

**Zoning Board of Appeals
March 27, 2013 Regular Meeting**

STAFF REPORT

Subject: ZBA13-007, 1107 South State

Summary: 1107 South State Street LLC, represented by Carl O. Hueter, is requesting permission to alter this non-conforming structure by modifying the roof in order to add one bedroom to the existing third floor.

Background:

The subject parcel is zoned R4C (Multiple-Family Residential District) and located on South State Street, south of Arch Street. The parcel is non-conforming for required lot size: subject parcel is 5,280 square feet; minimum lot size is 8,500 square feet. The structure was built in 1910 and is 2,541 square feet. The rear of the site contains a paved parking area of less than 1,200 square feet that can accommodate four vehicles.

Description:

The petitioner would like to add a bedroom to the third floor, which will result in the expansion of floor area being used for occupancy, but will not change the footprint of the structure. The existing structure is a registered 4 unit rental with a total of 7 bedrooms. It is zoned R4C, which permits a maximum occupancy of 6 unrelated people per unit. The property is currently permitted a maximum of 11 occupants based on Rental Housing code and unit configuration. Due to the fact that the lot does not meet the minimum lot area requirement of 8,500 square feet, the existing structure is a legal non-conforming structure with four units (City Code requires 2,175 square feet per unit). The owner is allowed to reduce, but not increase, the total number of units. The proposed plan would reduce the total number of units from four to two and keep the same maximum number of occupants (11). The number of bedrooms will be increased by one, resulting in one 6 bedroom and one 2 bedroom unit, for a total of 8 bedrooms.

In December 2012, a building permit was approved that allowed the petitioner to raise the roof and address structural issues through repairs. While the structural work has been completed, the modifications raised the ceiling height in an approximately 8 foot by 12 foot section of the third floor. The interior has not been finished and the Building permit for finish work is on hold pending ZBA action. The petitioner would like to add a bedroom in this location, which will result in the expansion of floor area being used for occupancy. The petitioner has indicated there will be no increase in the building

occupancy of 11 people. As noted above, Chapter 55, Section 5:86 (1)(c) states that a nonconforming use cannot be, “expanded or increased in the intensity of use”. With the addition of a room, it is expanding the floor area fit for occupancy.

If the variance is approved, the new bedroom (and all other planned improvements) will be inspected and will be required to meet all housing and building codes for health and safety, including emergency egress. If the variance is not approved, the petitioner will not be able to use the area gained by the roof reconfiguration as a living space.

Standards for Approval- Permission to Alter a Non-Conforming Structure

The Zoning Board of Appeals has all the power granted by State law and by Section 5:98, from the City of Ann Arbor Zoning Ordinance. The following criteria shall apply:

The alteration complies as nearly as practicable with the requirements of the Zoning Chapter and will not have a detrimental effect on neighboring property.

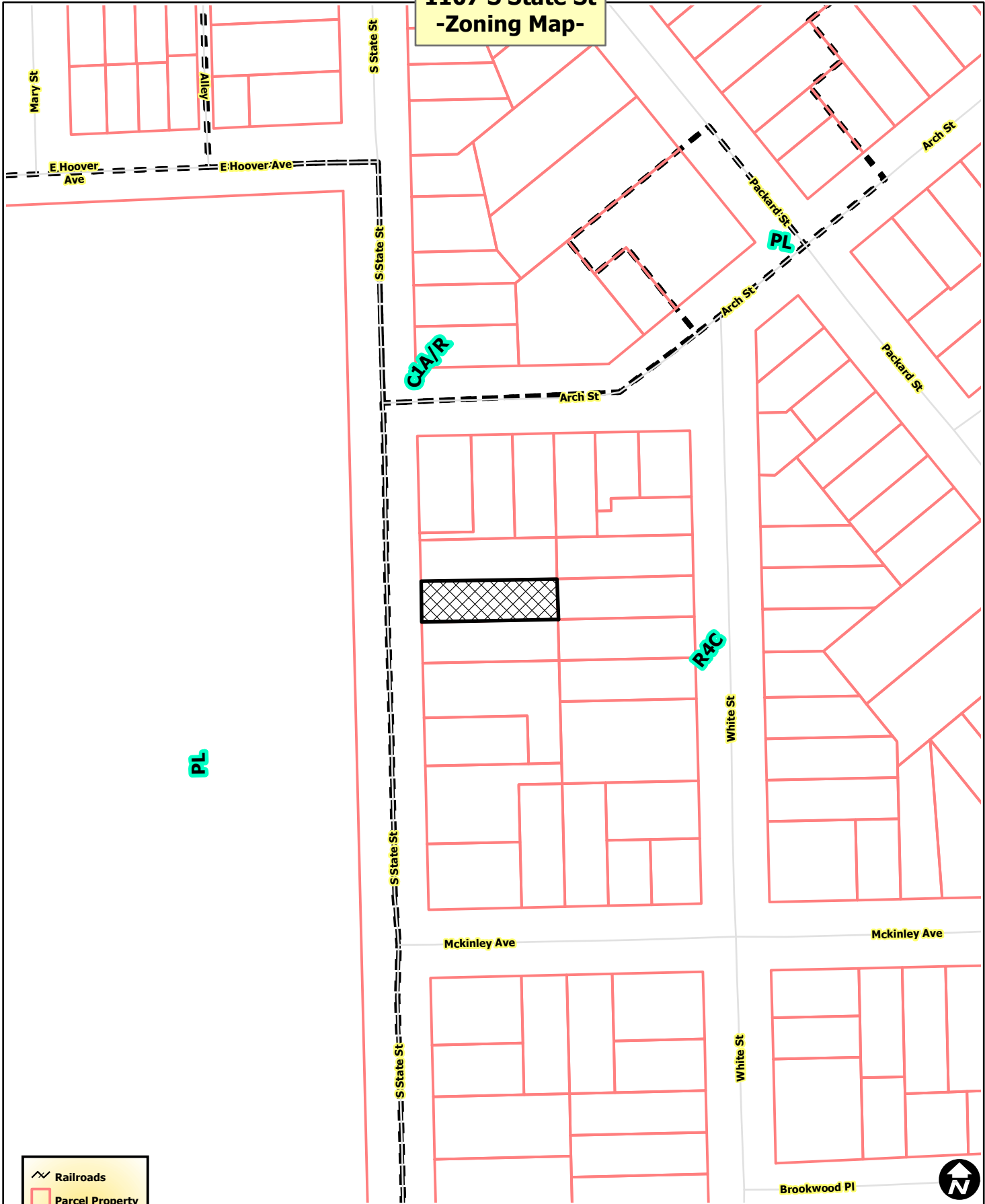
Permission is being requested in order to add a bedroom to the existing third floor. The addition of this bedroom will not expand the footprint or maximum height of the structure. The petitioner will reduce the total number of units from four to two, making the structure slightly closer to conforming, though the minimum lot size will still not be met. While the roofline has changed, the structure is no closer to any property line and the occupancy will not be increased from the current maximum of 11. The multiple-family use is consistent with the surrounding uses and the addition of one bedroom to the structure should not have a detrimental effect on adjacent property.

