

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

Petitioner: J & M Contractors, LLC c/o Lisa Mead, Mead, Talerman & Costa, LLC

Mailing Address: 30 Green Street

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

Property Address: 35 Oakland Street

Map and Lot(s): 57 - 52 Zoning District: R2/DCOD

Book and Page(s): 14846 - 0199

Owner(s) Name: David S. Rocco

Mailing Address (if different): _____

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 checked="" 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 | |

Description of request:
Construct addition to two-family residential structure.

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

	Existing Dimensional Controls	Proposed Dimensional Controls	Required Dimensional Controls
Lot Area	6,989 sq ft	6,989 sq ft	15,000 sq ft
Frontage	59 ft	59 ft	120 ft
Height*	24 ft	24 ft	35 ft
Lot Coverage (%)**	14.2%	23.1%	25%
Open Space (%)***	65.2%	61.5%	40%
Front Setback	4.4 ft	4.4 ft	25 ft
Side A Setback	19.3 ft	19.3 ft	20 ft
Side B Setback	8.7 ft	8.7 ft	20 ft
Rear Setback	87.3 ft	47.1 ft	25 ft
Parking Spaces	4+	4+	4
FAR****			

*Height is measured to median roof line.

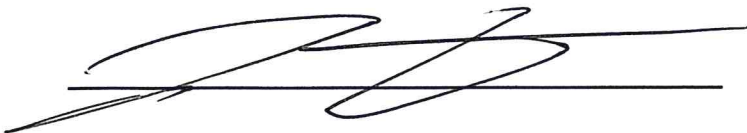
**Total building footprint divided by the lot area expressed as a percentage.

***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.

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





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 9, 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;
35 Oakland Street, Newburyport, MA (the "Property")
Assessor's Map: 57 Lot: 52

Dear Chair and Members of the Board:

Reference is made to the above-captioned matter. In that connection, this firm represents J & M Contractors, LLC (the "Applicant"), the purchaser of the Property, relative to the construction of an addition to a two-family residential structure (the "Structure"). The Applicant seeks a Special Permit for Non-Conformities for the project.

The Property is located in the R2 zoning district and Demolition Control Overlay District ("DCOD") under the Newburyport Zoning Ordinance (the "Ordinance"). The Property is pre-existing, nonconforming for use, lot area, and frontage. Based on the Assessor's records, the two-family use commenced in 1994 and as of October 2004 a special permit is required for two-family use in the R2 district. The Property measures 6,989 square feet and has 59 feet of frontage; the R2 district requires a minimum lot size of 15,000 square feet and 120 feet of frontage for a two-family. The Structure is pre-existing nonconforming for front setback and both side yard setbacks. The R2 district requires a minimum front setback of 25 feet and side yard setbacks of 20 feet for a two-family use; the front yard setback for the Structure is 4.4 feet and the side yard setbacks are 19.3 feet and 8.7 feet. The height, lot coverage, rear yard setback, open space, and parking are all in compliance with the Ordinance.

The Applicant proposes to construct a 2.5 story addition connected to the rear of the existing Structure by a common wall connector to relocate one of the units from the existing Structure to the proposed addition. As shown on the site plan and architectural plans attached hereto, the common wall connector will meet all four requirements under Section II-B(15) of the Ordinance.

The proposed addition is stepped back on both side yard setback from the existing footprint, but will extend the pre-existing, nonconforming side yard setback on the left side of the Structure. The proposed side yard setback on the left side is 11.4 feet. The proposed addition complies with all other dimensional requirements of the Ordinance. The percentage of the exterior walls to be demolished is 20.4%, thus the DCOD is not triggered.

Millis Office

730 Main Street, Suite 1F
Millis, MA 02054

Phone 508.376.8400

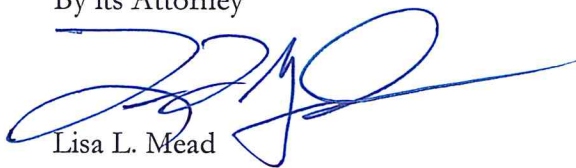
The Applicant will require a Special Permit for non-conformities under section IX-B-2.A of the Ordinance for the proposed addition. Section IX-B-2.A allows the modification of a preexisting nonconforming two-family structure where the Board finds that:

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

1. As is shown on the plans, there will be no addition of a new nonconformity.
2. The proposed changes will not be substantially more detrimental to the neighborhood than the pre-existing nonconforming Structure. The Applicant has stepped back the proposed addition from the original Structure, resulting in a side yard setback of 11.4 feet on the left side, which extends the nonconformity, while the side yard setback on the right side of the proposed addition will comply with the Ordinance. As shown on a MIMAP view of the neighborhood, the Property is of similar size or larger than a number of the lots on the odd side of Oakland Street. See **Exhibit A**. The Property can accommodate the addition to the rear of the Structure and the proposed rear setback is 47.1 feet, well in compliance of the minimum required 25 feet and which provides ample space between the proposed addition and abutting properties to the rear on Tyng Street. Further, the size of the Structure with the addition is similar to the two-family structure at 32 Oakland Street and condominium buildings at 17-19 Oakland, 20 Oakland, and 30 Oakland. The two-family use remains unchanged and the proposal is not substantially more detrimental to the neighborhood.

The Applicant respectfully requests 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
J & M Contractors LLC
By its Attorney



Lisa L. Mead

Attachment
cc: client

CITY OF NEWBURYPORT, MA

APR# 2020-028

ZONING DETERMINATION

Name: J & M Contractors, LLC c/o Lisa Mead, MTC LLC

Address: 35 Oakland Street Zoning District(s): R2/DCOD

Request: Construct addition to 2 family structure that extends non conforming side yard setbacks on a property that is non conforming for area and frontage for a 2 family use. Addition exceeds 500sf. <25% wall demolition. Associated demolition of a potentially historic accessory structure.

