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September 3, 2004

VIA HAND DELIVERY
D.C. Board of Zoning Adjustment
Suite 210
441 4th Street, N.W.
Washington, DC 20001

Re: Supplemental Response - Case No. 17166 – Variances for Property at 430 Third Street, N.E. – Square 0755, Lot 835

Dear Members of the Board:

On behalf of Dinesh Sharma and Murali Nadipelli, the owners of the above referenced property (the "Property"), regarding the District of Columbia Board of Zoning Adjustment ("BZA") application number 17166 (the "Application"), attached please find a Supplemental Statement of the Applicant and architectural drawings as requested by the BZA. The architectural drawings include architectural floor plans, site plan, elevations including the basement and elevations of the neighboring properties. The application is a request for variances pursuant to Sections 401.3, 403.2. & 1203.3 of the Zoning Regulations to allow for the Applicant to construct a row dwelling that will consist of two condominium units.

The Applicant appeared before the D.C. Board of Zoning Adjustment ("BZA") on June 8 and July 6, 2004 at a regularly scheduled public meetings of the BZA. The Applicant presented substantive information regarding the application and the variance requests. This substantive information included floor plans, site plans, rendering and photos depicting the Property and surrounding area. The BZA allowed the Applicant to submit further information to satisfy some concerns raised by the BZA thus the reason for the supplemental submittal.

The BZA outlined four areas that needed to be addressed further: (1) Architectural drawings that include: revised floor plans, site plan, FAR Calculation, Perimeter Calculation, grade of front and back of proposed structure, site elevations for proposed building and neighboring buildings, The architectural drawings show the revised floor plans of the units in the proposed project these floor plans are done in more detail to give the BZA a better appreciation of the project; (2) Parking Representation; (3) District of Columbia Historic Preservation staff review; (4) A determination of the FAR calculation and is a variance from 1203.3 of the Zoning Regulations required and (5) Further explanation of the lot occupancy variance request. These five areas

BZA
Case No. 17166
Exhibit No. 42

Board of Zoning Adjustment
District of Columbia
CASE NO. 17166
EXHIBIT NO. 42

along with other concerns are summarized below but items number 3, 4 and 5 are addressed in full detail in the Supplemental Statement of the Applicant.

The architectural drawings which are a part of the supplemental information submitted to the BZA show the floor plans for the two proposed units with measurements to indicate the dimensions of a particular room or area. These floor plans clearly demonstrate that a building constructed on the Property occupying 75% of the lot is still a narrow structure, but is the only practical way to build a structure on the site because any structure built to a 60% lot occupancy will be to narrow and have the front part of the structure consist of almost only stairs. The site plan which is part of the architectural drawings shows the dimensions of the neighboring properties which illustrates that the building at 428 3rd Street is longer than our proposed structure and the building at 432 3rd Street is shorter in length than our proposed building which demonstrates that there are different building sizes in square 755 which proves that a building on the Property that occupies 75% of the lot will not block the light and air available to neighboring properties and are not unduly affected, and the privacy of use and enjoyment of neighboring properties are not unduly compromised. The front elevation of the proposed building on the Property shows a front elevation that is 36'63/4" above grade which is allowable by right and a 3'6" basement ceiling height above grade which is below the 4' height that would include it in the FAR. The street elevation shows the elevation of the neighboring properties in relation to the proposed building which shows that 428 3rd street is the same height and 432 3rd street is a little shorter which demonstrates the proposed building on the Property is consistent with a neighboring property building and is not so tall to overwhelm the other neighboring building which will not disturb the light and air available to neighboring properties and are not unduly affected, and the privacy of use and enjoyment of neighboring properties are not unduly compromised.

The Applicant makes as part of this supplemental response a parking representation that the Applicant represents and covenants the Property will include one (1) parking space for any proposed structure built on the Property.

The Applicant meet with Emily Paulus of the District of Columbia Office of Historic Preservation and informed her of the project and the Applicants plans, showed her the rendering of the proposed row dwelling and explained to her our variance requests. **Mrs. Paulus expressed her support for the Project** as the staff person in charge for this area of the city and saw no objectionable reason on a Historic Preservation level that would indicate the Historic Preservation Review Board would object to this Project.

The Property is in the Capital Hill Overlay District which makes it subject to section 1203.3 of the Zoning Regulations which prescribe a FAR for structures in an R-4 zone of 1.8; under our proposed architectural drawings the FAR is 2.25 which is above the 1.8 and thus we are requesting a variance from this section. The uniqueness of the Property which is well documented of small lot size and area presents a practical difficulty of constructing a structure that is practical and useable. The reason for the added FAR is due to the request of 75% lot occupancy. As stated earlier a building required to occupy 60% of the lot is not realistic in a time were builders use cinder block as party walls, wood framing, fire rated insulation is required between the party walls and the stairs separating the two units and lets not forget the mechanical and plumbing systems have to placed some were. As explained during the hearing a structure built to 60% lot occupancy would have an

acceptable FAR under 1203.3, but would not be a livable structure for the reasons stated earlier. The factors mentioned above are evidence that a structure on this narrow and small lot has to have a minimum scale which makes it a livable building and our variance request is the tool to overcome the uniqueness of the lot which poses a practical difficulty on building a livable structure and these minimal variance requests do not substantially detriment the public good.

