

APPLICATION FOR A SPECIAL USE PERMIT AND ZONING VARIANCE  
CITY OF NEWPORT, RI  
ZONING BOARD OF REVIEW



DATE: May 6, 2019

Board Members:

ZBR June-4

The undersigned hereby petition the Zoning Board of Review for a Special Use permit and Regulatory Variance in the application of the provisions or regulations of the Zoning Ordinance affecting the following described premises in the manner and on the grounds hereinafter set forth.

Location of Premises

Street & No.: 50 & 52 Marchant Street

Tax Assessor's Plat: 39 Lot: 400

Petitioner Information

Applicant: Brandon Pico

Address: 31 Stockholm Street  
Newport, RI 02840

Owner: Brandon Pico & Danielle McNamara

Address: 31 Stockholm Street, Newport  
Address: N/A

Lessee: N/A

Property Characteristics:

Dimensions of Lot: Frontage: 64.5 ± Depth: ±65'; Area: SF ± 4,356

Zoning District in which premises is located: R-10

How long have you owned above premises? 4 years

Are there buildings on the premises at present? Yes

Total square footage of the footprint of existing/approved buildings: 1050SF

Total square footage of the footprint of proposed buildings: 1050SF

Present use of premises: Two Family Residence

All of the following information and questions must be filled in and answered completely:

Proposed use of premises: Short term rental/ seasonal guest house

**Give extent of proposed alterations:**

No alterations are required on the subject property located at 50-52 Marchant Street, Newport RI Plat Map #39 Lot #400. Applicant seeks a special use permit allowing # 50 and #52 Marchant Street to be used as a Guest House under Section 17.100.320. Applicant also seeks a parking Variance from 17.104.020.

**Zoning Characteristics Matrix**

	Existing/Approved	Required/Allowed	Proposed
<b>Lot Size (sq. ft.)</b>	4,356 SF±	10,000 SF	No Change
<b>Lot Coverage (%)</b>	24%	20%	No Change
<b>Dwelling Units</b>	2	2	No Change
<b>Parking</b>	3	4	4
<b>Front Setback</b>		15'	No Change
<b>Side Setbacks</b>	0	10'	No Change
<b>Rear Setback</b>		20'	No Change
<b>Height</b>		30'	No Change

**What provisions of the Comprehensive Land Use Plan are the applicable to this project?**

Land Use – Goals LU-1; ED-1; H-3

**What special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district?**

The property, consisting of 4,356sq. ft., is an undersized lot in the R-10 zone making it a legal non-conforming lot. A Two-family dwelling is located on the property with a total footprint of 1050 sq. ft resulting in 24 % lot coverage. The Premises is located on a street with similar properties, mostly occupied by renters, for both short and long-term leases and adjacent to two commercial uses.

The Premises (#'s 50 & 52) is a two-family dwelling. Both units are two-bedroom - one bath dwellings, currently unoccupied. Owner and applicant own and reside in the abutting property of 31 Stockholm Street and both work from home. 31 Stockholm and 50/52 Marchant are essentially one and the same, having a shared yard, and the buildings being separated by approximately 12 feet. The unique configuration of the Premises and proximity to Owner /Applicants' residence warrants favorable consideration during review of the requested for zoning relief.

Like many Newport properties, the Premises lacks sufficient dedicated off-street parking spaces. As configured, 31 Stockholm, (Applicant's home adjacent to the Premises) has no off-

street parking spaces. The Premises (#50 & 52) has 3 off-street spaces. Owner and Applicant anticipate sharing one of the three spaces on the Premises, and otherwise utilizing their resident parking sticker for their personal vehicles leaving.

Of particular relevance to this application is the unique blend of residential and commercial use of properties surrounding the Premises, not to mention its proximity (approximately 466 feet) from the Limited Business Zone on Lower Thames Street. Commercial businesses within a residential zone often present a zoning challenge. However, in the instant case, the juxtaposition of residential and commercial activities presents an opportunity for the Applicants by reducing the demand for on-street parking adjacent to the Premises and 31 Stockholm street. The unique blend of residential and Commercial use adjacent to the Premises therefore favors granting Applicant's requested relief.

