

Docket Item #5
BZA CASE #2009-0008

Board of Zoning Appeals
June 11, 2009

ADDRESS: 702 N. PATRICK STREET
ZONE: R-B, RESIDENTIAL
APPLICANT: ALAMIN AND NADIA NEGASH, OWNERS,
BY ROBERT LARSON, ARCHITECT

ISSUE: Variance to reduce the required open space from 800 square feet to 680 square feet.

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
3-706(B)	Open Space	800 sq ft	680 sq ft	120 sq ft

BOARD OF ZONING APPEALS ACTION OF JUNE 11, 2009: On a motion to approve by Mr. Goodale, seconded by Mr. Hubbard, the variance was denied by a vote of 3 to 3. Mr. Allen, Mr. Lantzy, and Mr. Zander dissented.

Reason to approve: The application met the criteria for a variance as outlined in the staff report.

Dissenting reason: Not in the purvue of the Board to grant a variance. The case was previously heard by the Planning Commission and City Council and the issue of open space was likely discussed in the SUP approved by City Council.

Speakers:

Robert Larson, architect, made the presentation

Staff **recommends approval** of the request because the applicants have demonstrated a hardship.

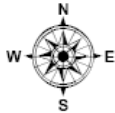
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If the Board decides to grant the requested variance it must comply with the code requirements under the department comments and the applicant must submit the following prior to the release of a Certificate of Occupancy: (1) a survey plat prepared by a licensed surveyor confirming building footprint, setbacks, and building height compliance from average preconstruction grade and (2) certification of floor area from a licensed architect or engineer. The variance must also be recorded with the deed of the property in the City's Land Records Office prior to the release of the building permit.



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6/11/2009



I. Issue

The applicants propose to construct a two-story rear addition at 702 North Patrick Street which will reduce the required open space from 800 square feet to 680 square feet.

II. Background

The subject property is one lot of record with 20.00 feet of frontage facing North Patrick Street and a depth of 80.00 feet. The property contains 1,600 square feet of lot area, which is substandard from the 1,980 square feet required for a single-family dwelling in the RB zone. The property is also noncomplying as to the minimum lot width and frontages for a single-family dwelling in the RB zone.

Pursuant to Section 3-707(B) of the zoning ordinance, any lot in the RB zone recorded prior to December 28, 1951 may be developed with a single-family residence and accessory structures at the lot size shown on the recorded plat. The subject lot was recorded prior to 1951.

The property was developed according to Special Use Permit # 2000-00037 (parking reduction, to allow one off-street parking space) and BAR #2000-00101 with a two-story frame single-family dwelling within the boundaries of the Parker-Gray Historic District. The single-family dwelling was constructed in 2000 and is located 3.00 feet from the front property line facing North Patrick Street, on the north and south side property lines and 47.00 feet from the rear property line. Although the subject property is substandard, and a legal lot of record, the existing house was built in compliance in 2000 with the RB zone floor area and open space requirement of 800 square feet.

III. Description

The applicants propose to construct a two-story rear addition on the south side property line, 8.00 feet from the north side property line, 36.00 feet from the rear property line and measures 21.25 feet in height to the midpoint of the gabled roof. The addition measures 11.00 feet by 12.00 feet, totaling 132 square feet on each floor. The addition will accommodate a family room on the first floor and a master bedroom on the second floor.

If the existing 8.00 feet by 16.00 feet parking space were to be removed the proposed addition would comply with the required open space. However, according to the approved special use permit, the applicants must maintain one parking space on the lot. The proposed addition will reduce the open space from 812 square feet to 680 square feet; therefore the applicants must request a variance.

Although this is a contemporary structure, the Board of Architectural Review (BAR) does review and approve all alterations to any structure which can be viewed from the public right-of-way to ensure that the proposed changes will not negatively impact the historic district.

The following are BAR Staff comments regarding the proposed request. The proposed one-story addition at the rear of the property will not adversely impact the historic significance of the Parker-Gray Historic District.

- The simple shed roof form and the utilization of frame construction are appropriate for a secondary massing and are in-keeping with the style and architecture of the original massing.
- The location of the addition, completely contained at the rear of the original massing, maintains the traditional development patterns of the historic district.

There have been no variances previously granted for the subject property.

Upon completion of the work, the proposed renovations will continue to comply with the floor area requirements. (Refer to floor area calculations.)

IV. Master Plan/Zoning

The subject property is zoned RB and has been so zoned since adoption of the Third Revised Zoning Map in 1951 and identified in the Braddock Road Metro Small Area Plan for residential land use.

V. Requested variances

Section 3-706(B) Open Space

The RB zone requires 800 square feet of open space. The existing lot now provides the required 800 square feet. Construction of the proposed addition will reduce the open space from 812 square feet to 680 square feet. The applicants request an open space variance of 120 square feet to construct a two-story rear addition.

VI. Noncomplying structure

The existing building at 702 North Patrick Street is a noncomplying structure with respect to the following:

<u>Regulation</u>	<u>Required</u>	<u>Existing</u>	<u>Noncompliance</u>
Lot Area	1,980 sq ft	1,600 sq ft	380 sq ft
Lot Frontage	50.00 ft	20.00 ft	30.00 ft
Lot Width	50.00 ft	20.00 ft	30.00 ft

VII. Staff analysis under criteria of section 11-1103

To grant a variance, the Board of Zoning Appeals must determine that a unique characteristic exists for the property. Section 11-1103 of the zoning ordinance lists standards that an applicant must address and that the Board believes exists and thus warrants varying the zoning regulations.

- (1) The particular physical surroundings, shape, topographical condition or extraordinary situation or condition of the property that prohibits or unreasonably restricts the use of the property.
- (2) The property's condition is not applicable to other property within the same zoning classification.
- (3) Hardship produced by the zoning ordinance was not created by the property owner.
- (4) The granting of a variance will not be detrimental to the public or other property or the neighborhood in which the subject property is located. Nor will the granting of a variance diminish or impair the value of adjoining properties or the neighborhood.
- (5) The granting of the variance will not impair light and air to the adjacent property.
- (6) The granting of a variance will not alter the character of the area nor be detrimental to the adjacent property.
- (7) Strict application of the zoning ordinance will produce a hardship.
- (8) Such hardship is generally not shared by other properties in the same zone and vicinity.
- (9) No other remedy or relief exists to allow for the proposed improvement.
- (10) The property owner has explored all options to build without the need of a variance.

VIII. Applicant's Justification for Hardship

The application states that because the lot is substandard in lot area by 380 square feet the open space requirement on the lot should be reduced proportionately. The applicants could apply for a special use permit to remove the one required parking space, but the process takes much longer and they believe is less likely to be approved.

IX. Staff Analysis

The existing house was built in compliance with the RB zone 800 square feet open space requirement even though it is a substandard lot. It is evident that a complying house was

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built on the subject lot in compliance with the RB zone regulations. The subject lot is substandard, but comparable in character and lot size with its adjoining lots.

Staff agrees that the substandard nature of the lot does create a legal hardship. The requirement in the RB zone to provide 800 square feet of open space is based on the assumption that the minimum lot area is at least 1,980 square feet. The 800 square feet open space requirement is approximately 40 percent of 1,980 square feet. When this property was developed in 2000, 812 square feet of open space was provided which is slightly more than 50 percent of the lot. Because this lot is substantially smaller than required, staff believes that the open space requirement for the lot should be proportionately reduced. A requirement of 40 percent open space on this 1,600 square foot lot would be 640 square feet, 40 square feet less than the applicants propose.

Staff believes the proposed modest addition is in character for the neighborhood and in particular will extend only slightly beyond its neighbor to the north.

Because of the substandard nature of the lot and similar character of the immediate lots, including existing open space conditions, staff believes a legal hardship has been made and therefore **recommends approval** of the requested variance.