The Applicant has clearly meet its burden of proof by demonstrating in the hearing and through its supplemental submittal that the Property is unique because of the narrowness of the lot and the small area of the lot and the uniqueness imposes a practical difficulty on the Property that can not be overcome unless variance relief is granted and granting of variance relief will not be to the public and community detriment and would be consistent with the zoning plan because the well being of the neighborhood will be improved with the development of this Project.

Please feel free to call me if I can be of further assistance in this matter.

Very truly yours,
GRAVES & HORTON, LLC



Earle C. Horton, III

Cc: Beverley A. Bailey
Richard Nero, Esq.
Dinesh Sharma & Murali Nadipelli
Stephen Mordfin

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE
DISTRICT OF COLUMBIA

Application of Dinesh Sharma & Murali Nadipelli
BZA Application No. 17166
Hearing Date: 9/13/04
ANC: 6C

SUPPLEMENTAL STATEMENT OF THE APPLICANT

I.

NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of Dinesh Sharma and Murali Nadipelli (the "Applicant") in support of the above-referenced application for variances from the requirements of Sections 401.3, 403.2. & 1203.3 of the Zoning Regulations. The request is being made in order to allow the Applicant to construct a residential building consisting of two condominium units on Lot 835 of Square 755 (the "Property").

II.

JURISDICTION OF THE BOARD

The Board of Zoning Adjustment (the "Board") has jurisdiction to grant variances requested herein pursuant to Section 3103.2 of the Zoning Regulations.

III.

BACKGROUND

A. *Description of the Subject Property*

The subject Property is a very small, narrow rectangular lot 835 located in Square 755 of approximately 1,372 square feet and only 14 feet wide. The Property is vacant with no structure situated thereon. The property has been a nuisance and eyesore to the community. According to the Lusk Book and DCRA survey papers; there was a structure on the property that contained approximately 605 square feet. The Property is not located in a historic district. The Property is designated on the District of Columbia Comprehensive Plan Generalized Land Use Map as medium and low density residential.

B. Description of Surrounding Area

The Property is located in an area with a mix of apartments, cooperatives, condominiums, commercial and residential. The Property is bordered by Third Street to the South, a alley to the North, an condominium structure to the west and a large multi family apartment building to the east. The Property is zoned R-4. The neighboring properties are zoned R-4, R-5-B, R-5-D, C-2-A and C-2-B. There are parking lots in the area, Union Station and the numerous apartment complexes.

C. Description of the Requested Variances

The Property is unique because it is only 14 feet wide. Also, the unique size of the lot because it is small consisting of only 1372 square feet. The practical difficulties of the Property make developing it impossible and require the Applicant to seek a variance from the requirements of the Zoning Regulations concerning lot area and lot occupancy.

IV.

THE APPLICANT MEETS THE BURDEN OF PROOF FOR VARINACES FROM LOT AREA AND LOT OCCUPANCY

A. Standards for Granting a Variance

Under D.C. Code Section 5-424(g)(3) and 11 DCMR 3103.2, the Board is authorized to grant variances from the strict application of the regulations where it finds three conditions exist:

> (1) the property is unique because, *inter alia*, of its size, shape or topography or other extraordinary or exceptional situation or condition;
>
> (2) the owner would encounter practical difficulties or undue hardship if the Zoning Regulations were strictly applied; and
>
> (3) the variance would not cause substantial detriment to the public good and may be granted without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map. See *French v. District of Columbia Board of Zoning Adjustment*, 658 A.2d 1023, 1035 (D.C. 1995) (quoting *Roumel v. District of Columbia Board of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)); see also, *Capitol Hill Restoration Society, Inc. v. District of Columbia Board of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987).

In the case of an area variance, the Applicant must show that the uniqueness of the property imposes a practical difficulty on the Applicant's ability to comply with the Zoning Regulations and such variance will not injure the public good or substantially impair the intent and purpose of the Zoning Regulations and Map. In the subject case, the variances relate to the unique condition of the Property by being 14 feet wide and the

small area of the Property (1372 square feet), the practical difficulties of developing the Property and the exceptional situations and conditions affecting this Property. The requested variances from lot area and lot occupancy of the Zoning Regulations, meet the requirements under the law for the approval of the area variances.

B. Variance Relief Under Sections 401.3, 403.2 & 1203.3 (Area)

The Applicant is seeking a variance from the requirements of Sections 401.3, 403.2 and 1203.3 of the Zoning Regulations in an R-4 District. 401.3 requires a row dwelling have a minimum lot area of 1800 square feet and 18 feet minimum lot width. The Property has approximately 1,372 square feet of land and the lot width is only 14 feet. The Applicant is proposing to construct a row dwelling on the Property consisting of two residential dwelling units. The Property is unique because (1) the width is only 14 feet and (2) the Property is a small narrow lot consisting of 1,372 square feet, these unique facts present practical difficulties that make it impossible for the Applicant to construct a new row dwelling because for a row dwelling or flat the Applicant needs 1,800 square feet of land and a minimum lot width of 18 feet to be able to construct anything.

