

**City of Newburyport Planning Board
Application for a SPECIAL PERMIT**

The undersigned hereby submits an application for:

- Special Permit
- Special Permit amendment

Petitioner: Dan and Judy Lynch c/o Lisa Mead, Mead, Talerman & Costa, LLC

Address: 30 Green Street

Phone: 978-463-7700

Email: lisa@mtclawyers.com

Owner: Daniel and Judith Lynch

Address: _____

Phone: _____

Site Address: 342 Merrimac Street

Assessor's Map and Lot(s): 65 - 10A/B Zoning District: WMD/DCOD

Book and Page #: 25045/487 35650/573 or Certificate of Title: _____

Ordinance section where relief is being requested:


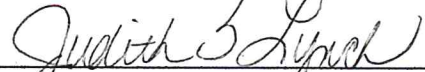
- | | |
|--|--|
| <input type="checkbox"/> Table of Permitted Uses (V-D) | <input type="checkbox"/> Courts and Lanes (XXIII) |
| <input checked="" type="checkbox"/> One residential structure per lot (VI.C) | <input type="checkbox"/> Waterfront West Overlay District (XXIV) |
| <input type="checkbox"/> Open Space Residential Development (XIV) | <input type="checkbox"/> Towle Complex Redev. Overlay District (XXV) |
| <input type="checkbox"/> Water Resource Protection District (XIX) | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Federal Street Overlay District (XXII) | (For XXVII, see DOD Special Permit Application) |

Describe the Special Permit request:

Construct a second residential structure on lot to separate two-family use into two single-family structures.

Petitioner and Landowner signature(s):

Every application for a Special Permit shall be made on this form, which is the official form of 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 Office of Planning and Development does not absolve the applicant from this responsibility. Failure to comply with application requirements as cited herein may result in the Planning Board dismissing the application as incomplete.

Signature of petitioner/owner:  

Print name(s) here: Daniel J Lynch Judith S. Lynch



Mead, Talerman & Costa, LLC
Attorneys at Law

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

March 19, 2020

By Hand

Bonnie Sontag, Chair
Planning Board
City of Newburyport
City Hall
60 Pleasant Street
Newburyport, Massachusetts 01950

Re: VI-C Special Permit
342 Merrimac Street (the "Property")
Map: 65 Lot: 10A/B

Dear Chair and Members of the Board:

Reference is made to the above-captioned matter. In that connection, this firm represents Dan and Judy Lynch (the "Petitioner"), the owners of the Property, relative to a proposed project on the Property. The Property is improved with a two-family residential structure (the "Structure"). The Petitioner seeks to convert the Structure back to a single-family structure as it historically existed and construct a second single-family home on the same lot. To accomplish this, the Petitioner requires a Section VI-C Special Permit under the Newburyport Zoning Ordinance (the "Ordinance") to allow more than one residential structure on a lot.

Prior to undertaking full planning for this project, the Petitioner appeared before the Newburyport Historical Commission (the "Commission") to determine if the Commission was interested in holding a Preservation Restriction on the Structure. On July 11, 2018, the Commission voted to advise this Board that they are interested in holding this preservation restriction on the Structure. The Petitioner is willing to have either the Commission or the Massachusetts Historical Commission ("MHC") hold and approve the restriction. The Petitioner received written confirmation from MHC that they are interested in holding the restriction on the Structure. See **Exhibit A**.

We also appeared informally before this Board to review the proposal and the placement and design of the new residential structure. As you may recall, the Petitioner presented a plan to this Board during an information discussion depicting a second structure with a front setback of 42.3 feet and a northerly side setback of 22.1 feet, both in compliance with the Ordinance. The Board requested, however, that the proposed structure be reconfigured on the lot to present a more traditional relationship to the street, in keeping with the surrounding neighborhood. To that end on May 29, 2019, the Zoning Board granted a dimensional variance for front and side yard setbacks for the proposed structure. See **Exhibit B**.

Additionally, the Petitioner was requested by both the Planning Board and the Historic Commission to include in the filing for the final VI-C Special Permit,

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

the renovation plans for the Structure. As noted there were some later added additions and various period details about which the Petitioner needed to make decisions for the final plans to be a part of the Preservation Restriction.

The Petitioner is now returning to the Planning Board with the variance approval and the preservation plans for the Structure.

The Property is located in the Waterfront Marine Dependent (“WMD”) district and Demolition Control Overlay District (“DCOD”) under the Ordinance. The Property measures 13,315.9 square feet and has frontage of 60.23 feet on Merrimac Street and 94.25 feet on Merrimac Court. The Petitioner proposes to construct the second structure fronting on Merrimac Court.

The original Structure was constructed in or around 1785 by Mr. Jacob Whitmore, and is known as the Jacob Whitmore House. The Property was listed in the National Register of Historic Places on August 2, 1984 as a contributing property to the Newburyport Historic District. At some point after 1826, the house was sold to John Currier, Jr., who was a preeminent ship builder in Newburyport. In the 1980s, the house was converted to a two-family condominium called the Whitmore-Currier Condominium, created pursuant to a Master Deed dated May 24, 1989, recorded with the Essex South District Registry of Deeds Book 10011, Page 191 May 25, 1989. The Petitioner now wishes to convert the Structure back to a single-family structure as it historically existed to both restore the home to its historic roots and to prevent further deterioration of the historic elements. The Petitioner has experience in restoring historic homes. In order to restore the Structure to its historic roots, the Petitioner seeks to construct a second single-family structure to preserve the two-family use.

The Petitioner must meet the criteria set forth in Section VI-C of the Ordinance as well as the Special Permit criteria of Section X-H(7).

Section VI-C

Section VI-C includes the following criteria:

(1) The application shall include conceptual by-right development plans, such as a conventional subdivision, to demonstrate to the planning board that more than one residential structure per lot is a reasonable alternative to other allowed developments of the parcel involved.

The Petitioner by right plan is the existing two family use of the property and which structure could have an addition added to the rear along with the construction of a stand alone accessory structure facing Merrimac Court.

(2) A clear public benefit is derived from the proposed development, including but not limited to a long-term restriction involving one or more of the following:

- a. Creation of affordable housing;
- b. Preservation of historical structures; and/or
- c. Conservation of significant natural resources.

The Petitioner proposes to grant a preservation restriction on the Structure, for the benefit of the Commission and MHC. On December 19, 2018, the MHC sent correspondence confirming that the existing structure was listed in the National Register of Historic Places on August 2, 1984, as a contributing property to the Newburyport Historic District. Further, the MHC indicated that the Property meets the qualifications under G. L. c. 184, §§ 31-33, for the

protections of perpetual preservation restrictions. The letter from the MHC is attached as **Exhibit A**.

- (3) Unless the residential structures are located side-by-side and have the same front yard setback, then one (1) residential structure shall be subordinate to the other dwelling in appearance by meeting either of the following:
- a. Covering at least ten (10) percent less building footprint and built no higher than the existing dwelling; or
 - b. Located entirely within the envelope of an accessory building in existence on the effective date of this ordinance.

As shown on the proposed plans attached hereto, the Petitioner proposed so construct the second single-family home on the Merrimac Court side of the Property, fronting on Merrimac Court. The proposed structure will have at least 10 percent less building footprint than the original Structure and will not be built higher than the original Structure. Further, the location of the proposed structure on the opposite side of the lot and facing on Merrimac Court does not detract from the original Structure; rather, it will give an illusion of the structures as if they were on separate lots and not on the same lot. This preserves the Merrimac Street view of the original historic Structure.

- (4) The plan provides adequate ways furnishing access to each site for such building, in the same manner as otherwise required for lots within a subdivision.

The Structure fronts on Merrimac Street with access provided by a driveway; the proposed second structure would front on Merrimac Court and access Merrimac Court via a driveway. Adequate access is provided to both structures, in the same manner as would be required in a subdivision.

- (5) The proposed residential structures shall comply with all other applicable zoning regulations.

As aforementioned, the Petitioner has obtained a dimensional variance from the Zoning Board for the proposed second structure. Both structures will otherwise comply with the Ordinance.

Section X-H(7)

The Petitioner must also comply with the general Special Permit criteria under Section X-H(7) of the Ordinance. Section X-H(7) includes the following criteria:

1. The use requested is listed in the table of use regulations or elsewhere in the ordinances [as] requiring a special permit in the district for which application is made or is similar in character to permitted uses in a particular district but is not specifically mentioned.

