

ORDINANCE NO. 57-96

BY: Melisa S. Shroyer

An Ordinance authorizing the Mayor and Auditor to sign a Consent and Hold Harmless Agreement on behalf of the City of Bexley with the property owner at 2199 East Main Street (Lot No. 1; McGuffey & Burnetts Addition) regarding improvements made upon and within the City owned right-of-way at the southwest corner of Mound Street and Pleasant Ridge Avenue.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY, OHIO:

Section 1. That Capital University, the owner of property adjacent to the southwest corner of Mound Street and Pleasant Ridge Avenue, has requested approval for a 28 1/2 inch high stone retaining wall upon and within the City owned right-of-way of Main Street and Pleasant Ridge Avenue.

Section 2. That the Mayor and the Auditor be, and they hereby are, authorized to enter into a Consent and Hold Harmless Agreement with Capital University, in form and substance satisfactory to the City Attorney, authorizing the stone retaining wall as constructed in accordance with the submitted request on the condition that the property owner assume all responsibility for damage, loss, and injury arising out of the location of said stone retaining wall including any additional cost to the City of Bexley incurred in connection with its use of the right-of-way occasioned by the location of the structure.

Section 3. That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: October 8, 1996

[Signature]
President of Council

Attest: [Signature]
Clerk of Council

September 10, 1996 1st Reading
September 24, 1996 2nd Reading

Approved: 10/8, 1996

[Signature]
David H. Madison, Mayor
capwall

57-16

CONSENT AND HOLD HARMLESS AGREEMENT

The undersigned property owner and the City of Bexley, Ohio (the "City") agree as follows:

The property owner has sought and obtained permission from the City of Bexley to install a 28 1/2 inch high stone retaining wall as indicated below on the property described below and in the easement/right-of-way as described. Approval of the stone retaining wall and use of an easement/right-of-way area which is public property is conditioned upon this Agreement.

Capital University, its successors and assigns (collectively the "Owner"), shall save the City harmless from any and all damages which may arise from, or grow out of, the construction, installation, maintenance, repair, relocation, removal or replacement of the stone retaining wall for any reason and shall defend, at its own cost, every suit in which the City of Bexley, Ohio, shall be made a party, brought and prosecuted for the recovery of any such damages; that the occupancy of public property is hereby permitted merely as an accommodation to the said grantee and that no right, title or interest of the public is waived or abridged in any way thereby; that the Owner, upon notice from the City of Bexley, Ohio, duly authorized by the Council of Bexley, Ohio, shall forthwith remove said stone retaining wall from the public property occupied by them and shall yield to said City all rights to occupy the public property used for such stone retaining wall whenever said City shall determine the same to be necessary or desirable; that the Owners release the City, its employees and agents, from any liability for damage to the stone retaining wall arising out of or in connection with any cause whatsoever; that said stone retaining wall shall be so constructed as to not interfere with or damage any utility facilities or to impede nor interfere with in any way the use of the easement/right-of-way area, streets, alleys, sidewalks, and curbs by the City and the public; and in the event that the City determines changes to the stone retaining wall to be necessary or desirable, the Owner shall promptly make any such changes, relocations, or rearrangements solely at its expense.

This Agreement shall not be construed as in any way limiting the rights presently held by the City in the easement/right-of-way areas, or the use thereof for public purposes, except to promote the construction and maintenance of the stone retaining wall in the easement/right-of-way area.

<u>Southwest corner of Mound Street and Pleasant Ridge Avenue</u> Address of Properties	<u>Street Right-Of-Way</u> Type of Easement/Right-Of-Way
<u>Lot Number 1; McGuffey & Burnetts Addition</u> Lot Numbers or Other Description	<u>Stone Retaining Wall</u> Building or Structure
<u>30 Feet Measured from the Center of Pleasant Ridge Avenue & 30 Feet Measured from the Center of Mound Street</u> Easement/Right-Of-Way Width Property Location	<u>4.00 Feet on Pleasant Ridge Avenue 4.50 Feet on Mound Street</u> Maximum Encroachment Into Easement/Right-Of-Way
<u>Street, Sidewalk & Public Utilities</u> Services Existing in Easement/ Right-Of-Way	<u>Ordinance No. -96</u> Approving Authority

This Agreement shall be binding on and for the benefit of the parties hereto and their respective successors and assigns.

