

Docket Item #2
BZA CASE # 2015-0007

Board of Zoning Appeals
July 9, 2015

ADDRESS: 3924 Vermont Avenue
ZONE: R-2-5, Residential
APPLICANT: Andrew Behr and Tiffany Porter, Owners

ISSUE: Variance to construct a one-story addition in the required east side yard

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
3-506(A)(2)	Side Yard	10.00 ft (semi-detached)	7.00 ft	3.00 ft

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

If the Board decides to grant the requested variance the development 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: A survey plat prepared by a licensed surveyor confirming building footprint and setback. 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.



BZA #2015-0007
3924 Vermont Avenue



I. Issue

The applicants propose to replace an existing open deck in the required east side yard with a one-story addition at 3924 Vermont Avenue.

II. Background

The subject property is one lot of record with 29.36 feet of frontage on Vermont Avenue and extends 101.51 feet to the rear of the property. The total lot area is 3,000 square feet.

The lot contains a two-story semi-detached dwelling with an open side deck facing the east property line. The existing dwelling is located 30.10 feet from the front property line, 12.00 feet from the east side property line and 39.00 feet to the rear property line. The dwelling shares a common party wall with the neighboring home at 3926 Vermont Avenue. An existing open deck is located 7.00 feet from the east side yard property line.

The existing dwelling is a complying structure with respect to all of the applicable setbacks and floor area.

R-2-5 Zone	Requirement	Existing	Proposed
Lot Area	2,500 sq. ft.	3,000 sq. ft.	3,000 sq. ft.
Lot Width	37.50 ft.	29.36 ft.	29.36 ft
Lot Frontage	37.50 ft.	29.36 ft	29.36 ft
Front Yard	Established block face not available	30.10 ft	30.10 ft.
Side Yard (East)	Building height not available for entire dwelling (1:3 with 10 ft. min)	13.00 ft.	7.00 ft.
Side Yard (West)	0 ft (party wall)	0 ft (party wall)	0 ft (party wall)
Rear Yard	Building height not available for entire dwelling (1:1 with 7 ft. min)	39.00 ft	39.00 ft.
Building Height	Max: 25.00 ft.	Not available	No change
Net FAR	Max:1,125 (.45)	1,092 sq. ft.	1,266 sq. ft.

From 1951 to 1992 the side yard setback listed in the zoning regulations required a semi-detached dwelling to provide a side yard setback of 7.00 feet. In 1992, during the City's comprehensive rezoning, the R-2-5 zone setbacks for semi-detached dwellings were changed to 10.00 feet. The zone change was the result of the Del Ray Citizens Associations' strong effort to discourage developers from subdividing R-2-5 zone lots used for single-family homes into semi-detached lots. The lot width required for a semi-detached dwelling was increased from 25.00 feet to 37.50 feet and the side yard setbacks

were increased from 7.00 feet to 10.00 feet. The changes in the zoning regulations meant to discourage redevelopment in Del Ray were larger lots were prevalent also affected other neighborhoods such as along Vermont Avenue where redevelopment pressures were not as strong and lots were not as wide. In fact the development pattern of semi-detached dwellings was fairly well established. Few lots were available for single-family dwellings.

III. Description

The applicants propose to remove the existing open deck that now measures 6.00 feet by 12.00 feet and construct a one-story addition measuring 6.00 feet by 14.00 feet by 13.50 feet in height from grade to the top of the shed roof. The new addition will be located 7.00 feet from the east property line similar to the existing deck. The zoning ordinance requires a semi-detached dwelling to maintain a minimum of 10 feet of setback from the east side property line. The addition totals 84.00 square feet and would accommodate a modest table seating area/mudroom. The addition would be clad in brick to match the home's existing exterior.

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

III Master Plan/Zoning

The subject property is zoned R-2-5 residential and has been so zoned since adoption of the Third Revised Zoning Map in 1951 and identified in the Taylor Run Small Area Plan for residential land use.

V. Requested Variance

Section 3-506(A)(2), Side Yard. The applicants propose to construct a one-story addition facing the east side property line similar to an existing open deck. The proposed addition would be located 7.00 feet from the east side property line. Each semi-detached dwelling is required to provide a side yard of a minimum of 10.00 feet. The applicant requests a variance of 3.00 feet.

VI. Complying Structure/Lot

The existing building and lot at 3924 Vermont Avenue is a complying structure and has excess lot area for an R-2-5 zoned semi-detached property.

VII. Staff analysis under standards 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.

- a. The particular physical surroundings, shape, topographical condition or other extraordinary situation or condition of the specific property involved would effectively prohibit or unreasonably restrict the utilization of the property or

- would constitute a clearly demonstrable hardship, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- b. The conditions upon which the petition for a variance is based are not applicable generally to other property within the same zoning classification;
 - c. The property was acquired in good faith and any hardship produced by the ordinance was not created by the owner of such property;
 - d. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located, or diminish or impair the values thereof;
 - e. The proposed variance will not impair an adequate supply of light and air to adjacent property, or cause or substantially increase congestion in the public streets, or increase the danger of fire or the spread of fire, or endanger the public safety;
 - f. The variance, if granted, will not alter the essential character of the area or be a substantial detriment to adjacent property;
 - g. The strict application of this ordinance would produce undue hardship;
 - h. Such undue hardship is not shared generally by other properties in the same zone and vicinity; and
 - i. No other remedy exists whereby the same relief was, is or may be available from another approval body of the city as part of its review of a site plan or other development application.

VIII. Applicant's Justification for Hardship

The zoning ordinance was changed to be more restrictive to semi-detached dwellings (7.00 feet to 10.00 feet) in 1992 when the law required semi-detached dwellings to be located no closer than 10.00 feet from a side yard property line. The current house is located 12.00 feet from the side property line and 7.00 feet from the deck. After 1992, the zoning regulations placed an unfair application on an owner of a semi-detached dwelling and discouraged modest improvements and expansions into a side yard. The subject property's side yard setback is consistent with a single-family dwelling setback in the R-2-5 zone (7.00 feet). The zoning ordinance prevents reasonable use of our property.

IX. Staff Analysis

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.

- a. Is the hardship identified above unique to the subject property, or is it shared by other properties in the neighborhood or the same zone?**

Hardship has been demonstrated in this case. The lot is similar in size and lot configuration to other semi-detached lots in the immediate vicinity and along Vermont Avenue. The nearby lots would require similar relief for modest side additions if the owners wish to build. There is other semi-detached dwelling with similar one-story side yard additions. These additions predate the current zoning restriction.

