

City of Newburyport Zoning Board of Appeals
Application for a SPECIAL PERMIT for NON-CONFORMITIES

Petitioner: David and Patrice Antczak c/o Lisa L. Mead, Mead, Talerman & Costa LLC

Mailing Address: 30 Green Street, Newburyport MA 01950

Phone: 9784637700 Email: Lisa@mtclawyers.com

Property Address: 161 Water Street

Map and Lot(s): 23/13 Zoning District: WMD/DCOD

Book and Page(s): 38609/62

Owner(s) Name: David and Patrice Antczak

Mailing Address (if different): 161 Water St

This request for a Special Permit for Non-Conformities is made under section(s):
(Refer to the Zoning Determination form supplied by the Zoning Administrator)

- | | |
|--|---|
| <input checked="" type="checkbox"/> Extension or Alteration (IX.B.2) | <input type="checkbox"/> Over 500 s.f. increase (IX.B.3.c) |
| <input type="checkbox"/> Parking | <input type="checkbox"/> Plum Island Overlay District (XXI-G) |
| <input type="checkbox"/> Upward Extension | <input type="checkbox"/> FAR |
| <input type="checkbox"/> Open Space | <input type="checkbox"/> Footprint Expansion |
| <input type="checkbox"/> Height | <input type="checkbox"/> Height Increase |
| <input type="checkbox"/> Lot Area | |
| <input type="checkbox"/> Use | |
| <input type="checkbox"/> Rear Yard | |
| <input type="checkbox"/> Lot Coverage | |
| <input checked="" type="checkbox"/> Side Yard | |
| <input type="checkbox"/> Lot Frontage | |
| <input type="checkbox"/> Front Yard | |

Description of request:
Construct one story addition on rear of pre-existing non-conforming structure

All information contained within this application will become a formal part of the Zoning Board of Appeals proceedings and decision.

City of Newburyport Zoning Board of Appeals
Application for a SPECIAL PERMIT for NON-CONFORMITIES

	Required Dimensional Controls from Section VI.A	Existing Dimensional Controls from survey or site plan	Proposed Dimensional Controls from proposed plans
Lot Area	10,000	4,026	4,026
Frontage	90	36.28	36.28
Height*	25	26	26
Max. Lot Coverage (%)**	25	14.4	22.2
Min. Open Space (%)***	40	68.3	60.5
Primary Front Setback	25	3.5	3.5
Side A Setback/Secondary Front Setback	10	5	5
Side B Setback	10	11.3	10.5
Rear Setback	25	86.6	77
Parking Spaces	2	2	2
FAR****	NA	NA	NA

*Height is measured to median roof line.


**Total building footprint divided by the lot area expressed as a percentage.

***Area unoccupied by building, parking areas, or driveways expressed as a percentage of lot area. Pools, patios, and decks may be included in open space.

****FAR is only applicable in the Plum Island Overlay District (PIOD).

Any advice, opinion, or information given by any board member or any other official or employee of the City of Newburyport shall not be binding on the Zoning Board of Appeals. It shall be the responsibility of the petitioner to furnish all supporting documentation with this application. The dated copy of this application received by the City Clerk or Planning Office does not absolve the petitioner from this responsibility. The petitioner shall be responsible for all expenses for the filing, publication, and legal notification. Failure to comply with the application requirements, as cited herein and in the Zoning Board Rules and Regulations may result in a dismissal by the ZBA of this application as incomplete.

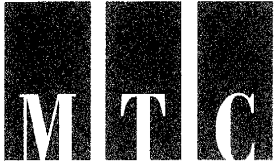
By checking this box and typing my name below, I am electronically signing this application.



 Petitioner

By checking this box and typing my name below, I am electronically signing this application.

