



THE PRINCE GEORGE'S COUNTY GOVERNMENT

BOARD OF ZONING APPEALS

BOARD OF ADMINISTRATIVE APPEALS

WAYNE K. CURRY COUNTY ADMINISTRATION BUILDING, LARGO, MARYLAND 20774
TELEPHONE (301) 952-3220

NOTICE OF FINAL DECISION

OF BOARD OF APPEALS

RE: Case No. V-63-21 Diaz United, LLC

Enclosed herewith is a copy of the Board Order setting forth the action taken by the Board of Appeals in your case on the following date: December 1, 2021.

CERTIFICATE OF SERVICE

This is to certify that on April 7, 2022 , the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.

A handwritten signature in black ink, appearing to read "Barbara J. Stone".

Barbara J. Stone
Administrator

cc: Petitioner
Adjoining Property Owners
M-NCPPC, Permit Review Section
DPIE/Building Code Official, Permitting

BEFORE THE BOARD OF APPEALS FOR PRINCE GEORGE'S COUNTY, MARYLAND
Sitting as the Board of Zoning Appeals

Petitioner: Diaz United, LLC

Appeal No.: V-63-21

Subject Property: Lots 17 and 18, Block 27, Bradbury Heights Subdivision, being 4302 Byers Street,
Capitol Heights, Prince George's County, Maryland

Counsel for Petitioner: David Asaki, Esq., David Asake Law Offices

Witnesses: Anthony Johnson, Designer

Martin Diaz, Owner

Heard: November 17, 2021; Decided: December 1, 2021

Board Members Present and Voting: Bobbie S. Mack, Chairperson

Albert C. Scott, Vice Chairman

Board Member Absent: Anastasia T. Johnson, Member

RESOLUTION

This appeal is brought before the Board of Appeals, sitting as the Board of Zoning Appeals for the Maryland-Washington Regional District in Prince George's County, Maryland (the "Board"), requesting variances from the strict application of the provisions of Subtitle 27 of the Prince George's County Code (the "Zoning Ordinance").

In this appeal, a proceeding pursuant to Section 27-229 of the Zoning Ordinance, Petitioner requests that the Board approve variances from Section 27-442(b)(Table I) prescribes that each lot shall have a minimum net lot area of 5,000 square feet. Section 27-442(e)(Table IV) prescribes that each lot shall have a side yard at least 8 feet in width. Section 27-442(c)(Table II) prescribes that not more than 30% of the net lot area shall be covered by buildings and off-street parking. Petitioner proposes validate existing conditions (net lot area and side yard width) and obtain a building permit for the construction of two-story addition and one-story addition over the existing dwelling. Variances of 1,000 square feet net lot area, 3 feet side yard width¹ and 6.1% net lot coverage² are requested.

Evidence Presented

The following testimony and record evidence were considered by the Board:

1. The property was subdivided in 1909, contains 4,000 square feet, is zoned R-55 (One-Family Detached Residential) and is improved with a single-family dwelling and driveway. Exhibits (Exhs.) 2 (A) and (B), 4, 8, 9 and 10 (A) thru (G).
2. The subject lot is long (100 feet) and narrow (40 feet). Due to the lot being long and narrow the dwelling was constructed with the front of the home facing on the side of the property. Exhs. 2 (A) and (B), 4, 8, 9 and 10 (A) thru (G).
3. Petitioner proposes to validate existing conditions (net lot area and side yard width) and obtain a building permit for the construction of two-story addition and one-story addition over the existing dwelling. The dwelling, being built in 1939, prior to the Zoning Ordinance. As such, the minimum net lot area requirement for property in the R-55 Zone is 5,000 square feet; the subject lot contains only 4,000 square feet. A

¹ At the hearing, it was determined that side-yard width variance in not needed as the side-yard setback is within the required regulations. Exh. 2

² Petitioner has submitted revised site plan reducing the length of the driveway. The Lot Coverage Worksheet has been revised and placed in the binder. The revised Lot Coverage is now 2.7%. Exh. 19.

variance of 1000 square feet net lot area is required. The side yard setback for current standards are 8 feet. Exhs. 2 (A) and (B), 4, 8, 9 and 10 (A) thru (G).

4. The maximum allowable lot coverage is 30%, although with the proposed additions, the overage of the percentage of lot coverage with an increase of 6.1%. Exhs. 2 (A) thru (B), 3 (a) thru (m) and 5 (A) thru (H).