Respectfully submitted,



**Matthew J. Kowalski, AICP
City Planner**

1107 S State St -Zoning Map-



Railroads

Parcel Property

Zoning

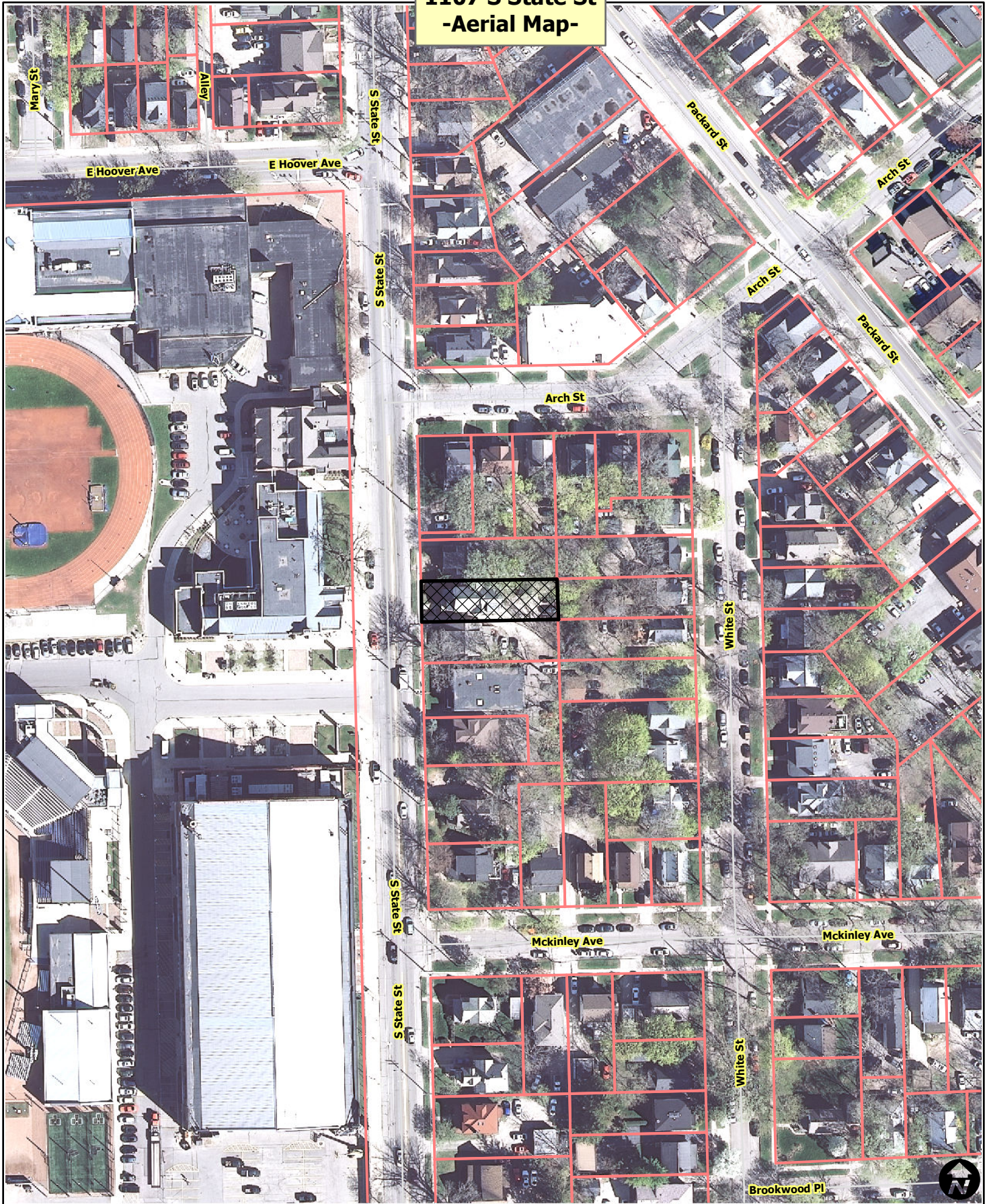
Township

Zoning



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 Map Created: 3/4/2013

1107 S State St -Aerial Map-



 Railroads
 Parcel Property



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1107 S State St -Aerial Map-



 Railroads
 Parcel Property



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Map Created: 3/4/2013

APPLICATION FOR VARIANCE OR NON-CONFORMING STRUCTURE
ZONING BOARD OF APPEALS

Section 1: Applicant Information

Name of Applicant: CARL O. HUETER
Address of Applicant: 1321 FRANKLIN BLVD. | ANN ARBOR, MI. 48103
Daytime Phone: 734-665-7610
Fax: _____
Email: carl@hueterarchitects.com
Applicant's Relationship to Property: ARCHITECT

Section 2: Property Information

Address of Property: 1107 SOUTH STATE
Zoning Classification: R4C
Tax ID# (if known): _____
*Name of Property Owner: 1107 SOUTH STATE LLC

**If different than applicant, a letter of authorization from the property owner must be provided.*

Section 3: Request Information

Variance PERMISSION TO ALTER A NON-CONFORMING STRUCTURE

Chapter(s) and Section(s) from which a variance is requested:

CHAPTER 55 5:87 (1) a

Required dimension: _____ PROPOSED dimension: _____

Example: Chapter 55, Section 5:26

Example: 40' front setback

Example: 32'

Give a detailed description of the work you are proposing and why it will require a variance (attach additional sheets if necessary)

SEE ATTACHED

Section 4: VARIANCE REQUEST (If not applying for a variance, skip to section 5)

The City of Ann Arbor Zoning Board of Appeals has the powers granted by State law and City Code Chapter 55, Section 5:98. A variance may be granted by the Zoning Board of Appeals only in cases involving practical difficulties or unnecessary hardships when **ALL** of the following is found **TRUE**. Please provide a complete response to each item below. These responses, together with the required materials in Section 5 of this application, will form the basis for evaluation of the request by staff and the Zoning Board of Appeals. (continued...)

