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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
CRAIG DOSSEY, EXECUTIVE DIRECTOR

**TO: El Paso County Board of Adjustment  
Kevin Curry, Chair**

**FROM: Len Kendall, Project Manager/Planner I  
Craig Dossey, Executive Director**

**RE: BOA-18-004: Kellum Covered Patio  
Assessor's Schedule No: 42193-03-013**

**OWNER:**

**REPRESENTATIVE:**

Eric and Bertha Kellum 10807 Klondike Dr. Peyton, CO 80831	Eric Kellum 10807 Klondike Dr. Peyton, CO 80831
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**Commissioner District: 2**

Board of Adjustment Hearing Date:	6/13/2018
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**EXECUTIVE SUMMARY**

A request by Eric and Bertha Kellum (applicant), for a dimensional variance for a rear yard setback of 15 feet where 25 feet is required in the PUD (Planned Unit Development) zoning district. The 14,708 square foot property is zoned PUD (Planned Unit Development) and is located in the Meridian Ranch Filing 1 subdivision approximately 0.33 miles southeast of the intersection of Rex Road and Meridian Road. The area was zoned PUD in 2000 and the subject parcel was created in 2002. The structure and patio meet all zoning requirements, however, building an attached cover for the patio would create an encroachment into the 25 foot building setback according to the Meridian Ranch Filing 1 PUD Development Plan. Administrative relief could be given to allow a 20 foot rear yard setback; however, such relief would leave the patio only partially covered.

**A. REQUEST**

A request by Eric and Bertha Kellum for approval of a rear yard setback of 15 feet where 25 feet is required in the PUD (Planned Unit Development) zoning district.



**B. APPROVAL CRITERIA**

Section 5.5.2.B.2.a, Variance to Physical Requirements, of the Land Development Code (2015), states the following:

*“The Board of Adjustment is authorized to grant variances from the strict application of any physical requirement of this Code which would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the property. Practical difficulties and hardship, in this context, may exist where the legal use of the property is severely restricted due to:”*

- 1) *“The exceptional narrowness, shallowness, or shape of the specific piece of property.”*  
*Legal use of the property is not severely restricted due to any exceptional narrowness, shallowness, or shape of the property.*
- 2) *“The exceptional topographic conditions or other extraordinary or exceptional situation or condition of the piece of property.*  
*Legal use of the property is not severely restricted due to any exceptional topographic conditions or other extraordinary or exceptional situation or conditions”.*

However, Section 5.5.2.B.2.a, Variance to Physical Requirements, of the Code continues by stating the following:

*“The Board of Adjustment may also grant variances from the strict application of any physical requirement of this Code based upon equitable consideration, finding that the burdens of strict compliance with the zoning requirement(s) significantly exceed the benefits of such compliance for the specific piece of property and;”*

- *“The variance provides only reasonably brief, temporary relief; or”*

Approval of the variance would provide permanent relief.

- *“The variance request includes an alternative plan, standards or conditions that substantially and satisfactorily mitigate the anticipated impacts or serve as a reasonably equivalent substitute for current zoning requirements; or”*

There are no anticipated impacts that would require an alternate plan, standard, or condition.

- *“Some other unique or equitable consideration compels that strict compliance not be required.”*

Approval of the request may be based on the criteria of unique or equitable consideration. The letter of intent states that the applicant's desire is to utilize the rear of the property since the property is encumbered by two front yard setback requirements and the placement of the house on the lot. The house was built with approximately a 29 foot setback from the rear yard property line, leaving little room for improvements made by future homeowners.

**C. BACKGROUND**

The subject parcel was created as part of the Meridian Ranch Filing No. 1 subdivision on September 16, 2002. A single family residential house was applied for and approved on April 4, 2005 (LOG050818), and a subsequent 10 foot by 10 foot patio was applied for and approved on June 27, 2005 (LOG051818). The property is within the Meridian Ranch Filing No. 1 PUD zoning district. The property was zoned PUD on November 16, 2000. The development guidelines of the Meridian Ranch Filing No. 1 PUD require a 25 foot rear yard setback.

**D. ALTERNATIVES EXPLORED**

Three alternatives have been explored concerning the application for a dimensional variance on the subject property, they are as follows:

1. Do not build a patio cover.
2. Build a patio cover that meets the required 25 foot setback, leaving the patio only partially covered.
3. Apply for administrative relief to allow for a 20 foot setback, leaving a portion of the patio uncovered.

**E. CONDITIONS OF APPROVAL**

Should the Board of Adjustment determine that the application is consistent with the criteria for approval of a dimensional variance, and that the applicant has met the review and approval criteria for granting variances from the applicable standards, staff recommends the following conditions and notation of approval:

**Conditions**

1. The approval applies to the plans as submitted only. Any expansion or addition to the proposed patio cover may require separate Board of Adjustment application(s) and approval(s) if the development requirements of the applicable zoning district cannot be met.
2. Approval of a residential site plan by the Planning and Community Development Department and issuance of a building permit from the Pikes Peak Regional Building Department is required prior to construction of the patio cover.

