

Preliminary Consultation -  
Lot 13-Prospect Street, Kensington  
(3925)

Benny Tuckerman

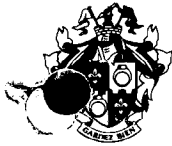
2 Wisconsin Circle

Suite 800

Chevy Chase, MD

2085

301-657-4344



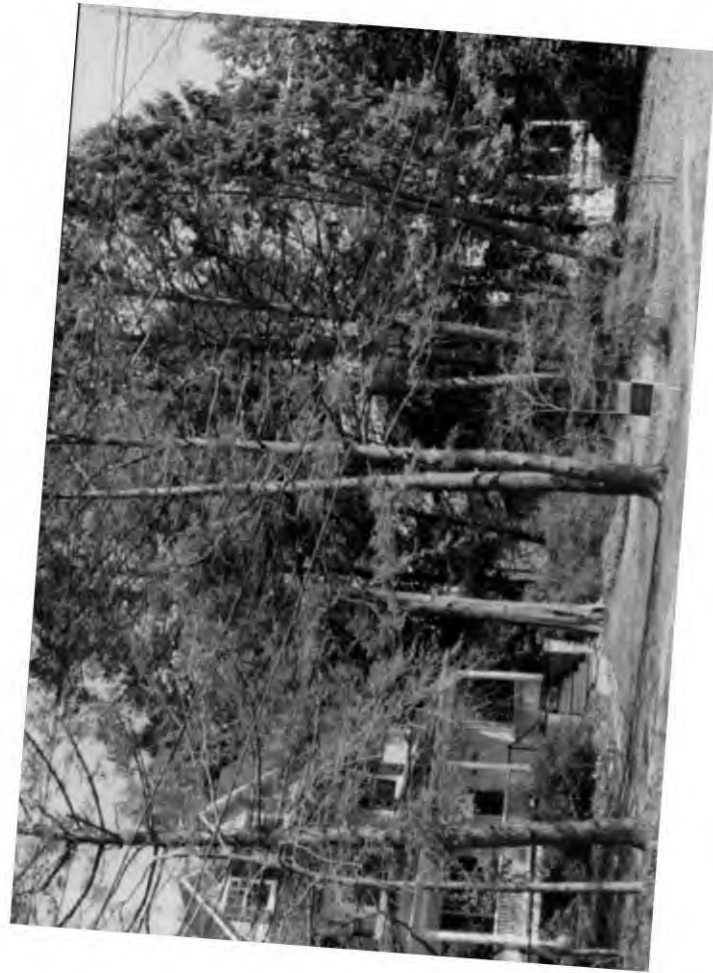
# Montgomery County Government

Historic Preservation Commission  
51 Monroe Street  
Rockville, Maryland 20850













HISTORIC PRESERVATION COMMISSION STAFF REPORT

PREPARED BY: Laura McGrath

DATE: May 15, 1991

CASE NUMBER: N/A

TYPE OF REVIEW: Preliminary  
Consultation

SITE/DISTRICT NAME: Kensington

PROPERTY ADDRESS: 3925 Prospect Street

TAX CREDIT ELIGIBLE: N/A

DISCUSSION:

The applicant is purchaser of 3925 Prospect Street (Lot 13) (contingent on HPC approval of an application) and is interested in exploring with the Commission alternatives for new construction here. The lot has been identified as a first-tier primary resource (1880-1910) in the Master Plan.

The applicant has submitted the attached house plan for the Commission's consideration and comment. It is a neo-Victorian, 2-story house with a front turret and garage. The house measures 35'8" wide by 45' long and is approximately 32' in height. The lot itself measures 50' X 172'. The applicant has also submitted a possible site plan showing the footprint of the house with a setback equal to that of 3927 Prospect Street (Lot 14).

Lot 13 is in between 3927 and 3923 Prospect Street. Both of these houses are primary resources, built in 1904 in the Queen Anne style. The entire north side of Prospect Street is considered one of the most intact and unaltered streetscapes in the historic district. There is a definite rhythm established through the alternation of house and green space. This green space, although defined as legally separate lots, has been viewed and characterized by the community and the Commission as side "yard" space to each house. In fact, the Master Plan Amendment for the Kensington Historic District specifically refers to its significance as a Victorian garden suburb with a park-like setting. Directly across the street from the property is a 1 1/2-story Bungalow.

As background, a proposal for new construction on this lot was denied by the Commission in 1989. A copy of this decision and elevations of the original house proposed are attached. Commissioners, especially new Commissioners, are encouraged to read this decision and visit the site. In summary, the proposed house was denied for the following reasons:

- The proposed structure would have seriously impaired the extant streetscape along the north side of Prospect Street through intrusion on the rhythm of the streetscape and by obscuring the views of the existing historic structures and their "gardens".
- The proposed structure was overscaled for the district, and Prospect Street in particular. Its proposed height and square footage would have substantially altered the character and nature of this section of the Historic District.

- The coverage of the proposed house on its site, which traditionally served as open space, was such that the resulting relationship of house to "yard" would have been significantly different from the existing relationships of houses to "yards" in the district.
- The placement of the house on the site would have disrupted the existing rhythm of house to yard on this streetscape. The width and front setback would have combined to create a pronounced building "wall" along the street, creating an urban setting.
- The proposed construction would have had a direct, negative impact on the natural environment, dramatically altering the existing sylvan setting.

STAFF RECOMMENDATION:

As the consideration of new construction on this lot consumed much of the Commission's time in 1989, it is important that the applicant understand the many issues involved. To that end, the Kensington LAP, as well as individuals interested in this case, have been invited to participate in the discussion of this preliminary proposal.

Staff finds that the proposed house is similar in size, scale, and massing to that which was denied by the Commission in 1989. Its proposed siting on the lot is also comparable. Staff recommends, therefore, that the applicant review the Commission's 1989 decision and, after hearing comments from the Commission and other participants at the May 22 meeting, consider alternatives that preserve and enhance the significant characteristics of the property and of this part of the Historic District.

One alternative would be a house that appears as a "background" building. It could resemble a garden or carriage house, sited in a way to make it appear as an accessory building to adjacent properties. This siting would include pushing it further to the rear of the lot and preserving its natural features, especially at the front of the lot.

SENT TO LAP: May 6, 1991                      COMMENTS RECEIVED? No  
 SENT TO APPLICANT: May 15, 1991

ATTACHMENTS:

1. Proposed Elevations and Site Plan
2. Photos
3. 1989 Commission Decision

Before The Montgomery County Historic Preservation Commission

Application of Frank P. Murray

Before the Commission is the application of Frank P. Murray for an Historic Area Work Permit (HAWP) for new construction at 3925 Prospect Street, (Lot 13, Block 11), Kensington Park Subdivision, Kensington, Maryland.

