

### Agenda Item #3

<b>Case Number</b>	BZNA-0095-2020	<b>Acreage</b>	4,970 square feet
<b>Address</b>	1092 and 1094 Logan St.	<b>Zoning</b>	R-5 (Multi-Family)
<b>Owner</b>	Keaton Davenport	<b>Reviewer</b>	David Hirschle, AICP
<b>Applicant</b>	Amanda Faux-Smith	<b>BZA Meeting</b>	August 3, 2020

**Requested Actions:**

UDO Table 8.B. – Variances of Development Standards to allow reduction of minimum lot area per dwelling unit (6,000 square feet required, 2,485 square feet requested) and reduction of minimum lot width (50 feet required, 35 feet requested) in order to allow the subdividing of the property.

**Recommendation:**

**APPROVAL.** See the Findings of Fact starting on page 2 and Recommendations starting on page 4.

**Exhibits:**

- 1. Staff report
- 2. Site aerial photograph
- 3. Application
- 4. 1922 Sanborn map
- 5. Site photos



## **ANALYSIS**

This R-5-zoned property is located at the northwest corner of Logan Street and 11<sup>th</sup> Street. The property is surrounded on the north, west, and south by residential uses. To the east is located Randall and Roberts Funeral Home.

The owner of the property wishes to divide the property along the party wall of the duplex that exists on the site. The current R-5 zoning does not allow duplexes, but the 1922 Sanborn Map (included in this report) shows the existence of a duplex on the site during that year. As such, the use is considered a legal, nonconforming use. Regarding the lot itself, the current R-5 district requires 6,000 square feet of lot area per dwelling unit and a minimum lot width of 50 feet. The splitting of the parcel as proposed would result in 2,485 square feet of lot size per dwelling unit and a lot width of 35 feet for each resultant lot. Both variances can be included in one motion, as denial of either one effectively means the impossibility of carrying out the proposed subdivision.

The Noblesville Building Commissioner accompanied a Staff Planner on inspection of the interior of the building to observe any impediments to dividing the units for individual ownership. The structure has two energy meters, two heating systems, two water heaters, system controls in each unit, and kitchen and bathroom facilities in each unit. The wall separating the units is not currently fire-rated along its entire length and height. This will have to be accomplished, and the Building Commissioner recommends that a design professional be consulted by the applicant. The floor plans (included in this report) show a stairway to the attic that would be bisected by a wall dividing the units equally in half. For reasons related to establishing fire separation, plans (at least at this writing) are to assign the entire attic to only one of the units, thereby eliminating the need to divide the stairway. The attic itself must be maintained as non-livable space, as livable space above the second floor requires a sprinkler system.

The recently-adopted Comprehensive Plan envisions the land use on this and surrounding properties as Traditional Residential, described as having “an established development pattern which includes a mixture of housing types set upon a highly walkable, gridded street network,” where “the predominate land use is single-family residential.” The Housing Study conducted by the City in 2016 recommended more construction of the “missing middle” housing types, including attached single-family, but did not delve much into ownership versus renting.

## **FINDINGS OF FACT for AGENDA ITEM #3**

A Variance of Development Standards may be approved only upon a determination in writing that the following three State standards are met (see Indiana Code § 36-7-4-918.5). The BZA may impose reasonable conditions as part of its approval. The bold text below each numbered standard represents staff’s explanation as to how the standard has or has not been met.

Exhibit 1

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community:

**Variance 1 (lot area per dwelling unit):** There would not appear to be any threats to the public health, safety, morals, or general welfare of the community. There would be no tangible changes to the operation of the property. This standard appears to be met.

**Variance 2 (lot width):** There would not appear to be any threats to the public health, safety, morals, or general welfare. There would be no tangible changes to the operation of the property. This standard appears to be met.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:

**Variance 1 (lot area per dwelling unit):** There would not appear to be any threats to the use or value of adjacent land. The use of the property would remain identical to that which has existed. Neighboring property owners may bring issues to light, but, at this point, this standard appears to be met.

**Variance 2 (lot width):** There would not appear to be any threats to the use or value of adjacent land. The use of the property would remain identical to that which has existed. Neighboring property owners may bring issues to light, but, at this point, this standard appears to be met.

3. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought:

**Variance 1 (lot area per dwelling unit):** Strict application of the terms of the zoning ordinance would prohibit the proposed subdivision, as the UDO requires 6,000 square feet of lot area per dwelling unit, while an approved subdivision would result in only 2,485 square feet per dwelling unit. However, the duplex use of the lot was established at least as far back as 1922, before zoning regulations applied a square footage minimum. The possible hardship imposed on the property owner would be the inability of selling the resultant individual units to separate buyers. It can be argued that this is an unnecessary hardship, but the viewpoint is subjective. It can be said that this standard has been met.

**Variance 2 (lot width):** Strict application of the terms of the zoning ordinance would prohibit the proposed subdivision, as the UDO requires a minimum lot width of 50 feet, while an approved subdivision would result in lot widths of 35 feet for each lot. The possible hardship imposed on the property owner would be the inability of selling the resultant individual units to separate buyers. It can be argued that this is an unnecessary hardship, but the viewpoint is subjective. It can be said that this standard has been met.

**RECOMMENDATION for AGENDA ITEM #3**

**Staff recommends APPROVAL of both variance applications, based on meeting of the three State standards, with the following conditions:**

1. That a design professional be involved in evaluating the structure and designing a building plan to achieve the required fire rating for the wall separating the units, and that his plan be provided to the Noblesville Building Commissioner.
2. That the party wall be improved to represent an Indiana Residential Code-compliant fire-rated wall completely dividing the two dwelling units in the structure.
3. That the entire attic be maintained as non-livable space.
4. That the subdividing of the property follow the "Minor Subdivision" procedure in the UDO, and that the plat not be fully signed until conditions 1 and 2, above, have been fulfilled.
5. The Applicant shall sign the Acknowledgement of Variance document prepared by the Planning and Development Department Staff within 60 days of this approval. Staff will then record this document against the property and a file stamped copy of such recorded document shall be available in the Department of Planning and Development.
6. Any alterations to the approved building plan or site plan, other than those required by the Board of Zoning Appeals (BZA), shall be submitted to the Planning and Development Department prior to the alterations being made, and if necessary, a BZA hearing shall be held to review such change.

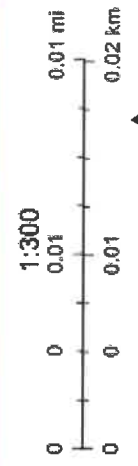
# Exhibit 2

BZNA-0095-2020



July 9, 2020

□ Parcels





CITY OF NOBLESVILLE  
BOARD OF ZONING APPEALS  
VARIANCE OF DEVELOPMENT STANDARDS APPLICATION

Application Number: BZNA-0095-2020

The undersigned requests a Variance of Development Standards as specified below. Should this variance request be approved, such approval shall only authorize the particular use described in this application and as further limited by reasonable conditions imposed upon such approval by the Board of Zoning Appeals.

Project Name or Occupant Name: \_\_\_\_\_

Common Address: 1092 LOGAN STREET

Applicant Name: Amanda Faux-Smith

Applicant Address: 263 S Audubon St

Applicant City/State/Zip: Indianapolis, IN 46219 E-mail: mandyfaux8@gmail.com

Applicant Phone #1: 317-358-6079 Phone #2: \_\_\_\_\_ Fax: \_\_\_\_\_

Owner Name: Keaton Davenport

Owner Address: 13881 Painter Ct

Owner City/State/Zip: Carmel, IN 46032 E-mail: keaton.davenport@gmail.com

Owner Phone #1: 317-289-0831 Phone #2: \_\_\_\_\_ Fax: \_\_\_\_\_

Property Location:  Not located in a recorded subdivision, see legal description attached.

Subdivision Name: Davidson's ADD

Subdivision Section: \_\_\_\_\_ Lot Number: 9 Last Deed of Record Number: \_\_\_\_\_

Existing Land Use: Duplex

Common Description of Request: Split Parcel which reduces lot size per dwelling unit. and lot width

Zoning District of Property: R-5 Code Section(s) Appealed: UDO § TABLE 8.B

Date: 6/28/2020

Applicant's Signature: Amanda Faux-Smith

The Noblesville Board of Zoning Appeals (BZA) is authorized to approve or deny Variances of Development Standards from the terms of the Unified Development Ordinance. The BZA may impose reasonable conditions as part of its approval. A Variance of Development Standards may be approved only upon a determination in writing that the following three (3) statements are true (see Indiana Code § 36-7-4-918.5):

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community. Explain why this statement is true in this case:

Splitting the parcel in two will not be injurious to the public health, safety, morals, and  
general welfare because the surrounding lots are similare in size, one of which  
was  
approved years ago.

