

April 27, 2018

Zoning Board of Appeals
City of Newburyport
60 Pleasant Street P.O. Box 550
Newburyport, MA 01950

RE: Minor Modification SFLS Realty LLC, dba Merri Mar Yacht Basin.

Dear Chairman Ramsdell and Board Members,

On November 29, 2016 Merri Mar Yacht Basin appeared before the Zoning Board of Appeals to apply for a Special Permit for Non-conformities. After a public hearing and deliberation the Board granted a Special Permit for Non-conformities to Merri Mar. This Marina has been owned and operated by three generations of the Lesynski family. The family is now asking the Board for a Minor Modification of the approved plan. The footprint and building location will remain the same as the approved plan but the approved building will be reduced in size to eliminate the third floor. This change is due to a need to move forward with other equipment and facility improvements that the Lesynski family feels are important for their marina. The proposed changes keep many of the same features found in the original approval while simplifying the proposed roofline.

A copy of the original Board approval of the special Permit for Non-conformities, building plans, and a survey are included with this request. A revised building plan, including floor plan, is also included. I will be available at the ZBA meeting if the Board has any questions. Thank You For your consideration.

Yours truly,

Tim DeCoteau
Land Use Consultant
202 Libby Road
West Newfield, Maine 04095-3546
207-793-2103

8/1/16

(Pc.2)



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

RECEIVED
CITY CLERK'S OFFICE
NEWBURYPORT, MA
2016 DEC - 7 A 11: 24

RECORD OF PROCEEDINGS AND DECISION FOR
A SPECIAL PERMIT FOR NON-CONFORMITIES

An application for a Special Permit for Non-Conformities was filed by:

SFLS Realty LLC
364 Merrimac Street
Newburyport, MA 01950



for property owned by SFLS Realty LLC for the following request:

reconstruct front portion of building resulting in an upward extension of a pre-existing non-conforming side yard setback

The application was filed at the City Clerk's Office on 10/20/16 under the Zoning Ordinance Section X-H.3 Powers of the Board and Section IX.B.2 Extension or Alteration.

The application is for the premises at 366 Merrimac Street in the WMD Zoning District, as indicated in the Newburyport Assessor's Office as map and parcel 67-15 and recorded in the Essex South District Registry of Deeds as Book and Page 28865-0497. The newspaper notices for the public hearing were posted on 11/14/16 and 11/21/16 in the Newburyport Daily News.

A public hearing was held for the above application on 11/29/16 at 7:15 p.m. at which time the Board heard the petition for a Special Permit for Non-Conformities. After the close of the hearing on 11/29/16, upon motion made by Robert Ciampitti and duly seconded by Richard Goulet, the Board voted to APPROVE the petition for the Special Permit for Non-Conformities.

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

Robert Ciampitti	<u>Yes</u>	Duncan LaBay	<u>Yes</u>
Richard Goulet	<u>Yes</u>	Renee Bourdeau	<u>Absent</u>
Maureen Pomeroy, Associate	<u>Absent</u>	Edward Ramsdell, Chair	<u>Yes</u>

Having received the necessary two-thirds super majority vote of all the members of the ZBA, in accordance with M.G.L. c.40A, Section 9, as adopted, the petition for the Special Permit for Non-Conformities was therefore APPROVED.

FINDINGS

After the public hearing, in accordance with the criteria set forth in the City of Newburyport Zoning Ordinance Section IX.B Extension or Alteration, the Newburyport Zoning Board of Appeals made the following findings:

1. The applicant is proposing to modify the existing, non-conforming commercial structure by removing the front of the building that encroaches onto the adjacent property and reconstructing it with an improved setback as well as adding another 1 ½ stories to the structure. The applicant obtained a SPNC in 2012 to allow an upward extension of the structure (see 2012 decision in application package). This application is to modify this SPNC by increasing the height of the structure. The applicant is seeking the following relief: side setback of 2 ft. 10 inches where 20 ft. is required.
2. The Board granted the applicant a withdrawal without prejudice of the original filing. This filing is new; the applicant revised the plans to remove the expanded workshop area and is proposing to better the side yard setback and increase this non-conformity by extending the building upwards. The Building Commissioner indicates that this proposal is a modification of a 2012 SPNC. The applicant is proposing to better the existing side yard non-conformity by demolishing the portion of the structure that extends over the lot line and reconstructing it 2'-10" from it. Dimensionally, this project will be bettering the existing non-conformity.
3. The applicant provided additional information as to materials to be used on the exterior façades of the proposed structure including siding, windows, roofing; Dimensions of the doors, windows, predominant features on the building and elevation plans. This information is adopted as part of the conditions of this grant.
4. This project will need to be reviewed by the Planning Board under its major site plan review process. Since the applicant has changed the plans and removed the originally-proposed expanded workshop area, he no longer needs to apply for Conservation Commission permits. All of the currently-proposed work is out of the buffer zone.
5. 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 pre-existing non-conforming structure.

PLAN REFERENCES

This Special Permit for Non-Conformities is approved based on the following plans and/or documents:

- "Merri-Mar Yacht Basin" by B.W. Batson Design, LLC, dated 11/15/16, consisting of pages A-1 through A-4;
- "Permit Plan at 364 Merrimac Street in Newburyport, Massachusetts" by Atlantic Engineering & Survey Consultants, Inc., revised 8/16/2016

Any alterations to these plans shall require subsequent approval by the Zoning Board of Appeals.

CONDITIONS OF APPROVAL

The following conditions do not limit any other rights and remedies the City of Newburyport may have.

1. This Special Permit for Non-Conformities shall not take effect until a copy of this decision bearing the certification of the City Clerk is recorded in the Essex South Registry of Deeds or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or applicant.

2. This special permit will lapse after two years 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.

3. 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 requiring the construction of a cement replacement sidewalk with curbing is appropriate. Additionally the planting of two trees is required. As part of the sidewalk replacement the driveway opposite Ashland street should be officially closed. Sidewalk replacement shall be coordinated by and approved by DPS, tree planting, including the species, shall be approved by the Newburyport Tree Commission and Tree Warden.

This decision was filed with the Newburyport City Clerk on 12/07/16 and sent registered mail to the applicant and by regular mail to the Parties in Interest and the abutting Municipalities.

Undersigned Chair of the Zoning Board of Appeals,


Edward L. Ramsdell

Date: 12/07/16

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 366 Merrimac Street was filed in the Office of the City Clerk on 12/07/16.

Pursuant to M.G.L. Chapter 40A, Section 11 this decision was also filed with the Newburyport Planning Board on 12/07/16.

Twenty (20) days have elapsed since the decision was filed and NO APPEAL has been filed. Appeals shall be made pursuant to M.G.L. Chapter 40A, Section 17 and filed within (20) twenty days after the date of filing of this decision in the Office of the City Clerk.


