

**WHITLEY COUNTY BOARD OF ZONING APPEALS  
STAFF REPORT**

**22-W-VAR-25    DEVELOPMENT STANDARDS VARIANCE**  
McClurg Builders, LLC.  
2619 N. State Road 109

**OCTOBER 25, 2022  
AGENDA ITEM: 4**

**SUMMARY OF PROPOSAL**

Current zoning: AG, Agricultural  
Property area: 1.84± acres

The petitioner, part owner of the subject property, is requesting a development standards variance of the minimum floor area on the property located at 2619 N. State Road 109, in Section 28 of Thorncreek Township.

The petitioner is looking to construct a garage with approximately 850± square feet of living space with the intention to build an attached residence later. The living space would be located above the garage.

The code requires a minimum main floor area of 950 sq. ft. for a one-story structure, or 850 sq. ft. for multiple story structures (1,200 sq. ft. total). Due to this being a two-story structure, a variance is requested to permit the proposed 850± sq. ft. living area since the living area on the first floor is less than 850 sq. ft.

**REVIEW CRITERIA**

Indiana Code §36-7-4-918.5 and Section 10.10 of the Zoning Code state the criteria listed below upon which the Board must base its review. Staff's comments/proposed findings of fact under each criterion.

**1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;**

The proposed variance would not be expected to be injurious to the public safety and morals, as it is to be a temporary situation for future construction. The smaller area could be injurious to the public health since minimum floor areas are established to protect public health by ensuring adequate living area for the population at large.

**2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and**

This variance will not likely affect the use and value of the surrounding area. As a temporary situation, any effects would not likely be substantial.

**3. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction or restriction of economic gain.**

The strict application of the Ordinance terms may or may not result in practical difficulties. The code establishes a minimum floor area to protect *public* health. In this case, there is a stated intention that the smaller floor area would only affect the petitioner since it would only be used temporarily by them alone. So, the purpose for which the standard is created does not fully apply.

However, the code does not contemplate temporary uses because there is an assumption that a temporary use could easily become a permanent use and create the injurious effects. Where conditions restricting length of usage can be made, such as a variance or special exception, these may be used to address this difficulty.

Whether this is self-imposed is indefinite. It is possible that the petitioner could finish the detached garage space and meet the minimum first floor area. Doing so might not necessarily increase the actual living area used, but just the living area calculated for the purposes of the code, which could result in greater health impact.

Essentially, this proposal reflects a temporary situation that is not well addressed in the code that could be addressed by use of a conditioned variance.

### **SUGGESTED CONDITIONS**

If the Board finds to grant the variance, staff recommends the following condition(s):

1. The variance is granted for a maximum of 3 years, or until the permanent dwelling is completed, whichever comes first.
2. The structure is to be compliant with building and health code requirements.
3. The kitchen is to be removed with the completion of the permanent dwelling, unless further approval (e.g. secondary dwelling special exception) is granted.
4. These conditions are to run with the property and are binding on any subsequent owners.

Date report prepared: 10/14/22

### **BOARD OF ZONING APPEALS ACTION**

#### **Findings of Fact Criteria**

	<b>Vote: Denihan</b>		<b>Lopez</b>		<b>Wilkinson</b>		<b>Wolf</b>		<b>Wright</b>	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
<i>Criterion 1</i>										
<i>Criterion 2</i>										
<i>Criterion 3</i>										

Motion: ☐ Grant

☐ Grant w/conditions

☐ Deny

By:

Second by:

	<b>Vote: Denihan</b>		<b>Lopez</b>		<b>Wilkinson</b>		<b>Wolf</b>		<b>Wright</b>	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
<i>Yes</i>										
<i>No</i>										
<i>Abstain</i>										