1. Are there hardships or practical difficulties to complying with the ordinance? Are these hardships or practical difficulties an exception or unique to the property compared to other properties in the City?

SEE ATTACHED

2. Are the hardships or practical difficulties more than mere inconvenience, inability to obtain a higher financial return? (explain)

SEE ATTACHED

3. What effect will granting the variance have on the neighboring properties?

SEE ATTACHED

4. What physical characteristics of your property in terms of size, shape, location or topography prevent you from using it in a way that is consistent with the ordinance?

SEE ATTACHED

5. Is the condition which prevents you from complying with the ordinance self-imposed? How did the condition come about?

SEE ATTACHED

Section 5: ALTERATION TO A NON-CONFORMING STRUCTURE

Current use of the property MULTI-FAMILY RESIDENTIAL

The proposed change is allowed in accordance with Structure Non-Conformance, Section 5:87 (1) (a) & (b), which reads as follows:

- (1) A non-conforming structure may be maintained or restored, but no alteration shall be made to a non-conforming structure unless one of the following conditions is met:
 - a. The alteration is approved by the Zoning Board of Appeals upon finding that it complies as nearly as practicable with the requirements of this Chapter and that it will not have a detrimental effect on neighboring property.
 - b. The alteration conforms to all the requirements of this Chapter and is made to a building which will be a single-family dwelling on completion of the alteration and is located in an R1,R2, R3, or R4 district.
 - c. The structure is considered non-conforming due to the following reasons

(continued)

	<u>Existing Condition</u>	<u>Code Requirement</u>
Lot area	5,412 SF	8,500 SF
Lot width	41 FT	60 FT.
Floor area ratio	.49 (50%)	390%
Open space ratio	.18 (80%)	40%
Setbacks F/S/R	19.3 / 6.6 / 6.1	25 / 12 / 30
Parking	5	0
Landscaping	-	-
Other	-	-

Describe the proposed alterations and state why you are requesting this approval:

SEE ATTACHED

The alteration complies as nearly as is practicable with the requirements of the Chapter and will not have a detrimental effect on neighboring property for the following reasons:

All work is being done internally to the existing structure therefore will not change the property as viewed by the neighbors.

Wherefore, Petitioner requests that permission be granted from the above named Chapter and Section of the Ann Arbor City Code in order to permit alterations to a non-conforming structure.

Section 6: Required Materials

The following materials are required for all variance requests. Failure to provide these materials will result in an incomplete application and will delay staff review and Zoning Board of Appeals consideration of the request. The materials listed below must accompany the application and constitute an inseparable part of the application.

All materials must be provided on **8 1/2" by 11" sheets.** (Continued.....)

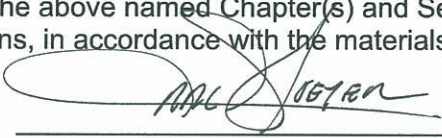
- Survey of the property including all existing and proposed structures, dimensions of property, and area of property.
- Building floor plans showing interior rooms, including dimensions.
- Photographs of the property and any existing buildings involved in the request.
- Any other graphic or written materials that support the request.

Section 7: Acknowledgement

SIGNATURES MUST BE SIGNED IN PRESENCE OF NOTARY PUBLIC

I, the applicant, request a variance from the above named Chapter(s) and Section(s) of the Ann Arbor City Code for the stated reasons, in accordance with the materials attached hereto.

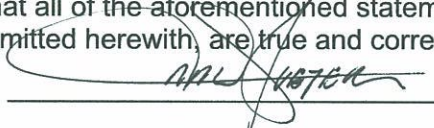
734.669.7610
 Phone Number
carl@hueterarchitects.com
 Email Address



 Signature
Carl O. Hueter


 Print Name

I, the applicant, hereby depose and say that all of the aforementioned statements, and the statements contained in the materials submitted herewith, are true and correct.



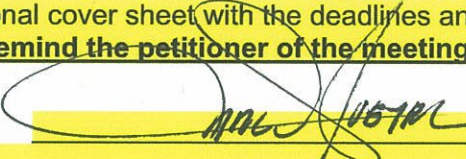
 Signature

Further, I hereby give City of Ann Arbor Planning & Development Services unit staff and members of the Zoning Board of Appeals permission to access the subject property for the purpose of reviewing my variance request.



 Signature

I have received a copy of the informational cover sheet with the deadlines and meeting dates and acknowledge that **staff does not remind the petitioner of the meeting date and times.**



 Signature

On this 26 day of FEBRUARY, 2013, before me personally appeared the above named applicant and made oath that he/she has read the foregoing application by him/her subscribed and knows the contents thereof, and that the same is true as to his/her own knowledge except as to those matters therein stated to be upon his information and belief as to those matters, he/she believes them to be true.

RUSSELL D. HINES JR.
 Notary Public, Washtenaw County, MI
 My Commission Expires 9-22-2019
 Acting in Washtenaw County

 Notary Public Signature
Russell D Hines Jr

 Print Name

Staff Use Only

Date Submitted: _____ Fee Paid: _____
 File No.: _____ Date of Public Hearing _____
 Pre-filing Staff Reviewer & Date _____ ZBA Action: _____
 Pre-Filing Review: _____
 Staff Reviewer & Date: _____

LETTER OF AUTHORIZATION

This is to authorize Carl O. Hueter, AIA, to submit an Application for Variance and/or Alteration to a Non-Conforming Structure, and to appear before the City of Ann Arbor ZBA (Zoning Board of Appeals) regarding the property known as 1107 S. State, Ann Arbor, MI, acting on behalf of the owner, 1107 S State, LLC.

1107 S State, LLC (Owner)



John O. Wade, Member

2-25-2013
Date

27 FEBRUARY 2013

CITY OF ANN ARBOR ZONING BOARD OF APPEALS FOR: 1107 SOUTH STATE STREET

PERMISSION TO ALTER A NON-CONFORMING STRUCTURE

ZBA SUBMISSION ATTACHEMENT TO APPLICATION FORM

Line items 1 through 5 on the application form do not require filling out per direction of City staff, since the nature of this request is the "permission to alter a non-conforming structure".

DESCRIPTION OF WORK:

1107 was originally a single family residence long ago converted into a four unit multi-family use and is zoned R4C. The zoning applied to this project makes the property non-conforming due to the site area of 5,412 square feet is less than the minimum 8,500 square feet minimum required in an R4C zoning district. This property has a shared driveway leading to rear-yard parking.

