

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

Petitioner: Thomas Baillie & Ann Domigan c/o Lisa Mead, Mead Talerman & Costa LLC

Mailing Address: 30 Green Street, Newburyport MA 01950

Phone: 9784637700 Email: Lisa@MTClawyers.com

Property Address: 35 Marlboro Street

Map and Lot(s): Map 29 Lot 45 Zoning District: R-2

Book and Page(s): Book 36528 Page 599

Owner(s) Name: Same as above

Mailing Address (if different): 35 Marlboro Street, Newburyport MA 01950

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

- | | |
|--|---|
| <input checked="" type="checkbox"/> Extension or Alteration (IX.B.2) | <input type="checkbox"/> Over 500 s.f. increase (IX.B.3.c) |
| <input type="checkbox"/> Parking | <input type="checkbox"/> Plum Island Overlay District (XXI-G-3) |
| <input type="checkbox"/> Upward Extension | <input type="checkbox"/> FAR |
| <input type="checkbox"/> Open Space | <input type="checkbox"/> Footprint Expansion |
| <input type="checkbox"/> Height | <input type="checkbox"/> Height Increase |
| <input type="checkbox"/> Lot Area | |
| <input type="checkbox"/> Rear Yard | |
| <input type="checkbox"/> Lot Coverage | |
| <input type="checkbox"/> Side Yard | |
| <input type="checkbox"/> Lot Frontage | |
| <input checked="" type="checkbox"/> Front Yard | |

(Refer to the Zoning Review form as supplied by the Zoning Administrator)

Description of request:

Request to modify a pre-existing non-conforming structure by adding a mudroom which is more in compliance than the existing non-conformity.

All information contained within this application will become a formal part of the Zoning Board of Appeals proceedings and decision.

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

	Lot s.f.	Open Space %	Lot Coverage %	FAR*	Height	Frontage	Parking Spaces	Front Setback	Side A Setback	Side B Setback	Rear Setback
Existing	12,323	83.59	12.61		27	77.66	2	7	3.1	40.5	94.2
Proposed	12,323	70.81	18.79		27	77.66	2+	7	3;1	11gar.	31.7 gar
Required	10,000	40	25		35	90	2	25	10	10	25

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

Existing Buildings:

Ground Floor Sq. Feet	# of Floors	Total Sq. Feet	Use Code of Building**
1334	2	2668	101
_____	_____	_____	_____
_____	_____	_____	_____


Proposed Buildings:

Ground Floor Sq. Feet	# of Floors	Total Sq. Feet	Use Code of Building**
1442	2	2756	101
_____	_____	_____	_____
_____	_____	_____	_____

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

Any advice, opinion, or information given by any board member or any other official or employee of the City of Newburyport shall not be binding on the Zoning Board of Appeals. Every application for a Special Permit for Non-Conformities must be made on this form, which is the official form of the ZBA. It shall be the responsibility of the petitioner to furnish all supporting documentation with this application. The dated copy of this application received by the City Clerk or Planning Office does not absolve the petitioner from this responsibility. The petitioner shall be responsible for all expenses for the filing, publication, and legal notification. Failure to comply with the application requirements, as cited herein and in the Zoning Board Rules and Regulations may result in a dismissal by the ZBA of this application as incomplete.

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







Meacl, Talerman & Costa, LLC
Attorneys at Law

April 12, 2018

By Hand

Ed Ramsdell, Chair
Zoning Board of Appeals
City of Newburyport
City Hall
60 Pleasant Street
Newburyport, Massachusetts 01950

Re: Request for Special Permit;
35 Marlboro Street, Newburyport, MA (the "Property");
Assessor's Map: 29 Lot 45

Dear Chair and Members of the Board;

Reference is made to the above-captioned matter. In that connection, this firm represents the Thomas Baillie, the owner of 35 Marlboro Street (the "Petitioner"), relative to a small addition on the westerly side of the existing structure and construction of a free standing garage. The Property consists of approximately 12,323 square feet of land with 77.66 feet of frontage on Marlboro Street. There is currently a non-conforming north easterly side set back of 3.1 feet. No work (subject to the Newburyport Zoning Ordinance ("NZO) is proposed on that side of the structure. The westerly side of the structure is currently 40.5 and is proposed to be at 32.9 with the addition and the garage will be 11 feet from the side yard. Both of the new extensions comply with the side line setback requirements. The existing non-conforming frontage, side and front yard setbacks will not be modified.

However, it is the determination of the Zoning Code Enforcement Officer, that while the Petitioner is not extending or exacerbating the existing non-conformity, nor creating a new one, because the proposed mudroom will not fully meet the front yard set-back, a Special Permit to modify the pre-existing non-conforming structure in accordance with section IXB(2)(A) of the NZO will be required.¹

Section IX-B(2)(A) allows for the modification of a pre-existing non-conforming single or two-family structure where the Board finds that there will

1. be no addition of a new non- conformity and
2. that the proposed changes will not be substantially more detrimental to the neighborhood.

Here as noted, there will be no new non-conformity added to the property. The proposed mudroom is further away from the front yard setback than the

¹ Please note, the Application for a Special Permit for this proposal does not mean that the Applicant concedes that the Zoning Code Enforcement Officer is correct, but at this juncture, such an application is the most expedient.

Millis Office

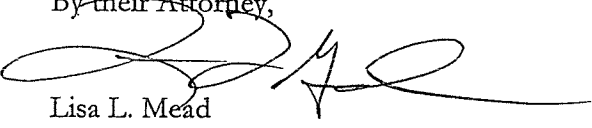
730 Main Street, Suite 1F
Millis, MA 02054
Phone 508.376.8400

existing structure and the remainder of the modifications to the Property meet the requirements of the NZO.

