



A. PROJECT INFORMATION

1. APPLICATION IS: Development Project Protest Appeal

2. STAFF REVIEW DATE:

3. SITE INFORMATION

Development Address: 157 36th St

Parcel ID(s)/Lot-and-Block Number(s): 48-M-25

Project Description: New construction of Single family dwelling.

3. CONTACT INFORMATION

Applicant Name: John- Edward Porter

Applicant Contact (phone and email): 304-602-7880

B. ZBA HEARING INFORMATION

Zone Case #103. of 2020

Date of Hearing: *July 23, 2020*

Time of Hearing: *9:50 a.m.*

Zoning Designation: R1A-VH

Neighborhood: Lower Lawrenceville

Zoning Specialist:

C. ZBA REQUESTS

Type of Request: Variance

Code Section: 903.03.E.2

Description: maximum height 3 story permitted and 4 story proposed

Minimum 5ft exterior side setback required, 0ft proposed

Minimum 5ft interior side setback required, 0ft proposed

Type of Request: Variance

Code Section:

Description:



ACP-2BR-2019-07287

Zoning Board of Adjustment Application

Address of Subject Property: 157 36th St Date: _____

Zone Case # 103 of 20 20 Zoning Designation: RIA-VH

Date of Hearing: _____ Time of Hearing: _____

Neighborhood: _____ Ward: 6 RCO: _____
 Meeting Required: Yes No

Applicant's Name: _____ Signature: _____

Paid: \$ _____ Check # _____ Zoning Specialist: _____
 (ZBA application filing fees are not refundable)

Variance Special Exception Code Section # 903.03.E-2

New Construction of Single Family House
 Description: _____

max height 3 stories -> 4
will ext 5' -> 0'
- min int 5' -> 0'

Variance Special Exception Code Section # _____

Description: _____

Variance Special Exception Code Section # _____

Description: _____

Parcel ID : 0048-M-00180-0000-00
Property Address : 85 36TH ST
PITTSBURGH, PA 15201

Municipality : 106 6th Ward - PITTSBURGH
Owner Name : WILSON MC GINLEY INC

Data displayed on this map is for informational purposes only. It is not survey accurate and is meant to only show a representation of property lines.

Print

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Division of Development Administration and Review
City of Pittsburgh, Department of City Planning
200 Ross Street, Third Floor
Pittsburgh, Pennsylvania 15219

ZONING BOARD OF ADJUSTMENT

Date of Hearing: February 20, 2020
Date of Decision: April 3, 2020
Zone Case: 44 of 2020
Address: 157 36th Street
Lot & Block: 48-M-25
Zoning Districts: R1A-VH
Ward: 6
Neighborhood: Lower Lawrenceville
Owner: Adam Longshore
Applicant: John Edward Porter
Request: New construction of 4-story, single-family dwelling, with integral parking, decks and 6' privacy fence.

DCP-ZDR-2019-07287

Variances	903.03.E.2	Minimum 5' front setback required, 0' requested Minimum 15' rear setback required, 0' requested Maximum height 40'/three-story permitted, 40'/four-story requested
	925.06.A	6' fence in front setback

Appearances:

Applicant: Adam Longshore
In-Favor: John Porter, Brent Fosdick, Jared Korchok
Opposed: Allison Holt, Suzan Holt

Findings of Fact:

1. The street address of the Subject Property is 157 36th Street. The parcel is located on 36th Street, between Smallman Street and Melville Way, in an R1A-VH (Residential One Unit Attached Very High) District in Lower Lawrenceville.

The Zoning Board of Adjustment reserves the right to supplement the decision with Findings of Fact and Conclusions of Law.

2. The dimensions of the parcel are 20.8' by 100' (2,080 sf), with the 100' length of the property extending along 36th Street. The size, shape and topography of the parcel are consistent with the other parcels in the immediate vicinity. The Subject Property is currently vacant.

3. The Applicant proposes to build a new four-story, single-family house on the site, with a two-car integral garage with access from Melville Way. As proposed, the front of the house would be on 36th Street.

4. As proposed, the structure would extend to the 36th Street property line, with a 0' setback. The rear of the structure would extend to the property line shared with the property at 3604 Smallman Street, with a 0' setback. It would be set back 5' from the Melville Way property line and 35' from the Smallman Street property line.

5. Also, as proposed, portions of the upper floors of the structure would extend into the 36th Street right-of-way. The fourth floor would have one rooftop deck facing 36th Street and a second rooftop deck facing Melville Way. The house would have decks on the ground and second floor level that would be set back 0' from 36th Street and 6" from the property line shared with the 3604 Smallman Street property. A 6' high privacy fence, within the 36th Street setback on the Smallman Street side of the house, would enclose the yard.

6. The Applicant indicated that the City had requested that, for addressing purposes, 36th Street, and not Smallman Street, should be considered the front of the house.

7. The Applicant asserted that the requested variances are a consequence of the house facing 36th Street, because the 20.8' dimension of the parcel would not allow for the construction of a detached house in accordance with setback requirements.

8. The Applicant explained that a house facing Smallman Street, with a footprint similar to other houses on the block and consistent with the Code's contextual setback standards, would allow for 0' front and interior side setbacks. However, the Applicant maintained that it would be necessary to seek a variance from the exterior side setback requirement because of the parcel's dimensions.

9. The Applicant explained that the proposed fourth floor would allow for the rooftop balconies and noted that the top of the roof would be 40' from grade, in compliance with the Code's maximum height requirement.

10. Allison Holt, owner of the property at 3616 Smallman Street, appeared at the hearing with her mother, Suzan Holt, to oppose the variance requests, and presented a letter to summarize her concerns. She asserted that the proposed location of the house on the Subject Property would not be consistent with the character of the surrounding area. She explained that other houses on the same block as the Subject Property are attached row houses, which are oriented towards Smallman Street. She indicated that she would not oppose development of the Subject Property in a manner consistent with the footprint of the other houses on the block. She also asserted that the proposed location of the house would impact air flow and sun exposure in backyards of houses on the rest of the block.

