



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: The Urbana Zoning Board of Appeals

FROM: Kevin Garcia, Planner II

DATE: July 11, 2014

SUBJECT: **ZBA Case No. 2014-MAJ-04:** Request by Spencer Vonderheide for a Major Variance to install an air conditioning unit that will encroach three feet, one inch into the required side yard at 211 W. Vermont Avenue in the R-1, Single-Family Residential District.

Introduction & Background

Spencer Vonderheide is constructing a deck in the rear yard of the single-family home at 211 W Vermont Ave. for the homeowners Jake Bowers and Cara Wong. In order to accommodate the deck, an existing air conditioning unit is proposed to be relocated from its current position at the rear of the house to another location. The applicant proposes to relocate the air conditioning units to the east side yard. The property is zoned R-1, which requires a minimum 5-foot side yard setback, as well as a minimum *combined* side yard setback of 15 feet (equal to the combined total of both side yard setbacks). The side yard setback on the east side of the house is five feet, five inches. The side yard setback on the west side is approximately three feet and would be too small to accommodate the air conditioning unit, which is three feet, six inches wide. The combined side yard setback is approximately eight feet five inches, and does not meet the 15-foot standard in the R-1 District. The combined setback is considered an existing non-conforming setback. The subject property and the surrounding neighborhood were developed well before current zoning regulations were enacted, so many of the surrounding properties also have existing non-conforming setbacks.

The applicant would like to relocate the existing three-foot, six inch-wide air conditioning unit to the eastern, five foot, five inch side yard. The air conditioning unit would encroach three feet, one inch into the required five foot side yard, representing a 62 percent encroachment. Since the requested variance exceeds 25% of the required setback, the Zoning Ordinance classifies this as a major variance. In order to vary the setback the Zoning Board of Appeals must recommend approval by a two-thirds vote and then forward the application to City Council for final approval. If approved, the air conditioning unit would be approximately 15 feet from the adjacent home to the east.

The Zoning Board of Appeals has reviewed and approved the following similar requests, all concerning side yard setback encroachments or reductions in residential districts:

- **ZBA Case # 2006-MAJ-02:** A Major Variance to allow a 100% encroachment into the 18-inch minimum required distance from the side lot line for an accessory garage at 510 W. Oregon Street in the R-2, Single-Family Residential Zoning District
- **ZBA 2006-MAJ-05,** Request for a Major Variance filed by Villas at Fairlawn, LLC to construct multi- car garages within the 5-foot setback on the south side of Hollywood Drive (an alley), in the R-5, Medium High Density Multiple Family Zoning District.
- **ZBA 2007-MAJ-04** Request to reduce the east side yard setback from 5 feet to 3 feet; and **ZBA 2007-MIN-01,** Request to reduce the west side yard setback from 5 feet to 4 feet to allow for construction of a 26-foot wide house on a 33-foot wide lot at 1306 West Dublin Street in the R-2, Single-Family Residential Zoning District.

The Zoning Board of Appeals has not reviewed a case where a setback encroachment was sought in order to relocate or install and air conditioning unit or similar mechanical system in a side yard. However, placement of air conditioning units in side yards in instances where a driveway is adjacent to the neighboring house have previously been permitted via administrative interpretation of former Zoning Administrators. For this reason, there are instances where air conditioning units are located within required side yards in Urbana.

Site Description

The site is located along Vermont Avenue between Race Street and Carle Avenue, approximately three-and-a-half blocks south of Carle Park and the Urbana High School. The property is located mid-block and is surrounded by other single-family homes in a residential neighborhood.

The property is currently undergoing alterations prior to the homeowners moving into the residence in August (see attached site plans at the end of this memorandum). The applicant is building a new kitchen in place of an existing enclosed porch deck in the rear yard, and is installing a deck adjacent to the kitchen addition, abutting the existing house. The deck will be approximately 18 inches high, and will occupy the space where the current air conditioning unit is located. The proposed relocation of the air conditioning unit would be to the eastern side yard, which is adjacent to the driveway of the neighboring property.

The predominant platting pattern in this area is for lots that are 60 feet wide, while the R-1 District calls for minimum lot widths of 80 feet. On the adjacent blocks that are zoned R-1, only five out of 77 units (6.5%) meet this minimum requirement, and those five properties were all created by combining adjacent lots together into larger parcels. Most of the properties in the neighborhood are therefore existing non-conforming parcels with respect to lot width, which may be an important consideration in this case.

Zoning and Land Use Table

The property is surrounded on all sides by single-family residences, all zoned R-1 Single-Family Residential. Please refer to Exhibit A for an aerial photograph showing adjoining and nearby uses.

