



Michael A. Russell, MS, Director
Permitting and Inspections Department

Ann Machado
Zoning Administrator

CITY OF PORTLAND
ZONING BOARD OF APPEALS
Practical Difficulty Variance Application

Applicant Information:

Anthony Wilbur
NAME

85 Avalon Rd
ADDRESS

Portland, ME 04103

207.318.8083 awilbur27@gmail.com
PHONE # & E-MAIL

Owner
APPLICANT'S RIGHT/TITLE/INTEREST
(EG; owner, purchaser, etc)

R-3
CURRENT ZONING DESIGNATION

EXISTING USE OF PROPERTY:

Two family residence

Subject Property Information:

85 Avalon Rd
PROPERTY ADDRESS

297/E/19
CHART/BLOCK/LOT (CBL)

PROPERTY OWNER (if different)

ADDRESS

PHONE # & E-MAIL

PRACTICAL DIFFICULTY VARIANCE
FROM SECTION 14- 425

14-90(d)(4)


RECEIVED

APR 14 2017

Dept. of Building Inspections
City of Portland Maine

NOTE: If site plan approval is required, attach preliminary or final site plan.

The undersigned hereby makes application for a Practical Difficulty Variance as described above, and certifies that the information supplied herein is true and correct to the best of his OR her knowledge and belief.


SIGNATURE OF APPLICANT

14 April 2017
DATE

Anthony Wilbur
85 Avalon Rd
Portland, ME 04103

14 April, 2017

To the Portland Zoning Board of Appeals,

Thank you for taking the time to review my zoning appeal. I am respectfully appealing the current zoning setback requirements for my house (zone R-3), so that I can construct porches/steps with reasonable rises, runs, and grades to accommodate normal entrances and egresses: **A)** construct wooden front steps to identically match the dimensions of the expiring concrete steps that are currently in place, and **B)** construct a small 8x10 deck (with stairs) to replace the expiring concrete steps that are currently in place.

- A) **Front steps:** *I am proposing to build a small wooden front porch and stairs to the exact dimensions of the decomposing concrete stairs (45H x 91L) that are currently in place.*

The concrete steps currently in place project 7'7" from the house. The front of my house (from the door) is 9' feet to my front boundary line. Current zoning requirements in zone R-3 establishes a front setback requirement of 25'. This indicates that the steps end roughly 1.5' from my boundary line. While I know under **Sec 14-425** I can build steps within a setback that protrude no more than 6' from the house (50 sq ft total), the entrance to my house is too far off the ground (50" from ground to opening) to construct a straight stairs entrance. Based on standard stair construction blueprints I would need at least 88.5" (36" landing, 52.5" stairs run) to build a normal sized structure. I am also ruling out building stairs that run up alongside the house to the front porch to accommodate the 6' projection/50 total sq feet, as it would be nearly impossible to maneuver and angle large and bulky items (beds, refrigerators, hutches, couches, etc) up side stairs and into my house when needed. I have recently been advised by an interior designer/real estate agent that off-center and asymmetric construction designs negatively impact 'curbside appeal' and home value. Conversely, having new steps in place of the worn out concrete ones would certainly enhance the character of the neighborhood.

- B) **Back deck/steps:** *I am proposing to replace the concrete steps that are currently there with a small 8x10 (80 sq ft) deck and stairs that fits neatly within the empty square of space outside my back door. This deck would not extend past the back or the side of my house.*

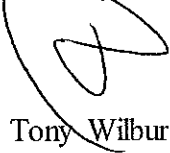
The dilapidated concrete back steps currently in place project 7' feet out from my patio door, and 13' to the side of my house. The setback from my property line is exactly 8' from the side of my house, which indicates that the setback from my

property line to the patio door is 21'. (Please refer to photos to see the layout). Current zoning requirements in zone R-3 establishes a side road setback requirement of 20'. The patio door opening is 45" from the ground, which means that steps with a reasonable rise and run (and reasonable aesthetic) will not fit within the 6' allowance under **Sec 14-425**. Once again, I would need a strait run of at least 88.5 It is also important to note that creating a platform and side stairs to fit under **Sec 14-425** would be a difficult endeavor. With a minimum 3' x 7' landing (to reflect a length slightly greater than the patio door), plus a 3' x 5.5 to accommodate stairs, the overall width of the landing and stairs could end up being a maximum 3'8"W by 12.5'L, which in my opinion is too narrow for a patio space - given the layout - and would jut out awkwardly into the middle of my back yard. In regards to neighborhood appeal, I think the lack of symmetry and the layout would detract from the character of the neighborhood and the overall curbside appeal of my home and it's subsequent value. An 8'x10' deck space would create a natural symmetry to my house and property by filling the empty square space on the back/side of my house and would add to the character of my neighborhood.

