

Revised

Rev. 9/21/20

**City of Newburyport Zoning Board of Appeals  
Application for a VARIANCE**

	Required Dimensional Controls from Section VI.A	Existing Dimensional Controls from survey or site plan	Proposed Dimensional Controls from proposed plans
Lot Area	6889	6889	7898
Frontage	90	166.39	124.19
Height*	23.8	23.8	29
Max. Lot Coverage (%)**	13.18	13.18	18.90
Min. Open Space (%)***	75.63	75.63	73.80
Primary Front Setback	7.2	7.2	25.2
Side A Setback/Secondary Front Setback	43.7	43.7	10.2
Side B Setback	14.7	14.7	49.6
Rear Setback	37.5	37.5	25.2
Parking Spaces	2+	2+	2+
FAR****	NA	NA	NA

\*Height is measured to median roofline.

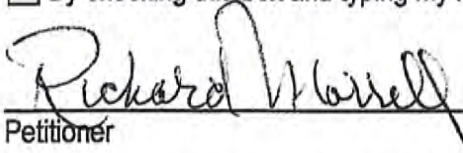
\*\*Total building footprint divided by the lot area expressed as a percentage.

\*\*\*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)



Mead, Talerman & Costa, LLC  
Attorneys at Law

30 Green Street  
Newburyport, MA 01950  
Phone 978.463.7700  
Fax 978.463.7747  
www.mtclawyers.com

February 1, 2021

By Hand

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

Re: Variance Applications  
22-24 Oak Street – Lot A and Lot B, Newburyport, MA (collectively the  
“Property”);  
Assessor’s Map: 29, Lots 18 and 19.

Dear Chair and Members of the Board;

Reference is made to the above-captioned matter and the continued hearing on this matter. In that connection, the Petitioner has returned to the drawing table to redesign the proposed structure for the new lot, Lot 2. As a result of reducing the size of the proposed home, the Petitioner no longer needs relief from the front and rear setbacks and increases the open space and decreases lot coverage. The relief that is needed is reduced to lot area only, that is, 7,898 where 10,000 is required for Lot 2.<sup>1</sup>

A member of the Board also requested information about lot area sizes for lots on Oak Street, notwithstanding that Lot One, while facing Oak also faces Beacon.

The following is a table of lot areas easterly down Oak Street:

Lot	Area			
<i>Lot One Proposed</i>	6889			
20 Oak	9550			
15 Oak	11483			
16-18 Oak 2 Family	10730			
14 Oak	11520			
11-13 Oak 2 Family	16359			
9 Oak	9140			
7 Oak	2910			
10 Oak	11530			
8 Oak	10890			
5 Oak	7050			
6 Oak	11076			
3 Oak	6070			

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

<sup>1</sup> The required relief for Lot One remains unchanged, lot area and front setback.

Single Family Largest	11530			
Single Family Smallest	2910			
Average Single Family	9121			

As you can see, the proposed Lot One will be neither the largest nor the smallest on the Street which has a mix of lot areas. Again, however, given the location of the existing structure and the proposed lot, the actual streetscape for both properties seems more aligned with Beacon Street.

Further, there was some discussion relative to the zoning changes in the area. As this Board may be aware, the City Council voted to “down zone” a portion of the City in 2017. That is increase the lot area requirements and decrease the intensity of use. That down zoning did not include this portion of the R2 district. This neighborhood was R2 before the downzoning and remains an R2 now. As a result, the City Council did not aim to change the zoning which was and has been in place over this neighborhood in question. For your information, I have attached the relevant zoning amendments as Exhibit A.

Finally, there was some discussion relative to how the parcel which is Map 29 Lot 18 was created. Given the current nature of the hearings, it was difficult for me to communicate with my client during the hearing. Since that time I have been provided information from my client that will be helpful to the Board. As you can see from the attached letter (Exhibit B) to the Board from Mr. Morrill and Debbie and Jim Nelson, this parcel was created with the extension of Beacon Ave. Initially, what is now 26 Oak actually extended to 22 Oak Street before Beacon Avenue existed in this location. With the construction of the remainder of Beacon Street, this pie shaped parcel was created. I have attached my client’s letter to the Board which walks through the creation and use of the Lot 18.

I would reiterate my arguments previously made relative to the basis for this variance. I respectfully remind the Board also, that from both the perspective of the lots on Beacon as well as Oak, the proposed Lot One and Lot Two will not be outliers by way of size. Interestingly, both lots will continue to be of an odd shape given the underlying property’s current odd shape. Further, as is more clearly evident now, my client did not create this hardship, namely the shape of the lot(s).

The lots both pre and post merger and division are of odd shape. If you review the Assessor’s Plan (See Exhibit C) you will see that 24 Oak Street is shaped a bit like a piece of pie boarded on two sides by public streets, Oak Street and then Beacon Avenue. Even once merged, the lots continue to have an odd shape, which narrows toward the west end of the lot. The redrawing of the lot lines actually makes the lot much more uniform, while not perfect by any stretch. Further, the lots become more similar in shape and size as many of the lots along the northerly side of Beacon Avenue in the same vicinity and of similar size. However, the lots remain of odd shape.

You will also see with the redesign of the proposed home, the home is now smaller than what was originally proposed and is reflective of the architectural character of the existing home.

As evidence of the proposal not being unusual or an outlier, and not providing a special privilege to the Petitioner, I remind the Board that the Petitioner has received full support from his abutters and neighbors for this proposal.

The Petitioner appreciates the Board's continued consideration of this matter and respectfully requests you grant the variances requested for Lot One and Lot Two as set forth above.

Respectfully submitted,

Richard Morrill

By his Attorney,

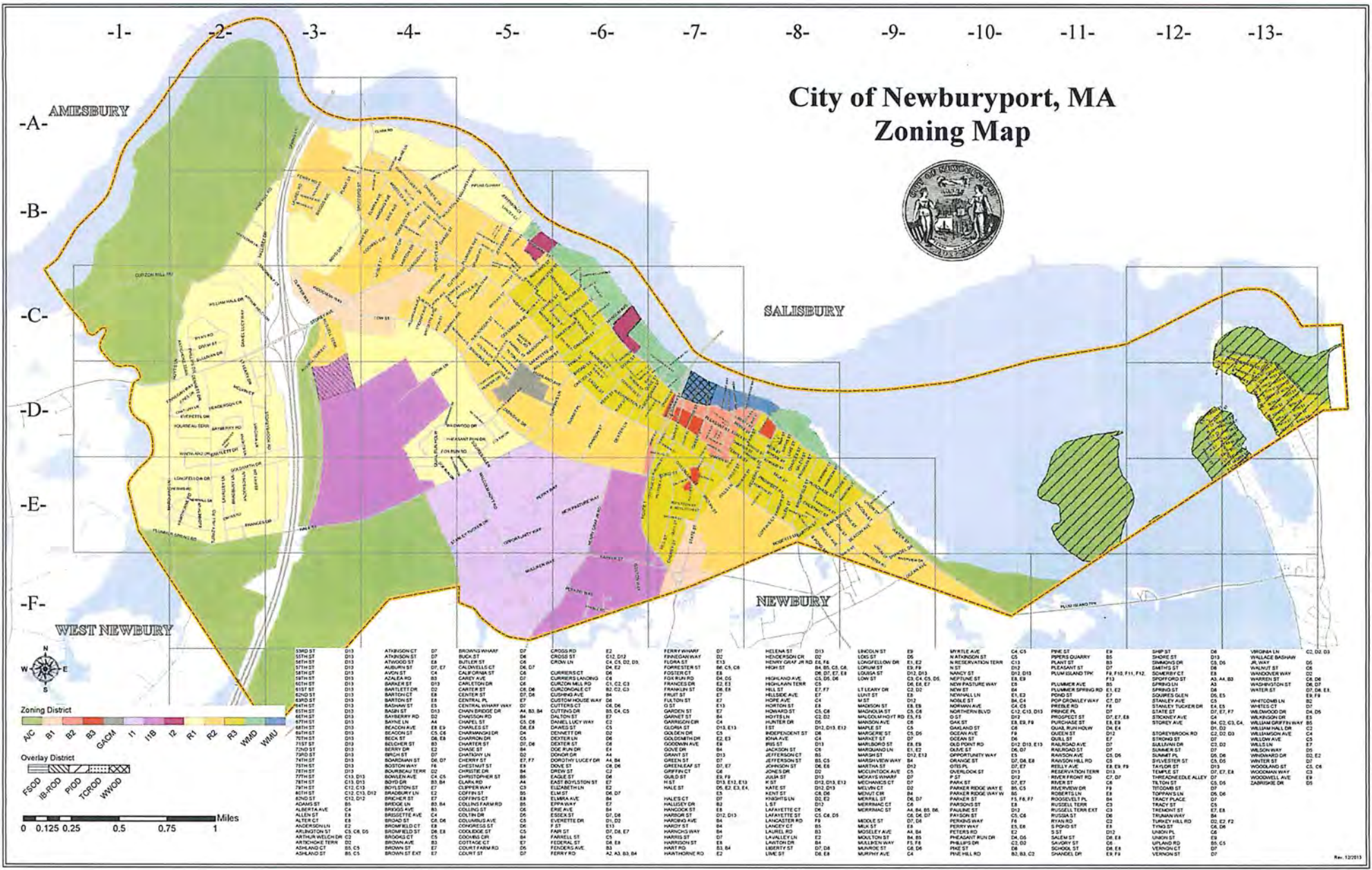
A handwritten signature in blue ink that reads "LLM by B.W. Y". The signature is written in a cursive, flowing style.