5. Attorney David Asaki, Esq. stated that the property was purchased in August 2020, and from 1939 to the present, the main structure and property lines have not changed. His client would like to build upward on the property and extend the driveway. He opined that the addition will not constitute an eyesore or affect the neighbors. Exhs. 2 and 3 (a) thru (m).

6. He stated that to require an 8-foot side yard setback would now constitute a hardship as it would require rebuilding the home and recreating the basement. He believed that the proposed building upward would not change the residential character of the area. Exhs. 2 (A) thru (B), 3 (a) thru (m) and 5 (A) thru (H).

7. Counsel contended that if the requested variances are not approved, it would render the property non-buildable.

8. Mr. Johnson stated that the driveway is actually longer than shown on the original site plan and would extend to accommodate two cars which would contribute to the increase in the maximum lot coverage. He further stated that the lot is very narrow in width and the idea is to extend the driveway 40 feet long, stopping at the rear fence line. Exhs. 2 (A) thru (B), 3 (a) thru (m) and 5 (A) thru (H).

9. A revised site plan was submitted demonstrating the approval from Site Roads and reconfiguration of the driveway to 10 feet by 20 feet. Exhs. 18 and 19.

Applicable Code Section and Authority

Section 27-230 of the Zoning Ordinance authorizes the Board to grant variances when, by reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition of specific parcels of property, the strict application of the Zoning Ordinance would result in peculiar and unusual practical difficulties or an exceptional or undue hardship upon the owner of the property, provided such relief can be granted without substantial impairment of the intent, purpose and integrity of the General Plan or Master Plan.

Findings of the Board

After hearing all the testimony and reviewing the evidence of record, the Board finds that the requested variances comply with the applicable standards set forth in Section 27-230, more specifically:

Due to the property being subdivided in 1909, the dwelling situated on the lot in 1936 prior to current Zoning Ordinance requirements, the narrowness of the lot, the desire not to tear down, rebuild or move the dwelling, the preexisting lot conditions requiring variances and the character of the neighborhood, granting the relief requested would not substantially impair the intent, purpose and integrity of the General Plan or Master Plan, and denying the request would result in a peculiar and unusual practical difficulty upon the owner of the property.

BE IT THEREFORE RESOLVED, by majority vote, Ms. Anastasia Johnson absent, that variances of 1,000 square feet net lot area, and 2.7% net lot coverage in order to validate an existing condition (net lot area and side yard width) and obtain a building permit for the construction of two-story addition and one-story addition over existing dwelling on the property located at 4302 Byers Street, Capitol Heights, Prince George's County, Maryland, be and are hereby APPROVED Approval of the variances is contingent upon development in compliance with the approved revised site plan, Exhibit 18 and approved elevation plans, Exhibits 3 (a) thru (m).

BOARD OF ZONING APPEALS

By:


Bobbie S. Mack, Chairperson

NOTICE

Within thirty (30) days from the date of this decision, any person, firm, corporation, or governmental agency who was a party to the Board's proceedings and is aggrieved by its decision may file an appeal to the Circuit Court of Prince George's County.

Further, Section 27-233(a) of the Prince George's County Code states:

A decision of the Board, permitting the erection of a building or structure, shall not be valid for more than two (2) years, unless a building permit for the erection is obtained within this period and the construction is started and proceeds to completion in accordance with the terms of the decision and the permit.

