

Burlington Development Review Board

Department of Permitting & Inspections
645 Pine Street
Burlington, VT 05401
www.burlingtonvt.gov/DPI/DRB
Telephone: (802) 865-7188
Fax (802) 863-0466

Brad Rabinowitz
AJ LaRosa
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Geoff Hand
Brooks McArthur
Kienan Christianson
Caitlin Halpert
Sean McKenzie, (Alternate)
Ravi Venkataraman, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD

Tuesday, April 6th, 2021, 5:00 PM

PUBLIC HEARING NOTICE

REMOTE MEETING

Zoom: <https://us02web.zoom.us/j/84866592744?pwd=MkpMOUx2OEU2bTZ3T3Q4a3AvaVh6QT09>

Webinar ID: 848 6659 2744

Password: 502671

Telephone: +1 301 715 8592 or +1 312 626 6799 or +1 929 205 6099 or +1 253 215 8782 or
+1 346 248 7799 or +1 669 900 6833

- 1. 21-0358CA/CU; 40 Kingsland Terrace (RL, Ward 6S) Kellen Brumsted**
Demolish existing garage (listed on the National Register); construct new 660 sf. garage with Accessory Dwelling Unit (ADU).
- 2. 21-0723CU; 195 Archibald (RL, Ward 1E) Deborah Lyons**
Establish short-term rental (bed & breakfast) with associated parking waiver.
- 3. 21-0629DT; 92 Farrington Parkway (RL, Ward 7N) Raymond K. Ingram Jr.**
Appeal of 15-year determination as to parking on the yard next to the driveway.

Plans may be viewed upon request by contacting the Department of Permitting & Inspections between the hours of 8:00 a.m. and 4:30 p.m. Participation in the DRB proceeding is a prerequisite to the right to take any subsequent appeal. Please note that ANYTHING submitted to the Zoning office is considered public and cannot be kept confidential. This may not be the final order in which items will be heard. Please view final Agenda, at www.burlingtonvt.gov/dpi/drb/agendas or the office notice board, one week before the hearing for the order in which items will be heard.

The City of Burlington will not tolerate unlawful harassment or discrimination on the basis of political or religious affiliation, race, color, national origin, place of birth, ancestry, age, sex, sexual orientation, gender identity, marital status, veteran status, disability, HIV positive status, crime victim status or genetic information. The City is also committed to providing proper access to services, facilities, and employment opportunities. For accessibility information or alternative formats, please contact Human Resources Department at (802) 540-2505.

The programs and services of the City of Burlington are accessible to people with disabilities. Individuals who require special arrangements to participate are encouraged to contact the Zoning Division at least 72 hours in advance so that proper accommodations can be arranged. For information call 865-7188 (TTY users: 865-7142).

Printed on 100% Recycled Paper



PROJECT NOTES:

THIS PLAN SET, COMBINED WITH THE CONTRACT, PROVIDES CONSTRUCTION DETAILS FOR THE BUILDING PROJECT. THE LEAD CARPENTER SHALL VERIFY THAT SITE CONDITIONS, AND DIMENSIONS ARE CONSISTENT WITH THESE PLANS BEFORE STARTING WORK. WORK NOT SPECIFICALLY DETAILED SHALL BE CONSTRUCTED TO THE SAME QUALITY AS SIMILAR WORK THAT IS DETAILED. ALL WORK SHALL BE DONE IN ACCORDANCE WITH INTERNATIONAL BUILDING AND LOCAL CODES.

WRITTEN DIMENSIONS AND SPECIFIC NOTES SHALL TAKE PRECEDENCE OVER SCALED DIMENSIONS AND GENERAL NOTES. THE SALE PERSON/DESIGNER SHALL BE CONSULTED FOR CLARIFICATION IF SITE CONDITIONS ARE ENCOUNTERED THAT ARE DIFFERENT THAN SHOWN, IF DISCREPANCIES ARE FOUND IN THE PLANS OR NOTES, OR IF A QUESTION ARISES OVER THE INTENT OF THE PLANS OR NOTES. CARPENTER OR SUB-CONTRACTOR SHALL VERIFY AND IS RESPONSIBLE FOR ALL DIMENSIONS (INCLUDING ROUGH OPENINGS).

ALL TRADES SHALL MAINTAIN A CLEAN WORK SITE AT THE END OF EACH WORK DAY.

PLEASE SEE ADDITIONAL NOTES CALLED OUT ON OTHER SHEETS.

INDEX OF DRAWINGS	
TITLE	SHEET
PROJECT SUMMARY	1
EXISTING CONDITIONS	2
PROPOSED SITE PLAN	3
PROPOSED PLAN	4
PROPOSED PLAN	5
SOUTH ELEVATION	6
EAST ELEVATION	7
WEST ELEVATION	8
NORTH ELEVATION	9
STRUCTURE SECTION	10
TERRAIN DETAILS	11
EXTERIOR RENDERINGS	12

40 Kingsland Terrace
Burlington, VT 05401
**Kellen Brumstead &
Katie Menson**

Lewis Creek Company
18a Morse Drive, Essex Junction, VT 05452
Find us on the web at : www.LewisCreekCompany.com

REVISED:
3/17/2021

**PROJECT
SUMMARY**

SHEET #

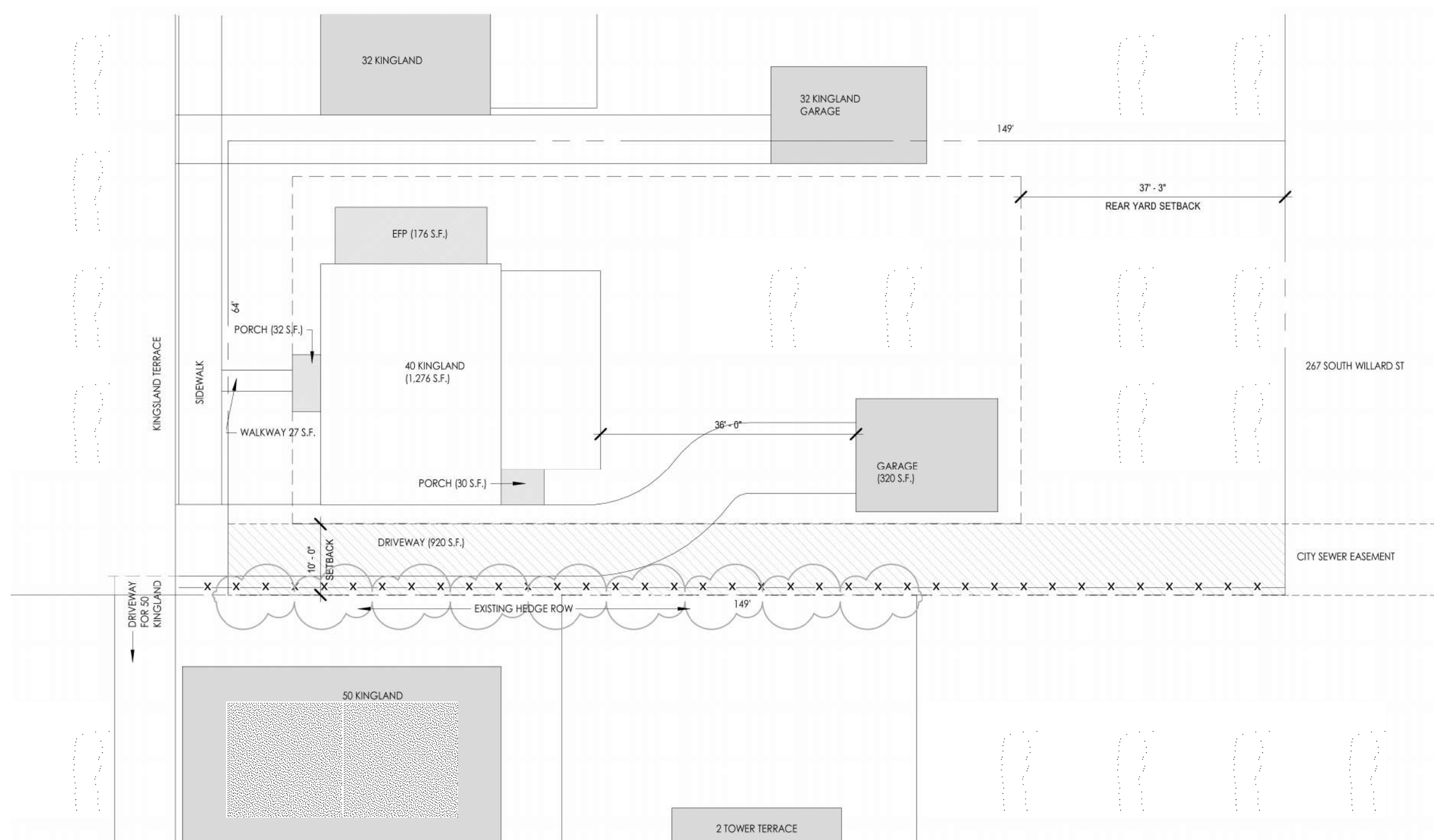
1

EXISTING CONDITIONS

40 Kingsland Terrace
Burlington, VT 05401

**Kellen Brumstead &
Katie Menson**

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FRONT: AVE. OF 2 ADJACENT LOTS ON BOTH SIDE +/- 5'-0"
SIDE: 10% OF LOT WIDTH, BUT IN NO EVENT LESS THAN 5'-0"
REAR: 25% OF LOT DEPTH, BUT IN NO EVENT LESS THAN 20'-0"

EXISTING LOT COVERAGE = 2,781 S.F. = 29.86%
WITHOUT PORCHES = 2,543 S.F. = 27.30%

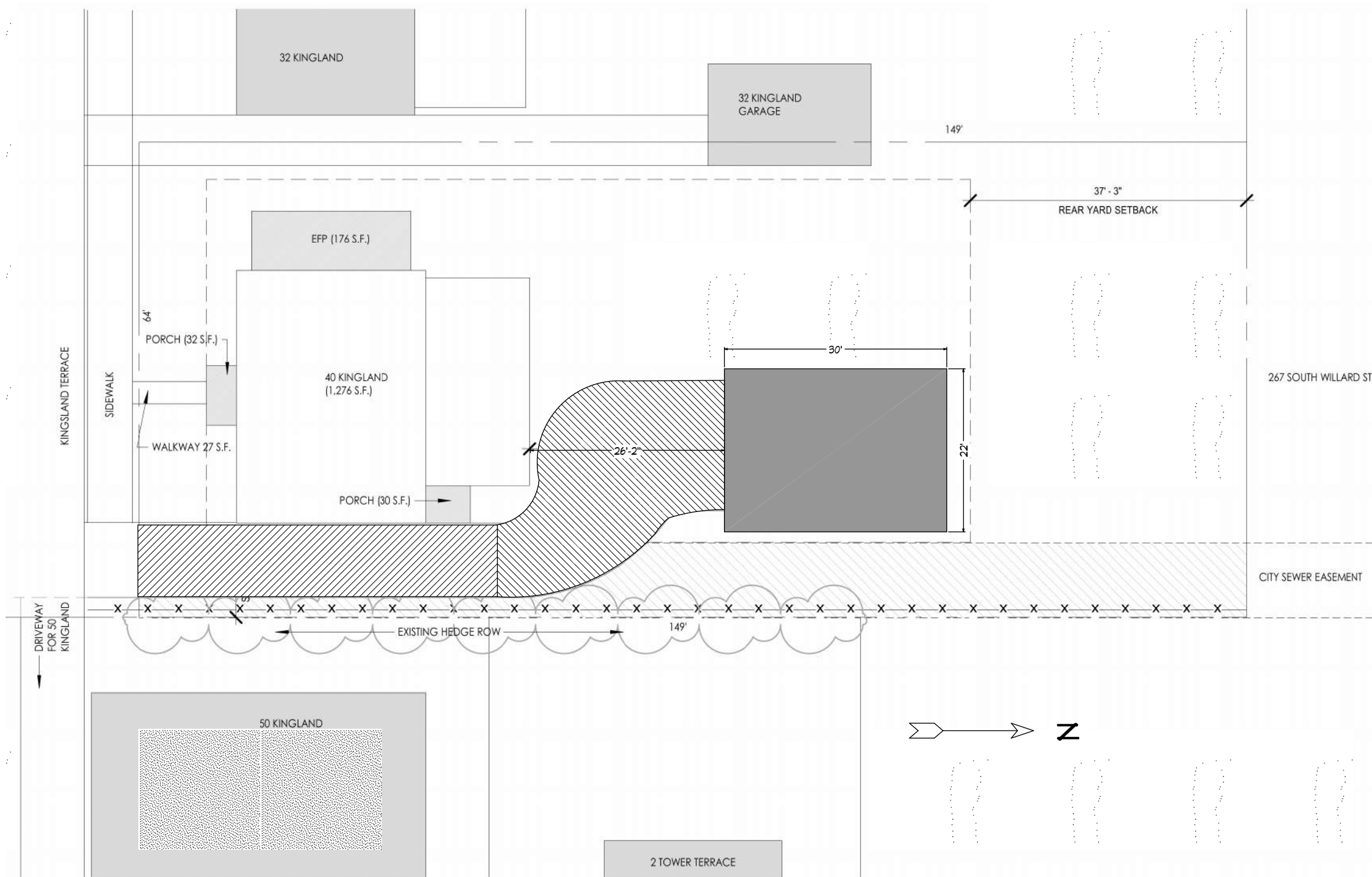
PROPOSED LOT COVERAGE = 3,353 S.F. = 36%
WITHOUT PORCHES = 3,081 S.F. = 33%

600 S.F. OVERAGE ALLOWED FOR ADU = 287 S.F.
OVERAGE NEEDED

* lot area is based off tax parcel map

DRAWING KEY

- | | |
|---|-----------------------|
|  | EXISTING STRUCTURE |
|  | EXISTING PORCH |
|  | GARAGE / ADU |
|  | PROPERTY LINE |
|  | SETBACK LINE |
|  | EASEMENT SETBACK LINE |
|  | EASEMENT AREA |
|  | FENCE LINE |



ZONING DISTRICT: RL

MAX. LOT COVERAGE = 35%
+10% COVERAGE FOR PATIOS, DECKS PORCHES, TERRACES.
*ADDITIONAL 600 S.F. COVERAGE ALLOWED FOR ADUs

FRONT: AVE. OF 2 ADJACENT LOTS ON BOTH SIDE +/- 5'-0"
SIDE: 10% OF LOT WIDTH, BUT IN NO EVENT LESS THAN 5'-0"
REAR: 25% OF LOT DEPTH, BUT IN NO EVENT LESS THAN 20'-0"

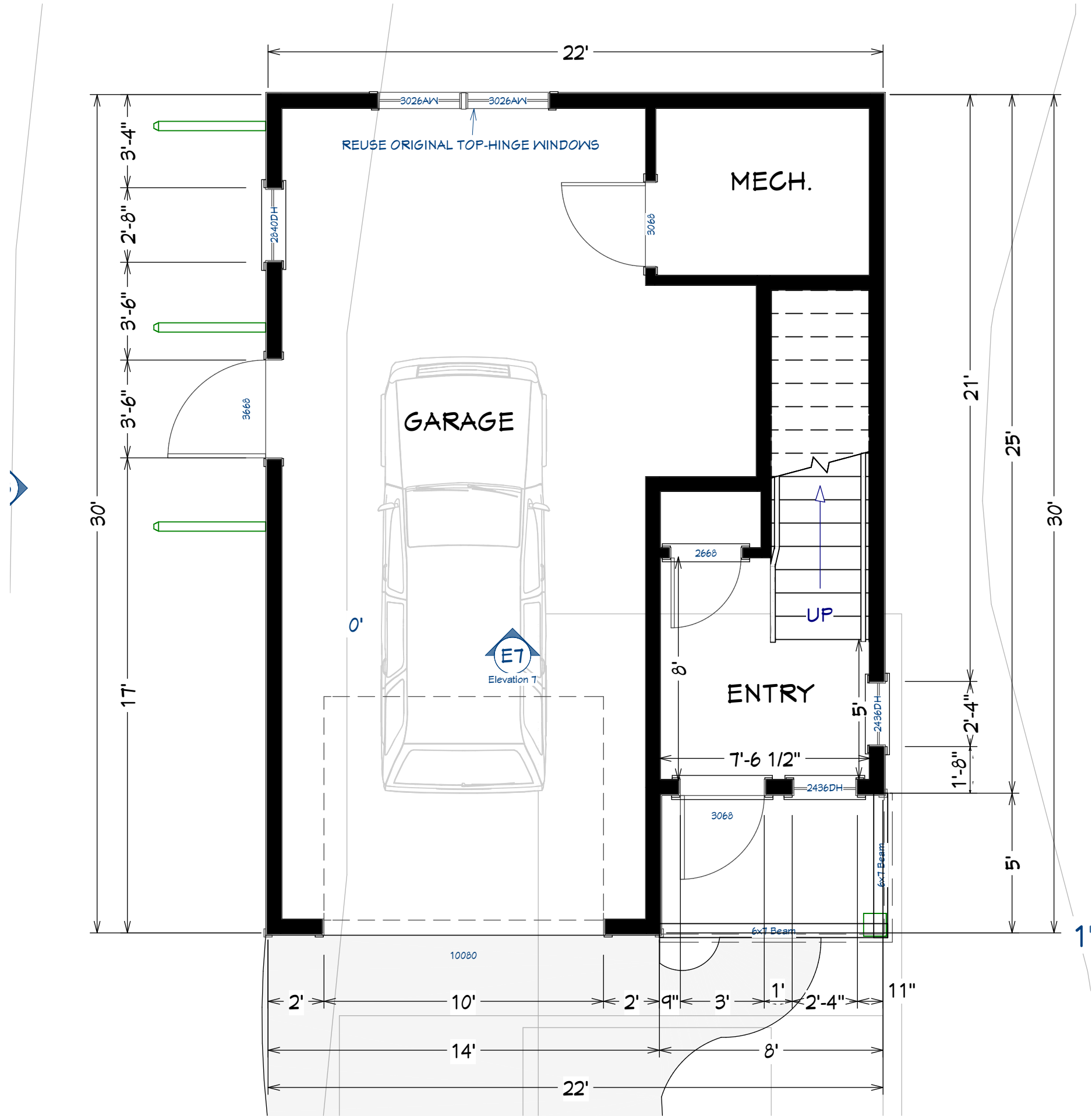
EXISTING LOT COVERAGE	
EXISTING LOT SIZE:	9,312 S.F.
EXISTING HOUSE:	1,276 S.F.
EXISTING PORCHES:	238 S.F.
EXISTING WALKWAY	27 S.F.
EXISTING GARAGE:	320 S.F.
EXISTING DRIVEWAY:	920 S.F.
EXISTING LOT COVERAGE = 2,781 S.F. = 29.86%	
WITHOUT PORCHES = 2,543 S.F. = 27.30%	

PROPOSED LOT COVERAGE	
LOT SIZE:	9,312 S.F.
EXISTING HOUSE:	1,276 S.F.
EXISTING PORCHES:	238 S.F.
ADU PORCH:	34 S.F.
EXISTING WALKWAY	27 S.F.
GARAGE / ADU:	770 S.F.
DRIVEWAY:	1,008 S.F.
PROPOSED LOT COVERAGE = 3,353 S.F. = 36%	
WITHOUT PORCHES = 3,081 S.F. = 33%	

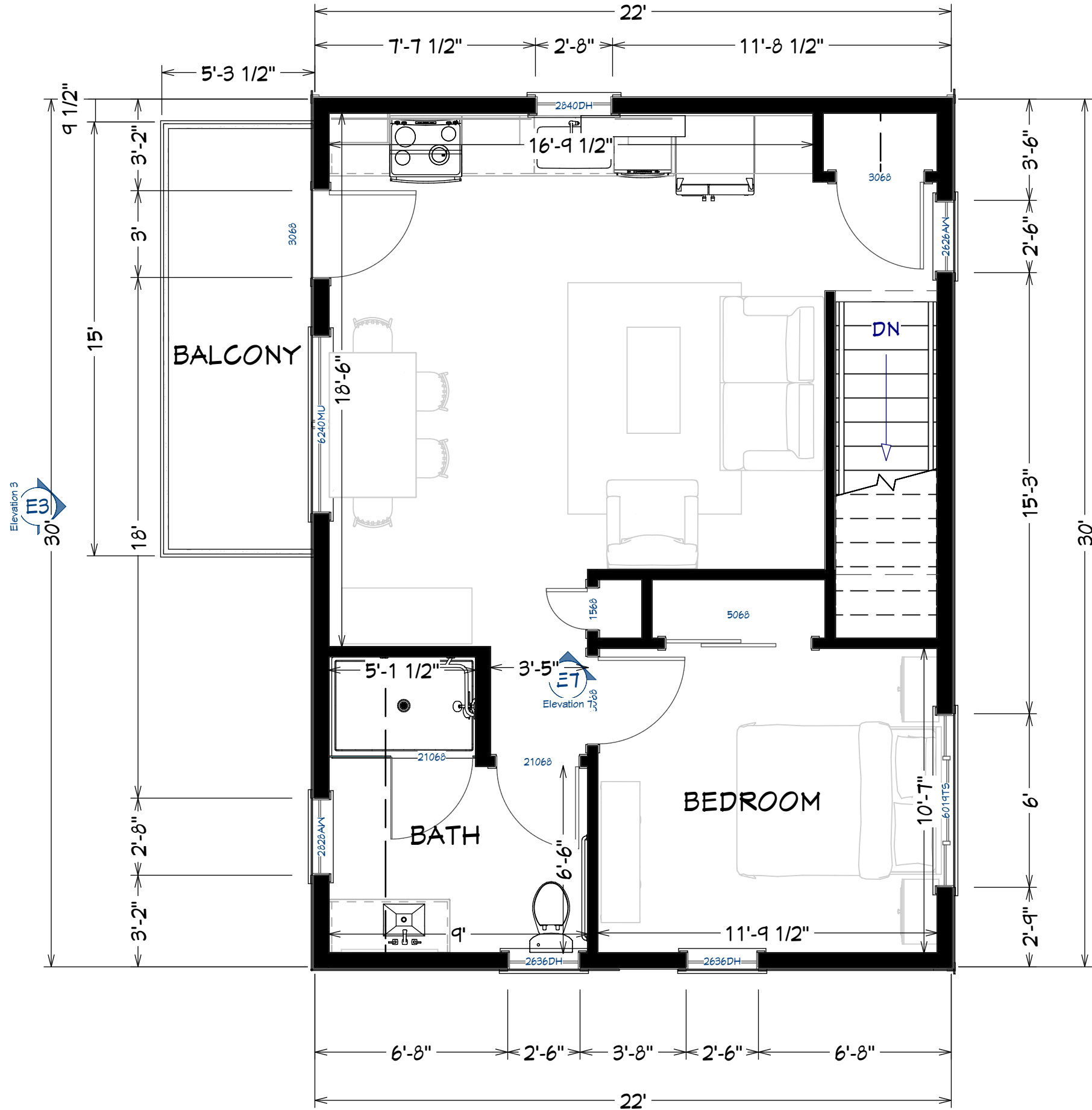
600 S.F. OVERAGE ALLOWED FOR ADU = 287 S.F. OVERAGE NEEDED

* lot area is based off tax parcel map

DRAWING KEY	
	EXISTING STRUCTURE
	EXISTING PORCH
	GARAGE / ADU
	PROPERTY LINE
	SETBACK LINE
	EASEMENT SETBACK LINE
	EASEMENT AREA
	FENCE LINE



 **FIRST FLOOR PLAN**
SCALE: 1/4" = 1'

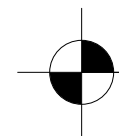


SECOND FLOOR PLAN
SCALE: 1/4" = 1'

40 Kingsland Terrace Burlington, VT 05401 Kellen Brumstead & Katie Menon		PROPOSED PLAN	REVISED: 3/17/2021	SHEET # 5
Lewis Creek Company 18a Morse Drive, Essex Junction, VT 05452 Find us on the web at : www.LewisCreekCompany.com				

NOTES:

- EXTERIOR LIGHTING AS PER ORIGINAL SUBMITTAL.
- NO CHANGE TO SIDING, WINDOWS, DOORS, AND TRIM SPECS.



ELEVATION
SCALE: 1/4" = 1'

SHEET #

6

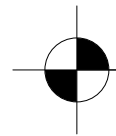
REVISED:

3/17/2021

SOUTH
ELEVATION

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ELEVATION
SCALE: 1/4" = 1'



ELEVATION
SCALE: 1/4" = 1'

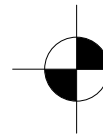
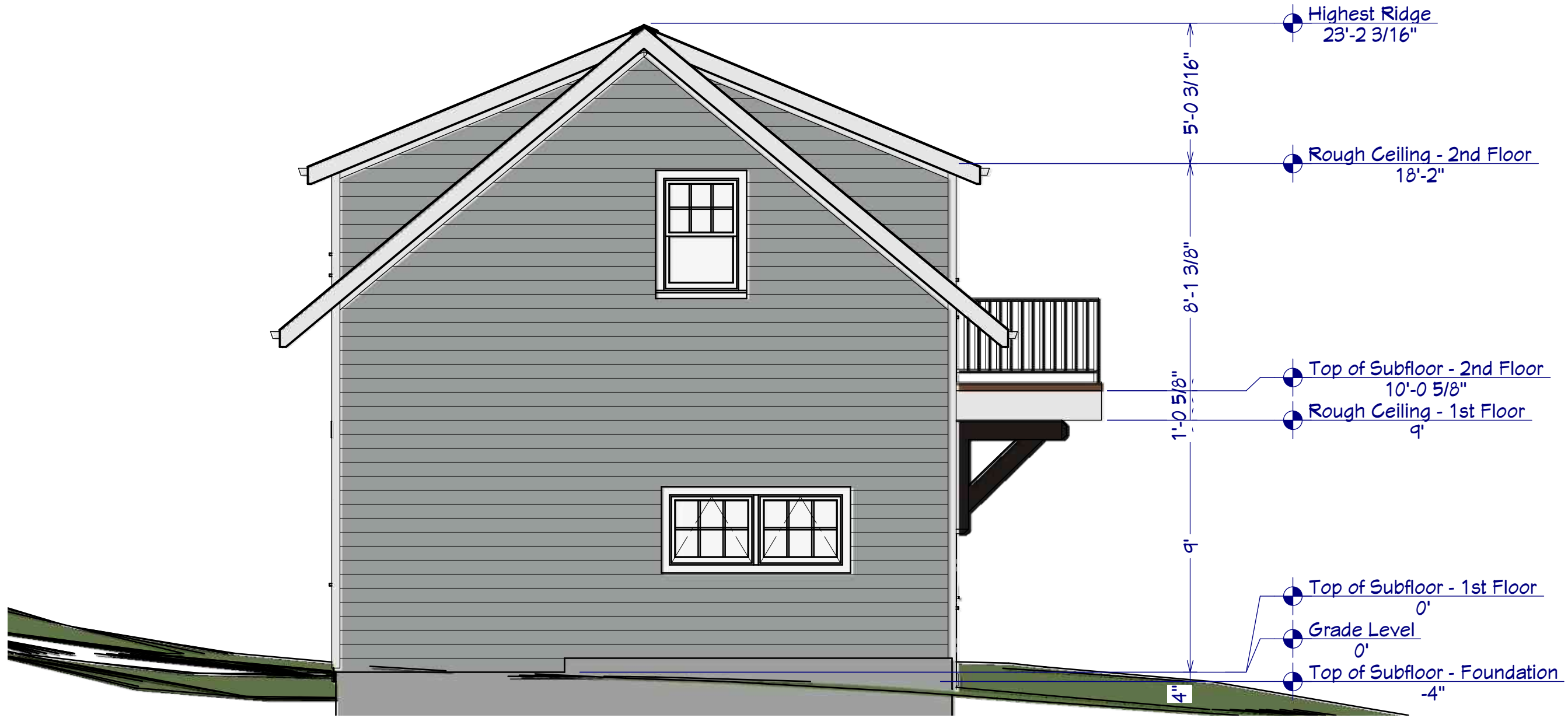
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40 Kingsland Terrace
Burlington, VT 05401
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Katie Menon**

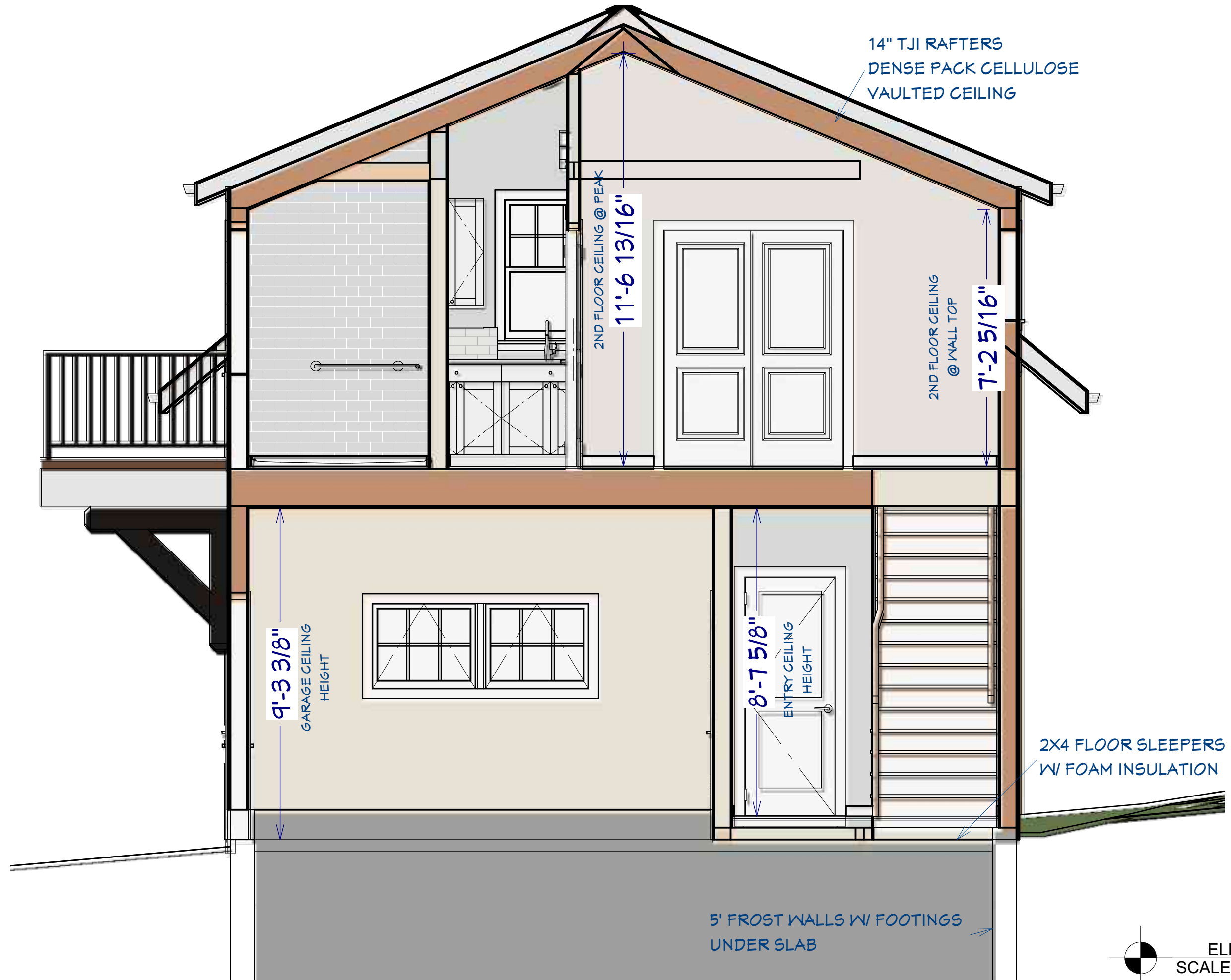
**WEST
ELEVATION**

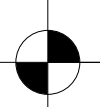
REVISED:
3/17/2021

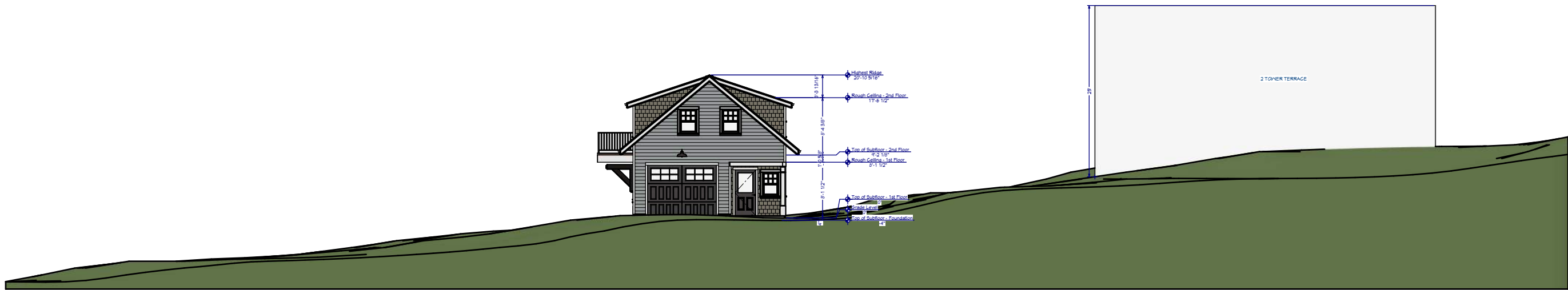
SHEET #
8



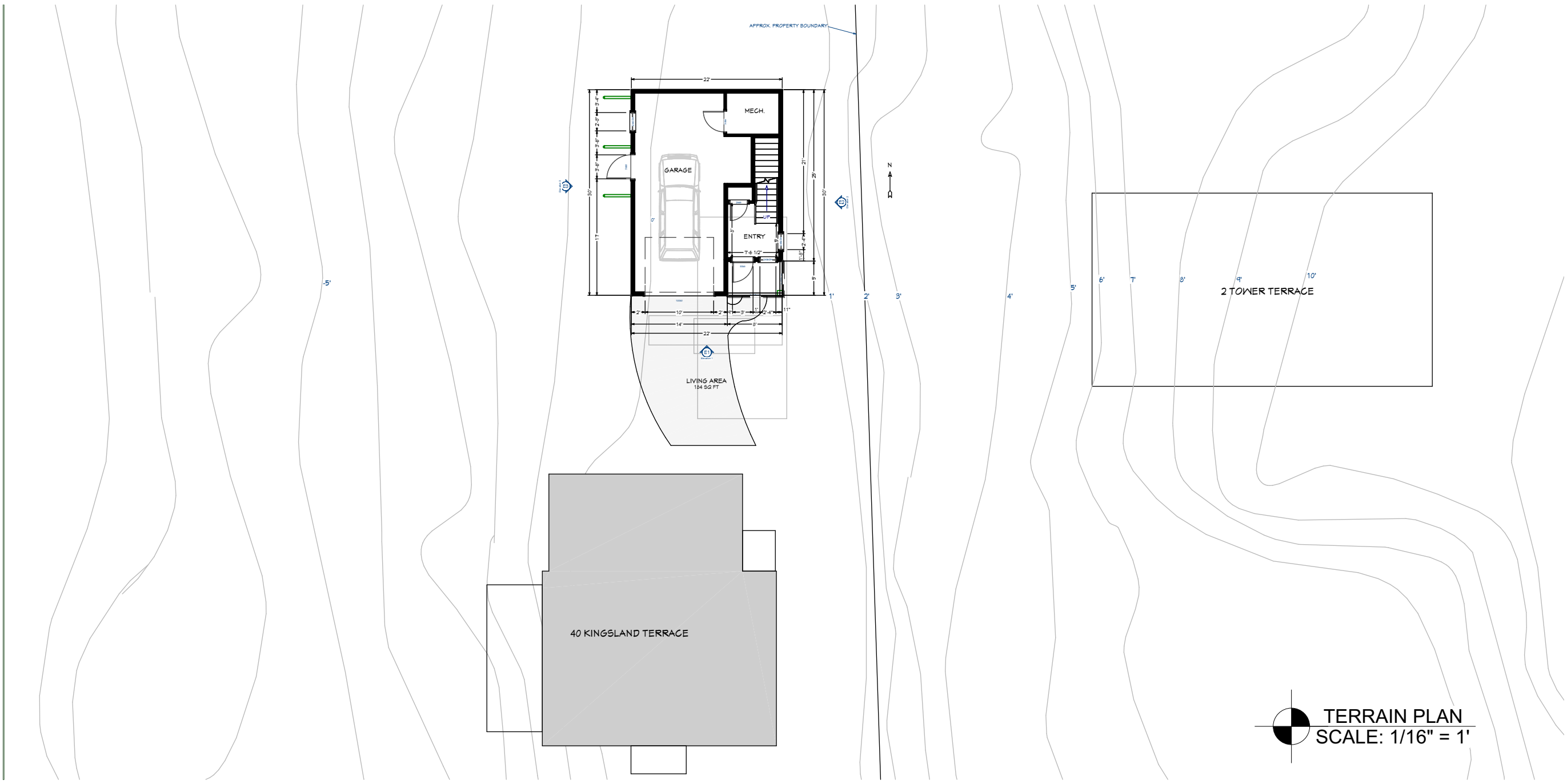
ELEVATION
SCALE: 1/4" = 1'




 ELEVATION
 SCALE: 3/8" = 1'



 **TERRAIN ELEVATION**
SCALE: 1/16" = 1'



 **TERRAIN PLAN**
SCALE: 1/16" = 1'



United States Department of the Interior
National Park Service

National Register of Historic Places
Continuation Sheet

Section number 7 Page 26

28. B.J. Boynton House (40 Kingsland Terrace); 1923

This 2 1/2 story, 3 x 2 bay, gambrel roofed Dutch Colonial Style house displays its eaves side to the street. It was built in 1923 for B.J. Boynton who was involved in the shoe business in Burlington. Centered in the main facade, a gable with cornice returns projects out onto thin paired Doric columns which are separated by lattice-work from each other and from the wall, forming an entrance porch. Two-thirds length sidelights flank the paneled wooden door.

On either side of the entrance are 3-part windows, displaying large central panels of 12/1 sash between narrow 4/1 sash. False muntin bars adorn the top quarter of these windows, and plain surrounds enclose all windows and the door.

Centered on the front facade above the door, a pedimented gable dormer with slate cheeks breaks the roof line; two narrow 4/1 windows flank a large central panel with vertical boards. Shed dormers sheathed in slate project from the curb of the roof to either side of the gable dormer; they contain paired 6/1 windows with plain surrounds.

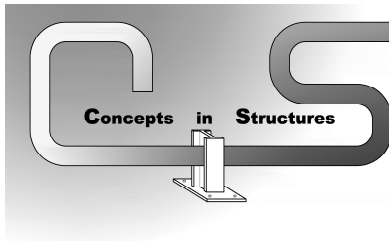
There are cornice returns at the east side elevation. A one story, glass enclosed sunroom projects to the west, and the cornice of its flat roof is picked up in the unbroken cornice line of the rest of the building. The roof is covered with slate. This building is sheathed in narrow aluminum siding.

28A. Garage (40 Kingsland Terrace); c.1923.

To the northeast of house #28 is this pyramidal-hip roofed, one bay garage with aluminum siding and asphalt roof shingles. The overhead door is composed of 24 small panels, with the top rows being of glass. According to Sanborn maps this was built before 1926.

29. House (50 Kingsland Terrace); c.1890.

Built c.1890 as a caretaker's cottage for the estate at 301 S. Willard Street, this 3 x 2 bay, 1 1/2 story building is now considered to be a part of Kingsland Terrace. Facing away from the street and secluded by trees, this house at the top of the Kingsland Terrace hill retains its original orientation toward South Willard Street.

**CiS**

1 Main St, Suite 310
Union Station Bldg
Burlington, VT 05401
Phone: 802-540-3030
Fax: 802-540-3030
rvandyk@gmavt.net

November 5, 2020
CiS No.: 20103d-i

Ms. Emily Morse
Lewis Creek Builders
18A Morse Dr
Essex Junction, VT 05452

Re: **Garage Inspection & Structural Evaluation**
Home of Kellen Brumstead & Katie Mason
Property Located At: 40 Kingsland Terrace (Burlington VT)

To Whom It May Concern:

At the request of Ms. Emily Morse (Lewis Creek Builders), CiS inspected exposed/accessible elements of the building referenced above (PHOTO 1). The purpose of the October 29, 2020, inspection was to inspect and evaluate the detached garage, to assess its structural condition and to determine whether it is safe, sound and stable.

The garage is a single story, wood framed structure supported on, what appears to be, a combination grade wall/grade slab foundation system. The wood framed superstructure appears to be in good condition and structurally sound, with little to no evidence of distress and/or deterioration other than some minor wracking (structural lean) to the left/west. The wracking (PHOTO 1) has caused the garage door opening to be skewed to the west so that it may be difficult to install a fully functional, fully operable garage door without first pulling the garage structure back into place; an effort that would be futile unless the foundation system is repaired and/or replaced (see below).

While an analysis of the building superstructure was not performed at this time, it is likely that such an analysis would show the structural capacity (framing) to be at, or just below, minimum standards for load carrying capacity, as required by the current Code (2015 International Building Code). If that is the case then existing roof framing may have to be reinforced to ensure that the building has a load carrying capacity conforming to the current Code and standards.

Unlike the superstructure, the grade slab/grade wall foundation system is in extremely poor condition with evidence of severe cracking of the slab (and vertical displacement of abutting slab sections – PHOTOS 3 & 4) and a severe vertical crack (with significant lateral separation – PHOTOS 2 & 4) in the exposed section of grade wall, supporting the west side of the building. The slab cracking and displacement are significant enough so as to discourage use of the garage for anything other than general, non-vehicle, storage. In addition to slab cracking/vertical displacement and the grade wall crack, it appears that the west side of the building has settled; a condition that most likely caused the building to wrack towards the west (noted above) and that caused damage to (buckling of) some of the siding on the west wall (PHOTO 2).

Damage to the slab/grade wall appears to be attributable to two primary factors: a foundation depth that does not extend below frost line (allowing structure to heave and settle in response to ground frost) and the apparent lack of any reinforcement of either slab or grade wall.

Unfortunately, there is no reasonable, economical way to repair the garage slab and/or grade wall “in place”. As a result, both the slab and grade wall should be replaced with a proper, Code compliant, slab and foundation system; a foundation system (frost walls and footings) that is reinforced with steel and that extends down below the seasonal frost line. The slab could then be cast separate from the foundation walls and allowed to “float” on the soil below. The slab may or may not have to be reinforced depending on quality of the bearing soils. Although there may be several alternatives for constructing the new slab and foundation system, it seems that the most likely process would be to lift (jack) and temporarily move the existing wood framed structure before demolishing existing foundation elements and constructing the new foundation. The building could then be moved back into place and properly anchored to the new foundation.

Concept to Structure!!

In summary and based on a personal observation of exposed and accessible elements of the building it is felt that while the wood framed superstructure can be restored to full use and function with limited repair and/or reinforcement, the existing slab/foundation system has deteriorated to a level where it is beyond repair so that the only path to restoring the building to full use and function would be to replace the existing slab/foundation system with a new, Code compliant system that is properly reinforced and properly supported below the frost line.

Please note that opinions and/or conclusions provided hereunder are based on a review of “best available information” at the time of the inspection and that they are subject to further review and/or revision should additional information become available.

CiS appreciates having had the opportunity to assist you with this inspection/assessment and we hope that you will keep us in mind if we can be of assistance at some future date.

Respectfully submitted,



Roland VanDyk, P.E.





PHOTO 1: South Side - Note slight wracking of building to the left (west) side



PHOTO 2: West Side - Note buckled siding and vertical crack in foundation/slab



PHOTO 2: Slab - note extensive cracking and vertical displacement

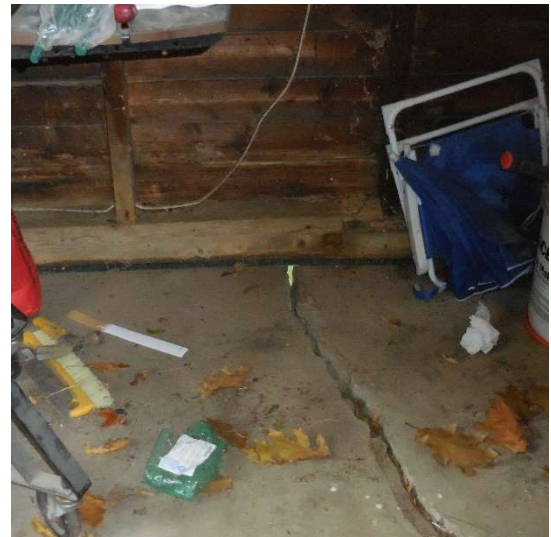


PHOTO 4: Slab - Note width of crack and visible daylight at end of crack where it becomes the foundation on west side



Kellen Brumstead & Katie Menson
40 Kingsland Terrace
Burlington, VT

Kellen and Kate,

We are thrilled that you've chosen to complete a conceptual design with our team, and excited to invite you to begin the process of refining toward a plan set that is construction ready. You'll find attached to this letter preliminary pricing for the outlined scope of work we've prepared, based on recent similar projects.

Our hope is that this early understanding of costs will help guide you toward the best choices you can make for your home. It's not too early to start finding the value of the project. We invite you to partner with us to find the right balance between the price of your project and the choices that you'll make regarding the finishes that will help you feel that your space reflects your values and the needs of your family.

With Gratitude,

LCB Name, Project Manager

Preliminary Viability Estimate, prepared by Emily Morse and presented on 11/09/2020. The scope of work includes:

- Raise existing garage structure
- Remove and replace existing failed concrete foundation
- Repair existing structure

While we have made every effort to be accurate with this preliminary estimate, it will shift based upon the final specifications and details of your project

Recent similar projects suggest pricing as follows:

- Raise, move, and replace existing garage structure: *\$30,000 - \$40,000*
 - Raise garage structure off of existing foundation
 - Relocate and secure structure elsewhere on property for the duration of the foundation work
 - Move structure back onto new foundation walls
 - Re-rack structure to be level, square, and plumb
- Replace foundation: *\$20,000 - \$30,000*
 - Demolishing of existing concrete foundation
 - Excavation of a new, adequately sized area to accommodate frost walls
 - Pouring of new slab and frost walls

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- Repair existing structure: *\$40,000 - \$50,000*
 - Reinforce roof framing to code
 - Replace roof
 - Lead remediation
 - New overhead garage door
 - Repair existing finishes as needed

- *Design Development & Pre-Construction Planning: 100-120 hours, \$8,500 to \$10,200*
 - Work Scope and Full Estimate
 - Subcontractor Onboarding
 - Construction Documentation & Permitting
 - Project Management

Total Cost Estimate to Project Completion: \$98,500 - \$130,200

Additional considerations (not included in the amount above)

- Driveway repairs
- Electrical work

We ask for your understanding that project costs can be influenced by design changes, additional work that is unforeseen, sub-trade quotations beyond our preliminary understanding, or other such outside influences.

This contract engages our team in the Work of Design Development and Pre-Construction Planning, where we will create a detailed estimate and other supporting documents based on the proposed schematic design and the Work requested by the Owner. This is to be completed at a labor rate of Eighty-Five Dollars US, (\$85), Per Hour.

Acceptance of this document shall not constitute an Agreement to complete the on-site construction Work described above, nor a contractual commitment to complete the Work described above at the Preliminary Viability Estimate cost. The Preliminary Viability Estimate above are only estimates of potential costs based on our early understanding of the project, designed to determine the financial viability of the Work. A detailed estimate, drafted in the Pre-Construction Planning phase, will detail and estimate these costs.

Acceptance of this document does not allow the Contractor to begin construction activities at the Property.

A Deposit of \$2,000 is requested upon acceptance of this Exhibit to confirm Pre-construction work and design. This Deposit will be fully applied to the final Design and Development costs related to the Work described above.

This constitutes a fair estimate of fees and is paired with the Work described above. At such time as additional Work is requested beyond this scope, such as extra revisions, additional design consideration, or further construction Work requested, this additional Work will be estimated and presented as an add-on to the estimate above and billed at the labor rate specified for the Design Development and Pre-Construction Planning phase.

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As mutually understood and agreed in the terms and conditions of the Agreement, any cost estimates, unless otherwise stated in writing from Contractor to Owner, provided by Contractor are estimates only and project costs will be billed solely on a Time and Materials Basis.

Acceptance

As per Section III. ("Payment/Deposit") of the Agreement, payment of the Design Deposit is considered acceptance of this **Exhibit A** as presented. The effective date of **Exhibit A** is to be understood as the date as shown on the payment receipt provided to Owner by Contractor, which is understood to be the date the Contractor received and accepted Owner payment of Deposit.

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Dear Mary,

I didn't know if Mark and I would have a chance to speak, but I wanted to add something about the view corridor.

When Mark & I first moved in 26 years ago, our neighbors on S. Union St. allowed Mark to climb trees to trim limbs and remove unwanted saplings to enhance the view corridor. I was on the deck with baby Cody in my arms confirming if he had the right branch. It really opened it up. As you can see by our photo it needs to be done again. The photos I took were on a grey day so the lake, Adirondacks and sky all blend into the same grey. Will try to get a better shot of that and send it on if possible before Monday.

In the summer evenings we watch the sun set in a spot where it goes down directly between two peaks across the lake. After dusk and in the after glow we would continue watching that same corridor for our evening visitors. Soon bunches of bats would fly up through that space right up to our deck. We would watch them dive bomb and dance until the mosquitos drive us in.

I know Mark wanted to mention something about the historical aspect of the neighborhood. A brief statement from what I understand.

Mark will join us zooming in on Tuesday from his office. Does he need an invitation as well?

Thanks for all your help and sending on meeting information.

Warm Regards,

~ Linda

Those are whitecaps behind the torrent. This is directly above the North side of the existing garage on Kingsland terrace.



Mary O'Neil

From: Linda E. Jones <linda.e.jones@gmail.com>
Sent: Monday, February 22, 2021 12:38 PM
To: Mary O'Neil
Subject: 40 Kingsland Terr. 2/2021

[WARNING]: This email was sent from someone outside of the City of Burlington.

To Mary O'Neil and the Design Advisory Board,

I am resubmitting photographs of our Western view from 2 Tower Terrace towards the backyard of 40 Kingsland Terrace. Some of newly submitted photographs have red lines and boxes indicating where the new building will fall in our site line. The winter photos show our beautiful and rare view of the lake as well as the shores of New York. Sunsets & fireworks are also showcased through this "postcard" lake view of ours. This western view is paramount and central to our home in both the large living area (see below) and the new master bedroom. The house itself, all of main rooms and deck are all oriented towards the Western view. This view of a tree and foliage-filled offering us both privacy and peace. This, along with the lake view, will be lost and replaced with a building that is close to our house. Just feet away from the hedge and fence that separates our small yard, lovely garden- the only usable space for gathering outside- this house will tower over us in the yard and impose its large presence as we try to enjoy our deck. Due to our slightly higher elevation, we would literally be eye level with the second floor of this new structure from our deck and living area. This new building would not only be incredibly imposing- it would literally BE IN OUR FACE!

