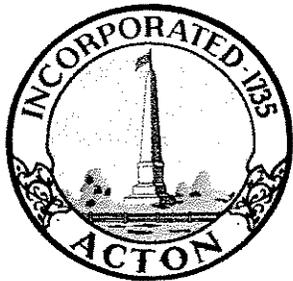


FYI



TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (978) 264-9636
Fax (978) 264-9630
planning@acton-ma.gov

Planning Department

INTERDEPARTMENTAL COMMUNICATION

To: Board of Appeals **Date:** October 26, 2004
From: Roland Bartl, AICP, Town Planner *R. B.*
Subject: Petition/Hearing #04-14 – Regan & White, 433 Main Street

This petitioners are asking the Board of Appeals to allow the construction of a "barn" as an accessory building to the residence on a +/-6-acre property in a single-family residential zoning district. The structure would contain, among other things, garage and storage space, a sitting area with kitchen and bathroom, a home theater, and a loft. No bedrooms are proposed. However, the structure seems quite amenable to function as a second residence or accessory apartment.

In their application, the petitioners state that it is not their intent to use the structure as a dwelling unit and offer a deed restriction to address "concerns the Zoning Board may have regarding occupancy of the proposed structure as a dwelling unit". With the proper Board of Appeals conditions and a deed restriction as offered, the proposal appears reasonable and not inconsistent with zoning. The deed restriction should ensure that all uses in the barn shall be accessory to the single-family residential use of the property as defined and regulated from time to time by the Town of Acton Zoning Bylaw, and the restriction should be enforceable by the Town.

cc: Planning Board



Planning
RECEIVED & FILED
DATE *Oct 21, 2004*
Edward J. Ellis
TOWN CLERK, ACTON

Massachusetts

Board of Appeals

NOTICE OF PUBLIC HEARING

The Board of Appeals will hold a Public Hearing on Monday, December 6, 2004 at 7:30 P.M. in the TOWN HALL

on the following petition:

Hearing # 04-14

John White for a PETITION FOR REVIEW to
Overturn the Building Commissioner's decision.
The Building Commissioner has determined under
Acton Zoning Bylaw section 3.3 the plans submitted
constitute a possible second dwelling unit which is
not permitted or an accessory use not permitted.
Located at 433 Main St. Map F3A/Parcel 67.

Petitioner must be present, or send authorized representative

BOARD OF APPEALS

By

David Black

Clerk

Location
433 Main St.



October 19, 2004

Town Clerk
Town of Acton
472 Main Street
Acton, MA 01720

Re: Appeal of Decision of Building Commissioner dated September 21, 2004
relative to proposed accessory structure at 433 Main Street, Acton, MA

Dear Sir,

Enclosed with this letter are seven (7) copies of the Board of Appeals (Form 1) Petition for Review by the Zoning Board of Appeals to appeal the decision of the Building Commissioner dated September 21, 2004 denying a building permit for the proposed accessory building adjacent to our residence at 433 Main Street in Acton.

The proposed accessory building was designed specifically for the multiple uses of:

- private garage for a family car (the existing home which is in the Historic District and was built in 1924 has garage bays too small for even an average-sized car)
- garage for our existing tractor and its snow blower, trailer and gardening attachments
- storage shed for equipment and tools related to both the adjacent vegetable garden and apple orchard
- storage of property maintenance equipment
- storage for ice skating and hockey equipment used on the adjacent pond
- indoor supervision of children ice skating (pond is not visible from the main house)
- recreational facility (bathroom, fireplace, kitchen) in support of our family recreations of ice skating, swimming, tennis, and gardening.
- home office use specific to home occupation by the homeowner

All of the above are accessory uses to residences permitted under the Acton Zoning Bylaw including Section 3.8.1.1.

The proposed barn is neither designed as, nor will it function as a dwelling unit. To that end, we have set in place a deed restriction registered with Middlesex County that has been filed with the Acton Board of Health. We would be happy to register another deed restriction to address any additional concerns the Zoning Board may have regarding occupancy of the proposed structure as a dwelling unit.

