

**Zoning Board of Appeals
January 25, 2017 Regular Meeting**

STAFF REPORT

Summary ZBA16-030, 601 E. Hoover Avenue

Donna Tope, owner of the subject property is seeking a twenty-three (23) foot two (2) inch variance from the required thirty (30) foot rear setback requirement for the R1C district. The requested variance is from Chapter 55 Section 5:24. The variance would permit an overall six (6) foot, ten (10) inch distance for the addition to the rear property line.

Description and Discussion

The subject parcel is a 2,265 square foot non-conforming corner lot that is currently being used as a rental property housing six occupants. The R1C district requires 7200 square feet. The property has five bedrooms and one bathroom. The proposed addition will add a bathroom, laundry room, a sixth bedroom and a fire safety egress. The total addition will be approximately 360 square feet, 180 square feet per story.

Standards for Approval - Variance

The Zoning Board of Appeals has all the power granted by State law and by Section 5:99, Application of the Variance Power from the City of Ann Arbor Zoning Ordinance. The following criteria shall apply:

- (a). That the alleged hardships or practical difficulties, or both, are exceptional and peculiar to the property of the person requesting the variance, and result from conditions which do not exist generally throughout the City.***

The subject structure was built in 1901, prior to the establishment of zoning laws. Once zoning was established it placed the home into its current nonconforming status. Applicant states that it has been difficult to improve the property due to its nonconforming status.

- (b). That the alleged hardships or practical difficulties, or both, which will result from a failure to grant the variance, include substantially more than mere inconvenience, inability to attain a higher financial return, or both.***

If the variance is denied, the applicant will not be able to construct the proposed addition. However, interior modifications could be permitted. Under current circumstances, the owner cannot make any additions or alterations to the existing footprint without Zoning Board of Appeals approval.

- (c). That allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this Chapter, the individual hardships that will be suffered by a failure of the Board to grant a variance, and the rights of others whose property would be affected by the allowance of the variance.**

If the variance is granted, the modified structure would be of similar massing and scale as the surrounding properties. The applicant states that the addition will not have an impact on the adjacent properties. The property currently has six (6) tenants and the addition will not increase the number of occupants.

- (d). That the conditions and circumstances on which the variance request is based shall not be a self imposed hardship or practical difficulty.**

Due to the period of time the structure was built, zoning was not enacted and the required setbacks were not in place. However, the proposal of an addition to the structure is a self imposed hardship, and the owner could still complete interior improvements without expanding the square footage of the structure.

- (e). A variance approved shall be the minimum variance that will make possible a reasonable use of the land or structure**

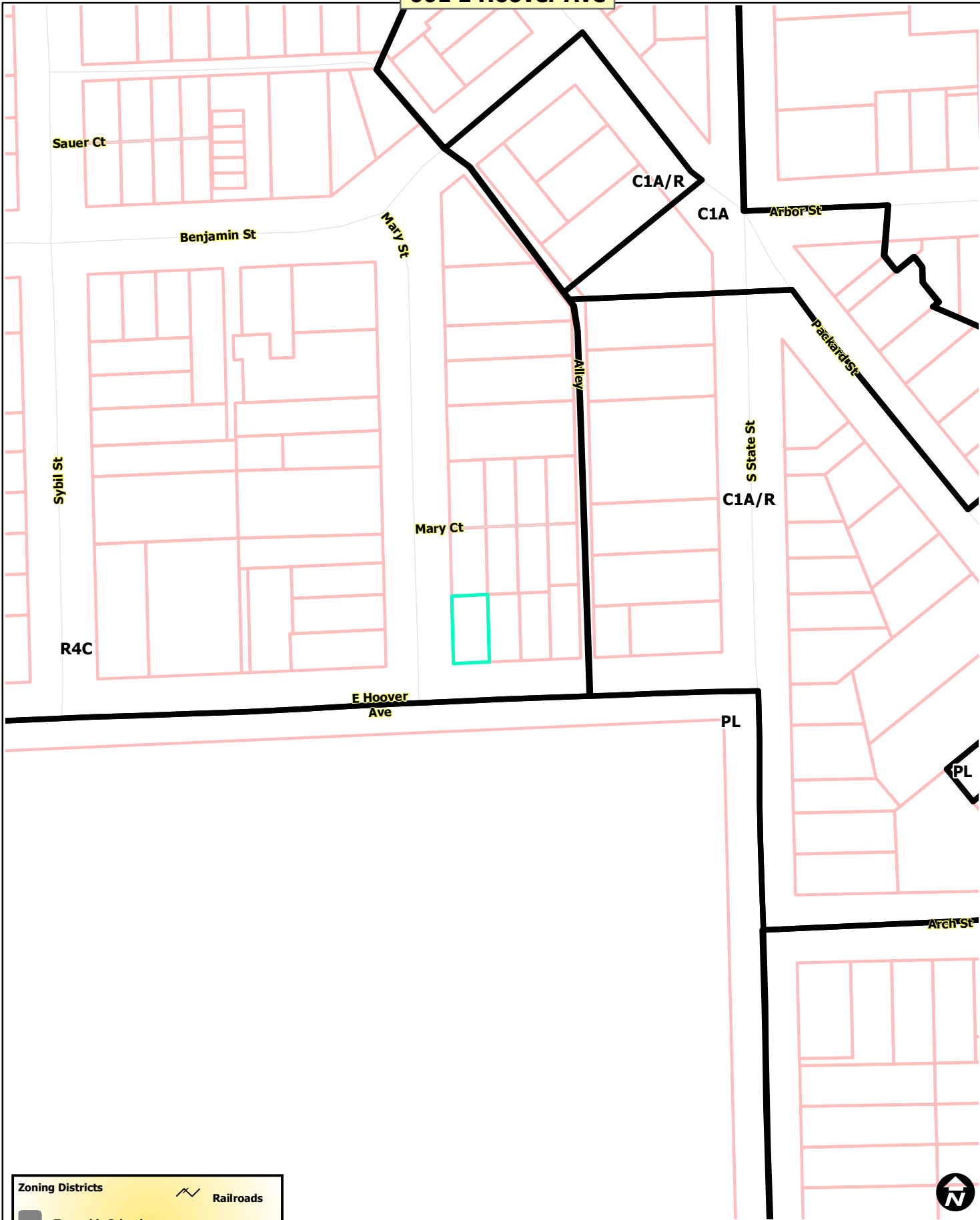
If the variance is granted, the addition will be 320 square feet for both floors of the addition and will be six (6) feet ten (10) inches from the rear property line. The addition will include a bedroom, bathroom and improved laundry area.

Respectfully submitted,



Jon Barrett
Zoning Coordinator

601 E Hoover Ave





Zoning Districts	Railroads
Township Islands	Tax Parcels
City Zoning Districts	Huron River



Map date 1/3/2017
 Any aerial imagery is circa 2015 unless otherwise noted
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601 E Hoover Ave






-  Railroads
-  Tax Parcels
-  Huron River



Map date 1/3/2017
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601 E Hoover Ave



 Railroads
 Tax Parcels
 Huron River



Map date 1/3/2017
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APPLICATION FOR VARIANCE OR NON-CONFORMING STRUCTURE ZONING BOARD OF APPEALS

Section 1: Applicant Information

Name of Applicant: Donna K. Tope
 Address of Applicant: PO Box 1283, Ann Arbor, MI
 Daytime Phone: 734.646.4034
 Fax: _____
 Email: dktope@umich.edu
 Applicant's Relationship to Property: owner's attorney and property manager for the property.

Section 2: Property Information

Address of Property: 601 East Hoover, Ann Arbor, MI 48104
 Zoning Classification: R4C
 Tax ID# (if known): 09-09-32-102-004
 *Name of Property Owner: Harry J. Richter, III

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

Section 3: Request Information

Variance

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

Chapter 55, Section 5:24 rear yard setback

Required dimension:

30'
 Existing 10' 1"

PROPOSED dimension:

6' 10"

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)

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?

This hardship is unique to this property compared to the vast majority of properties within the City of Ann Arbor. The home was built in 1901. Its footprint, use, and internal configuration is unchanged from 1901. The requirement for a 30 foot rear yard setback was imposed upon the property in the 1950's when the zoning ordinance was put in place. The property is automatically impacted by being nonconforming from that date, which has made it impossible to improve the property to meet current health, safety and welfare standards for the legal use of the property since it was built. The addition will include a 2d bathroom, a 2d fire safety egress stair, and a laundry room.

