GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Ellen McCarthy
Interim Director

DATE: May 31, 2005

SUBJECT: BZA Application 17327

APPLICATION
1812 35th Street Associates LLC, the applicant, requests a special exception under Section 223.1 to retain a 3-story addition to an existing one-family detached dwelling located at 1812 35th Street, N.W. (Square 1296S Lot 27 [802]) pursuant to Section 3104.1 under Title 11 of the District of Columbia Municipal Regulations (DCMR), Zoning.

SUMMARY RECOMMENDATION
The Office of Planning (OP) cannot recommend approval of this request because the application does not meet the standards of Section 223.1.

SITE AND AREA DESCRIPTION
The subject property is approximately 0.05-acre (2,400 square feet) in size and immediately west of tree-lined 35th Street, N.W. It is developed with a 1½-story masonry dwelling (circa 1910) enlarged to 3-stories by an addition still under construction. The property slopes away from 35th Street with several large trees in the rear yard surrounded by a wooden stockade fence approximately 6 feet tall. There is no direct access to this property from an existing service alley to the northwest, and no on-site parking.

Development to the north, south, and west mostly consists of two-story frame and masonry detached-, semi-detached-, and row dwellings. There is also one 3-story semi-detached dwelling in the southern corner of the square at the intersection with S Street. To the east across 35th Street are a 2-story apartment building, and two building occupied by the Filmore Arts Academy (a D.C. public school), and a former public school building now occupied by the Corcoran Gallery Art & Design College. The subject and surrounding properties are all within a Residence (R-3) zone district (please refer to Exhibits 1-3).

APPLICANT'S PROPOSAL
The applicant explained that fire destroyed the interior of the original building. The applicant later purchased the property in 2003 with the intent of renovating and expanding the vacant

BZA
Case No. 17327
Exhibit No. 30

Board of Zoning Adjustment
District of Columbia
CASE NO. 17327
EXHIBIT NO. 30

dwelling. Building Permit #B461964 was issued on May 19, 2004 for repair of the fire damage. Building Permit #B476431 subsequently issued on November 8, 2004 was for construction of: 1½ -2 additional floors above the existing dwelling; and continuation of the resulting 3-story structure 27.5-feet further into the rear yard. The application letter dated March 15, 2005, explains that the Department of Consumer and Regulatory Affairs (DCRA) issued the permits based on a row dwelling classification when in fact it is a detached dwelling with an exterior wall in line with the northern property boundary. As stated in the letter, "The row dwelling classification was obtained by the (planned) addition of a trellis connecting the house to the adjacent (dwelling) to the South," another on-line detached one-family dwelling located at 1810 35th Street, N.W.

The property is in a R-3 zone district that allows row dwellings as a matter of right. Row dwelling as defined in Section 199 has no side yard setbacks and is permitted a percentage of lot occupancy up to 60%. This property has one side yard setback of 3 feet, as do both adjoining properties, therefore the Zoning Administrator ultimately concluded the dwelling is detached, and subject to side yard setback and lot occupancy limitations for a detached dwelling. The new addition maintains the existing nonconforming side yard setback of zero (0) feet along the northern property boundary, and the nonconforming 3-foot setback from the southern boundary for the upper-floor addition to the original dwelling. It also increased the lot occupancy percentage to 43.75%.

In a memorandum to the Board of Zoning Adjustment dated March 2, 2005, the DCRA Zoning Review Branch states the new construction requires special exception relief pursuant to Section 223.1. As a result, the applicant's letter explains this application was submitted to "... eliminate the need for a trellis, eliminate the need for changing the classification of the building (from a detached dwelling to a row dwelling), and allow for the extension to be completed per the plans approved by DCRA"

EXISTING ZONING AND RELIEF REQUESTED

The site is zoned R-3. Zoning Regulation Section 320.3 (a) allows one-family detached dwellings per Sections 300.3 (a) and 201.1 (a), and one-family row dwellings per Section 320.3 (b) as a matter of right in this zone district. Lot 802 dimensions are less than the required minimum width of 40 feet and 4,000 square feet of area for a detached one-family dwelling. Northern and southern side yard setbacks of 0 feet and as little as 3 feet, respectively, are less than the minimum 8 feet required under Section 405.9. Zoning Regulation include the following provisions for expanding such nonconforming buildings on nonconforming lots:

"405.8 In the case of a building existing on or before May 12, 1958, with a side yard less than eight feet (8 ft.) wide, an extension or addition may be made to the building; Provided, that the width of the existing side yard shall not be decreased; and Provided further, that the width of the existing side yard shall be a minimum of five feet (5 ft.)."

