

ANN ARBOR BUILDING BOARD OF APPEALS

STAFF REPORT

Meeting Date: June 20, 2019

Type of Request: VARIANCE

Building Board of Appeals Request **BBA19-002** at 1213 W. Washington, Ann Arbor, MI 48103.

(Parcel Identification Number: **09-09-30-104-018**)

DESCRIPTION AND DISCUSSION

Property Owners Name and Address:

Don Siegel & Annette Ostling
1213 W. Washington, Ann Arbor, MI 48103
Ann Arbor, MI 48103

BACKGROUND

The applicant, Chris Allen, Architect PLLC, who is in the process of designing a renovation project at the above address, wishes to enlarge an existing non-conforming opening (window) on the 1st floor of the West elevation. The non-conformance is due to the fact that the existing window is within 2' 4" of the property line. This is in violation of Table R302.1(1) of the 2015 Michigan Residential Code which governs the project. The table states, no openings are allowed in a wall that has a fire separation distance of less than 3'.

Code Interpretation: Per the 2015 Michigan Residential Code, Appendix J, Section AJ501 (Alterations), AJ501.2 Nonconformities: The work shall not increase the extent of noncompliance or create nonconformity to those requirements that did not previously exist.

STAFF RECOMMENDATION

Staff recommends **NOT** approving the enlargement of the existing non-conforming opening, as it would produce a larger hazard to the occupants due to the openings proximity to the property line as a not Code Compliant fire separation distance of at least 3'. Openings, whether the glazing is fire rated or not, would not be allowed within 3' of the property line. This would not be an equivalent or better form of construction, as it is not allowed.

Standards for Approval:

PA 230 Section 125.15.15

*Specific variance from code: breach of condition; permissible variance.
Sec. 15.*

- (1) *After a public hearing a board of appeals may grant a specific variance to a substantive requirement of the code if the literal application of the substantive requirement would result in an exceptional, practical difficulty to the applicant, and if both of the following requirements are satisfied:*
 - a. *The performance of the particular item or part of the building or structure with respect to which the variance is granted shall be adequate for its intended use*

and shall not substantially deviate from performance required by the code of that particular item or part for the health, safety and welfare of the people of this state.

- b. The specific condition justifying the variance shall be neither so general nor recurrent in nature as to make an amendment of the code with respect to the condition reasonably practical or desirable.*
- (2) *A board of appeals may attach in writing any condition in connection with the granting of a variance that in its judgement is necessary to protect the health, safety and welfare of the people of this state. The breach of a condition shall automatically invalidate the variance and any permit, license and certificate granted on the basis of it. In no case shall more than a minimum variance from the code be granted than is necessary to alleviate the exceptional, practical difficulty.*

ANN ARBOR BUILDING/CONSTRUCTION BOARD OF APPEALS

Appeal to Board: Hearing BBA19-002
1213 W. Washington, Ann Arbor, MI 48103
(Parcel Identification Number: 09-09-30-104-018)

VARIANCE GRANTED

That in BBA19-002, the appeal for a variance from 2015 Michigan Residential Code Table R302.1(1) for the proposed renovation project at 1213 W. Washington is **GRANTED** because the Board finds that maintaining the existing non-conforming opening (window), rather than enlarging it as proposed, results in an **exceptional, practical difficulty** to the applicant and the owners and the Board further finds that:

(a) The performance of the proposed enlarged window will be adequate for its intended use and does not substantially deviate from the performance required by the code for the health, safety and welfare of the people of this state; and,

(b) The specific condition claimed by the applicant and owners that justifies the variance is _____ (the condition identified by the Board must be neither general nor recurrent in nature). (To be filled in by BBA).

Yeas:

Nays:

OR

VARIANCE DENIED

That in BBA19-002, the appeal for a variance from 2015 Michigan Residential Code Table R302.1(1) for the proposed renovation project at 1213 W. Washington is **DENIED** because the Board finds that the proposed enlargement to an existing non-conforming opening (window) on the 1st floor of the West elevation will increase the extent of the current nonconformity and the requirement to comply with Table R302.1 is not an **exceptional, practical difficulty** and the Board further finds that:

(a) The performance of the proposed enlarged window would not be adequate for its intended use and substantially deviates from performance required by the code for the health, safety and welfare of the people of this state; and,

(b) The specific condition of the existing window is a general and recurrent condition in building such that granting the variance is not justified because it would amount to an amendment of the code.

