



TOWN OF FAIRFAX

STAFF REPORT

June 4, 2013

TO: Mayor and Town Council

FROM: Jim Moore, Director of Planning and Building Services *or*
Linda Neal, Principal Planner

SUBJECT: Continued consideration of an appeal of Planning Commission denial of a Setback Variance, application 13-23, 130 Wood Lane, to legalize an unpermitted carport within the required 5 foot setback

RECOMMENDATION

1. Open/close Public Hearing.
2. Allow the appellant twenty four (24) months to apply for the required use permit, with the fees waived, to move the carport to a conforming location.

DISCUSSION

The appellant constructed a carport on the property without the required building or planning permits. The site is large and there are several options for relocating the carport to be in compliance with the Zoning Regulations. Therefore, the Commission denied a Variance and Use Permit to legalize the structure within the required side setback due to their inability to make the required findings for approval.

The Town Council continued this matter from the November 6, 2013 meeting directing the appellant to explore ways to bring the carport into compliance with the setback regulations. The Council indicated they would review the matter at their May, 2014 meeting. Due to a full May agenda the matter was placed on the June agenda. The previous staff reports and minutes for the project are attached in Exhibits B and C.

The carport is not required. The applicant built it to provide protection for a vehicle he acquired. The appeal requests that the Town Council determine that relocating the carport to a conforming location will be a hardship due to the cost (to crane the carport to a new location and relocate the sewer).

A recent site visit by staff with the appellant reaffirmed that the carport can be relocated adjacent to the storage shed without relocating the sewer. There is also the potential to reconfigure the front fence to place the carport elsewhere along the 100 foot wide property frontage (please note that any relocation requiring a second driveway or a driveway exceeding 20 feet in width in the right-of-way will require an exception from the Town Council).

Staff believes the carport can be relocated to a conforming location, adjacent to the storage shed, at a minimal cost to the appellant. The Building Official has verified that the sewer line that runs beneath the driveway does not need to be relocated in order to relocate the carport.

Therefore, staff recommends that the Council allow the applicant twenty four (24) months to apply for the required Use Permit, with the use permit fees waived, to relocate the structure in compliance with the Zoning Ordinance; and if the applicant does not proceed with the proper application within the 24 month timeframe that the carport structure be removed immediately thereafter.

FISCAL IMPACT

Waiver of application fees.

ATTACHMENTS

Exhibit A – Appeal form

Exhibit B – 11/6/13 Town Council staff report and minutes

Exhibit C - 8/15/13 Planning Commission staff report and minutes

Exhibit D – Relocation bids and letter from the appellant received 10/29/13



TOWN OF FAIRFAX

142 BOLINAS ROAD, FAIRFAX, CALIFORNIA 94930
(415) 453-1584 / FAX (415) 453-1618

TOWN OF FAIRFAX

NOTICE OF APPEAL

AUG 26 2013

FOR STAFF USE

RECEIVED

Date: 8/26/13 Fee: \$500.00
Appl.# _____
Receipt# 1-40561
Recvd. By: S. Water
Action: _____

The purpose of the appeal procedure is to provide recourse in case it is alleged that there is an error in any order, requirement, permit, decision or determination by any administrative official, advisory body or commission in the administration or enforcement of the City Ordinances. Any person aggrieved by the action of any administrative official, advisory board or commission in the administration or enforcement of any ordinance in the Town Code may make verified application to the Town Clerk in the manner prescribed by the Town Council within ten (10) days of action that is appealed.

FEE: Fees are set by resolution of the Town Council. See fee schedule for current application fees.

PLEASE PRINT

Appellant's name JOHN LEIMER / SUZANNE QUENTIN
Mailing address 130 WOOD LN. Zip: 94920 Day phone 415 672-2369
Property Address: 130 WOOD LN.

I appeal the decision of: (list board, commission, or department and decision, for example: Planning Commission denial of variance) application # 13-23
SIDE SETBACK FOR CARPORT

The following are my reasons for appeal:

- ① HARDSHIP IN COST AND LOCATION TO MOVE CARPORT.
- ② STRUCTURAL ALIGNMENT WITH OTHER STRUCTURES ON PROPERTY
- ③ PLACES FOOTING INTO DRIVEWAY PATH

hereby declare that I have read the foregoing Notice of Appeal and know the contents thereof. I further declare under penalty of perjury that the information supplied by me is true and correct.

Executed this 8 day of 25, 2013

SIGNATURE OF APPELLANT: [Signature]

(4/94)

EXHIBIT #

A

30 September 2013

SEP 30 2013

RECEIVED

130 Wood Lane: Application #13-23 (Carport)
Appeal of denied Side Setback Variance of August 15, 2013
Enclosures: Lot drawings of Four (4) Options for Carport Location

Dear Fairfax Planning Commission,

Thank you for the opportunity to submit appeal documentation for the unpermitted carport built at 130 Wood Lane in Fairfax. We appreciate your time on this.

We have explored four (4) options for alternate Carport locations and would like to present these findings to you.

Option 1 – Pivot the carport on an angle to meet the 5' setback.

This option shifts the current carport in the same basic location approximately 4.5 feet to the north. Although this option meets the 5' setback requirement it places the footing and post in the current driveway, limiting or perhaps eliminating one of the existing parking spaces. It also results in the carport no longer being in alignment with the other building structures on the property (i.e., a special circumstance of the property). Additionally, the sewer lateral runs down that side of the driveway and the post would likely impede that lateral (as per the sewer inspection video survey of the lateral at time of purchase). Finally, this angling likely puts one of the front footings within the 6' street setback.

Option 2 – Move the carport beside the existing shed structure.

This option relocates the carport entirely to another part of the driveway. While this option eliminates the setback issues altogether, moving the carport to this location eliminates one of the current parking places entirely, blocks the only window into the kitchen, and likely impedes the sewer lateral running down the left side of the driveway.

Option 3 – Move the carport over the existing front fence

This option relocates the carport entirely to a space that straddles the current front yard fence. While this option potentially retains both parking spaces in the driveway, moving the carport to a location on the fence line requires removing a tree and blocks one of two windows into the main living space. Depending on how the footings measure into the driveway, this option may also require eliminating or moving the front fence altogether.

Option 4 – Move the shed and the carport to run along the 5' setback

A suggested option from the Principal Planner, this option involves moving the existing shed structure (a weak and deteriorating structure today) back several feet and pivoting it on the setback line, and placing the carport in front of it. This option will not work as moving the current shed would require a shed rebuild and would back right up to a large tree located between the existing shed and the house. This option also doubles project cost (excessive or unreasonable hardship) as it requires moving two buildings.

While there are other spaces within the fenced property for a carport, none will work as there is no driveway access to those locations and these would exceed the 20' driveway permissible on any property.

Any move of the current carport requires significant effort and financial outlay (excessive or unreasonable hardship). The following actions are required:

- Temporary support structure to be built
- New footings to be dug
- Demolition of current footings
- Dig and pour new footings
- New support posts
- A crane to lift and move existing carport (Power lines will be a factor)
- Labor est \$2000.00, Materials est \$1500.00, Crane fees \$1000.00 Total est \$4500.00

The current location was determined by several factors:

1. Alignment (literally "in line") with the other buildings on the property.
2. Utilizing a previous vehicle storage location (as seen in For Sale pictures of property by previous owner, the space was gated and both horse trailer and then boat were stored there; the current footings are behind that gate location).
3. There was a large redwood tree stump filled with termites in the southeast corner of the property that had to be removed in order to build the carport. Upon removing the stump and roots, a large hole was left which was subsequently filled with concrete for that corner footing of the carport.
4. The location of the sewer lateral.
5. Maintaining the current parking spaces on the property.
6. Access to the carport from the side, via the driveway, is possible with the design of the beams to allow for one open side of the carport.