403.2 require a row dwelling occupy only 60% of the lot. The Applicant is proposing 75% lot occupancy. The Applicant is proposing to construct a row dwelling on the Property consisting of two residential dwelling units. The Property is unique because (1) the width is only 14 feet and (2) the Property is a small narrow lot consisting of 1,372 square feet, these facts present practical difficulties that make it impossible for the Applicant to construct a new dwelling on only 60% of the lot because the narrowness and small size of the lot make it very impractical to construct a marketable structure for the reason that certain interior areas of the structure will only be 6 to 9 feet wide.

1203.3 require a row dwelling in the Capital Hill Overlay District have an FAR of 1.8 or less. The Applicant is proposing a FAR of 2.25. The Applicant is proposing to construct a row dwelling on the Property consisting of two residential dwelling units. The Property is unique because (1) the width is only 14 feet and (2) the Property is a small narrow lot consisting of 1,372 square feet, these facts present practical difficulties that make it impossible for the Applicant to construct a new dwelling with an FAR of 1.8 or less because the narrowness and small size of the lot make it very impractical to construct a livable and marketable structure for the reasons that certain interior areas of the structure will only be 6 to 9 feet wide.

IF THE APPLICANT WAS NOT GRANTED AN AREA VARIANCE THE APPLICANT WOULD SUFFER A PRACTICAL DIFFICULTY BECAUSE THE APPLICANT COULD NOT BUILD ANYTHING ON THE PROPERTY

1. **The Property is Unique and Affected by an Exceptional Situation or Condition.**

The Property is unique in regards to 401.3 for the fact the lot is 14 feet wide and consists of 1,372 square feet which is a small size lot. The minimum width of a lot for the proposed use is 18 feet and a lot size of 1,800 square feet thus the Applicant needs an area variance from 401.3 for any structure to be constructed on the Property. The normal lot width is approximately 22 feet and consists of 2,200 square feet of land. The Property width and size are not even equal to the required minimum which makes it unique and affected by an exceptional situation or condition.

The Property is unique in regards to 403.2 for the fact the lot is 14 feet wide and consists of 1,372 square feet which is a small size lot. The minimum width of a lot is 18 feet and consists of 1,800 square feet of land. The normal lot width is approximately 22 feet and consists of 2,200 square feet of land. The Property width and size are not even equal to the required minimum which makes it unique and affected by an exceptional situation or condition.

The Property is unique in regards to 1203.3 for the fact the lot is 14 feet wide and consists of 1,372 square feet which is a small size lot. The minimum width of a lot is 18 feet and consists of 1,800 square feet of land. The normal lot width is approximately 22 feet and consists of 2,200 square feet of land. The Property width and size are not even equal to the required minimum which makes it unique and affected by an exceptional situation or condition.

The uniqueness of the Property imposes a practical difficulty for the Applicant.

2. **Strict Application of the Zoning Regulations would impose a Peculiar and Exceptionally Practical Difficulty on the Applicant.**

The Applicant would suffer a practical difficulty if the area variances requirement is not granted because the uniqueness of the Property:

(1) The lot is 14 feet wide and consists of 1,372 square feet which clearly makes it unique. If the Applicant was not granted area variances the Applicant would suffer a practical difficulty and undue economic hardship because the lot can not be developed without the area variances. The uniqueness of the lot makes it practically difficult to construct any structure because the Zoning Regulations require a lot to be a minimum of 18 feet wide and 1,800 square feet of land the Property is only 14 feet wide and consist of 1,372 square feet of land thus making it impossible without the area variances to build any structure. Two, the uniqueness of the lot requires the Applicant to design a structure that is very narrow in certain areas to accommodate certain building concepts that are required in all structures i.e. party walls, stairs, fire rated wall, insulation,

mechanical and plumbing systems and wood framing. The inclusion of these items makes the building 6 to 9 feet wide in certain sections which make it impractical and unmarketable. For example the revised floor plans submitted with this supplemental response show the first and second floors family room/parlor narrow and this is at 75% lot occupancy if the building was designed at 60% lot occupancy the family room/parlor would be non existent and pretty much occupied by stairs. Third, the uniqueness of the Property requires the Applicant to build a structure on more than 60% of the lot because designing and constructing a building on 60% of the lot is not practical because as mentioned above there are certain items that must be built into the structure and the inclusion of these items make it practically difficult to have a functional structure on 60% lot occupancy. Fourth, as stated above, the uniqueness of the Property requires the Applicant to build a structure on more than 60% of the lot which gives the structure a FAR of 2.25 as mentioned above there are certain items that must be built into the structure and the inclusion of these items make it practically difficult to have a functional structure on 60% lot occupancy and thus an FAR of 1.8 or less. The uniqueness of the Property which causes the practical difficulties leads to the determination that the Applicant could not build anything for the Property under the Zoning Regulations.

