

CITY OF BLOOMINGTON



APRIL 16, 2014 @ 2:00 p.m.
CITY HALL -
KELLY CONFERENCE ROOM #155

CITY OF BLOOMINGTON
HEARING OFFICER
April 16, 2014 at 2:00 p.m.

***Kelly Conference Room #155**

PETITION WITHDRAWN:

- V-12-14 **Peter Haralovich**
2110 W. Vernal Pike
Request: Variance from maximum impervious surface coverage standards.
Case Manager: Patrick Shay

PETITIONS:

- UV/V-9-14 **Naomi Posner-Horie**
900 S. Ransom Lane
Request: Use variance to allow an accessory dwelling unit in a Residential Single-family (RS) zoning district. Also, requested is a side yard setback variance to allow a 2-story addition and a determinate sidewalk variance.
Case Manager: Patrick Shay

**BLOOMINGTON HEARING OFFICER
STAFF REPORT**
Location: 900 S. Ransom Lane

**CASE #: UV/V-09-14
DATE: April 16, 2014**

PETITIONER: Naomi Posner-Horie
3900 E. Stonegate Dr., Bloomington, IN

REQUEST: The petitioner is requesting a use variance to allow an accessory dwelling unit within a Residential Single Family (RS) zoning district. Also requested is a side yard setback variance to allow a 2-story addition to an existing structure.

SUMMARY: The subject property is located at 900 S. Ransom Lane. The property is zoned Residential Single Family (RS) and has been developed with a single family home. The petitioner is proposing to construct a new attached garage of approximately 680 square feet. The petitioner is also proposing to create a small accessory dwelling unit of approximately 480 square feet above the garage. The purpose of this unit is to allow a semi-independent living space for their daughter who lives with a disability and requires additional care. The garage would be attached to the main house by a covered area that would provide internal access to the unit above the garage. Staff is recommending that the occupancy of the unit be limited to members of the same family that reside in the main house. Staff finds this to be an appropriate use to allow for familial care in a unique situation.

The petitioner is also seeking a variance from sideyard setback standards and the requirement to install new 5-foot wide sidewalks along both adjacent street frontages. The property is a through lot with public streets on both the eastern and western property lines.

PLAN COMMISSION RECOMMENDATION: The Plan Commission reviewed the use variance request at their April 7, 2014 meeting. The Plan Commission voted unanimously to forward the use variance request to the Hearing Officer with a positive recommendation.

20.09.140 CRITERIA AND FINDINGS FOR USE VARIANCE:

Pursuant to IC 36-7-4-918.4., the Board of Zoning Appeals or the Hearing Officer may grant a variance from use if, after a public hearing, it makes findings of fact in writing, that:

- (1) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community; and*

Staff Finding: Staff finds no injury to public health, safety, morals, and general welfare with a two-family dwelling. The two units are proposed to be occupied by an individual family.

- (2) *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and*

Staff Finding: Staff finds no substantial adverse impacts to the adjacent area from this request. The occupancy of the second dwelling unit will be limited to family of the occupants of the first unit so increases in noise, traffic, and parking will be minimal. The petitioner has invested in the existing home in the recent past with a remodel and addition.

- (3) *The need for the variance arises from some condition peculiar to the property involved; and*

Staff Finding: Staff finds peculiar condition in the family situation and understands the desired ability to provide a semi-independent living situation for the family. This property is a double frontage lot with two street frontages. There are also several existing situations in the area that have multiple units on one property.

- (4) *The strict application of the terms of the Unified Development Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and*

Staff Finding: Staff finds that the strict application of the UDO constitutes an unnecessary hardship in not allowing extended family members to reside in an accessory dwelling unit when circumstances dictate the need to do so. The occupancy limits for residential areas were created to better restrict use of the properties in a manner consistent with a “family”. These occupancy limits and restrictions on accessory units also attempt to reduce the impacts associated with a large number of people and a large number of unrelated adults. These regulations attempt to restrict single family properties to function as a single household unit. Staff finds that the proposed situation meets that intention as all of the tenants involved are related by blood and have requested this approval to deal with a unique family situation that allows for a semi-independent living situation that better accommodate the developmental needs of this family.

