138 Wilmington Place SE

BZA Application No. 21442 · Keyline Homes LLC

Amended application: area variances for a new one-family dwelling

Square 6093, Lot 0815 · R-2 Zone · ANC 8D08



Board of Zoning Adjustment
District of Columbia
CASE NO. 21442
EXHIBIT NO. 34C

Relief requested, as amended: all area variances

Requirement	Section	Required	Proposed	Relief and authority
Front setback	D § 206.2	30 ft.	26.5 ft.	Area variance, X § 1002.1(a)
Rear yard	D § 207.1	20 ft. min.	9 ft.	Area variance, X § 1002.1(a)
Side yard	D § 208.3	8 ft. min.	0 ft.	Area variance, X § 1002.1(a)
Lot occupancy	D § 210.1	40% max.	50%	Area variance, X § 1002.1(a)
Lot dimensions	D § 202.1	30 ft. / 3,000 sq. ft.	16 ft. / 1,136 sq. ft.	Area variance, X § 1002.1(a)
Building type	D § 200.4	Detached or semi-detached	Detached, no side yards	Area variance, X § 1002.1(a)

Amended at OP's recommendation: all six items are now requested as area variances under X §§ 1000.1 and 1002.1(a).

Converted: the front setback, rear yard, side yard and lot occupancy move from special exception (D § 5201) to area variance.

A 16-foot remnant lot on a dead-end street



16 ft.

lot width (30 ft. required)

1,136 sq. ft.

lot area (3,000 sq. ft. required)

71 ft.

lot depth

- Vacant A&T lot, the smallest and narrowest in Square 6093
- The panhandle portion of former Lot 0058
- Between two detached homes: 136 Wilmington (west) and 140 Wilmington (east)
- 3740 Horner Place to the north, more than 20 ft. from the shared line

A modest one-family home with a red brick front



33 ft.

height (40 ft. allowed)

3

stories (3 allowed)

50%

lot occupancy

40%

pervious (30% required)

Exterior materials

Front façade: red brick veneer

Sides and rear: vinyl or fiber-cement (Hardiplank) siding

Design features

- No windows on the side walls
- Third floor recessed at the front and rear
- Single dwelling unit, no parking required
- DDOT: no objection (Ex. 21)

The neighborhood fabric: brick homes of two and three stories



NORTH SIDE
Brick Cape Cod with dormers, set above the street



NORTH SIDE, EAST
Three-story brick townhouses with raised front steps



SOUTH SIDE, OPPOSITE
Two-story red brick semi-detached homes



SOUTH SIDE
Brick semi-detached pair with a front porch hood



SOUTH SIDE, EAST
Brick semi-detached homes with front lawns



STREETSCAPE
Wilmington Place looking east: yards and mature trees

Photographs: Google Street View, Wilmington Place SE, image date June 2022.

The proposed home fits the brick fabric of the block



PROPOSED: 138 WILMINGTON



NORTH SIDE: THREE-STORY BRICK TOWNHOUSES



SOUTH SIDE: RED BRICK SEMI-DETACHED HOMES

How it matches the street

Red brick front
The front façade is red brick veneer, the material of the homes on both sides of Wilmington Place.

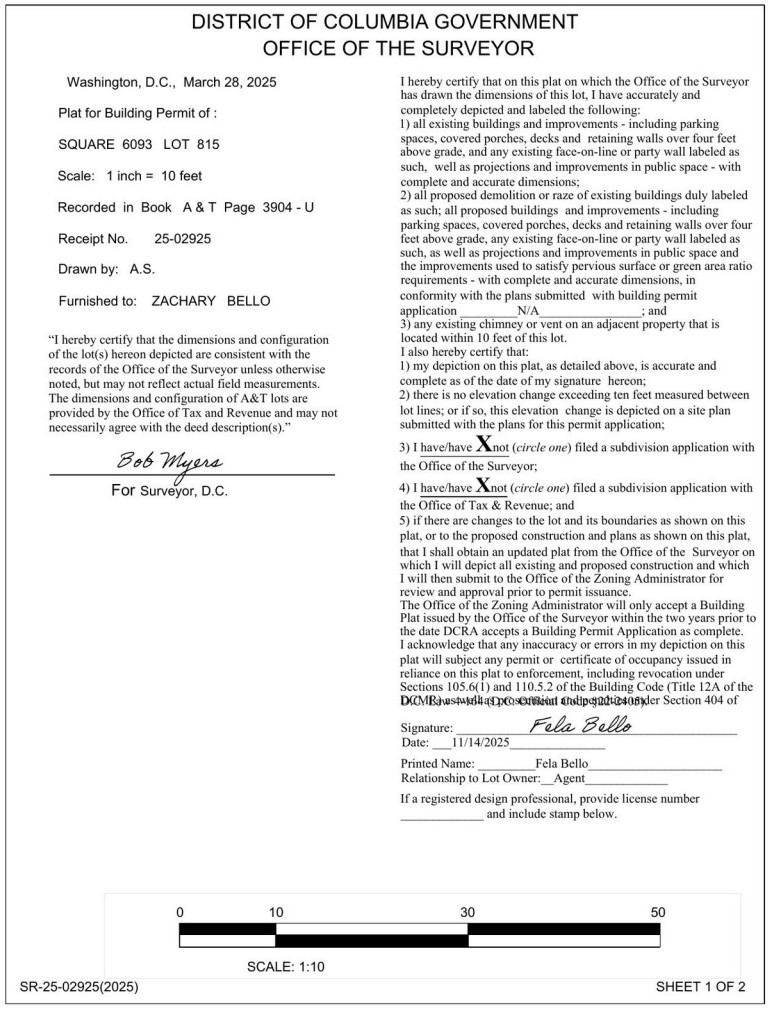
Three stories
Within the 3-story, 40-ft. limit, and in scale with the three-story brick townhouses on the block.

Raised entry and front yard
Front steps and a planted front yard repeat the stoops and lawns along the street.

A quiet side profile
No side windows; the third floor is recessed at the front and rear.

Neighbor photographs: Google Street View, image date June 2022. Rendering: Applicant.

Builder's Plat



DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., March 28, 2025

Plat for Building Permit of :

SQUARE 6093 LOT 815

Scale: 1 inch = 10 feet

Recorded in Book A & T Page 3904 - U

Receipt No. 25-02925

Drawn by: A.S.

Furnished to: ZACHARY BELLO

"I hereby certify that the dimensions and configuration of the lot(s) hereon depicted are consistent with the records of the Office of the Surveyor unless otherwise noted, but may not reflect actual field measurements. The dimensions and configuration of A&T lots are provided by the Office of Tax and Revenue and may not necessarily agree with the deed description(s)."

Bob Myers
For Surveyor, D.C.

