



SAN FRANCISCO PLANNING DEPARTMENT

Discretionary Review Full Analysis

HEARING DATE: JANUARY 7, 2016

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CA 94103-2479

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Date: December 23, 2015
Case No.: **2015-002255DRP**
Project Address: **3636 - 3638 WEBSTER STREET**
Permit Application: 2015.08.04.3267
Zoning: RH-2 [Residential House, Two-Family]
40-X Height and Bulk District
Block/Lots: 0445A/045-046
Project Sponsors: CAFE Properties CA LLC (property owner)
c/o Frank and Ann Hardenbergh
3636 Webster Street
San Francisco, CA 94123
Ilene Dick (agent)
Farella Braun + Martel LLP
235 Montgomery Street
San Francisco, CA 94104
Ernie Selander (architect)
Selander Architects
2095 Jerrold Avenue, Suite 319
San Francisco, CA 94124
Staff Contact: Sharon M. Young – (415) 558-6346
sharon.m.young@sfgov.org
Recommendation: **Do not take DR and approve as proposed**

PROJECT DESCRIPTION

This is a request for Discretionary Review of Building Permit Application No. 2015.08.04.3267, proposing to legalize the construction of a one-story horizontal addition with deck above at the rear of the three-story, two-family dwelling. The one-story rear addition abuts the north side property line, is set back approximately 11 feet 6 inches from the south property line, and extends to within approximately 17 feet 6 inches of the rear property line. The proposal includes the removal of a portion of an existing rear deck located at the southeast corner of the building. [The proposal is in relation to Building Permit Application No. 2014.09.30.7684 to repair the existing rear addition (with sloped solarium windows) and approximately 90 square-foot rear deck, which was the subject of Board of Appeals Case No. 14-171 for work exceeding the scope of the permit.]

In addition, the Zoning Administrator will consider a Rear Yard Variance being requested for the proposed project (originally scheduled for the October 28, 2015 Variance hearing under Case No. 2015-002255VAR), as follows:

PER SECTION 134 OF THE PLANNING CODE, the subject property is required to maintain a rear yard of approximately 23 feet 6 inches. The one-story rear addition extends approximately 6 feet into the required rear yard.

ISSUES AND CONSIDERATIONS

- Prior to 2006, there was a one-story balcony (approximately 5 feet deep by 16 feet wide) at the rear of the building.
- On July 26, 2006, Acting Zoning Administrator (Neil Hart) granted a Rear Yard Variance under Case No. 2006.0509V for the subject property to construct a one-story addition (approximately 10 feet 6 inches deep by 13 feet 6 inches wide) at the north side property line at the rear of the building. The proposal included a roof deck above the one-story addition (solarium with sloped windows utilized as a home office) and a balcony (approximately 1 foot 6 inches deep by 4 feet wide) at the southern side of the second floor.
- On November 22, 2006, Building Permit Application No. 2006.05.12.1496 was issued for the scope of work to “DEMO EXTG BALCONY AT REAR OF MAIN LEVEL OF FLAT/DUPLEX. ADD NEW OFFICE AT REAR OF EXTG GRADE LEVEL BEDROOM/ADD NEW DECK ABOVE NEW OFFICE” in relation to Variance Case No. 2006.0509V.
- On August 15, 2014, Building Permit Application No. 2014.08.15.3951 was issued for the scope of work to “REPAIR 2ND FLOOR DECK AT BACK OF BUILDING WITH DRYROT IN PERIMETER LESS THAN 50% CONSTRUCTION”.
- On September 30, 2014, Building Permit Application No. 2014.09.30.7684 was filed to “TO COMPLY WITH NOV#201493443. ADD TWO WINDOWS, A SKYLIGHT, A DOOR, AND REPLACE RAILING AT EXISTING POP-OUT AND EXISTING DECK. REPAIR ROOF & DECK AS REQUIRED”.
- Department of Building Inspection (DBI) complaints were filed under Complaint Nos. 201493443 and 201496731 for exceeding work beyond the scope of the permits for Building Permit Application Nos. 2014.08.15.3951 and 2014.09.30.7684.
- On August 4, 2015, Building Permit Application No. 2014.09.30.7684 was revoked under Board of Appeals Case No. 14-171 for work exceeding the scope of the permit, requiring the project sponsors to file a new Variance Application for a Rear Yard Variance and a new building permit application with neighborhood notification to legalize the construction of the proposed rear addition with deck above.

SITE DESCRIPTION AND PRESENT USE

The Project Site is located on the east side of Webster Street between Beach and North Point Streets; Lots 045-046 in Assessor’s Block 0445A in an RH-2 (Residential, House, Two-Family) Zoning District and a 40-X Height and Bulk District. The subject lot is 2,500 square feet (25 feet wide by 100 feet deep) and is occupied by a three-story, two-family residential building. The existing building, constructed in 1931, is not listed in

the Planning Department's 1976 Architectural Survey or the National or California Registers as having architectural significance.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The project site is located within the Marina Neighborhood. The surrounding neighborhood primarily consists of a mix of three to four-story residential buildings with two and three units. The subject block, and the blocks around it are zoned RH-2 (Residential, House, Two-Family) District, RM-3 (Residential, Mixed, Medium Density) District, and NC-2 (Small-Scale Neighborhood Commercial) District zoning.

BUILDING PERMIT NOTIFICATION

TYPE	REQUIRED PERIOD	NOTIFICATION DATES	DR FILE DATE	DR HEARING DATE	FILING TO HEARING TIME
311 Notice	30 days	September 21, 2015 – October 21, 2015	October 13, 2015	January 7, 2016	88 days

HEARING NOTIFICATION

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Posted Notice	20 days	December 18, 2015	December 18, 2015	20 days
Mailed Notice	10 days	December 28, 2015	December 28, 2015	10 days

The proposed project was originally scheduled for the October 28, 2015 Variance hearing under Case No. 2015-002255VAR.

PUBLIC COMMENT

	SUPPORT	OPPOSED	NO POSITION
Adjacent neighbor(s)	--	1 (DR Requestor)	--
Other neighbors on the block or directly across the street	--	--	--
Neighborhood groups	--	--	--

As of December 23, 2015, the Department has not received any letters or phone calls in support of or in opposition to the project.

DR REQUESTOR

Lisa Tafuri Krim and Brian Krim, property owners of 3630 Webster Street, adjacent property to the south of the subject property. The DR Requestors' property, constructed in 1931, is a three-story single-family dwelling located on a lot with a width of 25 feet and a depth of 125 feet.

DR REQUESTOR'S CONCERNS AND PROPOSED ALTERNATIVES

Issue #1: Rear Yard Variance. The proposed project should not be granted a Rear Yard Variance since it does meet the Planning Code Section 305(c) criteria that make it necessary for the Zoning Administrator to grant a variance.

Issue #2: Mid-Block Open Space. If the Rear Yard Variance is granted, it would set a precedent that affects light and greenery that everyone on the block currently enjoys, and would not be consistent with the intent and purpose of the Planning Code and General Plan.

Issue #3: Size of Rear Deck and Privacy. Expanding the rear deck surface an additional 3 feet in depth will further detract from their privacy using their own rear deck since there is nothing shielding the line of site. (The size of the rear deck surface will increase from approximately 90 square feet to 132 square feet.)

Issue #3: Light to Adjacent Property. The proposed project will impact sunlight to the abutting property to the north since the addition has no setback from the side property line.

The DR Requestors have proposed as an alternative that if the subject Rear Yard Variance is granted, the rear addition with deck above should not be larger in size than the rear addition approved in 2006 under Case No. 2006.0509V.

Please reference the attached *Request for Discretionary Review application*, dated October 13, 2015 for additional information.

PROJECT SPONSOR'S RESPONSE

The Project Sponsors have indicated that they believe the proposal is consistent with the Residential Design Guidelines, and have provided the following response to the DR requestors' concerns and proposed alternative as summarized below:

- The proposed project will enable modifications to the existing rear yard addition to prevent future water damage and potential dry rot. These modifications include reconfiguring the roof of the addition by eliminating a planter and sloped solarium window and squaring it off. This results in extending the roof and roof deck by 3 feet to the eastern edge of the addition for its 13 feet 6 inches width. The one-story addition will be utilized as a study/home office (and playroom for grandchildren).
- The DR Requestor's submittal is primarily focused on the findings in support of the 2006 variance that authorized the 8 feet 6 inches tall addition in the required rear yard, not the pending building permit. Even though the DR Requestor was living next door to the site in 2006, she did not request DR of that building permit. She is thus using the DR request of this permit to try to undo a variance that was final in 2006. Given that singular and immaterial focus, there is a disconnect between the DR Requestor's statements as the basis for her DR and the work that would occur under the pending building permit.
- The project sponsors did not know when they bought the home in 2010 that the deck configuration was different than what was approved in 2006. The project sponsors only discovered that the deck configuration was modified by the previous owner in 2006 beyond what was approved under the

2006 variance during the DR Requestor's appeal of Building Permit No. 2014.09.30.7684 to repair dry rot in the rear addition.

- The DR Requestor lives in a large, three-story home to the south of the subject property. Her home is substantially set back at grade from the rear yard addition and is blocked from views at grade by the 6-foot high fence between the properties' back yards. Further ensuring that there is no loss of privacy to the DR Requestor's home from the rear deck is the 16 feet 6 inches high firewall on her property overlooking the deck. The existing view conditions, which have existed since the addition was built in 2006, will not be changed by the proposed modifications.
- The neighbor to the north had concerns due to the firewall that was initially proposed along the deck at her property line. After consulting with the Department of Building Inspection (DBI) on the Building Code requirements, the proposed project was revised to substitute the previously proposed 42 inch parapet and firewall with a 1-hour fire-rated ceiling/roof protection system and a 42 inch open railing, thereby negating any negative impact to the neighbor to the north.
- The primary goal of the project is the protection and preservation of the rear yard addition. Given the near unanimous predictions for severe El Nino conditions in northern California this winter, this project is essential to achieving that goal.

In response to the DR Requestor's concerns, the 28 square foot "small deck" was removed from the proposed project. In addition, the proposed project was revised to provide a 1-hour fire-rated ceiling/roof protection system and a 42 inch open railing in response to the concerns from the adjacent neighbor to the north. Please see the attached *Response to Discretionary Review (and supplemental)*, dated December 7, 2015 for additional information.

PROJECT ANALYSIS

The proposal is to legalize the construction of a one-story horizontal addition with 132 square-foot deck and walkable skylight above at the rear of the three-story, two-family dwelling. The one-story rear addition (approximately 13 feet 6 inches wide by 10 feet 6 inches deep by 8 feet 6 inches high) abuts the north side property line, is set back approximately 11 feet 6 inches from the south property line, and extends to within approximately 17 feet 6 inches of the rear property line. The proposal includes the removal of a portion of an existing 28 square-foot rear deck located at the southeast corner of the building. The existing building (with approximately 2,000 gross feet of floor area) has a height of approximately 27 feet 6 inches and a building depth (inclusive of the one-story horizontal rear addition) of approximately 76 feet 6 inches. The proposed project will involve constructing a one-story horizontal rear addition with a similar building footprint to the one-story horizontal rear addition which previously existed.

Light, Privacy, and Mid-Block Open Space Area

The DR Requestor's main concern is that the proposed rear addition with deck above will negatively affect light and privacy to adjacent properties and will not be compatible with the mid-block open space area. The subject property and most of the adjacent properties within the immediate neighborhood (including the DR Requestors' property) are located within an RH-2 Zoning District and a 40-X Height and Bulk District. The current zoning allows for up to two dwelling units on this site. The height and depth of the rear addition with roof deck above will be compatible with the development character of the mid-block open space pattern on the subject block. The one-story rear addition with roof deck above will not extend beyond the DR

requestor's rear deck to the south, will be set back approximately 11 feet 6 inches from the south property line, and the proposed rear addition with roof deck above will be less than 10 feet in height, which is similar in height to the DR Requestor's existing rear addition with deck above, but includes a 16 feet 6 inch high firewall abutting the south side property line. The Residential Design Guidelines indicate that the building should be articulated to minimize impacts on light and privacy to adjacent properties and that in areas with a dense building pattern, some reduction of light and privacy to neighboring buildings can be expected with a building expansion. With the modifications to the original proposal (with the elimination of the 28 square-foot rear deck on the southern side at the second floor and eliminating the 42 inch parapet and firewall on the northern side of the deck above the rear addition), the proposed project will be compatible with the existing development pattern of surrounding buildings on the subject block.

ENVIRONMENTAL REVIEW

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption.

RESIDENTIAL DESIGN TEAM REVIEW

The Residential Design Team (RDT) reviewed the request for Discretionary Review and found that the project does not contain or create exceptional or extraordinary circumstances. The RDT noted that the proposed horizontal rear addition is consistent with the Residential Design Guidelines and does not appear to negatively affect adjacent properties since the change between the existing and proposed one-story horizontal addition is negligible.

Under the Commission's pending DR Reform Legislation, this project would not be referred to the Commission as this project does not contain or create any exceptional or extraordinary circumstances.

BASIS FOR RECOMMENDATION

The Department believes the project does not contain or create exceptional or extraordinary circumstances and recommends that the Commission take Discretionary Review and approve the project as proposed.

- The proposed one-story horizontal rear addition is consistent with the Residential Design Guidelines and will be compatible with the existing mid-block open space pattern on the subject block.

RECOMMENDATION:	Do not take DR and approve project as proposed
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Attachments:

Block Book Map
Sanborn Map
Zoning Map
Aerial Photographs
Context Photographs
Section 311 Notice
DR Application
Variance Application
Response to DR Application dated December 7, 2015 (and supplemental)
Reduced Plans

Design Review Checklist

NEIGHBORHOOD CHARACTER (PAGES 7-10)

QUESTION	
The visual character is: (check one)	
Defined	X
Mixed	

Comments: The neighborhood character of the subject block is generally well defined. However, the proposed project is not visible from Webster Street.

SITE DESIGN (PAGES 11 - 21)

QUESTION	YES	NO	N/A
Topography (page 11)			
Does the building respect the topography of the site and the surrounding area?	X		
Is the building placed on its site so it responds to its position on the block and to the placement of surrounding buildings?	X		
Front Setback (pages 12 - 15)			
Does the front setback provide a pedestrian scale and enhance the street?			X
In areas with varied front setbacks, is the building designed to act as transition between adjacent buildings and to unify the overall streetscape?			X
Does the building provide landscaping in the front setback?			X
Side Spacing (page 15)			
Does the building respect the existing pattern of side spacing?			X
Rear Yard (pages 16 - 17)			
Is the building articulated to minimize impacts on light to adjacent properties?	X		
Is the building articulated to minimize impacts on privacy to adjacent properties?	X		
Views (page 18)			
Does the project protect major public views from public spaces?			X
Special Building Locations (pages 19 - 21)			
Is greater visual emphasis provided for corner buildings?			X
Is the building facade designed to enhance and complement adjacent public spaces?			X
Is the building articulated to minimize impacts on light to adjacent cottages?			X

Comments: The proposed project respects the topography of the site, its position on the block, and placement of surrounding buildings. The proposed rear addition will be set back will about the north property line and will be set back approximately 11 feet 6 inches from the south property line.

BUILDING SCALE AND FORM (PAGES 23 - 30)

QUESTION	YES	NO	N/A
Building Scale (pages 23 - 27)			

Is the building's height and depth compatible with the existing building scale at the street?	X		
Is the building's height and depth compatible with the existing building scale at the mid-block open space?	X		
Building Form (pages 28 - 30)			
Is the building's form compatible with that of surrounding buildings?	X		
Is the building's facade width compatible with those found on surrounding buildings?			X
Are the building's proportions compatible with those found on surrounding buildings?	X		
Is the building's roofline compatible with those found on surrounding buildings?			X

Comments: The proposed project will not interrupt the mid-block open space and is generally compatible with the scale and form of surrounding buildings.

ARCHITECTURAL FEATURES (PAGES 31 - 41)

QUESTION	YES	NO	N/A
Building Entrances (pages 31 - 33)			
Does the building entrance enhance the connection between the public realm of the street and sidewalk and the private realm of the building?			X
Does the location of the building entrance respect the existing pattern of building entrances?			X
Is the building's front porch compatible with existing porches of surrounding buildings?			X
Are utility panels located so they are not visible on the front building wall or on the sidewalk?			X
Bay Windows (page 34)			
Are the length, height and type of bay windows compatible with those found on surrounding buildings?			X
Garages (pages 34 - 37)			
Is the garage structure detailed to create a visually interesting street frontage?			X
Are the design and placement of the garage entrance and door compatible with the building and the surrounding area?			X
Is the width of the garage entrance minimized?			X
Is the placement of the curb cut coordinated to maximize on-street parking?			X
Rooftop Architectural Features (pages 38 - 41)			
Is the stair penthouse designed to minimize its visibility from the street?			X
Are the parapets compatible with the overall building proportions and other building elements?			X
Are the dormers compatible with the architectural character of surrounding buildings?			X
Are the windscreens designed to minimize impacts on the building's design and on light to adjacent buildings?			X

Comments: The proposal will not significantly alter the building's architectural features.

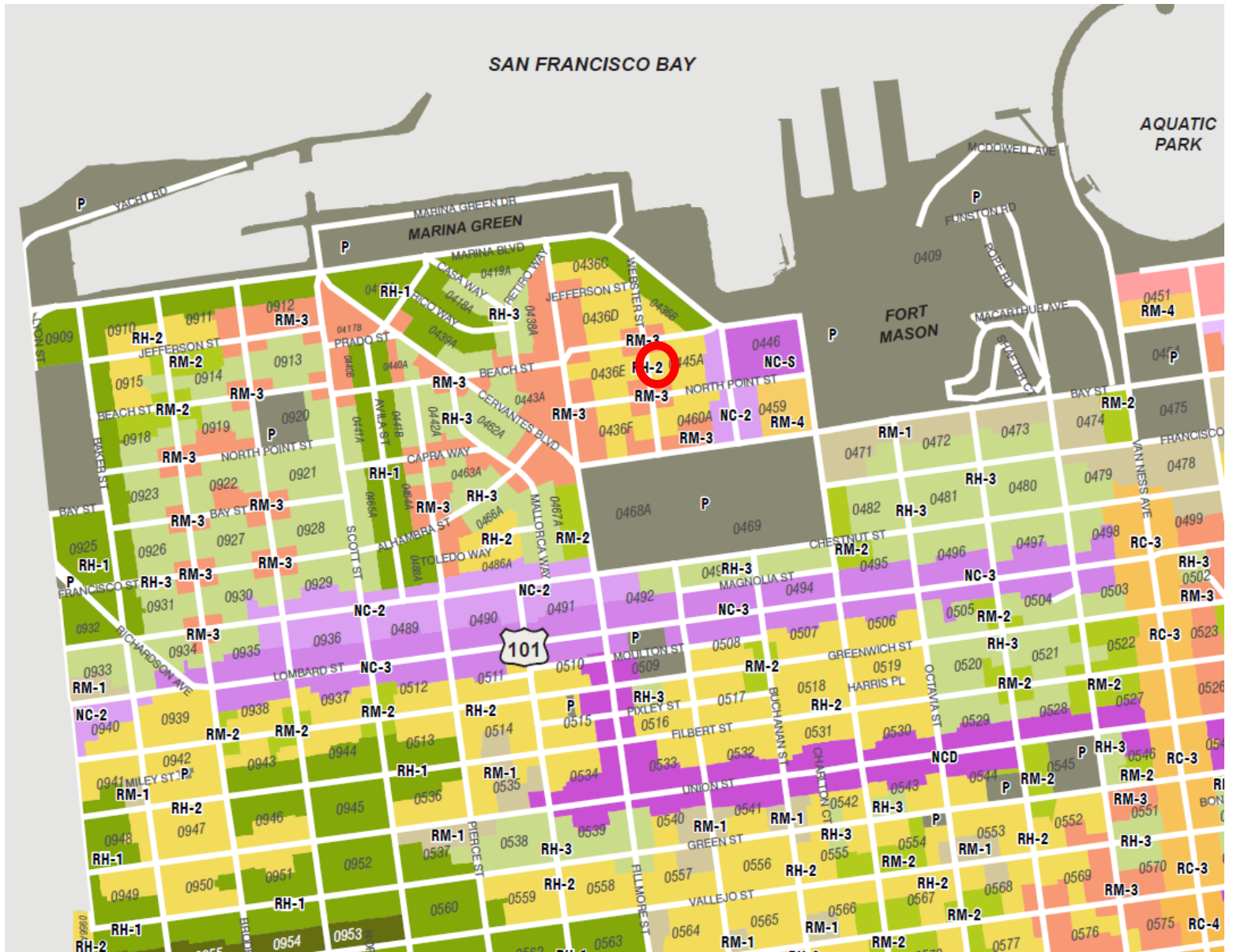
BUILDING DETAILS (PAGES 43 - 48)

QUESTION	YES	NO	N/A
Architectural Details (pages 43 - 44)			
Are the placement and scale of architectural details compatible with the building and the surrounding area?	X		
Windows (pages 44 - 46)			
Do the windows contribute to the architectural character of the building and the neighborhood?	X		
Are the proportion and size of the windows related to that of existing buildings in the neighborhood?	X		
Are the window features designed to be compatible with the building's architectural character, as well as other buildings in the neighborhood?	X		
Are the window materials compatible with those found on surrounding buildings, especially on facades visible from the street?	X		
Exterior Materials (pages 47 - 48)			
Are the type, finish and quality of the building's materials compatible with those used in the surrounding area?	X		
Are the building's exposed walls covered and finished with quality materials that are compatible with the front facade and adjacent buildings?	X		
Are the building's materials properly detailed and appropriately applied?	X		

Comments: The proposed rear addition will utilize building materials which are compatible with the existing building as well as other buildings in the surrounding neighborhood.