Conclusions of Law:

1. The Applicant seeks variances from the site development standards in Section 903.03.E.2 for front and rear setbacks and height, and from Section 925.06.A to allow construction of a 6' fence in a front setback, on the Smallman Street side.

2. Section 922.09.E sets forth the general conditions the Board is to consider with respect to variances. The Pennsylvania Supreme Court has summarized the criteria for determining whether to

grant a variance as: 1) unique circumstances or conditions of a property would result in an unnecessary hardship; 2) no adverse effect on the public welfare; and that 3) variance proposed is the minimum variance that would afford relief with the least modification possible. *Marshall v. City of Philadelphia and Zoning Bd. of Adj.*, 97 A.3d 323, 329 (Pa. 2014); see also *Hertzberg v. Zoning Bd. of Adj. of the City of Pittsburgh*, 721 A.2d 43 (Pa. 1998), citing *Allegheny West Civic Council v. Zoning Bd. of Adj. of the City of Pittsburgh*, 689 A.2d 225 (Pa. 1997). Section 922.09.E.3 explicitly provides that an asserted hardship cannot "be created by the applicant."

3. In *Hertzberg*, the Court recognized that a less restrictive standard is appropriate for dimensional variances, which require only for a reasonable adjustment of the zoning regulations to accommodate a use of property that is permitted. *Hertzberg*, 721 A.2d at 47-48. However, the less restrictive standard does not obviate the requirement of some evidence that an asserted hardship results from a unique condition of the property; that the asserted hardship is not self-created; and that the variance requested is the minimum that would afford relief.

4. The Applicant failed to provide any evidence of any unique conditions associated with the property that would create a hardship or would preclude development of the site in conformity with the Code's setback and height requirements. To the extent that the Applicant asserted a hardship resulting from the narrow dimensions of the site in the context of the proposed orientation of the house towards 36th Street, that condition can only be viewed as self-created.

5. A house oriented towards Smallman Street could more closely conform with the Code and would have a less significant impact on the established character of the area and the existing residential structures.

6. For these reasons, consistent with the evidence presented and the applicable legal standards governing dimensional variances, the Board concludes that denial of the requested variances is appropriate.

Decision: The Applicant's request for a variance from Code Section 903.03.E.2 and 925.06.A is hereby DENIED.

s/Alice B. Mitinger

Alice B. Mitinger, Chair

s/ LaShawn Burton-Faulk

LaShawn Burton-Faulk

s/John J. Richardson

John J. Richardson

Note: Decision issued with electronic signatures, with the Board members' review and approval, consistent with the March 22, 2020 Emergency Order of the Pennsylvania Supreme Court regarding the statewide judicial emergency.

ACP-ZDR-2019-07287

Re: 36th Street Spec House - NOW Smallman Street Spec House

Seifert, Caroline <caroline.seifert@pittsburghpa.gov>

Wed 4/22/2020 12:09 PM

To: John Porter <jporter@desmone.com>

Cc: Adam Longshore <adam@adamlongshore.com>; Brent Fosdick <gmlconstruction1@gmail.com>; Ipatova, Svetlana <svetlana.ipatova@pittsburghpa.gov>

Hi John,

I saw a file note in the ZDR from Bobbie that the curb cut was approved with the DOMI approval for curb cut (#DPW1923117) with the following condition: applicant must establish a sidewalk from the back of the curb to match existing sidewalk on adjacent property along the entire frontage.

Let me know when you hear back from addressing regarding a revised address.

The Zoning Administrator approved the contextual front setback.

We are currently not scheduling future ZBA hearings and not holding them virtually. I've looped in Lana so she can contact you when we are able to schedule hearings again.

We won't be able to start the Administrator Exception for the garage until the variances for the setbacks for the primary structure are approved.

Variance Requests

Max height 40' no more than 3 stories - 4 stories requested

Exterior side setback - 0' requested

Interior side setback - 0' requested

Caroline Seifert

Zoning Specialist

Department of City Planning

Division of Zoning & Development Review

Thank you for your patience in this time as our department moves to work out of office and continues to serve the public. We apologize for any delays in response. The Zoning counter at 200 Ross Street is currently closed. Applications can be submitted and documents uploaded onto OneStopPGH. We will continue to review applications and keep you informed on changes to review procedures and next steps.

New! Please review the checklist [here](#) to determine whether a Zoning and Development Review Application (ZDR) is required. If a ZDR is required, the [checklist](#) will determine whether a stamped site plan is required.

The OneStopPGH online portal is now open! You are able to create a User Profile, which will allow you to initiate applications, pay fees, and upload your attachments online. You can use the same User Profile for all of your applications. Videos are available at OneStopPGH to assist with frequently asked questions about this

process.

From: John Porter <jporter@desmone.com>
Sent: Monday, April 20, 2020 3:54 PM
To: Seifert, Caroline <caroline.seifert@pittsburghpa.gov>
Cc: Adam Longshore <adam@adamlongshore.com>; Brent Fosdick <gmlconstruction1@gmail.com>
Subject: RE: 36th Street Spec House - NOW Smallman Street Spec House

Hi Caroline,

I just wanted to let you know this was formally submitted just now. After talking with Adam we have decided to request 0' on each side (interior and on 36th street side) Also we are requesting a 4th story under 40' tall. With those pending approvals, will be the garage setbacks as well.

I wanted to ask – are you all still doing hearings online/ virtually or are they postponed until the world opens back up?

