



PLANNING AND ZONING
Cerro Gordo County Courthouse

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SPECIAL EXCEPTION STAFF REPORT

SUMMARY OF REQUEST

Case No.: 23-10 **Hearing Date:** April 25, 2023

Staff Contact: John Robbins, Planning and Zoning Administrator

Applicant
 Skyway, Inc. – Brad Thompson
 7030 275th Way
 Clear Lake, IA 50428

Owner
 Brandon J & Megan L Morris
 7994 Springfield Court
 Des Moines, IA 50266

Property Address: 15360 Oakwood Avenue

Brief Legal Description: Lot 12 & S½ of Lot 11, Block 1, Crane & Hills

Zoning: R-3 Single Family Residential

Background

The applicant proposes to construct a 27'x 65' house to replace the existing house (See Figure 1). The front yard setback of the proposed house would increase the front yard setback by 9' compared to the existing house. A driveway easement is held by the adjacent property to the north to access the attached garage along the side of that house (See Figures 2 & 3).

SPECIAL EXCEPTION REQUEST*		
Structure	Request(s)	Requirement(s)
House	24' front yard setback 15' rear yard setback	27' front yard setback per setback average of setbacks within 200' (6.11) 30' rear yard setback (11.6-C)

*See Figure 3-7

FINDINGS OF FACT

1. Brandon J. and Megan L. Morris are the owners of the subject property.
2. Brad Thompson of Skyway, Inc. is the applicant on behalf of the owners.
3. The property is zoned R-3 Single Family Residential.
4. The proposed house is 24' from the front lot line and 15' from the rear lot line.
5. A 27' front yard setback is required per the average of front yard setbacks within 200' of the property. A 30' rear yard setback is required in the R-3 District.
6. The application was filed on March 24, 2023 with the Planning and Zoning Office.

ANALYSIS

The Board of Adjustment is provided the power to grant special exception under Section 24.4(A)(2) of the Zoning Ordinance. The Board may grant special exception to bulk standards of the ordinance if, in its judgement, the standards established in Section 24.4(A)(2)(a) are met. In its review, the Board may attach certain conditions to any special exception granted in order to observe the spirit of the Zoning Ordinance and Comprehensive Plan and mitigate any potential impacts that may directly result from the requested special exception.

Discussion of Standards of Review

Strict compliance with the standards governing setback, frontage, height, or other bulk provisions of this ordinance would result in a practical difficulty upon the owner of such property and only where such exception does not exceed 50 percent of the particular limitation or number in question.

The depth of the lot prevents the construction of the proposed house within the strict limitations of the front and rear yard setback requirements. The proposed house is 24' from the front lot line and 15' from the rear lot line, which are less than 50% of the required 27' front yard setback requirement, per the average of front yard setbacks within 200', and the required 30' rear yard setback of the R-3 District. The standard appears to be met.

The exception relates entirely to a permitted use (principal, special, or accessory) classified by applicable district regulations, or to a permitted sign or off-street parking or loading areas accessory to such a permitted use.

A single family residence is a principal permitted use in the R-3 District. The standard appears to be met.

The practical difficulty is due to circumstances specific to the property and prohibits the use of the subject property in a manner reasonably similar to that of other property in the same district.

The practical difficulty relates to the depth of the lot and the inability of the proposed house to meet the strict requirements of the district setback requirements. The neighborhood has a variety of house sizes. The proposed house is roughly similar or average in size to the varying sized houses in the vicinity. The standard appears to be met.

A grant of the special exception applied for, or a lesser relaxation of the restriction than applied for, is reasonably necessary due to practical difficulties related to the land in question and would do substantial justice to an applicant as well as to other property owners in the locality.

As discussed in the previous standard, the practical difficulty is due to the depth of the lot to allow for a roughly average-sized house. The standard appears to be met.

Such practical difficulties cannot be overcome by any feasible alternative means other than an exception.

The only method to allow for the proposed house would be an exception to the front and/or rear yard setback requirements. No width could be added to the house due to the driveway easement on the north side of the property for the driveway (See Figure 2). The standard appears to be met.

Relief can be granted in a manner that will not alter the essential character of the locality.

The proposed house will not have any foreseeable impact to the character of the neighborhood. The standard appears to be met.

Discussion of Potential Impacts to Immediate Area

There are no foreseeable negative impacts as a result of the proposed house. The proposed house appears to take into account the access easement to the garages that are located on the adjacent property to the north.

Staff Conclusions and Recommendation

All standards of review appears to be met. Staff recommends approval as requested.

BOARD DECISION

The Board of Adjustment may consider the following alternatives:

Alternatives

1. Grant the requested special exception subject to any condition as deemed necessary by the Board.
2. Grant relief less or different from the requested special exception.
3. Deny the requested special exception.

The following motions are provided for the Board’s consideration:

Provided motion of approval:

- I move to adopt the staff report as the Board’s findings and to approve the special exception as requested by Brad Thompson on behalf of Brandon and Megan Morris subject to the following conditions:
 1. All construction shall comply with the site plan submitted with the application.
 2. No construction shall begin until a Zoning Permit has been issued by the Planning and Zoning Office.