SMY: C:\3636 - 3638 Webster St - summary-smy.doc

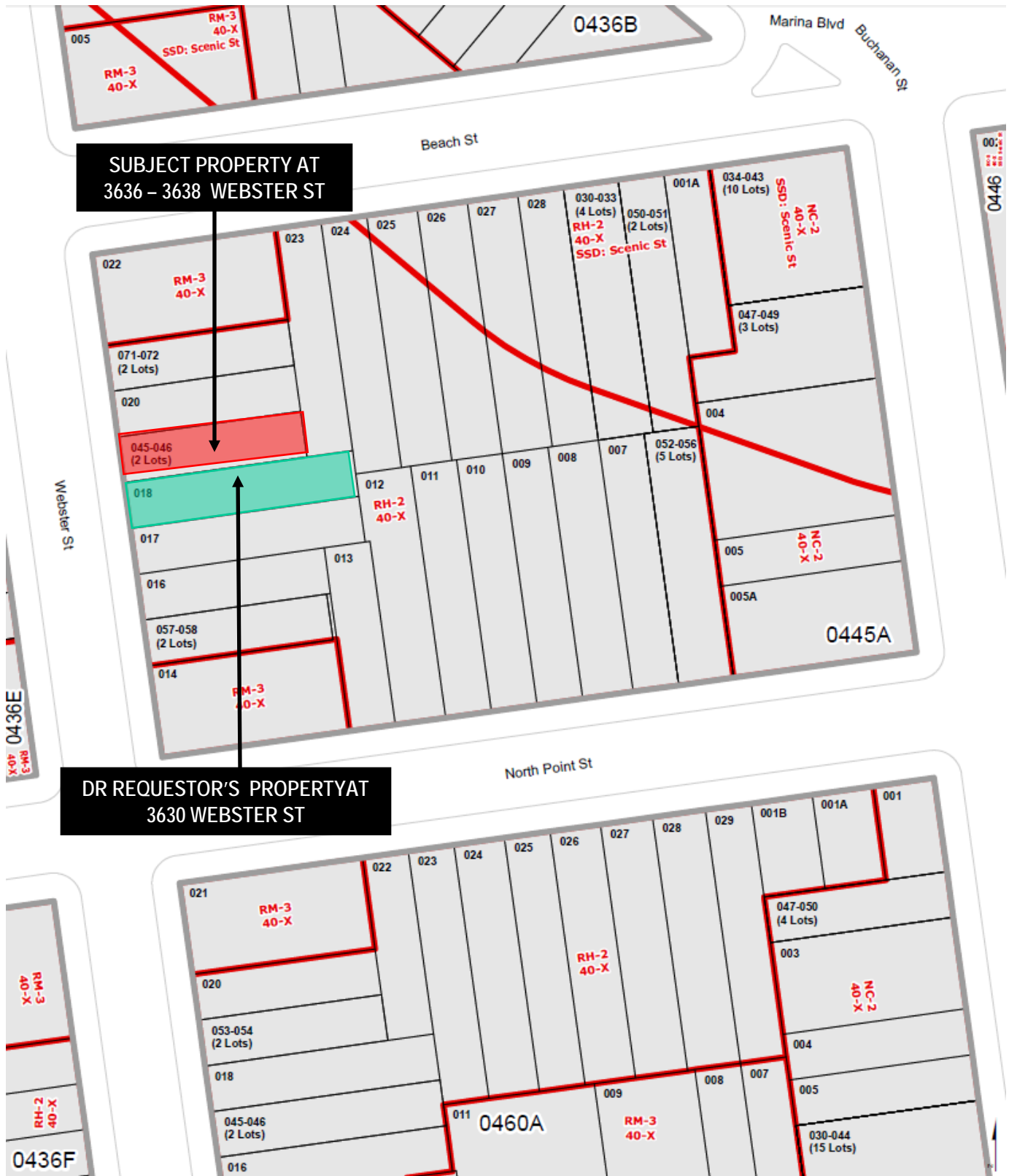
Zoning Map



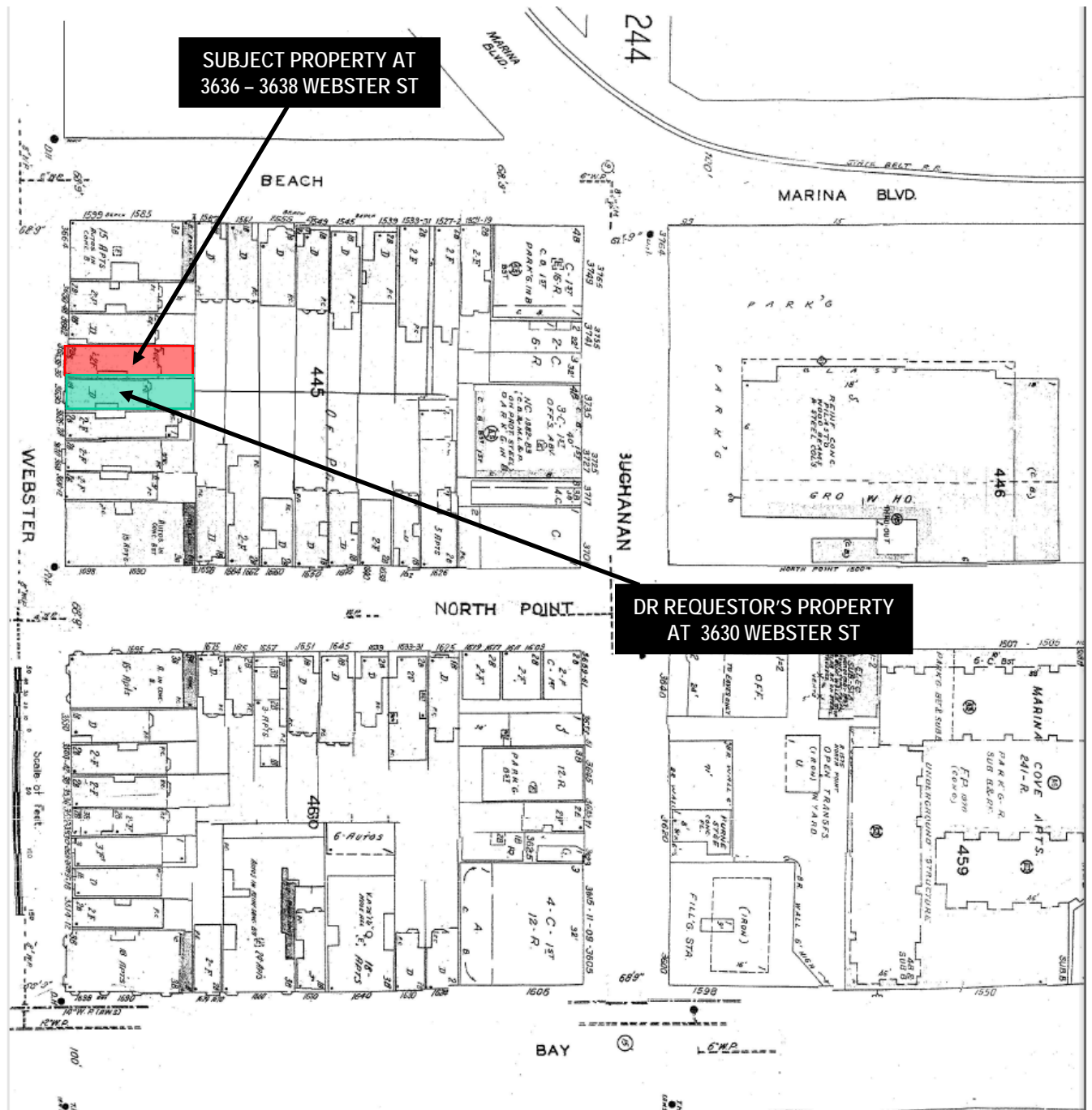
Discretionary Review Hearing
Case Number 2015-002255DRP
3636 - 3638 Webster Street



Parcel Map



Sanborn Map*

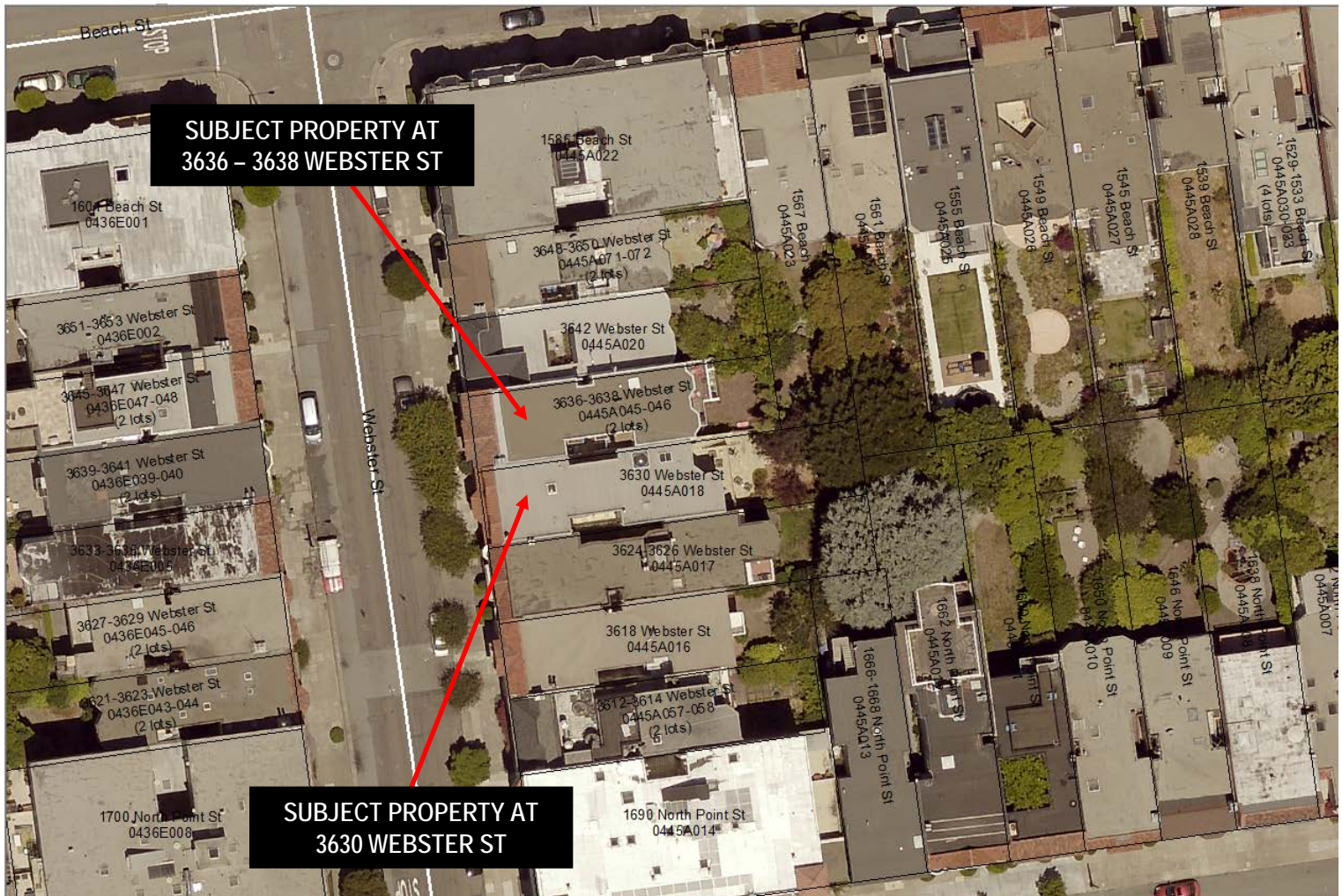


*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.



Discretionary Review Hearing
Case Number 2015-002255DRP
3636 - 3638 Webster Street

Aerial Photo*



*The Aerial Maps reflect existing conditions in June 2014.



Aerial Photo*



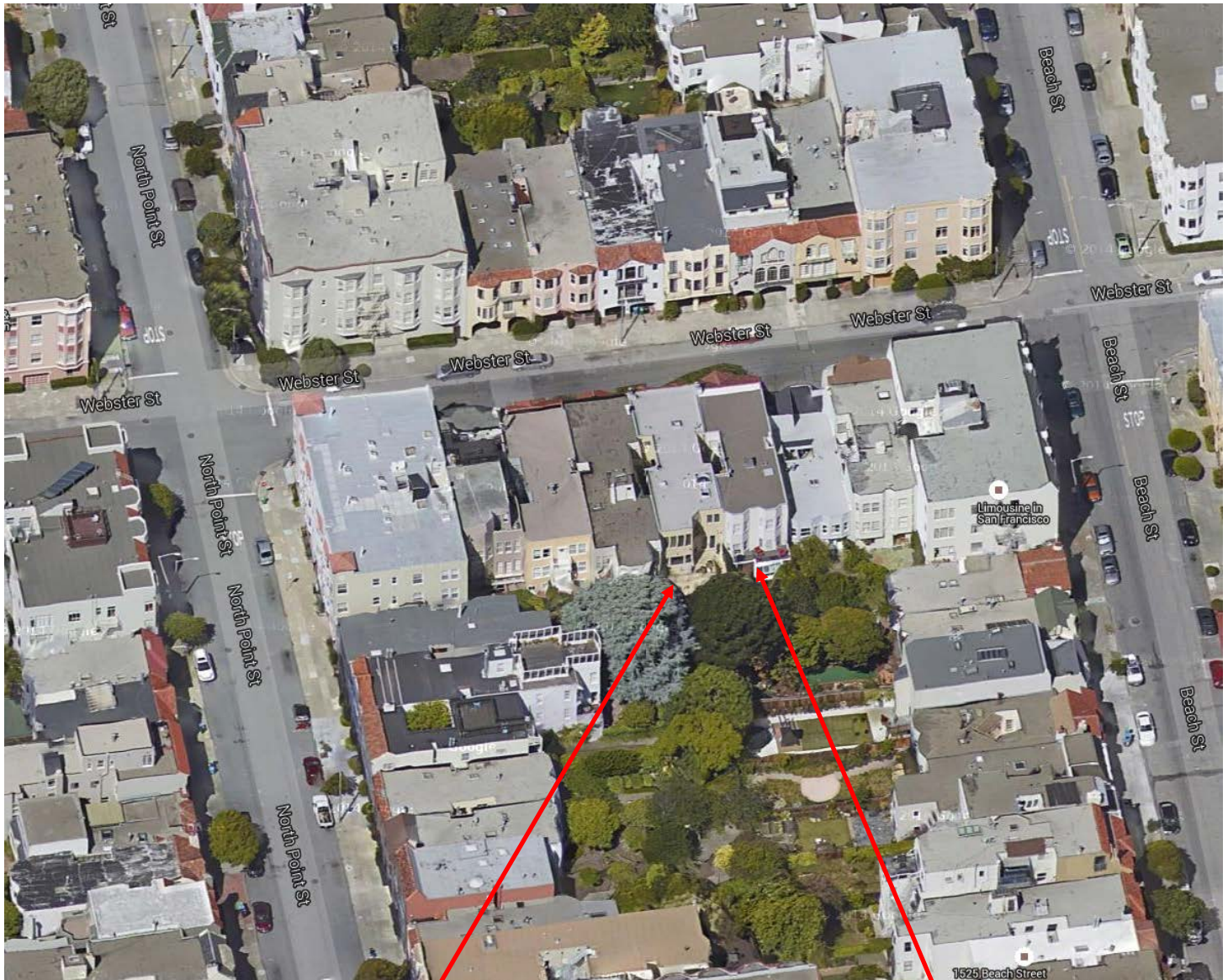
*The Aerial Maps reflect existing conditions in 2015. (Google Imagery)

**SUBJECT PROPERTY AT
3630 WEBSTER ST**

**DR REQUESTOR'S PROPERTY
AT 3630 WEBSTER ST**



Aerial Photo*



*The Aerial Maps reflect existing conditions in 2015. (Google Imagery)

DR REQUESTOR'S PROPERTY
AT 3630 WEBSTER ST

SUBJECT PROPERTY AT
3630 WEBSTER ST



Discretionary Review Hearing
Case Number 2015-002255DRP
3636 - 3638 Webster Street

Site Photo



SUBJECT PROPERTY AT
3636 - 3638 WEBSTER ST

DR REQUESTOR'S PROPERTY
AT 3630 WEBSTER ST

Discretionary Review Hearing
Case Number 2015-002255DRP
3636 - 3638 Webster Street

Site Photo



DR REQUESTOR'S PROPERTY
AT 3630 WEBSTER ST

SUBJECT PROPERTY AT
3636 - 3638 WEBSTER ST

Discretionary Review Hearing
Case Number 2015-002255DRP
3636 - 3638 Webster Street

RECEIVED

OCT 13 2015

CITY & COUNTY OF S.F.
PLANNING DEPARTMENT
PIC

APPLICATION FOR Discretionary Review

1. Owner/Applicant Information

DR APPLICANT'S NAME: LISA KRIM		
DR APPLICANT'S ADDRESS: 3630 WEBSTER STREET	ZIP CODE: 94123	TELEPHONE: (415) 922-0901

PROPERTY OWNER WHO IS DOING THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETIONARY REVIEW NAME: FRANK E. HARDENBERGH		
ADDRESS: 3636 WEBSTER STREET	ZIP CODE: 94123	TELEPHONE: (603) 569-1309

CONTACT FOR DR APPLICATION: Same as Above <input checked="" type="checkbox"/>		
ADDRESS:	ZIP CODE:	TELEPHONE: ()
E-MAIL ADDRESS:		

2. Location and Classification

STREET ADDRESS OF PROJECT: 3636 WEBSTER STREET	ZIP CODE: 94123
CROSS STREETS: NORTHPOINT AND BEACH	

ASSESSORS BLOCK/LOT: 0445A / 045	LOT DIMENSIONS: 25' x 100'	LOT AREA (SQ FT): 2500	ZONING DISTRICT: RH-2	HEIGHT/BULK DISTRICT: 40-X
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3. Project Description

Please check all that apply
Change of Use ☐ Change of Hours ☐ New Construction ☐ Alterations ☒ Demolition ☐ Other ☐

Additions to Building: Rear ☒ Front ☐ Height ☐ Side Yard ☐

Present or Previous Use: RESIDENTIAL

Proposed Use: RESIDENTIAL

Building Permit Application No. 2015. 08.04.3247

Date Filed: 10/13/15

Discretionary Review Request

In the space below and on separate paper, if necessary, please present facts sufficient to answer each question.

1. What are the reasons for requesting Discretionary Review? The project meets the minimum standards of the Planning Code. What are the exceptional and extraordinary circumstances that justify Discretionary Review of the project? How does the project conflict with the City's General Plan or the Planning Code's Priority Policies or Residential Design Guidelines? Please be specific and site specific sections of the Residential Design Guidelines.

PLEASE SEE ATTACHED

2. The Residential Design Guidelines assume some impacts to be reasonable and expected as part of construction. Please explain how this project would cause unreasonable impacts. If you believe your property, the property of others or the neighborhood would be adversely affected, please state who would be affected, and how:

PLEASE SEE ATTACHED

3. What alternatives or changes to the proposed project, beyond the changes (if any) already made would respond to the exceptional and extraordinary circumstances and reduce the adverse effects noted above in question #1?

PLEASE SEE ATTACHED

4. Actions Prior to a Discretionary Review Request

Prior Action	YES	NO
Have you discussed this project with the permit applicant?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you discuss the project with the Planning Department permit review planner?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you participate in outside mediation on this case?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

5. Changes Made to the Project as a Result of Mediation

If you have discussed the project with the applicant, planning staff or gone through mediation, please summarize the result, including any changes there were made to the proposed project.

Applicant's Affidavit

Under penalty of perjury the following declarations are made:

- a: The undersigned is the owner or authorized agent of the owner of this property.
- b: The information presented is true and correct to the best of my knowledge.
- c: The other information or applications may be required.

Signature: _____

Lisa TKrini

Date: _____

10/13/15

Print name, and indicate whether owner, or authorized agent:

Lisa Krini (owner)

Owner / Authorized Agent (circle one)

Discretionary Review Application Submittal Checklist

Applications submitted to the Planning Department must be accompanied by this checklist and all required materials. The checklist is to be completed and **signed by the applicant or authorized agent.**

REQUIRED MATERIALS (please check correct column)	DR APPLICATION
Application, with all blanks completed	<input type="checkbox"/>
Address labels (original), if applicable	<input type="radio"/>
Address labels (copy of the above), if applicable	<input type="radio"/>
Photocopy of this completed application	<input type="checkbox"/>
Photographs that illustrate your concerns	<input type="checkbox"/>
Covenant or Deed Restrictions	<input type="checkbox"/>
Check payable to Planning Dept.	<input type="checkbox"/>
Letter of authorization for agent	<input type="checkbox"/>
Other: Section Plan, Detail drawings (i.e. windows, door entries, trim), Specifications (for cleaning, repair, etc.) and/or Product cut sheets for new elements (i.e. windows, doors)	<input type="checkbox"/>

NOTES:

☐ Required Material.

☐ Optional Material.

☐ Two sets of original labels and one copy of addresses of adjacent property owners and owners of property across street.

For Department Use Only

Application received by Planning Department:

By: Heidi Kline

Date: 10/13/15

Discretionary Review Request
Building Permit Application No. 2015.08.04.3267
3630 Webster Street

1. What are the reasons for requesting Discretionary Review? The project meets the minimum standards of the Planning Code. What are the exceptional and extraordinary circumstances that justify Discretionary Review of the project? How does the project conflict with the City's General Plan or the Planning Code's Priority Policies or Residential Design Guidelines? Please be specific and cite specific sections of the Residential Design Guidelines.

We live adjacent to this property on the south side at 3630 Webster Street.

The proposed plans for this project require a Rear Yard Variance because the structure would exceed the rear yard requirement of 25% of total depth of lot. The lot is 100 feet and the proposed building will extend 7 ½ feet into the required rear yard.

