

Department of Planning and Zoning

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TO: Development Review Board
FROM: Ken Lerner
DATE: April 1, 2014
RE: 14-0773CA/CU; 52 Locust 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:** 5

Owner/Applicant: Zpora Perry & Leighton Johnson/ Ruby Perry & Andrew Simon

Request: Construct detached structure for an accessory unit, convert back porch to living space, add fencing, re-grade driveway.

Applicable Regulations:

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

Background Information:

The applicant is seeking approval to construct a new accessory apartment in a detached building. The apartment is to be located behind the existing single family home on the subject property. No new parking to serve the accessory unit is proposed.

Previous zoning actions for this property are noted below.

- 05/16/06 ZP 06-745CA: Front porch replacement. New wooden porch and stairs 8 ft. wide and 5 ft. deep. No change to roof.

Recommendation: Denial for the following reasons:

I. Findings

Article 3: Applications and Reviews

Part 5, Conditional Use & Major Impact Review:

(a) Conditional Use Review Standards

(1) The capacity of existing or planned community facilities;

The proposed accessory dwelling unit will be served by municipal water and sewer service. Adequate capacity is available; however, approval for connections from DPW and a wastewater permit from the State of Vermont will be required. **(Affirmative finding if conditioned)**

(2) The character of the area affected;

This neighborhood is defined by detached single family homes. Accessory dwelling units are allowed in association with single family homes throughout the city. As required, the proposed

accessory dwelling unit is relatively small and is clearly secondary to the primary residence on the subject property. **(Affirmative finding)**

(3) Traffic on roads and highways in the vicinity;

No traffic information has been provided; however, anticipated traffic impacts are minimal. **(Affirmative finding)**

(4) Bylaws then in effect;

There is inadequate parking to support the accessory unit and the single family occupancy as required – see finding in Sec. 5.4.5 (a) 4. Thus this proposal cannot be found to comply with all applicable zoning bylaws. **(Adverse finding)**

(5) Utilization of renewable energy resources;

No utilization of renewable energy resources is evident in the project plans; however, as proposed, the accessory dwelling unit will have no adverse impact on the potential utilization of such energy onsite or on neighboring properties. **(Affirmative finding)**

(6) Cumulative impacts of the proposed use;

The subject property is located in the RL zone wherein residential use is permitted. Per this criterion, cumulative impacts shall be deemed negligible. **(Affirmative finding)**

(7) Functional family;

Accessory apartments by definition are limited to 1-bedroom or studio units. While the functional family limitations of this criterion apply, the occupancy restrictions of no more than two adult occupants for an accessory apartment are more stringent. **(Affirmative finding if conditioned)**

(8) Vehicular access points;

The proposed accessory unit will be placed behind, to the north of, the existing home. It is proposed to have use the existing driveway/garage located east & south of the primary dwelling. There is insufficient parking in the driveway/garage to accommodate the increase in use and to meet the required parking as required resulting from the accessory unit as per Sec. 5.4.5 (a) 4. **(Adverse finding)**

(9) Signs;

No signage is included in this proposal. **(Not applicable)**

(10) Mitigation measures;

The proposed accessory dwelling unit will not produce noise or glare sufficient to warrant mitigation measures. **(Affirmative finding)**

(11) Time limits for construction;

The zoning permit is valid for 2 years; 1 year to start construction and another to finish. No additional time is being sought by the applicant. **(Affirmative finding)**

(12) Hours of operation and construction;

Hours of operation do not apply to the proposed residential use. Given the project location in a residential neighborhood, hours of construction should be limited to Monday – Saturday, 7:00 AM

– 6:00 PM. No construction on Sunday. These limitations are consistent with those imposed for other development within residential areas. **(Affirmative finding if conditioned)**

(13) Future enlargement or alterations;

Any future enlargement or alterations will require additional permit review in accordance with the regulations in effect at that time. **(Affirmative finding)**

(14) Performance standards;

See Sec. 5.5.3 for erosion control.

(15) Conditions and safeguards;

If conditioned, the proposed use complies with the applicable requirements of the Comprehensive Development Ordinance. **(Affirmative finding)**

Article 4: Maps & Districts

Sec. 4.4.5, Residential Districts:

(a) Purpose

(1) 1. The Residential Low Density (RL) district is intended primarily for low-density residential development in the form of single detached dwellings and duplexes. This district is typically characterized by a compact and cohesive residential development pattern reflective of the respective neighborhoods' development history.

The subject property is located in the RL zone. This zone is intended primarily for low density residential development in the form of single detached dwellings and duplexes. Accessory dwelling units are allowed in association with single family homes throughout the city.

(Affirmative finding)

(b) Dimensional Standards & Density

Lot coverage will increase from 23.6% to 26.1%; below the 35% maximum permissible.

The accessory dwelling unit, being below 15 ft. tall when measured half way up the slope of the roof, is subject to a 5' side yard setback. As proposed, it will be set back 18.5' from the side boundary line. The proposed accessory dwelling unit needs to comply with the front yard setback; it appears that only a minor change may be necessary but that it could be met. The driveway is has two parking spaces in tandem, but while long enough cannot have three spaces stacked for the additional accessory unit.

