

Docket Item # 3  
BZA #2019-0002  
Board of Zoning Appeals  
June 17, 2019

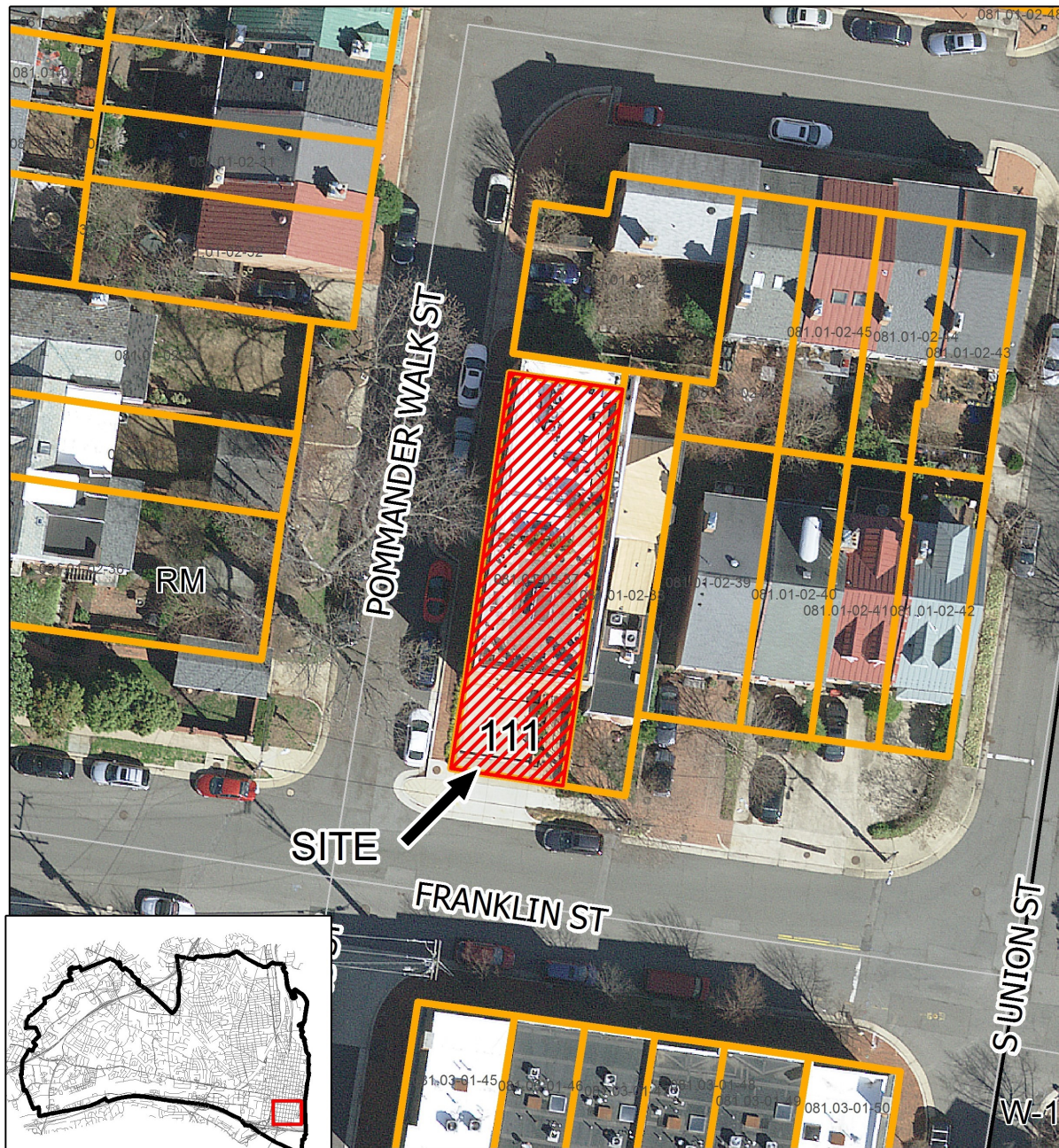
**ADDRESS:** 111 FRANKLIN STREET  
**ZONE:** RM/TOWNHOUSE ZONE  
**APPLICANT:** KEN WIRE

**ISSUE:** Variances from the required side yards and open space to convert an existing noncomplying office building to a two-family duplex dwelling.

CODE SECTION	SUBJECT	CODE REQUIREMENT	APPLICANT PROPOSES	REQUESTED VARIANCE
3-1106(A)(2)(a)	Side Yard (East)	5.00 Ft.	0.00 Ft.	5.00 Ft.
	Side Yard (North)	5.00 Ft.	2.50 Ft.	2.50 Ft.
3-1106(B)(1)(b)	Open Space	1,084.3 Sq. Ft. (35% of lot area)	512.80 Sq. Ft. (16.6% of lot area)	571.50 Sq. Ft.

Staff **recommends approval** of the request subject to compliance with all applicable code requirements, ordinances and recommended conditions found in the department comments.

BZA #2019-0002  
111 Franklin Street



**BZA #2019-0002**  
**111 Franklin Street**



0      15      30      60 Feet



**I. Issue**

The applicant proposes to convert the existing noncomplying commercial building at 111 Franklin Street to a two-family duplex dwelling. The subject property is zoned RM. A two-family duplex dwelling in the RM zone would be required to provide two five-foot side yards and 35 percent of its total lot area as open space. The applicant requests variances from the side yard and open space requirements. No expansion of the existing building is proposed.

**II. Background**

The subject property is a corner lot of record with 30.00 and 103.19 feet of frontage and width along Franklin Street and Pomander Walk, respectively. The lot contains 3,098 square feet of lot area. The subject property is located in the Old and Historic Alexandria Historic District (OHAD). Residential uses predominate the area surrounding the subject property.

City records indicate that the subject property has been used for commercial purposes since the building was constructed in 1959, when the property was zoned I-1/Industrial. The existing building contains approximately 4,064 square feet of net floor area.



**Figure 1 - Subject Property**

The Board of Zoning Appeals approved a variance (BZA #434) from the off-street parking requirement on March 29, 1959. The property was zoned I-1 until June 1992 when it was rezoned to RM/Residential Townhouse. At that time, the warehouse use became noncomplying.

City Council approved Special Use Permit #99-0159 on March 18, 2000 which allowed for the noncomplying commercial use to change from warehouse to office and granted a parking reduction.

The existing building abuts a residential dwelling to the east at 109 Franklin Street and provides no east side yard. It is located 2.50 feet from the north side property line. City Council approved Vacation #99-0008 on February 12, 2000 which vacated a portion of the Franklin Street right-of-way. This approval allowed the existing building to provide a primary front yard of 20.00 feet. On the same date, City Council also approved Encroachment #99-0009, which allowed for the construction of a covered building entrance with stairs and landing in Pommander Walk right-of-way. The existing building provides no secondary front yard along Pommander Walk.