The following table summarizes surrounding zoning and land uses for the subject site:

Location	Zoning	Existing Land Use	Comprehensive Plan Future Land Use
Subject Property	R-1, Single-Family Residential	Single-Family Residence	Residential
North	R-1, Single-Family Residential	Single-Family Residence	Residential
South	R-1, Single-Family Residential	Single-Family Residence	Residential
East	R-1, Single-Family Residential	Single-Family Residence	Residential
West	R-1, Single-Family Residential	Single-Family Residence	Residential

Discussion

The applicant would like to relocate an existing air conditioning unit from the rear yard to the eastern side yard at 211 West Vermont Avenue in order to accommodate a new deck addition to the rear of the house. According to Section VI-5.B of the Urbana Zoning Ordinance, “No building, structure, or portion thereof, mechanical equipment, or swimming pool shall be erected in, occupy, or obstruct a required yard”. An air conditioning unit qualifies as “mechanical equipment”, and is therefore prohibited from being constructed within the required side yard setback.

The existing air conditioning unit is three feet, six inches, by three feet, six inches in area. The existing eastern side yard setback is five feet, five inches. According to Table VI-3 of the Urbana Zoning Ordinance, the minimum required side yard in the R-1 – Single-Family Residential District is five feet, and the minimum combined total of both side yards is 15 feet. Relocating the air conditioning unit to the eastern side yard would therefore result in an encroachment of three feet, one inch (62 percent) into the required five-foot side yard setback. Since the encroachment would be greater than 25 percent into the required setback, a variance is required.

The applicant will be installing a new deck in the rear yard that will abut both the house and a new kitchen addition that is being built in place of an existing enclosed porch. The air conditioning unit currently occupies space where the new deck will be built in order to enjoy the full use of the deck and back yard. The applicant would like to relocate the air conditioner, as opposed to building around it. There are several possible places that the air conditioning unit could be moved to. The unit could be installed on top of the deck. The applicant has indicated that such placement would be undesirable because it would interfere with the use of the deck. The unit could also potentially be installed along the south (rear) side of the house or deck. The most efficient location, however, would be to install the unit in the side yard on the east side of the house.

There has been a good faith effort by the applicant to engage with the neighbors to the east of the property, who would have the air conditioning unit next to their driveway. While the applicant and the neighbors have had at least two separate discussions about this project, it is not known at this time whether the neighbors support, oppose, or are indifferent to this variance request. There have been no calls or correspondence from any neighbors regarding this case. It should be noted that the neighbor to the east has his air conditioning unit in his eastern side yard.

The applicant has also stated that there are other properties that have air conditioning units located in the required side yard. Should more home owners request this type of variance, the Zoning Board of Appeals and staff may consider researching a potential future amendment to the Zoning Ordinance to allow air conditioning units in a required side yard when separated from adjacent homes by a driveway.

Variance Criteria

Section XI-3 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals to make findings based on variance criteria. The following is a review of the criteria as they pertain to this case and the criteria outlined in the ordinance:

1. *Are there special circumstances or special practical difficulties with reference to the parcel concerned, in carrying out the strict application of the ordinance?*

The special circumstances in this case are the existing lot width of 60 feet, the existing non-conforming setback of three feet on the west side of the house, the existing non-conforming combined side yard setback of eight feet, five inches, and the existing house that has created the non-conforming setbacks.

2. *The proposed variance will not serve as a special privilege because the variance requested is necessary due to special circumstances relating to the land or structure involved or to be used for occupancy thereof which is not generally applicable to other lands or structures in the same district.*

While the circumstances listed above may constrain what can be done with the subject property, they are not unique when compared to the surrounding block or the surrounding neighborhood. Many other properties in the area share the same circumstances.

3. *The variance requested was not the result of a situation or condition having been knowingly or deliberately created by the Petitioner.*

The variance request is based on the existing lot width of 60 feet, and the existing house and setbacks. The petitioner did not create either of these conditions. However, the petitioner is requesting the placement of the air conditioning unit in a required yard instead of in an allowed location for the purpose of allowing for a more efficient and usable deck and back yard.

4. *The variance will not alter the essential character of the neighborhood.*

The variance will not alter the essential character of the neighborhood. There are existing air conditioning units in side yards in the neighborhood, and they do not detract appreciably from the neighborhood's character.

5. *The variance will not cause a nuisance to the adjacent property.*

The variance would not likely cause a nuisance to the adjacent property owner. Since the air conditioning unit would be located in the eastern side yard next to the adjacent property owner's driveway, there would be a buffer of approximately 15 feet between the unit and the adjacent residence. Furthermore, if the applicant screens the air conditioning with landscaping as stated in the application, there should not be a visual nuisance. The applicant has spoken with the neighbors adjacent to the property to the east, at least once before filing this variance request and once within the past week.