This project in our opinion does not meet Planning Code Section 305(c)'s criteria that make it necessary for the Zoning Administrator to grant a variance:

1. There are no exceptional or extraordinary circumstances.

- The lot at 3636 Webster Street is the same dimension as the majority of residential lots in San Francisco: 25' by 100'.
- The property is completely level and the adjacent properties are single-family homes that conform to height and rear yard requirements.
- The block, 0445A, closely resembles other blocks in the Marina (see **Attachment 1**).
- The wall on our property is not an exceptional or extraordinary circumstance: First, this wall was built upon request of Todd Chapman, the prior owner of 3636 Webster Street (see **Attachment 2**). Second, due to varying lot depths in this district, some properties extend further out

than other properties and this is not an extraordinary circumstance. We ourselves have this same condition; the adjacent property to our south, 3624 Webster, extends approximately 12 feet beyond our building at a height of 40' (see **Attachment 3**).

2. There is no practical difficulty or unnecessary hardship.

- The building permit applicants are a retired couple living in a two-story house with six rooms, including three bedrooms. They are not constrained in the use of their approximate 2,000 square foot home since no dependents live in the house, and they reside at their primary home in New Hampshire for more than half of the year.
- Sunlight is at best minimally impacted by our wall and no lighting studies have been conducted to document.

3. The variance does not provide enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district.

- All residences in this district are subject to same buildable area and rear yard requirements.
- It is very common for properties on deeper lots to have buildings that extend out further than their neighbors (see **Attachment 1**). The properties adjacent to the proposed project are well within the rear yard requirements.

4. The granting of this variance will be detrimental to the public welfare and materially injurious to properties in the vicinity.

- Per the Residential Design Guidelines, when expanding buildings into the rear yard, the impact of that extension on privacy for abutting structures must be considered. We are an abutting structure to this proposed project and our privacy will be negatively impacted. The 132 square foot proposed horizontal deck surface will be 60% bigger than the approximately 80 square foot deck that existed when we purchased our

house, and 50% bigger than the 90 square foot deck approved in the 2006 variance. The additional 3 feet of deck depth sought by the building applicants, will further detract from our privacy, which was already impacted by the deck approved in 2006. When we are using our deck, we are in full view with nothing shielding the line of site.

- Additionally, the proposed project will impact sunlight to the abutting property to the north since the addition has no setback from the property line.

5. The granting of such variance will not be in harmony with the general purpose and intent of this Code.

- If a variance is granted, the structure at 3636 Webster Street will cover 82.5% of its lot versus the absolute maximum of 75% allowed by code. We believe this would set a precedent that may have extremely adverse impact on light and greenery that everyone on our block currently enjoys, and would not be in harmony with the general purpose and intent of the Code and will adversely affect the General Plan.

In **Attachment 4**, we have made notes on Variance Decision 2006.0509V granted to Richard North Patterson by Acting Zoning Administrator Neil Hart on June 28, 2006 pointing out what we believe were unwarranted findings. Again, we do not agree that our firewall requested by previous owners of 3636 Webster constitutes an exceptional and extraordinary circumstance, and we also do not agree that this firewall blocks a significant amount of sunlight to the ground floor. There have been no lighting studies to prove this. Most importantly, this addition definitely blocks sunlight into the adjacent property to the north at 3642 Webster Street. **Attachment 5** shows the proposed project plans extends 10.5' along the property line with no setback.

If for some reason it is determined by the Zoning Department that this property meets all five criteria for a rear yard variance, we insist the approved non-conforming structure not claim any more of the rear yard (horizontally or vertically) beyond what was approved in Variance Application No. 2006.0509V in 2006.

Below are the reasons we do not believe the city should approve a bigger structure:

- The owners initially set out to remove dry rot from the rear addition, however they somehow lost sight of the scope of their permit, and without contacting us, demolished the addition and began rebuilding a larger addition with several modifications. It seems the dry rot became a means for redesigning the addition to gain square footage on the deck.
- The current proposal seeks to extend the addition meaningfully beyond what was approved in the 2006 variance decision, as well as expand the deck to capture 50% more square footage. These expansions are unnecessary and not justified by any hardship.
- Since August 2014, we have repeatedly and consistently explained to the current owners that we oppose any modifications that will expand the structure from the 2006 approved plans. The building permit applicants have disregarded building code twice by exceeding the scope of their permit in seeking to rebuild this structure. During the pre-application meeting, the project's architect Ernie Selander was dismissive and disrespectful to us, and threatened to stop all discussions with us if we did not take him to the back of our house where our four young kids were playing.
- We also fear a domino effect will occur as each property on our side of the block has right to claim hardship due to light being blocked by an adjacent fire wall, and precedent will be set that owners may seek to build a non-conforming rear yard structure to minimize the impact.

2. The Residential Design Guidelines assume some impacts to be reasonable and expected as part of construction. Please explain how this project would cause unreasonable impacts. If you believe your property, the property of others or the neighborhood would be adversely affected, please state who would be affected, and how:

Our property at 3630 Webster would be impacted because the proposed deck, which is 60% bigger than when we purchased our house and 50% bigger than approved in 2006 variance, detracts from our privacy.

The single family home at 3642 Webster, which abuts to the north, likely loses significant sunlight into their first-story because the addition is on the property line with no set back. The deck prior to the addition being built did not exceed the rear yard requirement and was set back from the property line (see **Attachment 6**). Karen Mulcahy Ingalls and Jennifer Mulcahy Sundstrom are the owners, and their 95 year-old grandmother Tutta Baer resides there with a full time aid.

3. What alternatives or changes to the proposed project, beyond the changes (if any) already made would respond to the exceptional and extraordinary circumstances and reduce the adverse effects noted above in question #1?

Planning Code Section 101 states that one of the purposes of the Planning Code is to provide adequate light, air, privacy and convenience of access. The building applicants are seeking a non-conforming structure that violates the buildable area guidelines and rear yard requirement. If the variance is granted, we feel the Planning Department should require the rear addition to be no larger in size than the rear addition approved in 2006, and the horizontal deck to be a maximum of 90 square feet.

Attachments 7 and 8 are rear view photos of 3636 Webster, as well as properties to north and south

ATTACHMENT 1

BLOCK 044SA
BUSHMAN ST

MARIA BLVD

1800 ST



3634 WEBSTER

WEBSTER ST

WEBSTER ST

1800 ST

1800 ST

STANLEY ST

STANLEY ST

1800 ST

STANLEY BLVD

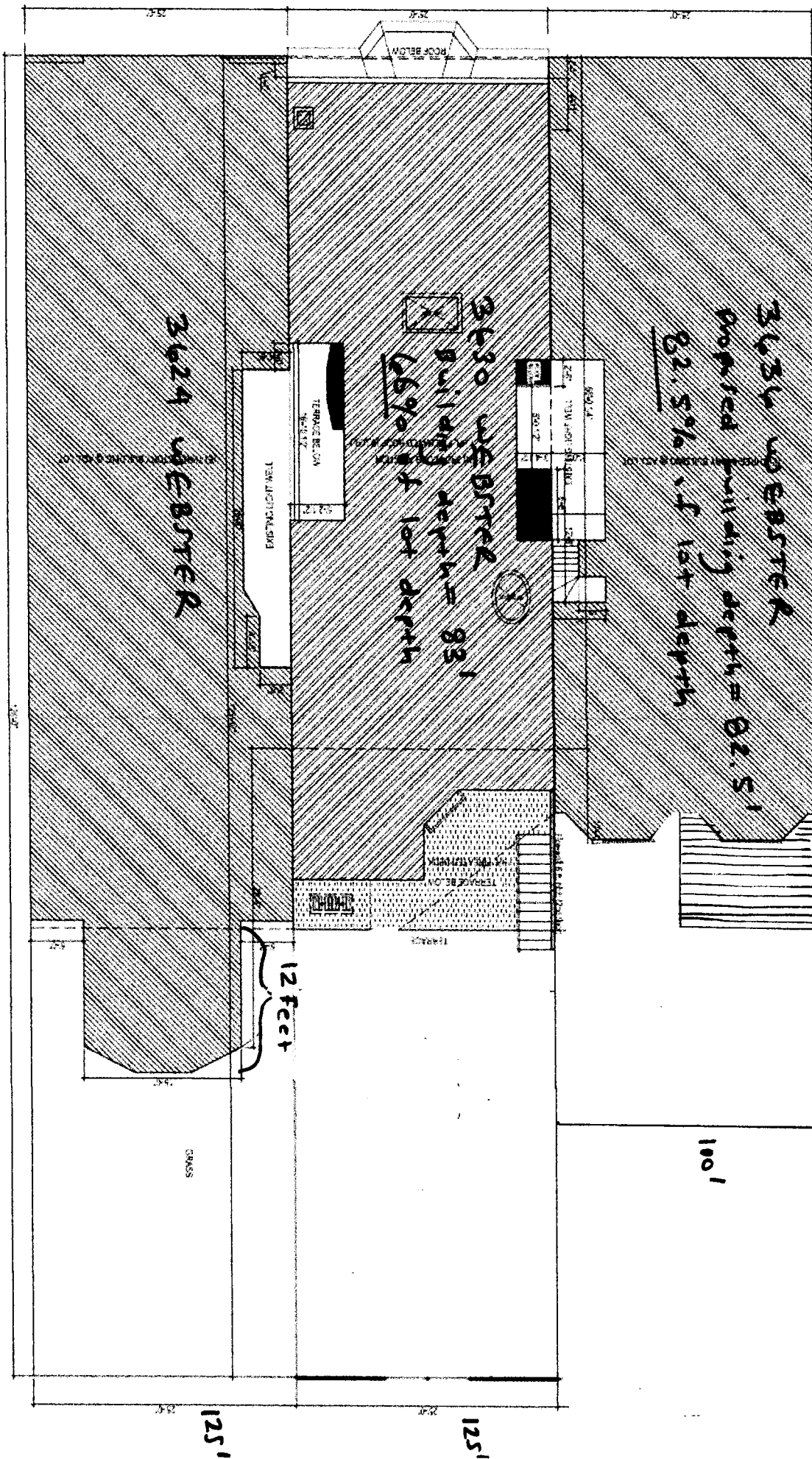
1800 ST

From: Krim, Brian [<mailto:Brian.Krim@Bain.com>]
Sent: Thursday, September 16, 2004 7:36 PM
To: Todd Chapman
Subject: RE: new neighbor

Todd, I understand the request on the wall. We met with our architect today and asked him to put in a wall there between the two decks so that we both have privacy. I'll tell him to email a pdf of the changed version to you (or drop off a hard copy if you'd prefer). If you have any other problems come up definitely feel free to call me directly (home or work is fine). Regards, Brian

From: Todd Chapman [<mailto:tchapman@jmapropertiesinc.com>]
Sent: Thursday, September 16, 2004 9:10 AM
To: Krim, Brian
Subject: RE: new neighbor

Brian: thanks for the email. I think we were hoping to get a redrafted set of plans showing some sort of wall at the least (42" I believe your architect indicated) between the two decks for us to sign. If Gary can PDF something to us to review that should work.



**PLANNING DEPARTMENT**

City and County of San Francisco • 1660 Mission Street, Suite 500 • San Francisco, California • 94103-2414

MAIN NUMBER
(415) 558-6378**DIRECTOR'S OFFICE**
PHONE: 558-6411**4TH FLOOR**
FAX: 558-6426**ZONING ADMINISTRATOR**
PHONE: 558-6350**5TH FLOOR**
FAX: 558-6409**PLANNING INFORMATION**
PHONE: 558-6377**MAJOR ENVIRONMENTAL**
FAX: 558-5991**COMMISSION CALENDAR**
INFO: 558-6422**INTERNET WEB SITE**
WWW.SFGOV.ORG/PLANNING

July 26, 2006

VARIANCE DECISION**UNDER THE PLANNING CODE**
CASE NO. 2006.0509V

APPLICANT: **Bruce Bonacker**
 Bonacker Associates
 212 Sutter Street, #200
 San Francisco, CA 94108

CASE PLANNER: **Aaron Starr, (415) 558-6362**

PROPERTY IDENTIFICATION – **3636 WEBSTER STREET:** East side, between Beach and North Point Streets; Lot 045 in Assessor's Block 0445A, in an RH-2 (Residential, House, Two-Family) District with a 40-X Height and Bulk Designation.

DESCRIPTION OF VARIANCE SOUGHT – **REAR YARD VARIANCE:** The proposal is to construct an approximately 10.5' deep by 13.5' wide 1-story addition at the north side property line at the rear of the building. A roof deck is proposed above the addition, and an approximately 1.5' deep by 4' wide balcony is proposed at the southern side of the second floor.

Section 134(c) of the Planning Code requires the subject property, which is 100' deep, to have a minimum rear yard depth of 25'. The proposed addition will extend approximately 7.5' into the required rear yard and the proposed balcony will extend approximately .5' into the required rear yard.

PROCEDURAL BACKGROUND:

1. This proposal was determined to be Categorically Exempt from Environmental Review under CEQA Guidelines Section 15301, Existing Facilities.
2. The Zoning Administrator held a public hearing on **Variance Application No. 2006.0509V** on **June 28, 2006**.
3. Planning Code Section 311 notification requirements were mailed under a separate notice on May 25, 2006. The notice expired on June 24, 2006. No Discretionary Review applications were filed.

Case No. 2006.0509V
3636 Webster Street
July 28, 2006
Page 2

DECISION:

GRANTED, to construct an approximately 10.5' deep by 13.5' wide 1-story addition at the north side property line at the rear of the building with a roof deck above, and an approximately 1.5' deep by 4' wide balcony at the southern side of the second floor in general conformity with the plans on file with this application, shown as Exhibit A and dated June 20, 2006 subject to the following conditions:

1. Any further physical expansion, even within the buildable area, shall be reviewed by the Zoning Administrator to determine if the expansion is compatible with existing neighborhood character, scale, and parking. If the Zoning Administrator determines that there would be a significant or extraordinary impact, the Zoning Administrator shall require either notice to adjacent and/or affected property owners or a new Variance application be sought and justified.
2. The proposed project must meet these conditions and all applicable City Codes. In case of conflict, the more restrictive controls shall apply.
3. Minor modifications as determined by the Zoning Administrator may be permitted.
4. The owners of the subject property shall record on the land records of the City and County of San Francisco the conditions attached to this Variance decision as a Notice of Special Restrictions in a form approved by the Zoning Administrator.

FINDINGS:

Section 305(c) of the Planning Code states that in order to grant a Variance, the Zoning Administrator must determine that the facts of the case are sufficient to establish the following five findings:

FINDING 1.

That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other property or uses in the same class of district.

REQUIREMENT MET.

- A. The lot to the south of subject property is 25' longer, which allowed the owners of that property to extend their building 15' beyond the subject building. In addition, a 16' high firewall was built on the property line.
- B. The extension on the adjacent property to the south was approved before the current owners purchased the subject property. Construction was started 1 week after the owners of the subject property took possession of the property.

- Firewall built upon request of owner of 3636 Webster

- Lot sizes and buildable area vary in this district; it is very common for buildings to extend beyond adjacent buildings

Case No. 2006.0509V
3636 Webster Street
July 26, 2006
Page 3

FINDING 2.

That owing to such exceptional and extraordinary circumstances the literal enforcement of specified provisions of this Code would result in practical difficulty or unnecessary hardship not created by or attributable to the applicant or the owner of the property.

REQUIREMENT MET.

- A. Because of the firewall on the adjacent property, a significant amount of sunlight is blocked from the ground floor of the subject building.

- No lighting study conducted

FINDING 3.

That such Variance is necessary for preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district.

REQUIREMENT MET.

- A. The reduction in sunlight poses a unique situation for the property owner that other property owners in the same class of district do not have.

- Common and usual for sunlight to be reduced by buildings on deeper lots

FINDING 4.

That the granting of such Variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity.

REQUIREMENT MET.

- A. The proposed addition will only be one story tall with an open railing for the roof deck. It will not have a significant impact on light to the adjacent property.

- will impact light to adjacent property to north; addition is on property line and extends 10.5' further

FINDING 5.

The granting of such Variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the General Plan.

REQUIREMENT MET.

- A. The proposal is consistent with the generally stated intent and purpose of the Planning Code to promote orderly and beneficial development. The proposal is in harmony with the Residence Element of the General Plan to encourage residential development when it preserves or improves the quality of life for residents of the City.
- B. Code Section 101.1 establishes eight priority-planning policies and requires review of variance applications for consistency with said policies. Review of the relevant priority planning policies yielded the following determinations:

Case No. 2006.0509V
3636 Webster Street
July 26, 2006
Page 4

1. That the proposed project will be in keeping with the existing neighborhood character.
2. That the proposed project will have no effect on the City's supply of affordable housing, public transit or neighborhood parking, preparedness to protect against injury and loss of life in an earthquake, commercial activity, business or employment, landmarks and historic buildings, or public parks and open space.

The effective date of this decision shall be either the date of this decision letter if not appealed, or the date of the Notice of Decision and Order if appealed to the Board of Appeals.

Once any portion of the granted variance is utilized, all specifications and conditions of the variance authorization became immediately operative.

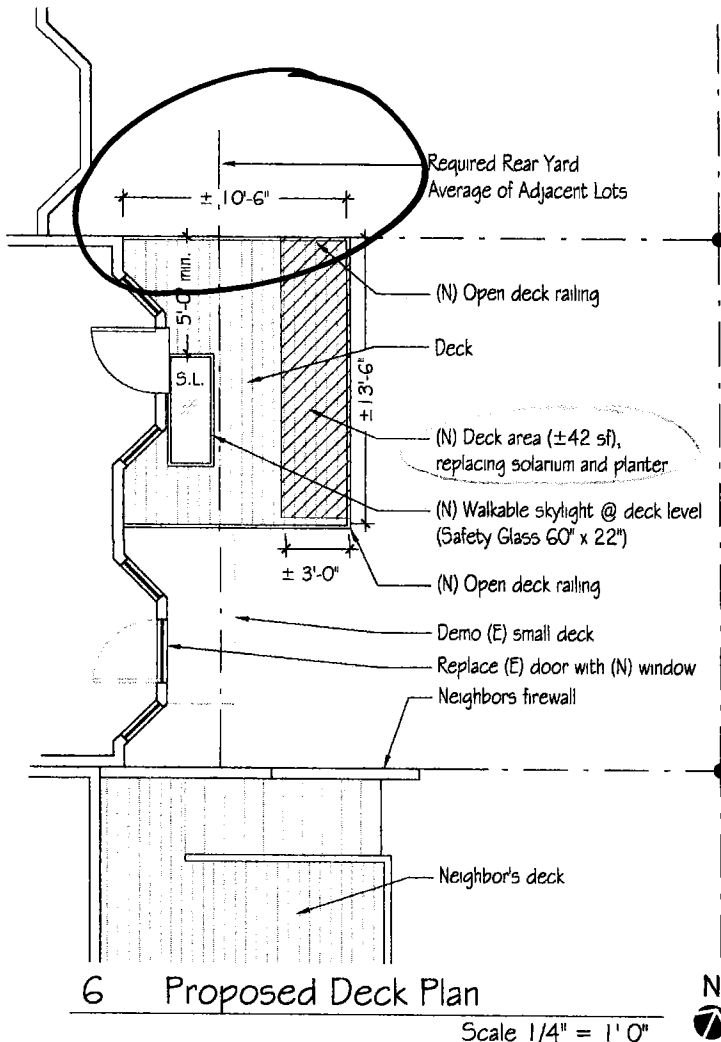
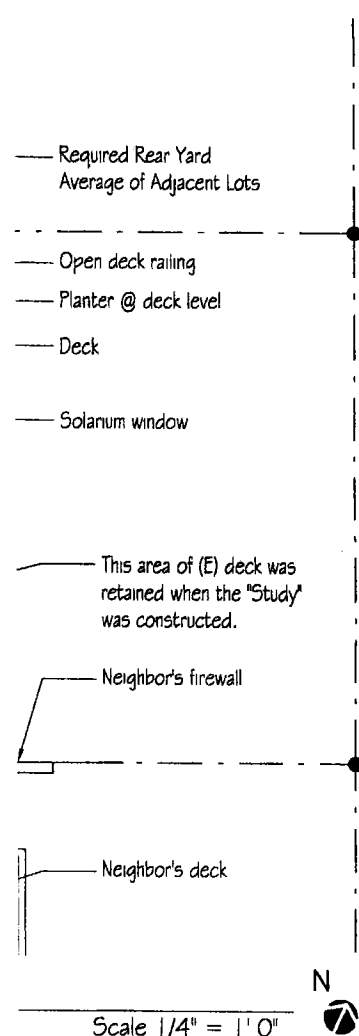
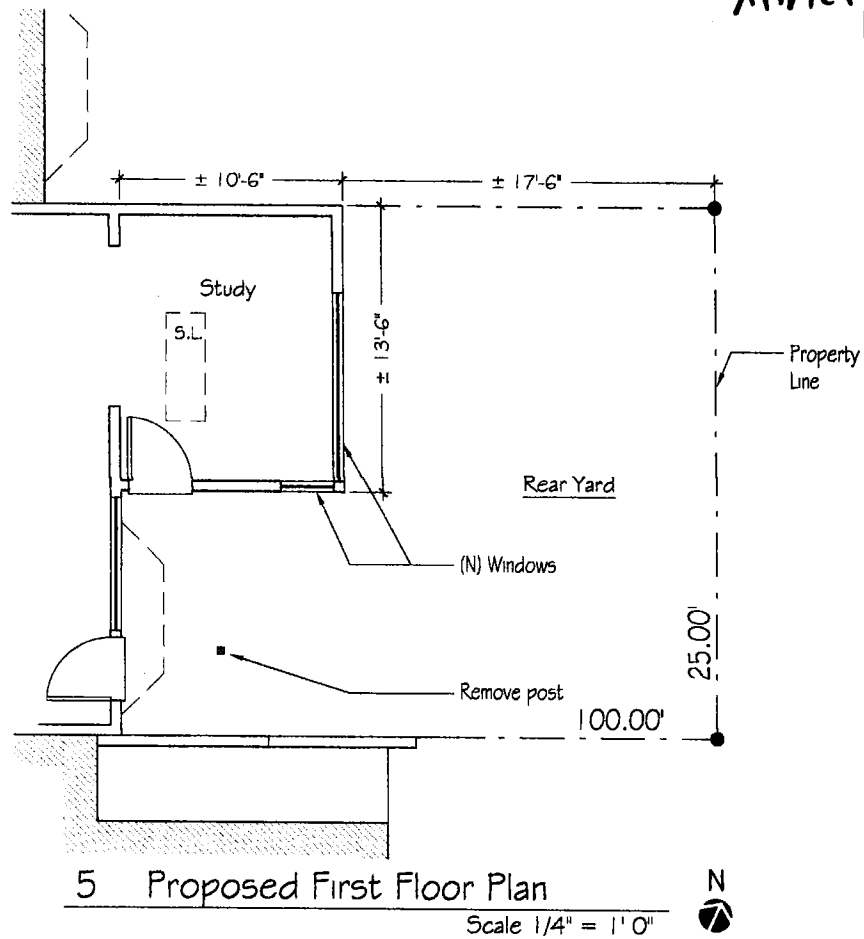
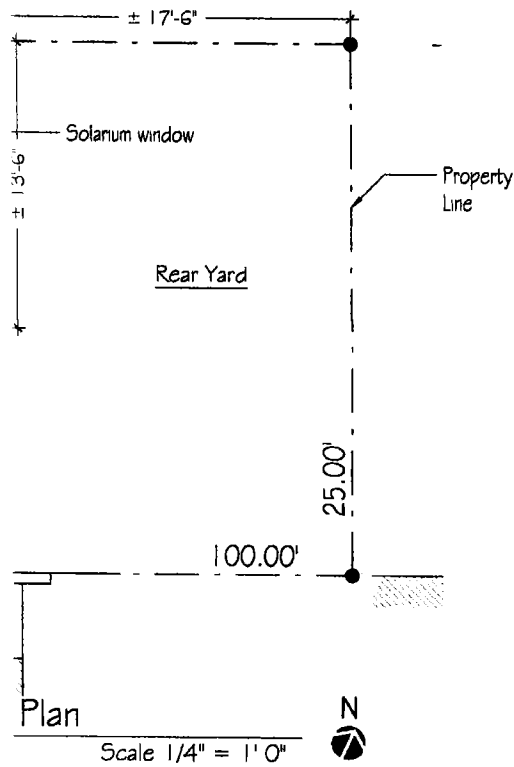
The authorization and rights vested by virtue of this decision letter shall be deemed void and cancelled if (1) a Building Permit has not been issued within three years from the effective date of this decision; or (2) a Tentative Map has not been approved within three years from the effective date of this decision for Subdivision cases; or (3) neither a Building Permit or Tentative Map is involved but another required City action has not been approved within three years from the effective date of this decision. However, this authorization may be extended by the Zoning Administrator when the issuance of a necessary Building Permit or approval of a Tentative Map or other City action is delayed by a City agency or by appeal of the issuance of such a permit or map or other City action.