 Owner (if different)



May 13, 2021

By Hand and Electronic Mail

Rob Ciampitti, Chair
Newburyport Zoning Board of Appeals
City of Newburyport
City Hall
60 Pleasant Street
Newburyport, Massachusetts 01950

Re: Request for Special Permit;
161 Water Street, Newburyport, MA (the "Property")
Assessor's Map: 23 Lot:13

Dear Chair and Members of the Board:

Reference is made to the above-captioned matter. In that connection, this firm represents David and Patrice Antczak the owners of the Property (the "Petitioner"). The Petitioner requests a determination of the relief required for the project.

The Property is located in the WMD zoning district and Demolition Control Overlay District ("DCOD") of the Newburyport Zoning Ordinance (the "Ordinance").

The Property is located near the Merrimac River in the WMD Zone and is subject to the overlapping regulations applicable to that zone. The Property is improved with a single-family residence (the "Structure"), on which the Petitioner proposes to construct an addition to the rear. The Structure is listed as contributory on the Newburyport Historic District Data Sheet for Water Street, which states that the Structure was built circa 1875. There is no Form B for the Property.

The Property and Structure are pre-existing, nonconforming as shown on the site plan. The WMD district requires a minimum lot size of 10,000 square feet; the Property is 4,026 square feet. The minimum required frontage is 90 feet; the Property has 36.28 feet of frontage on Water Street. The side setback requirement is 10 and the front and rear setback is 25 feet where the Property has a 5.1 west side setback, and 3.5 front yard setback. The Structure is pre-existing nonconforming. The Structure's height is 26 feet, which is non-conforming as well given the maximum 25 feet allowed in the WMD district.

A portion of the property is in the AE flood zone with an elevation of 12 as shown on the plan. According to the engineer and architect, the first floor of the existing home has a finished floor elevation of 15.8' and the finished floor elevation of the addition is also proposed to be at that same level. Therefore all living space is above flood. There is no mechanical equipment in the new addition basement, and it will be used solely for access to the main basement, and for outdoor furniture storage. Further, flood vents are shown in the addition.

Millis Office

730 Main Street, Suite 1F
Millis, MA 02054
Phone 508.376.8400

Mead, Talerman & Costa, LLC
Attorneys at Law

30 Green Street
Newburyport, MA 01950
Phone 978.463.7700
Fax 978.463.7747

www.mtcattorneys.com

The Petitioner proposes to remove a portion of the rear wall for the purpose of adding a single addition. As a result, no DCOD Special Permit will be required.

The addition will extend the non-conformity of the westerly sideline setback. Pursuant to Section IX(B)(2) of the Ordinance the Petitioner must show that there is no new non-conformity and that the proposed modification is not substantially more detrimental to the neighborhood. In that regard:

1. The Project does not add any new nonconformities. The Project does extend the west side non-conforming setback, and therefore intensifies same. However, no new non-conformity is created.
2. The Petitioner can show that the proposed modification, extension, alteration or addition is more detrimental than the existing non-conforming structure.

The Petitioner's proposal shall not be more detrimental to the neighborhood than the existing structure for the following reasons:

The Petitioner proposes to add a one story addition to the rear of the structure. The Petitioner's renovation is barely visible from the street. Indeed, the only impact will be on the neighbor to the west who has provided a letter of support. Further, the back yard of the Petitioner abuts the City of Newburyport Waste Water Treatment Plant, and respectfully, the addition will have no impact thereon. The addition is modest in size and has been designed to match the architectural style of the existing historic structure.

The Petitioner and their architect have been mindful of the flood zone requirements and flood vents will also be installed in the new addition. All living space in the existing and proposed structure is above the 12 foot flood elevation.

Based on the foregoing, the Project is not more detrimental than the existing structure to the neighborhood due to the unchanging front visage, continuity of a single family home on the lot, modest one story extension to the rear and compliance with FEMA structural requirements.

As a result of the foregoing, we respectfully request this Board to find that the Applicant's proposal satisfies the criteria for a Special Permit for Non-Conformities.

Please do not hesitate to contact me at 978-463-7700 if you have any questions.

