Docket Item #3 BZA #2021-00005 Board of Zoning Appeals May 10, 2021

ADDRESS: 314 COMMERCE STREET

**ZONE:** CD/COMMERCIAL DOWNTOWN

APPLICANT: JOSH AND EMILY GALER, REPRESENTED BY RACHEL

**DEBAUN** 

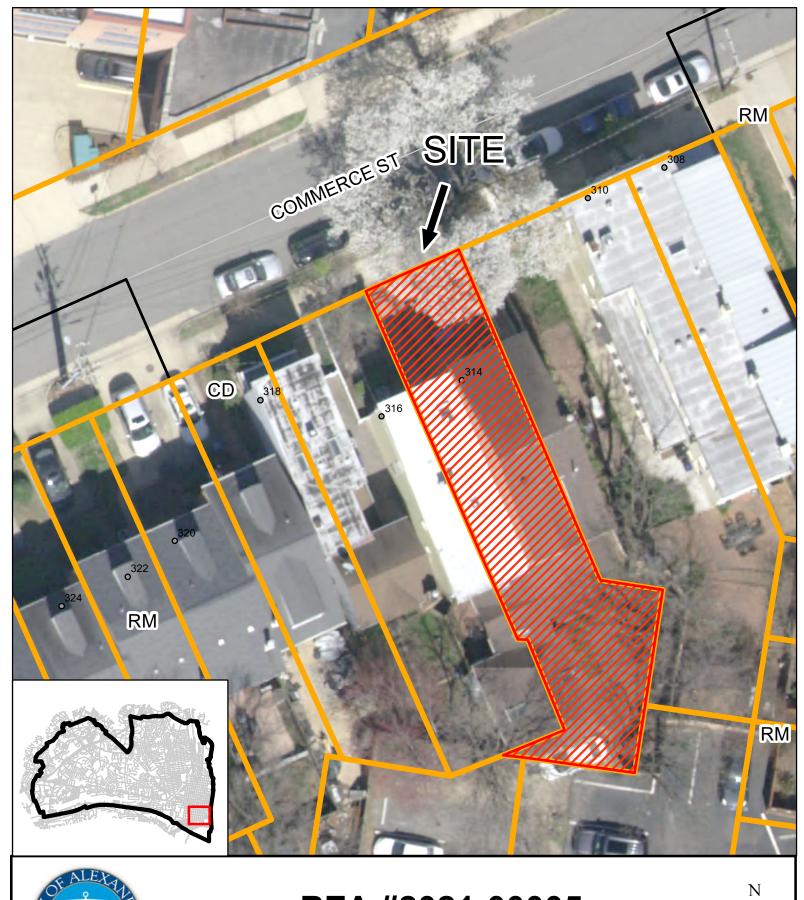
**ISSUE:** Special exception to construct a roof deck and a pergola in the required

rear yard.

CODE	SUBJECT	CODE	APPLICANT	REQUESTED
SECTION		REQMT	PROPOSES	EXCEPTION
4-506(A)(2)(c)(1	) Rear Yard	16.00 feet*	2.67 feet	13.33 feet

The staff recommends approval of the request because it meets the criteria for a special exception.

If the Board decides to grant the requested special exception it is subject to compliance with all applicable code requirements, ordinances, and recommended conditions found in the department comments. The applicants must submit certification of building height and floor area ratio from a licensed architect or engineer prior to the final inspection. The special exception must also be recorded with the deed of the property in the City's Land Records Office prior to the release of the building permit.





# **BZA #2021-00005 314 Commerce Street**



0 10 20 40 Feet

2

#### I. <u>Issue</u>

The applicants request a special exception to construct a roof deck and pergola in the required rear yard at 314 Commerce Street.

#### II. Background

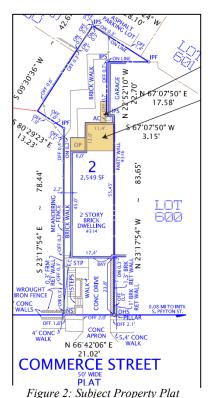
The subject property consists of one lot of record with 21.02 feet of frontage facing Commerce Street, a depth of 121.83 feet and a lot area of 2,549 square feet. The property has an unusual shape (as shown in Figure 2), with 78.44-foot and 13.23-foot east side property lines, 42.67-foot, 28.10-foot, 17.58 foot, and 3.15-foot rear property lines, and 22.70-foot and 83.65-foot west property lines. The subject property is substandard in frontage for a two-family semi-detached dwelling unit in the CD zone.

The property is developed with a three-story semi-detached dwelling with a one-story room in the rear. The dwelling is located 23.80 feet back from the front property line facing Commerce Street, 2.7 feet from the east property line and shares a wall with the neighboring property at 316 Commerce Street. The property is located 2.67 feet from the closest rear property line and between 36.17 feet and 40.58 feet from the additional rear property lines. 314 Commerce Street is located within the boundaries of the locally designated Old and Historic Alexandria District. The subject property was historically part of the neighboring property at 316 Commerce and is shown as a vacant part of 316 Commerce on the 1902 and 1921 Sanborn maps. This block of Commerce Street was added to the Old and Historic District in 1984.