Yeas:

Nays:

Date

Chairperson, Building Board of Appeals

Copy received:

Date:

Applicant/Representative (print name):



City of Ann Arbor
PLANNING & DEVELOPMENT SERVICES
 301 E. Huron St. | P.O. Box 8647 |
 Ann Arbor, Michigan 48107-8647
 p. 734.794.6263 | f. 734.994.8460 | building@a2gov.org
APPLICATION FOR BUILDING/CONSTRUCTION CODE APPEAL

Facility Information				
Facility Name SIEGEL/OSTLING RESIDENCE		County WASHTENAW		
Facility Street Address 1213 W. WASHINGTON		City ANN ARBOR	Zip 48103	
Permit Number				
Building Data				
New Building <input type="checkbox"/>	Addition <input checked="" type="checkbox"/>	Alteration <input checked="" type="checkbox"/>	Repair <input type="checkbox"/>	
Classification Per Building Code Building Use SINGLE FAMILY RESIDENTIAL	No. Of Floors 2	Construction Type SB	Area/Floor 1: 1340 GSF 2: 730 GSF TOTAL 2070	No. Of Occupants 4
Permit Holder				
Name (Company or Individual) ADAPTIVE BUILDING SOLUTIONS LLC		Contact Name MIKE MAHAN		
Street Address 2288 S. INDUSTRIAL	City ANN ARBOR	State MI	Zip 48104	
Phone 734-277-6556	Fax	Email MIKE@ADAPTIVEBUILDING.COM		
Building Owner				
Name (Company or Individual) DON SIEGEL & ANNETTE OSTLING		Contact Name ANNETTE OSTLING		
Street Address 1213 W. WASHINGTON	City ANN ARBOR	State MI	Zip 48103	
Phone (734) 546-3779	Fax	Email AOSTLING@UMICH.EDU		
Summary Of Appeal				
CODE SECTION(s) TABLE R302.1(1) OPENINGS NOT ALLOWED IN WALLS WITH A FIRE SEPARATION DISTANCE LESS THAN 3'		Provide copies of the following as appropriate: Statement of Facts and Reasoning SEE ATTACHED		
DESIRED RELIEF (State Briefly) INSTALL A 1-HOUR U.L. RATED FIRE WINDOW MANUFACTURED BY F4RE-TEC FOR SIMILAR LOT LINE SITUATIONS.				
BASIS OF APPEAL (State Briefly) 1 HOUR RATING FOR WINDOW IS EQUIVALENT TO 1 HOUR RATING FOR WALL WITH THE SAME FIRE SEPARATION DISTANCE (LESS THAN 3').		Supporting Material SEE ATTACHED		

Applicant (all correspondence will be sent to this address)			
Name (company or individual) CHRIS ALLEN ARCHITECT PLLC		Applicant Name CHRIS ALLEN	
Street Address 706 HISCOCK ST.	City ANN ARBOR	State MI	Zip 48103
Phone 734-883-3642	Fax	Email CALLENARCHITECT@ATT.NET	
Application Fee (applicant is responsible for paying fee)			
Residential \$250.00	<input checked="" type="checkbox"/>	Commercial \$500.00	<input type="checkbox"/>
<p><i>Note: You have the right to appeal the City of Ann Arbor's Building Boards of Appeals decision to the State of Michigan. If you choose to appeal this decision, then application must be made within 10 days of the decision to the address listed below, in accordance with Section 16 of 1972 PA 230. Michigan Department of Labor & Economic Growth, Bureau of Construction Codes, P.O. Box 30255, Lansing, MI 48909 517-241-9303, www.michigan.gov/bcc</i></p> <p>Note : Reasons for Appeal (Per MRC, Section R112.2, MBC, Section 113.2) include:</p> <ol style="list-style-type: none"> 1. The true intent of the code or the rules governing construction have been incorrectly interpreted. 2. The provisions of the code do not apply. 3. An equal or better form of construction is proposed. 			
Applicant Signature cl eel		Date 4/30/11	

**1213 W. Washington
Building Board of Appeals**

Statement of Facts and Reasoning

As part of a planned renovation and addition to the house, the owner would like to replace the existing casement window on the west wall of the kitchen with a new window.

The west wall of the kitchen is located 2'-4" from the interior (side) property line. Therefore the fire separation distance is 2'-4" for this wall. Table R302.1.(1) of the Michigan Residential Code does not allow openings in a wall that has a fire separation distance of less than 3'.

The proposed new and larger window is a 1 hour UL tested window with clear ceramic insulated glass and a steel frame. It is a single-hung type window that will close automatically in the event of a fire. The window also complies with NFPA 80. According to the literature from the window manufacturer (attached), it is intended for use in lot line situations such as this case.

The 1-hour rating for the window is equivalent to the 1 hour rating required for a wall that has the same fire separation distance.