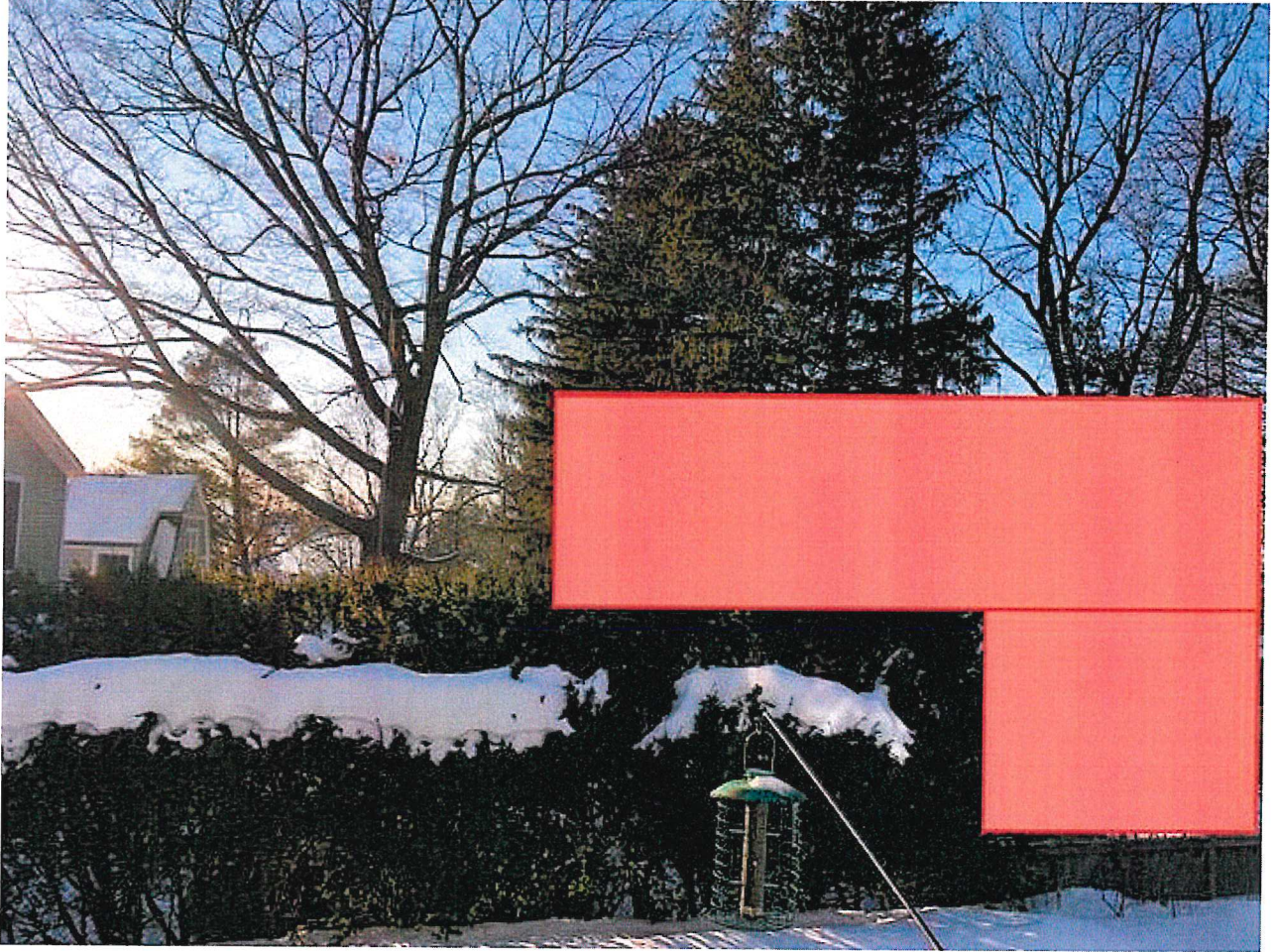
While we enjoy Kellen & Katy as our neighbors and can support converting the garage into a one-story bungalow, we can NOT support the building of a two story structure- essentially in our backyard. The placement of this building would obstruct our views, greatly affect our sense of privacy and impede our ability to enjoy the small yard and deck that we do have. Please know our house is on a very tiny footprint and the western backyard is the only usable part for gardening and gathering along the large hedge that runs along 40 Kingsland property. The deck overlooks this small yard and garden. The negative impact on us, those that live in this house, cannot be understated and this encroachment will negatively impact us in ways we have yet to discover. The intrusion this building will bring to us and our lives is great on every level. Esthetically, physically. It will impact our psyches as well our emotional well-being as we grieve over what has been lost. Our property value will most certainly be adversely affected. On so many levels this would be incredibly difficult to live with and STARE at every day! We live in that room and the West side of the house. Our beautiful, new master bedroom has bigger windows (replacing small hayloft single pane windows) facing the west so that we may better enjoy our current peaceful view of the trees, green landscape, historic architecture and the lake. This new second story building would drastically and adversely change our landscape, the value of our property, and many important aspects of our lives as well as our well-being. We, who have lived this house have called home for over 27 years. Our nest. Where we raised our children, (one born in the house) and have lovingly restored this 1890 carriage house over many years. We have MUCH invested in this cherished house. The view being one of its most valuable assets. PLEASE. Do NOT allow this two story building to be built in the yard of 40 Kingsland terrace and essentially in our back yard.

Most Sincerely,

Linda E. Jones (and Mark Stephenson)
2 Tower Terrace, Burlington VT 05401

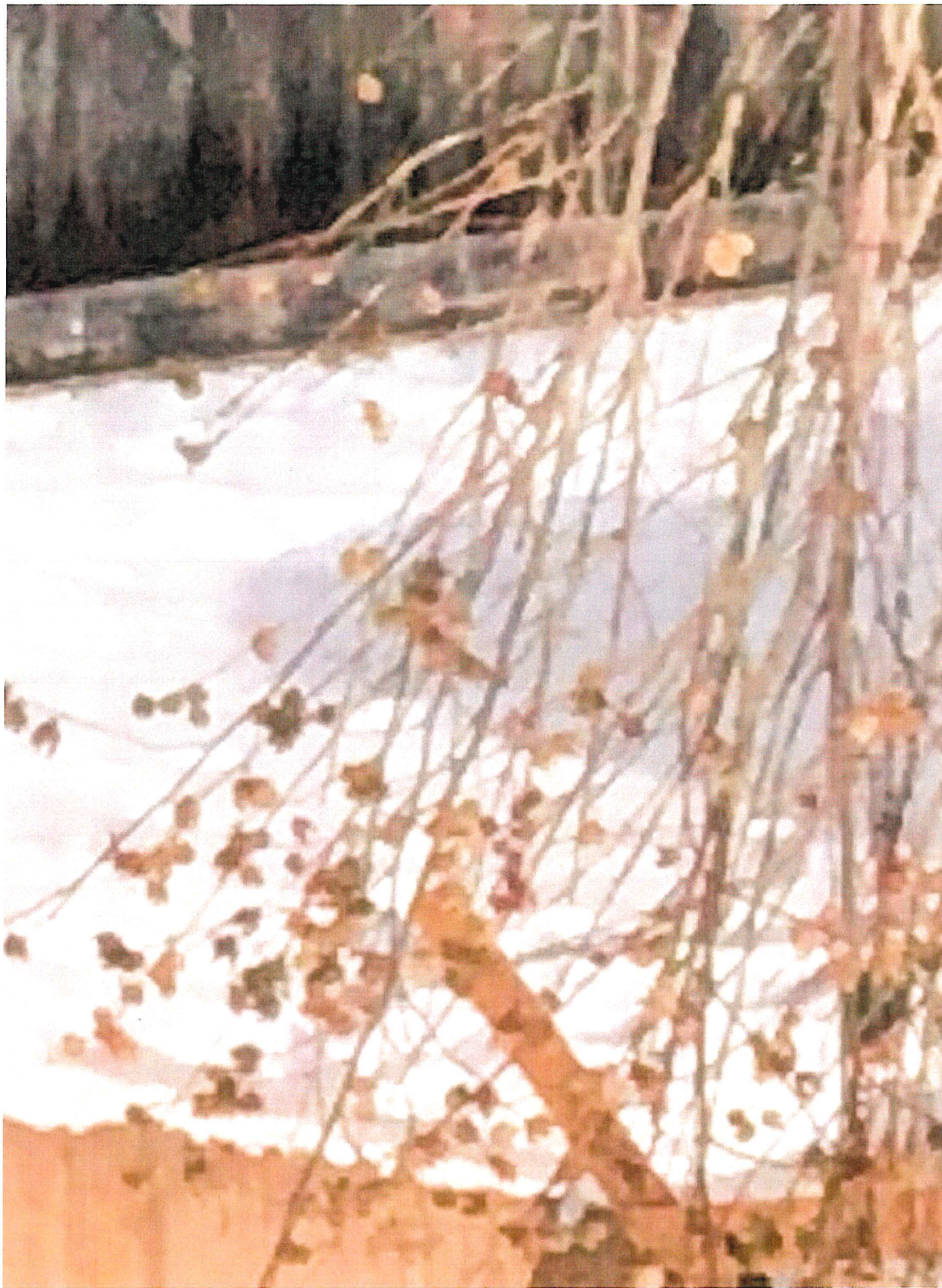
Below are all views facing West from our house (2 Tower Terrace) & the backyard/garage of 40 Kingsland Terrace:

First floor: Boxes indicate approximate location of new building showing all that will be lost.





First floor: View from our living room couch (first floor) and deck. All this will be totally lost & replaced with new building face just feet away



First Floor: view from our living room couch. Gone. Replaced with a building face.





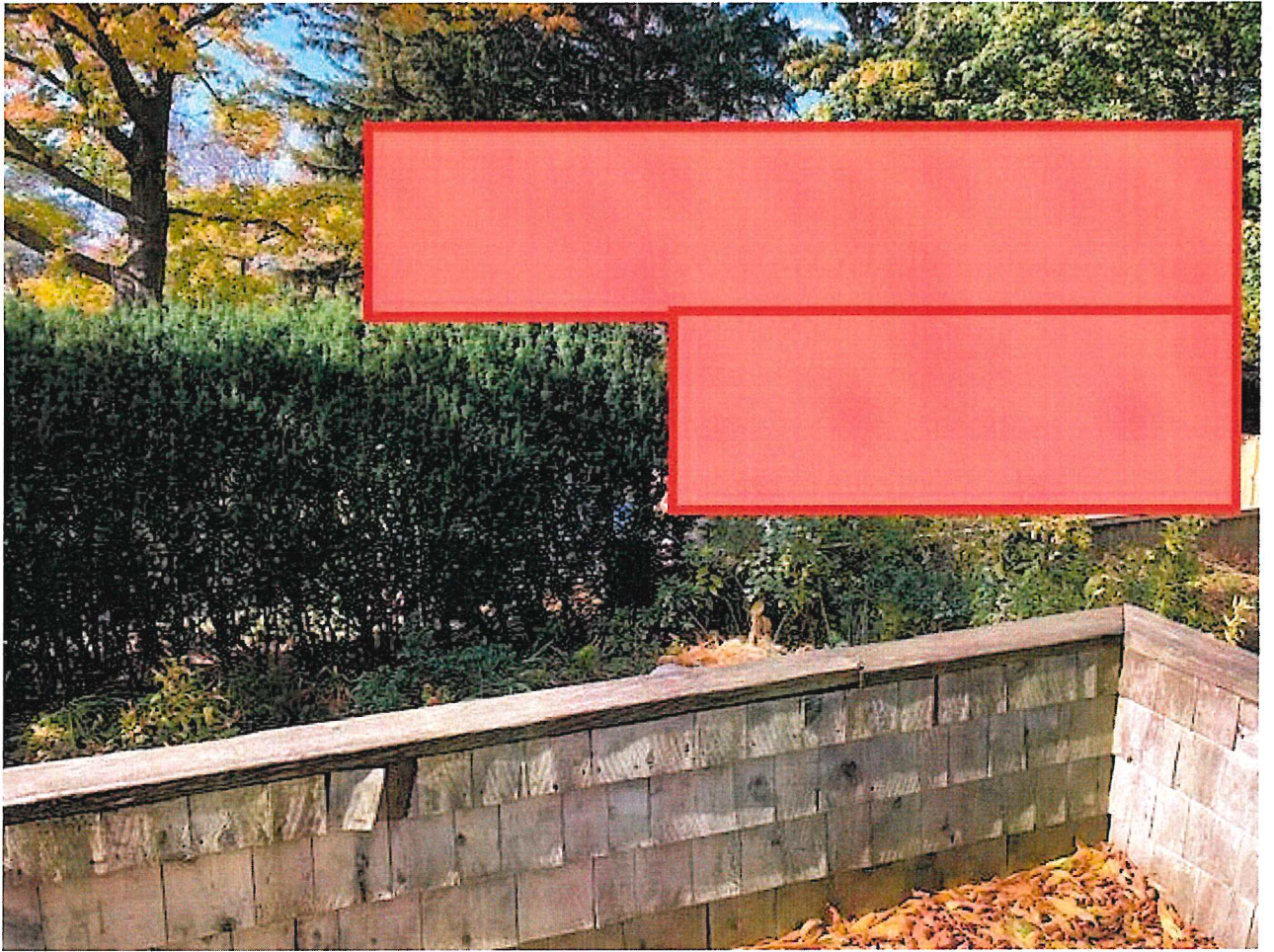
First floor: View from our deck. Note eye level of second story window of Kingsland T.



First Floor: View from our deck. Red line indicates height & width of new building



New building



Western view from our kitchen/living/dining



What will be lost.



The Western view is the centerpiece of our whole living area (kitchen, dining, living room)

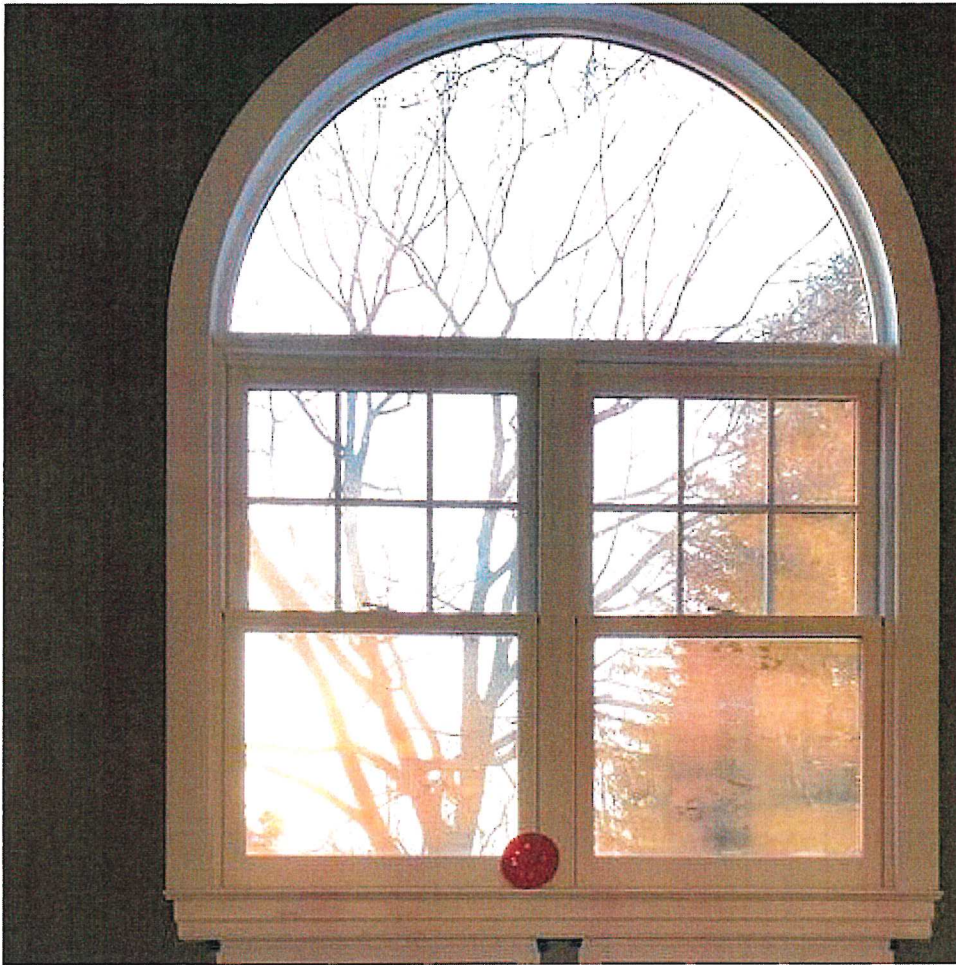


Second Floor: View from bedroom. Red line indicates height & width of new building





New Master Bedroom with windows (in process) facing West. View from right window will be gone.





Mary O'Neil

From: Mark Stephenson <Mark@vtenergy.com>
Sent: Monday, February 22, 2021 12:32 PM
To: Mary O'Neil
Cc: Linda E. Jones
Subject: RE: 40 KINGSLAND TERRACE PROJECT

WARNING: This email was sent from someone outside of the City of Burlington.

Dear Design Advisory Board:

I appreciate the opportunity to express our concerns regarding this project. The precedent established by this project and others like it, creates a troubling trend for our neighborhood and for Burlington as a whole.

Back Side

This project as it stands subdivides our immediate neighbor's property and proposes to build a 1300 sq. ft. home in their backyard. This project should not be allowed to move forward without recognizing and taking into account the impact socially and financially on adjoining properties. The attraction to this neighborhood is the connection to a park like setting among the back yards that was established over 100 years ago and has been protected ever since from debilitating development. Surrounding properties that have developed carriage barns and backyard structures have done so with minimal impact on neighboring properties without altering view sheds and diminishing the value of neighboring properties.

Built as a one story structure this proposed development would continue to honor the historical development standards that have been observed for the past 120 years. The first floor of the two story design includes about 30% of stairwell and the remaining space is a parking garage. Keep in mind that the current parking garage has been largely empty for the past 25 years that we have lived next door including the current residents.

Even with the goal of increasing population density in the downtown area parking requirements for developments have been reduced and the push or trend has been to downscale dependence on automobiles and parking

structures. Champlain College is a prefect example in our immediate neighborhood. When they looked to increase their footprint in the area the neighbors spoke loudly and clearly that cars, parking lots, and parking structures would not be part of the development. To build a dorm with 20 new students could have the same impact as 20 additional homes built in our backyards without the proper design criteria and guidance. Imagine if Champlain College had built a dorm that included a parking garage instead of developing a transportation plan that mirrored the goals of the city and the neighbors. Failure to do so would have reduced the quality of life and the value of the neighborhood.

This discussion is about one thing , a parking garage. Without it a one story structure would meet the goals of all the neighbors. With a parking garage this development clearly diminishes our quality of life and property value. Respectfully we ask that this project be judged by the same standards that have guided the city's and neighbor's transportation and quality of life goals and that this project be redesigned as a one story home and delete the parking garage.

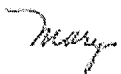
Sincerely, Mark Stephenson
2 Tower Terrace
Burlington, VT

From: Mary O'Neil <MCOneil@burlingtonvt.gov>
Sent: Tuesday, December 8, 2020 2:19 PM
To: Mark Stephenson <Mark@vtenergy.com>
Subject: RE: KINGSLAND TERRACE

Hello Mark,

The Kingsland Terrace review is stalled at present, waiting for revised plans. It will not be heard on the 15th (but our obligation was to warn it ahead of time as required for a Conditional Use/Variance.) We will inform the Board that the project hasn't made it through DAB review yet, and it will be deferred until they complete that review.

I am largely working remotely. Email is the best way to communicate, and provides a written record of communication.



From: Mark Stephenson <Mark@vtenergy.com>
Sent: Tuesday, December 08, 2020 2:16 PM
To: Mary O'Neil <MCOneil@burlingtonvt.gov>
Subject: KINGSLAND TERRACE

Hi Mary,

I was a concerned party / neighbor of the proposed development of the garage at the top of Kingsland Terrace who spoke at the Zoom hearing a week or so ago. I received a post card late last week regarding a hearing on December 15th for the project. Has that been postponed given the findings of the advisory board? Also have a couple of points of clarification on that project. Is there a time when I might be able to call you for a brief clarification.

Thanks, Mark

Cell: 802-373-9048

Mark Stephenson

www.vtenergy.com

802-658-6055

Please note that this communication and any response to it will be maintained as a public record and may be subject to disclosure under the Vermont Public Records Act.

Specifications: LP® SmartSide® Lap Siding

CEDAR TEXTURE LAP

THE BOLD LOOK OF CEDAR WITHOUT MANY OF THE WORRIES

- One of the most durable lap siding options on the market today
- 16’ length can result in faster installation
- May create fewer seams than traditional 12’ siding
- Pre-primed for exceptional paint adhesion
- Self-aligning SmartLock™ option eliminates the need to measure and set lap reveal; eliminating this step in the process is likely to speed up the installation process
- APA-certified lap siding
- Treated engineered wood strand substrate



Cedar Texture

Specifications: LP® SmartSide® Lap Siding

SMOOTH FINISH LAP

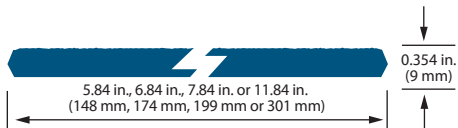
SMOOTH APPEARANCE, ADVANCED DURABILITY OF ENGINEERED WOOD

- Holds up in extreme weather, including moisture, hail, freeze/thaw cycles, and up to 200 mph wind gusts
- Treated with the SmartGuard® process for superior protection against the weather, fungal decay and termites
- 16’ length can result in faster installation and fewer seams
- Pre-primed for exceptional paint adhesion
- Backed by an industry-leading 5/50-year limited warranty
- APA-certified lap siding
- Treated engineered wood strand substrate

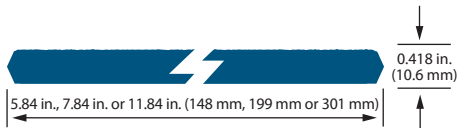


Smooth Finish

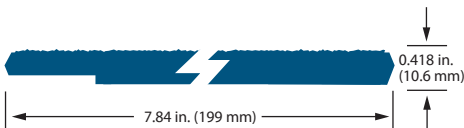
38 SERIES CEDAR TEXTURE LAP



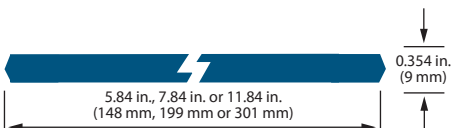
76 SERIES CEDAR TEXTURE LAP



76 SERIES SMARTLOCK CEDAR TEXTURE LAP



38 SERIES SMOOTH FINISH LAP



DESCRIPTION	LENGTH	ACTUAL WIDTH	THICKNESS	PID NUMBER	WEIGHT
38 Series Cedar Texture Lap	12 ft. (144 in.)(3.7 m)	7.84 in. (199 mm)	0.354 in. (9 mm)	28869	1.5 PSF
	16 ft. (192 in.)(4.9 m)	5.84 in. (148 mm)	0.354 in. (9 mm)	25796	1.5 PSF
	16 ft. (192 in.)(4.9 m)	6.84 in. (174 mm)	0.354 in. (9 mm)	40610	1.5 PSF
	16 ft. (192 in.)(4.9 m)	7.84 in. (199 mm)	0.354 in. (9 mm)	25797	1.5 PSF
	16 ft. (192 in.)(4.9 m)	11.84 in. (301 mm)	0.354 in. (9 mm)	25799	1.5 PSF
76 Series Cedar Texture Lap	16 ft. (192 in.)(4.9 m)	5.84 in. (148 mm)	0.418 in. (10.6 mm)	25785 (Discontinued)	1.5 PSF
	16 ft. (192 in.)(4.9 m)	7.84 in. (199 mm)	0.418 in. (10.6 mm)	25786	1.5 PSF
	16 ft. (192 in.)(4.9 m)	11.84 in. (301 mm)	0.418 in. (10.6 mm)	25787	1.5 PSF
76 Series SmartLock Cedar Texture Lap	16 ft. (192 in.)(4.9 m)	7.84 in. (199 mm)	0.418 in. (10.6 mm)	30317	1.5 PSF

DESCRIPTION	LENGTH	ACTUAL WIDTH	THICKNESS	PID NUMBER	WEIGHT
38 Series Smooth Finish Lap	16 ft. (192 in.)(4.9 m)	5.84 in. (148 mm)	0.354 in. (9 mm)	41338	1.5 PSF
	16 ft. (192 in.)(4.9 m)	7.84 in. (199 mm)	0.354 in. (9 mm)	41339	1.5 PSF
	16 ft. (192 in.)(4.9 m)	11.84 in. (301 mm)	0.354 in. (9 mm)	41340	1.5 PSF

Specifications: LP® SmartSide® Lap Siding Coverage

Lap Siding	Reveal (size)					
Area (sq. ft.)	3-7/8" (5")	4-7/8" (6")	5 -7/8" (7")	6 -7/8" (8")	8 1/2" (9-1/2")	10-7/8" (12")
100	20 pcs.	16 pcs.	13 pcs.	11 pcs.	9 pcs.	7 pcs.
200	39 pcs.	31 pcs.	26 pcs.	22 pcs.	18 pcs.	14 pcs.
300	59 pcs.	47 pcs.	39 pcs.	33 pcs.	27 pcs.	21 pcs.
400	78 pcs.	62 pcs.	52 pcs.	44 pcs.	35 pcs.	28 pcs.
500	97 pcs.	77 pcs.	64 pcs.	55 pcs.	44 pcs.	35 pcs.
600	117 pcs.	93 pcs.	77 pcs.	66 pcs.	53 pcs.	42 pcs.
700	136 pcs.	108 pcs.	90 pcs.	77 pcs.	62 pcs.	49 pcs.
800	155 pcs.	124 pcs.	103 pcs.	88 pcs.	71 pcs.	56 pcs.
900	175 pcs.	139 pcs.	115 pcs.	99 pcs.	79 pcs.	63 pcs.
1000	194 pcs.	154 pcs.	128 pcs.	110 pcs.	88 pcs.	69 pcs.
1500	291 pcs.	231 pcs.	192 pcs.	164 pcs.	132 pcs.	104 pcs.
2000	388 pcs.	308 pcs.	256 pcs.	219 pcs.	177 pcs.	138 pcs.
2500	484 pcs.	385 pcs.	320 pcs.	273 pcs.	221 pcs.	173 pcs.
3000	581 pcs.	462 pcs.	383 pcs.	328 pcs.	265 pcs.	207 pcs.
3500	678 pcs.	539 pcs.	447 pcs.	382 pcs.	309 pcs.	242 pcs.
4000	755 pcs.	616 pcs.	511 pcs.	437 pcs.	353 pcs.	276 pcs.
4500	871 pcs.	693 pcs.	575 pcs.	491 pcs.	397 pcs.	311 pcs.
5000	968 pcs.	770 pcs.	639 pcs.	546 pcs.	441 pcs.	345 pcs.

Cedar Texture Shakes	Reveal (size)	
Area (sq. ft.)	9" (12")	10" (12")
100	34 pcs.	30 pcs.
200	67 pcs.	60 pcs.
300	100 pcs.	90 pcs.
400	134 pcs.	120 pcs.
500	167 pcs.	150 pcs.
600	200 pcs.	180 pcs.
700	234 pcs.	210 pcs.
800	267 pcs.	240 pcs.
900	300 pcs.	270 pcs.
1000	334 pcs.	300 pcs.
1500	500 pcs.	450 pcs.
2000	667 pcs.	600 pcs.
2500	834 pcs.	750 pcs.
3000	1000 pcs.	900 pcs.
3500	1167 pcs.	1050 pcs.
4000	1334 pcs.	1200 pcs.
4500	1500 pcs.	1350 pcs.
5000	1667 pcs.	1500 pcs.

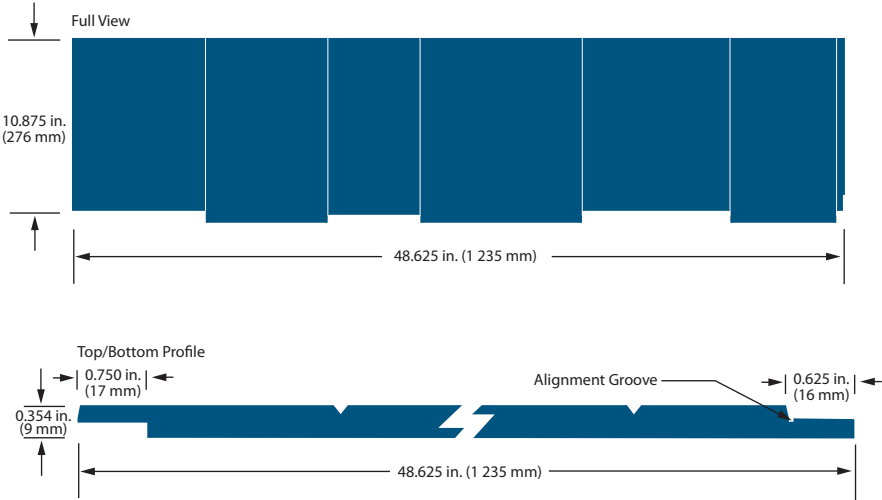
Specifications: LP® SmartSide® Shakes

CEDAR TEXTURE SHAKES

THE LUXURIOUS APPEAL OF CEDAR

- The look of traditional cedar with easier maintenance over time
- Staggered edges offer a lively, textured effect
- Can be used on all exterior walls or as a decorative accent
- Shiplap ends for seamless appearance
- Reversible staggered or straight edge offers exceptional design versatility
- Treated engineered wood strand substrate

CEDAR TEXTURE SHAKES



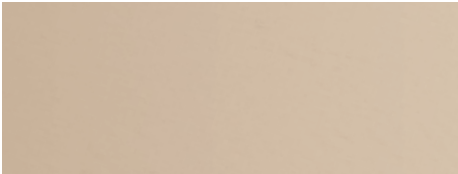
DESCRIPTION	LENGTH	ACTUAL WIDTH	THICKNESS	PID NUMBER	WEIGHT
Cedar Texture Shakes	4ft. (48.63 in.)(1.2 m)	11.625 in. (295 mm)	0.354 in. (9 mm)	42092	2 PSF

Specifications: LP® SmartSide® Trim

SMOOTH FINISH TRIM

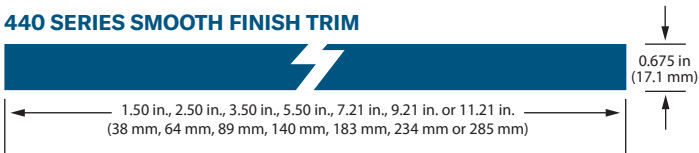
SMOOTH APPEARANCE, ADVANCED DURABILITY OF ENGINEERED WOOD

- Holds up in extreme weather, including moisture, hail, freeze/thaw cycles, and up to 200 mph wind gusts
- Treated with the SmartGuard® process for superior protection against the weather, fungal decay and termites
- 16’ ft length can result in faster installation and fewer seams
- Pre-primed for exceptional paint adhesion
- Backed by an industry-leading 5/50-year limited warranty
- Treated engineered wood strand substrate

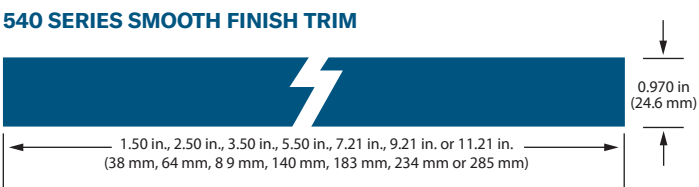


Smooth Finish

440 SERIES SMOOTH FINISH TRIM



540 SERIES SMOOTH FINISH TRIM



DESCRIPTION	LENGTH	ACTUAL WIDTH	THICKNESS	PID NUMBER	WEIGHT
440 Series Smooth Finish Trim	16 ft. (192 in.)(4.9 m)	1.50 in. (38 mm)	0.675 in. (17.1 mm)	41640	2 PSF
	16 ft (192 in.) (4.9 m)	2.50 in. (64 mm)	0.675 in. (17.1 mm)	41627	2 PSF
	16 ft. (192 in.)(4.9 m)	3.50 in. (89 mm)	0.675 in. (17.1 mm)	41420	2 PSF
	16 ft. (192 in.)(4.9 m)	5.50 in. (140 mm)	0.675 in. (17.1 mm)	41422	2 PSF
	16 ft. (192 in.)(4.9 m)	7.21 in. (183 mm)	0.675 in. (17.1 mm)	41423	2 PSF
	16 ft. (192 in.)(4.9 m)	9.21 in. (234 mm)	0.675 in. (17.1 mm)	41492	2 PSF
540 Series Smooth Finish Trim	16 ft. (192 in.)(4.9 m)	11.21 in. (285 mm)	0.675 in. (17.1 mm)	41490	2 PSF
	16 ft. (192 in.)(4.9 m)	1.50 in. (38 mm)	0.970 in. (24.6 mm)	41629	3 PSF
	16 ft. (192 in.)(4.9 m)	2.50 in. (64 mm)	0.970 in. (24.6 mm)	41628	3 PSF
	16 ft. (192 in.)(4.9 m)	3.50 in. (89 mm)	0.970 in. (24.6 mm)	41342	3 PSF
	16 ft. (192 in.)(4.9 m)	5.50 in. (140 mm)	0.970 in. (24.6 mm)	41343	3 PSF
	16 ft. (192 in.)(4.9 m)	7.21 in. (183 mm)	0.970 in. (24.6 mm)	41344	3 PSF
	16 ft. (192 in.)(4.9 m)	9.21 in. (234 mm)	0.970 in. (24.6 mm)	41345	3 PSF
	16 ft. (192 in.)(4.9 m)	11.21 in. (285 mm)	0.970 in. (24.6 mm)	41494	3 PSF

Specifications: LP® SmartSide® Soffit

CEDAR TEXTURE SOFFIT

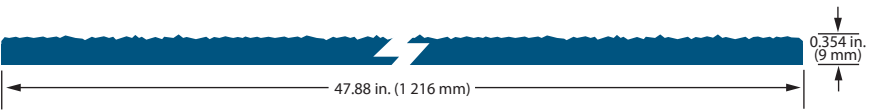
THE FINISHING TOUCH

- The perfect alternative to MDO and plywood soffits
- Cut-to-width eliminates time spent ripping full sheets
- 38 Series engineered for closed soffit applications
- 76 Series and 190 Series are ideal for use as the starter course for roofs with exposed eaves
- Treated engineered wood strand substrate

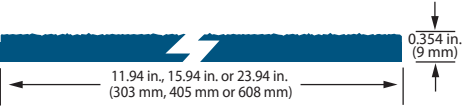


Cedar Texture

38 SERIES 4’ x 8’ CEDAR TEXTURE SOFFIT



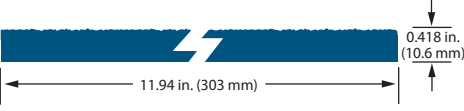
38 SERIES CEDAR TEXTURE SOFFIT – CUT-TO-WIDTH



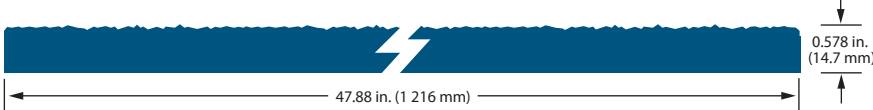
76 SERIES 4’ x 8’ CEDAR TEXTURE SOFFIT



76 SERIES CEDAR TEXTURE SOFFIT – CUT-TO-WIDTH



190 SERIES 4’ x 8’ CEDAR TEXTURE SOFFIT



DESCRIPTION	LENGTH	ACTUAL WIDTH	THICKNESS	PID NUMBER	WEIGHT
38 Series 4’ x 8’ Cedar Texture Soffit	8 ft. (96 in.)(2.4 m)	47.88 in. (1 216 mm)	0.354 in. (9 mm)	25813	-
38 Series Cedar Texture Siding and Soffit Panel No Groove Square Edge	8 ft. (96 in.)(2.4 m)	47.88 in. (1 216 mm)	0.354 in. (9 mm)	41044	1.5 PSF
76 Series 4’ x 8’ Cedar Texture Soffit	8 ft. (96 in.)(2.4 m)	47.88 in. (1 216 mm)	0.418 in. (10.6 mm)	25814	-
190 Series 4’ x 8’ Cedar Texture Soffit	8 ft. (96 in.)(2.4 m)	47.88 in. (1 216 mm)	0.578 in. (14.7 mm)	25816 *	-
38 Series Cedar Texture Soffit – Cut-to-Width	16 ft. (192 in.)(4.9 m)	11.94 in. (303 mm)	0.354 in. (9 mm)	25805	-
	16 ft. (192 in.)(4.9 m)	15.94 in. (405 mm)	0.354 in. (9 mm)	25806	-
	16 ft. (192 in.)(4.9 m)	23.94 in. (608 mm)	0.354 in. (9 mm)	25807	-
76 Series Cedar Texture Soffit – Cut-to-Width	16 ft. (192 in.)(4.9 m)	11.94 in. (303 mm)	0.418 in. (10.6 mm)	25808 (Discontinued)	-

Department of Permitting and Inspections

Zoning Division
645 Pine Street
Burlington, VT 05401

<http://www.burlingtonvt.gov/PZ/>

Telephone: (802) 865-7188
(802) 865-7195 (FAX)

William Ward, Director
Theodore Miles, Code Compliance Officer
Charlene Orton, Permitting and Inspections Administrator
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Layne Darfler, Planning Technician
Alison Davis, Zoning Clerk



MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Principal Planner
Date: April 6, 2021
RE: ZP21-0358CA/CU, 40 Kingsland Terrace

Note: These are staff comments only. Decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

File: ZP21-0358CA/CU

Location: 40 Kingsland Terrace

Zone: RL **Ward:** 6S

Parking District: Neighborhood

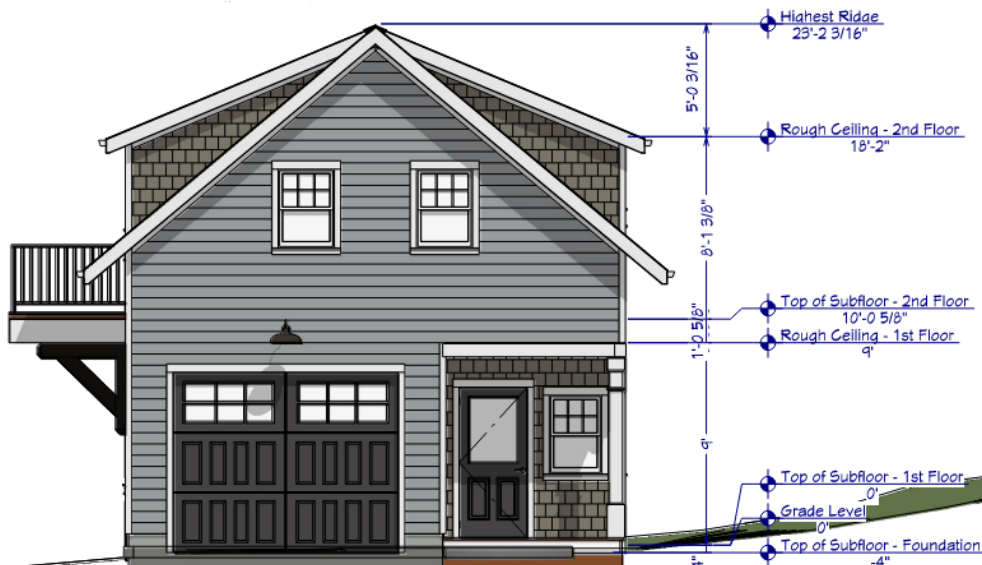
Date application accepted: October 1, 2020

Design Advisory Board review: October 27, 2020, November 24, 2020, and February 23, 2021

Revised Plans submitted: February 1, 2021

Applicant/ Owner: Lewis Creek Design (Emily Morse) / Katie Menon, Kellen Brumsted

Request: Demolish existing garage; construct new 660 sf. garage with Accessory Dwelling Unit (ADU.)



Background:

- **Zoning Permit 20-0762FC**; fencing. Approved March 2020.
- **Zoning Permit 19-0905CA**; install garage door. Approved May 2019. Application withdrawn.
- **Zoning Permit 09-173CA**; two storey rear addition, rear decks and patios to be removed. Approved September 2008.
- **Zoning Permit 90-085**; construct kitchen and deck addition. Approved March 1990.
- **Request to the ZBA for a variance from the side yard setback** for the purpose of constructing a greenhouse. Hearing dates October 28, November 18 and December 2, 1982. Variance request **denied** by ZBA, January 1983.
- **Zoning Permit 81-498**; stockade fence. Approved May 1981.
- **Zoning Permit 79-497**; take in 2 persons to fill existing two bedrooms as roomers. Approved August 1979.
- **Zoning Permit (n.n.)**; install driveway gate. Approved May 1978.
- **Zoning Permit (n.n.)**; erect stockade fence in rear yard. Approved May 1977.

Overview: The applicants propose to demolish an existing garage (listed within the South Union Street Historic District, on the National Register of Historic Places) and replace it with a new garage/ADU. As demolition of an historic building is included, the project is subject to Conditional Use review by the Development Review Board.

The application originally requested a variance from a required (rear yard) setback. With revised plans that show compliance with the required rear setback, the variance request is no longer necessary.

The **Design Advisory Board** reviewed the application at the October 27, 2020, November 24, 2020 and February 23, 2021 meetings. At each meeting, the DAB tabled the application and requested some modification.

The applicants feel they have adequately responded to the DAB recommendations, but the changing attendance at DAB provided somewhat inconsistent direction. The expense of redesign at every juncture now spurs the applicant to forge ahead for DRB review.

Recommended motion: Certificate of Appropriateness and Conditional Use approval per the following Findings:

I. Findings

Article 2: Administrative Mechanisms

Section 2.7.8 Withhold Permit

Per this standard, the applicant is required to remedy all violations and close out all zoning permits issued after July 13, 1989 prior to issuance of a Certificate of Occupancy for this permit. See attached list for guidance on open permits/violations. **Affirmative finding as conditioned.**

Article 3: Applications, Permit and Project Reviews

Part 5: Conditional Use

Section 3.5.6 Review Criteria

(a) **Conditional Use Review Standards** (required due to request for demolition of a listed historic structure)

Approval shall be granted only if the DRB, after public notice and public hearing, determines that the proposed conditional use and associated development shall not result in an undue adverse effect on each of the following general standards:

1. *Existing or planned public utilities, facilities, or services are capable of supporting the proposed use in addition to the existing uses in the area.*

A replacement garage accessory with an accessory dwelling unit associated with an existing single family home in a residential zoning district will not result in an undue adverse effect on existing or planned public facilities. **Affirmative finding.**

2. *The character of the area affected as defined by the purpose or purposes of the zoning district(s) within which the project is located, and specifically stated policies and standards of the municipal development Plan;*

This is a low density residential zoning district; the street listed in its entirety within the South Union Street Historic District on the National Register of Historic Places. The proposed replacement garage to include an accessory dwelling unit is typically of little consequence; but the request to demolish a listed property must satisfy the conditions of Section 5.4.8 (d).

Plan BTV defines the goal of meeting the demand for housing and offering many kinds of housing types

- 8.1 Enable the development of additional housing at all income levels consistent with the regional Building Homes Together targets and the city's Housing Action Plan by reducing regulatory barriers and disincentives to development, and encouraging infill and redevelopment of underutilized sites. (*PlanBTV, Burlington as a Dynamic City.*)
- Utilizing a range of policies, programs, and funding sources to expand housing opportunity, fill gaps in the housing tenure ladder, ensure perpetual affordability, and increase the overall supply and inclusiveness of housing. (*PlanBTV, Burlington as an Inclusive City.*)

Plan BTV also emphasizes the protection of the city's historic and cultural resources (2019 *PlanBTV*, p.24, 30)

- *New development [should be] integrated within and complementary to the unique, historic design characteristics of each neighborhood. (p.33)*
- *The city also has a legacy of rich architectural heritage, moderately-scaled buildings, and high quality urban design. Burlington's rich and varied archaeological, historic, and architectural legacy is illustrated in many significant places which remain a vital link to the city's history and sense of place and time. As identified in the Burlington Survey Plan, protecting historic structures isn't just about a single building or site, but rather is part of a larger endeavor to conserve the elements and design characteristics that are at the heart of the city's neighborhoods and commercial areas, while also ensuring their continued function in serving the needs of residents and the economy. (p.35.)*

Affirmative finding, if DRB concurs with Findings of 5.4.8 (d).

3. *The proposed use will not have nuisance impacts from noise, odor, dust, heat, and vibrations greater than typically generated by other permitted uses in the same zoning district;*

A replacement garage including an accessory dwelling unit will have no discernable nuisance impacts greater than typically generated by other residences in the neighborhood. **Affirmative finding.**

4. *The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street designations and capacity; level of service and other performance measures; access to arterial roadways; connectivity; transit availability; parking and access; impacts on pedestrian, bicycle and transit circulation, safety for all modes; and adequate transportation demand management strategies;*

The replacement garage and inclusion of an accessory dwelling unit will have no measureable impact on transportation systems, street level of service or other performance measures. Kingland Terrace is an established residential public street; existing sidewalks are on both sides of the street along the public right-of-way. The site plan defines a parking space placed within the new garage, and a second space within the expanded existing driveway. An ADU no longer requires a parking space. As arranged, the plan may be deemed acceptable. **Affirmative finding.**

and

5. *The utilization of renewable energy resources;*

No part of this application will prevent the use of wind, solar, water, geothermal or other renewable energy resource. **Affirmative finding.**

and

6. *Any standards or factors set forth in existing City bylaws and city and state ordinances.* The applicant will be required to provide a letter from the Department of Public Works confirming adequate water and sewer capacity for the new accessory dwelling unit. An EPSC plan has been forwarded to the Stormwater engineer for review; his approval a condition of any decision. A state wastewater permit will also be required; and remains the responsibility of the applicant to secure.

Affirmative finding as conditioned.

(c) Conditions of Approval

In addition to imposing conditions of approval necessary to satisfy the General Standards specified in (a) or (b) above, the DRB may also impose additional conditions of approval relative to any of the following:

1. *Mitigation measures, including but not limited to screening, landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area;*

There will not be a separate meter for the ADU. No mechanical equipment is illustrated on the site plan or building elevations. The applicant shall define any additional mechanical equipment as appropriate, and illustrate on plans.

Any new electric service shall be undergrounded.

Affirmative finding as conditioned.

2. Time limits for construction.

The permit will have a three-year life from the date of approval. Section 5.4.8 (d) 3. requires that construction commence within 6 months of building demolition. **Affirmative finding as conditioned.**

3. Hours of operation and/or construction to reduce the impact on surrounding properties.

Residential use has no limitation on hours of operation.

Construction shall be limited Monday-Friday 7:30- 5:30 pm, with indoor work only on Saturdays. No construction shall occur on Sundays. **Affirmative finding as conditioned.**

4. That any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions,

Any enlargement will be reviewed under the zoning regulations in effect at that time.

Affirmative finding.

and

5. Such additional reasonable performance standards, conditions and safeguards as it may deem necessary to implement the purposes of this chapter and the zoning regulations.

Any other performance standards are at the discretion of the Development Review Board.

Article 4: Zoning Maps and Districts

Section 4.4.5 Residential Districts

Table 4.4.5-1 Minimum Lot Size and Frontage: RL, RL-W, RM and RM-W

40 Kingsland Terrace exceeds the required minimum lot size of 6,000 sf and required lot frontage of 60'. **Affirmative finding.**

Table 4.4.5-3 Residential District Dimensional Standards

Zoning District	Max. Lot Coverage ¹	Setbacks ^{1, 3, 4, 5, 6}				
		Front ²	Side ³	Rear	Waterfront	Max. Height ¹
RL; WRL	35%	Min/Max: Ave. of 2 adjacent lots on both sides +/- 5-feet	Min: 10% of lot width or ave. of side yard setback of 2 adjacent lots on both sides	Min: 25% of lot depth but in no event less than 20' Max required: 75-feet	Min: 75' feet from the ordinary high water mark of Lake Champlain and the Winooski River	35-feet

			Max required: 20'			
40 Kingsland Terrace	Existing 29.86% Proposed 36% with additional bonus (porch, walkway) coverage allowance. 32.79% as base coverage; < 35%.	No change	Greater than 10% property width.	Structure location corrected to meet 25% rear setback requirement. (37'3")	N/A	23'2 3/16 " to ridgeline < 35' limitation

Affirmative finding.

Section 4.4.5 (d) 2. Lot coverage

A. Exceptions for Accessory Residential Features.

In the RL, RL-W, RM and RM-W districts, an additional ten (10) per cent of lot coverage above the otherwise applicable limit may be permitted for the following amenity features accessory to residential uses provided that such features shall at no time be enclosed or be used for parking:

- (i) Decks;
- (ii) Patios;
- (iii) Porches;
- (iv) Terraces;
- (v) Tennis or other outdoor game courts;
- (vi) Swimming pools and swimming pool aprons;
- (vii) Walkways;
- (viii) Window Wells; and/or
- (ix) Pervious pavement designed and maintained to infiltrate the 1-year/24-hour storm event onsite, subject to review and approval by the Stormwater Administrator .

The base coverage remains under the 35% limitation (32.79%), while the open porches and walkways fall within these exceptions for residential features; allowing for the proposed 36% coverage. **Affirmative finding.**

Article 5: Citywide General Regulations

Section 5.2.1 Existing Small Lots

Not applicable.

Section 5.2.2 Required Frontage or Access

This is an existing developed parcel with a single family home and accessory garage.

Affirmative finding.

Section 5.2.3 Lot Coverage Requirements

See Table 4.4.5-3, above.

(b) Exceptions to lot coverage

10. The DRB may grant an exemption from maximum lot coverage limits for up to 650 sq.ft., of the lot area occupied by an ADU. To grant such an exemption, the DRB must find that the existing lot coverage has been lawfully created, and that the proposed location, site design, and improvements will enable on-site management of the first one inch of stormwater runoff from the lot area of the ADU exceeding the applicable lot coverage limit, and will not have undue adverse impact on public rights of way based on the review of the DPW Stormwater Program Manager.

The applicants requested an allowance of an additional 287 sq. ft. of lot coverage for the purpose of creating an Accessory Dwelling Unit. The existing lot coverage has been lawfully created.

The lot coverage, however, is below the 35% maximum when bonus amenities are extracted (open porches, walkways.) See Section 4.4.5 (d) 2, above. Those amenities fall within the 10% bonus allowance that would allow for the proposed lot coverage.

There is no need to request the DRB approval for additional lot coverage. Not applicable.

Section 5.2.4 Buildable Area Calculation

This lot does not exceed 2 acres in size. Not applicable.

Section 5.2.5 Setbacks

See Table 4.4.5-3, above.

Section 5.2.6 Building Height Limits

See Table 4.4.5-3, above.

Section 5.2.7 Density and Intensity of Development Calculations

The property will remain a single family home, but with an accessory dwelling unit. For purposes of density, the property remains a single family home. **Affirmative finding.**

Section 5.3.6 Nonconforming Lots

Not applicable.

Section 5.4.5 Accessory Dwelling Units

(a) Accessory Units, General Standards/Permitted Uses:

Where there is a principal structure on a lot which exists as an owner-occupied single family residence, one accessory dwelling unit, that is located within or appurtenant to such single family dwelling, shall be allowed as a permitted use if the provisions of this subsection are met. An accessory dwelling unit means ~~an efficiency or one bedroom~~¹ {an}

¹ This has been struck with adoption of Act 179.

apartment that is clearly subordinate to the principal dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation. ~~No accessory unit shall be inhabited by more than 2 adult occupants.~~² An accessory unit shall not be counted as a dwelling unit for the purposes of density calculation. Additionally, there must be compliance with all the following:

1. The property has sufficient wastewater capacity as certified by the Department of Public Works;

This will be a condition of any approval. **Affirmative finding as conditioned.**

and

2. The unit does not consist of more than ~~800~~ 900 sq.ft³, or 30 percent (30%) of the Gross Floor Area of the principal home, whichever is greater;

The ADU is proposed to be 660 sf., excluding the entry foyer. **Affirmative finding.**

and

3. Applicable setback and coverage requirements are met, except as provided for in Sec. 5.2.3 (b) 10;

Setbacks are met (see Table 4.4.5-3, above.) Lot coverage falls within allowable range, including the 10% bonus allowance for open amenities. **Affirmative finding.**

and

A deed or instrument for the property shall be entered into the land records by the owner containing a reference to the permit granting the accessory unit prior to the issuance of the certificate of occupancy for the unit. Such reference shall identify the permit number and note that the property is subject to the permit and its terms and conditions including owner occupancy. No certificate of occupancy shall be issued for the unit unless the owner has recorded such a notice. **Affirmative finding as conditioned.**

(b) Discontinuance of Accessory Units:

Approval of an accessory dwelling unit is contingent upon owner-occupancy of either the principal or accessory dwelling unit as a primary residence. For purposes of this section, owner-occupancy means that, after the creation of the accessory unit all individuals listed on the deed for the property must reside in the principal unit or in the accessory unit. If neither the principal unit nor the accessory unit is owner-occupied as a primary residence, the approval for the accessory dwelling unit is void and the kitchen of the accessory dwelling unit must be removed within 90 days with the entirety of the property being occupied as a single unit. When an accessory unit that is the result of additional square footage and/or a new accessory structure is proposed to be removed, revised floor plans and a revised site plan shall be required to be submitted for review and approval.

