



CITY OF FREDERICKSBURG

ZONING BOARD OF ADJUSTMENT THURSDAY, NOVEMBER 14, 2019 ~ 5:30 P.M. CITY HALL CONFERENCE ROOM ~ 126 W. MAIN ST

Travis Neal, Member
Marcus Vidrine, Member
Donnie Finn, Member

Cynthia Scroggins, Member
Jim McAfee, Chair
Jeff Lawrence, Member

The City of Fredericksburg Zoning Board of Adjustment will meet in a regular session on November 14, 2019 at 5:30 p.m. in the Conference Room, 126 West Main Street, Fredericksburg, Texas. This is an open meeting, open to the public, subject to the Open Meetings Law of the State of Texas, and as required by law, notice is hereby posted on November 8, 2019 before 5:00 p.m., providing time, place, date and agenda thereof. The meeting facility is wheelchair accessible and accessible parking spaces are provided. Requests for accommodations or interpretative services must be made to the City Secretary 48 hours prior to this meeting.

(Please turn off all pagers and phones, except emergency on-call personnel.)

1. CALL TO ORDER

2. ROLL CALL

3. PUBLIC COMMENTS

This Zoning Board of Adjustment (ZBA) welcomes public comments concerning items on this agenda. Each member of the public who desires to address the ZBA regarding an item on this agenda is required to sign up to speak, prior to the start of the meeting. All public comments shall be limited to discussion of items on this agenda, and shall be limited to 3-minutes in duration. At the discretion of the ZBA Chair, or upon an affirmative vote of the ZBA, the public comment time limit applicable to all speakers may be lengthened or shortened as required to allow the ZBA to complete its legislative agenda. Persons addressing the ZBA are prohibited from trading time with other speakers or reserving of time.

4. APPROVAL OF MEETING MINUTES

October 2019 regular meeting minutes

5. PUBLIC HEARING

- A. Request (ZBA2019-04) by Lopez Custom Homes at 702 Emory Drive for a Variance to 3.101 of the Zoning Ordinance pertaining to Single Family Residential Lots that require a 10 Ft. Rear Setback.

6. ACTION ITEM

- A. Receive Recommendation and Consider ZBA2019-04

7. ADJOURN

This is to certify that I, Shelby Collier, posted this Agenda at 11:00 a.m. on Friday, November 8, 2019, on the entrance door and bulletin board at the City of Fredericksburg City Hall, 126 W. Main St., Fredericksburg, Texas.

Shelby Collier
Development Coordinator

**BOARD OF ADJUSTMENT
OCTOBER 17, 2019
5:30 P.M.**

PRESENT

MARCUS VIDRINE
JEFF LAWRENCE
JIM MCAFEE
DONNIE FINN
TRAVIS NEAL

ALSO PRESENT: BRIAN JORDAN - Director of Development Services
SHELBY COLLIER - Development Coordinator

MINUTES

ACTION ITEM

Marcus Vidrine made a motion to nominate Cynthia Scroggins for Vice Chair. Jeff Lawrence seconded the motion. All voted in favor and the motion carried.

Request (ZBA2019-03) by GT Development at 702 Chinkapin Drive for a Variance to 3.101 of the Zoning Ordinance pertaining to Single Family Residential Lots that require at 10 Ft. Rear Setback.

Donnie Finn made a motion to open the public hearing. Jeff Lawrence seconded the motion. All voted in favor and the motion carried.

Jacob Grant explained that he is the developer and once he took over construction duties from his previous builder, found that he had a slight encroachment into the rear set back.

Shelby Collier, Development Coordinator explained the circumstances in this case were due to an error being made when the foundation was established. The plans approved by the Building Department showed that the 10' minimum setback was to be met. However, when the forms were set an encroachment of 3 – 5 inches occurred. Something this minor is not normally caught by a field inspection. Due to the frequency of this type of error, City Staff now requires form surveys on all new construction.

Marcus Vidrine made a motion to close the public hearing. Jeff Lawrence seconded the motion. All voted in favor and the motion carried.

Marcus Vidrine asked why this was not caught during inspection. Shelby Collier stated, unfortunately an encroachment this minute is not normally caught during a field inspection.

Jeff Lawrence asked if form surveys are now required on all new construction. Shelby Collier said that is correct.

Donnie Finn said the Board should no longer see requests for this issue then. Shelby Collier said that is accurate, however, a builder may still choose to pour without a form survey but then the builder would be in violation of the building permit. Donnie Finn said he understood.

Jim McAfee stated he believes there should be a penalty for this type of violation. The \$150.00 fee paid for the variance is not enough. Shelby Collier said she could inform the Director of Development, Brian Jordan, of his comments.

Motion made to approve Application ZBA2019-03 by Donnie Finn . Marcus Vidrine seconded the motion. All voted in favor and the motion carried.

ADJOURN

With nothing further to come before the Board, Donnie Finn moved to adjourn the meeting and Cynthia Scroggins seconded the motion. All voted in favor and the meeting was adjourned at 5:45 P.M.