6. *The variance represents generally the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request.*

The applicant is proposing to relocate an existing air conditioning unit of known dimensions into the side yard. There would be no practical way to encroach into the yard less than proposed in the location.

Summary of Staff Findings

1. Spencer Vonderheide is applying for a variance to install an air conditioning unit that will encroach three feet, one inch into a required minimum 5-foot side yard at 211 W Vermont Ave.
2. The property is located on Vermont Avenue, between Carle Avenue and Race Street, three-and-a-half blocks south of Carle Park and Urbana High School. The Urbana Comprehensive Plan identifies the future land use as "Residential".
3. The property is zoned R-1, Single-Family Residential District. The R-1 District requires side yards to be five feet wide at a minimum.
4. The proposed relocation of the air conditioning unit to the eastern side yard would result in an encroachment of three feet, one inch, or 62%, into the required side yard.
5. The width of the lot and the existing setbacks create a practical difficulty in carrying out the strict application of the zoning ordinance.
6. The proposed variance is not necessary due to special circumstances of the property.
7. The need for the proposed variance was created by the petitioner to a minor extent, since they chose to relocate the air conditioner to a side yard instead of where it is allowable.

8. The proposed variance will not alter the character of the neighborhood, nor is it likely to cause a nuisance to adjacent properties.
9. The proposed variance represents the minimum possible from Zoning Ordinance requirements.

Options

The Zoning Board of Appeals has the following options in this case:

- a. The Urbana Zoning Board of Appeals may forward the case to City Council with a recommendation to approve the variance as requested based on the findings outlined in this memo; or
- b. The Urbana Zoning Board of Appeals may forward the case to City Council with a recommendation to approve the variance along with certain terms and conditions. If the Urbana Zoning Board of Appeals elects to recommend conditions or recommend approval of the variances on findings other than those articulated herein, they should articulate findings accordingly; or
- c. The Zoning Board of Appeals may deny the variance request. If the Zoning Board of Appeals elects to do so, the Board should articulate findings supporting its denial.

Staff Recommendation

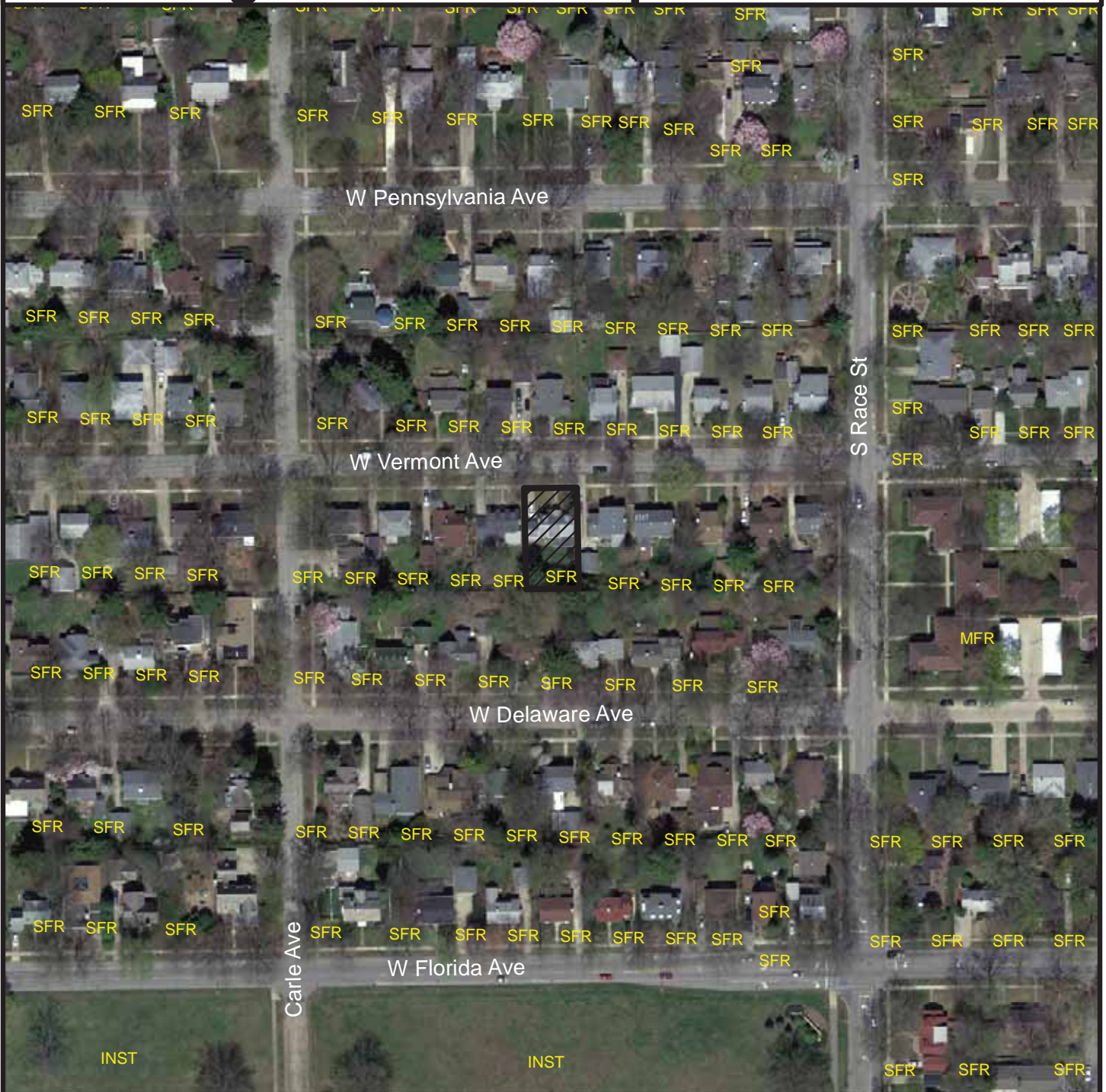
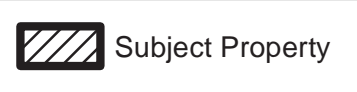
Based on the criteria for reviewing variance requests, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that the Zoning Board of Appeals **APPROVE** Case No. ZBA-2014-MAJ-04, subject to the following conditions:

1. The applicant installs landscaping to screen the unit, as proposed in the application;
2. The homeowners keep the unit in good working order to reduce noise impacts.

Attachments:	Exhibit A:	Location & Existing Land Use Map
	Exhibit B:	Zoning Map
	Exhibit C:	Future Land Use Map
	Exhibit D:	Application
	Exhibit E:	Site Plan
	Exhibit F:	Site Photos

cc: Spencer Vonderheide

Exhibit A: Location and Existing Land Use Map

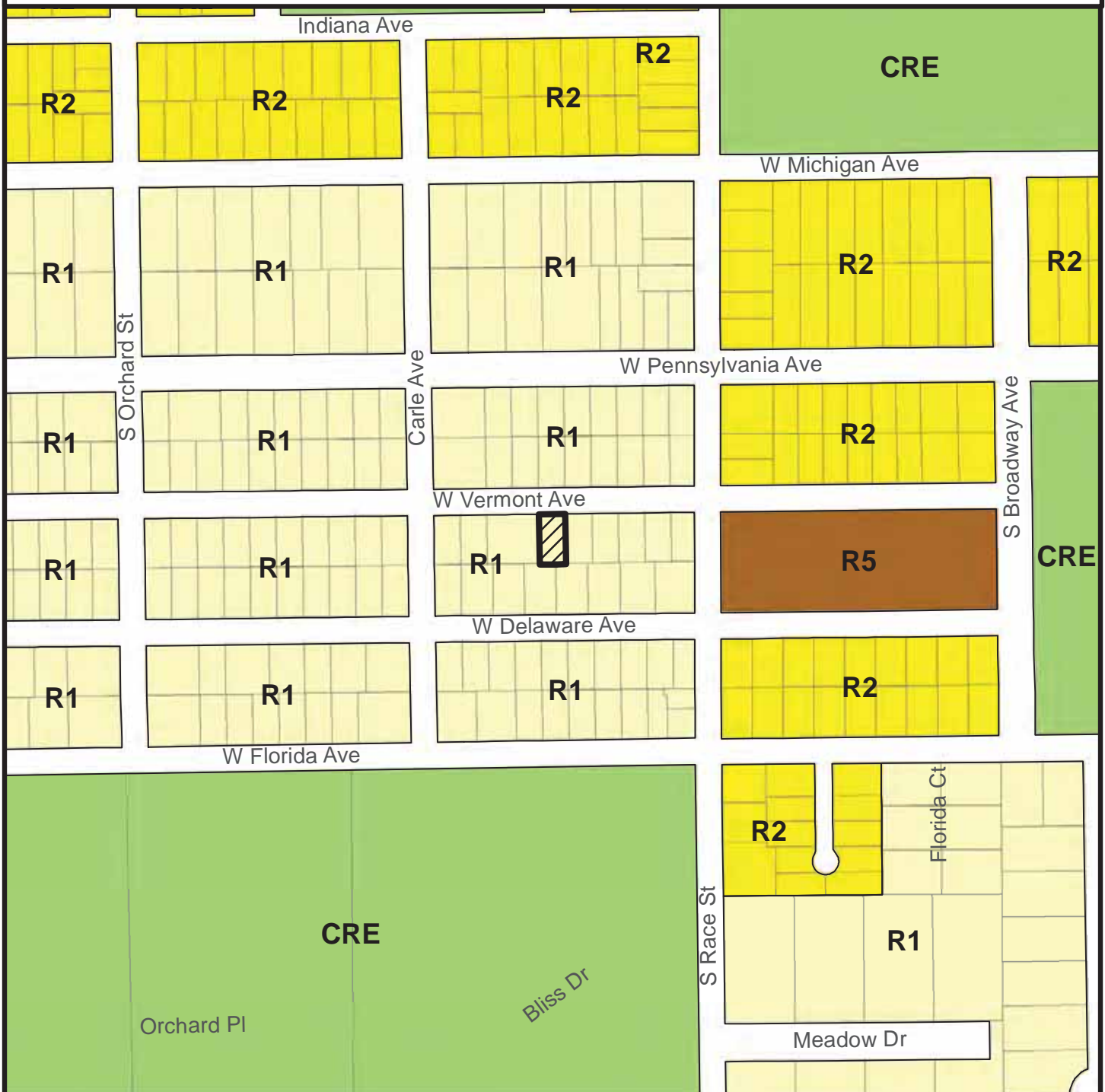


Case: 2014-ZBA-MAJ-04