I hereby certify that on this plat on which the Office of the Surveyor has drawn the dimensions of this lot, I have accurately and completely depicted and labeled the following:
1) all existing buildings and improvements - including parking spaces, covered porches, decks and retaining walls over four feet above grade, and any existing face-on-line or party wall labeled as such, well as projections and improvements in public space - with complete and accurate dimensions;
2) all proposed demolition or raze of existing buildings duly labeled as such; all proposed buildings and improvements - including parking spaces, covered porches, decks and retaining walls over four feet above grade, any existing face-on-line or party wall labeled as such, as well as projections and improvements in public space and the improvements used to satisfy pervious surface or green area ratio requirements - with complete and accurate dimensions, in conformity with the plans submitted with building permit application _____N/A_____; and
3) any existing chimney or vent on an adjacent property that is located within 10 feet of this lot.
I also hereby certify that:
1) my depiction on this plat, as detailed above, is accurate and complete as of the date of my signature hereon;
2) there is no elevation change exceeding ten feet measured between lot lines; or if so, this elevation change is depicted on a site plan submitted with the plans for this permit application;
3) I have/have X not (*circle one*) filed a subdivision application with the Office of the Surveyor;
4) I have/have X not (*circle one*) filed a subdivision application with the Office of Tax & Revenue; and
5) if there are changes to the lot and its boundaries as shown on this plat, or to the proposed construction and plans as shown on this plat, that I shall obtain an updated plat from the Office of the Surveyor on which I will depict all existing and proposed construction and which I will then submit to the Office of the Zoning Administrator for review and approval prior to permit issuance.
The Office of the Zoning Administrator will only accept a Building Plat issued by the Office of the Surveyor within the two years prior to the date DCRA accepts a Building Permit Application as complete.
I acknowledge that any inaccuracy or errors in my depiction on this plat will subject any permit or certificate of occupancy issued in reliance on this plat to enforcement, including revocation under Sections 105.6(1) and 110.5.2 of the Building Code (Title 12A of the DCMR), as well as DC criminal code [illegible] under Section 404 of

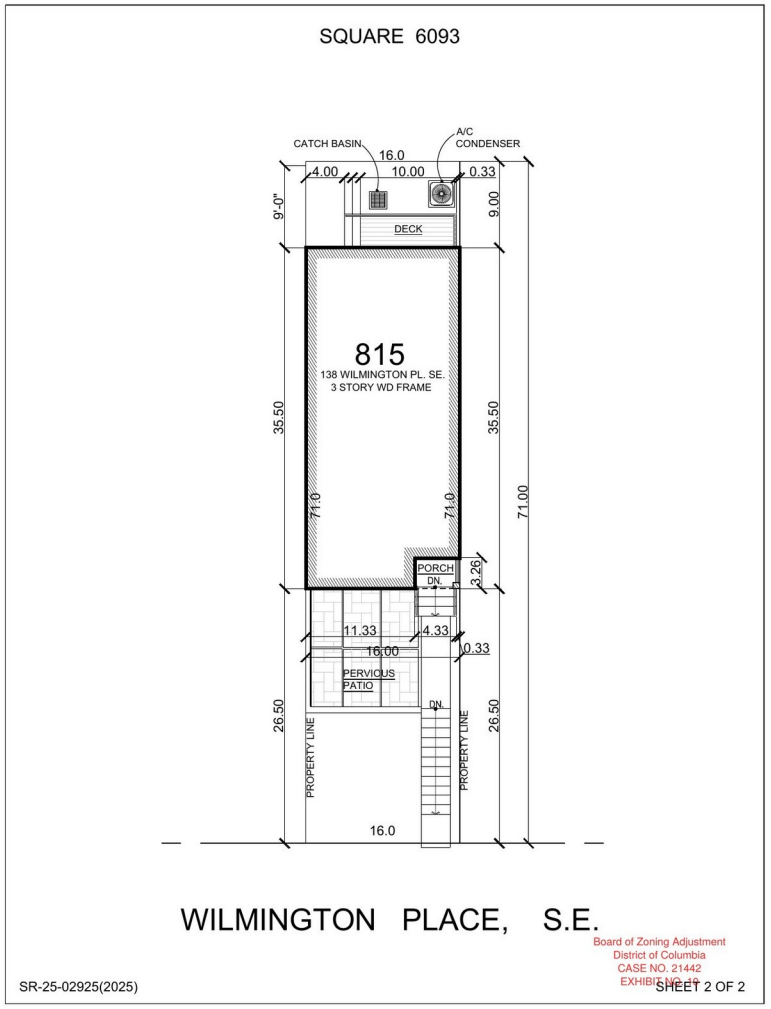
Signature: _____Fela Bello_____
Date: ___11/14/2025_____

Printed Name: _____Fela Bello_____
Relationship to Lot Owner:__Agent_____

If a registered design professional, provide license number _____ and include stamp below.

