



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

File Number	PL 24-039	Contact	John Kelley, jkelley@duluthmn.gov	
Type	Variance from shoreland setback	Planning Commission Date	May 14, 2024	
Deadline for Action	Application Date	March 15, 2024	60 Days	May 14, 2024
	Date Extension Letter Mailed	March 19, 2024	120 Days	July 13, 2024
Location of Subject	5730 London Road			
Applicant	Dean Jablonsky	Contact		
Agent	Bill Burns, Hanft Law	Contact		
Legal Description	PID# 010-2830-00150	Sign Notice Date	April 30, 2024	
Site Visit Date	March 29, 2024	Number of Letters Sent	27	

Proposal

The applicant is seeking a variance to have cantilevered decks on the main and upper levels, and extend building eaves on the rear side of a home within 50' of the shoreline of Lake Superior. The applicant will be using the existing foundation to construct a single-family home.

Staff Recommendation

Staff recommends that the Planning Commission approve the variance.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Residential	Traditional Neighborhood/Open Space
North	R-1	Residential	Traditional Neighborhood
South	N/A	Lake	N/A
East	R-1	Residential	Traditional Neighborhood
West	R-1	Residential	Traditional Neighborhood/Open Space

Summary of Code Requirements

Sec. 50-37.9.C – General Variance Criteria (paraphrased): Granting of variances of any kind is limited to situations where, due to characteristics of the applicant’s property, enforcement of the ordinance would cause the landowner exceptional practical difficulties. The Planning Commission must find the following for a variance to be granted: a) That the landowner is proposing to use the property in a reasonable manner, b) that the need for relief from the normal regulations is due to circumstances unique to the property and not caused by the landowner, c) that granting the variance will not alter the essential character of the area, d) that granting the variance is consistent with the intent of the UDC and the Comprehensive Plan.

Sec. 50-37.9.L No variance shall be granted that compromises the general purposes or intent of Section 50-18.1.D or results in adverse consequences to the environment. Variances shall include a requirement for the applicant to mitigate the impacts of the variance on shoreland areas.

Comprehensive Plan Governing Principle and/or Policies and Current History (if applicable):

Governing Principle 5 – Promote reinvestment in neighborhoods through land use and transportation that foster neighborhood reinvestment. New development or redevelopment should maximize public investment that strengthens neighborhood commercial centers or diversifies residential opportunities that fit the neighborhood's..... The home owner will be reinvesting in their home in the Lakeside neighborhood by completing the proposed renovations to the dwelling.

Future Land Use

Traditional Neighborhood: Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Limited commercial, schools, churches, and home businesses.

Open Space: High natural resource or scenic value, with substantial restrictions and development limitations. Primarily public lands but limited private use is anticipated subject to use and design controls.

History

The structure was constructed in 1983 as an accessory garage and workshop for the dwelling at 5802 London Rd. The owner converted an existing space located below the garage into a vacation dwelling unit containing 2 bedrooms (5 guests) and a patio. An Interim Use Permit (PL 22-208) for a Vacation Dwelling Unit approved in December of 2022. The applicant will be using the existing foundation to construct a single-family home.

Review and Discussion Items:

Staff finds that:

- 1) The applicant is seeking a variance to have a cantilevered deck and building eaves on the rear side of a home within 50' of the shoreline of Lake Superior. The applicant will be using the existing foundation to construct a single-family home.
- 2) The parcel is approximately 100' x 140' +/- and is zoned R-1, Residential Traditional. The site slopes downward from London Road to the shoreline of Lake Superior with sections of steeper sloping terrain to the east and southern portions of the site. The 58th Avenue East Creek is located west of the existing structure and piped underground as a storm water line through an existing MnDOT drainage easement.
- 3) The existing structure was constructed prior to the adoption of the UDC shoreland setback requirements. Due to the proximity of the proposed structure's exterior decks and roof line eaves to the Lake Superior shoreline, it's classified as general development waters and requires a 50' setback from the shoreline's Ordinary High-Water Level (OHWL). Since the proposed decks and eaves will be constructed within 50' feet of the Lake Superior shoreline, a variance to shoreland setback standards is required.
- 4) The existing structure foot print and proposed exterior walls meet the 50' shoreland setback; however, the proposed lower and upper level decks, and roof line eaves on the rear portion of the new construction on the house, extend into the shoreland setback and are elevated above the sloping terrain.
- 5) The applicant stated that due to the practical difficulties of the MNDOT drainage easement to the west side of the site, steep slope topography, and location of existing foundation in contrast to required minimum shoreland setbacks from Lake Superior, a shoreland variance is requested.
- 6) The applicant is proposing to use the property in a reasonable manner by using the existing structure foot print to construct a single-family home. Staff finds the applicant has practical difficulty due to the proximity of the MNDOT utility easement and sloping terrain to the south and east that are creating a challenging building area to accommodate the proposed house.
- 7) Section 50-37.9.L of the UDC requires mitigation for shoreland variances; in this instance, the applicant is proposing additional impervious surface with the building expansion and vegetation removal is anticipated for the structure. These improvements will be outside of the 50-foot shoreland setback. The proposed structure's exterior decks and roof line eaves will be elevated above the surface of the ground so staff has determined that no mitigation is necessary.
- 8) The applicant's practical difficulty was not created by the landowner but rather is due to the way the property was initially developed and its proximity to Lake Superior and the adjacent MnDOT easement.
- 9) The variance will not alter the essential character of the neighborhood where there are a number of homes of similar size.
- 10) The variance allowing a reduction of a setback will not impair an adequate supply of light and air to adjacent properties.

- 11) The proposal will not increase congestion in public streets or unreasonably diminish or impair established property values within the surrounding areas.
- 12) No comments from the public, agencies or the City were received.
- 13) Per UDC Section 50-37.1.N, approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year.