**Notation**

1. Physical variances approved for a proposed structure (except for lot area variances) are valid only if construction of the structure is initiated within twelve (12) months of the date of the Board of Adjustment approval.

**F. APPLICABLE RESOLUTIONS**

Approval: Resolution 3 – Unique and Equitable Circumstances  
Disapproval: Resolution 4

**G. LOCATION**

North: PUD (Planned Unit Development)	Single family residential
South: PUD (Planned Unit Development)	Single family residential
East: PUD (Planned Unit Development)	Single family residential
West: PUD (Planned Unit Development)	Single family residential

**H. SERVICE**

**1. WATER/WASTEWATER**

Water supply is provided by Meridian Ranch Metropolitan District.

**2. WASTEWATER**

Wastewater is provided by Meridian Ranch Metropolitan District.

**3. EMERGENCY SERVICES**

Falcon Fire Protection District provides emergency services for this property.

**I. ENGINEERING**

**1. FLOODPLAIN**

FEMA Flood Insurance Rate Map (FIRM) panel number 08041C0575 shows the property lies within the zone X area which is determined to be outside the 500-year floodplain.

**2. DRAINAGE AND EROSION**

The property is located within the Bennett Ranch (CHWS1200) drainage basin which was studied in 2001 and has a drainage fee of \$10,832 and bridge fee of \$4,155 per impervious acre. No drainage or bridge fees are required for a dimensional variance request. There are no drainage or erosion issues identified with this request. No public drainage improvements will be required.

**3. TRANSPORTATION**

The property is accessed via Klondike Drive. A traffic study was not required due to the fact that the dimensional variance is not expected to generate 100 daily vehicle trips more than the property would be expected to generate without the approval of the dimensional variance. No public roadway improvements will be required.

**J. PUBLIC COMMENT AND NOTICE**

The Planning and Community Development Department notified nine (9) adjoining property owners on 5/21/2018, for the Board of Adjustment hearing. Responses will be provided at the hearing.

**K. ATTACHMENTS**

Letter of Intent  
Vicinity Map  
Site Plan

May 8, 2018

Eric & Bertha Kellum  
Home owners of 10807 Klondike Dr.  
Peyton CO 80831  
719 434-7060

**RE: The Patio Cover for existing 36x 16 patio**

Project Description:

Presently we have an existing 36 x 16 concrete patio at the rear of the residence. We would like to add a patio cover over the existing patio. Therefore we are requesting setback variance from 25' to 15'.

The drainage will continue to flow or will be routed to drain to Greenbelt Drive and will not adversely affect the adjacent properties.

Background:

In the rear yard the addition would allow us to enjoy the outside during inclement weather and hot summer days. There are several similar patio cover in the Meridian Ranch Development in Peyton.

The reason and the purpose of the variance would allow the use of the rear yard/outside to be enjoyed more during the hot summer months when we all like to enjoy the outside and not being secluded inside of the home. Our unique situation is just would like to maximize the benefits of our property just like others.

