

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

Petitioner: Vahid and Claudia Karimi c/o Mark Griffin, Esq.  
 Mailing Address: 30 Green Street, Newburyport, MA 01950  
 Phone: 978-462-1514 Email: mark@finnic.com  
 Property Address: 43 Fair Street  
 Map and Lot(s): 15/77 Zoning District: R-2  
 Book and Page(s): Book 36585, Page 329  
 Owner(s) Name: Same as Petitioner  
 Mailing Address (if different): same as above

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 checked="" 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 type="checkbox"/> Front Yard                                  |   |

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

Description of request:

Upward extension of roofline in southeast corner of home along a preexisting nonconforming setback.

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	3280	40	49	NA	22	117.8	2	.9	(2dfont) .5	35	9.8
Proposed	3280	41	47.4	NA	22	117.8	2	.9	.5	35	9.8
Required	10000	41	25	NA	35	90	2	25	25	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**
977	2	1954	101
528	1	528	ACC/GAR

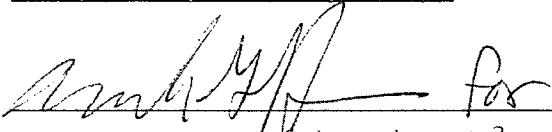
**Proposed Buildings:**

Ground Floor Sq. Feet	# of Floors	Total Sq. Feet	Use Code of Building**
977	2	1954	101
528	1	528	ACC/GAR

\*\*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):

  
 Valad on Claudia Kasimi

CITY OF NEWBURYPORT, MA  
ZONING REVIEW/BUILDING PERMIT DENIAL

APR 2016-026

Name: JOHN + CLARA DIAMANTIS

Address: 150 FAIR ST. Zoning District(s): R3/DCOD

Request: ADD NEW ROOF ABOVE LOWER PORTION OF STRUCTURE, REMOVE REAR LANTERN CANOPY, RELOCATE SELECT WINDOWS + DOORS

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
  - Upward Extension
  - Open Space
  - Height
  - Lot Area
  - 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
  - Height
  - Lot Coverage
  - Setbacks
  - Open Space

Special Permit

- Special Permit for Use (V.D) Use #: \_\_\_\_\_
- Spacing (VI.D)
- In-Low 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
  - Upward Extension
  - Open Space
  - Height
  - Lot Area
  - 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

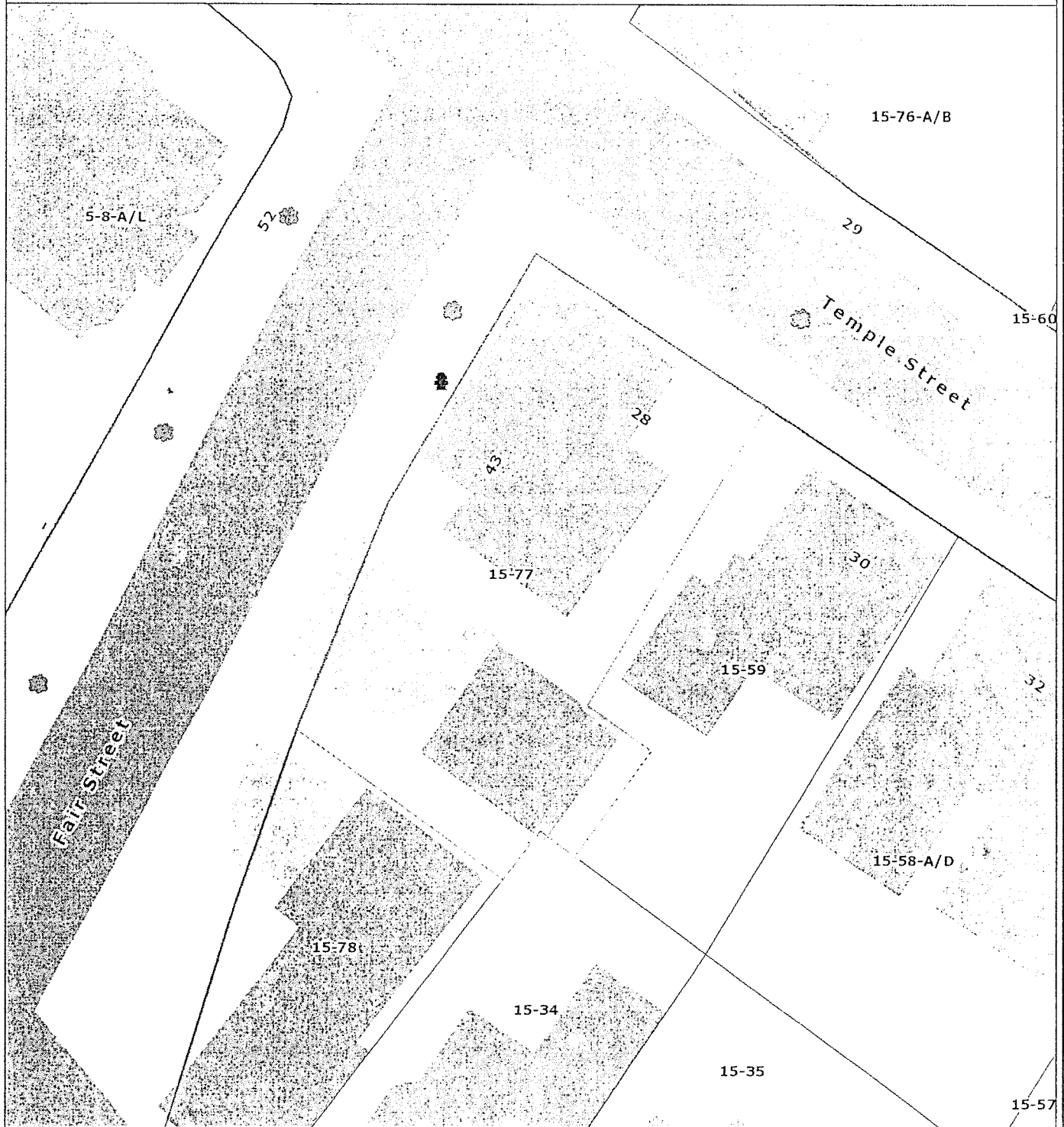
HISTORICAL COMMISSION REVIEW REQUIRED


- Demo. Delay
  - \*Advisory Review
- "ROOFLINE CHANGE"

