



Board of Zoning Appeals How-to Guide

Revised January 2018

Board of Zoning Appeals How-to Guide

1. The BZA consists of 5 members appointed by the Circuit Court.
2. Meetings take place every month except for January.
3. Meetings are held in room 307 on the 3rd floor of the 2100 Clarendon Blvd. building beginning at 7:00 p.m. Meetings are open to the public.
4. Staff recommendations are posted on the County website on the Friday before the hearing. See (<http://building.arlingtonva.us/resource/board-of-zoning-appeals/>)
5. The BZA hears cases for Use Permits, Variances, and Appeals to decisions of the Zoning Administrator.
6. Application deadlines are approximately 2 months before the hearing date.
7. Cases are advertised in the Washington Times newspaper and on the Building Arlington Website 3-4 weeks before the meetings. A preliminary notice is normally posted on the website once applications are advertised in the Washington Times. Placards are posted on the block where the case is located and notices are sent out to adjacent neighbors.
8. Approval letters are sent to applicants approximately two weeks following the hearing.

Public Hearings

1. Applicants or their representative (contractor, architect, engineer, attorney, family member) must be present or cases may be deferred or denied.
2. Speaker slips are provided at the front of the Board Room during the hearing. Speakers other than the property owners/applicants must fill out a speaker slip. Speaker slips must be filled out and handed to the Planning Technician before the case is called. Comments may be sent to Staff one week before the hearing date.
3. Applicants/agents for the applicants for Use Permits and Variances are given five minutes to make statements.
4. Organizations speaking in support of or in opposition to BZA cases are given three minutes to make statements.
5. Individuals/neighbors speaking in support of or in opposition to BZA cases are given two minutes to make statements.
6. Appellants or their agents for Appeal cases are given twenty minutes to speak.
7. A majority vote by BZA members is needed for a motion to pass.
8. Audio recordings are made for each hearing.

Criteria for approving a Use Permit (ACZO Article 15.7, Section 15.7.6.):

The Board of Zoning Appeals may approve use permits that allow modifications of placement requirement for structures on lots in “R-20,” “R-10,” “R-8,” “R-6,” “R-5,” and “R2-7” districts where there is no option in the Zoning Ordinance to allow modification of requirements by the County Board, such as special exception use permits described in Article 15.5. or site plans described in Article 15.6. The Board of Zoning Appeals may impose conditions on the use permit that it deems necessary in the public interest, including limiting duration of the use permit. The BZA shall not approve a use permit unless it finds:

- a. That the proposal will not affect adversely the health or safety of persons residing in the neighborhood.
- b. That the proposal will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood.
- c. that the proposal will not be in conflict with the purposes of the master plans and land use and zoning related policies of the County.

In determining whether the proposal will be detrimental to the public welfare, injurious to property or improvements in the neighborhood or will adversely affect the health or safety of persons residing in the neighborhood, the BZA shall consider whether the modification will promote compatibility of development with the surrounding neighborhood because the structure’s overall footprint size and placement are similar to the structures on the properties surrounding the lot in question; and whether the modification will help preserve natural land form, historical features and/or significant trees and foliage.

Variances

DEFINITION: Variance means, in the application of a zoning ordinance, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

NOT PERMITTED BY VARIANCE: A change of use of a property including an increase in density or decrease in number of parking spaces.

Criteria for approving a Variance (§ 15.2-2309 in The Code of Virginia):

The BZA may not approve a variance without making the following findings:

1. The strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance;
2. the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;
3. the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
4. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;
5. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and
6. The relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § [15.2-2309](#) or the process for modification of a zoning ordinance pursuant to subdivision A 4 of § [15.2-2286](#) at the time of the filing of the variance application.

Appeals (§ 15.2-2309 in The Code of Virginia):

The BZA may hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this article or of any ordinance adopted pursuant thereto. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The board shall consider the purpose and intent of any applicable ordinances, laws and regulations in making its decision.

Certiorari to review decisions of board. (§ 15.2-2314 in The Code of Virginia):

Any person or persons jointly or severally aggrieved by any decision of the board of zoning appeals, or any aggrieved taxpayer or any officer, department, board or bureau of the locality, may file with the clerk of the circuit court for the county or city a petition that shall be styled "In Re: date Decision of the Board of Zoning Appeals of [locality name]" specifying the grounds on which aggrieved within 30 days after the final decision of the board.

Conditions of approval by BZA:

STANDARD CONDITIONS: The BZA usually imposes three conditions on a use permit or a variance. From time to time other conditions may be imposed. The standard conditions are as follows:

1. The proposed addition must be built in accordance with the architectural drawings and plat attached to the staff report presented to the BZA.
2. A wall check plat and/or a final plat must be submitted and approved by the Zoning Division in order to ensure compliance with setbacks granted by BZA action.
3. Approval of a building permit to construct the addition must be obtained by no later than one year from the date of the meeting. A building permit must be issued within the 1-year period.

What kinds of projects often receive negative recommendations by Zoning Staff?

1. Variances for coverage, accessory dwelling units, or to exceed height regulations.
2. Reduction of setbacks for two-story accessory buildings.
3. Fences exceeding permitted height limits.
4. Reduction of setbacks for new homes unless a hardship related to lot size, lot width, topography, public utility easements, or a Resource Protection Area (RPA) can be identified.
5. Projects that are inconsistent with the footprint size and placement of structures on surrounding properties.
6. New construction on outlots or lots which are deemed unbuildable because they were altered after the adoption of the 1950 Zoning Ordinance.

After a BZA hearing concludes:

1. Letters of approval or denial are mailed to applicants within two weeks of a hearing.
2. Applicants or aggrieved parties have 30 days from the hearing date to appeal a BZA action to the Arlington County Circuit Court.
3. Applicants who are granted approval by the BZA may apply for a Building Permit the day after the BZA hearing. Letters of approval do not need to be in hand to obtain a Building Permit.
4. It is recommended that applicants attach a copy of the Staff Report or the approval letter to their Building Permit when submitting to the Zoning Division.
5. Applicants must obtain a Building Permit within one year of a BZA approval.
6. Meeting Minutes (not a transcript) are completed by the BZA Coordinator.
7. Audio recordings and minutes of the hearings are available to the public upon request.

