Docket Item #3 BZA #2020-00022 Board of Zoning Appeals December 14, 2020

ADDRESS: 325 NORTH HENRY STREET **ZONE:** CL/COMMERCIAL LOW

APPLICANT: SWEENEY ENTERPRISES, LLC, BY NOEL SWEENEY

ISSUE: Variances from area and bulk regulations to change the use of an existing

structure from commercial to residential.

CODE SECTION	SUBJECT	CODE REQUIREMENT	APPLICANT PROPOSES	REQUESTED VARIANCE
4-105(B)(1)	Lot Size	5,000 Sq. Ft.	2,338 Sq. Ft.	2,662 Sq. Ft.
4-105(B)(2)	Frontage	50.00 Ft.	20.17 Ft.	29.83 Ft.
4-106(A)(2)(a)	Front Yard	20.00 Ft.	0.00 Ft.	20.00 Ft.
	Side Yard (North)	8.27 Ft. (1:3 height-to-setback	0.00 Ft. k ratio)	8.27 Ft.
4-106(A)(2)(b)	Side Yard (South) Open Space	8.27 Ft. (1:3 height-to-setback 935.20 Sq. Ft.	2.30 Ft. k ratio) 874 Sq. Ft.	5.97 Ft. 60.68 Sq. Ft.

Staff <u>recommends approval</u> of the request with the following condition because it meets the standards for a variance.

Condition: When the property is converted to residential: (1) all but the two required parking spaces must be removed and (2) the remainder of the rear yard must be converted to open space. A total of 874 square feet of open space must be provided prior to the issuance of a Certificate of Occupancy.

If the Board decides to grant the requested variances it is subject to compliance with all applicable code requirements, ordinances, and recommended conditions found in the department comments. The applicants record the variance with the deed of the property in the City's Land Records Office prior to the release of the building permit.





BZA #2020-00022 325 North Henry Street



0 10 20 40 Feet

I. Issue

The applicant proposes to revert an existing commercial building to a single-family dwelling at 325 North Washington Street. Although the applicant proposes no changes or additions to the building, the building was expanded while it was used commercially and the noncompliance as a residential use was increased. Therefore, the applicant requests variances from the CL residential zone requirements to allow the use of the property as a single-family dwelling.

II. Background

The subject property is an interior lot of record with 20.17 feet of frontage along North Henry Street. The lot is 115.92 feet deep and it is 2,338 square feet in size. The subject property is located in the Parker Gray Historic District. A mix of commercial and residential uses surround the subject property.

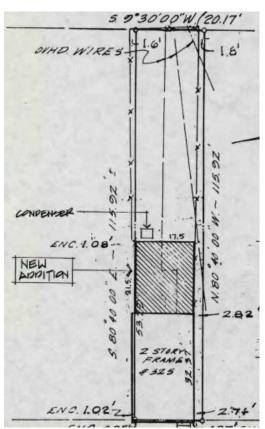


Figure 2- Footprint of existing rear ell and 1994 addition



Figure 1- Subject Property

The property is developed with two story building, which was originally constructed in approximately 1880 as a single-family dwelling. The building was converted to a commercial use in the early 1990's. In 1994, while the property was used commercially, the one-story rear ell was removed and replaced with a slightly larger one-story addition in the required south side yard which also reduced the open space. It was around this time that the entire rear yard began to use as parking, further reducing the open space on the lot.

III. Description

The applicants propose to revert the existing commercial building to a residence. No changes or expansions to the building are proposed. However, the applicant proposes to remove nonrequired parking to increase the open space on the lot. The CL zone does not specify minimum lot size or frontage requirements for commercial uses. Commercial properties in the CL zone are also not required to provide yards or open space except—when the property abuts a residential zone.