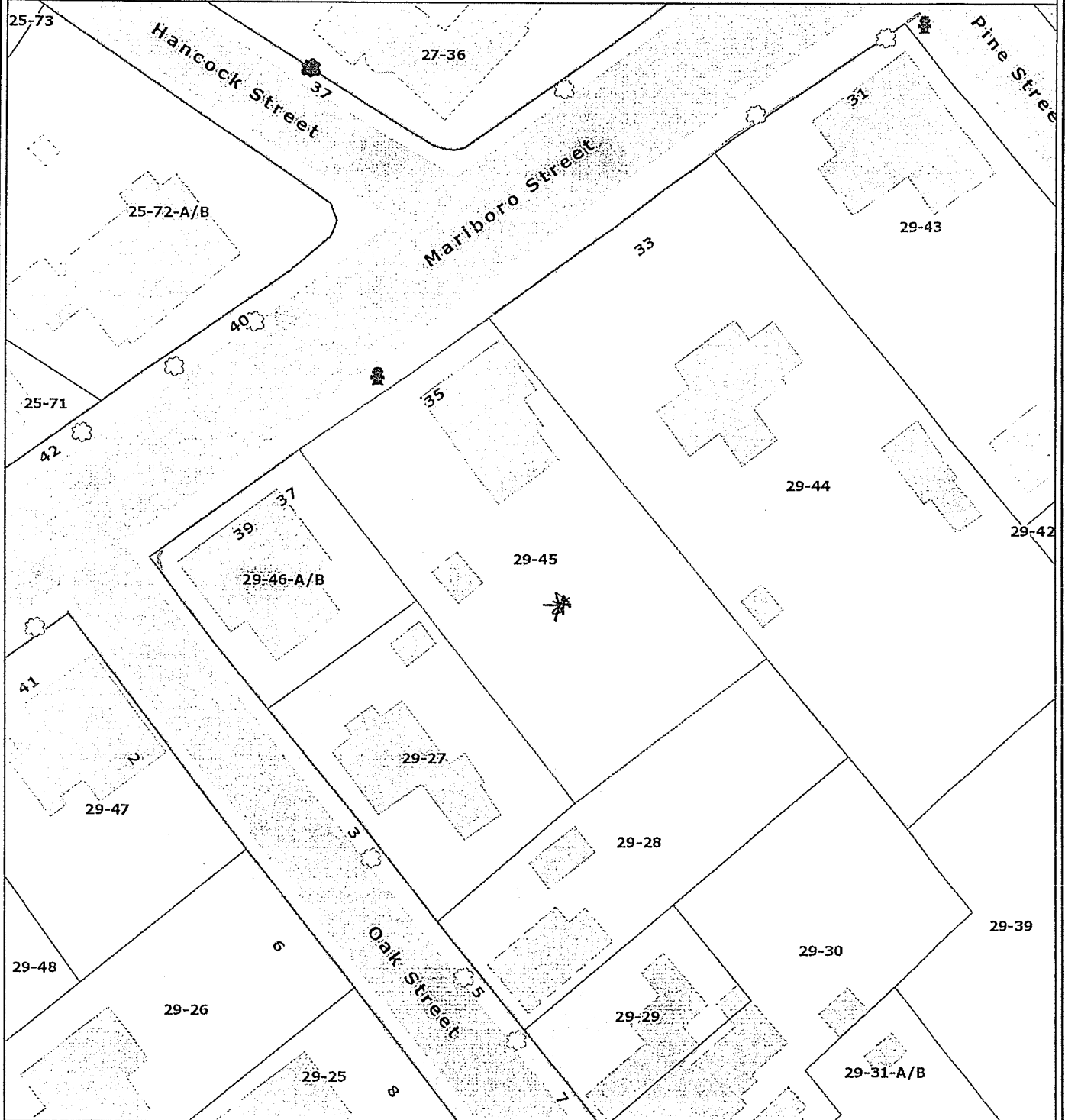
As to the second criteria, it is the Petitioners position that the proposed modification is modest and has little to no impact on the surrounding neighborhood. The proposed mudroom is located more than 10 feet further to the rear of the property than the existing structure and is located well in excess of the required side yard setback. The entire addition includes 88 square feet of heated space with a covered entry of approximately 32 square feet. Certainly, a modest addition to the non-conforming structure. While the garage meets all of the setback requirements and therefore no relief is being requested, it should be noted that it is located at the rear of the lot. The house located on the lot adjacent to the rear with an address of Oak Street is approximately 20 +/- feet away from the Property line. The proposed garage is 11 feet away from the Property line and therefore there remains, certainly the required setback distance, but also ample space between the two structures generally. Overall, the design and style of the propped addition and garage are consistent with the architecture on the Property now and the neighborhood generally. Therefore, the Petitioner requests the Board find that the proposed addition of the mudroom is not substantially more detrimental to the neighborhood than the existing structure.

Should you require any further information, please let me know.

Respectfully submitted,
Thomas Baillie and Ann Domigan
By their Attorney,


Lisa L. Mead

Attachment
cc: Client



- ☐ MVPC Bo
- ☐ Newburyport Boundary
- Trees
 - Immediate Action Needed
 - No Action Needed
 - Unknown
- Railroad
- ☐ Parcels
- Sidewalks
- Water System
 - Hydrant
 - Trails
 - ▭ Building Footprints
 - Driveways
 - ▭ Easements

- Road Right of Way
 - Paved
 - Unpaved
- Hydrographic Features
 - Streams
 - Intermittent Stream
- Wetlands
 - ☐ City
 - ☐ City and State
 - ☐ State
- ☐ Exempt Lands
- Recreation Areas

1" = 49 ft



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

CITY OF NEWBURYPORT, MA
ZONING REVIEW/BUILDING PERMIT DENIAL

APR# 2018-022

Name: THOMAS BAILLIE/LISA MEAD MTC, LLC 978-463-7700

Address: 35 MARLBORO ST. Zoning District(s): R2/DCOD

Request: MODIFY STRUCTURE W/ SMALL ADDITIONS ON PRE-EXIST NON CONFORMING LOT. NO INTENSIFICATION OF EXT. OF NON CONF. NEW 2 CAR GARAGE PER SETBACKS

ZONING BOARD REVIEW REQUIRED

Variance

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

Sign Variance

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

Special Permit for Non-Conformities

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

Special Permit

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

PLANNING BOARD REVIEW REQUIRED

Special Permit

- Table of Permitted Uses (V-D)
- Marijuana Overlay District (V-G)
- 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 ___ Rear Yard
 - ___ Upward Extension ___ Lot Coverage
 - ___ Open Space ___ Side Yard
 - ___ Height ___ Lot Frontage
 - ___ Lot Area ___ 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

< 25% DEMO + NO ROOFLINE CHANGE TO EXISTING HISTORIC = NO REVIEW

CONSERVATION COMMISSION REVIEW REQUIRED

CITY COUNCIL REVIEW REQUIRED (X.H.9)

Joseph Blum
Newburyport Zoning Administrator

3/27/2018
Date

35 MARLBORO ST

Location 35 MARLBORO ST

Mblu 29/ 45/ //

Owner HUBBARD GAYLEN

Assessment \$780,700

PID 1644

Building Count 1

Current Value

Assessment			
Valuation Year	Improvements	Land	Total
2018	\$505,600	\$275,100	\$780,700

Owner of Record

Owner HUBBARD GAYLEN

Sale Price \$800,000

Co-Owner JARED T/E

Certificate

Address 35 MARLBORO ST

Book & Page 34624/0416

NEWBURYPORT, MA 01950

Sale Date 12/29/2015

Instrument 00

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
HUBBARD GAYLEN	\$800,000		34624/0416	00	12/29/2015
CRAGIN PAUL A & CATHERINE R TRS	\$0		33648/0516	1F	11/03/2014
CRAGIN PAUL A & CATHERINE R TRS	\$0		30473/0447	1F	06/17/2011
CRAGIN PAUL A	\$232,500		10039/0586	00	06/16/1989
COLSON E GARRETT	\$1		09816/0088	1A	12/13/1988

