

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

Petitioner: Damien and Jill Bailey c/o Lisa Mead- Mead, Talerman & Costa LLC

Mailing Address: 30 Green Street, Newburyport, MA 01950

Phone: 978-463-7700 Email: lisa@mtclawyers.com

Property Address: 25 Chestnut Street

Map and Lot(s): Map 25; Lot 70 Zoning District: R2/DCOD

Book and Page(s): Book: 37149 Page: 418

Owner(s) Name: Damien and Jill Bailey

Mailing Address (if different): Same as property address.

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

Description of request:

Construct 2 small one story additions to pre-existing single family structure including 246 sq ft.

All information contained within this application will become a formal part of the Planning Board's proceedings and decision.

**City of Newburyport Planning Board** 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 s.f.                                     | 5,792 s.f.   | 5,792 s.f.  |
| Frontage                               | 90'   | 96'  | 96'   |
| Height*                                | 35'   | 20'3"  | 20'3"   |
| Max. Lot Coverage (%)**                | 25%   | 35.7%  | 38.1%   |
| Min. Open Space (%)***                 | 40%   | 38.7%  | 39.9%   |
| Primary Front Setback                  | 25'   | 3.8'   | 3.8'  |
| Side A Setback/Secondary Front Setback | 10'   | 5.5'   | 5.5' (addition is 6.5')                           |
| Side B Setback                         | 10'   | >10'   | >10'  |
| Rear Setback                           | 25'   | 3.0'   | 3.0' (addition is 18.5')                          |
| Parking Spaces                         | 2   | 3  | 3   |
| FAR****                                |   |  |   |

\*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 Planning Board. 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 Planning Board Rules and Regulations may result in a dismissal this application as incomplete.

*Electronic signatures appearing on this decision are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.*

\_\_\_\_\_  
 Petitioner's Signature

*Jill Bailey*  
 \_\_\_\_\_  
 Owner's Signature (if different)



Mead, Talerman & Costa, LLC  
Attorneys at Law

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30 Green Street  
Newburyport, MA 01950  
Phone 978.463.7700  
Fax 978.463.7747

www.mtclawyers.com

March 29, 2021

By Hand

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

Re: Special Permit for Non-Conformities  
25 Chestnut Street, Newburyport, MA (the "Property")  
Assessor's Map: 25 Lot: 70

Dear Chair and Members of the Board:

Reference is made to the above-captioned matter. In that connection, this firm represents Damien and Jill Bailey, the owners of the Property (the "Applicant"). The Applicant is proposing to remove a portion of the existing structure and construct two small additions.

The Property is located in the R-2 zoning district and DCOD Overlay District of the Newburyport Zoning Ordinance (the "Ordinance"). It is a single family home. The Property is pre-existing nonconforming for lot area, front setback, side setback, rear setback, and lot coverage. The R2 district requires a minimum lot size of 10,000 square feet where the Property measures 5,792 square feet; a front yard setback of 25 feet where it is currently 3.8 feet; 10 foot side yard setbacks where the west side setback is 5.5 feet; a rear yard setback of 25 feet where it is currently 3 feet; and a maximum of 25% lot coverage where it currently is 35.7%.

While the original Structure is dated at approximately 1825 and is listed as contributory on the District Data Sheets, it has many non-historic additions as shown in the Building Department files and noted on the plans. Importantly, the Applicant proposes to remove 23.7% of the exterior walls, below the 25% threshold requiring a DCOD Special Permit.

Regarding changes to the existing non-conformities, the Applicant proposes to extend the west side setback, extend the front yard setback laterally along Chestnut Street, extend the rear yard setback, and increase the lot coverage from 35.7% to 38.1%. The rear addition will be 6.5 feet from the west side boundary, which is less intense than the existing 5.5 foot setback, but still considered an extension under the Ordinance. The front yard setback will remain at 3.8 feet but is being extended 8 feet by the new addition along the front of the structure facing Chestnut Street. The rear addition proposed is 18.5 feet from the rear boundary, which is non-conforming but much farther away from the rear boundary than the existing three foot rear setback located elsewhere on the property. Lot coverage will modestly expand from 35.7% to 38.1% as a result of the two small additions.

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*Millis Office*

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

Accordingly, the Applicant requires a special permit for non-conformities under Section IX-B(2)(A) of the Ordinance. This section allows the modification of a preexisting nonconforming single-family structure where the Board finds that:

1. There will be no addition of a new non-conformity; and
2. The proposed change will not be substantially more detrimental to the neighborhood than the preexisting nonconforming structure.

1. As shown on the plans, there will be no addition of a new non-conformity. Certain existing non-conformities will be extended in a minor fashion, but there are no new non-conformities proposed.

2. The proposed changes will not be substantially more detrimental to the neighborhood than the preexisting nonconforming Structure. As the Board is aware, the term “substantially” means to a great or significant extent. The term “detrimental” means tending to cause harm. As a result, it is not enough for the proposal to be different than that which is around it but that it will to a great or significant extent cause harm to the neighborhood, as compared to the existing structure. See *McAlee v. Board of Appeals of Barnstable*, 361 Mass. 317, 321 (1972).

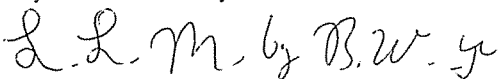
As shown on the plans, the proposed additions are small, reasonable, and will have no negative impact on the neighborhood. In total, they would add a mere 246 square feet to the existing structure. One of these additions is a 11’ by 10’ addition to the west side/rear portion of the structure, effectively filling in an odd gap in its existing footprint. The other addition is an 8’ by 17’ addition to front/eastern side of the structure removing a portion of the existing deck. While these additions extend some existing non-conforming setbacks, they move none of them closer to the lot lines. They are either equal to or farther away than what currently exists.

Regarding the neighborhood generally, it is well known that many properties in the South End neighborhoods of Chestnut Street, Hancock Street, Marlborough Street, and Oak Street are undersized lots and have dimensional non-conformities. The Applicant, like many other property owners in this neighborhood, has a small non-conforming lot and structure, but will not exacerbate this by adding a negligible 246 total square feet to the structure and not worsening the existing non-conformities. Additionally, the use is remaining as single family which is the least intense use while some other uses near the property include more intense two family and social club<sup>1</sup> uses.

Based upon the foregoing, the Applicant requests that the Board find the proposed application is not substantially more detrimental to the neighborhood than the existing Structure and approve a Special Permit for Non-Conformities.

Thank you for your consideration.

Respectfully submitted,  
Damien and Jill Bailey  
By their Attorney



Lisa L. Mead  
Attachment  
cc: client

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<sup>1</sup> The Neptune Club directly abuts the Property to its rear.

CITY OF NEWBURYPORT, MA  
ZONING DETERMINATION

APR# 2021-028

Name: Damien and Jill Bailey c/o Lisa Mead, MTC LLC

Address: 25 Chestnut Street Zoning District(s): R2/DCOD

Request: Construct 2 additions total of less than 500sf to a single family structure extending non conforming front yard and side yard setbacks and lot coverage. Total demolition is less than 25% therefore DCOD review is not triggered.

