

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

Petitioner: Michael and Janine Callahan c/o Mark Griffin Esq.

Mailing Address: 30 Green Street, Newburyport, MA 01950

Phone: 978-462-1514 Email: mark@finnic.com

Property Address: 1 Marlboro Street

Map and Lot(s): 30/76 Zoning District: R-2

Book and Page(s): Bk 35797 Pg 330

Owner(s) Name: Same as above

Mailing Address (if different): Same as above

This request for a Special Permit for Non-Conformities is made under section(s):

- | | |
|--|---|
| <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-3) |
| <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"/> Rear Yard | |
| <input checked="" type="checkbox"/> Lot Coverage | |
| <input type="checkbox"/> Side Yard | |
| <input type="checkbox"/> Lot Frontage | |
| <input type="checkbox"/> Front Yard | |

(Refer to the Building Permit Denial as supplied by the Building Commissioner/Zoning Codes Administrator)

Description of request:

Remove existing rear addition and replace with a two story addition which will extend preexisting legally nonconforming lot coverage.

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

	Lot s.f.	Open Space %	Lot Coverage %	FAR*	Height	Frontage	Parking Spaces	Front Setback	Side A Setback	Side B Setback	Rear Setback
Existing	5106	66.30	26.20	NA	24.4	134.81	2	3.4	3.7	18.4	26.6
Proposed	5106	62.10	30.40	NA	24.4	134.81	2	3.4	3.7	18.4	25
Required	10000	40	25	NA	35	90	2	25	10	10	25

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

Existing Buildings:

Ground Floor Sq. Feet	# of Floors	Total Sq. Feet	Use Code of Building**
1352	2	2430	101

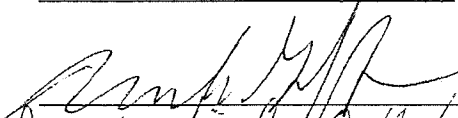
Proposed Buildings:

Ground Floor Sq. Feet	# of Floors	Total Sq. Feet	Use Code of Building**
1527	2	2821	101

**Reference Dimensional Code numbers and uses from the Zoning Ordinance. (e.g. – 101 = single family, etc.)

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. Every application for a Special Permit for Non-Conformities must be made on this form, which is the official form of the ZBA. 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.

Petitioner's and Owner's signature(s):


 For Michael Callahan + Jann Callahan
 12/20/17

OFFICE OF THE BUILDING COMMISSIONER/ZONING CODE ENFORCEMENT OFFICER

ZONING DENIAL

City APR#: 84

Name: Michael + Janine Calahan / Made Griffin

Address: 1 MARIBORO ST. Zoning District: R-II

Request: Remove existing one story addition and construct new (2) story addition intensifying

ZONING BOARD non-conforming lot coverage -

Dimensional Variance
[] Dimensional Controls (VI)
[] PIOD (XXI)
[] Parking (VII)
Lot Area, Open Space, Front Yard, Height, Side Yard, 2 1/2 stories, Lot Coverage, Lot Width, Rear Yard

Use Variance
[] Not permitted use (V)
Sign Variance
[] Signs (VIII)
Type, Size, Lighting, Location

Special Permit
[] Special Permit for Use (V.D) Use #:
[] 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)
Special Permit for Non-Conformities
[] Extension or Alteration (IX.B.2)
[] Parking
[] Upward Extension
[] Open Space
[] Height
[] Lot Area
[] Over 500 s.f. increase (IX.B.3.c)
[] Plum Island Overlay District (XXI-G-3)
[] FAR
[] Footprint Expansion
[] Rear Yard
[] Lot Coverage
[] Side Yard
[] Lot Frontage
[] Front Yard
[] Height Increase
[] # of bedrooms

PLANNING BOARD

Special Permit
[] One residential structure per lot (VI.C)
[] Floodplain (XIII)
[] 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)

Site Plan Review (XV)
[] Major [] Minor
Smart Growth District (XXIX)
[] Plan Approval

HISTORICAL COMMISSION
[] Demo. Delay [] Advisory Review

CONSERVATION COMMISSION

CITY COUNCIL
[] GACM (X.H.9)

12/20/17 Date

[Signature] Building Commissioner/Zoning Code Enf. Officer

FINNERAN & NICHOLSON, P.C.
ATTORNEYS AND COUNSELORS AT LAW
30 GREEN STREET
NEWBURYPORT, MASSACHUSETTS 01950
(978) 462-1514
FACSIMILE (978) 465-2584
E-MAIL: CASES@FINNIC.COM
WEBSITE: WWW.FINNERANNICHOLSON.COM

December 19, 2017

Newburyport City Hall
Attn: Peter Binette, Building Commissioner
60 Pleasant Street
Newburyport, MA 01950

Re: 1 Marlboro Street, Request for Permit Denial; Our file No.17-399

Dear Mr. Binette:

I represent Michael and Janine Callahan with respect to the above referenced matter. You will find attached the site plan and elevation drawings. The property is located in the R-2 zoning district and is contributing to the DCOD. The proposed use is Use 101.

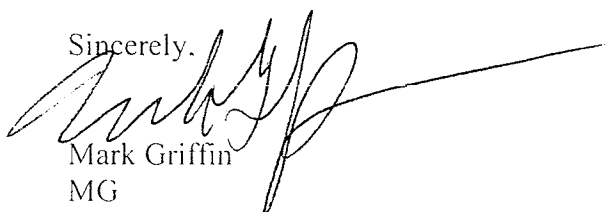
Both the structure and the lot are legally preexisting nonconforming. The lot with respect to lot area. The house is nonconforming with respect to front and side setbacks and lot coverage. These are apparent from the zoning matrix on the attached site plan. My clients propose to remove an existing one story addition and construct a two-story addition to the rear of the house. The addition will extend the nonconforming lot coverage. This will require a special permit for nonconformities for lot coverage.

The addition will be approximately 665sf in floor area. Although the gross floor area of the addition is greater than 500sf it does not require a special permit for nonconformities pursuant to Section IX-B3C since the existing addition being removed is 274sf in floor area. The additional floor area being added to the dwelling therefore is only 391sf in floor area.

A special permit pursuant to the DCOD is also unnecessary where we are only removing 532 sf of existing building walls which equals 20.7% of the wall area. well under the 25% threshold for the DCOD permit trigger.

Kindly issue your permit denial at your earliest convenience.

Sincerely,


Mark Griffin
MG
Encls.

\\finnic-sbs\cases\cases\17-399\letter binette.doc

RECEIVED
DEC 19 2017
MJP
CITY OF NEWBURYPORT
BUILDING DEPARTMENT

ZONING:

R2

REQUIRED:

LOT AREA=10,000 S.F.
 FRONTAGE=90'
 MIN. FRONT SETBACK=25'
 MIN. SIDE SETBACK=10'
 MIN. REAR SETBACK=25'
 BUILDING HEIGHT=35' MAX
 LOT COVERAGE=25%
 OPEN SPACE=40%

EXISTING:

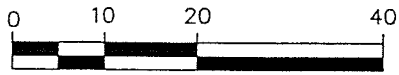
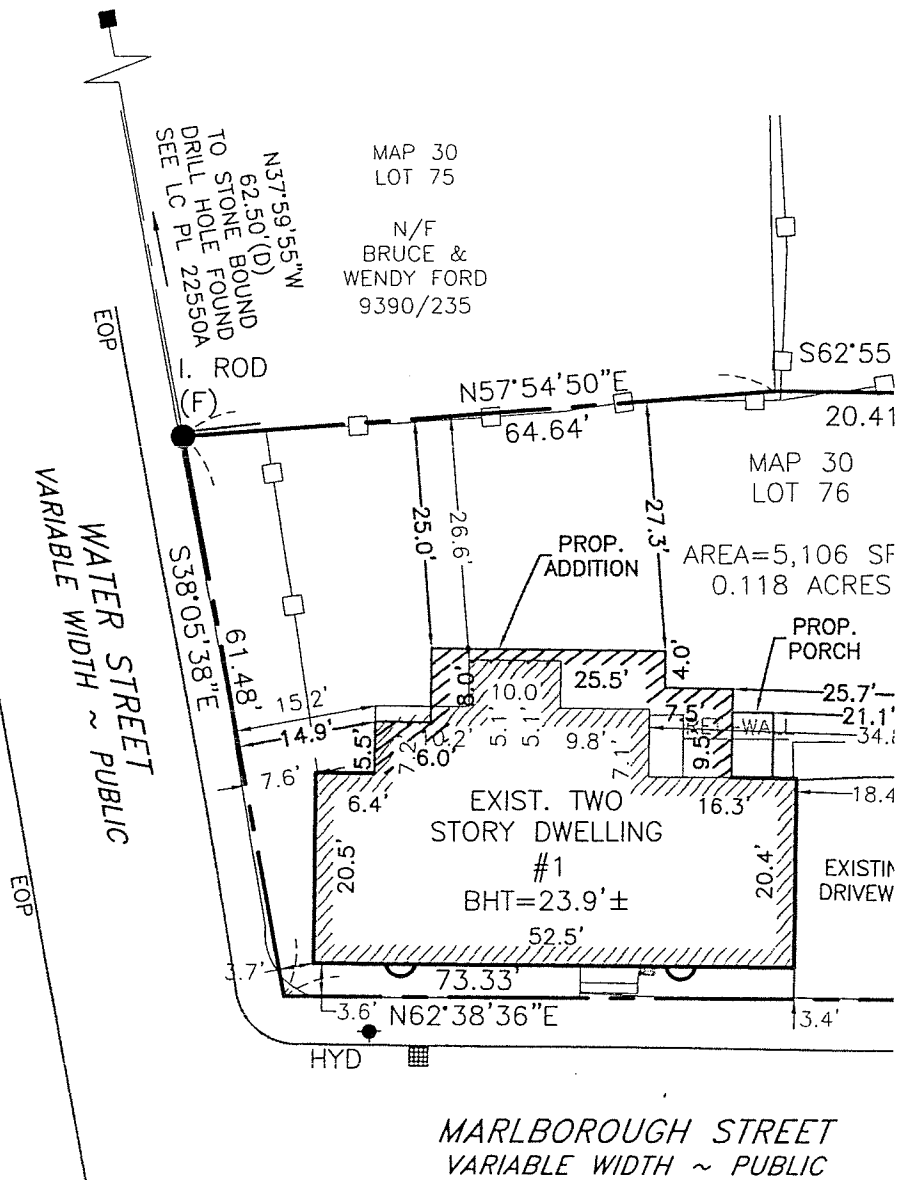
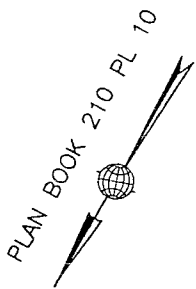
5,106 SF±
 73.33' (MARLBOROUGH ST)
 61.48' (WATER ST)
 3.4'
 18.4'
 26.6'
 24.4'±
 26.20%
 66.30%

PROPOSED:

5,106 SF± (NC)
 73.33' (MARLBOROUGH ST) (NC)
 61.48' (WATER ST) (NC)
 3.4' (NC)
 18.4' (NC)
 25.0'
 24.4'± (NC)
 30.40%
 62.10%

NOTES:

1. FIELD SURVEY PERF
2. THIS PLAN IS PREP FOR THE SPECIFIC PUI LOCAL APPROVALS, AN UPON AS A CONSTRUCT BY OTHERS WITHOUT T ASSOCIATES



SCALE in FEET
 1"=20'

BY:
DRAWING

FINNERAN & NICHOLSON, P.C.
ATTORNEYS AND COUNSELORS AT LAW
30 GREEN STREET
NEWBURYPORT, MASSACHUSETTS 01950
(978) 462-1514
FACSIMILE (978) 465-2584
E-MAIL: CASES@FINNIC.COM
WEBSITE: WWW.FINNERANNICHOLSON.COM

December 20, 2017

Newburyport Zoning Board of Appeals
Attn: Edward Ramsdell, Chairman
60 Pleasant Street
Newburyport, MA 01950

Re: 1 Marlboro Street; Letter in Support of Special Permit for Nonconformities
For Michael and Janine Callahan
Our File 17-399

Dear Mr. Ramsdell:

I represent Michael and Janine Callahan with respect to the proposed construction of a two-story addition to the rear of their home. This letter is provided in support of their application for a Special Permit for Nonconformities.

Existing Conditions

The Premises is located in the R-2 Zoning District. The lot is preexisting legally nonconforming with respect to lot area (5106), lot coverage (26.20%), front (3.4) and side setbacks (3.7). The existing home was built in the early 1800s and it is listed as contributing to the Newburyport Historic District. It was a two-family use in the last 15 years but has been utilized as a single family by the previous owner and is being utilized as a single family by the Petitioners.

Proposed Construction

The applicant proposes to remove an existing one-story addition¹ and construct a two-story addition to the rear of the existing building.²

The proposal will extend one nonconformity – the preexisting nonconforming lot coverage – and the building commissioner has issued a permit denial requiring a special permit for nonconformities associated with the above requirement. The lot coverage will increase from 26.20% to 30.40%.

¹ The removal of exterior wall area proposed is 20.7% and therefore no DCOD Special Permit is required.

² Since the applicant is not adding more than 500sf of new floor area to the dwelling a special permit is unnecessary pursuant to Section IXB3C.

The proposed use is Use #101 which is allowed by right in the R-2 Zoning District.

Special Permit for Nonconformities

The Petitioner requires a Special Permit for Nonconformities under Section IXB2A :

Special permit for nonconformities by board of appeals. Pre-existing nonconforming structures or uses may be extended or altered, upon the issuance of a special permit for nonconformities by the board of appeals, based on the following findings:

- A. *For single- and two-family residential structures or uses:*
 - (1) *That there will be no addition of a new nonconformity; and*
 - (2) *That the proposed change will not be substantially more detrimental to the neighborhood than the preexisting nonconforming structure or use. The board of appeals may consider, among other relevant factors, the size, scale, massing, volume, and location of the proposed structure, extension or alteration as compared to:*
 - (a) *The existing structure and lot;*
 - (b) *Other structures and lots in the neighborhood; and*
 - (c) *Reasonable alternatives to the proposal, including alternatives that may require planning board approval under section VI-C of the ordinance.*

First, there will be no additions of new nonconformities. The existing nonconforming lot coverage is being extended.

Further, the proposed addition will not be substantially more detrimental to the neighborhood than the existing structure. The addition to be constructed will be aesthetically pleasing and it has been planned in such a manner as to minimize the amount of additional construction outside the footprint of the existing addition which will be removed. The addition blends in with the home quite well and does not dominate it or look out of place attached to the structure, nor does it look out of place on the lot.

Moreover, the proposal fits in with the neighborhood with respect to existing dimensions. All of the immediately abutting properties have less than the required 10,000sf lot area and many are similar or larger in square footage than the existing structure – and the structure as proposed.³ Accordingly, the addition will not look out of place in the

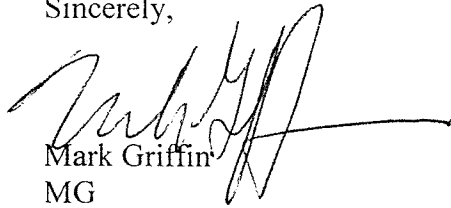
³ Examples are: 5 Marlboro and 3 Union; 234-236 Water Street; 239 Water Street; 241-243 Water Street; 226 Water Street;

neighborhood. Moreover, many of the abutting properties have lot coverage which does not conform with the dimensional requirements. Based on the foregoing and coupled with the small increase in lot coverage, the new addition should not look out of place in the neighborhood, nor will it adversely affect the streetscape.

Based on the foregoing, the proposed structure will not be substantially more detrimental to the neighborhood than the existing structure and on behalf of the Petitioners I request that the board grant their Special Permit for Nonconformities.

Do not hesitate to call if you have any questions.

