

INTRODUCED: September 23, 2019

AN ORDINANCE No. 2019-271

To authorize the special use of the property known as 1301 Bellevue Avenue for the purpose of a dwelling unit within an existing accessory building, upon certain terms and conditions.

\_\_\_\_\_  
Patron – Mayor Stoney (By Request)

\_\_\_\_\_  
Approved as to form and legality  
by the City Attorney  
\_\_\_\_\_

PUBLIC HEARING: NOV 12 2019 AT 6 P.M.

WHEREAS, the owner of the property known as 1301 Bellevue Avenue, which is situated in a R-5 Single-Family Residential District, desires to use such property for the purpose of a dwelling unit within an existing accessory building, which use, among other things, is not currently allowed by section 30-410.2 of the Code of the City of Richmond (2015), as amended; and

WHEREAS, in accordance with section 17.11 of the Charter of the City of Richmond (2018), as amended, it has been made to appear that, if granted subject to the terms and conditions set forth in this ordinance, the special use granted by this ordinance will not be detrimental to the safety, health, morals and general welfare of the community involved, will not tend to create congestion in streets, roads, alleys and other public ways and places in the area involved, will not create hazards from fire, panic or other dangers, will not tend to overcrowding of land and cause

AYES:            9            NOES:            0            ABSTAIN: \_\_\_\_\_

ADOPTED:    NOV 12 2019    REJECTED: \_\_\_\_\_    STRICKEN: \_\_\_\_\_

an undue concentration of population, will not adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements, and will not interfere with adequate light and air; and

WHEREAS, (i) the City Planning Commission has conducted a public hearing to investigate the circumstances and conditions upon which the Council is empowered to authorize such use, (ii) the City Planning Commission has reported to the Council the results of such public hearing and investigation and its recommendations with respect thereto, and (iii) the Council has conducted a public hearing on this ordinance at which the person in interest and all other persons have had an opportunity to be heard;

NOW, THEREFORE,

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. **Finding.** Pursuant to section 30-1050.1 of the Code of the City of Richmond (2015), as amended, the Council hereby finds that the special use set forth in and subject to the terms and conditions of this ordinance will not (i) be detrimental to the safety, health, morals and general welfare of the community involved, (ii) tend to create congestion in streets, roads, alleys and other public ways and places in the area involved, (iii) create hazards from fire, panic or other dangers, (iv) tend to overcrowding of land and cause an undue concentration of population, (v) adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements, or (vi) interfere with adequate light and air.

§ 2. **Grant of Special Use Permit.**

(a) Subject to the terms and conditions set forth in this ordinance, the property known as 1301 Bellevue Avenue and identified as Tax Parcel No. N000-2272/012 in the 2019 records of the City Assessor, being more particularly described in Schedule A of Instrument 180011827 recorded in the Clerk's Office of the Circuit Court of the City of Richmond on June 13, 2018, a copy of which is attached to and made a part of this ordinance, hereinafter referred to as "the Property," is hereby permitted to be used for the purpose of a dwelling unit within an existing accessory building, hereinafter referred to as "the Special Use," substantially as shown on the plans entitled "Bill + Kathy Berry, 1301 Bellevue, Richmond, Va 23227, Existing Garage/Workshop Into: In-Law Suite," prepared by an unknown preparer, and undated, referred to as "the Plans," a copy of which is attached to and made a part of this ordinance.

(b) The adoption of this ordinance shall constitute the issuance of a special use permit for the Property. The special use permit shall inure to the benefit of the owner or owners of the fee simple title to the Property as of the date on which this ordinance is adopted and their successors in fee simple title, all of which are hereinafter referred to as "the Owner." The conditions contained in this ordinance shall be binding on the Owner.

§ 3. **Special Terms and Conditions.** This special use permit is conditioned on the following special terms and conditions:

(a) The Special Use of the Property shall be as no more than one dwelling unit within an existing building accessory to a single-family dwelling, substantially as shown on the Plans.

(b) The dwelling unit within the existing building accessory to the single-family dwelling shall only be occupied by family members of the Owner and shall not be rented out to the general public. For the purposes of this ordinance, "family members" shall be defined as persons related by blood, marriage, and legal guardianship or adoption, including foster children.

(c) One off-street parking space shall be provided on the Property.