Please let me know if you have any questions or concerns. I have a great regard for the aesthetics and character of my neighborhood. Unfortunately my property boundaries seem to predate the current zoning regulations and setbacks – and my house is located on a corner – which makes it difficult to complete certain necessary and/or aesthetic improvements. I feel strongly that both these requests are reasonable given the nature and intent behind the projects, as well as the need for these projects to be completed for safety and accessibility reasons.

As you examine the photos, please note that I have used 2x4s to mark property lines and to frame the proposed deck dimensions.

Thank you for your time,



Tony Wilbur
Owner/Resident
85 Avalon Rd
Portland, ME 04103
207.318.8083

The following words have the meanings set forth below:

1. **Dimensional Standards**: Those provisions of the article which relate to lot area, lot coverage, frontage and setback requirements
2. **Practical Difficulty**: A case where strict application of the dimensional standards of the Ordinance to the property for which a variance is sought, would BOTH preclude a use of the property which is permitted in the zone in which it is located AND also result in significant economic injury to the applicant.
3. **Significant Economic Injury**: The value of the property, if the variance were denied, would be substantially lower than its value if the variance were granted. To satisfy this standard, the applicant need not prove that the denial of the variance would mean the practical loss of all beneficial use of the land.

A Practical Difficulty Variance may not be used to grant relief from the provisions of Section 14-449 (Land Use Standards) to increase either volume or floor area, nor to permit the location of a structure, including, but not limited to, single-component manufactured homes, to be situated on a lot in a way which is contrary to the provisions of this article.

Notwithstanding the provisions of subsections 14-473(c)(1) and (2) of this section, the Zoning Board of Appeals (ZBA) may grant a variance from the dimensional standards of this article when strict application of the provisions of the Ordinance would create a practical difficulty, as defined herein, and when **all** the following conditions are found to exist:

“Practical Difficulty” variance standards pursuant to Portland City Code §14-473(c)(3):

- 1. The need for the variance is from dimensional standards of the Land Use Zoning Ordinance (lot area, lot coverage, frontage, or setback requirements).

Satisfied _____ NOT Satisfied _____ (deny the appeal)
Reason and supporting facts:

- 2. Strict application of the provisions of the ordinance would create a **Practical Difficulty**, meaning it would both (1) preclude a use of the property which is permitted in the zone in which it is located, and also (2) would result in significant economic injury to the applicant. (“*Significant Economic Injury*” means the value of the property, if the variance was denied, would be substantially lower than its value if the variance were granted.) To satisfy this standard, the applicant need not prove that denial of the variance would mean the practical loss of all beneficial use of the land.

Satisfied _____ NOT Satisfied _____ (deny the appeal)
Reason and supporting facts:

3. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.

Satisfied _____ Not Satisfied _____ (deny the appeal)
Reason and supporting facts:

4. The granting of the variance will not produce an undesirable change in the character of the neighborhood and will not have an unreasonably detrimental effect on either the use, or fair market value, of abutting properties.

Satisfied _____ Not Satisfied _____ (deny the appeal)
Reason and supporting facts:

5. The practical difficulty is not the result of action taken by the applicant or a prior owner.

Satisfied _____ Not Satisfied _____ (deny the appeal)
Reason and supporting facts:

6. No other feasible alternative is available to the applicant, except the variance.

Satisfied _____ Not Satisfied _____ (deny the appeal)
Reason and supporting facts:

7. The granting of a variance will not have an unreasonably adverse effect on the natural environment.

Satisfied _____ Not Satisfied _____ (deny the appeal)
Reason and supporting facts:

8. The property is not located, in whole or in part, within a shoreland area, as defined in 38 M.R.S.A. §435, nor within a shoreland zone or flood hazard zone.

