Docket Item #3
BZA CASE # 2015-0010

Board of Zoning Appeals
December 10, 2015

ADDRESS: 10 Rosecrest Avenue
ZONE: R-5, Residential
APPLICANT: Kristen Galles, Owner

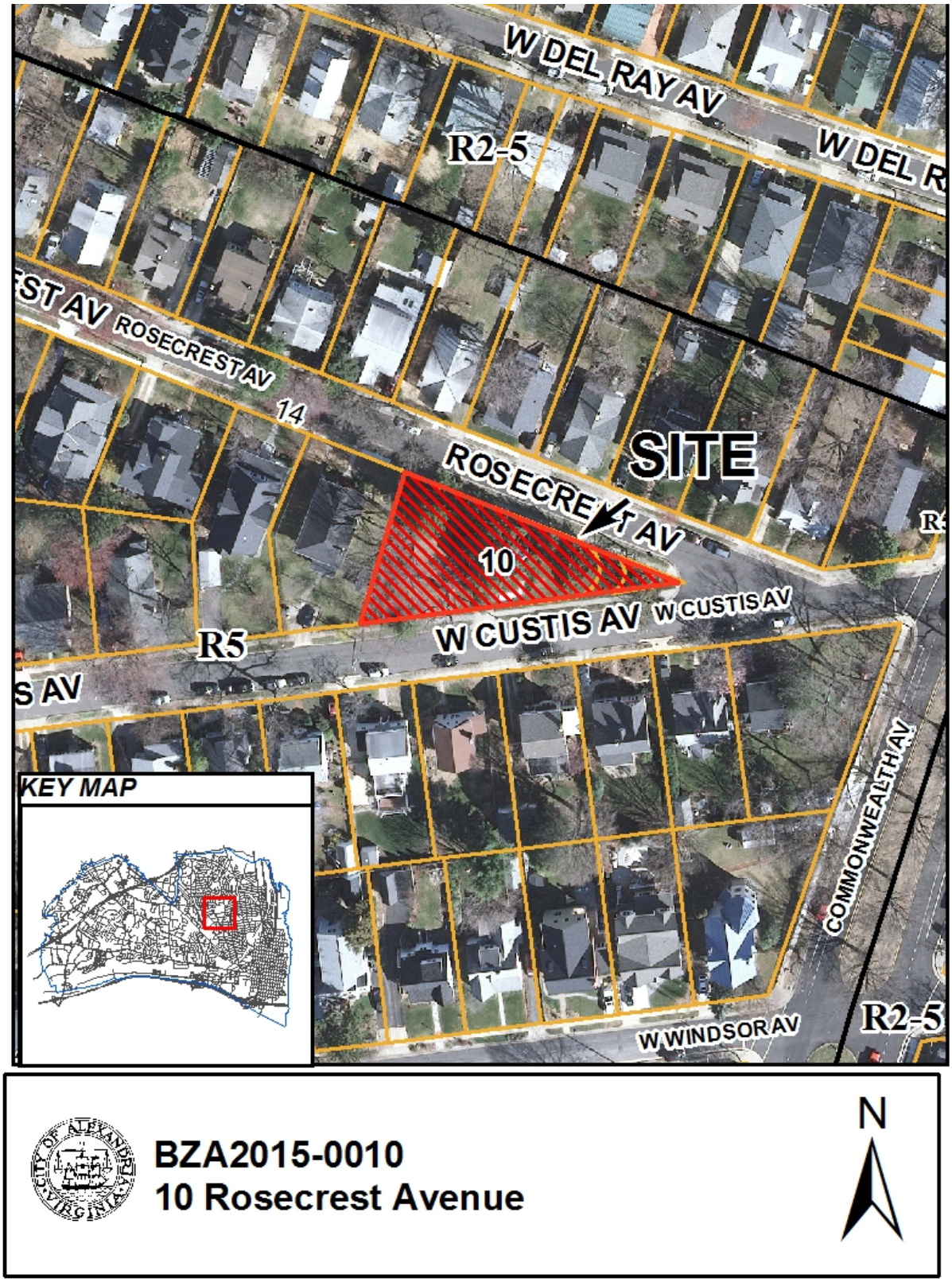
ISSUE: Variance to construct a new house in the required front yards

CODE SECTION	SUBJECT	CODE REQMT	APPLICANT PROPOSES	REQUESTED VARIANCE
7-2503(A)	Average Front Yard Setback*			
	(Rosecrest)			
	Porch	18.00 ft	8.00 ft	10.00 ft
	Building	18.00 ft	13.90 ft	4.10 ft
	(W. Custis)			
	Building	19.80 ft	12.10 ft	7.70 ft
	Bay Window	19.80 ft	17.00 ft	2.80 ft

*Based on the average prevailing front setback of existing homes along the block.

Staff **recommends approval** of the requested variance because the applicant has 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: (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.



BZA2015-0010
10 Rosecrest Avenue

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I. Issue

The applicant proposes to demolish her existing two and half story single-family house and build a new three story single-family house that would project into the required front yards at 10 Rosecrest Avenue.

II. Revisions to Previously Submitted Plans

The applicant originally filed her request for consideration before the BZA on September 10, 2015. After a spirited discussion and issues raised by members if the BZA the applicant requested a deferral to a later hearing in order to address the points raised by the BZA. The applicant has taken the suggestions by the Board and has proposed the following revisions to her plans.

a. The proposed house has been moved back slightly so that the requested front setback variances have been reduced by 2.00 feet. The original request was a projection of 12.00 feet into the required front yard facing West Custis and 10.00 feet into the required front yard facing Rosecrest. The new projection is 10.00 feet facing West Custis and 8.00 feet facing Rosecrest.

b. Reduced the size of the proposed covered front porch to match the dimensions allowed for a combination front covered portico and pergola. The front porch is proposed to match the character of similar porches in the neighborhood.

c. Due to some confusion on the building height, the applicant's surveyor reexamined the building heights of existing homes on Rosecrest and West Custis. The surveyor concluded the allowed building height based on the average of existing homes is 26.80 feet. Building height is no longer an issue before the board.

d. The revisions would result in less overall floor area.

III. Background

The subject property is an unusually shaped triangular corner lot with many mature trees and with lot frontage on two public streets. The property is one lot of record with 148.10 feet of frontage on Rosecrest Avenue, 165.10 feet of frontage on West Custis Avenue, and a depth of 104.20 feet. The total lot area is 9,351 square feet.

The lot contains a two and half story single-family dwelling with a screen porch, open deck, and below grade attached garage. The house is 90 years old. The existing dwelling is located 15.80 feet from the front property line facing Rosecrest Avenue, approximately 16.50 feet from the front property line facing West Custis Avenue and 42.00 feet from the west side property line. Real estate assessment records indicate the existing house was built in 1929

and totals 1,100 square feet.

The existing dwelling is classified as a noncomplying structure with respect to portions of the existing house that project into the required front yards.

IV. Zoning Table

R-5 Zone	Requirement	Existing	Proposed
Lot Area Corner	6,500 sq. ft.	9,351 sq. ft.	No change
Lot Width	65.00 ft	138.67 ft (Custis) 121.67 ft (Rosecrest)	No change
Lot Frontage	40.00 ft.	165.10 ft (Custis) 148.10 ft (Rosecrest)	No change
Front Yard	Established block face: Rosecrest (18 ft) Custis (19.80 ft)	12.00 ft 15.00 ft	13.90 ft 12.10 ft
Side Yard (East)	7 ft or 1:3 the blding height	42.00 ft.	30.00 ft
Rear Yard	Not applicable on a corner lot	n/a	n/a
Building Height	25.00 ft. or 20 %	Not available	26.80 ft to the mid- point of the roof
Net FAR	4,208 sq ft. (.45)	1,100 sq. ft.	3,915 sq. ft.

The applicant's architect states that 84 percent of the proposed house would comply with the applicable yard requirements. Approximately 2.64 percent of the existing house currently projects into the required front yards. If the new house is built as located on the property the amount of building projection into the required front yards would increase to 7.80 percent from the existing house (an increase of 5.00 percent when compared with the new construction).

V. Description of Request

The applicant proposes to demolish her existing single-family house and build a new three story single-family house with a covered front porch, open rear deck, and below grade garage. The new house would be located in relatively the same location as the existing house but with a larger footprint.

Portions of the proposed dwelling project into the required front yards facing Custis Avenue and Rosecrest Avenue require approval of a front yard variance:

(1) Rosecrest Avenue: A 27 square foot area on the first and second floor of the proposed house that accommodates a bathroom on two floors would be located 13.90 feet from the front property line facing Rosecrest Avenue. Approximately 201 square feet of the 218 square foot porch also projects into the required front yard. The proposed building improvements would be located 8.00 feet and 13.90 feet front the front lot line, respectively. The prevailing front setback is 18.00 feet. A variance of 10.00 feet and 4.10 feet is required.

(2) Custis Avenue: A 64 square foot area which includes a portion of a basement bedroom, a portion of a first floor office and a portion of a second floor bedroom project into the front yard facing Custis Avenue. The portion of the building wall in question would be located 12.10 feet from the West Custis Avenue front property line. A portion of a new first floor bay window on the east side building wall would be located in the required front yard. The bay window is proposed 17.00 feet from the front property line facing West Custis Avenue. The proposed building improvements cannot comply with the prevailing front setback of 19.80 feet. A variance of 7.70 feet and 2.80 feet respectively is required.

The new house would increase in size by about 2,815 square feet over the existing size. The real estate assessment records indicate the existing house totals 1,100 square feet. The new house would total 3,915 net square feet. The property owner is allowed to build up to 4,208 net square feet and remain complaint with FAR limits.

Approximately 5.00 percent of the existing house now projects into the required front yards. The new house, not including the front porch, would project slightly under 8.00 percent. With the front porch added in the total projection of the new house into the front yard, the setback encroachments would increase to 16 percent. Given the frontage restrictions, the new house is 84 percent in compliance with the applicable yard requirements.

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

VI. Master Plan/Zoning

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

VII. Requested Variance

Section 3-506(A)(2), Side Yard. The applicant proposes to construct a new three-story house with portions of the front building walls and the new porch projecting into the required front yard. The proposed building improvements facing Rosecrest Avenue would project 8.00 feet and 13.90 feet into the required front yard. The prevailing front setback is 18.00 feet. A variance of 10.00 feet at the largest encroachment is required.

The proposed building improvements facing West Custis Avenue cannot comply with the prevailing front setback of 19.80 feet. A portion of a new first floor bay window on the east side building wall is located in the required front yard. The bay window is located 17.00 feet from the front property line. A variance of 7.70 feet and 2.80 feet respectively is required.

Refer to attached site plan highlighting the applicable projections and overlays the existing house footprint on the new house footprint.

VIII. Noncomplying Structure/ Substandard Lot

The existing single-family house is a legal noncomplying structure with complying lot area for an R-5 zoned property.

IX. Applicant's Justification for Variance

The applicant states the zoning ordinance prevents reasonable use of her property given the unusual and unique physical characteristics of this double fronting triangular corner lot. To justify relief of the zoning regulations, the applicant states the following reasons to support the variance:

(a) The unusual lot configuration and uniqueness of the lot character when compared to other lots in the immediate neighborhood;
(b) The desire to protect mature trees along the east property line. The tree canopy and roots would be affected the closer the new house is located near the east property line.
(c) The double frontage corner lot which tapers severely along one frontage and limits the location for improvements to the property;
(d) 84 percent of the new house would be in compliance with the applicable front setback, floor area and building height requirements;

(e) The new house would intrude into the required front yards by 2.8 percent slightly more than the existing house now does.
(f) Strong neighborhood support for the placement of the new house; and
(g) Soil conditions and water problems affect the property and placement for a new home.

The applicant states that strict application of the zoning ordinance to this property will harm the property, the neighborhood and the public interest. The property is unique with its two front yards and its shape and with its large mature trees. The property tapers like an arrow head towards the intersections with Rosecrest and Custis Avenue. There are no other lots like the subject property in the neighborhood and in Del Ray in general. The subject property predates the zoning regulations, and because of its unique shape and the prevailing front setbacks imposed by the shape, special conditions restrict appropriate building placement. Complying with the required front yards will result in a narrower house on a triangular lot. Granting of the variance will allow the owner to build on the lot in a way that preserves green space and the numerous mature trees. The neighbors are strongly in support of saving the large trees. The proposed variances will not change the character of the neighborhood, but will maintain the current setting. The current house currently violates front yard setback rules as well. The applicant tried to site the new house in compliance with the R-5 zone requirement but could not without affecting existing tree coverage. The new house would comply with all R-5 zone regulations except the two front setbacks.

X. Analysis of the Variance Standards

For the Board of Zoning Appeals to grant a variance the following must be met (1) the definition of a variance, set out in Code of Virginia § 15.2-2201 and (2) the criteria for a variance, set out in Code of Virginia § 15.2-2309(2). The applicant seeking the variance must prove by a preponderance of the evidence that his or her application meets these requirements.

The language below contains staff's interpretation of the Code of Virginia requirements, the pertinent provisions of Sections 15.2-2201 and 15.2-2309(2) are set out in Attachment 1.

A. Analysis of the Definition of a Variance (Code of Virginia § 15.2-2201)

The applicant must establish that the variance he or she is seeking:

1. Is a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure

Minimal changes are proposed for the front setbacks in order to construct this house on an irregular shaped lot while preserving large, mature and old trees behind the current house. The proposed building improvements facing Rosecrest would be

located 8.00 feet and 13.90 feet front the front lot line, respectively. The prevailing front setback is 18.00 feet. The proposed building improvements facing Custis cannot comply with the prevailing front setback of 19.80 feet. A variance of 7.70 feet and 2.80 feet respectively is required. The majority of the new house would be built on the existing house's footprint. The only change would be modest corners of the building projecting into the front setbacks. The new building although taller does not appear to create a visual impact from the street. The proposed project reflects a reasonable deviation.

2. **The strict application of the zoning ordinance would unreasonably restrict the utilization of the property**

   Strict application of the zoning regulations will unreasonably restrict the use of the property given the property's unusual lot configuration of a triangle-shaped, double frontage lot. The applicant thought it wiser to build to preserve trees and consulted all her neighbors, who also agreed.

3. **The need for a variance is not shared generally by other properties**

   The applicant did explore building the new house without the need of a variance, but the loss of large trees and placing the house closer to her neighbors would create a more harmful impact on the community. No other lots in this area are of a triangular shape, with three front yards, so the need for a variance is unique.

4. **The variance is not contrary to the purpose of the ordinance**

   The proposed dwelling provides for a design that corresponds with the neighborhood's character and context is an appropriate land use and at appropriate density. The proposed house placement is consistent with many other homes along Rosecrest Avenue and Custis Avenue. The placement of the house will not be contrary to the neighborhood or zoning regulations. The Zoning Ordinance has as one its purposes that it shall provide for the preservation of environmentally sensitive areas and urban forested lands. The site is a unusual lot with several important trees that need protection. The proposed location for the dwelling would ensure the protection of those trees.

5. **The variance does not include a change in use, which change shall be accomplished by a rezoning**

   The variance will not include a change in use nor require a rezoning of the property. The property is and will remain residential with a private residence constructed on it.

B. <u>Analysis of the Criteria for a Variance (Code of Virginia § 15.2-2309)</u>

1. **The evidence must show that either the strict application of the terms of the**

ordinance would unreasonably restrict the utilization of the property or granting of the variance would alleviate a hardship due to the physical condition relating to the property improvements thereon at the time of the effective date of the ordinance

A hardship has been demonstrated in this case. The subject lot is a unique and unusually platted lot with two front yards. Because of the lot's narrowness at the intersection of Custis and Rosecrest Avenue, it is very difficult to place a house in compliance with the zoning rules. Moving the new house towards the east property line, where large existing mature trees exist, would affect the tree canopy and root systems. Aligning the house along the front setback axis facing Rosecrest will result in a greater front yard setback and variance facing Custis Avenue. The neighbors express support for variances that will preserve the existing trees and not to have a structure with an awkward angular shape to simply comply with the front setbacks.

2. **The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance**

   The subject lot was platted prior to the R-5 zoning regulations and in part was shaped by the placement of Rosecrest Avenue and Custis Avenue in correspondence with the lot configuration. The dwelling on the subject property was built in 1929, and the lot has had its configuration since before that time. The new zoning rule was adopted in 1951. The applicant acquired the house not knowing of the corner lot rules defining both street frontages as front yards. As provided by the applicant's architect, portions of the existing house are currently projecting into the prevailing front setback.

3. **The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area**

   If approved, the proposed house, although larger, would not have any more adverse impact on the immediately adjacent neighbors and nearby homes across Rosecrest and Custis Avenues than does the existing house now. The neighbors are in support of the location of the new house. Although the new house could be sited closer to the east property line, such placement would impact and possibly remove large, mature trees, and the most affected neighbor has expressed that the new house not be placed closer to their home. The proposed house would fit in the character of the neighborhood and will not alter the character or value nor harm the neighborhood or have an adverse effect on the block face. Since the applicant surveyed the block face of existing homes along Rosecrest and Custis, the placement of the new house will not be so out of character with the neighborhood. The applicant has taken extraordinary steps to minimize the need of large front yard setbacks, removing many mature trees and placement of a home on an unusual shaped lot. Staff believes the support of modest variances the proposed home will be placed properly on the property and compliment the neighborhood.

4. **The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation that could be adopted as an amendment to the zoning ordinance.**

   The condition or situation of the property will not make it practicable to adopt an amendment to the zoning ordinance just for the purpose of accommodating this single, unusual lot. The subject property is zoned R-5 and the house as proposed can be built with modest variance relief.

5. **The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property**

   The subject property and the surrounding properties are zoned R-5, residential and the proposed house is consistent with the use allowed use and zoning classification.

6. **The relief or remedy sought by the variance application is not available through a special exception process or the process for modification of a zoning ordinance at the time of the filing of the variance application.**

   No other remedy except a variance is available.

XI. Staff Conclusion

The strict application of the zoning regulations does result in a hardship to the property and does prevent reasonable use of this unusual lot. The existing dwelling was built on this lot before the current 1951 zoning regulations and the 2008 infill regulations, which require new construction to be built based on the prevailing front setbacks. The existing house now projects into the required front setbacks. The new house would also preserve tree coverage. The modest architectural projections that require the variance approval include a first floor bay window, a smaller open covered front porch and, small building corners on the second floor bedrooms. There is no major building mass projecting into the front setbacks.

Strict application of the ordinance will force a project that would adversely affect the neighborhood and change its character. The zoning regulation will prevent the applicant from building on an unusual shaped lot and effectively prevent reasonable use of the property. The BZA has in the past valued the preservation of large specimen trees as a hardship as well as unusual shaped lot to support a variance. The applicant has attempted to address many if not all of the zoning requirement and issues raised by the BZA.

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:

C-1 The applicant shall comply with the City of Alexandria's Solid Waste Control, Title 5, Chapter 1, which sets forth the requirements for the recycling of materials (Sec. 5-1-99). (T&ES)

C-2 The applicant shall comply with the City of Alexandria's Noise Control Code, Title 11, Chapter 5, which sets the maximum permissible noise level as measured at the property line. (T&ES)

C-3 Roof, surface and sub-surface drains be connected to the public storm sewer system, if continuous underground pipe. Where storm sewer is not available applicant must provide a design to mitigate impact of stormwater drainage onto adjacent properties and to the satisfaction of the Director of Transportation & Environmental Services. (Sec.5-6-224) (T&ES)

C-4 All secondary utilities serving this site shall be placed underground. (Sec. 5-3-3) (T&ES)

C-5 Any work within the right-of-way requires a separate permit from T&ES. (Sec. 5-2) (T&ES)

C-6 All improvements to the city right-of-way such as curbing, sidewalk, driveway aprons, etc. must be city standard design. (Sec. 5-2-1) (T&ES)

R-1 The building permit must be approved and issued prior to the issuance of any permit for demolition. (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 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)

F-1 After review of the information provided, an approved grading plan is required. (T&ES)

Code Administration: No comments received.

Recreation (Arborist): No comments received.

Historic Alexandria (Archaeology):

F-1 While historic maps largely depict the subject lot as vacant in the past, there is a remote possibility that archaeological evidence of past activity is present on the property. As a measure of caution, we ask that the applicant adhere to the archaeological conditions listed below.

The statements in archaeology conditions below shall appear on the grading plans so that on-site contractors are aware of the requirements:

R-1 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.

R-2 The applicant/developer shall not allow any metal detection to be conducted on the property, unless authorized by Alexandria Archaeology.

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APPLICATION
BOARD OF ZONING APPEALS

VARIANCE

Section of zoning ordinance from which request for variance is made:
Zoning Ordinance Section 3-405 (A)(1) - front yard setback

PART A

1. **Applicant:** ☑ **Owner** ☐ **Contract Purchaser** ☐ **Agent**

   Name Kristen Galles

   Address 10 Rosecrest Avenue Alexandria, VA 22301

   Daytime Phone (703) 683-4491

   Email Address kgalles@comcast.net

2. **Property Location** 10 Rosecrest Avenue Alexandria, VA 22301

3. **Assessment Map #** 034.01 **Block** 09 **Lot** 09 **Zone** _____

4. **Legal Property Owner Name** Kristen Galles

   Address 10 Rosecrest Avenue Alexandria, VA 22301

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. Kristen Galles	10 Rosecrest Avenue Alexandria, VA 22301	100%
2.		
3.		

2. Property. State the name, address and percent of ownership of any person or entity owning an interest in the property located at 10 Rosecrest Avenue Alexandria, VA 22301 (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. Kristen Galles	10 Rosecrest Avenue Alexandria, VA 22301	100%
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 require 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 the12-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 indicated 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 NONE	Relationship as defined by Section 11-350 of the Zoning Ordinance	Member of the Approving Body (i.e. City Council, Planning Commission, etc.)
1.	NONE	NONE
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.

07/29/2015 — Date

Kristen Galles — Printed Name

Kristen Galles — Signature

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5. **Describe request briefly:**

I seek a variance from Alexandria Zoning Section 3-405(A)(1) to construct 2 corners of my house within the front yard setbacks. Because my lot is a unique, long, skinny triangle, building any where on it impacts 3 front yards under the ordinance (Rosecrest, West Custis, and the point) instead of just one. The existing house already intrudes on the setbacks. The new house will intrude only 2.8% more and only on the front corners. Even after building more into the point, there still will be about 90 feet between the point front of the house and the point of the lot.

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:

Kristen Galles	Kristen Galles
Print Name	**Signature**
(703) 683-4491	07/29/2015
Telephone	**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.

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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.

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

I explain the reasons for the variance and how its denial would prevent the reasonable use of the property in the accompanying memo.

The unique, long, skinny, triangular shape of the lot makes it difficult to build even a skinny home on it without a variance.

The existing house already intrudes on the setbacks because of the shape of the lot.

Strict application of the ordinance to this property will violate the intent and purpose of the zoning ordinance noted in Section 1-102 because it will harm the property, the neighborhood, and the public interest.

2. Is this hardship unique to the property?

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

The hardship applies only to this property. The unique skinny, triangular lot configuration creates 3 front yards instead of one.

The setback lines cross in the middle of the point front yard where I seek to build -- 64 feet before the end of the yard at the point.

The zoning ordinance does not contemplate setback lines that leave so much "dead" space in a front yard.

The existing house violates the setbacks even though it has 100+ feet to the point.

There are NO other lots like this that I can find in the neighborhood.

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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.

This condition does not apply to any other properties in the area.

3. Was the hardship caused by the applicant?

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

The hardship is caused by the long, skinny, triangular shape and configuration of the lot itself.

The existing house already violates the setback rules because of the shape.

The city zoning rules have changed since the lot was created and since the existing house was built.

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

The property had the same long, skinny, triangular shape when I bought it.

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

The condition is created by the odd, long, skinny, triangular shape of the lot. The existing house violates the setback rules but is grandfathered, because the city changed the rules after it was built. A new house is required due to the conditions described in the accompanying memo. The new house must comply with the new zoning rules. The proposed new house will better comply with all zoning rules except the setback rule because of the configuration of the lot.

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

NO. The hardship is caused by the odd, long, skinny, triangular nature of the lot itself.

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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.

The variance will not be detrimental to any adjacent properties or the neighborhood.

The variance will HELP the neighborhood as explained in the accompanying memo.

The neighbors support a variance.

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

The variance will preserve or enhance the value of my property, the adjacent property at 12 Rosecest Avenue, and the properties that look upon my lot, which is visible from all four sides. Granting the variance will allow me to build on the lot in a way that preserves green space and numerous mature trees. Granting the variance will retain space and privacy between 10 and 12 Rosecrest Avenues.

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.

I provided copies of the proposed plans to the adjacent property owner at 12 Rosecrest Avenue, the property owners across Rosecrest Avenue who face the property, and the property owners across West Custis Avenue who face the property. No one has objected. This application includes written statements of approval from many neighbors. Other neighbors expressed verbal support.

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

The variance will NOT change the character of the neighborhood. It will RETAIN the current setting and trees.

The existing house violates several zoning rules (height, threshold, and setbacks), but it is grandfathered.

The proposed new house will fix all of the existing violations and comply with all zoning rules except the setback rule. See accompanying memo for details.

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

I could build the same house in the very back back of the lot by the lot line with 12 Rosecrest Avenue without a variance. However, doing so would be detrimental to the property, nearby properties (especially 12 Rosecest), and the neighborhood as set forth in the accompanying memo.

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.

Architect Seth Ballard of Ballard & Mensua and I worked extensively with Alexandria zoning manager Peter Leiberg. Our extensive interaction with city staff is summarized in the accompanying memo.

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 10 ROSECREST AVENUE Zone R-5

A2. 9,351 *Total Lot Area* x 0.45 *Floor Area Ratio Allowed by Zone* = 4,208 SQ. FT. *Maximum Allowable Floor Area*

B. Existing Gross Floor Area

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

B1. Existing Gross Floor Area * 0 Sq. Ft.
B2. Allowable Floor Exclusions** 0 Sq. Ft.
B3. Existing Floor Area minus Exclusions 0 Sq. Ft.
(subtract B2 from B1)

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

Proposed Gross Area*		Allowable Exclusions	
Basement	1,534	Basement**	1,107
First Floor	1,564	Stairways**	276
Second Floor	1,556	Mechanical**	109
Third Floor	1,556	Porch/ Garage**	644
Porches/ Other	217	Attic less than 5'**	505
Total Gross *	6,427	Total Exclusions	2,641

C1. Proposed Gross Floor Area * 6,427 Sq. Ft.
C2. Allowable Floor Exclusions** 2,641 Sq. Ft.
C3. Proposed Floor Area minus Exclusions 3,786 Sq. Ft.
(subtract C2 from C1)

D. Existing + Proposed Floor Area

D1. Total Floor Area (add B3 and C3) 3,786 Sq. Ft.

D2. Total Floor Area Allowed by Zone (A2) 4,208 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 on 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.

F. 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: Date: 7/24/2015

Altaira Swangin

Updated July 10, 2008

Front Setback Data

ROSECREST AVENUE		WEST CUSTIS AVENUE		RUSSELL ROAD	
Address #	Setback From Face of Curb	Address #	Setback From Face of Curb	Address #	Setback From Face of Curb
7	33.3	4	28.1	2201	28.1
9	21.3	6	31.4		
11	21.1	8	31.5		
13	20.8	10	28.2		
15	18.5	12	29.1		
17	25.9	14	29.1		
19	26.0	15	22.4		
21	26.5	17	22.6		
12	28.9	19	29.9		
14	29.6				
16	30.8				
18	27.8				
20	27.7				
30	28.0				
AVERAGE =	***26.2***			**AVERAGE =**	***28.0***

Building & Threshold Height Data

	A		B	C	D	E	F	G	H	I
							(C-B)	(D-B)	(E-B)	(G+H)/2
	Address #		Ground Elevation	1st Floor Threshold Elevation	Bottom of Roof Elevation	Top of Roof Elevation	Distance Ground to 1st Floor	Distance Ground to Bottom of Roof	Distance Ground to Top of Roof	Building Height
ROSECREST AVE.	7	**	46.8	50.9	66	69	4.1	19.2	22.2	20.7
	9		48.0	51.4	60	68	3.4	12.0	20.0	16.0
	11		50.1	55.0	73	79	4.9	22.9	28.9	25.9
	13		51.0	54.5	x	x	3.5	x	x	x
	15		54.4	56.4	x	x	2.0	x	x	x
	17		55.9	58.9	x	x	3.0	x	x	x
	19		58.1	61.0	x	x	2.9	x	x	x
	21		61.6	65.3	x	x	3.7	x	x	x
	12	**	55.0	58.2	73	75	3.2	18.0	20.0	19.0
	14	**	57.1	61.5	81	90	4.4	23.9	32.9	28.4
	16	**	59.6	62.1	81	85	2.5	21.4	25.4	23.4
	18	**	65.2	66.0	82	88	0.8	16.8	22.8	19.8
	20		67.7	69.9	90	93	2.2	22.3	25.3	23.8
	30		76.4	75.9	101	101	-0.5	24.6	24.6	24.6
W. CUSTIS AVE.	4		45.5	47.3	65	72	1.8	19.5	26.5	23.0
	6	**	46.3	49.3	67	72	3.0	20.7	25.7	23.2
	8	**	47.9	50.8	69	73	2.9	21.1	25.1	23.1
	10		50.4	53.1	71	79	2.7	20.6	28.6	24.6
	12		51.6	53.9	71	79	2.3	19.4	27.4	23.4
	14		53.6	55.8	73	80	2.2	19.4	26.4	22.9
	15		59.9	64.0	73	80	4.1	13.1	20.1	16.6
	17		62.1	65.0	73	83	2.9	10.9	20.9	15.9
	19		63.5	67.6	85	92	4.1	21.5	28.5	25.0
	2201*	**	69.8	73.0	91	97	3.2	21.2	27.2	24.2
	AVERAGE		***56.6***	***59.5***	***76.1***	***81.8***	*2.9*	***19.4***	***25.2***	*22.3*
						x1.2=	***3.5'***		***x1.2=***	***26.8'***

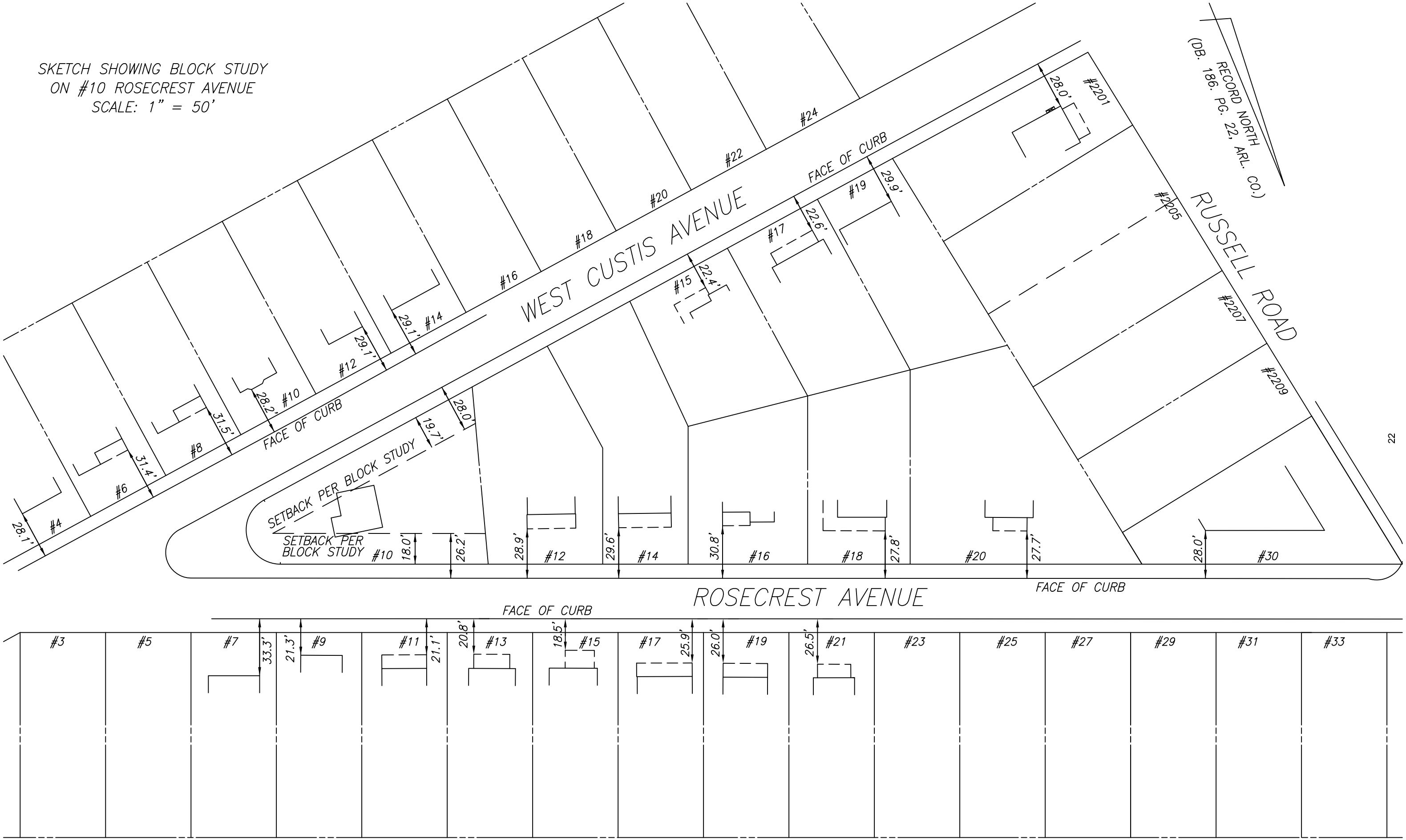
* ADDRESS ON RUSSELL ROAD

** ROOF ELEVATIONS TAKEN FROM DORMERS

NOTE: THRESHOLD DISTANCES TAKEN FROM AVERAGE GRADE AT FRONT BUILDING FACE TO FIRST FLOOR FF.

BUILDING HEIGHTS TAKEN FROM AVERAGE GRADE AT FRONT BUILDING FACE.

SKETCH SHOWING BLOCK STUDY
ON #10 ROSECREST AVENUE
SCALE: 1" = 50'



30 November 2015

Alexandria Board of Zoning Appeals:

Regarding the Galles property on 10 Rosecrest Avenue

Dear Board Members,

I live at 12 West Custis Avenue, directly across the street from the Galles property. I was delighted to attend your earlier meeting in September in support of what I thought were Ms. Galles' very reasonable requests. I regret that I am unable to come to the 10 December meeting. In view of this, I would like to take this opportunity to iterate what I said as a witness at the earlier meeting, and to point out a few other concerns that arose from that meeting.

In September, I spoke of the existing trees, how nice it is for me to look out at greenery, rather than structure. I pointed out how much I value these tall trees and this pretty scene that I look out upon each day. The present yard site also provides a pleasing separation from the house in back. Conversely, when I imagine a house set at the back of the yard, I am unable to fathom how one might create any kind of useful yard that would also afford privacy. I would think Ms. Galles would have to build a fence around the point if that is the only option available to her. I hope that Board members have taken the time to visit this site. The aerials, while demonstrating the predominance of sizeable yards elsewhere in the neighborhood, do not do justice to just how odd this triangular lot is. I noted at the meeting that Ms. Galles deserves a yard like the rest of her neighbors. Really, she might as well buy a townhouse if required to place the house in the back.

Not only do neighbors have appreciable yards, most have porches. In planning for her new house, Ms. Galles was excited about the prospect of having guests come over to sit on her porch. I have studied the drawings of both the covered porch and the pergola. I must say the pergola renders a structure that ends up looking disturbingly unfinished. It strikes me as aesthetically unsatisfying. I sincerely hope the Board will approve the variance she seeks in order for her to attain a more cohesive visual effect and a more serviceable yard.

Finally, I would like to reference the topic of precedent, a concern which was raised at the September meeting by several Board members. It seems to me that the word "variance," in and of itself, connotes the idea of exception. If something is exceptionable, I fail to see how it can become a precedent. The peculiar shape of the 10 West Rosecrest lot is what calls for special consideration.

I earnestly hope that you will appreciate the time, expense, and effort Ms. Galles has put forth in her endeavor to bring her lovely design to fruition, and grant her permission to accomplish this.

Susan L. Morrison, Ph.D.

Case # 2015-0070

Beginning of Materials Submitted
by the Applicant

GALLES SUPPLEMENTAL REQUEST FOR VARIANCE
10 Rosecrest Avenue

SUMMARY

I. REQUEST

Request 1: I seek a variance from the setback requirements of Alexandria Zoning Ordinance Section 3-405(A)(1) for two corners of the "point" front of my home. These corners are darkened on the site plan at Exhibit 6 (also attached here).

Those corners will cross the setback lines, because of the long, narrow, triangular shape of the lot. The total variance area is 27 square feet for the Rosecrest corner and 64 square feet for the West Custis corner. This request is less than the request made in my initial application. The proposed house plans are at Exhibit 15.

Request 2: I ask the BZA to approve a variance for a smaller front porch within the same footprint as the portico/pergola system I can build by right. Exhibit 6 includes a site plan the highlights the area for the proposed porch and a separate site plan that highlights the area for the "by right" portico and pergola system. Exhibits 10-14 show the plans and elevations for the porch option and the "by right" portico and pergola system.

The proposed porch will be sited on the exact same footprint of a portico and pergola system that I can build by right. If both structures will intrude into the exact same amount of setback, it makes sense to build the structure that best fits in with the neighborhood. Almost every house on Rosecrest has a front porch. Exhibit 4. None has a pergola system. The neighbors unanimously support the covered porch. See emails at Exhibit 2.

II. CHANGES

I hired RCFields to resurvey the heights of houses on Rosecrest and West Custis. The surveyor concluded that 26.8 feet is the maximum height allowed under the zoning infill regulations. The city zoning administrator agreed. Architect Seth Ballard changed the plans so that they meet this limit. I do not seek a height variance. Height is not before the BZA.

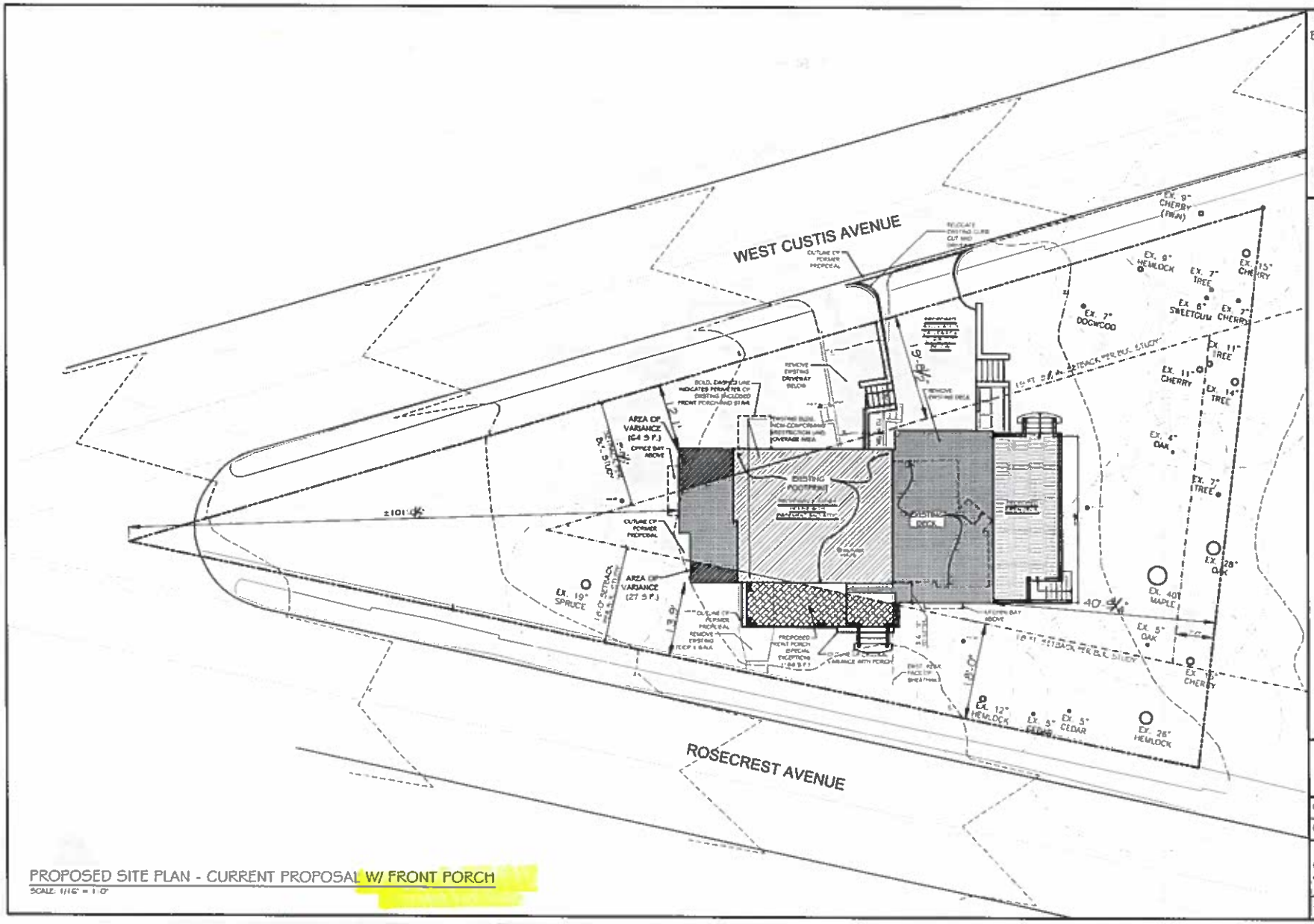
I moved the proposed house back slightly. The bump out from the existing point front of the house will be 10 feet on the West Custis side and slightly less than 8 feet on the Rosecrest side. The original variance application stated that I would bump out 12 feet on West Custis and 10 feet on Rosecrest. This is a two foot change. I also pushed the Rosecrest side of the point front of the house 1 more foot back so that there is a 2-foot difference in the point front sections instead of one. The proposed site plan is at Exhibit 6. The new FAR is slightly less and is well within the zoning law requirements. Exhibit 16.

I seek to align the new house on the axis of the triangular lot just like my existing house. See aerial views at Exhibit 6. Architect Seth Ballard examined how the house would look if aligned on Rosecrest Avenue, if aligned on West Custis Avenue, and if sited on the back setback line with 12 Rosecrest. These options would also require variances - some more and some less. Mr. Ballard's site plans show why these options do not work. Exhibits 7-9.

