



SAN FRANCISCO PLANNING DEPARTMENT

Letter of Determination

December 15, 2016

Reuben, Junius & Rose, LLP
Thomas Tunny
One Bush Street, Suite 600
San Francisco, CA 94104

Site Address:	51 Beaver Street
Assessor's Block/Lot:	3561/046
Zoning District:	RH-2 (RESIDENTIAL- HOUSE, TWO FAMILY)
Staff Contact:	Jeff Horn, (415) 575-6925 or jeffrey.horn@sfgov.org
Record No.:	2016-013857ZAD

Dear Mr. Tunny:

This letter is in response to your request for a Letter of Determination regarding the property at 51 Beaver Street. This parcel is in the RH-2 (Residential-House, Two Family) Zoning District and 40-X Height and Bulk District. The request is to confirm that the existing one-story detached structure located in the rear yard of the subject property does not have a qualifying wall for purposes of the rear yard reduction provision of Planning Code Section 134(c)(1), and therefore could not be used by adjacent properties to reduce their minimum rear yard depths as allowed by this provision.

The Subject Property and the two adjacent properties, 45-49 Beaver Street (3561/104-105) to the east and 55-57 Beaver Street (3561/045) to the west, are in the RH-2 Zoning District. In the RH-2 Zoning District, Planning Code Section 134(a)(2) provides that a property's "minimum rear yard depth shall be equal to 45 percent of the total depth of the lot on which the building is situated." Planning Code Section 134(c)(1) allows for this rear yard depth to be reduced as follows: "the forward edge of the required rear yard shall be reduced to a line on the subject lot, parallel to the rear lot line of such lot, which is an average between the depths of the rear building walls of the two adjacent buildings." Therefore, a property may reduce its required rear yard depth by taking the average of the rear building walls of the two adjacent properties. Planning Code Section 134(c)(3) provides that "the location of the rear building wall of an adjacent building shall be taken as the line of greatest depth of any portion of the adjacent building which occupies at least 1/2 the width between the side lot lines of the lot on which such adjacent building is located, and which has a height of at least 20 feet above grade, or two stories, whichever is less, excluding all permitted obstructions listed for rear yards in Section 136 of this Code." Therefore, to qualify as a rear building wall of an adjacent building for purposes of the rear yard reduction allowed by Section 134(c)(1), that building must occupy at least 1/2 the width of its lot and have a height of at least 20 feet or 2 stories, whichever is less.

As shown on the provided Exhibit A, the existing structure in the rear yard of the Subject Property has a width almost equal to the entire width of the lot, but the height is only one story (7'-10 1/8"). Because the

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51 Beaver Street

height of the building is less than 20 feet and/or 2 stories, it does not qualify as a rear building wall of an adjacent building for purposes of the rear yard reduction allowed by Section 134(c)(1).

Please note that a Letter of Determination is a determination regarding the classification of uses and interpretation and applicability of the provisions of the Planning Code. This Letter of Determination is not a permit to commence any work or change occupancy. Permits from appropriate Departments must be secured before work is started or occupancy is changed.

APPEAL: If you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator, an appeal may be filed with the Board of Appeals within 15 days of the date of this letter. For information regarding the appeals process, please contact the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

Sincerely,



Scott F. Sanchez
Zoning Administrator

cc: Jeff Horn, Planner
Property Owner (Mehul Patel and Irma Fabrikant)
Neighborhood Groups
BBN Requestor (if any)

REUBEN, JUNIUS & ROSE, LLP

October 20, 2016

Via Hand Delivery

Mr. Scott Sanchez, Zoning Administrator
San Francisco Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

R# 2016 - 013857 210
CK # 27465 \$ 664.-
D. WASHINGTON (SW)

**Re: Request for Written Determination
Rear Yard Averaging Under Planning Code Section 134(c)
51 Beaver Street
Our File No.: 10449.01** 3561/046

Dear Mr. Sanchez:

This office represents Mehul Patel and Inna Fabrikant, owners of the property located at 51 Beaver Street (the "Property"). On behalf of the Property owners, we respectfully request a Letter of Determination confirming that an existing one-story detached structure located in the rear yard of the Property, assuming that the structure contains a legal residential use, does not qualify as a rear building wall for purposes of the rear yard reduction provisions of Planning Code Section 134(c), and therefore could not be used by adjacent properties to reduce their minimum rear yard depths as allowed by Planning Code Section 134(c).

