

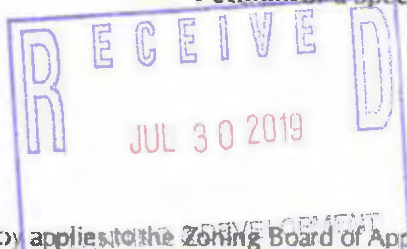
19 JUL 30 P2:50



**Town of Barnstable
Zoning Board of Appeals**

Petition for a Special Permit

Date Received
Town Clerk's Office:



For office use only:
Appeal # 2019-050
Hearing Date 09-25-19
Days Extended _____
Decision Due 11-20-19

The undersigned hereby applies to the Zoning Board of Appeals for a Special Permit, in the manner and for the reasons set forth below:

Petitioner's Name: 1000 Main, LLC Phone: (508) 360-6859
Petitioner's Address: Box 125 / 164 Beale Way Barnstable, MA 02630

Property Location: 1000 Main Street (off 6A) West Barnstable
Property Owner: 1000 Main, LLC Phone: (508) 360-6859
Address of Owner: _____

If applicant differs from owner, state nature of interest:²

Registry of Deeds/Land Court References: Deed 27876/218 Plan _____
Assessor's Map/Parcel Number: 179 Zoning District: WBVBD
Number of Years Owned: 5 1/2 (12/2013) Groundwater Overlay District: _____

Special Permit Requested: To allow storage of small traditional sail boats
Cite Section & Title from the Zoning Ordinance
Description of Activity/Reason for Request: and to continue pre-existing use of residential units in house,
WBVBD - 240 - 20B sections (3) and (4)
Attach additional sheet if necessary

Is the property subject to an existing Variance or Special Permit No [] Yes []
Permit# 1987-35

¹ The Petitioner's Name will be the entity to whom the special permit will be issued to.
² If the Applicant differs from owner, the Applicant will be required to submit one original notarized letter from the owner authorizing the application to the Zoning Board, a copy of an executed purchase & sales agreement or lease, or other documents to prove standing and interest in the property.

Petition for a Special Permit - Page 2

Description of Construction Activity (if applicable): None

Attach additional sheet if necessary

Existing Level of Development of the Property- Number of Buildings: Three buildings

Present Use(s): House - Residential Garage - Storage Barn - Small Sailboat Storage

Existing Gross Floor Area: 4,019 sq. ft. Proposed New Gross Floor Area: 0 sq. ft.

Site Plan Review Number: C56-18 Date Approved: 8/29/18 (not required for Single or Two Family use)

- Is the property located in a designated Historic District?..... Yes No
- Is this proposal subject to the jurisdiction of the Conservation Commission Yes No
- Is this proposal subject to approval by the Board of Health Yes No
- Is the building a designated Historic Landmark?..... Yes No
- Have you applied for a building permit?..... Yes No
- Have you been refused a building permit?..... Yes No

The following Required Information, as applicable to application, must be submitted with the application at the time of filing, failure to do so may result in a denial of your request.

- Three (3) copies of the completed application form, each with original signatures.
- Three (3) copies of a 'wet sealed' certified property survey (plot plan) and one (1) reduced copy (8 1/2" x 11" or 11" x 17") showing the dimensions of the land, all wetlands, water bodies, surrounding roadways and the location of the existing improvements on the land.
- Three (3) copies of a proposed site improvement plan, as found approvable by the Site Plan Review Committee (if applicable), and building elevations and layout as may be required plus one (1) reduced copy (8 1/2" x 11" or 11" x 17") of each drawing. These plans must show the exact location of all proposed improvements and alterations on the land and to the structures.
- The applicant may submit any additional supporting documents to assist the Board in making its determination. Twelve copies of all supporting documents must be submitted eight days prior to the public hearing for distribution to the Board Members.

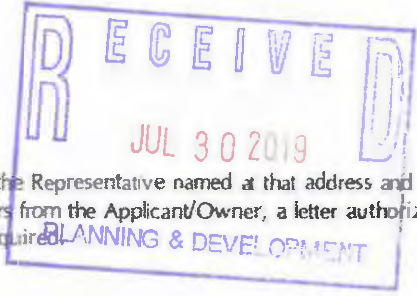
Signature: [Signature] Date: 7/29/19
Applicant's or Representative's Signature

Print Name: Peter C. Eastman

Address: Bc x 125 Phone: (508) 360-6859

Barnstable, MA 02630 Fax No.: (508) 362-6859

e-mail Address: p.eastman@aol.com



All correspondence on this application will be processed through the Representative named at that address and phone number provided. Except for Attorneys, if the Representative differs from the Applicant/Owner, a letter authorizing the Representative to act on behalf of the Applicant/Owner shall be required.

LEGEND	
99	EXISTING CONTOUR
X 99.7	EXIST. SPOT ELEV.
- [99]	PROPOSED CONTOUR
[98.4]	PROPOSED SPOT EL.
TH1	TEST HOLE
2%	SLOPE OF GROUND
UTILITY POLE	UTILITY POLE
FIRE HYDRANT	FIRE HYDRANT
NOTE: NOT ALL SYMBOLS MAY APPEAR IN DRAWING	
	PINE OR SPRUCE
	CEDAR
	DECIDUOUS

- NOTES**
- DATUM IS NAVD_88
 - MUNICIPAL WATER IS NOT AVAILABLE
 - THIS PLAN IS FOR PROPOSED WORK ONLY AND NOT TO BE USED FOR LOT LINE STAKING OR ANY OTHER PURPOSE.
 - CONTRACTOR SHALL BE RESPONSIBLE FOR CALLING DIGSAFE (1-888-344-7233) AND VERIFYING THE LOCATION OF ALL UNDERGROUND & OVERHEAD UTILITIES PRIOR TO COMMENCEMENT OF WORK.



LOCUS MAP
SCALE 1"=2000' ±
ASSESSORS MAP 179 PARCEL 2

ZONING SUMMARY

ZONING DISTRICT: RF RESIDENTIAL DISTRICT
 MIN. LOT SIZE 43,560 S.F.
 MIN. LOT FRONTAGE 150'
 MIN. FRONT SETBACK 30'
 MIN. SIDE SETBACK 15'
 MIN. REAR SETBACK 15'
 MAX. BUILDING HEIGHT 30'

ZONING SUMMARY

ZONING DISTRICT: WBVBD BUSINESS DISTRICT
 MIN. LOT SIZE 43,560 S.F.
 MIN. LOT FRONTAGE 160'
 MIN. FRONT SETBACK 30'
 MIN. SIDE SETBACK 30'
 MIN. REAR SETBACK 30'
 MAX. BUILDING HEIGHT 30'
 MAX. LOT COVERAGE 10%

REFERENCES

DEED BOOK 27876 PAGE 218
 PLAN BOOK 177 PAGE 43

SITE PLAN
OF

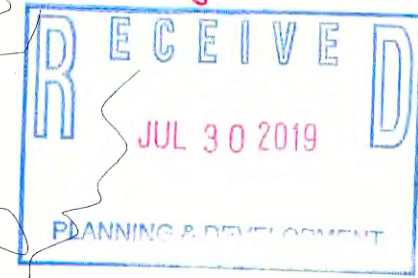
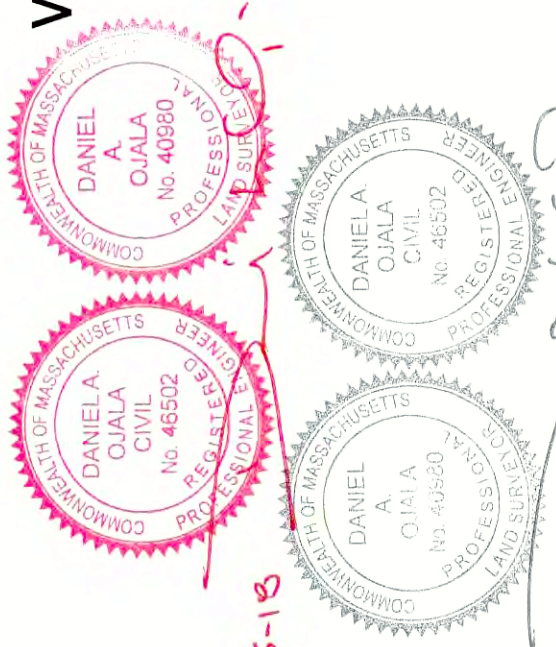
**1000 ROUTE 6A
WEST BARNSTABLE, MA**

PREPARED FOR
PETER EASTMAN

DATE: APRIL 10, 2018
 REV.: SEPTEMBER 5, 2018

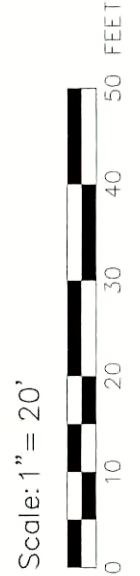
down cape engineering, inc.
civil engineers
land surveyors

939 Main Street (Rte 6A)
YARMOUTHPORT MA 02675
18-078 EASTMAN.DWG

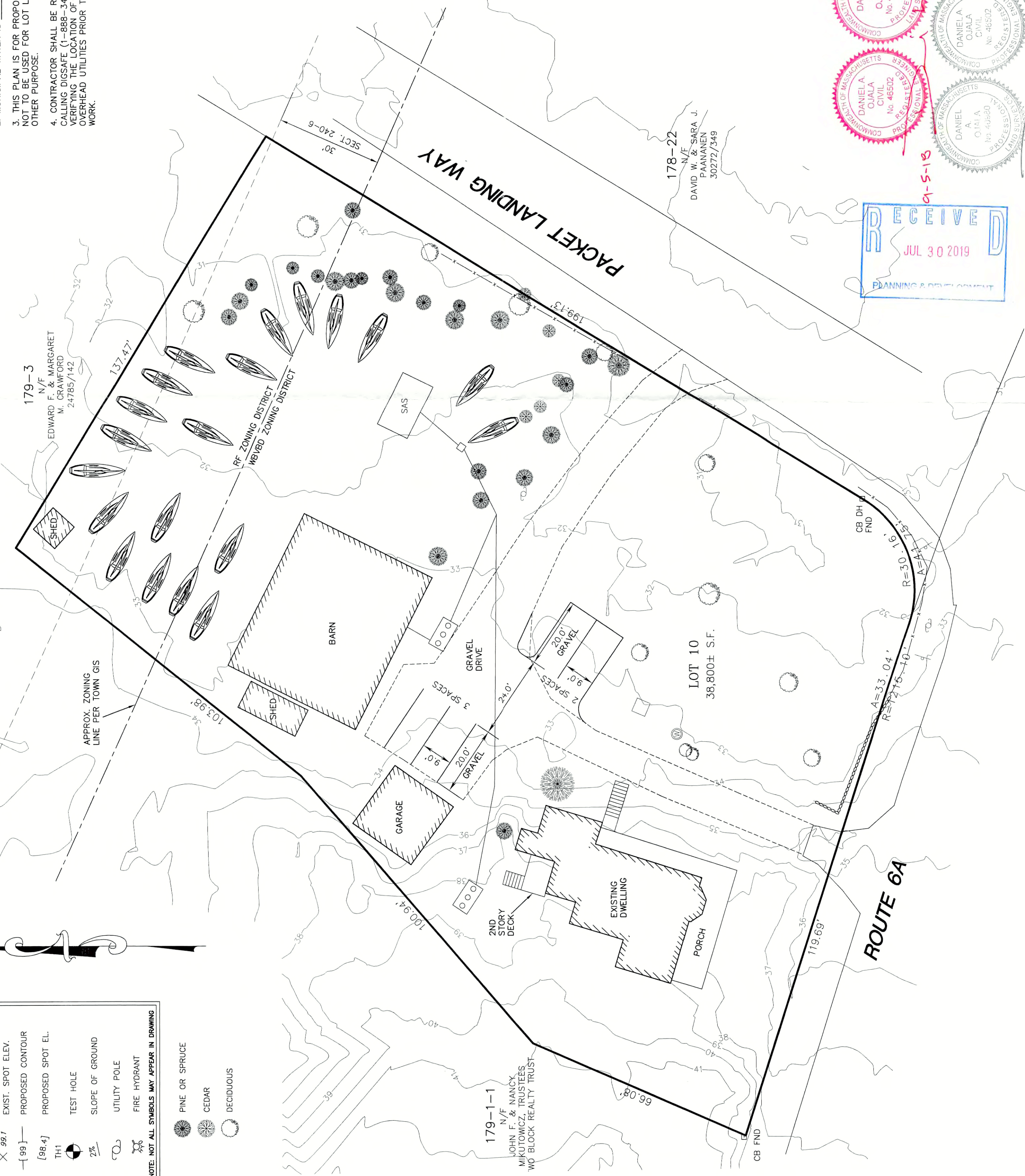


9-5-18
DATE 9-5-18

DANIEL A. OJALA, P.E., P.L.S.



DCE #18-078



TOWN OF BARNSTABLE
ZONING BOARD OF APPEALS

IN RE:
Special Permit Number 2019-050

1000 Main Street
West Barnstable, MA

ABUTTER'S MEMORANDUM OF LAW IN
OPPOSITION TO APPLICATION FOR SPECIAL PERMIT

Now comes Peter Sundelin, abutter to subject property, and submits the following Memorandum of Law in Opposition to Application for Special Permit Number 2019-050

ISSUE PRESENTED:

Petitioner seeks "to continue pre-existing use of residential units in house". The real issue is whether or not any lawful pre-existing non-conforming multi-family use actually exists.

THE PRE-EXISTING NON-CONFORMING MULTI-FAMILY USE WAS ELIMINATED
BY ISSUANCE OF THE 1987 SPECIAL PERMIT:

The main house had multiple apartments in it prior to the advent of zoning. This multi-family use later became a pre-existing non-conforming use due to the Use Regulations in the VB-B.¹

The Use Regulation (Section K - 7 (b)) sets forth the allowed uses:

- a. Detached one family dwelling
- b. Retail store, professional or business office, bank, personal service store or shop.

On March 27, 1987, the prospective new owner (Charles Birdsey) made application to the Board of Appeals for a Special Permit.

¹ References are to the 1986 Zoning Ordinance in effect as of March 27, 1987. That, and the other documents mentioned herein, are attached as Exhibits.

The Zoning Section invoked by the Petition was P. A. - 14. This says:

"A. The Board of Appeals may grant a special permit for the following exceptions to the zoning by-law: 14. In Village Business District A and B, any use permitted in a business district, except hotels and motels."

Mr. Birdsey's 1987 Petition for Special Permit (paragraph 8) stated that the proposed use of the premises was to be: "Apartment Upstairs, Office Downstairs, boat repair in barn"

The Public Hearing was held on April 30, 1987. Petitioner's lawyer told the Board:

"There are several apartments that have been in the building since the 1930's - intend to use one apartment, but not all of them."

The ZBA decided to allow a boat operation in the barn. The Decision says:

"There are several apartments in the main building since the 1930's. The petitioner intends to use one apartment in the main house, and there is going to be one office used by the petitioner's wife, who runs an adoption agency."

The Birdsey Petition for Special Permit did not seek to expand a lawful pre-existing non-conforming use of multiple apartments to add a boatbuilding business. This is significant.

An attempt to change the pre-existing non-conforming multi-family use to add a non-conforming boatbuilding business would have run afoul of Zoning Section G - B. That section prohibits: *"the creation of two or more non-conforming uses differing in use"*

This is made clear by the discussion between Mr. Jansson and Attorney. Burling on page 7 of the ZBA Minutes:

"Ron [Jansson] questions if [the property] has the benefit of a pre-existing non-conforming use. Attorney Burling responded "yes", - Ron Jansson commented his question then is why the petitioner is not before the Board on that particular basis - Mr. Burling commented that he wanted to go under the additional business allowed under [Section P. A. - 14 of] the zoning by law." (bolded words added for clarity)

Mr. Jansson further alludes to this issue in the ZBA minutes:

"now [I] understand if you look at Section G (B) why you probably would not want to come before the board with the pre-existing non-conforming use - because you are talking about two or more [non-conforming] uses." (bolded words added for clarity)

Eastman, the current petitioner, seeks to resurrect the pre-existing non-conforming multi-family use. Nothing of this sort exists to be resurrected

Had the 1987 petitioner attempted to keep in place the pre-existing non-conforming multi-family use **and** add to it a non-conforming boatbuilding business, the petition would have required denial under Section G (B).

Instead, the 1987 Special Permit had the following results:

Single family dwelling, allowed as of right; and
Office, allowed as of right; and
Boat building, allowed by the special permit.

This put the property into full compliance with the ordinance.

The old pre-existing non-conforming multi-family use was eliminated . It did not remain, somehow lurking in the shadows, so that the owner could resurrect it at his or her pleasure. Had the 1987 Petitioner wished for such a result, certainly it would have been appropriate for him to bring it to the Board's attention. This did not occur.

ASSUMING - JUST FOR THE SAKE OF ARGUMENT - THAT THE PRE-EXISTING NON-CONFORMING MULTI-FAMILY USE **WAS NOT** ELIMINATED BY ISSUANCE OF THE 1987 SPECIAL PERMIT: THAT USE WAS ABANDONED AND IS NOT IN THE PICTURE

In the filing, there is an Affidavit of Christopher Birdsey. This gentleman is the son of the 1987 Petitioner. The property was owned by the 1987 Petitioner from April of 1987 until August of 2007. At that time, the property was gifted to Christopher Birdsey.

The Christopher Birdsey Affidavit fails to establish that a multi-family use was continued between April of 1987 and August of 2007.

The affidavit is artfully and ambiguously phrased so as to obscure the point as to multi-family use during the period of ownership by the 1987 Petitioner. It says:

"During our ownership of the property, we maintained the three residential units as apartments in the house on the property, but at times rotated which apartments were used for residential and which for office space"

Why is this important?

Assuming, arguendo, that the pre-existing non-conforming multi-family use somehow survived the 1987 grant of special permit, the present petitioner bears the burden of proof that this use was never abandoned. That burden has not been met.

The applicable period for abandonment ended five years after the grant of the 1987 special permit. That was April of 1992.(References: Section P. A. - 5, 1986 Zoning; and Article 8, Annual Town Meeting, November 7, 1987).

There is no proof as to any multi-family use during the period from April of 1987 until April of 1992. It is, however, perfectly clear that Mr. Charles Birdsey discontinued the multi-family use.

In July of 1990, Mr. Birdsey made application to the Board of Health for a Disposal Works Construction Permit. The building is described as a two-bedroom dwelling with an office, two persons. In addition, there is the Affidavit of Marge Keary as to the uses during the Charles Birdsey ownership period. Together, these documents remove any question that the former multi-family use was abandoned.

It does appear from the file that Christopher Birdsey - and later Mr. Eastman - freely indulged themselves in multi-family use from and after 2007.

From a zoning perspective, this avails Petitioner of nothing, except proof of an extended period of unlawful multi-family use.

KNOWLEDGE OF UNLAWFUL USE

Both Mr. Christopher Birdsey and Mr. Eastman actually knew that the multi-family use was unlawful, but went ahead and did it anyway.

Mr. Eastman Submitted a "History of 1000 Main Street" to the Site Plan Review Committee. He states: *"When I bought the property in 2013, I was told that there were apartments allowed in the house."*

The information about apartments (plural) is not correct. Moreover, Mr. Eastman knew, or reasonably should have known, that this information was not correct. And he knew it prior to making the purchase.

Ms. Tara Schiffman was both listing broker and selling broker when Mr. Eastman bought the property in December of 2013.

The MLS listing sheet which was current at that time is attached.

This listing sheet states:

“Permitted uses for the property include residential, Village Business B, AND, according to a Special Permit: offices on the first floor, an apartment on the 2nd and a boat building business in the barn... Buyer to verify all zoning and uses.”

It is difficult to believe that Mr. Eastman was unaware of the information on the listing sheet. It is even more difficult to believe that Mr. Eastman knew nothing beyond *“there were apartments allowed in the house.”*

Further, Mr. Christopher Birdsey was well aware of the facts. Mr. Birdsey first listed the property with Ms. Schiffman in May of 2010. He claimed that it had “a main building with three separate units”

In order to correct this misinformation, Peter Sundelin wrote a lengthy and detailed letter dated June 10, 2010 to the building inspector. A copy was provided to Mr. Birdsey, and then to Ms. Schiffman.

Ms. Schiffman conferred with Barnstable’s Principal Planner, Mr. Art Tradzyk. As a result, the listing was corrected. Ms. Schiffman’s letter about this matter, dated June 15, 2010, is also attached

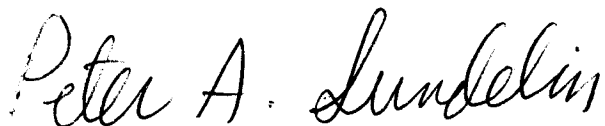
CONCLUSION:

The pre-existing non-conforming multi-family use ceased to exist when the `1987 Special Permit was issued.

Assuming - just for the sake of argument - that the pre-existing non-conforming multi-family use somehow remained in place after issuance of the 1987 Special Permit, that use was abandoned and ceased to exist in April of 1992.

In either event, the Board is respectfully urged to find that there is no pre-existing non-conforming multi-family use available for the Petitioner to "continue".

Respectfully Submitted,



Peter A. Sundelin, Attorney-At-Law and an Abutter to 1000 Main Street
999 Main Street
West Barnstable, MA 02668
508-362-6873
BBO # : 488520

DATED: September 25, 2019

LIST OF EXHIBITS

- 1) 1986 Zoning
- 2) 1987 Petition for Special Permit
- 3) Minutes of ZBA Public Hearing held on 4/30/1987
- 4) 1987 Special Permit Decision
- 5) Affidavit of Christopher Birdsey dated 8/30/18
- 6) BOH Disposal Works Construction Permit dated July, 1990
- 7) Affidavit of Keary
- 8) MLS Listing Sheet dated December, 2013
- 9) Tara Schiffman Letter dated June 15, 2010

EXHIBIT ONE

ZONING BY-LAWS



February 1986

TOWN OF BARNSTABLE
MASSACHUSETTS

PRINTED ON CAPE COD AT THE PATRIOT PRESS, HYANNIS, MASS.

which the trailer is located under a temporary permit from the Building Inspector.

Sub-paragraph (c) amended by 1969 October 23, Sp. 20, approved by the Atty. Gen. Dec. 17, 1969.

B. Tents

1. Maintaining or occupying a tent for living or business purposes is prohibited in all zoning districts of the town.

C. Noxious or Offensive Uses.

1. Uses which are injurious, noxious or offensive by reason of the emission of odor, fumes, dust smoke, vibration, noise, lighting or other cause are prohibited.

Paragraph C.1 amended 1983 Fall An. B-18, approved by Atty. Gen. Feb. 4, 1984, by adding "noise, lighting."

D. The construction of a new building for, or the conversion of any existing building, whether or not a condominium under Chapter 183A of the general laws to any use known as time-sharing, interval ownership, or otherwise, whereby unit owners are entitled by deed or other recorded instrument to occupancy of the units for only specified, recurring periods of less than a year during the course of a year, is prohibited until June 1, 1984 in all districts. This paragraph D. shall cease to be effective on June 1, 1984. (Unanimous)

Paragraph D added 1982 An A-1, approved by the Atty. Gen. Feb. 16, 1983.

G. NON-CONFORMING USES

A. Any lawful building, or any lawful use of a building or premises, or part thereof, existing at the time the zoning by-law was originally adopted in the area in which such building or use is located, may be continued, although such building or use does not conform to the provisions hereof.

B. Any change of a non-conforming use, any alteration, relocation or increase in size of an existing non-conforming building or structure to extend the non-conforming use on the same lot, or use of existing or construction of a new building or structure, shall be allowed only by Special Permit of the Board of Appeals. Any of the foregoing shall not result in the creation of any use or structure more objectionable or substantially detrimental to the neighborhood or the creation of two or more non-conforming uses differing in use.

Prior paragraph (B) deleted and new paragraph (B) inserted by 1974 An 112, approved by the Atty. Gen. July 16, 1974.

C. Any such non-conforming building which has been damaged by fire or other cause to any extent, may be repaired or rebuilt, providing the owner shall apply for a building permit and start operations for restoring or rebuilding on said premises within twelve (12) months after such catastrophe.

D. See Special Exceptions Section.

E. Any lot lawfully laid out by a plan or deed duly recorded, as defined in section eighty-one L. of chapter forty-one, or any lot shown on a plan endorsed with the words "approval under the subdivision control law not required" or words of similar import, pursuant to section eighty-one of chapter forty-one, which complies at the time of such recording or such endorsement, whichever is earlier, with the minimum

area, frontage, width, and depth requirements, if any, of the zoning ordinances or by-laws in effect in the Town of Barnstable, notwithstanding the adoption or amendment of provisions of a zoning ordinance or by-law in the town imposing minimum area, frontage, width, depth, or yard requirements, or more than one such requirement, in excess of those in effect at the time of such recording or endorsement (1) may thereafter be built upon for residential use if, at the time of the adoption of such requirements or increased requirements or while building on such lot was otherwise permitted, whichever occurs later, such lot was held in ownership separate from that of adjoining land located in the same residential district, or (2) may be built upon for residential use for a period of five years from the date of such recording or such endorsement, whichever is earlier, if, at the time of the adoption of such requirements or increased requirements, such lot was held in common ownership with that of adjoining land located in the same residential district; and further provided, in either instance, at the time of building (a) such lot has an area of 7,500 (seventy five hundred) square feet or more and a frontage of twenty feet or more, is in a district zoned for residential use, and conforms except as to area, frontage, width and depth with the applicable provisions of the zoning ordinance or by-law in effect in the town and (b) any proposed structure is to be located on such lot so as to conform with the minimum requirements of front, side and rear setbacks, if any, in effect at the time of such recording or such endorsement, whichever is earlier, and to all other requirements for such structure in effect at the time of building.

Paragraph E added 1977 An 21, approved by Atty. Gen. Jan. 12, 1978.

H. ACCESSORY USES

1. Accessory buildings or uses including the keeping, stabling, and maintenance of horses as specified in Section I located on the same lot as the building to which it is accessory and customarily incidental to any of the uses permitted in a particular residence district and not detrimental to a residential neighborhood, shall be permitted in that particular residence district.

Paragraph 1 amended by adding "including the keeping, stabling, and maintenance of horses as specified in Section I" 1974 An 102, approved by the Atty. Gen. July 16, 1974.

2. Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a special permit provided the granting authority finds that the proposed accessory use does not substantially derogate from the public good.

Paragraph 2 added by 1977 An 21, approved by the Atty. Gen. Jan. 12, 1978.

I. USE REGULATIONS — RESIDENCE DISTRICTS

A. No building shall be erected or altered and no building or premises shall be used for any purpose in the following specified districts other than provided for in this section or in Section P and the maximum height of any building shall be not more than two & one-half (2½) stories, or thirty (30) feet from the ground level to the plate, whichever

APPENDIX A

	Area in Sq.Ft.	Frontage in feet	Width in feet	Front Yard Setback in feet	Side Yard in feet	Rear Yard in feet
RESIDENCE B	43,560	20	100	20	10	10
RESIDENCE B-1	43,560	20	100	20	10	10
RESIDENCE C	43,560	20	100	20	10	10
RESIDENCE C-1	43,560	125		30	15	15
RESIDENCE C-2	43,560	20	100	20	10	10
RESIDENCE D	43,560	20	125	30	15	15
RESIDENCE D-1	43,560	20	125	30	10	10
RESIDENCE F	43,560	150		30	15	15
RESIDENCE F-1	43,560	20	125	30	15	15
RESIDENCE F-2	43,560	20	150	30	15	15
RESIDENCE G	65,000	20	200	30	15	15

Residence B-1 area added by An. 1977 25, approved by the Atty. Gen. Jan. 12, 1978.

Residence F-2 added by 1977 An 36, approved by Atty. Gen. Jan. 12, 1978.

Residence A and Residence A1 deleted by 1973 An 140, approved by the Atty. Gen. June 15, 1973.

Appendix A amended by adding the words "Front Yard" and by deleting figures shown as "50 (30)" and inserting therein the figure "30" 1974 An 145, approved by the Atty. Gen. July 16, 1974.

Residence C-2 added by 1974, July 30, Sp. 12, approved by the Atty. Gen. September 5, 1974.

Residence G added by 1979 An 7, approved by the Atty. Gen. June 20, 1979.

Residence D-2, Residence D-3, Residence E, Residence E-1 deleted 1979 An 9, approved by Atty. Gen. Feb. 26, 1980.

Frontage in feet "20" added by Jan. 21, 1982 Sp. 4, approved by Atty. Gen. May 20, 1982.

Area in sq. ft. "43,560", where less, by Feb. 28, 1985 Sp 1, approved by Atty. Gen. May 31, 1985.

Front yard setback distances shown above mean from sideline of the street. Where a lot abuts on one or more than one street, front yard setback shall be applicable from all streets. Front yard setback in Residence Districts along Route 28 and along Route 132 shall be 100 feet.

Prior Paragraph deleted and new paragraph inserted by 1974 An. 146, approved by the Atty. Gen. July 16, 1974.

Paragraph amended 1983 Fall An. B-14, approved by Atty. Gen. Feb. 4, 1984 by adding "Front yard...Route 28....."

Hotels and motels shall not be allowed in Precincts 1, 2, 4, 6 and 7 as existing on the date of adoption of this bylaw. Nothing in this paragraph shall affect the Industrial or Industrial Limited Districts.

Paragraph amended 1983 Fall An. B-13, approved by Atty. Gen. Feb. 4, 1984 by adding "Hotels and motels....."

Wetlands as defined in Section C-Definitions shall not be included in the area square foot requirement for zoning compliance, as shown in Appendix A.

Paragraph inserted by 1983 Fall An. B-8, approved by the Atty. Gen. Feb. 4, 1984.

K. USE REGULATIONS — NON-RESIDENCE DISTRICTS

A. No building shall be erected or altered, and no building or premises shall be used, for any purpose in the following specified districts other than provided in this section. The maximum height of any building shall be not more than two (2) stories, or thirty (30) feet

from ground level to the plate, whichever is lesser, except that in a Professional Residential District hospitals are excluded from this height limitation.

Paragraph A. amended by 1974 An 108, approved by the Atty. Gen. July 16, 1974 by adding, "The maximum height... from this height limitation."

1. Business District.

- a. Wholesale or retail stores or salesrooms.
- b. Retail trade service or shop.
- c. Offices and banks.
- d. Restaurants and other food establishments.
- e. Place of business of baker, barber, blacksmith, builder, carpenter, caterer, clothes cleaner or presser, confectioner, contractor, decorator, dressmaker, dyer, electrician, florist, furrier, hairdresser, hand laundry, manicurist, mason, milliner, newsdealer, optician, painter, paper hanger, photographer, plumber, printer, publisher, roofer, shoemaker, shoe repairer, shoe shiner, tailor, tinsmith, telephone exchange, telegraph office, undertaker, upholsterer, wheelwright.

f. Gasoline and oil filling stations and garages.

g. Apartment houses, subject to Section M.

h. Hotel or motel, subject to Section N.

i. The above listed types of business uses are not intended to be all inclusive and any other ordinary business use of a similar nature may be carried on in a Business District.

2. Business District A.

a. The same uses as permitted in the Business District, except that hotels and motels and multi-unit dwellings are excluded and the conversion of any existing multi-unit dwelling, whether or not a condominium under Chapter 183A of the general laws, to any use, known as time-sharing, interval ownership or otherwise, whereby unit owners are entitled by deed or other recorded instrument to occupancy of the units for only a specified period of less than a year during the course of a year, is prohibited.

Prior sub-paragraph 2 deleted by 1982 An A-11 and new sub-paragraph added, approved by Atty. Gen. Feb. 16, 1983.

3. Business Limited District B.

- a. Motel, hotel or lodging house.
- b. Building, sale, rental, storage and repair of boats.
- c. Retail sale of marine fishing and boating supplies.
- d. Retail sale of fishing bait, fish and shellfish.
- e. Operation of a commercial fishing business excluding canning or processing of fish.
- f. Restaurants.
- g. Retail stores.
- h. Operation of charter fishing and marine sightseeing and excursion facilities.

a. & f. required to connect to the Town sewer system and subject to Special Permit under Section P.

Prior paragraph deleted and new paragraph added by 1978 Fall An 16, approved by Atty. Gen. Feb. 6, 1979.

4. Business Limited District C.

- a. Professional or home occupation use. See Section I for definition.
- b. Small retail businesses common to a residence district.
- c. Detached one family dwelling.
- d. a. and b: above subject to the grant of a special permit under Section P.

Sub-paragraph (c) added by 1970 An 108, approved by the Atty. Gen. June 19, 1970.

Sub-paragraph (d) inserted by Jan. 21, 1982 Sp. 9, approved by the Atty. Gen. May 20, 1982.

5. Marine Business District A.

- a. Building, sale, rental, storage and repair of boats.
- b. Retail sale of marine fishing and boating supplies.

6. Marine Business District B.

- a. Building, sale, rental, storage and repair of boats.
- b. Retail sale of marine fishing and boating supplies.
- c. Retail sale of fishing bait, fish and shellfish.
- d. Operation of a commercial fishing business excluding commercial canning or processing of fish.
- e. Operation of whale watching facilities.

Sub-paragraph (e) added 1982 An A-4, approved by Atty. Gen. Feb. 16, 1983.

7. Village Business Districts A & B.

- a. Detached one family dwelling.

Prior sub-paragraph (a) deleted and the words "Detached one family dwelling" inserted therein by 1973 An 141, approved by the Atty. Gen. June 15, 1973.

- b. Retail store, professional or business offices, bank, personal service store or shop.

8. Highway Business District.

- a. The same uses as specified in a Business District are allowed by special permit in accordance with Section P.

Prior sub-paragraph 8 deleted by 1983 Fall An. B-1(a) and new sub-paragraph 8 inserted, approved by Atty. Gen. Feb. 8, 1984.

9. Urban Business District.

- a. Same uses specified in a Business District. Except that in Osterville Urban Business District, Hotels and Motels are excluded.

10. Industrial District.

- a. Same uses specified in a Business District.
- b. Lumber, fuel, feed and ice establishments.
- c. Contractors yards.
- d. Manufacturing and industrial uses except as noted in Section P. Special Exceptions.
- e. Same uses specified in a Service and Distribution District.
- f. Specifically prohibited shall be petroleum refineries, land fills, resource recovery facilities, sewerage treatment facilities which process and discharge less than tertiary-treated effluent, and any other use which involves as a principal activity the manufacture, storage, use, transportation or disposal of toxic or hazardous materials, except as allowed by special permit under Section P.

Sub-paragraph (e) added by 1973 An 135, approved by the Atty. Gen. June 15, 1973. Old Sub-paragraph (d) deleted, new sub-paragraph (d) added by Jan. 22, 1982, Sp. 18, approved by Atty. Gen. May 20, 1982.

Sub-paragraph (f) inserted by Jan. 22, 1982, Sp. 18, approved by Atty. Gen. May 20, 1982.

11. Industrial Limited District.

- a. Warehousing and wholesale distribution facilities of non-toxic and non-hazardous materials;
- b. Light manufacturing and assembly facilities;
- c. Research and development facilities;
- d. Professional or business offices, banks, architectural, engineering and drafting firms, computer operations centers, recreation facilities, and such sewerage treatment facilities as may have been allowed by previous zoning bylaw;
- e. Specifically prohibited shall be petroleum refineries, land fills, resource recovery facilities, hotels, motels, restaurants, manufacturing and processing uses, any use involved in the manufacture, storage, transportation, disposal or use of toxic or hazardous materials and any residential use.

Previous paragraph 11 deleted, new paragraph 11 inserted by Dec. 4, 1985 Sp. 17, approved by Atty. Gen. Jan. 24, 1986.

12. Service and Distribution.

- a. Warehousing and distribution facilities.
- b. Servicing, storing and processing of goods in transit.
- c. Facilities for service type trades, including shops and storage yards.
- d. Offices, garages and related facilities for all such enterprises.
- e. Retail store, professional or business offices, bank, personal service stores or shops; by special permit, full service restaurants and delicatessens may be permitted.

Sub-paragraph (e) added by 1974 An 127, approved by the Atty. Gen. July 16, 1974.

13. Professional Residential District.

- a. Detached one or two family dwellings.
- b. Apartments - Subject to provisions of Section M and subject to the modification allowed by Section P.
- c. Renting of rooms to not more than ten persons by a family resident in the dwelling.
- d. Professional Offices and Licensed Real Estate Broker's Offices.
- e. Nursing Homes and Rest Homes.
- f. Medical and Dental clinic, pharmaceutical and therapeutic uses.
- g. Hospitals - (non-veterinarian).

This district added by 1970 An. 105, approved by the Atty. Gen. June 19, 1970.

Sub-paragraph (b-Apartments) amended by adding "and subject to the modification allowed by Section P" An 127, approved by the Atty. Gen. June 22, 1971.

Sub-paragraph 13-d amended by adding "and Licensed..." Fall An 8, November 13, 1984, approved by the Atty. Gen. February 28, 1985.

ture before improvement, or if damaged, before damage occurred) of residential structures shall have the lowest floor (including basement) elevated to not less than base flood elevations. New construction or substantial improvement of nonresidential structures shall either be similarly elevated or, together with attendant utility and sanitary facilities, be flood-proofed to not less than base flood elevations.

2. Where floodproofing is utilized in accordance with Section 1, a registered engineer or architect shall certify that the floodproofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood.

3. Any new construction or substantial improvement to be undertaken within said district shall be in accordance with the Massachusetts Uniform Building Code, Section 748.0. The Building Inspector shall (a) review all proposed development within the flood district to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, U.S.C. 1334. (b) obtain and maintain records of elevation and floodproofing levels for new construction or substantial improvement within the flood district.

4. Any new construction, alteration of structures or other development which is removed from the A. or V. zones by subsequent flood insurance map amendments shall only have to meet the requirements of its new zone designation.

5. All subdivision proposals and other proposed new developments greater than 50 or 5 acres, whichever is the lesser, shall include within such proposals base flood elevation data.

6. Assure that subdivision proposals and proposals for other developments, including their utilities and drainage, are located and designed to be consistent with the need to minimize flood damage.

7. No land within areas designated as V. (velocity) zones on the F.I.A. Flood Insurance Rate Maps shall be developed unless such development is demonstrated by the applicant to be located landward of the reach of the mean high tide. All new construction and substantial improvement within the V. zones shall be (a) elevated on adequately anchored pilings or columns, and securely anchored to such piles or columns so that the lowest portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood elevation; and (b) certified by a registered professional engineer or architect that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash. The following shall be prohibited with

a. Any man-made alteration of sand dunes and salt marshes which might increase the potential for flood damage.

b. Use of fill.

c. Mobile homes.

8. The Zoning Board of Appeals may authorize exceptions from flood regulations by Special Permit within the flood areas in accor-

dance with Section Q, as in any other zoning district within the Town of Barnstable, and may grant Special Permit from these requirements in the case of new structures or substantial improvement to be erected on a lot contiguous to and surrounded by lots with existing structures and constructed below the base flood elevation, provided the following are met:

a. A showing of good and sufficient cause.

b. A determination that failure to grant the Special Permit would result in exceptional hardship to the applicant.

c. A determination that the Special Permit will not result in increased flood heights, additional threats to public safety, or environment, extraordinary public expense, or any conflict with requirements in accordance with Chapter 40A, of the Massachusetts General Laws, and

d. The Zoning Board of Appeals has notified the applicant for the Special Permit, in writing, that the actuarial rates will increase as the first floor elevation decreases, and that such construction below base flood elevation level increases risks to life and property.

e. Favorable recommendation from the Board of Health on all structures requiring sewerage disposal and/or water supply.

9. Upon the granting of such a Special Permit or permits, from Section Q, the Zoning Board of Appeals, shall maintain a record of all such special permits granted by the Board, including justification for their issuance, and report such special permits in its annual report to the Flood Insurance Administrator in accordance with the Department of Housing and Urban Development Guidelines.

10. The Zoning Board of Appeals may grant a Special Permit for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places or the Old King's Highway Regional Historic District, without regard to the procedures set forth in Section 7 above.

11. Where these flood area provisions impose greater or lesser restrictions or requirements than those of other applicable by-laws or regulations, the more restrictive shall apply.

12. The invalidity of any section or provision of this by-law shall not invalidate any other section or provision hereof.

Prior Section O deleted, New Section O inserted by 1977 An 23, approved by Atty. Gen. Jan. 12, 1978.

P. SPECIAL EXCEPTIONS

A. The Board of Appeals may grant a special permit for the following exceptions to the zoning by-law:

1. Temporary occupancy of a trailer during construction of a permanent home.

2. Maintenance and occupancy of tents in an organized and supervised recreational camp, subject to compliance with the rules of the Board of Health.

3. Increase in the total floor area of a non-conforming building damaged by fire or other cause.

4. Any change, alteration, relocation or increase in size of an existing non-conforming building or structure on the same lot, or use of

existing or construction of a new building or structure to extend the non-conforming use on the same lot, subject to Section G. Paragraph B.

Prior paragraph 4 deleted and new paragraph 4 inserted by 1974 An 113, approved by the Atty. Gen. July 16, 1974.

5. Re-establishment of a non-conforming use which has been discontinued for two (2) years.

Paragraph 5 amended by deleting the word and figure "one (1) year." and inserting therein the words and figure "two (2) years." 1978 Fall An 1, approved by Atty. Gen. Feb. 6, 1979.

6. Change of a non-conforming use to any specified use not more detrimental to a neighborhood.

7. Accessory use as defined in Section H, on a lot adjacent to the lot having thereon the principal building to which it is accessory.

Prior sub-paragraph deleted by 1973 An 145, and new sub-paragraph inserted therein, approved by the Atty. Gen. June 15, 1973.

8. In a Business District, a yard for storage of coal, oil, junk or lumber, or any business requiring use of a railroad siding.

9. In a Business District a building or place for recreation or amusement, provided that no such special permit shall be granted for a use which is principally the operation of coin operated amusement devices.

Prior paragraph deleted and new paragraph added by 1979 An 11, approved by Atty. Gen. Feb. 26, 1980.

10. In a Business Limited District C, professional or home occupation use as defined in Section I., and small retail businesses common to a residence district.

Recission of old Paragraph 10, new Paragraph 10 inserted by Jan. 21, 1982 Sp. 9. Approved by Atty. Gen. May 20, 1982.

11. In a Business Limited District B, motel, hotel or lodging house and restaurants.

Prior paragraph deleted and new paragraph added by 1978 Fall An 16, approved by Atty. Gen. Feb. 6, 1979.

12. In all districts where renting of rooms is permitted, the same total number of lodgers specified, may be permitted in one (1) multiple unit dwelling.

13. In a Marine Business District B, a restaurant.

14. In Village Business District A and B, any use permitted in a Business District, except motels and hotels.

Former Paragraphs 8 and 17 deleted 1979 An. 9, approved by Atty. Gen. Feb. 26, 1980. Remaining paragraphs renumbered in proper sequence.

15. In a business district, any manufacturing use.

Sub-paragraph added by 1969 October 23, Sp. 19, approved by the Atty. Gen. Dec. 17, 1969.

16. In a Professional Residential District, the area requirements of Section M Apartments, may be modified so that apartment buildings shall cover not more than 50% of the gross land area of the lot or combination of lots.

Sub-paragraph added by 1971 An 127, approved by the Atty. Gen. June 22, 1971.

17. In a Residence C-1 District and Residence F District, professional or home occupation use.

Sub-paragraph added by 1972 An 136, approved by the Atty. Gen. Aug. 3, 1972.

Sub-paragraph amended by deleting the words "Residence D-3 District" at 1972 August 14, Sp. 21, approved by the Atty. Gen. Sept. 20, 1972.

Residence D-2, Residence E deleted from prior paragraph 1979 An 9, approved by Atty. Gen. Feb. 2, 1980.

Prior sub-paragraph 19 deleted by 1984 An 1 and remaining sub-paragraphs renumbered, approved by Atty. Gen. July 31, 1984.

18. On all zoning districts, public or private regulation golf course of a minimum length of 1,000 yards for a 9-hole course, 2,000 yards for an 18-hole course, together with accessory buildings for storage of golf course maintenance equipment and materials including golf carts, a pro shop for the sale of golf related articles, rest room and shower facilities and locker rooms. No other accessory buildings shall be permitted.

Sub-paragraph added by 1973 July 11, Sp. 6, approved by the Atty. Gen. August 24, 1973.

19. The keeping, stabling, and maintenance of horses in excess of the density requirement of Section I and subject to the conditions herein set forth on the same lot as the building to which it is accessory or on a lot adjacent to the lot having thereon the principal building to which such use is accessory.

Sub-paragraph added by 1974 An 103, approved by the Atty. Gen. July 16, 1974.

20. In a Residence C-2 District, Nursing Homes and/or Retirement Homes must meet the following criteria.

(1) The lot area must be at least five (5) acres.

(2) The capacity of the facility shall be limited to ten (10) beds per acre of upland.

Subparagraph amended by An 26 approved by Atty. Gen. Jan. 12, 1978, the words "of upland," added.

(3) Adequate off-street parking shall be provided in compliance with Section S of the Zoning By-Laws.

(4) No building shall be located nearer than 150 feet from an existing public way.

(5) The applicant must be in possession of a Certificate of Need from the Massachusetts Division of Medical Care, Department of Public Health.

(6) The use shall specifically exclude hospitals, sanitoriums, convalescent homes or detached infirmaries or clinics.

(7) Plans required:

(a) Perimeter survey showing entire tract ownership as well as abutting owners, and any existing ways or easements.

(b) A topographic plan of the entire site at five (5) foot contour intervals showing all existing structure locations as well as vegetative cover masses. This plan shall be prepared by a registered land surveyor by means of an on-site survey or by an approved aerial photographic method.

(c) Sketch plan of the proposed development showing the following:

1) Density and disbursement of structures over the parcel.

EXHIBIT TWO



BARNSTABLE, MASS.

APPEAL NO. 1987-35

'87 APR 15 AM 11 26

Handwritten initials

TOWN OF BARNSTABLE

PETITION FOR SPECIAL PERMIT UNDER THE ZONING BYLAW

To the Board of Appeals,

Town Hall, Hyannis, MA 02601

Date March 27 19 87

The undersigned petitions the Board of Appeals to vary, in the manner and for the reasons hereinafter set forth, the application of the provisions of the zoning bylaw to the following described premises.