---

---

---

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner by the approval of this variance request. Explain why this statement is true in this case:

The value of the area adjacent to the property will not be affected adversely due to the  
lot being split and the lot not meeting standards because it is similar to the surrounding  
properties. The lots are smaller and do not meet minimum lot size.

---

---

---

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property. Explain why this statement is true in this case:

The practical difficulty is not being able to sell seperate. The surrounding area has  
similar lot sizes and make it difficult to make any changes to site.

---

---

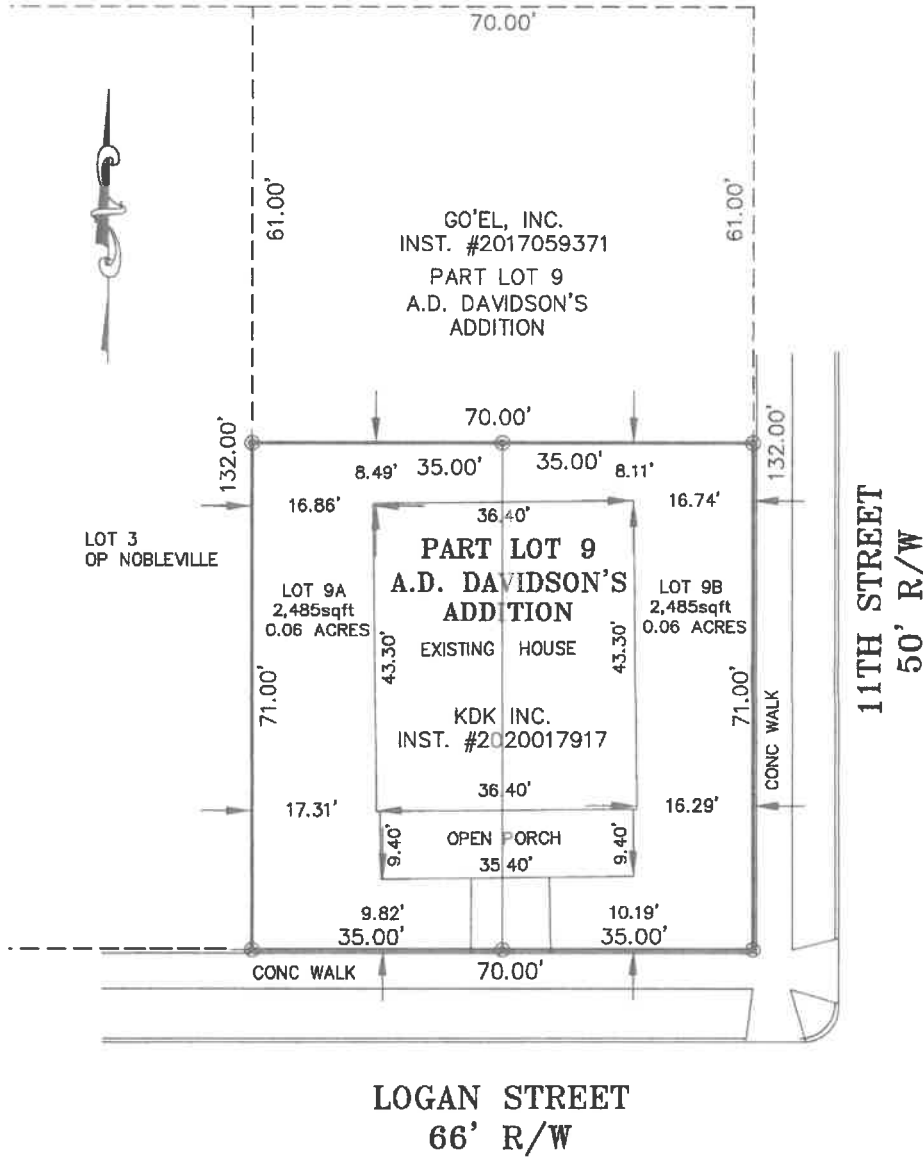
---

# EXHIBIT SURVEY

PART OF LOT #9 IN A.D. DAVIDSON'S ADDITION  
NOBLESVILLE TOWNSHIP, HAMILTON COUNTY, INDIANA

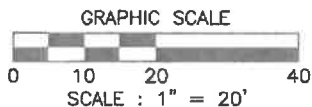
ALLEY  
16.5' R/W

Exhibit 3  
(3 of 6 pages)