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

The improvements to meet the health, safety and welfare needs of 6 legal occupants in 2016 are impossible to create within the existing structure. The expense of the improvements will not result in a higher financial return because the legal occupancy now is 6 unrelated individuals, and there will be NO change in the legal occupancy limit and thus NO increase in the market rental value after the addition is built. The addition will directly improve the health, safety, and welfare of its occupants, with no increase in market rental value. This property complies in all other respects to the Zoning and Rental Property Compliance regulations and codes.

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

None. The new rear yard setback will be within the spread of all the neighboring properties rear yard setbacks, which, as described on page 3 range from 3'3", 3'10.5", our proposed 6'10", and its 5 immediate neighbors are 9'1"-9'11". The outlier at 26" is 4 properties away.

The addition will be 6'1" from the rear property line. The property to the north, sharing that rear property line, has a rear yard setback of 9'10". There are no doors, exits, parking, porches or decks within that property's rear OR side yard, there will be no impact on that property.

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?

The rear lot line has been in existence since 1901. The 30 foot rear setback requirement imposed on it by ordinance in the 50's made it de facto noncompliant. It never could meet that requirement and it will continue to be noncompliant whether the addition is built or not. That is the ONLY regulation the property cannot meet now or in the future unless the house is torn down. It has served its purpose and been a compatible home in the neighborhood and an asset to the housing stock in that zoning district for 115 years.

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

The nonconformance with the 30 foot rear setback requirement in this R4C neighborhood has existed since the city imposed that setback requirement on the neighborhood in the zoning ordinance enacted in the 1950s. The property could never and cannot now meet a requirement that was imposed by the city on an already existing, developed, up to code home.

Section 5: ALTERATION TO A NON-CONFORMING STRUCTURE

Current use of the property R4C zoned rental, legal occupancy limit of 6 unrelated individuals, valid certificate of compliance.

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)

Existing Condition

Code Requirement

Lot area _____

Lot width _____

Floor area ratio _____

Open space ratio _____

Setbacks The rear yard setback of 10' 1" has been in existence since 1901, code requires 30',
Parking imposed on the lot when zoning was enacted in the '50's rendering it nonconforming.

Landscaping _____

Other _____

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

We propose to place an addition on the foot print of the existing rear covered porch, which
established the rear yard set back at 10' 1" in 1901. The addition, which will create a laundry
room and 2d bathroom and a second stairway egress from the 2d floor, if placed on the existing
footprint, would be only 5' 2" wide. We need 8' 6" inside to build the stairway/landing to safety code
This would leave a rear yard set back of 6' 10"

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:
This is a rear yard setback. The properties which share the back lot line down the block from Mary
to State Street have rear yard setbacks that range from 3'3", 3'10.5", 8'2.5", 9'1.5", 9'4.5", 9'8.5",
9'11", 10'1", & 29'7.5". The house most impacted by the proposed rear yard set back has only grass
on its side and rear yard, no doors opening into the back yard, no parking or easy access to the back
yard and I have never seen anyone using the side or back yard for anything. There would be no
detrimental effect on the property to the north. The property to the east has only parking in its rear.

Wherefore, Petitioner requests that permission be granted from the above named Chapter and Section of the Ann Arbor City Code in order to permit an addition in the rear, changing the rear
yard setback from the current nonconforming 10'1" to a nonconforming 6'10". The property is
conforming to City Building and Rental Housing codes in all other respects.

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.

734.646.4034
 Phone Number
 dktope@umich.edu
 Email Address

Donna K. Tope
 Signature
 Donna K. Tope, MS JD, owner's attorney and manager
 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.

Donna K. Tope
 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.

Donna K. Tope
 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.**

Donna K. Tope
 Signature

On this 10th day of DECEMBER, 2016, 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.

Mary Ann Young
 Notary Public Signature

MAY 27, 2018
 Notary Commission Expiration Date

MARY ANN YOUNG
 Print Name

Staff Use Only

Date Submitted: 12-27-2016

Fee Paid: \$500.00

File No.: ZBA16-030

Date of Public Hearing _____

Pre-filing Staff Reviewer & Date A. Howard 12/27/16

ZBA Action: _____

Pre-Filing Review: _____

Staff Reviewer & Date: _____

December 26, 2016

To Whom It May Concern:

I, Harry J. Richter, III, am the property owner of 601 East Hoover, in Ann Arbor, MI, 48104.

I authorize my attorney, agent, and property manager, Donna K. Tope, MS JD, to represent me and this property in any petition for this property before the City of Ann Arbor Zoning Board of Appeals.

Signed: _____



Harry J. Richter, III

Harry J. Richter, III, signed this in my presence on DECEMBER 10, 2016.

Mary Ann Young
Notary Public MARY ANN YOUNG

My commission expires: MAY 27, 2018

CERTIFIED SURVEY

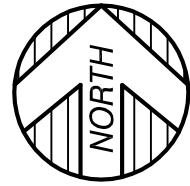
PROPERTY DESCRIPTION:

LAND SITUATED IN THE THE CITY OF ANN ARBOR, WASHTENAW COUNTY, MICHIGAN, DESCRIBED AS FOLLOWS:

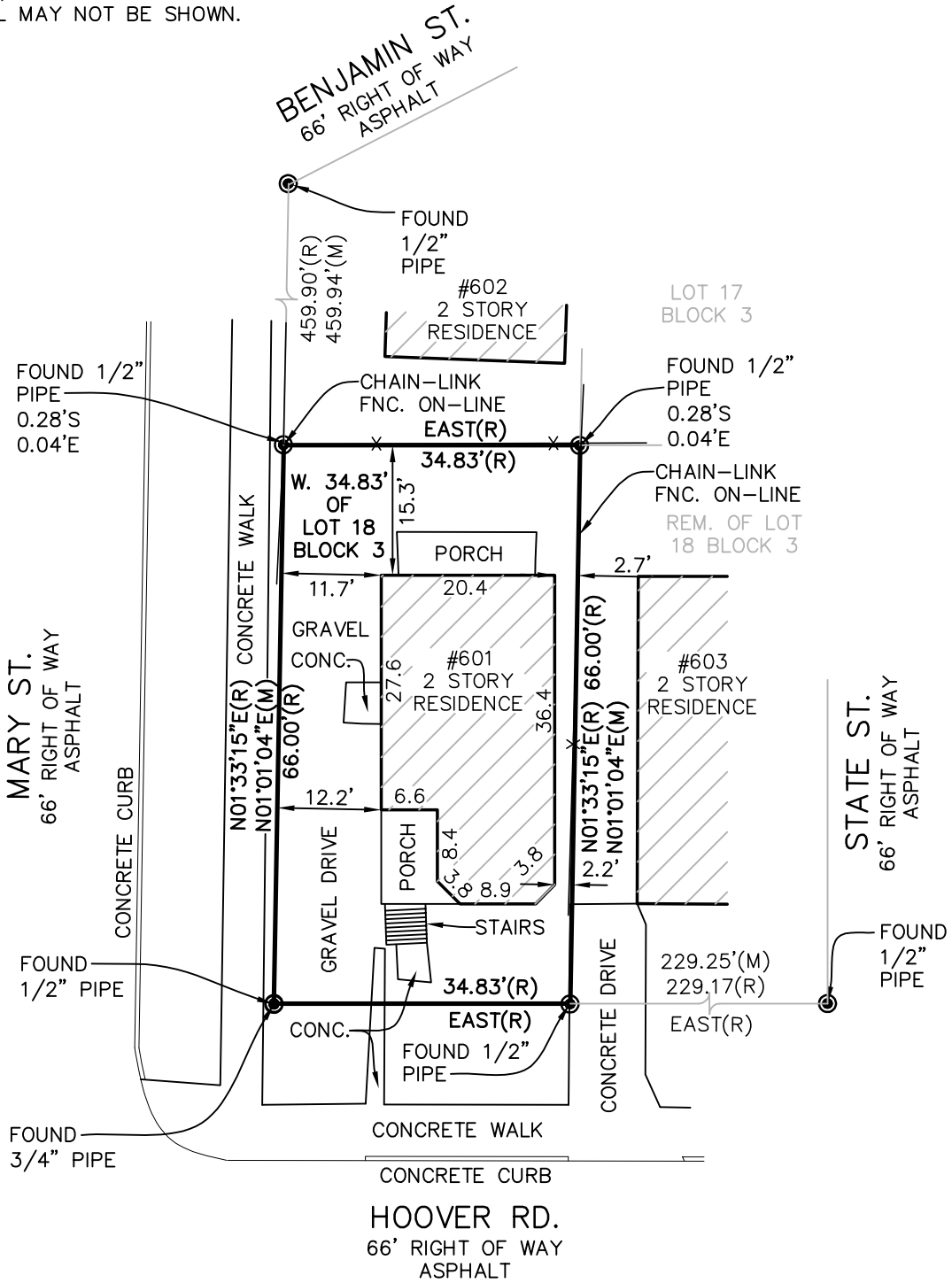
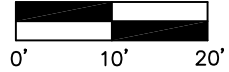
THE WEST 34 FEET AND 10 INCHES (34.83') IN WIDTH OF LOT 18, BLOCK 3; JOHN F. LAWRENCE'S ADDITION, AS RECORDED IN LIBER 1 OF PLATS, PAGE 25 OF WASHTENAW COUNTY RECORDS.