0 10 30 50
SCALE: 1:10

SR-25-02925(2025) SHEET 1 OF 2



SR-25-02925(2025) SHEET 2 OF 2

PLAT

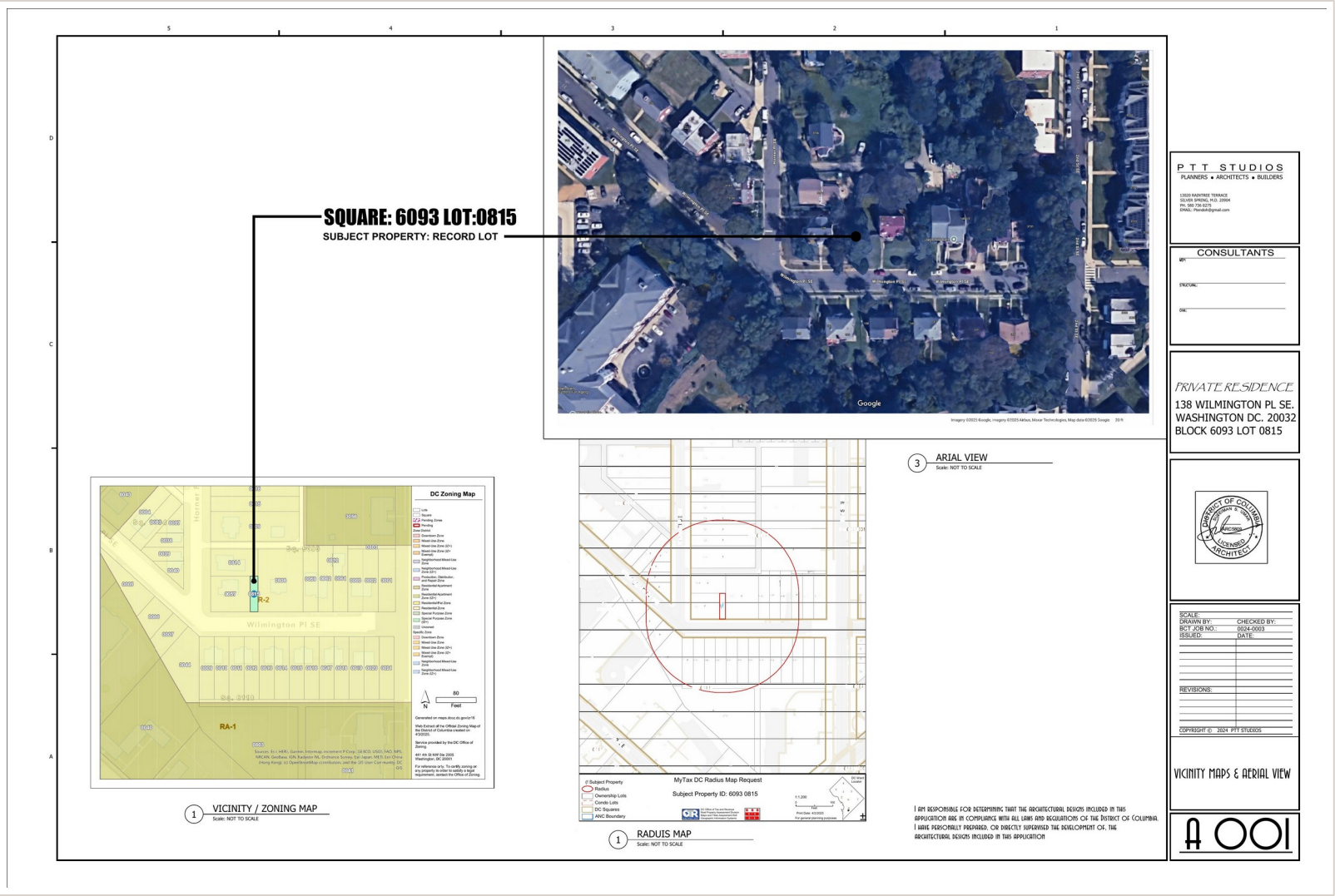
Office of the Surveyor

Builder's Plat for Building Permit

- Square 6093, Lot 815, 138 Wilmington Place SE
- Issued by the D.C. Office of the Surveyor, March 28, 2025 (record Exhibit 10)
- Lot 16 ft. wide by 71 ft. deep (1,136 sq. ft.)
- Proposed building 16 ft. by 35.5 ft.: 26.5-ft. front setback and 9-ft. rear yard

Source: D.C. Office of the Surveyor, SR-25-02925 (2025).

Vicinity maps and aerial view



SHEET

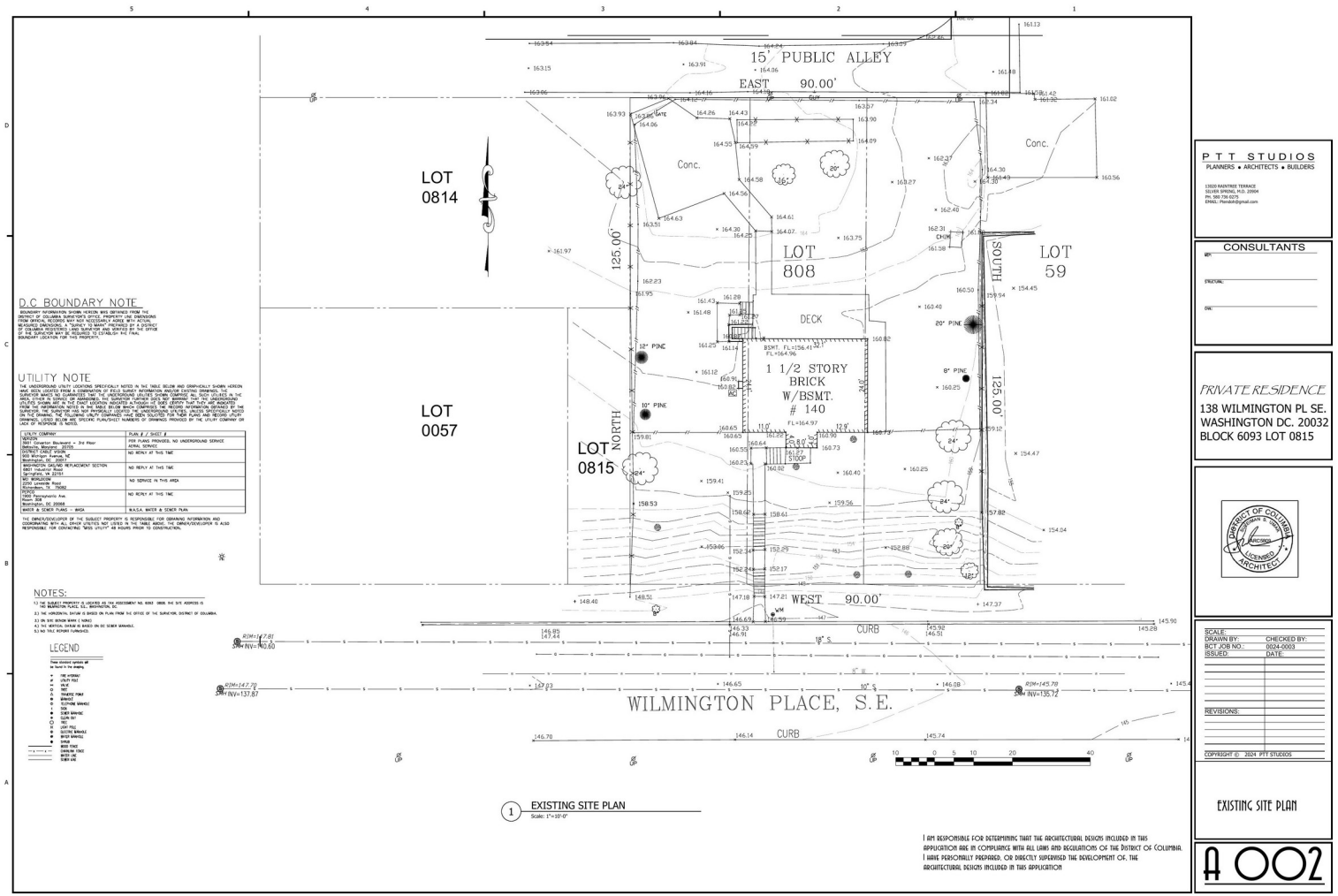
A001

Vicinity Maps & Aerial View

- Locates Square 6093, Lot 0815, the subject property
- A dead-end block of detached and semi-detached homes

Source: Architectural plans, P.T.T. Studios.