STATE OF OHIO, COUNTY OF FRANKLIN:
SS:

The foregoing instrument was acknowledged before me this 15th day of November, 1996 by David H. Madison, Mayor of the City of Bexley, Ohio, and John W. Hornberger, Auditor of the City of Bexley, Ohio.

Candice Shon
Witness

[Signature]
Mayor

July Arnold
Witness

[Signature]
Auditor

Sharon R. Patterson
Notary Public

SHARON R. PATTERSON
Notary Public, State of Ohio
My Commission Expires Nov. 9, 1998

STATE OF OHIO, COUNTY OF FRANKLIN:
SS:

The foregoing instrument was acknowledged before me this 12th day of November, 1996 by Josiah H. Blackmore and Vernon P. Truesdale

Capital University

Claudia J. Malone
Witness

By: [Signature]
Property Owner Josiah H. Blackmore, President

Sarah N. Varvel
Witness

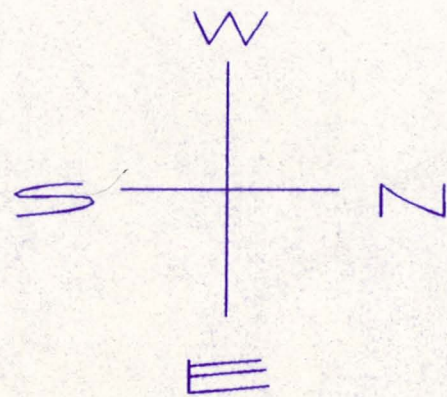
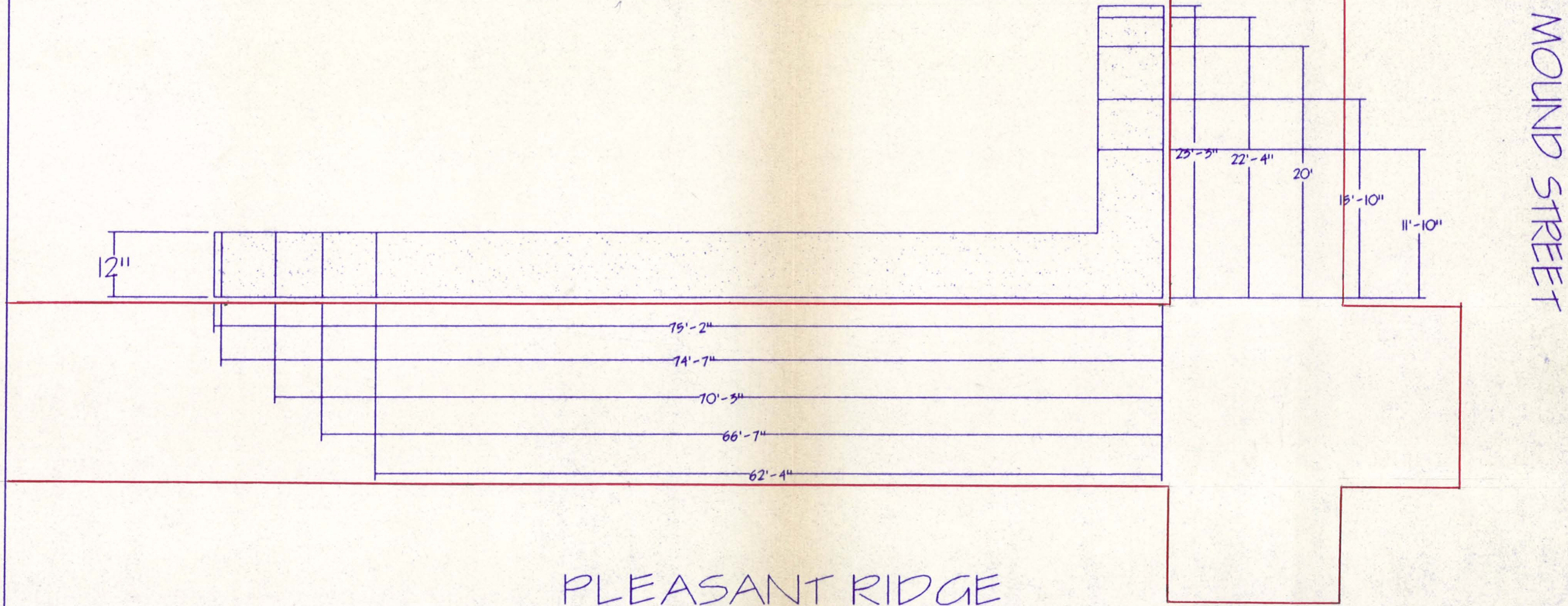
By: [Signature]
Property Owner Vernon P. Truesdale, Treasurer



