



## CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ENGINEERING

70 E. MONROE STREET › FRANKLIN, INDIANA 46181 › 877.736.3631 › FAX 317.736.5310 › [www.franklin.in.gov/planning](http://www.franklin.in.gov/planning)

# BZA Staff Report

**To:** Board of Zoning Appeals Members

**From:** Alex Getchell, Associate Planner

**Date:** January 28, 2014

**Re:** Case ZB 2015-03 (Amendment to UV & V) | Julie Stewart | 383 E. Madison St.

### REQUEST:

**Case ZB 2015-03 (UV & V)...383 E. Madison Street.** A request for a modification of commitments from the approval of ZB 2013-12 (UV & V), to allow modifications to commitments B, D, E and G, to allow nine parking spaces (three on-site, six off-site/shared), a six (6) sq. ft. projecting sign off the front porch, a wall sign six (6) sq. ft. in size on the rear wall of the building, and to utilize the second floor for retail, in the RTN, Residential Traditional Neighborhood Zoning District. The property is located at 383 E. Madison Street.

The original requests for ZB 2013-12 (UV & V) were for a use variance of the City of Franklin Zoning Ordinance Article 3, Chapter 10 to allow the operation of a variety store and development standards variances from Article 7, Chapter 10 and Article 7, Chapter 16 as they relate to off-street parking requirements:

1. Article 7.10 Part 1(A)(3) – Parking stall size less than 10' x 20'
2. Article 7.10 Part 3(A)(1) – Parking areas not required to be paved/concrete or striped
3. Article 7.10 Part 3(A)(4) – Parking area not to be curbed
4. Article 7.10 Part 3(A)(5) – Less than minimum number of required parking spaces
5. Article 7.10 Part 3(D) – No bicycle parking
6. Article 7.16(E) – No perimeter parking lot landscaping
7. Article 7.16(F) – No interior parking lot landscaping

ZB 2013-12 (UV & V) was approved September 4, 2013, with the following commitments made by the petitioner (requesting modification to **B, D, E, & G**):

- a. Existing garage will be demolished.
- b. Five parking spaces, 9 ft. in width will be provided consistent with site plan submitted.**
- c. Parking area will be gravel.
- d. No exterior signage will be provided for the business.**
- e. Signage directing patrons between the two businesses (subject property & Salvage Sisters) will be provided interior to the businesses only.**
- f. Landscaping and the proposed walkway meeting the approval of the city will be provided.
- g. The second floor of the structure shall remain vacant.**
- h. Change of use of the structure would meet all building code requirements for the change of use.

**PURPOSE OF STANDARD:**

The "RTN," Residential: Traditional Neighborhood zoning district is intended to ensure the continued viability of the traditional-style neighborhoods in existence on the effective date of the Zoning Ordinance (May 10, 2004). This district should be used to maintain contextually appropriate setbacks and standards in its traditional neighborhoods.

**CONSIDERATIONS:**

**Approvals & Current Use**

1. Since the approval of ZB 2013-12 (UV & V) in September 2013, the petitioner has been operating a variety store, previously called ‘Rust and Roses,’ now ‘Junkey Monkeys,’ which sells recycled, repurposed, and reclaimed items from the property at 383 E. Madison Street. To date, the petitioner has not satisfied all of the commitments agreed to with the original approval and is returning in order to request the modification/removal of four commitments (B, D, E & G), in order to be able to come into compliance.
2. Update: Petitioner has filed for a change of use with the State of Indiana Department of Homeland Security (IDHS) Division of Fire and Safety Plan Review Branch (commitment “H”) for the change from a two-dwelling use, to a retail use. As of January 28, 2015, IDHS has not released the request.
3. A variety store is defined as “a retail establishment that sells a multitude of consumer goods” and is classified as a Retail Use (Medium Scale) land use per the City of Franklin Zoning Ordinance. Retail Use (Medium Scale) is a non-permitted use in the “RTN,” Residential: Traditional Neighborhood zoning district; however, the use was approved by use variance by the BZA.
4. A variety store is listed as a permitted use in three of the four Mixed Use zoning districts: MXD (Mixed Use: Downtown Center), MXC (Mixed Use: Community Center), and MXR (Mixed Use: Regional Center). It is not listed as a permitted use or special exception in the MXN (Mixed Use: Neighborhood Center) zoning district.