NOTE:

A CURRENT TITLE POLICY HAS NOT BEEN FURNISHED AT TIME OF SURVEY, THEREFORE EASEMENTS AND/OR ENCUMBRANCES AFFECTING SUBJECT PARCEL MAY NOT BE SHOWN.



SCALE: 1"=20'



LEGEND

- SET 1/2" REBAR WITH CAP, #32341
- ⊙ FOUND MONUMENT (AS NOTED)
- (M) MEASURED DIMENSION
- (R) RECORD DIMENSION

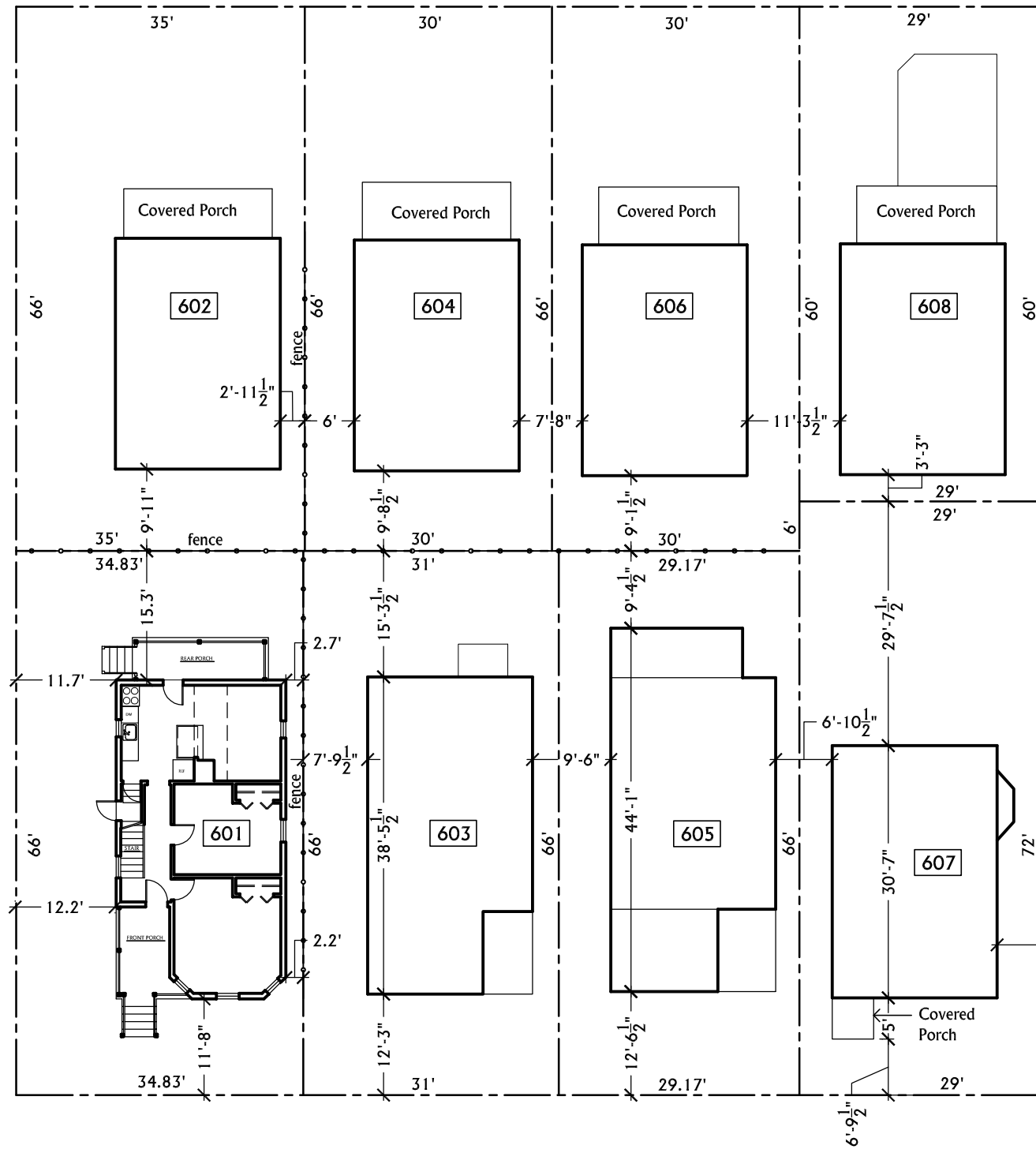
I HEREBY CERTIFY THAT I HAVE SURVEYED THE LAND HEREIN PLATTED AND DESCRIBED AND THAT THE RATIO OF CLOSURE MEETS THE REQUIREMENTS OF PUBLIC ACT 132 OF 1970.

	KEM-TEC & ASSOCIATES	
	22556 GRATIOT AVE. EASTPOINTE, MI 48021 PROFESSIONAL SURVEYORS - PROFESSIONAL ENGINEERS (586)772-2222 * FAX (586)772-4048	
CERTIFIED TO: CAMBRIDGE DEVELOPMENT GROUP, LLC		
FIELD SURVEY: TS SW	DATE: JUNE 28, 2016	
DRAWN BY: NS	SHEET: 1 OF 1	
SCALE: 1" = 20'	JOB NO.: 16-02254	

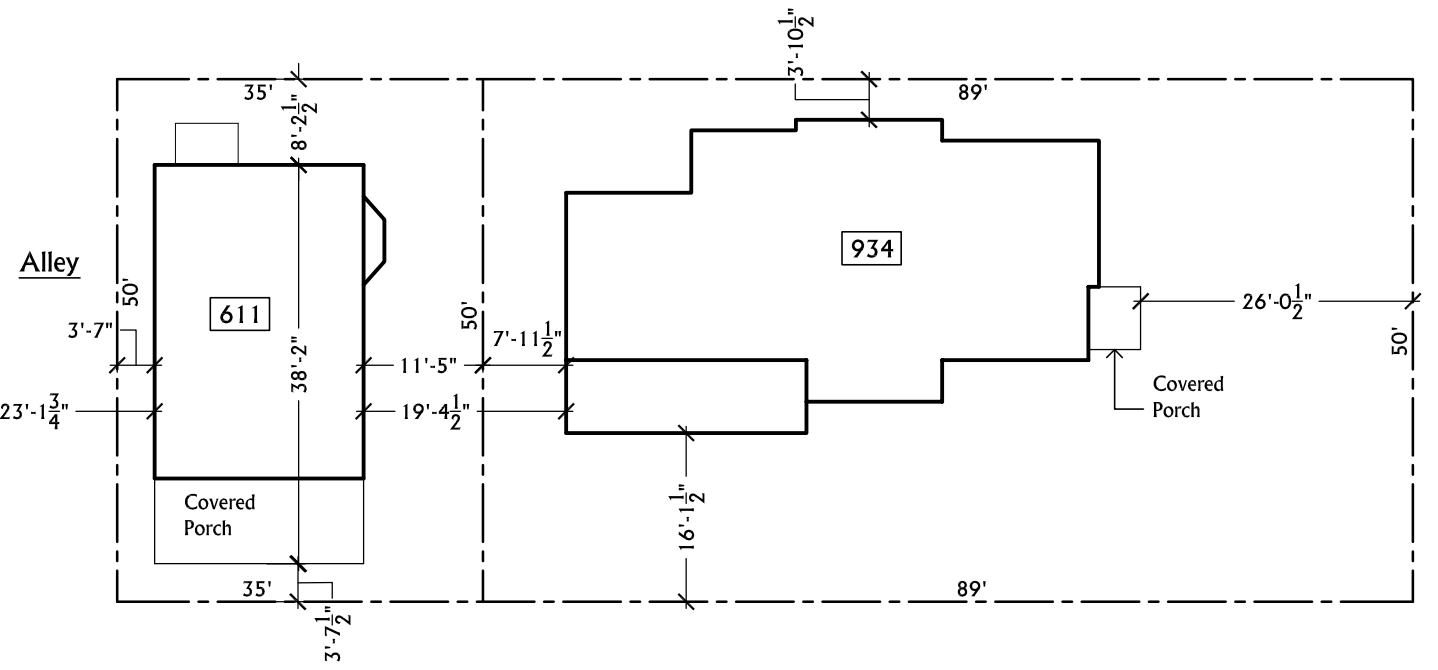
THOMAS G. SMITH., P.S. NO. 32341

MARY CT.