Thanks,

John-Edward Porter; Assoc. AIA, LEED AP BD+C
Designer II
DESMONE ARCHITECTS

From: Seifert, Caroline <caroline.seifert@pittsburghpa.gov>
Sent: Wednesday, April 15, 2020 12:17 PM
To: John Porter <jporter@desmone.com>
Cc: Adam Longshore <adam@adamlongshore.com>; Brent Fosdick <gmlconstruction1@gmail.com>
Subject: Re: 36th Street Spec House - NOW Smallman Street Spec House

Hi John,

For the 36th St side setback - "If the subject lot is a corner lot, the Contextual Side Setback may fall at any point between the required side setback required by the zoning district and the side setback that exists on the lot that is adjacent and oriented to the same street as the subject lot, but shall be a minimum of three (3) feet." (925.06.C)

For the interior side setback - "the side setback to zero when the side of the abutting property has a zero side setback when both building walls abut each other" (925.06.C.2). The portion of the structure that touching the lot line is not abutting the adjacent structure.

For the accessory structure setbacks - Contextual setbacks do not apply to accessory structures. if the garage does not project more into the setback than the house, it can be approved through an Administrator Exception, which is a \$100 fee and 21 day posted notice (925.06.G).

The site plan looks sufficient for the Zoning Administrator to determine for certain regarding the front contextual setback.

Caroline Seifert
Zoning Specialist
Department of City Planning
Division of Zoning & Development Review

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From: John Porter <jporter@desmone.com>
Sent: Tuesday, April 14, 2020 12:36 PM
To: Seifert, Caroline <caroline.seifert@pittsburghpa.gov>
Cc: Adam Longshore <adam@adamlongshore.com>; Brent Fosdick <gmlconstruction1@gmail.com>
Subject: RE: 36th Street Spec House - NOW Smallman Street Spec House

Hi Caroline,
I wanted to send over these plans for a first pass review before I send them in online for the onestop official review. Based on everything here do you see any issues that we should address to avoid a hearing?
Thanks,

John-Edward Porter; Assoc. AIA, LEED AP BD+C
Designer II
DESMONE ARCHITECTS

From: John Porter
Sent: Tuesday, April 7, 2020 10:24 AM
To: Seifert, Caroline <caroline.seifert@pittsburghpa.gov>
Cc: Adam Longshore <adam@adamlongshore.com>; Brent Fosdick <gmlconstruction1@gmail.com>
Subject: RE: 36th Street Spec House - NOW Smallman Street Spec House

Thanks Caroline! Yea that was the goal that we would be able to get contextual for the front and sides. I am working on the new plans and should have them over to you before the end of the week.

John-Edward Porter; Assoc. AIA, LEED AP BD+C
Designer II

DESMONE ARCHITECTS

From: Seifert, Caroline <caroline.seifert@pittsburghpa.gov>
Sent: Tuesday, April 7, 2020 10:22 AM
To: John Porter <jporter@desmone.com>
Cc: Adam Longshore <adam@adamlongshore.com>; Brent Fosdick <gmlconstruction1@gmail.com>
Subject: Re: 36th Street Spec House - NOW Smallman Street Spec House

Hi John,

You can use the same ZDR record. I pushed it back to revisions requested so you can upload new documents. Even if the curb cut is in the same place, DOMI might need to new site plan, so I'd check in with them. With the front moved to Smallman, there's an argument for contextual setbacks, so similar to the comments on the Locarana Way and 45th projects, the site plans should demonstrate the evidence for contextual setbacks.

Caroline Seifert
Zoning Specialist
Department of City Planning
Division of Zoning & Development Review

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From: John Porter <jporter@desmone.com>
Sent: Tuesday, April 7, 2020 8:26 AM
To: Seifert, Caroline <caroline.seifert@pittsburghpa.gov>
Cc: Adam Longshore <adam@adamlongshore.com>; Brent Fosdick <gmlconstruction1@gmail.com>
Subject: 36th Street Spec House - NOW Smallman Street Spec House

Hi Caroline,

After hearing that we were demined for zoning on the 36th Street Spec House – Adam and I spoke yesterday and we have decided that we are going to try and make the house work off Smallman street instead, which is what the community wants and zoning officials want as well. However, my question is in

terms of zoning and keeping track of things would we resubmit this under the same zoning number or should we start a whole new case? We will need to redo addressing as well. The curb cut should be fine as this will be in the same location as before just as a detached garage.

Thanks,

John-Edward Porter; Assoc. AIA, LEED AP BD+C

Designer II

DESMONE ARCHITECTS

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Morgantown, WV 26505

ph. 304.602.7880 ex 605

f. 304.212.5393

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Best Places to Work in Western PA - 11 years!

2014
 Zoning Submission
Smallman Street Spec House
 Smallman Street and 26th Street
 (Formerly 157 26th Street, Pittsburgh, PA)