BZA APPLICATIONS

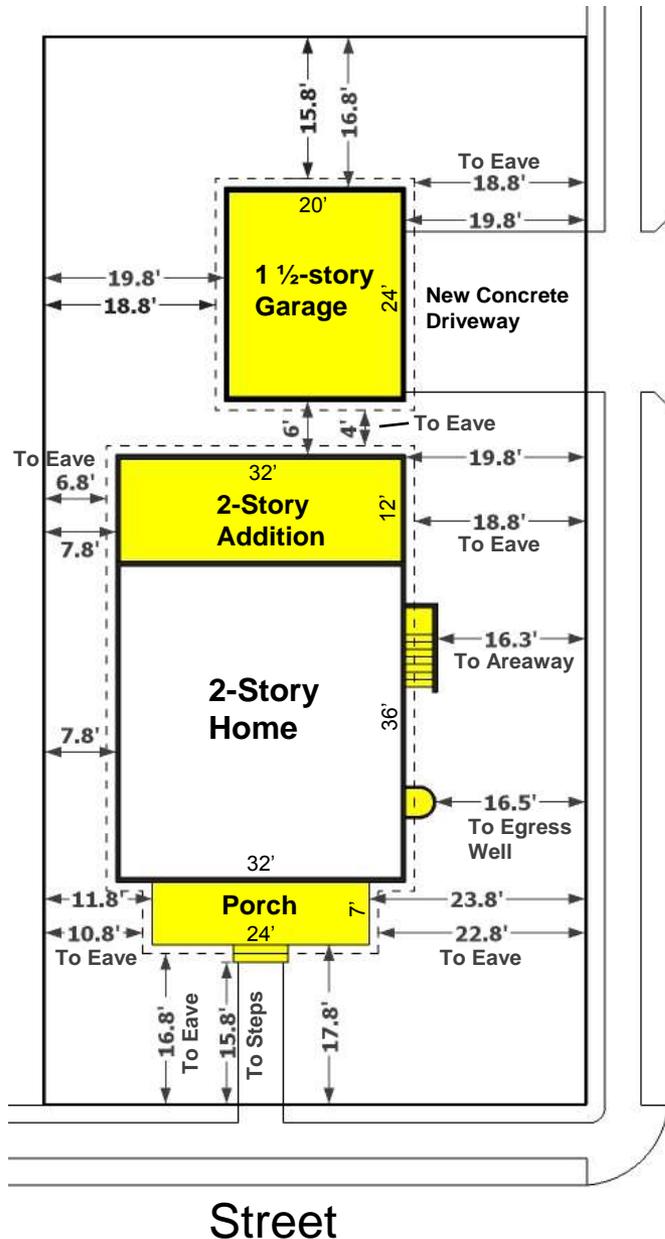
BZA Applications may be rejected by Zoning Division for the following reasons:

1. Incomplete applications
2. Using plats that are more than 10 years old or plats that do not show all improvements on the property
3. Plans and plats that are inconsistent (dimensions do not match)
4. Missing eave lines and setback dimensions to all proposed improvements from property lines
5. Incorrect dimensioning practices
6. Incorrect coverage calculations

REQUIRED PLANS

1. Plat to scale showing all existing and proposed improvements on the property regardless of whether the improvements require BZA approval or not. Plats should not be more than 10 years old. All improvements must be shown to calculate Lot Coverage (see the next two slides for examples of plats)
2. Floor plans of all levels where work is taking place must be provided for all enclosed additions. The full basement level must be shown when applying for window wells or areaways. Open porches, decks, stoops, and air conditioning units do not require full floor plans. Existing floor plans are extremely helpful!
3. Elevations of all sides that are visible. Provide Section Drawings for all detached accessory buildings, areaways, and window wells. For detached accessory buildings, Section Drawings with dimensions are necessary to determine whether the structure is a 1-story, 1 ½-story, or 2-story building.
4. Framing Plans are optional but can be helpful for showing overhangs and other details.

PROPOSED PLAT



1. All plats must be to scale with all improvements drawn to scale.
2. Plats that are older than 10 years or are missing previous improvements may not be accepted.
3. Dimensions must be provided between the new additions/structures and the street right-of-way or property line as well as accessory buildings in which setback reductions are being requested for.
4. Show all eave overhangs with dimensions to the street right-of-way or property lines in which the setback reductions are being requested for. Show dimensions to all other projections including walls, overhangs, steps, or other architectural features.
5. Check your math when showing setbacks (if the wall of the home is 19.8 feet from the street and you add an 8-foot deep porch, what is the setback you are requesting?)
6. If the property line is not parallel to the new addition it is recommended that a surveyor draws the new structure and setbacks onto a new plat for accuracy.
7. Surveyors use decimals rounded to a tenth of a foot while architects use inches. Make sure you convert these values correctly. X.X' may not equal X'- X".
8. Easements for public street purposes are considered to be part of the street right-of-way thus setback dimensions must be taken from these.