The Uniqueness and Practical Difficulties of the Property means the Applicant cannot put the Property to any use without the area variances because the Applicant cannot construct any structure. **The Board has granted variance relief after a showing of an economic burden where no matter of right zoning whatsoever was economically feasible. Proof of economic burden is relevant to a decision of whether to grant a variance where applicant is not merely seeking the most favored zoning for its land but faces difficulty financing any improvement of property under current zoning designation, *Tyler v. D.C. Board of Zoning Adjustment*, 606 A.2d 1362 at 1366 (D.C. 1992). The Applicant should be granted a variance once he has shown that there are no alternatives for the site that would conform to Zoning Regulations and are feasible as a matter of right. *Myrick v. District of Columbia Board of Zoning Adjustment*, 577 A.2d 757 (D.C. 1990). A area variance shall be granted when there are no feasible alternatives that would comply with the Zoning Regulations. *Association for Preservation of 1700 Block of N St., N.W., & Vicinity v. District of Columbia Bd. of Zoning Adjustment*, 384 A2d. 674 (D.C. 1978). The 900 square feet of land required for each residential unit creates practical difficulties for the Property because it is not economically feasible to abide by the Zoning Regulations and there are no feasible alternatives that would comply with the Zoning Regulations.**

3. **Relief can be Granted Without Substantial Detriment to the Public Good and Without Substantially Impairing the Intent, Purpose and Integrity of the Zone Plan as Embodied in the Zoning Regulations and Map.**

The granting of the area variances would not be of substantial detriment to the public good or substantially impair the intent and purpose and integrity of the Zoning Regulations and Map. A granting of the variance would actually be a substantial benefit to the public good because a vacant lot that is a nuisance property will be put to an economical use which will add to the neighborhood character and quality of life. The well-being of the neighboring properties is likely to be improved with the construction of a new building. The proposed residential row dwelling does not adversely affect the use or enjoyment of any abutting or adjacent dwelling or property. The light and air available to neighboring properties and are not unduly affected, and the privacy of use and enjoyment of neighboring properties are not unduly compromised. The residential row dwelling is consistent with the Zoning Map and Plans because an R-4 District is primarily low to medium density which this project is definitely in accordance with. An R-4 District is zoned primarily residential which the project will be residential homeownership of condominiums.

The Applicant meet with Emily Paulus of the District of Columbia Office of Historic Preservation and informed her of the project and the Applicants plans, showed her the rendering of the proposed row dwelling and explained to her our variance requests. Mrs. Paulus expressed her support for the Project as the staff person in charge for this area of the city and saw no objectionable reason on a Historic Preservation level that would indicate the Historic Preservation Review Board would object to this Project.

The project will be consistent with the neighborhood, the Zoning Map and Zoning Regulations because the neighborhood has apartment buildings, condominiums, cooperatives and commercial.

VI.

COMMUNITY SUPPORT

The Applicant has received support for the lot area variance from ANC 6C and the Capital Hill Restoration Society.

VII.

CONCLUSION

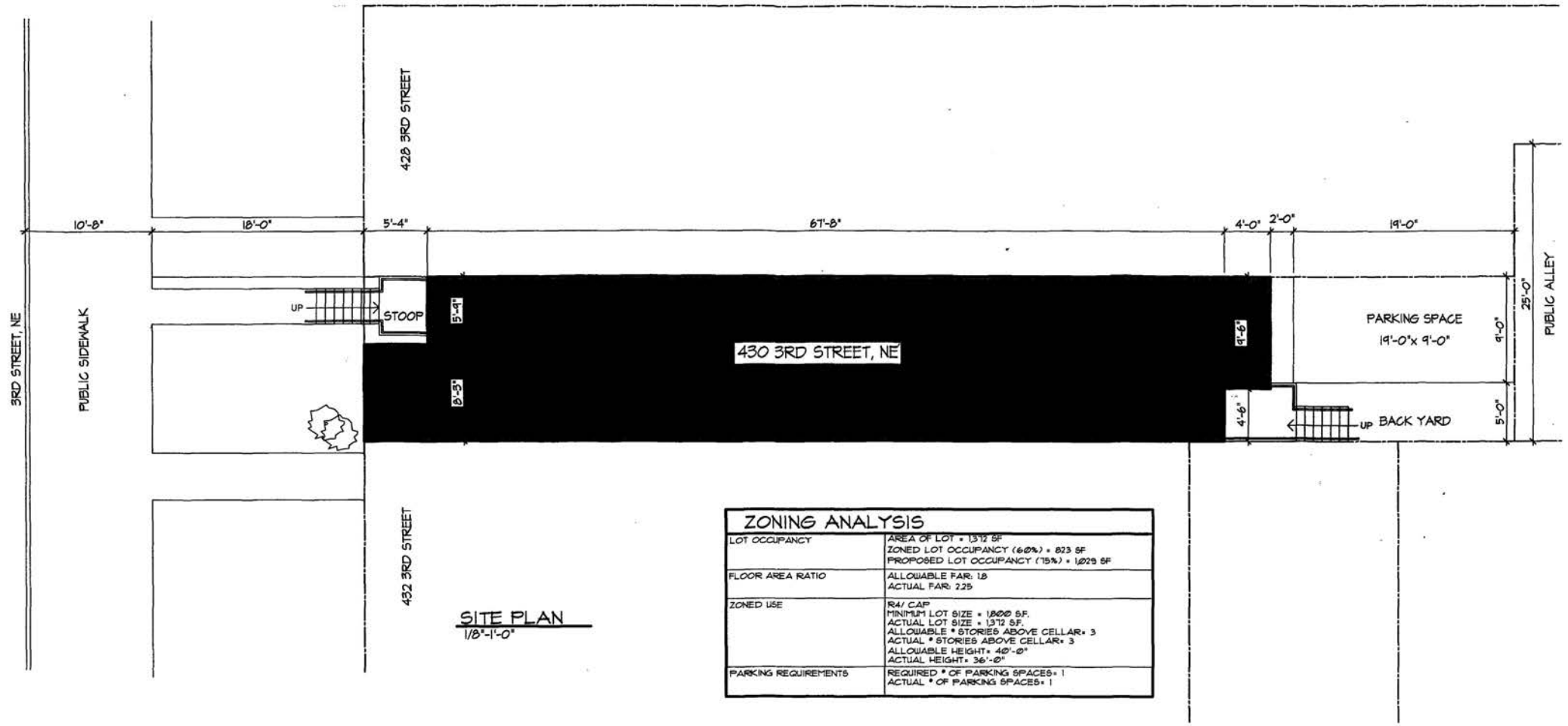
For the reasons stated above, the requested relief meets the applicable standards for a variance under the Zoning Regulations. Accordingly, the Applicant respectfully requests the Board to Grant the Application.