Existing site plan



SHEET

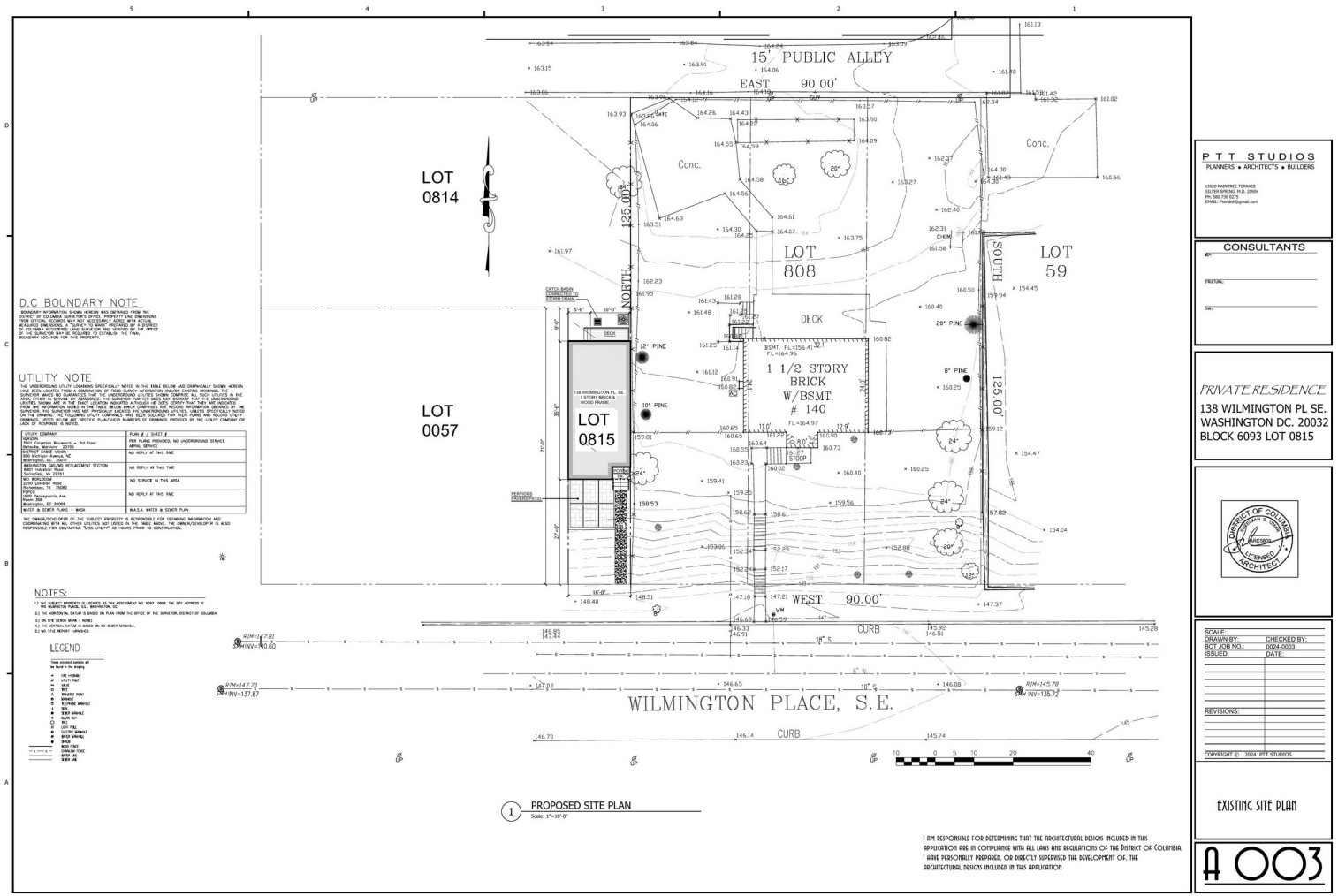
A002

Existing Site Plan

- The vacant lot between Lot 0057 (136 Wilmington, west) and Lot 808 (140 Wilmington, east)
- Wilmington Place SE along the front lot line

Source: Architectural plans, P.T.T. Studios.

Proposed site plan



SHEET

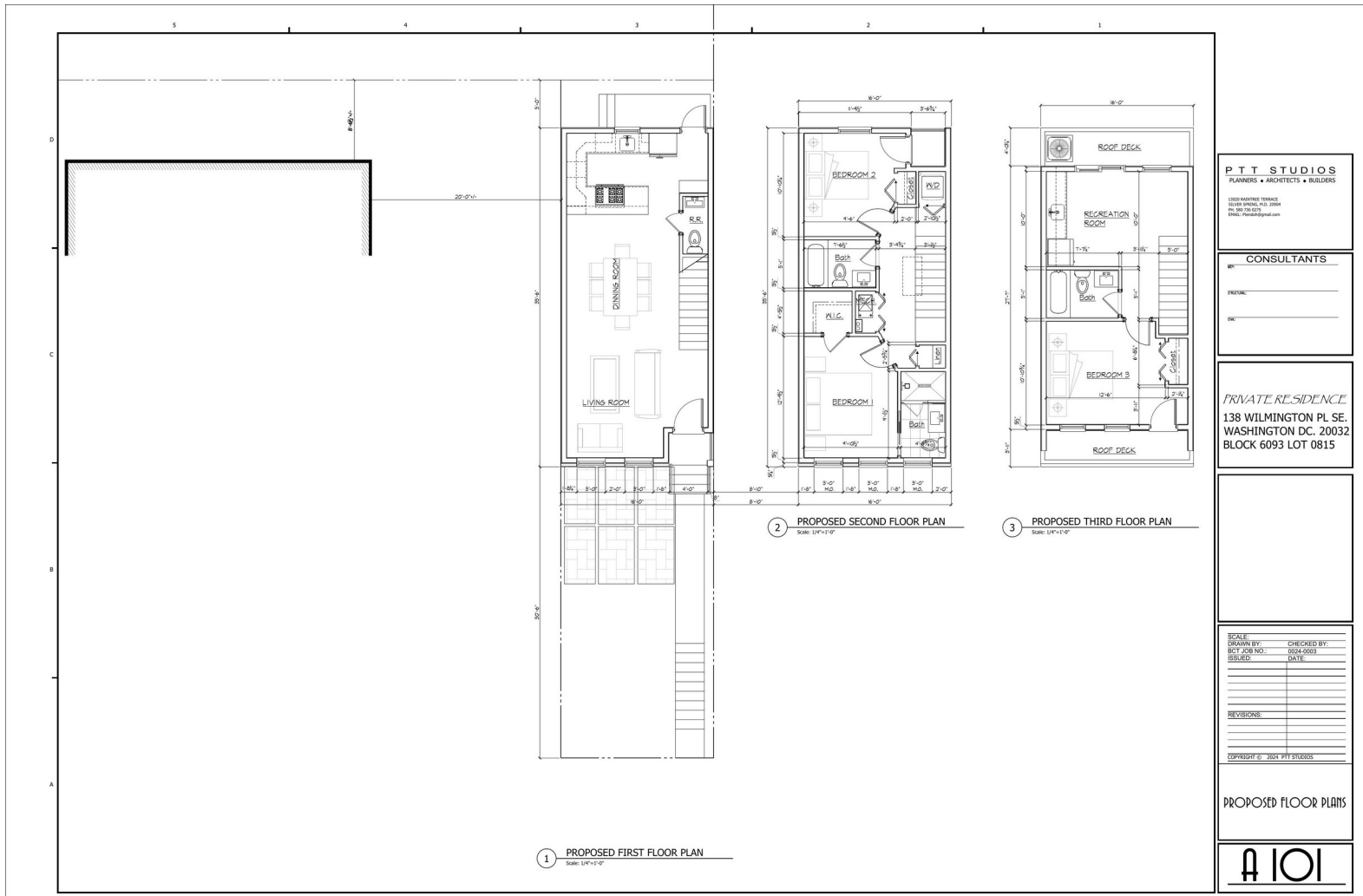
A003

Proposed Site Plan

- The proposed dwelling on the 16-ft. lot, with no side yards
- Front yard on Wilmington Place and a rear yard to the north

Source: Architectural plans, P.T.T. Studios.