**ZONING BOARD REVIEW REQUIRED**

Variance

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

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:

Jennifer T Blanchet

3/24/2021

Newburyport Zoning Administrator

Date

# 25 CHESTNUT ST

Location 25 CHESTNUT ST

MBLU 25/70/11

Owner BAILEY DAMIEN P & JILL P T/E

Assessment \$672,300

PID 1381

Building Count 1

## Current Value

| Assessment     |              |           |           |
|----------------|--------------|-----------|-----------|
| Valuation Year | Improvements | Land      | Total     |
| 2021           | \$418,200    | \$254,100 | \$672,300 |

## Owner of Record

Owner BAILEY DAMIEN P & JILL P T/E

Sale Price \$740,000

Co-Owner

Certificate

Address 25 CHESTNUT ST  
NEWBURYPORT, MA 01950

Book & Page 37149/0418

Sale Date 11/14/2018

Instrument 00

## Ownership History

| Ownership History               |            |             |             |            |            |
|---------------------------------|------------|-------------|-------------|------------|------------|
| Owner                           | Sale Price | Certificate | Book & Page | Instrument | Sale Date  |
| BAILEY DAMIEN P & JILL P T/E    | \$740,000  |             | 37149/0418  | 00         | 11/14/2018 |
| KRAMER DONALD S                 | \$0        |             | 29447/0018  | 1A         | 05/07/2010 |
| KRAMER DONALD S                 | \$565,000  |             | 25936/0157  | 00         | 07/31/2006 |
| SARDONE LINDA H & FRANCIS N SR  | \$0        |             | 21811/0193  | 1F         | 09/24/2003 |
| SARDONE LINDA H & FRANCIS N TRS | \$0        |             | 19559/0573  | 1F         | 11/06/2002 |

## Building Information

### Building 1 : Section 1

Year Built: 1825

Living Area: 1,348

| Building Attributes |              |
|---------------------|--------------|
| Field               | Description  |
| Style:              | Conventional |
| Model               | Residential  |

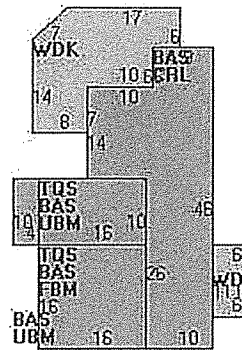
|                    |                |
|--------------------|----------------|
| Grade:             | Average +20    |
| Stories:           | 1 3/4 Stories  |
| Occupancy          | 1              |
| Exterior Wall 1    | Clapboard      |
| Exterior Wall 2    |                |
| Roof Structure:    | Gable/Hip      |
| Roof Cover         | Asph/F Gls/Cmp |
| Interior Wall 1    | Plastered      |
| Interior Wall 2    | Drywall/Sheet  |
| Interior Flr 1     | Hardwood       |
| Interior Flr 2     | Ceram Clay Til |
| Heat Fuel          | Gas            |
| Heat Type:         | Hot Water      |
| AC Type:           | Central        |
| Total Bedrooms:    | 3 Bedrooms     |
| Total Bthrms:      | 3              |
| Total Half Baths:  | 0              |
| Total Xtra Fixtrs: |                |
| Total Rooms:       | 6 Rooms        |
| Bath Style:        | Average        |
| Kitchen Style:     | Modern         |
| Num Kitchens       | 01             |
| Cndtn              |                |
| Num Park           |                |
| Fireplaces         |                |
| Kitchen Grd        |                |
| Fndtn Cndtn        |                |
| Basement           |                |

### Building Photo



(<http://images.vgsi.com/photos/NewburyportMAPPhotos/A0100108183.jpg>)

### Building Layout



([http://images.vgsi.com/photos/NewburyportMAPPhotos/Sketches/1381\\_14](http://images.vgsi.com/photos/NewburyportMAPPhotos/Sketches/1381_14))

| Building Sub-Areas (sq ft) |                      |            | Legend      |  |
|----------------------------|----------------------|------------|-------------|--|
| Code                       | Description          | Gross Area | Living Area |  |
| BAS                        | First Floor          | 1,036      | 1,036       |  |
| TQS                        | Three Quarter Story  | 416        | 312         |  |
| CRL                        | Crawl Space          | 580        | 0           |  |
| FBM                        | Basement, Finished   | 256        | 0           |  |
| UBM                        | Basement, Unfinished | 200        | 0           |  |
| WDK                        | Deck, Wood           | 350        | 0           |  |
|                            |                      | 2,838      | 1,348       |  |

### Extra Features

| Extra Features |                |            |         | Legend |
|----------------|----------------|------------|---------|--------|
| Code           | Description    | Size       | Value   | Bldg # |
| FPL3           | FIREPLACE 2 ST | 1.00 UNITS | \$4,000 | 1      |

**Land Use**

Use Code 1010  
 Description SINGLE FAM

**Land Line Valuation**

Size (Acres) 0.13  
 Depth 0  
 Assessed Value \$254,100

**Outbuildings**

| Outbuildings |                 |          |                 |            |          | Legend |
|--------------|-----------------|----------|-----------------|------------|----------|--------|
| Code         | Description     | Sub Code | Sub Description | Size       | Value    | Bldg # |
| FGR7         | GARAGE W FIN RM |          |                 | 624.00 S.F | \$33,700 | 1      |

**Valuation History**

| Assessment     |              |           |           |
|----------------|--------------|-----------|-----------|
| Valuation Year | Improvements | Land      | Total     |
| 2020           | \$401,400    | \$254,100 | \$655,500 |