Applicant: CHARLES J. BIRDSEY 362-3142
(Full Name) (Telephone Number)

Address: 185 Meadow Lane, W. Barnstable, Ma. 02668

Owner: Richard Auclair 362-3076
(Full Name) (Telephone Number)

Address: 1 Harvard Avenue, Alston, Ma. 02134

Prior Owner of record Robert E. Kennedy, Joseph A. Kennedy, Edward J. Kennedy ^{E.J. Schank}

Tenant (if any): None
(Full Name) (Telephone Number)

If Applicant other than Owner of property - state nature of interest Prospective Purchaser.

1. Assessors map and lot number Map 179, Lot 2

2. Location of Premises 1000 Main St. Village W. Barnstable
(Name of Street) (What section of Town)

3. Dimensions of lot 160 200 38,800
(Frontage) (Depth) (Square Feet)

4. Zoning district in which premises are located Village B.

5. How long has owner had title to the above premises? since 12/27/85

6. How many buildings are now on the lot? 3

7. Give size of existing buildings _____
Proposed buildings _____

8. State present use of premises Apartment Rentals in main house, Antique Shop in Barn.

9. State proposed use of premises Apartment upstairs, office downstairs, boat repair shop

10. Give extent of proposed construction or alterations: None other than upgrading present ^{in Barn.}
buildings.

11. Number of living units for which building is to be arranged no change

12. Have you submitted plans for above to the Building Inspector? no

13. Has he refused a permit? no

14. What section of zoning bylaw do you ask to be varied? The USE Regulations
Section K 7b

15. State reasons for variance or special permit: Applicant wants to renovate the existing structure on the property and operate a small boat repair and construction business in the barn. A similar business was approved in 1983 (Appeal No. 1983-86) for James Kittredge. Mr. Birdsey would operate the same type of business and the operation would be complimentary to Mr. Kittridge's.

(over)

Handwritten notes and signatures

The following are the names and mailing addresses of the abutting owners of property and the names and addresses of the owners of property abutting the abutting owners of property and the names and addresses of the owners across the street all with their corresponding map and lot numbers according to the records in the Assessor's Office at the date of this application:

Please type or print only.

Map	Lot #	Name	Address	Zip Code
-----	-------	------	---------	----------

see attached list.

Use additional separate sheet and so note if necessary

There must be submitted with the application at the time of filing, a plan of the land, (Five [5] Copies) showing:

1. The dimensions of the land.
2. The location of existing buildings on the land.
3. The exact location of the improvements sought to be placed on the land.

(All three of the above drawn to scale)

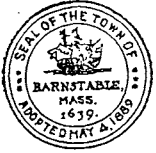
Applications filed without such plans will be returned without action by the Board of Appeals.

Respectfully submitted,
RICHARD S. BURLING (Signature) Richard S. Burling
(Address) 3217 MAIN ST. BARNSTABLE
Tel. No. 362-4584

* Please submit 5 copies of petition form.

* Filing fee of _____ required with this petition

EXHIBIT THREE



ZONING BOARD OF APPEALS

MINUTES OF OPEN/PUBLIC HEARINGS - APRIL 30, 1987

MEMBERS PRESIDING:

RICHARD L. BOY, CHAIRMAN
GAIL NIGHTINGALE, VICE-CHAIRMAN
RONALD JANSSON, CLERK
LUKE P. LALLY
DEXTER BLISS
JAMES MCGRATH, ALTERNATE

CALENDAR:

1987-32 JACK J. FURMAN
1987-26 FOX RUN REALTY TRUST
1987-33 EDWARD & RITA MEUSE
1987-34 MARSHALL & MARY ANN FARLEY
1987-35 CHARLES J. BIRDSEY
1987-36 FIRST FEDERAL SAVINGS & LOAN ASSOCIATION
1987-37 ROBERT SHIELDS, ET AL
1987-21 NICHOLAS FRANCO

cc: Board of Selectmen
Planning & Development

A TRUE COPY ATTEST

Lucia C. Hildebrand

Town Clerk
BARNSTABLE

1987-34 MARSHALL & MARY ANN FARLEY

the character of the house which was a converted garage built during the 1930-40s period merely trying to add bathroom/bedroom on the second floor and to enlarge the kitchen - other end will add a small study. Ron Jansson asks the square footage of the house: 22' x 60 - two story - existing about 2400 square feet with garage - adding two separate wings - 16' x 14 and 27' x 22' - when completed talking of 3200 - 3300 square foot in size - that is correct. Gail Nightingale questions why they do not put the additions elsewhere - preserving the character of the house (architectural). Right hand addition is to be two-story, while the other is single story only. Where the house sits on the back lot line there is a large hill behind - no house behind - no one can actually see the house - not like we are jumping into someones front yard. The Board voted unanimously to grant the variance relief as sought based on the fact that variance conditions do exist at the site - the topography of the land - relief granted per the Plans presented - the motion seconded by Dexter Bliss.

1987-35 CHARLES J. BIRDSEY

Attorney Richard Burling represented the petitioner who has a purchase and sale agreement to purchase the property from Mr. Auclair who has an antique business in the barn located on the property at Lot 10, 1000 Main Street, West Barnstable in a Village Business B zoning district for a parcel containing 38,800 square feet and three structures. The petitioner desires to renovate the existing/barn structure and operate a small boat repair/restoration and sale of same with retail sale of supplies related thereto. The petitioner intends no change in the footprint of the building - this is not a business that is currently allowed under Village Business B without a special permit - it is felt that will not be more detrimental to the neighborhood - would be less so because the nature of the business will not mean additional people coming in and out as has been in the past with the antique business - type of work to be done will be no more involved or noisy than an average home handy man. There are several apartments that have been in the building since the 1930s - intend to use one apartment, but not all of them. Ron Jansson questions whether this is the property that was "Packet Landing & Gift Shop" - that is correct and is currently the "White Elephant" - propose to use large barn - Ron questions if that has the benefit of a pre-existing non-conforming use - Attorney Burling responded "yes", - Ron Jansson commented his question then is why the petitioner is not before the Board on that particular basis - Mr. Burling commented that he wanted to go under the additional business allowed under the zoning by-laws. Additional argument is that it was a pre-existing non-conforming business, but it is also allowable by Special Permit under provision of P, 14. Again, the proposed uses for these three buildings is: main house used for residential purposes, Mr. Burling - that is not totally correct - there is going to be an office - the petitioner's wife operates an adoption agency - the office use allowed in Village Business District - office and residential use and also have a two-car garage - to be only used to store vehicles - now understand if you look at Section G, 1 why you probably would not want to come before the Board with the pre-existing non-conforming use - because you are talking about two or more uses. Mr. Birdsey described to the Board what he would like to do - landscaping, etc. Dexter Bliss questions whether the petitioner would have a boat outside during the summer months - one during the summer time only - otherwise boats will be in the barn - to be no additional employees. Ron Jansson questioned would this be just a repair facility rather than service of other equipment that relates to boating - Mr. Birdsey commented that he would be a dealer but he would be selling antique hardware. Attorney Burling addressed the fact that the Board is in receipt of a letter from Mr. & Mrs. Caton who are

Minutes of Open/Public Hearings - April 30, 1987

1987-35 CHARLES J. BIRDSEY

abutters to the property - they are in opposition to the petition - the letter addressed a deed restriction - second restriction does restrict usage through that entire development which runs down Packet Landing to non-business uses with the exception of an antique shop - Paragraph six further on allows the trustee of the Barnstable Realty Trust to amend those restrictions - the current trustee of this trust is the current owner Mr. Auclair, who has agreed to sign an amendment to be recorded in the Registry of Deeds for Lot 10 only - this will not be a detrimental use in the neighborhood. Several abutters spoke in support of the petition, namely, James Kittridge, D. Ciberowski, Mr. & Mrs. Fisk and Mr. & Mrs. Byrnes and Carey - no objections. Ron Jansson made a motion to grant the special permit on the basis that the proposed renovation would not constitute a use that would be substantially more detrimental than what currently exists - the motion was seconded by James McGrath. The Board voted unanimously to grant a special permit with the restriction that there be no more than one boat to be on display at any one time outside.

1987-36 FIRST FEDERAL SAVINGS & LOAN ASSOCIATION

Attorney Philip Boudreau represented the petitioner who is requesting a Special Permit and Varinace for a proposed addition to the existing bank building located at Route 28, Hyannis in a Highway Business zoning district for a parcel containing 59,575 square feet. The proposed addition to be 3,303 square feet on first floor and 3,421 square feet in basement ^{Improved} additional space in which to conduct banking operation - per the/Plans submitted at the hearing by Attorney Boudreau to replace plans originally submitted with the filing. The upstairs of the existing building is divided with temporary dividers affording little privacy for the employees - in addition people are working in a windowless basement, etc., due to lack of space. This is a narrow lot that opens up at the back. Mr. Boudreau feels that it is necessary to apply for two dimensional variances as well as a special permit under setback requirements in a Highway Business district. The entire property is zoned 300 feet back for business; the petitioner has adequate parking and seeks no relief for parking. When the building was constructed at 45 feet back from Route 28 it was conforming - current setback requirement is 100 feet - a portion of the building to the rear is not quite 100 foot back - in addition the area requirements in the Highway Business zone require 60,000 square foot lot - Mr. Boudreau feels that he cannot build a separate building without coming to the Board for a variance - has to do this by way of an addition - with one acre requirement of a minimum the petitioner would need two acres in order to have a separate free-standing building - where we propose to build we do not have 100 foot setback - Ron Jansson does not understand Mr. Boudreau's rationale - building is going to be occupied by the same tenant and will comply with the setback - there followed a discussion - already have a building that occupies a portion of the locus - consider the locus as one lot - think that to put two buildings up petitioner would need two acres - perhaps Mr. Boudreau is not correct - if that is the case he would be delighted to have the Board rule that all of this is unnecessary, but in any event afraid there is a problem anyway because where they propose to put addition, they would violate the 100 foot setback - due to the curvature southwest of Falmout Road - shape of the lot at that point and the fact that the building was put on at a 90 degree angle - Mr. Boudreau also feels that another variance relief is needed from the width requirement of 160 feet - it is true, that we have 181 feet from point to point, but at the place where we are building we have slightly less than the required 160 width

EXHIBIT FOUR

TOWN OF BARNSTABLE

TOWN CLERK
BARNSTABLE, MASS.

Zoning Board of Appeals

MAY 13 PM 3 51

L. Richard Auclair
Property Owner

Deed duly recorded in the BARNSTABLE

County Registry of Deeds in Book 4759

Charles S. Birdsey
Petitioner

Page 238 Registry

District of the Land Court Certificate No.

Book Page

Appeal No. 1987-35

MARCH 27 1987

FACTS and DECISION

Petitioner Charles S. Birdsey filed petition on 19

requesting a variance-permit for premises at 1000 Main Street in the village
(Sheet)
of West Barnstable adjoining premises of (see attached list)

Locus under consideration: Barnstable Assessor's Map no. 179 lot no. 2

Petition for Special Permit:

Application for Variance: made under Sec. K of the Town of Barnstable
Zoning by-laws and Sec. Chapter 40A, Mass. Gen. Laws
for the purpose of to allow the maintenance, repair and sale of small boats with
retail sale of supplies related thereto.

Locus is presently zoned in Village Business B

Notice of this hearing was given by mail, postage prepaid, to all persons deemed affected and
by publishing in Barnstable Patriot newspaper published in Town of Barnstable a copy of
which is attached to the record of these proceedings filed with Town Clerk.

A public hearing by the Board of Appeals of the Town of Barnstable was held at the Town
Office Building, Hyannis, Mass., at 8:00 ~~PM~~ P.M. April 30, 19 87,
upon said petition under zoning by-laws.

Present at the hearing were the following members:

Richard L. Boy
Chairman

Gail Nightingale

Ronald Jansson

Luke P. Lally

Dexter Bliss

At the conclusion of the hearing, the Board took said petition under advisement. A view of the locus was made by the Board.

Appeal No. 1987-35

Page 2 of 2

On April 30, 1987, The Board of Appeals found

Attorney Richard Burling represented the petitioner, Charles J. Birdsey who has a purchase and sale agreement for the property located at Lot 10, 1000 Main St., W. Barnstable in a Village Business zoning district.

Mr. Auclair who is the current owner has an antique business on the locus which contains 38,800 square feet and three structures. The petitioner desires to renovate an existing barn and operate a small boat repair and restoration business with sale of supplies related thereto. There is to be no change in the footprint of the building.

main

There are several apartments in the building since the 1930s; the petitioner intends to use one apartment in the main house and there is going to be one office use by the petitioner's wife who runs an adoption agency. There is an existing two car garage which will be used only for the storage of vehicles.

At the present time, there is a deed restriction. The current owner is the trustee of Barnstable Rlty. Trust ^{and} ^{has} agreed to sign an amendment to be recorded in the Registry of Deeds for Lot 10, to amend the restriction of non-business use with the exception of an antique shop

Ronald Jansson made a motion to grant the Special Permit under P (14) of the Zoning By-Law on the basis that the proposed renovation would not constitute a use that would be substantially more detrimental than what currently exists - the motion was seconded by James McGrath.

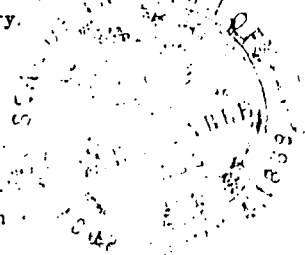
The Board voted unanimously to grant a Special Permit with the restriction that there be no more than one boat on display outside at any one time.

I, AUNE CAHON ASST Clerk of the Town of Barnstable, Barnstable County, Massachusetts, hereby certify that twenty (20) days have elapsed since the Board of Appeals rendered its decision in the above entitled petition and that no appeal of said decision has been filed in the office of the Town Clerk.

Signed and Sealed this 30th day of JUNE 1987 under the pains and penalties of perjury.

Aune Cahon

- Distribution:—
- Property Owner
- Town Clerk
- Applicant
- Persons interested
- Building Inspector
- Public Information
- Board of Appeals



Board of Appeals
Town of Barnstable

By *[Signature]*
Chairman

RECORDED JUN 4 87

EXHIBIT FIVE

AFFIDAVIT OF CHRISTOPHER BIRDSEY

I, Christopher Birdsey, hereby depose and state as follows:

1. I reside in East Dennis, Massachusetts;
2. My family and I owned the property located at 1000 Main Street, West Barnstable from 1987 through December, 2013.
3. During that period of time we ran Speedwell Boatworks out of the barn on the property, building, restoring, and repairing wooden powerboats. We also stored some boats adjacent to the barn.
4. Around 2007-2008, we curtailed some of the boatbuilding activity because my father was sick, but we soon resumed that activity and continued to build boats on the property until we sold it in 2013. At that time I was repairing a Crosby Striper and was building a small powerboat in the barn.
4. During our ownership of the property, we maintained the three residential units as apartments in the house on the property, but at times rotated which apartments were used for residential and which for office space.
5. From 2007 through 2013 we kept the three apartments occupied the majority of time with the exception of occasional tenant-changeover vacancies.

Subscribed and sworn to under the penalties of perjury this 30th day of August, 2018.



Christopher Birdsey

EXHIBIT SIX

No. 90-308

FEE 300

THE COMMONWEALTH OF MASSACHUSETTS
BOARD OF HEALTH

Town OF Barnstable

Application for Disposal Works Construction Permit

Application is hereby made for a Permit to Construct () or Repair () an Individual Sewage Disposal System at:

1000 RT-6A Location - Address West Barnstable or Lot No.

Charles Birdsey Address

Canco ^{Owner} Forest Canan Address

Canco ^{Installer} Address

Type of Building Dwelling - No. of Bedrooms 2 Expansion Attic () Garbage Grinder ()
Other - Type of Building office No. of persons 2 Showers () - Cafeteria ()
Other fixtures 1.7 x 2.0

Design Flow _____ gallons per person per day, Total daily flow _____ gallons.

Septic Tank - Liquid capacity 150 gallons Length _____ Width _____ Diameter _____ Depth _____

Disposal Trench 30x40 gravel Total Length _____ Total leaching area 1200 sq. ft.

Seepage Pit No. _____ Diameter _____ Depth below inlet _____ Total leaching area _____ sq. ft.

Other Distribution box () Dosing tank () 4x12' w/3' Stone 211 Sides

Percolation Test Results Performed by _____ Date _____

Test Pit No. 1 _____ minutes per inch Depth of Test Pit _____ Depth to ground water _____

Test Pit No. 2 _____ minutes per inch Depth of Test Pit _____ Depth to ground water _____

Description of Soil D.19 out 30x40 - w/ Bank Gravel Refill

Nature of Repairs or Alterations - Answer when applicable, 1000 gal. Septic - 7' x 10' gal head pit 3 gallons + 2.5' of stone

Agreement: The undersigned agrees to install the aforescribed Individual Sewage Disposal System in accordance with the provisions of TITLE 5 of the State Sanitary Code - The undersigned further agrees not to place the system in operation until a Certificate of Compliance has been issued by the board of health.

Signed [Signature] Date 7/9/90

Application Approved By [Signature] Date 7/10/90

Application Disapproved for the following reasons: _____

Permit No. 90 308 Issued 7/10/90 Date

THE COMMONWEALTH OF MASSACHUSETTS
BOARD OF HEALTH

OF _____

Certificate of Compliance

THIS IS TO CERTIFY, That the Individual Sewage Disposal System constructed ()

by _____ Installer

at _____

has been installed in accordance with the provisions of TITLE 5 of The State Sanitary Code as amended

application for Disposal Works Construction Permit No. _____ dated _____

THE ISSUANCE OF THIS CERTIFICATE SHALL NOT BE CONSTRUED AS A GUARANTEE THAT THE SYSTEM WILL FUNCTION SATISFACTORY.

DATE 7-12-90 Inspector [Signature]

THE COMMONWEALTH OF MASSACHUSETTS
BOARD OF HEALTH

OF _____

Disposal Works Construction Permit

Permission is hereby granted _____

to Construct () or Repair (\) an Individual Sewage Disposal System

at No. _____

as shown on the application for Disposal Works Construction Permit No. _____ Dated _____

DATE _____ Board of Health

FORM 1255 HOBBS & WARREN, INC., PUBLISHERS

CHECK OR FILL IN WHERE APPLICABLE

Attest this is a
copy of the Public
Health Division Record
Signed Sharon Croder
Public Health Division
Town of Barnstable
200 Main St.
Hyannis, MA 02601
4/27/10

EXHIBIT 7

26 Packet Landing Way
West Barnstable, MA 02668

May 24, 2010

To whom it may concern:

I live next door to the property located at 1000 Main Street. I have resided there since 1980.

I made the following observations during the period of time that Dave and Barbara Birdsey owned the property at 1000 Main Street:

There were offices on the first floor. There appeared to be only one apartment, which was located on the second floor. It was occupied by a woman in the employ of the Birdseys and her husband. Dave Birdsey operated a boat shop from the barn.

Sincerely,



Marjorie Keary

P.S. The Birdseys have always been great neighbors

EXHIBIT 8



Prop Type	Residential	Subdivision	
County	Barnstable	Town	Barnstable
Zoning	Village Business D and Partial Sq. Ft./Source 2,296 / Assessors Records		
Rooms		Lot Size/Source	38,768sf / (Assessors Records)
Beds	3	Style/Desc	Victorian /
Baths F/H	2 / 1	Levels	
Year Built	1900 / Approximate	Tax ID	179-2-0-0-BARN

Remarks: Wonderful Opportunity to own this unique 1900's Victorian home & Barn on the historic Old King's Highway. This property consists of a main building, one of the largest barns on historic Route 6A, a two car garage, a shed & front and back yards. Located on a prominent corner in the village of West Barnstable, this property offers great flexibility: use the main building as a home or office and use the barn for your workshop or shop. Zoned Village Business D & partial RF (Residential) with quick access to Rte. 6: **Permitted uses for the property include residential, Village Business B, AND according to a Special Permit: offices on the 1st flr., an apartment on the 2nd & a boat building business in the barn.** Both home and barn are in great shape and have had many recent renovations and upgrades. **Buyers to verify all zoning and uses.**

Directions: Rte. 149 North to East on 6A, property is on the right on the corner of Packet Landing and Route 6A
Showing Instr.: Appointment Req., Call Listing Office, Tenant, Yard Sign

General Information

Garage/#Cars	Yes / 2	Gar Desc	Detached
Basement/Basement Desc	Yes / Cape Cod	Wing Width/Wing Depth	16 / 16
Foundation	37 / 32 / Crawl Space, Stone	Parking	Stone/Gravel
Street Description	Public		

Interior Amenities

Interior Features			
Floors	Laminate, Other, Carpet, Wood		
Equipment/Appliances			
Living/Dining Room Combo	Kitchen/Dining Room Combo	Fireplaces/#Fireplaces	No /

Exterior Amenities

Pool/Pool Description	No /	Dock/Dock Description	No /
Exterior Features	Outbuilding, Porch, Yard	Roof	Asphalt, Pitched
Siding	Shingle	Assoc/Membership Required	No /
Assoc Fee/Fee Year	/	Waterview/Waterview Desc	No /
Amenities		Water Acc	Salt, Other-See Remarks
Waterfront/Waterfront Desc	No /	Beach Desc	
Miles to Beach	1 to 2		
Beach Own	Public		
Beach/Lake/Pond Name	Sandy Neck Beach		
Convenient to	Conservation Area, Golf Course, Horse Trail, In Town Location, Major Highway, Medical Facility, School, Shopping		

School District

Neighborhood Amenities

Mechanical Amenities

Heating/Cooling			
Water/Sewer/Util			
Hot Water			

Legal/Tax Information

Improvement Asmt	\$272,900	Land Asmt	\$199,900	Other Asmt	0	Total Asmt	\$472,800
Annual Taxes/Tax Year	\$5,613 / 2013	Annual Betterment	0	Unpaid Betterment	0		
Title Ref-Book/Page/Cert	22277 / 102 / 0	Plan		To Be Assessed		Spec Assessment	
Mass Use Code/Definition	101-Single Family						
Undergrnd Fuel	Unknown	Asbestos		Lead Paint	Unknown	Flood Zone	Unknown

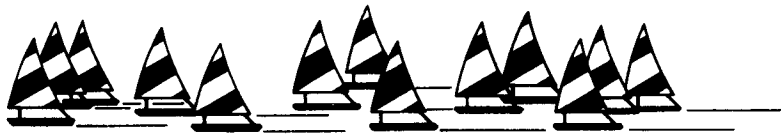
Printed by Buyer Brokers of Cape Cod- on 05/22/16 at 12:46pm

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U.S. Patent 6,910,045 (Residential Client One Page View)

EXHIBIT 9



BAYVIEW REAL ESTATE

"On a clear day you can see forever."

June 15, 2010

Mr. Peter A. Sundelin, Esq.
999 Main Street
P. O. Box 771
West Barnstable, MA 02668

Dear Attorney Sundelin:

Mr. Christopher Birdsey called me and also provided me with copies of your letter to him, dated June 3, 2010, along with your letter and corresponding exhibits addressed to Mr. Tom Perry, Building Inspector of the Town of Barnstable, dated June 1, 2010 regarding the property located at 1000 Main Street in West Barnstable and its permitted uses. After reviewing them and talking with clerks at the town regarding the permitted uses for the property I have amended the property's listing accordingly to fully reflect its permitted uses which include: Residential, Village Business B, and according to the Special Permit: offices on the first floor, an apartment on the second and a boat building business in the barn. Please find attached a copy of the amended listing which provides full disclosure to prospective buyers of the property.

Thank you!

Sincerely,

Tara Schiffmann Brown
Listing Agent for 1000 Main Street, West Barnstable
Bayview Real Estate
3220 Main Street, PO Box 165
Barnstable, MA 02630

Cc: Mr. Tom Perry, Building Inspector, Town of Barnstable
Town of Barnstable, 200 Main Street, Hyannis, MA 02601

Cc: Mr. Chris Birdsey, c/o Packet Landing LLC
218 Main Street, 3W, Hyannis, MA 02601

AFFIDAVIT OF CHRISTOPHER BIRDSEY

I, Christopher Birdsey, hereby depose and state as follows:

1. I reside in East Dennis, Massachusetts;
2. My family and I owned the property located at 1000 Main Street, West Barnstable from 1987 through December, 2013.
3. During that period of time we ran Speedwell Boatworks out of the barn on the property, building, restoring, and repairing wooden powerboats. We also stored some boats adjacent to the barn.
4. Around 2007-2008, we curtailed some of the boatbuilding activity because my father was sick, but we soon resumed that activity and continued to build boats on the property until we sold it in 2013. At that time I was repairing a Crosby Striper and was building a small powerboat in the barn.
4. During our ownership of the property, we maintained the three residential units as apartments in the house on the property, but at times rotated which apartments were used for residential and which for office space.
5. From 2007 through 2013 we kept the three apartments occupied the majority of time with the exception of occasional tenant-changeover vacancies.

Subscribed and sworn to under the penalties of perjury this 30th day of August, 2018.



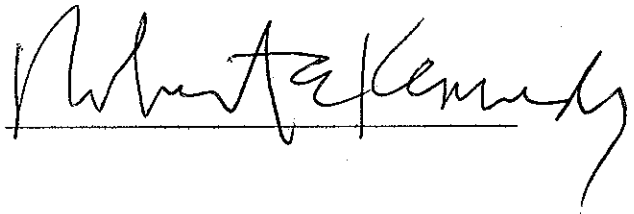
Christopher Birdsey

AFFIDAVIT OF ROBERT KENNEDY

I, Robert Kennedy, hereby depose and state as follows:

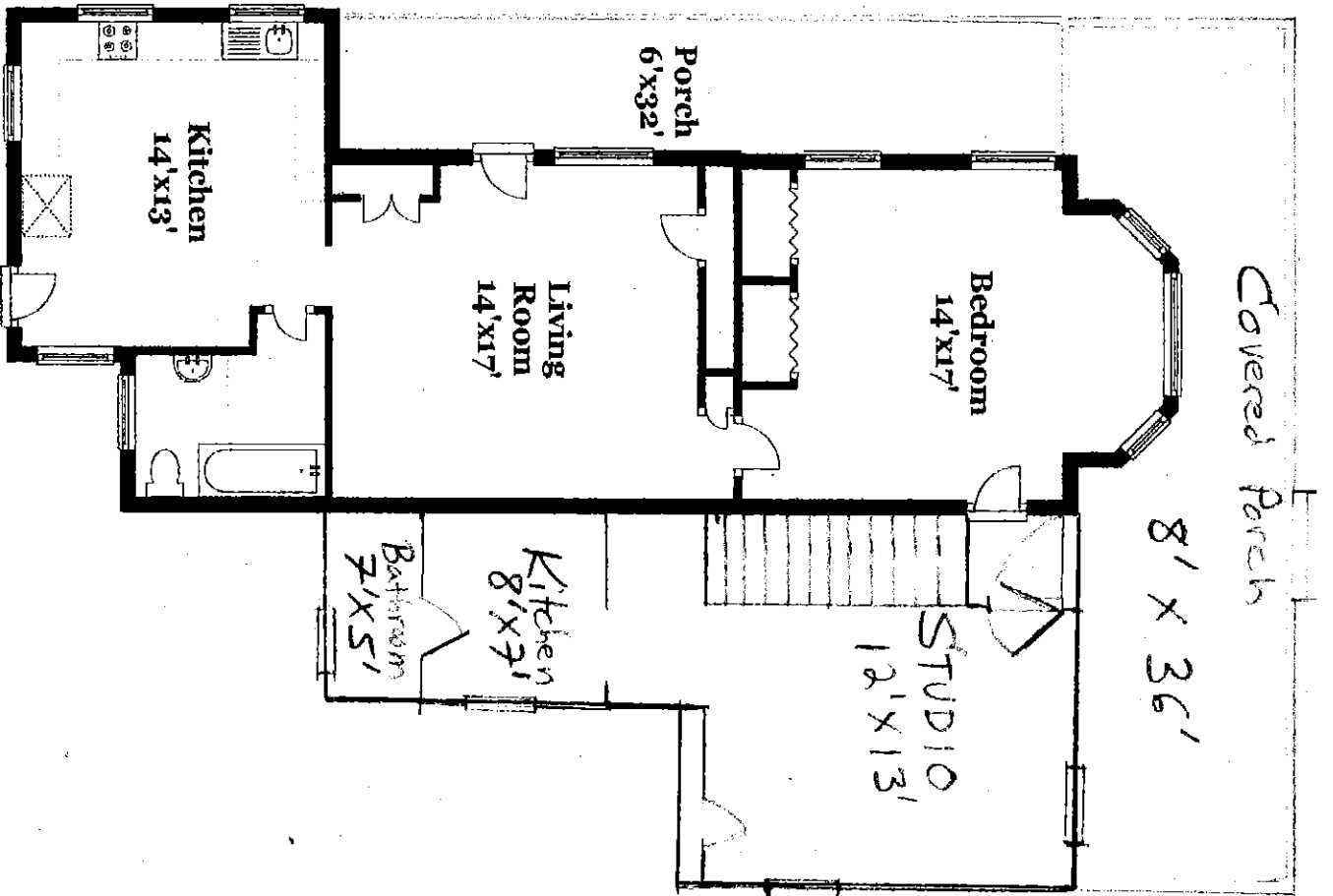
1. I reside in Barnstable, Massachusetts;
2. My partners and I owned the property located at 1000 Main Street, West Barnstable from July 1980 through June 1987.
3. During that period of time an antique store was operated in the barn.
4. The house had been divided into three separate residential units sometime prior to our purchase of the property. During that period of time we would use the apartments to house employees of Kennedy Studios (my business) who would be on the Cape from our Boston store or other off-Cape stores when they filled in on the Cape during the summer months.

Subscribed and sworn to under penalties of perjury this 30th day of August, 2019.



1000 MAIN STREET
WEST BARNSTABLE
(HOUSE)

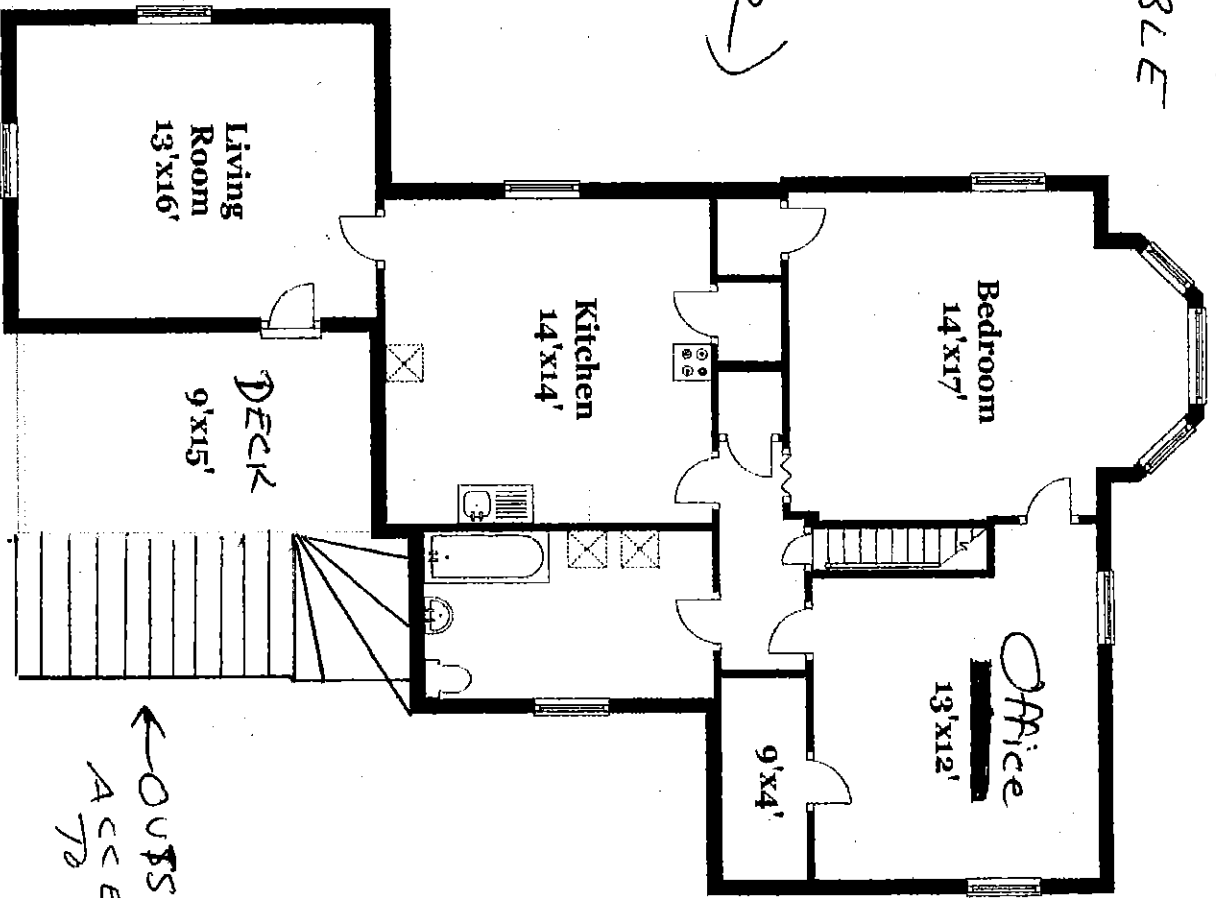
(1ST FLOOR)



All measurements are approximate and not guaranteed. This illustration is provided for marketing and convenience only. All information should be verified independently. © PlanOmatic

1000 MAIN STREET
WEST BARNSTABLE

(SECOND FLOOR)
HOUSE

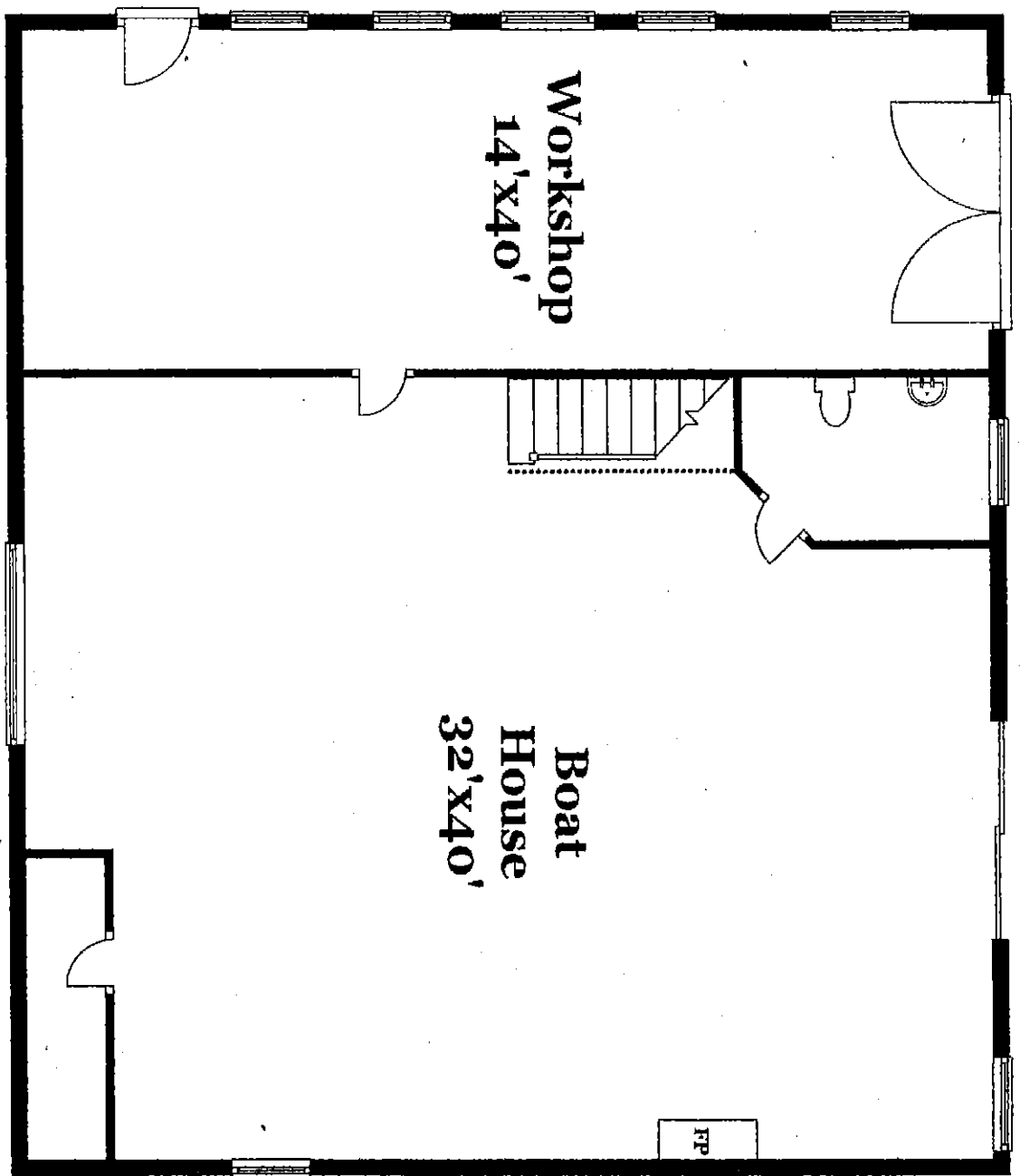


← OUTSIDE STAIR
ACCESS ENTRANCE
TO SECOND FLOOR

All measurements are approximate and not guaranteed. This illustration is provided for marketing and convenience only. All information should be verified independently. © PlanOmatic

1000 MAIN STREET
WEST BARNSTABLE

(BARN)



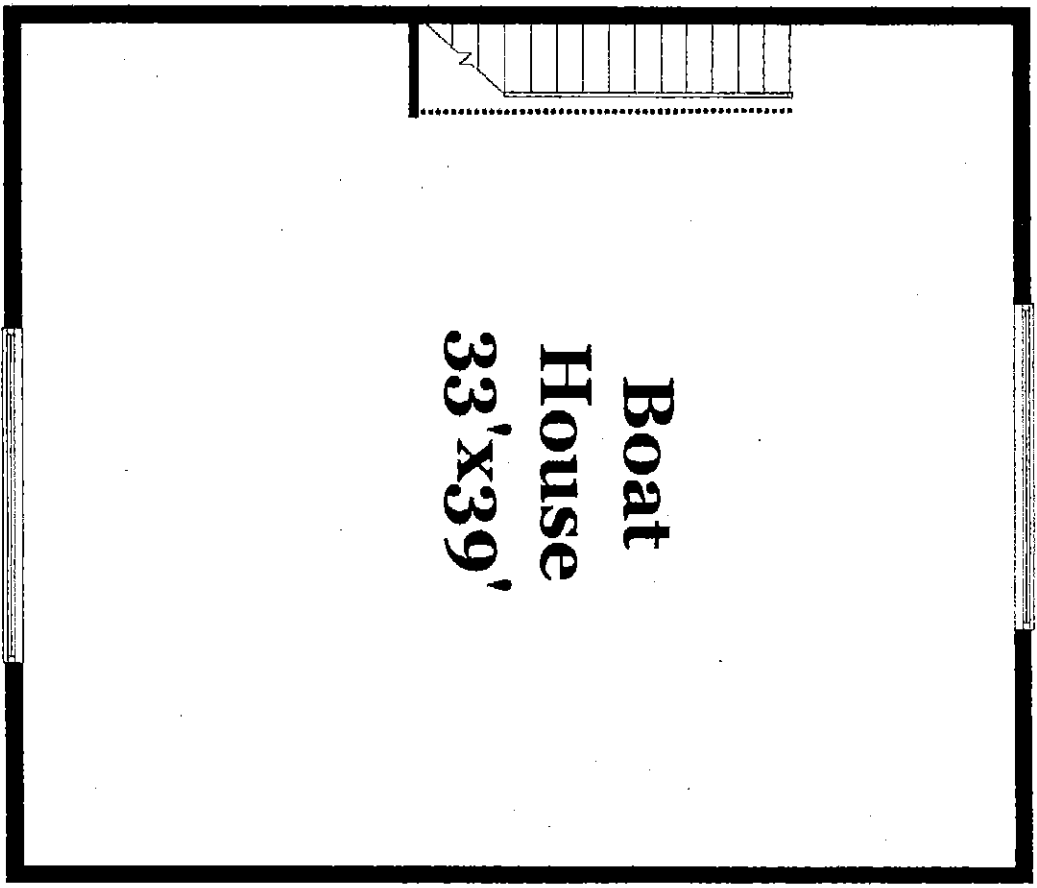
(FIRST FLOOR)

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1000 MAIN STREET

WEST BARNSTABLE

(BARN)



(2ND FLOOR)

All measurements are approximate and not guaranteed. This illustration is provided for marketing and convenience only. All information should be verified independently. © PlanOmatic

History of 1000 Main Street

- 1640's - 1947 - Howland Family Homestead - John Howland, son of John Howland from the Mayflower was the original owner. When the King's Highway was built in the 1680's it separated the house from his sheep barn on the other side of the street.
- 1947 - 1987 - There were various owners. For most of this period of time there were three apartments in the house and an antique shop operated out of the barn.
- 1987 - 2013 - The Birdsey family operated Speedwell Boatworks out of the barn and had mixed use in the house.
 - When I looked at it in 2007 to buy, the studio and one bedroom on the first floor were being used for residential and the upstairs for offices.
 - When I looked at it and bought it in 2013, the upstairs and one-bedroom on the first floor were occupied residential and the studio vacant.
- 2013 - When I bought it I was told that the use of the barn went with the property and there were apartments allowed in the house.
- ***There were large powerboats stored inside the barn and in the back barnyard. There had been a long history of powerboats stored where we are storing Small (non-auxiliary) Sailboats.

My Rental History and Barn Usage -

2014 - 2015 - Tenants upstairs and one-bedroom with studio vacant. Used the back yard and barn for limited boat storage.

2015 - 2016 - Tenants in all three apartments. Limited to three cars maximum. Used the back yard and barn for limited boat storage.
Same tenant in studio from 2016-2018.

2016 - 2019 -

Second Floor Unit One-Bedroom - Same married tenants upstairs (One Bedroom) since February 2015.

Scott & Christine Lauterbach Jansson - Both Barnstable High School Grads

First Floor One-Bedroom - Two different tenants during this time-period. Always Single Occupancy in the first floor one-bedroom at a time.
Chloe Starr - Grew up on Pilot's Way Barnstable Village. BHS and Tufts Grad

Studio Apartment - First Floor - Rented to One person who is typically there about eight days per month. Travels for work. Wanted a local place.
Business owner with West Barnstable roots. Barnstable High School Grad

Typically zero cars on any average week day. Maximum three cars on weekends. No parties. Hardly ever a sign of life there other than lights on inside.
Our immediate abutter to the West is a liquor store and busy commercial plaza at the end of Route 149. Our property is practically abandoned compared to that. 1000 Main Street is the best neighbor one could have.

Howard Boats stores boats neatly and courteously inside and out without overburdening the property. (Note - Birdsey stored boats commercially in the barn yard from 1987 until 2013. One of their storage customers continued to keep his boat there with me and it never left the property until 2017.)

Property is quiet, professionally landscaped and maintained, with scheduled trash service.

Other/Notes

- Had inefficient and unreliable oil-fired boiler when purchased.
- Brought gas service in from street and converted to high-efficiency natural gas heat and hot water in 2014. \$8,000
- When I realized that my tenants' water pressure was low, I had a new modern well drilled in 2015, which eliminated the issue. \$6,000
- Professionally lanscaped/mowed.
- Nauset Disposal trash service included.
- I pay the Utilites since it is single-metered.
- Apartments Registered with Town of Barnstable
- Happy long-term tenants.
- I intentionally keep the tenant count at the minimum in order to be a good and responsible neighbor.

Thank you very much for you time and attention.

LEGEND

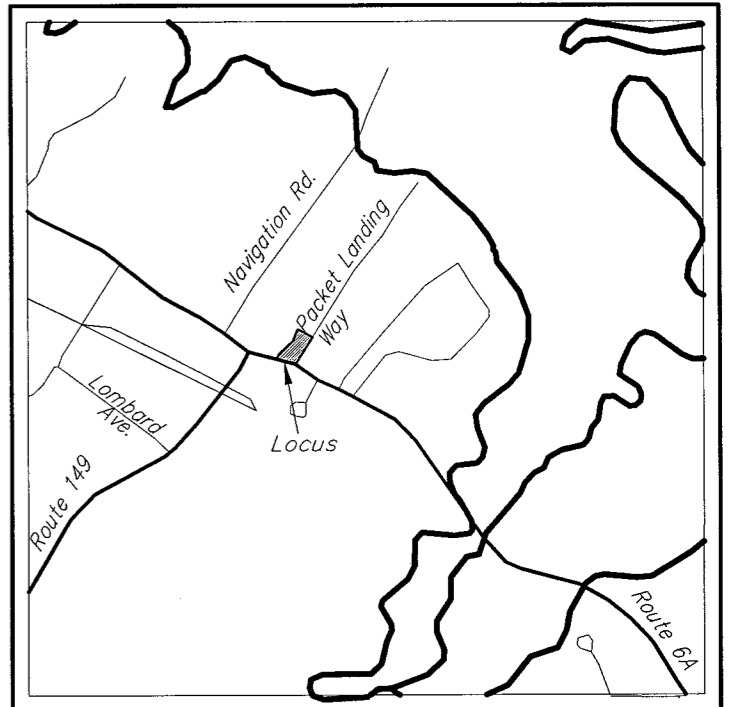
- 99 — EXISTING CONTOUR
- × 99.1 EXIST. SPOT ELEV.
- [99] - PROPOSED CONTOUR
- [98.4] PROPOSED SPOT EL.
- TH1 TEST HOLE
- 2% SLOPE OF GROUND
- UTILITY POLE
- FIRE HYDRANT

- PINE OR SPRUCE
- CEDAR
- DECIDUOUS

NOTE: NOT ALL SYMBOLS MAY APPEAR IN DRAWING

NOTES

1. DATUM IS NAVD 88
2. MUNICIPAL WATER IS NOT AVAILABLE
3. THIS PLAN IS FOR PROPOSED WORK ONLY AND NOT TO BE USED FOR LOT LINE STAKING OR ANY OTHER PURPOSE.
4. CONTRACTOR SHALL BE RESPONSIBLE FOR CALLING DIGSAFE (1-888-344-7233) AND VERIFYING THE LOCATION OF ALL UNDERGROUND & OVERHEAD UTILITIES PRIOR TO COMMENCEMENT OF WORK.