PROCEDURE

Prior to the Commission's review of the application, the Kensington Local Advisory Committee (LAC) reviewed the application on May 1, 1989. In response to the LAC's comments, the applicant made revisions to his original plans. The Historic Preservation Commission received the application in May 1989, and a public hearing was held on June 15, 1989. Two additional hearings were necessary (July 6, 1989 and July 21, 1989) so that the applicant and the opposition could present their cases. The application was considered jointly with another application for an Historic Area Work Permit filed by Mr. Murray for new construction at 3929 Prospect Street (Lot 15). The applicant appeared, represented by counsel, and presented several witnesses and many exhibits for the Commission's consideration. A number of Kensington residents appeared in opposition to the application. One opponent, Helen Wilkes of 3923 Prospect Street (Lot 12), Kensington was represented by counsel. At the conclusion of this final hearing (July 21, 1989), the record was closed. All parties agreed that the Commission would issue its decision at its next scheduled meeting on August 17, 1989. Having heard and considered all of the testimony and exhibits found in the record, it is the decision of the Commission to deny the application by Frank P. Murray for an Historic Area Work Permit for new construction at 3925 Prospect Street, pursuant to Section 24A-8(a) of the Montgomery County Code (1984), as amended.

BACKGROUND

It is the purpose of Chapter 24A of the Montgomery County Code, "Preservation of Historic Resources," to provide for the identification, designation, and regulation, for purposes of protection, preservation, and continued use and enhancement of those sites, structures with their appurtenances and environmental settings, and districts of historical, archeological, architectural, or cultural value in that portion of Montgomery County within the Maryland-Washington Regional District. Its further purpose is to preserve and enhance the quality of life in the County, safeguard the historical and cultural heritage of the County, strengthen the local economy, stabilize and improve property values in and around historic area, foster civic beauty, and to preserve such sites, structures, and districts for the education, welfare, and continued utilization and pleasure of the citizens of the County, the State of Maryland and the United States of America.

The following terms are defined in Section 24A-2 of the Code:

Historic district: A group of historic resources which are significant as a cohesive unit and contribute to the historical, architectural, archeological or cultural values within the Maryland-Washington Regional District and which has been so designated in the Master Plan for Historic Preservation.

Historic resource: A district, site, building, structure or object, including its appurtenances and environmental setting, which is significant in national, state or local history, architecture, archaeology or culture.

Appurtenances and environmental setting: The entire parcel, as of the date on which the historic resource is designated on the master plan, and structures thereon, on which is located an historic resource, unless reduced by the commission, and to which it relates physically and/or visually. Appurtenances and environmental settings shall include, but not be limited to, walkways and driveways (whether paved or not), vegetation (including trees, gardens, lawns), rocks, pasture, cropland and waterways.

On July 7, 1986, the Montgomery County Council, sitting as the District Council, approved a resolution designating the Kensington Historic District (#31/6), as an amendment to the Master Plan for Historic Preservation. The amendment was adopted by the Maryland-National Capital Park and Planning Commission (M-NCPPC), effective July 8, 1986.

It is the responsibility of the Montgomery County Historic Preservation Commission to preserve designated historic districts and historic sites in the county by means provided in the Historic Preservation Ordinance. One of the primary methods of fulfilling this responsibility is through the historic area work permit process.

It is the responsibility of an applicant for an historic area work permit to provide "information sufficient to support the application and the burden of persuasion on all questions of fact which are to be determined by the Commission." [Sec.24A-7(g)(1)] The plan submitted must meet at least one of the criteria set forth in Section 24A-8(b).

The Kensington Master Plan Amendments states:

According to [Section III of the Commission's Guidelines for Historic District,] a Historic District as identified, and if approved for inclusion in the County's Master Plan for Historic Preservation, shall consist of the entire area represented by all of the historic resources with their appurtenances and environmental setting. Non-historic properties within the boundaries of the Historic District are also subject to regulation, as they are considered appurtenances and part of the environmental setting of the historic resources of the District.

In regard to the properties identified as secondary resources -- that is visually contributing but non-historic structures or vacant land within the Kensington District -- the Ordinance requires the Preservation Commission to be lenient in its

(12)

judgment of plans for contemporary structures or for plans involving new construction unless such plans would seriously impair the historic or architectural value of surrounding resources or impair the character of the District. (Emphasis in original)

### EVIDENCE

The Kensington Master Plan Amendment states that four of the five properties on the north side of Prospect Street are designated as primary resources: 3927, 3923, 3915 and 3911. Thus, the north side of Prospect Street is a primary resource area within the district.

The following exhibits and testimony were presented at the hearings:

Mr. Murray testified that he is the owner of a small business (Murray & Sons) and has been building houses for 39 years. He said that he is not a "developer." Rather, he buys lots (usually infill), builds on them and then sells them. He built two houses in each of the following years: 1988, 1987, and 1986. In 1985, he built eight houses. He bought the property at 3927 Prospect Street with the purpose of developing the side yards (lots 13 and 15). Before he purchased the property, Mr. Murray stated that he contacted an official at M-NCPPC, and determined that it was composed of properly subdivided, buildable lots. On questioning, Mr. Murray replied that he had no experience as a builder in historic districts, that he was unfamiliar with historic district regulations, and he had no information or understanding of any limitations in that regard. Later, Ms. Molly Murray, the applicant's daughter, testified, however, that her father was aware of building limitations in historic district. She stated that when the Kensington property was purchased, she informed her father that it was in the historic district and that certain guidelines had to be followed.

Mr. Murray testified that he entered into a contract to sell the house on Lot 14, with settlement expected in mid-August. He refused to reveal his cost for the entire property (Lots 13, 14, and 15), or the price for which the house was being sold. (In his opening statement, Mr. Chen, the applicant's attorney, indicated that Mr. Murray had out-of-pocket expenses of \$800,000 for the property and that he was losing \$6,600 a month, although he did not state specifically what these costs were.)

Mr. Murray testified that a Samuel Sipe, who lives on Western Avenue made him an offer for the house and its side yard (Lots 14 and 13). According to Mr. Murray, Mr. Sipe offered to "trade" his (Mr. Sipe's) house on Western Avenue for Lots 13 and 14. Mr. Murray rejected the offer because of the traffic congestion of Western Avenue and because Mr. Sipe's lot on Western Avenue was not subdivided. Mr. Murray indicated that there was one other offer for Lot 13. According to Mr. Murray, a real estate agent approached Mr. Murray and told him that some neighbors might give him \$100,000 for Lot 13. According to testimony, Mr. Murray stated he made a counter offer of \$200,000 which was rejected by the "neighbors."

Michael Patterson, the applicant's architect, testified that the proposal for Lot 13 (3925 Prospect Street) was designed in the simple "Victorian vernacular" mode, blending well with the adjacent existing historic homes. He explained that it was not his intention to design a "straight copy" of other structures in the district or neighborhood, but rather, to provide compatible designs within the confines of setback and other zoning restrictions. He added that he felt that the width, depth, and scale of the proposed structure was compatible with the existing surrounding structures. He stressed that the plans before the Commission were the product of three revisions, and that he had responded to the LAC's

13

concerns by "pulling in" the structure as much as possible without resulting in an uninhabitable house. In addition, Mr. Patterson stated that he did not believe that Lot 13 was a historic resource according to the definition in Section 24A-2 of the Code.