² This limitation has been eliminated by the Vermont Legislature under Act 179

³ Ibid.

Furthermore, where additional square footage is added to a single family home for purposes of creating an accessory unit and the accessory unit is at any point discontinued, none of the additional square footage shall be eligible for the purposes of increasing the number of unrelated adults that may be allowed to inhabit the property.

Affirmative finding as conditioned.

Section 5.2.5 Setbacks

Setbacks between buildings and property lines where required are intended to provide access to light and air, provide fire separation and access, and maintain the existing neighborhood pattern of buildings and open spaces between them and to the street.

a) Setbacks Required

3. Rear yard. Minimum rear yard setback for any principal structure shall be as required under the provisions of Article 4. Where the side yard setback is expressed as percent of the lot width, such width shall be measured perpendicular to the lot frontage.

Plans have been revised to correct the rear yard setback, eliminating the need for the Variance request. See Table 4.4.5-3, above. **Affirmative finding.**

b) Exceptions to Yard Setback Requirements:

Not applicable.

Section 5.4.8 Historic Buildings and Sites

The City seeks to preserve, maintain, and enhance those aspects of the city having historical, architectural, archaeological, and cultural merit. Specifically, these regulations seek to achieve the following goals:

To preserve, maintain and enhance Burlington's historic character, scale, architectural integrity, and cultural resources;

To foster the preservation of Burlington's historic and cultural resources as part of an attractive, vibrant, and livable community in which to live, work and visit;

To promote a sense of community based on understanding the city's historic growth and development, and maintaining the city's sense of place by protecting its historic and cultural resources; and,

To promote the adaptive re-use of historic buildings and sites.

(a) Applicability:

These regulations shall apply to all buildings and sites in the city that are listed, or eligible for listing, on the State or National Register of Historic Places.

40 Kingsland Terrace (home and garage, Resources 28 and 28A) are within the South Union Street Historic District on the National Register of Historic Resources. See attached narrative. Therefore, the following standards apply:

(b) Standards and Guidelines:

The following development standards, following the Secretary of the Interior's Standards for the Treatment of Historic Properties, shall be used in the review of all applications involving historic buildings and sites subject to the provisions of this section and the requirements for Design Review

in Art 3, Part 4. The Secretary of the Interior's Standards are basic principles created to help preserve the distinctive character of a historic building and its site. They are a series of concepts about maintaining, repairing and replacing historic features, as well as designing new additions or making alterations. These Standards are intended to be applied in a reasonable manner, taking into consideration economic and technical feasibility.

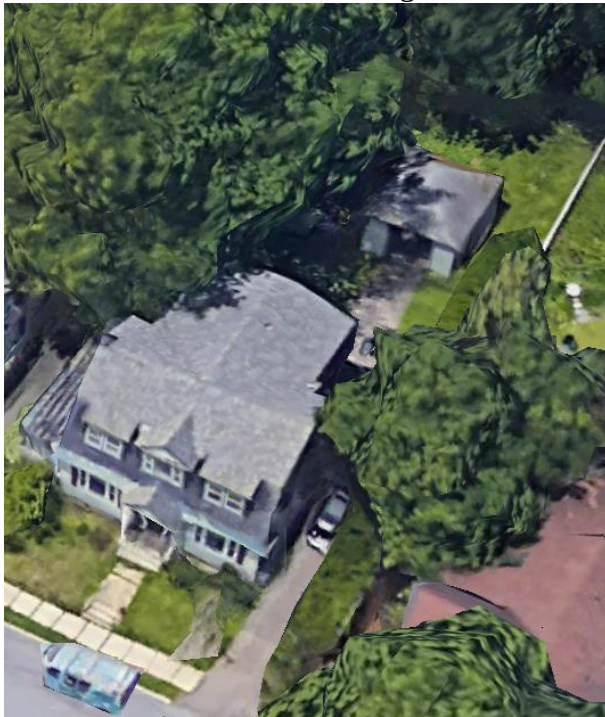
1. *A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.*

No alterations are proposed to the principal structure within this application. The rear garage, constructed c. 1923, will be demolished and replaced with a much larger structure. Although the new building will also serve as a garage, the demolition of the original is a loss of original materials, features, spaces and spatial relationships that characterize the property.

The DAB has voted to be in support of the project with evidence from Roland VanDyk, PE. detailing foundation failure and racking.



PHOTO 1: South Side - Note slight racking of building to the left (west) side



2. *The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.*

The principal building will remain as existing. The application proposes demolition of an accessory structure. Demolition of any historic building is subject to discretionary review by the DRB.

3. *Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.*

The existing, small scale accessory structure is distinctly an element of its period of construction. (Photos of the garage are within the VanDyk report.) The DRB has the discretionary role of determining whether demolition of a historic structure is acceptable based on the greater value to the community of the redevelopment. See Section 5.4.8 (d).

4. *Changes to a property that have acquired historic significance in their own right will be retained and preserved.*

Whether constructed at the same time or after the house, the garage retains its significance in relationship to the context of the house. Quite generally, demolition is contrary to retention and preservation. The Design Advisory Board has supported consideration of a replacement building due to the failed foundation of the existing structure. The DRB has the discretionary role of determining whether demolition of a historic structure is acceptable based on the greater value to the community of the redevelopment.

5. *Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.*

The existing garage is a pyramidal-hipped roof, one bay garage with aluminum siding and asphalt shingled roof. While the location, design, association and style are still extant, external sheathing materials are not original.

6. *Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials recognizing that new technologies may provide an appropriate alternative in order to adapt to ever changing conditions and provide for an efficient contemporary use. Replacement of missing features will be substantiated by documentary and physical evidence.*

The proposal is not based in repair or replacement of deteriorated historic features, but wholesale building removal and replacement with a larger structure. The submitted report of Roland Van Cyk, PE, identifies the failure of the garage's foundation.

The DAB has opined support for the demolition of the existing garage based on submission materials that defined the lack of structural integrity of the existing building, coupled with the benefit of creation of a new dwelling unit.

7. *Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.*

Demolition is the greater caliber of destructive physical treatment. The DRB has the discretionary role of determining whether demolition of a historic structure is acceptable based on the greater value to the community of the redevelopment.

8. *Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.*

No archaeological resources have been identified at this location. If discovery is made during the redevelopment, construction will cease while appropriate authorities are notified and resources are evaluated, assessed, and appropriate disposition determined.

9. *New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale, and proportion, and massing to protect the integrity of the property and its environment.*

New construction proposed here is grounded in the removal of a listed historic structure that has a relationship to the principal structure. The replacement building, as located in the rear of the

lot and accessory to the primary structure continues that relationship. Although larger than the existing garage, its scale, proportion and massing are deferential to the existing home. The DRB has the discretionary role of determining whether demolition of a historic structure is acceptable based on the greater value to the community of the redevelopment.



PHOTO 2: West Side - Note buckled siding and vertical crack in foundation/slab

10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

A new accessory structure behind the principal building at 40 Kingsland Terrace will not diminish the historic integrity of that residential structure; but will eliminate the essential form and integrity of the existing accessory garage. The project may only be deemed reversible via rehabilitation or reconstruction matching its form, details and location. Photo documentation can be used to catalog the appearance of the structure if demolition is supported.

Affirmative finding only with DRB Affirmative Findings of 5.4.8 (d), below.

(d) Demolition of Historic Buildings:

The purpose of this subsection is:

- To discourage the demolition of a historic building, and allow full consideration of alternatives to demolition, including rehabilitation, adaptive reuse, resale, or relocation;*
- Provide a procedure and criteria regarding the consideration of a proposal for the demolition of a historic building; and,*
- To ensure that the community is compensated for the permanent loss of a historic resource by a redevelopment of clear and substantial benefit to the community, region or state.*

1. Application for Demolition.

For demolition applications involving a historic building, the applicant shall submit the following materials in addition to the submission requirements specified in Art. 3:

- A. A report from a licensed engineer or architect who is experienced in rehabilitation of historic structures regarding the soundness of the structure and its suitability for rehabilitation;*

See attached memorandum from Roland VanDyk, PE. **Affirmative finding.**

- B. *A statement addressing compliance with each applicable review standard for demolition;*

The applicant's representative has discussed the standards with the DAB. See responses, below.

- C. *Where a case for economic hardship is claimed, an economic feasibility report prepared by an architect, developer, or appraiser, or other person experienced in the rehabilitation and adaptive reuse of historic structures that addresses:*

- (i) the estimated market value of the property on which the structure lies, both before and after demolition or removal; and,*
- (ii) the feasibility of rehabilitation or reuse of the structure proposed for demolition or partial demolition;*

The applicant has not claimed economic hardship; but a comparative analysis has been provided by the contracting firm for foundation repair and design services. See Preliminary/viability estimate from Lewis Creek Builders.

Affirmative finding.

- D. *A redevelopment plan for the site, and a statement of the effect of the proposed redevelopment on the architectural and historical qualities of other structures and the character of the neighborhood around the sites;*

The purpose of this application is redevelopment of the site. Due to its location, the replacement building will have no visual or adverse historic impact on neighboring properties within this historic district. The Vermont Legislation has recently eliminated *character of the area* as a reason to deny Conditional Use applications (Act 179.) **Affirmative finding.**

and,

- E. *Elevations, drawings, plans, statements, and other materials which satisfy the submission requirements specified in Art. 3, for any replacement structure or structures to be erected or constructed pursuant to a development plan.*

Elevations, drawings, and plans were submitted February 1, 2021 and revised March 18, 2021 further defining the intended replacement structure.

Affirmative finding.

2. Standards for Review of Demolition.

Demolition of a historic structure shall only be approved by the DRB pursuant to the provisions of Art. 3, Part 5 for Conditional Use Review and in accordance with the following standards:

- A. *The structure proposed for demolition is structurally unsound despite ongoing efforts by the owner to properly maintain the structure;*

The submitted engineer's report confirms foundational failure and structural deflection. There are no building permits on file for structural work on the

garage. A zoning permit application to replace the garage door was withdrawn in 2019. **Affirmative finding.**

or,

- B. *The structure cannot be rehabilitated or reused on site as part of any economically beneficial use of the property in conformance with the intent and requirements of the underlying zoning district; and, the structure cannot be practicably moved to another site within the district;*

The condition of the existing garage impedes rehabilitation and reuse of the existing structure. The application did not explore structural relocation which would be unlikely on this site due to lot coverage. The basis of the application is to replace the building with another that will accommodate parking as well as a new accessory dwelling unit. **Affirmative finding.**

or,

- C. *The proposed redevelopment of the site will provide a substantial community-wide benefit that outweighs the historic or architectural significance of the building proposed for demolition.*

The DRB will be tasked with analyzing the existing structure versus a proposal to create a new dwelling unit in a replacement detached structure to ascertain whether there is a substantial community-wide benefit that outweighs the significance of the existing building. **Affirmative finding if DRB concurs with benefit.**

And all of the following:

- D. *The demolition and redevelopment proposal mitigates to the greatest extent practical any impact to the historical importance of other structures located on the property and adjacent properties;*

There will be no impact to the existing primary structure on the site. The location of the proposed replacement building, behind the primary structure and at the end of a cul-de-sac, minimizes if not eliminates any visible impact to existing properties on this street and those within this historic district. The adjacent property to the east (2 Tower Terrace) sits higher topographically. The replacement building will not impact the historical importance of that home, listed within the South Willard Street Historic District as resource #91A, *Loomis Carriage House*. **Affirmative finding.**

- E. *All historically and architecturally important design, features, construction techniques, examples of craftsmanship and materials have been properly documented using the applicable standards of the Historic American Building Survey (HABS) and made available to historians, architectural historians and others interested in Burlington's architectural history;*

While the existing garage may not rise to the requirement of HABS recordation, photodocumentation of the existing building will need to be provided for the zoning record. **Affirmative finding as conditioned.**

and,

F. *The applicant has agreed to redevelop the site after demolition pursuant to an approved redevelopment plan which provides for a replacement structure(s).*

- (i) *Such a plan shall be compatible with the historical integrity and enhances the architectural character of the immediate area, neighborhood, and district;*

The proposed replacement building is appropriately scaled and detailed to companionably coexist on the site with the principal structure. The designers have attempted to reflect fenestration pattern and detailing to assure compatibility without conflict. **Affirmative finding.**

- (ii) *Such plans must include an acceptable timetable and guarantees which may include performance bonds/letters of credit for demolition and completion of the project;*

Any approved zoning permit will carry a timeline for completion, and will run simultaneous to the standard, below. **Affirmative finding as conditioned.**

and,

- (iii) *The time between demolition and commencement of new construction generally shall not exceed six (6) months.*

This will be a condition of any approval. **Affirmative finding as conditioned.**



This requirement may be waived if the applicant agrees to deed restrict the property to provide for open space or recreational uses where such a restriction constitutes a greater benefit to the community than the property's redevelopment.

The applicant has not offered to deed-restrict the property for open space or recreational uses. If supported by the DRB, the six month time limit for new construction shall apply.

Affirmative finding as conditioned.

3. Deconstruction: Salvage and Reuse of Historic Building Materials.

The applicant shall be encouraged to sell or reclaim a structure and all historic building materials, or permit others to salvage them and to provide an opportunity for others to purchase or reclaim the building or its materials for



future use. An applicant may be required to advertise the availability of the structure and materials for sale or salvage in a local newspaper on at least three (3) occasions prior to demolition.

Salvage and reuse of building materials is encouraged where public safety allows.
Affirmative finding.

Article 6: Development Review Standards

Part 1: Land Division Design Standards

No land division is proposed. Not applicable.

Part 2: Site Plan Design Standards

Sec. 6.2.2 Review Standards

(a) Protection of Important Natural Features:

There is a landscaping hedge to the east, and (from aerial images) a mature tree to the west of the development site. The application does not include any tree removal or regrading of the site.

Affirmative finding.

(b) Topographical Alterations:

No topographical alterations are included within the application plans. **Affirmative finding.**

(c) Protection of Important Public Views:

There are no protected important public views from or across the site. Not applicable.

(d) Protection of Important Cultural Resources:

Burlington's architectural and cultural heritage shall be protected through sensitive and respectful redevelopment, rehabilitation, and infill. Archeological sites likely to yield information important to the city's or the region's pre-history or history shall be evaluated, documented, and avoided whenever feasible. Where the proposed development involves sites listed or eligible for listing on a state or national register of historic places, the applicant shall meet the applicable development and design standards pursuant to Sec. 5.4.8(b).

See Section 5.4.8, above.

(e) Supporting the Use of Renewable Energy Resources:

No part of this application would preclude the use of wind, water, solar, geothermal, or other renewable energy resources. **Affirmative finding.**

(f) Brownfield Sites:

40 Kingsland Terrace is not listed on the Department of Environmental Conservation's list of Brownfield sites. Not applicable.

(g) Provide for nature's events:

Special attention shall be accorded to stormwater runoff so that neighboring properties and/or the public stormwater drainage system are not adversely affected. All development and site disturbance shall follow applicable city and state erosion and stormwater management guidelines in accordance with the requirements of Art 5, Sec 5.5.3.

An EPSC plan (as revised) has been forwarded to the Stormwater engineering division for review. Their written approval will be a condition of any permit. *Design features which address the effects of rain, snow, and ice at building entrances, and to provisions for snow and ice removal or storage from circulation areas shall also be incorporated.*

A door on the west elevation is sheltered by an overhanging second story deck. The south entrance is within a small entry alcove; both providing shelter to residents. **Affirmative finding as conditioned.**

(h) Building Location and Orientation:

The proposed replacement building is situated behind the primary residence; consistent with accessory structures. The principal entrance faces the front (south). The building has been relocated on the revised site plan to respect the required rear setback of 25% lot depth. **Affirmative finding.**

(i) Vehicular Access:

Vehicular access is proposed to continue as existing; from Kingsland Terrace. **Affirmative finding.**

(j) Pedestrian Access:

The plan assumes pedestrian access from the parking space in the driveway or from within the garage. A discrete pathway from the ADU to the public sidewalk shall be identified. **Affirmative finding as conditioned.**

(k) Accessibility for the Handicapped:

ADA jurisdiction is with the building inspector. **Affirmative finding as conditioned.**

(l) Parking and Circulation:

The existing driveway will remain, albeit widened at the point to connection to the new garage/ADU. The required 2 parking spaces will be met with one in the new garage and one in front of it. Zoning Amendment 20-03 eliminated the requirement for an additional parking space for the ADU. **Affirmative finding.**

(m) Landscaping and Fences:

The applicant has provided an intended planting schedule with photos of the existing fencing. **Affirmative finding.**

(n) Public Plazas and Open Space:

There is no requirement for a public plaza with this application. The rear yard will provide reasonable open space for the enjoyment of the residents. **Affirmative finding.**

(o) Outdoor Lighting:

Where exterior lighting is proposed the applicant shall meet the lighting performance standards as per Sec 5.5.2.

Recessed lighting is proposed for the entryway porch, under the westerly deck and at the 2nd story door. Modeled images and elevations show a gooseneck style lamp over the garage door. All are of residential character and will downlight the immediately area. **Affirmative finding.**

(p) Integrate infrastructure into the design:

Exterior storage areas, machinery and equipment installations, service and loading areas, utility meters and structures, mailboxes, and similar accessory structures shall utilize setbacks, plantings, enclosures and other mitigation or screening methods to minimize their auditory and visual impact on the public street and neighboring properties to the extent practicable.

Utility and service enclosures and screening shall be coordinated with the design of the principal building, and should be grouped in a service court away from public view. On-site utilities shall be placed underground whenever practicable. Trash and recycling bins and dumpsters shall be located, within preferably, or behind buildings, enclosed on all four (4) sides to prevent blowing trash, and screened from public view.

The applicants propose combined mail delivery to the principal building, as the intended ADU tenants will be relatives. The ADU will not have its own meter. All utilities must be undergrounded.

Any development involving the installation of machinery or equipment which emits heat, vapor, fumes, vibration, or noise shall minimize, insofar as practicable, any adverse impact on neighboring properties and the environment pursuant to the requirements of Article 5, Part 4 Performance Standards.

There are no identified nuisance impacts that might emit heat, vapor, fumes, vibration, or noise. **Affirmative finding as conditioned.**

Part 3: Architectural Design Standards

Sec. 6.3.2 Review Standards

(a) Relate development to its environment:

1. Massing, Height and Scale:



The proposed gable roofed building is larger than the existing single story garage it proposes to replace. The location behind the single family home and at the end of a dead-end street reduces the visual impacts of the larger structure. **Affirmative finding.**

2. Roofs and Rooflines.

The gable roof with dual shed dormers reflects a different style from the original submission, but is consistent with common accessory structures. **Affirmative finding.**

3. Building Openings

Windows are either double hung or transom with muntin patterns recalling the principal home. The garage doors look to resemble paired carriage house doors. **Affirmative finding.**



Principal structure, 40 Kingsland Terrace

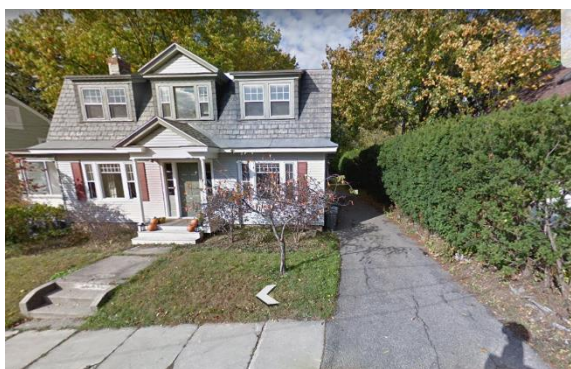
(b) Protection of Important Architectural Resources:

Burlington's architectural and cultural heritage shall be protected through sensitive and respectful redevelopment, rehabilitation, and infill. Where the proposed development involves buildings listed or eligible for listing on a state or national register of historic places, the applicant shall meet the applicable development and design standards pursuant to Sec. 5.4.8. The introduction of new buildings to a historic district listed on a state or national register of historic places shall make every effort to be compatible with nearby historic buildings. See Section 5.4.8.

(c) Protection of Important Public Views:

There are no protected important public views from this location. Not applicable.

(d) Provide an active and inviting street edge:



There is no visibility (from Google images) of this replacement structure from the public right-of-way. (See image, left.) **Affirmative finding.**

(e) Quality of materials:

All development shall maximize the use of highly durable building materials that extend the life cycle of the building, and reduce maintenance, waste, and environmental impacts. Such materials are particularly important in certain highly trafficked locations such as along major streets,

sidewalks, loading areas, and driveways. Efforts to incorporate the use of recycled content materials and building materials and products that are extracted and/or manufactured within the region are highly encouraged.

Sheathing and trim are proposed to be an engineered wood strand product called LP SmartSide. Specification information has been provided for both cedar texture lap and smooth finish lap, with smooth finish trim. Windows are aluminum clad. The deck will feature a cable guardrail with wood cap. **Affirmative finding.**

Owners of historic structures are encouraged to consult with an architectural historian in order to determine the most appropriate repair, restoration or replacement of historic building materials as outlined by the requirements of Art 5, Sec. 5.4.8.

This is a replacement building for one listed on the National Register of Historic Resources; but it is not a reconstruction. It is entirely new design and fabrication that does not intend to replicate the original building. See Section 5.4.8, below.

(f) Reduce energy utilization:

All new construction is required to meet the Guidelines for Energy Efficient Construction per the requirements of Article VI, Energy Conservation, Section 8 of the City of Burlington Code of Ordinances. **Affirmative finding as conditioned.**

(g) Make advertising features complementary to the site:

No signage is included with this application. Not applicable.

(h) Integrate infrastructure into the building design:

See Section 6.2.2. (p), above.

(i) Make spaces secure and safe:

New construction must meet all applicable building and life safety code as defined by the building inspector and fire marshal. **Affirmative finding as conditioned.**

Article 8: Parking

The existing single family home requires 2 parking spaces in the Neighborhood Parking District, and the proposed ADU has no parking requirement. **Affirmative finding.**

Article 12: Variances and Appeals

As the plans have been revised to show compliance with a required rear setback, the request for a Variance is not longer necessary. Not applicable.

Recommended Conditions of Approval:

1. Written approval of the Erosion Prevention and Sediment Control Plan will be required **prior to release of the zoning permit.**
2. A deed or instrument for the property shall be entered into the land records by the owner containing a reference to the permit granting the accessory unit **prior to the issuance of the certificate of occupancy for the unit.** Such reference shall identify the permit number and note that the property is subject to the permit and its terms and conditions **including owner occupancy.** No certificate of occupancy shall be issued for the unit unless the owner has recorded such a notice.
3. **Approval of an accessory dwelling unit is contingent on owner occupancy of the single-family dwelling unit as a primary residence.** For purposes of this section, owner occupancy means that, after the creation of the accessory unit all individuals listed on the deed for the property must reside in the primary unit or in the accessory unit. If either the primary unit or the accessory unit is no longer owner occupied as a primary residence, the approval for the accessory dwelling unit is void and the kitchen of the accessory dwelling unit must be removed within 90 days with the entirety of the property being occupied as a single unit. When an accessory unit that is the result of additional square footage and/or a new accessory structure is proposed to be removed, revised floor plans and a revised site plan shall be required to be submitted for review and approval. Furthermore, where additional square footage is added to a single family home for purposes of creating an accessory unit and the accessory unit is at any point discontinued, none of the additional square footage shall be eligible for the purposes of increasing the number of unrelated adults that may be allowed to inhabit the property.
4. Functional Family provisions of the ordinance remain in effect. Not more than 4 unrelated adults may occupy either unit.

5. The accessory dwelling unit is limited to 30% of the habitable area of the single family residence or 900 sf., whichever is greater.
6. A letter assuring adequate wastewater and water capacity for the new unit from the Department of Public Works shall be required **prior to release of the zoning permit.**
7. A State Wastewater Permit is required, and is the responsibility of the owner to secure.
8. Hours of construction are limited to 7:30 am- 5:30 pm Monday through Friday. Saturday construction is limited to interior work. No construction shall occur on Sundays.
9. A separate pedestrian walkway between the parking area/garage to the public right-of-way or sidewalk is required. This shall be illustrated on a revised site plan, and coverage amended if necessary.
10. Prior to demolition, the accessory structure shall be photo-documented for the zoning record and as an update to the Historic District narrative.
11. Construction must commence within six months of building demolition per Section 5.4.8 (d) 3.
12. All new construction is required to meet the Guidelines for Energy Efficient construction pursuant to the requirements of Article VI, Energy Conservation, Section 8 of the City of Burlington Code of Ordinances.
13. Any new electric service shall be undergrounded.
14. If any exterior mechanical equipment is proposed, it shall be included on elevations and/or site plans as appropriate and meet all required setbacks.
15. Standard Permit Conditions 1-15.

NOTE: These are staff comments only. The Development Review Board, who may approve, table, modify, or deny projects, makes decisions.

Burlington Development Review Board

Department of Permitting & Inspections
645 Pine Street
Burlington, VT 05401
www.burlingtonvt.gov/DPI/DRB
Telephone: (802) 865-7188
Fax (802) 863-0466

Brad Rabinowitz
AJ LaRosa
Springer Harris
Geoff Hand
Brooks McArthur
Kienan Christianson
Caitlin Halpert
Sean McKenzie, (Alternate)
Ravi Venkataraman, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD

Tuesday, April 6, 2021, 5:00 PM

REMOTE MEETING

Zoom: <https://us02web.zoom.us/j/84866592744?pwd=MkpMOUx2OEU2bTZ3T3Q4a3AvaVh6QT09>

Webinar ID: 848 6659 2744

Password: 502671

Telephone: +1 301 715 8592 or +1 312 626 6799 or +1 929 205 6099 or +1 253 215 8782 or
+1 346 248 7799 or +1 669 900 6833

Agenda

- I. **Agenda**
- II. **Communications**
- III. **Minutes**
- IV. **Public Hearing**
 1. **21-0358CA/CU; 40 Kingsland Terrace (RL, Ward 6S) Kellen Brumsted**
Demolish existing garage (listed on the National Register); construct new 660 sf. garage with Accessory Dwelling Unit (ADU). (Project Manager: Mary O'Neil)
 2. **21-0723CU; 195 Archibald (RL, Ward 1E) Deborah Lyons**
Change use to bed and breakfast; requesting parking variance. (Project Manager: Scott Gustin)
 3. **21-0629DT; 92 Farrington Parkway (RL, Ward 7N) Raymond K. Ingram Jr.**
Appeal of 15-year determination decision as to parking on the yard next to the driveway. (Project Manager: Scott Gustin)
- V. **Certificate of Appropriateness**
 1. **21-0667CA; 90 Ethan Allen Parkway (NAC, Ward 7N) Rolf Danielson**
Request for four unit hotel/bed and breakfast; install fencing, pergola, landscaping, expand driveway and resurface with gravel, move garage. (Project Manager: Ryan Morrison)
- VI. **Other Business**
 1. **18-0682CU; 81 Dunder Road (WRL, Ward 5S) Jonathan Heller**
Follow up review of permitted 1-bedroom bed & breakfast (short-term rental) as required by original permit condition. (Project Manager: Ryan Morrison)

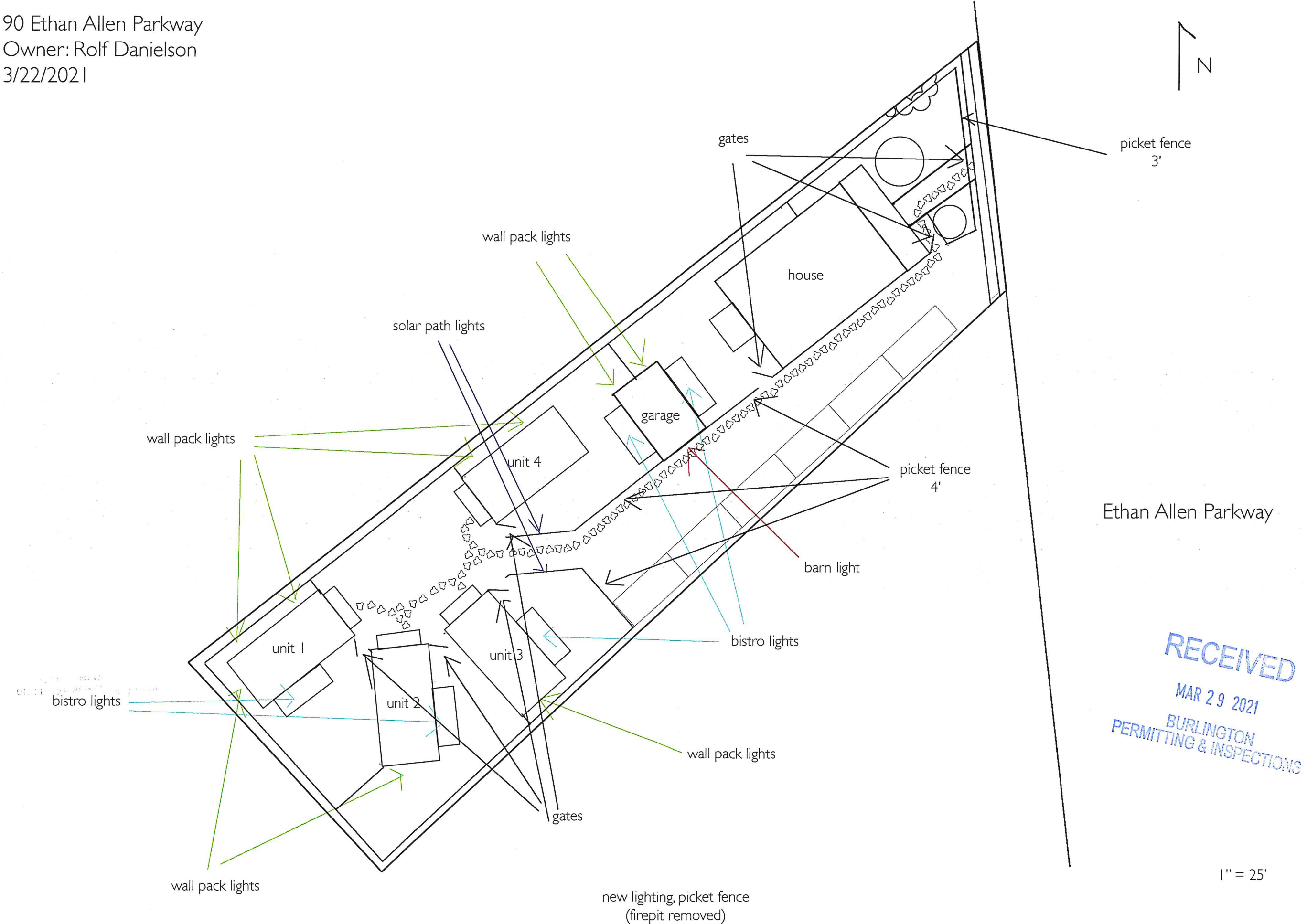
Plans may be viewed upon request by contacting the Department of Permitting & Inspections between the hours of 8:00 a.m. and 4:30 p.m. Participation in the DRB proceeding is a prerequisite to the right to take any subsequent appeal. Please note that ANYTHING submitted to the Zoning office is considered public and cannot be kept confidential. This may not be the final order in which items will be heard. Please view final Agenda, at www.burlingtonvt.gov/dpi/drb/agendas or the office notice board, one week before the hearing for the order in which items will be heard.

The City of Burlington will not tolerate unlawful harassment or discrimination on the basis of political or religious affiliation, race, color, national origin, place of birth, ancestry, age, sex, sexual orientation, gender identity, marital status, veteran status, disability, HIV positive status, crime victim status or genetic information. The City is also committed to providing proper access to services, facilities, and employment opportunities. For accessibility information or alternative formats, please contact Human Resources Department at (802) 540-2505.

The programs and services of the City of Burlington are accessible to people with disabilities. Individuals who require special arrangements to participate are encouraged to contact the Zoning Division at least 72 hours in advance so that proper accommodations can be arranged. For information call 865-7188 (TTY users: 865-7142).

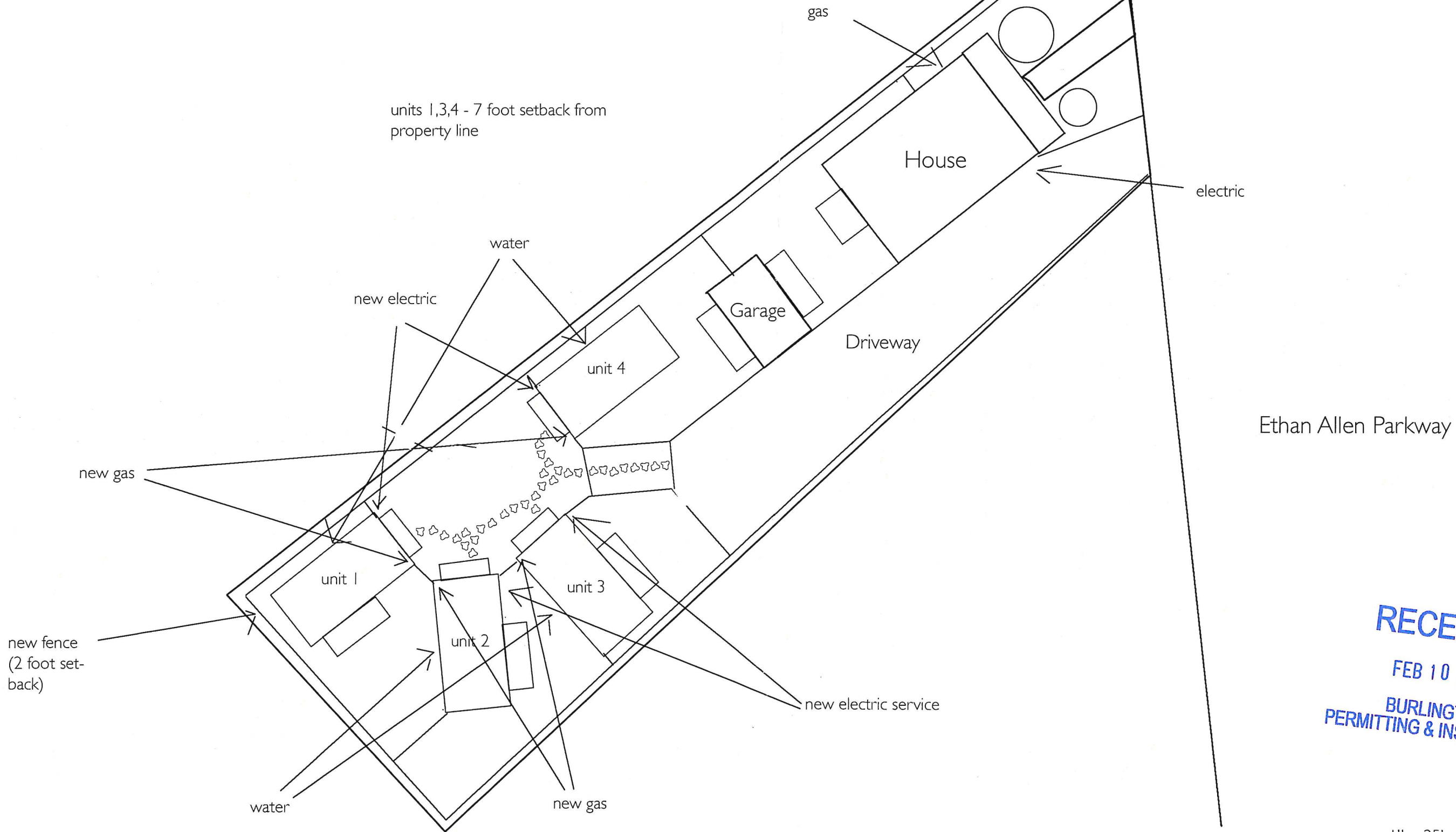
Printed on 100% Recycled Paper

90 Ethan Allen Parkway
Owner: Rolf Danielson
3/22/2021



1" = 25'

90 Ethan Allen Parkway
Owner: Rolf Danielson
2/9/2021

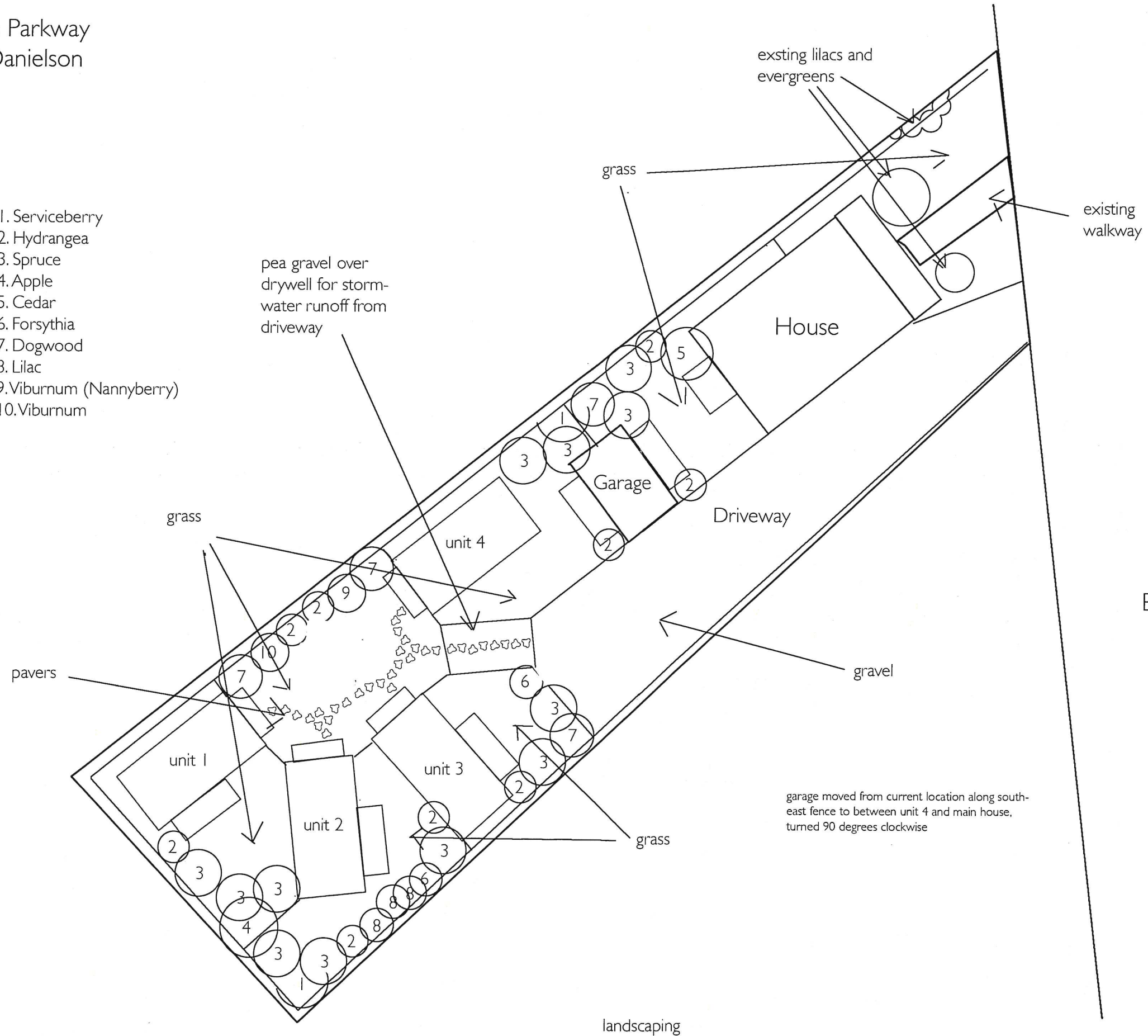


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1" = 25'

90 Ethan Allen Parkway
 Owner: Rolf Danielson
 2/9/2021

1. Serviceberry
2. Hydrangea
3. Spruce
4. Apple
5. Cedar
6. Forsythia
7. Dogwood
8. Lilac
9. Viburnum (Nannyberry)
10. Viburnum



Ethan Allen Parkway

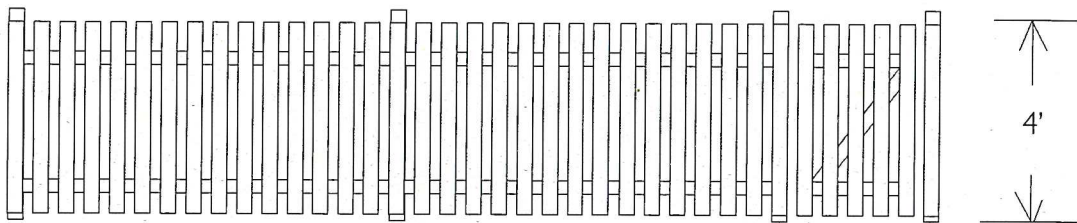
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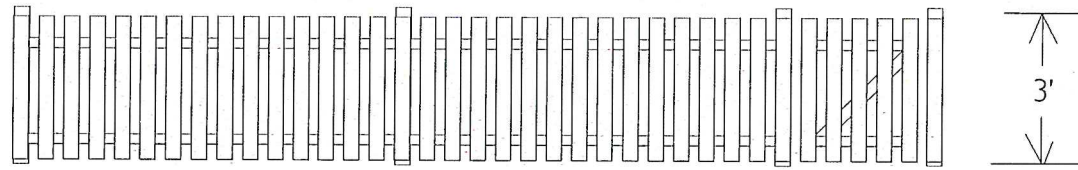
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1" = 25'

90 Ethan Allen Parkway
Rolf Danielson
3/22/2021

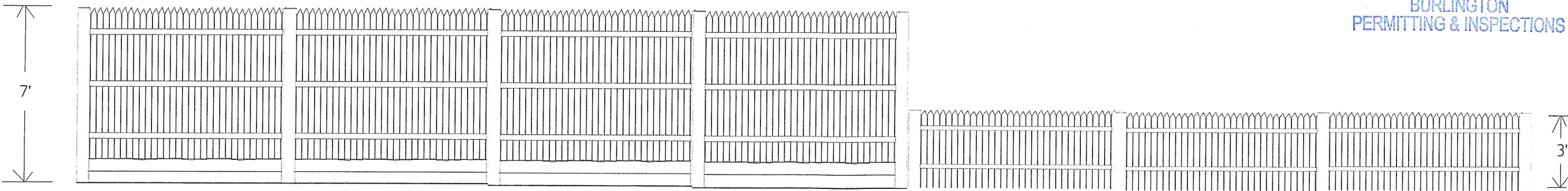


interior picket fence with gate
pressure treated posts, cedar rails and
pickets



line of sight picket fence
(front of property)

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exterior fence
stockade panels, 4x4 pres-
sure treated posts, pressure
treated 2x6 bottom rails

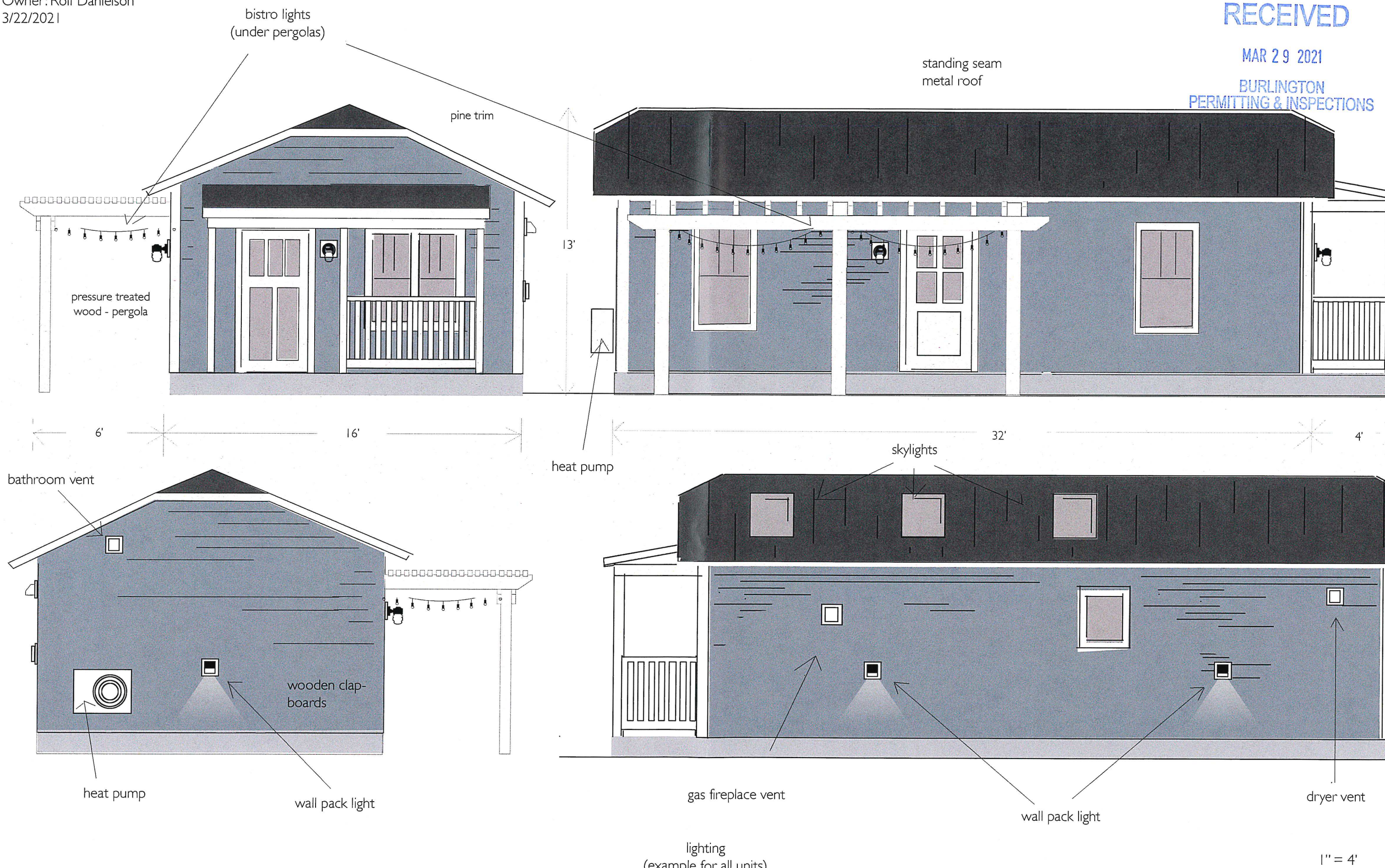
line of sight fence
stockade panels, 4x4 pres-
sure treated posts

90 Ethan Allen Parkway
Owner: Rolf Danielson
3/22/2021

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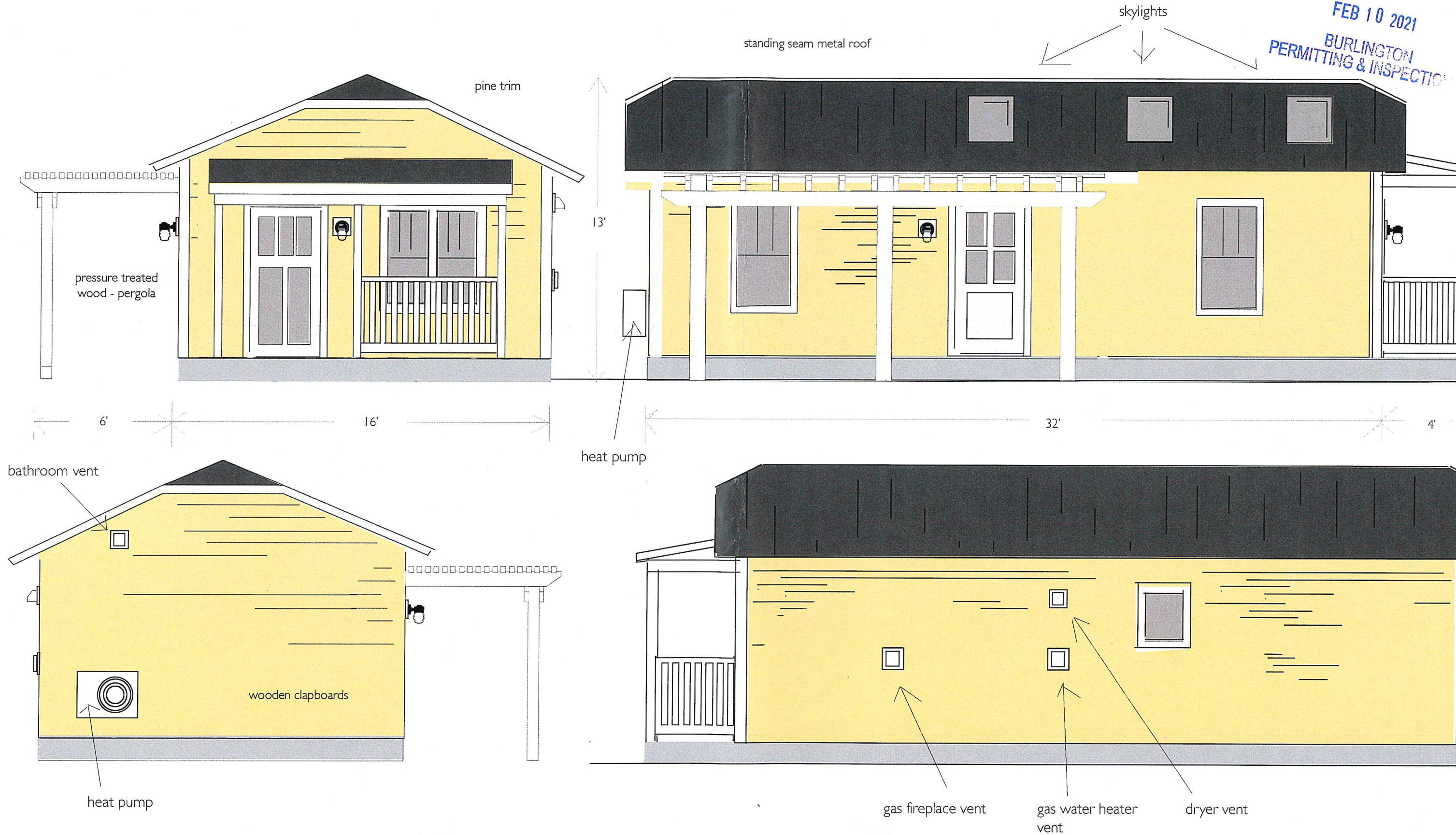
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90 Ethan Allen Parkway
Owner: Rolf Danielson
2/9/2021