The existing casement window is not UL tested and does not have a rating. It is made of wood. It does not automatically close. Therefore the new window will result in increased safety for the occupants and increased protection for the property.

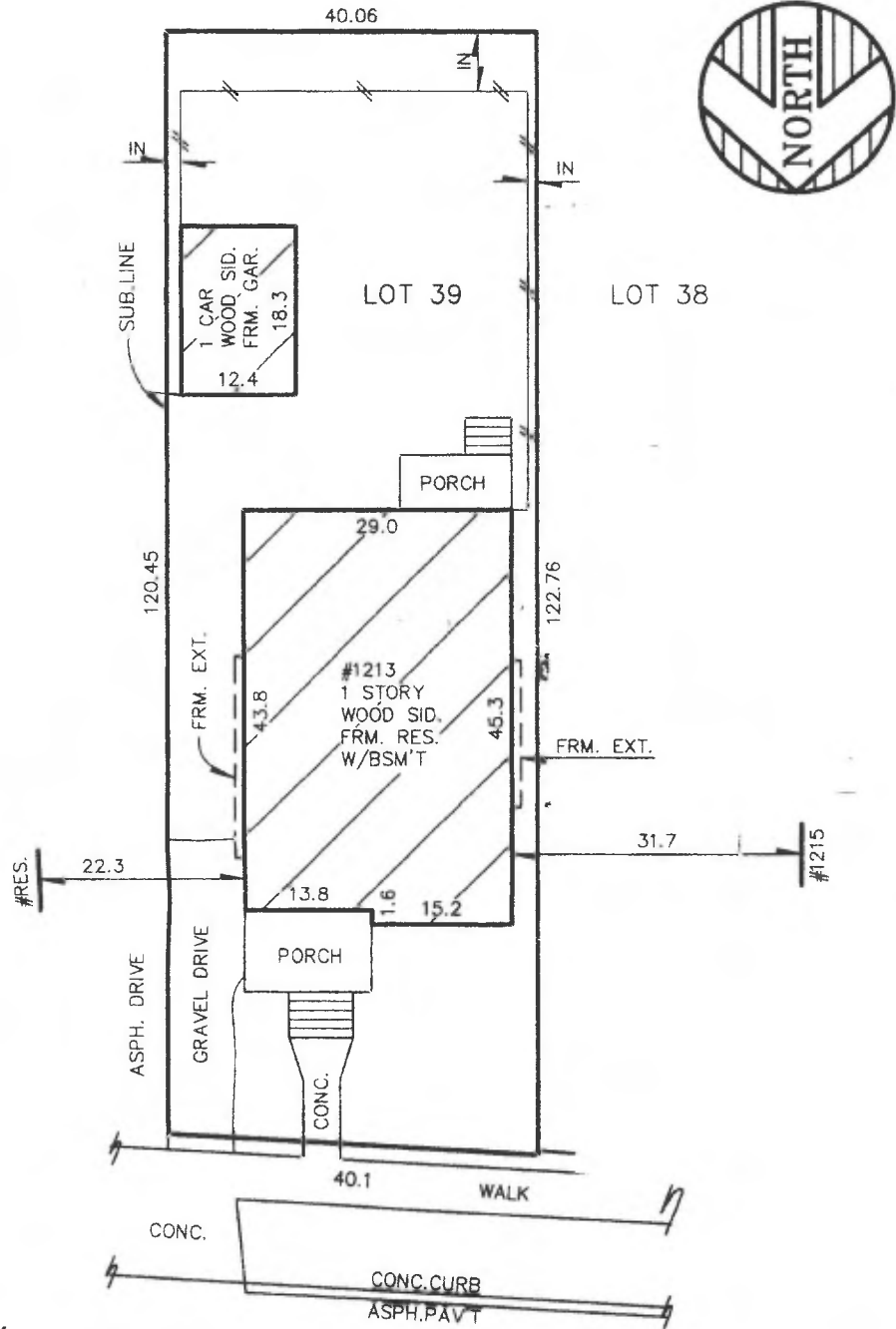
MORTGAGE SURVEY

Certified to: NATIONAL CITY MORTGAGE

Applicant: DONALD SIEGEL AND ANNETTE OSTLING

Property Description:

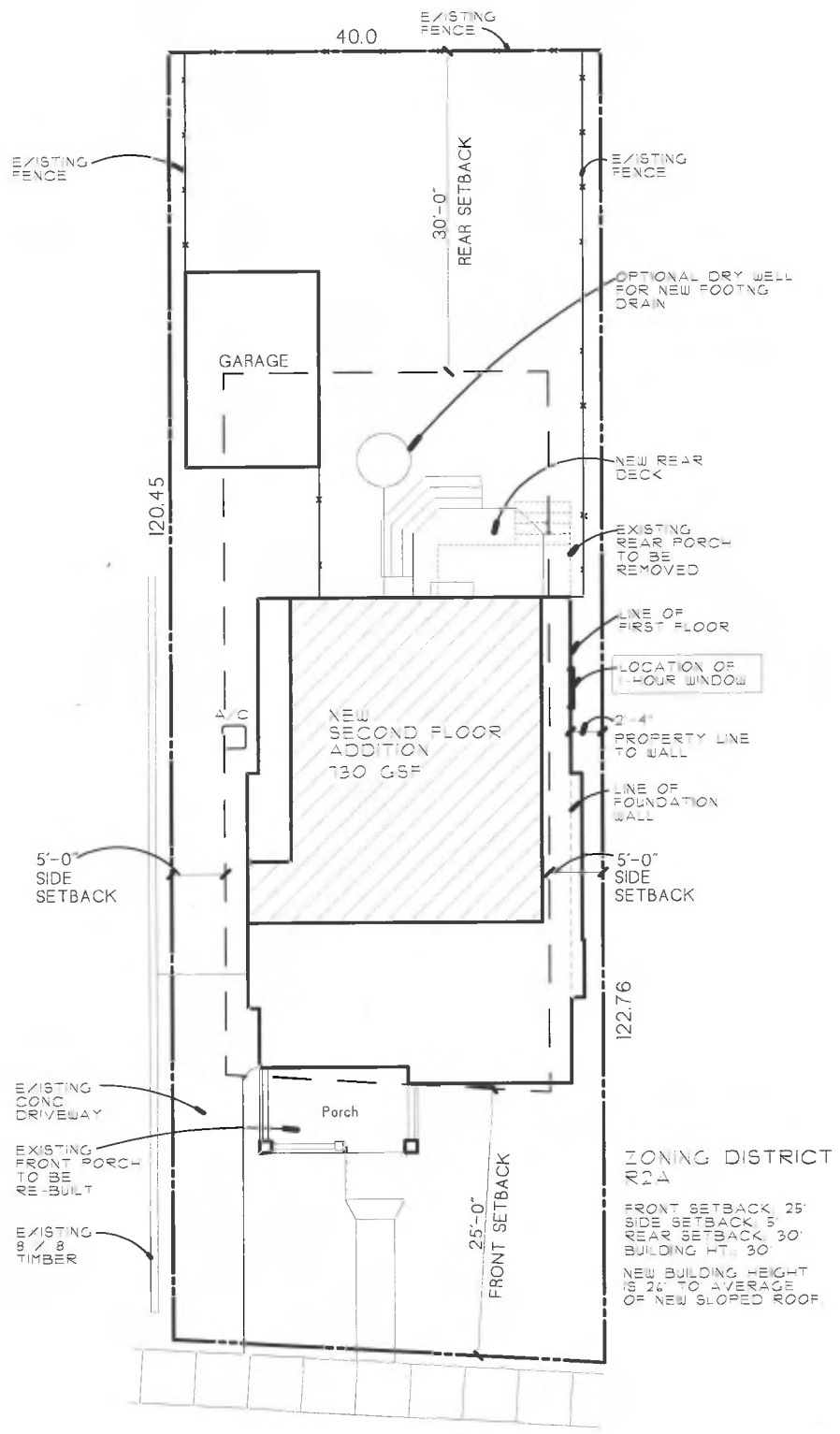
Lot 39; KILLINS HEIGHTS ADDITION, to the City of Ann Arbor, part of the N.E. 1/4 of Section 30, T.2 S., R.6 E., City of Ann Arbor, Washtenaw County, Michigan, as recorded in Liber 3 of Plats, Page 16 of Washtenaw County Records.