Very careful consideration was given to the location of the current carport in an effort to maintain as many positive aspects of the property as possible. As noted above, relocating the carport to any of the four options mentioned above will result in issues and significant detractions to other aspects of the property.

We apologize again for not consulting the Planning Commission in our planning and building process. We regret that we didn't take this step as we recognize it would have streamlined the process and had you engaged with us throughout.

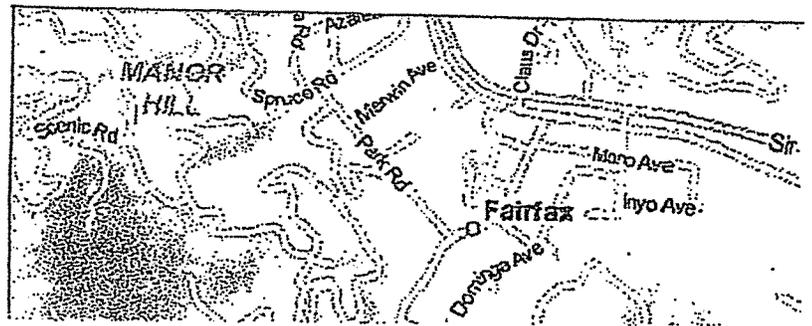
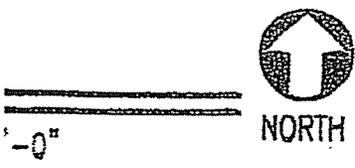
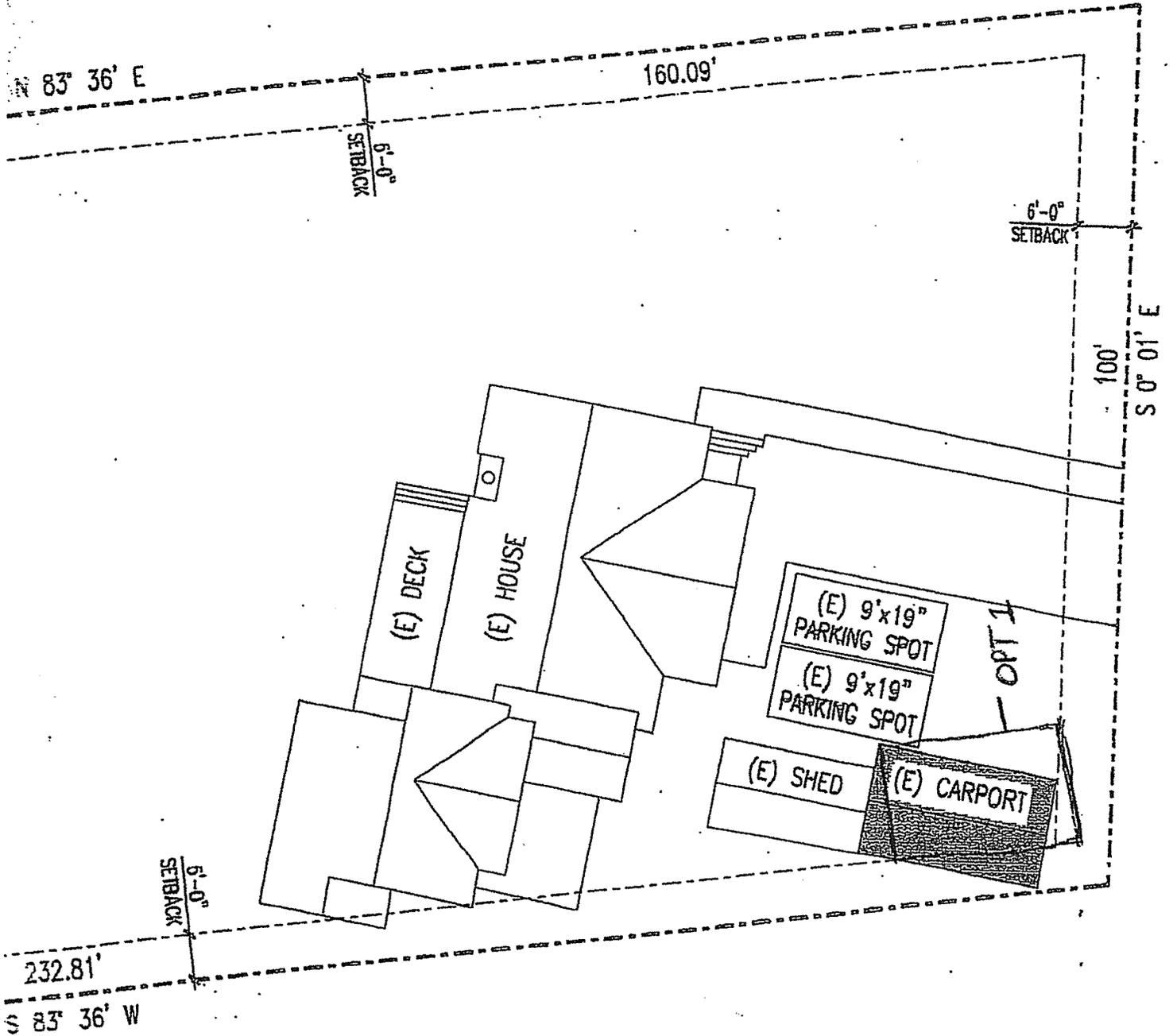
Given the documentation and considerations provided within this document, we very graciously request that you grant a Use Permit and Setback Variance for the existing carport structure.

Thank you very much.

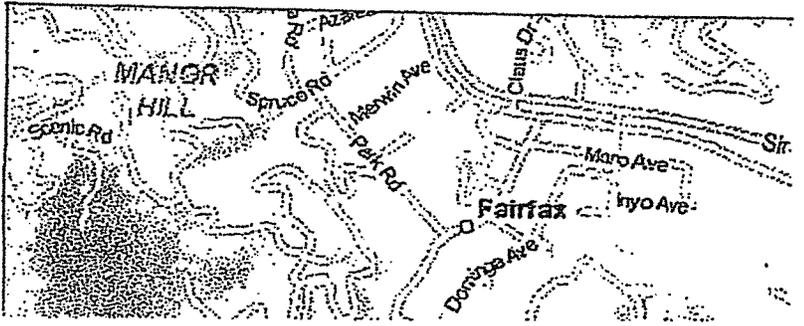
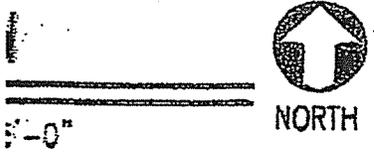
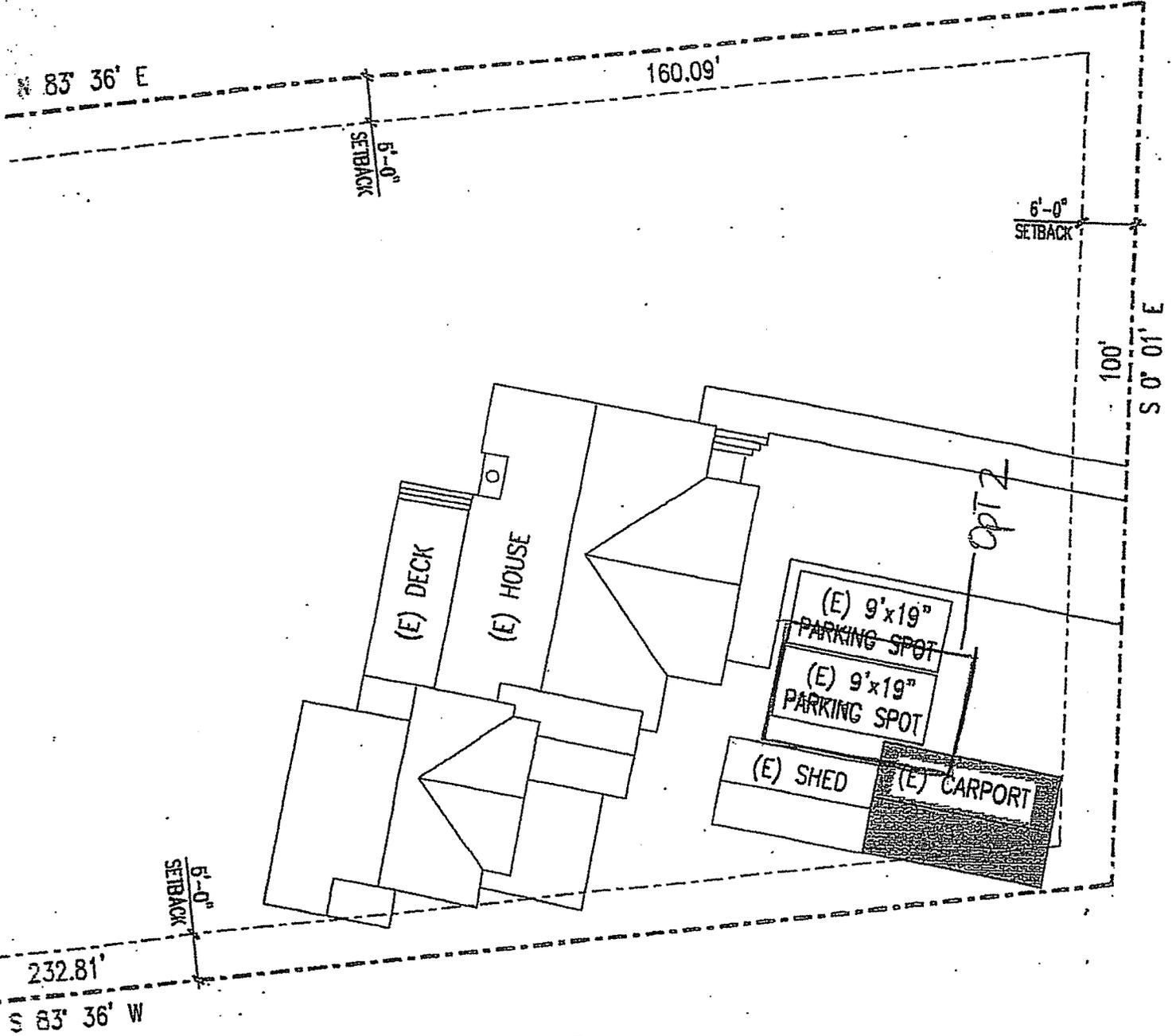