We believe the scale of the building is entirely appropriate as a multifunctional accessory building with numerous and diverse intended accessory uses. The main house is approximately three times the square footage of the accessory building. In addition, storage and support requirements are considerable given a six acre lot with several recreational facilities (swimming, tennis, ice skating), ancillary sports equipment and activities, vegetable and flower gardens, and an apple orchard.

This building is to occupy the site of a previously existing barn which was deemed inadequately built for renovation and was demolished in August, 2004.

Enclosed please find seven (7) copies of each of the following:

- Board of Appeals Petition for Review.
- Decision of the Building Commissioner dated September 21, 2004, which is herein appealed
- Location map
- Detailed Plans dated August 20, 2004 as filed for a building permit on 9/7/2004
- Additional documentation (3-11 x 17) clarifying the use of the kneewall space adjacent to the home theater, the use of the garage, and the storage and recreational support provided by this building for our family activities of ice skating and gardening.
- Existing deed restriction
- Official list of abutters
- \$100.00 fee

It is our understanding from your schedule that this petition will be reviewed by the Zoning Board of Appeals on 12/6/04.

Kindly certify the date and time of filing on the petition for transmission to the Zoning Board of Appeals and Building Commissioner as well as on the extra receipt copy.

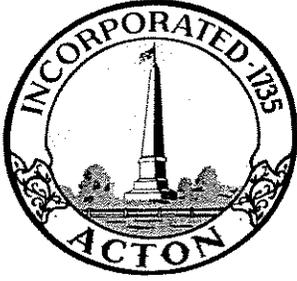
Sincerely,



Mary Beth Regan and John White

cc: Garry A. Rhodes, with enclosures

cc: Zoning Board of Appeals, with enclosures



TOWN OF ACTON
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 264-9632
Fax (978) 264-9630

Building Department

September 21, 2004

John White & Mary Beth Regan
433 Main Street
Acton, MA 01720

Re: Building Permit Application
Barn/Garage

Dear Mr. White & Ms. Regan,

I have reviewed your application for a building permit submitted on September 7, 2004. The site plan identifies the proposed building as a barn/garage. Having reviewed the plans, I find the building more closely resembles a dwelling unit as defined by the Acton Zoning Bylaw § 1.3.5. Therefore, based on the following, I am denying your application for a building permit.

Your property is currently improved by a single family dwelling. The plans submitted propose an additional building that is identified as a barn/garage. A review of the plans indicates the lower level has a single car entry and the remainder of the space will be used as storage. The second level has fully functioning kitchen; a bathroom including shower, lavatory, water closet; dining room; and sitting area. The third level has a TV area with closet and loft area. It is my opinion the third level could easily be used as a bedroom area.

Your property is located in the R-2 residential zoning district. Acton Zoning Bylaw (AZB) § 3.3 provides; "Not more than one BUILDING for dwelling purposes shall be located upon a LOT". A dwelling is defined by AZB § 1.3.5 as "a portion of a BUILDING designed as the residence of one FAMILY". It is my opinion the plans submitted with the application is a BUILDING designed as the residence of one FAMILY.

AZB § 3.8 regulates accessory uses allowed in a residential district. Section 3.8.1.1 lists allowed accessory uses in a residential district as "private garage or carport for not more than four motor vehicles, solar system, greenhouse, tool shed or barn; swimming pool or tennis court provided that such recreational facilities are used only by the residents and their guests." While a barn is an allowed accessory use, I do not find the building as described above is in fact a "barn" as indicated on your site plan.

The plans as submitted in my opinion constitute a second dwelling unit which is not allowed under AZB. I also find the plans are not an allowed accessory use as defined by the AZB. I am therefore denying your application for a building permit. You have the right under AZB § 10.1 to appeal my decision to the Acton Zoning Board of Appeals. I caution you any appeal must be taken within 30 days of the date of this decision.

Sincerely,

A handwritten signature in black ink, appearing to read "Garry A. Rhodes", with a long, sweeping horizontal stroke extending to the right.

Garry A. Rhodes
Building Commissioner

Cc. Byggmeister Inc.