W. WASHINGTON 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 aforementioned





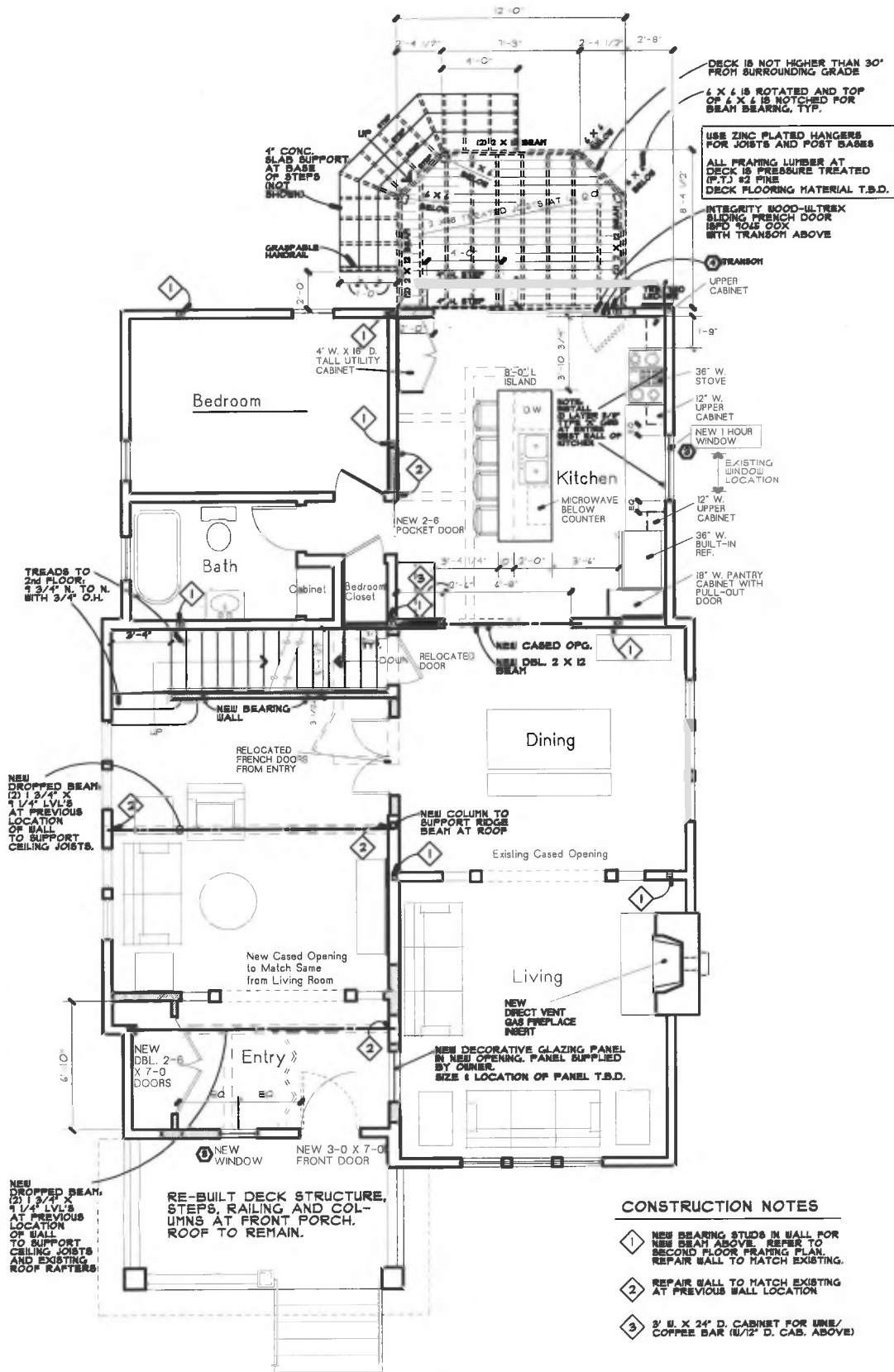
1213 W. Washington St.
Site Plan



Scale: 1/16" = 1'-0"