Suzanne Quentin, property owner and John Leimer, builder

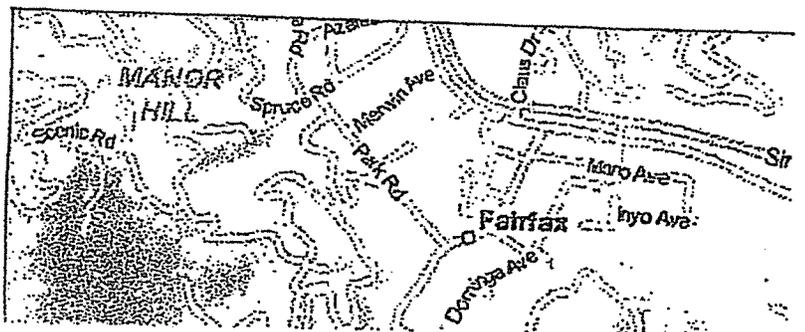
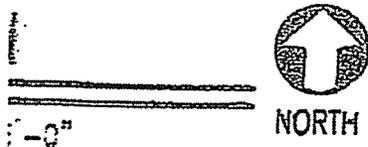
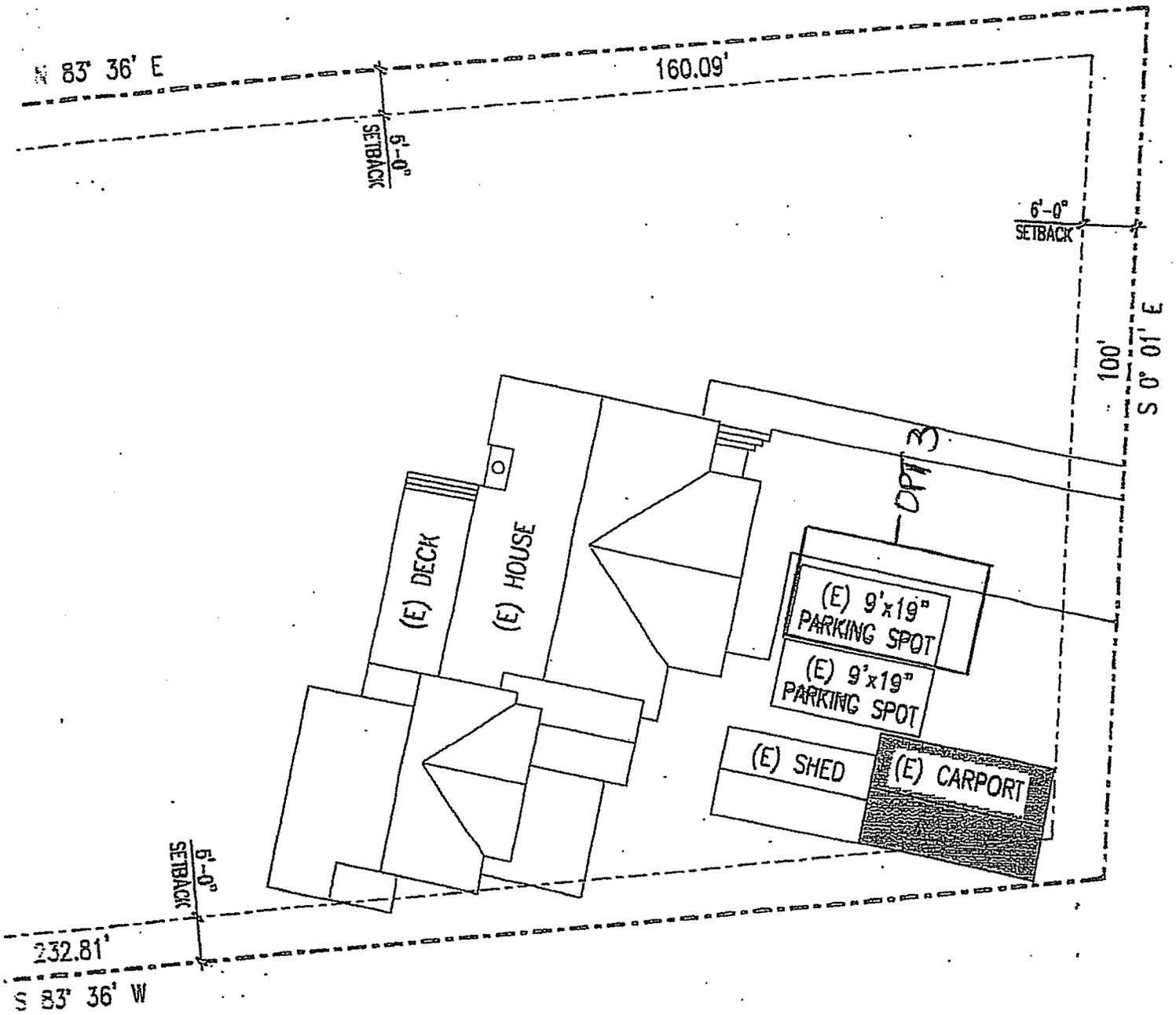
Re: 130 Wood Lane
Carport