Respectfully submitted
David and Patrice Antczak
By their Attorney



Lisa L. Mead

Attachment
cc: client

CITY OF NEWBURYPORT, MA
ZONING DETERMINATION

APR# _____

Name: _____

Address: _____ Zoning District(s): _____

Request: _____

ZONING BOARD REVIEW REQUIRED

Variance

- Dimensional Controls (VI)
 - Lot Area
 - Lot Frontage
 - Lot Coverage
 - Parking (VII)
 - Modification
- Open Space
- Height
- Lot Width
- Front Yard
- Side Yard
- Rear Yard

Sign Variance

- Signs (VIII)
 - Type
 - Lighting
- Size
- Location

Other

Special Permit

- Table of Use Regulations (V.D) #: _____
- Spacing (VI.D)
- In-Law Apartment (XIIA)
- Bonus for Multifamily Developments (XVI)
- Personal Wireless Communication Services (XX)
- Demolition Control Overlay District (XXVIII)*
- Wind Energy Conversion Facilities (XXVI)
- Other _____

Special Permit for Non-Conformities

- Extension or Alteration (IX.B.2)
 - Parking
 - Upward Extension
 - Open Space
 - Height
 - Lot Area
 - Use
 - Rear Yard
 - Lot Coverage
 - Side Yard
 - Lot Frontage
 - Front Yard
- Over 500 sf. increase (IX.B.3.c)
- Plum Island Overlay District (XXI-G)
 - FAR
 - Lot Coverage
 - Height
 - Setbacks
 - Open Space

PLANNING BOARD REVIEW REQUIRED

Special Permit

- Table of Use Regulations (V-D) # _____
- One residential structure per lot (VI.C)
- Open Space Residential Development (XIV)
- Water Resource Protection District (XIX)
- Federal Street Overlay District (XXII)
- Courts and Lanes (XXIII)
- Waterfront West Overlay District (XXIV)
- Towle Complex Redev. Overlay District (XXV)
- Downtown Overlay District (XXVII)*
- Other _____

Special Permit for Non-Conformities

- Extension or Alteration (IX.B.2)
 - Parking
 - Upward Extension
 - Open Space
 - Height
 - Lot Area
 - Use
 - Rear Yard
 - Lot Coverage
 - Side Yard
 - Lot Frontage
 - Front Yard
- Over 500 sf. increase (IX.B.3.c)

Smart Growth District (XXIX)

- Plan Approval

Site Plan Review (XV)

- Major
- Minor

HISTORICAL COMMISSION REVIEW REQUIRED

- Demo. Delay
- *Advisory Review

CONSERVATION COMMISSION REVIEW REQUIRED

The name typed below represents the intent to sign the foregoing document:

Newburyport Zoning Administrator

Date

161 WATER ST

Location 161 WATER ST

MBLU 23/ 13/ //

Owner ANTCZAK DAVID L

Assessment \$413,800

PID 1197

Building Count 1

Current Value

Valuation Year	Assessment		Total
	Improvements	Land	
2021	\$201,200	\$212,600	\$413,800

Owner of Record

Owner ANTCZAK DAVID L
Co-Owner PATRICE T/E
Address 161 WATER ST
NEWBURYPORT, MA 01950

Sale Price \$510,000
Certificate
Book & Page 38609/0062
Sale Date 06/15/2020
Instrument 00

Ownership History

Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
ANTCZAK DAVID L	\$510,000		38609/0062	00	06/15/2020
FIELDS MELINDA S	\$475,000		36790/0240	00	06/15/2018
VICENS MARIA R	\$382,500		33526/0251	00	09/05/2014
ROBERTSON CHERYL A	\$339,000		26365/0444	00	12/08/2006
RING JULIE	\$290,000		25605/0534	1R	04/27/2006