(d) All mechanical equipment serving the Property shall be located or screened so as not to be visible from any public right-of-way.

§ 4. **Supplemental Terms and Conditions.** This special use permit is conditioned on the following supplemental terms and conditions:

(a) All required final grading and drainage plans, together with all easements made necessary by such plans, must be approved by the Director of Public Utilities prior to the issuance of the building permit.

(b) Storm or surface water shall not be allowed to accumulate on the land. The Owner, at its sole cost and expense, shall provide and maintain at all times adequate facilities for the drainage of storm or surface water from the Property so as not to adversely affect or damage any other property or public streets and the use thereof.

(c) Facilities for the collection of refuse shall be provided in accordance with the requirements of the Director of Public Works. Such facilities shall be located or screened so as not to be visible from adjacent properties and public streets.

(d) Any encroachments existing, proposed on the Plans or contemplated in the future shall require separate authorization and shall be subject to the applicable provisions of the Code of the City of Richmond (2015), as amended, and all future amendments to such laws.

(e) In all other respects, the use of the Property shall be in accordance with the applicable underlying zoning regulations.

§ 5. **General Terms and Conditions.** This special use permit is conditioned on the following general terms and conditions:

(a) No permit implementing this special use permit shall be approved until satisfactory evidence has been presented to the Zoning Administrator that any delinquent real estate taxes applicable to the Property have been paid.

(b) The Owner shall be bound by, shall observe and shall comply with all other laws, ordinances, rules and regulations applicable to the Property, except as otherwise expressly provided in this ordinance.

(c) Words and phrases used in this ordinance shall be interpreted to have the meanings ascribed to them by section 30-1220 of the Code of the City of Richmond (2015), as amended, unless the context clearly indicates that a different meaning is intended.

(d) Notwithstanding any other provision of law, this special use permit is being approved due, in part, to the mitigating effects of each and every condition attached hereto; consequently, if any portion of this ordinance is determined to be invalid for any reason by a final, non-appealable order of any Virginia or federal court of competent jurisdiction, the invalidity shall cause the entire ordinance to be void and of no further effect from the effective date of such order.

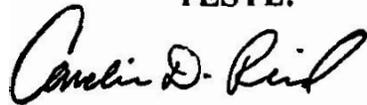
(e) The privileges granted by this ordinance may be revoked pursuant to the provisions of sections 30-1050.7 through 30-1050.11 of the Code of the City of Richmond (2015), as amended, and all future amendments to such laws. Failure to comply with the terms and conditions of this ordinance shall constitute a violation of section 30-1080 of the Code of the City of Richmond (2015), as amended, and all future amendments to such law, or any other applicable laws or regulations.

(f) When the privileges granted by this ordinance terminate and the special use permit granted hereby becomes null and void, whether as a result of the Owner relinquishing this special use permit in a writing addressed to the Director of Planning and Development Review or

otherwise, use of the Property shall be governed thereafter by the zoning regulations prescribed for the district in which the Property is then situated.

§ 6. **Implementation.** The Commissioner of Buildings is authorized to issue a building permit substantially in accordance with the Plans for the Special Use subject to the terms and conditions set forth in this ordinance. An application for the building permit shall be made within 730 calendar days following the date on which this ordinance becomes effective. If either the application for the building permit is not made within the time period stated in the previous sentence or the building permit terminates under any provision of the Virginia Statewide Building Code, this ordinance and the special use permit granted hereby shall terminate and become null and void.

§ 7. **Effective Date.** This ordinance shall be in force and effect upon adoption.

**A TRUE COPY:**  
**TESTE:**  
  
**City Clerk**

# City of Richmond

900 East Broad Street  
2nd Floor of City Hall  
Richmond, VA 23219  
www.richmondgov.com

## Item Request

File Number: PRE.2019.396

O & R REQUEST

4-9107  
AUG 28 2019

Office of the  
Chief Administrative Officer

### O & R Request

**DATE:** August 26, 2019

**EDITION:** 1

**TO:** The Honorable Members of City Council

**THROUGH:** The Honorable Levar M. Stoney, Mayor (Patron: Mayor, by Request)  
(This in no way reflects a recommendation on behalf of the Mayor)

SS 7/13/19

**THROUGH:** Selena Cuffee-Glenn, Chief Administrative Officer *SS*

**FROM:** Sharon L. Ebert, Deputy Chief Administrative Officer for Economic Development and Planning *SS*

**FROM:** Mark A. Olinger, Director, Department of Planning and Development Review *MO*

**RE:** To authorize the special use of the property known as 1301 Bellevue Avenue for the purpose of a dwelling unit within an accessory building, upon certain terms and conditions.