Staff Recommendation

Based on the above findings, Staff recommends that the Planning Commission approve the variance with the following conditions:

- 1) The project be limited to the plans submitted with the proposed roof line eaves and decks no closer than 43' from the ordinary high-water line of Lake Superior.
- 2) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.



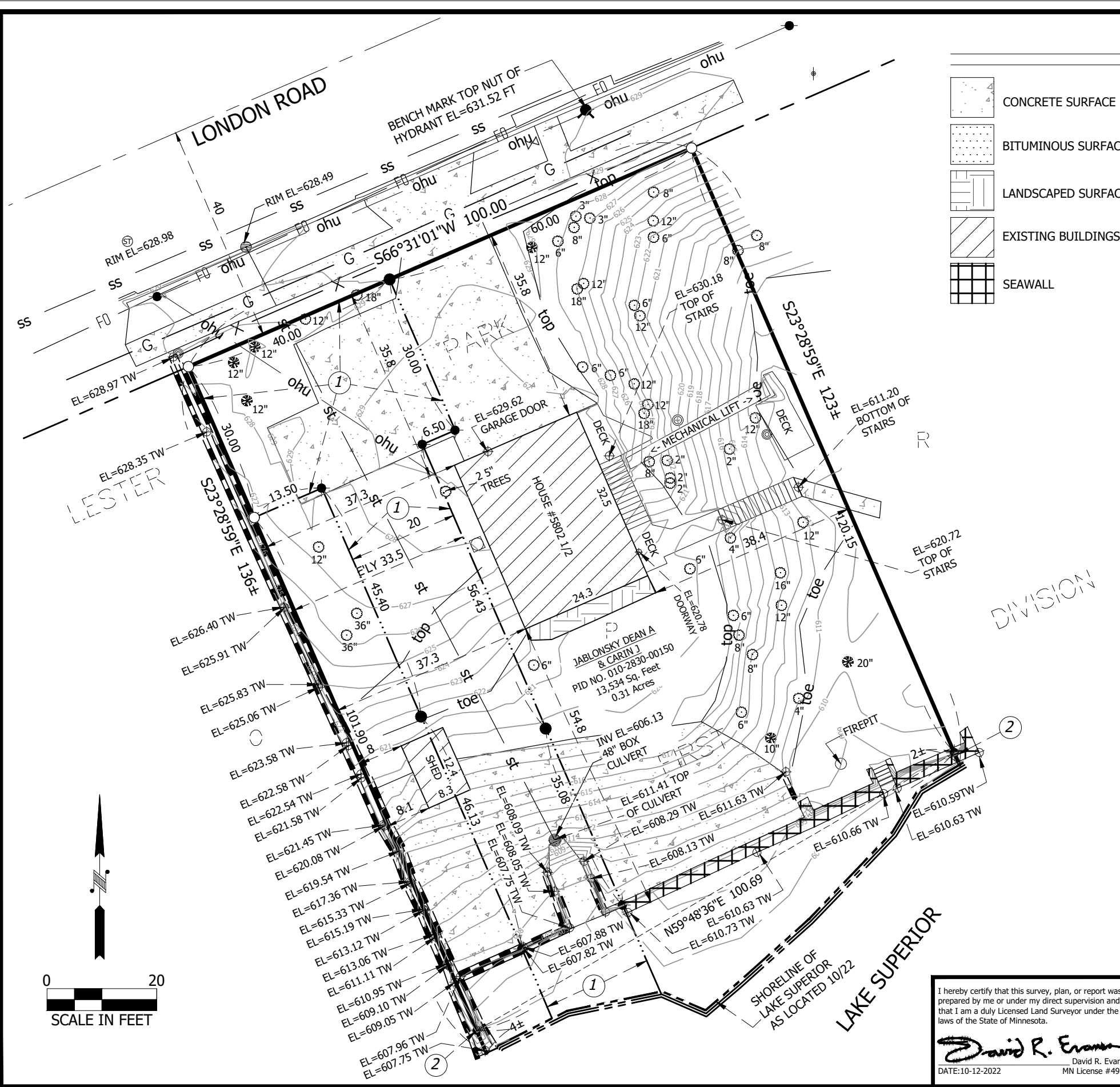
PL 24-039
 Variance - Shoreland
 5730 London Road
 Area Map

Legend
 Zoning Boundaries



The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.





LEGEND

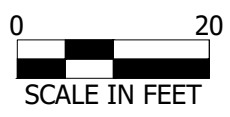
	CONCRETE SURFACE	TW-TOP OF WALL ELEVATION		HYDRANT
	BITUMINOUS SURFACE	toe		WATER VALVE
	LANDSCAPED SURFACE	top		LIGHT POLE
	EXISTING BUILDINGS	X		AC UNIT
	SEAWALL	G		CONIFEROUS TREE
		ohu		DECIDUOUS TREE
		ss		POST/BOLLARD
		st		SPOT ELEVATION
		=====		REFER TO SURVEYOR'S NOTES
		=====		SET 1/2" REBAR
		=====		SET MAG NAIL
		=====		SET CAPPED REBAR RLS. NO. 49505
		=====		ELEC PEDESTAL
		=====		GUY ANCHOR
		=====		UTILITY POLE
		=====		STORM MANHOLE
		=====		CATCH BASIN
		=====		CULVERT
		F0		