- (5) *The approval does not interfere substantially with the Growth Policies Plan.*

Staff Finding: The GPP designates this property as “Urban Residential”. The fundamental goal of these areas is to “encourage the maintenance of residential desirability and stability.” Regarding infill development, the GPP states that it should be “consistent and compatible with preexisting developments.” Although the primary land use in this category is single family, multi-family housing is appropriate in some areas if designed to be compatible with preexisting developments. The addition of the proposed second unit will allow for the owners to remain in the structure adding to the stability of the neighborhood. The Plan Commission found that the use variance will not substantially interfere with the goals of the GPP.

CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE

20.09.130 e) Standards for Granting Variances from Development Standards: A variance from the development standards of the Unified Development Ordinance may be approved only upon determination in writing that each of the following criteria is met:

- 1) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community.*

STAFF FINDING: Staff finds no injury with this request. The proposed garage will be an adequate distance from all adjoining properties and will not be placed in close proximity of Peachtree Lane to the west. The proposed side yard setback is proximate to a detached garage structure and will not be inconsistent with other structures in the neighborhood.

- 2) *The use and value of the area adjacent to the property included in the Development Standards Variance will not be affected in a substantially adverse manner.*

STAFF FINDING: Staff finds no negative impacts from the proposed variance. This investment into the property should improve the value of the property and the surrounding area.

- 3) *The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in question; that the Development Standards Variance will relieve the practical difficulties.*

STAFF FINDING: The proposed setback of the garage is 5-feet. This would meet the required setback of a detached garage structure and would be consistent with several other garage setbacks in the surrounding area. The petitioner has proposed to attach the garage and accessory dwelling unit to the main home to provide a covered entry.

Determinate Sidewalk Variances 12.04.005- Any person subject to the requirements of Sections 12.04.001 or 12.04.003 who believes it impractical to construct a sidewalk on the lot or tract at present may apply to the board of zoning appeals for a variance that is determinate with respect to the criteria for variance and the time period during which such criteria are in effect, and with respect to the time period during which the variance is effective. The board may grant a variance if construction of sidewalks appears impractical based upon, but not limited to, the following considerations:

- (1) *The adjacent lot or tracts are at present undeveloped, but it appears that at some future date these lots or tracts will be developed, increasing the need for sidewalks for the protection and convenience of pedestrians; or*

Staff Finding: There is a large underdeveloped tract to the east. There are also two frontages. Staff is recommending that one of the street frontages have a sidewalk constructed, with the second being deferred until a time in the future when an increase in pedestrian traffic and other sidewalk connections are in place.

- (2) *The location of the lot or tract is such that the present pedestrian traffic does not warrant the construction of sidewalks, but it appears that in the future the pedestrian traffic may increase; or*

Staff Finding: Neither required sections of sidewalk would connect to an existing sidewalk network and have a limited number of homes. There is also no sidewalk located on Allen Street to the south. There is a limited number of homes along Peachtree and this street does not continue to the north. Therefore, staff is recommending that a sidewalk be constructed on Ransom and construction of sidewalk along Peachtree be deferred until such time that the number of pedestrian trips increases.