Satellite Image of area

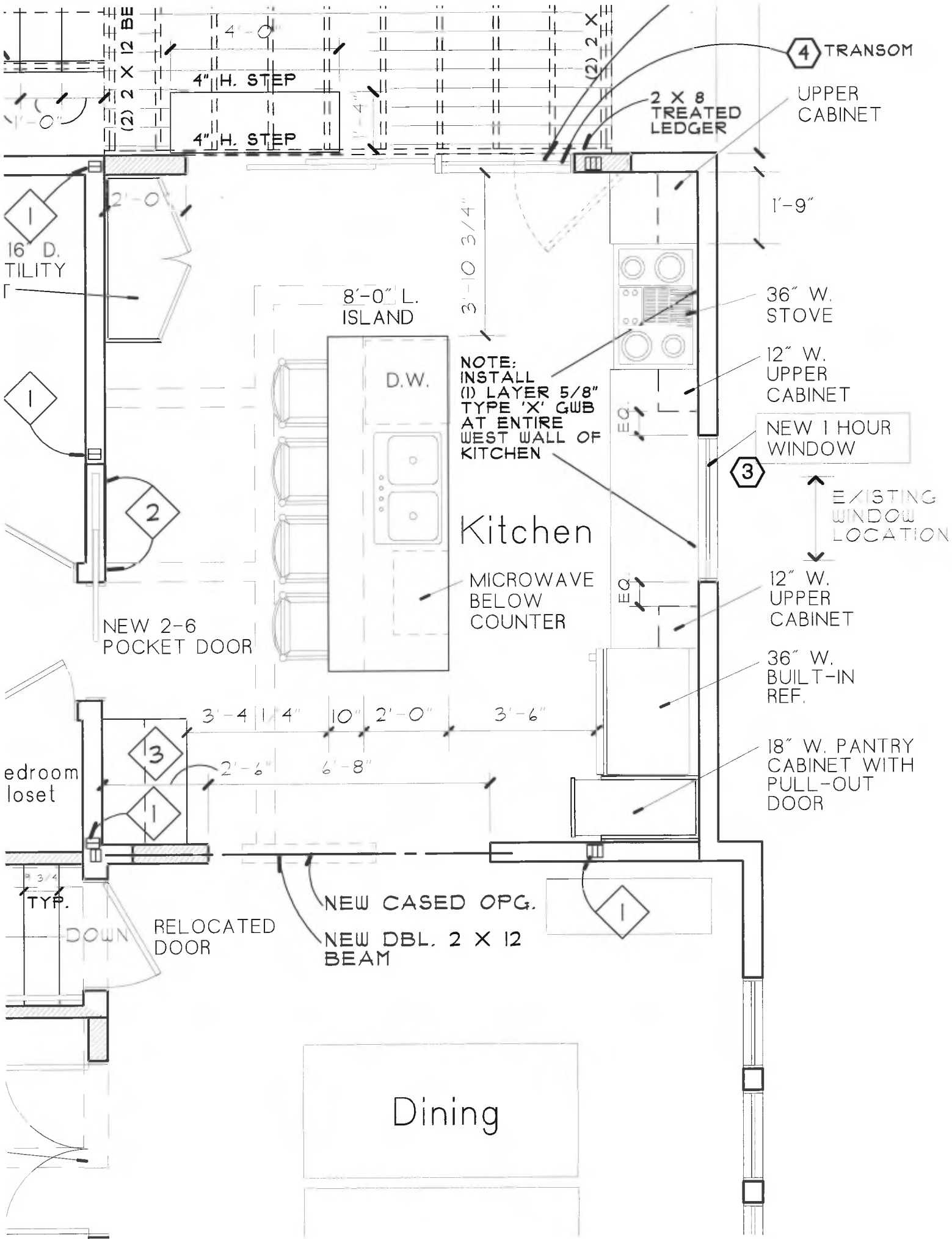


Renovated 1,340 GSF



First Floor Plan

Scale: 1/4" = 1'-0" REV. 1/16/19



4 TRANSOM

UPPER CABINET

2 X 8 TREATED LEDGER

1'-9"

36" W. STOVE

12" W. UPPER CABINET

NEW 1 HOUR WINDOW

3

EXISTING WINDOW LOCATION

12" W. UPPER CABINET

36" W. BUILT-IN REF.

18" W. PANTRY CABINET WITH PULL-OUT DOOR

NOTE: INSTALL (1) LAYER 5/8" TYPE 'X' GWB AT ENTIRE WEST WALL OF KITCHEN

Kitchen

MICROWAVE BELOW COUNTER

8'-0" L. ISLAND

D.W.

NEW 2-6 POCKET DOOR

2

16" D. TILITY

1

edroom loset

3

1

TYP.