EARLA JANE ELLIOTT
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES FEB. 25, 1997

Earla J. Elliott
Notary Public

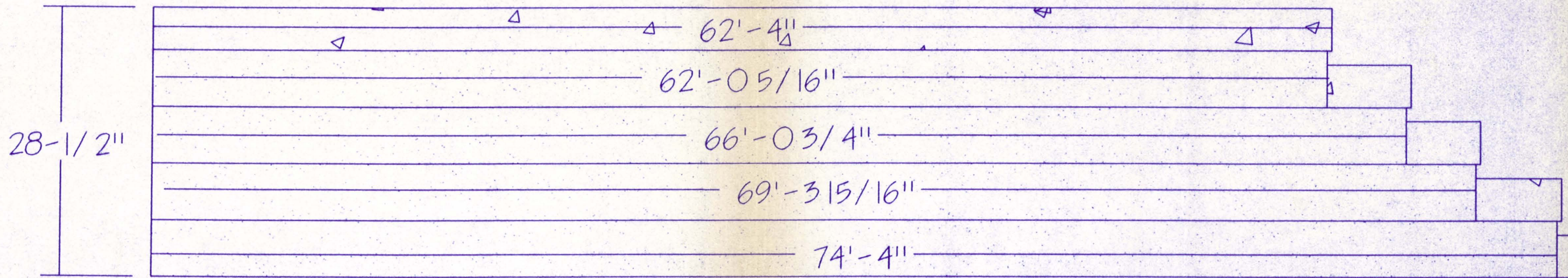
TOP VIEW



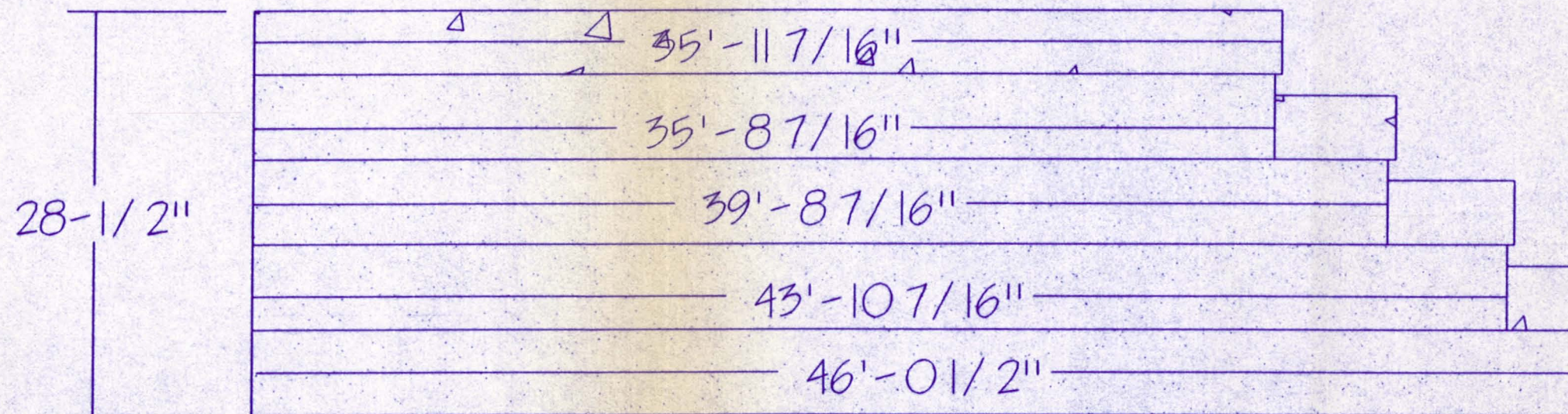
CAPITAL UNIVERSITY
RETAINING WALL PROJECT
DRAWING BY:
MIKE THARP / MARK REDFERN
DATE 8/1/96