While the Premises is located in the R-10 zone, it lies directly across the street from 2 commercial entities operating in the R-10 zone, specifically Casey's Tree Service and B&B Welding. Applicant has no issues with either activity and wishes both businesses years of continued success. However, their existence adjacent to the Premises creates a favorable scenario for granting Applicants' requested relief. The commercial operations of both businesses, (being non-retail operations) effectively reduces the demand for on-street parking in the immediate vicinity of 50 & 52 Marchant, and neither of the adjacent commercial activities are likely to suffer any adverse impact if the requested relief is granted.

See Attached Pictures for reference to available parking, the Unique characteristics of the Premises and the surrounding features of the neighborhood.

**Explain how the literal interpretation of the provisions of this zoning code deprive the applicant of rights commonly enjoyed by other property owners in the same district under the provisions of this zoning code?**

The requested special use permit is necessary for the full enjoyment of the requested use. While the property is located in the R-10 Zone, it contains only 4,356 square feet of land making it a legal non-conforming lot. Given the lot size, the configuration of the structure on the Lot, the inextricable connection to Applicant's home, its proximity to existing commercial uses in the R-10 zone and its location less than 500 feet from the Limited Business Zone, the premises is ideally suited for use as a short-term rental guest house. The requested Special Use is in keeping with the surrounding area that already contains a mix of commercial and residential uses within the R-10 Zone.

A Variance from the parking ordinance for one additional Parking Space is required due to the unique characteristics (small size and orientation of the existing structure limiting off-street parking). The premises has 3 off-street parking spaces located on the NW corner of the Premises abutting 31 Stockholm. The requested variance is the least relief necessary for the full enjoyment of the property as the unique configuration of the property limit the off-street parking.

**Explain why this is the minimum variance that will make possible the reasonable use of the land, building or structure.**

The proposed use of the property allowing the units to be made available for short term rentals as seasonal Guest House in an R-10 Zone requires Variance relief for 1 Parking space as there are only 3 off-street parking spaces available on the property due to the diminutive size of this

legal non-conforming lot. The requested Variance will have no negative impact on the surrounding area or the traffic flow in the area; The requested Variance is not the result of a self-imposed hardship, on the contrary applicant has updated and improved the property since purchasing the lot 4 years ago. Unfortunately, the lots size and location of the existing structure prevent the inclusion of additional off-street parking; The requested Variance is minimal and essential to the best possible use of this property, namely, to provide viable rental property in walking distance to our harbor and the city's economic center. Additionally, the requested use will have no negative impact property values, will not create a nuisance, is compatible with the Comprehensive plan, and not substantially or permanently injure the existing use of the property.

### **The Zoning Board's Role**

Special use permits shall be granted only where the zoning board of review finds that the proposed use or the proposed extension or alteration of an existing use is in accord with the public convenience and welfare, after taking into account, where appropriate:

1. The nature of the proposed site, including its size and shape and the proposed size, shape and arrangement of the structure;
2. The resulting traffic patterns and adequacy of proposed off-street parking and loading;
3. The nature of the surrounding area and the extent to which the proposed use or feature will be in harmony with the surrounding area;
4. The proximity of dwellings, churches, schools, public buildings and other places of public gathering;
5. The fire hazard resulting from the nature of the proposed buildings and uses and the proximity of existing buildings and uses;
6. All standards contained in this zoning code;
7. The comprehensive plan for the city.

The burden of proof in a special-use permit application is on the applicant. This means that if the applicant fails to present adequate competent evidence to prove the applicable standard for issuing a special-use permit has been met, the board must deny the application.