DEPARTMENTAL COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

* The applicant is advised that if the variance is approved, the following additional comments apply.

Transportation and Environmental Services:

- R-1 The building permit plans shall comply with requirements of City Code Section 8-1-22 regarding the location of downspouts, foundation drains and sump pumps. Refer to Memorandum to Industry dated June 18, 2004. [Memorandum is available online at the City web site under Transportation\Engineering and Design\Memos to Industry.]. (T&ES)

- R-2 Applicant shall be responsible for repairs to the adjacent city right-of-way if damaged during construction activity. (T&ES)

- R-3 All improvements to the city right-of-way such as curbing, sidewalk, driveway aprons, etc. must be city standard design. (T&ES)

- R-4 No permanent structure may be constructed over any existing private and/or public utility easements. It is the responsibility of the applicant to identify any and all existing easements on the plan. (T&ES)

- R-5 An erosion and sediment control plan must be approved by T&ES prior to any land disturbing activity greater than 2,500 square feet. (T&ES)

- R-6 Compliance with the provisions of Article XIII of the City's zoning ordinance for stormwater quality control is required for any land disturbing activity greater than 2,500 square feet. (T&ES)

- F-1 An approved grading plan may be required at the time of building permit application. Insufficient information has been provided to make that determination at this time. In summary, City Code Section 8-1-22(d) requires that a grading plan be submitted to and approved by T&ES prior to the issuance of building permits for improvements involving:
 - the construction of a new home;
 - construction of an addition to an existing home where either
 - the addition exceeds the area of the existing building footprint by 100% or more;
 - or, the construction of the addition results in less than 50% of the existing first floor exterior walls, in their entirety, remaining;
 - changes to existing grade elevation of 1-foot or greater;
 - changes to existing drainage patterns;
 - land disturbance of 2,500 square feet or greater.

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Questions regarding the processing of grading plans should be directed to the T&ES Site Plan Coordinator at (703) 838-4318. Memorandum to Industry No. 02-08 was issued on April 28, 2008 and can be viewed online via the following link.

<http://alexandriava.gov/uploadedFiles/tes/info/gradingPlanRequirements.pdf>

Code Administration:

C-1 A building permit is required for this project. Plans shall accompany the permit application that fully details the construction.

C-2 Alterations to the existing structure must comply with the 2006 edition of the Uniform Statewide Building Code (USBC).

Recreation (Arborist):

F-1 No trees are affected by this plan.

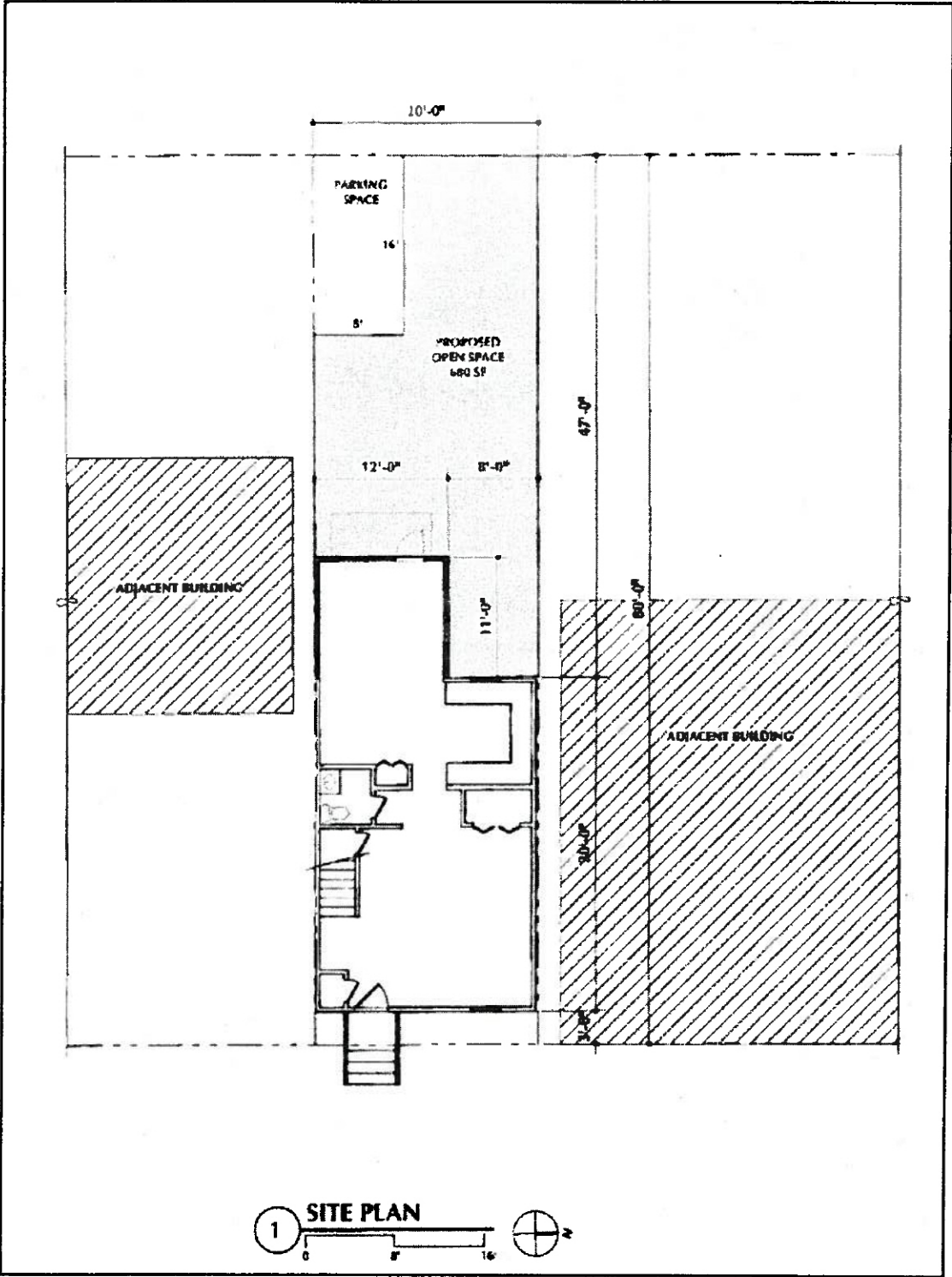
Historic Alexandria (Archaeology):

F-1 There is low potential for significant archaeological resources to be disturbed by this project. No archaeological action is required.

Other Requirements Brought to the Applicant's Attention:

C-1 A wall check survey plat shall be submitted to Planning and Zoning when the building footprint is in place, pursuant to Alexandria City Code section 8-1-12.

IX. Images



File copy



**APPLICATION
BOARD OF ZONING APPEALS**

VARIANCE

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Section of zoning ordinance from which request for variance is made:

PART A

ARCHITECT

1. **Applicant:** Owner Contract Purchaser

Name ROBERT S. LARSON AIA

Address 2107 MT. VERNON AVENUE
ALEXANDRIA, VA 22301 Daytime Phone 703-548-1378

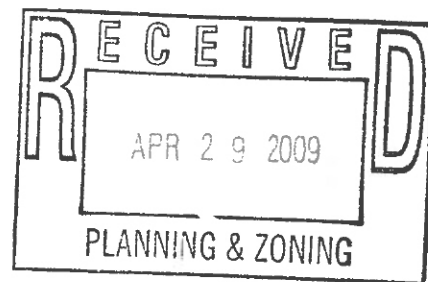
2. **Property Location** 702 N. PATRICK STREET.

3. **Assessment Map** 054.04 Block 05 Lot 14 Zone RB

4. **Legal Property Owner:**

Name ALAMIN & NADIA NEGASH

Address 702 N. PATRICK STREET
ALEXANDRIA, VA. 22314



5. Describe request briefly :

TO REDUCE REQUIRED OPEN SPACE
FROM 800 S.F. TO 680 S.F.
THE LOT IS A SUB-STANDARD LOT SO
THE OPEN SPACE REQUIRED SHOULD BE
PROPORTIONATELY REDUCED.