Subject: Application for Major Variance to Install an Air Conditioning Unit That Will Encroach 3'1" Into a Required Side Yard.
Location: 211 W Vermont Ave
Petitioner: Spencer Vonderheide
Prepared 7/11/2014 by Community Development Services Department

Exhibit B: Zoning Map



Subject Property



Case: 2014-ZBA-MAJ-04

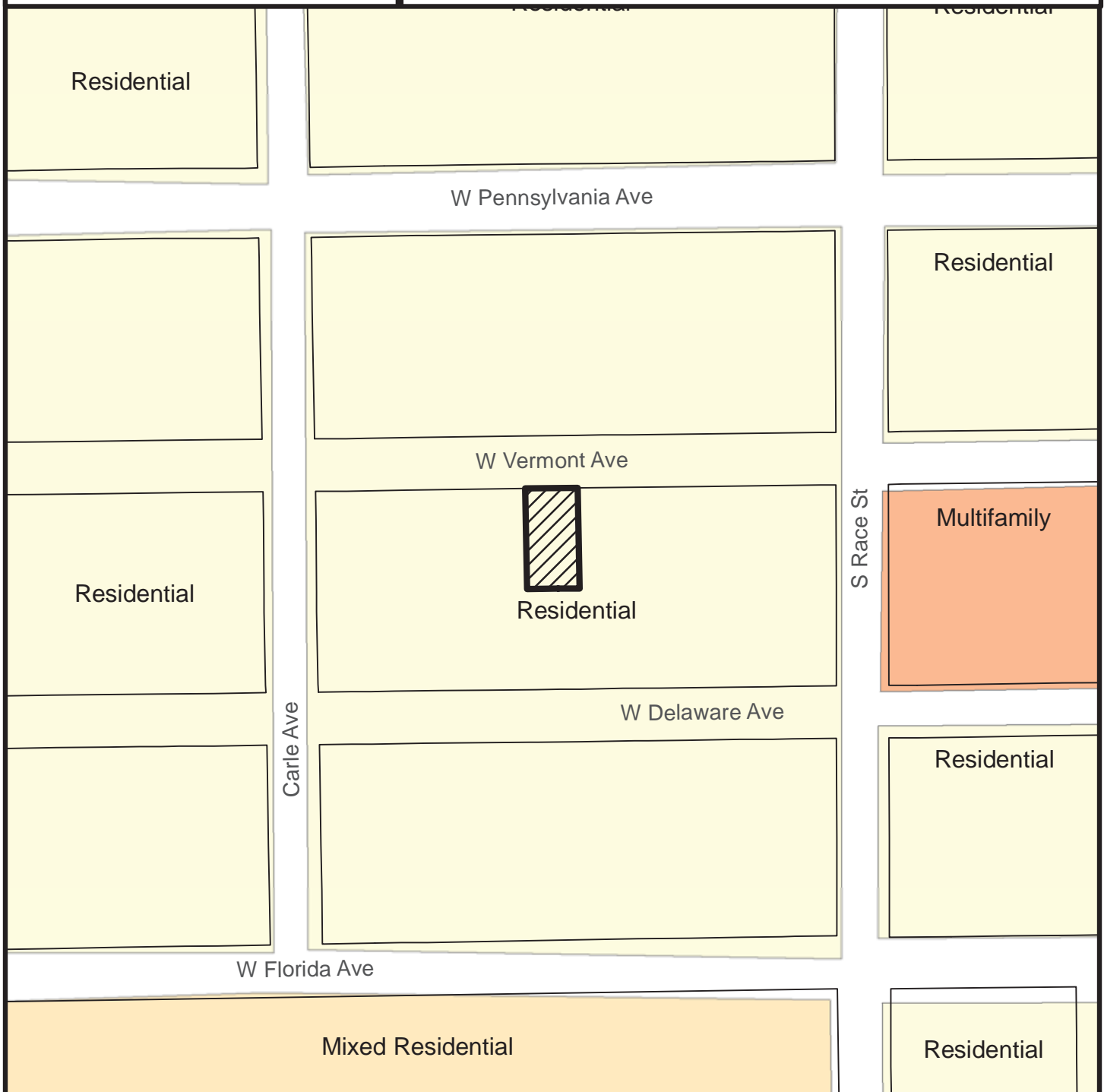
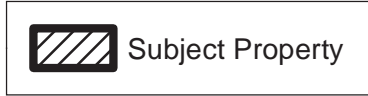
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Location: 211 W Vermont Ave