ZONING BOARD REVIEW REQUIRED

Variance

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

Sign Variance

- Signs (VIII)
Type, Size, Lighting, 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, Rear Yard, Upward Extension, Lot Coverage, Open Space, Side Yard, Height, Lot Frontage, Lot Area, Front Yard, Use, Over 500 sf. increase (IX.B.3.c), Plum Island Overlay District (XXI-G-3)
FAR, Height, Lot Coverage, 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, Rear Yard, Upward Extension, Lot Coverage, Open Space, Side Yard, Height, Lot Frontage, Lot Area, Front Yard, Use, 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

tree and sidewalk substantial rehab review

Newburyport Zoning Administrator signature

03/05/2020

Date

35 OAKLAND ST

Location 35 OAKLAND ST

MBLU 57/ 52/ //

Owner ROCCO DAVID S

Assessment \$568,000

PID 3955

Building Count 1

Current Value

Assessment			
Valuation Year	Improvements	Land	Total
2020	\$306,500	\$261,500	\$568,000

Owner of Record

Owner ROCCO DAVID S
Co-Owner
Address 1263 SOLANA RD
 NAPLES, FL 34103

Sale Price \$299,900
Certificate
Book & Page 14846/0199
Sale Date 06/01/1998
Instrument 00

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
ROCCO DAVID S	\$299,900		14846/0199	00	06/01/1998
JONES LINELL M	\$150,000		08139/0487	00	02/28/1986
STEVENS JUDITH C	\$71,000		07168/0017	00	07/21/1983
HICKEY EILEEN K	\$0		5866/ 493		05/16/1972

Building Information

Building 1 : Section 1

Year Built: 1850
Living Area: 1,943

Building Attributes	
Field	Description
Style	Family Conver.
Model	Residential
Stories:	2.75
Occupancy	2
Exterior Wall 1	Clapboard
Exterior Wall 2	

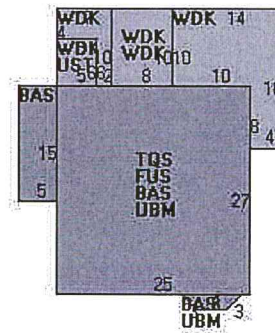
Roof Structure:	Gable/Hip
Roof Cover	Asph/F Gls/Cmp
Interior Wall 1	Drywall/Sheet
Interior Wall 2	
Interior Flr 1	Carpet
Interior Flr 2	
Heat Fuel	Gas
Heat Type:	Forced Air-Duc
AC Type:	None
Total Bedrooms:	3 Bedrooms
Total Bthrms:	2
Total Half Baths:	1
Total Xtra Fixtrs:	
Total Rooms:	9 Rooms
Bath Style:	Average
Kitchen Style:	Average

Building Photo



(<http://images.vgsi.com/photos/NewburyportMAPotos//\00\00\00\89.jpg>)

Building Layout



(http://images.vgsi.com/photos/NewburyportMAPotos//Sketches/3955_4110.jpg)

Building Sub-Areas (sq ft)		Legend	
Code	Description	Gross Area	Living Area
BAS	First Floor	762	762
FUS	Upper Story, Finished	675	675
TQS	Three Quarter Story	675	506
UBM	Basement, Unfinished	687	0
UST	Utility, Storage, Unfinished	30	0
WDK	Deck, Wood	402	0
		3,231	1,943

Extra Features

Extra Features	Legend
No Data for Extra Features	

Land

Land Use		Land Line Valuation	
Use Code	1040	Size (Acres)	0.16
Description	TWO FAMILY	Depth	0
		Assessed Value	\$261,500

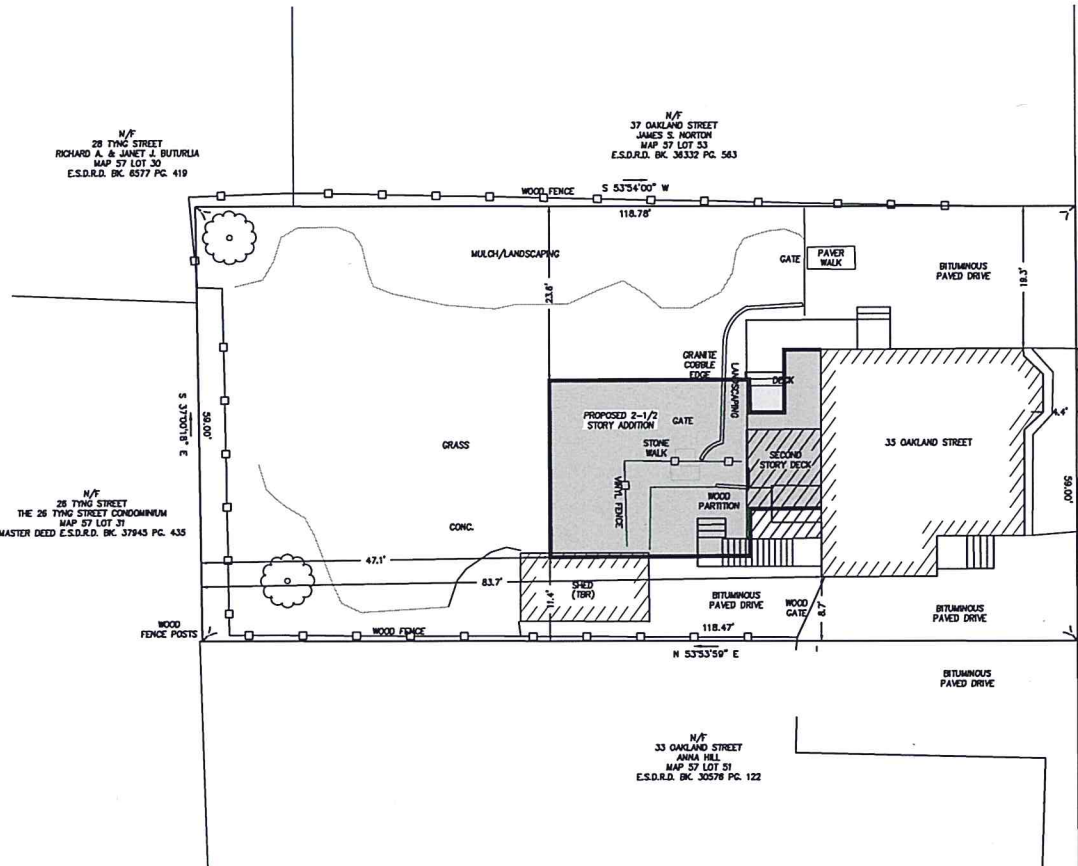
Outbuildings

Outbuildings	Legend
No Data for Outbuildings	

Valuation History

Assessment			
Valuation Year	Improvements	Land	Total
2019	\$255,500	\$261,500	\$517,000

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OAKLAND STREET

ZONING
RESIDENTIAL (R-2)
TWO-FAMILY (102)