Proposed floor plans



SHEET

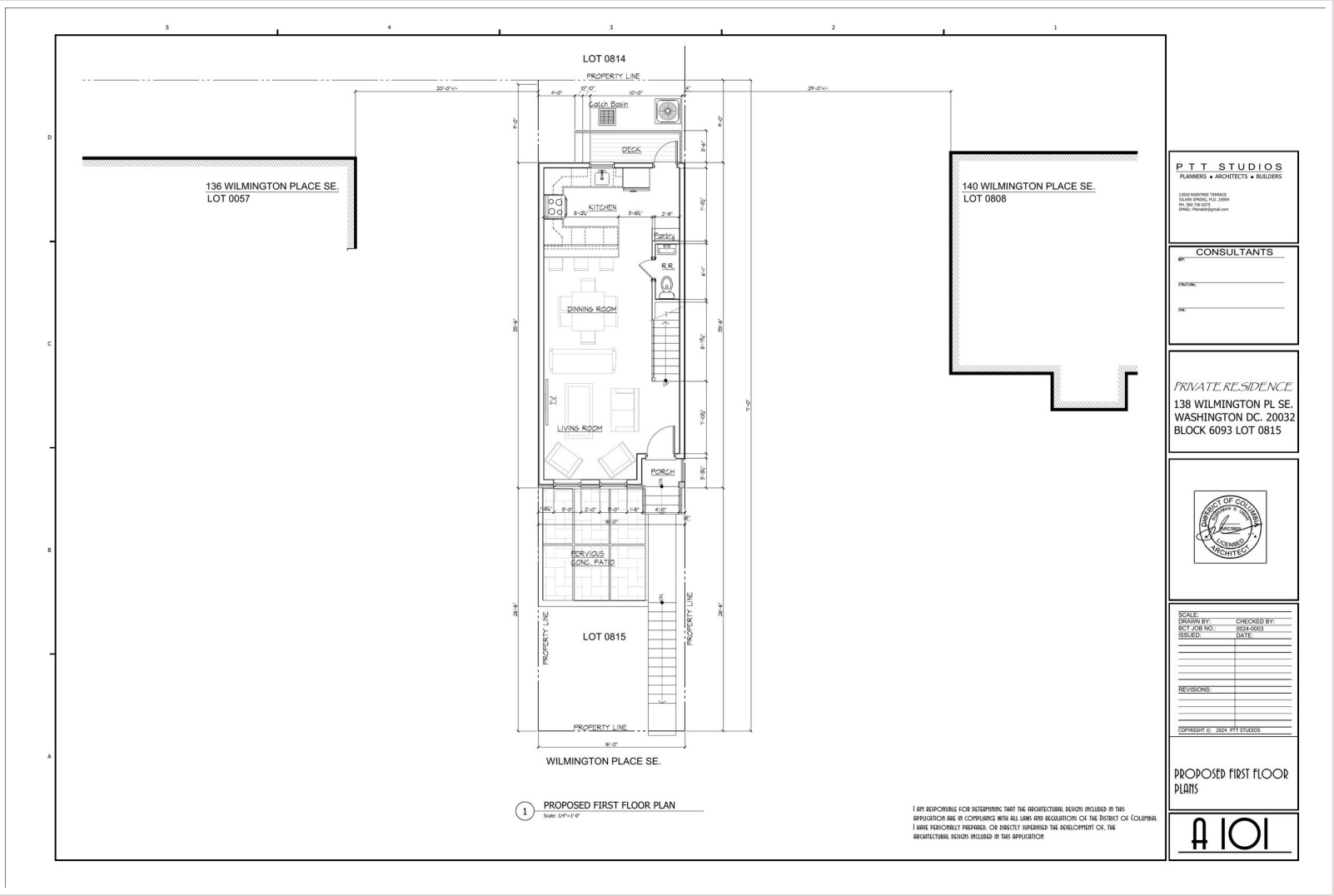
A101

Proposed Floor Plans

- First, second and third floor plans of the single dwelling unit
- No windows or openings in the side walls

Source: Architectural plans, P.T.T. Studios.

Proposed first floor plan in context



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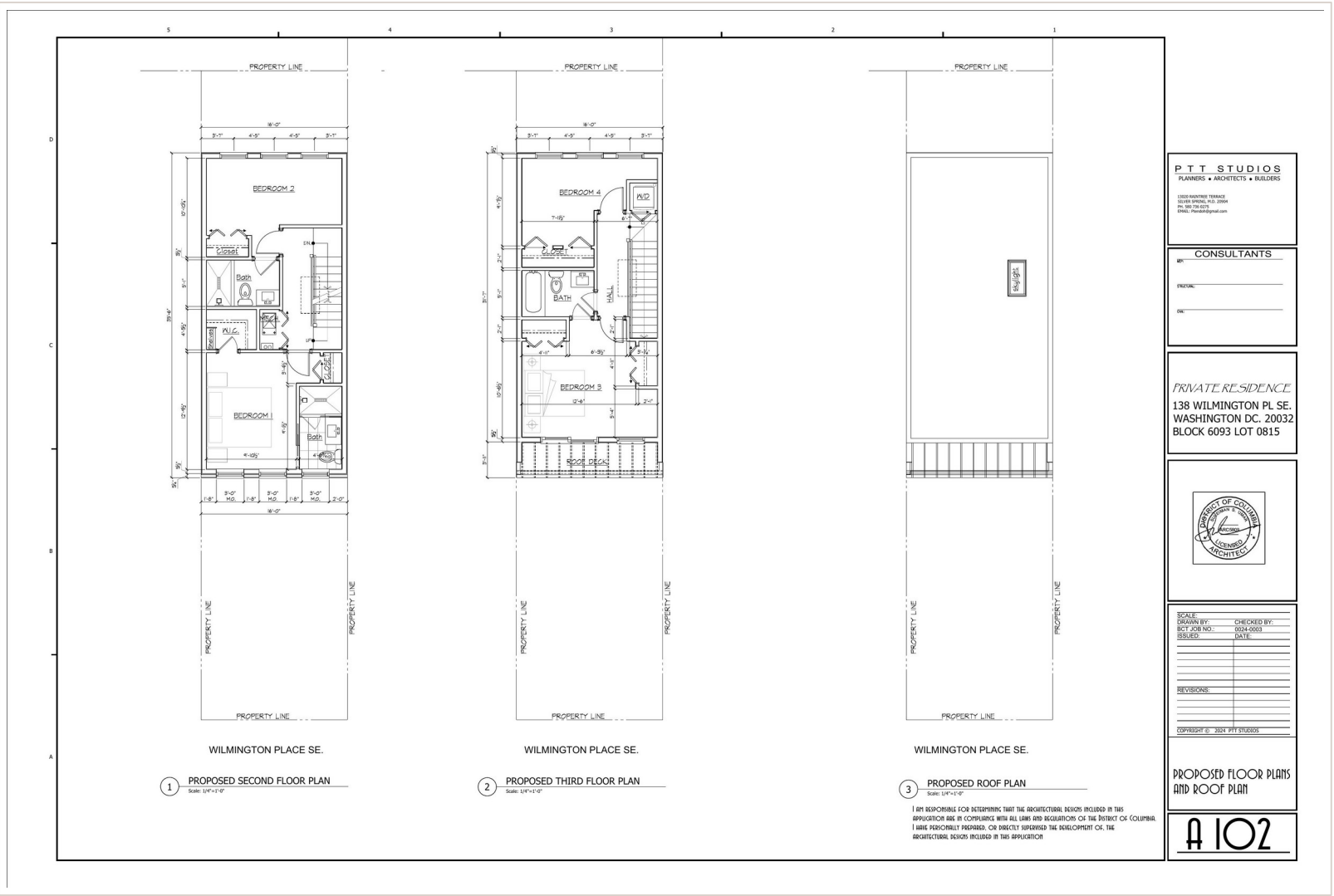
A101

Proposed First Floor Plan

- The first floor shown with the adjoining properties on Wilmington Place

Source: Architectural plans, P.T.T. Studios.