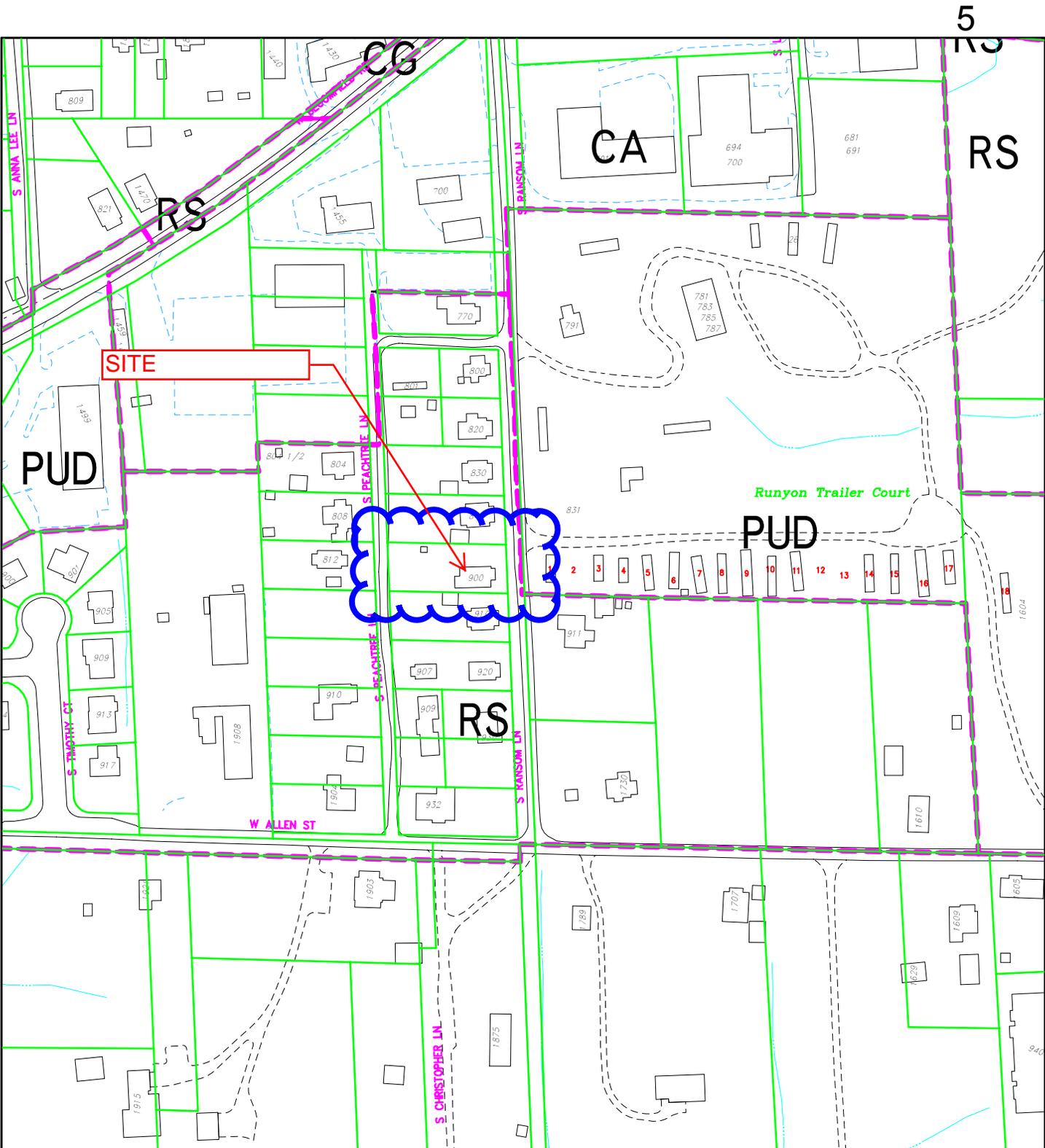
- (3) *Uniformity of development of the area would best be served by deferring sidewalk construction on the lot or tract until some future date.*

Staff Finding: Staff is recommending that the construction of a sidewalk along Peachtree Lane be deferred until a larger unified project is developed.

CONCLUSION: Staff finds that this is an appropriate variance for an accessory dwelling unit to be occupied by family.

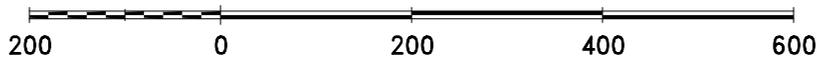
RECOMMENDATION: Based upon the written findings above, staff recommends approval of UV/V-09-14 with the following condition:

1. A commitment shall be recorded on the deed which requires occupancy of both units to be limited to family only, consisting of an individual or a group of people all of whom are related to each other by blood, marriage, or legal adoption, and any other dependent children of the household. The commitment must also state that a determinate sidewalk variance has been granted for this property and that a 5-foot wide concrete sidewalk can be required in the future. Final language of this variance must be approved by staff.