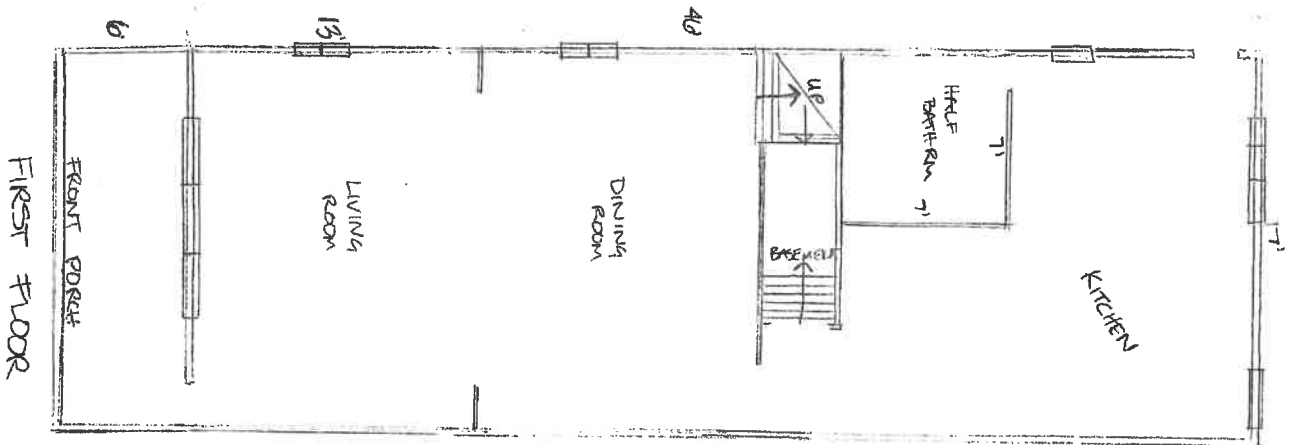
## LAND DESCRIPTION

SEVENTY-ONE (71) FEET OFF THE SOUTH END OF LOT 9 IN A.D. DAVIDSON'S ADDITION TO THE TOWN, NOW CITY OF NOBLESVILLE, AS PER PLAT THEREOF RECORDED IN DEED RECORD D, PAGE 354, IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA.

