



# Wauwatosa, WI

## Board of Zoning Appeals

### Meeting Agenda - Final

7725 W. North Avenue  
Wauwatosa, WI 53213

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Thursday, May 22, 2025

6:00 PM

Zoom Only:  
<https://us02web.zoom.us/j/89325102239>,  
Meeting ID: 893 2510 2239

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#### Regular Meeting

#### VIRTUAL MEETING INFORMATION

Members of the public may observe and participate in the meeting via Zoom only at the link above. To access the Zoom meeting via phone, call 1-312-626-6799 and enter the Meeting ID.

#### CALL TO ORDER

#### ROLL CALL

#### NEW BUSINESS

1. Request by Mike Kartz for an alley fence setback exception at 2103 N. 107th Street [25-0731](#)
2. Request by Eugene Sczesny for a front yard setback variance at 1314 St. James Court [25-0684](#)

#### ADJOURNMENT

##### NOTICE TO PERSONS WITH A DISABILITY

Persons with a disability who need assistance to participate in this meeting should call the City Clerk's office at (414) 479-8917 or send an email to [tclerk@wauwatosa.net](mailto:tclerk@wauwatosa.net), with as much advance notice as possible.



# Wauwatosa, WI

7725 W. North Avenue  
Wauwatosa, WI 53213

## Staff Report

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**File #:** 25-0731

**Agenda Date:** 5/22/2025

**Agenda #:** 1.

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Request by Mike Kartz for an alley fence setback exception at 2103 N. 107th Street

**Submitted by:**

Andy Krause

**Department:**

Development

**A. Issue/Background**

The applicant is requesting a fence code exception for an already constructed fence not meeting the 18" minimum setback located at the alley for a length of approximately 21 feet. A permit was applied for but was not issued by the Building Division

Constructed Fence

The alley side fence has a 4" setback from the property line for a length of approximately 21 feet along the alley on the West side of the property.

Allowed by City Code

Under 15.28.030A.3, fences located adjacent to an alley shall be setback a minimum of eighteen inches from the lot line.

Attachments to this report include the applicant's narrative addressing the exception criteria, a site plan, and photos.

The applicant has a permit on file that has not been approved.

**B. Recommendation**

Under the exception provisions, the applicant must demonstrate to the Board that a hardship exists created by conforming to the fence regulations. The Board should consider all of the following, making findings that each of these factors applies in favor of granting the exception:

1. Whether strict application of the code would create a hardship to the property owner;
2. Whether the hardship results from conditions which are unique to the property, or unusual in comparison to the properties to which the code is generally applicable; and
3. Whether the application of the exception will be consistent with the intent of the ordinance and not impair public safety.



Requesting a zoning variance regarding the fence installation in October 2022.

Permit was applied for 8/9/22. Installed by Peerless enterprise (Fencing Division)

Fence was a direct replacement of existing wood fence installed over 25 years prior. It existed with previous owner. Old wooden fence was not in good repair after years of nursing it.

1. Exceptional Circumstances do exist pertaining to this lot. ***Contractor who installed fence said the permit was in good order in August of 2022***
2. A variance is necessary for the preservation and enjoyment of the property rights possessed by other properties in the district and vicinity. ***I am appealing the minimum setback of 18” 15.28.030.A.3. The original fence that stood in the same place was unsightly and needed replacement. An eye sore to the neighbors, also keeping garbage and litter from collecting in the alley.***
3. The variance will not create a special detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this or to the public interests. ***Fence is in the same place as the prior fence and is now not an eyesore. It also serves as an effort to create more privacy with the addition of the large multi unit apartment that was constructed several years ago. When the apartments were built they also widened the alley and added curbing. I was under the impression it was reclassified as a street and no longer an alley.***
4. The difficulty or hardship was not created by the property owner. ***I requested it just replace the existing fence in the same spot***

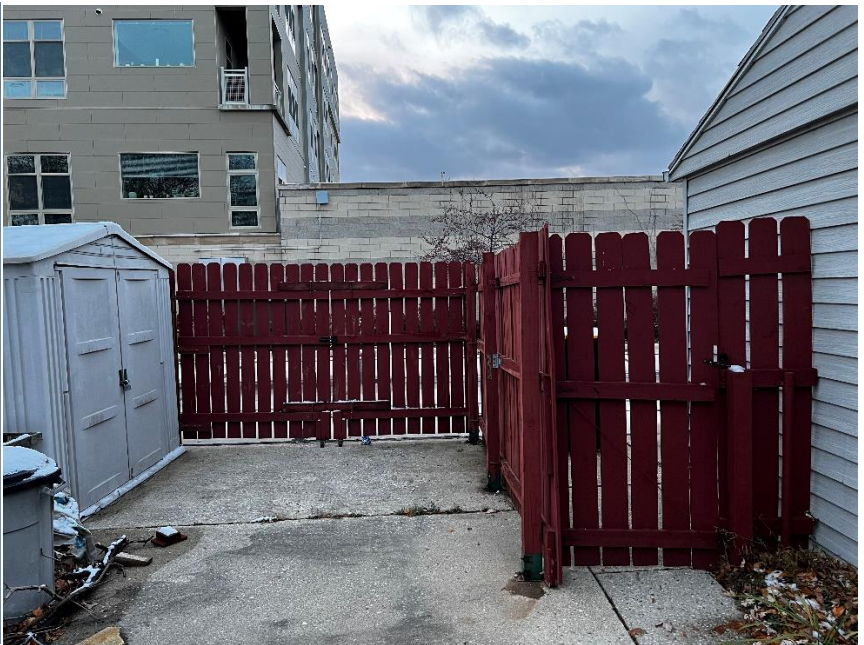
An exception to fence regulations can be granted by the Board of Zoning Appeals if the applicant demonstrates to the Board that a hardship exists created by conforming to the fence regulations based upon the following three factors:

1. Whether strict application of the code would create a hardship to the property owner; ***the set back that was brought to my attention recently, was not made apparent to me by the contractor***
2. Whether the hardship results from conditions which are unique to the property, or unusual in comparison to the properties to which the code is generally applicable; and  
***The prior fence was in place for 25 plus years. Adjoining properties fences are on the same line of sight***
3. Whether the application of the exception will be consistent with the intent of the ordinance and not impair public safety. The fence does not impair public safety. ***Based on the changes to the alley / street and the curbs and set backs when the apartment was built on the***

***east side of the alley/street. There is actually more clearance more space between the fence and the actual driving surface.***

Moving the fence back would create undo hardship. It would displace the shed that was also in place for 20 plus years. The cost would be difficult for us as homeowners as we enter retirement.