Not for Construction

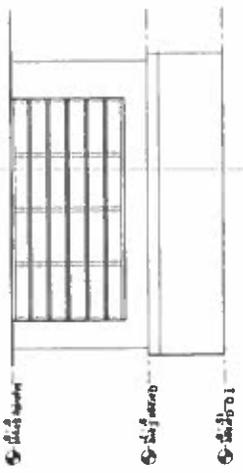
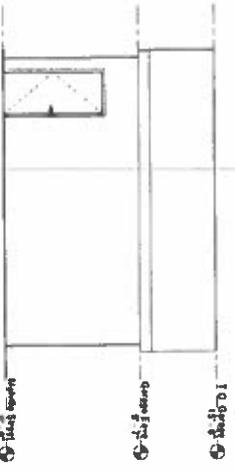
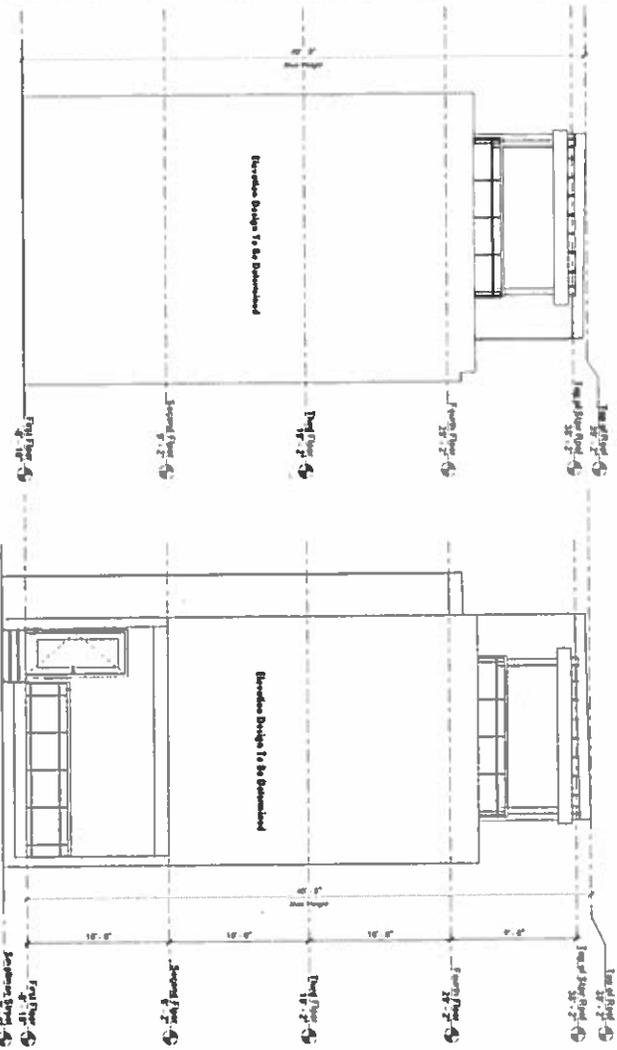
Owner	Smallman St	Owner	Smallman St
Architect	DESIMONE ARCHITECTS	Architect	DESIMONE ARCHITECTS
Date	4/28/2014	Date	4/28/2014
Project Number	474441	Project Number	474441
Owner / Client	Adam Langhorne / St. Francis	Owner / Client	Adam Langhorne / St. Francis

Ground Floor Exterior Elevations

Scale: 1/8" = 1'-0"
 Drawing Number:

A-201

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DESMONE ARCHITECTS

ATTENTION: PROJECT MANAGER
157 26th Street, Suite 2
Pittsburgh, PA 15222
Tel: 412.462.1234
Fax: 412.462.1234
www.desmone.com

Zoning Submission
Smallman Street Spec House

Smallman Street and 56th Street
(Formerly 127 26th Street, Pittsburgh, PA)

Not for Construction

Sheet No.	Issued To	Quantity
01	02	0

Revised: 11/13/12

Drawn: 4.28.2010

Project Number: 478141

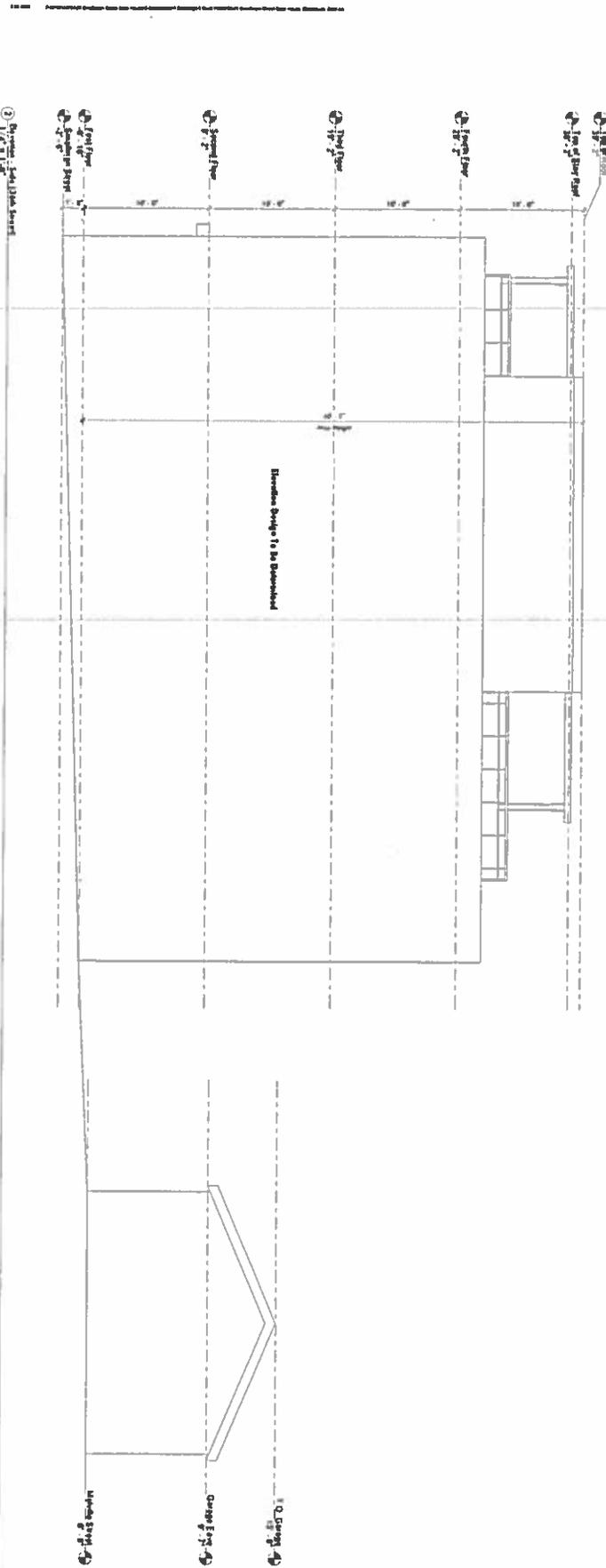
Owner / Client: Adam Longstrech / SF Studio