APPEAL: Any aggrieved person may appeal this Variance decision to the Board of Permit Appeals within ten (10) days after the date of the issuance of this Variance Decision. For further information, please contact the Board of Appeals in person at 1660 Mission Street, Third Floor, or call 575-6880.

Very truly yours,

Neil Hart
Acting Zoning Administrator

THIS IS NOT A PERMIT TO COMMENCE ANY WORK OR CHANGE OCCUPANCY. PERMITS FROM APPROPRIATE DEPARTMENTS MUST BE SECURED BEFORE WORK IS STARTED OR OCCUPANCY IS CHANGED.



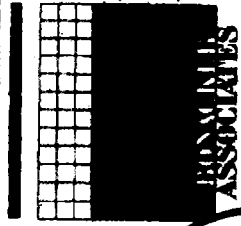
SELANDER ARCHITECTS
2095 Jerrold Avenue, Suite 319, SF, CA 94124
enle@selanderarchitects.net M:415.385.4339 O:415.821.4854

3636 Webster Street
San Francisco, CA 94123
Block/Lot 0445A / 045-046

Issue:	Date:
Permit Set	9/30/14
V Review	1/22/15
V-311	2/25/15
Bldg Permit	6/29/15

Plot Date:
July 27, 2015
Scale:
As shown

A2



VARIOUS APPLICANTS 3/20/06

Addition and Alterations

3636 Webster Street
San Francisco, CA

THE FOLLOWING INFORMATION IS FOR THE PURPOSES OF THE CITY OF SAN FRANCISCO'S PLANNING DEPARTMENT. IT IS NOT TO BE USED FOR ANY OTHER PURPOSE. THE CITY OF SAN FRANCISCO DOES NOT GUARANTEE THE ACCURACY OF THE INFORMATION PROVIDED HEREIN. THE CITY OF SAN FRANCISCO DOES NOT ACCEPT ANY LIABILITY FOR ANY LOSS OR DAMAGE, INCLUDING REASONABLE ATTORNEY'S FEES, ARISING OUT OF OR FROM THE USE OF THE INFORMATION PROVIDED HEREIN.

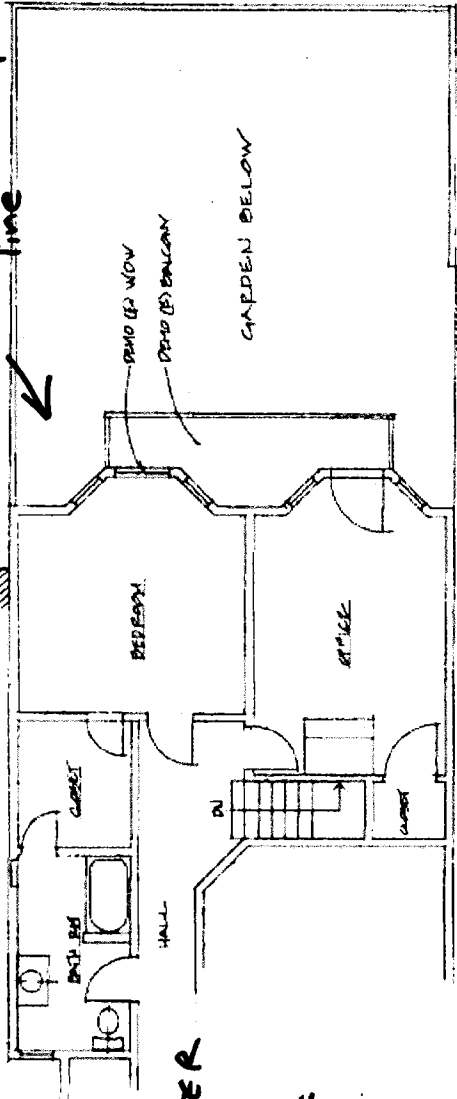
Upper Level Plans Existing and Proposed

1/4" = 1'-0"

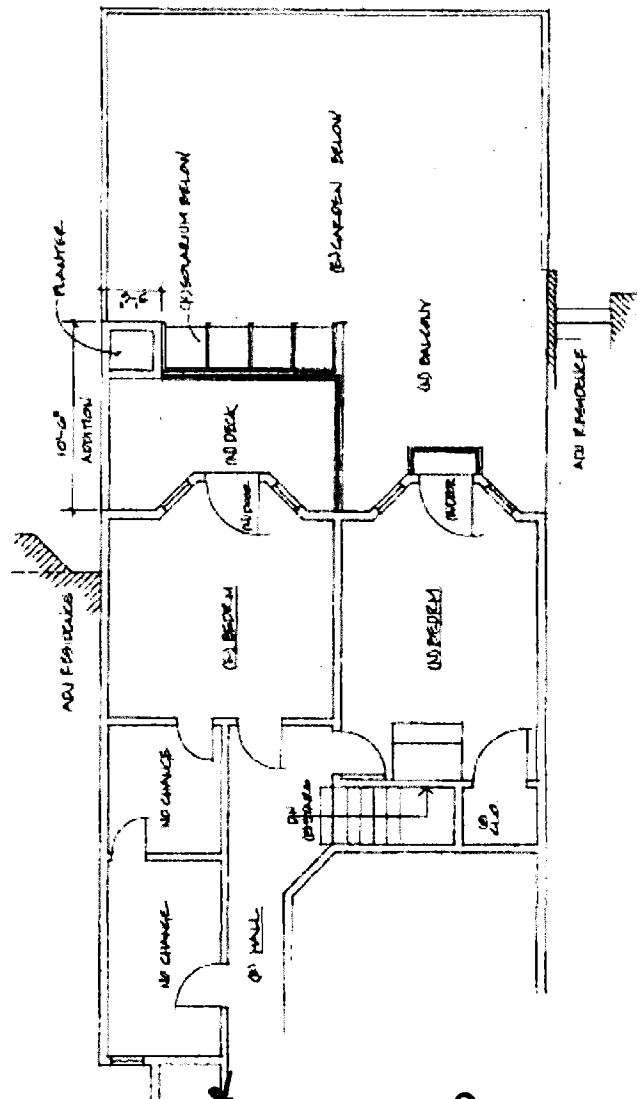


1

• Deck ~ 4' deep
• Set back from property line



EXISTING UPPER LEVEL PLAN W/ DECK



PROPOSED UPPER LEVEL PLAN

3636 WEBSTER
PRE-2006
VARIANCE

3636 WEBSTER
ORIGINAL
PLANS FOR
ADDITION/
VARIANCE
GRANTED



Property adjacent to 3630 Webster on south side:
3624 Webster extends approximately 10 feet further into rear yard
than 3630 Webster; lot size is 25' by 125' and building height is 40'



**View from deck at 3630 Webster looking toward
deck of proposed project**



**Rear view facing north
3630 Webster, 3636 Webster (applicant), & 3642 Webster (L to R)**

RESPONSE TO
**DISCRETIONARY
REVIEW (DRP)**



**San Francisco
Planning**

SAN FRANCISCO PLANNING DEPARTMENT
1450 MISSION STREET, SUITE 400
SAN FRANCISCO, CA 94103-4478
MADR: (415) 350-6378 SFPLANNING@G.O.RG

Project Information

Property Address: 3636 Webster Street

Zip Code: 94123

Building Permit Application(s): 2015.08.04.3267

Record Number: 2015-002255DRP

Assigned Planner: Sharon Young

Project Sponsor

Name: Frank & Ann Hardenbergh

Phone: 415-834-5548 (H)

Email: fhardenbergh@ispower.com

508-523-3250 (C)

Required Questions

1. Given the concerns of the DR requester and other concerned parties, why do you feel your proposed project should be approved? (If you are not aware of the issues of concern to the DR requester, please meet the DR requester in addition to reviewing the attached DR application.)

see attached

2. What alternatives or changes to the proposed project are you willing to make in order to address the concerns of the DR requester and other concerned parties? If you have already changed the project to meet neighborhood concerns, please explain those changes and indicate whether they were made before or after filing your application with the City.

see attached

3. If you are not willing to change the proposed project or pursue other alternatives, please state why you feel that your project would not have any adverse effect on the surrounding properties. Include an explanation of your needs for space or other personal requirements that prevent you from making the changes requested by the DR requester.

see attached

Project Features

Please provide the following information about the project for both the existing and proposed features. Please attach an additional sheet with project features that are not included in this table.

	EXISTING	PROPOSED
Dwelling Units (only one kitchen per unit; additional kitchens count as additional units)	1	1
Occupied Stories (all levels with habitable rooms)	2	2
Basement Levels (may include garage or windowless storage areas)	1	1
Parking Spaces (off street)	2	2
Bedrooms	3	3
Height	8' 6"	8' 6"
Building Depth	10' 6"	10' 6"
Rental Value (monthly)		
Property Value		

I attest that the above information is true to the best of my knowledge.

Signature:

Frank Hardenbergh

Date:

12/7/2015

Printed Name:

Frank Hardenbergh

☒ Property Owner
☐ Authorized Agent

If you have any additional information that is not covered by this application, please feel free to attach additional sheets to this form.

1. *Given the concerns of the DR requester and other concerned parties, why do you feel your proposed project should be approved?*

The proposed project is to enable modifications to the existing rear yard addition to prevent future water damage. These modifications include reconfiguring the roof of the addition by eliminating a planter and sloped solarium window and squaring it off. This results in extending the roof and roof deck by 3' to the eastern edge of the addition for its 13'6" width.

Yet, in her submittal DR requester is primarily focused on attacking the findings in support of the 2006 variance that authorized the 8.5' tall addition in the required rear yard, not the pending building permit. Even though she was living next door to the site in 2006, she did not request DR of that building permit. She is thus using the DR request of this permit to try undo a variance that was final in 2006. Given that singular and immaterial focus, there is a disconnect between the DR requester's statements as the basis for her DR and the work that would occur under the pending building permit.

Regardless of her pointless efforts, the DR requester has not and cannot show that the limited scope of work under the building permit will cause any loss of light, air or privacy to her home. In fact, the photographs attached as Exhibit 8 to her own submittal demonstrate that there is no factual basis to her claims.

The DR requester lives in a large, 3-story home to the south of the subject property. Her home is substantially setback at grade from the rear yard addition and is blocked from views at grade by the 6' fence between the properties' back yards. Further ensuring that there is no loss of privacy to the DR requester's home from the deck is the 16.5' high firewall on her property overlooking the deck. The existing view conditions, which have existed since the addition was built in 2006, will not be changed by the proposed modifications.

As shown in the top picture of the DR Requester's Exhibit 8, the DR requester's firewall extends further back than the addition. Given this relative configuration, the proposed modifications will not negatively affect the DR requester's existing light, air or privacy. Practically, the distance between the existing decks on each property and their respective viewing angles cannot result in any legitimate privacy concerns. It is not physically possible for the proposed modifications to the deck to change those existing conditions.

The proposed project is an extremely minor change to the deck on top of an existing 1-story, wood-frame, rear yard addition that was built in 2006. The purpose of the proposed project is to ensure that the structure is better protected from water and potential dryrot. The 3' extension will accomplish that without have any material impact on any neighbor.

To the best of our knowledge, only the DR requester opposes the project. The neighbor to the north had concerns due to the firewall that was initially proposed along the deck at her property line. After consulting with DBI on the Building Code requirements, however, the proposed project was revised to substitute the previously proposed 42" parapet and firewall with a 1-hour fire-rated ceiling/roof protection system and a 42" open railing, thereby negating any negative impacts to the neighbor to the north.

Combined with the narrow scope of proposed work and the lack of evidence showing any perceptible impacts to the DR requester's home, this project should be approved as proposed and the DR request denied.

2. *What alternatives or changes to the proposed project are you willing to make in order to address the concerns of the DR requester and other concerned parties?*

Since the summer of 2014, the DR Requester has asked the project sponsor on numerous occasions to remove the 28 sf "small deck". This request was made to bring the configuration of the deck into compliance with the 2006 variance plans. The project sponsors did not know when they bought the home in 2010 that the deck configuration was different than what was approved in 2006. The project sponsors only discovered that the deck configuration was modified by the owner in 2006 beyond what was approved under the variance during the DR requester's appeal of the building permit to repair the dry rot in the rear addition. To address the DR requester's requests, the proposed project removes the "small deck". In addition, the project sponsors are providing the required 1-hour fire rating along the north property line with a fire-rated roof/ceiling protection and a 42" open railing rather than the originally proposed 42" tall parapet and firewall. The removal of the small deck and elimination of the parapet directly address the DR requester's stated concerns.

3. *If you are not willing to change the proposed project or pursue other alternatives, please state why you feel that your project would not have any adverse effect on the surrounding properties. Include an explanation of your needs for space or other personal requirements that prevent you from making the changes requested by the DR requester.*

It is not physically possible for the DR requester's privacy to be compromised by the proposed 3' extension of the existing roof and roof deck on the unchanged 8.5' high addition. Like many San Francisco residents, the project sponsors can see into the DR requester's back yard from the existing deck and the DR requester can see into the project sponsor's yard from her deck. However, because the 16.5' high firewall on the DR requester's property extends further than the addition, the proposed extension will not change the project sponsors' views into the DR requester's home. In his 2006 Variance decision, the Zoning Administrator concluded that the loss of light into the subject property from the DR requester's firewall was an exceptional circumstance justifying the variance for the rear yard addition. The same firewall that created a loss of light on the subject property also creates a zone of privacy for the DR requester.

The DR requester has not shown that there are any impacts from the project and cannot do so. Her own photographs belie her allegations of such impacts. The Residential Design Team concluded that there "are no adverse impacts" to DR requester's home as a result of the project.

Given the limited scope of the proposed work, there are no changes or alternatives that will meet the project sponsor's goals and uses of the space. The primary goal of the project is the protection and preservation of the rear yard addition. Given the near unanimous predictions for

severe El Nino conditions in northern California this winter, this project is essential to achieving that goal.

December 21, 2015

Via Email: Sharon.Young@sfgov.org

Hon. Rodney Fong, President
San Francisco Planning Commission
1650 Mission Street, Suite 400
San Francisco, CA 94103

Scott Sanchez
Zoning Administrator
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: 3636 Webster Street
Case No. 2015-002255DRP/V
Discretionary Review/Variance
Hearing Date: January 7, 2016

Dear President Fong and Commissioners and Zoning Administrator Sanchez:

I am writing on behalf of CAFE Properties CA., LLC, owner of the 2-story, lower condominium unit at 3636 Webster Street that is the subject of a January 7, 2016 hearing. The owners and project sponsors, Frank and Ann Hardenbergh, live in their San Francisco home during the fall and winter months to be near their children and grandchildren. During the spring and summer months, they reside in New Hampshire. They bought the unit in 2010. The 25' x 100' lot is in an RH-2 zone and subject to a 40-X height limit.

The items before you are a Discretionary Review ("DR") request by the neighbor to the south (Ms. Krim also referred to as DR requester) and a Variance modifying the 8.5' high, 10.5' deep, 1-story rear yard addition approved under a 2006 Variance.¹ That Variance authorized the addition to expand 7.5' into the required rear yard. Denial of the DR request by the Commission and approval of the Variance by the Zoning Administrator (together, "Approvals") will authorize minor modifications of the existing rear yard addition.

The Approvals are required to address the extensive dry rot the owners unexpectedly discovered in the rear addition in the summer of 2014 and to prevent future water damage. The Approvals are being sought to modify the addition by eliminating the existing planter and solarium window and squaring off the eastern edge of the roof and roof deck. The Approvals will also eliminate an existing approximately 28 square foot ("sf") portion of the deck in response to the DR requester's repeated demands to do so.² None of the proposed modifications change the footprint of the addition and none have any impacts on any neighbors light, air or privacy.

¹ See Exhibit A. Case No. 2006.0509V ("2006 Variance").

² See Plan Sheet A.2.

I. FACTUAL BACKGROUND

The owners purchased their home in 2010. Based on disclosures provided at the time of purchase, the owners reasonably believed that the rear addition and the deck on top of it, as well as the attached 28 sf deck on the southern side of the home were built in compliance with the building permit and Variance issued in 2006. The disclosures included a July 30, 2007 Certificate of Final Completion and Occupancy (“CFCO”) for that work. However, as the owners were contemplating painting the rear addition in the summer of 2014, dry rot was discovered. To determine how extensive it was, they hired a pest control company. A building permit was issued for a “kick the tire” assessment. Unfortunately, the assessment found significant dry rot throughout the roof and ground floor portion of the addition.

As a result of that work, the DR requester complained to DBI, which issued a Notice of Violation (NOV) that the assessment work “exceeded the permitted 50%.” To abate that NOV, BPA No. 201409307684 was issued. Although the owners were in the process of repairing the addition and eliminating the dry rot, the DR Requester appealed the abatement permit to the Board of Appeals. The appeal was upheld by the Board of Appeals on December 10, 2014 on the grounds that the permit’s scope of work did not conform to the 2006 Variance in that the portion of the deck to the southern side of the addition was approximately 28 sf rather than the 6 sf shown on the 2006 Variance plans.

The denial of the building permit for the repair work left the rear addition in a state of disrepair and subject to the elements.³ Due to the suspension of the permit by the Board of Appeals, no further repair work has been done on the addition. While the addition is sealed as tight as possible, the owners have spent the past year working towards this hearing so they can repair and seal the addition in advance of the pending El Nino rains. To that end, a pre-application meeting was held on February 14, 2015. The only attendees were the DR requester and the neighbor to the north, who has not filed a DR request. The DR requester is the only opponent of the proposed project.

The proposed project, for which the building permit and Variance are sought, is for the following scope of work.

1. Remove sloped solarium window and planter on eastern side of the addition.
2. Extend the existing roof and roof deck out approximately 3' to the existing east wall.
3. Remove the 28 sf portion of the deck that is inconsistent with the 2006 Variance plans.
4. Add window in the south wall of the ground floor of the addition.
5. Add walkable skylight on the existing deck.

The DR requester has repeatedly requested that the 28 sf area of the deck be removed so that the deck configuration conforms to the approved 2006 plans.

³ See Exhibit B.

In addition to the scope of work under the building permit, the proposed project will also eliminate a 42" firewall that was initially proposed for property line protection at the northern property line. The neighbor to the north as well as the DR requester objected to the firewall. To address their concerns, the project architect consulted with DBI on using alternative Building Code requirements to provide property line fire-safety protections. DBI agreed that the proposed project could substitute the previously proposed 42" parapet and firewall with a 1-hour fire-rated ceiling/roof protection system and a 42" open railing, thereby negating any negative impacts to the neighbor to the north.

The Approvals will enable modifications to the existing rear yard addition to prevent future water damage. These modifications include reconfiguring the roof of the addition by eliminating a planter and sloped solarium window and squaring it off. These latter features likely captured the water that contributed to the dry rot damage. Their elimination also enables the extension of the roof and roof deck by 3' to the eastern edge of the addition for its 13.5' width, which further protects the addition from water damage. Once complete, this scope of work will create a more watertight seal and preserve the addition for the long term.

II. THE DR REQUEST SHOULD BE DENIED AND THE VARIANCE GRANTED.

A. DR Should Not Be Taken Because The DR Requester Cannot Show That There Are Any "Exceptional Or Extraordinary" Circumstances Resulting From The Project.