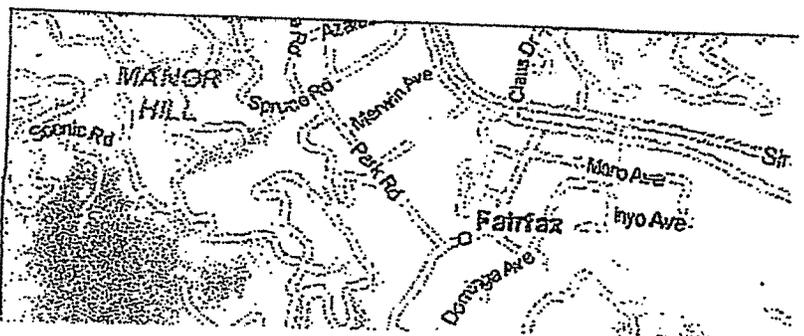
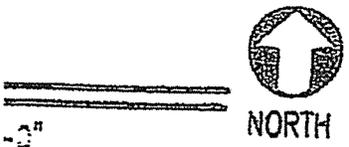
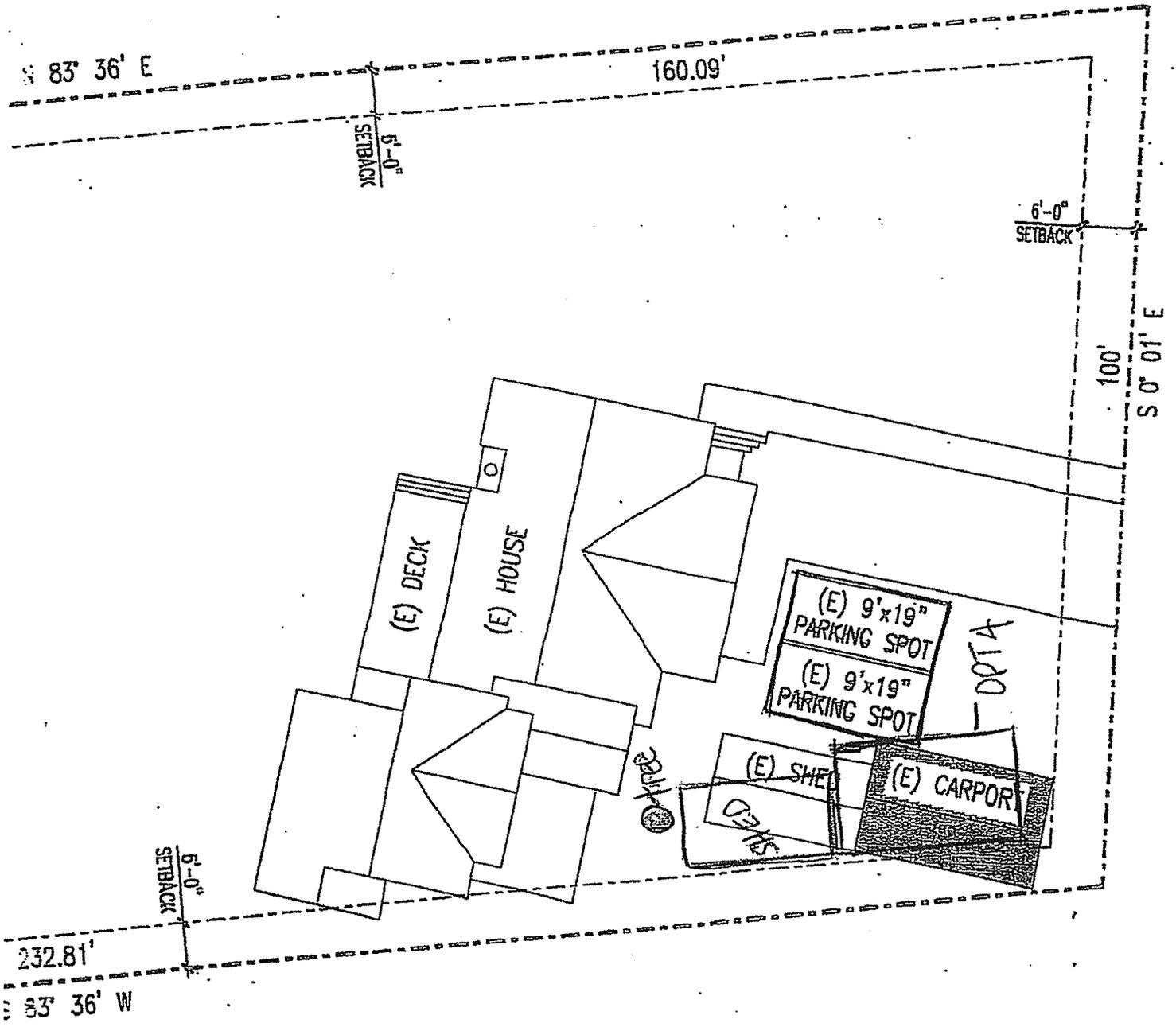
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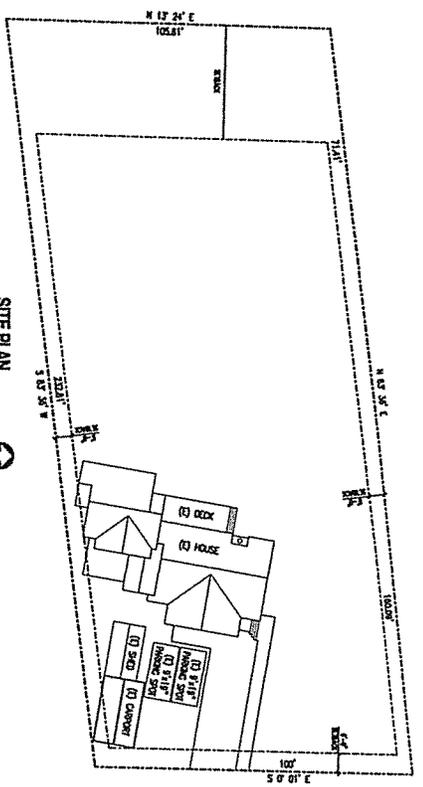
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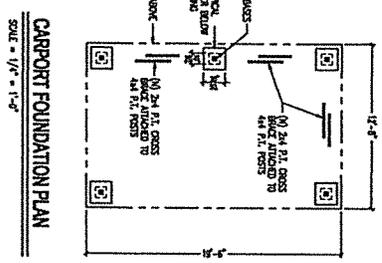


MAY 22 2013

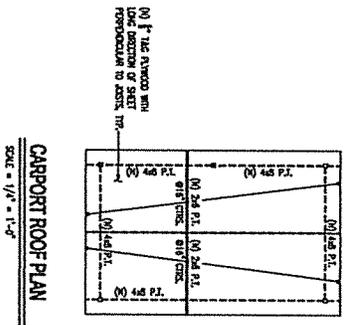


SITE PLAN
SCALE = 1" = 16'-0"

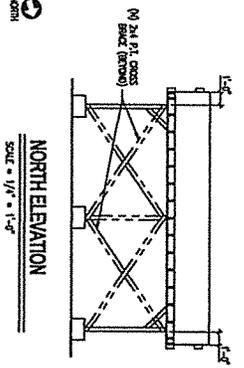
VICINITY MAP
NOT TO SCALE



CARPORT FOUNDATION PLAN
SCALE = 1/4" = 1'-0"



CARPORT ROOF PLAN
SCALE = 1/4" = 1'-0"



NORTH ELEVATION
SCALE = 1/4" = 1'-0"

EAST ELEVATION
SCALE = 1/4" = 1'-0"