Newburyport City Clerk

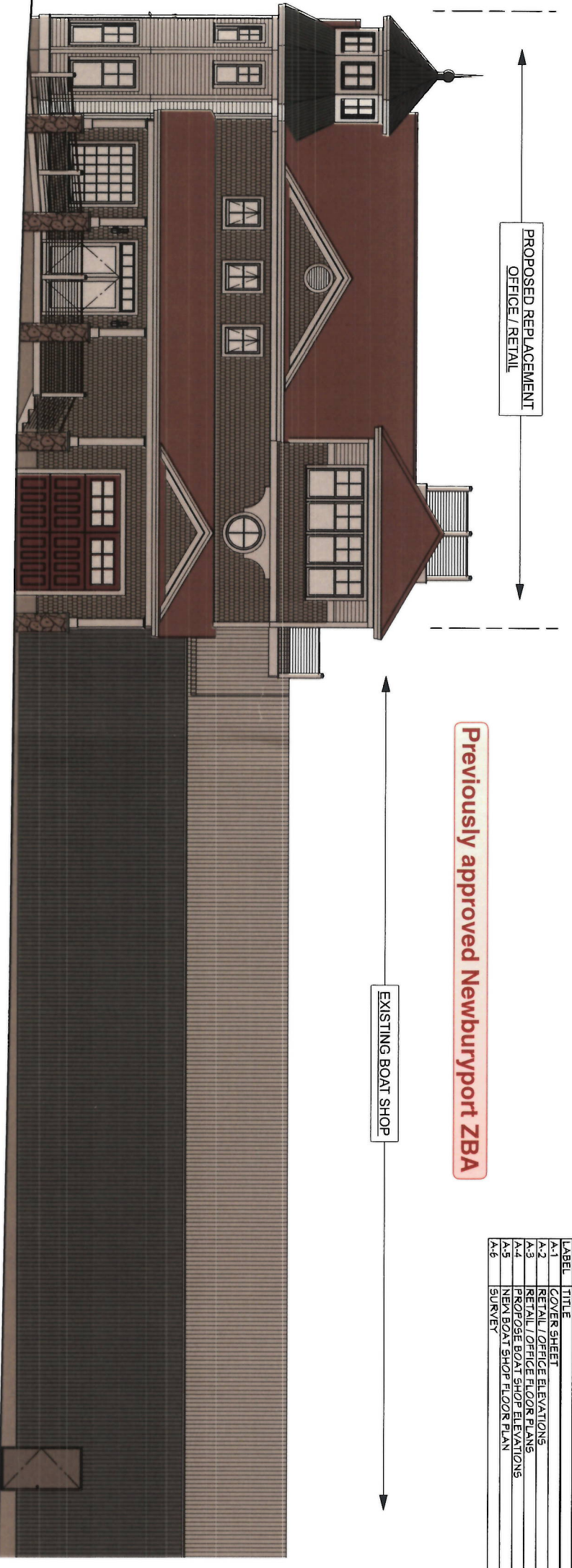
Date: January 3, 2017

PROPOSED REPLACEMENT
OFFICE / RETAIL

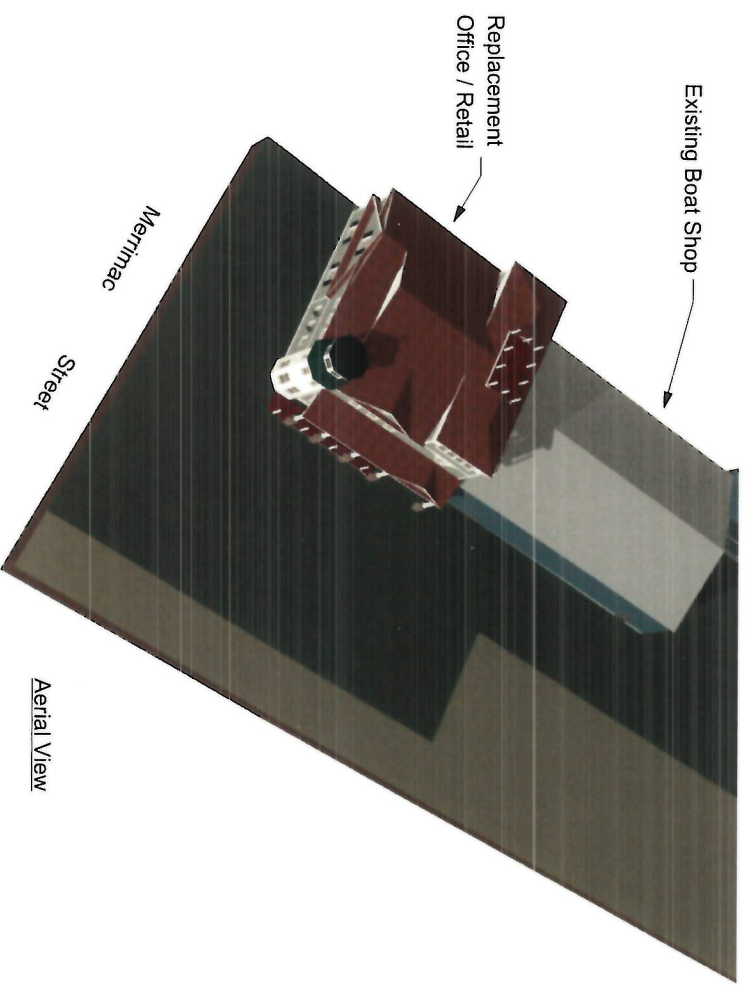
Previously approved Newburyport ZBA

EXISTING BOAT SHOP

Merrimac Street



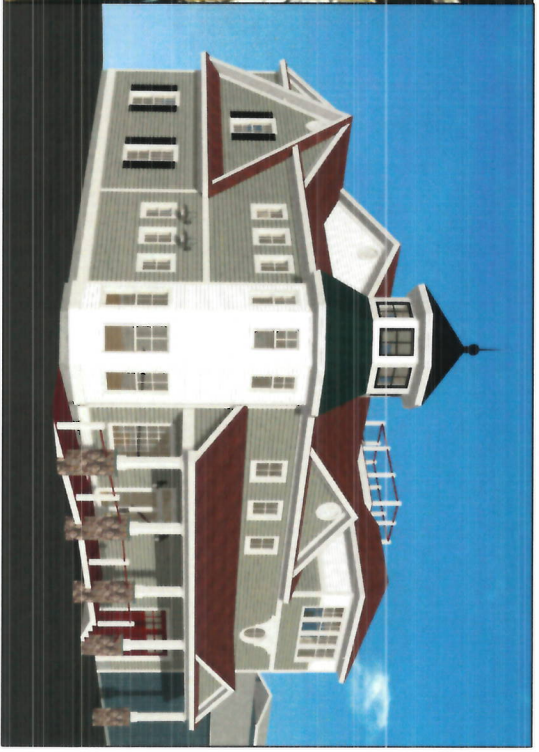
Right Elevation



Aerial View



Existing Retail And Boat Shop



MERRI-MAR YACHT BASIN

NEWBURYPORT, MASSACHUSETTS

PLAN CONTENTS	
LABEL	TITLE
A-1	COVER SHEET
A-2	RETAIL / OFFICE ELEVATIONS
A-3	RETAIL / OFFICE FLOOR PLANS
A-4	PROPOSE BOAT SHOP ELEVATIONS
A-5	NEW BOAT SHOP FLOOR PLAN
A-6	SURVEY

REVISION TABLE			
NUMBER	DATE	REVISED BY	DESCRIPTION

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B.E. Batson Design LLC ©
 155 Pine Hill Road - Cape Neddick, Maine 03902
 Phone: 207-337-1171 - email: bbatsondesign@gmail.com

COVER SHEET

PROJECT:
 MERRI-MAR YACHT BASIN INC.
 364 MERRIMAC STREET
 NEWBURYPORT, MA 01950

DATE:
 9/29/2016

SCALE:
 N.T.S.

SHEET:
 A-1

NOTE:
 THE CONSULTANT HAS CONDUCTED VISUAL VERIFICATION OF THE EXISTING BOAT SHOP AND HAS FOUND IT TO BE IN COMPLIANCE WITH THE ZONING REGULATIONS. THE CONSULTANT HAS NOT CONDUCTED A STRUCTURAL ANALYSIS OF THE BOAT SHOP AND DOES NOT WARRANT THE STRUCTURAL INTEGRITY OF THE BOAT SHOP. THE CONSULTANT HAS NOT CONDUCTED A SURVEY OF THE BOAT SHOP AND DOES NOT WARRANT THE ACCURACY OF THE BOAT SHOP'S LOCATION OR DIMENSIONS. THE CONSULTANT HAS NOT CONDUCTED A SURVEY OF THE PROPOSED REPLACEMENT OFFICE / RETAIL BUILDING AND DOES NOT WARRANT THE ACCURACY OF THE PROPOSED REPLACEMENT OFFICE / RETAIL BUILDING'S LOCATION OR DIMENSIONS. THE CONSULTANT HAS NOT CONDUCTED A SURVEY OF THE PROPOSED REPLACEMENT OFFICE / RETAIL BUILDING AND DOES NOT WARRANT THE ACCURACY OF THE PROPOSED REPLACEMENT OFFICE / RETAIL BUILDING'S LOCATION OR DIMENSIONS.

