

City of Newburyport Zoning Board of Appeals Application for a VARIANCE

Petitioner: Lauren Eramo & Amy Rasimas c/o Lisa Mead, Mead, Talerman & Costa, LLC

Mailing Address: 30 Green Street

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

Property Address: 49 Kent Street

Map and Lot(s): 51 - 2 Zoning District: R2/DCOD

Book and Page(s): 35397 - 0298

Owner(s) Name: Lauren M. Eramo and Amy S. Rasimas

Mailing Address (if different): _____

The petitioner is requesting a Variance from section(s):
(Refer to the Zoning Determination form supplied by the Zoning Administrator)

- | | |
|---|---|
| <input checked="" type="checkbox"/> Dimensional Controls (VI) | <input type="checkbox"/> Parking (VII) |
| <input type="checkbox"/> Lot Area <input type="checkbox"/> Front Yard
<input type="checkbox"/> Open Space <input type="checkbox"/> Side Yard
<input type="checkbox"/> Lot Coverage <input checked="" type="checkbox"/> Rear Yard
<input type="checkbox"/> Height <input type="checkbox"/> Lot Width
<input type="checkbox"/> Frontage | <input type="checkbox"/> PIOD (XXI)
<input type="checkbox"/> FAR
<input type="checkbox"/> 2 ½ stories
<input type="checkbox"/> Footprint expansion |

- Modification of existing variance (please attach) Other: _____

Request:
Construct 517 square foot one-story addition for in-law apartment attached to single-family residence.

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 VARIANCE

	Existing Dimensional Controls	Proposed Dimensional Controls	Required Dimensional Controls
Lot Area	5,488 sf	5,488 sf	5,488 sf
Frontage	50 ft	50 ft	90 ft
Height*	24 ft	24 ft	35 ft
Lot Coverage (%)**	27.4%	34.7%	25%
Open Space (%)***	58%	54.3%	40%
Front Setback	6 ft	6 ft	25 ft
Side A Setback	2.6 ft	2.6 ft	10 ft
Side B Setback	17.2 ft, 6.6 ft accessory	17.2 ft, 6.6 ft accessory	10 ft, 6 ft accessory
Rear Setback	51.2 ft	21.7 ft	25 ft
Parking Spaces	2+	2+	2
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):





Lead, Talerman & Costa, LLC
Attorneys at Law

30 Green Street
Newburyport, MA 01950

Phone 978.463.7700
Fax 978.463.7747

www.mtclawyers.com

February 4, 2020

By Hand

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

Re: Application for a Variance; Modification of Special Permit Application for In-law Apartment and Special Permit for Non-Conformities 35 Street, Newburyport, MA (the "Property")
Assessor's Map: 15 Lot: 60-A

Dear Chair and Members of the Board;

Reference is made to the above-captioned matter. In that connection, this firm represents Lauren Eramo and Amy Rasimas (the "Applicants"), relative to applications for a Special Permit for Non-Conformities and a Special Permit for an In-Law Apartment. Subsequent to the January 28, 2020 public hearing held on the applications, the Applicants met with neighbors to discuss concerns regarding the proposed one-story addition to the Applicants' single-family residence (the "Residence"). In light of these concerns, the Applicants hereby submit revised plans and seek a dimensional variance as further detailed below.

As shown on the plans attached hereto, the Applicants have made an effort to pull the proposed addition away from the eastern lot line. To accommodate this shift, the addition is lengthened, resulting in a rear setback of 21.7 feet, where the minimum required rear yard setback for the R2 district is 25 feet. Thus, this change to the proposed addition will result in a new nonconforming rear yard setback which will require a variance. The southeastern corner of the proposed addition is now set back 9.8 feet from the lot line.

Dimensional Variance

The Applicants require a dimensional variance pursuant to Section X-H.6.A of the Ordinance as the proposed rear setback will introduce a new nonconformity. Section X-H.6.A, incorporates G. L. c. 40A, § 10, which provides that the grant of a variance by the Board requires a finding that:

owing to circumstances relating to the soil conditions, shape or topography of [the] land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of th[e O]rdinance would involve substantial hardship, financial or otherwise, to the . . . petitioner, and that desirable relief may be granted without

Millis Office

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

substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of th[e O]rdinance.

The required findings, including an analysis of what constitutes a hardship, and are addressed below.