So, although the dwelling was constructed before 1958, neither non-conforming side yard setback can be extended as a matter-of-right. However, the following also applies:

"2001.3 Enlargements or additions may be made to the structure; provided, that the following requirements shall be met:

(a) The structure shall conform to percentage of lot occupancy requirements; and
(b) The addition or enlargement itself shall:
(1) Conform to use and structure requirements; and
(2) Neither increase or extend any existing, nonconforming aspect of the structure; nor
(3) Create any new nonconformity of structure and addition combined."

As constructed the addition continues existing nonconforming aspects of the dwelling and results in the allowable lot occupancy percentage being exceeded. This project is also subject to the following provisions of the Zoning Regulations.

Standard	R-3 Requirement	Existing	After Renovation	Required Relief
Min. Lot Area	4,000 s.f.	0.05 acres (2,400 s.f.)	Same	Yes
Min. Lot Width	40 feet	20 feet [1]	Same	Yes
Square Footage	--	924 s.f. [2]	1,050 s.f. [3]	--
Height	40 feet/ 3 stories	17 feet [4]	33 feet [4]	No
Lot Occupancy	40%	26.5 %	43.75 %	Yes
Side Yard	8 feet	0 & 3 feet	0 & 3 feet [5]	Yes
Rear Yard	20 feet	81.5 feet	53.4 feet	No
Parking	1 space	0	0	No

It is apparent that a residential addition on this property is not possible without zoning relief because meeting the 8-foot side yard setback requirement on the 20-foot wide lot would only allow construction of an addition 4-feet wide. As constructed, the resulting lot occupancy percentage exceeds that allowed as a matter of right by approximately 3.8% and both side property lines remain nonconforming. The applicant therefore submitted a request for special exception relief under Section 223 from the provisions of Section 2001.3, to allow continuation of the nonconforming side yard setbacks, and to exceed the allowable lot occupancy percentage.

ANALYSIS

Section 3104.1 grants the Board of Zoning Appeals (BZA) the authority "to grant special exceptions where in the judgment of the Board, those special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to

[1] From the annotated DC Surveyor's subdivision plat dated August 2, 2004
[2] Previous ground floor and finished area in half story according to D.C. land records
[3] From the submitted sheet of Notes and Computations
[4] From the Axonometric of Proposed Building (refer to Exhibits 4 & 7)
[5] The side yard setback of the rear portion of the addition from the southern boundary would be 8 feet, but not the additional upper floors over in the existing dwelling

affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps." The referenced special exception would allow the continuation of the nonconforming side yard setback along the northern and southern boundaries, and increase in the allowable lot occupancy percentage subject to Section 223 provisions.

Compliance with Section 223
Requirements under this section include the following:

223.2 The addition shall not have a substantially adverse affect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular;

(a) *The light and air available to neighboring properties shall not be unduly affected;* The proposed addition does not affect the air available to neighboring properties, however it significantly changes how shadows are cast on properties to the north. At OP's request, the applicant's architect prepared shadow diagrams approximating the original conditions, the dwelling with the addition, and the dwelling with theoretical maximum (4-foot wide) addition allowed under the Zoning Regulations (refer to Exhibits 4-9).

These diagrams indicate that shadows cast by the current construction or the original dwelling with a theoretical matter-of-right addition will (would) cover more of adjacent rear yards for a longer period from early fall through the winter. Under either option, the neighboring dwelling at 1814 35th Street largely remains in shadow most of the day during this period. Note that the "Shadows of Existing House" diagram (Exhibit 8) also seems to indicate that reducing the existing addition to 1-story would still cast a shadow over the abutting rear yard in the winter.

Diagrams also indicate that the new construction will not affect the neighboring properties to the south, and, because the adjacent 35th Street right-of-way is 80 feet wide, it does not appear the new shadow pattern will affect properties on the opposite side of the street.

OP is less concerned about shadows cast on the neighboring dwelling(s) to the north than about how those shadows may affect the utility of the rear yards. The applicant is encouraged to consider "stepping-down" the height of the addition to one story for that portion that extends beyond the original dwelling. This would mitigate the extent and duration of shadows cast in the fall months. Unless these or other effective mitigation measures are proposed, OP cannot conclude the light available to abutting properties is not substantially adversely affected.

(b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised; With regards to the neighboring property to the north, privacy of use are not affected because the addition wall along the shared boundary does not include windows.

Concerning the neighboring property to the south, the primary view from the addition third floor above the original dwelling (the portion of the building requiring zoning relief) appears to be over the neighboring residence. Views into the rear yard of the southern property are limited to the western end of the yard by a rear addition to southern dwelling and the angle of view. Based on this information, privacy of the neighboring property to the south is not unduly compromised by the subject addition or the proposed special exception. Note that zoning relief was not requested for the rear portion of the addition beyond the original dwelling because it meets the requirement for an 8-foot side yard setback from the southern boundary.