PASSED AND APPROVED this the 14th of November, 2019

SHELBY COLLIER, DEVELOPMENT COORDINATOR

DONNIE FINN, CHAIR

VARIANCE BRIEF

Request # 2019-04

- APPLICANT:** Lopez Custom Homes
- ZONING:** R-1, Single Family Residential
- LOCATION:** 702 Emory Drive, within the Oaks Of Windcrest,
Phase IV-A
- REQUEST:** Variance to Section 3.101 of the Zoning Ordinance, pertaining to an encroachment into the 10' Rear Building Setback.
- FINDINGS:**
- The subject property is currently occupied by a new single family residence.
 - The property is located on the corner of Emory Drive and Post Oak Rd, in the Oaks of Windcrest, Phase IV-A.
 - The lot is approximately 0.211 Acres (see survey).
 - Section 3.101 of the Zoning Ordinance requires a Rear Setback of 10'.

The Board of adjustment may grant a variance if it makes affirmative findings of fact on **each** of the criteria described below:

- a. The Zoning Regulations applicable to the property do not allow for reasonable use. **Zoning regulations allow for reasonable use of the property.**
- b. The plight of the owner of the property is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the zoning district in which the property is located. **The circumstances in this case were due to the applicant constructing a rear porch that was not approved as part of the Building Permit. This lead to an encroachment into the set back that results in a violation of the Zoning Ordinance and the Building Permit. A Certificate of Occupancy will not be issued until this is resolved.**
- c. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purposes or regulations to the zoning district in which the property is located. **Staff believes issuance of a variance will impair the purposes and regulations of the Zoning district as this encroachment was the result of non-permitted construction.**

OPPOSITION/SUPPORT OF REQUEST: No letters received.

STAFF RECOMMENDATION: Denial.

#	Owner	Address
1	ROBERT DELGADO	13361 W. US HWY 290 HARPER, TX 78631
2	DANIEL & CHERYL MCWILLIAMS	22803 WHITEWATER CREEK DR KATY, TX
3	WAYNE & VICKI ZIMMERMANN	P.O. BOX 1517 FREDERICKSBURG, TX 78624
4	LAZARD & BLANCA MONTOYA	327 WINDSONG INFREDERICKSBURG, TX 78624
5	THE FIRST RESTATED TRUST KINLEY	703 EMORY FREDERICKSBURG, TX 78624
6	OAKS OF WINDCREST LP	4109 FRONT RANGE LN AUSTIN, TX
7	OAKS OF WINDCREST LP	4109 FRONT RANGE LN AUSTIN, TX
8	JORGUE LOPEZ	205 CHURCH ST CENTER POINT, TX
9	CYNTHIA KING	706 EMORY FREDERICKSBURG, TX 78624
10	SAMANTHA CURETON	P.O. BOX 2892 FREDERICKSBURG, TX 78624
11	JOEL ALBITER	P.O. BOX 683 FREDERICKSBURG, TX 78624
12	GUIDO & KATHRYN GHISELLI	705 CHINKAPIN FREDERICKSBURG, TX 78624
13	KRIS ADAM HOMES LLC	705 ALFRED FREDERICKSBURG, TX 78624
14	LAWRENCE CHARLES & VIRGINIA NASSOUR	111 W. ANDERSON LN STE D213 AUSTIN, TX
15	KURT DITGES	217 W. UFER FREDERICKSBURG, TX 78624
16	TRAVIS & BRITTNEY HORTON	969 KNEESE RD FREDERICKSBURG, TX 78624
17	KATRINA ITZ	704 CHINKAPIN FREDERICKSBURG, TX 78624
18	GT DEVELOPMENT	412 S ADAMS LMB 1104 FREDERICKSBURG, TX 78624
19	IRONBREAKER DEVELOPMENT LLC	P.O. BOX 2526 FREDERICKSBURG, TX 78624
20	IRONBREAKER DEVELOPMENT LLC	P.O. BOX 2526 FREDERICKSBURG, TX 78624
ZBA2019-04 - 702 Emory		



VARIANCE APPLICATION TO BOARD OF ADJUSTMENT

City of Fredericksburg - Development Services Department
126 W. Main St., Fredericksburg, TX 78624 – (830)997-7521