Hardship related to the land: The topography on the Property creates a hardship as the lot slopes to the east. These conditions limit the Applicants' ability to pull the proposed addition away from the eastern lot line without moving into the western side yard setback and at the same time still providing adequate useable living area for the in-law apartment. Thus, the Applicants must lengthen the addition—thereby causing a slight intrusion into the rear yard setback,—to accomplish both distance from the neighboring property and a useable in-law unit without also encroaching on the western side yard setback.

A Strict application of the provisions of the ordinance will deprive the Applicants of reasonable use of the lot and structure: If the ordinance is strictly applied it will preclude the Applicants from constructing an in-law apartment to allow Lauren Eramo's parents to reside at the Property while at the same time addressing the concerns of the neighbors.


The unique conditions and circumstances are not the result of actions of the Applicants: The Property's topography is not the result of the Applicants' actions.

The Board can grant relief without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Ordinance: There is no substantial detriment to the public good in granting relief from the rear yard setback requirement. The proposed rear yard setback is a mere 3.3 feet beyond the 25-foot requirement. The granting of a variance modification neither nullifies nor substantially derogates from the intent or purpose of the Ordinance. The first purpose of the Ordinance, Section I-C-1 is to "promote the health, safety, convenience and general welfare of the inhabitants of the City of Newburyport." If the Board grants a variance it will allow the Applicants to construct the proposed addition for use as an in-law apartment for Lauren Eramo's parents. Allowing inhabitants of the city to provide proximate housing for aging parents undoubtedly promotes safety, convenience, and general welfare. Further, by allowing the encroachment to the rear, the addition will be stepped away from the neighbors on the eastern setback.

The granting of the variance will not be a substantial detriment to the public good: Again, as aforementioned, the proposed addition is small at one story and 517 square feet and will not be a substantial detriment to the public good. Further, the project will provide draining into an infiltration device to prevent drainage down-slope. Therefore, the Board can grant a variance without causing any detriment to the neighborhood.

As a result, having demonstrated that the Board can grant the requested relief to allow the Applicants to construct a one-story addition the Residence that will comply with the Ordinance, but for the new nonconforming rear yard setback, the Applicants respectfully request that the Board grant a Dimensional Variance.

Respectfully submitted
Lauren Eramo and Amy Rasimas
By their attorney


Lisa L. Mead
Attachment



ZONING

RESIDENTIAL (R-2)
SINGLE-FAMILY (101)

	REQUIRED (SINGLE-FAMILY - 101)	EXISTING (SINGLE-FAMILY - 101)	PROPOSED (SINGLE-FAMILY - 101)
MINIMUM LOT AREA	10,000 SQUARE FEET	5,488 SQUARE FEET	5,488 SQUARE FEET
MINIMUM FRONTAGE	90 FEET	50.00 FEET	50.00 FEET
FRONT SETBACK	25 FEET	6.0 FEET	6.0 FEET
SIDE SETBACK (R)	10 FEET	17.2 FEET	17.2 FEET
SIDE SETBACK (L)	6 FEET (ACCESSORY)	6.6 FEET	6.6 FEET
REAR SETBACK	25 FEET	51.2 FEET	21.7 FEET
	6 FEET (ACCESSORY)	1.9 FEET	2.6 FEET
MAXIMUM LOT COVERAGE (%)	25%	27.4%	34.7%
MAXIMUM HEIGHT	35 FEET	24 FEET	24 FEET
MINIMUM OPEN SPACE	40%	58.0%	54.3%
MINIMUM PARKING	2	2+	2+

EXISTING GARAGE MEAN HEIGHT 9.2', HEIGHT TO RIDGE 13.0'.

ON-LINE ZONING ORDINANCES
CITY OF NEWBURYPORT WEBSITE
<http://www.cityofnewburyport.com/Planning/Index.html>
PLANNING DEPARTMENT - MAIN PHONE 978-465-4400

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 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 JULY 15 & 16, 2019 BY THIS FIRM.

ARCHITECTURAL PLANS HAVE BEEN UTILIZED FOR BUILDING ADDITION DETAILS. NO STATEMENT IS MADE AS TO THE ADEQUACY FOR ACTUAL USE OR COMPLIANCE WITH ANY DESIGN REQUIREMENTS WITH REGARD TO THE AREA SHOWN FOR PARKING THREE CARS. SAID AREA IS SHOWN AS REQUESTED.