LEGAL DESCRIPTION PER CERTIFICATE OF TITLE NO. 350787

Lot P LESTER PARK FIRST DIVISION

SURVEYOR'S NOTES

- STATE OF MINNESOTA DRAINAGE EASEMENT PER CERTIFICATE OF TITLE NO. 350787 AND TORRENS DOCUMENT NO. 925262.
- SET MAG NAIL ON RETAINING WALL FOR PROPERTY LINE MARKER.
- THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA LAND SURVEY COMPANY. THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR SHOWING THE LOCATION OF RECORDED OR UNRECORDED EASEMENTS OR OTHER ENCUMBRANCES NOT PROVIDED TO THE SURVEYOR AS OF THE DATE OF THE SURVEY.
- BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996. (NAD 83 2011)
- BUILDING DIMENSIONS SHOWN ARE FOR HORIZONTAL & VERTICAL PLACEMENT OF STRUCTURE ONLY. SEE ARCHITECTURAL PLAN FOR BUILDING FOUNDATION DIMENSIONS.
- NO SPECIFIC SOILS INVESTIGATION HAS BEEN COMPLETED ON THIS LOT BY ALTA LAND SURVEY COMPANY. THE SUITABILITY OF SOILS TO SUPPORT THE SPECIFIC STRUCTURE PROPOSED IS NOT THE RESPONSIBILITY OF ALTA LAND SURVEY COMPANY OR THE SURVEYOR.
- BENCHMARK SHOWN ON SURVEY.
- UTILITIES SHOWN ON THIS SURVEY ARE SHOWN FOR APPROXIMATE LOCATION ONLY AND SHOULD BE VERIFIED BEFORE ANY EXCAVATION OR CONSTRUCTION.



CERTIFICATE OF SURVEY

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.
David R. Evanson
 David R. Evanson
 MN License #49505

CLIENT: DEAN JABLONSKY
 ADDRESS: 5802 1/2 LONDON RD,
 DULUTH, MN 55804
 DATE: 10-12-2022

REVISIONS: 1-9-24 SHOW NEW SEAWALL AND BUILDING TIES TO OUTSIDE OF SEAWALL PER CLIENT
 JOB NO: 22-306
 SHEET 1 OF 1



London Road Concept NOT FOR CONSTRUCTION



**BRUCKELMYER
BROTHERS**

2304 Lismore Road
Duluth MN 55804

www.bruckelmyerbrothers.com

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GENERAL NOTES

CONTRACTOR RESPONSIBLE TO ENSURE ALL WORK COMPLIES WITH THE LATEST EDITION OF THE INTERNATIONAL RESIDENTIAL CODE, INTERNATIONAL ENERGY CONSERVATION CODE, UNIFORM PLUMBING CODE, UNIFORM MECHANICAL CODE AND ALL LOCAL BUILDING CODES AND PRACTICES.

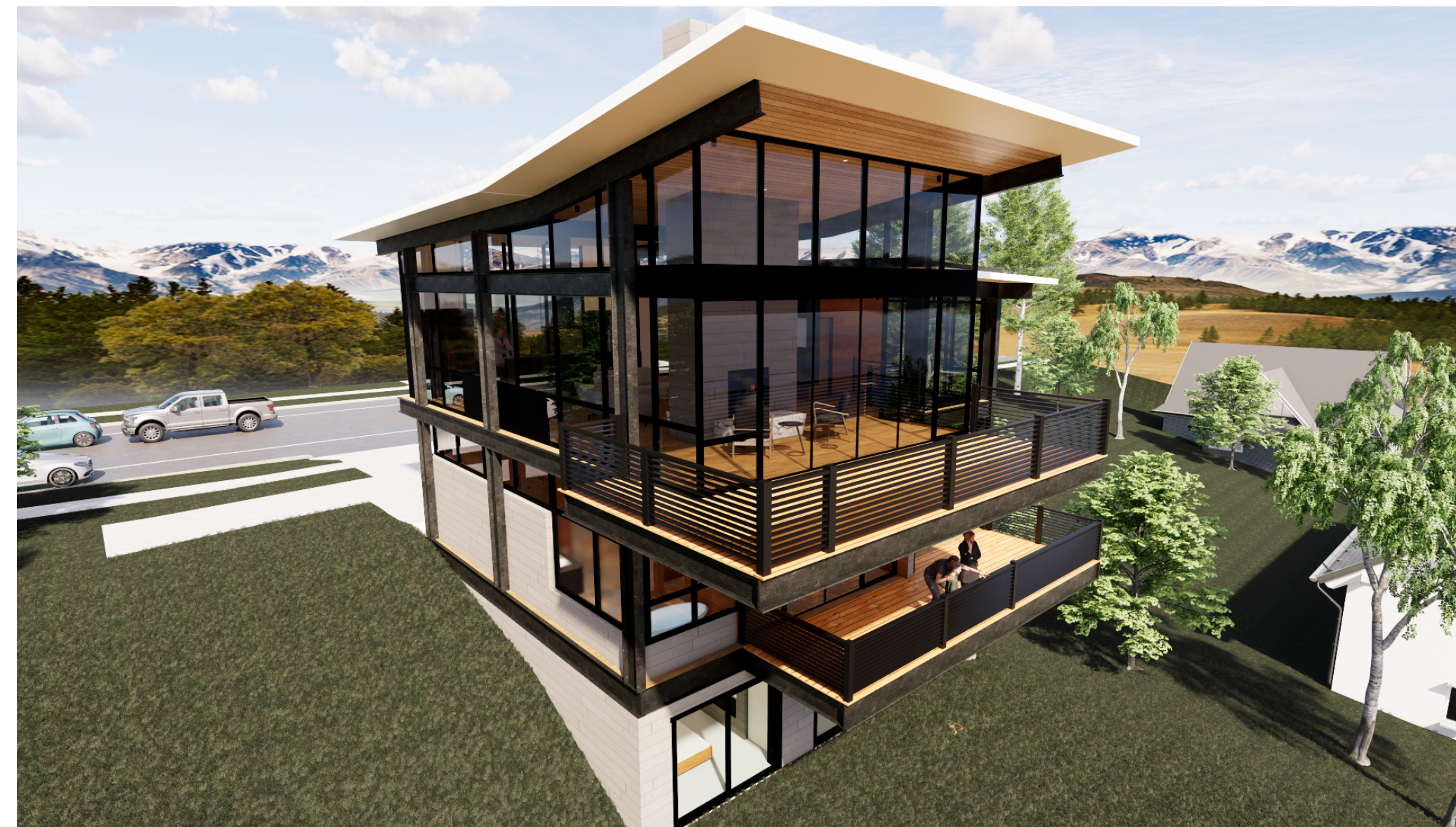
CONTRACTOR RESPONSIBLE FOR ATTAINING ALL NECESSARY PERMITS AND HOOK UP FEES.