Please feel free to contact me with any questions, thank you

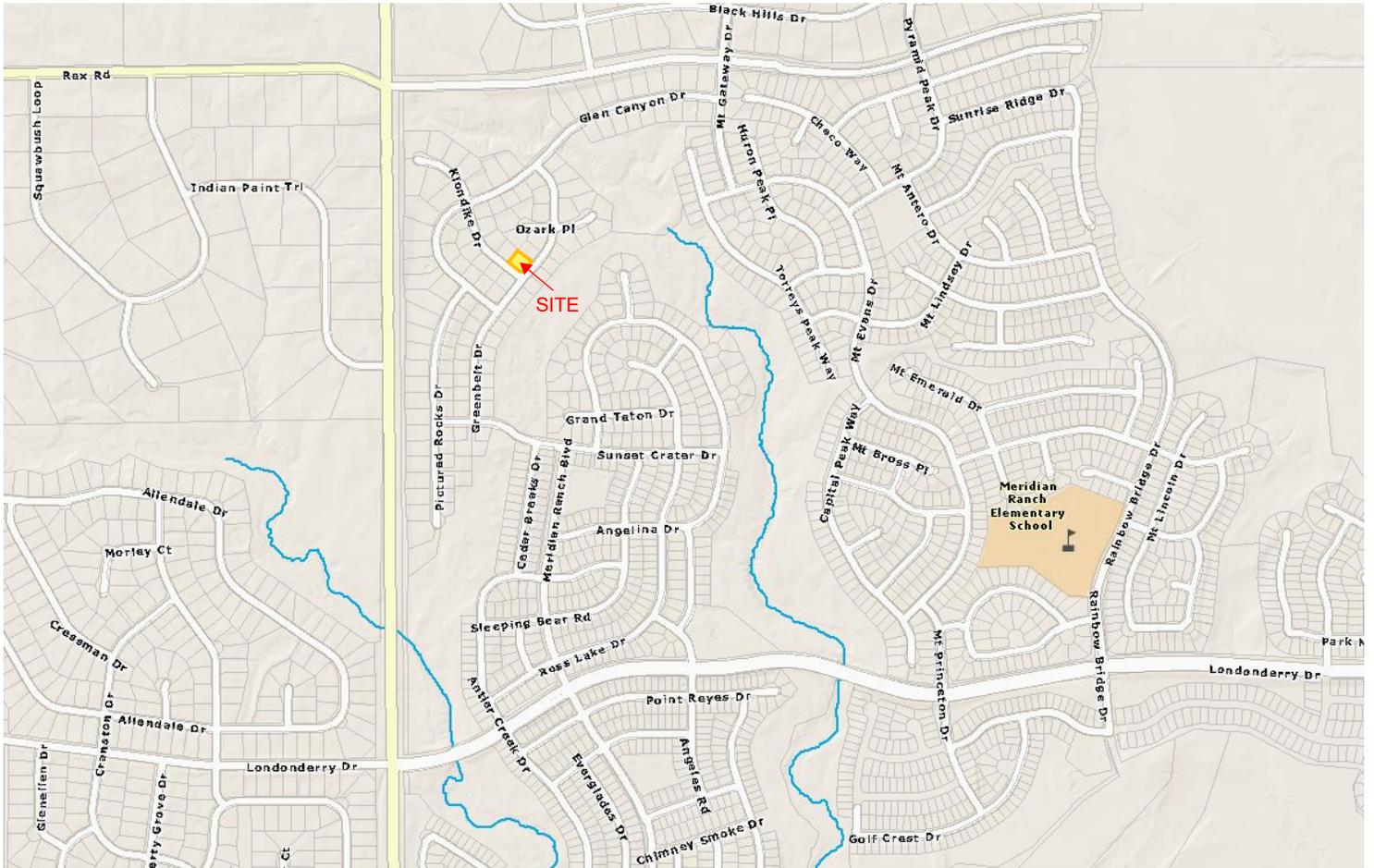
Sincerely

Eric & Bertha Kellum

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----- El Paso County Parcel Information -----



