

Mead, Talerman & Costa, LLC
Attorneys at Law

30 Green Street
Newburyport, MA 01950

Phone 978.463.7700
Fax 978.463.7747

www.mtclawyers.com

October 20, 2017

By Hand

Bonnie Sontag, Chair
Planning Board
City of Newburyport
City Hall
60 Pleasant Street
Newburyport, Massachusetts 01950

Re: Special Permit to Modify a Pre-existing Non-conforming Structure;
43 Liberty Street, Newburyport, MA (the "Property");
Assessor's Map: 8 Lot 19

Dear Chair and Members of the Board;

Reference is made to the above-captioned matter. In that connection, this firm represents the Newburyport Renovations LLC (the "Petitioner"), relative to the renovation and addition to a single-family dwelling on the Property. The Property consists of approximately 1,986 square feet of land with 44 feet of frontage on Liberty Street. There is an existing single-family home on the property. The current structure is non-conforming for; lot area, frontage, right-side and rear setback, and lot coverage. The Property is in the B-3 and Downtown Overlay District of the Newburyport Zoning Ordinances (the "NZO"). It is the Petitioners' intention to renovate and add onto the residence.

The proposed renovated structure will not change the right-side setback non-conformity, nor the frontage, front yard or lot area non-conformity. The rear setback non-conformity is proposed to be carried along the remaining length of the rear wall to the west. The lot coverage will go from 32.02% to 45.5%.

The Property is located in the Downtown Demolition Overlay District and the B-3. Given that this single family home use is pre-existing non-conforming the Building Commissioner applies the R-3 dimensional requirements. Additionally, the structure was built in or about 1851 and 1867 by William S. Dodge, 43 Liberty Street is a single-family, Greek Revival residential structure and is listed contributory on the City of Newburyport Historic Register list. The Petitioner proposes to demolish 10.27% of the exterior walls and therefore the project is not considered demolition under section XXVII of the NZO. (See calculation from Scott Brown, Architect).

Millis Office

730 Main Street, Suite 1F
Millis, MA 02054

Phone 508.376.8400

The Petitioner will require a special permit to modify the pre-existing non-conforming structure in accordance with section IX-B(2)(A) and IX-B(3) of the NZO because there is an alteration to a pre-existing non-conforming structure and the square footage will increase by 527 sq. ft.¹ Pursuant to section XXVII, given the location of the Property in the Downtown Overlay District, the Planning Board is the Special Permit Granting Authority for this special permit.

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 be no addition of a new non-conformity and that the proposed changes will not be substantially more detrimental to the neighborhood. Further section IX-B(3)(C) of the NZO provides that any extension or alteration of the principal structure on a lot with insufficient area or frontage would increase the floor area of a dwelling unit by more than 500 square feet requires a special permit under section IX(B)(2).

As is shown on the plan, the Board can find that there will be no new non-conformities.

The next question for the Board is the proposed change substantially more detrimental to the neighborhood than the existing structure. Section IX-B(2) provides:

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, extension or alteration as compared to:

- (a) The existing structure and lot;
- (b) Other structures and lots in the neighborhood; and
- (c) Reasonable alternatives to the proposal, including alternatives that may require planning board approval under section VI-C of the ordinance.

The proposed renovation and addition are modest in size and location. Great care has been taken to step away from the original structure from the street to allow separation of the new from the old for the right side addition. The new addition on the right is no taller than the existing structure and carries over the same corner board and rake details of the existing structure. The rear addition cannot be seen from the street, but is merely an extension of the existing porch like structure form on the rear to allow additional living space on the first floor. Even with the proposed modest addition, the lot coverage and rear setback will be better than most all of the surrounding lots and structures. (See attached Assessor's Map) As compared to the existing structure and lot and other structures and lots in the neighborhood, the Board can find that the proposed additions are not substantially more detrimental to the neighborhood. Finally, there are no reasonable alternatives to the proposal as the Petitioner has been careful and considerate in the balance between renovation and addition with an modest request for an increase in living space. The existing structure includes 1105 sq. ft. of living space and the proposed structure will include 1632 sq. ft. of living space.

¹ It should be noted that while the lot coverage is increasing, in accordance with Deadrick v. Zoning Board of Appeals of Chatham, 85 Mass App Ct 539 at 553, because the lot coverage was a pre-existing non conformity, only a Special Permit is required. "Like the Land Court judge, we construe the provisions of the first and second sentences of § 6 together to allow extension of existing nonconformities upon a showing of no substantial detriment, but to require a variance for the creation of any new nonconformity".

As a result, the Petitioner states that the Board can find that the proposed change will not be substantially more detrimental to the neighborhood than the pre-existing nonconforming structure and a special permit should issue to allow the construction as proposed.

Sincerely,



Lisa L. Mead

Attachment
cc: Client

City of Newburyport Planning Board
Application for a SPECIAL PERMIT

Petitioner: Newburyport Renovations LLC, c/o Lisa Mead, Mead, Talerman & Costa LLC
Address: 30 Green Street, Newburyport MA 01950
Phone: 9784637700
Owner: Newburyport Renovations LLC
Address: 10 Oak Street
Phone: _____ Years owned land: >1

Site Address: 43 Liberty Street
Assessor's Map and Lot(s): Map 8 Lot 19 Zoning District: B3/DOD
Book and Page #: 36152/59 or Certificate of Title: _____

Ordinance section where relief is being requested:

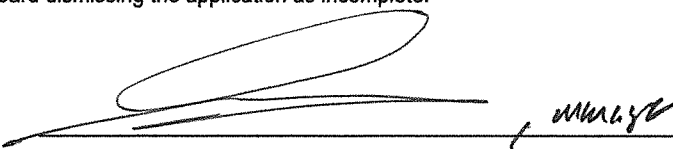
- | | |
|-------------------------------------------------------------------|-----------------------------------------------------------------------------|
| <input type="checkbox"/> One residential structure per lot (VI.C) | <input type="checkbox"/> Courts and Lanes (XXIII) |
| <input type="checkbox"/> Floodplain (XIII) | <input type="checkbox"/> Waterfront West Overlay District (XXIV) |
| <input type="checkbox"/> Open Space Residential Development (XIV) | <input type="checkbox"/> Towle Complex Redevelopment Overlay District (XXV) |
| <input type="checkbox"/> Water Resource Protection District (XIX) | <input checked="" type="checkbox"/> Downtown Overlay District (XXVII) |
| <input type="checkbox"/> Federal Street Overlay District (XXII) | |

Describe the Special Permit request:

Modify a pre-existing non-conforming structure by renovation and addition in the DOD.

Petitioner and Landowner signature(s):

Every application for a Special Permit shall be made on this form, which is the official form of the Planning Board. 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 Office of Planning and Development does not absolve the applicant from this responsibility. Failure to comply with application requirements as cited herein may result in the Planning Board dismissing the application as incomplete.

Signature of petitioner/owner: 
Print name(s) here: GEORGE HASKELZINE

OFFICE OF THE BUILDING COMMISSIONER/ZONING CODE ENFORCEMENT OFFICER

ZONING DENIAL

City APR#: 73

Name: Newburyport Renovations LLC / Lisa Mead

Address: 43 Liberty St. Zoning District: B-III

Request: Construct (2) Additions to Existing Single Family Adding over 500 s.f. Living Area on non-conforming

ZONING BOARD Lot, Intensifying nonconforming Lot Coverage Located in the OOD.

Dimensional Variance

- Dimensional Controls (VI), PIOD (XXI), Parking (VII), Lot Area, Lot Coverage, FAR, Lot Frontage, Open Space, 2 1/2 stories, Front Yard, Height, Side Yard, Lot Width, Rear Yard

Use Variance

- Not permitted use (V), Sign Location/Replacement (VIII)

Special Permit

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

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 s.f. increase (IX.B.3.c), Plum Island Overlay District (XXI-G-3), FAR, Footprint Expansion, Height Increase

PLANNING BOARD

Special Permit

- One residential structure per lot (VI.C), Courts and Lanes (XXIII), Floodplain (XIII), Waterfront West Overlay District (XXIV), Open Space Residential Development (XIV), Towle Complex Redev. Overlay District (XXV), Water Resource Protection District (XIX), Downtown Overlay District (XXVII), Federal Street Overlay District (XXII)

over 500 SF SP Lot Coverage SP

Site Plan Review (XV)

- Major, Minor

CITY COUNCIL

- GACM (X.H.9), Other:

CONSERVATION COMMISSION

HISTORICAL COMMISSION - Demolition Delay

10/19/18 Date

Building Commissioner/Zoning Code Enf. Officer



Mead, Talerman & Costa, LLC
Attorneys at Law

30 Green Street
Newburyport, MA 01950

Phone 978.463.7700
Fax 978.463.7747

www.mtclawyers.com

October 10, 2017

By Hand

Peter Binnette
Building Commissioner
City of Newburyport
City Hall
60 Pleasant Street
Newburyport, Massachusetts 01950

Re: Request for Permit Denial;
43 Liberty Street, Newburyport, MA (the "Property");
Assessor's Map: 8 Lot 19

Dear Peter;

Reference is made to the above-captioned matter. In that connection, this firm represents the Newburyport Renovations LLC (the "Petitioner"), relative to the renovation and addition to a single-family dwelling on the Property. The Property consists of approximately 1,986 square feet of land with 44 feet of frontage on Liberty Street. There is an existing single-family home on the property. The current structure is non-conforming for; lot area, frontage, right-side and rear setback, and lot coverage. The Property is in the B-3 and Downtown Overlay District of the Newburyport Zoning Ordinances (the "NZO"). It is the Petitioners' intention to renovate and add onto the residence.

The proposed renovated structure will not change the right-side setback non-conformity, nor the frontage, front yard or lot area non-conformity. The rear setback non-conformity is proposed to be carried along the remaining length of the rear wall to the west. The lot coverage will go from 32.02% to 43.1%.

The Property is located in the Downtown Demolition Overlay District and the B-3. Given that this single family home use is pre-existing non-conforming you have advised to apply the R-3 dimensional requirements. Additionally, the structure was built in or about 1851 and 1867 by William S. Dodge, 43 Liberty Street is a single-family, Greek Revival residential structure and is listed contributory on the City of Newburyport Historic Register list. The Petitioner proposes to demolish 10.27% of the exterior walls and therefore the project is not considered demolition under section XXVII of the NZO. (See calculation from Scott Brown, Architect)

To proceed with the Project, Petitioners will require a special permit to modify

RECEIVED

OCT 11 2017

CITY OF NEWBURYPORT
BUILDING DEPARTMENT

Millis Office

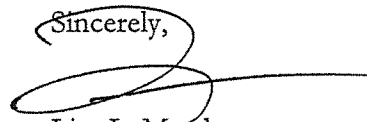
730 Main Street, Suite 1F
Millis, MA 02054
Phone 508.376.8400

the pre-existing non-conforming structure in accordance with section IX-B(2)(A) and IX-B(3) of the NZO because there is an alteration to a pre-existing non-conforming structure and the square footage will increase by 527 sq. ft.¹ Pursuant to section XXVII, given the location of the Property in the Downtown Overlay District, the Planning Board is the Special Permit Granting Authority for this special permit.