Drawing Title: Exterior Elevations

Scale: 1/8" = 1'-0"

A-202

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② Elevations - Smallman Street
1/8" = 1'-0"



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ARCHITECTS INC.
1311 11th Street
Pittsburgh, PA 15222
Tel: 412.461.1200
Fax: 412.461.1201
www.desmone.com

Smallman Street Spec House

Smallman Street and 26th Street
(Formerly 127 26th Street, Pittsburgh, PA)

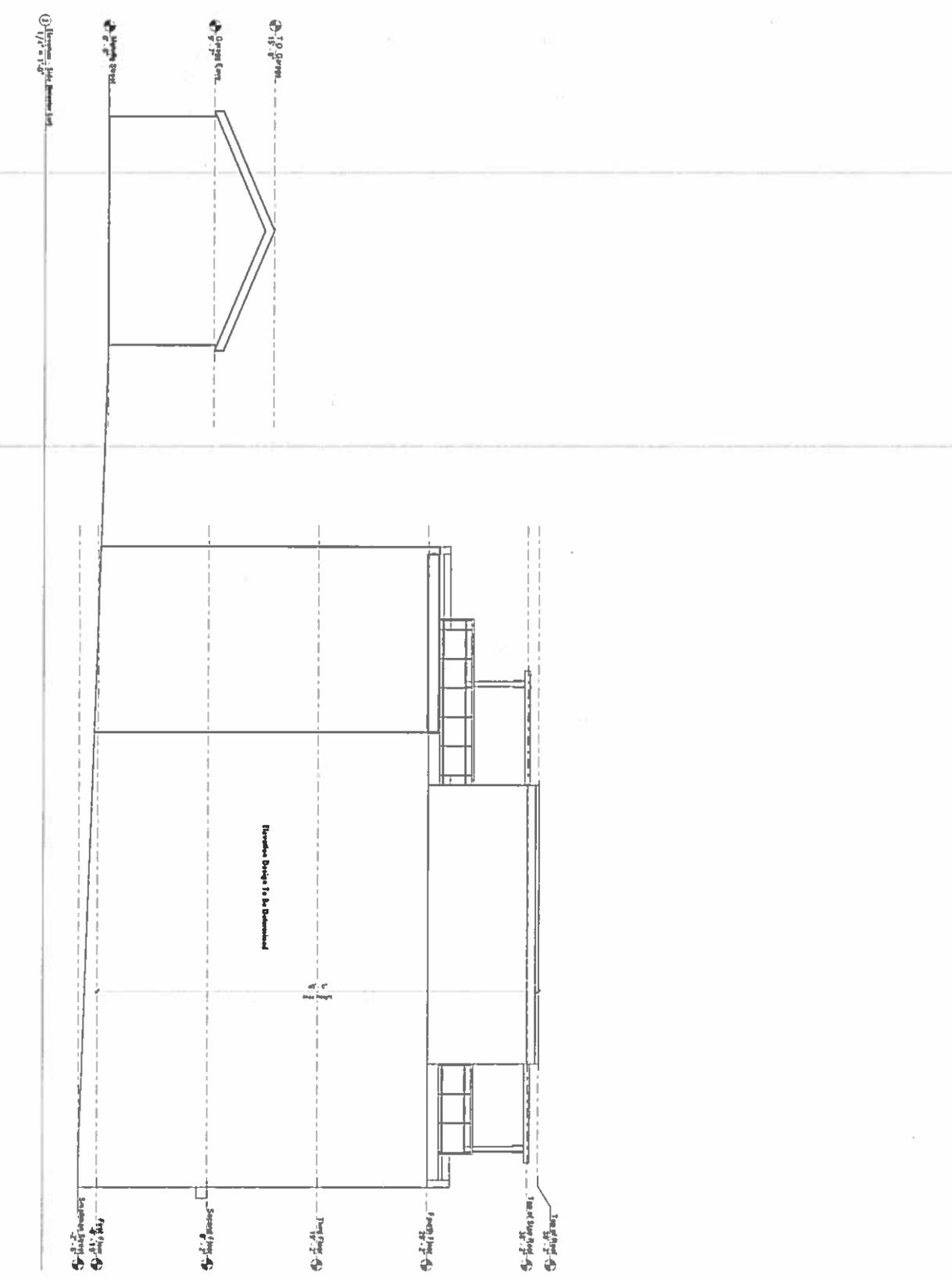
Not for Construction

Revised	By	Date	Checked

Date: 4.28.2008
Project Number: 4774241

Owner / Client: Adam Langford / SL Studio

Drawing Title: Exterior Elevations
Scale: 1/4" = 1'-0"
Drawing Number: A-203
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① Elevation, Side Elevation, Left
1/4" = 1'-0"

