

SITE ADDRESS: 1018 E. Third Street

	SWITTED. 3 1 24	HEARING DATE: 3.77.24	
ACARD	:	FEE:	
NING C	CLASSIFICATION:	LOT SIZE:	
APPLIC	CATION FOR APPEAL TO THE C 10 EAST CHURCH S	CITY OF BETHLEHEM ZONING HEARING BOARD TREET, BETHLEHEM, PA 18018	
1.	Return one (1) original and eight documentation to the Zoning Office floor plans as necessary.	(8) copies of this application and all supporting icer, along with the filing fee. Include site plans and/or	
2.	The application is due by 4PM on the on the 4 th Wednesday of the next mo	he 4 th Wednesday of the month. The hearing will be held onth.	
3.	If you are submitting MORE THAN 10 exhibits at the hearing, you MUST place them in an indexed binder and submit at one time.		
App here	eal/Application to the City of by made by the undersigned	of Bethlehem Zoning Hearing Board is for: (check applicable item(s):	
_	Appeal of the determination	n of the Zoning Officer	
	Appeal of the determination Appeal from an Enforcement	1 10 10 10 10 10 10 10 10 10 10 10 10 10	
	Appeal from an Enforcement	1 10 10 10 10 10 10 10 10 10 10 10 10 10	
	Appeal from an Enforcement Variance from the City of I	ent Notice dated Bethlehem Zoning Ordinance	
	Appeal from an Enforcement Variance from the City of I	ent Notice dated	
	Appeal from an Enforcement Variance from the City of Especial Exception permitted Other:	ent Notice dated Bethlehem Zoning Ordinance	
	Appeal from an Enforcement Variance from the City of It Special Exception permitte	ent Notice dated Bethlehem Zoning Ordinance	
	Appeal from an Enforcement Variance from the City of Its Special Exception permitted Other: TION 1 LICANT:	Bethlehem Zoning Ordinance ed under the City Zoning Ordinance	
□ □ SECT	Appeal from an Enforcement Variance from the City of Its Special Exception permitted Other: TION 1 LICANT: Ripex, LLC - Joseph Ruggiero	Bethlehem Zoning Ordinance ed under the City Zoning Ordinance	
SECTAPPI	Appeal from an Enforcement Variance from the City of Its Special Exception permitted Other: TION 1 LICANT: Ripex, LLC - Joseph Ruggiero	Bethlehem Zoning Ordinance ed under the City Zoning Ordinance	

OWNER (if different from Applicant): Note. If Applicant is NOT the owner, attach written			
authorization from the owner of the property when this application is filed.			
Name same as Applicant			
Address			
Phone:			
Email:			
ATTORNEY (if applicable):			
Name James F. Preston, Esquire			
Address			
Phone:			
Email:			

SECTION 2. INFORMATION REGARDING THE REAL ESTATE

- 1. Attach a site plan, <u>drawn to scale</u>, of the real estate. Include existing and proposed natural and man-made features.
- 2. Attach architectural plans and elevations depicting proposed alterations or new construction.
- 3. Attach photographs.
- 4. If the real estate is presently under Agreement of Sale, attach a copy of the Agreement.
- 5. If the real estate is presently leased, attached a copy of the present lease.
- 6. If this real estate has been the object of a prior zoning hearing, attach a copy of the Decision.

SECTION 3.

THE RELIEF SOUGHT:

If the Applicant seeks a dimensional variance for any setback, lot coverage, distance between certain uses, etc., please state the following:

Section of Code	Dimension Required by Code	Dimension Proposed by Applicant	Variance Sought
1306.01(a)(4)	6,000 sf.	1,920 sf.	reduce minimum tract size
1306.01(a)(4)	3,000 sf.	920 sf.	reduce the minimum lot area per dwelling
1 <u>306.01(a)(4)</u> 1319.01(a)(1)(ii) 4 spaces	2 spaces	side yard setback reduce the required parking