**Parking Requirements**

5. Article 7, Chapter 10 of the Zoning Ordinance states “Any use which is nonconforming in the zoning district in which it is located or is permitted by special exception or variance shall provide parking which is consistent with the use and the standards for the zoning district in which the use is permitted by this Ordinance. In no case shall the number of parking spaces required for non-conforming uses or those permitted by special exception or variance be solely based on the standards for the district in which they are located. The Board of Zoning Appeals shall specify the number of parking spaces for all uses permitted by special exception or variance consistent with the intent of this Chapter.”
6. Occupying the second floor, with a retail use requires additional on-site parking spaces be provided; over and above the six (6) currently required for the business by occupying just the first floor with one employee. (See consideration (6. )(a.) below for explanation)
7. According to Article 7.10:
  - A minimum of 1 off-street parking space is required for every 300 sq.ft. of gross floor area of the variety store (rounded to the nearest complete space) plus one (1) space for each employee working on the largest shift.
  - First & Second floors = 1,532 + 876 = 2,408 sq.ft. = 8 parking spaces
  - One (1) employee = 1 parking space
  - **Nine (9) total parking spaces required**
  - Minimum parking stall size is 9’ x 18’ and must be striped.
  - Each parking space and interior drive must be paved with asphalt or concrete.
  - A minimum of 2 bicycle parking spaces shall be provided.

### **Modification of Commitment “B”- Parking**

8. Petitioner seeks to modify the original commitment of five (5) parking spaces; the petitioner now seeks to fulfill the requirements of the zoning ordinance, and provide all nine (9) parking spaces.
9. Petitioner will provide three (3) parking spaces on-site, and six (6) parking spaces off-site.
10. The petitioner has demolished the garage and provided a gravel parking surface approximately 30’ in width, which is capable of storing three (3) vehicles.
11. The Franklin Heritage, Inc. Board of Directors has granted the petitioner initial approval to utilize a portion of their property located on the west side of Depot Street, to address the petitioners parking requirements [six (6) off-site spaces]. The final arrangements, with regard to construction, maintenance, and compensation have not been worked out between the two parties; however, the petitioner has been given approval to use the site for parking for the ‘Junkey Monkeys’ variety store. [See Exhibits A and B]

### **Modification of Commitments “D” and “E” - Signage**

12. The petitioner is requesting to modify the previously approved commitments (D and E), to add the following underlined language:
  - Commitment “D”:
    - No exterior signage will be provided for the business, except for one (1) projecting sign off the front porch, six (6) sq. ft. in size; and one (1) wall sign on the rear wall of the building, six (6) sq. ft. in size.
  - Commitment “E”:
    - Signage directing patrons between the two business (subject property and Salvage Sisters) will be provided interior to the businesses only, except for one (1) projecting sign off the front porch, six (6) sq. ft. in size; and one (1) wall sign on the rear wall of the building, six (6) sq. ft. in size.
13. Signage in residential districts is limited to six (6) sq. ft. in sign face area and four (4) feet in height.

### **Removal of Commitment “G” – Occupancy of 2<sup>nd</sup> Floor for Retail**

14. The petitioner is also requesting to remove the previously approved commitment (G), that the second floor of the structure shall remain vacant. Since the original approval, which limited the business to the first floor, the petitioner has also been occupying the second floor for the business. Petitioner now seeks approval for the second floor to be occupied as retail, too.

### **Comprehensive Plan**

15. According to the 2013 Comprehensive Plan, Land Use Plan, this area is identified as Core Residential. “The core residential areas of Franklin are those which are immediately adjacent to the downtown. These neighborhoods feature a majority of Franklin’s historically significant homes. Land uses in these areas should be dominated by a diversity of single family homes, and also include neighborhood-scale churches and schools. Historically significant duplexes, multi-family dwellings, and accessory residences which contribute to the character of the area should be maintained and enhanced. The conversion of homes to apartments and businesses should be generally prohibited and otherwise strictly regulated. The most significant land use relationships in this area are between the area’s residential and non-residential uses, and between the area as a whole and the downtown. The area’s mixed uses should continue to support the human-scale features and walkability of the neighborhood. Uses of all types should be of a scale and setback that contribute positively to the character of the area. The strong pedestrian connections to the downtown provided by the area’s sidewalks should be maintained and enhanced. Any redevelopment, infill construction, or renovation in these areas should respect and support their unique character. Elements of that character include vehicle access provided by alleys, front porches and small front yard setbacks, street trees, and a diversity of housing styles and sizes.”