DOWN

RELOCATED DOOR

NEW CASED OPG.
NEW DBL. 2 X 12 BEAM

Dining

(2) 2 X 12 BE

4" H. STEP

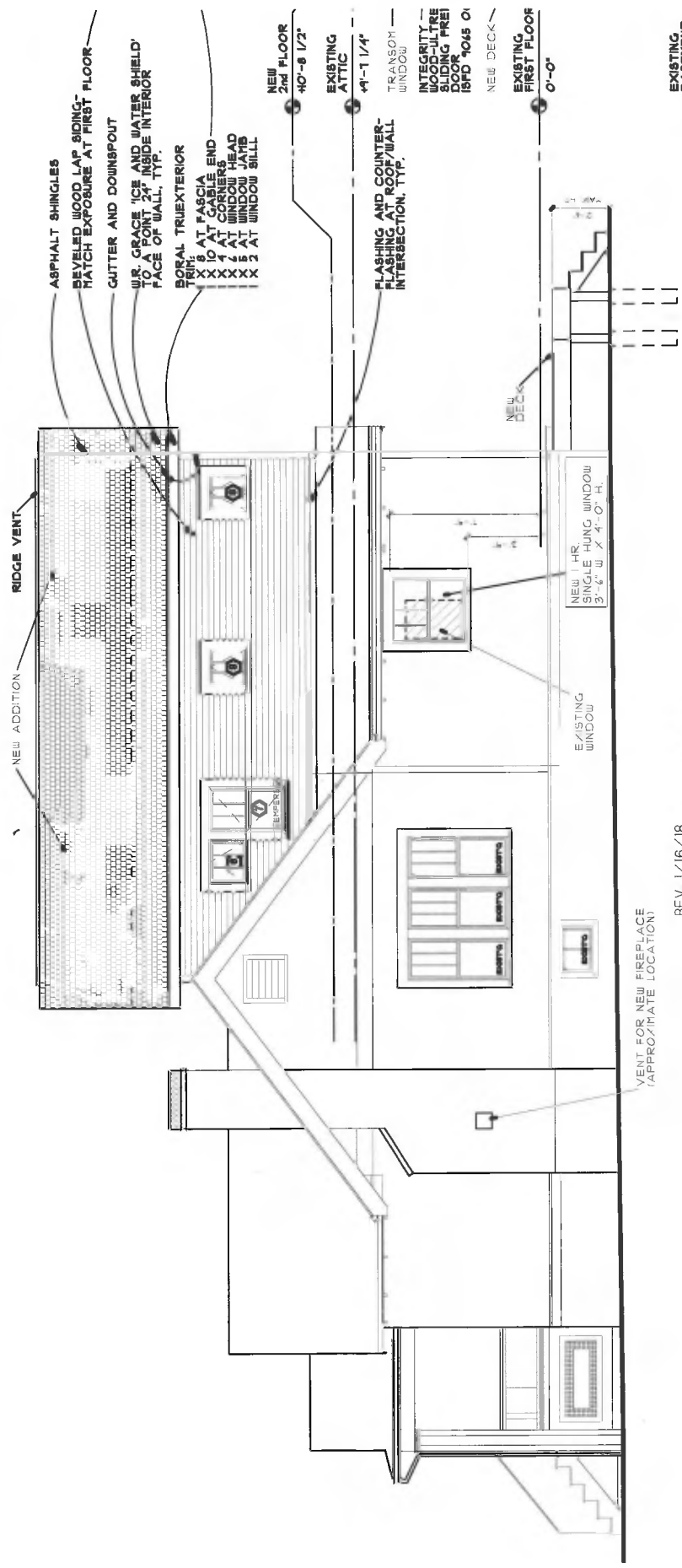
4" H. STEP

(2) 2 X

3'-10 3/4"

3'-4 1/4" 10" 2'-0" 3'-6"

2'-6" 6'-8"



NEW ADDITION

RIDGE VENT

ASPHALT SHINGLES

REVELED WOOD LAP SIDING - MATCH EXPOSURE AT FIRST FLOOR

GUTTER AND DOWNSPOUT

U.R. GRACE ICE AND WATER SHIELD TO FRONT 24" INSIDE INTERIOR FACE OF WALL, TYP.

BORAL TRIEXTERIOR

1 X 6 AT FASCIA

1 X 10 AT GABLE END

X 4 AT CORNERS

X 4 AT WINDOW HEAD

X 2 AT WINDOW SILL

NEW FLOOR
2ND FLOOR
+10'-8 1/2"

EXISTING
ATTIC
+1'-1 1/4"

TRANOMY WINDOW

INTEGRITY WOOD-LAMINATE DOOR (ING PRE) ISFD *045 01

NEW DECK

EXISTING
FIRST FLOOR
0'-0"

EXISTING
BASEMENT
(-) 8'-1"

NEW 1-HR. SINGLE HUNG WINDOW
3'-6" W X 4'-0" H.

EXISTING WINDOW

VENT FOR NEW FIREPLACE (APPROXIMATE LOCATION)

REV. 1/16/18
Right (West) Elevation
Scale: 1/4" = 1'-0"



View of west side of house showing proposed location of new 1 hour window.



Front View

Fyre-Tec 925 Series

3/4 Hour and 1 Hour UL Listings

Features Include:

Narrow site-line allows larger glass and daylight openings

Operable windows are self-closing in the advent of heat rise

Standard wire glass glazing material for 3/4 Hour rating

Optional ceramic glazing monolith or insulated glass units for 1 Hour rating

Structural, air and water infiltration performance ratings up to design pressure of 80 psi

Manufactured from galvanized cold rolled steel

Frame and inserts fabricated with corners mitered and secured by welding

Muntins integral (welded) to inserts

Snap-lock glazing retainers secured with machine screws in monolith glazed windows

Finished in weather resistant powder coating in eight standard colors or custom color

Subframe or fin mounting systems



SINGLE HUNG

FYRE-TEC.