Provided motion of denial:

- I move to adopt the staff report as the Board’s findings and to deny the special exception as requested by Brad Thompson on behalf of Brandon and Megan Morris for the following reasons:
[STATE REASONS FOR DENIAL]

EXHIBITS

- Exhibit 1: Figures
- Exhibit 2: Special Exception Application
- Exhibit 3: Site plan
- Exhibit 4: Rendering, floor plan, and elevation drawings
- Exhibit 5: Aerial photo of site

Figure 1
Looking at the existing house



April 5, 2023, J. Robbins

Figure 2
Looking at the driveway and easement running along the north side of the property to access the attached garage of the house located on the adjacent property to the north



April 5, 2023, J. Robbins

Figure 3

Looking north along the rear lot line and at the attached garage of the house located on the adjacent property to the north



April 5, 2023, J. Robbins

Figure 4

Looking north along the front lot line



April 5, 2023, J. Robbins

Figure 5

Looking south along the front lot line (part of the proposed front yard setback could not be captured in this photo)



April 5, 2023, J. Robbins

Figure 6

Looking north toward the front part of the existing house (part of the proposed front yard setback could not be captured in this photo)



April 5, 2023, J. Robbins

Figure 7
Looking south along the rear lot line



April 5, 2023, J. Robbins

SPECIAL EXCEPTION APPEAL

APPLICATION

Date Filed 3/24/23
~~3/20/2023~~

Date Set for Hearing 4/25/23

Case Number: 23-10

Applicant Name: Sky Way Inc - Brad Thompson Phone: 641-521-7035 E-Mail: office@skywayinc.net

Mailing Address: 7030 275th Way, Clear Lake, IA 50428

Property Owner Name: Brandon & Megan Morris Phone: 319-404-5887 E-Mail: brandonmorris@jmail.com

Property Owner Address: 7994 Springfield Ct, Des Moines, IA 50266

Property Description (Not to be used on legal documents): Parcel # 052331001400 Township CLAKE

Property Address: 15360 Oakwood Ave, Clear Lake IA 50428 Zoning: R-3

Brief Legal Description:

L12 & S 1/2 L 11 BLK 1 BAYSIDE

Decision Date: 2/21/23

Project Description

Special exception house for Brandon and Megan.

Special Exception(s) Requested (As cited on results from denied Zoning Permit Application)

1. Front set back ~~27'2"~~ ^{27'} which is the required set back.
2. Proposed house is ^{12'} ~~15'~~ from rear lot line.

Criteria Justifying Special Exception under Standards for Review (You may add more details in the Additional Information)

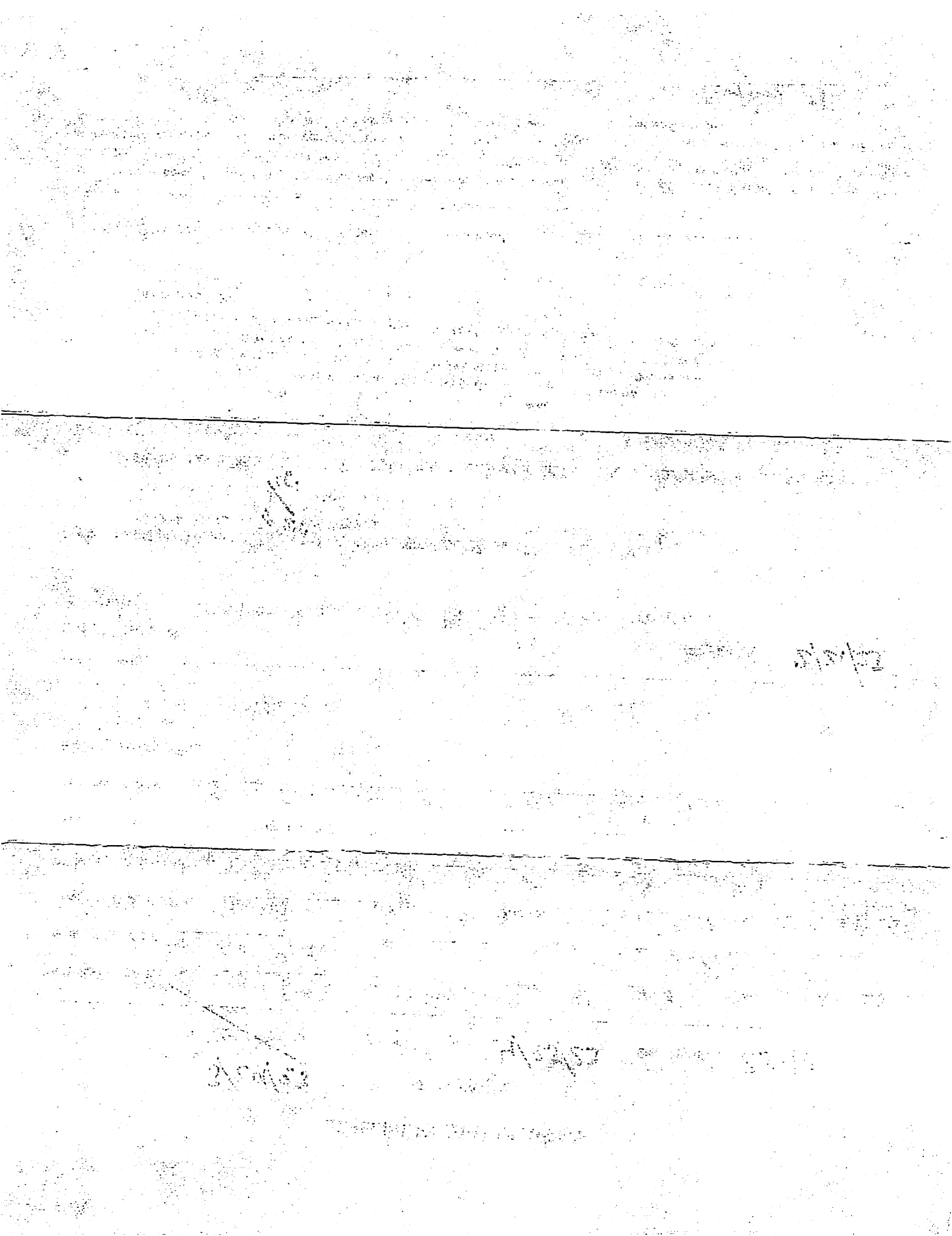
The reason we are asking for this appeal is due a purchase agreement with the owner of 15378 Oakwood Ave. 15378 Oakwood Ave is built on the property line and has garage doors on the south side of the home. The 15360 Oakwood Ave property was bought from the owner of 15378 Oakwood Ave. There is a stipulation to leave shared access in between the properties. Due to the agreement with the owner of 15378 Oakwood ave and the other required setback / building height requirements this limits the house size which is the reason we are asking to encroach on the rear setback.