**Zoning Ordinance**

- 16. The definition of a practical difficulty, according to the 2004 City of Franklin Zoning Ordinance is: A difficulty with regard to one's ability to improve land stemming from regulations of this Ordinance. A practical difficulty is not a "hardship," rather it is a situation where the owner could comply with the regulations within the Zoning Ordinance, but would like a variance from the Developmental Standards to improve his/her site in practical manner. For instance, a person may request a variance from a side yard setback due to a large tree that is blocking the only location that would meet the Development Standards for a new garage location.
- 17. According to Article 2.5: A special exception or variance ceases to be authorized and is expired if the obtaining of an Improvement Location Permit, or the execution of the approval has not been completed within 1 year of the date the variance or special exception is granted. The variance or special exception shall also expire if the approved construction has not been completed and approved by the Planning Director as being consistent with all written commitments or conditions, the requirements of this Ordinance, and all applicable permits within 2 years of the date the approval is granted.
- 18. The surrounding zoning and land uses are as follows:

**Surrounding Zoning:**

North: RTN, Residential: Traditional Neighborhood  
 South: MXD, Mixed Use: Downtown Center  
 East: RTN, Residential: Traditional Neighborhood  
 West: RTN, Residential: Traditional Neighborhood

**Surrounding Land Use:**

North: Residential (4 & 1 family) & storage  
 South: Retail  
 East: Multi-family dwelling  
 West: Two-family dwelling

**CRITERIA FOR DECISIONS – USE VARIANCE:**

**(\*\*The petitioner will need to address the Criteria for Decisions in their presentation\*\*)**

In taking action on all use variance requests, the Board of Zoning Appeals shall use the following decision criteria, consistent with the requirements of the Indiana Code. The Board may grant a use variance of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.4) that:

**DECISION CRITERIA – USE VARIANCE**

- 1. *General Welfare: The approval (will or will not) be injurious to the public health, safety, morals, and general welfare of the community.*

**Staff Finding:**

The approval of the use variance with the proposed modifications of commitments will not be injurious to the public health, safety, or general welfare of the community, as the proposal provides the full allotment of parking required for the proposed use, and utilizing the additional retail space on the second floor will not substantially affect the general vicinity, since the additional parking spaces for customers will be provided. Additionally, the modification of commitments to allow two small permanent signs for the business will have no deleterious effect on the general vicinity.

- 2. *Adjacent Property: The use and value of the area adjacent to the property included in the variance (will or will not) be affected in a substantially adverse manner.*

**Staff Finding:**

A variety store with the proposed modified commitments, to provide the full allotment of required parking spaces and add one small permanent sign on the front and back of the structure, will not adversely affect the adjacent properties in any way. The proposed addition of parking spaces for the variety store will alleviate the on-street parking competition occurring on E. Madison Street with residents and customers.

3. ***Practical Difficulty: The strict application of the terms of the ordinance (will or will not) result in a practical difficulty in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.***

**Staff Finding:**

The strict application of the ordinance will result in a practical difficulty as the petitioner is now proposing to provide all of the required parking for the variety store. Additionally, the petitioner is proposing signage of a reasonable size and type for a residential area. To that point, the Board should ask the petitioner if the signage will be illuminated, and if so, in what manner.

4. ***Unnecessary Hardship: The strict application of the terms of this Ordinance (will or will not) constitute an unnecessary hardship as they are applied to the property for which the variance is sought.***

**Staff Finding:**

Staff finds that the strict application of the terms of the Ordinance will result in an unnecessary hardship, as the petitioner is now providing all of the parking required for the business, and is seeking reasonably sized signs for a business in a residential area.

5. ***Comprehensive Plan: The granting of the variance (does or does not) interfere substantially with the Comprehensive Plan.***

**Staff Finding:**

The granting of use variance does not interfere substantially with the Comprehensive Plan. The Comprehensive Plan states that “the conversion of homes to apartments and businesses should be generally prohibited and otherwise strictly regulated”; with the already approved commitments, and the proposed modified commitments, the Board would be strictly regulating the conversion of this home to a business.