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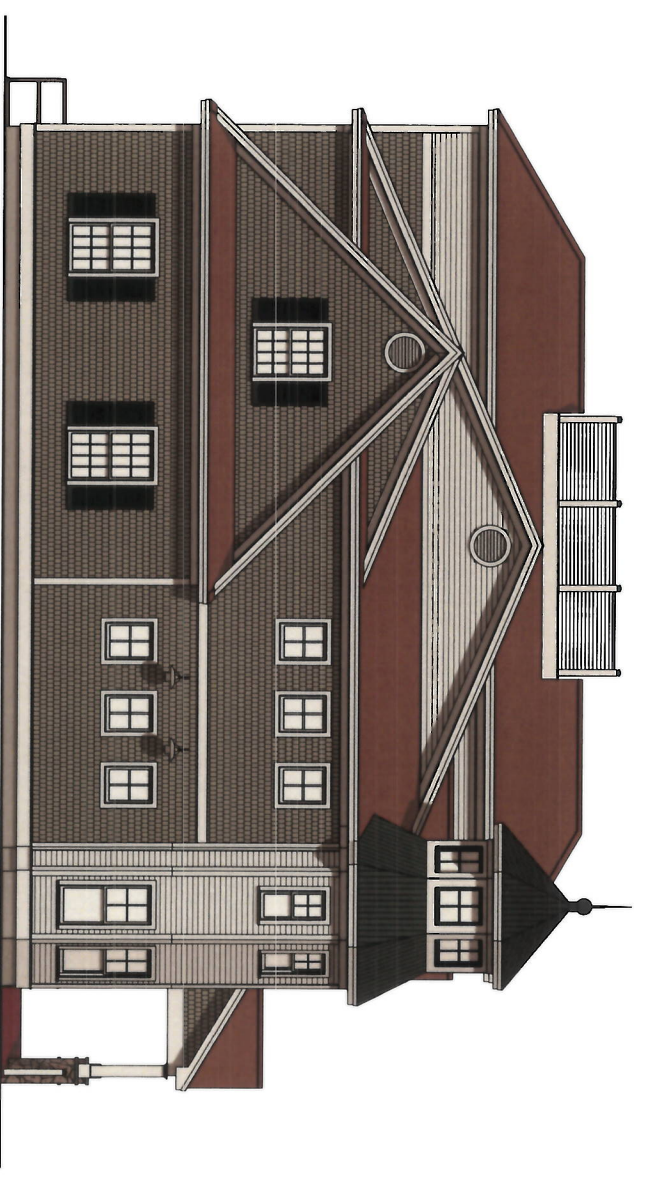


RIGHT ELEVATION

Retail / Office

SCALE: 3/16"=1'

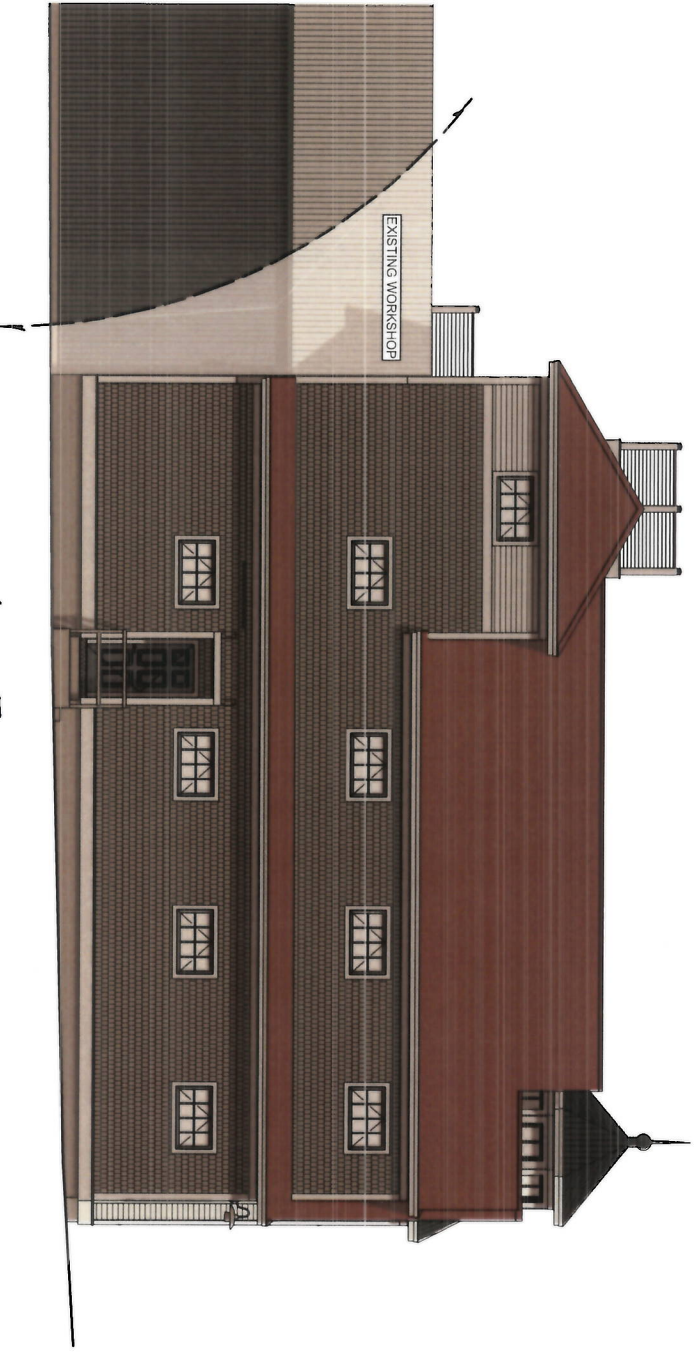
Previously approved Newburyport ZBA



FRONT ELEVATION (Street)

Retail / Office

SCALE: 3/16"=1'



LEFT ELEVATION

Retail / Office

SCALE: 3/16"=1'



REAR ELEVATION

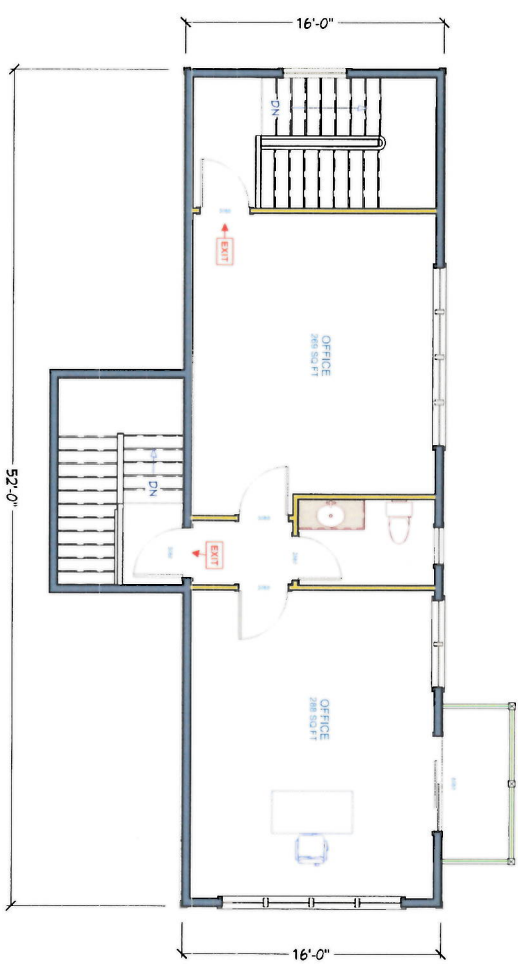
Retail / Office

SCALE: 3/16"=1'