Lisa L. Mead

cc: Client

# **EXHIBIT A**

# City of Newburyport, MA Zoning Map



**Zoning District**

AC	B1	B2	B3	CA	CA1	CA2	CA3	CA4	CA5	CA6	CA7	CA8	CA9	CA10	CA11	CA12	CA13	CA14	CA15	CA16	CA17	CA18	CA19	CA20	CA21	CA22	CA23	CA24	CA25	CA26	CA27	CA28	CA29	CA30	CA31	CA32	CA33	CA34	CA35	CA36	CA37	CA38	CA39	CA40	CA41	CA42	CA43	CA44	CA45	CA46	CA47	CA48	CA49	CA50	CA51	CA52	CA53	CA54	CA55	CA56	CA57	CA58	CA59	CA60	CA61	CA62	CA63	CA64	CA65	CA66	CA67	CA68	CA69	CA70	CA71	CA72	CA73	CA74	CA75	CA76	CA77	CA78	CA79	CA80	CA81	CA82	CA83	CA84	CA85	CA86	CA87	CA88	CA89	CA90	CA91	CA92	CA93	CA94	CA95	CA96	CA97	CA98	CA99	CA100
----	----	----	----	----	-----	-----	-----	-----	-----	-----	-----	-----	-----	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	-------

**Overlay District**

FD00	IB-000	PO00	TO000	WV000
------	--------	------	-------	-------

**Miles**

0 0.125 0.25 0.5 0.75 1

CITY OF NEWBURYPORT



IN CITY COUNCIL

ORDERED:

June 26, 2017

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF NEWBURYPORT, MASSACHUSETTS

Be it ordained by the City Council of the City of Newburyport as follows:

APPENDIX A: ZONING ORDINANCE OF THE CITY OF NEWBURYPORT


Section III-C -- Zoning map.

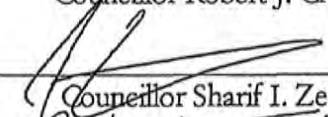
THAT the Zoning Map of said Zoning Ordinance entitled "Zoning Map of the City of Newburyport" be amended pursuant to Section III-D "Changes to Zoning Map" such that all parcels located within the following two areas of the City are changed from the Residential Three (R-3) District to the Residential Two (R-2) District, as depicted on the attached map entitled "Zoning Map Change - Proposed," prepared by the Office of Planning & Development, and dated \_\_\_\_\_, 2017: (a) the entire area bounded northwesterly by Ashland Street, northeasterly by Merrimac Street, southeasterly by the Clipper City Rail Trail, and southwesterly High Street; and (b) the entire area bounded northwesterly by Federal Street, northeasterly by Water Street, southeasterly by Bromfield Street, and southwesterly by High Street.

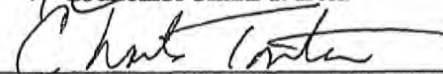
Section VI-A – General regulations.

THAT the Table of Dimensional Requirements of Section VI-A be amended as to Use Numbers 101 and 102 as follows, with deletions ~~double-stricken through~~, and additions double-underlined:

Use	Num.	District	Lot Area	Street Frontage	Height	% Lot Cov.	Open Space	Yard Requirements		
								Front	Side	Rear
Single-family	101	R-2	<del>40,000</del>	<del>90</del>	35	<del>25</del>	<del>40%</del>	<del>25</del>	10	<del>25</del>
			<u>8,000</u>	<u>80</u>		<u>30</u>	<u>35%</u>	<u>20</u>		<u>20</u>
Two-family	102	R-2	<del>45,000</del>	<del>420</del>	35	<del>25</del>	<del>40%</del>	<del>25</del>	10	<del>25</del>
			<u>12,000</u>	<u>100</u>		<u>30</u>	<u>35%</u>	<u>20</u>		<u>20</u>

  
\_\_\_\_\_  
Councillor Robert J. Cronin

  
\_\_\_\_\_  
Councillor Sharif I. Zeid

  
\_\_\_\_\_  
Councillor Charles F. Tontar

**In City Council June 26, 2017:**

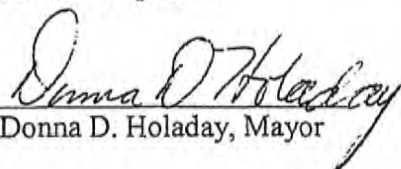
Motion to refer to Planning & Development and Committee of the Whole by Councillor Zeid, seconded by Councillor Tontar. Roll call vote, 9 yes, 2 absent (Eigerman, Connell). Motion passed.

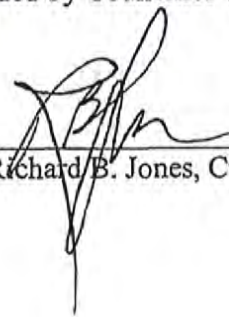
**In City Council October 10, 2017:**

Motion to remove from Planning & Development and Committee of the Whole by Councillor Cameron, seconded by Councillor Tontar. Motion to approve, with amendments: 1. Map entitled "Zoning Map Change – Proposed (Corrected), 2. Map dated July 25, 2017, 3. Change bound from Bromfield Street to Marlboro Street, 4. Delete any changes to Section VI-A – General Regulations, by Councillor Cameron, seconded by Councillor Tontar. Roll call vote, 11 yes. Motion passed.

**In City Council October 30, 2017:**

Motion to approve second reading by Councillor Zeid, seconded by Councillor Tontar. Roll call vote, 11 yes. Motion passed.

Approve:   
Donna D. Holaday, Mayor

Attest:   
Richard B. Jones, City Clerk

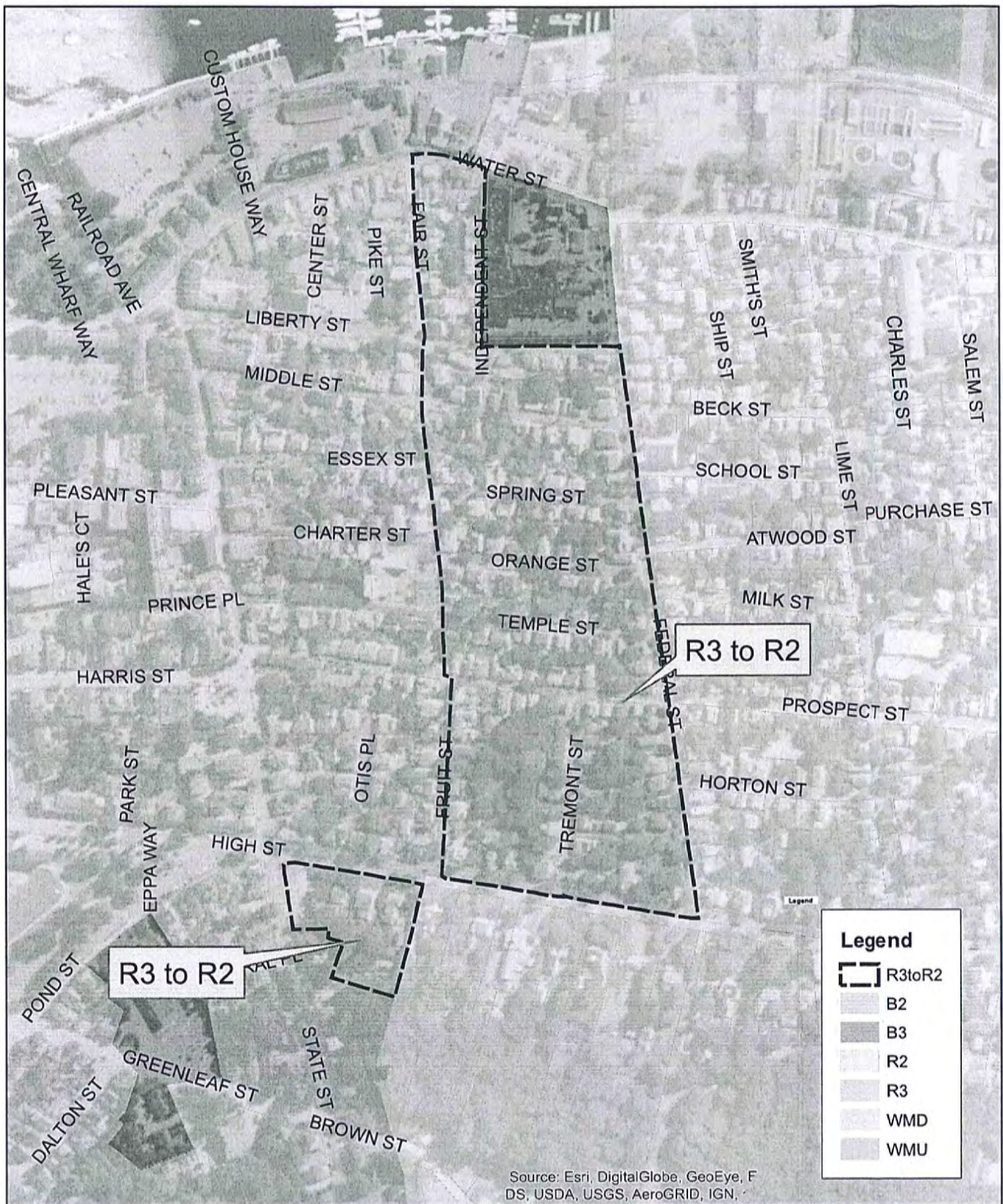
Date: 12/7/17





# Zoning Map Change - Proposed (Corrected)

Office of Planning and Development  
July 25, 2017



## Zoning Map Change - Proposed v.2

## **EXHIBIT B**

The Zoning Board of Appeals and the Planning Office,

We would like to provide additional background information in hopes to address questions raised at the January 12<sup>th</sup> meeting. Richard (Dick) Morrill purchased the 1870 home at 22 Oak Street in 1964. Shown here on a 1902 Sanborn Map, Beacon Avenue ended at Oak Street at that time. The parcel adjacent to 22 Oak Street extended to Guild Street.



Between 1952 and 1964 the parcel was split by the extension of Beacon Avenue to South Pond Street.



USGS 1952

● 22 Oak Street

USGS 1966

When Beacon Avenue was extended there was a greenhouse and florist shop owned by Norman Welch on the 24 Oak Street parcel. Norman lived at 26 Oak Street. The slide on the left was taken in February 1966 looking toward Oak Street from the backyard and shows the white two-story florist shop and greenhouse behind it (covered in snow). The photo on the right was taken this January. The extension of Beacon Avenue created the pie shaped parcel at 24 Oak Street which was purchase by Dick and Marilyn Morrill in 1973 from Norman's heirs.



Below is a Google Street view from Oak Street showing where the greenhouse and florist shop used to stand.



