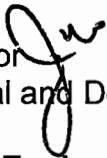




Interoffice Memorandum

DATE: December 7, 2018

TO: Mayor Jerry L. Demings
-AND-
Board of County Commissioners

FROM: Jon V. Weiss, P.E., Director 
Community, Environmental and Development Services Department

CONTACT PERSON: **Carol L. Knox, Manager, Zoning Division**
407-836-5585

SUBJECT: December 18, 2018 – Board Appeal Public Hearing
Applicant: Alexis De Jesus
Appellant: Kendall Ray
BZA Case #VA-18-10-125, October 4, 2018;

Board of Zoning Adjustment (BZA) Case #VA-18-10-125, located at 1900 Corbett Road, in District #5, is an appeal public hearing to be heard on December 18, 2018. The applicant is requesting variances in the R-1 zoning district to allow a walled carport and shed to remain with a cumulative total of 1,077 sq. ft. in lieu of 500 sq. ft. and to be located in front of the principal building in lieu of to the side or the rear.

The subject property is located on the west side of Corbett Rd., north of Belles Lane.

At the October 4, 2018 BZA hearing, staff recommended denial of both variances. The BZA determined that due to the placement of the house and the pool this was the only viable location for the walled carport. The BZA recommended variance #1 be modified to allow a cumulative total of 950 sq. ft. and approval of variance #2 to allow the walled carport to remain in front of the principal structure. The vote was 5-0.

Mr. Kendall Ray, the appellant, submitted the appeal citing the applicant's failure to satisfy the six variance criteria. In his appeal Mr. Ray noted that the walled carport was erected without the benefit of a permit, therefore the hardship is self-created. Additionally he stated that the requested variances are not the minimum possible nor are there special conditions or circumstances preventing compliance with the Code. The variances do confer special privileges not enjoyed by other property owners; and the applicant's rights are not being deprived.

The application for this request is subject to the requirements of Ordinance 2008-14, which mandates the disclosure of expenditures related to the presentation of items or lobbying of items before the BCC. A copy is available upon request in the Zoning Division.

**ACTION REQUESTED: Make a decision regarding the appeal; and approve the applicant's request; or approve the applicant's request with modifications and/or conditions; or approve the applicant's request in part and deny it in part; or deny the applicant's request.
District #5.**

COMMUNITY ENVIRONMENTAL DEVELOPMENT SERVICES DEPARTMENT ZONING DIVISION PUBLIC HEARING REPORT

The following is a public hearing on an appeal before the Board of County Commissioners on December 18, 2018 at 2:00 p.m.

APPLICANT: ALEXIS DE JESUS

REQUEST: Variances in the R-1 zoning district as follows:

1) To allow two existing accessory buildings with a cumulative square footage of 1,077 sq. ft. of floor area in lieu of 500 sq. ft. (BZA amended to approve a total of 950 sq. ft.).

2) To allow an existing accessory structure to remain in front of the principal building in lieu of the side or rear.

This is the result of code enforcement action.

LOCATION: 1900 Corbett Road
West side of Corbett Rd., approximately 250 ft. north of Belles Lane

TRACT SIZE: 100 ft. x 304 ft.; 0.7 acres

ZONING: R-1

DISTRICT: #5

PROPERTIES NOTIFIED: 76

BOARD OF ZONING ADJUSTMENT (BZA) HEARING SYNOPSIS ON REQUEST:

Staff began by providing the BZA with the commentaries received, which consisted of two in favor and one opposed, which was submitted anonymously. Staff explained that the subject property, while zoned R-1, was .7 acres in size, making it six (6) times the minimum lot size for that zone. There is a smaller 10 ft. x 14 ft. shed on the property, which the applicant indicated they would remove if the larger was approved. Due to the presence of a pool and other improvements to the rear property, there was insufficient room in the rear yard to locate the building. Also, due to the poorly drained soils, the applicant had to have a mounded septic drainfield, which prohibited access to the rear of the property by vehicles. However, the building could potentially be located on the rear 50% of the lot, and at 900 sq. ft., it was 80% larger than what was permitted, which was excessive. In addition, the applicant was raising chickens on the property, which is not permitted by Code. As such, staff is recommending denial of the request.