LOCUS MAP

SCALE 1"=2000'±
ASSESSORS MAP 179 PARCEL 2

ZONING SUMMARY

ZONING DISTRICT: RF RESIDENTIAL DISTRICT

MIN. LOT SIZE	43,560 S.F.
MIN. LOT FRONTAGE	150'
MIN. FRONT SETBACK	30'
MIN. SIDE SETBACK	15'
MIN. REAR SETBACK	15'
MAX. BUILDING HEIGHT	30'

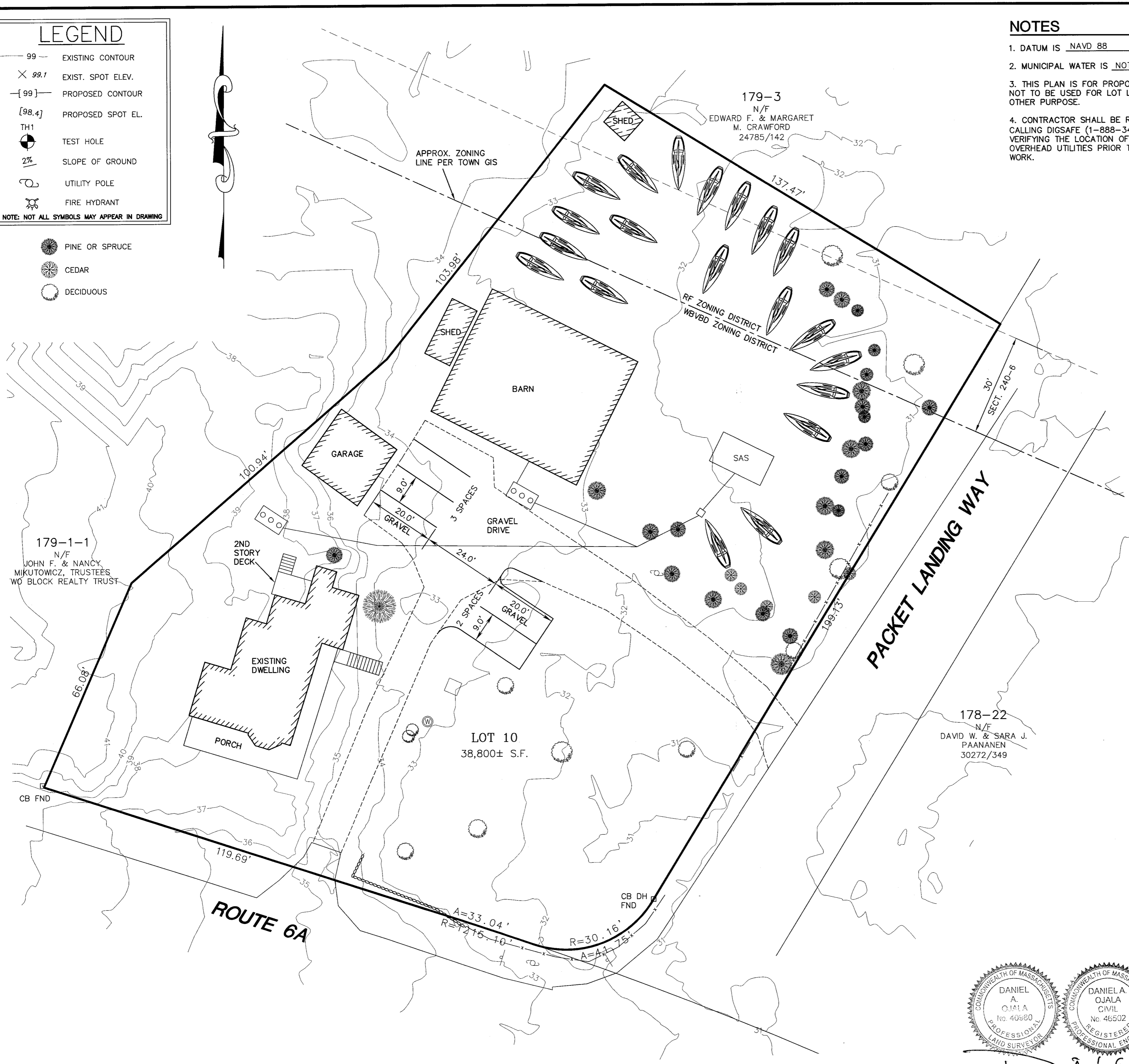
ZONING SUMMARY

ZONING DISTRICT: WBVD BUSINESS DISTRICT

MIN. LOT SIZE	43,560 S.F.
MIN. LOT FRONTAGE	160'
MIN. FRONT SETBACK	30'
MIN. SIDE SETBACK	30'
MIN. REAR SETBACK	30'
MAX. BUILDING HEIGHT	30'
MAX. LOT COVERAGE	10%

REFERENCES

DEED BOOK 27876 PAGE 218
PLAN BOOK 177 PAGE 43

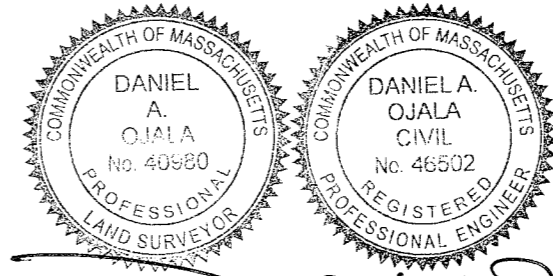


SITE PLAN

OF
**1000 ROUTE 6A
WEST BARNSTABLE, MA**

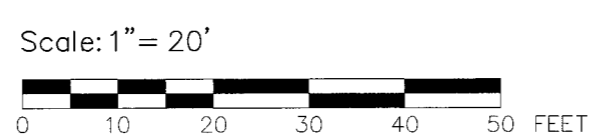
PREPARED FOR
PETER EASTMAN

DATE: APRIL 10, 2018
REV.: SEPTEMBER 5, 2018



9-5-18
DATE DANIEL A. OJALA, P.E., P.L.S.

off 508-362-4541
fax 508-362-9880
downcape.com @
down cape engineering, inc.
civil engineers
land surveyors
939 Main Street (Rte 6A)
YARMOUTHPORT MA 02675
18-078 EASTMAN.DWG



June Daley
11 Little Pond Road
Marstons Mills, Massachusetts 02648

September 24, 2019

Mr. Alex Rodolakis, Chairperson
Town of Barnstable Zoning Board of Appeals
367 Main Street
Hyannis, Massachusetts 02601

Re: 1000 Main Street, West Barnstable, Massachusetts, (SP 2019-050)

Dear Mr. Rodolakis:

It was my pleasure to serve the Town of Barnstable as the Precinct 11 Town Councilor from 2011 through 2013.

During that period of time I worked closely with a group of residents that had been charged with updating the West Barnstable Village component of the Cape Cod Commission's Comprehensive Plan.

After completion of the plan, this group worked with then Director of the Town's Growth Management Department, Joanne Miller-Buntich on implementing zoning initiatives consistent with the Comprehensive Plan's goals and objectives.

These initiatives included a rewrite of the zoning in the West Barnstable Business District. The proposed zoning had a lengthy period of input and review at both Board and General Membership meetings of the West Barnstable Civic Association. Prior to the public hearing process through the Planning Board and Town Council, the zoning was presented and approved at a General Membership Meeting. It was unanimously approved by both the Planning Board and the Town Council on September 8, 2011. (TC 2011-138).

Critical to the new zoning change was to preserve and protect the traditional New England Village character. A driving force behind this zoning change was that a location appropriate scale and traditional mix of business, institutional and residential land uses would continue. The goal was also to support a harmonic co-existence of residential and business use.

To this end, the uses allowed by Special Permit include important performance standards. One of these standards under Section B. (4) (g) states that “All outdoor storage associated with artisan or craft use is prohibited “.

Ascribing that one performance standard alone, it is impossible to believe that the storage of twenty shrink wrapped boats in a yard, abutting property both residentially zoned or in residential use is an appropriate action.

Boat storage is best left to where it is allowed under zoning in either Marina Business or Service and Distribution Districts. Boat storage in the WBVBD is completely inconsistent with Section 240-20 A. Purpose and intent numbers 1-8.

The applicant would likely be welcomed in the district by applying for a Special Permit under the current zoning. By meeting the performance standards set forth in the ordinance, 1000 Main Street, LLC’s proposed use would be a welcome addition to the community.

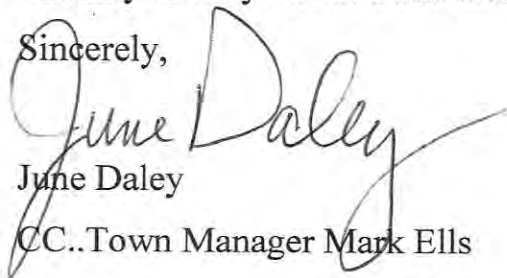
It is also important to note that the WBVBD zoning calls for only one residence to be contained in a structure (Section B. (1) (a).

The community felt so strongly about keeping the bulk of the existing zoning in place, that I along with then Precinct One Town Councilor Ann Canedy sponsored and legislated an ordinance which eliminated all use variances on the Old Kings Highway in the Town of Barnstable, (TC 2013-060).

The application for a special permit before your board for 1000 Main Street, LLC is inconsistent with the Villages Local Comprehensive Plan, West Barnstable Business District Zoning and the Town’s Zoning Ordinance, and Chapter 240, Article XII, Chapter 240 Sec. 240-125B (1) (e) – Use Variance within 300 feet along 6A Scenic Highway.

Thank you for your time and attention to this important matter.

Sincerely,



June Daley

CC..Town Manager Mark Ells

Town Attorney Ruth Weil

Director of Planning Elizabeth Jenkin

Principal Planner Anna Brigham

TOWN OF BARNSTABLE
ZONING BOARD OF APPEALS

IN RE:

Special Permit Number 2019-050

1000 Main Street
West Barnstable, MA



ABUTTER'S AFFIDAVIT IN OPPOSITION TO
APPLICATION FOR SPECIAL PERMIT

Now comes Nancy Trafton, abutter to subject property, and submits the following Affidavit in Opposition to Application for Special Permit Number 2019-050

ABANDONMENT OF BOATBUILDING BUSINESS USE, CONSEQUENCES

- 1) Mr. Charles Birdsey was granted a Special Permit on April 30, 1987 *to allow the maintenance, repair and sale of small boats with retail sale of supplies related thereto.*
- 2) Application was pursuant to 1986 Zoning Section P.A. - 14.
- 3) This section was eliminated effective 12/3/1987 by a complete recodification of the zoning ordinance. The replacement section was numbered 3-3.5 (3 B) This new section limits special permit uses in the VB-B to windmills only. Boat building and repair were no longer allowed, neither as of right nor by special permit.
- 4) Charles Birdsey built small boats under the name Speedwell Boatworks, Inc. He held all offices of the corporation. He placed a sign in the front yard and often displayed one boat in the front yard.

5) Speedwell Boatworks, Inc. (04-2902663) filed Articles of Dissolution in the Secretary of State's office. on January 2, 2003.

6) My review of the business filings at the Barnstable Town Clerk's office shows no business certificate filings at all, under either Speedwell Boatworks or Charles Birdsey at 1000 Main Street.

7) There is no statement or offer of proof from Mr. Charles Birdsey that he continued to operate the business after he dissolved his corporation in 2003.

8) On October 21, 2008, Cynthia Martin of the Town of Barnstable Board of Health visited Speedwell Boatworks, 1000 Main St. Her report reads as follows:

"This business filed a Toxic and Hazardous Materials on-Site Inventory on an unspecified date. An inspection of the facility on October 21, 2008 revealed that Speedwell Boat Works is no longer in business. The barn, garage and two sheds contained no hazardous material other than what Mr. Birdsey and his son use for their personnel use. Two boats owned by the Birdseys were stored in the barn.. There were several small boats being stored outdoors on the property but there was no evidence of any maintenance being performed."

9) Charles and Barbara Birdsey conveyed the property to an LLC managed by their son Christopher Birdsey in August of 2007.

10) Given the dissolution of Speedwell Boatworks, Inc. in 2003, the conveyance of the property to an LLC managed by his son Christopher in 2007, and Mr. Charles Birdsey's statements to Cynthia Martin of the BOH in 2008, it follows that the boat operation at 1000 Main Street was abandoned by the time that Charles Birdsey conveyed the property to his son in 2007.

11) There is no evidence to demonstrate that boatbuilding - as a business - was revived over the course of Mr. Christopher Birdsey's ownership.

12) After Mr. Christopher Birdsey conveyed the property to an LLC managed by Peter Eastman on December 11, 2013, Mr. Eastman placed a sign entitled "Howard Boats West" on the barn and began to store both sail and power shrink wrapped boats in the yard.

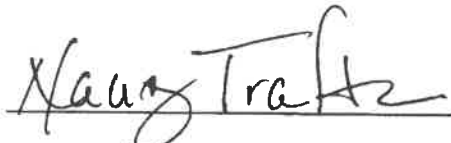
13) At this point in time the boat building operation run by Mr. Charles Birdsey had been abandoned for over five years.

14) Where the abandonment of the boatbuilding business exceeded the applicable period for its re-establishment by right; and where the boatbuilding was no longer an allowable use when that period had run, Mr. Eastman does not have the benefit of a lawful boatbuilding business use.

BOAT STORAGE:

- 15) Mr. Eastman's attorney told the Site Plan Review Committee that Eastman "thought that storage of boats would be incidental to the boat repair use permitted by the 1987 Special Permit."
- 16) It is difficult to understand how Mr. Eastman reached such a conclusion. The 1987 Special Permit is explicit that: "there be no more than one boat on display outside at any one time".
- 17) This application for a boat storage business does not fall within a category specifically accepted in the ordinance.
- 18) The storage of boats is not allowed in the WBVBD. Boat storage belongs in the more industrial type zoning districts in which it is allowed, such as Marina Business and Service and Distribution.
- 19) Please see 240-20 (4) (a) and (g): All outside storage associated with artisan and craft use is prohibited. Please see also 240-20 (9) Definitions, i.e. small wooden boat building.
- 20) The proposal to store shrink wrapped boats does not fulfill the spirit and intent of the Zoning Ordinance and will represent a substantial detriment to the neighborhood. It is inconsistent with a predominantly mixed use neighborhood.
- 21) Boat Storage does not meet any of the criteria set forth in Section 240-20 West Barnstable Village Business District A. Purpose and intent (1) through (8).
- 22) By way of further explanation of the neighborhood and community intent for the land uses in the WBVD, please see the attached newspaper articles from The Barnstable Patriot and The Register written at the time of the newly developed WBVBD zoning.
- 23) The WBVBD was developed with an eye toward assuring the ongoing harmonious relationship between business and residential uses within the District. Former Town Councilor June Daley speaks to this and other related issues in her letter, attached.
- 25) Mr. Eastman has the ability to continue a single residence and an office in the main building as of right. He has a number of other by right options as well. His boat building operation in the barn would be welcomed by application for a new Special Permit and by meeting the performance standards set forth in the current zoning.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 25th DAY OF SEPTEMBER, 2015



Nancy Trafton

West Barnstable pushes zoning change

Villagers want to preserve character while encouraging (some) growth

By J. James Joiner
jjoiner@barnstablepatriot.com

What do tailors, tattoo artists, massage parlors, florists and hairdressers have in common? They are all defined as personal services, and could all soon find a new climate in West Barnstable.

A unanimous vote at the West Barnstable Civic Association (WBCA) annual meeting Jan. 18 sent a list of proposed zoning changes to the planning board, for eventual submission to the town council for its consideration.

The goal is to open up the West Barnstable Village Business District, which is composed of a portion of routes 149 and 6A, to more historically traditional types businesses. Personal service businesses, which were by right to this point, would be allowed by special permit. The proposed zon-



J. JAMES JOINER PHOTO

ZONE RANGERS – Nancy Trafton and Town Councilor Hank Farnham hold up a map showing the proposed West Barnstable Village Business District.

ing includes mixed use, which will let property owners have both a business and residence in the same building.

“We wanted to clarify mixed use,” explained WBCA business district subcommittee member Nancy Trafton. “It used to be the norm, but zoning had gotten away from that.”

Under the current regulations, only professional offices, small retail shops and banks are allowed.

“Our goal is to open it up to the types of businesses that one would traditionally find here, like a weaver or potter or boat builder,” Trafton noted. “We’re going to be doing that by spe-

cial permit to make sure they’re on a small scale.”

According to the most recent census, West Barnstable is one of the few villages to report growth, noted West Barnstable Town Councilor Hank Farn-

CONTINUED ON PAGE B:7

West Barnstable zoning change...

CONTINUED FROM PAGE B-6

ham. He added that businesses made up 4.5 percent of the village's assessed value.

"A lot of towns like to have more businesses to take up the tax burden, and here that just isn't the case," he said. The small-town, almost rural feel is

what has led to growth.

"The goal is to let business thrive and invite certain types of businesses in while maintaining the character of the village," Farnham said. "It's one thing to have a boat builder, but we don't want Boston Whaler to have a manufacturing plant here."

The proposal also suggests changing the required front yard

setback from 40 to 30 feet.

"We want people to park to the side or behind businesses, to put it out of view to some degree," Trafton explained.

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West Barnstable has new business zone

By Susan Vaughn
svaughn@wickedlocal.com

The Barnstable Town Council recently approved a new zoning district titled the West Barnstable Village Business District that eliminates the former Village Business District-B and specifies the type of commercial activity sought for the district.

Town Councilor Henry Farnham, who sponsored the zoning amendment and served on the village Local Comprehensive Planning Committee, said in recommending the amendment that it "promotes West Barnstable's and the town's planning objectives, protects the character and environment of West Barnstable and promotes locally focused economic development."

The boundaries of the district near the intersection of Meetinghouse Way, (Route 149) and Main Street (Route 6A) are the same, but some new and increased uses are allowed under the new regulations, Nancy Trafton, chairwoman of West Barnstable's Local Comprehensive Planning Committee said in a recent interview. The committee, a subcommittee of the West Barnstable Civic Association, had 50 meetings after getting the original charge to update the West Barnstable component of the town's Local Comprehensive Plan, she said.

Committee members also included former chairwoman Betty Nilsson and Audrey Loughnane, Wolfgang Fattler, Gay Black and the late Helen Wirtanen. Trafton presented the committee's report to the Town Council on Sept. 8, which unanimously ap-

"The intent is to assure the ongoing harmonious relationship between business and residential uses."

-Nancy Trafton

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In developing the changes, the committee was intent on preserving the mixed use and historic component of the business district, while planning for a stable future, Trafton said. "We cleaned up ambiguities and attempted to bring our ordinance up to date by utilizing current planning tools, such as corporate branding regulations," she said. These changes came directly from the strategies outlined in the West Barnstable Local Comprehensive Plan.

In addition to renaming the district, Trafton outlined the proposed changes to the VBD-B that included separating the VBD-B from the VBD-A in the zoning ordinance because each district has different uses.

The amendment makes it clear that a residence and a business may be located within the same building, maintains the requirement that only one principal permitted single-family residential dwelling can be contained in any one building and limits principal permitted single-family homes to one per acre of land.

In addition to single-family homes, principal permitted uses in the zone include a small scale retail store, professional, business or medical offices and banks, credit unions and other financial institutions. Allowed accessory uses include bed and breakfast operations, automated banking facilities within a principal building and accessory apartments.

The new zone also will allow for artisans and craftsmen as have historically existed in the district. These uses were eliminated from the district at some point and are being returned through the special permit process, Trafton said. "The intent is to assure the ongoing harmonious relationship between business and residential uses."

Other personal service businesses, windmills and other devices for conversion of wind energy will require special permits. Other changes include reducing front yard setbacks from 40 feet to 30 feet to encourage parking in the rear of buildings.

The amendment creates a corporate branding ordinance to maintain the "sense of place" currently found in the historic business district. All structures and sites must be designed to be consistent with the business district's architectural composition, character and historic context.

Trafton reported that throughout the amendment process the committee sought direction and received unanimous approvals from the West Barnstable Civic Association. Jo Anne Miller Buntich, Department of Growth Management director, assisted the committee.

**June Daley
11 Little Pond Road
Marstons Mills, Massachusetts 02648**

September 24, 2019

Mr. Alex Rodolakis, Chairperson
Town of Barnstable Zoning Board of Appeals
367 Main Street
Hyannis, Massachusetts 02601

Re: 1000 Main Street, West Barnstable, Massachusetts, (SP 2019-050)

Dear Mr. Rodolakis:

It was my pleasure to serve the Town of Barnstable as the Precinct 11 Town Councilor from 2011 through 2013.

During that period of time I worked closely with a group of residents that had been charged with updating the West Barnstable Village component of the Cape Cod Commission's Comprehensive Plan.

After completion of the plan, this group worked with then Director of the Town's Growth Management Department, Joanne Miller-Buntich on implementing zoning initiatives consistent with the Comprehensive Plan's goals and objectives.

These initiatives included a rewrite of the zoning in the West Barnstable Business District. The proposed zoning had a lengthy period of input and review at both Board and General Membership meetings of the West Barnstable Civic Association. Prior to the public hearing process through the Planning Board and Town Council, the zoning was presented and approved at a General Membership Meeting. It was unanimously approved by both the Planning Board and the Town Council on September 8, 2011. (TC 2011-138).

Critical to the new zoning change was to preserve and protect the traditional New England Village character. A driving force behind this zoning change was that a location appropriate scale and traditional mix of business, institutional and residential land uses would continue. The goal was also to support a harmonic co-existence of residential and business use.

To this end, the uses allowed by Special Permit include important performance standards. One of these standards under Section B. (4) (g) states that "All outdoor storage associated with artisan or craft use is prohibited".

Ascribing that one performance standard alone, it is impossible to believe that the storage of twenty shrink wrapped boats in a yard, abutting property both residentially zoned or in residential use is an appropriate action.

Boat storage is best left to where it is allowed under zoning in either Marina Business or Service and Distribution Districts. Boat storage in the WBVBD is completely inconsistent with Section 240-20 A. Purpose and intent numbers 1-8.

The applicant would likely be welcomed in the district by applying for a Special Permit under the current zoning. By meeting the performance standards set forth in the ordinance, 1000 Main Street, LLC's proposed use would be a welcome addition to the community.

It is also important to note that the WBVBD zoning calls for only one residence to be contained in a structure (Section B. (1) (a)).

The community felt so strongly about keeping the bulk of the existing zoning in place, that I along with then Precinct One Town Councilor Ann Canedy sponsored and legislated an ordinance which eliminated all use variances on the Old Kings Highway in the Town of Barnstable, (TC 2013-060).

The application for a special permit before your board for 1000 Main Street, LLC is inconsistent with the Villages Local Comprehensive Plan, West Barnstable Business District Zoning and the Town's Zoning Ordinance, and Chapter 240, Article XII, Chapter 240 Sec. 240-125B (1) (e) – Use Variance within 300 feet along 6A Scenic Highway.

Thank you for your time and attention to this important matter.

Sincerely,



June Daley

CC..Town Manager Mark Ells

Town Attorney Ruth Weil

Director of Planning Elizabeth Jenkin

Principal Planner Anna Brigham

From: eileen.elias@comcast.net
Sent: Wednesday, December 11, 2019 7:23 PM
To: Brigham, Anna
Cc: selias001@gmail.com
Subject: Town of Barnstable December 11, 2019 Hearing Regarding Property - 1000 Main Street, West Barnstable 02668

Dear Ms. Brigham,

My husband and I reside at 42 Packet Landing Way, West Barnstable. We are writing to you regarding the proposed intent by the owner of the property at 1000 Main Street, West Barnstable which is located on 6A and Packet Landing Way.

We are opposed to the owner's intent to store shrink-wrapped boats including sail boats on the grounds of his property. Know that the owner, without legal permission, is currently storing these boats on the outside of his property.

Our understanding is the owner intends to store 20 or more shrink-wrapped boats on the grounds of his property. This property is in a residential area. The currently visibly obvious stored boats are negatively affecting this residential area. The 1000 Main Street property's grounds have taken on a 'ship yard' and/or 'industrial' environment, rather than residential. Home values are at risk of diminished sale values. The residential area consists of single homes at values between \$350,000 - \$1.5 million.

The 1000 Main Street property's prior owner did store boats but inside, within the property's barn/large garage. We have no issue with such interior storage. Our concern is with storing boats outside of the barn, visible from both 6A and Packet Landing Way.

We look forward to knowing that the owner of the 1000 Main Street property complies with the legal requirements of owning residential property and that the outside boat storage is stopped/discontinued.

My best,
Stanley and Eileen Elias
42 Packet Landing
West Barnstable, MA
240 380 0431

CAUTION: This email originated from outside of the Town of Barnstable! Do not click links, open attachments or reply, unless you recognize the sender's email address and know the content is safe!

TOWN OF BARNSTABLE
ZONING BOARD OF APPEALS

IN RE:

Special Permit Number 2019-050

1000 Main Street

West Barnstable, MA

ABUTTER'S AFFIDAVIT IN OPPOSITION TO
APPLICATION FOR SPECIAL PERMIT

Now comes Nancy Trafton, abutter to subject property, and submits the following Affidavit in Opposition to Application for Special Permit Number 2019-050

ABANDONMENT OF BOATBUILDING BUSINESS USE, CONSEQUENCES

- 1) Mr. Charles Birdsey was granted a Special Permit on April 30, 1987 *to allow the maintenance, repair and sale of small boats with retail sale of supplies related thereto.*
- 2) Application was pursuant to 1986 Zoning Section P.A. - 14.
- 3) This section was eliminated effective 12/3/1987 by a complete recodification of the zoning ordinance. The replacement section was numbered 3-3.5 (3 B) This new section limits special permit uses in the VB-B to windmills only. Boat building and repair were no longer allowed, neither as of right nor by special permit.
- 4) Charles Birdsey built small boats under the name Speedwell Boatworks, Inc. He held all offices of the corporation. He placed a sign in the front yard and often displayed one boat in the front yard.

5) Speedwell Boatworks, Inc. (04-2902663) filed Articles of Dissolution in the Secretary of State's office. on January 2, 2003.

6) My review of the business filings at the Barnstable Town Clerk's office shows no business certificate filings at all, under either Speedwell Boatworks or Charles Birdsey at 1000 Main Street.

7) There is no statement or offer of proof from Mr. Charles Birdsey that he continued to operate the business after he dissolved his corporation in 2003.

8) On October 21, 2008, Cynthia Martin of the Town of Barnstable Board of Health visited Speedwell Boatworks, 1000 Main St. Her report reads as follows:

"This business filed a Toxic and Hazardous Materials on-Site Inventory on an unspecified date. An inspection of the facility on October 21, 2008 revealed that Speedwell Boat Works is no longer in business. The barn, garage and two sheds contained no hazardous material other than what Mr. Birdsey and his son use for their personnel use. Two boats owned by the Birdseys were stored in the barn.. There were several small boats being stored outdoors on the property but there was no evidence of any maintenance being performed."

9) Charles and Barbara Birdsey conveyed the property to an LLC managed by their son Christopher Birdsey in August of 2007.

10) Given the dissolution of Speedwell Boatworks, Inc. in 2003, the conveyance of the property to an LLC managed by his son Christopher in 2007, and Mr. Charles Birdsey's statements to Cynthia Martin of the BOH in 2008, it follows that the boat operation at 1000 Main Street was abandoned by the time that Charles Birdsey conveyed the property to his son in 2007.

11) There is no evidence to demonstrate that boatbuilding - as a business - was revived over the course of Mr. Christopher Birdsey's ownership.

12) After Mr. Christopher Birdsey conveyed the property to an LLC managed by Peter Eastman on December 11, 2013, Mr. Eastman placed a sign entitled "Howard Boats West" on the barn and began to store both sail and power shrink wrapped boats in the yard.

13) At this point in time the boat building operation run by Mr. Charles Birdsey had been abandoned for over five years.

14) Where the abandonment of the boatbuilding business exceeded the applicable period for its re-establishment by right; and where the boatbuilding was no longer an allowable use when that period had run, Mr. Eastman does not have the benefit of a lawful boatbuilding business use.

BOAT STORAGE:

15) Mr. Eastman's attorney told the Site Plan Review Committee that Eastman "thought that storage of boats would be incidental to the boat repair use permitted by the 1987 Special Permit."

16) It is difficult to understand how Mr. Eastman reached such a conclusion. The 1987 Special Permit is explicit that: "there be no more than one boat on display outside at any one time".

17) This application for a boat storage business does not fall within a category specifically accepted in the ordinance.

18) The storage of boats is not allowed in the WBVBD. Boat storage belongs in the more industrial type zoning districts in which it is allowed, such as Marina Business and Service and Distribution.

19) Please see 240-20 (4) (a) and (g): All outside storage associated with artisan and craft use is prohibited. Please see also 240-20 (9) Definitions, i.e. small wooden boat building.

20) The proposal to store shrink wrapped boats does not fulfill the spirit and intent of the Zoning Ordinance and will represent a substantial detriment to the neighborhood. It is inconsistent with a predominantly mixed use neighborhood.

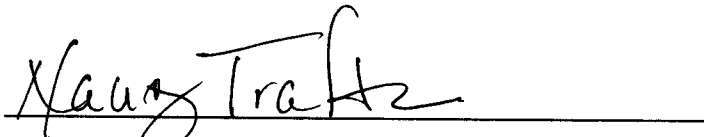
21) Boat Storage does not meet any of the criteria set forth in Section 240-20 West Barnstable Village Business District A. Purpose and intent (1) through (8).

22) By way of further explanation of the neighborhood and community intent for the land uses in the WBVD, please see the attached newspaper articles from The Barnstable Patriot and The Register written at the time of the newly developed WBVBD zoning.

23) The WBVBD was developed with an eye toward assuring the ongoing harmonious relationship between business and residential uses within the District. Former Town Councilor June Daley speaks to this and other related issues in her letter, attached.

25) Mr. Eastman has the ability to continue a single residence and an office in the main building as of right. He has a number of other by right options as well. His boat building operation in the barn would be welcomed by application for a new Special Permit and by meeting the performance standards set forth in the current zoning.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 25th DAY OF SEPTEMBER, 2015



Nancy Trafton

West Barnstable pushes zoning change

Villagers want to preserve character while encouraging (some) growth

By J. James Joiner
jjoiner@barnstablepatriot.com

What do tailors, tattoo artists, massage parlors, florists and hairdressers have in common? They are all defined as personal services, and could all soon find a new climate in West Barnstable.

A unanimous vote at the West Barnstable Civic Association (WBCA) annual meeting Jan. 18 sent a list of proposed zoning changes to the planning board, for eventual submission to the town council for its consideration.

The goal is to open up the West Barnstable Village Business District, which is composed of a portion of routes 149 and 6A, to more historically traditional types businesses. Personal service businesses, which were by right to this point, would be allowed by special permit. The proposed zon-



J. JAMES JOINER PHOTO

ZONE RANGERS – Nancy Trafton and Town Councilor Hank Farnham hold up a map showing the proposed West Barnstable Village Business District.

ing includes mixed use, which will let property owners have both a business and residence in the same building.

“We wanted to clarify mixed use,” explained WBCA business district subcommittee member Nancy Trafton. “It used to be the norm, but zoning had gotten away from that.”

Under the current regulations, only professional offices, small retail shops and banks are allowed.

“Our goal is to open it up to the types of businesses that one would traditionally find here, like a weaver or potter or boat builder,” Trafton noted. “We’re going to be doing that by spe-

cial permit to make sure they’re on a small scale.”

According to the most recent census, West Barnstable is one of the few villages to report growth, noted West Barnstable Town Councilor Hank Farn-

West Barnstable zoning change...

CONTINUED FROM PAGE B:6

ham. He added that businesses made up 4.5 percent of the village's assessed value.

"A lot of towns like to have more businesses to take up the tax burden, and here that just isn't the case," he said. The small-town, almost rural feel is

what has led to growth.

"The goal is to let business thrive and invite certain types of businesses in while maintaining the character of the village," Farnham said. "It's one thing to have a boat builder, but we don't want Boston Whaler to have a manufacturing plant here."

The proposal also suggests changing the required front yard

setback from 40 to 30 feet.

"We want people to park to the side or behind businesses, to put it out of view to some degree," Trafton explained.

Among the recommendations there is also a corporate branding ordinance that won't allow formula businesses with more than eight locations, except for banks. Chain businesses that did make it in would have to blend aesthetically with the feel of the village. A similar ordinance was approved in Barnstable Village last year.

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Marstons Mills, Massachusetts 02648

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Ascribing that one performance standard alone, it is impossible to believe that the storage of twenty shrink wrapped boats in a yard, abutting property both residentially zoned or in residential use is an appropriate action.

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Thank you for your time and attention to this important matter.

Sincerely,



June Daley

CC..Town Manager Mark Ells

Town Attorney Ruth Weil

Director of Planning Elizabeth Jenkin

Principal Planner Anna Brigham

Town of Barnstable
Planning and Development Department
Elizabeth Jenkins, Director

Staff Report



**Special Permit 2019-050 – 1000 Main LLC/Peter Eastman
Section 240-20 B (3) and (4) – Special Permit for Boat Storage and use of 3 residential
units in the WBVB District**

To allow the operation of a small boat storage business and to continue the use of three residential units in the main dwelling

Date: September 23, 2019 - **UPDATED**
To: Zoning Board of Appeals
From: Anna Brigham, Principal Planner

Applicant: **1000 Main LLC/Peter Eastman**
Box 125, 124 Beale Way, Barnstable, MA 02630
Property Address: 1000 Main Street (Rte 6A) West Barnstable, MA
Assessor's Map/Parcel: 179/002
Zoning: West Barnstable Village Business District (WBVBD) and
Residence F (RF)

Filed: July 30, 2019

Hearing: September 25, 2019

Decision Due: November 20, 2019

Copy of Public Notice

1000 Main LLC has applied for a Special Permit pursuant to Section 240-20.B – West Barnstable Village Business District. The Applicant is seeking relief in order to store small traditional sailboats and to continue the pre-existing use of three residential units in the dwelling. The subject property is located at 1000 Main Street, West Barnstable, MA as shown on Assessor's Map 179 as Parcel 002. It is located in the West Barnstable Village Business District (WBVBD) and the Residence F (RF) Zoning Districts.

Background

The subject property is located on the corner of Main Street/Route 6A and Packet Landing Way in West Barnstable in the area zoned for business. The lot is 38,800 square feet and according to the Assessors Records contains a dwelling with 2,361 square feet of living area (4,256 gross square feet), 2 bedrooms, and constructed in 1900. There is also a large barn (approx. 3,000 sq.ft), two-car garage, and two sheds on the property. The property is served by a septic system. The main structure and barn are located within the West Barnstable Village Business District while the rear portion of the lot lies within the Residence F District.

In April 1987, Charles J. Birdsey applied to the Zoning Board for a Special Permit to change permitted uses on the property. The use of the property at that time was identified as "apartment rentals in the main house and an antique shop in the barn." (The application also references a 1983 special permit that allowed boat building uses.)

On June 3, 1987 Special Permit No. 1987-35 was granted to Charles Birdsey to allow the following uses:

-) In the main house, one apartment unit upstairs and an office downstairs.
-) In the barn, "maintenance, repair and sale of small boats with retail sale of supplies related thereto."

The Board granted the Special Permit subject to the condition that there be no more than one boat on display outside at any one time.

The property was transferred from Mr. Birdsey to an LLC in 2007. A note in the Health Division file dated October 21, 2008, stated that an inspection of the property revealed that the boat maintenance business, Speedwell Boat Works, was no longer in business. The note further states that Mr. Birdsey, who was on site when the inspection occurred, reported that he no longer works on boat building.

In 2013, the property was for sale and records show it was listed as a multi-family with three units, office on the first floor and a boat building business in the barn. A December 2013 fire department inspection shows the property had two units (one first floor, one second), as well as an upstairs office. No permits for the creation of additional residential dwelling units on the property were ever issued.

A Complaint was filed with the Building Division on January 11, 2018 complaining of boat storage in the front yard and using the dwelling as a rental. Two citations were issued on January 23, 2019 (one for boat storage and one for the multifamily use). The citations were paid. A Notice of Zoning Violation dated June 25, 2018 was sent to Mr. Eastman. The violations were for: the creation of a multifamily dwelling and for expansion of the boat repair and restoration use to include boat storage on and off season. Mr. Eastman was instructed to either return the property to modify the conditions of Special Permit No. 1987-35 or seek zoning relief. Mr. Eastman did not appeal the Building Commissioners determination.

In August 2018, the Applicant came before Site Plan Review to seek to modify Special Permit No. 1987-35 to allow the use of the property for boat storage. He also proposed to validate and continue the use of three preexisting nonconforming apartments in the main dwelling. The Application was found approvable subject to many conditions (see letter dated August 22, 2018), prime amongst them relief from the Zoning Board.

In September 2019, the Applicant returned to Site Plan Review, as required, for approval of a revised plan and submittal of septic information, floor plans, affidavits, and property history. There is a concern regarding the septic system and input from the Fire Department was needed but the Committee allowed the Applicant to seek a Special Permit with the condition that he return to Site Plan Review within 10 days of a positive vote to address the outstanding issues.

Proposal & Relief Requested

1000 Main, LLC has applied for a Special Permit to “**store small traditional sailboats and to continue the pre-existing use of three residential units in the dwelling**” at 1000 Main Street, West Barnstable, MA. The Applicant cites that the Special Permit is sought pursuant to Section 240-20 – the **West Barnstable Village Business District, Sections (B)(3) and (B)(4)**, Special Permit Uses and Special Permit Performance Standards.

Uses Permitted and Permitted by Special Permit in the WBVBD

The West Barnstable Village Business District (WBVBD), Section 240-20(B)(1), allows the following principal permitted uses (“by-right”):

- (a) Single-family residential dwelling. A single-family residential dwelling may be freestanding or attached to a building also used for nonresidential uses. More than one single-family residential dwelling per lot is permitted as long as there is a minimum of one acre per single-family dwelling, but in no case will more than one principal permitted single-family residential dwelling be contained in any one building.
- (b) Small-scale retail store.
- (c) Professional, business or medical office.
- (d) Office of a bank, credit union, savings and loan or other financial institution.

Section B(3) allows the following uses are permitted with approval of a **Special Permit** from the ZBA:

- (a) Artisans and craftspeople.

- (b) Personal service business.
- (c) Windmills and other devices for the conversion of wind energy to electrical or mechanical energy subject to the provisions of § 240-44.1

Section (B)(4) provides specific **performance standards** that must be met for the Board to grant a Special Permit.

The WBVBD defines Artisans and Craftspeople as follows:

ARTISAN OR CRAFTSPERSON USE — A small-scale use that typically employs one or two people who practice craft or artisan activities. A key feature of works produced by artisans or craftspeople is the high degree of manual expertise involved. The use must be compatible with abutting and nearby residential and nonresidential uses. The following is included in the definition of "artisan or craftspeople use:"

ARTISAN OR CRAFTSPERSON — A person using manual skills to produce, in limited quantities, ornamental or functional works in ceramic, glass, metal, paper, wood or textiles. Examples include, without limitation, the following: drawing, painting, sculpture, pottery, photography, graphic design, interior design, fashion design, jewelry making, wood turning, glass blowing, furniture making, small wooden boat building, upholstering and weaving.

Staff Comments

Boat Storage

To grant any Special Permit, the Board must first make a finding that “the application falls within a category specifically excepted in the ordinance for a grant of a special permit.”

The Board should consider if the proposed use by the Applicant, outdoor boat storage, can be shown to meet this first required finding. **Boat storage is not listed as a permitted use, or a special permit use, in the West Barnstable Village Business District.**

The 1985 Special Permit allowed a boat repair business with the condition that no more than one boat on display outside at any one time. Accessory and incidental storage of one boat was allowed in connection with the boat building business, which appears to have been abandoned by 2008.

Apartments

It appears the Applicant seeks three apartment units on the property. Again, the Board must find this request “falls within a category specifically excepted in the ordinance for a grant of a special permit.” **Multi-family residential is not allowed as a special permit use in the WBVBD.**

The 1985 Special Permit granted by the Board allowed for one apartment on the property. This is the last lawfully permitted residential use of the property, and the use (one dwelling unit) is in conformance with the WBVBD zoning. The Board should consider how the Applicant can substantiate that three units were lawfully permitted, as there is no record to show this special permit was modified to allow additional units. *(Prior rights to multiple units on the property would have been relinquished when the Board granted the 1985 Special Permit.)*

Further, the application cites no section of the Zoning Ordinance that would allow the non-conforming use to be reestablished. **The Barnstable Zoning Ordinance does not allow for reestablishment of nonconforming uses and the WBVBD does not allow for a change in a nonconforming use to another nonconforming use.**

Lastly, the Applicant did not appeal the Building Commissioner’s 2018 determination the uses were not permitted. No building permits for multi-family residential use was ever applied for or issued.

Additional Considerations

The Fire Department would require that all boats be placed with a minimum of 3 feet of spacing between boats. All boats must be a minimum of 10 feet from any structure and vegetation. All vegetation within 10 feet will be removed from the area of storage such as grass, trees, shrubs, ext.. This includes the ground cover. Access will be provided to the boat storage area suitable for the access of a fire engine with a GVW of 45,000 pounds. The surface of the storage area will be free of obstructions including inoperable gates /fencing, or snow accumulation. The overhead will be clear of obstructions such as tree branches. No storage will be allowed under overhanging tree branches that would promote the vertical spread of fire. These provisions are being required because the property is immediately situated next to an area determined to be a wildland urban interface zone. All fuel and batteries will need to be removed from boats prior to storage. The use of rack storage would need to comply with the regulations for such. No shrink wrapping of boats on the property without proper hot work permit by a qualified operator meeting all of the requirements for hot work and hot work plan.

Further, the residential units would need to demonstrate compliance with Building, Health and Fire codes.

Special Permit Findings

For all Special Permits, the Board is required to make general findings pursuant to § 240-125(C). The Board should review the evidence presented by the Applicant, staff, and members of the public and, after weighing such evidence, is encouraged to articulate if and how the evidence contributes to each of the required findings.

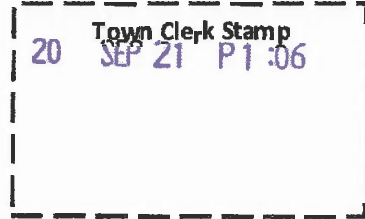
1. The application falls within a category specifically excepted in the ordinance for a grant of a special permit.
2. After an evaluation of all the evidence presented, the proposal fulfills the spirit and intent of the Zoning Ordinance and would not represent a substantial detriment to the public good or the neighborhood affected.
3. A Site Plan has been reviewed and found approvable with conditions. (*See letter dated August 22, 2018 and September 17, 2019*).

The Board would also have to make findings that the proposed use met the performance standards required by Section 240-20(B)(4).

Proposed Findings and Conditions

No findings or conditions have been issued by staff at this time based on the need to hear from the Applicant, the public and the Board on this application.

Copies: Applicant
Attachments: Application
Site plan
Site Plan Review approval letters (2018 and 2019)
Assessor's Record & Aerial Photo
Copy of Special Permit No. 1987-35
Affidavits
Property History



Town of Barnstable
Zoning Board of Appeals
Application for a Special Permit

For Office Use Only

Date Application Received:	11-25-20	Appeal No.:	2020-035
Hearing Due Date:	01-06-21	Hearing Date:	10-28-20

Property Owner:	Judith and John Clancy	Phone:	508-364-5540
Property Location:	191 Stoney Point Rd.	Village:	Cummaquid
City:	Barnstable	State:	MA
Address of Owner (if different from above):	8 Jasper Lane	Zip:	02637
City:	Forestdale	State:	MA
Assessor's Info:	Map: 336 Parcel: 028	Zoning District:	RF-1
Registry of Deeds/Land	Book: 3205 Page: 289	Groundwater Overlay:	AP
Court Reference:	Plan Book: 448	Document#:	
Applicant's Name:	Judith and John Clancy	Certificate #:	
Applicant's Address:	8 Jasper Lane	Plan Page:	81
City:	Forestdale	Phone:	508-364-5540
		Fax#:	
		State:	MA
		Zip:	02644

If Applicant(s) differs from owner, state nature of interest²

The undersigned hereby applies to the Zoning Board of Appeals for a Special Permit, in the manner and for the reasons set forth below:

Cite Section(s) & Title(s) from Zoning Ordinance: 240-91H 240-92

Description of Activity/Reason for Request:
See Attachment

¹ The Applicant(s) Name will be the entity to whom the Special Permit will be issued to.
² If the Applicant(s) differs from property owner, the Applicant will be required to submit one original notarized letter from the owner authorizing the Applicant(s) to represent them before the Board. Also, if perspective owner(s), an executed Purchase and Sales Agreement or lease, or other documents to prove standing and interest in the property will be required.

Is property subject to an existing Special Permit or Variance: Yes No
Please list Appeal #(s):


Existing Level of Development of Property - Existing Number of Buildings: 1.75 story single family
Existing Use of Property: single family
Existing Gross Floor Area: 1216 sq. ft.

Proposed Level of Development of Property - Total Number of Buildings: 2.5 story single family
Proposed Use of Property: single family home
Proposed New Gross Floor Area: 2613 sq. ft.