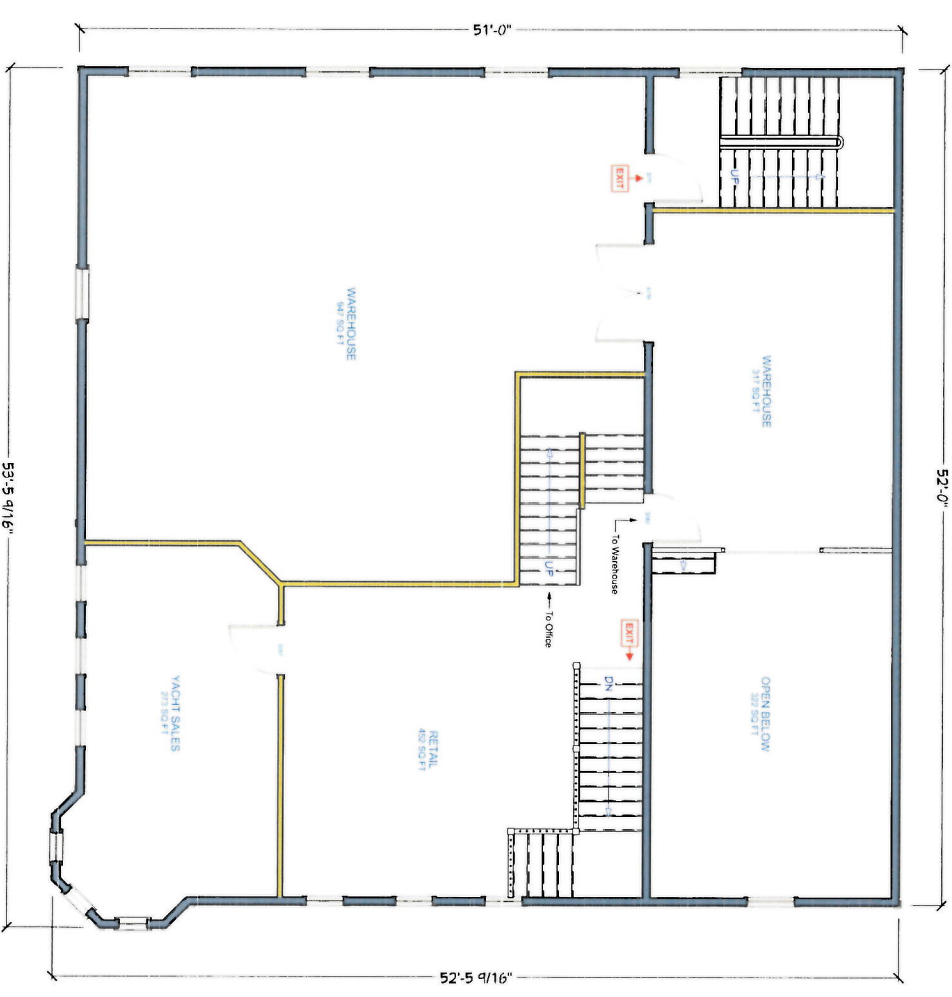
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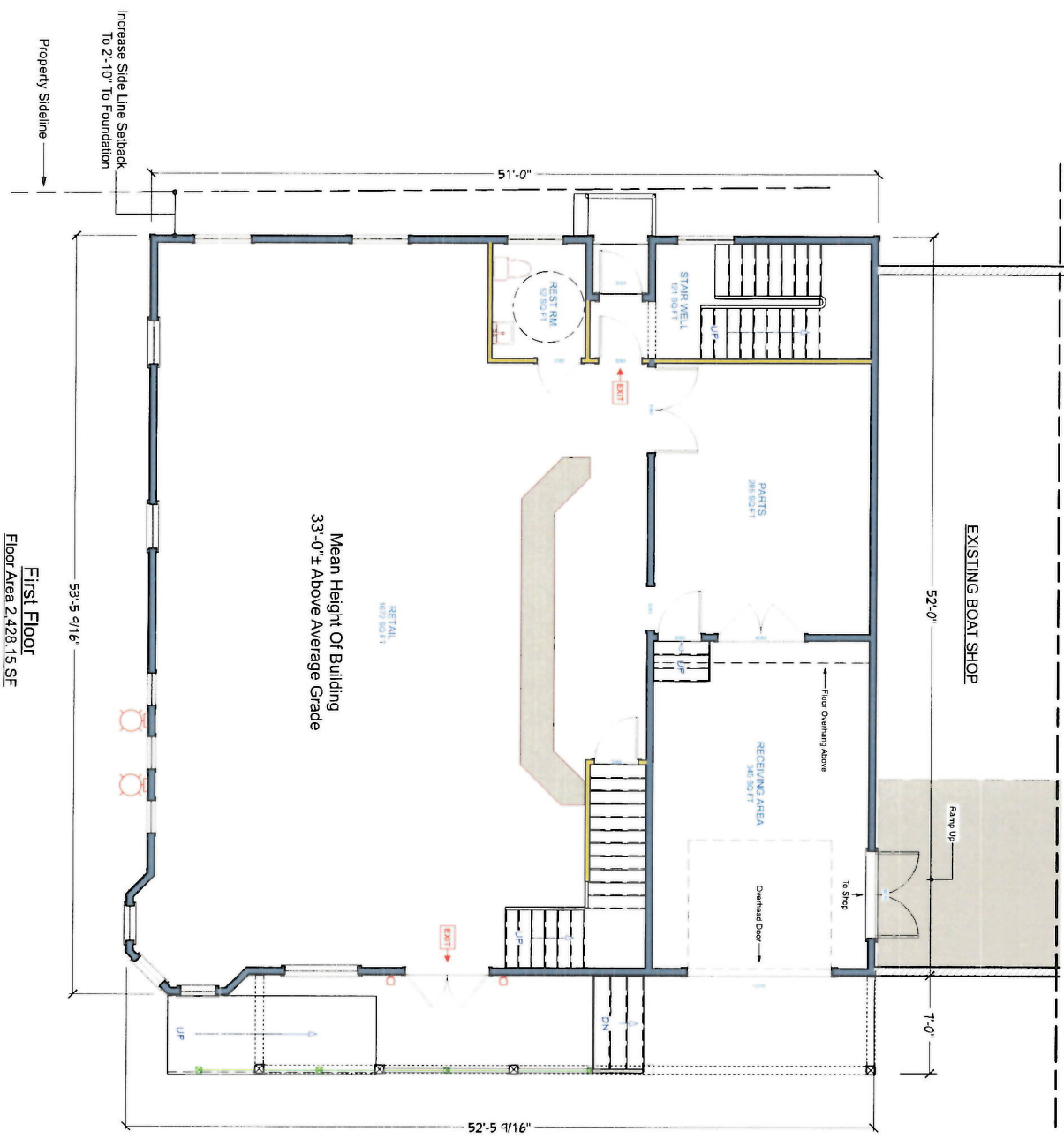
<p>PROJECT: MERRI-MAR YACHT BASIN INC. 364 MERRIMAC STREET NEWBURYPORT, MA 01950</p>	<p>RETAIL / OFFICE ELEVATIONS</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="3">REVISION TABLE</th> </tr> <tr> <th>NUMBER</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	REVISION TABLE			NUMBER	DATE	DESCRIPTION										<p>Design Copyright Protected By: B.E. Batson Design LLC © 155 Pine Hill Road - Cape Neddick, Maine 03902 Phone: 207-337-1171 - email: bbatsondesign@gmail.com</p>
REVISION TABLE																		
NUMBER	DATE	DESCRIPTION																
<p>DATE: 9/29/2016</p> <p>SCALE: 3/16"=1'</p> <p>SHEET: A-2</p>																		



Third Floor
Floor Area 681.95 SF



Second Floor
Floor Area 1,957.71 SF



First Floor
Floor Area 2,428.15 SF

Previously approved Newburyport ZBA

Mean Height Of Building
33'-0"± Above Average Grade

NOTE:
THE CONTRACTOR SHALL VERIFY THE EXISTING FOUNDATION AND FOOTING FOR THE PROPOSED CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITIES.

LIABILITY DISCLAIMER:
THESE PLANS AND SPECIFICATIONS ARE PREPARED BY THE ARCHITECT FOR THE PURPOSES INDICATED. THE ARCHITECT DOES NOT WARRANT OR GUARANTEE THE ACCURACY OF THE INFORMATION PROVIDED HEREON. THE ARCHITECT SHALL NOT BE RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THESE PLANS AND SPECIFICATIONS.