1. Applicant: Lopez Custom Homes, Tony Lopez
2. Owner: Elias Giral Jaimes and Ana Laura Benitez Gonzalez
3. Phone: 512-293-5415 Email: lopezcustomhomes@gmail.com
4. Description of property involved in this request.
Address: 702 Emory Drive, Fredericksburg TX 78624
Legal Description: OAKS OF WINDCREST #4-A LOT 124
Lot Size: .2112 Zoning District: _____
5. Request is made to the Board of Adjustment that a variance be granted to the following provisions of the Zoning Ordinance.
Section: 3.101 Subsection: _____
Item: _____ Relating To: 10 ft. Rear Setback
Requiring: The patio at the back of the house is encroaching the 10 ft. setback line.
The request is to keep the structure as is given it is only encroaching by inches and does not encroach on any neighboring properties.
6. INFORMATION TO BE SUBMITTED BY THE APPLICANT:
 - A. Site plans, preliminary building elevations, preliminary improvement plans, or other maps or drawings, sufficiently dimensioned as required to illustrate the following, to the extent related to the Variance application:
 - i. Existing and proposed location and arrangement of uses on the site, and on abutting sides within 50-feet.
 - ii. Existing and proposed site improvements, buildings, and other structures on the site, and any off-site improvements related to or necessitated by the proposed use. Building elevations shall be sufficient to indicate the general height, bulk, scale, and architectural character.
 - iii. Existing and proposed topography, grading, landscaping, and screening, irrigation facilities, and erosion control measures.

\$150.00

C15#1254

RECEIVED
10/16/19

Se

- iv. Existing and proposed parking, loading, and traffic and pedestrian circulation features, both on the site and any off-site facilities or improvements related to or necessitated by the proposed use.

The Board of Adjustment may grant a variance if it makes affirmative findings of FACT on EACH of the criteria. The applicant shall give a reason why the request complies with the following criteria:

1. The Zoning Regulations applicable to the property do not allow for a reasonable use.

The zoning allows for reasonable use, however the patio was placed to allow a landing for the backdoor exit.

2. The plight of the owner of the property is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial and are not due to or the result of general conditions in the zoning district in which the property is located.

The patio was constructed to allow for a landing for the backdoor exit. The measurements taken at the time of construction stayed within range. Surveyor noted otherwise, shows the structure encroaching by a couple of inches.

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purposes or regulations to the Zoning District in which the property is located.

The area affected is not affecting any neighboring properties. It is all within the boundaries of the subject property.

- B. **PARKING: ADDITIONAL CRITERIA**-The Board may grant a Variance to a regulation prescribed by this ordinance with respect to the number of off-street spaces required if it makes findings of fact that the following additional criteria are also satisfied:

Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the specified regulation.

N/A

The granting of the Variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets.

N/A

The granting of the Variance will not create a safety hazard or any other condition inconsistent with the objectives of this ordinance.

N/A

The Variance shall run with the use or uses to which it pertains and shall not run with the site.

N/A

- c. **SIGNS: ADDITIONAL CRITERIA**-The Board may grant a Variance to a regulation prescribed by the Sign Ordinance with respect to the placement of signs, the height of signs or the area of signs if it affirmatively finds each of the following.

That a sign is being replaced. For the purposes of this Section, replacement shall include the erection of a new or different sign due to the removal of another sign for any reason, including the change of name of a business, whether from change of ownership, business being conducted, or otherwise, the change of a sign for a continuing business containing the same or different information as the sign being replaced, and the replacement of signs due to damage or vandalism.

N/A

That all structures on the property for which the sign is proposed that would impede the replacement of a sign were constructed prior to February 17, 1986.

N/A

That it is impractical to abide by existing placement, height or area regulations due to the placement, size of construction of existing structures in relationship to the physical characteristics of the site. For purposes of illustration, physical characteristics may include topography of the site or the surrounding sites, structures on surrounding sites, traffic conditions, street layouts and existing natural vegetation.

N/A

That the other types of signs which are permitted by this Ordinance cannot practically be used. In making this determination of practicality, the Board may consider

- A. The undesirability of altering a historic site to accommodate a sign which would be permitted with no variance under this Ordinance; or
 - a. That alternatives permitted by this Ordinance would involve extensive reconstruction of structures; or
 - 1. That alternatives permitted by this Ordinance are prohibitively expensive; or
 - 2. That alternatives permitted by this Ordinance will not effectively identify the subject of the sign.

N/A

- ii. That the proposed sign has been reviewed by the Historic Review Board if applicable.

N/A

- iii. That the proposed variance is as close to the requirements of the sign ordinance as is feasible.

N/A

Staff Use Only

Application No: _____

Date: _____

Payment Type: _____



Building Permit Application

City of Fredericksburg - Development Services Department
126 W. Main St., Fredericksburg, TX 78624 - (830)997-7521

Name of Applicant: Antoniino Lopez

Phone Number: 512 293 5415

Name of Owner: Elias Giral Jaimes

Name of Contractor: Lopez Custom Homes

Building Permit Address: 702 EMORY DR

Contractor Email Address: _____

☐ Historic District/Land Mark (Check if Applicable)
(if applicable see reverse)

☐ Owner (Check if Applicable)

Type of Permit

Commercial

DEPARTMENTAL APPROVAL FORM REQUIRED

TDLR#: _____

Asbestos Abatement Survey: _____

☐ Commercial -Food and/or Beverage Service ☐ Commercial -Other: _____

Residential

☐ Interior Remodeling ☐ Building Addition ☒ New Building ☐ Guest House ☐ Other: _____

Demo

☐ Residential ☐ Commercial ☐ Accessory Building ☐ Attach photos of each side of structure