- b. Was the hardship caused by the applicant and, if so, how was it created? Or did the condition exist when the property was purchased and, if so, did the applicant acquire the property without knowing of the hardship; how was the hardship first created**

The dwelling was constructed prior to zoning ordinance requirements implemented for the R-2-5 zone. The subject property was built in 1951. The new zoning rule was adopted in 1992. The applicants acquired the house not knowing of the side yard rule had changed.

- c. Will the variance, if granted, be harmful in any way to any adjacent property or harm the value of adjacent and nearby properties? Will it change the character of the neighborhood**

If approved, the proposed one-story addition would not have an adverse impact on the immediately adjacent neighbor to the east of the subject property. Although the addition would expand the existing footprint of the dwelling slightly, it would not locate a two-story mass closer to the neighbor. The addition would not increase the visual mass of the dwelling when seen from the street. The proposed addition is similar in scale with other modest additions the neighborhood and is not likely to neither alter the character or value or harm the neighborhood nor have an adverse effect on the block face.

- d. Have alternate plans been considered so that a variance would not be needed?**

A rear addition could be built at the back of the house without the need of a variance. The applicants chose not to build into the back yard because they have two children and the back yard is an important space for their children's daily use. The applicants thought it wiser to build where the existing deck is now located.

- e. Is any other official remedy available to relieve the hardship?**

No other remedy exists except a variance.

IX. Staff Conclusion

The strict application of the zoning regulations does result in a hardship to the property owners and does prevent reasonable use of the property. When the zoning regulations were changed in 1992 to the R-2-5 zone, the change affected semi-detached dwellings throughout the City in different neighborhoods with different characteristics. The rule of a 10.00 feet setback for established semi-detached lots that would not likely be redeveloped as compared to Del Ray where the community was experiencing development pressure to subdivide single-family lots and thus resulting in more density. The neighborhood along Vermont Avenue is the complete opposite as to Del Ray. The character of lots and homes are semi-detached dwellings, side yard setbacks and platting of the lots has existed since 1951. From 1951 to 1992 (over 42 years) the side yard setback has been 7.00 feet in this neighborhood.

The subject lot is currently developed with a two story semi-detached dwelling in compliance with the R-2-5 zone with an even greater side yard setback (12.00 feet). The owners wish to be treated similar to their neighbors who have small one story additions no closer than 7.00 feet. The new addition would not project any closer than 7.00 feet as historically allowed and similar to an R-2-5 zone single family dwelling. Given the applicants currently have a small deck three feet of width along the side of the house, strict application of the ordinance will not harm nor change the character of the neighborhood. Enforcement of the zoning regulation will prevent reasonable use of the property.

Staff **recommends approval** of the variance based upon the above findings.

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:

No comments received.

Code Administration:

- F-1 The following comments are for site plan review only. Once the applicant has filed for a building permit and additional information has been provided, code requirements will be based upon the building permit plans and the additional information submitted. If there are any questions, the applicant may contact Charles Cooper, Plan Review Division at Charles.cooper@alexandriava.gov or 703-746-4197.
- C-1 Building and trades permits are required for this project. Five sets of *construction documents* that fully detail the construction as well as layout and schematics of the mechanical, electrical, and plumbing systems shall accompany the permit application(s) the building official shall be notified in writing by the owner if the registered design professional in the responsible charge is changed or is unable to continue to perform the duties.
- C-2 New construction must comply with the current edition of the Uniform Statewide Building Code (USBC).

Recreation (Arborist):

No comments received.

Historic Alexandria (Archaeology):

- F-1 This property is near Duke Street, a major thoroughfare during the Civil War. Although there are no known encampments on the site, it is possible that Union Army soldiers could have stopped along this route. To ensure that significant information about the City's past is not lost, the following conditions are recommended:
- R-1 The statements in archaeology conditions below shall appear in the General Notes of all site plans and on all site plan sheets that involve demolition or ground disturbance (including Basement/Foundation Plans, Demolition, Erosion and Sediment Control, Grading, Landscaping, Utilities, and Sheeting and Shoring) so that on-site contractors are aware of the requirements:
- a) The applicant/developer shall call Alexandria Archaeology immediately (703-746-4399) if any buried structural remains (wall foundations, wells, privies, cisterns, etc.) or concentrations of artifacts are discovered during development. Work must cease in the area of the discovery until a City archaeologist comes to the site and records the finds.

- b. The applicant/developer shall not allow any metal detection to be conducted on the property, unless authorized by Alexandria Archaeology.

Other Requirements brought to the Applicant's Attention (Planning and Zoning):

- 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.



APPLICATION BOARD OF ZONING APPEALS

VARIANCE

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

PART A

1. Applicant: ☒ Owner ☐ Contract Purchaser ☐ Agent

Name Andrew Behr / Tiffany Porter

Address 3924 Vermont Ave
Alexandria VA 22304

Daytime Phone 703-965-7189

Email Address aobehr@gmail.com

2. Property Location 3924 Vermont Ave

3. Assessment Map # 060.03 Block 02 Lot 33 Zone R2-5

4. Legal Property Owner Name Andrew Behr / Tiffany Porter

Address 3924 Vermont Ave
Alexandria VA 22304

OWNERSHIP AND DISCLOSURE STATEMENT

Use additional sheets if necessary

1. Applicant. State the name, address and percent of ownership of any person or entity owning an interest in the applicant, unless the entity is a corporation or partnership, in which case identify each owner of more than ten percent. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

Name	Address	Percent of Ownership
1. Andrew Behr	3924 Vermont Ave Alex VA 22304	100%
2. Tiffany Porter	3924 Vermont Ave Alex VA 22304	100%
3.		

2. Property. State the name, address and percent of ownership of any person or entity owning an interest in the property located at _____ (address), unless the entity is a corporation or partnership, in which case identify each owner of more than ten percent. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

Name	Address	Percent of Ownership
1.		
2.		
3.		

3. Business or Financial Relationships. Each person or entity indicated above in sections 1 and 2, with an ownership interest in the applicant or in the subject property are required to disclose any business or financial relationship, as defined by [Section 11-350 of the Zoning Ordinance](#), existing at the time of this application, or within the 12-month period prior to the submission of this application with any member of the Alexandria City Council, Planning Commission, Board of Zoning Appeals or either Boards of Architectural Review. All fields must be filled out completely. Do not leave blank. (If there are no relationships please indicate each person or entity and "None" in the corresponding fields).

