



Mead, Talerman & Costa, LLC
Attorneys at Law

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

June 2, 2020

By Hand

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

Re: Request for Special Permit for Non-Conformities;
30 Howard Street, Newburyport, MA (the "Property")
Assessor's Map: 64 Lot: 13

Dear Chair and Members of the Board:

Reference is made to the above-captioned matter. In that connection, this firm represents Denisa and Mike Traister (the "Applicants"), the owners of the Property, relative to the proposed demolition and reconstruction of a single-family home (the "Structure") on the Property. The Applicants first appeared before the Board on May 12, 2020, and have since retained this firm. Based upon the Board's feedback the Applicants have revised the proposed new residence. A revised site plan, zoning matrix, and architectural plans are attached hereto.

The proposed residence will comply with all dimensional requirements of the Ordinance. While the required front yard setback in the R2 zoning district is 25 feet and the proposed residence will keep the existing 20.1-foot front yard setback, pursuant to Section VI-G of the Ordinance, "all proposed new principle structure(s) are permitted to maintain the established frontyard setback relationship of adjacent structures to the street." The front yard setback is in keeping with the adjacent structures on Howard Street, as shown on the attached MIMAP view of the Property and adjacent structures.

With the revised proposal, the Applicants have eliminated 193 square feet of living area from the proposed residence. The footprint has been reduced by ten on both ends of the proposed residence, for a total reduction of twenty inches. The initial plans provided a rear setback of 56.5 feet, which has now been increased to 59.2 feet, a reduction of over 2.3 feet. As shown on the revised architectural plans, the sunroom at the rear of the proposed residence is smaller than originally proposed. The Applicants have also reduced the height of the proposed residence. The first iteration of the proposed residence had a proposed roof height of 27 feet, 8 inches. The Applicants are now proposing a residence with a roof height of 26 feet, 8 inches, a reduction of one foot.

The Applicants require a Special Permit for Non-Conformities pursuant to Section IX-B.2.A of the Ordinance. The Board must find that:

Millis Office

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

- 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.**

There will be no addition of a new non-conformity. The Applicants are actually eliminating a non-conformity as the existing side yard setback on the southeastern side of the Structure is 9.4 feet and the proposed side yard setback with the new residence is 10 feet, in compliance with the Ordinance. The front yard setback will remain 19.1 feet, as aforementioned, and all dimensional requirements of the Ordinance will be met. The Applicants therefore meet the first prong of Section IX-B.2.A of the Ordinance.

When determining whether a proposed change to a single-family residential structure is substantially more detrimental to the neighborhood than the existing preexisting nonconforming structure, the Board considers factors such as “the size, scale, massing, volume, and location of the proposed structure” compared to “the existing structure and lot, other structures and lots in the neighborhood, and reasonable alternatives to the proposal” Section IX-B.2.A(2). The proposed changes will not be substantially more detrimental to the neighborhood than the preexisting nonconforming structure. After hearing the Board’s feedback at the first hearing, the Applicants reduced the footprint of the proposed new residence, resulting in a reduction of lot coverage. The proposed lot coverage is 23.7%, while the maximum allowable lot coverage in the R2 district is 25%. Two more recently constructed homes on Howard Street have higher lot coverage percentages than what the Applicants propose. 14 Howard Street, constructed in 2014, has a lot coverage of 23.5%. 16 Howard Street, constructed in 2015, has a lot coverage of 24.3%.

The Applicants also reduced the proposed residence’s height by one foot to 26 feet, 8 inches, bringing the residence more in line with the heights of surrounding homes. The Applicants engaged a surveyor to obtain the roof peaks at elevation and roof eaves at elevation of surrounding homes as a comparison to the proposed residence. The roof peak of the proposed residence is 127.9 and the roof eave is 118.1. The residence on the abutting property to the south at 28 Howard Street has a roof peak at 126.1 and a roof eave at 115.3. 26 Howard Street has a roof peak at 126.7 and a roof eave at 117.0, and 24 Howard Street’s roof peak is 132.3 with a roof eave at 120.5. To the north, the abutting property at 7 Forrester Street has a roof peak of 120.9 and a roof eave of 116.2. Across the street from the Property, the roof peak at 29 Howard Street is 138.4 and the roof eave is 130.1; at 31 Howard Street the roof peak is 127.9 and the roof eave is 121.2. Thus, the proposed roof peak and roof eave for the new residence is similar to the surrounding homes.