As noted above, the Property is located in the WMD district. Two-family residential use is permitted in the WMD district.

2. The requested use is essential and/or desirable to the public convenience or welfare.

The siting of two residential structures on one lot is essential to the Petitioner's restoration of the original historic Structure to a single-family residence. Restoring the Structure to a single-family residence and granting a preservation restriction on the Structure ensures that the historic Structure will be preserved in perpetuity. However, the economic feasibility of restoring and preserving the Structure requires maintaining the two-family use of the Property by constructing a subservient single-family home to the rear of the Structure and fronting on Merrimac Court.

3. The requested use will not create undue traffic congestion, or unduly impair pedestrian safety.

The requested use will not create undue traffic congestion or unduly impair pedestrian safety. The use on the Property will remain two-family and as such the density on the Property is not changing. The two-family use is simply separated into two different structures. Further, each structure will have its own access to a way, with the original Structure accessing Merrimac Street and the proposed second structure accessing Merrimac Court through a separate driveway.

4. The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the city will be unduly subjected to hazards affecting health, safety or the general welfare.

The current use on the Property is two-family and the Applicant is merely proposing to separate the use into two separate structures. The project will not overload any public works or municipal systems, nor will it create hazards affecting health, safety, or the general welfare of the neighborhood.

5. Any special regulations for the use, set forth in the special permit table are fulfilled.

There are no special regulations for the two-family use which exist in the Ordinance. The Applicant has addressed above the required criteria under Section VI-C.

6. The requested use will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the health or welfare.

Two residential structures on this lot will not impair the integrity or character of the district, nor will it be detrimental to health or welfare. Two-family use is allowed in the WMD district. The Petitioner's revision of the plan to locate the second structure closer to Merrimac Court provides a structure that is in keeping with the character of the district and neighboring homes on Merrimac Court. Indeed, as noted on the historic plans attached, structures once lined Merrimac Court consistent with the proposed structure location. (See Exhibit __)The second structure is subservient to the original historic Structure due to its location on the opposition side of the Property. Pairing the front face on Merrimac Court with a separate driveway providing access to Merrimac Court and the smaller size of the second structure, the second structure will not take away from the original historic Structure.

7. The requested use will not, by its addition to a neighborhood, cause an excess of that particular use that could be detrimental to the character of said neighborhood.

There will not be a change in the two family use of the property and therefore there will be no change to the density of two families in the neighborhood.

8. The proposed use is in harmony with the purpose and intent of this ordinance.

More than one residential structure on a lot is allowed by special permit from the Board. Two-family use is allowed in the WMD district. In this instance the actual use is not changing. By its very nature the use is in harmony with the purpose and intent of the Ordinance. Given its location and design, the proposed use will take advantage of the land and will not overwhelm the neighborhood.

9. The proposed use shall not be conducted in a manner so as to emit any dangerous, noxious, injurious or otherwise objectionable fire, explosion, radioactive or other hazard, noise or vibration, smoke, dust, odor or other form of environmental pollution.

The siting of two single-family homes on the Property will not be conducted in a manner which is dangerous or injurious or otherwise objectionable.

Wherefore, the Applicant respectfully requests that the Board grant a Special Permit in accordance with Section VI-C for construction of more than one structure on a lot.

Respectfully submitted
Dan and Judith Lynch
By their attorney

 
Lisa L. Mead

cc: Client

CITY OF NEWBURYPORT, MA
ZONING DETERMINATION

APR# 2019-024

Name: Dan and Judy Lynch/Lisa Mead, MTC LLC

Address: 342 Merrimac Street (also fronts on Merrimac Ct) Zoning District(s): WMD/DCOD

Request: Construct new non conforming structure on existing non conforming property with existing 2 family use and outbuilding. Property is nonconforming for area, frontage & setbacks. Proposal results in more than one residential structure per parcel. Existing 2 family structure to revert back to single family use.

ZONING BOARD REVIEW REQUIRED

Variance

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

Sign Variance

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

Other

Special Permit

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

Special Permit for Non-Conformities

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

Site Plan Review (XV)

- Major
- Minor

Smart Growth District (XXIX)

- Plan Approval

HISTORICAL COMMISSION REVIEW REQUIRED

- Demo. Delay
- *Advisory Review

CONSERVATION COMMISSION REVIEW REQUIRED

Proposal is within 100' Wetland Buffer

Janet Blahut 3/28/19
Newburyport Zoning Administrator Date

342A MERRIMAC ST UNIT 1

Location 342A MERRIMAC ST UNIT 1

MBLU 65/ 10/A //

Owner LYNCH DANIEL J & JUDITH S
T/E

Assessment \$404,500

PID 4310

Building Count 1

Current Value

Assessment			
Valuation Year	Improvements	Land	Total
2020	\$404,500	\$0	\$404,500

Owner of Record

Owner LYNCH DANIEL J & JUDITH S T/E
Co-Owner
Address 342A MERRIMAC ST UNIT 1
 NEWBURYPORT, MA 01950

Sale Price \$290,000
Certificate
Book & Page 35650/0573
Sale Date 01/31/2017
Instrument 1T

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
LYNCH DANIEL J & JUDITH S T/E	\$290,000		35650/0573	1T	01/31/2017
FORSYTHE-FANDETTI BRIAR R	\$290,000		22768/0462	00	04/30/2004
MURRY KATHLEEN R	\$129,900		10012/0041		05/25/1989

Building Information

Building 1 : Section 1

Year Built: 1785
Living Area: 1,190

Building Attributes	
Field	Description
STYLE	Condominium
MODEL	Res Condo
Stories:	1 Story

Occupancy	
Interior Wall 1:	Plastered
Interior Wall 2:	
Interior Floor 1	Pine/Soft Wood
Interior Floor 2	Hardwood
Heat Fuel:	Oil
Heat Type:	Hot Water
AC Type:	None
Ttl Bedrms:	2 Bedrooms
Ttl Bathrms:	1 Full
Ttl Half Bths:	0
Xtra Fixtres	
Total Rooms:	5 Rooms
Bath Style:	Average
Kitchen Style:	Average
Kitchen Grd	
Grade	Average +20
Stories:	1.5
Residential Units:	2
Exterior Wall 1:	Clapboard
Exterior Wall 2:	
Roof Structure	Gable/Hip
Roof Cover	Asph/F Gls/Cmp
Cmrcl Units:	0
Section #:	0
Parking Spaces	0
Section Style:	0
Foundation	
Security:	
Cmplx Cnd	
Xtra Field 1:	
Remodel Ext:	
Super	

Building Photo



(http://images.vgsi.com/photos/NewburyportMAPhotos/A00100106/09.jpg)

Building Layout

BAS[1190]
WDK[200]

(http://images.vgsi.com/photos/NewburyportMAPhotos/Sketches/4310_4472.jpg)

Building Sub-Areas (sq ft)			Legend
Code	Description	Gross Area	Living Area
BAS	First Floor	1,190	1,190
WDK	Deck, Wood	200	0
		1,390	1,190

Extra Features

Extra Features				Legend
Code	Description	Size	Value	Bldg #
FPL3	FIREPLACE 2 ST	1 UNITS	\$3,100	1

Land

Outbuildings

Outbuildings	<u>Legend</u>
No Data for Outbuildings	

Valuation History

Assessment			
Valuation Year	Improvements	Land	Total
2019	\$383,100	\$0	\$383,100

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342 MERRIMAC ST UNIT 2

Location 342 MERRIMAC ST UNIT 2

MBLU 65/ 10/B //

Owner LYNCH DANIEL J

Assessment \$532,500

PID 4311

Building Count 1

Current Value

Assessment			
Valuation Year	Improvements	Land	Total
2020	\$532,500	\$0	\$532,500

Owner of Record

Owner LYNCH DANIEL J
Co-Owner
Address 342 MERRIMAC ST UNIT 2
 NEWBURYPORT, MA 01950

Sale Price \$450,000
Certificate
Book & Page 25045/0487
Sale Date 11/04/2005
Instrument 00

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
LYNCH DANIEL J	\$450,000		25045/0487	00	11/04/2005
DRINAN DIANE M.	\$100,000		11442/0257	1L	08/21/1992
INSTITUTION FOR SAVINGS	\$114,000		11340/0180	1L	06/15/1992
SCHOPFER BARBARA M	\$1		10907/0360	1A	08/14/1991
SCHOPFER BARBARA M	\$0		10011/0191		05/25/1989