Satisfied _____ Not Satisfied _____ (deny the appeal)
Reason and supporting facts:

FOR MORTGAGE LENDER USE ONLY

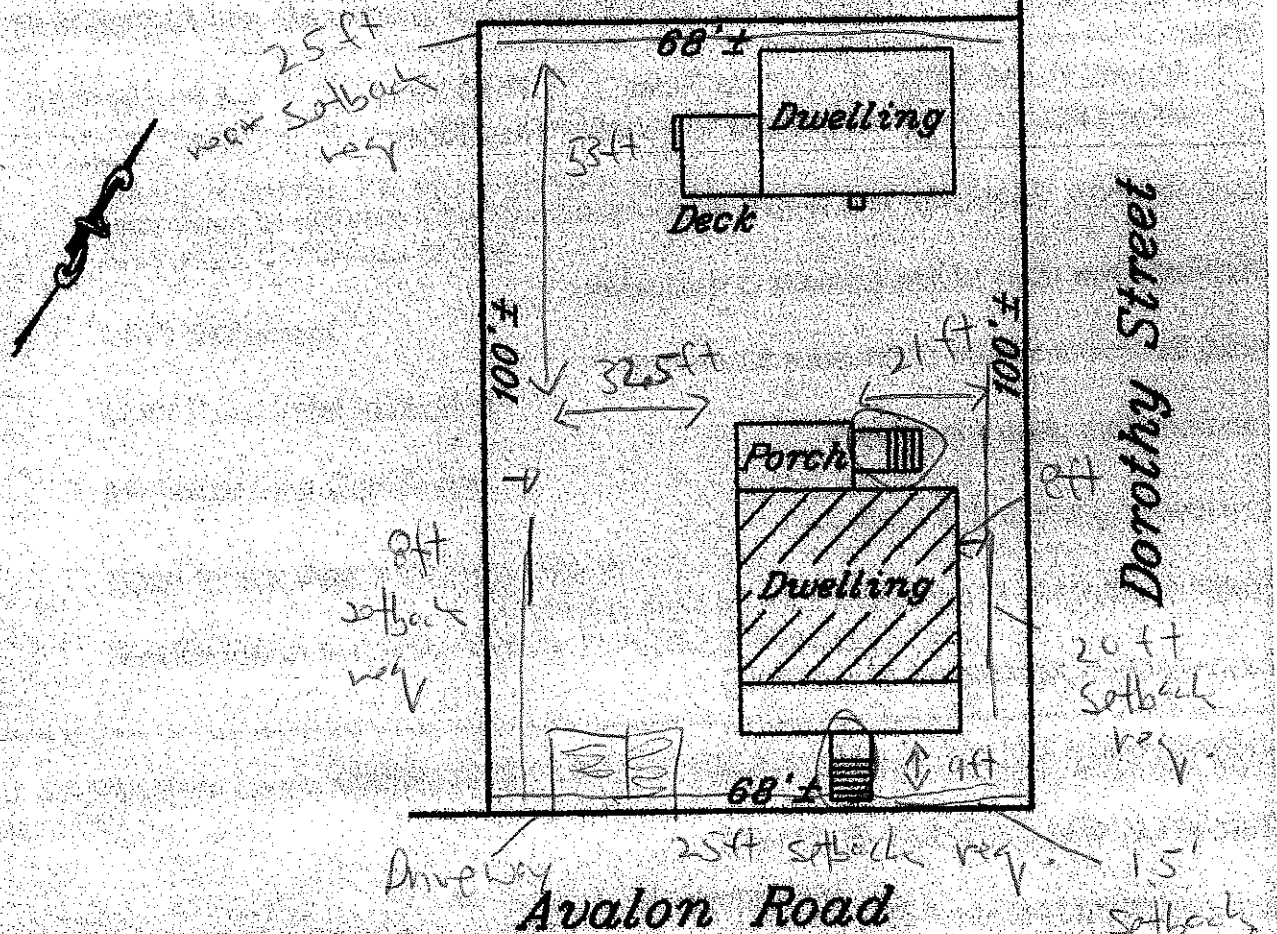
GENERAL NOTES: (1) DISTANCES SHOWN ARE TAKEN FROM PROVIDED TITLE REFERENCES SHOWN BELOW. (2) THE INSPECTION IS TO RENDER AN OPINION AS FOLLOWS: A) DWELLING AND ACCESSORY STRUCTURE'S COMPLIANCE WITH MUNICIPAL ZONING SETBACKS, AND B) FLOOD ZONE DETERMINATION BY HORIZONTAL SCALING ON BELOW REFERENCE. (3) THIS INSPECTION EXCEPTS OUT ALL TECHNICAL STANDARDS CURRENTLY SET FORTH BY STATE OF MAINE FOR PROFESSIONAL LAND SURVEYORS. (4) THIS INSPECTION IS TO BE USED ONLY BY THE BELOW LISTED LENDER BE USED BY ANOTHER PARTY FOR BOUNDARY LINE LOCATIONS OR LAND TITLE OPINIONS. (5) TITLE OR OWNERSHIP OF A BOUNDARY SURVEY SHOULD BE PERFORMED TO RENDER A PROFESSIONAL OPINION PERTAINING TO BOUNDARY EASEMENTS, RIGHTS OF WAY, ENCUMBRANCES, ENCROACHMENTS, AND/OR CONFLICTS WITH ADJUTER'S DEEDS. (6) OF WETLANDS NOT DETERMINED UNLESS SHOWN ON A RECORDED SUBDIVISION PLAN. (7) THIS OFFICE DOES NOT TO ANY THIRD PARTY FOR USE OF THIS INSPECTION IN ANY BOUNDARY LINE EVALUATION FOR PERMITTING/PLANNING. (8) THIS OFFICE ACCEPTS NO LIABILITY AND/OR RESPONSIBILITY FOR THE IMPROPER USE OF THIS MORTGAGE LENDER'S REPORT.