	REQUIRED (TWO-FAMILY - 1021)	EXISTING (TWO-FAMILY - 102)	PROPOSED (TWO-FAMILY - 102)
MINIMUM LOT AREA	15,000 SQUARE FEET	6,989 SQUARE FEET	6,989 SQUARE FEET
MINIMUM FRONTAGE	120 FEET	59.00 FEET	59.00 FEET
FRONT SETBACK	25 FEET	4.4 FEET	4.4 FEET
SIDE SETBACK (R)	20 FEET	19.3 FEET	19.3 FEET
SIDE SETBACK (L)	20 FEET	8.7 FEET	8.7 FEET
REAR SETBACK	25 FEET	87.3 FEET	47.1 FEET
MAXIMUM LOT COVERAGE (%) 25%		14.2%	23.1%
MAXIMUM HEIGHT	35 FEET	24 FEET	24 FEET
MINIMUM OPEN SPACE	40%	65.2%	61.5%
MINIMUM PARKING	4	4+	4+

ON-LINE ZONING ORDINANCES
CITY OF NEWBURYPORT WEBSITE
<http://www.cityofnewburyport.com/Planning/index.html>
PLANNING DEPARTMENT - MAIN PHONE: 978-463-4400
INFORMATION REGARDING ZONING, INCLUDING PARKING ABOVE, SHOWN HEREON IS NOT INTENDED TO BE A DEFINITIVE ZONING OPINION AND IS FOR INFORMATIONAL PURPOSES ONLY. ALL INFORMATION SHOULD BE VERIFIED BY LOCAL COUNSEL PRIOR TO RELIANCE UPON THE SAME.

NOTES

THE PURPOSE OF THIS PLAN IS TO SHOW THE EXISTING BUILDING AND PROPOSED RECONSTRUCTION OF THE SAME ON THE LOCUS PROPERTY. THE PROPERTY LINES SHOWN ON THIS PLAN ARE THE RESULT OF AN ON-THE-GROUND INSTRUMENT SURVEY PERFORMED FEBRUARY 4, 2020 BY THIS FIRM.
ARCHITECTURAL PLANS HAVE BEEN UTILIZED FOR BUILDING ADDITION DETAILS.
OWNERSHIP INFORMATION USED IN THE PREPARATION OF THIS PLAN WAS OBTAINED FROM THE CITY OF NEWBURYPORT ASSESSOR'S OFFICES.
TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION, AND BELIEF, THIS PLAN CONFORMS TO THE TECHNICAL AND PROCEDURAL STANDARDS FOR THE PRACTICE OF LAND SURVEYING IN THE COMMONWEALTH OF MASSACHUSETTS.

P.L.S. EVERETT J. CHANDLER, P.L.S.
MASS. REGISTRATION NO. 41783

LOCUS TITLE INFORMATION

35 OAKLAND STREET
OWNER: DAVID S. ROCCO
DEED REFERENCE: BK. 14846 PG. 199
ASSESSORS: MAP 57 LOT 52

Copyright 2020 Winter GEC, LLC

Winter GEC, LLC
44 MERRIMAC STREET
NEWBURYPORT, MA 01950
978-270-8626

SCALE:
HORIZ: 1"= 10'
VERT: _____

NO.	DATE	BY	REVISIONS

FIELD: CO
CALCS: EC
CHECKED: EJC
APPROVED: EJC

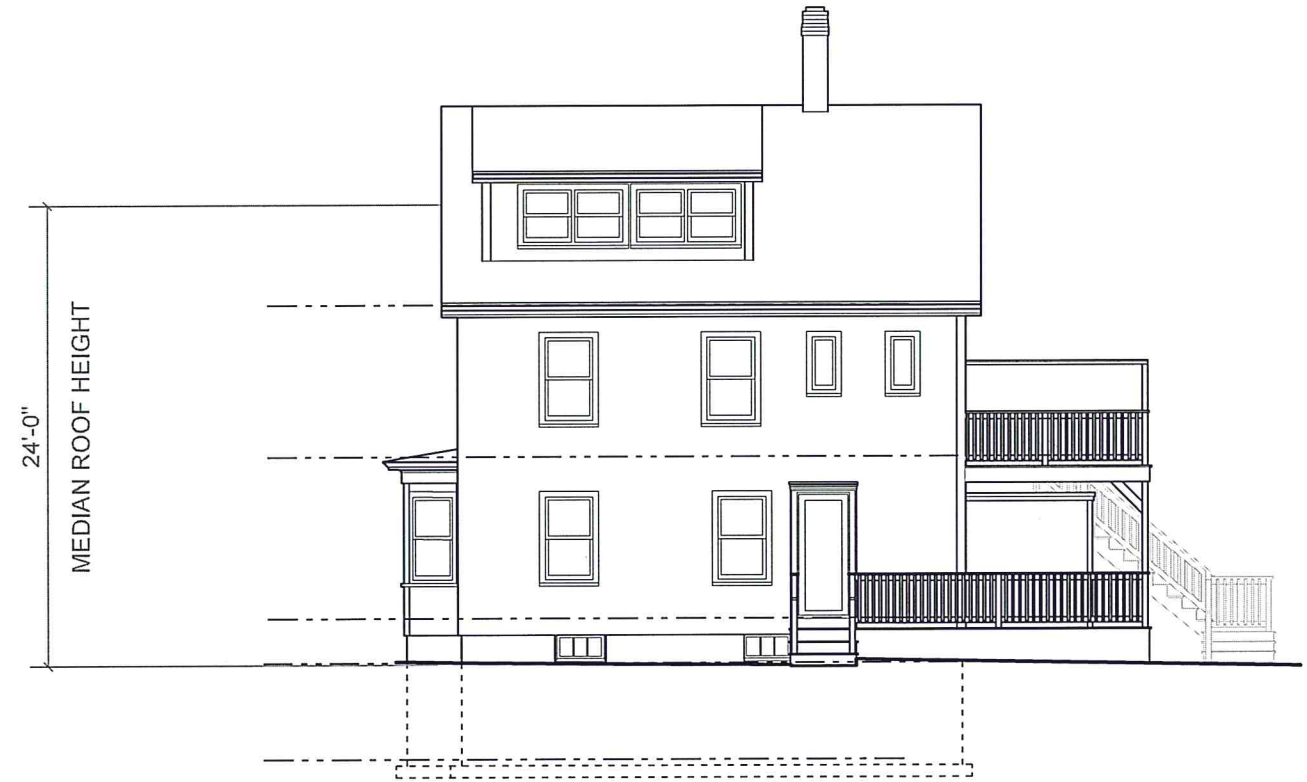
ZONING BOARD OF APPEALS
PLAN
35 OAKLAND STREET