Building Information

Building 1 : Section 1

Year Built: 1785
Living Area: 1,623

Building Attributes	
Field	Description
STYLE	Condominium
MODEL	Res Condo
Stories:	1 1/2 Stories

Occupancy	1
Interior Wall 1:	Plastered
Interior Wall 2:	
Interior Floor 1	Carpet
Interior Floor 2	Hardwood
Heat Fuel:	Gas
Heat Type:	Hot Water
AC Type:	None
Ttl Bedrms:	3 Bedrooms
Ttl Bathrms:	1 Full
Ttl Half Bths:	1
Xtra Fixtres	
Total Rooms:	6 Rooms
Bath Style:	Average
Kitchen Style:	Average
Kitchen Grd	
Grade	Average +20
Stories:	1.5
Residential Units:	2
Exterior Wall 1:	Clapboard
Exterior Wall 2:	
Roof Structure	Gable/Hip
Roof Cover	Asph/F Glis/Cmp
CmrcI Units:	0
Section #:	0
Parking Spaces	0
Section Style:	0
Foundation	
Security:	
Cmplx Cnd	
Xtra Field 1:	
Remodel Ext:	
Super	

Building Photo



(http://images.vgsi.com/photos/NewburyportMAPhotos/A00\000\06\12.jpg)

Building Layout

WDK[288]
BAS[1190]
FHS[865]

(http://images.vgsi.com/photos/NewburyportMAPhotos/Sketches/4311_4473.jpg)

Building Sub-Areas (sq ft)			Legend
Code	Description	Gross Area	Living Area
BAS	First Floor	1,190	1,190
FHS	Half Story, Finished	865	433
WDK	Deck, Wood	288	0
		2,343	1,623

Extra Features

Extra Features				Legend
Code	Description	Size	Value	Bldg #
FPL3	FIREPLACE 2 ST	1 UNITS	\$3,100	1
FPO	EXTRA FPL OPEN	1 UNITS	\$1,000	1

Land

Outbuildings

Outbuildings						Legend
Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
BRN3	1 STORY W/LOFT			384 S.F.	\$8,400	1

Valuation History

Assessment			
Valuation Year	Improvements	Land	Total
2019	\$504,800	\$0	\$504,800

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EXHIBIT A



The Commonwealth of Massachusetts
William Francis Galvin, Secretary of the Commonwealth
Massachusetts Historical Commission

December 19, 2018

Eric E. Dray
Eric Dray Consulting
71 Prentiss St
Cambridge, MA 02140

RE: 342 Merrimac Street (aka Jacob Whitmore House), Newburyport MA (MHC # NWB.272)

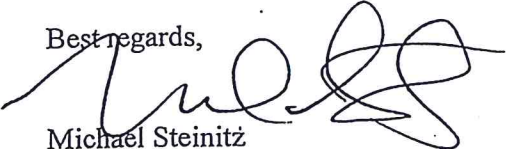
Dear Eric,

In response to your recent request, I am writing to confirm that the property at 342 Merrimac Street, Newburyport, known as the Jacob Whitmore House (MHC inventory number NWB.272) was listed in the National Register of Historic Places on August 2, 1984 as a contributing property to the Newburyport Historic District. The property is historically significant for its architecture, associations and/or archaeology, and qualifies for the protections of perpetual preservation restrictions under M.G.L. Chapter 184, sections 31-33.

I am also writing to confirm receipt of your updated inventory Form B for this property. In reviewing the 1980 inventory form and your submitted update to it, MHC staff did a bit additional research on the ownership history of this 18th-century property, which further supplements your additional research, and corrects what appears to be an error on the 1980 form. We'll add this as a Continuation Sheet to your new form when it is incorporated into MHC's inventory file for this property. I've attached a copy.

Please don't hesitate to contact me with any questions regarding the comments included in this letter.

Best regards,


Michael Steinitz
Deputy State Historic Preservation Officer
Director, Preservation Planning Division

Encl.

Xc: Attorney Lisa Mead

INVENTORY FORM CONTINUATION SHEET

NEWBURYPORT

342 Merrimac St

MASSACHUSETTS HISTORICAL COMMISSION

Area(s) Form No.

220 MORRISSEY BOULEVARD, BOSTON, MASSACHUSETTS 02125

I, L NWB.272

Supplemental Historical Narrative information prepared by Michael Steinitz, MHC, November 2018:

Newbury native and blacksmith Jacob Whitmore (or Whittmore) (1762-1811) purchased the parcel at the time of his marriage to Hannah Carr (1765-?) of Salisbury in 1785 and likely the house was built at this time. Although a death record has not been located, Hannah Carr evidently died prior to 1808, when Jacob Whitmore married for a second time to Mrs. Lydia Story (a second marriage for her as well). Three years later Jacob Whitmore died, and in 1816 the house was auctioned off by his estate to David Poor, yeoman of Newburyport, with the widow Whitmore reserving her widow's thirds. Ten years later, in 1826, Poor and the remarried widow, now Mrs. Lydia Moody, each sold to blacksmith Caleb Brown (c.1772 - 1831). Brown's son John O.W. Brown (c1794-1864)(mid 19th century censuses list him as a trader) sold the inherited property to John Currier, Jr. (c1802-1887) in 1840. It is not clear whether Currier occupied this house or whether it was tenanted, as he is shown owning at least one other house nearby adjacent to his extensive shipyard. In any event, the house remained in the ownership of the Currier family for 68 years until 1908, when John Currier, Jr.'s son, John J. Currier, sold the house to Mary Carr Sawyer (1874-1957), wife of Edward W. Sawyer (1874-1958). There is no evidence in the deed records to support the statement on the 1980 inventory form that the property was sold to John Merrill prior to 1872, or that it was owned by the Merrill family from ca. 1872-1913. The Merrills owned the adjacent house to the south as shown on the 1884 Walker Atlas.

Censuses list Edward Sawyer's occupation as house painter. Sanborn maps show that the current outbuilding on the property was built during the Sawyer's ownership between 1914 and 1924, perhaps in relation to his painting business. From 1959 to 1977 the property was owned by Helen C. French (who appears to have inherited from the Sawyers – familial relationship if any not known) and Bertram T French, who seem to have used it as a rental. From 1977 to 1985 the owners were Robert D. and Susan Yaro. Robert D. Yaro (b.1950) is a nationally prominent urban and regional planner who has held faculty positions at Harvard, Columbia, UMass Amherst, and Penn. At UMass he founded and directed the Center for Rural Massachusetts. He was president of New York's Regional Plan Association from 1990 to 2014. During his residence on Merrimac Street, Yaro was a city planner at the Boston Redevelopment Agency, then Chief Planner and Deputy Commissioner of the Massachusetts Department of Environmental Management.

References:

Ancestry.com (U.S. Census, Massachusetts Vital Records, and city directories)

Essex South Registry of Deeds: 211/59, 242/142, 318/252, 1927/65, 3045/489, 4547/482, 457/483, 6334/325, 7662/458, 8020/585, 10011/191

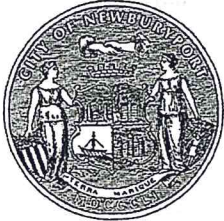
Essex Probate

Sanborn maps 1914, 1924

Walker, Atlas of Essex County, 1884

On Robert D. Yaro see: <https://www.design.upenn.edu/city-regional-planning/graduate/people/robert-yaro> (accessed 11/2018).

EXHIBIT B



CITY OF NEWBURYPORT
ZONING BOARD OF APPEALS
60 PLEASANT STREET • P.O. BOX 550
NEWBURYPORT, MA 01950
(978) 465-4400

RECORD OF PROCEEDINGS AND DECISION
FOR A DIMENSIONAL VARIANCE

An application for a Dimensional Variance was filed by:

Daniel and Judy Lynch c/o Lisa Mead, Mead, Talerman & Costa, LLC
30 Green Street
Newburyport, MA 01950

for property owned by **Daniel and Judy Lynch** for the following request:

construct new dwelling within the required front and side setback

The application was filed at the City Clerk's Office on 3/29/19 under the Zoning Ordinance Section X-H.3 Powers of the Board and Section VI.A Dimensional Controls. The application is for the premises at **342 Merrimac Street** in the WMD Zoning District, as indicated in the Newburyport Assessor's Office as map and parcel 65-10-A/B and recorded in the Essex South District Registry of Deeds as Book and Page 35650-0573 and 25045-0487. The newspaper notices for the public hearing were posted on 04/29/19 and 05/06/19 in the Newburyport Daily News. A public hearing was held for the above application on 05/14/19.