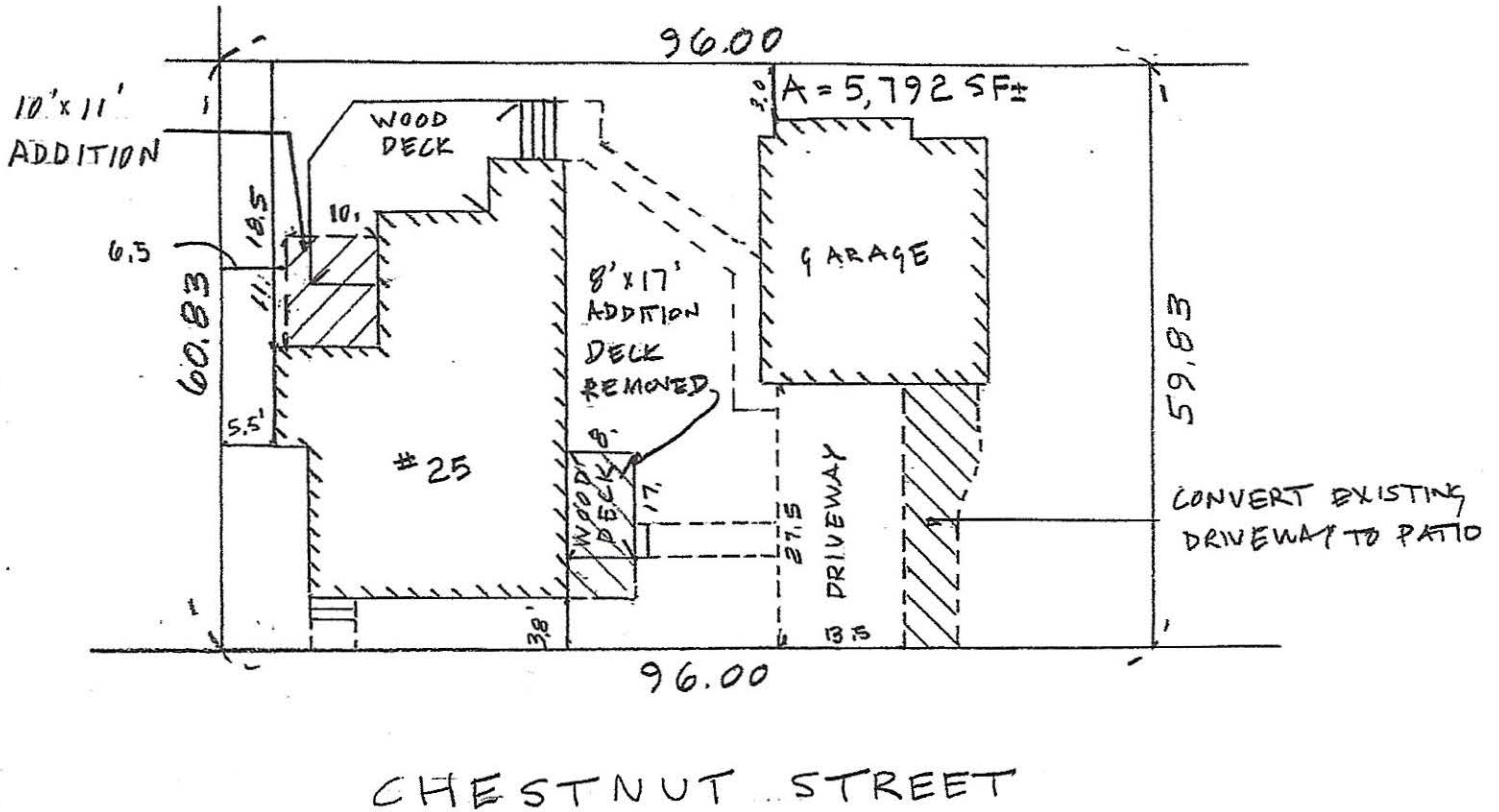
# CERTIFIED PLOT PLAN



## ZONING RESIDENTIAL 2 (R2)

|                | REQUIRED  | EXISTING   | PROPOSED       |
|----------------|-----------|------------|----------------|
| MIN LOT AREA   | 10,000 SF | 5792 SF *  | 5792 SF (NC)   |
| MIN FRONTAGE   | 90 FEET   | 96 FEET    | 96 FEET (NC)   |
| FRONT          | 25 FEET   | 3.8 FEET * | 3.8 FEET (NC)  |
| SIDE           | 10 FEET   | 5.5 FEET * | 6.5 FEET (NC)  |
| REAR           | 25 FEET   | 3.0 FEET * | 18.5 FEET (NC) |
| % LOT COVERAGE | 25%       | 35.7% *    | 38.1%          |
| % OPEN SPACE   | 40%       | 38.7%      | 39.9%          |

\* DENOTES PRE-EXISTING NON CONFORMANCE  
TOTAL OF NEW FLOORING ADDED = 246 SF



CHESTNUT STREET

ESSEX COUNTY

DEED REFERENCE:  
BK. 37149 PG. 418  
CERT. NO.

PLAN REFERENCE:  
PL. BK. 467 PL. 95

I hereby certify that the existing structures are located as shown and were not in violation of the zoning bylaws at the time of construction, or are exempt from violation enforcement action under, Chapter 40A Section 7 of the Mass. General Laws. The structures are located in Zone X according to the following F.E.M.A. map. Note: Zone X represents areas of minimal flooding.

FLOOD HAZARD COMMUNITY NO. 25009C  
BOUNDARY MAP NO. 0136G EFFECTIVE: 16 JUL 14



REGISTERED LAND SURVEYOR  
DATE: 3-12-2021

## PLAN OF LAND IN NEWBURYPORT

PREPARED FOR:

DAMIEN & JILL BAILEY  
25 CHESTNUT STREET  
NEWBURYPORT, MA 01950

SCALE: 1" = 20 FT

### BAILLIE & COMPANY LAND SURVEYING & RESEARCH

35 MARLBORO STREET  
NEWBURYPORT, MA 01950  
EMAIL: bailliesurvey@gmail.com



**EAST ELEVATION**



**NORTH ELEVATION**



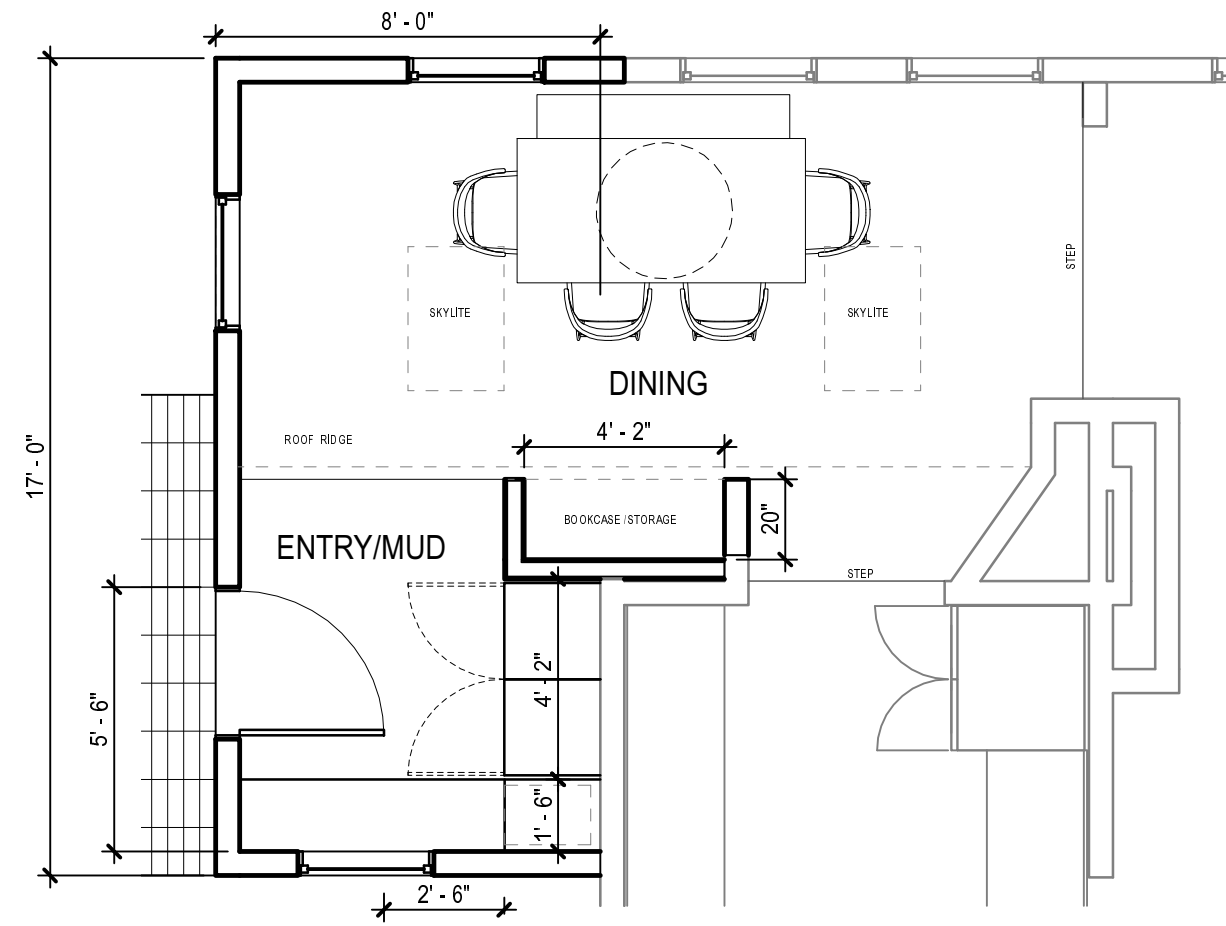
**WEST ELEVATION**



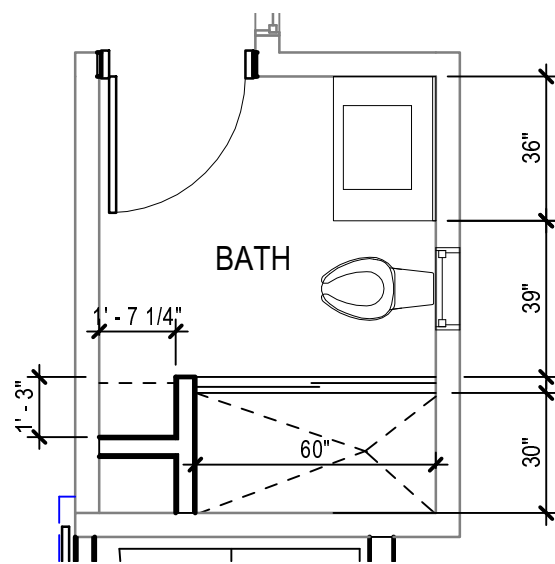
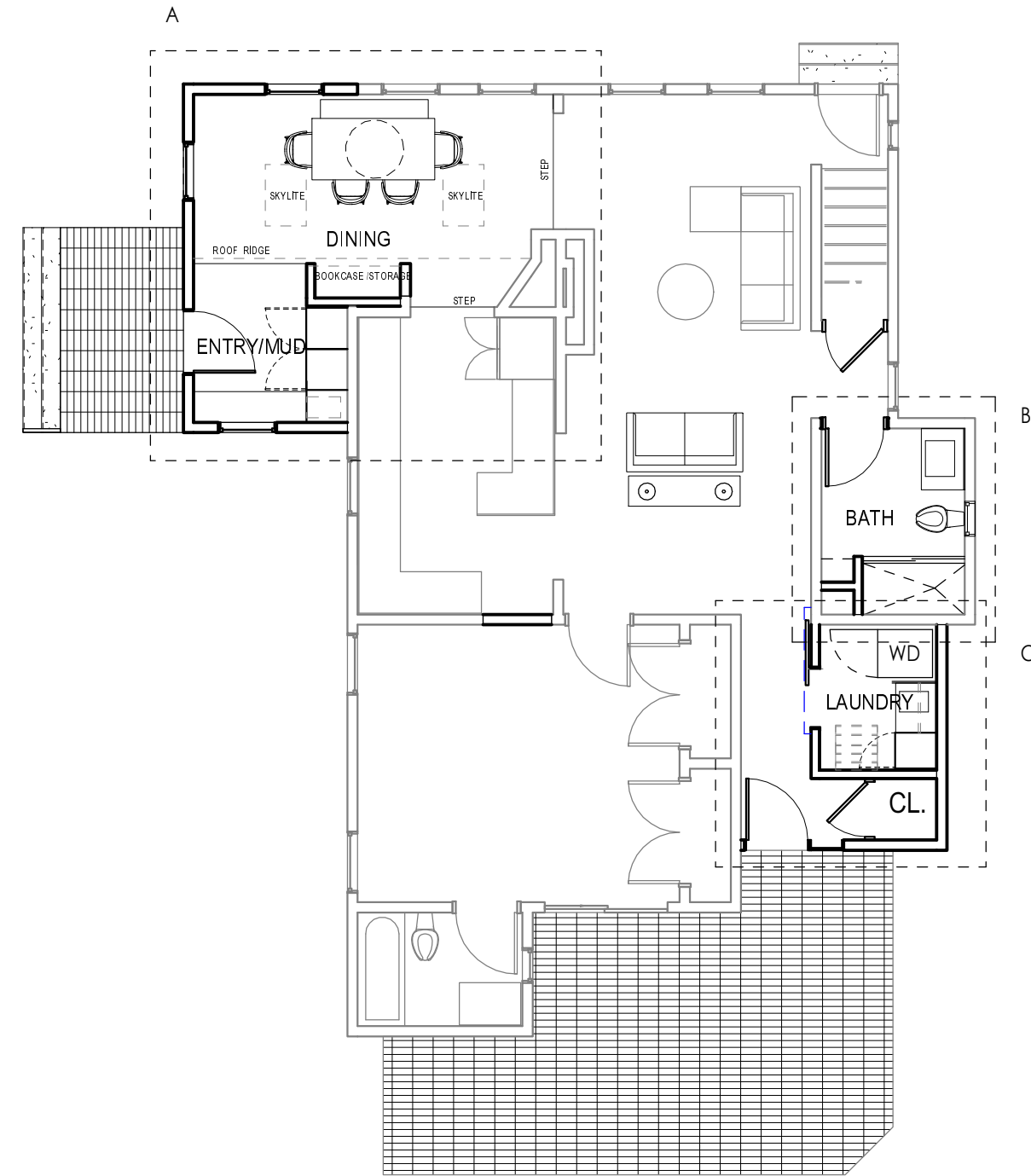
**SOUTH ELEVATION (FRONT)**