☐ Age of Structure: _____ Building Material: _____ Reason: _____

Miscellaneous

☒ Garage ☐ Carport ☐ Storage ☐ Hobby shop ☐ Curb/ approach ☐ Other: _____

☐ Fence: Material: _____ Height: _____ Length: _____

Estimated Cost of Construction: \$ 170,000

Construction Details

Foundation: ☐ Concrete Pier and Beam ☒ Concrete Slab ☐ Other: _____

Bearing Walls: ☐ Wood Frame ☐ Concrete Block ☐ Other: _____

Roof Structure:

Unsupported Span: _____ feet

Rafter Member: _____ inches by _____ inches at _____ feet on center

Ceiling joist: _____ inches by _____ inches at _____ feet on center

PDF VERSION OF APPLICATIONS, SITE PLAN, AND FLOOR PLAN ARE REQUIRED

*emailed to scollier@fbgtx.org

The undersigned certifies the information provided is complete and true.

Adrian

Signature

11/21/19
Date

**City of Fredericksburg
Application for Building Permit**

Departmental Approval Form

If commercial building does any food and/or beverage service each department below must be contacted and signature received in order to proceed with the building permit process.

Name of Applicant: Antonino Lopez

☐ Owner (Check if Applicable)

Phone Number: 512 293 5415

Building Permit Address: 702 EMORY DR

Gillespie County Health Division

126 West Main

Fredericksburg, Texas 78624

Contact:

Kelli Olfers

kolfers@fbgtx.org

830-997-7521

The above applicant has Gillespie County Health Division approval to proceed with application at listed address.


Signature

11/21/19
Date

Fire Marshal

126 West Main

Fredericksburg, Texas 78624

Contact:

Kyle Koch

kakoch@fbgtx.org

830-997-7521

The above applicant has Fire Marshal approval to proceed with application at listed address.