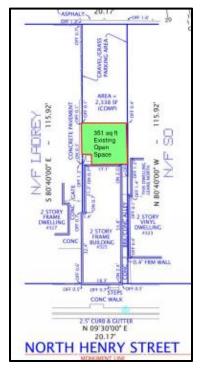


Figure 3- Existing Open Space

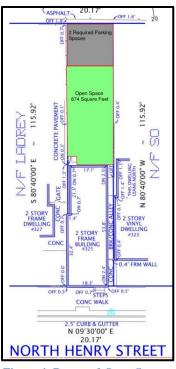


Figure 4- Proposed Open Space

The proposed reversion to the residential use of the building as a single-family dwelling would not comply with most of the CL zone area or bulk regulations, except for height, FAR and the required rear yard. The following table provides a breakdown of all applicable zoning regulations as they pertain to the proposal:

CL Zone	Required/Permitted		Provided	Proposed
CL Zone	Commercial	Residential		
Lot Area	None	5,000 Sq. Ft.	2,338 Sq. Ft.	2,338 Sq. Ft.
Lot Frontage	None	50.00 Ft.	20.17 Ft.	20.17 Ft.
Front Yard	None	20.00 Ft.	0 Ft.	0 Ft.
Side Yard (North)	None	8.27 Ft. *	0 Ft.	0 Ft.
Side Yard (South)	None	8.27 Ft. *	2.30 Ft.	2.30 Ft.

Rear Yard	None	24.83 Ft.**	61.50 Ft.	61.50 Ft.
Height	35 ft.		24.83 Ft.	24.83 Ft.
Net Floor Area	.75 (1,753.50 Sq. Ft.)		1,528 Sq. Ft.	1,528 Sq. Ft.
Open Space	None	935.20 Sq. Ft. 40% of lot area	351 Sq. Ft.	847 Sq. Ft.
Parking	0 Spaces	0 Spaces**	Approximately 6spaces	2 spaces

^{*}Based on a 1:3 height-to-setback ratio.

IV. <u>Master Plan/Zoning</u>

The subject property has been zoned CL/Commercial Low since June 24, 1992. The Old Town Small Area Plan states that uses along the North Henry Street should include a mix of small-scale commercial and residential uses.

V. Requested Variances

4-105(B)(1) Lot size.

As a single-family dwelling, the CL zone would require a lot size of 5,000 square feet. The subject property provides a lot size of 2,338 square feet. The applicant requests a variance of 2,662 square feet from the CL zone lot size requirement.

4-105(B)(2) Frontage.

As a single-family dwelling, the CL zone would require a lot frontage of 50.00 feet. The subject property provides 20.17 of frontage. The applicant requests a variance of 29.83 feet from the CL zone frontage requirement.

-106(A)(2)(a) Front yard.

As a single-family dwelling, the CL zone would require a 20.00-foot front yard. The subject property provides no front yard. The applicant requests a variance of 20.00 feet from the CL zone front yard requirement.

4-106(A)(2)(a) Side yard.

As a single-family dwelling, the CL zone would require a 8.27 foot north and south side yard which is based on a building height of 24.83 feet and height to setback ratio of 1:3. The subject property provides no north side yard and a south side yard of 2.30 feet. The applicant requests variances of 8.27 feet and 5.97 feet from the CL zone side yard requirement.

4-106(A)(2)(b) Open space.

As a single-family dwelling, the CL zone would require 40 percent of the total lot size (935.20 square feet) as open space. The subject property currently provides no open space, but the applicant is proposing to remove non-required parking spaces and convert those to

^{**} Based on a 1:1 height-to-setback ratio.

open space. The applicant proposes to provide 874 square feet of open space, so the requests is for a variance of 60.68 square feet from the CL zone open space requirement.

VI. Applicants Justification for Variance

The applicants wish to sell the property as its original use, a single-family residential use. They are unable to do so because of the small expansion in 1994 while the building was occupied commercially.

VII. 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 applicant's requested deviations represent the minimum necessary to allow the property to be used as a complying single-family dwelling. While the rear addition is not historic and could likely receive approval from the Board of Architectural Review, the one-story addition constructed in 1994 only increased the noncompliance as a residential use by extending the south side wall which today could be approved by special exception and reducing the open space by approximately 30 square feet.

Further, given that the applicants propose reuse of the existing structure as a residence without any exterior changes, the requested deviations are reasonable because they would maintain the principal structure's historic and architectural significance.

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

Strict application of the yards required by the CL zone for a single-family dwelling would unreasonably restrict the property by imposing 8.00-foot setbacks on a 20.17-foot-wide lot, resulting in a building area only 4.17 feet wide.

Additionally, the strict application of the CL zone's lot size and frontage requirements would unreasonably restrict the subject property by prohibiting exclusively residential uses entirely.