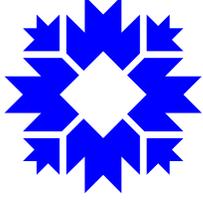


UV/V-09-14
Location/Zoning
Map

By: shapp
10 May 13

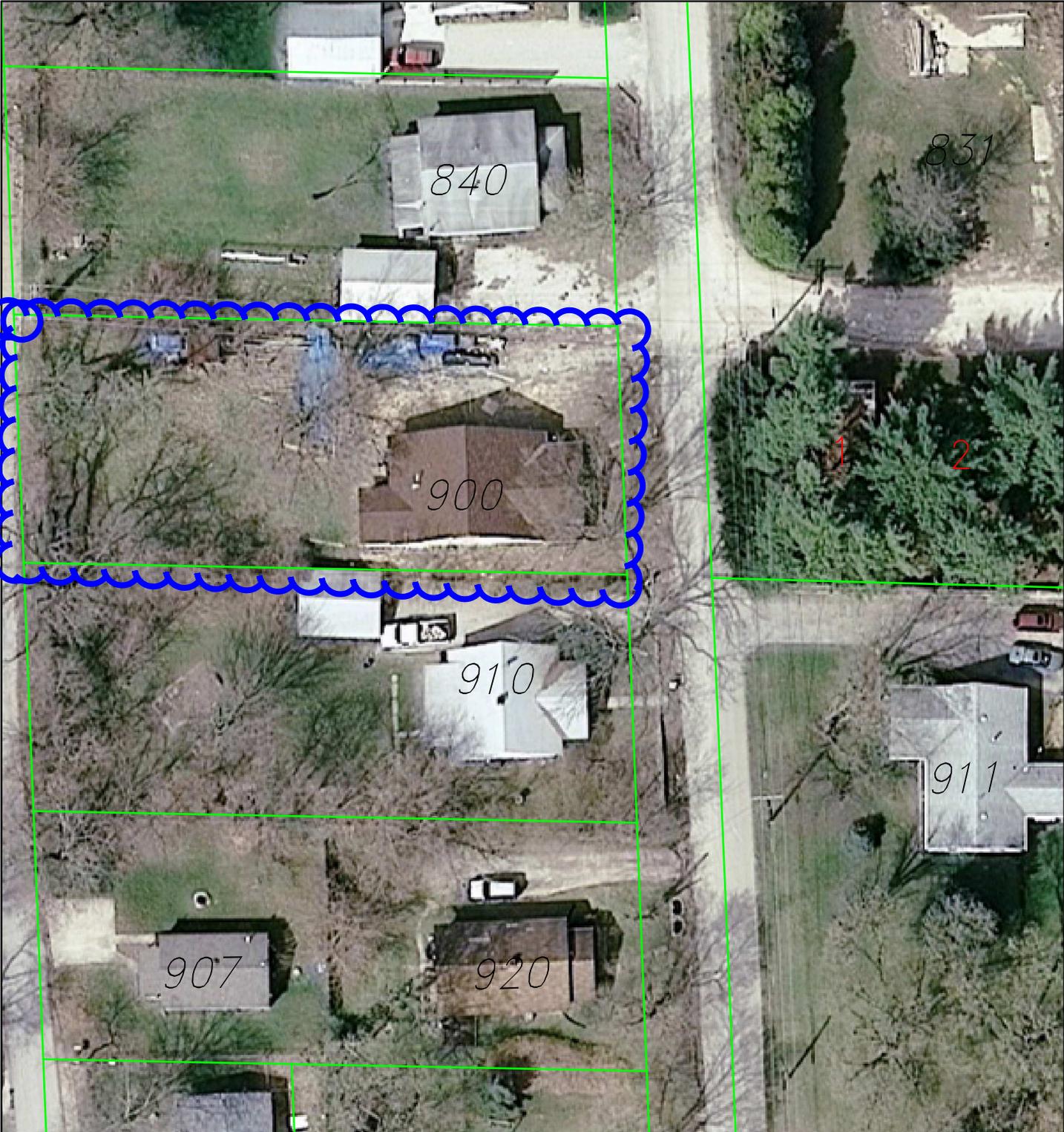


City of Bloomington
Planning



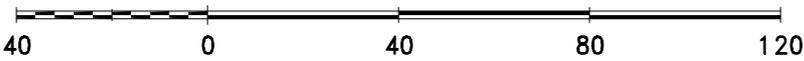
Scale: 1" = 200'

For reference only; map information NOT warranted.

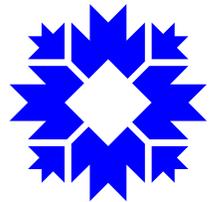


UV/V-09-14 Aerial Photo

By: shayp
10 May 13



City of Bloomington
Planning



Scale: 1" = 40'

For reference only; map information NOT warranted.

900 S Ransom Lane, Bloomington, IN 47403 812.322.4205 nyph19@gmail.com

March 6, 2014

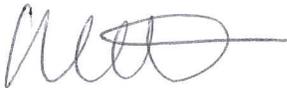
To whom it may concern:

My husband and I would like to build a small apartment for my 18-year old daughter who suffers from a disability and who will – as a result of this disability – need assistance with daily living tasks as she makes her way into adulthood.

Unlike most 18-year olds, my daughter will not be able to move out and live independently. However, it is important that she gradually learns to take care of herself according to her ability and maturity level. For the time being, this entails her being as close to us as possible, but still with an independent dwelling so that we can watch over her.

Unfortunately, without a variance, our objective will not be able to be met. Although we appreciate the need for regulations that control multi-family dwellings, it is our hope that the Hearing Board for the Planning Department of the City of Bloomington will look upon our case favorably as an exceptional hardship case and grant us the necessary variance/s to make our daughter's transition into adulthood as smooth as possible.