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unit 2

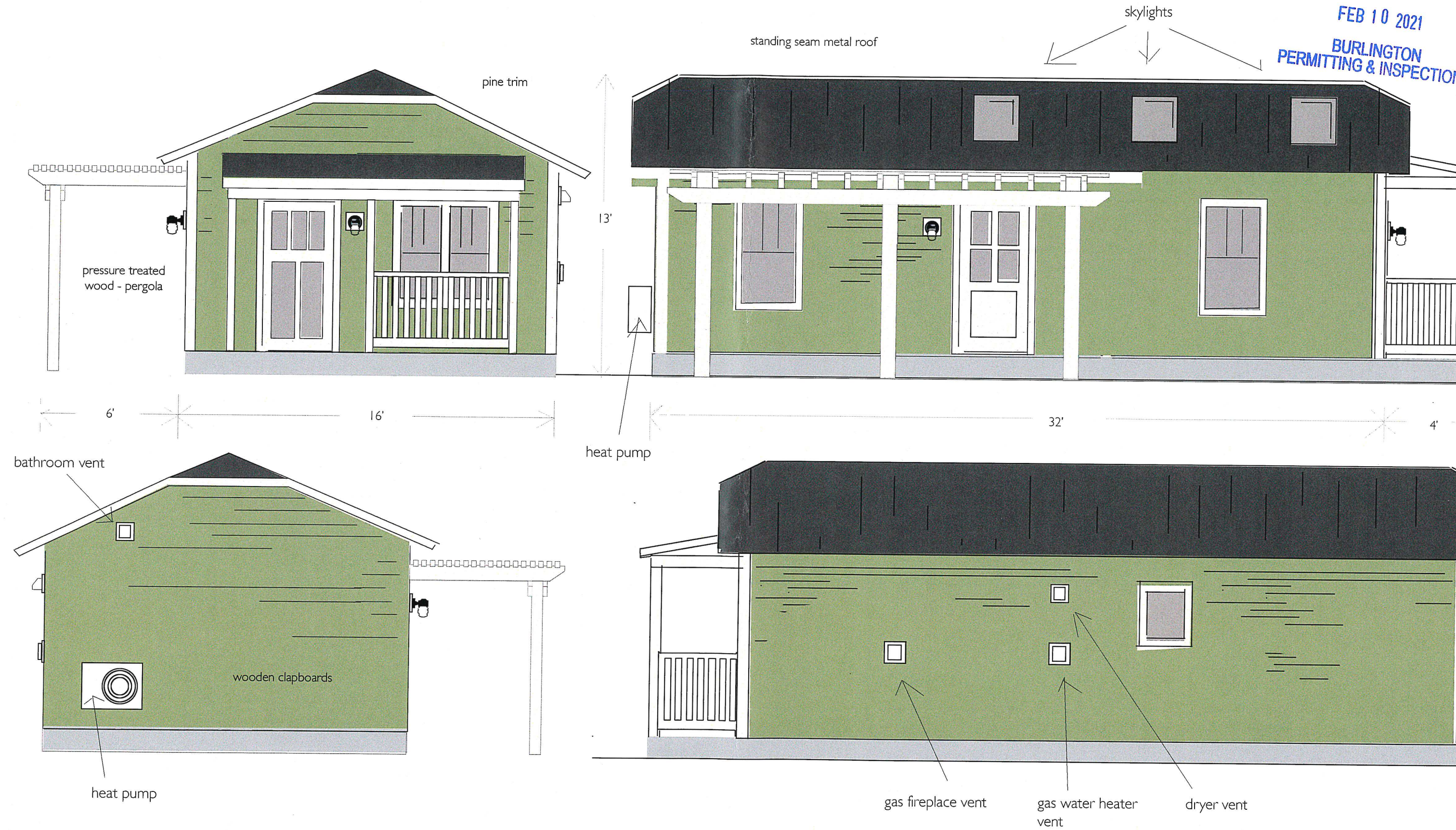
1" = 4'

90 Ethan Allen Parkway
Owner: Rolf Danielson
2/9/2021

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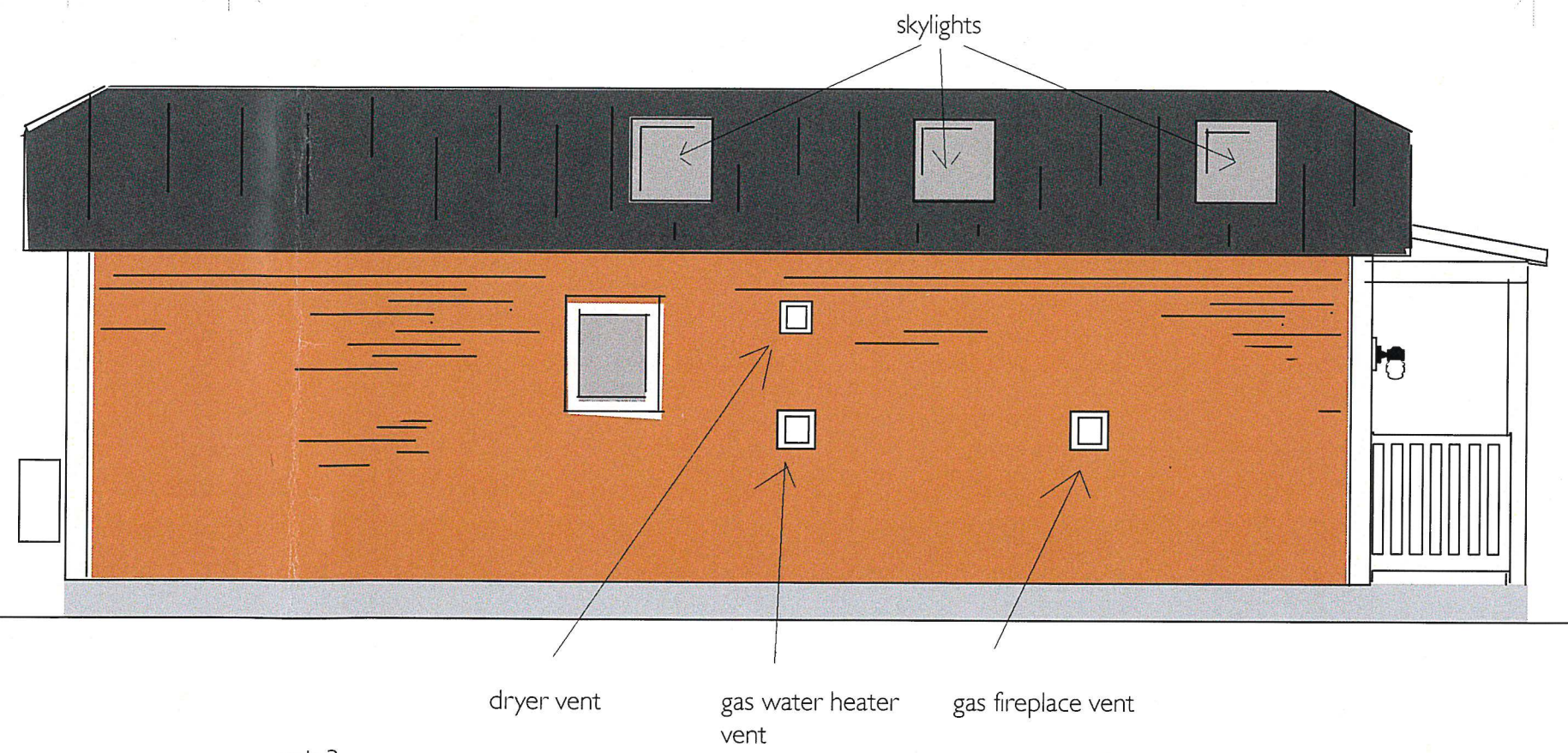
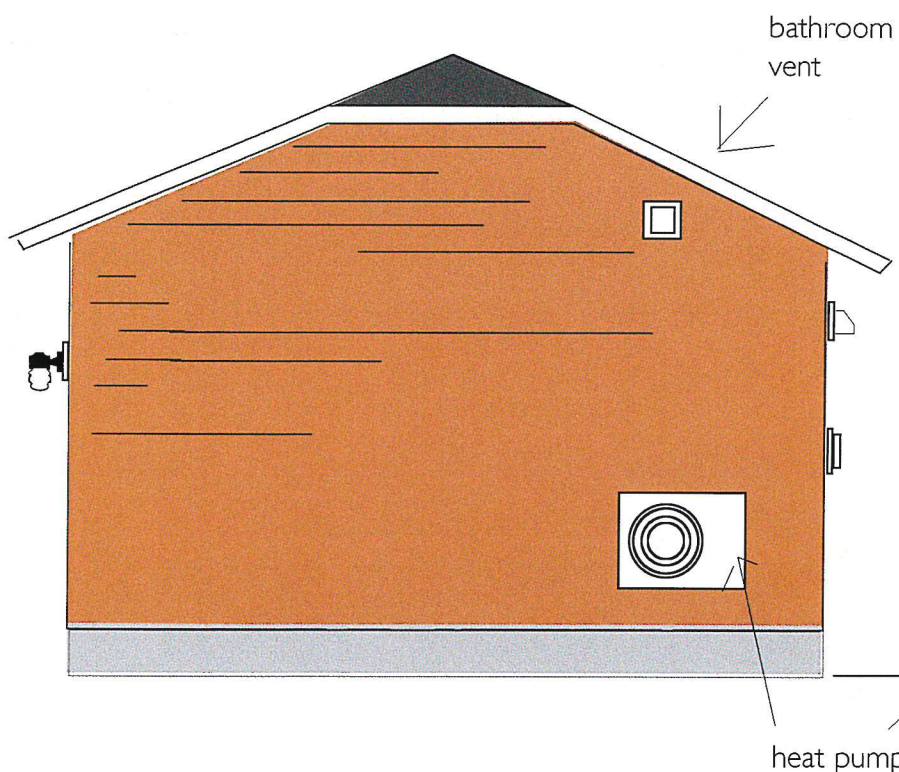


unit 2

1" = 4'

90 Ethan Allen Parkway
Owner: Rolf Danielson
2/9/2021

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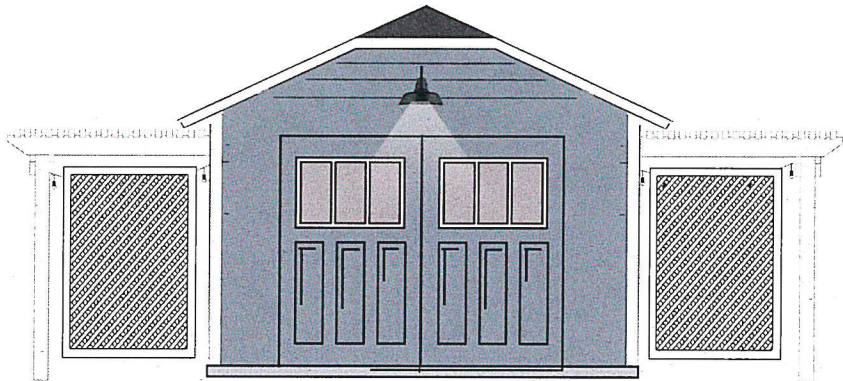


unit 3

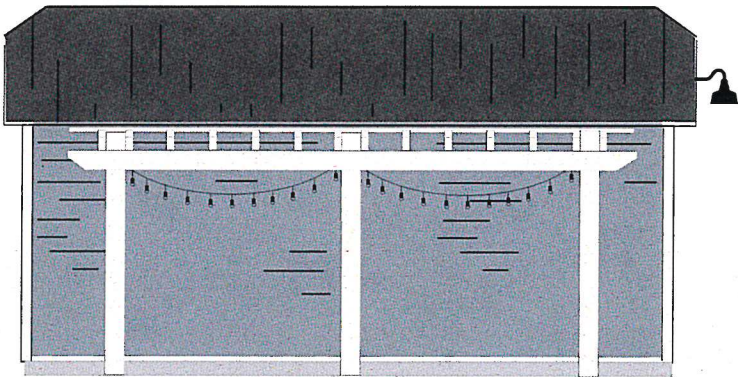
1" = 4'

90 Ethan Allen Parkway
Owner: Rolf Danielson
3/22/2021

wood clapboards and
trim
standing seam roof

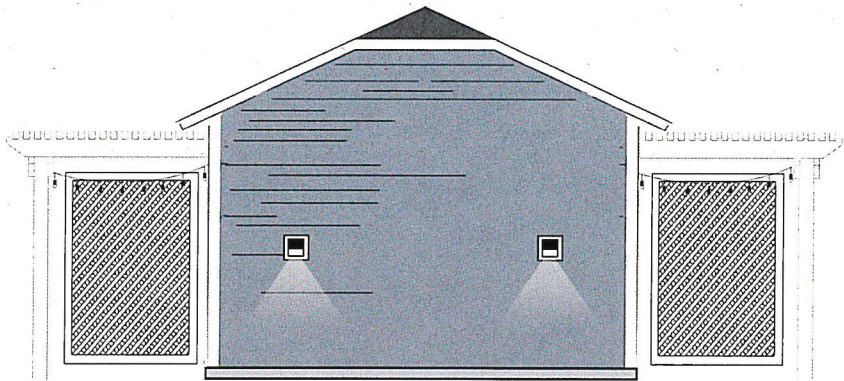


southeast

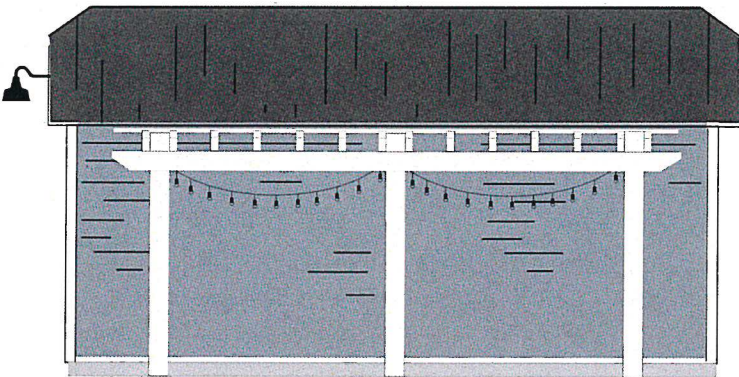


northeast

pressure treated
wood pergolas



northwest



southwest

garage
(bistro, wall pack, barn lights/ new door/ lattice
privacy screens)

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1" = 6'

90 Ethan Allen Parkway
Owner: Rolf Danielson
3/22/2021



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street view

1" = 6'

90 Ethan Allen Parkway
Owner: Rolf Danielson
3/22/2021

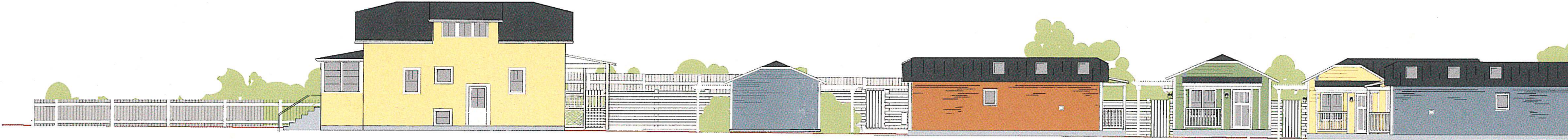


cross section viewed from southeast side of
property

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1" = 16'

90 Ethan Allen Parkway
Owner: Rolf Danielson
2/9/2021

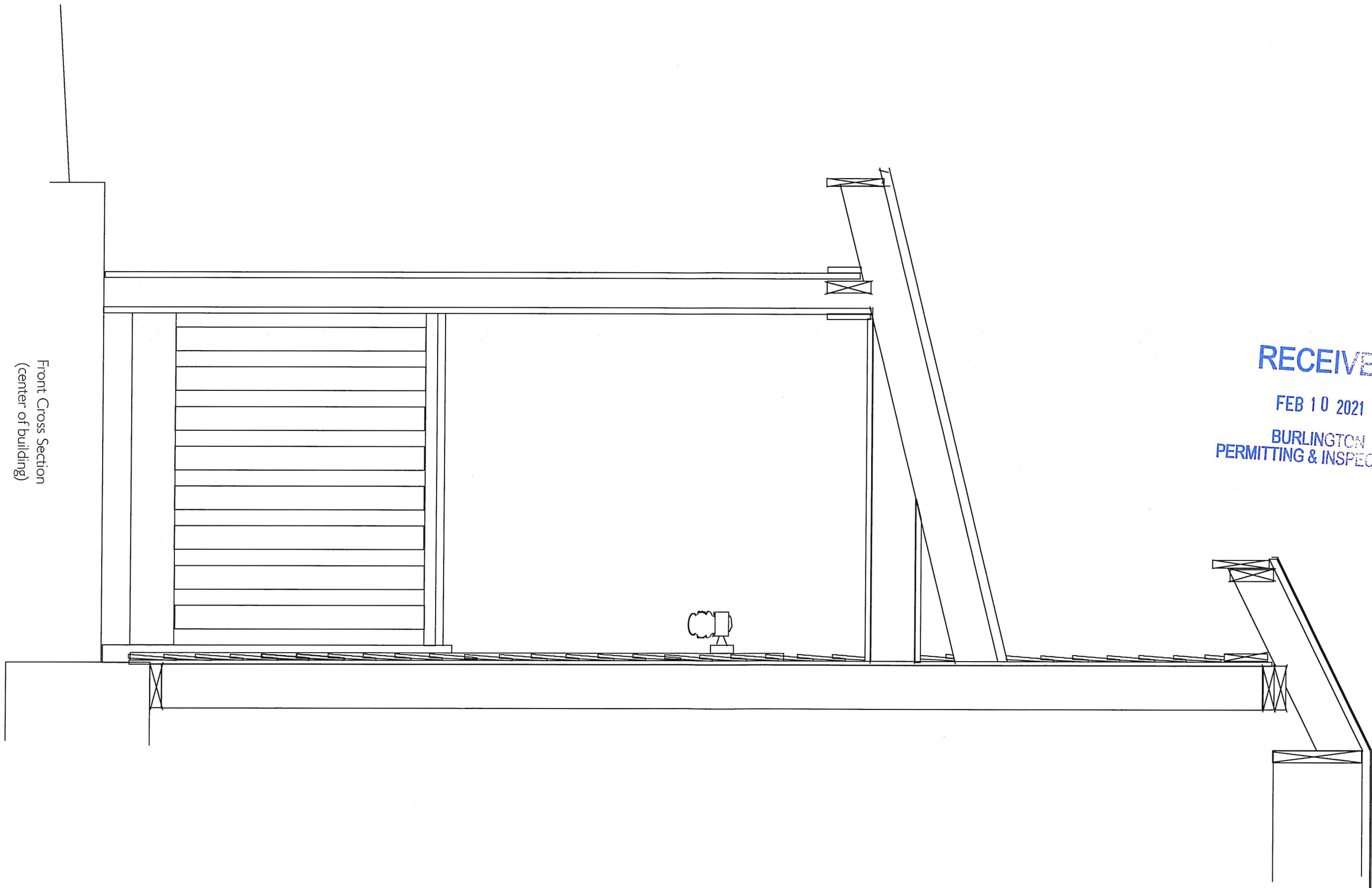


southeast view

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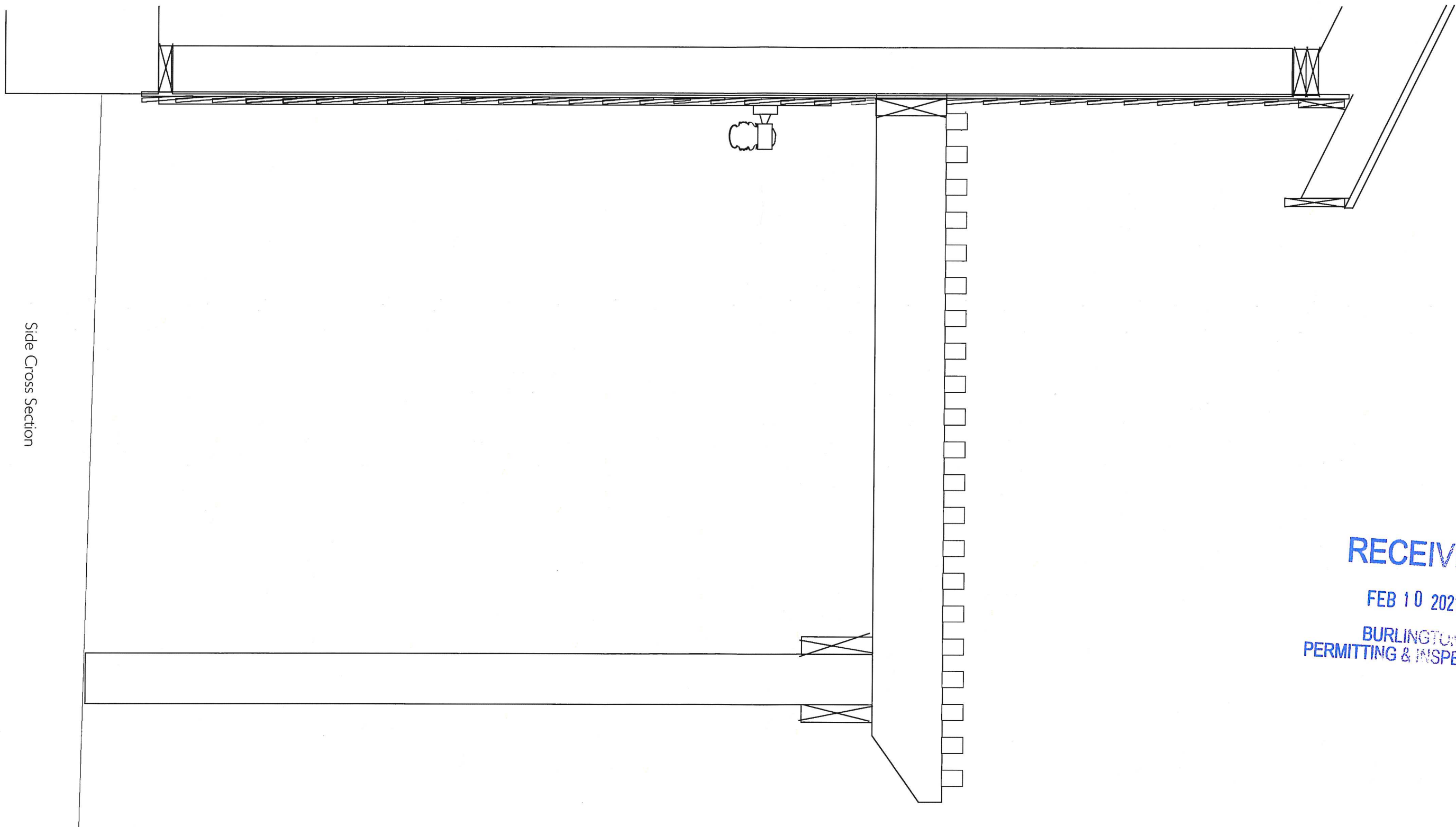
1" = 16'

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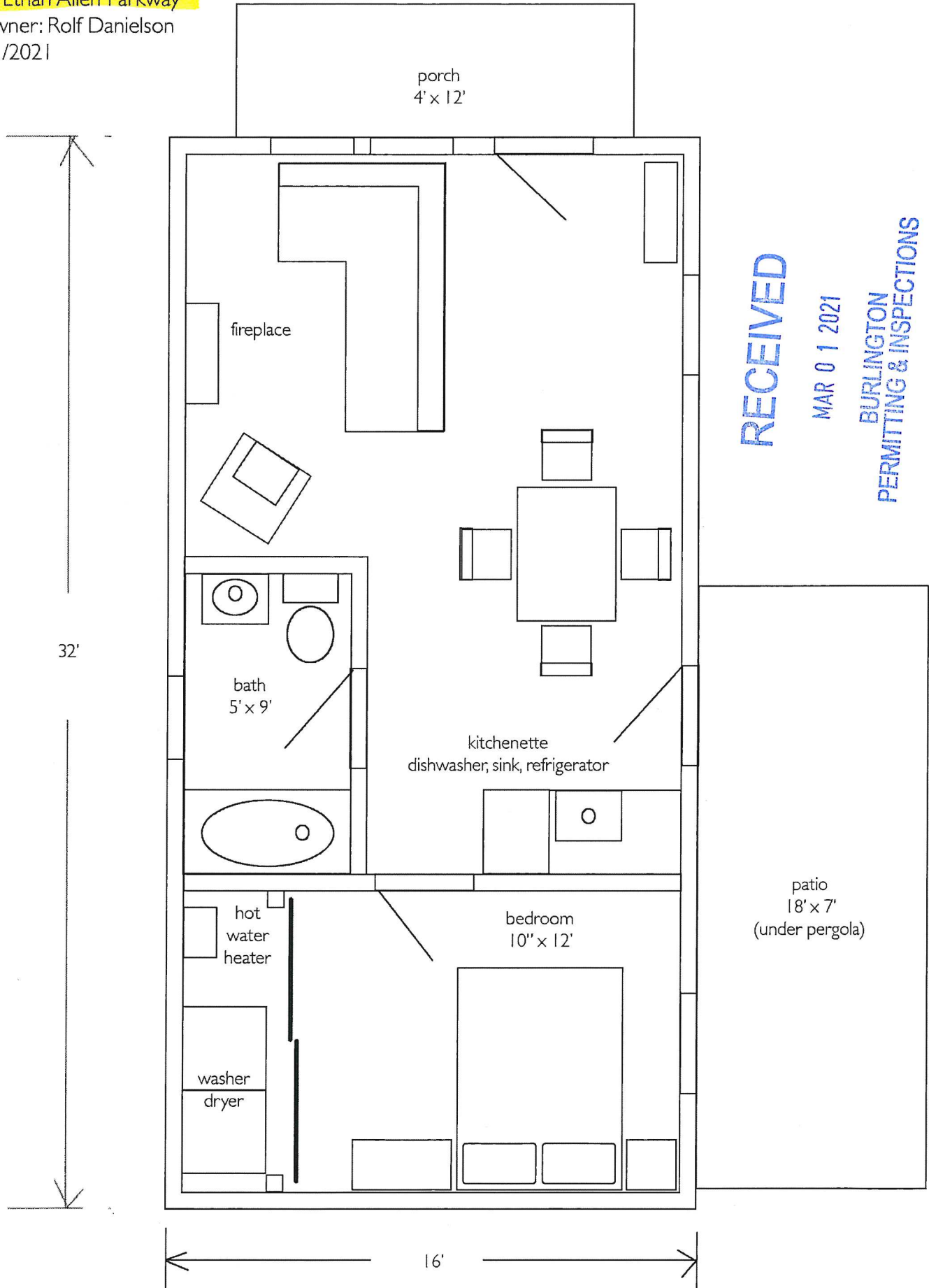


1"=1"

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90 Ethan Allen Parkway
Owner: Rolf Danielson
3/1/2021



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90 Ethan Allen Parkway

Owner: Rolf Danielson

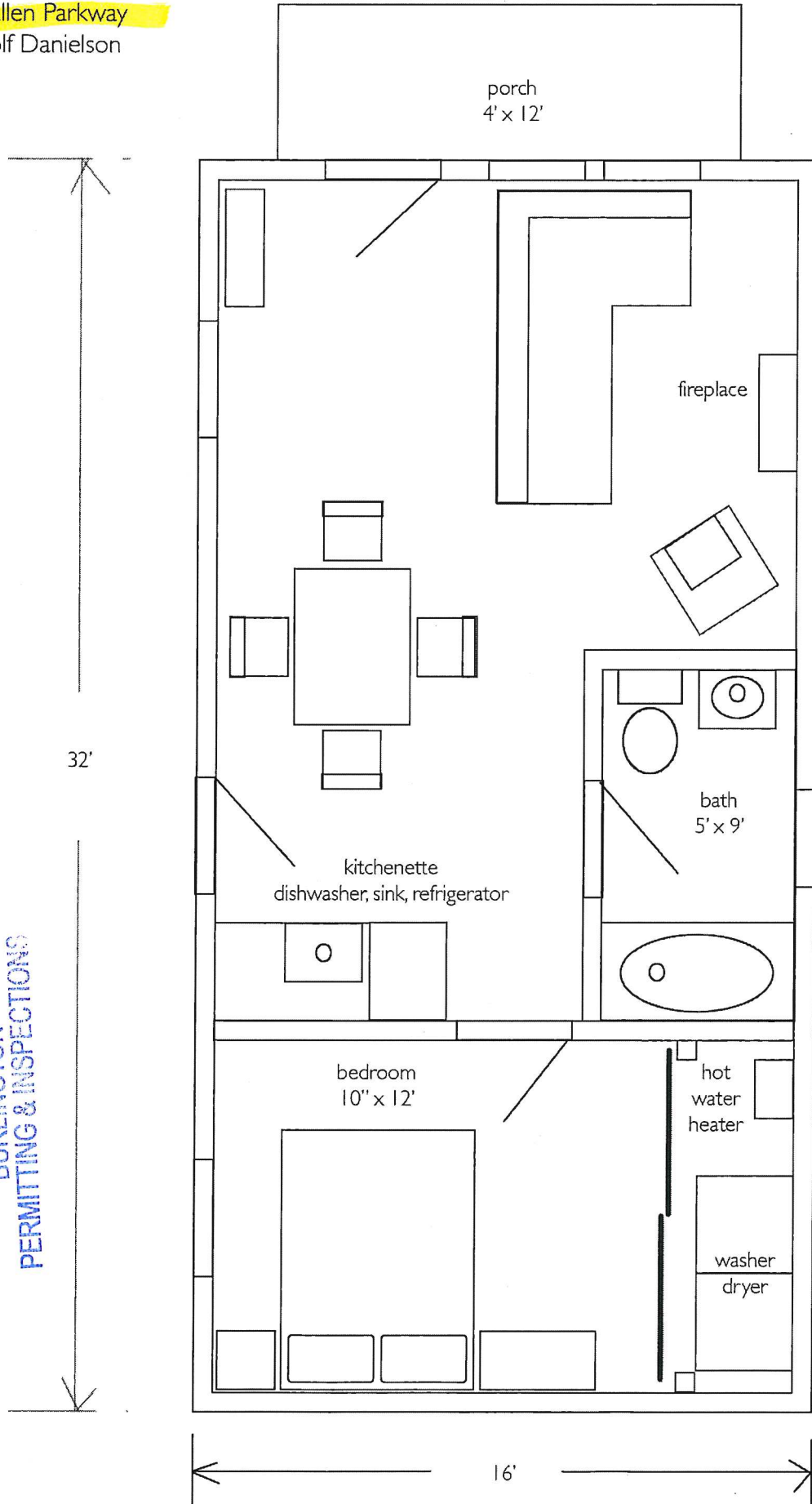
2/23/2021

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Materials
90 Ethan Allen Parkway
Rolf Danielson
2/9/2021

Units 1,2,3,4

pine trim
standing seam metal roof - color: black
wooden clapboards

Pergolas

pressured treated wood
pea stone

Exterior Fence

pressure treated posts
pressure treated bottom rails (2x6)
stockade panels (spruce, pine, fir)

Interior Fence

pressure treated posts
cedar rails

Driveway

gravel (staymat)

Walkway (between driveway and courtyard - between units)

Pea gravel
concrete slabs

Walkway (courtyard)

concrete slabs amongst grass

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Coverage Calculation	
90 Ethan Allen Parkway	
Owner: Rolf Danielson	
2/9/21	
Existing	sqft.
House	768
Front Porch	168
Rear Porch	88
Garage	260
Drive	880
Front Walk	50
subtotal	2214
Proposed	
Unit 1	560
Unit 2	560
Unit 3	560
Unit 4	560
additional Drive	2700
subtotal	4940
Total	7154
Lot Size	16476
Coverage	43%

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90 Ethan Allen Parkway
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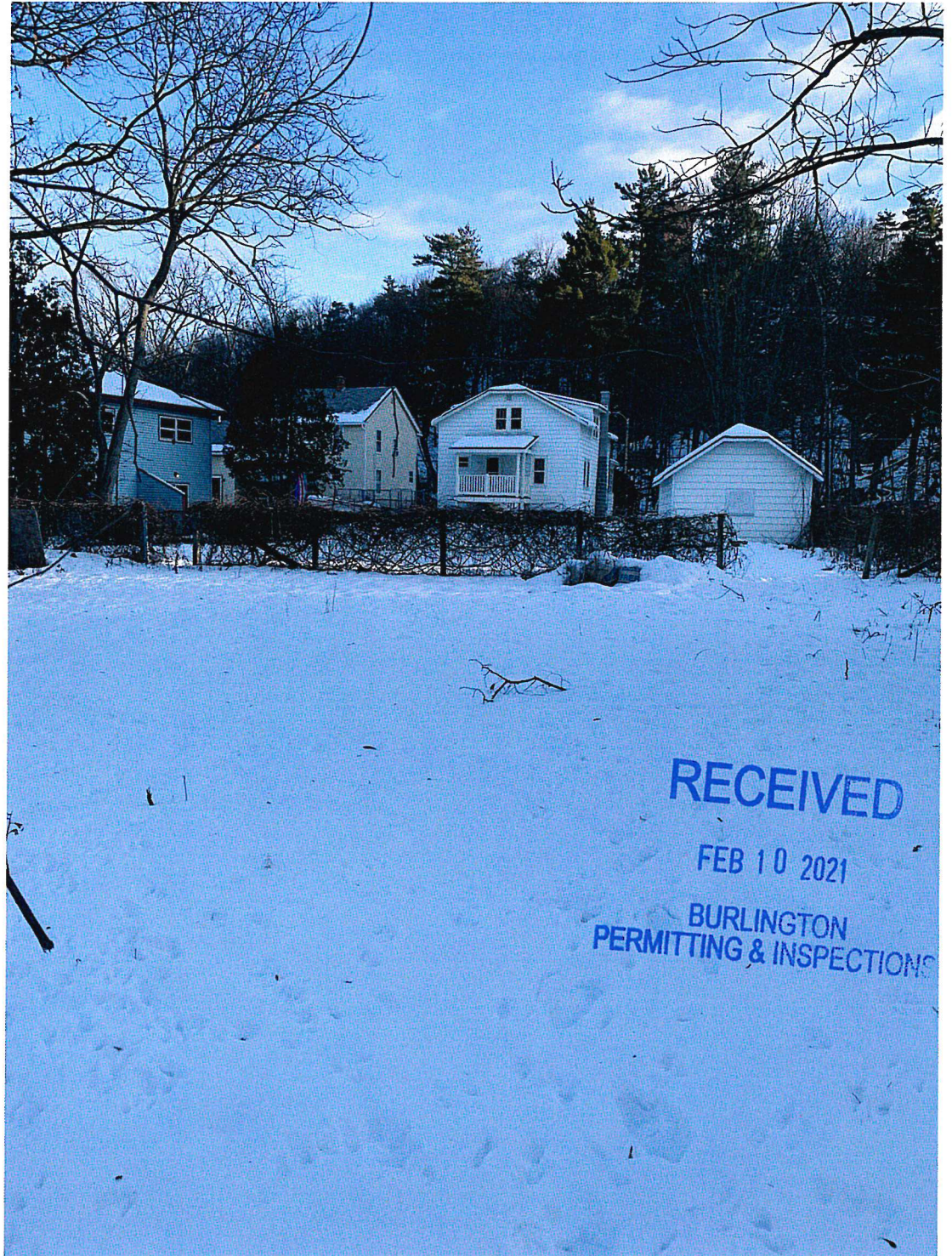
southwest view

90 Ethan Allen Parkway
Rolf Danielson
2/9/2021

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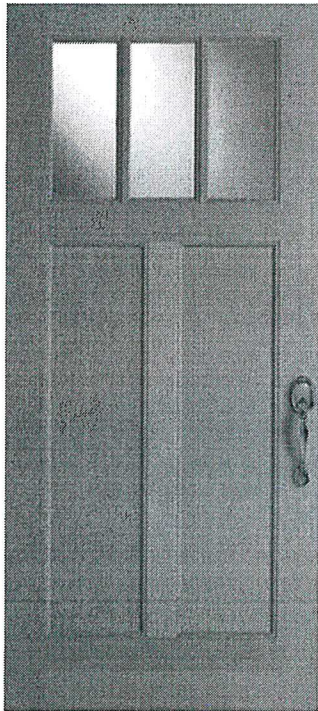


90 Ethan Allen Parkway
Rolf Danielson
2/9/2021



northeast view

6803 — CRAFTSMAN TWO PANEL - THREE LITE (TDL)



SERIES: Craftsman Collection
TYPE: Exterior Decorative
APPLICATIONS: Can be used for a swing door, with barn track hardware, with pivot hardware, in a patio swing door or slider system and many other applications for the home's exterior.

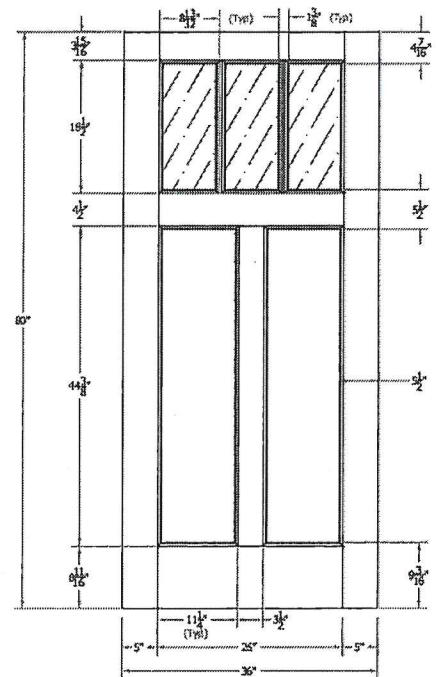
Construction Type:
 Engineered All-Wood Stiles and Rails with Dowel Pinned Stile/Rail Joinery

Panels: 3/4" VG Flat Panel
Glass: 3/4" Insulated Glazing

STANDARD FEATURES

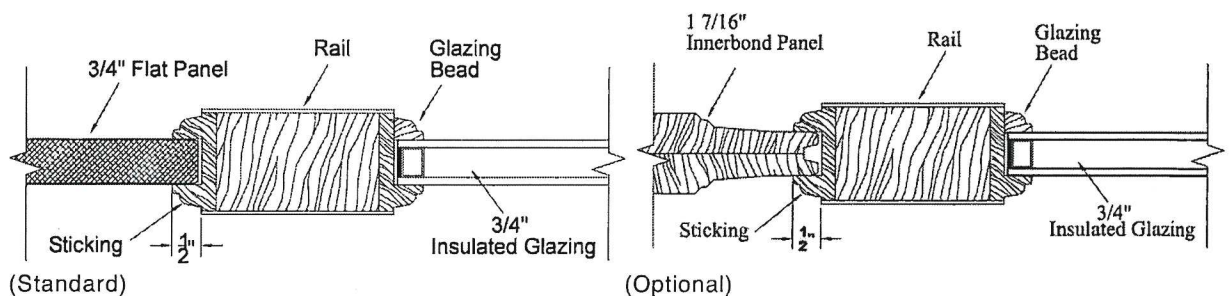
-  Any Wood Species
-  Virtually Any Size
-  Glass Options
-  UltraBlock® Technology
-  Privacy Rating: 1

DETAILED DRAWING

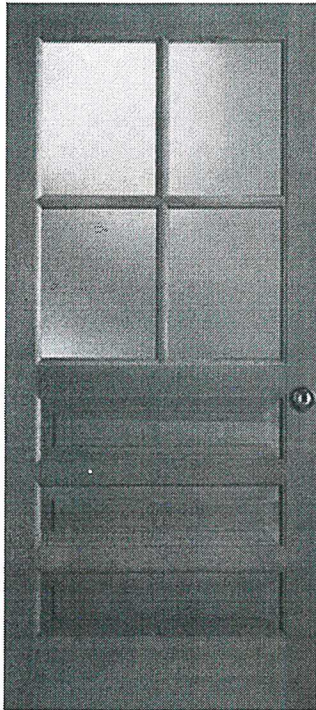


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DETAILS



418 — TRADITIONAL SASH



SERIES: Exterior French & Sash Doors

TYPE: Exterior French & Sash

APPLICATIONS: Can be used for a swing door, with barn track hardware, with pivot hardware, in a patio swing door or slider system and many other applications for the home's exterior.

Construction Type:

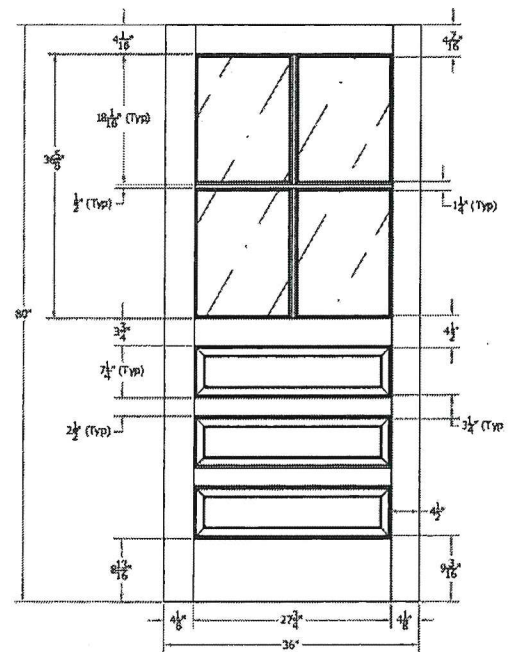
Engineered All-Wood Stiles and Rails with Dowel Pinned Stile/Rail Joinery

Panels: 3/4" Double Hip-Raised Panel

Profile: Ovolo Sticking

Glass: 1/8" Single Glazed

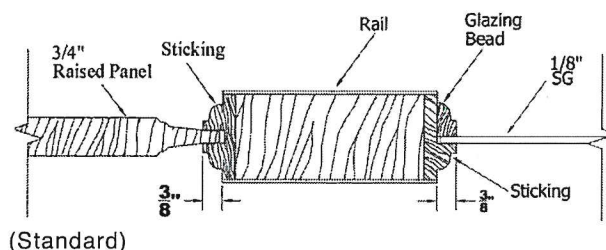
DETAILED DRAWING



STANDARD FEATURES

-  Any Wood Species
-  Virtually Any Size
-  Glass Options
-  Privacy Rating: 1

DETAILS



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**ACMEGLASS**

ERIC STEFANIAK
 26 PEARL ST
 BURLINGTON, VT 05401
 CELL 802-238-8901
 eric@acmeglassvt.com
 www.acmeglassvt.com



**SIERRA
 PACIFIC
 WINDOWS**

BILL TO:**SHIP TO:**

Phone
Email

Phone
Fax

QUOTE #	PO #	QUOTE NAME	PROJECT	JOB NAME	CUSTOMER I
1242159		Rolf Danielson	Rolf Danielson		

LINE #	LINE TYPE	DESCRIPTION	QTY	U/M	NET PRICE	EXTEND
100-1	WindowAndDoor	PK- 334	1	EA	\$313.84	\$313

****PENDING PRICING AND APPROVAL.****

****2021 PRICING****

Vinyl 8000 Premium Double Hung Operating 35.5 x 65.5

36 x 66, Frame Width = 35.5, Frame Height = 65.5, Sash Split = 50/50, Screen Width = 30.6875, Screen Height = 62.875

Complete Unit

Frame = White, White Interior

Sash = White, With Night Latches

Low-E, Argon Gas, Standard Intercept Spacer

Full Screen Applied, Standard Screen, White, Fiberglass Mesh

Applied Hardware, Standard Handle, White, 2-Locks

Unit 1 Bottom: None

Unit 1 Top: Contour Grille In Air, Equal, 11/16", White, 3W1H, Grille Type Custom

1 15/16", No Dry Wall Return

Integral Rigid Vinyl Nailing Fin, No Drip Cap

Status = Pending

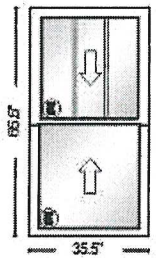
U-Factor = 0.29, SHGC = 0.26, CR = 55, VT = 0.46, AI = <0.30/<1.5, CPD =

SIE-N-124-00352-00002, Energy Star Region = NC, GapFill1 = ARG, CanER = -1, WM2K = -1

Unit 1: Lower Glass Width = 30.0625, Lower Glass Height = 30.15625, Upper Glass Width =

29.0625, Upper Glass Height = 29.15625, Lower Glass Sash Width = 32.625, Lower Glass Sash

Height = 32.6875, Upper Glass Sash Width = 31.625, Upper Glass Sash Height = 31.6875



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**BURLINGTON
 PERMITTING & INSPECTION**

Rough Opening: 36" X 66"
Overall Unit Size: 35.5" X 65.5"
Room Location:

QUOTE #	PO #	QUOTE NAME	PROJECT	JOB NAME	CUSTOMER
1242159		Rolf Danielson	Rolf Danielson		

LINE #	LINE TYPE	DESCRIPTION	QTY	U/M	NET PRICE	EXTEND
200-1	WindowAndDoor	PK- 334	2	EA	\$313.71	\$627

****PENDING PRICING AND APPROVAL.****

****2021 PRICING****

Vinyl 8000 Premium Double Hung Operating 29.5 x 65.5

30 x 66, Frame Width = 29.5, Frame Height = 65.5, Sash Split = 50/50, Screen Width = 24.6875, Screen Height = 62.875

Complete Unit

Frame = White, White Interior

Sash = White, With Night Latches

Low-E, Argon Gas, Standard Intercept Spacer

Full Screen Applied, Standard Screen, White, Fiberglass Mesh

Applied Hardware, Standard Handle, White, 2-Locks

Unit 1 Bottom: None

Unit 1 Top: Contour Grille In Air, Equal, 11/16", White, 3W1H, Grille Type Custom

1 15/16", No Dry Wall Return

Integral Rigid Vinyl Nailing Fin, Vinyl Drip Cap

Status = Pending

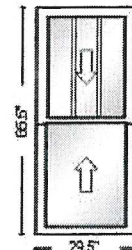
U-Factor = 0.29, SHGC = 0.26, CR = 55, VT = 0.46, AI = <0.30/<1.5, CPD =

SIE-N-124-00352-00002, Energy Star Region = NC, GapFill1 = ARG, CanER = -1, WM2K = -1

Unit 1: Lower Glass Width = 24.0625, Lower Glass Height = 30.15625, Upper Glass Width =

23.0625, Upper Glass Height = 29.15625, Lower Glass Sash Width = 26.625, Lower Glass Sash

Height = 32.6875, Upper Glass Sash Width = 25.625, Upper Glass Sash Height = 31.6875



Rough Opening: 30" X 66"

Overall Unit Size: 29.5" X 65.5"

Room Location:

LINE #	LINE TYPE	DESCRIPTION	QTY	U/M	NET PRICE	EXTEND
600-1	WindowAndDoor	PK- 326	1	EA	\$319.85	\$319.85

****2019 PRICING****

Vinyl 8000 CasementAwning Casement Picture 27.5 x 31.5

Custom: Frame Width = 27.5, Frame Height = 31.5

Complete Unit, Drawing Numbers = , Product Offering Special Modification = No

Frame Color = White, Interior Finish = White

Sash-Panel Color = White

Estimated Unit Weight = 19.73125

Dual Insulated, Low-E, Offset Lites = No, Standard Bead, Rain, Argon Gas = Yes, Spacer

Channel = Standard Intercept Spacer

Integral Rigid Vinyl Nailing Fin, No Drip Cap

1 15/16", Dry Wall Return = None

U-Factor = 0.26, SHGC = 0.3, CR = 59, VT = 0.54, AI = <0.30/<1.5, CPD =

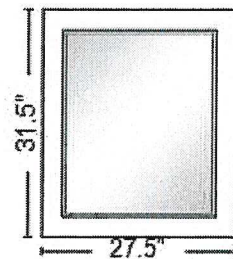
SIE-N-125-00188-00001, Energy Star Region = N,NC, GapFill1 = ARG, Can ER = -1, Can ES

Zone = , W m 2k = -1

Non-Manufacturer Related =

Unit 1: Glass Width = 21.8125, Glass Height = 25.8125, Sash Width = 25.3125, Sash Height =

29.3125



Rough Opening: 28" X 32"

Overall Unit Size: 27.5" X 31.5"

Room Location: Bath

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**BURLINGTON
PERMITTING & INSPECTION**

1/25/2021

VELUX 21 in. x 45-3/4 in. Fixed Deck-Mount Skylight with Laminated Low-E3 Glass-FS C06 2004 - The Home Depot



You're shopping
Manhattan W...
● OPEN until 9 pm

Delivering to
10010

Search

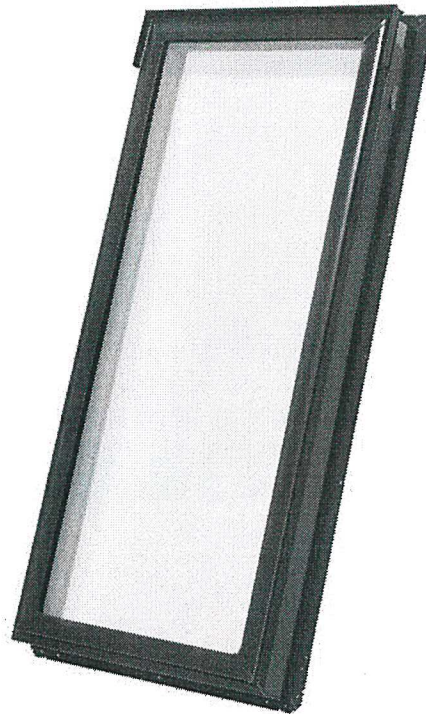


Cart | 0 items

FREE IN-STORE PICKUP Over one million online items eligible >

Home / Doors & Windows / Windows / Skylights / Fixed Skylights

Internet #202038762 Model #FS C06 2004 Store SKU #300725



Hover Image to Zoom

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21 in. x 45-3/4 in. Fixed Deck-Mount Skylight with Laminated Low-E3 Glass
by VELUX >



★★★★★ (531) Write A Review Questions & Answers (319)

\$303⁸⁵

OR

\$51⁰⁰ per month* suggested payments with 6
months* financing on this \$303.85 purchase*
Apply for a Home Depot Consumer Card

Rough Opening (W x H): 21 in x 45.75 in

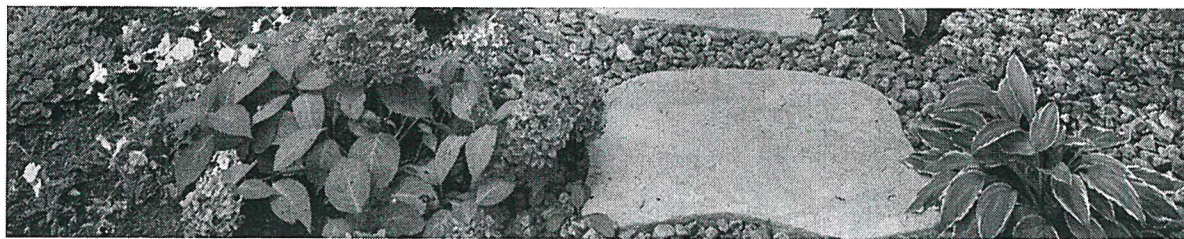
21 in x 45.75 in



How to Get It

Delivering to: 10010 | Change

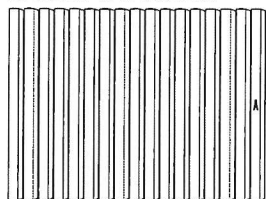




MAYA

DESCRIPTION: Slab **TEXTURE:** Natural stone (Slate)

PALLET OVERVIEW



NOTES

Palletized upright.

It is preferable to lay the stones in a random configuration.

Each pallet contains a variation of four different shapes.

*For an authentic look, each color option is composed of a variety of darker & lighter tones. Natural ingredients such as granite are present within the recipe to allow for a range in tones, veining and textures from one stone to another.

In order to obtain a more realistic appearance to natural stone, wet cast (Stonedge collection) slabs are intended to have a slightly larger variance in their dimensions than dry cast slabs. See Notes for dimensional tolerances on page 17.

See page 17 to 20 for more technical information.