GENERAL NOTES

1. ALL WORK IN THESE DOCUMENTS SHALL BE CONFORMING TO REQUIREMENTS WITH ALL 2010 OUTDOOR RESIDENTIAL CODE (EXCEPT AS LIMITED BY SECTION 4301.1.1, THE 2008 INTERNATIONAL BUILDING CODE AS AMENDED BY THE 2010 OUTDOOR RESIDENTIAL CODE, THE 2008 INTERNATIONAL PLUMBING CODE AS AMENDED BY THE 2010 OUTDOOR RESIDENTIAL CODE, THE 2008 INTERNATIONAL ELECTRICAL CODE AS AMENDED BY THE 2010 OUTDOOR ELECTRICAL CODE, THE 2008 INTERNATIONAL MECHANICAL, REFRIGERATION, AIR CONDITIONING AND HEATING CODE AS AMENDED BY THE 2010 OUTDOOR MECHANICAL, REFRIGERATION, AIR CONDITIONING AND HEATING CODE, THE 2008 INTERNATIONAL FIRE AND LIFE SAFETY CODE AS AMENDED BY THE 2010 OUTDOOR FIRE AND LIFE SAFETY CODE, AND ALL OTHER APPLICABLE CODES AND REGULATIONS OF THE STATE OF PENNSYLVANIA AND LOCAL JURISDICTIONS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES AND AUTHORITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES AND AUTHORITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES AND AUTHORITIES.
2. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE REQUIREMENTS OF THE CITY OF FREEPARK, PENNSYLVANIA, AND ALL APPLICABLE STATE AND FEDERAL CODES AND REGULATIONS.
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4. CONTRACTOR SHALL PROTECT ALL EXISTING UTILITIES, STRUCTURES, AND LANDSCAPE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES AND AUTHORITIES.
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11. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES AND AUTHORITIES.
12. CONTRACTOR SHALL OBTAIN ALL NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES AND AUTHORITIES.

PROJECT SCOPE

RENOVATE EXISTING CARPORT FOR RESIDENTIAL USE. THE PROJECT SHALL INCLUDE THE REPAIR AND REPLACEMENT OF THE EXISTING CARPORT STRUCTURE AND THE INSTALLATION OF A NEW CARPORT STRUCTURE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES AND AUTHORITIES.

INDEX TO PLANS

INDEX TO PLANS

1.10 GENERAL NOTES, SITE PLAN, VICINITY MAP AND CARPORT PLAN AND ELEVATIONS

PROJECT DATA

PROJECT DATA

NO.	DATE	DESCRIPTION
1	05/22/13	ISSUED FOR PERMIT
2	05/22/13	ISSUED FOR PERMIT
3	05/22/13	ISSUED FOR PERMIT
4	05/22/13	ISSUED FOR PERMIT
5	05/22/13	ISSUED FOR PERMIT
6	05/22/13	ISSUED FOR PERMIT
7	05/22/13	ISSUED FOR PERMIT
8	05/22/13	ISSUED FOR PERMIT
9	05/22/13	ISSUED FOR PERMIT
10	05/22/13	ISSUED FOR PERMIT

MILLWORKS
DESIGN/CONSTRUCTION

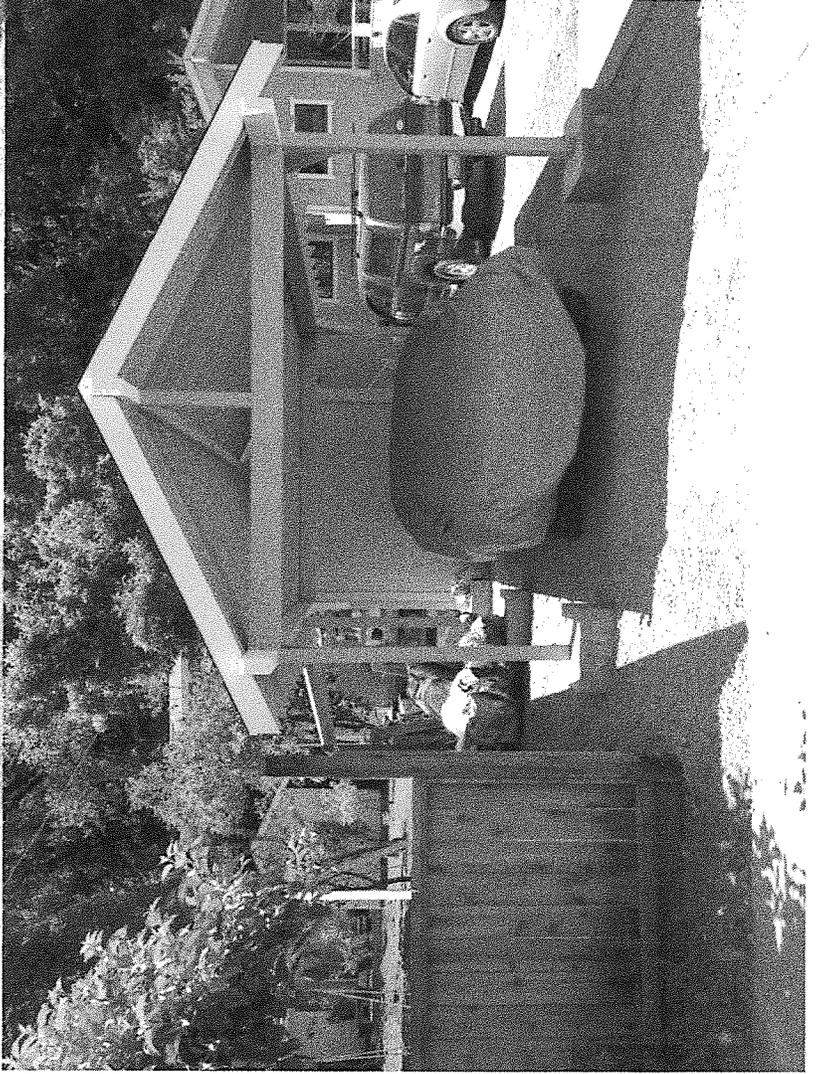
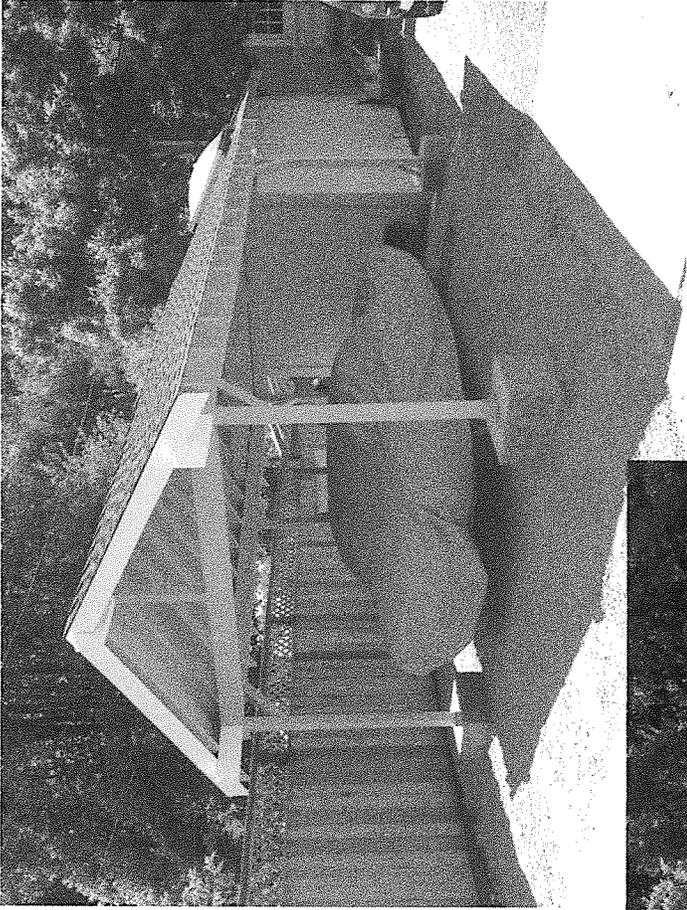
1101 MILLWORKS DRIVE
STATE COLLEGE, PA 16801
TEL: 814.938.1111

GENERAL NOTES:
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GENERAL NOTES, SITE PLAN, VICINITY MAP AND CARPORT PLAN AND ELEVATIONS

DATE: MAY 2, 2013
SCALE: 1/4" = 1'-0"

1101 MILLWORKS



TOWN OF FAIRFAX

JUN 0 3 2013

RECEIVED



**TOWN OF FAIRFAX
STAFF REPORT
November 6, 2013**

TO: Mayor and Town Council

FROM: Jim Moore, Director of Planning and Building Services *GT*
Linda Neal, Principal Planner

SUBJECT: Appeal of Planning Commission denial of a Setback Variance, application 13-23, 130 Wood Lane, to legalize an unpermitted carport within the required 5 foot setback

RECOMMENDATION

1. Open/close Public Hearing.
2. If the Town Council determines that moving the carport to a conforming location will be a hardship for the appellant they should grant the appeal subject to the following conditions: 1) If substantial work is ever required on either the storage shed or the carport, the carport shall be moved to a conforming location; 2) This condition shall be signed notarized and recorded at the Marin County Recorder's Office.