BOARD OF APPEALS

APPROVED DEC 01 2021

D. Stone
ADMINISTRATOR

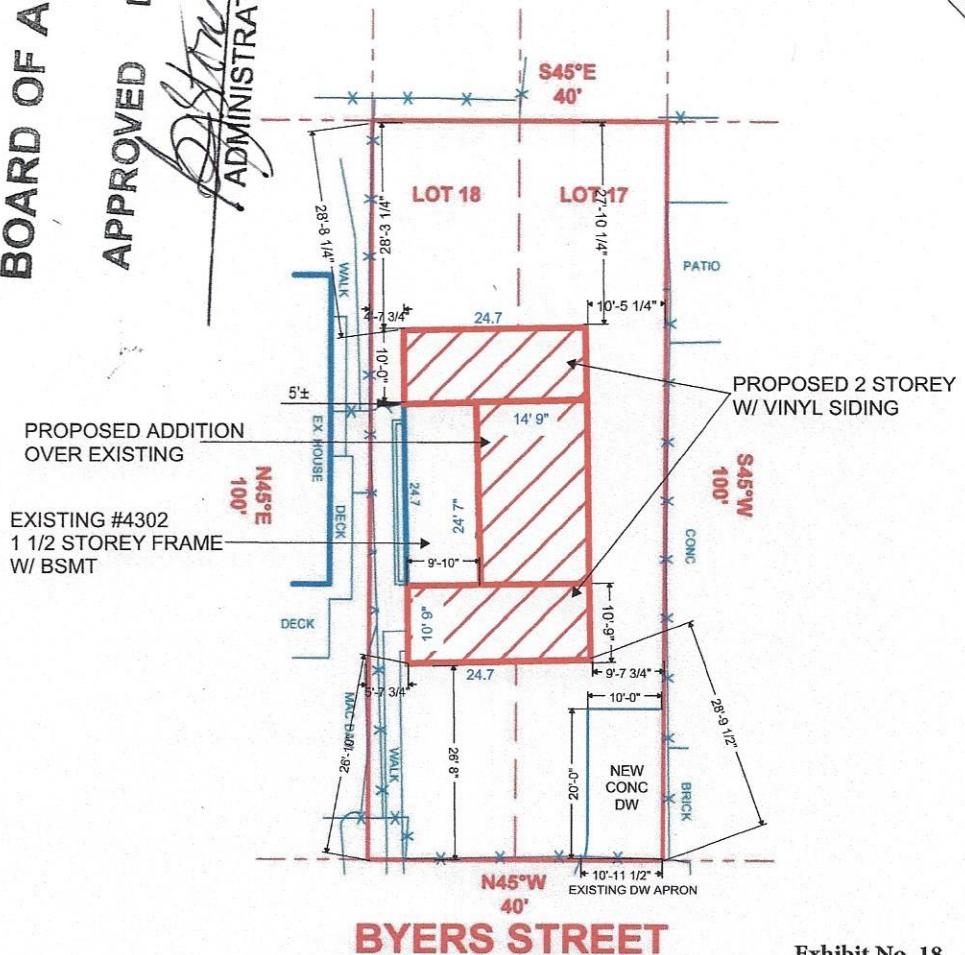


Exhibit No. 18
V-63-21

LOT SIZE: 4000 SF
THE LEVEL OF ACCURACY OF
DISTANCES TO APPARENT
PROPERTY LINES IS: **1'±**

LOCATION DRAWING OF:
#4302 BYERS STREET
LOTS 17 & 18
BLOCK 27
BRADBURY HEIGHTS
PLAT BOOK 1, PLAT 71
PRINCE GEORGE'S COUNTY, MARYLAND
SCALE: 1"=20' DATE: 12-22-2020
DRAWN BY: SM/JCM FILE #: 2012933-200

LEGEND:
 X - FENCE
 B/E - BASEMENT ENTRANCE
 B/W - BAY WINDOW
 BR - BRICK
 BRL - BLDG. RESTRICTION LINE
 BSMT - BASEMENT
 C/S - CEMENT STOOP
 CONC - CONCRETE
 DRIV - DRIVEWAY
 EX - EXISTING
 FR - FRAME
 MAC - MACADAM
 G - GATE
 PUE - PUEBLO
 PUE - PUBLIC UTILITY ESMT.
 PIE - PUBLIC IMPROVEMENT ESMT.
 COLOR KEY:
 (RED) - RECORD INFORMATION
 (BLUE) - IMPROVEMENTS
 (GREEN) - ESMTS & RESTRICTION LINES

A Land Surveying Company

DULEY
and
Associates, Inc.



Serving D.C. and MD.

