

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

Petitioner: Kim & Mark Mikitka c/o Lisa Mead, Mead, Talerman & Costa, LLC

Mailing Address: 30 Green Street

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

Property Address: 37 Reservation Terrace

Map and Lot(s): 76 - 235 Zoning District: R3/PIOD

Book and Page(s): 38017 - 230

Owner(s) Name: _____

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

Description of request:

Construct small first- and second- floor additions to single-family residence for total added living space of 210 square feet.

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	4,285 sf	4,285 sf	12,000 sf
Frontage	123.51 ft	123.51 ft	120 ft
Height*	25.6 ft	25.6 ft	35 ft
Lot Coverage (%)**	22.5%	24.1%	20%
Open Space (%)***	72.4%	71.2%	35%
Front Setback	19.2 ft	19.2 ft	20 ft
Side A Setback	4.4 ft	4.4 ft	20 ft
Side B Setback	31.4 ft	31.4 ft	20 ft
Rear Setback	0 ft	0 ft	20 ft
Parking Spaces	2+	2+	2
FAR****	0.47	0.519	0.25

*Height is measured to median roof line.

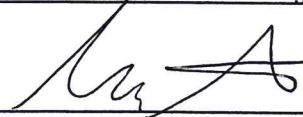

**Total building footprint divided by the lot area expressed as a percentage.

***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):

 2/18/20
 2/18/20



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 2, 2020

By Hand

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

Re: Request for Special Permit for Non-Conformities;
37 Reservation Terrace, Newburyport, MA (the "Property")
Assessor's Map: 76 Lot: 235

Dear Chair and Members of the Board:

Reference is made to the above-captioned matter. In that connection, this firm represents Kim and Mark Mikitka (the "Applicant"), owners of the Property, relative to the renovation of a single-family home (the "Residence"). The project includes the construction of additions to the Residence, which is pre-existing nonconforming. The Applicant seeks a Special Permit for Non-Conformities for the project.

The Property is located in the R3 zoning district, Plum Island Overlay District ("PIOD"), and Floodplain Overlay District ("FOD") under the Newburyport Zoning Ordinance (the "Ordinance"). The Property is located in FEMA flood zone AE(9). The Property is pre-existing, nonconforming for lot area and lot coverage. The PIOD requires a minimum lot area of 12,000 square feet for a single-family dwelling and the Property has 4,285 square feet. The maximum allowable lot coverage is 20% and the existing lot coverage is 22.5%. The Residence is pre-existing, nonconforming for the front and rear yard setbacks and the side yard setback on the northern side. The minimum required setbacks are 20 feet; the front yard setback is 19.2 feet, the northern side yard setback is 4.4 feet, and there is no rear setback, rather, the northwestern corner of the Residence is located on the abutting property, encroaching by 2.2 feet. An easement from the abutting property dated March 22, 2004, and recorded in the Essex South Registry of Deeds allows the encroachment. The current FAR is pre-existing, nonconforming at 0.47 where the maximum allowable is 0.25.

The Residence was constructed in 1920 and in its original form was a one-story cottage. At some time after 1969, a partial second story was constructed over the original cottage roof. The Applicant proposes to demolish the first-floor sunroom at the front of the Residence and construct a one-story addition over its footprint. This one-story addition will be extended to encompass a currently-existing deck that is adjacent to the sunroom, as shown on the site plan attached hereto. Due to the nature of the Residence's position on the Property and the angle of the Property line, the extended portion of the addition will be set back more than 20 feet from the Property line.

Millis Office

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

The Applicant also proposes to construct an addition on the second floor of the Residence to “fill in” an area that presently serves as a roof deck. This addition will be constructed over first-floor footprint exclusive of the sunroom, as shown on the floor plans attached hereto. The total added living space for the two additions is 210 square feet which will result in an FAR of 0.519. There are currently 3 bedrooms in the Residence, which will remain unchanged as evidenced by the attached floor plans.

The Applicant requires review before the Historical Commission for the roof line change and the approval of the Conservation Commission.