The applicant stated that they collected classic cars as a hobby, and they stored the better vehicles in the large accessory structure, along with parts which they used to enhance the vehicles. They would definitely remove the smaller shed to keep the larger one. The

chickens belong to their mother, who is on in age and only feeds the hens, who are older and do not lay eggs. They are a type of therapy. However, he understands that they are not allowed, and must go. The BZA asked the applicant if they would consider fully enclosing the structure, which is open on two sides. The applicant indicated that they would do so if needed. The BZA also asked if the applicant would consider moving the structure to the back side of the 60 ft. 30 ft. slab on which it currently sits. The applicant indicated that they would also do so if need be. There being no one present to speak in favor of or against the application, the public hearing was closed.

The BZA discussed the possible location of the shed and concluded that current location was actually preferable. They concluded that, given the size of the property, and the applicant's willingness to remove the existing smaller shed, the variance was warranted. A condition was added that the existing 10 ft. x 14 ft. shed be removed prior to final inspection of the 900 sq. ft. garage/carport. A motion to recommend approval of 950 sq. ft. of accessory floor area was passed unanimously.

BZA HEARING DECISION:

A motion was made by Wes A. Hodge, seconded by Jose A. Rivas, Jr. and unanimously carried to APPROVE variance #1 to allow accessory structures with a cumulative total of 950 sq. ft. in lieu of 500 sq. ft. and variance #2 to allow an existing accessory structure to remain in front of the principal structure in lieu of the side or rear in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions (unanimous 5-0; 2 absent):

1. Development in accordance with the site plan dated August 13, 2018 and all other applicable regulations. Any deviation, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing.
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes action that result in a violation of state or federal law. Pursuant to Section 125.022 the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of Zoning Adjustment shall be resubmitted for the Board's review or he plans revised to comply with the standard.
4. The existing chicken coop shall be removed within forty-five (45) days from the date of final action on the application by Orange County.
5. The applicant shall obtain a permit for all unpermitted structures within 180 days of final action on this application by Orange County or this approval becomes null and void.

6. A row of podocarpus shall be planted between the side of the walled carport and the front property line. The plants shall be in seven (7) gallon containers at the time of planting and planted thirty (30) inches on center for the entire length of the structure.

7. The walled carport shall be used for residential storage only.

8. This approval is for 950 sq. ft. of cumulative total square footage of accessory structure floor area.

9. Prior to final inspection of the 900 sq. ft. walled carport, the applicant shall obtain a demolition permit and remove the existing 10 ft. x 14 ft. shed.

ACTION REQUESTED: Make a decision regarding the appeal; and approve the applicant's request; or approve the applicant's request with modifications and/or conditions; or approve the applicant's request in part and deny it in part; or deny the applicant's request.

District #3.



STAFF REPORT
CASE #: VA-18-10-125
Orange County Zoning Division
Planner: David Nearing, AICP
Board of Zoning Adjustment
October 4, 2018
Commission District: 5

GENERAL INFORMATION:

APPLICANT: Alexis De Jesus

REQUEST: Variances in the R-1 zoning district as follows:

- 1) To allow two existing accessory buildings with a cumulative square footage of 1,077 sq. ft. of floor area in lieu of 500 sq. ft.
- 2) To allow an existing accessory structure to remain in front of the principal building in lieu of the side or rear.

This is the result of code enforcement action.

LOCATION: West side of Corbett Rd., approximately 250 ft. north of Belles Lane

PROPERTY ADDRESS: 1900 Corbett Rd., Orlando, FL 32826

PARCEL ID: 13-22-31-4208-02-200

PUBLIC NOTIFICATION: 76

TRACT SIZE: 100 ft. x 304 ft.; 0.7 acres

DISTRICT #: 5

ZONING: R-1

EXISTING USE(S): Single family residence w/detached carport/garage

PROPOSED USE(S): Detached garage

SURROUNDING USES: N - Single family residence
S - Single family residence
E - Single family residence
W - Single family residence

STAFF FINDINGS AND ANALYSIS:

1. The subject property is zoned R-1, Single Family Dwelling district, which allows single family homes and associated accessory structures on lots a minimum of 5,000 sq. ft. or greater. Accessory structures are also permitted with a total accumulated floor area equal to the greater of 500 sq. ft. or an amount equal to 25% of the living area of the principle residence up to 1,000 sq. ft.
2. The subject property, which is part of a plat recorded in 1956, prior to the introduction of zoning to Orange County, is .7 acres in size. The lot is over six (6) times the minimum lot area for the R-1 zoning district. The existing house has 1,984 sq. ft. of living area.
3. The applicant restores old vehicles for a hobby, which is the purpose for constructing the 900 sq. ft. carport/garage. This structure is open on two ends. The applicant was cited in April 2018, for constructing this structure without a permit.
4. There is an existing shed in the rear of the property, which the applicant indicated they intend to remove if the variance is granted (which would reduce the variance required to 900 sq. ft.). Behind this shed is a chicken coop. The raising of chickens is not a permitted use in the R-1 zoning district. Therefore, the chicken coop must also be removed.
5. Given the location of the pool, and the elevated drainfield located along the side the home, it is not possible to place an accessory structure of this size behind the home. The Zoning Code does allow for the location of an accessory structure in front of the principal structure, provided it is located on the rear 50% of the lot. Given the depth of the lot, it may be possible to locate a carport/garage on the property without the need for a variance.