The proposed structure is less than 15' measured half way up the slope of the roof; this well under the 35' height limit. **(Affirmative finding if conditioned)**

(c) Permitted & Conditional Uses

The existing single family home is a permitted use in the RL zone. Accessory dwelling units may be permitted uses as well; however, the new construction proposed tips the application into conditional use review. **(Affirmative finding)**

(d) District Specific Regulations

1. Setbacks

No changes to the existing driveway are proposed. **(Affirmative finding)**

2. Height

The submitted building elevations for the accessory unit indicates the height lower than 15' measured half way up the slope of the roof. This is below the 35' maximum height limit and thus no exceptions are sought. **(Affirmative finding)**

3. Lot Coverage

The proposed lot coverage with the new structure is calculated at 27.1%; this is less than the 35% maximum allowed. The 10% allowed for amenity space has not been broken out as it is not necessary given the proposal. **(Affirmative finding)**

4. Accessory Residential Structures and Uses

Accessory dwelling units are allowed in association with single family homes throughout the city and are not counted as an additional unit for density purposes. See Sec. 5.4.5, *Accessory Dwelling Units*. **(Affirmative finding)**

5. Residential Density

No additional density is calculated as a result of the inclusion of an accessory apartment.

6. Uses

See item 4. above.

7. Residential Development Bonuses

(Not applicable)

Article 5: Citywide General Regulations

Sec. 5.2.3, Lot Coverage Requirements

See Sec. 4.4.5 (b) above.

Sec. 5.2.4, Buildable Area Calculation

(Not applicable)

Sec. 5.2.5, Setbacks

See Sec. 4.4.5 (b) above.

Sec. 5.2.6, Building Height Limits

See Sec. 4.4.5 (b) above.

Sec. 5.2.7, Density and Intensity of Development Calculations

See Sec. 4.4.5 (b) above.

Sec. 5.4.5, Accessory Dwelling Units

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

Where there is a primary 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 apartment that is clearly subordinate to the primary 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.

As required, there shall be no more than two adult occupants in the accessory unit and the premises must be owner occupied. **(Affirmative finding if conditioned)**

Additionally, there must be compliance with all the following:

1. *The property has sufficient wastewater capacity as certified by the Department of Public Works;*
The proposed accessory dwelling unit will place minimal demand on the city's wastewater system. This capacity must be verified in writing by the Department of Public Works. **(Affirmative finding if conditioned)**
2. *The unit does not consist of more than 30 percent of the total habitable floor area of the building, inclusive of the accessory dwelling unit;*
The proposed accessory dwelling unit is 447 sf, (plus 108 sf for a porch not included in the calculations). This square footage is 27.3% of the 1635 sf habitable area of the existing single family home which includes the enclosed porch and the accessory unit as per Sec. 5.4.5 (a) as amended (ZA13-10; 9 Oct. 2013). **(Affirmative finding)**
3. *Applicable setback and lot coverage requirements are met; and,*
As noted previously, the proposed accessory dwelling needs to confirm compliance with the front yard setback. The proposed work does not exceed lot coverage limitations. **(Affirmative finding)**
4. *One additional parking space which may be legally allocated to the accessory unit must be in existence and provided for the accessory unit.*
There are two parking spaces in tandem in the existing driveway/garage on the property. Three parking spaces are required; two for the single family use and one for the accessory apartment. The driveway and garage are not sufficient to contain the required three parking spaces. **(Adverse finding)**

Sec. 5.5.1, Nuisance Regulations

Nothing in the proposal appears to result in creating a nuisance under this criterion. **(Affirmative finding)**

Sec. 5.5.2, Outdoor Lighting

No proposed outdoor lighting is shown. If any outdoor lighting fixtures are proposed, details as to the fixture type, lumens, and location must be provided. **(Affirmative finding if conditioned)**

Sec. 5.5.3, Stormwater and Erosion Control

As more than 400 sf of earth disturbance is proposed, a "small project erosion control" form is required. Such a plan has been submitted for review and approval by the Stormwater Administrator. **(Affirmative finding if conditioned)**

Article 6: Development Review Standards

Part 1, Land Division Design Standards. Not applicable.

Part 2, Site Plan Design Standards

Sec. 6.2.2, Review Standards

(a) Protection of important natural features

There are no natural resource features on site that are in need of protection. **(Affirmative finding)**

(b) Topographical alterations

The proposed construction site is basically flat and will remain so. No significant topographical alterations are proposed other than regarding the existing driveway. **(Affirmative finding)**

(c) Protection of important public views

There are no important public views from or through the subject property. **(Affirmative finding)**

(d) Protection of important cultural resources

The existing single family house was built post WWII, around 1949. It is identified in the Five Sisters Neighborhood Survey of historic resources. As the rear porch is original to the building; it appears in the 1950 Sanborn Map, the owner is not proposing any exterior changes to the porch only to winterize as is. The site does not contain any known archaeological resources.

(Affirmative finding)

(e) Supporting the use of alternative energy

As noted previously, no utilization of renewable energy resources is evident in the project plans; however, as proposed, the accessory dwelling unit will have no adverse impact on the potential utilization of such energy onsite or on neighboring properties. It is sited to take advantage of the southern exposure. **(Affirmative finding)**

(f) Brownfield sites

(Not applicable)

(g) Provide for nature's events

See Sec. 5.5.3.

(h) Building location and orientation

The proposed dwelling unit is accessory to the primary residence on the subject property. It is appropriately located behind the principal building. **(Affirmative finding)**

(i) Vehicular access

See Sec. 3.5.6 (a) 8.

(j) Pedestrian access

The accessory dwelling unit will be served by a walkway connecting to and through the garage rather than a front walkway out to the public street. This is somewhat awkward as access to the walkway is through the garage via the garage door and out on the side of the garage thru a door to the walkway. The principal house does have a front walkway to the driveway. The applicant may want to consider a separate walkway to Locust Terrace from the accessory unit. **(Affirmative finding)**

(k) Accessibility for the handicapped (Not applicable)

(l) Parking and circulation

See Sec. 5.4.5 (a) 4 and 8.1.8.