Petitioner: Spencer Vonderheide

Prepared 7/11/2014 by Community Development Services Department

Exhibit C: Future Land Use Map



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Exhibit D: Site Plan

Vermont Avenue



Case: 2014-ZBA-MAJ-04

Subject: Application for Major Variance to Install an Air Conditioning Unit That Will Encroach 3'1" Into a Required Side Yard.

Location: 211 W Vermont Ave

Petitioner: Spencer Vonderheide

Prepared 7/11/2014 by Community Development Services Department



■ Proposed AC Unit Placement





Application for Variance

Zoning Board Of Appeals

APPLICATION FEE – \$175.00 (Major) and \$150.00 (Minor)

The Applicants are responsible for paying the cost of legal publication fees as well. The fees usually run from \$75.00 to \$125.00. The applicant is billed separately by the News-Gazette.

DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY

Date Request Filed 06-23-2014 ZBA Case No. ZBA-2014-MAJ-04
Fee Paid - Check No. 1333 Amount \$175.00 Date 06-23-2014

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION

A VARIATION is requested in conformity with the powers vested in the Zoning Board of Appeals to permit *(Insert Use/Construction Proposed and the Type and Extent of Variation Requested)* A/C Condenser re-location on the property described below, and in conformity with the plans described on this variance request.

1. APPLICANT CONTACT INFORMATION

Name of Applicant(s): Spencer Vonderheid Phone: (217) 766-3603
Address (street/city/state/zip code): 204 W. California Urbana IL 61801
Email Address: vonderheidconstruction@gmail
Property interest of Applicant(s) (Owner, Contract Buyer, etc.): I'm contractor on project.

2. OWNER INFORMATION

Name of Owner(s): JAKE Bowers Phone:
CARA Wang
Address (street/city/state/zip code): 211 W. Vermont Urbana, IL 61801
Email Address: jwbowers@Illinois.edu

Is this property owned by a Land Trust? Yes No
If yes, please attach a list of all individuals holding an interest in said Trust.

3. PROPERTY INFORMATION

Location of Subject Site: 211 West Vermont
PIN # of Location: 93-21-17-382-005
Lot Size: _____

EXHIBIT F

Current Zoning Designation:

Current Land Use (*vacant, residence, grocery, factory, etc:*)

Proposed Land Use:

Legal Description: Home owner wants A/C unit re-located to the west side of the house so a deck can be built on the south side of the house.

4. CONSULTANT INFORMATION

Name of Architect(s): Andrew Fell

Phone: (217) 363-2890

Address (street/city/state/zip code):

Email Address:

Name of Engineers(s):

Phone:

Address (street/city/state/zip code):

Email Address:

Name of Surveyor(s):

Phone:

Address (street/city/state/zip code):

Email Address:

Name of Professional Site Planner(s):

Phone:

Address (street/city/state/zip code):

Email Address:

Name of Attorney(s):

Phone:

Address (street/city/state/zip code):

Email Address:

5. REASONS FOR VARIATION

Identify and explain any special circumstances or practical difficulties in carrying out the strict application of the Zoning Ordinance with respect to the subject parcel.

There isn't a proper set back of the house to property line

Explain how the variance is necessary due to special conditions relating to the land or structure involved which are not generally applicable to other property in the same district.

There isn't a proper set back of the house to property line.