Ms. Shelly Rentsch, a landscape architect retained by the applicant, testified that the proposed construction for Lots 13 and 15 (situated on the north side of Prospect Street) would help to balance the streetscape in that the structures on the south side of Prospect Street were more closely spaced than on the north side of the street. She defined streetscape as the street views created by the interrelationship of structures, appurtenances, and environmental setting. She added that, very often, infill construction is a very useful tool in completing the streetscape. She also stated that in her opinion none of the existing vegetation on Lot 13 was particularly significant or rare. She added that the boxwoods situated on the lot would be moved to Lot 15 in order to preserve them. In summary, she stated that she did not feel that the proposal would impair the historic district in any way, but that it, along with the proposed construction on Lot 15, would reinforce the harmony of the streetscape.

An arborist, Mr. John Nohly, also testified on behalf of the applicant. He stated that the most substantial tree on Lot 13, a triple trunk Hemlock (34" caliper), was proposed to be removed, but that it was not a particularly outstanding specimen, and had suffered limb loss and insect damage. He further testified that the proposed construction would result in the loss of many other trees on the lot. However, he indicated that none of the trees were good specimens.

The applicant's daughter, Ms. Molly Murray, testified that she had been a realtor for three and one-half years and had worked for her father for the past six years. She stated that if the Commission denied the applications for Lots 13 and 15, they would "lose money," even if they sold Lot 14. She indicated that she thought the fair market value of Lots 13 and 15 was \$200,000 each. In support of this opinion, she produced a letter from an R.A. McClelland, a real estate broker (Exhibit N(b)). However, on cross-examination, Ms. Murray admitted that Mr. McClelland's letter was not an appraisal and that he did not use any established appraisal methods in arriving at his determination of the fair market value of either Lot 13 or 15. Upon further examination, Ms. Murray stated that Murray and Sons had paid \$720,000 for the property at 3927 Prospect Street (Lots 13, 14, 15).

The applicant presented many exhibits (A through GG), consisting of various photoboards, maps, designs, and plans, all in support of both applications. Among the exhibits was an excerpt from the testimony of Paul V. Flaherty, Jr. during the hearing on his application for an historic area work permit for new construction at 10232 Carroll Place (Lot 17, Block 2), Kensington Park Subdivision, Kensington, Maryland (Exhibit 1). Mr. Flaherty testified that, in his opinion, the fair market value of Lot 17 (and another nearby lot) was between \$175,000 and \$200,000. The hearing was held December 15, 1988.

Helen Wilkes, an adjoining property owner (3923 Prospect Street), testified as a professional architect (Exhibit 13). She presented a series of exhibits which served to quantitatively analyze the proposals for both Lot 13 and 15 in relation to the existing development patterns in the immediate area, a hitherto unchanged part of the Kensington Historic District (exhibits 17A-E). This analysis, she stated, showed that the proposed construction would result in much narrower spacing between houses than that found elsewhere on Prospect Street where the average distances between houses on the north and south sides are 73.1 and 43.4 feet, respectively. It also demonstrated that the footprint of the structure proposed for Lot 13 was larger than the footprint of the adjoining primary resources where the average property coverage observed on the north and south sides of Prospect street is currently 8.7 and 8.5 percent, respectively. Ms. Wilkes also pointed out

14

that the proposed structure for Lot 13 was higher than the primary resource at 3923 Prospect Street and that the proposed structure would dominate the streetscape as a result. She also indicated that the massing of the proposed structure was inappropriate in that it was rectangular and block-like, quite unlike the more unevenly massed structures found elsewhere in the neighborhood. In summary, the witness testified that the proposed structure was larger than others on the street. She testified that, consequently, the proposed construction would change the overall character along the north side of Prospect Street. She submitted copies of period photographs of the Harry Armstrong property (3927 Prospect) documenting that Lots 13 and 15 historically were the side yard gardens for the house at 3927 Prospect Street, and as such were the environmental setting component of the historic resource(s) identified on the Plan in this part of the district.

Don Little, an architect and a member of the Kensington LAC, testified that the applicant was actually proposing infill construction designed for an urban setting (with a high degree of uniformity and lot boundary definition), when in fact the intention always was for Kensington to be a suburban, park-like setting with an emphasis on green space. He testified that the proposed fence was inappropriate in that it contributed to such "definition." He added that Kensington was envisioned as an escape from the urban environment and that the emphasis, in developing the area, always had been as much on the natural environment as on the built environment.

Among the exhibits presented by Ms. Wilkes was the deed for the Lots, 13, 14 and 15 to the applicant and his wife for \$720,000 (Exhibit 1). Also an affidavit from Samuel M. Sipe, Jr., was presented (Exhibit 2). It differs from Mr. Murray's testimony regarding Mr. Sipe's offer to purchase Lots 13 and 14. The affidavit states that the house on Lot 14 was being offered by the applicant for \$545,000. (Exhibit 3 is a copy of an advertisement for the house for \$545,000 listing Molly Murray as the realtor.) According to the affidavit, the Sipes made an offer of \$635,000 to purchase the house and Lot 13 as a side yard. The written offer to purchase Lots 13 and 14 was made on February 11, 1989. According to the affidavit, Mr. Murray responded the following day with a counter offer of \$745,000. According to the affidavit Mr. Murray stated that he had a separate offer from builders for Lot 13 (the side yard) for approximately \$200,000. The Sipes rejected the counter offer.

Exhibit 4, presented by the opposition, is a letter from Ms. Karen Maury, a real estate broker. The letter states that within the last year, there have been two transfers of lots in the Kensington Historic District - one for \$105,000 and the other for \$80,000. Ms. Wilkes also provided the Commission with a copy of the deed (Exhibit 5) and plat (Exhibit 6) relating to the \$105,000 transfer. Finally, Exhibits 7 and 8 are the deeds for the two lots involved in the Flaherty hearing (both sold for \$70,000).

Other witnesses appeared for the opposition presenting both written and verbal testimony. Among the witnesses were representatives of the Town of Kensington, the Kensington Historical Society, the Maryland Historical Trust, and several neighborhood residents, including John O'Neill, an attorney who lives at 3915 Prospect Street. Their testimony was in opposition to the proposals on Lot 13 and Lot 15.

#### MOTION TO RECUSE

At the start of the third and final hearing, the applicant moved to have Commissioner Wagner recuse herself from any further participation in the hearing or decision of the instant application. As ground for the motion, the applicant noted that Commissioner Wagner lives within the Kensington Historic District. The applicant also felt that the questions Commissioner Wagner asked revealed that she had pre-judged the application.

(15)

The motion is denied. First, the mere fact that a Commissioner lives in or near an area which is the subject of Commission review is, without more, an insufficient basis upon which to base a recusal. In this regard, the Commission notes that Commissioner Wagner has previously obtained the opinion of the Chairman of the Montgomery County Ethics Commission expressing the same view (copy attached). Second, Commissioner Wagner's questions were simply the result of her active participation in the hearings. Some Commissioners are more vocal than others. Commissioner Wagner's questions were prompted by curiosity, not pre-judgment.

## FINDINGS

The Kensington Master Plan Amendment details the findings of historical and architectural significance that resulted in the placement of the historic district on the Master Plan.