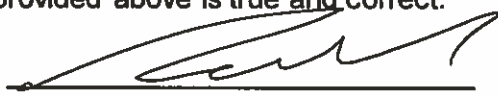
For a list of current council, commission and board members, as well as the definition of business and financial relationship, [click here](#).

Name of person or entity	Relationship as defined by Section 11-350 of the Zoning Ordinance	Member of the Approving Body (i.e. City Council, Planning Commission, etc.)
1.		
2.		
3.		

NOTE: Business or financial relationships of the type described in Sec. 11-350 that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings.

As the applicant or the applicant's authorized agent, I hereby attest to the best of my ability that the information provided above is true and correct.

5/15/15
Date


Printed Name
Andrew Behr


Signature

5. Describe request briefly:

~~We would like to enclose our porch~~
 We would like to replace existing deck
 7 ft from side property line with a one
 story addition within approx same footprint deck
 Addition is to accomodate a table

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.

☐ 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:

Andrew Behr

Print Name

703-965-7189

Telephone



Signature

5/25/2015

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 clearly demonstrate a hardship. A demonstrated hardship refers to the shape and topographical conditions, or to some other unique characteristic of the property; for example, if a rear yard has sharp drop-off or hilly terrain where an addition could otherwise be located legally, or if the property has three front yards.

A demonstrated 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 hardship having to do with specific conditions of the land.)

APPLICANT MUST EXPLAIN THE FOLLOWING:

(Please print clearly and use additional pages where necessary.)

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

- A. Explain how enforcement of the zoning ordinance will amount to a clearly demonstrable hardship.

No

- B. Explain how enforcement of the zoning ordinance will prevent reasonable use of the property.

Yes ordinance was changed to be more restrictive for semi-detached dwellings (7ft-10ft) change occurred in 1992. Zoning rule is unfair to allow modest expansion in side yard. our side is 7ft consistent w/ single family house.

2. Is this hardship unique to the property?

- A. Explain if the hardship shared by other properties in the neighborhood.

No. Other yards have side yard additions consistent with 7ft side yard

- B. Explain how this situation or condition of the property (on which this application is based) applies generally to other properties in the same zone.

Current property was built in 1951

Zoning was allowed from 1951-1992

My family has been long term residence of Alexandria
My grandmother had an addition on 53 S French St.

3. Was the hardship caused by the applicant?

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

Yes

- B. Did the applicant purchase the property without knowing of this hardship?

I was not aware of limitations
assumed if my grandmother was able to do it
I would be able to as well.

- C. How and when did the condition, which created the hardship, first occur?

1951

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

No, however the zoning was changed
in 1992 which placed an unreasonable restriction
on semi-detached homeowners

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

- A. Explain if the proposed variance will be detrimental to the adjacent properties or the neighborhood in general.

Consistent w/ neighbor
Architecture be consistent as well

- B. Explain how the proposed variance will affect the value of the adjacent and nearby properties.

It will NOT deteriorate or detract from
value of adjoining property

- C. Has the applicant shown the proposed plans to the most affected property owners? Has that neighbor objected to the proposed variance, or has the neighbor written a letter of support of the proposed variance? If so, please attach the letter or submit at the time of the hearing.

We will show our plans and have already
discussed plans

- D. Explain how the proposed variance will change the character of the neighborhood.

It will not. It will be consistent

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

None

PART C

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

Yes, however we decided it was important to maintain the backyard. We thought it was wiser to build the addition on the already existing deck as to not lose any existing space



A

DEPARTMENT OF PLANNING AND ZONING
FLOOR AREA RATIO AND OPEN SPACE CALCULATIONS FOR
SINGLE AND TWO-FAMILY RESIDENTIAL OUTSIDE HISTORIC DISTRICTS

A. Property Information

A1. Street Address 5924 Vermont Ave Zone R-2-5
A2. 3,000 x 0.45 = 1350
Total Lot Area Floor Area Ratio Allowed by Zone Maximum Allowable Floor Area

B. Existing Gross Floor Area

Existing Gross Area*		Allowable Exclusions	
Basement	539.53	Basement**	539.53
First Floor	539.53	Stairways**	59.5
Second Floor	539.53	Mechanical**	—
Third Floor Attic	539.53	Porch/Garage**	23.5
Porches/Other	23.5	Attic less than 5**	539.53
Total Gross*	2181.62	Total Exclusions	1162.06

B1. Existing Gross Floor Area *
2181.62 Sq. Ft.
B2. Allowable Floor Exclusions**
1162.06 Sq. Ft.
B3. Existing Floor Area minus Exclusions
1019.56 Sq. Ft.
(subtract B2 from B1)

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

Proposed Gross Area*		Allowable Exclusions	
Basement		Basement**	
First Floor	81	Stairways**	
Second Floor		Mechanical**	
Third Floor		Porch/Garage**	
Porches/Other		Attic less than 5**	
Total Gross*		Total Exclusions	

C1. Proposed Gross Floor Area *
81 Sq. Ft.
C2. Allowable Floor Exclusions**
258.44 Sq. Ft.
C3. Proposed Floor Area minus
Exclusions 179.44 Sq. Ft.
(subtract C2 from C1)

D. Existing + Proposed Floor Area

D1. Total Floor Area (add B3 and C3) 1264 Sq. Ft.
D2. Total Floor Area Allowed by Zone (A2) 1350 Sq. Ft.

*Gross floor area for residential single and two-family dwellings in the R-20, R-12, R-8, R-5, R-2-5, RB and RA zones (not including properties located within a Historic District) is the sum of all areas under roof of a lot, measured from exterior walls.