Building Information

Building 1 : Section 1

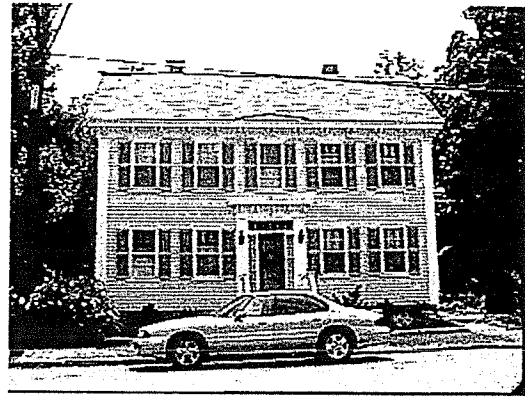
Year Built: 1849

Living Area: 2,668

Building Photo

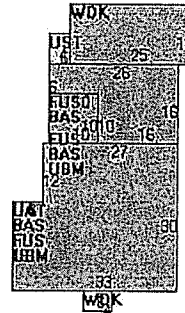
Building Attributes	
Field	Description
Style	Antique
Model	Residential
Stories:	2 Stories
Occupancy	1
Exterior Wall 1	Clapboard
Exterior Wall 2	

Roof Structure:	Gable/Hip
Roof Cover	Asph/F GlS/Cmp
Interior Wall 1	Plastered
Interior Wall 2	Drywall/Sheet
Interior Flr 1	Pine/Soft Wood
Interior Flr 2	Hardwood
Heat Fuel	Gas
Heat Type:	Hot Water
AC Type:	None
Total Bedrooms:	3 Bedrooms
Total Bthrms:	2
Total Half Baths:	1
Total Xtra Fixtrs:	
Total Rooms:	8
Bath Style:	Average
Kitchen Style:	Average



(http://images.vgsi.com/photos/NewburyportMAPphotos/\01\00\13\33.jpg)

Building Layout



Building Sub-Areas (sq ft)			Legend	
Code	Description	Gross Area	Living Area	
BAS	First Floor	1,334	1,334	
FUS	Upper Story, Finished	1,334	1,334	
UAT	Attic	918	0	
UBM	Basement, Unfinished	1,234	0	
UST	Utility, Storage, Unfinished	24	0	
WDK	Deck, Wood	324	0	
		5,168	2,668	

Extra Features

Extra Features				Legend
Code	Description	Size	Value	Bldg #
FPL4	FIREPLACE, MNF	1 UNITS	\$1,600	1

Land

Land Use

Use Code 1010
Description SINGLE FAM

Land Line Valuation

Size (Acres) 0.28
Depth 0

Zone R2

Assessed Value \$275,100

Outbuildings

Outbuildings	Legend
No Data for Outbuildings	

Valuation History

Assessment			
Valuation Year	Improvements	Land	Total
2017	\$505,600	\$262,000	\$767,600

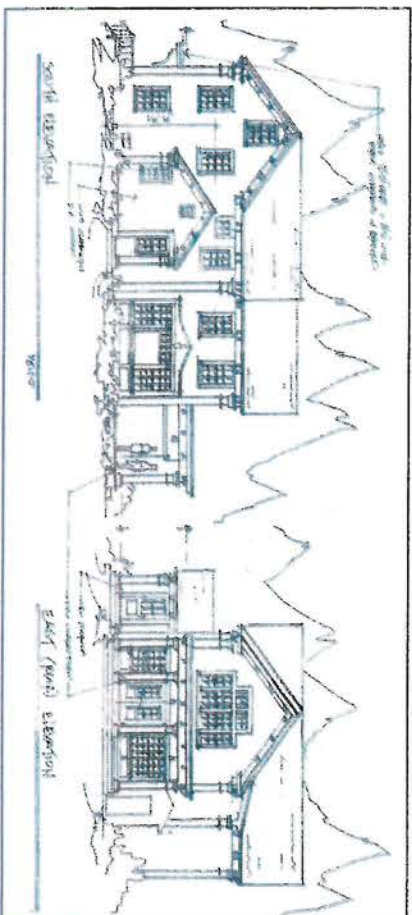
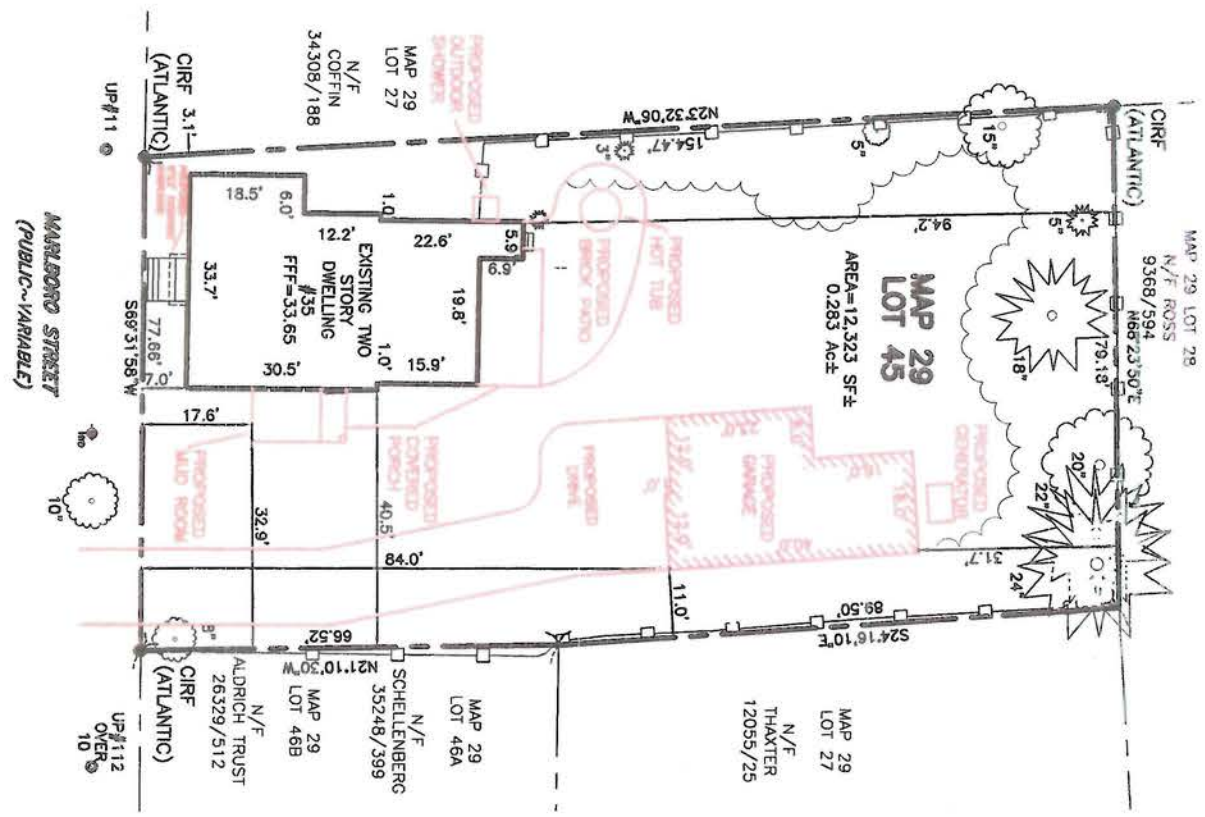
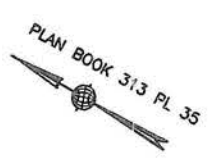
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ZONING