Sincerely,



Mark Griffin
MG

Property Location: 1 MARLBORO ST
 Vision ID: 1720

Account #

MAP ID: 30/ 76/ //

Bldg #: 1 of 1

Bldg Name:

Sec #: 1 of 1 Card 1 of 1

State Use: 1010

Print Date: 01/11/2017 16:37

CURRENT OWNER		TOPO.	UTILITIES	STRT/ROAD	LOCATION	CURRENT ASSESSMENT			
MCNEILL ELIZABETH W						Description	Code	Appraised Value	Assessed Value
1 MARLBORO ST						RESIDNTL	1010	277,500	277,500
NEWBURYPORT, MA 01950						RES LAND	1010	332,100	332,100
Additional Owners:		SUPPLEMENTAL DATA							
		Other ID: 30-76	CONDO CV:						
		SUB-DIV	INLAW Y/N:						
		PHOTO	LOT SPLIT:						
		WARD 1	40B HSNG:						
		TILE #:	ASSOC PID#						
		ATT 1/2 HSE:							
		GIS ID: M 252668 950682							
						Total		609,600	609,600

123
NEWBURYPORT, MA

VISION

RECORD OF OWNERSHIP					BK-VOL/PAGE	SALE DATE	q/u	w/i	SALE PRICE	V.C.	PREVIOUS ASSESSMENTS (HISTORY)								
Year	Type	Description	Amount	Code	Description	Number	Amount	Comm. Int.	Yr.	Code	Assessed Value	Yr.	Code	Assessed Value	Yr.	Code	Assessed Value		
		MCNEILL ELIZABETH W	30334/0167			04/06/2011	U	I		1H									
		MCNEILL ELIZABETH W	28730/0111			06/26/2009	U	I	575,000	1O	2017	1010	277,500	2016	1010	308,800	2015	1040	218,800
		SULLIVAN MARGARET ANN	10699/0339			02/07/1991	U	I		1A	2017	1010	332,100	2016	1010	327,600	2015	1040	327,600
		SULLIVAN WILLIAM J	4805/ 144							0									
						Total:			609,600	Total:		636,400	Total:		546,400				

EXEMPTIONS				OTHER ASSESSMENTS			
Year	Type	Description	Amount	Code	Description	Number	Amount
			Total:				

This signature acknowledges a visit by a Data Collector or Assessor

ASSESSING NEIGHBORHOOD				
NBHD/SUB	NBHD Name	Street Index Name	Tracing	Batch
7/A				

APPRAISED VALUE SUMMARY	
Appraised Bldg. Value (Card)	268,900
Appraised XF (B) Value (Bldg)	8,600
Appraised OB (L) Value (Bldg)	0
Appraised Land Value (Bldg)	332,100
Special Land Value	0
Total Appraised Parcel Value	609,600
Valuation Method:	C
Adjustment:	0
Net Total Appraised Parcel Value	609,600

NOTES									
UNIT 1 HEATS BY OIL									
UNIT 2 HEATS BY GAS									
CONVERTED TO A SINGLE FAMILY FY16.									

BUILDING PERMIT RECORD										VISIT/CHANGE HISTORY					
Permit ID	Issue Date	Type	Description	Amount	Insp. Date	% Comp.	Date Comp.	Comments	Date	Type	IS	ID	Cd.	Purpose/Result	
A/R 11-551	12/29/2011	RS	Residential	258,000		100	07/01/2012	REMOVE EXISTING R	03/25/2016			DR	00	Measur+Listed	
A/R 09-297	08/05/2009	RS	Residential	75,575		100	07/01/2011	REPAIR FRONT DOOR	08/31/2012			DG	02	Measur+2Visits	
									11/15/2006			RL	00	Measur+Listed	
									05/11/1998			NR	02	Measur+2Visits	
									06/27/1988			RM	07	Measur/Inf/Dr Info taken	

LAND LINE VALUATION SECTION																				
B #	Use Code	Use Description	Zone	D	Front	Depth	Units	Unit Price	I. Factor	S.A.	Acre Disc	C. Factor	ST. Idx	Adj.	Notes- Adj	Special Pricing		S Adj Fact	Adj. Unit Price	Land Value
																Spec Use	Spec Calc			
1	1010	SINGLE FAM	R2				5,106 SF	38.72	1.2000	7	1.0000	1.00	OV	1.40				1.00	65.04	332,100
							Total Card Land Units:	0.12 AC	Parcel Total Land Area: 0.12 AC									Total Land Value:	332,100	

Untitled Map

Write a description for your map.