### III. Description

The applicant proposes to convert the existing office building to a two-family duplex dwelling. No expansion of the building is proposed. A two-family dwelling would require two side yards of at least five feet and 35 percent of its total lot area as open space. As a two-family dwelling, the property would comply with all other RM zone density, lot and bulk requirements.

A two-family dwelling would be required to provide four off-street parking spaces. These spaces would be accommodated in a tandem arrangement in the existing driveway and garage.

The following table provides a breakdown of all applicable zoning regulations as they pertain to the proposed dwelling:

<b>RM Zone</b>	<b>Required/Permitted</b>	<b>Provided</b>
<b>Lot Area</b>	1,452 Sq. Ft.	3,098 Sq. Ft.
<b>Lot Width/Frontage (Franklin Street)</b>	25.00 Ft.	30.00 Ft.
<b>Lot Width/Frontage (Pommander Walk)</b>	25.00 Ft.	103.19 Ft.
<b>Front Yard (Franklin Street)</b>	0.00 Ft.	20.00 Ft.

<b>Front Yard (Pommander Walk)</b>	0.00 Ft.	0.00 Ft.
<b>Side Yard (East)</b>	5.00 Ft.	0.00 Ft.
<b>Side Yard (North)</b>	5.00 Ft.	2.50 Ft.
<b>Height</b>	35.00 Ft.	32.00 Ft.
<b>Net Floor Area</b>	4,647 Sq. Ft. 1.50 Floor Area Ratio	4,064 Sq. Ft.
<b>Open Space</b>	1,084.30 Sq. Ft. (35%)	512.80 Sq. Ft.

**IV. Noncomplying Use and Structure**

The existing office use is noncomplying in the RM zone. The existing building is also a noncomplying structure. As a commercial use in the RM zone, no open space is required.

	<b><u>Required</u></b>	<b><u>Provided</u></b>	<b><u>Noncompliance</u></b>
Side Yard (East)	25.00 Ft.	0.00 Ft.	25.00 Ft.
Side Yard (North)	25.00 Ft.	2.50 Ft.	22.50 Ft.
Vision Clearance	100.00 Ft.	79.00 Ft.	21.00 Ft.

**V. Master Plan/Zoning**

The subject property is currently zoned RM/Residential Townhouse. Prior to November 24, 1970 the property was zoned I-3/Industrial and had been so zoned since City Council adopted the Third Revised Zoning Map on November 21, 1951. The Old Town Small Area Plan identifies the property for medium-density residential land use.

**VI. Requested Variances**

**3-1106(A)(2)(a) Side yards.**

Zoning Ordinance section 3-1106(A)(2)(a) requires a two-family dwelling to provide two side yards with a minimum size of five feet each. The existing building provides no east side yard and a north side yard of 2.50 feet.

**3-1106(B) Open and usable space.**

Zoning ordinance section 3-1106(B) requires 35% of the total lot area to be open space or 1,084 square feet. The subject property provides 512.8 square feet of open space.

**VII. Applicants Justification for Variance**

The applicant states that the use of the building as a two-family dwelling is reasonable and would be more compatible with the surrounding residential properties than the existing commercial use.

**VIII. Analysis of Variance Definition**

Per zoning ordinance section 11-1103, the Board of Zoning Appeals shall not grant a variance unless it finds that the request meets the definition of a variance per zoning ordinance section 2-201.1 as follows:

- a. The request 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.

**The applicants request deviations of five feet from both the north and east side yard setback requirements. They also request a deviation of 571.5 square feet below the required 1,084.3 square feet of open space. These requests are reasonable because the applicant does not propose any expansion of the existing building. These deviations represent the minimum amounts necessary to allow for the existing building to be used as a two-family residence in compliance with the zoning regulations. Deviations less than those requested would require demolition of the building, which would require BAR approval, in order to provide the required yards and open space.**

- b. Strict application of the zoning ordinance would unreasonably restrict the utilization of the property.

**Strict application of the zoning ordinance would unreasonably restrict the utilization of the property by requiring the demolition of the existing building in order to provide the required side yards and open space. This demolition would require BAR approval. Strict application would allow for the continued, noncomplying commercial use of the property, however, the purpose of the RM zone is to provide and maintain land areas for medium density residential neighborhoods. The only commercial uses permitted in the RM zone are ones commonly found in residential neighborhoods: child care, churches and schools. The existing commercial (office) use is not permitted in the RM zone. Strict application of the zoning requirements would unreasonably restrict the use of the property as a residence, which is both a permitted use in the RM zone, and a use that would be in conformance with the Old Town Small Area Plan.**

- c. The need for a variance is not shared generally by other properties.

**This property is unique in that it's used commercially, which is uncommon in the RM zone, and that most other buildings on corner lots in the RM zone provide at least one complying side yard.**

- d. The variance is not contrary to the purpose of the ordinance.

**The purpose of the side yard setback requirements is to protect light and air supply to adjacent properties. However, there would be no increase in the dwelling's footprint within the required side yard setback. In fact, a smaller side yard is required for the proposed residential use than for the existing commercial use.**

**The purpose of the open space requirement is to provide areas of trees, shrubs, lawns, pathways and other natural and man-made amenities which function for the use and enjoyment of residents, visitors and other persons. Although the existing commercial use of the property is not required to provide open space, the applicant's proposal does not reduce the amount of existing open space. Further, the dwelling provides a 1,138.50 square-foot roof deck. Although this does not meet the technical definition of open space in the RM zone, it functions comparably to ground-level open space and exceeds the minimum required open space.**

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

**The applicant does not request a change to use not otherwise permitted in the RM zone. A rezoning would not eliminate the need for a variance.**

#### **IX. Analysis of Variance Standards**

Per zoning ordinance section 11-1103, the Board of Zoning Appeals shall not grant a variance unless it finds that the request meets the variance standards as follows:

- a. 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.

**Strict application of the zoning ordinance would unreasonably restrict the utilization of the property as a residential dwelling, which is a permitted use in the RM zone. Strict application would prevent any use of the property except for the continuation of the existing noncomplying commercial use.**

- b. The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicants for the variance.

**While the applicants are proposing to change the use to residential which**

**triggers compliance with the side yard setbacks and open space, they are proposing to convert the use from a noncomplying use to a complying use. The applicants acquired the property interest in good faith and did not create the hardship.**

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

**Granting the variance would not have any impact to adjacent or nearby properties because no changes to the structure are proposed.**

- d. 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.

**The current noncomplying commercial use of the property in an area specifically intended for residential uses by both the RM zone and Old Town Small Area Plan is a unique situation. It would not be reasonably practicable to amend the zoning ordinance to eliminate the applicant's need for a variance.**

- e. 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 variance request does not result in a prohibited use or a rezoning. The proposed residential use is permitted in the RM zone.**

- f. The relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance or the process for modification of a zoning ordinance at the time of the filing of the variance application.