A copy of the site plan and demolition calculation is attached hereto. The Project will be completed in accordance with all other requirements of the NZO.

Kindly confirm the above at your earliest convenience. Should you have any questions or concerns, please contact me at (978) 463-7700.

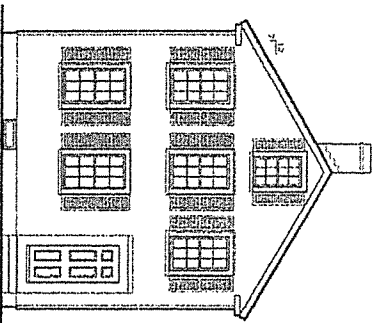
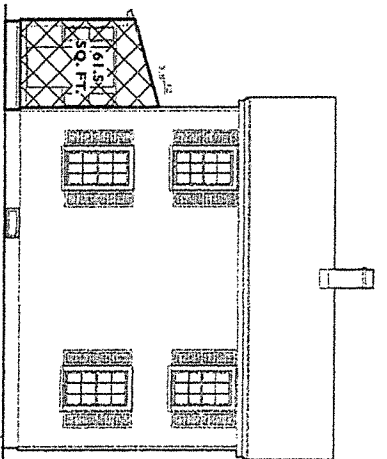
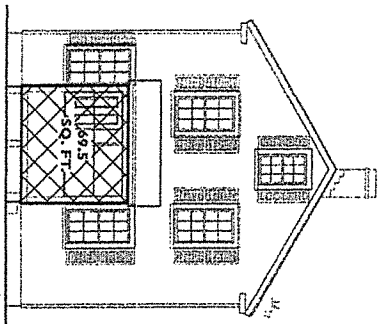
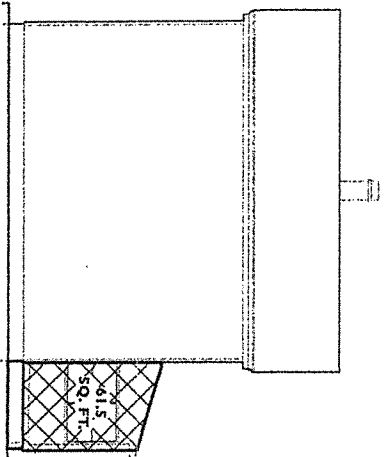
Sincerely,

A handwritten signature in black ink, appearing to read 'Lisa L. Mead', with a long horizontal flourish extending to the right.

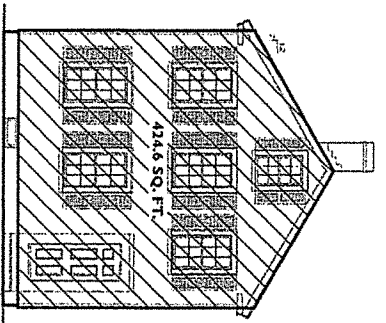
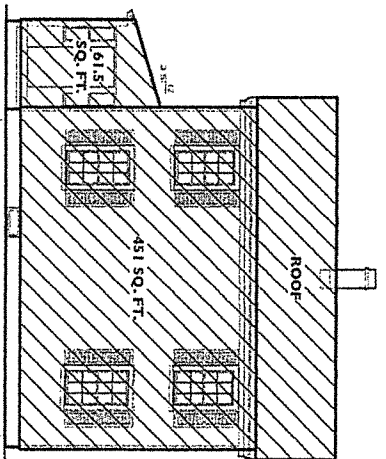
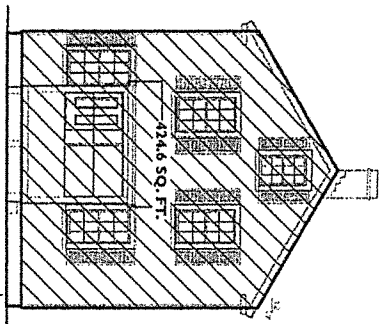
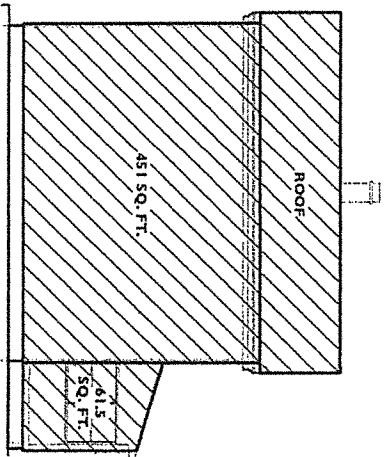
Lisa L. Mead

Attachment
cc: Client

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**AREAS OF EXISTING EXTERIOR WALLS
TO BE REMOVED**



**EXISTING EXTERIOR WALL
AREA CALCULATIONS**

EXISTING WALLS	WALLS TO BE COVERED
424.6	61.5
424.6	61.5
451	+ 69.5
451	= 192.5 SQ. FT.
61.5	
+ 61.5	
<u>1874.2 SQ. FT.</u>	

**% OF EXTERIOR WALLS
TO BE REMOVED**
192.5 / 1874.2 = 10.27%

43 LIBERTY ST

Location 43 LIBERTY ST

Mblu 8/ 19/ / /

Owner BOCCI JOANNA TRUSTEE

Assessment \$293,600

PID 292

Building Count 1

Current Value

Assessment			
Valuation Year	Improvements	Land	Total
2017	\$120,700	\$172,900	\$293,600