14604 Elm Street, Upper Marlboro, MD 20772
Phone: 301-888-1111 Fax: 301-888-1114
Email: orders@duley.biz On the web: www.duley.biz



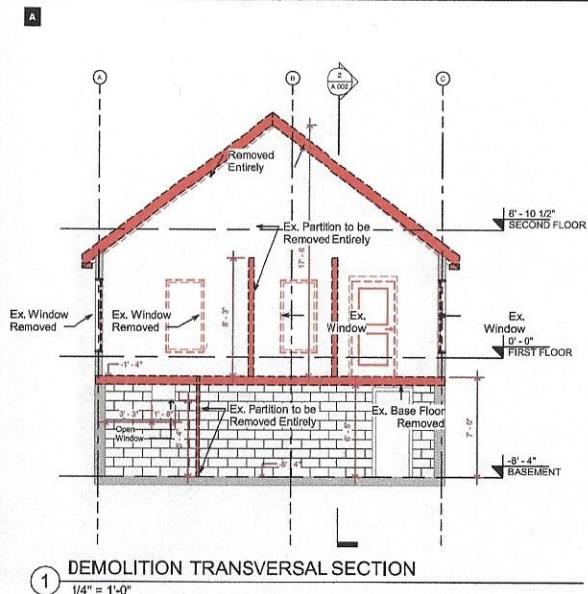
SURVEYOR'S CERTIFICATE

I HEREBY STATE THAT I WAS IN RESPONSIBLE CHARGE OVER THE PREPARATION OF THIS DRAWING AND THE SURVEY WORK REFLECTED HEREIN AND IT IS IN COMPLIANCE WITH THE REQUIREMENTS SETFORTH IN REGULATION 12 CHAPTER 09.13.06 OF THE CODE OF MARYLAND ANNOTATED REGULATIONS. THIS SURVEY IS NOT TO BE USED OR RELIED UPON FOR THE ESTABLISHMENT OF FENCES, BUILDING, OR OTHER IMPROVEMENTS. THIS PLAT DOES NOT PROVIDE FOR THE ACCURATE IDENTIFICATION OF PROPERTY BOUNDARY LINES, BUT SUCH IDENTIFICATION MAY BE REQUIRED FOR THE TRANSFER OF TITLE OR SECURING FINANCING OR REFINANCING. THIS PLAT IS OF THE PROPERTY OWNED BY THE OWNER OF THE PROPERTY. IT IS REQUIRED BY A LENDER OR A TITLE INSURANCE COMPANY OR ITS AGENTS IN CONNECTION WITH THE CONTEMPLATED TRANSFER, FINANCING, OR REFINANCING. NO TITLE REPORT WAS FURNISHED TO NOR DONE BY THIS COMPANY. SAID PROPERTY SUBJECT TO NOTES, RESTRICTIONS AND EASEMENTS OF RECORD. BUILDING RESTRICTION LINES AND EASEMENTS MAY NOT BE SHOWN ON THIS SURVEY. IMPROVEMENTS WHICH IN THE SURVEYOR'S OPINION APPEAR TO BE IN A STATE OF DISPAIR OR MAY BE CONSIDERED "TEMPORARY" MAY NOT BE SHOWN. IF IT APPEARS ENCROACHMENTS MAY EXIST, A BOUNDARY SURVEY IS RECOMMENDED.

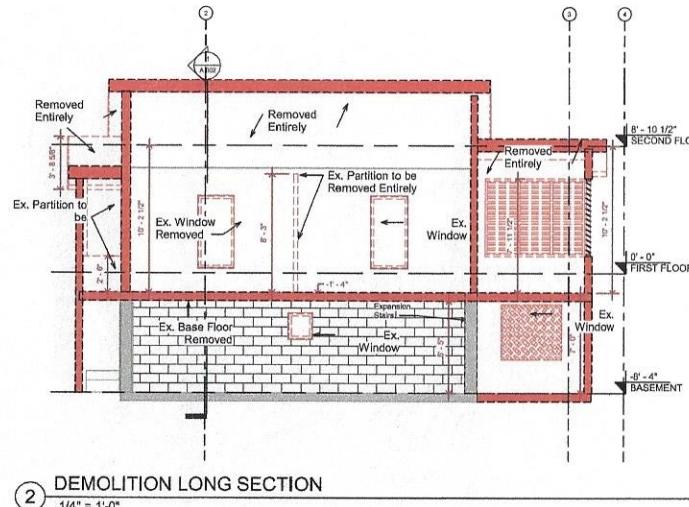
DULEY & ASSOC.

WILL GIVE YOU A 100%
FULL CREDIT TOWARDS
UPGRADING THIS
SURVEY TO A
"BOUNDARY/STAKE"
SURVEY FOR ONE
YEAR FROM THE DATE
OF THIS SURVEY.