Variance Criteria

1. **Not Self-Created:** The fact that the applicant did not obtain a permit before constructing the carport/garage is a self-imposed hardship. If a permit was applied for before construction, the applicant could have located the structure in another location.
2. **Granting of Special Privileges:** Staff was not able to locate any similar variances within this neighborhood. Approval of the variances would confer a special privilege on this lot.

3. **Deprivation of Rights:** Literal interpretation would not restrict the applicant from having up to 500 sq. ft. of accessory structures and the garage could have been located in the rear 50% of the lot without the need for a variance.
4. **Minimum Possible Variance:** An accessory structure 80% larger than allowed per code is considered excessive and would not be considered the minimum possible variance.

STAFF RECOMMENDATION:

Staff recommends denial of the requested variances:

1. Development in accordance with the site plan dated August 13, 2018, and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing.
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The existing chicken coop shall be removed within forty-five (45) days from the date of final action on this application by Orange County.
5. The applicant shall obtain permits for all unpermitted structures within 180 days of final action on this application by Orange County or this approval becomes null and void.
6. A row of Podocarpus shall be planted between the side of the carport/garage and the front property line. The plants shall be in seven (7) gallon containers at time of planting and planted 30 inches on-center for the entire length of the structure.

7. The carport/garage shall be used for residential storage only.

c: Alexis De Jesus
1900 Corbett Road
Orlando, Florida 32826

09/04/2018

Alexis DeJesus and Rosemary DeJesus

1900 Corbett Road

Orlando, FL 32826

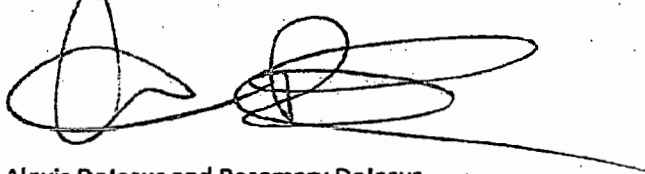
Dear Sir/Madam,

It is our intent to ask the County to allow us to keep the carport on the front of the property. The house is set far back with a very large front yard, affording no space for a carport on either side or behind. When facing the house, the septic is on the left side, there is minimal space on the right side which has a large tree and there is a pool in the back yard. The carport does not have a negative impact on traffic safety, ability for pedestrians to use road or right of way. The carport is within the property line. The house is a barn house construction. Each and every home on the street is uniquely constructed. Approval of the request would permit me to have a carport which is consistent in size and character of my house and with other homes on the street.

I have consulted with various neighboring property owners including the adjacent neighbor regarding my request, whom state no opposition to my proposal.