The owner of the property wishes to extensively renovate this property WITHOUT changing/expanding the outside building envelope. The work will be undertaken in phases, as finances and tenant use allow. This proposed work (alterations), in no particular order, includes;

- 1) A change of building use from R2 (multi-family) to R3 (single family / duplex) reducing the number of dwelling units from four to two, but maintaining the total building occupancy limited to eleven individuals maximum.
- 2) Revise floor plans to support this two unit reconfiguration more efficiently, as shown preliminarily in the attached revised floor plans.
- 3) Improve building envelope insulation.
- 4) Replace windows with more energy efficient units.
- 5) Improve bathrooms and kitchen areas. Relocate them as they improve the efficiency of the new unit configurations.
- 6) Upgrade all life safety issues internally to the entire building, which includes;
 - a. Proper fire separation and rated assemblies between units
 - b. Proper egress corridors and stair.
 - c. Properly placed smoke and monoxide detectors
 - d. Separating HVAC systems
 - e. Upgrade all building service electrical panels and wiring
- 7) Fix a deficient front porch structure and foundation.
- 8) Remove the unnecessary exterior rear stair no longer necessary.
- 9) Correct structural deficiencies created over the years from past renovations by previous owners.
- 10) Create interior stair access to basement laundry area.
- 11) Many miscellaneous items, door replacements, refinishing walls and floor surfaces, etc.

In order to replace failing roofing this past December 2012 the roof was reconfigured to advance the third floor future items of work (creation of a new bedroom and provide code mandated head clearance in the stair). The permit for this roofing work will not be finalized by the City until this variance is approved.

In order to do any of these new room configurations, life-safety and code upgrade alterations, per Chapter 55, 5:87, this owner must be processed through the Zoning Board of Appeals. It has been recommended we bundle all these changes into one submission to save the time and expenses of multiple submissions over the extended time period required to mesh this work with the property users (tenants).



GO

SEARCH TIPS

CodeBank: Current Version

Hide TOC

RESULTS

HISTORY

ORD. BANK

Save

Print

Email

Ann Arbor, Michigan - Code of Ordinance

- CODE
- SUPPLEMENT HISTORY TABLE
- TITLE I - ADMINISTRATION
- TITLE II - UTILITIES AND SERVICES
- TITLE III - PARKS AND PUBLIC GROU
- TITLE IV - STREETS AND SIDEWALKS
- TITLE V - ZONING AND PLANNING
- TITLE VI - FOOD AND HEALTH (RESE
- TITLE VII - BUSINESSES AND TRADE:
- TITLE VIII - BUILDING REGULATIONS
- TITLE IX - POLICE REGULATIONS
- TITLE X - TRAFFIC
- CODE COMPARATIVE TABLE

of more existing uses, by providing additional manufacturing or service uses, or the addition of facilities which would allow the establishment of another use or other uses).

- (d) Re-established after discontinuance for a period of at least 1 year.
- (e) Re-established in cases of residential usage in any "R" dwelling district after damage or destruction of the building or structure devoted to such non-conforming use if the estimated expense of reconstruction exceeds 70% of the appraised replacement cost (as determined by the building official) of the entire building or structure exclusive of foundations, prior to its damage or destruction. In cases of other than residential usage in any "R" dwelling district, the limitation on the expense of reconstruction shall be 50% of such appraised replacement cost.
- (f) Re-established in any zoning district other than an "R" dwelling district except under the same provisions as in (e) above, providing that the expense of reconstruction shall be 70% rather than 50% of the appraised replacement cost (as determined by the Building Official) of the entire building or structure exclusive of foundations prior to its damage or destruction.
- (g) Persons aggrieved by a determination of appraised replacement cost by the Building Official may appeal such determination to the Zoning Board of Appeals.

(Ord. No. 46-72, 8-14-72)



5:87. - Structure nonconformance.

- (1) A nonconforming structure may be maintained or restored, but no alteration shall be made to a nonconforming structure unless 1 of the following conditions is met:
 - (a) The alteration is approved by the Zoning Board of Appeals upon a finding that it complies as nearly as practicable with the requirements of this Chapter and that it will not have a detrimental effect on neighboring property.
 - (b) The alteration conforms to all the requirements of this Chapter and is made to a building which will be a single-family dwelling on completion of the alteration and is located in an R1, R2, R3 or R4 district.
- (2) For purposes of this section, alteration shall mean any change in a building which results in additional floor area being fit for occupancy, a greater number of dwelling or rooming units or an increase in the exterior dimensions of the building.
- (3) A nonconforming structure shall not be replaced after damage or destruction of the nonconforming structure if the estimated expense of reconstruction exceeds 75% of the appraised value, as determined by the building official, of the entire building or structure, exclusive of foundations.

(Ord. No. 23-74, 7-29-74; Ord. No. 26-75, 6-30-75; Ord. No. 22-77, 9-19-77; Ord. No. 16-85, 5-20-85)

5:88. - Development of record.

MORTGAGE SURVEY

Certified to: MAIN STREET TITLE
ITS SUCCESSORS AND/OR ITS ASSIGNS AS THEIR INTERESTS MAY APPEAR

Applicant: ALOYS C. METTY

Property Description:

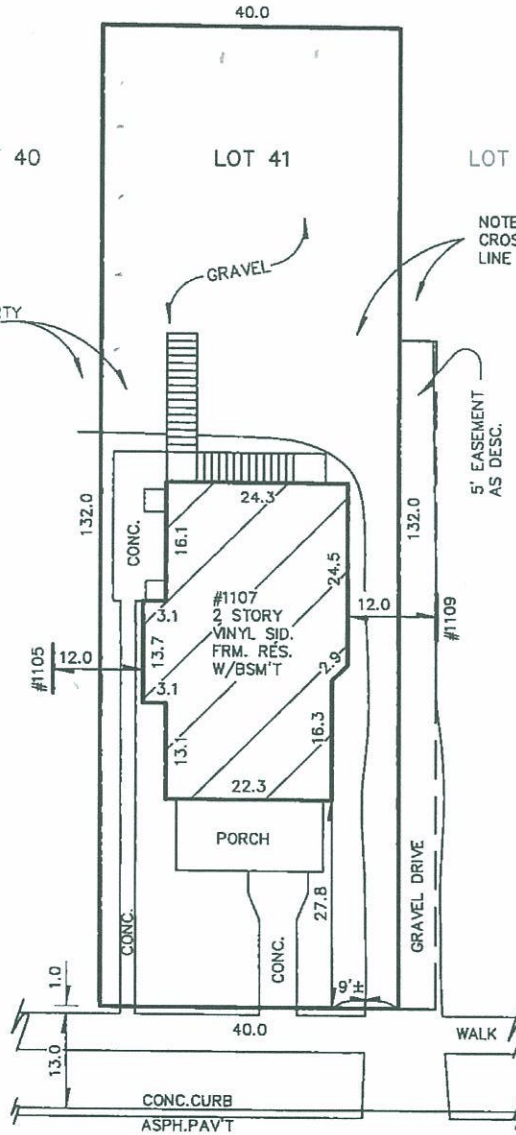
Lot 41; WHITE'S ADDITION TO THE CITY OF ANN ARBOR, in Section 33, Town 2 South, Range 6 East, Washtenaw County, Michigan, as recorded in Liber 2 of Plats, Page 14 of Washtenaw County Records.