Building Information

Building 1 : Section 1

Year Built: 1850
Living Area: 1,080

Building Attributes	
Field	Description
Style:	Conventional
Model	Residential

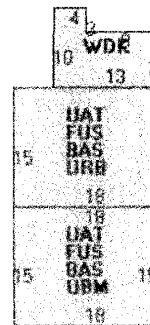
Grade:	Average
Stories:	2 Stories
Occupancy	1
Exterior Wall 1	Clapboard
Exterior Wall 2	
Roof Structure:	Gable/Hip
Roof Cover	Asph/F GlS/Cmp
Interior Wall 1	Drywall/Sheet
Interior Wall 2	
Interior Flr 1	Pine/Soft Wood
Interior Flr 2	
Heat Fuel	Gas
Heat Type:	Hot Water
AC Type:	Central
Total Bedrooms:	2 Bedrooms
Total Bthrms:	1
Total Half Baths:	1
Total Xtra Fixtrs:	
Total Rooms:	5 Rooms
Bath Style:	Average
Kitchen Style:	Average
Num Kitchens	01
Cndtn	
Num Park	
Fireplaces	
Kitchen Grd	
Fndtn Cndtn	
Basement	

Building Photo



(<http://images.vgsi.com/photos/NewburyportMAPhotos//01\00\67\03.jpg>)

Building Layout



(http://images.vgsi.com/photos/NewburyportMAPhotos//Sketches/1197_121)

Building Sub-Areas (sq ft)			Legend	
Code	Description	Gross Area	Living Area	
BAS	First Floor	540	540	
FUS	Upper Story, Finished	540	540	
UAT	Attic	540	0	
UBM	Basement, Unfinished	270	0	
URB	Basement, Unfinished, Raised	270	0	
WDK	Deck, Wood	103	0	
		2,263	1,080	

Extra Features

Extra Features				Legend
Code	Description	Size	Value	Bldg #
FPL3	FIREPLACE 2 ST	1.00 UNITS	\$3,600	1

Land

Land Use

Use Code 1010
Description SINGLE FAM

Land Line Valuation

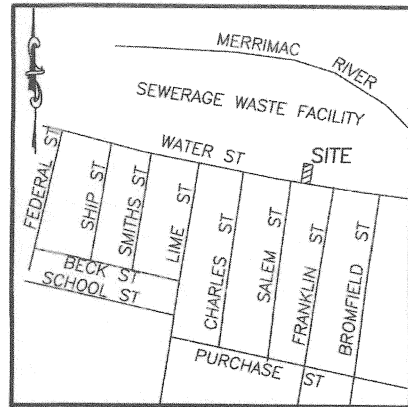
Size (Acres) 0.09
Depth 0
Assessed Value \$212,600