After the close of the public hearing on 05/14/19, in accordance with the criteria set forth in the City of Newburyport Zoning Ordinance VI.A Dimensional Controls, the Newburyport Zoning Board of Appeals made the following findings:

1. The applicant is seeking dimensional relief to convert the existing two-family structure to a single-family home on the same lot with frontage on Merrimac Court. The applicant is also seeking to construct a second single-family structure on the property thus preserving the two-family use. The existing structure is currently non-conforming for lot area, frontage, front setback, and side yard setbacks. The applicant is seeking the following dimensional relief: Lot Area (sq. ft.) 13,315 (unchanged) where 15,000 is required, Frontage 60.23 ft. (unchanged) and 94.25 ft. where 120 ft. is required, and Front Yard Setback of 12.2 ft. (unchanged) and 15 ft. where 25 ft. is required.
2. The applicant is seeking a dimensional variance, for which hardship must be established. The shape of the lot is odd, the topography sloping (towards Merrimac Court) and these are unique to the neighborhood. This odd shape and topography provide reasonable grounds for the finding of a hardship.

3. The initial plans submitted with this application indicated a side yard setback intrusion that would have required relief. On 5/6/19 the applicant submitted modified plans where the footprint now meets the side setback requirements. The only remaining relief that is required is a front yard setback variance.
4. The applicant stated that the barn existing on the property was used only for storage and would remain so.
5. Nothing was presented in the application nor determined through questioning by the Board was found detrimental to the subject properties or the neighborhood.
6. The hardship in this application is based upon lot shape, topography and existing building placement (X-H (6)(C) and literal enforcement (X-H (6)(A) causing substantial hardship, financial or otherwise.
7. It was noted in the hearing discussion that the applicant still needs to seek a special permit from the Planning Board and appear before the Conservation Commission. The proposal is within 100 feet of the wetland buffer. The applicant has met with the Newburyport Historic Commission (NHC) relative to a Preservation Restriction on the existing structure. The applicant was reminded that while this hearing was being closed that any changes to the plans as a result of this additional relief sought from other bodies would necessitate their returning before the ZBA with revised plans.
8. Evidence was presented and the Board found that the proposed change continues to be in conformity with the neighborhood and will not be substantially more detrimental to the neighborhood than the existing conditions.
9. In accordance with the applicable provisions of Sections II-B.46a, X-H.6.Q, and X-H.7.B.10 of the Newburyport Zoning Ordinance the Board found that the provisions are not triggered.

Upon a motion made by Member Edward Cameron and duly seconded by Member Robert Ciampitti, the Board voted to **APPROVE** the petition for the Dimensional Variance.

The following members present and voting, and voting as follows with respect to the petition:

Robert Ciampitti	<u>Yes</u>	Renee Bourdeau	<u>No</u>
Maureen Pomeroy	<u>Absent</u>	Edward Cameron	<u>Yes</u>
Mark Moore, Associate	<u>Yes</u>	Edward Ramsdell, Chair	<u>Yes</u>

Having received the necessary two-thirds super majority vote or all the members of the ZBA, in accordance with M.G.L. c.40A, as adopted, the petition for the Dimensional Variance was therefore **APPROVED** with the following conditions:

1. Recording of Decision: The applicant shall file this Special Permit approval decision with the Southern Essex County Registry of Deeds and a copy of the decision stamped with the recording information (Book/Page or Land Court document number) shall be included with the application for a Building Permit. The final site/construction plans shall also make reference to the decision date and conditions of approval.
2. Modifications to Approved Plans: The applicant, property owner, and their successors or assigns shall adhere to the following plans and/or documents:
 - "Board of Appeals Plan, 342 Merrimac Street, Newburyport, Massachusetts, Assessors Map 65 Parcel 10 A/B" by Waypoint Surveying Services dated June 20, 2018 and revised on October 18, 2018, February 13, 2018 and on March 25, 2019

- "Proposed Exterior Elevations, A New Home at: 342 Rear Merrimac Street, Newburyport, MA 01950" by Kerry Design, LLC dated March 28, 2019

Should the applicant and/or property owner determine that the plan(s) needs to be modified, they shall notify the Board of the proposed modifications in writing and obtain approval from the Zoning Board of Appeals for such modifications prior to making any changes in the field. The Board shall then determine whether such modifications are minor or major in nature and shall subsequently schedule a public meeting or hearing, respectively, to review the proposed changes.

3. Permit Lapse: This Dimensional Variance will lapse after one year if a substantial use has not commenced except for good cause or, in the case of a permit for construction, if construction has not commenced except for good cause. Excluded from any lapse period is the time required to pursue or await the determination of any appeal taken pursuant to MGL, Chapter 40A, Section 17.
4. Schematic Approval: This Zoning Board approval represents a schematic approval for the project. This approval does not represent a final approval of any utility design and details or fire safety measures, as applicable. The applicant, owner, successors or assigns shall be responsible for designing all utilities to meet City standards and ensuring compliance with fire codes prior to commencing work under this approval.
5. Hours of Construction: The applicant/owner shall take reasonable care not to disturb surrounding properties and property owners during construction. Construction work shall be limited to the hours between 7 a.m. and 6 p.m. Monday through Friday and 8 a.m. and 5 p.m. on Saturday, unless a specific waiver is requested. The Zoning Board of Appeals and the City Marshal shall approve such waiver.
6. Permit Compliance Contact Form: No site work or construction related to this permit shall begin until a Permit Compliance Contact Form is completed and submitted to the Office of Planning & Development.
7. The barn currently existing on the property shall continue to only be used for storage – no residential or other use.
8. The resulting residential structures shall only be used as single-family residences.

These conditions do not limit any other rights and remedies the City of Newburyport may have. Copies of this decision and approved plans have been filed with the Newburyport Planning Board and Office of the City Clerk.

Undersigned Chair of the Zoning Board of Appeals,


Edward Ramsdell

Date: 5/29/19

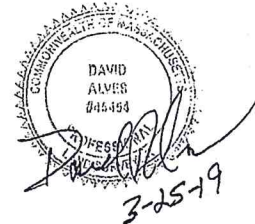
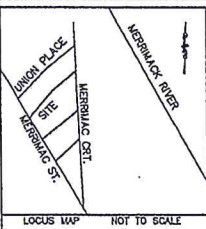
CERTIFICATION OF CITY CLERK

I, Richard Jones, City Clerk of the City of Newburyport, hereby certify pursuant to M.G.L. Chapter 40A, Section 17, that the decision for the property known as **342 Merrimac Street** was filed in the Office of the City Clerk on May 29, 2019. Twenty (20) days have elapsed since the decision was filed and no appeal has been filed.