ONLY DATED DOCUMENTS LABELED AS "CONSTRUCTION SET" SHALL BE USED DURING PHYSICAL CONSTRUCTION.

ONLY DIMENSIONED LENGTHS SHALL BE USED DURING CONSTRUCTION. PHYSICAL SCALING OF DRAWINGS SHALL NOT BE ASSUMED CORRECT.

ABBREVIATIONS

*A.B. - Anchor bolt	*LFT. - Linear Feet
*ADD - Addition	*LAM. - Laminate
*B.C. - Bookcase	*LAV. - Lavatory
*BD. - Board	*L.D. - Lead
*BLDG. - Building	*LIN. - Linear
*BLK. - Block	*LTG. - Lighting
*BM. - Beam	*L.V.L. - Laminated Veneer Lumber
*B.O. - Bottom Of	*M.O. - Masonry Opening
*B.O.F. - Bottom Of Footing	*MAS. - Masonary
*C. - Carbon Monoxide Detector	*MAT. - Material
*CS. - CO/ Smoke Detector	*MAX. - Maximum
*CSMNT. - Casement	*MECH. - Mechanical
*CAB. - Cabinet	*MFG. - Manufacturing
*C.L. - Center Line	*MIN. - Minimum
*CL. - Closet	*MTL. - Metal
*CLG. - Ceiling	*MUL. - Mullion
*C.O. - Cased Opening	*N.T.S. - Not to Scale
*COL. - Column	*N.C.M. - Non Corrosive Material
*CAB. - Cabinet	*N.F.C. - Not for Construction
*CIP. - Cast In Place	*NLR. - Nailer
*CONC. - Concrete	*NO. - Number
*C.T. - Ceramic Tile	*O.C. - On Center
*D/W. - Dishwasher	*O.D. - Outer Diameter
*DEMO. - Demolition	*O.H. - OverHead
*DIA. - Diameter	*OPNG. - Opening
*DIM. - Dimension	*P. - Paint
*DN. - Down	*PART. - Partition
*DR. - Door	*PAV. - Pavers
*EA. - Each	*P.C. - Pre-Cast Concrete
*ELEV. - Elevation	*PERF. - Perforated
*ELECT. - Electrical	*PL. - Plaster
*EXIST. - Existing	*PLT. - Plate
*EXT. - Exterior	*P.L. - Property Line
*F.A. - Fire Alarm	*PLYWD. - Plywood
*F.D. - Floor Drain	*POLY-V.B. - Poly Vapor Barrier
*F.E. - Fire Extinguisher	*P.S.F. - Pounds per Square Foot
*FDN. - Foundation	*P.S.I. - Pounds per Square Inch
*FIN. - Finish	*P.T. - Pressure Treated
*FLR. - Floor	*PWR. - Power
*FLG. - Flooring	*QTY. - Quantity
*FURN. - Furnace	*RAD. - Radius
*GALV. - Galvanized	*R.O. - Rough Opening
*GAR. - Garage	*REFRIG. - Refrigerator
*GL. - Glass	*REF. - Reference
*GYP. - Gypsum	*REINF. - Reinforcement
*H.B. - Hose Bib	*RM. - Room
*H.C. - Hollow Core	*RMV. - Remove
*HDW. - Hardware	*S.D. - Smoke Detector
*HGT. - Height	*SECT. - Section
*HOR. - Horizontal	*SHT. - Sheet
*HR. - Hour	*SHTG. - Sheathing
*H.R. - Hand Rail	*SPECS. - Specification
*HTR. - Heater	*SQ.FT. - Square Feet
*H.V.A.C. - Heating Ventillation & Air Conditioning	*SQ.IN. - Square Inch
*H.W. - Hot Water	*STD. - Standard
*ICF. - Insulated Concrete Forms	*T&G. - Tongue & Groove
*I.D. - Inside Diameter	*T.O. - Top Of
*INCL. - Including	*TYP. - Typical
*INSUL. - Insulation	*UNF. - Unfinished
*INT. - Interior	*UNO. - Unless Noted Otherwise
*JST. - Joist	*V.C.T. - Vynil-Ceramic Tile
*K.D. - Knock Down	*W.C. - Water Closet (Toilet)
*K.O. - Knock Out	*WDW. - Window
	*WCT. - Wainscot
	*WD. - Wood
	*W.I.C. - Walk in Closet



Area Schedule...