Site Plan Review Number: N/A Date Approved:

Description of Construction Activity (if applicable):
See Attachment

Is the property located in a designated Historic District:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the building a designated Historic mark:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is this proposal subject to approval by the Board of Health:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is this proposal subject to the jurisdiction of the Conservation Commission:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Have you applied for a building permit:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Have you been refused a building permit:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Signature:  Date: 9/18/10
Print Name: Paul Revere, III for Clancy's Phone: 508-237-1620
Mailing Address: 226 River View Lane
City: Centerville State: MA Zip: 02632
Fax Number: Email Address: reverei i@aol.com

**ATTACHMENT TO REQUEST FOR ISSUANCE OF SPECIAL PERMIT
JUDITH AND JOHN CLANCY**

LAW OFFICES OF PAUL REVERE, III
226 River View Lane
Centerville, Massachusetts 02632
(508) 237-1620
revereiii@aol.com

Introduction

This matter involves a request for issuance of a special permit pursuant to Section 240-91.H or, alternatively, Section 240-92.B of the Barnstable Zoning Code for what has now been deemed the demolition and reconstruction of a single family home at 191 Stoney Point Road, Barnstable (Cummaquid), Massachusetts 02637.

Background

In May, 2019, Judith and John Clancy (the “Clancy’s”) purchased a single family home at 191 Stoney Point Road. The Clancy’s purchased the property and, when construction is completed, will occupy it as their principle residence. On March 11, 2020, they obtained a certificate of appropriateness from Barnstable’s Old King’s Highway Committee for the construction of a single family residence. On May 12, 2020, the Conservation Commission voted to issue an order of conditions to allow construction of the house.

The Clancy’s applied for and obtained a building permit by right for the construction of the single family home pursuant to Section 240-92.A as the proposed home was located within the existing footprint. During the construction, substantial dry rot and deterioration of the foundation was discovered requiring rebuilding/supporting of the existing foundation and removal of walls, rotted floor joists, and sills.

Following discussions with the Building Department, a stop work order was issued as the Department determined that the construction should be approved under the demolition/rebuild special permit provisions of the Barnstable Zoning Code rather than as a “by right” alteration or expansion of a pre-existing non-conforming building or structure used as a single family residence.

While the Clancy’s respectfully disagree, they have submitted this special permit application.

Description of Project

Existing Development

191 Stoney Point Road (hereinafter the “Property”) is 8,797 square foot pre-existing non-conforming lot in the RF-1 District developed with a single family home. The existing home is 1.75 story building with a gross floor area of 1216 square feet consisting of 1066 square feet of living space and 150 square feet of basement. The home is located 9.2 feet from the front property line, 1.8 feet from the south side

property line, 15.8 feet from the north side property line, and over 100 feet to the rear property line. Photographs of the home are attached as Exhibit One.

Proposed Development/Development Under Building Permit

The Clancy's obtained a by right building permit to alter and expand the existing home in July, 2020, after obtaining Old King's Highway and Conservation Commission approvals. The Clancy's home used the existing footprint, foundation, and walls, and only expansion involved: (i) squaring off the southwest corner in the area of the existing bulkhead in a manner that the existing setback was maintained; and (ii) vertically expanding the home from 1.75 to 2.5 stories. Plans showing the altered and expanded home are enclosed as Exhibit Two.

After obtaining the building permit, construction began. During construction, the following issues were discovered: (i) substantial areas of dry rot in the first floor joists and sills; (ii) carpenter ant and other insect infiltration; (iii) deterioration in the cement block foundation; and (iv) the elevation of the rear foundation was approximately four inches lower than the front foundation. Almost all of deficiencies were located in the crawl space area of the existing home and were not apparent until construction began. Photographs are enclosed as Exhibit Three.

As a consequence, the Clancy's took the following remedial steps so that the new construction would comply with the Building Code: (i) repairs to a portion of the foundation; (ii) construction of new sills and floor joists; and (iii) construction of box corners with greater elevation in the rear to level the first floor. *See* Exhibit Three. As a result, all of the sill and first floor joists were replaced and only a few existing walls were retained. A letter from R. Gregory Taylor, P.E. explaining the work and why its was needed to meet the building code is attached as Exhibit Four.

At this point, a stop work order was issued as the Building Department determined that the construction should be approved under the demolition/rebuild special permit provisions of the Barnstable Zoning Code rather than as a "by right" alteration or expansion of a pre-existing non-conforming building or structure used as a single family residence.

Application of Standard to Development

Section 240-91H(3) of the Barnstable Zoning Code allows the "demolition and rebuilding" of a single family home on a lot of less than 10,000 square feet by a special permit provided that the Zoning Board of Appeals finds:

1. the proposed yard setbacks must be equal to or greater than the yard setbacks of the existing building; Section 240-91H(3)(a);
2. lot coverage by all buildings and all structures shall not exceed 20 percent or existing lot coverage, whichever is greater; Section 240-91H(3)(b) (incorporating Section 240-91H(1)(b)[1]);
3. the floor area ratio shall not exceed 0.30 or the existing floor area ratio of the structure being demolished and rebuilt, whichever is greater; Section 240-91H(3)(b) (incorporating Section 240-91H(1)(b)[2]);
4. the building height, in feet, shall not exceed 30 feet to the highest plate and shall contain no more than 2.5 stories; Section 240-91H(3)(b) (incorporating Section 240-91H(1)(b)[3]); and
5. the proposed welling would not be substantially more detrimental to the neighborhood than the existing dwelling.

The following is a chart which sets forth compliance with paragraphs 1 through 4, above, and is based upon the plans attached as Exhibit Two and Five:

	Existing	Post Development
Setbacks		
Front	9.2 ft.	9.2 ft.
Side (south)	1.8 ft.	1.8 ft.
Side (north)	15.2 ft.	15.2 ft.
Rear	100+ ft.	100+ ft.
Lot Coverage (less than 20%)	12.3%	13.2%
Floor Area Ratio (less than .30)	0.22	0.28
Height	approx.. 19 ft. 1.75 Stories	27 ft. 2.5 Stories

The final requirement is that the ZBA must find that the proposal is not “substantially more detrimental to the neighborhood than the existing dwelling.” In this matter, the Clancy’s obtained a by right permit for a single family home in a neighborhood of single family homes after obtaining the approval of both the Old King’s Highway Committee and the Barnstable Conservation Commission. The Clancy’s are only appearing before the Zoning Board of Appeals because the internal and supporting structural features of the building were so deteriorated that the project became classified as a demolition with new construction requiring a special permit rather than a by right alteration expansion. Given that the only substantial change is internal and structural, the Board might simply be asked whether having a building with newer structural components is substantially more detrimental. However, the Clancy’s believe that the project stands on its own as approvable even if the totality of the development is considered. That is the Clancy’s are replacing a three bedroom home with a three bedroom home. The use is identical and, certainly, the replacement of a deteriorating structure with a new home has a beneficial impact. Further, the Clancy’s have submitted a landscaping plan approved by Old King’s Highway (see Exhibit Six) and assert that the new home is an improvement and cannot be considered “detrimental,” let alone “substantially more detrimental” than existing conditions.

Alternatively, the Clancy’s request that the proposed construction be granted a special permit pursuant to Section 240-92.B of the Barnstable Zoning Code for the reasons stated above.

Paul Revere, III

The following is a chart which sets forth compliance with paragraphs 1 through 4, above, and is based upon the plans attached as Exhibit Two and Five:

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Alternatively, the Clancy’s request that the proposed construction be granted a special permit pursuant to Section 240-92.B of the Barnstable Zoning Code for the reasons stated above.



Paul Revere, III

EXHIBIT ONE

1





EXHIBIT TWO

2

MAP/PARCEL
336/028

DESIGN BY: JEFFREY CLANCY CONTRACTING BUILDING AND REMODELING (508) 888-9858

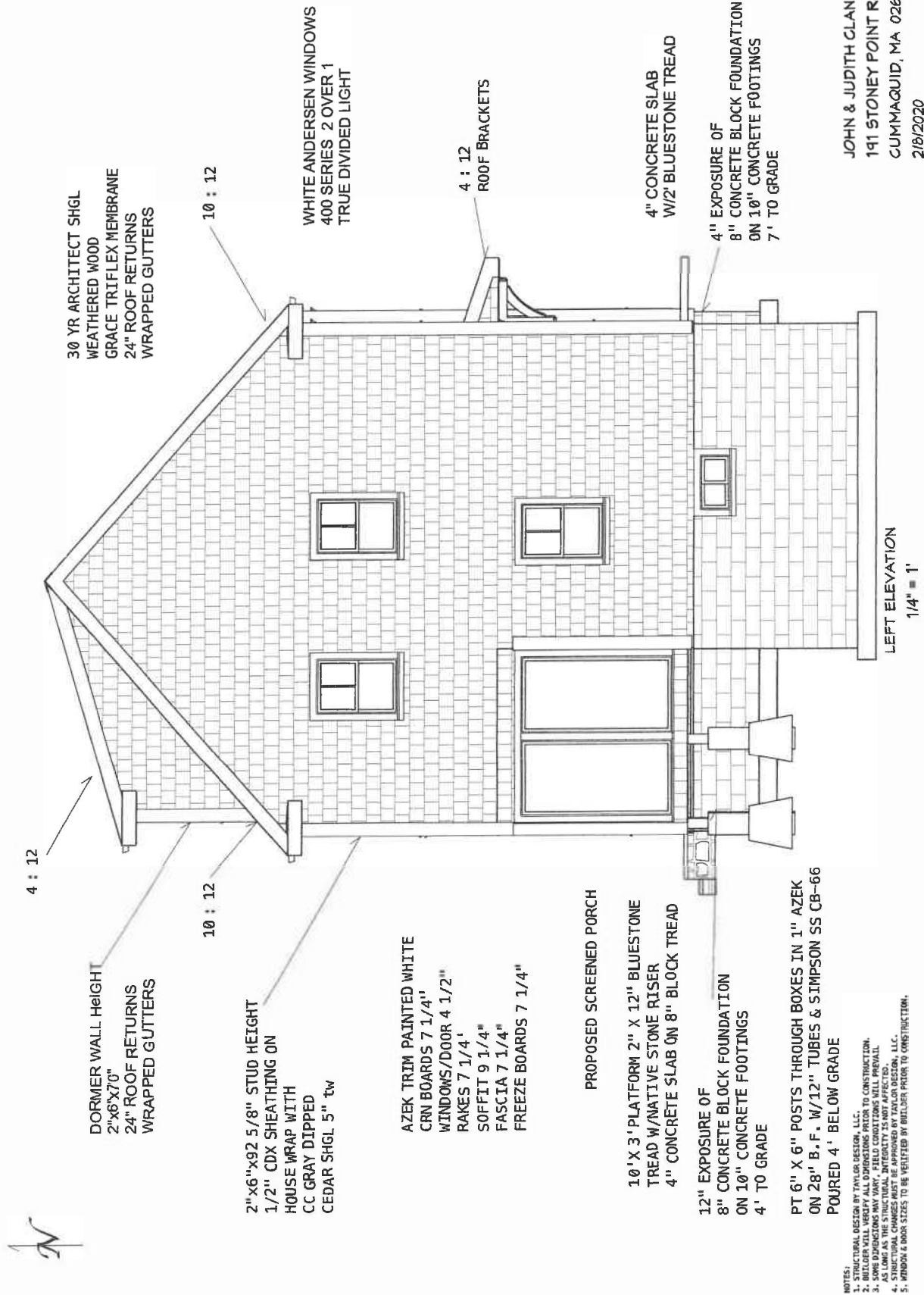


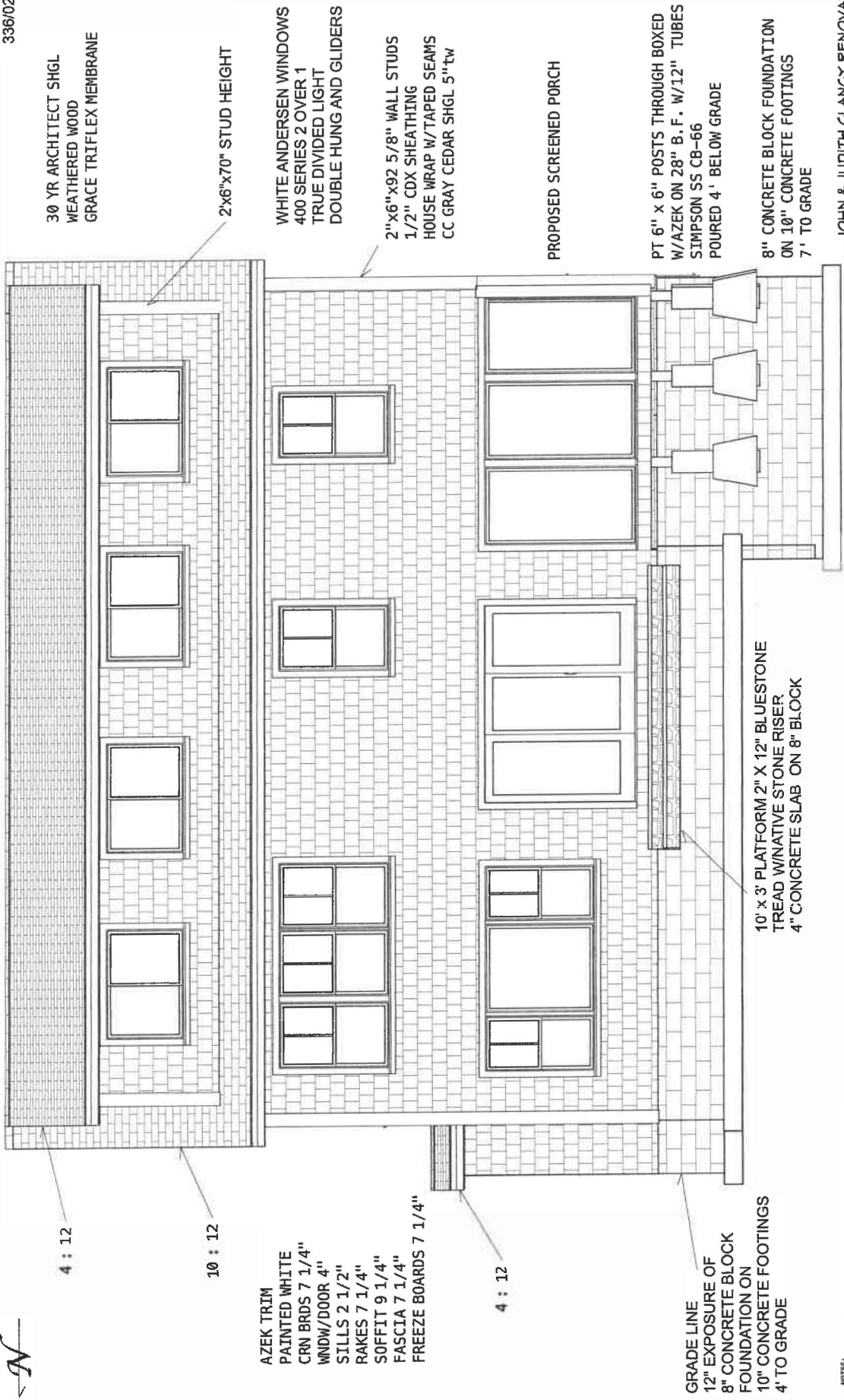
JOHN & JUDITH CLANCY RENOVATION
141 STONEY POINT ROAD
CUMMAQUID, MA 02637
8/30/2019

A-1

FRONT ELEVATION
1/4" = 1"

- NOTES:
1. STRUCTURAL DESIGN BY TAYLOR DESIGN, LLC
 2. BUILDER SHALL VERIFY ALL DIMENSIONS PRIOR TO CONSTRUCTION
 3. BEFORE CONCRETING FOR FOUNDATION, FIELD CONDITIONS SHALL PREVAIL AS LONG AS POSSIBLE
 4. STRUCTURAL CHANGES MUST BE APPROVED BY TAYLOR DESIGN, LLC
 5. WINDOW & DOOR SIZES TO BE VERIFIED BY BUILDER PRIOR TO CONSTRUCTION.





30 YR ARCHITECT SHGL
WEATHERED WOOD
GRACE TRIFLEX MEMBRANE

2"x6"x70" STUD HEIGHT

WHITE ANDERSEN WINDOWS
400 SERIES 2 OVER 1
TRUE DIVIDED LIGHT
DOUBLE HUNG AND GLIDERS

2"x6"x92 5/8" WALL STUDS
1/2" CDX SHEATHING
HOUSE WRAP W/TAPED SEAMS
CC GRAY CEDAR SHGL 5"tw

PROPOSED SCREENED PORCH

PT 6" x 6" POSTS THROUGH BOXED
W/AZEK ON 28" B.F. W/12" TUBES
SIMPSON SS CB-66
POURED 4' BELOW GRADE

8" CONCRETE BLOCK FOUNDATION
ON 10" CONCRETE FOOTINGS
7' TO GRADE

4 : 12

10 : 12

AZEK TRIM
PAINTED WHITE
CRN BRDS 7 1/4"
WINDW/DOOR 4"
SILLS 2 1/2"
RAKES 7 1/4"
SOFFIT 9 1/4"
FASCIA 7 1/4"
FREEZE BOARDS 7 1/4"

4 : 12

GRADE LINE
12" EXPOSURE OF
8" CONCRETE BLOCK
FOUNDATION ON
10" CONCRETE FOOTINGS
4' TO GRADE

10' x 3' PLATFORM 2" X 12" BLUESTONE
TREAD W/NATIVE STONE RISER
4" CONCRETE SLAB ON 8" BLOCK

REAR ELEVATION
1/4" = 1'

JOHN & JUDITH CLANCY RENOVATION
191 STONEY POINT ROAD
CUMMAGUID, MA 02631
2/8/2020

A-3

NOTES:
1. STRUCTURAL DESIGN BY TAYLOR DESIGN, LLC. SEE DRAWING FOR SPECIFICATIONS TO CONSTRUCTION.
2. SOME DIMENSIONS MAY VARY. FIELD CONDITIONS WILL PREVAIL AS LONG AS THE STRUCTURAL INTEGRITY IS NOT AFFECTED.
3. AS THE STRUCTURAL INTEGRITY IS NOT AFFECTED.
4. STRUCTURAL CHANGES MUST BE APPROVED BY TAYLOR DESIGN, LLC.
5. WINDOW AND DOOR SIZES TO BE VERIFIED BY MILLER PRIOR TO CONSTRUCTION.



MAP/PARCEL
336/028

OVERALL DWELLING HEIGHT
RIDGE TO GRADE
27' +/-

30 YR ARCHITECT SHGL
WEATHERED WOOD

AZEK TRIM PAINTED WHITE
CRN BOARDS 7 1/4"
WINDOWS/DOOR 4 1/2"
RAKES 7 1/4"
SOFFIT 9 1/4"
FACSA 7 1/4"
FREEZE BOARD 7 1/4"

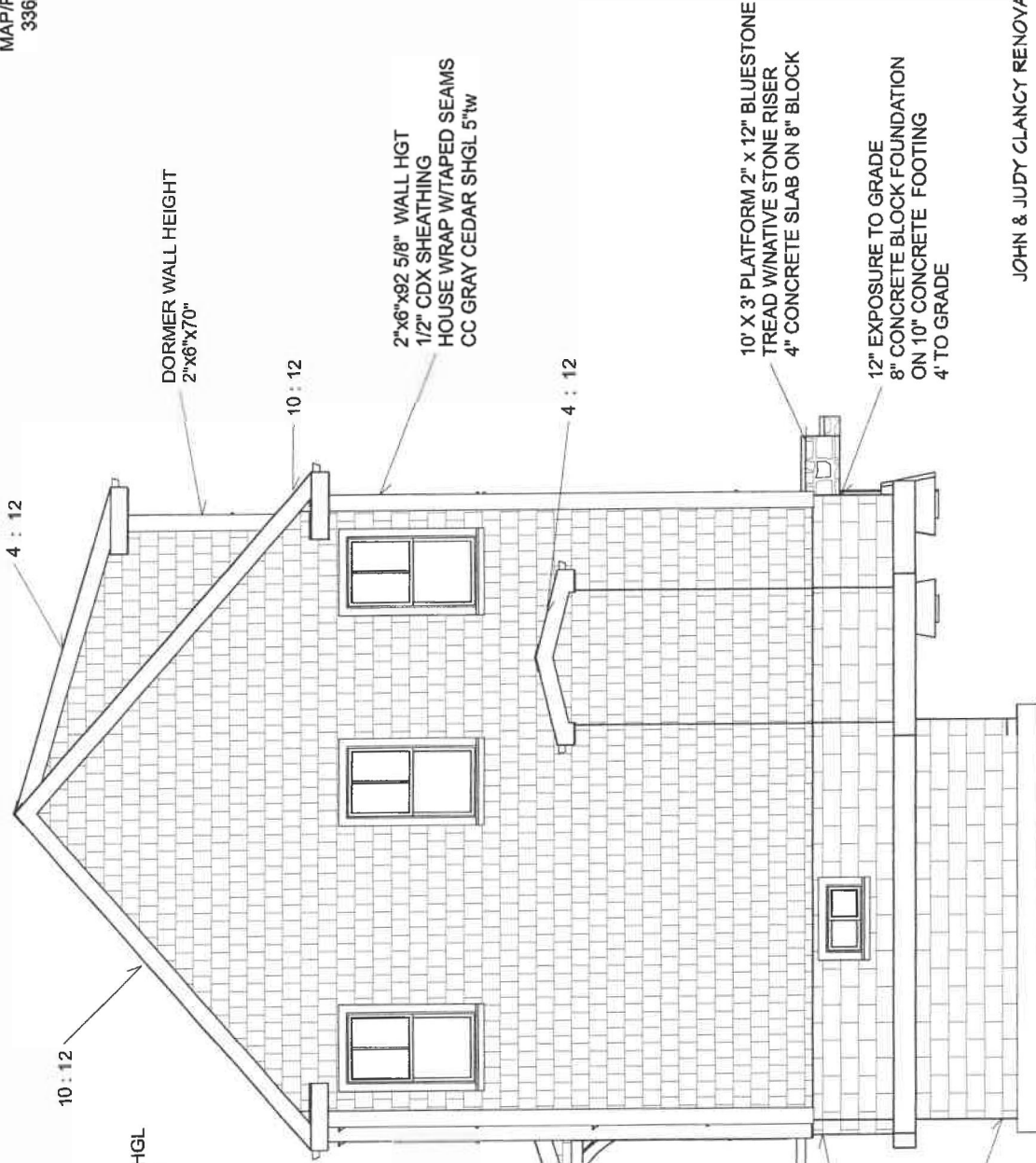
WHITE ANDERSEN WINDOWS
400 SERIES 2 OVER 1
TRUE DIVIDED LITGHT

4 : 12
ROOF BRACKETS

4" CONCRETE SLAB
W/2" BLUESTONE TREAD

4" TO GRADE TO GRADE

8" CONCRETE BLOCK FOUNDATION
ON 10" CONCRETE FOOTINGS
7' TO GRADE



RIGHT SIDE ELEVATION
1/4" = 1'

- NOTES:
1. STRUCTURAL DESIGN BY TAYLOR DESIGN, LLC
 2. ALL DIMENSIONS SHALL BE AS SHOWN UNLESS OTHERWISE NOTED
 3. SOME DIMENSIONS MAY VARY FIELD CONDITIONS UNLESS PRECALCULATED
 4. LONG AS THE STRUCTURAL INTEGRITY IS NOT AFFECTED
 5. STRUCTURAL CHANGES MUST BE APPROVED BY TAYLOR DESIGN, LLC
 6. WINDOW & DOOR SIZES TO BE VERIFIED BY BUILDER PRIOR TO CONSTRUCTION

DESIGN BY: JEFFREY GLANCY CONTRACTING BUILDING AND REMODELING (508) 888-9858

JOHN & JUDY GLANCY RENOVATION
191 STONEY POINT ROAD
GUMMAQUID, MA 02637
2/18/2020

A-4

EXHIBIT THREE

3

1. Rotted wall studs



2. Dry rot floor joist



3. Dry rot of floor joist



4. Damage & inconsistent framing



5. Poor framing and damaged joist

6. Extremely rotted box, sill and plate



7. Insect Infestation



8. Rotted box, sill and plate



9. Carpenter ant infestation.



10. Rotted sills and box



Reverse Rip along rear box



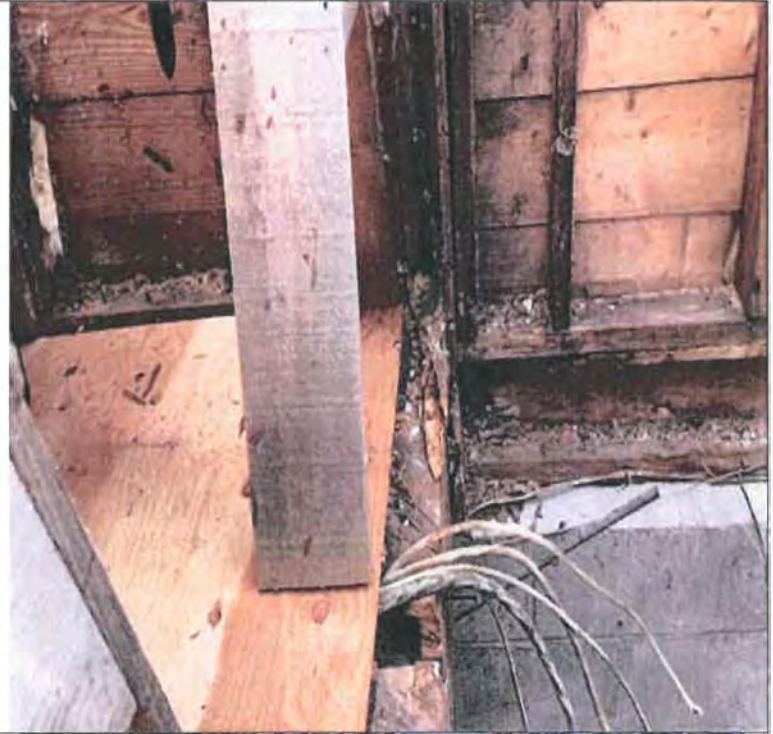
2" x 12" Box in rear right corner



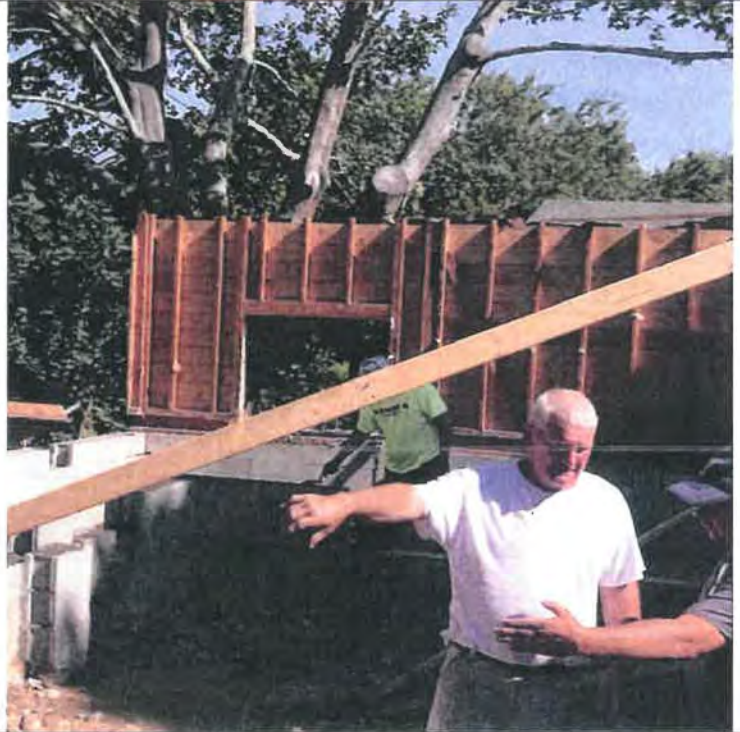
2" x 6" Box rear left corner
Over 2"x 6" PT bolted ledger



2" x 12" PT Box rear right corner
Over 2" x 6" PT bolted ledger



Discussion of unlevel foundation



4" out of level front left to rear right

EXHIBIT FOUR

4

August 19, 2020

Inspection of Renovation/Addition

Clancy Residence
191 Stoney Point Road
Cummaquid, MA

Jeffrey Clancy Contracting
2 Carleton Drive
East Sandwich, MA 02537

The existing structure is about 70 years old. The frame and foundation have severe damage from wet rot and dry rot due to the intrusion of water.

Foundation & Exterior Walls

1. The untreated sill was damaged from water within the exterior walls.

The sill was replaced with a pressure treated 2"x6" sill, anchored with 5/8" dia. anchor bolts @ 32" o.c.

2. The rear foundation was in poor condition

A new 16" wide by 12" deep concrete footing was doveled next to the existing. The dowels used were 5/8" dia., Fy=40,000 psi, reinforcing at 12" o.c.

3. The existing 8" CMU block foundation walls are unreinforced.

The broken CMU blocks were replaced. The voids were filled with 3,000 psi grout. The voids were reinforced with 5/8" dia. reinforcing at 32" o.c.

EXHIBIT FIVE

5

MITIGATION CALCULATIONS:

HARDSCAPE	0-50'	50-100'
EXISTING:	894 SF	0 SF
PROPOSED:	954 SF	0 SF
INCREASE:	60 SF	0 SF

120 SF MITIGATION PLANTINGS PROVIDED, REQUEST MITIGATION CONSTRAINED SITE DETERMINATION- (REQUEST 1/2 PLANTINGS, 1/2 IN LIEU FEE INSTEAD OF REMAINING PLANTINGS: 30 x 4 = 120 SF x 3.50 = \$420.00)

ZONING SUMMARY

ZONING DISTRICT: RF-1 DISTRICT

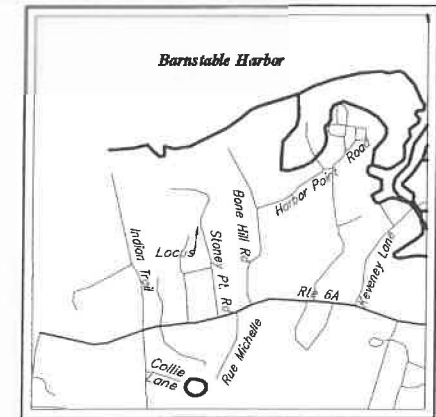
	REQUIRED:	EXISTING:	PROPOSED:
MIN. LOT SIZE	43,560 S.F.	7,272 S.F.	7,272 S.F. UPLAND
MIN. LOT FRONTAGE	20'	67.26'	67.26'
MIN. LOT WIDTH	125'	63.7'	63.7'
MIN. FRONT SETBACK	30'	9.2'	9.2'
MIN. SIDE SETBACK	15'	1.8'	1.8'
MIN. REAR SETBACK	15'	123.3'	123.0'
MAX. BUILDING HEIGHT	30'		
*MAX. LOT COVERAGE	20%	12.3%	13.2%
*MAX. FLOOR AREA RATIO	0.30	0.22	0.28

*PER SEC. 204-91 'RAZE & REPLACE'

SITE IS LOCATED WITHIN THE AQUIFER PROTECTION OVERLAY DISTRICT

NOTES

- DATUM IS NAVD88
- THIS PLAN IS FOR PROPOSED WORK ONLY AND NOT TO BE USED FOR LOT LINE STAKING OR ANY OTHER PURPOSE.
- CONTRACTOR SHALL BE RESPONSIBLE FOR CALLING DIGSAFE (1-888-344-7233) AND VERIFYING THE LOCATION OF ALL UNDERGROUND & OVERHEAD UTILITIES PRIOR TO COMMENCEMENT OF WORK.
- EXISTING SEPTIC LOCATION PER TIE-CARD ON FILE WITH TOWN.
- PROVIDE DRYWELLS OR ROOF LINES TO STONE TRENCHES FOR ALL ROOF RUN-OFF.
- PROPOSED WORK TO INCLUDE FOUNDATION REPAIRS AND MODIFICATIONS; REMODEL FIRST STORY, ADD SECOND STORY
- NO INCREASE IN BEDROOMS



LOCUS MAP

SCALE 1"=2000'±

ASSESSORS MAP 336 PARCEL 28

LOCUS IS WITHIN FEMA FLOOD ZONE X AND AE EL 12 AS SHOWN ON COMMUNITY PANEL #25001C0559J DATED 7-16-14

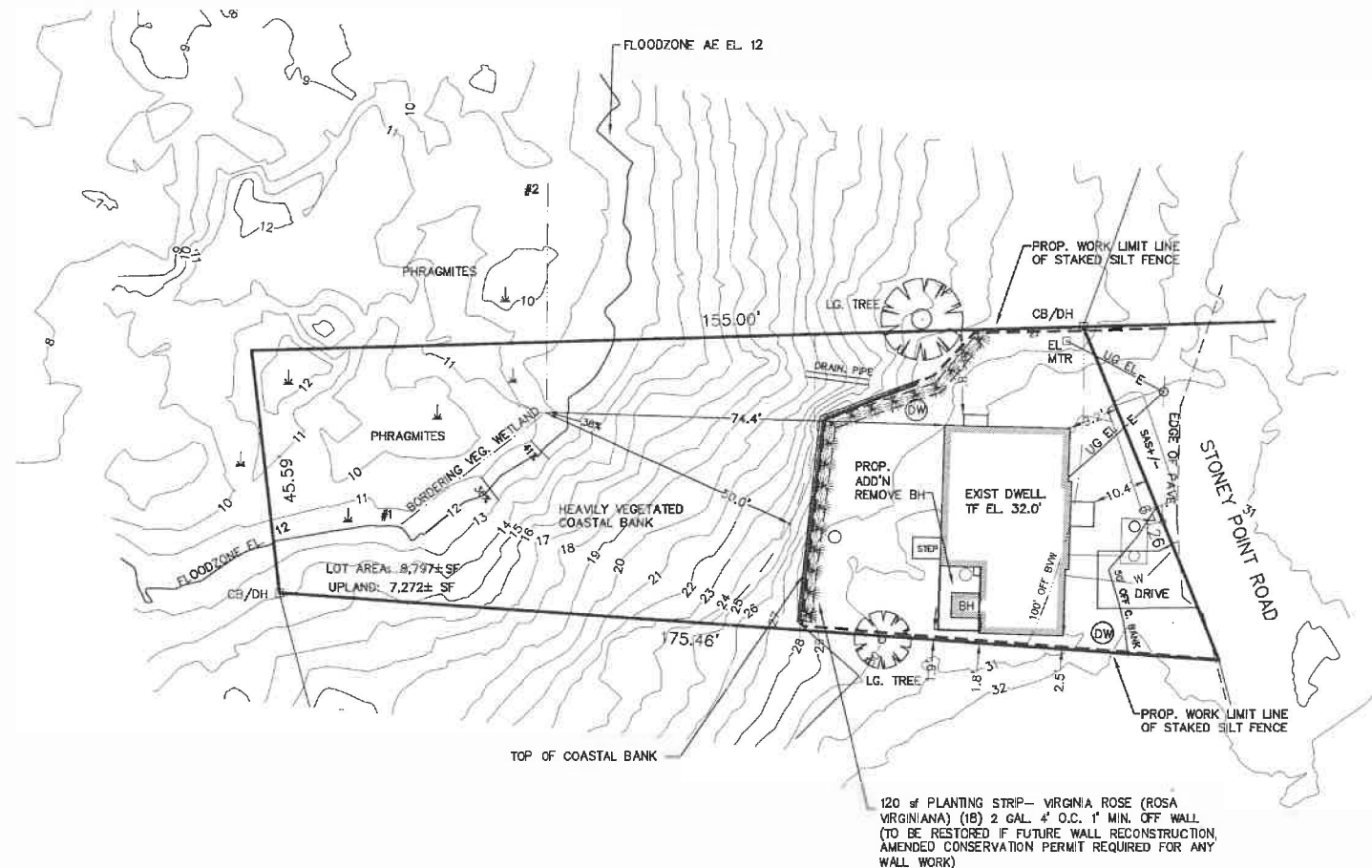
THAT PORTION OF SITE BELOW EL 12 IS PART OF BARNSTABLE ACEC

OWNER OF RECORD

JOHN AND JUDY CLANCY
8 JASPER LANE
FORESTDALE

REFERENCES

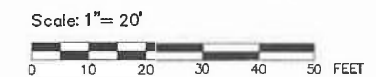
DEED BOOK 32054 PAGE 289
PLAN BOOK 448 PAGE 81



SITE PLAN
OF
191 STONEY POINT ROAD
CUMMAQUID

PREPARED FOR
JOHN & JUDY CLANCY

NOVEMBER 11, 2019
JANUARY 22, 2020 (SMALLER PORCH)
REV. 5-18-2020 (PER CONSCOM APPROVAL)
REV. 9-17-2020 (FOR ZBA)

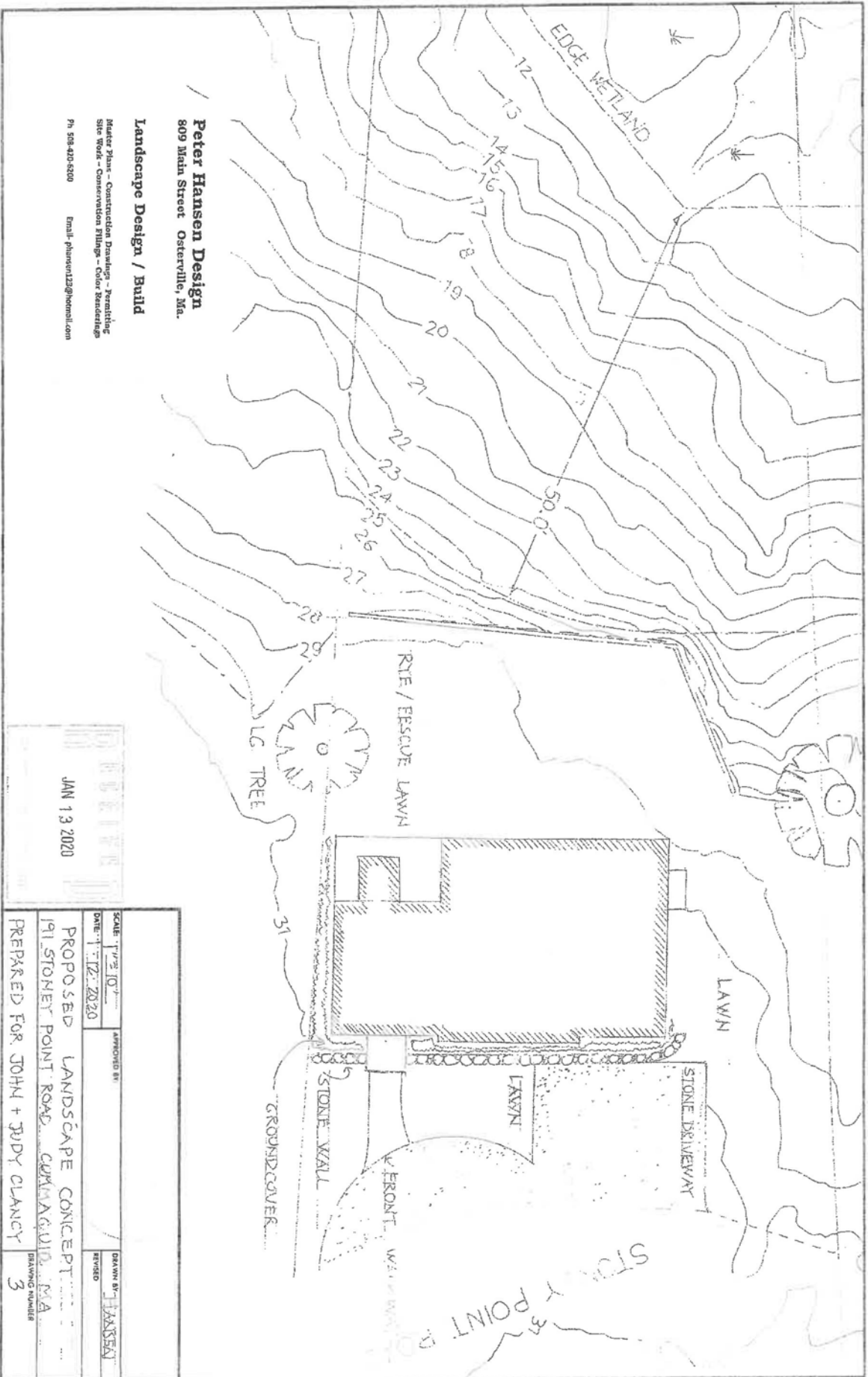


off 508-382-4541
fax 508-362-9880
downcape.com
down cape engineering, inc.
civil engineers
land surveyors
939 Main Street (Rte 6A)
YARMOUTHPORT MA 02675
19-332

9-17-20
DATE
DANIEL A. OJALA, P.L.S.

EXHIBIT SIX

6



Peter Hansen Design
 809 Main Street
 Oosterville, Ma.

Landscape Design / Build

Master Plans - Construction Drawings - Planting
 Site Work - Construction Filings - Color Renderings
 Ph 508-420-5300 Email: phansen12@hotmail.com

JAN 13 2020

SCALE: 1/4" = 10'	APPROVED BY:	DRAWN BY: PHANSEN
DATE: 12.20.20	REVISION:	
PROPOSED LANDSCAPE CONCEPT		
191 STONEY POINT ROAD, CUMMAQUID, MA		
PREPARED FOR: JOHN + JUDY CLANCY		
	DRAWING NUMBER:	3



Town of Barnstable
 Planning and Development Department
 Elizabeth Jenkins, Director
 Staff Report

Special Permit No. 2020-035 – Clancy
Section 240-91(H)3 – Nonconforming Lot-Developed Lot Protection

To allow the demolition of an existing dwelling and construction of a new dwelling on a lot less than 10,000 square feet

Date: October 14, 2020
To: Zoning Board of Appeals
From: Anna Brigham, Principal Planner

Applicant: **John and Judith Clancy**
Property Address: 191 Stoney Point Road, Barnstable, MA
Assessor’s Map/Parcel: 336/028
Zoning: Residence F-1 (RF-1)

Filed: September 21, 2020

Hearing: October 28, 2020

Decision Due: January 26, 2021

Copy of Public Notice

Judith and John Clancy have applied for a Special Permit pursuant to Section 240-91.H Demolition and Rebuilding on Nonconforming Lots and 240-92 – Nonconforming Buildings or Structures Used as Single or Two-Family Residences. The Applicants are proposing to demolish an existing three-bedroom dwelling and construct a new, three-bedroom dwelling on a lot consisting of less than 10,000 square feet. The subject property is located at 191 Stoney Point Road, Barnstable, MA as shown on Assessor’s Map 336 as Parcel 028. It is located in the Residence F-1 (RF-1) Zoning District.

Background

John and Judith Clancy are seeking a Special Permit to allow the demolition of an existing 1,216 gross floor area single family dwelling and the construction of a 2,613 gross floor area single family dwelling at 191 Stoney Point Road, Barnstable.

The subject lot is 8,797 square feet and developed with a 1,216 gross square foot dwelling constructed in 1946. The lot has frontage on Stoney Point Road and overlooks the north side marshes. A variety of lot sizes appear in the area.

The existing dwelling has a front yard setback of 9.2 feet, southerly side yard setback of 1.8 feet, a northerly side setback of 15.2 feet, and a rear setback of over 100 feet. The existing lot coverage is 12.3 %, Floor Area Ratio (FAR) of 0.22, and height approximately 19 feet, 1.75 stories.

The proposed dwelling will have the same front, side, and rear setbacks as the existing dwelling, but the lot coverage will increase to 13.2% and the Floor Area Ratio (FAR) will increase to 0.28 and the building height will increase to 27 feet, 2.5 stories. The lot size is 8,797 square feet where one acre is required. Under Section 240-91 (H)(3) Special Permit is required for demolition and rebuilding because the lot is under 10,000 square feet and cannot meet the criteria in H(1).

Proposal & Relief Requested

John and Judith Clancy are seeking a Special Permit to allow the demolition of an existing 1,216 gross floor area single family dwelling and the construction of a 2,613 gross floor area single family dwelling 8,797 square foot lot.

The existing lot coverage is 12.3% and the proposed lot coverage is 13.2%, under the threshold of 20%. The existing FAR is 22% and the proposed FAR is 28%, under the 30% threshold allowed.

Section 240-91(H)(3) requires a special permit for all demolition and rebuilding projects if the proposed demolition and rebuilding cannot satisfy the criteria under Section 240-91(H)(1) “As of Right”, but the following criteria must be met:

- J Lot Coverage: 13.2% (20% maximum) – 1,161 square feet (1,759 square feet allowed)
- J Floor-Area Ratio: 28% (30% maximum) – 2,463 square feet (2,639 square feet allowed)
- J Building Height: 27 feet to top of plate (30 feet maximum)

Proposed Special Permit Findings

For all Special Permits, the Board is required to make general findings pursuant to § 240-125(C). The Board should review the evidence presented by the Applicant, staff, and members of the public and, after weighing such evidence, is encouraged to articulate if and how the evidence contributes to each of the required findings.

J **The application falls within a category specifically excepted in the ordinance for a grant of a special permit.** Section 240-91(H)(3) allows for the complete demolition and rebuilding of a residence on a lot under 10,000 square feet.

J **Site Plan Review is not required for single-family residential dwellings.**

J **After an evaluation of all the evidence presented, the proposal fulfills the spirit and intent of the Zoning Ordinance and would not represent a substantial detriment to the public good or the neighborhood affected.**

Further, Section 240-91(H)(3) requires the Board to find that if the proposed demolition and rebuilding cannot satisfy the criteria established is H(1) As-Of-Right, then the Board may allow the demolition and rebuilding by Special Permit provided the Board finds that:

- J **The proposed yard setbacks must be equal to or greater than the yard setbacks of the existing building.** The proposed setbacks are equal to the existing setbacks.
- J **The proposed lot coverage shall not exceed 20% or the existing lot coverage, whichever is greater.** The proposed lot coverage is 13.2%.
- J **The floor area ratio shall not exceed 0.30 or 30% the existing floor area ratio of the structure being demolished, whichever is greater.** The proposed FAR is 28%.
- J **The building height, in feet, shall not exceed 30 feet to the highest plate and shall contain no more than 2 ½ stories.** The proposed height is 27 feet to the top of the plate and the proposed dwelling is 2 ½ stories.