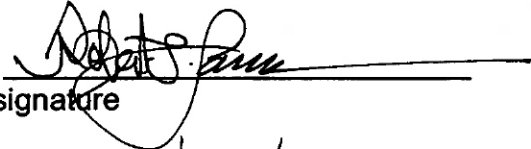
6. If property owner or applicant is being represented by an authorized agent, such as an attorney, realtor or other person for which there is a form of compensation, does this agent or the business in which they are employed have a business license to operate in the City of Alexandria, Virginia?

Yes — Provide proof of current City business license. LARSON KOENIG ARCHITECTS
 No — Said agent shall be required to obtain a business prior to filing application.

THE UNDERSIGNED HEREBY ATTESTS that all of the information herein provided including the site plan, building elevations, prospective drawings of the projects, etc., are true, correct and accurate. The undersigned further understands that, should such information be found incorrect, any action taken by the Board based on such information may be invalidated. The undersigned also hereby grants the City of Alexandria permission to post placard notice as required by Article XI, Division A, Section 11-301(B) of the 1992 Alexandria City Zoning Ordinance, on the property which is the subject of this application. The applicant, if other than the property owner, also attests that he/she has obtained permission from the property owner to make this application.

APPLICANT OR AUTHORIZED AGENT:

ROBERT S. LARSON
print name
703-519-9592
telephone


signature
4/29/09
date

Pursuant to Section 13-3-2 of the City Code, the use of a document containing false information may constitute a Class 1 misdemeanor and may result in a punishment of a year in jail or \$2,500 or both. It may also constitute grounds to revoke the permit applied for with such information.

PART B (SECTION 11-1102)

NOTE: The Board of Zoning Appeals may grant a variance only if the applicant can demonstrate a legal hardship. A legal hardship refers to the shape and topographical conditions, or to some other unique characteristic of the property; for example, if a rear yard has a sharp drop-off or hilly terrain where an addition could otherwise be located legally, or if the property has three front yards.

A legal hardship is NOT, for example, having a large family in a two-bedroom house, or that you need a first-floor bedroom and bath. (These are good personal reasons for a variance, but do not constitute a legal hardship having to do with specific conditions of the land.)

APPLICANT MUST EXPLAIN THE FOLLOWING:

(please **print clearly** and use additional paper where necessary)

1. Does strict application of the zoning ordinance to the subject property result in a hardship to the property owner? (Answer A or B)

A. Will enforcement of the zoning ordinance amount to a confiscation of the property? Explain:

THE PROPERTY IS A SUB-STANDARD LOT CONTAINING ONLY 1600 S.F. INSTEAD OF THE REQUIRED 1980 S.F. THEREFORE THE OPEN SPACE REQUIREMENTS SHOULD BE REDUCED PROPORTIONATELY.

B. Will enforcement of the zoning ordinance prevent reasonable use of the property? Explain:

A TYPICAL LOT WITH A MINIMUM OF 1980 SF. HAS TO PROVIDE 800 SF OF OPEN SPACE WHICH IS 40% OF THE LOT. A SUB STANDARD LOT OF 1600 SF. SHOULD BE REQUIRED TO PROVIDE THE SAME 40% OF OPEN SPACE, WHICH WOULD EQUAL 640 S.F. THAT WOULD LEAVE 60% OF THE LOT FOR THE BUILDING & PARKING INSTEAD OF ONLY 50% (800 SF ÷ 1600).

2. Is this hardship unique to the property?

A. Is the hardship shared by other properties in the neighborhood? Explain:

IN BLOCK 5 OF MAP 54.04 (THE OWNER'S BLOCK) THERE ARE 12 LOTS IN THE RB ZONE. THE SMALLEST LOT CONTAINS 1600 S.F., THE LARGEST CONTAINS 4400 S.F., THE AVERAGE LOT CONTAINS 2384 SF AND THE MEDIAN CONTAINS 2200 S.F. THE APPLICANTS LOT IS SUB-STANDARD AND THE SMALLEST.

B. Does the situation or condition of the property (on which his application is based) apply generally to the other properties in the same zone? Explain:

OF THE 12 LOTS IN THIS BLOCK & THIS ZONE ONLY 2 CONTAIN 1600 S.F. MOST OF THE LOTS STANDARD LOT AND MUCH LARGER.

3. Was the hardship caused by the applicant?

A. Did the condition exist when the property was purchased?

NO THE APPLICANT DID NOT CAUSE THE HARDSHIP AND YES THE CONDITION EXISTED WHEN THE PROPERTY WAS PURCHASED.

B. Did the applicant apply the property without knowing of the hardship?

YES, THE APPLICANT PURCHASED THE PROPERTY WITHOUT KNOWING OF THE HARDSHIP, THEY SAW THAT MOST OF THE NEIGHBORING HOUSES WERE LARGER AND THOUGHT THEY COULD EXPAND THEIR HOUSE ALSO.

C. How was the condition which creates the hardship first created?

WHEN THE NEIGHBORHOOD WAS FIRST LAID OUT.

D. Did the applicant create the hardship and, if so, how was it created?

NO THE APPLICANT DID NOT CREATE THE HARDSHIP. WHEN THE LOT WAS FIRST LAID OUT, IT WAS CREATED AS A 1600 SF. LOT.

4. Will the variance, if granted, be harmful to others?

A. Will the applicant's proposal be harmful in any way to any adjacent property?

NO. THE HOUSES ON EITHER SIDE
EXTEND DEEPER INTO THE BACK YARD
THAN THE APPLICANT'S HOUSE.

B. Will it harm the value of adjacent and nearby properties?

NO. IT WILL NOT HARM THE VALUE
OF THE ADJACENT PROPERTIES. THE
ADJACENT HOUSES WILL NOT HAVE THEIR
VIEWS OR VENTILLATION EFFECTED
BY THE APPLICANT'S ADDITION.

C. Has the applicant shown the proposed plans to the adjacent most affected property owner?
Has that neighbor objected to the proposed variance, or has the neighbor written a letter
in support of the proposed variance? If so, please attach the letter.

NO. THE APPLICANT WAS JUST TOLD A WEEK
AGO THAT THE PROJECT WOULD HAVE TO
GO BEFORE THIS BOARD.

D. Will it change the character of the neighborhood?

NO. THE ADDITION IS AT THE REAR OF
THE HOUSE, HAS A FOOTPRINT OF ONLY
11' X 12' AND IS NOT AS TALL AS THE
EXISTING HOUSE.

5. Is there any other administrative or procedural remedy to relieve the hardship?

THE APPLICANT COULD ASK TO ELIMINATE
THE ONE REQUIRED ON SITE PARKING
SPACE. THIS PROCESS WOULD TAKE
MUCH LONGER TO HAVE APPROVED AND
COULD BE LESS LIKELY TO RECEIVE
APPROVAL.

PART C

1. Have alternate plans or solutions been considered so that a variance would not be needed? Please explain each alternative and why it is unsatisfactory.

YES. 1. AS EXPLAINED ON QUESTION 5 OF PAGE NINE. IF WE ELIMINATED THE REQUIREMENT OF AN ON SITE PARKING SPACE THEN A VARIANCE WOULD NOT BE REQUIRED.
2. THE ADDITIONAL FOOTPRINT IS ONLY 11' X 12'. IN ADDITION ANY CHANGE WOULD NOT SOLVE THEIR SPACE PROBLEMS. CHANGING THE PROPORTIONS OF THE ADDITION ALSO DOES NOT RESOLVE THE NEED FOR A VARIANCE.