Richard P. Jones

Newburyport City Clerk

Date: 6/18/19

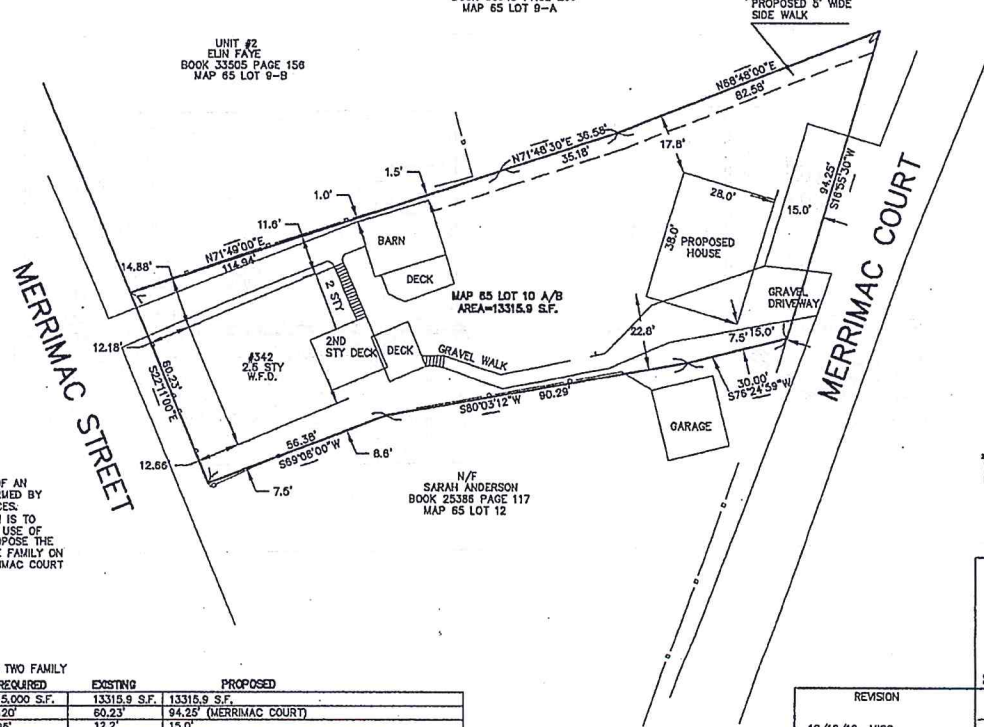


UNIT #1
N/F
SAMUAL KIMBALL
BOOK 33543 PAGE 286
MAP 65 LOT 9-A

UNIT #2
ELIN FAYE
BOOK 33565 PAGE 156
MAP 65 LOT 9-B

MAP 65 LOT 10 A/B
AREA=13315.9 S.F.

N/F
SARAH ANDERSON
BOOK 26385 PAGE 117
MAP 65 LOT 12



NEWBURYPORT ZONING BOARD OF APPEALS

DATE

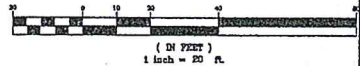
NOTES

- 1.) THIS PLAN IS THE RESULT OF AN ON GROUND SURVEY PERFORMED BY WAYPOINT SURVEYING SERVICES.
- 2.) THE PURPOSE OF THIS PLAN IS TO PRESERVE THE TWO FAMILY USE OF THE PROPERTY AND TO PROPOSE THE CONSTRUCTION OF A SINGLE FAMILY ON THE SAME LOT USING MERRIMAC COURT AS FRONTAGE.

ZONING TABLE
ZONING DISTRICT: WMD TWO FAMILY

	REQUIRED	EXISTING	PROPOSED
MIN. LOT AREA	15,000 S.F.	13315.9 S.F.	13315.9 S.F.
MIN. FRONTAGE	120'	60.23'	94.25' (MERRIMAC COURT)
MIN. FRONT YD.	25'	12.2'	15.0'
MIN. SIDE YD.	20'	7.5'	7.5'
MIN. REAR YD.	25'	N/A	N/A
MAX. LOT COVERAGE	28%	13%	21% (PROPOSED AND EXISTING TOTAL)
OPEN SPACE	40%	83%	75%

GRAPHIC SCALE



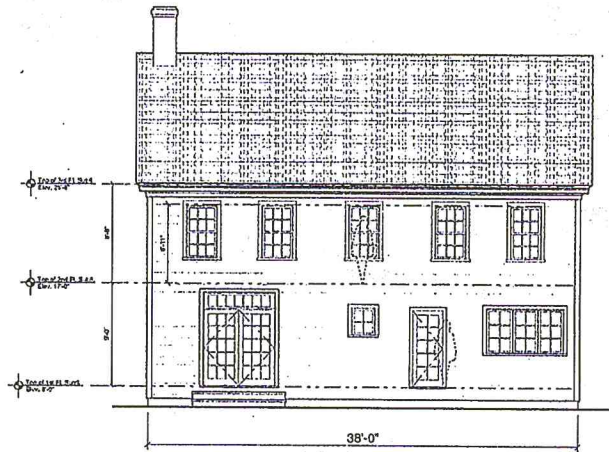
BOARD OF APPEALS PLAN
342 MERRIMAC STREET
NEWBURYPORT, MASSACHUSETTS
ASSESSORS MAP 65 PARCEL 10 A/B
PREPARED FOR
DAN LYNCH

SCALE: 1" = 20' JUNE 20, 2018

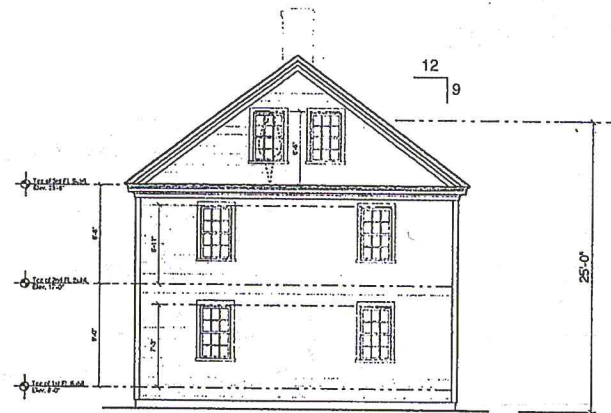
REVISION	DATE	BY
10/18/18	MISC.	
2/13/19	MISC.	
3/25/19	MISC.	

WAYPOINT SURVEYING SERVICES
141 BRIDGE ROAD, SUITE 202-6
SALISBURY, MASSACHUSETTS 01952
(978) 505-5281

DRAWN BY: D.A.	SHEET #: 1 of 1	CHECKED BY: D.A.
3580		DESIGN BY: D.A.



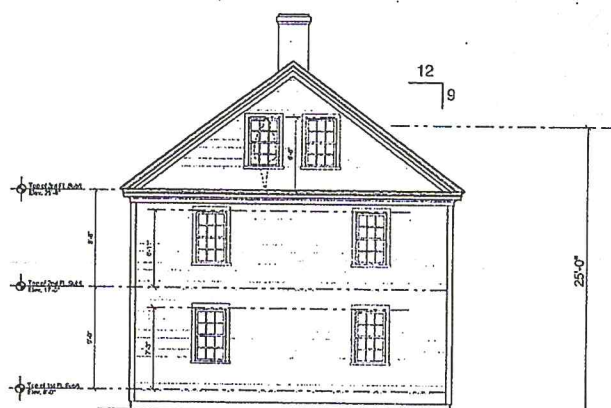
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Scale: 1/4" = 1'-0"




Proposed South Elevation
Scale: 1/4" = 1'-0"

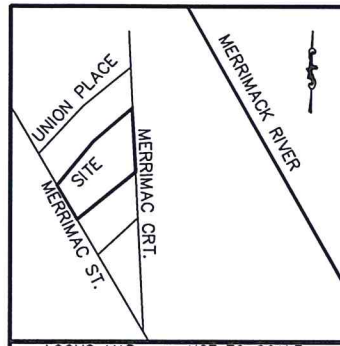


Proposed East Elevation
Scale: 1/4" = 1'-0"



Proposed North Elevation
Scale: 1/4" = 1'-0"

	
DESIGN DEVELOPMENT	
A New Home at: 342 Rear Merimac Street Haverhill, MA 01830	
Proposed Exterior Elevations	Date: 04/20/2018
Project: 1801	Scale: 1/4" = 1'-0"
A2	