DISCUSSION

The carport was built without permits. If staff had been contacted for a permit prior to construction, the carport could have been redesigned to comply with Zoning and Building Code requirements. For a further discussion of the project and required discretionary permits see the attached Planning Commission staff report dated August 15, 2013 and the attached meeting discussion in the minutes of the same date (Exhibits A and B).

The applicant has submitted two bids from different contractors that estimate relocating the carport will cost in excess of \$19,000 because a sewer line will need to be relocated. The owner is requesting that the Town Council deem this cost a hardship and grant the appeal (Exhibit A). Staff believes the carport could be relocated to a conforming location without relocating the sewer line. If the Council grants the appeal the applicant will have to obtain a building permit and pay penalty fees.

FISCAL IMPACT

None

ATTACHMENTS

- Exhibit A – Appeal form
- Exhibit B – Planning Commission August 15, 2013 staff report
- Exhibit C – August 15, 2013 Commission minutes
- Exhibit D – Relocation bids and letter from the appellant received 10/29/13

EXHIBIT # B

11/6/13 Council minutes

Community Workshops; 7) Youth Commission; 8) What's Missing; 9) Professional Development; 10) Our Vision.

Mr. Armando Spatero discussed the upcoming workshop/programs that would be provided in Fairfax including Kung Fu, Yoga, African Dance, movies, etc.

Mr. Laurie stated the organization was always looking for volunteers or sponsors.

The Council thanked Mr. Laurie and Mr. Spatero for their presentation and good work.

Mayor Reed stated he would like to rearrange the order of the agenda as follows: item #16, #17, #22, #23, #24.

Public Hearings

Appeal of Planning Commission denial of a Setback Variance, application 13-23, 130 Wood Lane, to legalize an unpermitted carport within the required 5-foot setback- Planning Director

Building Official Lockaby presented a staff report.

Councilmember Coler asked if the structure could be relocated without relocating the sewer line. Building Official Lockaby stated the cleanout for the sewer was not in the same location and the carport could be moved (twisted) over a few feet to get it out of the setback. Councilmember Coler asked if the shed would need to be moved. Building Official Lockaby stated he did not think so.

Councilmember Bragman asked if the southern post was located in the setback. Building Official Lockaby stated "yes". Councilmember Bragman asked if the post could be moved out of the setback resulting in an overhang, but no construction, in the setback. Building Official Lockaby stated that might not be possible.

Councilmember Goddard asked if there were any physical features that were offending anyone. Councilmember Weinsoff stated this was built by a licensed contractor who did not bother to get permits. Granting the variance would set a precedent. Councilmember Coler agreed and noted the Planning Commission is very concerned about setting a precedent.

Councilmember Bragman stated the Council would need to make findings to grant the variance.

Mayor Reed opened the Public Hearing.

Mr. John Leimer, contractor, pleaded "youthful exuberance" and acknowledged that he "got ahead of himself". He stated it would cost a lot of money to move the structure.

Ms. Suzanne Quentin, applicant, stated it would be a challenge to move the structure and several of the options would move the footing to the middle of the driveway and hit the sewer line. Option #1 is the most logical but there is a roofline issue with the shed.

Councilmember Coler had questions about the cost estimates from the contractor.

Mayor Reed closed the Public Hearing.

Councilmember Goddard stated she understood the issue regarding setting a precedent but noted the neighbors were not objecting to the structure and they should focus their energies on deterring people from taking advantage of this situation in the future.

Town Manager Toy reminded the Council that they would need to make the findings to grant the variance.

Councilmember Weinsoff suggested they give the applicant a winter grace period but he was of the opinion that the structure would need to be relocated.

It was the consensus of the Council to continue this item to the first meeting in May. The applicant agreed to a continuance.

Discussion/consideration of 76 Spruce Road regarding compliance with Town Code and site maintenance issues- Building Official

Building Official Lockaby presented a staff report.

Councilmember Weinsoff asked if the homeowner was running a drumming business out of the home and whether or not he had a business license. Building Official Lockaby stated he did not know if a business license had been issued.

Councilmember Coler noted the staff recommendation was to work with the applicant to obtain a Second Unit Use Permit and she asked if this included the idea of running a business out of the location. Town Manager Toy stated "yes" but the applicant has indicated to staff that he is not running a business from this location.

Mayor Reed opened the Public Hearing.

Mr. Gabriel Harris, property owner, stated he has a business that does drumming workshop but not from his residence. He has had a business license for "Rhythm Village" for about ten years. He fully intends to legalize the second unit and has spent \$2,500 on a land survey. He submitted floor plans to the Planning Department today.

Councilmember Bragman stated there have been complaints about garbage on the property. Mr. Harris stated he is trying to clean it up.

Councilmember Weinsoff stated there have been complaints about parking in the neighbor's parking spots. Mr. Harris stated he would be happy to post a sign.

Councilmember Goddard stated she was concerned about the cover over the creek and how this could be a safety issue. Mr. Harris stated the underground culvert has become an issue and he has had to clean it out numerous times. He has a grate and cover for the cleanout that was provided by the Public Works Department.

Building Official Lockaby stated the homeowner built over the creek, which is in the public right-of-way, to gain access to his house. The issue is maintenance of that access.