*Baldwin
on Friday
COTTONWOOD Hill will be
Arrive Monday*

WALL SIDE VIEWS

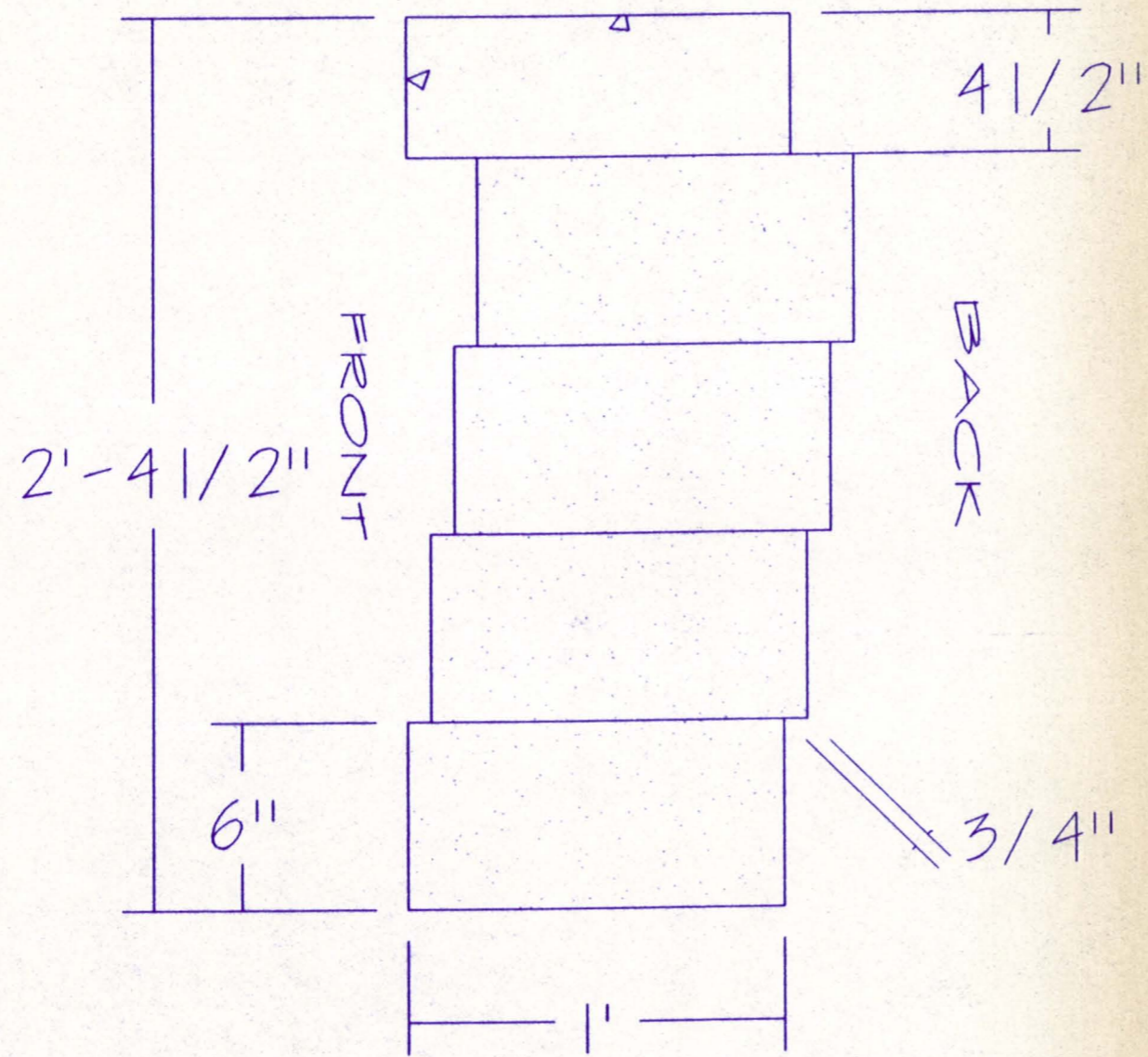