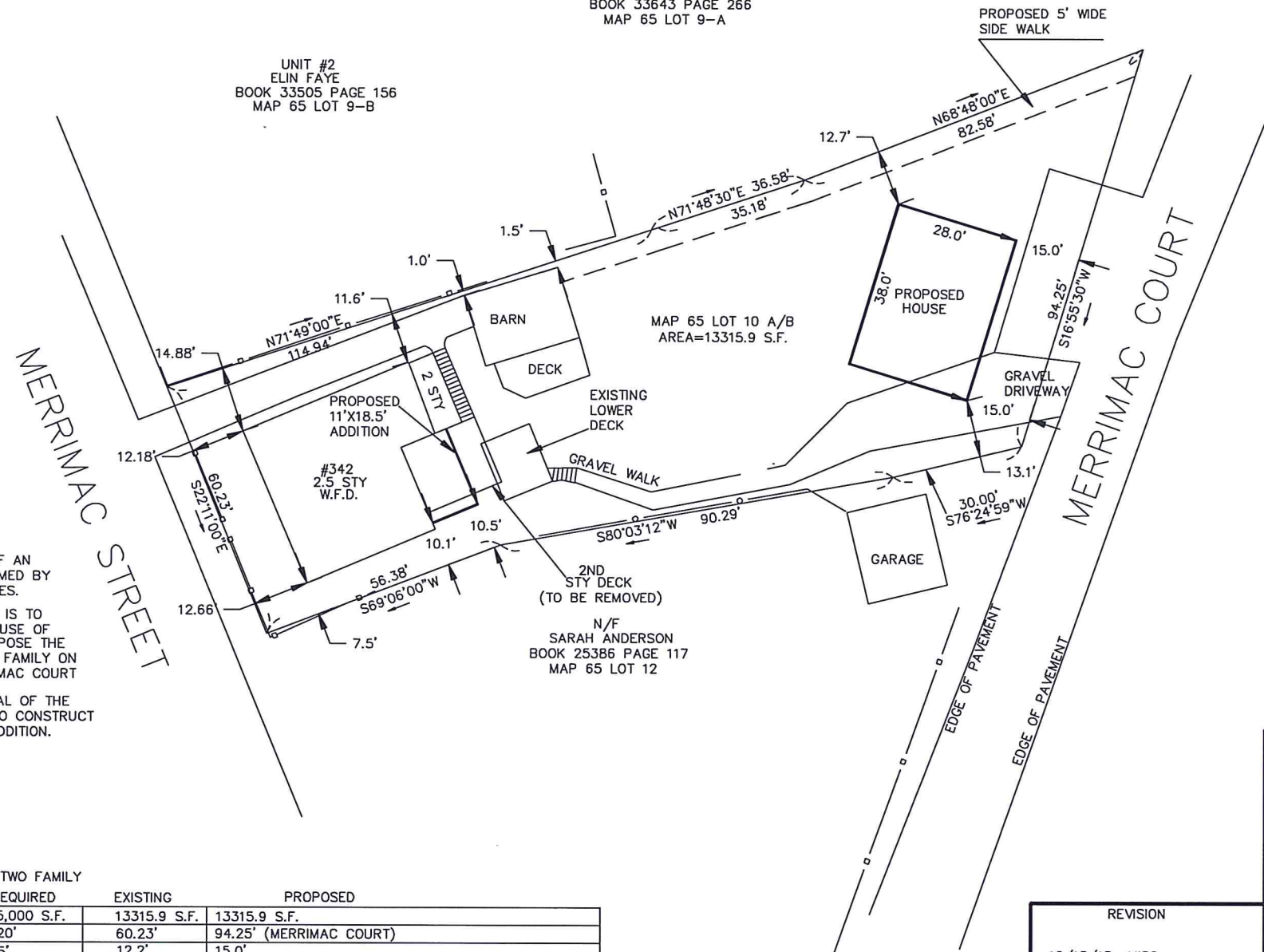
LOCUS MAP NOT TO SCALE

UNIT #1
N/F
SAMUAL KIMBALL
BOOK 33643 PAGE 266
MAP 65 LOT 9-A

UNIT #2
ELIN FAYE
BOOK 33505 PAGE 156
MAP 65 LOT 9-B

MAP 65 LOT 10 A/B
AREA=13315.9 S.F.

N/F
SARAH ANDERSON
BOOK 25386 PAGE 117
MAP 65 LOT 12



NEWBURYPORT ZONING BOARD OF APPEALS

DATE

NOTES

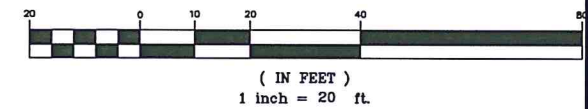
- 1.) THIS PLAN IS THE RESULT OF AN ON GROUND SURVEY PERFORMED BY WAYPOINT SURVEYING SERVICES.
- 2.) THE PURPOSE OF THIS PLAN IS TO PRESERVE THE TWO FAMILY USE OF THE PROPERTY AND TO PROPOSE THE CONSTRUCTION OF A SINGLE FAMILY ON THE SAME LOT USING MERRIMAC COURT AS FRONTAGE. ALSO, TO SHOW THE REMOVAL OF THE SECOND STORY DECK AND TO CONSTRUCT AN 11'X18.5' FIRST STORY ADDITION.

ZONING TABLE

ZONING DISTRICT: WMD TWO FAMILY

	REQUIRED	EXISTING	PROPOSED
MIN. LOT AREA	15,000 S.F.	13315.9 S.F.	13315.9 S.F.
MIN. FRONTAGE	120'	60.23'	94.25' (MERRIMAC COURT)
MIN. FRONT YD.	25'	12.2'	15.0'
MIN. SIDE YD.	20'	7.5'	12.7'/13.1 (10.1' PROPOSED ADDITION)
MIN. REAR YD.	25'	N/A	N/A
MAX. LOT COVERAGE	25%	13%	23% (PROPOSED AND EXISTING TOTAL)
OPEN SPACE	40%	78%	69%

GRAPHIC SCALE



BOARD OF APPEALS PLAN
342 MERRIMAC STREET
NEWBURYPORT, MASSACHUSETTS
ASSESSORS MAP 65 PARCEL 10 A/B
PREPARED FOR
DAN LYNCH

SCALE: 1" = 20'

JUNE 20, 2018

REVISION	
10/18/18	MISC.
2/13/19	MISC.
3/25/19	MISC.
4/16/19	MOVE PROPOSED HOUSE
2/18/20	PROPOSED ADDITION

WAYPOINT SURVEYING SERVICES
141 BRIDGE ROAD, SUITE 202-5
SALISBURY, MASSACHUSETTS 01952
(978) 505-5261

DRAWN BY: D.A.	SHEET #: 1 of 1	CHECKED BY: D.A.
3590		DESIGN BY: D.A.



Existing North Elevation
Scale: 1/4" = 1'-0"



Existing East Elevation
Scale: 1/4" = 1'-0"



Existing West Elevation
Scale: 1/4" = 1'-0"



Existing South Elevation
Scale: 1/4" = 1'-0"

Revisions



KEERY
DESIGN LLC
437 Merrimac Street
Newburyport, Massachusetts 01950
781.375.5710

EXISTING
CONDITIONS

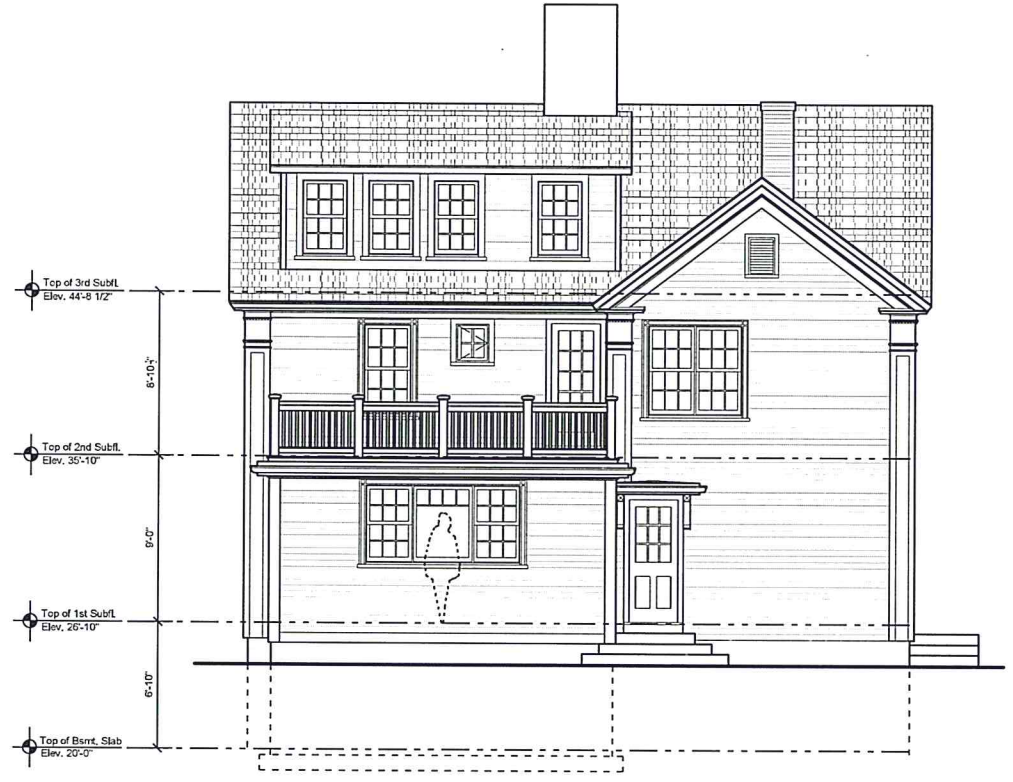
Project No. 19010
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Date: February 13, 2020