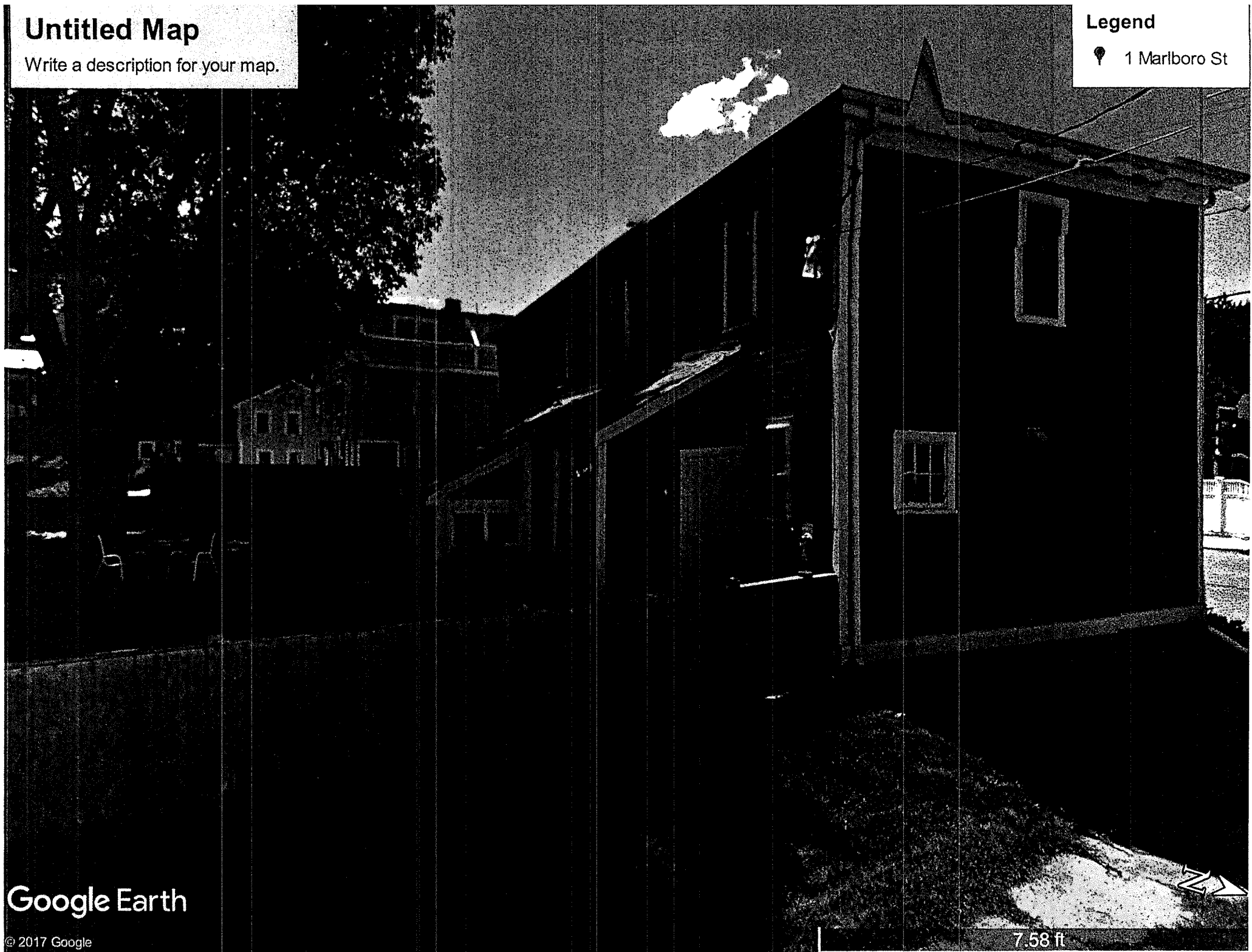
Legend

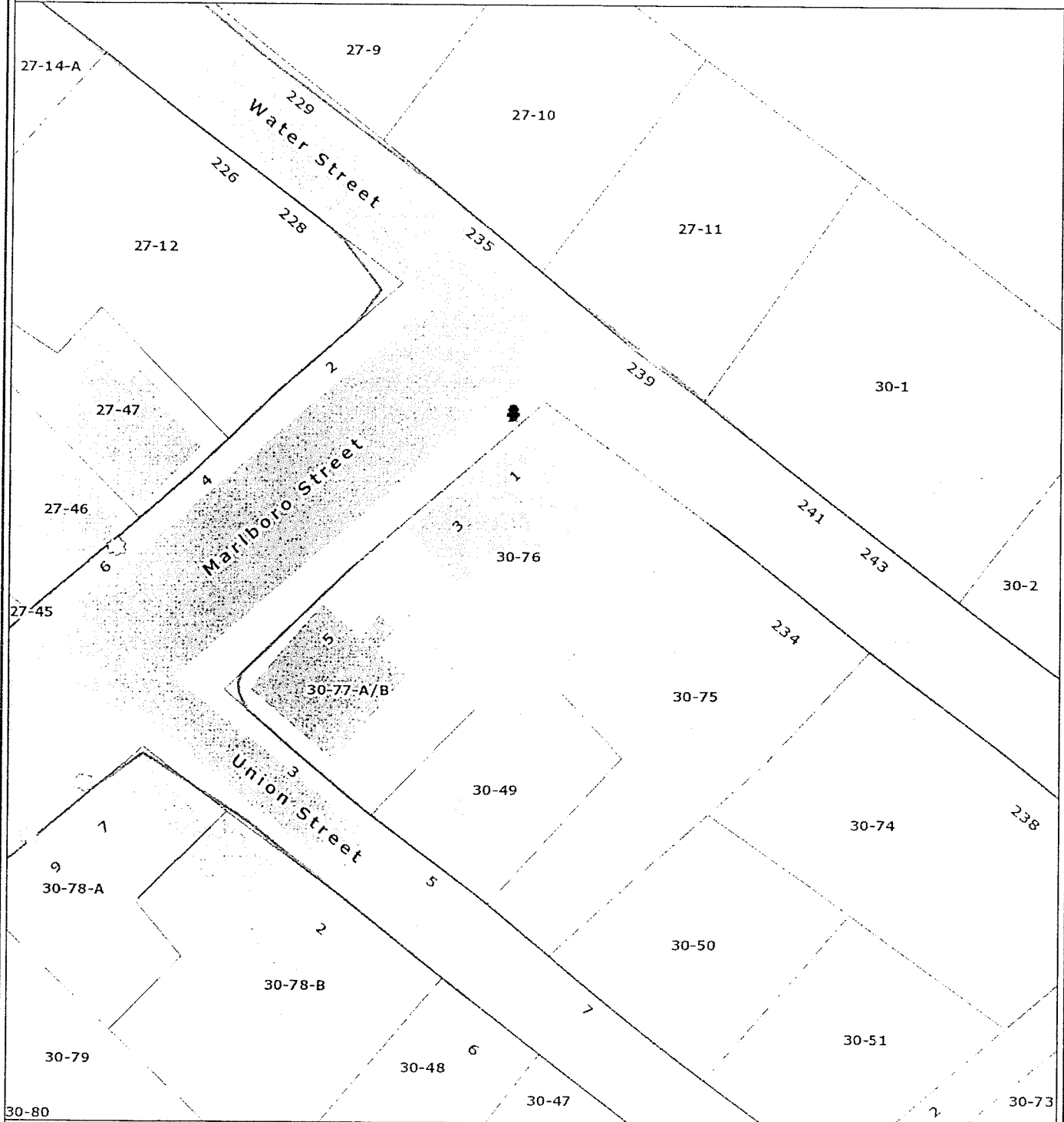
📍 1 Marlboro St

Google Earth

© 2017 Google

7.58 ft



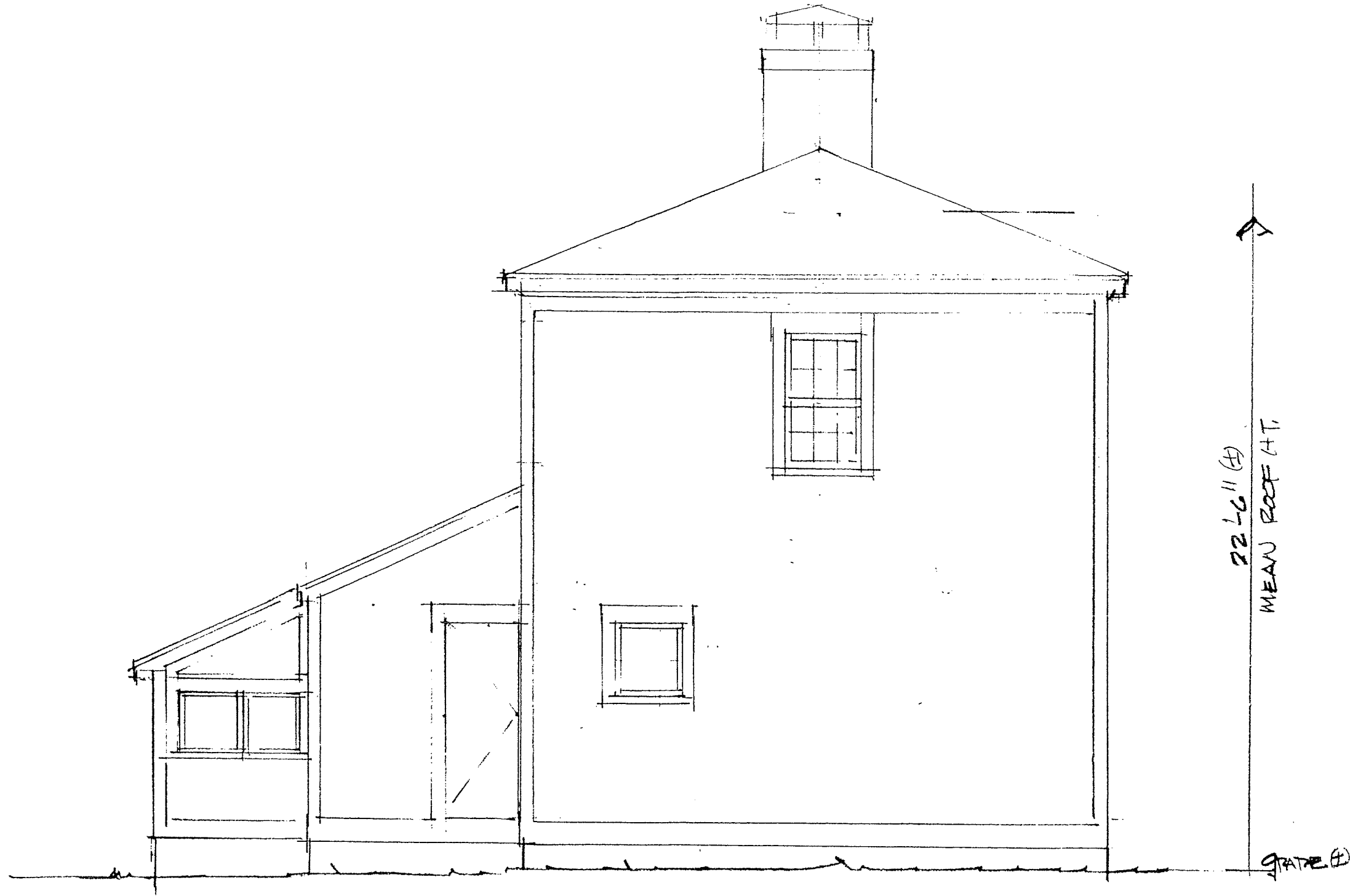


- MVPC Bo
- Newburyport Boundary
- Trees
- Immediate Action Needed
- No Action Needed
- Unknown
- Railroad
- Parcels
- Sidewalks
- Water System
 - Hydrant
 - Trails
 - Building Footprints
 - Driveways
 - Easements
- Road Right of Way
 - Paved
 - Unpaved
- Hydrographic Features
 - Stream
 - Intermittent Stream
- Wetlands
 - City
 - City and State
 - State
 - Exempt Lands
 - Recreation Areas

1" = 42 ft



Horizontal Datum: MA Stateplane Coordinate System Datum NAD83
 Meters Data Sources: The data for this map was produced by Merrimack Valley Planning Commission (MVPC) using data provided by the City of Newburyport. Additional data provided by the Executive Office of Environmental Affairs MassGIS. The information depicted on this map is for planning purposes only. It may not be adequate for legal boundary definition or regulatory interpretation. THE CITY OF NEWBURYPORT MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, CONCERNING THE ACCURACY, COMPLETENESS, RELIABILITY, OR SUITABILITY OF THESE DATA. THE CITY OF NEWBURYPORT DOES NOT ASSUME ANY LIABILITY ASSOCIATED WITH THE USE OR MISUSE OF THIS INFORMATION.