My architect worked with the city planning office to design a portico and pergola system on the Rosecrest side of the house that I can build by right. He also designed a smaller covered porch option that would fit in the exact same footprint. These options are depicted at Exhibits 10-14.

III. NEW VARIANCE LAW

The Virginia legislature passed and the governor signed a new variance law in 2015 that is substantially different from the prior law that is reflected in Alexandria's zoning ordinance. The new state law controls consideration of my variance request. The new law includes different legal standards and different conditions that must be shown to obtain a variance. The new law favors home owners and makes it easier to obtain a variance. The legislative history indicates this was the intent of the law. Part D of the accompanying memo explains the changes in the new law and how my project meets the new standards. See Exhibits 17 & 18.



PROPOSED SITE PLAN - CURRENT PROPOSAL W/ FRONT PORCH

SCALE: 1/16" = 1'-0"

BALLARD MENSUA ARCHITECTURE

450 WEST BROAD STREET
FALLS CHURCH VA 22046
www.ballardmensua.com
703 992.7580

GALLES RESIDENCE

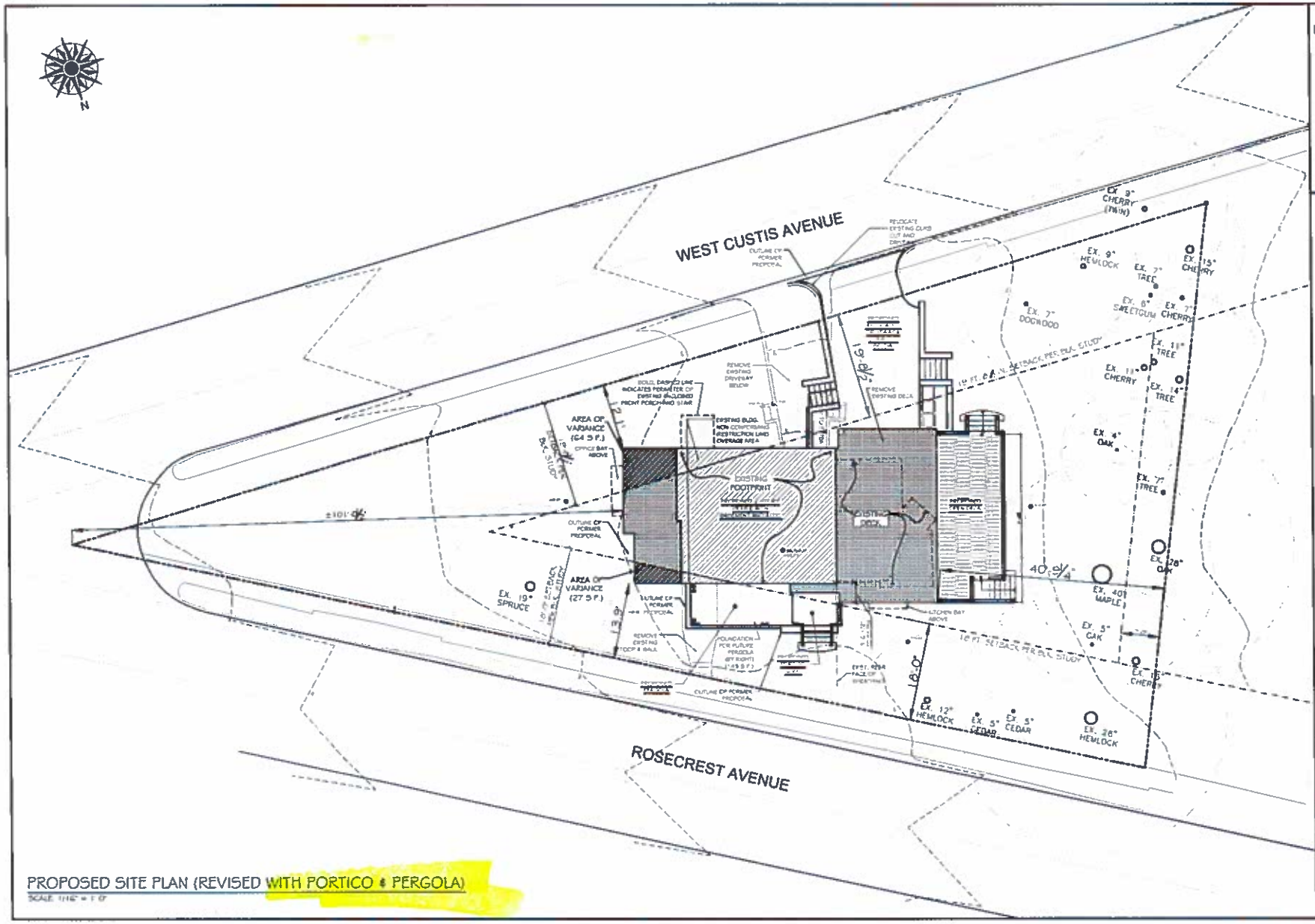
10 ROSECREST AVENUE
ALEXANDRIA, VA 22301

PROPOSED SITE PLAN

Project Issue	VARIANCE
Date	JULY 27, 2015

SP-porch

Scale



PROPOSED SITE PLAN (REVISED WITH PORTICO & PERGOLA)

SCALE: 1/16" = 1'-0"

BALLARD MENSUA ARCHITECTURE

450 WEST BROAD STREET
FALLS CHURCH VA 22046
www.ballardmensua.com
703 992 7580

GALLES RESIDENCE

10 ROSECREST AVENUE
ALEXANDRIA, VA 22301

PROPOSED SITE PLAN

Project Issue	VARIANCE
Date	JULY 27, 2015

SP

Scale

SUPPLEMENTAL MEMORANDUM

TO: Alexandria Board of Zoning Appeals
Lawrence Attenberg, Chair

cc: Peter Leiberg

FROM: Kristen Galles
10 Rosecrest Avenue
Alexandria, VA 22301
(703) 683-4491
kgalles@comcast.net

RE: Supplemental memorandum in support of the variance application for 10 Rosecrest Avenue

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In July, 2015, I filed a request for a variance from the setback requirements of Alexandria Zoning Ordinance Section 3-405(A)(1) in order to rebuild my home at 10 Rosecrest Avenue in the Del Ray section of Alexandria. This memorandum supplements that application.

Part A summarizes my architect's efforts to design a house that fits the neighborhood and the unique features of my lot. It also summarizes my consultations with neighbors and their universal support for the project and the requested variance.

Part B addresses specific concerns raised by some members of the Board of Zoning Appeals ("BZA") at the September 10 hearing on the initial application.

Part C summarizes the revised plans and the revised request for a variance.

Part D explains the appropriate legal standard for granting a variance under Virginia Code §15.2-2309, as amended in 2015, and how my application and project satisfy that standard.

A. EFFORTS TO FIT THE CHARACTER OF THE NEIGHBORHOOD & TO OBTAIN UNIVERSAL NEIGHBOR SUPPORT

Architect Seth Ballard and I have spent hundreds of hours preparing plans that fit the character of my neighborhood and the unique features of my lot. We carefully designed a house that will be located in a fish bowl with all four sides visible from the street. We were sensitive to the unique placement of the lot at the intersection of Rosecrest and West Custis at Commonwealth. People who turn from Commonwealth currently see the front of a house in the middle of a triangular lot. This visage is important. The new house will keep this view and will even keep the steeple feature from the existing house.

The current house has no character on the Rosecrest or West Custis sides. There is no clear front door. There is no welcoming entrance. Delivery drivers and guests frequently get confused. Mr. Ballard fixed this problem by designing a house with a second "front" on Rosecrest Avenue with a clearly defined front door. This design substantially enhances the project and the look for the entire neighborhood. If the city insists that I have 3 front yards, then Mr. Ballard designed the house accordingly.

I consulted exhaustively with my neighbors on both Rosecrest and West Custis Avenues about the project through the process. I gave them copies of the plans. I mapped out where the house will be on the lot and outlined it with twine. When Mr. Ballard revised the plans after the September hearing, I mapped out the new plans in rope so that the neighbors could clearly see where the new house will be on the lot. I explained exactly what I propose to do and how it intrudes the setback lines.

Before the September hearing, I contacted every neighbor on both streets whose homes face or abut my property. They all supported the variance. They submitted written statements supporting the variance. After the September hearing, I contacted the neighbors who live along the entire neighborhood triangle of Rosecrest, West Custis, and Russell Road. The dark triangle on the map at **Exhibit 1** shows theses streets. It also shows the location of my streets in the context of the entire neighborhood.

The neighbors on both Rosecrest Avenue and West Custis Avenue enthusiastically support the request for a variance. I recently sent the neighbors an email with renderings attached to ask them if they support a variance or not. Every neighbor who responded supports the variance, including the residents at 3, 5, 7, 9, 11, 12, 13, 15, 16, 17, 18, 19, 23, 25, 27, 29, 30, and 31 Rosecrest (1, 2, 4, 6, 8, 20, 22, 24, 26, and 28 do not exist as addresses on the street); 8, 10, 12, 14, 15, 16, 18, 19, and 24 West Custis (1, 3, 5, 7, 9, 11, and 13 do not exist as addresses on the street); and 2209 and 2215 Russell Road. In addition to the statements previously filed, please see the neighbor emails at **Exhibit 2.** They also universally support construction of a front porch. The first email lays out the communication exchange. The other emails show only the neighbor responses.

The Del Ray Citizens Association unanimously support my variance request. The city staff fully supported the initial application. Five neighbors spoke in favor of the variance at the September 10 hearing. Not one person has objected to any part of the variance request or any of the submitted plans. Quite to the contrary, they love the proposed house and are eager for construction to start. They want to see the house built.

This level of neighbor support and enthusiasm must be unprecedented. These residents know the neighborhood. They will have to look at my house every day of their lives. When there is universal support from all neighbors, the Del Ray Citizens Association, and city planning staff for a project – with NO objections – this should be an easy call. I urge the BZA to strongly consider and respect their wishes.

B. BZA CONCERNS

During the September hearing on the initial application, the BZA raised questions about (1) the height of the building, (2) the building location on the lot, and (3) the proposed porch. I will try to address those questions here.

1. Heigh - not at issue

The zoning ordinance for R-5 housing was 35' for many years until the relatively recent infill regulations lowered it to the greater of (a) 25 feet or (b) the average height of houses on the block (1 story and 2 story combined) plus 20%.

The current house is 28' 6" tall. The plans we submitted in July were for a 27' house — a full 1.5 feet shorter the existing house. Due to questions raised at the September hearing, I hired RCFields & Associates to re-survey the surrounding houses on Rosecrest and West Custis. The surveyor concluded that the average height is 22.3 feet. This height plus 20% equals 26.8 feet. The city planning staff reviewed this survey work and determined that 26.8 feet is the maximum height allowed for my project under the infill regulations. Architect Seth Ballard reviewed the information and adjusted the project plans accordingly.

We accept the 26.8 maximum height determined by the city planning staff. We do not appeal that determination to the BZA. Therefore, height is not part of the variance application and is not before the BZA.

2. Placement of House on the Lot

At the September hearing on my initial variance application, some BZA members asked questions about siting the house along the setback lines for Rosecrest Avenue or West Custis instead of along the axis of the triangular lot. Others asked about siting the house in the very back of the lot at the setback line with 12 Rosecrest Avenue. This section is intended to address those questions, but first, some background information about the lot itself is crucial to answering those questions and to understanding the siting of the house on the lot.

a. Lot characteristics

My lot at 10 Rosecrest Avenue is a long, narrow, oddly shaped triangle between Rosecrest Avenue and West Custis Avenue. It is not even an isosceles triangle. The two long sides are of different lengths and the base abutting 12 Rosecrest is very short compared to the sides. This odd shape makes siting any house anywhere on the lot difficult.

Rosecrest and West Custis meet at the point of my triangular lot. The two streets also meet near the intersection with Commonwealth Avenue. See street location map at **Exhibit 1.** Alexandria tax assessment maps for the area show the neighborhood. They also show how oddly

shaped my lot is compared to others in the neighborhood. **Exhibit 3.** The outlined triangular lot on Exhibit 3 is mine. The exhibit also shows the addresses for Rosecrest and West Custis.

As one BZA commissioner noted at the September hearing and as the maps confirm, most lots in Alexandria, especially in Del Ray, are long rectangles. The houses line up at the front of the rectangle. Many, including nearly all of them on Rosecrest Avenue (including 9-31 Rosecrest), have front porches. **Exhibit 4.** They have sizable back yards. The houses are sited on nearly the entire width of the lots, with small side yards or no side yards at all. They can build wide and long because the side and back yard setbacks for such lots are only 7 feet.

My lot is completely different. The city ordinance treats my lot like it has 3 front yards instead of one. Thus, instead of having one large front yard setback and three small side and back yard setbacks, I have 3 large front yard setbacks that do not abut any other lots and 1 small back yard setback that abuts the property at 12 Rosecrest Avenue, which is owned by Steve Bezman. Instead of 1:3, my lot is 3:1. No other lot has this configuration. This difference creates hardship in trying to site a house on the lot.

My lot is also different from corner lots. Those lots are generally rectangular, with 2 front yards, 1 side yard, and 1 back yard. There is still room on corner lots to expand a house in at least two directions without running into setback problems. My lot has 3 front yards and is on a triangle. My architect had to design a house that is designed to be fully viewed from all 4 sides, not just one, and he had to do it within the constraints of 3 large setbacks on a triangle. This is the essence of "unique."

Alexandria Zoning Ordinance §3-406 states that front yard setbacks for lots zoned R-5 must be at least 25 feet. The newer infill regulations state that if the houses on a street do not have a uniform front yard setback, then to determine the setback, one should look at the average setback on the street. Section 7-2503. The surveyed average setback is 26.2 feet from the street (18 feet from the property line) for Rosecrest Avenue and 28 feet from the street (19.7 feet from the property line) for the West Custis side. **Exhibit 5.** These are long setbacks for Del Ray – and longer than the still existing 25-foot ordinance. This creates yet another unique physical condition for me in siting a house. I not only have 3 front yard set backs, they are long setbacks.

The long, narrow, triangular shape of my lot also means that the Rosecrest and West Custis setback lines meet in the middle of my "point" front yard – with 60 more feet of lot beyond the point where the setback lines meet. But for the long triangular shape, I would have a foot point front yard of more than 100 feet into which I could build. The shape alone causes the corners of the side of the house on the "point" to cross the setback lines. See proposed site plan at **Exhibit 6**. This physical condition dictates the need for a variance.

If my lot were like other lots in the neighborhood and if the city did not consider my house to have 3 front yards (instead of one), I would only face 7 foot side yard setbacks — not 28 foot setbacks. With 7 foot setbacks, I would not need a variance. This hardship makes my property unique. No other lot or property owner in the neighborhood faces this situation.

b. House alignment on the lot

At the September hearing, Mr. Ballard emphasized that it is good zoning and good planning to site a house on the axis of a triangular lot. This puts the house in the middle of the lot without favoring either bordering street. My current front door is on Rosecrest. My current driveway is on West Custis. The current visual "front' of the house faces the point. The lot and the house are not tied to the setback lines of either street. It is a lot unto itself. Thus, the zoning concept of uniform setbacks does not fir for a lot like this one with no neighboring houses facing the same way. This balanced location is where the house has already existed for about 90 years. I seek to align the new house on the same axis.

This centered house location makes even more sense for my lot and my project, because the point of the lot is so prominent and is the entry point from Commonwealth Avenue onto West Custis and Rosecrest. We designed the house so that the side that faces the prominent point looks like a house front - just as it does on the existing house. We also designed the house so that the side of the house that faces Rosecrest also looks like a house front. This comports with the address of the house. This is a vast improvement over the existing house.

Most board members seemed to agree with the idea that a house on a triangular lot at like this one should be sited along the axis, just as Mr. Ballard designed. However, questions were raised at the September hearing about siting the house along the setback line with Rosecrest or the setback line with West Custis.

Mr. Ballard and I considered these questions. He spent a great deal of time preparing site plans and renderings to exam them. We concluded that they do not work on the lot or in the neighborhood.

Exhibit 6 shows the site plan and aerial rendering of the project as I would like to build it, with the house aligned on the axis of the triangle.

Exhibit 7 shows the site plan and renderings for a house aligned with the Rosecrest Avenue infill regulation setback line. The front no longer faces or aligns with the point. Even though we carefully designed the house to have a dramatic front that people can see as they turn from Commonwealth Avenue, people will instead see the corner of a house. They won't even see an entire side of a house (let alone a front). They will see a corner. Such a visual will be very jarring, especially on a fishbowl lot. The point front will instead look at an angle toward 6 West Custis. Entrance to the garage will be at an awkward angle, requiring an expanded driveway and more concrete. The house will sit just over 6 feet from the sidewalk on the West Custis side. This is too tight – far tighter than the requested siting (even with a porch). The siting is all wrong and will stain the neighborhood.

In addition, aligning the house on the Rosecrest setback line does not align it with the other houses on Rosecrest. The houses on the street are set at different distances. They do not follow

one setback. The setback line for my project is merely the average of all the different already existing house fronts. Thus, alignment on Rosecrest serves no zoning purpose.

Notably, a Rosecrest alignment would still require a variance — and a much larger one at that. My requested variance for a house sited on the axis of the triangle is 27 square feet for the corner on the Rosecrest side and 64 square feet for the corner on the West Custis side for a total of 91 square feet. If the house is aligned on Rosecrest, I would need a 174 foot variance on the West Custis side — nearly twice as large as the variance I request for a centered house.

The site plan and renderings at **Exhibit 8** show a house aligned with the West Custis Avenue setback. The aesthetics of this alignment are even worse. It destroys the view from Commonwealth and the point. It angles toward 7 Rosecrest instead of the point. When people turn onto the streets they will see the corner of a building instead of the front of a house. This alignment puts the front door at a very strange angle from Rosecrest. Overall, the alignment would greatly devalue my property and all properties on the block. It also would still require issuance of a variance, so it creates great harm for no benefit.

As one neighbor noted at the September hearing, siting the house anywhere except the axis of the triangle, directly facing the point would create a "cockeyed" house that would harm the aesthetics and property value of the neighborhood. He does not want to look at a "cockeyed" house every day for the rest of his life.

c. House siting on the back of the lot.

At the September hearing, a BZA member asked about siting the house on the very back of the lot on the setback line with 12 Rosecrest. **Exhibit 9** shows the site plan and aerial rendering of this idea. The site plan shows that a house on the back of the lot would leave a very long, narrow front triangle over 110 feet long and a back "yard" of only 7 feet – the back setback requirement. 110 feet in front; 7 feet in back. That is a very unbalanced property. The neighbors who look at my property daily already testified that such a siting would look awful – like a Pinocchio nose. It would eliminate their view of the green park-like space in my back yard. It would harm the look and character of the neighborhood. The visual representations of this siting make this view obvious.

The back lot siting would still require a variance. It would be a smaller one, but it would still be required.

Building a house on the back of the lot would completely eliminate a back yard. Every other home in the neighborhood has a back yard. When I explained that losing the back yard would mean there would be no safe place for dogs or children to play, someone suggested that I fence off the point yard and put play sets there. This would look awful and would draw the ire of the neighbors. *It also is not allowed under the zoning ordinance.* Dog houses, swing sets, sand boxes, and children's play areas are not allowed in any "front" yards. Section 7-202(B). I have 3 front yards. The point is a front yard. Placing the house in the back of the lot would eliminate a

back yard and eliminate any owner's ability to have a dog house, swing set, sand box, shed, or children's play area.

Siting a house on the back of the lot would require the elimination of at least 9 mature trees. The neighbors are appalled by this prospect. The zoning ordinance requires that I try to keep mature trees to maintain a 25% tree canopy over the lot. Section 7-2507. I can't replace 100+ year old trees by planting new ones in the point area of the lot. The city's zoning director indicated at the hearing that the city arborist has a policy of saving trees and supporting variances to save trees. Section 1-102(K) states that the zoning rules must be applied to "provide for the preservation of environmentally sensitive areas and urban forested lands." Clearly, trees do matter in the city of Alexandria. Preserving them is the official policy of the city. Siting the house on the back of the lot conflicts with this policy.

Most importantly, siting a house on the back of the lot would gravely harm Steve Bezman, the owner of 12 Rosecrest. He would lose any semblance of privacy. He would lose space, view, air, and light, because my house would practically be on top of his. He also would lose the privacy of the existing trees, because I would have to cut down *all* the trees in the back of my lot. Mr. Bezman spoke about this at the September hearing.

It makes no sense to harm Mr. Bezman in this way when no one will be harmed if the variance is granted. Indeed, the variance rule exists for situations like this one — when the property is so unique that varying from the ordinance is better for the neighborhood than its blind application. The zoning code itself states that it must be applied with this purpose in mind. Section 1-102.

In particular, the zoning ordinance was enacted

* "to promote the health, safety, and welfare of the residents"

* to regulate redevelopment in a way "deemed beneficial to the interest and welfare of the people"

* to "protect the established character of existing residential neighborhoods"

* to "promote, in the public interest, the utilization of land .... in harmony with the established character of the city"

* "to facilitate the creation of a convenient, attractive, and harmonious community"

* to "provide for the preservation of environmentally sensitive

Siting the house on the back of the lot would violate these principles.

3. Porch

Architect Seth Ballard and I entered the September hearing thinking that the request for a porch was a routinely granted special exception. We were surprised to hear it raised as part of the variance. After the hearing Mr. Ballard and I mapped out numerous options that moved the house, moved the porch, styled various porticos, etc. We mapped out moving the house on the lot with spikes and ropes. In doing so, it became very clear that moving the house back to accommodate a porch would not work. It would kill too many trees and eliminate a back yard as explained above.

Mr. Ballard also worked with city staff to devise an alternative that works within the existing law. The zoning ordinance allows porticos, pergolas, and trellis systems, so Mr. Ballard designed one that I can build by right even within a setback. This plan includes a 6x9 foot covered portico and an open trellis/pergola system. The elevation, plans, and rendering for this option are at **Exhibit 10**.

The city zoning staff has seen these plans and has already determined that I can build this portico/pergola option by right under Section 7-202(5) & (9). If I accept this determination, then there is nothing for the BZA to review at the December hearing.

However, after designing the "by right" portico/pergola system, Mr. Ballard redesigned a porch option that can be built on the exact same foot print. This porch option is smaller than the one proposed in the initial variance application. The elevation, plans, and rendering for this option are at **Exhibit 11**. Because the porch option would be covered, it requires the approval of the BZA.

Exhibit 12 is a side-by-side comparison of the portico/pergola and covered porch options.

Exhibit 13 includes the elevations with the portico/pergola option.

Exhibit 14 includes the elevations with the covered porch option.

Although Mr. Ballard did a fine job designing the portico and pergola system, the porch option better fits the character of the neighborhood. Nearly every house on Rosecrest has a front porch. **Exhibit 4.** No one has a pergola. I do not know of any house in Del Ray that has a front yard pergola.

I shared the renderings of the portico/pergola system and the covered porch with the neighbors on Rosecrest, West Custis, and even Russell Road. They universally prefer the porch over the pergola and think the porch fits the character of the neighborhood better. See emails at **Exhibit 2**.

The neighbors at 13 Rosecrest who face my house stated in their email, "The Schmidts vote for the porch, especially since we will have to look at it every time we step outside our front door. It looks great."

The neighbor at 7 Rosecrest who also face my house stated, "Applause for the variance request. You have my full support to go for a variance for a porch... No pergola. Definitely the porch. Just like ALL your neighbors up and down Rosecrest, and up and down Custis, and up and down Commonwealth, and for a huge radius around the neighborhood who have a porch, with a roof."

My next door neighbor at 12 Rosecrest stated, "I am definitely in favor of the porch. The pergola does not really seem to fit." The neighbor at 27 Rosecrest confirmed, "Rosecrest is a porch community."

The portico/pergola option and the covered porch option would occupy the same foot print. Their structures would intrude into the setback the same distance. They look like they occupy the same space from the street. The covered porch option, however, would be more functional with a complete floor and roof and would simply look better (as the neighbors attest).

I should emphasize that granting a variance for the proposed covered porch on my lot **will NOT create a precedent** for others. First, if the BZA denies the request for a porch, I will build the "by right" portico and pergola system. This system extends the exact same distance into the setback. Either option will have the same measurement from the street and the property line.

Second, granting a variance for a porch on my lot will not open the door for others. Others must meet the requirements for a variance before they can build into a setback. Others must show that their lots are sufficiently unique to do so. This will not happen, because no other lots are even remotely as unique and problematic as mine. No other lots in my neighborhood qualify as unique under the variance standards. No other lots are long, narrow, triangles. No other owners have lots that are so narrow that they must build a long, skinny house that is only one room wide (plus stairs). No other owners face the impossibility of building a porch on their lots without crossing a setback. No other lots have 3 front yards with setbacks as wide as 28 feet the way I do.

Third, no one in my neighborhood is going to ask the BZA for a variance for a front porch because they already have them. Nearly every house on Rosecrest Avenue (including all houses 9-29) already have porches. **Exhibit 4.** As my neighbors attest in their emails, Rosecrest is already a "porch" community. I merely seek to have the same structure that my neighbors already have. I seek a variance for the porch to be like everyone else – not to do anything better or different.

Given this universal neighbor support, given the adjustments made to make the porch smaller, and given that the porch can be built on the same footprint as the "by right" pergola option, I ask the BZA to grant a variance for the porch instead.

C. REVISED PLANS AND REVISED VARIANCE REQUEST

Request 1: I seek a variance from the setback requirements of Alexandria Zoning Ordinance Section 3-405(A)(1) for two corners of the "point" front of my home. These corners are darkened on the site plan at Exhibit 6.

Request 2: I ask the BZA to approve a variance for a smaller front porch within the same footprint as the portico/pergola system I can build by right. Exhibit 6 includes a site plan the highlights the area for the proposed porch and a separate site plan that highlights the area for the "by right" portico and pergola system. Exhibits 10-14 show the plans and elevations for the porch option and the "by right" portico and pergola system.

The initial variance application indicated a desire to bump the "point" side of the house forward 10-12 feet (10 feet on the West Custis side of the point front and 12 feet on the Rosecrest side of the point front). The new request proposes to bump the building out only 10 feet (not 12) on the West Custis side and less than 8 feet (not 10) on the Rosecrest side. Part of this 2 foot change is due to moving the building back and part of it is due to my overstatement of the forward bump on the initial application. This change does not eliminate the variance request, but it does reduce it.

The revised site plan and house plans are at **Exhibit 15.**

The revised Floor Area Ratio calculations are at **Exhibit 16**. The project complies with all FAR requirements.

I now request a variance of 27 square feet for the "point" corner of the house on the Rosecrest side and 64 square feet for the "point corner of the house on the West Custis side. This is less than my initial request. Most of the "point" front of the house will not cross any setback. Only the corners of the "point" side of the house will cross the setbacks because of the narrow, triangular shape of the lot.

The "point" front yard from the front of the house to the point will be nearly 100 feet. The back yard from the back of the house (not the deck) will be about 40 feet. Thus, the house is heavily weighted toward the back of the lot and the base of the triangle. It is sited as far back as will allow a small back yard, a front door that clears the cedar trees on Rosecrest, and allows me to save the mature trees and other foliage in the yard.

D. MY REQUEST FOR A VARIANCE MEETS THE NEW LEGAL STANDARDS ENACTED THIS YEAR

During the September hearing, some BZA members made statements suggesting that if any house can be built on a lot without a variance, then no variance can or should be granted. This is not the law. Others suggested that an owner must prove that denial of a variance will create such a

hardship that it amounts to "confiscation" or an unconstitutional "taking" of property. This also is not the law. Still others emphasized "undue hardship" as the standard. Again, this is not the law.

These statements reflect the Virginia court decision in *Cochran v. Fairfax Board of Zoning Appeals*, 594 SE 2d 571, 267 Va. 756 (2004). The Virginia legislature, however, disapproved of the Virginia Supreme Court's interpretation of the state variance statute in *Cochran* and responded by amending the statute in 2008 and again in 2009. See Medici, Michael, *"House Bill 2326 and its Effect on Cochran v. Board of Zoning Appeals' Chill: How Variances in Virginia May Thaw After Code Revision,"* 12 Rich. J.L. & Pub. Int. 369 (2009).

1. The new 2015 variance law

The Virginia legislature passed and the governor signed another new variance law in March, 2015. It became effective July 1, 2015. The new law substantially changes the language of state variance law and creates an easier variance standard for owners to meet. The old law is attached hereto as **Exhibit 17.** The new law and a "track changes" comparison of the old and new laws are attached hereto as **Exhibit 18.**

There are substantial differences in the new law. The old law stated that a BZA could not grant a variance unless the home owner demonstrated that her request met the statutory conditions. It implied that the BZA had authority to deny a variance even if the home owner met the satisfied the conditions for a variance.

The new law completely flips that language. It changes the language from "no variance shall be authorized by the board unless" to "a variance shall be granted if..." The "shall" language is mandatory. Alexandria Zoning Ordinance Section 1-400(A)(2). It requires that the BZA grant a variance if the homeowner demonstrates that her request meets the statutory conditions. The BZA does not have discretion to deny the variance if the application meets the statutory standards.

The new law removes any requirement that a home owner show "undue hardship." It completely removes that phrase. It now talks only about "hardship" – and only within one of the two, separate variance options. Deleting "undue" from the law was a response to the too high standards placed on home owners by courts and zoning boards.

The old law looked at whether the "strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the utilization of the property." The new law eliminates the "effectively prohibit" use of the property standard and replaces it with two different, more lenient options. The new law states (distinctions noted in italics):

> Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that

(1) the strict application of the ordinance would unreasonably restrict *(not effectively prohibit)* the utilization of the property

OR

(2) granting the variance would alleviate a hardship *(not an undue hardship, any hardship)* due to a physical condition relating to the property.

These are two completely separate, disjunctive options. The homeowner can choose either one. She need only show one, not both.

The owner does not have to show that the ordinance unreasonably restricts the use of the property if she instead chooses to use option (2). The owner also does not have to show hardship if she chooses option (1).

The law no longer requires a showing that the strict application of the zoning ordinance would cause an "undue hardship." It instead flips the language so that an owner must merely show that granting the variance would alleviate any hardship caused by the physical condition of the property. If the physical condition of the property is unique so that granting a variance would alleviate a hardship, then the owner meets (2).

The new law also changes the statutory conditions that a homeowner must show to obtain a variance (once she establishes (1) or (2) above). In the old law, home owners had to show:

(a) that the strict application of the ordinance would produce undue hardship to the property;

(b) that the hardship is not shared generally by other properties in the same zoning district and the same vicinity; and

(c) that the authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

Under the new law, home owners must only show:

(i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;

(ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;

(iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;

(iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and

(v) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of §15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A4 of §15.2-2286 at the time of the filing of the variance application.

Overall, the new law substantially lightens the burden on the homeowner and removes discretion from the BZA. As set forth below, my application for a variance easily meets the requirements of the new law.

2. The Galles project satisfies the new variance law

a. Strict application of the setback ordinance would unreasonably restrict the use of my property OR the unique physical shape of the property creates a hardship that granting a variance will alleviate

The Galles project satisfies both options of the new law, although I need only demonstrate one. The strict application of the setback ordinance would unreasonably restrict the use of my property. Also, granting the variance would alleviate a hardship caused by the unique physical condition of my property.

As set forth above and in the original variance application, the unique shape of my property makes it extremely difficult to build any house on it. The existing house violates numerous recent zoning rules. Aligning a house on Rosecrest or West Custis would violate the setback lines. Even building the house on the back setback line would require a small variance. The only way to build a house on this lot is to build a small house in the back of the lot.

Building a house on the back setback line would look bad and would harm the character of the neighborhood. It would leave a long, narrow front yard that is completely unusable. Meanwhile, it would eliminate a back yard, and thus any place for dogs or children to play. The zoning code prohibits dog houses, swing sets, sand boxes, and children's play items in front yards. My other yards are all front yards. I need a back yard because the other 3 yards are front yards.

A small house on the back of the lot does not make financial sense. It would cost me more to build a small house on the back of the lot than it would be worth on the market. People in Alexandria are adding on to the existing small houses, not building new small ones. When I

consider the price I paid to buy the property in the first place, the financial consequences of building a small house would be unbearable.

But I do not have to show that I can't build any house on the lot in order to satisfy this requirement. I merely have to show that strict application of the setback provision would "unreasonably restrict" my use of the property. In law, "reasonableness" is the lowest burden of proof. The fact that Mr. Ballard has tried so many different ways to fit a house on the lot shows how much the rule restricts any reasonable use and any reasonable construction of a home that sensibly fits on the lot and fits the character of the neighborhood.

Strict application of the ordinance would harm the neighborhood, especially neighbor Steve Bezman at 12 Rosecrest. The neighbors already testified about this. A house on the back setback line would look bad on the lot. It would be unbalanced. It would eliminate park the back yard and thus the green space in my back yard that they now enjoy. Many houses on both Rosecrest and West Custis enjoy the view of my green, tree-filled back yard. A house on the back of the lot would be right up against the property line. Mr. Bezman would lose privacy, view, air, and light. He would lose tree coverage, as I would have to remove at least 9 mature trees and other foliage. His property would be devalued.

Strict application of the setback ordinance would do much more than unreasonably restrict my ability to use my property. It would dramatically harm me, Steve, and the neighborhood. Granting the variance, on the other hand, will harm no one. It will intrude on no one's lot and no one's space. It allow improvement of the neighborhood. The neighbors unanimously support it.

This situation is the reason the variance statute exists: to allow an exception when a lot does not fit the norm for which the zoning ordinance was devised and when enforcing the ordinance would cause the very harm it was intended to prevent.

In the alternative, the unique shape of the lot creates a hardship. That hardship is clearly established. It is throughly explained in the original application. I do not have to show that it is a burdensome hardship or an undue hardship. I do not have to show that denying the variance would be tantamount to confiscation. I merely have to show that the unique shape of the lot makes it difficult to build on it. This is a hardship. My application goes far beyond this by demonstrating how not granting the variance will create a hardship for others, especially Steve Bezman.

I believe it is beyond dispute that I have satisfied the requirements to grant a variance for the 27 square foot and 64 square foot variances for the corners of on the "point" front of the proposed house. I also ask that the BZA to grant a variance for a covered porch.

Nearly all the houses on my street have front porches. Most houses in the entire neighborhood have front porches. I merely ask that my home be allowed to have what other owners already have. My lot is so narrow and triangular that I already had to design a house that is long and

skinny. It is only one room wide at the area for the requested variance. I cannot make the house narrow enough to fit a porch within the "by right" area. It simply is not possible. Impossibility is a hardship. It is a hardship created by the unique shape and siting of the lot.

When nearly every neighbor has a front porch and when the neighborhood is known for front porch parties and dinner parties, it is a hardship that I cannot have a porch like they already have. This hardship is caused by the shape of the property. A variance would alleviate that hardship. That is the only thing I have to show.

Given the mandatory language of the new law, the BZA no longer has discretion to deny the variance if I meet the criteria — even if it fears the variance will create a precedent. Fears of precedent or personal preferences cannot be applied to deny the variance, because the statutory language is now mandatory. Nevertheless, to assuage BZA concerns, I explained above how granting the variance will not set a precedent for others.

b. The Galles project satisfies the conditions for a variance

In addition to the two legal standards explained above, my project and application satisfies the specific conditions for a variance listed in the new law.

It is undisputed that "(i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance."

I purchased the property over 20 years ago. Over time the house became too small for my needs, especially now that I work out of my home. Then a serious of disasters damaged the home beyond repair so that it must be rebuilt. Like every other home owner in Alexandria, I want to build a home large enough to fit my needs. My plans are completely in good faith.

It is undisputed that "(ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area."

In fact, my neighbors, my adjacent neighbor, and the Del Ray Citizens Association all support the variance. They agree that denying the variance will cause substantial detriment. Granting the variance will alleviate that harm.

My request for a porch also meets this condition. As the emails at Exhibit 2 demonstrate, my neighbors unanimously support construction of the porch. I mapped out the location of the porch on the lot itself. I sent the neighbors copies of the plans and the renderings. They know exactly what I propose to do, and they all support it. They think it will look better than the "by right" portico and pergola and will fit in better with the character of the neighborhood. When the "by right" portico and pergola will have the exact same footprint as a covered porch, it makes no sense to deny a variance for a porch. The setback area will face the exact same intrusion, so denying the variance serves no purpose.

It is undisputed that "(iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance."

My property is unique. There are no other lots like it anywhere in Del Ray. The city staff stated this fact in their report. I have lived and walked around the neighborhood for more than 20 years and have not encountered a similar lot. It is a long, narrow triangle with very little building room in between the setbacks. Because it is so unique, there is no possibility that granting a variance to allow me to build on it as I request will set a precedent for anyone else. No one else has a lot like this. No one else has a long, narrow, triangular lot. No one else has 3 front yards with setbacks as wide as 28 feet!! This argument holds true for both the front corners of the house and the proposed porch. My situation is not one that cries out for a zoning law change. It is the unique situation for which variances were created. Thus, I meet condition (iii).

It is undisputed that "(iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property."

I seek to build a single family home similar to other homes on my block and in my neighborhood. This is permitted and encouraged under R-5 zoning.

Finally, it is undisputed that " (v) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of §15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A4 of §15.2-2286 at the time of the filing of the variance application."

My only remedy is a variance.

There is no dispute about the fact that my property and my variance application meet these requirements. All neighbors agree. With no contrary evidence, the BZA must find that I satisfy the conditions for a variance.

I submit that my request for a front porch also satisfies the new variance law. In addition, granting a variance for the covered porch makes common sense. I can build a portico and pergola system on the Rosecrest front "by right." The city zoning administrator has already determined that this system is allowed under the zoning law. I do not need BZA approval for it. Yet, if I can build covered porch on the exact same footprint with the exact same setback intrusion, it makes sense to request the covered porch. It is more functional and better fits the neighborhood.

I expressly asked the neighbors if they prefer the pergola or the porch. They unanimously prefer the porch. Exhibit 2. It makes no sense to deny the variance when it makes no difference on the footprint or the setback, but it makes a huge difference to the neighbors and the neighborhood.
I ask the BZA to put substance above form and to grant the variance for the smaller covered porch as well.

CONCLUSION

I have 100% neighborhood support for my project. The Del Ray Citizens Association supports the project. The city staff supports the project. There is no opposition of any kind. There is no evidence that contradicts the evidence submitted by my architect and me. No one has stepped forward to dispute that my application meets the standards of the new law. Without such contrary evidence or objection, the new law mandates issuance of a variance.

Therefore, I ask the BZA (1) to grant a variance for the two corners on the point front of the proposed house and (2) to grant a variance for the covered porch on the same foot print and with the same dimensions as the portico and pergola system I can otherwise build by right.

GALLES REQUEST FOR VARIANCE

EXHIBIT LIST

1. Map of neighborhood
2. Neighbor emails supporting variance
3. Alexandria tax maps showing shapes of neighboring lots
4. Photos of houses with porches on Rosecrest Avenue
5. Surveyor block study and calculation of setbacks
6. Site plan and aerial view of house if aligned on the axis of the triangular lot
7. Site plan and aerial views of house if aligned on Rosecrest Avenue
8. Site plan and aerial views of house if aligned on West Custis Avenue
9. Site plan and aerial views of house if placed on the back setback line with 12 Rosecrest
10. Elevation and rendering of portico and pergola system that Galles can build "by right" without BZA approval
11. Elevation and rendering of covered porch that sits within the same footprint as the "by right" portico and pergola system
12. Side by side elevations of "by right" portico and pergola system with covered porch that requires a variance
13. Elevations of house with portico and pergola system
14. Elevations of house with covered porch
15. Proposed house plans
16. Floor area ratio calculations
17. Old variance law. Virginia Code §15.2-2309
18. New variance law as of July 1, 2015. Virginia Code §15.2-2309
    Redline comparison of old and new law

EXHIBIT 1

Map 2
Neighborhoods

POTOMAC WEST

N
W E
S

EXHIBIT 2

XFINITY Connect 7 Rosecrest kgalles@comcast.net
± Font Size -

RE: Renovation of 10 Rosecrest

From : Elizabeth Legere <ejlegere@gmail.com> Tue, Nov 17, 2015 08:50 PM
Subject : RE: Renovation of 10 Rosecrest
To : 'Kristen Galles' <kgalles@comcast.net>

Applause for a variance request!! You have my full support to go for a variance for a porch.

BOO to the pergola. No pergola; Definitely the porch. Just like ALL your neighbors up and down Rosecrest, and up and down Custis, and up and down Commonwealth, and for a huge radius around the neighborhood who have a porch, with a roof.

Best,
Elizabeth
7 Rosecrest

From: Kristen Galles [mailto:kgalles@comcast.net]
Sent: Tuesday, November 17, 2015 8:31 PM
To: Carol Tan
Cc: Laura Emge Mosoriak; Laura Winstead; Brandon Mosoriak; Jennifer Heatherington; Charles Home; gittemay@aol.com; Spies, Don; bjruffino@comcast.net; ebvalentine@gmail.com; fhschutt@gmail.com; lkomai@watermarkoffice.com; tovah ravitz; hilaryrschmidt@gmail.com; andrewgschmidt@gmail.com; joann underwood; ljruffino@gmail.com; ty matsdorf; janwalker5555@comcast.net; nsgarito@aol.com; lillianpace@gmail.com; Spies, Susan; lpettus@ntia.doc.gov; ejlegere@gmail.com; obrienr20@aol.com; amcbarnette@hotmail.com; francesmannel@comcast.net; jay@legere.us; dan rogers; jrogers010@yahoo.com; michellebtober@gmail.com; janwalker5555@gmail.com; michelle tober; laurampettus@yahoo.com; caroltan888@yahoo.com; rebecca ward; jlivingston@eringay.com; lissa drewniak; ma tracy; rdrewniak@gmail.com; wjrobison@gmail.com; anika mercier; Cowart, Andrea; kferrell@gmail.com; Cowart, Michael; rebecca@arlington-alexandria.com; livingjess@me.com; mgvelesz@gmail.com; taclifford@gmail.com; ruthkockler@comcast.net; caroline jones simpson; pennyjones1@verizon.net; Steven Bezman; Lisa See; Susan Morrison
Subject: Renovation of 10 Rosecrest

Dear Neighbors -

As most of you know, I am working with the city to get permission to rebuild my house at 10 Rosecrest --- the point where Rosecrest and West Custis meet. The current house violates many city zoning rules (height, setback, threshold), but is grandfathered in. I have plans for a home that will comply with all city rules except setbacks.