In 1978, the property at 316 Commerce was subdivided into two lots. The 3.15-foot rear property line at 314 Commerce was created to accommodate an existing rear garage at 316 Commerce. There have been four BZA cases for this property. In 1979 (BZA1893) and in 1983 (BZA4065), the BZA granted variances to reduce the east side yard setback to 3 feet and the west side yard setback to 0 feet (the C-3 zone



Figure 1: Subject Property



required two 17-foot side-yard setbacks), but nothing was constructed. In 1985, the BZA approved a variance to reduce the east side yard by 14 feet and the west side yard by 17

feet (BZA5234), leaving a 3-foot setback on the east side property line and no setback on the west side property line. The variances were granted because the restrictive side and rear yard setbacks of the C-3 zone were found to unreasonably restrict the use of the property due to the lot's narrowness. The current structure is consistent with what was approved in 1985.

The applicant was denied variances in January 2021 (BZA2020-00021) for a roof deck and pergola in required east side and south rear yards.

The following table provide zoning analysis of the subject property.

CD	Required/Permitted	Existing	Proposed
Lot Area	1,452sq. ft.	2,549 sq. ft.	2,549 sq. ft.
Lot Frontage	25.00 ft.	21.02 ft.	21.02 ft.
Front Yard setback	0 ft. or average	23.80 ft.	23.80 ft.
	distance of the		
	existing buildings		
Side Yard (East)	5.00 ft.	2.70 ft. *	2.70 ft. *
Side Yard (West)	0.00 ft.	0.0 ft.	0.0 ft.
Rear Yard	16 ft. minimum, 1:2	2.67 ft	2.67 ft.
Floor Area Ratio (FAR)	3,186 sq. ft. (1.25)	2,486 (gross) sq. ft.	2,486(gross) sq. ft.
Open Space	892 sq. ft. (35%)	1,130 sq. ft.	1,104.49 sq. ft.

<sup>\*</sup> Side setback of 3.00 feet approved by BZA5234, 2.70 feet is within contractor error allowed by section 11-105.

#### III. Description

The proposed roof deck will be 142 square feet, 6.83 feet in height from grade and have 3-foot-tall guardrails. The pergola slants upwards towards the house and is between 8.25 feet and 10.50 feet in height from the roof deck, for a total maximum height of 17.25 feet from grade. The deck will lower the existing height of the roof and will cover the roof over most of the first-floor rear area shown in Figure 3 and Figure 4. As shown in Figure 4, the proposed guardrails and pergola will located be 5.00 feet from the east property line to meet the required 5.00-foot side yard setback requirement, however; the roof area between 2.70 feet to 5.00 feet from the east side yard is allowed by-right to be lowered as it will decrease the intensity of the use within the side yard setback.

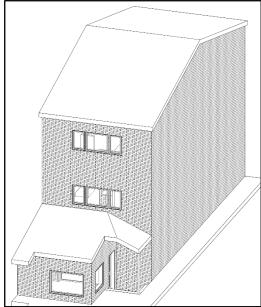


Figure 3: Existing South Rear Elevation

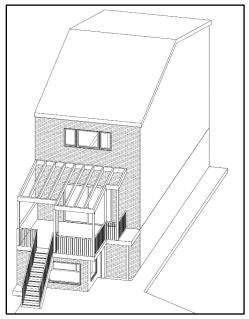


Figure 4: Proposed South Rear Elevation

As show in green in Figure 5, most of the proposed roof deck, guardrails and pergola are allowed by-right. The part of the roof deck, guardrails and pergola that require a special exception from the rear yard setback is shown in red in Figures 5 and 6. The uncommon 3.15 rear lot line show in teal was created in 1978 when the property was subdivided from 316 Commerce to accommodate a garage.

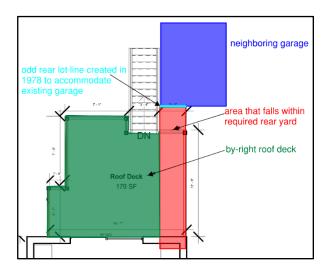


Figure 5: Proposed Deck and Pergola

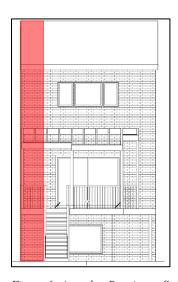


Figure 6: Area that Requires a Special Exception

#### IV. Noncomplying Structure/ Substandard Lot

The existing lot at 314 Commerce Street is a substandard lot developed with a noncomplying structure with respect to the following:

	<b>Required</b>	<b>Existing</b>	<b>Noncompliance</b>
Lot Frontage	25.00 ft	21.02 ft	3.098 ft
Rear Yard Setback	16.00 ft	2.67 ft	13.33 ft

While BZA5234 granted variances in 1985 to allow for a 0.00 west side setback and a 3.00-foot east side yard setback, the 3.15 rear lot line was not considered a rear lot line at that time and therefore the construction of the dwelling in its current location did not require nor receive a variance for a rear yard setback. Because of this, the portion of the existing house that falls within 16.00 feet of the 3.15 rear lot line is a noncomplying wall.

#### V. <u>Master Plan/Zoning</u>

The subject property is zoned CD, commercial downtown zone, has been so zoned since 1992, and is identified in the King Street Metro/Eisenhower Avenue Small Area Plan for mixed used. In 1984, the Old and Historic Alexandria District extended two blocks west, adding this block into the district.