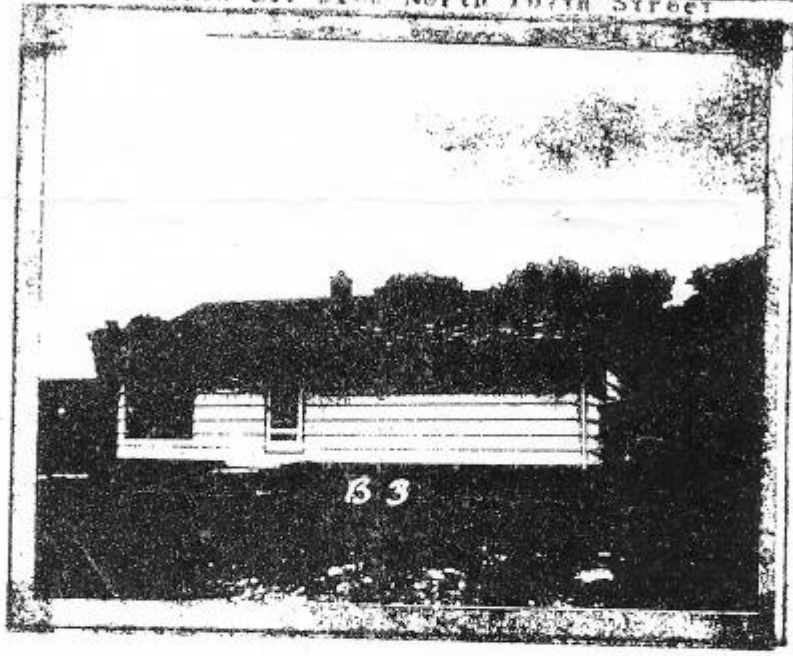
# PLAT OF SURVEY

Lot 6 - Block 8 - Country Club Subdivision

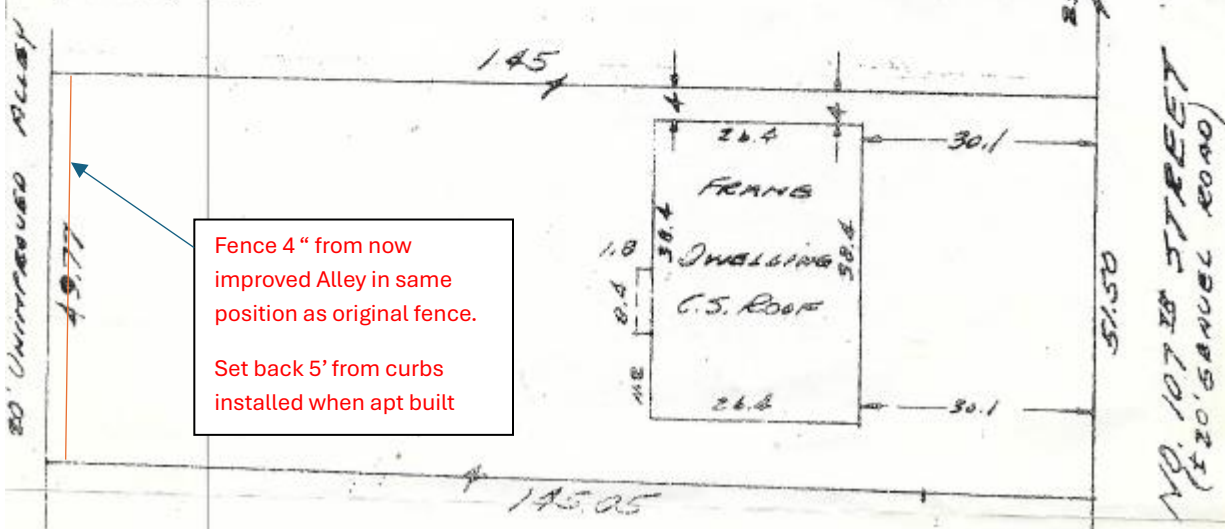
Being a Subdivision of a part of the Northwest 1/4 of Section 20, Town 7 North, Range 21 East, in the City of Wauwatosa, in Milwaukee County, Wisconsin

Located at: 2103 North 107th Street

LOCATED BY 2103 NORTH 107TH STREET



SCALE 1"=20'



Fence 4" from now improved Alley in same position as original fence.

Set back 5' from curbs installed when apt built

Owners: Milan & Marlene Huley

7616 HARWOOD AVE.  
WAUWATOSA, WIS.

Surveyed and Drawn by  
WALTER J. CONNELL, INC.



Submittal Details

Submittal Name Fence Review	Submittal Status * Requires Re-submit X	Action Priority Order 5	Action Sort Order 0
Start Date 08/09/2022	Due Date 08/30/2022	Complete Date 08/11/2022	Studio Session 026-724-186

ITEM REVIEWS (1)

NOTES

AK

Fence Review • Andrew Krause • Requires Re-submit

Assigned

08/09/2022

Due

08/30/2022

Complete

08/11/2022

Review Set

Set Priority

Item Priority

0

Required

Yes

8

Submittal Details

Submittal Name Fence Review	Submittal Status Requires Re-submit	Action Priority Order 5	Action Sort Order 0
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ITEM REVIEWS (1)

NOTES

AK

Fence Review • Andrew Krause • Requires Re-submit

Assigned	Due	Complete	Review Set	Set Priority	Item Priority	Required
08/09/2022	08/30/2022	08/11/2022			0	Yes

Overall Comments:  
The fence location has to be drawn on the survey. Fence then has to be dimensioned showing setback along alley. Fence height also needs to be noted on survey

Corrections (0)

Recommendations (0)

- NEW PERMIT
- Summary

Details

Location

Additional Info

Workflow

Linked Records

Holds

Contacts (2)

Fees (1)

Bonds

Activities

Files (3)

Print Documents

Conditions

Tasks

Internal Notes

Inspection Cases

Communication

Review Team

Impact Units

History

Review

Last Updated: 08/11/2022 by Service, EnerGov

2 actions remaining

Issue Permit

1 actions remaining

Final Inspections

1 actions remaining

Review

Priority Order

Sort Order

5

1

Assess Fees

Last updated by Escobedo, Stefanie on 08/09/2022

Confirm application complete

Last updated by Escobedo, Stefanie on 08/09/2022

Building Review (Fence)

Building Review (Fence) v.2

Priority Order

Sort Order

5

0

Building Review (Fence) v.1 • 1 of 1 Reviews Completed

Submittal Status

Due Date

Start Date

Requires Re-submit

08/30/2022

08/09/2022



## Staff Report

**File #:** 25-0684

**Agenda Date:** 5/22/2025

**Agenda #:** 2.

Request by Eugene Szczesny for a front yard setback variance at 1314 St. James Court

**Submitted by:**

Art Pinon

**Department:**

Development/Planning

**A. Issue**

The applicant is requesting a variance to the front yard setback requirement for the construction of a wooden deck at 1314 St. James Court, located in the Two-Unit Residential (R2) zone. With the exception of the front yard setback, the proposed project is expected meets all applicable development standards.

The table below outlines the proposed front yard setback in comparison to the minimum required setback per WMC 24.02.030:

Variance Requested	Proposed Setback	Required Minimum Setback
Front Yard	17 feet	25 feet

The existing home is currently situated 24 feet from the front property line and is considered legal non-conforming with respect to front yard setback requirements. The proposed deck would further encroach into the setback by approximately 7 feet, resulting in a 17-foot front yard setback.

In accordance with WMC 24.15.040, expansions to nonconforming structures are permitted provided that the proposed expansion complies with all applicable lot and building standards.

Attached to this report are a letter addressing the four variance findings in accordance with WMC 24.16.060.H, plat of survey, site aerial, deck specifications and photos of a previous walkway and railing in the project location.