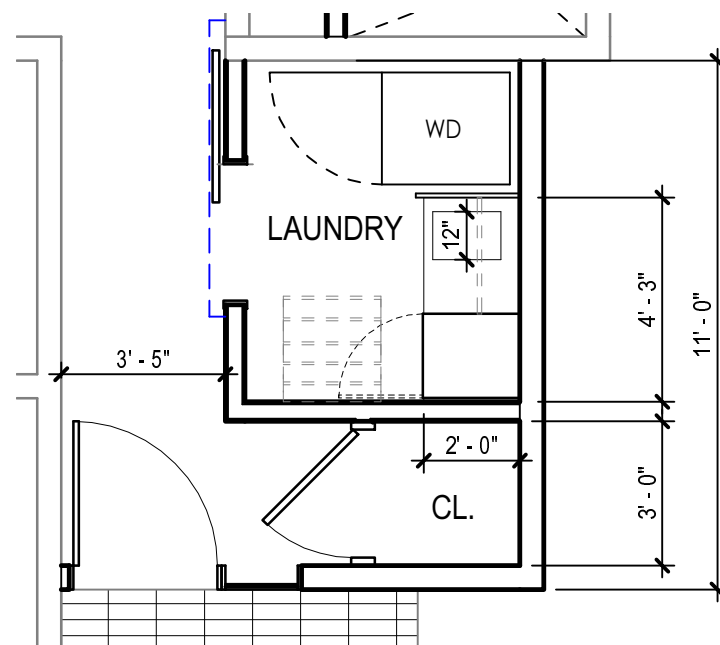
**SOUTHEAST CORNER**



A MUD ROOM /DINING ROOM ADDITION



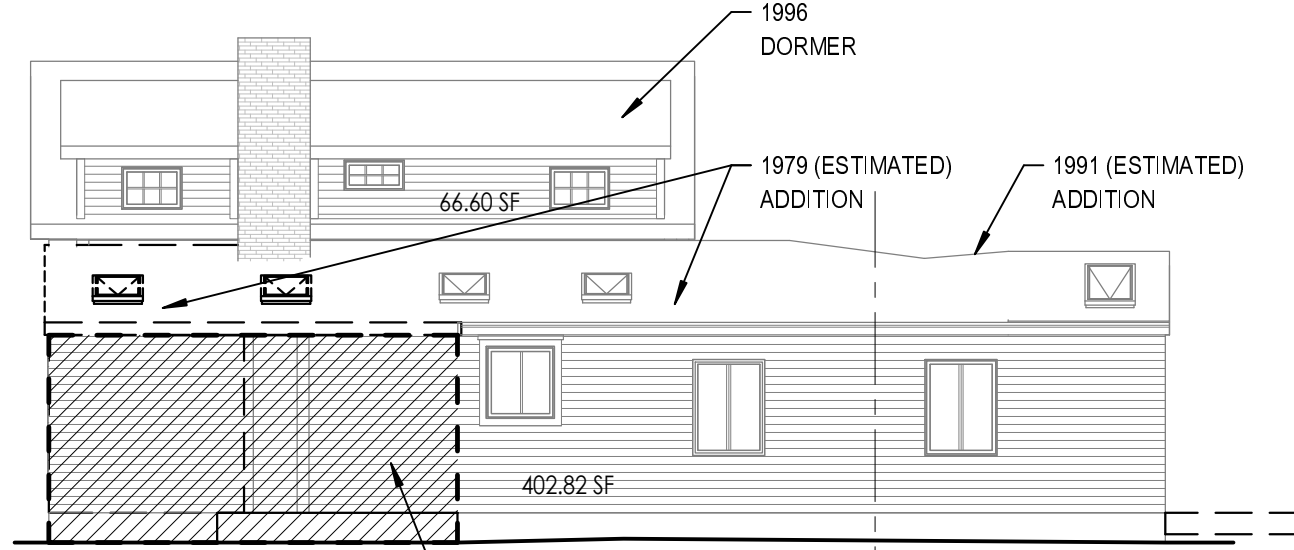
B EXISTING BATHROOM RENOVATION



C LAUNDRY ROOM/CLOSET ADDITION

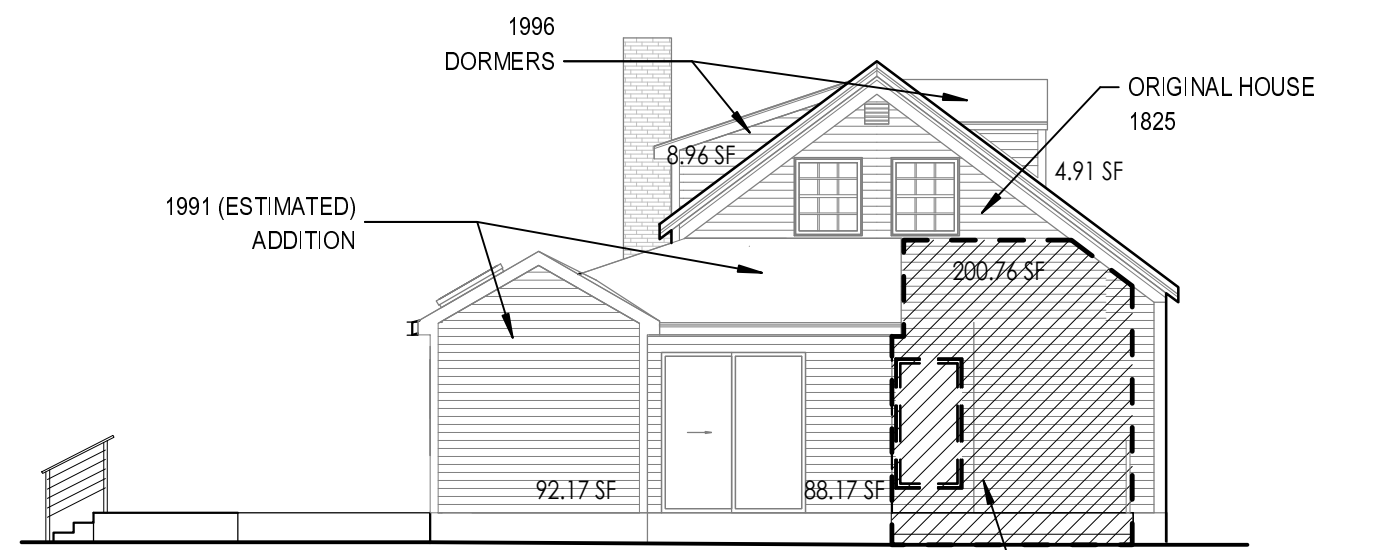
ZBA Application Drawings  
**25 Chestnut Street, Newburyport, MA 01950**  
 March 19, 2021