Owner of Record

Owner BOCCI JOANNA TRUSTEE

Sale Price \$0

Co-Owner 43 LIBERTY STREET REALTY TRUST

Certificate

Address 17 MARY BATCHELDER RD
HAMPTON, NH 03842-1702

Book & Page 20354/0535

Sale Date 03/14/2003

Instrument 1H

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
BOCCI JOANNA TRUSTEE	\$0		20354/0535	1H	03/14/2003
BOCCI JOHN J	\$0		3468/ 391		

Building Information

Building 1 : Section 1

Year Built: 1850

Living Area: 1,000

Building Attributes	
Field	Description
Style	Conventional
Model	Residential
Stories:	2 Stories
Occupancy	1
Exterior Wall 1	Vinyl Siding
Exterior Wall 2	
Roof Structure:	Gable/Hip
Roof Cover	Asph/F Gls/Cmp
Interior Wall 1	Plastered

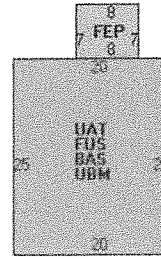
Building Photo



(<http://images.vgsi.com/photos/NewburyportMAPhotos//\01\00\24\83.jpg>)

Interior Wall 2	Plywood Panel
Interior Flr 1	Vinyl/Asphalt
Interior Flr 2	
Heat Fuel	Gas
Heat Type:	Forced Air-Duc
AC Type:	None
Total Bedrooms:	2 Bedrooms
Total Bthrms:	1
Total Half Baths:	0
Total Xtra Fixtrs:	
Total Rooms:	4
Bath Style:	Average
Kitchen Style:	Old Style

Building Layout



Building Sub-Areas (sq ft)			Legend	
Code	Description	Gross Area	Living Area	
BAS	First Floor	500	500	
FUS	Upper Story, Finished	500	500	
FEP	Porch, Enclosed	56	0	
UAT	Attic	500	0	
UBM	Basement, Unfinished	500	0	
		2,056	1,000	

Extra Features

Extra Features		Legend
No Data for Extra Features		

Land

Land Use

Use Code 1010
 Description SINGLE FAM
 Zone B2

Land Line Valuation

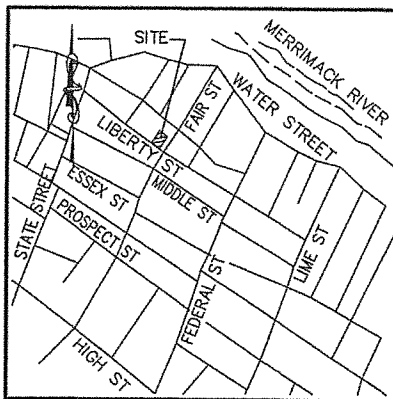
Size (Acres) 0.04
 Depth 0
 Assessed Value \$172,900

Outbuildings

Outbuildings		Legend
No Data for Outbuildings		

Valuation History

Assessment			
Valuation Year	Improvements	Land	Total
2016	\$120,700	\$164,600	\$285,300



LOCUS MAP
N.T.S.