STEEL WINDOWS



- Lot Line Protection
- Fire Escape Protection
 - Stairwells
 - Corridors

Meets Requirements of International Building Code and NFPA-80

Contact Information:

701 Centennial Road
P.O. Box 278
Wayne, NE 68787
Voice: 402-375-3261
800-377-3261
Fax: 402-375-4261

Internet: www.fyre-tec.com
Email: fyretec@inebraska.com

3-Part Specifications and CAD details available at
www.fyre-tec.com



SERIES 925 SINGLE HUNG

The Fyre-Tec single hung windows offer 3/4- or 1-hour Underwriter's Laboratory rated protection. The single hung is designed and tested to be self-closing in the event of heat rise from nearby combustion. Ideal for inclusion in NFPA 80 and building code requirements for protective openings in rated walls.



CONSTRUCTION

The Fyre-Tec fire single hung windows are constructed from galvanized roll formed steel sections with precisely mitered and welded corners, resulting exceptionally strong and long-lasting window.

True muntins, when required or desired, are notched and welded to the inserts, becoming an integral component, lending strength to the window.

The single hung windows operate with minimal effort assisted by heavy-duty spiral balances with integrated heat activated closure devices. Latching mechanisms secure the operating insert in the closed position.

FIRE RATING

Fyre-Tec fire window frames are listed by Underwriters Laboratories under the category of Door and Window Frames (GVTV). The standard used to evaluate the windows is UL 9, Fire Tests of Window Assemblies, which is a test standard inclusive of the test method described in ASTM 163, Standard Methods of Fire Tests of Window Assemblies.

DESIGN PERFORMANCE

All Fyre-Tec windows have been independently tested by a third party and meet or exceed AAMA standards for structural pressure, air infiltration, and water resistance infiltration. 3-part specifications and CAD drawings are downloadable from the Fyre-Tec Internet web site.

FLORIDA APPROVALS

The 925P Series window has achieved an optional design pressure rating of 80 psf and has been awarded a non-impact product approval for usage in the state of Florida. Florida product approval number FL3299-R2.

GLAZING OPTIONS

The Fyre-Tec 925 Series windows are available with a variety of UL rated glazing factory installed.

Glazings range from the basic wire glasses traditionally used for 45-minute rated windows to the newer clear ceramics that are now on the market with 60-minute ratings, including some that are impact safety rated as well as fire rated.

Much larger UL rated lites, not requiring intermediate muntins, are now authorized using the clear ceramic products.

Many of the clear ceramics may be combined with traditional commercial glazing to make up insulated glass units. These may include tinted or low-E products, providing the aesthetics desired or the energy conservation required.

The combination of the larger lite size and insulated glass units also allows Fyre-Tec to offer windows with internal grid patterns.



FINISHES

Prior to finishing, Fyre-Tec windows are thoroughly cleaned and subjected to a phosphate undercoat. The standard powder coat finish is available in eight popular colors and primer. Color matching is optional.

INSTALLATION

Sub-frame or fin system mounting kits are supplied with all windows. The sub-frame system is ideal for either retrofit or new construction. The window openings may be finished out prior to the installation of the provided sub-frame and window. The fin system is designed to allow installation of the window into the construction framing and subsequent trimming of the window.

LABELING

All Fyre-Tec rated windows display a traceable, permanent stainless steel UL label specifying the rating for the window. Additionally, all glazing factory installed is etched with a permanent UL label to assure the customer and code officials that the product meets the requirement and the rating for the application.

Howell, Marc

From: Dempsey, Glen
Sent: Tuesday, June 11, 2019 2:55 PM
To: Howell, Marc
Subject: FW: 1213 W Washington Permit # BLDG19-0759
Attachments: Scan0027.pdf

Denial for BBA

From: Dempsey, Glen
Sent: Tuesday, May 28, 2019 12:57 PM
To: Mike Mahon <mike@adaptivebuilding.com>
Cc: Howell, Marc <MHowell@a2gov.org>; Lemieux, Michael <MLemieux@a2gov.org>
Subject: 1213 W Washington Permit # BLDG19-0759

Mike,

Please see the attached requested revisions for the remodel of the home at 1213 W Washington. The revision requested for the enlargement of the window - # 8 is has been denied on this plan. This will now allow your appeal to be heard at the Building Board of Appeals/Construction (BBA). If you would like to address these other issues as presented in the plan review a permit could be granted with an appropriate written request. Your request should state that you will comply with the requirements of the code and will meet the BBA's requirements if approved by the board, or if not approved, will revise the plans to show the window will not exceed the current windows dimensions.

Any revisions to this plan should be submitted to Mike Lemieux. Please contact me if you have any questions.

Thank you,

Glen Dempsey
Building Official
City of Ann Arbor