CONSERVATION COMMISSION REVIEW REQUIRED

CITY COUNCIL REVIEW REQUIRED (X.H.9)

Joseph Blawie 3/14/2018  
Newburyport Zoning Administrator Date



- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>☐ MVPC Bo</li> <li>☐ Newburyport Boundary</li> <li>Trees                     <ul style="list-style-type: none"> <li>★ Immediate Action Needed</li> <li>⬤ No Action Needed</li> <li>⬤ Unknown</li> </ul> </li> <li>→ Railroad</li> <li>☐ Parcels</li> <li>— Sidewalks</li> <li>Water System                     <ul style="list-style-type: none"> <li>▲ Hydrant</li> <li>— Trails</li> <li>▭ Building Footprints</li> <li>— Driveways</li> <li>☐ Easements</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>Road Right of Way                     <ul style="list-style-type: none"> <li>▨ Paved</li> <li>▨ Unpaved</li> </ul> </li> <li>Hydrographic Features                     <ul style="list-style-type: none"> <li>— Stream</li> <li>— Intermittent Stream</li> </ul> </li> <li>Wetlands                     <ul style="list-style-type: none"> <li>⬤ City</li> <li>⬤ City and State</li> <li>⬤ State</li> </ul> </li> <li>☐ Exempt Lands</li> <li>▨ Recreation Areas</li> </ul> |
|--|--|
- 1" = 21 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.

<b>CURRENT OWNER</b> LAVOIE MICHAEL D & DEANNA L T 43 FAIR STREET REALTY TRUST 16 SMITHS ST NEWBURYPORT, MA 01950 Additional Owners:	<b>TOPO.</b>	<b>UTILITIES</b>	<b>STRT. ROAD</b>	<b>LOCATION</b>	<b>CURRENT ASSESSMENT</b> Code Description Appraised Value Assessed Value 1010 RESIDENTIAL 285,700 285,700 1010 RES LAND 228,400 228,400 1010 RESIDENTIAL 11,100 11,100	123 NEWBURYPORT, MA
<b>SUPPLEMENTAL DATA</b> Other ID: 15-77 SUB-DIV: CONDO CV: PHOTO: INLAW Y/N: WARD: LOT SPLIT: TILE #: 40B W/SNG: ATT 1/2 HSE: GIS ID: M_251623_951009	<b>ASSOC PID#</b>	<b>VISION</b>				

<b>RECORD OF OWNERSHIP</b>					
SALE DATE	Q/Y	V/I	SALE PRICE	V/C	
02/05/2016	U	I	610,000	00	IF
01/31/2014	Q	I	142,000	00	IF
12/30/1998	U	I			
12/06/1995	Q	I			
34700/0346					
33099/0064					
15366/0218					
13314/0073					
3330/545					
<b>OTHER ASSESSMENTS</b>					
Total: 525,200					

<b>EXEMPTIONS</b>					
Year	Type	Description	Amount	Code	Comm. Int.
Total: 505,900					

<b>ASSESSING NEIGHBORHOOD</b>					
NBHD/SUB	Street Index Name				
6/A	Tracing				

ORANGE IG  
 PLAN BOOK & PAGE IS INCORRECT ON THE  
 DEED. THE CORRECT INFORMATION SHOULD  
 BE PLAN BOOK 72 PLAN 76.

<b>BUILDING PERMIT RECORD</b>					
Permit ID	Issue Date	Type	Description	Amount	Insp. Date
AR15-2/96	02/02/1996	RS	Residential	21,000	08/07/1996
DP10-10/95	10/26/1995	RS	Residential	2,150	
<b>OTHER ASSESSMENTS</b>					
Total: 525,200					

<b>LAND LINE VALUATION SECTION</b>					
B Use Code	Use Description	Zone	D	Front Depth	Units
I 1010	SINGLE FAM.	R3			3,203 SF
Unit Price	62.00	Factor	1.1500	Disc	1.0000
Acre	6	ST. Idx	1.00	ST. Idx	0.00
Notes-Adj					
Special Pricing					
Spec Use					
Spec Calc					
S Adj Fact	1.00				
Adj. Unit Price	71.29				
Land Value	228,400				

<b>VISIT/CHANGE HISTORY</b>					
Permit ID	Issue Date	Type	Date	ID	Purpose Result
AR15-2/96	02/02/1996	RS	07/31/2013	SS	FR Field Review as mandated
DP10-10/95	10/26/1995	RS	05/17/2007	CN	00 Measur+Listed
			01/31/2007	PM	01 Measur+1 Visit
			01/31/2007	PM	02 Measur+2 Visits
			06/10/1998	GB	00 Measur+Listed
Net Total Appraised Parcel Value: 525,200					

Total Card Land Units: 0.07 AC Parcel Total Land Area: 0.07 AC  
 Total Land Value: 228,400



MEMORANDUM IN SUPPORT OF  
APPLICATION FOR SPECIAL PERMIT FOR NONCONFORMITIES  
BY VAHID AND CLAUDIA KARIMI FOR  
43 FAIR STREET, NEWBURYPORT, MA

Background

The existing structure at 43 Fair Street is a single family home located on a corner lot in the South End of Newburyport in the R-2 Zoning District<sup>1</sup>. It is an older (the assessor's card says 1737) home on an undersized lot in a neighborhood with many older homes also situated on nonconforming undersized lots. The lot is undersized at 3230 sf. The existing structures are the main historic home which has an existing "L" shaped addition which was added to the main home much later than its original construction. The existing primary structure is nonconforming with respect to its front setback (Primary Front Lot Line) (.9), and secondary front setback (.5) and rear setback (9.8). The side setback is compliant. The house is also nonconforming with respect to lot coverage (49%). There is a detached garage on the lot which, based on building records, appears to have been re-constructed in or about 1996.