**The request is not eligible for special exception or modification processes.**

#### **X. Staff Conclusion**

As outlined above, staff **recommends approval** of the request subject to compliance with all applicable codes, ordinances and recommended conditions found in the departmental comments of this report.

#### **Staff**

Sam Shelby, Urban Planner, [sam.shelby@alexandriava.gov](mailto:sam.shelby@alexandriava.gov)

Mary Christesen, Zoning Manager, [mary.christesen@alexandriava.gov](mailto:mary.christesen@alexandriava.gov)

Tony LaColla, AICP, Land Use Division Chief, [Anthony.lacolla@alexandriava.gov](mailto:Anthony.lacolla@alexandriava.gov)



### 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.

#### Historic Preservation:

- F-1 The subject property is located in the locally regulated Old and Historic Alexandria District (OHAD). Any demolition/capsulation, addition or alterations to the subject property requires a Permit to Demolish/Capsulate or Certificate of Appropriateness from the OHAD Board of Architectural Review.
- F-2 A building at this location first appears on the 1902 Sanborn Fire Insurance Map. However, it is likely that it was demolished and a new building was constructed in the mid-20th Century.
- F-3 Staff does not object to the proposed side yard and open space variance

#### Transportation and Environmental Services:

- 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 not required at this time. Please note that if any changes are made to the plan it is suggested that T&ES be included in the review. (T&ES)
- F-2 If the alley located at the rear of the parcel is to be used at any point of the construction process the following will be required:  
For a Public Alley - The applicant shall contact T&ES, Construction Permitting & Inspections at (703) 746-4035 to discuss any permits and accommodation requirements that will be required.  
For a Private Alley - The applicant must provide proof, in the form of an affidavit at a minimum, from owner of the alley granting permission of use. (T&ES)
- 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 available, by 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)
- C7 An encroachment request will be required for projections into the public right of way. (T&ES)

Code Administration:

- C-1 No comments.

Recreation (City Arborist):

- C-1 No comments.

Historic Alexandria (Archaeology):

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

Other requirements brought the applicant's attention if the Board approves the requested variance:

- C-1 The variance must be recorded with the property's deed in the City's Land Records Office prior to the release of the building permit.

Planning Commission Meeting  
February 1, 2000

**ISSUE:** Consideration of a request for a special use permit to change a noncomplying use to business and office use, and to allow an off-street parking reduction.

**APPLICANT:** Michelle J. Boggs  
by Duncan W. Blair, attorney

**LOCATION:** 111 Franklin Street

**ZONE:** RM/Townhouse

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**CITY COUNCIL ACTION, MARCH 18, 2000:** City Council deleted the Condition #1 that Council had earlier approved and replaced it with the language Mr. Blair had suggested, and amended it to read as below, and Conditions 2, 3, 4, 5, 6, 7, and 8 shall be binding on the Applicant, and the Applicant's successors, assigns and tenant(s) and to all future owners of the Property and all future tenants or other persons or entities using or occupying all or any part of the Property. A copy of the Special Use Permit shall be attached to all leases for all or part of the Property and any contracts for the sale of the Property; and also deleted subsection (b) of Condition no.8.

1. This Special Use Permit shall govern the use of the Property as a noncomplying business or professional office use with no greater zoning impacts than applicant's use.

Council Member Rich stated for the record that he has a conflict of interest. After a discussion with the City Attorney, it was determined that he was precluded from participation in this and, therefore, recused himself.

**CITY COUNCIL ACTION, FEBRUARY 12, 2000:** City Council approved the recommendation of the Planning Commission, with an amendment to condition # 1 to read as follows:

1. The special use permit shall be granted to the applicant or to any corporation in which the applicant has a controlling interest, and to the holder of a security interest in the premises in the event such holder forecloses upon the premises and to the first buyer from such holder if the purchase occurs within twenty-four months of foreclosure. The applicant and her business shall control the entire premises, and shall not sublet portions of it to others.

**PLANNING COMMISSION ACTION, FEBRUARY 1, 2000:** On a motion by Mr. Robinson, seconded by Ms. Fossum, the Planning Commission voted to recommend approval of the request. The motion carried on a vote of 7 to 0.

Reason: The Planning Commission believed that residential use of the site was unlikely and that the parking problems in the neighborhood were typically experienced in the evening. It was also concerned that a new warehouse use is permitted under zoning and could prove harmful for the neighborhood.

Speakers:

John Wilbor, Old Town Civic Association, spoke against.  
Paul Kaplan, 109 Franklin Street, spoke against the project.  
Richard Ormand, Fords Landing Civic Association, spoke in support of the proposal.  
David Sackett, 707 Kahn Place, spoke in support.  
Becky Ellis, Pommander Walk, spoke in support.  
Lou Bransford, Fords Landing resident, spoke in support.  
David Smith, Fords Landing resident, spoke in support.  
Ms. Parrish spoke in support.  
Luke Mayer, Pommander Walk, spoke in support.



**STAFF RECOMMENDATION:**

Staff recommends **denial** of the request. If Council approves the request, staff recommends approval subject to compliance with all applicable codes and ordinances and the following conditions:

1. This Special Use Permit shall govern the use of the Property as a noncomplying business or professional office use with no greater zoning impacts than applicant's use. (City Council 3/18/00)
2. A parking reduction of five spaces shall be granted provided that the applicant maintains a minimum of five parking spaces on-site. (P&Z)
3. The applicant shall require that its employees who drive to work use off-street parking (P&Z).
4. The applicant shall annually submit to the Director of Planning and Zoning, a report identifying (1) each employee and other regular visitor to the premises, (2) the location where each such user parks, and (3) the arrangement by which use of the tandem on-site spaces are allocated. (P&Z)
5. A plot plan shall be submitted and approved prior to any work in the public right-of-way. (T&ES)
6. The plot plan shall contain a statement regarding the potential for finding buried structural remains and the necessity of contacting Alexandria Archeology if any are discovered during development. (Archeology)
7. The applicant shall consult with the Crime Prevention Unit of the Alexandria Police Department regarding locking hardware for the business, prior to the issuance of a certificate of occupancy. (Police).
8. The Director of Planning and Zoning shall review the special use permit one year from approval and thereafter as needed, and shall docket the matter for consideration by the Planning Commission and City Council if (a) there have been documented violations of the permit conditions, (b) [deleted by City Council action], and (c) the director has determined that there are problems with the operation of the use and that new or revised conditions are needed. (P&Z)

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**Staff Notes:** In accordance with section 11-506(c) of the zoning ordinance, construction or operation shall be commenced and diligently and substantially pursued within 18 months of the date of granting of a special use permit by City Council or the special use permit shall become void.

Any exterior changes to the building require approval by the Old and Historic Alexandria District

Board of Architectural Review.