**B. Recommendation**

The standard four criteria should be applied to make the determination for the requested variances:

1. Exceptional circumstances do exist pertaining to this lot.
2. That a variance is necessary for the preservation and enjoyment of the property rights possessed by other properties in the district and vicinity.
3. That the variance will not create special detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this or to the public interests.
4. That the difficulty or hardship was not created by the property owner.





Mary and Gene Sczesny  
1314 / 1316 Saint Jame Ct  
Wauwatosa, WI 53213

**Background:**

We live in the village of Wauwatosa at 1314/1316 Saint James Ct. This duplex property is zoned R2 with a required 25' front setback. Since purchasing it in July 2019, we have made significant improvements inside and outside both units. The rear of our property includes steep, unusable land part of the "bluff" that runs parallel to 68th street.

With consent from our adjacent neighbor, we removed significant overgrowth on the north side and relandscaped with sod, stones, and concrete tiles. We also removed 15 arborvitae hedges from the front yard and south side of the driveway, enhancing curb appeal and improving sunlight and fresh air access for the lower unit.

We have extensively relandscaped the front yard, removing stone rocks, terraced plantings, a large pine tree, and several other trees and shrubs that were not maintained by the previous owners. The entire front of the lot was smoothed and resculpted to provide a gentle slope from the building to the sidewalk, which was reseeded with grass.

In 2022, we replaced the asphalt driveway and the railroad tie retaining wall on the south side of the property. The new concrete drive and block retaining wall have also improved the curb appeal of the property. Our neighbors to the south have expressed satisfaction with the result since it is visible to them daily.

At the time when we replaced the driveway, a wheelchair-accessible sidewalk/ramp/porch that extended across the entire front of the building (9ft wide x 22ft long) was also removed. Originally, this ramp provided handicapped access to the lower level. The structure had significantly deteriorated over time, sinking and pulling away from the building. To prevent potential damage to the building foundation, it was removed in collaboration with our driveway contractor. Pictures of the ramp are included with this documentation.

In 2023, additional updates to the property include a new roof on both the main duplex and the detached garage, new gutters, downspouts, and matching fascia and soffit trim. The changes have been acknowledged by neighbors, who have given positive feedback. With pride in maintaining the property, we enjoy residing in the village. We often take advantage of all the amenities afforded to us by the village and frequently boast to friends and family about how lucky we are to be living in this community. The current project request for a building permit variance is to further improve the front of the property by adding a freestanding deck/porch for the lower unit, replacing the space previously occupied by the ramp, but on a smaller scale.

### **Variance Application Documentation:**

A **zoning variance** is a special exemption from the city zoning code granted by the Board of Zoning Appeals on a case by case basis. In order to grant a variance, an applicant must show that a unique hardship exists on the property. Variance applications must include information addressing the four variance approval criteria as an attachment in step #5:

1. Exceptional Circumstances do exist pertaining to this lot.

We reside on a dead end cul-de-sac at the base of the Wauwatosa bluff, which severely limits opportunities to make improvements behind our property, behind the buildings. This property is a two-family residence, necessitating shared external facilities among the two families. There is no private space available for either resident; thus, all outdoor activity areas must be coordinated and shared. Our new deck/porch will provide the lower unit with the currently missing private space. The upstairs unit already has its own private porch/balcony.

In collaboration with our recent driveway contractor, we obtained a new property survey, which I have included in the documentation. Upon consulting the city early on, we found that the only survey they had on file did not accurately reflect the current buildings and their locations. Based on the new survey, we discovered that the southwest corner of the building is already within the 25-foot zoning setback, and the extension of the concrete ramp further encroached on this setback.

Considering this property line setback, it is evident that almost every building on both Saint James Court and Saint James Street also falls within the 25-foot setback requirement. Nearly every property in the neighborhood, comprising 11 properties, includes front porches and decks, some single-story and others two-story, with various structures either covered or open to the sky, all encroaching on their respective 25-foot property line setback.

Upon removing the failing concrete structure, we decided to replace it with a porch/deck for the lower unit. This would enhance the property's appearance and offer the lower unit a more private area. With improved landscaping, ramp removal, a new driveway, and a retaining wall, we have mitigated the challenging conditions faced upon purchasing the property and significantly enhanced the neighborhood's curb appeal. Due to setbacks, construction on either side of the building is not feasible on our narrow lot, making forward construction our only option.

2. A variance is necessary for the preservation and enjoyment of the property rights possessed by other properties in the district and vicinity.

As mentioned previously, nearly every property in our neighborhood features either a porch or deck at the front of their homes. Our property is an exception to this trend, primarily due to the removal of the sidewalk, ramp, and porch that were previously installed. The planned deck has a footprint significantly smaller than the ramp we removed and will provide a private space for the residents of the lower, owner-occupied unit to enjoy while also enhancing the property's curb appeal.

3. The variance will not create a special detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this or to the public interests.

We have already discussed our project with the residents to the north and south of our duplex and have obtained verbal permission to proceed. The building to the north, which is also a duplex, does not have a view of the front of our building, so there is no visual impact for them. Notably, this building is identical to ours but is oriented 90 degrees to fit on their lot at the base of the bluff. They also have a wheelchair ramp, although it is much smaller than ours was. It is significantly flatter, and the tenants in the lower unit frequently sit outside and utilize it.

The property to our south features a building that is set far back from the road, resulting in no visibility to the front of our duplex. They have a covered porch which they use regularly.

There is no structure directly across the street to the west, eliminating any concerns about visual impact. However, we did speak with the owners of that property, and they also have no objections to us constructing a deck or porch. Their duplex faces Saint James Street and includes both an upper and lower porch attached to their building. Both sets of tenants frequently use these porches during the spring, summer, and fall seasons.

4. The difficulty or hardship was not created by the property owner.

Over the past five years, we have made several, major improvements as the current property owners. These improvements have not contributed to the present issues that we are attempting to address. We request permission to complete our project and obtain a variance to construct a free-standing deck/porch at the front of our duplex.

Additionally, we are in discussions with a local remodeler to replace and install new windows for both units and replace the old vinyl siding. We may also consider staining the existing brickwork a different color to modernize the overall appearance and better match the new windows and siding. The new deck/porch will be a central feature of these upcoming changes. Therefore, we seek your assistance and support in granting this variance request at this time.