EXISTING WATER STREET ELEVATION 1/4" = 1'-0"

11/22/17

All work shall meet State Building Codes. The G.C. shall field verify dimensions before construction. Notify immediately, the Architect of Discrepancies. The drawings are diagrammatic and form the approx. arrangement of wall, doors, equipment etc. All work and construction shall be performed under the direct supervision of personnel licensed by the State and local authorities. The G.C. & Owner agree to hold harmless the Architect from all errors and omissions, unless entering into an agreement for the Administration of the Construction Contract and, any claims against the Architect shall not exceed the amounts paid the Architect for the services rendered for the project. The Architect retains the design rights and these drawings shall not be used or the design copied without the express permission of the Architect, Brian A. Libby Architect.

Callahan Residence
 1 Marboro Street, Newburyport

Brian A. Libby Architect *Northeast office*

1251 Linda Vista Blvd. (520) 906-2321 (cell)
 Oro Valley, AZ 85704-3609 Web: BrianALibby.com

EX. 1



EXISTING REAR ELEVATION

1/4" = 1'-0"

11/22/17

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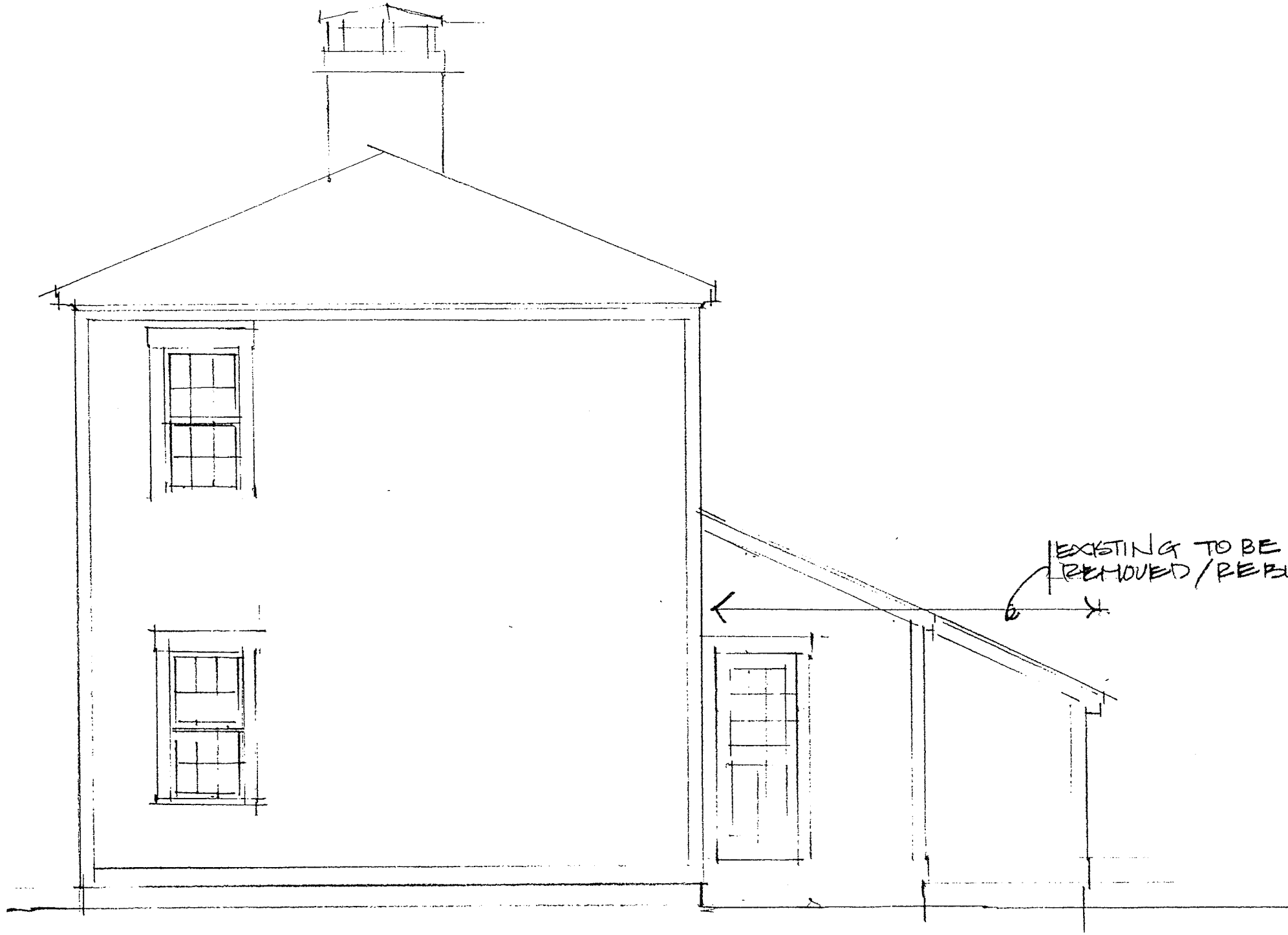
Callahan Residence
1 Marboro Street, Newburyport

Brian A. Libby Architect
1251 Linda Vista Blvd.
Oro Valley, AZ 85704-3609

Northeast office
(520) 906-2321 (cell)
Web: BrianALibby.com

EX-2

MARBORO STREET



RIGHT SIDE ELEVATION 1/4" = 1'-0"

11/22/17

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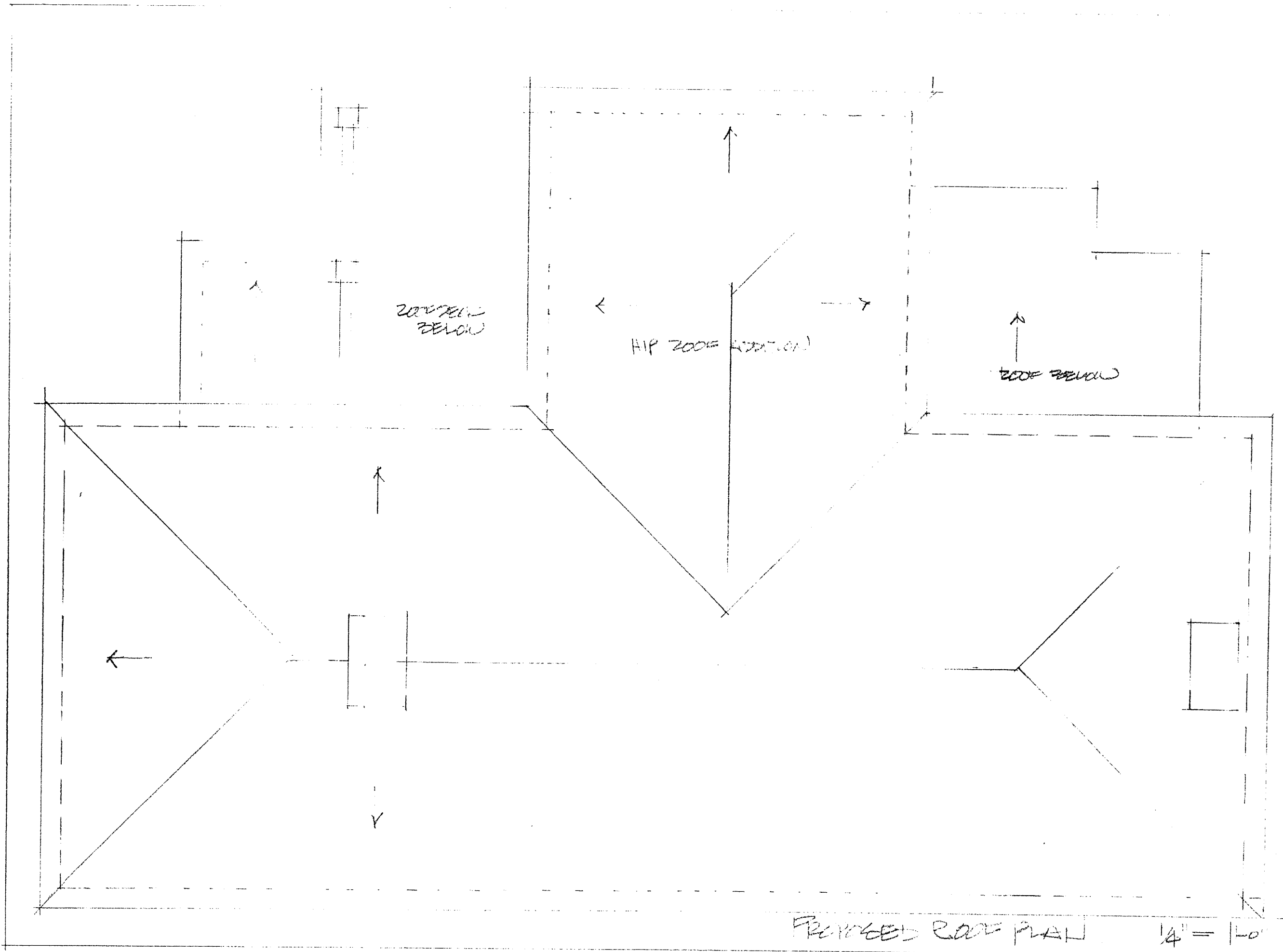
Oro Valley, AZ 85704-3609