DISCUSSION:

1. The applicant, Michelle J. Boggs by Duncan W. Blair, attorney, requests special use permit approval to change a noncomplying use at 111 Franklin Street to a business and professional office use with a reduction of off-street parking.
2. The subject property is one lot of record with 30 feet of frontage on Franklin Street, approximately 83 feet of frontage on Pommander Walk Street and a total lot area of approximately 2,499 square feet. The site is developed with a three story brick and block building which occupies the entire site. The property is located in the Old and Historic Alexandria District.

The site is surrounded by residential uses. It is adjacent on two sides to the Pommander Walk townhouse development. Directly to the south is the proposed Backyard Boats townhouse development. To the east along Franklin Street are additional townhouses.

3. The subject property is one of the last remnants in this area of a time when the waterfront and land around it was used for industrial purposes. According to the application materials, the building was built in 1959 by Mr. Stanley Bak for use as the headquarters and warehouse of his international sales business. The applicant has submitted building plans for the original construction, with interior layout, showing, at least at that time, that the building was constructed to include two floors of warehouse space and one floor (the third floor) of office use for the Bak family business. Mr. Bak's business continued to occupy the building until recently when it relocated out of the state.
4. The property had been zoned I-1/Industrial in 1951 and that zoning remained in effect until the property was rezoned in 1992 to RM/Townhouse. At that time, the warehouse use became a noncomplying use. Under Section 12-302(B) of the zoning ordinance, a noncomplying use is allowed to continue indefinitely and, with a special use permit, is allowed to change to another noncomplying use.
5. In this case, the applicant, Michelle Boggs, would like to buy the building, renovate it, and use it for an office for her marketing business. To do that, she requests:
  - A. A special use permit to change the use of the building from its prior noncomplying use as a warehouse to a new noncomplying business and professional office use;
  - B. A special use permit to allow a reduction from the parking requirement of ten spaces to the five tandem, compact spaces the applicant proposes to provide on-site;
  - C. A vacation of a portion of the Franklin Street right-of-way for two of the proposed

on-site parking spaces (see Vac #99-008); and

- D. An encroachment into the Pommander Walk Street right-of-way on the west of the building for entrance steps and landing into the building (see Enc #99-009).
- 6. The applicant currently operates McKinley Marketing on King Street and proposes to relocate the offices to this building. The applicant also indicates that some portion of the building may also be leased to another office use.
- 7. The applicant has advised staff that it currently employs ten persons and believes that approximately 20 total employees could be accommodated in the proposed building. The applicant estimates that the business will have no more than five visitors a week. According to the applicant, the offices will be open during regular business hours.
- 8. The applicant indicates that trash will be stored inside the building and will be collected weekly by a commercial collector.
- 9. With regard to parking, the applicant correctly states that a full variance (BZA Case #434) for parking was granted by the Board of Zoning Appeals for the warehouse use proposed in 1959. As part of its approval, the Board referred to a City Council action granting the Bak family the right to use the right-of-way on Franklin Street and the right-of-way immediately adjacent to the building to the west for parking. The applicant has searched the record and found discussion but no positive action by Council regarding the right of the users of the warehouse building to use the Pommander Walk Street and Franklin Street rights-of-way.

- Regardless of the history, the change in use from warehouse to office building triggers the requirement that the use fully meet current parking requirements. Section 8-200 (F) (1)(b).
- 10. Pursuant to Section 8-200(A)(18)(a) of the zoning ordinance, an office use of 4,750 square feet requires a minimum of ten parking spaces. The applicant has filed an application for a parking reduction to allow a total of five spaces.

Of the five spaces the applicant will provide, three are located inside the building basement and will be accessed by an existing curb cut on Franklin Street. Two additional parking spaces are proposed to be constructed outside the building, on land that will be the driveway into the basement parking area. The land area on Franklin Street proposed for parking is right-of- way although it has, since 1959, been used by the building for parking. The applicant has filed a vacation application to legitimize the arrangement.

The five on-site spaces will be in a “double tandem” arrangement. They will be in three rows of spaces with no maneuvering room between the rows. All of the parking spaces to be provided on-site are the size of a compact parking space.



The applicant has also indicated its willingness to lease parking spaces for employees as necessary at nearby locations, including at the lot at Jones Point under the Woodrow Wilson Bridge, if spaces are available there.

11. As discussed in more detail in the encroachment case (see Enc #99-009), the applicant also proposes to stripe five parking spaces in front of the building on Pommander Walk Street. The spaces will be available for use by the public and will not be restricted for the applicant's use only. Neither the applicant nor staff is considering the five spaces on Pommander Walk Street as part of what the applicant is providing in order to meet its parking requirement.
12. Zoning: The subject property is located in the RM/Townhouse zone. The proposed business and professional office is not a permitted use in this zone. Section 12-302(B) of the zoning ordinance allows a change from one noncomplying use to another with a special use permit.
13. Master Plan: The proposed use is inconsistent with the Old Town small area plan chapter of the Master Plan which designates the property for residential use.

#### STAFF ANALYSIS:

Staff recommends denial of the proposed change of use, principally because it believes that the site should be used for residential purposes, consistent with the 1992 zoning and master plan policies. Although a change from one noncomplying use to another is allowed, it is governed by a special use permit so that the Commission and Council can review each proposal on a case by case basis. In this case, staff believes that the City should not facilitate additional nonresidential uses, and investment for that purpose, in a residential area.

It is true there is one other nonresidential location in this area, on the corner of South Fairfax and Franklin Streets; however, those buildings are small and the commercial uses typically neighborhood serving, such as the existing dry cleaners use. Approval of the subject proposal is different in that it would allow significant investment in a large, freestanding, commercial use with no connection to the neighborhood. All users, except for the applicant, would come from outside the neighborhood. While staff believes that the proposed renovation of the warehouse is tasteful, it believes that if the City does not allow a change to new nonresidential uses, the site will eventually be rebuilt for residential use.

Even if an office building at this location were desirable, staff believes the use may create parking problems that would negatively affect what is perceived to be an existing parking problem in the immediate neighborhood. In order for the applicant's parking scheme to work without impact, the applicant must allocate the on-site spaces in such a way that the "double tandem" arrangement is

workable for regular on-site employees. Staff believes it is possible to do that but only if the building maintains a single user. In addition, the applicant will have to be vigilant with regard to not allowing her employees to park on the neighboring streets where residential neighbors need the parking. Further, she will have to provide off site parking for each employee and regular user of the site that needs it and that parking would have to be in close enough proximity that it will be used. The application says nothing about how visitors to the site will be served. It is likely they will park on nearby streets. Staff is not aware of any opportunities for leasing parking spaces nearby, although the applicant is pursuing the possibility of renting spaces at Jones Point.

In the event that Council wishes to approve the change to an office use, staff has included conditions designed to ensure, as best as possible, that these steps to ameliorate parking impacts are taken. However, staff is concerned that if the proposal is approved, then, as a practical matter, it will be difficult to undo the approval of the office building use after the applicant has made a significant investment in the building renovation.

For these reasons, staff recommends denial of the application for both the change of use and for the parking reduction.