When looking at how to rearrange the parcels, a lot of consideration was given to the size of the parcels, orientation of the new home, zoning requirements, and how the new home would fit within the fabric of the neighborhood. This portion of Beacon Avenue looks like there is a gap where there should be a house. The proper orientation of the home was considered, and it was determined that it should align with Dick's house on the right and the Mahon's on the left. Rather than parallel to the street which

would result in it looking crooked. Using this house orientation, zoning requirements for frontage, and making sure that we were not requesting parcels smaller than others already in the immediate neighborhood, we defined the parcels shown on Hancock's survey.

Given the proposed parcel and the concerns raised by the ZBA and the Planning Office about the number of variances we requested at the January 12<sup>th</sup> meeting, we have redesigned the house so that it can be built without requesting any variances other than zoning relief for the area of the resulting parcels.



Proposed New Home

22 Oak Street

We have designed a home that fits well with the neighborhood and that incorporates architectural features that are typical of homes in the south end. The way the house fronts Beacon Avenue mimics Dick's house with the gable facing Beacon Avenue on the right and a roof line extending to the left. The proposed home also incorporates a bay window, front entry overhang with corbels, and half-moon window in the attic, all these elements are common features in homes in the neighborhood. The one car garage is placed as far as possible from the Mahon's while following zoning requirements. We have discussed the construction on the site with all abutters and they have provided signed letters included in the submission.

This is a wonderful neighborhood that has special meaning to all three of us. We very much appreciate your time and your consideration.

Sincerely,

*Richard Morrill*

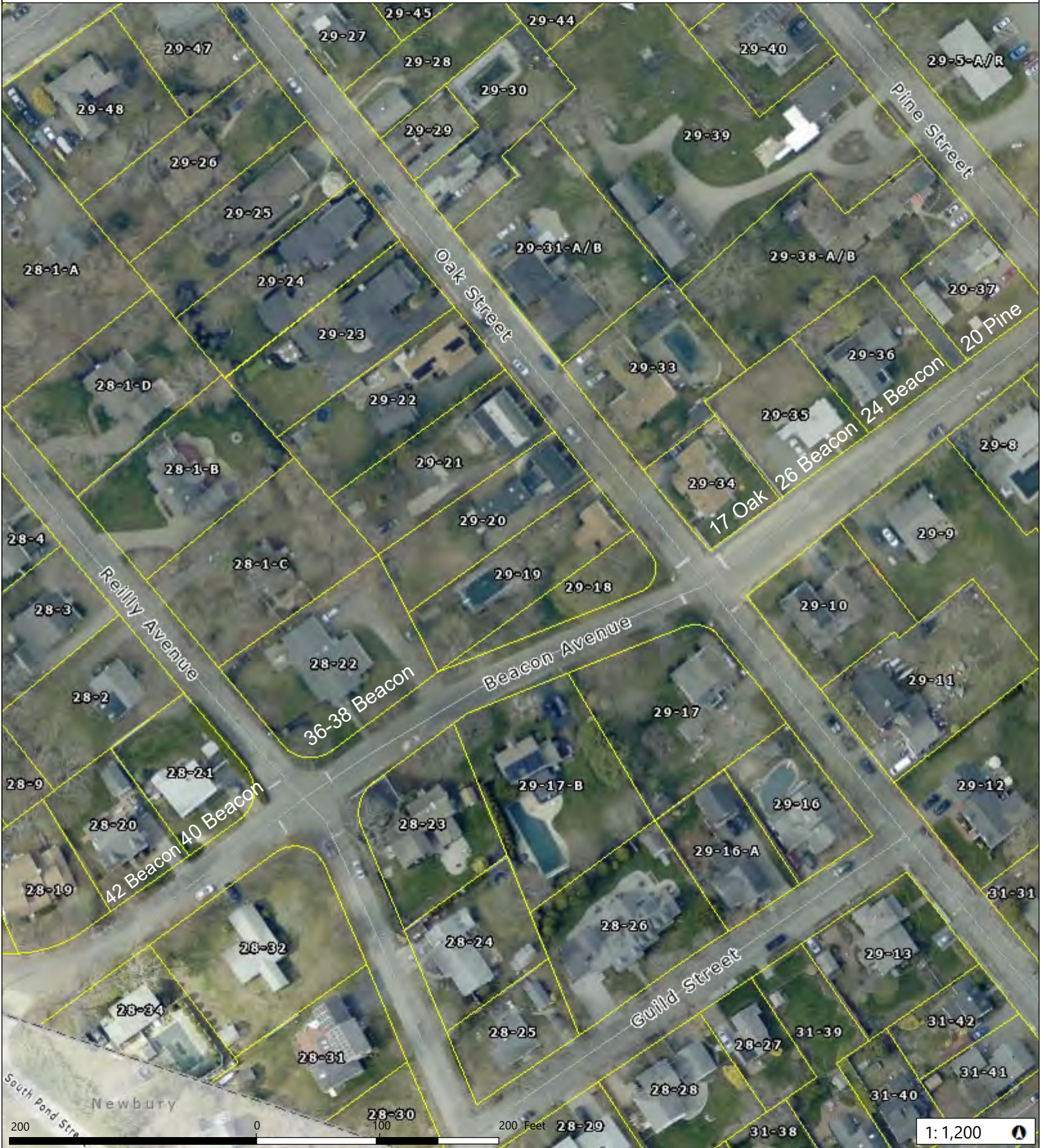
*Debbie Nelson*

*Jim Nelson*

# **EXHIBIT C**

# City of Newburyport

11/17/2020



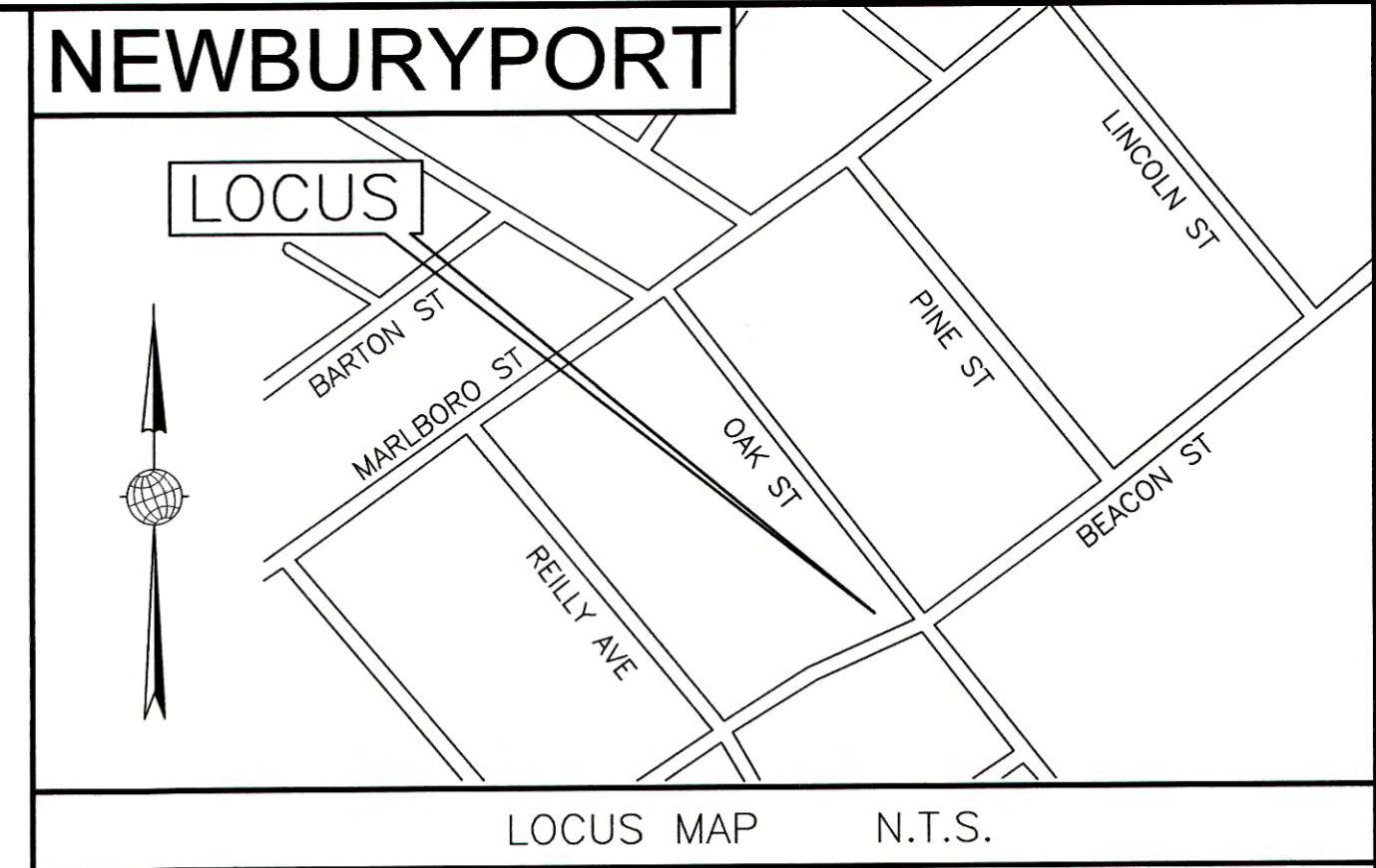
Data Sources: Produced by Merrimack Valley Planning Commission (MVPC) using data provided by the City of Newburyport & MassIT/MassGIS. MVPC AND THE CITY OF NEWBURYPORT MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, CONCERNING THE ACCURACY, COMPLETENESS, RELIABILITY, OR SUITABILITY OF THESE DATA. THE CITY OF NEWBURYPORT AND MVPC DOES NOT ASSUME ANY LIABILITY ASSOCIATED WITH THE USE OR MISUSE OF THIS INFORMATION.