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B

DEPARTMENT OF PLANNING AND ZONING FLOOR AREA RATIO AND OPEN SPACE CALCULATIONS

A. Property Information

A1. Street Address 702 H. PATRICK ST. Zone RB

A2. 1600 SF x .75 = 1200 SF
Total Lot Area Floor Area Ratio Allowed by Zone Maximum Allowable Floor Area

B. Existing Gross Floor Area

Existing Gross Area*		Allowable Exclusions	
Basement	0	Basement**	0
First Floor	591	Stairways**	78
Second Floor	591	Mechanical**	40
Third Floor	0	Other** <7'-6"	58
Porches/ Other	0	Total Exclusions	176
Total Gross *	1182		

B1. Existing Gross Floor Area *
1182 Sq. Ft.
B2. Allowable Floor Exclusions**
176 Sq. Ft.
B3. Existing Floor Area minus Exclusions
1006 Sq. Ft.
(subtract B2 from B1)

C. Proposed Gross Floor Area (does not include existing area)

Proposed Gross Area*		Allowable Exclusions	
Basement	0	Basement**	0
First Floor	130	Stairways**	0
Second Floor	130	Mechanical**	0
Third Floor	0	Other** <7'-6"	74
Porches/ Other	0	Total Exclusions	74
Total Gross *	260		

C1. Proposed Gross Floor Area *
260 Sq. Ft.
C2. Allowable Floor Exclusions**
74 Sq. Ft.
C3. Proposed Floor Area minus Exclusions
186 Sq. Ft.
(subtract C2 from C1)

D. Existing + Proposed Floor Area

D1. Total Floor Area (add B3 and C3) 1192 Sq. Ft.
D2. Total Floor Area Allowed by Zone (A2) 1200 Sq. Ft.

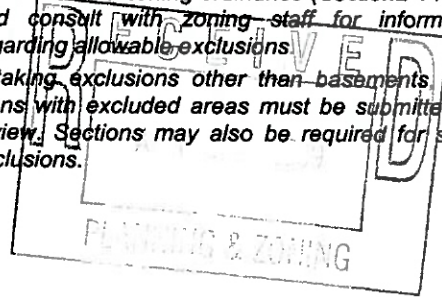
*Gross floor area is the sum of all gross horizontal areas under roof, measured from the face of exterior walls, including basements, garages, sheds, gazebos, guest buildings and other accessory buildings.

** Refer to the zoning ordinance (Section 2-145(B)) and consult with zoning staff for information regarding allowable exclusions.

If taking exclusions other than basements floor plans with excluded areas must be submitted for review. Sections may also be required for some exclusions.

F. Open Space Calculations

Existing Open Space	<u>812 S.F.</u>
Required Open Space	<u>800 S.F.</u>
Proposed Open Space	<u>680 S.F.</u>

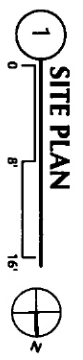
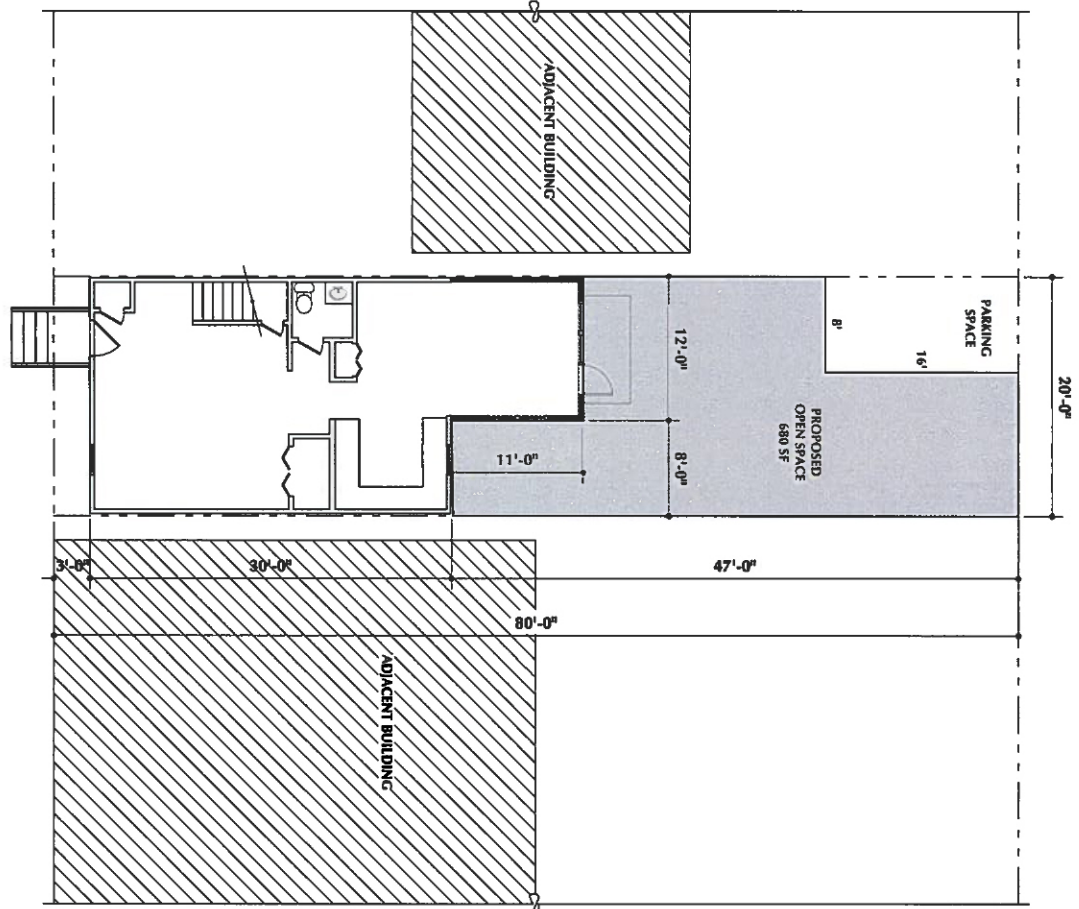


The undersigned hereby certifies and attests that, to the best of his/her knowledge, the above computations are true and correct.

Signature: Robert S. [Signature]

Date: 4/29/09.