Due to the long, narrow, triangular shape of the lot, it is impossible to build anything on the lot except a small house on the back of the lot next to Steve without violating setbacks. Because the lot is a triangle, the city considers 3 sides of the house to be "front yards," which require longer setbacks. Thus, I am seeking a variance.

The new house will be long and skinny to minimize any set back violations. However, the corners

of the "point side" (not the entire side) of the proposed new house will cross the Rosecrest and West Custis setbacks. The neighbors who face the property kindly signed statements approving the plans. The Del Ray Citizens Association approved the plans. The city planning staff recommended approval. Five of you even showed up for the hearing. Thank you!!! :)

Nevertheless, the zoning board raised concerns at the hearing about the inclusion of a porch, so we deferred to a December hearing. It is impossible to have a porch on the lot without intruding on the setbacks, because of the narrowness of the point portion of lot and the wideness of "front yard" setbacks.

Since the hearing, my architect and I have worked with the city to come up with a solution that does not require BZA approval. I can build a 6x9 foot portico at the front door within the setback area. I can also build a pergola system within the setback area. Attached is a rendering of the portico and pergola system that I can build by right. Also attached is a rendering of a porch on the exact same foot print. It seems silly that one is OK and the other is not, but that's the way it is.

I would like to ask the BZA to grant a variance for the porch, because I think it looks better and fits in with the character of the neighborhood better than the portico/pergola system. Because YOU will have to look at the house every day, I want your input. If you prefer the porch, please let me know with an email response. If you object to the porch and would rather see the pergola system, let me know that also and please let me know what your concerns are. If enough of you support the porch or don't care, I plan to ask the BZA for a variance for the porch. I must convey that support in order to have a chance at the variance.

Thank you for your time and input.

Kristen Galles
10 Rosecrest Avenue

From: "Carol Tan" <caroltan71@yahoo.com>
To: "Laura Emge Mosoriak" <lemge1@yahoo.com>
Cc: "Laura Winstead" <winsteadln@gmail.com>, "Brandon Mosoriak" <bmosoriak@verizon.net>, "Jennifer Heatherington" <jen.heatherington@gmail.com>, "Charles Home" <cprstulb@yahoo.com>, gittemay@aol.com, donspies@gmail.com, bjruffino@comcast.net, ebvalentine@gmail.com, fhschutt@gmail.com, lkomai@watermarkoffice.com, "tovah ravitz" <tovah_ravitz@yahoo.com>, hilaryrschmidt@gmail.com, andrewgschmidt@gmail.com, tapyllek@yahoo.com, "joann underwood" <joann_underwood@hotmail.com>, ljruffino@gmail.com, "ty matsdorf" <ty.matsdorf@gmail.com>, janwalker5555@comcast.net, nsgarito@aol.com, lillianpace@gmail.com, susanrspies@gmail.com, jack@jackpett.us, ej@jayandej.com, lpettus@ntia.doc.gov, ejlegere@gmail.com, obrienr20@aol.com, amcbarnette@hotmail.com, francesmannel@comcast.net, jay@legere.us, "dan rogers" <dan.rogers@us.gt.com>, jrogers010@yahoo.com, michellebtober@gmail.com, janwalker5555@gmail.com, "michelle tober" <michelle.tober@verizon.net>, kgalles@comcast.net, laurampettus@yahoo.com, caroltan888@yahoo.com, "rebecca ward" <rebecca.ward@longandfoster.com>, jlivingston@eringay.com, "lissa drewniak"

<lissa.drewniak@gmail.com>, "j and j" <j.and.j@verizon.net>, "ma tracy" <ma_tracy@yahoo.com>, rdrewniak@gmail.com, wjrobison@gmail.com, "anika mercier" <anika.mercier@gmail.com>, acsmithp33@gmail.com, kferrell@gmail.com, mcowart2@gmail.com, rebecca@arlington-alexandria.com, livingjess@me.com, mgvelesz@gmail.com, taclifford@gmail.com, ruthkockler@comcast.net, "caroline jones simpson" <caroline.jones.simpson@gmail.com>, margie@eco-ventures.org, rettadp@yahoo.com, pennyjones1@verizon.net, "lynn orlowski" <lynn.orlowski@comcast.net>, heidiposson@comcast.net
Sent: Sunday, November 15, 2015 12:25:04 PM
Subject: Re: Progressive Dinner Party!

Dear all-We just came back from Paris and are thankful to be home. We are looking forward to the get together with neighbors and good friends! I spoke to Charles about the menu and it is looking like an Italian night! Here is the tentative dinner menu:

Chicken Marsala
Antipasto
Shrimp with Marinara
Prosciutto wraps
Meatballs

If anybody wants to bring anything, something complementary to the menu (or not!) would be good or soft drinks/adult libations. Also, let us know suggestions for kid-friendly items.

Carol and Charles

On Oct 13, 2015, at 9:54 AM, Laura Emge Mosoriak <lemge1@yahoo.com> wrote:

It's official! The party is going to go as follows...

November 21

Appetizers: Nick and Susan 5-6PM at 16 Rosecrest Ave
nsgarito@aol.com

Main Course: Charles and Carol 6-8PM at 21 Rosecrest Ave
CarolTan71@yahoo.com

Desserts: Ken and Brigitte 8PM-10PM at 27 Rosecrest Ave
gittemay@aol.com

Please email the hosts if you plan on bringing something (drinks or food) so they can plan.

From: Laura Winstead <winsteadln@gmail.com>
To: Laura Emge Mosoriak <lemge1@yahoo.com>
Cc: Carol <caroltan71@yahoo.com>; Brandon Mosoriak <bmosoriak@verizon.net>; Jennifer Heatherington <jen.heatherington@gmail.com>; Charles Home <cprstulb@yahoo.com>; "gittemay@aol.com" <gittemay@aol.com>;

"donspies@gmail.com" <donspies@gmail.com>; "bjruffino@comcast.net" <bjruffino@comcast.net>; "ebvalentine@gmail.com" <ebvalentine@gmail.com>; "fhschutt@gmail.com" <fhschutt@gmail.com>; "lkomai@watermarkoffice.com" <lkomai@watermarkoffice.com>; "tovah_ravitz@yahoo.com" <tovah_ravitz@yahoo.com>; "hilaryrschmidt@gmail.com" <hilaryrschmidt@gmail.com>; "andrewgschmidt@gmail.com" <andrewgschmidt@gmail.com>; "tapyllek@yahoo.com" <tapyllek@yahoo.com>; "joann_underwood@hotmail.com" <joann_underwood@hotmail.com>; "ljruffino@gmail.com" <ljruffino@gmail.com>; "ty.matsdorf@gmail.com" <ty.matsdorf@gmail.com>; "janwalker5555@comcast.net" <janwalker5555@comcast.net>; "nsgarito@aol.com" <nsgarito@aol.com>; "lillianpace@gmail.com" <lillianpace@gmail.com>; "susanrspies@gmail.com" <susanrspies@gmail.com>; "jack@jackpett.us" <jack@jackpett.us>; "ej@jayandej.com" <ej@jayandej.com>; "lpettus@ntia.doc.gov" <lpettus@ntia.doc.gov>; "ejlegere@gmail.com" <ejlegere@gmail.com>; "obrienr20@aol.com" <obrienr20@aol.com>; "amcbarnette@hotmail.com" <amcbarnette@hotmail.com>; "francesmannel@comcast.net" <francesmannel@comcast.net>; "jay@legere.us" <jay@legere.us>; "dan.rogers@us.gt.com" <dan.rogers@us.gt.com>; "jrogers010@yahoo.com" <jrogers010@yahoo.com>; "michellebtober@gmail.com" <michellebtober@gmail.com>; "janwalker5555@gmail.com" <janwalker5555@gmail.com>; "michelle.tober@verizon.net" <michelle.tober@verizon.net>; "kgalles@comcast.net" <kgalles@comcast.net>; "laurampettus@yahoo.com" <laurampettus@yahoo.com>; "caroltan888@yahoo.com" <caroltan888@yahoo.com>; "rebecca.ward@longandfoster.com" <rebecca.ward@longandfoster.com>; "jlivingston@eringay.com" <jlivingston@eringay.com>; "lissa.drewniak@gmail.com" <lissa.drewniak@gmail.com>; "j.and.j@verizon.net" <j.and.j@verizon.net>; "ma_tracy@yahoo.com" <ma_tracy@yahoo.com>; "rdrewniak@gmail.com" <rdrewniak@gmail.com>; "wjrobison@gmail.com" <wjrobison@gmail.com>; "anika.mercier@gmail.com" <anika.mercier@gmail.com>; "acsmithp33@gmail.com" <acsmithp33@gmail.com>; "kferrell@gmail.com" <kferrell@gmail.com>; "mcowart2@gmail.com" <mcowart2@gmail.com>; "rebecca@arlington-alexandria.com" <rebecca@arlington-alexandria.com>; "livingjess@me.com" <livingjess@me.com>; "mgvelesz@gmail.com" <mgvelesz@gmail.com>; "taclifford@gmail.com" <taclifford@gmail.com>; "ruthkockler@comcast.net" <ruthkockler@comcast.net>; "caroline.jones.simpson@gmail.com" <caroline.jones.simpson@gmail.com>; "margie@eco-ventures.org" <margie@eco-ventures.org>; "rettadp@yahoo.com" <rettadp@yahoo.com>; "pennyjones1@verizon.net" <pennyjones1@verizon.net>; "lynn.orlowski@comcast.net" <lynn.orlowski@comcast.net>; "heidiposson@comcast.net" <heidiposson@comcast.net>
Sent: Saturday, October 10, 2015 2:33 PM
Subject: Re: Next Progressive Dinner Party!

The Winstead / Robisons can make the 21st. Baby sitter is secured. Hopefully we don't get taken down by another stomach bug like last time.

Sent from my iPhone

On Oct 6, 2015, at 7:25 AM, Laura Emge Mosoriak <lemge1@yahoo.com> wrote:

Thanks for volunteering!
November 21
Appetizers: Nick and Susan
Main Course: Charles and Carol

I'll talk to Sean and his family (corner of custis and commonwealth) today and make sure they know the date. I'll see if they would like to host desserts. Not sure how many of you went to their house warming party on Saturday so this might be another opportunity for them to meet neighbors.
L

Sent from my iPhone

Laura Mosoriak DVM
Kingstowne Cat Clinic
703-9-CAT-CAT
"CAT HAIR. DON'T LEAVE HOME WITHOUT IT."

On Oct 5, 2015, at 11:17 PM, Carol <caroltan71@yahoo.com> wrote:

We can do November 21st and can host the main meal! Copying Charles since he is the chef in the family.

Carol and Charles Stulb
21 Rosecrest

On Oct 5, 2015, at 7:32 PM, Jennifer Heatherington <jen.heatherington@gmail.com> wrote:

The 21st is best for the Heatheringtons. Thanks for planning!

On Monday, October 5, 2015, <gittemay@aol.com> wrote:

he Mays can make it on either date, but it seems that it will be the 21.
T

Brigitte Z. May, Ph.D.
Senior Lecturer in German (emerita)

Modern Languages, Linguistics and Intercultural Communication
UMBC
Baltimore, MD 21250
410-455-2600
may@umbc.edu

-----Original Message-----
From: Don Spies <donspies@gmail.com>
To: Laura Emge Mosoriak <lemge1@yahoo.com>
Cc: Barbara Ruffino <bjruffino@comcast.net>; Emily Valentine <ebvalentine@gmail.com>; Fred H. Schutt <fhschutt@gmail.com>; Lynne Komai <lkomai@watermarkoffice.com>; Tovah Ravitz-Meehan <tovah_ravitz@yahoo.com>; Hilary Schmidt <hilaryrschmidt@gmail.com>; Andy Schmidt <andrewgschmidt@gmail.com>; Pat <tapyllek@yahoo.com>; Joann Underwood Kelly <joann_underwood@hotmail.com>; Lou Ruffino <ljruffino@gmail.com>; Ty Matsdorf <ty.matsdorf@gmail.com>; Jan Walker <janwalker5555@comcast.net>; Jen Heatherington <jen.heatherington@gmail.com>; Susan Garito <nsgarito@aol.com>; Lillian Pace <lillianpace@gmail.com>; Ken and Brigette May <gittemay@aol.com>; Susan Spies <susanrspies@gmail.com>; Jack Pettus <jack@jackpett.us>; Jay And Elizabeth Legere <ej@jayandej.com>; Laura Pettus <lpettus@ntia.doc.gov>; Jay And Elizabeth Legere <ejlegere@gmail.com>; Rosemary OBrien <obrienr20@aol.com>; Andrea McBarnette <amcbarnette@hotmail.com>; Frances Mannel <francesmannel@comcast.net>; Jay Legere <jay@legere.us>; Carol Tan <caroltan71@yahoo.com>; Dan Rogers <dan.rogers@us.gt.com>; Jill Masters Rogers <jrogers010@yahoo.com>; Michelle Bares Tober <michellebtober@gmail.com>; Jan Walker <janwalker5555@gmail.com>; Michelle Bares Tober <michelle.tober@verizon.net>; Kristen Galles <kgalles@comcast.net>; Laura Pettus <laurampettus@yahoo.com>; Carol Tan <caroltan888@yahoo.com>; Rebecca Ward <rebecca.ward@longandfoster.com>; Jessica Livingston <jlivingston@eringay.com>; Lissa Percopo Drewniak <lissa.drewniak@gmail.com>; Judy John Mcgraw <j.and.j@verizon.net>; Matt and Emily Tracy <ma_tracy@yahoo.com>; Ryan Drewniak <rdrewniak@gmail.com>; Jeremy Robison <wjrobison@gmail.com>; Laura Windstead <winsteadln@gmail.com>; Anika Mercier <anika.mercier@gmail.com>; Andrea Smith <acsmithp33@gmail.com>; Kevin Ferrell <kferrell@gmail.com>; Michael Cowart <mcowart2@gmail.com>; Rebecca Ward <rebecca@arlington-alexandria.com>; Jessica Livingston <livingjess@me.com>; Michael Velesz <mgvelesz@gmail.com>; Terrie Clifford <taclifford@gmail.com>; Ruth Kockler <ruthkockler@comcast.net>; Caroline Jeremy Evelyn Simpson <caroline.jones.simpson@gmail.com>; Margie Brand <margie@eco-ventures.org>; Loretta <rettadp@yahoo.com>; Penny Jones <pennyjones1@verizon.net>; Lynn Orlowski <lynn.orlowski@comcast.net>; Don and Heidi Posson <heidiposson@comcast.net>
Sent: Mon, Oct 5, 2015 4:26 pm
Subject: Re: Next Progressive Dinner Party!

in this case i think "wishful thinking" actually means "excellent planning"

21st is better for the spieses

On Mon, Oct 5, 2015 at 3:31 PM, Laura Emge Mosoriak <lemge1@yahoo.com> wrote:

Ok. I was thinking the 21st too. Oops! I wrote that we're having dessert twice in my previous email. Wishful thinking!
L

Sent from my iPhone

Laura Mosoriak DVM
Kingstowne Cat Clinic
703-9-CAT-CAT
"CAT HAIR. DON'T LEAVE HOME WITHOUT IT."

On Oct 5, 2015, at 3:15 PM, Barbara Ruffino <bjruffino@comcast.net> wrote:

The 21st is better for the Ruffinos.

Sent from my iPhone

On Oct 5, 2015, at 11:46 AM, Laura Emge Mosoriak <lemge1@yahoo.com> wrote:

I'm hoping to get together for another Progressive Dinner Party on either Nov 7th or Nov 21st. **Which date is best?**
Anyone want to host? We'll need 3 homes to host. One to host dessert, another to host the main course and the last one to host the desserts. Lots of neighbors will chip in and contribute food/drinks. It's not a huge commitment. Just need to open your house to several people for a couple hours.
I don't have the email address of the new family on the corner of custis and commonwealth (Sean, wife, son--anyone remember the wife's and son's name?) but I will make sure to get it soon and invite them.
Laura

Laura Mosoriak, DVM
Kingstowne Cat Clinic
703-9CAT-CAT
www.kingstownecatclinic.com
"CAT HAIR. DON'T LEAVE HOME WITHOUT IT."

XFINITY Connect 3 Rosecrest kgalles@comcast.net
+ Font Size -

Re: Renovation of 10 Rosecrest

From : Andrea McBarnette <amcbarnette@hotmail.com> Tue, Nov 17, 2015 10:24 PM

Subject : Re: Renovation of 10 Rosecrest

To : Kristen Galles <kgalles@comcast.net>, Carol Tan <caroltan71@yahoo.com>

Cc : Laura Emge Mosoriak <lemge1@yahoo.com>, Laura Winstead <winsteadln@gmail.com>, Brandon Mosoriak <bmosoriak@verizon.net>, Jennifer Heatherington <jen.heatherington@gmail.com>, Charles Home <cprstulb@yahoo.com>, gittemay@aol.com, Don Spies <donspies@gmail.com>, bjruffino@comcast.net, ebvalentine@gmail.com, fhschutt@gmail.com, lkomai@watermarkoffice.com, tovah ravitz <tovah_ravitz@yahoo.com>, hilaryrschmidt@gmail.com, andrewgschmidt@gmail.com, joann underwood <joann_underwood@hotmail.com>, ljruffino@gmail.com, ty matsdorf <ty.matsdorf@gmail.com>, janwalker5555@comcast.net, nsgarito@aol.com, lillianpace@gmail.com, Susan Spies <susanrspies@gmail.com>, lpettus@ntia.doc.gov, ejlegere@gmail.com, obrienr20@aol.com, francesmannel@comcast.net, jay@legere.us, dan rogers <dan.rogers@us.gt.com>, jrogers010@yahoo.com, michellebtober@gmail.com, janwalker5555@gmail.com, michelle tober <michelle.tober@verizon.net>, laurampettus@yahoo.com, caroltan888@yahoo.com, rebecca ward <rebecca.ward@longandfoster.com>, jlivingston@eringay.com, lissa drewniak <lissa.drewniak@gmail.com>, ma tracy <ma_tracy@yahoo.com>, rdrewniak@gmail.com, wjrobison@gmail.com, anika mercier <anika.mercier@gmail.com>, Andrea Cowart <acsmithp33@gmail.com>, kferrell@gmail.com, Michael Cowart <mcowart2@gmail.com>, rebecca@arlington-alexandria.com, livingjess@me.com, mgvelesz@gmail.com, tadifford@gmail.com, ruthkockler@comcast.net, caroline jones simpson <caroline.jones.simpson@gmail.com>, pennyjones1@verizon.net, Steven Bezman <steven6423@verizon.net>, LIsa See <LISASEE14@verizon.net>, Susan Morrison <slmorri@aol.com>

The porch is a good idea. Nice job.

Andrea

Tea Dreams

From: Kristen Galles <kgalles@comcast.net>
Sent: Tuesday, November 17, 2015 8:30 PM
To: Carol Tan
Cc: Laura Emge Mosoriak; Laura Winstead; Brandon Mosoriak; Jennifer Heatherington; Charles Home; gittemay@aol.com; Spies, Don; bjruffino@comcast.net; ebvalentine@gmail.com; fhschutt@gmail.com; lkomai@watermarkoffice.com; tovah ravitz; hilaryrschmidt@gmail.com; andrewgschmidt@gmail.com; joann underwood; ljruffino@gmail.com; ty matsdorf; janwalker5555@comcast.net; nsgarito@aol.com; lillianpace@gmail.com; Spies, Susan; lpettus@ntia.doc.gov; ejlegere@gmail.com; obrienr20@aol.com; amcbarnette@hotmail.com; francesmannel@comcast.net; jay@legere.us; dan rogers; jrogers010@yahoo.com; michellebtober@gmail.com; janwalker5555@gmail.com; michelle tober; laurampettus@yahoo.com; caroltan888@yahoo.com; rebecca ward; jlivingston@eringay.com; lissa drewniak; ma tracy; rdrewniak@gmail.com; wjrobison@gmail.com; anika mercier; Cowart, Andrea; kferrell@gmail.com; Cowart, Michael; rebecca@arlington-alexandria.com; livingjess@me.com; mgvelesz@gmail.com; taclifford@gmail.com; ruthkockler@comcast.net; caroline jones simpson; pennyjones1@verizon.net; Steven Bezman; LIsa See; Susan Morrison
Subject: Renovation of 10 Rosecrest

Dear Neighbors -

XFINITY Connect 5 Rosecrest kgalles@comcast.net
+ Font Size -

Re: Renovation of 10 Rosecrest

From : Michelle Tober <michellebtober@gmail.com> Tue, Nov 17, 2015 10:02 PM

Subject : Re: Renovation of 10 Rosecrest

To : Kristen Galles <kgalles@comcast.net>

Cc : Carol Tan <caroltan71@yahoo.com>, Laura Emge Mosoriak <lemge1@yahoo.com>, Laura Winstead <winsteadln@gmail.com>, Brandon Mosoriak <bmosoriak@verizon.net>, Jennifer Heatherington <jen.heatherington@gmail.com>, Charles Horne <cprstulb@yahoo.com>, gitternay@aol.com, Don Spies <donspies@gmail.com>, bjruffino@comcast.net, ebvalentine@gmail.com, fhschutt@gmail.com, lkomai@watermarkoffice.com, tovah ravitz <tovah_ravitz@yahoo.com>, hilaryrschmidt@gmail.com, andrewgschmidt@gmail.com, joann underwood <joann_underwood@hotmail.com>, ljruffino@gmail.com, ty matsdorf <ty.matsdorf@gmail.com>, janwalker5555@comcast.net, nsgarito@aol.com, lilllanpace@gmail.com, Susan Spies <susanrspies@gmail.com>, lpettus@ntia.doc.gov, ejlegere@gmail.com, obrienr20@aol.com, amcbarnette@hotmail.com, francesmannel@comcast.net, jay@legere.us, dan rogers <dan.rogers@us.gt.com>, jrogers010@yahoo.com, janwalker5555@gmail.com, michelle tober <michelle.tober@verizon.net>, laurampettus@yahoo.com, caroltan888@yahoo.com, rebecca ward <rebecca.ward@longandfoster.com>, jlivingston@eringay.com, lissa drewniak <lissa.drewniak@gmail.com>, ma tracy <ma_tracy@yahoo.com>, rdrewniak@gmail.com, wjrobison@gmail.com, anika mercier <anika.mercier@gmail.com>, Andrea Cowart <acsmithp33@gmail.com>, kferrell@gmail.com, Michael Cowart <mcowart2@gmail.com>, rebecca@arlington-alexandria.com, livingjess@me.com, mgvelesz@gmail.com, taclifford@gmail.com, ruthkockler@comcast.net, caroline jones simpson <caroline.jones.simpson@gmail.com>, pennyjones1@verizon.net, Steven Bezman <steven6423@verizon.net>, LIsa See <LISASEE14@verizon.net>, Susan Morrison <simorri@aol.com>

The Tobers support the porch! The drawings look beautiful. Good luck!

Michelle Tober

Sent from my iPhone

On Nov 17, 2015, at 8:30 PM, Kristen Galles <kgalles@comcast.net> wrote:

Dear Neighbors -

As most of you know, I am working with the city to get permission to rebuild my house at 10 Rosecrest --- the point where Rosecrest and West Custis meet. The current house violates many city zoning rules (height, setback, threshold), but is grandfathered in. I have plans for a home that will comply with all city rules except setbacks.

Due to the long, narrow, triangular shape of the lot, it is impossible to build anything on the lot except a small house on the back of the lot next to Steve without violating setbacks. Because the lot is a triangle, the city considers 3 sides of the house to be "front yards," which require longer setbacks. Thus, I am seeking a variance.

The new house will be long and skinny to minimize any set back violations. However, the corners of the "point side" (not the entire side) of the proposed new house will cross the Rosecrest and West Custis setbacks. The neighbors who face the property kindly signed statements approving the plans. The Del Ray Citizens Association approved the plans. The city planning staff recommended approval. Five of you even showed up for the hearing. Thank you!!! :)

Nevertheless, the zoning board raised concerns at the hearing about the inclusion of a porch, so we deferred to a December hearing. It is impossible to have a porch on the lot without intruding on the setbacks, because of the narrowness of the point portion of lot and the wideness of "front yard" setbacks.

Since the hearing, my architect and I have worked with the city to come up with a solution that does not require BZA approval. I can build a 6x9 foot portico at the front door within the setback area. I can also build a pergola system within the setback area. Attached is a rendering of the portico and pergola system that I can build by right. Also attached is a

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kgalles@comcast.net
+ Font Size -

RE: Renovation of 10 Rosecrest

Tue, Nov 17, 2015 08:42 PM

From : Jay Legere <jay@legere.us>

Subject : RE: Renovation of 10 Rosecrest

To : Kristen Galles <kgalles@comcast.net>

Kristin,

I fully and enthusiastically support the porch and agree that it looks ***much*** better and fits in with the character of the neighborhood ***much*** better than the portico/pergola system.

Good luck!

Jay

From: Kristen Galles [mailto:kgalles@comcast.net]
Sent: Tuesday, November 17, 2015 8:31 PM
To: Carol Tan <caroltan71@yahoo.com>
Cc: Laura Emge Mosoriak <lemge1@yahoo.com>; Laura Winstead <winsteadln@gmail.com>; Brandon Mosoriak <bmosoriak@verizon.net>; Jennifer Heatherington <jen.heatherington@gmail.com>; Charles Home <cprstulb@yahoo.com>; gittemay@aol.com; Spies, Don <donspies@gmail.com>; bjruffino@comcast.net; ebvalentine@gmail.com; fhschutt@gmail.com; lkomai@watermarkoffice.com; tovah ravitz <tovah_ravitz@yahoo.com>; hilaryrschmidt@gmail.com; andrewgschmidt@gmail.com; joann underwood <joann_underwood@hotmail.com>; ljruffino@gmail.com; ty matsdorf <ty.matsdorf@gmail.com>; janwalker5555@comcast.net; nsgarito@aol.com; lillianpace@gmail.com; Spies, Susan <susanrspies@gmail.com>; lpettus@ntia.doc.gov; ejlegere@gmail.com; obrienr20@aol.com; amcbarnette@hotmail.com; francesmannel@comcast.net; Jay Legere <jay@legere.us>; dan rogers <dan.rogers@us.gt.com>; jrogers010@yahoo.com; michellebtober@gmail.com; janwalker5555@gmail.com; michelle tober <michelle.tober@verizon.net>; laurampettus@yahoo.com; caroltan888@yahoo.com; rebecca ward <rebecca.ward@longandfoster.com>; jlivingston@eringay.com; lissa drewniak <lissa.drewniak@gmail.com>; ma tracy <ma_tracy@yahoo.com>; rdrewniak@gmail.com; wjrobison@gmail.com; anika mercier <anika.mercier@gmail.com>; Cowart, Andrea <acsmithp33@gmail.com>; kferrell@gmail.com; Cowart, Michael <mcowart2@gmail.com>; rebecca@arlington-alexandria.com; livingjess@me.com; mgvelesz@gmail.com; taclifford@gmail.com; ruthkockler@comcast.net; caroline jones simpson <caroline.jones.simpson@gmail.com>; pennyjones1@verizon.net; Steven Bezman <steven6423@verizon.net>; Lisa See <LISASEE14@verizon.net>; Susan Morrison <slmorri@aol.com>
Subject: Renovation of 10 Rosecrest

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As most of you know, I am working with the city to get permission to rebuild my house at 10 Rosecrest --- the point where Rosecrest and West Custis meet. The current house violates many city zoning rules (height, setback, threshold), but is grandfathered in. I have plans for a home that will comply with all city rules except setbacks.

Due to the long, narrow, triangular shape of the lot, it is impossible to build anything on the lot except a small house on the back of the lot next to Steve without violating setbacks. Because the

XFINITY Connect 11 Rosecrest kgalles@comcast.net
+ Font Size -

Re: Renovation of 10 Rosecrest

From : Susan Spies <susanrspies@gmail.com> Tue, Nov 17, 2015 08:42 PM

Subject : Re: Renovation of 10 Rosecrest

To : Terrie Clifford <taclifford@gmail.com>

Cc : Kristen Galles <kgalles@comcast.net>, Carol Tan <caroltan71@yahoo.com>, Laura Emge Mosoriak <lemge1@yahoo.com>, Laura Winstead <winsteadln@gmail.com>, Brandon Mosoriak <bmosoriak@verizon.net>, Jennifer Heatherington <jen.heatherington@gmail.com>, Charles Horne <cprstulb@yahoo.com>, Brigitte May <gittemay@aol.com>, Don Spies <donspies@gmail.com>, Barbara Ruffino <bjruffino@comcast.net>, Emily Valentine <ebvalentine@gmail.com>, Frederick Schutt <fhschutt@gmail.com>, Lynne Komai <lkomai@watermarkoffice.com>, tovah ravitz <tovah_ravitz@yahoo.com>, Hilary Schmidt <hilaryrschmidt@gmail.com>, Andy Schmidt <andrewgschmidt@gmail.com>, joann underwood <joann_underwood@hotmail.com>, Lou Ruffino <ljruffino@gmail.com>, ty matsdorf <ty.matsdorf@gmail.com>, Jan Walker <janwalker5555@comcast.net>, Susan Garito <nsgarito@aol.com>, Lillian Pace <lillianpace@gmail.com>, Laura Pettus <lpettus@ntia.doc.gov>, Elizabeth Legere <ejlegere@gmail.com>, rosemary OBrien <obrienr20@aol.com>, Andrea McBarnette <amcbarnette@hotmail.com>, Frances Mannel <francesmannel@comcast.net>, Jay Legere <jay@legere.us>, dan rogers <dan.rogers@us.gt.com>, Jill Rogers <jrogers010@yahoo.com>, Michelle Bares Tober <michellebtober@gmail.com>, Jan Walker <janwalker5555@gmail.com>, michelle tober <michelle.tober@verizon.net>, Laura Pettus <laurampettus@yahoo.com>, Carol Tan <caroltan888@yahoo.com>, rebecca ward <rebecca.ward@longandfoster.com>, Jessica Livingston <jlivingston@eringay.com>, lissa drewniak <lissa.drewniak@gmail.com>, ma tracy <ma_tracy@yahoo.com>, Ryan Drewniak <rdrewniak@gmail.com>, Jeremy Robison <wjrobison@gmail.com>, anika mercier <anika.mercier@gmail.com>, Andrea Cowart <acsmithp33@gmail.com>, Kevin Ferrell <kferrell@gmail.com>, Michael Cowart <mcowart2@gmail.com>, rebecca@arlington-alexandria.com, jessica livingston <livingjess@me.com>, Michael Velesz <mgvelesz@gmail.com>, ruth kockler <ruthkockler@comcast.net>, caroline jones simpson <caroline.jones.simpson@gmail.com>, pennyjones1@verizon.net, Steven Bezman <steven6423@verizon.net>, Lisa See <LISASEE14@verizon.net>, Susan Morrison <slmorri@aol.com>

The Spieses vote for the porch too. Good luck!

Susan and Don Spies
11 Rosecrest Ave.

On Tue, Nov 17, 2015 at 8:37 PM, Terrie Clifford <taclifford@gmail.com> wrote:

Hi Kristen,
I think it's amazing that you would ask for neighborhood input! Thank you for being such a good neighbor. I vote for the porch, but would like you to build the home YOU want. Looking forward to it taking shape.

Best,
Terrie Clifford
2209 Russell

Terrie Clifford

'Being the richest man in the cemetery does not matter to me. Going to bed at night and saying we've done something wonderful, that's what matters to me.'
- Steve Jobs.

On Tue, Nov 17, 2015 at 8:30 PM, Kristen Galles <kgalles@comcast.net> wrote:

XFINITY Connect 12 Rosecrest kgalles@comcast.net
+ Font Size -

Re: Renovation of 10 Rosecrest

From : steven6423@verizon.net Wed, Nov 18, 2015 05:38 AM

Subject : Re: Renovation of 10 Rosecrest

To : kgalles@comcast.net

Kristen,

As we discussed, I am definitely in favor of the porch. The pergola really does not seem to fit the design or intent of the plans. Please let me know if there will be another BZA hearing.

Thanks and take care.

Steve

On 11/17/15, Kristen Galles<kgalles@comcast.net> wrote:

Dear Neighbors -

As most of you know, I am working with the city to get permission to rebuild my house at 10 Rosecrest --- the point where Rosecrest and West Custis meet. The current house violates many city zoning rules (height, setback, threshold), but is grandfathered in. I have plans for a home that will comply with all city rules except setbacks.

Due to the long, narrow, triangular shape of the lot, it is impossible to build anything on the lot except a small house on the back of the lot next to Steve without violating setbacks. Because the lot is a triangle, the city considers 3 sides of the house to be "front yards," which require longer setbacks. Thus, I am seeking a variance.

The new house will be long and skinny to minimize any set back violations. However, the corners of the "point side" (not the entire side) of the proposed new house will cross the Rosecrest and West Custis setbacks. The neighbors who face the property kindly signed statements approving the plans. The Del Ray Citizens Association approved the plans. The city planning staff recommended approval. Five of you even showed up for the hearing. Thank you!!! :)

Nevertheless, the zoning board raised concerns at the hearing about the inclusion of a porch, so we deferred to a December hearing. It is impossible to have a porch on the lot without intruding on the setbacks, because of the narrowness of the point portion of lot and the wideness of "front yard" setbacks.

Since the hearing, my architect and I have worked with the city to come up with a solution that does not require BZA approval. I can build a 6x9 foot portico at the front door within the setback area. I can also build a pergola system within the setback area. Attached is a rendering of the portico and pergola system that I can build by right. Also attached is a rendering of a porch on the exact same foot print. It seems silly that one is OK and the other is not, but that's the way it is.

I would like to ask the BZA to grant a variance for the porch, because I think it looks better and fits in with the character of the neighborhood better than the portico/pergola system. Because YOU will have to look at the house every day, I want your input. If you prefer the porch, please let me know with an email response. If you object to the porch and would rather see the pergola system, let me know that also and please let me know what your concerns are. If enough of you support the porch or don't care, I plan to ask the BZA for a variance for the porch. I must convey that support in order to have a chance at the variance.

Thank you for your time and input.

Kristen Galles
10 Rosecrest Avenue

XFINITY Connect 13 Rosecrest kgalles@comcast.net
+ Font Size -

Re: Renovation of 10 Rosecrest

From : Andy Schmidt <andrewgschmidt@gmail.com> Tue, Nov 17, 2015 09:06 PM

Subject : Re: Renovation of 10 Rosecrest

To : Susan Spies <susanrspies@gmail.com>

Cc : Terrie Clifford <taclifford@gmail.com>, Kristen Galles <kgalles@comcast.net>, Carol Tan <caroltan71@yahoo.com>, Laura Emge Mosoriak <lemge1@yahoo.com>, Laura Winstead <winsteadln@gmail.com>, Brandon Mosoriak <bmosoriak@verizon.net>, Jennifer Heatherington <jen.heatherington@gmail.com>, Charles Horne <cprstulb@yahoo.com>, Brigitte May <gittemay@aol.com>, Don Spies <donspies@gmail.com>, Barbara Ruffino <bjruffino@comcast.net>, Emily Valentine <ebvalentine@gmail.com>, Frederick Schutt <fhschutt@gmail.com>, Lynne Komai <lkomai@watermarkoffice.com>, tovah ravitz <tovah_ravitz@yahoo.com>, Hilary Schmidt <hilaryrschmidt@gmail.com>, joann underwood <joann_underwood@hotmail.com>, Lou Ruffino <ljruffino@gmail.com>, ty matsdorf <ty.matsdorf@gmail.com>, Jan Walker <janwalker5555@comcast.net>, Susan Garito <nsgarito@aol.com>, Lillian Pace <lillianpace@gmail.com>, Laura Pettus <lpettus@ntia.doc.gov>, Elizabeth Legere <ejlegere@gmail.com>, rosemary OBrien <obrienr20@aol.com>, Andrea McBarnette <amcbarnette@hotmail.com>, Frances Mannel <francesmannel@comcast.net>, Jay Legere <jay@legere.us>, dan rogers <dan.rogers@us.gt.com>, Jill Rogers <jrogers010@yahoo.com>, Michelle Bares Tober <michellebtober@gmail.com>, Jan Walker <janwalker5555@gmail.com>, michelle tober <michelle.tober@verizon.net>, Laura Pettus <laurampettus@yahoo.com>, Carol Tan <caroltan888@yahoo.com>, rebecca ward <rebecca.ward@longandfoster.com>, Jessica Livingston <jlivingston@eringay.com>, lissa drewniak <lissa.drewniak@gmail.com>, ma tracy <ma_tracy@yahoo.com>, Ryan Drewniak <rdrewniak@gmail.com>, Jeremy Robison <wjrobison@gmail.com>, anika mercier <anika.mercier@gmail.com>, Andrea Cowart <acsmithp33@gmail.com>, Kevin Ferrell <kferrell@gmail.com>, Michael Cowart <mcowart2@gmail.com>, rebecca@arlington-alexandria.com, jessica livingston <livingjess@me.com>, Michael Velesz <mgvelesz@gmail.com>, ruth kockler <ruthkockler@comcast.net>, caroline jones simpson <caroline.jones.simpson@gmail.com>, pennyjones1@verizon.net, Steven Bezman <steven6423@verizon.net>, LIsa See <LISASEE14@verizon.net>, Susan Morrison <slmorri@aol.com>

The Schmidts vote for the porch, especially since we will have to look at it every time we step outside our front door. It looks great! Best of luck!

Andy and Hilary Schmidt
13 Rosecrest Ave.

On Tue, Nov 17, 2015 at 8:42 PM, Susan Spies <susanrspies@gmail.com> wrote:
The Spieses vote for the porch too. Good luck!

Susan and Don Spies
11 Rosecrest Ave.

On Tue, Nov 17, 2015 at 8:37 PM, Terrie Clifford <taclifford@gmail.com> wrote:
Hi Kristen,
I think it's amazing that you would ask for neighborhood input! Thank you for being such a good neighbor. I vote for the porch, but would like you to build the home YOU want. Looking forward to it taking shape.

Best,
Terrie Clifford
2209 Russell

Terrie Clifford

'Being the richest man in the cemetery does not matter to me. Going to bed at night and saying we've done something wonderful, that's what matters to me.'
- Steve Jobs.

XFINITY Connect 15 Rosecrest kgalles@comcast.net
+ Font Size -

Re: Renovation of 10 Rosecrest

From : Joann Kelly <joann_underwood@hotmail.com> Tue, Nov 17, 2015 09:54 PM

Subject : Re: Renovation of 10 Rosecrest

To : Kristen Galles <kgalles@comcast.net>

Cc : Carol Tan <caroltan71@yahoo.com>, Laura Emge Mosoriak <lemge1@yahoo.com>, Laura Winstead <winsteadln@gmail.com>, Brandon Mosoriak <bmosoriak@verizon.net>, Jennifer Heatherington <jen.heatherington@gmail.com>, Charles Home <cprstulb@yahoo.com>, gittemay@aol.com, Don Spies <donspies@gmail.com>, bjruffino@comcast.net, ebvalentine@gmail.com, fhschutt@gmail.com, lkomai@watermarkoffice.com, tovah ravitz <tovah_ravitz@yahoo.com>, hilaryrschmidt@gmail.com, andrewgschmidt@gmail.com, ljruffino@gmail.com, ty matsdorf <ty.matsdorf@gmail.com>, janwalker5555@comcast.net, nsgarito@aol.com, lillianpace@gmail.com, Susan Spies <susanrspies@gmail.com>, lpettus@ntia.doc.gov, ejlegere@gmail.com, obrienr20@aol.com, amcbarnette@hotmail.com, francesmannel@comcast.net, jay@legere.us, dan rogers <dan.rogers@us.gt.com>, jrogers010@yahoo.com, michellebtober@gmail.com, janwalker5555@gmail.com, michelle tober <michelle.tober@verizon.net>, laurampettus@yahoo.com, caroltan888@yahoo.com, rebecca ward <rebecca.ward@longandfoster.com>, jlivingston@eringay.com, lissa drewniak <lissa.drewniak@gmail.com>, ma tracy <ma_tracy@yahoo.com>, rdrewniak@gmail.com, wjrobison@gmail.com, anika mercier <anika.mercier@gmail.com>, Andrea Cowart <acsmithp33@gmail.com>, kferrell@gmail.com, Michael Cowart <mcowart2@gmail.com>, rebecca@arlington-alexandria.com, livingjess@me.com, mgvelesz@gmail.com, taclifford@gmail.com, ruthkockler@comcast.net, caroline jones simpson <caroline.jones.simpson@gmail.com>, pennyjones1@verizon.net, Steven Bezman <steven6423@verizon.net>, LIsa See <LISASEE14@verizon.net>, Susan Morrison <slmorri@aol.com>

The Kellys vote for the porch. Please let us know if you need in person support for the meeting in December. Good luck!

Joann and Patrick Kelly
15 Rosecrest Ave

On Nov 17, 2015, at 8:30 PM, Kristen Galles <kgalles@comcast.net> wrote:

Dear Neighbors -

As most of you know, I am working with the city to get permission to rebuild my house at 10 Rosecrest — the point where Rosecrest and West Custis meet. The current house violates many city zoning rules (height, setback, threshold), but is grandfathered in. I have plans for a home that will comply with all city rules except setbacks.

Due to the long, narrow, triangular shape of the lot, it is impossible to build anything on the lot except a small house on the back of the lot next to Steve without violating setbacks. Because the lot is a triangle, the city considers 3 sides of the house to be "front yards," which require longer setbacks. Thus, I am seeking a variance.

The new house will be long and skinny to minimize any set back violations. However, the corners of the "point side" (not the entire side) of the proposed new house will cross the Rosecrest and West Custis setbacks. The neighbors who face the property kindly signed statements approving the plans. The Del Ray Citizens Association approved the plans. The city planning staff recommended approval. Five of you even showed up for the hearing. Thank you!!! :)

Nevertheless, the zoning board raised concerns at the hearing about the inclusion of a porch, so we deferred to a December hearing. It is impossible to have a porch on the lot without intruding on the setbacks, because of the narrowness of the point portion of lot and the wideness of "front yard" setbacks.

Since the hearing, my architect and I have worked with the city to come up with a solution that does not require BZA approval. I can build a 6x9 foot portico at the front door within the setback area. I can also build a pergola system within the setback area. Attached is a rendering of the portico and pergola system that I can build by right. Also attached is a rendering of a porch on the exact same foot print. It seems silly that one is OK and the other is not, but that's the way it is.