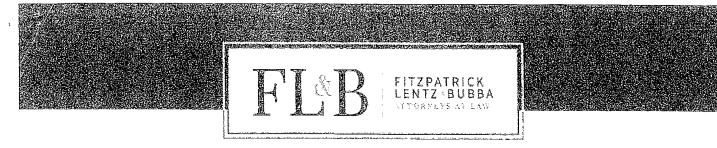
If the Applicant seeks a use or other variance, please state. Ordinance applicable and describe the variance sought.	e the specific section(s) of the Zoning
N/A	
If the Applicant seeks a Special Exception, please state t applicable:	he specific section (s) of Zoning Ordinance
N/A	
If the Applicant seeks an appeal from an interpretation of in accordance with Sec. 1325.11 (b):	of the Zoning Officer, state the remedy sought
N/A	
NARRATIVE	
A brief statement reflecting why zoning relief is sought	and should be granted must be submitted.
CERTIFICATION I hereby certify that the information contained in and correct to the best of my knowledge and belief. I also certify that I understand that any and all federa and approvals shall be obtained if the appeal is grant	al, state or local rules and regulations, licenses
Applicant's Signature	Date
Property owner's Signature	February 28, 2024 Date
Received by	Date

NOTICE: If the Decision of the Zoning Hearing Board is appealed, the appellant is responsible for the cost of the transcript.

Re: 1018 East Third Street Date: February 28, 2024

PROJECT NARRATIVE

By Decision dated March 11, 2022 the City of Bethlehem Zoning Hearing Board granted the Applicant certain dimensional relief for the Subject Property. A copy of that Decision is included with this Application. The Applicant failed to act on the relief within 12 months of the date of the Decision, wherefore the relief has expired. Applicant seeks to reinstate the expired relief without change or modification.



Email: eschock@flblaw.com Direct Dial: 610-797-9000 x355

March 11, 2022

RIPEX LLC Attn: Joe Ruggiero 930 E. Market Street Bethlehem, PA 18017 James J. Holzinger, Esquire 1216 Linden Street PO Box 1409 Bethlehem, PA 18016

Re:

City of Bethlehem Zoning Hearing Board

1018 E. Third Street

Gentlemen:

Enclosed please find a copy of the Notice and Decision of the Board in the above matter.

Very truly yours,

Erich J. School

Erich J. Schock

Enclosure

cc:

Zoning Officer, City of Bethlehem (w/encl., via e-mail)

City of Bethlehem Zoning Hearing Board (w/encl., via e-mail)

Before the Zoning Hearing Board Of the City of Bethlehem, Pennsylvania

Lehigh County

Appeal & Application of)	Date:	January 26, 2022
RIPEX, LLC)		· ,
Applicant)	Re:	1018 East 3rd Street

NOTICE OF RIGHT OF APPEAL OF AGGRIEVED PARTY

You have the right to appeal this Decision if you are an "aggrieved party" under the Pennsylvania Municipalities Planning Code. You must appeal to the Court of Common Pleas of the county in which the subject property is situated. The City of Bethlehem is located partly in Northampton County and partly in Lehigh County.

In order to properly file an appeal, you should seek the advice of a lawyer. Please note that neither the Zoning Officer nor the Zoning Hearing Board Solicitor is permitted to give you legal advice. PLEASE DO NOT CALL THIS OFFICE.

You must file your appeal in writing within thirty (30) calendar days of the date of this Decision or your right to such an appeal is lost.

YOUR APPEAL PERIOD BEGINS

MARCH 11, 2022

Before the Zoning Hearing Board Of the City of Bethlehem, Pennsylvania

Northampton County

Appeal & Application of)	Date:	March 11, 2022
RIPEX, LLC)		,
Applicant)	Re:	1018 E. Third Street

DECISION

I. <u>Preliminary Matters</u>

A public hearing was held on January 26, 2022 at 6:00 PM before the Zoning Hearing Board of the City of Bethlehem ("Board") regarding Applicant's appeal to the Board.

