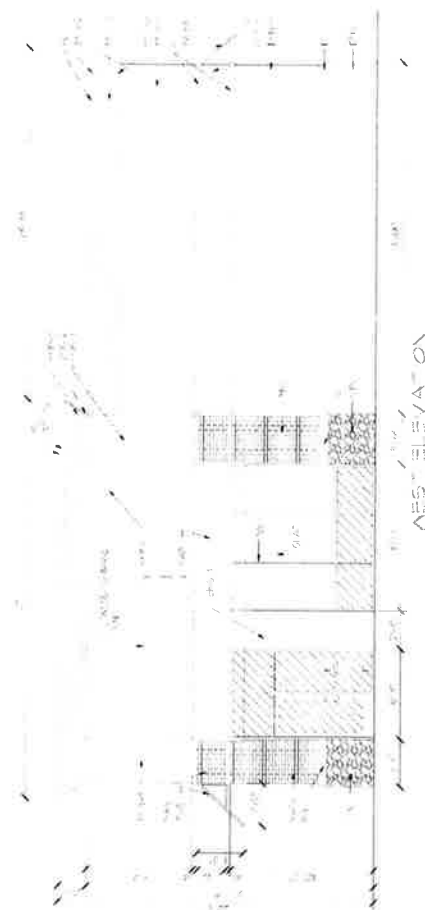
OWNER:
SIMON CRE
 SIMONCRE
 CARP X, LLC
 6800 E 24th STREET
 SCOTTSDALE, AZ
 85251
 (480) 745-1956

JACK D. MORGAN
 AIA, CSI - ARCHITECT
 6555 AIRTREE PLACE
 INDIANAPOLIS, IN 46250-1123
 PH: 317-608-1616 FAX: 317-573-1001
 email: morganjdp@aol.com



DATE
 08/23/16
 ISSUE
 BID

PROPOSED DESIGN FOR
VERIZON
 STORE
 BUTLER COUNTY
 4965 COLLEGE CORNER PIKE
 OXFORD, OHIO 45056



DATE
 08/23/16
 ISSUE
 BID

DATE
 08/23/16
 ISSUE
 BID



JT DESIGNERS, INC.
 10000 N. RIVERVIEW BLVD.
 SUITE 100
 INDIANAPOLIS, IN 46260
 PH: 317-573-1001
 FAX: 317-573-1002
 email: jtdesigners@gmail.com

**LARGER PRINTS ARE AVAILABLE IN THE OFFICE DURING NORMAL
BUSINESS HOURS**





ONLY
→





AGENDA
BOARD OF ZONING APPEALS
WEDNESDAY, OCTOBER 19, 2016
7:30 P.M.
Oxford Courthouse – 118 W. High Street