Howard Street is a mixture of older homes constructed as long ago as 1850 and new homes constructed within the last few years. Many of the older, 1850 era homes are located where Howard Street meets Woodland Street. Traveling up Howard Street towards Forrester Street, the construction is within the last century. The four homes on Howard Street nearest to the Property, constructed between 1928 and 1963, have all undergone remodeling or constructed additions within the past 20 years. The proposed residence is in keeping with the new construction in the neighborhood. Thus, while the proposed residence is a change from what currently exists, a Cape Cod style home constructed in 1952, the proposed residence is more similar to what presently exists on Howard Street taking into consideration the new construction on the street such as homes constructed in 2014 and 2015, as well as the remodeling of and construction of additions to the surrounding homes constructed around the same time period as the existing Structure.

Finally, in terms of size, scale, massing, and volume, the Property slopes down at the rear towards Merrimac Street, giving the rear elevation on the architecture plans the appearance of a larger structure than the actual view from the Howard Street neighborhood. The bulk of the proposed residence is at the rear of the structure and not visible from Howard Street. The size of the proposed residence as viewed from the street is similar to other homes

in the neighborhood. See *Graf v. Akin*, Mass. Land Ct., 2018 WL 6738179 (2018) (reconstructed garage architecturally compatible with neighboring residences and garages not substantially more detrimental to neighborhood). As shown on the rendering attached hereto, the proposed residence is in no way overbearing in comparison to the abutting 28 Howard Street. The Board should consider the standard when making its decision. 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 *McAleer v. Board of Appeals of Barnstable*, 361 Mass. 317, 321 (1972). For these reasons, the proposed residence is not substantially more detrimental to the neighborhood than the existing Structure. Indeed, given the letters of support, the neighbors don’t think so either.

The Applicants respectfully request that the Board find that the proposed changes are not substantially more detrimental to the neighborhood than the pre-existing, nonconforming Structure and grant a Special Permit for Non-Conformities.

Respectfully submitted
Denisa and Mike Traister
By their Attorney

Lisa L. Mead
Attachment
cc: client

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

	Existing Dimensional Controls	Proposed Dimensional Controls	Required Dimensional Controls
Lot Area	9,743 sf	9,743 sf	10,000 sf
Frontage	69.5 ft	69.5 ft	90 ft
Height*	18 ft	26 ft 8 in	35 ft
Lot Coverage (%)**	11.6%	23.7%	25%
Open Space (%)***	86.3%	73.8%	40%
Front Setback	20.1 ft	20.1 ft	25 ft
Side A Setback	10.8 ft	10.8 ft	10 ft
Side B Setback	9.4 ft	10.8 ft	10 ft
Rear Setback	88.4 ft	59.2 ft	25 ft
Parking Spaces	2	2	2
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 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)

City of Newburyport

6/1/2020



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	Road Right of Way	Paved	Unpaved	Interstate	Major Road	Local Road
Hydrographic Features	Streams	Parcels	Stream	Intermittent Stream		





NOTES:

- 1.) THIS PLAN WAS PREPARED FROM AN INSTRUMENT SURVEY PERFORMED ON SEPTEMBER 19, 2019 AND MAY 20, 2020.
- 2.) SUBSURFACE AND ABOVE GROUND UTILITIES WERE NOT INCLUDED AS PART OF THIS SURVEY. ONLY THE LOCATION OF VISIBLE SURFACE STRUCTURES WAS LOCATED. THE LOCATION OF SUBSURFACE UTILITIES ARE NOT WARRANTED TO BE CORRECT. NOR DOES THE SURVEYOR GUARANTEE THAT ALL UTILITIES ARE SHOWN. THE CONTRACTOR SHALL VERIFY ALL UTILITIES AND CONTACT "DIG SAFE" (1-800-DIG-SAFE) PRIOR TO THE COMMENCEMENT OF WORK.
- 3.) A TITLE EXAMINATION WAS NOT PROVIDED FOR THIS SURVEY. AS SUCH OTHER MATTERS OF RECORD MAY EXIST AND NOT BE SHOWN HEREON.
- 4.) VERTICAL DATUM IS ASSUMED.

LEGEND:

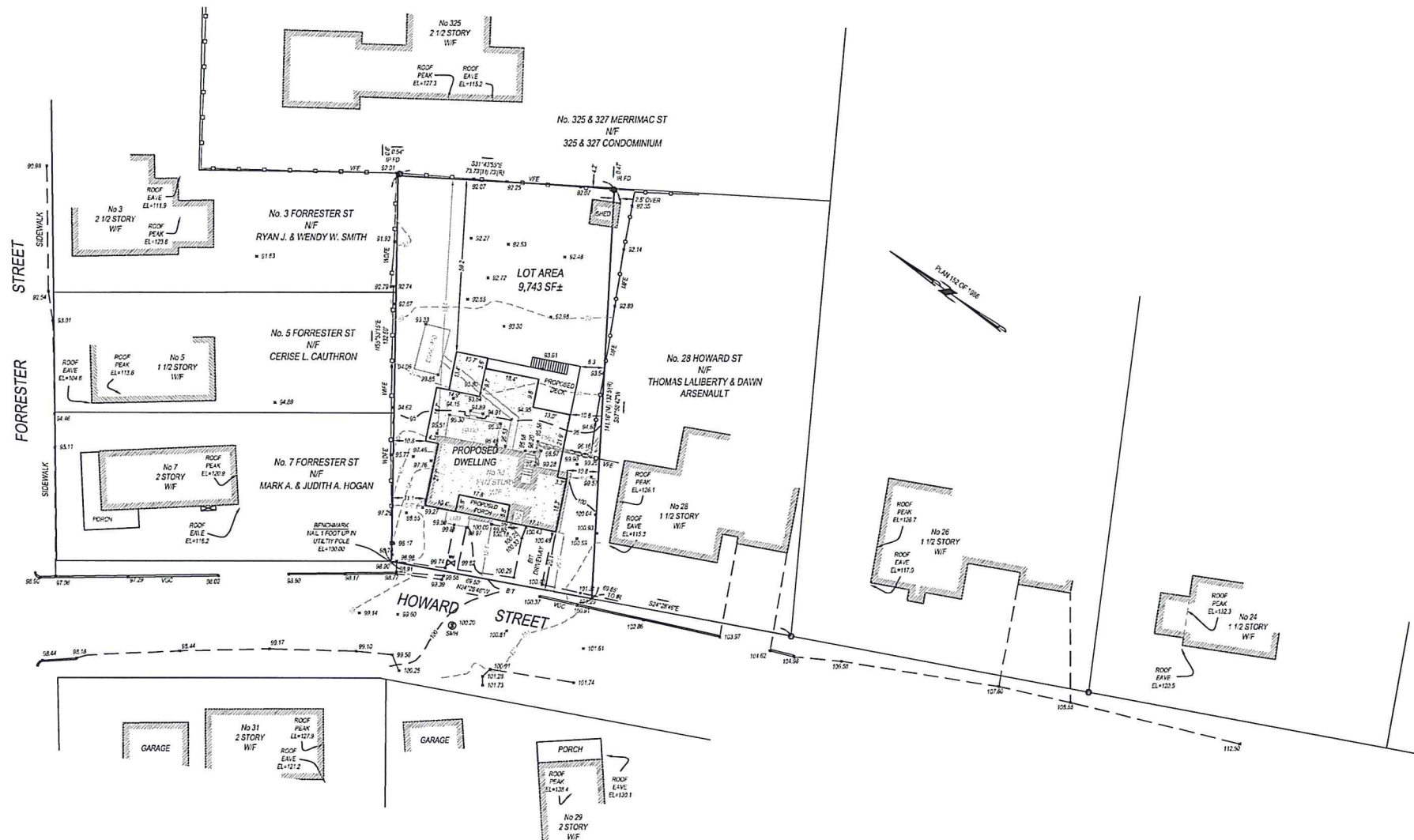
BIT	BITUMINOUS
CCNC	CONCRETE
FD	FOUND
IP	IRON PIPE
IR	IRON ROD
(M)	MEASURED
(R)	RECORD
VF	VINYL FENCE
VGC	VERTICAL GRANITE CURB
WDFE	WOOD FENCE
W/F	WOOD FRAME
WV	WATER VALVE

RECORD OWNERS:

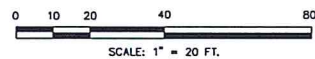
MICHAEL B. TRAISTER & DENISA
O. TRAISTER
30 HOWARD STREET
NEWBURYPORT, MA 01950

REFERENCES:

DEED BOOK 38278 PAGE 249
PLAN IN BOOK 2494 PAGE 455
PLAN 367 OF 1948
PLAN 152 OF 1986

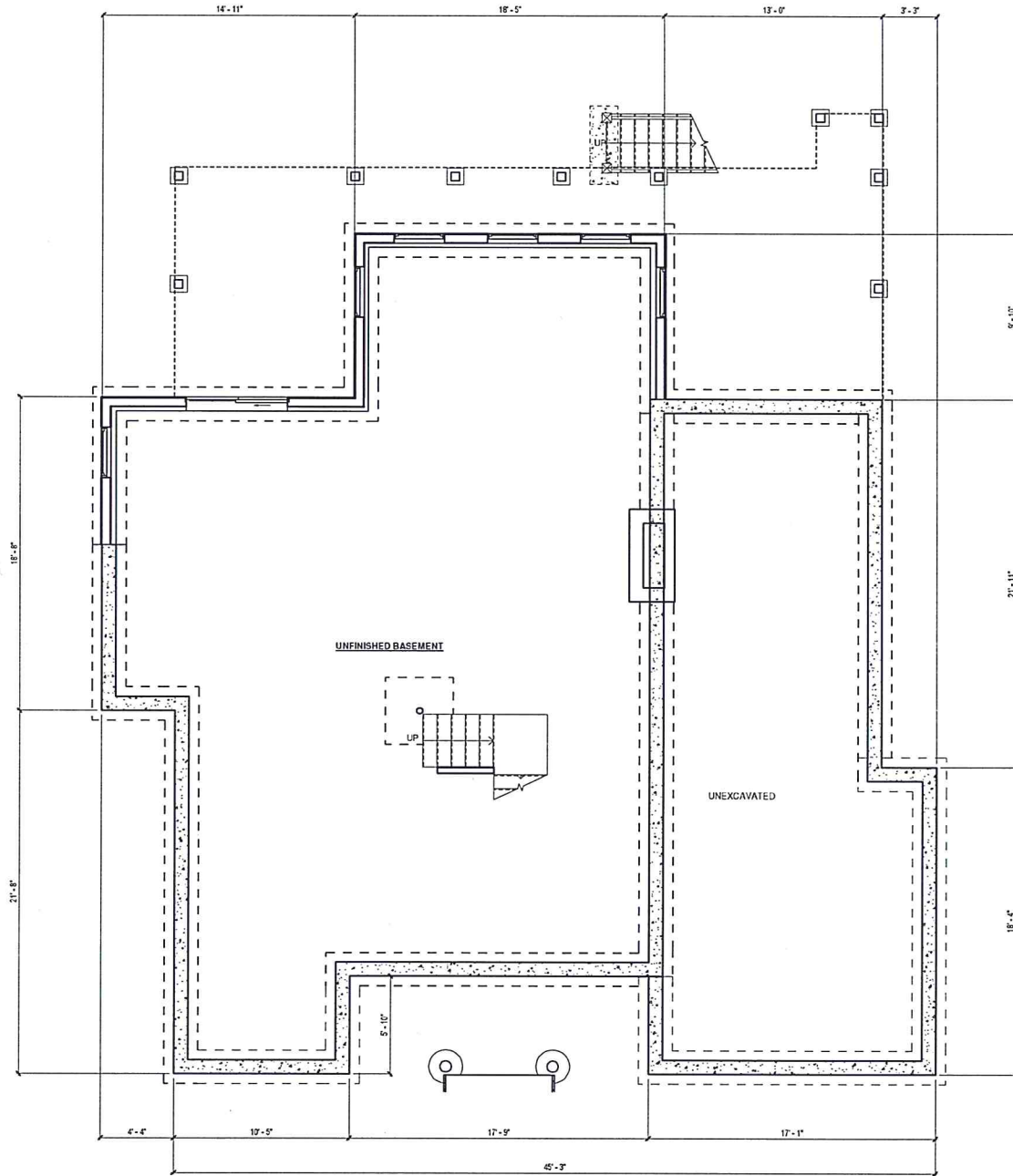


ZONING:		R2 (SINGLE FAMILY) (DODD OVERLAY)	
(REQUIRED)	(EXISTING)	(EXISTING)	(PROPOSED)
LOT AREA: 10,000 SF	LOT AREA: 9,743 SF	LOT AREA: 9,743 SF	LOT AREA: 9,743 SF
FRONTAGE: 90	FRONTAGE: 69.50	FRONTAGE: 69.50	FRONTAGE: 69.50
FRONT OFFSET: 25	FRONT OFFSET: 20.1'	FRONT OFFSET: 20.1'	FRONT OFFSET: 20.1'
SIDE OFFSET: 10	SIDE OFFSET: 9.4'	SIDE OFFSET: 10.8'	SIDE OFFSET: 10.8'
REAR OFFSET: 25	REAR OFFSET: 88.4'	REAR OFFSET: 59.2'	REAR OFFSET: 59.2'
LOT COVERAGE: 25%	LOT COVERAGE: 11.6%	LOT COVERAGE: 23.7%	LOT COVERAGE: 23.7%
OPEN SPACE: 40%	OPEN SPACE: 86.3%	OPEN SPACE: 73.8%	OPEN SPACE: 73.8%