EXISTING FLOOR PLANS

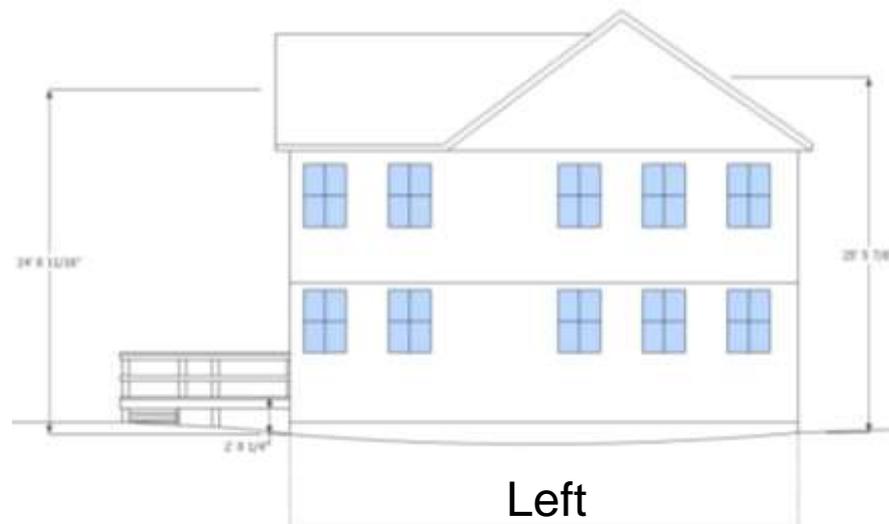
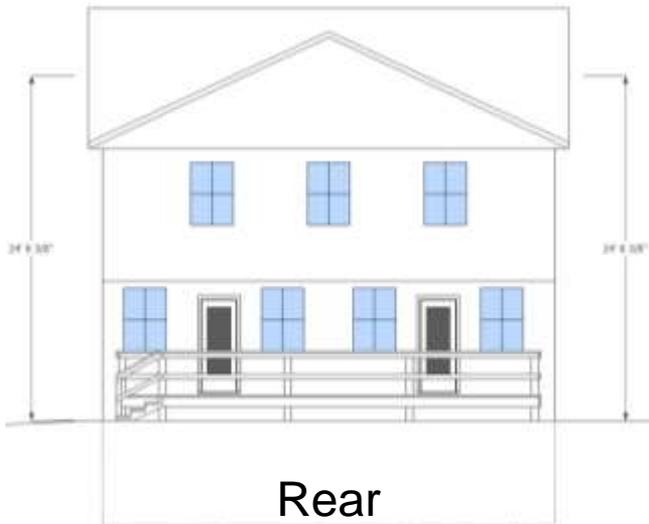
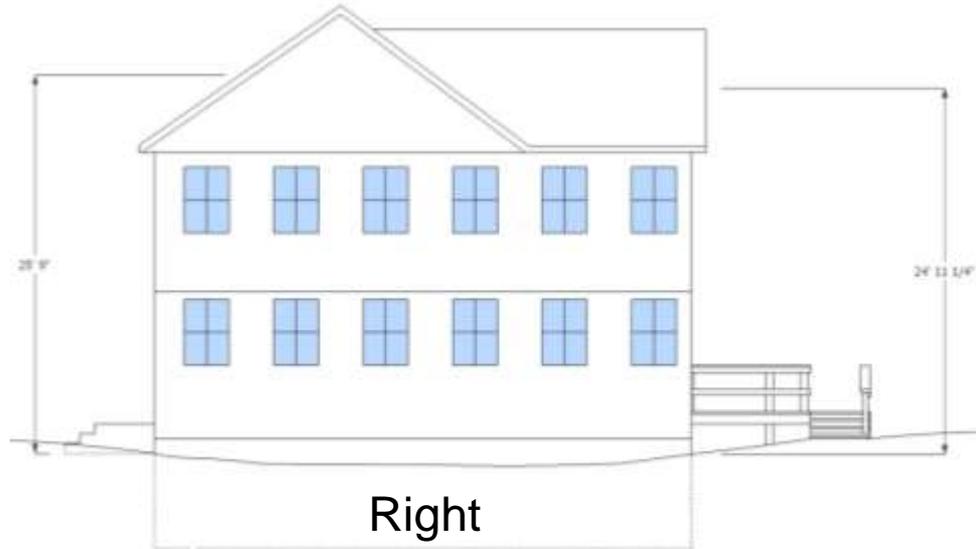
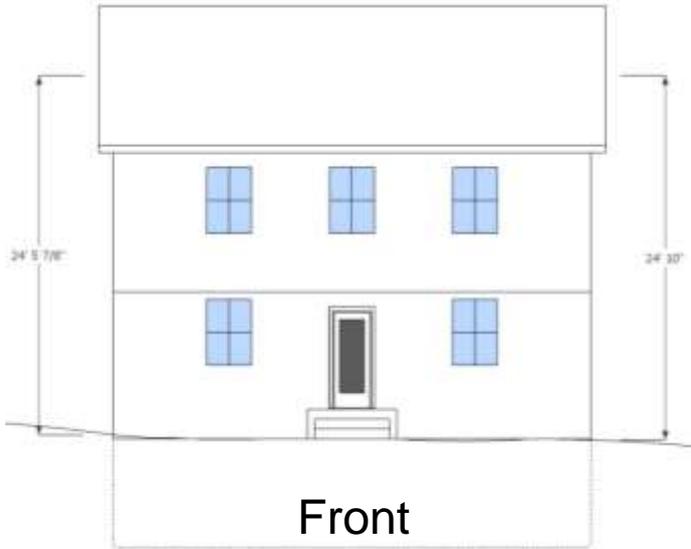