A. Parties

- 1. <u>Applicant</u>: Joe Ruggiero appeared on behalf of Ripex, LLC ("Applicant") at the hearing.
- 2. <u>Zoning Hearing Board</u>: The Board comprised William Fitzpatrick (Chairman), Terry Novatnack, Peter Schneck, Jessica Lee and Carol Ritter. The Zoning Officer was Craig D. Peiffer. Erich J. Schock of Fitzpatrick Lentz & Bubba, P.C., represented the Zoning Hearing Board as its Solicitor.
 - 3. <u>Protestant(s)</u> / Interested Parties: None

B. Notice

Notice of the hearing was given by public advertisement, posting of the Property and regular mail to neighboring property owners pursuant to the applicable provisions of the Pennsylvania Municipalities Planning Code, the Zoning Ordinance of the City of Bethlehem²

¹ MPC § 10908(1) provides that "[p]ublic notice shall be given and written notice shall be given to the applicant, the zoning officer, such other persons as the governing body shall designate by ordinance and to any person who has made timely request for same. Written notices shall be given at such time and in such manner as shall be prescribed

and the rules of the Board.³ The hearing was held in part remotely. Telecommunication devices were utilized during the hearing in accordance with the requirements of Pa. Act 15 of 2020 (35 Pa. C.S. Section 5741, *et seq.*, and 42 Pa. C.S.) enacted by State Legislature and signed into law by Governor Wolf on April 20, 2020. All public notices, posting of the property, and mailings regarding the public hearing were, however, performed in compliance with the Public Notice requirements of the Pa. Municipalities Planning Code, 53 P.S. Section 10107, *et seq.*, and the City Zoning Ordinance, and not under the relaxed standards set forth in Pa. Act 15 of 2020.

C. Property

The property consists of two parcels of land located at **1018 E. Third Street**, Bethlehem, Lehigh County, Pennsylvania (collectively, the "Property").

II. Applicable Law

The Board considered the case under the following statutory authority, as well as under applicable reported decisions of the appellate courts in Pennsylvania:

by ordinance or, in the absence of ordinance provisions, by rules of the board. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing."

Article 1325.04(a) provides for notice to be given as follows: (a) Upon filing with the Board for an application for a special exception, variance or other appeal under this Ordinance, the Board shall determine a place and a reasonable time, and the City shall give notice as follows: (1) The City shall publish a public notice describing the location of the building or lot and the general nature of the matter involved in a newspaper of general circulation in the City in conformance with the Municipalities Planning Code. (2) The City shall give written notice to the applicant and persons who have made a timely request for notice of such hearing. In addition, notice shall be provided to those persons whose properties adjoin the property in question, and to the City Planning Commission. Such notice should be sent at least 7 days prior to the hearing. (3) The City shall provide written notice to the last known address of the primary owner of lots within 300 feet of the subject lot, unless the application only involves a dimensional variance on an owner occupied single family dwelling unit or its accessory structure. Failure of a person(s) to receive such notice shall not be grounds for an appeal, provided that a good faith effort was made to provide such notice.

³ The custom and practice in the City of Bethlehem is for the Zoning Officer to place the notice in the newspaper and to send written notice to interested parties by regular mail. The Applicant is given a fluorescent sign by the Zoning Officer at the time the Application is filed and the fee paid, and the Applicant is instructed to conspicuously post the property with the sign giving notice of the particulars of the hearing at least seven (7) days prior to the hearing.

1. The Codified Zoning Ordinance of the City of Bethlehem, effective June 15, 2012, as

amended (hereinafter, the "Zoning Ordinance").

2. The Pennsylvania Municipalities Planning Code, 53 P.S. § 10101, et seq., as

reenacted 1988, Dec 21. P.L. 1329, No 170, § 2 (hereinafter, the "MPC").

III. Nature of Relief Sought

Applicant sought variances to convert the first-floor commercial space into a dwelling

and construct a second-floor addition to create a two-family detached dwelling. To do so

required the following relief: (1) dimensional variances from Section 1306.01(a)(4) to reduce the

minimum tract size (6,000 SF required, 1,920 SF existing), to reduce the minimum lot area per

dwelling (3,000 SF required, 920 SF proposed) and the side yard set back (4' required, 1'

proposed); and (2) relief from Section 1319.01(a)(1)(ii) to reduce the required parking from 4 to

2 spaces.

IV. Evidence Received by the Board

In addition to testimonial evidence received by the Board from Applicant, the Board

admitted the following as exhibits:

Application and its attachments

Exhibit T-100: Photos

Exhibit A-100: Site Plan

Exhibit A-101: Floor Plan

V. Findings of Fact

1. Applicant, Ripex, LLC, is the owner of property located at 1029 -1031 E. Third

Street, in the Northampton County portion of the City of Bethlehem.