I am the Owner Contract Purchaser Other (Explain) Contractor
_____ of the property affected.

I, the applicant, being duly sworn, depose and say that I am the owner, or that I am authorized and empowered to make affidavit for the owner, who makes the accompanying application; and that the information provided is true and correct and actual construction will proceed in accordance with the purposes herein stated and any conditions and/or requirements the Board of Adjustment may stipulate. The Planning & Zoning staff and Board of Adjustment members are also given permission to enter the above property in reviewing this Application.

Applicant Signature [Signature]

Date 3/20/2023



SPECIAL EXCEPTION APPEAL

ADDITIONAL INFORMATION

Please provide any additional details below needed to fully address the standards for review and any potential impacts to the immediate vicinity that may directly result from the special exception requested.

15360 Oakwood Ave proposal

Property size : 104' deep x 45' wide

Building envelope including overhangs : 65' deep x 27' wide

Front setback (East side) : 27'

Rear setback (West side) : 12'

South setback : 6'

North setback : 12' (shared access agreed upon sale of property with neighbor to the north)

2 story home with basement

1740 square foot - finished livable area

670 square foot - unfinished walkout basement

Special Exception Appeal for 15360 Oakwood Ave Clear Lake, Iowa

The reason we are asking for this appeal is due to a purchase agreement with the owner of 15378 Oakwood Ave. 15378 Oakwood Ave is built on the property line and has garage doors on the south side of the home. The 15360 Oakwood Ave property was bought from the owner of 15378 Oakwood Ave. There is a stipulation to leave shared access in between the properties. Due to the agreement with the owner of 15378 Oakwood ave and the other required setback / building height requirements this limits the house size which is the reason we are asking to encroach on the rear setback.

-This appeal is within the 50% limitation of all setback requirements.

- We are requesting to encroach on the front setback of 27'. We are asking for the edge of the residence to be 24' from the curb.
- We are requesting to encroach on the rear setback of 30'. We are asking for the rear of the residence to be 15' from the property line

-The property is intended for single family use

-The practical difficulty is to leave access for the property to the north due to their proximity to this property.

- The house to the North is built very close to the property line which has garage doors on the south side of the residence. We are trying to build a house that is similar in size to the neighborhood without blocking access

-This request is necessary to be able to build a comparable size home to the neighborhood.

-The practical difficulties cannot be overcome by any feasible alternative other than an exemption

-This request will not alter the essential character of the locality.

15360 Oakwood Ave proposal

Property size : 104' deep x 45' wide

Building envelope including overhangs : 65' deep x 27' wide

Front setback (East side) : 24'

Rear setback (West side) : 15'