THIS SKETCH IS NOT TO BE USED FOR CONSTRUCTION PURPOSES. IMPROVEMENTS SHOWN

ADDRESS: 85 Avalon Road
Portland, Maine

INSP. DATE: _____
SCALE: _____

Recommend Boundary Survey for accurate location.



Driveways in Right of Way

SEE PROVIDED TITLE REFERENCES FOR APPURTENANCES, IF ANY.

APPLICANT: Wilbur **FILE#:** 21528151
OWNER: Estate of Dongo & Campbell **CLIENT#:** _____
LENDER: TD Bank, NA
REQ. PARTY: Gateway Title of Maine, Inc.

Nadeau I

Professional
Certified
STATE OF
MAINE
JAME
NADEAU

TITLE REFERENCES: _____ **COUNTY:** Cumberland
DEED BOOK: 9554 **PAGE:** 141
PLAN BOOK: 12 **PAGE:** 11 **LOT:** 71, p/o 70

FOR MORTGAGE LENDER USE ONLY

GENERAL NOTES: (1) DISTANCES SHOWN ARE TAKEN FROM PROVIDED TITLE REFERENCES SHOWN BELOW. (2) THE PURPOSE OF THIS INSPECTION IS TO RENDER AN OPINION AS FOLLOWS: A) DWELLING AND ACCESSORY STRUCTURE'S COMPLIANCE WITH RESPECT TO MUNICIPAL ZONING SETBACKS, AND B) FLOOD ZONE DETERMINATION BY HORIZONTAL SCALING ON BELOW REFERENCED FEMA MAP. (3) THIS INSPECTION EXCEPTS OUT ALL TECHNICAL STANDARDS CURRENTLY SET FORTH BY STATE OF MAINE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS. (4) THIS INSPECTION IS TO BE USED ONLY BY THE BELOW LISTED LENDER AND IS NOT TO BE USED BY ANOTHER PARTY FOR BOUNDARY LINE LOCATIONS OR LAND TITLE OPINIONS. (5) TITLE OR OWNERSHIP NOT DETERMINED. (6) A BOUNDARY SURVEY SHOULD BE PERFORMED TO RENDER A PROFESSIONAL OPINION PERTAINING TO BOUNDARY LINE LOCATIONS, EASEMENTS, RIGHTS OF WAY, ENCUMBRANCES, ENCROACHMENTS, AND/OR CONFLICTS WITH ADJUTER'S DEEDS. (7) LOCATION/EXISTENCE OF WETLANDS NOT DETERMINED UNLESS SHOWN ON A RECORDED SUBDIVISION PLAN. (8) THIS OFFICE DOES NOT GRANT AUTHORIZATION TO ANY THIRD PARTY FOR USE OF THIS INSPECTION IN ANY BOUNDARY LINE EVALUATION FOR PERMITTING/PLANNING/APPROVALS. (9) THIS OFFICE ACCEPTS NO LIABILITY AND/OR RESPONSIBILITY FOR THE IMPROPER USE OF THIS MORTGAGE LOAN INSPECTION.