B2A 2009-0008

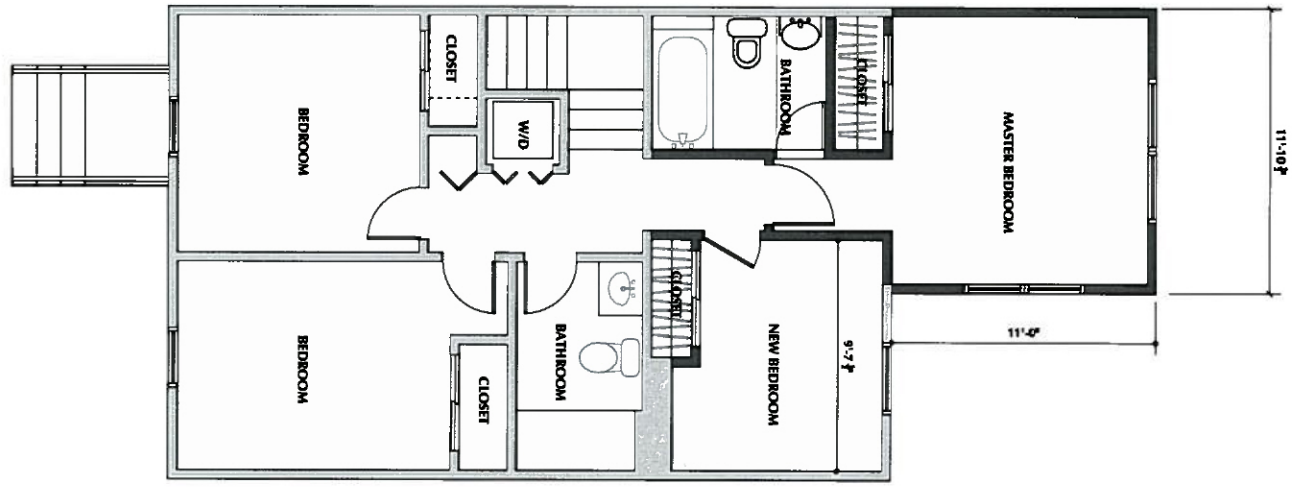
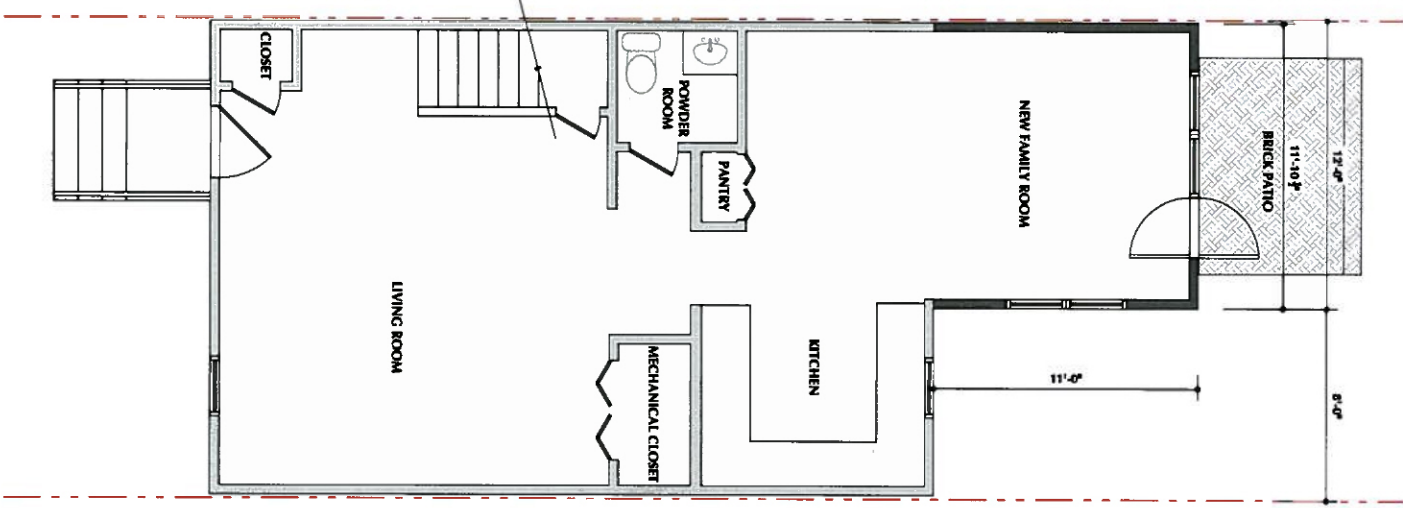


ZONING

ZONE	RB
SETBACK YARDS	
FRONT REQ.	0' MIN. (PARKER-CRAY DISTRICT)
SIDE REQ.	0' MIN. (PARKER-CRAY DISTRICT)
REAR REQ.	1'-1' - 8' MIN.
F.A.R. ALLOW.	.75 = 1200 SF
PROPOSED F.A.R.	.75 = 1192 SF
HT. ALLOW.	45' MAX.
HT. ACTUAL	-22'
OPEN SPACE REQ.	800 SF
PROPOSED OPEN SPACE	680 SF

RECEIVED
 APR 29 2009
 PLANNING & ZONING

DATE	ISSUE	TEAM
APRIL 29, 2009	REV SUBMISSION	OWNER



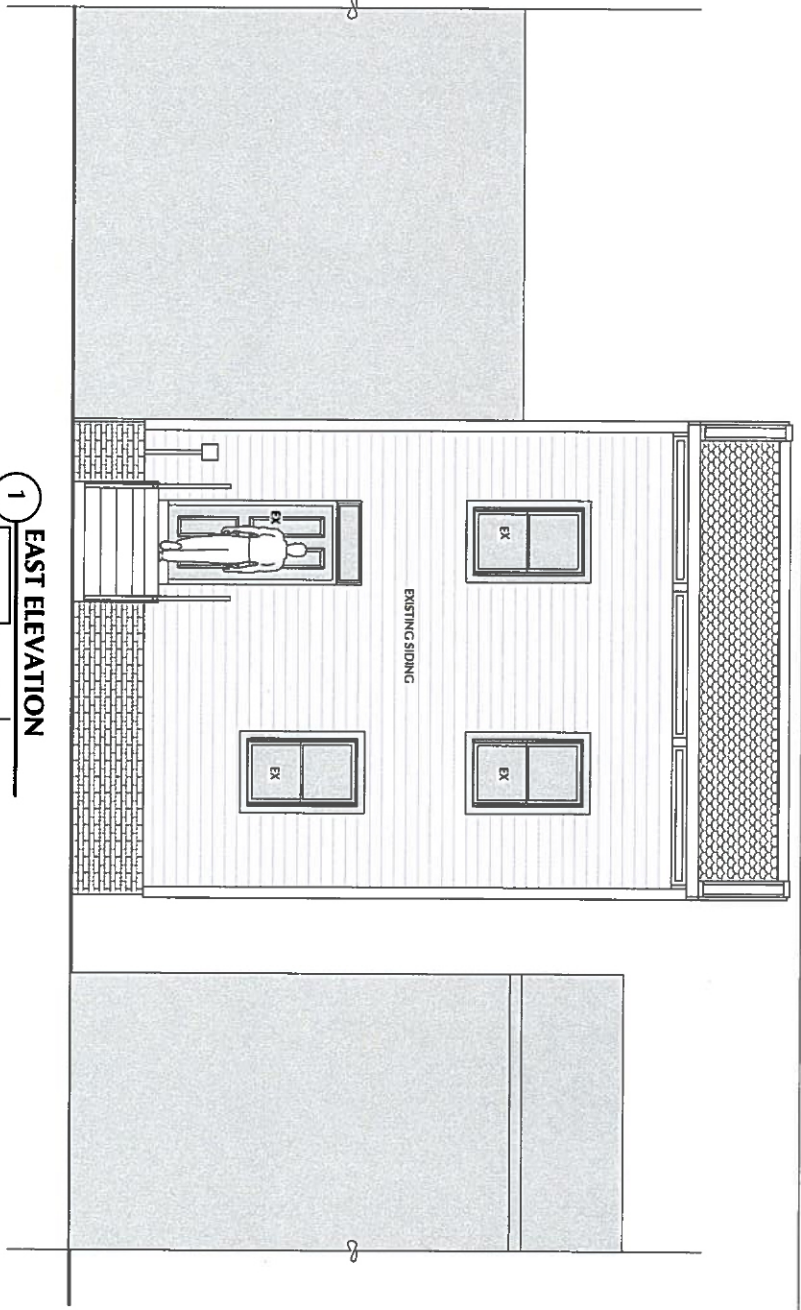
LEGEND

DATE	ISSUE	TEAM
APRIL 26, 2009	ISA SUBMISSION	RAM/ML

[Solid Line] EXISTING CONSTRUCTION
 [Dashed Line] TO REMAIN
 [Thick Line] NEW CONSTRUCTION