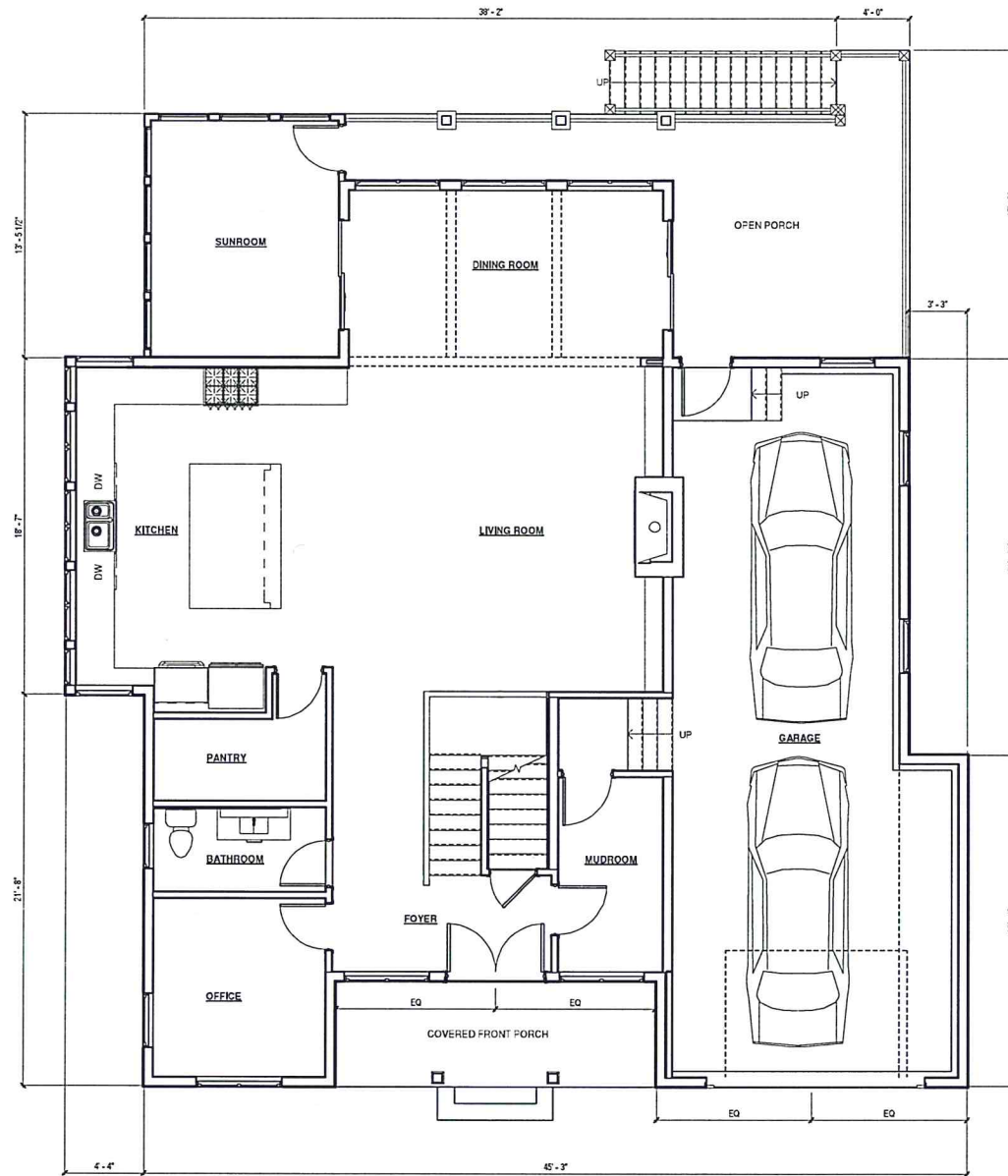


PLOT PLAN
IN
NEWBURYPORT, MA
AT 30 HOWARD STREET
PREPARED FOR
KATHY & RICHARD TRAISTER
BY
SUMMIT SURVEYING INC.
4 S. POND STREET, NEWBURYPORT, MA 01950
TEL. 978-692-7109
MAY 26, 2020

WWW.SUMMITSURVEYINGINC.COM
19-0149



2 BASEMENT FLOOR PLAN
Scale: 1/4" = 1'-0"

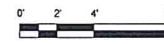


1 FIRST FLOOR PLAN
Scale: 1/4" = 1'-0"

SF CALCULATIONS

BASEMENT	1,202 SF
FIRST FLOOR	1,236 SF
SECOND FLOOR	1,381 SF
GARAGE	544 SF

TOTAL LIVABLE AREA 2,617 SF
(NOT INCL. BASEMENT OR GARAGE)



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254 Bay Road
South Hamilton, MA 01862
617-302-7315
www.vancearchitect.com