Proposed floor plans and roof plan



SHEET

A102

Proposed Floor Plans and Roof Plan

- Second and third floor plans and the roof plan
- The third floor is recessed at the front and rear

Source: Architectural plans, P.T.T. Studios.

Proposed elevations



SHEET

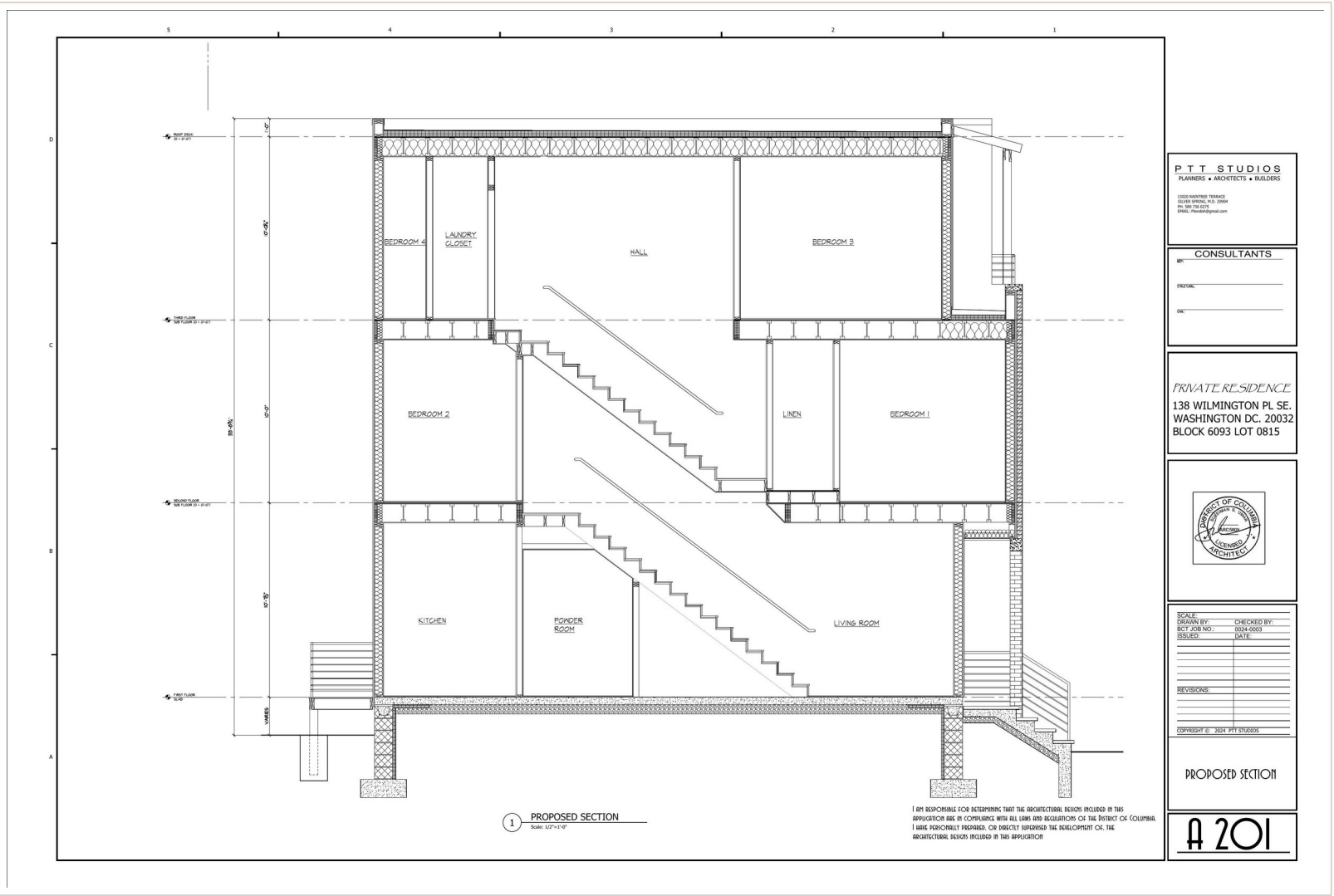
A201

Proposed Elevations

- Front, rear and side elevations
- Red brick veneer front façade; vinyl or fiber-cement siding on the sides and rear

Source: Architectural plans, P.T.T. Studios.

Proposed section



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A201

Proposed Section

- Three stories, 33 ft. tall, within the 3-story and 40-ft. limits of the R-2 zone

Source: Architectural plans, P.T.T. Studios.

The area variance test under Subtitle X § 1002.1(a)

1

Exceptional situation or condition

A 16-ft., 1,136-sq.-ft. remnant, the panhandle of former Lot 0058, that can no longer be enlarged to a conforming lot.

Gilmartin, 579 A.2d at 1168; De Azcarate, 388 A.2d at 1237

2

Peculiar and exceptional practical difficulty

Strict compliance would be unnecessarily burdensome: no practical dwelling fits, and the difficulty is unique to this lot.

Palmer, 287 A.2d at 542; Gilmartin, 579 A.2d at 1170–71; Fleischman, 27 A.3d at 560

3

No substantial detriment or impairment of the zone plan

One matter-of-right dwelling with a de minimis effect on light, air and privacy.

Gilmartin, 579 A.2d at 1167; X § 1002.1(a)

Practical difficulty, not undue hardship. An area variance asks only whether strict compliance would be unnecessarily burdensome for this property. Palmer v. D.C. BZA, 287 A.2d 535, 541–42 (D.C. 1972).