Respectfully submitted,

GRAVES & HORTON, LLC

By: _____
Earle C. Horton, III, Esq.

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SITE PLAN
1/8"-1'-0"

ZONING ANALYSIS

LOT OCCUPANCY	AREA OF LOT = 1,372 SF ZONED LOT OCCUPANCY (60%) = 823 SF PROPOSED LOT OCCUPANCY (75%) = 1029 SF
FLOOR AREA RATIO	ALLOWABLE FAR: 1.8 ACTUAL FAR: 2.25
ZONED USE	R4/ CAP MINIMUM LOT SIZE = 1,800 S.F. ACTUAL LOT SIZE = 1,372 S.F. ALLOWABLE # STORIES ABOVE CELLAR= 3 ACTUAL # STORIES ABOVE CELLAR= 3 ALLOWABLE HEIGHT= 40'-0" ACTUAL HEIGHT= 36'-0"
PARKING REQUIREMENTS	REQUIRED # OF PARKING SPACES= 1 ACTUAL # OF PARKING SPACES= 1

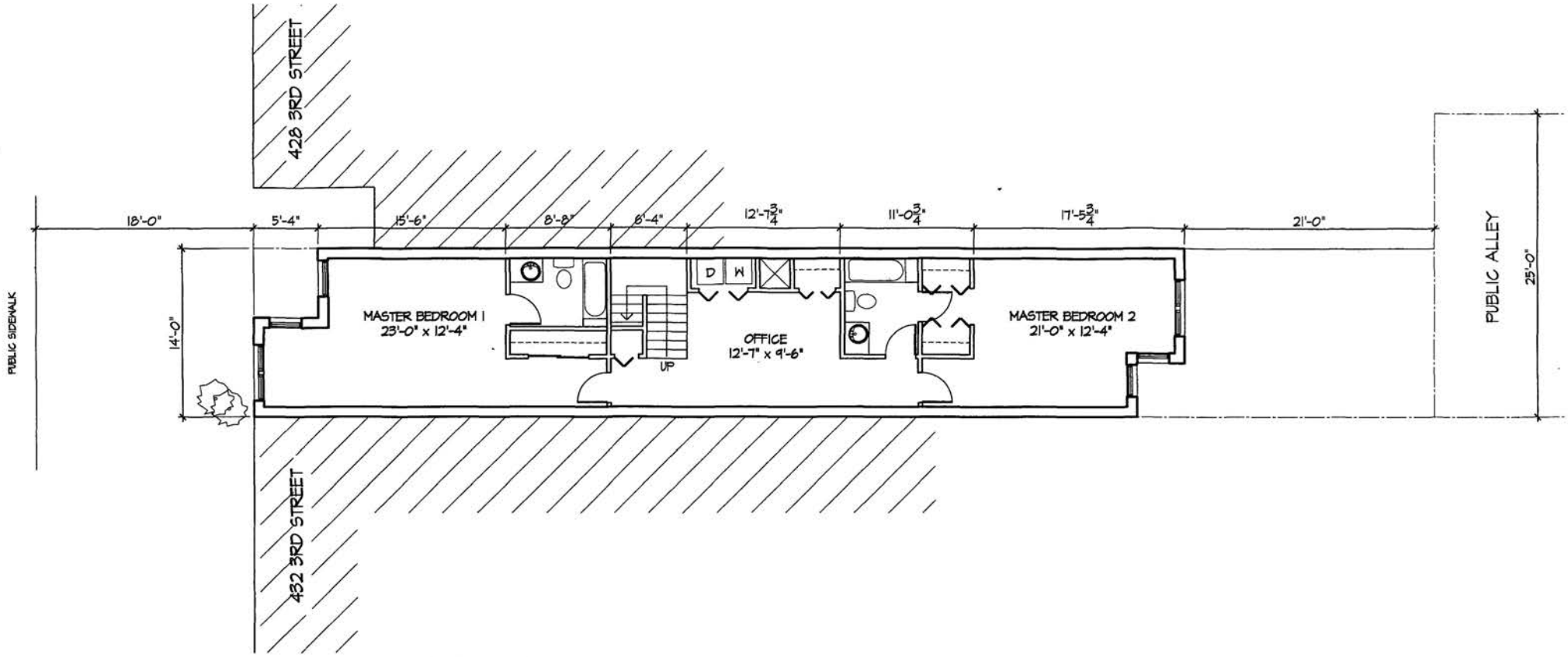
S•G•A ARCHITECTS, INC

430 3RD STREET N.E.