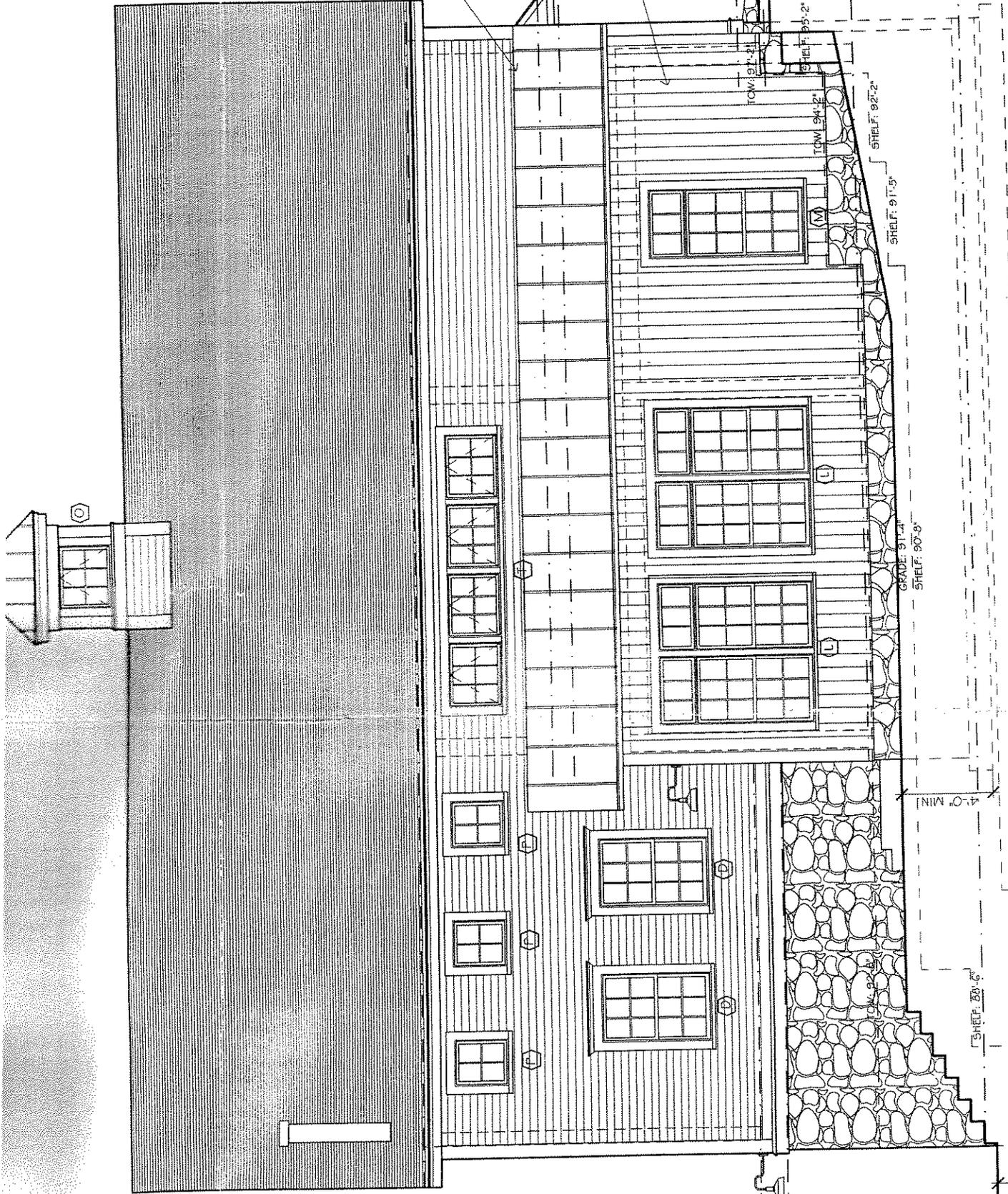


10 | 12

1/2 | 12

ELEV. 07-10

SHELF: 05'-8"



KNEE WALL

LOFT ELEV

FIRST FLOOR

FIRST FLOOR

GARAGE

PORCH

GARAGE

STANDING SEAM
ROOF W/
KYNAR FINISH

VERTICAL
T&G CEDAR SIDING

TOW. ST. 94'-2"

TOW. ST. 94'-2"