XFINITY Connect 16 Rosecrest kgalles@comcast.net
+ Font Size -

Re: Renovation of 10 Rosecrest

From : Sue Garito <nsgarito@aol.com> Wed, Nov 18, 2015 09:00 AM

Subject : Re: Renovation of 10 Rosecrest

To : kgalles@comcast.net, caroltan71@yahoo.com

Cc : lemge1@yahoo.com, winsteadln@gmail.com, bmosoriak@verizon.net, jen heatherington <jen.heatherington@gmail.com>, cprstulb@yahoo.com, gittemay@aol.com, donspies@gmail.com, bjruffino@comcast.net, ebvalentine@gmail.com, fhschutt@gmail.com, lkomai@watermarkoffice.com, tovah ravitz <tovah_ravitz@yahoo.com>, hilaryrschmidt@gmail.com, andrewgschmidt@gmail.com, joann underwood <joann_underwood@hotmail.com>, ljruffino@gmail.com, ty matsdorf <ty.matsdorf@gmail.com>, janwalker5555@comcast.net, lillianpace@gmail.com, susanrspies@gmail.com, lpettus@ntia.doc.gov, ejlegere@gmail.com, obrienr20@aol.com, amcbarnette@hotmail.com, francesmannel@comcast.net, jay@legere.us, dan rogers <dan.rogers@us.gt.com>, jrogers010@yahoo.com, michellebtober@gmail.com, janwalker5555@gmail.com, michelle tober <michelle.tober@verizon.net>, laurampettus@yahoo.com, caroltan888@yahoo.com, rebecca ward <rebecca.ward@longandfoster.com>, jlivingston@eringay.com, lissa drewniak <lissa.drewniak@gmail.com>, ma tracy <ma_tracy@yahoo.com>, rdrewniak@gmail.com, wjrobison@gmail.com, anika mercier <anika.mercier@gmail.com>, acsmithp33@gmail.com, kferrell@gmail.com, mcowart2@gmail.com, rebecca@arlington-alexandria.com, livingjess@me.com, mgvelesz@gmail.com, taclifford@gmail.com, ruthkockler@comcast.net, caroline jones simpson <caroline.jones.simpson@gmail.com>, pennyjones1@verizon.net, steven6423@verizon.net, LISASEE14@verizon.net, simorri@aol.com

The Garitos support the porch. It looks fantastic, and we are looking forward to seeing your new house!

Nick and Sue
16 Rosecrest

-----Original Message-----
From: Kristen Galles <kgalles@comcast.net>
To: Carol Tan <caroltan71@yahoo.com>
Cc: Laura Emge Mosoriak <lemge1@yahoo.com>; Laura Winstead <winsteadln@gmail.com>; Brandon Mosoriak <bmosoriak@verizon.net>; Jennifer Heatherington <jen.heatherington@gmail.com>; Charles Home <cprstulb@yahoo.com>; gittemay <gittemay@aol.com>; Spies, Don <donspies@gmail.com>; bjruffino <bjruffino@comcast.net>; ebvalentine <ebvalentine@gmail.com>; fhschutt <fhschutt@gmail.com>; lkomai <lkomai@watermarkoffice.com>; tovah ravitz <tovah_ravitz@yahoo.com>; hilaryrschmidt <hilaryrschmidt@gmail.com>; andrewgschmidt <andrewgschmidt@gmail.com>; joann underwood <joann_underwood@hotmail.com>; ljruffino <ljruffino@gmail.com>; ty matsdorf <ty.matsdorf@gmail.com>; janwalker5555 <janwalker5555@comcast.net>; nsgarito <nsgarito@aol.com>; lillianpace <lillianpace@gmail.com>; Spies, Susan <susanrspies@gmail.com>; lpettus <lpettus@ntia.doc.gov>; ejlegere <ejlegere@gmail.com>; obrienr20 <obrienr20@aol.com>; amcbarnette <amcbarnette@hotmail.com>; francesmannel <francesmannel@comcast.net>; jay <jay@legere.us>; dan rogers <dan.rogers@us.gt.com>; jrogers010 <jrogers010@yahoo.com>; michellebtober <michellebtober@gmail.com>; janwalker5555 <janwalker5555@gmail.com>; michelle tober <michelle.tober@verizon.net>; laurampettus <laurampettus@yahoo.com>; caroltan888 <caroltan888@yahoo.com>; rebecca ward <rebecca.ward@longandfoster.com>; jlivingston <jlivingston@eringay.com>; lissa drewniak <lissa.drewniak@gmail.com>; ma tracy <ma_tracy@yahoo.com>; rdrewniak <rdrewniak@gmail.com>; wjrobison

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Re: Renovation of 10 Rosecrest

Tue, Nov 17, 2015 09:55 PM

From : lillianpace@gmail.com

Subject : Re: Renovation of 10 Rosecrest

To : Kristen Galles <kgalles@comcast.net>

Cc : Carol Tan <caroltan71@yahoo.com>, Laura Emge Mosoriak <lemge1@yahoo.com>, Laura Winstead <winsteadln@gmail.com>, Brandon Mosoriak <bmosoriak@verizon.net>, Jennifer Heatherington <jen.heatherington@gmail.com>, Charles Horne <cprstulb@yahoo.com>, gittemay@aol.com, Don Spies <donspies@gmail.com>, bjruffino@comcast.net, ebvalentine@gmail.com, fhschutt@gmail.com, lkomai@watermarkoffice.com, tovah ravitz <tovah_ravitz@yahoo.com>, hilaryrschmidt@gmail.com, andrewgschmidt@gmail.com, joann underwood <joann_underwood@hotmail.com>, ljruffino@gmail.com, ty matsdorf <ty.matsdorf@gmail.com>, janwalker5555@comcast.net, nsgarito@aol.com, Susan Spies <susanrspies@gmail.com>, lpettus@ntia.doc.gov, ejlegere@gmail.com, obrienr20@aol.com, amcbarnette@hotmail.com, francesmannel@comcast.net, jay@legere.us, dan rogers <dan.rogers@us.gt.com>, jrogers010@yahoo.com, michellebtober@gmail.com, janwalker5555@gmail.com, michelle tober <michelle.tober@verizon.net>, laurampettus@yahoo.com, caroltan888@yahoo.com, rebecca ward <rebecca.ward@longandfoster.com>, jlivingston@eringay.com, lissa drewniak <lissa.drewniak@gmail.com>, ma tracy <ma_tracy@yahoo.com>, rdrewniak@gmail.com, wjrobison@gmail.com, anika mercier <anika.mercier@gmail.com>, Andrea Cowart <acsmithp33@gmail.com>, kferrell@gmail.com, Michael Cowart <mcowart2@gmail.com>, rebecca@arlington-alexandria.com, livingjess@me.com, mgvelesz@gmail.com, taclifford@gmail.com, ruthkockler@comcast.net, caroline jones simpson <caroline.jones.simpson@gmail.com>, pennyjones1@verizon.net, Steven Bezman <steven6423@verizon.net>, LIsa See <LISASEE14@verizon.net>, Susan Morrison <simorri@aol.com>

Add us to the porch vote! Both renderings look very nice. I hope the project gets underway soon!

Lillian Pace and Ty Matsdorf
17 Rosecrest

Sent from my iPad

On Nov 17, 2015, at 8:30 PM, Kristen Galles <kgalles@comcast.net> wrote:

Dear Neighbors -

As most of you know, I am working with the city to get permission to rebuild my house at 10 Rosecrest --- the point where Rosecrest and West Custis meet. The current house violates many city zoning rules (height, setback, threshold), but is grandfathered in. I have plans for a home that will comply with all city rules except setbacks.

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XFINITY Connect 18 Rosecrest kgalles@comcast.net

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RE: Renovation of 10 Rosecrest

Tue, Nov 17, 2015 10:49 PM

From : Lou <ljruffino@gmail.com>

Subject : RE: Renovation of 10 Rosecrest

To : Kristen Galles <kgalles@comcast.net>, Carol Tan <caroltan71@yahoo.com>

Cc : Laura Emge Mosoriak <lemge1@yahoo.com>, Laura Winstead <winsteadln@gmail.com>, Brandon Mosoriak <bmosoriak@verizon.net>, Jennifer Heatherington <jen.heatherington@gmail.com>, Charles Home <cprstulb@yahoo.com>, gittemay@aol.com, Don Spies <donspies@gmail.com>, bjruffino@comcast.net, ebvalentine@gmail.com, fhschutt@gmail.com, lkomai@watermarkoffice.com, tovah ravitz <tovah_ravitz@yahoo.com>, hilaryrschmidt@gmail.com, andrewgschmidt@gmail.com, joann underwood <joann_underwood@hotmail.com>, ty matsdorf <ty.matsdorf@gmail.com>, janwalker5555@comcast.net, nsgarito@aol.com, lillianpace@gmail.com, Susan Spies <susanrspies@gmail.com>, lpettus@ntia.doc.gov, ejlegere@gmail.com, obrienr20@aol.com, amcbarnette@hotmail.com, francesmannel@comcast.net, jay@legere.us, dan rogers <dan.rogers@us.gt.com>, jrogers010@yahoo.com, michellebtober@gmail.com, janwalker5555@gmail.com, michelle tober <michelle.tober@verizon.net>, laurampettus@yahoo.com, caroltan888@yahoo.com, rebecca ward <rebecca.ward@longandfoster.com>, jlivingston@eringay.com, lissa drewniak <lissa.drewniak@gmail.com>, ma tracy <ma_tracy@yahoo.com>, rdrewniak@gmail.com, wjrobison@gmail.com, anika mercier <anika.mercier@gmail.com>, Andrea Cowart <acsmithp33@gmail.com>, kferrell@gmail.com, Michael Cowart <mcowart2@gmail.com>, rebecca@arlington-alexandria.com, livingjess@me.com, mgvelesz@gmail.com, taclifford@gmail.com, ruthkockler@comcast.net, caroline jones simpson <caroline.jones.simpson@gmail.com>, pennyjones1@verizon.net, Steven Bezman <steven6423@verizon.net>, LIsa See <LISASEE14@verizon.net>, Susan Morrison <slmorri@aol.com>

Ruffinos agree. Porch looks great. Looking forward to seeing it happen.

Best,

Barb and Lou

From: Kristen Galles
Sent: 11/17/2015 8:30 PM
To: Carol Tan
Cc: Laura Emge Mosoriak; Laura Winstead; Brandon Mosoriak; Jennifer Heatherington; Charles Home; gittemay@aol.com; Spies, Don; bjruffino@comcast.net; ebvalentine@gmail.com; fhschutt@gmail.com; lkomai@watermarkoffice.com; tovah ravitz; hilaryrschmidt@gmail.com; andrewgschmidt@gmail.com; joann underwood; ljruffino@gmail.com; ty matsdorf; janwalker5555@comcast.net; nsgarito@aol.com; lillianpace@gmail.com; Spies, Susan; lpettus@ntia.doc.gov; ejlegere@gmail.com; obrienr20@aol.com; amcbarnette@hotmail.com; francesmannel@comcast.net; jay@legere.us; dan rogers; jrogers010@yahoo.com; michellebtober@gmail.com; janwalker5555@gmail.com; michelle tober; laurampettus@yahoo.com; caroltan888@yahoo.com; rebecca ward; jlivingston@eringay.com; lissa drewniak; ma tracy; rdrewniak@gmail.com; wjrobison@gmail.com; anika mercier; Cowart, Andrea; kferrell@gmail.com; Cowart, Michael; rebecca@arlington-alexandria.com; livingjess@me.com; mgvelesz@gmail.com; taclifford@gmail.com; ruthkockler@comcast.net; caroline jones simpson; pennyjones1@verizon.net; Steven Bezman; LIsa See; Susan Morrison
Subject: Renovation of 10 Rosecrest

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XFINITY Connect 19 Rosecrest kgalles@comcast.net
+ Font Size -

Re: Renovation of 10 Rosecrest

From : Jennifer Heatherington <jen.heatherington@gmail.com> Tue, Nov 17, 2015 09:52 PM

Subject : Re: Renovation of 10 Rosecrest

To : Andy Schmidt <andrewgschmidt@gmail.com>

Cc : Susan Spies <susanrspies@gmail.com>, Terrie Clifford <taclifford@gmail.com>, Kristen Galles <kgalles@comcast.net>, Carol Tan <caroltan71@yahoo.com>, Laura Emge Mosoriak <lemge1@yahoo.com>, Laura Winstead <winsteadln@gmail.com>, Brandon Mosoriak <bmosoriak@verizon.net>, Charles Horne <cprstulb@yahoo.com>, Brigitte May <gittemay@aol.com>, Don Spies <donspies@gmail.com>, Barbara Ruffino <bjruffino@comcast.net>, Emily Valentine <ebvalentine@gmail.com>, Frederick Schutt <fhschutt@gmail.com>, Lynne Komai <lkomai@watermarkoffice.com>, tovah ravitz <tovah_ravitz@yahoo.com>, Hilary Schmidt <hilaryrschmidt@gmail.com>, joann underwood <joann_underwood@hotmail.com>, Lou Ruffino <ljruffino@gmail.com>, ty matsdorf <ty.matsdorf@gmail.com>, Jan Walker <janwalker5555@comcast.net>, Susan Garito <nsgarito@aol.com>, Lillian Pace <lillianpace@gmail.com>, Laura Pettus <lpettus@ntia.doc.gov>, Elizabeth Legere <ejlegere@gmail.com>, rosemary OBrien <obrienr20@aol.com>, Andrea McBarnette <amcbarnette@hotmail.com>, Frances Mannel <francesmannel@comcast.net>, Jay Legere <jay@legere.us>, dan rogers <dan.rogers@us.gt.com>, Jill Rogers <jrogers010@yahoo.com>, Michelle Bares Tober <michellebtober@gmail.com>, Jan Walker <janwalker5555@gmail.com>, michelle tober <michelle.tober@verizon.net>, Laura Pettus <laurampettus@yahoo.com>, Carol Tan <caroltan888@yahoo.com>, rebecca ward <rebecca.ward@longandfoster.com>, Jessica Livingston <jlivingston@eringay.com>, lissa drewniak <lissa.drewniak@gmail.com>, ma tracy <ma_tracy@yahoo.com>, Ryan Drewniak <rdrewniak@gmail.com>, Jeremy Robison <wjrobison@gmail.com>, anika mercier <anika.mercier@gmail.com>, Andrea Cowart <acsmithp33@gmail.com>, Kevin Ferrell <kferrell@gmail.com>, Michael Cowart <mcowart2@gmail.com>, rebecca@arlington-alexandria.com, jessica livingston <livingjess@me.com>, Michael Velesz <mgvelesz@gmail.com>, ruth kockler <ruthkockler@comcast.net>, caroline jones simpson <caroline.jones.simpson@gmail.com>, pennyjones1@verizon.net, Steven Bezman <steven6423@verizon.net>, LIsa See <LISASEE14@verizon.net>, Susan Morrison <slmorri@aol.com>

For some reason I don't see the attachment, but we vote for the porch since that is what you prefer! Best of Luck with everything!

Tim and Jen Heatherington
19 Rosecrest Avenue

Sent from my iPhone

On Nov 17, 2015, at 9:06 PM, Andy Schmidt <andrewgschmidt@gmail.com> wrote:

> The Schmidts vote for the porch, especially since we will have to look at it every time we step outside our front door. It looks great! Best of luck!
>
> Andy and Hilary Schmidt
> 13 Rosecrest Ave.
>
> On Tue, Nov 17, 2015 at 8:42 PM, Susan Spies <susanrspies@gmail.com> wrote:
> The Spieses vote for the porch too. Good luck!
>
> Susan and Don Spies
> 11 Rosecrest Ave.
>
> On Tue, Nov 17, 2015 at 8:37 PM, Terrie Clifford <taclifford@gmail.com> wrote:
> Hi Kristen,
> I think it's amazing that you would ask for neighborhood input! Thank you for being such a good neighbor. I vote for the porch, but would like you to build the home YOU want. Looking forward to it taking shape.

XFINITY Connect 19 Rosecrest kgalles@comcast.net
+ Font Size -

Re: Renovation of 10 Rosecrest

From : Jennifer Heatherington <jen.heatherington@gmail.com> Tue, Nov 17, 2015 10:16 PM

Subject : Re: Renovation of 10 Rosecrest

To : Kristen Galles <kgalles@comcast.net>

They are beautiful! I still vote for the porch. It was purely user error (me!) that I couldn't see the attachments before. Thanks so much for sending them again!

Jen

On Tue, Nov 17, 2015 at 10:13 PM, Kristen Galles <kgalles@comcast.net> wrote:
I wonder if it doesn't come through on gmail.
Here they are again. Hope this works.

From: "Jennifer Heatherington" <jen.heatherington@gmail.com>
To: "Andy Schmidt" <andrewgschmidt@gmail.com>
Cc: "Susan Spies" <susanrspies@gmail.com>, "Terrie Clifford" <taclifford@gmail.com>, "Kristen Galles" <kgalles@comcast.net>, "Carol Tan" <caroltan71@yahoo.com>, "Laura Emge Mosoriak" <lemge1@yahoo.com>, "Laura Winstead" <winsteadln@gmail.com>, "Brandon Mosoriak" <bmosoriak@verizon.net>, "Charles Home" <cprstulb@yahoo.com>, "Brigitte May" <gittemay@aol.com>, "Don Spies" <donspies@gmail.com>, "Barbara Ruffino" <bjruffino@comcast.net>, "Emily Valentine" <ebvalentine@gmail.com>, "Frederick Schutt" <fhschutt@gmail.com>, "Lynne Komai" <lkomai@watermarkoffice.com>, "tovah ravitz" <tovah_ravitz@yahoo.com>, "Hilary Schmidt" <hilaryrschmidt@gmail.com>, "joann underwood" <joann_underwood@hotmail.com>, "Lou Ruffino" <ljruffino@gmail.com>, "ty matsdorf" <ty.matsdorf@gmail.com>, "Jan Walker" <janwalker5555@comcast.net>, "Susan Garito" <nsgarito@aol.com>, "Lillian Pace" <lillianpace@gmail.com>, "Laura Pettus" <lpettus@ntia.doc.gov>, "Elizabeth Legere" <ejlegere@gmail.com>, "rosemary OBrien" <obrienr20@aol.com>, "Andrea McBarnette" <amcbarnette@hotmail.com>, "Frances Mannel" <francesmannel@comcast.net>, "Jay Legere" <jay@legere.us>, "dan rogers" <dan.rogers@us.gt.com>, "Jill Rogers" <jrogers010@yahoo.com>, "Michelle Bares Tober" <michellebtober@gmail.com>, "Jan Walker" <janwalker5555@gmail.com>, "michelle tober" <michelle.tober@verizon.net>, "Laura Pettus" <laurampettus@yahoo.com>, "Carol Tan" <caroltan888@yahoo.com>, "rebecca ward" <rebecca.ward@longandfoster.com>, "Jessica Livingston" <jlivingston@eringay.com>, "lissa drewniak" <lissa.drewniak@gmail.com>, "ma tracy" <ma_tracy@yahoo.com>, "Ryan Drewniak" <rdrewniak@gmail.com>, "Jeremy Robison" <wjrobison@gmail.com>, "anika mercier" <anika.mercier@gmail.com>, "Andrea Cowart" <acsmithp33@gmail.com>, "Kevin Ferrell" <kferrell@gmail.com>, "Michael Cowart" <mcowart2@gmail.com>, rebecca@arlington-alexandria.com, "jessica livingston" <livingjess@me.com>, "Michael Velesz" <mgvelesz@gmail.com>, "ruth kockler" <ruthkockler@comcast.net>, "caroline jones simpson" <caroline.jones.simpson@gmail.com>, pennyjones1@verizon.net, "Steven Bezman" <steven6423@verizon.net>, "LIsa See" <LISASEE14@verizon.net>, "Susan Morrison" <slmorri@aol.com>
Sent: Tuesday, November 17, 2015 9:52:21 PM

XFINITY Connect 23 Rosecrest kgalles@comcast.net
+ Font Size -

Re: Renovation of 10 Rosecrest

From : Jan Walker <janwalker5555@gmail.com> Tue, Nov 17, 2015 11:01 PM
Subject : Re: Renovation of 10 Rosecrest
To : Kristen Galles <kgalles@comcast.net>

Never mind! I saw the drawings. Wow. This will look great! I prefer the porch also.

On Tuesday, November 17, 2015, Kristen Galles <kgalles@comcast.net> wrote:
Dear Neighbors -

As most of you know, I am working with the city to get permission to rebuild my house at 10 Rosecrest --- the point where Rosecrest and West Custis meet. The current house violates many city zoning rules (height, setback, threshold), but is grandfathered in. I have plans for a home that will comply with all city rules except setbacks.

Due to the long, narrow, triangular shape of the lot, it is impossible to build anything on the lot except a small house on the back of the lot next to Steve without violating setbacks. Because the lot is a triangle, the city considers 3 sides of the house to be "front yards," which require longer setbacks. Thus, I am seeking a variance.

The new house will be long and skinny to minimize any set back violations. However, the corners of the "point side" (not the entire side) of the proposed new house will cross the Rosecrest and West Custis setbacks. The neighbors who face the property kindly signed statements approving the plans. The Del Ray Citizens Association approved the plans. The city planning staff recommended approval. Five of you even showed up for the hearing. Thank you!!! :)

Nevertheless, the zoning board raised concerns at the hearing about the inclusion of a porch, so we deferred to a December hearing. It is impossible to have a porch on the lot without intruding on the setbacks, because of the narrowness of the point portion of lot and the wideness of "front yard" setbacks.

Since the hearing, my architect and I have worked with the city to come up with a solution that does not require BZA approval. I can build a 6x9 foot portico at the front door within the setback area. I can also build a pergola system within the setback area. Attached is a rendering of the portico and pergola system that I can build by right. Also attached is a rendering of a porch on the exact same foot print. It seems silly that one is OK and the other is not, but that's the way it is.

I would like to ask the BZA to grant a variance for the porch, because I think it looks better and fits in with the character of the neighborhood better than the portico/pergola system. Because YOU will have to look at the house every day, I want your input. If you prefer the porch, please let me know with an email response. If you object to the porch and would rather see the pergola system, let me know that also and please let me know what your concerns are. If enough of you support the porch or don't care, I plan to ask the BZA for a variance for the porch. I must convey that support in order to have a chance at the variance.

Thank you for your time and input.

Kristen Galles
10 Rosecrest Avenue

From: "Carol Tan" <caroltan71@yahoo.com>
To: "Laura Emge Mosoriak" <lemge1@yahoo.com>
Cc: "Laura Winstead" <winsteadln@gmail.com>, "Brandon Mosoriak" <bmosoriak@verizon.net>, "Jennifer Heatherington" <jen.heatherington@gmail.com>, "Charles Home" <cprstulb@yahoo.com>, gittemay@aol.com, donspies@gmail.com, bjruffino@comcast.net, ebvalentine@gmail.com, fhschutt@gmail.com, lkomai@watermarkoffice.com, "tovah ravitz" <tovah_ravitz@yahoo.com>, hilaryrschmidt@gmail.com, andrewgschmidt@gmail.com, tapyllek@yahoo.com, "joann underwood" <joann_underwood@hotmail.com>, ljruffino@gmail.com, "ty matsdorf" <ty.matsdorf@gmail.com>, janwalker5555@comcast.net, nsgarito@aol.com, lillianpace@gmail.com, susanrspies@gmail.com, jack@jackpett.us, ej@jayandej.com,

XFINITY Connect 25 Rosecrest kgalles@comcast.net + Font Size -

Re: Renovation of 10 Rosecrest

From : francesmannel@comcast.net Wed, Nov 18, 2015 08:32 PM

Subject : Re: Renovation of 10 Rosecrest

To : Kristen Galles <kgalles@comcast.net>

The Mannel's at 25 Rosecrest support your request for the porch.
It looks great. Bob is very familiar with BZA-he feels your pain!

Frances

From: "Kristen Galles" <kgalles@comcast.net>
To: "Carol Tan" <caroltan71@yahoo.com>
Cc: "Laura Emge Mosoriak" <lemge1@yahoo.com>, "Laura Winstead" <winsteadln@gmail.com>, "Brandon Mosoriak" <bmosoriak@verizon.net>, "Jennifer Heatherington" <jen.heatherington@gmail.com>, "Charles Home" <cprstulb@yahoo.com>, gittemay@aol.com, "Don Spies" <donspies@gmail.com>, bjruffino@comcast.net, ebvalentine@gmail.com, fhschutt@gmail.com, lkomai@watermarkoffice.com, "tovah ravitz" <tovah_ravitz@yahoo.com>, hilaryrschmidt@gmail.com, andrewgschmidt@gmail.com, "joann underwood" <joann_underwood@hotmail.com>, ljruffino@gmail.com, "ty matsdorf" <ty.matsdorf@gmail.com>, janwalker5555@comcast.net, nsgarito@aol.com, lillianpace@gmail.com, "Susan Spies" <susanrspies@gmail.com>, lpettus@ntia.doc.gov, ejlegere@gmail.com, obrienr20@aol.com, amcbarnette@hotmail.com, "francesmannel" <francesmannel@comcast.net>, jay@legere.us, "dan rogers" <dan.rogers@us.gt.com>, jrogers010@yahoo.com, michellebtober@gmail.com, janwalker5555@gmail.com, "michelle tober" <michelle.tober@verizon.net>, laurampettus@yahoo.com, caroltan888@yahoo.com, "rebecca ward" <rebecca.ward@longandfoster.com>, jlivingston@eringay.com, "lissa drewniak" <lissa.drewniak@gmail.com>, "ma tracy" <ma_tracy@yahoo.com>, rdrewniak@gmail.com, wjrobison@gmail.com, "anika mercier" <anika.mercier@gmail.com>, "Andrea Cowart" <acsmithp33@gmail.com>, kferrell@gmail.com, "Michael Cowart" <mcowart2@gmail.com>, rebecca@arlington-alexandria.com, livingjess@me.com, mgvelesz@gmail.com, taclifford@gmail.com, ruthkockler@comcast.net, "caroline jones simpson" <caroline.jones.simpson@gmail.com>, pennyjones1@verizon.net, "Steven Bezman" <steven6423@verizon.net>, "Lisa See" <LISASEE14@verizon.net>, "Susan Morrison" <slmorri@aol.com>
Sent: Tuesday, November 17, 2015 8:30:41 PM
Subject: Renovation of 10 Rosecrest

Dear Neighbors -

As most of you know, I am working with the city to get permission to rebuild my house at 10 Rosecrest — the point where Rosecrest and West Custis meet. The current house violates many city zoning rules (height, setback, threshold), but is grandfathered in. I have plans for a home that will comply with all city rules except setbacks.

Due to the long, narrow, triangular shape of the lot, it is impossible to build anything on the lot except a small house on the back of the lot next to Steve without violating setbacks. Because the lot is a triangle, the city considers 3 sides of the house to be "front yards," which require longer setbacks. Thus, I am seeking a variance.

The new house will be long and skinny to minimize any set back violations. However, the corners of the "point side" (not the entire side) of the proposed new house will cross the Rosecrest and West Custis setbacks. The neighbors who face the property kindly signed statements

XFINITY Connect 27 Rosecrest kgalles@comcast.net
+ Font Size -

Re: Renovation of 10 Rosecrest

From : gittemay@aol.com Wed, Nov 18, 2015 09:52 AM

Subject : Re: Renovation of 10 Rosecrest

To : nsgarito@aol.com, kgalles@comcast.net, caroltan71@yahoo.com

Cc : lemge1@yahoo.com, winsteadln@gmail.com, bmosoriak@verizon.net, jen heatherington <jen.heatherington@gmail.com>, cprstulb@yahoo.com, donspies@gmail.com, bjruffino@comcast.net, ebvalentine@gmail.com, fhschutt@gmail.com, lkomai@watermarkoffice.com, tovah ravitz <tovah_ravitz@yahoo.com>, hilaryrschmidt@gmail.com, andrewgschmidt@gmail.com, joann underwood <joann_underwood@hotmail.com>, ljruffino@gmail.com, ty matsdorf <ty.matsdorf@gmail.com>, janwalker5555@comcast.net, lillianpace@gmail.com, susanrspies@gmail.com, lpettus@ntia.doc.gov, ejlegere@gmail.com, obrienr20@aol.com, amcbarnette@hotmail.com, francesmannel@comcast.net, jay@legere.us, dan rogers <dan.rogers@us.gt.com>, jrogers010@yahoo.com, michellebtober@gmail.com, janwalker5555@gmail.com, michelle tober <michelle.tober@verizon.net>, laurampettus@yahoo.com, caroltan888@yahoo.com, rebecca ward <rebecca.ward@longandfoster.com>, jlivingston@eringay.com, lissa drewniak <lissa.drewniak@gmail.com>, ma tracy <ma_tracy@yahoo.com>, rdrewniak@gmail.com, wjrobison@gmail.com, anika mercier <anika.mercier@gmail.com>, acsmithp33@gmail.com, kferrell@gmail.com, mcowart2@gmail.com, rebecca@arlington-alexandria.com, livingjess@me.com, mgvelesz@gmail.com, tadlifford@gmail.com, ruthkockler@comcast.net, caroline jones simpson <caroline.jones.simpson@gmail.com>, pennyjones1@verizon.net, steven6423@verizon.net, LISASEE14@verizon.net, simorri@aol.com

Rosecrest is a "porch" community and for the city to ignore that and object to your planned new porch is unbelievable.
You have our full support for the plan. And if you need any further assistance beyond just an email, just let us know.

Brigitte and Ken May
27 Rosecrest Avenue

-----Original Message-----
From: Sue Garito <nsgarito@aol.com>
To: kgalles <kgalles@comcast.net>; caroltan71 <caroltan71@yahoo.com>
Cc: lemge1 <lemge1@yahoo.com>; winsteadln <winsteadln@gmail.com>; bmosoriak <bmosoriak@verizon.net>; jen.heatherington <jen.heatherington@gmail.com>; cprstulb <cprstulb@yahoo.com>; gittemay <gittemay@aol.com>; donspies <donspies@gmail.com>; bjruffino <bjruffino@comcast.net>; ebvalentine <ebvalentine@gmail.com>; fhschutt <fhschutt@gmail.com>; lkomai <lkomai@watermarkoffice.com>; tovah_ravitz <tovah_ravitz@yahoo.com>; hilaryrschmidt <hilaryrschmidt@gmail.com>; andrewgschmidt <andrewgschmidt@gmail.com>; joann_underwood <joann_underwood@hotmail.com>; ljruffino <ljruffino@gmail.com>; ty.matsdorf <ty.matsdorf@gmail.com>; janwalker5555 <janwalker5555@comcast.net>; lillianpace <lillianpace@gmail.com>; susanrspies <susanrspies@gmail.com>; lpettus <lpettus@ntia.doc.gov>; ejlegere <ejlegere@gmail.com>; obrienr20 <obrienr20@aol.com>; amcbarnette <amcbarnette@hotmail.com>; francesmannel <francesmannel@comcast.net>; jay <jay@legere.us>; dan.rogers <dan.rogers@us.gt.com>; jrogers010 <jrogers010@yahoo.com>; michellebtober

XFINITY Connect 29 Rosecrest kgalles@comcast.net
+ Font Size -

Re: Renovation of 10 Rosecrest

From : Fred Schutt <fhschutt@gmail.com> Wed, Nov 18, 2015 07:40 AM

Subject : Re: Renovation of 10 Rosecrest

To : Kristen Galles <kgalles@comcast.net>

Cc : Carol Tan <caroltan71@yahoo.com>, Laura Emge Mosoriak <lemge1@yahoo.com>, Laura Winstead <winsteadln@gmail.com>, Brandon Mosoriak <bmosoriak@verizon.net>, Jennifer Heatherington <jen.heatherington@gmail.com>, Charles Horne <cprstulb@yahoo.com>, gittemay@aol.com, Don Spies <donspies@gmail.com>, bjruffino@comcast.net, ebvalentine@gmail.com, lkomal@watermarkoffice.com, tovah ravitz <tovah_ravitz@yahoo.com>, hilaryrschmidt@gmail.com, andrewgschmidt@gmail.com, joann underwood <joann_underwood@hotmail.com>, ljruffino@gmail.com, ty matsdorf <ty.matsdorf@gmail.com>, janwalker5555@comcast.net, nsgarito@aol.com, lillianpace@gmail.com, Susan Spies <susanrspies@gmail.com>, lpettus@ntia.doc.gov, ejlegere@gmail.com, obrienr20@aol.com, amcbarnette@hotmail.com, francesmannel@comcast.net, jay@legere.us, dan rogers <dan.rogers@us.gt.com>, jrogers010@yahoo.com, michellebtober@gmail.com, janwalker5555@gmail.com, michelle tober <michelle.tober@verizon.net>, laurampettus@yahoo.com, caroltan888@yahoo.com, rebecca ward <rebecca.ward@longandfoster.com>, jlivingston@eringay.com, lissa drewniak <lissa.drewniak@gmail.com>, ma tracy <ma_tracy@yahoo.com>, rdrewniak@gmail.com, wjrobison@gmail.com, anika mercier <anika.mercier@gmail.com>, Andrea Cowart <acsmithp33@gmail.com>, kferrell@gmail.com, Michael Cowart <mcowart2@gmail.com>, rebecca@arlington-alexandria.com, livingjess@me.com, mgvelesz@gmail.com, tadlifford@gmail.com, ruthkockler@comcast.net, caroline jones simpson <caroline.jones.simpson@gmail.com>, pennyjones1@verizon.net, Steven Bezman <steven6423@verizon.net>, LIsa See <LISASEE14@verizon.net>, Susan Morrison <slmorri@aol.com>

29 Rosecrest is in favor of the porch proposal too. Looks great. Good luck!

Emily and Fred Schutt

Sent from my iPhone

On Nov 17, 2015, at 8:30 PM, Kristen Galles <kgalles@comcast.net> wrote:

Dear Neighbors -

As most of you know, I am working with the city to get permission to rebuild my house at 10 Rosecrest --- the point where Rosecrest and West Custis meet. The current house violates many city zoning rules (height, setback, threshold), but is grandfathered in. I have plans for a home that will comply with all city rules except setbacks.

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The new house will be long and skinny to minimize any set back violations. However, the corners of the "point side" (not the entire side) of the proposed new house will cross the Rosecrest and West Custis setbacks. The neighbors who face the property kindly signed statements approving the plans. The Del Ray Citizens Association approved the plans. The city planning staff recommended approval. Five of you even showed up for the hearing. Thank you!!! :)

Nevertheless, the zoning board raised concerns at the hearing about the inclusion of a porch, so we deferred to a December hearing. It is impossible to have a porch on the lot without intruding on the setbacks, because of the narrowness of the point portion of lot and the wideness of "front yard" setbacks.

Since the hearing, my architect and I have worked with the city to come up with a solution that does not require BZA approval. I can build a 6x9 foot portico at the front door within the setback area. I can also build a pergola system within the setback area. Attached is a rendering of the portico and pergola system that I can build by right. Also attached is a

XFINITY Connect 30 Rosecrest kgalles@comcast.net
+ Font Size -

Re: Renovation of 10 Rosecrest

From : Lynne Komai <lkomai@watermarkoffice.com> Wed, Nov 18, 2015 08:31 AM

Subject : Re: Renovation of 10 Rosecrest

To : Kristen Galles <kgalles@comcast.net>

Cc : Carol Tan <caroltan71@yahoo.com>, Laura Emge Mosoriak <lemge1@yahoo.com>, Laura Winstead <winsteadln@gmail.com>, Brandon Mosoriak <bmosoriak@verizon.net>, Jennifer Heatherington <jen.heatherington@gmail.com>, Charles Home <cprstulb@yahoo.com>, gittemay@aol.com, Don Spies <donspies@gmail.com>, bjruffino@comcast.net, ebvalentine@gmail.com, fhschutt@gmail.com, tovah ravitz <tovah_ravitz@yahoo.com>, hilaryrschmidt@gmail.com, andrewgschmidt@gmail.com, joann underwood <joann_underwood@hotmail.com>, ljruffino@gmail.com, ty matsdorf <ty.matsdorf@gmail.com>, janwalker5555@comcast.net, nsgarito@aol.com, lillianpace@gmail.com, Susan Spies <susanrspies@gmail.com>, lpettus@ntia.doc.gov, ejlegere@gmail.com, obrienr20@aol.com, amcbarnette@hotmail.com, francesmannel@comcast.net, jay@legere.us, dan rogers <dan.rogers@us.gt.com>, jrogers010@yahoo.com, michellebtober@gmail.com, janwalker5555@gmail.com, michelle tober <michelle.tober@verizon.net>, laurampettus@yahoo.com, caroltan888@yahoo.com, rebecca ward <rebecca.ward@longandfoster.com>, jlivingston@eringay.com, lissa drewniak <lissa.drewniak@gmail.com>, ma tracy <ma_tracy@yahoo.com>, rdrewniak@gmail.com, wjrobison@gmail.com, anika mercier <anika.mercier@gmail.com>, Andrea Cowart <acsmithp33@gmail.com>, kferrell@gmail.com, Michael Cowart <mcowart2@gmail.com>, rebecca@arlington-alexandria.com, livingjess@me.com, mgvelesz@gmail.com, tadlifford@gmail.com, ruthkockler@comcast.net, caroline jones simpson <caroline.jones.simpson@gmail.com>, pennyjones1@verizon.net, Steven Bezman <steven6423@verizon.net>, LIsa See <LISASEE14@verizon.net>, Susan Morrison <simorri@aol.com>

Komais love the porch--go for it.

Don + Lynne Komai
30 Rosecrest Ave.

--

Lynne Komai
Watermark Design Office
30 Rosecrest Avenue
Alexandria, VA 22301
703.549.0609 P
703.608.0553 C
lkomai@watermarkoffice.com
www.watermarkoffice.com

On Nov 17, 2015, at 8:30 PM, Kristen Galles wrote:

Dear Neighbors -

As most of you know, I am working with the city to get permission to rebuild my house at 10 Rosecrest — the point where Rosecrest and West Custis meet. The current house violates many city zoning rules (height, setback, threshold), but is grandfathered in. I have plans for a home that will comply with all city rules except setbacks.

Due to the long, narrow, triangular shape of the lot, it is impossible to build anything on the lot except a small house on the back of the lot next to Steve without violating setbacks. Because the lot is a triangle, the city considers 3 sides of the house

XFINITY Connect 31 Rosecrest kgalles@comcast.net
+ Font Size -

Re: Renovation of 10 Rosecrest

From : Laura Emge Mosoriak <lemge1@yahoo.com> Wed, Nov 18, 2015 11:54 AM
Subject : Re: Renovation of 10 Rosecrest
To : Kristen Galles <kgalles@comcast.net>
Reply To : Laura Emge Mosoriak <lemge1@yahoo.com>

The porch! Wow the pictures look amazing! I will go in support of the porch before any board you need me to. I'll sign whatever you need me to.
Laura and Brandon Mosoriak
31 Rosecrest Ave

Laura Mosoriak, DVM
Kingstowne Cat Clinic
703-9CAT-CAT
www.kingstownecatclinic.com
"CAT HAIR. DON'T LEAVE HOME WITHOUT IT."

From: Kristen Galles <kgalles@comcast.net>
To: Carol Tan <caroltan71@yahoo.com>
Cc: Laura Emge Mosoriak <lemge1@yahoo.com>; Laura Winstead <winsteadln@gmail.com>; Brandon Mosoriak <bmosoriak@verizon.net>; Jennifer Heatherington <jen.heatherington@gmail.com>; Charles Home <cprstulb@yahoo.com>; gittemay@aol.com; "Spies, Don" <donspies@gmail.com>; bjruffino@comcast.net; ebvalentine@gmail.com; fhschutt@gmail.com; lkomai@watermarkoffice.com; tovah ravitz <tovah_ravitz@yahoo.com>; hilaryrschmidt@gmail.com; andrewgschmidt@gmail.com; joann underwood <joann_underwood@hotmail.com>; ljruffino@gmail.com; ty matsdorf <ty.matsdorf@gmail.com>; janwalker5555@comcast.net; nsgarito@aol.com; lillianpace@gmail.com; "Spies, Susan" <susanrspies@gmail.com>; lpettus@ntia.doc.gov; ejlegere@gmail.com; obrienr20@aol.com; amcbarnette@hotmail.com; francesmannel@comcast.net; jay@legere.us; dan rogers <dan.rogers@us.gt.com>; jrogers010@yahoo.com; michellebtober@gmail.com; janwalker5555@gmail.com; michelle tober <michelle.tober@verizon.net>; laurampettus@yahoo.com; caroltan888@yahoo.com; rebecca ward <rebecca.ward@longandfoster.com>; jlivingston@eringay.com; lissa drewniak <lissa.drewniak@gmail.com>; ma tracy <ma_tracy@yahoo.com>; rdrewniak@gmail.com; wjrobison@gmail.com; anika mercier <anika.mercier@gmail.com>; "Cowart, Andrea" <acsmithp33@gmail.com>; kferrell@gmail.com; "Cowart, Michael" <mcowart2@gmail.com>; rebecca@arlington-alexandria.com; livingjess@me.com; mgvelesz@gmail.com; taclifford@gmail.com; ruthkockler@comcast.net; caroline jones simpson <caroline.jones.simpson@gmail.com>; pennyjones1@verizon.net; Steven Bezman <steven6423@verizon.net>; LIsa See <LISASEE14@verizon.net>; Susan Morrison <slmorri@aol.com>

XFINITY Connect 31 Rosecrest kgalles@comcast.net
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Re: Renovation of 10 Rosecrest

From : Laura Emge Mosoriak <lemge1@yahoo.com> Tue, Nov 17, 2015 10:03 PM

Subject : Re: Renovation of 10 Rosecrest

To : Kristen Galles <kgalles@comcast.net>

Cc : Carol Tan <caroltan71@yahoo.com>, Laura Winstead <winsteadln@gmail.com>, Brandon Mosoriak <bmosoriak@verizon.net>, Jennifer Heatherington <jen.heatherington@gmail.com>, Charles Home <cprstulb@yahoo.com>, gittemay@aol.com, Don Spies <donspies@gmail.com>, bjruffino@comcast.net, ebvalentine@gmail.com, fhschutt@gmail.com, lkomai@watermarkoffice.com, tovah ravitz <tovah_ravitz@yahoo.com>, hilaryrschmidt@gmail.com, andrewgschmidt@gmail.com, joann underwood <joann_underwood@hotmail.com>, ljruffino@gmail.com, ty matsdorf <ty.matsdorf@gmail.com>, janwalker5555@comcast.net, nsgarito@aol.com, lillianpace@gmail.com, Susan Spies <susanrspies@gmail.com>, lpettus@ntia.doc.gov, ejlegere@gmail.com, obrienr20@aol.com, amcbarnette@hotmail.com, francesmannel@comcast.net, jay@legere.us, dan rogers <dan.rogers@us.gt.com>, jrogers010@yahoo.com, michellebtober@gmail.com, janwalker5555@gmail.com, michelle tober <michelle.tober@verizon.net>, laurampettus@yahoo.com, caroltan888@yahoo.com, rebecca ward <rebecca.ward@longandfoster.com>, jlivingston@eringay.com, lissa drewniak <lissa.drewniak@gmail.com>, ma tracy <ma_tracy@yahoo.com>, rdrewniak@gmail.com, wjrobison@gmail.com, anika mercier <anika.mercier@gmail.com>, Andrea Cowart <acsmithp33@gmail.com>, kferrell@gmail.com, Michael Cowart <mcowart2@gmail.com>, rebecca@arlington-alexandria.com, livingjess@me.com, mgvelesz@gmail.com, tadifford@gmail.com, ruthkockler@comcast.net, caroline jones simpson <caroline.jones.simpson@gmail.com>, pennyjones1@verizon.net, Steven Bezman <steven6423@verizon.net>, LIsa See <LISASEE14@verizon.net>, Susan Morrison <slmorri@aol.com>

Porch for sure!
The Mosoriaks

Sent from my iPhone

Laura Mosoriak DVM
Kingstowne Cat Clinic
703-9-CAT-CAT
"CAT HAIR. DON'T LEAVE HOME WITHOUT IT."