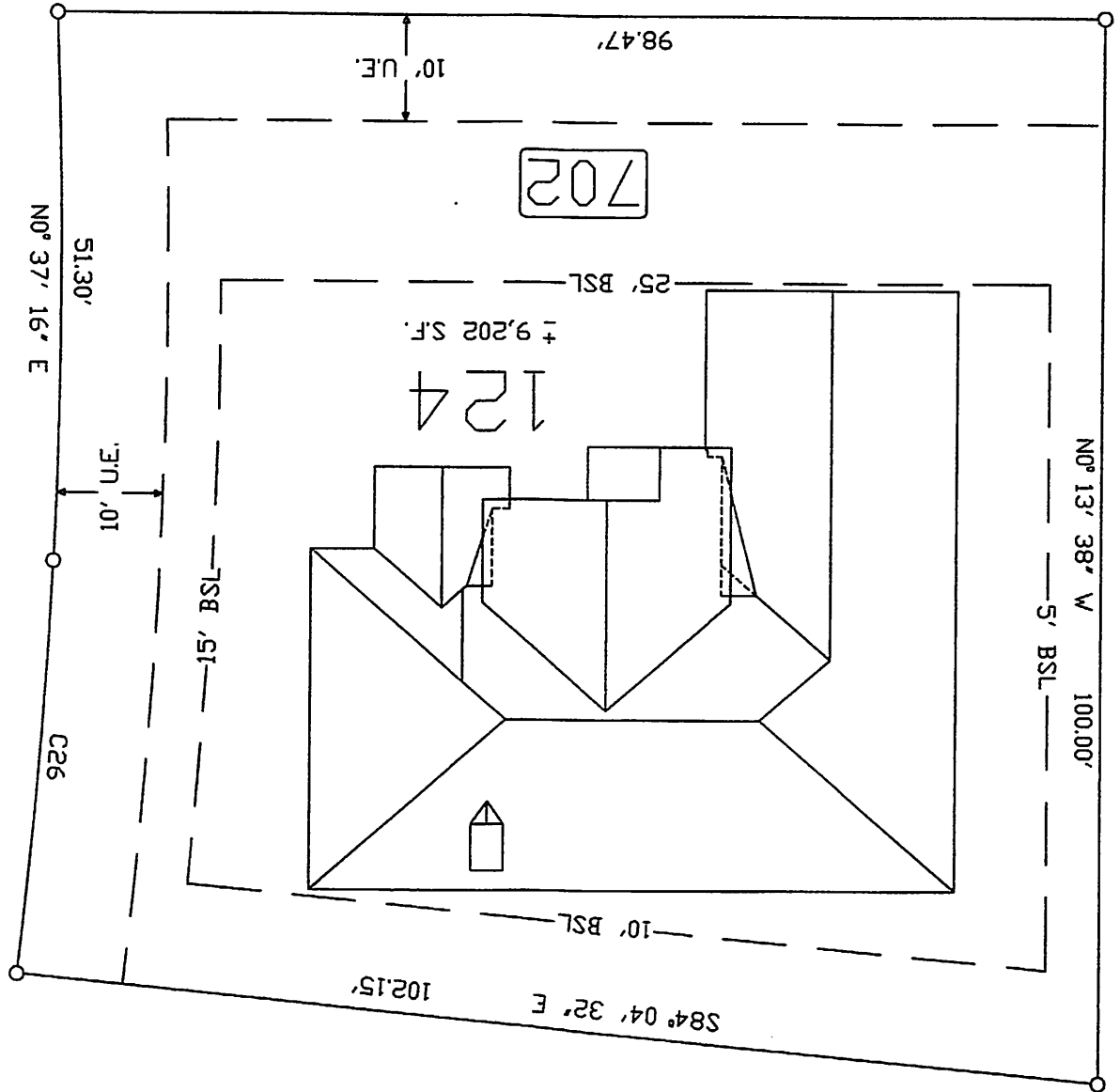
Signature

Date



SCALE 1/4" = 1'	1/1000 MASSACHUSETTS
LIVING AREA	1,970
POORCHES COVERED	45
GARAGE	460
TOTAL SQUARE FOOTAGE	2,475

SHEET 9
OF 9





DRAWN: HANCOCK

SCALE: 1/4" = 1'