Ferguson,  
Michael W  
& Lorie M

Zorger, Jerry J &  
Phyllis Jean & Zorger,  
Rick & Zorger, Rod

Zorger, Richard  
E & Zorger,  
Rodney A

Davis, Jeffrey  
L & Nancy J

Worden,  
Tanner M &  
Ashley E

Meinika,  
Richard W &  
Cheryl Lynn

McClurg Builders LLC,  
Barker, Michelle &  
Ditton, Miranda

Ogden,  
Shawn P

Andorfer,  
Andrew P &  
Brittney L

Zumbrun,  
Mark A &  
Zumbrun, Tom B

White, James R  
& Jacqueline A

Slain,  
Jeffrey A &  
Sarah J

Swihart  
Properties  
Llc

Slain,  
Jeffrey A &  
Sarah J

Deacon,  
Marshall G

State Of  
Indiana

State Of  
Indiana

Kyler, Gary D;  
Morford, Gail J &  
Opliger, Kent A

Zoltek, Richard  
P & Krystal D  
Walker Zoltek

Hinen, Jeffrey  
L & Cynthia A

Wigent,  
Ashli E

Wimmer,  
William  
R & Patsy J

Zumbrun,  
Danny D

Calhoun, Denver

NSR 109



PROJECT DETAILS
DATE: 01/11/2012
DESIGNER: CHD
PROJECT NAME: 2270
PROJECT ADDRESS: 2270
PROJECT CITY: COLUMBIA CITY, IN 46725
PROJECT STATE: IN
PROJECT ZIP: 46725
PROJECT PHONE: 317.441.1501
PROJECT FAX: 317.441.1501
PROJECT EMAIL: CHD@CHD-LLC.COM

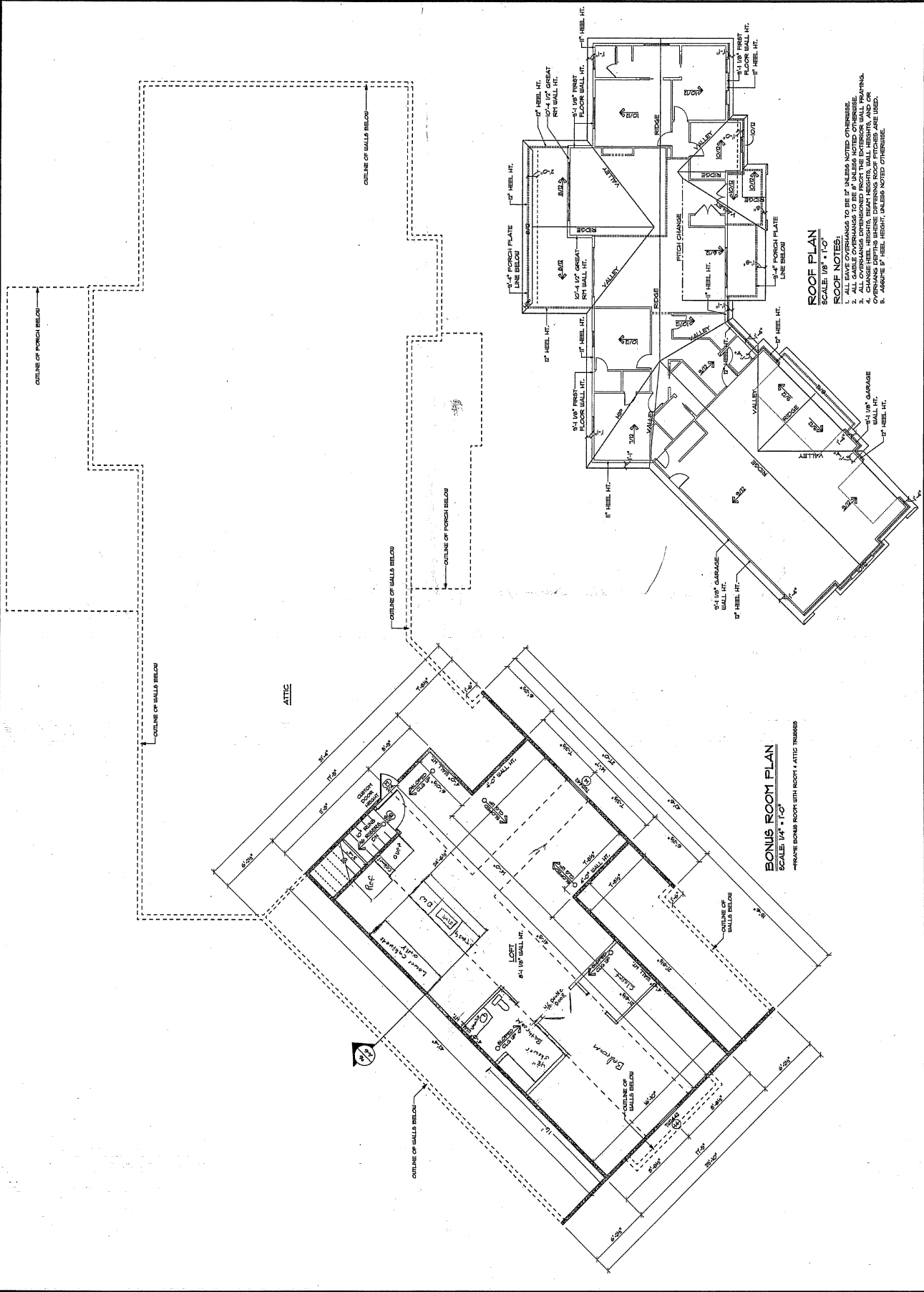
CUSTOM HOME DESIGNS, LLC  
 WWW.CHD-LLC.COM  
 (202) 244-5851  
 COLUMBIA CITY, IN 46725  
 2841 S. 150 E.