**ORD. OR RES. No.** \_\_\_\_\_

**PURPOSE:** To authorize the special use of the property known as 1301 Bellevue Avenue for the purpose of a dwelling unit within an accessory building, upon certain terms and conditions.

**REASON:** The subject property is zoned R-5 Single-Family Residential district. The property currently consists of a two-story single-family with a one-story detached garage. This proposal is to create a second dwelling unit on the property located in the accessory garage building in the rear yard. A dwelling unit located in an accessory building is not a permitted use in the R-5 district and a Special Use Permit is required to be adopted by City Council to authorize this use.

**RECOMMENDATION:** In accordance with the requirements of the City Charter and the Zoning Ordinance, the City Planning Commission will review this request and make a recommendation to City Council. This item will be scheduled for consideration by the Commission at its October 21, 2019 meeting. A letter outlining the Commission's recommendation will be forwarded to City Council following that meeting.

**BACKGROUND:** The subject property consists of a 7,000 SF (.161 acre) parcel of land and the improvements consist of a two-story single-family dwelling and a one-story detached garage. It is located in the Bellevue Neighborhood within the City's North Planning District, on the corner of Bellevue Avenue and Lamont Street.

The City of Richmond's Master Plan designates the subject property for Single-Family (Low-Density) uses. Primary uses in this category are single-family detached dwellings at densities up to 7 units per acre. The density of the parcel if developed as proposed would be a ratio of approximately 6 units per acre. There are also a variety of general housing goals contained in the Master Plan Neighborhoods and Housing chapter that are applicable to the request. These goals include, among other things, recognition of the need for a variety of housing choices.

All properties surrounding the subject property are located within the same R-5 Single-Family Attached Residential zoning district. Within the area of the subject property, those properties with improvements contain a mixture of single-family detached and single-family attached structures.

**FISCAL IMPACT / COST:** The Department of Planning and Development Review does not anticipate any impact to the City's budget for this or future fiscal years.

**FISCAL IMPLICATIONS:** Staff time for processing the request; preparation of draft ordinance; and publishing, mailing and posting of public notices.

**BUDGET AMENDMENT NECESSARY:** No.

**REVENUE TO CITY:** \$300 application fee

**DESIRED EFFECTIVE DATE:** Upon adoption

**REQUESTED INTRODUCTION DATE:** September 23, 2019

**CITY COUNCIL PUBLIC HEARING DATE:** November 12, 2019

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** None

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** City Planning Commission  
October 21, 2019

**AFFECTED AGENCIES:** Office of Chief Administration Officer  
Law Department (for review of draft ordinance)  
City Assessor (for preparation of mailing labels for public notice)

**RELATIONSHIP TO EXISTING ORD. OR RES.:** None

**REQUIRED CHANGES TO WORK PROGRAM(S):** None

**ATTACHMENTS:** Draft Ordinance, Application Form, Applicant's Report, Plans, Map

**STAFF:** David Watson, Senior Planner, Land Use Administration, 804-646-1036



Application for **SPECIAL USE PERMIT**

Department of Planning and Development Review  
Land Use Administration Division  
900 E. Broad Street, Room 511  
Richmond, Virginia 23219  
(804) 646-6304  
<http://www.richmondgov.com/>

Application is hereby submitted for: (check one)

- special use permit, new**
- special use permit, plan amendment**
- special use permit, text only amendment**

**Project Name/Location**

Property Address: 1301 Bellevue Ave., Richmond, VA 23227 Date: 05/14/2019  
 Tax Map #: 206 Fee: \$300  
 Total area of affected site in acres: 0.161

(See **page 6** for fee schedule, please make check payable to the "City of Richmond")

**Zoning**

Current Zoning: R-5

Existing Use: Garage/Workshop

**Proposed Use**

(Please include a detailed description of the proposed use in the required applicant's report)  
Two room apartment for owners' family members occupancy. Details attached.

Existing Use: Garage/Workshop

Is this property subject to any previous land use cases?