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

While the need for the requested variances would be shared by other properties developed with historic structures on lots without open space and of similar size, the applicant plans to bring the property nearly into compliance with the required open space and the south wall of the addition if proposed today could be approved with a special exception. There is no increase in the noncompliance of the other area and bulk requirements.

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

The residential use of the subject property, a use permitted by the CL zone would not be contrary to the purpose of the ordinance.

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

The applicant does not request a use not permitted by the CL zone. A rezoning would not eliminate the need for the requested variances.

VIII. 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 CL zone. Strict application would prevent all exclusively residential uses of the property. The variances, if approved, would alleviate hardships created by the subject property's substandard nature (narrowness and small size).

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.

The applicants acquired the subject property interest in good faith and did not create the hardship. The property was commercial when they purchased it and they were unaware at the time of purchase that the Zoning Ordinance would unreasonably restrict their ability to convert the building to a residence.

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 impact adjacent or nearby properties because no changes or expansions to the existing building are proposed. Further, granting the variances would result in a residential use that would be arguably less impactful to surrounding properties than the existing or potential expanded by-right commercial uses.

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 subject property is developed with a historic building with a modest onestory addition located on a substandard lot. While this situation would apply to other buildings similarly situated on CL zoned properties wishing to revert from commercial to residential, many of those properties have remained residential and would be legally noncomplying.

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.

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.

IX. Staff Conclusion

As outlined above, staff <u>recommends approval</u> with the following condition because it meets the criteria for a variance.

Condition: When the property is converted to residential: (1) all but the two required parking spaces must be removed and (2) the remainder of the rear yard must be converted to open space. A total of 874 square feet of open space must be provided prior to the issuance of a Certificate of Occupancy.

Staff

Mary Christesen, Zoning Manager, <u>mary.christesen@alexandriava.gov</u>
Tony LaColla, AICP, Land Use Division Chief, <u>Anthony.lacolla@alexandriava.gov</u>

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 Board of Architectural Review.
- F-2 BAR staff appreciates the fact that the applicant intends to adaptively reuse this existing structure without making major changes, therefore maintaining the building's historic and architectural significance.

Transportation and Environmental Services:

- R-1 The building permit must be approved and issued prior to the issuance of any permit for demolition, if a separate demolition permit is required. (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)
- R-4 Comply with all requirements of SIT #73-0035. (T&ES)
- F-1 Previously reviewed under BAR #2011-0034 and BAR #2012-0171. (T&ES)
- F-2 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)
- 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.



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

FAR	ALA.
1.	Applicant: Owner Contract Purchaser Agent
	Name 1/08 Sweeney
	Address 7500 Clifton Ro
	CliFTON, VA 20/24
	Daytime Phone 703 - 945 - 2725
	Email Address /OEL SWE @ AOL. Com
2.	Property Location 325 N. HENRY STREET
3.	Assessment Map # 064 Block 0/ Lot 14 Zone 23
4.	Legal Property Owner Name SWEENEY EMERPrises LLC
	Address 7500 CliFTon Ro.
	CLIFTON, VA 20124

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.

Address	Percent of Ownership
7500 CLIFTON ROZO124	100%
001111111111111111111111111111111111111	
	Address 7500 CLIFTON ROZO124

Name	Address	Percent of Ownership
NOEL SWEEDEY	CLIFTON VA 2012	4 100%.
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 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 (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.)

Relationship as defined by Section 11-350 of the Zoning Ordinance	Member of the Approving Body (i.e. City Council, Planning Commission, etc.)
1)one	None.
	Section 11-350 of the Zoning

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.

Describe request briefly: Would like To SEU property As A "RESIDENTIAN BUILDING WHICH IT WAS USED IN THE PAST FON. THANKS
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: 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: /occ Sweeney Date: 10/27/20. Signature: /kki Murmy
Pursuant to Section 13-3-2 of the City Code, the use of a document containing false information may constitute a Class 1 misdemeanor and may result in a punishment of a year in jail or \$2,500 or both. It may also constitute grounds to revoke the permit applied

for with such information.

PART B

APPLICANT MUST EXPLAIN THE FOLLOWING:

(Please attach additional pages where necessary.)

- Please answer A or B:
 - A. Explain how enforcement of the zoning ordinance would prevent reasonable use of the property.