(m) Landscaping and fences

A 5.5 foot high fence enclosing a shared garden is proposed. The garden forms an open space area between the house and accessory unit. **(Affirmative finding)**

(n) Public plazas and open space

(Not applicable)

(o) Outdoor lighting

See Sec. 5.5.2.

(p) Integrate infrastructure into the design

New site infrastructure is needed for the accessory dwelling unit. All new utility lines to serve the dwelling must be buried. **(Affirmative finding if conditioned)**

Part 3, Architectural Design Standards

Sec. 6.3.2, Review Standards

(a) Relate development to its environment

• *Massing, Height, and Scale*

The massing, height, and scale of the proposed accessory dwelling unit are clearly subordinate to those of the primary residence. **(Affirmative finding)**

• *Roofs and Rooflines*

The proposed gable roof on the accessory dwelling appears similarly pitched as the primary residence roof. **(Affirmative finding)**

• *Building Openings*

Fenestration is composed of basic geometric shapes that reinforce the residential nature of the proposed building. **(Affirmative finding)**

(b) Protection of important architectural resources

The subject property contains an historic building that is common to this neighborhood. The addition of the small accessory structure is separate and detached and will not have any effect on the existing building or others in the vicinity. **(Affirmative finding)**

(c) Protection of important public views

See 6.2.2 (c) above.

(d) Provide an active and inviting street edge

As noted above, proposed building will house an accessory dwelling unit. The building is not intended to present a strong street presence. Rather, the building is oriented behind the primary dwelling unit and even though it fronts on Locust Terrace, it presents a clearly subordinate face to the street. **(Affirmative finding)**

(e) Quality of materials

The proposed building will be clad in wood ship-lap siding. With awning windows and a glass front door proposed. The roofing material is proposed to be cedar shakes. The materials are of acceptable quality. **(Affirmative finding)**

(f) Reduce energy utilization

The proposed building must comply with the state & city's current energy efficiency standards.

(Affirmative finding if conditioned)

(g) Make advertising features complimentary to the site

No advertising is included in this proposal. **Not applicable.**

(h) Integrate infrastructure into the building design

No exterior mechanical equipment is proposed. If exterior utility meters are to be installed, they must be depicted on revised plans and screened. **(Affirmative finding if conditioned)**

(i) Make spaces safe and secure

The proposed building must comply with the city's current egress requirements. **(Affirmative finding if conditioned)**

Article 8: Parking

Sec. 8.1.8, Minimum Off-Street Parking Requirements

The accessory dwelling unit requires one parking space and the principal residence requires two spaces for a total of three. The driveway/garage is inadequate to contain the required parking.

(Adverse finding)

Sec. 8.1.15 Waivers from Parking Requirements/ Parking Management Plans

The total number of parking spaces required pursuant to this Article may be reduced to the extent that the applicant can demonstrate that the proposed development can be adequately served by a more efficient approach that more effectively satisfies the intent of this Article and the goals of the municipal development plan to reduce dependence on the single-passenger automobile.

Any waiver granted shall not exceed fifty percent (50%) of the required number of parking spaces except for the adaptive reuse of a historic building ... and ground floor retail uses in any Mixed Use district which may be waived by as much as one hundred percent (100%). Waivers shall only be granted by the DRB, or by the administrative officer pursuant to the provisions of Sec. 3.2.7 (a) 7.

In order to be considered for a waiver, the applicant shall submit a Parking Management Plan that specifies why the parking requirements of Sec. 8.1.8 are not applicable or appropriate for the proposed development, and proposes an alternative that more effectively meets the intent of this Article. A Parking Management Plan shall include, but not be limited to:

- (a) A calculation of the parking spaces required pursuant to Table 8.1.8-1.*
- (b) A narrative that outlines how the proposed parking management plan addresses the specific needs of the proposed development, and more effectively satisfies the intent of this Article and the goals of the Municipal Development Plan.*
- (c) An analysis of the anticipated parking demand for the proposed development. Such an analysis shall include, but is not limited to:*
 - 1. Information specifying the proposed number of employees, customers, visitors, clients, shifts, and deliveries;*
 - 2. Anticipated parking demand by time of day and/or demand by use;*
 - 3. Anticipated parking utilizing shared spaces or dual use based on a shared parking analysis utilizing current industry publications;*

4. *Availability and frequency of public transit service within a distance of 800-feet.*
 5. *A reduction in vehicle ownership in connection with housing occupancy, ownership, or type; and,*
 6. *Any other information established by the administrative officer as may be necessary to understand the current and project parking demand.*
- (d) *Such a plan shall identify strategies that the applicant will use to reduce or manage the demand for parking into the future which may include but are not limited to:*
1. *A telecommuting program;*
 2. *Participation in a Transportation Management Association including methods to increase the use of mass transit, car pool, van pool, or non-auto modes of travel;*
 3. *Implementation of a car-share program;*
 4. *Development or use of a system using offsite parking and/or shuttles; and,*
 5. *Implementation of public transit subscriptions for employees.*

Prior to any approval by the DRB pursuant to this section, the means by which the parking management plan will be guaranteed and enforceable over the long term, such as a contract, easement, or other means, and whether the city should be a party to the management contract or easement, shall be made acceptable to the city attorney.