EXISTING ELEVATIONS

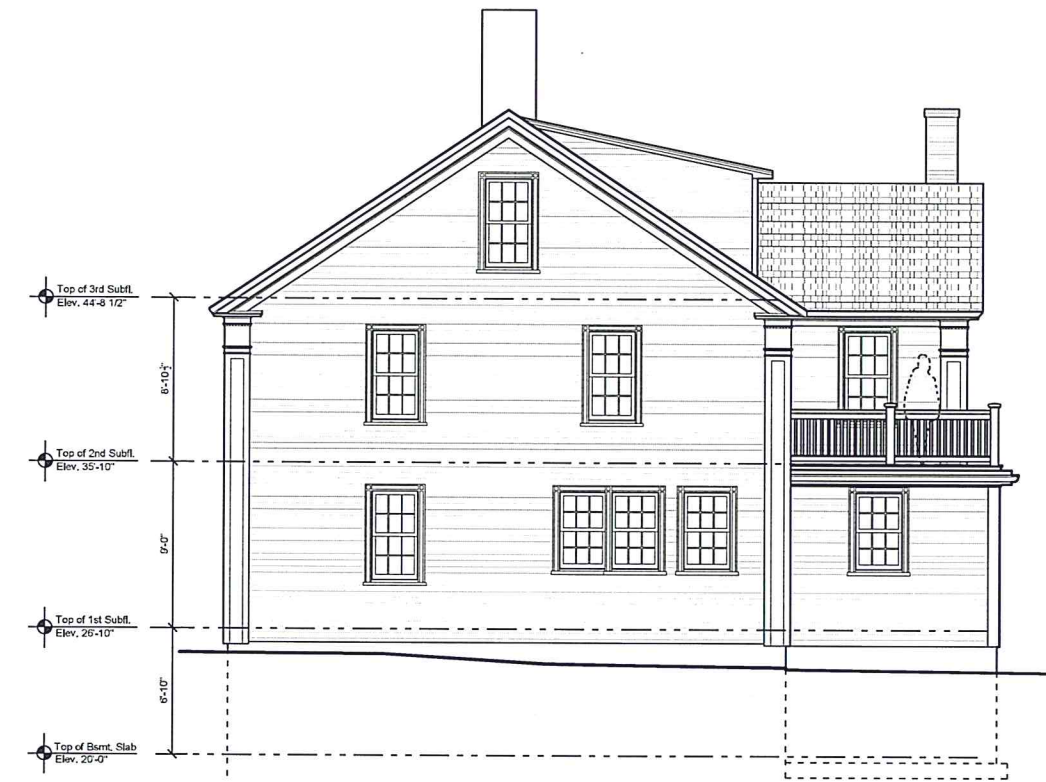
Project No. 19010
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Date: February 13, 2020

A3

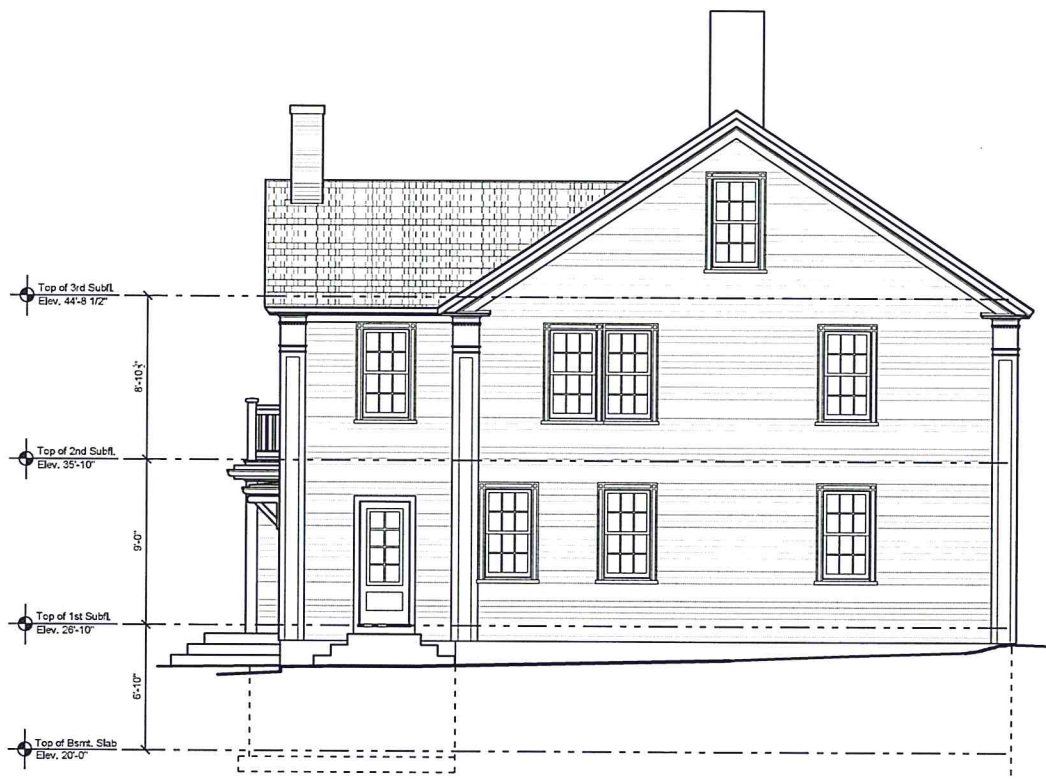
Additions and Renovations to the home of Dan and Judy Lynch
342 Merrimac Street
Newburyport, MA 01950



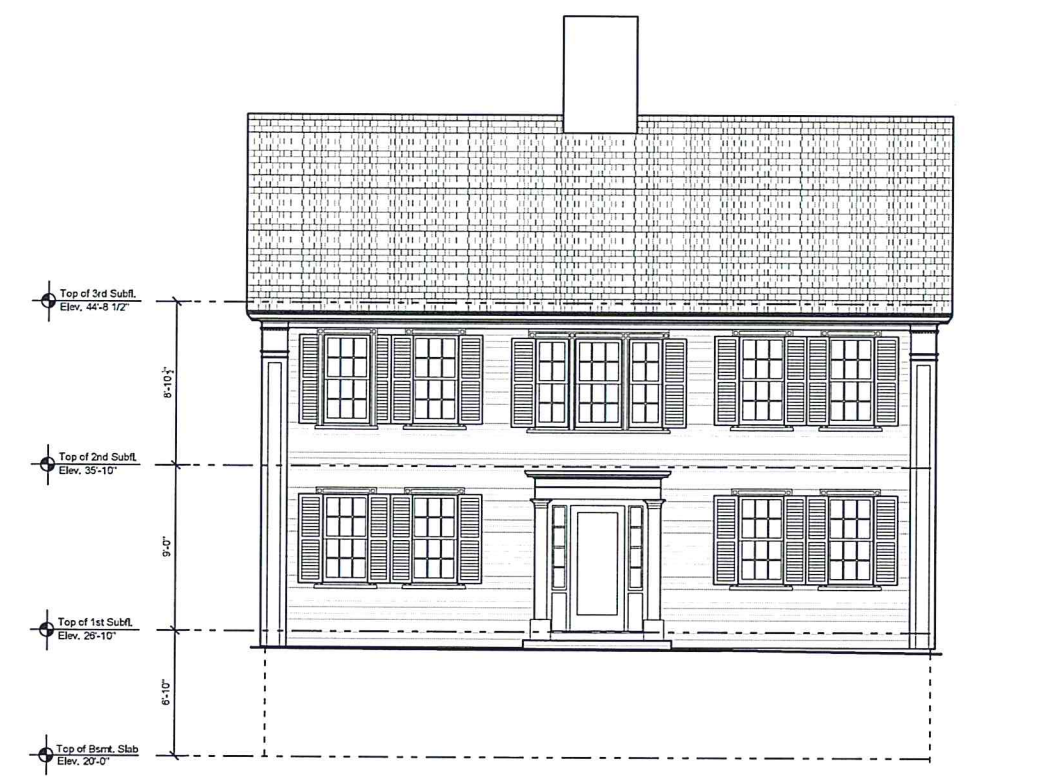
Proposed North Elevation
Scale: 1/4" = 1'-0"