REV. 08/01/2013

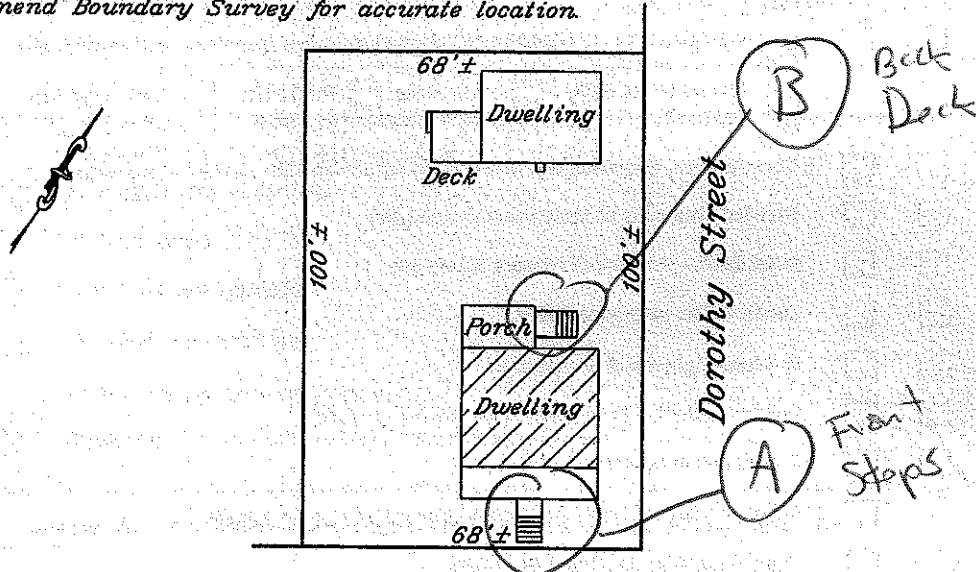
THIS SKETCH IS NOT TO BE USED FOR CONSTRUCTION PURPOSES, IMPROVEMENTS SHOWN ARE APPROXIMATE.

ADDRESS: 85 Avalon Road
Portland, Maine

INSP. DATE: 04/13/2015

SCALE: 1" = 30'

Recommend Boundary Survey for accurate location.



Avalon Road

Driveways in Right of Way

JDN

SEE PROVIDED TITLE REFERENCES FOR APPURTENANCES, IF ANY.

APPLICANT: Wildur FILE#: 21528151
OWNER: Estate of Dongo & Campbell CLIENT#: _____
LENDER: TD Bank, NA
REQ. PARTY: Gateway Title of Maine, Inc.

TITLE REFERENCES: _____ COUNTY: Cumberland
DEED BOOK: 9554 PAGE: 141
PLAN BOOK: 12 PAGE: 11 LOT: 71, p/o 70

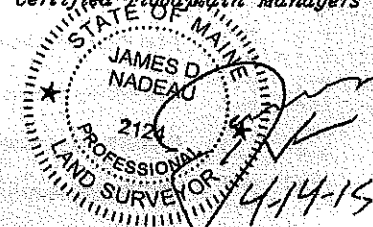
MUNICIPAL REFERENCE:
MAP: 297 BLOCK: E LOT: 19

THE DWELLING DOES NOT FALL WITHIN A SPECIAL FLOOD HAZARD AREA PER FEMA COMMUNITY MAP No. 230051 PANEL: 0007C ZONE: X DATE: 12/08/1998

THE DWELLING WAS IN COMPLIANCE WITH MUNICIPAL ZONING SETBACK REQUIREMENTS AT THE TIME OF CONSTRUCTION.