MARY ST.



Alley



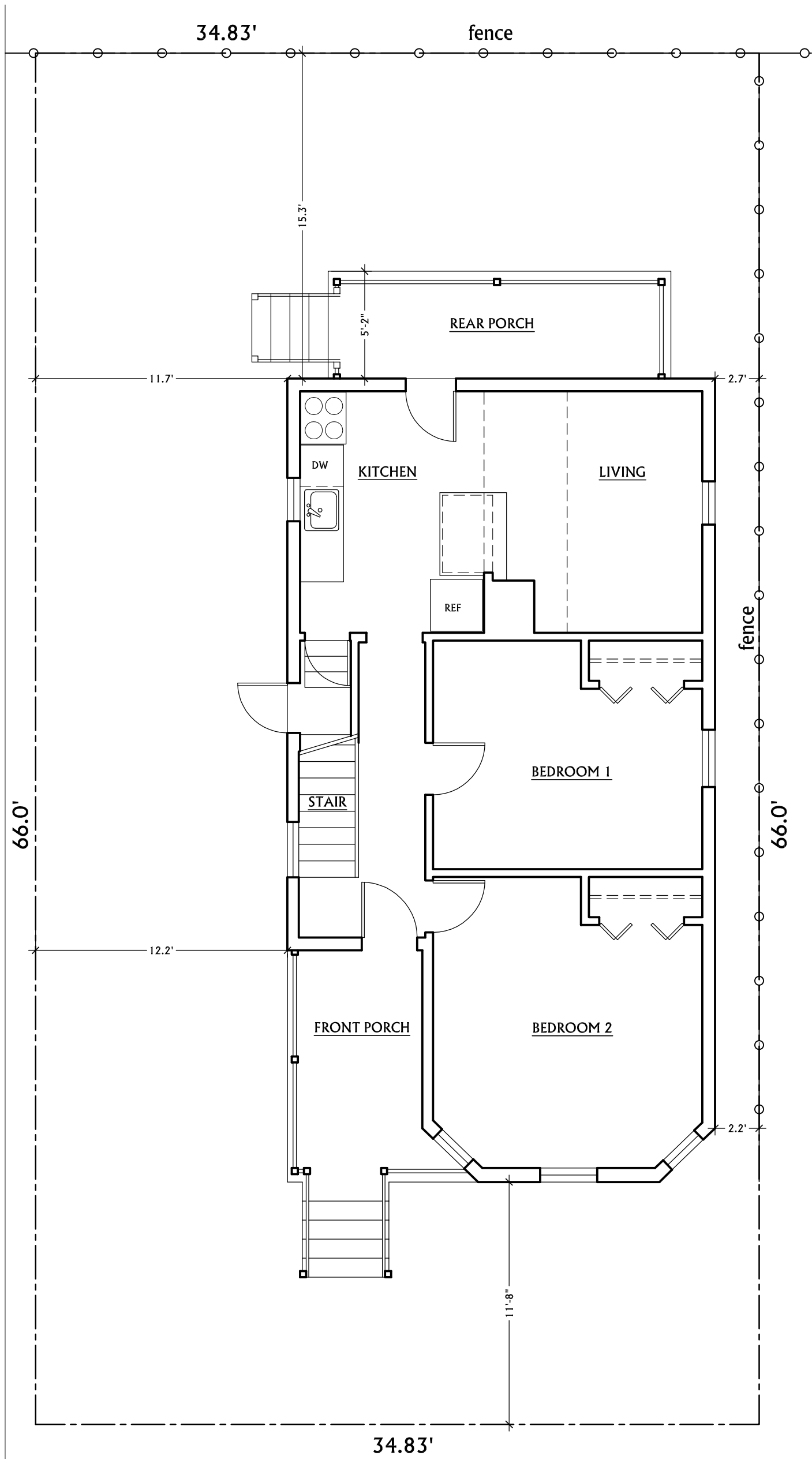
STATE STREET

E. HOOVER AVE.

OVERALL EXISTING SITE PLAN

Date: 12.16.16
Scale: 1" = 30'-0"

SIDEWALK on MARY STREET



NORTH

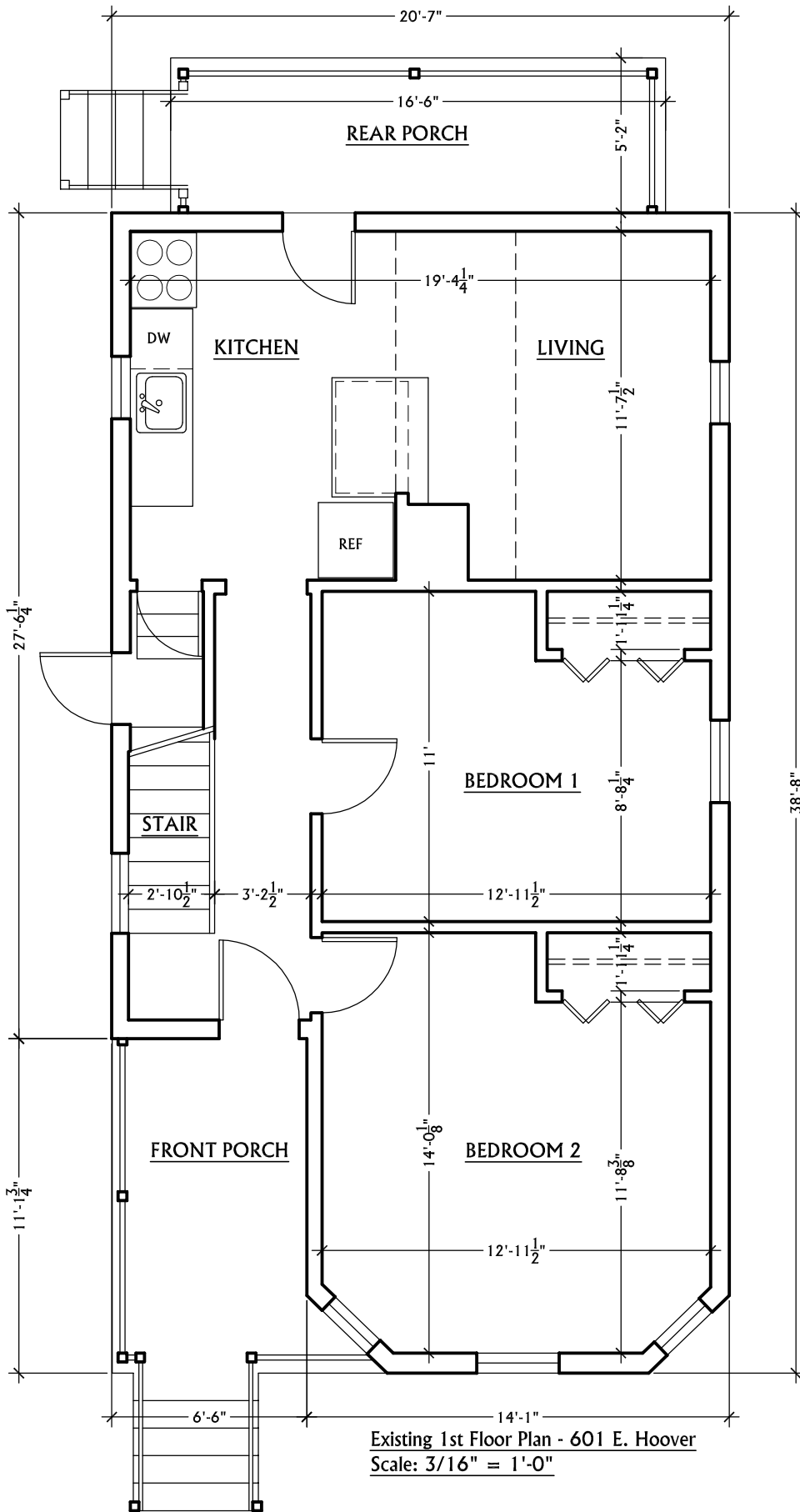


scale: 3/16" = 1'-0"