STAFF: Sheldon Lynn, Director, Department of Planning and Zoning; Kathleen Beeton, Urban Planner.

CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

- R-1 A permit from T&ES is required for the proposed work within Pommander Walk Street.
- R-2 Proposed sidewalk shall be 31/2 feet wide (minimum)
- R-3 Proposed sidewalk bump out at entrance must be cut back to maintain a minium of 22 feet curb to curb distance.
- R-4 Proposed planter on Franklin Street should not Encroach into the Public Street Right-of-way.
- R-5 A plot plan is required prior to any work in the public right of way.

Code Enforcement:

- C-1 The ramp to the handicapped accessible entrance shall have a slope no greater than 1:12. If the slope is greater than 1:20 then handrails complying with the Virginia Uniform Statewide Building Code (VUSBC) will be required.
- C-2 Building undergoing a change in occupancy are required to meet the new construction handicapped accessibility requirements.
- C-3 Alterations to the existing structure and/or installation and/or altering of equipment therein requires a building permit. Four sets of plans, bearing the signature and seal of a design professional registered in the Commonwealth of Virginia, must accompany the written application. The plans must include all dimensions, construction alterations details, kitchen equipment, electrical, plumbing, and mechanical layouts and schematics.
- C-4 When a change of use requires a greater degree of structural strength, fire protection, exit facilities or sanitary provisions, a construction permit is required.

Health Department:

F-1 No comments.

Police Department:

R-1 The applicant is to consult with the Crime Prevention Unit of the Alexandria Police Department regarding locking hardware for the business. This is to be completed prior to opening for business.

Historic Alexandria (Archaeology):

F-1 Historical maps indicate the presence of African American households on or near this property in the late nineteenth century. In addition, the lot is near the early wharf location at the foot of Franklin Street, which was originally designed to act as a major thoroughfare of the town. The property therefore has the potential to provide insight into eighteenth and nineteenth century residential and waterfront activities.

C-1 Call Alexandria Archaeology immediately (703-838-4399) 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.

C-2 The above statement must appear in the General Notes of the site plan so that on-site contractors are aware of the requirement.





# APPLICATION BOARD OF ZONING APPEALS

## VARIANCE

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

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### PART A

1. Applicant: ☐ Owner ☐ Contract Purchaser ☐ Agent

Name 

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Address 

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Daytime Phone 

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Email Address 

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2. Property Location 

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3. Assessment Map # 

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 Block 

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 Lot 

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 Zone 

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4. Legal Property Owner Name 

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Address 

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## 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 three 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. M and M Real Estate LLC	111 Franklin Street	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 111 Franklin Street (address), unless the entity is a corporation or partnership, in which case identify each owner of more than three 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. M and M Real Estate LLC	111 Franklin Street	
2.		
3.		

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

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

**5. Describe request briefly:**

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**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.

**PART B**

**APPLICANT MUST EXPLAIN THE FOLLOWING:**

(Please **attach** additional pages where necessary.)

**1. Please answer A or B:**

**A. Explain how enforcement of the zoning ordinance would prevent reasonable use of the property.**

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**B. Explain how the variance, if granted, would alleviate a hardship, as defined above.**

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**2. Is this unreasonable restriction or hardship unique to the property?**

**A. Explain if the restriction or hardship is shared by other properties in the neighborhood.**

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

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**3. Was the unreasonable restriction or hardship caused by the applicant?**

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

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

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**C. How and when did the condition, which created the unreasonable restriction or hardship, first occur?**

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

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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.**

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- B. Has the applicant shown the proposed plans to the most affected property owners? Have these property owners written statements of support or opposition of the proposed variance? If so, please attach the statements or submit at the time of the hearing.**

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- 5. Is there any other administrative or procedural remedy to relieve the hardship or unreasonable restriction?**

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### **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.**

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This image shows a single sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

- 2. Please provide any other information you believe demonstrates that the requested variance meets the required standards.**

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

**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:**

☐ I, as the applicant or authorized agent, note that there is a fee associated with the submittal of this application. Planning & Zoning Department staff will be in contact with the applicant regarding payment methods. Please recognize that applications will not be processed until all fees are paid.

☐ **Yes** ☐ **No** I affirm that I, the applicant or authorized agent, am responsible for the processing of this application and agree to adhere to all the requirements and information herein.

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_ 

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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**\*\*\*ATTENTION APPLICANTS\*\*\***

**At the time of application for a Special Use Permit, Rezoning, Vacation, Encroachment, Variance, Special Exception or Subdivision, you must provide a draft of the description of your request you intend to use in the property owner's notice. You must be thorough in your description. Staff will review the draft wording to confirm its completeness.**

**The example illustrates a detailed description:**

"Variance to construct a two-story addition in the required side yards on \_\_\_\_\_ Street."

**If you fail to submit draft language at the time of the application filing deadline, the application will be determined to be incomplete and may be deferred by staff.**



# Department of Planning and Zoning Floor Area Ratio and Open Space Calculations

**B**

## A. Property Information

A1.  Street Address  Zone

A2.  x  =   
Total Lot Area Floor Area Ratio Allowed by Zone Maximum Allowable Floor Area

## B. Existing Gross Floor Area

<u>Existing Gross Area</u>		<u>Allowable Exclusions**</u>		
Basement	<input type="text"/>	Basement**	<input type="text"/>	B1. <input type="text"/> Sq. Ft. Existing Gross Floor Area*
First Floor	<input type="text"/>	Stairways**	<input type="text"/>	B2. <input type="text"/> Sq. Ft. Allowable Floor Exclusions**
Second Floor	<input type="text"/>	Mechanical**	<input type="text"/>	B3. <input type="text"/> Sq. Ft. Existing Floor Area Minus Exclusions (subtract B2 from B1)
Third Floor	<input type="text"/>	Attic less than 7'***	<input type="text"/>	<b>Comments for Existing Gross Floor Area</b> <input type="text"/>
Attic	<input type="text"/>	Porches**	<input type="text"/>	
Porches	<input type="text"/>	Balcony/Deck**	<input type="text"/>	
Balcony/Deck	<input type="text"/>	Lavatory***	<input type="text"/>	
Lavatory***	<input type="text"/>	Other**	<input type="text"/>	
Other**	<input type="text"/>	Other**	<input type="text"/>	
B1. <u>Total Gross</u> <input type="text"/>		B2. <u>Total Exclusions</u> <input type="text"/>		

## C. Proposed Gross Floor Area

<u>Proposed Gross Area</u>		<u>Allowable Exclusions**</u>		
Basement	<input type="text"/>	Basement**	<input type="text"/>	C1. <input type="text"/> Sq. Ft. Proposed Gross Floor Area*
First Floor	<input type="text"/>	Stairways**	<input type="text"/>	C2. <input type="text"/> Sq. Ft. Allowable Floor Exclusions**
Second Floor	<input type="text"/>	Mechanical**	<input type="text"/>	C3. <input type="text"/> Sq. Ft. Proposed Floor Area Minus Exclusions (subtract C2 from C1)
Third Floor	<input type="text"/>	Attic less than 7'***	<input type="text"/>	
Attic	<input type="text"/>	Porches**	<input type="text"/>	
Porches	<input type="text"/>	Balcony/Deck**	<input type="text"/>	
Balcony/Deck	<input type="text"/>	Lavatory***	<input type="text"/>	
Lavatory***	<input type="text"/>	Other**	<input type="text"/>	
Other	<input type="text"/>	Other**	<input type="text"/>	
C1. <u>Total Gross</u> <input type="text"/>		C2. <u>Total Exclusions</u> <input type="text"/>		

### Notes

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

\*\* Refer to the Zoning Ordinance (Section 2-145(B)) and consult with Zoning Staff for information regarding allowable exclusions. Sections may also be required for some exclusions.