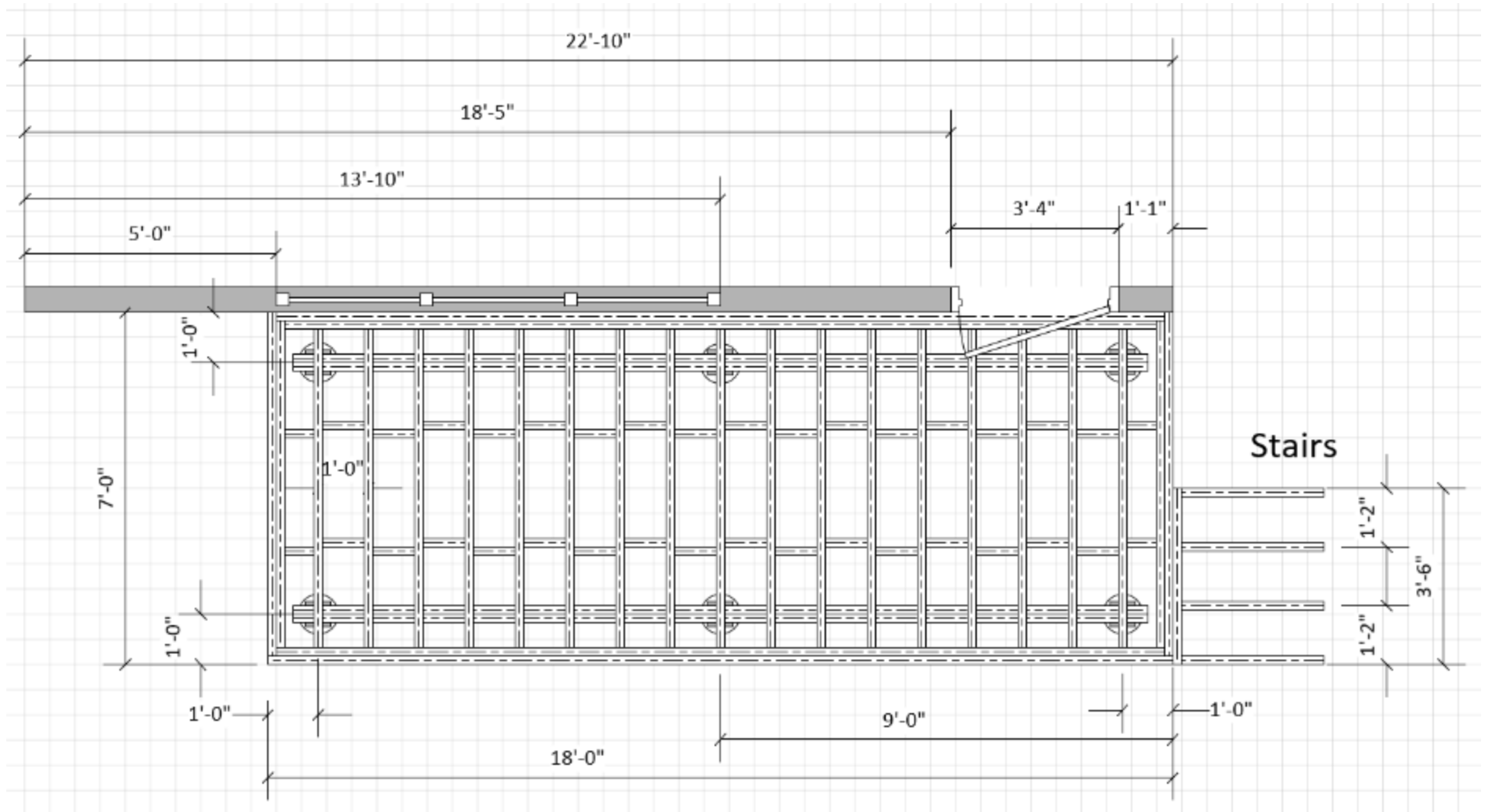


**Deck Project      1314 / 1316 Saint James Ct.   Wauwatosa, WI   53213**

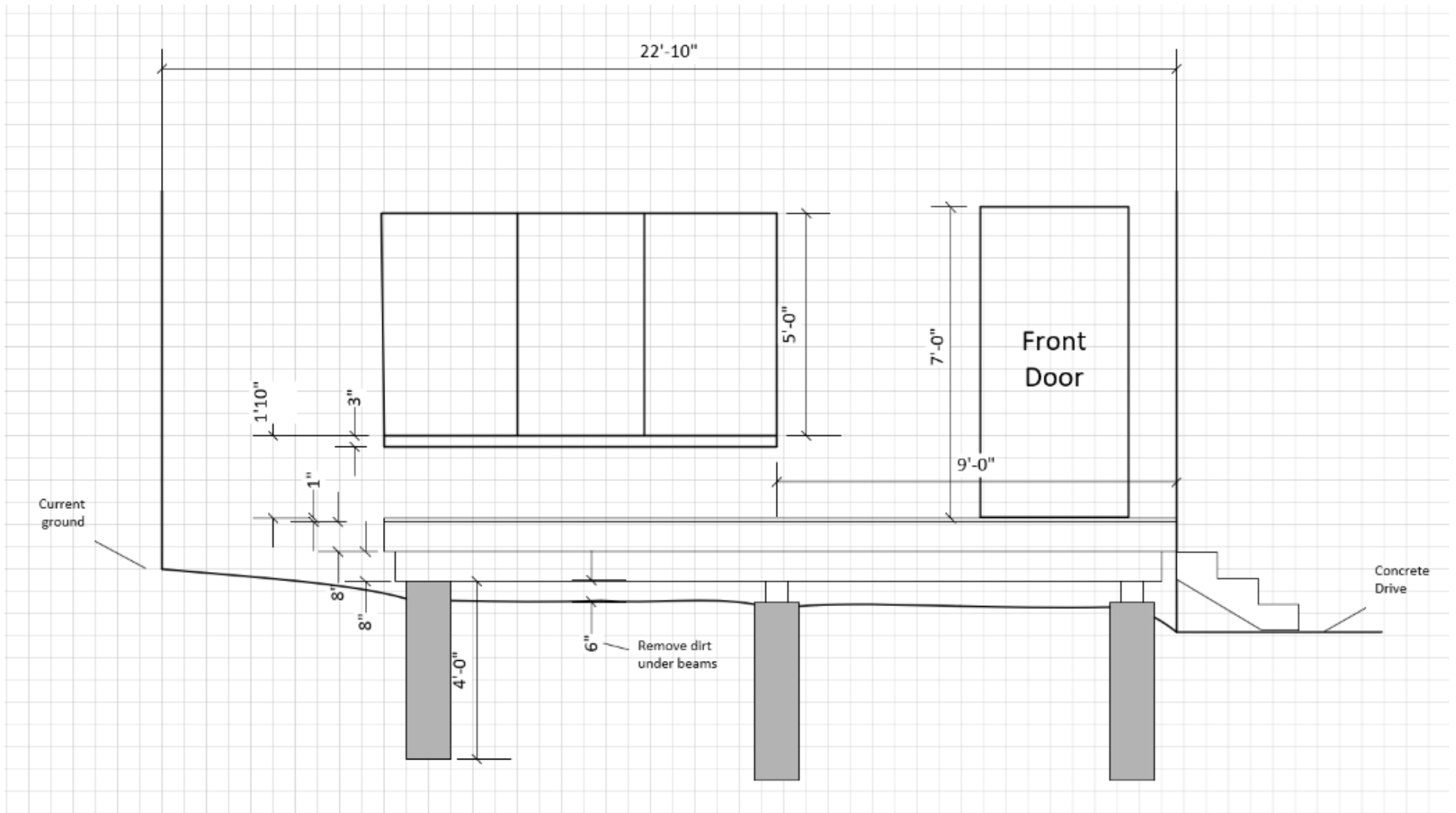
There was a wheelchair ramp that went back and forth across the front of our duplex (9' Wide x 20' Long). It was collapsing and moving away from the building foundation, so it was removed when we updated our driveway from asphalt to concrete along with a new retaining wall. Our current project is to add a free-standing deck that will be approx. 7' wide x 18' long across the front of the duplex. The deck will rise approx. 32 inches above the concrete drive and will provide access to the lower unit front door.

