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Attorneys at Law

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Newburyport, MA 01950  
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November 26, 2019

By Hand

Renee Bourdeau, Chair  
Zoning Board of Appeals  
City of Newburyport  
City Hall  
60 Pleasant Street  
Newburyport, Massachusetts 01950

Re: Request to Modify a Special Permit for Non-Conformities  
35 Marlboro Street, Newburyport, MA (the "Property");  
Assessor's Map: 29 Lot 45

Dear Chair Members of the Board:

Reference is made to the above-captioned matter. In that connection, this firm represents Thomas Baillie and Ann Domigan, the owners of the Property (the "Petitioners"), relative to a proposed modification to the Special Permit for Non-Conformities the Board issued on May 10, 2018 (the "Decision"), a copy of which is attached hereto.

The Petitioners propose to extend the roof of the single-family residence over a porch located at the rear of the residence. The extension measures 4' x 20' and 3' by 6' adding 98 square feet of roof to the residence, as shown on the plan attached hereto. This roof extension increases the Property's lot coverage by 0.80%, bringing the lot coverage to 19.59%, where a maximum of 25% is allowed in the R2 zoning district under the Newburyport Zoning Ordinance.

While this small extension of the roof constitutes a change in the plans the Board approved in its Decision, the extension of the roof does not affect any of the nonconformities. The Petitioners now respectfully request that the Board grant a modification of the Decision to allow the extension of the roof over the rear porch.

Respectfully submitted  
Thomas Baillie and Ann Domigan  
By their Attorney

Lisa L. Mead

Attachment  
cc: Client

*Millis Office*

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



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

RECEIVED  
 CITY CLERK'S OFFICE  
 NEWBURYPORT, MA

2018 MAY 10 PM 6: 04



SO.ESSEX #26 Bk:36764 Pg:080  
 06/05/2018 08:46 AM DCSN Pg 1/9  
 eRecorded

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

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

**Thomas Baillie and Ann Domigan c/o Lisa Mead, Mead, Talerman & Costa, LLC**  
**30 Green Street**  
**Newburyport, MA 01950**

for property owned by **Thomas Baillie and Ann Domigan** for the following request:

*modify a pre-existing non-conforming structure by adding a mudroom which is more in compliance than the existing non-conformity*

The application was filed at the City Clerk's Office on **04/12/18** 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 **35 Marlboro Street** in the **R2** Zoning District, as indicated in the Newburyport Assessor's Office as map and parcel **29-45** and recorded in the Essex South District Registry of Deeds as **36528-599**. The newspaper notices for the public hearing were posted on **04/23/18** and **04/30/18** in the Newburyport Daily News.

A public hearing was held for the above application on **05/08/18**. At the close of the public hearing on **05/08/18**, upon a motion made by Member **Renee Bourdeau** and duly seconded by Member **Chris Zaremba**, 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>	Renee Bourdeau	<u>Yes</u>
Maureen Pomeroy	<u>Yes</u>	Christopher Zaremba, Associate	<u>Yes</u>
Edward Ramsdell, Chair	<u>Yes</u>		

Having received the necessary two-thirds super majority vote or 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.2 Extension or Alteration, the Newburyport Zoning Board of Appeals made the following findings:

1. The applicant is proposing to modify a pre-existing, non-conforming structure by adding a mudroom. The project also includes the construction of a two-car garage. The property is non-conforming in the following ways: Frontage 77.66 ft. (unchanged) where 90 ft. is required. Front Setback of 7 ft. (unchanged) where 25 ft. is required, and Side Setback of 3.1 ft. (unchanged) where 10 ft. is required.
2. Accessory structures may not exceed 22' x 24' and 15' in height, unless then meet the setbacks prescribed for primary structures in the applicable zone. Also, the Building Commissioner and Zoning Administrator may interpret the regulations to allow accessory structures with a dimension greater than what is allowed by right so long as the total floor area does not exceed that of a 22' x 24' structure (528 sq. ft.). The proposed garage meets the setbacks for a primary structure in the R2 zone and its floor area is not greater than 528 sq. ft. The proposed structure does conform to the zoning regulations.
3. This application is specifically seeking relief for the proposed mudroom on the existing home and does not include a request for relief for the proposed outdoor shower. The applicant has indicated that the shower will not have a roof, so therefore it does not need to conform to the setbacks. Should the applicant wish to put a roof over the outdoor shower, the applicant will need to return to the Board for the appropriate relief.
4. The proposed mudroom does not increase the existing non-conformities.
5. The proposed mudroom is a de minimis change to the exterior of the home.
6. The project is not more detrimental to the character of the structure or the neighborhood than what currently exists.
7. 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.
8. 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 this project does not trigger the requirements of the ordinance relative to sidewalks and trees.