**INTERIOR PLANS**  
*yellow door llc*



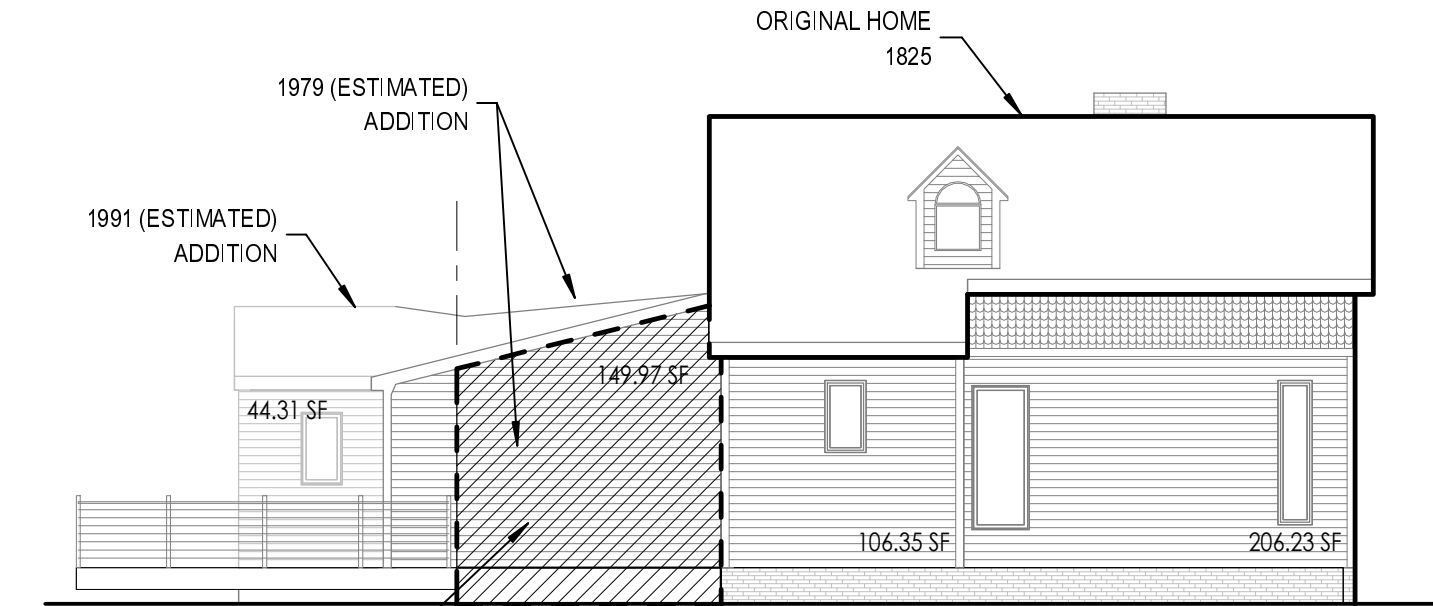
**EAST ELEVATIONS**

EXISTING FACADE AREA: 469.42 SF  
 PROPOSED DEMO: 146.82 SF



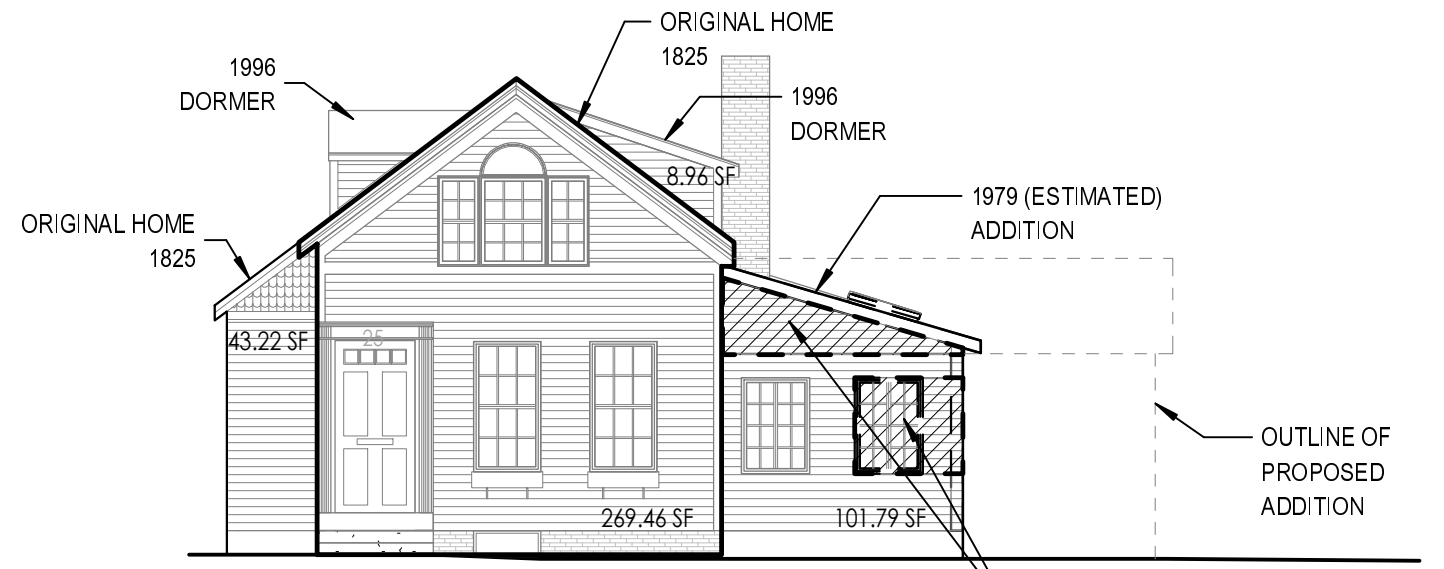
**NORTH ELEVATIONS**

EXISTING FACADE AREA: 394.97 SF  
 PROPOSED DEMO: 122.27 SF



**WEST ELEVATIONS**

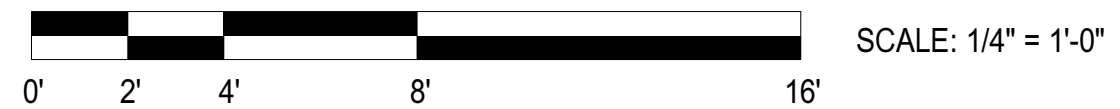
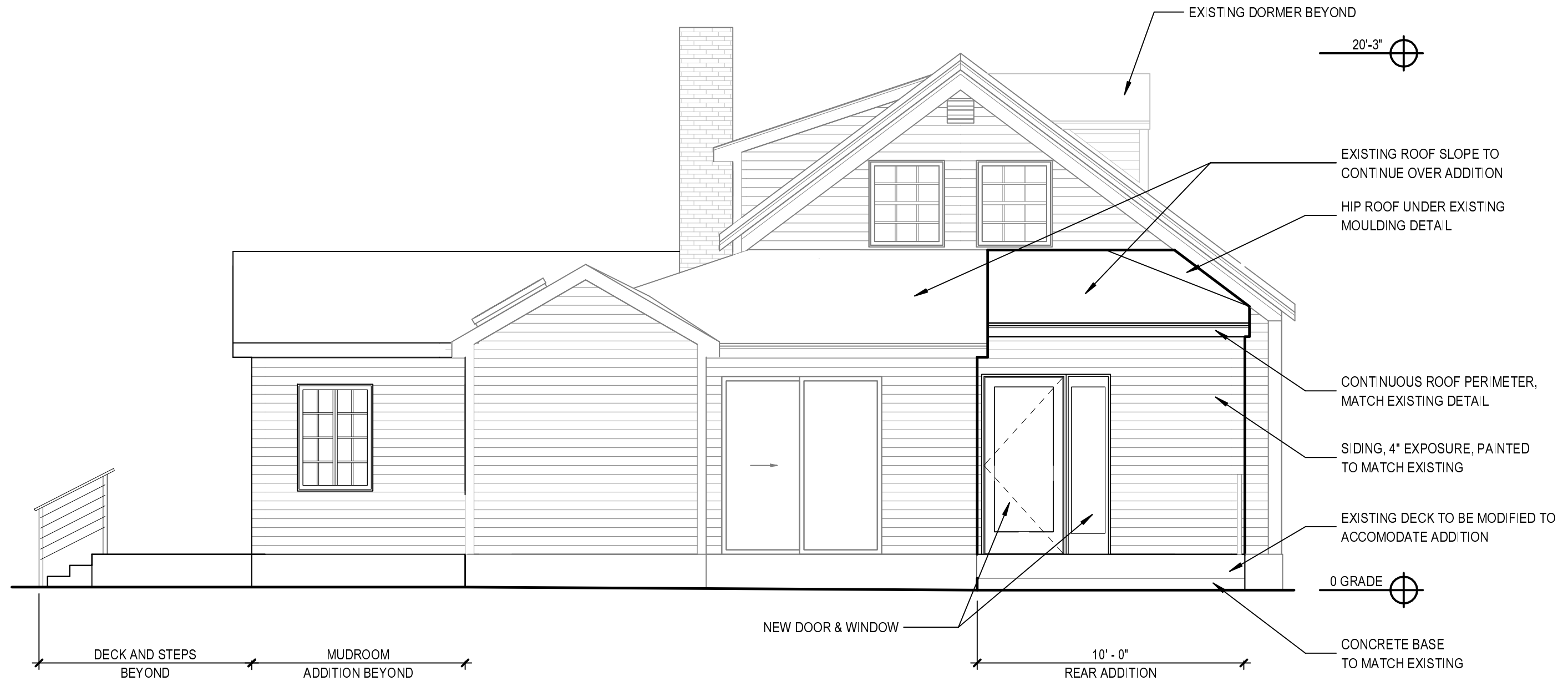