Details are as follows:

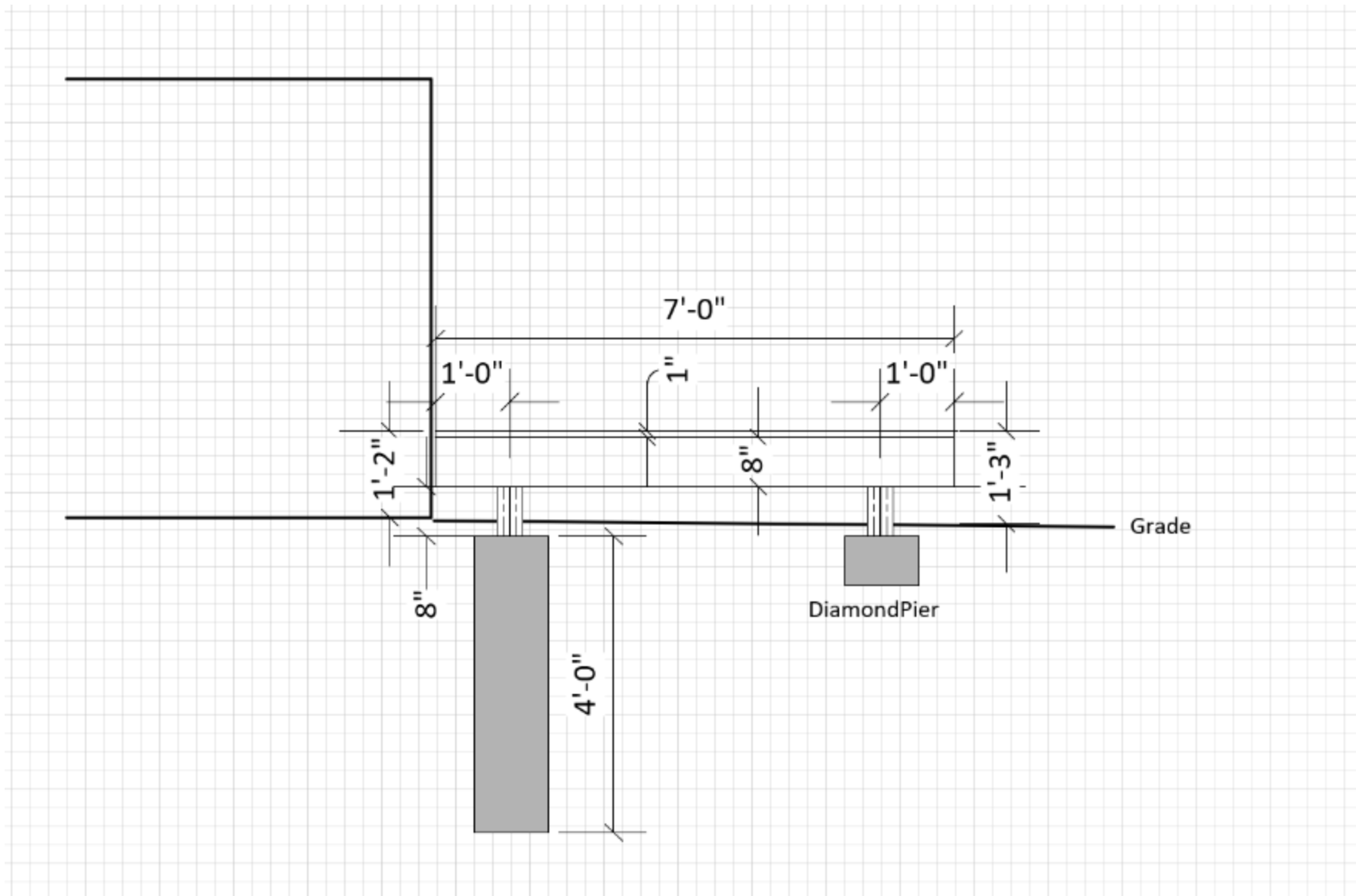
- 3 footings near house 48" deep – 12" diameter concrete piers
- 3 outer footings DP50 Dimond Piers
- Footings to be placed 1 ft o.c. from outside edges
- 2 Load beams to be 3 ply 2 x 8, set on 6 x 6 post bracket on footings and 6 x 6 posts
- Post bracket to be installed at post to beam connection
- Load beams to be fastened together with structural screws at staggered 16" o.c. screw pattern
- 2 ply 2 x 8 Rim joists on all 4 sides
- 2 x 8 joists to be installed 12" o.c., with joist hangers on each end and hurricane clip to both load beams
- 3 step stairs 42" wide with 4 stringers with an approx. 6 5/8 rise. Stairs landing on new concrete driveway slab
- Solid edge composite deck boards will be installed on frame on all 4 sides
- Grooved edge composite deck boards to be installed on deck with hidden fasteners
- Composite facia will be installed on 3 visible sides of deck rim joists, visible side of load beam, Stair risers and 2 visible sides of stringers
- Railings to be aluminum posts with cable rail on deck and stairs