SHELF: 92'-2"

SHELF: 91'-4"

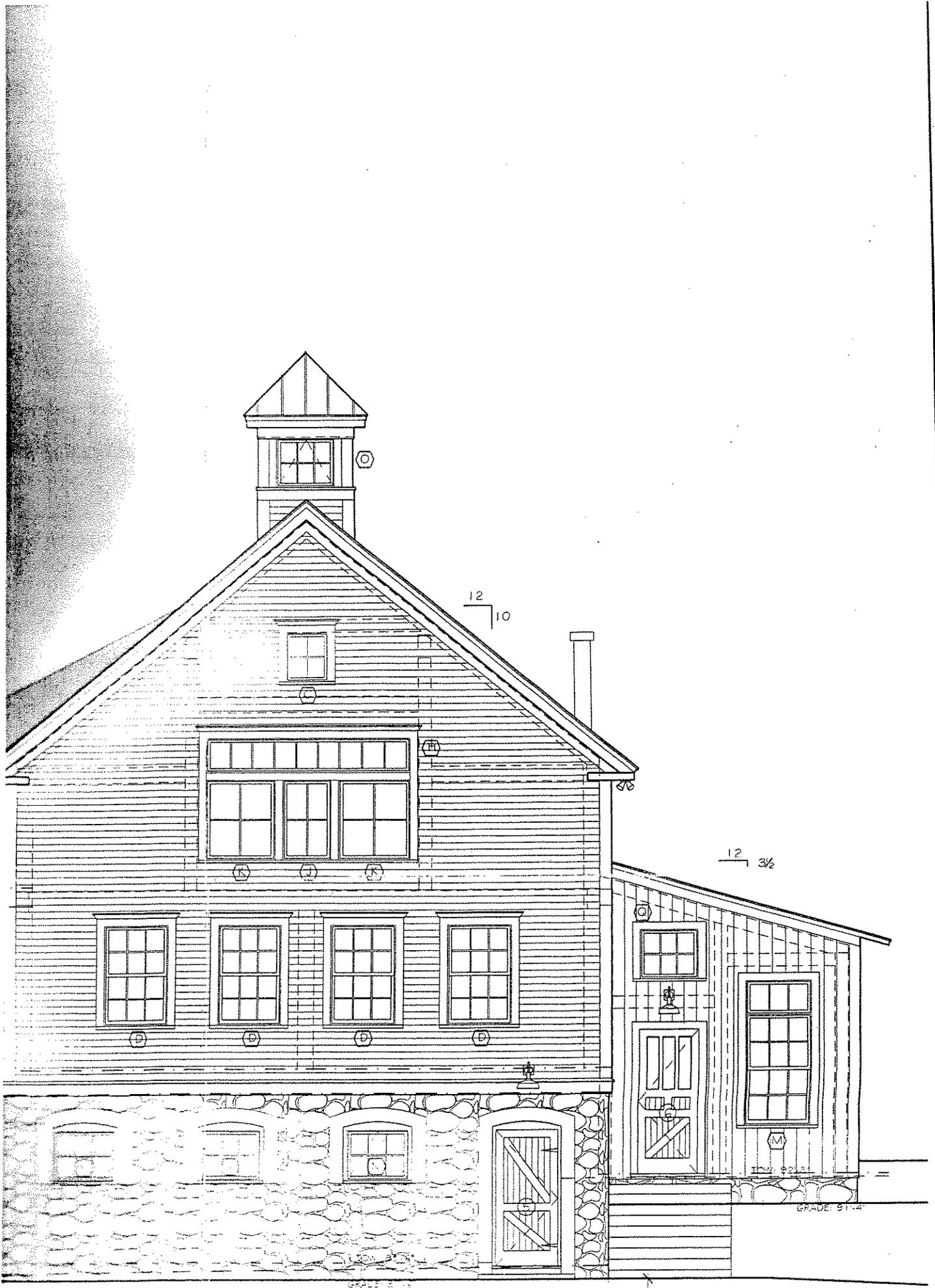
GRADE: 91'-4"

SHELF: 90'-8"

SHELF: 88'-6"

87'-6"