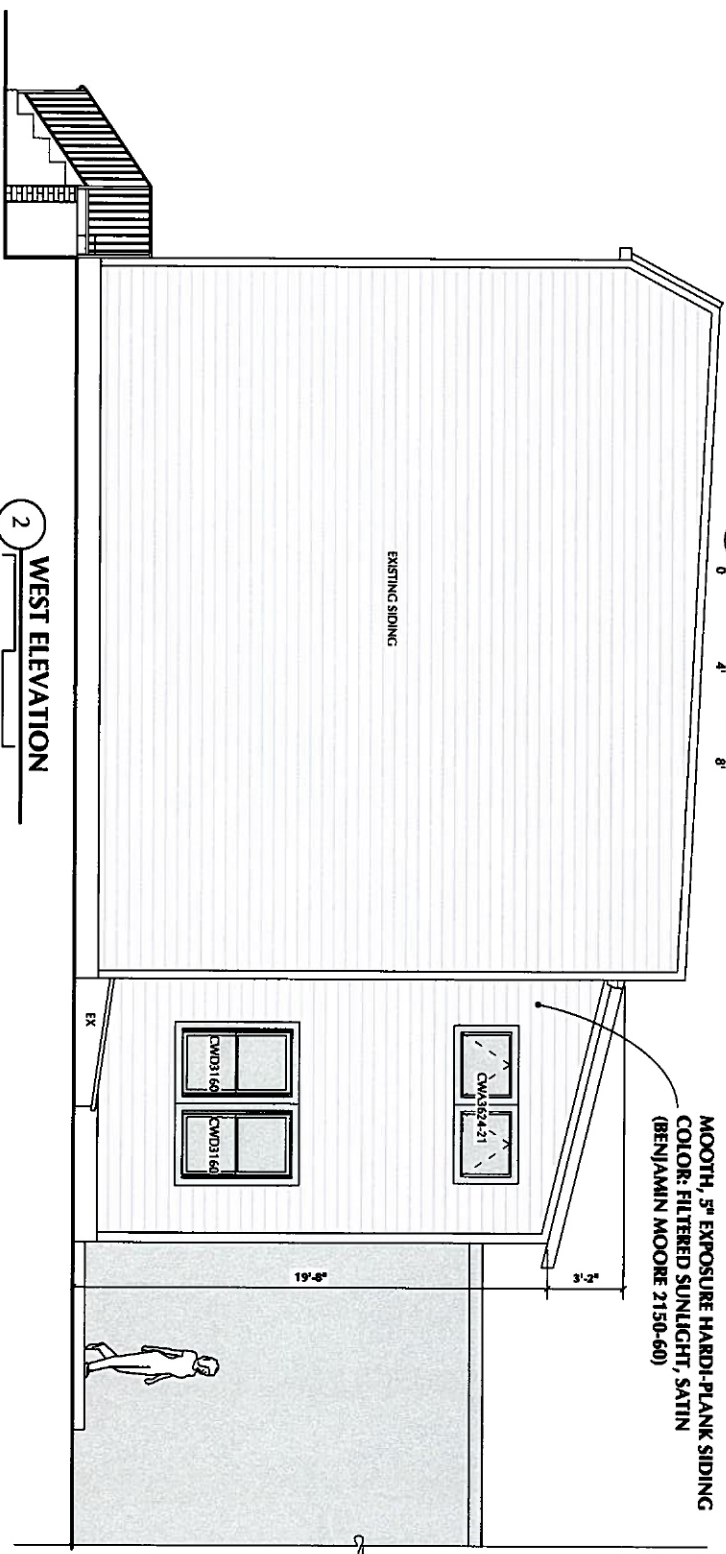
PROJECT 0949 © 2009
 2709 MT. VERNON AVE. ALEXANDRIA, VA 22301