LIVING AREA

POOR-ES: Covered

CARAGE

TOTAL SQUARE FOOTAGE

1,970

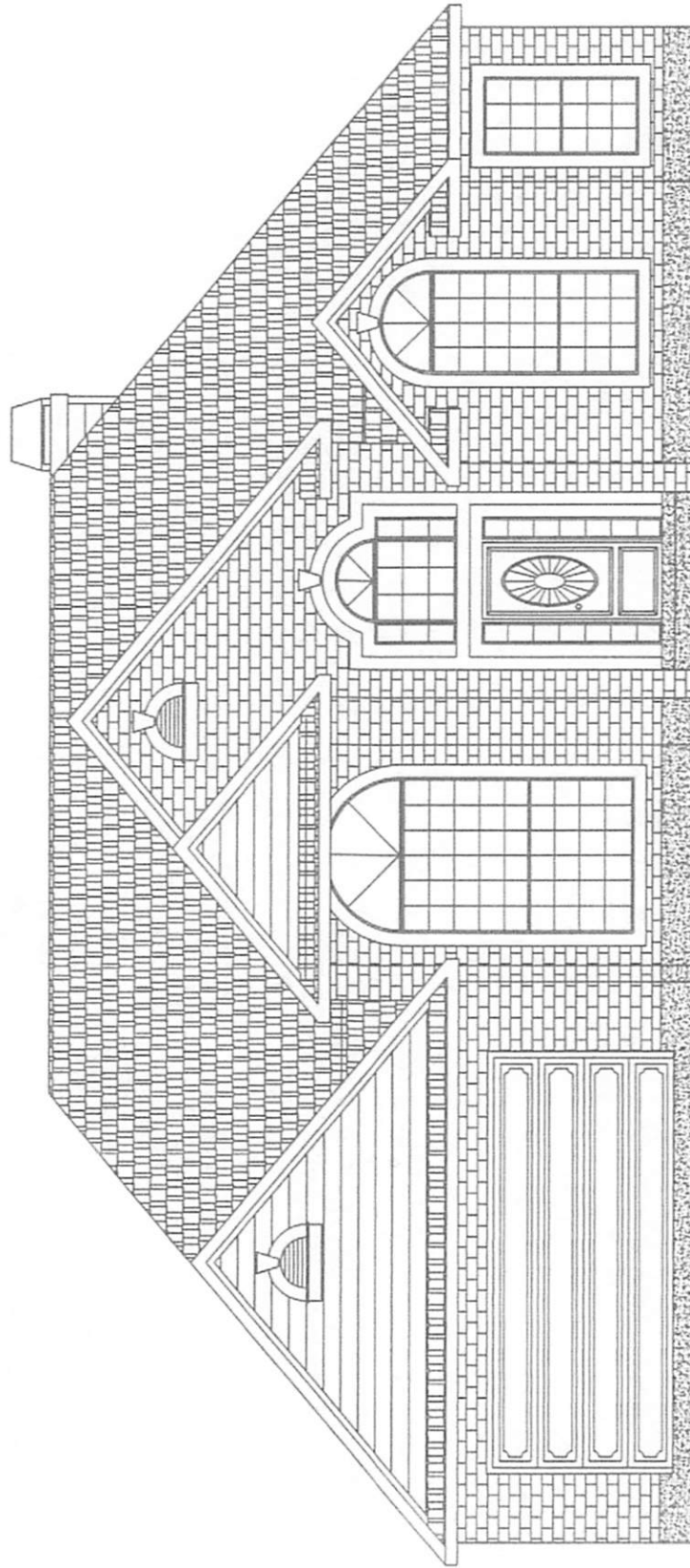
45

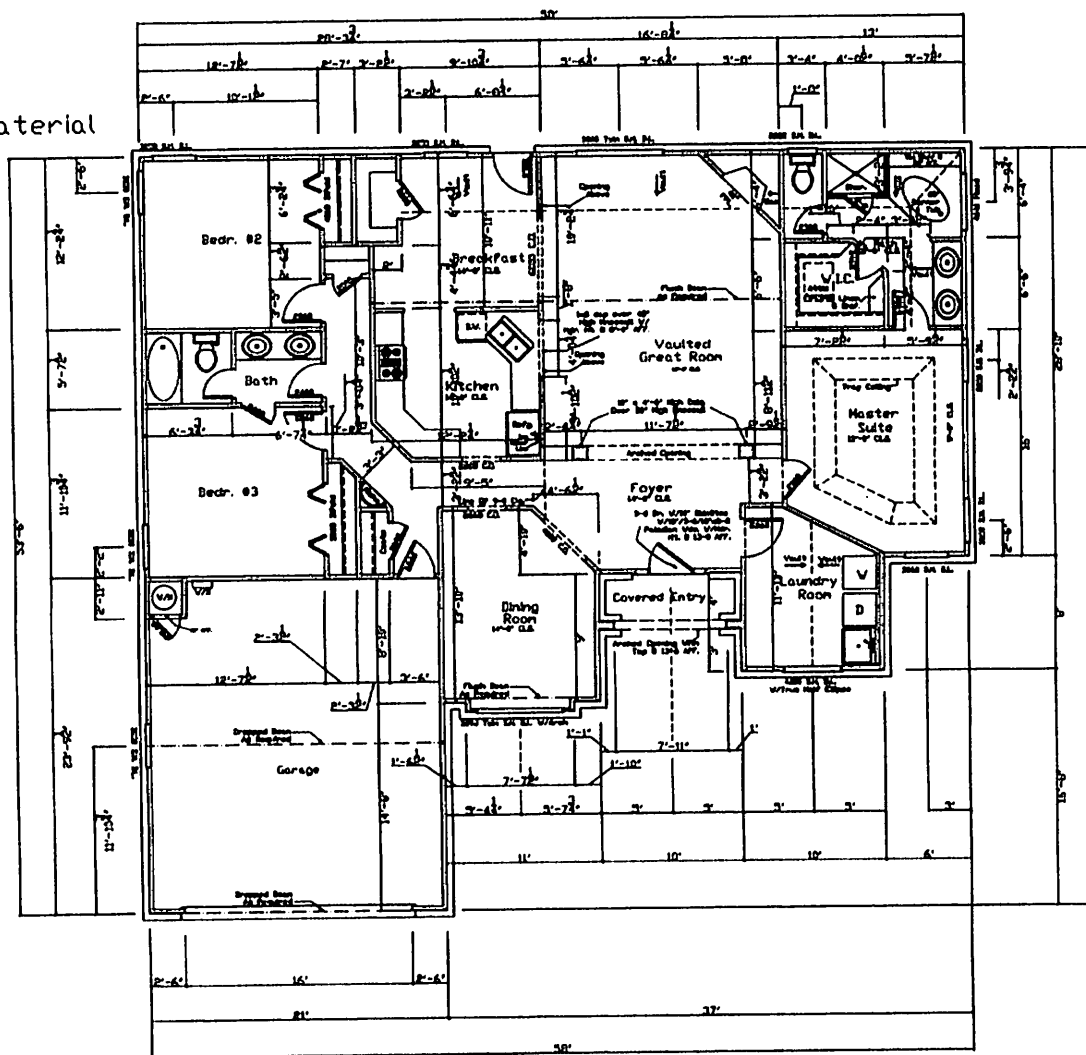
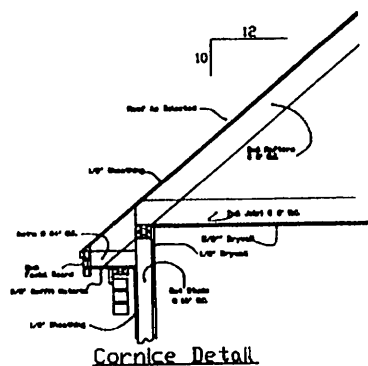
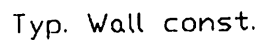
460

2,475

SHEET 1
OF 9

Plan # 2475





Floor Plan

Notes: GREAT EFFORT AND CARE HAVE GONE INTO THE CREATION OF THE RECORD AND COMPETITION OF THESE PLANS AND PRICES. HOWEVER BECAUSE OF THE IMPOSSIBILITY OF PURSUING ANY FURTHER WORK WITH LOCAL PARTIES, SUBSIDIES AND OTHERS, UNDER THE ACTING CONSTRUCTION OFFICIALS, INCLUDING STRUCTURAL, FINANCIAL, AND WEATHER CONDITIONS, BEING SUCH ASSESSMENTS, IT IS RECOMMENDED THAT YOU CREATE A LOCAL, INDIVIDUAL, CERTIFIED BUSINESS RECORD OR CHECKS OF YOUR CHECKS AND CHECK WITH YOUR LOCAL BUSINESS OFFICIALS, PRIOR TO THE ACTING CONSTRUCTION.