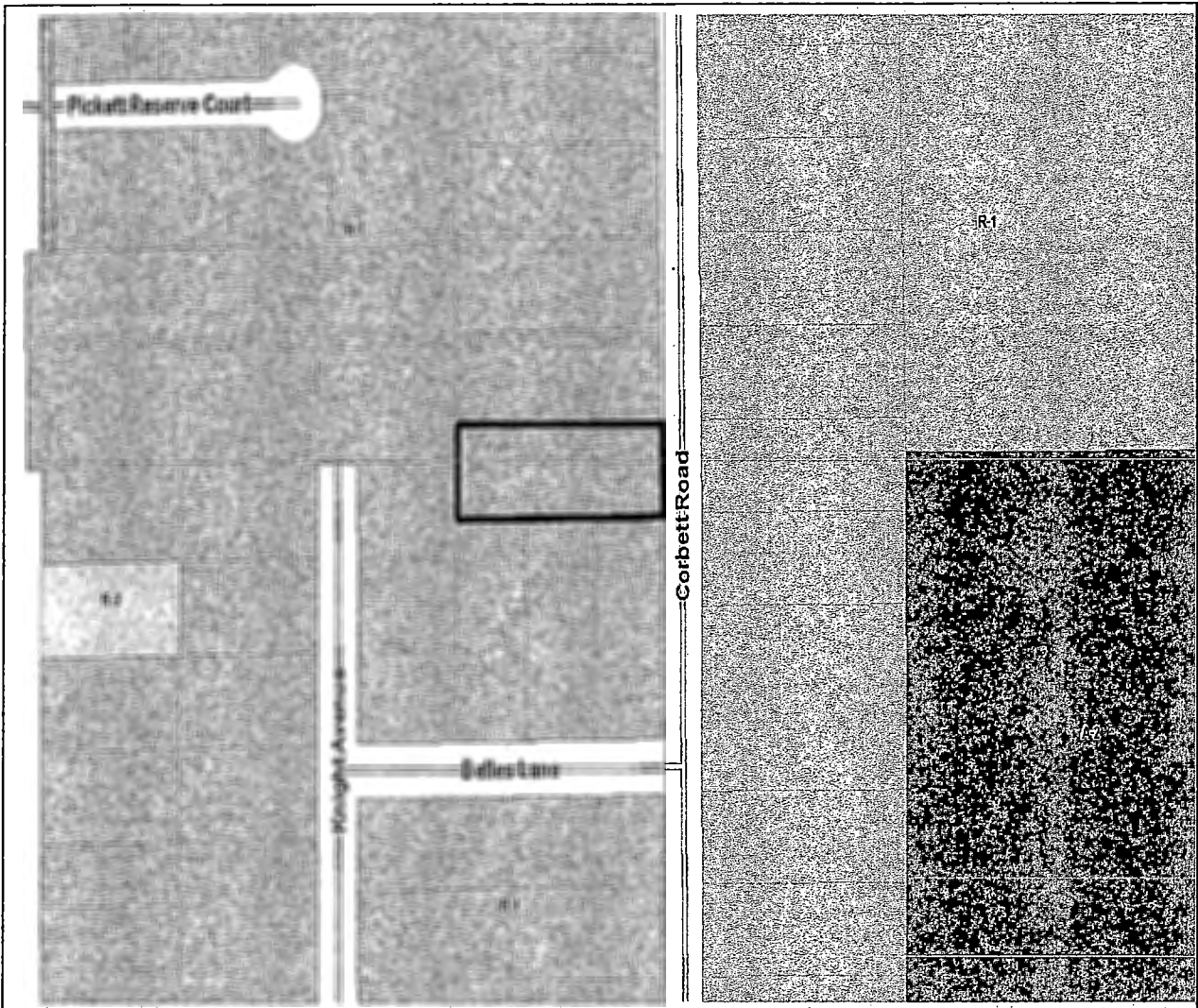
Thank you in advance for your consideration with this matter.

Sincerely,

A handwritten signature in black ink, appearing to be a cursive or stylized script, written over a horizontal line. The signature is somewhat illegible but appears to contain the names Alexis and Rosemary.