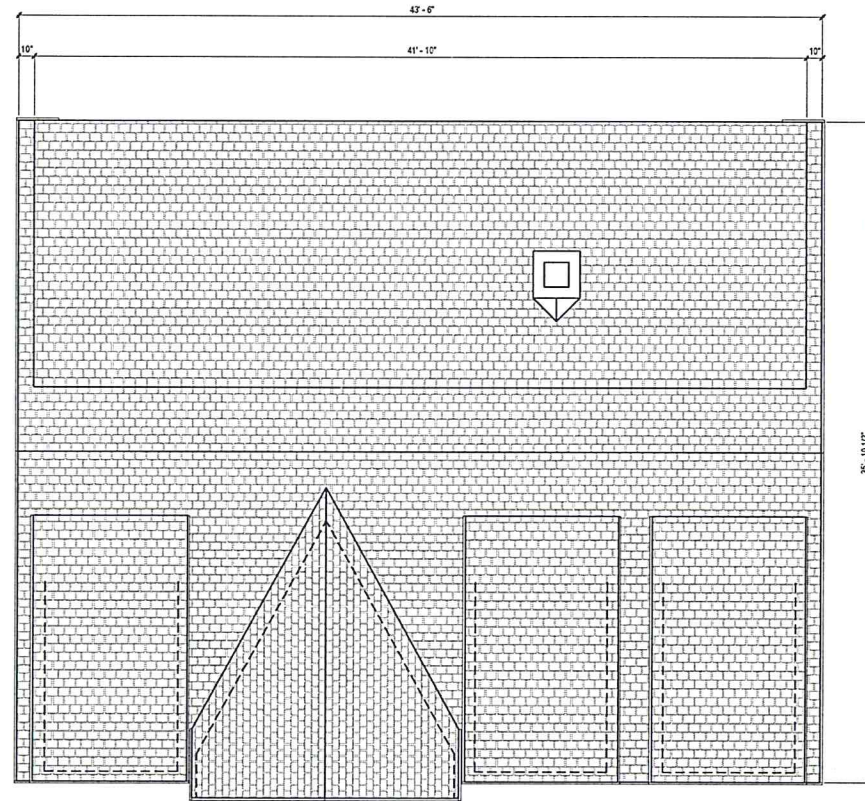
ZBA RESUBMISSION
June 9th, 2020

Trailer Residence
30 Howard Street, Newburyport, MA 01950
BASEMENT AND FIRST FLOOR PLANS
SCALE: 1/4" = 1'-0"