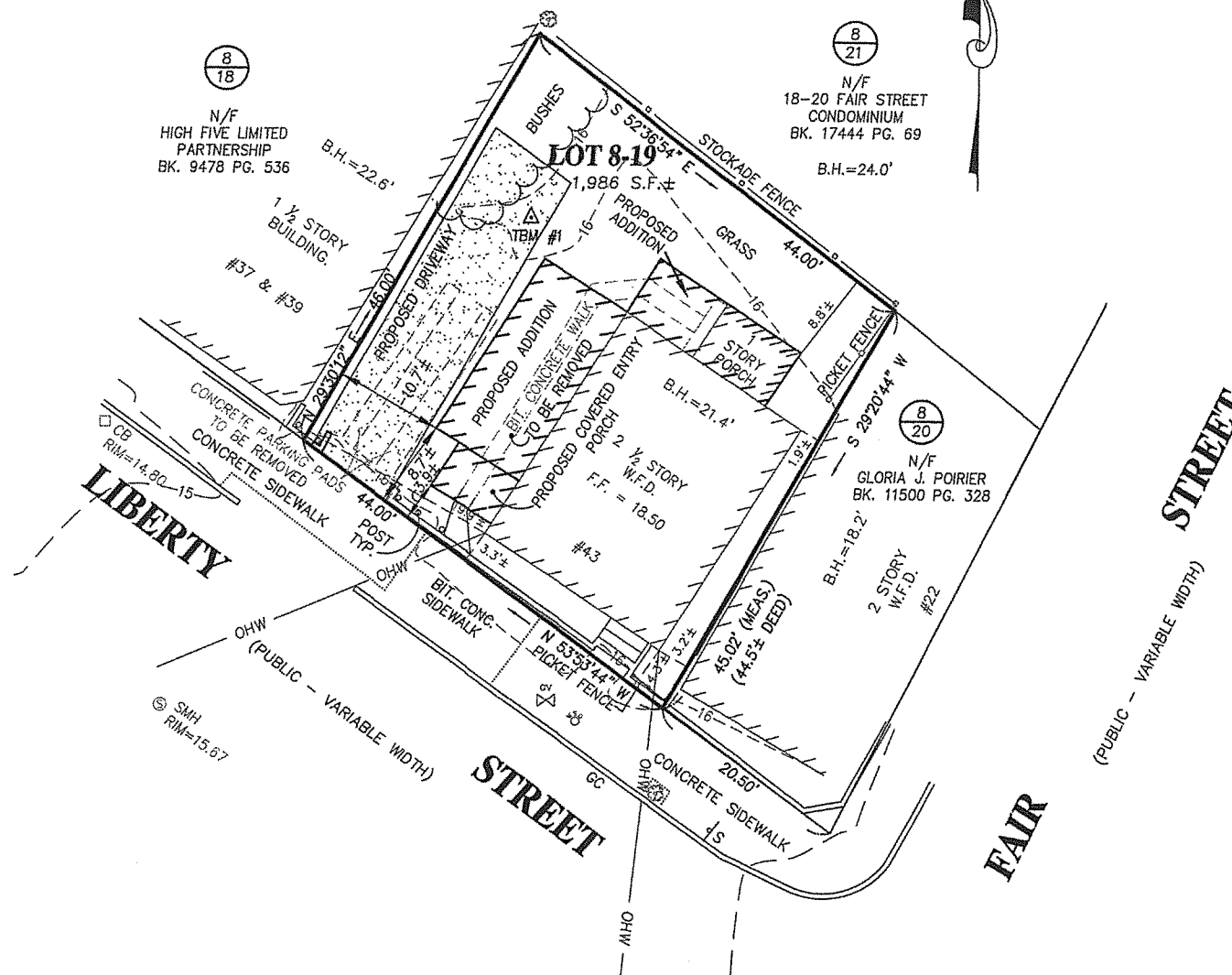
ZONING TABLE

ADDRESS - ASSESSORS MAP 8 LOT 19 #43 LIBERTY ST. ZONING DISTRICT RESIDENTIAL R-3/B-3 & DOWNTOWN OVERLAY DISTRICT			
	REQUIRED	EXISTING	PROPOSED
LOT AREA:	8,000 S.F.	1,986 S.F.	1,986 S.F.
LOT FRONTAGE:	80'	44'	44'
FRONT SETBACK:	20'	3.3'±, 4.3'±	3.3'±, 4.3'±, 3.9'±, 8.7'±
SIDE SETBACK:	10'	1.9'±, 3.2'±, 19.9'±	1.9'±, 3.2'±, 10.7'±
REAR SETBACK:	20'	8.8'±	8.8'±
LOT COVERAGE:	30%	32.02%	43.1%
OPEN SPACE:	35%	60.9%	38.8%
BLDG HEIGHT:	35'	21.4'	21.4'

VERTICAL DATUM
(N.A.V.D. 1988)

TBM #1
SPIKE NAIL SET
ELEV.=15.90

OWNER OF RECORD
43 LIBERTY STREET REALTY
TRUST
JOANNA BOCCI, TRUSTEE
BK. 20354 PG. 535



NOTE - SEE ARCHITECTURAL PLANS FOR FURTHER INFORMATION ON THE PROPOSED BUILDING IMPROVEMENTS.

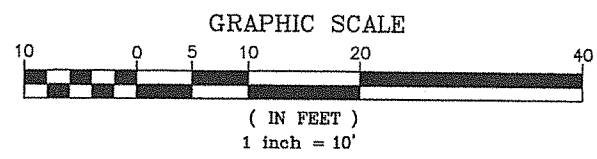
THE CERTIFICATIONS SHOWN HEREON ARE NOT INTENDED AS CERTIFICATION TO TITLE OR OWNERSHIP OF PROPERTY SHOWN. OWNERS OF ADJOINING PROPERTIES ARE ACCORDING TO CURRENT CITY OF NEWBURYPORT ASSESSORS RECORDS.

I CERTIFY:
THAT THIS ACTUAL SURVEY WAS MADE ON THE GROUND AUGUST 14, 2017, AND THAT THE STRUCTURES AND PHYSICAL FEATURES ARE LOCATED AS SHOWN TO THE BEST OF MY ABILITY AND BELIEF.



PROFESSIONAL LAND SURVEYOR DATE 10/11/17

- LEGEND**
- 16 --- EXISTING ELEVATION CONTOUR
 - OHW --- OVERHEAD WIRES
 - UPOLE UTILITY POLE
 - CB CATCH BASIN
 - GAS VALVE
 - WATER SHUT OFF
 - SMH SEWER MANHOLE
 - B.H. BUILDING HEIGHT
 - GC GRANITE CURB
 - STOCKADE FENCE
 - PICKET FENCE
 - SIGN
 - TREE
 - ASSESSORS MAP#
 - PARCEL#



PREPARED FOR
GEORGE HASELTINE
66 GILCREAST ROAD
LONDONDERRY, NH 03053

PLAN OF LAND
IN
NEWBURYPORT, MA
SHOWING
PROPOSED IMPROVEMENTS
AT
43 LIBERTY STREET
(MAP 8 - LOT 19)

MILLENNIUM ENGINEERING, INC.
ENGINEERING AND LAND SURVEYING
62 ELM ST. SALISBURY, MA 01952 (978) 463-8980
13 HAMPTON RD. EXETER, NH 03833 (603) 778-0528

SCALE: 1"=10'	CALC. BY: S.F.R.	PROJECT: M173198
DATE: OCT. 11, 2017	CHKD. BY: J.S.H.	

HALF ROUND ALUM. TOP-HUNG
 GUTTER NOT INDICATED

ARCHITECTURAL ASPHALT
 ROOF SHINGLES, TYPICAL

'BROSCO' 1 1/16" X 4 5/8" #8013
 PINE CROWN MOULDING OR
 PVC EQUAL OVER 1 X 5 PVC
 RAKE BD., FOR PT. TYPICAL

5/4 X 5 PVC OR COMPOSITE
 WINDOW & DOOR TRIM, TYP.