(c) *The addition, together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the street frontage;* ... The new front façade represents a significant intrusion upon the 35th Street frontage in terms of it's architectural character and scale. Vertical articulation of the second and third floors negates the roofline of the original building while reflecting few characteristics of more typical building facades along the street. A more effective design approach could include bringing the entire façade out to the street, using a sloped roof and dormers at top of the building to make it appear more in scale, and negotiating with Building Code officials to reduce or eliminate the additional 3 feet of wall height required for the northern firewall.

Although the alley does not abut this property, the addition does not seem out of place when viewed from the alley when compared with rear facades of other dwellings.

(d) *In demonstrating compliance with (a), (b), and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs or elevation and section drawings sufficient to represent the relationship of the proposed addition to adjacent buildings, and view from public ways.* Sufficient graphical documentation was submitted for staff review and analysis.

223.3 *The lot occupancy of the dwelling or flat, together with the addition, shall not exceed fifty percent (50%) in the R-l and R-2 districts or seventy percent (70%) in the R-3, R-4 and R-5 Districts.* This proposal is consistent with this limitation.

223.4 *The Board may require special treatment in the way of design, screening, exterior or interior lighting, building materials or other features for the protection of adjacent and nearby properties.* OP recommends that applicant consider reducing the height of the addition, particularly the portion that extends beyond the original dwelling. They should also consider redesigning the front façade to be less intrusive and reflect more characters of the surrounding architecture.

Based on this information, OP cannot conclude that the application meets the requirements of Section 223.

Compliance with Section 3104.1:
Based on the findings of Section 223, granting the requested relief would not be in harmony with the general purpose and intent of the Zoning Regulations, and Zoning Map, and proposed changes will tend to adversely affect the use of the neighboring properties.

COMPREHENSIVE PLAN
The Comprehensive Plan Generalized Land Use Map designates this site and surrounding properties for Moderate Density residential development characterized by row houses and garden apartments as predominant uses.

COMMUNITY COMMENTS
A letter dated May 13, 2005 from Chair Ed Soloman, Chair, Advisory Neighborhood Commission (ANC) 2E expressed opposition to the requested special exception relief. The public record also includes letters in opposition from: Robert Robelus residing at 1818 35th Street (the second dwelling to the north); tenant Alexander Stancioff residing at 1814 35th Street (the abutting dwelling to the north); Eugene and Joanne Scanlan residing at 1806 35th Street (the second dwelling to the south); and Danielle Berthelot residing at 1804 35th Street (the second dwelling to the south).

RECOMMENDATION
The Office of Planning (OP) cannot support approval of this request because the application does not meet the standards of Section 223.1. OP encourages the applicant to reduce the height of the addition, and redesign the front façade to be more in scale and character with the existing pattern of dwelling facades along 35th Street.

EMc/afj

Attachments:
Exhibit 1 Aerial Including Zoning
Exhibit 2 Angled View from the East
Exhibit 3 Angled View from the West
Exhibit 4 Axonometric of the Existing Dwelling
Exhibit 5 Axonometric of the Neighbor Houses
Exhibit 6 Axonometric of Existing House with Neighbors
Exhibit 7 Axonometric of Proposed House
Exhibit 8 Shadows of Existing House
Exhibit 9 Shadows of Proposed House

Exhibit 1



BZA Application No. 17327
1812 35th Street N.W.

Feet
N
0 25 50

Government of the District of Columbia
Anthony A. Williams, Mayor

Office of Planning ~ January 3, 2005

This map was created for planning purposes from a variety of sources. It is neither a survey nor a legal document. Information provided by other agencies should be verified with them where appropriate.

LEGEND

- Property Squares
- Street Centerlines
- Zoning Districts
- Buildings
- Curbs

Exhibit 2



CP:ID0004864

BZA Application No. 17327
1812 35th Street, N.W.
(View from East)

Feet
N
0 10 20 30

Government of the
District of Columbia
Anthony A. Williams, Mayor
Office of Planning ~ January 3, 2005

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LEGEND

- Property Squares
- Street Centerlines
- Zoning Districts
- Buildings
- Curbs
- Alleys and Parking
- Sidewalks

Exhibit 3



BZA Application No. 17327
1812 35th Street, N.W.
(View from West)

Feet
N
0 10 20 30

Government of the
District of Columbia
Anthony A. Williams, Mayor

Office of Planning ~ January 3, 2005

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LEGEND

- Property Squares
- Street Centerlines
- Zoning Districts
- Buildings
- Curbs
- Alleys and Parking
- Sidewalks