Specifications per pallet	Imperial	Metric
Cubing	17 units	17 units
Approx. Weight per pallet	1 695 lbs	769 kg
Approx. Weight by unit	89 lbs	41 kg
Number of rows	1	
Coverage per unit	4.95 ft ²	0.46 m ²
Coverage per pallet	84.15 ft ²	7.82 m ²



A-P

Unit dimensions	in	mm	Units/pallet
Height	2 ¼	57	17 units
Width	23	584	
Length	31	788	



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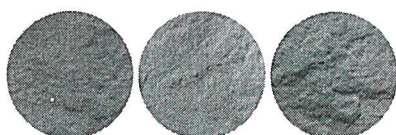
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Baja Beige

Victoria

Riviera



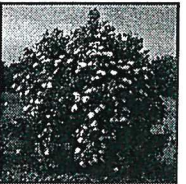
GARDENERS

SUPPLY COMPANY

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	Liberty Apple <i>Malus 'Liberty'</i>	Plant Type: tree Height: 20 feet Spread: 20 feet Sunlight: full sun	Qty. 1
	Fat Albert Blue Spruce <i>Picea pungens 'Fat Albert'</i>	Plant Type: tree Height: 15 feet Spread: 10 feet Sunlight: full sun	Qty. 1
	Common Lilac <i>Syringa vulgaris</i>	Plant Type: shrub Height: 12 feet Spread: 9 feet Sunlight: full sun	Qty. 1
	Nannyberry <i>Viburnum lentago</i>	Plant Type: shrub Height: 15 feet Spread: 10 feet Sunlight: shade to full sun	Qty. 1
	Snowball Viburnum <i>Viburnum opulus 'Roseum'</i>	Plant Type: shrub Height: 12 feet Spread: 10 feet Sunlight: partial shade to full sun	Qty. 1

GARDENERS

SUPPLY COMPANY

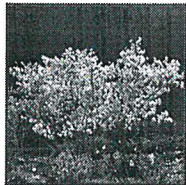
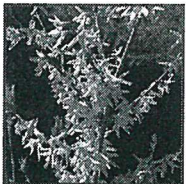
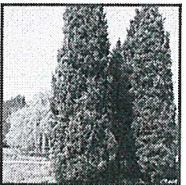
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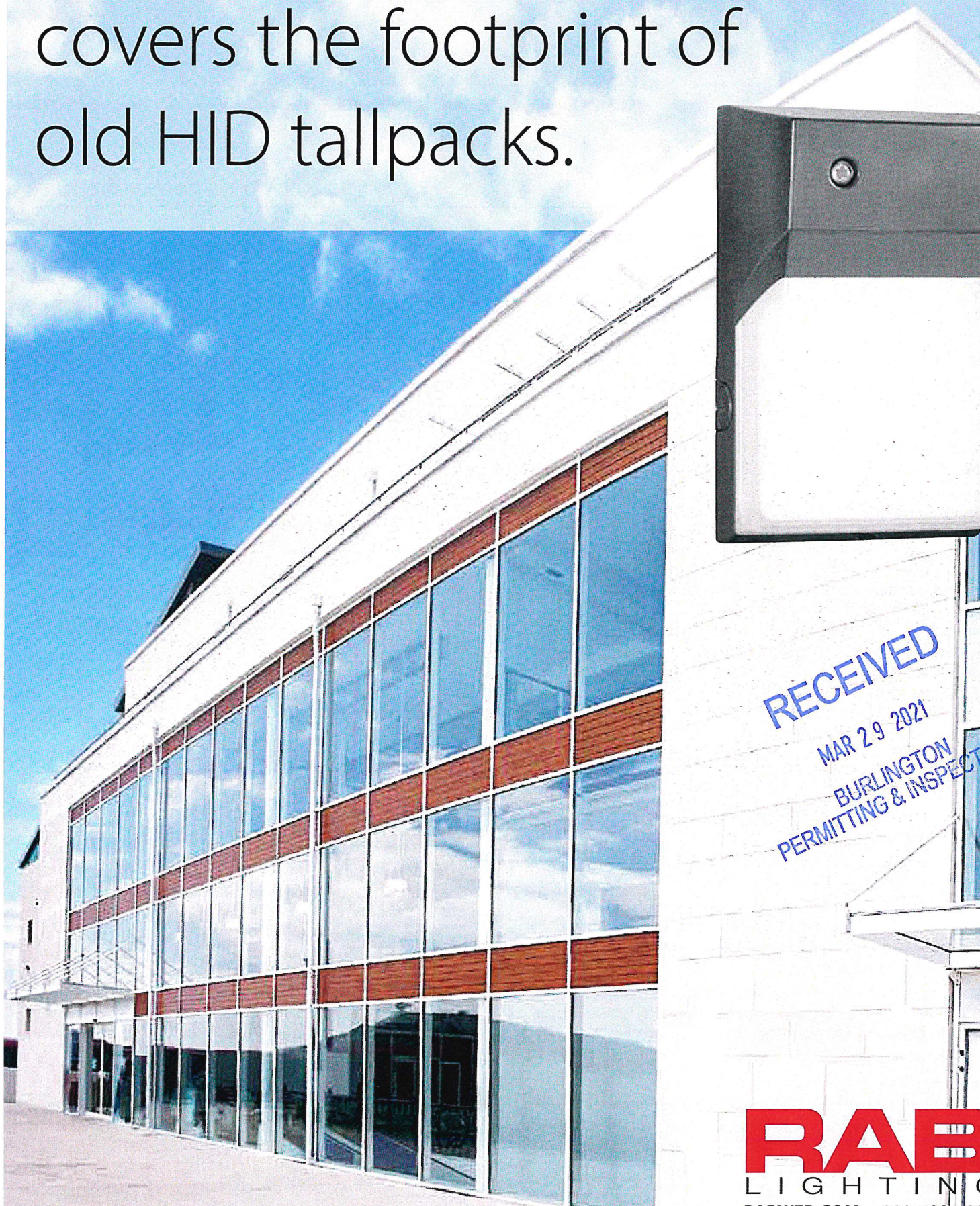
BURLINGTON
PERMITTING & INSPECTIONS

My Wish List

Tuesday, February 9, 2021

	Autumn Brilliance Serviceberry <i>Amelanchier x grandiflora 'Autumn Brilliance'</i>	Plant Type: tree Height: 25 feet Spread: 20 feet Sunlight: partial shade to full sun	Qty. 1
	Chinese Dogwood <i>Cornus kousa</i>	Plant Type: tree Height: 25 feet Spread: 25 feet Sunlight: partial shade to full sun	Qty. 1
	Meadowlark Forsythia <i>Forsythia 'Meadowlark'</i>	Plant Type: shrub Height: 9 feet Spread: 7 feet Sunlight: full sun	Qty. 1
	Quick Fire Hydrangea <i>Hydrangea paniculata 'Bulk'</i>	Plant Type: shrub Height: 10 feet Spread: 10 feet Sunlight: shade to full sun	Qty. 1
	Eastern Redcedar <i>Juniperus virginiana</i>	Plant Type: tree Height: 40 feet Spread: 20 feet Sunlight: full sun	Qty. 1

High-performing LED tallpack covers the footprint of old HID tallpacks.



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RAE
LIGHTING

WPTLED™ Tallpacks



- Largest lumen package selection in industry: Available in 12, 25 and 40W models
- Delivers up to 4000 lumens
- Standard 0-10V dimming & 120-277V photocell
- Vandal-resistant lens
- Replaces up to 70W MH and 100W HPS, reducing energy usage by up to 86%
- Covers footprint of most HID tallpack
- Available with Lightcloud™ Controller
- 100,000-Hour LED lifespan

Specifications

UL Listing: Suitable for wet locations, wall mount only

LEDs: Long-life, high-efficiency surface mount LEDs

Drivers:

12W: Class 2, Constant Current, 100-277V, 50/60Hz, 120V: 0.108A, 208V: 0.068A, 240V: 0.059A,

277V: 0.053A, 300mA, THD 14.3, Power Factor 90%, 6kV surge protection

25W: Class 2, Constant Current, 100-277V, 50/60Hz, 120V: 0.201A, 208V: 0.126A, 240V: 0.109A,

277V: 0.096A, 550mA, THD 17.0, Power Factor 90%, 6kV surge protection

40W: Class 2, Constant Current, 100-277V, 50/60Hz, 120V: 0.322A, 208V: 0.202A, 240V: 0.175A,

277V: 0.147A, 900mA, THD 17.1, Power Factor 90%, 6kV surge protection

Dimming: 0 - 10V dimmable driver

Lifespan: 100,000-hour LED lifespan based on IES LM-80 results and TM-21 calculations

Ambient Temperature: Suitable for use in -40°C (-40°F) to 40°C (104°F) ambient temperatures

5000K

Nominal Watts @120V	12W	25W	40W
Input Watts	13	24	38
Output Lumens	1371	2588	4021
Lumens Per Watt	102	107	105
Color Accuracy (CRI)	74	75	74

4000K

Input Watts	14	24	38
Output Lumens	1374	2516	4015
Lumens Per Watt	102	106	106
Color Accuracy (CRI)	73	73	73

3000K

Input Watts	14	24	37
Output Lumens	1259	2386	3578
Lumens Per Watt	93	99	96
Color Accuracy (CRI)	73	73	73

Photocell: 120-277V photocell standard; remove silicone cap to utilize

Housing: Precision die-cast aluminum

Mounting: Three (3) 1/2" NPS conduit entry points (2 sides for through-feed, and bottom), and drilling template for easy wall box mounting.

Reflector: High-gloss white aluminum

Refractor Lens: High-impact, diffuse, UV-stabilized polycarbonate

Thermal Management: Superior thermal management with die-cast aluminum heatsink

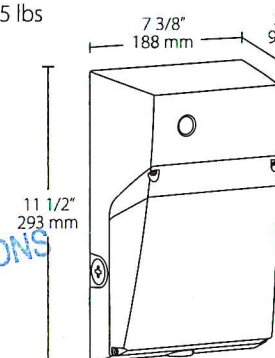
Gaskets: High-temperature silicone

Finish: Our environmentally friendly polyester powder coatings are formulated for high-durability and long-lasting color, and contain no VOC or toxic heavy metals.

Green Technology: Mercury and UV free, and RoHS compliant.

Dimensions and weight

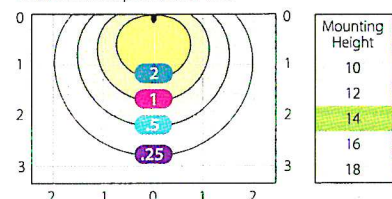
Weight: 6.5 lbs



Photometrics

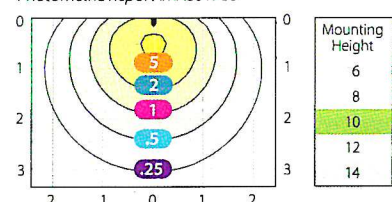
WPTLED 40W @ 14' Mounting Height

Photometric Report #RAB01788



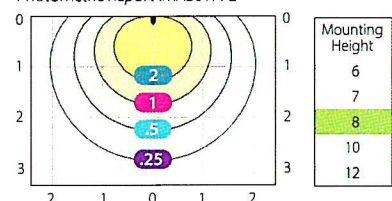
WPTLED 25W @ 10' Mounting Height

Photometric Report #RAB01780



WPTLED 12W @ 8' Mounting Height

Photometric Report #RAB01772



Grid scales: Multiples of mounting height • Values shown in

Ordering information

Product Family	Wattage	Color Temperature	Finish	Dimming (standard)	Photocell (standard)	Options
WPTLED	12 12W	Blank 5000K	Blank Bronze	/D10 0-10V Dimming	/PC2 120-277V	/LC Lightcloud™ C

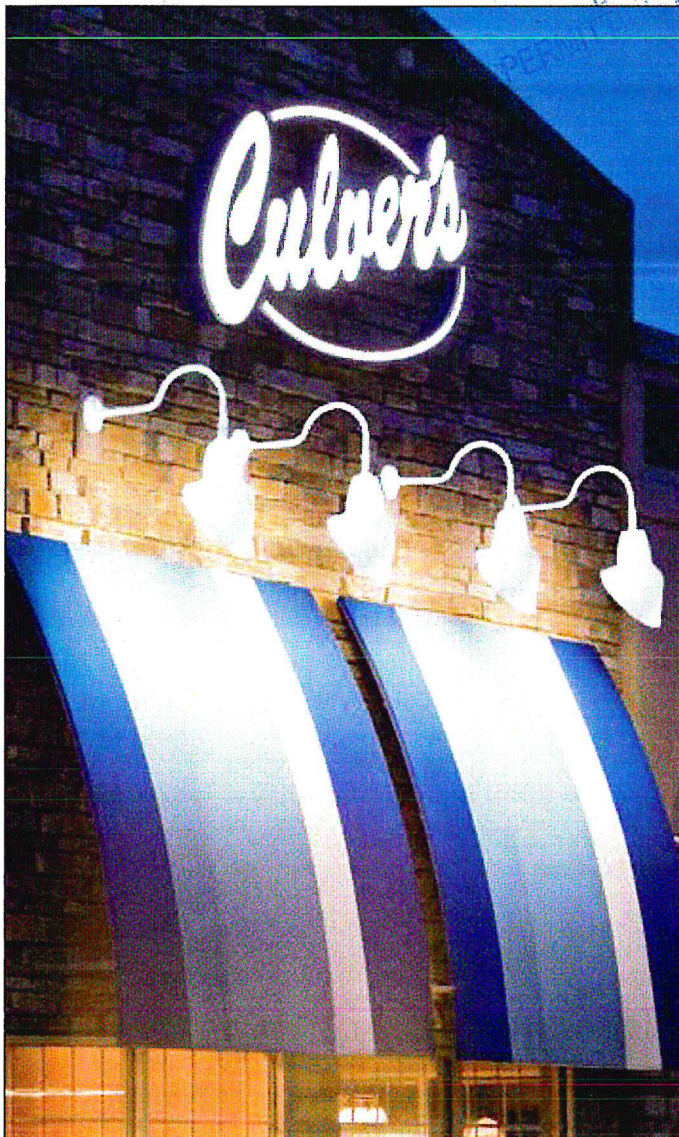
The choice is yours...



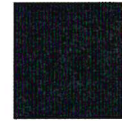
RAB
LIGHTING
RABWEB.COM • 888.722.1000

...in new Signature colors

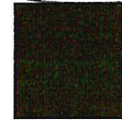
- 13 and 26 Watt high-performance LEDs
- Available in 11 high-durability powder coatings, formulated for long-lasting color
- Choose from 5 different arms and 6 shades
- Standard (6 weeks) or expedited (3 weeks) delivery
- Reduces relamping time and costs
- 13W replaces 75W incandescent, 50W MH or 18W CFL
- 26W replaces 120W incandescent, 75W MH or 42W CFL
- 100,000-Hour LED lifespan
- 5-Year no-compromise warranty



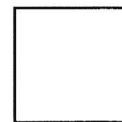
Classic Colors



Black (B)

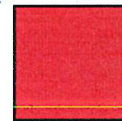


Architectural Bronze



White (W)

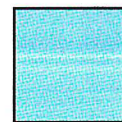
Signature Colors



Red (R)



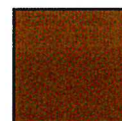
Yellow (YL)



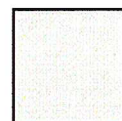
Light Blue (LB)



Royal Blue (BL)



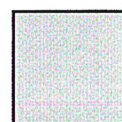
Brown (BWN)



Ivory (I)



Hunter Green (G)



Metallic Silver (S)

Contact your local RAB rep to view actual sample color chips.

Specifications

UL Listing

Suitable for wet locations. Suitable for mounting within 4' of the ground.

LED

Multi-chip, high-output, long-life LED

Drivers

13W: Constant Current, Class 2, 50/60 Hz, 100 - 240VAC:
0.3 - 0.15A, 277VAC: 0.15A, THD $\leq$ 20%, PF 97.5%

26W: Constant Current, Class 2, 50/60 Hz, 0.48 A., THD $\leq$ 20%,
PF 97.9%

Angled Cone Shade, White Finish, Neutral Light

Nominal Watts	13W	26W
Input Watts @ 120V	15.4	28.9
Output Lumens*	705	1673
Lumens per Watt*	45.8	57.9
Color Accuracy (CRI)*	86	84
Correlated Color Temp. (Nominal CCT)*	4000K	4000K

Cold Weather Starting

Minimum starting temperature is -40°F / -40°C

Thermal Management

Custom heat sink assembly in thermal contact with die-cast aluminum housing for superior heat sinking

Housing

Precision die-cast aluminum housing, lens frame and mounting plate

Reflector

Optional rectangular or spot reflectors available

Gaskets

High-temperature silicone

Mounting

Heavy-duty mounting arm with "O" ring seal & stainless steel screw

Shades

Angled Cone, Angled Dome or Straight Shade offered in 11" and 15"

Paint Finish

Chip and fade resistant polyester powder coat finish. Offers significantly improved gloss retention and resistance to color change.

Color Stability

RAB LEDs exceed industry standards for chromatic stability

Color Uniformity

RAB's range of CCT (Correlated Color Temperature) follows guidelines of the American National Standard for Specifications for the Chromaticity of Solid State Lighting (SSL) Products, ANSI C78.377-2011.

IESNA LM-79 & LM-80 Testing

RAB LED luminaires have been tested by an independent laboratory in accordance with IESNA LM-79 and LM-80, and have received the Department of Energy "Lighting Facts" label.

California Title 24

Goosenecks comply with 2013 California Title 24 building electrical codes as commercial, outdoor, non-pole-mounted fixtures $<$ 30 Watts when used with a photosensor control. Select catalog number PCS900 (120V) or PCS900/277 to order photosensor.

Green Technology

Mercury and UV free, and RoHS compliant. Powder coat is formulated with an environmentally friendly, TGIC-free (Triglycidyl Isocyanurate) process.

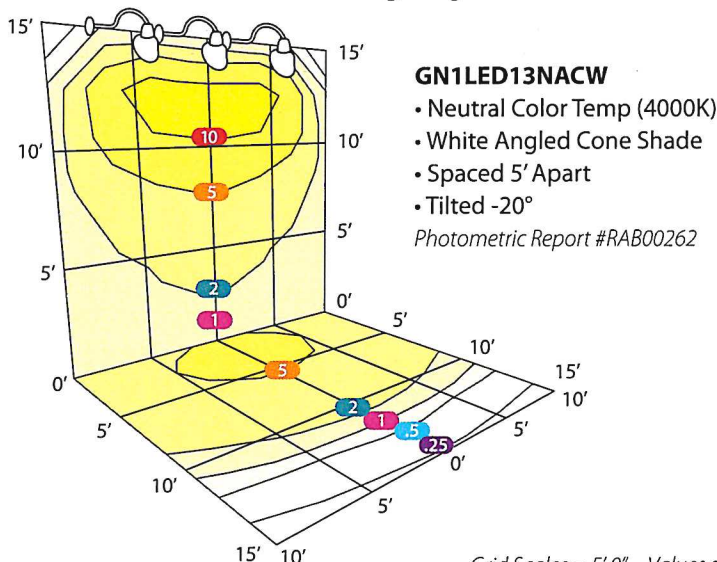
Patents

The design of the GNLED is protected by patents pending in the US, Canada, China, Taiwan and Mexico.

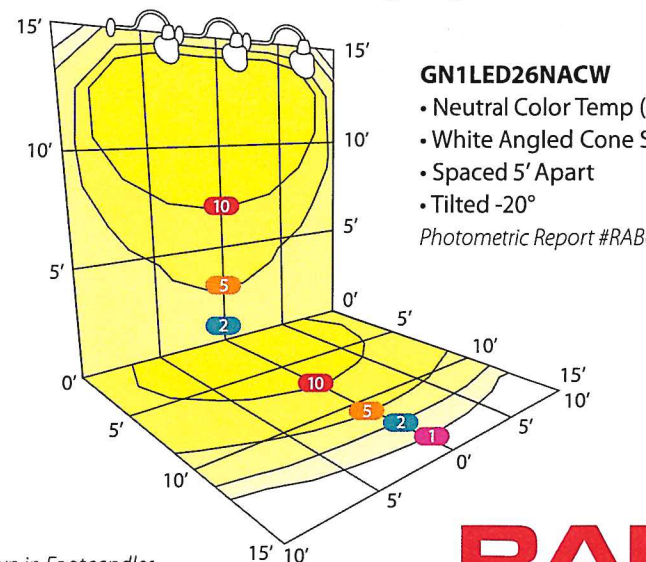
* Please visit rabweb.com for details on warm temperature performance.

Photometrics

Three 13W LEDs at 15' Mounting Height



Three 26W LEDs at 15' Mounting Height



Individual components

LED Heads

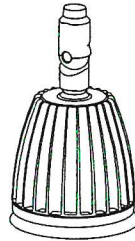
GNLED13

13W LED Head

GNLED26

26W LED Head

(available in warm and neutral)



Gooseneck Arms

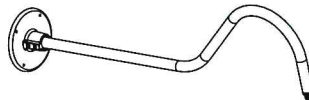
GOOSE1

Gooseneck 24" Arm



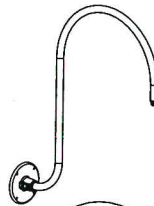
GOOSE2

Gooseneck 35" Arm



GOOSE3

Gooseneck 30" Arm



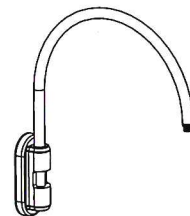
GOOSE4

Gooseneck 20" Arm



GOOSE5

Gooseneck 20" Arm
w/Pole Mount



Shades

GSAC

15" Angled Cone Shade

GSAC11

11" Angled Cone Shade

GSAD

15" Angled Dome Shade

GSAD11

11" Angled Dome Shade

GSST

15" Straight Shade

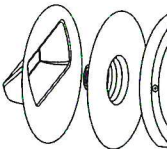
GSST11

11" Straight Shade

Accessories

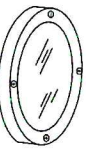
LRFGNLED

Clear Lens & Reflector Kit
w/Door Frame



LFGNLED

Frosted Lens & Door Frame
Replacement



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Ordering information

Product Family	Arm	Wattage	Color Temp	Reflector	Shade	Color
GN		LED				
Blank	No arm	13 13W	N Neutral (4000K)	Blank	No shade	B
1	GOOSE1	26 26W	Y Warm (3000K)	S Flood reflector + frosted lens	AC 15" Angled cone	W
2	GOOSE2			S Spot reflector + clear lens	AC11 11" Angled cone	A Architectural
3	GOOSE3			R Rectangular reflector + clear lens	AD 15" Angled dome	S Met
4	GOOSE4				AD11 11" Angled dome	G Hur
5	GOOSE5				ST 15" Straight shade	YL
					ST11 11" Straight shade	R
						LB
						BL
						BWN

WPLED10DC

RAB



LED Wall packs for solar applications or other 10-30 VDC systems. Perfect for off-grid, remote-area lighting. Up to 85% more efficient than line voltage AC solutions. Available in 10, 13, 20 and 26 Watt. Solar panel, battery and controls by others.

Color: Bronze

Weight: 3.3 lbs

Project:

Type:

Prepared By:

Date:

Driver Info

Type	DC to DC
120V	N/A
208V	N/A
240V	N/A
277V	N/A
Input Watts	10W

LED Info

Watts	10W
Color Temp	5000K (Cool)
Color Accuracy	92 CRI
L70 Lifespan	100,000 Hours
Lumens	547
Efficacy	54.7 lm/W

Technical Specifications

Performance

Lifespan:

100,000-Hour LED lifespan based on IES LM-80 results and TM-21 calculations

Electrical

Electrical Input Specifications:

Max Watts = 10W; Input Volts = 10-30 VDC;
Operating Amps = 1.3 - 0.4A.

Construction

Cold Weather Starting:

Minimum starting temperature is -40°C (-40°F)

Maximum Ambient Temperature:

Suitable for use in up to 40°C (104°F)

Housing:

Die-cast aluminum housing, lens frame and mounting arm

Mounting:

Surface plate and junction box

Reflector:

Specular aluminum

Gaskets:

High-temperature silicone gaskets

Finish:

Formulated for high durability and long-lasting color

Green Technology:

Mercury and UV free. RoHS-compliant components.

LED Characteristics

Color Consistency:

7-step MacAdam Ellipse binning to achieve consistent fixture-to-fixture color

Color Stability:

LED color temperature is warranted to shift no more than 200K in color temperature over a 5-year period

Color Temperature:

5000K

Color Uniformity:

RAB's range of Correlated Color Temperature follows the guidelines of the American National Standard for Specifications for the Chromaticity of Solid State Lighting (SSL) Products, ANSI C78.377-2017.

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PERMITTING & INSPECTIONS

Technical Specifications (continued)

Compliance

IESNA LM-79 & LM-80 Testing:

RAB LED luminaires and LED components have been tested by an independent laboratory in accordance with IESNA LM-79 and LM-80.

Other

Patents:

The design of the LPACK is protected by US patents pending in US., Canada, China, Taiwan & Mexico.

Equipment:

Solar panel, battery and controls by others

Warranty:

RAB warrants that our LED products will be free from defects in materials and workmanship for a period of five (5) years from the date of delivery to the end user, including coverage of light output, color stability, driver performance and fixture finish. RAB's warranty is subject to all terms and conditions found at rablighting.com/warranty.

Buy American Act Compliance:

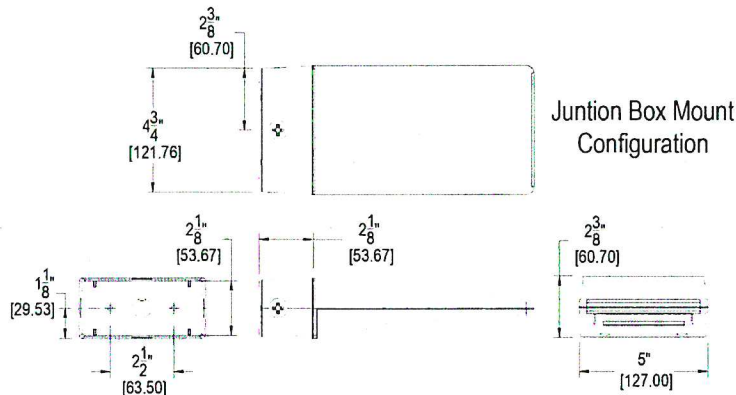
RAB values USA manufacturing! Upon request RAB may be able to manufacture this product to be compliant with the Buy American Act (BAA). Please contact customer service to request a quote for the product to be made BAA compliant.

Optical

BUG Rating:

B0 U0 G0

Dimensions



Features

- Low voltage DC
- Ideal for solar applications
- Up to 85% more energy efficient
- No energy-loss from DC-AC inverter
- Enables off-grid, remote-area lighting
- 5-Year, No-Compromise Warranty

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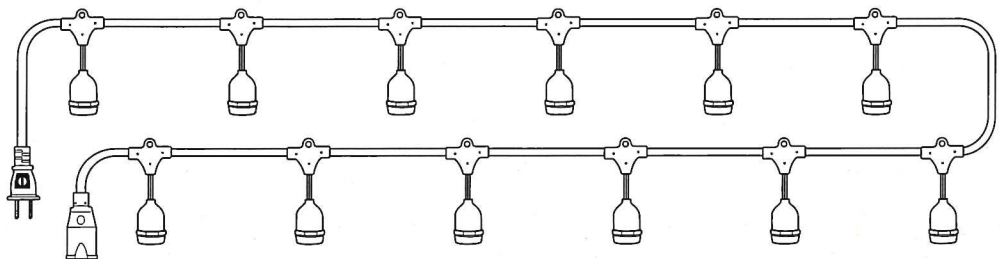
BURLINGTON
PERMITTING & INSPECTIONS



ITEM/ARTICLE/ARTÍCULO #0805

STRING LIGHT JEU DE LUMIÈRE HILERA DE LUCE

MODEL/MODÈLE/MODELO #SLL12



Questions?/Des questions?/¿Preguntas?

Call customer service at **1-800-643-0067**, 8 a.m. - 6 p.m., EST, Monday - Thursday, 8 a.m. - 5 p.m., EST, Friday.

Communiquez avec notre service à la clientèle au **1 800 643-0067**, entre 8 h et 18 h (HNE) du lundi au jeudi, ou entre 8 h et 17 h (HNE) le vendredi.

Llame al Servicio al Cliente al **1-800-643-0067**, de lunes a jueves de 8 a.m. a 6 p.m., y los viernes de 8 a.m. a 5 p.m., hora estándar del Este.



LISTED

For Wet

Location

APPROUVÉ PO

L'ENDROIT HUM

HOMOLOGADO

UBICACIÓN HUM

E478459

ATTACH YOUR RECEIPT H

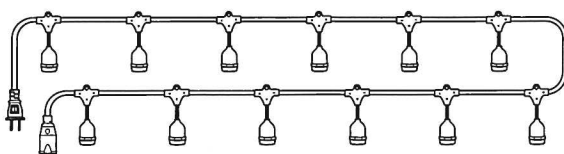
JOIGNEZ VOTRE REÇU

ADJUNTE SU RECIBO A

Purchase Date/Date d'achat/Fecha de compra _____

PACKAGE CONTENTS/CONTENIDO DEL PAQUETE

A



x 1

Lights
Lumières
Luces

B



x 14

Bulb
(2 replacement)
Ampoule
(2 rechange)
Bombilla
(2 reemplazo)

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CARE AND MAINTENANCE/CUIDADO Y MANTENIMIENTO

- Clean only with a dry, soft cloth. Do NOT use abrasive cleaners./Nettoyez l'article uniquement à l'aide d'un linge doux et sec. N'utilisez PAS de nettoyeurs abrasifs./Limpie solo con un paño suave y seco. No use limpiadores abrasivos.
- Bulb Replacement: Use only standard-base 0.5-watt max. LED bulbs or incandescent bulbs equivalent./Remplacement l'ampoule : Utilisez d'une ampoule DEL d'un maximum de 0.5 W ou d'une ampoule incandescente équivalente./Reemplazamiento de la bombilla: Use solo una bombilla de base estándar LED de 0.5 vatios máximo o una bombilla incandescente equivalente.

TROUBLESHOOTING/DÉPANNAGE/SOLUCIÓN DE PROBLEMAS

PROBLEM PROBLÈME PROBLEMA	POSSIBLE CAUSE CAUSE POSSIBLE CAUSA POSIBLE	CORRECTIVE ACTION MESURE CORRECTIVE ACCIÓN CORRECTIVA
Light does not come on initially or no longer comes on. La lumière ne s'allume pas au départ ou elle ne s'allume plus. La luz no se enciende inicialmente o ya no se enciende.	1. Bulb is burned out./L'ampoule est grillée./ La bombilla está quemada. 2. Power is OFF./L'alimentation est COUPÉE./NO hay alimentación. 3. Lamp is not plugged in./Le luminaire n'est pas branché./La lámpara no está enchufada.	1. Replace bulb./Remplacez l'ampoule./ Reemplace la bombilla. 2. Make sure power supply is ON./Vérifiez l'alimentation électrique./Asegúrese de que haya suministro de electricidad. 3. Plug lamp into outlet./Branchez le luminaire à une prise./Enchufe la lámpara en el tomacorriente.

WARRANTY/GARANTIE/GARANTÍA

The distributor warrants all of its lighting fixtures against defects in materials and workmanship for one (5) years from the date of purchase. If within this period the product is found to be defective, take a copy of the bill of sale as a proof of purchase and return the product in its original carton to the place of purchase. The distributor will, at its option, repair, replace or refund the purchase price to the consumer. All costs of installation and removal of the fixture is the responsibility of the consumer. This warranty does not cover fixtures becoming defective due to misuse, accidental damage or improper handling and/or installation and specifically excludes liability for direct, incidental or consequential damages. As some states do not allow exclusions or limitations on an implied warranty, the above exclusion and limitation may not apply. This warranty gives you specific rights which you may also have other rights which may vary from state to state.

Le distributeur garantit tous ses luminaires contre les défauts de matériaux ou de fabrication pour une période de cinq (5) ans à compter de la date d'achat. Si le produit se révèle défectueux durant cette période, ramenez-le dans son emballage d'origine à l'endroit où vous l'avez acheté et présentez une copie de votre reçu comme preuve d'achat. Le distributeur choisira de réparer ou de remplacer le produit, ou de rembourser l'équivalent du prix d'achat. Les frais d'installation et de retrait du luminaire incombent au consommateur. Cette garantie ne couvre pas les luminaires endommagés en raison d'un usage inapproprié, de dommages accidentels ou d'une manipulation ou d'une installation inadéquate, et elle exclut expressément toute responsabilité pour des dommages directs, accessoires ou consécutifs. Certains États ou certaines provinces ne permettent pas l'exclusion ou la limitation d'une garantie implicite, de sorte que les limitations ou exclusions mentionnées ci-dessus peuvent ne pas s'appliquer à vous. Cette garantie vous confère des droits précis. Il est possible que vous disposiez également d'autres droits, qui varient d'un État ou d'une province à l'autre.

El distribuidor garantiza que todos sus ensambles de iluminación están libres de defectos en los materiales y la mano de obra por cinco (5) años a contar de la fecha de compra. Si dentro de este período el producto presenta defectos, lleve una copia del recibo de venta como comprobante de la compra y el producto en su caja original al lugar donde lo compró. El distribuidor, a su elección, reparará, reemplazará o devolverá el monto original de la compra al comprador. Todos los costos de instalación y de extracción de la lámpara son de responsabilidad del comprador. Esta garantía no cubre lámparas dañadas debido al uso, daño accidental, manipulación y/o instalación inadecuada y excluye específicamente toda responsabilidad por daños directos, accidentales o resultantes. Debido a que algunos estados no permiten exclusiones o limitaciones en una garantía implícita, las exclusiones y limitaciones anteriores pueden no aplicarse en su caso. Esta garantía le otorga derechos específicos, pero podría tener también otros derechos que varían según el estado.

INSTALLATION INSTRUCTIONS/INSTRUCCIONES DE INSTALACIÓN

1. Install bulbs (B)

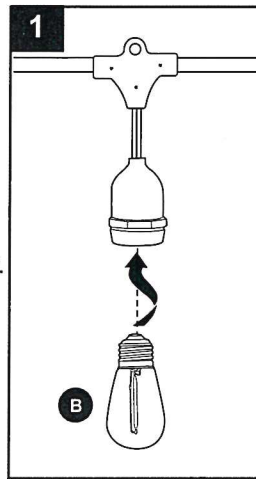
WARNING: When replacing bulb, please allow bulb to cool down before touching.

Installez les ampoules (B).

AVERTISSEMENT : Lorsque vous remplacez l'ampoule, laissez l'ampoule refroidir avant de le toucher.

Instale las bombillas (B).

ADVERTENCIA: Al reemplazar la bombilla, deje que ésta se enfríe antes de tocarla.



2. Hang the lights (A) in the desired location.

WARNING: Do not secure the cord with staples or nails.

If changing location, remove bulbs before installation.

CAUTION: Bulb may crack or break.

Suspendez le jeu de lumières (A) à l'endroit désiré.

AVERTISSEMENT : Ne fixez pas le cordon avec des agrafes ou des clous.

Si vous devez déplacer l'article, retirez les ampoules avant l'installation.

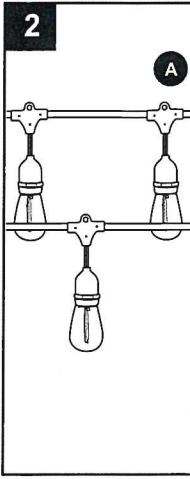
CAUTION: Vous risqueriez de fissurer ou de briser l'ampoule.

Coloque las luces (A) en la posición deseada.

ADVERTENCIA: No fije el cable con grapas o clavos.

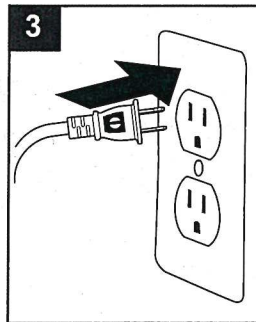
Si cambia la posición, retire las bombillas antes de comenzar la instalación.

PRECAUCIÓN: La bombilla se puede agrietar o quebrar.



3. Plug power cord of lights (A) into wall outlet.

DANGER: If using this light in a WET or DAMP location, connect this product to a Ground Fault Circuit Interrupting (GFCI) outlet to reduce the risk of personal injury, electrical shock or death. If one is not provided, contact a qualified electrician for proper installation.



Branchez le cordon d'alimentation du jeu de lumières (A) sur une prise murale.

DANGER : Si vous utilisez ce luminaire dans un endroit MOUILLÉ ou HUMIDE, branchez-le sur une prise reliée à un disjoncteur différentiel afin de diminuer les risques de blessure, de choc électrique ou de décès. Si vous ne disposez pas d'une telle prise, faites appel à un électricien qualifié.

Enchufe el cable de alimentación de las luces (A) en el tomacorriente de pared.

PELIGRO: Si utiliza estas luces en un área HÚMEDA O MOJADA, conecte este producto a un tomacorriente de interruptor de circuito de falla de puesta a tierra (GFCI, por sus siglas en inglés) para disminuir el riesgo de lesiones personales, descargas eléctricas o la muerte. Si no se le proporcionó uno de estos, póngase en contacto con un electricista calificado para que realice la instalación adecuada.

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BURLINGTON
PERMITTING & INSPECTIONS

⚠ SAFETY INFORMATION/CONSIGNES DE SÉCURITÉ/INFORMACIÓN DE SEGURIDAD

READ AND SAVE THESE INSTRUCTIONS.

VEUILLEZ LIRE ET CONSERVER CES INSTRUCTIONS.

LEA Y GUARDE ESTAS INSTRUCCIONES.

WARNING/AVERTISSEMENT/ADVERTENCIA

- Never use this product with an extension cord unless the plug can be fully inserted. DO NOT alter the plug./N'utilisez jamais une rallonge électrique, à moins que la fiche puisse être complètement insérée dans la prise. Ne modifiez PAS la fiche./Nunca utilice este producto con una extensión eléctrica a menos que el enchufe pueda insertarse completamente. NO modifique el enchufe.
- To reduce the risk of electric shock, DO NOT use the product if power cord is frayed or broken./Afin de réduire les risques de choc électrique, n'utilisez PAS le produit si le cordon d'alimentation est usé ou endommagé./Para reducir el riesgo de descargas eléctricas, NO use el producto si el cable de alimentación está deshilachado o roto.
- Always unplug this product before replacing bulbs./Débranchez toujours l'article avant de remplacer une ampoule./Siempre desenchufe el producto antes de reemplazar las bombillas.

CAUTION/ATTENTION/PRECAUCIÓN

- Risk of Fire/Risque d'incendie/Riesgo de incendio: DO NOT use bulbs having a wattage greater than the maximum stated on the product./N'utilisez PAS des ampoules de puissance supérieure à la puissance nominale indiquée sur l'article./NO utilice bombillas de un vataje mayor que el valor máximo establecido en el producto.
- The lighting string is rated 6.48 watts; do not overload. Connect end-to-end a maximum of 1,440 watts light strings or decorative lighting of the same type. Connect up to 220 sets with included 0.5 watts bulbs. For other wattage bulbs use chart below./Le jeu de lumières a une intensité nominale de 6.48 watts. Évitez toute surcharge. Ne raccordez pas plus de 1.440 watts jeux de lumières ou de lumières décoratives du même type. Permet de raccorder jusqu'à 220 jeux de lumières avec les ampoules de 0.5 watts incluses. Pour utiliser des ampoules d'une autre puissance, consultez le tableau ci-dessous. /El juego de luces tiene una clasificación de 6.48 vatios, no lo sobrecargue. Conecte de extremo a extremo un máximo de 1.440 vatios en juegos de luces o iluminación decorativa del mismo tipo. Conecte hasta 220 juegos de luces con bombillas de 0.5 vatios que se incluyen. Para bombillas de vataje diferente, utilice el cuadro a continuación.

MAXIMUM WATTAGE	NUMBER OF LIGHT STRINGS
11 WATT	11 SETS
25 WATT	5 SETS
40 WATT	3 SETS
60 WATT	2 SETS

Puissance maximale	Nombre de jeux de lumières
11 watts	11 jeux
25 watts	5 jeux
40 watts	3 jeux
60 watts	2 jeux

VATAJE MÁXIMO	NÚMERO DE HILERAS DE L
11 vatios	11 juego
25 vatios	5 juegos
40 vatios	3 juegos
60 vatios	2 juegos

- Do not mix LED and incandescent bulbs./Ne mélangez pas les ampoules à DEL et à incandescence./No combine bombillas LED con bombillas incandescentes.

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PREPARATION/PRÉPARATION/PREPARACIÓN

Before beginning installation of product, make sure all parts are present. If any part is missing or damaged, do not attempt to install the product.

Estimated Installation Time: 10 minutes. No Tools Required for Installation

Avant de commencer l'installation de l'article, assurez-vous d'avoir toutes les pièces. S'il y a des pièces manquantes ou endommagées, ne tentez pas d'installer l'article.

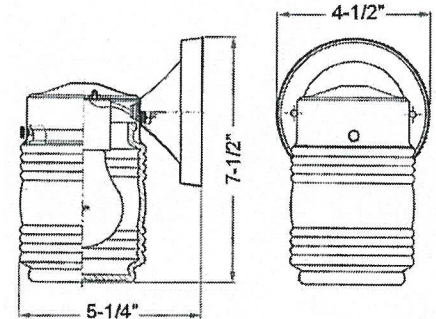
Tiempo d' instalación aproximatif : 10 minutes. Aucun outil n'est nécessaire pour l'installation

Antes de comenzar a instalar el producto, asegúrese de tener todas las piezas. No intente instalar el producto si falta alguna pieza o si están dañadas.

Tiempo estimado de instalación: 10 minutos. No se necesitan herramientas para la instalación

Jelly Jar I-Light Outdoor Wall Light

Oil Rubbed Bronze



SPECIFICATIONS

MOUNTING:	Wall Mount	LED BRIGHTNESS (LUMENS):	N/A
SLOPED CEILING ADAPTABLE:	No	LED COLOR CORRELATED TEMPERATURE (CCT):	N/A
LAMP TYPE I:	1 lamp 60W Incandescent A19 Medium base bulb	LED COLOR RENDERING INDEX (CRI):	N/A
BULB INCLUDED:	No	LED EFFICACY:	N/A
WATTS PER BULB:	60W	LED AVERAGE RATED LIFE:	N/A
TOTAL WATTAGE:	60W	ENERGY EFFICIENT:	No
DIMMABLE:	Yes	LIGHTING AMPS:	0.5
MATERIAL CONSTRUCTION:	Steel	VOLTAGE:	120V
ASSEMBLED DIMENSIONS:	4.5" L x 7.5" H x 5.25" D		
WEIGHT:	1.40 lbs.		
BACKPLATE DIMENSIONS:	4.57" H x 4.57" W		
CANOPY CEILING DIMENSIONS:	N/A		
GLASS/SHADE DIMENSIONS:	5.13" H x 4.75" L x 4.75" D		
GLASS/SHADE MATERIAL:	Glass		
GLASS/SHADE TYPE:	Clear		
GLASS/SHADE COLOR:	Clear		

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WARRANTY:	10-Year limited warranty
UL/ETL CERTIFICATION:	UL
WET/DRY/DAMP LISTING:	Wet
ADA COMPLIANT:	No
ENERGY STAR CERTIFIED:	No



TYPE:
JOB:
ORDER CODE:
APPROVALS:

Department of Permitting & Inspections

Zoning Division
645 Pine Street
Burlington, VT 05401
Telephone: (802) 865-7188

William Ward, Director
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Layne Darfler, Planning Technician
Alison Davis, Planning & Zoning Clerk
Ted Miles, Zoning Specialist
Charlene Orton, Permitting & Inspections Administrator



MEMORANDUM

TO: Development Review Board
FROM: Ryan Morrison, Associate Planner
DATE: April 6, 2021
RE: 21-0667CA; 90 Ethan Allen Parkway

=====

Note: These are staff comments only; decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

Zone: NAC Ward: 7N

Owner/Applicant: Rolf Danielson

Request: Construct four detached hotel/motel-room-rental structures, relocate existing garage, construct fencing, and expand the existing driveway and resurface with gravel.

Applicable Regulations:

Article 3 (Applications, Permits, and Project Reviews), Article 4 (Zoning Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Review Standards), Article 8 (Parking)

Overview:

90 Ethan Allen Parkway received zoning permit approval in February, 2020 to convert the existing single family residence to a hotel/motel use. There are four bedrooms in the existing structure that, according to the applicant, can sleep up to 8 guests. The applicant now proposes to construct 4 detached hotel/motel-room structures in the rear half of the property and expand the existing driveway to accommodate parking demand. Each of the proposed structures will have living, sleeping, cooking, and bathroom space. Additional site improvements include new fencing and relocating an existing garage to make room for the expanded driveway/parking area.

The layout of each proposed hotel/motel structure fits the definition of a 'dwelling unit', and what would be considered single-family residences – which are not allowed in the NAC zoning district. However, the proposed structures and use also fit within the definition of 'hotel, inn or motel' – as they will be required to limit guest stays to less than 30 days. Additionally, nothing in the hotel/motel definition requires that a hotel/motel use be within a single structure.

The application was heard by the Design Advisory Board on March 9, 2021. The DAB voted 4-1 to recommend approval of the application to the Development Review Board, with the following motion:

Based on the premise that the submitted project at 90 Ethan Allen Parkway is compliant with the preapproved hotel/motel use as defined in Section 13, the DAB moves to approve the project as submitted with the following recommendations:

1. Add landscape lighting to illuminate the walkway from the street to the guest units.
2. Reduce the amount of interior fencing to allow for better sightlines within the property and minimize unsafe spaces.
3. An effective barrier be added to prevent cars from parking on the front lawn, such as curbing, low landscaping or fencing.

The applicant has revised the plans to reflect the recommendations of the DAB. The revisions include:

1. changing the interior fencing to a 4' picket fence to allow for a more open feel;
2. adding outdoor lighting to illuminate the walkway;
3. updating the garage door to a carriage door to fit in more with the period of the buildings;
4. adding a 3' picket fence to the front yard to prevent it from being used for parking; and
5. adding some privacy screens to the pergolas.

Previous zoning actions for this property are noted below.

- 2/10/20, change single family home to hotel/motel, rebuild rear porch with a covered stairwell and widen driveway, and replacement windows.
- 3/3/20, install fence.

Recommendation: Certificate of Appropriateness Approval as per the following findings:

I. Findings

Article 3: Applications, Permits and Project Reviews

Part 3: Impact Fees

Section 3.3.2 Applicability

Any new development or additions to existing buildings which result in new dwelling units or in any new non-residential buildings square footage are subject to impact fees.

Impact fees shall be calculated based on the total gross square footage of the new hotel/motel structures. Per the submitted plans, an estimate of the fees is:

SF of Project 512

Department	<u>Residential</u>	
	Rate	Fee
Traffic	0.751	384.51
Fire	0.203	103.94
Police	0.358	183.30
Parks	0.428	219.14
Library	0.000	0.00
Schools	0.000	0.00
Total	1.740	\$ 890.89

The applicant shall submit a final calculation of gross square footage to make final an Impact Fee assessment. **Affirmative finding as conditioned.**

Section 3.3.8 Time and Place of Payment

Impact fees must be paid to the city's chief administrative officer / city treasurer according to the following schedule:

- a) *New buildings: Impact fees must be paid at least seven days prior to occupancy of a new building or any portion thereof.*

Affirmative finding as conditioned.

Article 4: Zoning Maps and Districts

Sec. 4.4.2, Neighborhood Mixed Use Districts:

(a) Purpose

(1) Neighborhood Activity Center (NAC)

The Neighborhood Activity Center zone is intended primarily to provide convenient neighborhood and city wide oriented goods and services and employment opportunities within walking or biking distance of many of the city's residential areas. The property is within a section of NAC zoned properties located on the north side of the North Avenue/Ethan Allen Pkwy intersection.

Surrounding the property on each side are multi-family residential developments. A mixture of commercial uses are within walking and biking distance. The proposed expansion of the existing hotel/motel use of the property fits within the mixed use context of the NAC zone. **Affirmative finding.**

(b) Dimensional Standards & Density

The density and intensity of development, dimensions of building lots, the heights of buildings and their setbacks from property boundary lines, and the limits on lot coverage shall be governed by the following standards:

Table 4.4.2 -1 Dimensional Standards and Density

Districts	Max. Intensity (floor area ratio¹)	Max. Lot Coverage	Minimum Building Setbacks (feet)			Building Height (feet)
			<i>Front³</i>	<i>Side</i>	<i>Rear</i>	
NAC	2.0 FAR	80% ⁴	0	0 ²	0 ²	Min: 22', 2 stories Max: 35
90 Ethan Allen Pkwy	< 2.0 FAR	43.4%	N/A	7 ft	7 ft	13 ft to roof peak (see below)

1. Floor area ratio is described in Sec. 5.2.7. Measurement of and exceptions to height limits are found in Sec 5.2.6. Bonuses for additional FAR and height where available are described in section (d)3 below, and additional height, FAR and lot coverage is afforded by-right for inclusionary housing projects under Sec. 9.1.12. Actual maximum build out potential may be reduced by site plan and architectural design considerations of Art 6.

2. *Structures shall be setback a minimum of 15-feet along any zoning district boundary line that abuts a residential zoning district. Lots of record existing as of September 9, 2015 that are split by neighborhood mixed use and residential zones are exempt from this district boundary setback.*
3. *Structures shall be setback a minimum of 12-feet from the curb on a public street.*
4. *Exceptions to maximum lot coverage are provided in (d)2.*
5. *Notwithstanding footnote 4, the NMU district at the intersection of Pine St. and Flynn Avenue shall have a minimum front yard setback of 10 feet.*
6. *Side and rear yard setbacks are applicable only to the periphery of the NAC-CR district and not to individual parcels within the district.*
7. *Front yard setbacks for buildings fronting on North Avenue shall be 20' min and 30' max.*

The subject property does not border a residential zoning district, and is therefore not subject to 15 ft minimum side or rear yard setbacks. Regarding the minimum 22 ft (2 story) height requirement, it is staff's interpretation that the four proposed structures in the rear are accessory 'rooms' to the 22'+ tall primary hotel/motel structure at the front of the property and are not subject to this minimum height requirement. Requiring such a minimum height for accessory structures, like sheds or garages associated with a principal structure for example, is in staff's interpretation above and beyond the intent of this height requirement. **Affirmative finding if the DRB agrees.**

(c) Permitted & Conditional Uses

'Hotel, Motel' is a permitted use in the NAC zone. **Affirmative finding.**

(d) District Specific Regulations

1. Ground Floor Residential Uses Prohibited

Not applicable.

2. Exception to Maximum Lot Coverage in NAC District

Not applicable.

3. Development Bonuses/Additional Allowances

Not applicable.

Article 5: Citywide General Standards

Section 5.2.3 Lot Coverage Requirements

See Table 4.4.2-1, above. **Affirmative finding.**

Section 5.2.4 Buildable Area Calculation

The parcel is not greater than 2 acres, nor residentially zoned. Not applicable.

Section 5.2.5 Setbacks

See Table 4.4.2-1, above. **Affirmative finding.**

Section 5.2.6 Building Height Limits

See Table 4.4.2-1, above. **Affirmative finding.**

Section 5.2.7 Density and Intensity of Development Calculations

See Table 4.4.2-1, above. **Affirmative finding.**

Section 5.4.9 Brownfield Remediation

Not applicable.

Section 5.5.1 Nuisance Regulations

None identified. **Affirmative finding.**

Section 5.5.2 Outdoor Lighting

The applicant has submitted exterior light spec sheets which meet these standards, and the elevation drawings show their locations. **Affirmative finding.**

Section 5.5.3 Stormwater and Erosion Control

An Erosion Prevention and Sediment Control plan has been prepared and submitted. While review and approval is still pending, a pre-release condition of this permit will require its approval by the Stormwater Program Manager. **Affirmative finding as conditioned.**

Section 5.5.4 Tree Removal

The application does not make note of any trees to be removed. The development area appears to be void of trees. Not applicable.

Article 6: Development Review Standards

Part 1: Land Division Design Standards

No land division is proposed. Not applicable.

Part 2: Site Plan Design Standards

Sec. 6.2.2 Review Standards

(a) Protection of Important Natural Features:

There are no important natural features at this location. **Affirmative finding.**

(b) Topographical Alterations:

There are no topographical alterations proposed. There is a very gentle downslope moving toward the rear of the property. **Affirmative finding.**

(c) Protection of Important Public Views:

Not applicable. There are no important public views on and around the property.

(d) Protection of Important Cultural Resources:

Not applicable. The property contains no historic features.

(e) Supporting the Use of Renewable Energy Resources:

No part of the application will preclude the use of wind, water, solar, geothermal or other renewable energy resource. The applicant has noted that he may install rooftop solar panels on each of the new structures sometime in the future. **Affirmative finding.**

(f) Brownfield Sites:

Not applicable. The property is not listed as a Brownfield Site.