8" CONCRETE FOUND. WALL
 (MAX. 7" OF EXPOSED CONC.)



'BOSTON STYLE' COMPOSITE SHUTTERS
 W/ 3/4" HORNS & RUST-RESISTANT 'S'
 SHUTTER HOLDBACK HARDWARE, TYP.

'BROSCO' 1 1/16" X 4 5/8" #8013
 PINE CROWN MOULDING OR
 PVC EQUAL OVER 1 X 5 PVC
 RAKE BD., FOR PT. TYPICAL

PRE-PRIMED C.V.G. RED CEDAR
 BEVEL CLAPBOARD (W/ 4" EXPOSURE)

5/4 X 8 PVC CORNERBOARDS
 FOR PAINT, TYPICAL

GRANITE LANDING AND STEPS
 W/ 'ROCK FACE AND THERMAL TOP'

ADDITIONS AND ALTERATIONS
 TO:
**43 LIBERTY STREET
 NEWBURYPORT, MA**

REVISION AND REISSUE NOTES

NO.	DATE	ISSUE NOTES

PROJECT NO:	PROJECT MANAG.:	DATE:
2017-19		10.05.2017
SCALE: AS NOTED		

**PROPOSED
 FRONT ELEVATION
 A2.0**

1 FRONT ELEVATION
 Scale: 1/4" = 1'-0"



1 REAR ELEVATION
 Scale: 1/4" = 1'-0"

ADDITIONS AND ALTERATIONS
 TO:
**43 LIBERTY STREET
 NEWBURYPORT, MA**

REVISION AND REISSUE NOTES

NO.	DATE	ISSUE NOTES

PROJECT NO:	PROJECT MANAG.:	DATE:
2017-19		10.05.2017
SCALE: AS NOTED		

**PROPOSED
 REAR ELEVATION
 A2.2**

ADDITIONS AND ALTERATIONS
TO:
**43 LIBERY STREET
NEWBURYPORT, MA**

REVISION AND REISSUE NOTES

NO.	DATE	ISSUE NOTES

PROJECT NO:	PROJECT MANAG:	DATE:
2017-19		10.05.2017

SCALE: AS NOTED

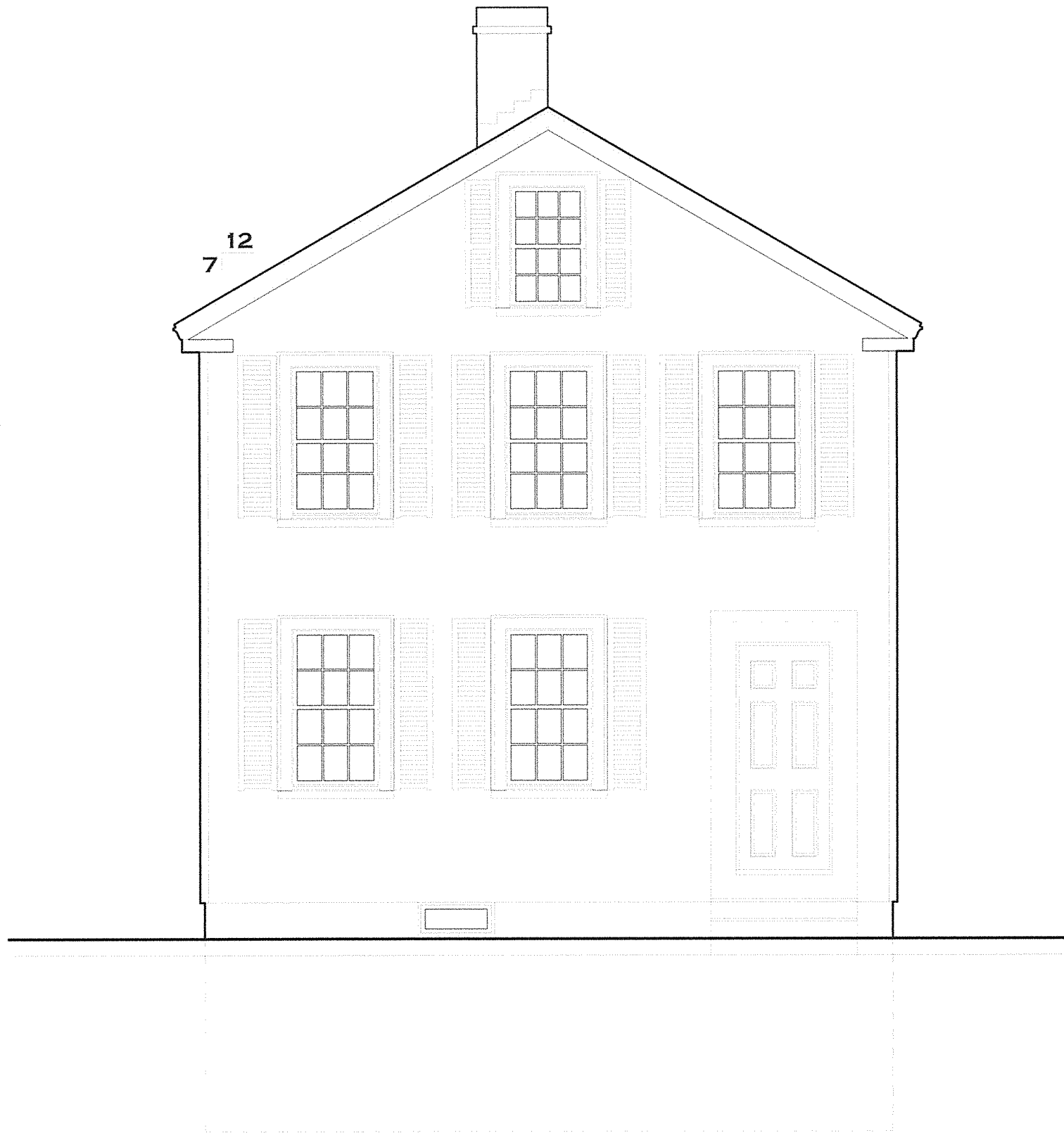
**PROPOSED
RIGHT ELEVATION
A2.3**



NON-COMBUSTIBLE BEVEL
CLAPBOARD (W/ 4" EXPOSURE)