The proposed accessory apartment cannot be approved as it does not meet the minimum parking standards as articulated in Sections 5.4.4 (a) 4 and 8.18. In an attempt to address the lack of parking, the applicant has requested a 50% parking waiver and provided a parking management plan in support. The major rationale for the waiver is based on a personal commitment and life style. While this is admirable, zoning permits are issued to and run with the land, not with an individual. The reality is that the occupancy of the accessory unit and the single family residence are for the long-term, beyond the current owner and applicant's residency. It is not possible to guarantee, as required in Sec. 8.1.15 (d), that future owners and/or occupants will subscribe to the same life style including limiting vehicle ownership. It is also a concern that personal circumstances change with life event changes and with the needs of growing families. The location of a car share and the applicant's membership does not insure that future occupants will participate and that the car-share pod will remain at a location in close proximity to this property.

Based on the applicants' plan, it realistically is not possible to include enforceable permit conditions to insure that the future long term occupancy of the accessory unit and single family residence to continue a life-style with limited car ownership and to indefinitely use alternative transportation.

(Adverse finding)

II. Reasons for Denial:

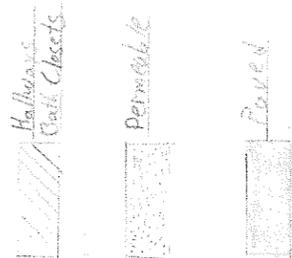
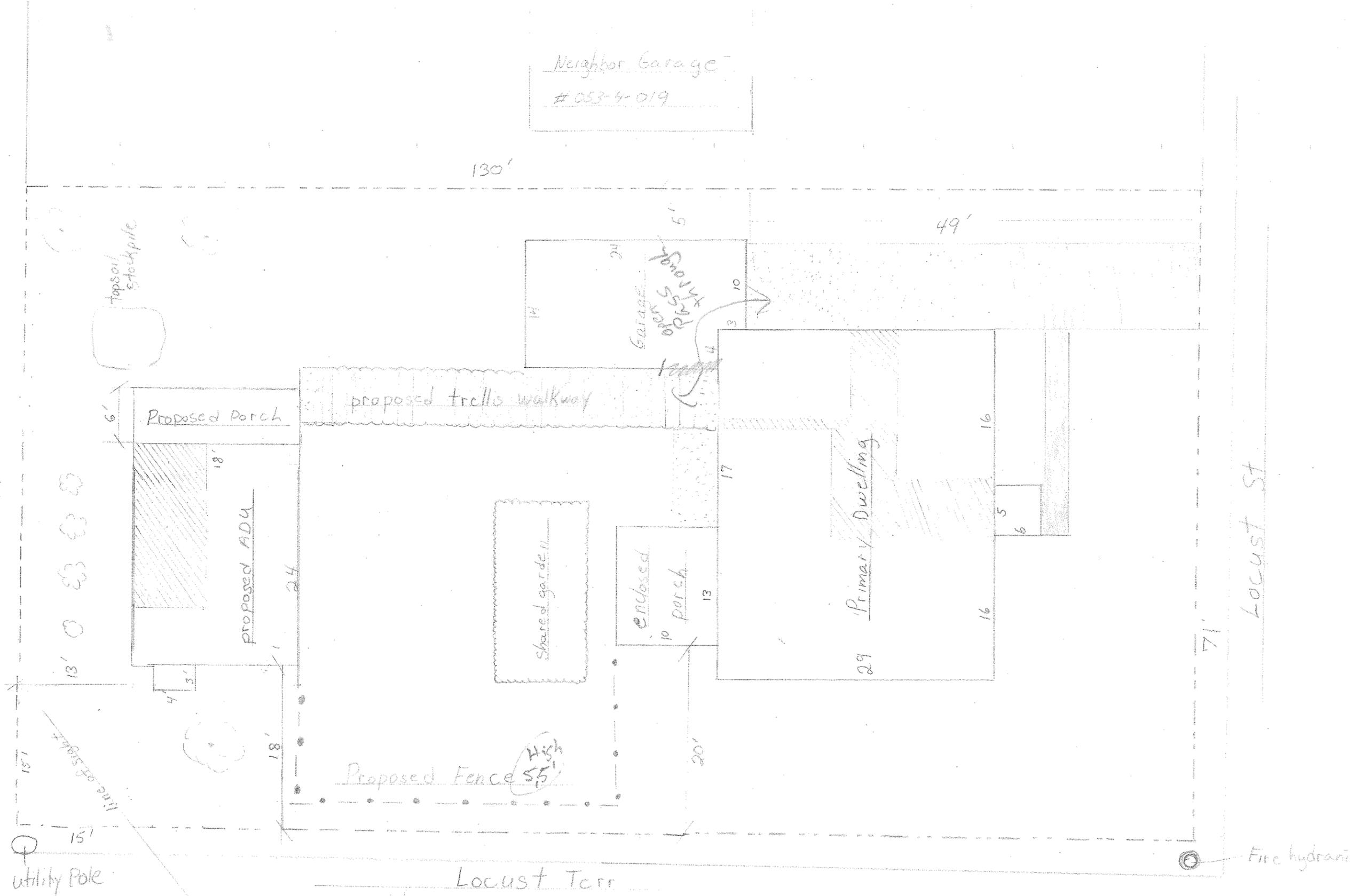
Per the adverse findings above.