The Applicant will require a Special Permit for nonconformities under section XXI-G.4 of the Ordinance for the proposed additions. Section XXI-G.4.a. allows the alteration, reconstruction, extension of, or change of a single-family residence where:

- 1. The proposed change will not be substantially more detrimental than the existing nonconforming structure to the neighborhood or the PIOD; and**
- 2. The change will not cause the structure to be within 10 feet of the side lot line, more than 2 stories, or more than 35 feet in height.**

1. The proposed change will not be substantially more detrimental to the neighborhood or the PIOD. The Applicant is adding only 210 square feet of living area with a minimal increase in footprint at the front of the Residence. The proposed changes to the Residence are an improvement over the existing condition. The impacts on the existing nonconformities are minimal and no additional bedrooms are proposed.
2. As is shown on the plans, the Residence is already within 10 feet of the side lot line, with a setback of 4.4 feet. The proposed additions do not bring the footprint any closer to the side lot line. The Residence will remain 2 stories and 25.6 feet in height, well under the maximum allowable 35 feet.

Section XXI.G.4.b allows the alteration, reconstruction, extension of, or change to a lot coverage, floor area ratio, height, open space or front, side and rear yard requirements with the grant of a special permit by the Board even if said changes increase existing nonconformities. Here, the Applicant is increasing the lot coverage by merely 1.6%, the FAR by 0.049, and decreasing the open space by 1.2%. The first- and second-floor additions upwardly extend the pre-existing nonconforming side yard setback. Finally, while the first-floor addition extends the pre-existing nonconforming front yard setback, the portion of the addition located over the existing deck does not encroach into the 20 foot front yard setback.

The Applicant respectfully requests that the Board find that the proposed changes are not substantially more detrimental to the neighborhood or the PIOD than the pre-existing, nonconforming Residence and grant a Special Permit for Non-Conformities.

Respectfully submitted
Kim and Mark Mikitka
By their Attorney



Lisa L. Mead
Attachment
cc: client

CITY OF NEWBURYPORT, MA
ZONING DETERMINATION

APR# 2020-026 Rev1

Name: Kim and Mark Mikitka c/o Lisa Mead MTC LLC

Address: 37 Reservation Terrace

Zoning District(s): R3/PIOD

Request: Make additions to existing non conforming property through expansion of the interior space over an existing deck (assumed to be above BFE) and through upward extension .
Conservation evaluation for new footings at entry and 50% value.

ZONING BOARD REVIEW REQUIRED

Variance

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

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)

Smart Growth District (XXIX)

- Plan Approval

Site Plan Review (XV)

- Major
- Minor

HISTORICAL COMMISSION REVIEW REQUIRED

- Demo. Delay
- *Advisory Review

CONSERVATION COMMISSION REVIEW REQUIRED


Newburyport Zoning Administrator

2/28/2020
Date

37 RESERVATION TERR

Location 37 RESERVATION TERR

MBLU 76/ 235/ / /

Owner MIKITKA MARK F & KIMBERLY

Assessment \$621,800

PID 5409

Building Count 1

Current Value

Assessment			
Valuation Year	Improvements	Land	Total
2020	\$206,300	\$415,500	\$621,800

Owner of Record

Owner MIKITKA MARK F & KIMBERLY
Co-Owner
Address 12 AVERY LANE
 ANDOVER, MA 01810

Sale Price \$600,000
Certificate
Book & Page 38017/0230
Sale Date 11/12/2019
Instrument 00

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
MIKITKA MARK F & KIMBERLY	\$600,000		38017/0230	00	11/12/2019
RUGGIERO MICHAEL	\$0		31913/0066	1A	11/14/2012
RUGGIERO ALFRED & ROSALIE L/I	\$0		18642/0422	1F	04/30/2002
RUGGIERO ALFRED	\$0		06509/0343		08/25/1978