2. The property is within the RT - High Density Residential Zoning district, is

irregularly shaped and contains 1,920 square feet.

3. Joe Ruggiero is the principal in Applicant and appeared and testified on its behalf.

3

- 4. Exhibit T-100 consists of photos including an aerial marking the Property with a red dot and street views of the Property as it exists today.
- 5. Located on the Property is an abandoned building that Applicant understands to have been formerly a bakery and barber shop.
- 6. The lot is strewn with garbage, is overgrown and the building's mechanical systems are not in working order.
 - 7. The neighborhood had almost no foot traffic to support a business use.
- 8. Applicant is proposing to add a second-floor addition since the roof truces would need to be replaced in any event.
- 9. Exhibit A-100 is a Site Plan showing that the Property is an undersized triangularly shaped lot.
 - 10. Applicant is able to fit two parking spaces on the lot.
 - 11. Exhibit A-101 is a Floor Plan.
- 12. Each floor will contain a one-bedroom 500-square foot apartment. There will be an external staircase.
 - 13. Applicant testified that there is no issue with on-street parking in the area.
- 14. Applicant recently appeared before the Zoning Hearing Board in connection with other applications for rehabilitation projects on Evans Street. Applicant requested and the Board agreed to incorporate its findings and the testimony from those appeals with respect to the character of the neighborhood and the availability of on street parking.
- 15. The minimal lot area required by code is 6,000 square feet for a single-family semi-detached dwelling. The required lot is 3,000 per dwelling unit. For the existing non-

residential use, the lot is more non-conforming, since 6,500 square feet is required for a non-residential use.

- 16. Applicant is proposing work force housing, which is housing appropriate for the neighborhood.
 - 17. The footprint of the building will remain the same.
- 18. Applicant cannot utilize a staircase inside the building, since it would occupy to much of the interior.
- 19. Applicant is proposing to modify curbing to the extent that is required by the City Engineer to allow Applicant to create the two proposed on-site parking spaces.
- 20. Applicant is only permitted to have one dwelling on the lot but testified that nominal use is infeasible.
- 21. The required lot width is 60 feet or 30 feet per dwelling, while Applicant is proposing its use on an existing lot with 45'6" of width. That same deficiency exists for a non-residential use, since 60' in width is required.
- 22. With regard to the setbacks, Applicant is not making any changes. The front and rear yard setbacks would remain with the same deficiency's that exist under the current Zoning Ordinance.
- 23. The side yard setbacks actually are reduced in non-conformance, since 4 is required for the proposed use while 6 is required for a non-residential use.
- 24. Due to the size of the Property, two parking spaces are the maximum feasible. No parking spaces exist today.

VI. Discussion

Applicant requires variances from the Zoning Ordinance to construct the project as proposed. The grant of a variance is pursuant to § 1325.06 of the Zoning Ordinance.

1302.96 Variance

A modification of the regulations of this Ordinance, granted on grounds of exceptional difficulties or unnecessary hardship, not self-imposed, pursuant to the provisions of Article 1325 of this Zoning Ordinance, and the laws of the State of Pennsylvania.

The Zoning Ordinance provides specific criteria that the Zoning Hearing Board must address in relation to the approval or denial of a variance request:

1325.06 Powers and Duties - Variances

- (a) Upon a written appeal from a determination by the Zoning Officer, the Zoning Hearing Board shall have the power to approve a Variance to one or more specific provisions of this Ordinance for a specific property.
- (b) The power to authorize a variance from the terms of this Ordinance shall only be used where authorized under the Pennsylvania Municipalities Planning Code or in *de minimus* situations. As of the adoption date of this Ordinance, the Municipalities Planning Code provided that all of the following findings must be made, where relevant:
- (1) There are unique physical circumstances or conditions (including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property) and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood or district in which the property is located;
- (2) Because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and a Variance is therefore necessary to enable the reasonable use of the property;
 - (3) Such unnecessary hardship has not been created by the appellant;
- (4) The Variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare; and

(5) The Variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

There is a multitude of decisions of the various courts in the Commonwealth dealing with the grant of variance. A variance applicant must show that unnecessary hardship will result if the variance is denied and that the proposed use is not contrary to the public interest. *Allegheny West Civic Counsel, Inc. v. Zoning Bd. of Adjustment of the City of Pittsburgh*, 689 A.2d 225 (Pa. 1997).