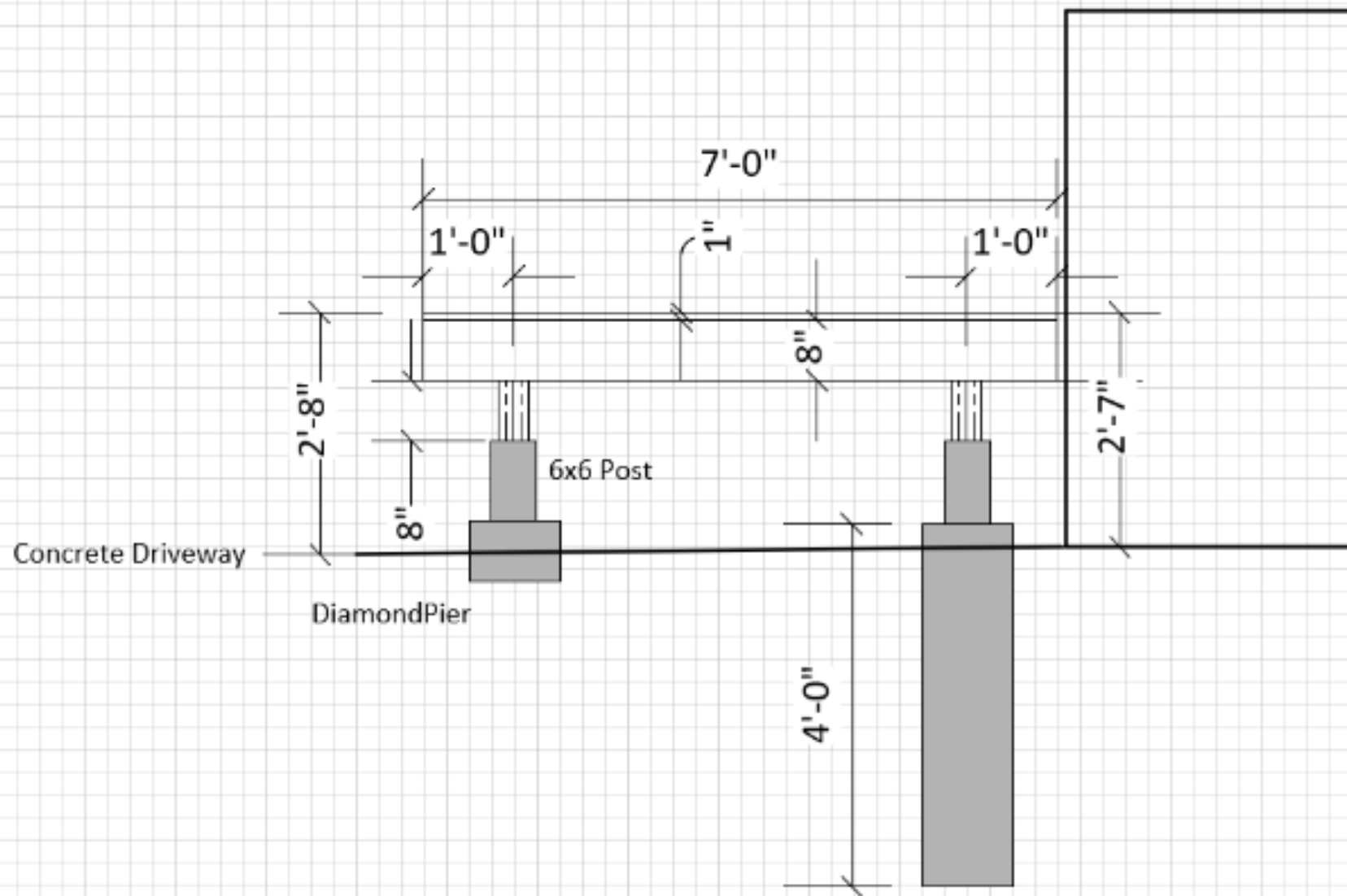
Overhead View of Deck Structure



West Side of Property



North Side of Property



South Side of Property

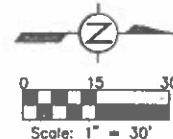
PARCEL 3, OF CERTIFIED SURVEY MAP NO. 3393, BEING LOTS 10 AND 11 AND PART OF LOTS 9 AND 12 IN BLOCK 3 IN W. BLANCHARD'S SUBDIVISION, BEING A SUBDIVISION OF LOTS 5, 4, 3, 2, AND PART OF LOT 1 IN RORICK'S SUBDIVISION, IN THE SOUTHWEST  $\frac{1}{4}$  AND THE SOUTHEAST  $\frac{1}{4}$  OF SECTION 22, TOWNSHIP 7 NORTH, RANGE 21 EAST, IN THE CITY OF WAUWATOSA, MILWAUKEE COUNTY, WISCONSIN, AND PART OF VACATED SHORT STREET ADJOINING SAID LOTS ON THE SOUTH AND PART OF LOT 6 IN SAID RORICK'S SUBDIVISION.

CONTAINING 12,706 SQUARE FEET, 0.2917 ACRES MORE OR LESS.

# PLAT OF SURVEY FOR:

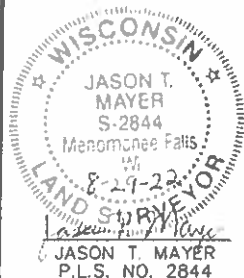
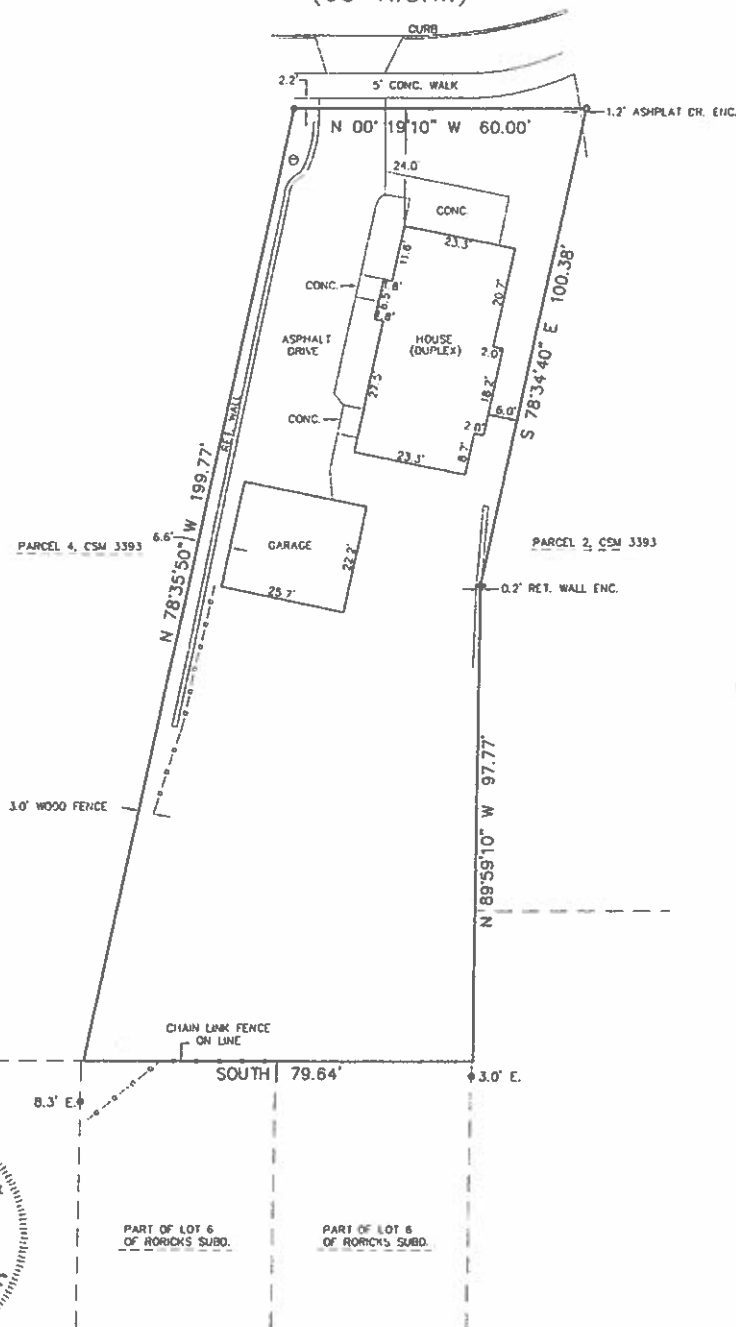
EUGENE & MARY SZCESNY  
1314 ST. JAMES CT.  
MILWAUKEE, WI.

ST. JAMES CT.  
(60' R.O.W.)