On Nov 17, 2015, at 8:30 PM, Kristen Galles <kgalles@comcast.net> wrote:

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XFINITY Connect 10 West Custis kgalles@comcast.net
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Re: Renovation of 10 Rosecrest

From : Anika Mercier <anika.mercier@gmail.com> Tue, Nov 17, 2015 09:17 PM
Subject : Re: Renovation of 10 Rosecrest
To : Kristen Galles <kgalles@comcast.net>

Hey Kristen,

Kevin and I vote for the porch but think either option will look very nice.

Hope to see you at the party this weekend!

Anika and Kevin
10 W. Custis Ave

On Tue, Nov 17, 2015 at 8:30 PM, Kristen Galles <kgalles@comcast.net> wrote:
Dear Neighbors -

As most of you know, I am working with the city to get permission to rebuild my house at 10 Rosecrest --- the point where Rosecrest and West Custis meet. The current house violates many city zoning rules (height, setback, threshold), but is grandfathered in. I have plans for a home that will comply with all city rules except setbacks.

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I would like to ask the BZA to grant a variance for the porch, because I think it looks better and fits in with the character of the neighborhood better than the portico/pergola system. Because YOU will have to look at the house every day, I want your input. If you prefer the porch, please let me know with an email response. If you object to the porch and would rather see the pergola system, let me know that also and please let me know what your concerns are. If enough of you support the porch or don't care, I plan to ask the BZA for a variance for the porch. I must convey that support in order to have a chance at the variance.

Thank you for your time and input.

Kristen Galles
10 Rosecrest Avenue

From: "Carol Tan" <caroltan71@yahoo.com>
To: "Laura Emge Mosoriak" <lemge1@yahoo.com>
Cc: "Laura Winstead" <winsteadln@gmail.com>, "Brandon Mosoriak" <bmosoriak@verizon.net>, "Jennifer Heatherington" <jen.heatherington@gmail.com>, "Charles Home" <cprstulb@yahoo.com>, gittemay@aol.com, donspies@gmail.com, bjruffino@comcast.net, ebvalentine@gmail.com, fhschutt@gmail.com,

XFINITY Connect **12 West Custis** kgalles@comcast.net
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Re: Renovation of 10 Rosecrest

From : Susan Morrison <simorri@aol.com> Wed, Nov 18, 2015 07:20 AM

Subject : Re: Renovation of 10 Rosecrest

To : Michelle Tober <michellebtober@gmail.com>

Cc : Kristen Galles <kgalles@comcast.net>, Carol Tan <caroltan71@yahoo.com>, Laura Emge Mosoriak <lemge1@yahoo.com>, Laura Winstead <winsteadln@gmail.com>, Brandon Mosoriak <bmosoriak@verizon.net>, Jennifer Heatherington <jen.heatherington@gmail.com>, Charles Horne <cprstulb@yahoo.com>, gittemay@aol.com, Don Spies <donspies@gmail.com>, bjruffino@comcast.net, ebvalentine@gmail.com, fhschutt@gmail.com, lkomai@watermarkoffice.com, tovah ravitz <tovah_ravitz@yahoo.com>, hilaryrschmidt@gmail.com, andrewgschmidt@gmail.com, joann underwood <joann_underwood@hotmail.com>, ljruffino@gmail.com, ty matsdorf <ty.matsdorf@gmail.com>, janwalker5555@comcast.net, nsgarito@aol.com, lillianpace@gmail.com, Susan Spies <susanrspies@gmail.com>, lpettus@ntia.doc.gov, ejlegere@gmail.com, obrienr20@aol.com, amcbarnette@hotmail.com, francesmannel@comcast.net, jay@legere.us, dan rogers <dan.rogers@us.gt.com>, jrogers010@yahoo.com, janwalker5555@gmail.com, michelle tober <michelle.tober@verizon.net>, laurampettus@yahoo.com, caroltan888@yahoo.com, rebecca ward <rebecca.ward@longandfoster.com>, jlivingston@eringay.com, lissa drewniak <lissa.drewniak@gmail.com>, ma tracy <ma_tracy@yahoo.com>, rdrewniak@gmail.com, wjrobison@gmail.com, anika mercier <anika.mercier@gmail.com>, Andrea Cowart <acsmithp33@gmail.com>, kferrell@gmail.com, Michael Cowart <mcowart2@gmail.com>, rebecca@arlington-alexandria.com, livingjess@me.com, mgvelesz@gmail.com, taclifford@gmail.com, ruthkockler@comcast.net, caroline jones simpson <caroline.jones.simpson@gmail.com>, pennyjones1@verizon.net, Steven Bezman <steven6423@verizon.net>, Lisa See <LISASEE14@verizon.net>

Susan Morrison, whose house faces 10 Rosecrest, wholeheartedly and enthusiastically supports the porch and applauds Kristen Galles' conscientious efforts to consult with her neighbors about the renovation. The design is lovely.

Sent from my iPad

On Nov 17, 2015, at 10:02 PM, Michelle Tober <michellebtober@gmail.com> wrote:

> The Tobers support the porch! The drawings look beautiful. Good luck!
>
> Michelle Tober
>
> Sent from my iPhone
>
> On Nov 17, 2015, at 8:30 PM, Kristen Galles <kgalles@comcast.net> wrote:
>
>> Dear Neighbors -
>>
>> As most of you know, I am working with the city to get permission to rebuild my house at 10 Rosecrest --- the point where Rosecrest and West Custis meet. The current house violates many city zoning rules (height, setback, threshold), but is grandfathered in. I have plans for a home that will comply with all city rules except setbacks.
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XFINITY Connect

14 West Custis

kgalles@comcast.net
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Re: Renovation of 10 Rosecrest

From : Michael <mcowart2@gmail.com> Tue, Nov 17, 2015 08:58 PM
Subject : Re: Renovation of 10 Rosecrest
To : Kristen Galles <kgalles@comcast.net>
Cc : Andrea Smith <ACSmithp33@gmail.com>

The Cowart's at 14 W Custis Ave support the porch and your entire plans. We are more than happy to offer our support before the Board or in a letter to the Board as well.

Sent from my iPhone

On Nov 17, 2015, at 8:30 PM, Kristen Galles <kgalles@comcast.net> wrote:

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Thank you for your time and input.

Kristen Galles
10 Rosecrest Avenue

From: "Carol Tan" <caroltan71@yahoo.com>
To: "Laura Emge Mosoriak" <lemge1@yahoo.com>
Cc: "Laura Winstead" <winsteadln@gmail.com>, "Brandon Mosoriak" <bmosoriak@verizon.net>, "Jennifer Heatherington" <jen.heatherington@gmail.com>, "Charles Home" <cprstulb@yahoo.com>, gittemay@aol.com, donspies@gmail.com, bjruffino@comcast.net, ebvalentine@gmail.com, fhschutt@gmail.com,

XFINITY Connect 15 West Custis kgalles@comcast.net
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Re: Renovation of 10 Rosecrest

From : lissa drewniak <lissa.drewniak@gmail.com> Tue, Nov 17, 2015 11:25 PM

Subject : Re: Renovation of 10 Rosecrest

To : Kristen Galles <kgalles@comcast.net>

Cc : Ryan Drewniak <rdrewniak@gmail.com>

Hi Kristen,

We think both options look great and definitely support the porch if that's what you prefer. Good luck!

Lissa and Ryan
15 West Custis

Sent from my iPhone

On Nov 17, 2015, at 8:30 PM, Kristen Galles <kgalles@comcast.net> wrote:

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Kristen Galles
10 Rosecrest Avenue

From: "Carol Tan" <caroltan71@yahoo.com>
To: "Laura Emge Mosoriak" <lemge1@yahoo.com>
Cc: "Laura Winstead" <winsteadln@gmail.com>, "Brandon Mosoriak"

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19 West Custis

kgalles@comcast.net
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Re: Renovation of 10 Rosecrest

From : R Ward <rebecca@arlington-alexandria.com> Tue, Nov 17, 2015 08:48 PM
Subject : Re: Renovation of 10 Rosecrest
To : Kristen Galles <kgalles@comcast.net>

The porch sounds nice and attractive!

Rebecca Ward
Barcroft Realty Group
(571) 215-1863
http://fairlingtonhomes.com

On Nov 17, 2015, at 8:30 PM, Kristen Galles <kgalles@comcast.net> wrote:

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10 Rosecrest Avenue

From: "Carol Tan" <caroltan71@yahoo.com>
To: "Laura Emge Mosoriak" <lemge1@yahoo.com>
Cc: "Laura Winstead" <winsteadln@gmail.com>, "Brandon Mosoriak" <bmosoriak@verizon.net>, "Jennifer Heatherington" <jen.heatherington@gmail.com>,

XFINITY Connect 2209 Russell Road kgalles@comcast.net
+ Font Size -

Re: Renovation of 10 Rosecrest

From : Terrie Clifford <taclifford@gmail.com> Tue, Nov 17, 2015 08:37 PM

Subject : Re: Renovation of 10 Rosecrest

To : Kristen Galles <kgalles@comcast.net>

Cc : Carol Tan <caroltan71@yahoo.com>, Laura Emge Mosoriak <lemge1@yahoo.com>, Laura Winstead <winsteadln@gmail.com>, Brandon Mosoriak <bmosoriak@verizon.net>, Jennifer Heatherington <jen.heatherington@gmail.com>, Charles Home <cprstulb@yahoo.com>, Brigitte May <gittemay@aol.com>, Don Spies <donspies@gmail.com>, Barbara Ruffino <bjruffino@comcast.net>, Emily Valentine <ebvalentine@gmail.com>, Frederick Schutt <fhschutt@gmail.com>, Lynne Komai <lkomai@watermarkoffice.com>, tovah ravitz <tovah_ravitz@yahoo.com>, Hilary Schmidt <hilaryrschmidt@gmail.com>, Andy Schmidt <andrewgschmidt@gmail.com>, joann underwood <joann_underwood@hotmail.com>, Lou Ruffino <ljruffino@gmail.com>, ty matsdorf <ty.matsdorf@gmail.com>, Jan Walker <janwalker5555@comcast.net>, Susan Garito <nsgarito@aol.com>, Lillian Pace <lillianpace@gmail.com>, Susan Spies <susanrspies@gmail.com>, Laura Pettus <lpettus@ntia.doc.gov>, Elizabeth Legere <ejlegere@gmail.com>, rosemary OBrien <obrienr20@aol.com>, Andrea McBarnette <amcbarnette@hotmail.com>, Frances Mannel <francesmannel@comcast.net>, Jay Legere <jay@legere.us>, dan rogers <dan.rogers@us.gt.com>, Jill Rogers <jrogers010@yahoo.com>, Michelle Bares Tober <michellebtober@gmail.com>, Jan Walker <janwalker5555@gmail.com>, michelle tober <michelle.tober@verizon.net>, Laura Pettus <laurampettus@yahoo.com>, Carol Tan <caroltan888@yahoo.com>, rebecca ward <rebecca.ward@longandfoster.com>, Jessica Livingston <jlivingston@eringay.com>, lissa drewniak <lissa.drewniak@gmail.com>, ma tracy <ma_tracy@yahoo.com>, Ryan Drewniak <rdrewniak@gmail.com>, Jeremy Robison <wjrobison@gmail.com>, anika mercier <anika.mercier@gmail.com>, Andrea Cowart <acsmithp33@gmail.com>, Kevin Ferrell <kferrell@gmail.com>, Michael Cowart <mcowart2@gmail.com>, rebecca@arlington-alexandria.com, jessica livingston <livingjess@me.com>, Michael Velesz <mgvelesz@gmail.com>, ruth kockler <ruthkockler@comcast.net>, caroline jones simpson <caroline.jones.simpson@gmail.com>, pennyjones1@verizon.net, Steven Bezman <steven6423@verizon.net>, LIsa See <LISASEE14@verizon.net>, Susan Morrison <slmorri@aol.com>

Hi Kristen,
I think it's amazing that you would ask for neighborhood input! Thank you for being such a good neighbor. I vote for the porch, but would like you to build the home YOU want. Looking forward to it taking shape.

Best,
Terrie Clifford
2209 Russell

Terrie Clifford

'Being the richest man in the cemetery does not matter to me. Going to bed at night and saying we've done something wonderful, that's what matters to me.'
- Steve Jobs.

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XFINITY Connect 2215 Russell Road kgalles@comcast.net
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Re: Renovation of 10 Rosecrest

From : Laura Pettus <laurampettus@yahoo.com> Tue, Nov 17, 2015 08:47 PM
Subject : Re: Renovation of 10 Rosecrest
To : Kristen Galles <kgalles@comcast.net>
Cc : Jack Pettus <jack@jackpett.us>

I love porches and think you should definitely get to enjoy one. Jack and I are happy to support you and your plans to build a porch.

Good luck and let us know if you need anything from us.

Laura and Jack Pettus
2215 Russell Rd.
Alexandria, VA

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As most of you know, I am working with the city to get permission to rebuild my house at 10 Rosecrest --- the point where Rosecrest and West Custis meet. The current house violates many city zoning rules (height, setback, threshold), but is grandfathered in. I have plans for a home that will comply with all city rules except setbacks.

Due to the long, narrow, triangular shape of the lot, it is impossible to build anything on the lot except a small house on the back of the lot next to Steve without violating setbacks. Because the lot is a triangle, the city considers 3 sides of the house to be "front yards," which require longer setbacks. Thus, I am seeking a variance.

The new house will be long and skinny to minimize any set back violations. However, the corners of the "point side" (not the entire side) of the proposed new house will cross the Rosecrest and West Custis setbacks. The neighbors who face the property kindly signed statements approving the plans. The Del Ray Citizens Association approved the plans. The city planning staff recommended approval. Five of you even showed up for the hearing. Thank you!!! :)

Nevertheless, the zoning board raised concerns at the hearing about the inclusion of a porch, so we deferred to a December hearing. It is impossible to have a porch on the lot without intruding on the setbacks, because of the narrowness of the point portion of lot and the wideness of "front yard" setbacks.

Since the hearing, my architect and I have worked with the city to come up with a solution that does not require BZA approval. I can build a 6x9 foot portico at the front door within the setback area. I can also build a pergola system within the setback area. Attached is a rendering of the portico and pergola system that I can build by right. Also attached is a rendering of a porch on the exact same foot print. It seems silly that one is OK and the other is not, but that's the way it is.

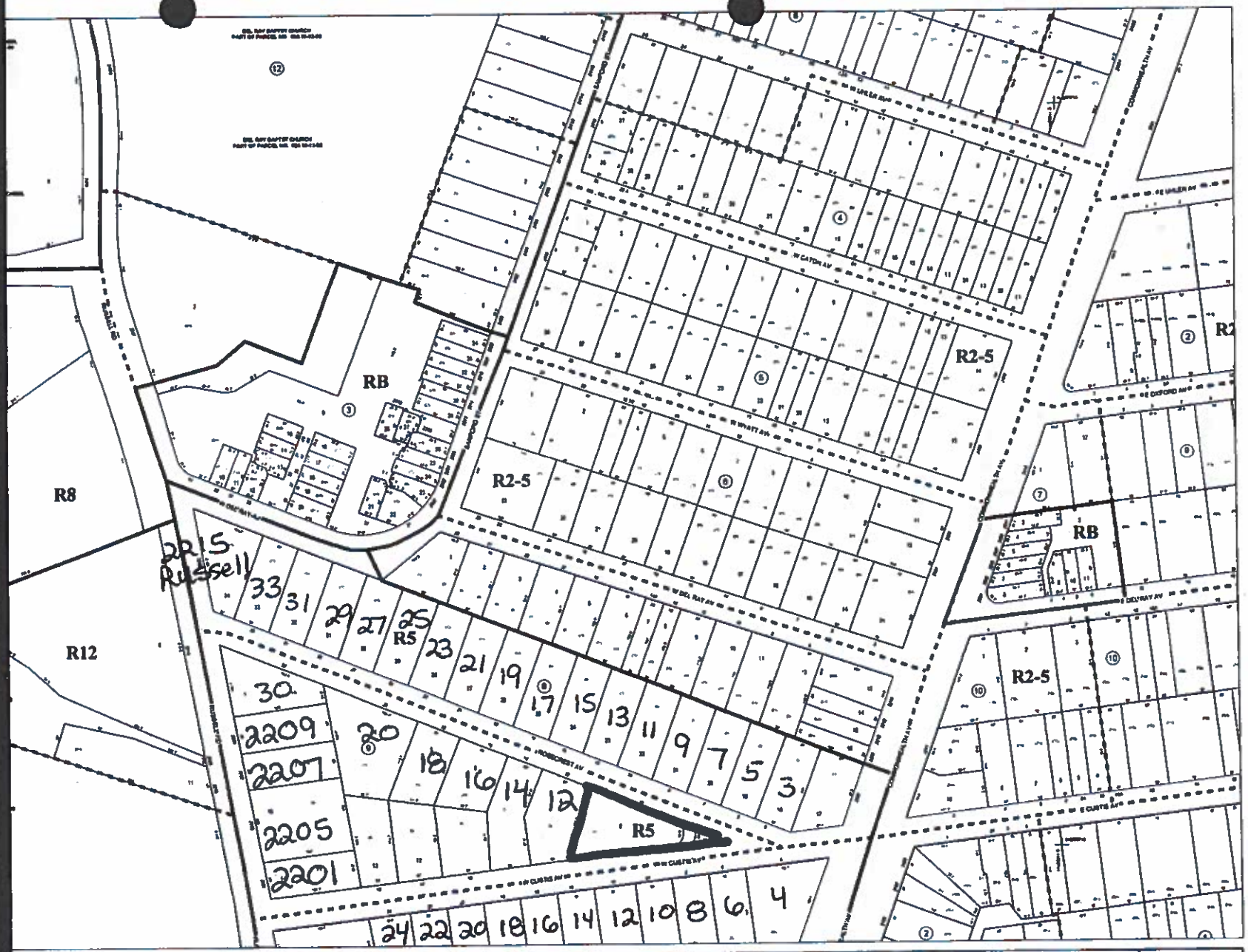
I would like to ask the BZA to grant a variance for the porch, because I think it looks better and fits in with the character of the neighborhood better than the portico/pergola system. Because YOU will have to look at the house every day, I want your input. If you prefer the porch, please let me know with an email response. If you object to the porch and would rather see the pergola system, let me know that also and please let me know what your concerns are. If enough of you support the porch or don't care, I plan to ask the BZA for a variance for the porch. I must convey that support in order to have a chance at the variance.

Thank you for your time and input.

Kristen Galles
10 Rosecrest Avenue

From: "Carol Tan" <caroltan71@yahoo.com>
To: "Laura Emge Mosoriak" <lemge1@yahoo.com>
Cc: "Laura Winstead" <winsteadln@gmail.com>, "Brandon Mosoriak" <bmosoriak@verizon.net>, "Jennifer Heatherington" <jen.heatherington@gmail.com>,

EXHIBIT 3

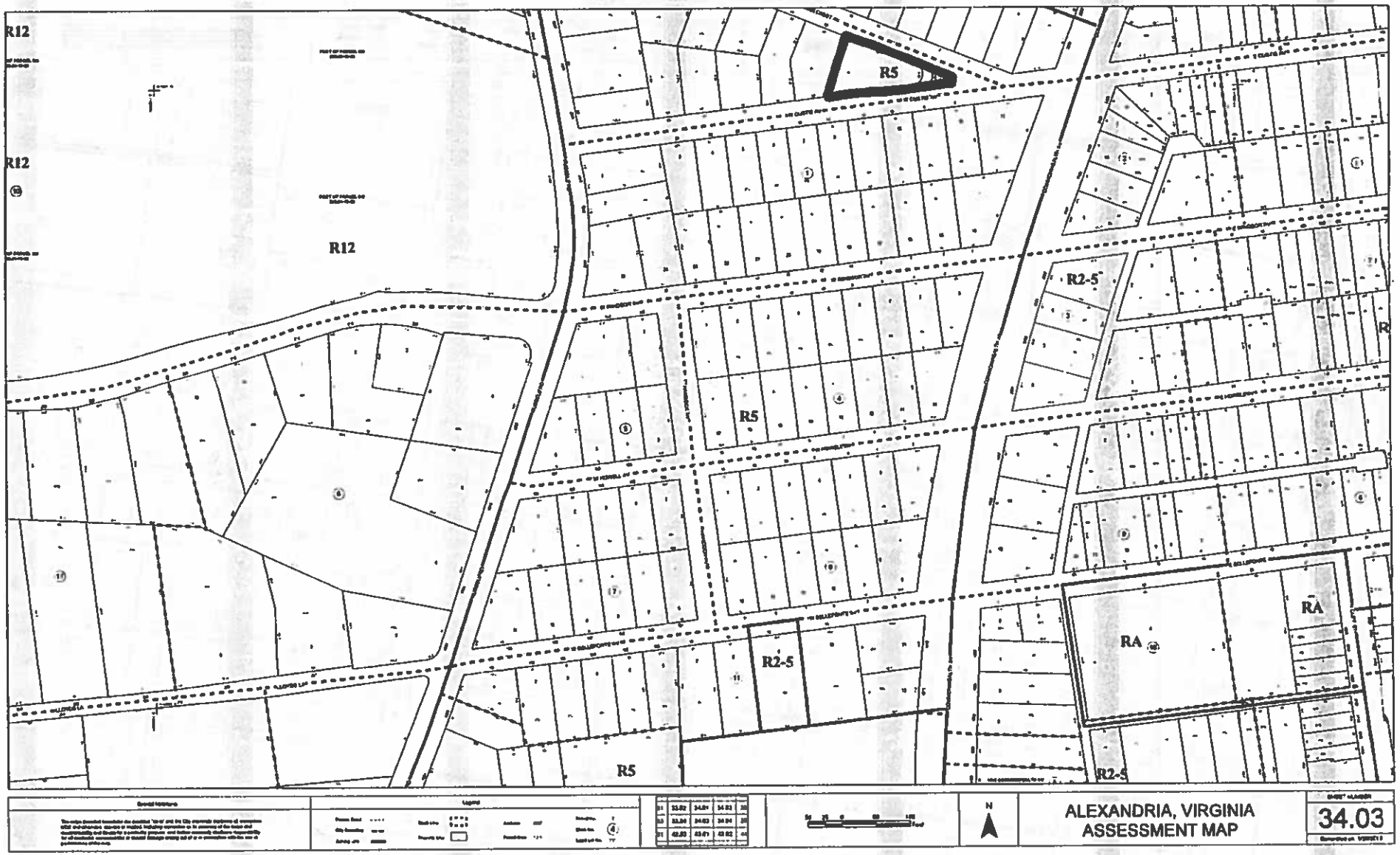


Legend

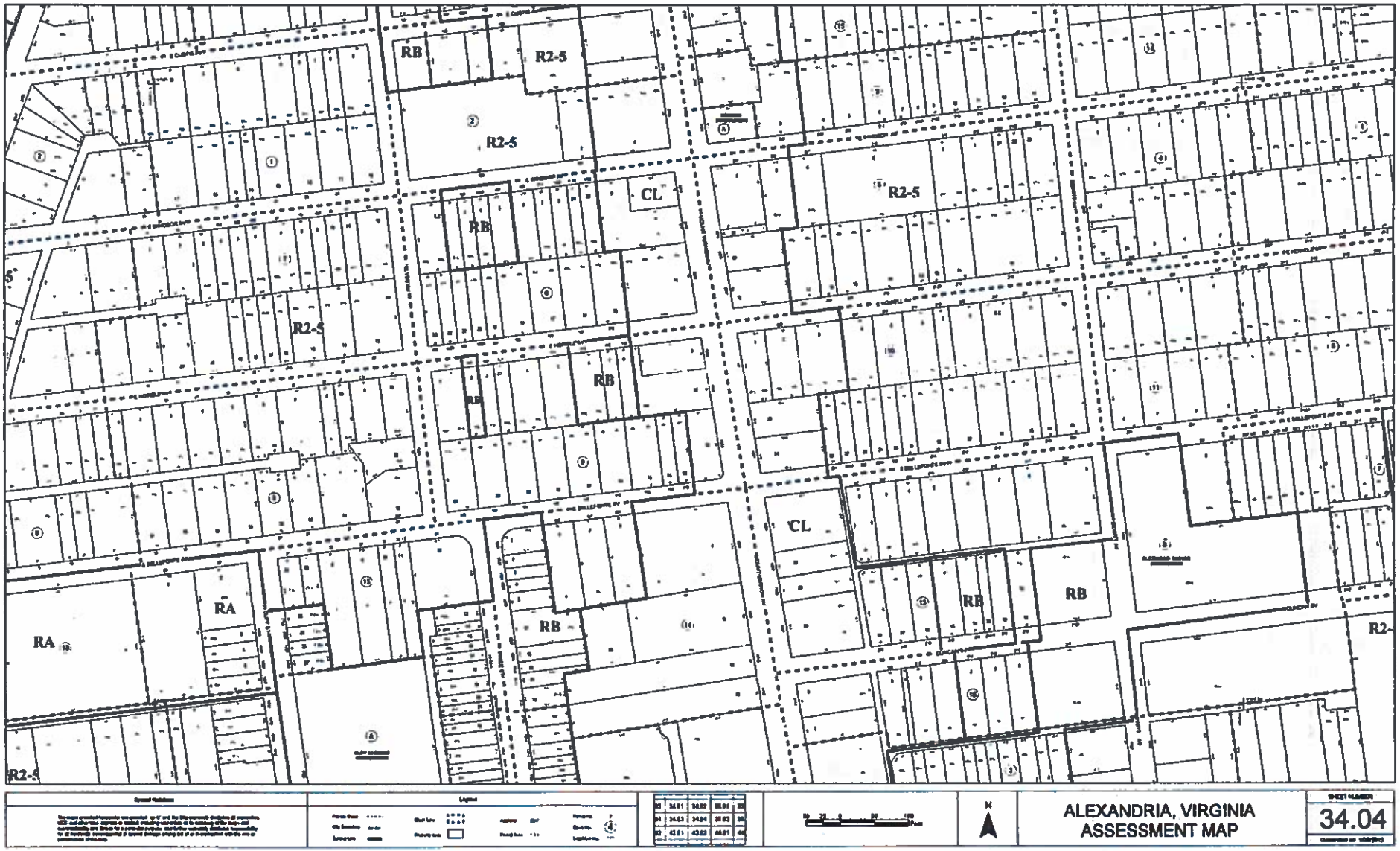
N

ALEXANDRIA, VIRGINIA
ASSESSMENT MAP

SHEET NUMBER
34.01


R12
R12
R12
R5
R5
R5
R2-5
R2-5
R2-5
RA
RA
N
ALEXANDRIA, VIRGINIA
ASSESSMENT MAP
34.03

East of Rosecrest & Commonwealth



ALEXANDRIA, VIRGINIA
ASSESSMENT MAP

34.04

EXHIBIT 4

11 Rosecrest Avenue

13 Rosecrest Avenue

15 Rosecrest Avenue

17 Rosecrest Avenue

19 Rosecrest Avenue

21 Rosecrest Avenue

23 Rosecrest Avenue

25 Rosecrest Avenue

27 Rosecrest Avenue

29 Rosecrest Avenue

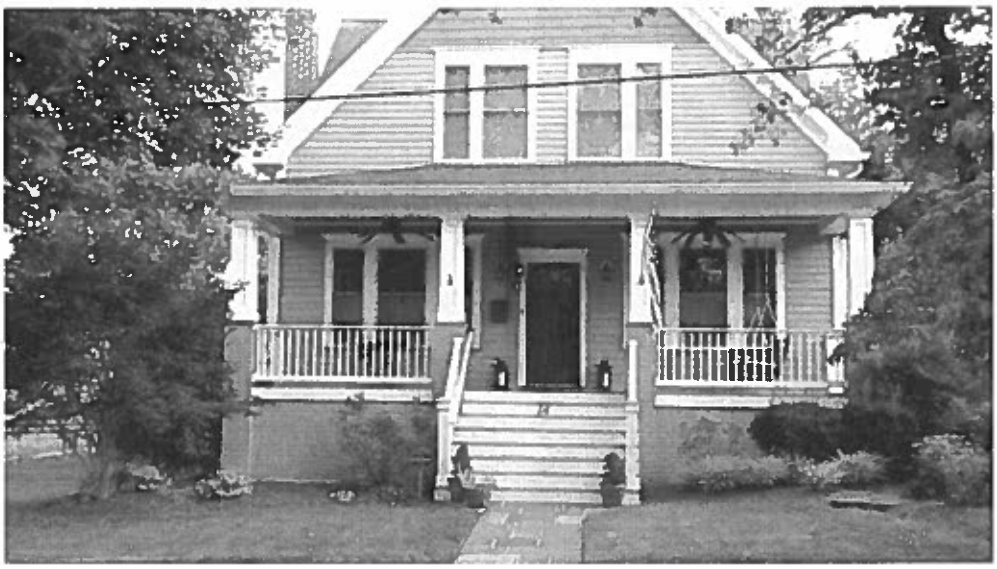
Screened front porch

31 Rosecrest Avenue

9 Rosecrest Avenue

Enclosed front porch

12 Rosecrest Avenue



14 Rosecrest Avenue

16 Rosecrest Avenue

18 Rosecrest Avenue

20 Rosecrest Avenue

EXHIBIT 5

SKETCH SHOWING BLOCK STUDY
ON #10 ROSECREST AVENUE
SCALE: 1" = 50'

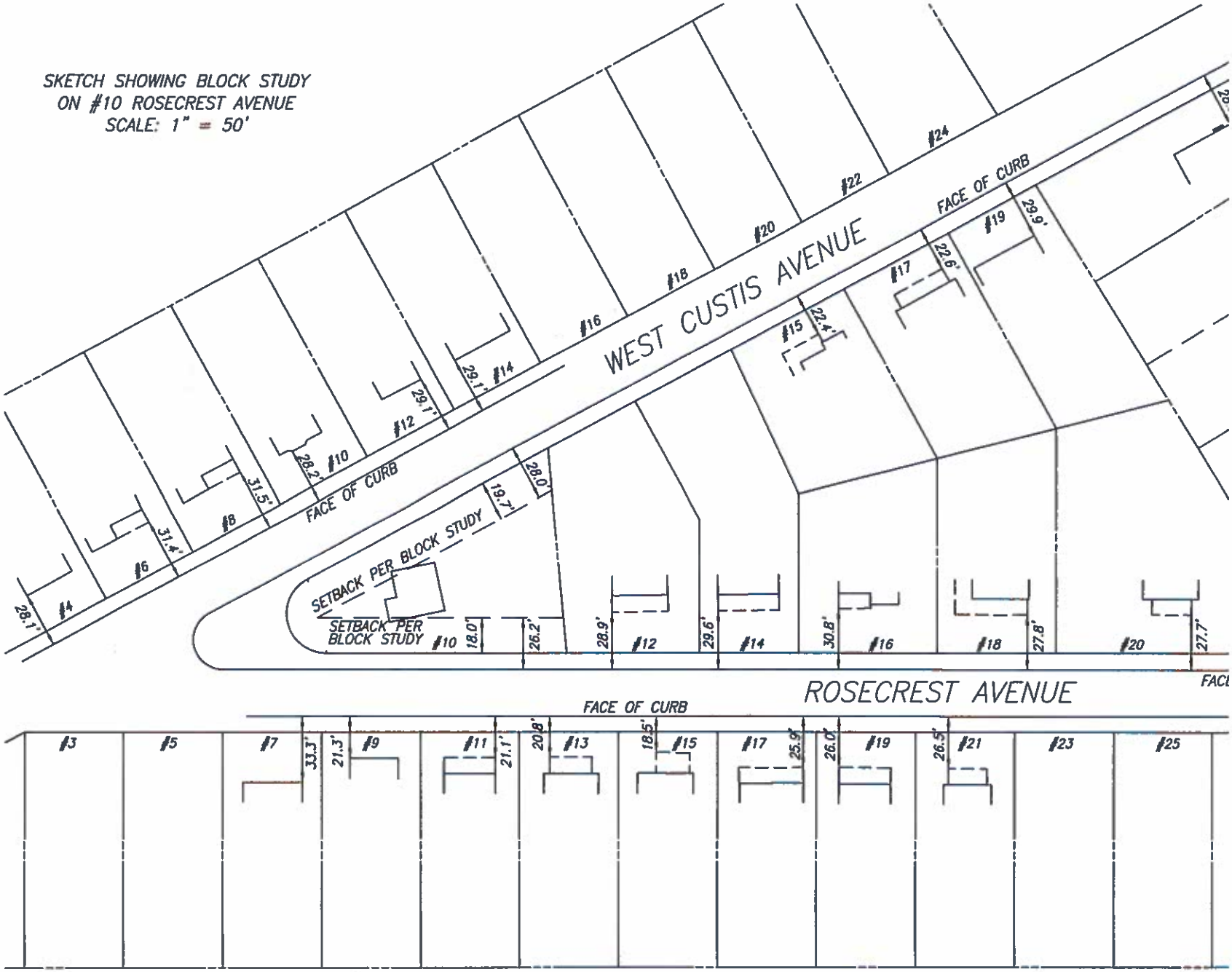
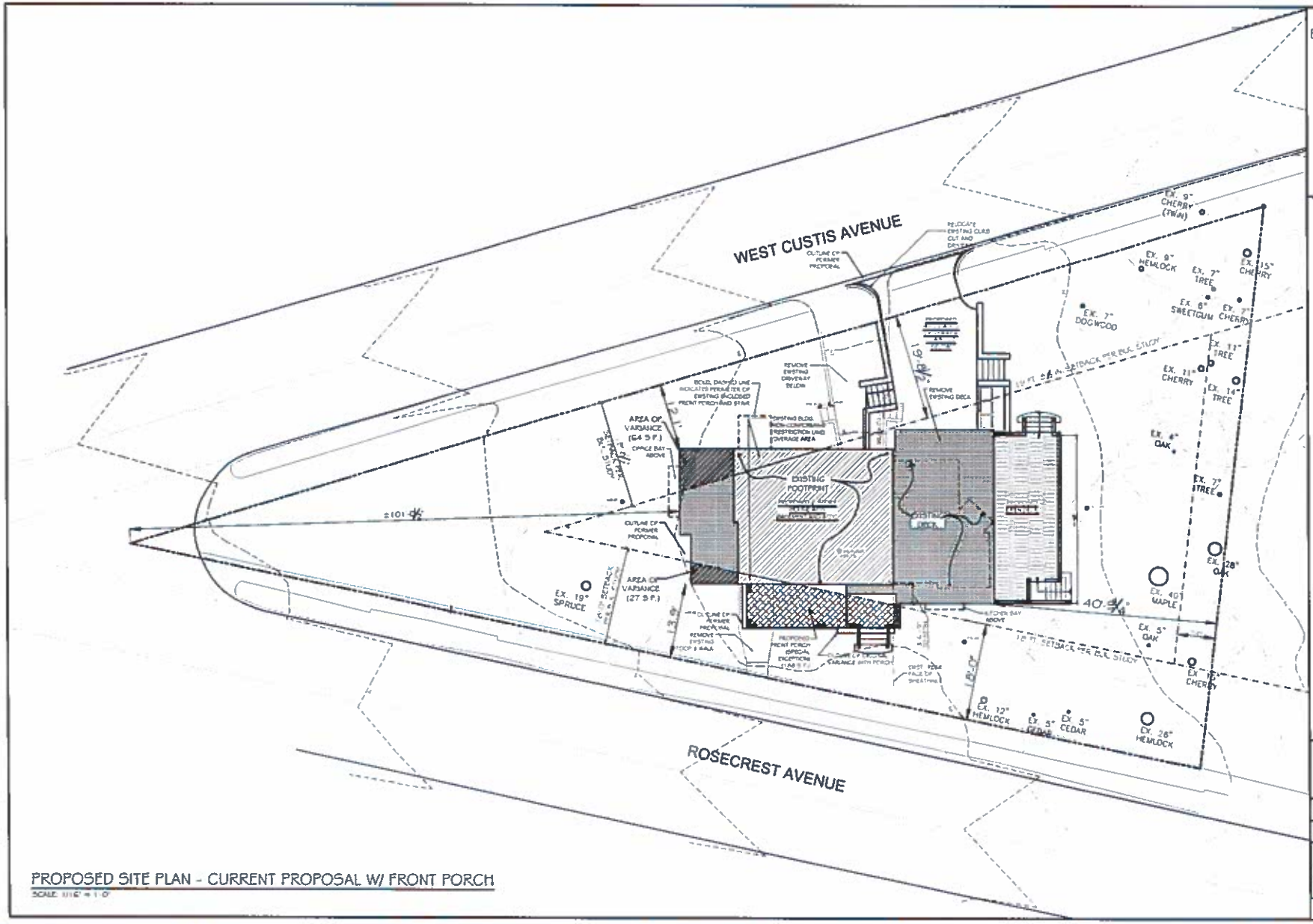


EXHIBIT 6



PROPOSED SITE PLAN - CURRENT PROPOSAL W/ FRONT PORCH

SCALE: 1/16" = 1'-0"

BALLARD MENSUA ARCHITECTURE

450 WEST BROAD STREET
FALLS CHURCH VA 22046
www.ballardmensua.com
703 992 7580

GALLES RESIDENCE

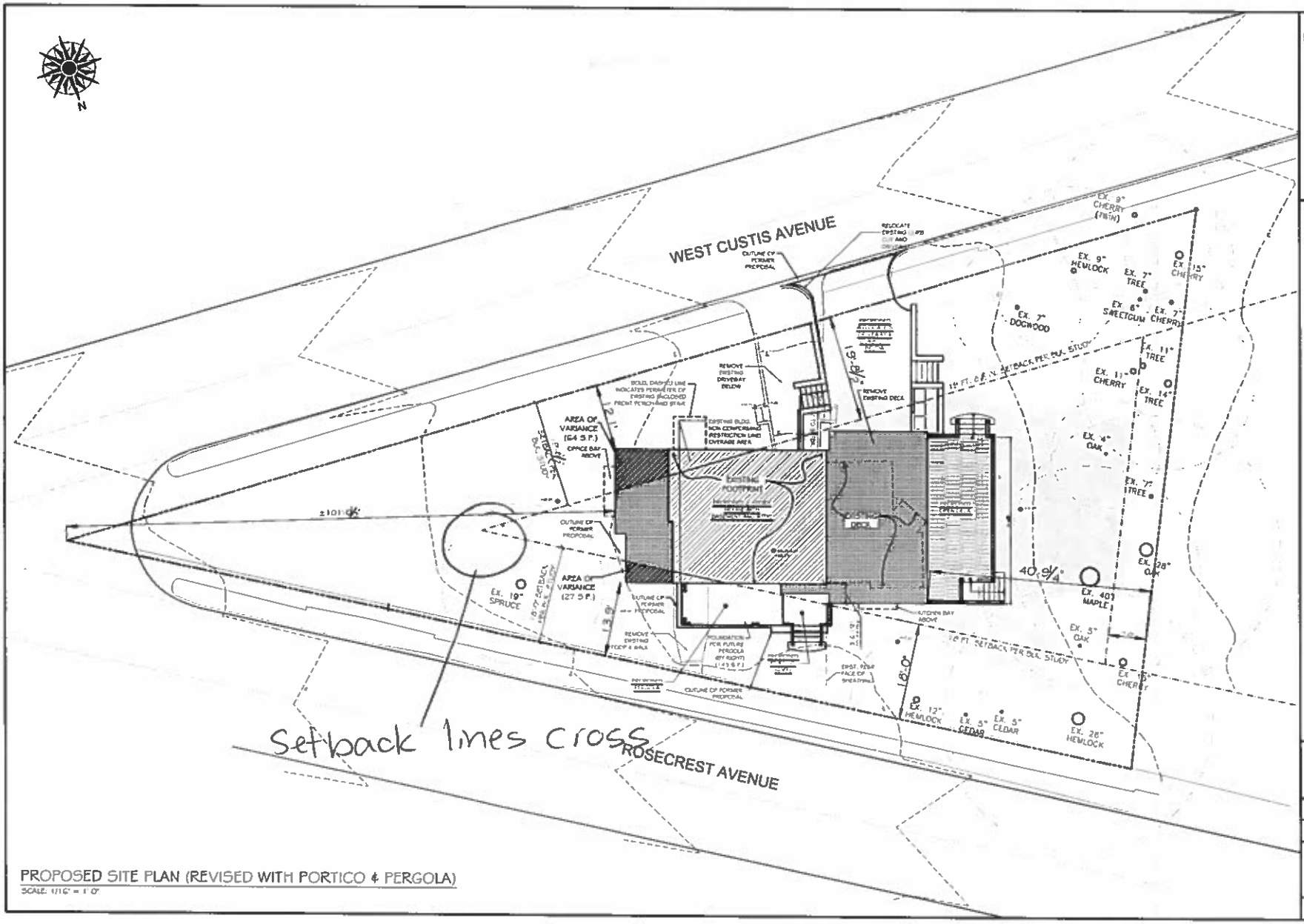
10 ROSECREST AVENUE
ALEXANDRIA, VA 22301