The town of Kensington began as a small crossroads settlement along the Bladensburg Turnpike, an early market road between the County's major north/south route, Old Georgetown Road, and the port of Bladensburg on the Anacostia River in Prince George's County. When the B&O Railroad was built in 1873, the crossroads settlement became known as Knowles Station, named after the major land holding family in the area.

By 1890, Knowles Station had developed into a village of several hundred people, most of whom were living north of the railroad. In that year, Washington financier, Brainard H. Warner, purchased and subdivided property to the south and southwest of the railroad, naming the area Kensington Park after the famous London suburb. The subdivision was designed in the Victorian manner with ample sized lots and a curvilinear street pattern.

Warner established his own summer residence and invited his friends to join him in this park-like setting away from the heat and congestion of Washington. It is this concentration of Victorian period, residential structures located in the center of the town which constitutes the core of the historic district.

The district is architecturally significant as a collection of late 19th and early 20th century houses exhibiting a variety of architectural styles popular during the Victorian period including Queen Anne, Shingle, Eastlake and Colonial Revival. The houses share a uniformity of scale, set backs and construction materials that contribute to the cohesiveness of the district's

16



streetscapes. This uniformity, coupled with the dominant design inherent in Warner's original plan of subdivision, conveys a strong sense of both time and place, that of a Victorian garden suburb.(Emphasis Added.)

The proposals will effect all the historic resources located on the north side of Prospect Street, four of which are indicated as primary resources in the historic district, according to the Master Plan. Primary historic resources are those properties which contribute to the historicity of the district and which possess architectural and/or historical significance. The extant structures in this area, 3927 and 3923 Prospect Street were both constructed circa 1904 in the Victorian manner by the Armstrong brothers, Harry and Hugh. The houses exhibit typical features of the Queen Anne architectural substyle, including ample front porches, steeply-pitched roofs, and asymmetrically-arranged gables. The Harry Armstrong resource at 3927 Prospect is further distinguished by an unusual twin gable at the attic level. They are situated in an area which has survived as one of the most intact and unaltered streetscapes in the Kensington Historic District. With few intrusions, the north side of Prospect Street can be characterized as a "Victorian garden setting," with mature picturesque trees, gracious, informal yards, and large well-spaced residences constructed near the turn of the century. It is this Victorian garden setting that earned Kensington its placement on the Master Plan for Historic Preservation, as well as the United States Department of the Interior, National Park Service National Register of Historic Places.

The Commission finds that the structure proposed for Lot 13 would seriously impair the extant streetscape along the north side of Prospect Street. As shown in Exhibit L, there are presently only five structures located on the north side of Prospect Street, four of which are historic. Each sits within a large tree-covered property. The existing streetscape alternates rhythmically between residential structures amid these spacious yards. This existing rhythm on Prospect Street (particularly on the north side) would be significantly altered and virtually destroyed with the introduction of the proposed structure on Lot 13. Also, the views of the existing historic structures and their "gardens" would be partially obscured. They would no longer appear as focal objects in a garden-like setting, but rather as members in a row of urban-like residences.

The Commission finds that the proposed structure for Lot 13 is overscaled for the historic district in general and the existing streetscape of Prospect Street in particular. If built as proposed, its height and square footage would make it, not only much larger than the adjoining houses at 3923 (Lot 12) and 3927 (Lot 14) Prospect Street, but also much larger than other houses in the vicinity. Its height and square footage are not compatible with and would substantially alter the character and nature of this section of the historic district. As a result, the characteristic uniformity and cohesiveness of the streetscape noted in the Master Plan would be seriously impaired.

The coverage of the proposed house on its site, which has historically served as the open space, and environmental setting for the house at 3927 Prospect Street which is an identified historic resource, is such that the resulting relationship of house to "yard" would be significantly different from the existing relationship of houses to "yards" in this area of the historic district and is therefore incompatible with the character of the district.

The placement of the house on the site, which is an identified historic resource, disrupts the existing rhythm of house to yard on this streetscape and is therefore inappropriate to and incompatible with the character and nature of this section of the historic district. The width of the proposed house and its placement with respect to the

7

front property line is such that it would create a new rhythm of houses to yards, significantly altering the traditional relationship that still exists in this part of the historic district. In effect, the proposal would create a pronounced building "wall" along the street, thereby creating an urban setting incompatible with the historical Victorian garden setting of the district and the character of the district.

Without question, the proposed construction would also directly impact the natural environment. The Commission finds that the proposed construction would destroy a majority of the mature vegetation on Lot 13, dramatically altering the existing sylvan setting of the existing historic resources in this part of the district. As Mr. Nohly pointed out, the few remaining trees on Lot 13 could be irreparably damaged by construction equipment or excavation. These trees and other vegetation are important components of the "Victorian garden" setting which was referenced in the Master Plan. The Commission finds that the proposal would substantially alter the garden-like environmental settings of the adjoining properties, 3923 and 3927 Prospect Street, which are identified primary resources in the District and, therefore, is inconsistent with the purpose of the ordinance.

Finally, the Commission finds the location of the proposed driveway is inappropriate to and would impair the environmental setting of 3927 Prospect Street, an identified primary resource in the historic district, by removing mature vegetation and a portion of the existing side yard.

The applicant has suggested, though not directly argued, that if his application is not favorably acted upon, he will be deprived of reasonable use of the property or suffer undue hardship under Section 24A-8(b)(5). This argument must be rejected. The applicant has failed to prove that the denial of this single proposal will result in a "taking" of his property under the Fifth Amendment to the United States Constitution.

First, the Commission notes that applicant bears the burden of proof on this and all other questions of fact, Section 24A-7(g)(1). Second, the Commission's decision does not deny the applicant all reasonable use of the property. We have simply determined that this particular proposal is incompatible in character and nature with the surrounding resources and the historic district and would seriously impair the architectural value of the surrounding resources, as well as the character of the historic district as a whole. The applicant is free to return to the Commission to discuss possible alternatives for the development of this lot, Section 24A-6(d).

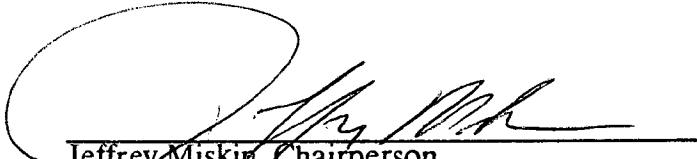
Finally, the applicant has not provided any evidence that the denial of this application will cause him to suffer undue economic hardship. The applicant's attorney stated that Mr. Murray was losing \$6,600 a month, but this figure has been neither explained nor documented. The applicant asserts that Lot 13 and Lot 15 are each worth \$200,000. The applicant further states that "[t]he cost of lots 13 and 15 dictate that a certain level and quality of house be built on them." (Exhibit N(9a)). In support of the \$200,000 figure, the applicant has produced a letter from a real estate broker. (Exhibit N(b)). The letter, however, was not the result of an appraisal conducted in accordance with traditionally accepted appraisal techniques but, rather, merely represents the letter writer's "feeling" as to the fair market value of Lots 13 and 15. The applicant also presented the testimony of Paul V. Flaherty, Jr., a past Historic Area Work Permit applicant. It is difficult to see how Mr. Flaherty's testimony provides any sort of reliable indicator of the price of land in Kensington. Moreover, Mr. Flaherty's estimate of \$175,000 to \$200,000 each for his two lots (15 and 17) is certainly called into question in light of the evidence that he bought each lot for only \$70,000 (Exhibits 7 and 8). Also, there is evidence in the record that during the last year lots in the Kensington Park Subdivision transferred for substantially less than \$200,000 (Exhibit 4).