- 1. None of the DR requester's concerns are grounds for this Commission to take DR. All of her concerns are based on the Variance and building permit for the rear addition that became final and unappealable in 2006.**

In seeking DR for this project, Ms. Krim wants to take DR to an entirely new level. Rather than just asking the Commission to modify architectural details or tinker with the size or scale of certain features of this project, she wants this Commission to use its DR authority to go back in time and undo all of the work that was done under the 2006 Variance and building permit. This request goes substantially beyond the Commission's DR authority.

The authority to review permit applications that meet the minimum standards applicable under the Planning Code is set forth by City Attorney Opinion No. 845, dated May 26, 1954. The opinion states that the authority for the exercise of discretionary review is "a sensitive discretion . . . which must be exercised with the utmost restraint" to permit the Commission "to deal in a special manner with exceptional cases." Therefore, discretionary review should be exercised only when exceptional and extraordinary cases apply to the proposed construction and modifications required only where the project would result in a significant impact to the public interest. (Emphasis added.)

*See Application Packet for Discretionary Review, p. 3.*⁴

Under the stepwise analysis required by the City Attorney's 1954 opinion, the Commission first needs to decide whether there are "exceptional or extraordinary" circumstances. This power is reserved for situations where there are clear and unequivocal impacts. If there are, the Commission can then require modifications to the proposed project, not undo past projects. Ms. Krim has not satisfied either criterion required for the Commission to take DR.

Ms. Krim has not shown anything extraordinary or exceptional about the modifications that are proposed for the addition. All of those modifications are being done to repair and preserve the addition. None of them will impact her light, air or privacy. The RDT team similarly concluded that "there are no adverse impacts to adjacent properties, change between existing and proposed is negligible."⁵

The project does not change any of the existing site conditions between the properties since there is no change to the addition's footprint or height. The DR requester's home is substantially setback at grade from the rear yard addition and is blocked from views at grade by the 6' fence between the properties' back yards. Further ensuring that there is no loss of privacy to the DR requester's home from the deck, is the 16.5' high firewall on her property overlooking the deck. The existing view conditions, which have existed since the addition was built in 2006, will not be changed by the proposed modifications. As shown in the top picture of the DR Requester's Exhibit 8,⁶ the DR requester's firewall extends further back than the addition. Given this relative configuration, the proposed modifications will not negatively affect the DR requester's existing light, air or privacy. Practically, the distance between the existing decks on each property and their respective viewing angles cannot result in any legitimate privacy concerns. It is not physically possible for the proposed modifications to the deck to change those existing conditions.

Instead of being able to factually show any impacts from the proposed project, all of the stated grounds for DR relate to the 2006 Variance that enabled construction of the addition. Ms. Krim lived next door at the time the Variance and the permit for the addition were issued and the addition built. The addition has been in the rear yard for eight years. Yet, she only complained about its "potential impacts" when the repair of the addition started in 2014.

Ms. Krim cannot document any of those alleged impacts because they do not exist. All of the alleged impacts complained of arise from the extremely modest modification and expansion of the existing roof and roof deck. These changes are barely visible from her window because they are all horizontal. Since the addition is setback from the property line, all of the

⁴ <http://www.sf-planning.org/Modules/ShowDocument.aspx?documentid=491>

⁵ See Exhibit C.

⁶ See Exhibit D, Exhibit 8 of the DR Request.

proposed project elements are similarly setback. No shadow or privacy impact will occur on either adjacent property.

Seeking to undo a nine-year old Variance does not provide justifiable grounds for DR to be taken. Ms. Krim's allegations and her goal are not exceptional or extraordinary circumstances. Under these facts, DR should be denied and the project approved as proposed.

B. The Variance Should Be Granted Because All Five Required Findings Are Met.

1. The Variance will result in minor modifications to the 2006 Variance that will enable the repair and preservation of the addition.

Because of the extensive dry rot, modifications to the addition are required to repair and preserve it. These modifications include reconfiguring the roof of the addition by eliminating the planter and sloped solarium window and squaring it off by extending the roof and roof deck by 3' to the eastern edge of the addition for its 13.5' width.

The Variance is needed to legalize the new modified roof and roof deck configuration (absent the 28 sf southern deck). Except for those changes, all of the features analyzed under the 2006 Variance remain. Because the proposed project retains most of the addition's features, the site conditions that supported the issuance of the Variance in 2006 remain applicable in 2016, as follows.

- a. Exceptional and extraordinary circumstances applying to the property:
 - i. The southern lot (DR requester's) is 25' longer than the subject lot. Because there is no change in the addition's footprint, the smaller lot depth on the subject lot is a basis for granting the Variance.
 - ii. The additional depth on the DR requester's property makes it less likely that there will be any impacts to her property from the proposed minor modifications to the existing ground floor addition.
 - iii. The dry rot to the addition was unknown to the project sponsors until four years after their purchase, which was seven years after the addition was built. Such occurrences are rare.
- b. Those circumstances create a hardship and are not attributable to the owner:
 - i. The dry rot was caused by poor construction by the prior owner's contractor.
 - ii. The addition was purchased as part of the project sponsor's home. Denying the Variance would render it useless since the Variance is required for the addition's repair and modification.
- c. The Variance preserves a substantial property right:
 - i. Property owners have a right to repair and maintain their improvements in compliance with the law.

- ii. The Variance and requested building permit will enable preservation of the owners' right to repair and maintain their property.
- d. The Variance will not be materially detrimental to the public welfare or nearby property.
 - i. The footprint of the addition remains unchanged. No impacts are created by the existing addition. The modifications that will be authorized by the Variance will have no impact on either adjacent property.
- e. The Variance is consistent with and furthers the General Plan.
 - i. General Plan policies seek the preservation of housing and neighborhood character. The Variance will enable the character of the rear yards on this block to be preserved. It will also enable the preservation of the addition, which is a habitable portion of the dwelling unit to which it is attached.

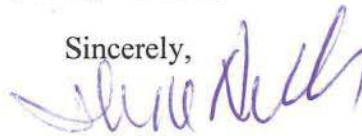
Based on the above, the Variance should be granted.

III. CONCLUSION

Based on the above analyses, the DR request should be denied and the Variance granted. The DR requester cannot provide any facts showing negative impacts to her home as a result of issuing the building permit. The Variance should be granted to enable the repair, modification and water protection of the addition, as those are sacrosanct property rights. Issuance of the permit and granting the Variance will not result in any impacts to the adjacent properties. Lastly, the owners have willingly accommodated the adjacent owners concerns by modifying the project. The 28 sf deck near the DR requester's property will be removed. And the firewall that was proposed to serve as property line protection on the northern boundary will be replaced with a 42" high open railing fire safety system, thus eliminating any impacts.

Thank you in advance for your consideration. If you have any questions, please feel free to call me at (415) 954-4958 or email me at idick@fbm.com.

Sincerely,



Ilene Dick

ID:af
Attachments

EXHIBIT A



PLANNING DEPARTMENT

City and County of San Francisco • 1660 Mission Street, Suite 500 • San Francisco, California • 94103-2414

MAIN NUMBER
(415) 558-6378

DIRECTOR'S OFFICE
PHONE: 558-6411

4TH FLOOR
FAX: 558-6426

ZONING ADMINISTRATOR
PHONE: 558-6350

5TH FLOOR
FAX: 558-6409

PLANNING INFORMATION
PHONE: 558-6377

MAJOR ENVIRONMENTAL
FAX: 558-5991

COMMISSION CALENDAR
INFO: 558-6422

INTERNET WEB SITE
WWW.SFGOV.ORG/PLANNING

July 26, 2006

VARIANCE DECISION

UNDER THE PLANNING CODE
CASE NO. 2006.0509V

APPLICANT: Bruce Bonacker
Bonacker Associates
212 Sutter Street, #200
San Francisco, CA 94108

CASE PLANNER: Aaron Starr, (415) 558-6362

PROPERTY IDENTIFICATION – 3636 WEBSTER STREET: East side, between Beach and North Point Streets; Lot 045 in Assessor's Block 0445A, in an RH-2 (Residential, House, Two-Family) District with a 40-X Height and Bulk Designation.

DESCRIPTION OF VARIANCE SOUGHT – **REAR YARD VARIANCE:** The proposal is to construct an approximately 10.5' deep by 13.5' wide 1-story addition at the north side property line at the rear of the building. A roof deck is proposed above the addition, and an approximately 1.5' deep by 4' wide balcony is proposed at the southern side of the second floor.

Section 134(c) of the Planning Code requires the subject property, which is 100' deep, to have a minimum rear yard depth of 25'. The proposed addition will extend approximately 7.5' into the required rear yard and the proposed balcony will extend approximately .5' into the required rear yard.

PROCEDURAL BACKGROUND:

1. This proposal was determined to be Categorically Exempt from Environmental Review under CEQA Guidelines Section 15301, Existing Facilities.
2. The Zoning Administrator held a public hearing on **Variance Application No. 2006.0509V on June 28, 2006.**
3. Planning Code Section 311 notification requirements were mailed under a separate notice on May 25, 2006. The notice expired on June 24, 2006. No Discretionary Review applications were filed.

DECISION:

GRANTED, to construct an approximately 10.5' deep by 13.5' wide 1-story addition at the north side property line at the rear of the building with a roof deck above, and an approximately 1.5' deep by 4' wide balcony at the southern side of the second floor in general conformity with the plans on file with this application, shown as Exhibit A and dated June 20, 2006 subject to the following conditions:

1. Any further physical expansion, even within the buildable area, shall be reviewed by the Zoning Administrator to determine if the expansion is compatible with existing neighborhood character, scale, and parking. If the Zoning Administrator determines that there would be a significant or extraordinary impact, the Zoning Administrator shall require either notice to adjacent and/or affected property owners or a new Variance application be sought and justified.
2. The proposed project must meet these conditions and all applicable City Codes. In case of conflict, the more restrictive controls shall apply.
3. Minor modifications as determined by the Zoning Administrator may be permitted.
4. The owners of the subject property shall record on the land records of the City and County of San Francisco the conditions attached to this Variance decision as a Notice of Special Restrictions in a form approved by the Zoning Administrator.

FINDINGS:

Section 305(c) of the Planning Code states that in order to grant a Variance, the Zoning Administrator must determine that the facts of the case are sufficient to establish the following five findings:

FINDING 1..

That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other property or uses in the same class of district.

REQUIREMENT MET.

- A. The lot to the south of subject property is 25' longer, which allowed the owners of that property to extend their building 15' beyond the subject building. In addition, a 16' high firewall was built on the property line.
- B. The extension on the adjacent property to the south was approved before the current owners purchased the subject property. Construction was started 1 week after the owners of the subject property took possession of the property.

FINDING 2.

That owing to such exceptional and extraordinary circumstances the literal enforcement of specified provisions of this Code would result in practical difficulty or unnecessary hardship not created by or attributable to the applicant or the owner of the property.

REQUIREMENT MET.

- A. Because of the firewall on the adjacent property, a significant amount of sunlight is blocked from the ground floor of the subject building.

FINDING 3.

That such Variance is necessary for preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district.

REQUIREMENT MET.

- A. The reduction in sunlight poses a unique situation for the property owner that other property owners in the same class of district do not have.

FINDING 4.

That the granting of such Variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity.

REQUIREMENT MET.

- A. The proposed addition will only be one story tall with an open railing for the roof deck. It will not have a significant impact on light to the adjacent property.

FINDING 5.

The granting of such Variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the General Plan.

REQUIREMENT MET.

- A. The proposal is consistent with the generally stated intent and purpose of the Planning Code to promote orderly and beneficial development. The proposal is in harmony with the Residence Element of the General Plan to encourage residential development when it preserves or improves the quality of life for residents of the City.
- B. Code Section 101.1 establishes eight priority-planning policies and requires review of variance applications for consistency with said policies. Review of the relevant priority planning policies yielded the following determinations:

1. That the proposed project will be in keeping with the existing neighborhood character.
2. That the proposed project will have no effect on the City's supply of affordable housing, public transit or neighborhood parking, preparedness to protect against injury and loss of life in an earthquake, commercial activity, business or employment, landmarks and historic buildings, or public parks and open space.

The effective date of this decision shall be either the date of this decision letter if not appealed, or the date of the Notice of Decision and Order if appealed to the Board of Appeals.

Once any portion of the granted variance is utilized, all specifications and conditions of the variance authorization became immediately operative.

The authorization and rights vested by virtue of this decision letter shall be deemed void and cancelled if (1) a Building Permit has not been issued within three years from the effective date of this decision; or (2) a Tentative Map has not been approved within three years from the effective date of this decision for Subdivision cases; or (3) neither a Building Permit or Tentative Map is involved but another required City action has not been approved within three years from the effective date of this decision. However, this authorization may be extended by the Zoning Administrator when the issuance of a necessary Building Permit or approval of a Tentative Map or other City action is delayed by a City agency or by appeal of the issuance of such a permit or map or other City action.

APPEAL: Any aggrieved person may appeal this Variance decision to the Board of Permit Appeals within ten (10) days after the date of the issuance of this Variance Decision. For further information, please contact the Board of Appeals in person at 1660 Mission Street, Third Floor, or call 575-6880.

Very truly yours,

Neil Hart
Acting Zoning Administrator

THIS IS NOT A PERMIT TO COMMENCE ANY WORK OR CHANGE OCCUPANCY. PERMITS FROM APPROPRIATE DEPARTMENTS MUST BE SECURED BEFORE WORK IS STARTED OR OCCUPANCY IS CHANGED.

EXHIBIT B





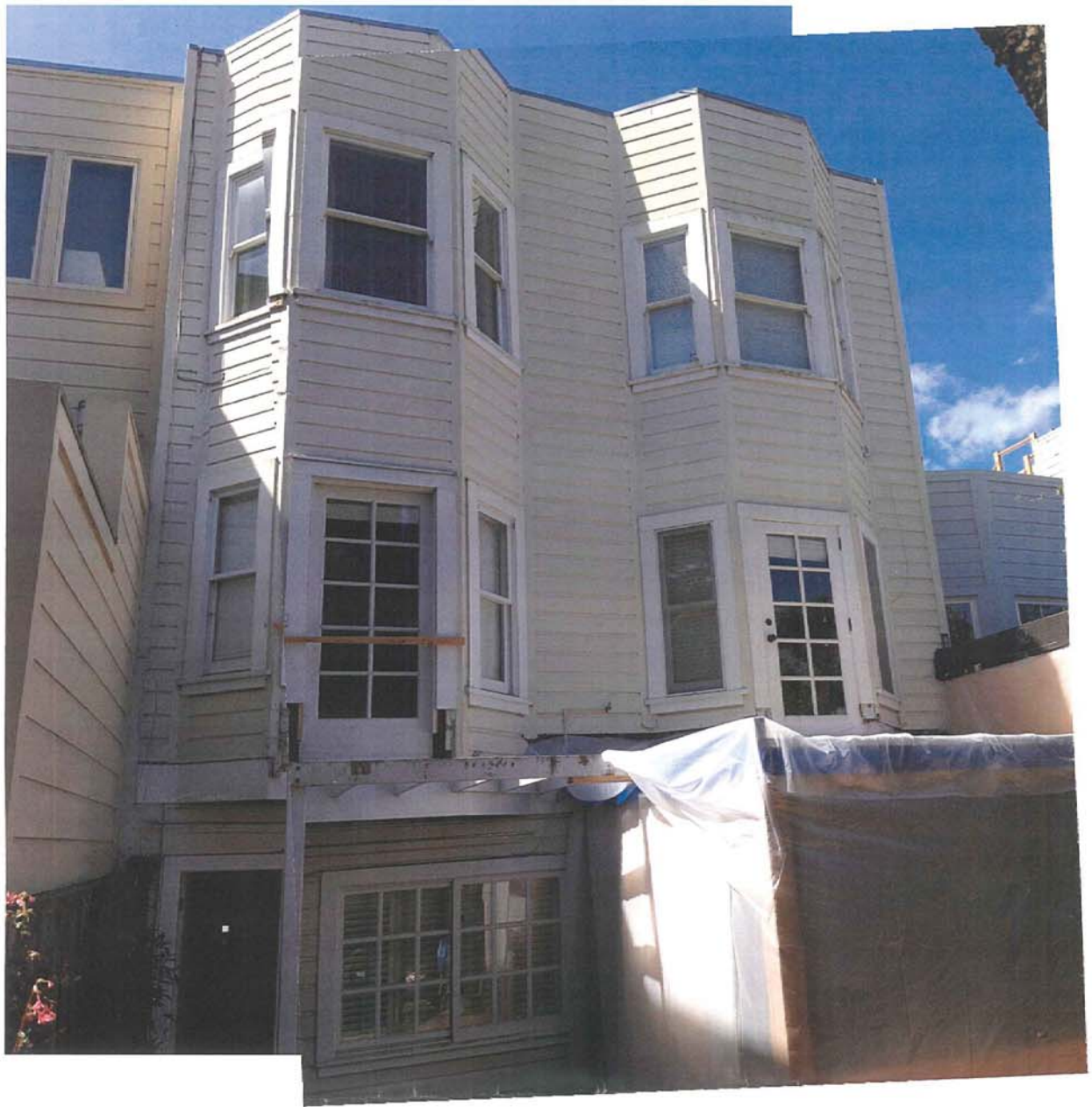


EXHIBIT C



SAN FRANCISCO PLANNING DEPARTMENT

RESIDENTIAL DESIGN TEAM REVIEW

DATE: _____ RDT MEETING DATE: 10/28/15

PROJECT INFORMATION:

Planner: Sharon M. Young
Address: 3636-3638 Webster Street
Cross Streets: Beach St. / North Point St.
Block/Lot: 0445A / 045-046
Zoning/Height Districts: RH-2 / 40-X
BPA/Case No. 2015.08.04.3267 / 2015-002255VAR/DRP
Project Status ☐ Initial Review ☐ Post NOPDR ☒ DR Filed
Amount of Time Req. ☐ 5 min (consent) ☒ 15 minutes
☐ 30 minutes (required for new const.)

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Project Description:

The proposal is to legalize the construction of a one-story horizontal addition with 132 square-foot deck and walkable skylight above at the rear of the three-story, two-family dwelling. The one-story rear addition (approximately 13 feet 6 inches wide by 10 feet 6 inches deep by 8 feet 6 inches high) abuts the north side property line, is set back approximately 11 feet 6 inches from the south property line, and extends to within approximately 17 feet 6 inches of the rear property line. The proposal includes the removal of a portion of an existing 28 square-foot rear deck located at the southeast corner of the building.

[The proposal is in relation to Building Permit Application No. 2014.09.30.7684 to repair the existing rear addition (with sloped solarium windows) and approximately 90 square-foot rear deck, which was subject to Board of Appeals Case No. 14-171 for work exceeding the scope of the permit.]

PER SECTION 134 OF THE PLANNING CODE the subject property is required to maintain a rear yard of approximately 23 feet 6 inches. The one-story rear addition extends approximately 6 feet into the required rear yard.

Project Concerns (If DR is filed, list each concern.):

Request RDT to review proposed design. DR Requestor concerns that project impacts light, privacy, midblock opens space, and proposed project should not be granted a rear yard variance.

RDT Comments:

- Correct site plan to match current existing conditions (building depths).
- No adverse impact to adjacent properties, change between existing and proposed is negligible.

EXHIBIT D



**View from deck at 3630 Webster looking toward
deck of proposed project**



**Rear view facing north
3630 Webster, 3636 Webster (applicant), & 3642 Webster (L to R)**

CASE NUMBER:
For Staff Use only

2015-002551AR

APPLICATION FOR Variance from the Planning Code

1. Owner/Applicant Information

PROPERTY OWNER'S NAME: CAFE Properties CA LLC	
PROPERTY OWNER'S ADDRESS: 3636 Webster SF, CA 94123	TELEPHONE: (508) 523-3250 EMAIL: fhardenberg@lsbuer.com
APPLICANT'S NAME: Irene Dick Same as Above <input type="checkbox"/>	
APPLICANT'S ADDRESS: 235 Montgomery, 17th Flr SF, CA 94104	TELEPHONE: (415) 954-4958 EMAIL: idick@fom.com
CONTACT FOR PROJECT INFORMATION: Same as Above <input checked="" type="checkbox"/>	
ADDRESS:	TELEPHONE: () EMAIL:

2. Location and Classification

STREET ADDRESS OF PROJECT: 3636 Webster		ZIP CODE: 94123
CROSS STREETS: Beach + North Point		
ASSESSORS BLOCK/LOT: 045A / 045	LOT DIMENSIONS: 25x100	LOT AREA (SQ FT): 2,500
ZONING DISTRICT: RH-2	HEIGHT/BULK DISTRICT: 40-X	

3. Project Description

(Please check all that apply) <input type="checkbox"/> Change of Use <input type="checkbox"/> Change of Hours <input type="checkbox"/> New Construction <input checked="" type="checkbox"/> Alterations <input type="checkbox"/> Demolition <input type="checkbox"/> Other Please clarify:	ADDITIONS TO BUILDING: <input checked="" type="checkbox"/> Rear <input type="checkbox"/> Front <input type="checkbox"/> Height <input type="checkbox"/> Side Yard	PRESENT OR PREVIOUS USE: Rear yard addition
		PROPOSED USE: Minor extension & modification of rear yard addition
		BUILDING APPLICATION PERMIT NO.:
		DATE FILED:

4. Project Summary Table

- only for unit seeking variance

If you are not sure of the eventual size of the project, provide the maximum estimates.

	EXISTING USES:	EXISTING USES TO BE RETAINED:	NET NEW CONSTRUCTION AND/OR ADDITION:	PROJECT TOTALS:
PROJECT FEATURES				
Dwelling Units	1	1		1
Hotel Rooms				
Parking Spaces				
Loading Spaces				
Number of Buildings	1	1		1
Height of Building(s)				
Number of Stories	2	2		2
Bicycle Spaces				
GROSS SQUARE FOOTAGE (GSF)				
Residential	2,045	2,045	approx 30	2,075
Retail				
Office				
Industrial/PDR <small>Production, Distribution, & Repair</small>				
Parking				
Other (Specify Use)				
TOTAL GSF	2,045	2,045	approx 30	2,075

Please describe what the variance is for and include any additional project features that are not included in this table. Please state which section(s) of the Planning Code from which you are requesting a variance.
(Attach a separate sheet if more space is needed)

See attached Project Description

Variance Findings

Pursuant to Planning Code Section 305(c), before approving a variance application, the Zoning Administrator needs to find that the facts presented are such to establish the findings stated below. In the space below and on separate paper, if necessary, please present facts sufficient to establish each finding.