Name	Area
Basement	1224 SF
Level 1	805 SF
Level 2	1235 SF
Garage	262 SF

Lake Superior Remodel Home

5730 London Rd.
Duluth, MN 55804

Approved by	EB
Designed by	LH
Revision #	0
Rev. Date	2/29/2024 3:11:54 PM
Project Start Date	-
Project number	2207
Scale	

Cover

Sheet **A-1.00**

London Rd



**BRUCKELMYER
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2304 Lismore Road
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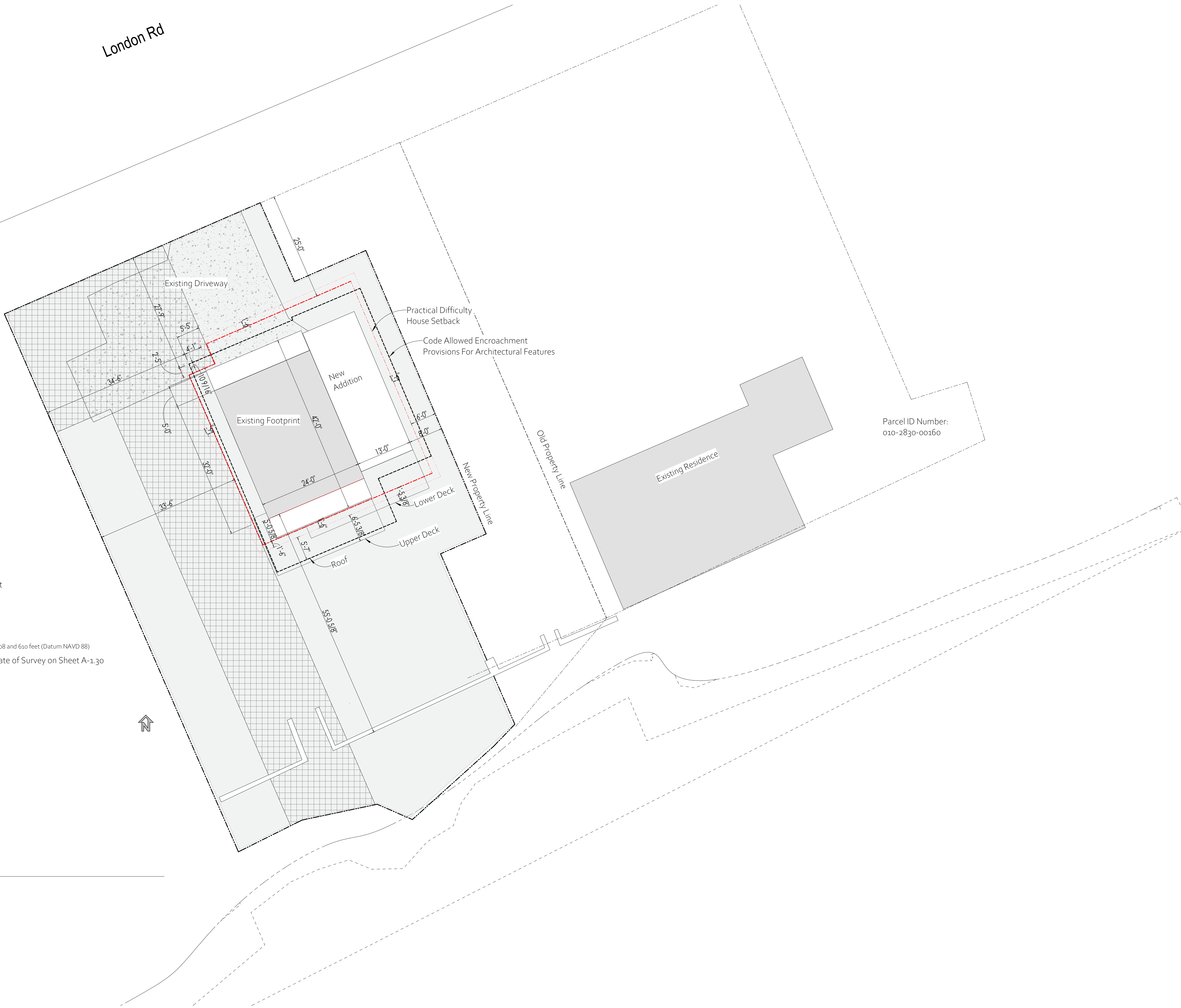
These plan documents have been created for our Client and remain property of our Client and Bruckelmyer Brothers Construction, L.L.C. Any use or publication of these documents is not permitted without written consent from Bruckelmyer Brothers Construction and our client from the date of contract signing until contract completion.

- New Addition
- Existing Footprint
- Property Line
- House Setback
- House Roof
- Deck
- MN DOT Easement
- Sea Wall
EL= 610.6'
OHWL= DNR between 608 and 610 feet (Datum NAVD 88)
*See Certificate of Survey on Sheet A-1.30
- Driveway

Parcel ID Number:
010-2830-00150



1 Site Plan
A-1.10 3/32" = 1'-0"



Parcel ID Number:
010-2830-00160

PROPERTY GUIDELINE

Side Yard Setback:	6'
Rear Yard Setback:	25'
Front Yard Setback:	25'
Max Building Height:	30'
Lake OHWL Setback:	50'