NOTE GRAVEL
CROSSES PROPERTY
LINE AS SHOWN

NOTE: GRAVEL
CROSSES PROPERTY
LINE AS SHOWN.

NOTE: GRAVEL
CROSSES PROPERTY
LINE AS SHOWN.

NOTE: A BOUNDARY
SURVEY IS NEEDED TO
DETERMINE EXACT SIZE
AND/OR LOCATION OF
PROPERTY LINES.



S. STATE ST. 66' WD.

CERTIFICATE: We hereby certify that we have surveyed the above-described property in accordance with the description furnished for the purpose of a mortgage loan to be made by the forementioned applicants, mortgagor, and that the buildings located thereon do not encroach on the adjoining property, nor do the buildings on the adjoining property encroach upon the property heretofore described, except as shown. This survey is not to be used for the purpose of establishing property lines, nor for construction purposes, no stakes having been set at any of the boundary corners.



THIS SURVEY DRAWING IS VOID IF THE PROFESSIONAL SEAL IS NOT IN BLUE INK.

L.R. Schrader P.E.

JOB NO: 04-69476 SCALE: 1"=20'
DATE: 12/17/04 DR BY: SS

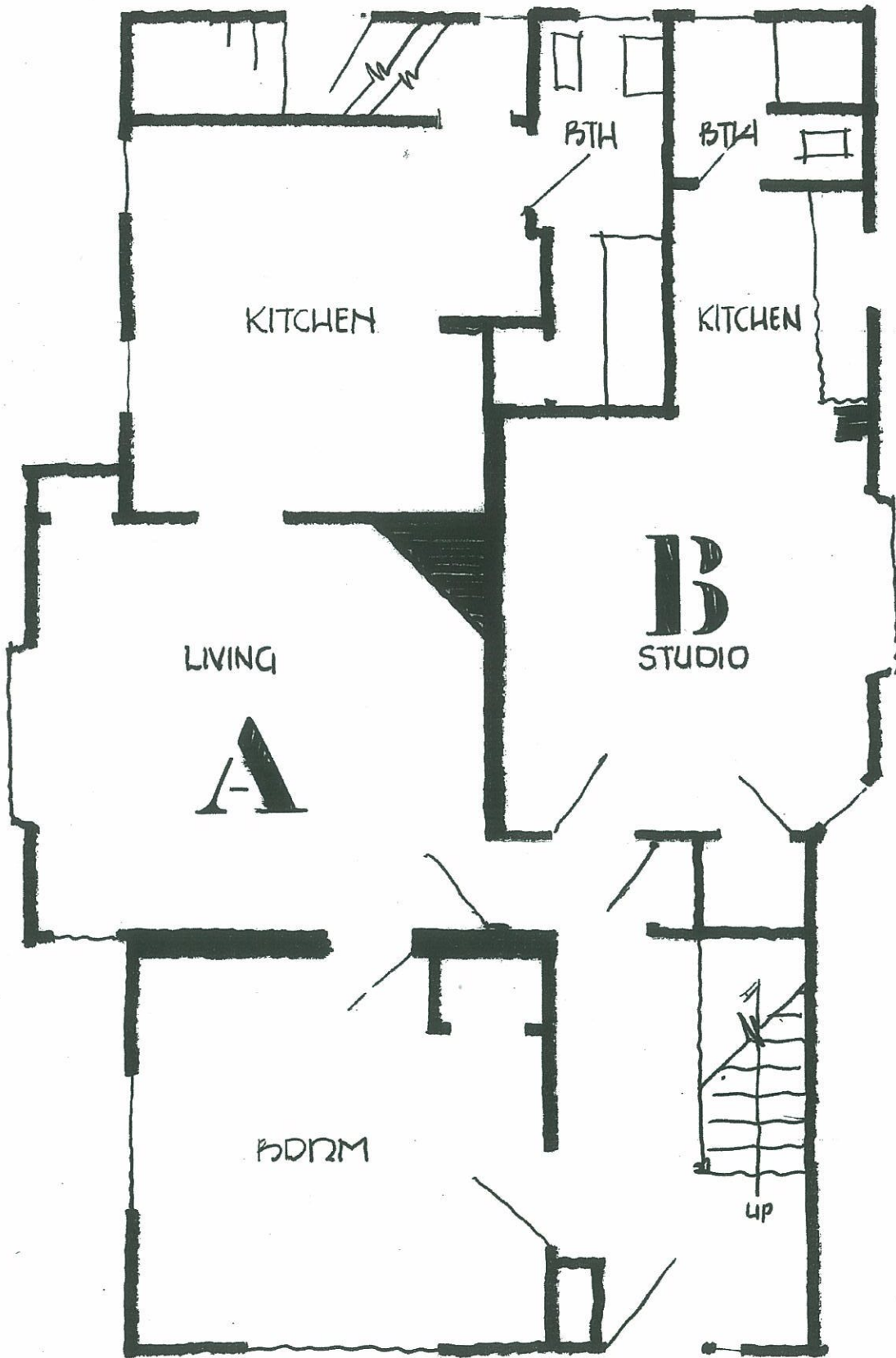
KEM-TEC
LAND SURVEYORS

22558 Gratiot Avenue
Eastpointe, MI 48021-2312
(586) 772-2222
FAX: (586) 772-4048

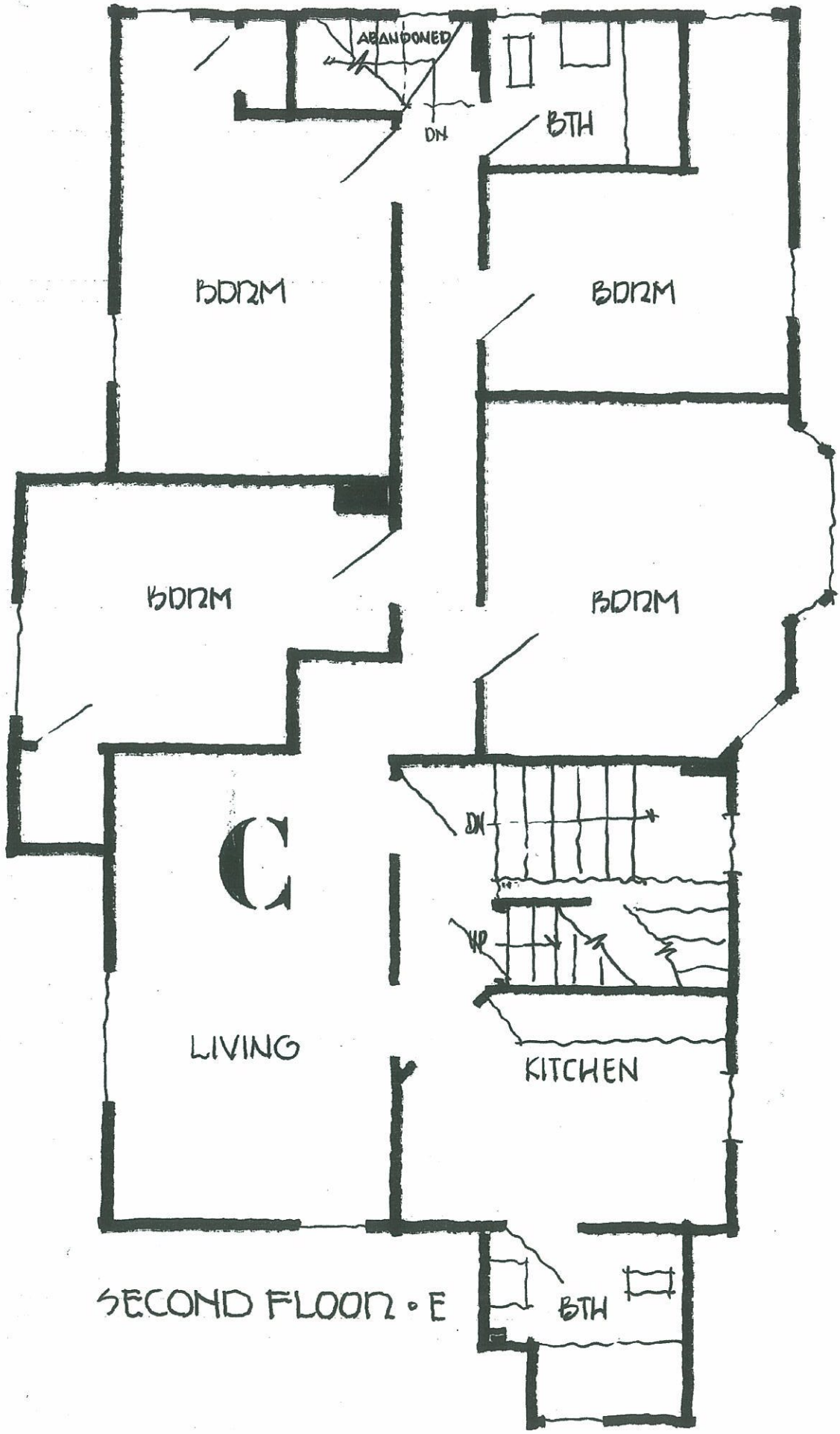


KEM-TEC WEST
LAND SURVEYORS

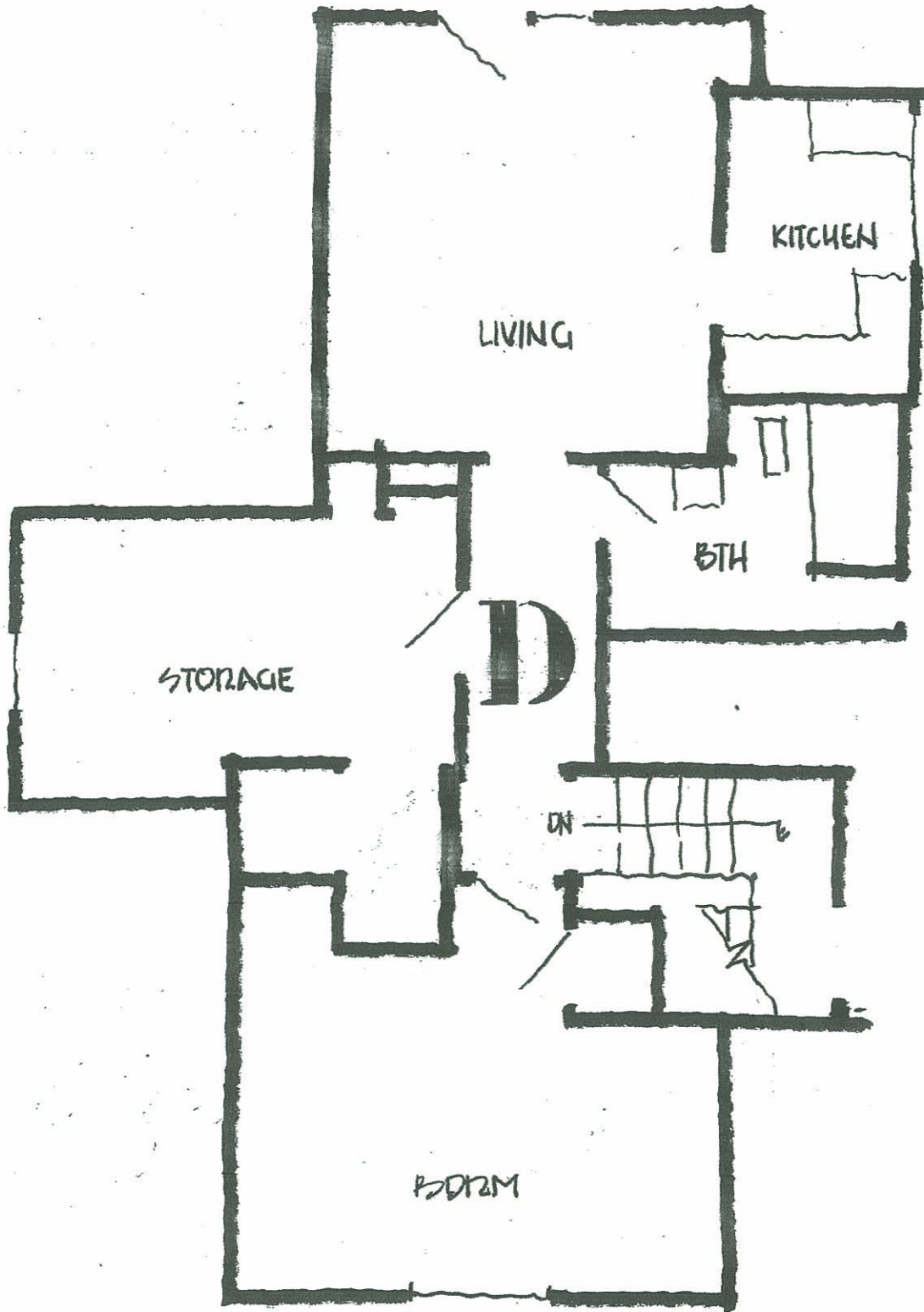
800 E. STADIUM
Ann Arbor, MI 48104-1412
(734) 994-0888 * (800) 433-0133
FAX: (734) 994-0687