## LEGEND

- P.K. NAIL FOUND
- 1" IRON PIPE FOUND
- ⊕ CHISELED CROSS SET
- ⊙ STORM INLET

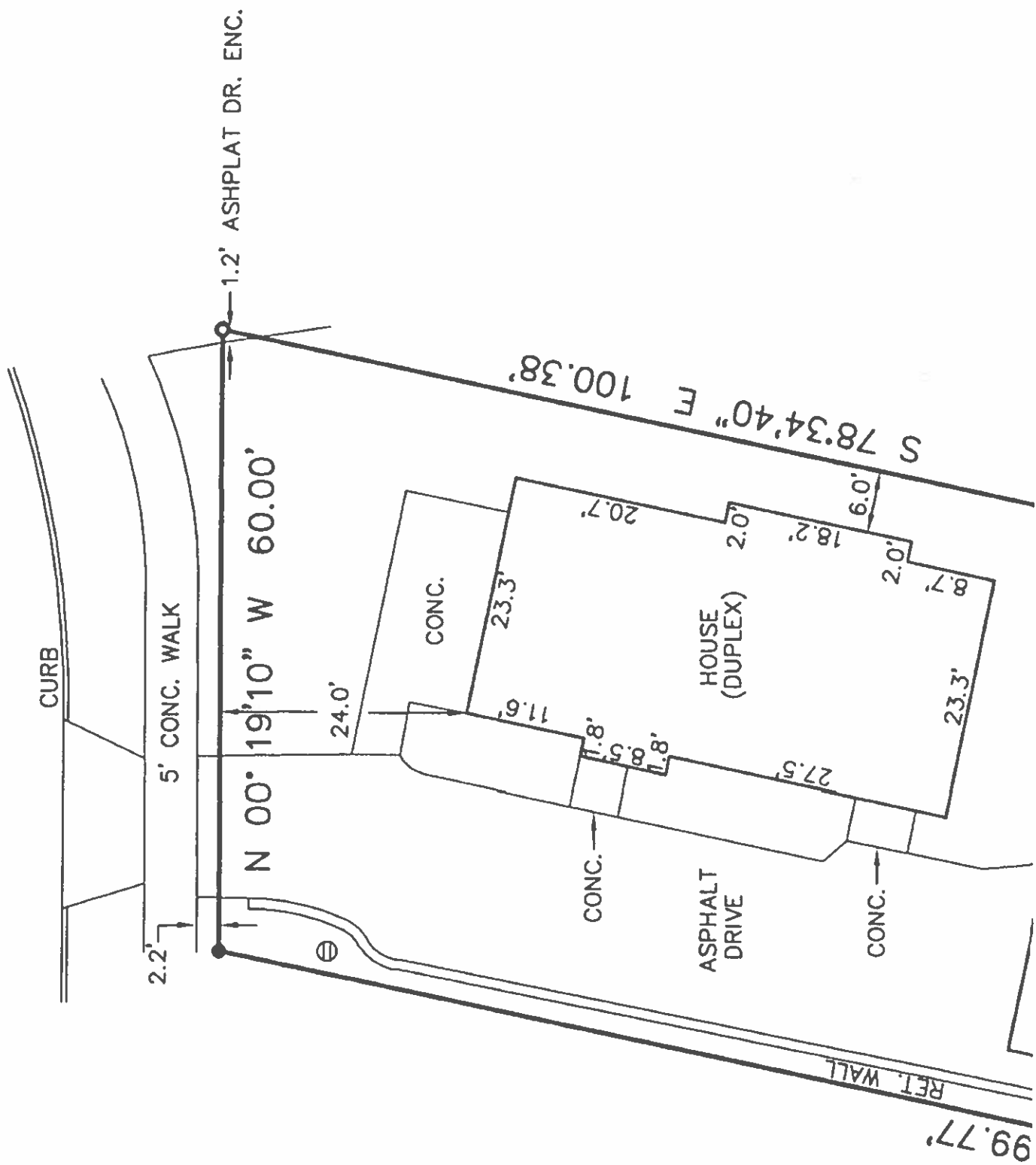


AS OF THE DATE OF THIS SURVEY, NO TITLE POLICY WAS PROVIDED, THEREFORE THIS PLAT OF SURVEY DOES NOT GUARANTEE THE EXISTENCE, SIZE AND LOCATION OF ANY EASEMENTS, ENCUMBRANCES, RESTRICTIONS OR OTHER FACTS THAT COULD OTHERWISE BE DISCLOSED IN A TITLE SEARCH OR CURRENT TITLE POLICY.

THIS IS AN ORIGINAL PRINT ONLY IF SEAL IS IMPRINTED IN RED. "I have surveyed the above property, and the above map is a true representation thereof and shows the size and location of the property, its exterior boundaries, the location and dimensions of all structures thereon, fences, apparent easements, roadways, and visible encroachments and is in compliance with Wisconsin Administrative Code AE-7 for property survey standards and is correct to the best of my knowledge and belief.

This survey is made for the exclusive use of the present owner of the property; also those who purchase, mortgage, or guarantee the title thereto, within one year from the date hereof."

THIS INSTRUMENT WAS DRAFTED ON 8-29-2022 BY JASON T. MAYER, P.L.S. W241 N7303 S. WOODSVIEW DR. SUSSEX, WI 53089 (262)424-7552



26



# DiamondPier®

## Quick Installation Overview

**IMPORTANT:** Read Full *Diamond Pier Installation Manual* and View the *Installation Video* at: [www.DiamondPiers.com](http://www.DiamondPiers.com)

### Before You Purchase Page references refer to the Full Installation Manual

- 1. Know Your Soils** See "Normal Soil Conditions" (page 5) – 1500 psf min supporting soils.
- 2. Check Your Loads** "Residential Diamond Pier Load Chart" (page 6) shows Equivalency to Traditional Concrete Footings.
- 3. Get Building Permit from Local Municipality** Provide Diamond Pier model size and code compliance documentation. See "Use and Applications" (page 7).
- 4. Locate Buried Utilities** Determine safety zones and adequate clearances (page 8).

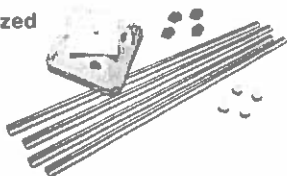
### Documents to Submit with a Permit Application

- ESR-1895 Code Compliance Document or Wisconsin UDC Approval Evaluation
- Detail Drawings and Load Chart
- See "Use and Applications" (page 7)

### To Get Started You will Need...

#### • The Proper Sized Diamond Pier

- Includes:
- 1 - Concrete Head
  - 4 - Pins
  - 4 - Plugs
  - 4 - Caps



- Driving Bit  
1-1/8" hex shaft



- Demo/Breaker Hammer  
35 lb. +

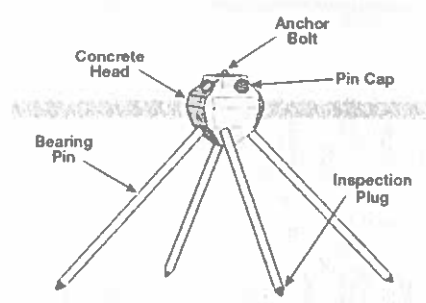


Ask dealer about rental

#### Other Common Tools Required...

- Square Edge Shovel
- Torpedo Level
- Pipe Wrench
- Ear Protection
- Sledgehammer
- Tape Measure
- Proper Safety Goggles
- Insulated Gloves & Protective Clothing

### Diamond Pier® Detail



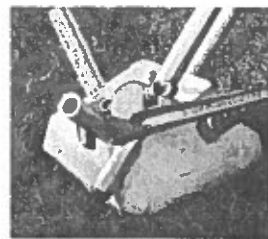
### Install in Minutes A minimum two-person crew is recommended. See Full Installation Instructions (pages 11-14).