1. That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other property or uses in the same class of district;
2. That owing to such exceptional or extraordinary circumstances the literal enforcement of specified provisions of this Code would result in practical difficulty or unnecessary hardship not created by or attributable to the applicant or the owner of the property;
3. That such variance is necessary for the preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district;
4. That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity; and
5. That the granting of such variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the Master Plan.

see attached

Priority General Plan Policies Findings

Proposition M was adopted by the voters on November 4, 1986. It requires that the City shall find that proposed projects and demolitions are consistent with eight priority policies set forth in Section 101.1 of the City Planning Code. These eight policies are listed below. Please state how the project is consistent or inconsistent with each policy. Each statement should refer to specific circumstances or conditions applicable to the property. Each policy must have a response. IF A GIVEN POLICY DOES NOT APPLY TO YOUR PROJECT, EXPLAIN WHY IT DOES NOT.

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

see attached

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

see attached

3. That the City's supply of affordable housing be preserved and enhanced;

see attached

4. That commuter traffic not impede Muni transit service or overburden our streets or neighborhood parking;

see attached

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

see attached

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

see attached

7. That landmarks and historic buildings be preserved; and

see attached

8. That our parks and open space and their access to sunlight and vistas be protected from development.

see attached

Estimated Construction Costs

TYPE OF APPLICATION: Variance	
OCCUPANCY CLASSIFICATION: R-3	
BUILDING TYPE: V-B	
TOTAL GROSS SQUARE FEET OF CONSTRUCTION: 30	BY PROPOSED USES: Extend existing deck
ESTIMATED CONSTRUCTION COST: \$ 23,000	
ESTIMATE PREPARED BY: Ernie Selander	
FEE ESTABLISHED: \$4,090	

Applicant's Affidavit

Under penalty of perjury the following declarations are made:

- a: The undersigned is the owner or authorized agent of the owner of this property.
- b: The information presented is true and correct to the best of my knowledge.
- c: The other information or applications may be required.

Signature: _____

Steve Dick

Date: _____

4/26/15

Print name, and indicate whether owner, or authorized agent:

Dave Dick

Owner / Authorized Agent (circle one)

Application Submittal Checklist

Applications listed below submitted to the Planning Department must be accompanied by this checklist and all required materials. The checklist is to be completed and **signed by the applicant or authorized agent and a department staff person.**

APPLICATION MATERIALS	CHECKLIST
Application, with all blanks completed	<input checked="" type="checkbox"/>
300-foot radius map, if applicable	<input checked="" type="checkbox"/>
Address labels (original), if applicable	<input checked="" type="checkbox"/>
Address labels (copy of the above), if applicable	<input checked="" type="checkbox"/>
Site Plan	<input checked="" type="checkbox"/>
Floor Plan	<input type="checkbox"/> N/A
Elevations	<input checked="" type="checkbox"/>
Section 303 Requirements	<input checked="" type="checkbox"/>
Prop. M Findings	<input checked="" type="checkbox"/>
Historic photographs (if possible), and current photographs	<input checked="" type="checkbox"/>
Check payable to Planning Dept.	<input checked="" type="checkbox"/>
Original Application signed by owner or agent	<input checked="" type="checkbox"/>
Letter of authorization for agent	<input checked="" type="checkbox"/>
Other: Section Plan, Detail drawings (i.e. windows, door entries, trim), Specifications (for cleaning, repair, etc.) and/or Product cut sheets for new elements (i.e. windows, doors)	<input checked="" type="checkbox"/>

NOTES:

☐ Required Material. Write "N/A" if you believe the item is not applicable, (e.g. letter of authorization is not required if application is signed by property owner.)

☒ Typically would not apply. Nevertheless, in a specific case, staff may require the item.

☐ Two sets of original labels and one copy of addresses of adjacent property owners and owners of property across street.

After your case is assigned to a planner, you will be contacted and asked to provide an electronic version of this application including associated photos and drawings.

Some applications will require additional materials not listed above. The above checklist does not include material needed for Planning review of a building permit. The "Application Packet" for Building Permit Applications lists those materials.

No application will be accepted by the Department unless the appropriate column on this form is completed. Receipt of this checklist, the accompanying application, and required materials by the Department serves to open a Planning file for the proposed project. After the file is established it will be assigned to a planner. At that time, the planner assigned will review the application to determine whether it is complete or whether additional information is required in order for the Department to make a decision on the proposal.

For Department Use Only

Application received by Planning Department:

By:

Date:

2/26/15

February 26, 2015

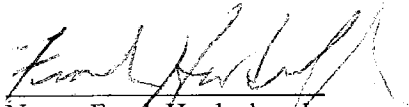
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

RE: 3636 Webster (Block 0445A/Lot 045)

To Whom It May Concern:

On behalf of CAFE Properties California LLC, owner of the above referenced property, I hereby authorize Farella Braun + Martel LLP, to submit a variance application to the Planning Department for the above referenced property.

Sincerely,

A handwritten signature in dark ink, appearing to read "Frank Hardenbergh", is written over a horizontal line.

Name: Frank Hardenbergh

Title: Manager

PROJECT DESCRIPTION

OVERVIEW

The proposed variance concerns an existing 1-story rear yard addition to the lower 2-story unit in a 2-unit condominium building at 3636 Webster, between North Point and Beach Streets in the Marina neighborhood. This addition was authorized under Case No. 2006.0509V (“2006 Variance”) and Building Permit Application No. 200605121496 (“Building Permit”).

The proposed variance will eliminate the existing approximately 28 square foot portion of the deck that is not on top of the addition and that is inconsistent with the 2006 Variance plans. The proposed variance will also enable modifications to the addition to prevent future water damage. These modifications include eliminating the planter and the angled slope of the solarium and extending the deck 3’ to the eastern edge of the addition for its 13’6” width, resulting in approximately 42 square feet of net new deck area over the addition. These modifications do not change the footprint of the addition.

FACTUAL BACKGROUND

Construction of the existing rear yard addition was done by the prior owner of the unit pursuant to the 2006 Variance and the Building Permit. These entitlements authorized a rear yard expansion that DBI determined was built in accordance with approved plans when it issued a Certificate of Final Completion and Occupancy (“CFC”) on July 30, 2007.

The current owners bought the unit in 2010. At that time there was a deck on the southern side that was actually closer to 28 square feet rather than the 6 square feet shown on the 2006 Variance plans. They had no way of knowing at the time of their purchase that the existing configuration of the rear yard addition was beyond the envelope authorized by the 2006 Variance and the Building Permit. The owners happened on that fact accidentally in connection with the discovery and repair of extensive dry rot in the rear yard addition.

In late May 2014, the owners hired a pest control company to inspect the building for potential dry rot and other infestation prior to painting. A building permit was issued for a “kick the tire” assessment. Unfortunately, the assessment found significant dry rot damage throughout the ground floor portion of the addition.

A Notice of Violation (NOV) was issued on the basis that work pursuant to the building permit issued for the assessment “had exceeded the permitted 50%.” To abate that NOV, BPA No. 201409307684 was issued. Its scope of work included “add[ing] two new windows, a skylight, a door and replac[ing] railing at existing pop-out and existing deck. Repair roof and deck as required.” That permit was denied by the Board of Appeals on December 10, 2014 on the basis that the scope of work did not conform to the 2006 Variance.

The proposed variance is intended to address the Board of Appeals' decision by complying with the footprint approved by the 2006 Variance, and to enable issuance of a new building permit for the repair of the dry rot damage and modification of the addition to prevent future damage to the structure.

For the reasons below, the proposed variance meets all five required findings and should be granted.

VARIANCE FINDINGS

- 1. That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other property or uses in the same class of district;**

When the current owners purchased the property, they relied on the accuracy of disclosures from the sellers of the property concerning conditions of the building, including whether construction work done on the unit complied with approved plans and permits. Here, the disclosures received by the current owners included the ("CFC") stating that the construction of the rear addition was done in compliance with the plans approved under the 2006 Variance. In reliance on that CFC, the current owners had every reason to believe that the existing configuration of the rear yard addition was legal such that their proposed repair/replacement as a result of dry rot would not result in expanding the building envelope beyond that approved by the 2006 Variance. They also had reason to believe that a deck and addition built in 2006 would last 10-20 years without needing a major overhaul.

Here, however, without any indication from the prior owner or from documents provided during disclosures, that reliance was misplaced. There was no way for the current owners to know that the then-owner had his contractor do additional work on the rear yard addition without approved plans or permits. There was also no way to know that after only 8 years, the deck would be suffering from extreme dry rot. For that condition to occur, the original construction and/or building materials had to be very substandard.

Facts like this – alone or in combination – are exceedingly rare. These facts—an issued variance, approved plans, a building permit and a CFC--present the quintessential example of "extraordinary and exceptional circumstances" with respect to the current owners' reasonable good-faith beliefs about the legality of a rear yard addition that was built 4 years prior to their purchase. These facts support issuance of the requested variance.

- 2. That owing to such exceptional or extraordinary circumstances the literal enforcement of specified provisions of this Code would result in practical difficulty or unnecessary hardship not created by or attributable to the applicant or the owner of the property;**

Currently, the rear yard addition interior and exterior is limited in use due to the dry rot repair that was performed under the now-revoked building permit. The dry rot has been removed, but because of the denial of the permit by the Board of Appeals, the owners cannot re-install the roof or siding on the addition. The addition thus remains susceptible to weather damage. The modifications sought under the variance include removal of the solarium windows on top of the addition and extending the deck in that area 3 feet to be flush with the east wall of the addition. These modifications do not change the envelope of the addition.

The addition serves several important functions for the current owners' extended family. It is a family room/play room when their young grandchildren sleep over. It serves as an office and study for Mr. Hardenbergh's work. The deck adds valuable open space, given the loss of sunlight and air created by the 16' firewall on the southern neighbor's property. The entire addition is integral to the owners' ongoing enjoyment of their property.

In its current condition, the addition is at risk of even more damage. Even with the drought, the Marina neighborhood experiences significant spring and summer fog, which is laden with moisture. The proposed modifications were selected as the most cost-effective and efficient ways to prevent future water damage and result in long-term preservation of the rear yard addition. Its roof has to be rebuilt and be slightly extended in order to limit the structure's eastern side's exposure to water. And squaring off the southern edge will increase water protection there, given that is the side that gets the most rainfall. An essential part of the variance is to make permanent these long-term means of preventing future water damage.

The facts supporting the hardship finding in the 2006 Variance are applicable today. The Zoning Administrator found that

Because of the [16-foot] firewall on the adjacent [southern] property, a significant amount of sunlight is blocked from the ground floor of the subject building.

The shadow cast on the deck and the addition by the neighbor's 16-foot high firewall remains a hardship on the amount of sunlight available to both spaces. The addition's interior and exterior functions—family room and above-grade open space- are a common feature of many 2-story homes in RH-2 districts. The owners reasonably expected that these spaces would last more than 8 years and would be usable as they were intended.

Based on the facts described in Finding No. 1, there is substantial evidence that the existing configuration was due entirely to actions of the prior owner. Those actions included building beyond the scope of work authorized by the 2006 Variance and failing to disclose any of those facts upon sale to the current owners. The variance would authorize removing the unpermitted portion of the deck. The dry rot was also due to the prior owners actions. Sub-par materials and/or shoddy contractors had to have been used by those owners to end up with this much dry rot in only 8 years, most of which were drought years. The conditions requiring the variance are due entirely to actions by the prior owners.

Failure to grant the variance will impose unnecessary hardship and practical difficulty on the owners. For the above reasons, the variance should be granted.

3. That such variance is necessary for the preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district;

Expansion into the required rear yard in RH-2 districts is an extremely common occurrence. That is because RH-2 zones allow for higher density buildings but also require larger rear yards (e.g., 45% of the lot). This combination means that, in order to expand the usable space of a residential building in these zones, a rear yard variance will commonly be sought since that is the area in which buildings can be cost-effectively expanded.

Here, the owners simply want to bring the existing rear yard expansion into compliance with the 2006 Variance and make minor modifications to it to preserve the integrity of the structure and minimize future water damage. Property owners are responsible under the Municipal Code as well as other laws for maintaining the safety and integrity of their properties. In order to fulfill that responsibility, a property owner must be provided the ability to repair their properties. The modifications proposed as part of this variance allow the owners to meet their obligation to maintain their property with no impact on adjacent properties. The right to preserve their property and minimize future water damage to it is a right that is enjoyed by other property owners throughout the City. When, as here, repairs were halted because of the absence of a variance, there are strong reasons to grant the variance to protect the property, especially when the expansion into the required rear yard is so nominal.

To further substantiate that this extension is a right enjoyed in RH-2 districts, a rear yard variance was already issued for the rear yard addition. The maintenance of that same addition should be considered as much a property right as its construction. Thus, the requested variance should be considered a substantial property right that is enjoyed by owners in this RH-2 district as well as RH-2 districts throughout the City.

Under the extraordinary circumstances documented in Finding No. 1, denial of the variance would eliminate a major portion of the occupiable space enjoyed by the current owners, which also provides light and air into their ground floor from their rear yard and augments their usable open space. Denial of the variance would result in the loss of several substantial property rights enjoyed by owners in all residentially zoned districts throughout the City.

Based on the above, the variance should be granted.

4. That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity; and

The Project seeks the variance to enable the construction of the proposed modifications to prevent future water damage and prolong the life of the addition. Only the neighbor to the south appealed the building permit to “repair and replace” the deck based on alleged impacts to her home from it. Yet, there is no substantial evidence that granting the variance will result in the loss of light, air or privacy to her property. First, the addition is on the ground floor. Its windows do not directly face onto any windows of that neighbor’s 3-story home. Second, there is no height increase proposed that could affect light, air and privacy. Third, there is an existing 6-foot high fence between the properties already mitigating the loss of privacy. Fourth, there is a 16’ firewall on her property blocking light to the addition. Based on the relative configuration of their rear yards, her building impacts the subject property far more than granting the variance would impact her property.

There are no material impacts to any adjacent properties from issuance of the variance. As a matter of policy, the City encourages owners to voluntarily bring unpermitted work on their property into Code compliance. Doing so ensures that the work complies with current health and safety codes. Moreover, granting this variance will not change the intensity or type of use occurring at this site—it will remain a 3-story, 2-unit building.

For the above reasons, the variance should be granted.

5. That the granting of such variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the Master Plan.

Based on the above findings, the variance should be granted. The Project satisfies all required Prop. M Findings.

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The development will have no effect on neighborhood serving retail uses.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The Project will be located entirely in the rear yard. It will enhance the “livability” of the home for the current owners. It preserves and enhances the safety of the owners’ unit by replacing a dry rot damaged addition and deck with a code-compliant addition and deck.

3. That the City’s supply of affordable housing be preserved and enhanced;

The Project will not affect the supply of affordable housing since it involves only market-rate housing.

4. *That commuter traffic not impede Muni transit service or overburden our streets or neighborhood parking;*

The Project involves only a rear yard extension. It does not generate any significant parking, traffic or transit impacts.

5. *That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;*

The Project does not result in or propose the loss of industrial or service sector activity nor will it involve commercial office development.

6. *That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;*

The Project involves only an existing rear yard extension. Any work will be done in conformance with applicable Building Code life safety and seismic requirements.

7. *That landmarks and historic buildings be preserved;*

The Project involves only changes to the rear of the building. Because those changes are not visible from the public right of way, there are no potential impacts to an historic resource.

8. *That our parks and open space and their access to sunlight and vistas be protected from development.*

The Project involves only an existing rear yard extension. No parks, open space or vistas buildings are affected by implementation of the Project.



PLANNING DEPARTMENT

City and County of San Francisco • 1660 Mission Street, Suite 500 • San Francisco, California • 94103-2414

MAIN NUMBER
(415) 558-6378

DIRECTOR'S OFFICE
PHONE: 558-6411
4TH FLOOR
FAX: 558-6426

ZONING ADMINISTRATOR
PHONE: 558-6350
5TH FLOOR
FAX: 558-6409

PLANNING INFORMATION
PHONE: 558-6377
MAJOR ENVIRONMENTAL
FAX: 558-5991

COMMISSION CALENDAR
INFO: 558-6422
INTERNET WEB SITE
WWW.SFGOV.ORG/PLANNING

July 26, 2006

VARIANCE DECISION

UNDER THE PLANNING CODE CASE NO. 2006.0509V

APPLICANT: **Bruce Bonacker**
 Bonacker Associates
 212 Sutter Street, #200
 San Francisco, CA 94108

CASE PLANNER: **Aaron Starr, (415) 558-6362**

PROPERTY IDENTIFICATION – **3636 WEBSTER STREET:** East side, between Beach and North Point Streets; Lot 045 in Assessor's Block 0445A, in an RH-2 (Residential, House, Two-Family) District with a 40-X Height and Bulk Designation.

DESCRIPTION OF VARIANCE SOUGHT – **REAR YARD VARIANCE:** The proposal is to construct an approximately 10.5' deep by 13.5' wide 1-story addition at the north side property line at the rear of the building. A roof deck is proposed above the addition, and an approximately 1.5' deep by 4' wide balcony is proposed at the southern side of the second floor.

Section 134(c) of the Planning Code requires the subject property, which is 100' deep, to have a minimum rear yard depth of 25'. The proposed addition will extend approximately 7.5' into the required rear yard and the proposed balcony will extend approximately .5' into the required rear yard.

PROCEDURAL BACKGROUND:

1. This proposal was determined to be Categorically Exempt from Environmental Review under CEQA Guidelines Section 15301, Existing Facilities.
2. The Zoning Administrator held a public hearing on **Variance Application No. 2006.0509V on June 28, 2006.**
3. Planning Code Section 311 notification requirements were mailed under a separate notice on May 25, 2006. The noticed expired on June 24, 2006. No Discretionary Review applications were filed.

DECISION:

GRANTED, to construct an approximately 10.5' deep by 13.5' wide 1-story addition at the north side property line at the rear of the building with a roof deck above, and an approximately 1.5' deep by 4' wide balcony at the southern side of the second floor in general conformity with the plans on file with this application, shown as Exhibit A and dated June 20, 2006 subject to the following conditions:

1. Any further physical expansion, even within the buildable area, shall be reviewed by the Zoning Administrator to determine if the expansion is compatible with existing neighborhood character, scale, and parking. If the Zoning Administrator determines that there would be a significant or extraordinary impact, the Zoning Administrator shall require either notice to adjacent and/or affected property owners or a new Variance application be sought and justified.
2. The proposed project must meet these conditions and all applicable City Codes. In case of conflict, the more restrictive controls shall apply.
3. Minor modifications as determined by the Zoning Administrator may be permitted.
4. The owners of the subject property shall record on the land records of the City and County of San Francisco the conditions attached to this Variance decision as a Notice of Special Restrictions in a form approved by the Zoning Administrator.

FINDINGS:

Section 305(c) of the Planning Code states that in order to grant a Variance, the Zoning Administrator must determine that the facts of the case are sufficient to establish the following five findings:

FINDING 1.

That there are exceptional or extraordinary circumstances applying to the property involved or to the intended use of the property that do not apply generally to other property or uses in the same class of district.

REQUIREMENT MET.

- A. The lot to the south of subject property is 25' longer, which allowed the owners of that property to extend their building 15' beyond the subject building. In addition, a 16' high firewall was built on the property line.
- B. The extension on the adjacent property to the south was approved before the current owners purchased the subject property. Construction was started 1 week after the owners of the subject property took possession of the property.

FINDING 2.

That owing to such exceptional and extraordinary circumstances the literal enforcement of specified provisions of this Code would result in practical difficulty or unnecessary hardship not created by or attributable to the applicant or the owner of the property.

REQUIREMENT MET.

- A. Because of the firewall on the adjacent property, a significant amount of sunlight is blocked from the ground floor of the subject building.

FINDING 3.

That such Variance is necessary for preservation and enjoyment of a substantial property right of the subject property, possessed by other property in the same class of district.

REQUIREMENT MET.

- A. The reduction in sunlight poses a unique situation for the property owner that other property owners in the same class of district do not have.

FINDING 4.

That the granting of such Variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity.

REQUIREMENT MET.

- A. The proposed addition will only be one story tall with an open railing for the roof deck. It will not have a significant impact on light to the adjacent property.

FINDING 5.

The granting of such Variance will be in harmony with the general purpose and intent of this Code and will not adversely affect the General Plan.

REQUIREMENT MET.

- A. The proposal is consistent with the generally stated intent and purpose of the Planning Code to promote orderly and beneficial development. The proposal is in harmony with the Residence Element of the General Plan to encourage residential development when it preserves or improves the quality of life for residents of the City.
- B. Code Section 101.1 establishes eight priority-planning policies and requires review of variance applications for consistency with said policies. Review of the relevant priority planning policies yielded the following determinations:

1. That the proposed project will be in keeping with the existing neighborhood character.
2. That the proposed project will have no effect on the City's supply of affordable housing, public transit or neighborhood parking, preparedness to protect against injury and loss of life in an earthquake, commercial activity, business or employment, landmarks and historic buildings, or public parks and open space.

The effective date of this decision shall be either the date of this decision letter if not appealed, or the date of the Notice of Decision and Order if appealed to the Board of Appeals.

Once any portion of the granted variance is utilized, all specifications and conditions of the variance authorization became immediately operative.