Yes  No  If Yes, please list the Ordinance Number: \_\_\_\_\_

**Applicant/Contact Person:** Bill Berry

Company: n/a  
 Mailing Address: 1301 Bellevue Ave.  
 City: Richmond State: VA Zip Code: 23227  
 Telephone: (804) 543-7934 Fax: ( )  
 Email: bberrystill@gmail.com

**Property Owner:** Bill, Kathy, Micah and Mary-Catherine Berry

If Business Entity, name and title of authorized signee: \_\_\_\_\_

(The person or persons executing or attesting the execution of this Application on behalf of the Company certifies that he or she has or have been duly authorized and empowered to so execute or attest.)

Mailing Address: 1301 Bellevue Ave.  
 City: Richmond State: VA Zip Code: 23227  
 Telephone: (804) 543-7934 Fax: ( )  
 Email: bberrystill@gmail.com

**Property Owner Signature:** [Handwritten Signatures]

The names, addresses, telephone numbers and signatures of all owners of the property are required. Please attach additional sheets as needed. If a legal representative signs for a property owner, please attach an executed power of attorney. **Faxed or photocopied signatures will not be accepted.**

**NOTE:** Please attach the required plans, checklist, and a check for the application fee (see Filing Procedures for special use permits)

May 14, 2019

To whom it may concern:

In June of 2019 we – Bill, Kathy, Micah and Mary Catherine Berry – purchased 1301 Bellevue Avenue so that we could live together as a multi-generational family – grandparents, children and grandchildren. Bill and Kathy have lived in Richmond since 1990, enjoying homes in various neighborhoods - Church Hill, The Fan, Oregon Hill and Northside.

At the time of the purchase, Bill and Kathy already lived on Bellevue Avenue, at 1403 Bellevue. They sold that home to purchase 1301 with their children to live on the same property together. When 1301 was purchased it had a non-conforming use permit with a separate apartment located upstairs in the rear of the home. The apartment has been disassembled, including the outside steps leading up to it, to create bedrooms for Micah, Mary Catherine, Jonah and Magnolia (the grandchildren). It will not be used as a separate apartment again. The SUP is requested to convert the property's existing 576 square foot garage/workshop into a one-level, one bedroom "in-law-type cottage" in which Bill and Kathy can age in place.

Kathy has MS and needs a one level dwelling to live in. Until the garage can be completed, Bill and Kathy are residing in a makeshift bedroom in the home's finished basement. This requires going up and down steps to get to the home's main level or to exit the building.

The garage/workshop sits to the rear of the house. The foot print of the existing building will not change, nor will the exterior walls as part of the renovation. Additional windows will be added to enhance lighting. No additional parking will be needed, and changes will NOT: be detrimental to the safety, health, morals or general welfare of the community involved; create congestion in streets, roads, alleys and other public ways and places in the area; create hazards from fire, panic or other dangers; cause overcrowding of land and an undue concentration of population; adversely affect or interfere with public or private schools parks, playgrounds, water supplies sewage disposal, transportation or other public requirements conveniences or improvements; or interfere with adequate light and air.

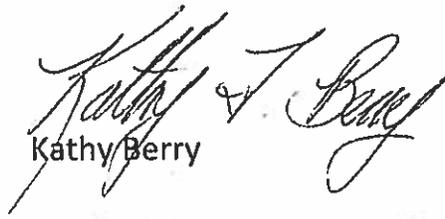
Bill and Kathy have loved living in the city of Richmond with its culture, multi-ethnicity, diversity, rich history, and vibrant social life. They raised their children in the City and want that same life for their grandchildren. Since 1990 they have been upstanding citizens of the community, contributing tax revenue to the city and making significant contributions to the welfare of its citizens through their careers and community service.

We, the owners of 1301 Bellevue Ave., respectfully submit this request for a special use permit for your consideration.

Signed May 14, 2019:

A handwritten signature in black ink, appearing to read 'Bill Berry', with a long horizontal flourish extending to the right.

Bill Berry

A handwritten signature in black ink, appearing to read 'Kathy Berry', with a long horizontal flourish extending to the right.

Kathy Berry

A handwritten signature in black ink, appearing to read 'Micah Berry', with a long horizontal flourish extending to the right.