(g) Provide for nature's events:

Special attention shall be accorded to stormwater runoff so that neighboring properties and/or the public stormwater drainage system are not adversely affected. All development and site disturbance shall follow applicable city and state erosion and stormwater management guidelines in accordance with the requirements of Art 5, Sec 5.5.3.

The applicant has submitted Erosion Prevention and Sediment Control, and stormwater plans, to the Stormwater Program Manager for review and approval.

Design features which address the effects of rain, snow, and ice at building entrances, and to provisions for snow and ice removal or storage from circulation areas shall also be incorporated.

Each proposed structure will have a covered front porch and entry to protect guests from inclement weather. Pergolas are proposed at the side doors of 3 of the 4 new structures and will provide additional protection from the elements. There is ample room on-site for the storage of snow.

Affirmative finding.

(h) Building Location and Orientation:

No changes are proposed to the existing structure at the front of the property. The four proposed hotel/motel structures will locate in the rear half of the property. With the installation of interior fencing, the new structures will be somewhat isolated from the rest of the property. **Affirmative finding.**

(i) Vehicular Access:

The proposal includes expanding the existing driveway to approximately 18' x 130' in order to accommodate access and parking demand. No change to the driveway access off Ethan Allen Pkwy is proposed. The property is within the Multi Modal Mixed Use parking district – which eliminates parking requirements for all uses within. Technically, on-site parking is not required. However, the proposal includes six parking spaces on one side of the driveway. Due to the six space parking limitation as outlined below in Article 8, the garage as identified on the site plan will need to be re-labeled as a storage building. **Affirmative finding as conditioned.**

(j) Pedestrian Access:

No change to pedestrian access to the existing structure at the front of the property is proposed. A walkway is identified along the driveway that is intended to provide guest access to the new structures. However, portions of this walkway along the identified driveway area appear to be located within the minimum required 7.5' aisle width for vehicles. Unless the applicant can demonstrate that this is not the case, the plans will need to be revised to remove any portion of walkway located within the 7.5' minimum driveway aisle width. **Affirmative finding as conditioned.**

(k) Accessibility for the Handicapped:

The building inspector has jurisdiction over ADA requirements, and the proposal must comply with the Burlington Code of Ordinances. **Affirmative finding as conditioned.**

(l) Parking and Circulation:

The Multi Modal Mixed Use parking district eliminates the minimum on-site parking requirements of Sec. 8.1.8 CDO. The site plan identifies a 130' x 18' (approx.) driveway that is intended to accommodate vehicular access and parking. Technically, with regard to parking, all on-site spaces

could be eliminated from the plans and compliance could be met. However, on-site parking will be made available to guests within one side of the driveway. The Multi Modal Mixed Use parking district also sets a maximum parking space requirement of 100% of the minimum number of spaces required for the Shared Parking District for any given use. In this case, hotel/motel uses in the Shared Parking District require 0.75 parking spaces per room. With 4 rooms already approved in the principal hotel/motel structure up front and the 4 guest room structures in the rear, the property will have a total of 8 guest rooms, which results in a max allowance of 6 on-site parking spaces. As a result, the development at 90 Ethan Allen Pkwy can have no more than 6 on-site parking spaces. The plans show 6 parking spaces along one-half of the driveway width. And as noted above, the existing garage will be utilized as storage, not for parking. **Affirmative finding.**

(m) Landscaping and Fences

A solid screen fence was recently permitted under ZP21-0713FC that runs along the property lines. The plans indicate new 4' tall picket fencing within the new development in the rear, and a 3' tall picket fence in the front of the property to prevent vehicles from parking in the front yard. The proposal identifies a mix of new landscaping (trees and shrubs) within the property, particularly around the new structures at the rear and the relocated garage. **Affirmative finding.**

(n) Public Plazas and Open Space:

Within the area of the 4 new guest structures, the applicant proposes a shared open space. The property also provides additional open space (grassy areas) that guests can utilize. **Affirmative finding.**

(o) Outdoor Lighting:

Where exterior lighting is proposed the applicant shall meet the lighting performance standards as per Sec 5.5.2.

The proposal includes 'Jelly Jar' exterior light fixtures at front and side doors for each guest structure, bistro lights under the pergolas, wall packet lights on the side and rear building elevations, solar path lights along the walkway, and a barn light on the storage structure (former garage). These fixtures comply with the lighting standards of Section 5.5.2 CDO. **Affirmative finding.**

(p) Integrate infrastructure into the design:

Exterior storage areas, machinery and equipment installations, service and loading areas, utility meters and structures, mailboxes, and similar accessory structures shall utilize setbacks, plantings, enclosures and other mitigation or screening methods to minimize their auditory and visual impact on the public street and neighboring properties to the extent practicable.

Utility and service enclosures and screening shall be coordinated with the design of the principal building, and should be grouped in a service court away from public view. On-site utilities shall be place underground whenever practicable. Trash and recycling bins and dumpsters shall be located, within preferably, or behind buildings, enclosed on all four (4) sides to prevent blowing trash, and screened from public view.

Any development involving the installation of machinery or equipment which emits heat, vapor, fumes, vibration, or noise shall minimize, insofar as practicable, any adverse impact on neighboring properties and the environment pursuant to the requirements of Article 5, Part 4 Performance Standards.

Each unit will be heated/cooled with heat pumps – exterior units will be located on the rear walls. The plans indicate water, gas and electric connections for each structure. The applicant has indicated that the new structures will not be individually metered, so there are no meters indicated on the plans. Garbage/recycling storage be located within the storage structure (former garage). While not noted specifically on the plans, all utility lines (water, gas, sewer, electric) will need to be located underground. **Affirmative finding as conditioned.**

Part 3: Architectural Design Standards

Sec. 6.3.2 Review Standards

(a) Relate development to its environment:

1. *Massing, Height and Scale:*

The proposed one-story tall structures, located in the rear half of the property and surrounded by 2-story multi-family structures on adjacent properties, will not exceed the massing, height and scale of nearby development. **Affirmative finding.**

2. *Roofs and Rooflines.*

The new structures will each have gable, standing seam metal roofs. Most structures along this stretch of Ethan Allen Pkwy are gable-roofed. **Affirmative finding.**

3. *Building Openings*

Each new structure will have a front and side door. Double hung windows will be installed on the fronts and on one side of each structure. On the other side of each structure, one fixed window will be installed, as well as vents for water heaters, fireplaces, and dryers. And each structure will have skylights on one side of the gable roof to allow additional sunlight in. **Affirmative finding.**

(b) Protection of Important Architectural Resources:

Not applicable. This proposal is for four new structures and the relocation of an existing garage. And although the existing structure on the property is not historic, no changes are proposed.

(c) Protection of Important Public Views:

Not applicable. There are no important public views on and around the property.

(d) Provide an active and inviting street edge:

Not applicable. The proposal takes place in the back half of the property. No changes within the front of the property are proposed.

(e) Quality of materials:

All development shall maximize the use of highly durable building materials that extend the life cycle of the building, and reduce maintenance, waste, and environmental impacts. Such materials are particularly important in certain highly trafficked locations such as along major streets, sidewalks, loading areas, and driveways. Efforts to incorporate the use of recycled content materials and building materials and products that are extracted and/or manufactured within the region are highly encouraged.

Each new structure will have wood clapboard siding, pine trim, and metal standing seam roofing. The front porches and attached pergolas will be constructed with pressure-treated materials. All

windows will be vinyl, and the doors will be wooden with door-lite inserts. These materials are common in new construction and are durable. **Affirmative finding.**

(f) Reduce energy utilization:

All new construction is required to meet the Guidelines for Energy Conservation, Section 8 of the City of Burlington Code of Ordinances. The proposal includes use of heat pumps for heating and cooling in each guest unit. Additionally, while not included in the plans, the applicant intends to install rooftop solar panels on each unit sometime in the future. **Affirmative finding.**

(g) Make advertising features complementary to the site:

Any signs will require separate permitting. **Affirmative finding as conditioned.**

(h) Integrate infrastructure into the building design:

See Section 6.2.2 (p), above. **Affirmative finding.**

(i) Make spaces secure and safe:

Spaces shall be designed to facilitate building evacuation, accessibility by fire, police or other emergency personnel and equipment, and, to the extent feasible, provide for adequate and secure visibility for persons using and observing such spaces. Building entrances/entry points shall be visible and adequately lit.

New construction shall conform to all building and life safety code as defined by the building inspector and the fire marshal. **Affirmative finding.**

Article 8: Parking

The property is located within the Multi-Modal Mixed Use Parking District. This recently created district removes minimum parking standards for all uses within. Therefore, the proposal triggers no additional parking requirement.

There is, however, an applicable maximum parking limitation per Section 8.1.9 CDO. The Multi-Modal Mixed Use Parking District limits parking to a maximum of *'100% of the minimum number of spaces required for the Shared Parking District for any given use as required in Table 8.1.8-1'* Per Table 8.1.8-1, *'Hotel/Motel (per room)'* has a minimum parking requirement of 0.75 spaces per room in the Shared Parking District. The proposed development will result in a total of 8 rooms. As a result, a maximum of 6 onsite parking spaces are allowed. The plans indicate 6 parking spaces along the driveway. Of note, the garage will be utilized for storage, not parking. **Affirmative finding.**

I. Conditions of Approval

1. **At least 7 days prior to the issuance of a certificate of occupancy**, the applicant shall pay to the City Treasurer's Office or Planning and Zoning office impact fees as calculated by staff based on the net new square footage of the proposed development. The applicant shall submit a final calculation of gross square footage to make final an Impact Fee assessment. As submitted, estimated Impact fees are:

SF of Project	512
---------------	-----

Department	<u>Residential</u>	
	Rate	Fee
Traffic	0.751	384.51
Fire	0.203	103.94
Police	0.358	183.30
Parks	0.428	219.14
Library	0.000	0.00
Schools	0.000	0.00
Total	1.740	\$ 890.89

2. The hotel/motel structures are permitted on a short term rental basis. Guest stays of more than 30 consecutive days are strictly prohibited. Rooms and meals taxes are applicable.
3. **Prior to the release of the zoning permit**, the associate Erosion Prevention and Sediment Control plan shall be reviewed and approved by the Stormwater Program Manager.
4. **Prior to the release of the zoning permit**, the applicant shall obtain a letter from the Dept. of Public Works confirming adequate water and sewer capacity.
5. **Prior to the release of the zoning permit**, the garage identified on the site plan shall be re-labeled as a storage structure.
6. **Prior to the release of the zoning permit**, the plans shall be revised to remove any portion of walkway within the 7.5 ft wide travel aisle within the driveway.
7. Any proposed signage shall be reviewed under a separate sign permit application.
8. All new construction is required to meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances.
9. Hours of construction are limited to Monday-Friday 7:00 am to 5:30 pm; Saturday construction hours are limited to interior work unless specific allowances are granted by the DRB. Construction is not permitted on Sundays.
10. New utility lines must be buried.
11. The proposed building must comply with all building and life safety code as defined by the building inspector and fire marshal.
12. A State of Vermont wastewater permit is required.
13. Standard Permit Conditions 1-15.

Department of Permitting & Inspections

Zoning Division
645 Pine Street
Burlington, VT 05401
Telephone: (802) 865-7188

William Ward, Director
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Layne Darfler, Planning Technician
Ted Miles, Zoning Specialist
Charlene Orton, Permitting & Inspections Administrator



TO: Development Review Board
FROM: Scott Gustin
DATE: April 6, 2021
RE: 21-0723CU; 195 Archibald Street

=====

Note: These are staff comments only; decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

Zone: RL Ward: 1E

Owner/Applicant: Deb Lyons

Request: Establish a 3-bedroom short-term rental (bed and breakfast).

Applicable Regulations:

Article 3 (Applications, Permits, & Project Reviews), Article 4 (Zoning Maps and Districts), Article 8 (Parking)

Background Information:

The applicant is requesting after-the-fact approval to establish a short term rental (bed and breakfast) within the second detached single family home on her property. The applicant lives in one single family home, and the other single family home is used for the short term rental. The subject residence currently serves as a long and short term rental. Approval of the short term rental use is needed. Both homes share the same parcel as confirmed with survey and reflected in the land records and historic Sanborn maps. No site or exterior building changes are proposed. A parking waiver is requested.

Previous zoning actions for this property are noted below.

- 9/24/18; Approval to enclose rear porch, modify driveway, and remove firewood crib
- 8/2/99; Approval to reconstruct front and rear porches

Recommendation: Conditional use approval as per, and subject to, the following findings and conditions.

I. Findings

Article 3: Applications, Permits, and Project Reviews

Part 5, Conditional Use & Major Impact Review:

Section 3.5.6 (a) Conditional Use Review Standards

Approval shall be granted only if the DRB, after public notice and public hearing, determines that the proposed conditional use and associated development shall not result in an undue adverse effect on each of the following general standards:

1. Existing or planned public utilities, facilities or services are capable of supporting the proposed use in addition to the existing uses in the area;

Use of the single family home as a short term rental (bed and breakfast) has no appreciable impacts on existing or planned public utilities, services, or facilities. The applicant has checked with VT DEC and found that no additional permitting, including wastewater, is needed. **(Affirmative finding)**

2. The character of the area affected as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal development plan;

The property is located within the residential – low density zone. The neighborhood includes a number of detached single family dwellings set closely together. A city cemetery is located across the street. No construction is included in this proposal, and residential density will remain unaffected. The property remains in character with the zoning district. **(Affirmative finding)**

3. The proposed use will not have nuisance impacts from noise, odor, dust, heat, and vibrations greater than typically generated by other permitted uses in the same zoning district;

The residence will remain physically unchanged. It will provide living space for guests on a short term basis. The short term rental is not expected to generate nuisance impacts from noise, odor, dust, and the like. **(Affirmative finding)**

4. The transportation system is capable of supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street designations and capacity; level of service and other performance measures; access to arterial roadways; connectivity; transit availability; parking and access; impacts on pedestrian, bicycle and transit circulation; safety for all modes; and adequate transportation demand management strategies;

No change in traffic is expected. Rather than residents arriving and departing, short term guests will arrive and depart within established timeframes. Guests will be within easy bike or walking distance to area attractions. **(Affirmative finding)**

5. The utilization of renewable energy resources;

No part of this application would prevent the use of wind, water, solar, or other renewable energy resources. **(Affirmative finding)**

6. Any standards set forth in existing City bylaws and city and state ordinances;

The short term rental must adhere to applicable life safety standards and provide payment of rooms and meals taxes as per the State of Vermont. **(Affirmative finding as conditioned)**

(b) Major Impact Review Standards

Not applicable.

(c) Conditions of Approval:

In addition to imposing conditions of approval necessary to satisfy the General Standards specified in (a) or (b) above, the DRB may also impose additional conditions of approval relative to any of the following:

1. *Mitigation measures, including but not limited to screening, landscaping, where necessary to reduce noise and glare and to maintain the property in a character in keeping with the surrounding area.*

The short term rental is not expected to produce adverse effects in need of mitigation.

(Affirmative finding)

2. *Time limits for construction.*

No construction timeline or phasing is included in this proposal. **(Affirmative finding)**

3. *Hours of operation and/or construction to reduce the impacts on surrounding properties.*

Guest check-ins are limited to 3:00 – 9:00 pm to minimize noise, traffic, and neighborhood nuisances. Check out is by 11:00 AM.

(Affirmative finding)

4. *That any future enlargement or alteration of the use return for review to the DRB to permit the specifying of new conditions; and,*

Any future enlargement or alteration will be reviewed under the zoning regulations in effect at that time. **(Affirmative finding as conditioned)**

5. *Such additional reasonable performance standards, conditions and safeguards, as it may deem necessary to implement the purposes of this chapter and the zoning regulations.*

Not applicable.

Article 4: Maps & Districts

Sec. 4.4.5, Residential Districts:

(a) Purpose

(1) Residential Low Density (RL)

The Residential Low Density (RL) district is intended primarily for low density residential development in the form of single-family detached dwellings and duplexes. The residential property is consistent with this intent. The applicant's home will continue unchanged as a residential dwelling unit. The other home will serve as a long and short term rental. The short term rental will not adversely impact the property's consistency with the character of this district.

(Affirmative finding)

(b) Dimensional Standards and Density

Not applicable.

(c) Permitted and Conditional Uses

The "bed and breakfast" (short term rental) use is conditional in the RL zone. Owner occupancy is required, and up to 3 rooms may be let in the RL zone. In this case, the applicant is the owner and lives onsite. The short term rental will contain 3 bedrooms. **(Affirmative finding)**

(d) District Specific Regulations

Not applicable.

Article 8: Parking

Sec. 8.1.8, Minimum Off-Street Parking Requirements

Single family dwellings in the Neighborhood Parking District require 2 parking spaces. "Bed & Breakfast" uses require 1 parking space per bedroom.

There is a single shared driveway for the property and serves both homes. There is room for two parking spaces in tandem arrangement. This is a pre-existing nonconformity. Use of the second home on the property as a 3-bedroom short term rental increases required parking by 1 space and requires a parking waiver. **(Affirmative finding as conditioned)**

Sec. 8.1.15, Waivers from Parking Requirements/Parking Management Plans

As this application is after-the-fact, the applicant has experience with actual parking demand for the short term rental. The entire unit is rented to guests – it is never rented by bedroom to separate guests. As such, parking demand with the short term rental is typically 1 space, sometimes 2 spaces, but never 3. Given this track record and the nature of the short term rental (whole unit, not individual bedrooms for separate guests), the 1-space parking waiver can reasonably be granted.

II. Conditions of Approval

1. This approval is predicated on continued owner-occupancy of the property for the duration of the short term rental use.
2. The short term rental must adhere to required life safety standards and provide payment of applicable rooms and meals taxes as per the State of Vermont.
3. A 1-space parking waiver is included in this permit. Each year for 3 years following the date of this approval, the applicant shall report back to the Zoning Division as to actual parking demand.
4. All guest parking shall be on-site and off-street.
5. Standard permit conditions 1-15.

Deborah W. Lyons
248 North Willard Street
Burlington, VT 05401

March 3, 2021

Scott Gustin
Department of Permitting and Inspections
645 Pine Street
Burlington, VT 05401

RECEIVED
MAR 03 2021
BURLINGTON
PERMITTING & INSPECTIONS

Dear Scott,

Enclosed you will find my application for permitting the second house I own on my property lot (195 Archibald Street) as a STR (B&B). I rent this small (1,070 sq. ft) three-bedroom house as a full unit, for a mix of both long-term and short-term time periods. I have never rented individual rooms out on a singular basis. I live onsite in the house next door on the corner at 248 North Willard Street, which is my primary residence. This property is one lot, not two.

My rental is inspected as required for long-term renting (I currently have a five-year rating), I annually submit my rental application to the BTV Dept. of Permitting and Inspections and also my EMP statement to the state, and I pay all Rooms and Meals Taxes (now through Airbnb's platform, but prior to that I did so individually with City Hall and the state). I have no plans for any construction projects or alterations to the building in the future.

This rental has been booked for weekend, weeks and months at a time, during any season. Since Covid-19 hit a year ago, I was closed for much of the year but did have some short and long term rentals in January and February, and over the summer and fall of 2020. I am very clear (and strict) with visitors that they abide by the arrival times (after 3:00pm and before 9:00pm unless extenuating circumstances, like a cancelled flight) and departure time (11:00am); BTV's noise ordinance (living right next door I'm keenly aware of sound, and have never once had to speak to guests in this regard); and trash/recycling and composting rules (separate containers and bins provided for all of these needs).

I contacted Jeff McMahon, Permit Specialist at the VT Dept of Environmental Conservation, regarding my STR (B&B) application and he sees no environmental impact at this site as long as the wastewater and water supply flow stay the same. I see no change in these with future renters.

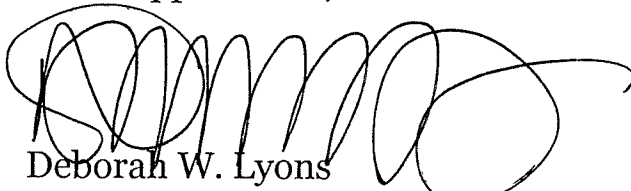
In addition to this application for a STR (B&B) permit, I would like to submit a variance request on the required three parking spaces (one space per bedroom, per the standards in Sec. 8.1.15 of Article 8 in the zoning regs).

Currently I have parking for two cars in my rental driveway (see attached site plan). I request a variance on the third parking spot needed for a three-bedroom rental. My experience over many years, for both long and short term renting, has been that two cars visiting is rare, but occasional. I have not had a need for a third car parking spot. Either no car or one car is the norm with visitors. People coming to rent my building come as a family unit or small group of friends. Many drive, but some also fly in and Uber to the house, then walk or Uber around BTV. And as stated before, this building is only rented as a whole-unit, not individual bedrooms.

In addition, there is a city bus stop on the corner 45 feet away and a CarShareVermont rental car 1.5 blocks away on the corner of Archibald Street and North Winooski Avenue.

Thank you for this consideration and please let me know if there are any other documents I need to supply for this application to be complete.

Much appreciated,



Deborah W. Lyons

H 802-864-5657 C 240-375-5106

RECEIVED

MAR 03 2021

BURLINGTON
PERMITTING & INSPECTIONS

Attachments:

Zoning Permit Application
\$195 check
Survey Plat
Site Plan

First and Second Floor Room Plan
Letter from Jeff McMahon VT Dept
Environmental Conservation

March 3, 2021 8:53 AM (3
hours ago)

McMahon, Jeff

to me

Hi Deb,

I didn't see any environmental impacts at the site. You will need to check in w/ the City. The wastewater and water supply are dependent on if your flows remain the same, if there will be increases you'll need to apply for a Permit. I'm attaching a Handbook Sheet that helps explain what your permitting needs may be, depending on the extent of your project.

Let me know if you have questions.

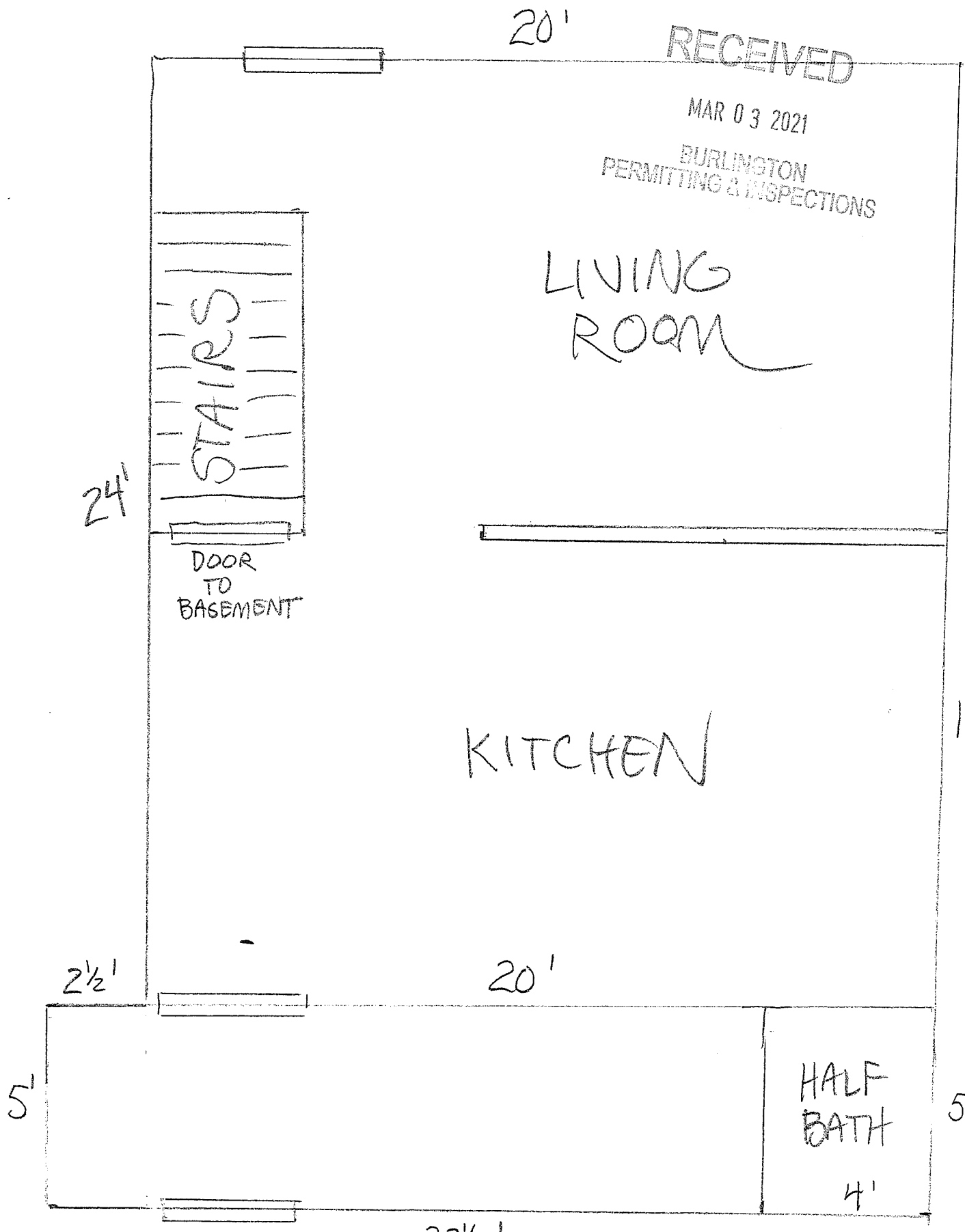
Thank you,

Due to the coronavirus (COVID-19), the Agency of Natural Resources is taking additional safety measures to protect our employees, partners and customers. We anticipate we will be working remotely until at least March 31, 2021 and encourage you to communicate electronically or via phone to the greatest extent possible. Thank you for your patience and understanding that responses may occasionally be delayed.

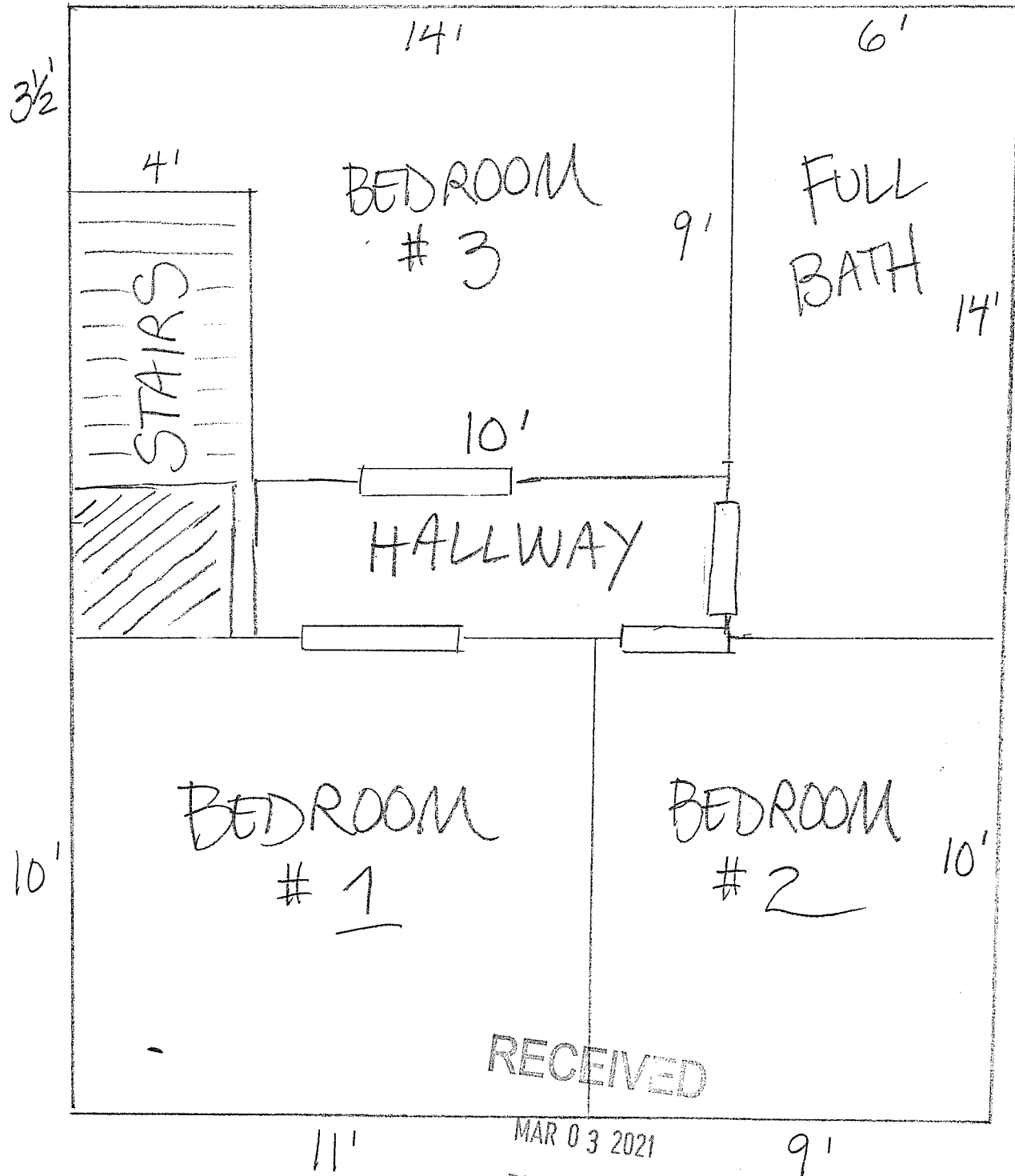
Jeff McMahon, Permit Specialist
Vermont Department of Environmental Conservation
Environmental Compliance Division
Essex Regional Office
111 West Street, Essex Junction, VT 05452
802-477-2241 cell | 802-879-3871 fax
jeff.mcmahon@vermont.gov
<https://dec.vermont.gov/environmental-assistance>

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MAR 03 2021
BURLINGTON
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195 ARCHIBALD ST. FIRST FLOOR



195 ARCHIBALD ST. SECOND FLOOR



RECEIVED

MAR 03 2021

BURLINGTON
PERMITTING & INSPECTIONS

CEMENTARY

ARCHIBALD ST.

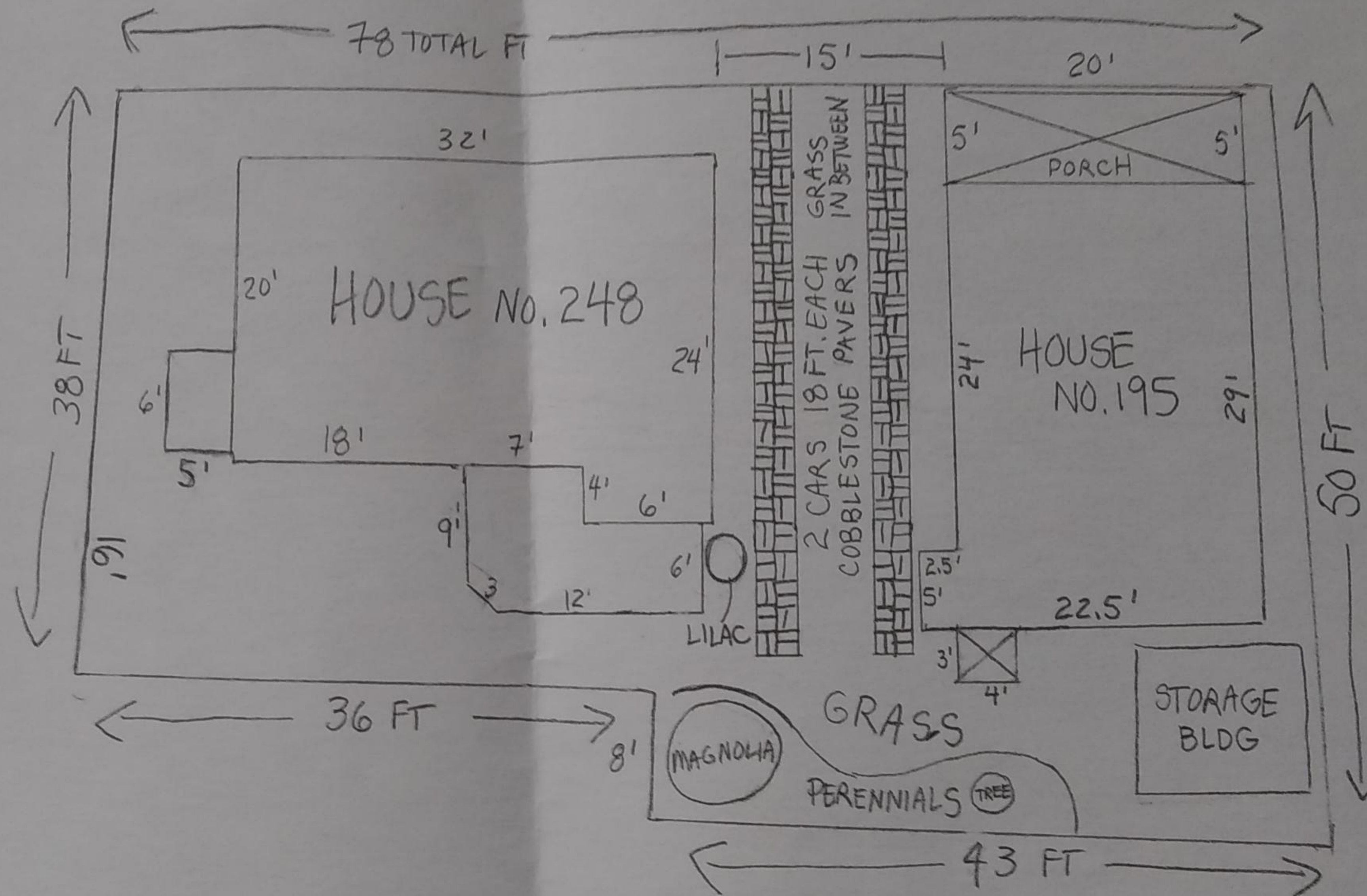
RECEIVED

MAR 03 2021

BURLINGTON
PERMITTING & INSPECTIONS

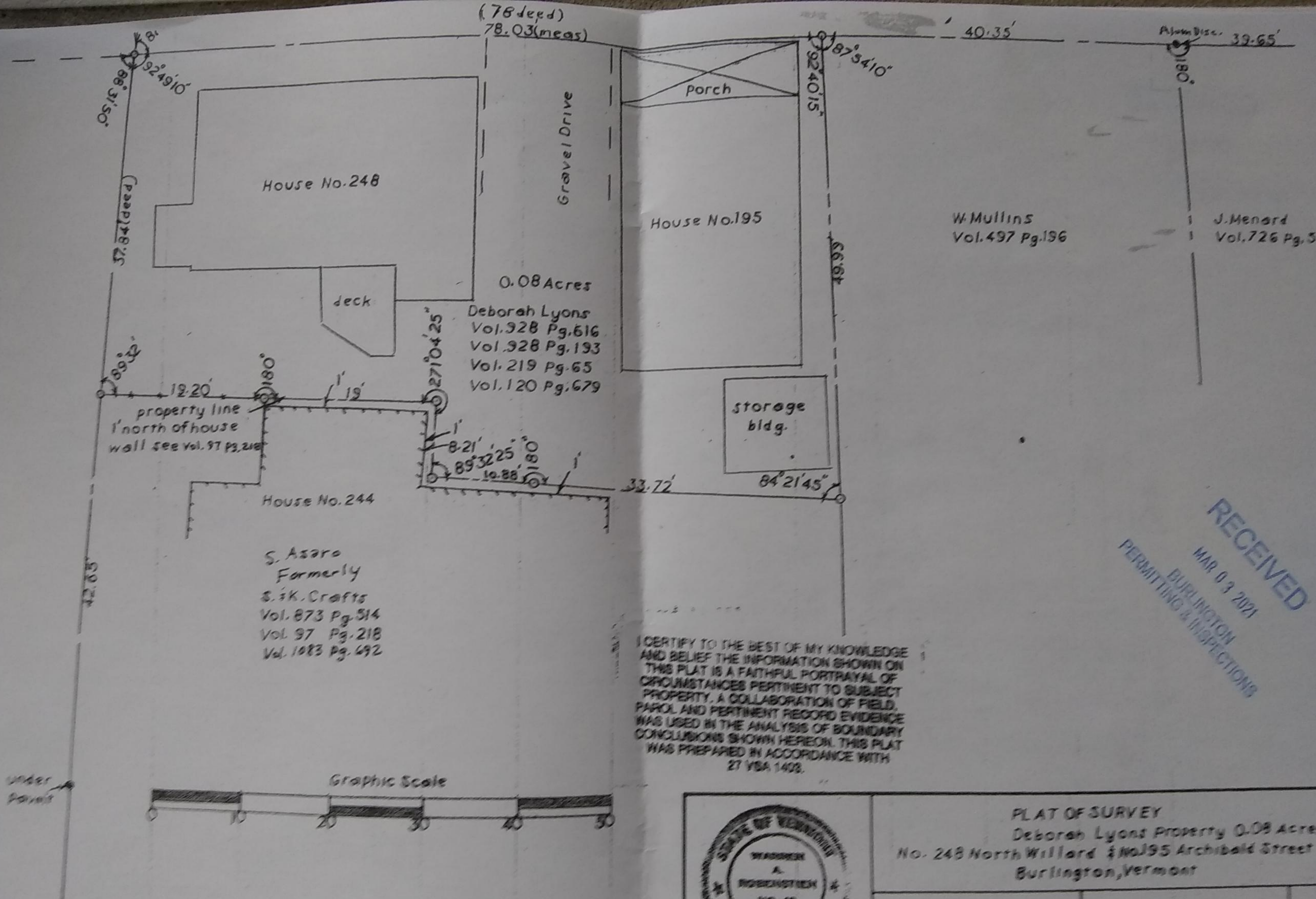
(B) BUS
STOP

NORTH WILLARD ST



SCALE: 1" = 10 FT

195 ARCHIBALD STREET
SITE PLAN



I CERTIFY TO THE BEST OF MY KNOWLEDGE AND BELIEF THE INFORMATION SHOWN ON THIS PLAT IS A FAITHFUL PORTRAYAL OF CIRCUMSTANCES PERTINENT TO SUBJECT PROPERTY. A COLLABORATION OF FIELD, PAROL AND PERTINENT RECORD EVIDENCE WAS USED IN THE ANALYSIS OF BOUNDARY CONCLUSIONS SHOWN HEREON. THIS PLAT WAS PREPARED IN ACCORDANCE WITH 27 VSA 1403.



PLAT OF SURVEY Deborah Lyons Property 0.08 Acres No. 248 North Willard & No. 195 Archibald Street Burlington, Vermont	
DATE: Oct. 20, 2014	SCALE: 1" = 10'
WARREN A. ROBENSTIEN, REG. VT & NH L.S. P.O. BOX 171 WINDSOR, VT 05094	



Department of Permitting & Inspections

Zoning Division
645 Pine Street
Burlington, VT 05401
Telephone: (802) 865-7188

William Ward, Director
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Layne Darfler, Planning Technician
Ted Miles, Zoning Specialist
Charlene Orton, Permitting & Inspections Administrator



TO: Development Review Board
FROM: Scott Gustin
DATE: April 6, 2021
RE: 21-0629DT; 92 Farrington Pkwy

=====

Note: These are staff comments only; decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

Zone: RL Ward: 7N

Owner/Appellant: Raymond K. Ingram, Jr.

Request: Appeal of adverse determination regarding yard parking and the 15-year statute of limitations for zoning violations.

Applicable Regulations:
Article 12 (Variances and Appeals)

Background Information:

The applicant has sought a determination that the yard parking occurring next to the driveway has been ongoing continuously for at least 15 years and is, therefore, an unenforceable zoning violation per the 15-year statute of limitations. The yard parking is located just to the east of the driveway, immediately adjacent to the shared side property line with the adjacent residence. There is no zoning permit on file recognizing or permitting this yard parking space. An adverse administrative determination was issued, and the appellant is appealing that decision to the Development Review Board.

There are no previous zoning actions for this property.

Recommendation: Uphold adverse determination as per, and subject to, the following findings.

I. Findings

A complaint about expanded parking off the driveway was received by zoning enforcement October 9, 2020. A warning letter was sent to the property owner (the appellant) that same day.

Expansion of parking area requires site plan review and zoning approval in the residential – low density zone wherein the property is located. No zoning permit has been sought or obtained. Note that the location of the expanded parking within the side yard setback would preclude issuance of a zoning permit.

Rather than remedy the violation, the property owner sought recognition of the expanded parking as an unenforceable zoning violation per the 15-year statute of limitations. The owner sought that recognition with an administrative determination request that was filed January 13, 2021. Minimal evidence was provided with the determination request and consisted of two photos (one from 2004 and another from 2006) and a list of neighbors for the past 15 ½ years. The 2004 photo clearly shows absence of the yard parking. The 2006 photo is very blurry, but an area is circled by the property owner indicating the yard parking.

In addition to items provided by the property owner, staff reviewed orthophotos from 2000, 2004, 2016, 2018, and 2019. 2000 and 2004 clearly show absence of the yard parking. The 2016 orthophoto is blurry but may show it. 2018 and 2019 orthophotos clearly show the yard parking. The zoning permit record was reviewed and revealed no zoning permits for the property.

Sec. 5.3.2, *Bianchi controlled uses, structures, and lots*, of the Comprehensive Development Ordinance pertains to unenforceable zoning violations per the 15-year statute of limitations. In order to qualify as an unenforceable violation, the yard parking must have been in place and in continuous and uninterrupted use for at least 15 consecutive years. The burden of proof to demonstrate this continuous and uninterrupted use is on the property owner. The evidence provided did not conclusively meet this burden of proof. Note again that this yard parking is a violation of the zoning ordinance and cannot be permitted due to its encroachment into the required side yard setback.

Lacking solid evidence of continuous, uninterrupted use of the yard parking for at least 15 years, an adverse administrative determination was issued February 22, 2021.

This determination is in regard to the above-referenced property, specifically your request that the City of Burlington recognize that the yard parking next to the east side of the driveway has been in place continuously for over 15 years. The City reviewed the following documents and evidence to form its determination:

- The City's zoning permit records
- 2008 Comprehensive Development Ordinance and as amended
- Photographs and related document provided with the determination request
- Orthophotos of 2000, 2004, 2016, 2018, & 2019

Following review of these items, it is the determination of the Administrative Officer that insufficient evidence has been provided to demonstrate the continuous presence of this yard parking for at least 15 years. The yard parking is not evident in the 2000 or 2004 orthophotos. There is no zoning permit on file permitting this yard parking. As such, it is in violation of the Comprehensive Development Ordinance.

The property owner appealed this adverse determination March 8, 2021 – within the 15-day appeal period. The appeal contains additional photos (several are blurry) and another list of neighboring property owners seemingly in support of the request. The photos from 2006, 2008, 2009, and 2011 are blurry and difficult to interpret. Photos from 2012, 2015, 2016, and 2018 clearly show the yard parking. An additional street-level photo from February 2021 clearly shows the yard parking.

The additional evidence provided in the appeal certainly supplements that contained in the original determination request, however, clarity is limited to photos dated 2012 and more recently – less than 15 years. Further, there is no firm evidence demonstrating continuous use of the yard parking – that no discontinuance has occurred – for at least 15 years.

Lacking clear evidence of continuous and uninterrupted use of the yard parking for at least 15 consecutive years, the appeal should be denied.

II. Recommended Motion:

Uphold the adverse determination 21-0629DT.

To: City of Burlington
Development Review Board
645 Pine Street
Burlington, Vermont

From: Raymond K Ingram Jr
92 Farrington Parkway
Burlington, Vermont 05408

February 19 2021
BURLINGTON
PERMITTING & INSPECTIONS
MAR 08 2021
RECEIVED

Subject: "APPEAL" to Zoning Administrator Determination of 15 years variances to parking on the yard next to driveway. Project Location: 92 Farrington Parkway, Owner is Raymond K. Ingram Jr. Tax ID 029-1-114-000 (Raymond K Ingram Sr is deceased) Information is recorded in town clerks' records.

How do I proceed? I've enclosed Zoning Administrative Officers Decision

It appears no photos are available for the year 2005, it doesn't mean a vehicle wasn't parked there. I've provided statements signed by six residence, citizen of Burlington who have lived next to 92 Farrington Parkway for over 15 years. Six witnesses, I struggle to understand why the Zoning Administrative Officer didn't take these residence testimonies as a single most proof that a vehicle has been parked next to the driveway on the lawn continuously for more than 15 years.

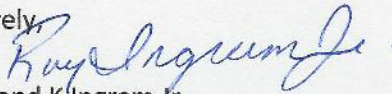
I've enclosed the list of residents and this time included their phone numbers to confirm, in case you need more verification from them.

I've enclosed more photos from google earth, some photos have poor quality seen in years 2006 thru 2011, but shades of a vehicle can be seen. Photos also establish a pattern of continuous parking next to driveway for 14 years. If a photo could be found for 2005 it would also show a vehicle being park next to the driveway.

In closing, I believe I've provided enough documentation for approval of 15 year park regulation and I'm asking Development Review Board to approve the 15 year determination.

Thanks for considering my request.

Sincerely,


Raymond K Ingram Jr
Home Owner & Resident
92 Farrington Parkway
Burlington, Vermont 05408

22✓

TO: City of Burlington

From: Raymond K Ingram Jr
92 Farrington Parkway

Subject: Parking beside driveway

Jan 9 2021

RECEIVED
BURLINGTON
PERMITTING & INSPECTIONS
MAR 08 2021

To whom it may concern

I started parking my van on the east side of the driveway during the summer of 2005 when I moved in with my father (Raymond K Ingram Sr) to help with his end-of-life care.

I was unable to find Photos for 2005, it looks like google didn't take any photos between 2004-2006 of Farrington Parkway

Below are names and address from my neighbors of 15 1/2 yrs.

Name *All Phone #s are 802 prefix*

Street Address

CATHERINE FOLEY 495-1970

135 HEINERDURF RD

Home 862-0908 Jennie L. Barnier 324-7396

FORMERLY 79 FARRINGTON PKWY

Arthur C Boerner 318-2932

87 Farrington PKWY Burl VT

Sandra Sargent 989-5248

84 Farrington PKWY, Burlington VT

Art H/2 310-0109

98 Farrington PKWY Burl VT

Ralph Lewis 343-9236

78 Farrington PKWY Burl VT

Sincerely,

Ray Ingram Jr.

2006

Bad photo, but you can see a vehicle is parked next to driveway

Legend

- 92 Farrington Pkwy
- C P Smith Elementary School

92 Farrington Pkwy



RECEIVED
MAR 08 2021
BURLINGTON
PERMITTING & INSPECTIONS



50 ft

Google Earth

Image USDA Farm Service Agency

2008

Legend

- 92 Farrington Pkwy
- C P Smith Elementary School

Google Earth

Image USDA Farm Service Agency

92 Farrington Pkwy

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PERMITTING & INSPECTIONS

90 ft



2009

Legend

- 92 Farrington Pkwy
- C P Smith Elementary School

92 Farrington Pkwy



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50 ft

Google Earth

Image USDA Farm Service Agency

Legend

- 92 Farrington Pkwy
- C P Smith Elementary School

92 Farrington Pkwy



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50 ft

Legend

- 92 Farrington Pkwy
- C P Smith Elementary School

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GURLINGTON
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92 Farrington Pkwy

Valley

Legend

- 92 Farrington Pkwy
- C P Smith Elementary School

92 Farrington Pkwy

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BURLINGTON
MAR 08 2021
PERMITTING & INSPECTIONS



Legend

- 92 Farrington Pkwy
- C P Smith Elementary School

92 Farrington Pkwy

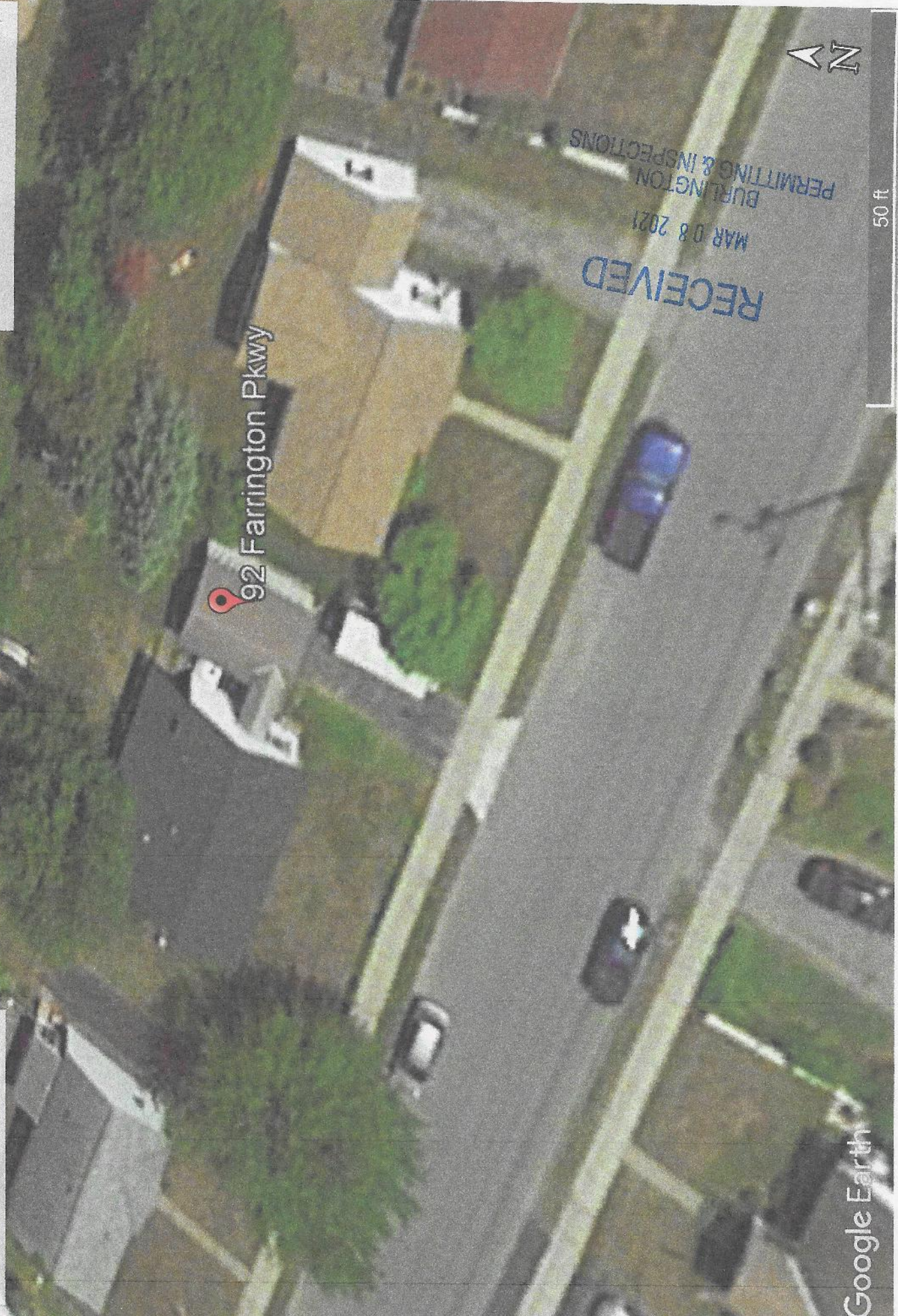
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MAR 08 2021
BURLINGTON
PLANNING & INSPECTIONS



50 ft

Legend

- 92 Farrington Pkwy
- C P Smith Elementary School



Date 2/19/2021

RECEIVED
MAR 08 2021
BURLINGTON
PERMITTING & INSPECTIONS





ZONING DETERMINATION

ADVERSE

City of Burlington, Vermont
Department of Permitting and Inspections

Application Date: 01/13/2021

Appeal Expiration Date: 03/09/2021

Project Location: 92 FARRINGTON PARKWAY

District:

Owner: Raymond K. Ingram Sr.