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

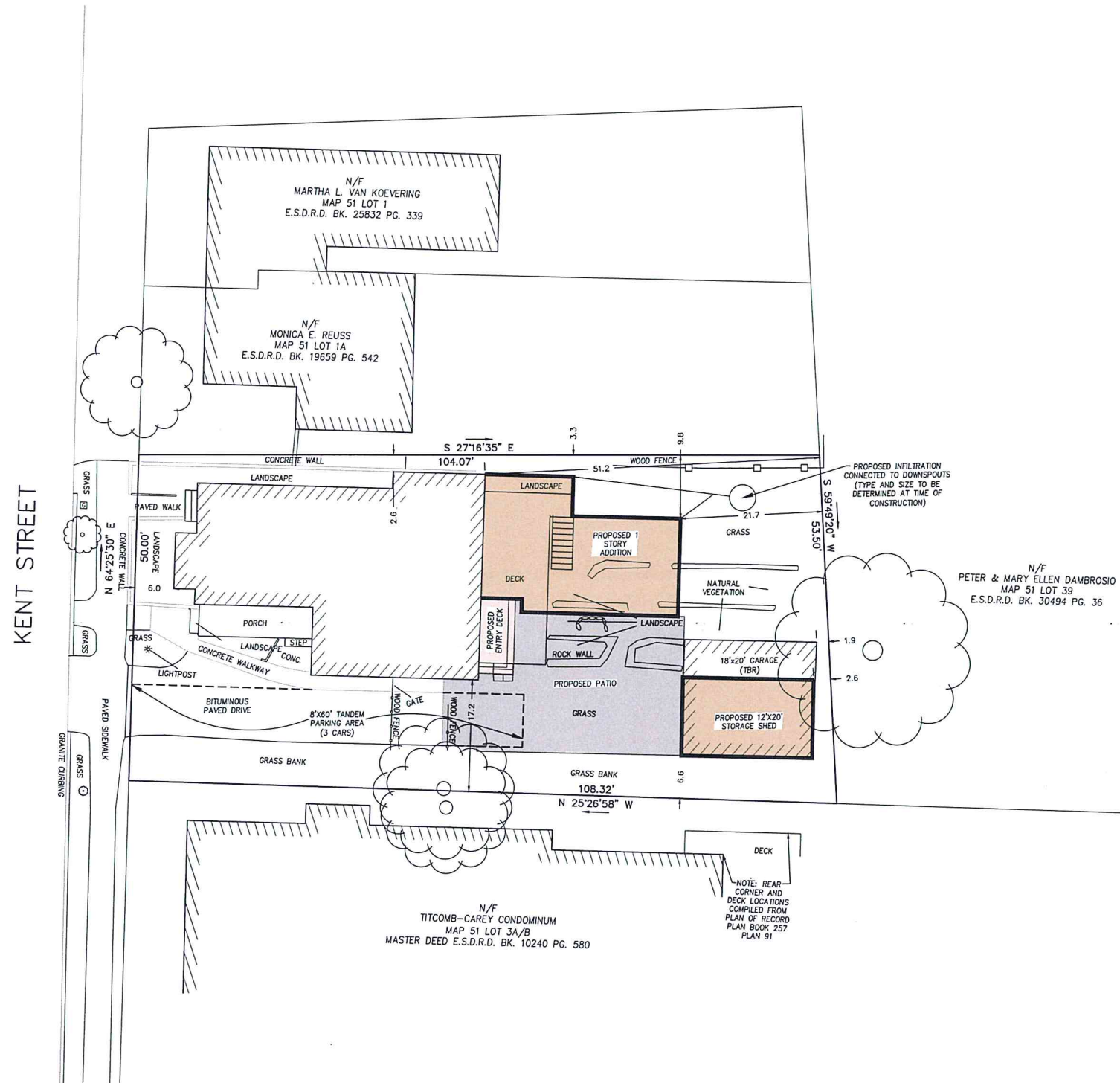
TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION, AND BELIEF, THIS PLAN CONFORMS TO THE TECHNICAL AND PROCEDURAL STANDARDS FOR THE PRACTICE OF LAND SURVEYING IN THE COMMONWEALTH OF MASSACHUSETTS.