Northeast office

(520) 906-2521 (cell)

Web: BrianALibby.com

EX-3



PROPOSED ROOF PLAN

1/4" = 10'

Callahan Residence

1 Marboro Street, Newburyport

Brian A. Libby Architect

1251 Linda Vista Blvd.

Oro Valley, AZ 85704-3609

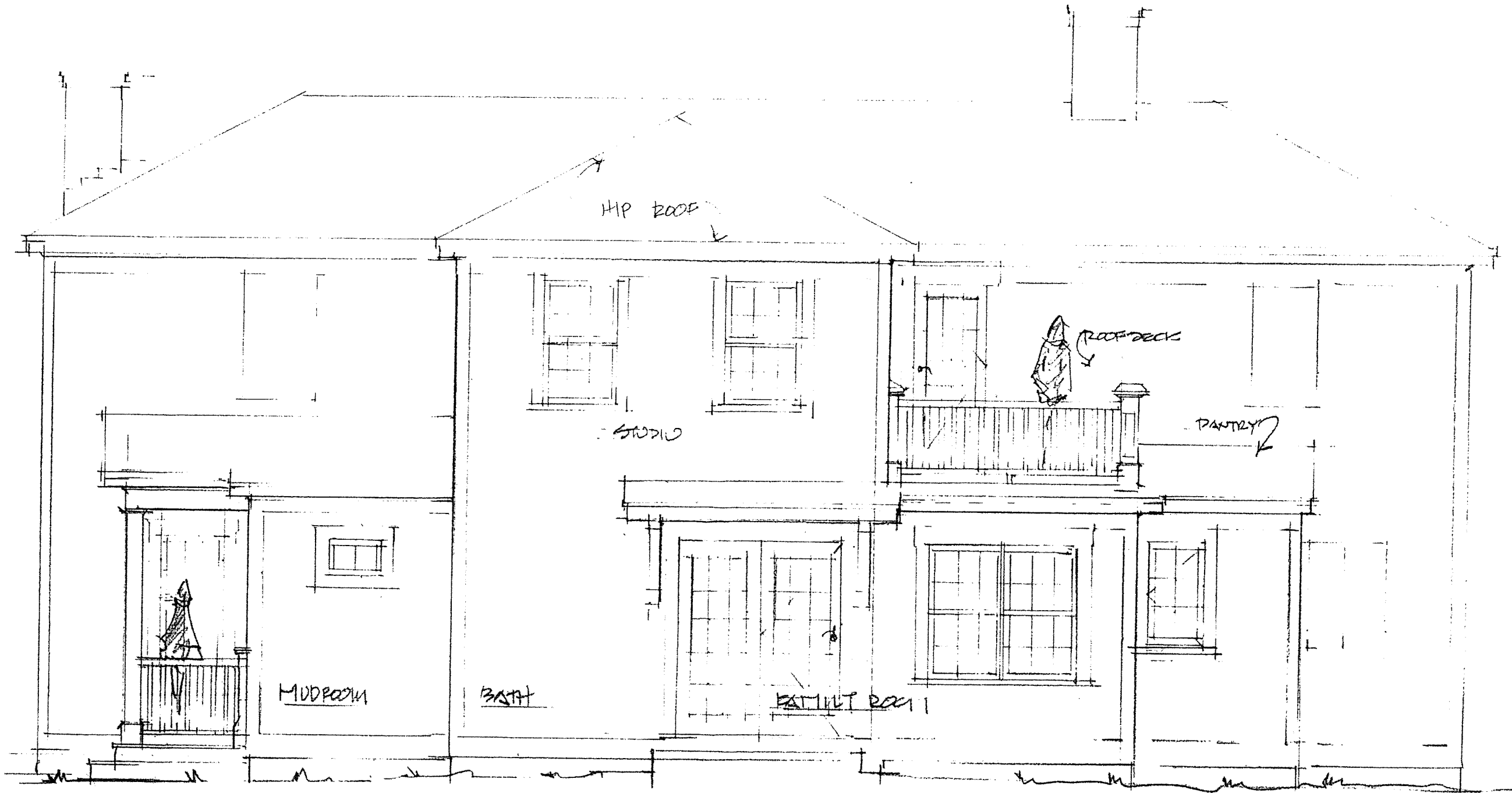
Northeast office

(520) 906-2321 (cell)

Web: BrianALibby.com

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SK-3
12/18/17



HIP ROOF

STUDIO

ROOF DECK

PANTRY

MUDROOM

BATH

FAMILY ROOM

PROPOSED REAR ELEVATION

1/4" = 1'-0"

All work shall meet State Building Codes. The G.C. shall field verify dimensions before construction. Notify immediately, the Architect of Discrepancies. The drawings are diagrammatic and form the approximate arrangement of wall, doors, equipment etc. All work and construction shall be performed under the direct supervision of personnel licensed by the State and local authorities. The G.C. & Owner agree to hold harmless the Architect from all errors and omissions, unless entering into an agreement for the Administration of the Construction Contract and, any claims against the Architect shall not exceed the amounts paid the Architect for the services rendered for the project. The Architect retains the design rights and these drawings shall not be used or the design copied without the express permission of the Architect, Brian A Libby Architect.