PROJECT: 601 EAST HOOVER
PROPOSED ADDITION

EXISTING SITE PLAN

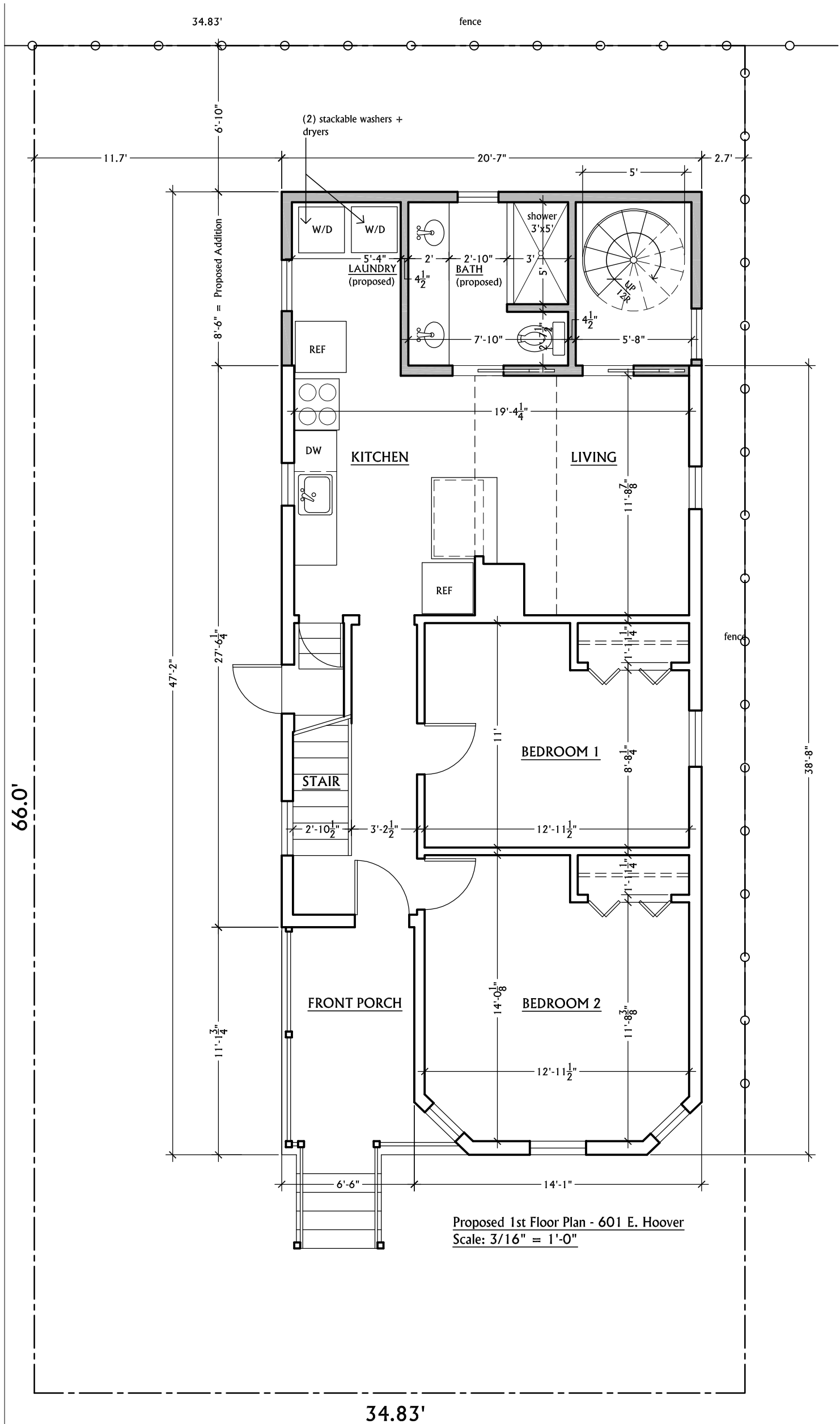
SIDEWALK on EAST HOOVER AVENUE



Existing 1st Floor Plan - 601 E. Hoover
 Scale: 3/16" = 1'-0"

SIDEWALK on MARY STREET

66.0'



Proposed 1st Floor Plan - 601 E. Hoover
Scale: 3/16" = 1'-0"