PROPOSED SITE PLAN

Project Issue	VARIANCE
Date	JULY 27, 2015

SP-porch

Scale



PROPOSED SITE PLAN (REVISED WITH PORTICO & PERGOLA)

SCALE: 1/16" = 1'-0"

BALLARD MENSUA ARCHITECTURE

450 WEST BROAD STREET
FALLS CHURCH VA 22046
www.ballardmensua.com
703 992.7580

GALLES RESIDENCE

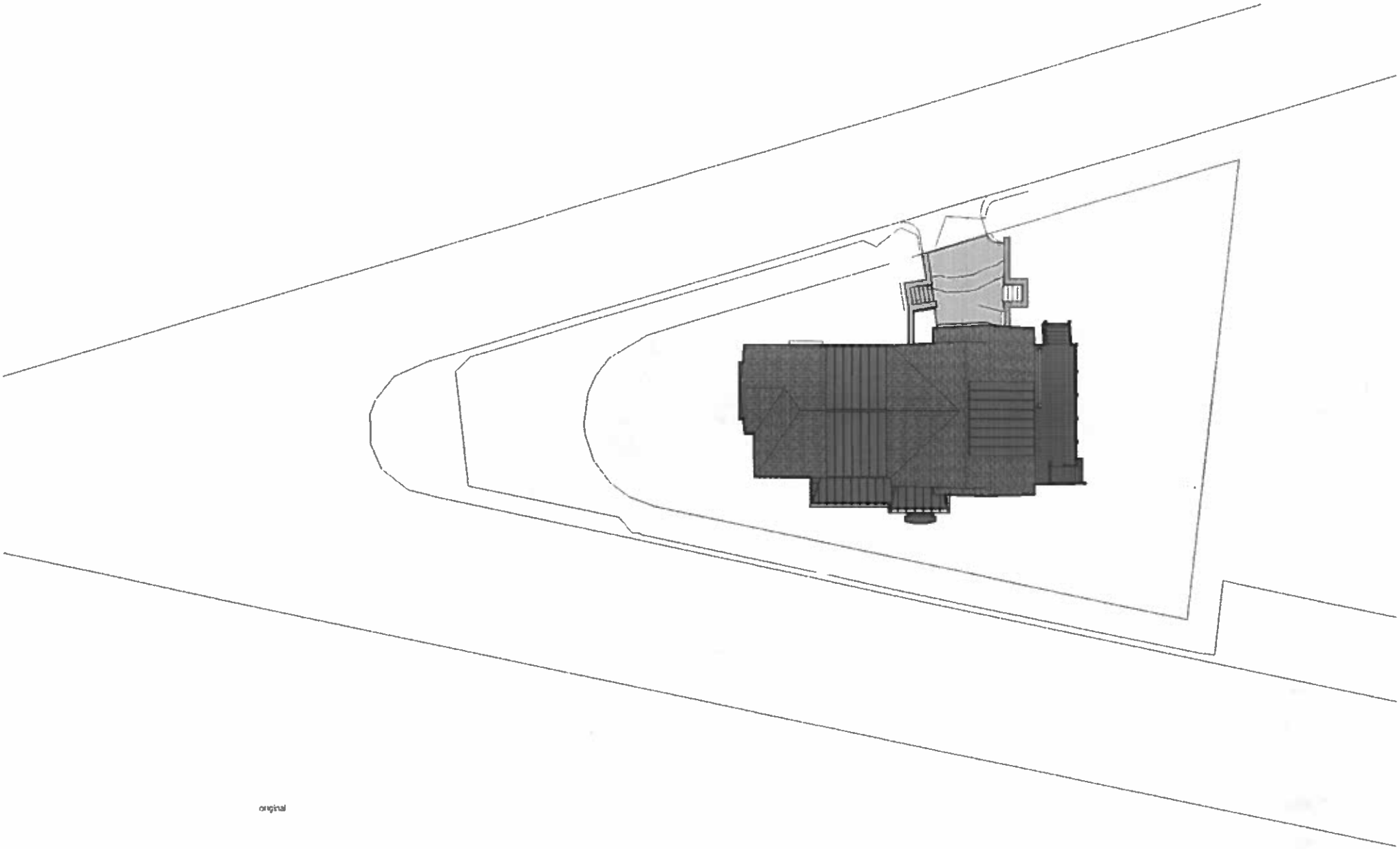
10 ROSECREST AVENUE
ALEXANDRIA, VA 22301

PROPOSED SITE PLAN

Project Issue	VARIANCE
Date	JULY 27, 2015

SP

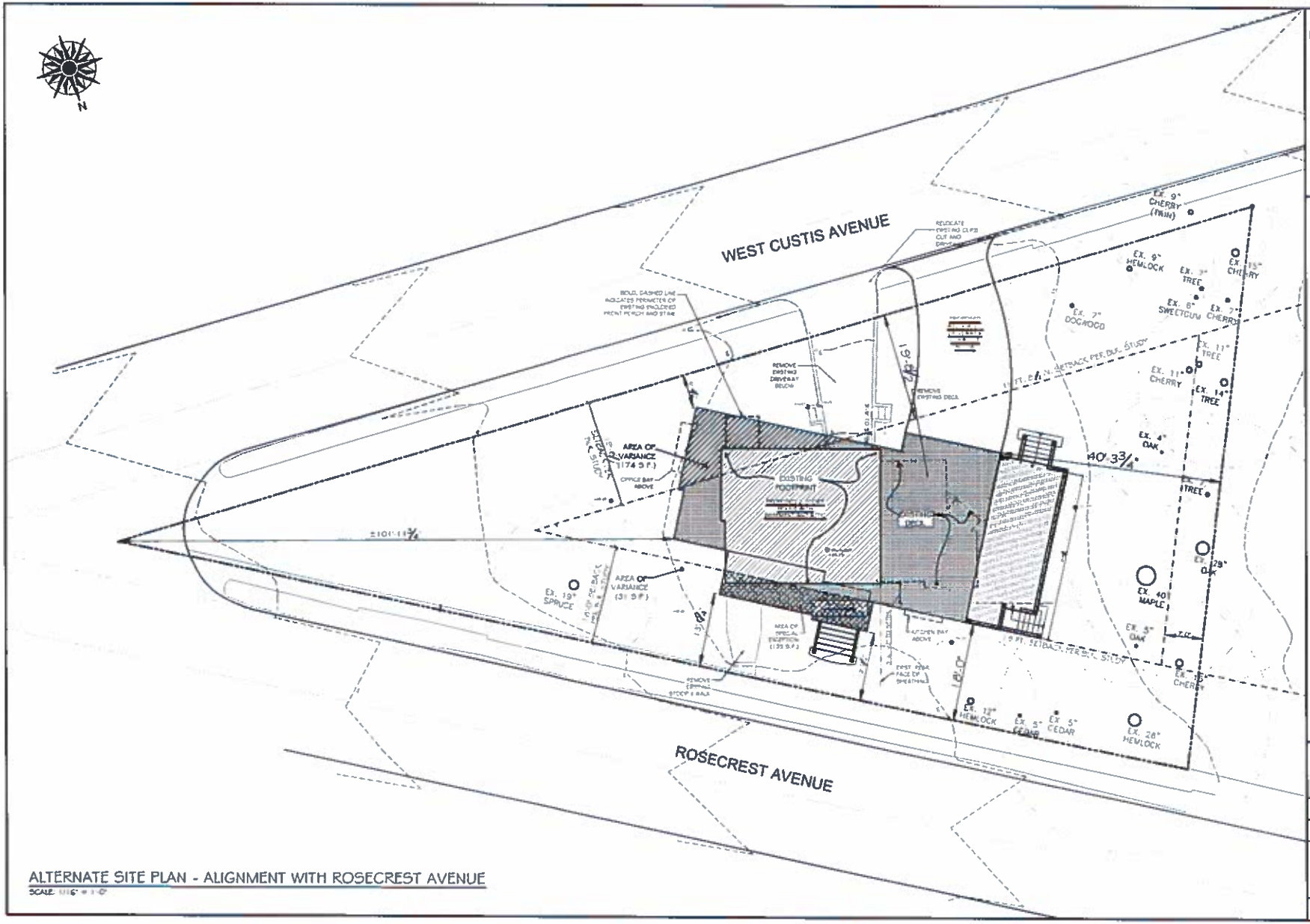
Scale



original

Aligned on axis of triangle

EXHIBIT 7



ALTERNATE SITE PLAN - ALIGNMENT WITH ROSECREST AVENUE

SCALE: 1/16" = 1'-0"

BALLARD MENSUA ARCHITECTURE

450 WEST BROAD STREET
FALLS CHURCH VA 22046
www.ballardmensua.com
703 992 7580

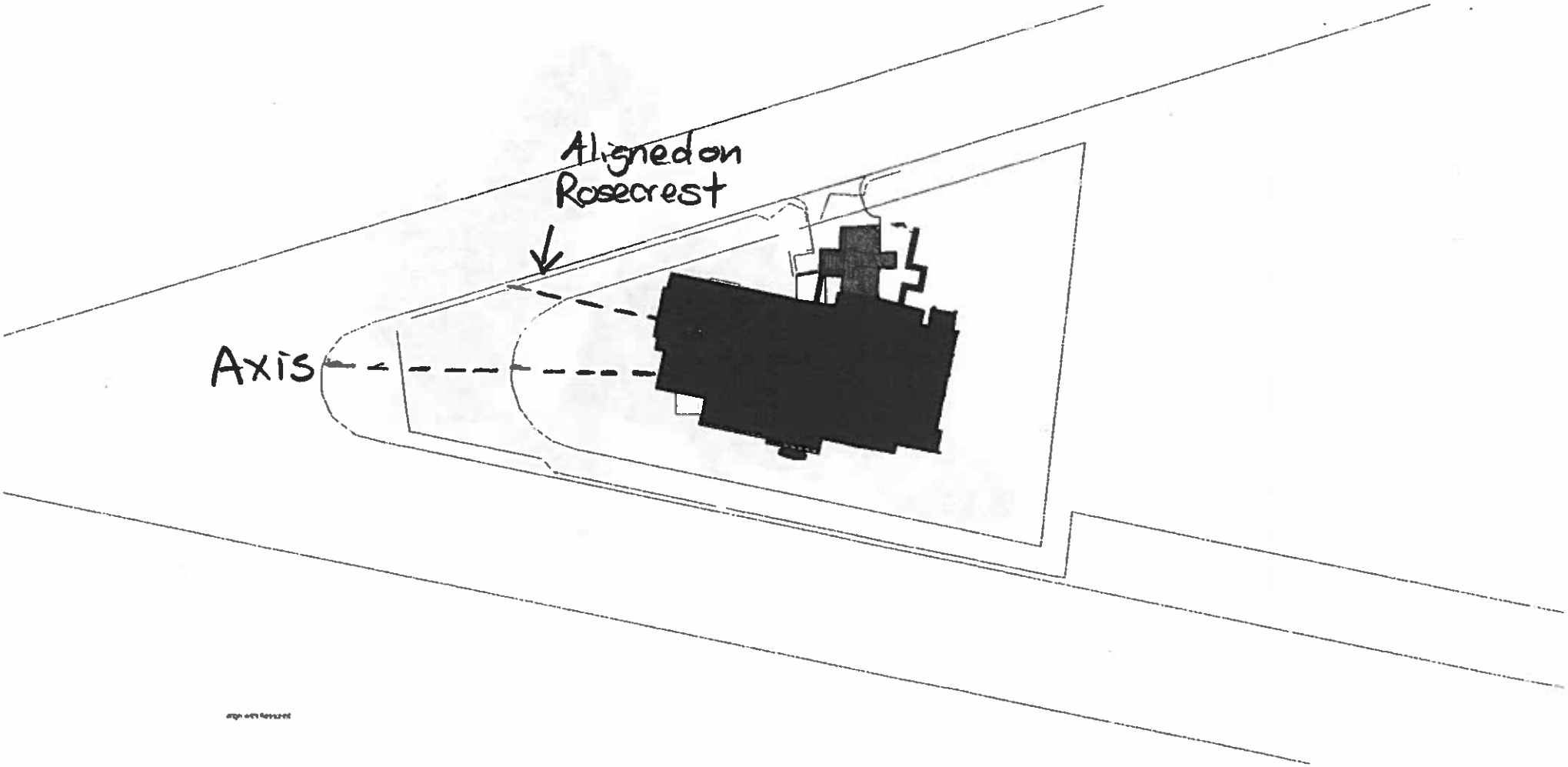
GALLES RESIDENCE

10 ROSECREST AVENUE
ALEXANDRIA, VA 22301

Project Issue	VARIANCE
Date	JULY 27, 2015

SP-R

Scale

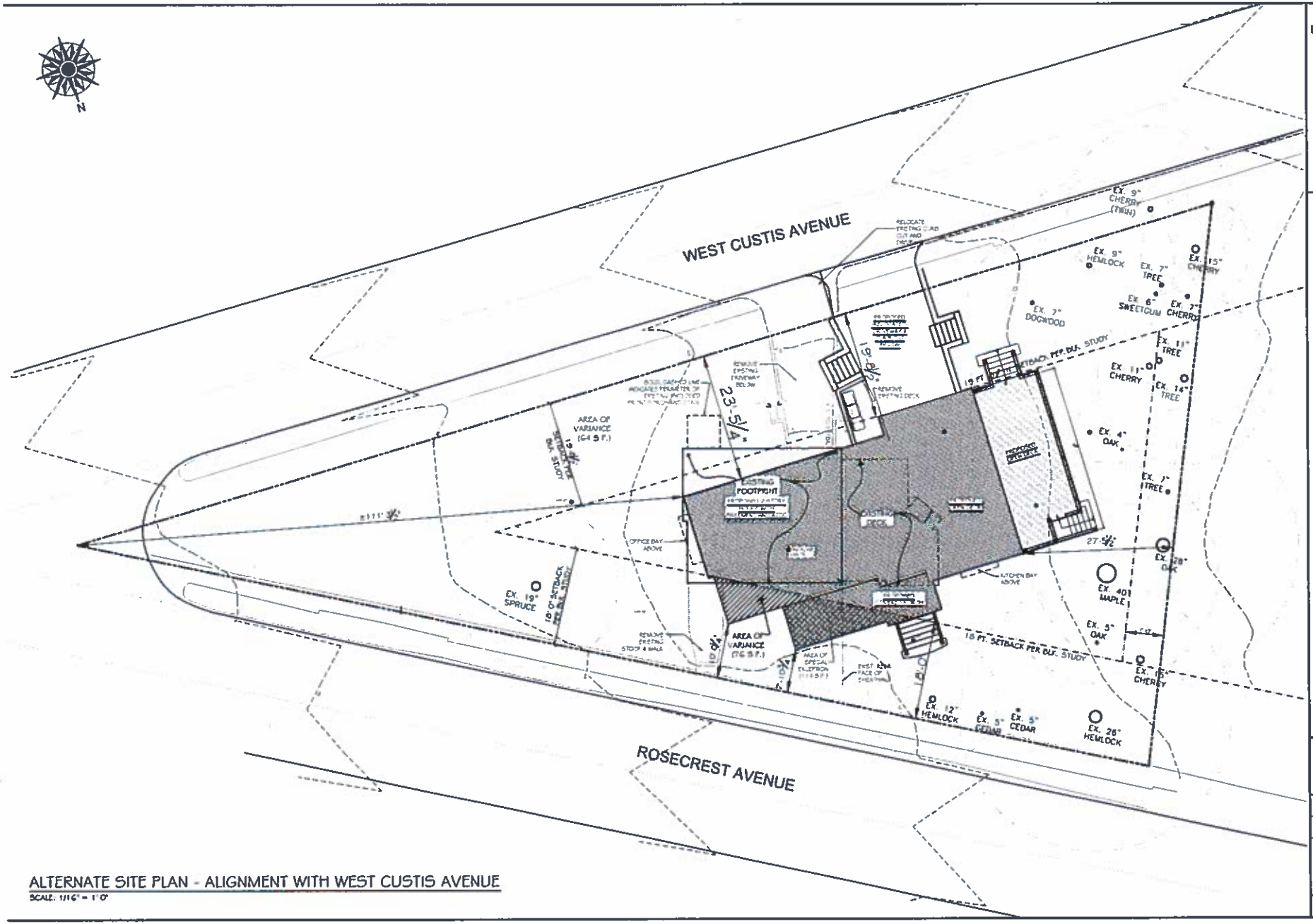


Aligned on Rosecrest

Sicherly der Alte

EXHIBIT

8



ALTERNATE SITE PLAN - ALIGNMENT WITH WEST CUSTIS AVENUE

SCALE: 1/16" = 1'-0"

BALLARD MENSUA
ARCHITECTURE
450 WEST BROAD STREET
FALLS CHURCH VA 22046
www.ballardmensua.com
703.992.7560

GALLES RESIDENCE

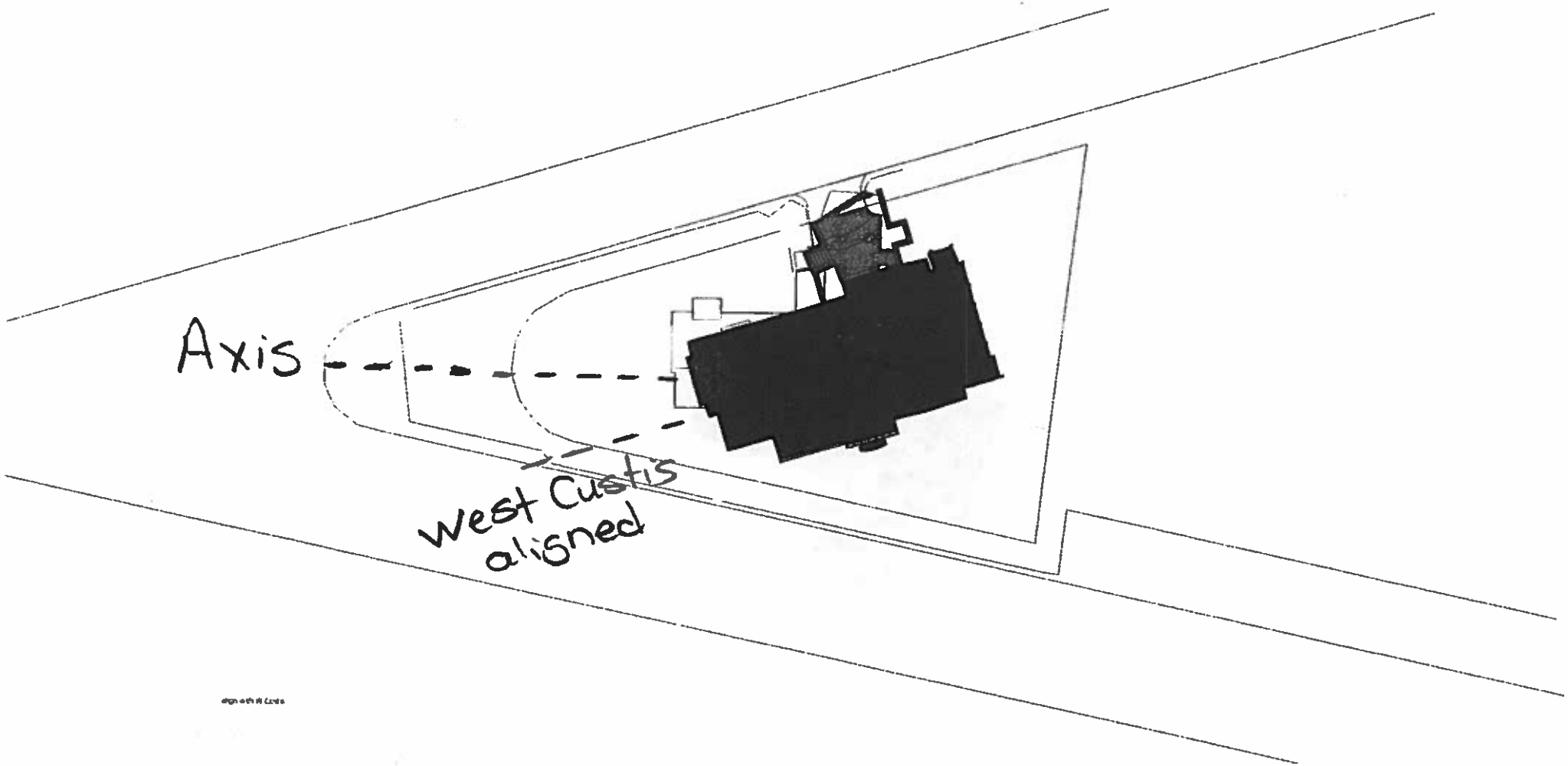
10 ROSECREST AVENUE
ALEXANDRIA, VA 22301

PROPOSED SITE PLAN

Project Issue	VARIANCE
Date	JULY 27, 2015

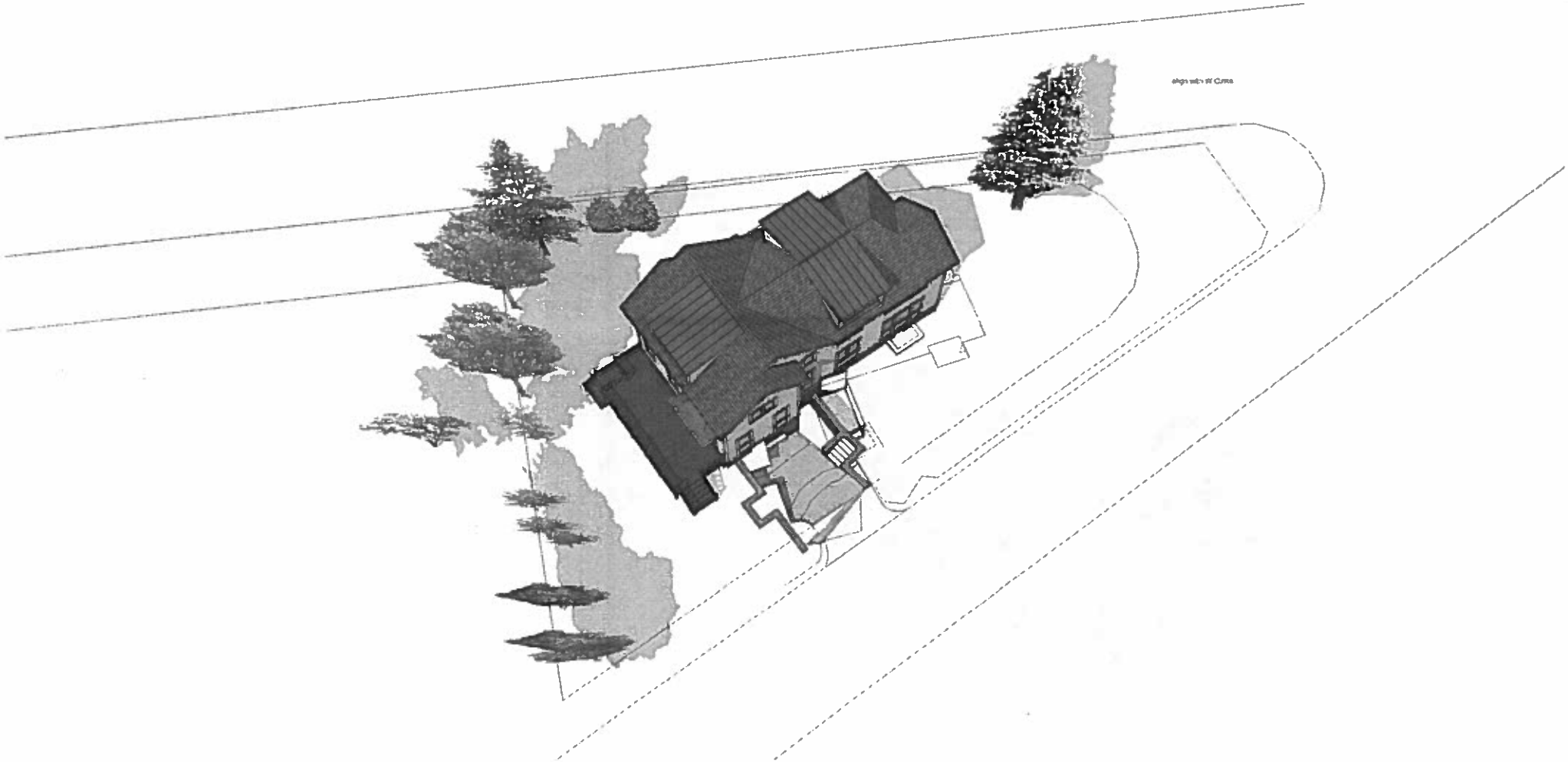
SP-W

Scale



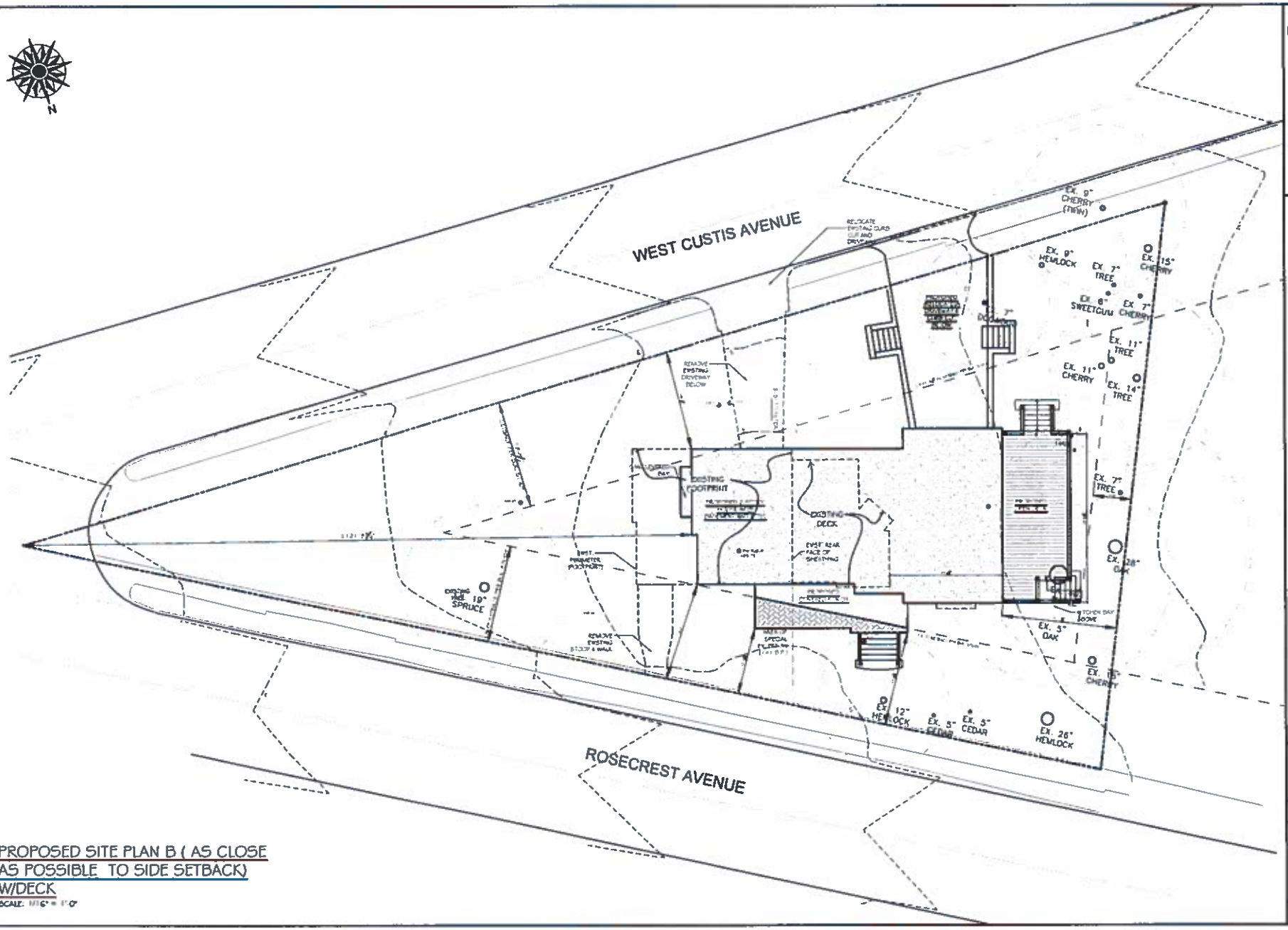
Aligned on West Custis

Image ©2015 CNES


align with W Curve

EXHIBIT

9



PROPOSED SITE PLAN B (AS CLOSE AS POSSIBLE TO SIDE SETBACK) W/DECK

SCALE: 1/16" = 1'-0"

BALLARD MENSUA ARCHITECTURE

450 WEST BROAD STREET
FALLS CHURCH VA 22046
www.ballardmensua.com
703 992 7560

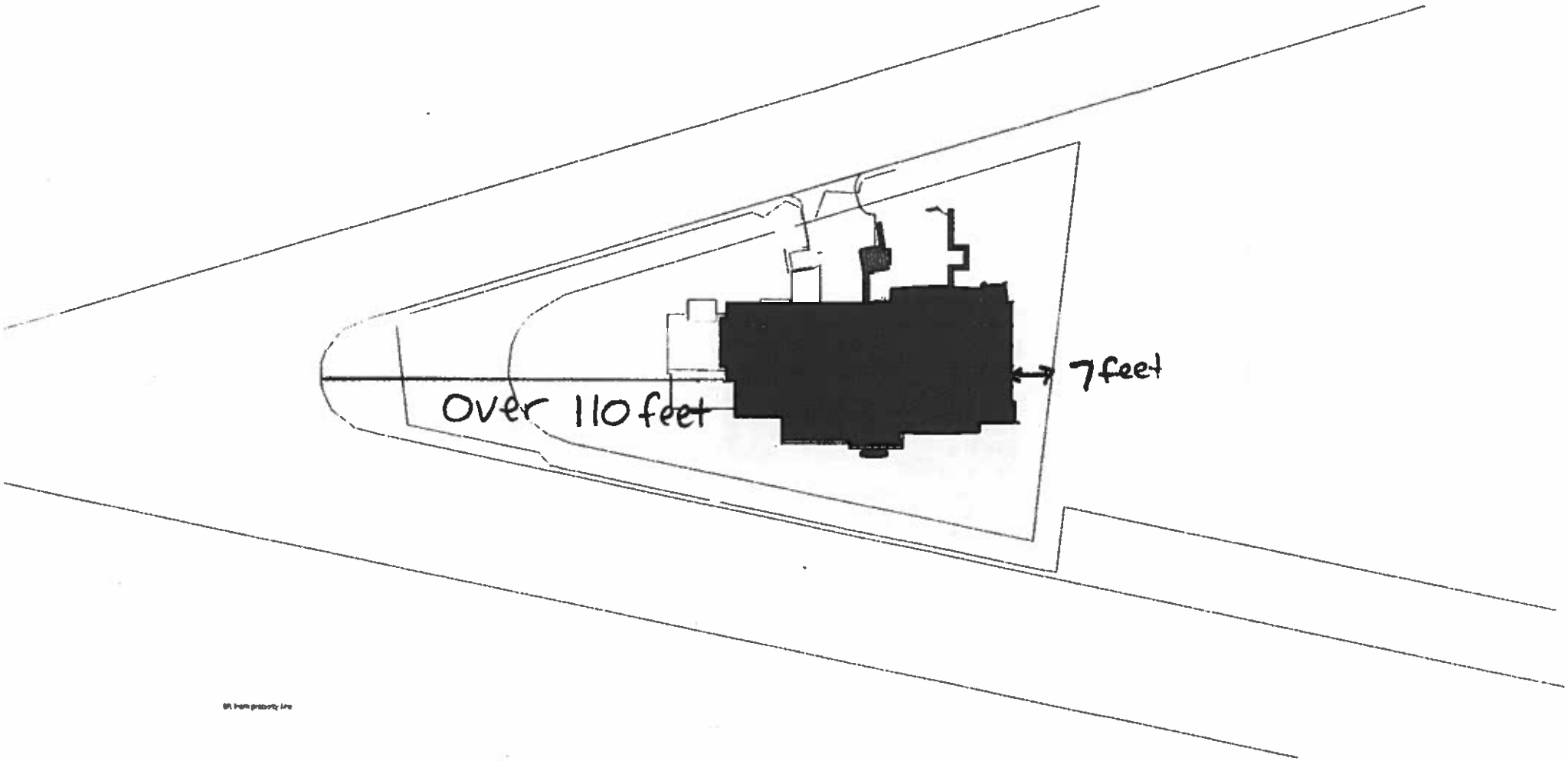
GALLES RESIDENCE

10 ROSECREST AVENUE
ALEXANDRIA, VA 22301

Project Issue	VARIANCE
Date	JULY 27, 2015

SP-4

Scale



Back of lot

55 North property line

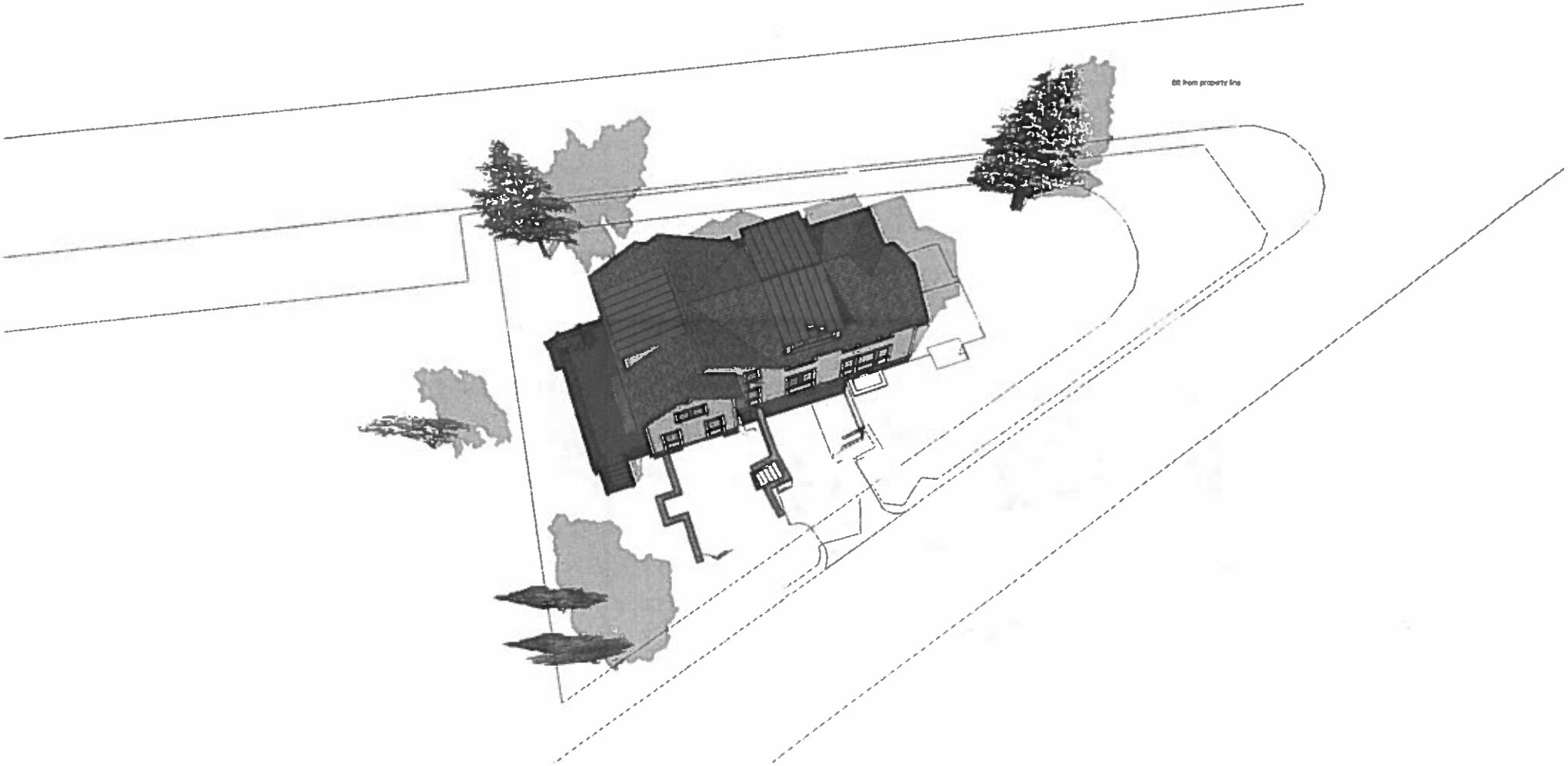
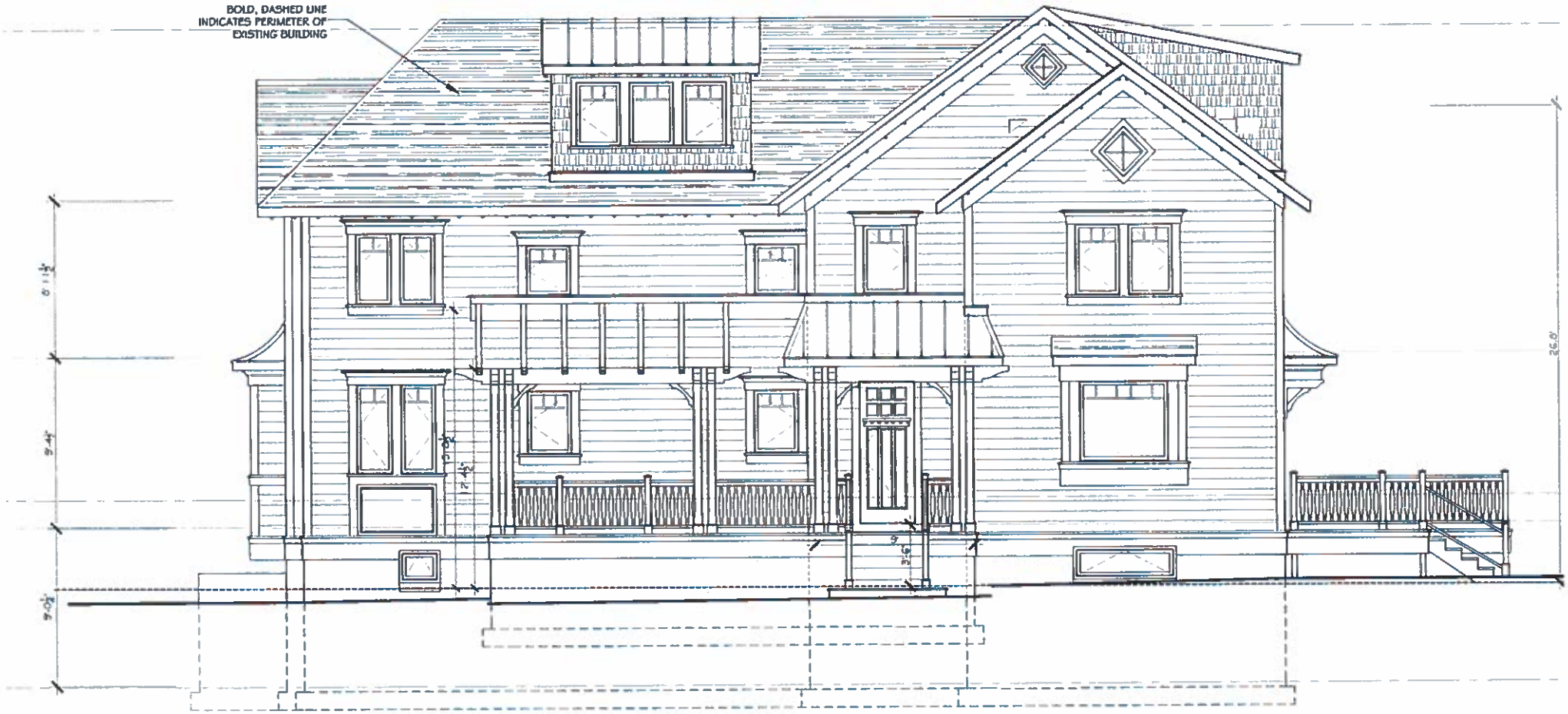
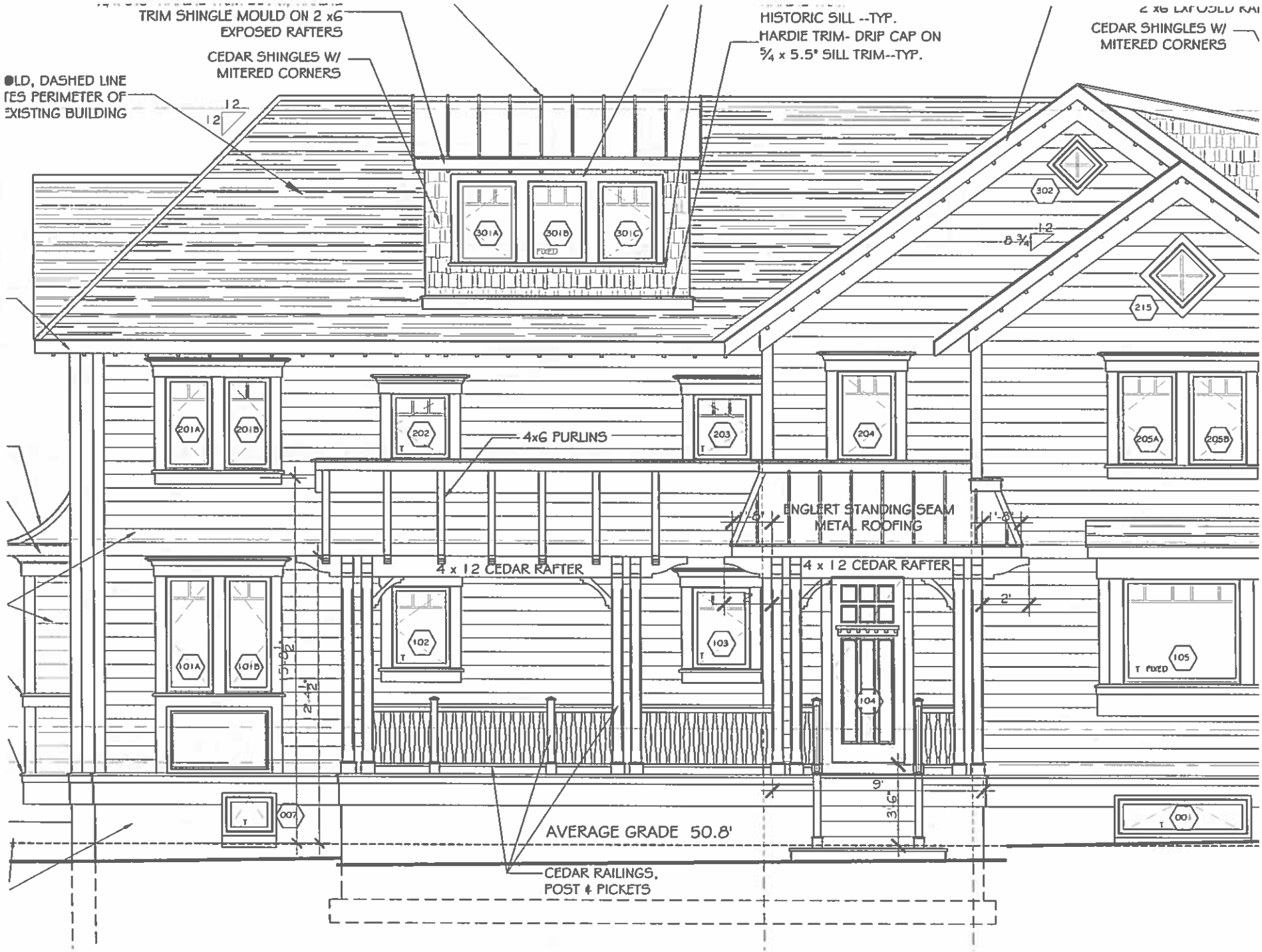
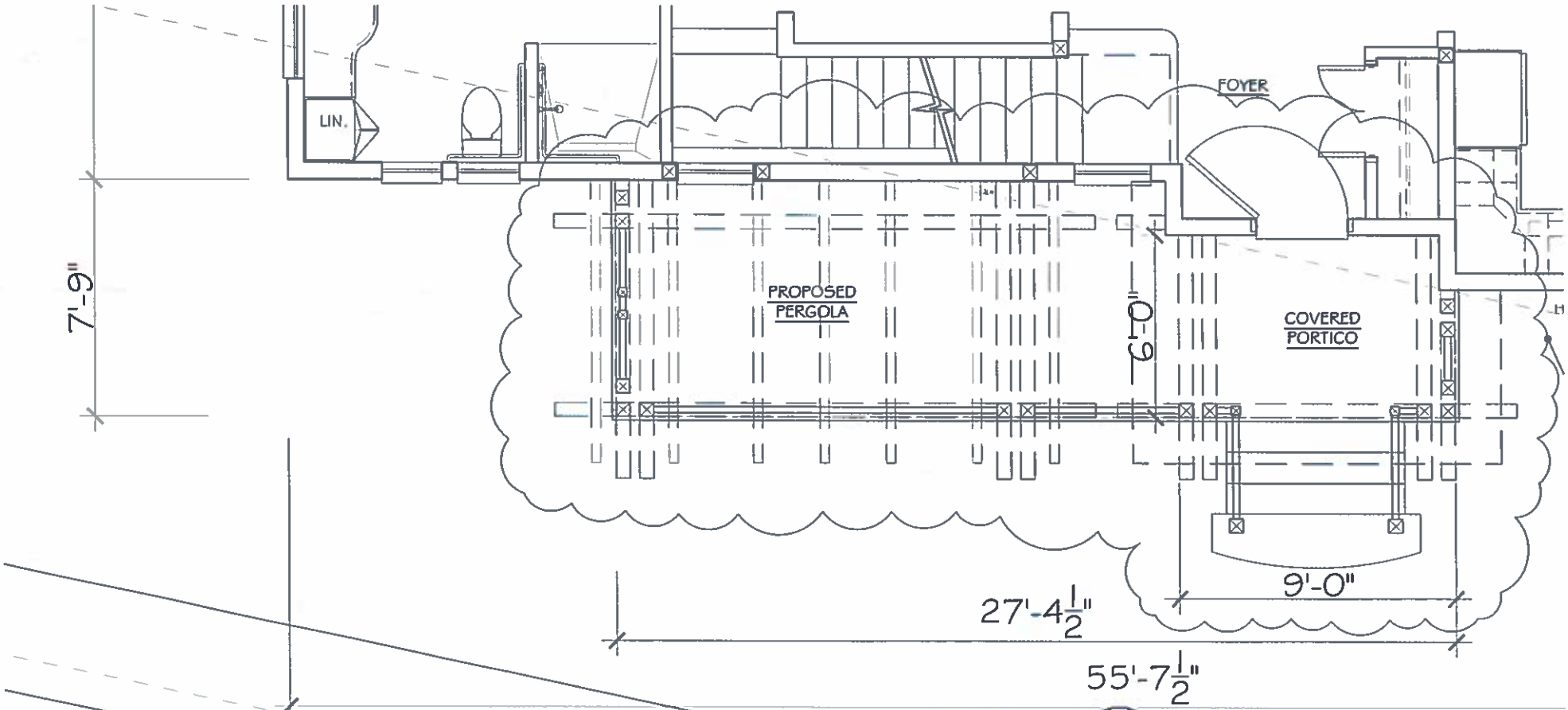