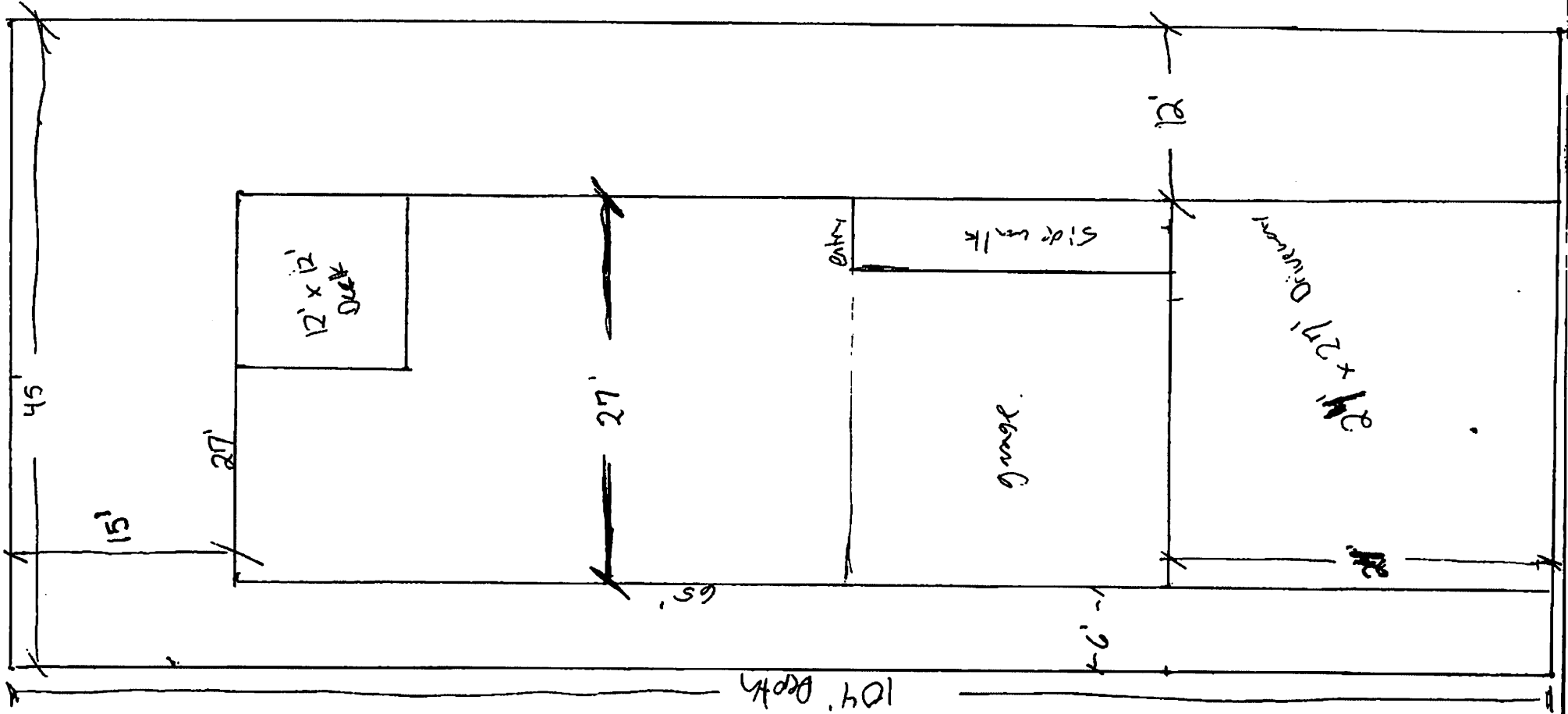
South setback : 6'

North setback : 12' (shared access agreed upon sale of property with neighbor to the north)