SCALE 1/4" = 1'	V/DOE PERMITS	SHEET 2
LIVING AREA	1,970	
PORCHES COVERED	45	
GARAGE	460	
TOTAL SQUARE FOOTAGE	2,475	



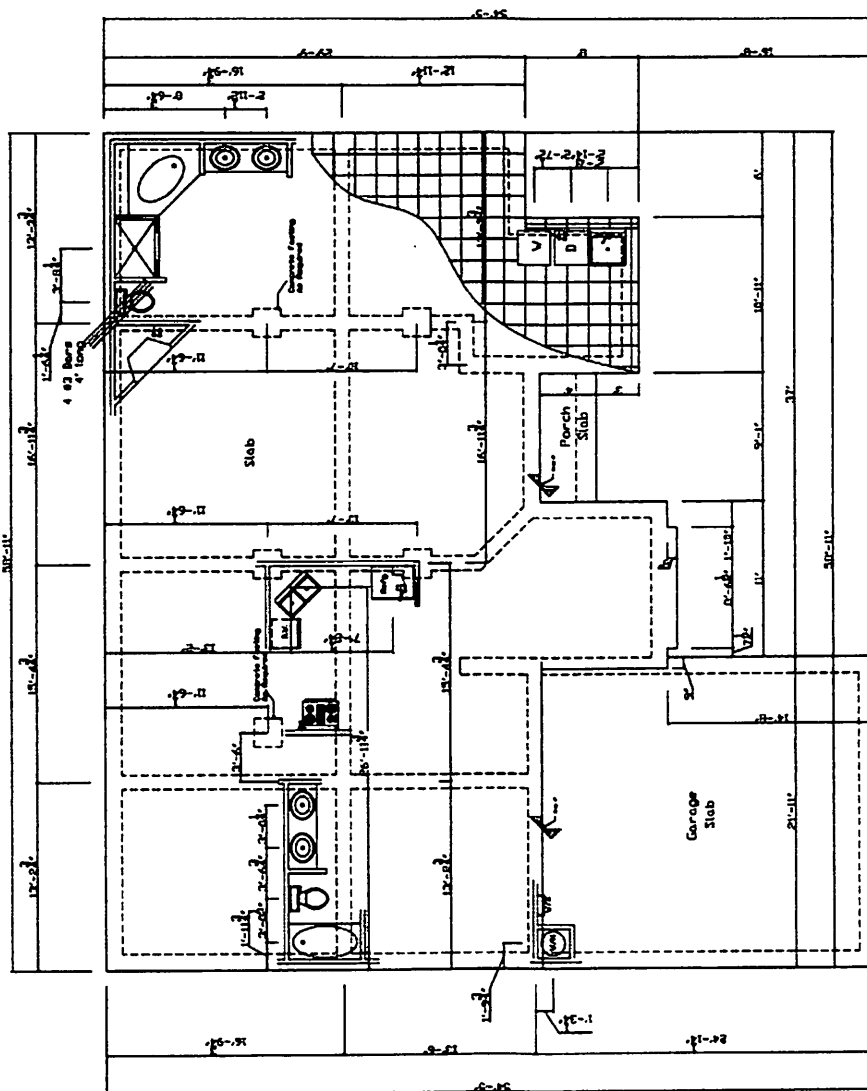
Lopez Custom Homes

Joseph & Custom Homes

SCALE 1/4" = 1'	
LIVING AREA	1,970
POOLED COVERED	45
CARPORT	460
TOTAL SQUARE FOOTAGE	2,475

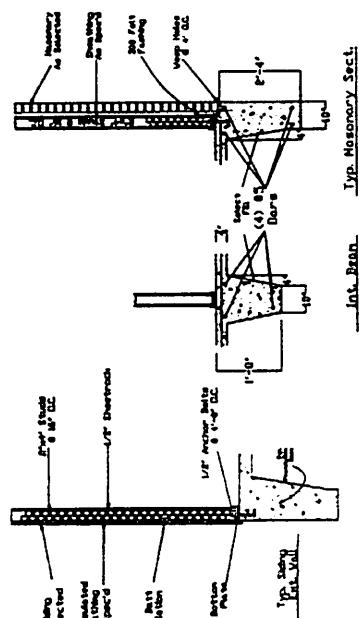


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C 12345

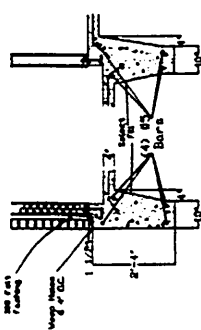


Notes: 1" concrete slab with 23 bars @ 18" O.C. E.V. in center of slab bar mat, & iron edge at slab outer edge. Cont. Vapor barrier under slab, topped 6" of joint.

MAJOR CHIEF OFFICER AND ONE HAVE COME INTO THE CREATING BY THE SECTOR AND CONTRIBUTION OF SOME PLANS AND PROJECTS.



Typ. Masonary Sect.