The Board is also asked to find that:

J **The proposed new dwelling would not be substantially more detrimental to the neighborhood than the existing dwelling.**

Suggested Conditions

Should the Board find to grant Special Permit No. 2020-035, it may wish to consider the following conditions:

1. Special Permit No. 2020-035 is granted to John and Judith Clancy for the demolition of an existing dwelling and construction of a 2,613 gross floor area dwelling at 191 Stoney Point Road, Barnstable, MA.
2. The site development shall be constructed in substantial conformance with the plan entitled “Site Plan of 191 Stoney Point Road Cummaquid” prepared for John and Judy Clancy drawn and

stamped by Down Cape Engineering dated November 11, 2019 with the last revision date of September 17, 2020.

3. The total lot coverage of all structures on the lot shall not exceed 13.2% and the floor-area ratio shall not exceed 28%.
4. The proposed redevelopment shall represent full build-out of the lot. Further expansion of the dwelling or construction of additional accessory structures is prohibited without prior approval from the Board.
5. All mechanical equipment associated with the dwelling (air conditioners, electric generators, etc.) shall be screened from neighboring homes and the public right-of-way.
6. The decision shall be recorded at the Barnstable County Registry of Deeds/Land Court and copies of the recorded decision shall be submitted to the Zoning Board of Appeals Office and the Building Division prior to issuance of the building permit. The rights authorized by this special permit must be exercised within two years, unless extended.

Copies: Applicants (c/o Attorney Paul Revere)

Attachments: Application
Site Plans
Building plans
Assessor's Record & Aerial Photo

Mrs. Sheila R. Flaherty
205 Stoney Point Road
Cummaquid, MA. 02637

October 20, 2020

Town of Barnstable Planning and Development Department
Zoning Board of Appeals Committee
367 Main Street
Hyannis, MA 02601

Dear Zoning Board of Appeals,

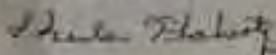
It is with excitement and gratitude that I am writing to you in support of the remodel of the home at 191 Stoney Point Road. As I have spent my entire life first visiting and then residing next door to this property. I have witnessed what my Aunt once built with pride and enthusiasm been resold several times and sadly let go into a state of disrepair.

So, I am looking forward to this house being built and my new neighbors enjoying many happy days as I have known in our neighborhood.

Please consider my opinion in your decision on this matter.

Sincerely,

Sheila R. Flaherty





**TOWN OF BARNSTABLE
Zoning Board of Appeals**

Petition for a Special Permit

20 SEP 28 P12:54

BARNSTABLE
TOWN CLERK

Date Received
Town Clerk's Office:

For office use only:

Appeal # _____
Hearing Date _____
Days Extended _____
Decision Due _____

The undersigned hereby applies to the Zoning Board of Appeals for a Special Permit, in the manner and for the reasons set forth below:

Petitioner's Name¹: Laurie J. Hall, Trustee of the TMT Realty Trust Phone: 508-790-5400

Petitioner's Address: c/o Sarah Turano-Flores, Esq.,
Nutter, McClennen & Fish, LLP, P.O. Box 1630, Hyannis, MA 02601

Property Location: 979 Sea View Avenue, Osterville

Property Owner: Same as Petitioner Phone: 508-790-5400

Address of Owner: 400 Atlantic Avenue, Boston, MA 02110
If applicant differs from owner, state nature of interest.²

Registry of Deeds/Land Court References: Deed Doc.# 1,406,173 Plan L.C. Plan 10939-D

Assessor's Map/Parcel Number: 090/008 Zoning District: RF-1; RPOD

Number of Years Owned: Approx. 1 mo. Groundwater Overlay District: AP

Special Permit Requested: §240-47.1(B) (Family Apartment)

Description of Activity/Reason for Request: Applicant proposes to construct a three-bedroom, detached family apartment cottage to be used by more than two, adult family members, pursuant to Section 240-47.1(B) of the Barnstable Zoning Ordinance. Please see attached narrative.

Attach additional sheet if necessary

Is the property subject to an existing Variance or Special Permit No Yes --

Permit #. _____

¹ The Petitioner's Name will be the entity to whom the special permit will be issued to.

² If the Applicant differs from owner, the Applicant will be required to submit one original notarized letter, from the owner authorizing the application to the Zoning Board, a copy of an executed purchase & sales agreement or lease, or other documents to prove standing and interest in the property.

Petition for a Special Permit - Page 2

Description of Construction Activity (if applicable): See prior description on Page 1

Attach additional sheet if necessary

Existing Level of Development of the Property - Number of Buildings: 3 buildings (main house, accessory structure/former boathouse, cabana)

Present Use(s): Residential

Existing Gross Floor Area: 9,871 (per assessor) sq. ft. Proposed Gross Floor Area: 2,280 s.f. family apartment cottage sq. ft.

Site Plan Review Number: N/A Date Approved: (not required for Single or Two family use)

Is the property located in a designated Historic District? Yes No X

Is this proposal subject to the jurisdiction of the Conservation Commission? Yes X No

Is this proposal subject to approval by the Board of Health? Yes X No

Is the building a designated Historic Landmark? Yes No X

Have you applied for a building permit? Yes No X

Have you been refused a building permit? Yes No X

The following Required information, as applicable to application, must be submitted with the application at the time of filing, failure to do so may result in a denial of your request.

- Three (3) copies of the completed application form, each with original signatures.
Three (3) copies of a 'wet sealed' certified property survey (plot plan) and one (1) reduced copy (8 1/2" x 11" or 11" x 17") showing the dimensions of the land, all wetlands, water bodies, surrounding roadways and the location of the existing improvements on the land.
Three (3) copies of a proposed site improvement plan, as found approvable by the Site Plan Review Committee (if applicable), and building elevations and layout as may be required plus one (1) reduced copy (8 1/2" x 11" or 11"x 17"), of each drawing. These plans must show the exact location of all proposed improvements and alterations on the land and to structures.
The applicant may submit any additional supporting documents to assist the Board in making its determination. Twelve copies of all supporting documents must be submitted eight days prior to the public hearing for distribution to the Board Members.

Signature: Sarah A. Turano-Flores Date: September 28, 2020
Applicant's or Representative's Signature

Print Name: Sarah A. Turano-Flores, Esq.
Nutter, McClennen & Fish, LLP

Address: P.O. Box 1630, Hyannis, MA 02601 Phone 508-790-5400

Fax No: 508-771-8079

e-mail Address: sturano-flores@nutter.com

Note: All correspondence on this application will be processed through the Representative named at that address and phone number provided. Except for Attorneys, if the Representative differs from the Applicant/Owner, a letter authorizing the Representative to act on behalf of the Applicant/Owner shall be required.

TMT Realty Trust Family Apartment Special Permit Application
979 Sea View Avenue, Osterville

Zoning Narrative

The following zoning analysis is submitted in support of the TMT Realty Trust’s (the “Trust’s”) zoning application, wherein the Trust is requesting that the Barnstable Zoning Board of Appeals (the “Board”) grant it a Family Apartment Special Permit pursuant to Section 240-47.1(B) of the Barnstable Zoning Ordinance (“Ordinance”) to allow the addition of a detached, three-bedroom family apartment cottage (“Family Apartment Cottage” or “Cottage”) on the fully conforming lot located at 979 Sea View Avenue, Osterville, Barnstable, Massachusetts (the “Property”). The Property is located within the Residential F-1 (RF-1) Zoning District, the Aquifer Protection (AP) Overlay District, the Resource Protection (RP) Overlay District, and the Floodplain District.

As described in detail below, both the Property and the existing dwelling are fully conforming to current zoning requirements, both in terms of the existing residential use and the Ordinance’s dimensional requirements. The proposed Family Apartment Cottage is an allowed residential accessory use and will also fully conform to dimensional requirements. However, because the Family Apartment Cottage will be detached from the existing dwelling, will contain more than two bedrooms, and will be used by more than two, adult family members (the children of the Trust are college-aged), it requires a Special Permit from the Board pursuant to Section 240-47.1(B) of the Ordinance. For the reasons set forth herein, the Trust respectfully requests the Board grant it a Special Permit authorizing the construction of the proposed Family Apartment Cottage on the fully conforming Property.

I. The Existing Property

The Property is shown on the Barnstable Assessor’s Map 090 as Parcel 008. The Trust purchased the Property by deed dated September 2, 2020, recorded in the Barnstable County Land Court Registry District as Document No. 1,406,173. The 4.15-acre lot was created in 1975 and fully conforms to current frontage, lot area, and lot width requirements set forth in the Ordinance for the RF-1 District. Specifically, it contains it contains 43.3 feet of frontage (20 feet is required); has a lot width of 278.3 feet (125 feet is required); and contains 83,629 s.f. of buildable upland (43,560 s.f. is required).¹ The Property is currently improved with a two-and-a-half story single-family dwelling that contains 9,871 s.f. of gross floor area per the Barnstable Assessor’s records. Like the lot, the existing dwelling fully conforms to the Ordinance’s bulk dimensional requirements.

II. The Proposed Family Apartment Cottage

The Trust proposes to construct a detached, three-bedroom Family Apartment Cottage as accessory in use to the existing dwelling on the Property. Ultimately, the Trust plans to demolish

¹ Section 240-91(G) of the Ordinance expressly exempts this Property from the requirement that lots in the RP Overlay District contain at least 87,500 s.f. of upland, as the Property was created prior to November 16, 2000 and conformed to the applicable bulk requirements of the Ordinance at the time of its creation.

and reconstruct the existing dwelling as part of its overall plans for the Property, but the Family Apartment Cottage construction will occur first, and is intended to be complete before the existing dwelling is demolished and the future primary dwelling constructed.

The proposed Cottage will have a footprint of 1,204 s.f. and will be located partially within the footprint of the existing tennis court on the Property. The total gross floor area of the Cottage will be 2,280 s.f., which is 23% of the gross floor area of the existing dwelling (which contains 9,871 s.f.). Importantly, the Cottage will fully conform to current dimensional requirements, including all applicable setbacks and building height.²

A new, Title 5 septic system will replace the existing sewage disposal system currently located on the Property. The new system has been designed to accommodate the total number of bedrooms that will exist on site as a result of the construction of the Cottage (five bedrooms in the existing dwelling plus the three bedrooms proposed within the Family Apartment Cottage), as well as the final number of bedrooms following the future redevelopment of the Property. The proposed septic system does not require any variances from Title 5 regulations or from the Barnstable Board of Health regulations.

The Family Apartment Cottage will be occupied solely by the immediate and extended family members of the Trust. In accordance with Section 240-47.1 of the Ordinance, the Family Apartment Cottage will not be rented to non-family members, and the Trust will comply with the annual Affidavit requirements contained in the Ordinance.

III. Applicable Provisions of the Bylaw

Pursuant to the family apartment provisions of the Ordinance at Section 240-47.1, a family apartment is allowed on the same lot as a single family dwelling by right if (1) it does not exceed 50% of the square footage of the existing single-family dwelling and is limited to no more than two bedrooms; (2) occupancy does not exceed two family members (children under 18 are not included in this count); and (3) the family apartment is located within or connected to the single-family dwelling. *See* Ordinance, § 240-47.1(A).

The Trust seeks a special permit from the Zoning Board of Appeals pursuant to Section 240-47.1(B) of the Ordinance because it proposes to construct the Family Apartment Cottage within a detached structure, containing three bedrooms and intended to house the immediate and extended family members of the Trust, which includes more than two adult family members. The Ordinance provides that the Board may grant such a Special Permit provided it finds that the

² The RF-1 Zoning District requires a minimum 30-foot front yard setback, a minimum 15-foot side and rear yard setback, and a minimum 35-foot setback from wetlands. *See* Ordinance, §§ 240-13(E), 240-7(G)(1). The proposed Cottage is 108.4 feet from the road, has a minimum side yard setback of 18.1 feet from the northerly abutter, a side yard setback of 52.4 feet from the easterly abutter, and is located more than 300 feet away from the rear property line. Additionally, it is located over 145 feet from the coastal dune on the Property, well in excess of the minimum 35-foot coastal wetland requirement in Section 240-7(G)(1). Moreover, pursuant to Section 240-128 of the Ordinance, the proposed Building Height of the Cottage as measured from the ground level to the plate is 20.13 feet and two stories, well below the maximum allowed Building Height of 30 feet.

single-family nature of the property and the accessory nature of the detached structure are preserved. *Id.* § 240-47.1(B)(2), (3) and (4).

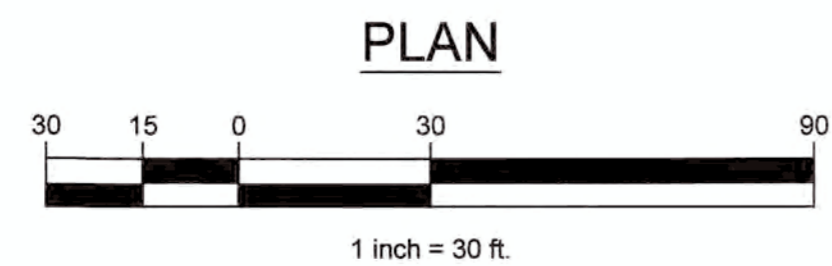
IV. A Special Permit is Warranted in These Circumstances

The proposed Family Apartment Cottage preserves the single-family nature of the Property and the accessory nature of the detached structure, and is in keeping with the spirit and intent of the Ordinance. The large, 4.15-acre lot (of which more than 83,600 s.f. is buildable upland) is more than suitable for the addition of a detached Family Apartment, particularly where the footprint of the proposed Family Apartment Cottage is only 1,204 s.f. and will be located within the previously disturbed area of the existing tennis court located on the Property. Additionally, the proposed Family Apartment Cottage will contain a total gross floor area of 2,280 s.f., which is only 23% of the gross floor area of the existing dwelling. It will remain significantly less than 50% of the gross floor area of the future primary dwelling. Finally, as described above, the Family Apartment Cottage will fully satisfy all dimensional requirements set forth in the Ordinance.

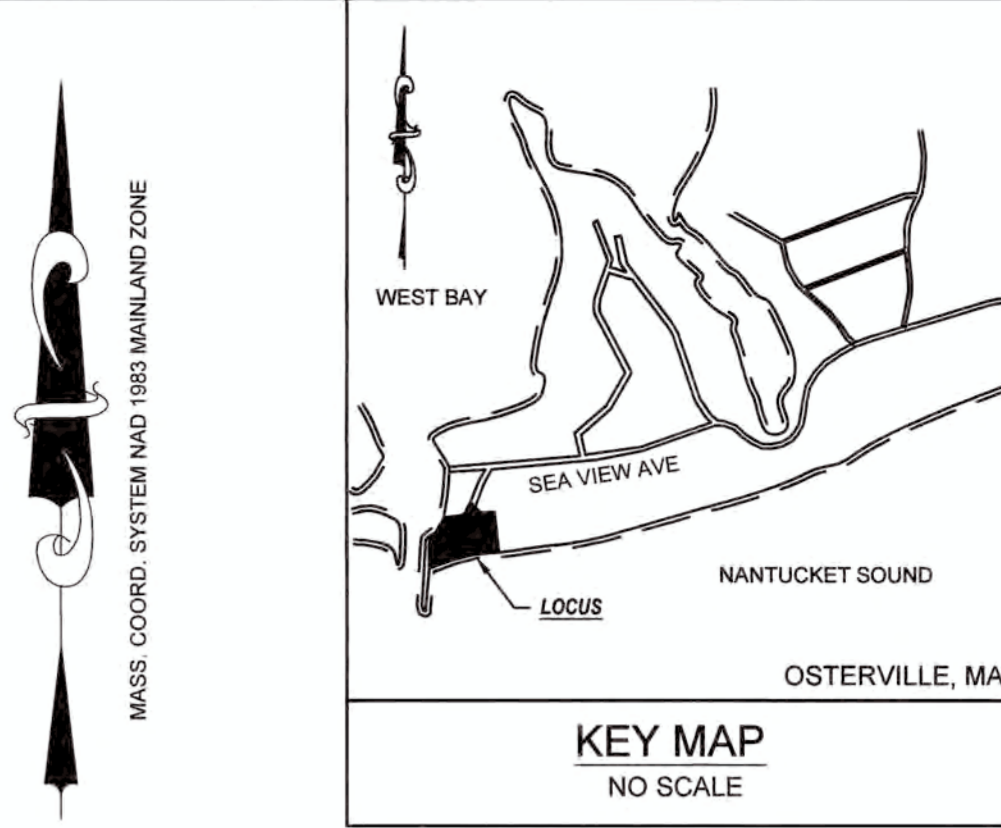
In addition to complying with the dimensional provisions of the Family Apartment provisions of the Ordinance, the proposed Cottage complies with its purpose and intent. According to the preamble of Section 240-47.1, the intent of the provision is to allow within all residential zoning districts one temporary family apartment occupied only by the property owner or a member(s) of the property owner's family as accessory to a single-family residence to provide families the ability to live together as a family unit, but not to allow for a separate dwelling for rental purposes to non-family members. The Cottage is intended to be utilized only by the immediate and extended family members of the Trust. There is no intention to ever rent the Cottage, either to family or non-family members.

As such, it is clear that the proposed Family Apartment Cottage is accessory in nature, the Property will continue to be used solely for single-family residential purposes, and the Cottage is in keeping with the spirit and intent of the Ordinance. Accordingly, the Trust respectfully requests that the Board approve its application for a Family Apartment Special Permit.

4937244.1



PLAN



REFERENCE:
 ASSESSORS MAP 090, PARCEL 008
 CTF. #198026
 L.C. PLAN 10939-D, LOT 7
 L.C. PLAN 10939-A
 L.C. PLAN 10939-E
 L.C. PLAN 2664-101

FLOOD ZONE:
 FLOOD ZONE VE (EL. 15), ZONE VE (EL. 14) AND ZONE AE (EL. 12) SHOWN ON THIS DRAWING ARE A DIRECT REPRESENTATION OF THE GRAPHIC FLOOD ZONE BOUNDARIES SHOWN ON FEMA FIRM PANEL #25001C0757J EFFECTIVE JULY 16, 2014. PLEASE NOTE THAT SITE SPECIFIC FLOODPLAIN BOUNDARIES MAY VARY DUE TO DIFFERENT INTERPRETATIONS OF THESE BOUNDARIES. USERS ARE ADVISED TO VERIFY LOCATION OF THESE BOUNDARIES WITH THE DESIGNATED COMMUNITY FLOODPLAIN MANAGERS AND/OR FEMA PRIOR TO SITING ANY PROPOSED STRUCTURES.

DATUM:
 ELEVATIONS SHOWN HEREON ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 1988)

- LEGEND**
- BOUND
 - ⊗ WATER VALVE
 - ⊕ ELECTRIC METER
 - ⊕ GAS METER
 - ⊕ IRRIGATION CONTROL BOX
 - W WATER LINE
 - ⊕ MISCELLANEOUS MANHOLE
 - - - - - CONTOUR
 - x 15.4 SPOT GRADE
 - ☀ CONIFEROUS TREE
 - ☀ DECIDUOUS TREE
 - CATCH BASIN
 - △ DT1 COASTAL DUNE BOUNDARY

I HEREBY CERTIFY THAT THE CONDITIONS SHOWN HEREON ARE LOCATED AS THEY EXISTED ON THE GROUND AS OF 8-11-2020.

DATE Sept. 23, 2020

P.L.S.

COASTAL engineering co.
 250 Cranberry Hwy, Orleans, MA 02653
 508.255.6511 P 508.255.6700 F

NO.	DATE	REVISION
1	9/23/2020	REMOVE BUFFER ZONES, LABEL SECONDARY DUNE, ASSESSORY BLDG.

BY _____

DATE _____

NO. _____

REVISION _____

PROJECT: 979 SEA VIEW AVENUE, OSTERVILLE, MA

SHEET TITLE: PLAN SHOWING EXISTING SITE CONDITIONS

SCALE: AS NOTED

DRAWING FILE: C19442-V.dwg

DATE: 9-21-2020

DRAWN BY: JLH

CHECKED BY: JDM

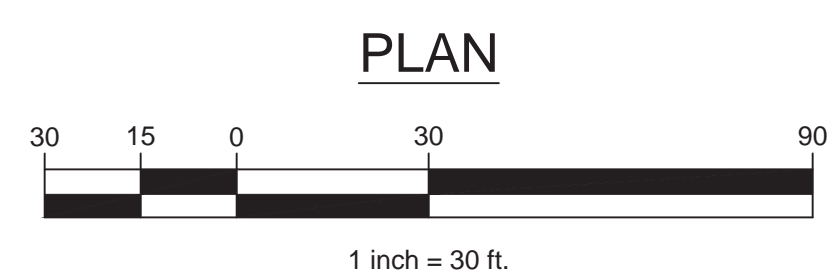
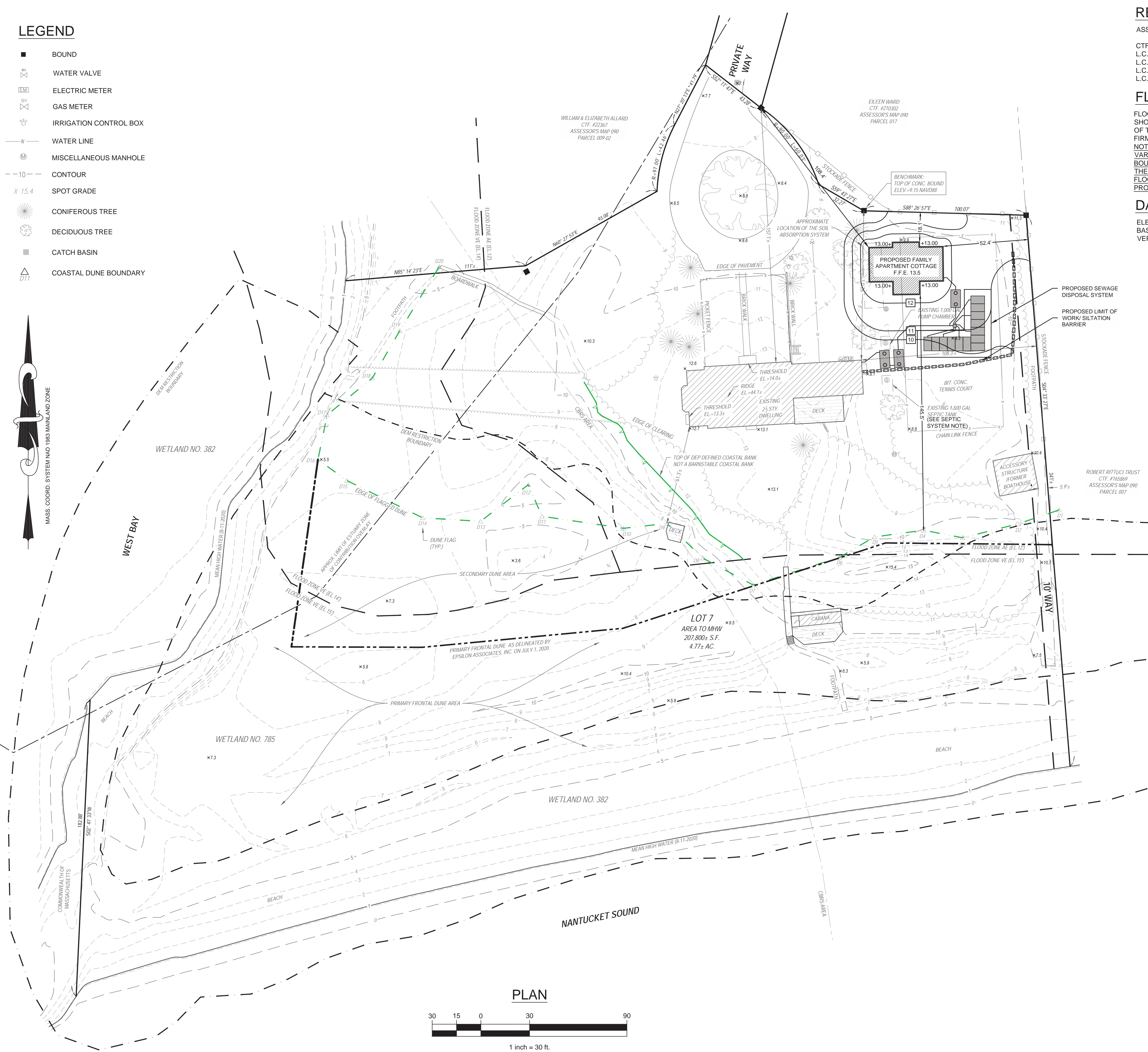
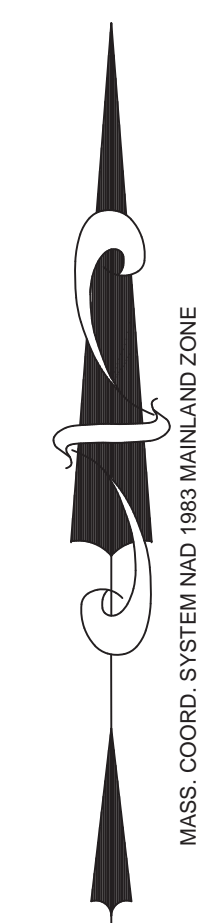
C1.2.1

1 OF 1 SHEETS

PROJECT NO. C19442.00

LEGEND

- BOUND
- ⊗ WATER VALVE
- ⊕ ELECTRIC METER
- ⊕ GAS METER
- ⊕ IRRIGATION CONTROL BOX
- WATER LINE
- ⊕ MISCELLANEOUS MANHOLE
- - - CONTOUR
- x 15.4 SPOT GRADE
- ☀ CONIFEROUS TREE
- 🌳 DECIDUOUS TREE
- CATCH BASIN
- △ COASTAL DUNE BOUNDARY



REFERENCE:

ASSESSORS MAP 090, PARCEL 008

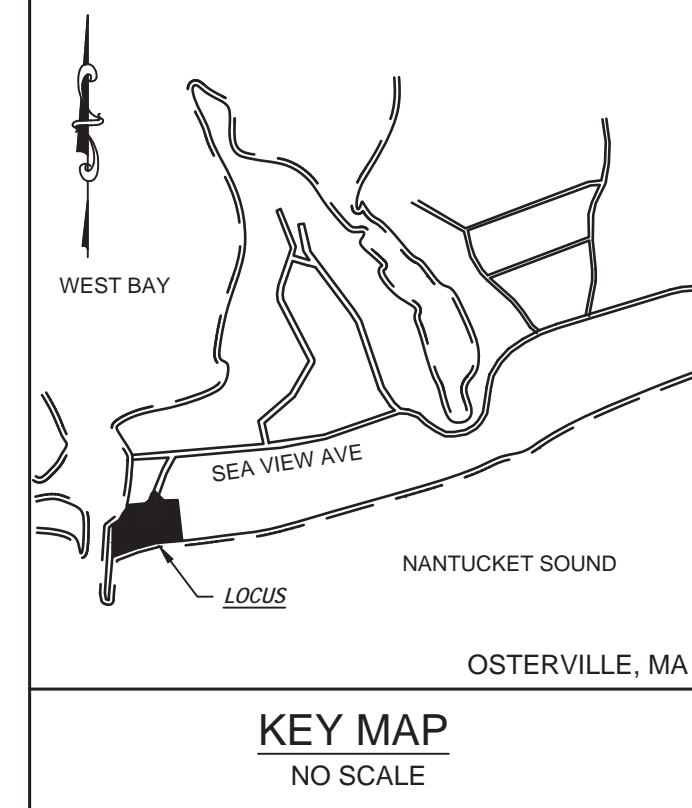
CTF. #198026
 L.C. PLAN 10939-D, LOT 7
 L.C. PLAN 10939-A
 L.C. PLAN 10939-E
 L.C. PLAN 2664-101

FLOOD ZONE:

FLOOD ZONE VE (EL. 15), ZONE VE (EL. 14) AND ZONE AE (EL. 12) SHOWN ON THIS DRAWING ARE A DIRECT REPRESENTATION OF THE GRAPHIC FLOOD ZONE BOUNDARIES SHOWN ON FEMA FIRM PANEL #25001C0757J EFFECTIVE JULY 16, 2014. PLEASE NOTE THAT SITE SPECIFIC FLOODPLAIN BOUNDARIES MAY VARY DUE TO DIFFERENT INTERPRETATIONS OF THESE BOUNDARIES. USERS ARE ADVISED TO VERIFY LOCATION OF THESE BOUNDARIES WITH THE DESIGNATED COMMUNITY FLOODPLAIN MANAGERS AND/OR FEMA PRIOR TO SITING ANY PROPOSED STRUCTURES.

DATUM:

ELEVATIONS SHOWN HEREON ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 1988)



ZONING:

ZONE: RF-1

LOT AREA (MIN) 43,560 S.F.
 FRONTAGE (MIN) 20 FT.
 LOT WIDTH (MIN) 125 FT.
 FRONT SETBACK 30 FT.
 SIDE SETBACK 15 FT.
 REAR SETBACK 15 FT.

OVERLAY DISTRICT: AP - AQUIFER PROTECTION OVERLAY DISTRICT
 RPOD - RESOURCE PROTECTION OVERLAY DISTRICT
 ESTUARY ZONE OF CONTRIBUTION OVERLAY (A PORTION OF THE LOT)

ZONING TABLE

ZONING DISTRICT: RF-1		ASSESSORS MAP 090 PARCEL 008		
SUBJECT	REQUIRED	EXISTING	PROPOSED	
LOT AREA	43,560 S.F.	83,629± S.F.	NO CHANGE	
FRONTAGE	20 FT.	43.3 FT.	NO CHANGE	
LOT WIDTH	125 FT.	278.3± FT.	NO CHANGE	
FRONT SETBACK - MAIN HOUSE	30 FT.	157.1± FT.	NO CHANGE	
SIDE SETBACK (NORTH) - MAIN HOUSE	15 FT.	92.0± FT.	NO CHANGE	
SIDE SETBACK (EAST) - MAIN HOUSE	15 FT.	108.3± FT.	NO CHANGE	
REAR SETBACK - MAIN HOUSE	15 FT.	213.4± FT.	NO CHANGE	
WETLAND SETBACK - MAIN HOUSE	35 FT.	61.3± FT. (DUNE)	NO CHANGE	
FRONT SETBACK - FAMILY APARTMENT COTTAGE	30 FT.	N/A	108.4± FT.	
SIDE SETBACK (NORTH) - FAMILY APARTMENT COTTAGE	15 FT.	N/A	18.1± FT.	
SIDE SETBACK (EAST) - FAMILY APARTMENT COTTAGE	15 FT.	N/A	52.4± FT.	
REAR SETBACK - FAMILY APARTMENT COTTAGE	15 FT.	N/A	301.9± FT.	
WETLAND SETBACK - FAMILY APARTMENT COTTAGE	35 FT.	N/A	145.5± FT. (DUNE)	
BUILDING HEIGHT - FAMILY APARTMENT COTTAGE	30 FT. / 2.5 STY	N/A	20.13 FT.	

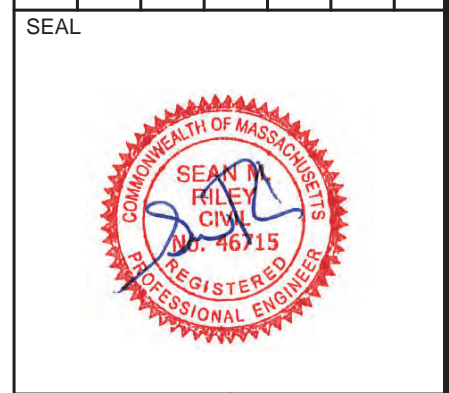
BUILDING HEIGHT NOTE:

PROPOSED FAMILY APARTMENT COTTAGE:
 GRADE PLANE = 13.00'
 PROPOSED TOP PLATE EL. = 33.13'
 PROPOSED BUILDING HEIGHT = 33.13 - 13.00 = 20.13'

SEPTIC SYSTEM NOTE:

EXISTING SEWAGE DISPOSAL SYSTEM TO BE PUMPED AND REMOVED ALONG WITH SURROUNDING CONTAMINATED SOIL

NO.	DATE	REVISION	BY



PROJECT: 979 SEA VIEW AVENUE, OSTERVILLE, MA

SHEET TITLE: PLAN SHOWING PROPOSED SITE IMPROVEMENTS

SCALE: AS NOTED

DRAWING FILE: C19442-C.dwg

DATE: 9-24-2020

DRAWN BY: JLH/DAV

CHECKED BY: SMR

C2.1.1

1 OF 1 SHEETS

PROJECT NO. C19442.00

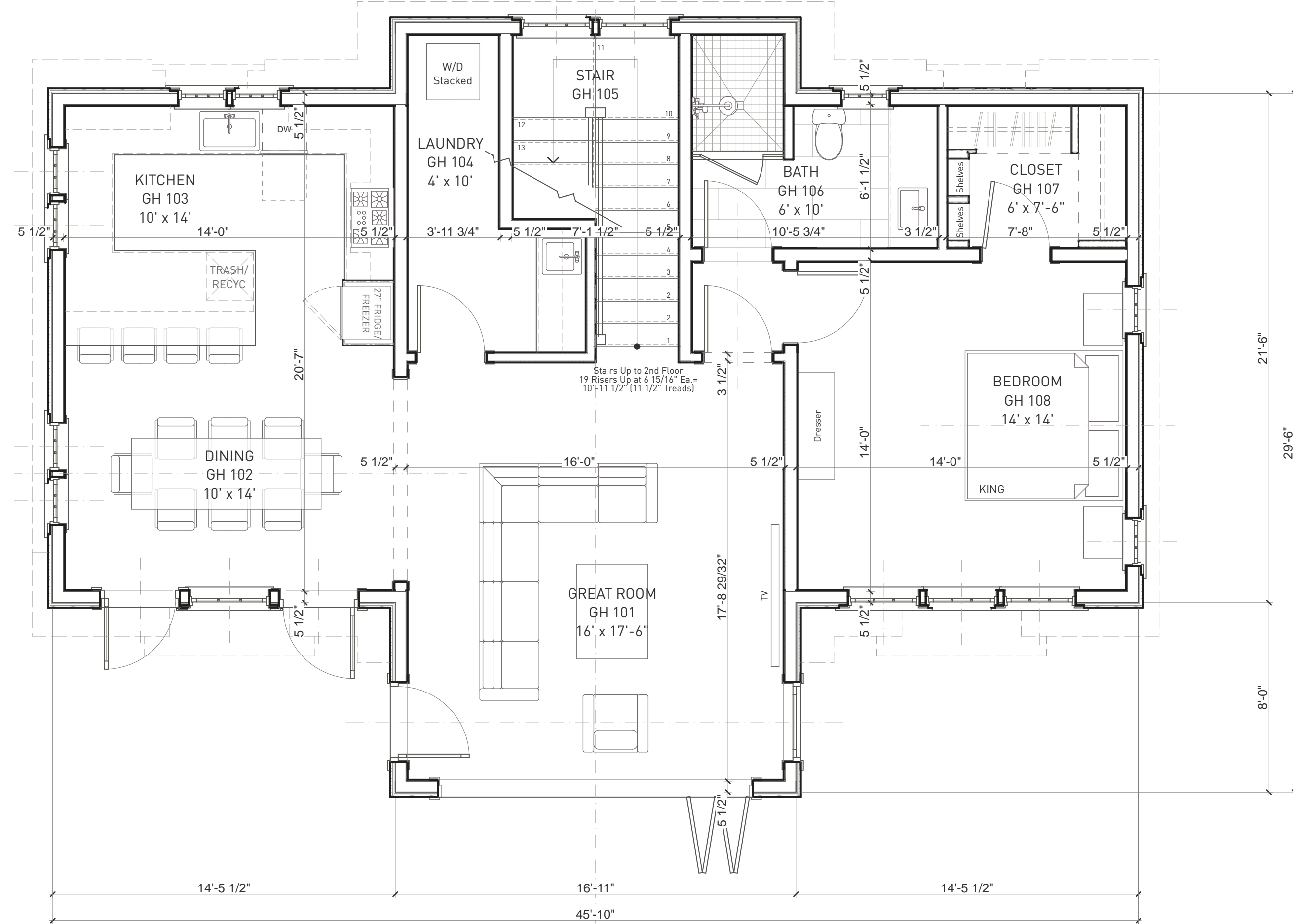
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Coastal Engineering Co., Inc. © 2020

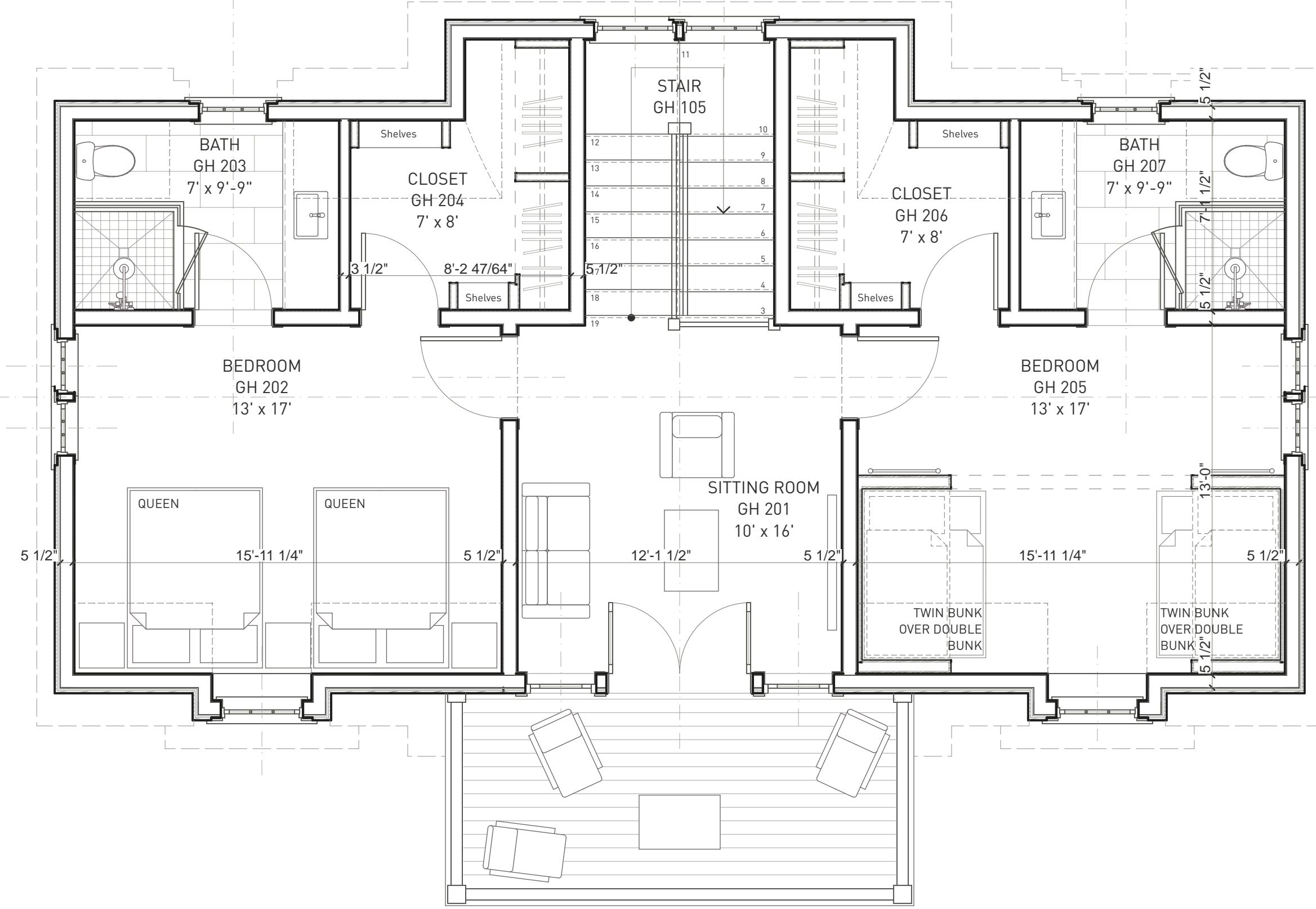
979 Sea View Ave Residence
 979 Sea View Ave Osterville, MA 02655

Family Apartment Cottage-
 Floor Plans: Proposed

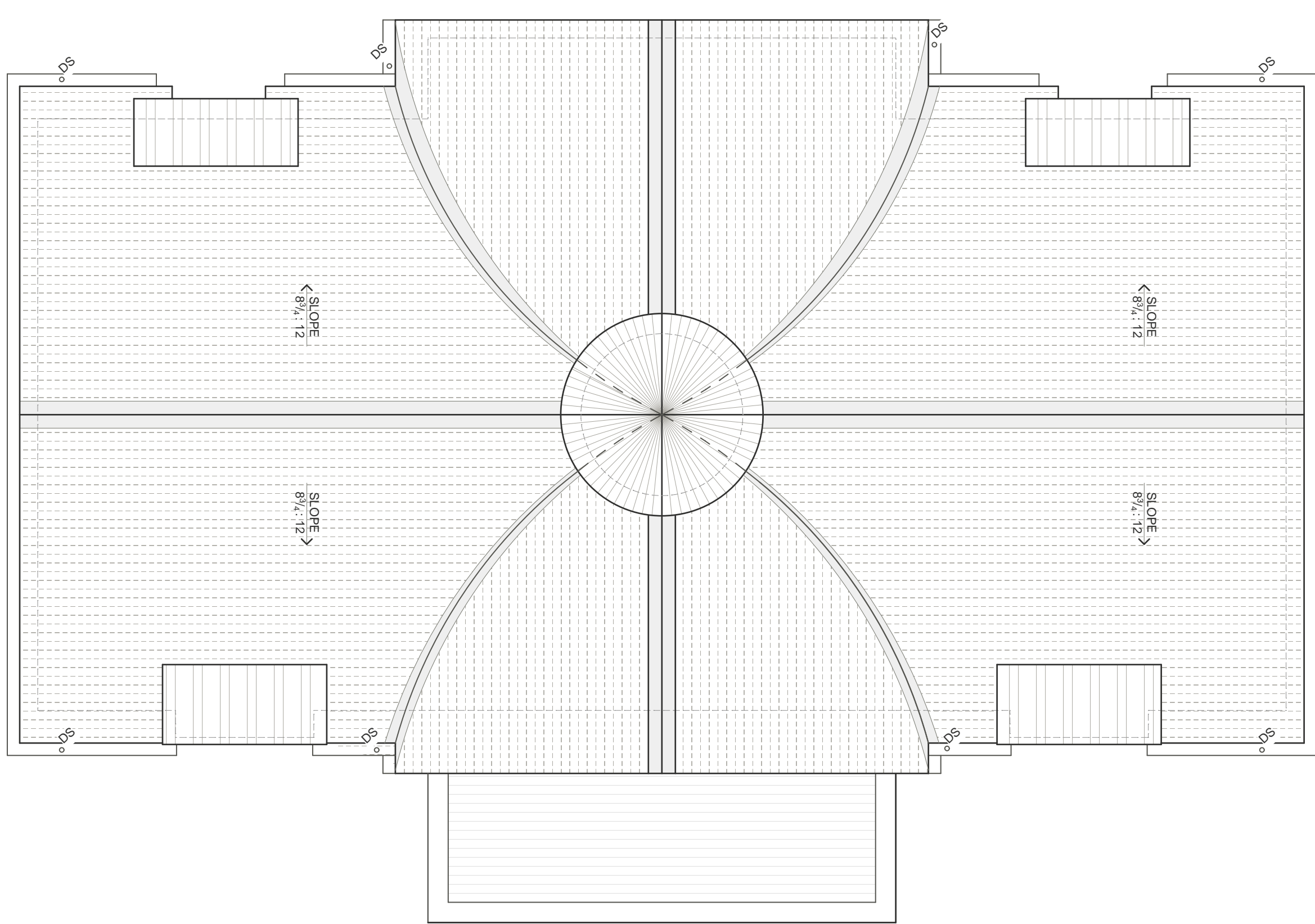
Scale: 1/4" = 1'-0"
 Date: Friday, September 25, 2020



1 First Floor Plan
 SCALE: 1/4" = 1'-0"



2 Second Floor Plan
 SCALE: 1/4" = 1'-0"



3 Roof Plan
 SCALE: 1/4" = 1'-0"

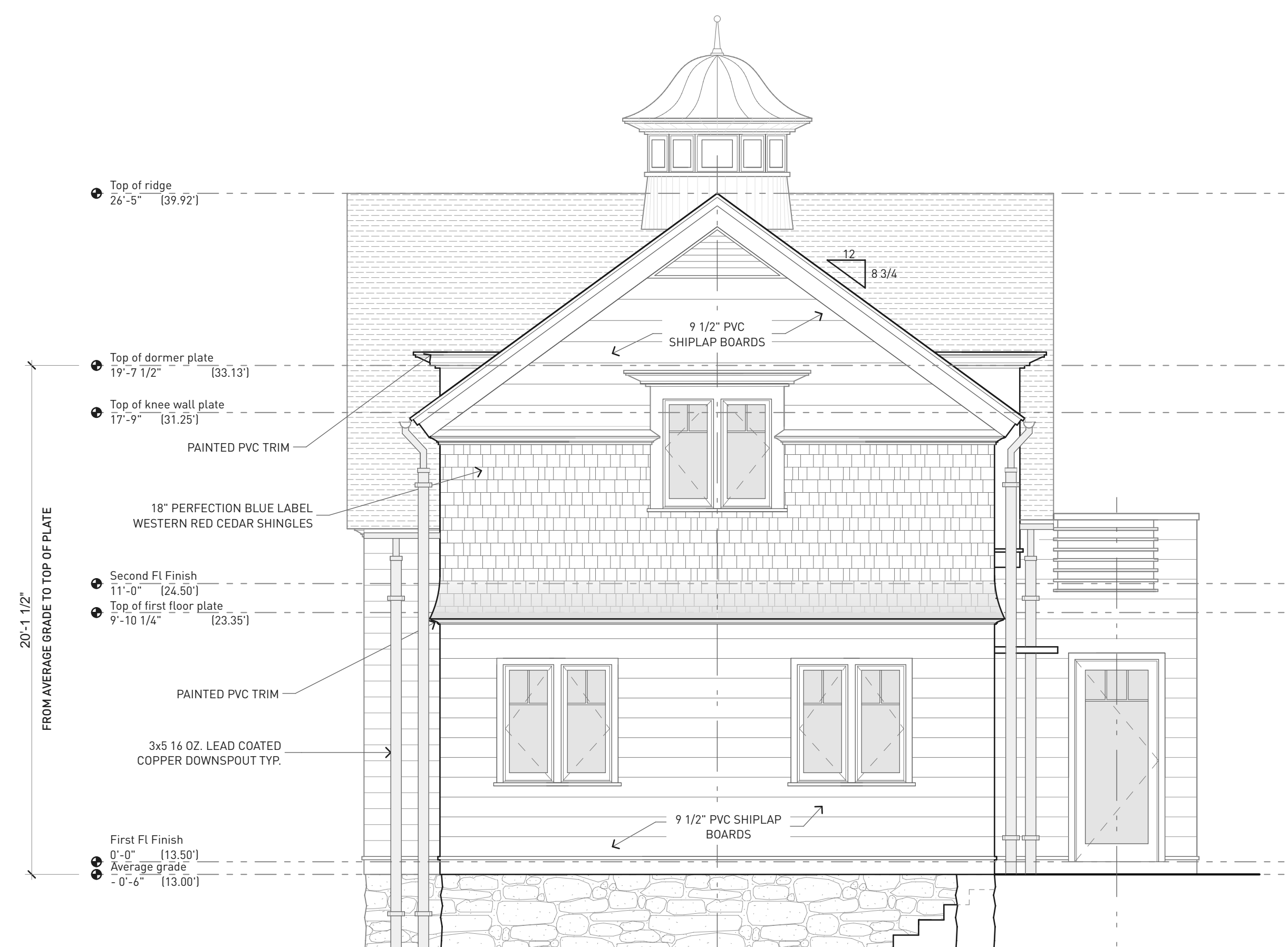
979 Sea View Ave Residence
 979 Sea View Ave Osterville, MA 02655