4'-0" MINI

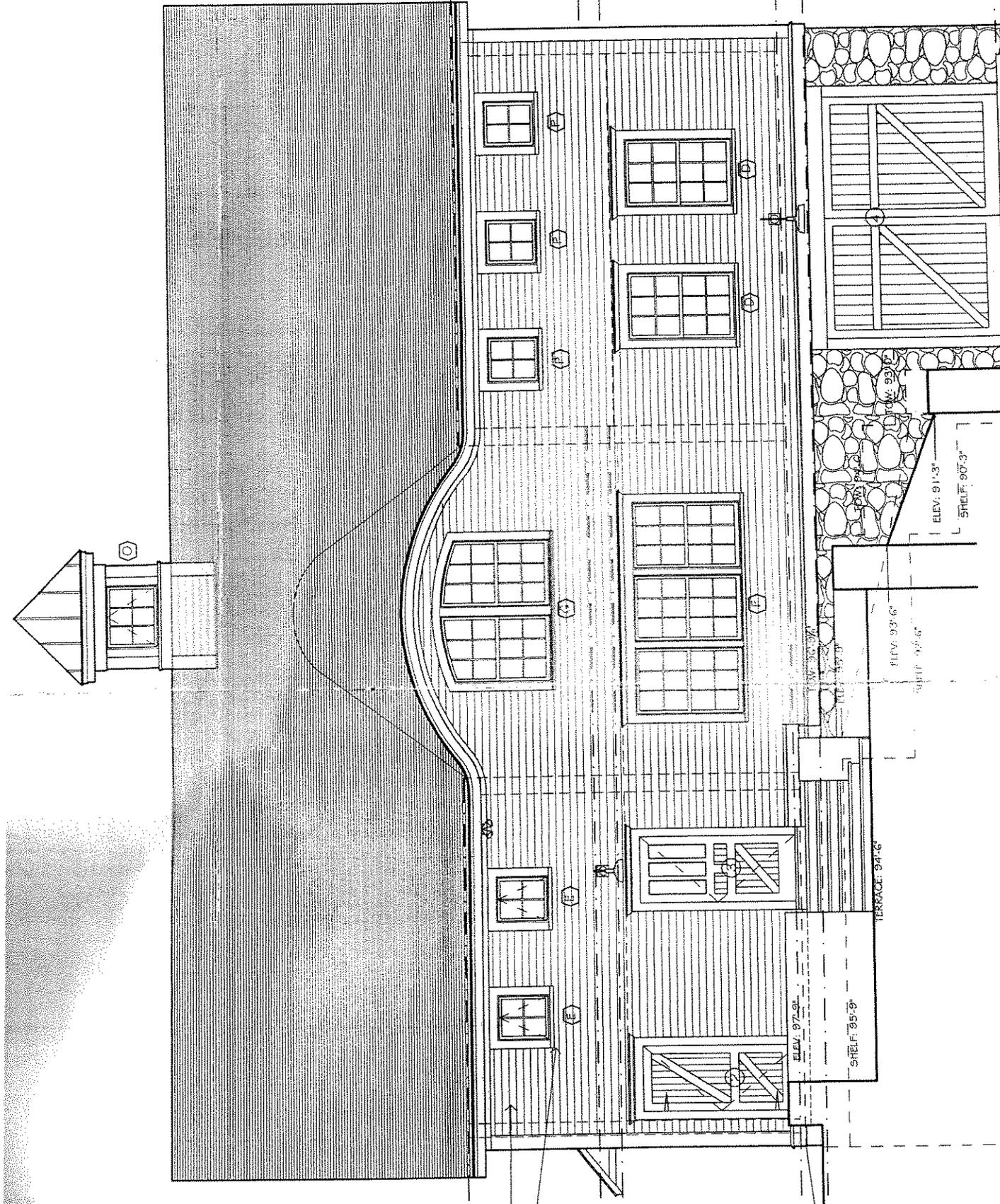


12
10

12
3 1/2

GRADE: 91.24

1" = 10' MIN.