#### VI. Requested Special Exception:

Zoning Ordinance § 6-403(B)(4) requires the roof deck and required guards (railings) to meet the setbacks listed for the CD zone. The CD zone, per Zoning Ordinance § 4-506(A)(2)(c)(1), requires a minimum 16.00-foot rear yard setback for the subject property. The Zoning Ordinance §7-202(A)(5)(a) requires all pergolas within a required yard to be less than 10.00 feet tall. The proposed pergola is between 15.00 feet and 17.67 feet in height and therefore cannot fall within a required yard. The proposed deck, guardrails and pergola will be 2.67 feet from the rear property line. Per Zoning Ordinance §11-1302(B)(1), the applicant requests a special exception of 13.33 to allow the deck, guardrails and pergola as an extension of a semi-detached dwelling within the rear noncomplying plan of the dwelling.

#### VII. Special Exceptions Standards

To grant a special exception, the Board of Zoning Appeals must find that the strict application of the zoning ordinance creates an unreasonable burden on the use and enjoyment of the property. Section 11-1304 of the zoning ordinance lists standards that an applicant must address and that the Board believes exists and thus warrants granting a special exception of the zoning regulations.

1) Whether approval of the special exception will be detrimental to the public welfare, to the neighborhood or to the adjacent properties.

The proposed portion of the roof deck and pergola that require a special exception would be located on top of an existing one-story rear portion of the dwelling. While the proposed pergola increases the height of the rear portion of the building, it will be 80% open and lower than the taller portion of the existing dwelling. The roof deck and pergola will not be detrimental to the neighborhood or any adjacent properties.

2) Whether approval of the special exception will impair an adequate supply of light and air to the adjacent property, or cause or substantially increase traffic congestion or increase the danger of fire or the spread of fire or endanger the public safety.

The proposed roof deck and pergola would extend an existing non-complying wall. The roof deck would have no impact on the light and air supply to adjacent properties. The roof height will be lowered and flattened to accommodate the deck and railings. The pergola would increase the height of the rear portion of the existing dwelling but would be 80% open on top and completely open on the sides and would not impair the supply of light and air to any adjacent property. There would be no expected impacts to traffic or public safety.

3) Whether approval of the special exception will alter the essential character of the area or zone.

The proposed roof deck and pergola would not alter the size or footprint of the existing residence. The portions of the pergola and roof deck within the required rear yard would both be allowed by-right if not for the odd rear lot line. The 3.15-foot rear lot line creates an additional rear required yard that would not exist if the west property line was straight. The proposed roof deck is also reasonable because rooftop decks are a common element seen in residences throughout the historic districts. Because of the proposed location in the rear of the dwelling, the roof deck and pergola would have a limited impact on the character of the surrounding area.

4) Whether the proposal will be compatible with the development in the surrounding neighborhood.

The proposed roof deck and pergola would be compatible with the surrounding area. Roof decks are common throughout the historic districts and the placement of the pergola on a first-floor rear portion of the dwelling will be difficult to see from Commerce Street. Specific compatible detailing will also be addressed by the Board of Architectural Review, as the property is within the Old and Historic Alexandria District and will go before the BAR after this BZA hearing.

5) Whether the proposed development represents the only reasonable means and location on the lot to accommodate the proposed structure given the natural constraints of the lot or the existing development of the lot.

The applicant can have a by-right roof deck and pergola on the majority of the rear portion of the existing dwelling. Without the special exception, the guardrails and pergola will have to end 3.15 feet from the west property line, resulting in a less quality design for the sake of accommodating an uncommon and odd rear lot line configuration.

#### VIII. Staff Conclusion

#### Neighborhood Impact

The properties along Commerce Street and in the surrounding neighborhood consist primarily of two-story two-family and townhouse dwellings. The proposal would be compatible with the mass and height of other dwellings in the area.

#### Light and Air

The roof deck and the required railings would not impact light and air on neighboring properties, as the railing will be 3.00 feet in height and almost completely open. The pergola would be 80% open, so it is unlikely the supply of light and air to the west property line would be significantly impaired by the proposed portion of the pergola that falls within the required rear yard.

#### Lot Constraints

The shape of the lot is uncommon, as it has four rear lot lines and four side lot lines. The 3.15-foot rear property line that was created when the property was subdivided in 1978 to accommodate the existing garage is unique and rarely seen in the City. This 3.15-foot rear lot line creates an additional rear required yard and restricts development for 16 feet along the west property line that would otherwise have no setbacks. If not for this additional rear required yard, the applicant could construct the guardrails and pergola within this 3.15 by 13.33 area by-right.

#### **Staff Conclusion**

As outlined above, staff believes the request meets the criteria for a special exception and **recommends approval**.

#### Staff

Maggie Cooper, Urban Planner, <u>margaret.cooper@alexandriava.gov</u>
Mary Christesen, Zoning Manager, <u>mary.christesen@alexandriava.gov</u>
Tony LaColla, AICP, Division Chief, <u>tony.lacolla@alexandriava.gov</u>

#### **DEPARTMENTAL COMMENTS**

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

\* The applicant is advised that if the Special Exception is approved the following additional comments apply.

#### Transportation and Environmental Services

#### **CONDITIONS**

- R1. 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)
- R2. Applicant shall be responsible for repairs to the adjacent city right-of-way if damaged during construction activity. (T&ES)
- R3. 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)

#### **FINDINGS:**

- F1. 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)
- F2. 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:

<u>For a Public Alley -</u> The applicant shall contact T&ES, Construction Permitting & Inspections at (703) 746-4035 to discuss any permits and accommodation requirements that will be required.