The authorization and rights vested by virtue of this decision letter shall be deemed void and cancelled if (1) a Building Permit has not been issued within three years from the effective date of this decision; or (2) a Tentative Map has not been approved within three years from the effective date of this decision for Subdivision cases; or (3) neither a Building Permit or Tentative Map is involved but another required City action has not been approved within three years from the effective date of this decision. However, this authorization may be extended by the Zoning Administrator when the issuance of a necessary Building Permit or approval of a Tentative Map or other City action is delayed by a City agency or by appeal of the issuance of such a permit or map or other City action.

APPEAL: Any aggrieved person may appeal this Variance decision to the Board of Permit Appeals within ten (10) days after the date of the issuance of this Variance Decision. For further information, please contact the Board of Appeals in person at 1660 Mission Street, Third Floor, or call 575-6880.

Very truly yours,



Neil Hart
Acting Zoning Administrator

THIS IS NOT A PERMIT TO COMMENCE ANY WORK OR CHANGE OCCUPANCY. PERMITS FROM APPROPRIATE DEPARTMENTS MUST BE SECURED BEFORE WORK IS STARTED OR OCCUPANCY IS CHANGED.



SAN FRANCISCO PLANNING DEPARTMENT

1650 Mission Street Suite 400 San Francisco, CA 94103

NOTICE OF BUILDING PERMIT APPLICATION (SECTION 311)

On **August 4, 2015**, the Applicant named below filed Building Permit Application No. **2015.08.04.3267** with the City and County of San Francisco.

PROPERTY INFORMATION		APPLICANT INFORMATION	
Project Address:	3636 - 3638 Webster Street	Applicant (agent):	Ilene R. Dick, Farella Braun + Martel LLP
Cross Street(s):	Beach Street / North Point Street	Address:	235 Montgomery Street
Block/Lot Nos.:	0445A / 045-046	City, State:	San Francisco, CA 94104
Zoning District(s):	RH-2 / 40-X	Telephone:	(415) 954-4958 (415) 821-4854 (architect – Ernie Selander)

You are receiving this notice as a property owner or resident within 150 feet of the proposed project. You are not required to take any action. For more information about the proposed project, or to express concerns about the project, please contact the Applicant listed above or the Planner named below as soon as possible. If you believe that there are exceptional or extraordinary circumstances associated with the project, you may request the Planning Commission to use its discretionary powers to review this application at a public hearing. Applications requesting a Discretionary Review hearing must be filed during the 30-day review period, prior to the close of business on the Expiration Date shown below, or the next business day if that date is on a week-end or a legal holiday. If no Requests for Discretionary Review are filed, this project will be approved by the Planning Department after the Expiration Date.

Members of the public are not required to provide personal identifying information when they communicate with the Commission or the Department. All written or oral communications, including submitted personal contact information, may be made available to the public for inspection and copying upon request and may appear on the Department's website or in other public documents.

PROJECT SCOPE		
<input type="checkbox"/> Demolition	<input type="checkbox"/> New Construction	<input checked="" type="checkbox"/> Alteration
<input type="checkbox"/> Change of Use	<input checked="" type="checkbox"/> Facade Alteration (rear)	<input type="checkbox"/> Front Addition
<input checked="" type="checkbox"/> Rear Addition	<input type="checkbox"/> Side Addition	<input type="checkbox"/> Vertical Addition
PROJECT FEATURES	EXISTING	PROPOSED
Building Use	Residential	No Change
Front Setback	Approx. 6 feet	Approx. 6 feet
Building Depth	Approx. 76 feet 6 inches	Approx. 76 feet 6 inches
Rear Yard	Approx. 17 feet 6 inches	Approx. 17 feet 6 inches
Building Height (main building)	Approx. 27 feet 6 inches	No Change
Number of Stories	3	No Change
Number of Dwelling Units	2	No Change
PROJECT DESCRIPTION		
<p>The proposal is to legalize the construction of a one-story horizontal addition with 132 square-foot deck and walkable skylight above at the rear of the three-story, two-family dwelling. The one-story rear addition (approximately 13 feet 6 inches wide by 10 feet 6 inches deep by 8 feet 6 inches high) abuts the north side property line, is set back approximately 11 feet 6 inches from the south property line, and extends to within approximately 17 feet 6 inches of the rear property line. The proposal includes the removal of a portion of an existing 28 square-foot rear deck located at the southeast corner of the building. [The proposal is in relation to Building Permit Application No. 2014.09.30.7684 to repair the existing rear addition (with sloped solarium windows) and approximately 90 square-foot rear deck, which was subject to Board of Appeals Case No. 14-171 for work exceeding the scope of the permit.]</p> <p>This proposal requires a Rear Yard Variance because a portion of the one-story rear addition will extend into the required rear yard; therefore, the project requires a variance from the rear yard requirement (Section 134) of the Planning Code. The public hearing for the Variance (Case No. 2015-002255VAR) is scheduled for October 28, 2015 (not before 9:30 a.m.) in City Hall, Room 408, 1 Dr. Carlton B. Goodlett Place. Public notification of this hearing will be provided under separate notice to property owners within 300 feet of the subject property. The issuance of the building permit by the Department of Building Inspection or the Planning Commission project approval at a discretionary review hearing would constitute as the Approval Action for the project for the purposes of CEQA, pursuant to Section 31.04(h) of the San Francisco Administrative Code.</p>		

For more information, please contact Planning Department staff:

Planner: Sharon M. Young
Telephone: (415) 558-6346
E-mail: sharon.m.young@sfgov.org

Notice Date: **09/21/2015**
Expiration Date: **10/21/2015**

中文詢問請電: **(415) 575-9010**

Para información en Español llamar al: **(415) 575-9010**

GENERAL INFORMATION ABOUT PROCEDURES

Reduced copies of the proposed project plans have been included in this mailing for your information. If you have questions about the plans, please contact the project Applicant listed on the front of this notice. You may wish to discuss the plans with your neighbors or neighborhood association, as they may already be aware of the project. If you have general questions about the Planning Department's review process, please contact the Planning Information Center at 1660 Mission Street, 1st Floor (415/ 558-6377) between 8:00am - 5:00pm Monday-Friday. If you have specific questions about the proposed project, you should contact the planner listed on the front of this notice.

If you believe that the impact on you from the proposed project is significant and you wish to seek to change the project, there are several procedures you may use. **We strongly urge that steps 1 and 2 be taken.**

1. Request a meeting with the project Applicant to get more information and to explain the project's impact on you.
2. Contact the nonprofit organization Community Boards at (415) 920-3820, or online at www.communityboards.org for a facilitated discussion in a safe and collaborative environment. Community Boards acts as a neutral third party and has, on many occasions, helped reach mutually agreeable solutions.
3. Where you have attempted, through the use of the above steps or other means, to address potential problems without success, please contact the planner listed on the front of this notice to discuss your concerns.

If, after exhausting the procedures outlined above, you still believe that exceptional and extraordinary circumstances exist, you have the option to request that the Planning Commission exercise its discretionary powers to review the project. These powers are reserved for use in exceptional and extraordinary circumstances for projects which generally conflict with the City's General Plan and the Priority Policies of the Planning Code; therefore the Commission exercises its discretion with utmost restraint. This procedure is called Discretionary Review. If you believe the project warrants Discretionary Review by the Planning Commission, **you must file a Discretionary Review application prior to the Expiration Date shown on the front of this notice.** Discretionary Review applications are available at the Planning Information Center (PIC), 1660 Mission Street, 1st Floor, or online at www.sfplanning.org. You must submit the application in person at the Planning Information Center (PIC) between 8:00am - 5:00pm Monday-Friday, with all required materials and a check payable to the Planning Department. To determine the fee for a Discretionary Review, please refer to the Planning Department Fee Schedule available at www.sfplanning.org. If the project includes multiple building permits, i.e. demolition and new construction, a **separate request for Discretionary Review must be submitted, with all required materials and fee, for each permit that you feel will have an impact on you.**

Incomplete applications will not be accepted.

If no Discretionary Review Applications have been filed within the Notification Period, the Planning Department will approve the application and forward it to the Department of Building Inspection for its review.

BOARD OF APPEALS

An appeal of the Planning Commission's decision on a Discretionary Review case may be made to the **Board of Appeals within 15 calendar days after the building permit is issued** (or denied) by the Department of Building Inspection. Appeals must be submitted in person at the Board's office at 1650 Mission Street, 3rd Floor, Room 304. For further information about appeals to the Board of Appeals, including current fees, contact the Board of Appeals at (415) 575-6880.

ENVIRONMENTAL REVIEW

This project has undergone preliminary review pursuant to California Environmental Quality Act (CEQA). If, as part of this process, the Department's Environmental Review Officer has deemed this project to be exempt from further environmental review, an exemption determination has been prepared and can be obtained through the Exemption Map, on-line, at www.sfplanning.org. An appeal of the decision **to exempt the proposed project from CEQA may be made to the Board of Supervisors within 30 calendar days** after the project approval action identified on the determination. The procedures for filing an appeal of an exemption determination are available from the Clerk of the Board at City Hall, Room 244, or by calling (415) 554-5184.

Under CEQA, in a later court challenge, a litigant may be limited to raising only those issues previously raised at a hearing on the project or in written correspondence delivered to the Board of Supervisors, Planning Commission, Planning Department or other City board, commission or department at, or prior to, such hearing, or as part of the appeal hearing process on the CEQA decision.

SELANDER ARCHITECTS
2095 jerrold avenue, suite 319, san francisco, 94124
ernie@selanderarchitects.net 415.385.4339

April 27, 2015

Plan Review Manager
Department of Building Inspection
1660 Mission Street, 2nd Floor
San Francisco, CA 94110

Re: Pre-application plan review request, 3636 Webster Street

Dear Manager,

The proposal is to rebuild an existing single story room with a deck over.

The existing building is a three-story, type V-B.

It is an R-3 occupancy with U occupancy private garages on a portion of the ground level, first story.

Our question is as follows:

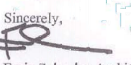
Per section 705.11, exception 4.2, are we allowed to substitute an open railing for the required parapet at the property line. We will use Assembly 21 of Table 721.1(3) for our 1-hour roof construction.

Our best meeting times are:

1pm - 5pm, May 11
8am - 12pm, May 12
11am - 5pm, May 13

Two sets of plans are included, one for DBI and one for Fire Department, as well as a check in the amount of \$577.00.

Please be in touch with me at the number or email address above to schedule our review appointment.

Sincerely,

Ernie Selander, Architect

*Response from Jeff Ma
agreed
Jeff Ma 5/13/15
Jeffrey Ma SFPD*

Pre-Application Letter
April 27, 2015



Location Plan

Directory

Owner:

CAFE Properties CA LLC
c/o Frank and Ann Hardenbergh
3636 Webster Street
San Francisco, CA 94123
phone: 415-834-5548

Architect:

Ernie Selander
2095 Jerrold Ave. Suite 319
San Francisco, CA 94124
mobile: 415.385.4339
email: ernie@selanderarchitects.net

Building Notes

Variance Areas:

+90 sf deck
+11 sf planter
+31 sf solarium
Total = +132 sf

Existing Areas:

+90 sf deck
+28 sf "small deck"
+11 sf planter
+31 sf solarium
Total = +160 sf

Proposed Areas:

Total = +132 sf deck
(eliminate "small deck")
(include planter and solarium areas)

Project Description

Remove sloped solarium window and planter on northeast side of the same rear projection and extend existing deck out (approx. 3'-0") to the existing east wall. Remove "small deck". Add window at ground floor of projection in the south wall and add walkable skylight on (E) deck.

Approved Variance: 2006.0509V

Issued Application for construction pop-out:
#2006.0512.1496 - CFC Issued: 7/30/07

Building Permit No.: A new building permit will be applied for.

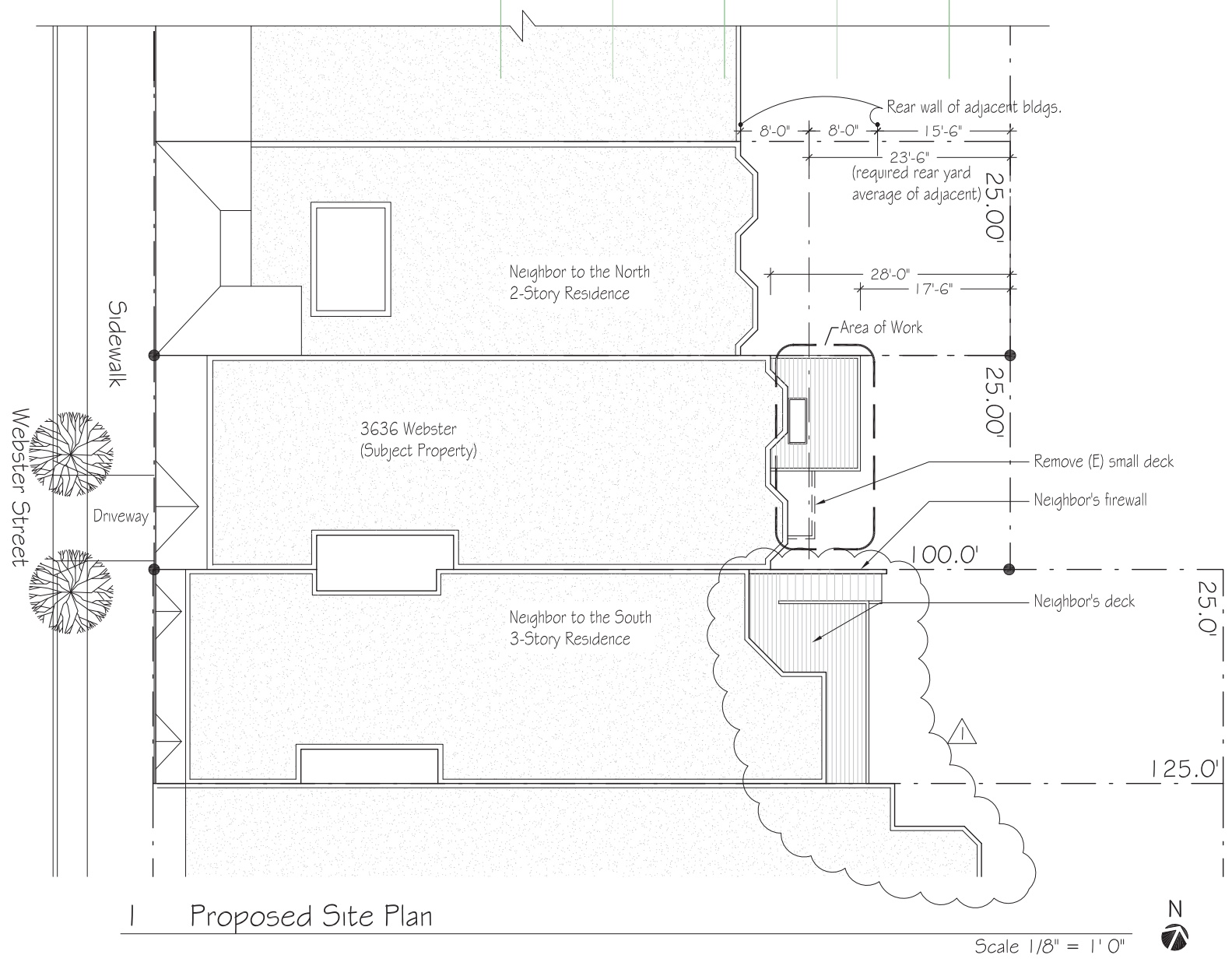
Sheet Index

- A1 Site Plan and Project info.
- A2 Floor Plans
- A3 Building Elevations, Sections & Details

Building Codes

2013 CBC and all San Francisco Building, Mechanical, Plumbing, Electrical and Fire Code and amendments.

Occupancy: R-3
Construction: Type V-B



Proposed Site Plan

Scale 1/8" = 1' 0"

Remove solarium window and extend deck out to face of wall



Demo this small deck.