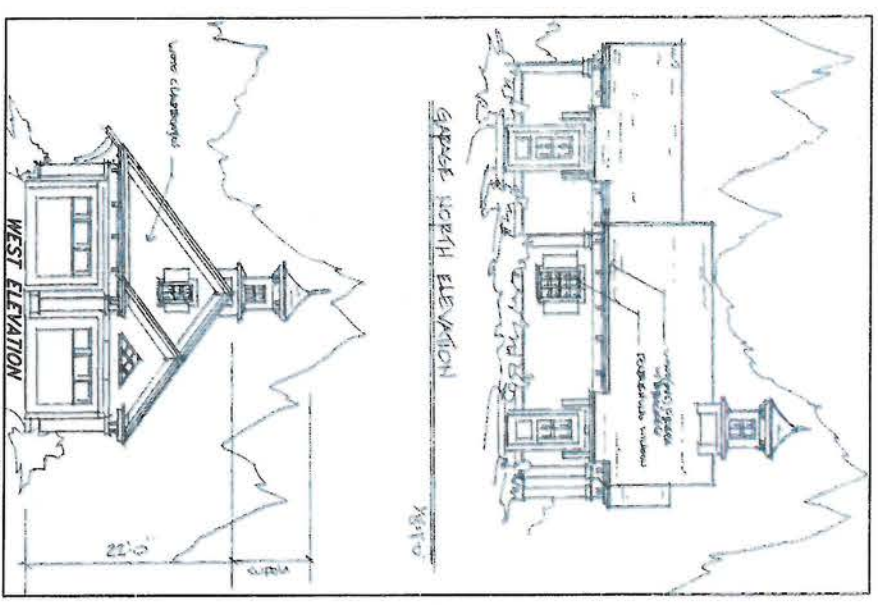
RESIDENTIAL 2 (R2)

	REQUIRED	EXISTING	PROPOSED
MIN LOT AREA	10,000 SF	412,323 SF	12,323 SF (NC)
MINIMUM FRONTAGE	90 FEET	477.66 FEET	77.66 FEET (NC)
FRONT	25 FEET	47.0 FEET	7.0 FEET (NC)
SIDE	10 FEET	43.1 FEET (L)	3.1 FEET (L) (NC)
		40.5 FEET (R)	11.0 FEET (R)
REAR	25 FEET	94.2 FEET	31.7 FEET
% LOT COVERAGE	25%	12.61%	18.79%
MAX BLD HEIGHT (MEAN)	35 FEET	27 FEET	27 FEET (NO-DWELLING)
% OPEN SPACE	40%	63.58%	22 FEET (GARAGE)
			70.81%

*DENOTES PRE-EXISTING NON CONFORMANCE



PROPOSED DWELLING VIEWS
NOT TO SCALE



PROPOSED GARAGE VIEWS
NOT TO SCALE

REDUCED-NOT TO SCALE



LEGEND:

TMH	TELEPHONE MANHOLE
EM	ELECTRIC METER
GM	GAS METER
GG	GAS GATE
CB	CATCH BASIN
N/F	NOW OR FORMERLY
UP	UTILITY POLE
VGC	VERTICAL GRANITE CURB
WG	WATER GATE
6132/242	DEED BOOK/PAGE
TBR	TO BE REMOVED
---	STOCKADE FENCE

BY:	DESCRIPTION:	DATE:	REV:
THOMAS BAILLIE			0

OWNER:
THOMAS BAILLIE & ANN DOMIGAN
DEED BOOK 36528 PAGE 599
ASSESSOR'S MAP 29 LOT 45

REFERENCES:
1. ESSEX COUNTY REGISTRY OF DEEDS
DEED BOOK 36528 PAGE 599 (DEED)
PLAN BOOK 144 PLAN 12
PLAN BOOK 154 PLAN 9
PLAN BOOK 190 PLAN 78
PLAN BOOK 243 PLAN 41
PLAN BOOK 313 PLAN 35

- NOTES:**
1. FIELD SURVEY PERFORMED: FEBRUARY 9, 2018.
 2. THIS PLAN IS PREPARED FOR OUR CLIENT USE ONLY FOR THE SPECIFIC PURPOSE OF OBTAINING PERMITS AND LOCAL APPROVALS, AND IS NOT TO BE USED OR RELIED UPON AS A CONSTRUCTION DOCUMENT OR ANY OTHER USE BY OTHERS WITHOUT THE WRITTEN CONSENT OF HANCOCK ASSOCIATES.
 3. THE ENTIRETY OF THE SUBJECT PROPERTY LIES IN ZONE X AREA DETERMINED TO BE OUTSIDE THE 0.2% CHANCE ANNUAL FLOODPLAIN.

I HEREBY CERTIFY THAT:

THIS PLAN IS BASED ON AN ON-THE-GROUND SURVEY AND PRESENTS THE FACTS AS FOUND AT THE TIME OF THE SURVEY.
I FURTHER CERTIFY THAT THE PROPERTY LINES SHOWN ON THIS PLAN ARE THE LINES DIVIDING EXISTING OWNERSHIP AND THE LINES OF THE STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED, AND NO NEW LINES FOR DIVISION OF EXISTING OWNERSHIP OR FOR THE NEW WAYS ARE SHOWN AND IS NOT A CERTIFICATION TO THE TITLE OR OWNERSHIP OF THE PROPERTY SHOWN.