88 from property line

EXHIBIT
10


BOLD, DASHED LINE
INDICATES PERIMETER OF
EXISTING BUILDING
26.0'


TRIM SHINGLE MOULD ON 2 x6 EXPOSED RAFTERS
CEDAR SHINGLES W/ MITERED CORNERS
OLD, DASHED LINE TES PERIMETER OF EXISTING BUILDING
HISTORIC SILL --TYP.
HARDIE TRIM- DRIP CAP ON 5/4 x 5.5" SILL TRIM--TYP.
CEDAR SHINGLES W/ MITERED CORNERS
12
12
301A
301B
FIXED
301C
302
8 3/4
12
215
201A
201B
202
203
204
205A
205B
4x6 PURLINS
ENGLERT STANDING SEAM METAL ROOFING
1'-8"
1'-8"
4 x 12 CEDAR RAFTER
4 x 12 CEDAR RAFTER
2'
101A
101B
102
103
104
105
T FIXED
5'-8 1/2"
2'-4 1/2"
9'
3'-6"
007
001
AVERAGE GRADE 50.8'
CEDAR RAILINGS, POST & PICKETS



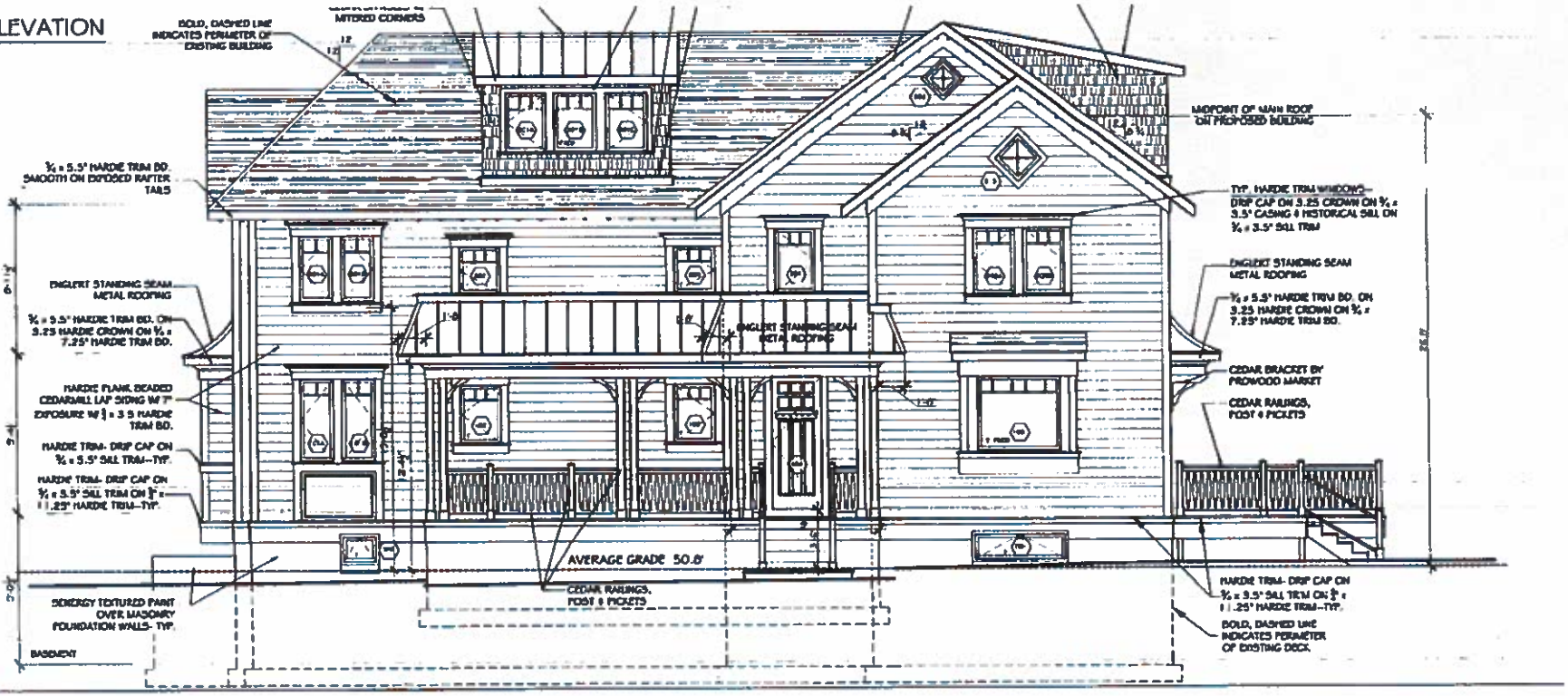
PROPOSED FIRST FLOOR PLAN

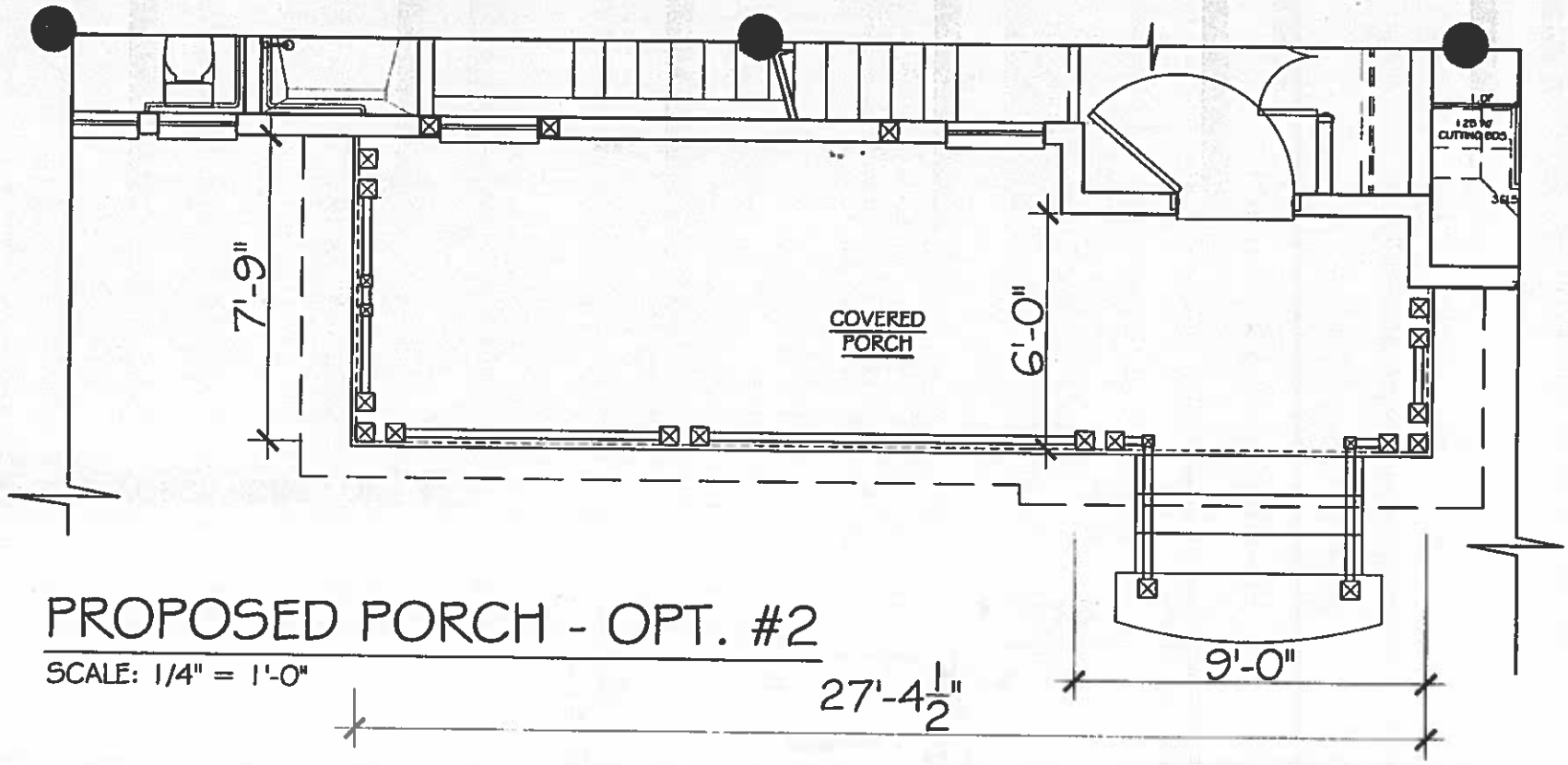
SCALE: 1/4" = 1'-0"

OPTION OF PERGOLA &
6' x 9' PORTICO BY RIGHT

EXHIBIT
11

(NORTH) ELEVATION





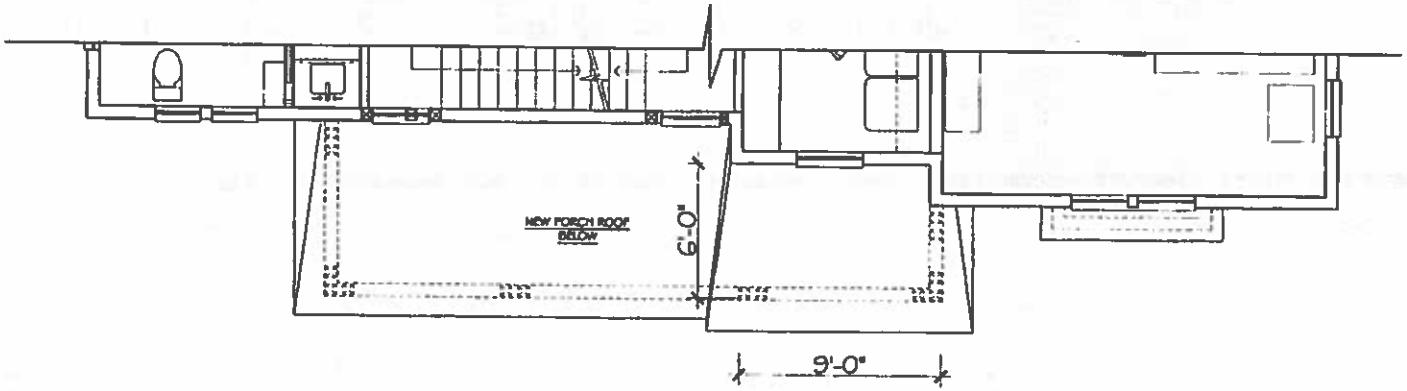
PROPOSED PORCH - OPT. #2

SCALE: 1/4" = 1'-0"

OPTION OF PORCH ON SAME FOOTPRINT OF PORTICO AND PERGOLA BY RIGHT.

PREFERRED BY ALL NEIGHBORS.

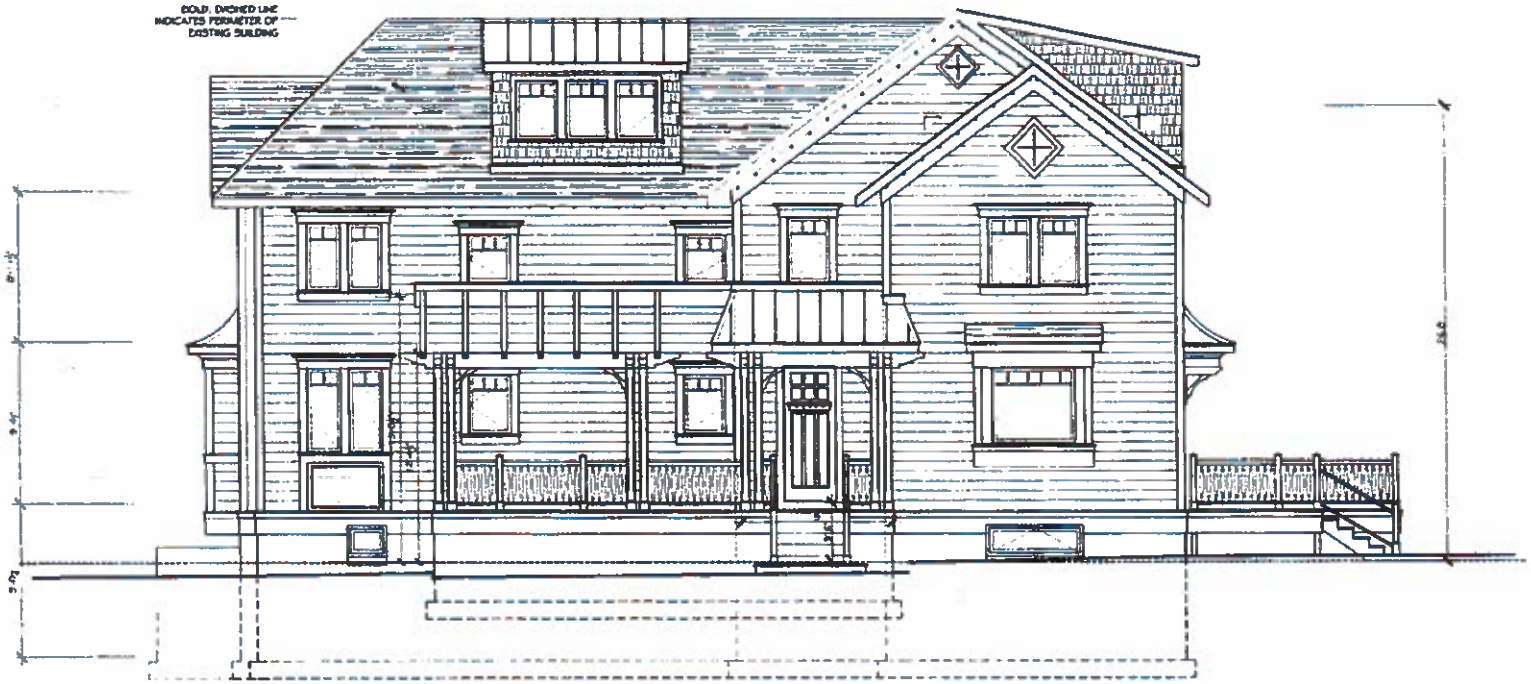
SMALLER THAN ORIGINAL PROPOSAL AND PUSHED BACK 12".



PROPOSED PORCH ROOF - OPT. #2

SCALE: 1/4" = 1'-0"

EXHIBIT
12



TH) ELEVATION

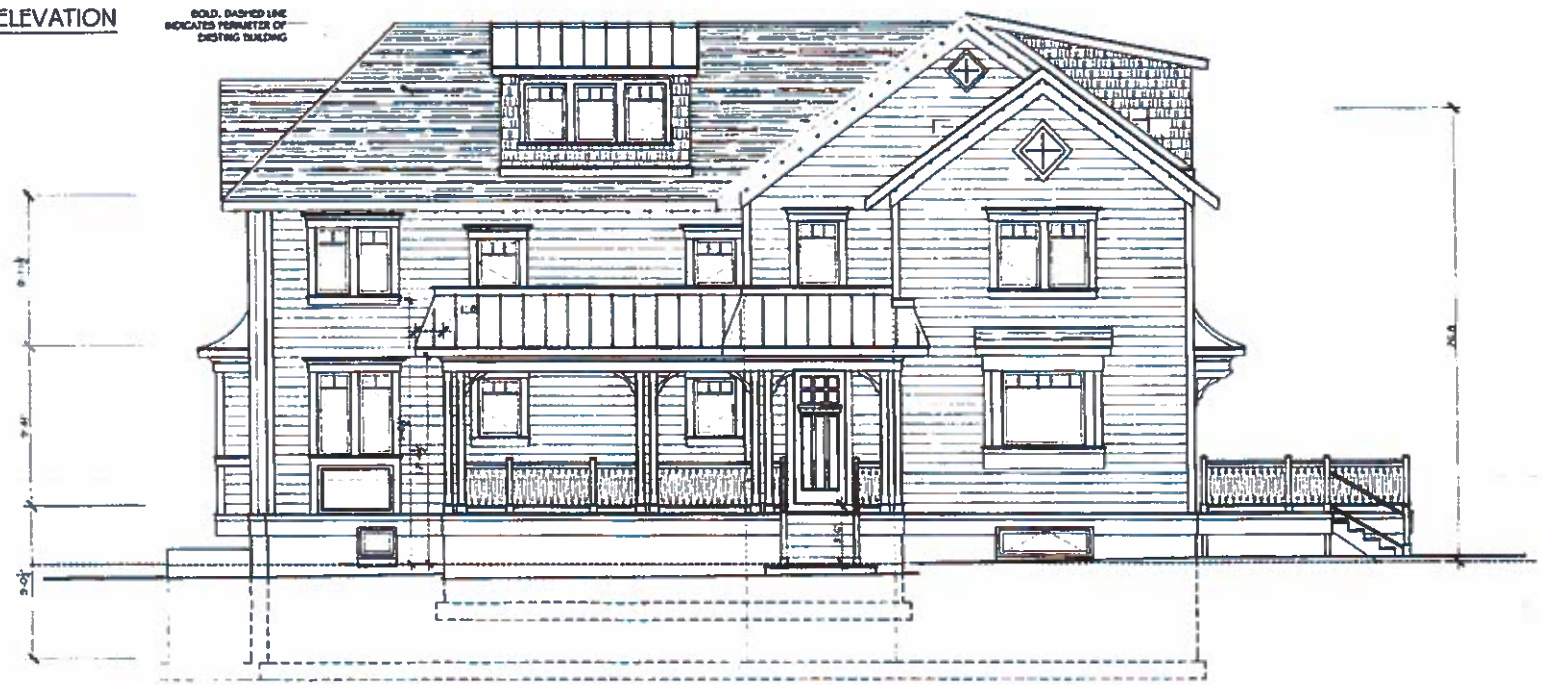
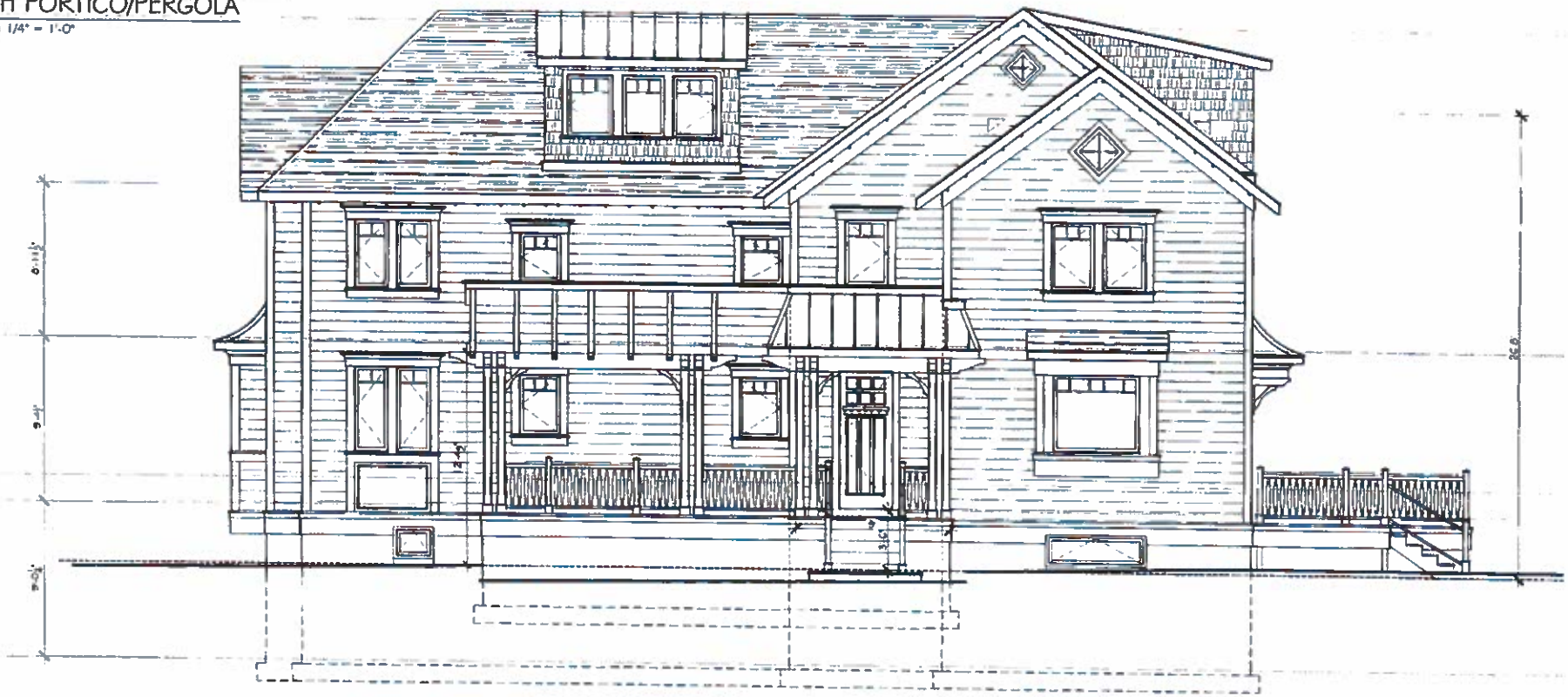


EXHIBIT
13

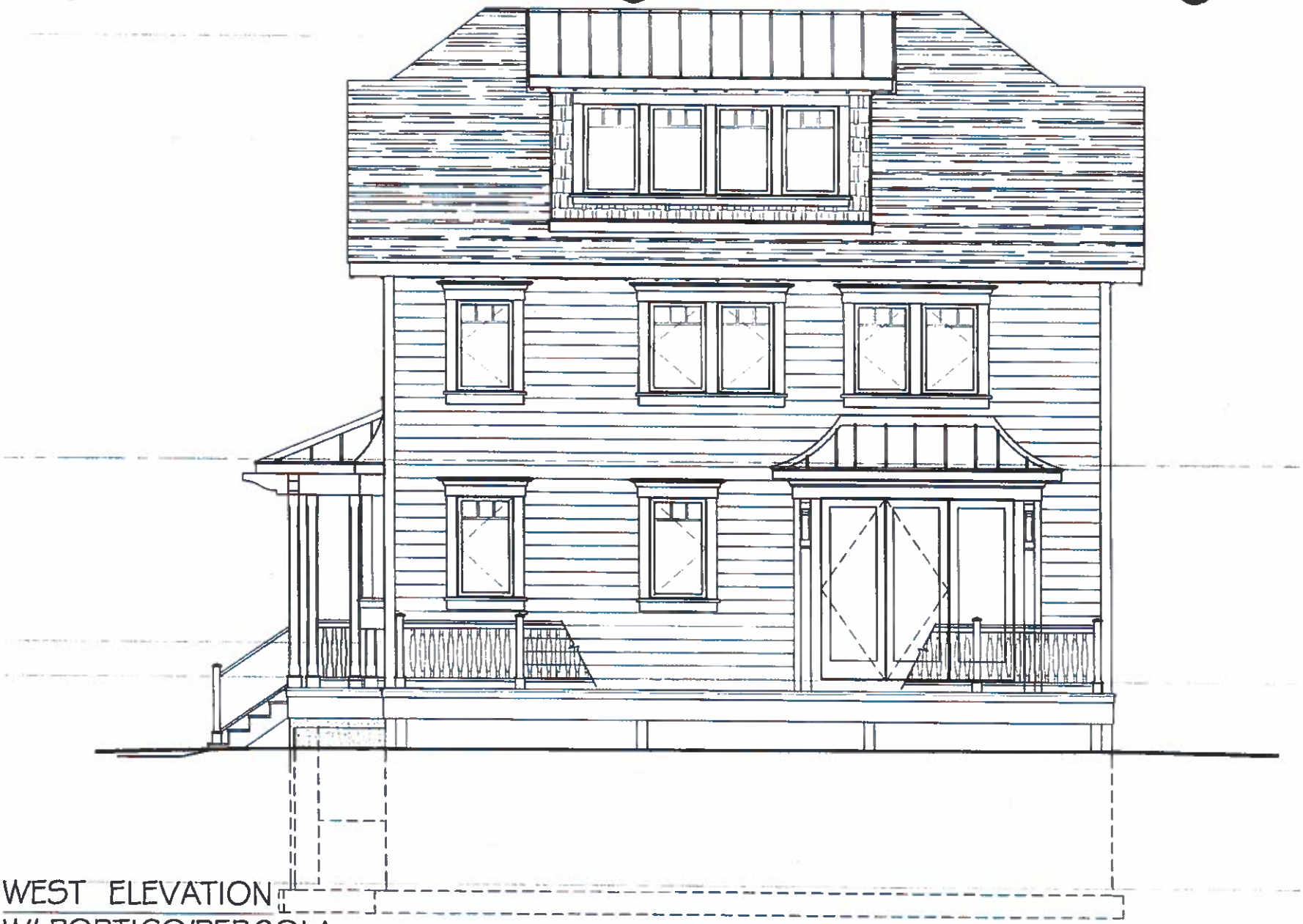
ROSECREST AVENUE (NORTH) ELEVATION
WITH PORTICO/PERGOLA

SCALE: 1/4" = 1'-0"



EAST ELEVATION
W/ PORTICO/PERGOLA

SCALE: 1/4" = 1'-0"



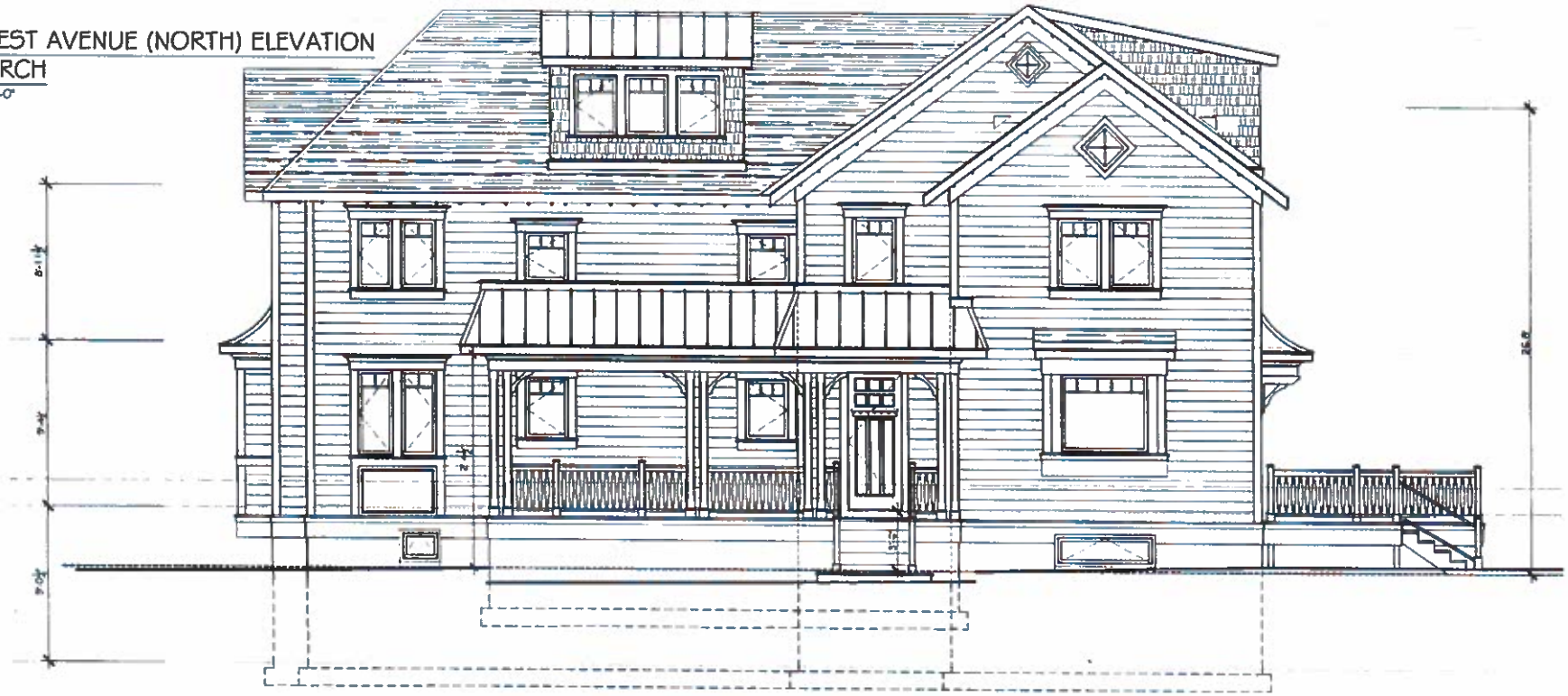
WEST ELEVATION
W/ PORTICO/PERGOLA

SCALE: 1/4" = 1'-0"

EXHIBIT
14

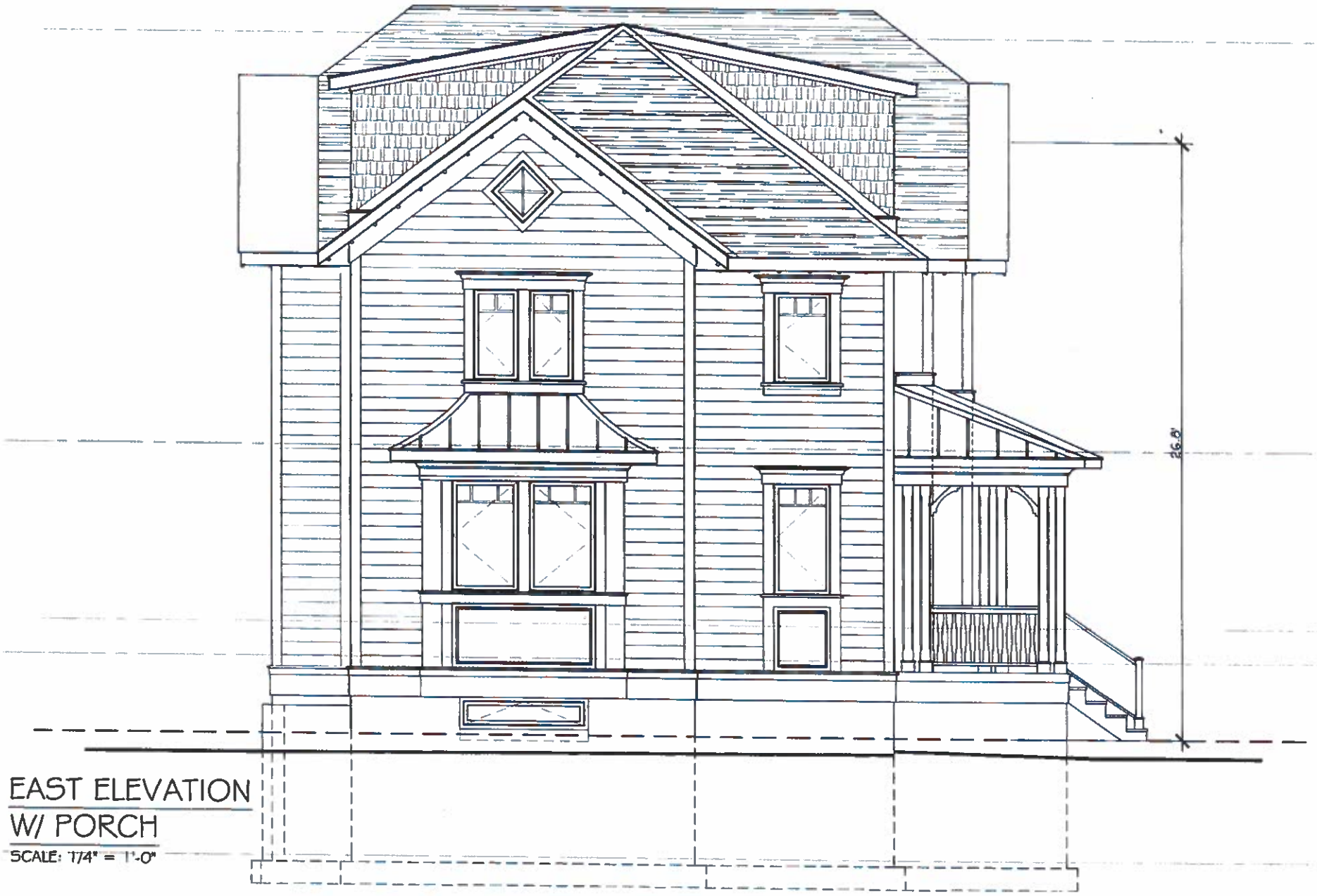
ROSECREST AVENUE (NORTH) ELEVATION
WITH PORCH

SCALE: 1/4" = 1'-0"

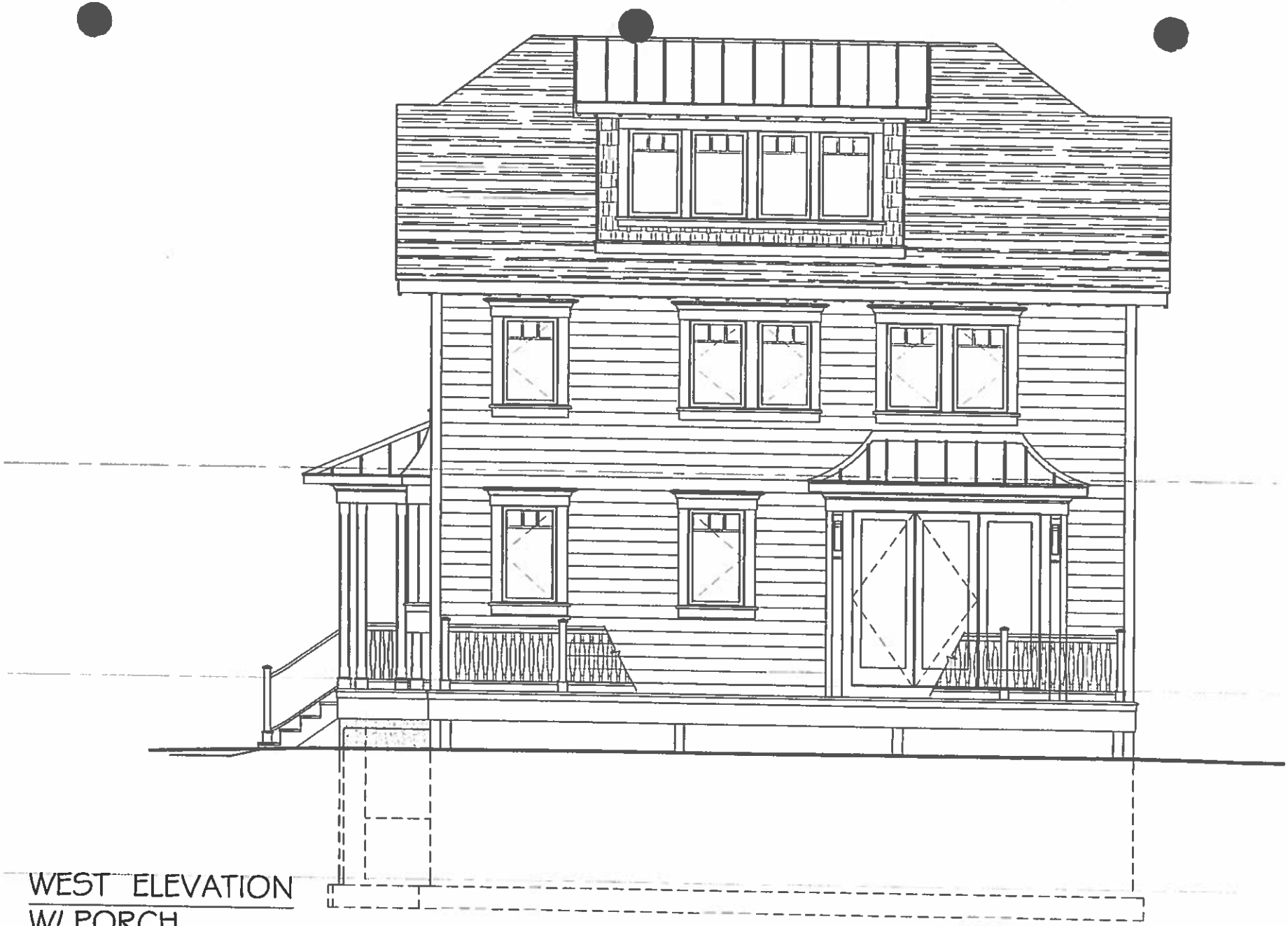


WEST CUSTIS (SOUTH) ELEVATION

SCALE: 1/4" = 1'-0"