Ward: 7N

Address: 92 FARRINGTON PW
BURLINGTON VT 05408

Tax ID: 029-1-114-000

Determination Type: Residential - Parking

Determination Description:

15-Year determination as to parking on the yard next to the driveway.

Zoning Review #21-0629DT

Decision Type: Administrative

Decision: Adverse

See Determination Findings

Decision Date: February 22, 2021

A handwritten signature in blue ink, likely of the Zoning Administrative Officer.

Zoning Administrative Officer

An interested person may appeal a decision of the Zoning Administrator to the Development Review Board until 4 pm on March 9, 2021.

Fee Type	Amount	Paid in Full	Balance Due: \$0.00
Application Fee:	\$140.00	No	Date Paid: _____ Check # _____

Building Permit Required: **No**

Permit Received By: _____ Date: _____



City of
Burlington, Vermont
645 Pine Street

Zoning Determination – Findings

ZP #: 21-0629DT

Tax ID: 029-1-114-000

Issue Date: February 22, 2021

Decision: Adverse

Property Address: 92 FARRINGTON PARKWAY

Description: 15-Year determination as to parking on the yard next to the driveway.

This determination is in regard to the above-referenced property, specifically your request that the City of Burlington recognize that the yard parking next to the east side of the driveway has been in place continuously for over 15 years. The City reviewed the following documents and evidence to form its determination:

- The City's zoning permit records
- 2008 Comprehensive Development Ordinance and as amended
- Photographs and related document provided with the determination request
- Orthophotos of 2000, 2004, 2016, 2018, & 2019

Following review of these items, it is the determination of the Administrative Officer that insufficient evidence has been provided to demonstrate the continuous presence of this yard parking for at least 15 years. The yard parking is not evident in the 2000 or 2004 orthophotos. There is no zoning permit on file permitting this yard parking. As such, it is in violation of the Comprehensive Development Ordinance.

TO: City of Burlington

Jan 9 2021

From: Raymond K Ingram Jr
92 Farrington Parkway

Subject: Parking beside driveway

To whom it may concern

I started parking my van on the east side of the driveway during the summer of 2005 when I moved in with my father (Raymond K Ingram Sr) to help with his end-of-life care.

I was unable to find Photos for 2005, it looks like google didn't take any photos between 2004-2006 of Farrington Parkway

Below are names and address from my neighbors of 15 ½ yrs.

Name

Street Address

CATHERINE FOLEY

135 HEINEBERG RD
FORMERLY 79 FARRINGTON PKWY

Jennie L. Barnier
Arthur C Barnier

87 Farrington PKwy Burl VT

Sandra Sargent

84 Farrington PKwy, Burlington VT

Art Hb

78 Farrington PKwy Burl

Ralph Lewis

78 Farrington PKwy Burl

Sincerely,

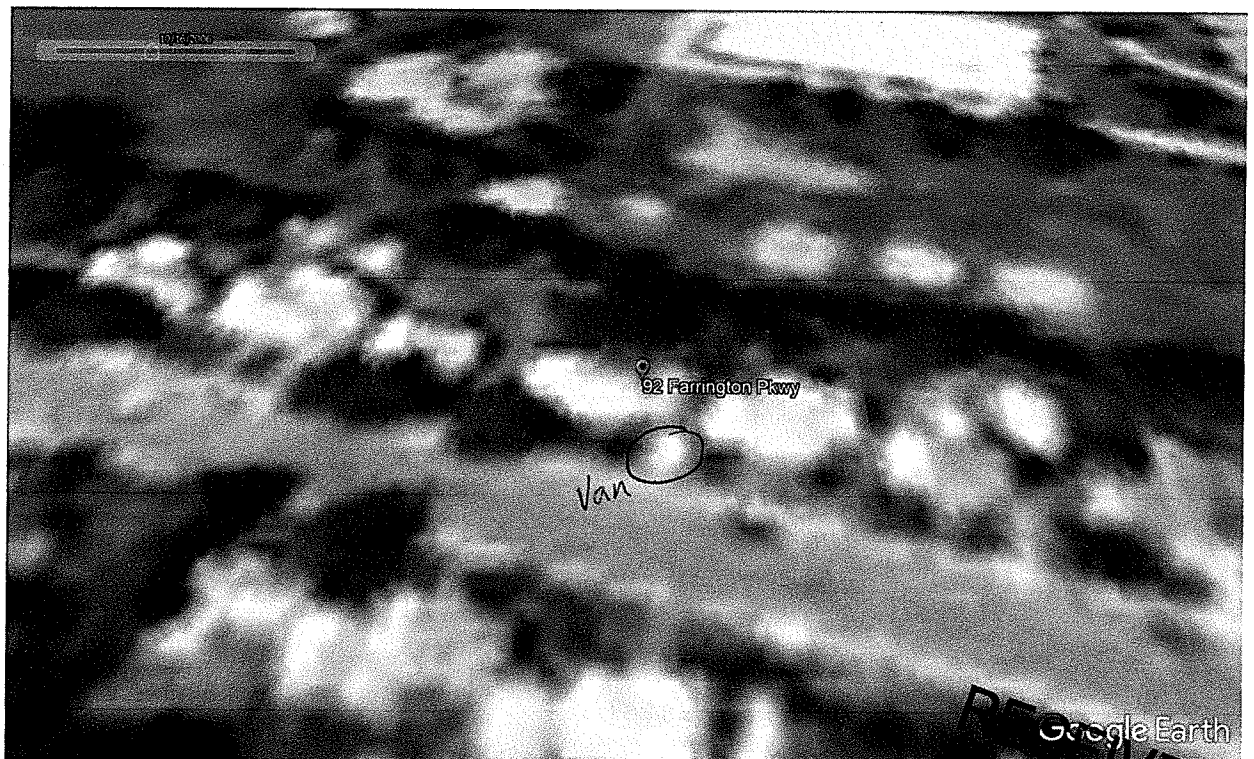
Ray Ingram Jr.

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JAN 13 2021
BURLINGTON
PERMITTING & INSPECTIONS

Below is view from 5/30/2004, my blue truck & fathers' green car are on the street. I was spending so much time with my father, I decided to move in 2005. Google Earth has no photo available for 2005.



Below is a bad Google Earth photo from 10/16/2006, but you can see my van (big white square) next to driveway. Google Earth has better photos up to today showing the van's been park beside the driveway.



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JAN 13 2021
BURLINGTON
PERMITTING & INSPECTIONS



PERMITTING & INSPECTIONS

645 Pine Street, Ste. A | PO Box 849
Burlington, VT 05402-0849

Housing: (802) 863-0442
Trades: (802) 863-9094
Zoning: (802) 865-7188

October 9, 2020

Raymond K. Ingram Sr.
92 FARRINGTON PW
BURLINGTON VT 05408

RE: 92 Farrington Parkway Burlington, Vermont

Dear Owners,

According to our records, you are the owner of record of the above-referenced property. This letter is to inform you that the Permitting and Inspections Office has received the following complaint(s) regarding this property:

- **Expanded parking- Vehicle parked to right of driveway**

Our office has initiated an investigation regarding the complaint(s), however, as of this date; a final determination has not been made. Should you have any information or explanation that you believe will be useful to us during our investigation, please submit it to the Permitting and Inspections Office, **in written form, within the next ten (10) business days. Any changes to the property or use requires a zoning permit.**

Please note, while any information from you as the property owner is useful, the investigation will occur with or without the information. This letter is intended to give you notice of the alleged complaint(s) against your property and to provide you an opportunity to explain the condition and/or refute the allegation prior to a formal determination being issued.

Should you have questions, please do not hesitate to call me at 863-0442.

Sincerely,

A handwritten signature in blue ink, appearing to read "William Ward", is written over a light blue horizontal line.

William Ward
Zoning Administrative Officer
Code Compliance and Enforcement











Department of Permitting & Inspections

Zoning Division
645 Pine Street
Burlington, VT 05401
Telephone: (802) 865-7188
(802) 865-7195 (FAX)
(802) 865-7142 (TTY)

William Ward, Director
Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, Associate Planner
Layne Darfler, Planning Technician
Alison Davis, Zoning Clerk
Ted Miles, Zoning Specialist
Charlene Orton, Permitting & Inspections Administrator



MEMORANDUM

To: Development Review Board
From: Ryan Morrison, Associate Planner
Date: April 6, 2021
RE: 18-0682CU; 81 Dunder Road

=====

On March 29, 2018 the Development Review Board approved ZP18-0682CU for a bed and breakfast use in one bedroom within the existing single family home at 81 Dunder Road, with a condition that the applicant *'come back to the DRB after 12 months to report and allow for feedback on how the bed and breakfast operation is working out in the neighborhood, and whether it is in compliance with the conditions of this permit.'*

The applicant is now returning to the DRB to provide a follow-up report on his approved bed and breakfast room. Email correspondence between the applicant and staff is attached detailing how he views his bed and breakfast use to be in compliance with the conditions of the zoning permit.

This application triggered neighborhood concerns from nearby residents. One public comment has been received thus far and is attached for your review. Should any additional comments be received, they will be provided for your review prior to the April 6th DRB meeting.

Ryan Morrison

From: Jonathan Heller <sweetrecords@mac.com>
Sent: Friday, March 19, 2021 4:02 PM
To: Ryan Morrison
Subject: Parking

[WARNING]: This email was sent from someone outside of the City of Burlington.

Hi Ryan

To clarify, I have been parking in the driveway since Toms feedback. prior to that I would sometimes park in the street. When I have guests I let them park in the street.

Thanks
Jonathan

Ryan Morrison

From: Jonathan Heller <vtbuilders@mac.com>
Sent: Friday, March 19, 2021 3:51 PM
To: Ryan Morrison
Subject: Re: Guests

[WARNING]: This email was sent from someone outside of the City of Burlington.

Yes

Thanks
Jonathan

On Mar 19, 2021, at 3:43 PM, Ryan Morrison <rmorrison@burlingtonvt.gov> wrote:

Thanks Jonathan. One other thing that I can think of is: do you park in the driveway too, even when guests are there?

Sent from my iPhone

On Mar 19, 2021, at 2:50 PM, Jonathan Heller <vtbuilders@mac.com> wrote:

[WARNING]: This email was sent from someone outside of the City of Burlington.

My typical guest is a couple looking for a romantic getaway or looking at the neighborhood as they consider buying a house.

There is one confirmed sale so far on South Cove Rd.

They check in at 4 PM, stay for an average of three days and check out at 11 AM. They park in the driveway religiously as instructed through automated email at 4 PM.

They are made aware to be sensitive about my neighbors and street parking. Guests prefer driveway parking and feel no desire to park in the street. I maintain a no dog policy as well as a no beach and no party policy to further reduce impact.

I maintain a 4.9 star customer satisfaction rating and super host status.

Airbnb has reduced traffic in my driveway from the five cars previously, while living with two roommates and their own guests and or gatherings to a now seldom more than two cars in my driveway as is the current situation.

I have received some concern from Tom Walsh whose driveway abuts mine and we agreed if I install a privacy fence that would ease his concerns.

Being a single parent with a young child, my driveway has less traffic than your average family of four. The income has afforded me the ability stay in my home in a rising

housing cost environment, to maintain critical upkeep to the property and grounds while still maintaining time to homeschool my daughter.

This summer I plan to paint the house, purchase new yard plantings and install a privacy fence. In future years I plan a decorative driveway as well as other façade improvements.

By inspiring me to add curb appeal to the property, Airbnb brings value to the town through local room and meals tax as well as being a conduit for restaurants and other tourist dollars. Airbnb is a critical element in sustaining and growing Burlington's tourist industry.

Airbnb allows me to add value to the neighborhood; switching back to a roommate model can only increase impact on the neighborhood.

Airbnb is not an alternative to the Hilton and Marriott. It is an option for people who want to get a little bit deeper into the culture of our town.

<image.png>

Thanks
Jonathan

Please note that this communication and any response to it will be maintained as a public record and may be subject to disclosure under the Vermont Public Records Act.

Ryan Morrison

From: Jonathan Heller <vtbuilders@mac.com>
Sent: Friday, March 19, 2021 11:33 AM
To: Ryan Morrison
Subject: Re: Form letter sent out at 4 PM on check-in day

[WARNING]: This email was sent from someone outside of the City of Burlington.

Sure thing!

Thanks
Jonathan

> On Mar 19, 2021, at 11:28 AM, Ryan Morrison <rmorrison@burlingtonvt.gov> wrote:

>

> Thanks for this Jon. Can you also provide a written description of how the short term rental has operated since its approval? I'm looking for a narrative explaining how you think that it's operated in compliance with the permit conditions, and also, speak to how the parking situation has operated. Thanks!

>

> Sent from my iPhone

>

>> On Mar 4, 2021, at 9:38 AM, Jonathan Heller <vtbuilders@mac.com> wrote:

>>

>> [WARNING]: This email was sent from someone outside of the City of Burlington.

>>

>>

>> Hello (name here)

>> Your room is ready for check-in. 🏠

>> Please always use the driveway for parking and don't worry about blocking the garage. Please pull at least one foot past the sidewalk. Blocking the sidewalk can bring a \$110 fine from the town 😊

>> This is a quiet neighborhood so please no loud voices.

>> Consider me your personal concierge to help with all of your travel needs 😊

>> Enjoy!

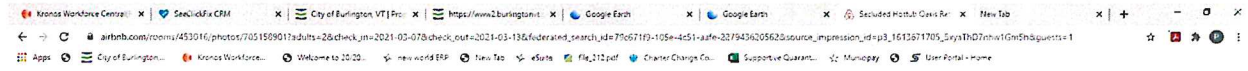
>>

>> Thanks

>> Jonathan

> Please note that this communication and any response to it will be maintained as a public record and may be subject to disclosure under the Vermont Public Records Act.

https://www.airbnb.com/rooms/453016?adults=2&check_in=2021-03-07&check_out=2021-03-13&federated_search_id=79c671f9-105e-4c51-aafe-227943620562&source_impression_id=p3_1613671705_5xyaThD7nhw1Gm5h&guests=1



X Close

20 / 46

🔍



X Close

9 / 46

🔍



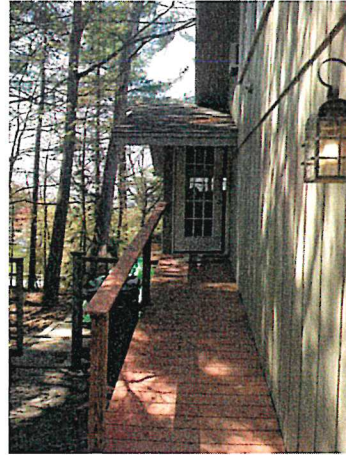


This is what the main house looks like from the street.

X Close

39 / 46

16



Having an entry ramp instead of stairs makes storing things like bicycles, golf or ski bags a breeze!

Photos Amenities Reviews Location

\$251 / night
4.86 (268)

Reserve

★ 4.86 (268 reviews)

Cleanliness 4.9
Communication 4.9
Check-in 5.0

Accuracy 4.9
Location 4.9
Value 4.7

Taylor
February 2021

Jonathan was so hospitable and thoughtful. The place was so much more than we imagined, beautiful decor, and the comfiest bed. He was very generous with complimentary tea and water... [read more](#)

Ginjer
February 2021

beautiful house, great hot tub, even better vibes

Nicholas
January 2021

Great communicator, very relaxed.

Eduardo
Jan. 2021

Great place to stay and a gracious host. Highly recommend

Kathy
January 2021

Jonathan's place was such a treat! The space was very clean and cozy. The kitchen space is small but had what we needed (we knew that there wasn't going to be an oven). The hot tub... [read more](#)

Sumayah
January 2021

Jonathan was a super host in every way. Vermont was the perfect covid-cation we were looking for, and Jonathan's home could not have been more accommodating. The hot tub was such a... [read more](#)

Show all 268 reviews

Photos Amenities Reviews Location



Bedroom 1

1 queen bed, 1 single bed

Amenities

Kitchen

Wifi

Hot tub

Pool

Cable TV

Free parking on premises

Air conditioning

Gym

TV

Free street parking

Show all 43 amenities

Accessibility

Getting inside

No stairs or steps to enter

Well-lit path to entrance

Step-free path to entrance

Moving around the space

No stairs or steps to enter

Wide hallways

\$251 / night

4.86 (268)

CHECK IN	CHECK OUT
3/7/2021	3/13/2021
GUESTS	
2 guests	

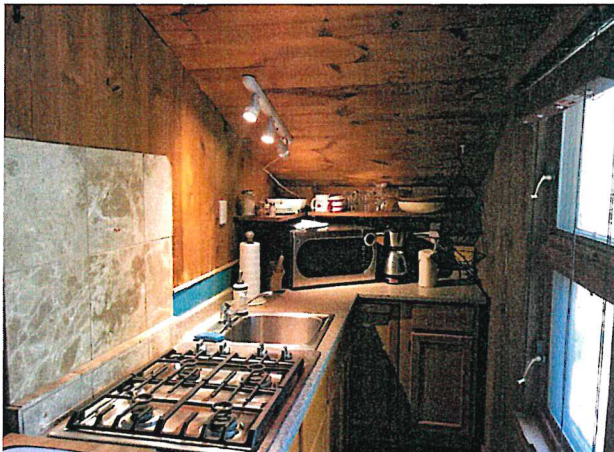
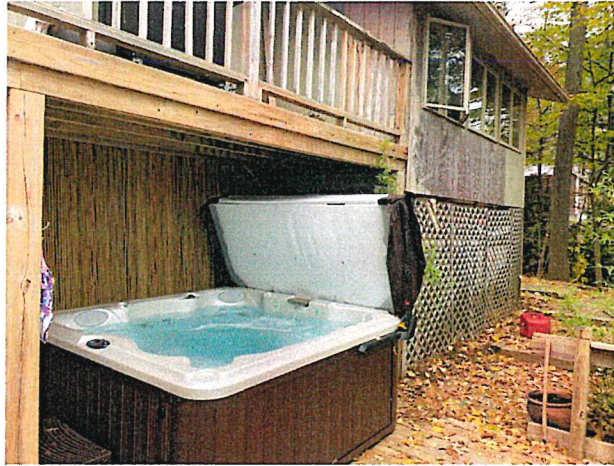
Reserve

You won't be charged yet

\$251 x 6 nights	\$1,505
Cleaning fee	\$65
Service fee	\$222
Occupancy taxes and fees	\$193
Total	\$1,985

This is a rare find. Jonathan's place on Airbnb is usually fully booked.

Report this listing



The kitchen has a gas stove, a convection microwave, coffee maker, ice maker, Toaster, condiments and more.



Start your search



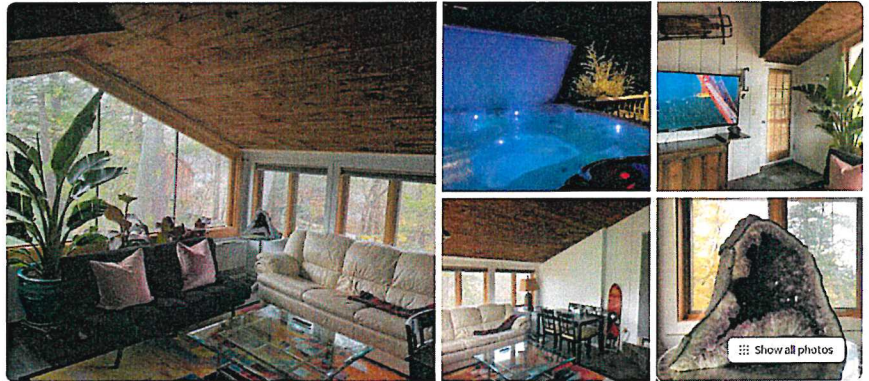
Become a host



Secluded Hottub Oasis Retreat Ski,Brews,Beach,Bike

★ 4.86 (268) • Superhost • Burlington, Vermont, United States

Share Save



Entire guest suite hosted by Jonathan
4 guests · 1 bedroom · 2 beds · 1 bath



\$251 / night

★ 4.86 (268)



Entire home

You'll have the guest suite to yourself.

CHECK-IN 3/7/2021	CHECKOUT 3/13/2021
GUESTS 2 guests	

https://www.airbnb.com/rooms/453016/photos/1096516923?adults=2&check_in=2021-03-07&check_out=2021-03-13&federated_search_id=79c671f9-105e-4c51-aafe-227943620562&source_impression_id=p3_1613671705_5yaThD7nhw1Gm5h&guests=1

Thomas G. Walsh
97 Dunder Road
Burlington, VT 05401

April 1, 2021

To: City of Burlington DRB

RE: Neighborhood Impacts / Lack of Compliance- Airbnb (B&B) Rental at 81 Dunder Road (18-0682CU):

I am Tom Walsh and I own 97 Dunder Road; my property abuts immediately south of 81 Dunder Road. I had recently moved into my freshly constructed home when the 2018 B&B application was filed. I reviewed the Application which sought approval to "rent 1 BR in single family home." I was not happy about short-term rental, but I was hoping that renters within a home would have limited impacts.

I have tried to ignore the rental activity for 2 years. I do not want to be involved, but the impacts are significant, and growing, so I am left with defending my quiet enjoyment of my Burlington home.

The B&B Application significantly misrepresented the rental activity. Renters do not enter/exit the front door as the owner does. There is a separate side entrance, on my common boundary a few feet from my property. This doorway leads to a separate unit. There is no sharing of the house. The rental is a completely separate apartment. The Airbnb rental listing reads: **"Private HotTub Oasis Retreat Ski, Brews, Beach, Bike." "Entire home- You'll have the house to yourself." "Hot tub, swimming pool, Bikes and sleds included! It feels like a tiny house in the trees." "Private entrance -Separate street or building entrance."** Although the listing currently says no kitchen, the comment section from November 2020 states: "My deepest apologies for not making the lack of freezer and the size of the convection microwave oven more clear." This is a whole unit, not merely "1 BR in a single family home" and is therefore significantly inconsistent with the approved B&B permit/ permit application.

The City is currently addressing short-term rentals. The reform, specifically Amendment No. ZA-20-05, limits the number of housing units that can be converted into short-term rental uses. This reform creates "[c]lear standards for short-term rentals that differentiate between a 'bedroom(s) within a unit' and a 'whole unit' short-term rental" The reform provides greater restrictions on "whole unit" rentals by stating that these are considered a non-residential use that requires, among other things, that the use be approved as a conditional use. The City's amendment is indicative of the City's clear intent to limit "separate apartment" short-term rentals due to their heightened impacts on the community.

The two rental situations (sharing a bedroom in a home versus renting a completely separate unit) have much different neighborhood impacts. These differing impacts arise in large

part because there is no built-in management or control of separate units. As the renters are not sharing space with the owner, renters come and go as they please without concern of disrupting the single family home and without the owner being aware.

The direct impacts to me are that I have to ask renters to stop parking and blocking the sidewalk, I have to go out at midnight and ask renters using the hot tub (new activity) to quiet down, I have to ask renters to not smoke in my driveway, and I have to be disturbed by renters in front of my house talking loudly on their speaker phone. Neighbors that actually live here do not cause any of these impacts. Before the AirBnb, I experienced a neighborhood that was extremely quiet, especially after the evening commute hours.

The situation is getting worse. Rental activities and impacts are increasing. A few examples are:

- a. Sometimes renters have more than one car (permit condition limits renters to one car); when this happens they block the sidewalk.
- b. There is new hot tub use (From AirBnb reviews it appears that the hot tub was installed around November 2020); there wasn't a hot tub before this. Now renters are waking me up at midnight whooping it up in the hot tub.
- c. There is a pool in back yard that hasn't been used since I have lived here. Mr. Heller is getting it ready for use and recently has taken down several large trees around the perimeter of the pool. The AirBnb ad says the pool is going to be part of the rental package. The hot tub and pool use by renters is commercial use and should NOT be allowed.
- d. The rental use commonly is one or two renters. But, there has also been a family of four, sometimes there are three renters, and recently on March 15 there were 5 people renting the unit. More people results in more noise and activity and more disruption to my quiet enjoyment of my property.

The adverse impacts from the short-term rental activities are not hard to understand: Neighbors living next to each other impact each other, but the disturbances become predictable over time and often neighbors work with each other in reasonable ways to reduce impacts.

On the other hand, when you have transient people changing out daily, disturbances are not predictable and they don't get worked out. To be clear, I'm not using transient as a derogatory term; however, people who are only staying one or two nights have different interests than people who live here. They are on a trip or on vacation, letting off steam, they don't have to work the next day, they stay up late, maybe they have a few drinks and get noisy. Whatever happens, they are leaving the next day and they are not too worried about their impacts.

When approving the B&B use, City regulations require you to consider:

1. First and foremost; whether the use actually qualifies as a B&B, which was proposed as "1 BR in a single family home", or whether it is actually an accessory unit which may

only be approved pursuant to special use regulations. See BCDO Appx. A (listing B&B's as conditional uses in the RL-W District); BCDO § 3.5 (describing conditional uses and review criteria) BCDO § 5.4.5 (setting forth the special use regulations for accessory dwelling units).

BCDO Art. 13 defines a B&B as "an owner-occupied residence, or portion thereof, in which short-term lodging rooms are rented and where only a morning meal is provided on-premises to guests." This requires that a B&B is a shared-living structure where only "lodging rooms," which do not include separate sanitary or food preparation areas, are available for rental. In addition, the BCDO also requires that any B&B in the RL-W district "must be owner-occupied." See BCDO Appendix A. This definition does not contemplate a separate apartment complete with the associated facilities necessary for independent living and separate from the owner's residence, as is the case here.

81 Dunder Road is operating a separate accessory unit, which the BCDO defines as "an efficiency or one bedroom apartment that is clearly subordinate to the principal dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation." See BCDO § 5.4.5. Here, the short-term rental activity is located in a separate unit with no connection to the single-family use. The listing itself advertises as a separate unit: "Entire home- You'll have the house to yourself." Moreover, the short-term rental provides separate food preparation facilities and sanitation facilities, irrespective of the hosts, unlike a B&B. The way this B&B is being managed is more like a hotel or resort (separate unit and hot tub and pool) which is commercial use not a residential home use.

Thus, the rental use as a separate accessory unit is not consistent with the B&B Permit. The rental of a separate accessory unit has not been reviewed or approved.

2. Whether the the B&B changes the character of the area. See BCDO § 3.5.6(a)(2).

What is the character of the area? There are just over 90 properties in the South Cove Association. I am aware of only 1 accessory apartment and that has a long-term renter. The remainder of the properties are single-family homes that are predominately owner occupied. It is a very quiet neighborhood; once people are home from work there is little traffic as the streets are not through streets.

So YES, the short-term rental changes the character of the area– new transient renters come and go daily. A cleaner comes and goes in between. Traffic and PARKING is irregular. These renters have little concern for their disruptions. Because of the short-term rental, it is no longer a trusted neighborhood. Renters are mostly out of state from NY, CT, MA, OR, UT to name a few. I do not feel comfortable leaving my house unlocked, even for a few minutes for a dog walk.

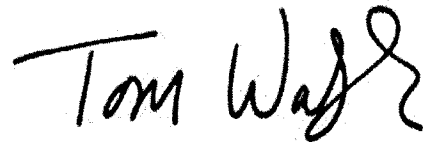
3. Whether the use will have nuisances. See BCDO § 3.5.6(a)(3).

Yes – I am being woken up at midnight by loud renters. Think about it, these renters are on a get-away or vacation when people tend to live it up even late into the night.

This is what I ask:

1. The AirBnb changes the character of the neighborhood and creates several nuisances. The approval limiting the rental to 1 BR WITHIN home has not been complied with and the conditions set by the permit have not been honored. The approval should be revoked.
2. If any rental is allowed then I request the following conditions:
 - a. Expressly prohibit short-term rental of the accessory unit. Such rental has not been applied for or reviewed;
 - b. Require a tall privacy fence along my common boundary. Limit renters to going in and out of the front door to minimize disturbances. The driveway is right on the common boundary so privacy is still a concern.
 - c. Limit the number of renters to TWO at a time.
 - d. Set a condition for no outside noise between 10 PM and 7 AM.
 - e. Do not allow renters to use the outside hot tub or pool. The expanding activities are akin to a hotel or resort; these are commercial uses not appropriate for residential zones. These outside activities have the most disrupting impacts.

Respectfully,

A handwritten signature in black ink that reads "Tom Walsh" with a stylized flourish at the end.

Thomas G. Walsh

Ryan Morrison

From: suzanne legault <suzannelegault36@gmail.com>
Sent: Thursday, April 01, 2021 10:34 AM
To: Ryan Morrison
Subject: April 6 Zoom hearing

[WARNING]: This email was sent from someone outside of the City of Burlington.

Dear Mr. Morrison,

I am writing because there is to be a Zoom meeting on April 6 regarding the property at 81 Dunder Road. There is a very good chance I will not be able to attend. This hearing is very important to me and many other South Cove residents and I wanted to voice my views.

Ever since Jonathan Heller moved into the property, he has been an unpleasant and disruptive neighbor. There was a hearing a few years back when he was planning to open a boarding house at 81 Dunder. At that meeting, MANY neighbors attended to voice their concerns as he has proven to have a total disregard for neighbors. Please read the complaints where his many transgressions are listed.

Thomas Walsh bought the adjoining property that had been derelict for decades. He has done a fantastic job of renovating and vastly improving the property. He is a wonderful neighbor. I know he is being annoyed and harassed by the transient "guests" that Mr. Heller is renting to. Heller's B & B ad features a private entrance, hot tub, pool and beach. The beach is private property for our Association. Mr. Walsh has expressed that he is sorry he ever moved in.

I think it is just awful that one inconsiderate (and non compliant) neighbor is being allowed to disrupt our quiet, friendly neighborhood. I sometimes think Mr. Heller gets a kick out of provoking his neighbors. I hope you can put a stop to his behavior. It seems Burlington repeatedly fails to enact any oversight and good people are left with unsolvable problems.

Thank you for your time and attention.

Suzanne LeGault
36 Dunder Rd. Burlington

Sent from my iPad

RECEIVED

March 22, 2021

MAR 31 2021

BURLINGTON
PERMITTING & INSPECTIONS

Permitting & Inspections
645A Pine Street
PO Box 849
Burlington, VT 05402-0849

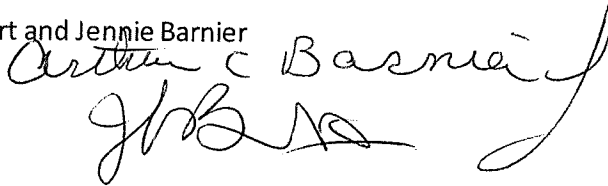
Office of Planning and Zoning

RE: Application Number 21-0629DT: 92 Farrington Pkwy. Appeal 15-year determination for parking.

My name is Arthur C. Barnier Jr. I have lived at 87 Farrington PKWY with my wife, Jennie for 30 years. Jennie and I are writing to support Ray Ingram, at 92 Farrington PKWY in his appeal to the decision made requiring he move the cargo van from his yard. We feel Ray should be allowed to continue to park his cargo van in his yard and feel the city is wrong to at this late date require him move the van. The van has been used as an extension to his garage for more than 15 years to store tools. After so many years I am not sure why it is has become an issue now.

Thank you for your time,

Art and Jennie Barnier

The block contains two handwritten signatures. The top signature is 'Arthur C. Barnier' in cursive. The bottom signature is 'Jennie Barnier' in cursive.

c.c. Ray Ingram

From: Jonathan Heller <sweetrecords@mac.com>
Sent: Friday, April 2, 2021 9:28 AM
To: Ryan Morrison <rmorrison@burlingtonvt.gov>
Subject: March 15th guests

[WARNING]: This email was sent from someone outside of the City of Burlington.

Hello Ryan I would also like to post my correspondence with the guest Who against my rules invited friends on the 15th



Thanks
Jonathan

From: Jonathan Heller <sweetrecords@mac.com>
Sent: Sunday, April 4, 2021 7:34 PM
To: Ryan Morrison <rmorrison@burlingtonvt.gov>
Subject: Response to Tom's public comment

[WARNING]: This email was sent from someone outside of the City of Burlington.

Hello and thank you for taking the time to review my conditional use permit (ZP18-0682CU) for a bed and breakfast. I appreciate your time and consideration.

I would like to first start by addressing excerpts from Tom Walsh's public comments received in association with this review.

Tom: "The B&B Application significantly misrepresented the rental activity. Renters do not enter/exit the front door as the owner does. There is a separate side entrance, on my common boundary a few feet from my property. This doorway leads to a separate unit. There is no sharing of the house. The rental is a completely separate apartment. The AirBnb rental listing reads: "Private HotTub Oasis Retreat Ski, Brews, Beach, Bike." "Entire home- You'll have the house to yourself." "Hot tub, swimming pool, Bikes and sleds included! It feels like a tiny house in the trees.".' Private entrance -Separate street or building entrance." Although the listing currently says no kitchen, the comment section from November 2020 states: "My deepest apologies for not making the lack of freezer and the size of the convection microwave oven more clear." This is a whole unit, not merely "1 BR in a single family home" and is therefore significantly inconsistent with the approved B&B permit/ permit application."

I am one of the few airbnb hosts in Burlington that has made a point of being compliant with the zoning ordinance by going through the review process and obtaining a conditional use permit for my Airbnb.

Zoning Permit 94-013 allows for a front entry and gable over the garage. The room Tom is referring to is accessed from within the home and is not separate. Guests only use their designated room during the duration of their stay. There is a kitchenette only in the room.

The conditional use permit provided by the Development Review Board was based on their in person inspection and review of the current airbnb listing.

Since the original in person review and inspection, no construction or alteration has occurred that would require me to seek a new zoning permit.

III. Motion

7. Any additional B&B room, or physical alteration, will require a new zoning permit, subject to regulations in effect at the time of permit application submittal.

No physical alterations have occurred. My intention is to be compliant and have the necessary permits to operate.

Tom: "The City is currently addressing short-term rentals. The reform, specifically Amendment No. ZA-20-05, limits the number of housing units that can be converted into short-term rental uses. This reform creates "[c]lear standards for short-term rentals that

differentiate between a 'bedroom(s) within a unit' and a 'whole unit' short-term rental " The reform provides greater restrictions on "whole unit" rentals by stating that these are considered a non-residential use that requires, among other things, that the use be approved as a conditional use. The City's amendment is indicative of the City's clear intent to limit "separate apartment" short-term rentals due to their heightened impacts on the community."

Here is the link to Amendment No. ZA-20-05 as referenced - <https://www2.burlingtonvt.gov> > [\(Zoning\) & Ch. 18 - City of Burlington, VT](#) [Attachment](#). I strongly encourage a complete read through of the referenced proposal.

This amendment intends to define Short term rentals separate of lodging establishments:

Lodging: An establishment providing for a fee three or more temporary guest rooms and customary lodging services (such as onsite staffing at all hours, lobby space, and room service), and subject to the Vermont rooms and meals tax. Lodging may, or may not, be owner occupied. Lodging does not include historic inns or short term rentals (except when per-building short term rental limits noted in Chapter 18: Minimum Housing Standards of the City Code of Ordinances are exceeded).

Short term rental (STR): A dwelling unit that is rented in whole or in part to guests for less than thirty (30) consecutive days and for more than 14 days for overnight stays per calendar year and is subject to the Vermont rooms and meals tax, pursuant to Chapter 18: Minimum Housing Standards of the City Code of Ordinances.

The amendment proposes changes to Appendix A - Use Table - All Zoning Districts. The amendment would update the use table below to permit short term rentals in all residential areas. Appendix #33 specifically states, "Short term rentals are permitted by right, subject to per building limitations and rental registration requirements pursuant to Chapter 18: Minimum Housing Standards of the City Code of Ordinances." It is also considered a special residential use, "This will establish that short term rentals are allowed anywhere that residential uses are allowed, and will refer to Ch. 18 for specific standards."

2. Add STRs as a "special residential use" to Appendix A- Use Table and in Article 14- Downtown Code

This will establish that short term rentals are allowed anywhere that residential uses are allowed, and will refer to Ch. 18 for specific standards.

Appendix A-Use Table – All Zoning Districts

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use ¹	Neighborhood Mixed Use				Enterprise	
USES	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
RESIDENTIAL USES	UR	RCO - A ¹	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
As written															
RESIDENTIAL SPECIAL USES	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Rest of Residential Special Uses as written															
Short-Term Rental ²⁵	N	N	N	N	Y	Y	Y	Y	N	Y	Y	Y	Y	N	N
NON-RESIDENTIAL USES	UR ²¹	RCO - A	RCO - RG	RCO - C	I	RL/W	RM	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Rest of Non-Residential Uses as written															
Hostel	N	N	N	N	Y	N	N	CU	N	Y	Y	Y	Y	N	N
Hotel, Motel Lodging	N	N	N	N	CU	N	N	N	(See Sec. 4.4.1 (d) 1)	N	Y	N	Y	N	N

Appendix A-Use Table – All Zoning Districts

25. Dormitories are only allowed on properties contiguous to a school existing as of January 1, 2010.
26. The mixed uses shall be limited to those that are either permitted, conditional, or pre-existing nonconforming in the zoning district.
27. This use is permitted or conditionally permitted on lots south of Home Avenue only when one or more Industrial or Art Production use(s) exists on the lot, and when the combined gross floor area of all uses with this footnote does not exceed 49% of the Gross Floor Area on the lot.
28. Grocery Stores up to but not to exceed 35,000 square feet may be permitted subject to conditional use approval by the DRB in that portion of the Enterprise-Light Manufacturing District between Flynn and Home Avenue.
29. Must be fully enclosed within a building.
30. New single detached dwellings are not permitted. However, a pre-existing single detached dwelling may be reverted to a single family use regardless of its present use if the building was originally designed and constructed for that purpose.
31. See special use standards of Sec. 5.4.13, Emergency Shelters.
32. Performing Arts Centers in the ELM zone shall be limited to properties with frontage on Pine Street up to 5,000 square feet in size, and to properties with frontage on Industrial Parkway up to 15,000 square feet in size. Performing Arts Centers may contain accessory space for preparation and serving food and beverages, including alcohol, provided this accessory space comprises less than 50% of the entire establishment.
33. Short-term rentals are permitted by right, subject to pre-building limitations and rental registration requirements pursuant to Chapter 18, Minimum Housing Standards of the City Code of Ordinances.

¹ For permitted and conditional uses within the Downtown and Waterfront Form Districts, refer to Article 14.

Below are the Chapter 18 standards. Below are highlighted rules in regards to hosts living on the premises. Amendment No. ZA-20-05 would allow my Airbnb to operate without a conditional use permit in this situation.

Tom either does not understand Amendment No. ZA-20-05, or he misrepresented it. My Airbnb would be permitted under this amendment. There would be no requirement for a conditional use permit.

Tom: “The two rental situations (sharing a bedroom in a home versus renting a completely separate unit) have much different neighborhood impacts. These differing impacts arise in large part because there is no built-in management or control of separate units. As the renters are not sharing space with the owner, renters come and go as they please without concern of disrupting the single family home and without the owner being aware.”

There is absolutely a built-in management and control system in place for my airbnb. I am closer than anyone else in regards to physical distance. The vast majority of my time is spent at home, especially during the pandemic. I am completely aware of the activities of my guests. Since the property is my primary residence, I am able to act as an onsite manager and immediately deal with any situations arising from my guests.

Tom “The direct impacts to me are that I have to ask renters to stop parking and blocking the sidewalk, I have to go out [at midnight](#) and ask renters using the hot tub (new activity) to quiet down, I have to ask renters to not smoke in my driveway, and I have to be disturbed by renters in front of my house talking loudly on their speaker phone. Neighbors that actually live here do not cause any of these impacts. Before the AirBnb, I experienced a neighborhood that was extremely quiet, especially after the evening commute hours.”

I have asked Tom on multiple occasions to directly call or text me when situations arise, however he does not.

Tom: "The situation is getting worse. Rental activities and impacts are increasing. A few examples are:

a. Sometimes renters have more than one car (permit condition limits renters to one car); when this happens they block the sidewalk.

b. There is new hot tub use (From AirBnb reviews it appears that the hot tub was installed around November 2020); there wasn't a hot tub before this. Now renters are waking me up [at midnight](#) whooping it up in the hot tub.

c. There is a pool in back yard that hasn't been used since I have lived here. Mr. Heller is getting it ready for use and recently has taken down several large trees around the perimeter of the pool. The AirBnb ad says the pool is going to be part of the rental package. The hot tub and pool use by renters is commercial use and should NOT be allowed.

d. The rental use commonly is one or two renters. But, there has also been a family of four, sometimes there are three renters, and recently on March 15 there were 5 people renting the unit. More people results in more noise and activity and more disruption to my quiet enjoyment of my property.

The adverse impacts from the short-term rental activities are not hard to understand: Neighbors living next to each other impact each other, but the disturbances become predictable over time and often neighbors work with each other in reasonable ways to reduce impacts."

The pool and hot tub have been in use since before I purchased the house in 2001 and have always been shared. Many of these issues could be resolved in a timely manner by contacting me directly when they occur. Sharing my property with guests, including the pool and hottub, should not be considered commercial use. Tom has refused to work with me on many of the issues stated.

Tom: "On the other hand, when you have transient people changing out daily, disturbances are not predictable and they don't get worked out. To be clear, I'm not using transient as a derogatory term; however, people who are only staying one or two nights have different interests than people who live here. They are on a trip or on vacation, letting off steam, they don't have to work the next day, they stay up late, maybe they have a few drinks and get noisy. Whatever happens, they are leaving the next day and they are not too worried about their impacts."

I strictly enforce a set of quiet hours in adherence to the Burlington Noise Ordinance. I have never been ticketed with a noise violation. It is biased to state all guests stay up late, drink, and get noisy. This is not the reality for the vast majority of guests who stay with me.

Tom: "When approving the B&B use, City regulations require you to consider:

1. First and foremost; whether the use actually qualifies as a B&B. which was proposed as "1 BR in a single family home", or whether it is actually an accessory unit which may only be approved pursuant to special use regulations. See BCDO Appx. A {listing B&B's as conditional uses in the RL-W District}; BCDO § 3.5 {describing conditional uses and review criteria} BCDO § 5.4.5 (setting forth the special use regulations for accessory dwelling units)."

BCDO Appx. A Current Use Table

(<https://www.burlingtonvt.gov/sites/default/files/20201216%20Appendix%20A%20-%20UseTable.pdf>):

Appendix A-Use Table – All Zoning Districts

	Urban Reserve	Recreation, Conservation & Open Space			Institutional	Residential			Downtown Mixed Use ¹	Neighborhood Mixed Use				Enterprise	
USES	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
RESIDENTIAL USES	UR	RCO - A ¹	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Single Detached Dwelling	N	N ¹	N	N	Y	Y	Y	N ²⁰	N	N ²⁰	N ²⁰	N ²⁰	N	N	N
Attached Dwellings - Duplex	N	N ¹	N	N	Y	CU ²	Y	Y	N	Y ³	N	Y	N	N	N
Attached Dwellings - Multi-Family (3 or more)	N	N ¹	N	N	CU	N	Y	Y	N	Y	Y	Y	Y	N	N
Attached Dwelling(s) – Mixed-Use ²¹	N	N ¹	N	N	CU	CU	CU	CU	N	Y	Y	Y	Y	N	N
RESIDENTIAL SPECIAL USES	UR	RCO - A	RCO - RG	RCO - C	I	RL/W	RM/W	RH	DW-PT ¹⁶	NMU	NAC	NAC-RC	NAC-CR	E-AE	E-LM
Assisted Living	N	N	N	N	CU	CU	Y	Y	N	Y	Y	Y	Y	N	N
Bed and Breakfast ^{1, 5}	N	N	N	N	CU	CU	CU	CU	N	Y	Y	Y	N	N	N
Boarding House ⁶ (4 persons or less)	N	N	N	N	CU	CU	Y	Y	N	Y	Y	Y	N	N	N
Boarding House ⁶ (5 persons or more)	N	N	N	N	CU	CU	CU	CU	N	CU	CU	CU	N	N	N
Community House (See Sec.5.4.4)	N	N	N	N	CU	CU	CU	CU	N	CU	CU	CU	CU	N	N
Convalescent /Nursing Home	N	N	N	N	CU	CU	Y	Y	N	Y	Y	Y	Y	N	N

Tom: “BCDO Art. 13 defines a B&B as “an owner-occupied residence, or portion thereof, in which short-term lodging rooms are rented and where only a morning meal is provided on-premises to guests.” This requires that a B&B is a shared-living structure where only “lodging rooms,” which do not include separate sanitary or food preparation areas, are available for rental. In addition, the BCDO also requires that any B&B in the RL-W district “must be owner-occupied.” See BCDO Appendix A. This definition does not contemplate a separate apartment complete with the associated facilities necessary for independent living and separate from the owner’s residence, as is the case here.

[81 Dunder Road](#) is operating a separate accessory unit, which the BCDO defines as “an efficiency or one bedroom apartment that is clearly subordinate to the principal dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation.”

See BCDO § 5.4.5. Here, the short-term rental activity is located in a separate unit with no connection to the single-family use. The listing itself advertises as a separate unit: “Entire home- You’ll have the house to yourself.” Moreover, the short-term rental provides separate food preparation facilities and sanitation facilities, irrespective of the hosts, unlike a B&B.”

Bed and Breakfast: An owner-occupied residence, or portion thereof, in which short-term lodging rooms are rented and where only a morning meal is provided on-premises to guests.

Definitions (<https://www.burlingtonvt.gov/sites/default/files/20201216%20ART13-Definitions.pdf>):

Bed and breakfast permits are the current standard for Airbnb operation for hosts living on the property as their primary residence. Future changes to the zoning ordinance will clarify how airbnbs operate. Until then, this is the process.

Tom: "The way this B&B is being managed is more like a hotel or resort (separate unit and hot tub and pool) which is commercial use not a residential home use. Thus, the rental use as a separate accessory unit is not consistent with the B&B Permit. The rental of a separate accessory unit has not been reviewed or approved."

Hotel, Inn or Motel: An establishment providing for a fee three or more temporary guest rooms and customary lodging services, and subject to the Vermont rooms and meals tax.

My airbnb does not meet the definition of Hotel, Inn or Motel. My airbnb should not be subject to these zoning ordinances.

Tom: "2. Whether the the B&B changes the character of the area. See BCDO § 3.5.6(a)(2).

What is the character of the area? There are just over 90 properties in the South Cove Association. I am aware of only 1 accessory apartment and that has a long-term renter. The remainder of the properties are single-family homes that are predominately owner occupied. It is a very quiet neighborhood; once people are home from work there is little traffic as the streets are not through streets.

So YES, the short-term rental changes the character of the area- new transient renters come and go daily. A cleaner comes and goes in between. Traffic and PARKING is irregular."

Home owners use their vehicles no different than airbnb guests when traveling to and from the neighborhood. Below are pictures of a typical day of parking and traffic.





Tom: "These renters have little concern for their disruptions. Because of the shortterm rental, it is no longer a trusted neighborhood. Renters are mostly out of state from NY, CT, MA, OR, UT to name a few. I do not feel comfortable leaving my house unlocked, even for a few minutes for a dog walk."

I utilize Google nest surveillance cameras with night vision and facial recognition I have not noticed any suspicious activity. I am aware of every vehicle and have a video recording of every person that walks up or down Dunder Road.



Tom: "3. Whether the use will have nuisances. See BCDO § 3.5.6(a)(3).

Yes - I am being woken up [at midnight](#) by loud renters. Think about it, these renters are on a get-away or vacation when people tend to live it up even late into the night."

Again, It is biased to state all guests, "tend to live it up even late into the night."

Tom: "This is what I ask:

1.The AirBnb changes the character of the neighborhood and creates several nuisances. The approval limiting the rental to 1 BR WITHIN home has not been complied with and the conditions set by the permit have not been honored. The approval should be revoked.

2. If any rental is allowed then I request the following conditions:

a. Expressly prohibit short-term rental of the accessory unit. Such rental has not been applied for or reviewed;"

b. Require a tall privacy fence along my common boundary. Limit renters to going in and out of the front door to minimize disturbances. The driveway is right on the common boundary so privacy is still a concern.

c. Limit the number of renters to TWO at a time.

d. Set a condition for no outside noise [between 10 PM and 7 AM](#).

e. Do not allow renters to use the outside hot tub or pool. The expanding activities are akin to a hotel or resort; these are commercial uses not appropriate for residential zones. These outside activities have the most disrupting impacts."

1, 2a - This is not factually correct.

2b - I already agreed to a tall privacy fence. I intend to use the entrances that I am permitted to have as I see fit.

2c - I will base my capacity off of fire marshal occupancy requirements.

2d - This is already a requirement in regards to the Burlington Noise Ordinance.

2e - There is no ordinance stating this activity is a commercial use. My airbnb does not meet the definition of a Hotel, Inn or Motel. My airbnb should not be subject to these zoning ordinances.

Tom is critical that my guests are not using the "front door" and then asks that they are limited to minimal use of "front door" which makes no sense. My permit clearly states my guests are allowed to enter through the street facing entrance that was inspected upon approval.

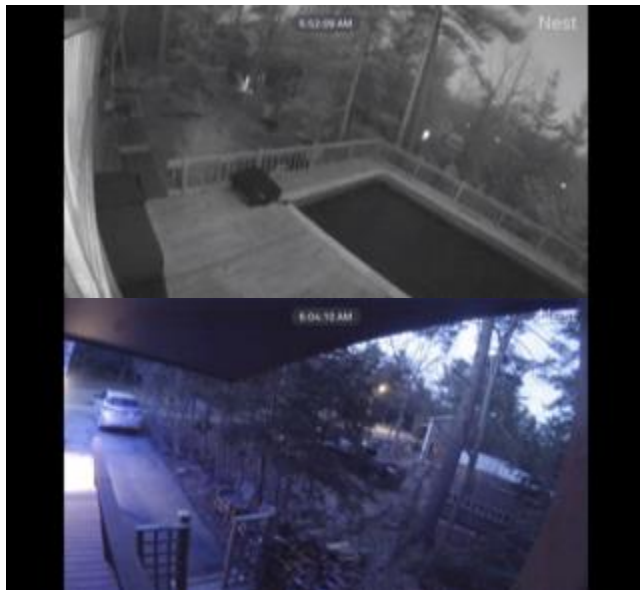
I am a small host compared to many others in the community. I do not believe my airbnb has a significant impact compared to other Bed and Breakfasts in the area.

Thanks
Jonathan

From: Jonathan Heller <sweetrecords@mac.com>
Sent: Monday, April 5, 2021 6:08 AM
To: Ryan Morrison <rmorrison@burlingtonvt.gov>
Subject: Public comment Trespassing

[WARNING]: This email was sent from someone outside of the City of Burlington.

I request Tom not trespass onto my property and speak with my guests. I request that he speak to me directly. I have audio and video monitoring of the hot tub swimming pool area. I am immediately issued an alert on my watch if there is any motion, noise or unauthorized face.



Thanks
Jonathan

From: Jonathan Heller <sweetrecords@mac.com>
Sent: Friday, April 2, 2021 9:12 AM
To: Ryan Morrison <rmorrison@burlingtonvt.gov>
Subject: Photo of Tom's driveway

[WARNING]: This email was sent from someone outside of the City of Burlington.

Hello Ryan I would like to post this photo of Tom's driveway publicly as a comparison to mine.