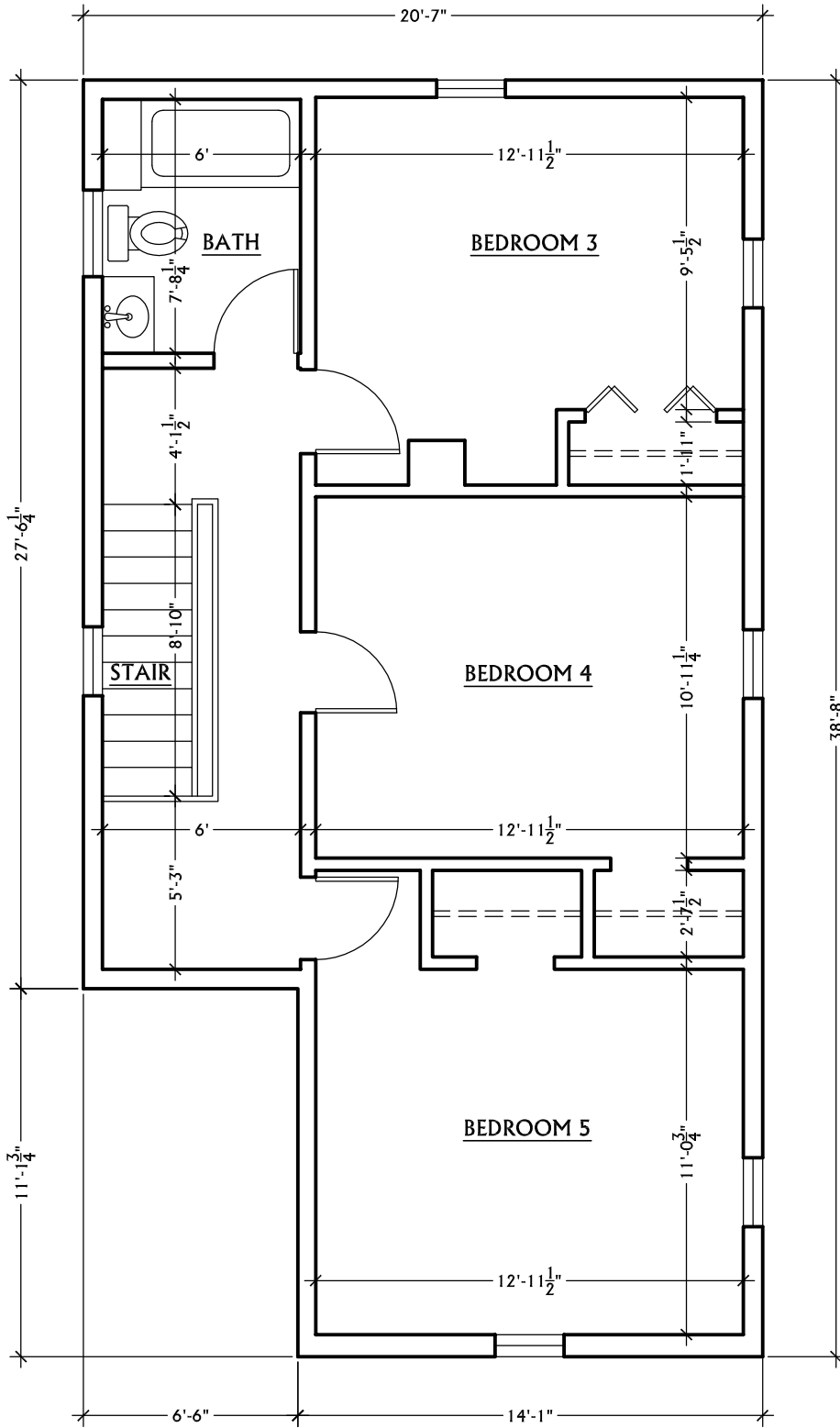


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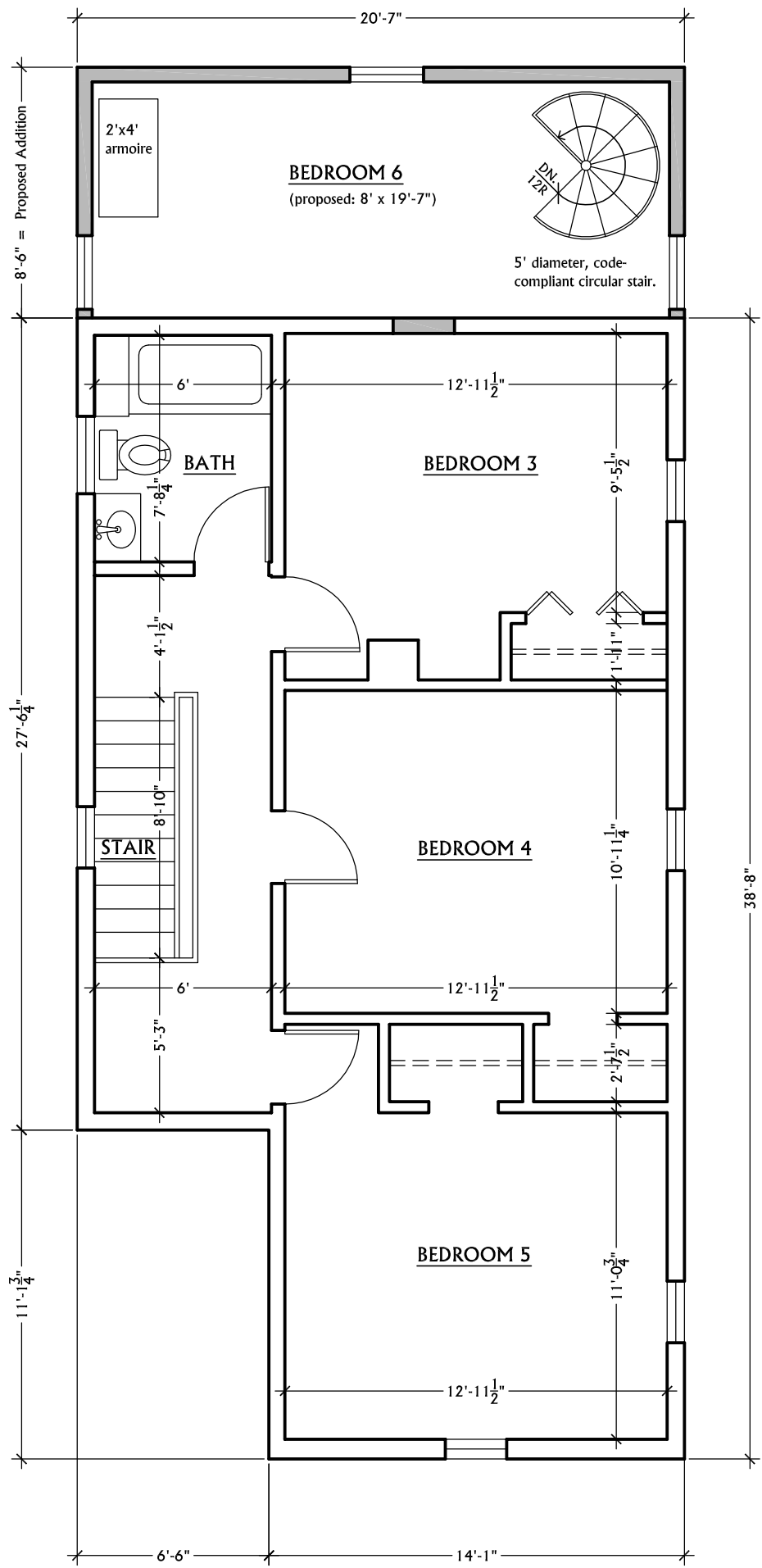
PROJECT: 601 EAST HOOVER
PROPOSED ADDITION

PROPOSED 1st FLOOR PLAN

SIDEWALK on EAST HOOVER AVENUE



Existing 2nd Floor Plan - 601 E. Hoover
 Scale: 3/16" = 1'-0"