EXISTING FACADE AREA: 506.86 SF  
 PROPOSED DEMO: 122.17 SF



**SOUTH ELEVATIONS**

EXISTING FACADE AREA: 423.43 SF  
 PROPOSED DEMO: 35.33 SF

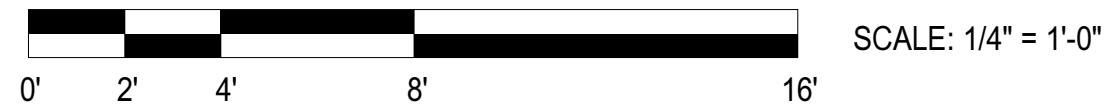
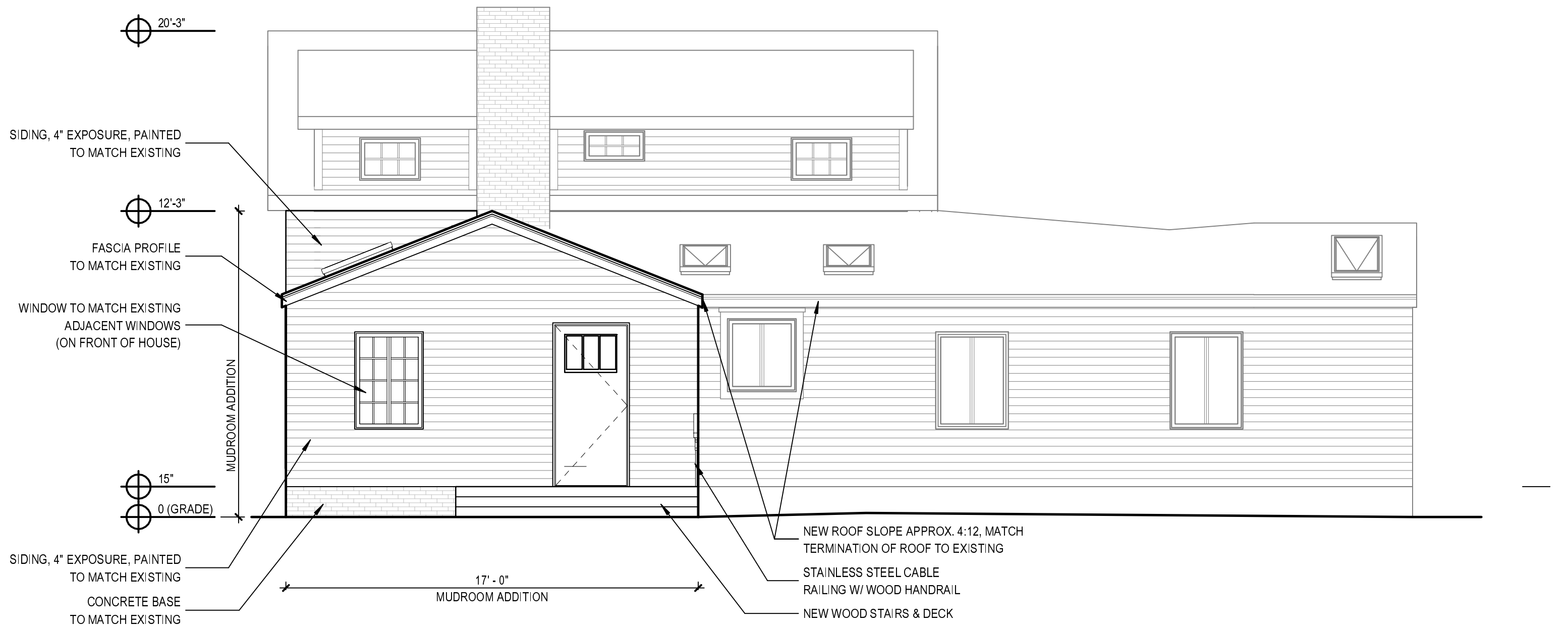
**TOTAL FACADE AREA: 1,794.68 SF (EXCLUDES ROOF AREA)**  
**TOTAL PROPOSED DEMO: 426.59 SF = 23.7%**



ZBA Application Drawings  
**25 Chestnut Street, Newburyport, MA 01950**  
 March 19, 2021