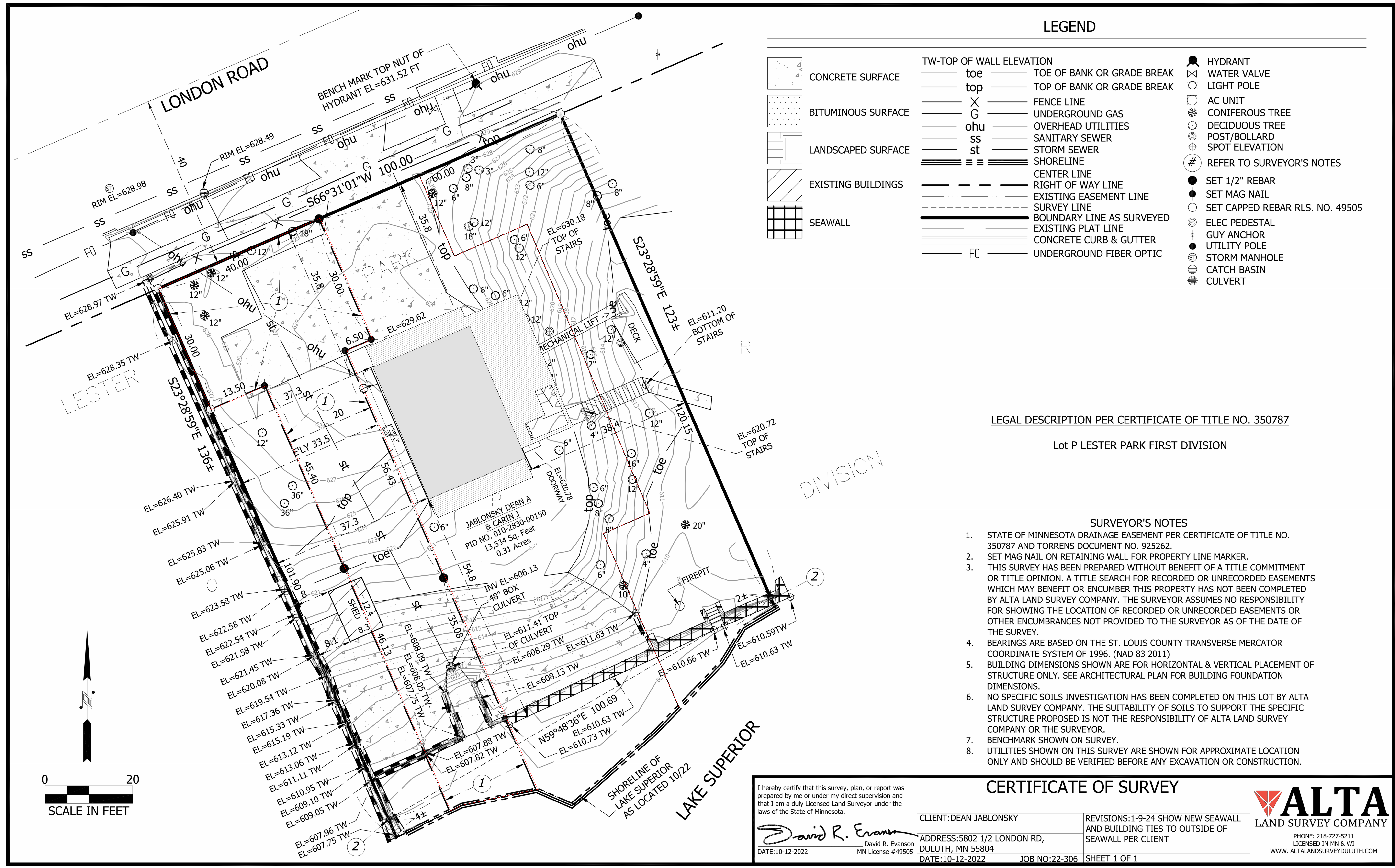
Lake Superior Remodel Home

5730 London Rd.
Duluth, MN 55804

Approved by	EB
Designed by	LH
REVISION #	0
Rev. Date	2/29/2024 3:11:54 PM
Issue Date	-
Scale	3/32" = 1'-0"

Site Plan

Sheet #
A-1.10



PROPERTY GUIDELINE

Side Yard Setback:	6'
Rear Yard Setback:	25'
Front Yard Setback:	25'
Max Building Height:	30'
Lake OHWL Setback:	50'

Lake Superior Remodel Home
5730 London Rd.
Duluth, MN 55804

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.
David R. Evans
David R. Evans
Mn License #49505
DATE:10-12-2022

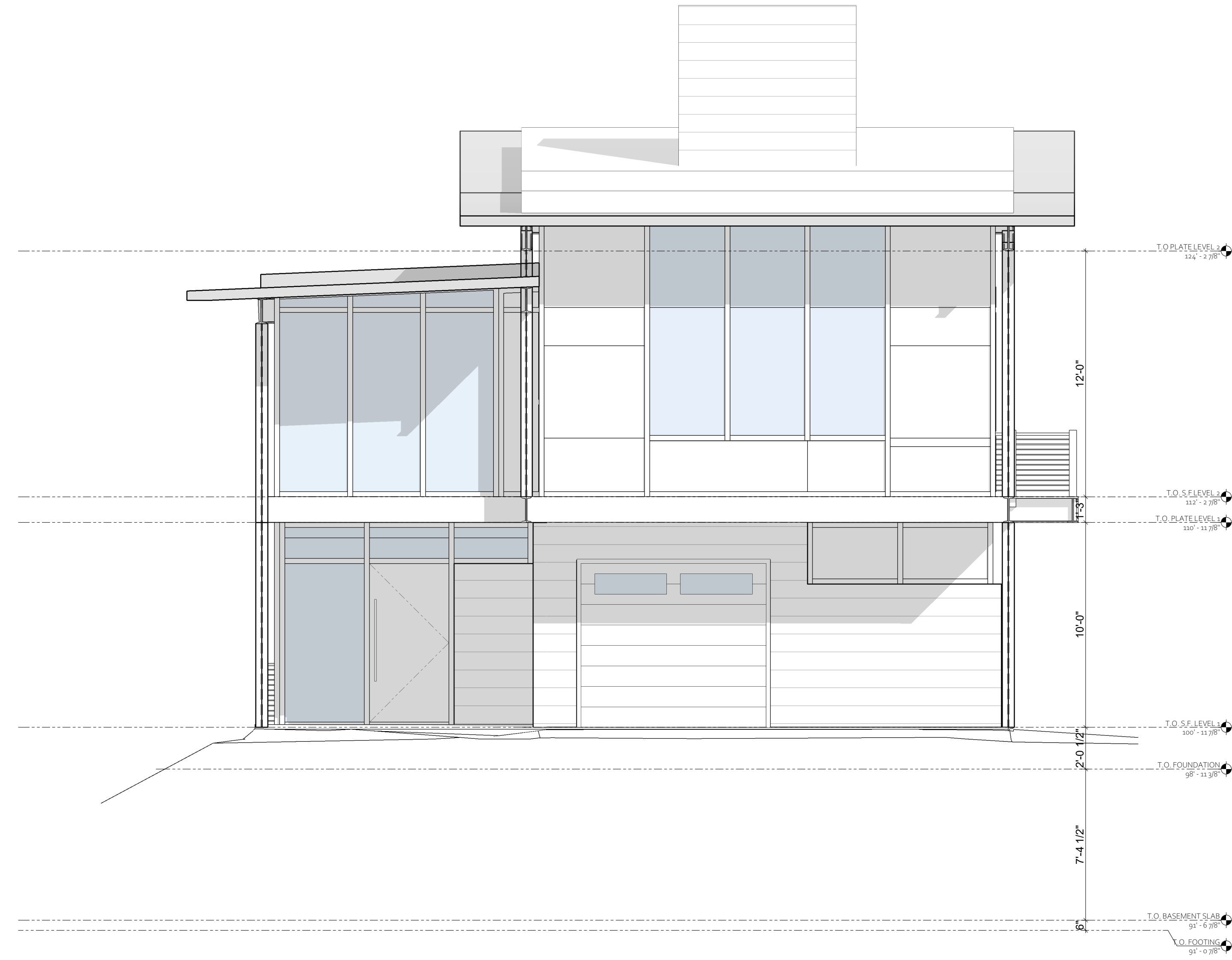
CERTIFICATE OF SURVEY
CLIENT: DEAN JABLONSKY
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JOB NO: 22-306 SHEET 1 OF 1