EXISTING MASONRY FOUNDATION

1 RIGHT SIDE ELEVATION
Scale: 1/4" = 1'-0"



ADDITIONS/ALTERATIONS:

TO

**43
LIBERTY
STREET**

NEWBURYPORT,
MA 01950

ARCHITECT:

SCOTT M. BROWN

29 WATER STREET,
SUITE 209
NEWBURYPORT, MA 01950
T. 978.465.3535

WWW.SCOTTBROWNSARCHITECT.COM

+16'-1"
T.O. ATTIC SUBFLR.

+8'-5"
T.O. 2ND FLR. F.F.

+0'-0" (x.xx)
T.O. 1ST FLR.

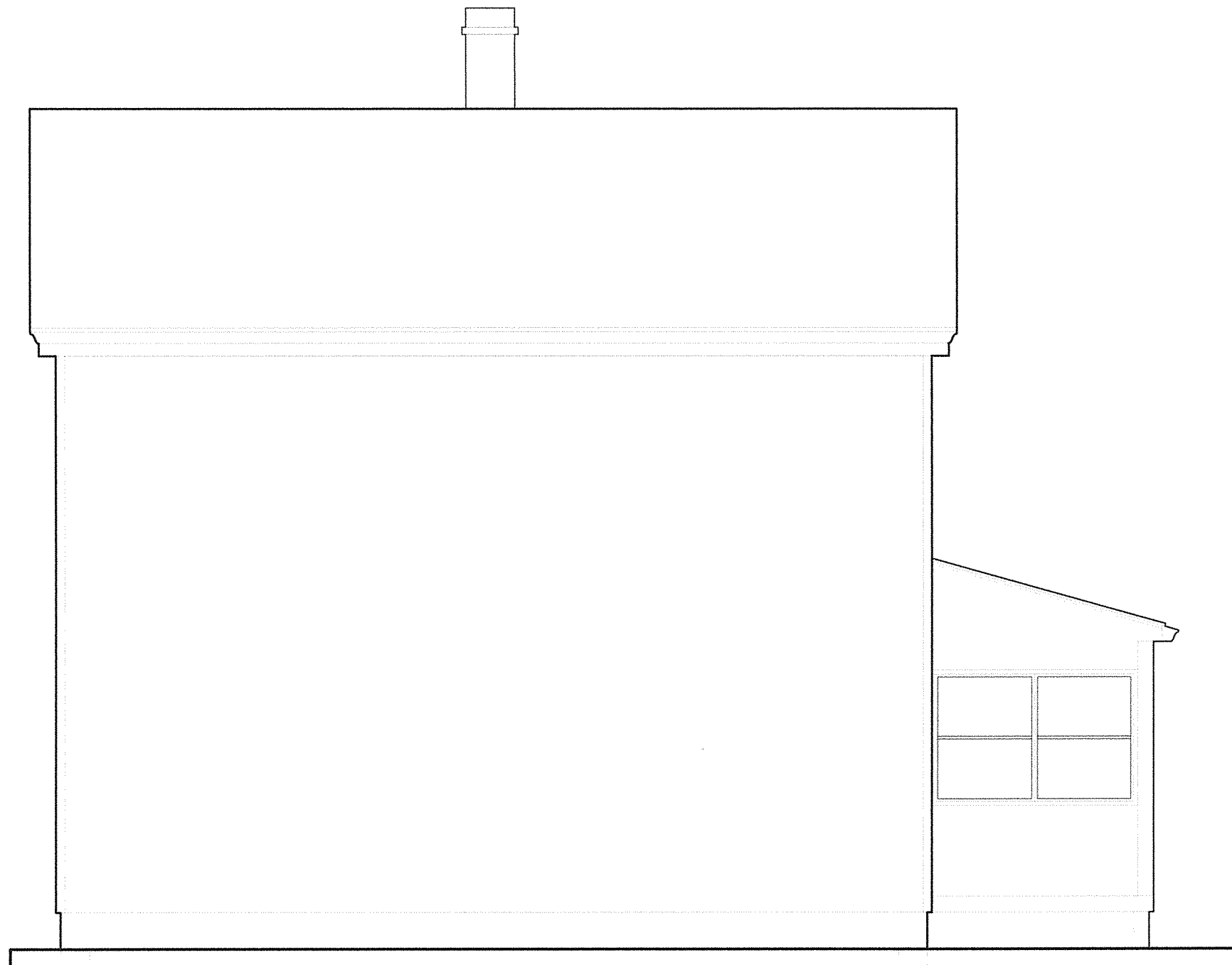
-6'-9" (x.xx)
T.O. BASEMENT SLAB

MARK	DATE	REVISIONS
	9-5-17	AS-BUILTS

**EXISTING FRONT
ELEVATION**

SCALE : 1/4" = 1'-0"