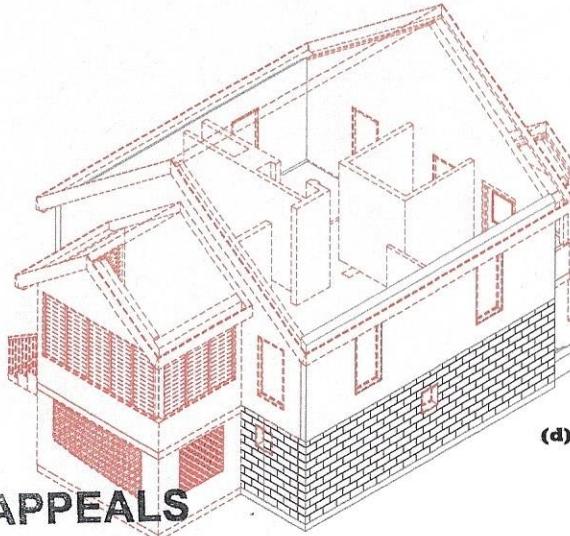
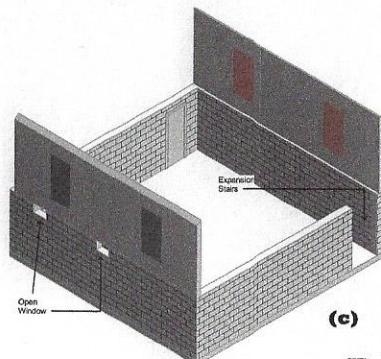
(EXCLUDING D.C. & BALT. CITY)



(a)



(b)



BOARD OF APPEALS

③ Demolition Result

④ Isometric Existing
APPROVED DEC 01 2021

[Signature]
ADMINISTRATOR

NO.	REVISION	BY:	DATE
1.	Per changeorder #01 - Vertical Railing, Crew Space access and vest, Basement plan update, Site plan Update, Cover sheet, Speakers.	A.A.J	06/29/2021

PROFESSIONAL
SEAL

CLIENT
NAME
Diaz United LLC

SHEET
TITLE
DEMOLITION SECTIONS

PROJECT
DESCRIPTION
4302 Byers St,
Capitol Heights, MD

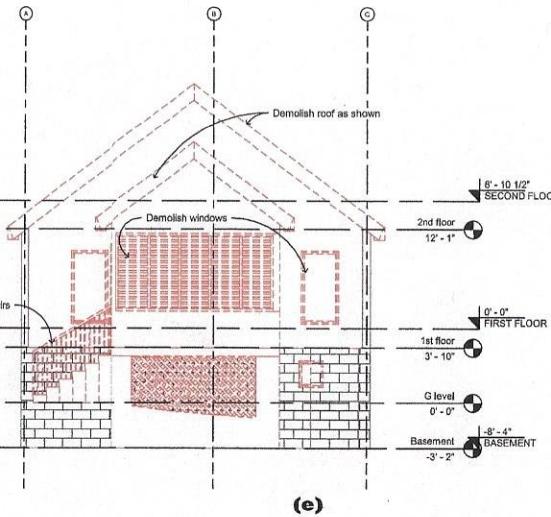
DRAWINGS PRODUCED BY:
 Kitchenet Design Plus
4111 Maureen Lane,
Fairfax VA 22033
(571) 501-5941
design@kitchenet.com

Project number: Project Number: Drawn by: 234D Converter
Issue Date: Approved by:
SHEET No:
A 002
Scale: AS NOTED