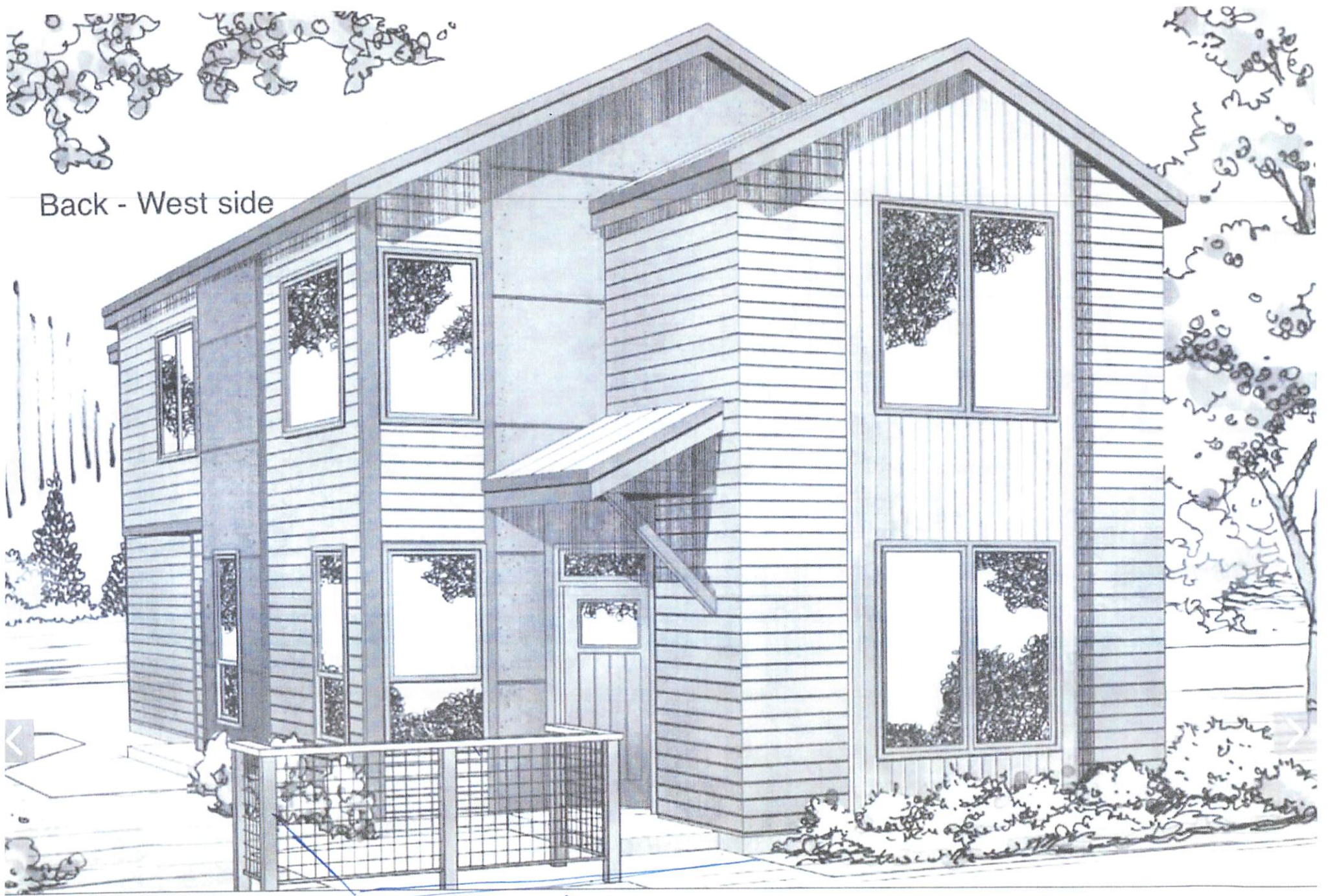
2 story home with basement

1740 square foot - finished livable area

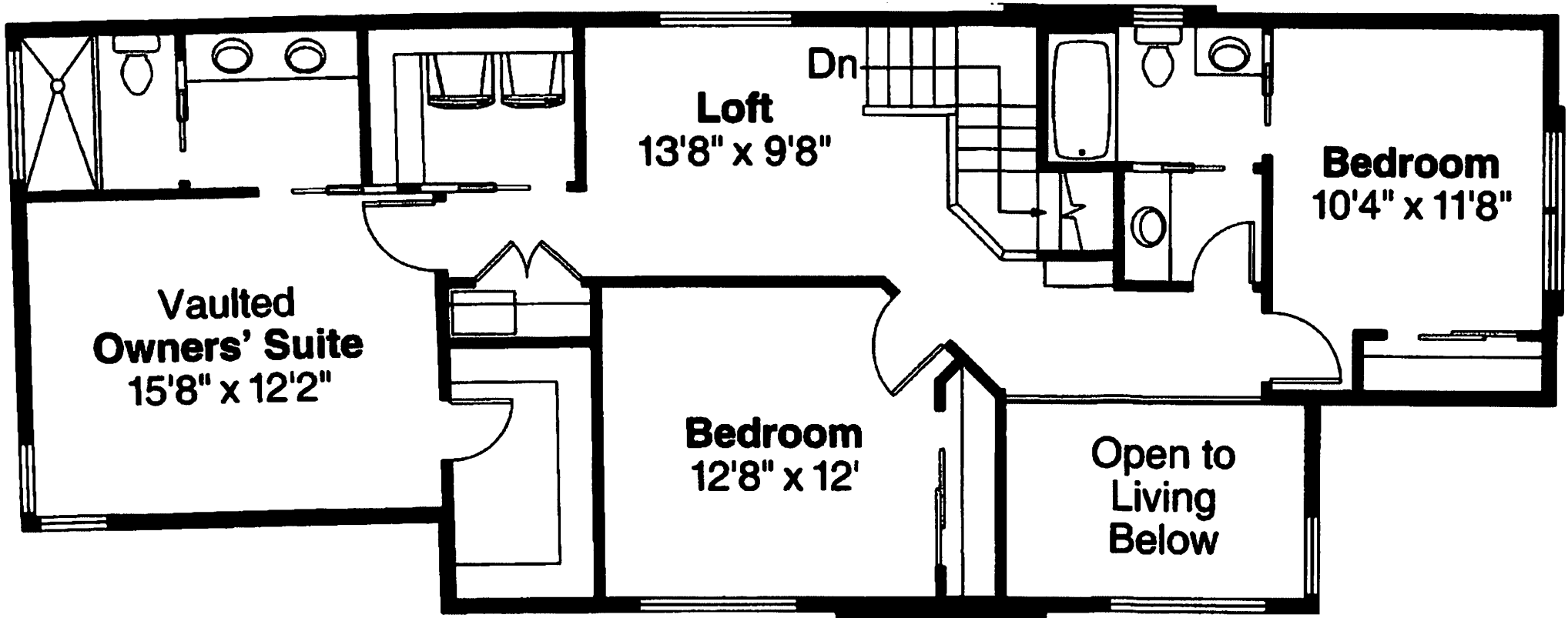
870 square foot - unfinished walkout basement