Outbuildings

Outbuildings	Legend
No Data for Outbuildings	

Valuation History

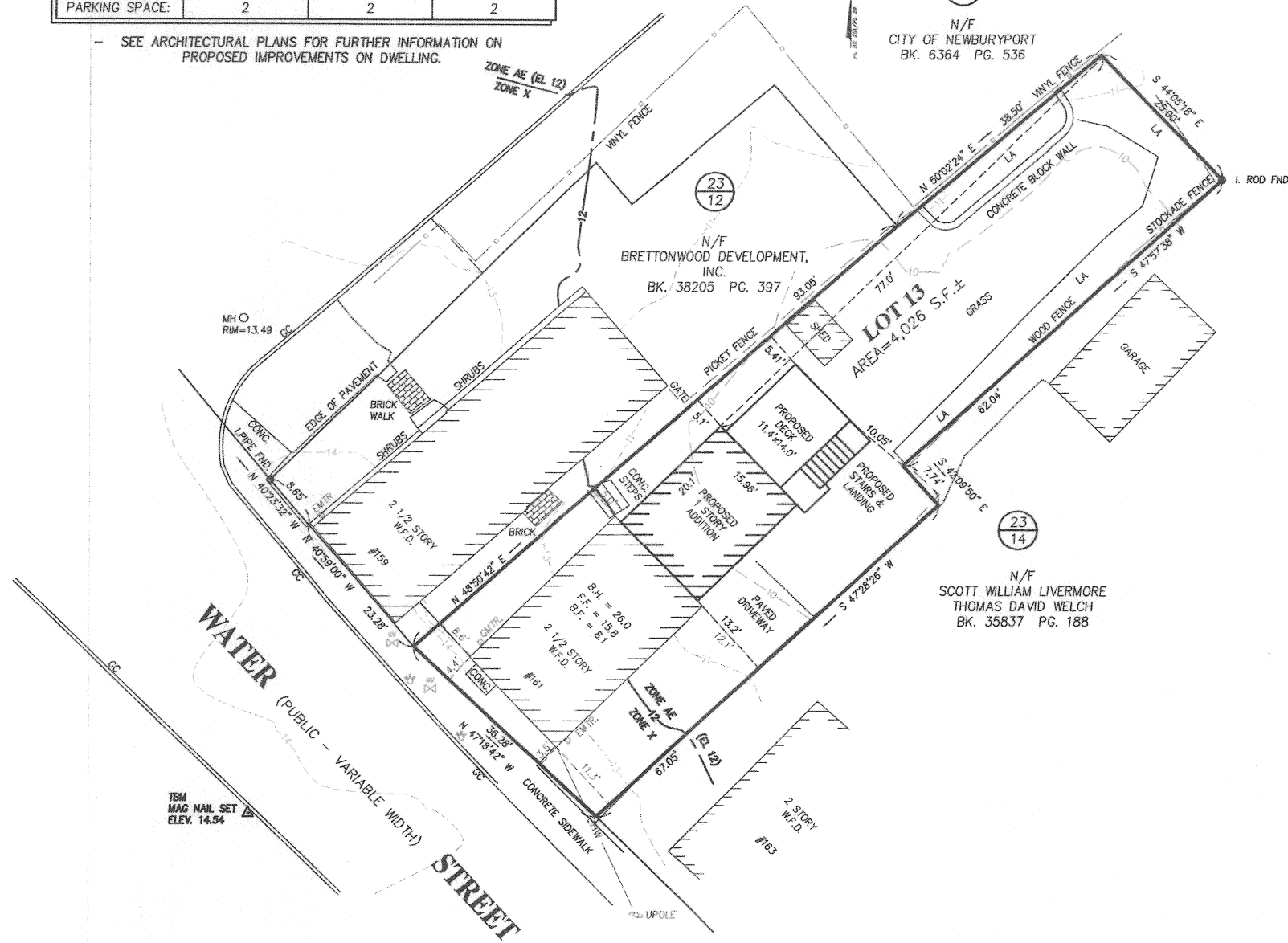
Valuation Year	Assessment		
	Improvements	Land	Total
2020	\$192,300	\$212,600	\$404,900



LOCUS MAP
N.T.S.

161 WATER STREET - ASSESSORS MAP 23 LOT 13 ZONING DISTRICT - WMD - DCOD			
	REQUIRED	EXISTING	PROPOSED
LOT AREA:	10,000 S.F.	4,026 S.F.	4,026 S.F.
LOT FRONTAGE:	90 FT	36.28 FT	36.28 FT
FRONT SETBACK:	25 FT	3.5 FT	3.5 FT
SIDE A SETBACK:	10 FT	5.0 FT	5.0 FT
SIDE B SETBACK:	10 FT	11.3 FT	10.05 FT
REAR SETBACK:	25 FT	86.6 FT	77.0 FT
LOT COVERAGE:	25%	14.4%	22.2%
OPEN SPACE:	40%	68.3%	60.5%
BLDG HEIGHT:	25 FT	26 FT.	26 FT
PARKING SPACE:	2	2	2

SEE ARCHITECTURAL PLANS FOR FURTHER INFORMATION ON PROPOSED IMPROVEMENTS ON DWELLING.