The Board first notes that the zoning relief requested is dimensional relief. Dimensional variance relief is subject to a lesser standard than use relief. Further, Applicant's case for relief is compelling. With respect to lot area and lot area per dwelling unit, Applicant is developing an unusually-shaped, existing non-residential lot for a permitted use. The Board recognizes that these design criteria are intended to impose a particular layout for a two-family dwelling being developed on a "typical" vacant tract. The Board acknowledges (and in prior decisions has acknowledged) that meeting this requirement may not be feasible in the instance of an oddly-shaped lot.

It is the existing physical circumstances of the Property, namely, location, size and shape that dictates the relief. The Board can think of no adverse impact on the community. The project is an improvement to the neighborhood and eliminates not only an unattractive vacant building but creates a conforming use and decreases existing non-conformities. The relief is the minimum, since it creates the minimum number of units to reasonably occupy the Property. The necessity for the relief is not created by the Applicant but rather by circumstance.

Applicant meets the standard for a variance. Further, as is the Board's prerogative, conditions can be attached to protect the public interest.

VII. Conclusions of Law

- 1. Applicant presented sufficient evidence to demonstrate that the Property is subject to unique circumstances.
 - 2. The circumstances create a hardship.
 - 3. Applicant did not create the hardship.
 - 4. The relief that is granted will not be injurious to the public.

VIII. Decision of the Board

Based upon the foregoing, by a 5-0 vote the Board granted the necessary relief subject to the following conditions:

- 1. Applicant shall construct the building in substantial accordance with the submitted rendering.
- 2. Applicant shall install the two parking spaces in such manner as is decided upon by the City Engineer.

BOARD: Erich J. Schock /s/ William Fitzpatrick * ERICH J. SCHOCK WILLIAM FITZPATRICK Solicitor Chairman /s/ Craig D. Peiffer* /s/ Terry Novatnack* CRAIG D. PEIFFER, TERRY NOVATNACK Zoning Officer Member /s/ Peter Schneck* PETER SCHNECK Member /s/ Jessica Lee* JESSICA LEE Member /s/ Carol Ritter* CAROL RITTER Member

DATE(S) OF HEARING: January 26, 2022

DATE OF WRITTEN DECISION: March 11, 2022

^{*} The above individuals were unavailable at the date of mailing.

Before the Zoning Hearing Board Of the City of Bethlehem, Pennsylvania

Lehigh County

Appeal & Application of)	Date:	March 11, 2022
RIPEX, LLC)		
Applicant)	Re:	1018 East 3rd Street

Certificate of Service

I, Erich J. Schock, Solicitor to the Board, do herby certify that I sent a true and correct copy of the forgoing Decision to the Applicant listed below at the addresses set forth, by regular first class U.S. Mail on the date set forth below.

RIPEX LLC Attn: Joe Ruggiero 930 E. Market Street Bethlehem, PA 18017 Applicant James J. Holzinger, Esquire 1216 Linden Street PO Box 1409 Bethlehem, PA 18016

FITZPATRICK LENTZ & BUBBA, P.C.

Date: March 11, 2022

ERICH J. SCHOCK

Atty. I.D. No.65475 Two City Center

645 West Hamilton Street, Suite 800

Allentown, PA 18101

Attorney for Zoning Hearing Board

Of the City of Bethlehem

1018 EAST 3RD STREET APARTMENT RENOVATIONS & ADDITION

BETHLEHEM, PA 18015



CODE ANALYSIS:

IBC 2018, IEBC 2018

Chapter 3 - Use and Occupancy Table 310.3

230 & 232 Morton Streets are currently zoned residential (R-1). No change of zoning use is proposed for the existing building or 2-story rear addition

Chapter 6 - Types of Construction

Existing Building: VB; Vinyl siding on wood framing exterior walls; composite roof over wood decking on wood rafters Building Height: (2.5) story with basement

New Addition: 5B

Proposed Building Areas (useable) 1018:

1018 Floor

Level 1 515 sf (515 exist.) Level 2 515 sf (515 new)