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

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

E. Open Space Calculations Required in RA & RB zones

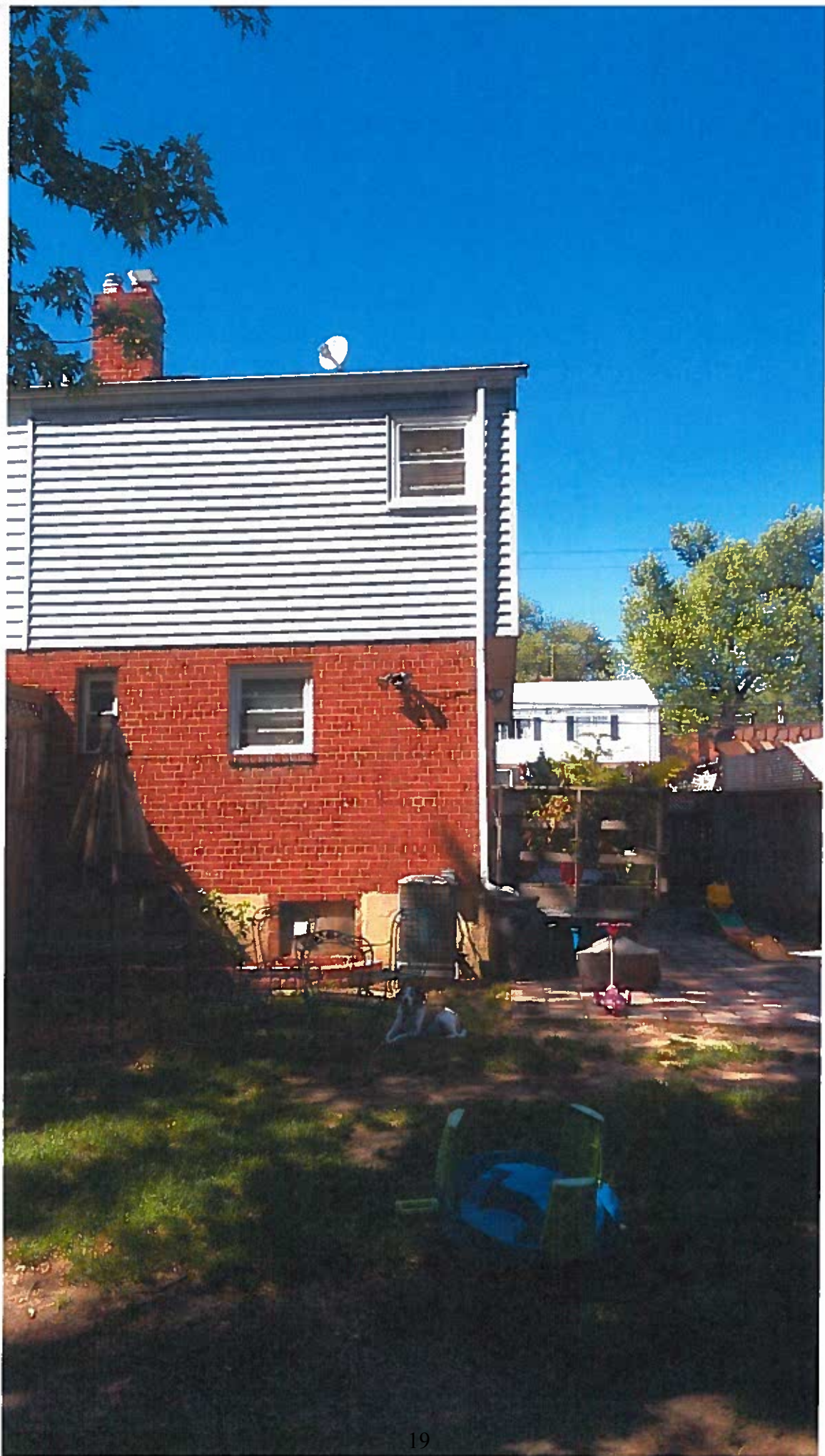
Existing Open Space	
Required Open Space	
Proposed Open Space	

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

Signature: [Signature]

Date: 5/26/2015

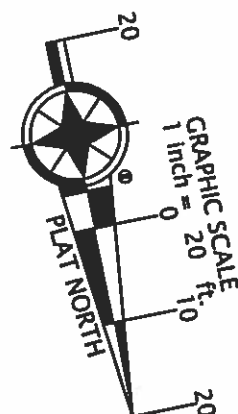
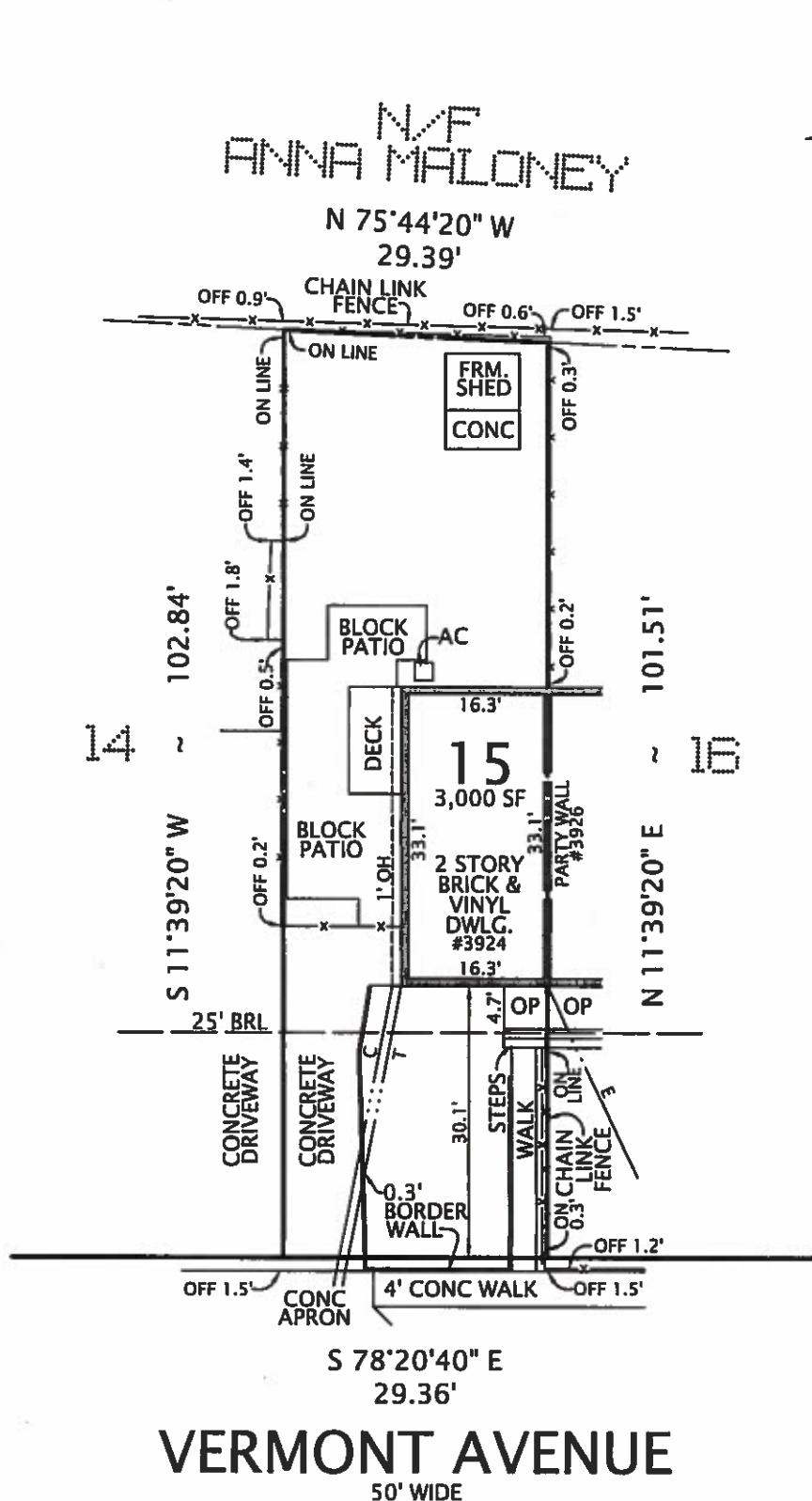