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Parcel: 4219303013

Name: KELLUM ERIC D  
KELLUM BERTHA

City: PEYTON

State: CO

Zip: 80831-3002

Filename: BOA-18-004

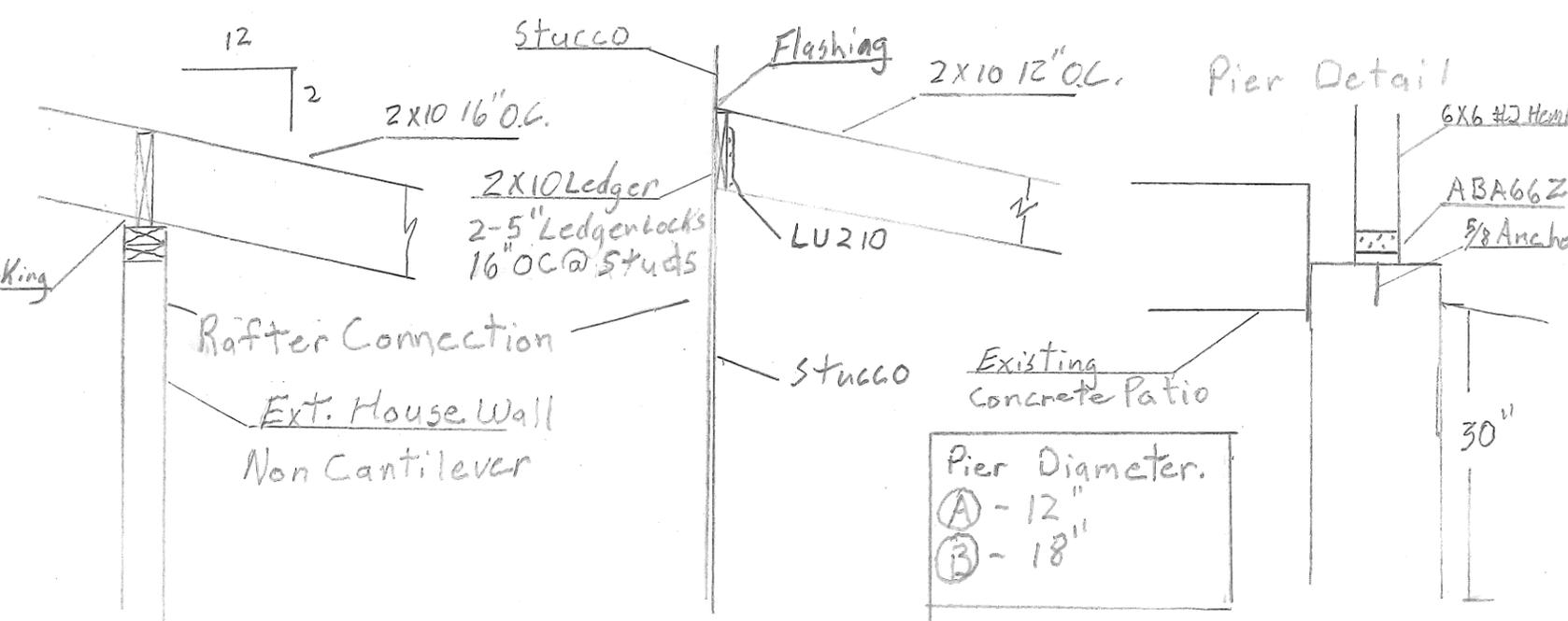
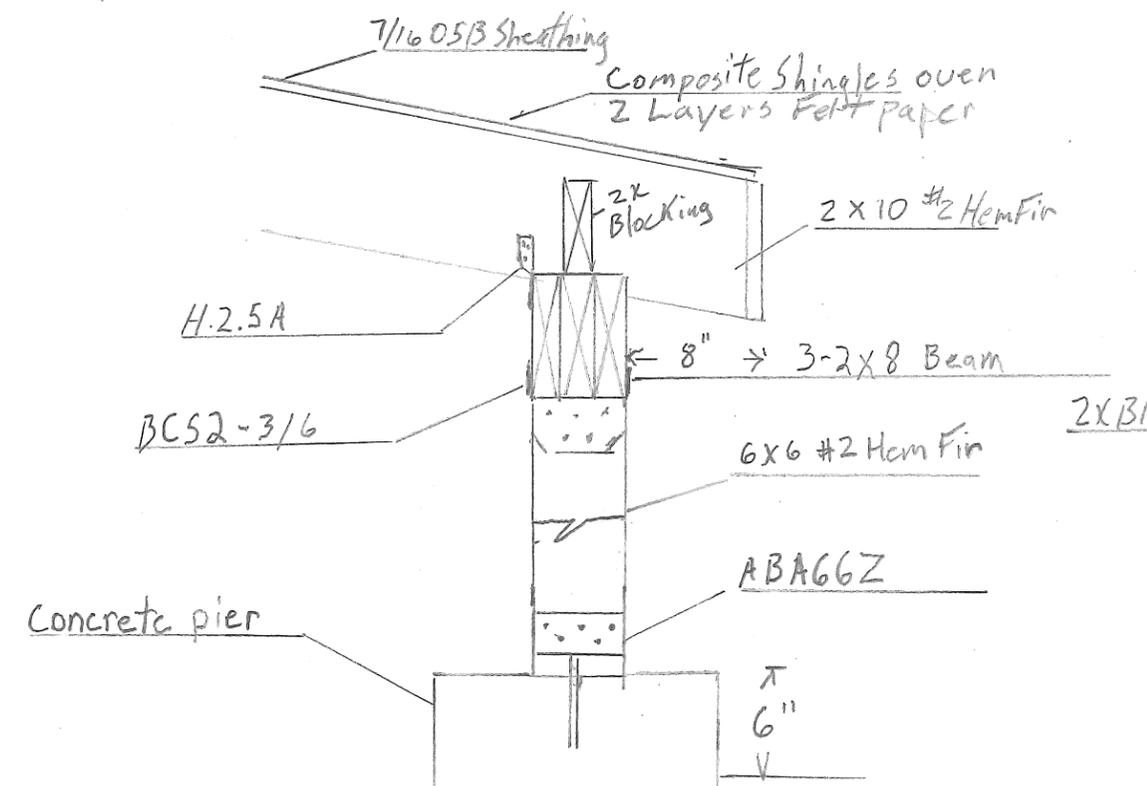
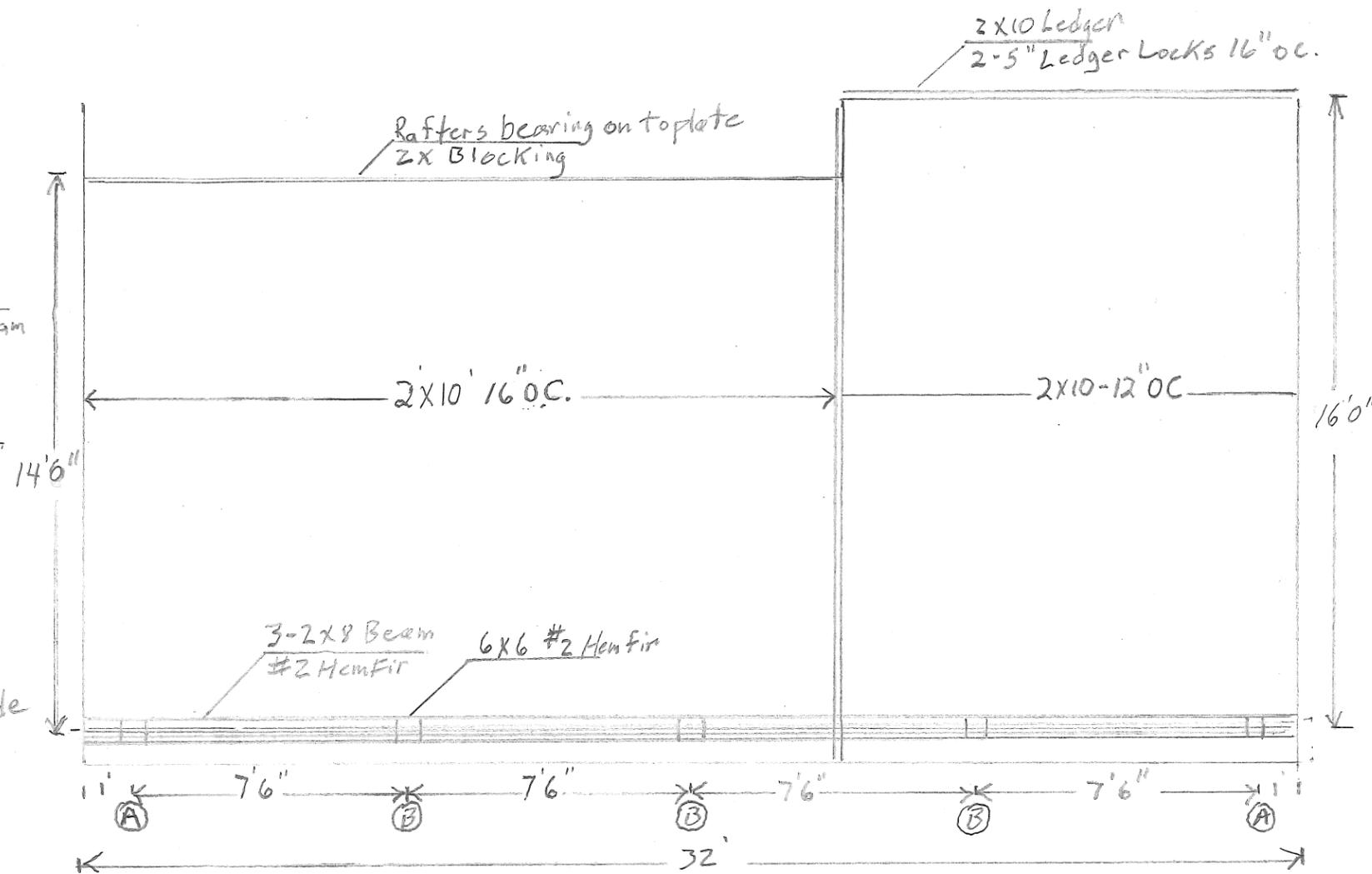
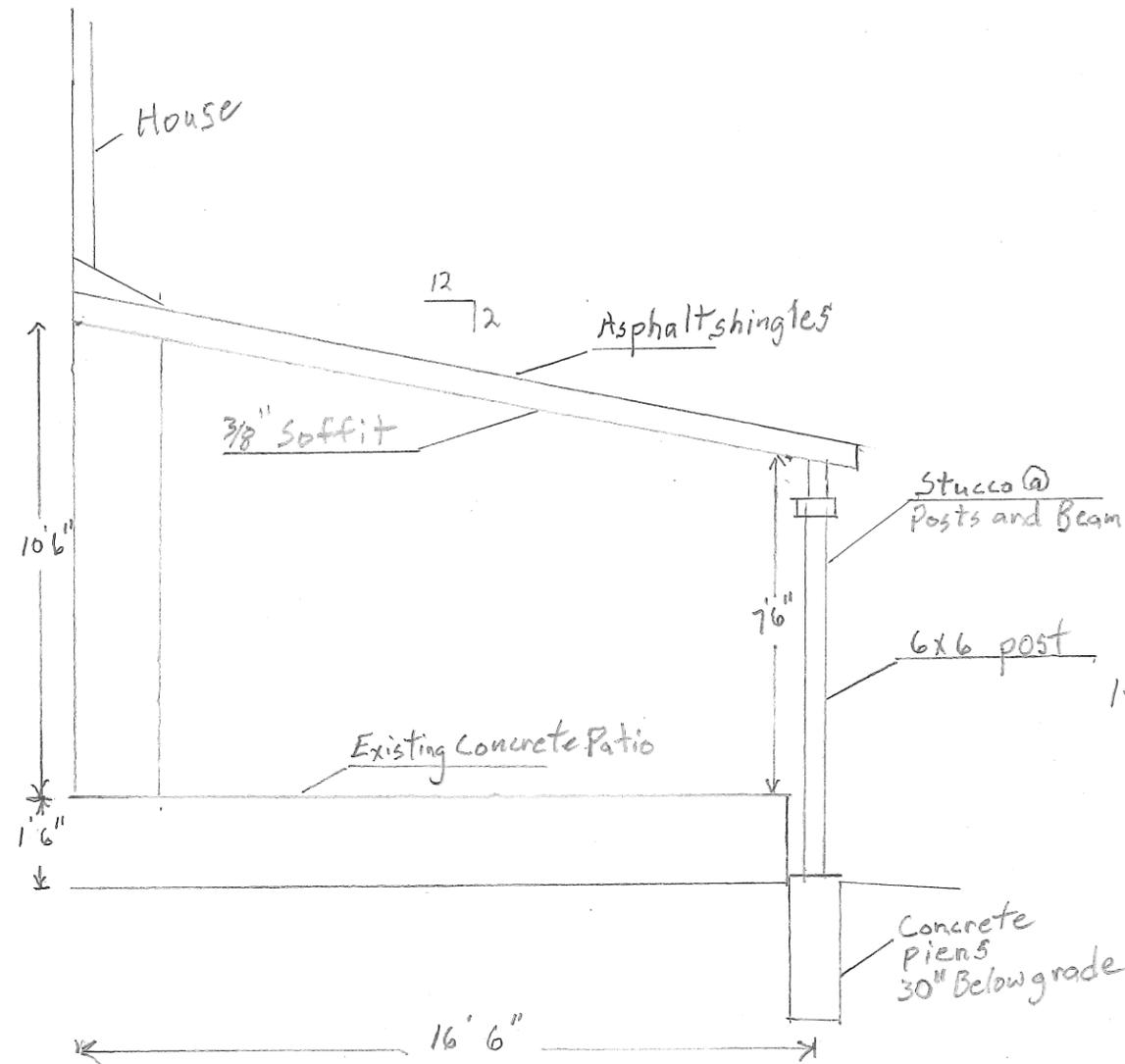
Zone Map Number: 42193