PLEASANT RIDGE EAST

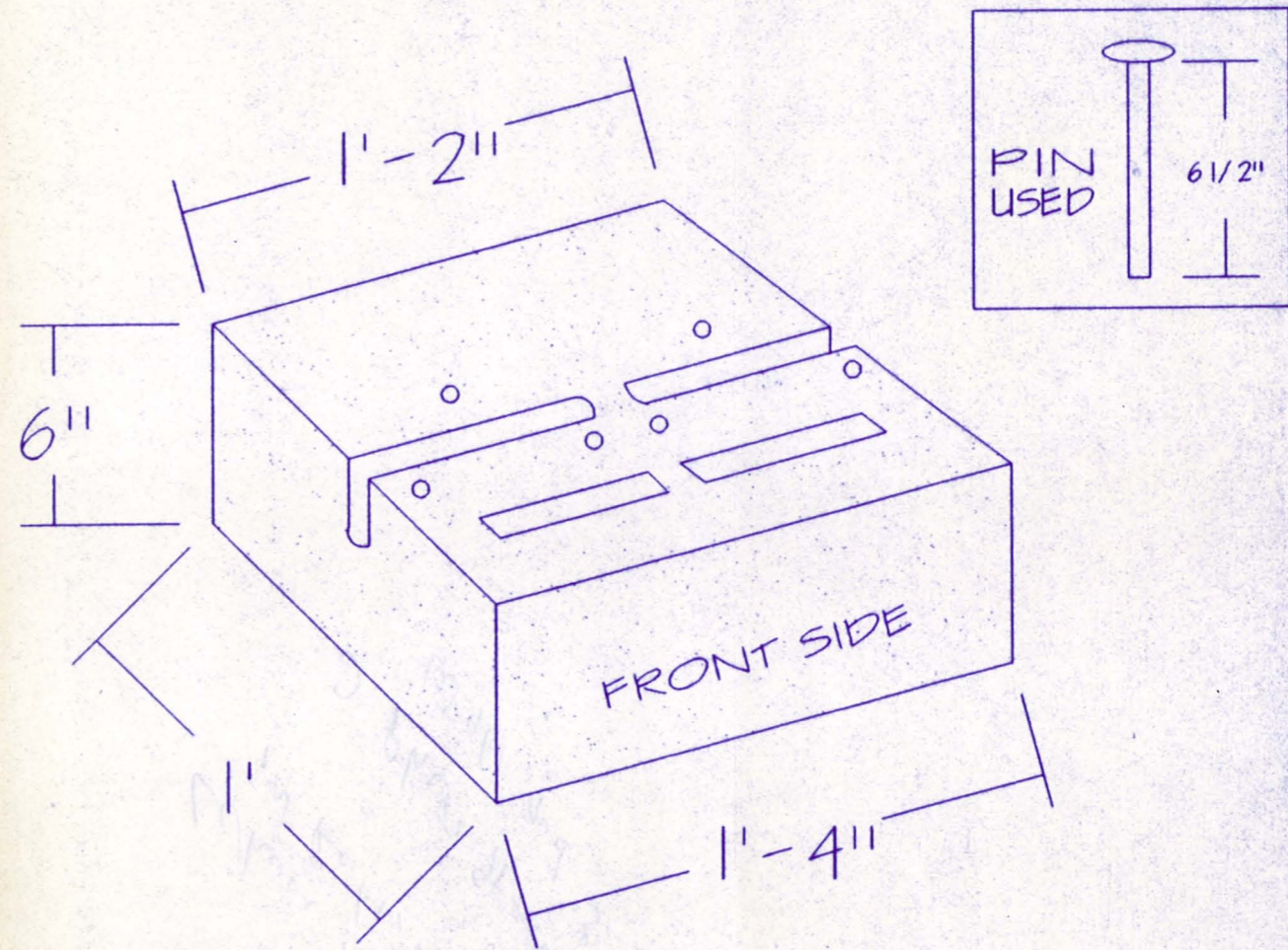


MOUND STREET NORTH

TOP



WALL END VIEW



STONE BLOCK