Nadeau Land Surveys

Professional Land Surveyors
Certified Floodplain Managers



918 BRIGHTON AVE. PH. (207) 878-7870
PORTLAND, ME. 04102 F. (207) 878-7871

THIS INSPECTION IS VALID ONLY WITH A SURVEYOR'S SEAL AND IS NULL & VOID 90 DAYS AFTER INSPECTION DATE.

THIS IS NOT A BOUNDARY SURVEY - NOT FOR RECORDING

Proposed Project **A**

QS Avalon Rd

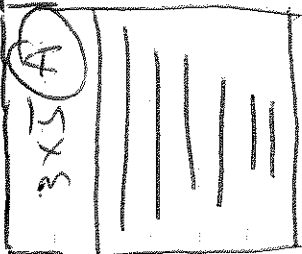
Map 297/E/19

1/2" = 10' - 0"

8ft



19ft

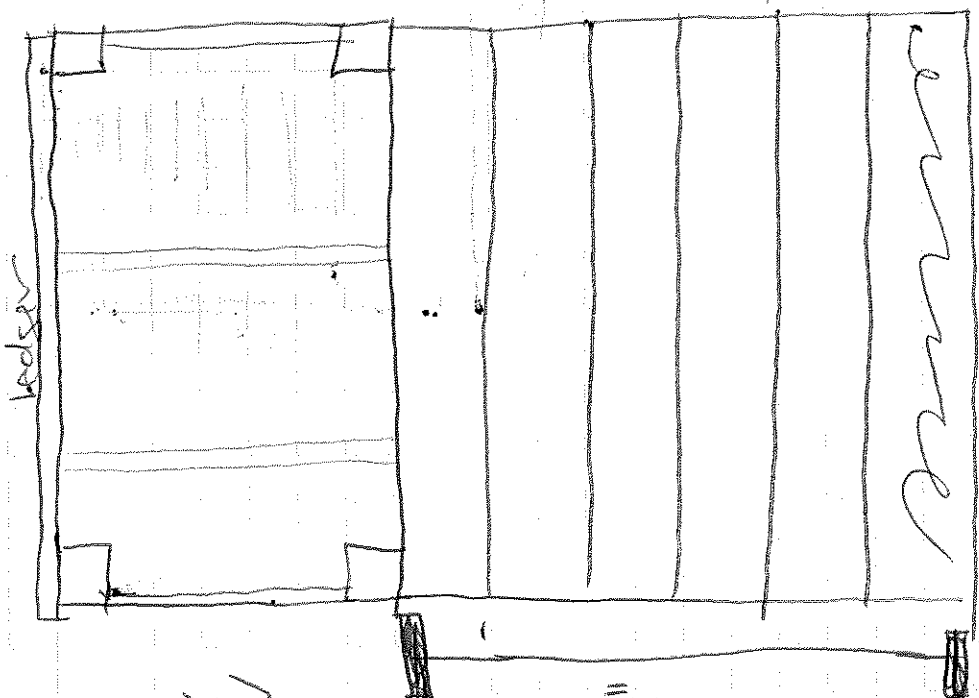


885
Total
Run

SIB
stair run

1.5ft setback

width 5 ft



36"

54.5"

Project

4

Front steps /

porch

10'