Family Apartment Cottage -
 Exterior Elevations: Proposed

Scale: 1/4" = 1'-0"
 Date: Friday, September 25, 2020



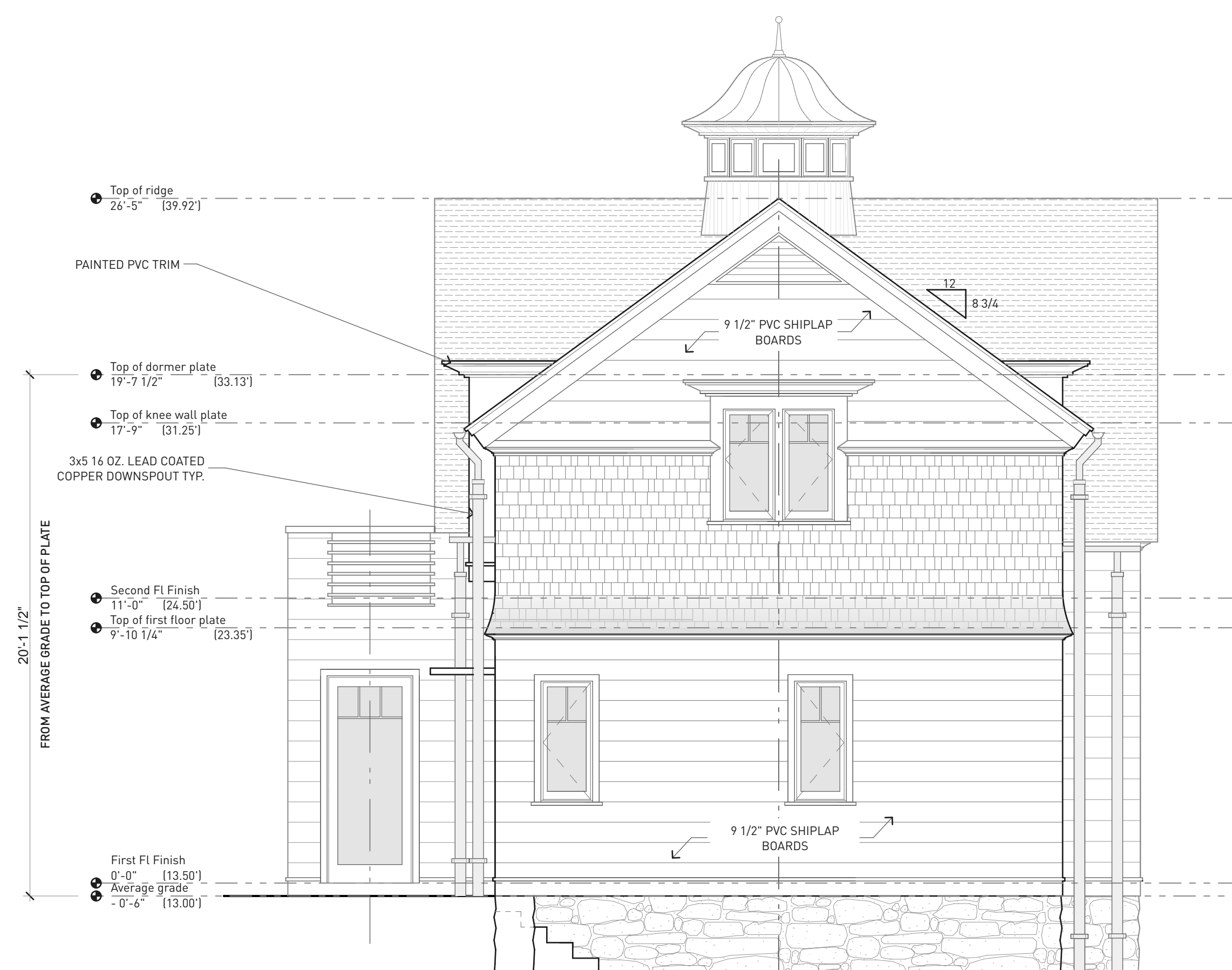
1 South Elevation
 SCALE: 1/4" = 1'-0"



2 West Elevation
 SCALE: 1/4" = 1'-0"



3 North Elevation
 SCALE: 1/4" = 1'-0"



4 East Elevation
 SCALE: 1/4" = 1'-0"



Town of Barnstable
 Planning and Development Department
 Elizabeth Jenkins, Director
 Staff Report

Special Permit No. 2020-036 – Hall
Section 240-47.1 (B) (4) – Family Apartment

To create a 3-bedroom family apartment in a detached structure

Date: October 14, 2020
To: Zoning Board of Appeals
From: Anna Brigham, Principal Planner

Applicant: Laurie J. Hall, Trustee of the TMT Realty Trust
Property Address: 979 Sea View Avenue, Osterville, MA
Assessor's Map/Parcel: 090/008
Zoning: Residence F -1 (RF-1), RPOD

Filed: September 28, 2020

Hearing: October 28, 2020

Decision Due: January 26, 2021

Copy of Public Notice

Laurie J. Hall, Trustee of the TMT Realty Trust, has applied for a Special Permit pursuant to 240-47.1(B) Family Apartments. The Applicant is proposing to construct a detached, three-bedroom apartment cottage to be used by more than two adult family members. The subject property is located at 979 Sea View Avenue, Osterville, MA as shown on Assessor's Map 090 as Parcel 008. It is located in the Residence F-1 (RF-1) Zoning District.

Background

The subject property consists of a 4.15 acre lot with access from Sea View Avenue and overlooking West Bay and Nantucket Sound. The existing dwelling contains 9,871 gross floor area (6,423 living area), 5 bedrooms, constructed in 1928. The existing lot contains 43.3 feet of frontage (20 feet is required), has a lot width of 278.3 feet (125 feet is required) and contains 83,629 square feet of upland (43,560 square feet is required).

Proposal & Relief Requested

The Applicants are proposing to create a detached 3-bedroom family apartment consisting of 2,280 square feet. The detached family apartment requires a Special Permit pursuant to Section 240-47.1, Subsection B. The subject property is located at 979 Sea View Avenue, Osterville, MA.

Section 240-47.1 B. By special permit. The Zoning Board of Appeals may allow by special permit if:

- (1) A family apartment unit greater than 50% of the square footage of the dwelling.
- (2) A family apartment unit with more than two bedrooms.
- (3) Occupancy of a family apartment unit by greater than two adult family members.
- (4) A family apartment unit within a detached structure, with a finding that the single-family nature of the property and of the accessory nature of the detached structure are preserved.

Section 240-47.1 C. Conditions and procedural requirements. Prior to the creation of a family apartment, the owner of the property shall make application for a building permit with the Building Commissioner providing any and all information deemed necessary to assure compliance with this section, including, but not limited to, scaled plans of any proposed remodeling or addition to accommodate the apartment, signed and recorded affidavits reciting the names and family relationship among the parties, and a signed family apartment accessory use restriction document.

(1) Certificate of occupancy. Prior to occupancy of the family apartment, a certificate of occupancy shall be obtained from the Building Commissioner. No certificate of occupancy shall be issued until the Building Commissioner has made a final inspection of the apartment unit and the single-family dwelling for regulatory compliance and a copy of the family apartment accessory use restriction document recorded at the Barnstable Registry of Deeds is submitted to the Building Division.

(2) Annual affidavit. Annually thereafter, a family apartment affidavit, reciting the names and family relationship among the parties and attesting that there shall be no rental of the principal dwelling or family apartment unit to any non-family members, shall be signed and submitted to the Building Division.

(3) At no time shall the single-family dwelling or the family apartment be sublet or subleased by either the owner or family member(s). The single-family dwelling and family apartment shall only be occupied by those persons listed on the recorded affidavit, which affidavit shall be amended when a change in the family member occupying either unit occurs.

(4) When the family apartment is vacated, or upon noncompliance with any condition or representation made, including but not limited to occupancy or ownership, the use as an apartment shall be terminated. All necessary permit(s) must be obtained to remove either the cooking or bathing facilities (tub or shower) from the family apartment, and the water and gas service of the utilities removed, capped and placed behind a finished wall surface; or a building permit must be obtained to incorporate the floor plan of the apartment unit back into the principal structure.

Proposed Special Permit Findings

For all Special Permits, the Board is required to make general findings pursuant to § 240-125(C). The Board should review the evidence presented by the Applicant, staff, and members of the public and, after weighing such evidence, is encouraged to articulate if and how the evidence contributes to each of the required findings.

- 1. The application falls within a category specifically excepted in the ordinance for a grant of a special permit. Section 240-47.1. B. allows a Special Permit for a Family Apartment in a detached structure.**
- 2. Site Plan Review is not required for single-family residential dwellings.**
- 3. After an evaluation of all the evidence presented, the proposal fulfills the spirit and intent of the Zoning Ordinance and would not represent a substantial detriment to the public good or the neighborhood affected.**

The Board is also asked to find that:

- 4. The proposed family apartment would not be substantially more detrimental to the neighborhood than the existing dwelling.**
- 5. The single-family nature of the property and of the accessory nature of the detached structure are preserved.**

Suggested Conditions

Should the Board find to grant Special Permit No. 2020-036, it may wish to consider the following conditions:

1. Special Permit No. 2020-036 is granted to Laurie J. Hall, Trustee of the TMT Realty Trust to establish a 3-bedroom family apartment for occupancy of more than 2 adult members in a detached accessory structure at 979 Sea View Avenue, Osterville, MA.

2. The site development shall be constructed in substantial conformance with the plan entitled “979 Sea View Avenue Plan Showing proposed Site Improvements” by Coastal Engineering dated September 24, 2020.
3. The proposed development shall represent full build-out of the lot. Further development of the lot or construction of additional accessory structures is prohibited without prior approval from the Board.
4. The Applicant must comply with the restrictions in Section 240-47.1 Family Apartments C. Conditions and Procedural Requirements 1-4 of the Ordinance as follows:
 1. Certificate of occupancy. Prior to occupancy of the family apartment, a certificate of occupancy shall be obtained from the Building Commissioner. No certificate of occupancy shall be issued until the Building Commissioner has made a final inspection of the apartment unit and the single-family dwelling for regulatory compliance and a copy of the family apartment accessory use restriction document recorded at the Barnstable Registry of Deeds is submitted to the Building Division.
 2. Annual affidavit. Annually thereafter, a family apartment affidavit, reciting the names and family relationship among the parties and attesting that there shall be no rental of the principal dwelling or family apartment unit to any non-family members, shall be signed and submitted to the Building Division.
 3. At no time shall the single-family dwelling or the family apartment be sublet or subleased by either the owner or family member(s). The single-family dwelling and family apartment shall only be occupied by those persons listed on the recorded affidavit, which affidavit shall be amended when a change in the family member occupying either unit occurs.
 4. When the family apartment is vacated, or upon noncompliance with any condition or representation made, including but not limited to occupancy or ownership, the use as an apartment shall be terminated. All necessary permit(s) must be obtained to remove either the cooking or bathing facilities (tub or shower) from the family apartment, and the water and gas service of the utilities removed, capped and placed behind a finished wall surface; or a building permit must be obtained to incorporate the floor plan of the apartment unit back into the principal structure.
5. All mechanical equipment associated with the dwelling (air conditioners, electric generators, etc.) shall be screened from neighboring homes and the public right-of-way.
6. The decision shall be recorded at the Barnstable County Registry of Deeds and copies of the recorded decision shall be submitted to the Zoning Board of Appeals Office and the Building Division prior to the issuance of a building permit. The rights authorized by this special permit must be exercised within two years, unless extended.

Copies: Applicant (c/o Attorney Sarah A. Turano-Flores)

Attachments: Application
Site Plan
Building plans
Assessor's Record & Aerial Photo



BARNSTABLE
TOWN CLERK

Oct. 1st 5G
20 ~~SEP 31~~ P1:40

**Town of Barnstable
Zoning Board of Appeals
Petition for a Special Permit**

Date Received
Town Clerk's Office:

For office use only:
Appeal # 2020-037
Hearing Date 10-28-20
Days Extended _____
Decision Due 01-06-21

The undersigned hereby applies to the Zoning Board of Appeals for a Special Permit, in the manner and for the reasons set forth below:

Petitioner's Name¹: DESMOND & CAROLINE GAUACHER, Phone: 657.205.7345
Petitioner's Address: 28 FAIRVIEW ST. HINGHAM, MA 02043

Property Location: 69 GEORGE ST., BARNSTABLE MA
Property Owner: SAME AS PETITIONER, Phone: _____
Address of Owner: _____

If applicant differs from owner, state nature of interest:²

Registry of Deeds/Land Court References: Deed 32536/133 Plan BK 75 PG 155
Assessor's Map/Parcel Number: 319/059 Zoning District: RB
Number of Years Owned: 10 MONTHS Groundwater Overlay District: NO

Special Permit Requested: 240-91.H(3)
Cite Section & Title from the Zoning Ordinance

Description of Activity/Reason for Request: RAZE & REPLACE AN EXISTING
NON-CONFORMING STRUCTURE ON AN EXISTING
NON-CONFORMING LOT. *Attach additional sheet if necessary*

Is the property subject to an existing Variance or Special PermitNo Yes [] - _____
Permit # _____

¹ The Petitioner's Name will be the entity to whom the special permit will be issued to.

² If the Applicant differs from owner, the Applicant will be required to submit one original notarized letter from the owner authorizing the application to the Zoning Board, a copy of an executed purchase & sales agreement or lease, or other documents to prove standing and interest in the property.

Petition for a Special Permit - Page 2

Description of Construction Activity (if applicable): DEMO EXISTING 3 BED HOME & GARAGE, CONSTRUCT NEW HOME & SHED - SEE ADDITIONAL SHEETS. Attach additional sheet if necessary

Existing Level of Development of the Property - Number of Buildings: 2

Present Use(s): SINGLE FAMILY

Existing Gross Floor Area: 2,074 sq. ft. Proposed New Gross Floor Area: 1,709 sq. ft.

Site Plan Review Number: N/A Date Approved: _____ (not required for Single or Two Family use)

Is the property located in a designated Historic District?..... Yes No

Is this proposal subject to the jurisdiction of the Conservation Commission Yes No

Is this proposal subject to approval by the Board of Health Yes No

Is the building a designated Historic Landmark?..... Yes No

Have you applied for a building permit?..... Yes No

Have you been refused a building permit?..... Yes No

The following Required Information, as applicable to application, must be submitted with the application at the time of filing, failure to do so may result in a denial of your request.

- Three (3) copies of the completed application form, each with original signatures.
- Three (3) copies of a 'wet sealed' certified property survey (plot plan) and one (1) reduced copy (8 1/2" x 11" or 11" x 17") showing the dimensions of the land, all wetlands, water bodies, surrounding roadways and the location of the existing improvements on the land.
- Three (3) copies of a proposed site improvement plan, as found approvable by the Site Plan Review Committee (if applicable), and building elevations and layout as may be required plus one (1) reduced copy (8 1/2" x 11" or 11" x 17") of each drawing. These plans must show the exact location of all proposed improvements and alterations on the land and to the structures.
- The applicant may submit any additional supporting documents to assist the Board in making its determination. Twelve copies of all supporting documents must be submitted eight days prior to the public hearing for distribution to the Board Members.

Signature: [Signature] Date: 9/29/20
Applicant's or Representative's Signature³

Print Name: JAMES HAGERTY

Address: PO Box 186 Phone: 508 258 7069
W. DENNIS MA 02670 Fax No.: 508 258 7070

e-mail Address: JHAGERTY@CAPECODBUILDER.COM

³ All correspondence on this application will be processed through the Representative named at that address and phone number provided. Except for Attorneys, if the Representative differs from the Applicant/Owner, a letter authorizing the Representative to act on behalf of the Applicant/Owner shall be required.

DESMOND AND CAROLINE GALLACHER, PROPERTY OWNERS
69 GEORGE ST., BARNSTABLE, MA

ZONING ANALYSIS

Desmond and Caroline Gallacher, current recorded title owners of the property located at 69 George Street, Barnstable, MA, seek a Special Permit from the Barnstable Zoning Board of Appeals pursuant to the provisions of the Town of Barnstable Zoning Bylaw, Section 240-91.H(3). The Gallacher proposal involves Demolition of a Single-Family, three-bedroom home and Constructing of a new Single-Family, three-bedroom Cottage style home on a pre-existing, non-conforming lot within the RB Zoning District and the Aquifer Protection Overlay district.

The lot is only 4,967 square feet and the minimum lot size requirement is 43,560 sf in the RB zone. The lot was created by a plan of land dated August 27, 1921, and recorded in the Barnstable County Registry of Deeds, Plan Book 75, Page 155, Lot 13. Mr. & Mrs. Gallacher have owned this property since December 2019

The existing three-bedroom dwelling was located on the site at the time Mr. & Mrs. Gallacher purchased the property and according to the Town of Barnstable Assessors information, was constructed in 1941. The new home proposal will serve to *eliminate* the encroachment into both Front Yard setbacks on George St and Harbor View Rd and will conform to all the regulated yard setbacks. The exiting garage will be demolished and a small, 120 sq. ft. shed will be located in the same general location but not exceeding the existing non-conforming encroachments into the building setbacks. The existing lot coverage is 32.7% and the proposed lot coverage is 24.8%, exceeds 20% but does not exceed the existing lot coverage. The existing Floor Area is 2,074 sf or 41% FAR, and the proposed Floor Area is 1,709 sf or 35% FAR, this does exceed the FAR threshold of 30% but does not exceed the existing FAR or 41%

As more fully explained below, the proposal does not trigger any of the thresholds set forth in Section 240-91.H(3) and therefore, does not warrant a mandatory finding of substantially more detrimental to the neighborhood. We respectfully submit to the Board that the proposal will, in fact, enhance the neighborhood and will not detract from any of the qualities of the surrounding area.

1. The Application falls within a category specifically excepted in the ordinance for a special permit as allowed in section 240-91(H)(3). The section allows complete demolition and rebuilding of a residence on a non-conforming, predeveloped lot containing less than 10,000 sf by Special Permit.
2. Site Plan Review is not required because the application is residential in nature.
3. We submit that the proposed single-family home will be in keeping with the surrounding area and will fulfill the spirit and intent of the Zoning Ordinance. The proposal meets the

requirements set forth in 240-91(H)(3) and will not be a substantial detriment to the public good and the neighborhood.

4. The proposal meets all regulated yard setbacks. In fact, eliminating two existing encroachments into the street setbacks.
5. The proposed dwelling will exceed the required 20% lot coverage but will not exceed the existing lot coverage of 32.7%. The proposed coverage is 24.8%
6. The proposed dwelling will exceed 30% floor area ratio (FAR) but will not exceed the existing FAR of 42%. The proposed FAR is 35%. The proposed dwelling will be less than the required building height of 30 feet. The proposed structure is 22 feet to the highest plate from the existing grade plane and will only have only 2 stories where 2 ½ is allowed.
7. We have proposed a modest, 1,709 sf Cottage style home that eliminates two existing encroachments and meets all other current bulk regulations. We will be removing an old non-conforming detached garage and the existing 1941 cottage that is at the end of its functional life. We feel this proposal will **not** be substantially more detrimental to the neighborhood than the existing dwelling and would in fact be a welcome addition.

RB Zoning Distric – Bulk Regulations Analysis, Existing vs Proposed

Required in the RB Zoning District:

Minimum lot size:	43,560 square feet
Maximum coverage:	20%
Minimum frontage:	20 feet
Width:	100 feet
Front yard setback:	20 feet
Side yard setback:	10 feet
Rear yard setback:	10 feet
Building Height:	30 feet

Existing:

Lot size:	4,976 square feet	Existing non-conforming lot
Coverage:	32.7%	Non-Conforming
Frontage:	59.22 feet	Existing non-conforming lot
Lot Width	59.22 feet	Existing non-conforming lot
George Street setback:	17.4 feet	Non-Conforming
Harbor View Rd setback:	10.1 feet to house	Non-Conforming
	3.9 feet to detached garage	Non-Conforming
Right Side yard setback:	21.2 feet to house	Conforming
	3.7 feet to detached garage	Non-Conforming
Left Side yard setback:	13.1 feet	Conforming
Building Height:	19'-10"	Conforming

Proposed:

Lot size:	4,976 square feet	Existing non-conforming lot
Coverage:	24.8%	Less than existing
Frontage:	59.22 feet	Existing non-conforming lot
Lot Width	59.22 feet	Existing non-conforming lot
George Street setback:	20.7 feet	Conforming
Harbor View setback:	21.3 feet to house	Conforming
	4.0 feet to 120 sf shed	Less than existing
Right Side yard setback:	19.1 feet to house	Conforming
	4.0 feet to 120 sf shed	Less than existing
Left Side yard setback:	11.1 feet	Conforming
Building Height:	22'-0"	Conforming

Gallacher, 69 George St, Barnstable, MA
Zoning Calculation Sheet
September 30, 2020

Floor Area Ratio (FAR)

Required: The floor area ratio shall not exceed 0.30 or the existing floor area ratio of the structure being demolished and rebuilt, whichever is greater.

Existing FAR: 41% (2,074 SF / 4,976 SF)

Proposed FAR: 34% (1709 SF / 4,976 SF)

The proposal involves the demolition of an existing single-family home and detached garage and reconstruction of a new single-family home and 120sf shed that will **eliminate or reduce** the existing non-conformities and setback encroachments.

ZONING TABLE

AP- AQUIFER PROTECTION OVERLAY

RB- RESIDENTIAL DISTRICT

REQUIREMENTS:

LOT SIZE	43,560 SF
FRONT SETBACK	20 FEET
SIDE SETBACK	10 FEET
REAR SETBACK	10 FEET
BUILDING HEIGHT	30 FEET
FRONTAGE	20 FEET
WIDTH	100 FEET

PROPOSED LOT COVERAGE

LOT AREA	4,976 SF
LOT COVERAGE:	
HOUSE & ENTRY	1,113 SF
SHED	120 SF
TOTAL	1,233 SF

COVERAGE=(1,233/4,976)X100%= 24.8%±

EXISTING GRADE PLANE AND PROPOSED HEIGHT

NORTH: 17.8+17.5/2= 17.7
 SOUTH: 17.8+18.1/2= 18.0
 EAST: 17.7+17.7/2= 17.7
 WEST: 17.6+17.8/2= 17.7

GRADE PLANE	EL=17.8
MAX PEAK EL= 30'+17.8	EL=47.8
HEIGHT FROM TOF	24.4'
PROPOSED HEIGHT (TOF + 24.4')	EL=43.4
PROPOSED HEIGHT EL= 43.4' < EL= 47.8 MAX HEIGHT	

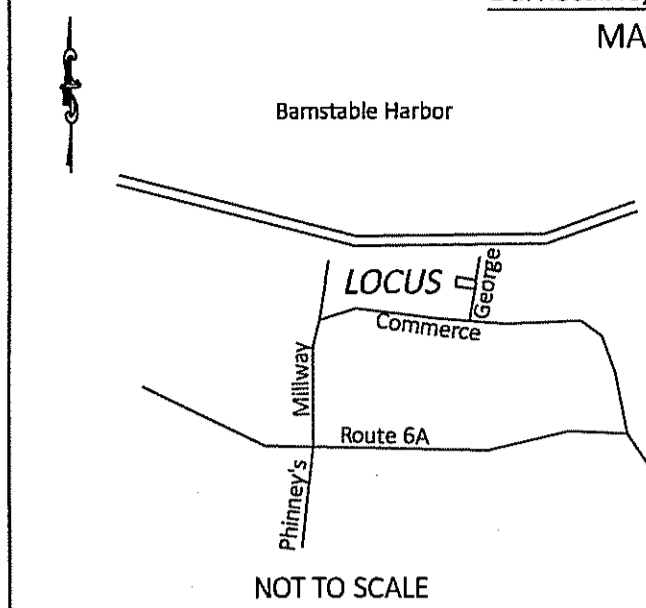
TEST BORING 1: EL=17.8±

DEPTH FROM SURFACE (INCHES)	SOIL HORIZON	SOIL TEXTURE (USDA)	SOIL COLOR (MUNSELL)	SOIL MOTTLING	OTHER
0-24	A	Loamy Fine Sand	10YR2/2	NONE	
24-32	B	Loamy Fine Sand	10YR5/6	NONE	
32-68	C1	Coarse Loamy Sand	10YR7/6	NONE	H20 Standing 60"

DATE OF TESTING: 1/30/20
 PERCOLATION RATE: ESTIMATED PERCOLATION RATE BASED ON SOIL, <5 MIN/IN
 WITNESSED BY: MATTHEW T. FARRELL, EIT, J.M. O'REILLY & ASSOCIATES, INC.

WATER TABLE FOUND AT 5.0' BELOW GRADE, EL= 12.8±

PROPERTY IS NOT LOCATED IN THE FEMA 100 YEAR PLANE, AE FLOOD ZONE EL=13.0 PER MAP# 25001C0558J

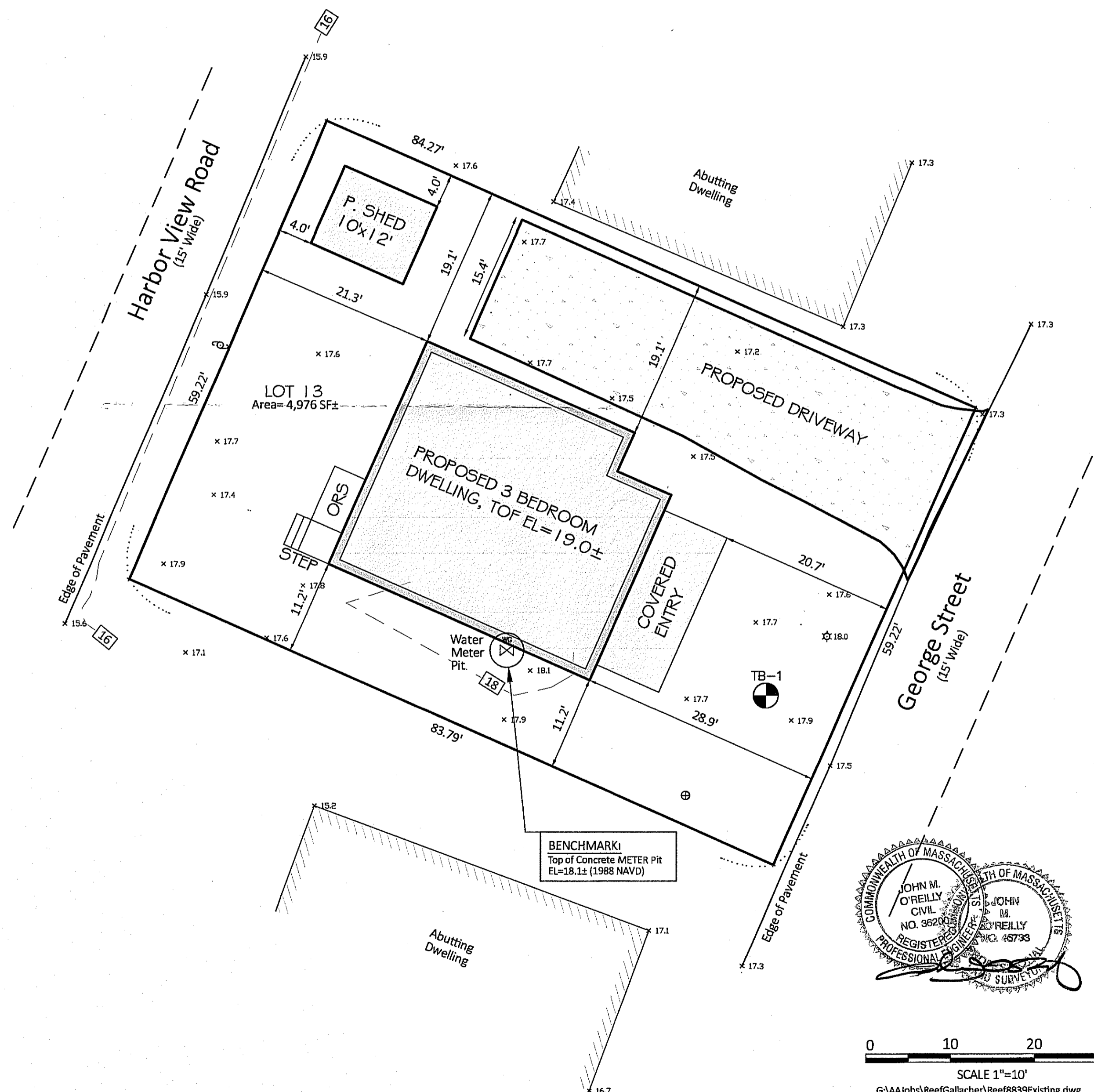


PLAN BOOK 75 DEED BOOK 32526 ASSESSORS' MAP 319 PAGE 155 PAGE 133 PARCEL 59

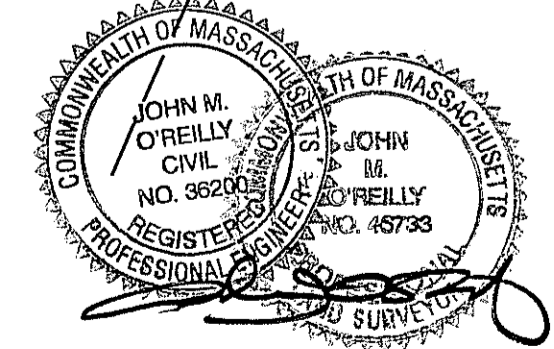
LEGEND

- 32 — EXISTING CONTOUR
- 32 — PROPOSED CONTOUR
- x 12.34 EXISTING SPOT GRADE
- 24x5 PROPOSED SPOT GRADE
- W — WATER SERVICE LINE
- O — OVERHEAD UTILITY SERVICE
- U — UNDERGROUND UTILITY SERVICE
- G — GAS SERVICE LINE
- ⊙ TP TEST HOLE / BORING LOCATION
- ST SEPTIC TANK
- DB DISTRIBUTION BOX
- SAS SOIL ABSORPTION SYSTEM
- Reserve RESERVED FOR FUTURE
- ⊙ UTILITY POLE
- ⊙ CATCH BASIN
- ⊙ FIRE HYDRANT
- ⊙ WELL
- ⊙ DRAINAGE MANHOLE
- ⊙ CONCRETE BOUND, FOUND
- T — TOP OF BANK
- x — LIMIT OF WORK
- F — FENCE
- E — EDGE OF CLEARING

PLAN
 SCALE 1"=10'



BENCHMARK
 Top of Concrete METER Pit
 EL=18.1± (1988 NAVD)



0 10 20 30
 SCALE 1"=10'
 G:\AJobs\ReefGallacher\Reef8839Existing.dwg

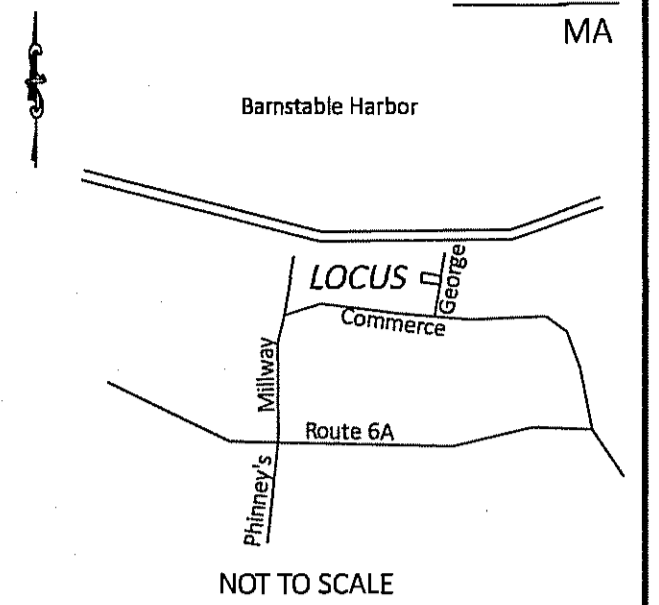
Gallacher Residence
 c/o Jim Hagerty, Reef Builders, PO Box 186, West Dennis, MA 02670

PROPOSED ZONING PLAN
 69 George Street, Barnstable, MA

J.M. O'REILLY & ASSOCIATES, INC.
 Professional Engineering & Land Surveying Services

1573 Main Street - Route 6A
 P.O. Box 1773
 (508)896-8801 Office Brewster, MA 02631 (508)896-8802 Fax

DATE:	SCALE:	BY:	CHECK:	JOB NUMBER:
8/24/20	As Noted	MTF	JMO	JMO-8839



NOT TO SCALE

PLAN BOOK 75 PAGE 155
DEED BOOK 32526 PAGE 133
ASSESSORS' MAP 319 PARCEL 59

LEGEND

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- ⊙ CONCRETE BOUND, FOUND
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- x — LIMIT OF WORK
- — FENCE
- — EDGE OF CLEARING

Plan Book 75 Page 155

PROPERTY IS NOT LOCATED IN THE FEMA 100 YEAR PLANE, AE FLOOD ZONE EL=13.0 PER MAP# 25001C0558J

TEST BORING 1: EL=17.8±

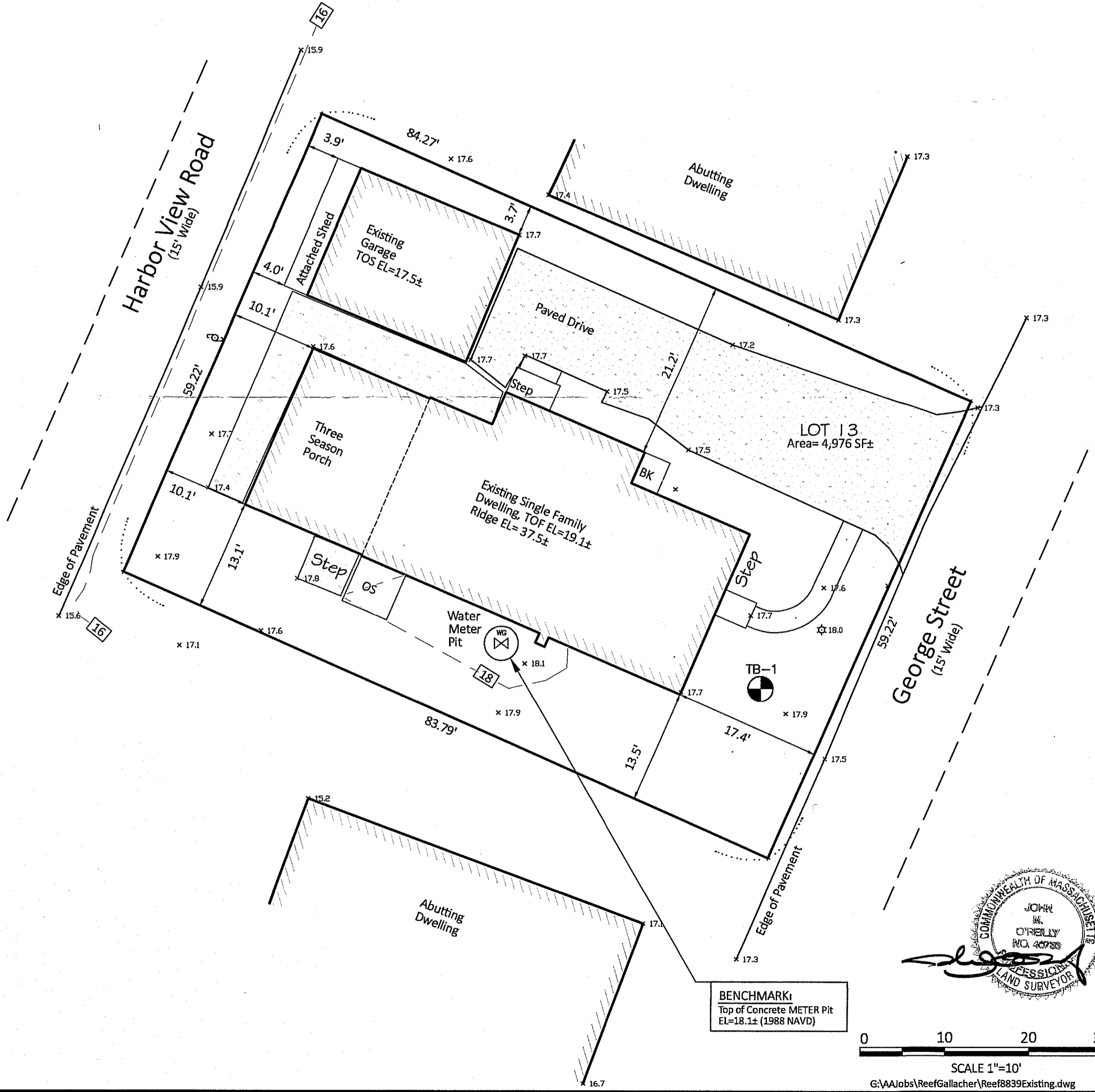
DEPTH FROM SURFACE (INCHES)	SOIL HORIZON	SOIL TEXTURE (USDA)	SOIL COLOR (MUNSELL)	SOIL MOTTLING	OTHER
0-24	A	Loamy Fine Sand	10YR2/2	NONE	
24-32	B	Loamy Fine Sand	10YR5/6	NONE	
32-68	C1	Coarse Loamy Sand	10YR7/6	NONE	H2O Standing 60"

DATE OF TESTING: 1/30/20
PERCOLATION RATE: ESTIMATED PERC RATE BASED ON SOIL, <5 MIN/IN
WITNESSED BY: MATTHEW T. FARRELL, EIT, J.M. O'REILLY & ASSOCIATES, INC.

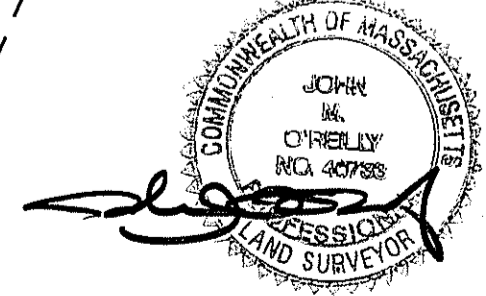
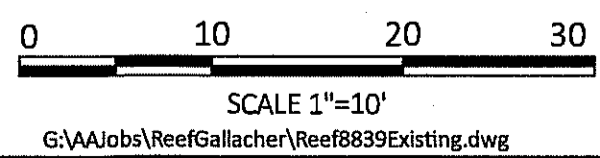
WATER TABLE FOUND AT S.0' BELOW GRADE, EL= 12.8±

ZONING TABLE	
AP- AQUIFER PROTECTION OVERLAY	
RB- RESIDENTIAL DISTRICT	
REQUIREMENTS:	
LOT SIZE	43,560 SF
FRONT SETBACK	20 FEET
SIDE SETBACK	10 FEET
REAR SETBACK	10 FEET
BUILDING HEIGHT	30 FEET
FRONTAGE WIDTH	20 FEET
100 FEET	
EXISTING COVERAGE	
LOT AREA	4,976 SF
LOT COVERAGE:	
HOUSE	1,246 SF
GARAGE	333 SF
GAR. SHED	48 SF
TOTAL	1,627 SF
COVERAGE=(1,627/4,976)X100%= 32.7%±	
EXISTING GRADE PLANE AND HEIGHT	
NORTH: 17.5+17.5/2= 17.5	
SOUTH: 17.5+17.8/2= 17.7	
EAST: 17.5+17.6/2= 17.6	
WEST: 17.6+17.4/2= 17.5	
GRADE PLANE	EL=17.6
MAX PEAK EL= 30'+17.6	EL=47.6
EXISTING PEAK EL=	EL=37.5

PLAN
SCALE 1"=10'



BENCHMARK
Top of Concrete METER Pit
EL=18.1± (1988 NAVD)



Gallacher Residence
c/o Jim Hagerty, Reef Builders, PO Box 186, West Dennis, MA 02670

EXISTING ZONING PLAN
69 George Street, Barnstable, MA

J.M. O'REILLY & ASSOCIATES, INC.
Professional Engineering & Land Surveying Services

1573 Main Street - Route 6A
P.O. Box 1773
Brewster, MA 02631 (508)896-8601 Office (508)896-8602 Fax

DATE:	SCALE:	BY:	CHECK:	JOB NUMBER:
8/24/20	As Noted	MTF	JMO	JMO-8839

PRIVATE RESIDENCE

69 GEORGE STREET
BARNSTABLE, MA



24 School Street
PO Box 186
West Dennis, MA 02670
t: 508.394.3090
f: 508.760.1406



PRIVATE RESIDENCE
69 GEORGE STREET
BARNSTABLE, MA

LOCUS



ABBREVIATIONS

A ACT ADJ AFF ALT	ACOUSTIC CEILING TILE ADJUSTABLE ABOVE FINISH FLOOR ALTERNATIVE	M MAT MIN MOLD MTD	MATERIAL MINIMUM MOLDING MOUNTED
B B.O.	BOTTOM OF	O OC	ON CENTER
C CLG CLST CLR CONC CT	CEILING CLOSET CLEAR CONCRETE CERAMIC TILE	P PLAS PNL PTD PR PT	PLASTER PANEL PAINTED PAIR PRESURE TREATED
D DET DIA DWG	DETAIL DIAMETER DRAWING	R REF REQ'D	REFERENCE REQUIRED
E ELEV EQ EXIST	ELEVATION EQUAL EXISTING	S SH	SHEET
F FAB FDN FIN FLR	FABRIC WALLCOVERING FOUNDATION FINISH FLOOR	T T.O. TYP	TOP OF TYPICAL
G GYP	GYPSUM WALLBOARD	U UNO	UNLESS NOTED OTHERWISE
H H HDR HDWR HGT	HIGH HEADER HARDWARE HEIGHT	V VIN	VINYL
I INCL	INCLUDE	W WD W/ W/O	WOOD WITH WITHOUT

NOTES & CODE INFORMATION

- GENERAL NOTES:**
- NO WORK SHALL COMMENCE UNTIL A BUILDING PERMIT HAS BEEN OBTAINED.
 - ALL WORK SHALL BE IN ACCORDANCE WITH STATE OF MA. CODES, RULES AND REGULATIONS.
 - DRAWINGS ARE NOT TO BE SCALED. ALL WORK SHALL BE LAID OUT BY DIMENSIONS. ANY DEVIATIONS SHALL BE BROUGHT TO THE ATTENTION OF THE DESIGNER IMMEDIATELY. ALL DEVIATIONS SHALL BE CORRECTED BY CONTRACTOR BEFORE THEY BEGIN THEIR PORTION OF THE WORK.
 - DRAWINGS ARE THE PROPERTY OF THE DESIGNER AND SHALL NOT BE COPIED OR DUPLICATED IN ANY MANNER.
 - CONSTRUCTION SHALL BE PERFORMED IN SUCH A MANNER AS TO PROTECT WORKMEN AND GENERAL PUBLIC FROM INJURY & ADJACENT PROPERTY FROM DAMAGE.