AXONOMETRIC OF

EXISTING HOUSE

AS SHOWN BY ITSELF

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

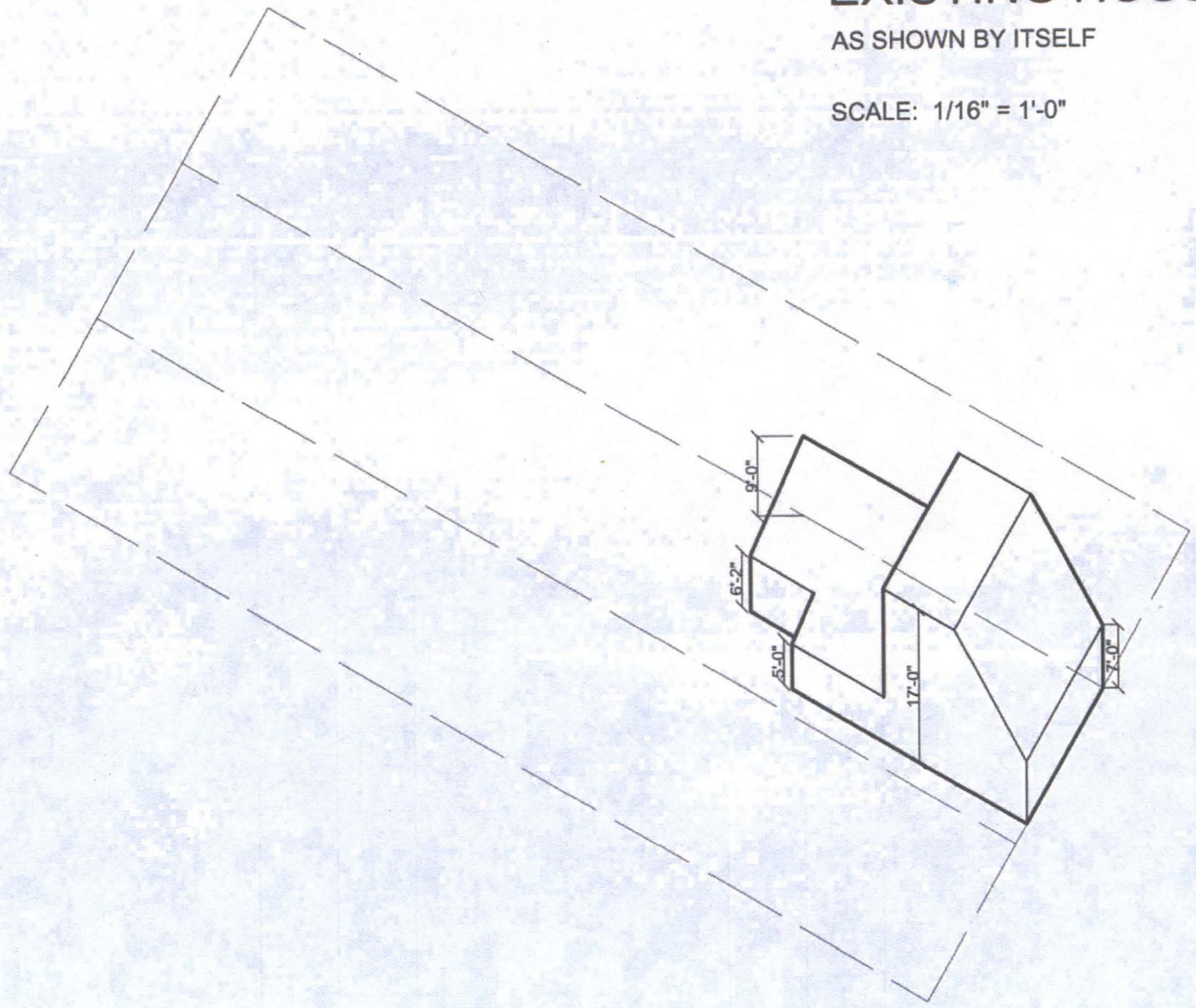


Exhibit 4

AXONOMETRIC OF

NEIGHBORS HOUSES

AS SHOWN BY ITSELF