18

Regardless of the true value of the lots, no evidence has been presented to show that if the instant proposals are not approved, the applicant will suffer undue economic hardship. The Commission has been provided with nothing more than bold assertions that the applicant will "lose money" if the application is rejected. The Commission finds that the applicant has not met his burden of proof or persuasion on this issue.

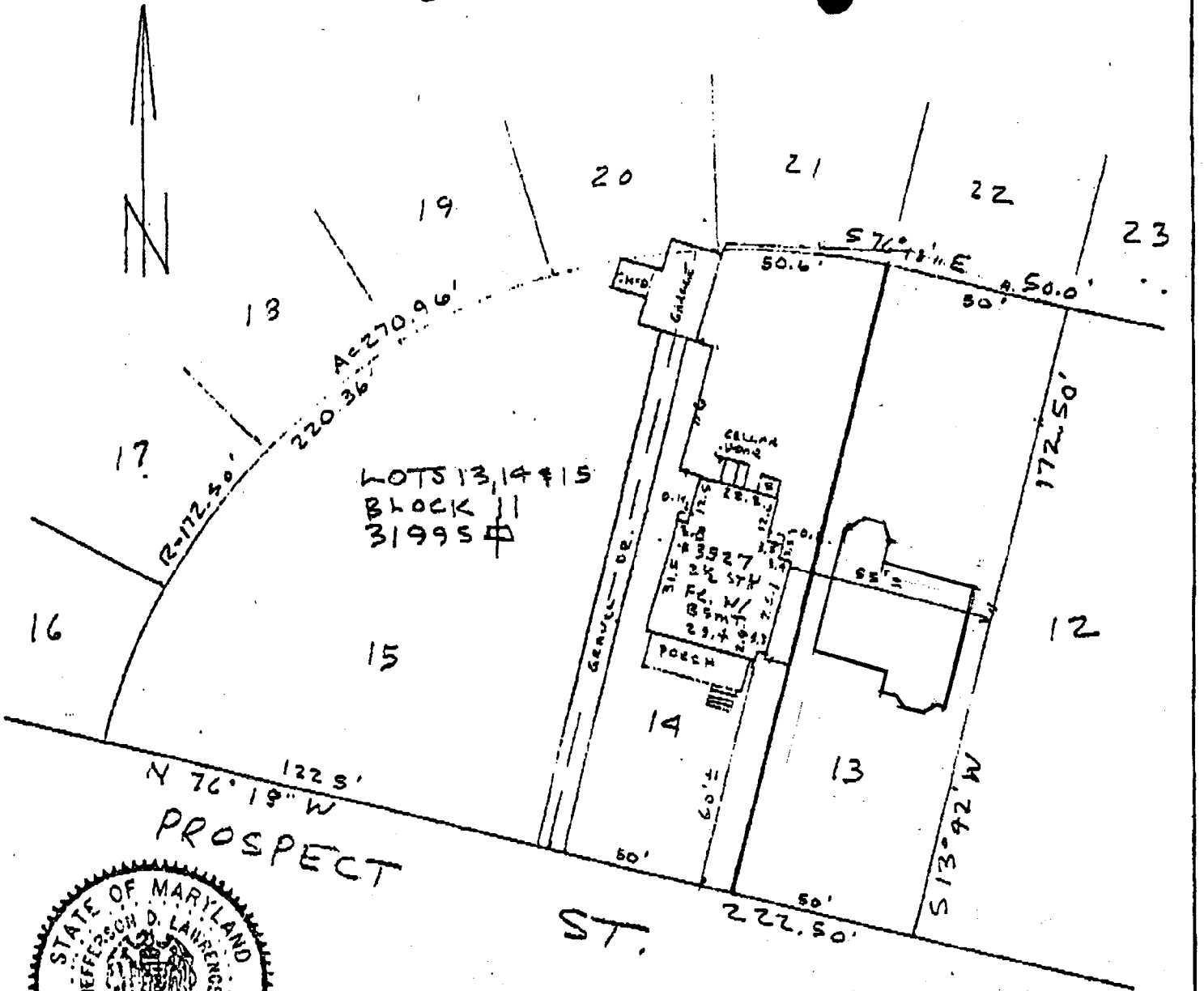
Based on these facts and findings, and having heard and carefully considered all of the testimony and exhibits and having inspected the property in question and the ways in which it relates to its environmental setting and to the historic district, it is the decision of the Montgomery County Historic Preservation Commission that the application by Frank P. Murray for an Historic Area Work Permit for new construction at 3925 Prospect Street (Lot 13, Block 11), Kensington Park Subdivision, is denied and the Department of Environmental Protection is instructed to withhold the permits.

If any party is aggrieved by the decision of the Commission, pursuant to Section 24A-7(h) of the Montgomery County Code, an appeal may be filed with the Circuit Court for Montgomery County, Maryland in the manner prescribed under Chapter 1100, Subtitle B of the Maryland Rules of Procedure.



\_\_\_\_\_  
Jeffrey Miskin, Chairperson  
Montgomery County Historic Preservation Commission

(9)



LOTS 13, 14 & 15  
BLOCK 11  
31995

PROSPECT ST.



881925

Property shown hereon is not in a flood plain per existing records unless otherwise noted.

SCALE: 1" = 40'  
RECORDED IN:  
PLAT BOOK: B  
PLAT: 4

NOTE: This drawing is not intended to establish property lines nor are the existence of corner markers guaranteed. All information shown hereon taken from the land records of the county in which the property is located. Do not attempt to erect fences from information contained on this drawing.

**HOUSE LOCATION**  
LOTS 13, 14 & 15 BLOCK 11  
KENSINGTON PARK  
MONTGOMERY COUNTY, MD

I hereby certify that to the best of my knowledge and belief, the position of all the existing improvements on the above described property has been established by accepted field practices.