MEMBERS

Paul Brady, Chair

Prue Dana, Vice-Chair
Michael Schnipper, Secretary

Roger Ames
Jack Cohen

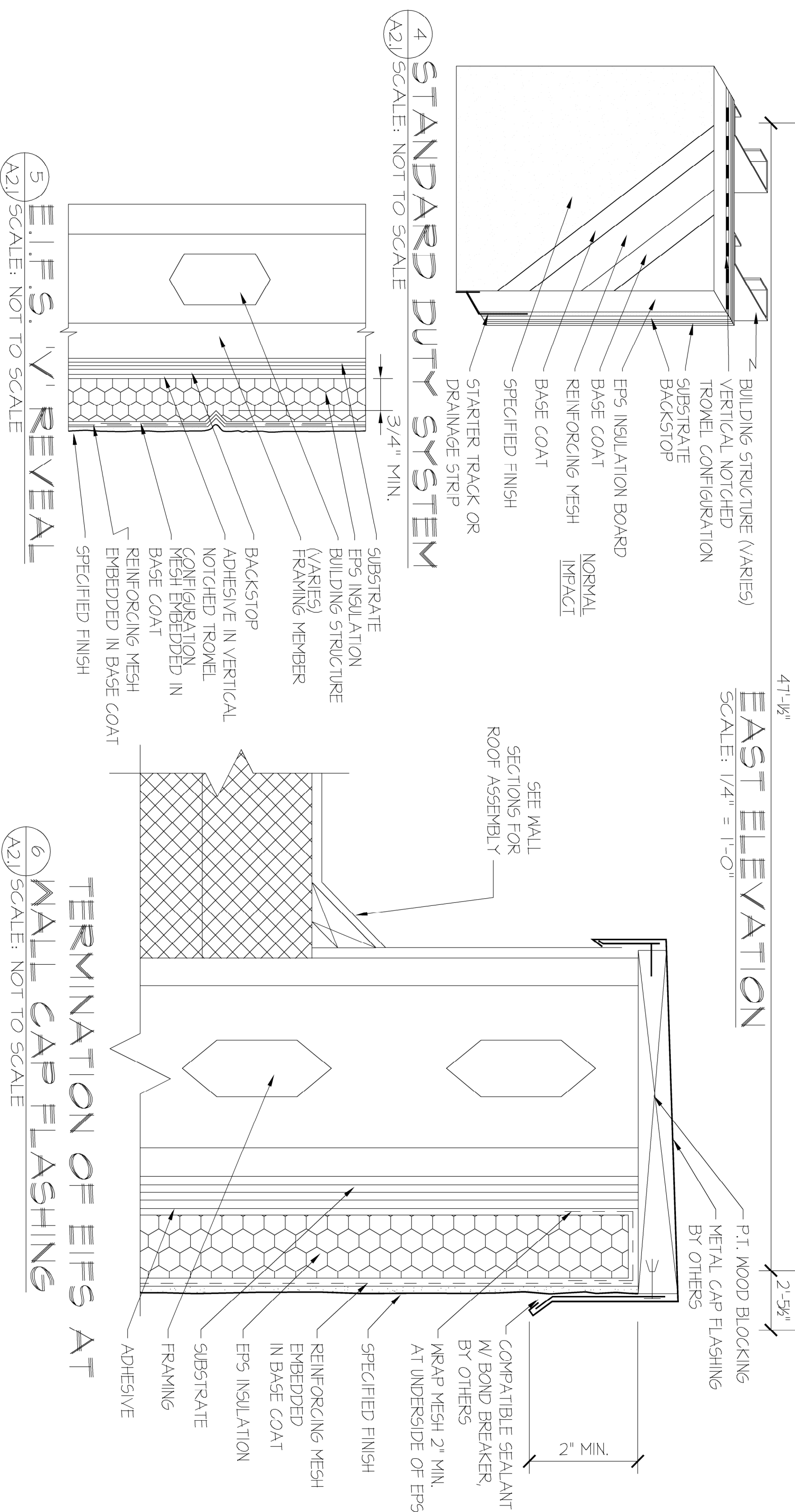