## PLAN REFERENCES

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

- "Zoning Board of Appeal Plan of Land 35 Marlboro Street in Newburyport, Massachusetts Essex County" by Hancock Associates dated March 22, 2018; and
- "Baillie Res, 35 Marlboro St., Newburyport, MA" by Laine M. Jones Design dated 3/21/18

consisting of pages 1 through 4.

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

## CONDITIONS OF APPROVAL


This Zoning Board approval represents a schematic approval for the project. This approval does not represent a final approval of the utility design and details or fire safety measures, as applicable. The applicant, owner, successors or assigns shall be responsible for designing the utilities to meet City standards and ensuring compliance with fire codes prior to commencing work under this approval.

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

1. Recording of Decision: The applicant shall file this Special Permit approval decision with the Southern Essex County Registry of Deeds and a copy of the decision stamped with the recording information (Book/Page or Land Court document number) shall be included with the application for a Building Permit. The final site/construction plans shall also make reference to the decision date and conditions of approval.
2. Modifications to Approved Plans: The applicant, property owner, and their successors or assigns, shall adhere to the approved plans which are incorporated herein by reference. Should the applicant and/or property owner determine that a plan(s) needs to be modified, they shall notify the Board of the proposed modifications in writing and obtain approval from the Board for such modifications prior to making any changes 'in the field'. The Board shall then determine whether such modifications are minor or major in nature and shall subsequently schedule a public meeting or hearing, respectively, to review the proposed changes.
3. Hours of Construction: The developer shall take reasonable care not to disturb surrounding properties and property owners during construction. Construction work shall be limited to the hours between 7 a.m. and 6 p.m. Monday through Friday and 8 a.m. and 5 p.m. on Saturday, unless a specific waiver is requested. The Planning Board and the City Marshal shall approve such waiver.
4. Permit Lapse: 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.
5. Permit Compliance Contact Form: No Site work or construction related to this permit shall begin until a Permit Compliance Contact Form is completed and submitted to the Office of Planning & Development.
6. The applicant, owner, successors or assigns shall not install a roof over the proposed outdoor shower. Should they wish to construct a roof over said shower, they shall notify the Board of the proposed modifications in writing and obtain approval from the Zoning Board of Appeals for such modifications prior to making any changes 'in the field'. The Board shall then determine whether such modifications are minor or major in nature and shall subsequently schedule a public meeting or hearing, respectively, to review the proposed changes.

This decision was filed with the Newburyport City Clerk on **05/10/18** 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: 05/10/18

### 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 **35 Marlboro Street** was filed in the Office of the City Clerk on **05/10/18**. 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

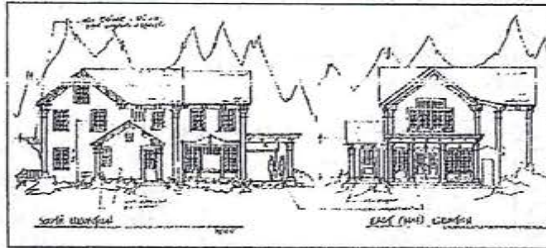
Date: JUN 04 2018

**ZONING**

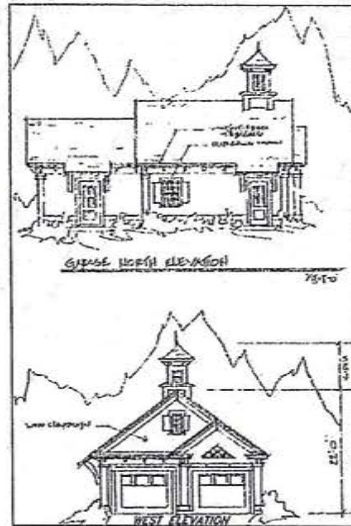
RESIDENTIAL 2 (R2)