Proposed East Elevation
Scale: 1/4" = 1'-0"



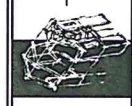
Proposed West Elevation
Scale: 1/4" = 1'-0"



Proposed South Elevation
Scale: 1/4" = 1'-0"

Revisions

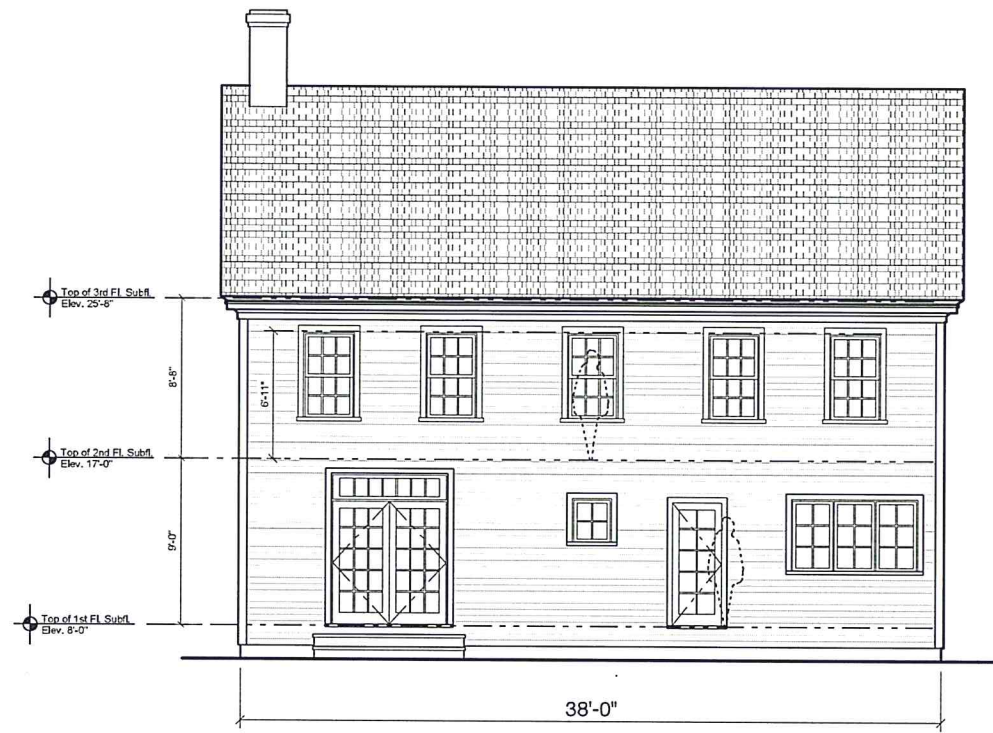
KEERY
design | LLC
437 Merrimac Street
Newburyport, Massachusetts 01950
978/395-5710



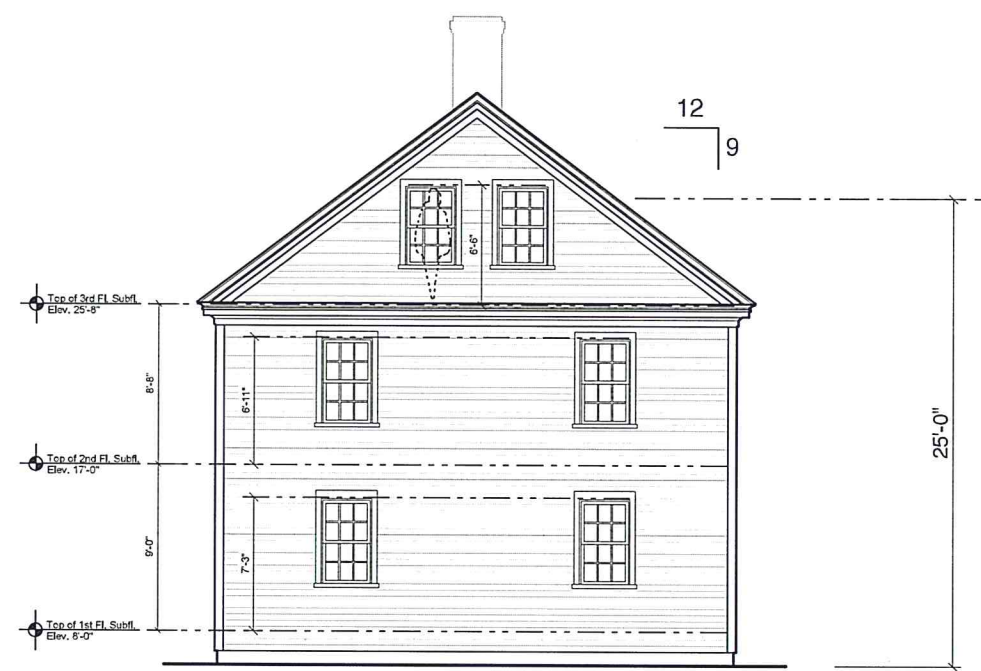
**PRELIMINARY
PRICING SET**

Additions and Renovations to the home of
Dan and Judy Lynch
342 Merrimac Street
Newburyport, MA 01950

Proposed Elevations
Project No. 19019
Scale: 1/4" = 1'-0"
Date: February 13, 2020



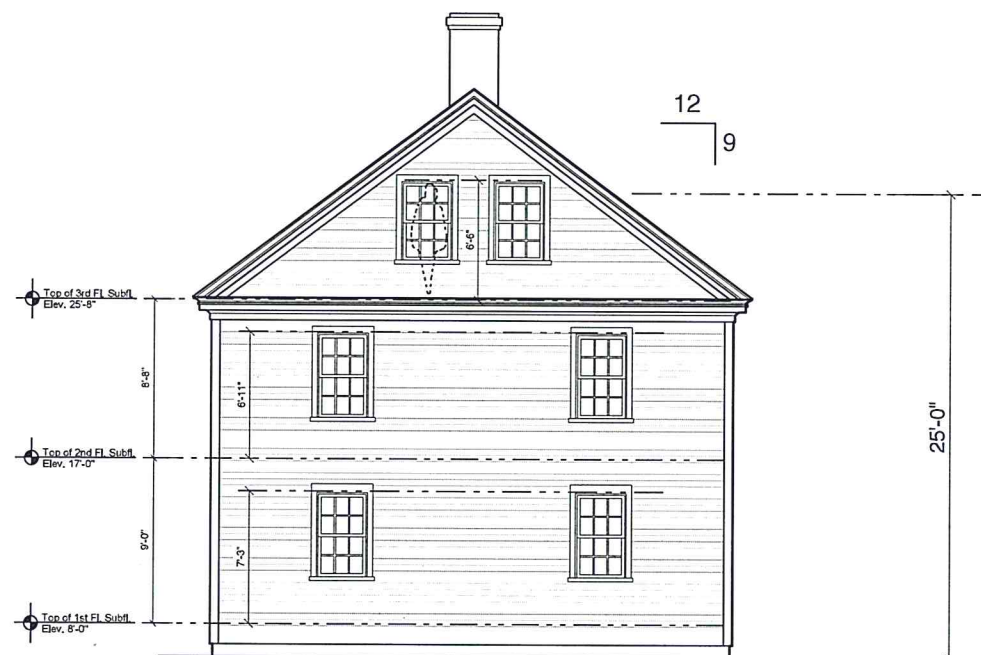
Proposed West Elevation
Scale: 1/4" = 1'-0"



Proposed South Elevation
Scale: 1/4" = 1'-0"



Proposed East Elevation
Scale: 1/4" = 1'-0"



Proposed North Elevation
Scale: 1/4" = 1'-0"

Revisions:

KEERY
DESIGN LLC
437 Merrimac Street
Newburyport, Massachusetts 01950
978/3955710



**DESIGN
DEVELOPMENT**

A New Home at:
342 Rear Merrimac Street
Newburyport, MA 01950

**Proposed
Exterior Elevations**

Project No. 10005 Scale: 1/4" = 1'-0" Date: March 26, 2019

A2