EDWARD DIXON
REGISTERED PROFESSIONAL LAND SURVEYOR
NO. 34304

DATE: 3-26-18

ZONING BOARD OF APPEAL
PLAN OF LAND
35 MARLBORO STREET
IN
NEWBURYPORT, MASSACHUSETTS
ESSEX COUNTY

PREPARED BY:
THOMAS BAILLIE

CIVIL ENGINEERS
HANCOCK ASSOCIATES

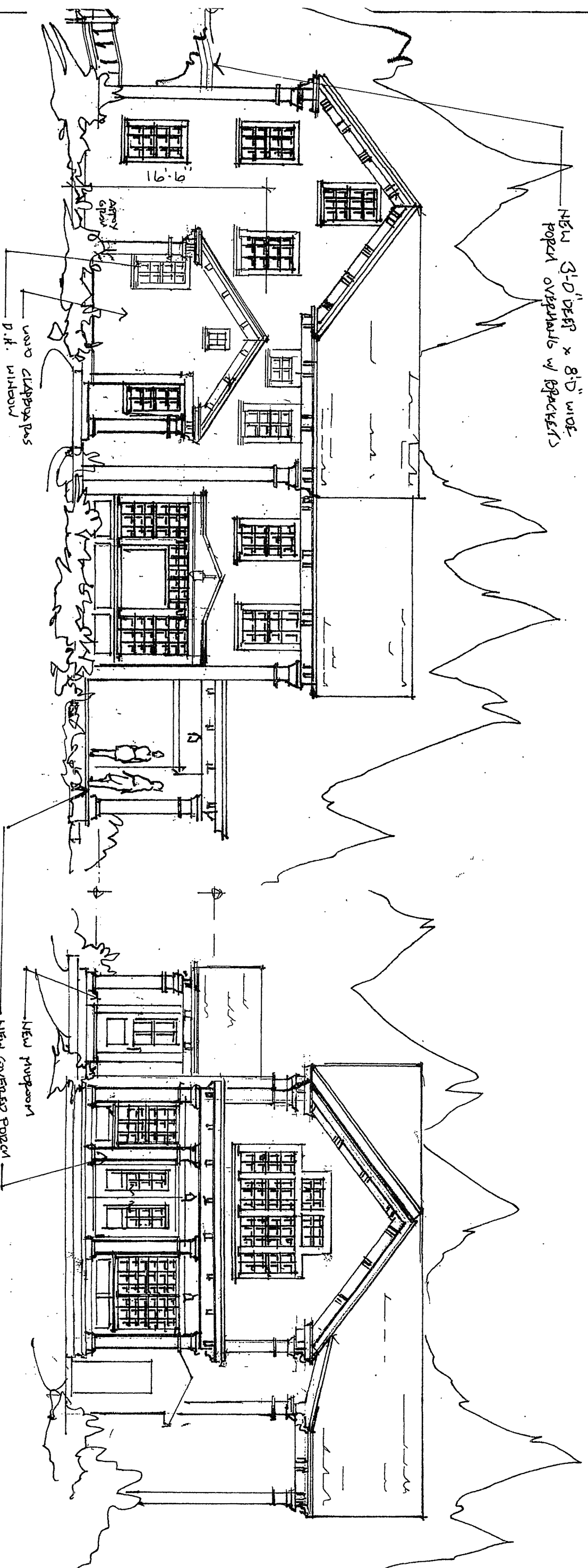
18 CENTER STREET
SUITE 1
NEWBURYPORT, MA 01950

Land Surveyors
Wetland Scientists
TEL: 978-465-9992
www.hancockassociates.com

RESEARCH: EDX/AM	FIELD: CHA/JML
CALCULATION: EDX	DRAFTING: AAM
CHECK: EDX	PROJ. MANAGER: EDX
DATE: MARCH 22, 2018	HANCOCK JOB#: 22057
CRD FILE 22057.CRD	SHEET NO. 1 OF 1

SOUTH ELEVATION

1/8"=1'-0"



EAST (P&P) ELEVATION

NEW PORCH
NEW COVERED PORCH

SHEET

SCHEMATIC A-1

Written dimensions on these drawings shall have precedence over scaled dimensions. Contractors shall verify and be responsible for all dimensions and conditions on the job. This office must be notified of any variations from the dimensions and conditions contained herein.

PROJECT
 RAILIE RES
 35 MARLBORO ST.
 NEWBURYPORT, MA

A. M. ERICMAN
 ARCHITECT
 101 WILSON ST.
 NEWBURYPORT, MA 01960
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 Laine M. Jones
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978-462-5346
 10 Rogers Street
 West Newbury, MA
 01985
 www.lmjonesdesign.com