Basement

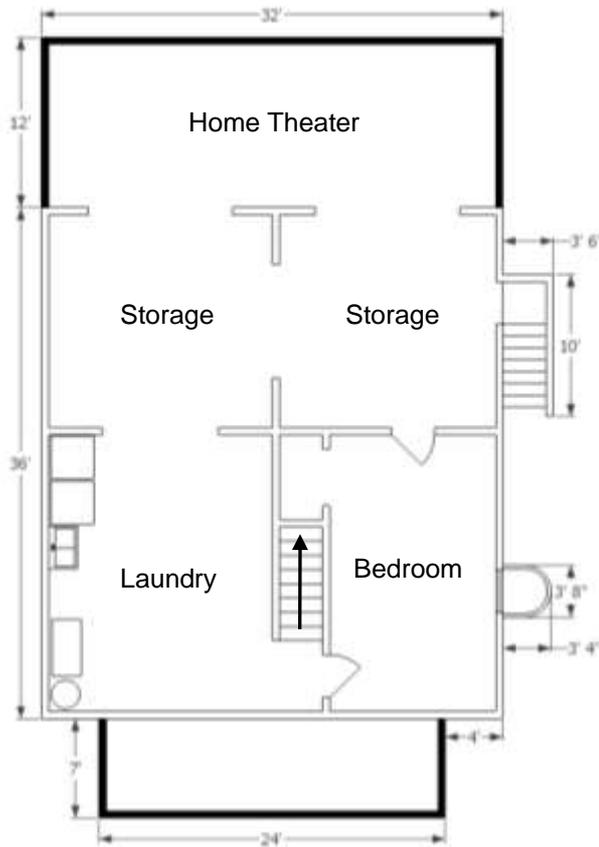
First Floor

Second Floor

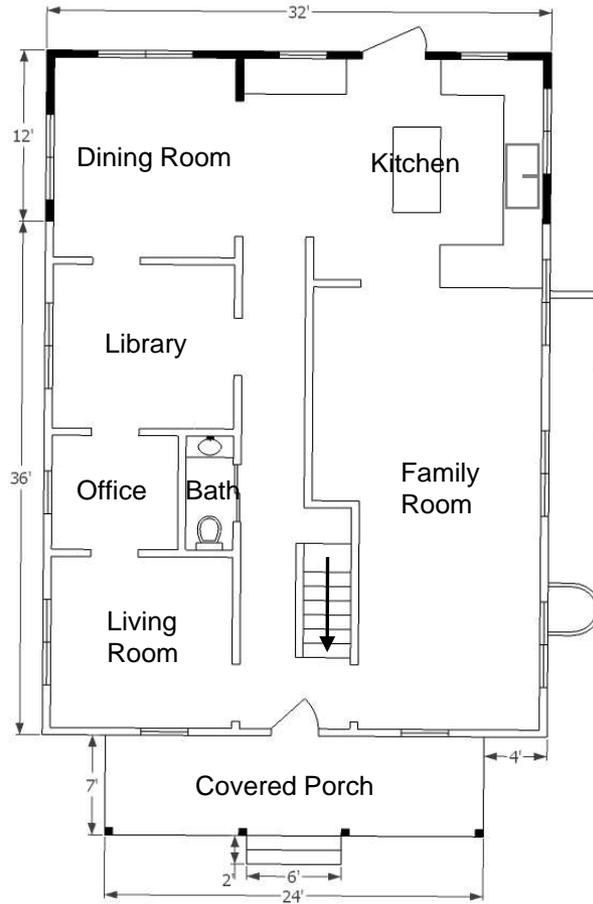
EXISTING ELEVATION DRAWINGS



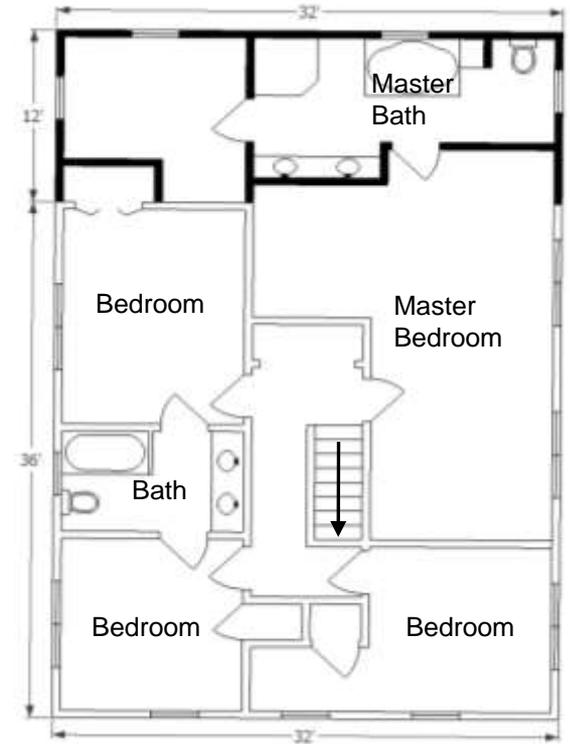
PROPOSED FLOOR PLANS



Basement



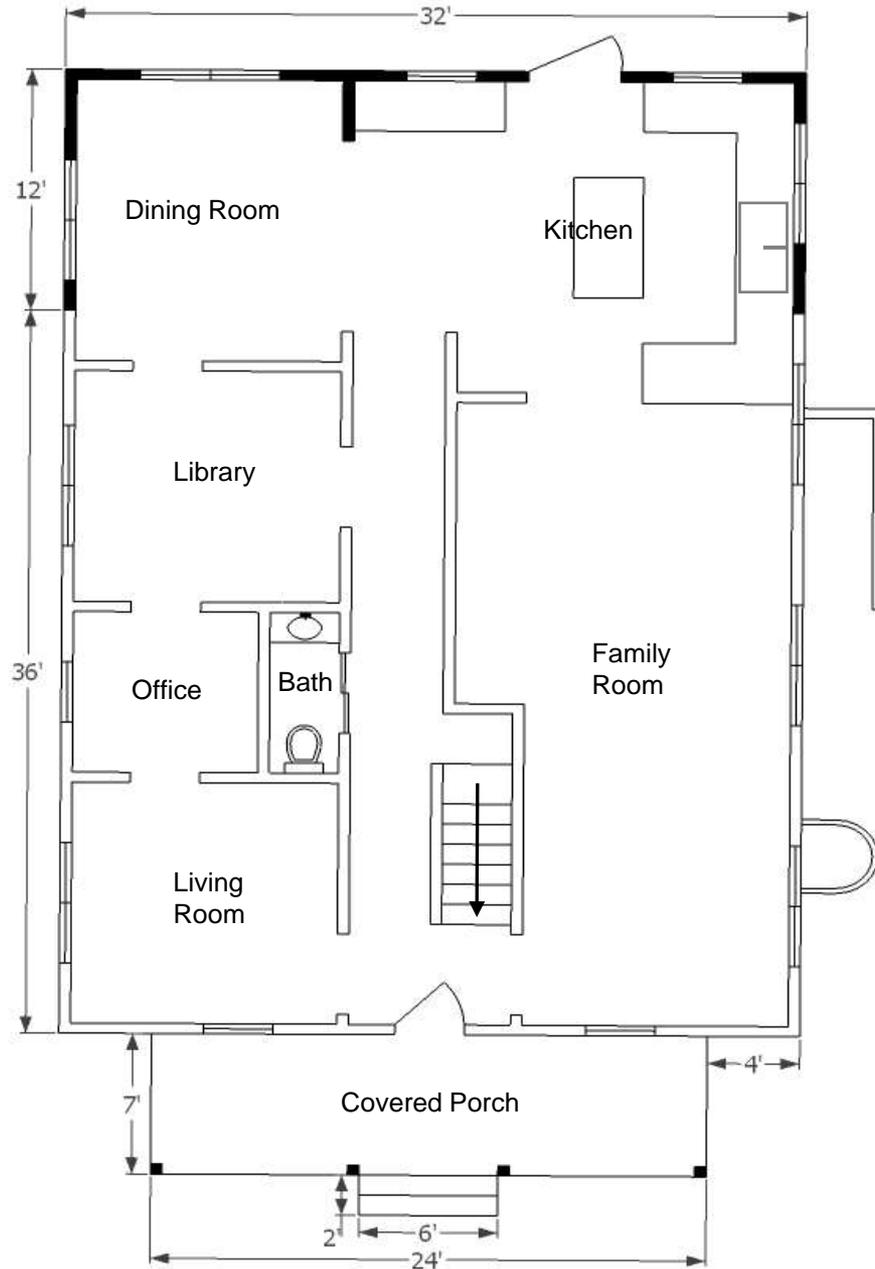
First Floor



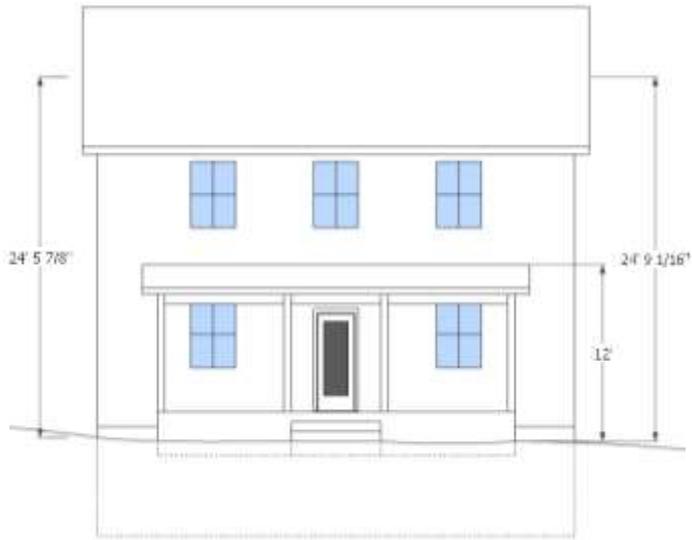
Second Floor

PROPOSED FLOOR PLANS

1. All dimensions of new structures must be provided including steps.
2. Floor Plan dimensions must match dimensions provided on the plat.
3. Dimensions must be taken to the furthest extent of the structure, edge-to-edge. See page 19.
4. Show scope of work by highlighting additions or hatching them.
5. All rooms should be labeled.