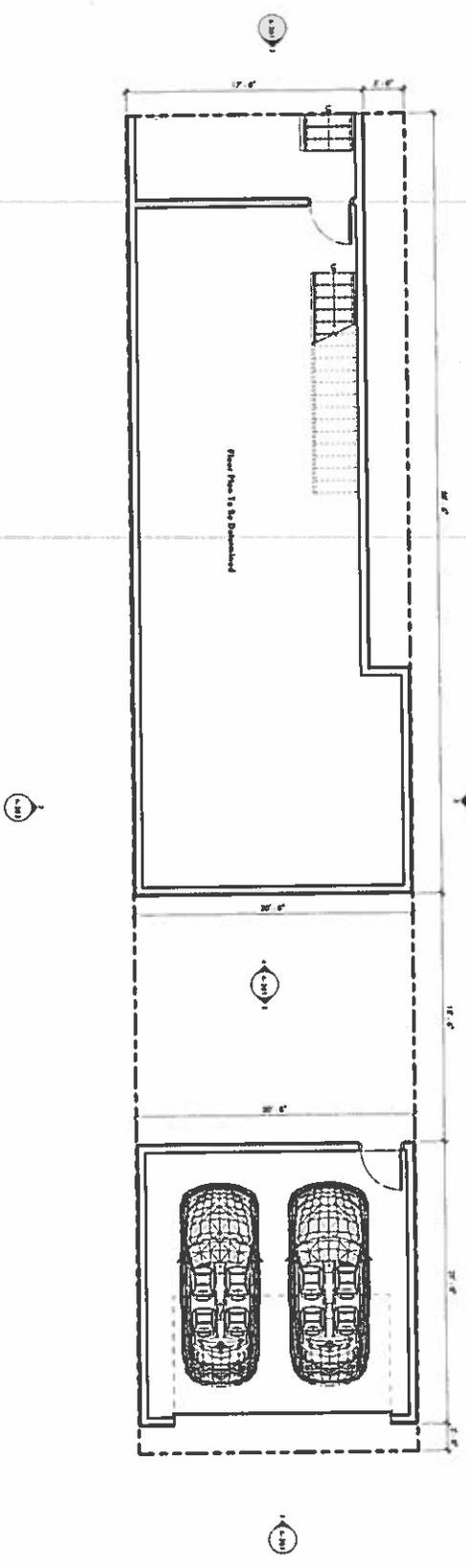


DESMONE ARCHITECTS

ATTENTION: DESMONE ARCHITECTS
 301 26th Street
 Pittsburgh, PA 15201
 Tel: 412.261.2000
 Fax: 412.261.2001
 www.desmone.com

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 301 26th Street
 Pittsburgh, PA 15201
 Tel: 412.261.2000
 Fax: 412.261.2001
 www.desmone.com

Sealing Submission
Smallman Street Spec House
 Smallman Street and 26th Street
 (Formerly 127 26th Street, Pittsburgh, PA)



Scale
 Not for Construction

Drawn By	Checked By	Contract No.
AP	AP	

Date: 4/28/2009
 Project Number: 4784-08
 Owner / Client: Adam Langshaw / 813 South

Drawing Title:
First Floor Plan
 Scale: 1/8" = 1'-0"
 Drawing Number:
A-101
 C. Desmone Architects, 2010



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ATTENTION: PROJECT MANAGER
DESIGNER: [Name]
ARCHITECT: [Name]
PROJECT NO. 127-36M-1
DATE: 01.12.2019
www.desmone.com

Smallman Street Spec House

Smallman Street and 56th Street
(Formerly 127 36th Street, Pittsburgh, PA)

Not for Construction

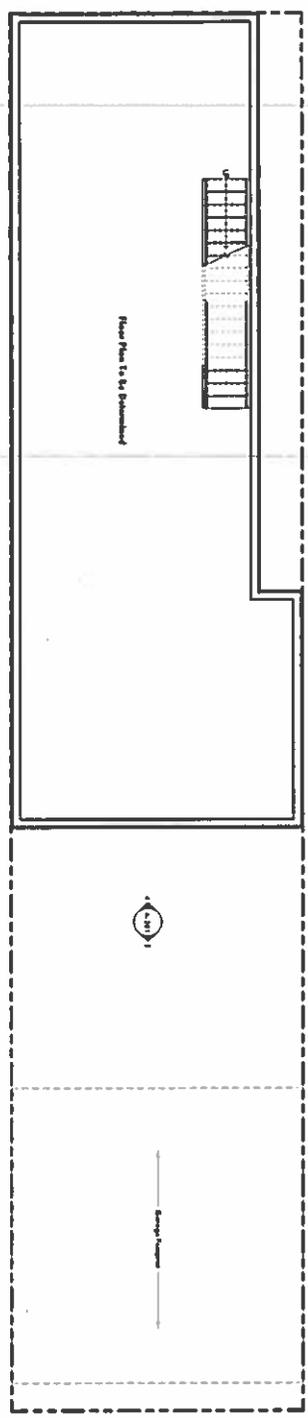
Quantity	Unit	Description
1	Sheet	Second Floor Plan

Project Number: 127-36M-1
Owner: Adam Langlois / SA / SADA

Second Floor Plan

Scale: 1/8" = 1'-0"
Drawing Number: **A-102**

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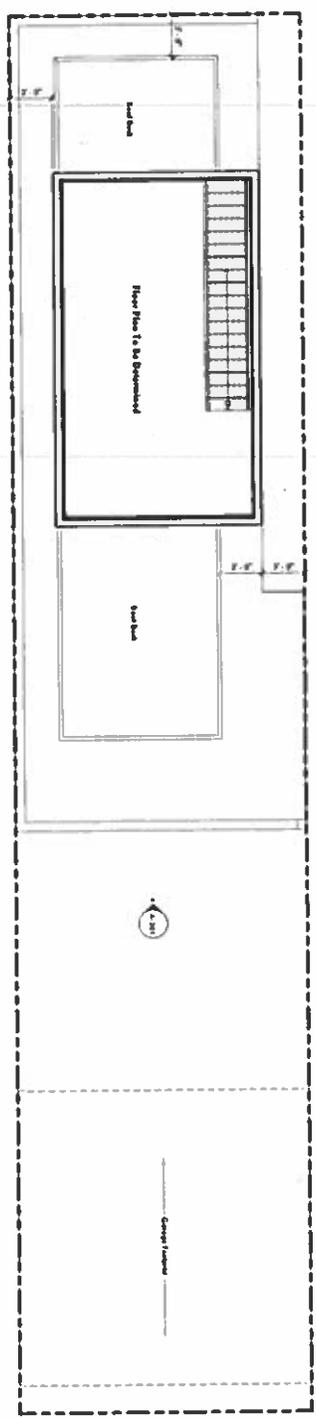
① Second Floor
1/8" = 1'-0"



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ATTENTION: Desmone Architects
 301 10th Street
 Pittsburgh, PA 15222
 Phone: 412.261.1100
 Fax: 412.261.1100
 www.desmone.com