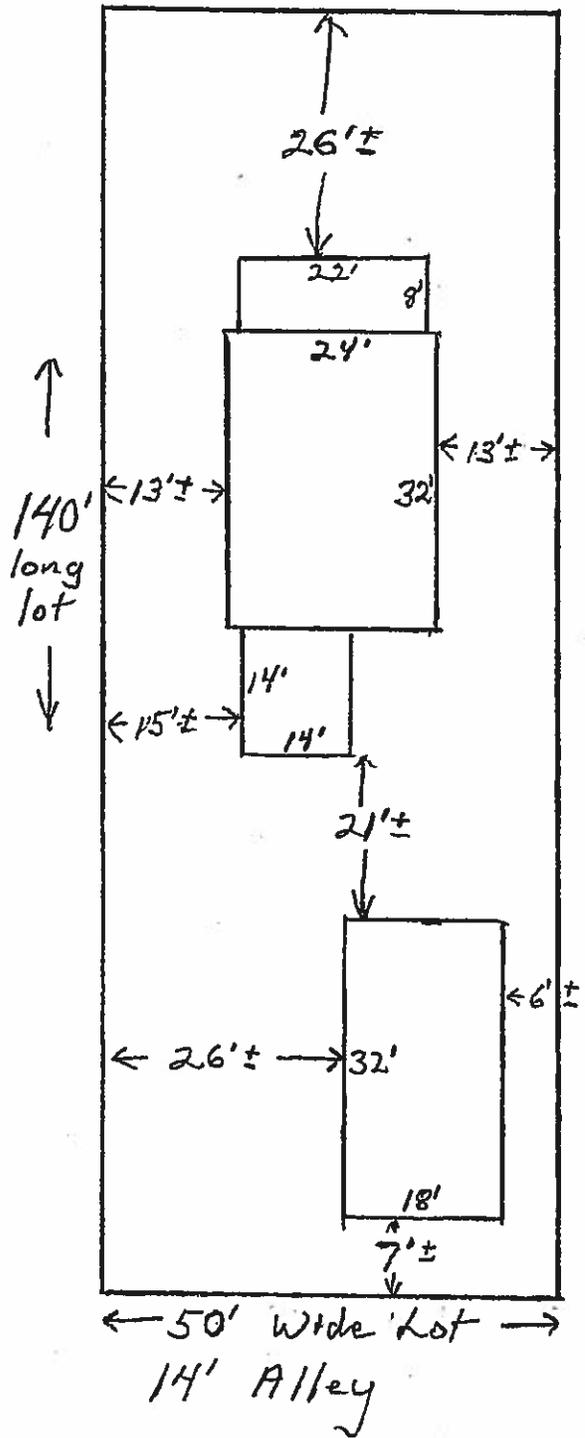
Micah Berry

A handwritten signature in black ink, appearing to read 'Mary-Catherine Berry', with a long horizontal flourish extending to the right.

Mary-Catherine Berry

Plot Plan  
1" = 20'

1301 Bellevue



L  
a  
m  
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t

P00550 JUN 13 2018

SCHEDULE A

ALL that certain lot or parcel of land lying and being in the City of Richmond, Virginia, with all improvements thereon known and designated as No. 1901 Bellevue Avenue and more particularly described as follows:

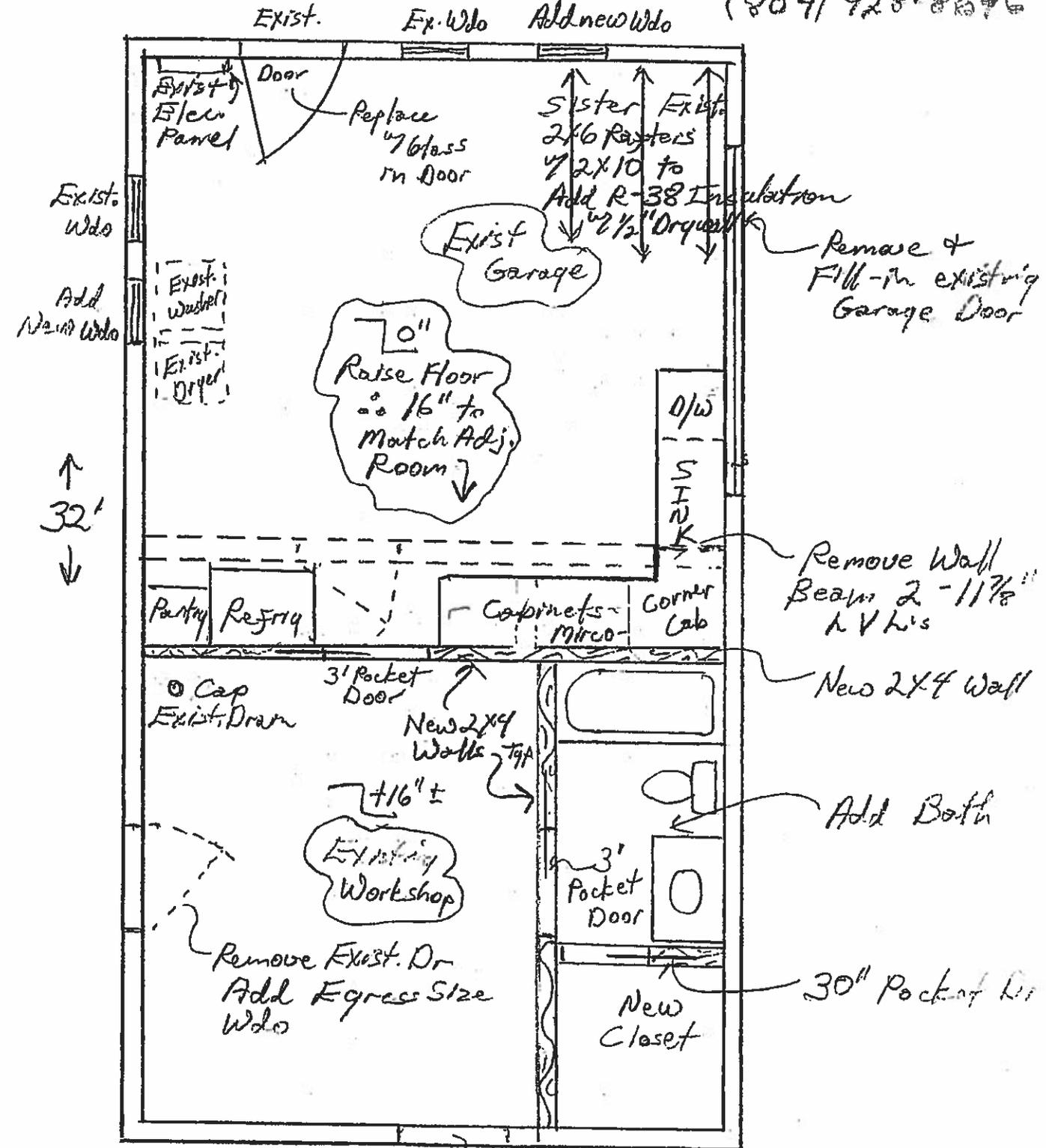
BEGINNING at the southwest corner of Bellevue Avenue and Lamont Street, thence extending westwardly along the southern line of Bellevue Avenue and fronting thereon 50 feet, thence extending back from said front in a southern direction and between parallel lines, to the eastern line being in the western line of Lamont Street 140 feet to an alley in the rear 14 feet wide, as shown on plat of 1301 Bellevue Avenue made by Charles H. Fleet, C.E., dated April 13, 1944.

BEING the same property conveyed to AUSTIN L. BOND, III and JESSICA B. BUCHANAN, as tenants by the entirety with the right of survivorship as at common law, by Deed from JANET K. BARFIELD, dated March 11, 2014, and recorded March 14, 2014, in the Clerk's Office, Circuit Court, City of Richmond, Virginia, as Instrument No. 14-4228.

INSTRUMENT 180011827  
RECORDED IN THE CLERK'S OFFICE OF  
CITY OF RICHMOND CIRCUIT COURT ON  
June 13, 2018 AT 03:25 PM  
\$325.00 GRANTOR TAX WAS PAID AS  
REQUIRED BY SEC 58.1-802 OF THE VA. CODE  
STATE: \$162.50 LOCAL: \$162.50  
EDWARD F. JEWETT, CLERK  
RECORDED BY: ADP

Bill + Kathy Berry  
 1301 Bellevue  
 Richmond, Va 23227  
 (804) 543-7934

Existing Garage/Workshop  
 Into In-law Suite  
 Contact Person:  
 Jay Hartman  
 (804) 928-8696



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