EXHIBIT F

Explain how the variance is not the result of a situation or condition that was knowingly or deliberately created by you (the Petitioner).

I didn't build the house so close to the property line.

Explain why the variance will not alter the essential character of the neighborhood.

The A/C unit will be hidden with landscaping. The neighbor to the west has their A/C unit on the west side of their house too.

Explain why the variance will not cause a nuisance to adjacent property.

There is a driveway between the A/C unit and the neighbors house. Their A/C unit is the same way.

Does the variance represent the minimum deviation necessary from the requirements of the Zoning Ordinance? Explain.


There is a 5'-5" set back to property line. The A/C unit will 3'-6" space.

NOTE: If additional space is needed to accurately answer any question, please attach extra pages to the application.

By submitting this application, you are granting permission for City staff to post on the property a temporary yard sign announcing the public hearing to be held for your request.

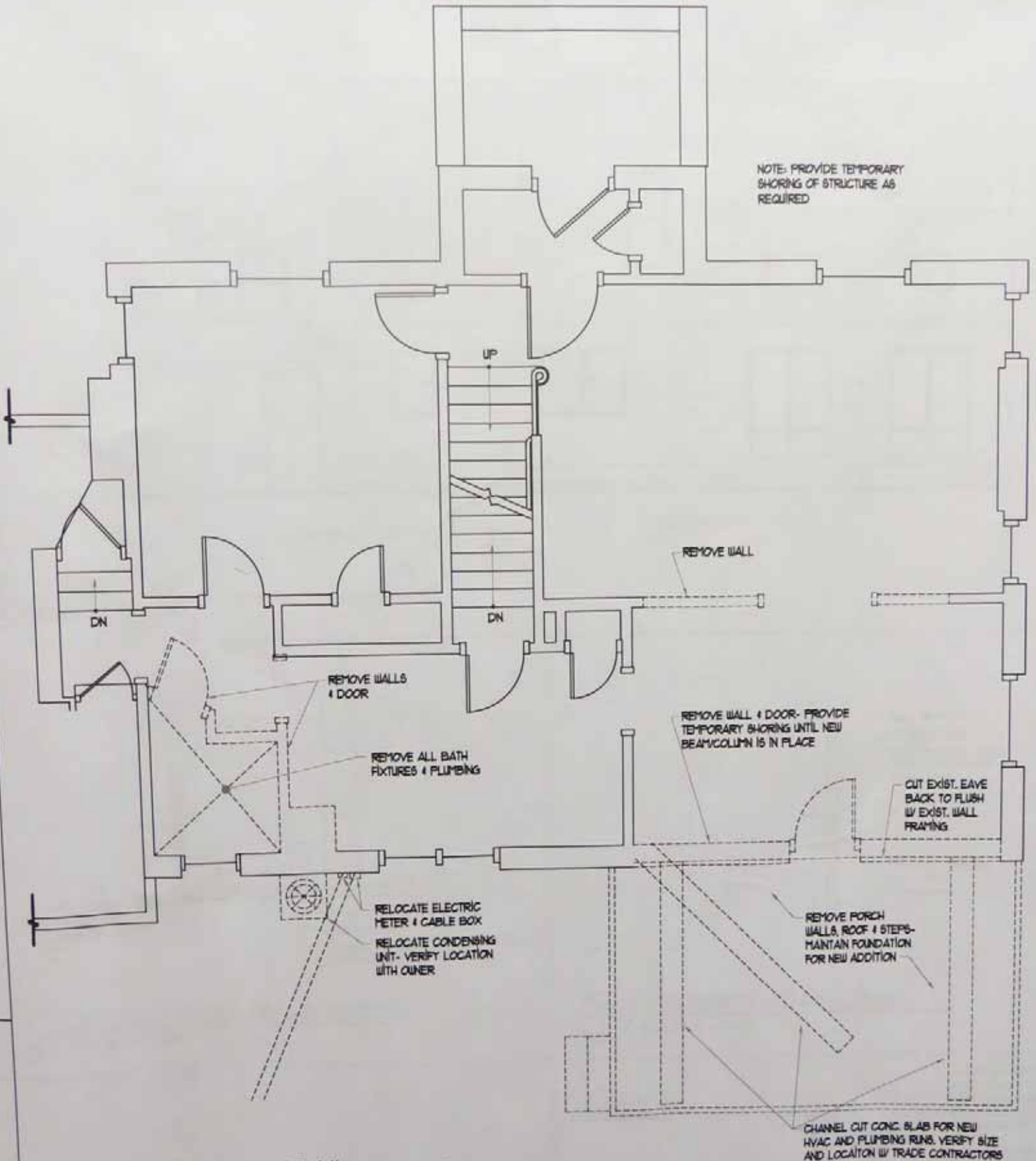
CERTIFICATION BY THE APPLICANT

I certify all the information contained in this application form or any attachment(s), document(s) or plan(s) submitted herewith are true to the best of my knowledge and belief, and that I am either the property owner or authorized to make this application on the owner's behalf.