Garcon Bean AL Garcon

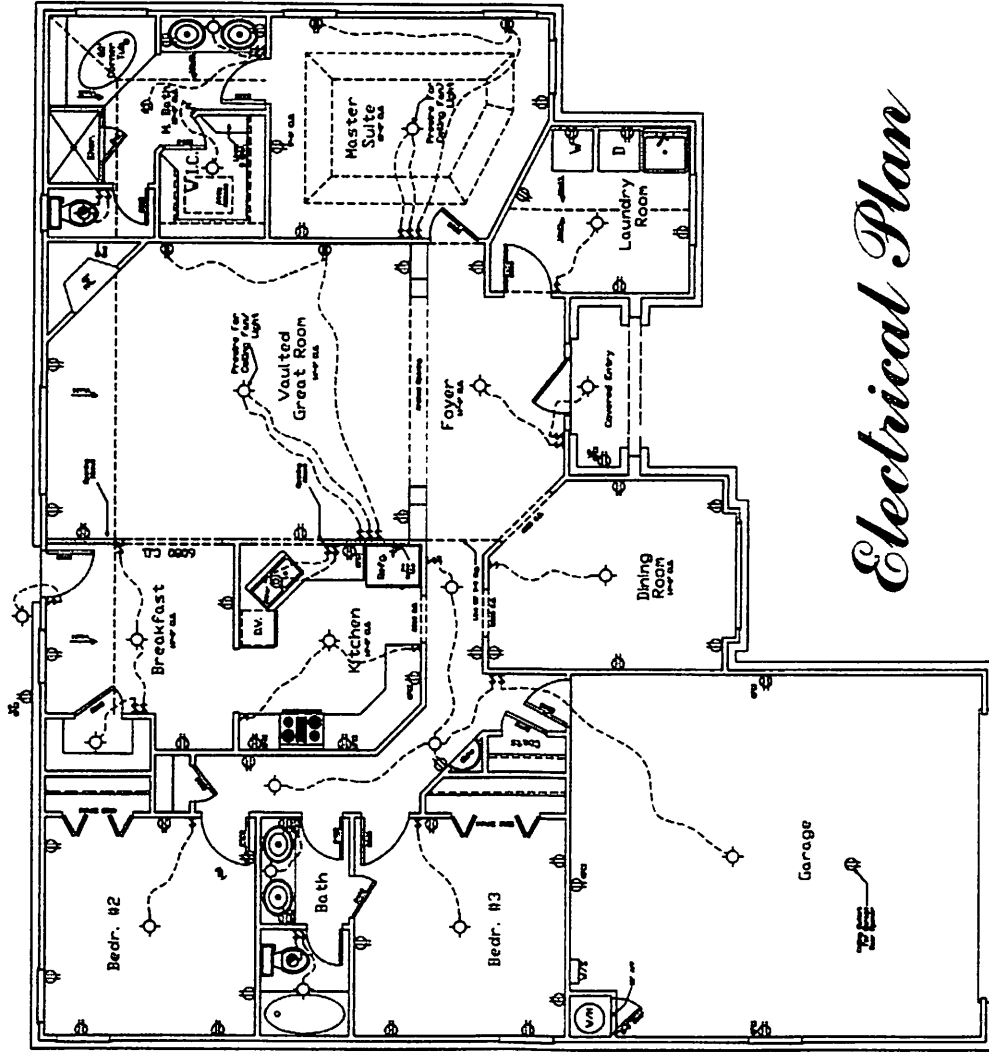
Foundation Detail



SCALE: 1/4" = 1'	LIVING AREA	TOTAL SQUARE FOOTAGE
1,970	460	2,475
45	POORCHES, COVERED	
45		
W/100% RADIUM		

9
SHEET 5

Electrical Plan



THIS ELECTRICAL PLAN IS BASED ON THE INFORMATION PROVIDED BY THE ARCHITECT AND THE HOMEOWNER. THE ELECTRICAL CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF THE INFORMATION PROVIDED AND FOR OBTAINING ALL NECESSARY PERMITS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND FOR THE PROTECTION OF THE WORKMANSHIP OF OTHER TRADES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF THE WORKMANSHIP OF OTHER TRADES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF THE WORKMANSHIP OF OTHER TRADES.



IDEAL MARK

SCALE: 1/4" = 1'

V/100% WASTEWATER

SHEET 6

9

THIS PLAN IS A PRELIMINARY DESIGN. IT IS NOT TO BE USED FOR CONSTRUCTION. THE DESIGNER ASSUMES NO RESPONSIBILITY FOR THE ACCURACY OF THE INFORMATION PROVIDED HEREON. THE USER OF THIS PLAN ASSUMES ALL LIABILITY FOR THE USE OF THIS PLAN. THE DESIGNER DOES NOT WARRANT THE ACCURACY OF THE INFORMATION PROVIDED HEREON. THE USER OF THIS PLAN ASSUMES ALL LIABILITY FOR THE USE OF THIS PLAN.

Roof/Rafters Plan