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

Exhibit 5

AXONOMETRIC OF

EXISTING HOUSE

AS SHOWN WITH NEIGHBORS

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

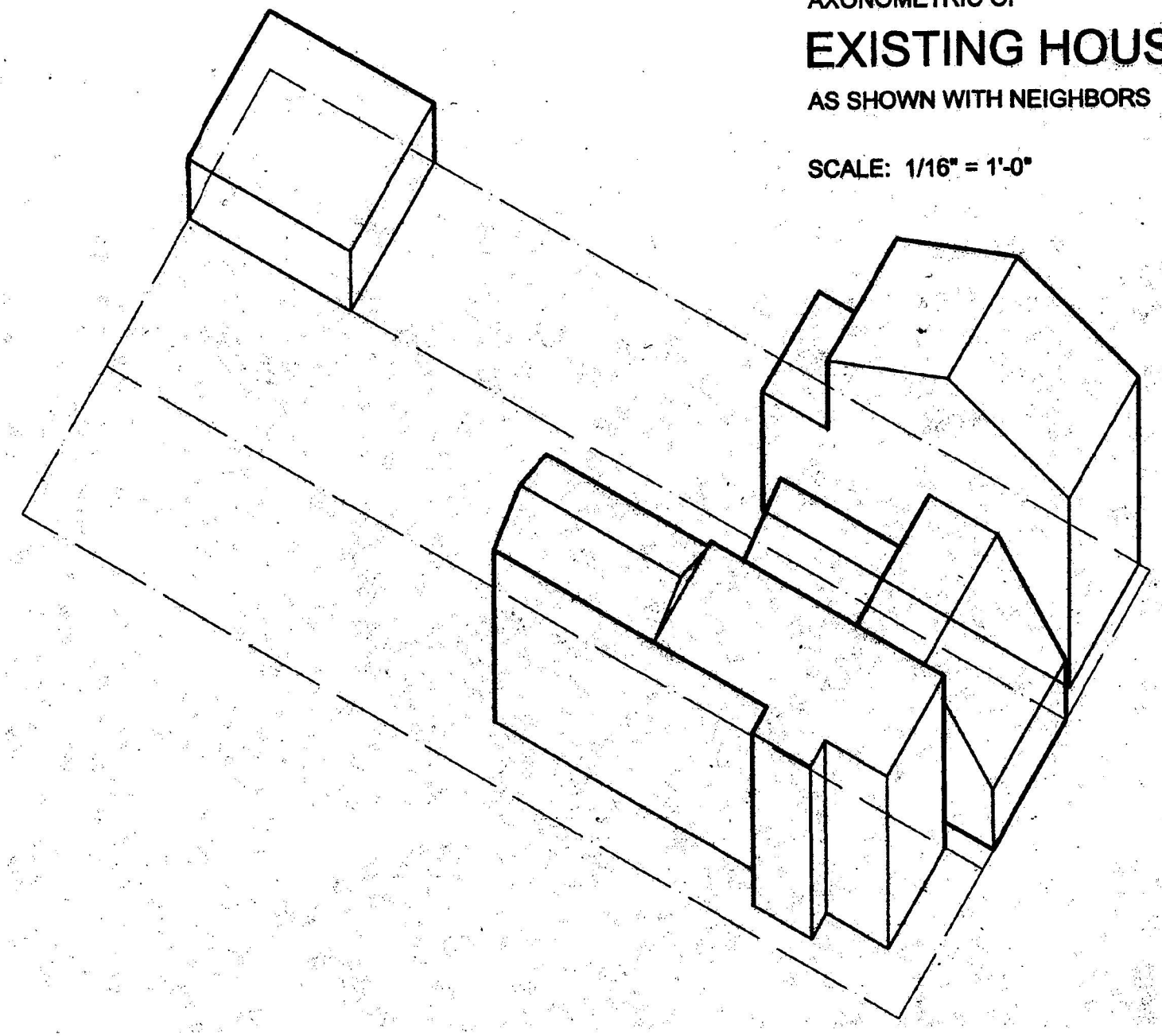