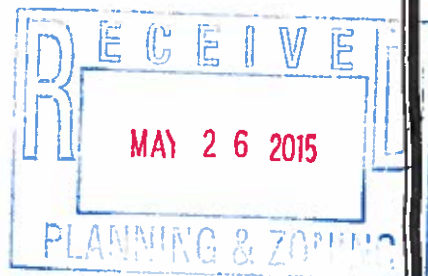
NOTES: 1. FENCES ARE FRAME UNLESS NOTED.



PLAT
SHOWING HOUSE LOCATION ON
LOT 15, BLOCK 3, SECTION THREE
CAMERON HOMES

(DEED BOOK 399, PAGE 266)

CITY OF ALEXANDRIA, VIRGINIA
SCALE: 1" = 20' OCTOBER 9, 2009

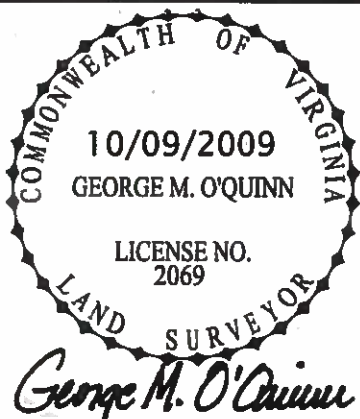


I HEREBY CERTIFY THAT THE POSITIONS OF ALL THE EXISTING IMPROVEMENTS HAVE BEEN CAREFULLY ESTABLISHED BY A CURRENT FIELD SURVEY AND UNLESS SHOWN THERE ARE NO VISIBLE ENCROACHMENTS AS OF THIS DATE:

THIS PLAT IS SUBJECT TO RESTRICTIONS OF RECORD.

A TITLE REPORT WAS NOT FURNISHED.

NO CORNER MARKERS SET.



ORDERED BY:

KHALIL ~ BEHR/PORTER

SCOTT B. WEAVER, ATTORNEY AT LAW



DOMINION

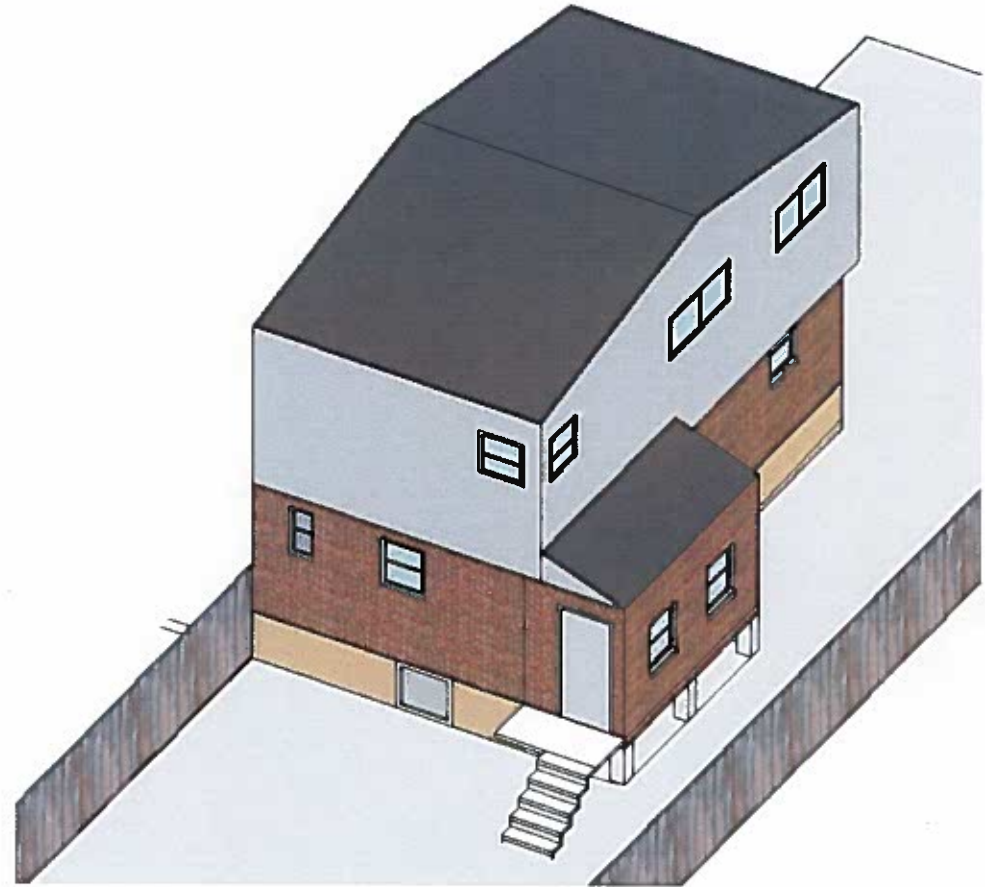
Surveyors Inc.®

8808-H PEAR TREE VILLAGE COURT
ALEXANDRIA, VIRGINIA 22309
703-619-6555
FAX: 703-799-6412

NOTES:
MATERIALS, WINDOWS AND DOOR
LOCATION ARE PRELIMINARY, THEY
MIGHT CHANGE LATER IN THE
DESING PROCESS

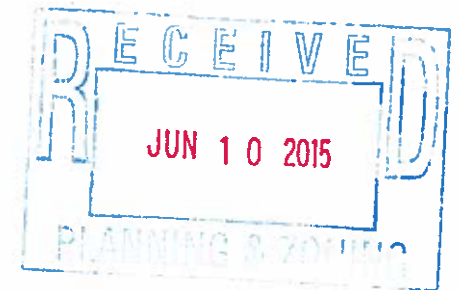
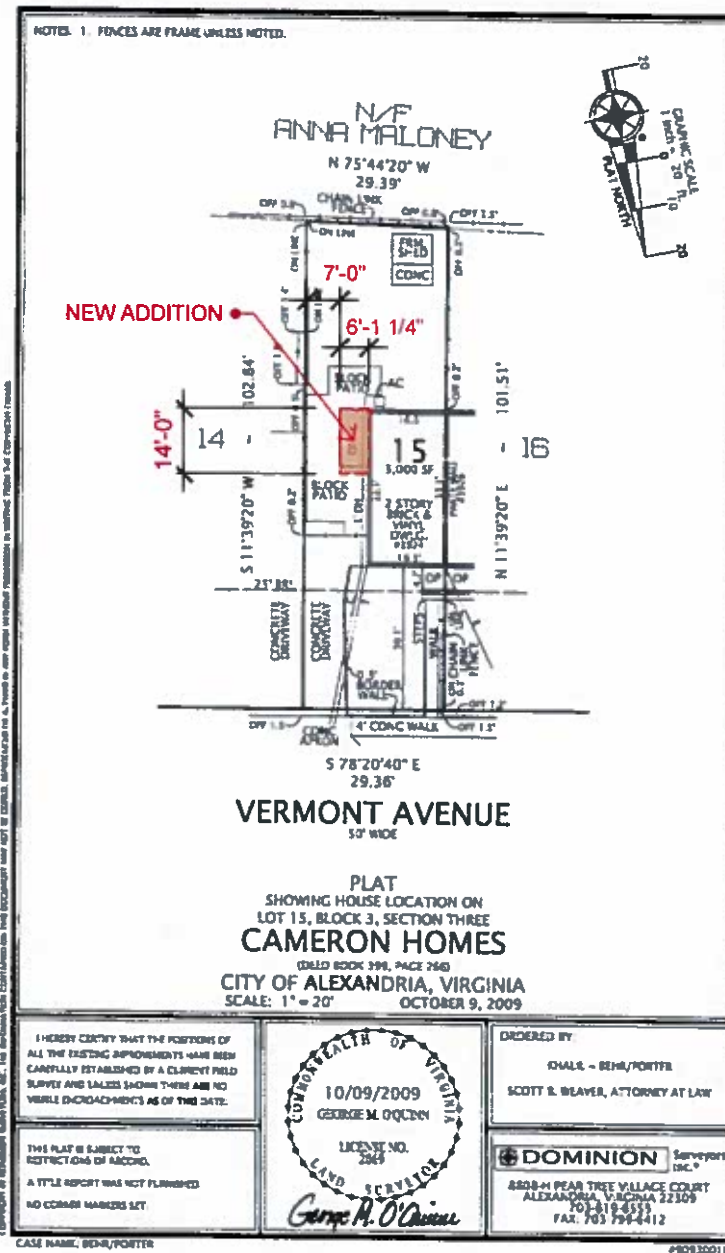


FRONT VIEW



BACK VIEW

3D MODEL ILLUSTRATION

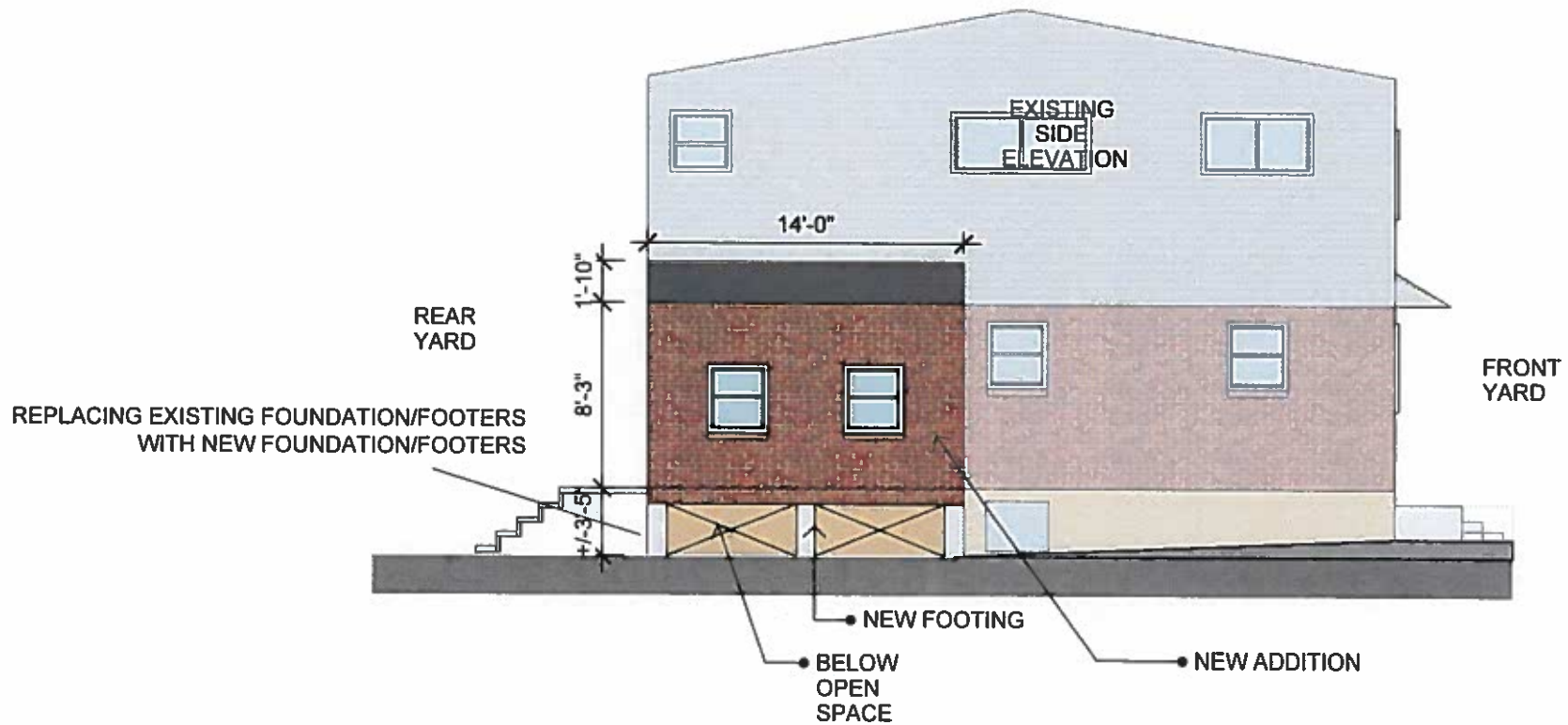


REVISED

PLAT WITH PROPOSED NEW ADDITION

SCALE: 1" = 40'-0"