Issuing Submission
Smallman Street Spec House
 Smallman Street and 26th Street
 (Formerly 127 26th Street, Pittsburgh, PA)



Scale: _____

Not for Construction

Drawn By	Checked By	Contract No.
MP	MP	2

Date: 4/28/2010
 Project Number: 478428
 Owner / Client: Adam Langlois / El Frasco

Drawing Title:
4th Floor Plan

Scale: 1/4" = 1'-0"
 Drawing Number:
A-104

C-Desmone Architects, 2010

1' = 1/4" = 1'-0"



DESMONE ARCHITECTS

DESIGN PARTNERS
 1100 BROADWAY
 PITTSBURGH, PA 15222
 PH: 412.481.2100
 FAX: 412.481.2100
 WWW.DESMONEARCHITECTS.COM

Smallman Street Spec House
 Zoning: S-R1-1500
 Smallman Street and 30th Street
 (formerly 127 30th Street, Pittsburgh, PA)

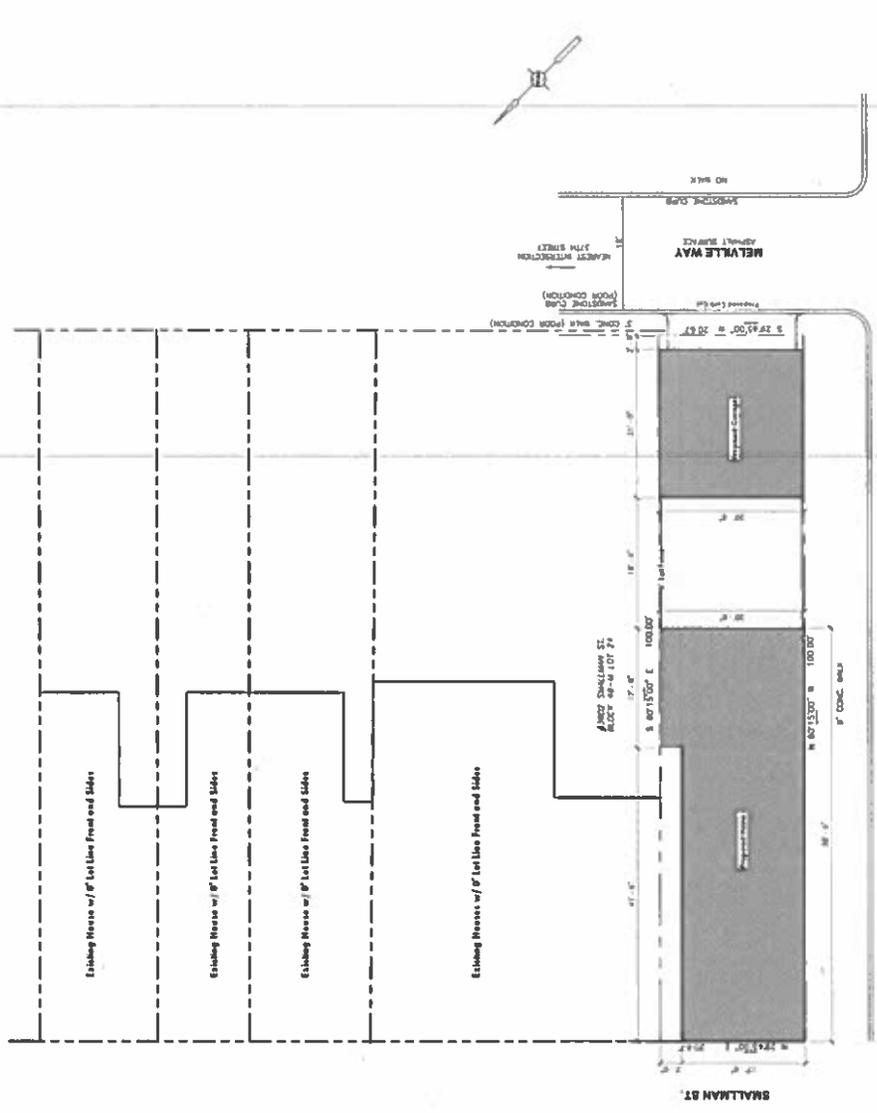
Not for Construction

Project	Sheet No.	Quantity
021421	01	1

Drawn By: Adam Leppke
 Date: 4.28.2019
 Project Number: 021421
 Owner / Client: Adam Leppke / 917 Franklin

Architectural Site Plan
 Scale: 1/8" = 1'-0"
 Drawing Number: A-001

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SITE PLAN
 SHEET NO. 01
 CITY OF PITTSBURGH - 9TH WARD
 ALLEGHENY COUNTY, PA
 GML CONSTRUCTION
 SCALE: 1/8" = 1'-0"
 DATE: NOVEMBER 23, 2019
 PREPARED BY: J.R. GALIC & ASSOCIATES, INC.
 PITTSBURGH, PENNSYLVANIA 15227
 PHONE: 412-480-0882 FAX: 412-480-1320



- 814-14 ONE-FAMILY RESIDENCE, VERY HIGH DENSITY
- MINIMUM LOT SIZE 1,200 SF
- MINIMUM FRONT SETBACK 5'-0"
- MINIMUM SIDE SETBACK 5'-0"
- MINIMUM REAR SETBACK 15'-0"
- MINIMUM FRONT YARD SETBACK 5'-0"
- MINIMUM REAR YARD SETBACK 5'-0"
- MINIMUM HEIGHT 40' (NOT TO EXCEED 3 STORES)
- CONCEPTUAL FRONT SETBACK 5'-0"
- CONCEPTUAL REAR YARD SETBACK 5'-0"

DESIGNED BY: GML CONSTRUCTION
 1100 BROADWAY
 PITTSBURGH, PA 15222
 PH: 412.481.2100
 FAX: 412.481.2100
 WWW.DESMONEARCHITECTS.COM