Total: 1030 sf

Chapter 7 Fire and Smoke Protection Features Table 706.4 Fire Wall Resistance Ratings

Group R-1: 2-Hr Fire Resistance rating required between units of Type V construction (Provided)

2-Hr fire rated walls shall be permitted to terminate at the underside of the roof sheathing provided:

- 1) The roof assembly has a rating of not less than 1 hr and Class B (meets requirements)
- 2) Openings in the roof are not within 4 ft of the fire wall (n/a)

Chapter 8 Alterations (IEBC) Sections 803.2.1 & 805.3.1.1, Exception 2.2

1 access per floor is permitted if the building is not more than 3 stories and third story space is part of a dwelling unit with an exit access doorway on the second story; exit access distance from the exit door to any habitable room must not exceed 50 feet (See A2.00 & A2.01 for egress distances) Meets requirement.

Chapter 8 IBC Table 803.1.1

Exit Enclosures - Class C (must meet requirements) Corridors & Enclosed Spaces - Class C (must meet requirements)

Chapter 9 Fire Protective Systems

IBC Sect. 903 Sprinkler Systems

Automatic sprinkler system not required.

(Both 230 & 232 E. Morton streets contain 1 single family apartment unit each).

IBC Sect. 906.3 Fire Extinguishers: (1) 2-A extinguisher for 6,000sf (1 unit of 'A' is per 3,000 sf) and 75 feet maximum travel distance

Required and Provided for Light (Low) Hazard Occupancy

IBC Sect. 907.2.9.1 Manual Fire Alarm: Not Required

IBC Sect. 907.2.10.2 Automatic Fire & Smoke Detection: Required and Provided IBC Sect. 907.2.11.2 Visible & Audible Smoke Alarms: Required and Provided

- on the ceiling or wall outside sleeping areas -on each story of a dwelling unit (incl. basement & attic)

IBC Sect. 908 Emergency Alarm System: Not Required

IBC Sect. 909 Smoke Control System: Not Required IBC Sect. 910 Smoke and Heat Vents: Not Required

Chapter 10 Means of Egress (IBC) IBC Sect. 1023.2 and IEBC 805.3.1.1

3 stories or less: Min. 1hr rated smoke enclosure at interior exit stairways (provided)

Only 1 exit is required from buildings and spaces when: Group R-1 not more than 2 stories in height, and when there are not more than 4 dwelling units per floor and the exit access travel distance does not exceed 50 ft.

Occupancy Load Calculations, Section 1004, Table 1004.1.2 - Occupant Load (R-1)

Proposed Building Area (useable, 230 or 232):

Basement: 320/200sf =1 occupant 1st Floor: 750 sf / 200sf = 3 occupants 2nd Floor: 630 sf / 200sf = 3 occupants 3rd Floor (Attic): 260 sf / 200sf = 1 occupants

Total: 1960sf --> 9 occupants

Means of Egress Capacity:
IBC Sect. 1004.1.1 and Table 1005.1

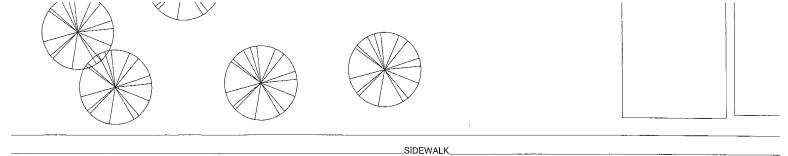
Required Egress Width: Egress Stairways: .3 x 20 occupants = 6" (36"+ provided) Other Egress components: .2 x 20 occupants = 4" (36"+ provided)

Exit Access Travel Distance:

IBC Tables 1015.1 & 1017.2, IEBC 805.3.1.1

(1) Exit is required per floor - (1) Provided

200 ft. max. length allowable for exit travel distance (non-sprinklered building)



1018 E. 3RD ST.
TOTAL LOT AREA: 1742 SF
BLDG. FOOTPRINT: 494 SF
TOTAL BLDG. AREA
(W 2ND STORY ADDITION): 988SF

EXIST. SIDEWALK

PARKING
NEW STAIR
302.5 S
EXIST. SIDEWALK

EXIST. SIDEWALK

EXIST. SIDEWALK

EXIST. SIDEWALK