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Oro Valley, AZ 85704-3609

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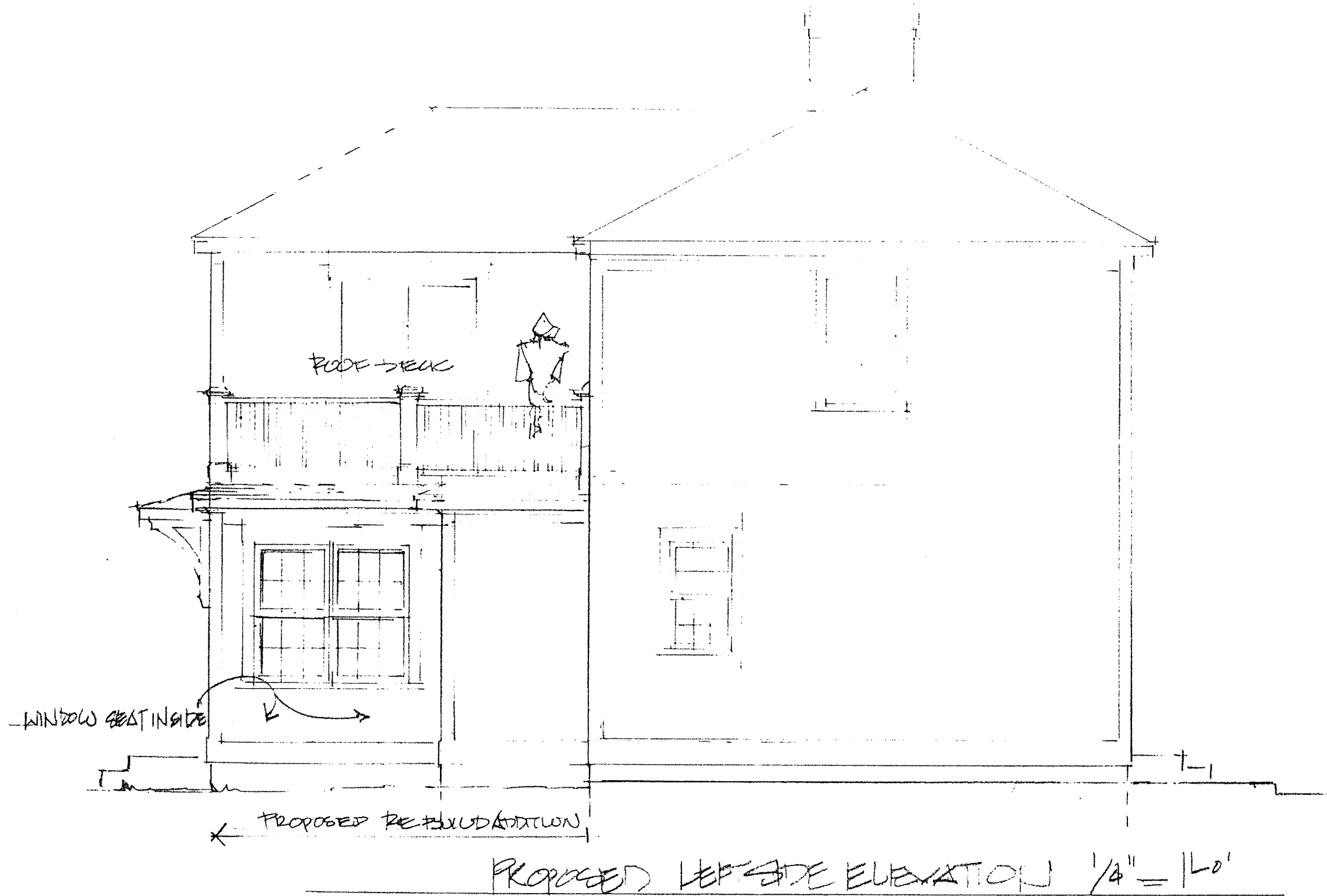
(520) 906-2321 (cell)

Web: BrianALibby.com

SK 4

12/15/17

REV 10/28/17

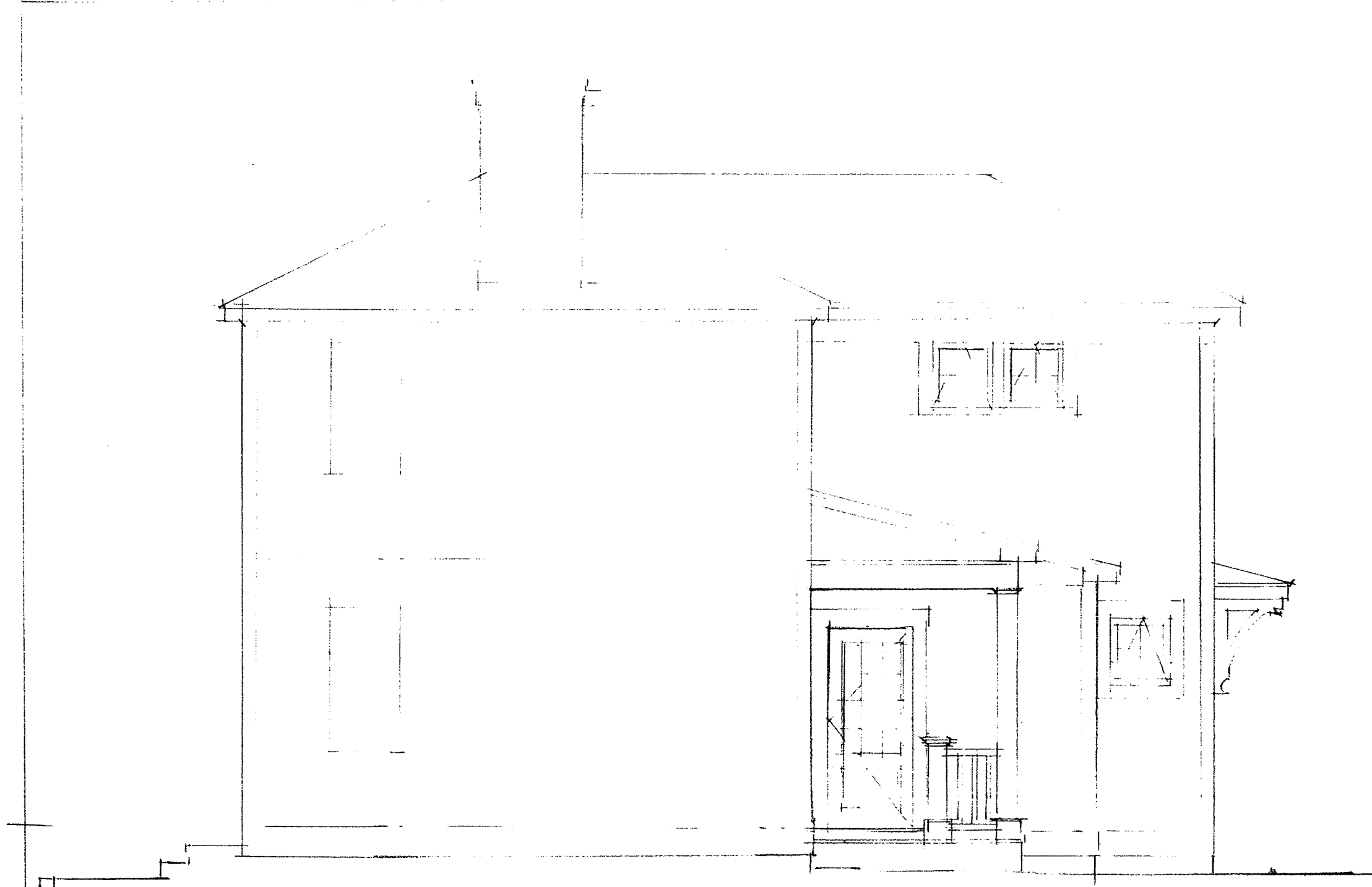


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Callahan Residence
 1 Marboro Street, Newburyport
Brian A. Libby Architect Northeast office
 (520) 906-2321 (cell)
 Web: BrianALibby.com
 1251 Linda Vista Blvd.
 Oro Valley, AZ 85704-3609

SK-5
 12/18/17

REV 10/28/17



PROPOSED RIGHT SIDE ELEVATION 1/4" = 1'-0"