Alexis DeJesus and Rosemary DeJesus

Cell # 321-438-3031



Applicant: ALEXIS DE JESUS

BZA Number: VA-18-10-125

BZA Date: 10/04/2018

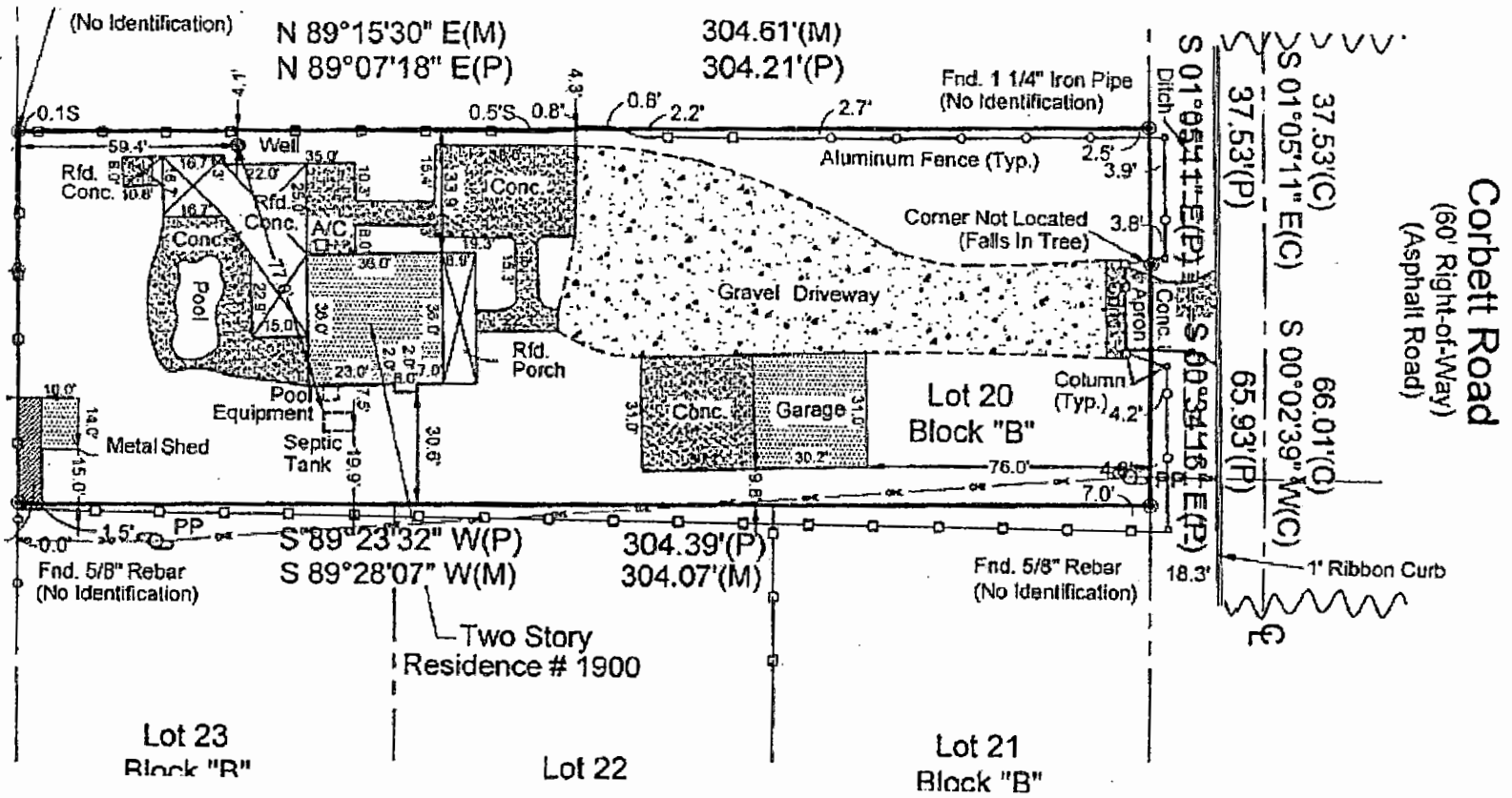
District: 5

Sec/Twn/Rge: 23-22-31-NE-A, 14-22-31-SE-D

Tract Size: 100 ft. x 304 ft.; 0.7 acres

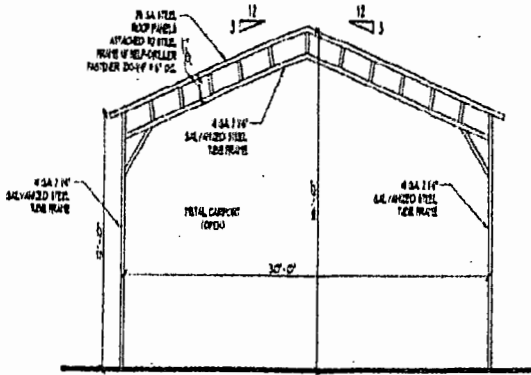
Address: 1900 Corbett Road, Orlando FL 32826

Location: West side of Corbett Rd., approximately 250 ft. north of Belles Lane



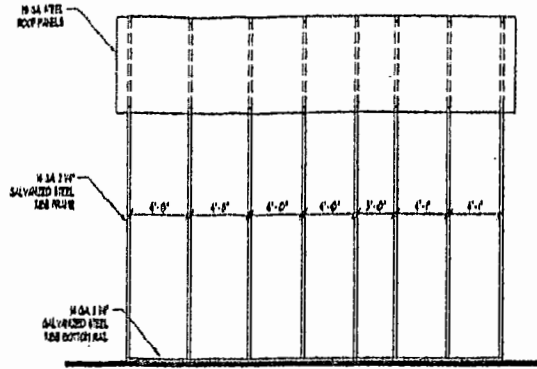
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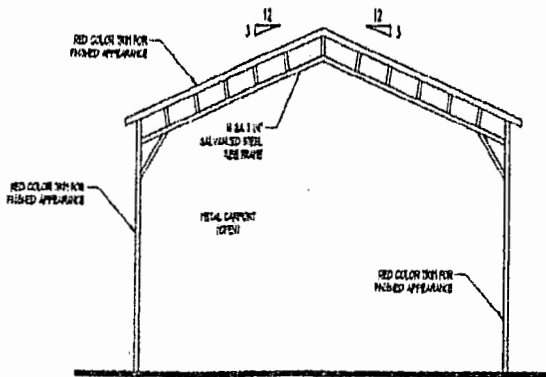
Frame Front & Rear Elevation