Date: January 4, 1989

*Jefferson D. Lawrence*  
JEFFERSON D. LAWRENCE,  
PROFESSIONAL LAND SURVEYOR #5215

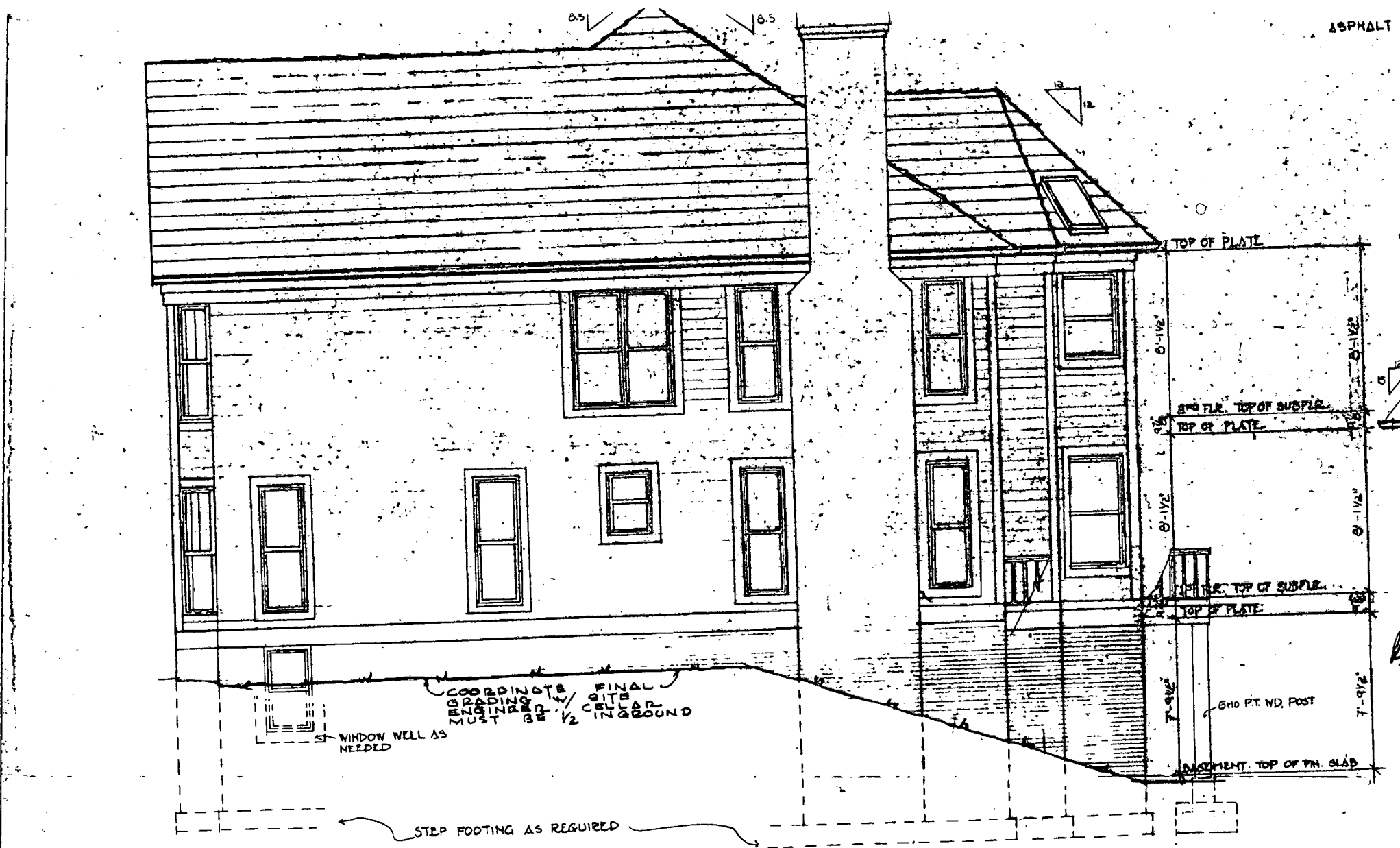
THIS DRAWING TO BE USED FOR TITLE PURPOSES ONLY

(2)



3

Front Elevation



RIGHT SIDE  
ELEVATION

STEP FOOTING AS REQUIRED

WINDOW WELL AS  
NEEDED

COORDINATE GRADING  
BEING MUST BE 1/2"  
FINAL CUTBACK  
IN AROUND

ASPHALT

TOP OF PLATE

6th FLR. TOP OF SUBFLR.  
TOP OF PLATE

6th PT. WD. POST  
TOP OF PLATE

6th FLOOR TOP OF PM. SLAB

8.5 | 8.5

12

8'-1 1/2"

8'-1 1/2"

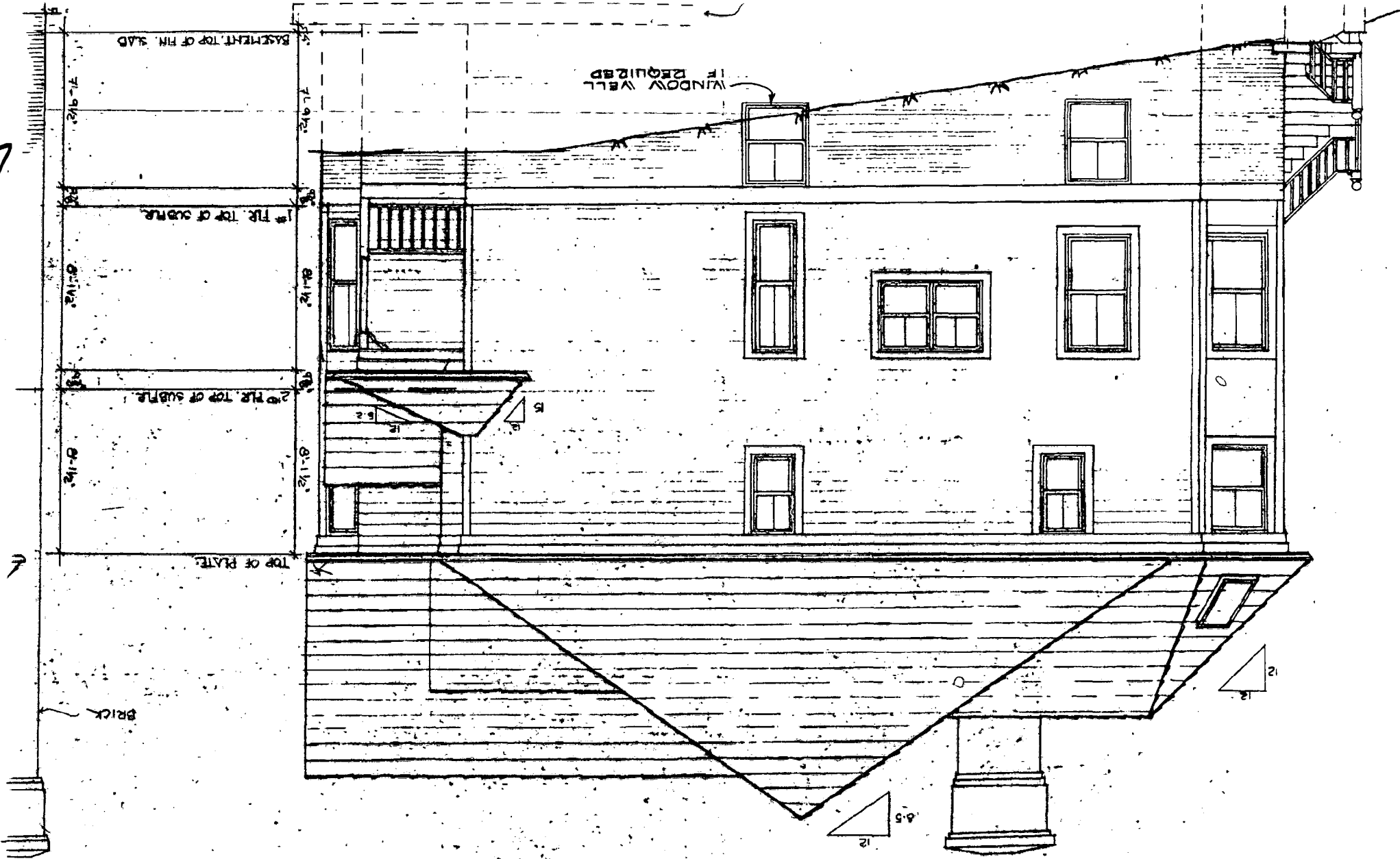
8'-1 1/2"