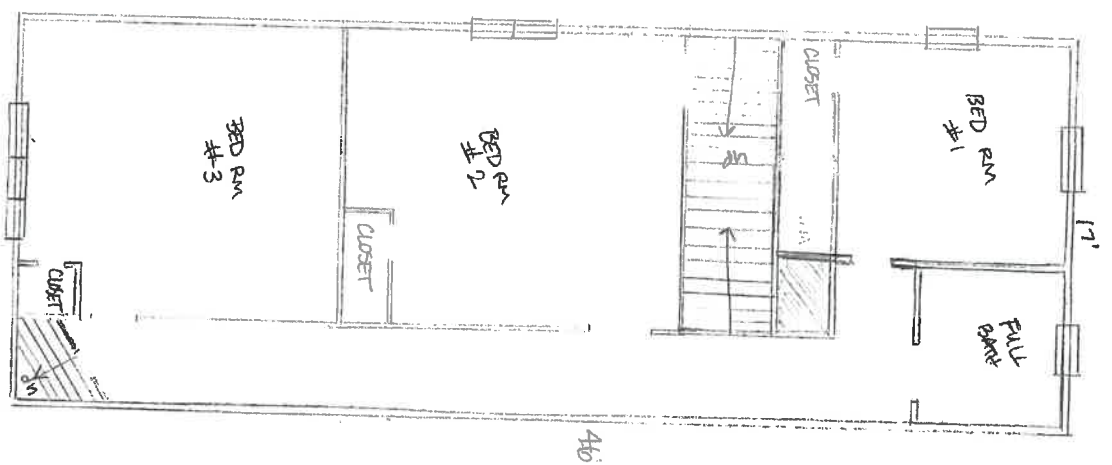


R.L.S. LS20400007		6/24/2020	
DATE:		DATE:	
<b>MILLER SURVEYING INC.</b>			
948 CONNER STREET NOBLESVILLE INDIANA 46060 PH. # (317) 773-2644 FAX 773-2694			
LOCATION: PART OF LOT #9 A.D. DAVIDSON'S ADDITION NOBLESVILLE TWP., HAMILTON COUNTY, INDIANA	DRAWN BY: LRL	PREPARED BY: KNA	FIELD BOOK: D.C.
FIELD WORK COMPLETED: X/XX/2009	SCALE: 1" = 20'	DATE: 6/24/2020	PAGE: D.C.
CLIENT: KEATON DAVENPORT	DESCRIPTION: RETRACEMENT SURVEY	JOB NUMBER: B39139	SURVEY 4 FILE:

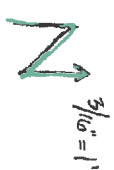




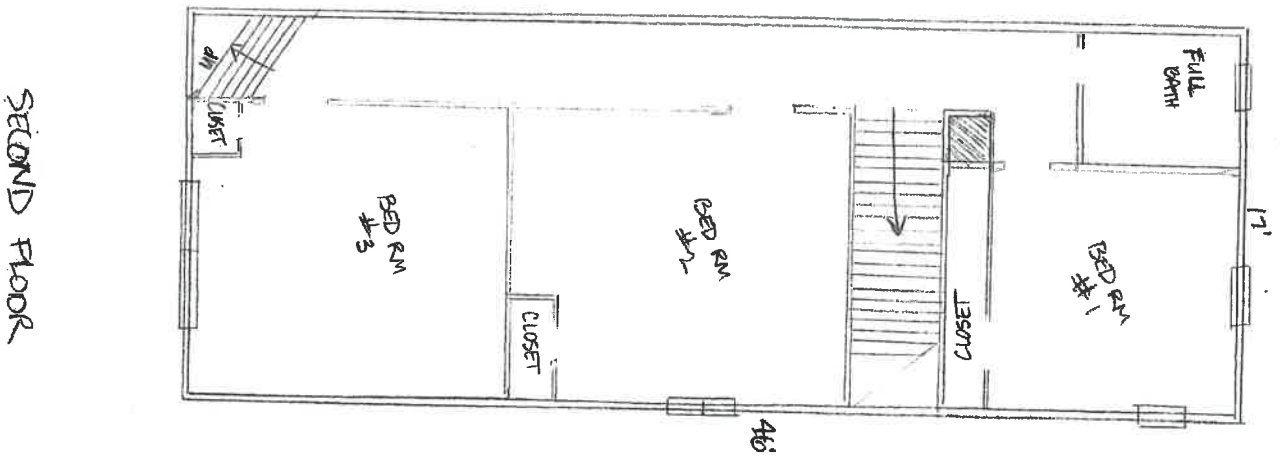
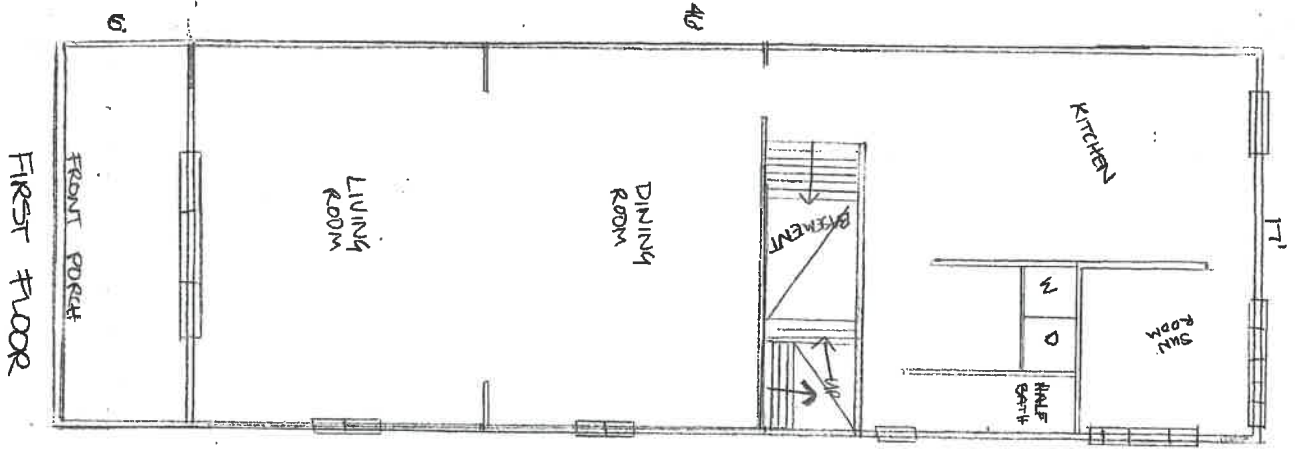
SECOND FLOOR