RECEIVED
MAR 12 2014
DEPARTMENT OF
PLANNING & ZONING

Neighbor's House

#053-4-017

Driveway

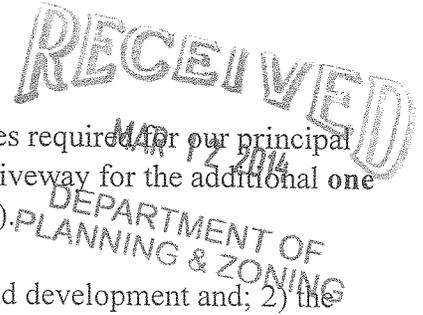


ZORA PERRY LEIGHTON JOHNSON

52 Locust St # 053-4-018

Scale = 3/32 1" = 11'

Request for Waiver and Parking Management Plan



We are requesting a waiver to reduce by 50% the number of parking places required for our principal dwelling from **two to one**. This would also allow us to use the existing driveway for the additional **one parking place** required for the proposed Accessory Dwelling Unit (ADU).

This request is based on 1) the anticipated parking demand of the proposed development and; 2) the existing transportation resources available in our neighborhood. It is also consonant with the energy reduction vision and goals enumerated in the City of Burlington's Municipal Development Plan and its associated Climate Action Plan.

1. Anticipated Parking Demand

As a family committed to reducing our vehicle miles traveled, we own only one car. Most of our transportation needs are satisfied by this shared car. We are also bicyclists and walkers. We find that Burlington small size and bike-friendly environment often make the use of a car unnecessary. Our parents, for whom we are building the ADU, have not owned a car since moving to Burlington in 2009.

In addition, since the Burlington Comprehensive Development Ordinance (sec. 5.4.5c) requires that "all individuals listed on the deed...must reside in the primary unit or in the accessory unit", the parking demand should never exceed current levels. As the ordinance states clearly: "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...".

2. Public/Shared Transportation Resources

*CCTA (Route #5, #6) have stops 1-3 blocks from our house

*There is CarShareVermont "pod" (vehicle) located at Calahan Park, approximately 60 yards from our house with 13 other cars located throughout the city. Everyone in our family is a CarShareVermont member.

3. Goals/principles of the Municipal Development Plan (MDP) and Climate Action Plan

Reduce transportation energy use by lessening reliance on drive-alone car trips, using more fuel-efficient vehicles, promoting increased transit use, and decreasing vehicle miles traveled.

Make tangible efforts to reduce greenhouse gas emissions through the implementation of the Climate Action Plan. Reduce community-wide vehicle miles traveled (VMT) by 10% per capita by 2025.

Currently, 51% of the city's greenhouse gas emissions are produced by cars, trucks and buses.

We feel that our request for a 50% parking waiver is supported by anticipated demand, available resources and community values. In the case of this development, the parking requirements of Sec. 8.1.8 are not appropriate.

Zpora Perry

Leighton Johnson

Ruby Perry

Andrew Simon

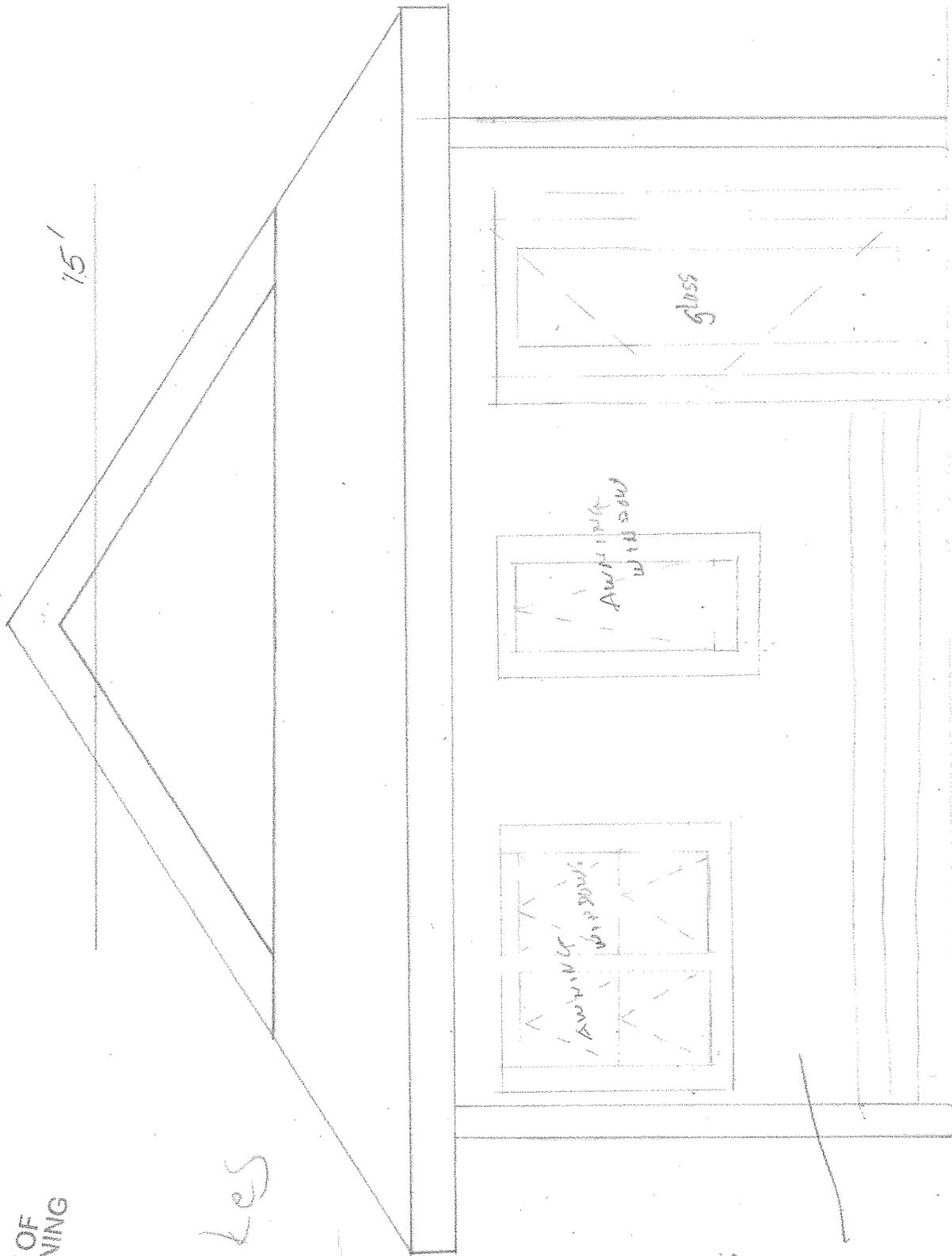
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15'