Exhibit 6

AXONOMETRIC OF

PROPOSED HOUSE

AS SHOWN BY ITSELF

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

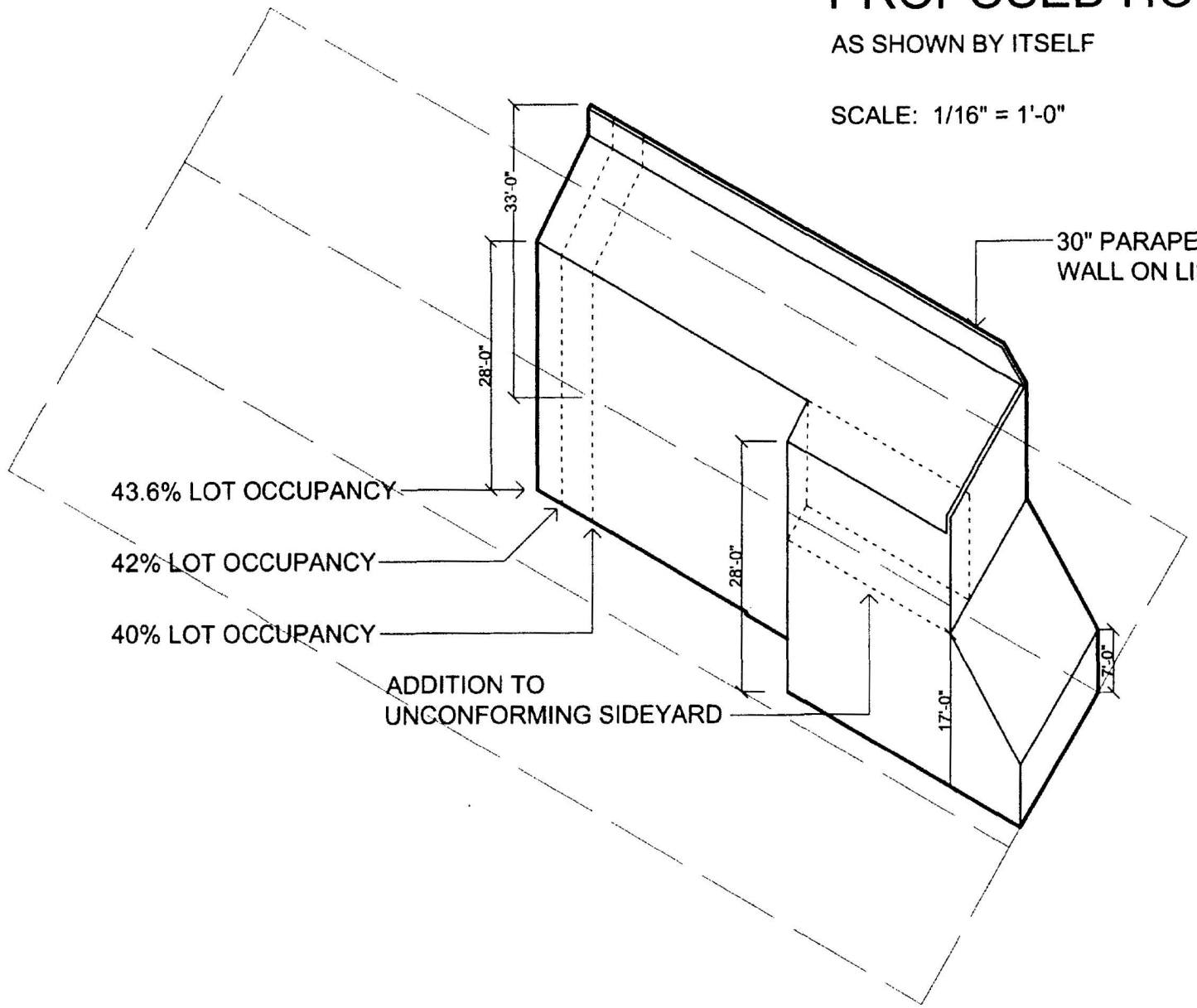
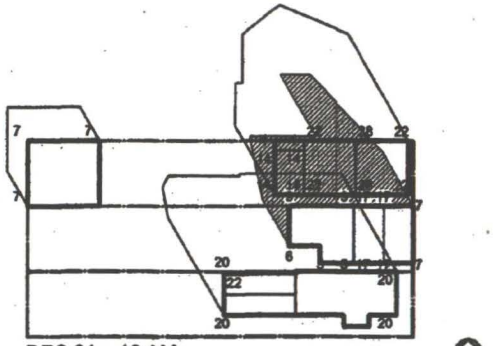