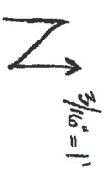
1092 LOGAN



1092 LOGAN ST  
NOBLESVILLE, IN 46060  
EXISTING FLOOR PLANS



1094 LOGAN



1094 LOGAN ST  
NOBLESVILLE, IN 46060

EXISTING FLOOR PLAN

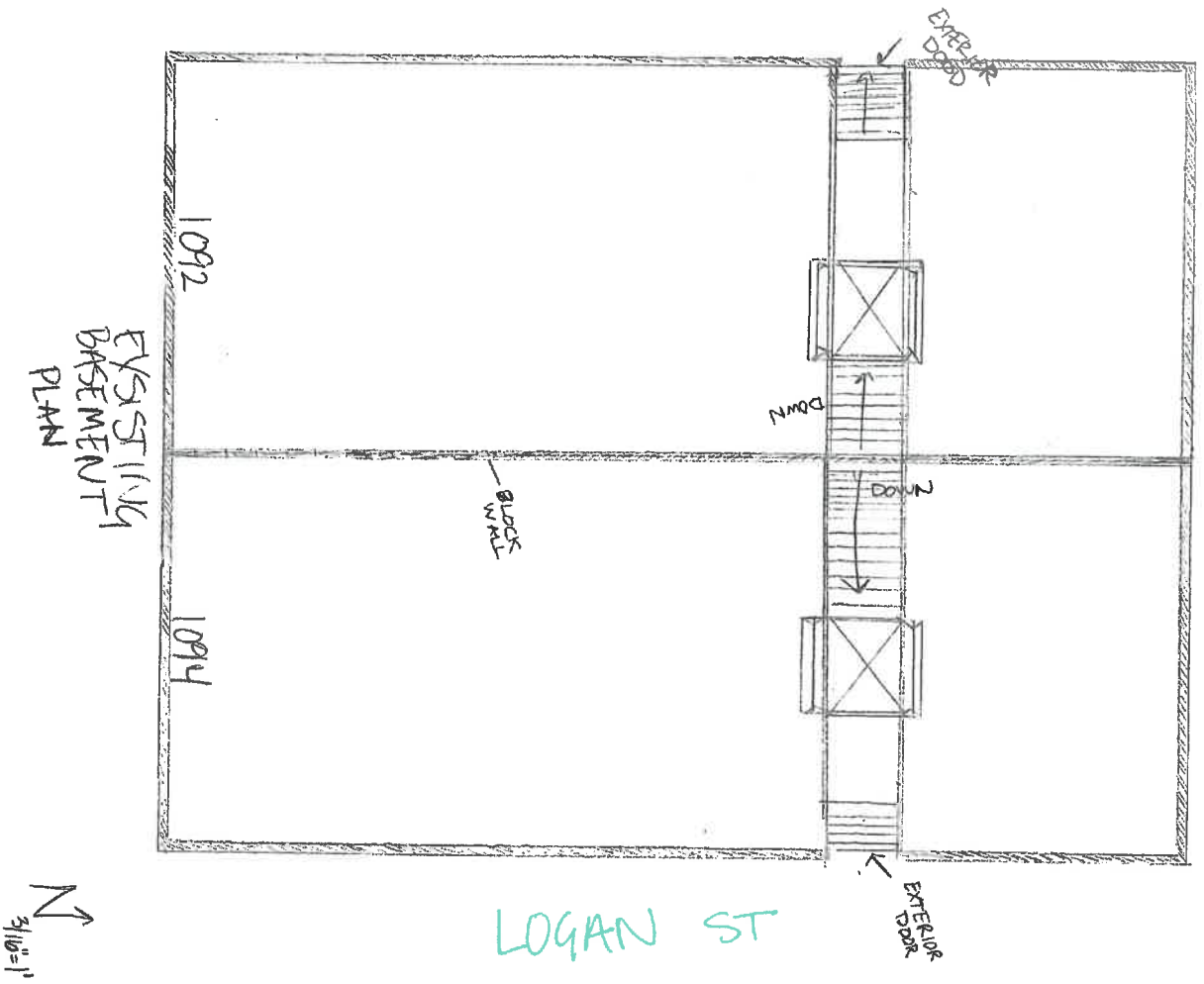
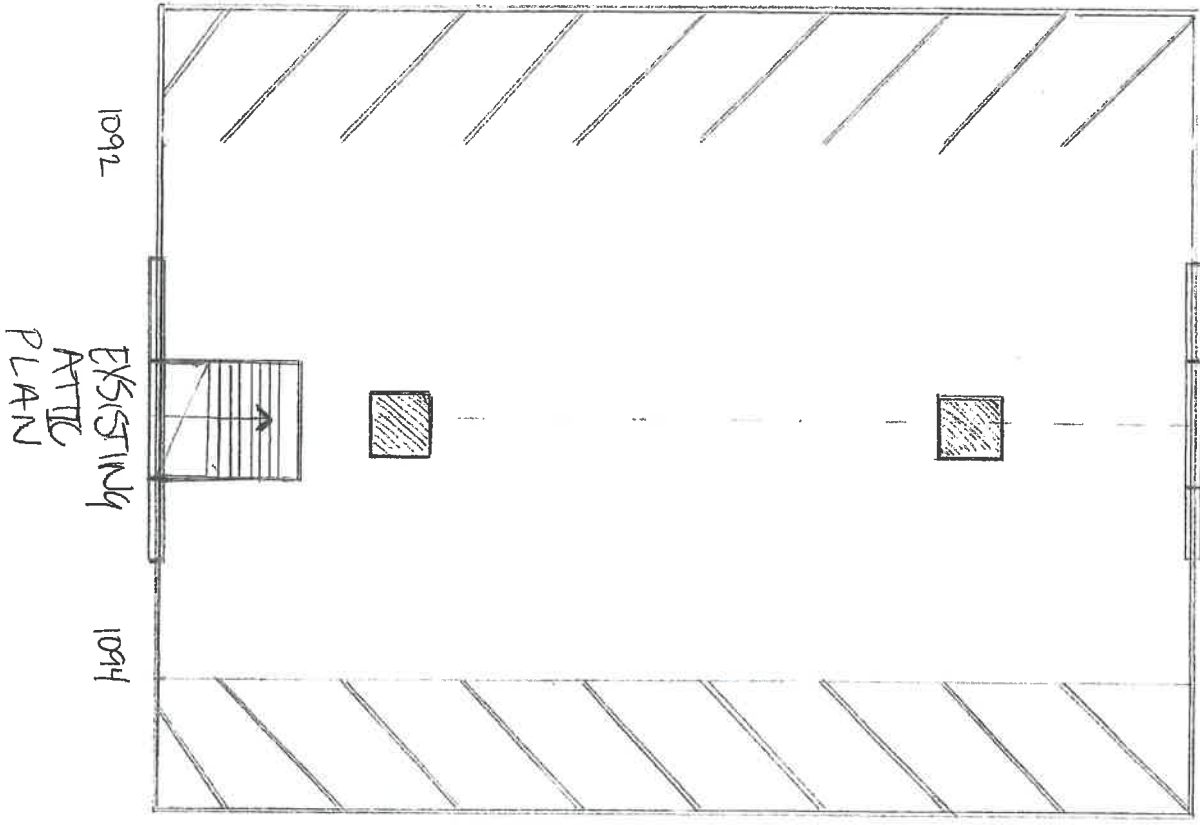






Photo 1: View from Logan Street, looking northeast



Photo 2: View from 11<sup>th</sup> Street, looking southwest