Roof
cedar shakes



WOOD x
TRIM
WORKER
BOARDS

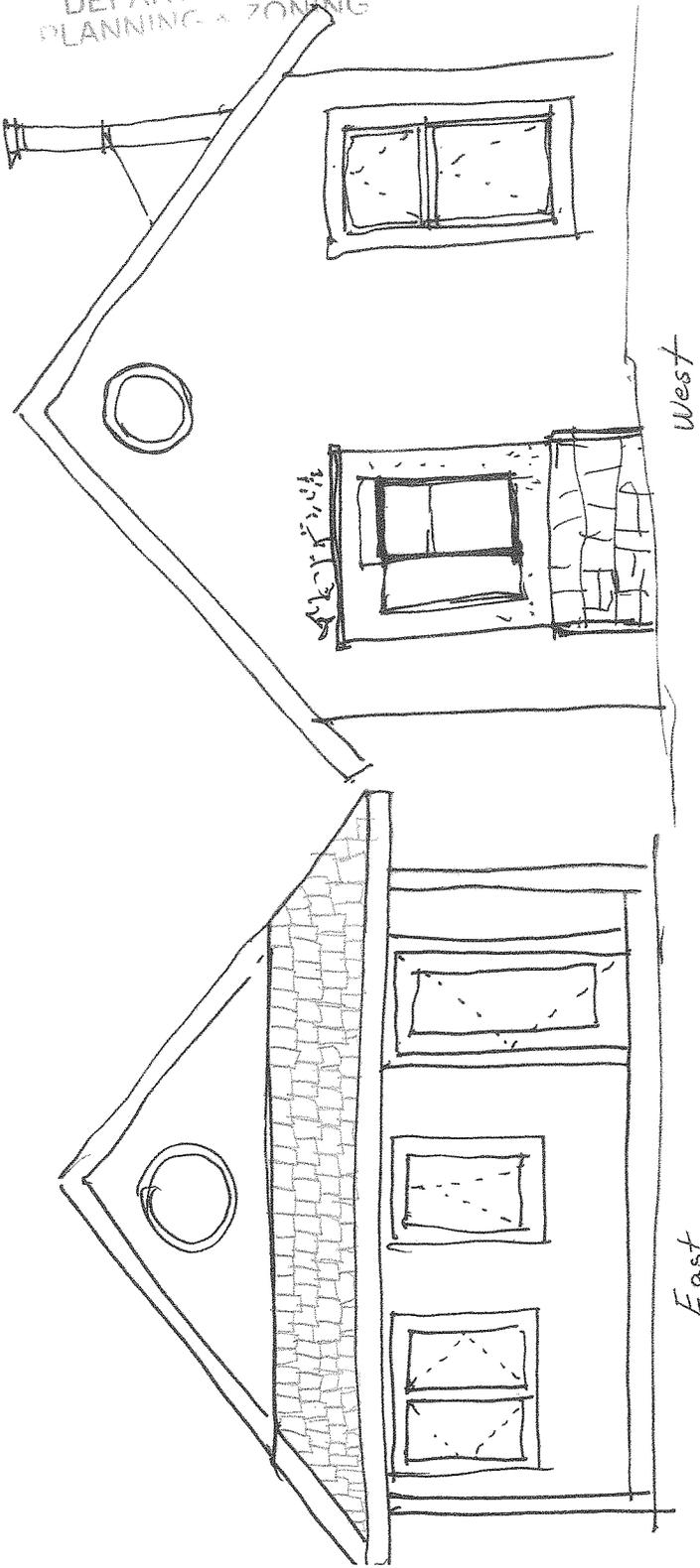
WOOD
SHIP LAP

east

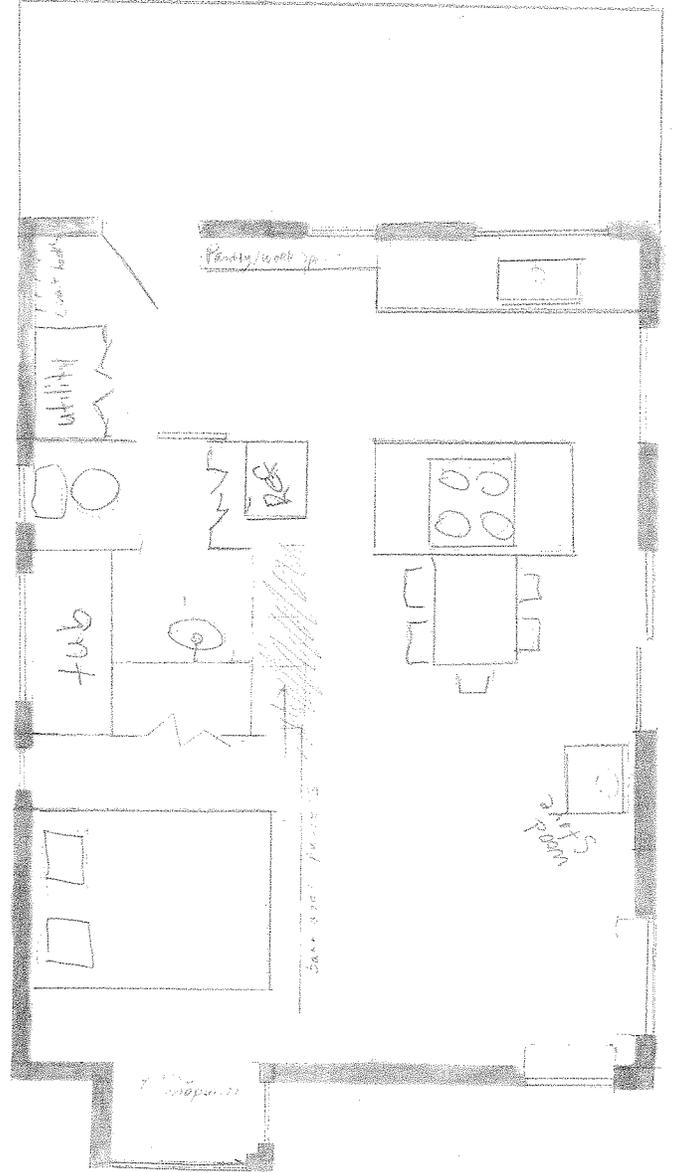
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