The Property is located in the RH-2 Zoning District. In the RH-2 District, Planning Code Section 134(a)(2) provides that a property's "minimum rear yard depth shall be equal to 45 percent of the total depth of the lot on which the building is situated." Planning Code Section 134(c)(1) allows for this rear yard depth to be reduced as follows: "the forward edge of the required rear yard shall be reduced to a line on the subject lot, parallel to the rear lot line of such lot, which is an average between the depths of the rear building walls of the two adjacent buildings." In other words, a property may reduce its required rear yard depth by taking the average of the rear building walls of the two adjacent properties.

Planning Code Section 134(c)(3) provides that "the location of the rear building wall of an adjacent building shall be taken as the line of greatest depth of any portion of the adjacent building which occupies at least 1/2 the width between the side lot lines of the lot on which such adjacent building is located, and which has a height of at least 20 feet above grade, or two stories, whichever is less, excluding all permitted obstructions listed for rear yards in Section 136 of this Code." Therefore, in order to qualify as a rear building wall of an adjacent building for purposes of the rear yard reduction allowed by Section 134(c)(1),

James A. Reuben | Andrew J. Junius | Kevin H. Rose | Daniel A. Frattin | John Kevlin
Tuija I. Catalano | Jay F. Drake | Lindsay M. Petrone | Sheryl Reuben¹ | Thomas Tunny
David Silverman | Melinda A. Sarjapur | Mark H. Loper | Jody Knight | Stephanie L. Haughey
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1. Also admitted in New York 2. Of Counsel 3. Also admitted in Massachusetts

Mr. Scott Sanchez
October 20, 2016
Page 2

that building must occupy at least ½ the width of its lot and have a height of at least 20 feet or 2 stories, whichever is less.

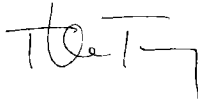
As shown on the attached Exhibit A, the existing structure in the rear yard of the Property has a width almost equal to the entire width of the lot, but the height is only one story (7'-10 1/8"). Because the height of the building is less than 20 feet and 2 stories, it does not qualify as a rear building wall of an adjacent building for purposes of the rear yard reduction allowed by Section 134(c)(1).

As such, respectfully request a Letter of Determination that the existing one-story detached structure located in the rear yard of the Property, assuming that the structure contains a legal residential use, does not qualify as a rear building wall for purposes of the rear yard reduction provisions of Planning Code Section 134(c), and therefore could not be used by adjacent properties to reduce their minimum rear yard depths as allowed by Planning Code Section 134(c).

Thank you for your attention to this matter.