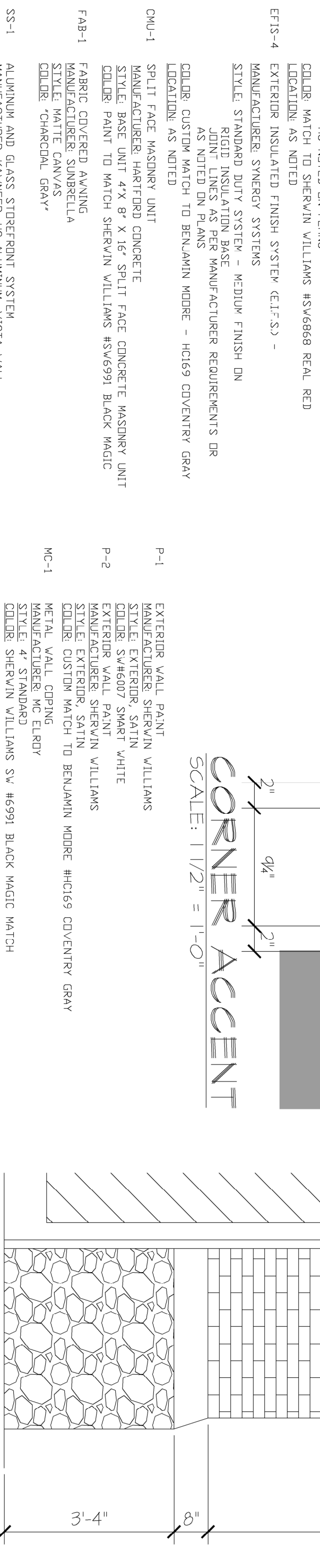
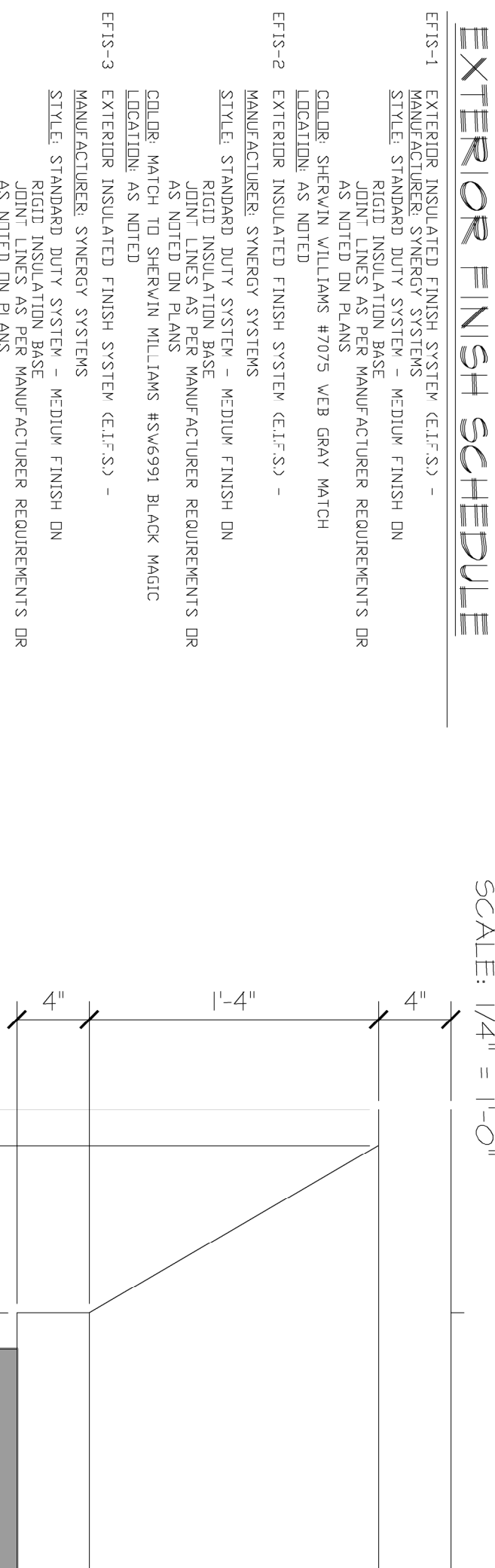