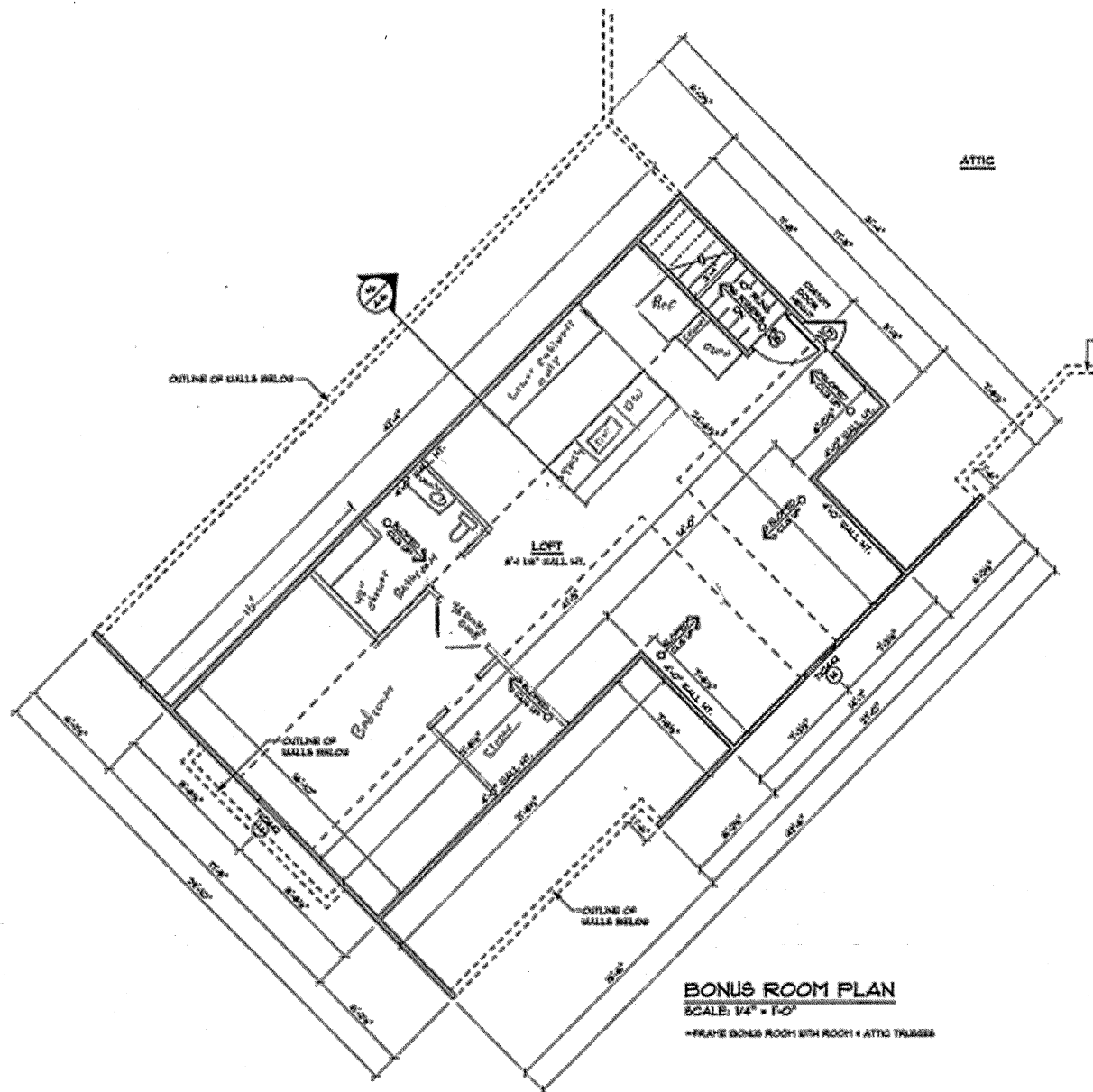
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 WRITTEN PERMISSION