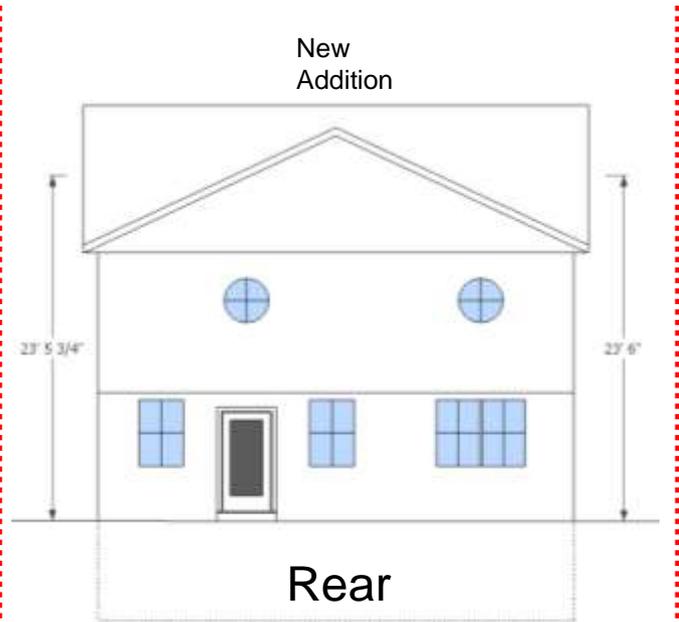
PROPOSED ELEVATION DRAWINGS



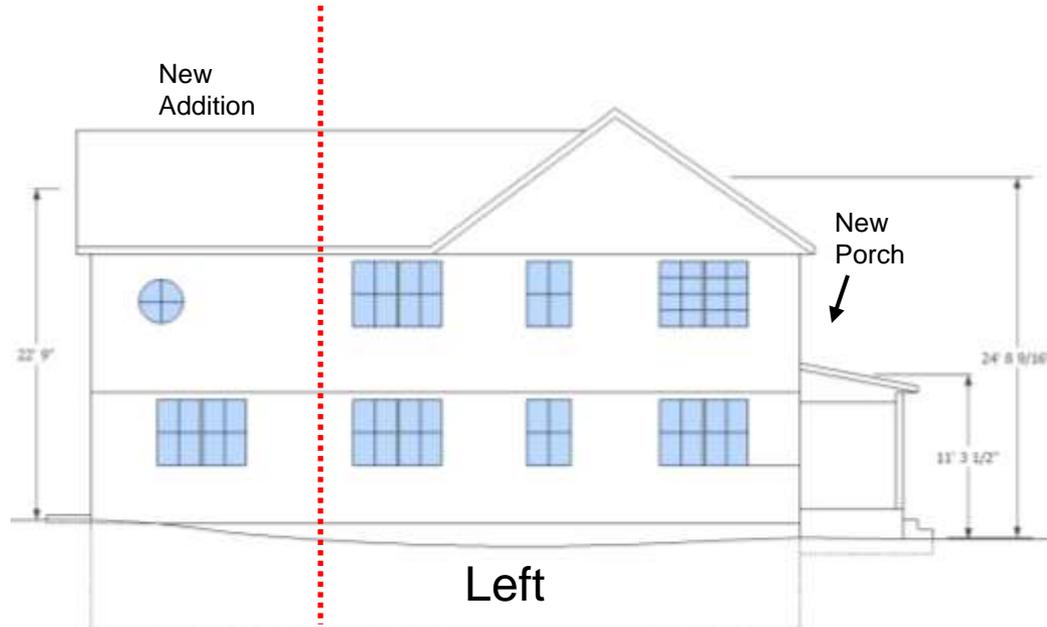
Front



Right



Rear



Left

ELEVATION DRAWINGS

1. At least one height dimension must be added to show the highest point of the new addition to grade, or from the midpoint of the roof to grade depending on the roof type. For new homes, elevation dimensions must be provided for all four corners of the home. (from midpoint of roof to existing grade)
2. All sides that are visible must be shown.
3. Eave dimensions should be provided on elevation drawings.



SECTION DRAWING

Required for detached accessory buildings that exceed 1 story.

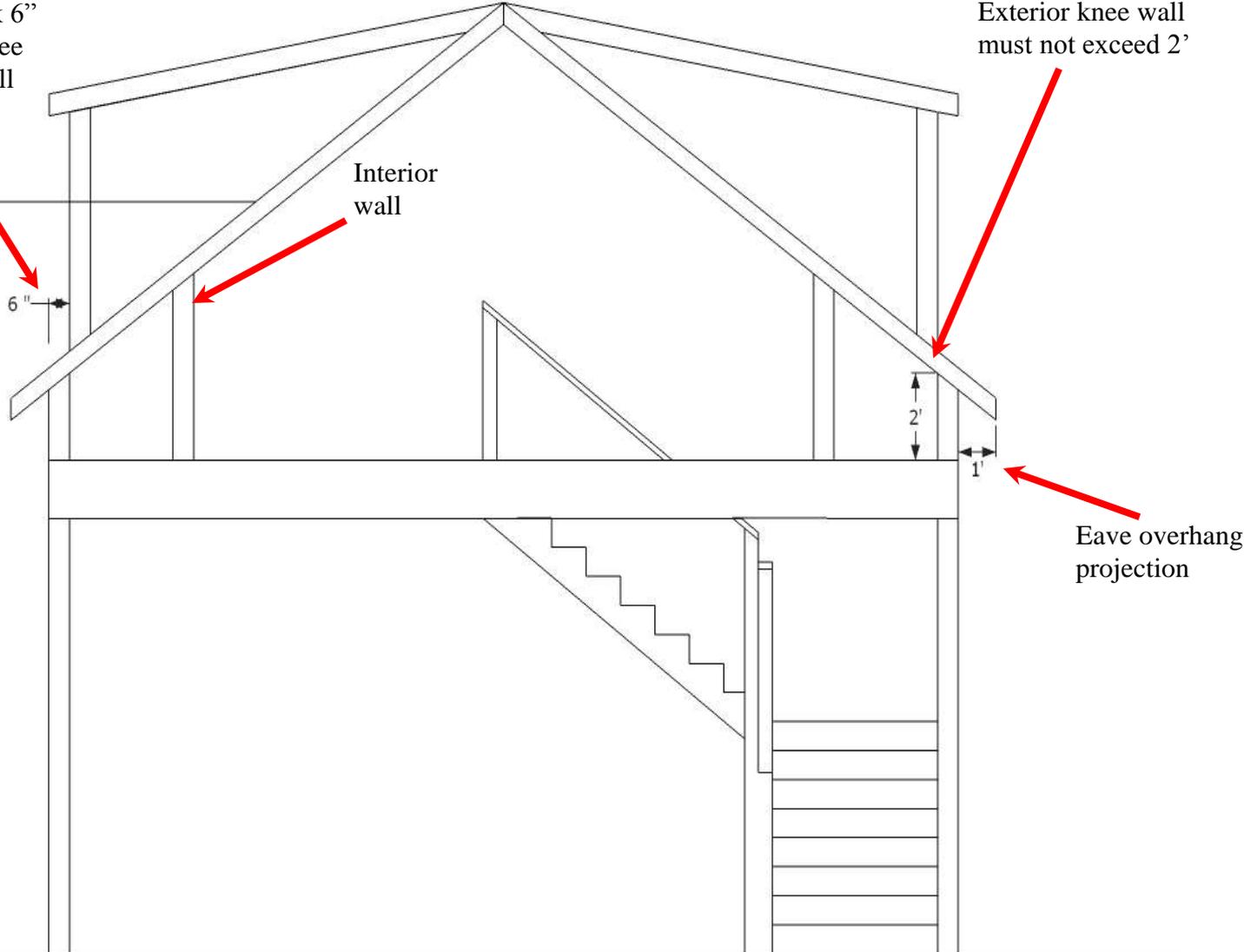
Front of dormer wall must be set back 6" from front of knee wall or main wall below