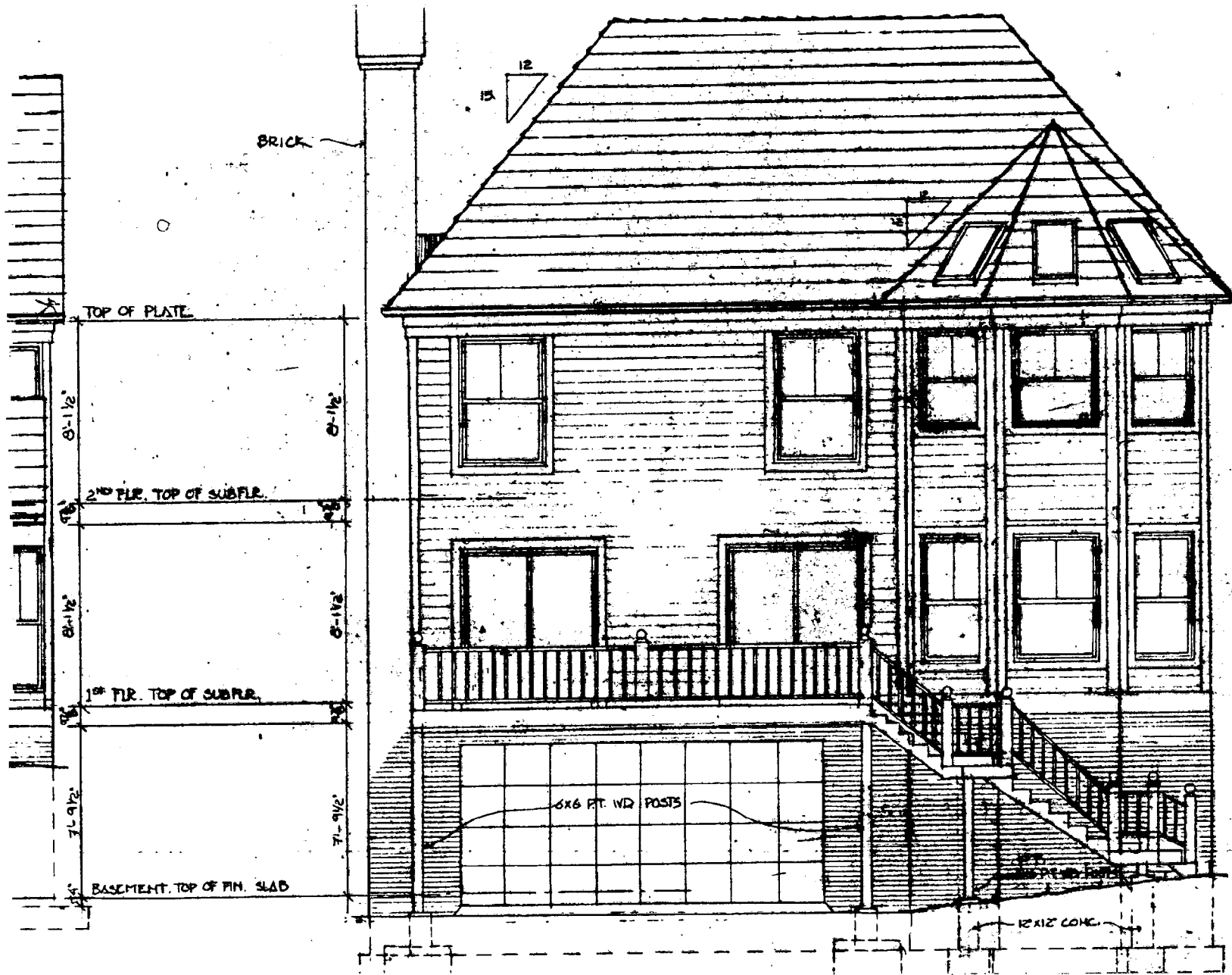
8'-1 1/2"

7'-9 1/2"

7'-9 1/2"