Back - West side

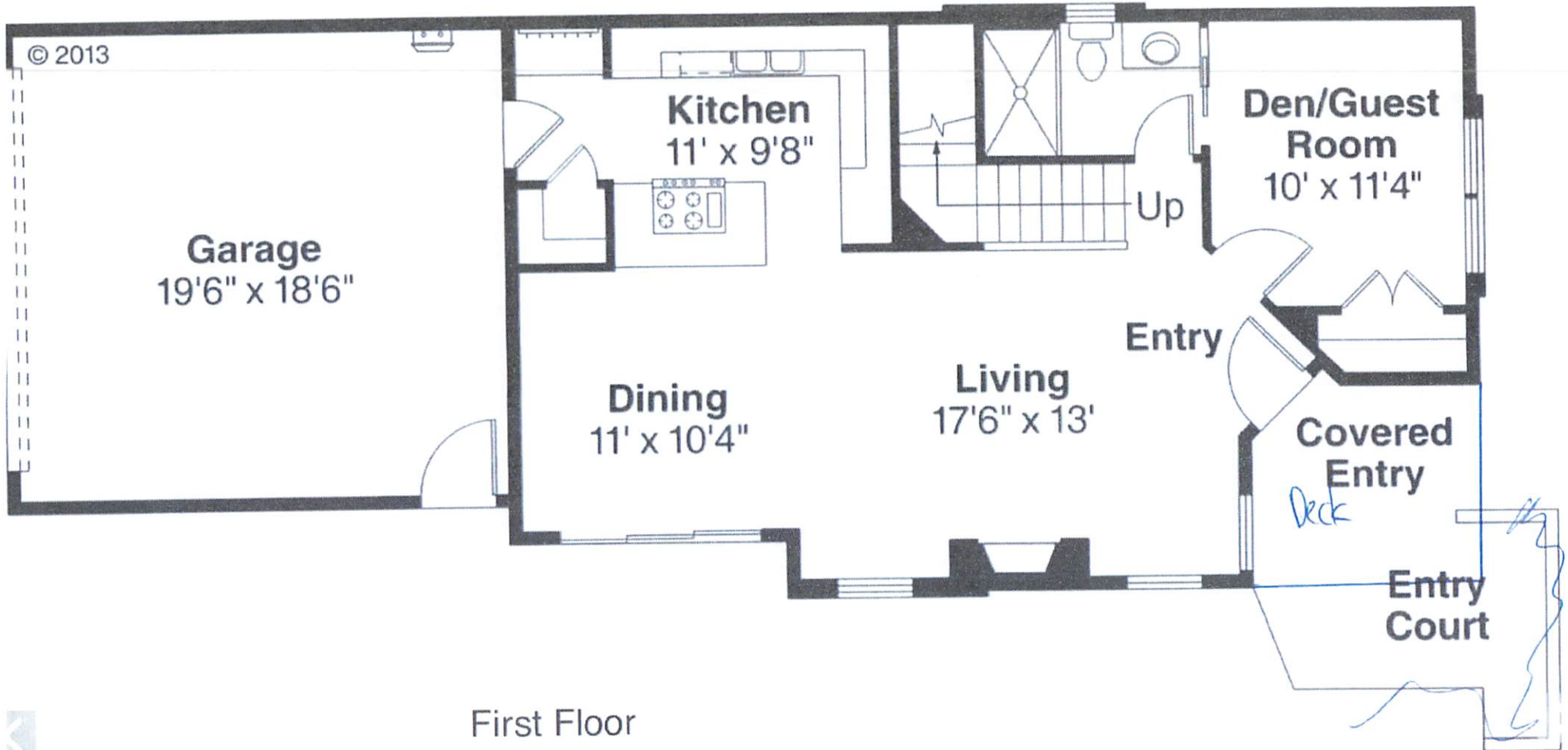


↑ Deck



Second floor

© 2013



First Floor

North Side