Exhibit 7

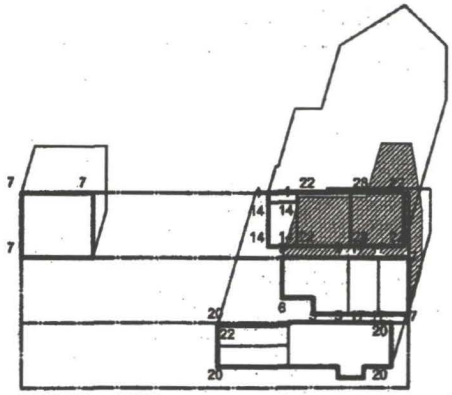
SHADOWS OF

EXISTING HOUSE

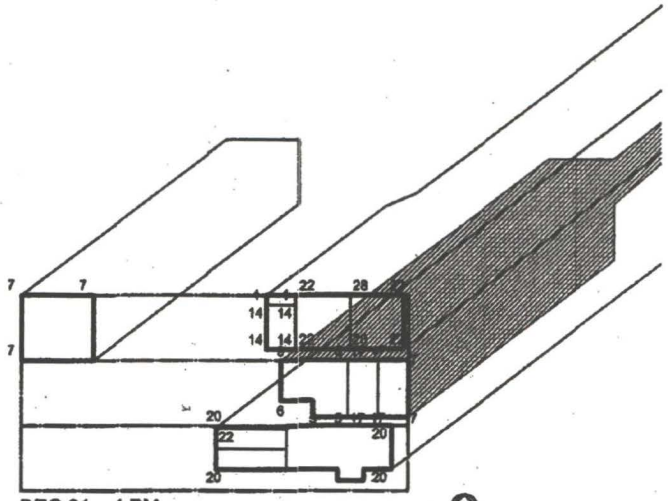
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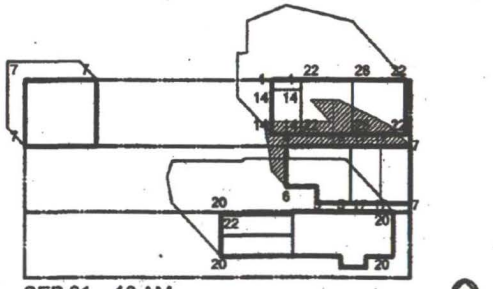
DEC 21 10 AM



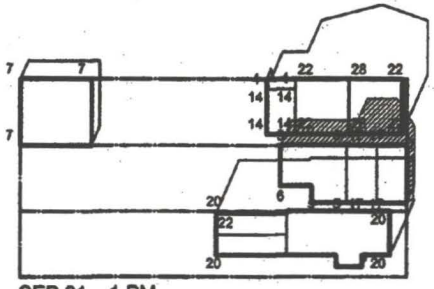
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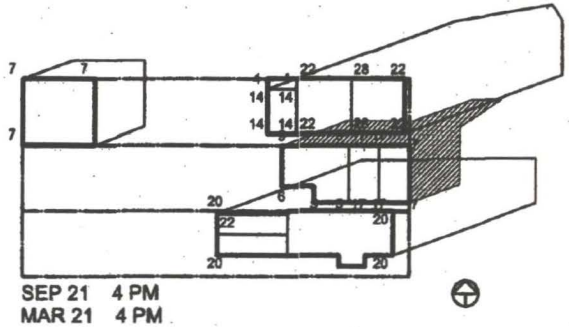
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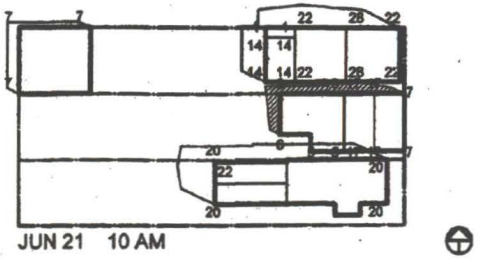
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MAR 21 10 AM



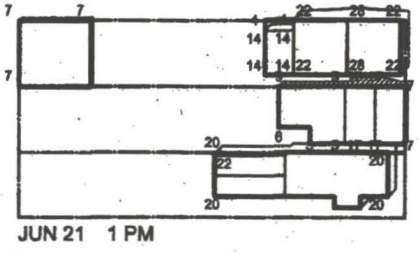
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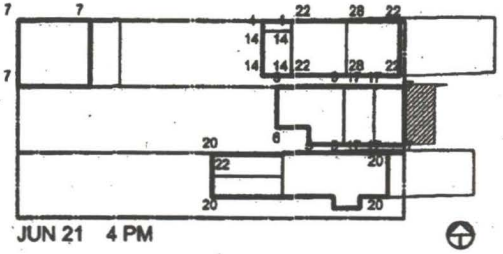
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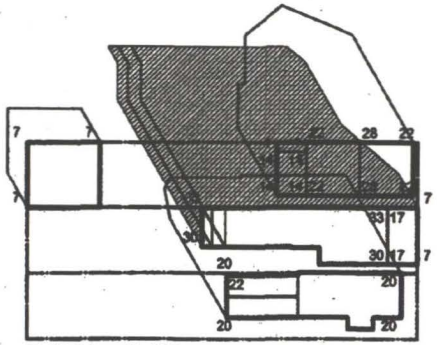
Exhibit 8