For front porch with steps

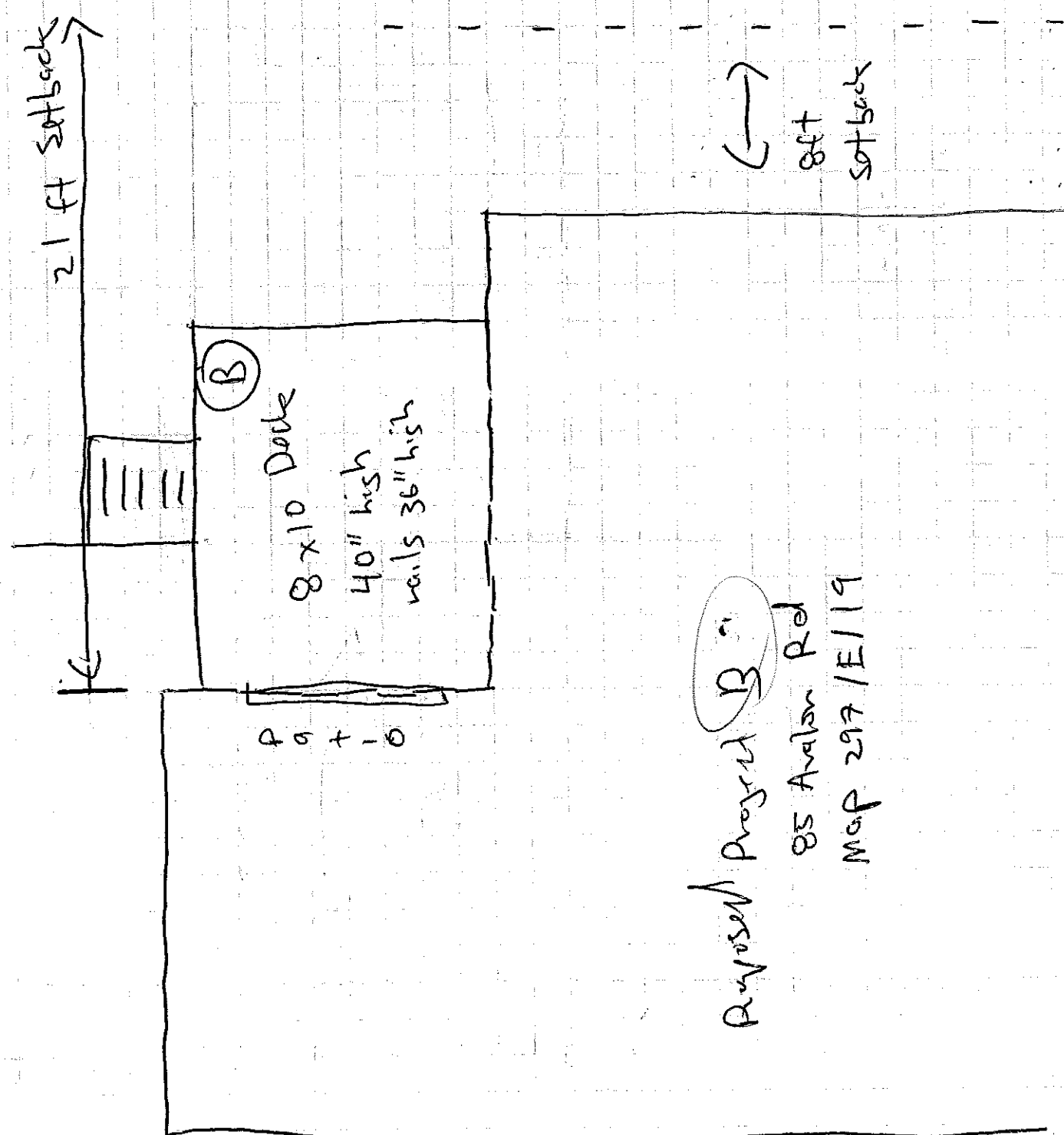
DECK INFORMATION REQUIRED WITH YOUR APPLICATION

The following is a guideline of information required for the review of a deck application. It is intended to help you supply proper and complete application packages. Please label all of the following items on your plans. Thank you!

1. **A complete plot plan showing all structures & proposed structures with distances to all property lines labeled.**
2. **Type of foundation system**
 - a. Diameter of concrete filled tube
 - b. depth below grade (minimum 4'-0" below grade)
 - c. anchorage of column to footing
 - d. spacing of tubes