L A I N E M
 JONES
 DESIGN

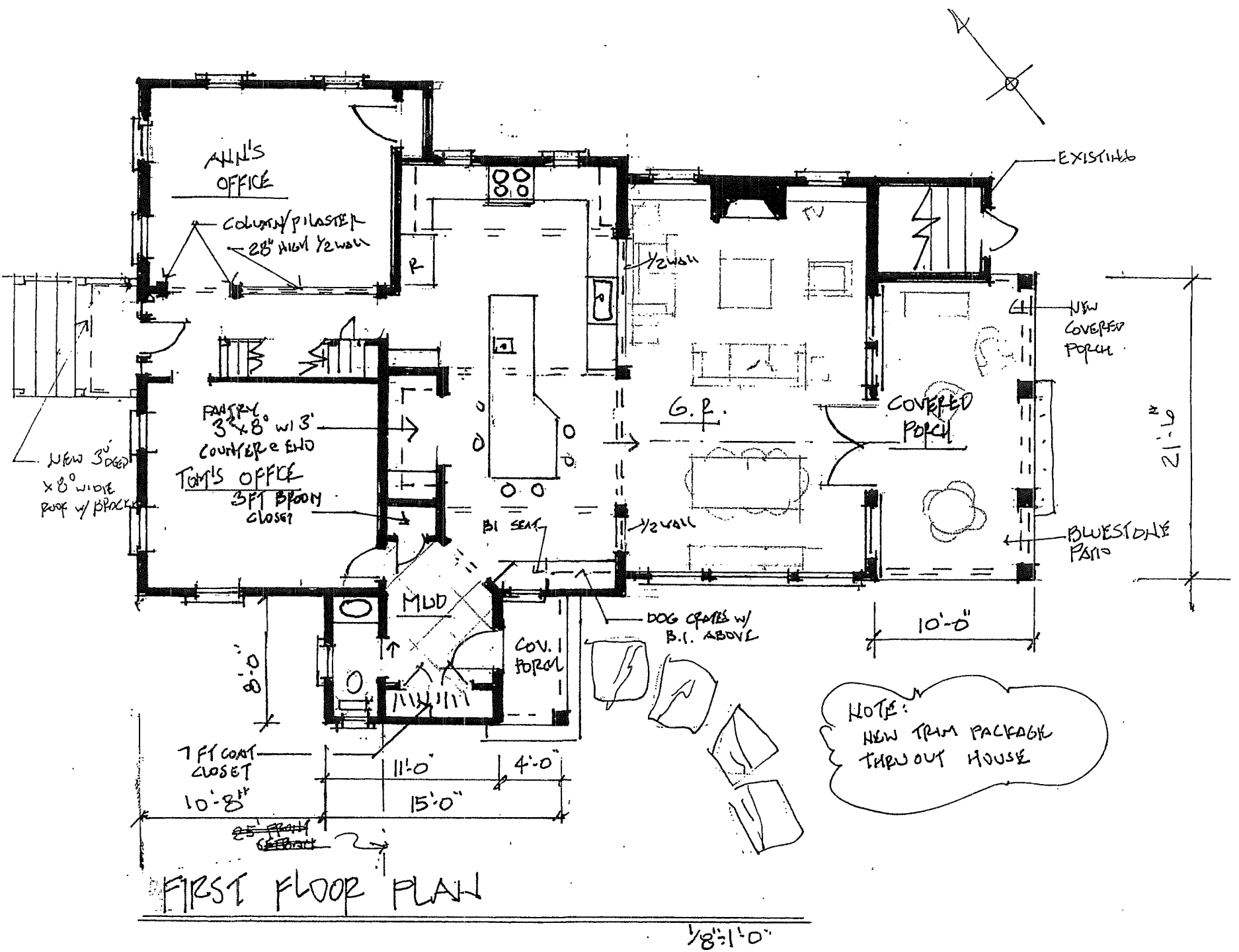
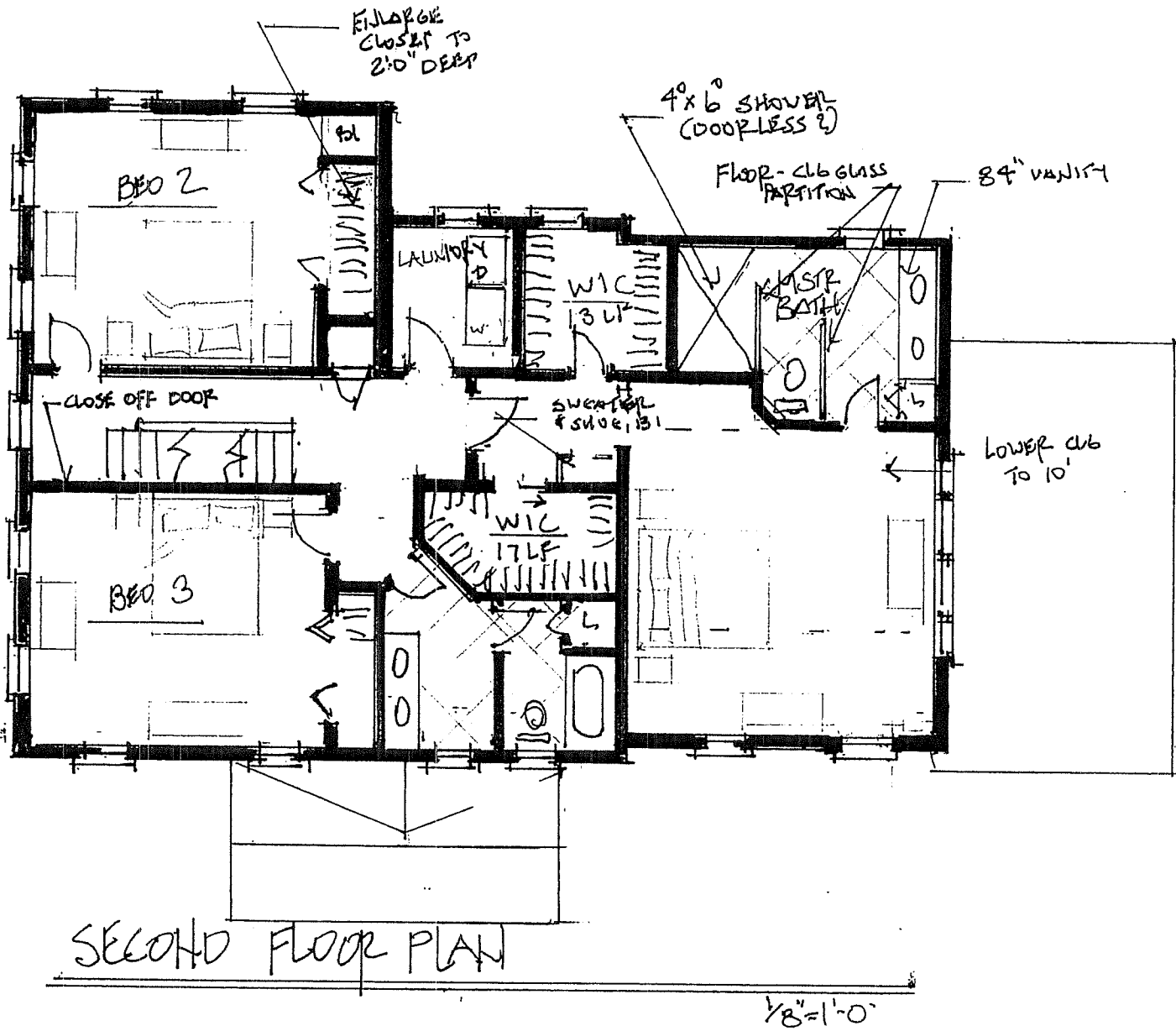
REVISIONS