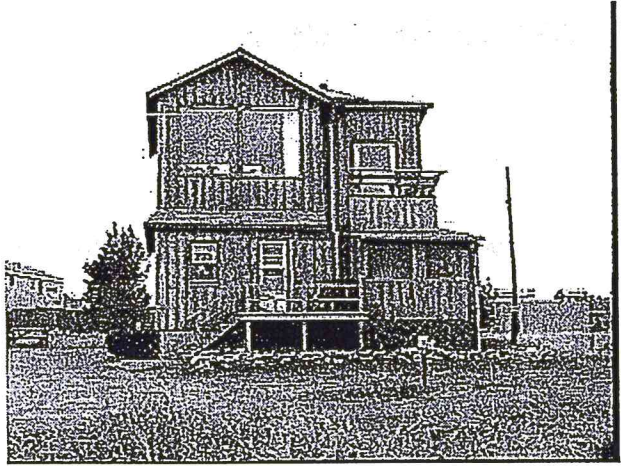
Building Information

Building 1 : Section 1

Year Built: 1920
Living Area: 1,252

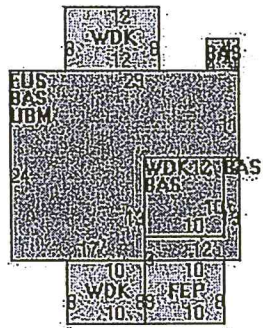
Building Attributes	
Field	Description
Style	Conventional
Model	Residential
Stories:	2 Stories
Occupancy	1
Exterior Wall 1	Vinyl Siding

Roof Structure:	Gable/Hip
Roof Cover	Asph/F Gls/Cmp
Interior Wall 1	Drywall/Sheet
Interior Wall 2	Plywood Panel
Interior Flr 1	Carpet
Interior Flr 2	Vinyl/Asphalt
Heat Fuel	Oil
Heat Type:	Forced Air-Duc
AC Type:	None
Total Bedrooms:	3 Bedrooms
Total Bthrms:	1
Total Half Baths:	0
Total Xtra Fixtrs:	
Total Rooms:	5 Rooms
Bath Style:	Old Style
Kitchen Style:	Old Style



(<http://images.vgsi.com/photos/NewburyportMAPhotos//\01\00\05\65.jpg>)

Building Layout



(http://images.vgsi.com/photos/NewburyportMAPhotos//Sketches/5409_5581.jpg)

Building Sub-Areas (sq ft)			Legend
Code	Description	Gross Area	Living Area
BAS	First Floor	712	712
FUS	Upper Story, Finished	540	540
FEP	Porch, Enclosed	80	0
UBM	Basement, Unfinished	540	0
WDK	Deck, Wood	276	0
		2,148	1,252