The practical difficulty arises from events extraneous to the lot

1 — Remnant lot

The subject lot is the panhandle portion of former Lot 0058

2 — Purchase agreement

Applicant agrees to buy 140 Wilmington (Lot 808); Capital Bank financing letter, July 13, 2021, $500,000

3 — Survey

Topographic survey of Lot 808, Kris Consultants, August 2021

4 — Matter-of-right plan

Excise the panhandle and combine it with part of Lot 808 into a ~36-ft. lot (30 ft. required)

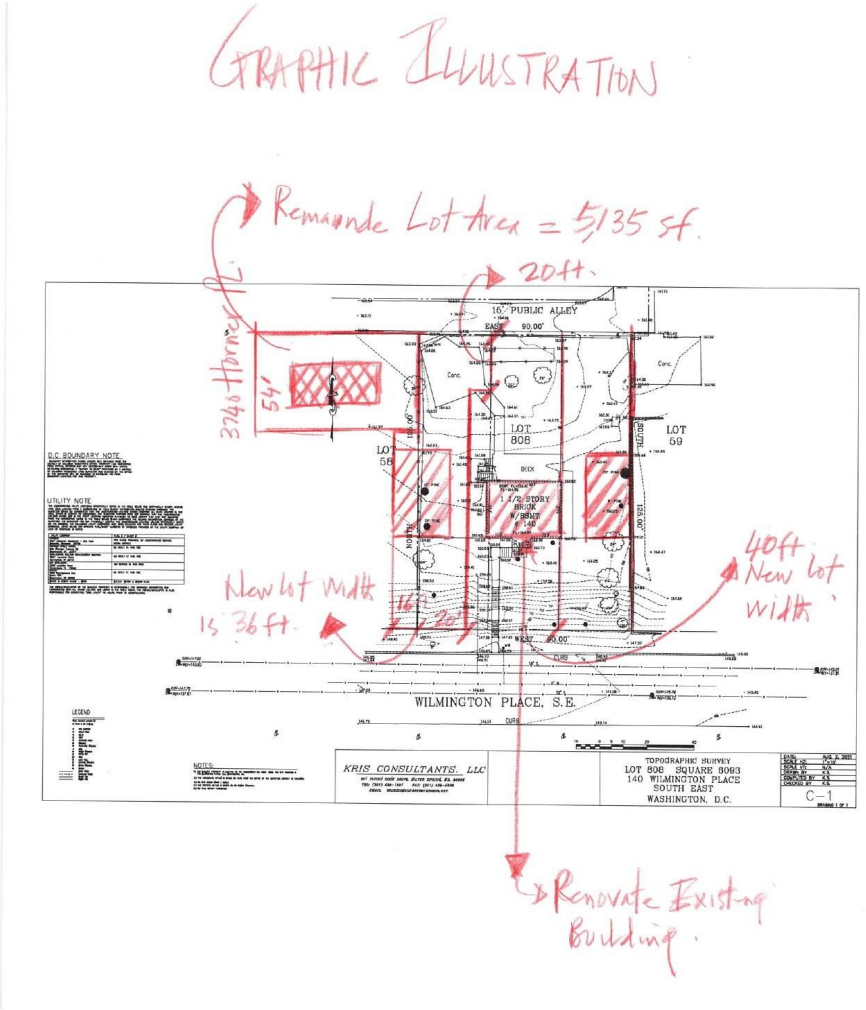
5 — Agreement collapses

Purchase falls through; the rest of former Lot 0058 is sold to a third party

Result: a 16-ft. remnant that cannot be enlarged from any adjoining parcel. An 8-ft. side yard would leave an 8-ft.-wide house; without relief the lot cannot be built on.

The condition need not inhere in the land. It "can be caused by subsequent events extraneous to the land itself." *De Azcarate v. D.C. BZA, 388 A.2d 1233, 1237 (D.C. 1978); Clerics of St. Viator v. D.C. BZA, 320 A.2d 291, 293–94 (D.C. 1974).*

The re-subdivision that would have avoided any relief



Graphic Illustration (with the proposed site plan)

- New lot about 36 ft. wide: the 16-ft. subject lot plus about 20 ft. of Lot 808
- Would have met the 30-ft. minimum width for a semi-detached dwelling in R-2, as a matter of right
- Balance of Lot 808 re-subdivided; existing home at 140 Wilmington renovated
- Lost when the purchase of 140 Wilmington fell through, a circumstance outside the subject lot and beyond the owner's control

A confluence of factors. The statute does not preclude a variance "where the uniqueness arises from a confluence of factors." *Gilmartin v. D.C. BZA, 579 A.2d 1164, 1168 (D.C. 1990).*

Case law: the practical difficulty standard is met

Palmer v. D.C. BZA

287 A.2d 535, 541–42 (D.C. 1972)

An area variance requires practical difficulty, a lighter burden than the undue hardship needed for a use variance.

Gilmartin v. D.C. BZA

579 A.2d 1164, 1170–71 (D.C. 1990)

Compliance must be unnecessarily burdensome and the difficulty unique to the property; the Board weighs the burden, the severity of the variances and the effect on the zone plan.

De Azcarate v. D.C. BZA

388 A.2d 1233, 1237 (D.C. 1978)

Upheld a lot-width variance for an R-1-A lot; the exceptional condition can arise from events extraneous to the land.

Clerics of St. Viator v. D.C. BZA

320 A.2d 291, 293–94 (D.C. 1974)

Rejected the view that only a hardship inherent in the land can support a variance.

Gilmartin, 579 A.2d at 1171

citing A.L.W., Inc. v. D.C. BZA, 338 A.2d 428 (D.C. 1975)

Increased expense and inconvenience are proper factors; prior knowledge or self-imposition does not bar an area variance.

Fleischman v. D.C. BZA

27 A.3d 554, 560 (D.C. 2011)

Restates the three-part area variance test the Board applies under X § 1002.1(a).

Each variance flows from the same 16-foot remnant

Requirement	Strict compliance would mean	Relief
Lot dimensions, D § 202.1	The lot cannot reach 30 ft. / 3,000 sq. ft.: no adjoining land is available to acquire	16 ft. / 1,136 sq. ft. (existing)
Side yard, D § 208.3	An 8-ft. side yard leaves a house only 8 ft. wide	0 ft.
Building type, D § 200.4	No detached or semi-detached form with side yards fits a 16-ft. lot	Detached, no side yards
Rear yard, D § 207.1	With a 30-ft. front setback, a house only 21 ft. deep (336 sq. ft. footprint)	9 ft.
Lot occupancy, D § 210.1	A footprint of about 454 sq. ft., well under half of what a minimum R-2 lot allows	50% (about 568 sq. ft.)
Front setback, D § 206.2	Another 3.5 ft. lost from a lot already too shallow for a usable house	26.5 ft. (a 3.5-ft., 12% reduction)

One cause: each difficulty is the product of the lot's size, made permanent when the 140 Wilmington purchase collapsed.

D § 200.4 variance: included at OP's recommendation

What § 200.4 requires

A principal building in the R-2 zone must be a detached or a semi-detached building.