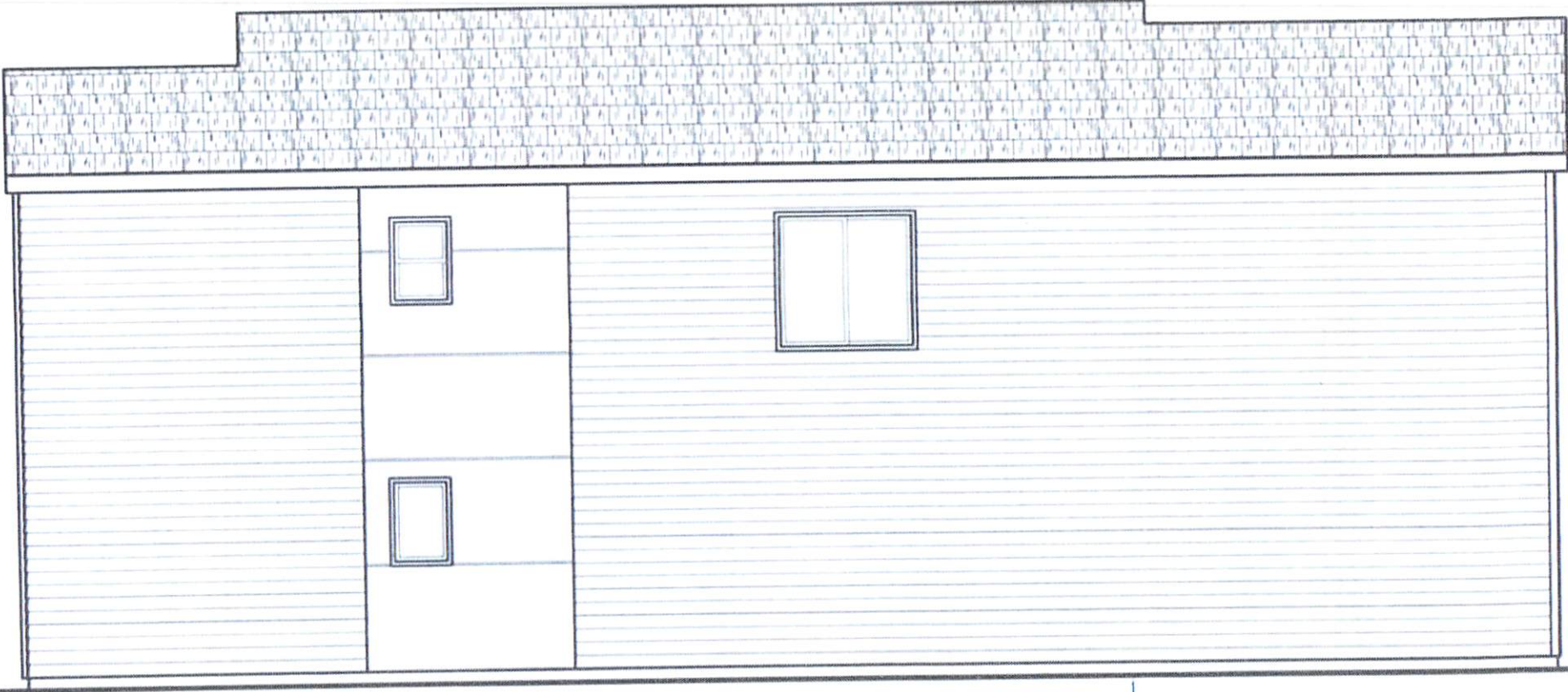


access slope

unfinished basement

Deck area

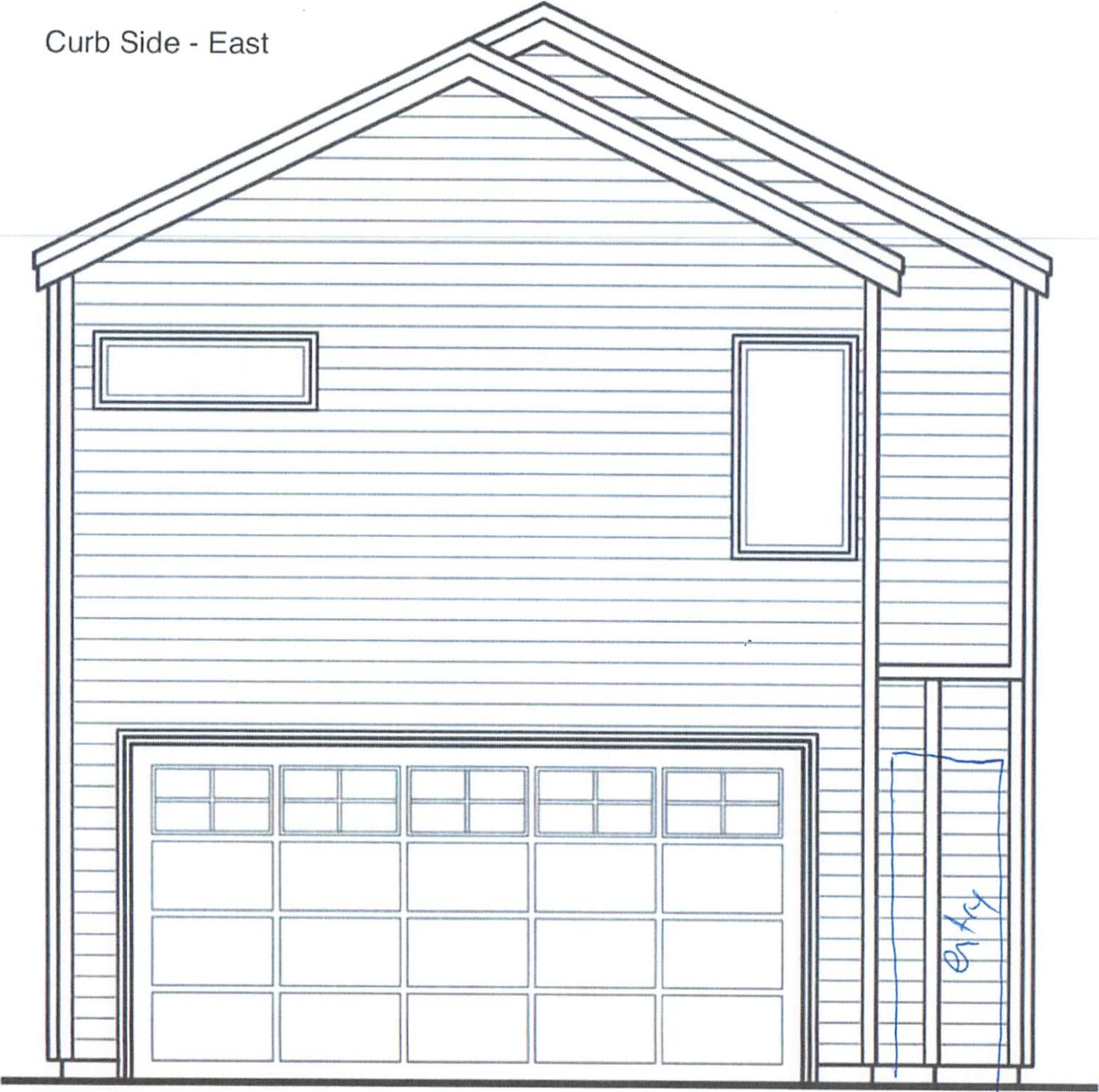