REVISION TABLE			
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PROJECT:
MERRI-MAR YACHT BASIN INC.
364 MERRIMAC STREET
NEWBURYPORT, MA 01950

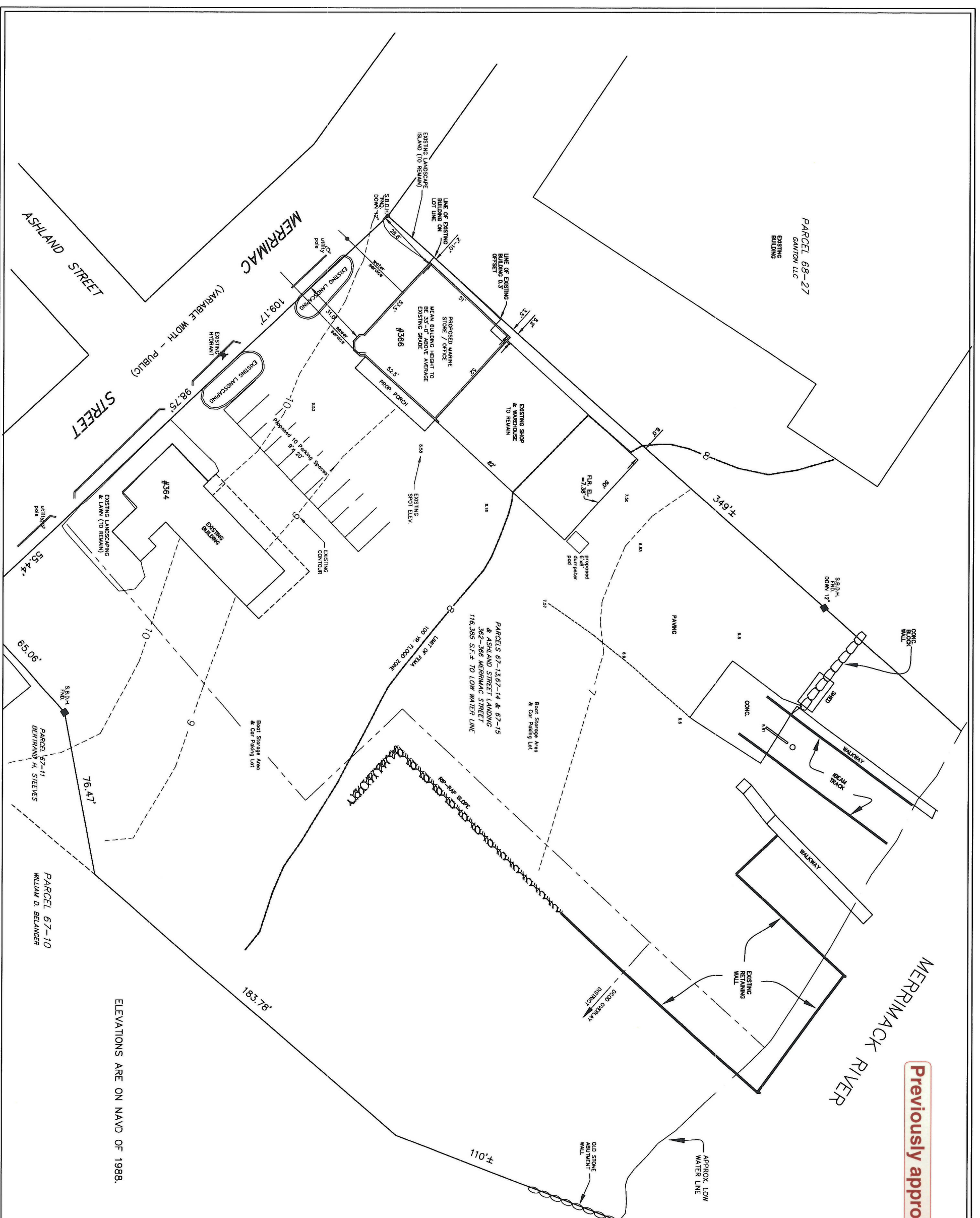
RETAIL / OFFICE FLOOR PLANS

DATE:
9/29/2016

SCALE:
3/16"=1'

SHEET:
A-3

Previously approved Newburyport ZBA

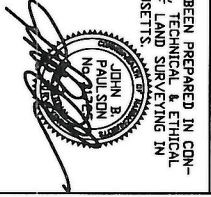


SITE DATA

ASSESSOR'S MAP 67, PARCELS 13, 14 & 15
 DEED REF: BOOK 28865, PAGE 497
 OWNER: SFS REALTY LLC
 364 MERRIMACK STREET, NEWBURYPORT, MA

ZONING

ZONING DISTRICT - MWD - WATERFRONT MARINE DEPENDENT
 OVERLAY DISTRICT - D000
 AREA = 20,000 S.F.
 FRONTAGE = 120 FT.
 SETBACKS - FRONT = 20 FT.
 SIDE = 20 FT.
 REAR = 20 FT.



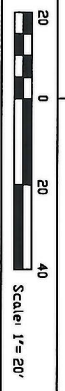
PERMIT PLAN
 AT
364 MERRIMACK STREET
 IN
NEWBURYPORT, MASSACHUSETTS

SHEET 1 OF 1

PREPARED FOR: MERRIMAR YACHT BASIN, INC.
 364 MERRIMACK STREET
 NEWBURYPORT, MA

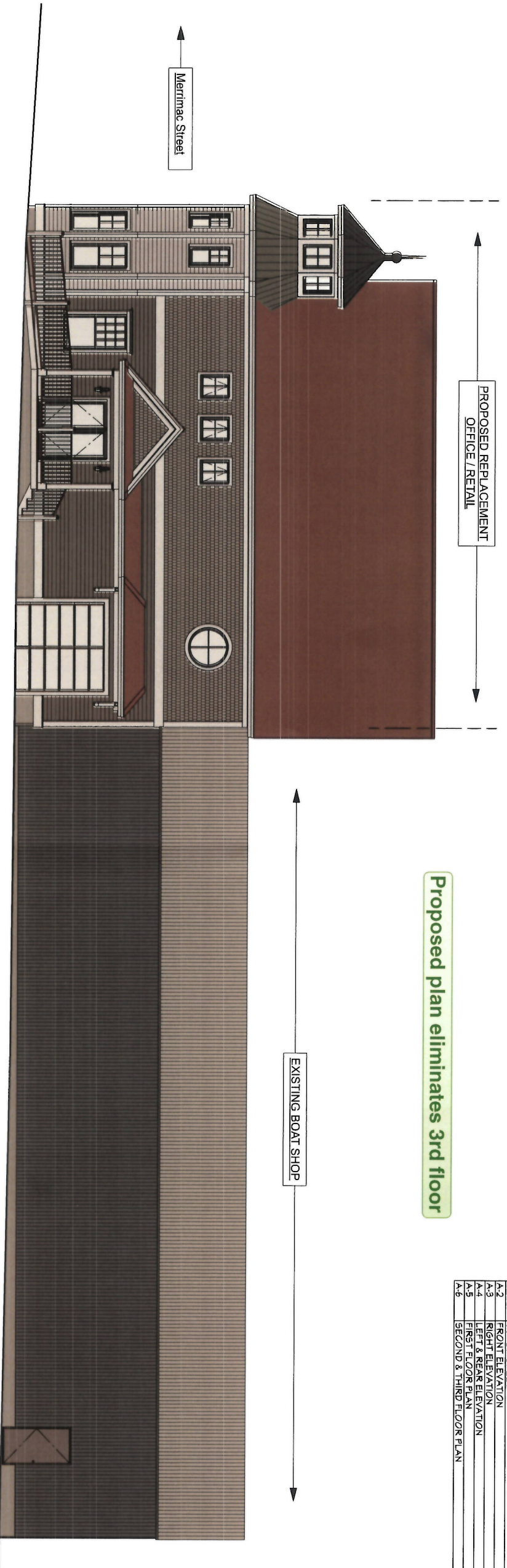
ENGINEER:
ATLANTIC ENGINEERING & SURVEY CONSULTANTS INC.
 97 TENNEY STREET - GEORGETOWN, MA 01833
 PHONE: 978-352-7870 FAX: 978-352-9940
 DRAWING FILE: SEQ03\364MERRIMACK-2016.DWG

JOB NO. A1603-03 DATE: JUNE 6, 2016
 REV. 1 - 7/11/2016 - CITY COMMENTS
 REV. 2 - 8/14/2016 - CITY COMMENTS



ELEVATIONS ARE ON NAVD OF 1988.