BZA CASE #17166

9.2.04

ZONING SUBMISSION



BASEMENT PLAN
1/8"=1'-0"

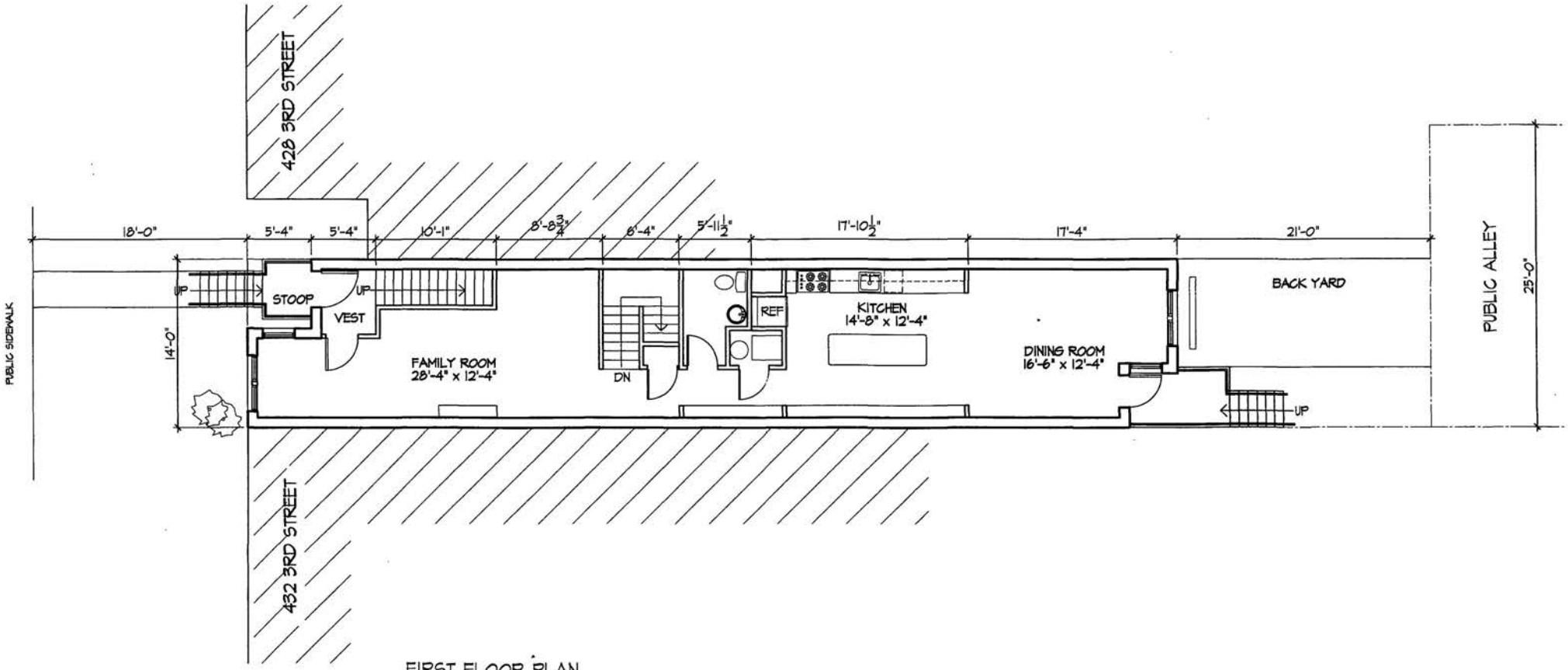
S•G•A ARCHITECTS, INC

430 3RD STREET N.E.

BZA CASE #17166

9.2.04

ZONING SUBMISSION



FIRST FLOOR PLAN
1/8"=1'-0"