<u>For a Private Alley</u> - 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)

#### **CODE REQUIREMENTS**

- C-1The 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-2The 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-3Roof, 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-4All secondary utilities serving this site shall be placed underground. (Sec. 5-3-3) (T&ES)
- C-5Any work within the right-of-way requires a separate permit from T&ES. (Sec. 5-2) (T&ES)
- C-6All 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)

#### Board of Architectural Review Staff

Applicant has pending BAR application awaiting the BZA decision.

#### Code Administration:

A building permit and plan review are required prior to the start of construction.

#### Recreation (Arborist):

This department reviewed the project and had no comments.

#### Historic Alexandria (Archaeology):

No archaeological oversight necessary for this undertaking.

BZA	Case	#		



### APPLICATION BOARD OF ZONING APPEALS

### **SPECIAL EXCEPTION FOR ADDITIONS**

Section 4	on of zoning ordinance from which request for special exception is made: -506 (A) (C) (ロ)
PART	A
1.	Applicant: [] Owner [] Contract Purchaser Magent
	Name Rachel DeBaun, Moore Construction Group
	Address 913 Duke St Alexandria, VA 22314
	Daytime Phone 888-486-6673  Email Address rachel @ moore cg. com
2.	Property Location 314 Commerce St
3.	Assessment Map # 074.01 Block 18 Lot 03 Zone CD
4.	Legal Property Owner Name
	Address 314 Commerce St Alexandria, VA 22314

<b>BZA Case</b>	#	

5.	(1) due to abnormal site condition where	
		er or neighbor's garage causing 3.15' of reduced
6.	If property owner or emplicant	is being represented by an authorized agent
0.	such as an attorney, realtor	is being represented by an authorized agent, or other person for which there is a form of or the business in which they are employed have the City of Alexandria, Virginia?
	[ ] Yes — Provide proof of curre	ent City business license.
	[ ] No — Said agent shall be application.	e required to obtain a business prior to filing
the s accur action grants Section this a	ite plan, building elevations, prospective tate. The undersigned further understarn taken by the Board based on such informs the City of Alexandria permission to poin 11-301(B) of the 1992 Alexandria City	STS that all of the information herein provided including of drawings of the projects, etc., are true, correct and odd that, should such information be found incorrect, any rmation may be invalidated. The undersigned also hereby post placard notice as required by Article XI, Division A, Zoning Ordinance, on the property which is the subject of the property owner, also attests that he/she has obtained is application.
APPL	ICANT OR AUTHORIZED AGENT:	
Rachel D	eBaun, Moore Construction Group	Rachel A DeBaun
Prin	t Name	Signature
88	8-486-6673	3/22/21
Tele	phone	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.

BZA Case #	

NOTE TO APPLICANT: Only one special exception per dwelling shall be approved under the provisions of Section 11-1302(B)(4).

**PART B** (SECTION 11-1304)

APPLICANT MUST EXPLAIN THE FOLLOWING:

(Please use additional pages where necessary.)

1.	Explain how the special exception for the proposed addition, if granted meets the applicant's needs.
Sn	ecial Exception if allowed will enable homeowner to have full use of their roof deck
•	stead of cutting of a 3.15' x 12' (38 SF) of unusbale roof area if railing was required to be
	t back 3.15' from property line.
2.	Explain if the special exception, if granted, will harm adjoining properties or impact the neighborhood in any way.
	o harm to adjacent properties will result from granting of this special exception. Adjacent
_	eighbor on west side of property where relief would be issued has discussed support of an with homeowner
3.	Explain how the proposed addition will affect the light and air to any adjacent property.  No affect on light and air to adjacent properties
_	Ç / I I

BZA	Case	#	

4.	Explain how the proposed addition is compatible with other properties in the neighborhood and the character of the neighborhood as a whole.
not	applicable - not an addition .
<b>5.</b>	How is the proposed construction similar to other buildings in the immediate area?  t applicable
	Explain how this plan represents the only reasonable location on the lot to build the proposed addition.  office / roof that the proposed roof deck is being built on top of is existing so this is the reasonable location for roof deck.
7.	Has the applicant shown the plans to the most affected property owners? Have any neighbors objected to the proposed special exception, or have any neighbors written letters of support? If so, please attach the letter.
Home	eowner has received verbal support from 316 Commerce St neighbor. Letter of support to
oe pro	ovided when received. Homeowner and neighbor at 310 Commerce St are discussing the
	soon and will provide feedback once received. Neighbor had previously opposed a request
	g for zoning relief of east side, but has verbally told homeowner he plans to support new
olan t	hat only requests relief on west side.

#### 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
Rachel DeBaun	3335 Duke Street	0%
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 **314 Commerce St** (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
John Galer	314 Commerce St	50%
2 Emily Galer	314 Commerce St	50%
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.)

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. n/a		
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.