Applicants Signature

6-23-14
Date

NOTE: PROVIDE TEMPORARY SHORING OF STRUCTURE AS REQUIRED

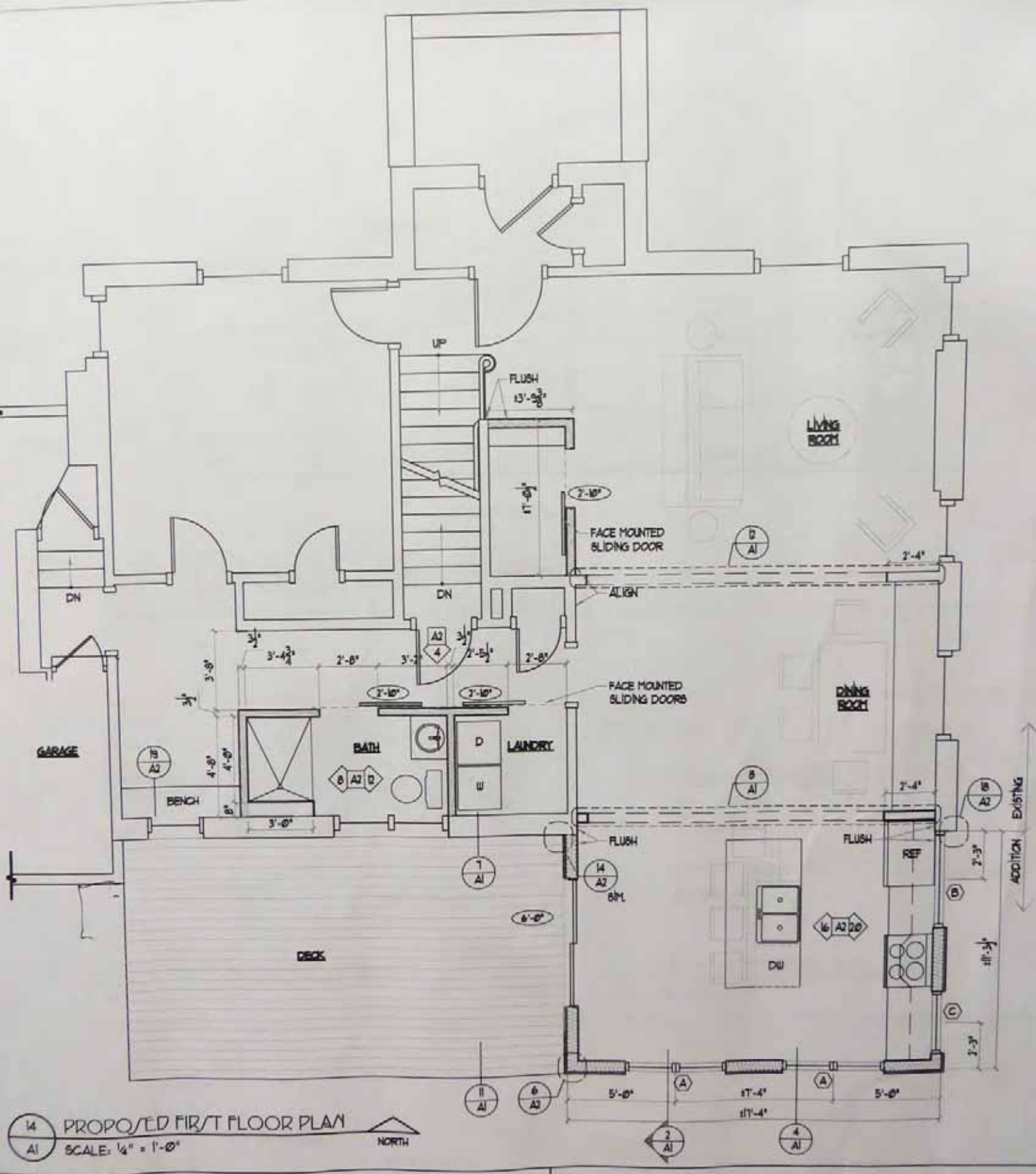


6
A1

DEMO FIRST FLOOR PLAN

SCALE: 1/4" = 1'-0"

NORTH



14
A1
PROPOSED FIRST FLOOR PLAN
 SCALE: 1/4" = 1'-0"
 NORTH