\*\*\*Lavatories may be excluded up to a maximum of 50 square feet, per lavatory. The maximum total of excludable area for lavatories shall be no greater than 10% of gross floor area.

## D. Total Floor Area

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

D2.  Sq. Ft.  
Total Floor Area Allowed by Zone (A2)

## E. Open Space (RA & RB Zones)

E1.  Sq. Ft.  
Existing Open Space

E2.  Sq. Ft.  
Required Open Space

E3.  Sq. Ft.  
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: K. A. W.

Date: \_\_\_\_\_

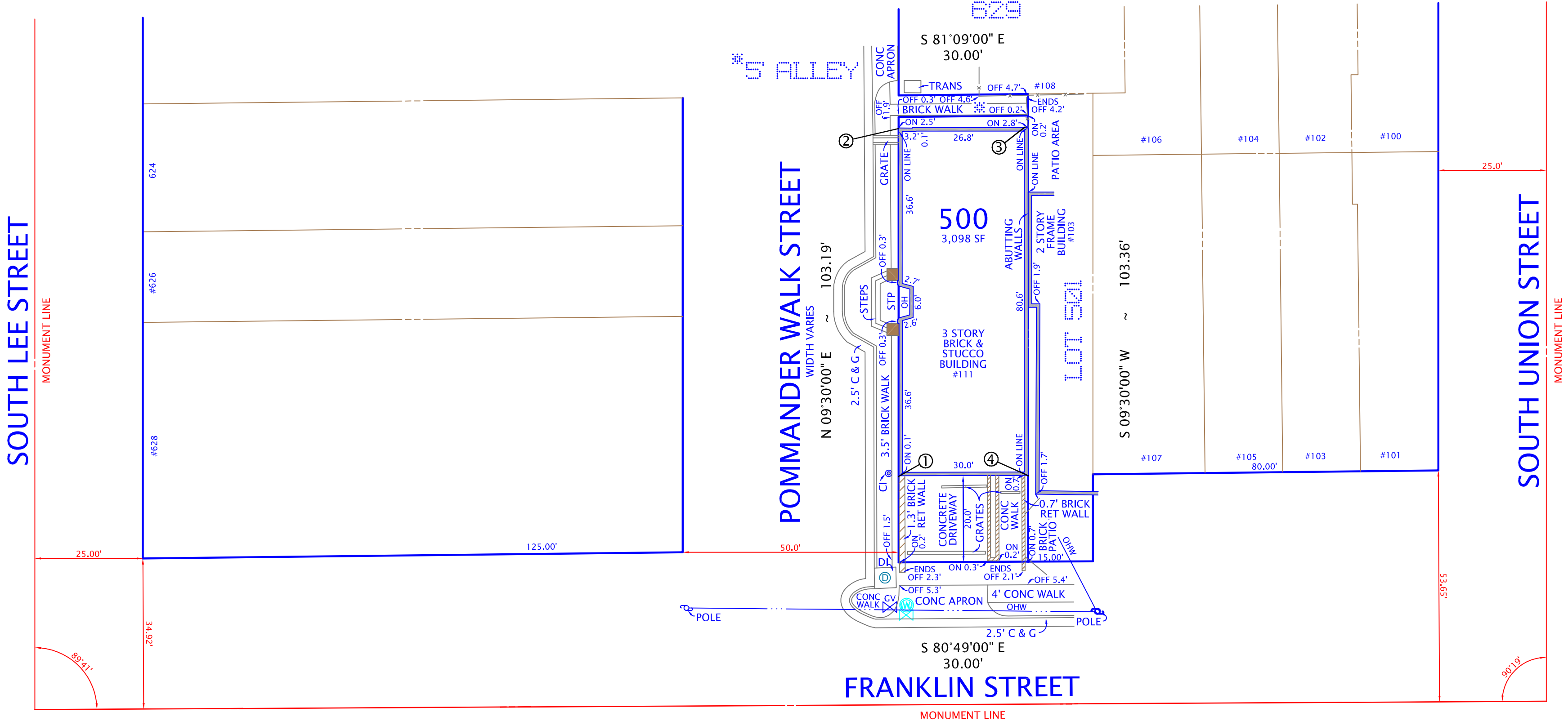
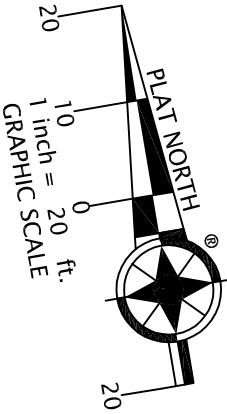


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- NOTES: 1. FENCES ARE FRAME.  
2. PLANTER WALLS ARE 0.7' BRICK.  
3. PILLARS ARE 2.8' CONCRETE & BRICK.  
4. UTILITIES ARE UNDERGROUND.

111 FRANKLIN STREET			
POINT	POST DEV GRADE	AVG GRADE (POST DEV)	
1	19.4	TOP OF PARAPET WALL ON ROOF	52.0
2	17.3	TOP OF ROOF	49.0
3	15.8	<b>BLDG HGT</b>	<b>32.0</b>
4	15.3	BLDG HGT ALLOWED	35.0

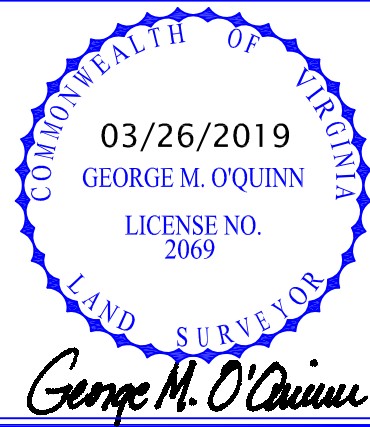
ELEVATION DATUM: NAVD 1988



PLAT  
SHOWING HOUSE LOCATION ON  
LOT 500  
BEING A CONSOLIDATION OF THE  
PARCEL KNOW AS  
**#111 FRANKLIN STREET**  
AND A VACATED PORTION OF  
**FRANKLIN STREET**  
(INST #000016483)  
CITY OF ALEXANDRIA, VIRGINIA  
SCALE: 1" = 20' MARCH 26, 2019  
APRIL 03, 2019 (HGT CERT)

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

THIS PLAT IS SUBJECT TO  
RESTRICTIONS OF RECORD.  
A TITLE REPORT WAS NOT FURNISHED.  
NO CORNER MARKERS SET.