In or about 2014 the previous owner received a special permit for nonconformities and a DCOD special permit to construct an addition and connect the garage to the main house. The plan would have allowed the demolition of the existing "L" shaped addition and construction of a new addition in the same footprint. That project would have connected the new addition to the detached garage. Those permits have expired and the project was never built.

Proposed Construction

The Petitioner proposes to raise the roofline on the aforementioned addition in the southeast corner of the lot. The existing roofline of the existing addition is approximately 16'. The Petitioner proposes to extend this @6' upwards to provide sufficient headroom in the master bathroom.

Special Permit Criteria

- A. The use proposed for the new structure is use 101, single family residential.
- B. The existing home was built in or about 1737 and is preexisting legally nonconforming with respect to lot area, lot coverage, front and rear setbacks. The project concerns only the upward extension of the roof of the existing addition, which happens to be above a preexisting nonconforming rear setback (9.8' where 25' is required). Accordingly, the Code Enforcement Officer has determined that the proposal can be allowed pursuant to a special permit for nonconformities under Section IXB2.
- C. The critical inquiry for Section IXB2 is the following:

---

<sup>1</sup> Previously the R-3 Zoning District.

2) *That the proposed change will not be substantially more detrimental to the neighborhood than the preexisting nonconforming structure or use. The board of appeals may consider, among other relevant factors, the size, scale, massing, volume, and location of the proposed structure...*

- D. The proposed home will not be substantially more detrimental than the existing structure. First, there will be no additional square footage added to the existing structure. The reason for this is that the upward extension is only to the addition roof and adds no new floor area. Thus, the change in exterior appearance and additional density will be *de minimus*. The size, scale, massing and volume will be quite similar to what exists now with the only real change being additional headroom in the master bathroom resulting from the 6' upward extension associated with the existing addition. This construction will not affect the light, air or views of neighboring landowners. This lack of significant impact can be grounds for a finding that the structure is not substantially more detrimental. - Britton v. Zoning Board of Appeals of Gloucester, 59 Mass. App. Ct. 68 (2003)(board decision upheld where it found project would be substantially more detrimental where addition would have significant impact on light, views, breezes, noises, odors, etc.) Many of the surrounding homes are also on much smaller lots than allowed in the zoning district and also have many nonconforming dimensional aspects. This area is, after all within the Newburyport Historic District where many older homes are situated. The NHD is replete with nonconforming properties. Serieka v. Hoefling, 1LCR 91 (1993)(addition of mudroom not substantially more detrimental where the nonconformity was increased by 10%, where other neighboring homes were also nonconforming...)
- E. For all of the foregoing reasons the Petitioner submits that this project will not be substantially more detrimental to the neighborhood than the existing structure and requests the Zoning Board of Appeals grant the Special Permit for Nonconformities.



**THE  
KARIMI  
RESIDENCE**

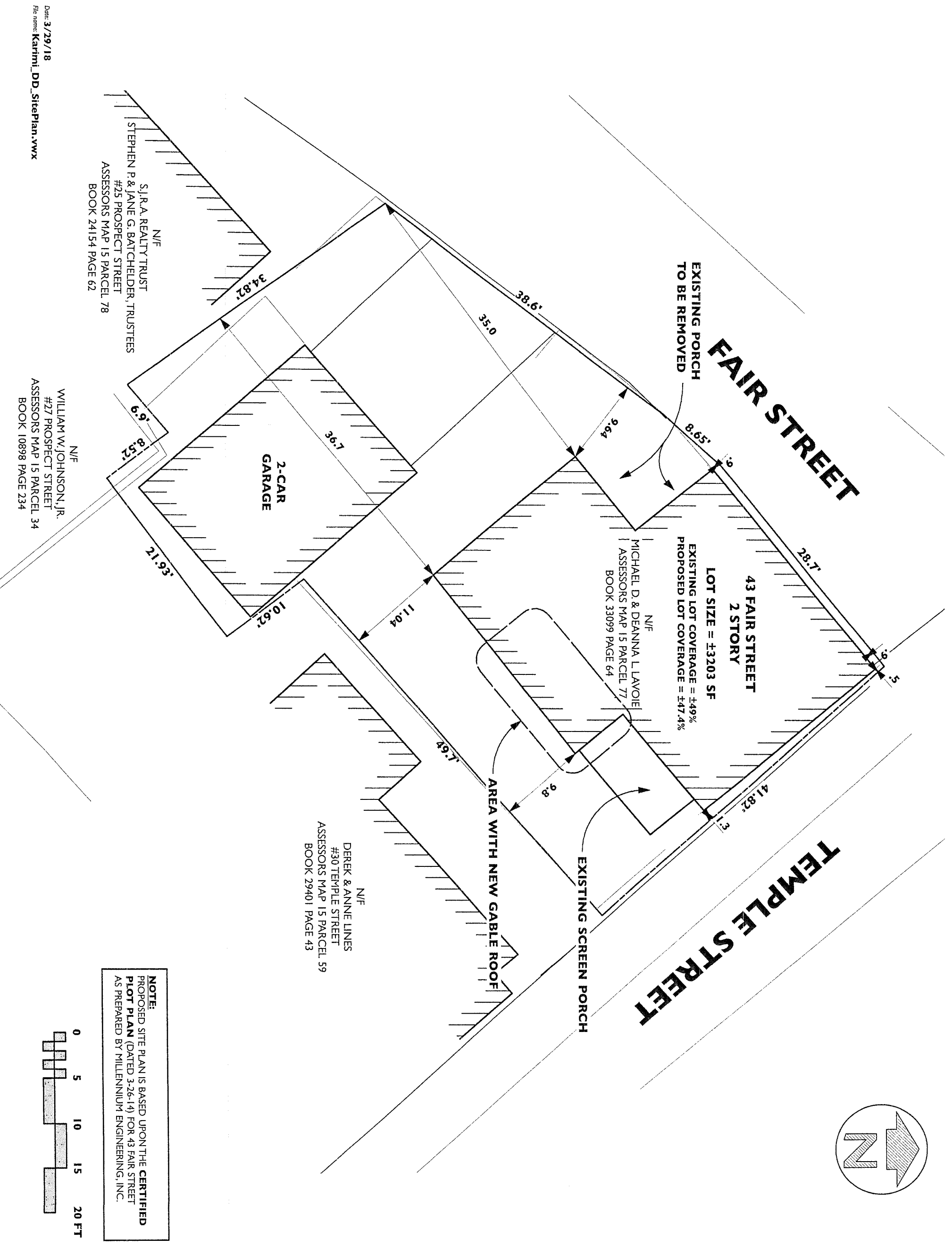
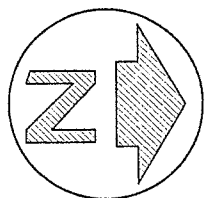
AT