**Legend**

- Municipal Boundary (dashed line)
- Roads
  - Interstate (double line)
  - Major Road (solid line)
  - Local Road (dotted line)
  - Railroad (line with cross-ticks)
- Parcels (on aerial) (yellow outline)





**ZONING:**

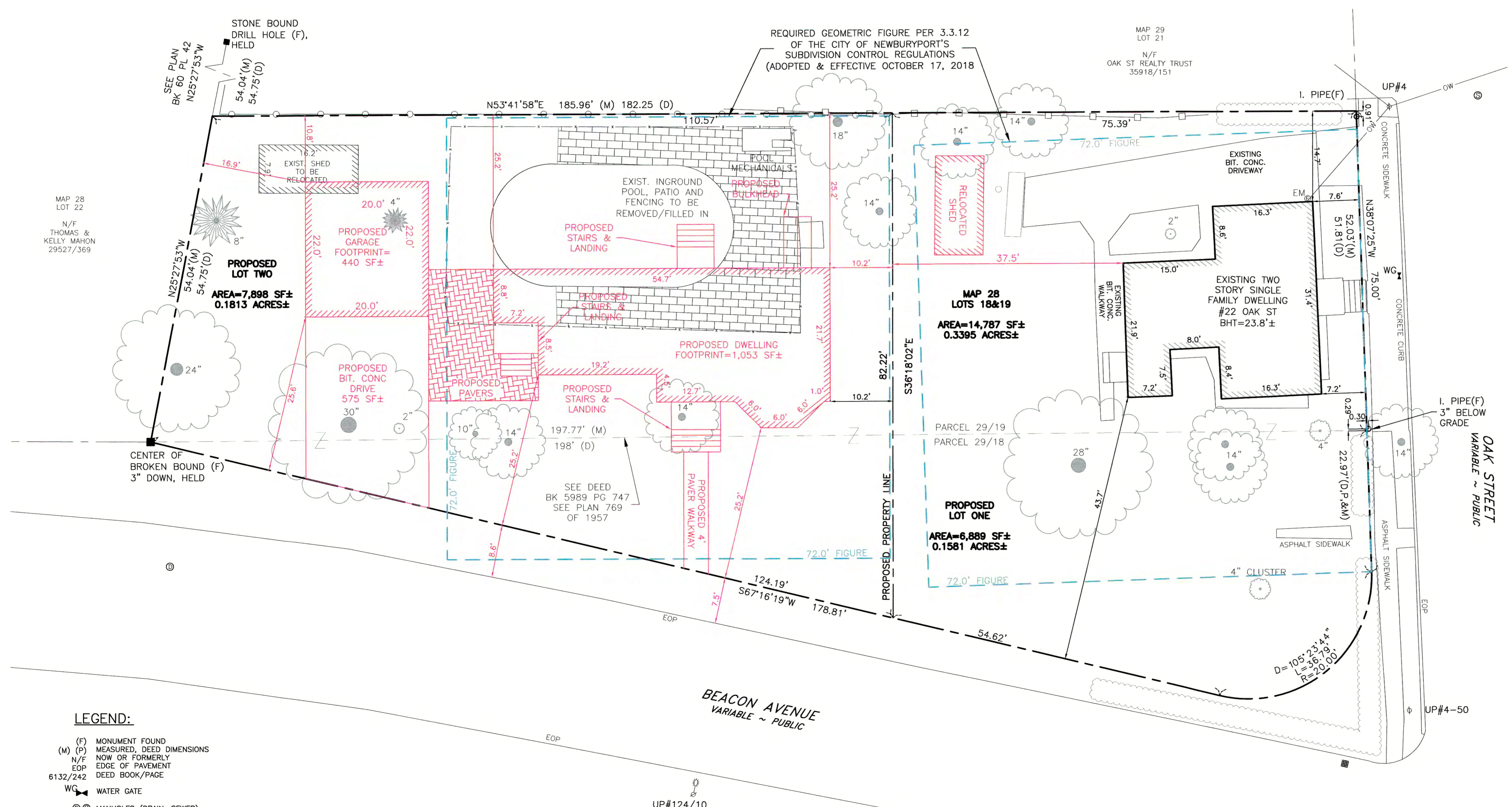
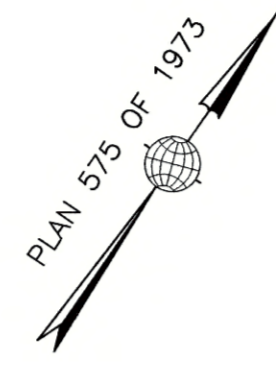
RESIDENTIAL 2 (R2)  
SINGLE FAMILY  
DEMOLITION CONTROL OVERLAY DISTRICT  
(DCOD) (LOT 19 ONLY)

**REQUIRED:**  
LOT AREA=10,000 sf  
FRONTAGE=90'  
MIN. FRONT SETBACK=25'  
MIN. SIDE SETBACK=10'  
MIN. REAR SETBACK=25'  
BUILDING HEIGHT=35' MAX  
LOT COVERAGE=25% (BLDGS ONLY)  
OPEN SPACE=40%

**EXISTING:**  
14,787 SF±  
93.37' (OAK ST)  
197.20' (BEACON ST)  
43.7' (BEACON ST-PRIMARY)  
7.2' (OAK)  
(R)14.7'  
150.1'  
23.8'±  
6.13%  
88.48%

**PROPOSED LOT ONE:**  
6,889 SF±  
93.37' (OAK ST) (NC)  
73.02' (BEACON ST)  
43.7' (BEACON ST/NC)  
7.2' (OAK ST/NC)  
(R)14.7' (NC)  
37.5'  
23.8'± (NC)  
6.13%  
75.63%

**PROPOSED LOT TWO:**  
7,898 SF±  
124.19'  
25.2'  
(L)49.6'(HSE) 16.9'(GAR)/(R)10.2'  
25.2' (HSE) 10.8'(GAR)  
N/A  
18.907%  
73.807%



**OWNER/APPLICANTS:**

RICHARD MORRILL  
BK 5989 PG 747 (29/18)  
BK 5201 PG 27 (29/19)  
ASSESSOR'S MAP 29 LOTS 18&19

**REFERENCES:**

- ESSEX COUNTY REGISTRY OF DEEDS  
BK 5989 PG 747 (29/18)  
BK 5201 PG 27 (29/19)  
PLAN 336 OF 1960  
PLAN 303 OF 1973  
PLAN 46 OF 1976  
PLAN BOOK 90 PLAN 42  
PLAN BOOK 94 PLAN 29

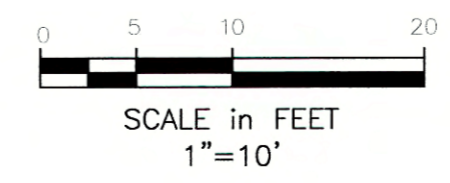
**NOTES:**

- THE PURPOSE OF THIS PLAN IS TO DEPICT THE CREATION OF A NEW BUILDABLE LOT\* FROM LOTS 18&19 OF ASSESSOR'S MAP 29 (CONTIGUOUS OWNERSHIP)
- OWNERSHIP OF ABUTTING LAND ACCORDING TO THE CITY OF NEWBURYPORT ASSESSOR'S RECORDS.
- THE ENTIRETY OF BOTH PARCELS LIE IN ZONE "X" AS DEPICTED ON FEMA MAP 25009C0136G WITH AN EFFECTIVE DATE OF JULY 16, 2014
- THE ENTIRETY OF THE SUBJECT ARE IN THE "R2" ZONE. MAP 29 PARCEL 19 ONLY FALLS WITHIN THE DEMOLITION CONTROL OVERLAY DISTRICT "DCOD"

I CERTIFY THAT THAT THE SURVEY PERFORMED TO PREPARE THIS PLAN CONFORMED TO THE PROCEDURAL AND TECHNICAL STANDARDS FOR AN ON-THE-GROUND CADASTRAL SURVEY IN ACCORDANCE WITH COMMONWEALTH OF MASSACHUSETTS 250 CMR SECTION 6.01, AND THAT THE CERTIFICATION SHOWN HEREON IS INTENDED TO MEET REGISTRY OF DEEDS REQUIREMENTS AND IS NOT A CERTIFICATION TO THE TITLE OR OWNERSHIP OF THE PROPERTY SHOWN.

*[Signature]*  
REGISTERED PROFESSIONAL LAND SURVEYOR  
EDWARD DIXON  
No. 34304  
REGISTERED PROFESSIONAL LAND SURVEYOR  
2-1-2021  
DATE

- LEGEND:**
- (F) MONUMENT FOUND
  - (M) MEASURED, DEED DIMENSIONS
  - (N/F) NOW OR FORMERLY
  - EOP EDGE OF PAVEMENT
  - 6132/242 DEED BOOK/PAGE
  - WG WATER GATE
  - ⊙ MANHOLES (DRAIN, SEWER)
  - EM ELECTRIC MANHOLE
  - CATCH BASIN
  - ⊕ UTILITY POLE (WITH LIGHT)
  - ☀ TREES (DECIDUOUS, CONIFEROUS)



AAM CLIENT COMMENTS	1/27/2021	REV: 4
AAM CLIENT COMMENTS	11/12/2020	REV: 3
CHA CLIENT COMMENTS	6/8/2020	REV: 2
AAM CLIENT COMMENTS	3/17/2020	REV: 1
BY: DESCRIPTION:	DATE:	REV: 0
DRAWING NO.:	23033 PPR6.DWG	

**PROPOSED PLOT PLAN**  
**22-24 OAK STREET**  
IN  
NEWBURYPORT, MASSACHUSETTS  
ESSEX COUNTY

---

PREPARED FOR:  
**RICHARD MORRILL**

---

PREPARED BY:  
**HANCOCK ASSOCIATES**  
Civil Engineers  
Land Surveyors  
Wetland Scientists

---

ONE HARRIS STREET SUITE 3  
NEWBURYPORT, MA 01950  
TEL: 978-465-9992  
www.hancockassociates.com

RESEARCH: EDX
FIELD: CHA/AAM
CALCULATION: EDX
DRAFTING: AAM
CHECK: EDX
PROJ. MANAGER: EDX
DATE: NOVEMBER 21, 2019
HANCOCK JOB# 23033
CRD FILE 23303 EC
SHEET NO. 1 OF 1