ORDERED BY:  
  
M AND M REAL ESTATES, LLC  
DAVID MILLARD

**DOMINION** Surveyors  
Inc.®  
8808-H PEAR TREE VILLAGE COURT  
ALEXANDRIA, VIRGINIA 22309  
703-619-6555  
FAX: 703-799-6412

CASE NAME: M AND M REAL ESTATE, LLC

#190325001-1



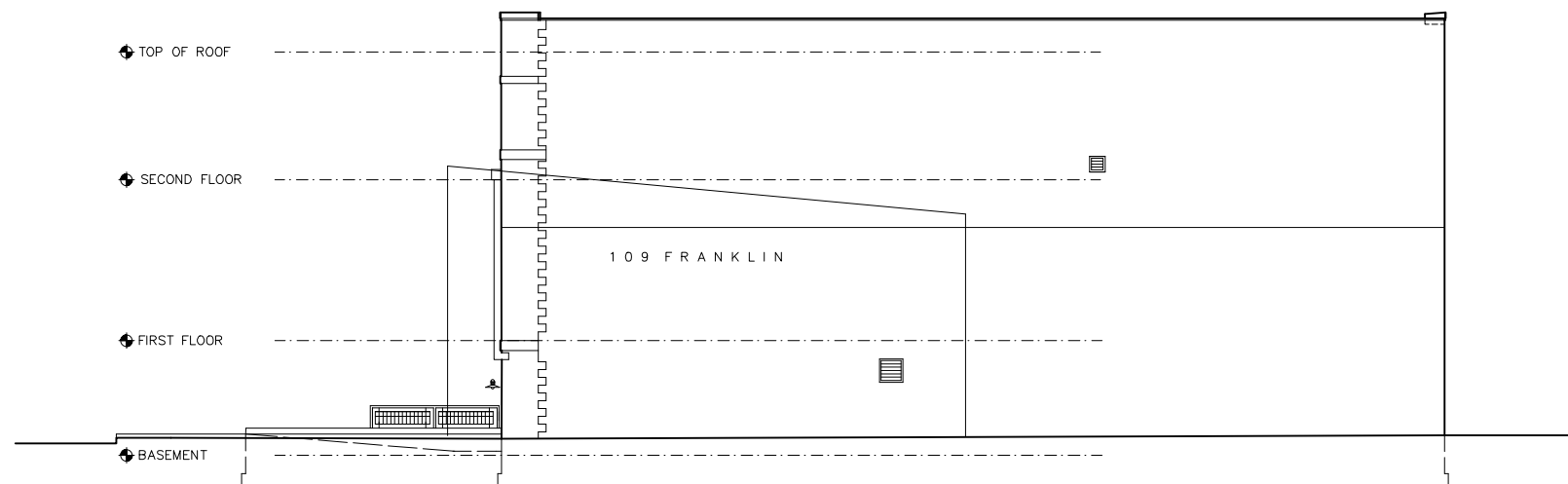
WEST ELEVATION

0 5 10 10 FT

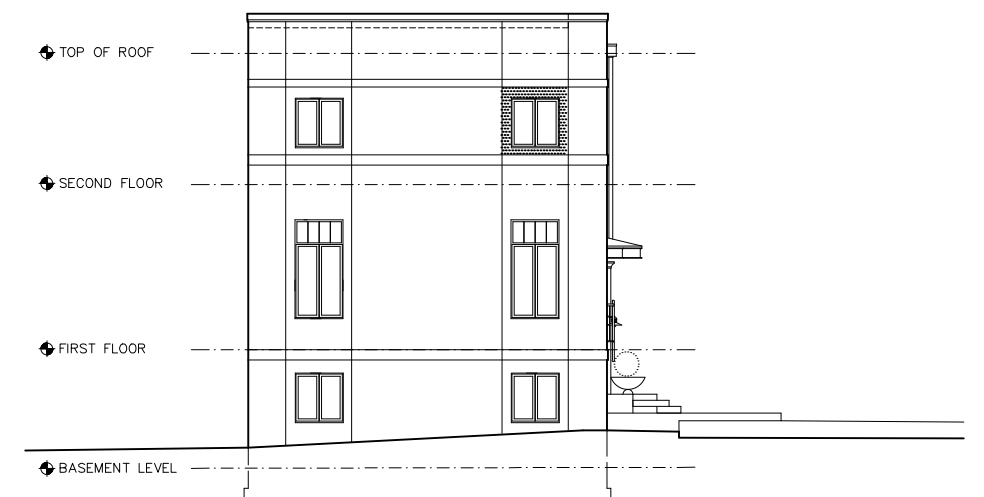
SCALE:  $\frac{1}{16}$ " = 1 FOOT



SOUTH ELEVATION



EAST ELEVATION

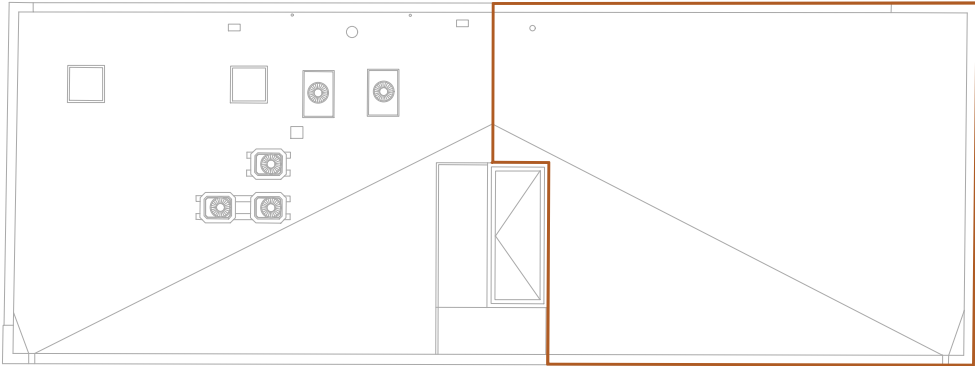


NORTH ELEVATION

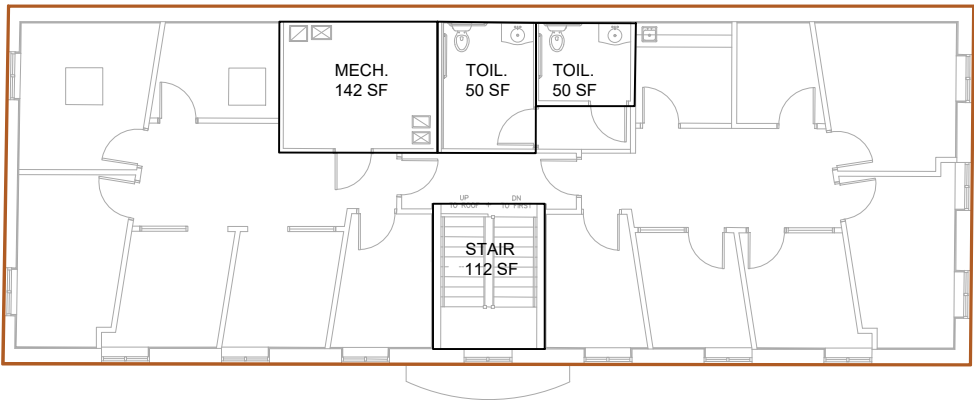
1 1 1 F R A N K L I N S T R E E T , A L E X A N D R I A , V A .