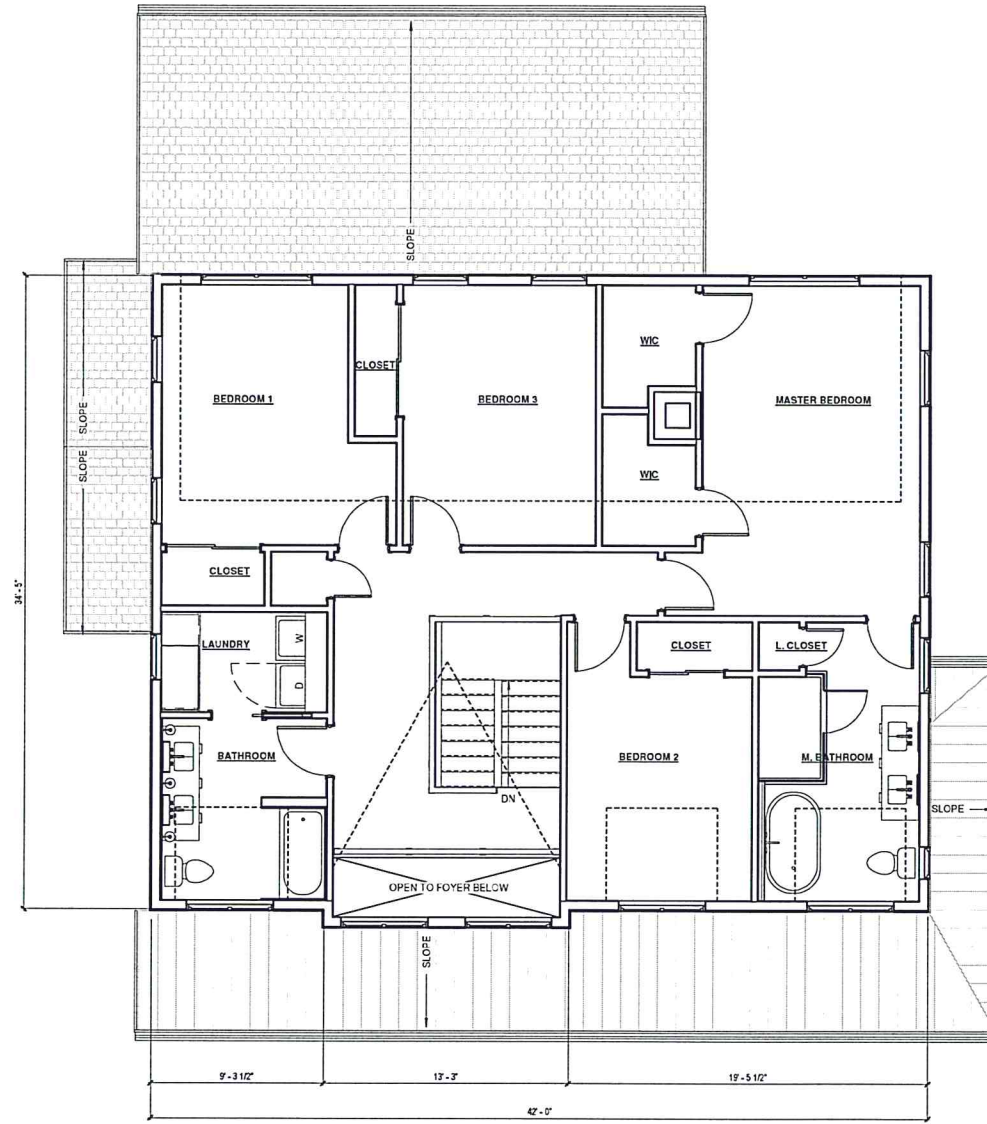
A02

DATE PLOTTED: 06/09/2020 10:58:11 AM

C:\Users\jchambers\OneDrive\Documents\Projects\2020\Trailer Residence\2020\Trailer Residence - Basement and First Floor Plans.dwg, Plot Date: 06/09/2020



2 ROOF PLAN
Scale: 1/4" = 1'-0"

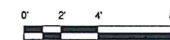


1 SECOND FLOOR PLAN
Scale: 1/4" = 1'-0"

SF CALCULATIONS

BASEMENT	1,202 SF
FIRST FLOOR	1,236 SF
SECOND FLOOR	1,381 SF
GARAGE	544 SF

TOTAL LIVABLE AREA 2,617 SF
(NOT INCL. BASEMENT OR GARAGE)



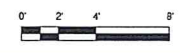
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ZBA RESUBMISSION
June 9th, 2020

Tristler Residence
30 Howard Street, Newburyport, MA 01950
SECOND FLOOR AND ROOF PLAN
SCALE: 1/4" = 1'-0"

A03



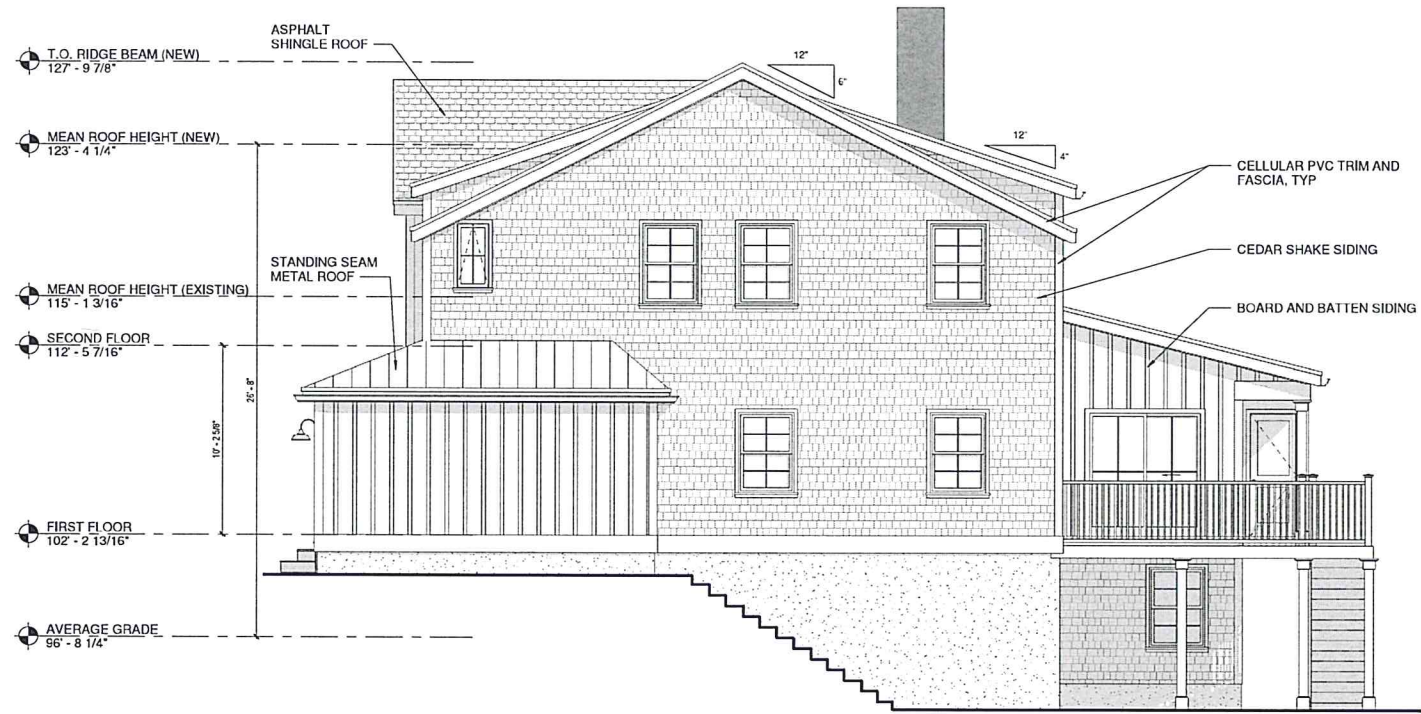
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 617-502-7315
 www.vancearchitect.com