South Side

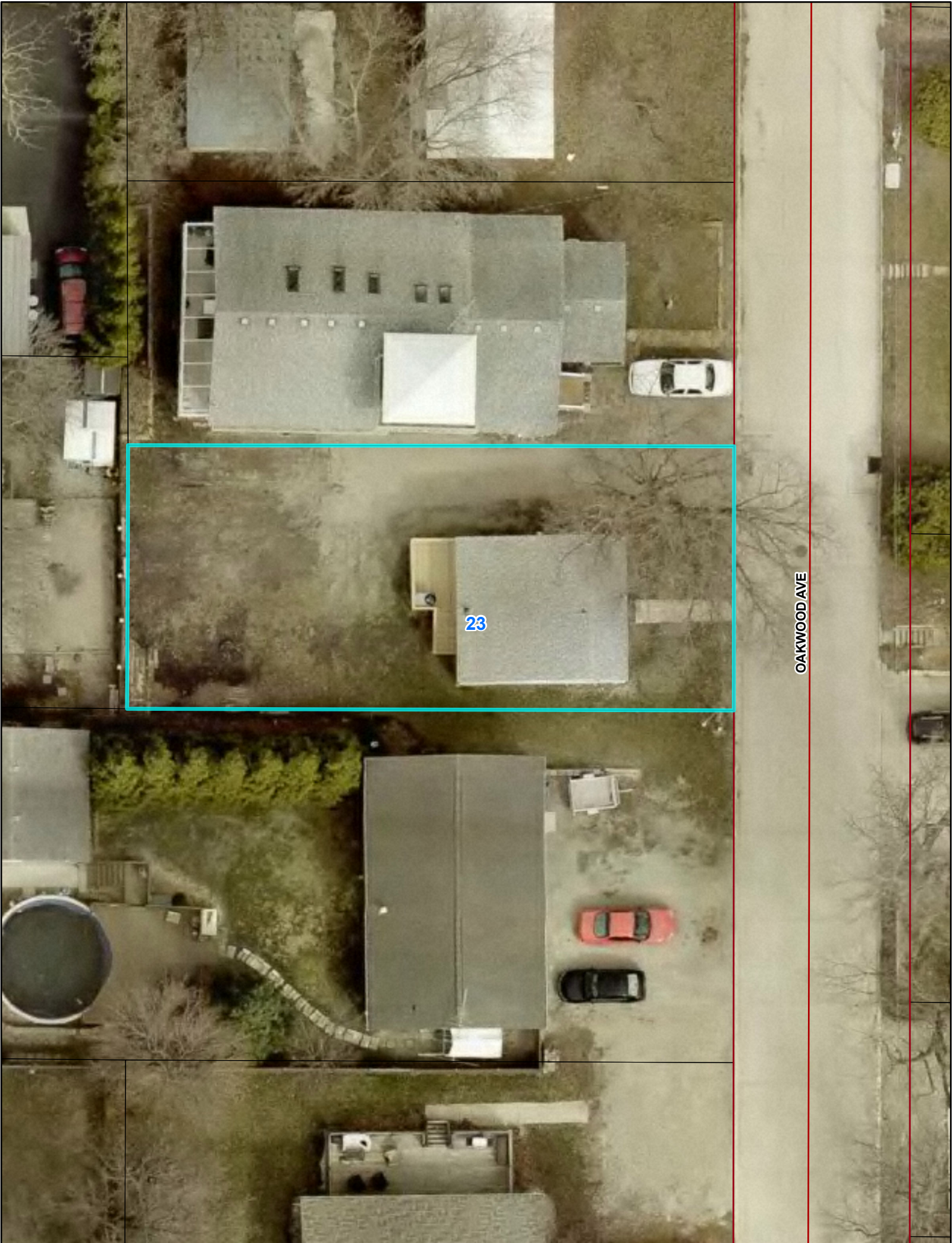


Unfinished basmt



Curb Side - East





23

OAKWOOD AVE