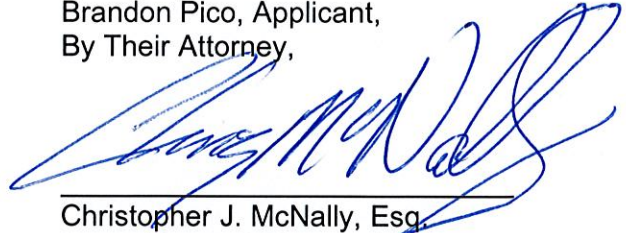
In granting a variance, the zoning board of review shall require that evidence of the following standards be entered into the record of the proceedings:

1. That the reasons set forth in the application justify the granting of the variance and that the variance, if granted, is the minimum variance that will make possible the reasonable use of the land, building or structure;
2. That the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will not impair the intent or purpose of the zoning code or the comprehensive plan upon which this zoning code is based;
3. That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant; and
4. That the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.
5. That the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere

inconvenience. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief;

By signing below, I hereby attest that the information provided is accurate and truthful. I also attest that I have read the section entitled "The Zoning Board's Role".

Brandon Pico, Applicant,  
By Their Attorney,



Christopher J. McNally, Esq.  
Sayer Regan & Thayer, LLP  
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Newport, RI 02840  
(401) 849-3040



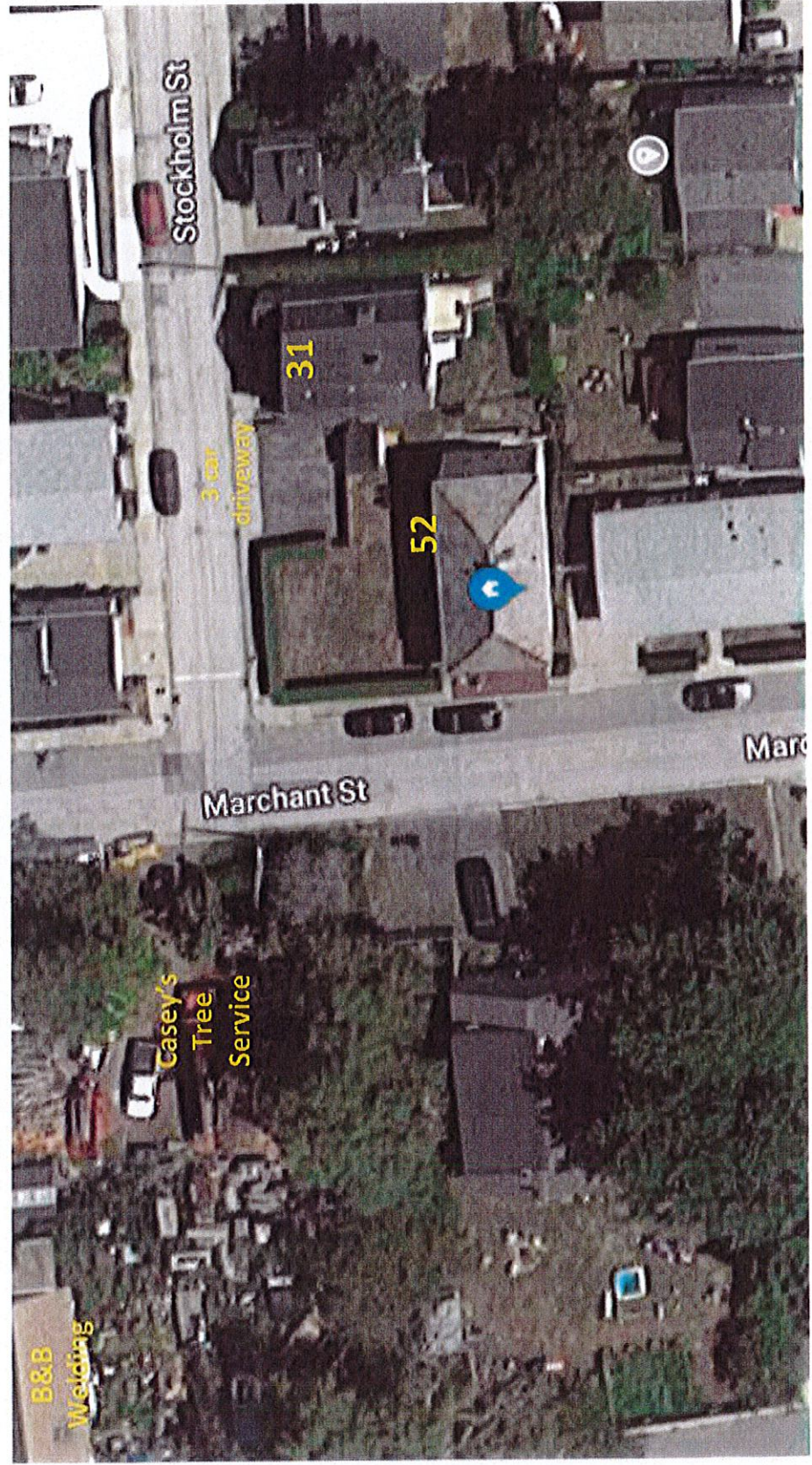
~Zoning Proximity~  
52 Marchant and 31 Stockholm  
in relation to LB Zone and  
**actual businesses in R-10 zone**