REVISIONS	DATE

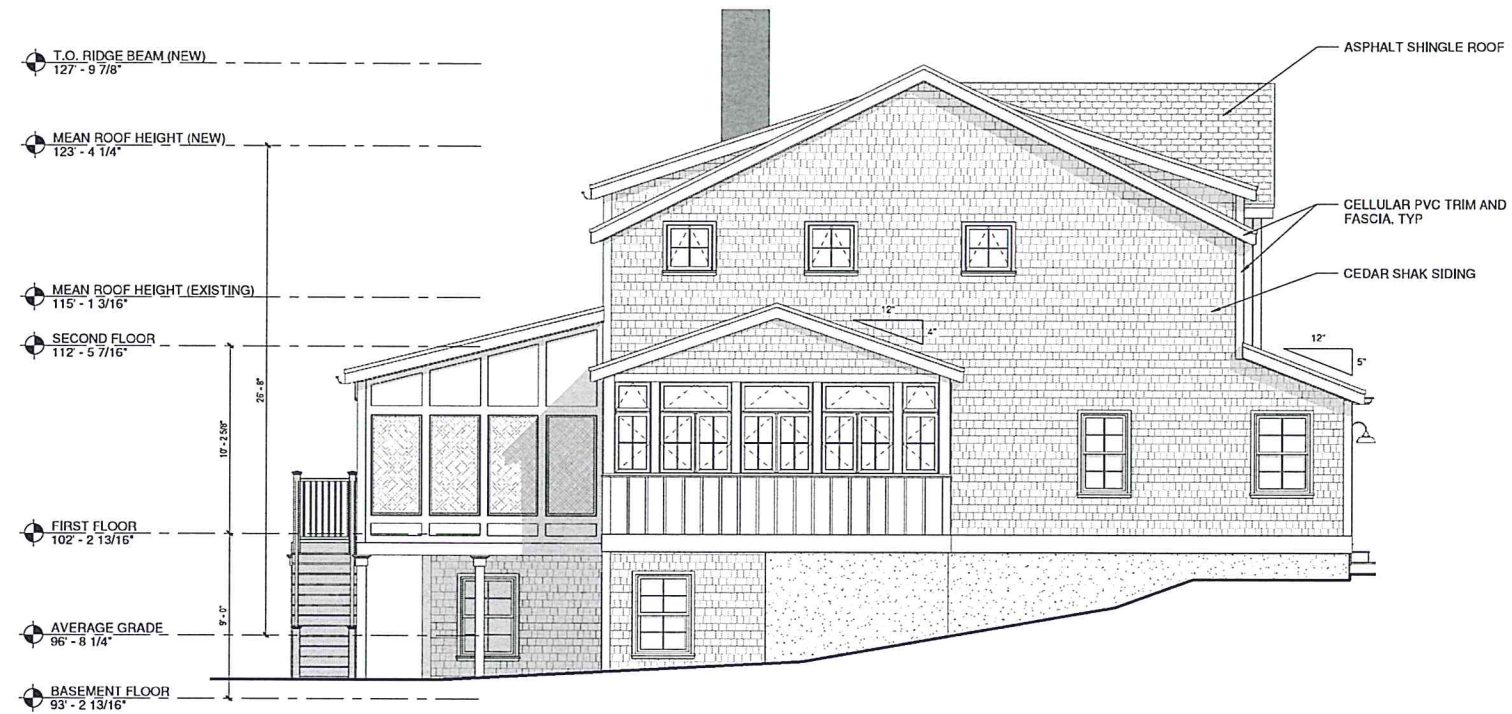
ZBA RESUBMISSION
 June 9th, 2020

Trister Residence
 30 Howard Street, Newburyport, MA 01950
 ELEVATIONS
 SCALE: 1/8" = 1'-0"

A04
 DRAWING NUMBER



SIDE ELEVATION (EAST) ZBA
Scale: 1/4" = 1'-0"



2 SIDE ELEVATION (WEST) ZBA
Scale: 1/4" = 1'-0"



VANCEarchitects
25 1/2 Bay Road
South Hamilton, MA 01862
017-302-7915
www.vancearch.com

ZBA RESUBMISSION
June 9th, 2020

Treister Residence
30 Howard Street, Newburyport, MA 01950
ELEVATIONS
SCALE: 1/4" = 1'-0"
A05

JONAS/MSR R132

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