Nelson Residence (Proposed)  
22 Oak Street  
Newburyport, MA  
January 31, 2021

---

---

---

Designer/Builder  
Hughes Development  
978-697-3579

---

---

---

Site Engineer  
Hancock Associates  
978-465-9992

---

---

---

Structural Engineer  
Fix Engineering  
978-462-4331

---

---

---





Front Elevation

6 feet



Right Elevation

6 feet



Left Elevation

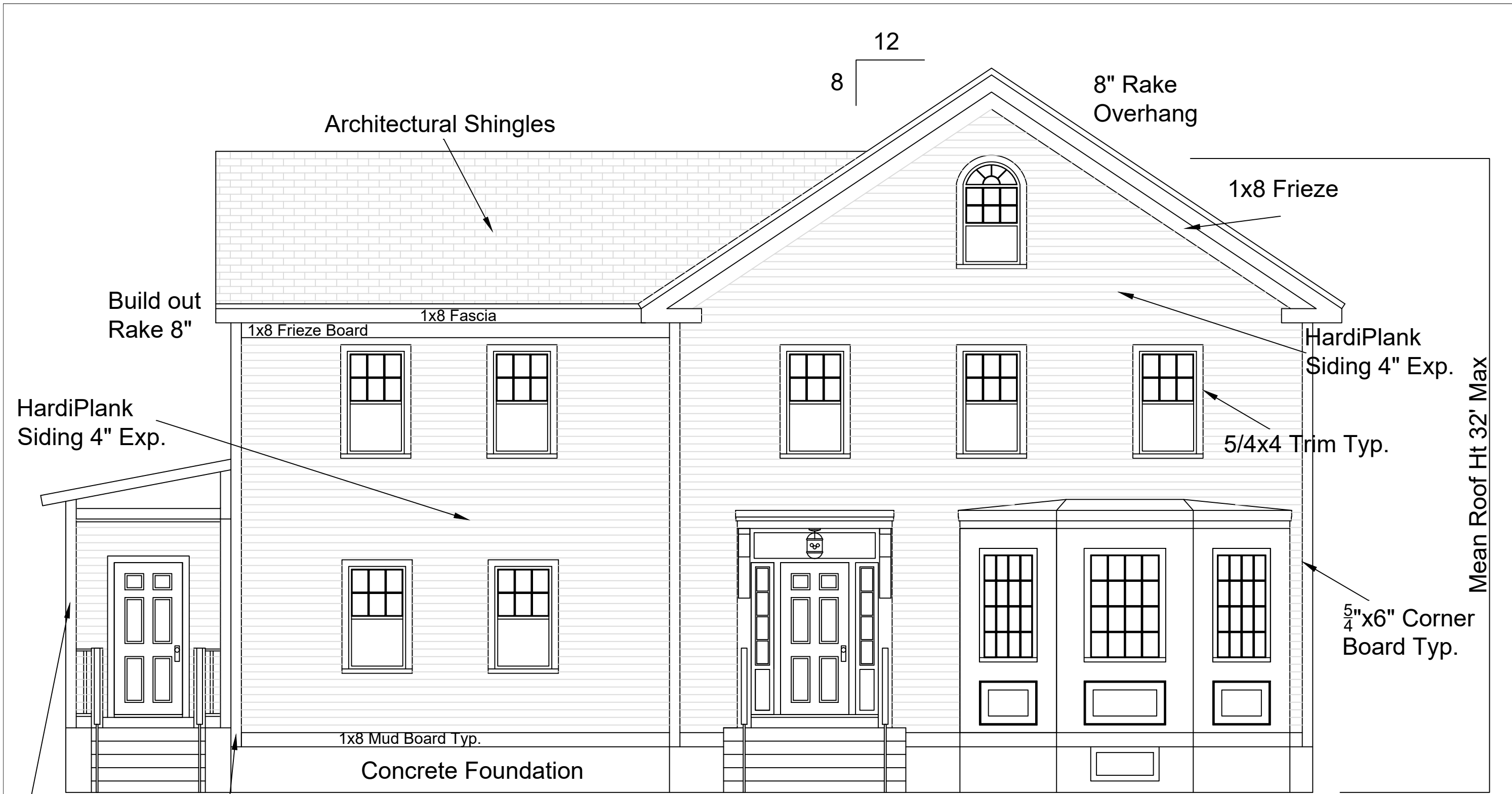
6 feet



Rear Elevation

6 feet

January 31, 2021 rev.02

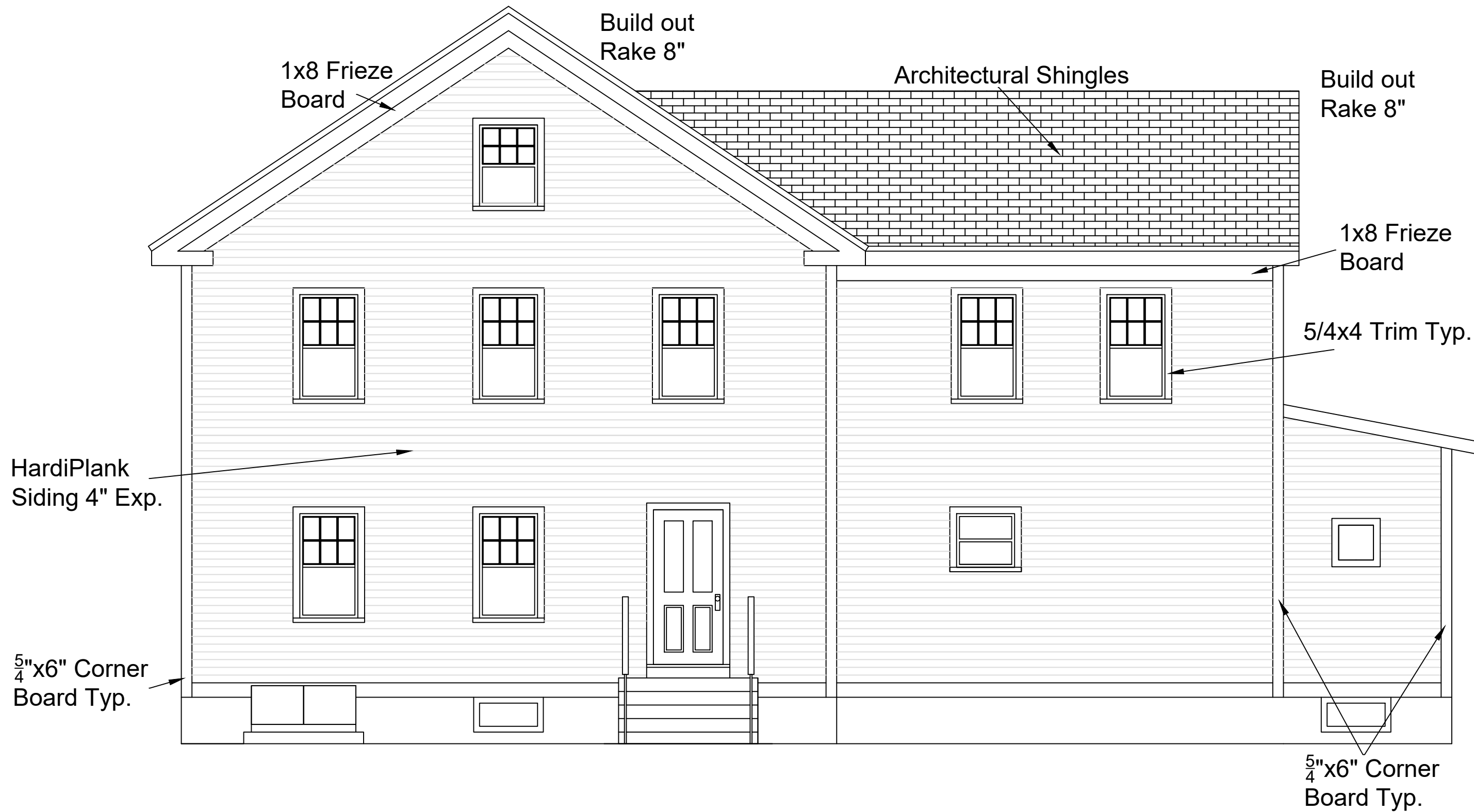


# Front Elevation

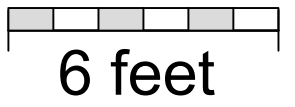


6 feet

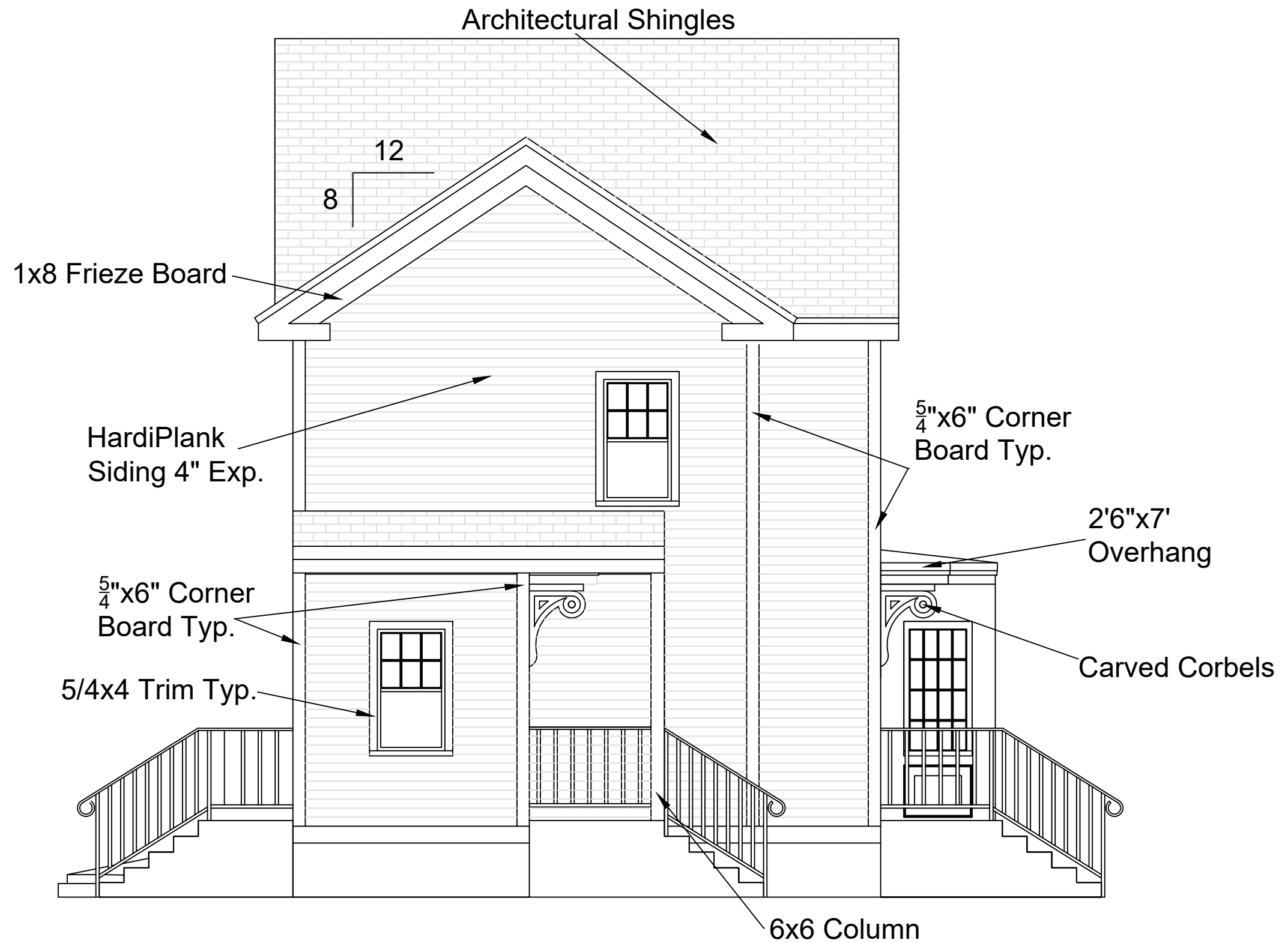
January 31, 2021 rev.02