Extra Features

Extra Features	Legend
No Data for Extra Features	

Land Use

Use Code . 1010
Description SINGLE FAM

Land Line Valuation

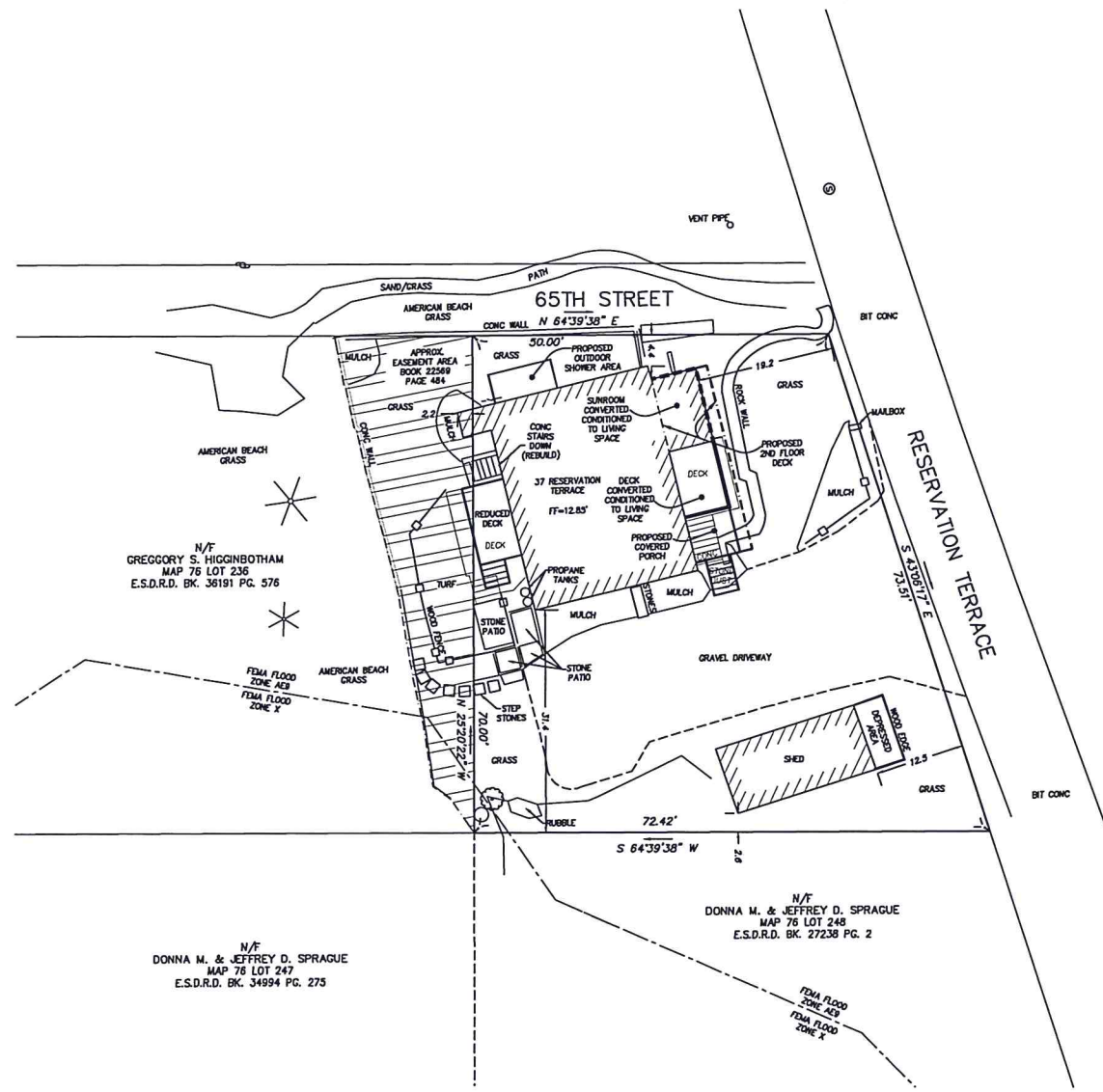
Size (Acres) 0.09
Depth 0
Assessed Value \$415,500

Outbuildings

Outbuildings						Legend
Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
SHD1	SHED FRAME			240 S.F.	\$1,400	1

Valuation History

Assessment			
Valuation Year	Improvements	Land	Total
2019	\$191,100	\$404,900	\$596,000



ZONING

RESIDENTIAL (R-3)
PLUM ISLAND OVERLAY DISTRICT
SINGLE FAMILY (101)

	REQUIRED (SINGLE FAMILY)	EXISTING	PROPOSED
MIN LOT AREA	12,000 SQUARE FEET	4,285 SQUARE FEET	4,285 SQUARE FEET
MINIMUM FRONTAGE	120 FEET	123.51 FEET	123.51 FEET
FRONT SETBACK (R)	20 FEET	18.2 FEET	18.2 FEET
SIDE SETBACK (R)	20 FEET	4.4 FEET	4.4 FEET
SIDE SETBACK (L)	20 FEET	31.4 FEET	31.4 FEET
REAR	20 FEET	OVER 2.2 FEET	OVER 2.2 FEET
% LOT COVERAGE	20%	22.5%	24.1%
MAX FLOOR AREA RATIO	.25	.470	.519
MAX BLD HEIGHT	35 FEET	25.6 FEET	25.6 FEET
MAX STORIES	2	2	2
% OPEN SPACE	35%	72.4%	71.2%
PARKING	2 PER UNIT	2+	2+

ON-LINE ZONING ORDINANCES
CITY OF NEWBURYPORT WEBSITE
<http://www.ci.newburyport.ma.us/Planning/index.html>
PLANNING DEPARTMENT - MAIN PHONE: 978-485-4400

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 LEGAL COUNSEL PRIOR TO RELIANCE UPON THE SAME.