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

WE ARE TRYING TO SEU THE PROPERTY AND CAMON SEU AS COMMERCIAL.

- 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.

I DO NOT Know.

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

I WOULD ASSUME SO.

3.	Was the unreasonable restriction or hardship caused by the applicant?
	A. Did the condition exist when the property was purchased?
	YES.
В.	Did the applicant purchase the property without knowing of this restriction or hardship? I WAS UNDER THE IMPRESSION WE COULD USE AND SELL AS RESIDENTIAL.
C.	How and when did the condition, which created the unreasonable restriction or hardship, first occur?
	Pining lovio.
D.	Did the applicant create the unreasonable restriction or hardship and, if so, how was it created?
	No.
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.
	properties or the neighborhood in general. 10. THE PROPERTY TO THE PRIECT SOUTH SERVICENTIAL AND THE ONE TO SERVICENTIAL AND THE ONE TO THE DIRECT PORTH IS ABANDONED.

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.

No: I AM SURE THEY WOURD SUPPORT AS

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

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PART C

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

No. WE CAMPOR EATH SEN UNTIL WE ARE ALLOWED TO SEN AS PESIDENTIAL 2. Please provide any other information you believe demonstrates that the requested variance meets the required standards.

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properties has Residential.

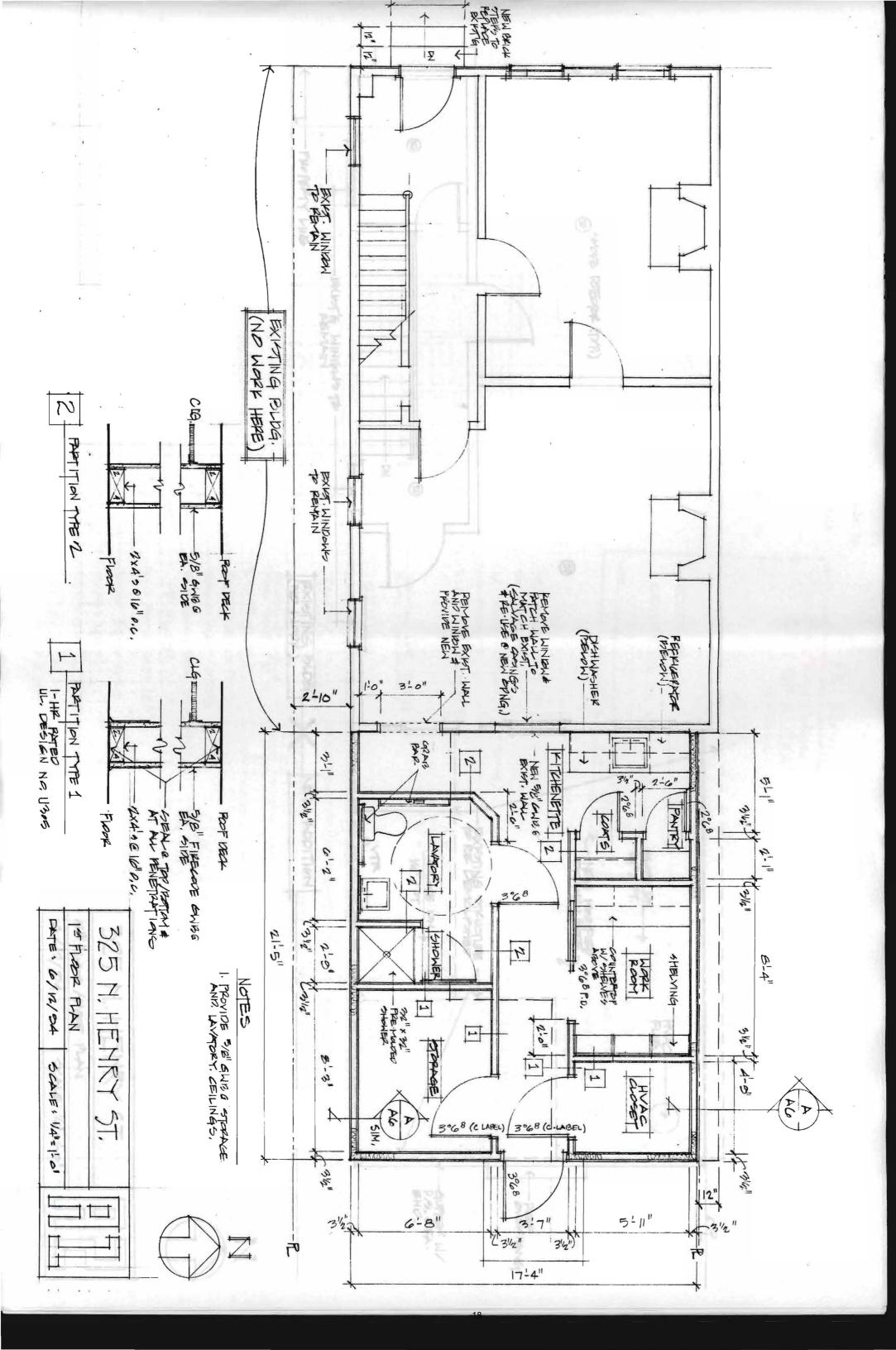
ATTENTION APPLICANTS

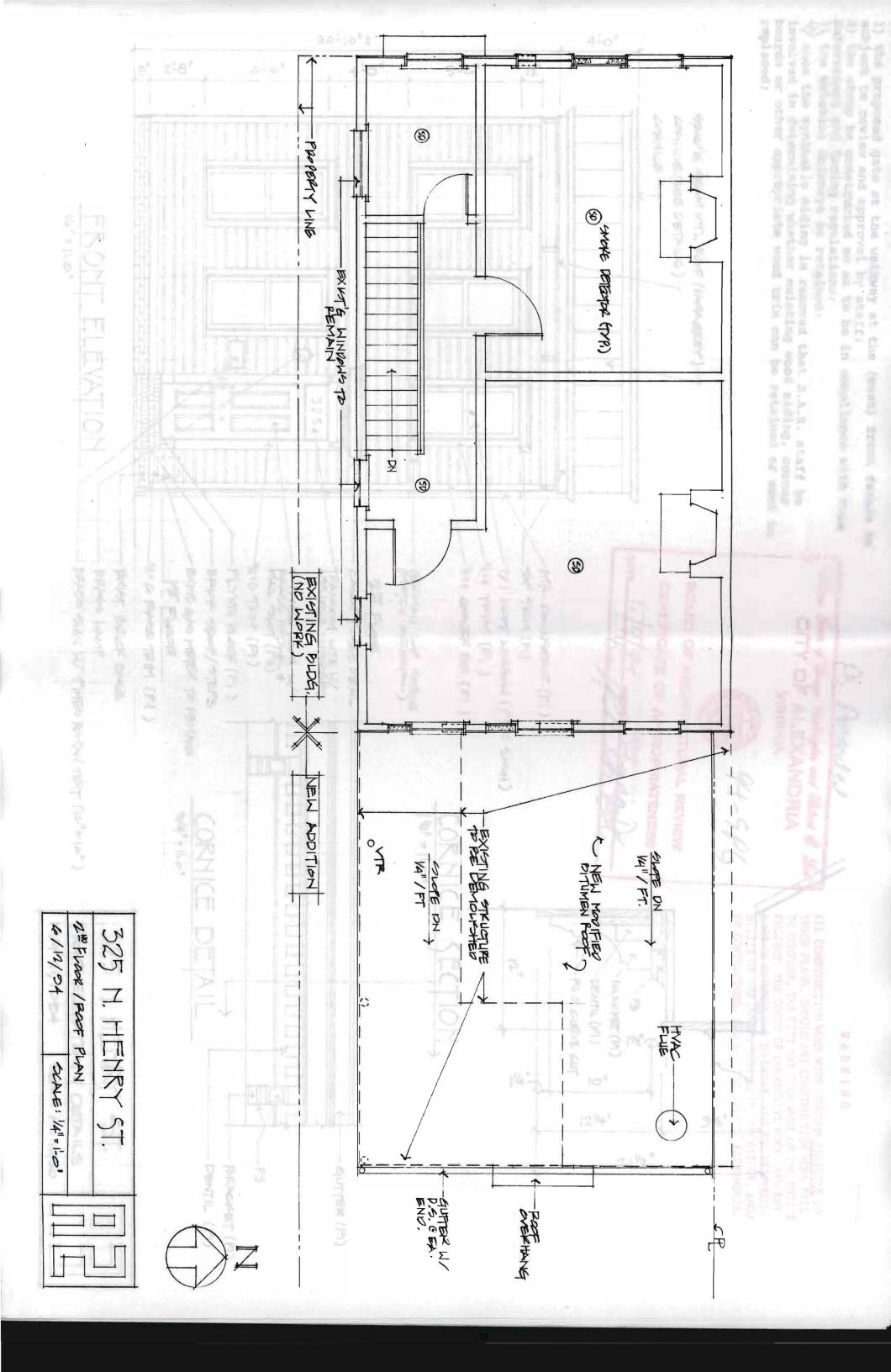
At the time of application for a Special Use Permit, Rezoning, Vacation, Encroachment, Variance, Special Exception or Subdivision, you must provide a draft of the description of your request you intend to use in the property owner's notice. You must be thorough in your description. Staff will review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