ALTA
LAND SURVEY COMPANY
PHONE: 218-727-5211
LICENSED IN MN & WI
WWW.ALTA LAND SURVEY DULUTH.COM

Approved by	EB
Designed by	LH
REVISION #	0
Rev. Date	2/29/2024 3:11:56 PM
Issue Date	-
Scale	3/32" = 1'-0"
Site Plan Survey	

Sheet #
A-1.30

Lake Superior Remodel Home
5730 London Rd.
Duluth, MN 55804



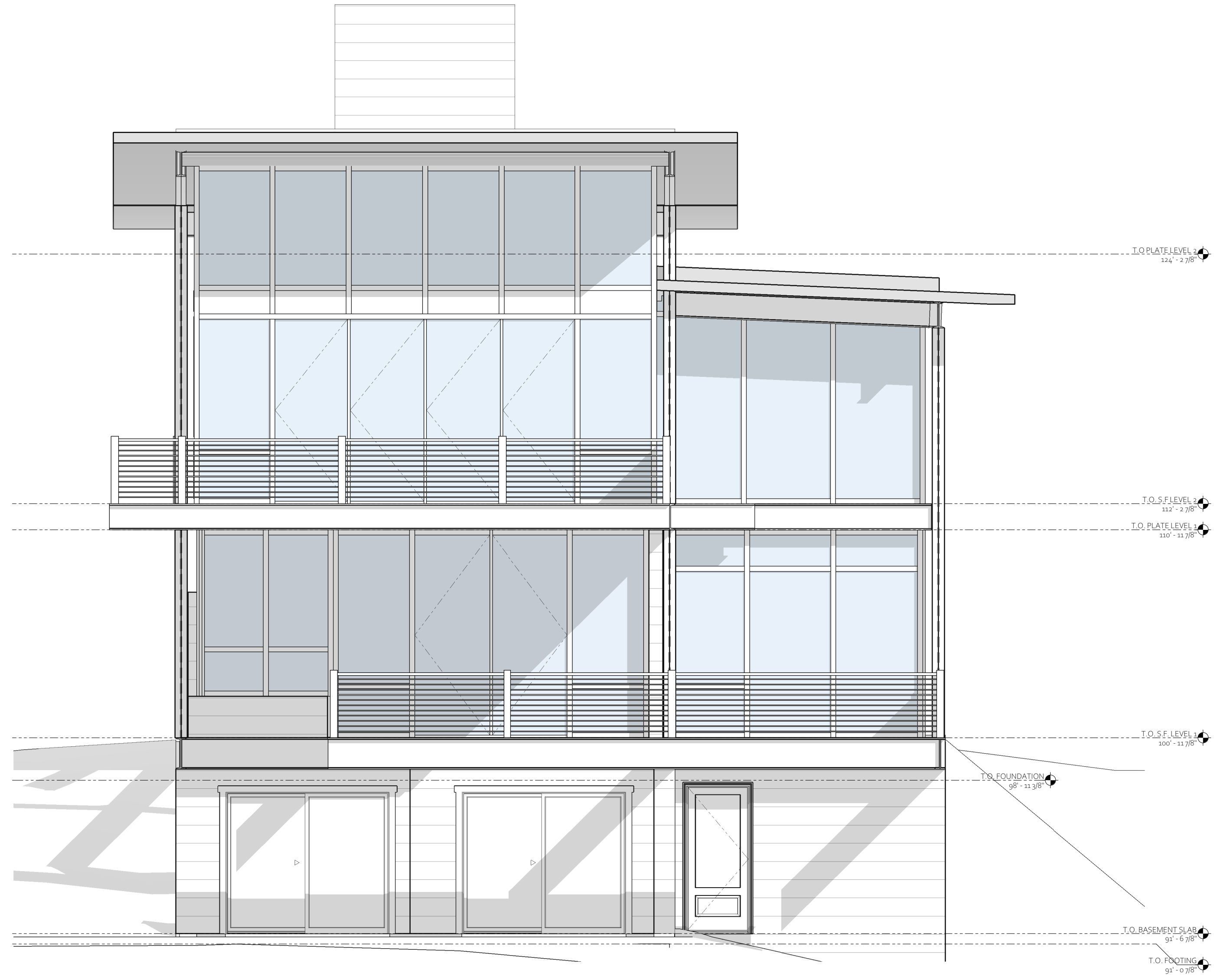
1 FRONT VIEW
A-3.00 1/4" = 1'-0"