SHEET LIST

Sheet List			
Sheet Number	Sheet Name	Bid Set 09.04.20	Permit Set 09.23.20
A1.0	COVER	■	■
A1.1	EXTERIOR ELEVATIONS	■	■
A2.1	FIRST FLOOR PLAN	■	■
A2.2	SECOND FLOOR PLAN	■	■
A3.2	BUILDING SECTIONS	■	■
A4.1	DETAILS		
S1.0	FOUNDATION PLAN	■	■
S1.1	FIRST FLOOR FRAMING PLAN	■	■
S1.2	SECOND FLOOR FRAMING PLAN	■	■
S1.3	CEILING FRAMING PLAN	■	■
S1.4	ROOF FRAMING PLAN	■	■

PROJECT ISSUE DATE

#	DATE	DESCRIPTION
6	09.04.20	BID SET
7	09.23.20	PERMIT SET

COVER

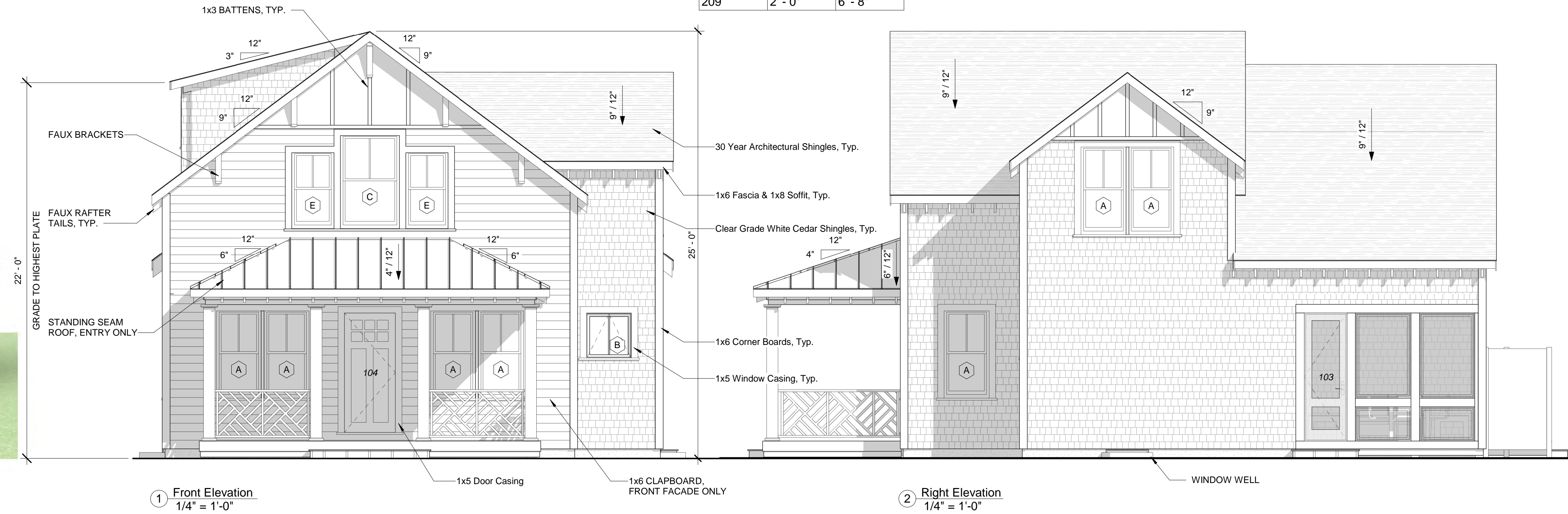
A1.0

Door Schedule		
Mark	Width	Height
101	2' - 8"	6' - 8"
102	5' - 0"	6' - 8"
103	2' - 6"	7' - 6"
104	3' - 0"	7' - 0"
105	2' - 8"	6' - 8"
106	4' - 0"	6' - 8"
107	2' - 0"	6' - 8"
108	2' - 6"	6' - 8"
201	2' - 6"	6' - 8"
202	2' - 6"	6' - 0"
203	2' - 6"	6' - 8"
204	2' - 6"	6' - 8"
205	2' - 6"	6' - 8"
206	2' - 6"	6' - 8"
207	2' - 6"	6' - 8"
208	2' - 6"	6' - 8"
209	2' - 0"	6' - 8"

Window Schedule							
Type Mark	Count	Window Type	Unit Width	Unit Height	Rough Width	Rough Height	Comments
A	11	Double Hung	2' - 7 5/8"	5' - 0 7/8"	2' - 8 1/8"	5' - 1 3/8"	(4) Tempered Indicated in Plan
B	3	Awning	2' - 7 1/2"	2' - 7 1/2"	2' - 8"	2' - 8"	
C	2	Double Hung	3' - 5 5/8"	5' - 4 7/8"	3' - 6 1/8"	5' - 5 3/8"	
D	2	Picture	2' - 6"	6' - 8"			(2) Tempered
E	4	Double Hung	2' - 5 5/8"	4' - 4 7/8"	2' - 6 1/8"	4' - 5 3/8"	



5 Exterior Perspective 1

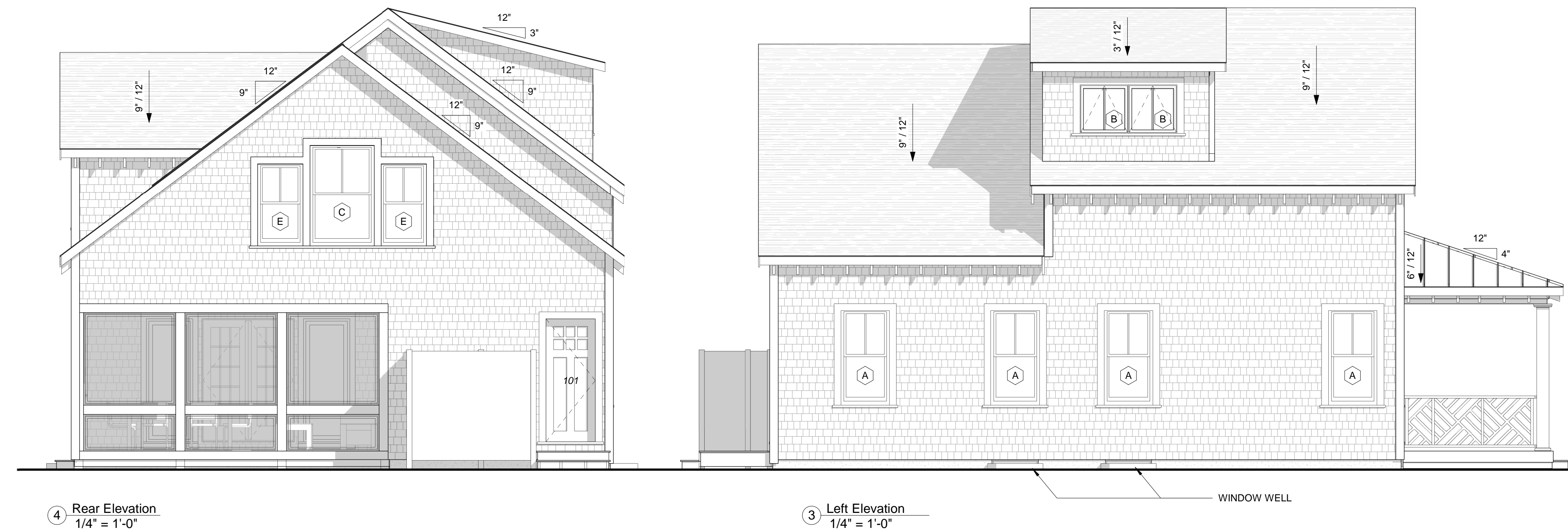


1 Front Elevation
1/4" = 1'-0"

2 Right Elevation
1/4" = 1'-0"



6 Exterior Perspective 2



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

3 Left Elevation
1/4" = 1'-0"

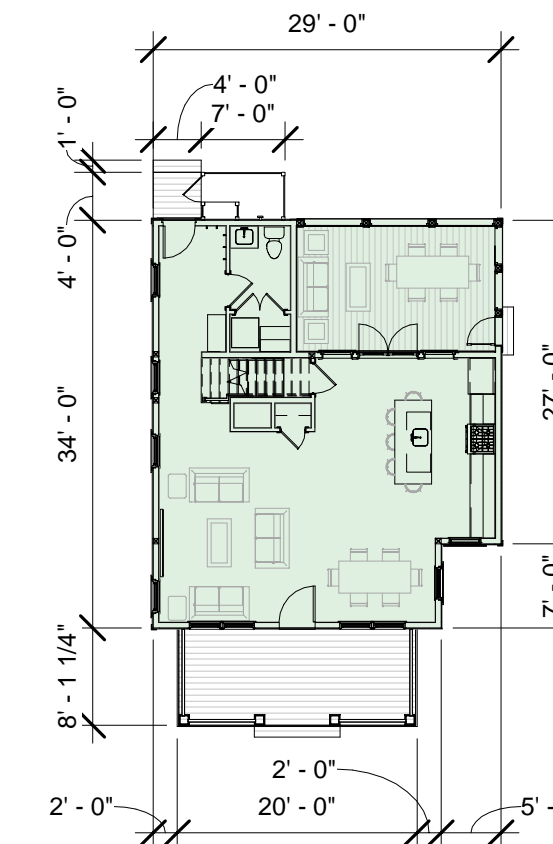
PRIVATE RESIDENCE
 69 GEORGE STREET
 BARNSTABLE, MA

PROJECT	ISSUE	DATE	DESCRIPTION
4	06.30.20	Historic	
5	08.17.20	Revision	
6	09.04.20	BID SET	
7	09.23.20	PERMIT SET	

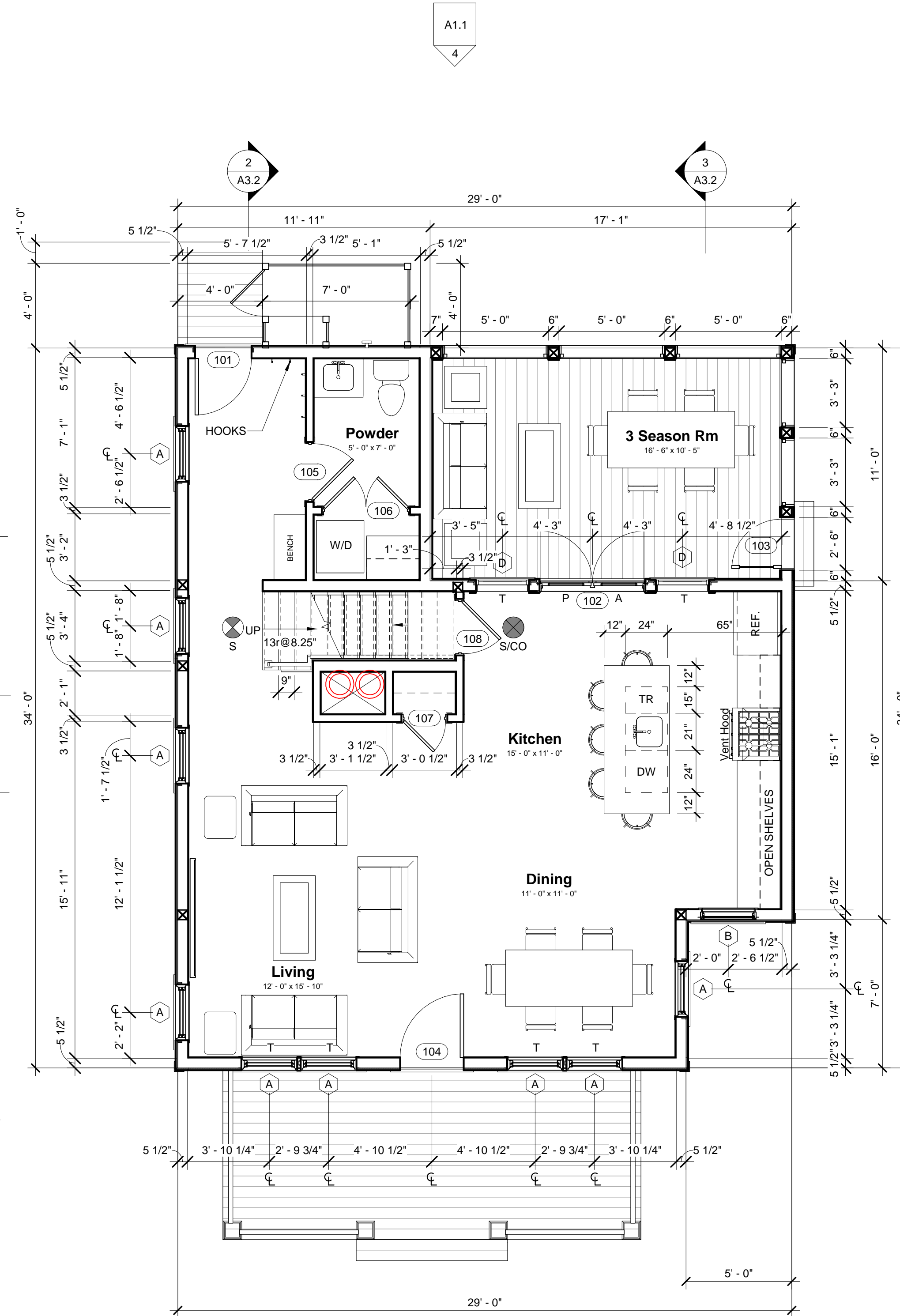
EXTERIOR ELEVATIONS

A1.1

FIRST FLOOR: 951 S.F.
FIRST & SECOND: 1,709 S.F.



② FIRST FLOOR PLAN - AREA
1/16" = 1'-0"



① FIRST FLOOR PLAN
1/4" = 1'-0"

TOTAL LIVING AREA:
TOTAL FIRST FLOOR = 951 G.S.F.
TOTAL 1ST + 2ND FLOOR LIVING AREA = 1709 G.S.F.

Door Schedule		
Mark	Width	Height

101	2' - 8"	6' - 8"
102	5' - 0"	6' - 8"
103	2' - 6"	7' - 6"
104	3' - 0"	7' - 0"
105	2' - 8"	6' - 8"
106	4' - 0"	6' - 8"
107	2' - 0"	6' - 8"
108	2' - 6"	6' - 8"
201	2' - 6"	6' - 8"
202	2' - 6"	6' - 0"
203	2' - 6"	6' - 8"
204	2' - 6"	6' - 8"
205	2' - 6"	6' - 8"
206	2' - 6"	6' - 8"
207	2' - 6"	6' - 8"
208	2' - 6"	6' - 8"
209	2' - 0"	6' - 8"

Window Schedule							
Type Mark	Count	Window Type	Unit Width	Unit Height	Rough Width	Rough Height	Comments

A	11	Double Hung	2' - 7 5/8"	5' - 0 7/8"	2' - 8 1/8"	5' - 1 3/8"	(4) Tempered Indicated in Plan
B	3	Awning	2' - 7 1/2"	2' - 7 1/2"	2' - 8"	2' - 8"	
C	2	Double Hung	3' - 5 5/8"	5' - 4 7/8"	3' - 6 1/8"	5' - 5 3/8"	
D	2	Picture	2' - 6"	6' - 8"			(2) Tempered
E	4	Double Hung	2' - 5 5/8"	4' - 4 7/8"	2' - 6 1/8"	4' - 5 3/8"	

PROJECT ISSUE DATE

#	DATE	DESCRIPTION
1	03.31.20	SD1
2	04.28.20	SD1
3	06.29.20	Plan Revisions
6	09.04.20	BID SET
7	09.23.20	PERMIT SET

FIRST FLOOR PLAN

A2.1

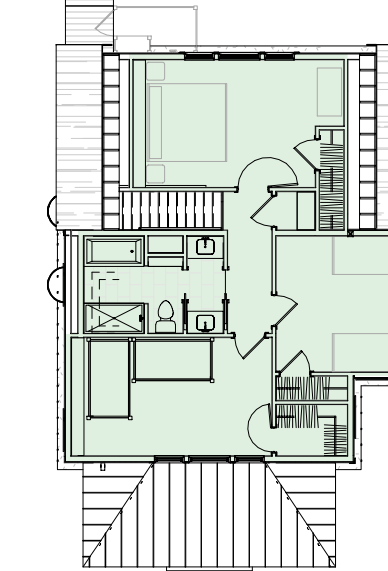
PROJECT ISSUE DATE

#	DATE	DESCRIPTION
1	03.31.20	SD1
2	04.28.20	SD1
6	09.04.20	BID SET
7	09.23.20	PERMIT SET

SECOND FLOOR PLAN

A2.2

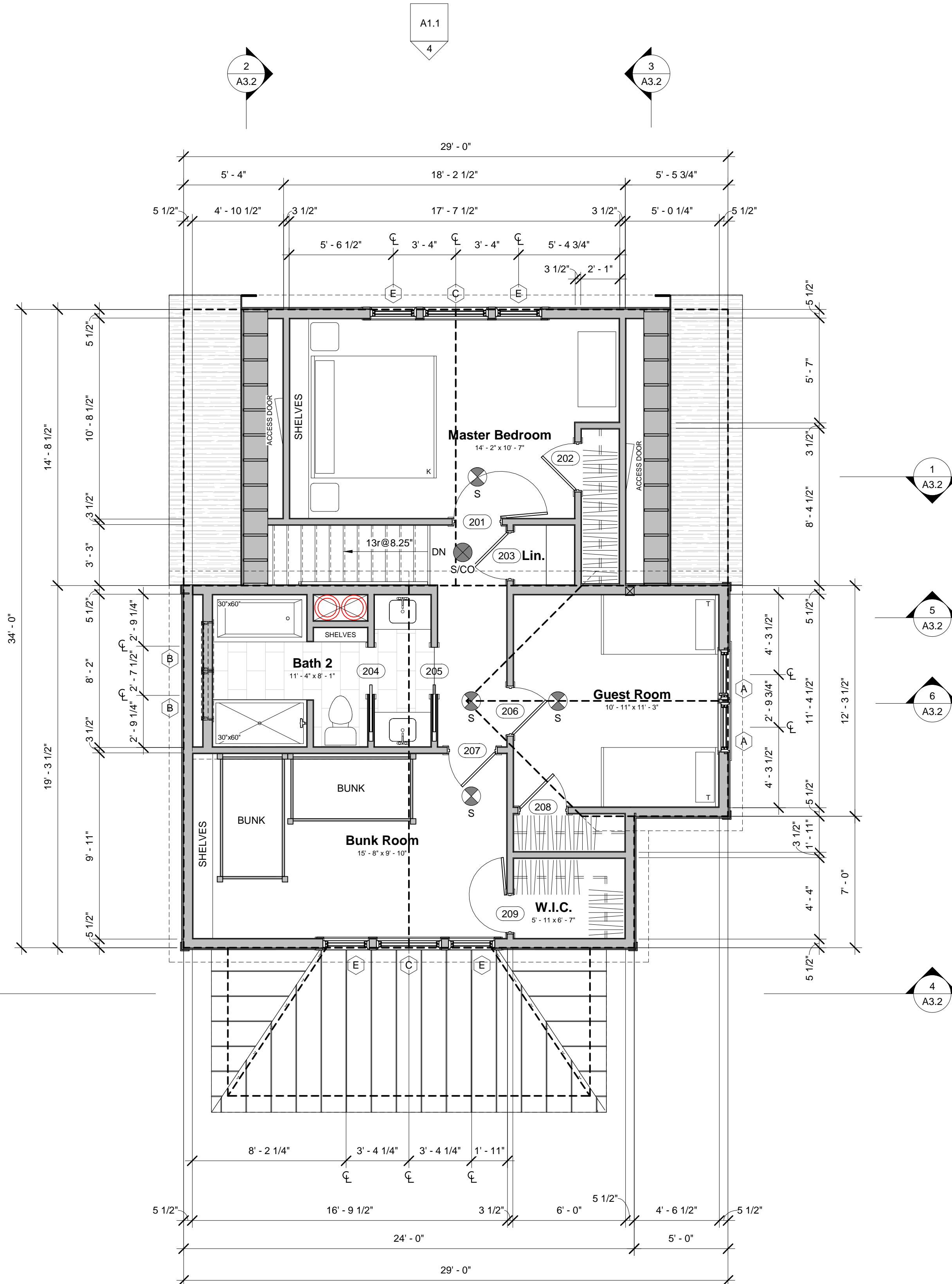
**SECOND FLOOR: 758 S.F.
FIRST & SECOND: 1,709 S.F.**



② SECOND FLOOR PLAN - AREA
1/16" = 1'-0"

Door Schedule		
Mark	Width	Height
101	2' - 8"	6' - 8"
102	5' - 0"	6' - 8"
103	2' - 6"	7' - 6"
104	3' - 0"	7' - 0"
105	2' - 8"	6' - 8"
106	4' - 0"	6' - 8"
107	2' - 0"	6' - 8"
108	2' - 6"	6' - 8"
201	2' - 6"	6' - 8"
202	2' - 6"	6' - 0"
203	2' - 6"	6' - 8"
204	2' - 6"	6' - 8"
205	2' - 6"	6' - 8"
206	2' - 6"	6' - 8"
207	2' - 6"	6' - 8"
208	2' - 6"	6' - 8"
209	2' - 0"	6' - 8"

Window Schedule							
Type Mark	Count	Window Type	Unit Width	Unit Height	Rough Width	Rough Height	Comments
A	11	Double Hung	2' - 7 5/8"	5' - 0 7/8"	2' - 8 1/8"	5' - 1 3/8"	(4) Tempered Indicated in Plan
B	3	Awning	2' - 7 1/2"	2' - 7 1/2"	2' - 8"	2' - 8"	
C	2	Double Hung	3' - 5 5/8"	5' - 4 7/8"	3' - 6 1/8"	5' - 5 3/8"	
D	2	Picture	2' - 6"	6' - 8"			(2) Tempered
E	4	Double Hung	2' - 5 5/8"	4' - 4 7/8"	2' - 6 1/8"	4' - 5 3/8"	



① SECOND FLOOR PLAN
1/4" = 1'-0"

TOTAL LIVING AREA:
SECOND FLOOR = 758 G.S.F.
TOTAL 1ST + 2ND FLOOR LIVING AREA = 1709 G.S.F.

PRIVATE RESIDENCE
69 GEORGE STREET
BARNSTABLE, MA

PROJECT ISSUE DATE		
#	DATE	DESCRIPTION
2	04.28.20	SD1
6	09.04.20	BID SET
7	09.23.20	PERMIT SET

BUILDING SECTIONS

A3.2

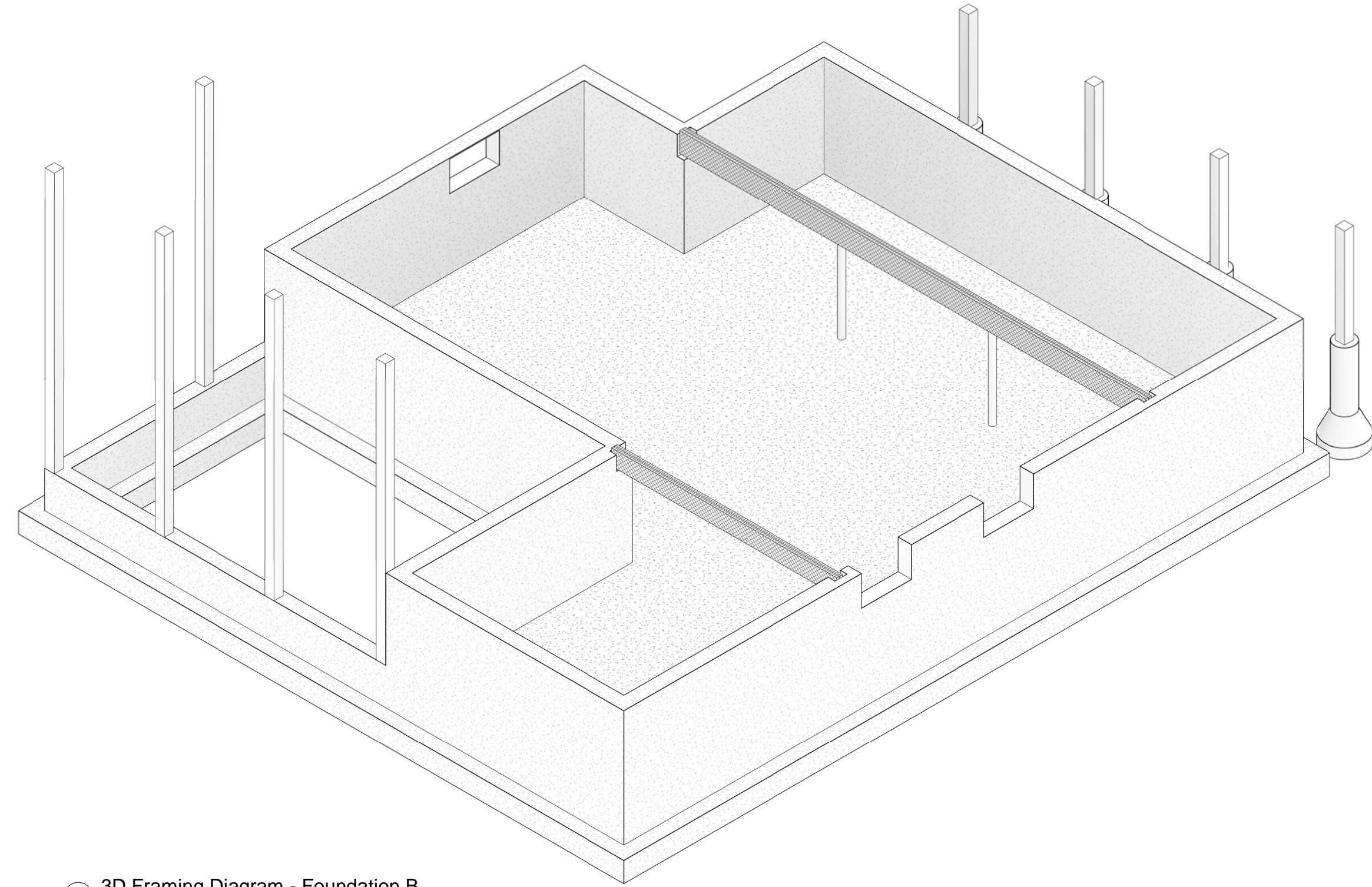


3D FRAMING DIAGRAMS ARE FOR VISUALIZATION PURPOSES ONLY. DO NOT USE FOR CONSTRUCTION.

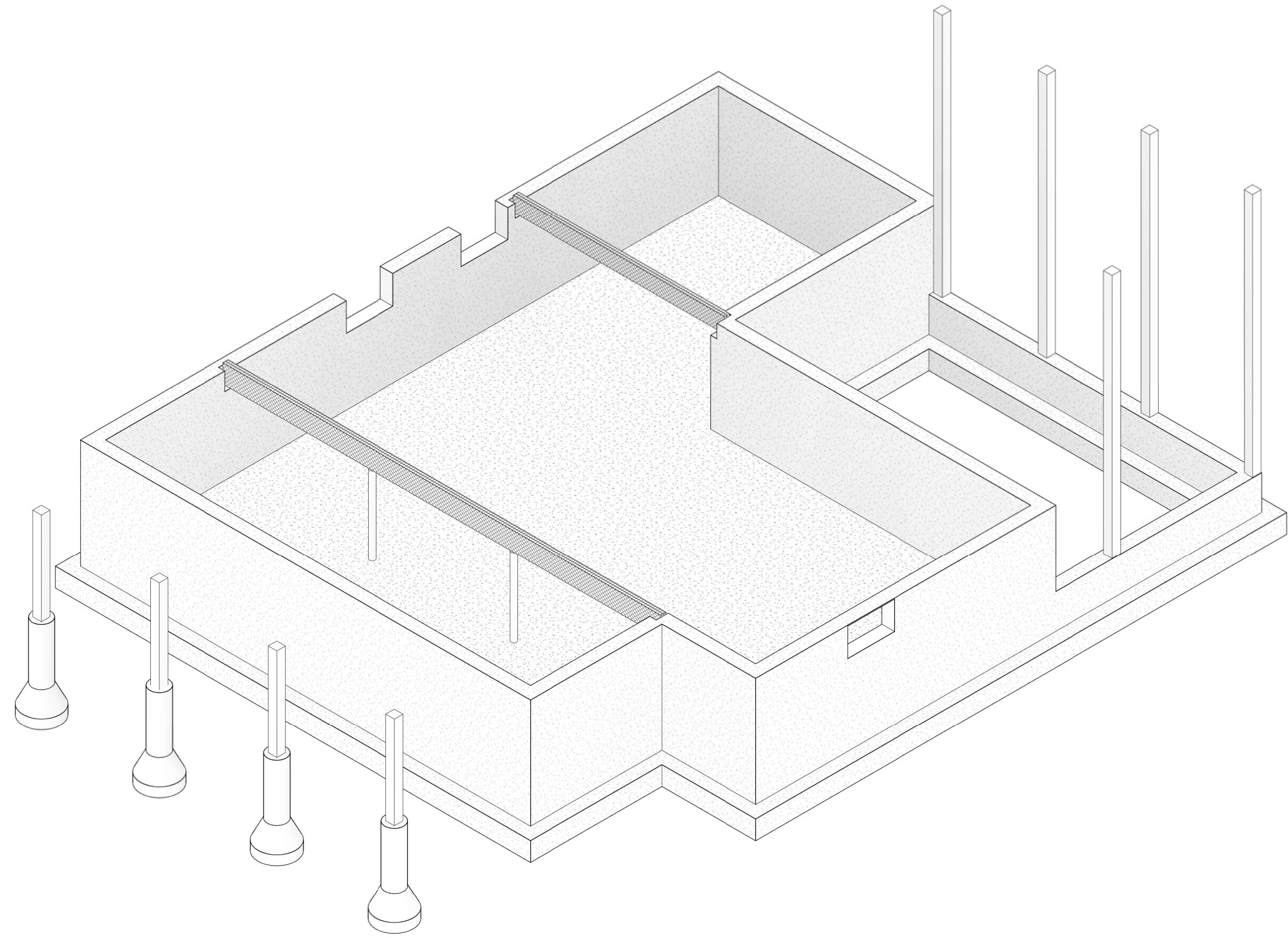


24 School Street
PO Box 186
West Dennis, MA 02670
t: 508.394.3090
f: 508.760.1406

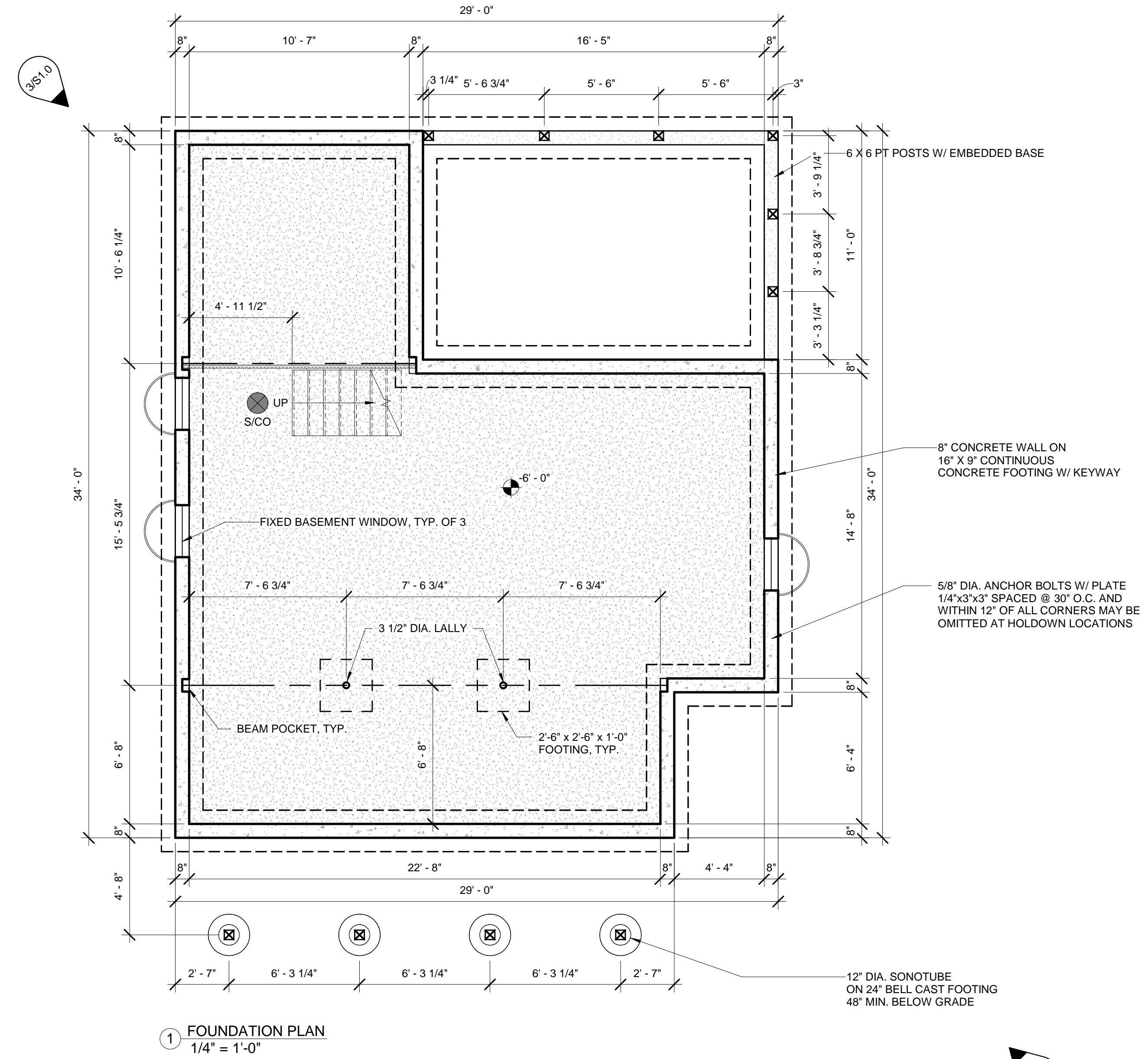
PRIVATE RESIDENCE
69 GEORGE STREET
BARNSTABLE, MA



③ 3D Framing Diagram - Foundation B



② 3D Framing Diagram - Foundation A



① FOUNDATION PLAN
1/4" = 1'-0"

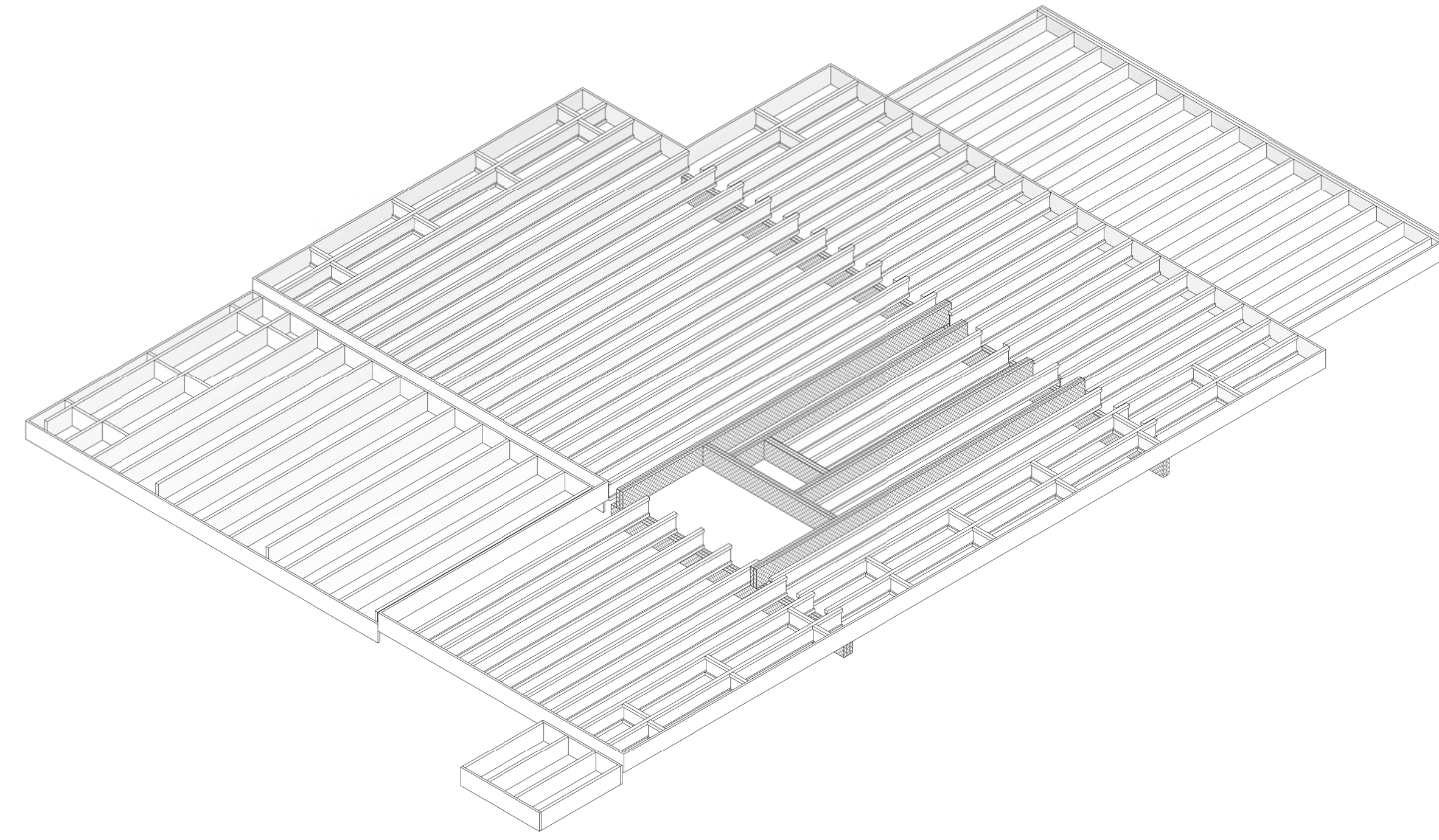
PROJECT ISSUE DATE

#	DATE	DESCRIPTION
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7	09.23.20	PERMIT SET

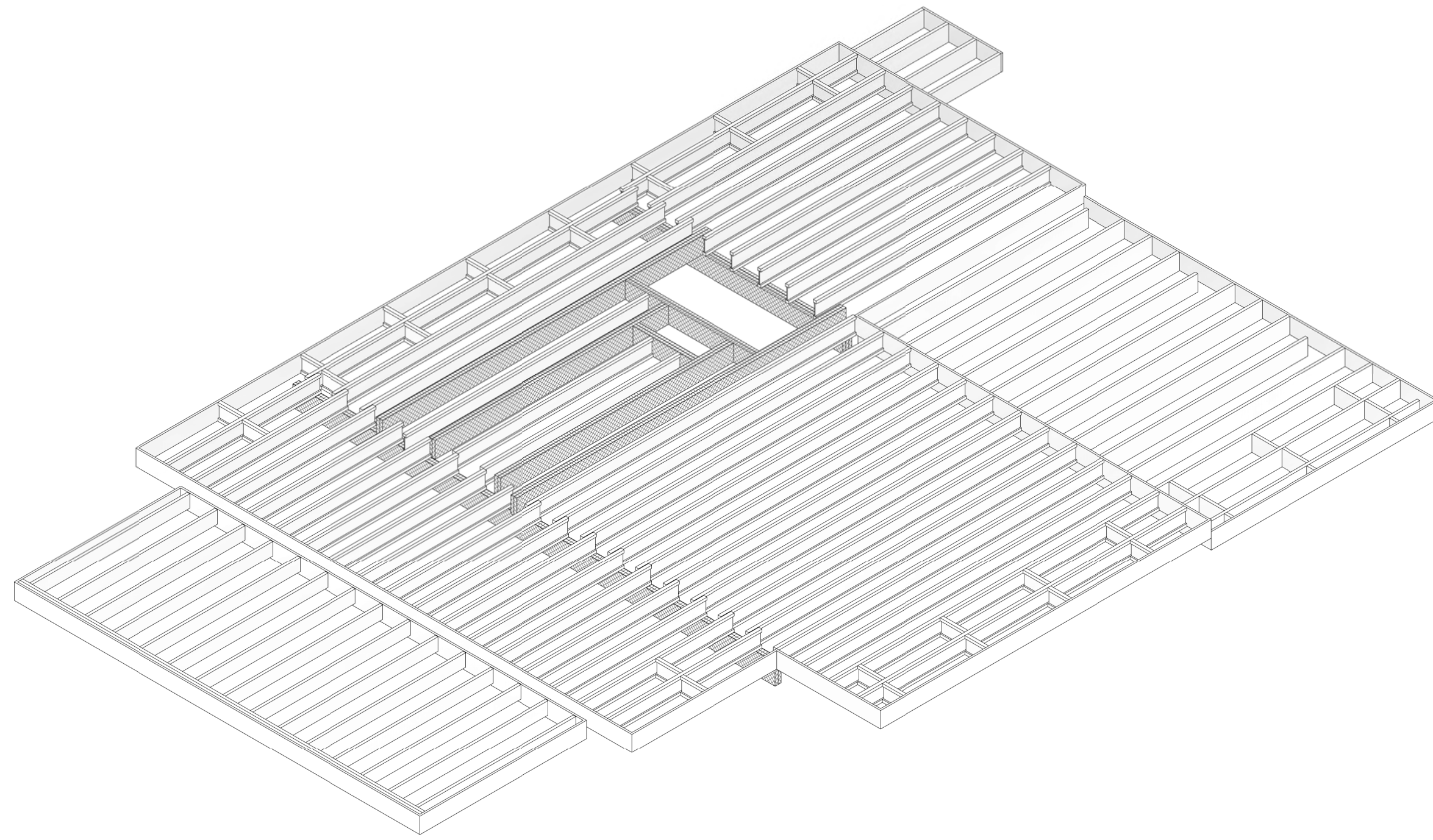
FOUNDATION PLAN

S1.0

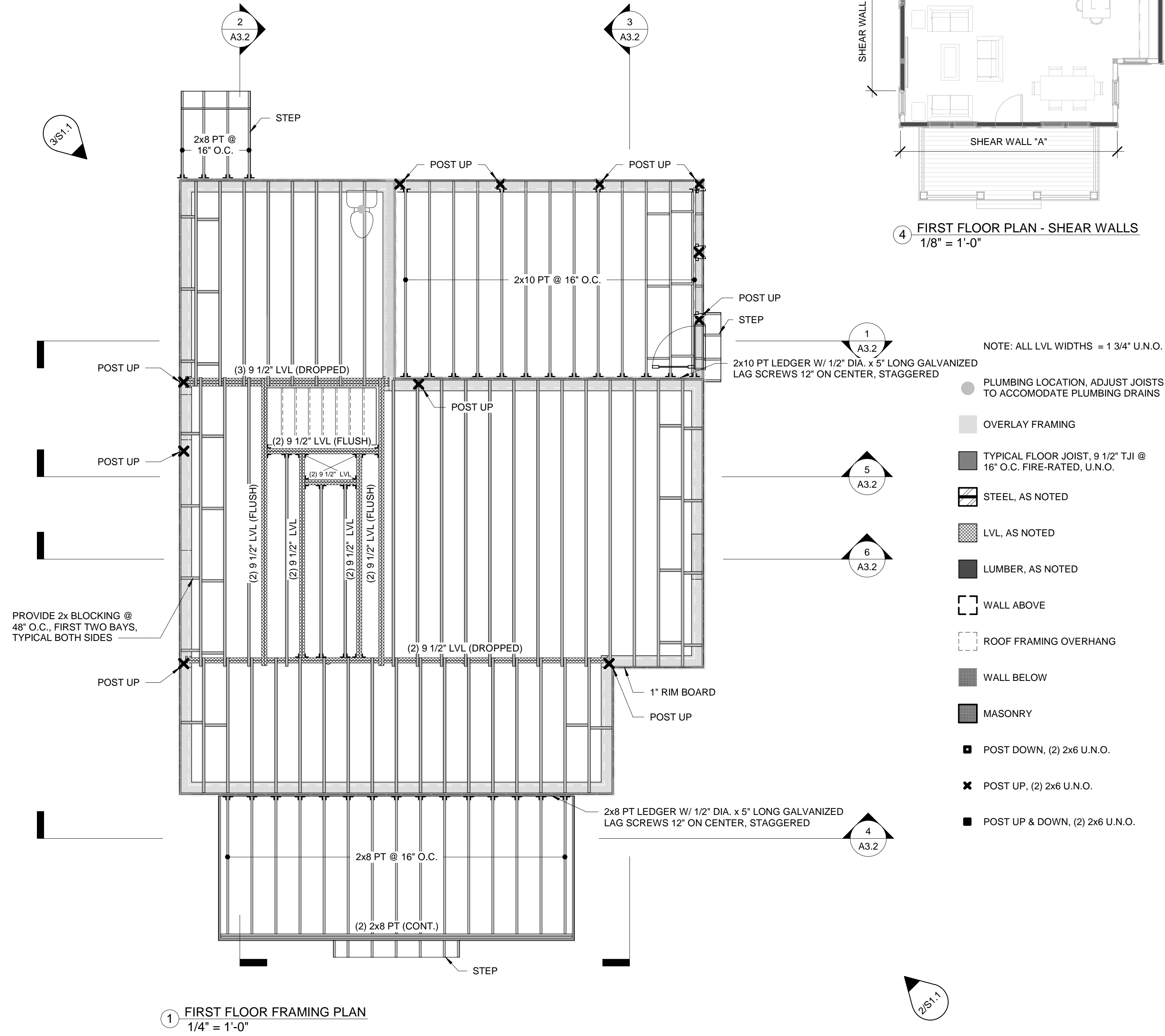
3D FRAMING DIAGRAMS ARE FOR VISUALIZATION PURPOSES ONLY. DO NOT USE FOR CONSTRUCTION.