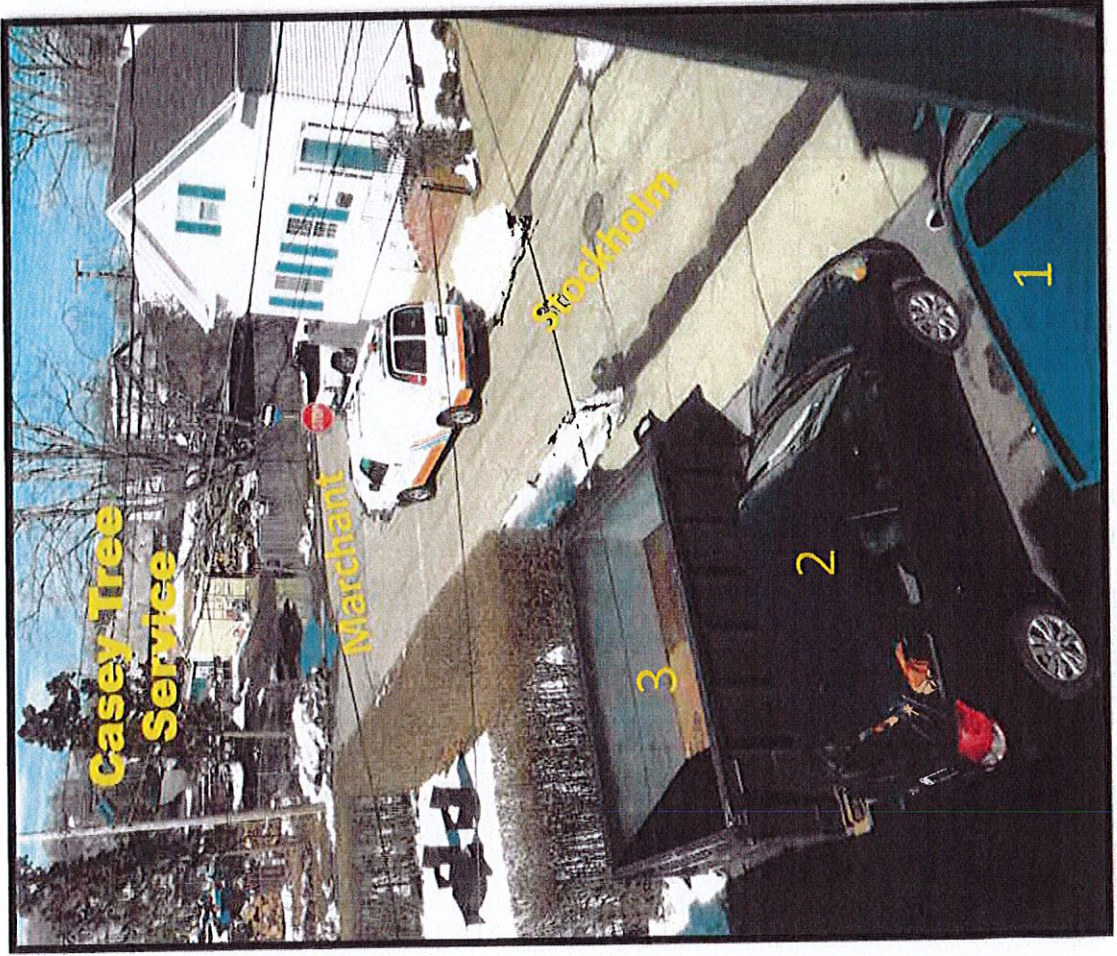
~Zoning Proximity~

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~Zoning Proximity~  
Driveway fits 3 Suvs