Why it appears redundant

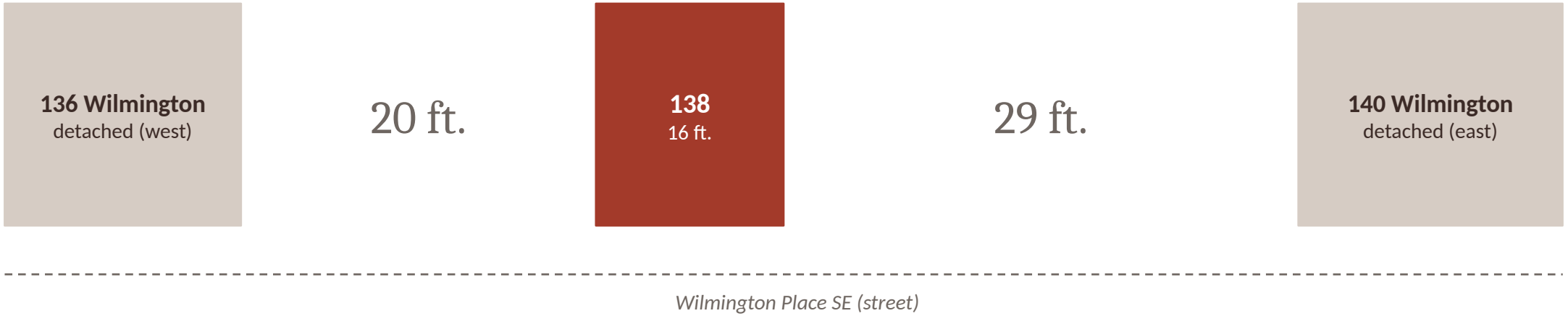
- The dwelling shares no wall with any building; it is detached in fact
- The full (100%) side yard variance from D § 208.3 already covers the absence of side yards

Why it is included

- Recommended by the Office of Planning
- Leaves no building-type question open at permitting
- Rests on the same facts as the § 202.1 and § 208.3 variances

100% side yard variance
requested from D § 208.3

No substantial detriment: de minimis effect on light and air



≈ 49 ft.

of open area flanking a 16-ft.-wide building

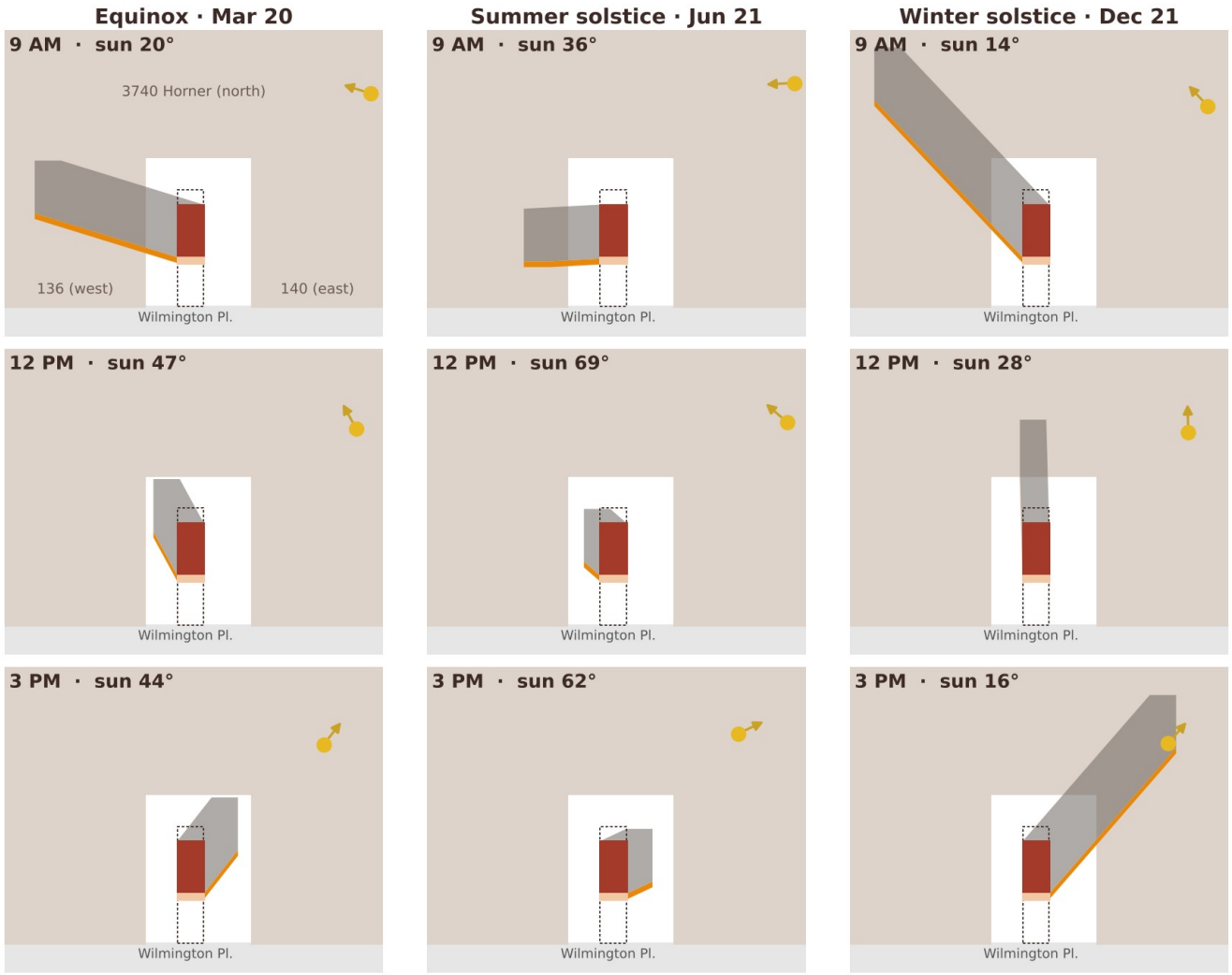
2.5× and 3.6×

the 8-ft. side yard the R-2 zone would require

The front setback faces the street

A 3.5-ft. shift toward Wilmington Place moves no building mass closer to either neighbor. See the shadow study, next slide.

Shadow study: the front setback relief adds only a sliver of shadow



- Proposed building (33 ft., 16 × 35.5 ft.)
- 3.5-ft. area allowed by the front setback relief
- Shadow with a conforming 30-ft. setback
- Added shadow from the relief
- Areas beyond the neighbors' separations

Added shadow reaching the neighbors (sq. ft.)

	9 AM	12 PM	3 PM
Mar 20	233	none	none
Jun 21	92	none	none
Dec 21	245	none	168

At midday in every season, and at 3 PM in spring and summer, no added shadow reaches the neighbors. Only at low sun, when the building's shadow passes the separations with or without relief, does the relief add a strip about 3.5 ft. wide, 7% to 11% more shadow there.

Method: sun positions for Washington, DC (38.84° N) on Mar 20, Jun 21 and Dec 21 at 9 AM, 12 PM and 3 PM local time (NOAA algorithm, pvlib). Building modeled as a full 33-ft. box, 16 × 35.5 ft. per the Builder's Plat (third-floor recesses ignored, conservative); front lot line taken as facing south. Neighbors shown as the areas beyond their stated separations (20 ft. west, 29 ft. east, 20 ft. north). Existing trees and buildings not modeled.

No substantial detriment to the public good or the zone plan

✓

Permitted use

A single-family dwelling, allowed as a matter of right in R-2

✓

Not denser development

One unit, within height and story limits

✓

Neighbors protected

De minimis effect on light, air and privacy, confirmed by the shadow study

✓

Fits the street

Red brick front façade; DDOT has no objection (Ex. 21)



Photograph of the Property (record exhibit)

The Applicant asks the Board to approve the application

Area variances under Subtitle X §§ 1000.1 and 1002.1(a) from:

- D § 206.2 (front setback) and D § 207.1 (rear yard)
- D § 208.3 (side yard) and D § 210.1 (lot occupancy)
- D § 202.1 (lot dimensions) and D § 200.4 (building type)