4:56 ↗



Home

March 13 5:56 PM



Thanks
Jonathan

Photo 1 1978 Plat of Kingsland Terr. Neighborhood

(Red highlighted House is 2 Tower Terrace)

(All Plats obtained from Burlington Land Records)

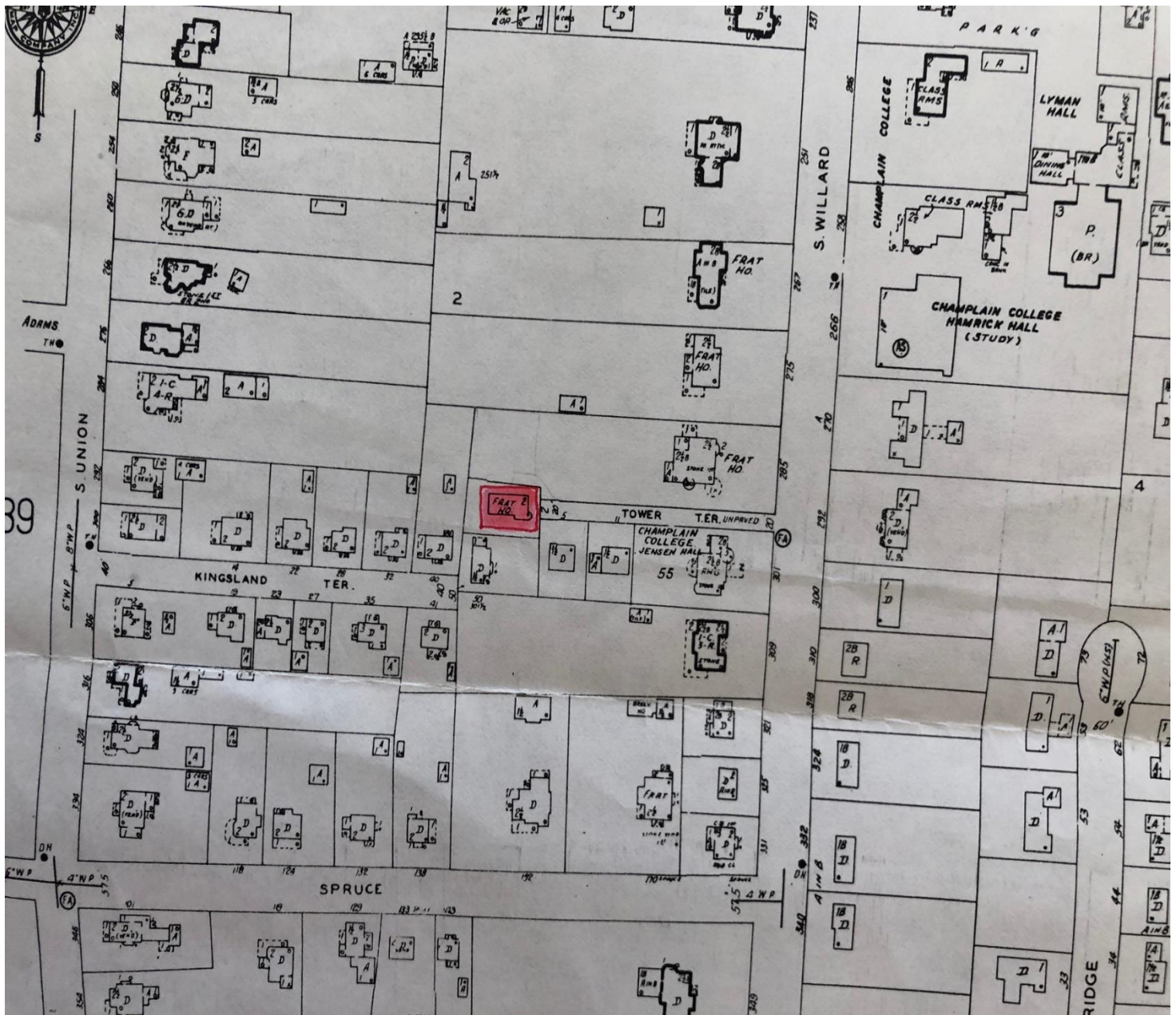


Photo 2 1926 Plat of Kingsland Terr. Neighborhood

(Red highlighted House is 2 Tower Terrace)

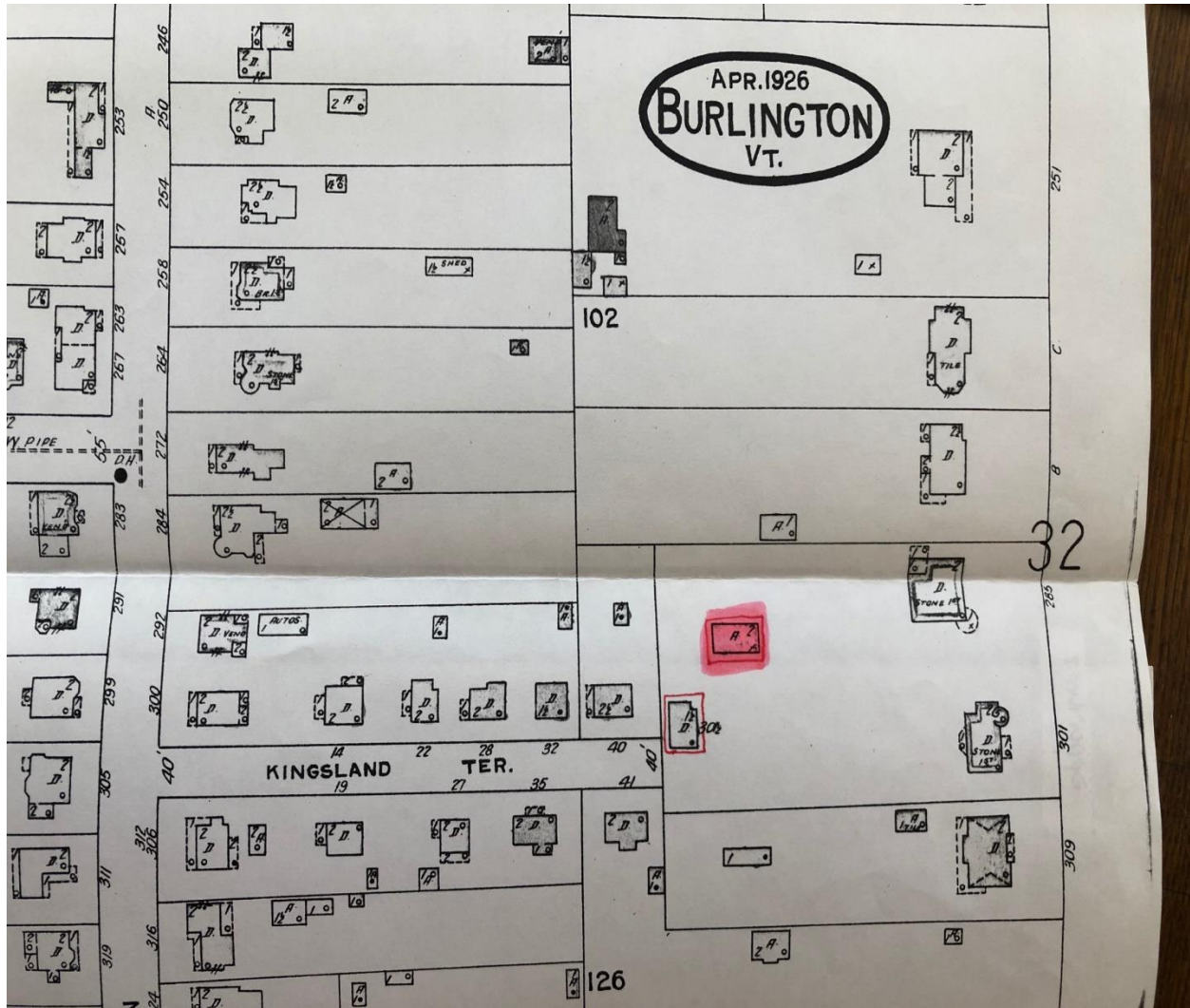


Photo 31919 Plat of Kingsland Terr. Neighborhood

(Red highlighted House is 2 Tower Terrace)

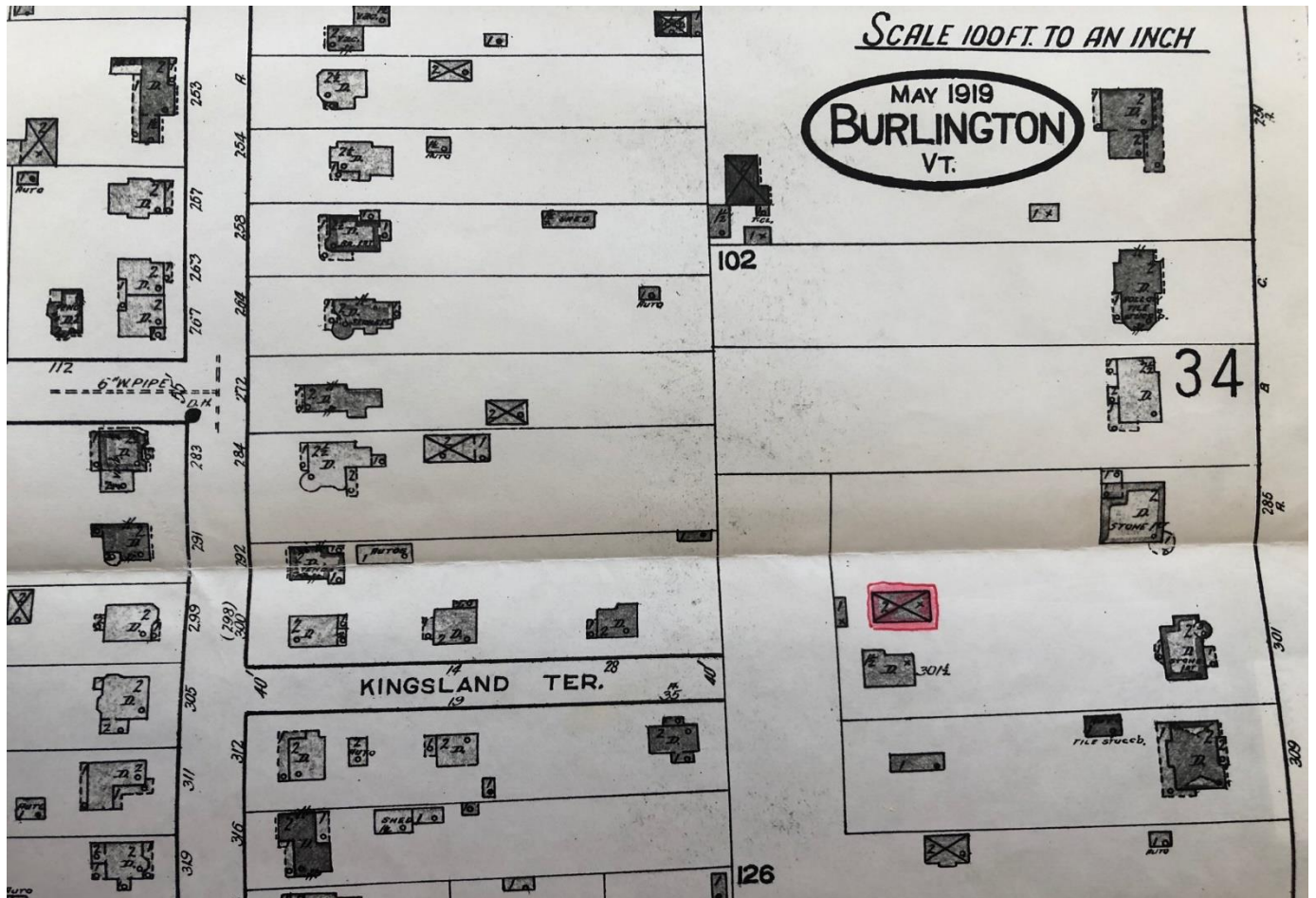


Photo 4.1 View of 40 Kingsland Terr. Carriage House from the First Floor, rear of 2 Tower Terrace (Note all photos and shading for Photos 4.1 through 8.2 done by Linda Jones)



Photo 4.2 View of First Floor Deck at rear of 2 Tower Terrace



Photo 5.1 Current View of Interior, First Floor at rear of 2 Tower Terrace



Photo 5.2 Prospective View of Interior, First Floor at rear of 2 Tower Terrace.

(red shading indicates area to be occupied by proposed structure at 40 Kingsland Terr.)



Photo 6.1 Current View from Rear First Floor of 2 Tower Terrace



Photo 6.2 Prospective View from Rear First Floor of 2 Tower Terrace

(red shading indicates area to be occupied by proposed structure at 40 Kingsland Terr.)

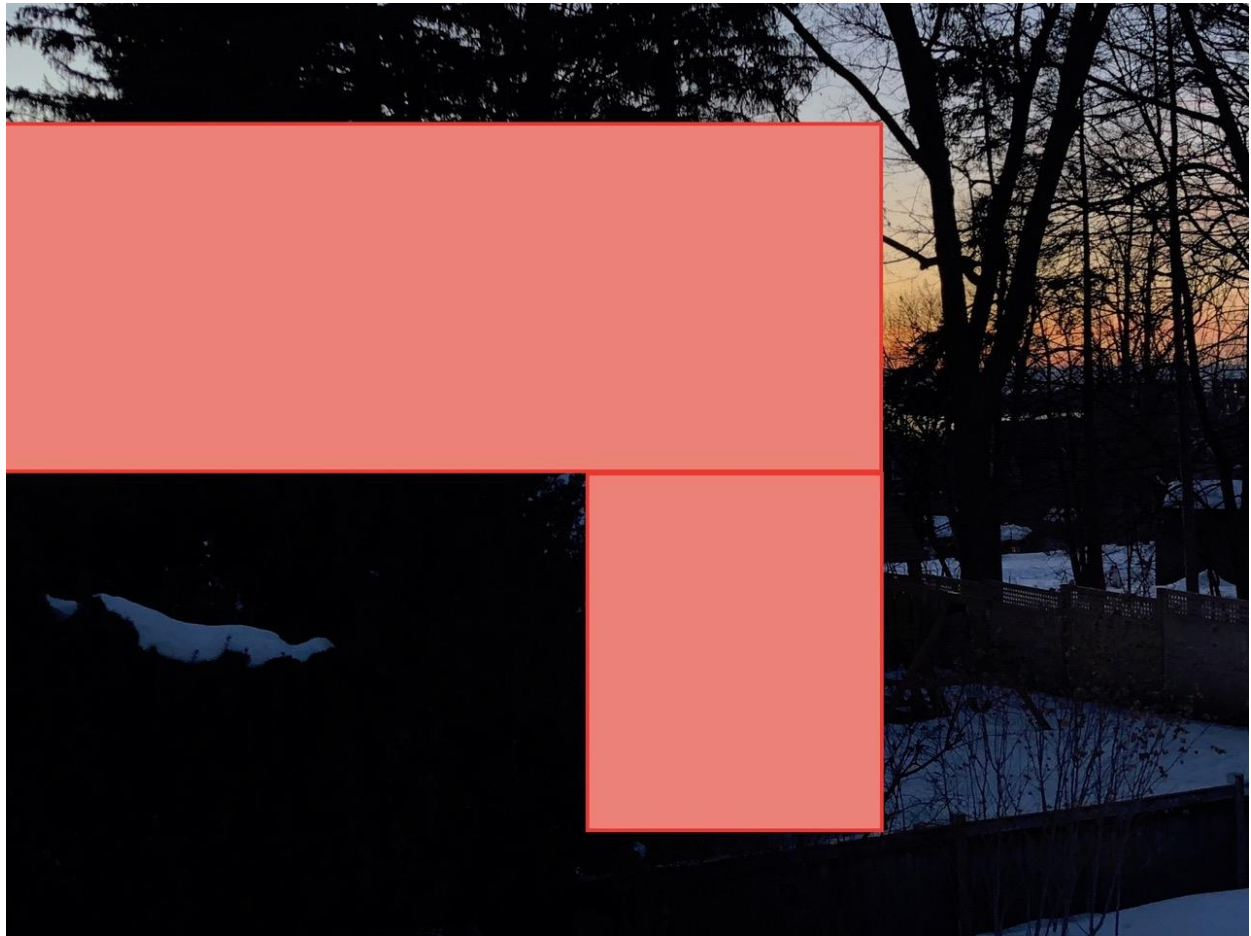


Photo 7.1 Current View from Rear Second Floor of 2 Tower Terrace



Photo 7.2 Prospective View from Rear Second Floor of 2 Tower Terrace
(red shading indicates area to be occupied by proposed structure at 40 Kingsland Terr.)

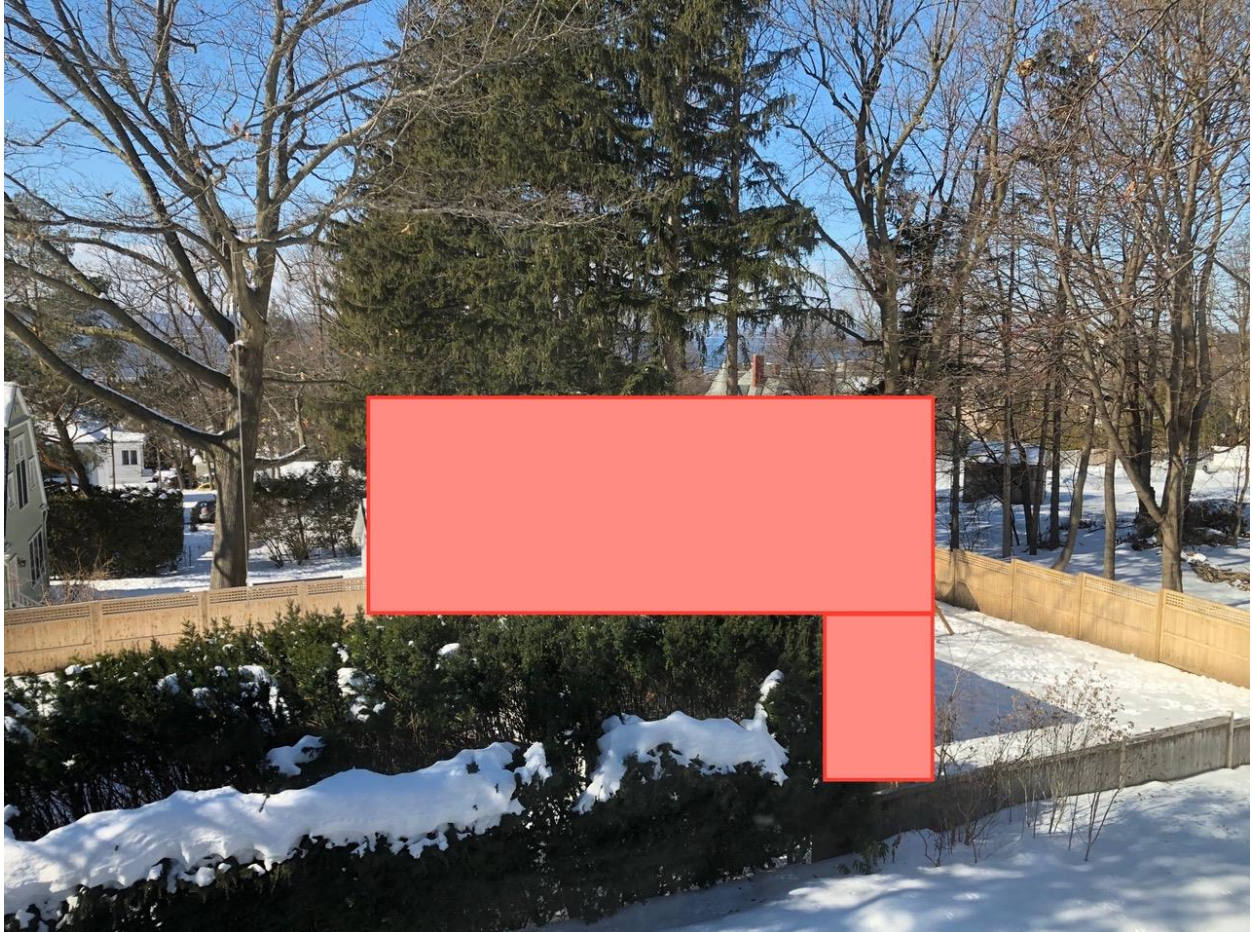
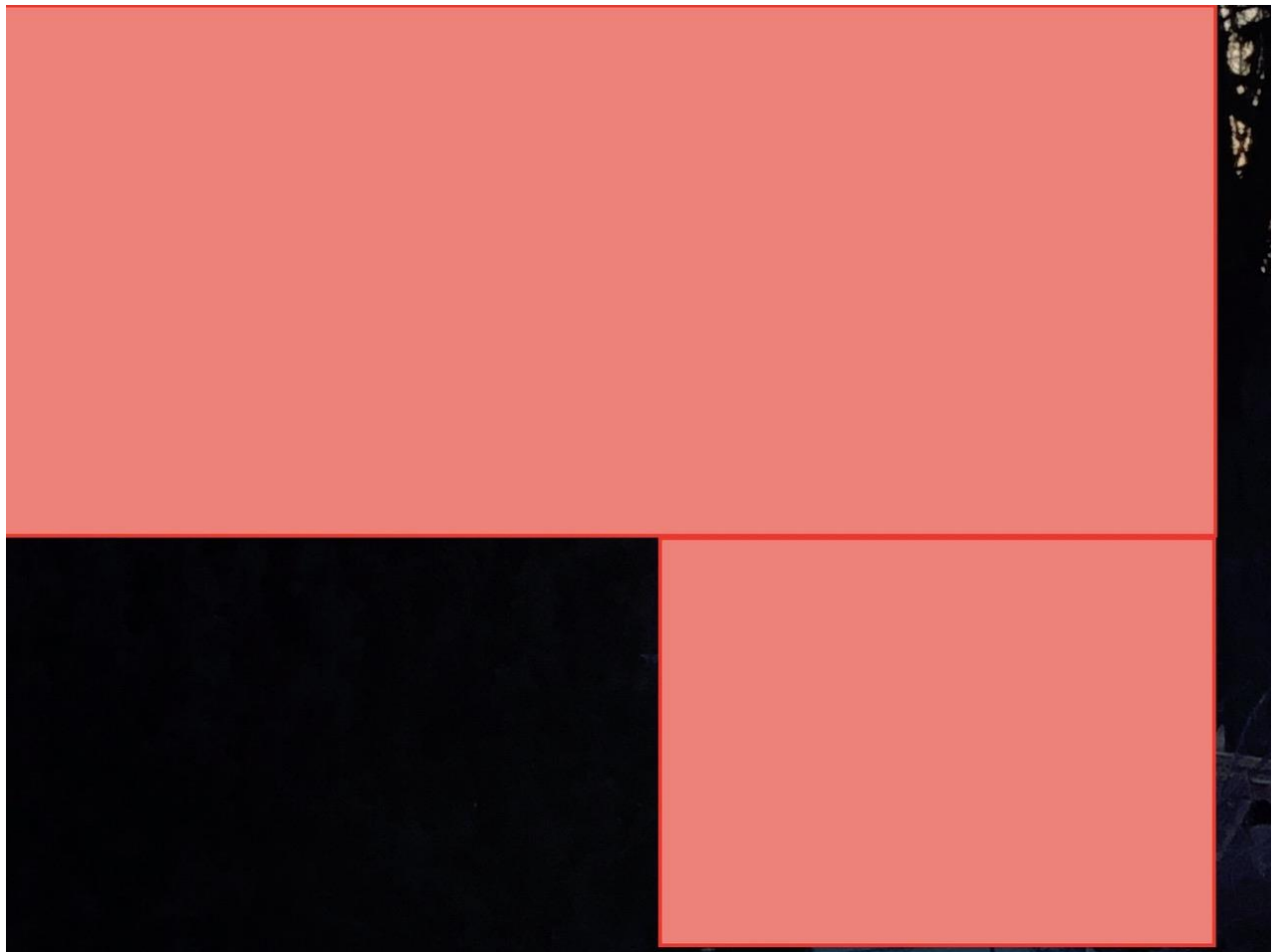


Photo 8.1 Current View from Rear First Floor Deck of 2 Tower Terrace



Photo 8.2 Prospective View from Rear First Floor Deck of 2 Tower Terrace

(red shading indicates area to be occupied by proposed structure at 40 Kingsland Terr.)



Burlington Development Review Board

Department of Permitting & Inspections
645 Pine Street
Burlington, VT 05401
www.burlingtonvt.gov/DPI/DRB
Telephone: (802) 865-7188
Fax (802) 863-0466

Brad Rabinowitz
AJ LaRosa
Springer Harris
Geoff Hand
Brooks McArthur
Kienan Christianson
Caitlin Halpert
Sean McKenzie, (Alternate)
Ravi Venkataraman, (Alternate)



BURLINGTON DEVELOPMENT REVIEW BOARD

Tuesday, April 6, 2021, 5:00 PM

REMOTE MEETING

Zoom: <https://us02web.zoom.us/j/84866592744?pwd=MkpMOUx2OEU2bTZ3T3Q4a3AvaVh6QT09>

Webinar ID: 848 6659 2744

Password: 502671

Telephone: +1 301 715 8592 or +1 312 626 6799 or +1 929 205 6099 or +1 253 215 8782 or
+1 346 248 7799 or +1 669 900 6833

Video recording link: <https://www.cctv.org/watch-tv/programs/burlington-development-review-board-355>

Draft Minutes

Board Members Present: Brad Rabinowitz, Springer Harris, Kienan Christianson, Caitlin Halpert, Geoff Hand, Ravi Venkataraman (Alt)

Board Members Not Present: AJ LaRosa, Brooks McArthur, Sean McKenzie (Alt)

Staff Present: Scott Gustin, Mary O'Neil, Ryan Morrison, Alison Davis

I. Agenda

B. Rabinowitz: No changes to the agenda

II. Communications

B. Rabinowitz: No additional communications

III. Minutes

IV. B. Rabinowitz: Minutes from last meeting are posted under that meeting's online packet.

V. Public Hearing

1. 21-0358CA/CU; 40 Kingsland Terrace (RL, Ward 6S) Kellen Brumsted

Demolish existing garage (listed on the National Register); construct new 660 sf. garage with Accessory Dwelling Unit (ADU). (Project Manager: Mary O'Neil)

Kellen Brumsted, Emily Morse, Jesse Beck, and Liam Murphy appeared on behalf of item Mark Stevenson, Linda Jones, and Daniel Richardson provided public testimony

B. Rabinowitz: Explains the item is recommended for approval, invites applicant to explain item.

K. Brumsted: Explains that they are proposing this project because they want to build living space for wife's parents. Have explored options with Lew Creek Builders, and have landed on this design and are enthusiastic about it.

B. Rabinowitz: Invites Emily Morse from Lewis Creek Builders to speak about project.

E. Morse: Gives brief explanation. Explains that the existing garage is too small and too crooked to fit a modern day vehicle in. A structural engineer evaluated that some could be salvaged, but the real problem lies with the slab foundation that is beyond repair. Looking at it from a cost-benefit analysis, the structure is not habitable or re-habitable. We have these goals, and are trying to achieve them in the smallest footprint possible. Proposed

The programs and services of the City of Burlington are accessible to people with disabilities. Individuals who require special arrangements to participate are encouraged to contact the Zoning Division at least 72 hours in advance so that proper accommodations can be arranged. For information call 865-7188 (TTY users: 865-7142).

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structure has a total of 660 sf, and 420 sf of that is for covered parking. Designed with minimalism, but sufficient and comfortable enough for long-term living. Have been trying to decide between rooflines. The original structure has a traditional hip-roof style. It would not give usable head-height for proposed purpose, so decided on more traditional gable-style main roofline with dormer like structures on both sides.

B. Rabinowitz: Asks Emily Morse about the grading on the property. Mentions that looking at the grading from the East side, the grade comes right down towards the building. Seems like some grading is needed to have stormwater management around the building.

E. Morse: Explains that there will need to be some type of grading re-work on the property. The section of the property that the garage currently sits on is flat, so we would want to expand that flat area for this new structure. We are trying to keep the same footprint as much as possible to have minimal site work.

B. Rabinowitz: Explains that his opinion is that the grading that is presented on the plan is not adequate. Water would be running into the East side of the building.

E. Morse: Correct, we want to look at what is possible to mitigate water in that section.

B. Rabinowitz: Asks if the Board has any questions for applicant.

None

B. Rabinowitz: Invites public to speak.

D. Richardson: Representing neighbors. Explains that his clients do not want to prevent the applicants from having their parents come and age in place. Objections are surrounding the scale and size of the accessory use, and wanting the structure to remain consistent with the character of the neighborhood. Willing to work with the applicant and cooperate to the extent that those goals can be reached. This application is similar to what was presented to the DAB and ultimately recommended to be rejected by the DAB.

B. Rabinowitz: Interjects for clarity that the DAB did not reject this application.

D. Richardson: It was his understanding that they voted that it should be lowered in height. I believe the motion against the application was passed 3-0-1.

M. O'Neil: Explains that there were recommendations for redesign. And those recommendations were tabled.

D. Richardson: Invites Mark Stevenson to speak. He will be presenting the images that are survey plats that were done in the area beginning in 1919. Linda Jones will be speaking on the plats and images that she has taken which show what the proposed structure will look like from the perspective from the adjacent historic property.

M. Stevenson: Speaks about the historic development of the neighborhood and issues that inform some of their objections to this project. Walks through a plat from 1978 of Kingsland Terrace neighborhood. On the Sanborn Map, you can see two distinct patterns. The first are Victorian, expensive lots, large structures, large lots, and carriage barns. The second are developments that occurred in the 1800s and early 1900s. When there was a push for more homes, the Terraces were developed. If you look in the middle of the neighborhood, and the characteristic of this neighborhood is very different. It is tighter density, one car, one story garages, smaller houses, and smaller lots. There are no two story accessory buildings or outhouses in the surrounding neighborhoods, you'll find those only in the surrounding areas in the larger Victorian lots. Explains the design characteristics that are in the Terrace neighborhood which are unique and specifically different from the rest of the surrounding area. Explains they are not opposed to an accessory dwelling unit in the adjacent property, but they do have issues with the two-story design of the structure.

L. Jones: Comments on the impact to neighborhood of this project. Explains that their house is the carriage house for the bigger house up on Willard St., they are technically the accessory unit for that property. Shows a photo looking out a window and deck view, and how house is oriented towards the west. In historical documents, it includes statements

about the view looking towards the lake. Shows images of what the second story would look like and how it would impact the view from their grand-room, and the impacts that structure will have on the characteristic of their home. Explains the impact that the loss of long familiar and comforting places. And how it would affect their psyche and would cause distress. The negative impact for a two-story building would be enormous.

D. Richardson: Discusses the issues that they currently have with the project. Explains to Board that he believes that the motion from the DAB meeting on February 23rd was to request that the applicant design a one-story building to be consistent with the neighborhood. Three issues that are going to be discussed. First, discusses the idea of an accessory use in the Ordinance, the language is singular. This project is technically two uses, one being a garage, and the other being a dwelling unit. Both are acceptable independently, but for this project how they are combined together, which should cause issues with compliance to the Ordinance. This structure is historically inconsistent as well as creating a visual impact. If you look at the Ordinances, it does talk about a singular accessory use. Would be okay with an accessory dwelling unit that is consistent with what the DAB discussed. Discusses the character of the neighborhood. The evidence is that this is a low-density neighborhood, not a medium or high density. Explains what Ordinance states about zone and residential density areas. Would recommend that this project is inconsistent with the neighborhood that it is located in. Another point is about the historic nature. References Ordinance and discusses the demolition of historic structures. It is uncontested that this is a historic structure. The structure does need a new foundation. The building itself is intact and in good shape. Explains that demolition would not be complying with the Ordinance. A building with a specific characteristics is being replaced by a building with very different characteristics and of a much different scale. This all could be mitigated by reducing the building to one story.

K. Christianson: Asks how the City has traditionally defined a neighborhood. Describes that when looking at the plat, it looks like there are other buildings behind the larger buildings, and wonders how they are supposed to view or define a neighborhood.

M. O'Neil: A neighborhood means different things to different people. There are different ways to think about it, neighborhoods that are defined by the historic district, the neighborhoods that are defined by the different times of development, or in general, wards are considered neighborhoods.

L. Murphy: Explains that the statute is clear. It was changed as a result of a series of cases that were brought before the environmental court over the years, the question of "what is a neighborhood?". Explains that a statute says that you look at the zoning district within which the project is located. This is also how it is reflected in the City's Ordinance. When one views a neighborhood, you are not looking at if they are within the same street, what you should be looking at is which district it is located in and what is typical for structures within that district. Not necessarily the narrow point of view that a neighborhood should be viewed as just the houses around that property. Reads in the City's Ordinance that you look at the character of the area by purposes of the zoning district within which the project is located.

L. Jones: Mentions that in terms of a neighborhood, it is also about the personal relationships that are built within that community.

D. Richardson: Agrees with Liam Murphy's point and is consistent with our argument. This terraces within this district is how they are developed, and this is how we are viewing the neighborhood.

B. Rabinowitz: Understands that this is a challenging neighborhood issue. As development happens for the Hill section of Burlington, which cascades down to the lake and has all these views, it is inherent to many properties. People tend build to the West of one property so it doesn't affect the properties to the East of them. When this is taken away, it affects a substantial quality to the property and is a real impact. Also understands that this property is also at 33% of lot coverage where they are allowed 35%. Understand Dan

Richardson's point that if you do not have the garage, and went with one story, makes sense. It is a challenging issue from both sides.

R. Venkataraman: Asks Staff about scope of the hearing and if it pertains to only the demolition of the garage. Asks if ADUs and accessory structures are by right generally.

M. O'Neil: Explains that the DRB has review of the newly constructed structure because it is a permit level COA II.

R. Venkataraman: Asks if the DAB made a determination if the demolition should be recommended to be approved and whether the DAB also suggested that the project that comes out of this permit would provide economic benefit as outlined in the Zoning Bylaws.

M. O'Neil: Explains that during the first DAB meeting, the motion made was to table the application to have the applicant return with the following design revisions. Add an entrance to the north front façade that faces the street and revise the façade so it reads as a primary elevation, eliminate a retaining wall, and consider moving the top floor of the proposed addition. What the DAB did support and formalized in their review on Nov 24th, was that the request of demolition of the existing garage is supported as the applicant has shown that the existing garage lacks sufficient structural integrity. Another point was that they did not request the original request for a rear setback variance. In addition, the two-story roof design was not supported as it created a false sense of history and is not compatible with the main building. The Board recommended that the applicant revise the design with a roof ridge of approximately 21-foot height maximum. At the third hearing, the recommendation was to table for redesign as a one-story structure to be in scale with the neighborhood allowing even a slightly larger footprint for additional storage. Reminds Board that they had different Board member representation at those different meetings and that is reflected in the decisions. They currently meet the rear yard setback and the rear yard setback variance is no longer in discussion.

B. Rabinowitz: Asks neighbors if they have anything else to add.

Nothing else at this time

L. Murphy: The two areas of concern that has been raised by the neighborhood is that the two-story garage and accessory dwelling unit is inconsistent with the neighborhood, and that the neighborhood should be viewing are the Terraces. Second point is that it ruins those property's views. For the first issue, it is quite ironic that the neighbors who are living in a two-story accessory converted building are claiming that their structure is inconsistent with the neighborhood. They are saying that their building is okay being a two-story building, but then they are saying that they cannot build next-door. *Shares screen.* Shows property and surrounding area on Google Maps. Brings up the question on how to define a neighborhood. Explains that various accessory buildings are all over the place in this district/neighborhood. The law was changed to deal with the issue of limiting the small scope of neighborhood to dealing with the whole district it is located in. Need to pay attention to entire R-7 district, not just what is consistent with the neighborhood. As to the issue of what is consistent to the historic neighborhood, we believe that this is consistent with the surrounding neighborhood that have many different properties within them. Kellen went out and photographed some of the properties around the street that are nearby and those properties have those two-story accessory buildings. Another point is that the claim that garage by itself is a second use. If Dan Richardson is arguing that the garage is an accessory use and then another dwelling is another accessory use, explains that he has never heard that a garage is a separate use from a house of building. It is a part of the element of any uses that we have and is not a separate accessory use. The City and State have encouraged over the last few years the use of accessory dwellings. The neighbors' position that if you add an accessory dwelling above a garage, you have two uses, and it is the opposite of what the City has been working towards of making the accessory dwellings. It is a matter of rights. Explains opinion about the view issue. As the neighbor has said, they are living in a converted accessory dwelling building from another property and that they live on a lot that is almost fully covered. And what they have been doing is

borrowing the neighbor's backyard. There is nothing in the Ordinance or regulations that a neighbor has the right to a view. If there was a hedge tall enough and placed there, that would also ruin their view, but they do not have a right to that view.

E. Morse: Speaking from the design prospective, this project has adapted at every request and recommendation from the DAB, which complies with all code regulations, more tolerable for the neighbors, like not having windows along their side of the building, keeping the ridgeline height well below what the maximum allowed is. Most quantitative pieces of information is that subject to what is the neighborhood, there have been two specific COA II permits granted for similar structures in the neighborhood in the last few years. 138 Spruce Street, and 132 Spruce Street. In terms of precedence, there are two similar structures in the last five years.

G. Hand: Asks Mary O'Neil for perspective on neighbor's argument that only one accessory use is allowed and whether the garage is a separate use from the unit.

M. O'Neil: A garage is associated with a residential use, which is the principal use on the property. The structure may be considered an accessory structure, but the garage as parking serves the primary use.

D. Richardson: Explains that his clients (which are the neighbors testifying), is a separate and freestanding lot. It is not an accessory structure. The Zoning Bylaws, when it defines what an accessory structure's uses are, it does call out garages as a separate item. These are about hard choices to keep the integrity of the neighborhood. Clarifies that the argument about this is two-fold. One is the character of the neighborhood, which he would argue is valid in the fact that a neighborhood will develop in different ways. Balancing between housing, and this decision would not prevent housing because people are needing housing, so structures like this can be used for that.

L. Murphy: Mentions that it is important to distinguish between accessory use and accessory structure. Garage is a separate accessory structure, but is not a separate accessory use. As Mary mentioned, the parking is part of the residential use and that is the distinction.

B. Rabinowitz: Asks Board members if they have any other questions.

None

B. Rabinowitz: Closes public hearing.

2. 21-0723CU; 195 Archibald (RL, Ward 1E) Deborah Lyons

Change use to bed and breakfast; requesting parking variance. (Project Manager: Scott Gustin)

Deborah Lyons appeared on behalf of item

B. Rabinowitz: Explains item is recommended for approval. Invites to speak for item.

D. Lyons: No additional comments, description of project is good explanation.

B. Rabinowitz: Has question for Planner, Scott Gustin. Asks that this project requests one space-parking space waiver. Asks if that is one space more than what we require currently even though there are enough spaces currently.

S. Gustin: Yes, correct. There is some funny math with the parking, but short answer is that two-space nonconformity is legitimately nonconforming, so they are increasing the demand by one space.

B. Rabinowitz: Asks to clarify that the Bed and Breakfast definition is within the dwelling unit.

S. Gustin: No, it refers to owner-occupied dwelling. The owner has to live on-site, not necessarily in the same dwelling unit. The property does have to be the owner's primary residence. Reads definition in the Ordinance.

K. Christianson: Has question about parking. Asks that if there are two cars visiting, does that create parking issues? Is there a way to juggle traffic on the property?

D. Lyons: Yes, there are few times that more than one car needed to be on the property, but it can be a problem. If there are issues, explains that she has an office about a block and a half away, so can use that if needed.

B. Rabinowitz: Asks if there are other questions from the Board. Asks if there is public to comment on project.

None

B. Rabinowitz: Closes public hearing.

3. 21-0629DT; 92 Farrington Parkway (RL, Ward 7N) Raymond K. Ingram Jr.

Appeal of 15-year determination decision as to parking on the yard next to the driveway.
(Project Manager: Scott Gustin)

Raymond Ingram appeared on behalf of appeal

B. Rabinowitz: Explains that this item is for a 15-year determination.

R. Ingram: Yes, explains that he applied for an application and was denied, so he appealed the decision.

A. LaRosa: Remind Chair that this is an Appeal of a City Notice of Violation, so the City needs to present first.

B. Rabinowitz: Invites City to present.

S. Gustin: Not an appeal of an NOV, but is an appeal of a 15-year determination, so there is no enforcement action. Explains that how this started was an informal warning letter enforcement in response to a complaint. The response to the complaint is what led the property owner to submit the application. Explains that in October 2020, our office received a complaint about the front-yard parking. We sent the warning letter and the owner responded with an application to determine that as parking space using the 15-year statute of limitations for Zoning, instead of removing the parking or widening the driveway. The default position is that the parking is currently a zoning violation, so it is up to the owner to demonstrate that parking has occurred continuously for 15-years without any discontinuance. In the packet, there are some photos and neighbor names. Explains that seems like it is not enough evidence for the 15-years. An adverse determination was issued, the owner appealed that, and provided some additional photos, but is still in sufficient evidence.

B. Rabinowitz: Asks about testimony submitted by neighbors saying that he had parking for more than 15-years.

S. Gustin: If it was a sworn affidavit, which would be different but that is not what was submitted.

A. LaRosa: Asks if the neighbors are present at the meeting to testify.

S. Gustin: No public is appearing for this item. Explains that it would have to be a sworn notarized statement.

G. Hand: Explains that he does not view this letter as a statement by the neighbors, but is a list of neighbors.

B. Rabinowitz: Agrees. Not a completely legal way to provide evidence.

G. Hand: Explains that it is unclear whether those people signed that letter swearing that yes, this has been in place a minimum of 15-years. This just looks like a list of names for neighbors.

B. Rabinowitz: Asks property owner to comment.

R. Ingram: Explains that they are names of people who have lived here for at least 15-years.

B. Rabinowitz: Explains that the format that the letter was in was not very clear to comprehend and is not necessarily a legal document.

A. LaRosa: Asks why the appellant started using the yard for parking.

R. Ingram: Back in 2003, eventually moved here, and was used for work, so was using the yard for parking. Hardly worked and then the van broke down, so he couldn't move it for a while. Eventually he got the van fixed, but that is how parking in that spot began.

A. LaRosa: Asks when he moved here.

R. Ingram: Moved here in the spring of 2005.

A. LaRosa: Asks if the van runs and can drive.

R. Ingram: Yes, the van is currently in the driveway. There is nothing parked on the yard.

A. LaRosa: Asks why he chose to appeal the determination for this to not be used as parking.

R. Ingram: Taking advantage of the 15-year policy because that space has been used for parking for at least 15 years, so he would like that determined as parking.

A. LaRosa: Asking if the applicant is seeking to designate a spot next to the driveway to be used for parking any vehicle.

R. Ingram: Correct. Not sure if the 15-years means any vehicle or just cars.

S. Gustin: Confirms that it doesn't matter what type of vehicle, just matters where it is being parked on the property.

G. Hand: Asks if there is sufficient lot coverage to expand the parking and comply with the Ordinance.

S. Gustin: Yes, could be possible. Extending it towards that side yard would be pretty tight.

G. Hand: Mentions submitted photos and asks if the van still operates.

R. Ingram: It is not registered or inspected, but it does drive.

G. Hand: Looks like in some of the photos that were provided, the van is parked in the driveway, and in some photos it is parked in the yard. Asks for clarification about consistency of using that space for parking.

R. Ingram: Explains the timing and the photos.

B. Rabinowitz: Asks if there are any other questions from the Board.

None

R. Ingram: Thanks Board for reviewing his appeal of the determination decision.

B. Rabinowitz: Closes public hearing.

VI. Certificate of Appropriateness

1. 21-0667CA; 90 Ethan Allen Parkway (NAC, Ward 7N) Rolf Danielson

Request for four unit hotel/bed and breakfast; install fencing, pergola, landscaping, expand driveway and resurface with gravel, move garage. (Project Manager: Ryan Morrison)

Rolf Danielson appeared on behalf of item

B. Rabinowitz: Explains that this is recommended for approval. Asks if applicant has any comments or anything they would like to start out with.

R. Danielson: No, just hoping that the application answers most questions. Looking to incorporate the architectural details of the main house.

B. Rabinowitz: Asks if the colors used in the renderings are the colors he is going with.

R. Danielson: Correct.

B. Rabinowitz: Compliments structure. Asks about the parallel parking and if people need to back out of the driveway.

R. Danielson: Correct. The driveway does get wider towards the road, but there is not a lot of room to turn around.

B. Rabinowitz: Concerns with sizes of parking spaces and placement of parking spaces. Asks about pathway along house.

R. Danielson: Understanding that the units in the back of the property need a pathway to access the unit. Explains that there is an option of putting the walkway on the north side of the house and putting a picket fence up to delineate the property lines. I expect most people to be driving in and out instead of walking.

R. Morrison: Explains that there is a condition on the conditions of approval to ensure that there is at least separation between walkway and parking spaces, but if the walkway needs to be eliminated, that can happen.

A. Halpert: Asks to clarify path and walkway needs to comply with Ordinance.

S. Harris: There are issues with the sizes and placement of the parallel parking spaces.

C. Halpert: Asks what the parking requirement is for this item.

S. Harris: Confirms that the requirement is zero.

Discussion about parking spaces and requirements in the Ordinance about dimensions.

R. Danielson: Explains that there is the main house, a garage for storage, and then four units. Anticipation was that there would be two spaces for the main house and then one space for each of the units.

R. Morrison: Mentions that the permit for the house was permitted for four guest rooms, so we would look at that as a total of 8 units for the property.

B. Rabinowitz: Asks if the applicant wants to re-work the parking and then come back to present, or if the Board would deliberate on item.

G. Hand: Motion to recess the public hearing and reconvene on May 4th for additional information on the parking and walkway.

C. Halpert: Seconds motion

7-0-0

VII. Other Business

1. 18-0682CU; 81 Dunder Road (WRL, Ward 5S) Jonathan Heller

Follow up review of permitted 1-bedroom bed & breakfast (short-term rental) as required by original permit condition. (Project Manager: Ryan Morrison)

AJ LaRosa and Geoff Hand disclose connection with adjacent property owner, Tom Walsh, Judge Walsh, through their profession.

Jonathan Heller appeared on behalf of item

Tom Walsh, Stephen and Susan Plisinski, Albert St. Amand, and Sandy Bossick provided public testimony

B. Rabinowitz: Asks to clarify if this is a hearing item.

S. Gustin: Not a public hearing item. There was a permit condition when Board approved this application, to see how it is going and whether it continues to comply with the permit.

B. Rabinowitz: Asks what the options are for a decision.

S. Gustin: Not sure if the Board will need to do anything. Will need to see how conversation goes.

B. Rabinowitz: Some of the concerns in the letters were concerns that were raised when the application came before us originally. Were hoping that those concerns would not be present once the short-term rental was running.

J. Heller: Recommends that everyone read what he wrote and supplied for this meeting. Explains he is in compliance. Mentions letter from neighboring properties and issues they have against him.

A. LaRosa: Remembers when this item first came to the Board. Explains that he is struggling with are the plans that the plans that were submitted in 2018 do not show a hot tub, they do not show a kitchenette. It was presented just as a bedroom.

J. Heller: States that is not true and he represented it how the property is.

A. LaRosa: Remembers concerns that were originally presented from public during first meeting. With the info supplied, there is evidence of an accessory dwelling unit with kitchenette utilities, which is seemingly inconsistent with the plans shown. Asks when the kitchenette was added to the room.

J. Heller: Added a microwave oven to the room. Everything was installing before he purchased the house.

A. LaRosa: Clarifies that the only thing that was not in there before was the microwave.

J. Heller: Correct.

A. LaRosa: Plans did not show the kitchenette.

J. Heller: Said that someone from the City came out and inspected the unit, and said it was fine.

B. Rabinowitz: Explains that was not an inspection from Zoning. Explains that they are trying to see if the impact on the neighborhood is more than what was discussed in the beginning of review.

J. Heller: Disagrees and have people who would be able to contradict Tom's testimony.

A. LaRosa: Asks how often he is using the short-term rental.

J. Heller: Answers that occupancy rate per month is 61%.

A. LaRosa: Asks how many guests on average per rental.

J. Heller: Two guests.

A. LaRosa: Asks how many people the rental can sleep.

J. Heller: Depends on how many people want to sleep in two beds.

C. Halpert: Asks what the listing says about how many people are allowed.

J. Heller: The listing says three guests, but not three adults. Prefers couples/two people, but has two beds for babies/children to use.

B. Rabinowitz: Asks if there are any nighttime disturbances from guest.

J. Heller: Not that he knows of. Explains that he has a security camera for outside and has not seen any disturbances.

A. LaRosa: Explains that there are other letters that were submitted. The letters mention that they are unhappy with the parking.

J. Heller: Explains that people park in the driveway, not in the road. If you look at photos from Dunder Road, there is never an issue with parking.

B. Rabinowitz: Asks to clarify with Planner what options are for the next step. Clarifies that the process is to review this application at this point in time, to see how it relevant to what we approved originally.

S. Gustin: Correct. That is basically what the conditions say. The Board is not taking actions, but depending on what the outcome of what we hear, maybe there would be enforcement action or maybe not if everything is fine.

T. Walsh: Introduces self. Explains that he tried to not get involved with the short-term rental approval, explains that he is here tonight because over the past two years with impacts and believes that they relate directly back to the discrepancy between what was reviewed by DRB and what is actually being rented. Explains that if you look at the application and the floorplan that was submitted, it shows a single room. The DRB's notice of the 2018 hearing said change of use to bed-and-breakfast in one room. The staff findings permit a bed-and-breakfast use in one room in the existing single family home. And then the DRB decision during a later meeting says the review was to consider a proposal to convert one-bedroom within the existing single family dwelling to a bed-and-breakfast. What was approved by the motion of the Board was a bed-and-breakfast in one bedroom within the existing single family home. Explains that what he has noticed through observation and from viewing the AirBnB listing, and what he explained in his letter to the Board is that what he believes is being rented would be considered an accessory dwelling unit. They have vastly different impacts. More people, the way they are set up with a separate entrance along the property boundary. People come and go, and there is direct impact on my property. The DRB did not review those impacts. That is why he has become concerned, so when this matter came to the Board, he decided to file this letter. Explains personal history with property owner and matters between them.

S. Plisinski: Explains that they are an abutting neighbor. Asks Board what are the major conditions and limitations for a BnB.

A. LaRosa: Tough question to answer. There are many and to some extent differ depending on the project. Explains general regulations. Asks if there were a specific issues he would like to know more regulations on.

S. Plisinski: Not really, just more for general knowledge and understanding.

B. Rabinowitz: Explains that focus of conditions for this permit was that it would have minimal impacts on the neighborhood.

S. Plisinski: Asks if the conditional use standards were met and whether or not there has been a nuisance experience from the neighbor about the usage of the property in respect to the conditional use permit.

B. Rabinowitz: Explains that they are here to understand what the impact is at this point.

S. Plisinski: One concern when viewing documents in meeting packet was that the applicant has installed blue lights around house, which is probably for security reasons, but concerned that her property is being photographed on his cameras when I looked online that he had provided. Do not appreciate having pictures taken of her when on her own property. That is a nuisance to her and her property.

A. St. Amand: Introduces self. Explains that he is not impacted, but wants to comment on the issue about the blue lights that Susan spoke about. Those blue lights are very annoying and if taken down, that would address my wife and my current concerns.

B. Rabinowitz: Asks if the lights are visible from off of the property.

A. St. Amand: Correct. Correct. Visible from all directions.

S. Bossick: Introduces self. Adds that the lights are very annoying from her property as well.

B. Rabinowitz: Asks if there is anyone else from the public who would like to speak.

None

B. Rabinowitz: Explains to applicant that the lights may be a zoning violation.

J. Heller: Happy to remove the lights, did not know that people/neighbors did not like the choice.

A. LaRosa: Asks applicant if he lives at the property full time. Asks if he has other renters there. Asks if he used to have renters there in 2018 when this was first applied for.

J. Heller: Yes, lives there full time. No current renters. In 2017 or 2018, yes, there was renting.

B. Rabinowitz: Asks if there are any other questions from the Board.

None

B. Rabinowitz: Closes public hearing.

VIII. Adjournment

Meeting adjourned 7:30PM.



Bradford L. Rabinowitz, Chair of Development Review Board July 6, 2021
Date



Alison Davis, Zoning Clerk Date

Plans may be viewed upon request by contacting the Department of Permitting & Inspections between the hours of 8:00 a.m. and 4:30 p.m. Participation in the DRB proceeding is a prerequisite to the right to take any subsequent appeal. Please note that ANYTHING submitted to the Zoning office is considered public and cannot be kept confidential. This may not be the final order in which items will be heard. Please view final Agenda, at www.burlingtonvt.gov/dpi/drb/agendas or the office notice board, one week before the hearing for the order in which items will be heard.

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