SHADOWS OF

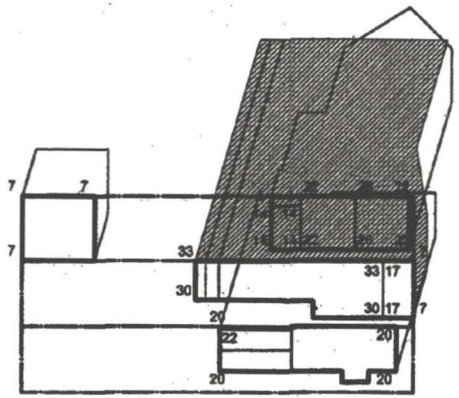
PROPOSED HOUSE

SCALE: 1/50" = 1'-0"

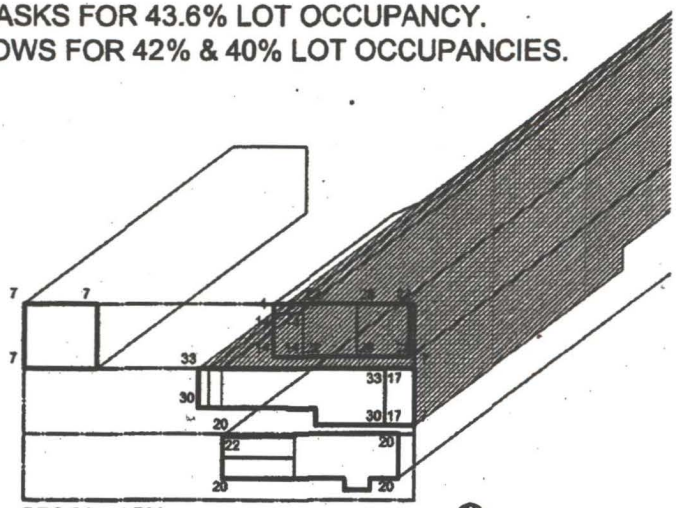
NOTE: SPECIAL EXCEPTION ASKS FOR 43.6% LOT OCCUPANCY.
DOTTED LINES SHOW SHADOWS FOR 42% & 40% LOT OCCUPANCIES.



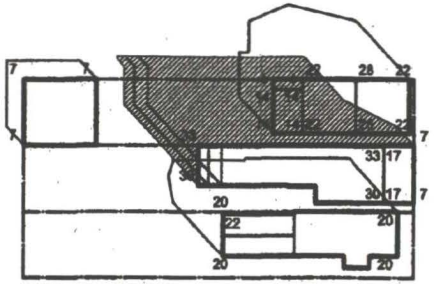
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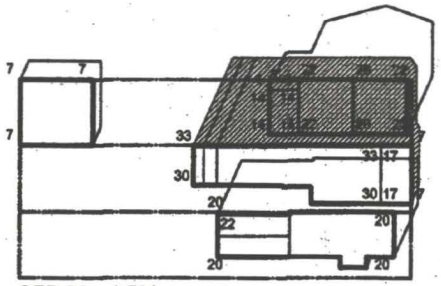
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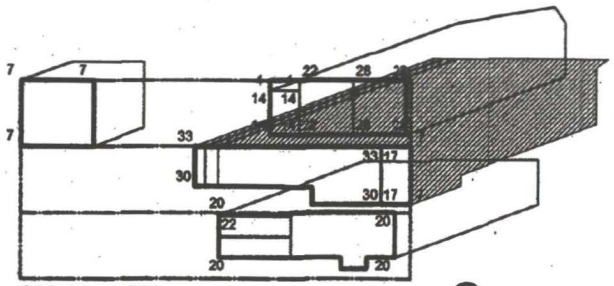
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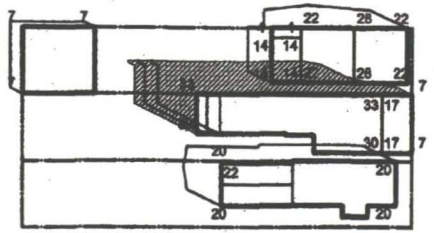
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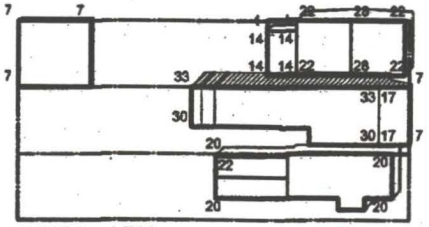
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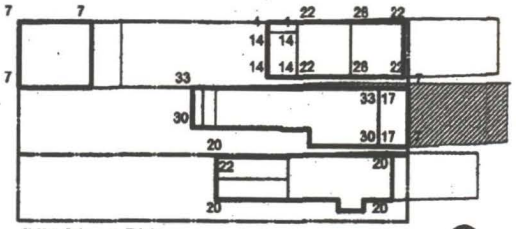
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Exhibit 9