NOTES

THE PURPOSE OF THIS PLAN IS TO SHOW THE VISIBLE EXISTING CONDITIONS ON THE LOCUS PROPERTY AND PROPOSED ADDITIONS AND MODIFICATIONS. THE PROPERTY LINES SHOWN ON THIS PLAN ARE THE RESULT OF AN ON-THE-GROUND INSTRUMENT SURVEY PERFORMED DURING NOVEMBER, 2019 BY THIS FIRM.

ARCHITECTURAL PLANS HAVE BEEN UTILIZED FOR BUILDING SIZE AND DECK/STAIR LOCATIONS. FAR HAS BEEN CALCULATED BASED ON FLOOR AREAS PROVIDED BY THE ARCHITECT.

OWNERSHIP INFORMATION USED IN THE PREPARATION OF THIS PLAN WAS OBTAINED FROM THE CITY OF NEWBURYPORT ASSESSOR'S OFFICES.

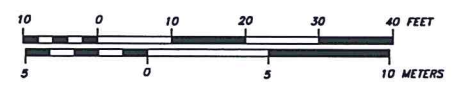
BY GRAPHIC PLOTTING ONLY, THIS PROPERTY IS IN ZONE AE(9), A SPECIAL FLOOD HAZARD AREA, OF THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 25009C0133F, WHICH BEARS AN EFFECTIVE DATE OF 7/3/2012.

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.

P.L.S.
EVERETT J. CHANDLER, P.L.S.
MASS. REGISTRATION NO. 31783

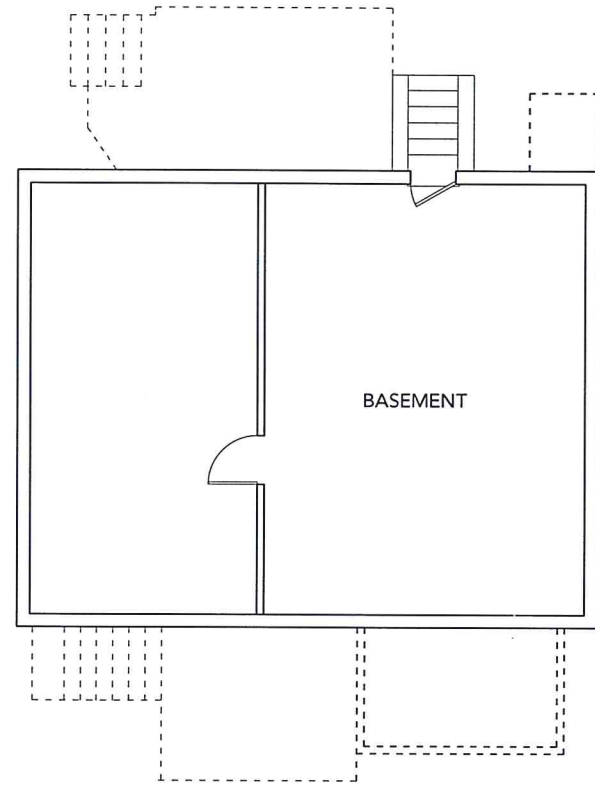
LOCUS TITLE INFORMATION

37 RESERVATION TERRACE
OWNER: MARK F. & KIMBERLY MIKITKA
DEED REFERENCE: BK. 38017 PG. 230
PLAN REFERENCE: PLAN BK. 34 PLAN 22 LOT 67
ASSESSORS: MAP 76 LOT 235