Architectural Site Plan
 1/8" = 1'-0"



DESMONE ARCHITECTS

1000 EAST 10TH STREET
ANN ARBOR, MI 48106
TEL: 734.769.2344 FAX: 734.769.2345
WWW.DESMONE.COM

Smallman Street Spec House

Zeigler Submission
Smallman Street and 26th Street
Ann Arbor, MI 48106
Architect: Desmone Architects
1000 East 10th Street
Ann Arbor, MI 48106
Tel: 734.769.2344 Fax: 734.769.2345

Scale

Not for Construction

Drawn by: [blank] Checked by: [blank]

Revised by: [blank]

Project Number: 0724-01

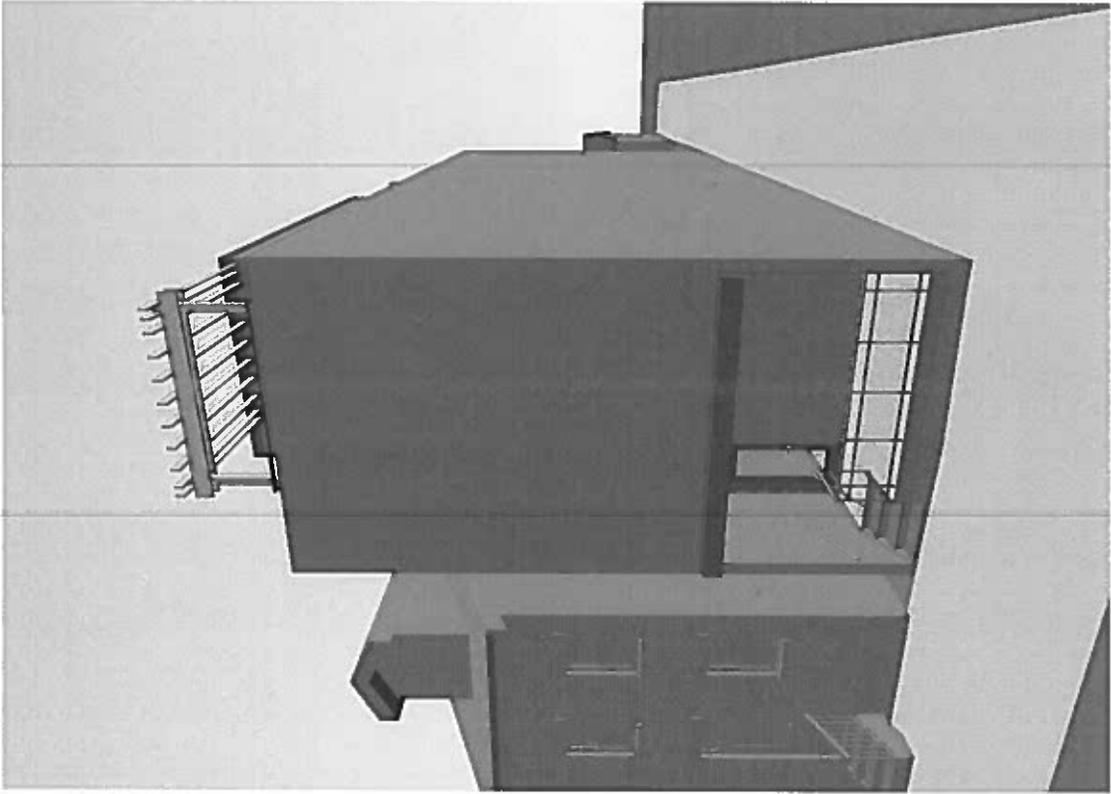
Date: 4/26/2009

Owner / Client: Aline Leptchen / J.J. Fiedak

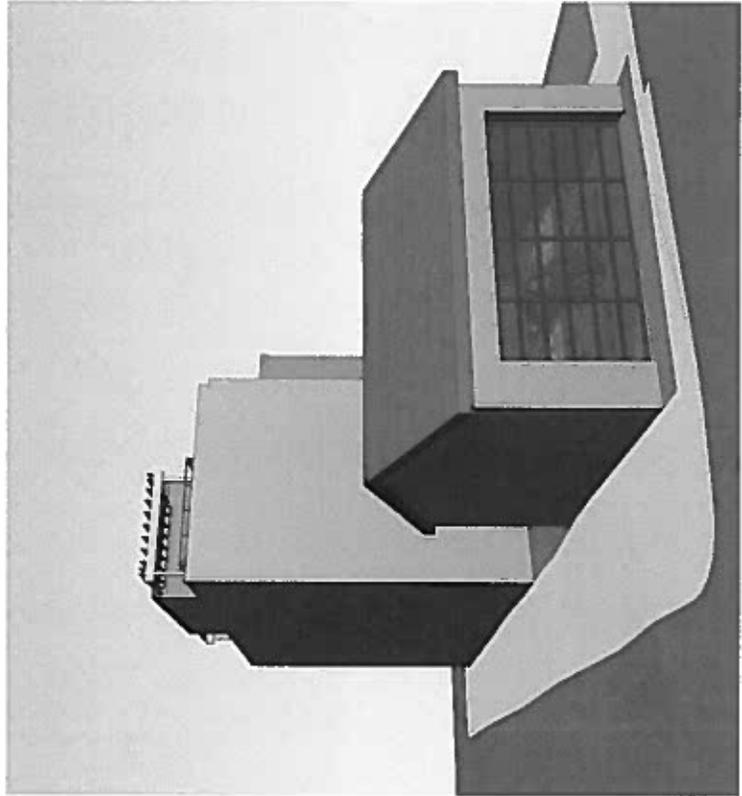
Project Name: Perspectives

Scale: Drawing Number: A-900

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(1) Perspective - Off Facade



(2) Perspective - Off Facade