3 3D Framing Diagram - First Floor B



2 3D Framing Diagram - First Floor A



PRIVATE RESIDENCE
 69 GEORGE STREET
 BARNSTABLE, MA

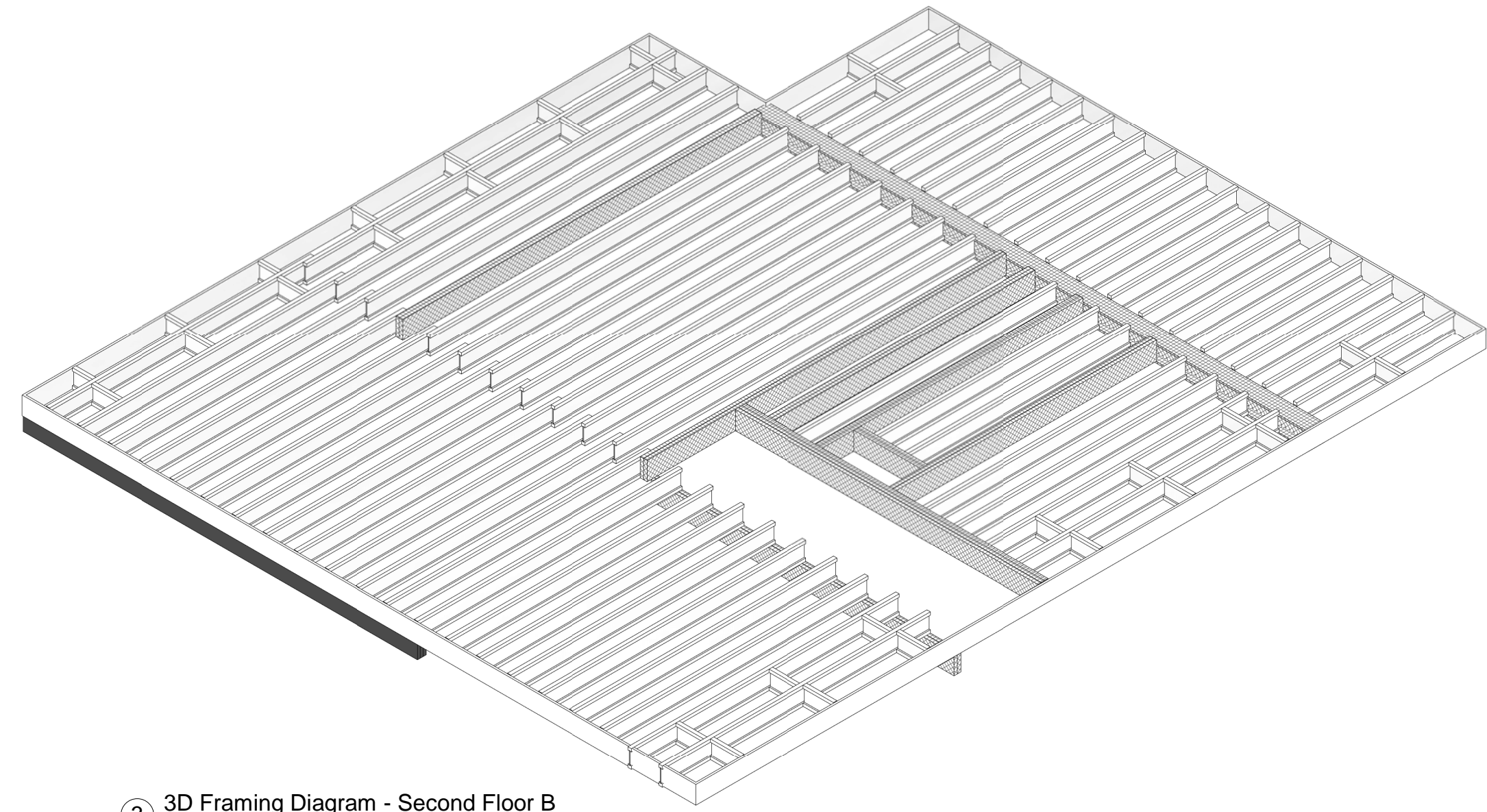
PROJECT ISSUE DATE		
#	DATE	DESCRIPTION
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7	09.23.20	PERMIT SET

FIRST FLOOR FRAMING PLAN

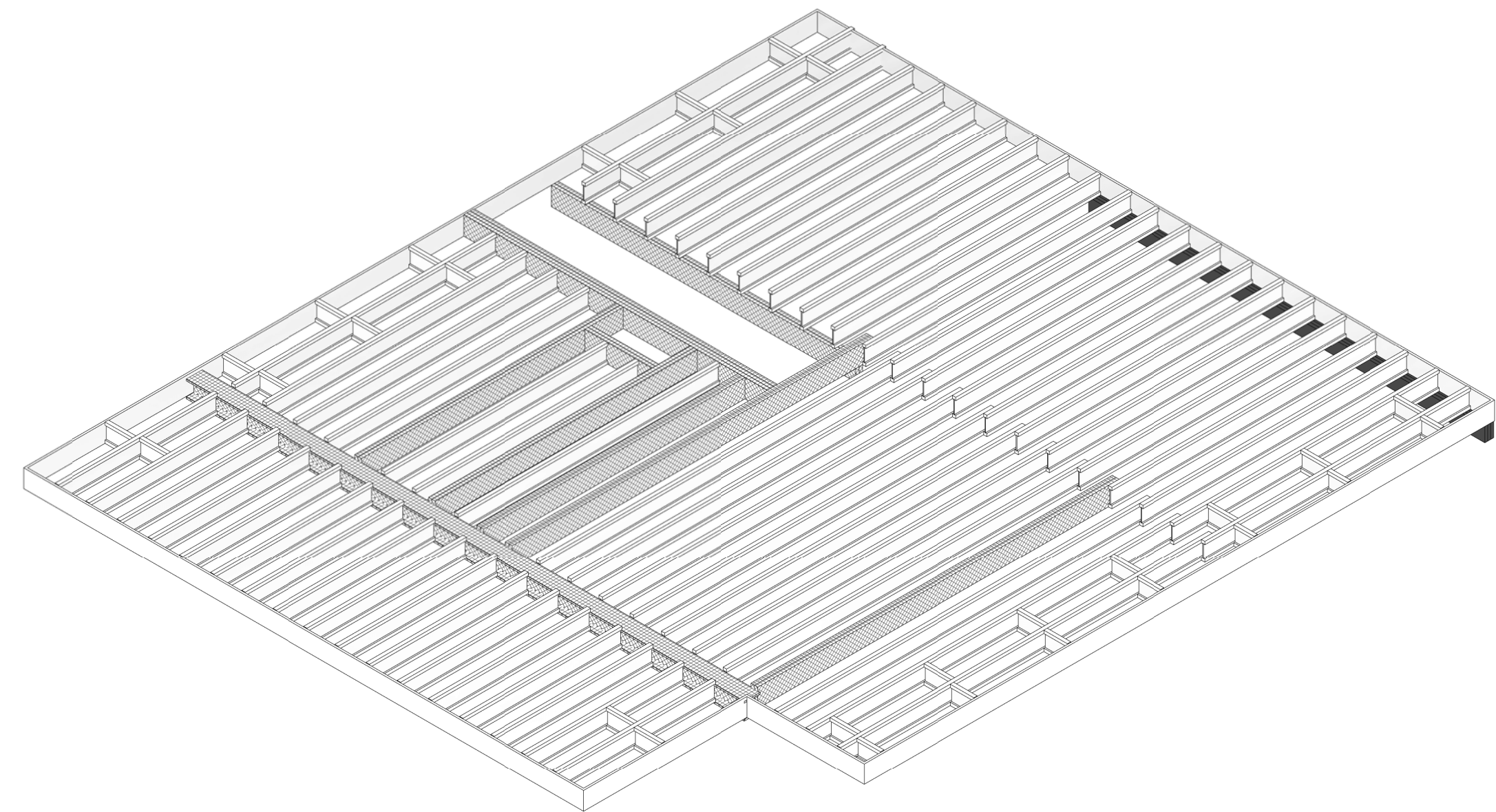
S1.1

3D FRAMING DIAGRAMS ARE FOR VISUALIZATION PURPOSES ONLY. DO NOT USE FOR CONSTRUCTION.

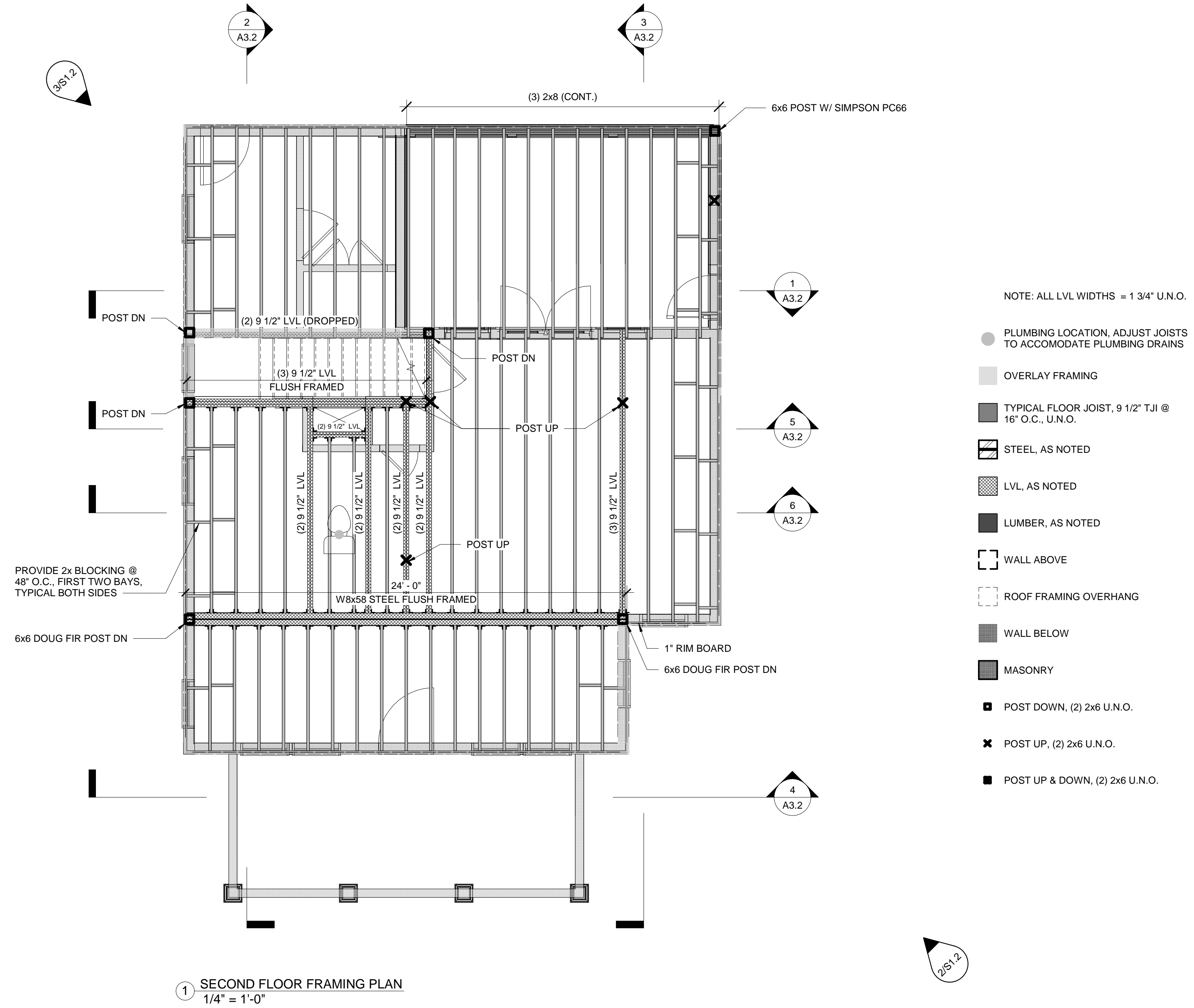
PRIVATE RESIDENCE
69 GEORGE STREET
BARNSTABLE, MA



3 3D Framing Diagram - Second Floor B



2 3D Framing Diagram - Second Floor A



PROJECT ISSUE DATE

#	DATE	DESCRIPTION
6	09.04.20	BID SET
7	09.23.20	PERMIT SET

SECOND FLOOR FRAMING PLAN

S1.2

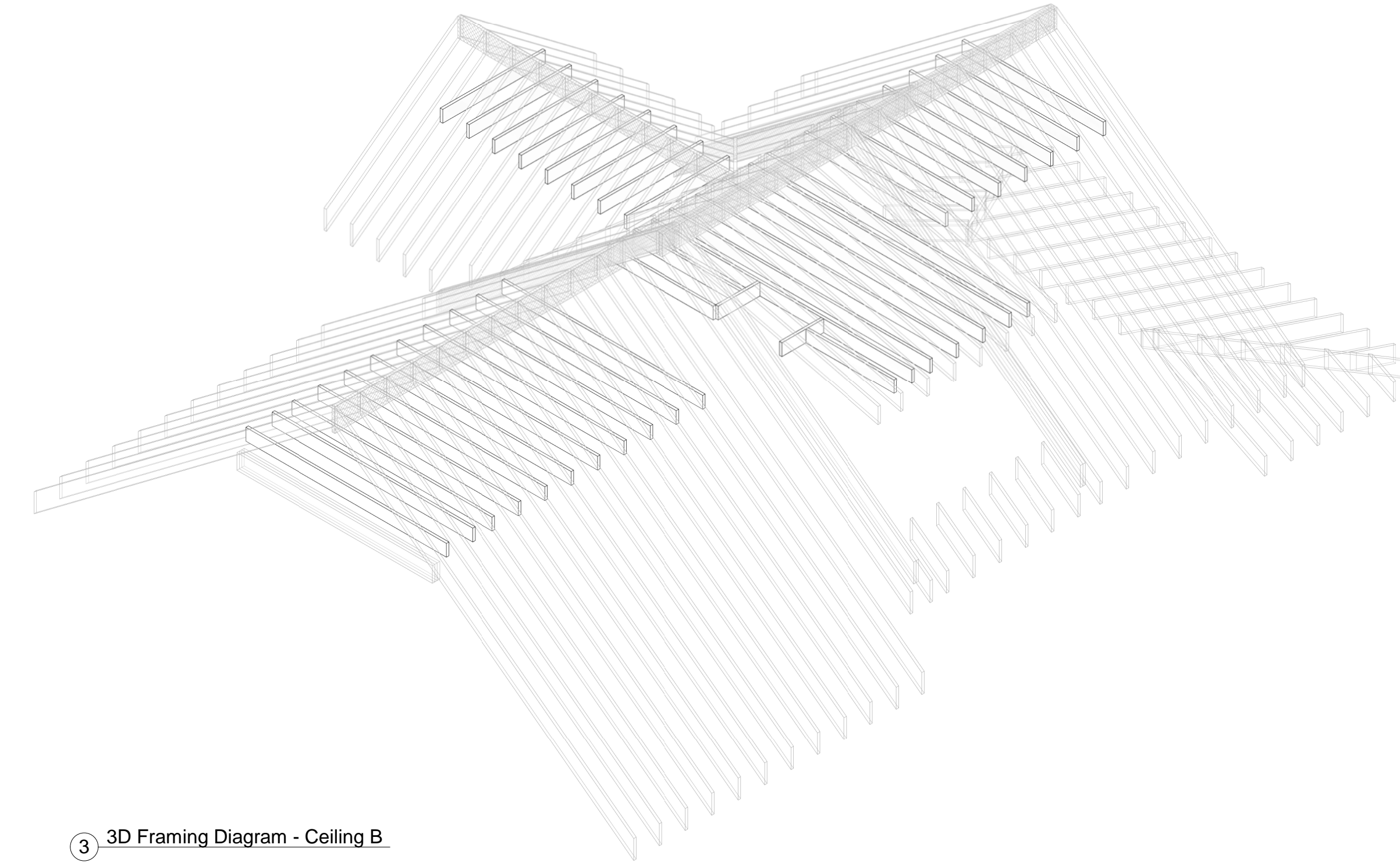
3D FRAMING DIAGRAMS ARE FOR VISUALIZATION PURPOSES ONLY. DO NOT USE FOR CONSTRUCTION.



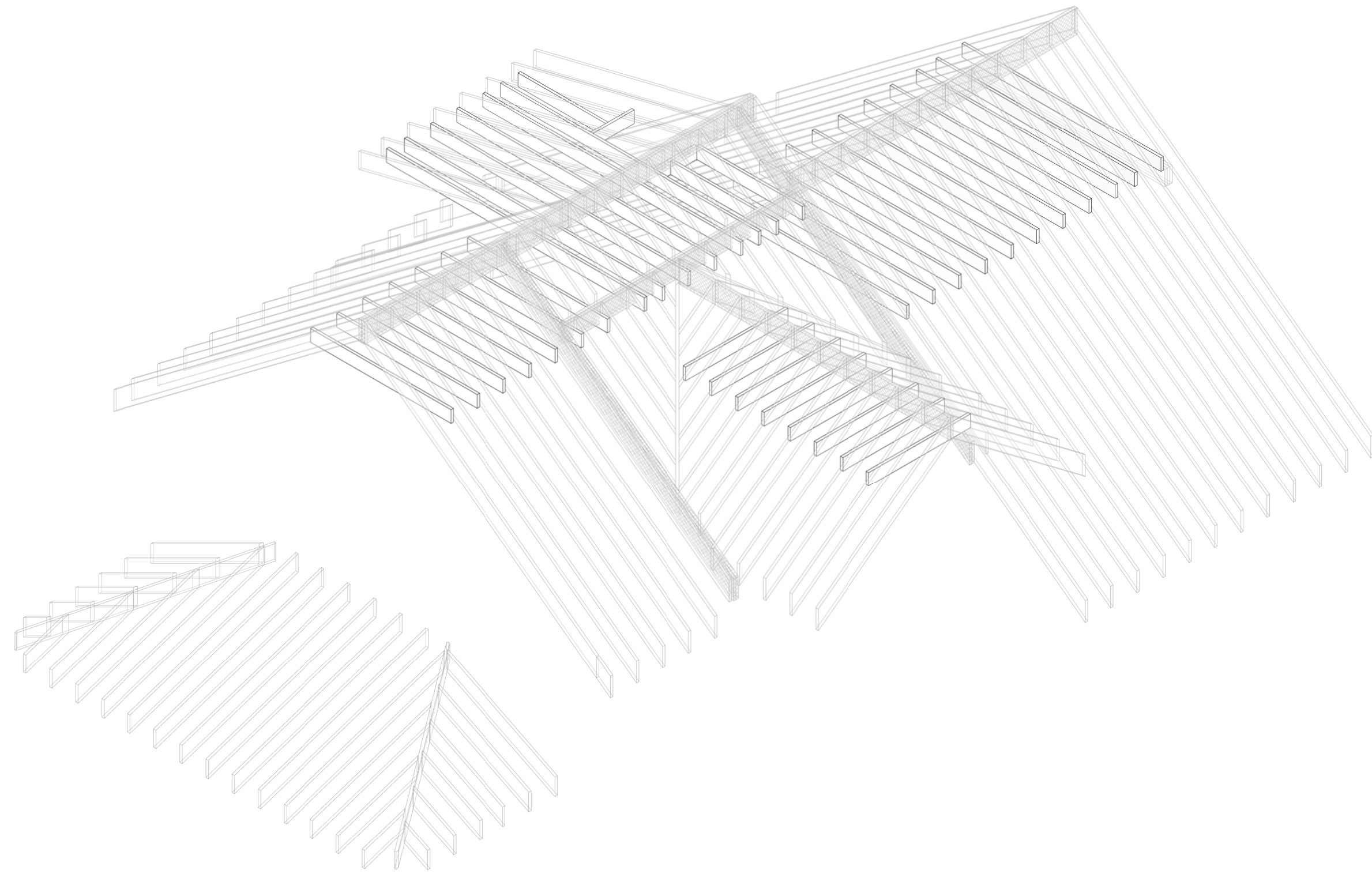
REEF BUILDERS
CAPCOBUILDER.COM

24 School Street
PO Box 186
West Dennis, MA 02670
t: 508.394.3090
f: 508.760.1406

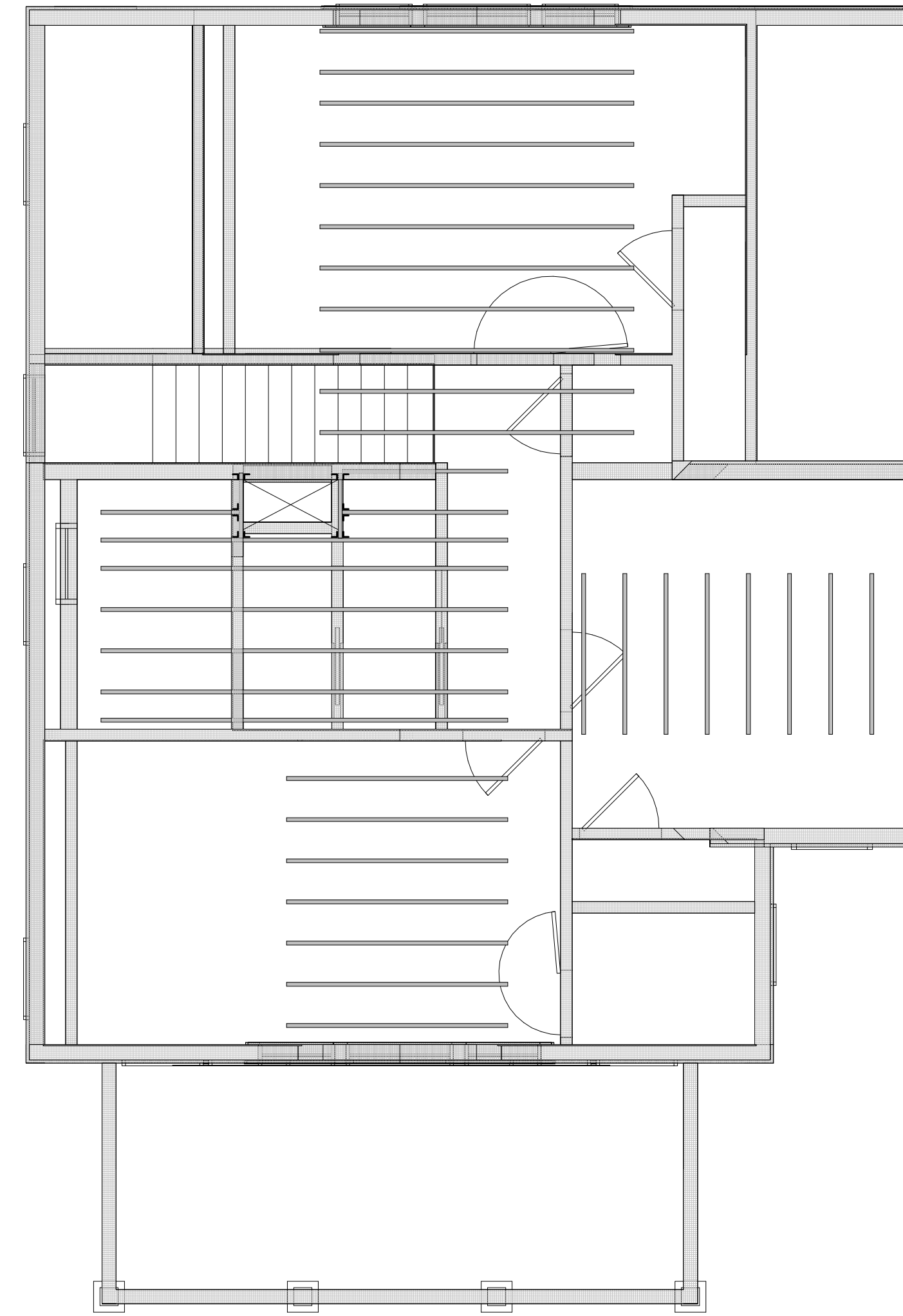
PRIVATE RESIDENCE
69 GEORGE STREET
BARNSTABLE, MA



③ 3D Framing Diagram - Ceiling B



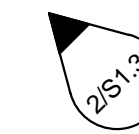
② 3D Framing Diagram - Ceiling A



① CEILING FRAMING PLAN
1/4" = 1'-0"

NOTE: ALL LVL WIDTHS = 1 3/4" U.N.O.

- LAY-OVER FRAMING
- TYPICAL CEILING JOIST, 2x8 @ 16" O.C., U.N.O. TIE INTO ROOF RAFTERS
- LVL, AS NOTED
- LUMBER, AS NOTED
- MAIN ROOF FRAMING
- ROOF FRAMING OVERHANG
- WALL / SOFFIT BELOW
- MASONRY
- POST DOWN, (2) 2x6 U.N.O.
- × POST UP, (2) 2x6 U.N.O.
- POST UP & DOWN, (2) 2x6 U.N.O.



PROJECT ISSUE DATE

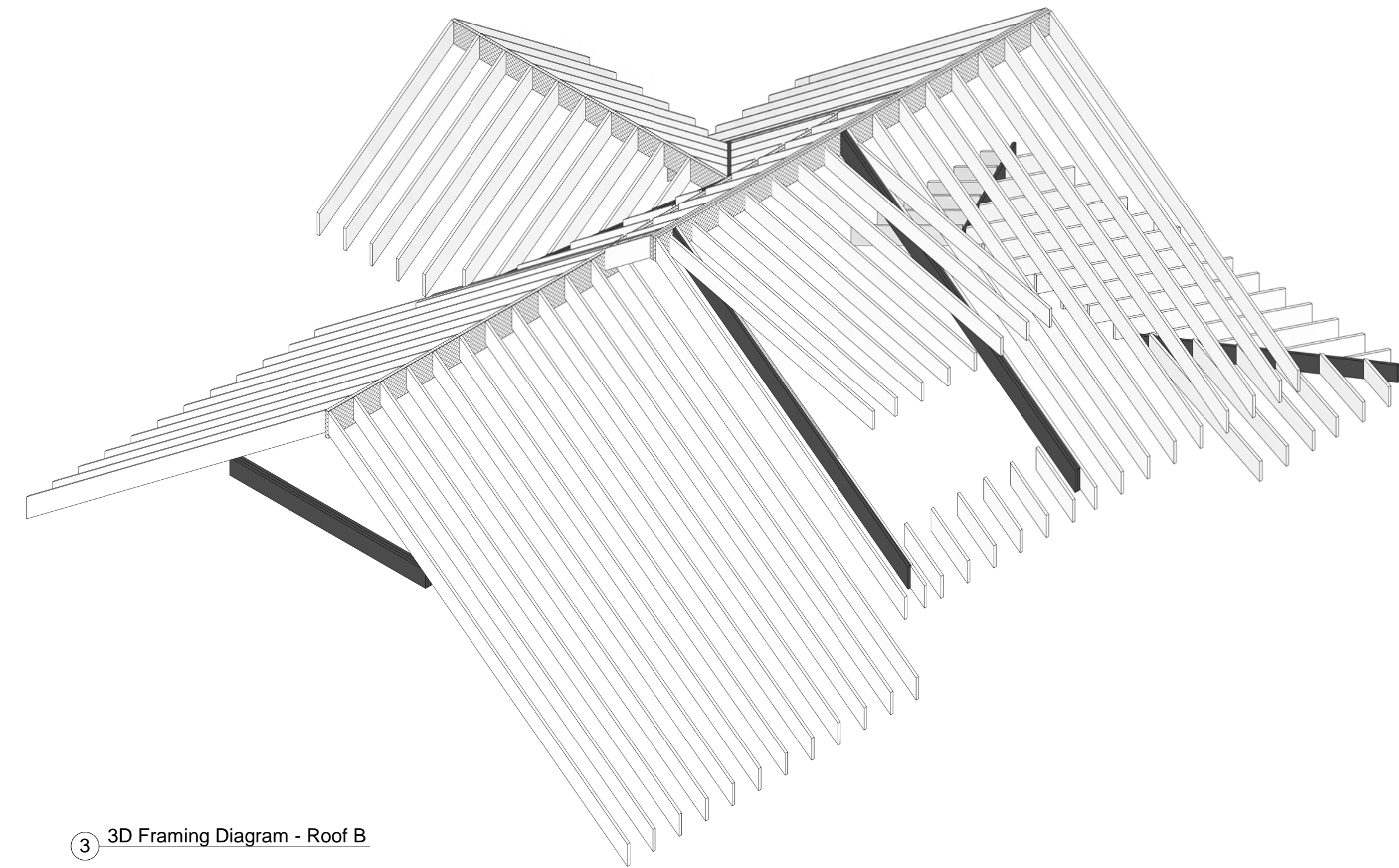
#	DATE	DESCRIPTION
6	09.04.20	BID SET
7	09.23.20	PERMIT SET

CEILING FRAMING PLAN

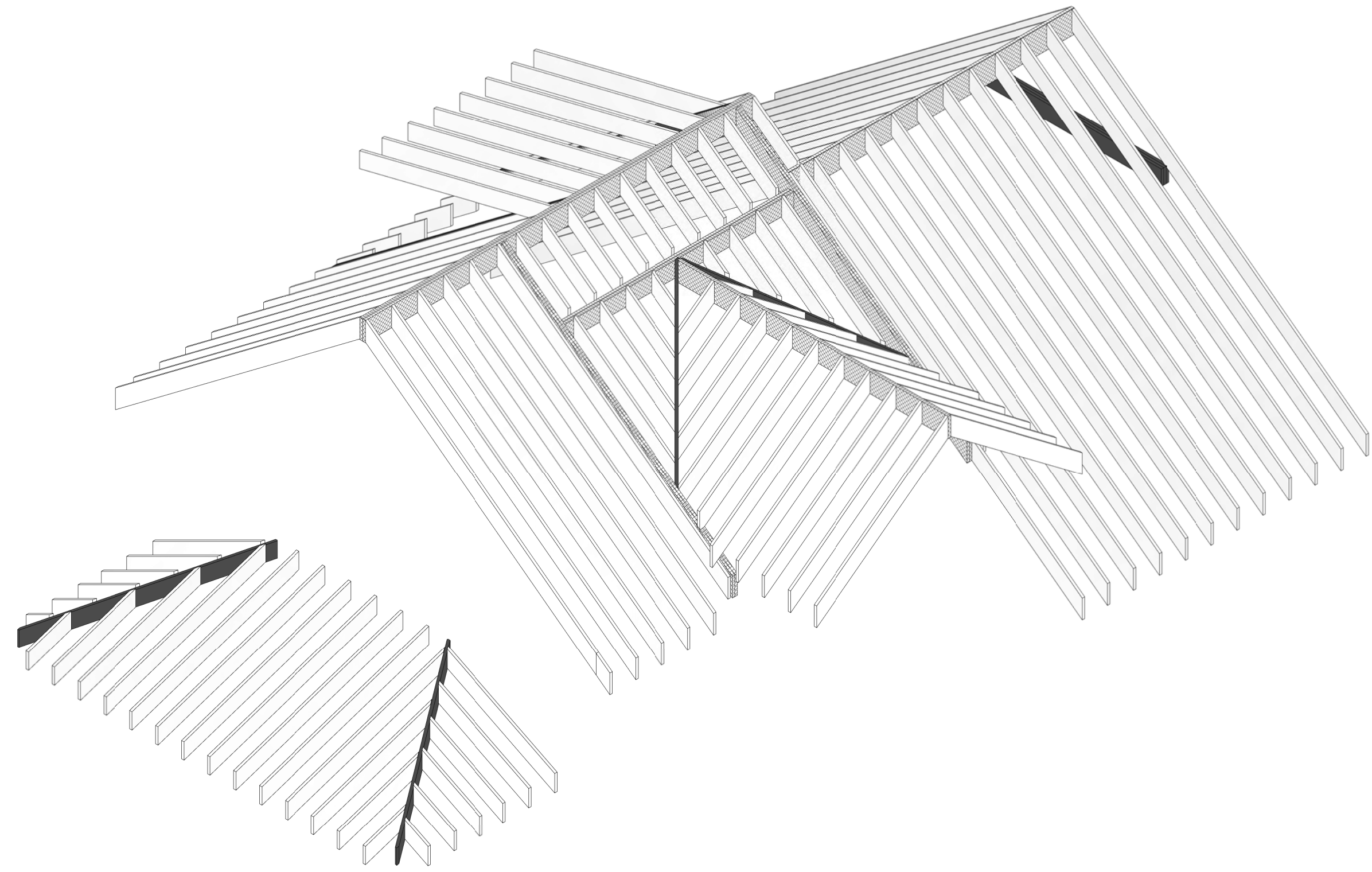
S1.3

3D FRAMING DIAGRAMS ARE FOR VISUALIZATION PURPOSES ONLY. DO NOT USE FOR CONSTRUCTION.

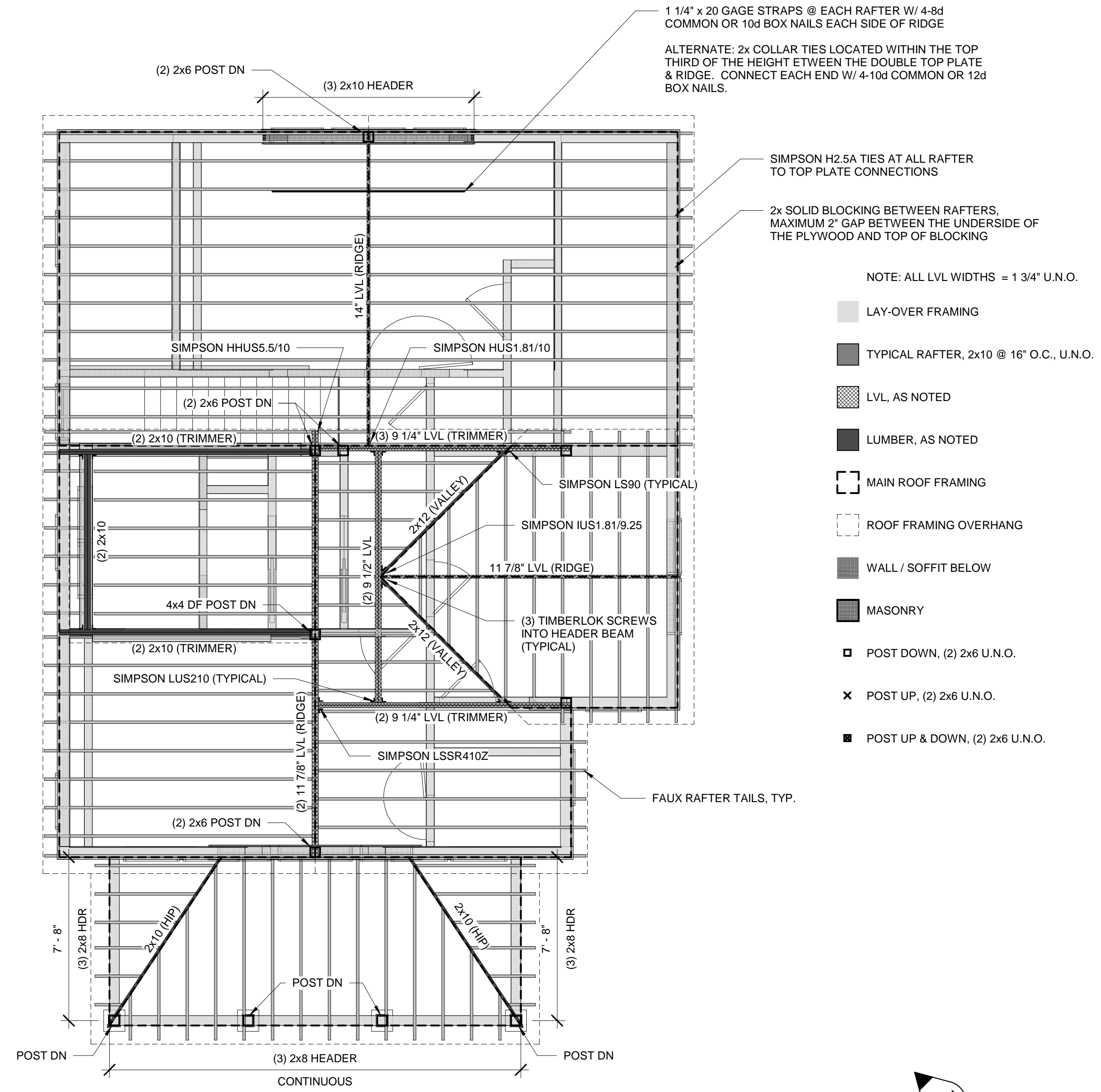
PRIVATE RESIDENCE
 69 GEORGE STREET
 BARNSTABLE, MA



3 3D Framing Diagram - Roof B



2 3D Framing Diagram - Roof A



1 ROOF FRAMING PLAN
 1/4" = 1'-0"

- NOTE: ALL LVL WIDTHS = 1 3/4" U.N.O.
- LAY-OVER FRAMING
 - TYPICAL RAFTER, 2x10 @ 16" O.C., U.N.O.
 - LVL, AS NOTED
 - LUMBER, AS NOTED
 - MAIN ROOF FRAMING
 - ROOF FRAMING OVERHANG
 - WALL / SOFFIT BELOW
 - MASONRY
 - POST DOWN, (2) 2x6 U.N.O.
 - POST UP, (2) 2x6 U.N.O.
 - POST UP & DOWN, (2) 2x6 U.N.O.

9/29/2020 4:24:52 PM

ROOF FRAMING PLAN

S1.4

DESMOND AND CAROLINE GALLACHER, PROPERTY OWNERS
99 GEORGE ST., BARNSTABLE, MA

ZONING ANALYSIS

Desmond and Caroline Gallacher, current recorded title owners of the property located at 99 George Street, Barnstable, MA, seek a Special Permit from the Barnstable Zoning Board of Appeals pursuant to the provisions of the Town of Barnstable Zoning Bylaw, Section 240-91.H(3). The Gallacher proposal involves Demolition of a Single-Family, three-bedroom home and Constructing of a new Single-Family, three-bedroom Cottage style home on a pre-existing, non-conforming lot within the RB Zoning District and the Aquifer Protection Overlay district.

The lot is only 4,967 square feet and the minimum lot size requirement is 43,560 sf in the RB zone. The lot was created by a plan of land dated August 27,1921, and recorded in the Barnstable County Registry of Deeds, Plan Book 75, Page 155, Lot 13. Mr. & Mrs. Gallacher have owned this property since December 2019

The existing three-bedroom dwelling was located on the site at the time Mr. & Mrs. Gallacher purchased the property and according to the Town of Barnstable Assessors information, was constructed in 1941. The new home proposal will serve to *eliminate* the encroachment into both Front Yard setbacks on George St and Harbor View Rd and will conform to all the regulated yard setbacks. The exiting garage will be demolished and a small, 120 sq. ft. shed will be located in the same general location but not exceeding the existing non-conforming encroachments into the building setbacks. The existing lot coverage is 32.7% and the proposed lot coverage is 24.8%, exceeds 20% but does not exceed the existing lot coverage. The existing Floor Area is 2,074 sf or 42% FAR, and the proposed Floor Area is 1,709 sf or 35% FAR, this does exceed the FAR threshold of 30% but does not exceed the existing FAR or 41%

As more fully explained below, the proposal does not trigger any of the thresholds set forth in Section 240-91.H(3) and therefore, does not warrant a mandatory finding of substantially more detrimental to the neighborhood. We respectfully submit to the Board that the proposal will, in fact, enhance the neighborhood and will not detract from any of the qualities of the surrounding area.

1. The Application falls within a category specifically excepted in the ordinance for a special permit as allowed in section 240-91(H)(3). The section allows complete demolition and rebuilding of a residence on a non-conforming, predeveloped lot containing less than 10,000 sf by Special Permit.
2. Site Plan Review is not required because the application is residential in nature.
3. We submit that the proposed single-family home will be in keeping with the surrounding area and will fulfill the spirit and intent of the Zoning Ordinance. The proposal meets the

requirements set forth in 240-91(H)(3) and will not be a substantial detriment to the public good and the neighborhood.

4. The proposal meets all regulated yard setbacks. In fact, eliminating two existing encroachments into the street setbacks.
5. The proposed dwelling will exceed the required 20% lot coverage but will not exceed the existing lot coverage of 32.7%. The proposed coverage is 24.8%
6. The proposed dwelling will exceed 30% floor area ratio (FAR) but will not exceed the existing FAR of 42%. The proposed FAR is 35%. The proposed dwelling will be less than the required building height of 30 feet. The proposed structure is 22 feet to the highest plate from the existing grade plane and will only have only 2 stories where 2 ½ is allowed.
7. We have proposed a modest, 1,709 sf Cottage style home that eliminates two existing encroachments and meets all other current bulk regulations. We will be removing an old non-conforming detached garage and the existing 1941 cottage that is at the end of its functional life. We feel this proposal will **not** be substantially more detrimental to the neighborhood than the existing dwelling and would in fact be a welcome addition.

From: Maureen Taylor <mht11@comcast.net>
Sent: Wednesday, October 14, 2020 7:09 PM
To: Brigham, Anna
Subject: ZBA Appeal No 2020-037

Greetings Anna-

I'm writing to you to convey my support for the appeal submitted on behalf of the Gallacher Family (69 George St). This property is located directly across from my house. Throughout the design and approval process, they have kept neighbors informed of their plans and have shared the drawings of the proposed work. I was happy to write a letter of support for the Old King's Highway meeting. As I recall, it was neighbors who encouraged the Gallacher's to bump out their front porch to make it a more useful space. I support the modification to their plans, and have no concerns with the proposed design. The new house is a pretty cottage that fits very well with many of the homes on George Street and with the quaint character of Cobb's Village. I hope that the board will vote in favor of this appeal.

Respectfully submitted,

Maureen Taylor
68 George Street
Barnstable MA 02630

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Town of Barnstable
 Planning and Development Department
 Elizabeth Jenkins, Director
 Staff Report

Special Permit No. 2020-037 – Gallacher
Section 240-91(H)3 – Nonconforming Lot-Developed Lot Protection

To allow the demolition of an existing dwelling and construction of a new dwelling on a lot less than 10,000 square feet

Date: October 14, 2020
To: Zoning Board of Appeals
From: Anna Brigham, Principal Planner

Applicant: **Desmond and Caroline Gallacher**
Property Address: 69 George Street, Barnstable, MA
Assessor's Map/Parcel: 319/059
Zoning: Residence B (RB)

Filed: October 1, 2020

Hearing: October 28, 2020

Decision Due: January 6, 2021

Copy of Public Notice

Desmond and Caroline Gallacher have applied for a Special Permit pursuant to Section 240-91.H(3) – Demolition and Rebuilding on a Nonconforming lot. The Applicants are proposing to demolish an existing three-bedroom dwelling and construct a new, three-bedroom dwelling on a lot consisting of less than 10,000 square feet. The subject property is located at 69 George Street, Barnstable, MA as shown on Assessor's Map 319 as Parcel 059. It is located in the Residence B Zoning District.

Background

Desmond and Caroline Gallacher are seeking a Special Permit to allow the demolition of an existing 2,074 gross floor area single family dwelling and the construction of a 1,709 gross floor area single family dwelling at 69 George Street, Barnstable.

The subject lot is 4,976 square feet and developed with a three bedroom, 2,074 gross square foot dwelling constructed in 1941. The lot has frontage on both Harbor View Road and George Street. Undersized lots appear common in the area.

The existing dwelling has a front yard setback from George Street of 17.4 feet, a front yard setback from Harbor View Road of 10.1 feet and 3.9 feet to the detached garage, one side yard setback of 21.2 feet and 3.7 feet to the detached garage, and another side yard setback of 13.1 feet.

The proposed dwelling will have either conforming setbacks or improved setbacks. The front yard setback from George Street will be 20.7 feet, a front yard setback from Harbor View of 21.3 feet to the dwelling and 4 feet to the shed, a side yard setback of 19.1 feet to the dwelling and 4.0 feet to the shed, and the final side setback of 11.1 feet. The lot size is 4,976 square feet where one acre is required. Under Section 240-91 (H)(3) Special Permit is required for demolition and rebuilding because the lot is under 10,000 square feet and cannot meet the criteria in H(1).

Proposal & Relief Requested

Desmond and Caroline Gallacher are seeking a Special Permit to allow the demolition of an existing 2,074 gross floor area single family dwelling and the construction of a 1,709 gross floor area single family dwelling on a 4,976 square foot lot.

The existing lot coverage is 32.7% and the proposed lot coverage is 24.8%, this exceeds the 20% threshold but is an improvement. The existing FAR is 2,074 square feet or 41% and the proposed FAR is 1,709 square feet or 35%, this exceeds the 30% threshold but is an improvement.

Section 240-91(H)(3) requires a special permit for all demolition and rebuilding projects if the proposed demolition and rebuilding cannot satisfy the criteria under Section 240-91(H)(1) “As of Right”, but the following criteria must be met:

- J Lot Coverage: 24.8% (20% maximum) – 1,234 square feet (995 square feet allowed)
- J Floor-Area Ratio: 35% (30% maximum) – 1,741 square feet (1,492 square feet allowed)
- J Building Height: 22 feet to top of plate (30 feet maximum)

Proposed Special Permit Findings

For all Special Permits, the Board is required to make general findings pursuant to § 240-125(C). The Board should review the evidence presented by the Applicant, staff, and members of the public and, after weighing such evidence, is encouraged to articulate if and how the evidence contributes to each of the required findings.

- J **The application falls within a category specifically excepted in the ordinance for a grant of a special permit.** Section 240-91(H)(3) allows for the complete demolition and rebuilding of a residence on a lot under 10,000 square feet.
- J **Site Plan Review is not required for single-family residential dwellings.**
- J **After an evaluation of all the evidence presented, the proposal fulfills the spirit and intent of the Zoning Ordinance and would not represent a substantial detriment to the public good or the neighborhood affected.**

Further, Section 240-91(H)(3) requires the Board to find that if the proposed demolition and rebuilding cannot satisfy the criteria established is H(1) As-Of-Right, then the Board may allow the demolition and rebuilding by Special Permit provided the Board finds that:

- J **The proposed yard setbacks must be equal to or greater than the yard setbacks of the existing building.** The proposed front yard setbacks and side yard setbacks to the dwelling are conforming; the setbacks to the shed will be more conforming.
- J **The proposed lot coverage shall not exceed 20% or the existing lot coverage, whichever is greater.** The proposed lot coverage is 24.8%, more conforming than the existing lot coverage.
- J **The floor area ratio shall not exceed 0.30 or 30% the existing floor area ratio of the structure being demolished, whichever is greater.** The proposed FAR is 35%, more conforming than the existing FAR.
- J **The building height, in feet, shall not exceed 30 feet to the highest plate and shall contain no more than 2 ½ stories.** The proposed height is 22 feet to the top of the plate and contains 2 stories.

The Board is also asked to find that:

- J **The proposed new dwelling would not be substantially more detrimental to the neighborhood than the existing dwelling.**

Suggested Conditions

Should the Board find to grant Special Permit No. 2020-037, it may wish to consider the following conditions:

1. Special Permit No. 2020-037 is granted to Desmond and Caroline Gallacher for the demolition of an existing dwelling and construction of a 1,709 gross floor area dwelling at 69 George Street, Barnstable, MA.
2. The site development shall be constructed in substantial conformance with the plan entitled “Gallacher Residence proposed Zoning Plan” prepared by J.M. O’Reilly and Associates, Inc. dated August 24, 2020.
3. The total lot coverage of all structures on the lot shall not exceed 24.8% and the floor-area ratio shall not exceed 35%.
4. The proposed redevelopment shall represent full build-out of the lot. Further expansion of the dwelling or construction of additional accessory structures is prohibited without prior approval from the Board.
5. All mechanical equipment associated with the dwelling (air conditioners, electric generators, etc.) shall be screened from neighboring homes and the public right-of-way.
6. The decision shall be recorded at the Barnstable County Registry of Deeds/Land Court and copies of the recorded decision shall be submitted to the Zoning Board of Appeals Office and the Building Division prior to issuance of the building permit. The rights authorized by this special permit must be exercised within two years, unless extended.

Copies: Applicants (c/o James Hagerty)

Attachments: Application
Site Plans
Building plans
Assessor’s Record & Aerial Photo