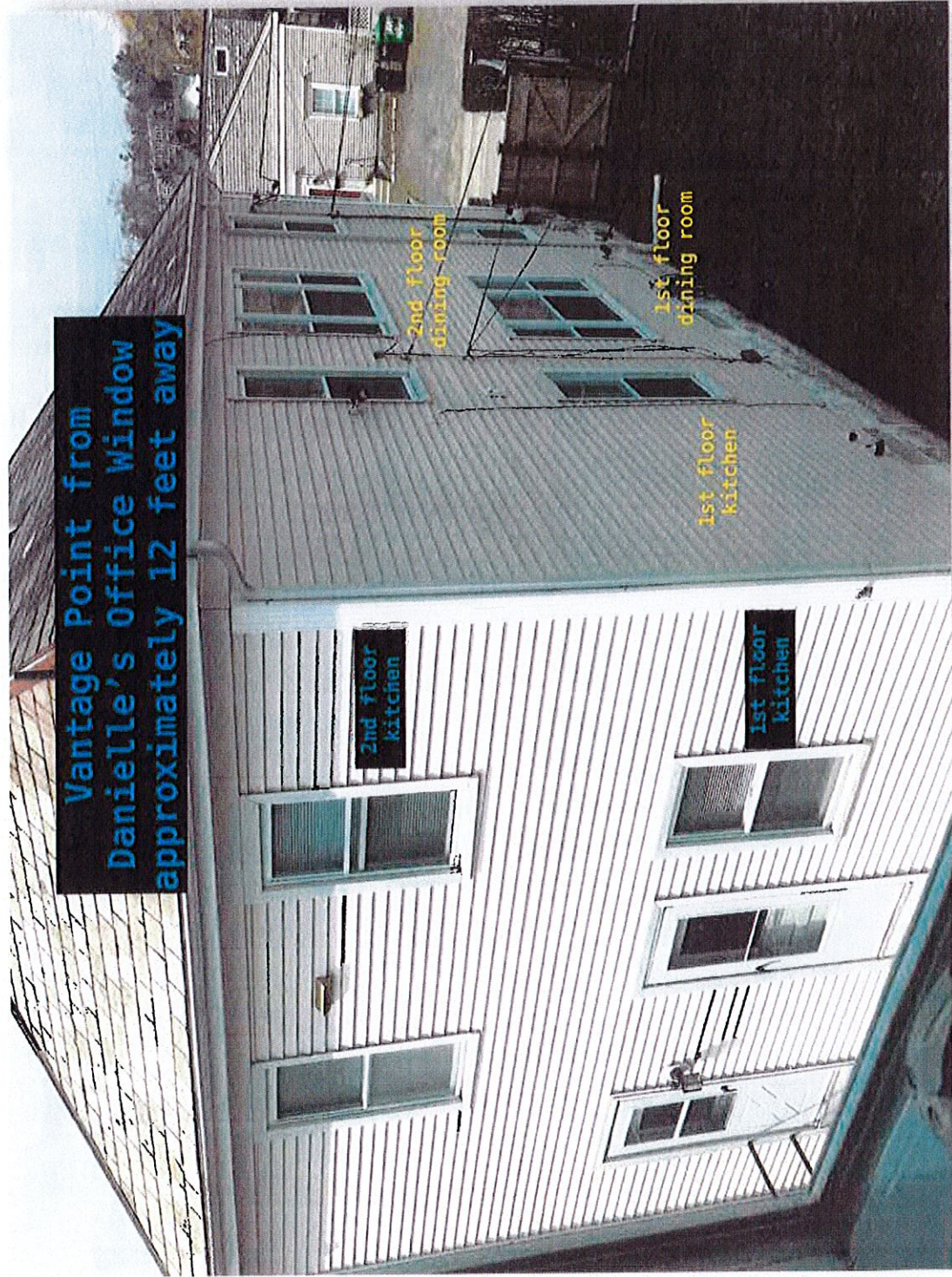
~ 50-52 Marchant Street View ~



From Google Maps  
October 2012