**EXTERIOR ELEVATION - NORTH**

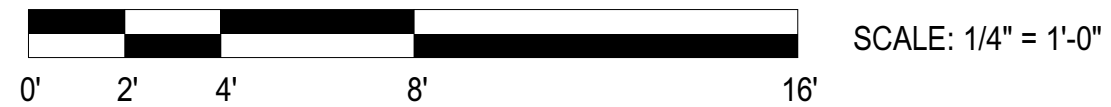
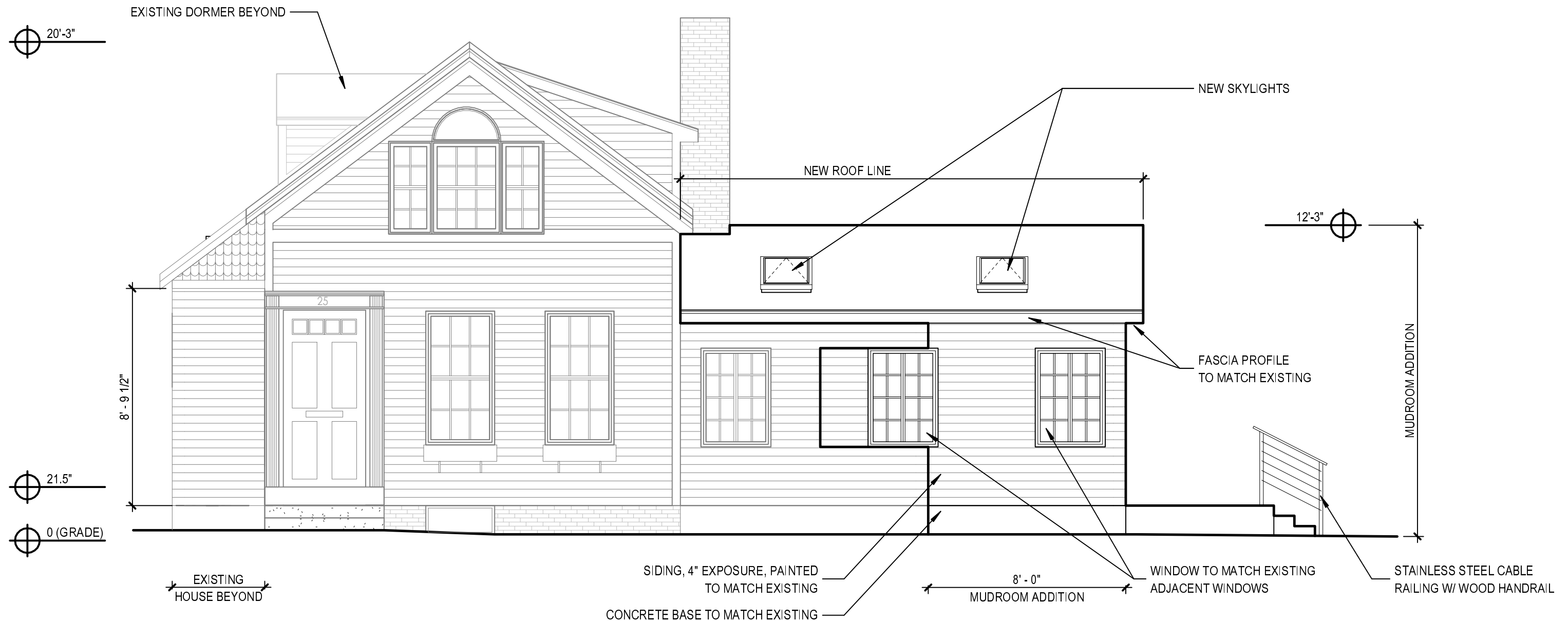
*yellow door llc*



ZBA Application Drawings  
**25 Chestnut Street, Newburyport, MA 01950**  
 March 19, 2021

**EXTERIOR ELEVATION - EAST**

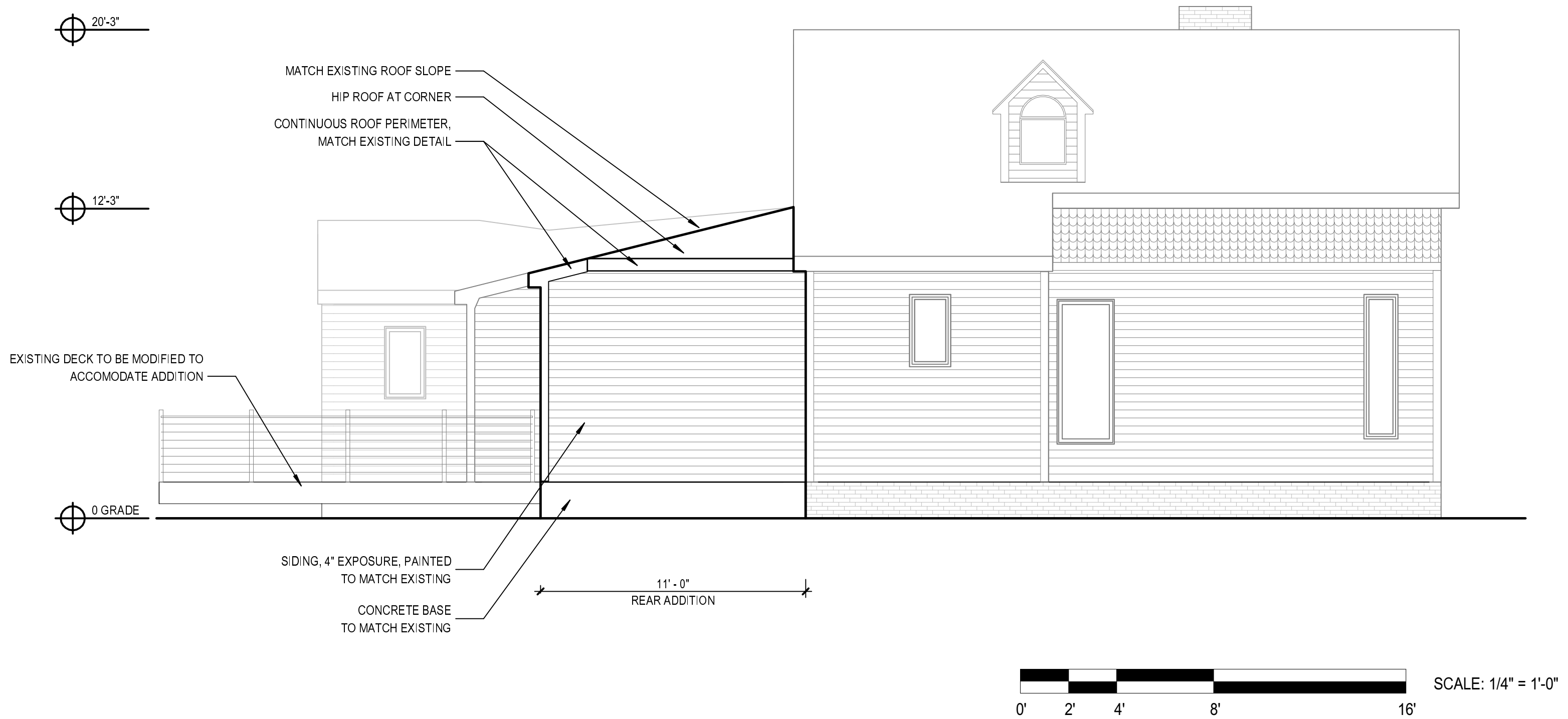
*yellow door llc*



ZBA Application Drawings  
**25 Chestnut Street, Newburyport, MA 01950**  
 March 19, 2021

**EXTERIOR ELEVATION - SOUTH**





ZBA Application Drawings  
**25 Chestnut Street, Newburyport, MA 01950**  
 March 19, 2021

**EXTERIOR ELEVATION - WEST**

*yellow door llc*