Exterior knee wall must not exceed 2'

Interior wall

Height from midpoint of roof or ridge of roof to grade

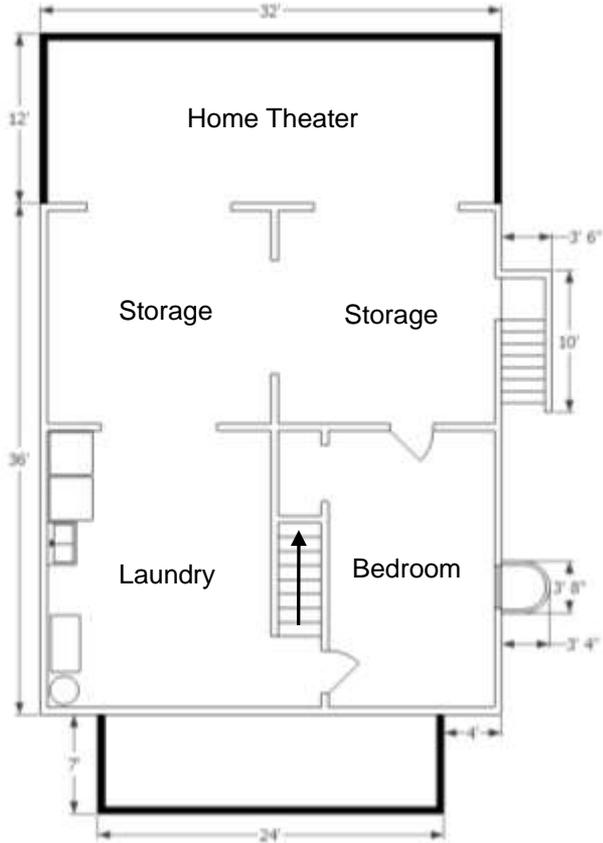
17' 10"



Eave overhang projection

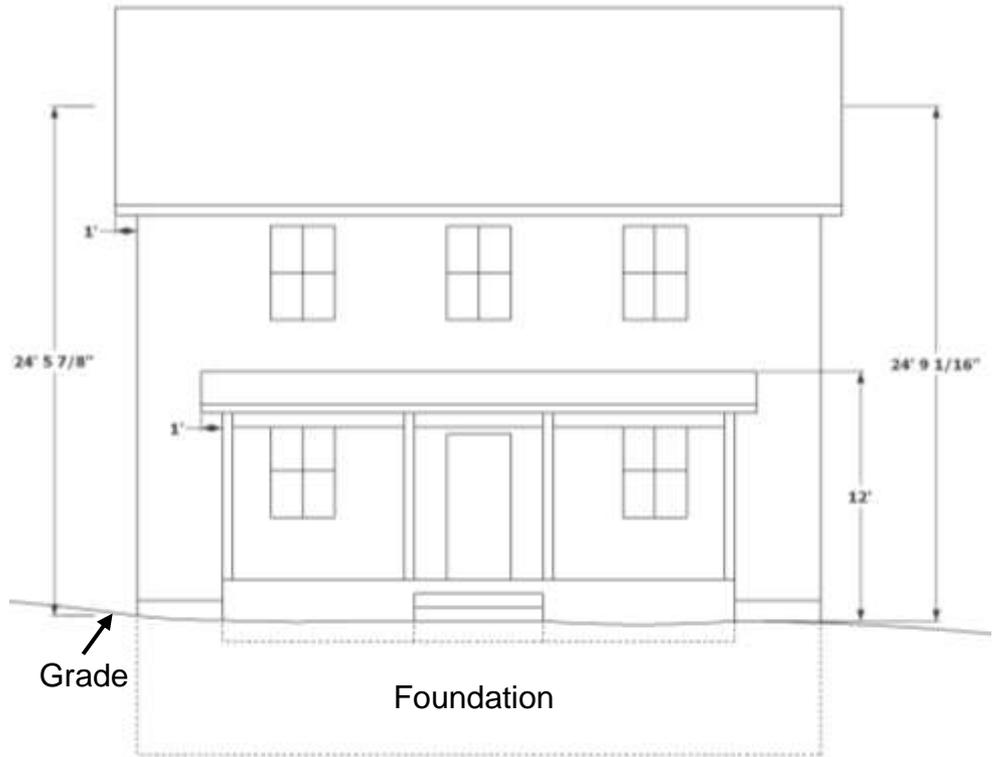
PROPER DIMENSIONING TECHNIQUES

Dimensions of width and depth must be provided (edge-to-edge) for all structures and projections, including veneer, trim, fascia, or siding.