4. Front Elevation Notes	
Note Number	Note Text

Approved by	EB
Designed by	LH
Revision #	0
Rev. Date	2/29/2024 3:12:04 PM
Issue Date	-
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Front Elevation

Sheet #
A-3.00



1 REAR VIEW
A-3.20 1/4" = 1'-0"

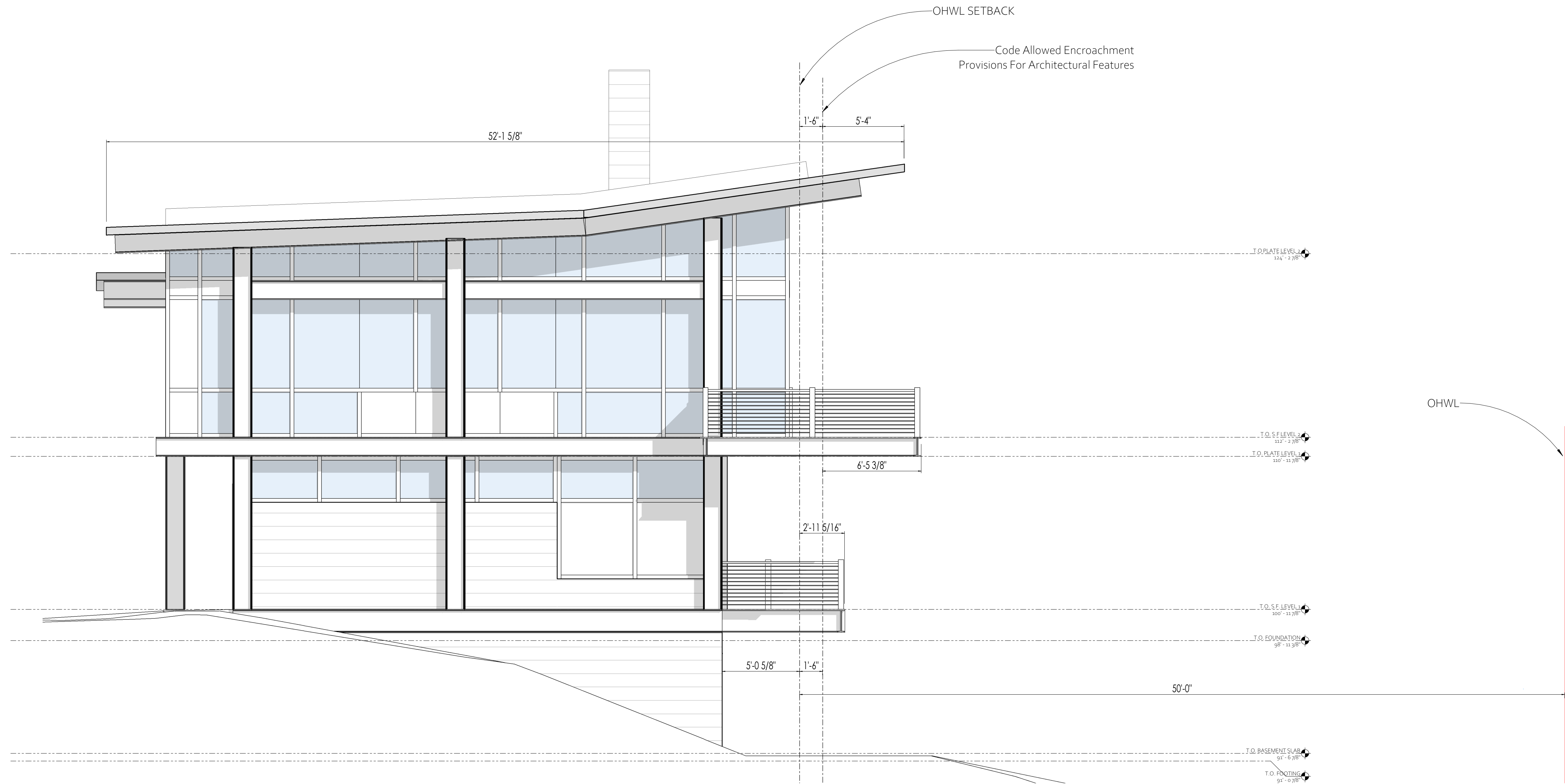
6. Rear Elevation Notes	
Note Number	Note Text

Lake Superior Remodel Home
5730 London Rd.
Duluth, MN 55804

Approved by	EB
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Revision #	0
Rev. Date	2/29/2024 3:12:09 PM
Issue Date	-
Scale	1/4" = 1'-0"

Rear Elevation
Sheet #
A-3.20

Lake Superior Remodel Home
5730 London Rd.
Duluth, MN 55804



1 RIGHT VIEW
A-3.30 1/4" = 1'-0"

7. Right Elevation Notes	
Note Number	Note Text

Approved by	EB
Designed by	LH
Revision #	0
Rev. Date	2/29/2024 3:12:13 PM
Issue Date	-
Scale	1/4" = 1'-0"

Right Elevation
Sheet #
A-3.30