43 FAIR STREET  
NEWBURYPORT, MA 01950

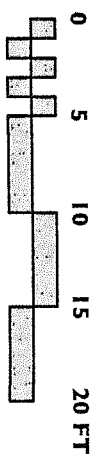
ARCHITECT:

**SCOTT M. BROWN**  
29 WATER STREET,  
SUITE 209  
NEWBURYPORT, MA 01950  
T. 978.465.3535

WWW.SCOTTBROWNArchitect.COM



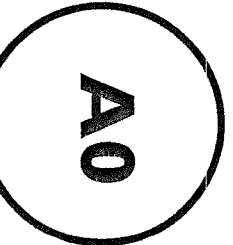
**NOTE:**  
PROPOSED SITE PLAN IS BASED UPON THE CERTIFIED  
**PLOT PLAN** (DATED 3-26-14) FOR 43 FAIR STREET  
AS PREPARED BY MILLENNIUM ENGINEERING, INC.



MARK	DATE	REVISIONS
	3-30-18	ZBA SUBMISSION

**PROPOSED  
SITE PLAN**

SCALE: 1" = 1'-0"









ADDITIONS/ALTERATIONS

TO:

THE  
KARIMI

RESIDENCE

AT

43 FAIR STREET  
NEWBURYPORT, MA 01950

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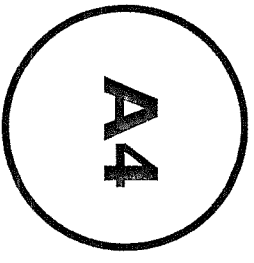
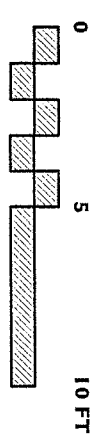
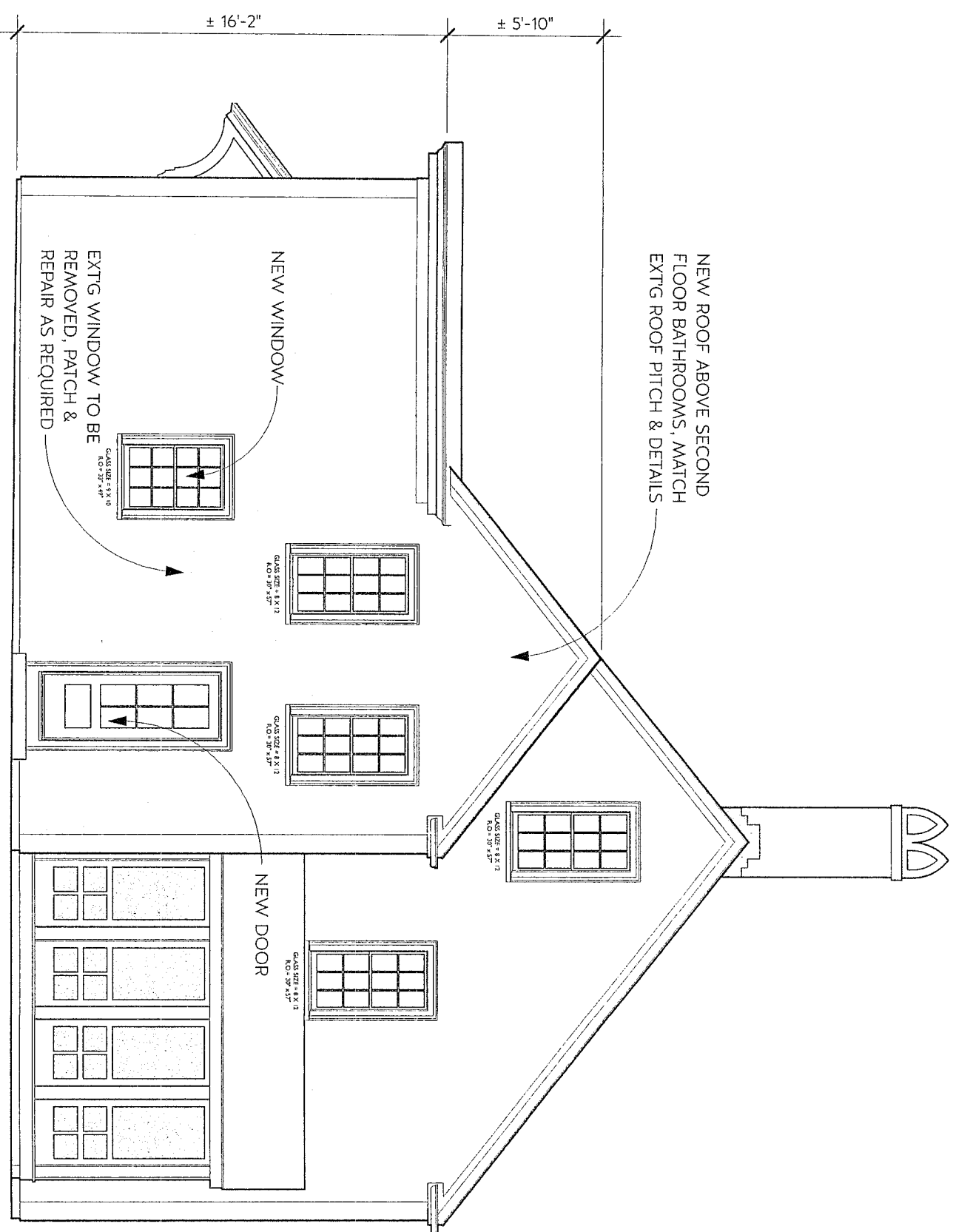
NEWBURYPORT, MA 01950  
T. 978.465.3535