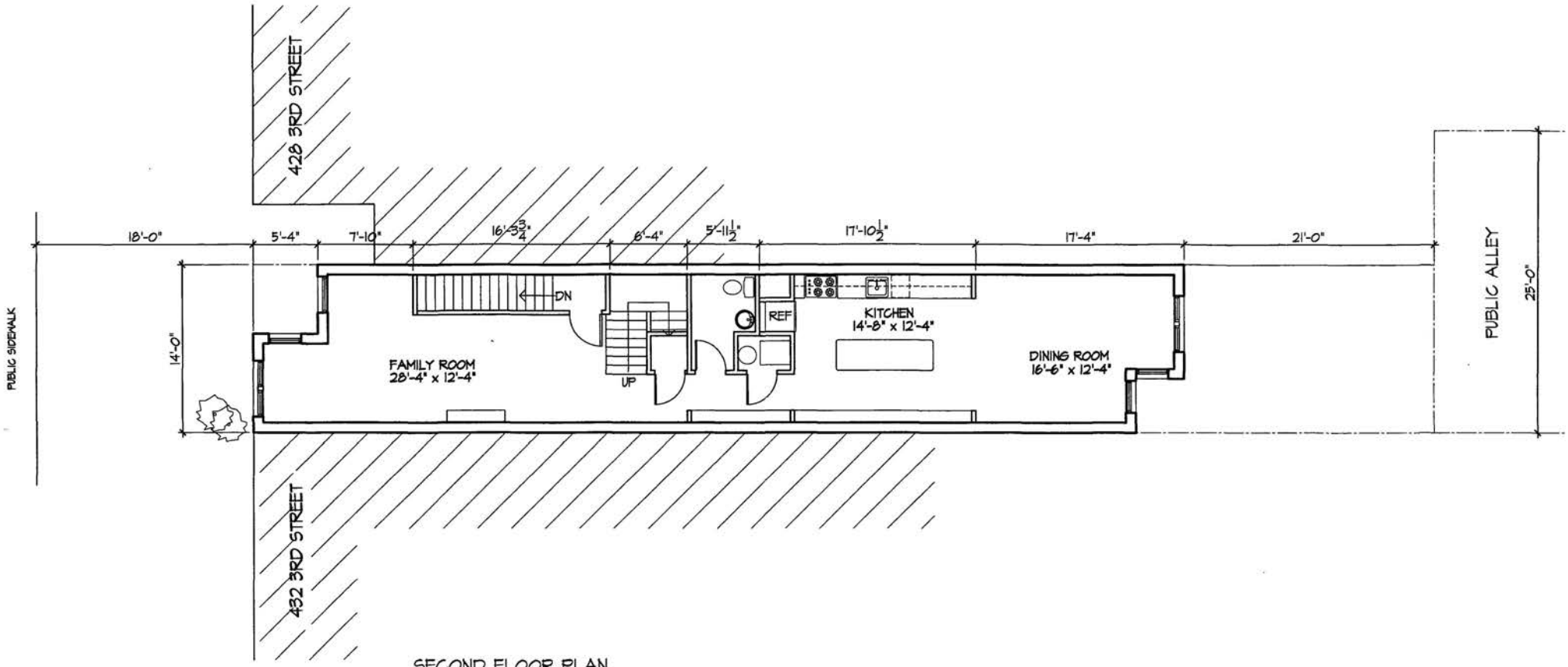
S•G•A ARCHITECTS, INC

430 3RD STREET N.E.

BZA CASE #17166

9.2.04

ZONING SUBMISSION



SECOND FLOOR PLAN

1/8"=1'-0"

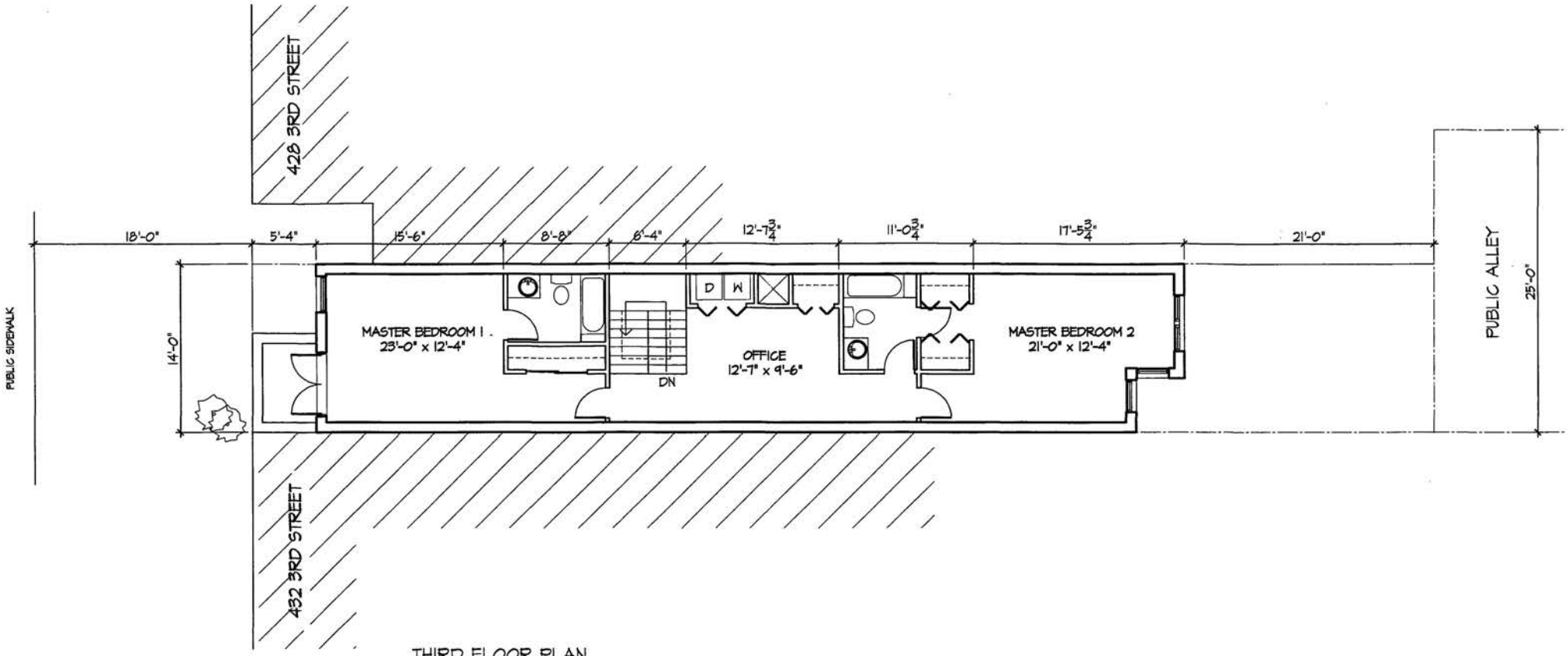
S•G•A ARCHITECTS, INC

430 3RD STREET N.E.