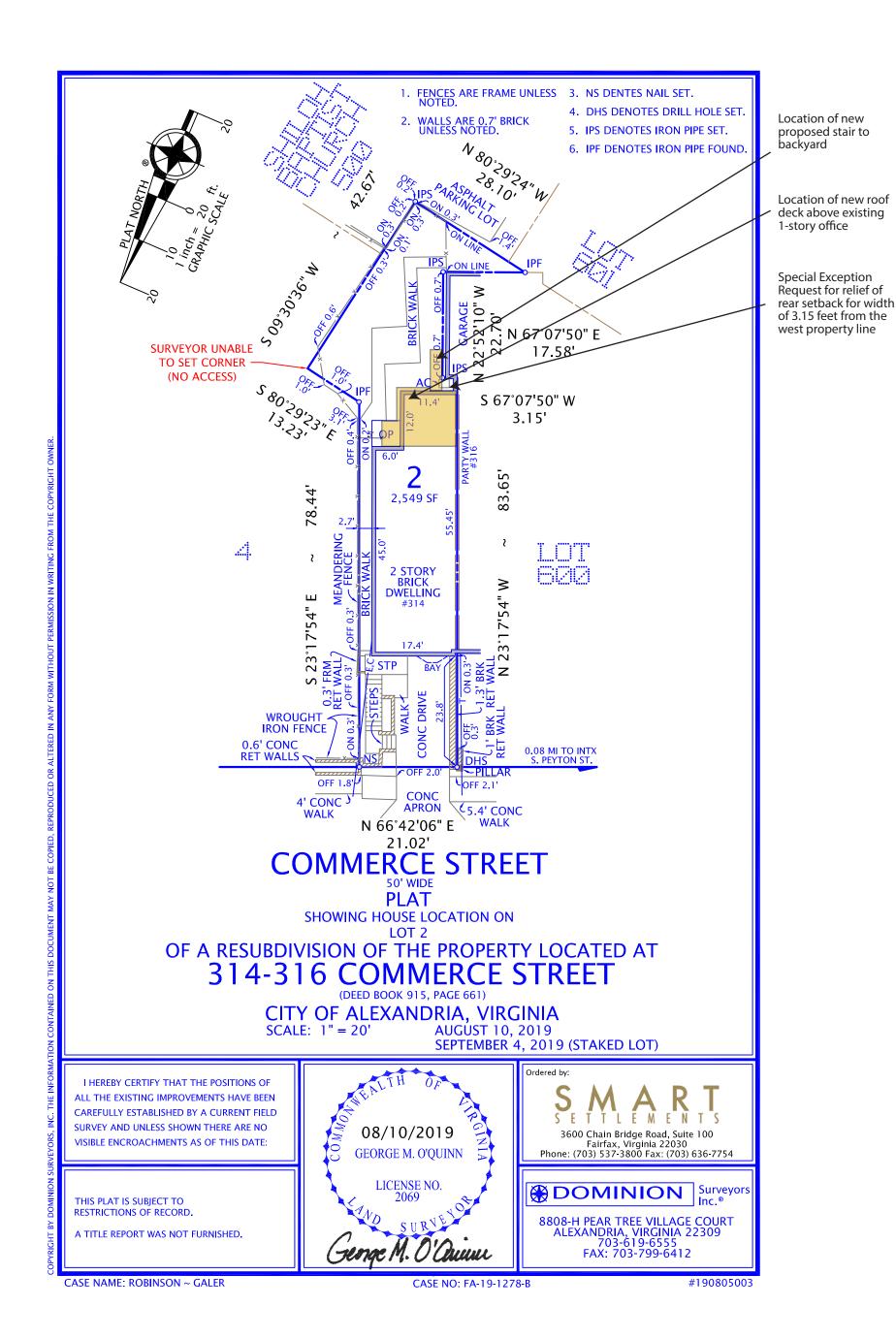


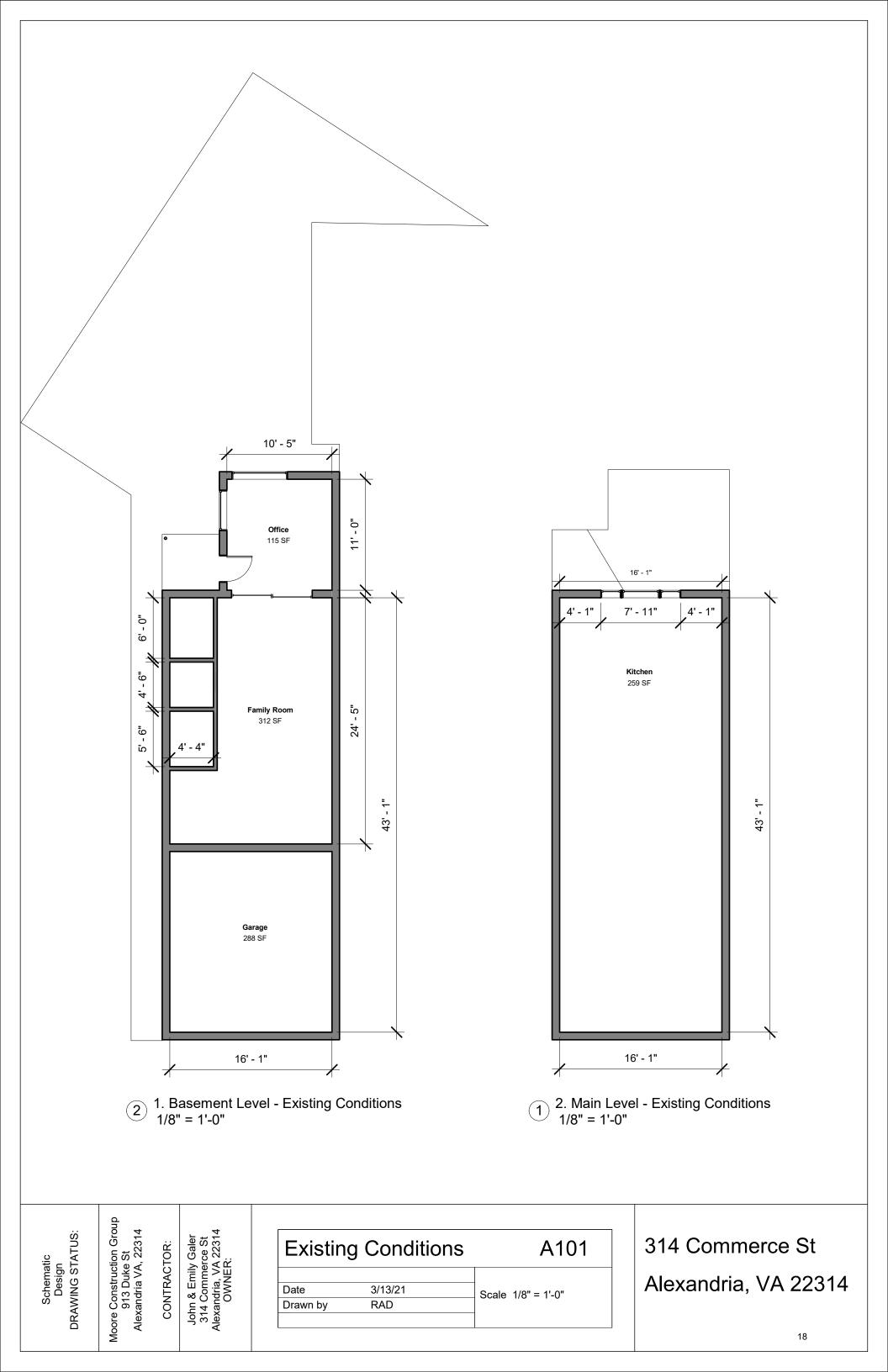


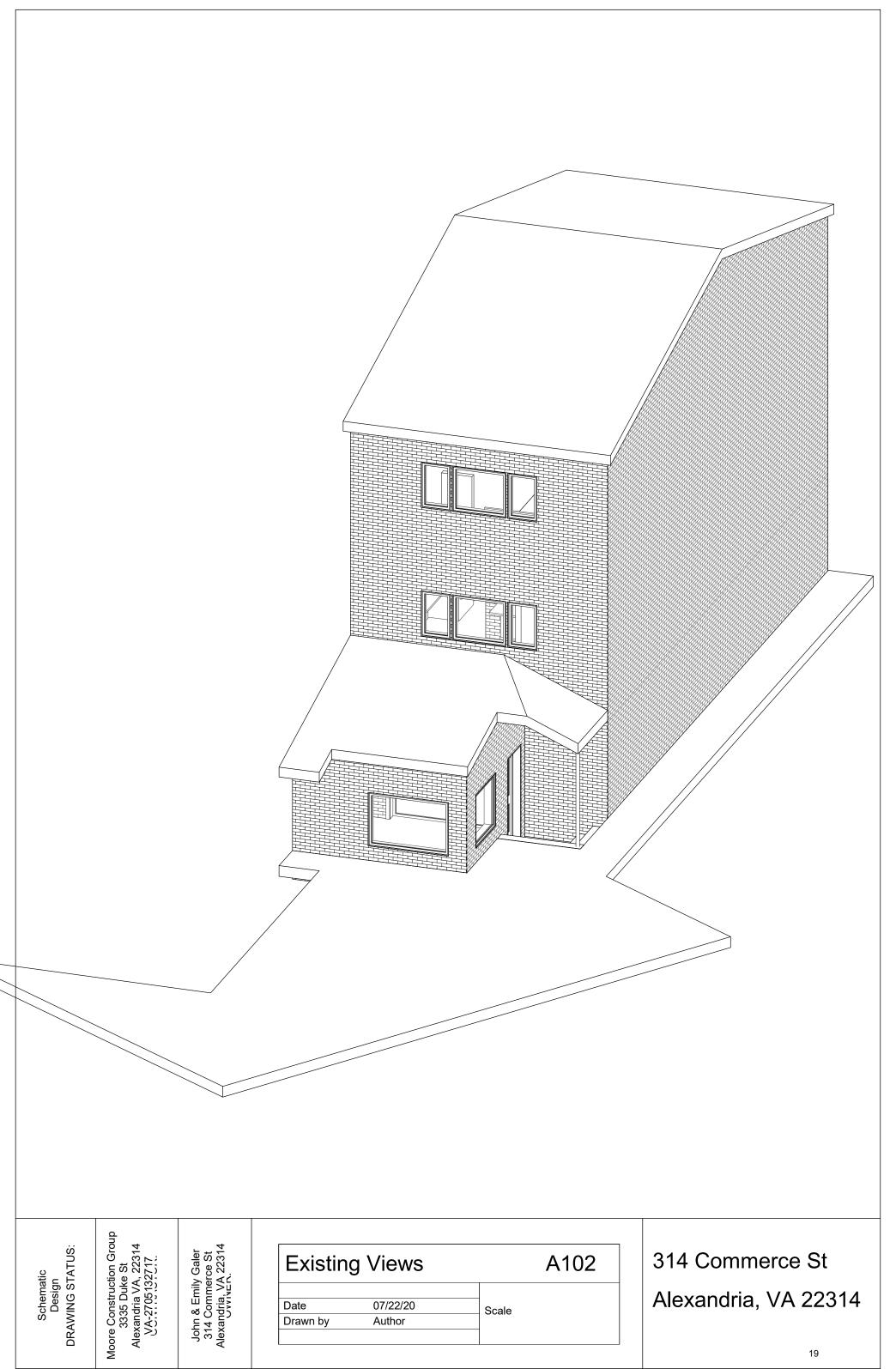
## DEPARTMENT OF PLANNING AND ZONING FLOOR AREA RATIO AND OPEN SPACE CALCULATIONS FOR SINGLE AND TWO-FAMILY RESIDENTIAL OUTSIDE HISTORIC DISTRICTS