Floor Plan including width and depth dimensions

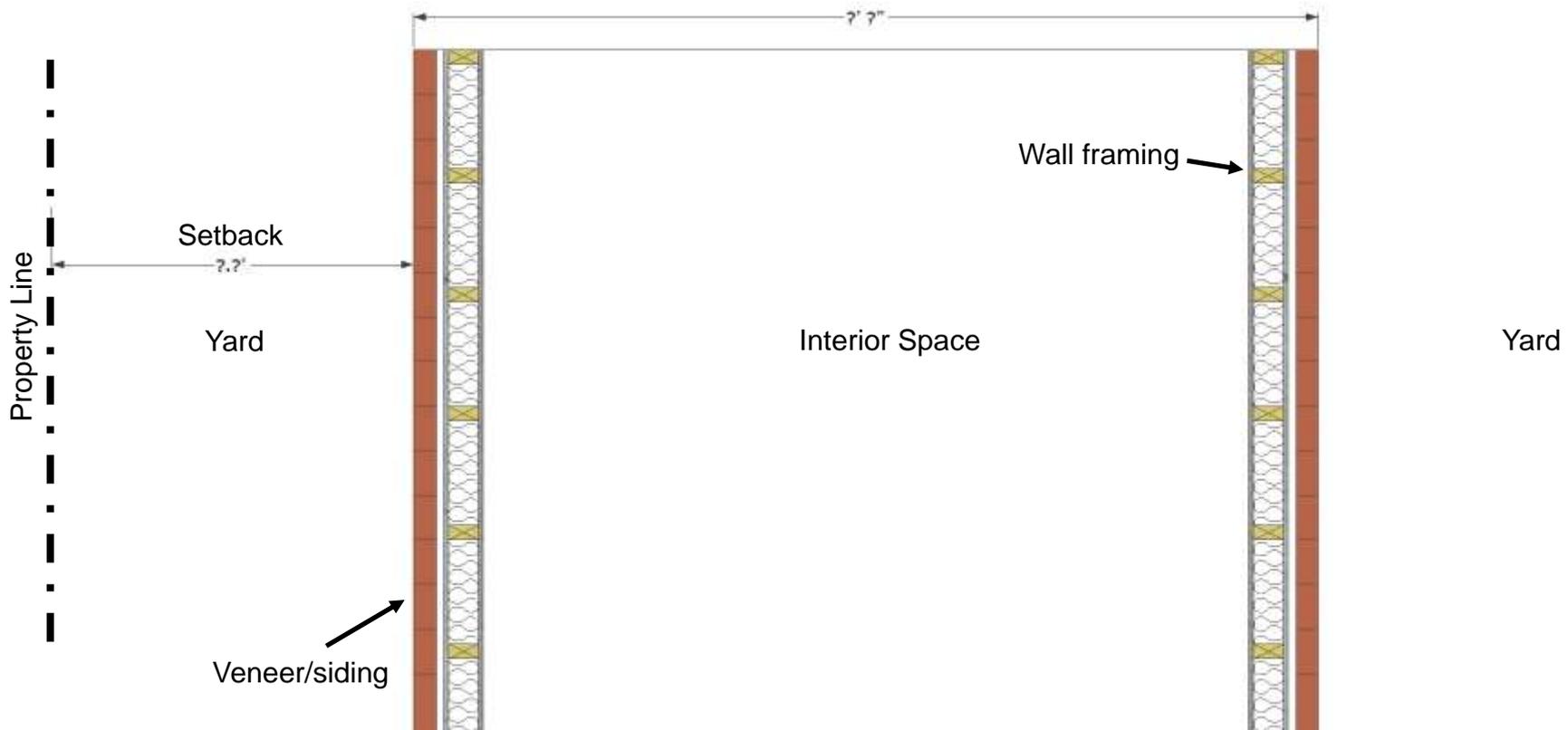
Dimensions of height must be provided either from the midpoint of the roof to existing natural grade or from the peak of the roof to the existing natural grade depending on the roof type.



Elevation Drawing with height dimensions

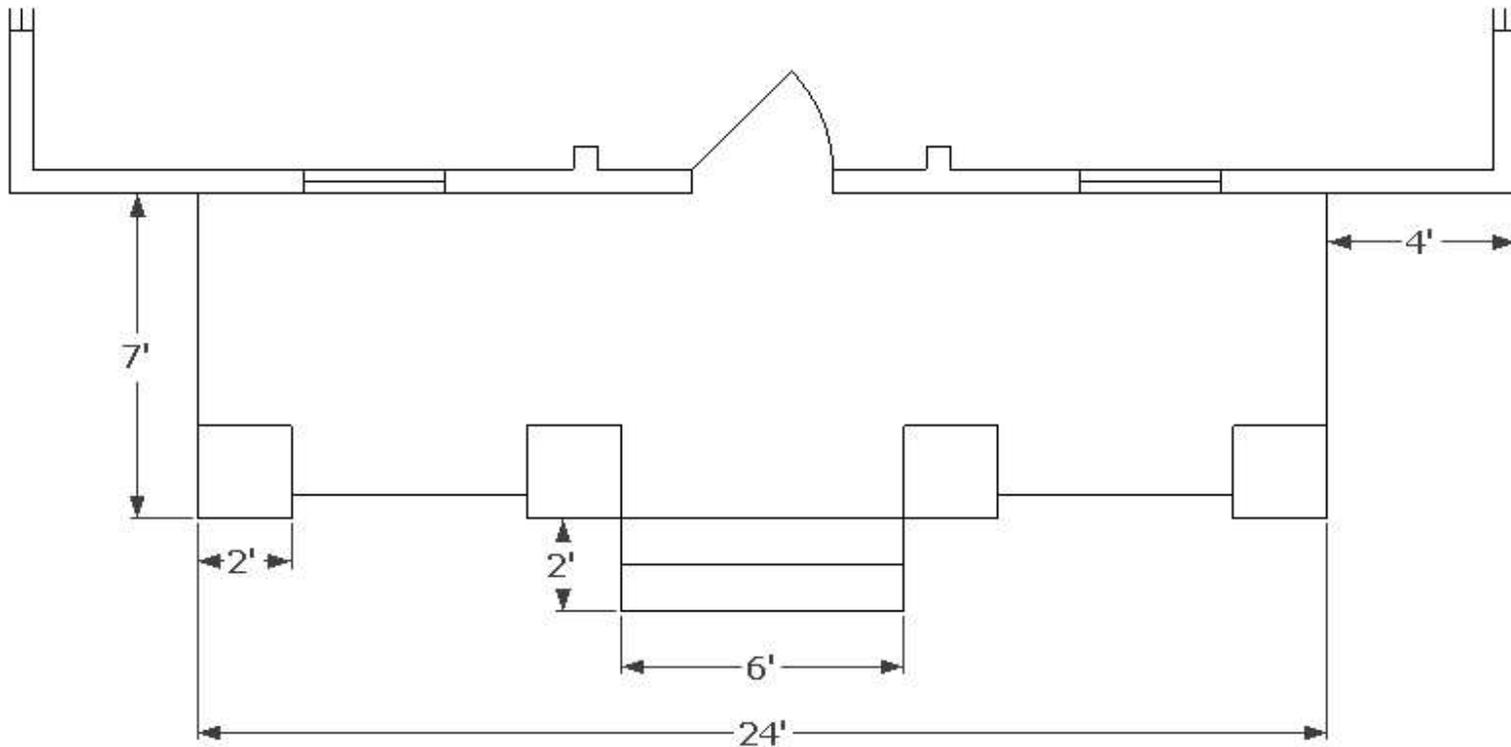
PROPER DIMENSIONING TECHNIQUES

Dimensions of width and depth must be provided (edge-to-edge) for all structures and projections, including veneer, trim, and siding. Floor plan dimensions and footprint dimensions on the plat must account for this. If a setback is granted, the wall and any trim or siding must meet this setback. Applicants will also be held to the proposed footprint dimensions shown on the plat and architectural plans. Once the BZA approves a Use Permit or Variance, the Zoning Administrator does not have the authority to permit additional encroachments into the setbacks or any increase in footprint dimensions caused by a further encroachment of trim, siding, or veneer.