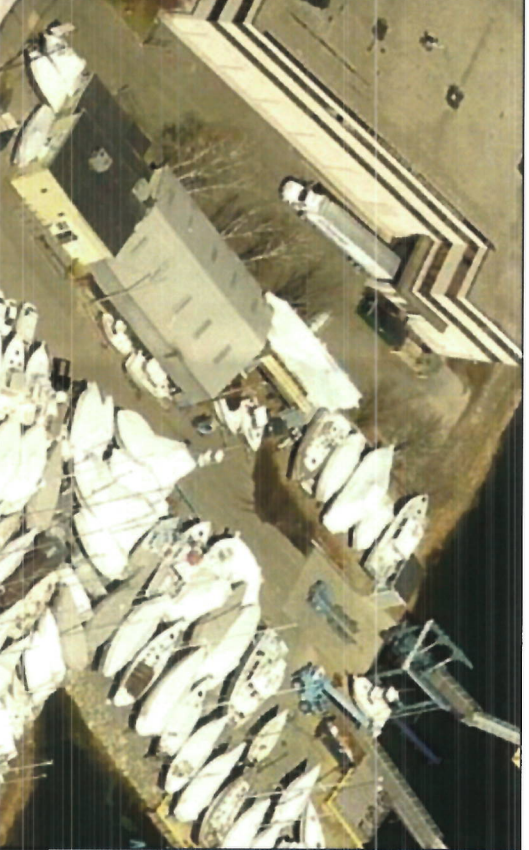
PLAN CONTENTS	
LABEL	TITLE
A-1	COVER SHEET
A-2	FRONT ELEVATION
A-3	RIGHT ELEVATION
A-4	LEFT & REAR ELEVATION
A-5	FIRST FLOOR PLAN
A-6	SECOND & THIRD FLOOR PLAN



Right Elevation



Aerial View



Existing Retail And Boat Shop
Existing Aerial View

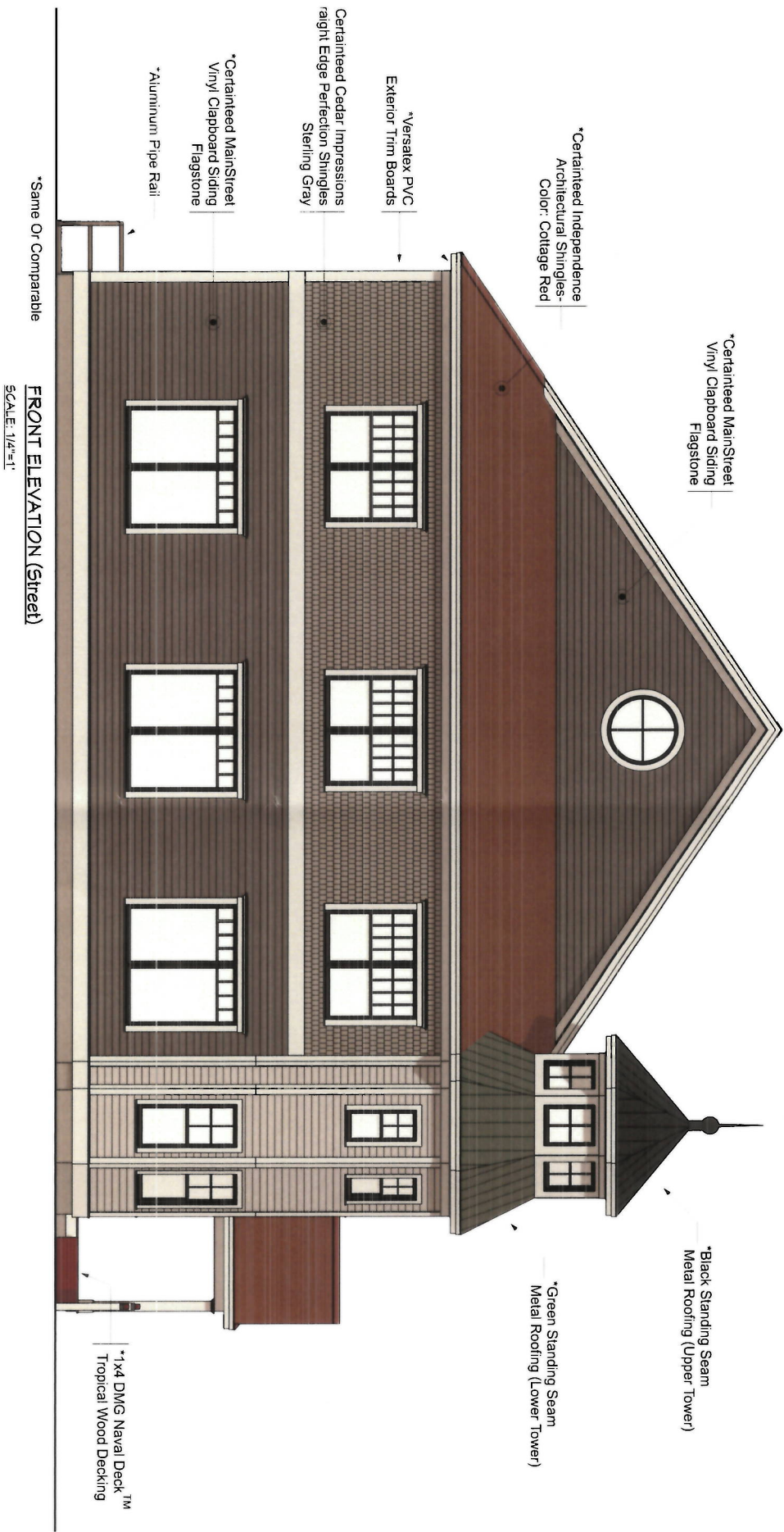


MERRI-MAR YACHT BASIN
NEWBURYPORT, MASSACHUSETTS

NOTE: THE CLIENT HAS REVIEWED AND APPROVED THE ARCHITECTURAL DRAWINGS FOR THE PROPOSED REPLACEMENT OFFICE / RETAIL BUILDING. THE ARCHITECT HAS REVIEWED AND APPROVED THE ARCHITECTURAL DRAWINGS FOR THE PROPOSED REPLACEMENT OFFICE / RETAIL BUILDING. THE ARCHITECT HAS REVIEWED AND APPROVED THE ARCHITECTURAL DRAWINGS FOR THE PROPOSED REPLACEMENT OFFICE / RETAIL BUILDING. THE ARCHITECT HAS REVIEWED AND APPROVED THE ARCHITECTURAL DRAWINGS FOR THE PROPOSED REPLACEMENT OFFICE / RETAIL BUILDING.

LIABILITY DISCLAIMER: THE ARCHITECT HAS REVIEWED AND APPROVED THE ARCHITECTURAL DRAWINGS FOR THE PROPOSED REPLACEMENT OFFICE / RETAIL BUILDING. THE ARCHITECT HAS REVIEWED AND APPROVED THE ARCHITECTURAL DRAWINGS FOR THE PROPOSED REPLACEMENT OFFICE / RETAIL BUILDING. THE ARCHITECT HAS REVIEWED AND APPROVED THE ARCHITECTURAL DRAWINGS FOR THE PROPOSED REPLACEMENT OFFICE / RETAIL BUILDING. THE ARCHITECT HAS REVIEWED AND APPROVED THE ARCHITECTURAL DRAWINGS FOR THE PROPOSED REPLACEMENT OFFICE / RETAIL BUILDING.

Proposed plan eliminates 3rd floor



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REVISION TABLE		
NUMBER	DATE	DESCRIPTION

FRONT ELEVATION

PROJECT:
 MERRI-MAR YACHT BASIN INC.
 364 MERRIMAC STREET
 NEWBURYPORT, MA 01950

DATE:
 3/21/2018

SCALE:
 1/4"=1'

SHEET:
 A-2

NOTE:
 THE DRAWING OF CONSTRUCTION THE DESIGNER'S SIGNATURE AND SEAL SHALL BE PLACED ON THE DRAWING. THE DESIGNER'S SIGNATURE AND SEAL SHALL BE PLACED ON THE DRAWING. THE DESIGNER'S SIGNATURE AND SEAL SHALL BE PLACED ON THE DRAWING.

LIABILITY DISCLAIMER:
 THE DESIGNER'S LIABILITY IS LIMITED TO THE DESIGN SERVICES PROVIDED BY THE DESIGNER. THE DESIGNER SHALL NOT BE RESPONSIBLE FOR ANY CONSTRUCTION DEFECTS OR OTHER DAMAGES ARISING FROM THE CONSTRUCTION OF THE PROJECT.