Callahan Residence

1 Marboro Street, Newburyport

Brian A. Libby Architect

1251 Linda Vista Blvd.

Oro Valley, AZ 85704-3609

Northeast office

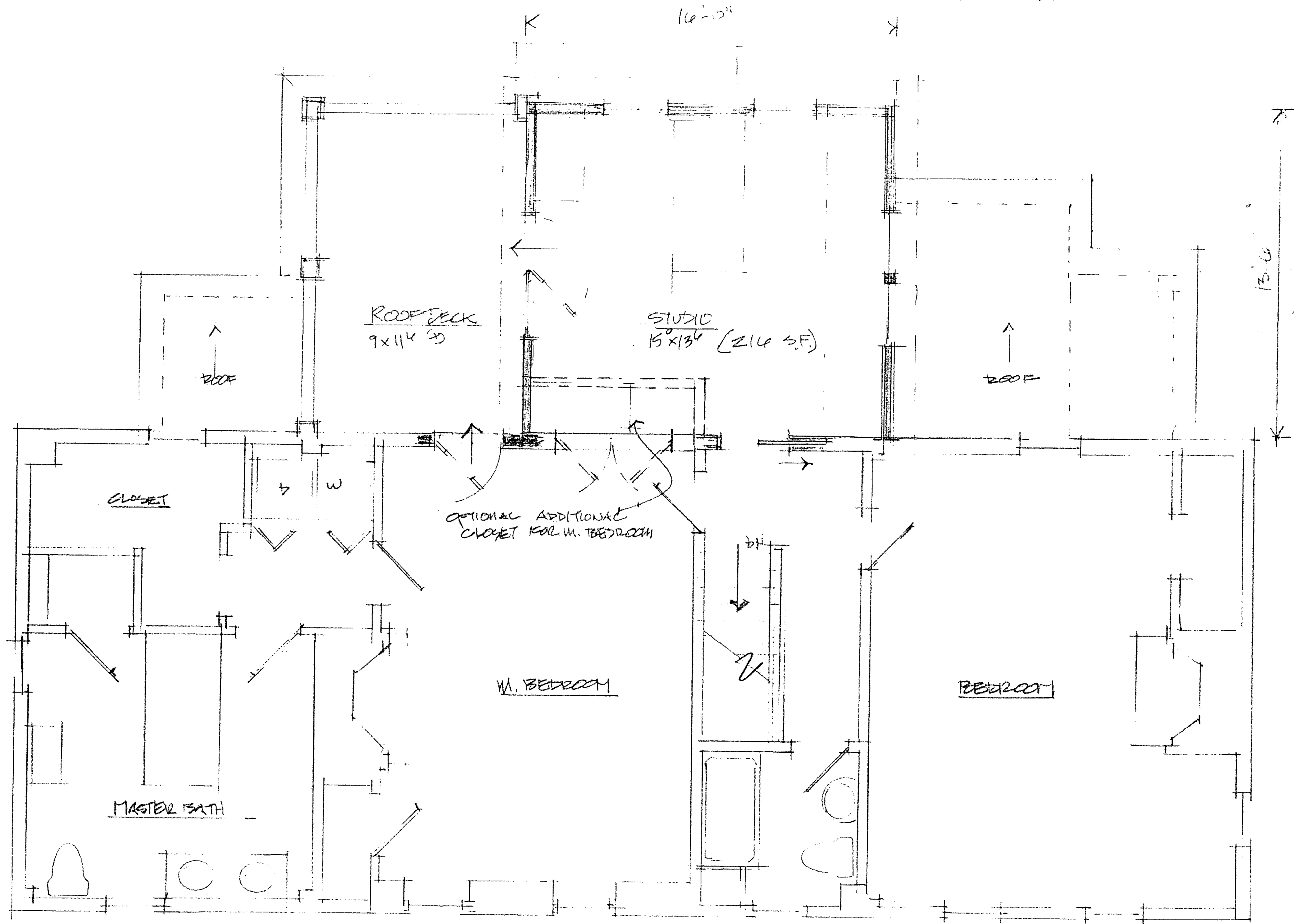
(520) 906-2321 (cell)

Web: BrianALibby.com

All work shall meet State Building Codes. The G.C. shall field verify dimensions before construction. Notify immediately the Architect of discrepancies. The drawings are diagrammatic and form the approximate arrangement of wall, doors, equipment etc. All work and construction shall be performed under the direct supervision of personnel licensed by the State and local authorities. The G.C. & Owner agree to hold harmless the Architect from all errors and omissions, unless entering into an agreement for the Administration of the Construction Contract and, any claims against the Architect shall not exceed the amounts paid the Architect for the services rendered for the project. The Architect retains the design rights and these drawings shall not be used or the design copied without the express permission of the Architect, Brian A Libby Architect.

CK-6

12/18/17

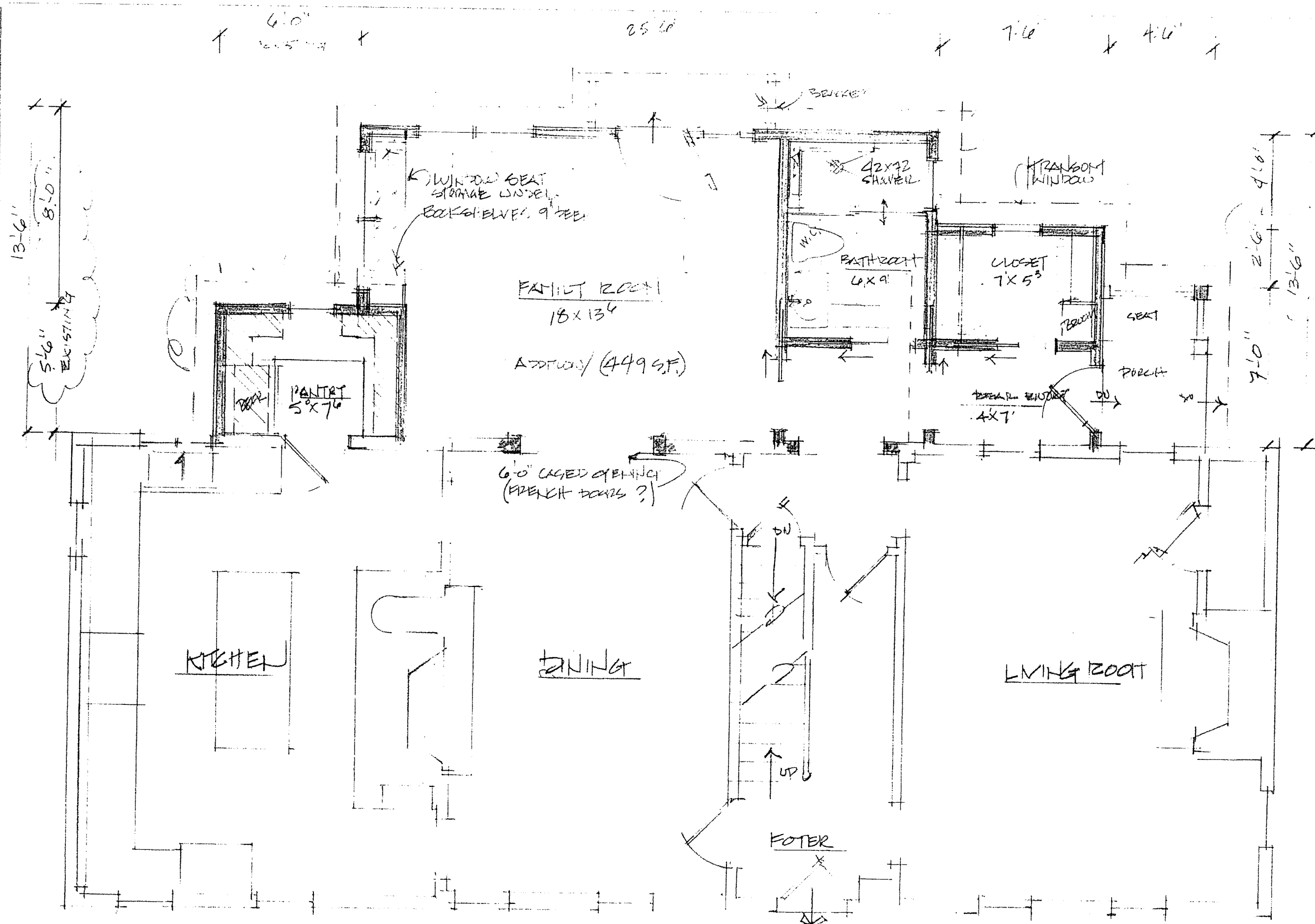


All work shall meet State Building Codes. The G.C. shall field verify dimensions before construction. Notify immediately the Architect of Discrepancies. The drawings are diagrammatic and form the approval of arrangement of wall, doors, equipment etc. All work and construction shall be performed under the direct supervision of personnel licensed by the State and local authorities. The G.C. & Owner agree to hold harmless the Architect from all errors and omissions, unless entering into an agreement for the Administration of the Construction Contract and, any claims against the Architect shall not exceed the amount paid the Architect for the services rendered for the project. The Architect retains the design rights, and these drawings shall not be used or the design copied without the express permission of the Architect, Brian A. Libby Architect

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REV 10/20/17 & 12/18/17

SK-1
 12/18/17



PROPOSED 1ST FLOOR 1/4" = 1'-0"
 DRAWN 10/28/17 REV 12/19/17

All work shall meet State Building Codes. The G.C. shall field verify dimensions before construction. Notify immediately, the Architect of discrepancies. The drawings are diagrammatic and form the approx. arrangement of wall, doors, equipment, etc. All work and construction shall be performed under the direct supervision of personnel licensed by the State and local authorities. The G.C. & Owner agree to hold harmless the Architect from all errors and omissions, unless entering into an agreement for the Administration of the Construction Contract; and, any claims against the Architect shall not exceed the amount paid the Architect for the services rendered for the project. The Architect retains the design rights and these drawings shall not be used or the design copied without the express permission of the Architect, Brian A. Libby Architect.

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SK-1
 12/15/17