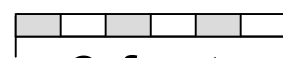
# Rear Elevation



January 31, 2021 rev.02

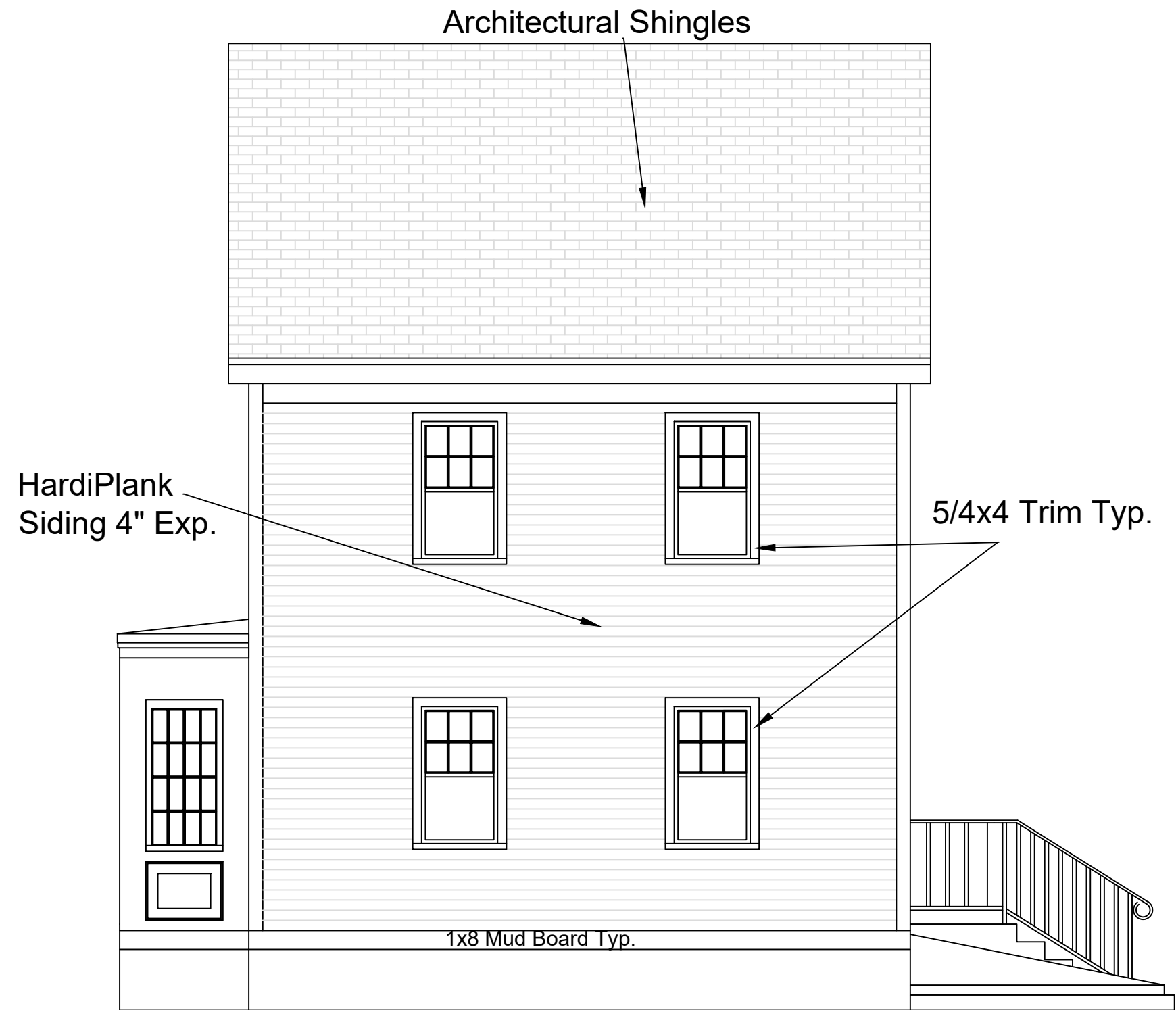


# Left Elevation

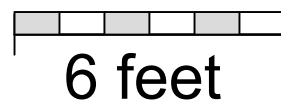


6 feet

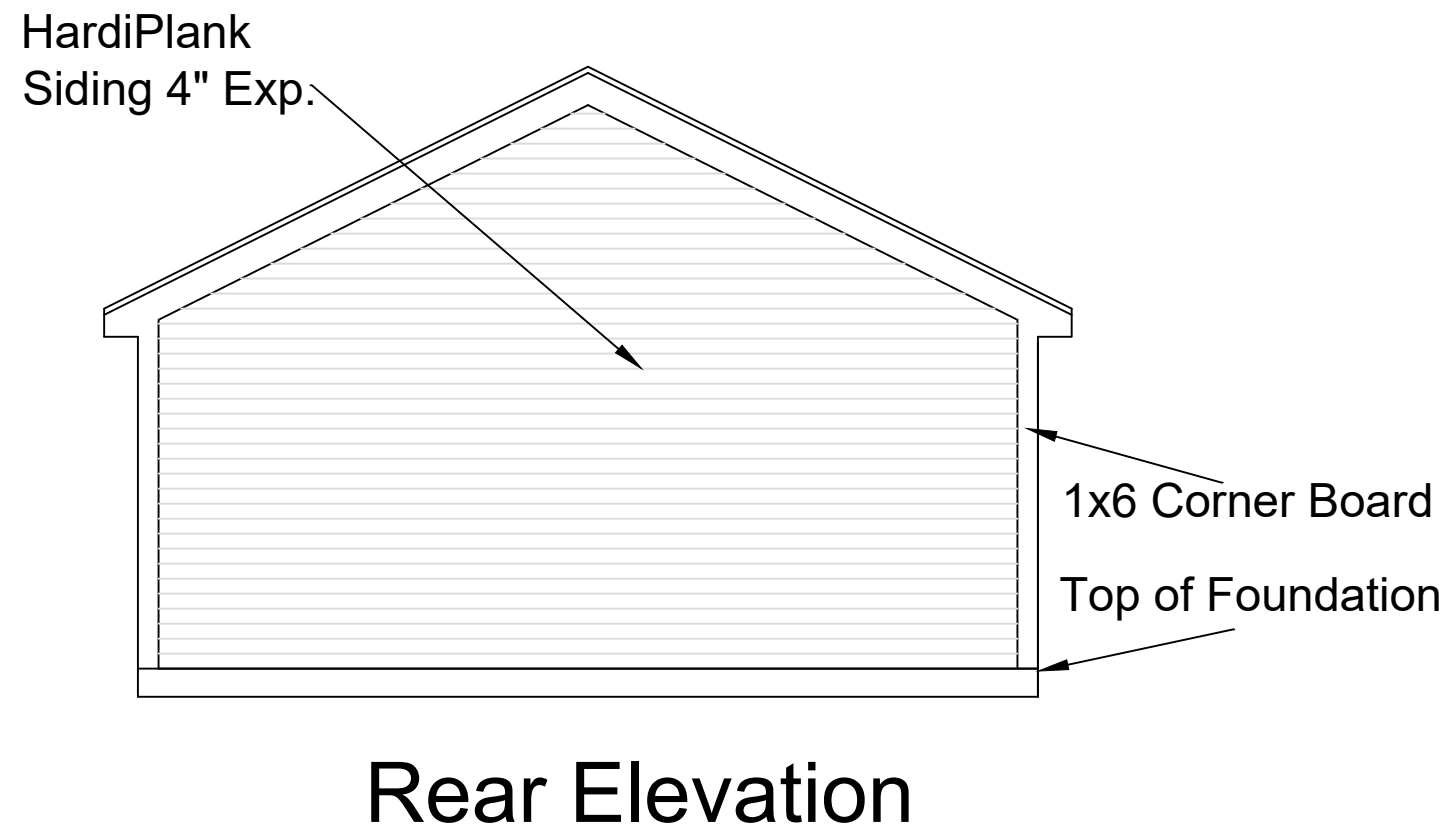
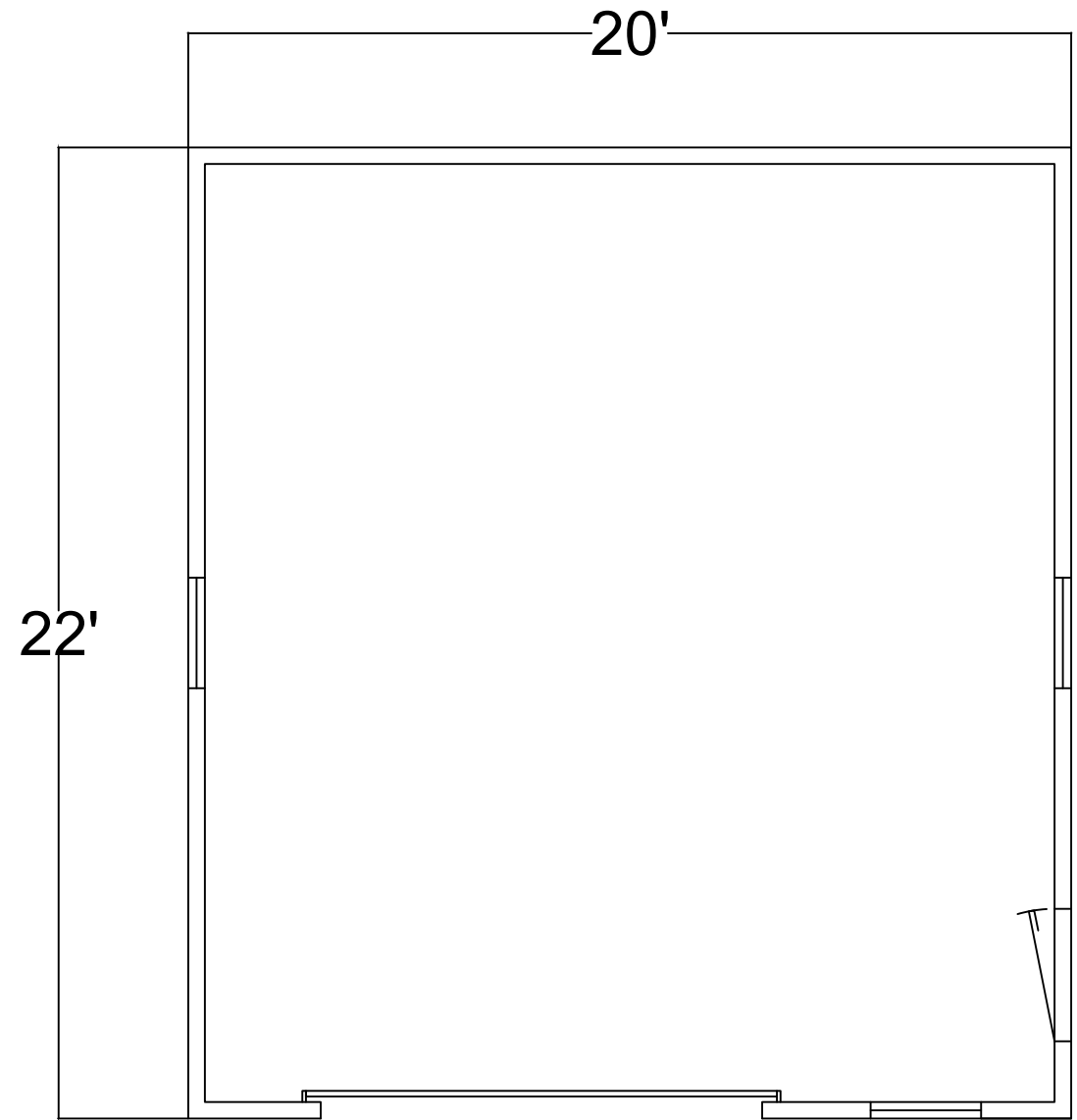
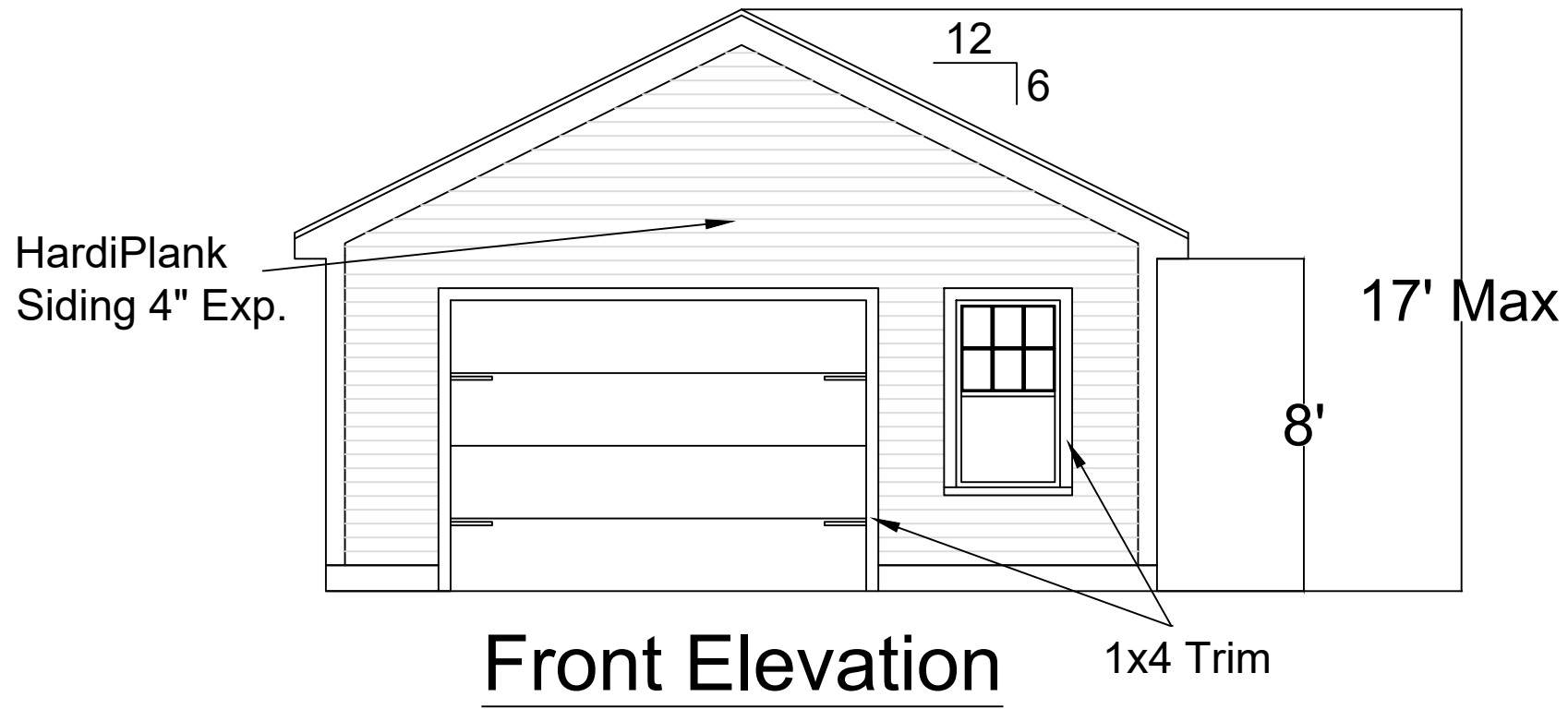
January 31, 2021 rev.02