PLAN OF LAND IN
NEWBURYPORT, MASSACHUSETTS
SURVEYED FOR
J & M CONTRACTING, LLC

PROJECT NO.
2020-35OAKLAND
DATE: FEB 28, 2020
SHEET NO.
1 OF 1



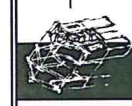
Existing Front Elevation
Scale: 1/4" = 1'-0"



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

Revisions:

KEERY
DESIGN | LLC
437 Merrimack Street
Newburyport, Massachusetts 01950
978/395-5270

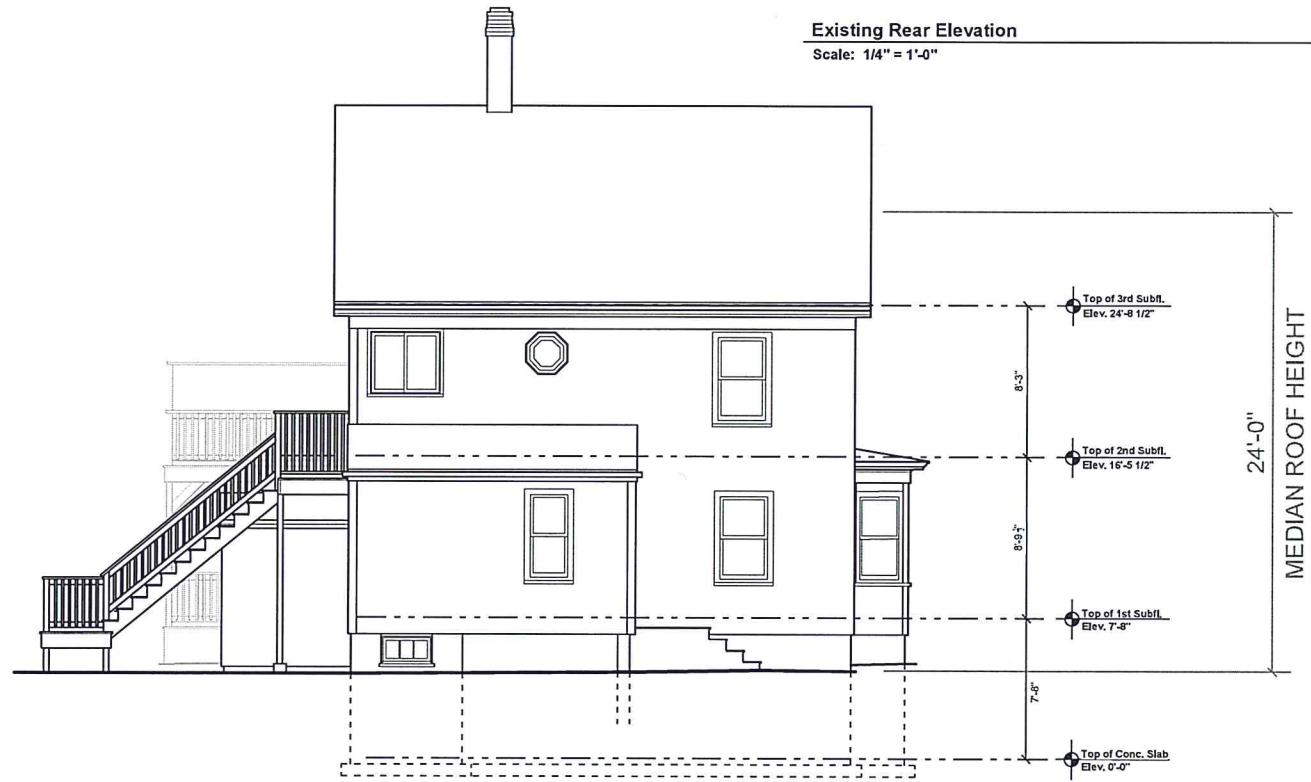


**ZONING
DRAWINGS**

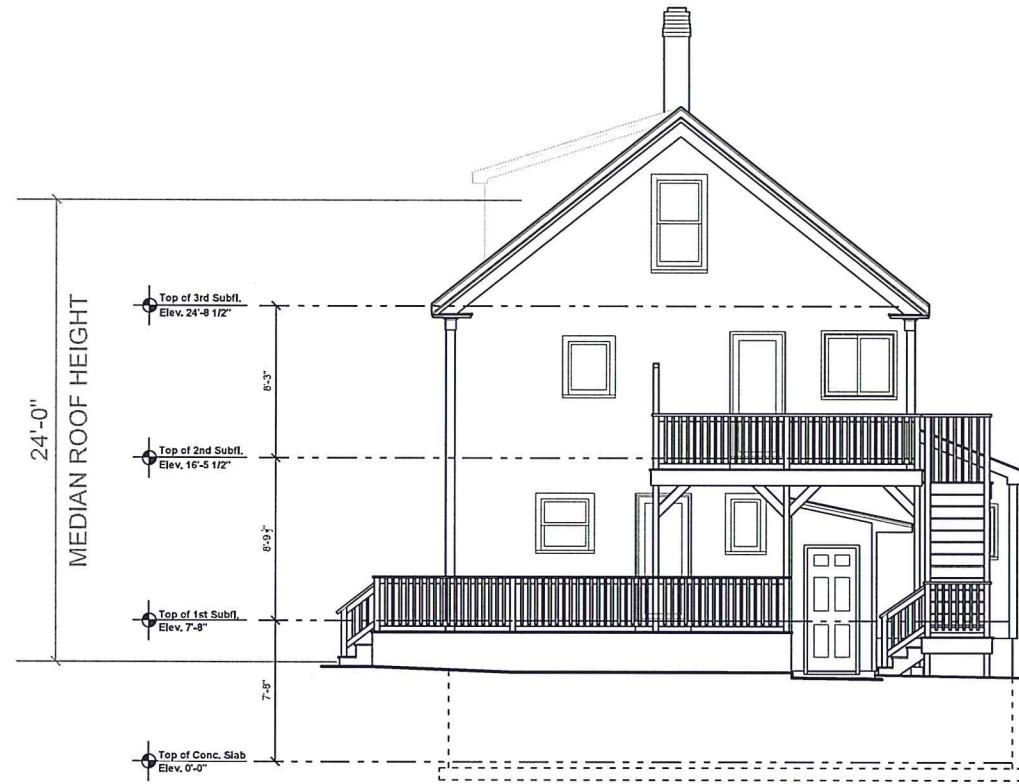
Addition and Renovations to:
35 Oakland Street
Newburyport, MA 01950