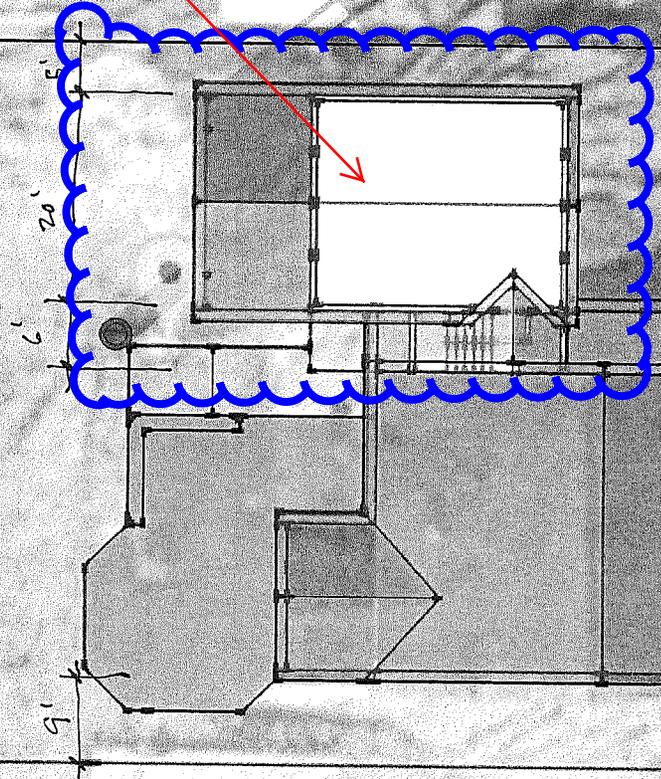
Sincerely,

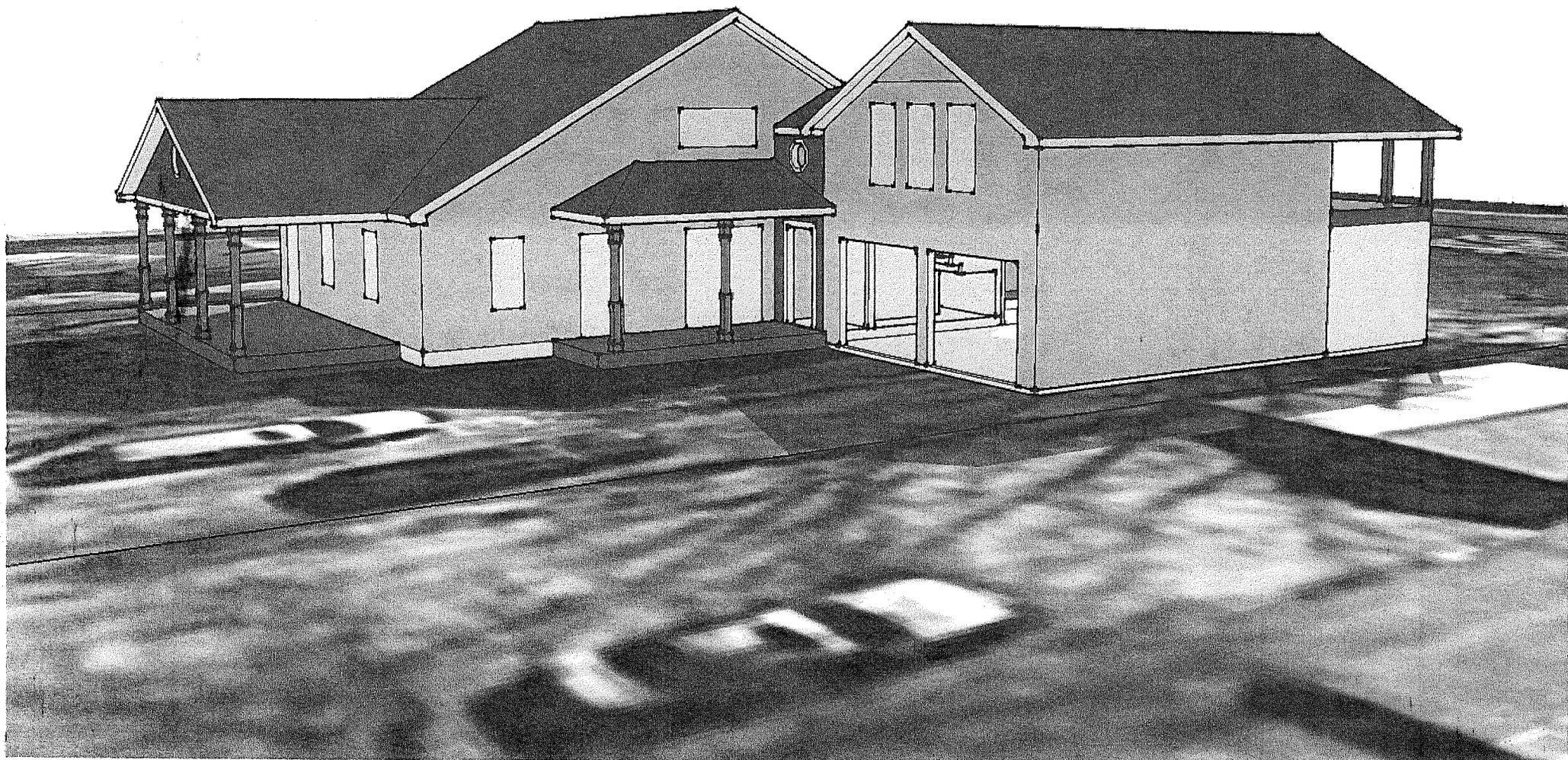


Naomi Posner-Horie

UV/V-09-14
Petitioner's Statement

Garage and Unit
Addition





UV/V-09-14 Elevation of Addition