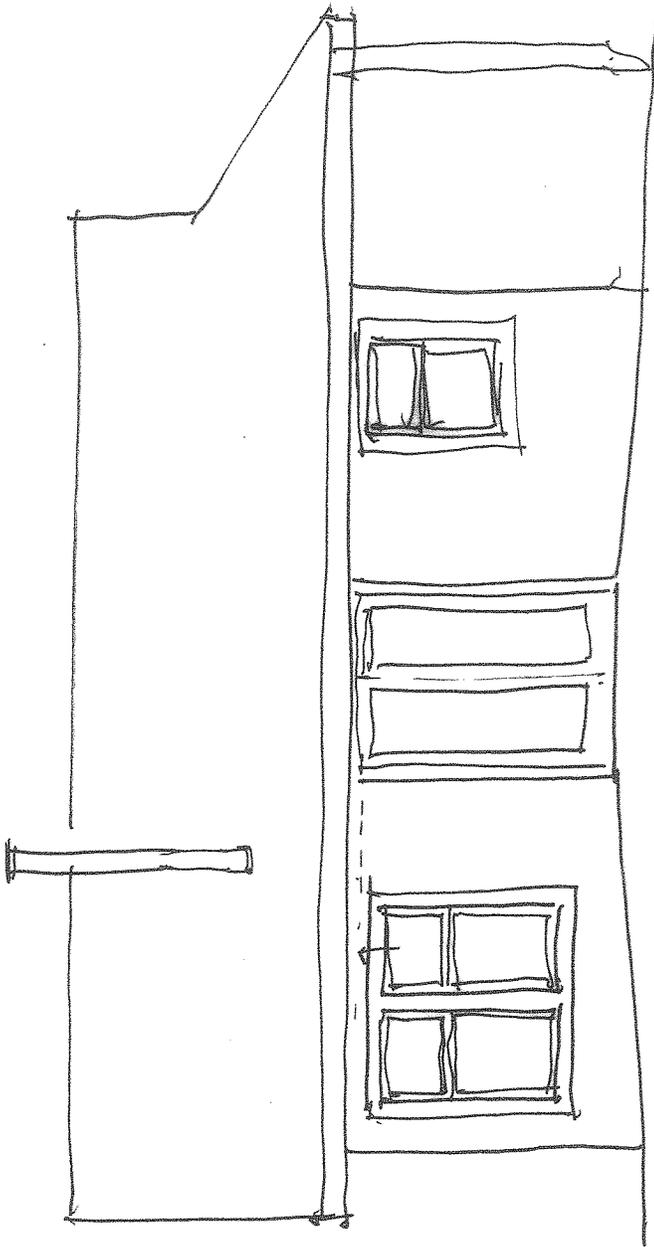
52 Locust St
ADU application



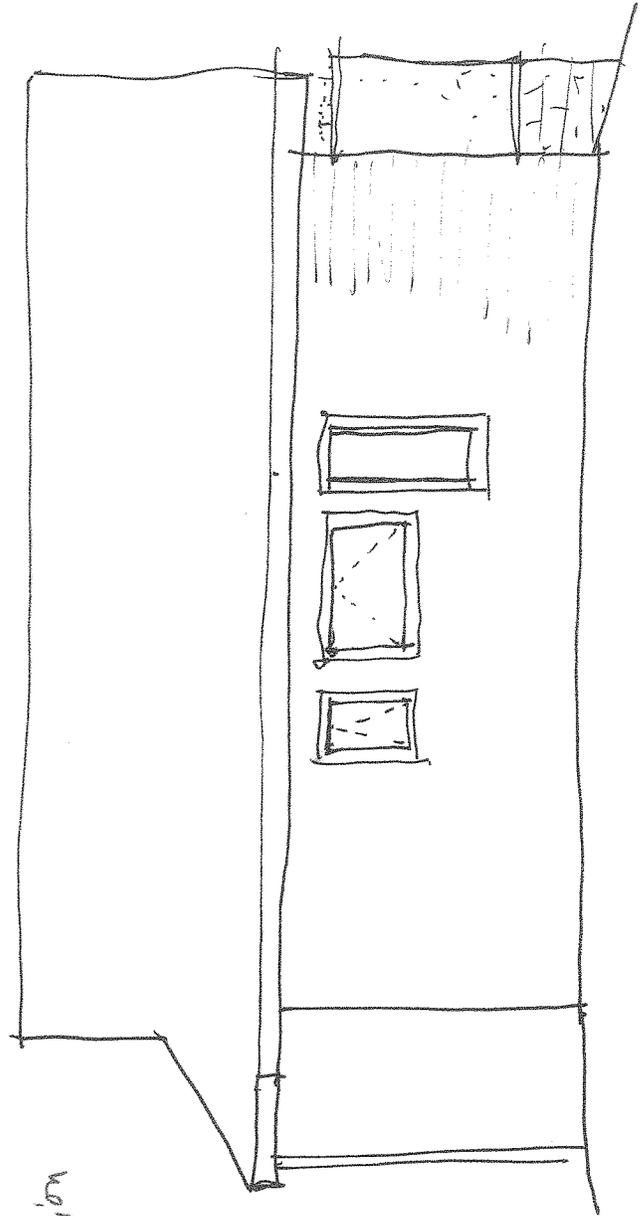
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South