Existing Elevations
Project No. 20092 Scale: 1/4" = 1'-0" Date: March 3, 2020

FC3



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



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

EC4

Existing Elevations

Project No. 20002 Scale: 1/4" = 1'-0" Date: March 3, 2020

Addition and Renovations to:
35 Oakland Street
 Newburyport, MA 01950

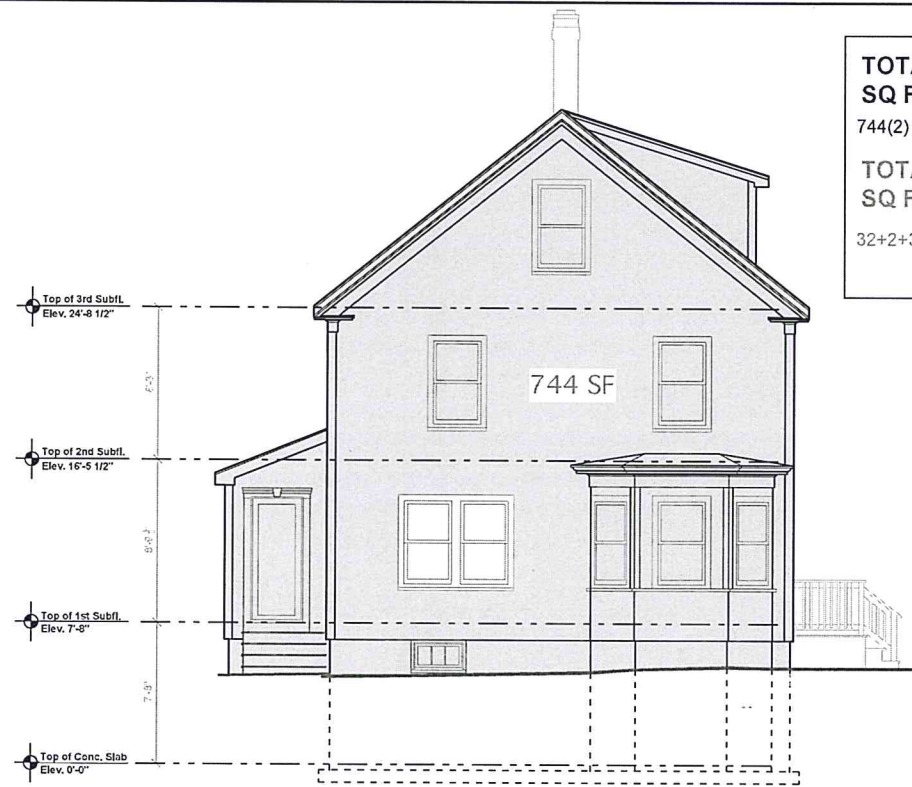
**ZONING
 DRAWINGS**



KEERY
 design LLC
 437 Merrimac Street
 Newburyport, Massachusetts 01950
 978/295-5710

Revisions:

No.	Description

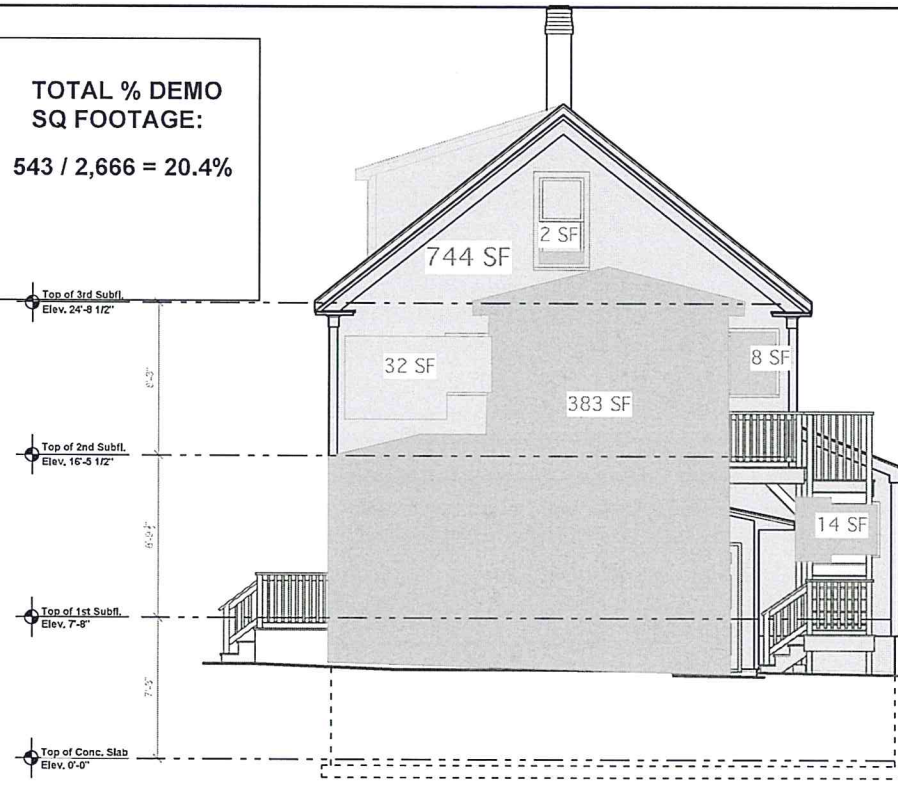


Existing Front Elevation
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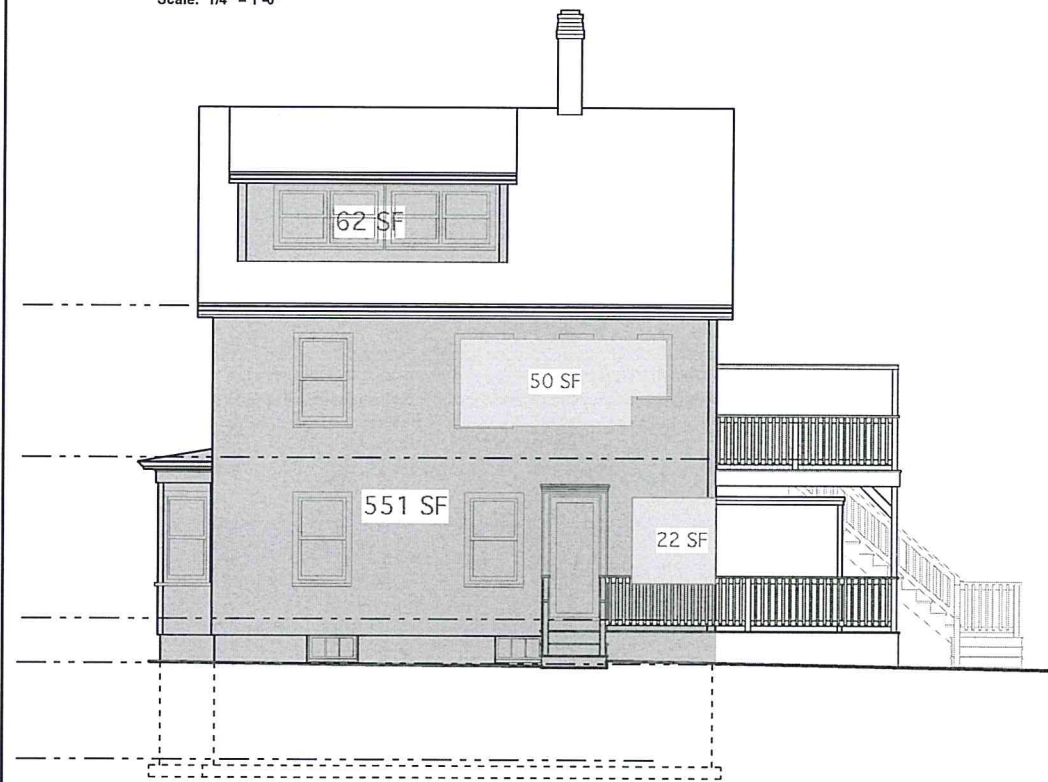
TOTAL BUILDING SQ FOOTAGE:
744(2) + 62 + 551 + 565 = 2,666

TOTAL DEMO SQ FOOTAGE:
32+2+383+8+14+20+4+8+22+50 = 543

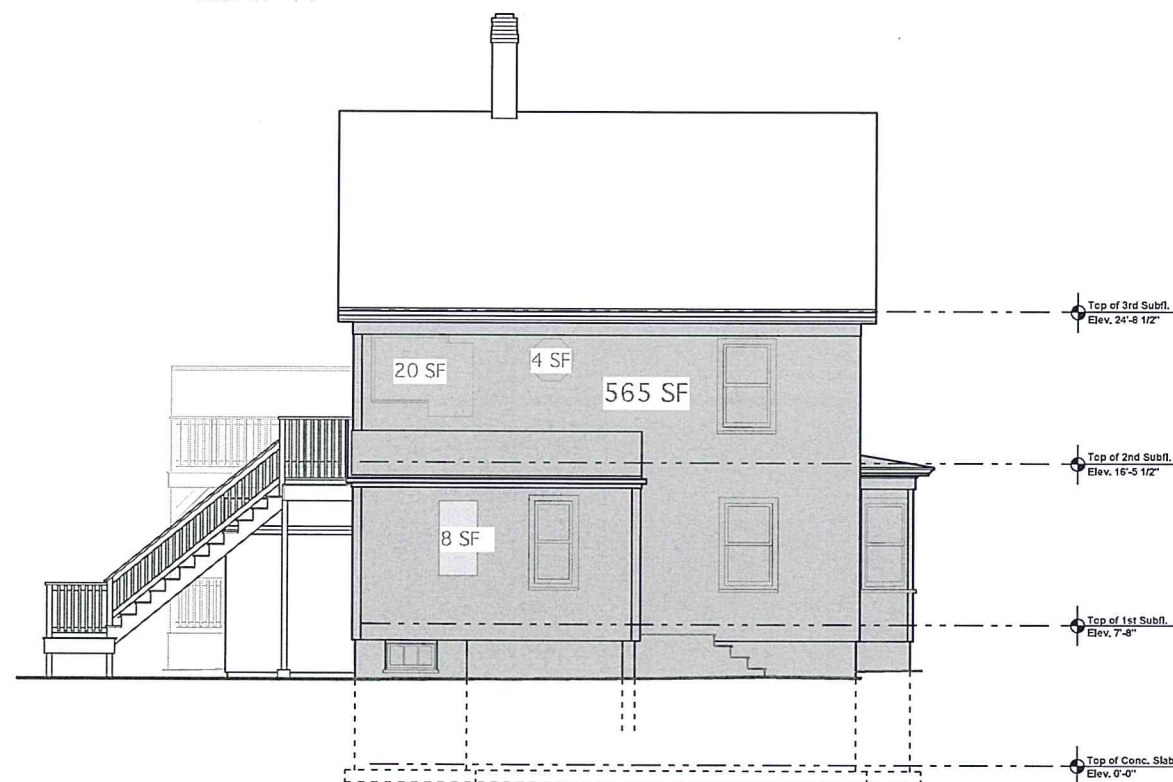
TOTAL % DEMO SQ FOOTAGE:
543 / 2,666 = 20.4%