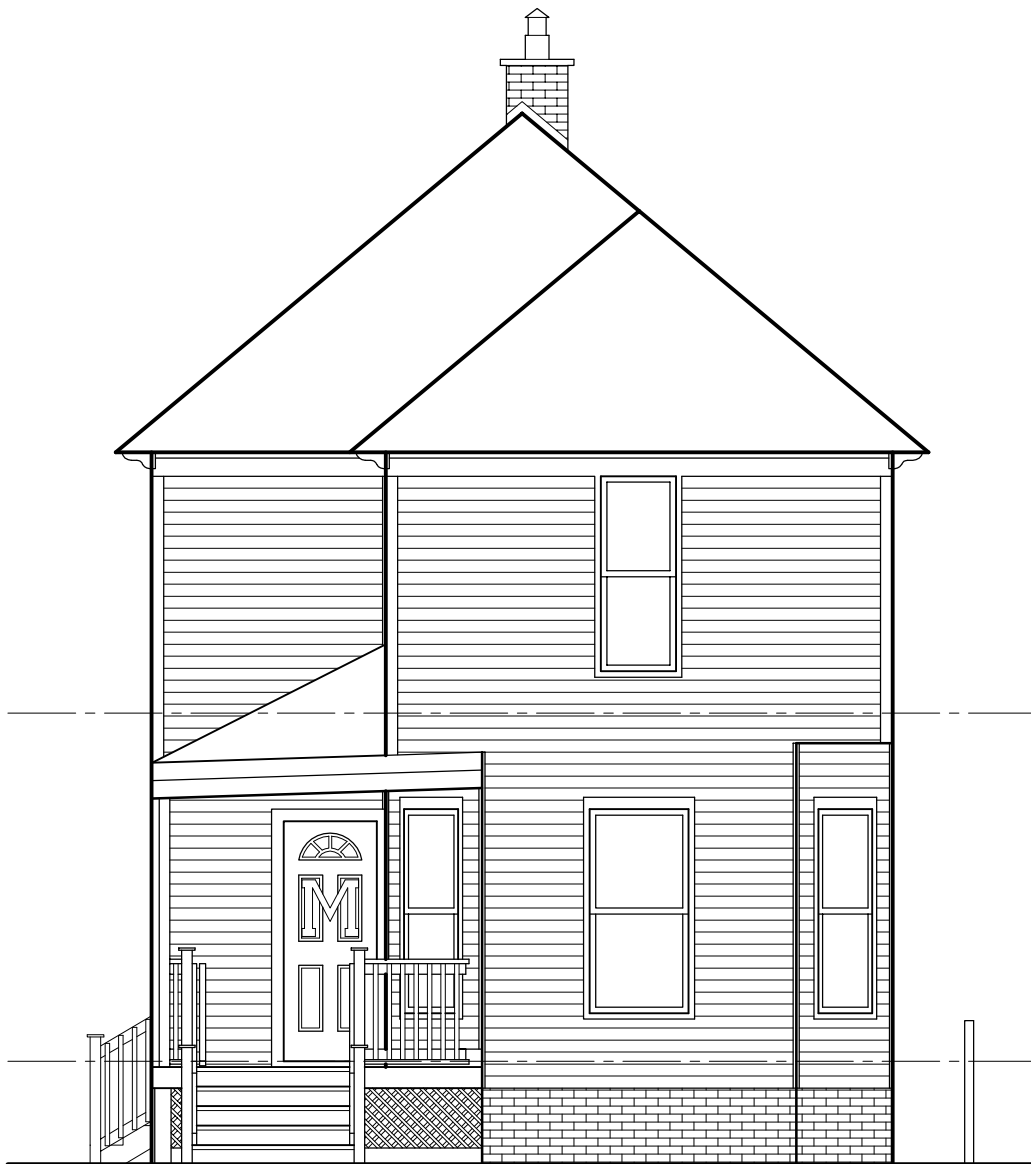


NORTH

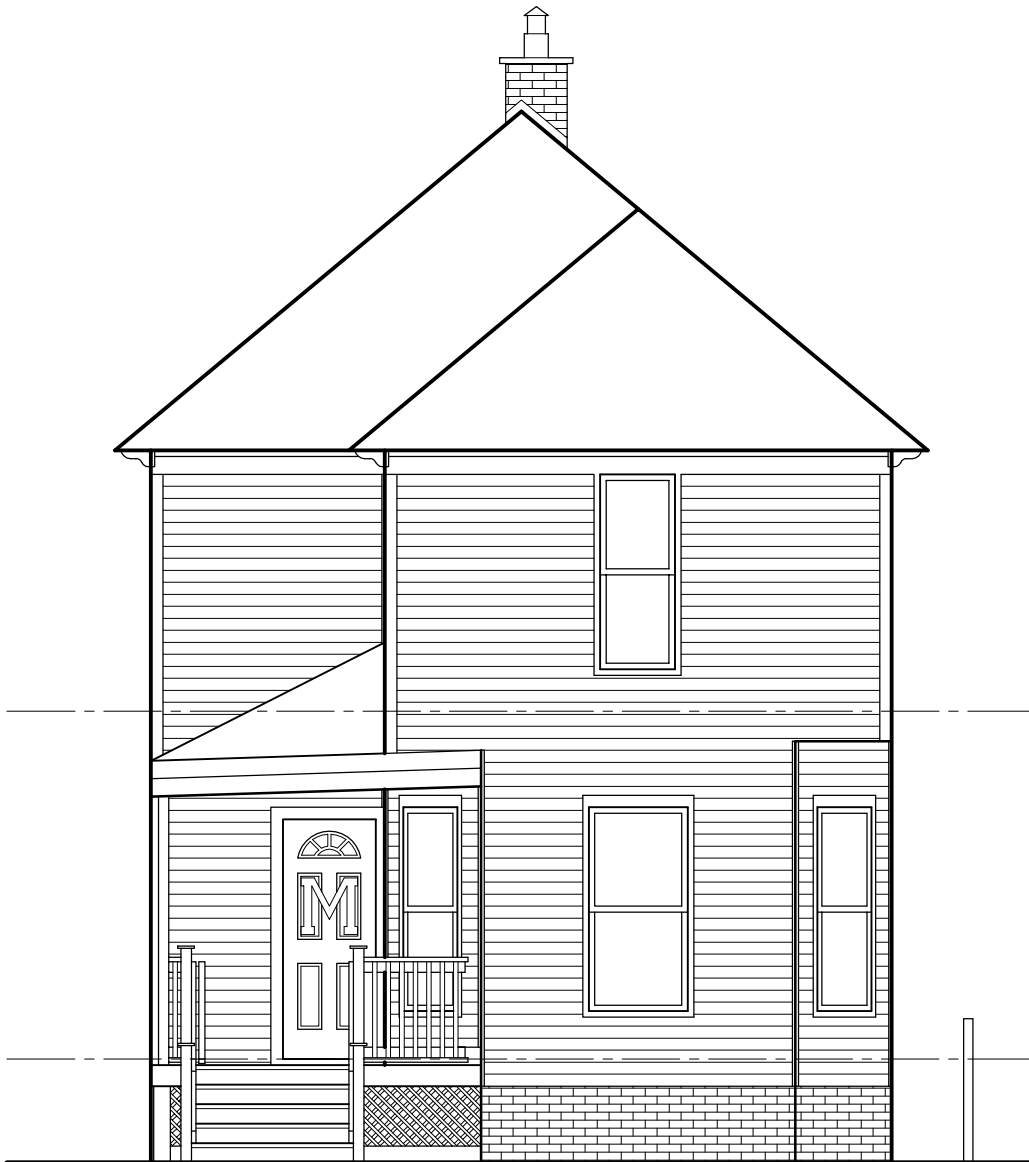
PROJECT: 601 EAST HOOVER
PROPOSED ADDITION

PROPOSED 2nd FLOOR PLAN

scale: 3/16" = 1'-0"



Existing South Elevation - 601 E. Hoover
Scale: 3/16" = 1'-0"



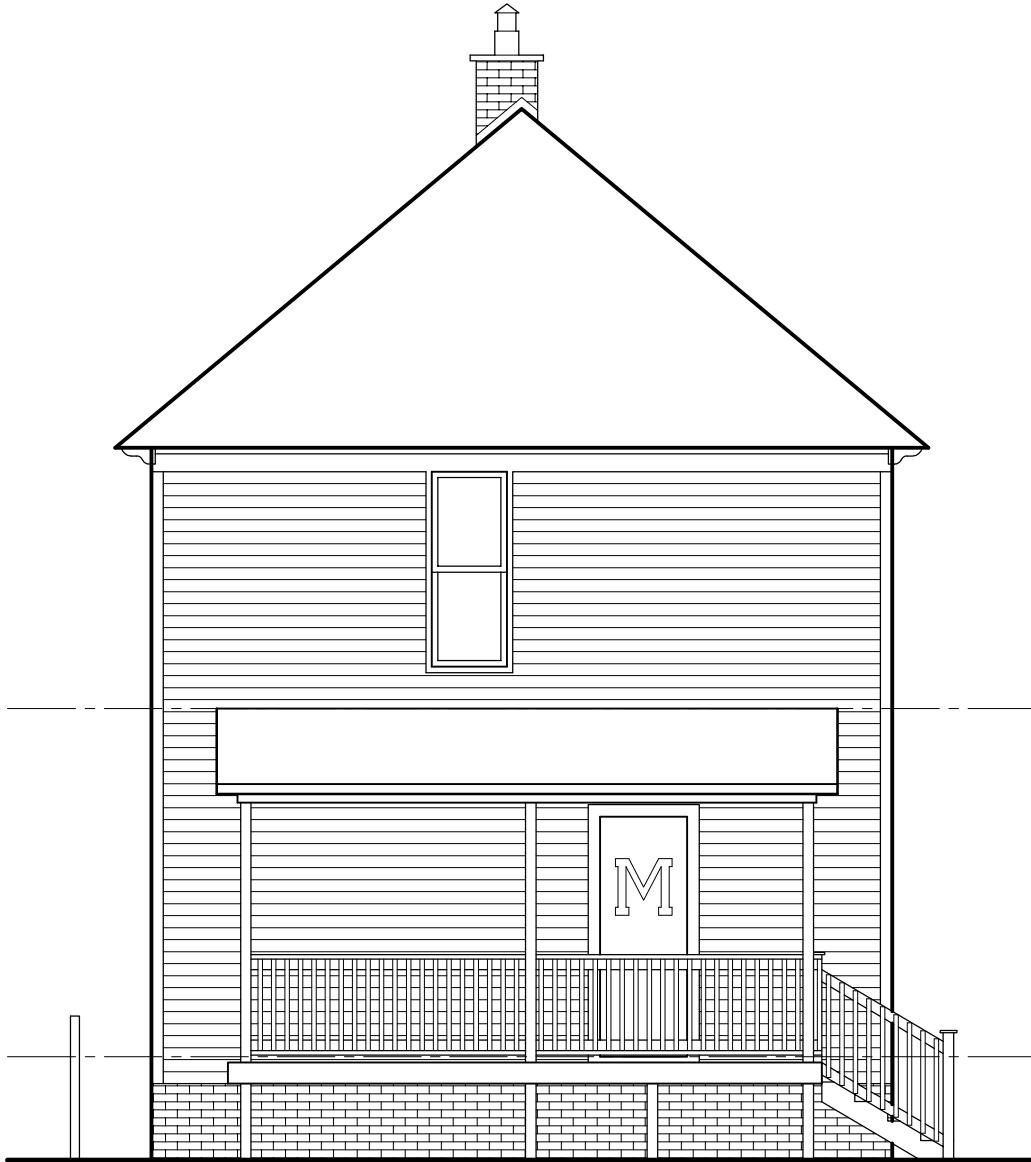
Proposed South Elevation - 601 E. Hoover
Scale: 3/16" = 1'-0"