P.L.S.
EVERETT J. CHANDLER, P.L.S.
MASS. REGISTRATION NO. 41763

LOCUS TITLE INFORMATION

49 KENT STREET

OWNER: AMY S. RASIMAS & LAUREN M. ERAMO
DEED REFERENCE: BK. 35397 PG. 298
ASSESSORS: MAP 51 LOT 2



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Winter GEC, LLC

44 MERRIMAC STREET
NEWBURYPORT, MA 01950
978-270-8626

SCALE:

HORIZ: 1" = 10'

VERT: _____

NO.	DATE	BY	REVISIONS
3	2/3/20	EJC	ALTERED BUILDING FOOTPRINT / ADDED DRAINAGE NOTE
2	12/13/19	EJC	SHOWED PARKING AREA AS REQUESTED
1	12/12/19	EJC	ADDED GARAGE MEAN AND RIDGE HEIGHTS

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

ZONING BOARD OF APPEALS
PLAN

49 KENT STREET

PLAN OF LAND IN
NEWBURYPORT, MASSACHUSETTS
SURVEYED FOR
AMY S. RASIMAS & LAUREN M. ERAMO

PROJECT NO.
2019-49KENT

DATE: NOV. 20, 2019

SHEET NO.

1 OF 1

project:

ERAMO:RASIMAS RESIDENCE

49 Kent Street
Newburyport, MA

ADDITION = 517 SF
IN-LAW UNIT = 596 SF

architect:

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

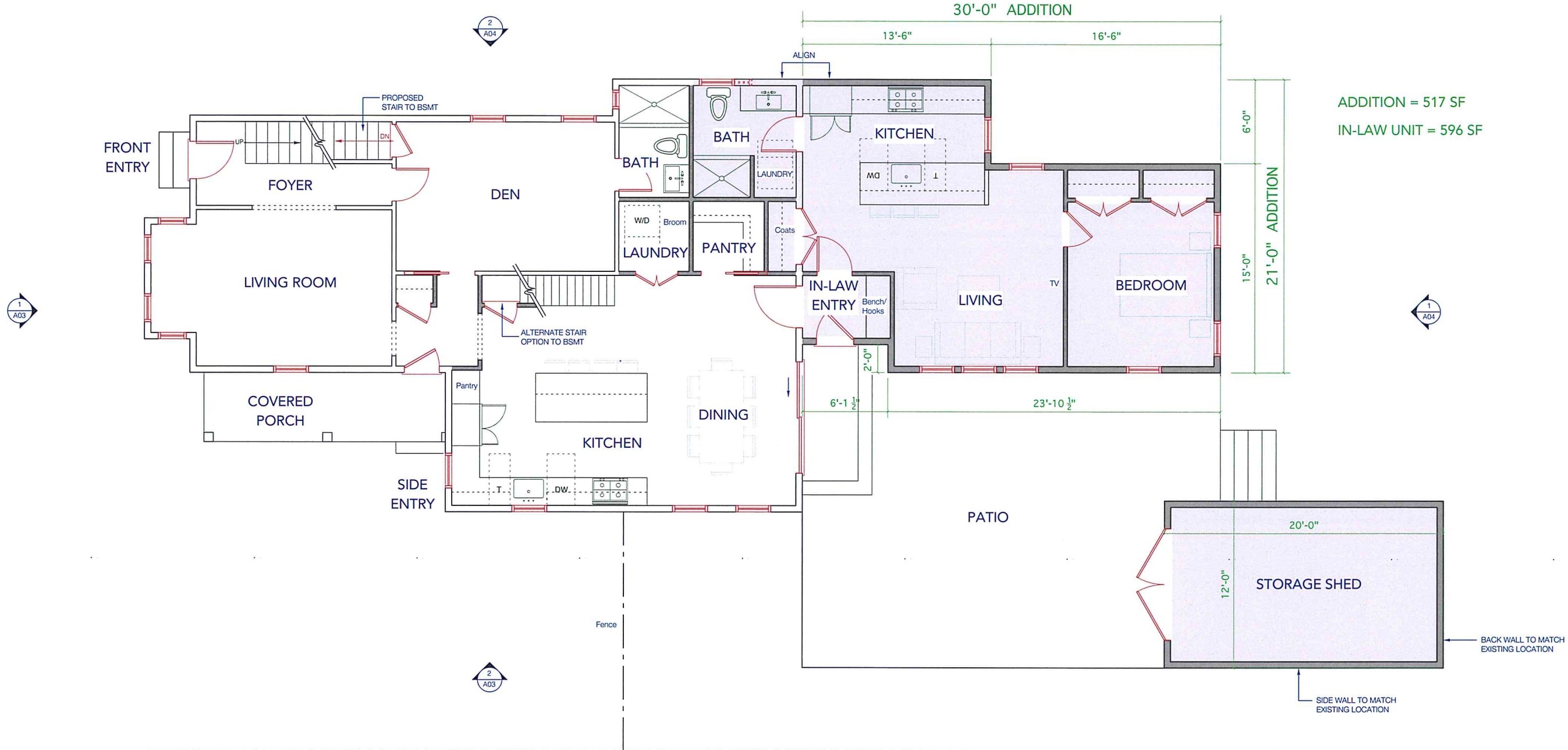
title:

**PROPOSED
First Floor Plan**

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

1 february 2020

A01



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

project:

ERAMO/RASIMAS RESIDENCE

49 Kent Street
Newburyport, MA

architect:

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

title:

PROPOSED Exterior Elevations

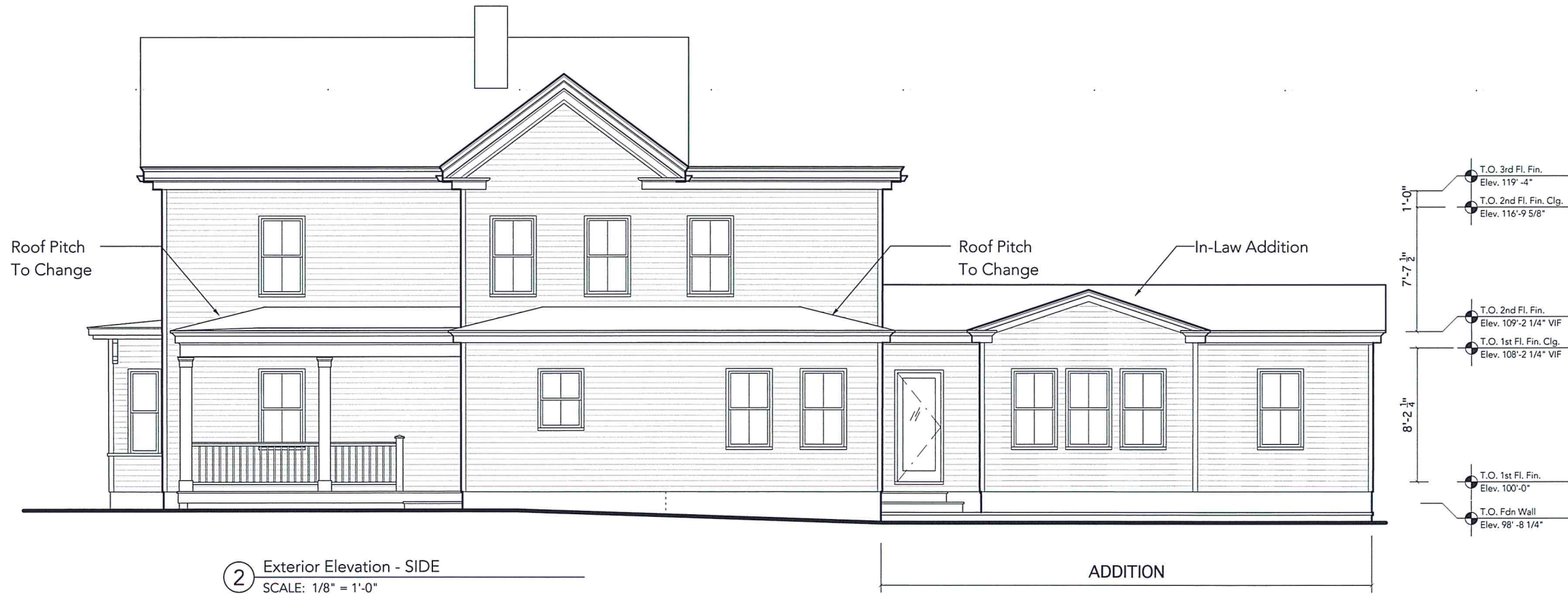
SCALE: 1/8" = 1'-0"