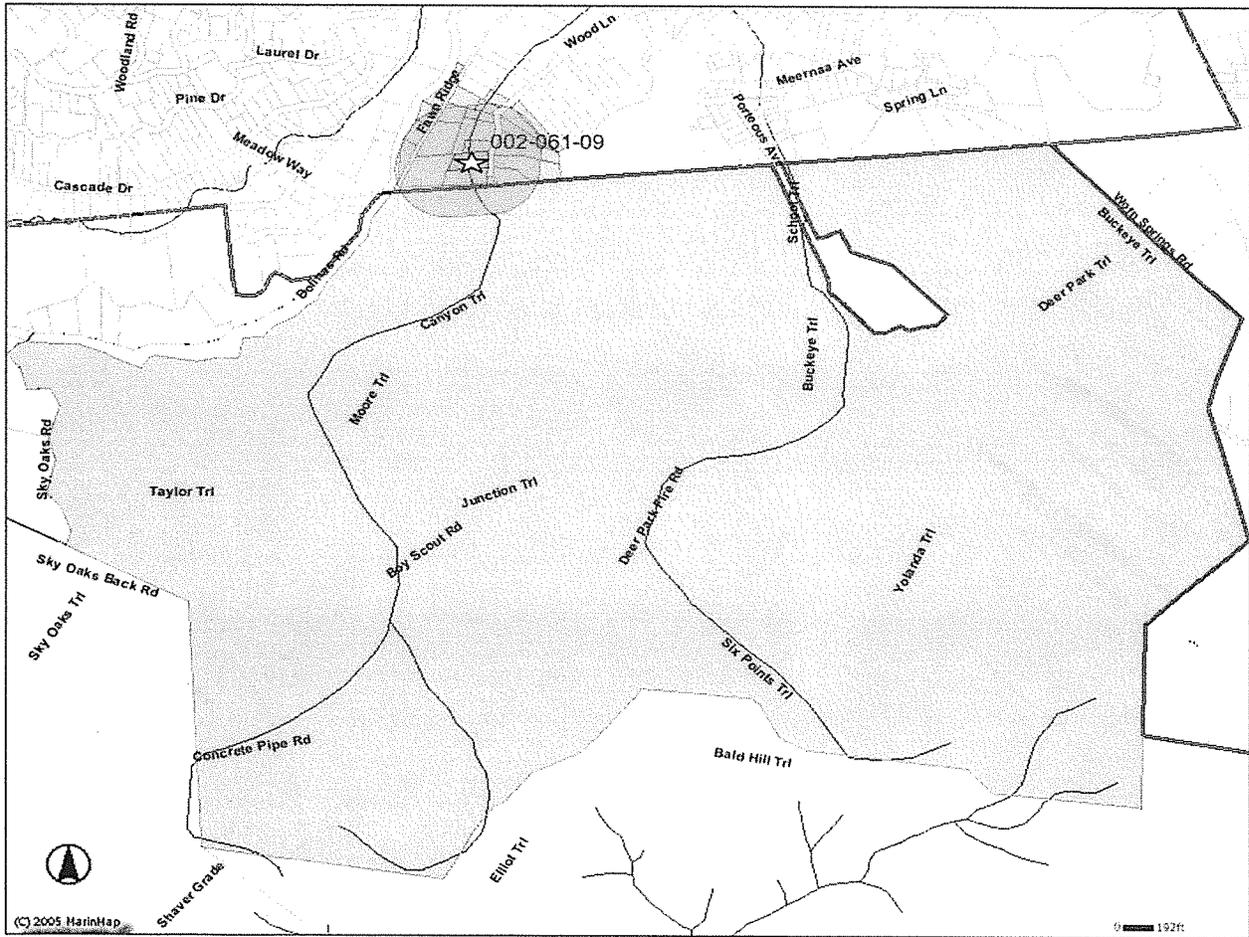
Mr. Tom Bruce, Fairfax Public Works Maintenance Worker, stated this area of Mr. Harris' yard has been a problem for years. The Public Works Department could install the grate so that it could be removed to facilitate clean out of the culvert.

Ms. Kim Turoid, Spruce Avenue, asked who would pay for installation of the grate and be responsible for it. Building Official Lockaby stated if the Town installs the grate then the Town would keep it clean. Ms. Turoid distributed information indicating there was a home business being run out of 76 Spruce Road. She stated there were parking and noise impacts due to the home business. She added that the property needs to be tidied up.

**TOWN OF FAIRFAX
STAFF REPORT**

Department of Planning and Building Services

TO: Fairfax Planning Commission
DATE: August 15, 2013
FROM: Jim Moore, Director of Planning and Building Services
Linda Neal, Senior Planner
LOCATION: 130 Wood Lane; Assessor's Parcel No. 002-061-09
PROJECT: Unpermitted Carport
ACTION: Use Permit and Setback Variance; Application # 13-23
APPLICANT: John Leimer
OWNER: Suzanne Quentin
CEQA STATUS: Categorically exempt, § 15303(e)



130 WOOD LANE

BACKGROUND

The 16,524 square foot site slopes up from Wood Lane at an average rate of 35% although the house location at the front of the property is relatively level.

The original home was built in 1930 prior to the Town's incorporation in 1931. The Planning Commission approved the substandard side setback maintained by the house and a variance from the covered parking requirement to allow a 50% remodel and addition of the home in 1986.

DISCUSSION

The Building Official noted that a new carport was constructed on the property in required setbacks without the required discretionary planning approvals or a building permit in April of 2013. The Staff sent a letter to the owner advising her that the structure either had to be legalized or be removed on April 4, 2013.

The owner has applied for a Use Permit and Side Setback Variance to legalize the 234 square foot open carport in its current location where it has been constructed into the minimum required 5 foot western side setback and maintains less than a ½ foot setback.

The construction requires the approval of the following discretionary permits by the Planning Commission:

A Use Permit

Town Code § 17.080.050(C) requires that parcel with a 35% slope must be 27,000 square feet in size and 125 feet wide to meet the lot size and width requirements. If the site does not meet the size and width requirements, the same section of the Code requires that a Use Permit be obtained from the commission prior to any physical improvement. The site is only 16,524 square feet in size and 100 feet wide so legalization of the carport requires the approval of a Use Permit.

The Town Code requires that residential properties be provided with at least one covered parking space. The design of the carport is in keeping with the design of other covered parking structures in the neighborhood and throughout Fairfax and it does not change the single-family character of the site.

Variances to the Setback and Parking Regulations

Town Code 17.050.070(B)(2) requires that structures on properties with over a 10% slope maintain minimum side yard setbacks of five (5) feet.

Town Code 17.052.010(B) indicates that, "No off street parking spaces or garages, carport or other accessory structure for parking use, required or additional thereto, shall be located in a required side yard setback.

The southwestern corner of the carport almost touches the west side property line and 45 square feet of the corner encroaches into the required setback. Therefore, the project requires an exception to the above restrictions.

The purpose of the Variance process is to allow variation from the strict application of the Zoning Ordinance regulations, where, by exceptional narrowness, shallowness or unusual shape of a property, or by exceptional topographic condition of the site or other extraordinary condition of the property, the enforcement of the setback and parking restrictions would involve practical difficulties or cause undue hardship unnecessary to carry out the spirit of the Zoning Ordinance.

In order to approve the requested variances the Commission must be able to make the following legal findings with respect to the site and project:

1. Because of special circumstances applicable to the property, including size, shape, topography, location of surroundings, the strict application of this title will deprive the applicant of privileges enjoyed by other property owners in the vicinity and under identical zone classification.
2. The variance or adjustment will not constitute a grant of special privilege, is consistent with the limitations upon other properties in the vicinity and under identical zone classification, and is consistent with the objectives of this title.
3. The strict application of this title would result in excessive or unreasonable hardship.
4. The granting of the variance of adjustment will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated.

The front portion of the site is flat. There is a large level parking area at the front of the residence where the carport could have been constructed in compliance with the regulations. In fact, reorienting the front of the carport 6 feet to the east would have resulted in a conforming structure. Staff is unable to make the findings required to recommend approval of the structure in its current location.

Other Agency/Department Comments

Only the Building Official commented that the structure needs a building permit if approved by the Commission whether it is approved in its currently location or is relocated to conform.

RECOMMENDATION

1. Open the public hearing and take testimony.
2. Close the public hearing.

3. Move to approve the Use Permit but deny the required Setback and Parking regulation Variances based on the following findings and subject to the following conditions:

Suggested Findings For Approval of the Use Permit

The code requires that each residential property be provided with at least one (1) covered parking space and the design of the carport is similar to that of other covered parking structures found throughout the neighborhood and other residential areas in Fairfax. Therefore, approval of a use permit for a single-car parking structure on the site does not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment.

The development and use of the carport, once it is relocated out of the required side setback where parking is prohibited by the Town Code, shall not cause excessive or unreasonable detriment to adjoining properties or premises.

Approval of the use permit to allow a covered space on the site will bring the property into compliance with the covered parking requirement found in Town Code § 17.052.010(D).

Approval of the use permit, with the carport and parking located out of the minimum five (5) foot side yard setback, will result in equal or better development of the premises than would otherwise be the case.

Suggested Findings for Denial of the Setback and Parking Variances

There are no special circumstances or features of the land area, such as size, shape or topography that make it impossible to locate a carport on the site in compliance with the regulations. A small shift to the east in the alignment of the carport with respect to the side property line will result in compliance.

The variance or adjustment will constitute a grant of special privilege because the site has several areas where a complying carport could be built.

Relocation of the carport to a conforming location is physically possible. Therefore, the strict application of this title to legalize the unpermitted carport will not result in an unreasonable hardship for the owner.

Recommended Condition of Approval

The carport shall be moved out of the required 5 foot side setback after a building permit is obtained for the structure in a conforming location.