FAR CALCULATION

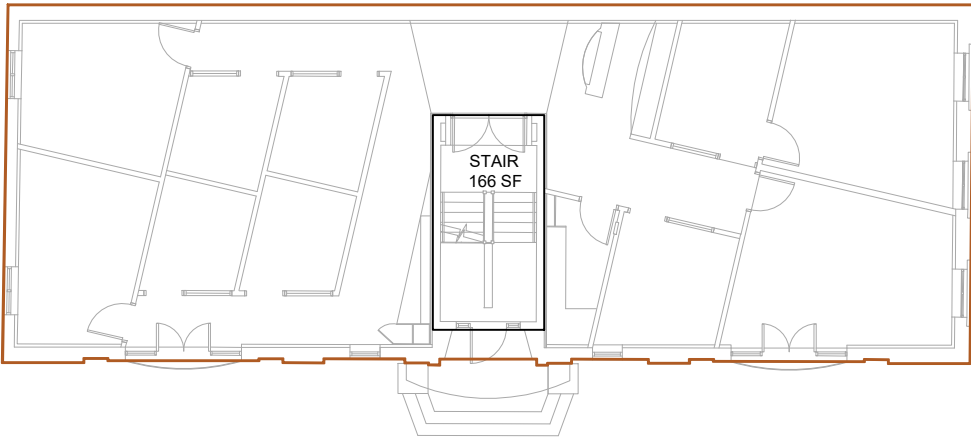
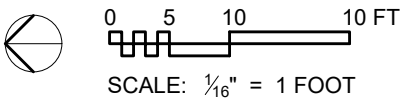
GROSS SF		EXCLUSIONS	APPLICABLE
FIRST FLOOR (BSMT)	2405.73 GSF	(2405.73 SF)	0 SF
SECOND FLOOR	2400.58 GSF	(166.00 SF)	2234.58 SF
THIRD FLOOR	2414.09 GSF	(354.00 SF)	2060.09 SF
ROOF	1138.50 GSF	(1138.50 SF)	0 SF
TOTAL	8358.90 GSF	(4,064.23 SF)	4294.67 SF
FAR	4294.67 SF (BLDG. AREA) / 3098 SF (PARCEL) = 1.38		



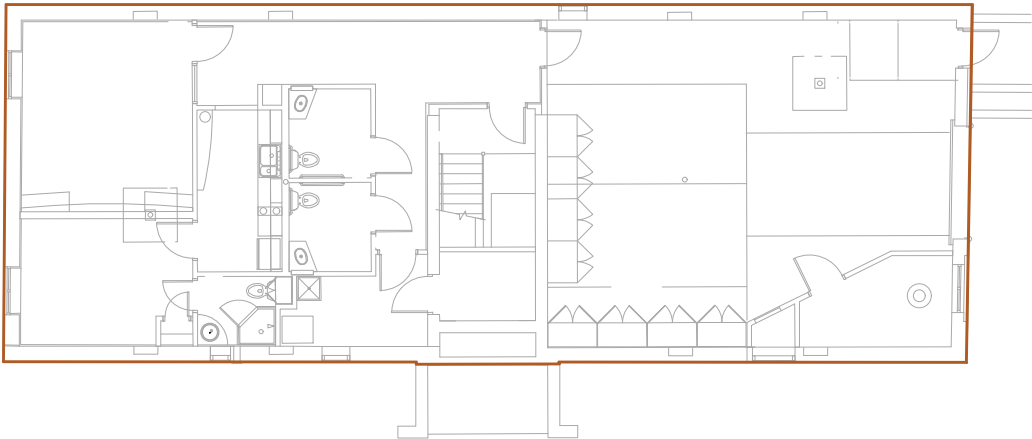
ROOF PLAN  
1138.50 GSF



THIRD FLOOR PLAN  
2414.09 GSF



SECOND (ENTRANCE) FLOOR PLAN  
2400.58 GSF



FIRST FLOOR (BASEMENT) PLAN  
2405.73 GSF

Paul and Deborah Kaplan  
109 Franklin Street  
Alexandria, VA 22314  
703-683-6650

June 5, 2019

RE: Board of Zoning Appeals Case # 2019-0002  
111 Franklin Street

To: Mr. Attenburg, Chairman of the Zoning Appeals Board and each Member of the Board

CC: Ms. Melissa Dunn, Senior Planning Technician, via email  
Mr. Sam Shelby, Urban Planner, via email  
Mr. Kenneth W. Wire, Applicant, via email

My wife and I have owned the property at 109 Franklin Street (a 15' wide lot) since 1978. Our property's west boundary abuts the east boundary of the subject property at 111 Franklin St. Further we share with 111 Franklin St a private 5' wide alleyway which runs along the north side of 111 Franklin St. to our property.

We would first like to note that the current owners of 111 Franklin St have been reasonable and considerate whenever we have had occasion to interact with them and we have no objection to the requested variance on the south, west and north sides (subject to our continued unobstructed use of private alley way).

However, in light of the current owner's apparent intent to sell the 111 Franklin St property for use as either an office building or private residence, and since the intentions of any prospective owner are unknown, we would like to request that any variance granted be subject to the following restrictions on the east side:

1. That nothing in the variance would grant the owner the right to install windows (which would otherwise be subject to a set back requirement) on the east side of the building as long as it sits on the property line, and
2. That nothing in the variance grants the owner the right to install or continue to operate HVAC or other vents along the east side of the property (which would otherwise be subject to a set back requirement) in the event that such vents conflict with property which might be constructed at 109 Franklin St.

To explain the reason for this second item, the house on 109 Franklin was constructed in the 1800's. At that time it was sited approximately 1.5 feet to the east of the actual property line. The 15' wide house currently extends 1.5' to the east of the property line and is subject to an easement granted by the developer of

107 Franklin St. This easement exists into perpetuity or until the house is torn down or otherwise removed (such as in the event of a fire). If something were to happen to the 109 Franklin St house in the future, it would be rebuilt on the property lines and adjacent to 111 Franklin St. At that time, any such vents would need to be removed to permit the construction.

Thank you for your consideration in this matter.

Sincerely,  
Paul and Deborah Kaplan