North

52 Locust St
ADU application

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PLANNING & ZONING

February 24, 2014

City of Burlington
Department of Planning and Zoning
149 Church Street
Burlington, VT 05401

To Whom It May Concern:

As an adjacent neighbor to Zpora Perry and Leighton Johnson, I fully support the proposed development of an Accessory Dwelling Unit in their backyard at 52 Locust Street.

Please contact me if you have any questions regarding my support of this project.

Yours truly,



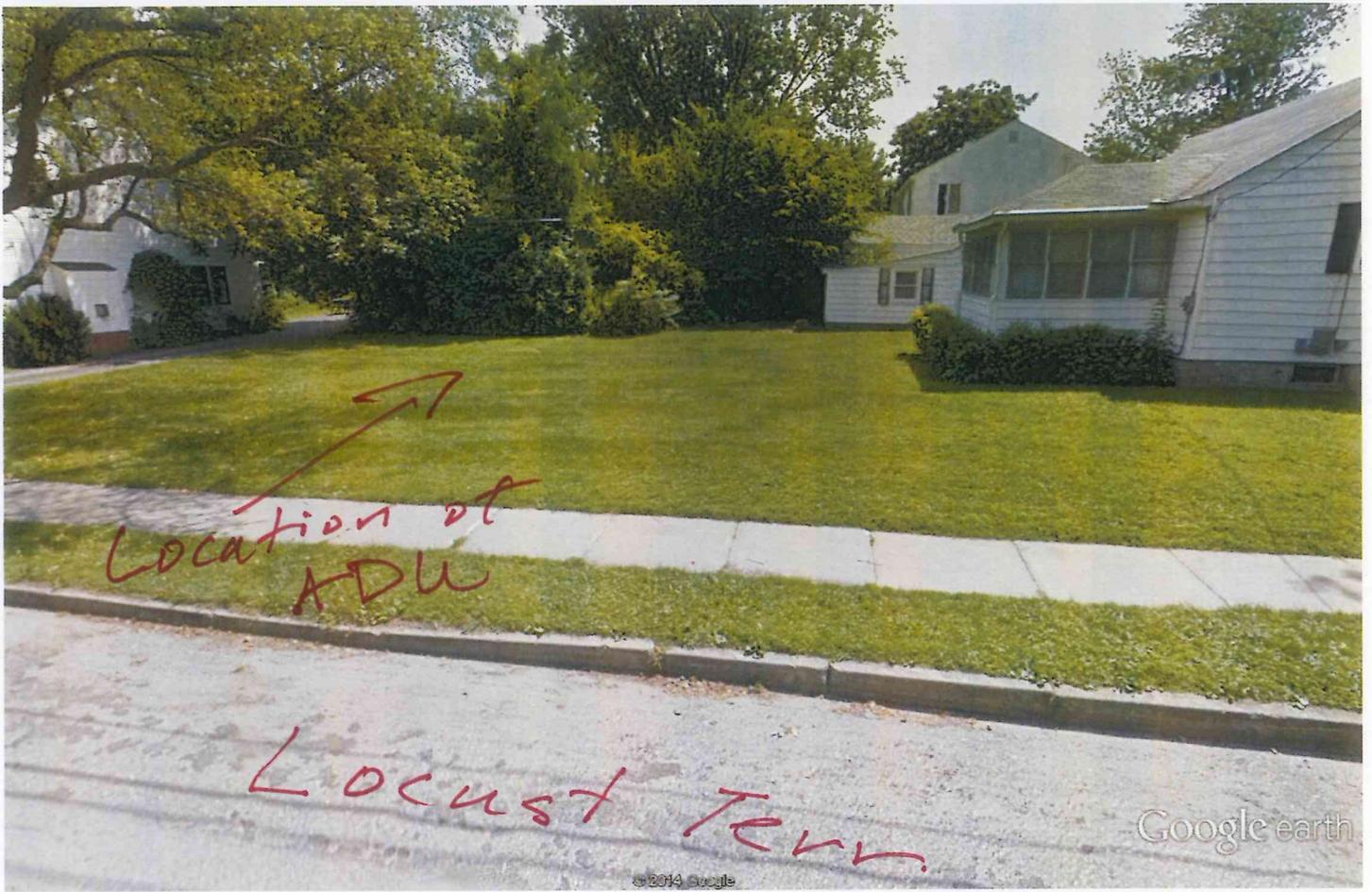
Kevin McLaughlin
58 Locust Street
Burlington, VT 05401



Google earth

feet
meters





Google earth