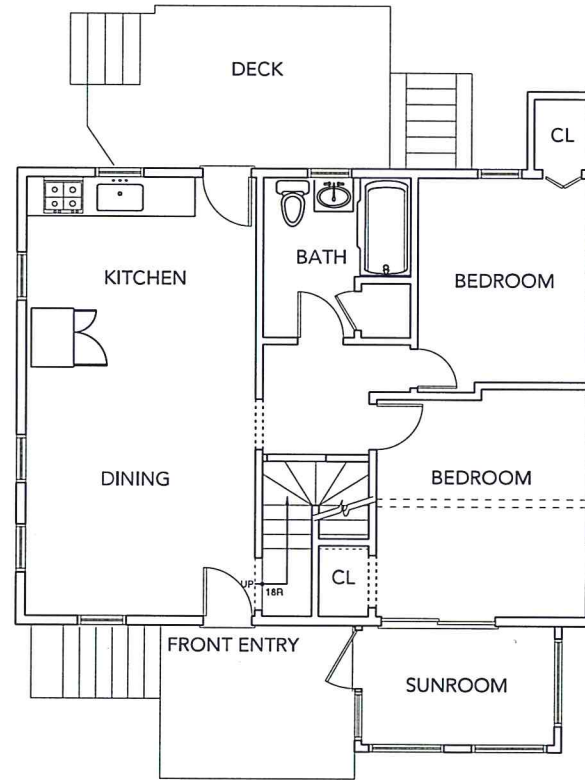


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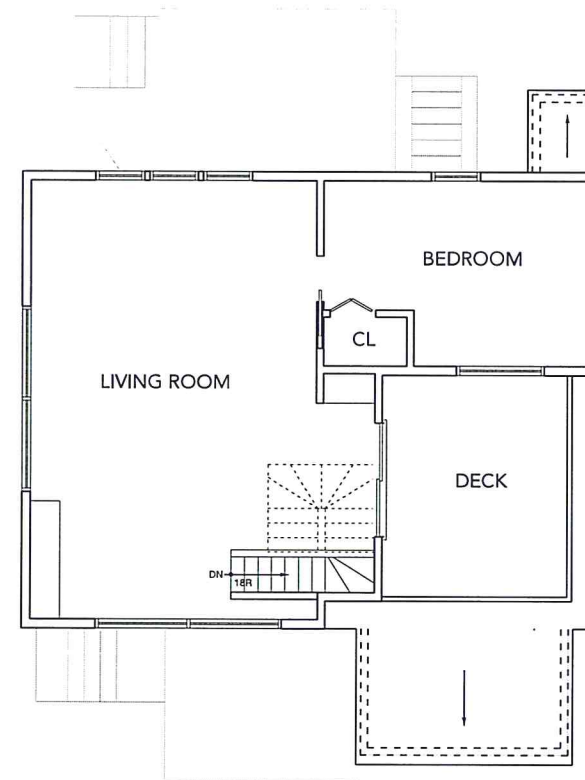
Winter GEC, LLC 44 MERRIMAC STREET NEWBURYPORT, MA 01950 978-270-8626	SCALE: HORIZ: 1"= 10' VERT: _____	<table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>BY</th> <th>REVISIONS</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>	NO.	DATE	BY	REVISIONS													FIELD: <u>CO</u> CALCS: <u>EC</u> CHECKED: <u>EJC</u> APPROVED: <u>EJC</u>	ZONING BOARD OF APPEALS PLAN 37 RESERVATION TERRACE	PLAN OF LAND IN NEWBURYPORT, MASSACHUSETTS SURVEYED FOR MARK & KIM MIKITKA	PROJECT NO. 2019-37RESERVATION DATE: FEB 10, 2020 SHEET NO. 1 OF 1
	NO.	DATE	BY	REVISIONS																		



① Existing Basement Floor Plan
SCALE: 1/8" = 1'-0"



② Existing First Floor Plan
SCALE: 1/8" = 1'-0"



③ Existing Second Floor Plan
SCALE: 1/8" = 1'-0"

SF CALCULATIONS - EXISTING	
BASEMENT	694 SF
1ST FL	778 SF
2ND FL	544 SF
TOTAL	2,016 SF

project:

MIKITKA RESIDENCE

37 Reservation Terrace
Newburyport, MA

architect:

**GRAF
ARCHITECTS**
2 Liberty Street
Newburyport, MA
01950
T. 978 499 9442
www.grafarch.com

title:

Existing Floor Plans

SCALE: 1/8" = 1'-0"