**STAFF RECOMMENDATION – USE VARIANCE**

Based on the written findings above, staff recommends **approval** of the petition, to modify commitments B, D, E, and G, to the following:

- B: Nine (9) total parking spaces will be provided; three (3) gravel spaces located behind the business, and six (6) parking spaces, consistent with the requirements outlined in the Zoning Ordinance, located on the property owned by Franklin Heritage, Inc., west of Depot Street.
- D: No exterior signage will be provided for the business, except for one (1) projecting sign off the front porch, six (6) sq. ft. in size; and one (1) wall sign on the rear wall of the building, six (6) sq. ft. in size.
- E: Signage directing patrons between the two business (subject property and Salvage Sisters) will be provided interior to the businesses only, except for one (1) projecting sign off the front porch, six (6) sq. ft. in size; and one (1) wall sign on the rear wall of the building, six (6) sq. ft. in size.
- G: -Remove from Commitments-

**CRITERIA FOR DECISIONS – DEVELOPMENT STANDARDS VARIANCES:**

**(\*\*The petitioner will need to address the Criteria for Decisions in their presentation\*\*)**

In taking action on all special exception and variance requests, the Board of Zoning Appeals shall use the following decision criteria, consistent with the requirements of the Indiana Code. The Board may grant a special exception and a variance from development standards and limitations of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.5) that:

## **DECISION CRITERIA – DEVELOPMENT STANDARDS VARIANCES**

- 1. General Welfare: The approval (will or will not) be injurious to the public health, safety, morals, and general welfare of the community.***

### **Staff Finding:**

The approval of the variances for number-, size-, and surface material- of parking spaces, with the proposed modifications of commitments, will not be injurious to the public health, safety, morals or general welfare of the community. In fact, since the original approval of ZB 2013-12, the Parking Standards in the Zoning Ordinance have been reduced to allow parking spaces to be 9' x 18' in size; which is what the petitioner originally proposed. Furthermore, the petitioner is now proposing to comply with the Zoning Ordinance, regarding the number of parking spaces. The gravel parking area behind the business will remain, as originally approved, and the six off-site parking spaces will be consistent with the requirements of the Zoning Ordinance.

- 2. Adjacent Property: The use and value of the area adjacent to the property included in the variance (will or will not) be affected in a substantially adverse manner.***

### **Staff Finding:**

The approval of the original variance has had an adverse effect on adjacent properties due to the lack of parking, and customers and residents contending for parking spaces on the street. Approval of the modifications to the commitments will help to reverse the adverse effects the business has had on the general vicinity. Therefore, the use and value of the adjacent property will not be adversely affected by this approval.

- 3. Practical Difficulty: The strict application of the terms of the ordinance (will or will not) result in a practical difficulty in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.***

### **Staff Finding:**

The strict application of the ordinance will result in a practical difficulty if the petitioner is not allowed to modify the commitments, as the petitioner is now proposing to provide all of the parking required by the ordinance, and will be providing parking that is consistent with the ordinance for the additional six spaces.

## **STAFF RECOMMENDATION – DEVELOPMENT STANDARDS VARIANCES**

Based on the written findings above, staff recommends **approval** of the petition, to modify commitments B, D, E, and G, to the following:

- B: Nine (9) total parking spaces will be provided; three (3) gravel spaces located behind the business, and six (6) parking spaces, consistent with the requirements outlined in the Zoning Ordinance, located on the property owned by Franklin Heritage, Inc., west of Depot Street.
- D: No exterior signage will be provided for the business, except for one (1) projecting sign off the front porch, six (6) sq. ft. in size; and one (1) wall sign on the rear wall of the building, six (6) sq. ft. in size.
- E: Signage directing patrons between the two business (subject property and Salvage Sisters) will be provided interior to the businesses only, except for one (1) projecting sign off the front porch, six (6) sq. ft. in size; and one (1) wall sign on the rear wall of the building, six (6) sq. ft. in size.
- G: -Remove from Commitments-

EXHIBIT A



**FRANKLIN HERITAGE, INC.**  
*Since 1983*

**ROB SHILTS**  
Executive Director  
Franklin Heritage, Inc.

(317) 736-6823  
franklinheritage@earthlink.net

Franklin Board of Zoning Appeals  
Attn: Alex Getchell  
70 E. Monroe Street  
Franklin, IN 46131

January 5, 2015

Re: Shared Parking with Julie Stewart

Dear Franklin BZA:

As you are aware, the board recently granted a variance request for Franklin Heritage to operate an architectural salvage operation at 350 E. Madison Street.