KNEE WALL, ELEV.: 113'-0"

LOFT ELEV.: 107'-0"

FIRST FIR. CLG. ELEV.: 106'-0 3/4"

FIRST FLOOR, ELEV.: 98'-0"

GARAGE CLG. ELEV.: 96'-9 3/4"

BRICK AT @ FOUNDI # DOORS

PORCH ELEV.: 92'-1 0"

GARAGE ELEV.: 68'-0"

ELEV. 91'-3"

SHELF. 90'-3"

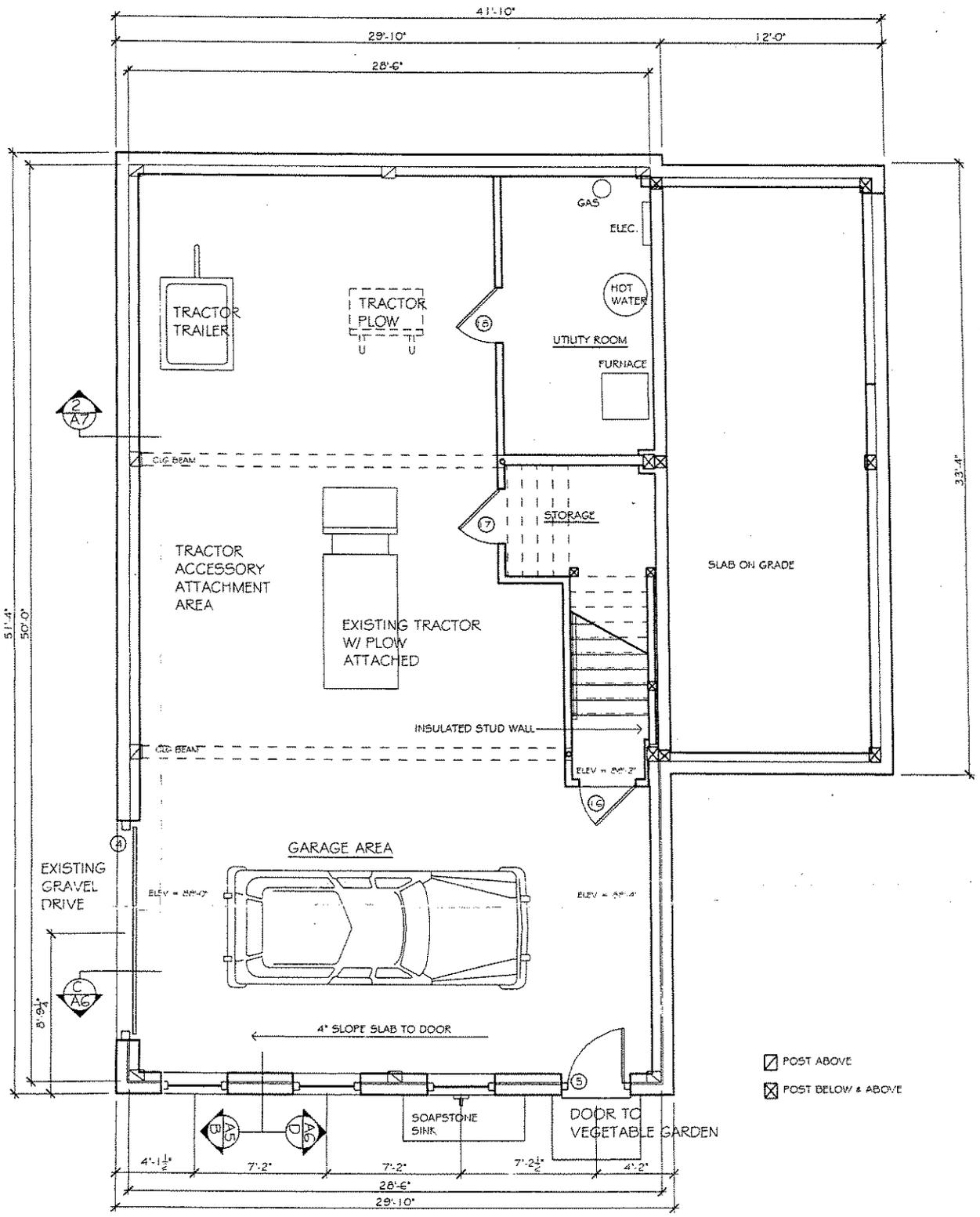
ELEV. 93'-6"