Proposed plan eliminates 3rd floor



RIGHT ELEVATION
SCALE: 1/4"=1'

*Lights - Kichler
Ashland Bay #49570WZC

EXISTING WORKSHOP

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RIGHT ELEVATION

PROJECT:
 MERRI-MAR YACHT BASIN INC.
 364 MERRIMAC STREET
 NEWBURYPORT, MA 01950

DATE:
 3/21/2018

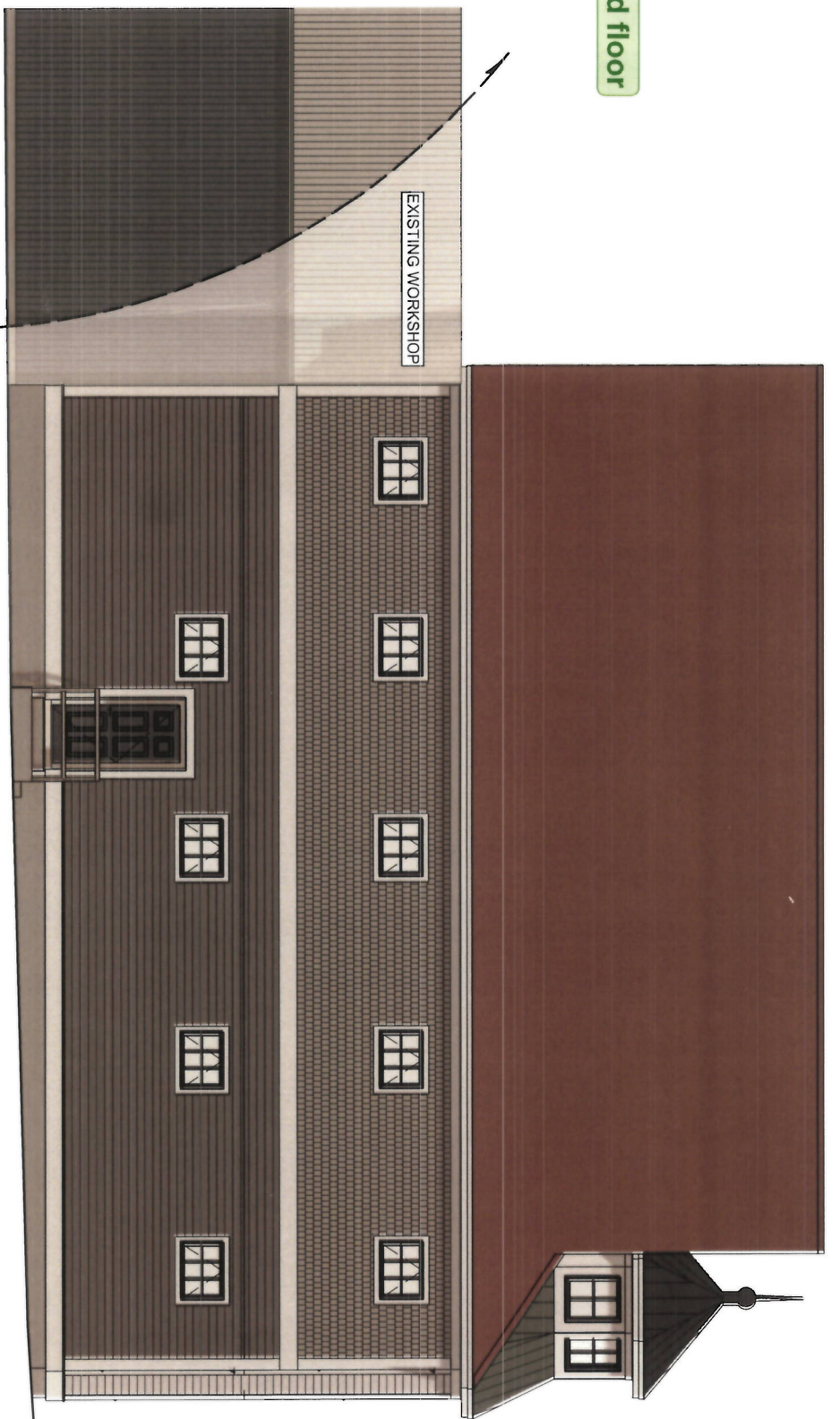
SCALE:
 1/4"=1'

SHEET:
 A-3

NOTES:
 1. THE DRAWING IS THE PROPERTY OF THE ARCHITECT AND SHALL BE KEPT IN THE ARCHITECT'S OFFICE.
 2. THE ARCHITECT IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED BY THE CLIENT.
 3. THE ARCHITECT IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED BY THE CLIENT.
 4. THE ARCHITECT IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED BY THE CLIENT.
 5. THE ARCHITECT IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED BY THE CLIENT.

LIABILITY - DISCLAIMER:
 THE ARCHITECT'S LIABILITY IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE PROJECT. THE ARCHITECT IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED BY THE CLIENT. THE ARCHITECT IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED BY THE CLIENT. THE ARCHITECT IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED BY THE CLIENT.

Proposed plan eliminates 3rd floor



LEFT ELEVATION
SCALE: 1/4"=1'



REAR ELEVATION
SCALE: 1/4"=1'

NOTE:
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LIABILITY - DISCLAIMER
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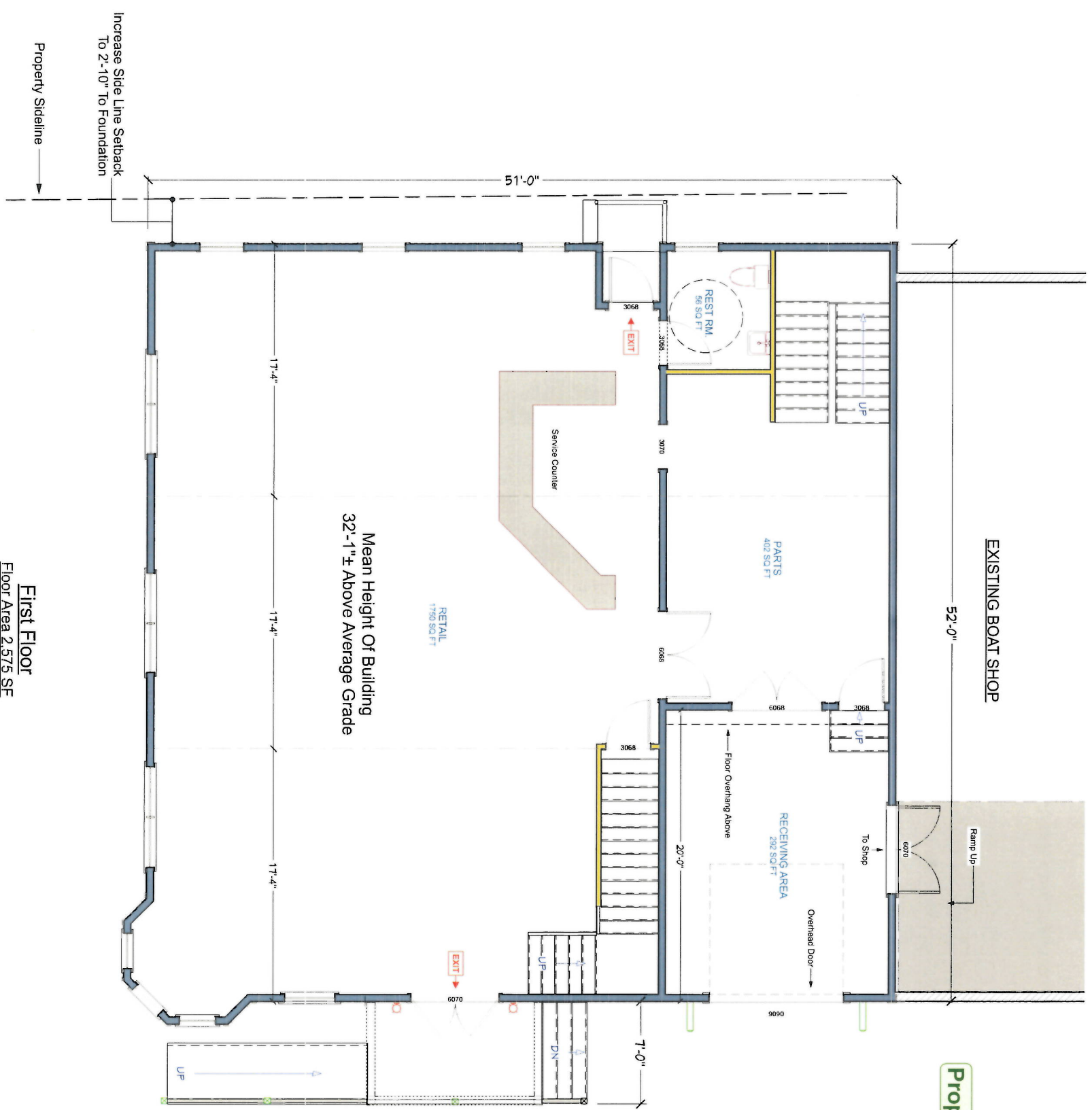
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Phone: 207-337-1171 - email: bbatsondesign@gmail.com