LEFT SIDE  
CLEAN DRAWING

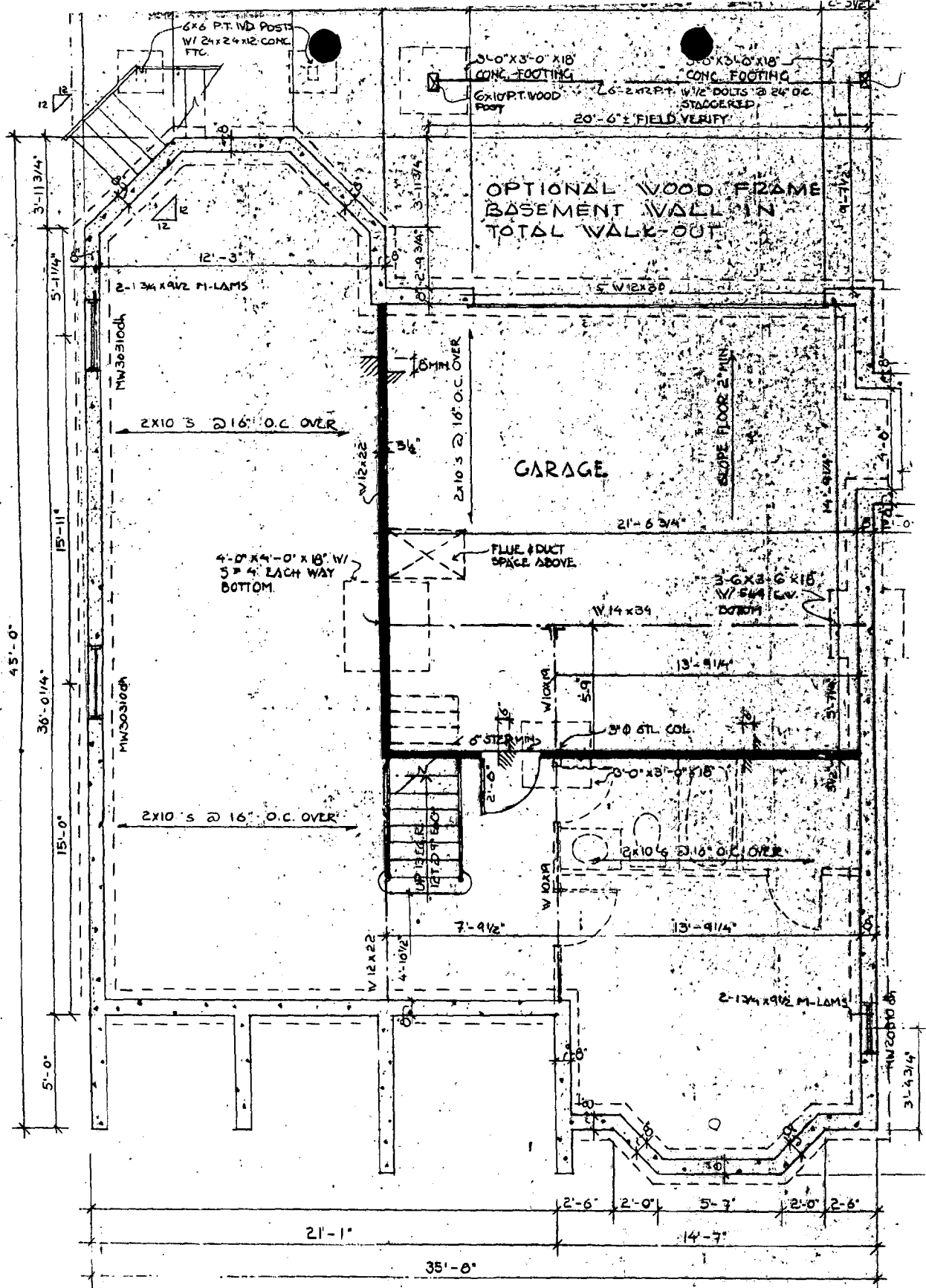




NOTE: Discard  
 rear garage plan.  
 Garage proposed  
 for front elevation.

REAR ELEVATION





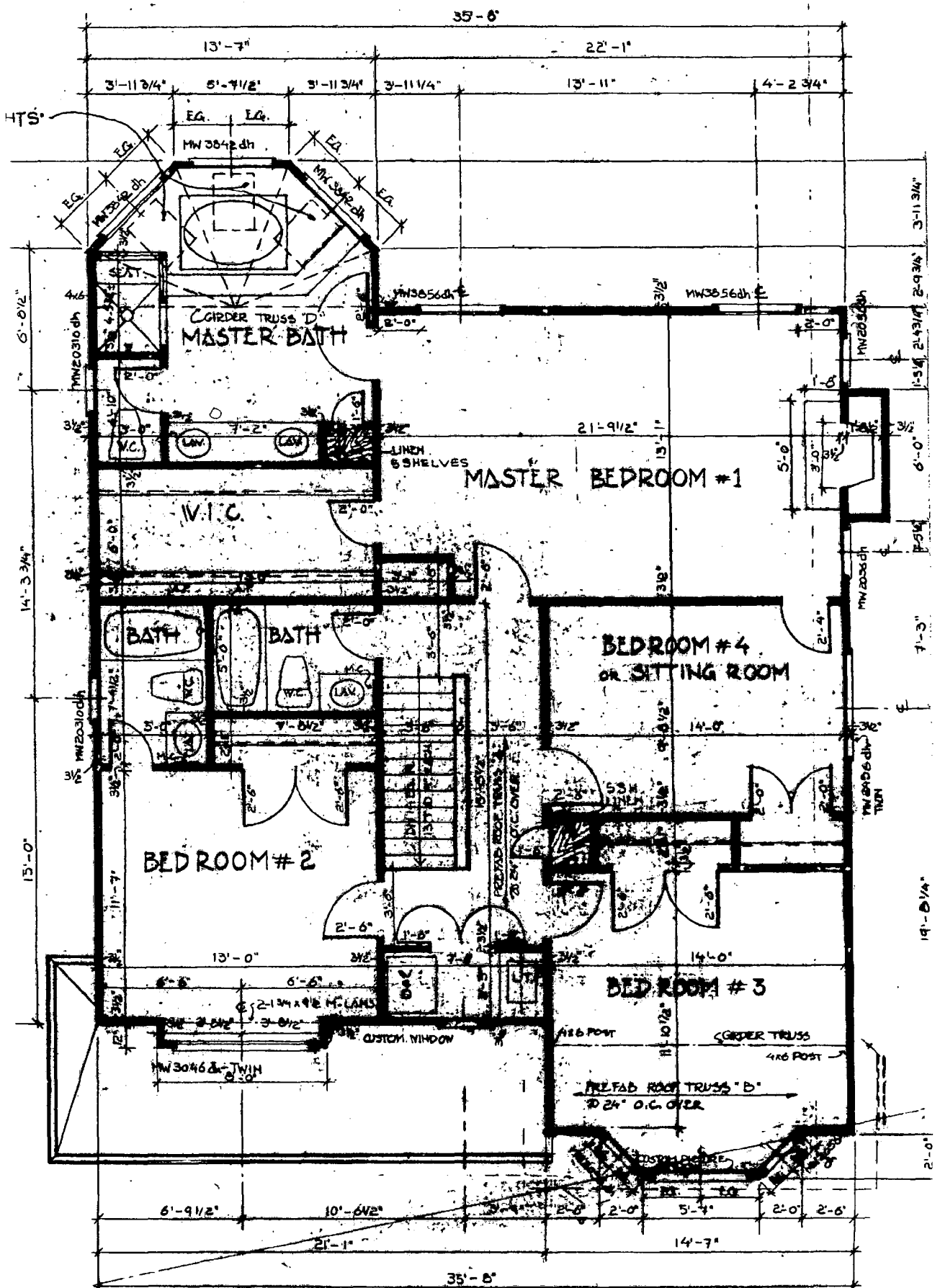
OPTIONAL WOOD FRAME  
BASEMENT WALL IN  
TOTAL WALK-OUT

GARAGE

B A S E M E N T F O U N D A T I O N  
S C A L E

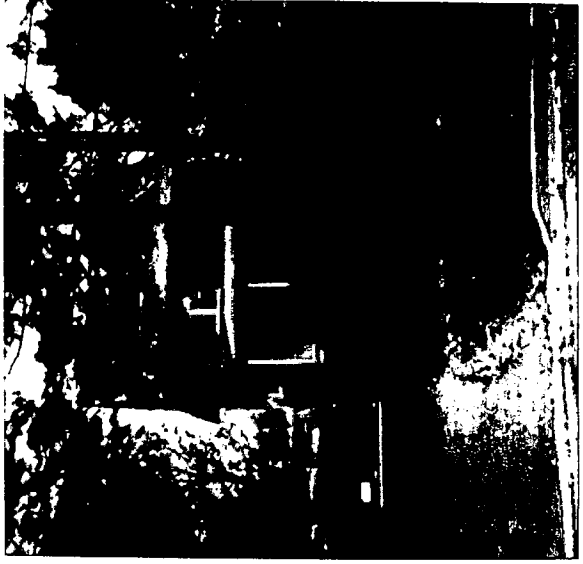


# SECOND FLOOR PLAN





LOT 13



LOT 14  
Left of Property



LOT 13



LOT 12  
Right of Property



LOT 13  
Subject - Property



Directly Across Street