16 January 2020

EX1



① Exterior Elevation - FRONT
SCALE: 1/8" = 1'-0"



② Exterior Elevation - SIDE
SCALE: 1/8" = 1'-0"



③ Exterior Elevation - REAR
SCALE: 1/8" = 1'-0"



④ Exterior Elevation - SIDE
SCALE: 1/8" = 1'-0"

project:

MIKITKA RESIDENCE

37 Reservation Terrace
Newburyport, MA

architect:

GRAF ARCHITECTS

2 Liberty Street
Newburyport, MA
01950
T. 978 499 9442
www.grafarch.com

title:

Existing
Exterior Elevations

SCALE: 1/8" = 1'-0"

16 January 2020

EX2

MIKITKA EX2 Elev 1-1620 1-16200 R-02.FA

project:

MIKITKA RESIDENCE

37 Reservation Terrace
Newburyport, MA

architect:

GRAF ARCHITECTS
2 Liberty Street
Newburyport, MA
01950
T. 978 499 9442
www.grafvrch.com

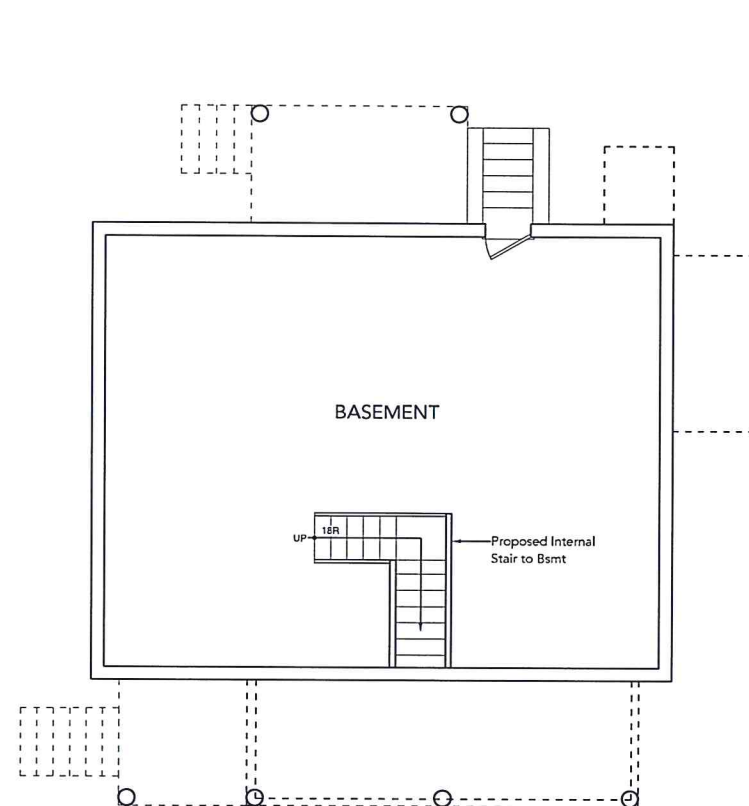
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Proposed Floor Plans