WWW.SCOTTBROWNNARCHITECT.COM

MARK	DATE	REVISIONS
	1-29-18	CONCEPTUAL DESIGN
	3-21-18	H.C. SUBMISSION
	3-30-18	ZBA SUBMISSION

**PROPOSED  
EAST ELEVATION**

SCALE: 3/16" = 1'-0"



**THE  
KARIMI  
RESIDENCE**

AT

43 FAIR STREET  
NEWBURYPORT, MA 01950

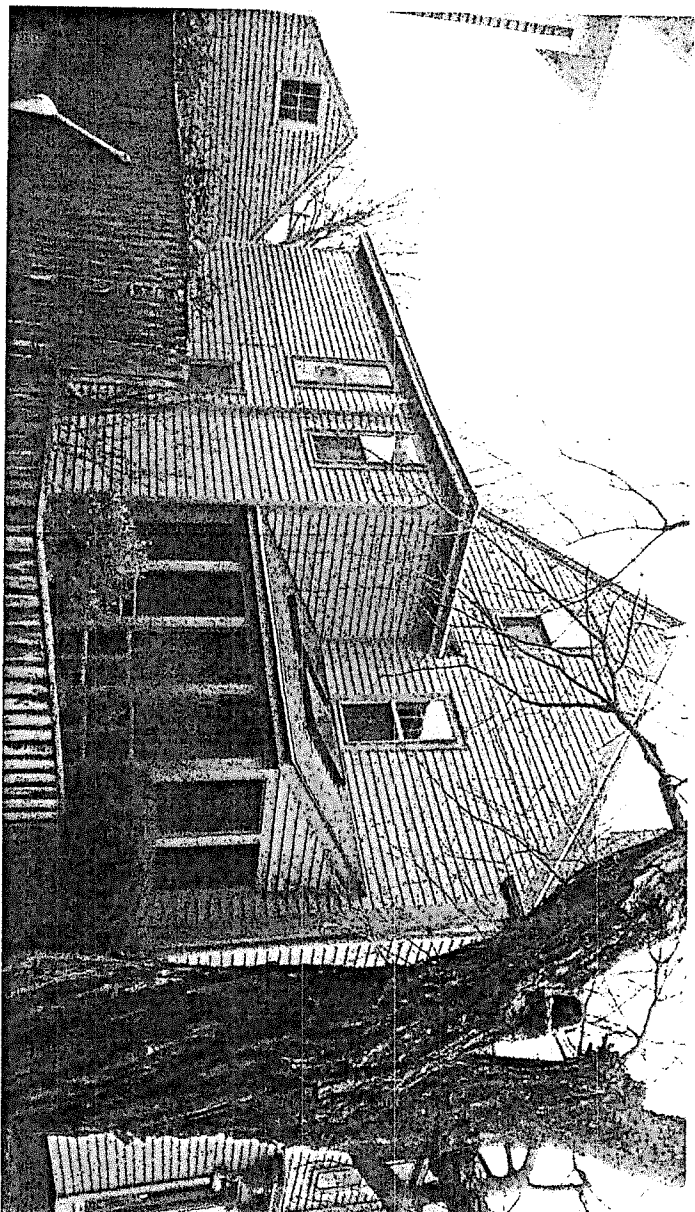
ARCHITECT:

**SCOTT M. BROWN**

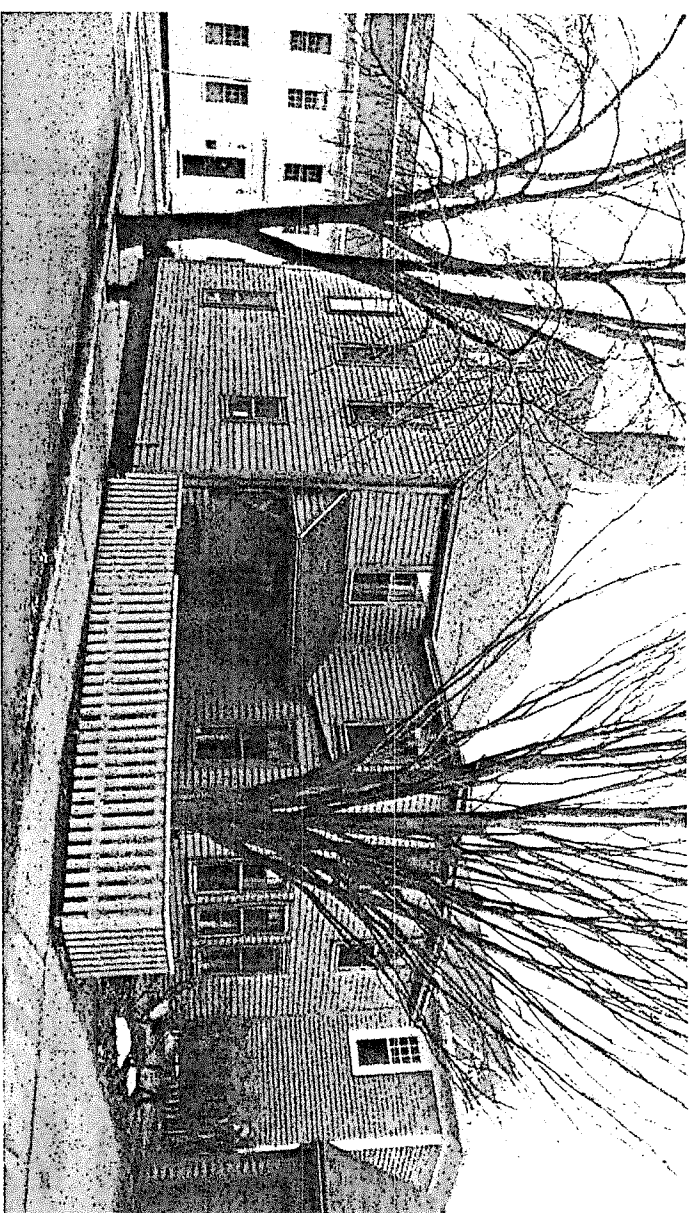
29 WATER STREET,  
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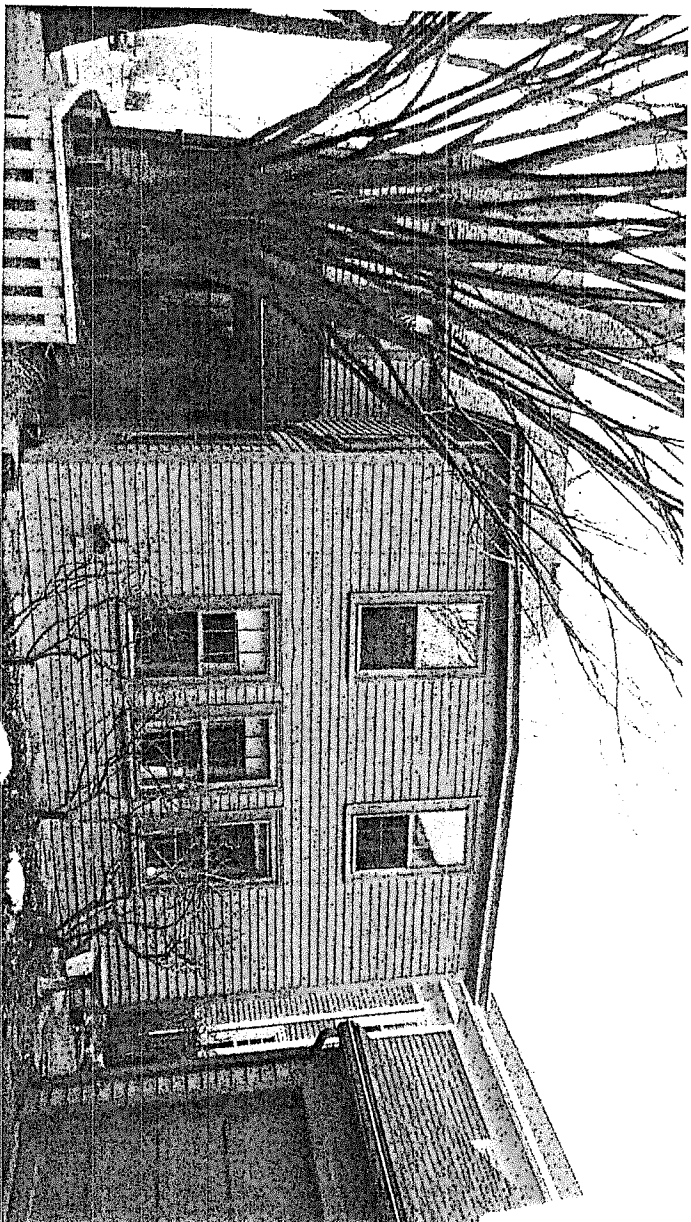
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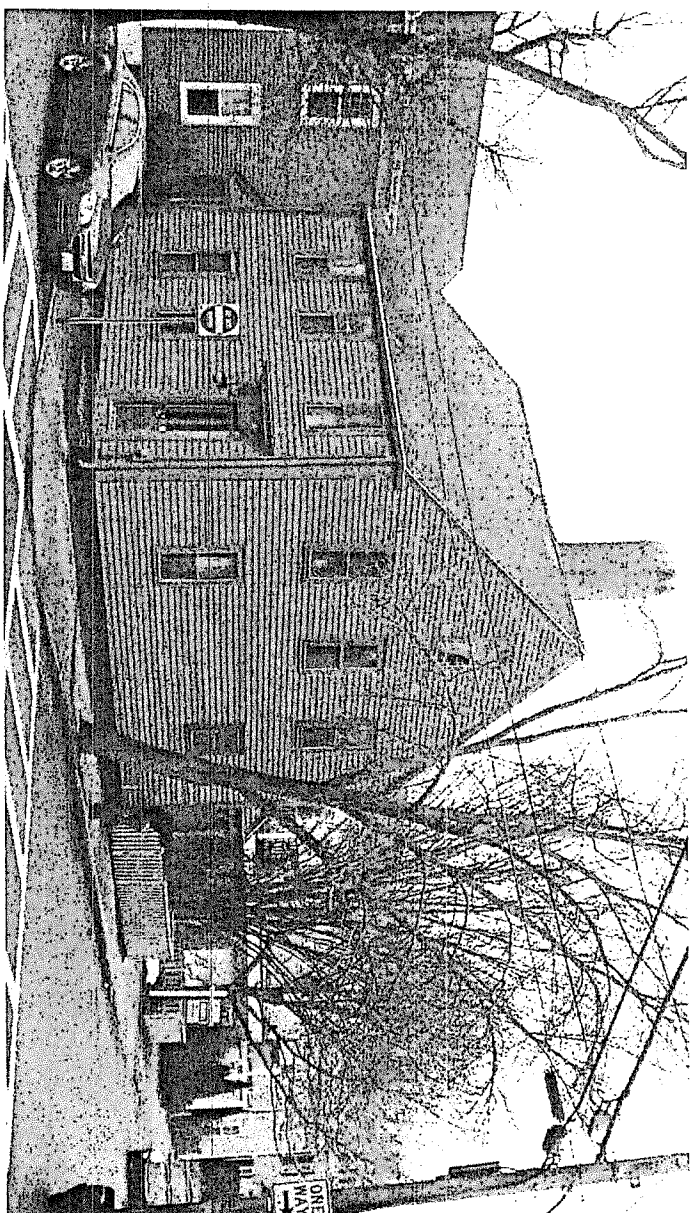
**VIEW FROM EASTERN CORNER**