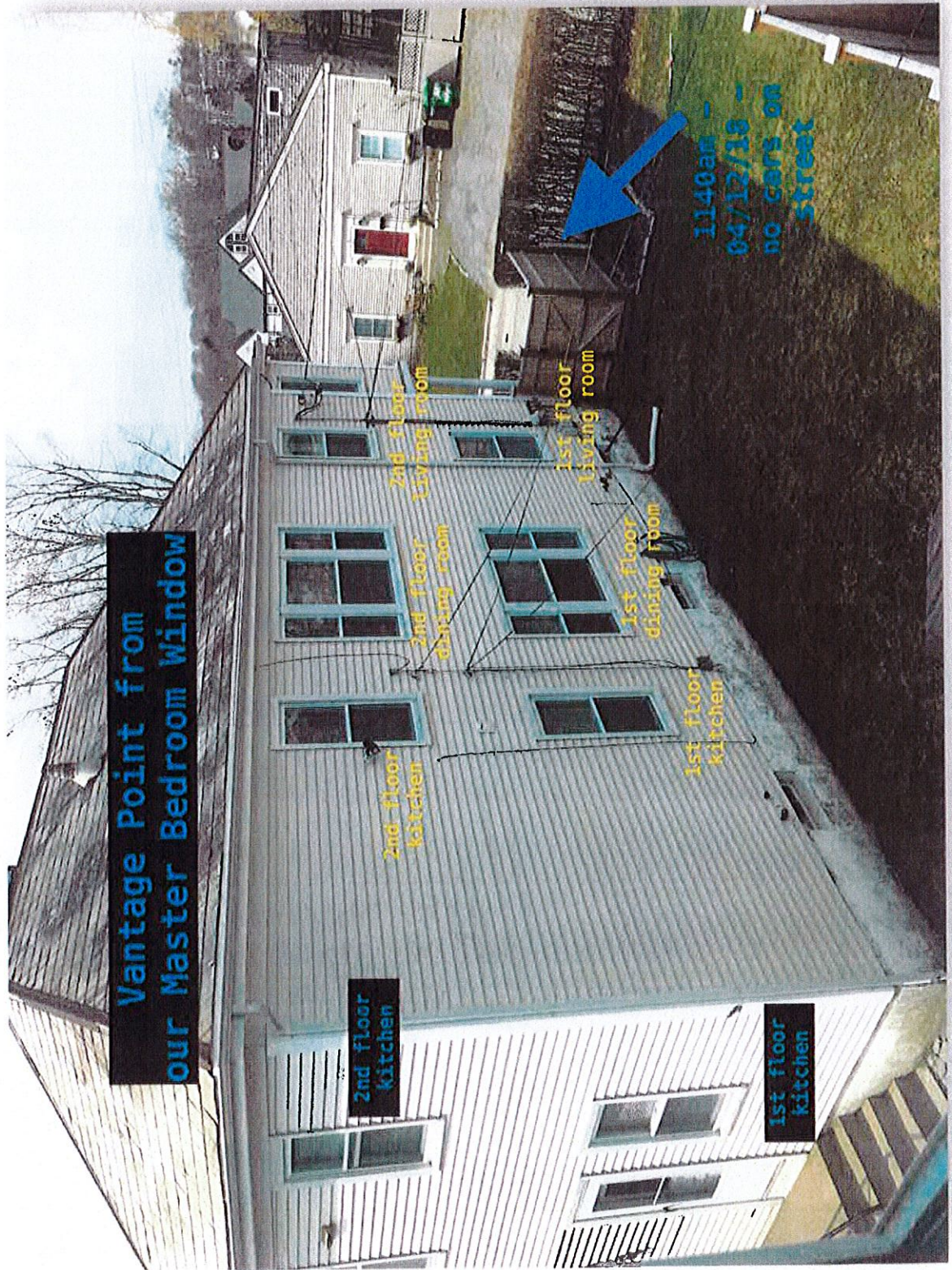


~ Work from Home and Vantage Points ~





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