ATTACHMENTS

- Exhibit A - Applicant's supplemental information
- Exhibit B – Other agency/department comments

Commissioner Kehrlein and Mr. Cirimele discussed the materials of the parking space surface.

M/s, Ketcham/Ezzet-Lofstrom, Motion to approve Application # 13-28, a fifty percent (50%) remodel of an existing 1,382 square foot single-family home increasing the number of bedrooms from two (2) to three (3) with no expansion beyond the footprint of the existing structure and the provision of a third on-site parking space at 19 Belle Avenue, with the added conditions that the surface of the third parking space must consist of permeable materials, that the fence must be removed prior to the final project inspection and that windows shall not be added to the west side of the structure.

AYES: All

Chair Hamilton announced the appeal rights.

7:25 p.m.

5. 130 Wood Lane; Application # 13-23

Request for a Use Permit and Side Setback Variance to legalize an unpermitted 247 square foot carport; Assessor's Parcel No. 002-061-09; Residential Single-family RS 6 Zone District; John Leimer, applicant; Suzanne Quentin, owner; CEQA categorically exempt, § 15303(e).

Senior Planner Neal presented the staff report. She noted that the project had been started without permits. Ms. Neal discussed the Use Permit and Side Setback Variance, which she said would be necessary based on the slope of the property and there being no covered parking.

Ms. Neal noted that the design would be in keeping with other such structures in the neighborhood and with the house. She discussed the findings that needed to be made in order to grant the Variance and the ways in which the parking structure could be changed to meet the setback requirements. Ms. Neal noted that, since the side yard setback could be met, staff could not make the findings to support the Variance.

In response to Commissioner Ketcham, Ms. Neal discussed parking restrictions/parking structure restrictions in the side yard setback.

John Leimer, owner, discussed the reasons why the carport had been built in its current location and he noted that his neighbors were supportive. He said that it would cost too much to move the carport.

Chair Hamilton opened and then closed the public comment period when no one came forward to speak.

Commissioner Ketcham discussed exceptions to the town rules that had been made in the past, but noted that it would be difficult to make the findings to support the project.

Commissioner Kehrlein said that residents should check with the town before beginning a building project. She said that she supported the Use Permit to build a carport on the property, but not the Side Setback Variance because the carport could be moved to an area of the property that met the setback requirements.

Commissioner Ezzet-Lofstrom said that she could also support the Use Permit but would not be able to support the Variance.

M/s, Ketcham/Kehrlein, Motion to partially approve Application # 13-23, the request for a Use Permit, but deny the Side Setback Variance to legalize an unpermitted 247 square foot carport at 130 Wood Lane.

AYES: All

Chair Hamilton read the appeal rights.

7.40 p.m.

6. 40 Forrest Terrace; Application # 13-25

Request for a Use Permit to construct a 216 square foot attic addition to a 1,841 square foot single-family residence; 002-091-01; Residential RD 5.5-7 Zone; Harold Lezzeni, Architect; Julian and Martha Pearl, owners; CEQA categorically exempt, § 15301(e)

Senior Planner Neal presented the staff report. She discussed the reasons that the project did not meet the 50% remodel requirements, but noted that the Use Permit would be necessary because the property did not meet the size and width requirements in order to allow the proposed expansion.

Ms. Neal discussed the two dormers. She said that the residence would be one of the largest in the neighborhood but that the lot was also one of the largest in the vicinity. Ms. Neal noted that the residence would still comply with the Floor Area Ratio (FAR) and lot coverage requirements. She said that staff could support the project for the reasons laid out in the staff report, with the recommended conditions of approval.

In response to Chair Hamilton, Ms. Neal discussed the FAR and the staging platform.

Commissioner Ketcham and Ms. Neal discussed the reasons why the residence had not met the 50% remodel requirements, despite numerous building permits having been issued.

Julian Pearl, owner, confirmed that the work consisted primarily of the dormers. He said that the stairwell was not part of the project.

Commissioner Ketcham and Planning Director Moore discussed the noise ordinance update in relation to an anonymous flyer concerning the project.

Town of Fairfax
Council Members,

TOWN OF FAIRFAX

From;
John Leimer and Suzanne Quentin
130 Wood Ln.
Fairfax Ca.

OCT 29 2013

RECEIVED

Re: Un-permitted carport structure within side setbacks

Upon completion of the hearing for a variance to keep our carport where it is located, in which we were denied, I have received 2 bids to relocate the carport, (see attached)

During the process we discovered that the sewer line runs down the center of our driveway. This makes 2 of the options we provided, non-options as the cost to move the sewer line is about \$8000.00.

We have looked at moving the carport just enough to be outside the side setback. This would place the carport at an angle to all other buildings on the property and would look horrible. The cost to move it is above \$10,000.00 in the 2 estimates attached. To move the entire carport out of the set back and keep it in line with the other buildings on the property would eliminate one of the current parking spaces by placing the footings in the path of the parking spot and require us to grade the surface to create a flat space to park a vehicle. We did not get a quote for this additional work, as the prices so far are impossible for us to handle with a baby coming.

We respectfully ask the council to grant our appeal to keep the carport where it is currently located. We will obtain all necessary permits to close this and will pull permits before starting any other work on our property. We apologize for this process and have certainly learned from this. The financial hardship, not to mention the logistical hardship, of moving this lovely structure is too much for us.

Our neighbors are in agreement that they are not at all bothered by the location, design or purpose of the carport; to store a classic collectors car that my father handed down to me this past May, which is why the carport was built, To house as safely as possible this classic car.

Thank you in advance for your time and effort on this matter. I hope you see fit to allow us to keep this as it is and to move on with out the stress of having to move or remove this carport.

John Leimer and Suzanne Quentin

EXHIBIT #

D

BRIAN KNUTSON
Lic#854132
466 HICKORY LANE
SAN RAFAEL CA, 94903

10/24/13

ESTIMATE

John Liemer
RE: 130 Wood Lane- carport relocate

Labor estimate----- \$6,500.00
materials-----\$2,000.00
Crane fee per day-----\$950.00*
Demo old footings to grade- ----\$2,500.00
Relocate sewer ----- \$8,000.00**

*any unforeseen costs due to adverse terrain conditions that increase crane costs will be passed on to homeowner.

**Due to existing sewer line location,install of new sewer line relocated is required to facilitate required reposition of carport.any unforeseen conditions that increase the cost of sewer line relocate will be passed on to the homeowner.

*** Any and all permits will be the responsibility of the home owner and will be granted by the town of fairfax before the work begins. Any costs due to delays will be the responsibility of the homeowner. Thank you and have a nice day!

This estimate is good for 60 days
Total estimate-\$19,950.00



30 Deuce Ct
Fairfax, Ca. 94930
USA

Phone: 415-265-5390
Fax: 415-456-2746
Email: Swain181@comcast.net

JOB ESTIMATE

PHONE # DATE: 10/25/2013

TO : John Leimer & Suzanne

JOB NAME/ LOCATION

Quentin

130 Wood Ln

Fairfax

JOB DESCRIPTION: Move carport 5 feet from existing location. To do this the new piers would land on the existing sewer line, so the sewer must be rerouted.

Also a crane will be needed to move roof.

Labor: 8,200

Materials: 2,200

Crane rental: 1,200

Remove old piers: 2,700

Reroute sewer line: 8,500

THIS ESTIMATE IS FOR COMPLETING THE JOB AS DESCRIBED ABOVE. IT IS BASED ON OUR EVALUATION AND DOES NOT INCLUDE MATERIAL PRICE INCREASES OR ADDITIONAL LABOR AND MATERIALS WHICH MAY BE REQUIRED SHOULD UNFORSEEN PROBLEMS OR ADVERSE WEATHER CONDITIONS ARISE AFTER THE WORK HAS STARTED.

ESTIMATED
JOB COST
\$22,800.00

ESTIMATED By BCS