NEGASH
 RESIDENT
 PROPOSED PLANS



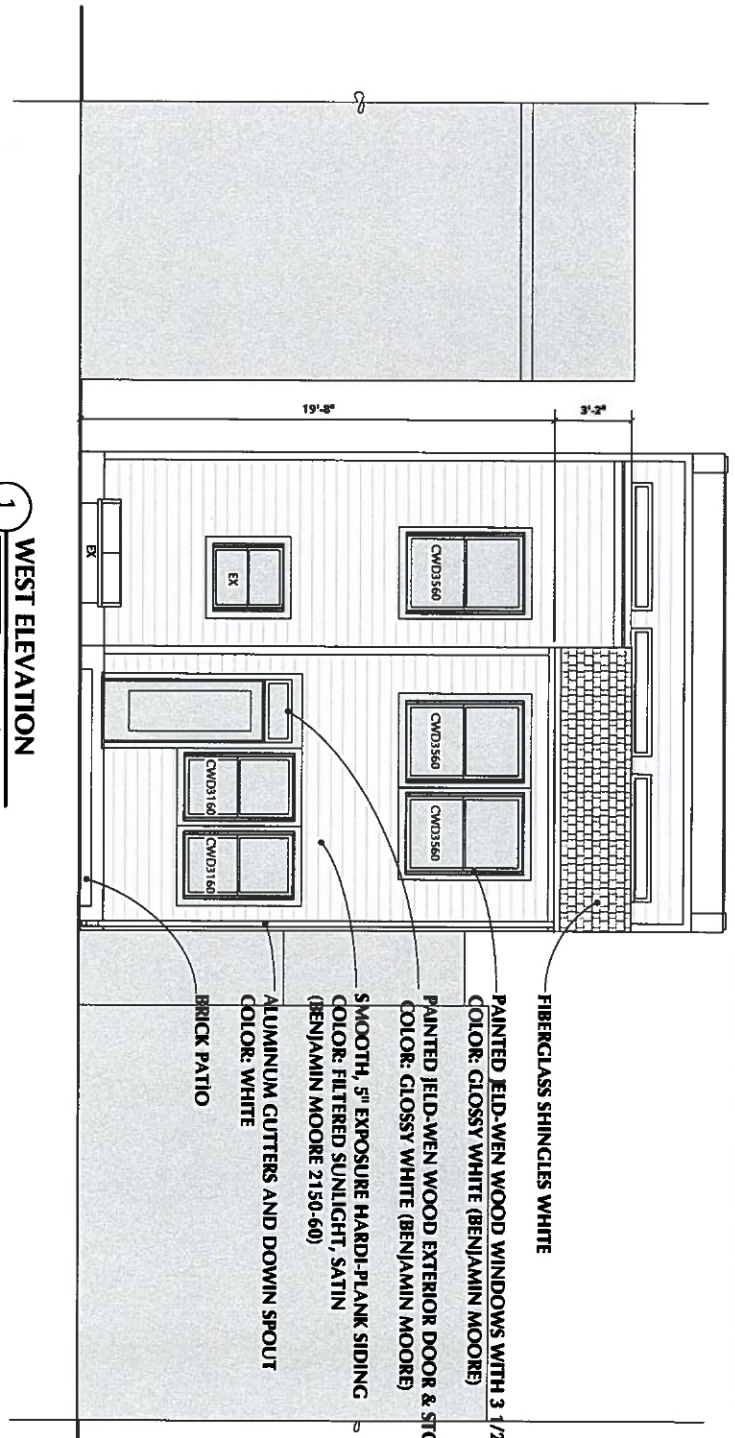
1 EAST ELEVATION

**MOOTH, 5" EXPOSURE HARDI-PLANK SIDING
COLOR: FILTERED SUNLIGHT, SATIN
(BENJAMIN MOORE 2150-60)**



2 WEST ELEVATION

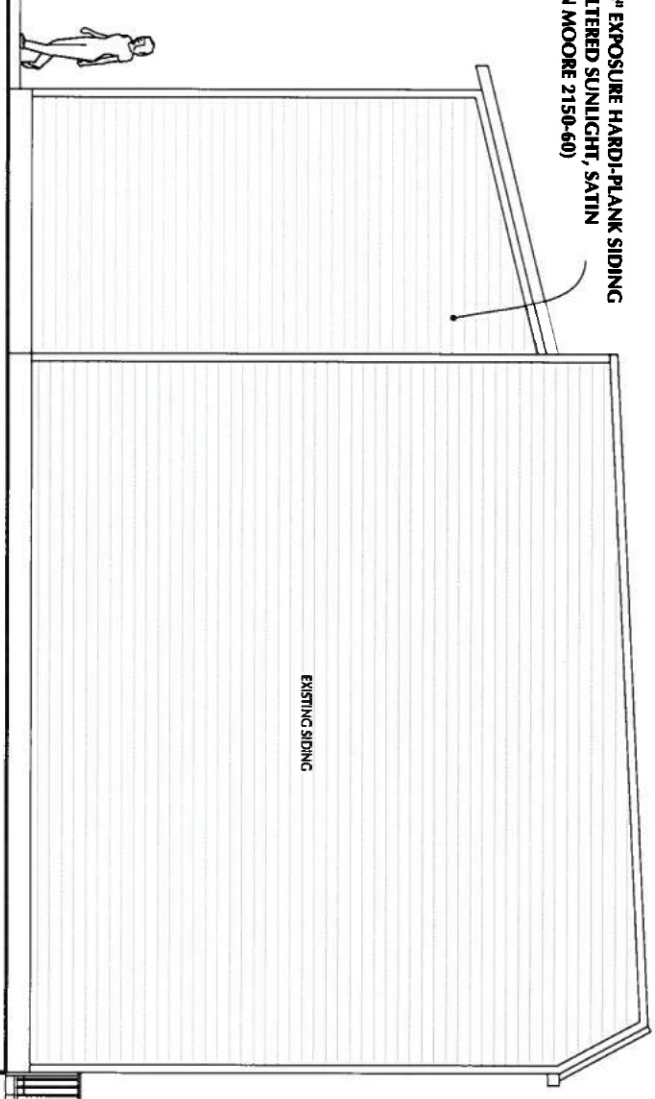
DATE	ISSUE	TEAM
April 30, 2009	EXA SUBMISSION	KAW/SL



1 WEST ELEVATION

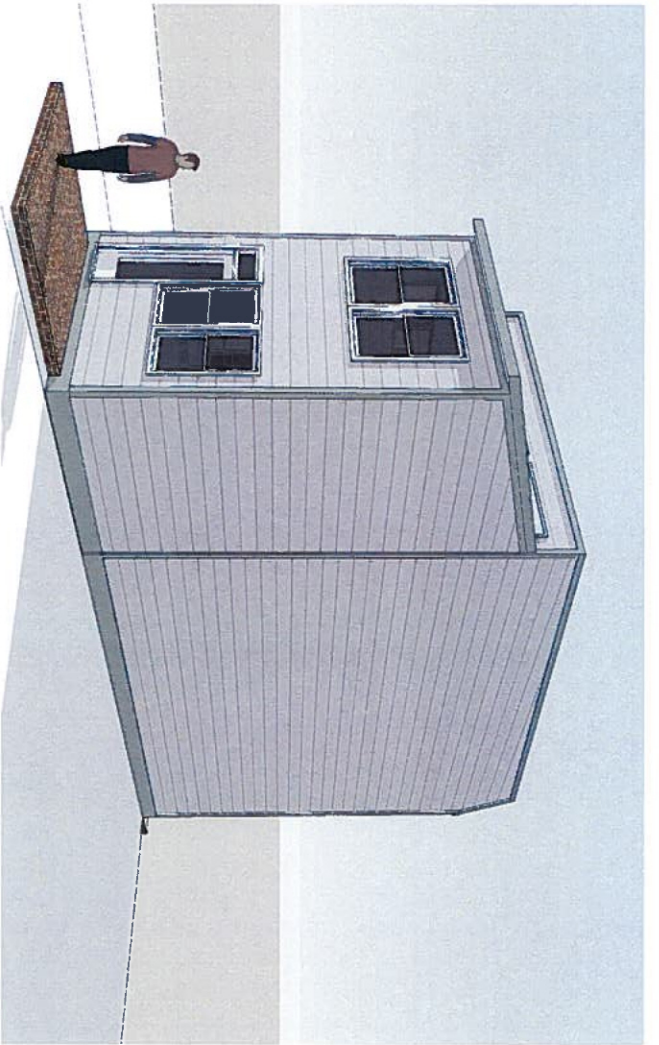
- FIBERGLASS SHINGLES WHITE
- PAINTED FLD.WEN WOOD WINDOWS WITH 3 1/2" TRIM
 (COLOR: GLOSSY WHITE (BENJAMIN MOORE))
- PAINTED FLD.WEN WOOD EXTERIOR DOOR & STORM DOOR,
 (COLOR: GLOSSY WHITE (BENJAMIN MOORE))
- SMOOTH, 5" EXPOSURE HARDI-PLANK SIDING
 COLOR: FILTERED SUNLIGHT, SATIN
 (BENJAMIN MOORE 2150-60)
- ALUMINUM GUTTERS AND DOWN SPOUT
 COLOR: WHITE
- BRICK PATIO

SMOOTH, 5" EXPOSURE HARDI-PLANK SIDING
 COLOR: FILTERED SUNLIGHT, SATIN
 (BENJAMIN MOORE 2150-60)