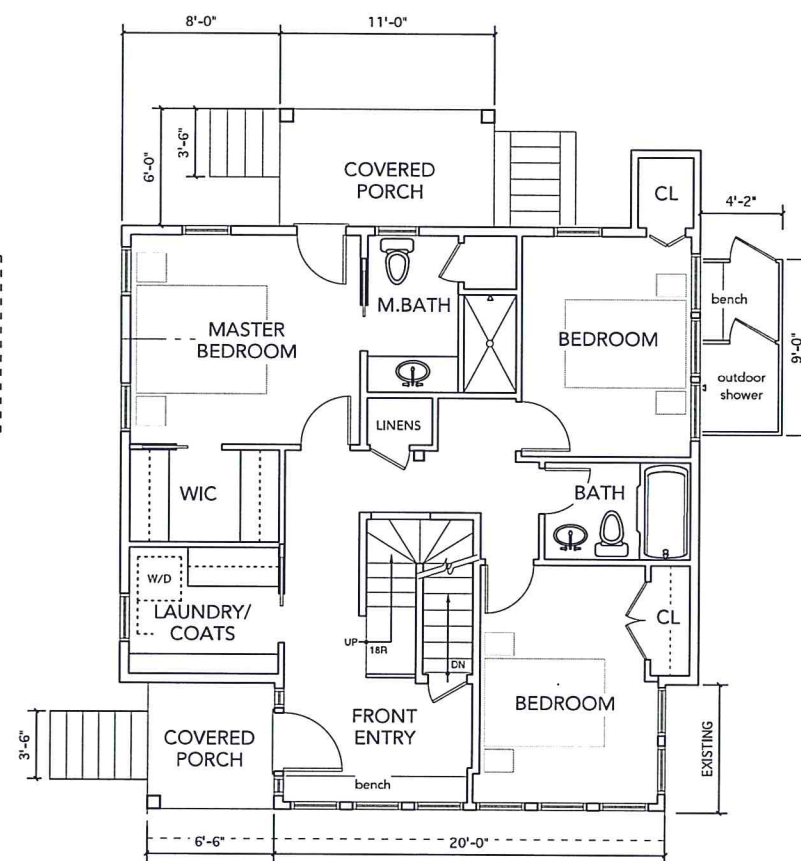
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16 january 2020

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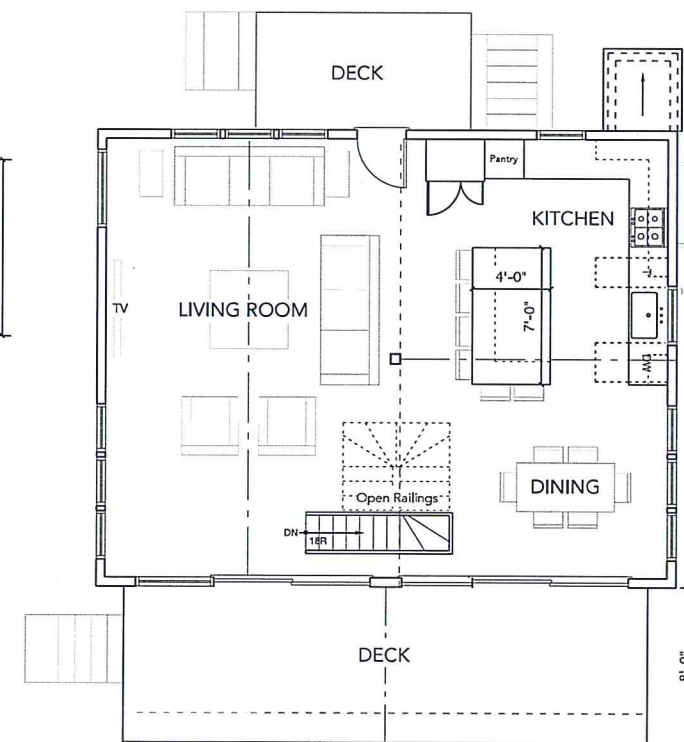
MAR 20 11:20 1 2520 4 434



1 Proposed Basement Floor Plan
SCALE: 1/8" = 1'-0"



2 Proposed First Floor Plan
SCALE: 1/8" = 1'-0"



3 Proposed Second Floor Plan
SCALE: 1/8" = 1'-0"

SF CALCULATIONS - EXISTING	
BASEMENT	694 SF
1ST FL	838 SF
2ND FL	694 SF
TOTAL	2,226 SF



1 Exterior Elevation - FRONT
SCALE: 1/8" = 1'-0"



2 Exterior Elevation - SIDE
SCALE: 1/8" = 1'-0"



3 Exterior Elevation - REAR
SCALE: 1/8" = 1'-0"



4 Exterior Elevation - SIDE
SCALE: 1/8" = 1'-0"

project:

MIKITKA RESIDENCE

37 Reservation Terrace
Newburyport, MA

architect:

GRAF ARCHITECTS

2 Liberty Street
Newburyport, MA
01950

T. 978 499 9442

www.grafarch.com

title:

Proposed
Exterior Elevations

SCALE: 1/8" = 1'-0"

16 January 2020

A02

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