BZA CASE #17166

9.2.04

ZONING SUBMISSION



THIRD FLOOR PLAN

1/8"=1'-0"

S·G·A ARCHITECTS, INC

430 3RD STREET N.E.

BZA CASE #17166

9.2.04

ZONING SUBMISSION



STREET ELEVATION
3/32"=1'-0"

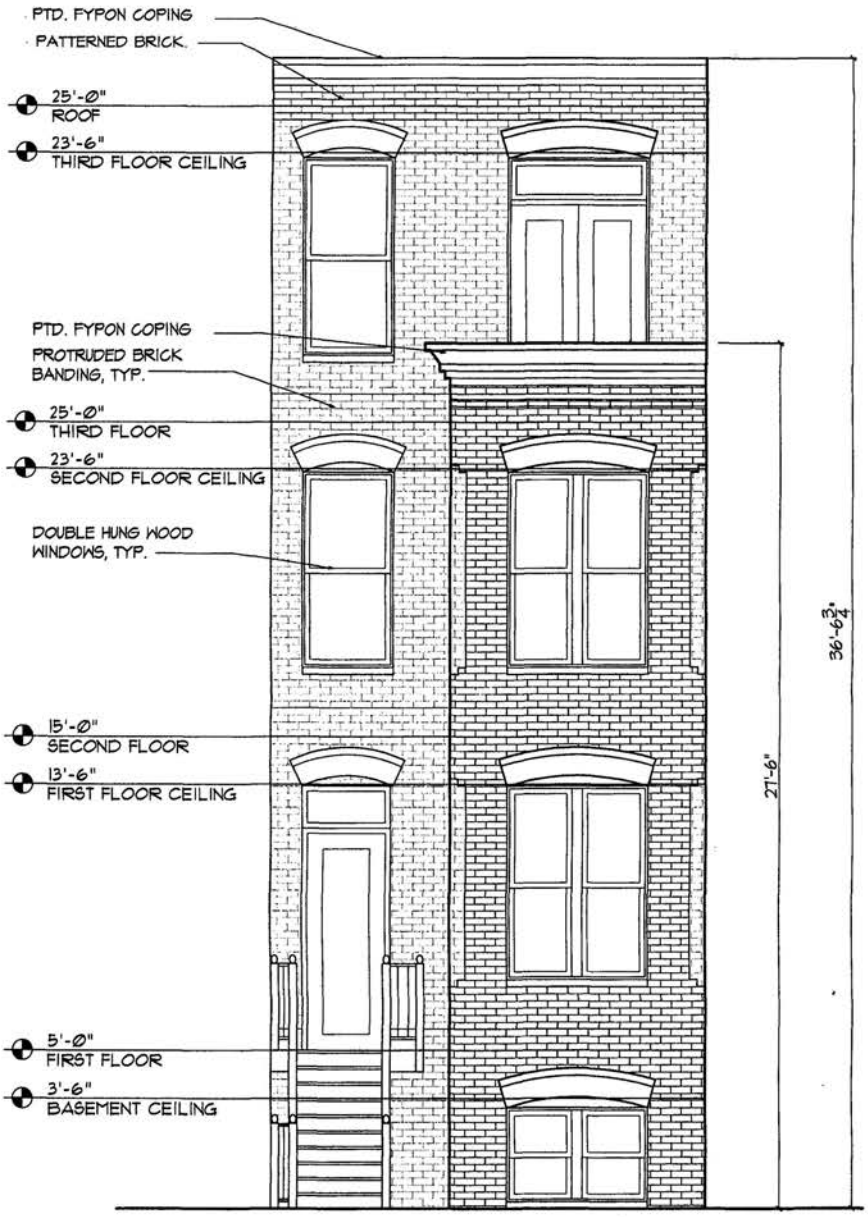
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430 3RD STREET N.E.

BZA CASE #17166

9.2.04

ZONING SUBMISSION



3RD STREET ELEVATION
1/4"=1'-0"

S•G•A ARCHITECTS, INC. 1025 FEDERAL HIGHWAY SUITE 201 HOLLYWOOD FLORIDA 33020

430 3RD STREET N.E.

BZA CASE #17166

9.2.04

ZONING SUBMISSION



A. EXISTING SITE



B. ADJACENT PROPERTIES



C. ADJACENT PROPERTIES



D. REAR VIEW OF EXISTING SITE



E. REAR VIEW OF ADJACENT PROPERTIES



F. VIEW TOWARD SITE FROM THE CORNER OF E AND 3RD STREET N.E.

S•G•A ARCHITECTS, INC

430 3RD STREET N.E.

9.2.04

ZONING SUBMISSION