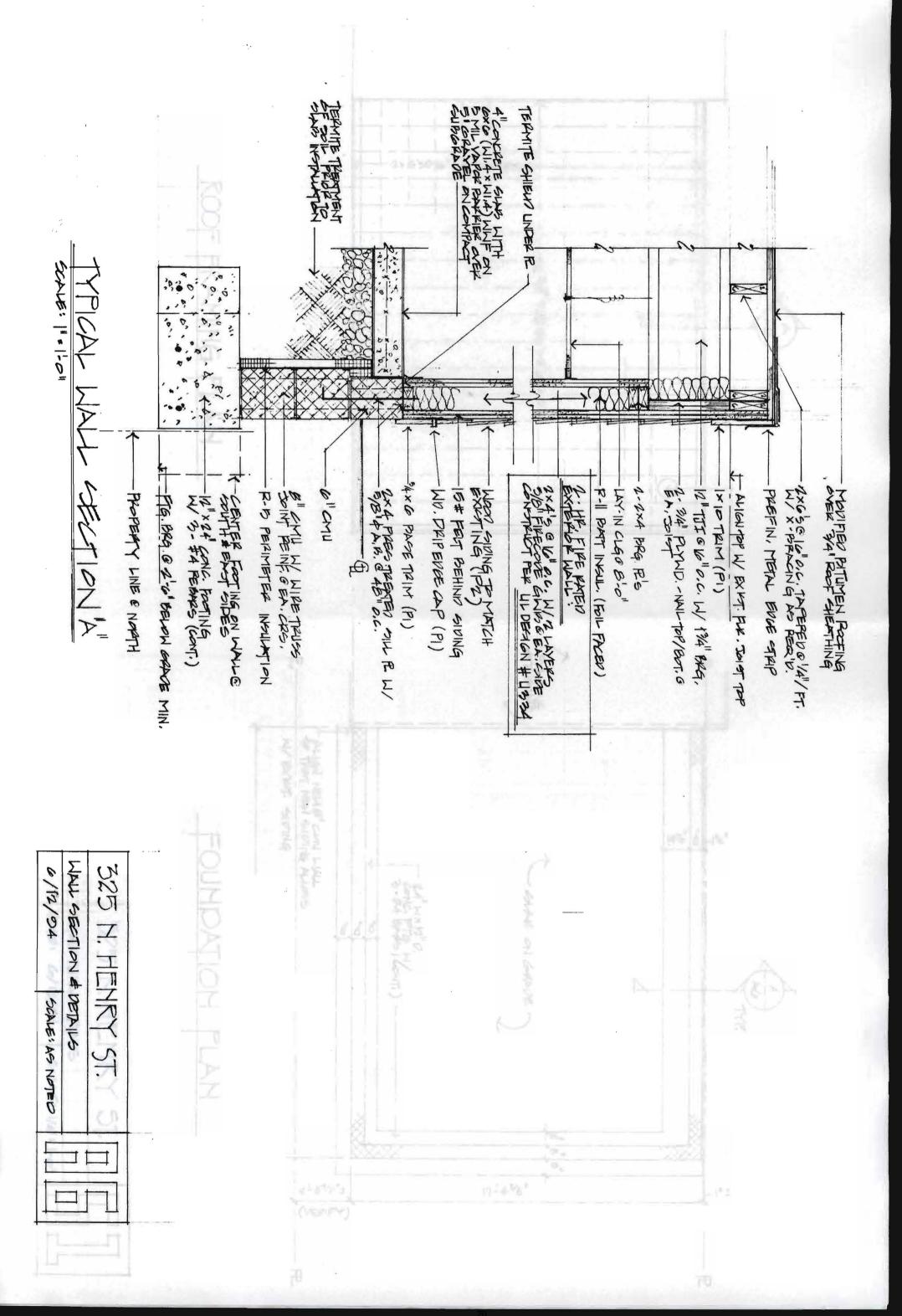
The example illustrates a detailed description:

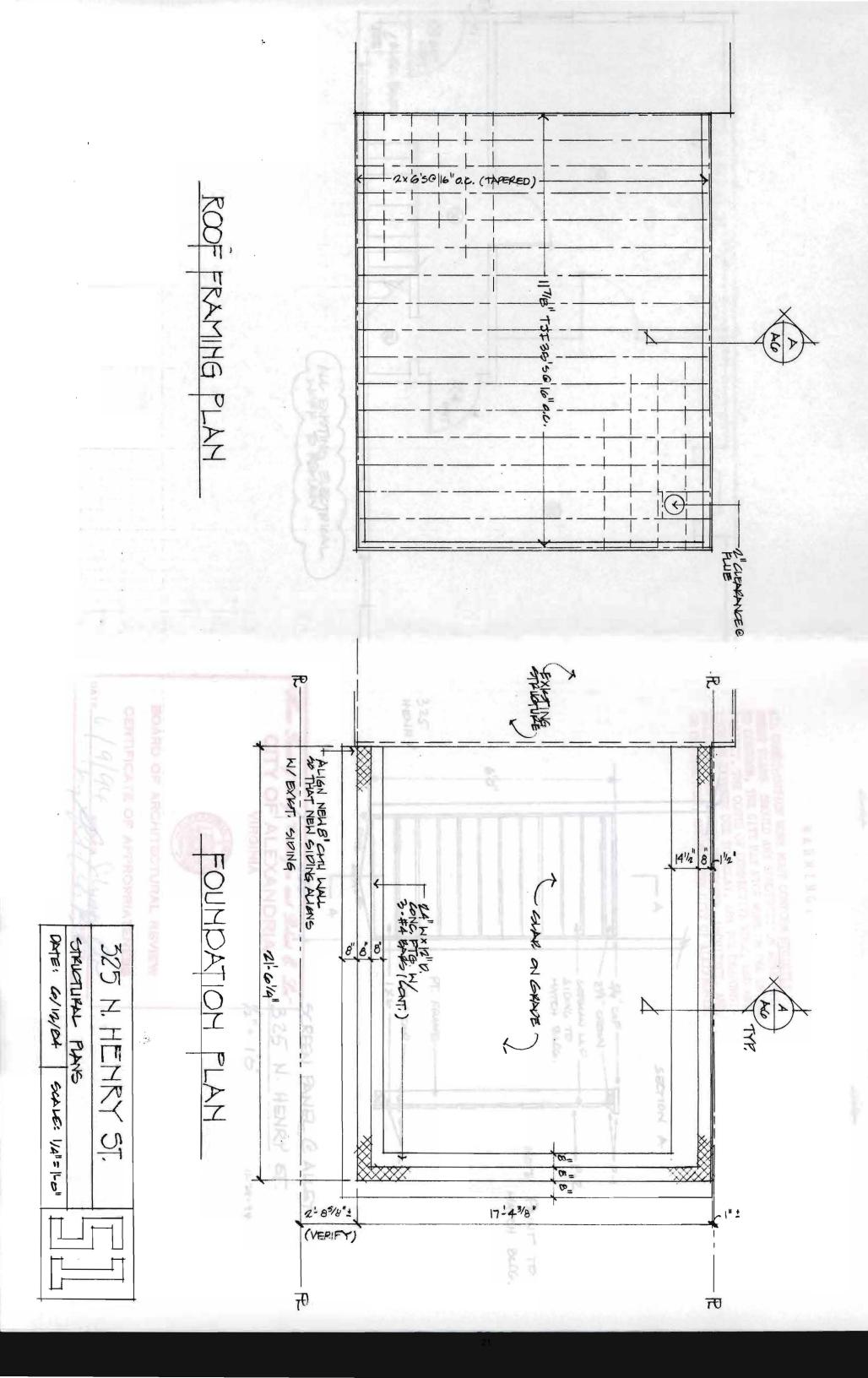
"Variance to construct a two-story addition in the required side yards on _______
Street."