SHELF. 92'-6"

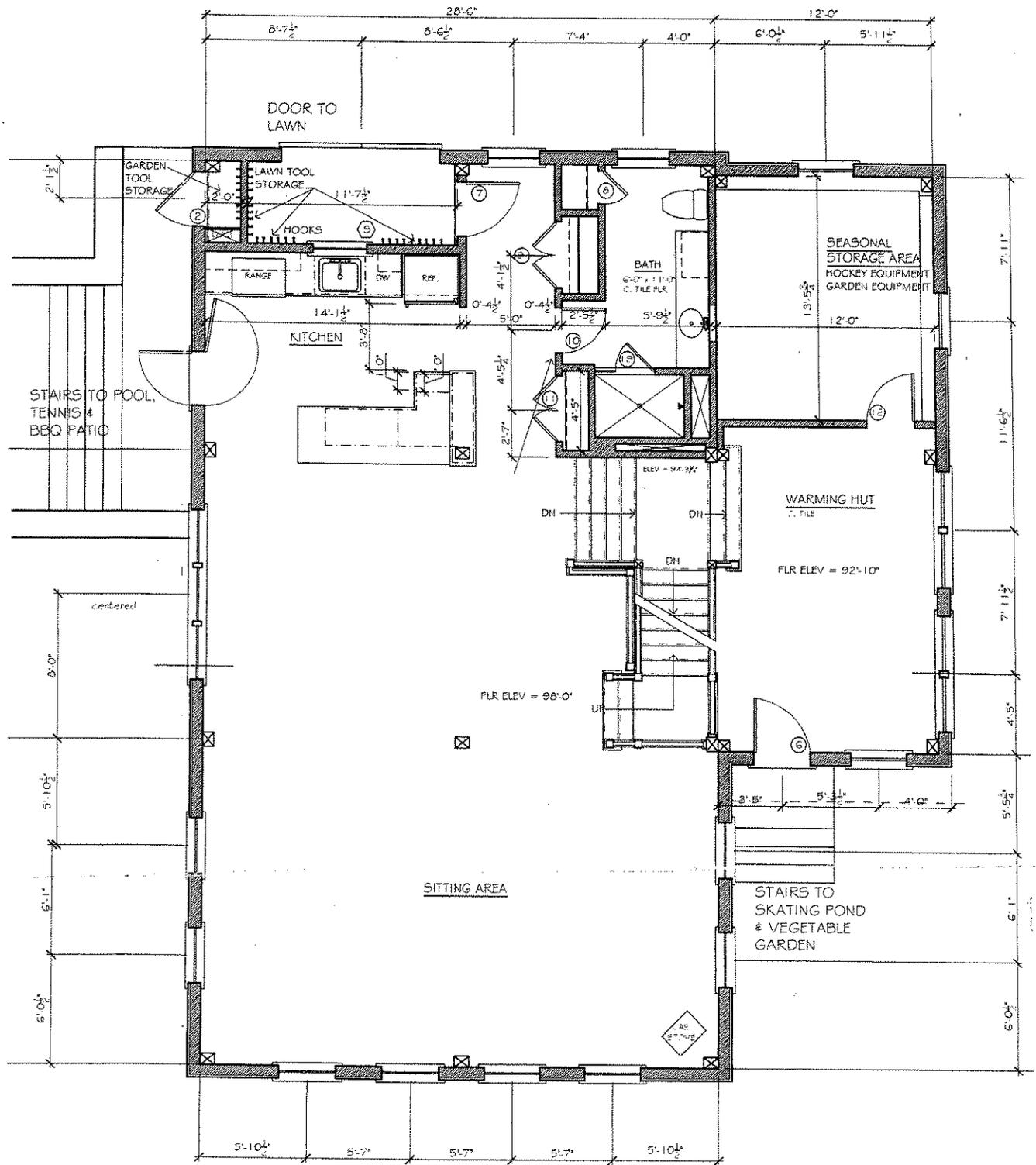
TERRACE: 94'-6"

ELEV.: 97'-9"