SCALE: 1/4" = 1'-0" (25X) 1/8" = 1'-0" (12X)



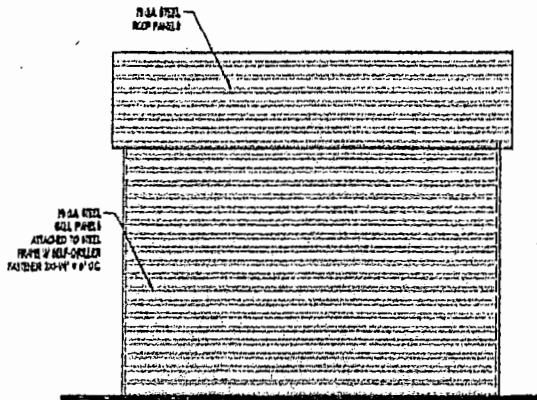
Left & Right Elevation

SCALE: 1/4" = 1'-0" (25X) 1/8" = 1'-0" (12X)



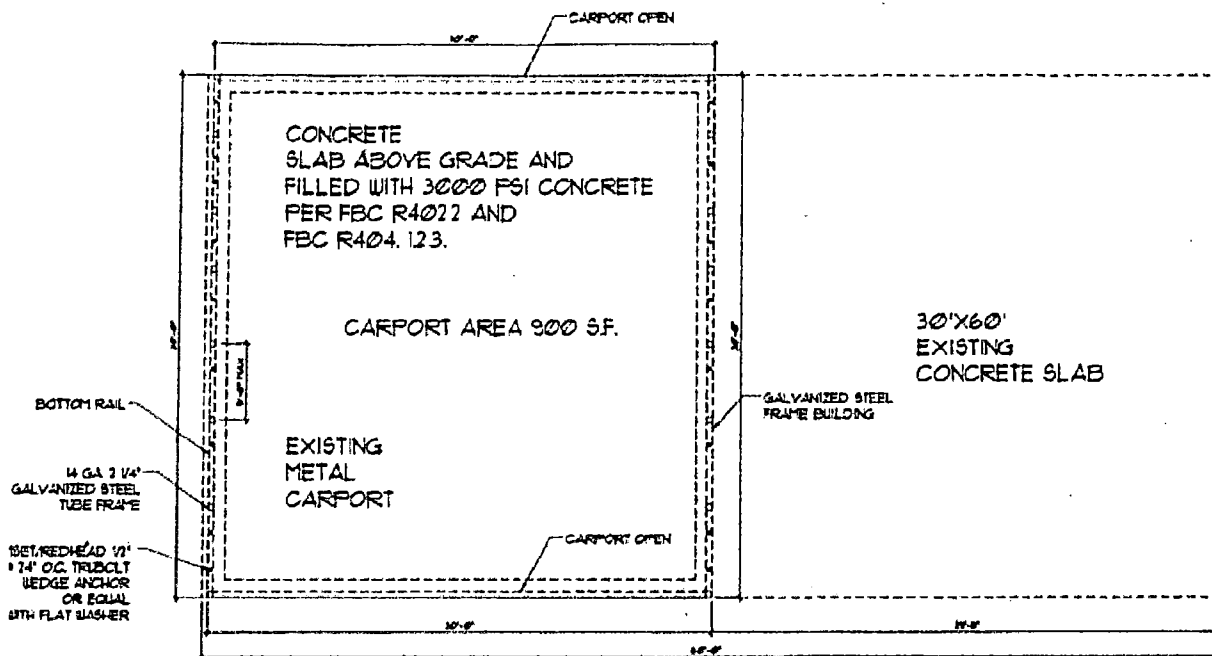
Front & Rear Elevation

SCALE: 1/4" = 1'-0" (25X) 1/8" = 1'-0" (12X)



Left & Right Elevation

SCALE: 1/4" = 1'-0" (25X) 1/8" = 1'-0" (12X)



Floor Plan/Foundation - Slab

SCALE: 1/4"=1'-0" (2023) 1/8"=1'-0" (11/17)