- LEGEND**
- I. ROD IRON ROD
 - I. PIPE IRON PIPE
 - FND. FOUND
 - N/F NOW OR FORMERLY
 - LA LANDSCAPED AREA
 - CONC. CONCRETE
 - B.H. BUILDING HEIGHT
 - F.F. FIRST FLOOR
 - B.F. BASEMENT FLOOR
 - MAG. MAGNETIC
 - GC GRANITE CURB
 - UPOLE UTILITY POLE
 - OHW OVERHEAD WIRE
 - EMTR ELECTRIC METER
 - GMTR GAS METER
 - ⊗ GAS VALVE
 - ⊕ WATER SHUT OFF
 - ⊖ WATER VALVE
 - ASSESSORS MAP#
 - PARCEL#

BASIS OF BEARINGS

PLAN 291 PLAN 29

OWNER OF RECORD

DAVID L. ANTCZAK
PATRICE ANTCZAK
BK. 38609 PG. 62

PLAN REFERENCES

PLAN 291 PLAN 29

FLOOD NOTE

PORTION OF PROPERTY LIES IN ZONE AE (EL. 12) AS SHOWN ON COMMUNITY PANEL #25009C0136G, EFFECTIVE DATE JULY 16, 2014

DATUM BASE

N.A.V.D. 1988

NOTES:

THIS PLAN DOES NOT SHOW ANY UNRECORDED OR UNWRITTEN EASEMENTS WHICH MAY EXIST. A REASONABLE AND DILIGENT ATTEMPT HAS BEEN MADE TO OBSERVE ANY APPARENT, VISIBLE USES OF THE LAND; HOWEVER, THIS DOES NOT CONSTITUTE A GUARANTEE THAT NO SUCH EASEMENTS EXIST.

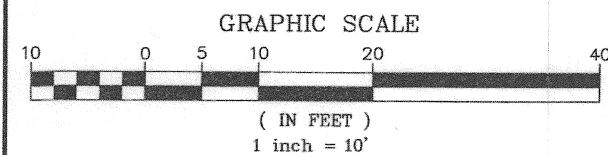
RECORD UTILITY INFORMATION HAS NOT BEEN OBTAINED FOR LOCUS. VISIBLE SURFACE STRUCTURES HAVE BEEN LOCATED AND ARE SHOWN HEREON HOWEVER, SUBSURFACE UTILITY LINES ARE NOT SHOWN.

THE CERTIFICATIONS SHOWN HEREON ARE NOT INTENDED AS CERTIFICATION TO TITLE OR OWNERSHIP OF PROPERTY SHOWN. OWNERS OF ADJOINING PROPERTIES ARE ACCORDING TO CURRENT CITY OF NEWBURYPORT ASSESSORS RECORDS.

I CERTIFY: THAT THIS ACTUAL SURVEY WAS MADE ON THE GROUND ON JANUARY 21, 2021, AND THAT THE STRUCTURES AND PHYSICAL FEATURES ARE LOCATED AS SHOWN TO THE BEST OF MY ABILITY AND BELIEF.