A. Property Inform A1. Street Address	nation 314	Commerce	e 5:	+	Zone
A2. 2549		x 1.5			<sub>=</sub> 3823.5
Total Lot Area		Floor Area Ratio A	llowed by 2	Zone	Maximum Allowable Floor Area
B. Existing Gross	Floor Area				
Existing Gr	oss Area*	Allowable E	Exclusions		
Basement	920	Basement**			B1. Existing Gross Floor Area *
First Floor	783	Stairways**			ー <u>2486</u> Sq. Ft. B2. Allowable Floor Exclusions**
Second Floor	783	Mechanical**			Sq. Ft. B3. Existing Floor Area minus Exclusions
Third Floor	A A	Porch/Garage**			Sq. Ft. (subtract B2 from B1)
Porches/Other		Attic less than 5'**			
Total Gross*	2486	Total Exclusions			1
C. Proposed Gros		does not include  Allowable Ex		area	1
Basement		Basement**			C1. Proposed Gross Floor Area *
First Floor		Stairways**			Sq. Ft. C2. Allowable Floor Exclusions**
Second Floor		Mechanical**			Sq. Ft. C3. Proposed Floor Area minus
Third Floor		Porch/Garage**			Exclusions Sq. Ft.
Porches/Other		Attic less than 5'**			(subtract C2 from C1)
Total Gross*		Total Exclusions			
D. Existing + Prop D1. Total Floor Area D2. Total Floor Area  E. Open Space Ca  Existing Open Space  Required Open Space	(add B3 and C3) Allowed by Zone ( <i>i</i>	12) 3834 Sq 142) 3834 Sq 142) 3834 Sq 143) Sq 144) Sq 145) Sq	ı. Ft. ı. Ft. <b>zones</b>	family 5, RE locate areas walls. ** Rei and regard If take plans subm	as floor area for residential single and two- y dwellings in the R-20, R-12, R-8, R-5, R-2- B and RA zones (not including properties and within a Historic District) is the sum of all a under roof of a lot, measured from exterior fer to the zoning ordinance (Section2-145(A)) consult with zoning staff for information ding allowable exclusions. ing exclusions other than basements, floor with excluded areas illustrated must be itted for review. Sections may also be red for some exclusions.
Proposed Open Space	111	00		•	

The undersigned hereby certifies and attests that, to the best df(his/her knowledge, the above computations are true and