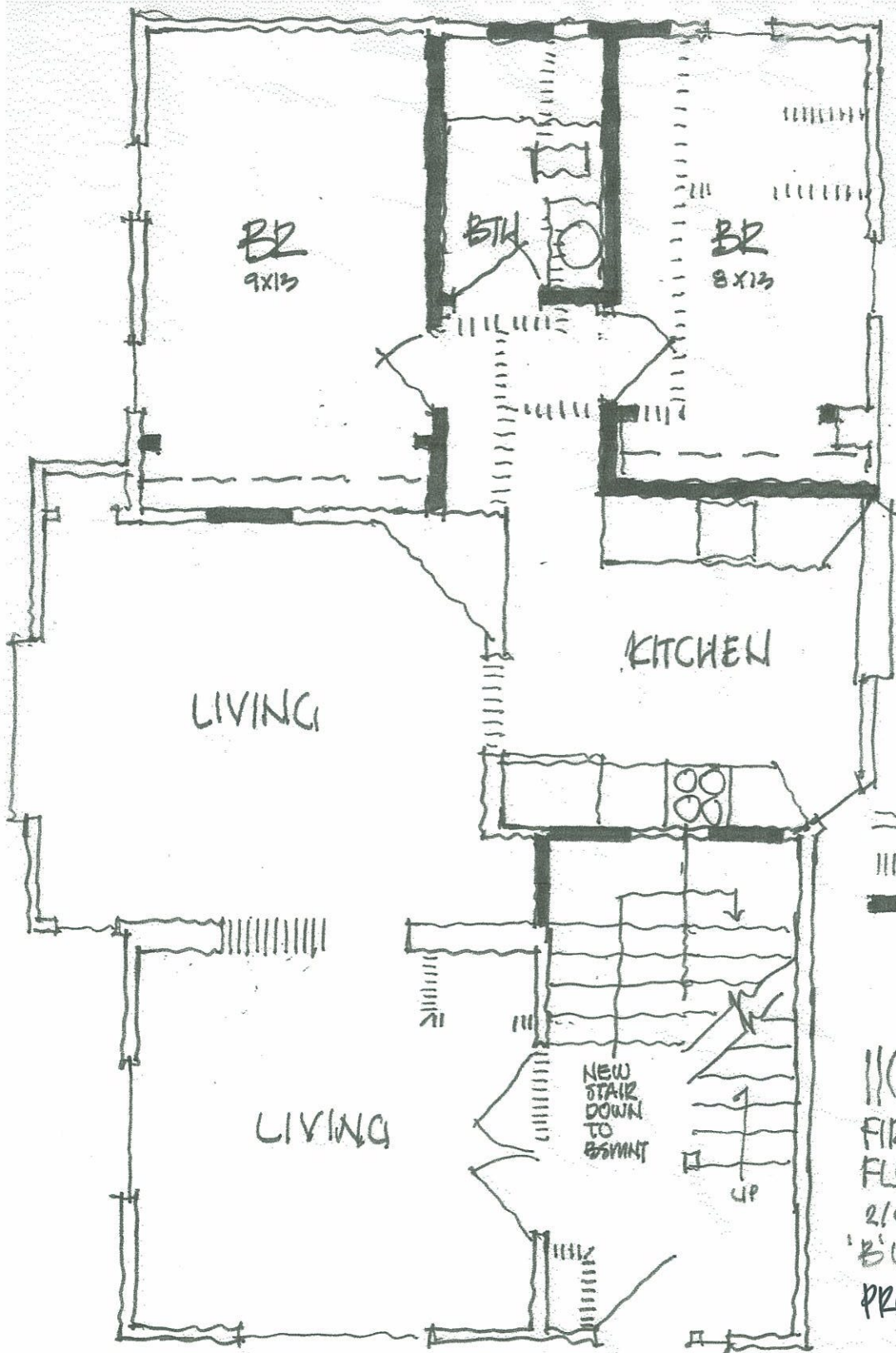
FIRST FLOOR • EXISTING



SECOND FLOOR • E



THIRD FLOOR - E



BR
9x13

BTH

BR
8x13

KITCHEN

LIVING

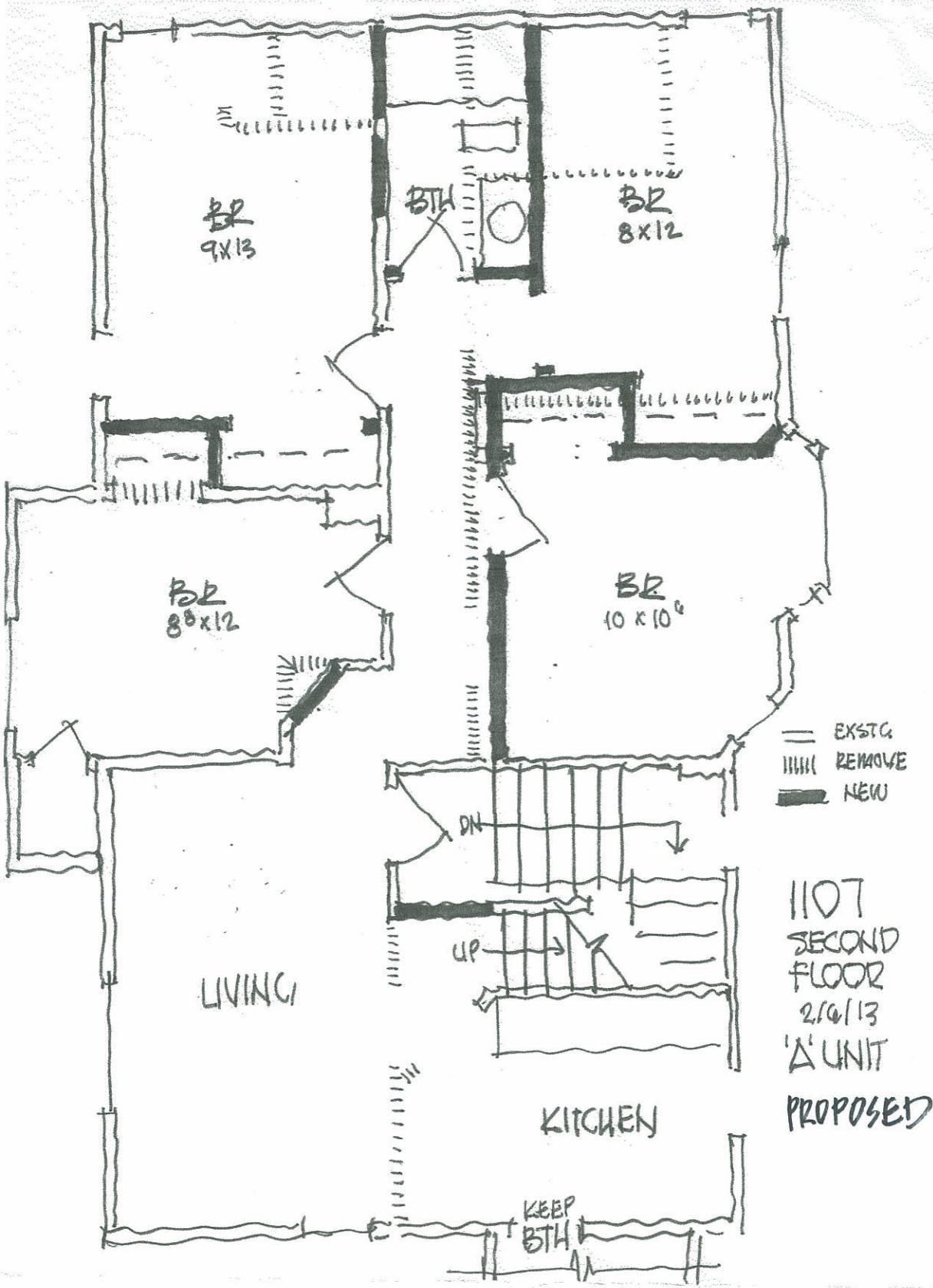
LIVING