Very truly yours,

REUBEN, JUNIUS & ROSE, LLP



Thomas Tunny

Enclosure

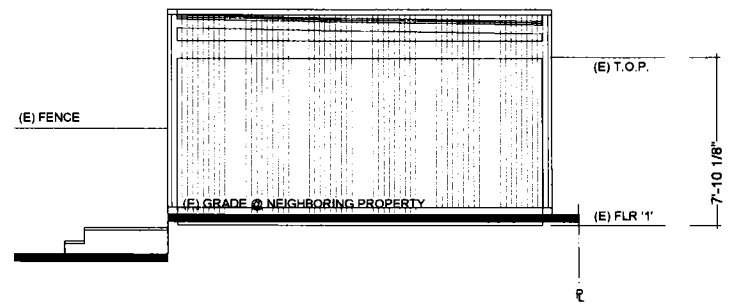
cc: Mehul Patel and Inna Fabrikant

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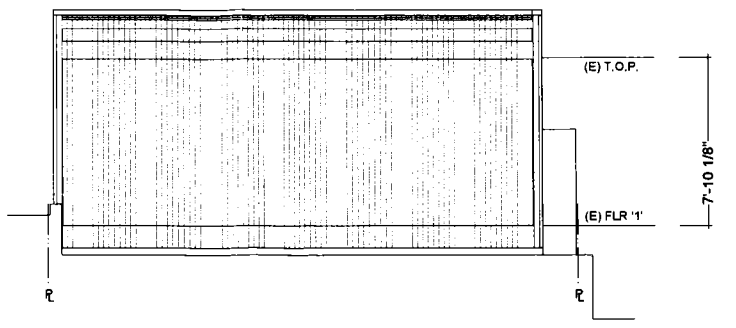
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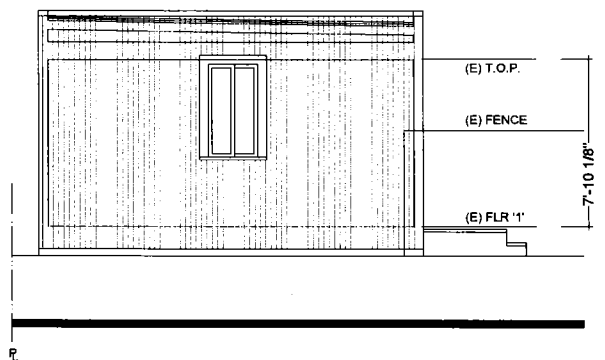
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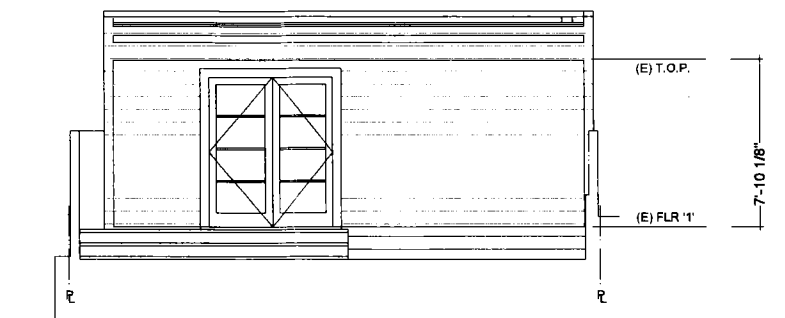
6 (E) WEST ELEVATION
 EC2.1 1/4"=1'-0"



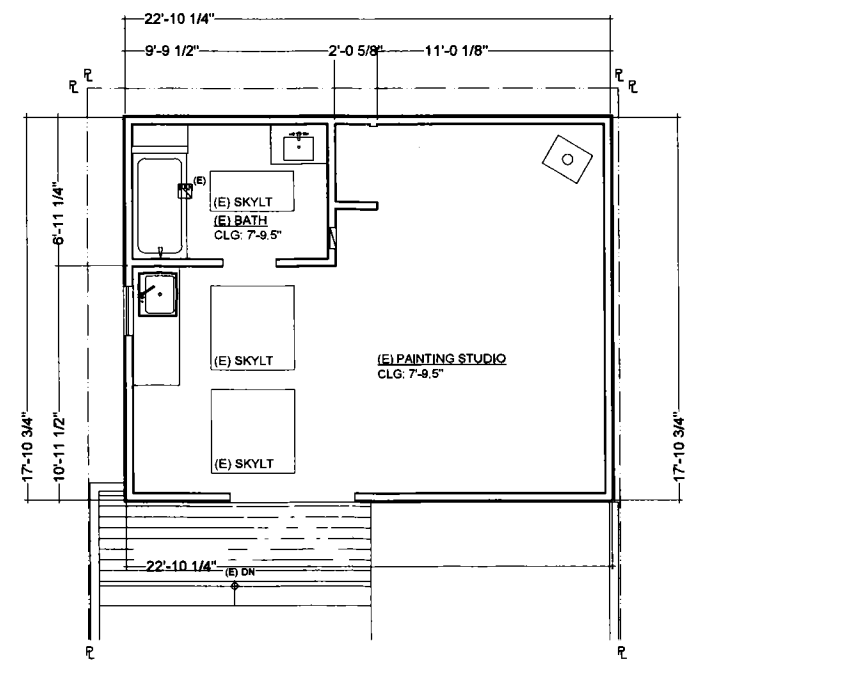
5 (E) SOUTH ELEVATION
 EC2.1 1/4"=1'-0"