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



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



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



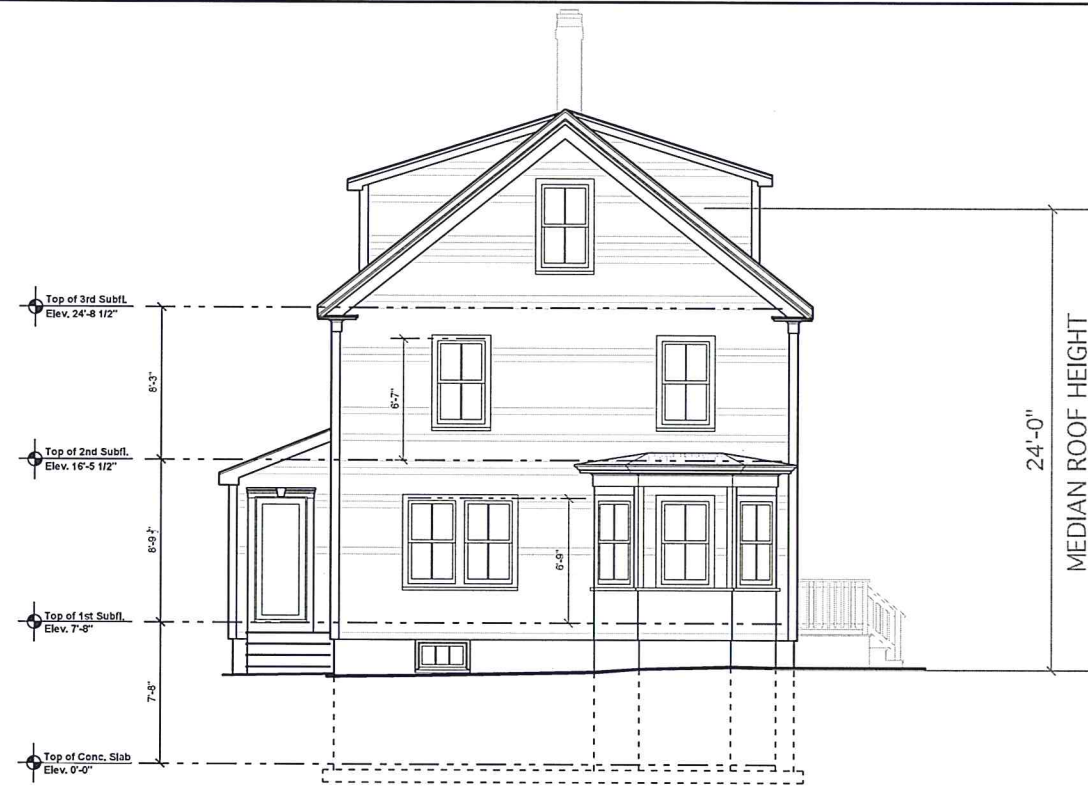
KEERY
design LLC
437 Merrimac Street
Newburyport, MA 01950
978/352-2710

ZONING DRAWINGS

Addition and Renovations to:
35 Oakland Street
Newburyport, MA 01950

Existing Elevations
Project No. 20002
Scale: 1/4" = 1'-0"
Date: March 3, 2020

EC3



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



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

Revisions

KEERY DESIGN | LLC
437 Merrimac Street
Newburyport, Massachusetts 01950
781-335-5278