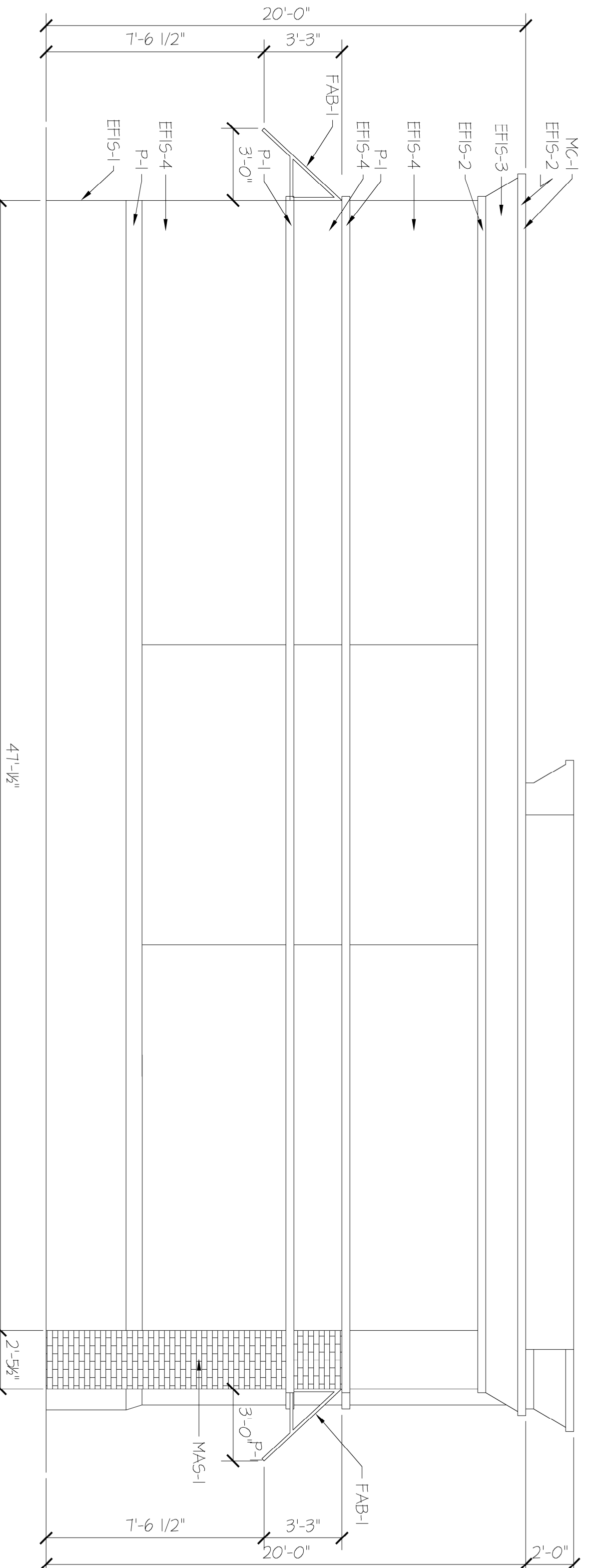
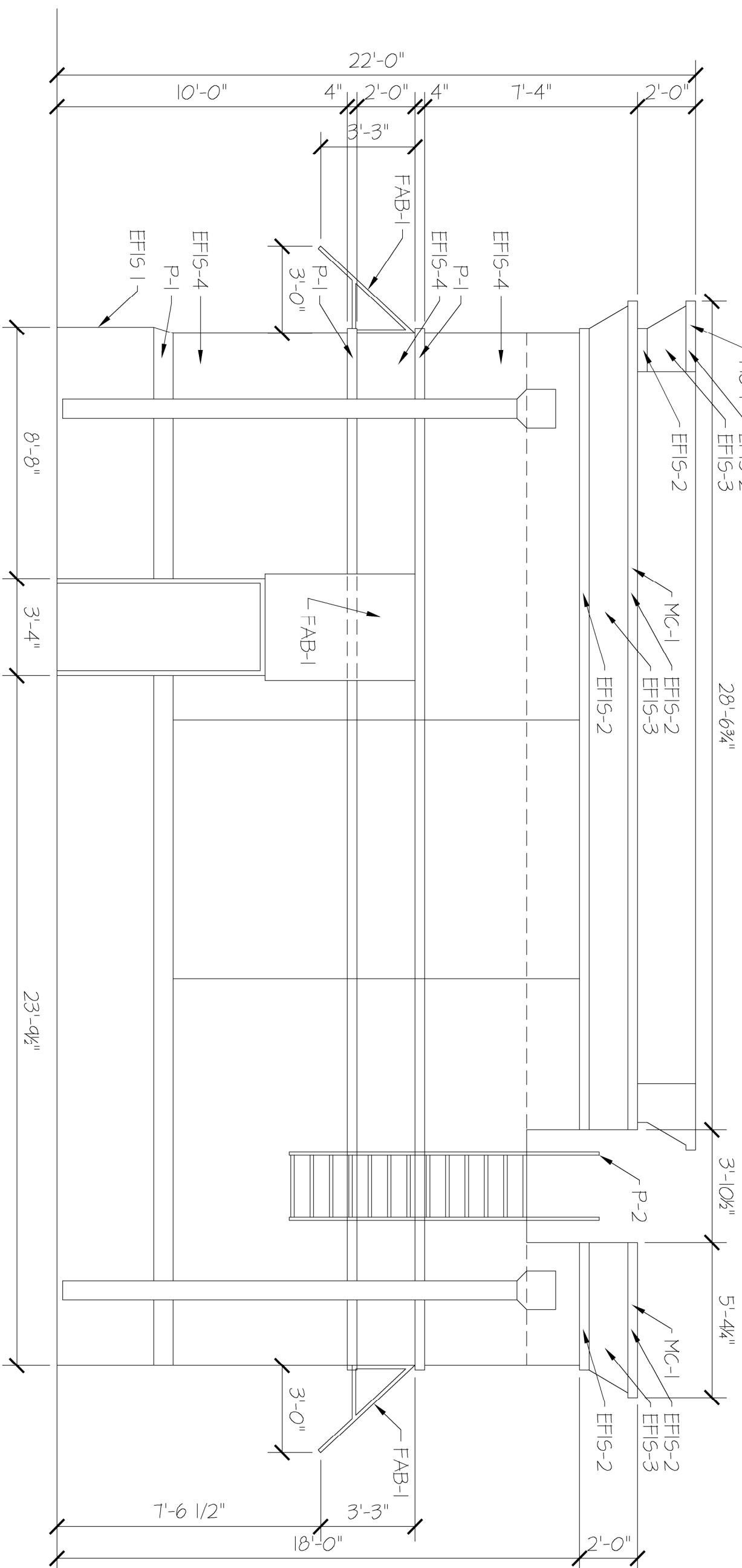