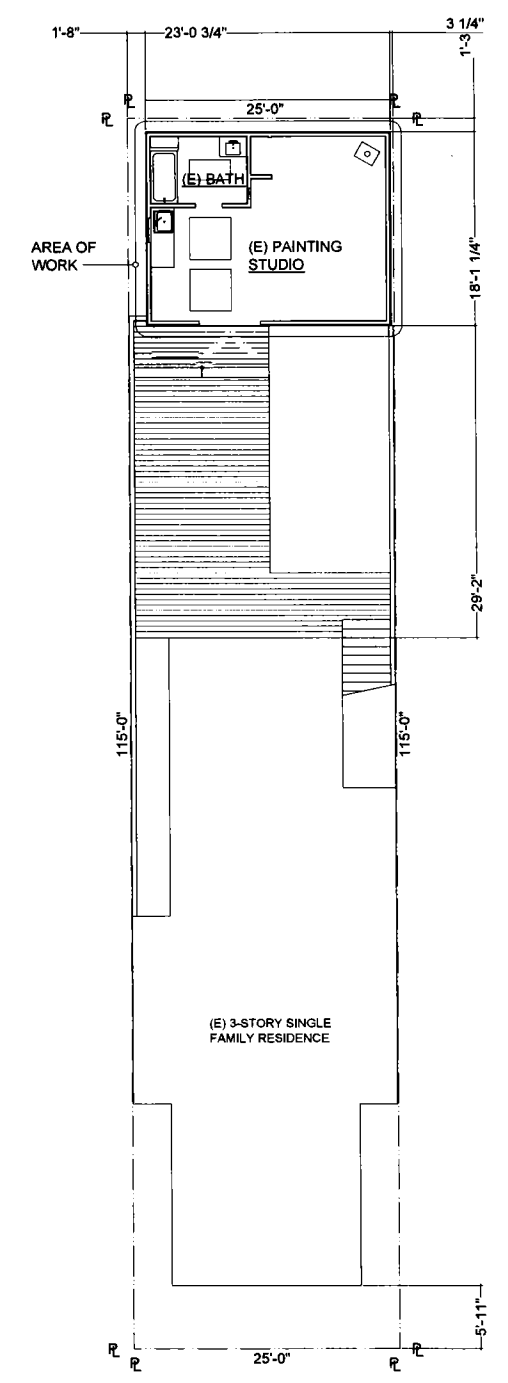
4 (E) EAST ELEVATION
 EC2.1 1/4"=1'-0"



3 (E) NORTH ELEVATION
 EC2.1 1/4"=1'-0"



2 (E) FLOOR '1' / PAINTING STUDIO PLAN
 EC2.1 1/4"=1'-0" (417 SQ.FT.)



1 (E) SITE PLAN
 EC2.1 1/8"=1'-0"

Revisions

FIELD VERIFY ALL EXISTING CONDITIONS. REPORT ANY DISCREPANCIES TO ARCHITECT.

51 BEAVER ST
 SAN FRANCISCO, CALIFORNIA
 LOT 042 / BLOCK 3561

(E) SITE PLAN,
 FLR '1' &
 EXTERIOR
 ELEVATIONS

By CH
 Date
 Scale AS NOTED
 Drawing No.

EC2.1