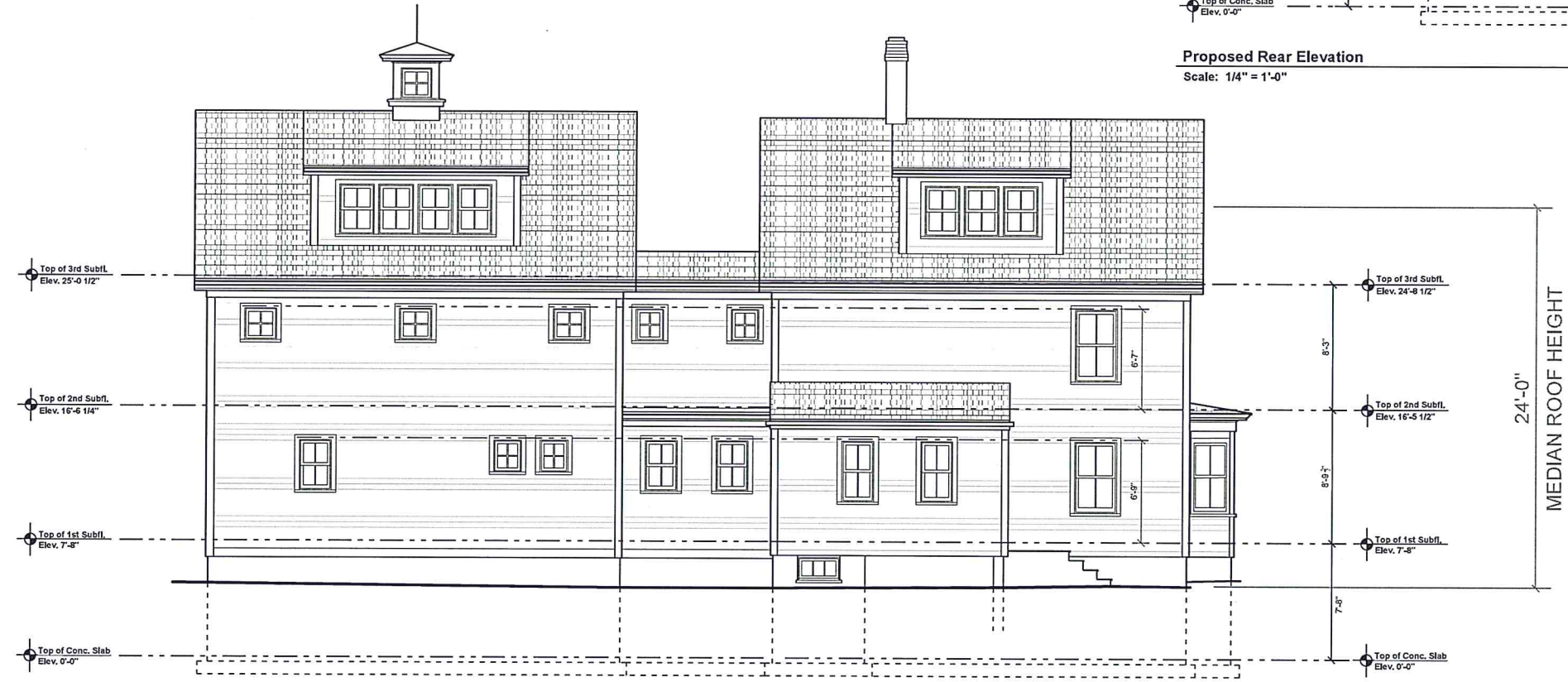
ZONING DRAWINGS

Addition and Renovations to:
35 Oakland Street
Newburyport, MA 01950

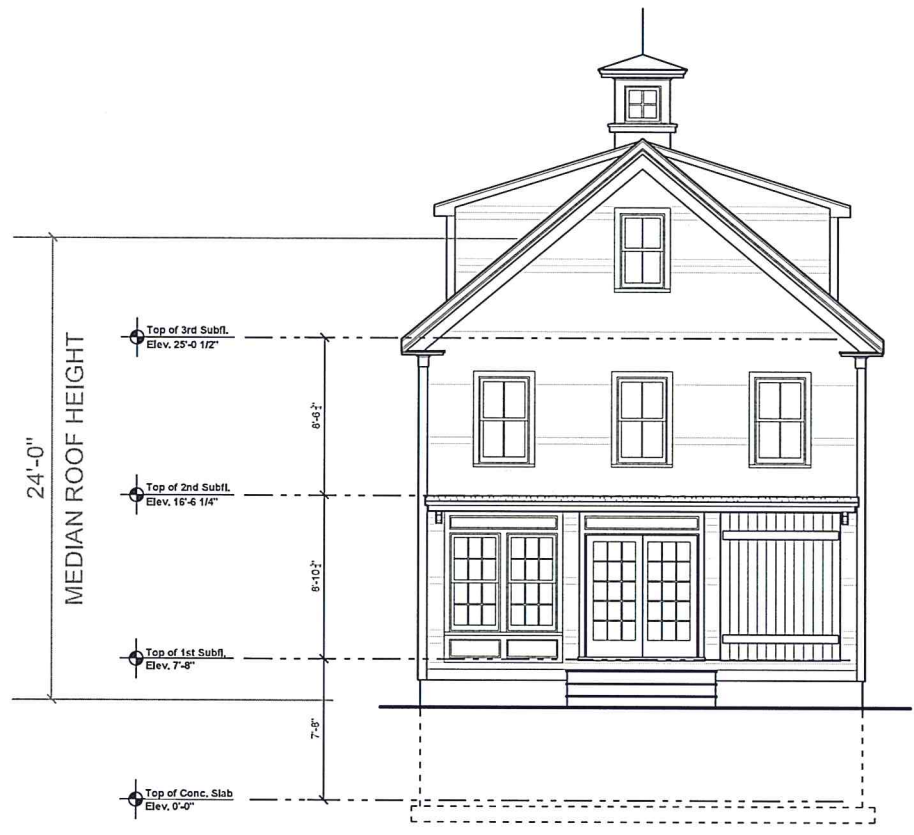
Proposed Elevations

Project No. 20002 Scale: 1/4" = 1'-0" Date: March 3, 2020

A3



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



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

Revisions

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design | LLC
437 Merrimac Street
Newburyport, Massachusetts 01950
978/235-5710



**ZONING
DRAWINGS**

Addition and Renovations to:
35 Oakland Street
Newburyport, MA 01950

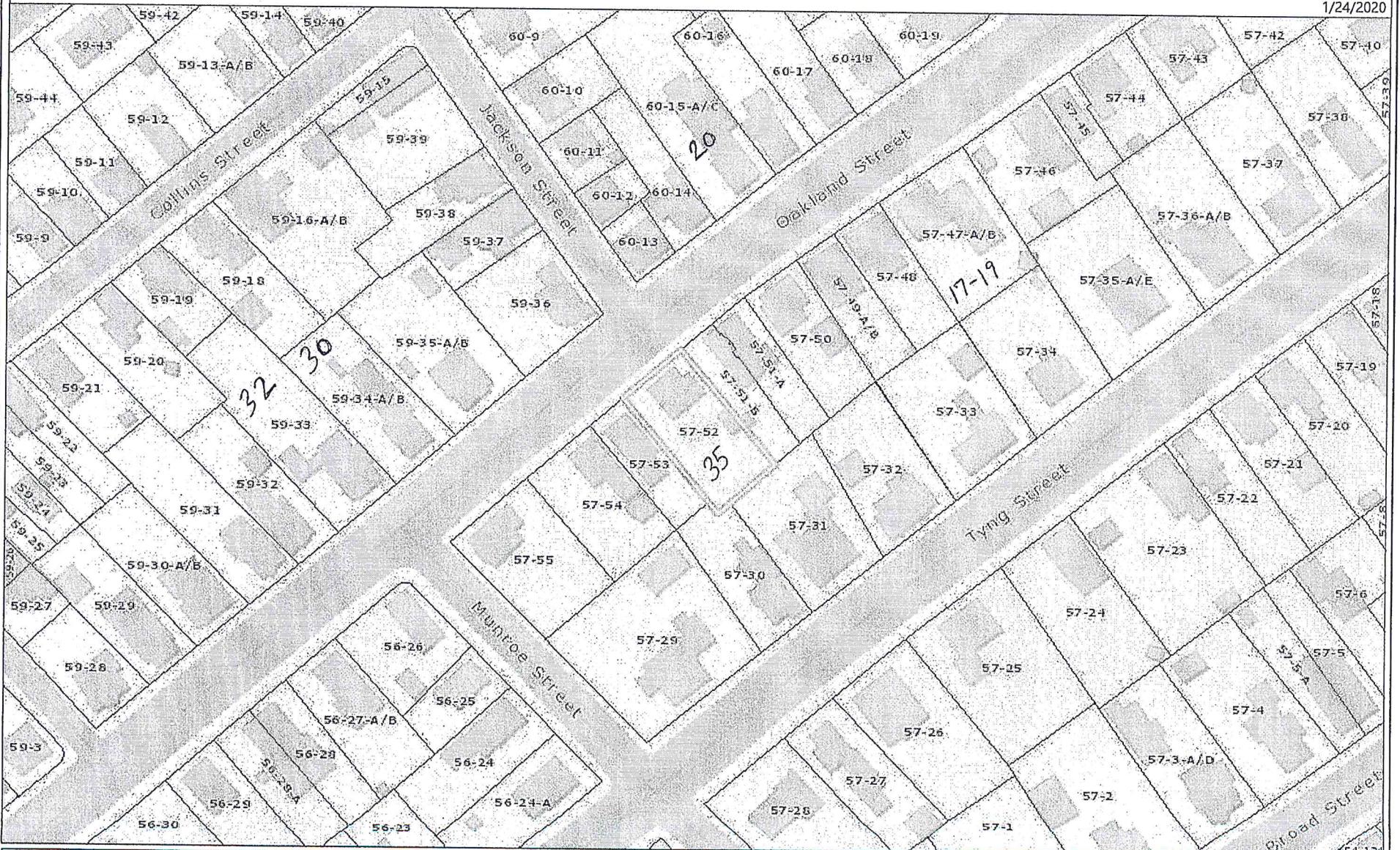
Proposed Elevations
Project No. 20022 Scale: 1/4" = 1'-0"
Date: March 3, 2020

A4

EXHIBIT A

City of Newburyport

1/24/2020



Data Sources: Produced by Merrimack Valley Planning Commission (MVPC) using data provided by the City of Newburyport & MassGIS/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.

- | | |
|--------------------|----------------------|
| Municipal Boundary | Paved |
| Roads | Unpaved |
| Interstate | Hydrographic Feature |
| Major Road | Streams |
| Local Road | Stream |

Legend