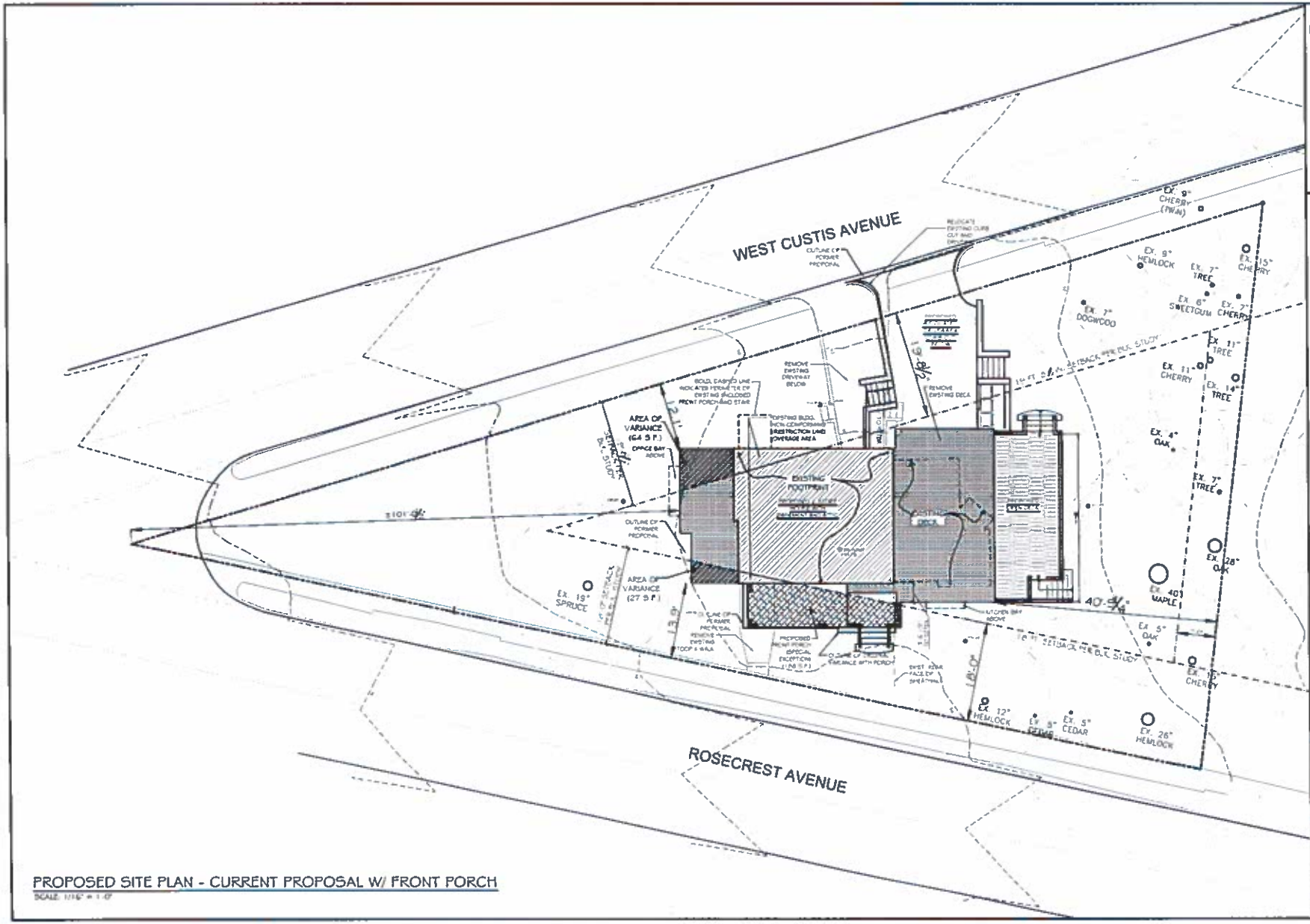


EAST ELEVATION
W/ PORCH
SCALE: 1/4" = 1'-0"



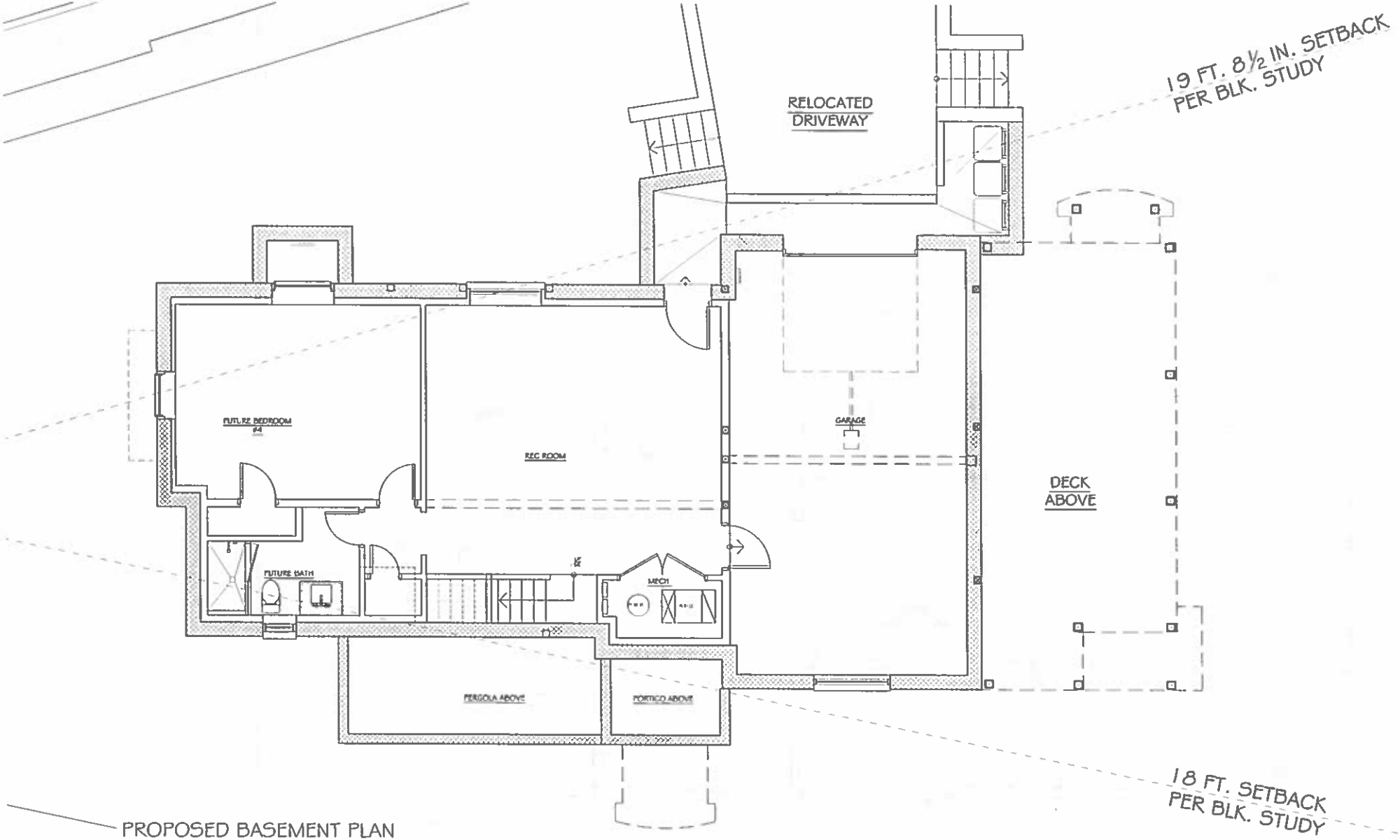
WEST ELEVATION
W/ PORCH
SCALE: 1/4" = 1'-0"

EXHIBIT
15



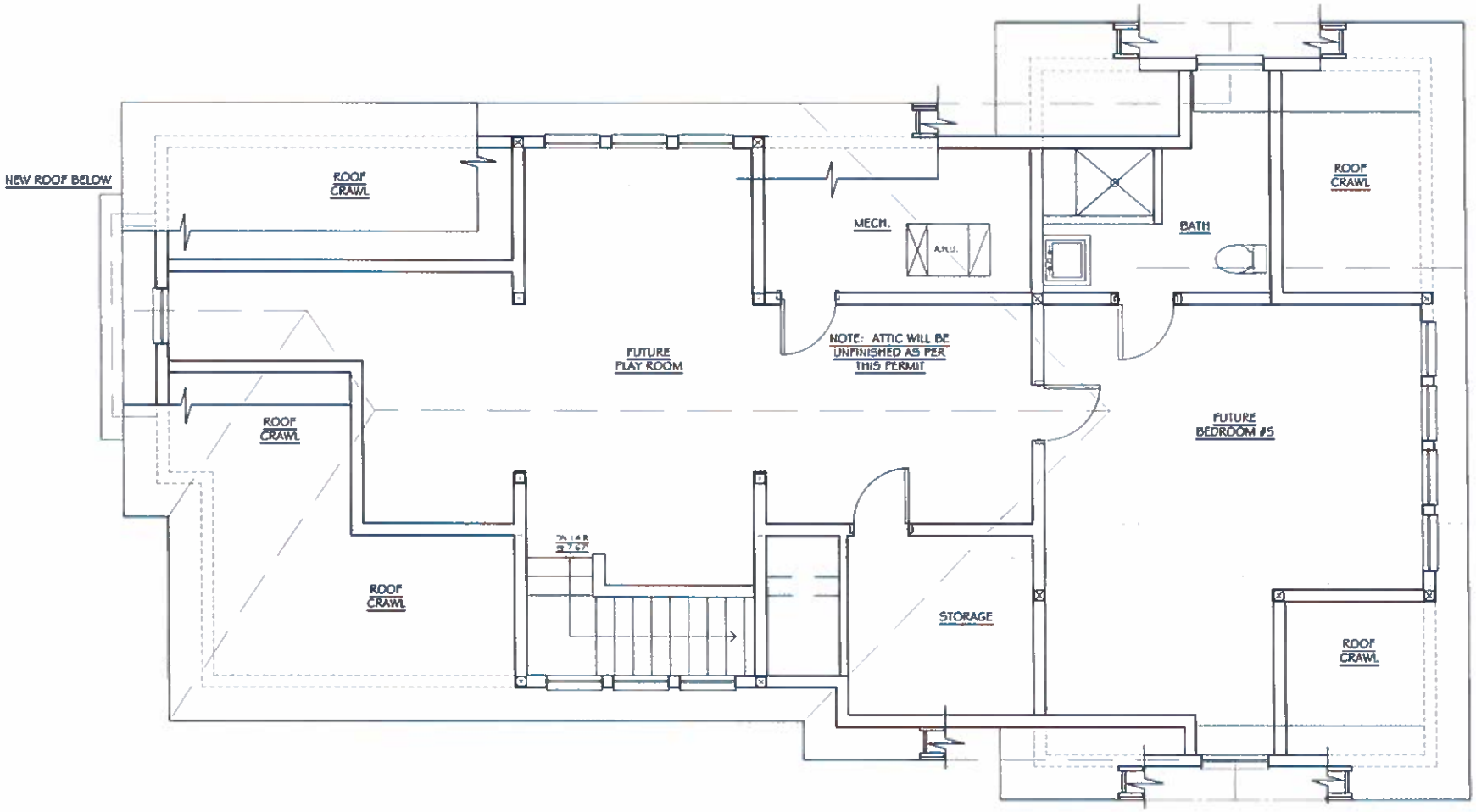
PROPOSED SITE PLAN - CURRENT PROPOSAL W/ FRONT PORCH

SCALE: 1/16" = 1'-0"



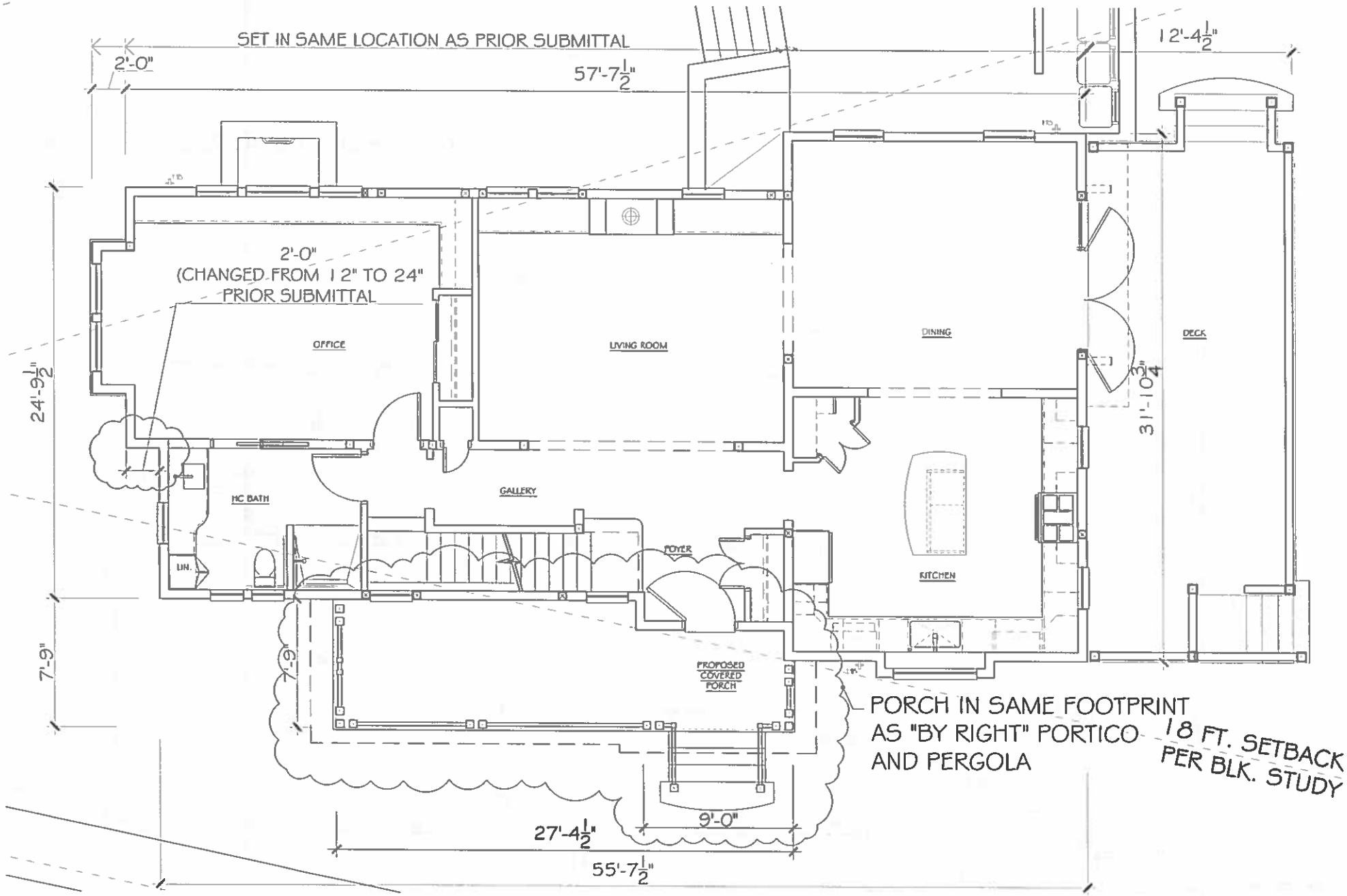
PROPOSED BASEMENT PLAN

SCALE: 1/4" = 1'-0"



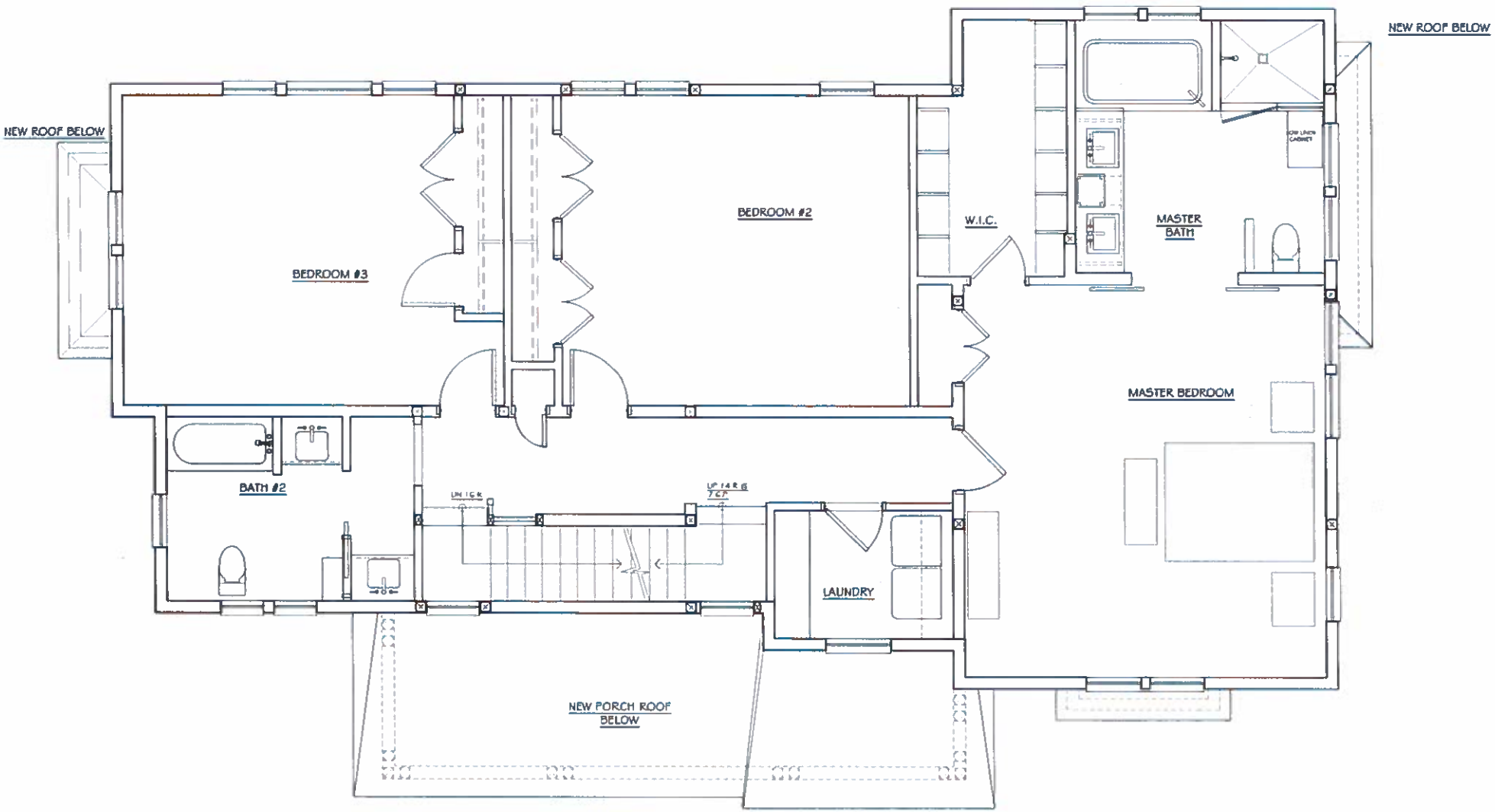
PROPOSED ATTIC PLAN

SCALE: 1/4" = 1'-0"



PROPOSED FIRST FLOOR PLAN

SCALE: 1/4" = 1'-0"



PROPOSED SECOND FLOOR PLAN

SCALE: 1/4" = 1'-0"

EXHIBIT
16

REVISED 11/19/15

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 10 ROSECREST AVENUE Zone R-5

A2. 9,351 *Total Lot Area* x 0.45 *Floor Area Ratio Allowed by Zone* = 4,208 SQ. FT. *Maximum Allowable Floor Area*

B. Existing Gross Floor Area

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

B1. Existing Gross Floor Area * 0 Sq. Ft.
B2. Allowable Floor Exclusions** 0 Sq. Ft.
B3. Existing Floor Area minus Exclusions 0 Sq. Ft.
(subtract B2 from B1)

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

Proposed Gross Area*		Allowable Exclusions	
Basement	1,580	Basement**	927
First Floor	1,554	Stairways**	214
Second Floor	1,554	Mechanical**	121
Third Floor	1,542	Porch/ Garage**	1216
Porches/ Other	639	Attic less than 5'**	476
Total Gross *	6,869	Total Exclusions	2,954

C1. Proposed Gross Floor Area * 6,869 Sq. Ft.
C2. Allowable Floor Exclusions** 2954 Sq. Ft.
C3. Proposed Floor Area minus Exclusions 3915 Sq. Ft.
(subtract C2 from C1)

D. Existing + Proposed Floor Area

D1. Total Floor Area (add B3 and C3) 3915 Sq. Ft.

D2. Total Floor Area Allowed by Zone (A2) 4,208 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 on 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.

F. 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: SMB Date: 11/19/15

Updated July 10, 2008

EXHIBIT
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§ 15.2-2309. Powers and duties of boards of zoning appeals
West's Annotated Code of Virginia Title 15.2. Counties, Cities and Towns Effective: July 1, 2009 to June 30, 2015 (Approx. 3 pages)

West's Annotated Code of Virginia
Title 15.2. Counties, Cities and Towns (Refs & Annos)
Subtitle II. Powers of Local Government
Chapter 22. Planning, Subdivision of Land and Zoning (Refs & Annos)
Article 7. Zoning (Refs & Annos)

This section has been updated. Click here for the updated version.

Effective: July 1, 2009 to June 30, 2015

VA Code Ann. § 15.2-2309

§ 15.2-2309. Powers and duties of boards of zoning appeals

Boards of zoning appeals shall have the following powers and duties:

1. To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this article or of any ordinance adopted pursuant thereto. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The board shall consider the purpose and intent of any applicable ordinances, laws and regulations in making its decision.

2. To authorize upon appeal or original application in specific cases such variance as defined in § 15.2-2201 from the terms of the ordinance as will not be contrary to the public interest, when, owing to special conditions a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of the ordinance shall be observed and substantial justice done, as follows:

When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the utilization of the property or where the board is satisfied, upon the evidence heard by it, that the granting of the variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the ordinance.

No such variance shall be authorized by the board unless it finds:

a. That the strict application of the ordinance would produce undue hardship relating to the property;

b. That the hardship is not shared generally by other properties in the same zoning district and the same vicinity; and

c. That the authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

No variance shall be authorized except after notice and hearing as required by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

No variance shall be authorized unless the board finds that the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably

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Self-inflicted hardship, variances
Good faith, variances
Impact of variance, variances
Notice, variances
General or recurring conditions, variances
Other variances
Exception and variance distinguished
Variance and exception distinguished
Special exceptions
Standing, special exceptions
Conditions, special exceptions
Permits, special exceptions
Revocation of special exception
Discrimination
Standing, generally
Pleading
Equity
Presumptions and burden of proof
Findings
Mandamus
Standard of review

practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.

In authorizing a variance the board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. Notwithstanding any other provision of law, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

3. To hear and decide appeals from the decision of the zoning administrator after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

4. To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by § 15.2-2204, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

5. No provision of this section shall be construed as granting any board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.

6. To hear and decide applications for special exceptions as may be authorized in the ordinance. The board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

No special exception may be granted except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

7. To revoke a special exception previously granted by the board of zoning appeals if the board determines that there has not been compliance with the terms or conditions of the permit. No special exception may be revoked except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. If a governing body reserves unto itself the right to issue special exceptions pursuant to § 15.2-2286, and, if the governing body determines that there has not been compliance with the terms and conditions of the permit, then it may also revoke special exceptions in the manner provided by this subdivision.

8. The board by resolution may fix a schedule of regular meetings, and may also fix the day or days to which any meeting shall be continued if the chairman, or vice-chairman if the chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting in accordance with § 15.2-2312 shall be conducted

at the continued meeting and no further advertisement is required.

Credits

Acts 1997, c. 587, eff. Dec. 1, 1997; Acts 2000, c. 1050; Acts 2002, c. 546; Acts 2003, c. 403; Acts 2006, c. 264; Acts 2008, c. 318; Acts 2009, c. 206.

Notes of Decisions (111)

VA Code Ann. § 15.2-2309, VA ST § 15.2-2309
Current through End of the 2015 Reg. Sess.

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EXHIBIT
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§ 15.2-2309. Powers and duties of boards of zoning appeals
West's Annotated Code of Virginia Title 15.2. Counties, Cities and Towns Effective: July 1, 2015 *(Approx. 3 pages)*

West's Annotated Code of Virginia
Title 15.2. Counties, Cities and Towns (Refs & Annos)
Subtitle II. Powers of Local Government
Chapter 22. Planning, Subdivision of Land and Zoning (Refs & Annos)
Article 7. Zoning (Refs & Annos)

Proposed Legislation

Effective: July 1, 2015

VA Code Ann. § 15.2-2309

§ 15.2-2309. Powers and duties of boards of zoning appeals

Currentness

Boards of zoning appeals shall have the following powers and duties:

1. To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this article or of any ordinance adopted pursuant thereto. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The determination of the administrative officer shall be presumed to be correct. At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence. The board shall consider any applicable ordinances, laws, and regulations in making its decision. For purposes of this section, determination means any order, requirement, decision or determination made by an administrative officer. Any appeal of a determination to the board shall be in compliance with this section, notwithstanding any other provision of law, general or special.

2. Notwithstanding any other provision of law, general or special, to grant upon appeal or original application in specific cases a variance as defined in § 15.2-2201, provided that the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in § 15.2-2201 and the criteria set out in this section.

Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and (i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; (iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance; (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and (v) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A4 of § 15.2-2286 at the time of the filing of the variance application.

No variance shall be considered except after notice and hearing as required by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property

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Self-inflicted hardship, variances
Good faith, variances
Impact of variance, variances
Notice, variances
General or recurring conditions, variances
Other variances
Exception and variance distinguished
Variance and exception distinguished
Special exceptions
Standing, special exceptions
Conditions, special exceptions
Permits, special exceptions
Revocation of special exception
Discrimination
Standing, generally
Pleading
Equity
Presumptions and burden of proof
Findings
Mandamus
Standard of review

affected, the board may give such notice by first-class mail rather than by registered or certified mail.

In granting a variance, the board may impose such conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. Notwithstanding any other provision of law, general or special, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

3. To hear and decide appeals from the decision of the zoning administrator after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

4. To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by § 15.2-2204, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

5. No provision of this section shall be construed as granting any board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.

6. To hear and decide applications for special exceptions as may be authorized in the ordinance. The board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

No special exception may be granted except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

7. To revoke a special exception previously granted by the board of zoning appeals if the board determines that there has not been compliance with the terms or conditions of the permit. No special exception may be revoked except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. If a governing body reserves unto itself the right to issue special exceptions pursuant to § 15.2-2285, and, if the governing body determines that there has not been compliance with the terms and conditions of the permit, then it may also revoke special exceptions in the manner provided by this subdivision.

8. The board by resolution may fix a schedule of regular meetings, and may also fix the day or days to which any meeting shall be continued if the chairman, or vice-chairman if the chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting in accordance with § 15.2-2312 shall be conducted

at the continued meeting and no further advertisement is required.

Credits

Acts 1997, c. 587, eff. Dec. 1, 1997; Acts 2000, c. 1050; Acts 2002, c. 546; Acts 2003, c. 403; Acts 2006, c. 264; Acts 2008, c. 318; Acts 2009, c. 206. **Amended by** Acts 2015, c. 597.

Notes of Decisions (111)

VA Code Ann. § 15.2-2309, VA ST § 15.2-2309
Current through End of the 2015 Reg. Sess.

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VIRGINIA ACTS OF ASSEMBLY -- 2015 SESSION

CHAPTER 597

An Act to amend and reenact §§ 15.2-2201, 15.2-2308, 15.2-2309, and 15.2-2314 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 15.2-2308.1, relating to variances.

[H 1849]

Approved March 26, 2015

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-2201, 15.2-2308, 15.2-2309, and 15.2-2314 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 15.2-2308.1 as follows:

§ 15.2-2201. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Affordable housing" means, as a guideline, housing that is affordable to households with incomes at or below the area median income, provided that the occupant pays no more than thirty percent of his gross income for gross housing costs, including utilities. For the purpose of administering affordable dwelling unit ordinances authorized by this chapter, local governments may establish individual definitions of affordable housing and affordable dwelling units including determination of the appropriate percent of area median income and percent of gross income.

"Conditional zoning" means, as part of classifying land within a locality into areas and districts by legislative action, the allowing of reasonable conditions governing the use of such property, such conditions being in addition to, or modification of the regulations provided for a particular zoning district or zone by the overall zoning ordinance.

"Development" means a tract of land developed or to be developed as a unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units. The term "development" shall not be construed to include any tract of land which will be principally devoted to agricultural production.

"Historic area" means an area containing one or more buildings or places in which historic events occurred or having special public value because of notable architectural, archaeological or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation.

"Incentive zoning" means the use of bonuses in the form of increased project density or other benefits to a developer in return for the developer providing certain features, design elements, uses, services, or amenities desired by the locality, including but not limited to, site design incorporating principles of new urbanism and traditional neighborhood development, environmentally sustainable and energy-efficient building design, affordable housing creation and preservation, and historical preservation, as part of the development.

"Local planning commission" means a municipal planning commission or a county planning commission.

"Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under jurisdiction of the U.S. Department of Defense, including any leased facility, or any land or interest in land owned by the Commonwealth and administered by the Adjutant General of Virginia or the Virginia Department of Military Affairs. "Military installation" does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

"Mixed use development" means property that incorporates two or more different uses, and may include a variety of housing types, within a single development.

"Official map" means a map of legally established and proposed public streets, waterways, and public areas adopted by a locality in accordance with the provisions of Article 4 (§ 15.2-2233 et seq.) hereof.

"Planned unit development" means a form of development characterized by unified site design for a variety of housing types and densities, clustering of buildings, common open space, and a mix of building types and land uses in which project planning and density calculation are performed for the entire development rather than on an individual lot basis.

"Planning district commission" means a regional planning agency chartered under the provisions of Chapter 42 (§ 15.2-4200 et seq.) of this title.

"Plat" or "plat of subdivision" means the schematic representation of land divided or to be divided and information in accordance with the provisions of §§ 15.2-2241, 15.2-2242, 15.2-2258, 15.2-2262, and 15.2-2264, and other applicable statutes.

"Preliminary subdivision plat" means the proposed schematic representation of development or subdivision that establishes how the provisions of §§ 15.2-2241 and 15.2-2242, and other applicable

statutes will be achieved.

"Resident curator" means a person, firm, or corporation that leases or otherwise contracts to manage, preserve, maintain, operate, or reside in a historic property in accordance with the provisions of § 15.2-2306 and other applicable statutes.

"Site plan" means the proposal for a development or a subdivision including all covenants, grants or easements and other conditions relating to use, location and bulk of buildings, density of development, common open space, public facilities and such other information as required by the subdivision ordinance to which the proposed development or subdivision is subject.

"Special exception" means a special use~~,~~ that is a use not permitted in a particular district except by a special use permit granted under the provisions of this chapter and any zoning ordinances adopted herewith.

"Street" means highway, street, avenue, boulevard, road, lane, alley, or any public way.

"Subdivision," unless otherwise defined in an ordinance adopted pursuant to § 15.2-2240, means the division of a parcel of land into three or more lots or parcels of less than five acres each for the purpose of transfer of ownership or building development, or, if a new street is involved in such division, any division of a parcel of land. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided and solely for the purpose of recordation of any single division of land into two lots or parcels, a plat of such division shall be submitted for approval in accordance with § 15.2-2258.

"Variance" means, in the application of a zoning ordinance, a reasonable deviation from those provisions regulating the *shape*, size, or area of a lot or parcel of land~~,~~ or the size, *height*, area, bulk, or location of a building or structure when the strict application of the ordinance would ~~result in unnecessary or unreasonable hardship to the property owner~~ *unreasonably restrict the utilization of the property*, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the ~~intended spirit and~~ purpose of the ordinance~~, and would result in substantial justice being done~~. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

"Zoning" or "to zone" means the process of classifying land within a locality into areas and districts, such areas and districts being generally referred to as "zones," by legislative action and the prescribing and application in each area and district of regulations concerning building and structure designs, building and structure placement and uses to which land, buildings and structures within such designated areas and districts may be put.

§ 15.2-2308. Boards of zoning appeals to be created; membership, organization, etc.

A. Every locality that has enacted or enacts a zoning ordinance pursuant to this chapter or prior enabling laws, shall establish a board of zoning appeals that shall consist of either five or seven residents of the locality, appointed by the circuit court for the locality. Boards of zoning appeals for a locality within the fifteenth or nineteenth judicial circuit may be appointed by the chief judge or his designated judge or judges in their respective circuit, upon concurrence of such locality. Their terms of office shall be for five years each except that original appointments shall be made for such terms that the term of one member shall expire each year. The secretary of the board shall notify the court at least thirty days in advance of the expiration of any term of office, and shall also notify the court promptly if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves. Members of the board shall hold no other public office in the locality except that one may be a member of the local planning commission. A member whose term expires shall continue to serve until his successor is appointed and qualifies. The circuit court for the City of Chesapeake and the Circuit Court for the City of Hampton shall appoint at least one but not more than three alternates to the board of zoning appeals. At the request of the local governing body, the circuit court for any other locality may appoint not more than three alternates to the board of zoning appeals. The qualifications, terms and compensation of alternate members shall be the same as those of regular members. A regular member when he knows he will be absent from or will have to abstain from any application at a meeting shall notify the chairman twenty-four hours prior to the meeting of such fact. The chairman shall select an alternate to serve in the absent or abstaining member's place and the records of the board shall so note. Such alternate member may vote on any application in which a regular member abstains.

B. Localities may, by ordinances enacted in each jurisdiction, create a joint board of zoning appeals that shall consist of two members appointed from among the residents of each participating jurisdiction by the circuit court for each county or city, plus one member from the area at large to be appointed by the circuit court or jointly by such courts if more than one, having jurisdiction in the area. The term of office of each member shall be five years except that of the two members first appointed from each jurisdiction, the term of one shall be for two years and of the other, four years. Vacancies shall be filled for the unexpired terms. In other respects, joint boards of zoning appeals shall be governed by all other provisions of this article.

C. With the exception of its secretary and the alternates, the board shall elect from its own membership its officers who shall serve annual terms as such and may succeed themselves. The board

may elect as its secretary either one of its members or a qualified individual who is not a member of the board, excluding the alternate members. A secretary who is not a member of the board shall not be entitled to vote on matters before the board. ~~For~~ *Notwithstanding any other provision of law, general or special, for* the conduct of any hearing, a quorum shall be not less than a majority of all the members of the board *and the board shall offer an equal amount of time in a hearing on the case to the applicant, appellant or other person aggrieved under § 15.2-2314, and the staff of the local governing body.* Except for matters governed by § 15.2-2312, no action of the board shall be valid unless authorized by a majority vote of those present and voting. The board may make, alter and rescind rules and forms for its procedures, consistent with ordinances of the locality and general laws of the Commonwealth. The board shall keep a full public record of its proceedings and shall submit a report of its activities to the governing body or bodies at least once each year.

D. Within the limits of funds appropriated by the governing body, the board may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services. Members of the board may receive such compensation as may be authorized by the respective governing bodies. Any board member or alternate may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court that appointed him, after a hearing held after at least fifteen days' notice.

E. Notwithstanding any contrary provisions of this section, in the City of Virginia Beach, members of the board shall be appointed by the governing body. The governing body of such city shall also appoint at least one but not more than three alternates to the board.

§ 15.2-2308.1. Boards of zoning appeals, ex parte communications, proceedings.

A. The non-legal staff of the governing body may have ex parte communications with a member of the board prior to the hearing but may not discuss the facts or law relative to a particular case. The applicant, landowner or his agent or attorney may have ex parte communications with a member of the board prior to the hearing but may not discuss the facts or law relative to a particular case. If any ex parte discussion of facts or law in fact occurs, the party engaging in such communication shall inform the other party as soon as practicable and advise the other party of the substance of such communication. For purposes of this section, regardless of whether all parties participate, ex parte communications shall not include (i) discussions as part of a public meeting or (ii) discussions prior to a public meeting to which staff of the governing body, the applicant, landowner or his agent or attorney are all invited.

B. Any materials relating to a particular case, including a staff recommendation or report furnished to a member of the board, shall be made available without cost to such applicant, appellant or other person aggrieved under § 15.2-2314, as soon as practicable thereafter, but in no event more than three business days of providing such materials to a member of the board. If the applicant, appellant or other person aggrieved under § 15.2-2314 requests additional documents or materials be provided by the locality other than those materials provided to the board, such request shall be made pursuant to § 2.2-3704. Any such materials furnished to a member of the board shall also be made available for public inspection pursuant to subsection F of § 2.2-3707.

C. For the purposes of this section, "non-legal staff of the governing body" means any staff who is not in the office of the attorney for the locality, or for the board, or who is appointed by special law or pursuant to § 15.2-1542. Nothing in this section shall preclude the board from having ex parte communications with any attorney or staff of any attorney where such communication is protected by the attorney-client privilege or other similar privilege or protection of confidentiality.

D. This section shall not apply to cases where an application for a special exception has been filed pursuant to subdivision 6 of § 15.2-2309.

§ 15.2-2309. Powers and duties of boards of zoning appeals.

Boards of zoning appeals shall have the following powers and duties:

1. To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this article or of any ordinance adopted pursuant thereto. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. *The determination of the administrative officer shall be presumed to be correct. At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence.* The board shall consider ~~the purpose and intent of~~ any applicable ordinances, laws, and regulations in making its decision. *For purposes of this section, determination means any order, requirement, decision or determination made by an administrative officer. Any appeal of a determination to the board shall be in compliance with this section, notwithstanding any other provision of law, general or special.*

2. ~~To authorize~~ *Notwithstanding any other provision of law, general or special, to grant* upon appeal or original application in specific cases ~~such~~ *a* variance as defined in § 15.2-2201 ~~from the terms of the ordinance as will not be contrary to the public interest, when, owing to special conditions a literal enforcement of the provisions will result in unnecessary hardship;~~, provided that ~~the spirit of the ordinance shall be observed and substantial justice done, as follows:~~ *the burden of proof shall be on the*

applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in § 15.2-2201 and the criteria set out in this section.

~~When a property owner can show that his~~ *Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and (i) the* property *interest for which the variance is being requested* was acquired in good faith ~~and where by reason of the exceptional~~ *and any hardship was not created by the applicant for the variance;* ~~narrowness, shallowness, size, or shape of a specific piece of property at the time of the effective date of the ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the utilization of the property or where the board is satisfied, upon the evidence heard by it, that the granting of the variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the ordinance.~~ *(ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; (iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance; (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and (v) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A4 of § 15.2-2286 at the time of the filing of the variance application.*

~~No such variance shall be authorized by the board unless it finds:~~

~~a. That the strict application of the ordinance would produce undue hardship relating to the property;~~

~~b. That the hardship is not shared generally by other properties in the same zoning district and the same vicinity; and~~

~~c. That the authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.~~

No variance shall be ~~authorized~~ *considered* except after notice and hearing as required by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

~~No variance shall be authorized unless the board finds that the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.~~

In ~~authorizing~~ *granting* a variance, the board may impose such conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest~~,~~ and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. Notwithstanding any other provision of law, *general or special,* the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

3. To hear and decide appeals from the decision of the zoning administrator after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

4. To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by § 15.2-2204, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

5. No provision of this section shall be construed as granting any board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.

6. To hear and decide applications for special exceptions as may be authorized in the ordinance. The board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

No special exception may be granted except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

7. To revoke a special exception previously granted by the board of zoning appeals if the board determines that there has not been compliance with the terms or conditions of the permit. No special exception may be revoked except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail. If a governing body reserves unto itself the right to issue special exceptions pursuant to § 15.2-2286, and, if the governing body determines that there has not been compliance with the terms and conditions of the permit, then it may also revoke special exceptions in the manner provided by this subdivision.

8. The board by resolution may fix a schedule of regular meetings, and may also fix the day or days to which any meeting shall be continued if the chairman, or vice-chairman if the chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting in accordance with § 15.2-2312 shall be conducted at the continued meeting and no further advertisement is required.

§ 15.2-2314. Certiorari to review decision of board.

Any person or persons jointly or severally aggrieved by any decision of the board of zoning appeals, or any aggrieved taxpayer or any officer, department, board or bureau of the locality, may file with the clerk of the circuit court for the county or city a petition that shall be styled "In Re: date Decision of the Board of Zoning Appeals of [locality name]" specifying the grounds on which aggrieved within 30 days after the final decision of the board.

Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the board of zoning appeals and shall prescribe therein the time within which a return thereto must be made and served upon the secretary of the board of zoning appeals or, if no secretary exists, the chair of the board of zoning appeals, which shall not be less than 10 days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

Any review of a decision of the board shall not be considered an action against the board and the board shall not be a party to the proceedings; however, the board shall participate in the proceedings to the extent required by this section. The governing body, the landowner, and the applicant before the board of zoning appeals shall be necessary parties to the proceedings *in the circuit court*. The court may permit intervention by any other person or persons jointly or severally aggrieved by any decision of the board of zoning appeals.

The board of zoning appeals shall not be required to return the original papers acted upon by it but it shall be sufficient to return certified or sworn copies thereof or of the portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

~~If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take evidence as it may direct and report the evidence to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made.~~ The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

In the case of an appeal from the board of zoning appeals to the circuit court of an order, requirement, decision or determination of a zoning administrator or other administrative officer in the administration or enforcement of any ordinance or provision of state law, or any modification of zoning requirements pursuant to § 15.2-2286, the findings and conclusions of the board of zoning appeals on questions of fact shall be presumed to be correct. The appealing party may rebut that presumption by proving by a preponderance of the evidence, including the record before the board of zoning appeals, that the board of zoning appeals erred in its decision. Any party may introduce evidence in the proceedings in the court. The court shall hear any arguments on questions of law de novo.

In the case of an appeal by a person of any decision of the board of zoning appeals that denied or granted an application for a variance, ~~or application for a special exception,~~ the decision of the board of zoning appeals shall be presumed to be correct. The petitioner may rebut that presumption by ~~showing to the satisfaction of the court that the board of zoning appeals applied erroneous principles of law, or where the discretion of the board of zoning appeals is involved, the decision of the board of zoning~~

~~appeals was plainly wrong and in violation of the purpose and intent of the zoning ordinance~~ *proving by a preponderance of the evidence, including the record before the board of zoning appeals, that the board of zoning appeals erred in its decision.*

In the case of an appeal by a person of any decision of the board of zoning appeals that denied or granted application for a special exception, the decision of the board of zoning appeals shall be presumed to be correct. The petitioner may rebut that presumption by showing to the satisfaction of the court that the board of zoning appeals applied erroneous principles of law, or where the discretion of the board of zoning appeals is involved, the decision of the board of zoning appeals was plainly wrong, was in violation of the purpose and intent of the zoning ordinance, and is not fairly debatable.

In the case of an appeal from the board of zoning appeals to the circuit court of a decision of the board, any party may introduce evidence in the proceedings in the court in accordance with the Rules of Evidence of the Supreme Court of Virginia.

Costs shall not be allowed against the locality, unless it shall appear to the court that it acted in bad faith or with malice. In the event the decision of the board is affirmed and the court finds that the appeal was frivolous, the court may order the person or persons who requested the issuance of the writ of certiorari to pay the costs incurred in making the return of the record pursuant to the writ of certiorari. If the petition is withdrawn subsequent to the filing of the return, the locality may request that the court hear the matter on the question of whether the appeal was frivolous.