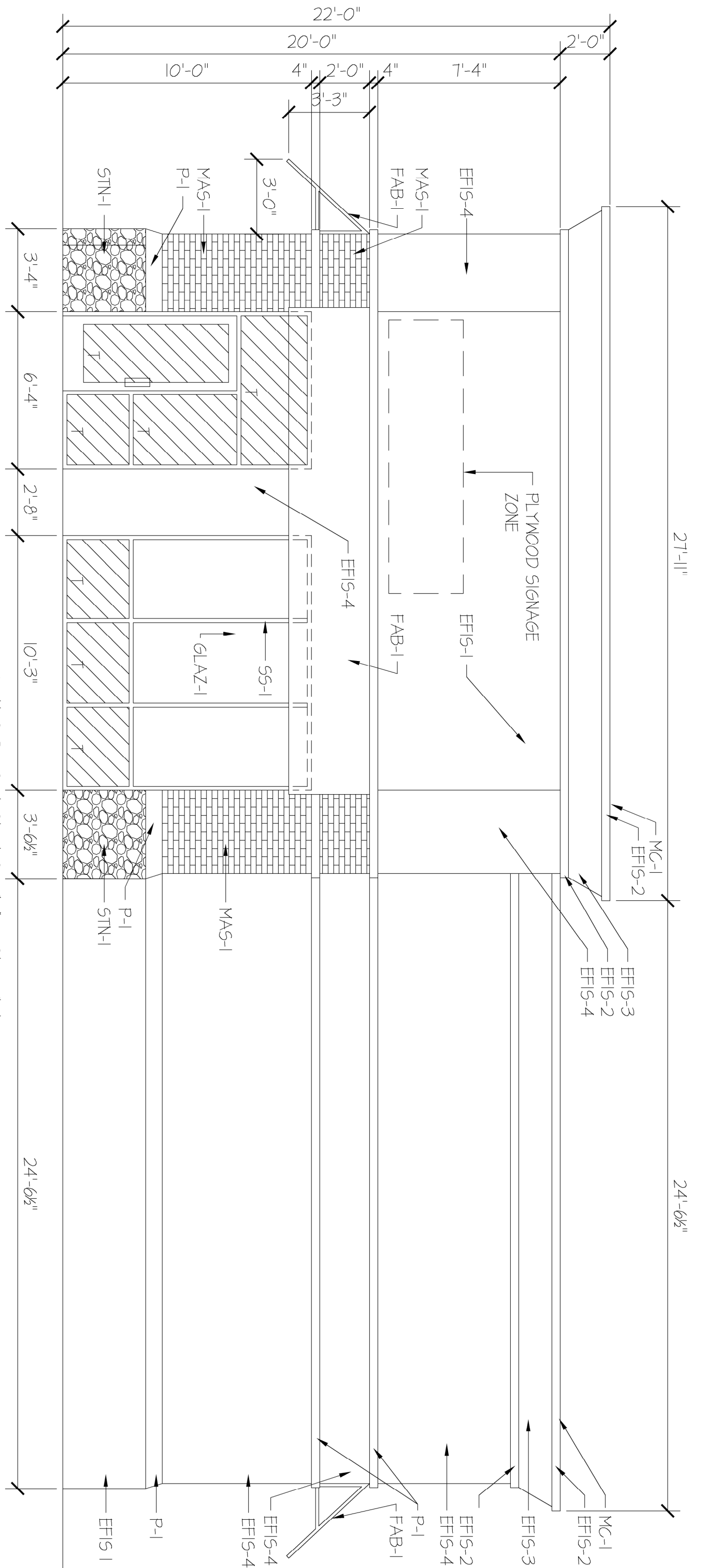
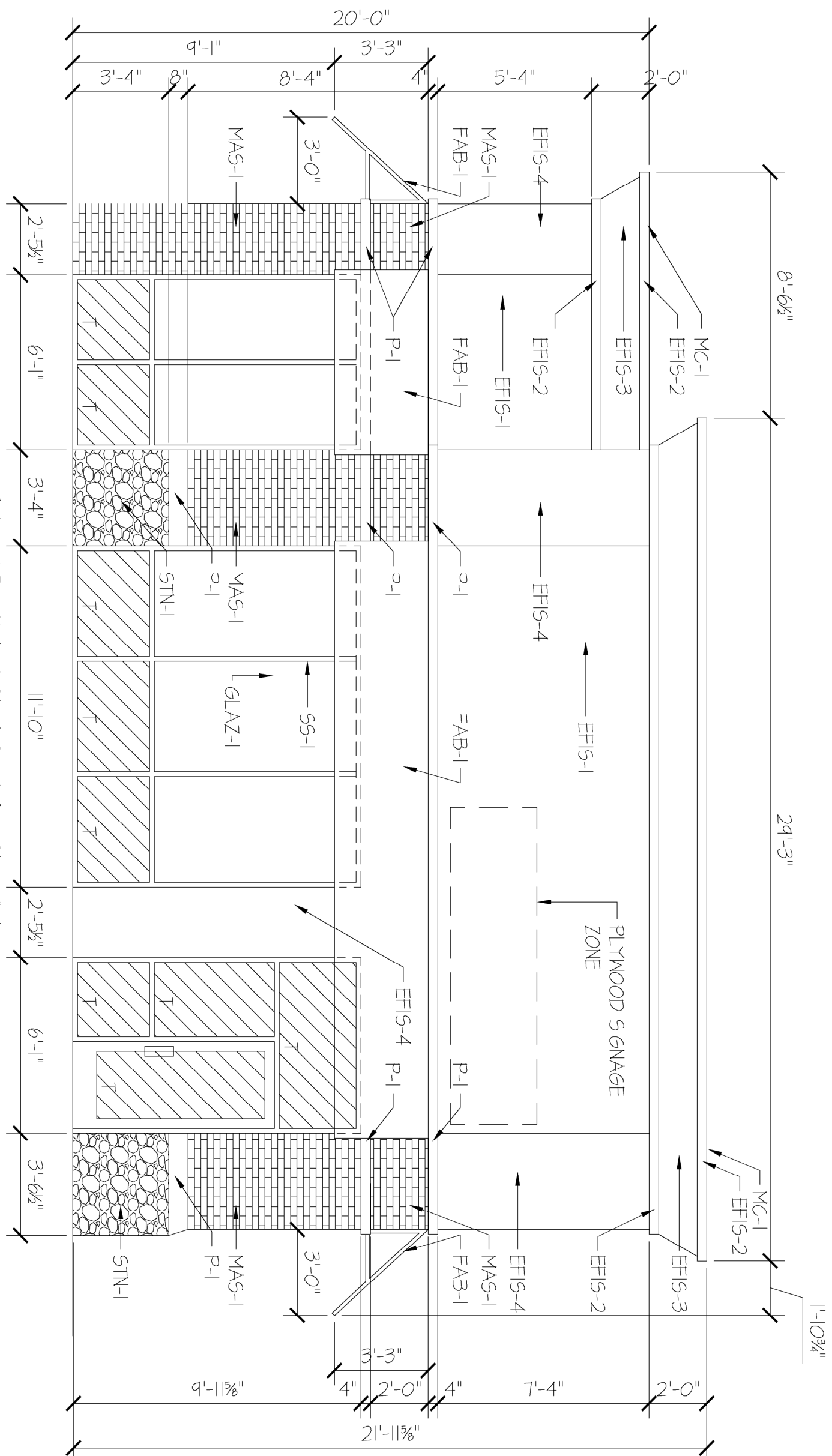
STAFF