# Right Elevation



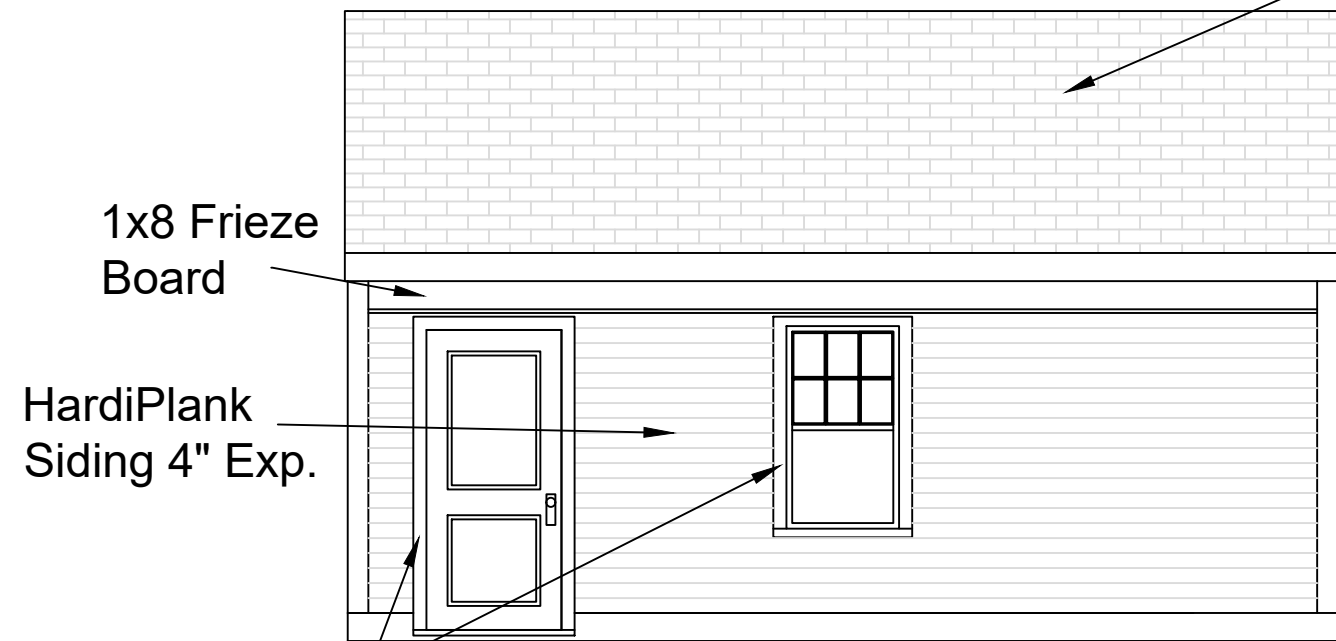
January 31, 2021 rev.02



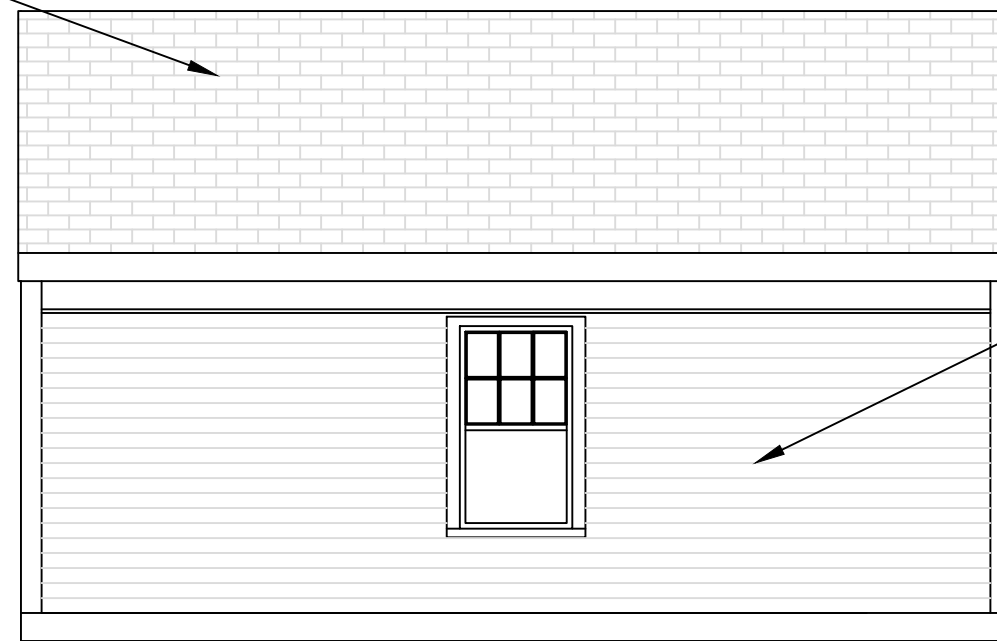
6 feet



Architectural Shingles



Right Elevation

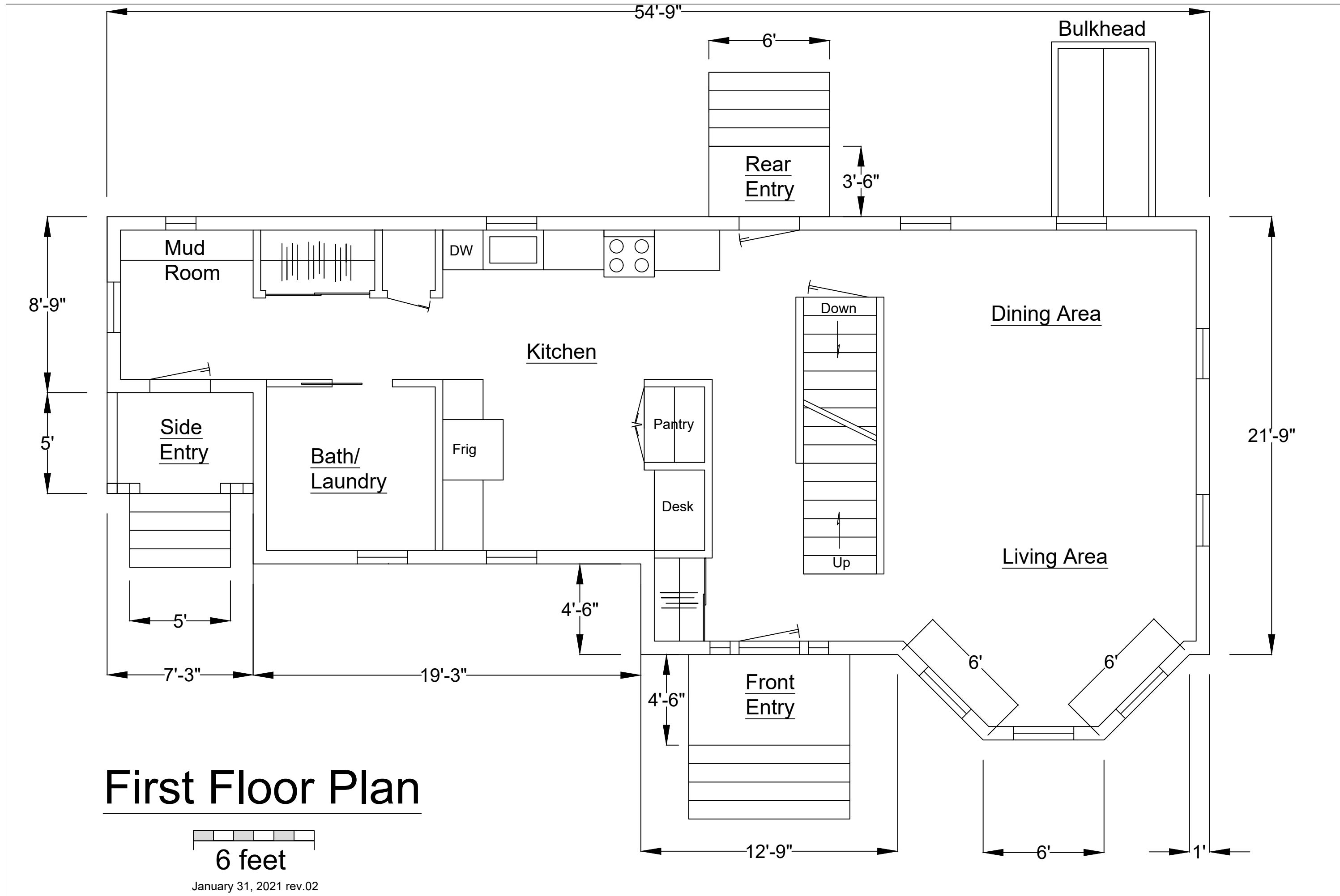


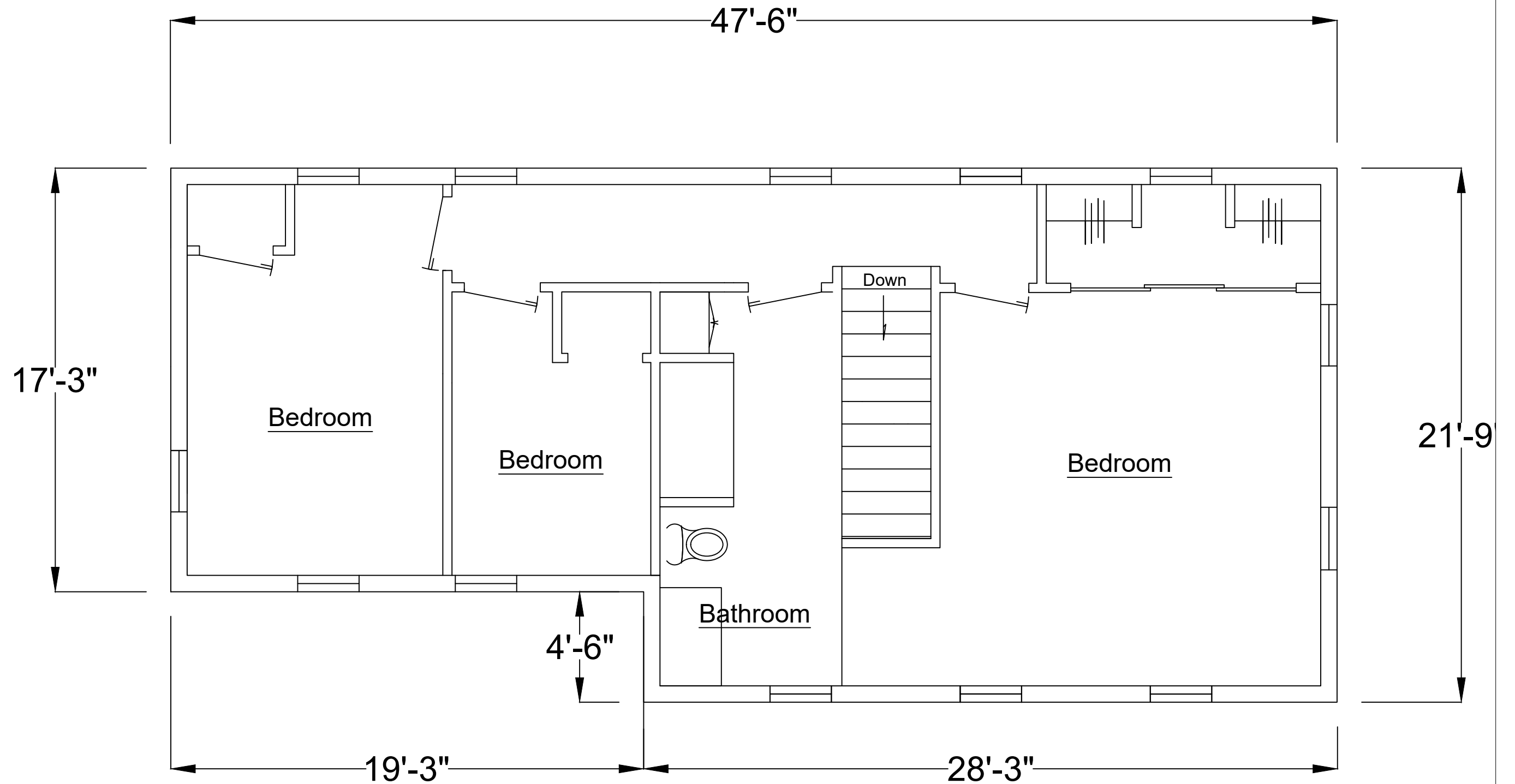
Left Elevation



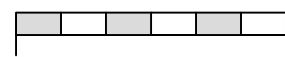
6 feet

January 31, 2021 rev.02





# Second Floor Plan



6 feet

January 31, 2021 rev.02