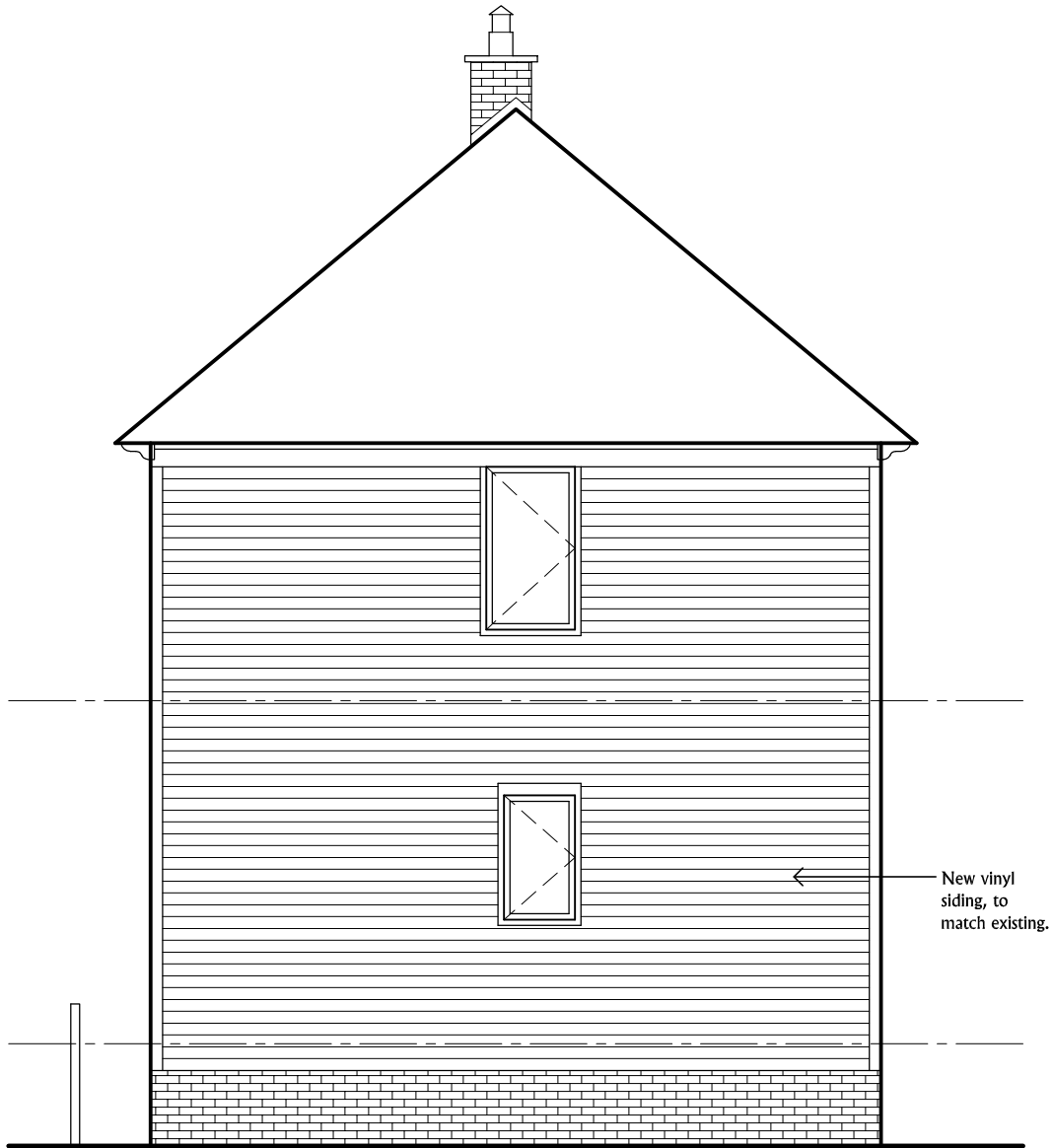
Existing West Elevation - 601 E. Hoover
Scale: 3/16" = 1'-0"



Proposed West Elevation - 601 E. Hoover
Scale: $\frac{3}{16}'' = 1'-0''$



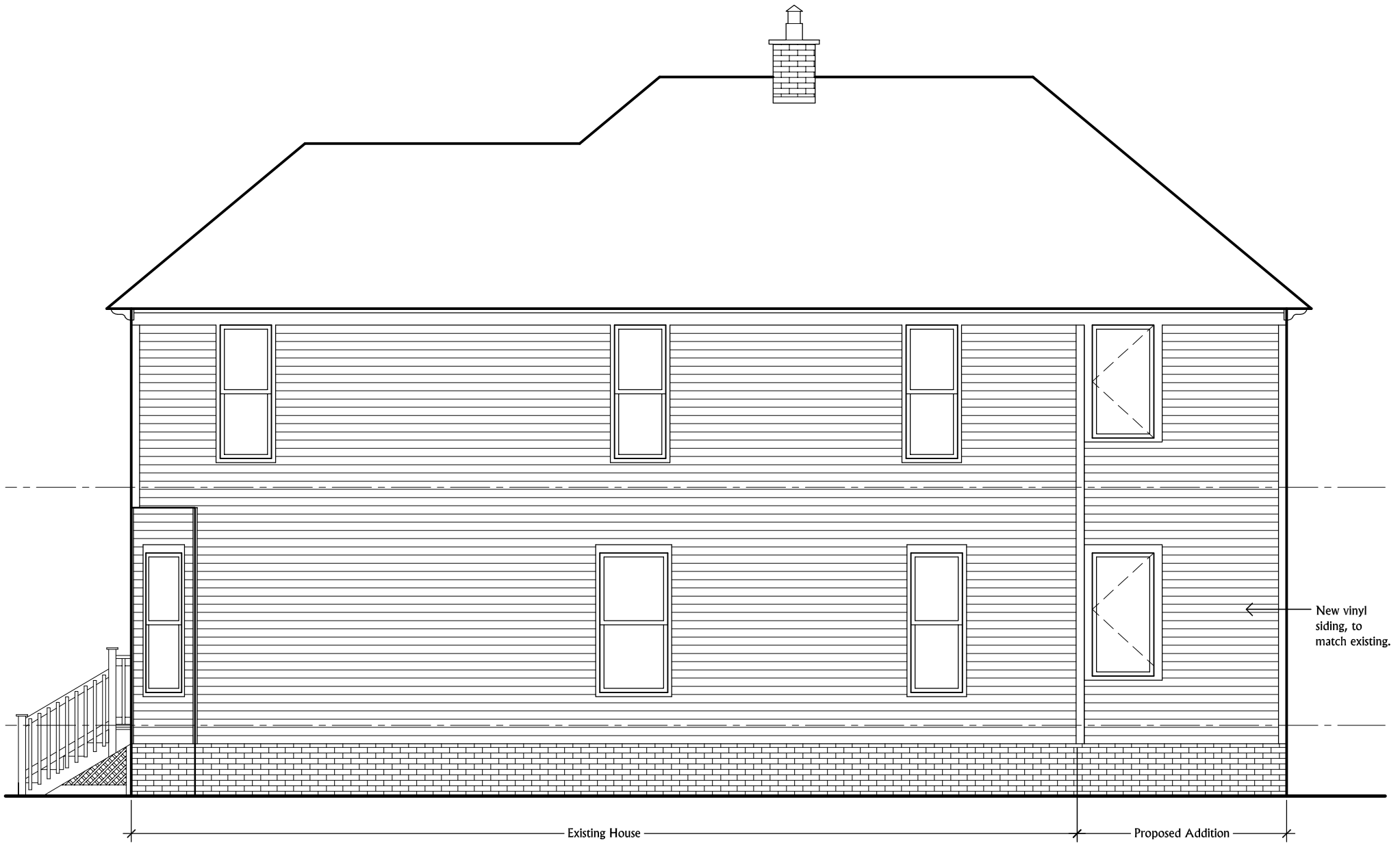
Existing North Elevation - 601 E. Hoover
Scale: 3/16" = 1'-0"



Proposed North Elevation - 601 E. Hoover
Scale: 3/16" = 1'-0"



Existing East Elevation - 601 E. Hoover
Scale: $3/16" = 1'-0"$



Proposed East Elevation - 601 E. Hoover
Scale: 3/16" = 1'-0"