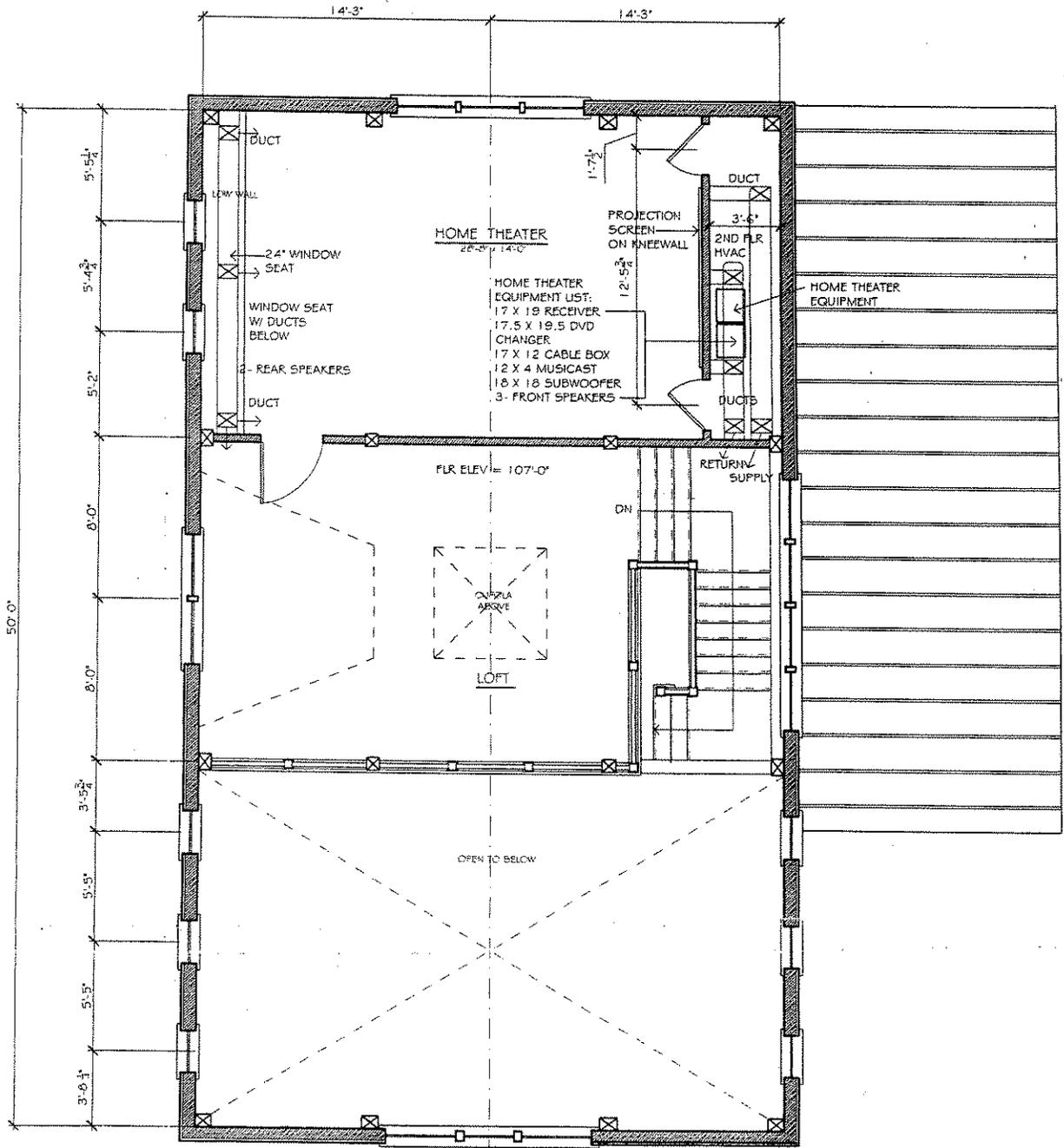
SHELF: 95'-9"



1 GARAGE/BASEMENT PLAN
 3/16" = 1'-0"



2 FIRST FLOOR PLAN
 3/16" = 1'-0"



3 LOFT PLAN
3/16" = 1'-0"