DRAWN BY LNJ

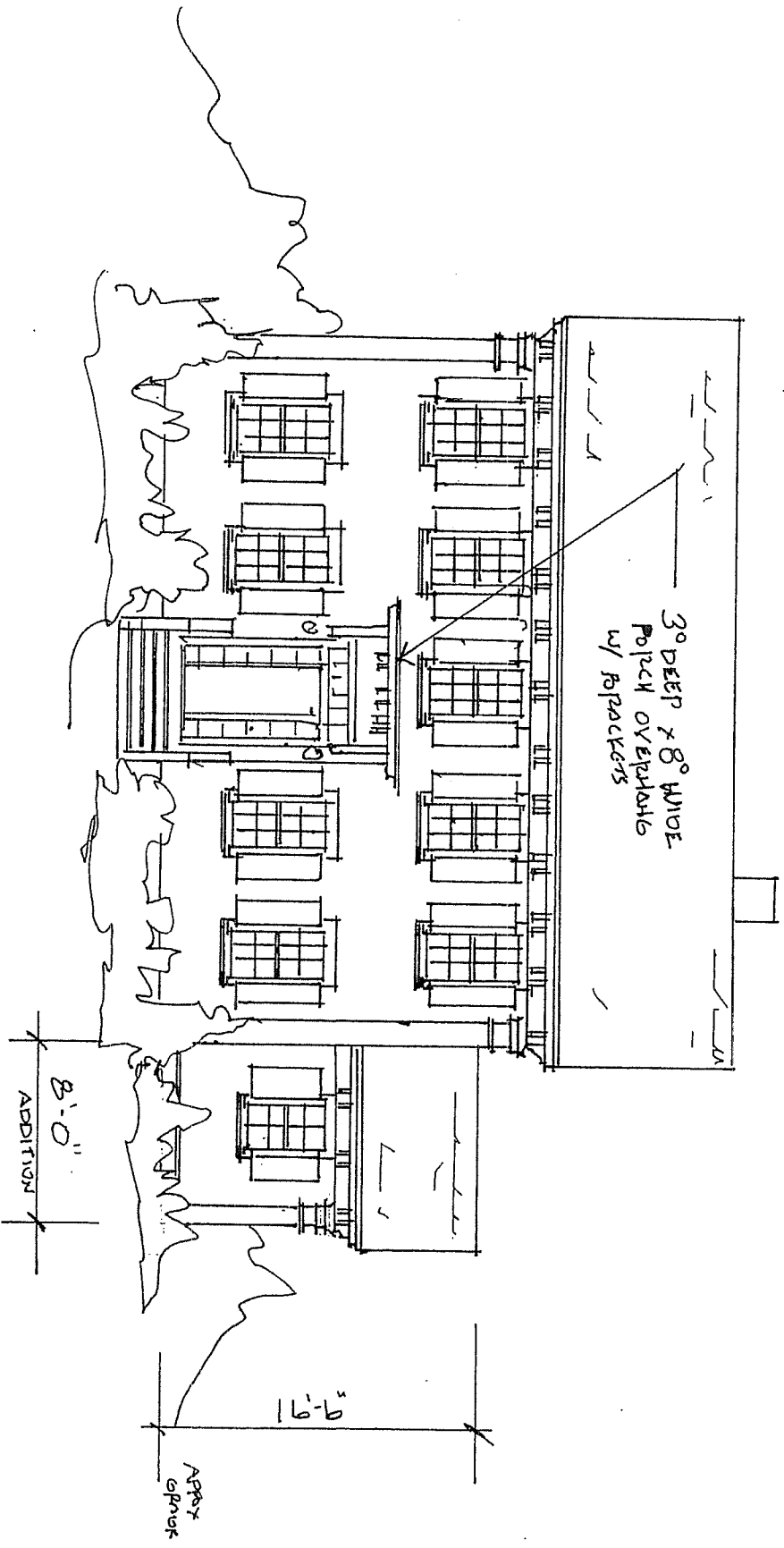
JOB 1805

DATE 3/21/8

SHEET 4



STREET (WEST) ELEVATION



18'11.0"

8'-0" ADDITION

9'-9"

Apply
c/note

SHEET	34	DRAWN BY	LAD
		JOB	1805
DATE	3/21/18	REVISIONS	


SHEET
SCHEMATIC A-1

Written dimensions on these drawings shall have precedence over scaled dimensions.
Contractor shall verify and be responsible for all dimensions and conditions on the job.
This office must be notified of any variations from the dimensions and conditions contained herein.

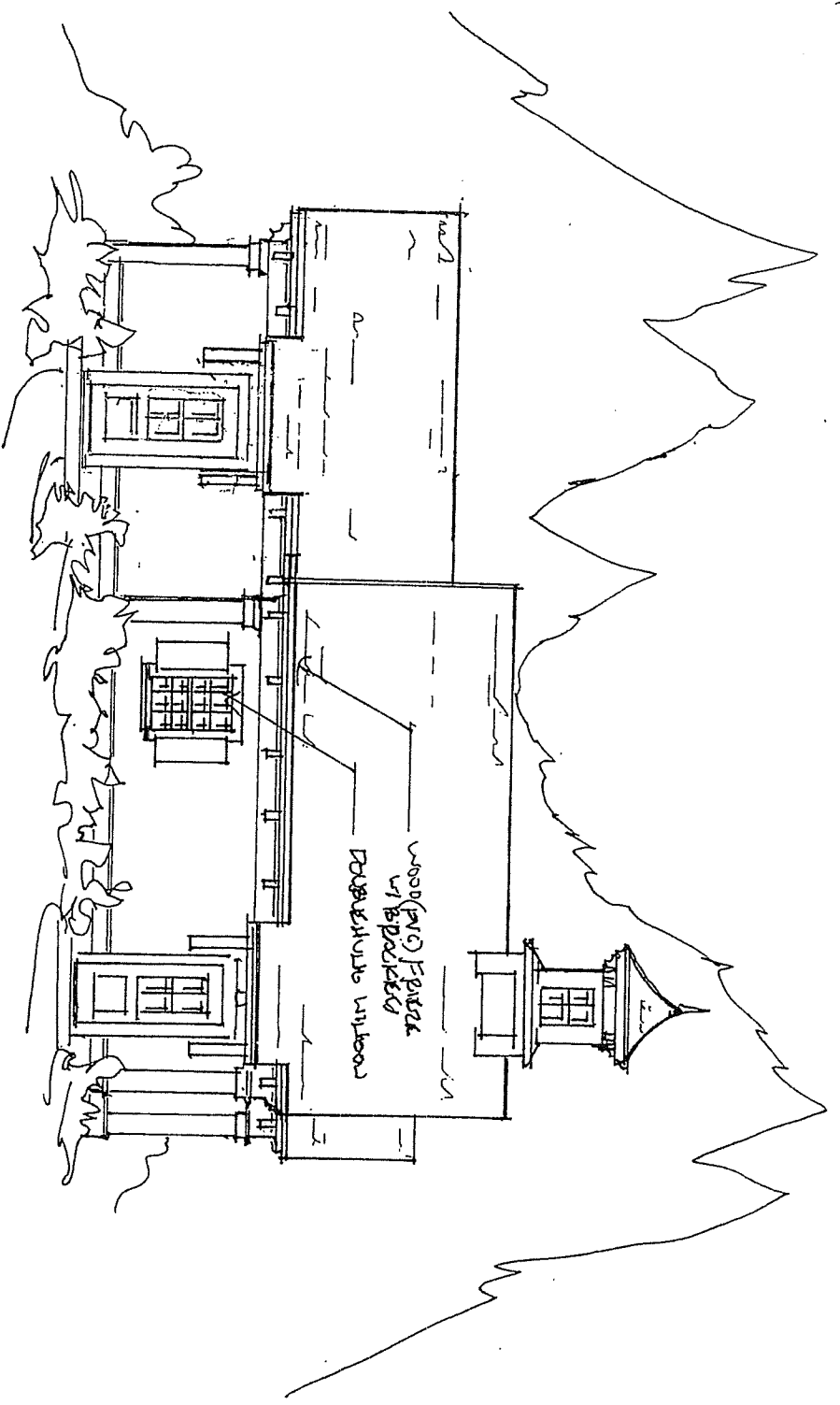
PROJECT
BAILLIE RES
35 MARLBORO ST.
NEW BURYFORD, MA

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10 Rogers Street
West Newbury, MA
01985
www.LaineJonesDesign.com