3636 Webster Street - Rear Facade

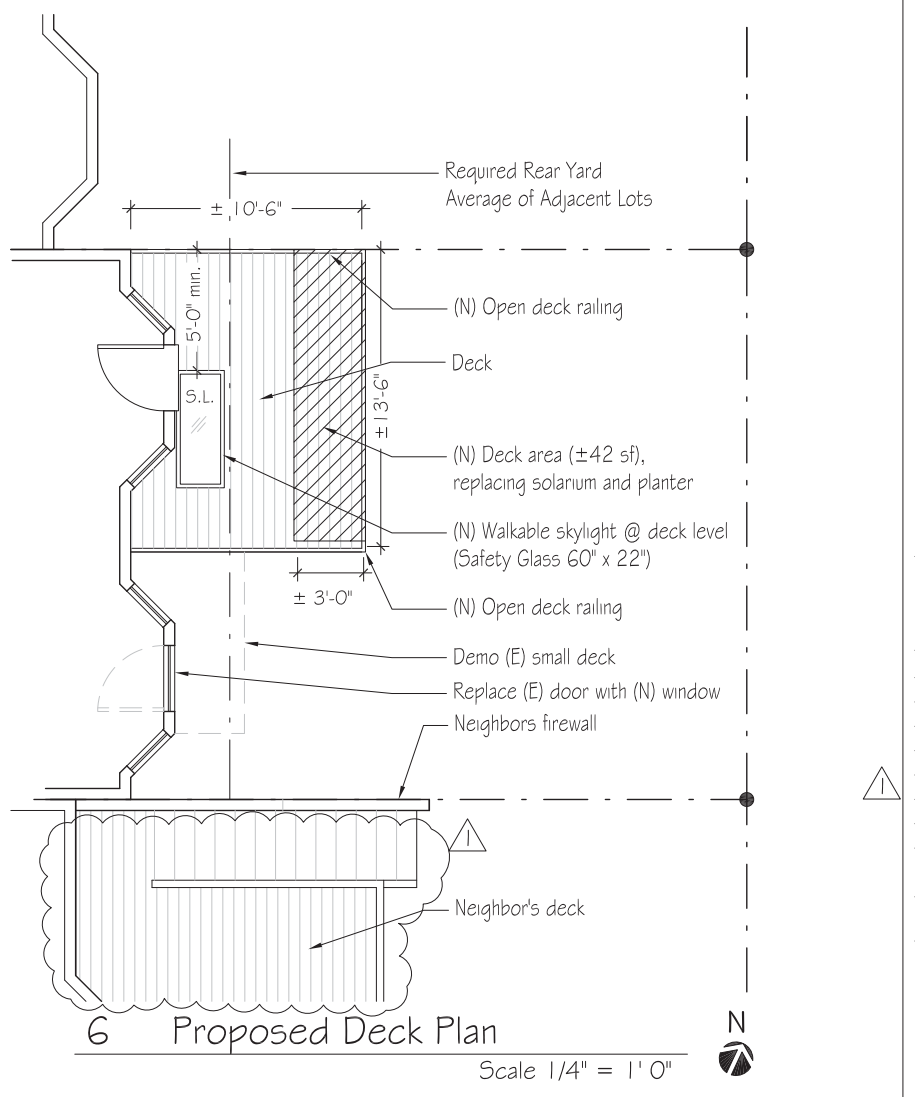
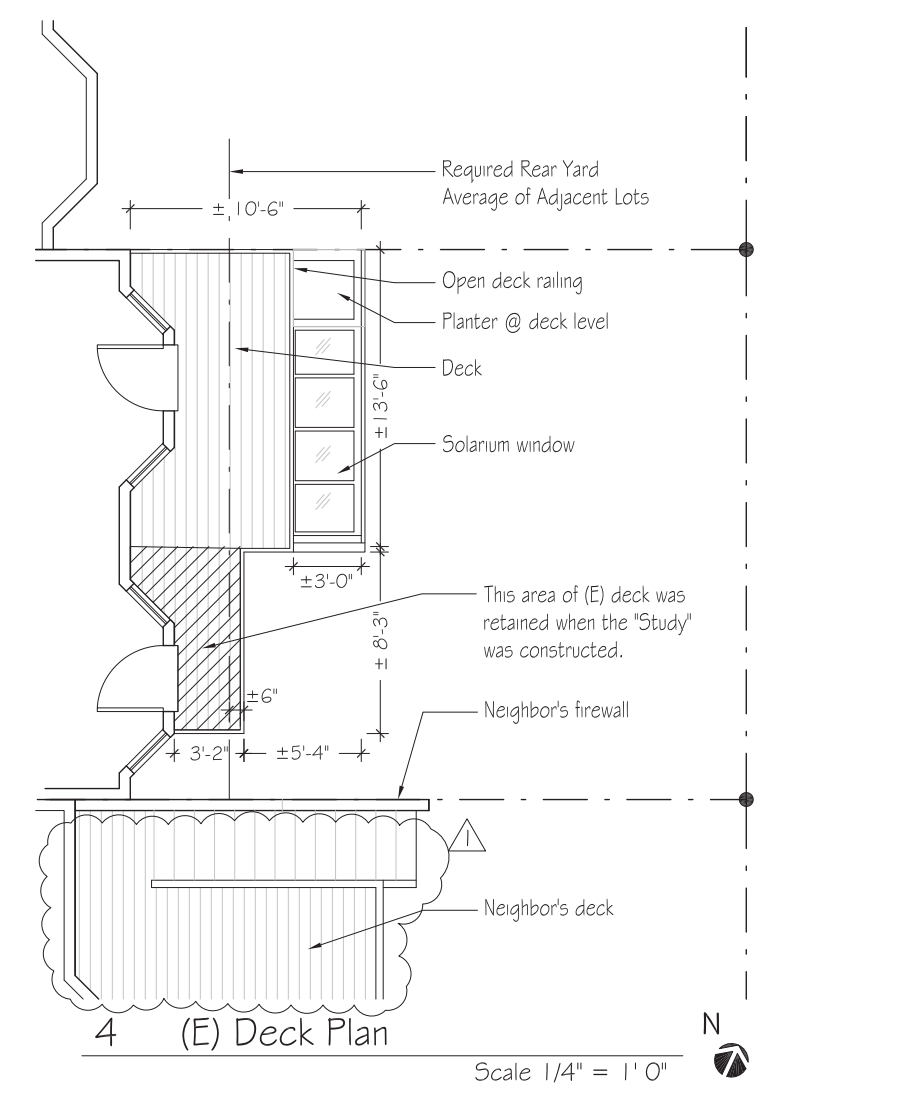
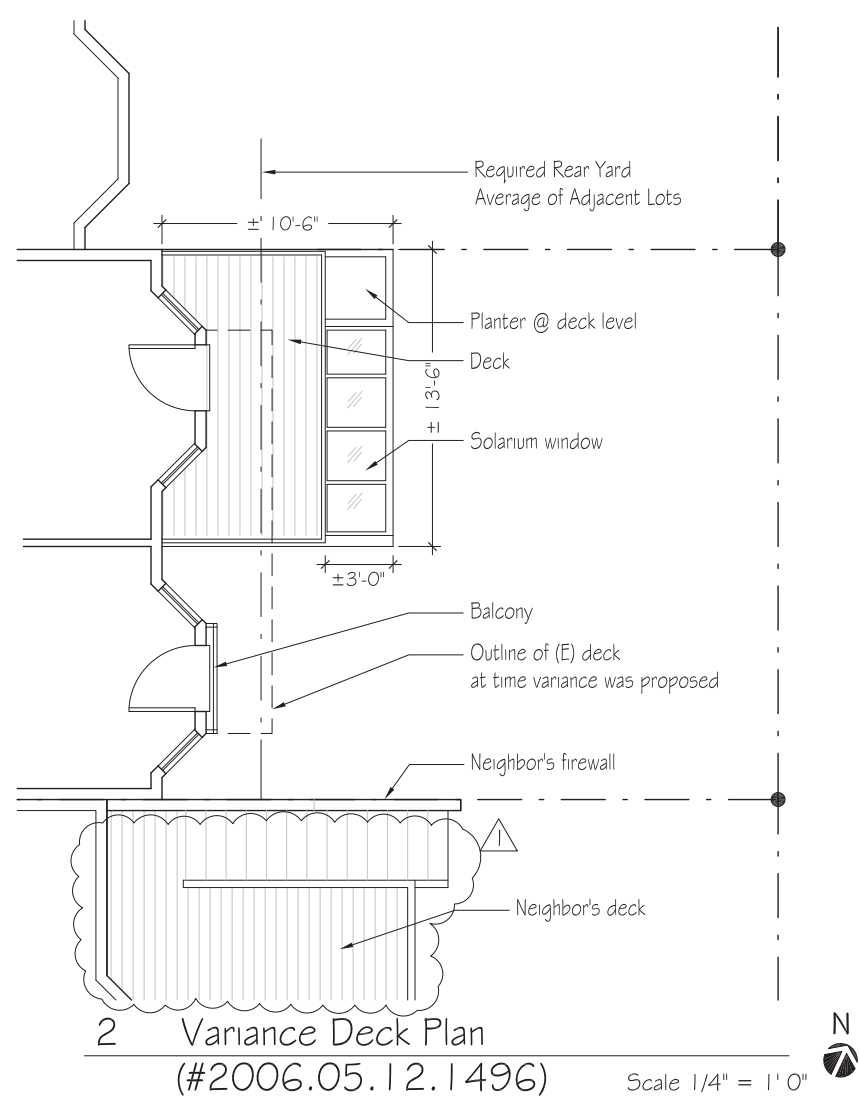
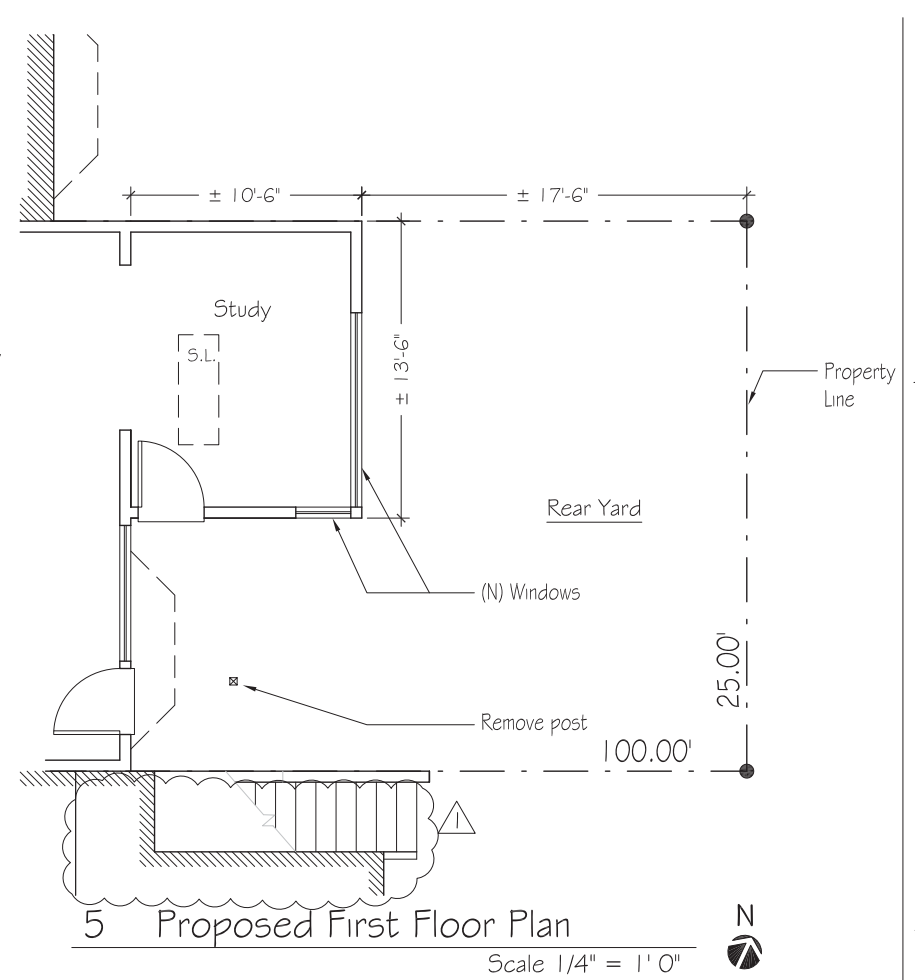
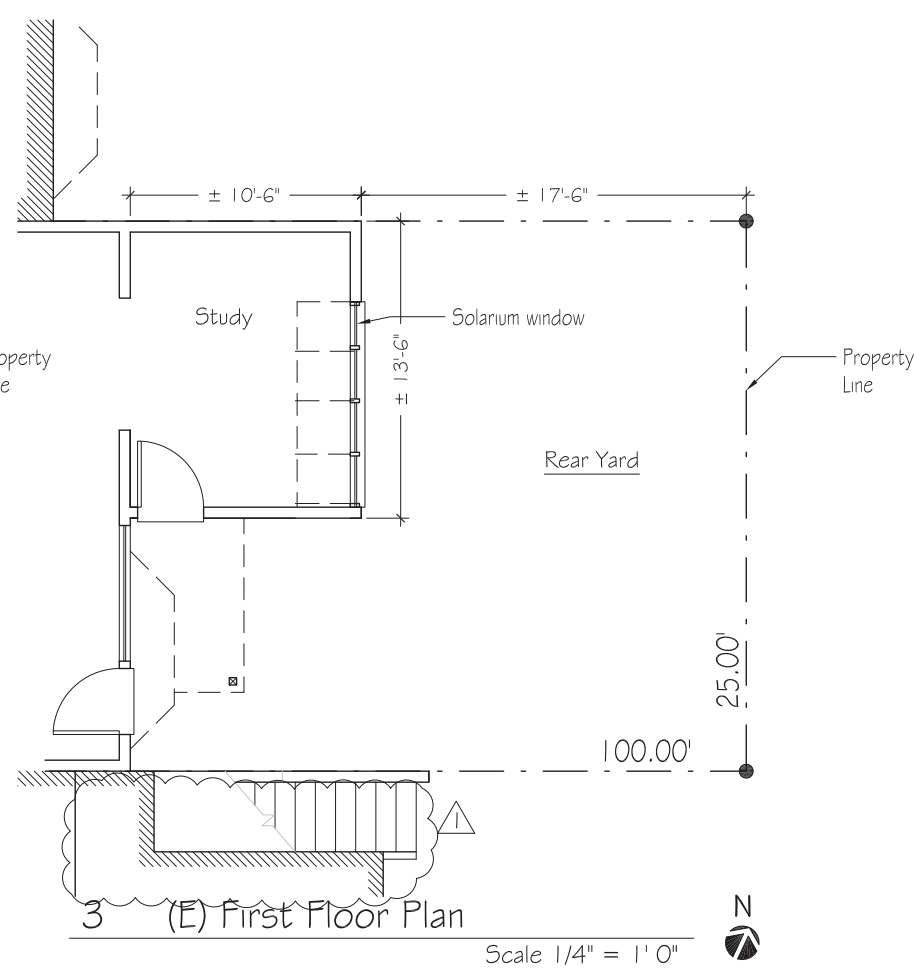
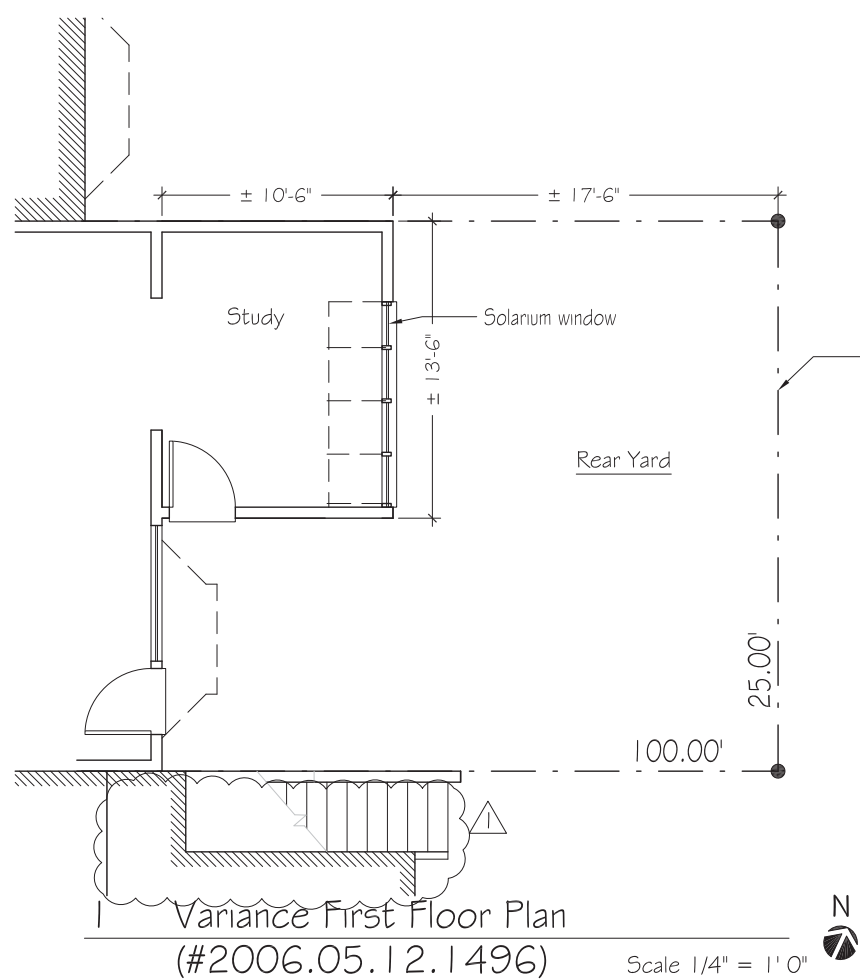
Image shows condition prior to 2014 construction work.

SELANDER ARCHITECTS
2095 Jerrold Avenue, Suite 319, SF, CA 94124
ernie@selanderarchitects.net M:415.385.4339 O:415.821.4854

3636 Webster Street
San Francisco, CA 94123
Block/Lot 0445A / 045-046

Issue:	Date:
Permit Set	9/30/14
V Review	1/22/15
V-311	2/25/15
Bldg Permit	6/29/15
Revision 1	12/07/15

Plot Date:
December 7, 2015
Scale:
As shown



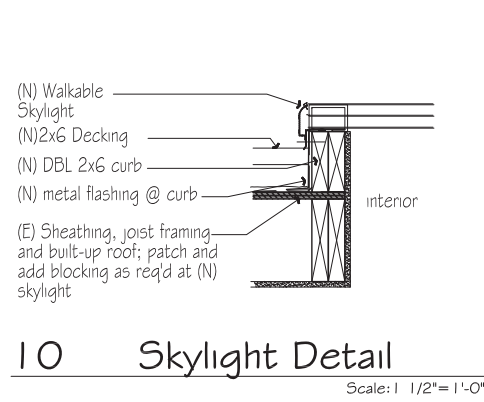
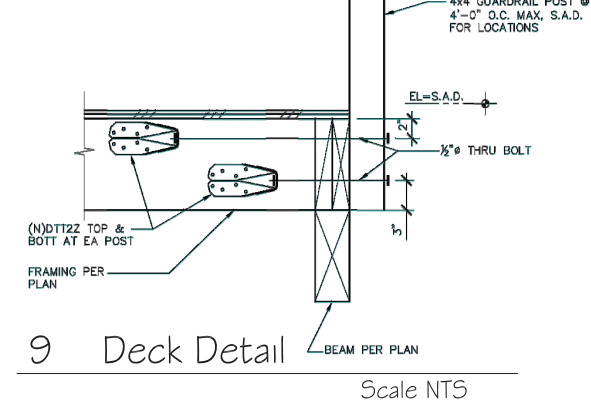
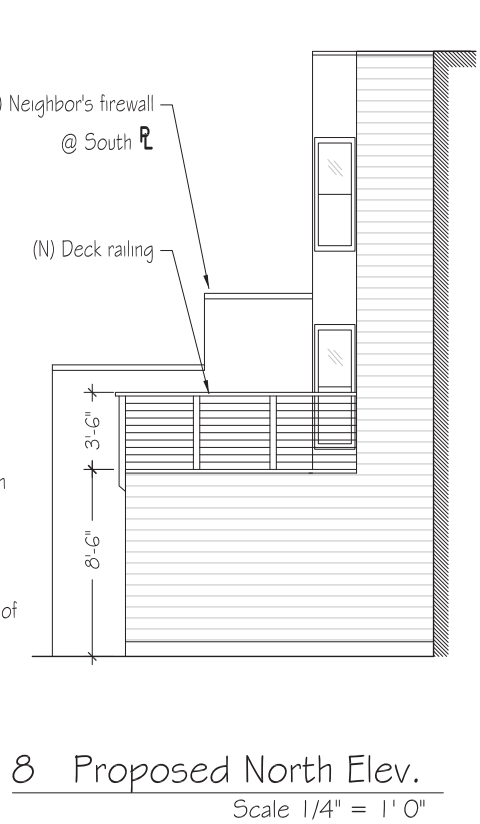
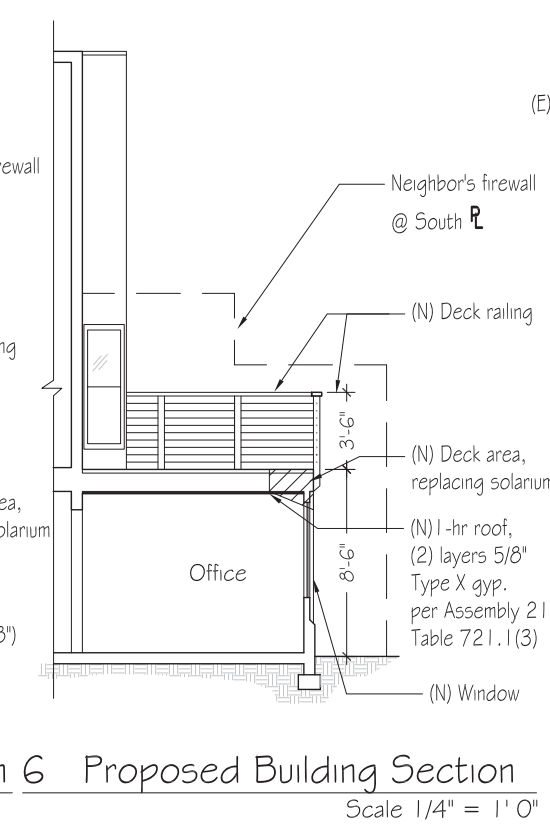
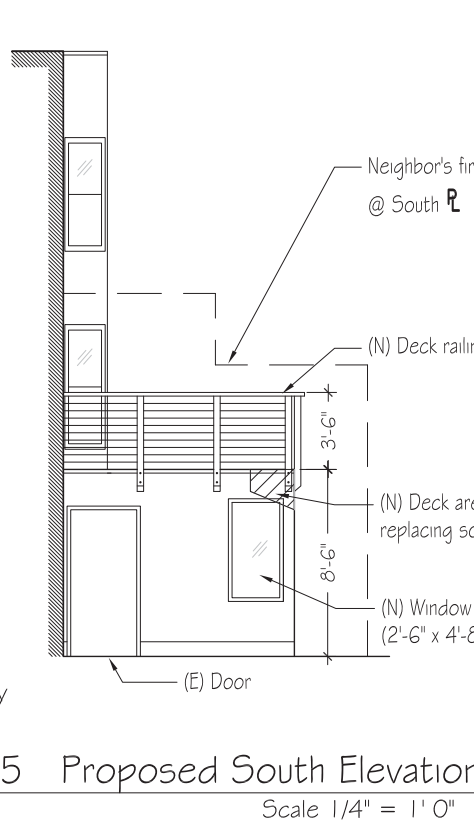
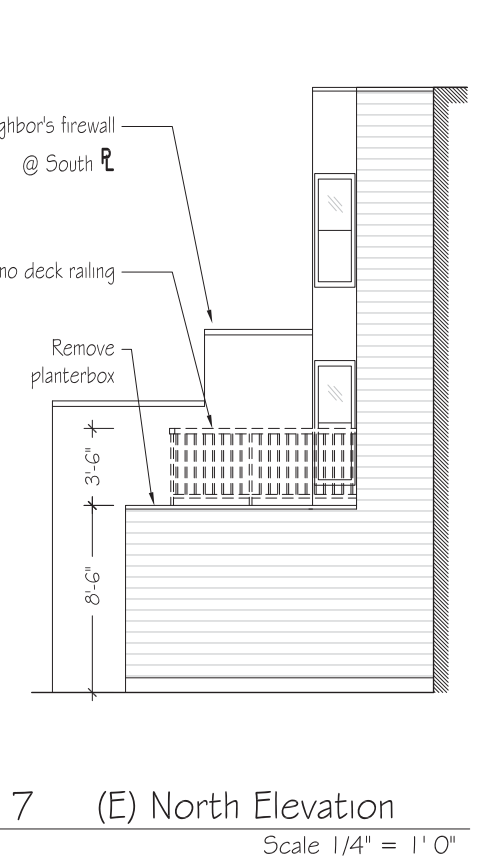
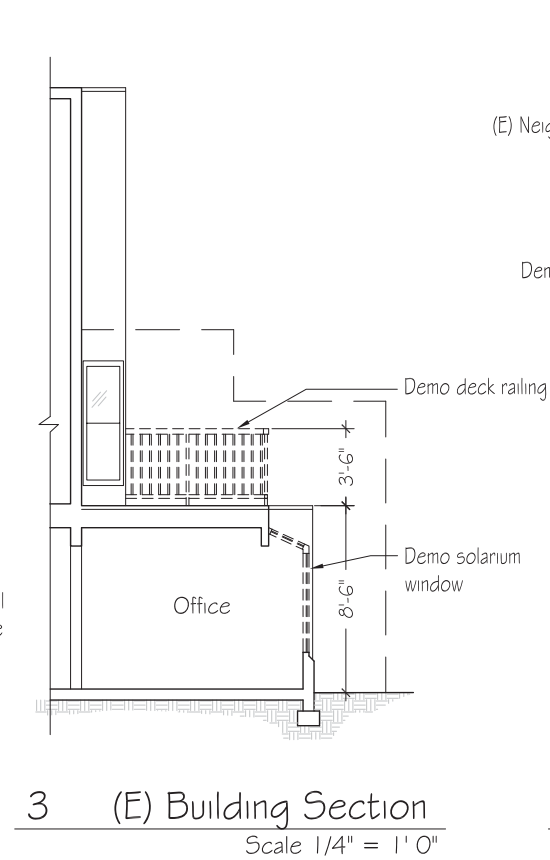
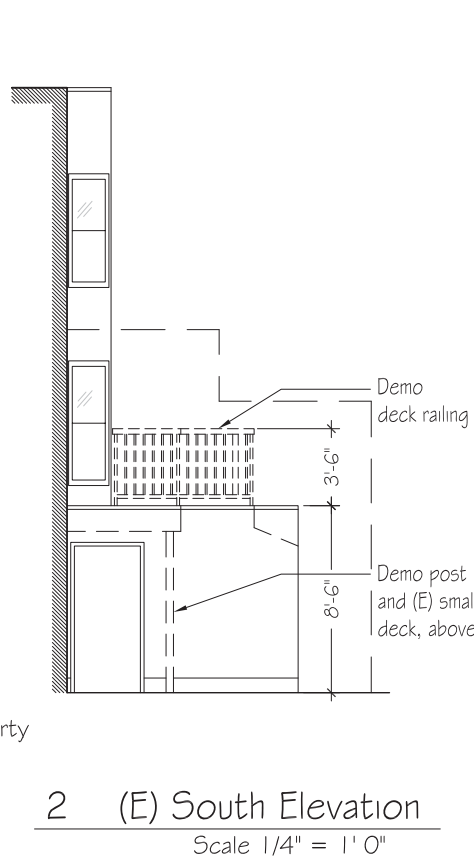
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 Block/Lot 0445A / 045-046

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A2



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A3



3636 Webster Street -

Image shows rear facade prior to current work and adjacent properties.

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Bldg Permit 6/29/15 July 27, 2015



3636 Webster Street -

Image shows existing condition of
rear facade and adjacent properties.

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Issue:

Plot Date:

Bldg Permit 6/29/15 July 27, 2015