Date: DECEMBER 28, 2017

Please report any parcel discrepancies to:  
El Paso County Assessor  
1675 W. Garden of the Gods Rd.  
Colorado Springs, CO 80907  
(719) 520-6600

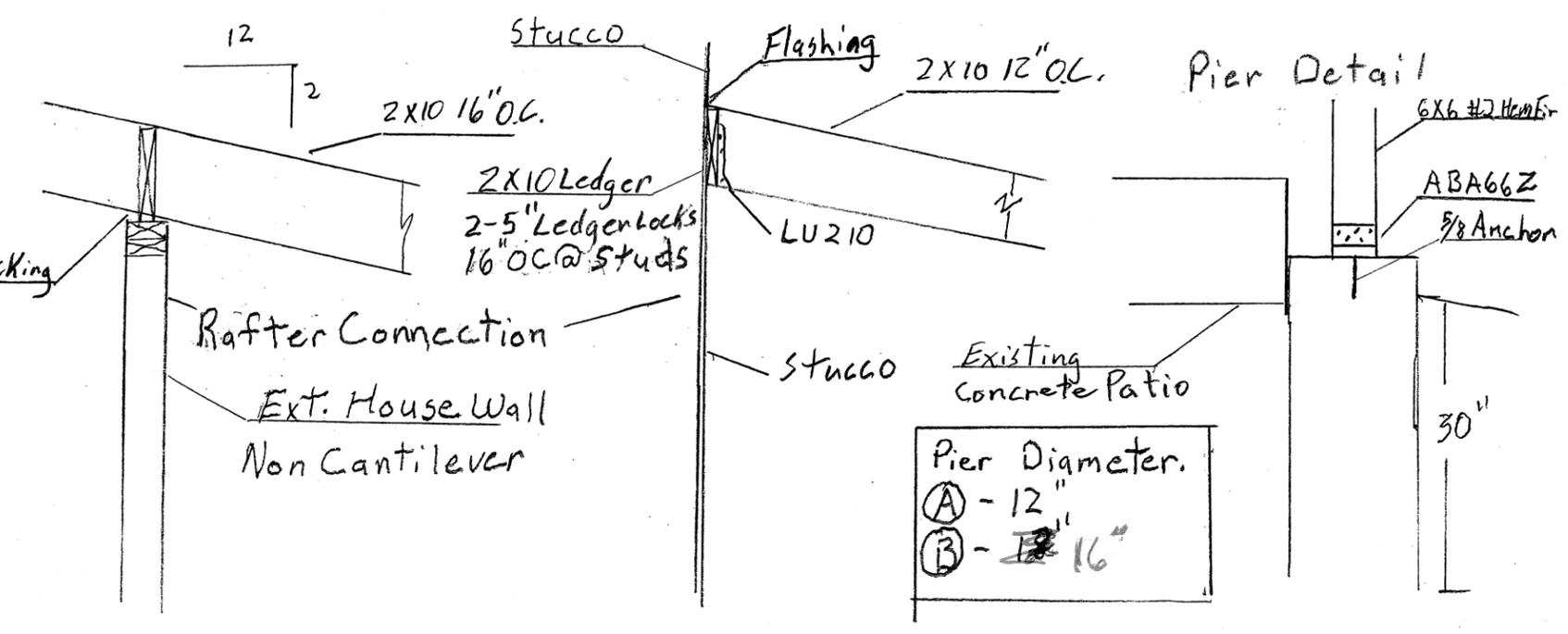
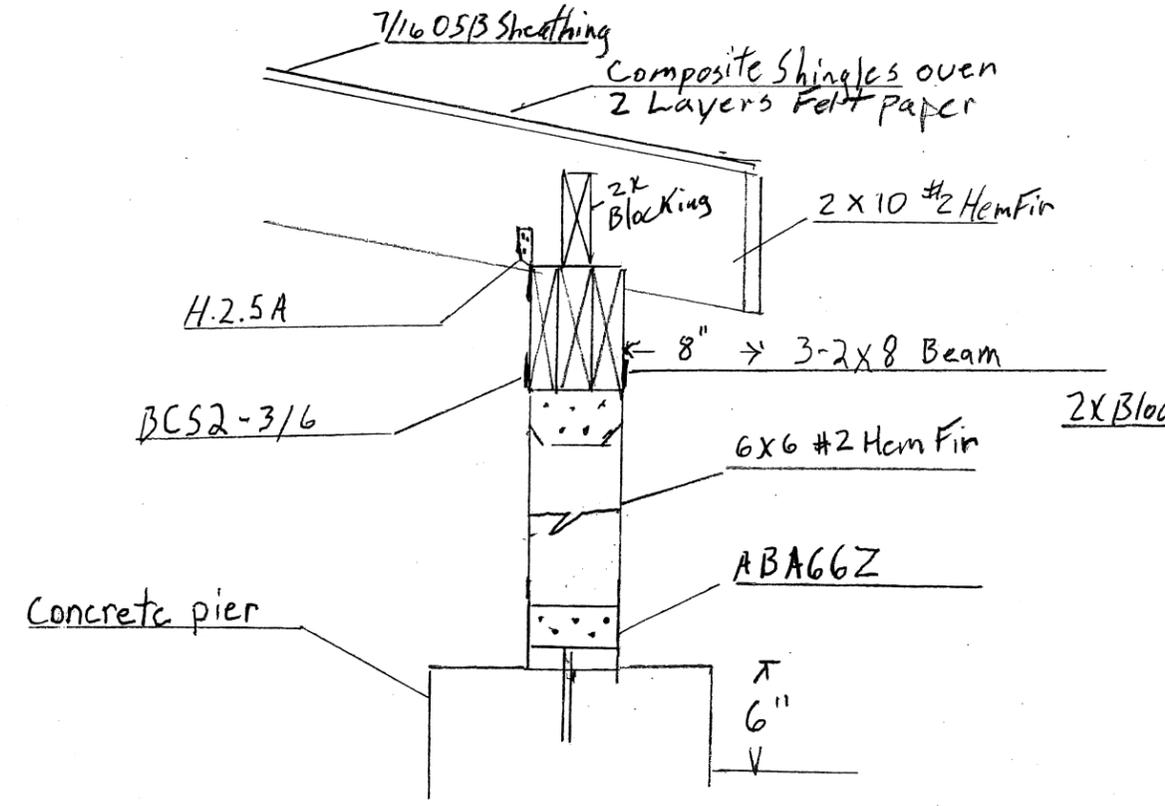
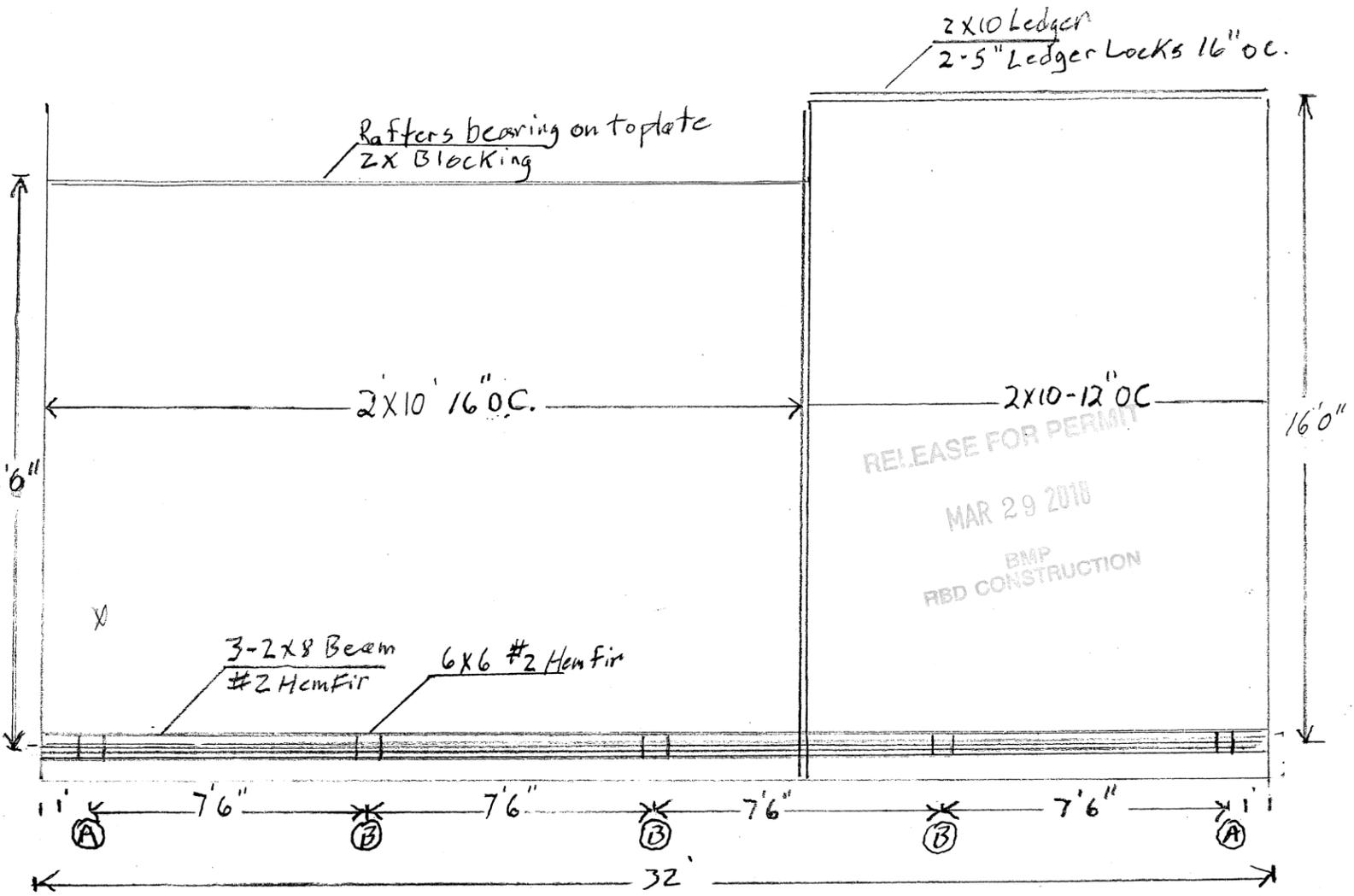
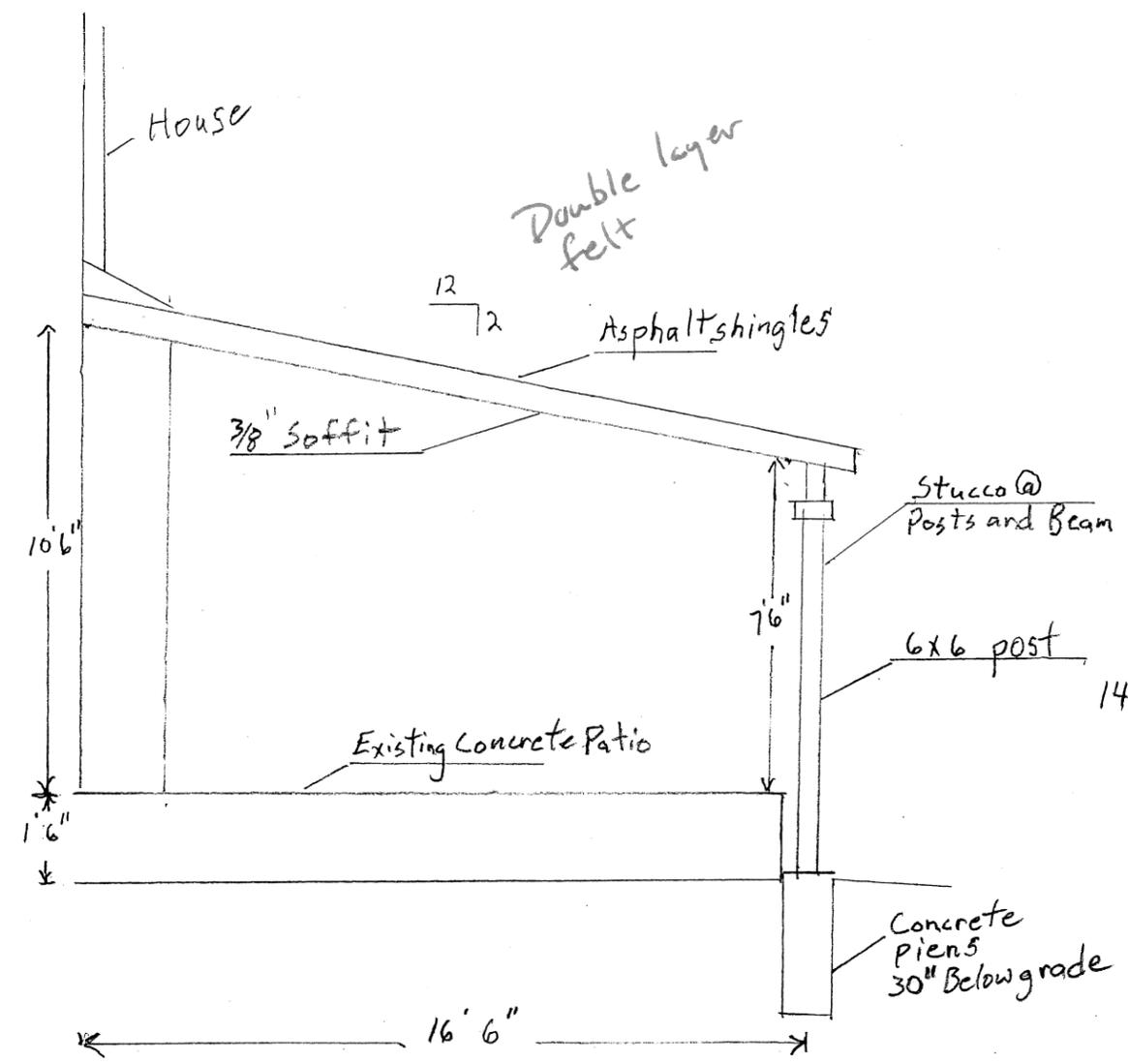
32'x16' Patio Cover  
over Existing Concrete Patio

Eric and Bertha Kellum  
10807 Klondike Dr.  
Peyton, CO.



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32' x 16' Patio Cover  
over existing concrete patio

1/4" = 1'