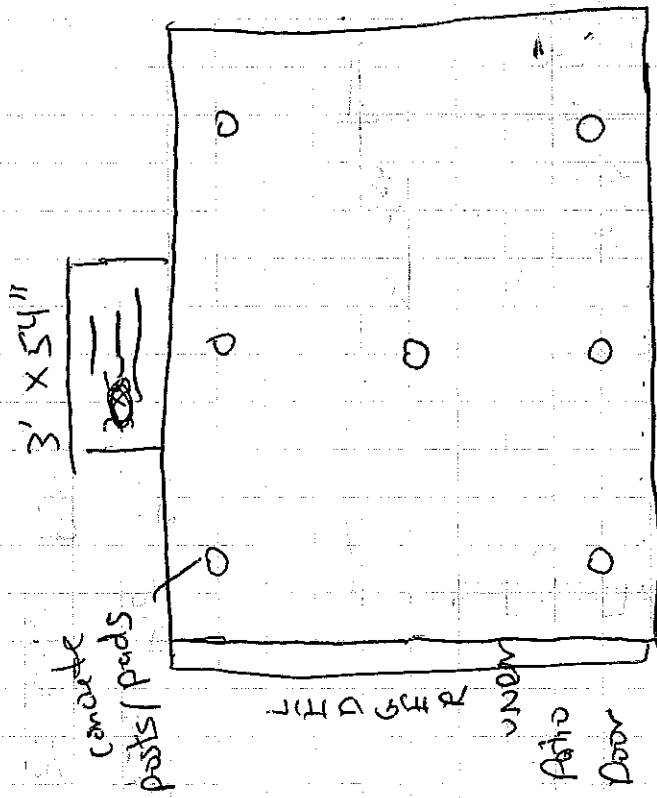
Or

 - e. pre cast concrete pier size
 - f. depth below grade (minimum 4'-0") concrete pads below stair
 - g. anchorage of column to footing stringers and porch platform
 - h. spacing of tubes 5'
3. **Columns (members supporting framing of floor system)**
 - a. wood size and type 4x4 presure treated
 - b. anchorage of column to footing
4. **Framing Members**
 - a. Ledger size attached to building 2x6 running 5' horizontal below door
 - b. Lag Bolt size and spacing on ledger 2 lag screws between each joist
 - c. Location of all flashing above ledger
 - d. Girder Size and spans carrying floor system
 - e. Joist size, span, and spacing 2x6 joists, 16" span
 - f. Joist hangers or ledger placed 16" on center
 - g. Decking size 3x5
5. **Guardrails & Handrail Details**
 - a. Guardrail height 36"
 - b. Baluster spacing 2"
 - c. Handrail height 36"
6. **Stair Details** 3 stringers
 - a. Tread depth (measured nosing to nosing) 10.5"
 - b. Riser height 7"
 - c. Nosing on tread 1"
 - d. Width of stairs 5'



Revised Project B
 85 Avalon Rd
 Map 297/E/19

Project B



Hand Rail + Guard Rails 36"

balusters 2"

8 x 10 deck size

40" high off ground

joists spaced 16" OC and run away from edge

DECK INFORMATION REQUIRED WITH YOUR APPLICATION

The following is a guideline of information required for the review of a deck application. It is intended to help you supply proper and complete application packages. Please label all of the following items on your plans. Thank you!

1. **A complete plot plan showing all structures & proposed structures with distances to all property lines labeled.**
2. **Type of foundation system**
 - a. Diameter of concrete filled tube
 - b. depth below grade (minimum 4'-0" below grade)
 - c. anchorage of column to footing
 - d. spacing of tubes

Or

 - e. pre cast concrete pier size 7x11 concrete footing
 - f. depth below grade (minimum 4'-0") 4'0
 - g. anchorage of column to footing predesigned inserts in concrete
 - h. spacing of tubes 5'
3. **Columns (members supporting framing of floor system)**
 - a. wood size and type 4x4 presure treated
 - b. anchorage of column to footing concrete feet with inserts as posts
4. **Framing Members**
 - a. Ledger size attached to building 2x6 running horizontal from door
 - b. Lag Bolt size and spacing on ledger 2 lag screws between each joist
 - c. Location of all flashing above ledger
 - d. Girder Size and spans carrying floor system girder 10 x 8
 - e. Joist size, span, and spacing 2x6 joists, 16" span
 - f. Joist hangers or ledger placed 16" on center
 - g. Decking size 10x8
5. **Guardrails & Handrail Details**
 - a. Guardrail height 36"
 - b. Baluster spacing 2"
 - c. Handrail height 36"
6. **Stair Details**
 - a. Tread depth (measured nosing to nosing) 10"
 - b. Riser height 7"
 - c. Nosing on tread 1"
 - d. Width of stairs 4'