BOARD OF APPEALS

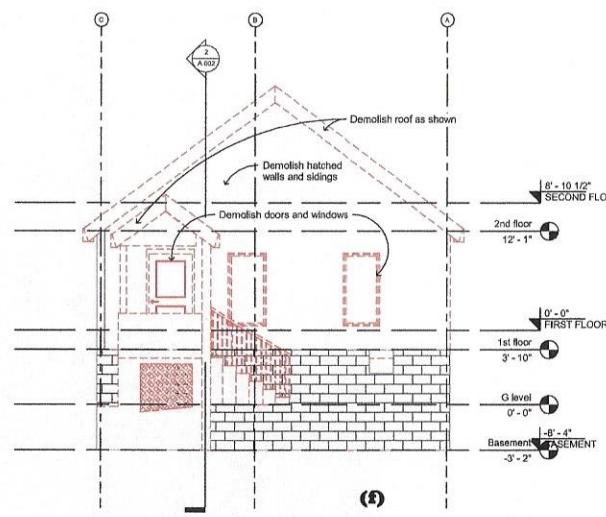
APPROVED DEC 01 2021

B. Stone
ADMINISTRATOR



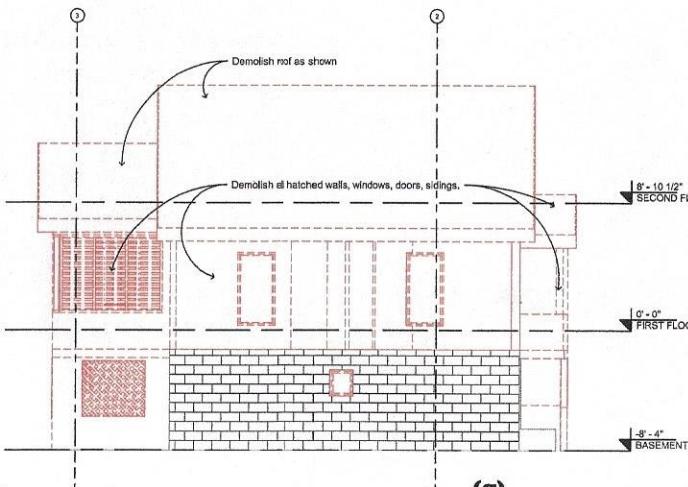
① DEMOLITION SOUTH ELEVATION

1/4" = 1'-0"



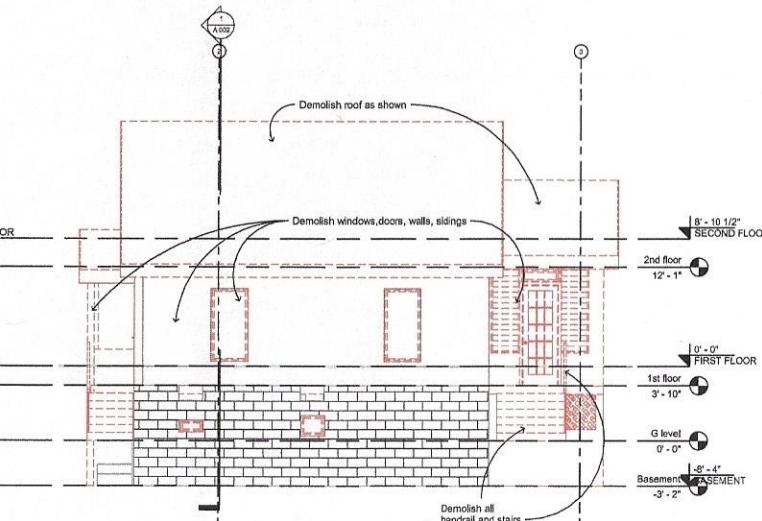
② DEMOLITION NORTH ELEVATION

1/4" = 1'-0"



③ DEMOLITION EAST ELEVATION

1/4" = 1'-0"



④ DEMOLITION WEST ELEVATION

1/4" = 1'-0"

NO.	REVISION	BY:	DATE
1.	Per change mark #01 - Vertical Railing, Crawf Sprinkler and vent, Basement plan update, Site plan Update, Cover above Sprinklers.	A.A.J	06/29/2021