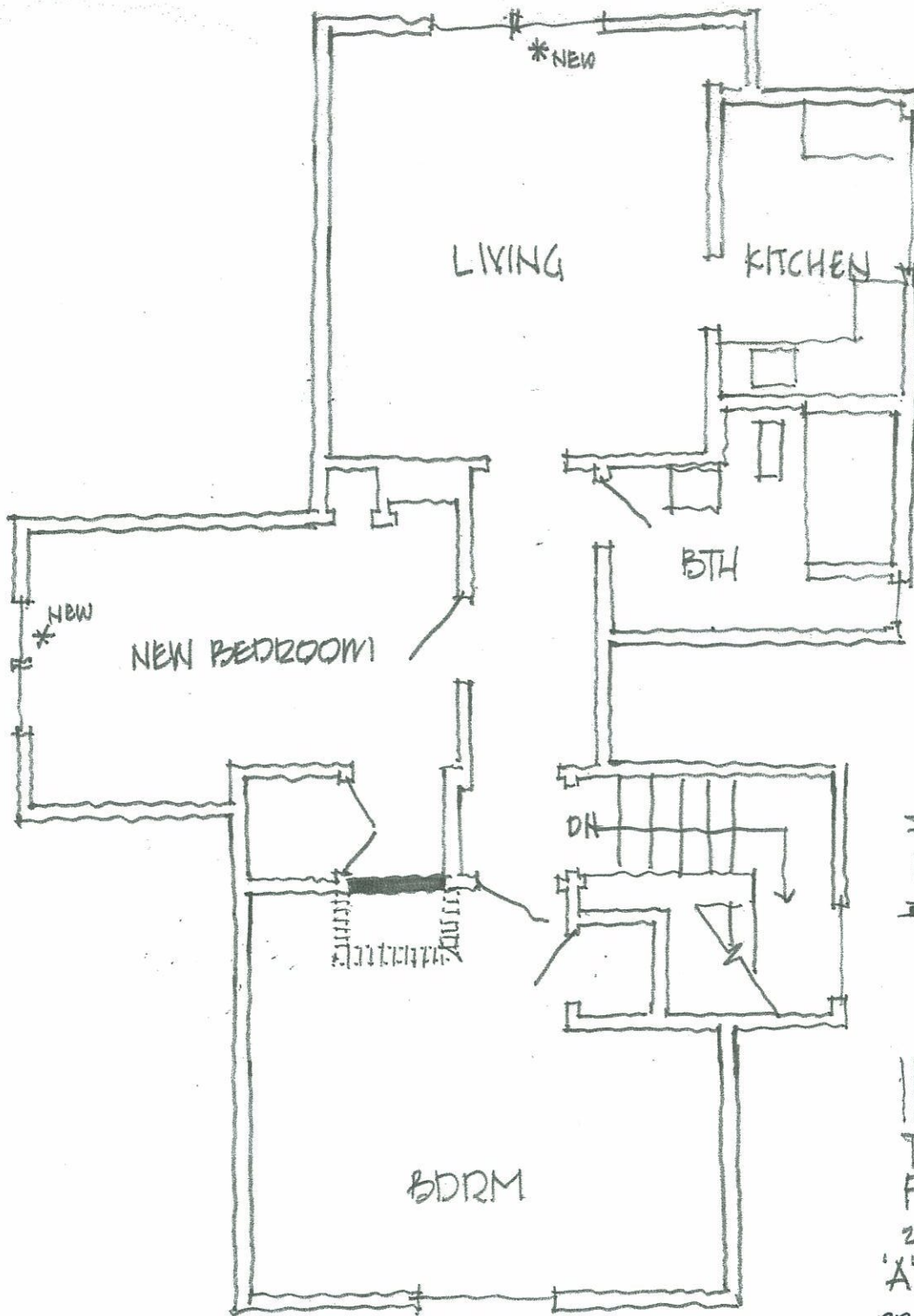
NEW
STAIR
DOWN
TO
BSMT

UP

--- EXISTING
 ||||| REMOVED
 ■■■ NEW

1107
 FIRST
 FLOOR
 2/4/13
 B' UNIT
 PROPOSED





= EXIST'g
 ||||| REMOVED
 = NEW

1107
 THIRD
 FLOOR
 2/1/13
 'A'UNIT
 PROPOSED