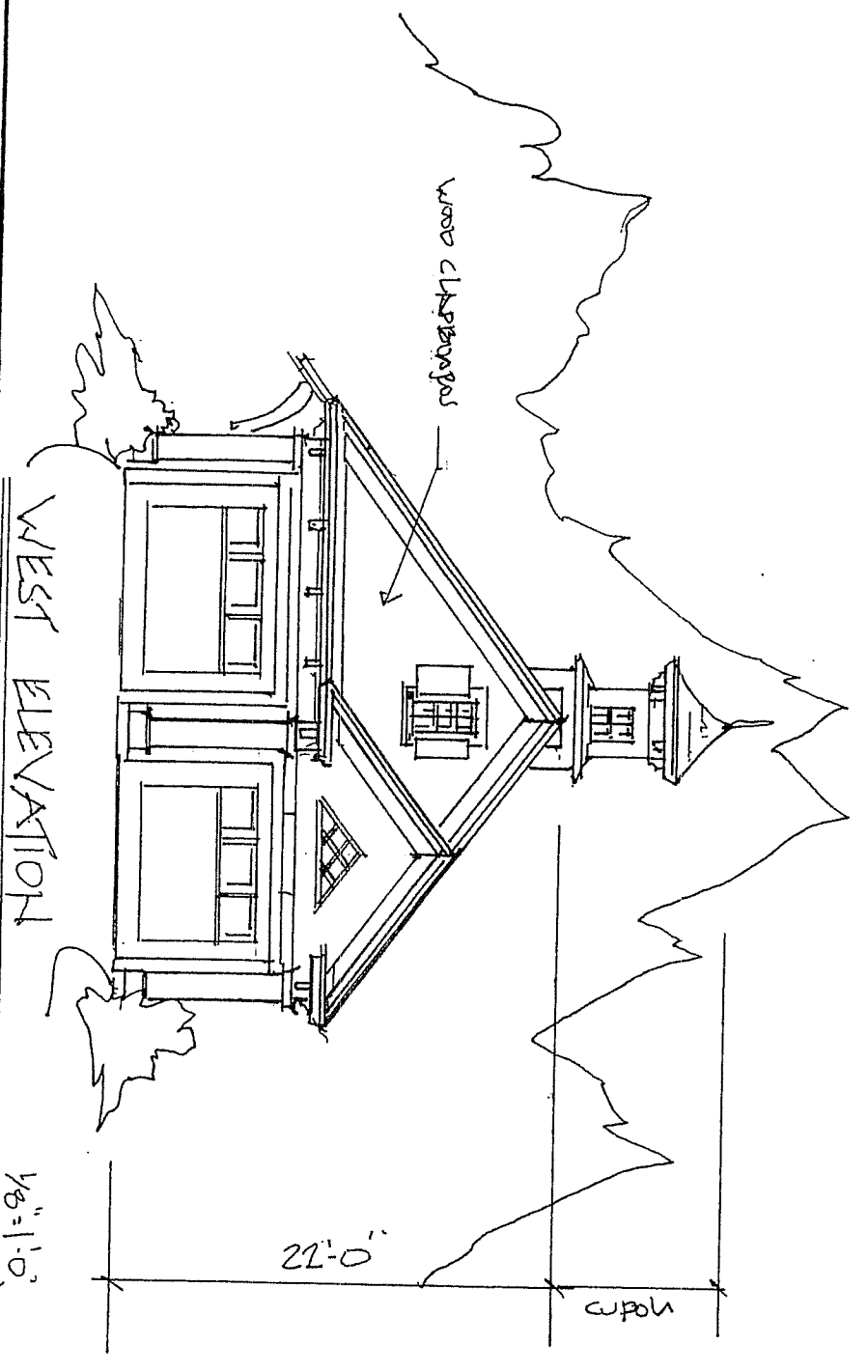


L A I N E M.
JONES
O F F I C E



GARAGE NORTH ELEVATION

1/8"=1'-0"



WEST ELEVATION

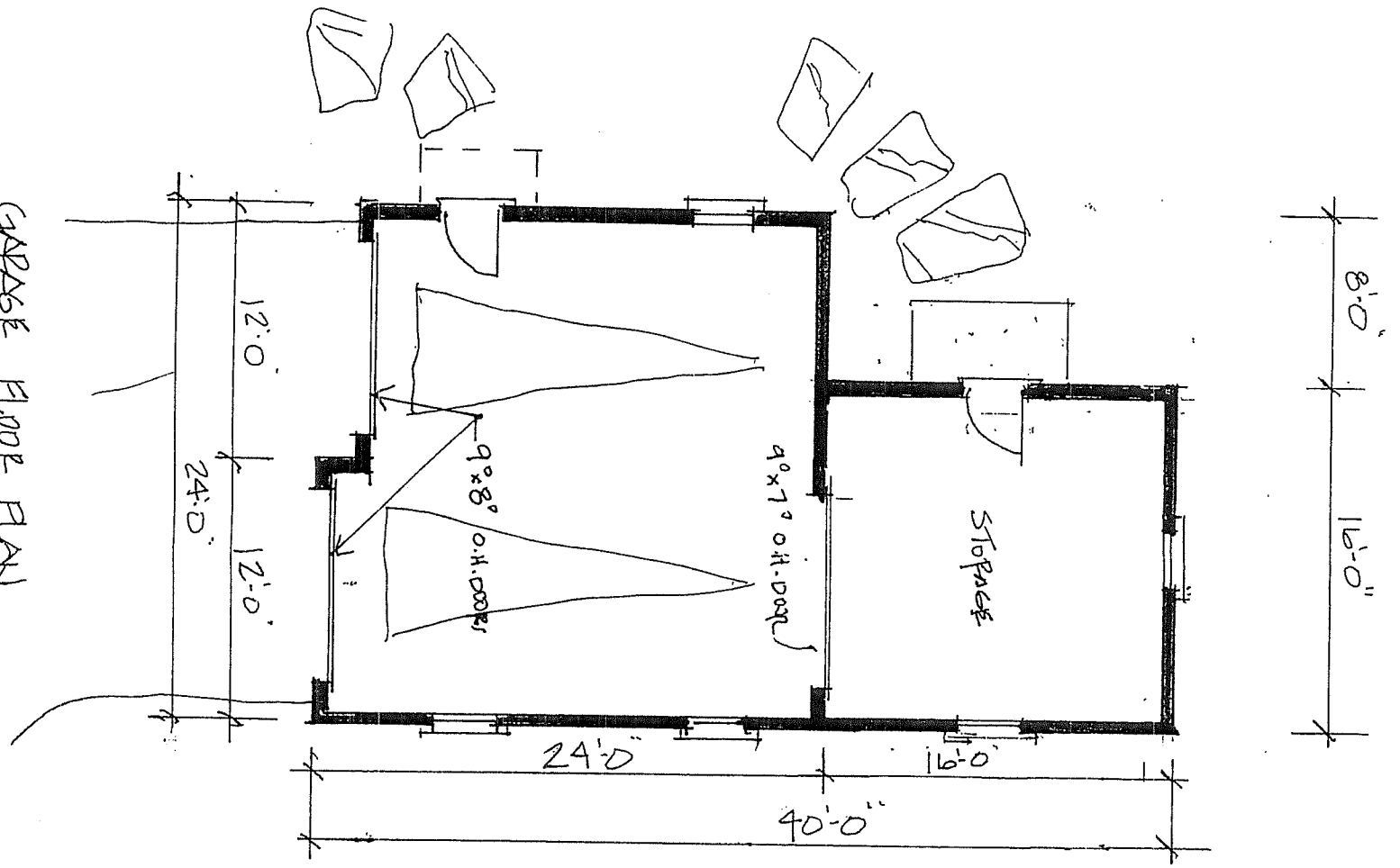
1/8"=1'-0"

22'-0"

Notes

GARAGE FLOOR PLAN

1/8"=1'-0"



SHEET	4
DATE	3/21/18
JOB	1805
DRAWN BY	LMJ

SHEET	SCHEMATIC A-1
REVISIONS	
Written dimensions on these drawings shall have precedence over scaled dimensions. Contractor shall verify and be responsible for all dimensions and conditions on the job. This office must be notified of any variations from the dimensions and conditions contained herein.	

PROJECT
 BAILIE RES
 35 MARLBORO ST
 NEWBURYPORT, MA

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 01985
 www.lainemjonesdesign.com