ADDITIONS/ALTERATIONS:

TO

**43
LIBERTY
STREET**

NEWBURYPORT,
MA 01950

ARCHITECT:

SCOTT M. BROWN

29 WATER STREET,
SUITE 209
NEWBURYPORT, MA 01950
T. 978.465.3535

WWW.SCOTTBROWNARCHITECT.COM

MARK	DATE	REVISIONS
	9-5-17	AS-BUILTS

**EXISTING RIGHT SIDE
ELEVATION**

SCALE : 1/4" = 1'-0"



ADDITIONS/ALTERATIONS:

TO

43 LIBERTY STREET

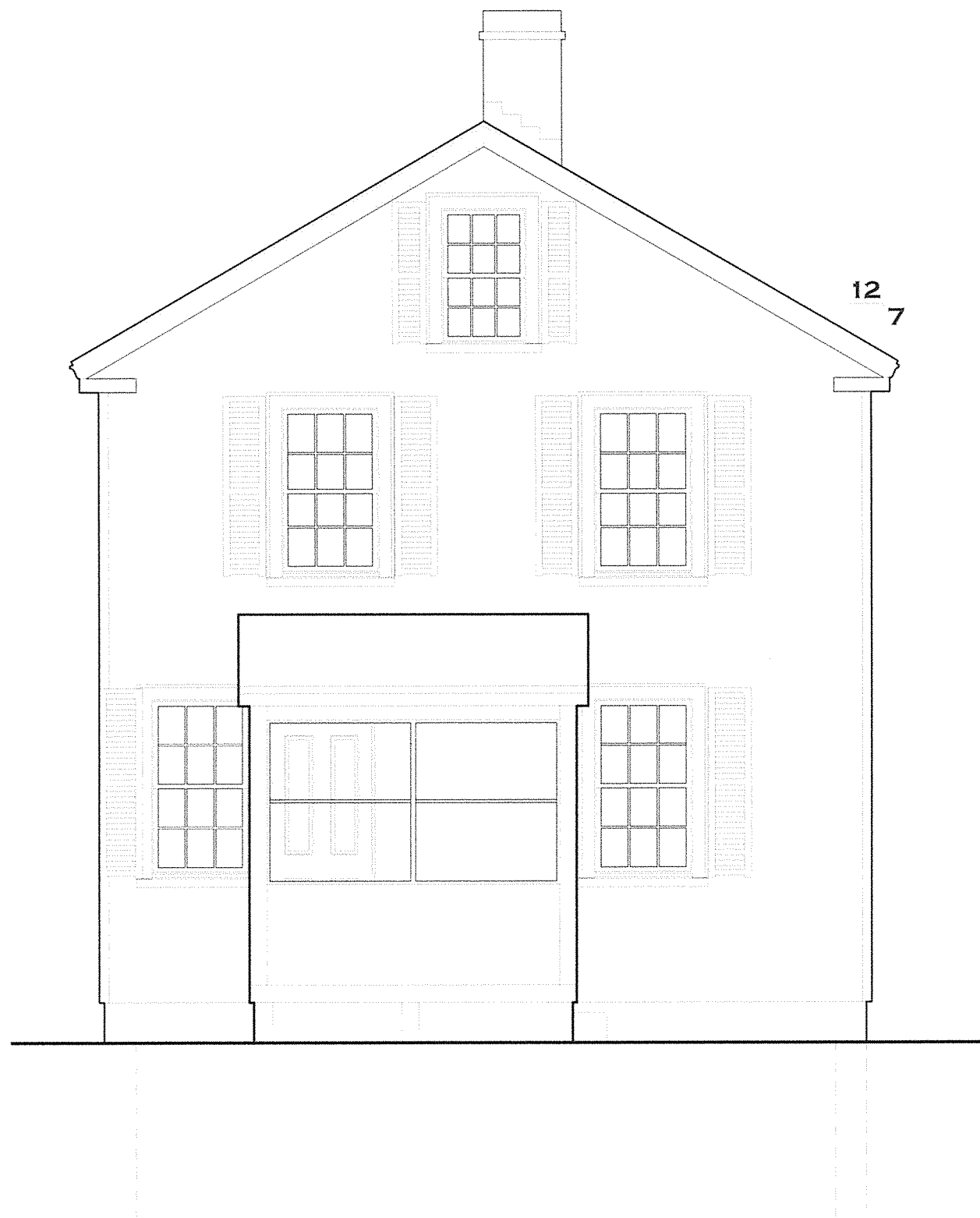
NEWBURYPORT,
MA 01950

ARCHITECT:

SCOTT M. BROWN

29 WATER STREET,
SUITE 209
NEWBURYPORT, MA 01950
T. 978.465.3535

WWW.SCOTTBROWNARCHITECT.COM



MARK	DATE	REVISIONS
	9-5-17	AS-BUILTS

**EXISTING FRONT
ELEVATION**

SCALE : 1/4" = 1'-0"



COPYRIGHT 2017 SCOTT M. BROWN, ARCHITECT



ADDITIONS/ALTERATIONS:

TO

**43
LIBERTY
STREET**

NEWBURYPORT,
MA 01950

ARCHITECT:

SCOTT M. BROWN

29 WATER STREET,
SUITE 209
NEWBURYPORT, MA 01950
T. 978.465.3535

WWW.SCOTTBROWNARCHITECT.COM

MARK	DATE	REVISIONS
	9-5-17	AS-BUILTS

**EXISTING FRONT
ELEVATION**

SCALE : 1/4" = 1'-0"