1 february 2020

A02



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



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

project:

ERAMO/RASIMAS RESIDENCE

49 Kent Street
Newburyport, MA

architect:

GRAF
ARCHITECTS
2 Liberty Street
Newburyport, MA
01950
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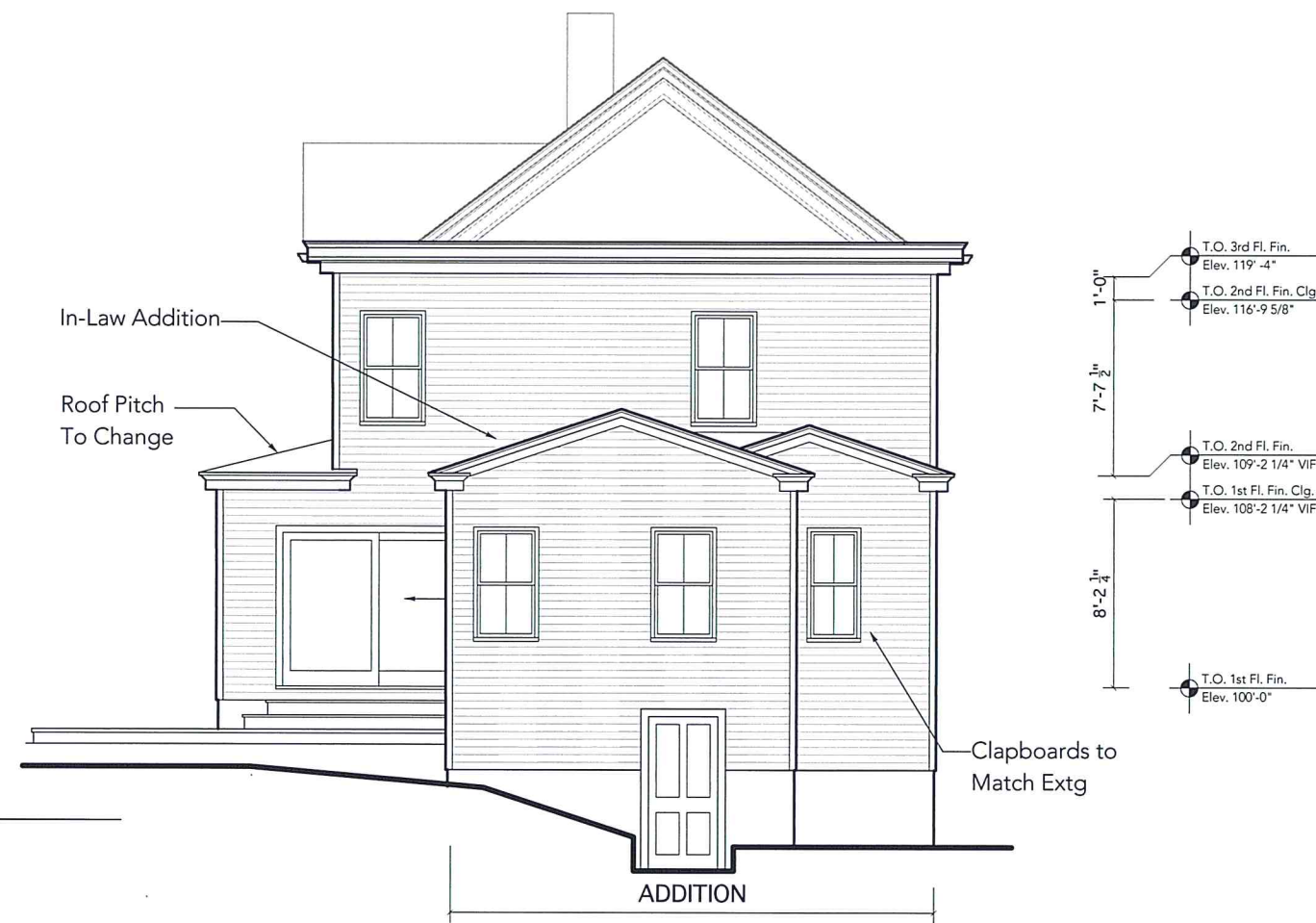
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PROPOSED Exterior Elevations

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

1 february 2020

A03



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



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