PROFESSIONAL
SEAL

CLIENT
NAME
Diaz United LLC

SHEET
TITLE
DEMOLITION
ELEVATIONS

PROJECT
DESCRIPTION
4302 Byers St,
Capitol Heights, MD

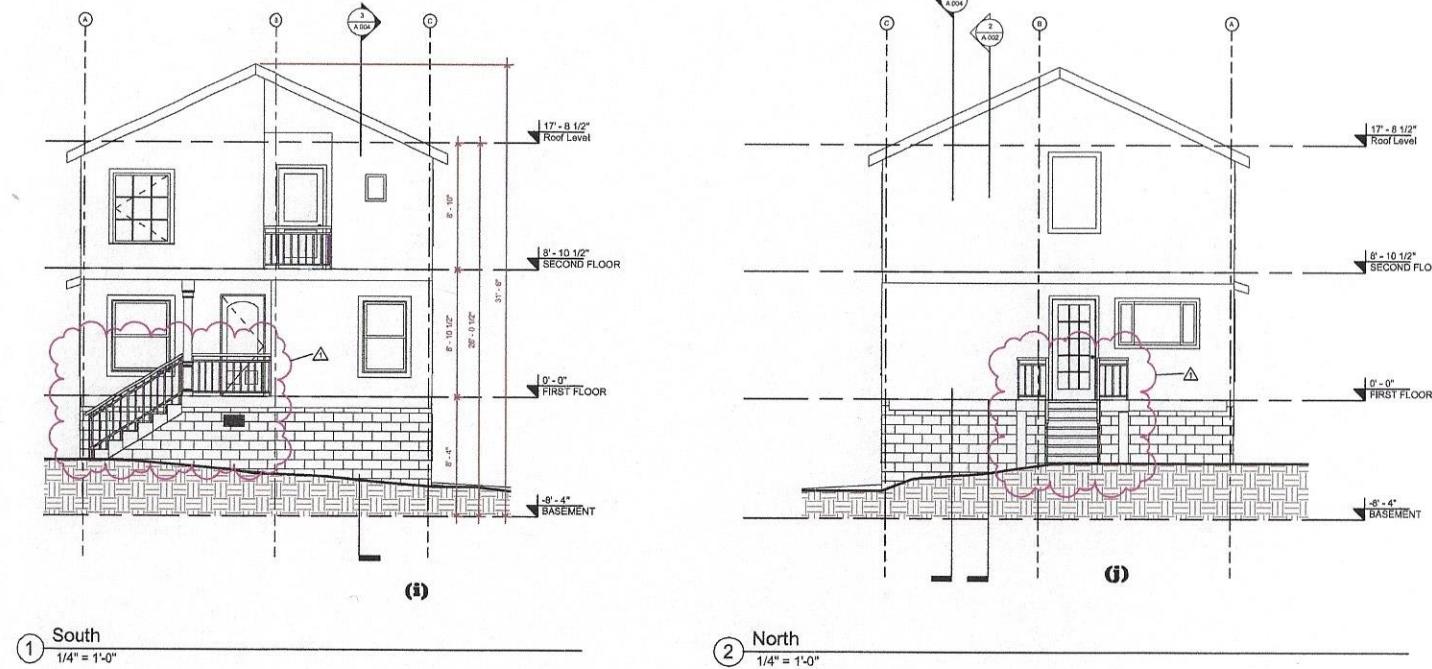
DRAWINGS PRODUCED BY:
Kitchenetal Design Plus
4111 Maureen Lane,
Fairfax VA 22033
(571) 501-5941
design@kitchenetal.com

Project number: Project Number: Drawn by: 234D Converter
Date: Issue Date: Approved by: Approver

Sheet No:

A 002B

Scale: AS NOTED



BOARD OF APPEALS

APPROVED DEC 01 2021

By Stone
ADMINISTRATOR

NO.	REVISION	BY:	DATE
1	Per change order #01 - Vertical Railing, Crest, Space access and vent, Basement plus update, Site plan Update, Cover sheet, Sprinklers.	A.A.J	06/29/2021

PROFESSIONAL
SEAL

CLIENT
NAME
Diaz United LLC

SHEET
TITLE
PROPOSED ELEVATIONS

PROJECT
DESCRIPTION
4302 Byers St,
Capitol Heights, MD

DRAWINGS PRODUCED BY:
 Kitchenetal Design Plus
4111 Maureen Lane,
Fairfax VA 22033
(571) 501-5941
design@kitchenetal.com

Project number: Project Number Drawn by: 234D Converter
Date: Issue Date Approved by: Approver