1. Install plugs in pins to prevent soil from entering as they are driven into the ground. Inspectors can then use a tape measure to verify pin length after installation.
2. Lay out string approx. 12–14" above the ground on center location of post/pier to allow for quick reference point.
3. Remove soil the same size as bottom half of concrete head, approx. 6" depth. Note: Pier can be buried for aesthetic reasons, but access to top of pier needs to be maintained. Concrete slabs, patios, and other products installed **MUST NOT** interfere with the Diamond Pier system and the attached post/beam assembly. Expansion joints are commonly used to protect the system. Proper drainage must also be maintained.
4. Set concrete head in hole and, keeping the pin centered in the driving hole, carefully set each pin 6–12" into soil tapping with a short grip on sledgehammer until pier is locked into a level position. Note: The edges on the flat top of the concrete head do not have to align exactly with the sides of the post or post bracket as long as the bracket is fully supported by the concrete for proper weight distribution. Piers can be nested next to each other to provide more loading, but if closer than 3' on-center, a 13% load reduction should be applied to each pier.
5. With driving bit attached to the automatic hammer, drive pins in evenly from side to side in equal increments, approx. 1–2" each until pin is approx. 6" out. Then double check pier position before final driving of the pins to 3/4" out for cap attachment. Note: One person should hold pin to limit vibration to pier while pin is driven.
6. Be sure the pin length is inspected per permit requirements before caps are applied.

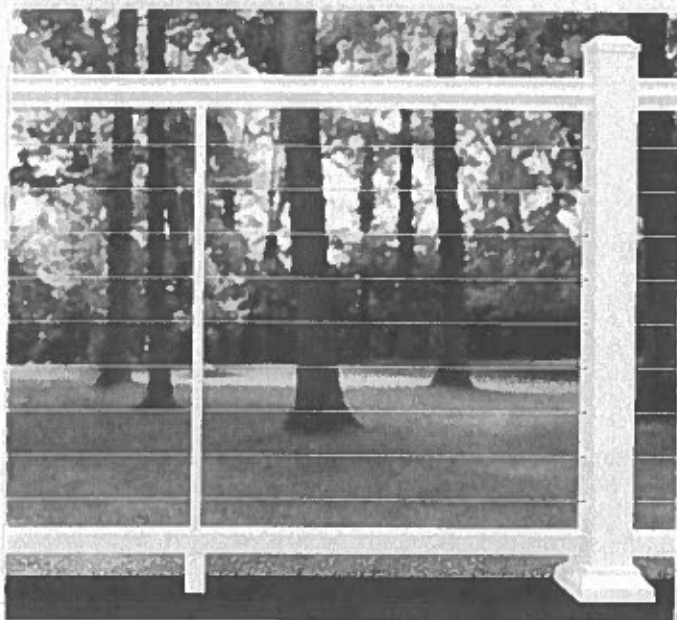
### Removal/Repositioning if Obstruction Encountered

If a pin stops moving when being driven in, STOP driving the pin. Put pencil mark on pin by head to indicate if pin is moving. With other pins part way in, use the automatic hammer for approx. 10–20 seconds, or give the pin one or two firm square hits with the sledgehammer. If it still will not move, then remove and reposition the pier. To remove, spin and pry a pin simultaneously using a pipe wrench and pry bar. If the obstruction is close to the surface, it may be dug up and removed. Then recompact the soils with the sledgehammer, and reset the pier. See Installation Manual (page 13) and Removal Video available at [www.DiamondPiers.com](http://www.DiamondPiers.com).



### Register Your Product Warranty See information at [www.DiamondPiers.com](http://www.DiamondPiers.com)

**WARNING:** Do not install Diamond Pier foundations before all underground utilities have been located, marked, and de-energized. See "Locate Buried Utilities" in the full Installation Manual at [www.DiamondPiers.com](http://www.DiamondPiers.com)



## Horizontal Cable System

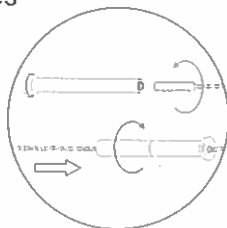
Easy Installation with Williams  
Fast Fitting Hardware

Williams Horizontal Cable Railing is an easy to install system with Fast Fitting hardware and pre-drilled posts for smooth cable threading.



- Available without a bottom rail for maximum view
- Colonial top rail for a beautiful, comfortable grip
- Hidden fastener system for a clean, contemporary look
- Architectural grade powder coat aluminum with stainless steel cables

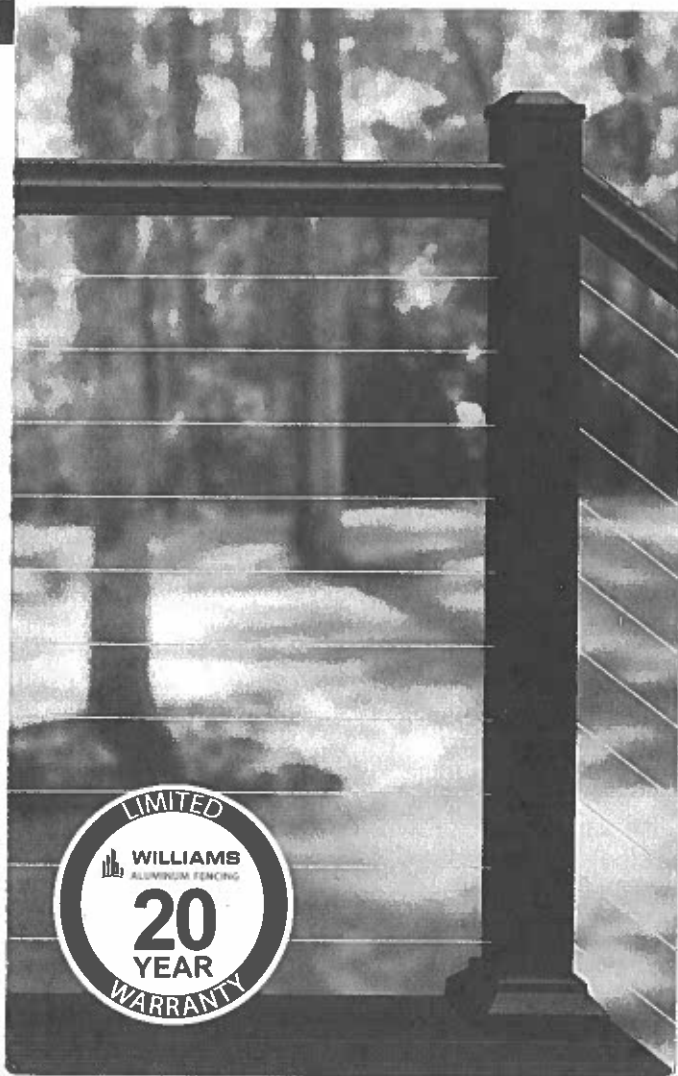
Williams Fast Fitting  
hardware with a simple  
tensioning System



**SPECIFICATIONS:** Up to 8ft. on center posts, available in 36in. height, for both deck and stair applications.



## Cable Railing Systems





Fall of 2019





