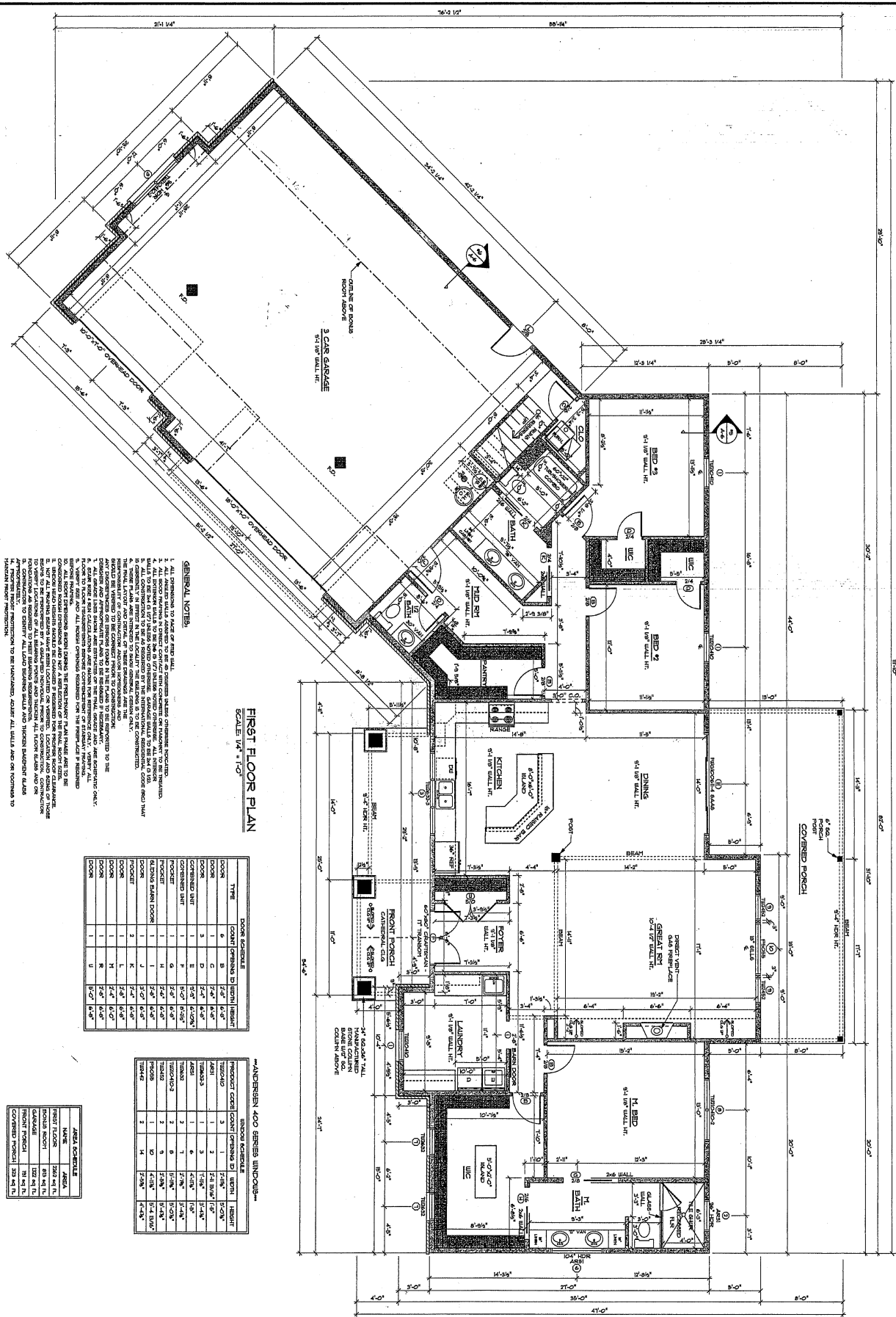
# BONUS ROOM PLAN AND ROOF PLAN PLAN# 2270