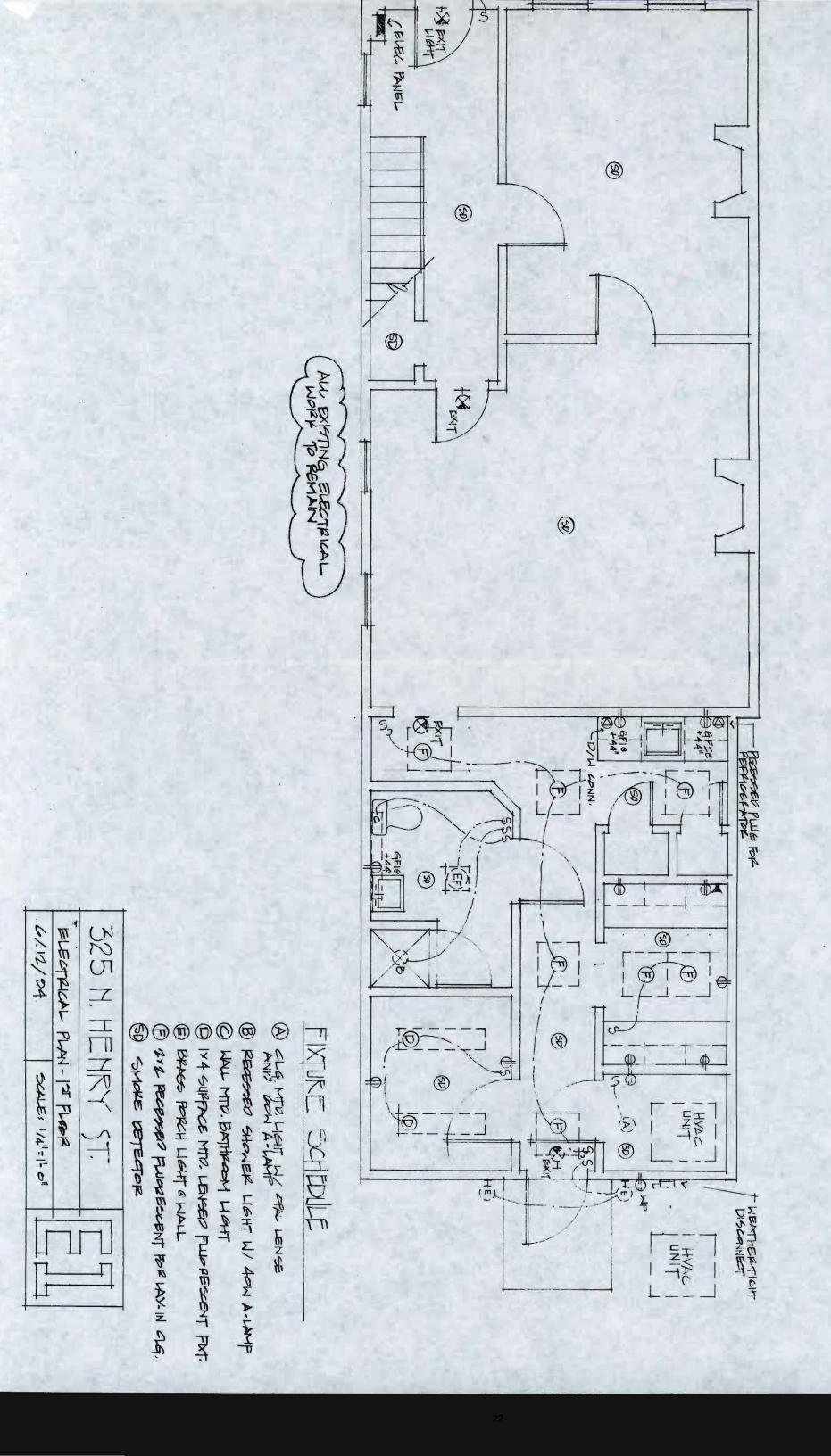
If you fail to submit draft language at the time of the application filing deadline, the application will be determined to be incomplete and may be deferred by staff.











WARNINGI