**VIEW FROM WESTERN CORNER**



**VIEW FROM SOUTH SIDE OR REAR OF HOUSE**



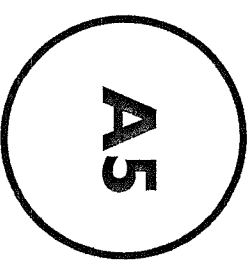
**VIEW FROM NORTHERN CORNER**

MARK DATE REVISIONS

3-21-18 H.C. SUBMISSION

EXISTING  
PHOTOGRAPHS

SCALE : NO SCALE







# THE KARIMI RESIDENCE

AT

43 FAIR STREET  
NEWBURYPORT, MA 01950

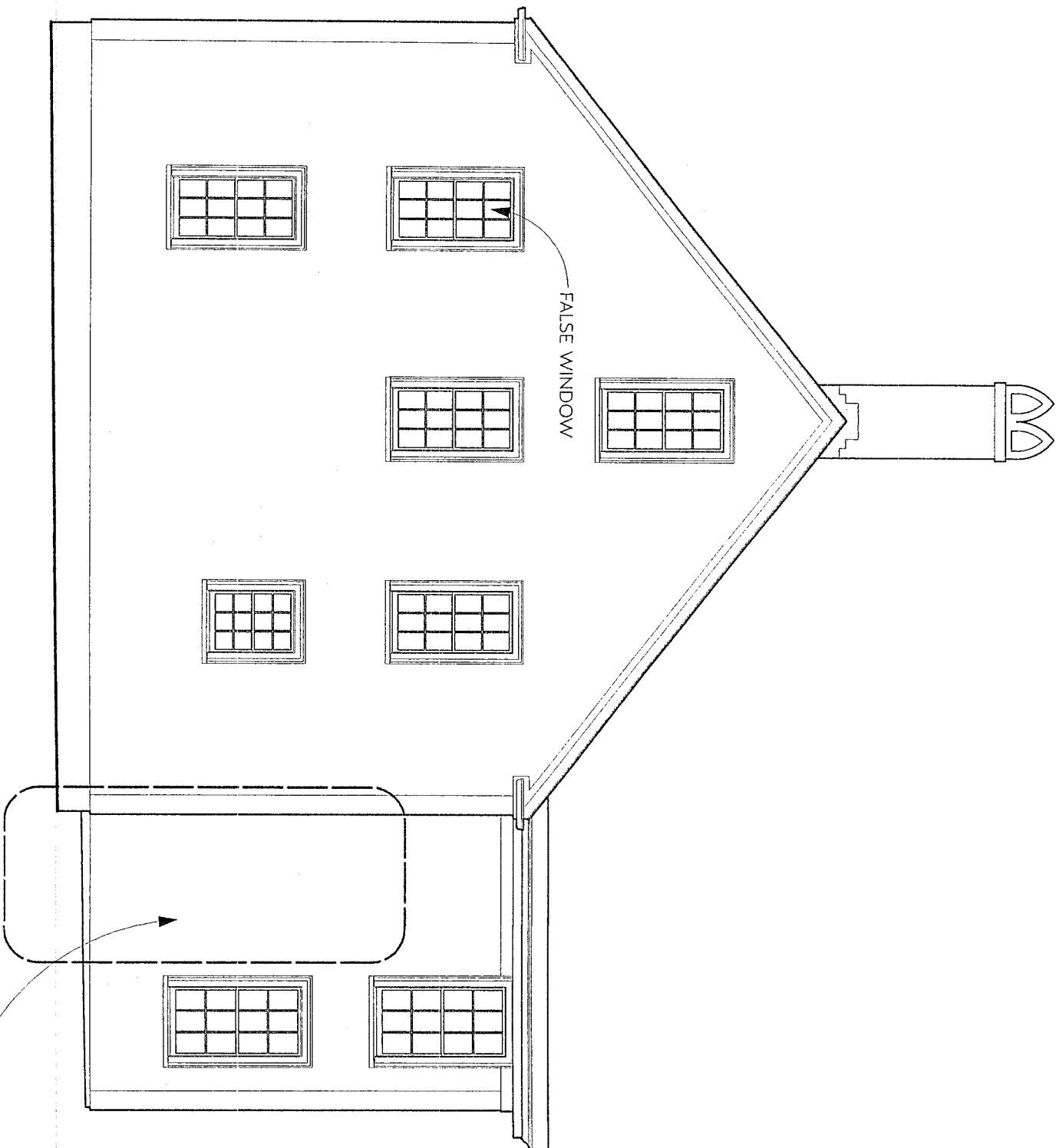
ARCHITECT:

**SCOTT M. BROWN**

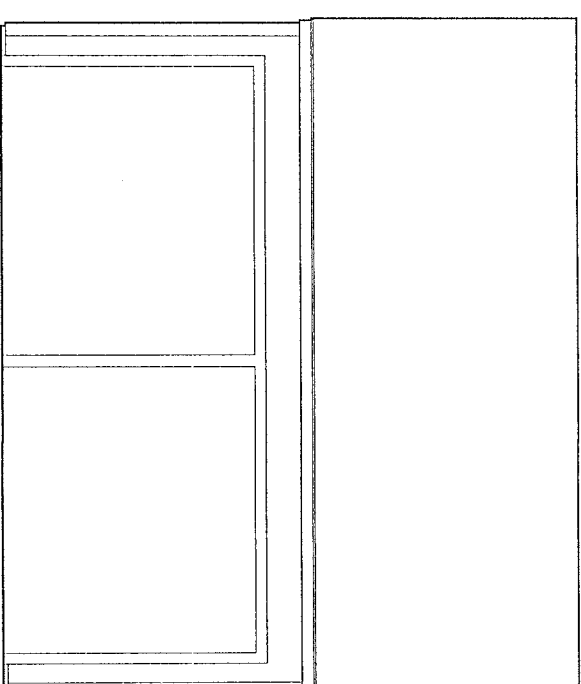
29 WATER STREET,  
SUITE 209

NEWBURYPORT, MA 01950  
T. 978.465.3535

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EXTG ENTRY PORCH &  
ROOF NOT INDICATED



MARK DATE REVISIONS

MARK	DATE	REVISIONS

EXISTING CONDITIONS:  
WEST ELEVATION

SCALE: 3/16" = 1'-0"





*ADDITIONS/ALTERATIONS*

TO:

**THE  
KARIMI  
RESIDENCE**

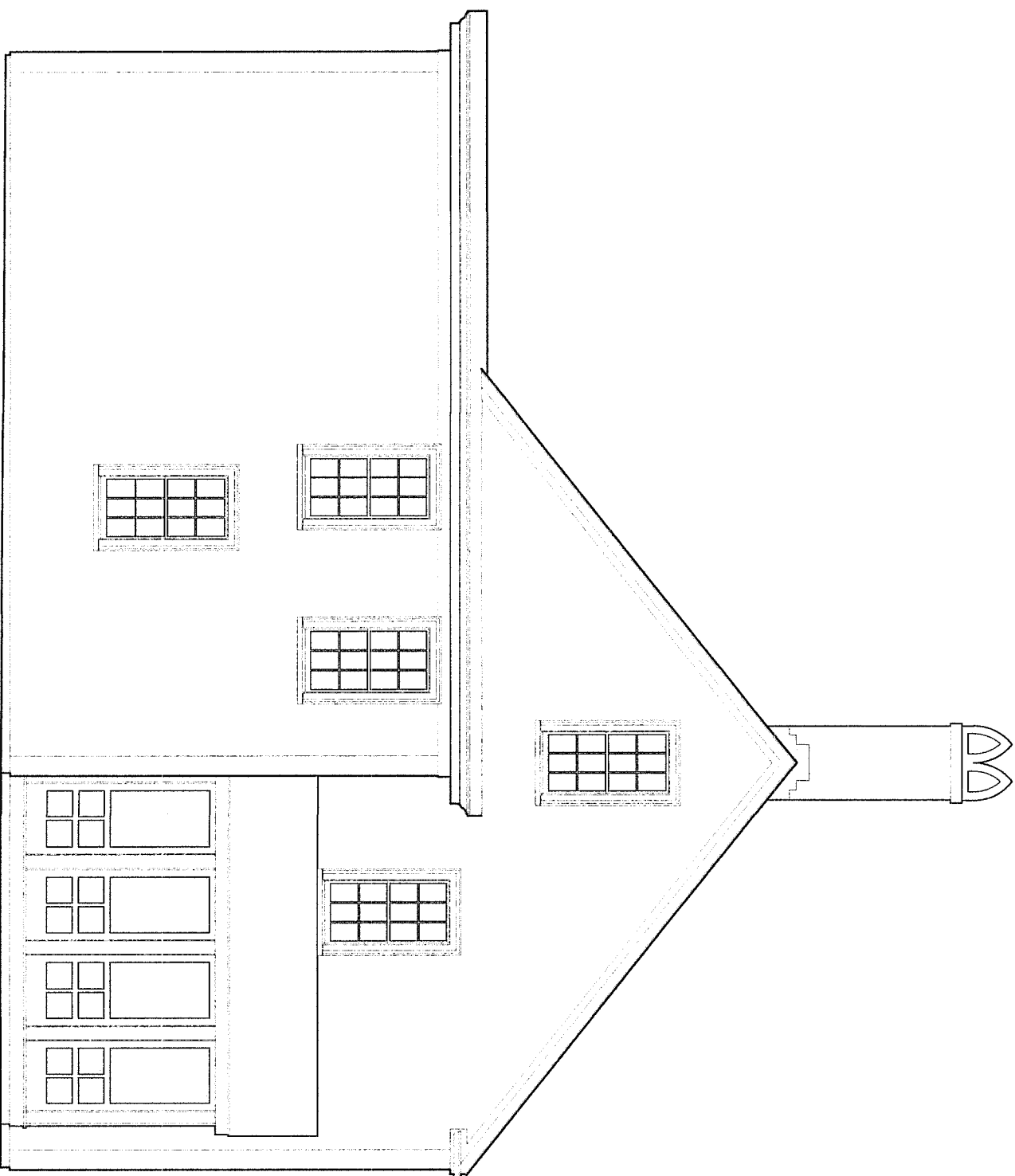
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MARK DATE REVISIONS

MARK	DATE	REVISIONS

**EXISTING CONDITIONS:  
EAST ELEVATION**

SCALE : 3/16" = 1'-0"