PROPER DIMENSIONING TECHNIQUES

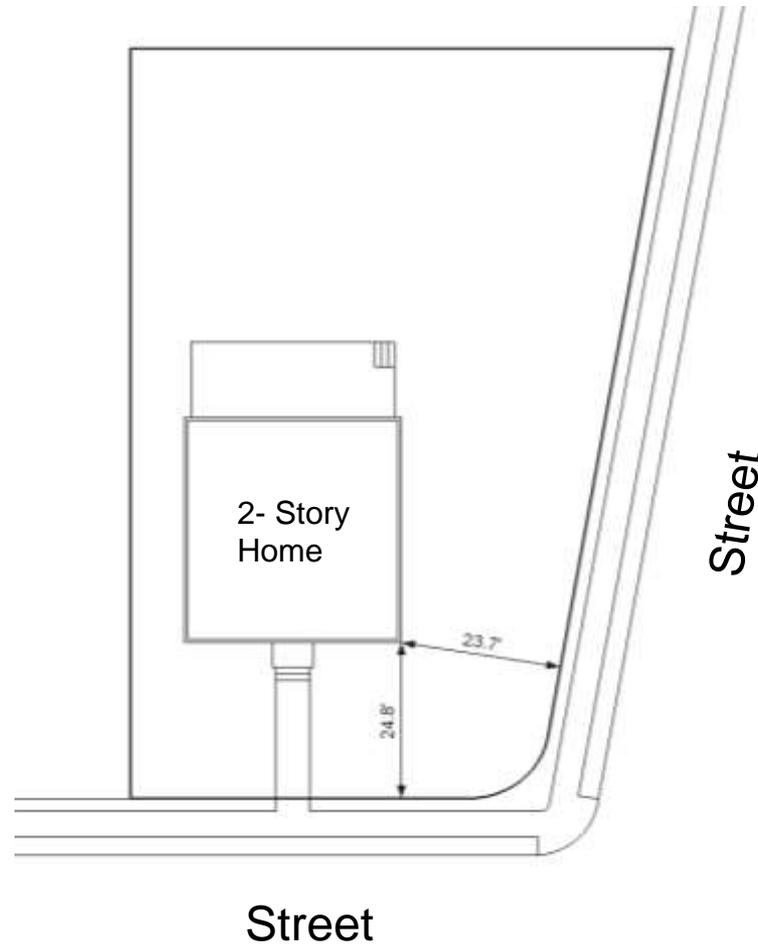
Dimensions of width and depth must be provided (edge-to-edge) for all structures and projections. Porches must account for any columns or floor boards that project beyond the base.



Floor Plan including width and depth dimensions

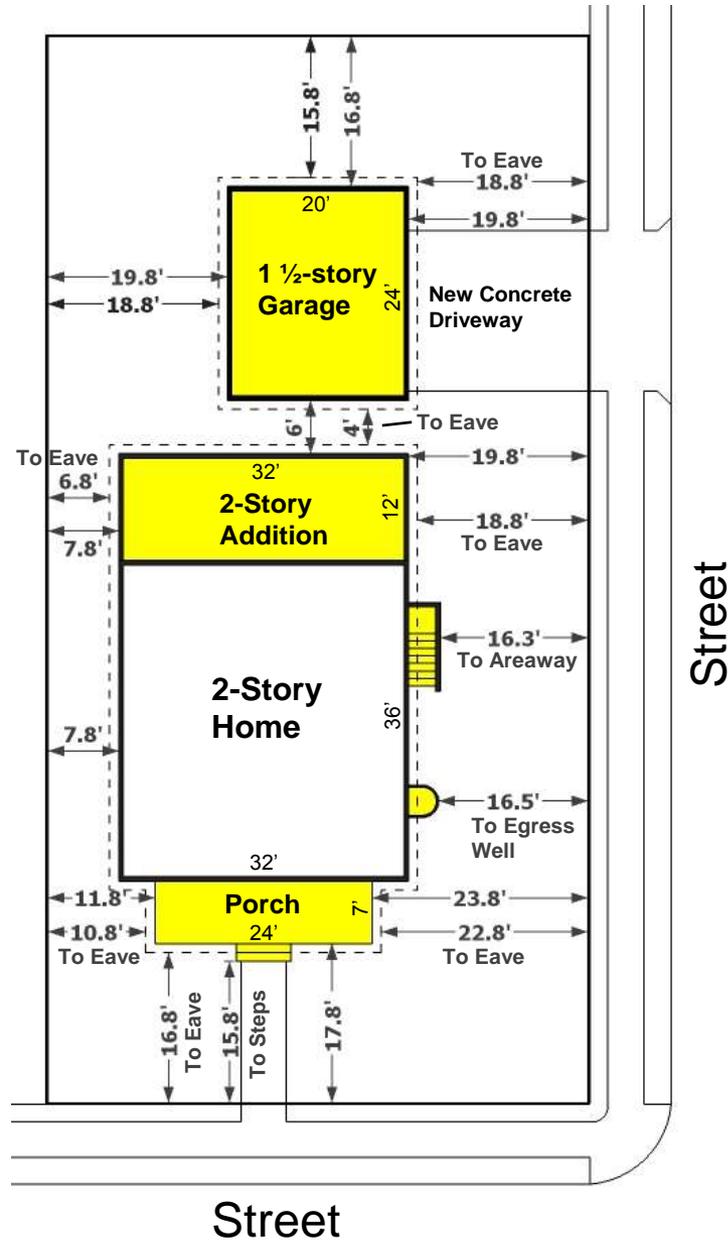
PROPER DIMENSIONING TECHNIQUES

1. Dimension lines must be drawn perpendicular to property lines and street right-of-way lines to obtain the closest distance to a structure.



PROPER DIMENSIONING TECHNIQUES

1. Dimensions must display the closest setback to all structures (including eaves and steps) from the property lines or street rights-of-way.



TIPS:

1. If dimensions are scaled on by the applicant, it is recommended that they should have a surveyor provide this information. A mistake could cause the applicant to go back through the BZA process and pay the fees again. This is especially the case for lots with curved property lines. Scaling is not 100% accurate.
2. Plans/structures approved by the BZA may not be enlarged or changed or the applicant must reapply, pay the fees again, and wait at least 2 months for the next hearing. Designs must be final and the Building Permit plans must be the same as what the BZA approved. The Zoning Division does not have the authority to grant changes to plans approved by the BZA.
3. It is suggested that customers set up a Code Consultation with ISD to make sure plans are showing everything required by the Building Code. For example stair requirements- an applicant may get a Use Permit approved but during plan review they realize they need a landing or other changes that will require them to return to the BZA.
4. If the plans are sketchy and unprofessional, they may not be accepted by the BZA or during submittal of the application- applicants should hire an Architect or Designer.

TIPS:

5. If a plat has a curved driveway that is hard to calculate the area of for lot coverage, a surveyor should provide the calculations- Staff may require this.
6. Building to the maximum setbacks, height, and coverage is risky because building errors may cause an applicant to return to the BZA for a Variance. Variances for excess coverage and height are often not supported by Staff or the BZA.
7. Wall Check surveys shall be performed once the foundation walls are poured and before any wall framing is constructed. Location errors can be caught and corrected at this phase. Failure to meet the setback, footprint size, coverage, or height granted by the BZA will require the applicant to return to the BZA, pay the fees again, and wait at least another 2 months to be heard. Denial of a building error by the BZA can result in the applicant tearing down walls or entire structures.
8. Always contact the Zoning Division if you are unsure of where a structure can be placed!
703-228-3883