DRAWN BY: ROCK
CHECKED BY: CHD
DATE: 01/11/2012
PROJECT NAME: 2270
PROJECT ADDRESS: 2270
PROJECT CITY: COLUMBIA CITY, IN 46725
PROJECT STATE: IN
PROJECT ZIP: 46725
PROJECT PHONE: 317.441.1501
PROJECT FAX: 317.441.1501
PROJECT EMAIL: CHD@CHD-LLC.COM

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### FIRST FLOOR PLAN

SCALE: 1/4" = 1'-0"

**GENERAL NOTES:**

- [illegible]

DOOR SCHEDULE			
TYPE	COUNT	OPENING ID	DEPTH / HEIGHT
DOOR	6	B	3'-0" / 6'-0"
DOOR	1	D	2'-0" / 4'-0"
DOOR	3	E	2'-0" / 4'-0"
COMBINED UNIT	1	D	4'-0" / 4'-0"
COMBINED UNIT	1	F	6'-0" / 6'-0"
POCKET	1	G	2'-0" / 3'-0"
POCKET	1	H	2'-0" / 4'-0"
6.5'x8' SLAM DOOR	1	I	6'-0" / 8'-0"
DOOR	1	J	3'-0" / 6'-0"
POCKET	2	K	4'-0" / 6'-0"
DOOR	1	L	2'-0" / 4'-0"
DOOR	1	M	2'-0" / 4'-0"
DOOR	1	N	3'-0" / 6'-0"
DOOR	1	U	3'-0" / 6'-0"

INDICATOR RESULTS			
PRODUCT CODE	COUNT	OPENING ID	WORTH
TH02A02	3	1	24.0%
AS01		2	8.0%
TH02A03	1	3	1.0%
AS01	1	6	4.0%
TH02A03	2	7	2.0%
TH02A02	2	8	0.0%
TH02A03	2	9	0.0%
PC02B5	1	10	4.0%
TH02A02	2	14	24.0%

AREA SCHEDULE	
NAME	AREA
FIRST FLOOR	2262 sq ft.
BONNIE ROOM	813 sq ft.
GARAGE	1322 sq ft.
FRONT PORCH	191 sq ft.
COVERED PORCH	323 sq ft.

### FIRST FLOOR PLAN

**PLAN# 2270**

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WRITTEN PERMISSION

CUSTOM HOME DESIGNS, LLC

2841 S. 150 E.  
COLUMBIA CITY, IN 46725  
(260) 244-5851  
WWW.CHD-LLC.COM

PROJECT DETAILS	
WINDOW:	ANTHROPOUS SERIES
FOUNDATION:	CONC. SLAB
EXTERIOR WALL:	24"
GARAGE WALL:	24"
INTERIOR WALL:	24"
FIRST FLOOR:	9'-4 1/2"
DORMER ROOM:	8'-1 1/2"

**A-3**

DRAWN BY: BG/CK  
PROJECT: 2270-19655  
PRINT DATE:  
5/16/2022  
FINAL: 5/16/22  
SCALE: 1/4" = 1'-0"