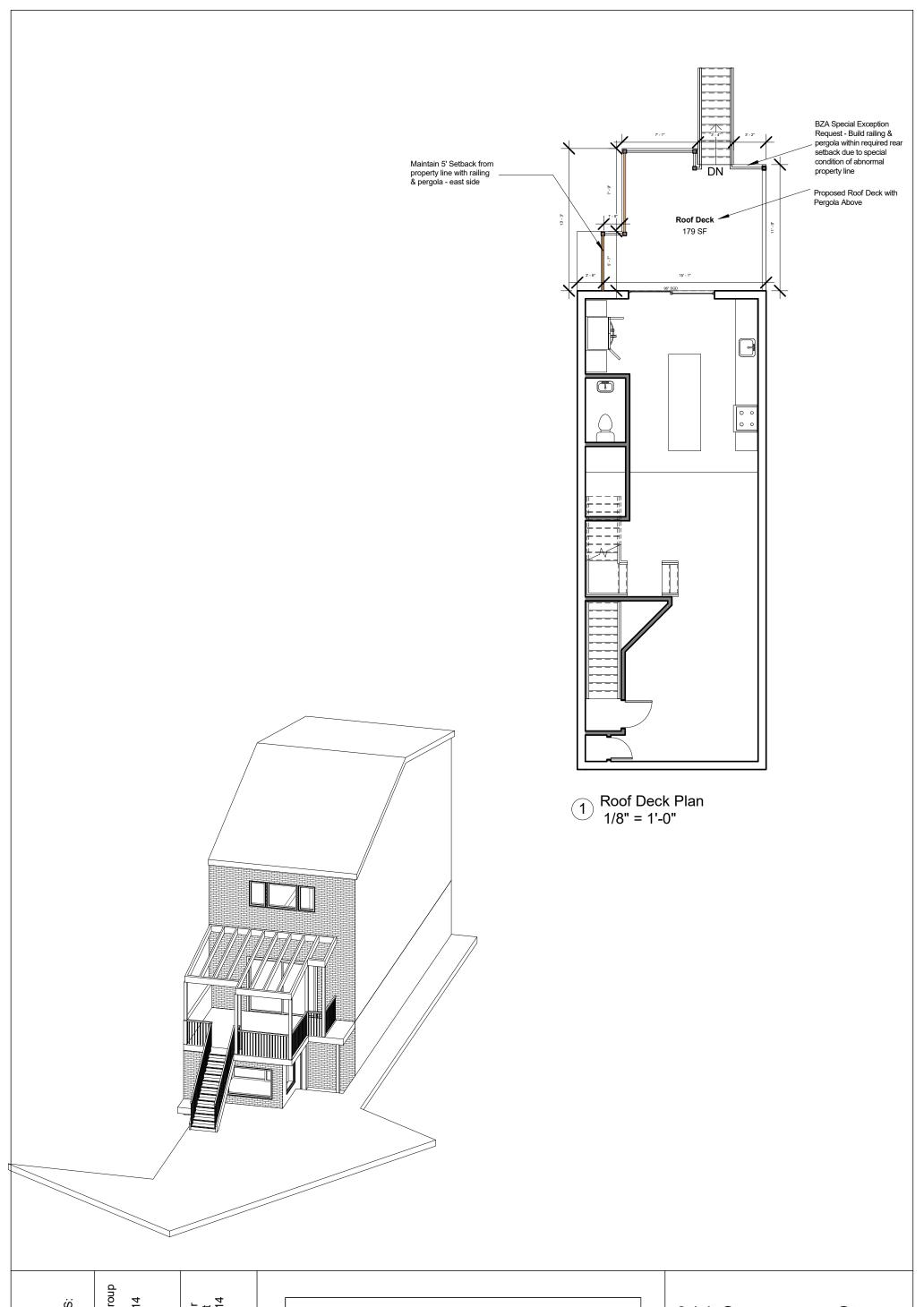


Schematic Design DRAWING STATUS:

John & Emily Galer 314 Commerce St Alexandria, VA 22314

07/22/20 Date Scale Drawn by Author

Alexandria, VA 22314



Schematic Design DRAWING STATUS:

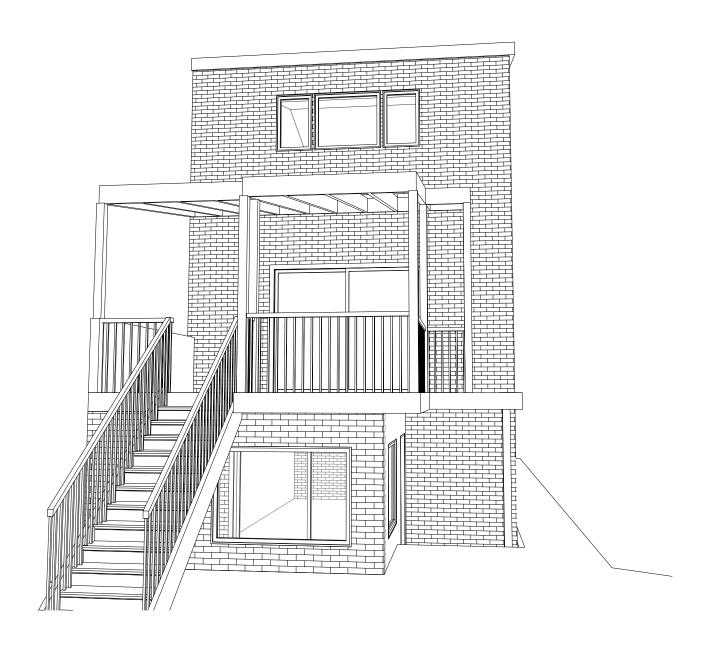
Moore Construction Group 913 Duke St Alexandria VA, 22314

CONTRACTOR:

John & Emily Galer 314 Commerce St Alexandria, VA 22314 OWNER:

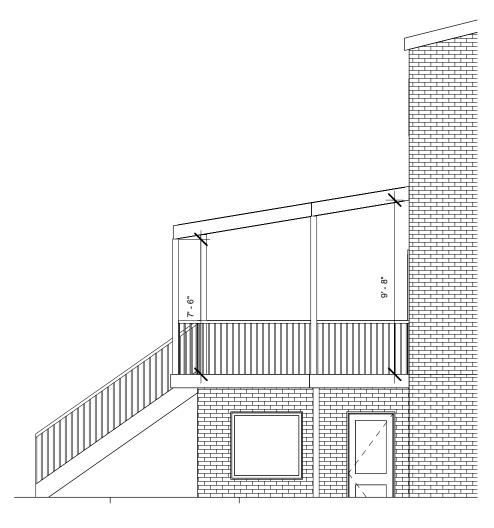
Roof Deck Plan		A201
Date Drawn by	3/13/21 R.DeBaun	Scale 1/8" = 1'-0"

314 Commerce St Alexandria, VA 22314





2 New - Rear Elevation 3/16" = 1'-0"



1 New - Left Elevation 3/16" = 1'-0"

Schematic
Design
DRAWING STATUS:
Moore Construction Group
913 Duke St
Alexandria VA, 22314
CONTRACTOR:
John & Emily Galer
314 Commerce St
Alexandria, VA 22314
OWNER:

Elev a	nd Views_R	eno	A202
Date Drawn by	3/13/21 R.DeBaun	Scale	3/16" = 1'-0"

314 Commerce St Alexandria, VA 22314