PROFESSIONAL LAND SURVEYOR DATE 5/12/21



PREPARED FOR
DAVID L. ANTCZAK
PATRICE ANTCZAK
#161 WATER STREET
NEWBURYPORT, MA 01950

**PLAN OF LAND
IN
NEWBURYPORT, MA**

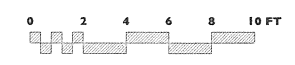
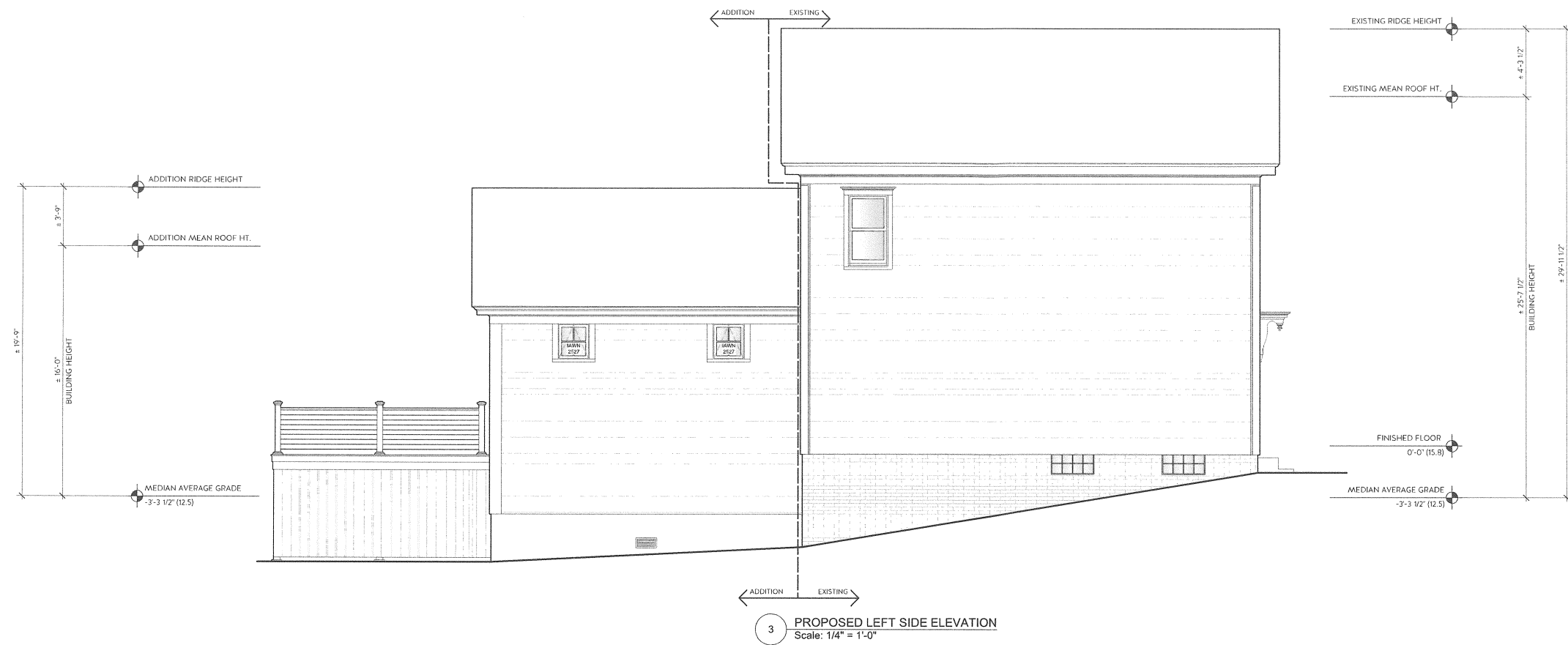
SHOWING
PROPOSED CONDITIONS
AT
#161 WATER STREET
MAP 23 - LOT 13



MILLENNIUM ENGINEERING, INC.

ENGINEERING AND LAND SURVEYING
62 ELM ST. SALISBURY, MA 01952 (978) 463-8980
13 HAMPTON RD. EXETER, NH 03833 (603) 778-0528

SCALE: 1"=10'	CALC. BY: S.F.R.	PROJECT: M213883
DATE: MAY 12, 2021	CHKD. BY: J.S.H.	SHEET: 1 OF 1



ADDITIONS/ALTERATIONS
 TO THE:
ANTCZAK RESIDENCE
 161 WATER STREET, NEWBURYPORT, MA 01950

REVISION & REISSUE NOTES

No.	Date	Notes
A	5-12-21	ZBA SUBMISSION

Project #	Project Manager	Date
2021-18	X.X.	5-12-21

Scale: AS NOTED

CAD File Name: 161_Water_SLOD_Plans5-12-21.vwx