Julie Stewart has since requested permission from the Franklin Heritage Board of Directors to use a portion of the property Franklin Heritage has recently acquired that accompanies the building at 350 E. Madison Street, to provide parking for customers of her business located at 383 E. Madison Street.

The Franklin Heritage Board of Directors has granted her approval to utilize this property, located on the west side of Depot Street adjacent to the building at 350 E. Madison Street (see attached map), in order to make the necessary improvements to address the parking requirements for her business located nearby at 383 E. Madison Street.

Franklin Heritage, Inc. will work out an arrangement with Julie Stewart in regard to construction, maintenance and compensation for the use of these parking spaces consistent with the requirements outlined in the Zoning Ordinance relating to shared parking and a copy will be provided to the Department of Planning & Engineering.

Sincerely,

Robert Shilts

Executive Director  
Franklin Heritage, Inc.

EXHIBIT B

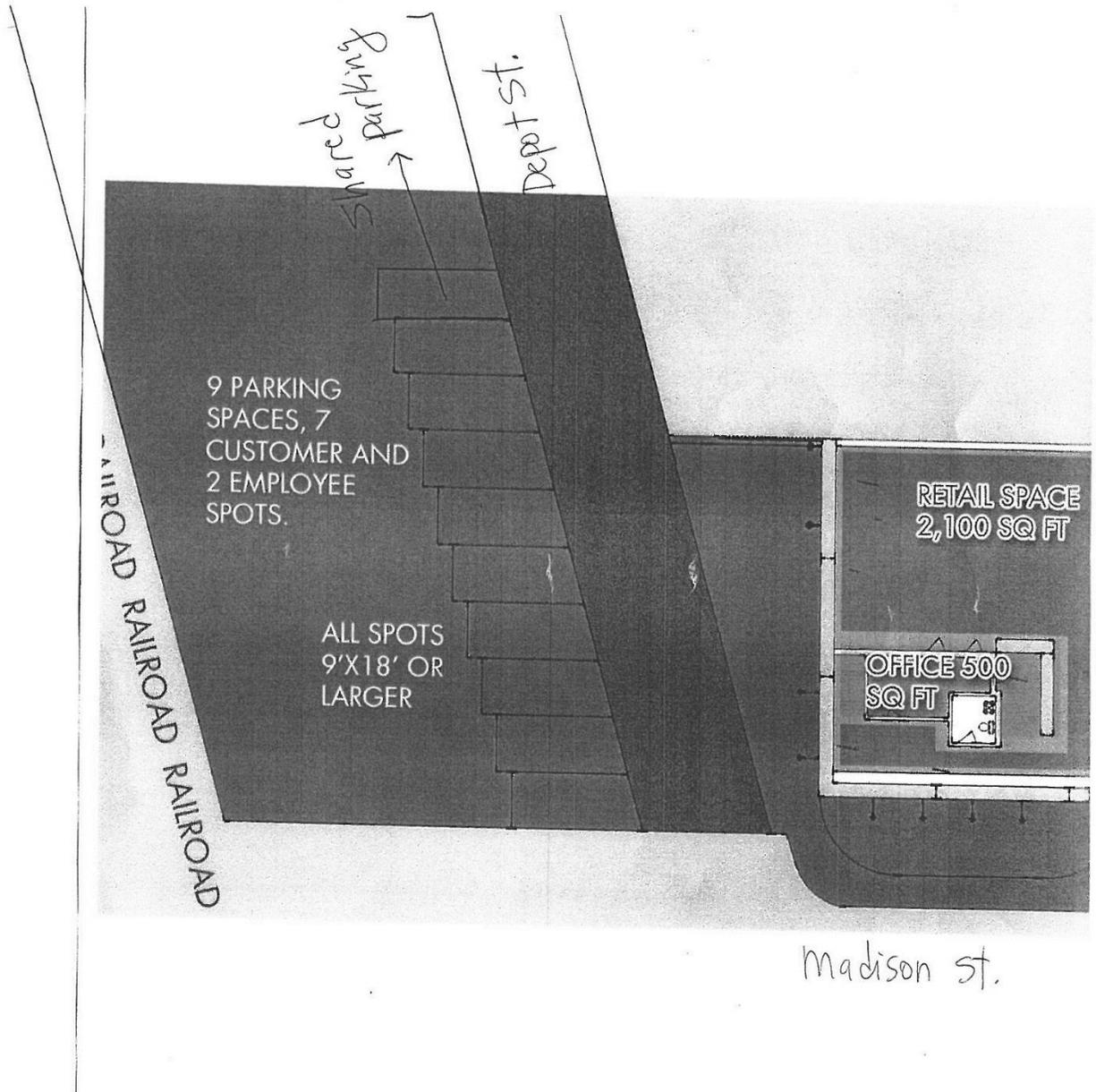


EXHIBIT C  
First Floor Plan

1st floor

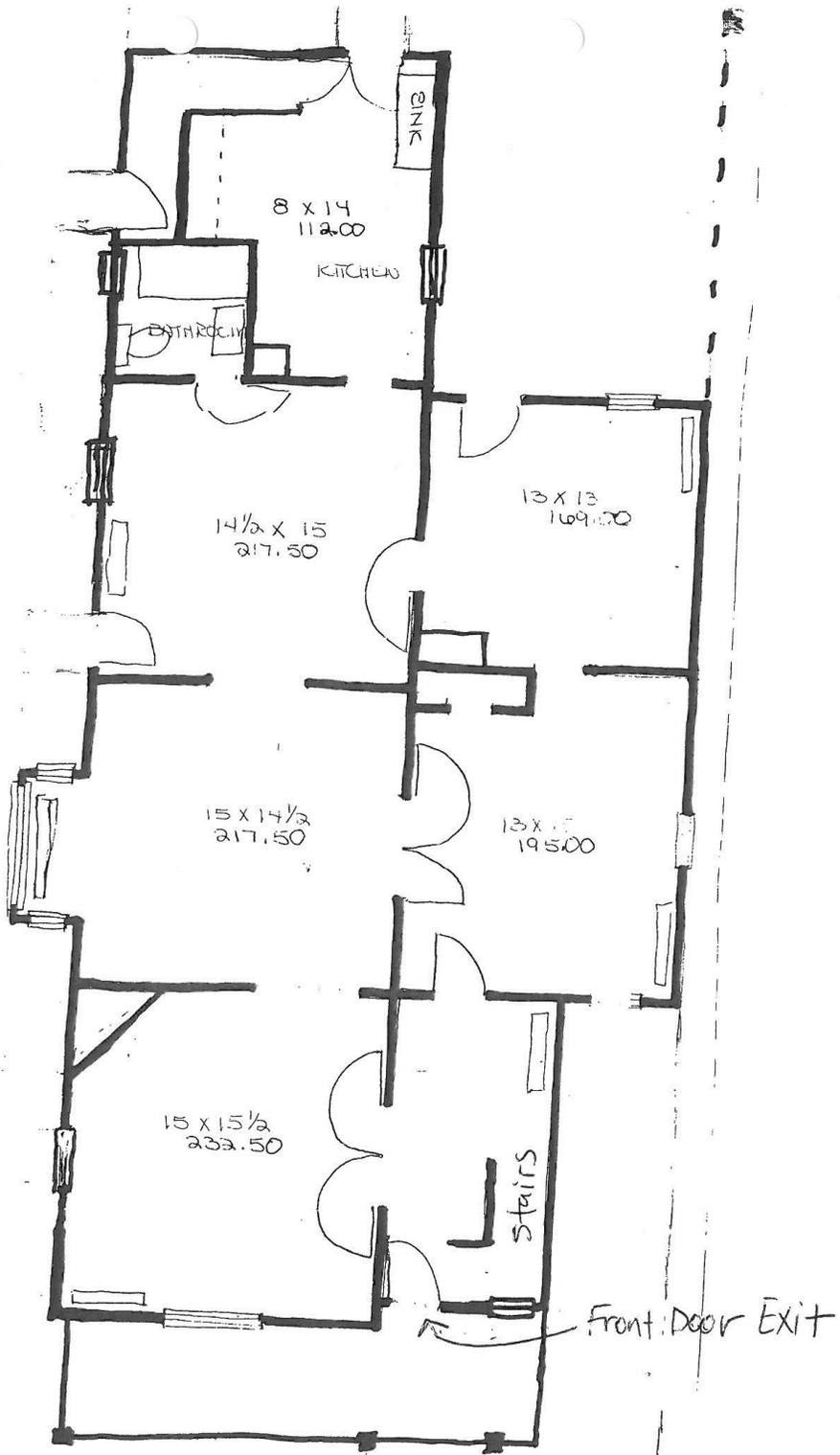


EXHIBIT D  
Second Floor Plan

2nd floor