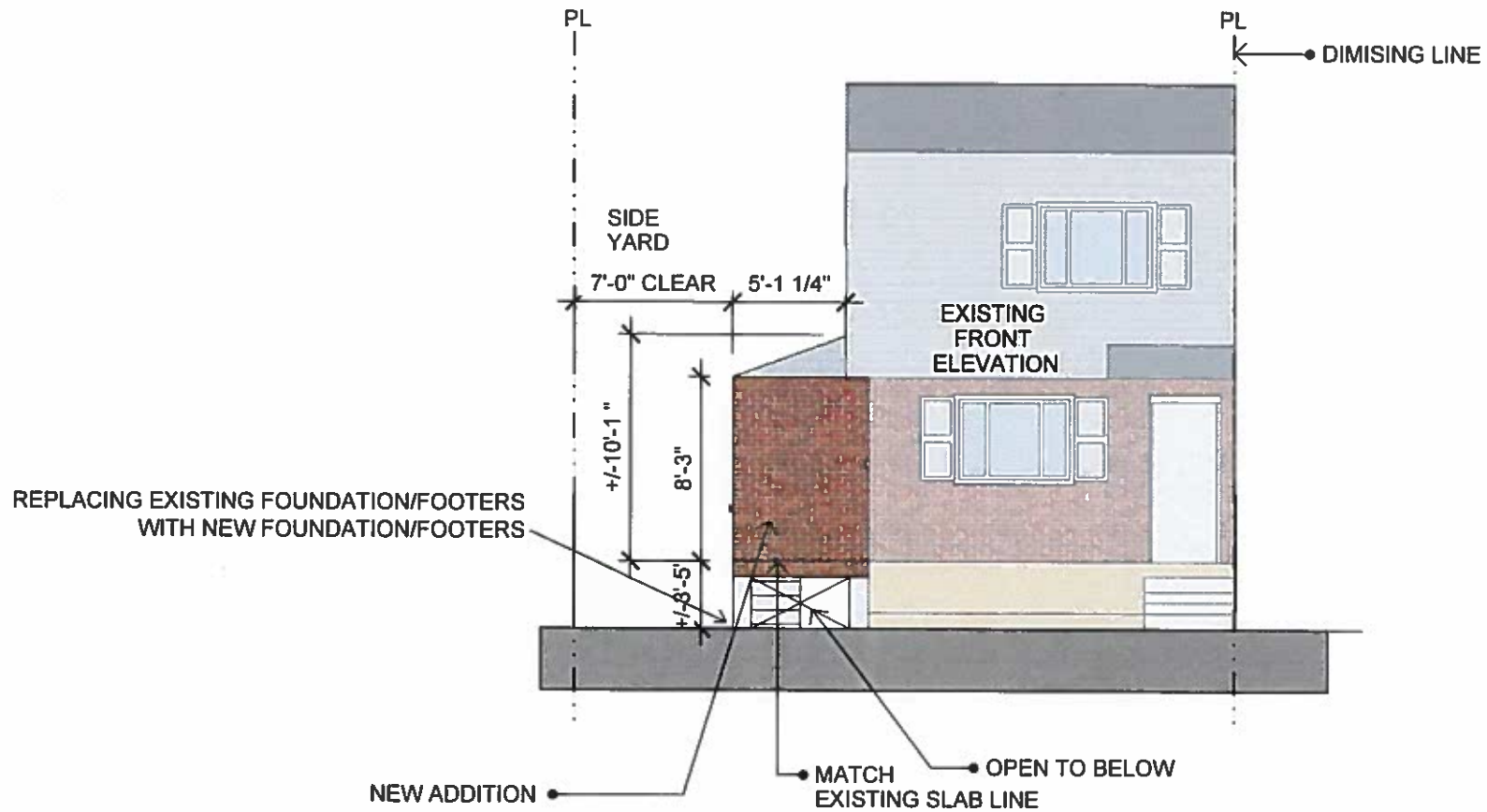
NOTES:
MATERIALS, WINDOWS AND DOOR
LOCATION ARE PRELIMINARY, THEY
MIGHT CHANGE LATER IN THE
DESING PROCESS



EAST SIDE ELEVATION

SCALE: 1/8" = 1'-0"