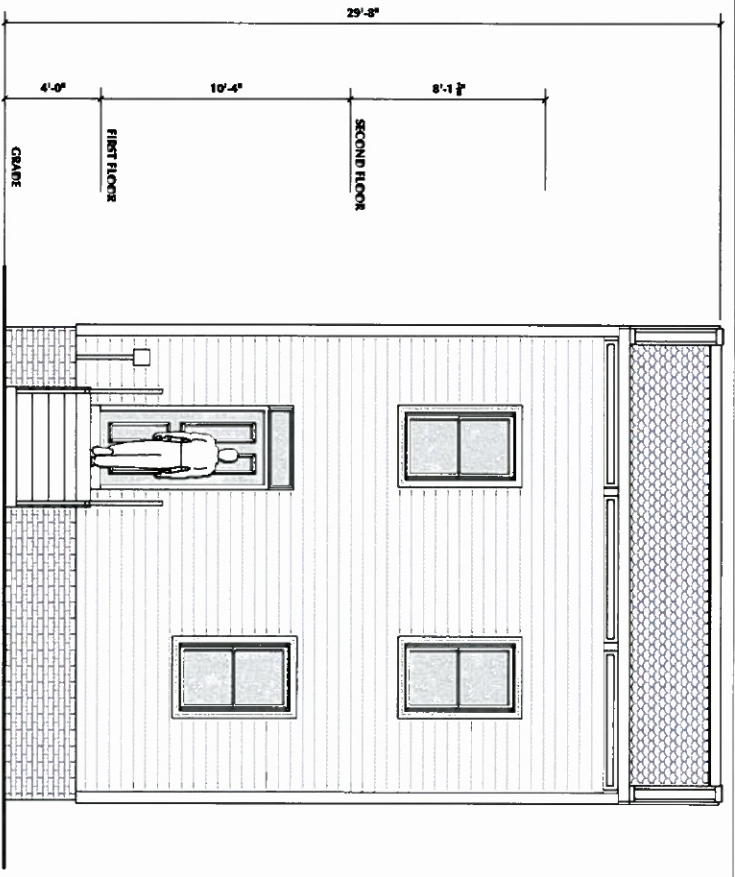
2 SOUTH ELEVATION

DATE	ISSUE	TEAM
APRIL 29, 2009	ISA SUBMISSION	GMV/TEL

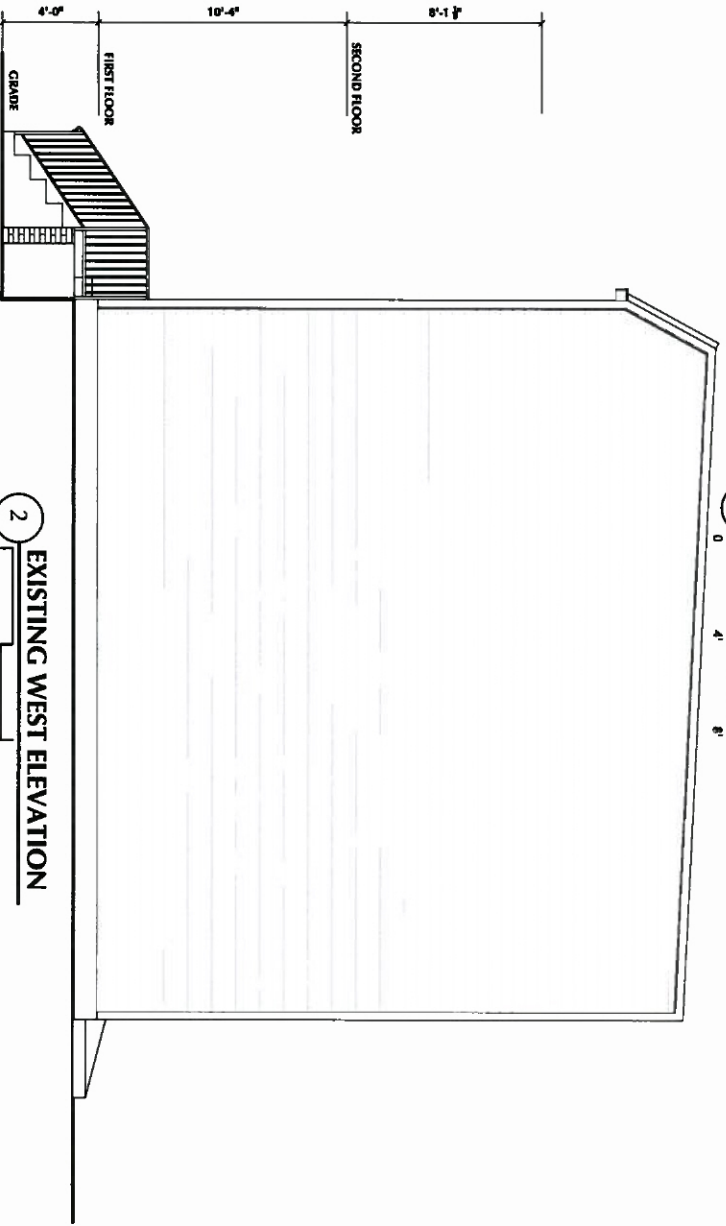


DATE	ISSUE	TEAM
APRIL 29, 2009	EPA SUBMISSION	EAU/MS

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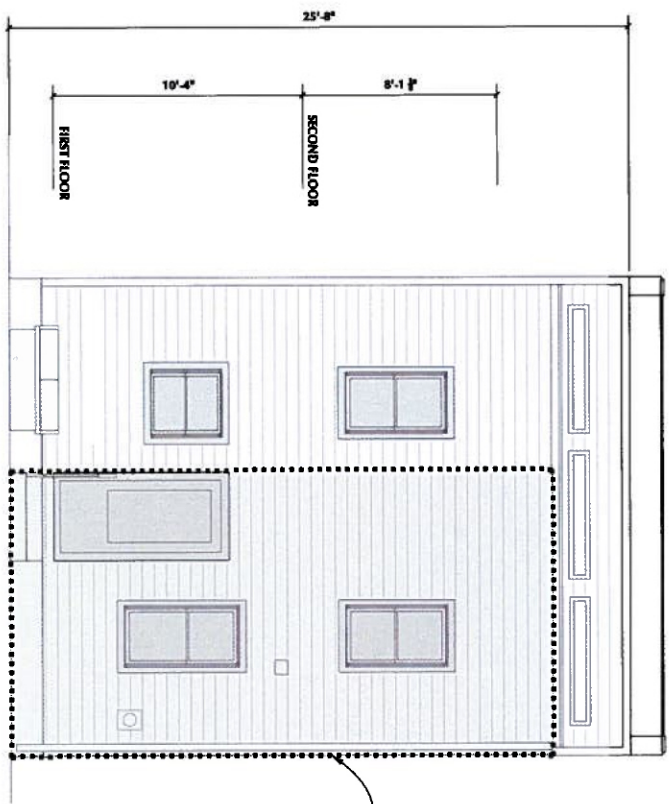


1
EXISTING EAST ELEVATION

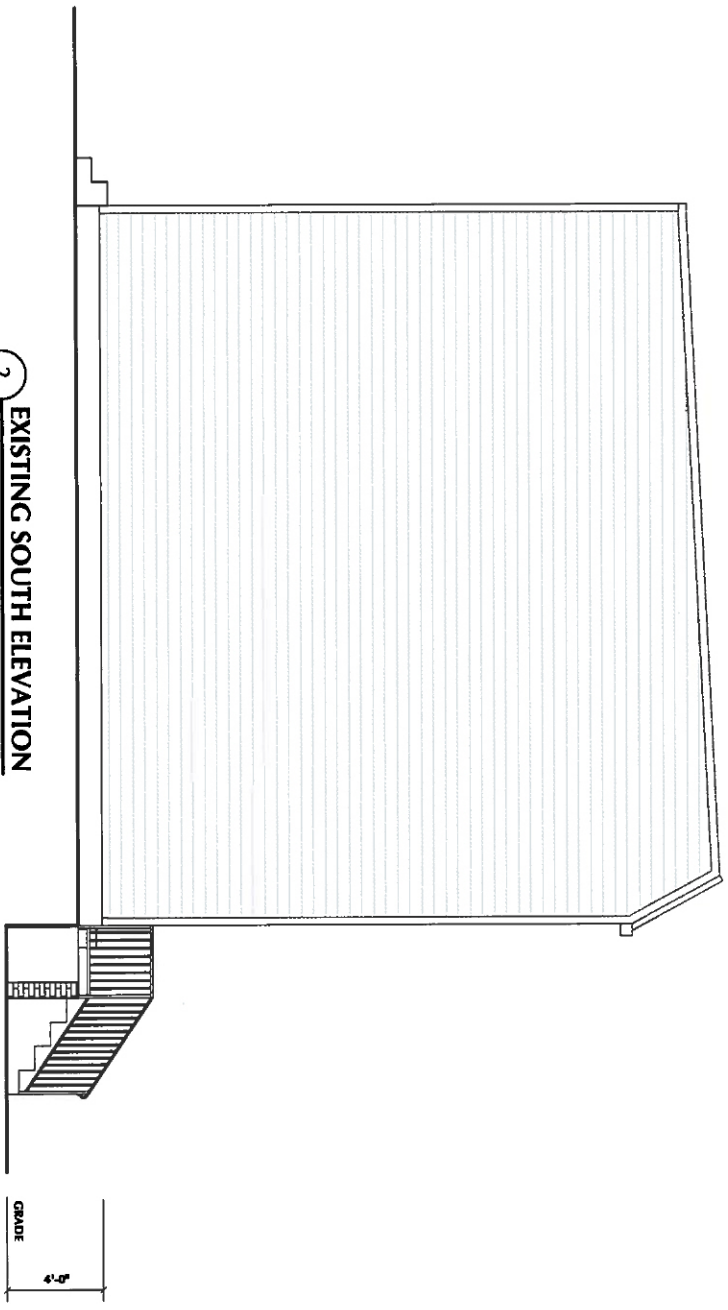


2
EXISTING WEST ELEVATION

DATE	ISSUE	TEAM
APRIL 29, 2009	EDA SUBMISSION	EMW/BSL



1
 EXISTING WEST ELEVATION



2
 EXISTING SOUTH ELEVATION

DATE	ISSUE	TEAM
APRIL 29, 2009	SEALED FOR PERMIT	KLAWNS



FRONT VIEW

DATE	ISSUE	TEAM
APRIL 29, 2009	ISA REVISION	GMW/RL

PROJECT 0449 © 2008
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NEGASH
RESIDENT
EXISTING PHOTOS
EX-3



REAR VIEW

DATE	ISSUE	TEAM
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