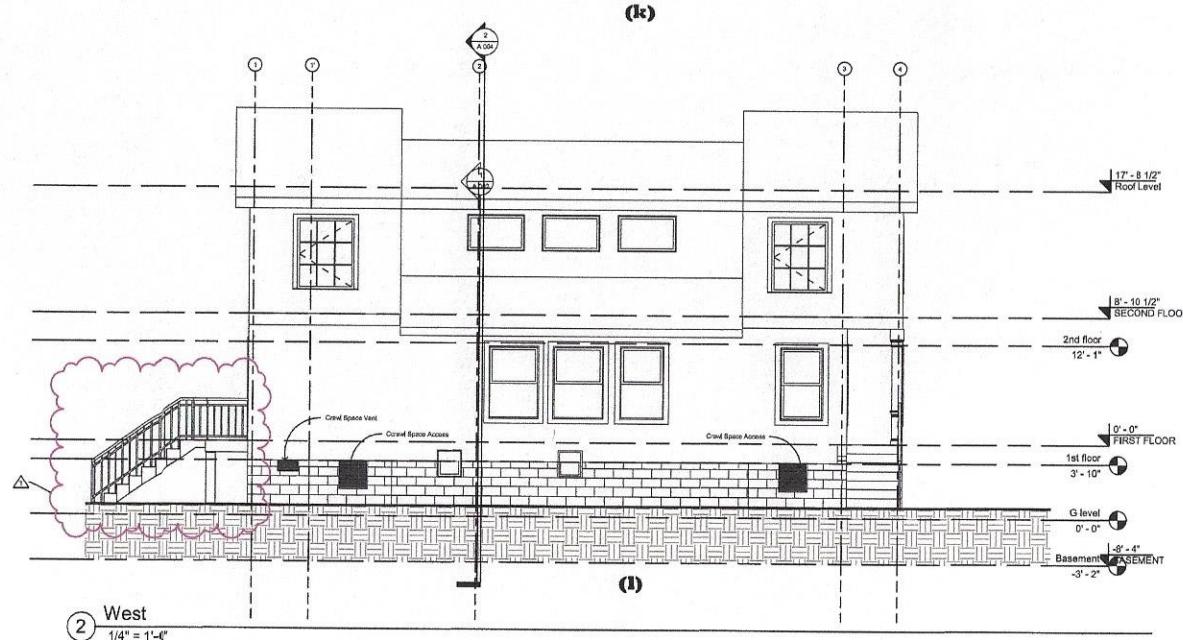
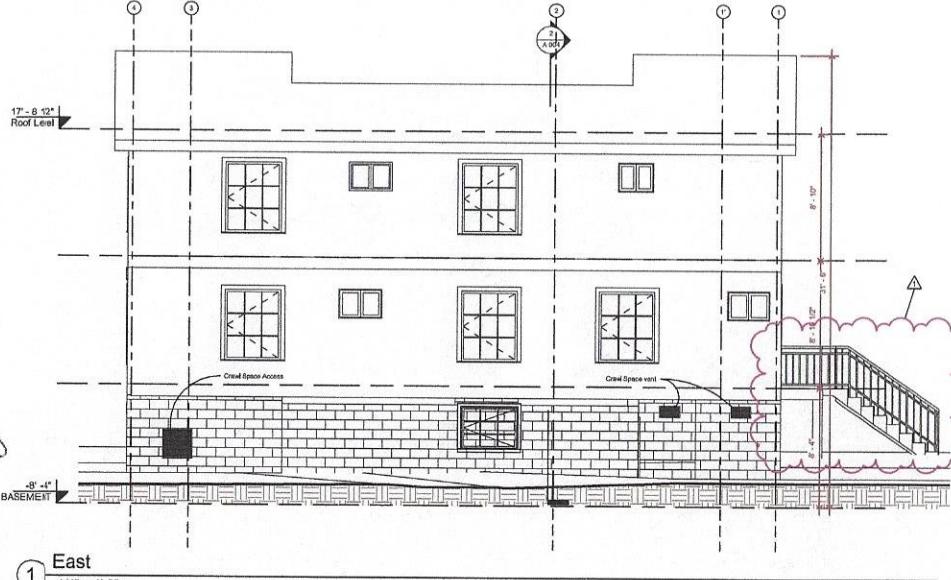
SHEET NO:
A 005
Scale: AS NOTED

BOARD OF APPEALS

APPROVED DEC 01 2021

APPROVED DEC 1 2011

B. Johnson
ADMINISTRATOR



NO.	REVISION	BY:	DATE
1.	Per changeorder #01 - Vertical Railing, Crawl Space access and vent, Basement plan update, Site plan Update, Cover sheet Spreckens.	A.A.J	06/29/2021

PROFESSIONAL
SEAL

CLIENT
NAME

Diaz United LLC

SHEET
TITLE
PROPOSED ELEVATIONS

PROJECT
DESCRIPTION

DRAWINGS PRODUCED BY:
 Kitchenetal Design Plus
4111 Maureen Lane,
Fairfax VA 22033
(571) 501-5941

Project number: Project Number Drawn by: 234D Converter

SHEET No:

A 006

Scale: AS NOTED

Digitized by srujanika@gmail.com