Jung-Han Chen, Community Development Director
Sam Perry, Planner
Stephen McHugh, Law Director

MEETING PROCEDURE: The Board of Zoning Appeals is a quasi-judicial Board. Our primary function is to hear testimony and issue decisions. Unlike other City boards and commissions, we only hear relevant, sworn testimony from the Applicant, his/her duly appointed agent or attorney, and any other person with standing to testify in a particular matter. The Applicant has the right to cross-examine any testimony given. Our hearings are open to public attendance, but public comment, opinion and discussion are not considered testimony and will not be heard.

Please wait until you are recognized by the Chair, proceed to the podium, and state your name and address so that your comments may be properly recorded. Applicants are to limit their testimony to fifteen (15) minutes, including any information presented by his/her duly appointed agent or attorney. This time limit may be extended if the Board requests or approves further testimony. Other persons with standing are encouraged to testify and ask questions about the nature of the appeal, but must be acknowledged by the Chair prior to speaking.

- I. Call to Order
- II. Approval of Minutes of the August 17, 2016 Regular Meeting* 1
- III. Adjudication Hearing*
BZA-2016-09, 311-311-1/2 W. Church Street, Variance to Section 1143.05(c)(2)B, Minimum Rear Yard Setback and Section 1143.05(c)(4)A1 Total Lot Coverage, **Terry Dudley, Applicant**
- IV. Old Business
- V. New Business
- VI. Adjournment *Attachments



2013 Douglas *vs. J. Douglas* – Best gaming
 SQ. FT.: 1,800 ±
 REMODEL
 USE-B-BUSINESS
 CONST: V-B
 SCOPED: 100%
 There is no
 completed
 indicated
 proper

REMODEL
SQ. FT.: 1,800 ±
USE-B: BUSINESS
CONSTR.: V-B

These drawings indicate the general scope of the project in terms of architectural design, structure, and finishes. The engineer shall determine the exact dimensions and quantities of the work required for full performance and indicated or scheduled, to the extent contractors shall furnish all items required for the project execution and completion of the work.

 **JDH DESIGNERS, INC.**
PLANNING CONSULTANTS
338 N. MAIN AVE. IN 46129
PH: 317-526-1166 FAX: 317-493-1800
e-mail: JTDHSIGN@CS.GMAIL

ISSUE:	
REV1 PLAN REVIEW	09/08/16
REV2 ZONE/ENG REV	09/14/16
REV3 PLAN REVIEW	10/04/16

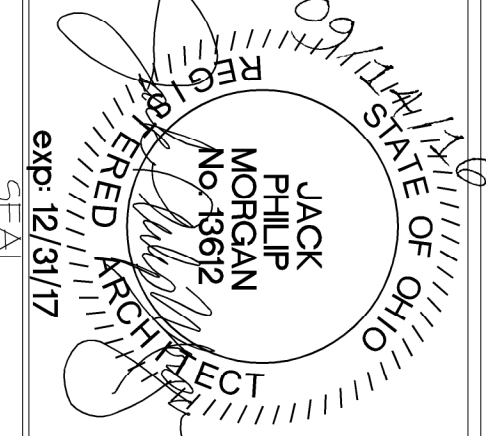
TITLE:

SHEET:

 **PROPOSED DESIGN FOR:**
VERIZON
STORE
BUTLER COUNTY
4965 COLLEGE CORNER PIKE
OXFORD, OHIO 45056

DATE
08/23/16

ISSUE
FILE/
BID



JACK P. MORGAN
AIA CSI – ARCHITECT

6555 AINTREE PLACE
INDIANAPOLIS, IN 46250-4423
PH: 317-508-4516 FAX: 317-576-1081
email: morwalsoplad1@gmail.com

6900 E. 2nd STREET
SCOTTSDALE, AZ
85251
(480) 745-1956



SIMON
CRE
SIMON COMMERCIAL REAL ESTATE
SIMONCRE
CARP X, LLC

OWNER:

