

DATE: September 4, 2019

FILE: 3730-20 / BV 2A 19

TO: Chair and Members
Board of Variance

FROM: Russell Dyson
Chief Administrative Officer

Supported by Russell Dyson
Chief Administrative Officer

R. Dyson

**RE: Board of Variance Application – 5624 4th Street (Milburn/Stefanson)
Electoral Area A (Baynes Sound – Denman / Hornby Islands)
Lot 3, Block 12, District Lot 7, Nelson District, Plan 438, PID 009-055-291**

Purpose

To provide information on a Board of Variance (BOV) application to allow retaining walls over 2.0 metres in height to be sited anywhere on the subject property (Appendix A).

Executive Summary

- The subject property is a 0.067 hectare lot in the Union Bay Settlement Node.
- The applicant is currently constructing a house and is seeking to add a secondary suite.
- The addition of the suite, given the yard area available, requires that the septic system be redesigned as a Type 2 system with secondary treatment.
- To accommodate this, the Registered Onsite Wastewater Practitioner (ROWP) recommends maximizing the available yard area for the system, including the use of retaining walls.
- The Zoning Bylaw allows retaining walls under 2 metres to be sited anywhere on the property or otherwise they must meet a zone’s setback requirements.
- The application seeks to allow retaining walls over 2 metres in height along the rear and side property lines. The walls will range in height and must be confirmed by an engineer but are estimated to be as high as 3 metres.
- Notification was sent to property owners within 50 metres of the subject property.

Prepared by:

J. MacLean

Jodi MacLean, RPP, MCIP
Rural Planner

Concurrence:

T. Trieu

Ton Trieu, RPP, MCIP
Manager of Planning Services

Concurrence:

S. Smith

Scott Smith, RPP, MCIP
General Manager of
Planning and Development
Services Branch

Stakeholder Distribution (Upon Agenda Publication)

Applicants & Agent	✓
Registered Onsite Wastewater Practitioner	✓

Background/Current Situation

An application has been received to consider a variance from the Zoning Bylaw that would allow for retaining walls over 2 metres in height within the regulated setback areas.

The subject property is located within the residential area of Union Bay (Figures 1 and 2). It is a 0.067 hectare lot: 18 metres wide by 36 metres deep. The lot is currently being developed with a house (Building Permit File No. 10663). During construction, the owners amended the plans to include a secondary suite within the house. According to the application, retaining walls along the rear and side yard property lines are necessary to accommodate the new sewerage system (Figures 3 to 5).

According to the ROWP, given the additional dwelling and the size of the yard available, the sewerage system must be re-designed from a Type 1 system to a Type 2 system which increases efficiency by adding a secondary treatment (e.g. aerobic) tank between the septic tank and the drainage field. The ROWP stated the retaining walls will be necessary to accommodate the tanks as the remainder of the yard will be used for drainage.

Planning Analysis

Official Community Plan

The Official Community Plan designates the subject property as being within a Settlement Node. This designation does not establish a specific target density but the Settlement Nodes are intended to be the primary growth areas in the unincorporated areas of the Comox Valley Regional District (CVRD). Among the objectives of this designation is “*To encourage residential intensification as a means of increasing the amount of available housing...provided the additional housing is compatible with the scale, design context and community features of the neighbourhood.*” The policies direct that “*local area plans establish the goals and objectives for residential [and other land uses] including a range of residential types and densities*”. However, a Local Area Plan has not been initiated for this Settlement Node.

Zoning Bylaw

The property is zoned Residential One. This zone allows residential use with a maximum density of one single detached dwelling and one of either a secondary suite, carriage house or secondary dwelling up to 90 square metres in area. The zone’s regulated setbacks for accessory structures under 4.5 metres in height are 1.0 metre from the side and rear property lines.

Section 403(3) of the Zoning Bylaw allows retaining walls less than 2.0 metres in height to be sited anywhere on the lot. However, any retaining wall over 2.0 metres in height must adhere to the zone’s setback requirements. The proposed retaining wall would vary in height and must be confirmed by an engineer but is estimated to be 3.0 metres at its maximum.

Policy Analysis

Division 15 of Part 14 of the *Local Government Act* (RSBC, 2015, c. 1) (LGA) requires a local government that has adopted a Zoning Bylaw to establish a BOV. A property owner may apply to the BOV for an order of variance if the owner alleges that compliance with provisions of the Zoning Bylaw regulating the siting, dimensions or size of a building or structure would cause hardship. Section 542(1) of the LGA states that the BOV may order that a minor variance be permitted if the board:

- a. Has heard the applicants and any person notified of the variance;
- b. Finds that undue hardship would be caused to the applicants if the subject bylaw is complied with; and

- c. Is of the opinion that the variance will not result in inappropriate development of the site, adversely affect the natural environment, substantially affect the use and enjoyment of adjacent land, vary permitted uses and densities, or defeat the intent of the bylaw.

Options

The BOV can either approve or deny the variance application.

Financial Factors

Applicable fees have been collected for this application under the “Comox Valley Regional District Planning Procedures and Fees Bylaw No. 328, 2014”.

Legal Factors

The report and recommendations contained herein are in compliance with the LGA and the Comox Valley Regional District (CVRD) bylaws. BOV applications are permitted in certain circumstances under Division 15 of Part 14 of the LGA.

Regional Growth Strategy Implications

The subject property is designated Settlement Node in the Regional Growth Strategy, being the “Comox Valley Regional District Regional Growth Strategy Bylaw No. 120, 2010”. MG Policy 1B-2 of this designation directs that specific land uses and development criteria be provided for in Local Area Plans, however the Union Bay Local Area Plan has yet to be initiated.

Intergovernmental Factors

There are no intergovernmental factors.

Interdepartmental Involvement

The application was circulated to applicable staff at the CVRD for comment. No concerns were identified. A Building Permit is required for retaining walls over 1.2 metres in height.

Citizen/Public Relations

Notice of the requested variance has been mailed or otherwise delivered to the owners of the subject property, as well as adjacent property owners and legal tenants within 50 metres of the subject property, at least ten days prior to the BOV meeting. The notice includes the description of the requested variance, the land that is the subject of the requested variance, and the time and location of the BOV meeting. Any resident correspondence or comments received by staff will be provided to the members at the BOV meeting.

Attachments: Appendix A – “Applicant submissions – BV 2A 19”

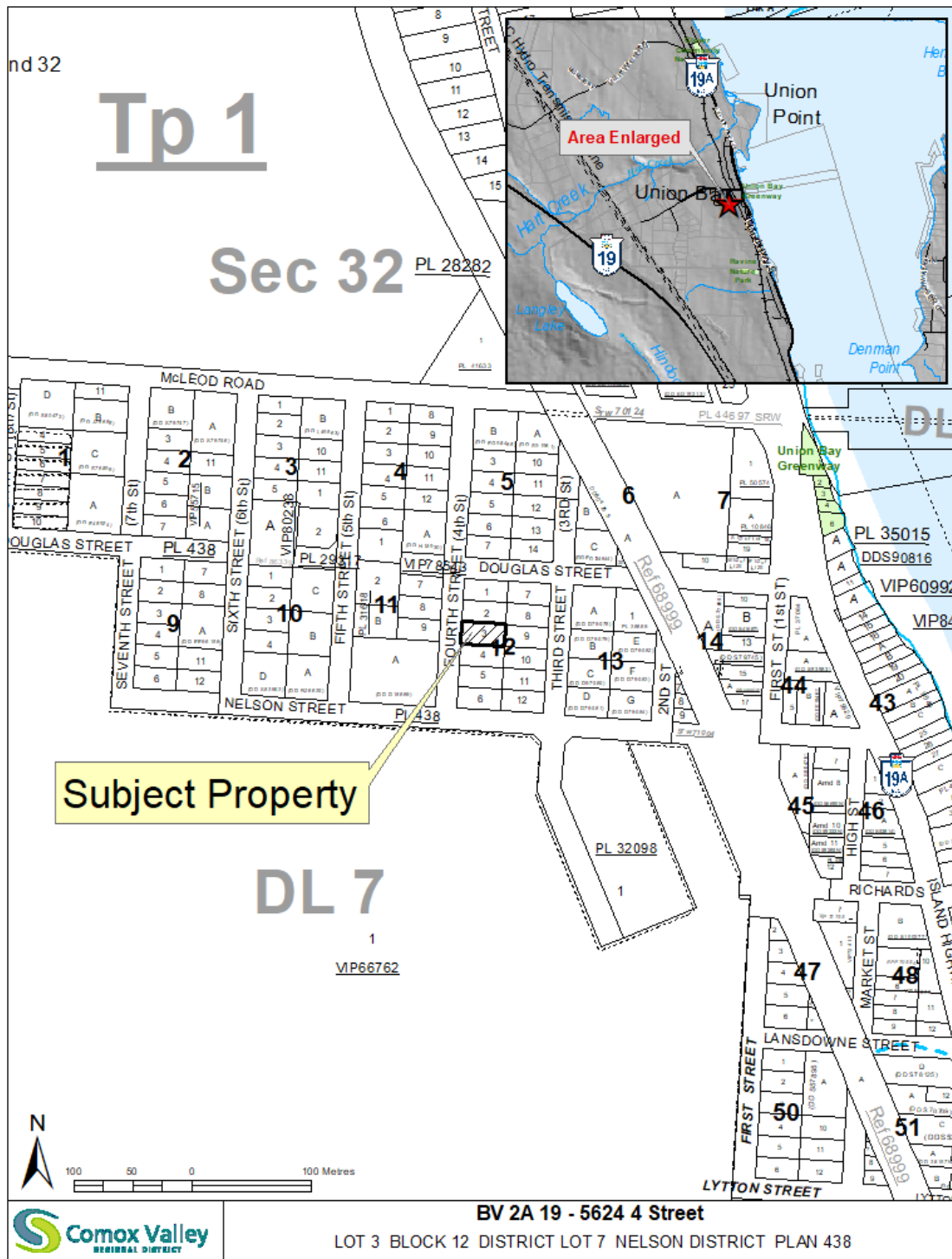


Figure 1: Subject Property



Figure 2: Air Photo (2018)



Figure 3: Subject Property Where Retaining Walls are Proposed to Surround the Backyard



Figure 4: Backyard (looking northeast) Proposed to be Surrounded by Retaining Walls



**Figure 5: Southern Property Line Proposed to be reinforced with a Retaining Wall,
Looking South from Under the First Floor Deck**

Muchalat Construction Ltd.

3326 Dove Creek Road, Courtenay, BC V9J 1P3

Phone: 250 338-0995 Fax: 250 338-0193

August 6, 2019

Comox Valley Regional District
600 Comox Road
Courtenay, BC

To Whom It May Concern:

Re: Variance Application to Install Retaining Wall at 5624 4th Street, Union Bay, BC V0R 3B0

We request a variance to build a maximum of 10' high engineered retaining wall.

Reasons for this request are due to the very steep lots in this subdivision. The entire yard is required for the sewage treatment system for the new dwelling which would caused undue hardship as the owners would be unable to provide a sewage system without a variance.

There are a number of lots in this subdivision with retaining walls and we request a minor variance to allow a retaining wall on this lot similar to the other lots in the neighbourhood.

I can be reached at 250 207-0060 if you require any additional information.

Sincerely,

Muchalat Construction Ltd.

Justin Formosa

JF



Accelerated Excavation
Bruce Nichol ROWP
2885 Caledon Crescent, Courtenay, BC V9N 7E1

Ph. Number 334-4001
Fax Number 334-4059
Accexc@shaw.ca

July 08, 2019

Re: Sewerage Disposal System

5624 4th St
Union Bay, BC

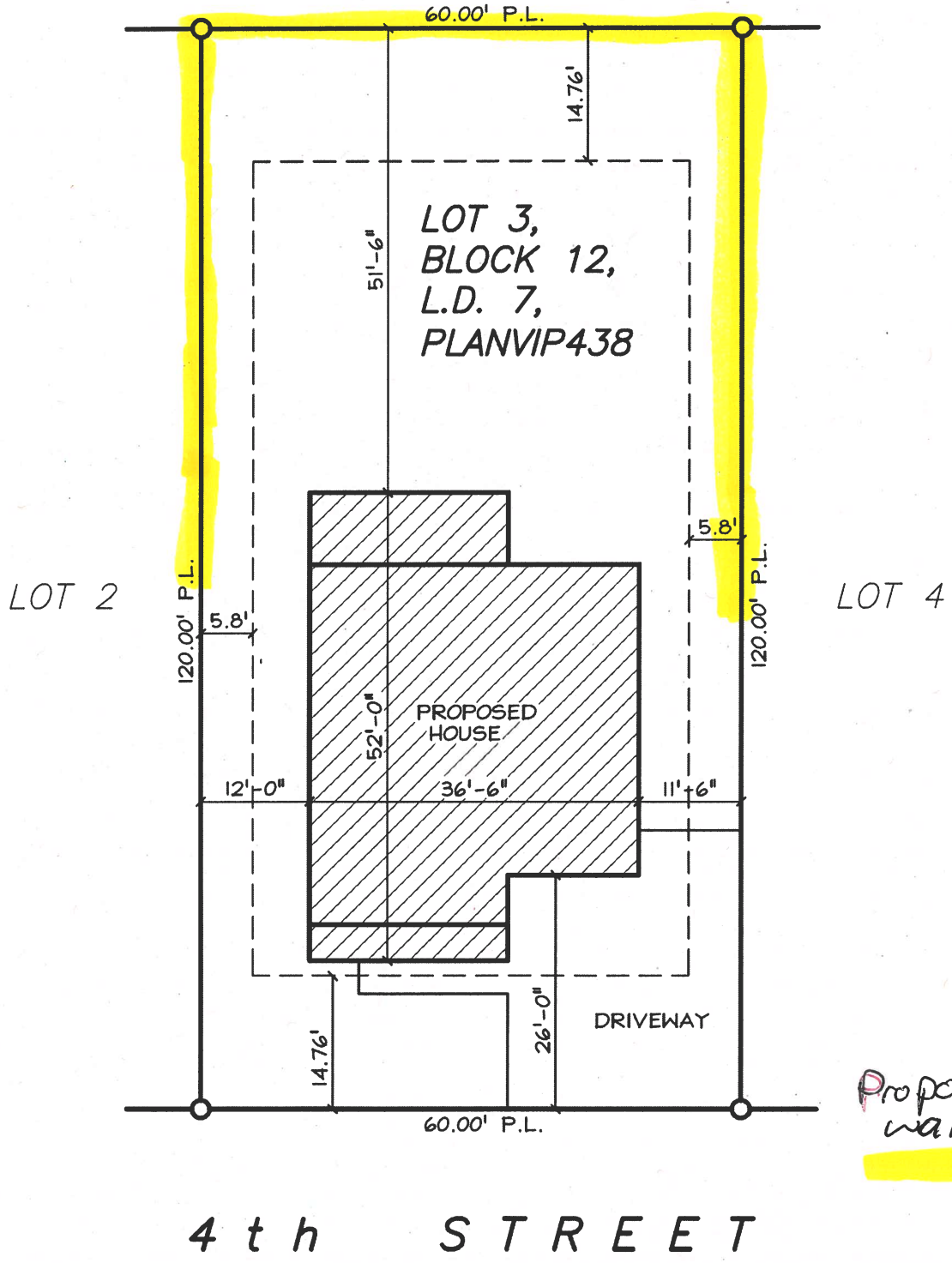
To: Regional District

Reference to CV 17/216

Due to the extreme tight site the entire yard will be used for the sewerage system to serve the new dwelling. Length of system is very important for treatment, side yard restrictions, lot width is critical in design for Union Bay properties.

Any Questions or concerns contact me @ 250-897-4012 cell
Bruce Nichol ROWP
License # OW0475 ASTTBC certified

LOT 9



Proposed Retaining wall

SITE PLAN

1/16" = 1'-0"

Rear of lot
~~Back~~

60'

Right

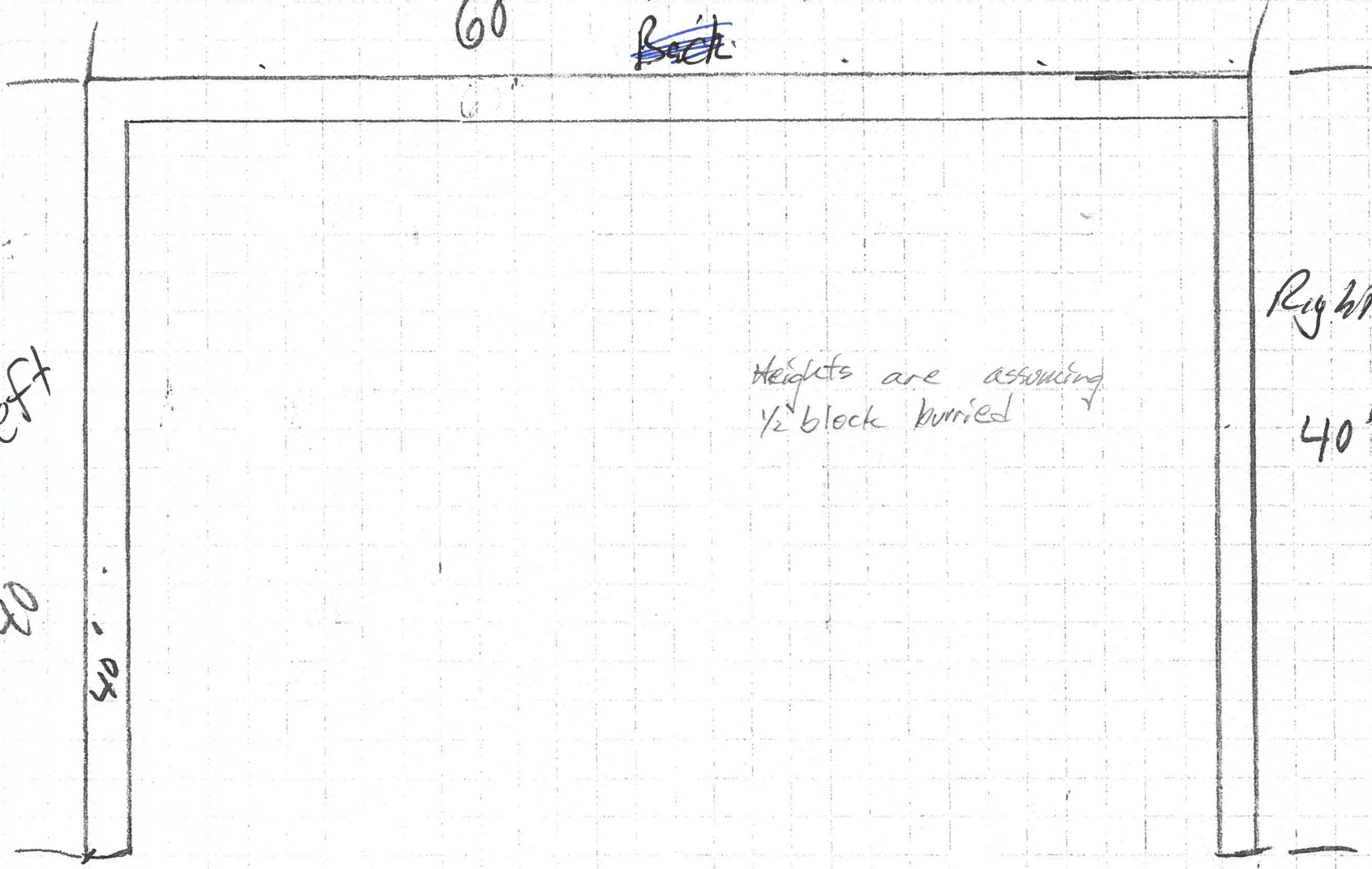
40'

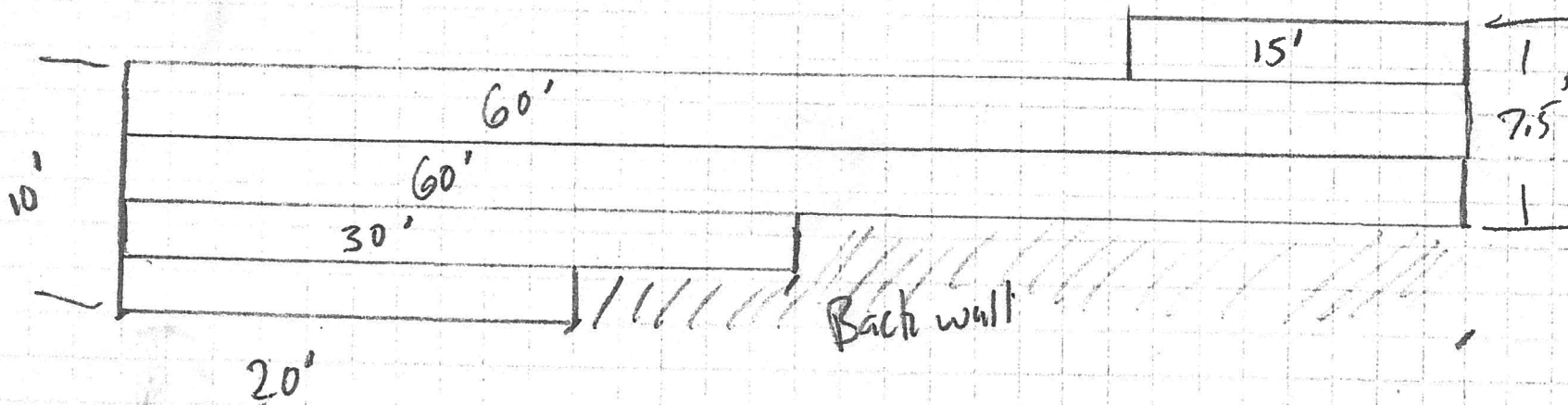
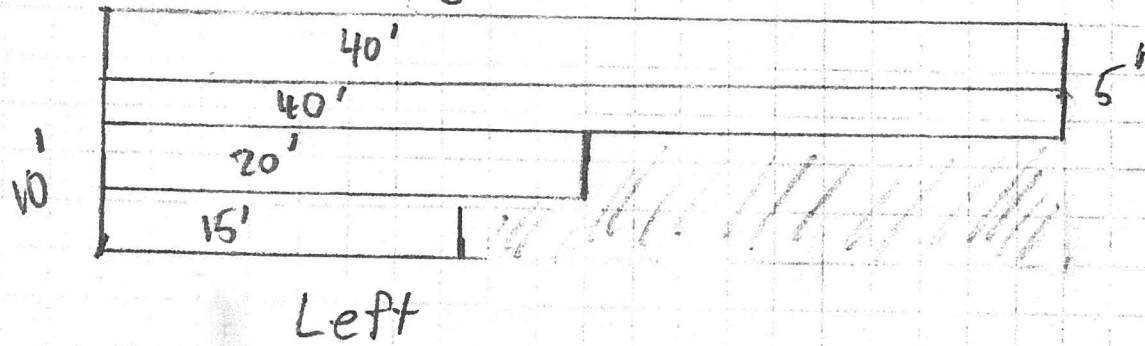
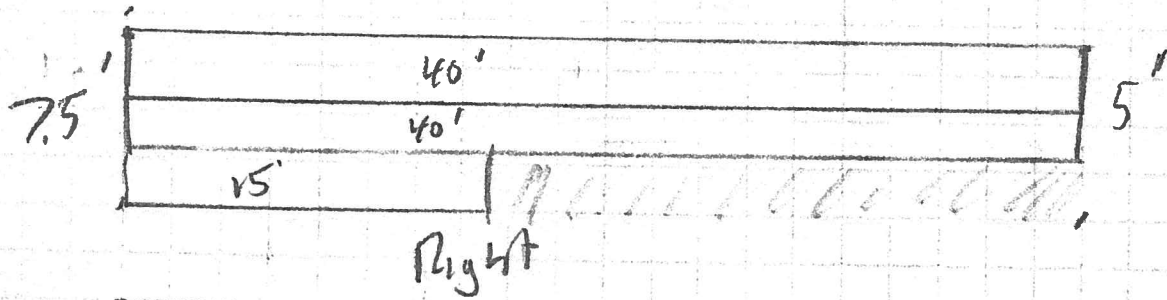
Heights are assuming
1/2 block buried

left

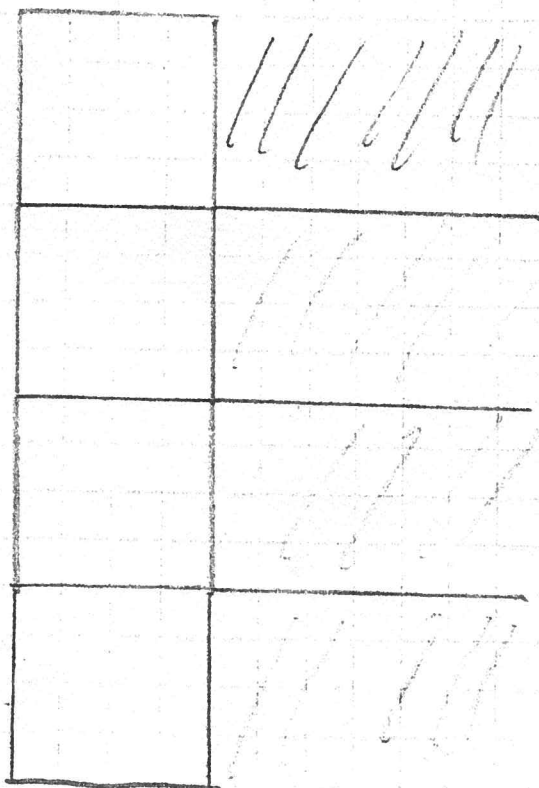
40'

40'





7'-10'??



Geo Grid

Geo Grid

Geo Grid