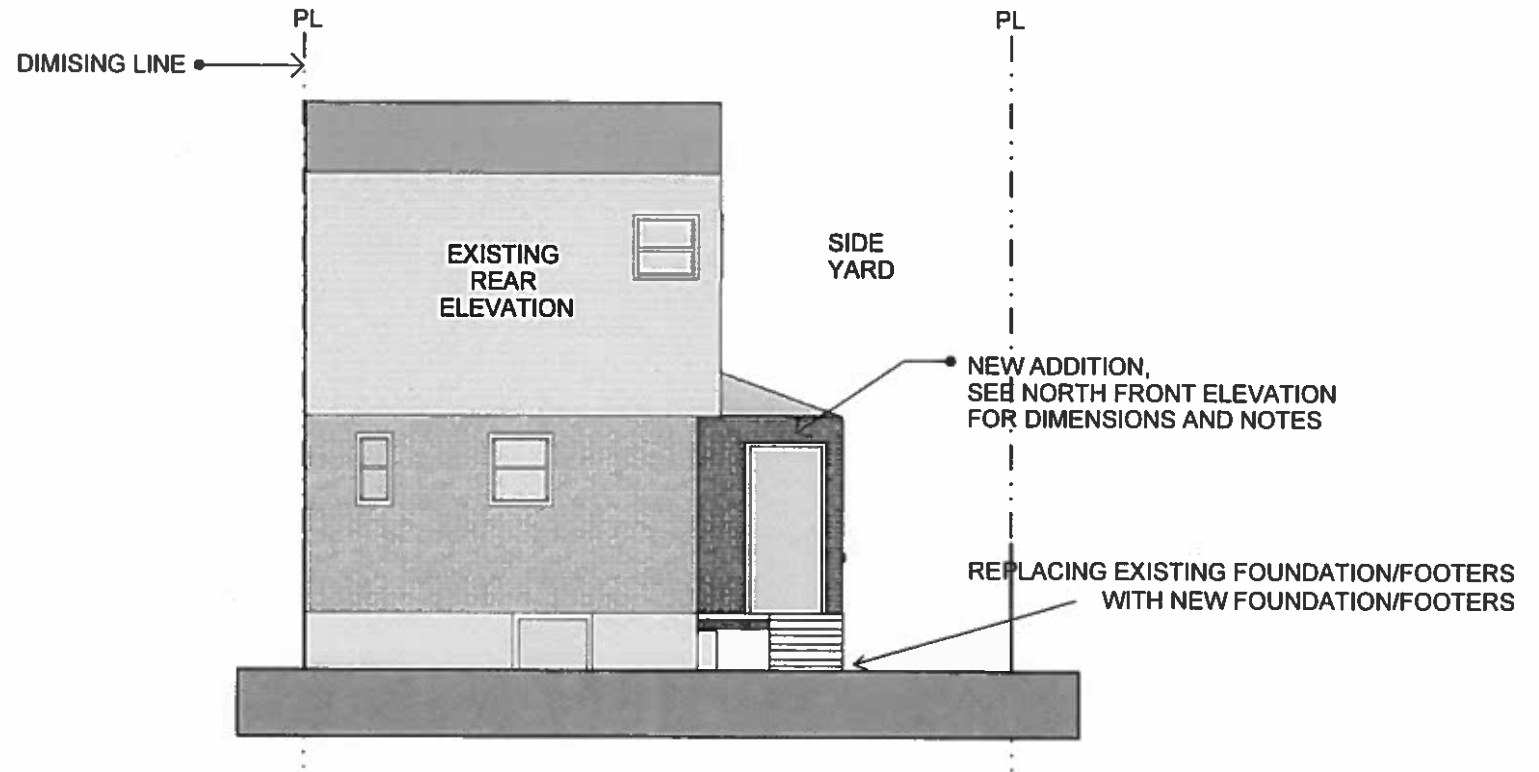
NOTES:
MATERIALS, WINDOWS AND DOOR
LOCATION ARE PRELIMINARY, THEY
MIGHT CHANGE LATER IN THE
DESIGN PROCESS



NORTH FRONT ELEVATION

SCALE: 1/8" = 1'-0"

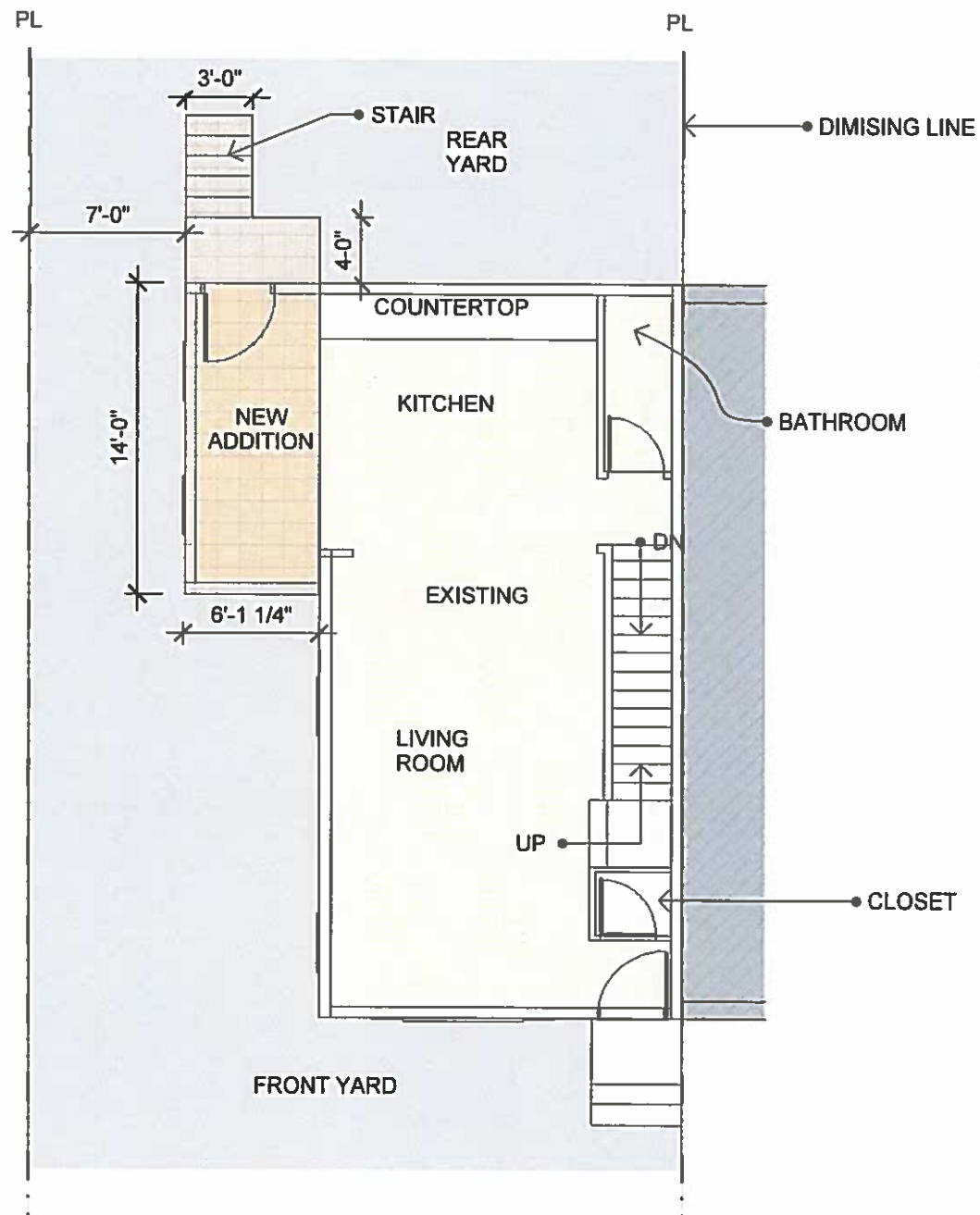
NOTES:
MATERIALS, WINDOWS AND DOOR
LOCATION ARE PRELIMINARY, THEY
MIGHT CHANGE LATER IN THE
DESING PROCESS



SOUTH REAR ELEVATION

SCALE: 1/8" = 1'-0"

NOTES:
MATERIALS, WINDOWS AND DOOR
LOCATION ARE PRELIMINARY, THEY
MIGHT CHANGE LATER IN THE
DESING PROCESS



GROUND FLOOR PLAN

SCALE: 1/8" = 1'-0"