LEFT & REAR ELEVATION

PROJECT:
MERRI-MAR YACHT BASIN INC.
364 MERRIMAC STREET
NEWBURYPORT, MA 01950

DATE:
3/21/2018
SCALE:
1/4"=1'

SHEET:
A-4



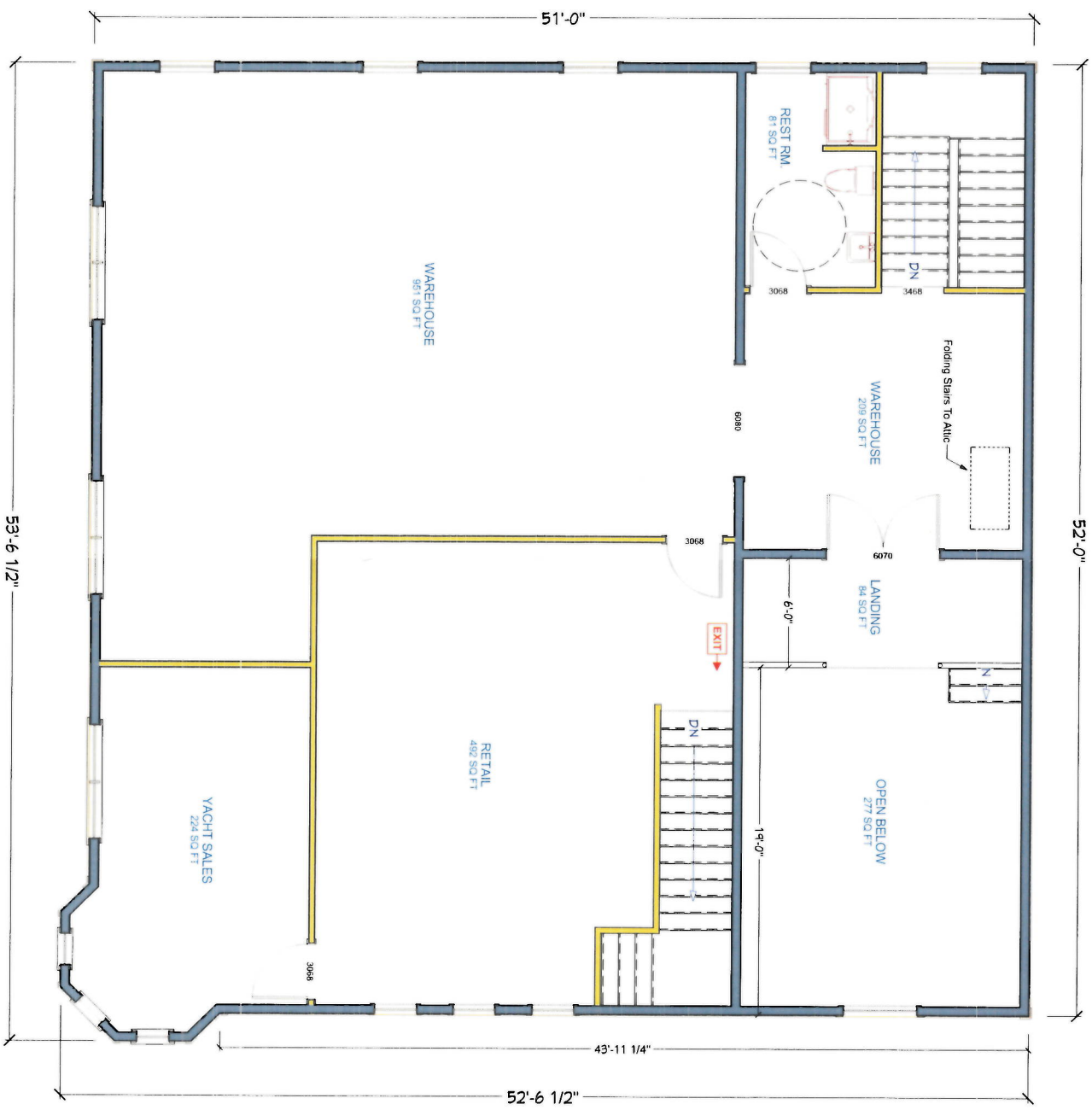
First Floor
Floor Area 2,575 SF

Proposed plan eliminates 3rd floor

NOTES:
1. THE EXISTING BUILDING IS BEING REDESIGNED TO ACCOMMODATE THE PROPOSED CHANGES.
2. THE EXISTING BUILDING IS BEING REDESIGNED TO ACCOMMODATE THE PROPOSED CHANGES.
3. THE EXISTING BUILDING IS BEING REDESIGNED TO ACCOMMODATE THE PROPOSED CHANGES.
4. THE EXISTING BUILDING IS BEING REDESIGNED TO ACCOMMODATE THE PROPOSED CHANGES.
5. THE EXISTING BUILDING IS BEING REDESIGNED TO ACCOMMODATE THE PROPOSED CHANGES.

LIABILITY DISCLAIMER
THE ARCHITECT'S RESPONSIBILITY IS LIMITED TO THE DESIGN OF THE BUILDING AS SHOWN ON THESE PLANS. THE ARCHITECT DOES NOT WARRANT THE ACCURACY OF ANY INFORMATION PROVIDED BY OTHERS. THE ARCHITECT IS NOT RESPONSIBLE FOR ANY CONSTRUCTION DEFECTS OR OMISSIONS. THE ARCHITECT'S LIABILITY IS LIMITED TO THE DESIGN OF THE BUILDING AS SHOWN ON THESE PLANS.

<p>DATE: 3/21/2018</p> <p>SCALE: 1/4"=1'</p> <p>SHEET: A-5</p>	<p>PROJECT: MERRI-MAR YACHT BASIN INC. 364 MERRIMAC STREET NEWBURYPORT, MA 01950</p>	<p>FIRST FLOOR PLAN</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="3">REVISION TABLE</th> </tr> <tr> <th>NUMBER</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	REVISION TABLE			NUMBER	DATE	DESCRIPTION										<p>Design Copyright Protected By:</p> <p style="text-align: center;">B.E. Batson Design LLC ©</p> <p style="text-align: center; font-size: small;">155 Pine Hill Road - Cape Neddick, Maine 03902 Phone: 207-337-1171 - email: bbatsondesign@gmail.com</p>
REVISION TABLE																			
NUMBER	DATE	DESCRIPTION																	



Second Floor
Floor Area 2,295 SF

Proposed plan eliminates 3rd floor

NOTE
THE CONSULTANT HAS NOT CONDUCTED A VISUAL SURVEY OF THE EXISTING BUILDING TO VERIFY THE ACCURACY OF THE EXISTING FLOOR PLAN. THE CONSULTANT HAS CONDUCTED VISUAL SURVEYS OF THE EXISTING BUILDING TO VERIFY THE ACCURACY OF THE EXISTING FLOOR PLAN. THE CONSULTANT HAS CONDUCTED VISUAL SURVEYS OF THE EXISTING BUILDING TO VERIFY THE ACCURACY OF THE EXISTING FLOOR PLAN. THE CONSULTANT HAS CONDUCTED VISUAL SURVEYS OF THE EXISTING BUILDING TO VERIFY THE ACCURACY OF THE EXISTING FLOOR PLAN.

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REVISION TABLE			
NUMBER	DATE	REVISED BY	DESCRIPTION

SECOND & THIRD FLOOR PLAN

PROJECT:
MERRI-MAR YACHT BASIN INC.
364 MERRIMAC STREET
NEWBURYPORT, MA 01950

DATE: 3/21/2018
SCALE: 1/4"=1'
SHEET: A-6