	REQUIRED	EXISTING	PROPOSED
MIN LOT AREA	10,000 SF	412,323± SF	12,323± SF (NC)
MINIMUM HEIGHT	7.0 FEET	11.0 FEET	11.0 FEET (NC)
FRONT	25 FEET	47.0 FEET	7.0 FEET (NC)
SIDE	10 FEET	45.1 FEET (L)	11.0 FEET (R)
REAR	25 FEET	84.2 FEET	31.7 FEET
% LOT COVERAGE	25%	12.81%	18.79%
MAX BLD HEIGHT (MEAN)	35 FEET	27 FEET±	27 FEET± (NO-DWELLING) 22 FEET± (GARAGE)
% OPEN SPACE	40%	83.68%	70.81%

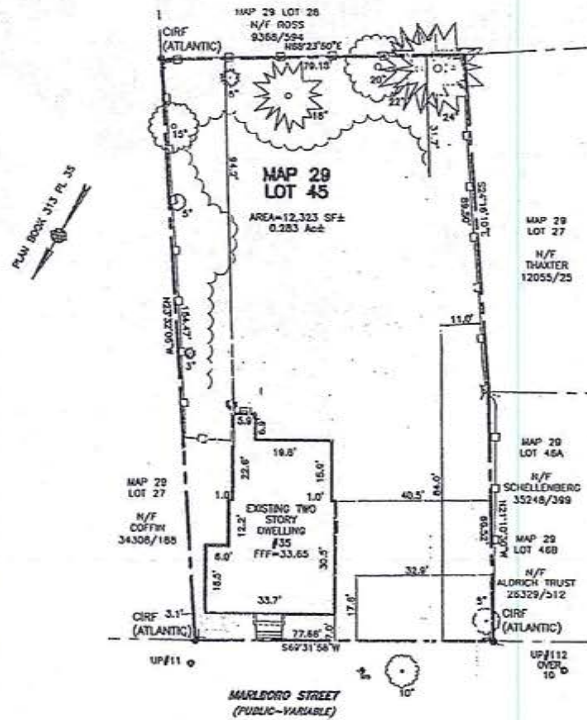
NOTES: PRE-EXISTING NON CONFORMANCE



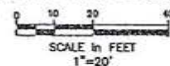
PROPOSED DWELLING VIEWS  
NOT TO SCALE



PROPOSED GARAGE VIEWS  
NOT TO SCALE



REDUCED-NOT TO SCALE



- LEGEND:**
- TMH TELEPHONE MANHOLE
  - EM ELECTRIC METER
  - GM GAS METER
  - GG GAS GATE
  - CB CATCH BASIN
  - N/F NOW OR FORMERLY
  - UP UTILITY POLE
  - VGC VERTICAL GRANITE CURB
  - WG WATER GATE
  - 6132/242 DEED BOOK/PAGE TO BE REMOVED
  - TBR
  - STOCKADE FENCE

**OWNER:**

THOMAS BAILLIE & ANN DOMICAN  
DEED BOOK 36528 PAGE 599  
ASSESSOR'S MAP 29 LOT 45

**REFERENCES:**

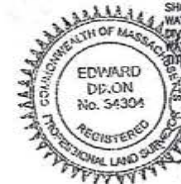
1. ESSEX COUNTY REGISTRY OF DEEDS  
DEED BOOK 36528 PAGE 599 (DEED)  
PLAN BOOK 144 PLAN 12  
PLAN BOOK 154 PLAN 9  
PLAN BOOK 190 PLAN 78  
PLAN BOOK 243 PLAN 41  
PLAN BOOK 313 PLAN 35

**NOTES:**

1. FIELD SURVEY PERFORMED: FEBRUARY 9, 2018.
2. THIS PLAN IS PREPARED FOR OUR CLIENT USE ONLY FOR THE SPECIFIC PURPOSE OF OBTAINING PERMITS AND LOCAL APPROVALS, AND IS NOT TO BE USED OR RELIED UPON AS A CONSTRUCTION DOCUMENT OR ANY OTHER USE BY OTHERS WITHOUT THE WRITTEN CONSENT OF HANCOCK ASSOCIATES.
3. THE ENTIRETY OF THE SUBJECT PROPERTY LIES IN ZONE X AREA DETERMINED TO BE OUTSIDE THE 0.2% CHANCE ANNUAL FLOODPLAIN.

**I HEREBY CERTIFY THAT:**

THIS PLAN IS BASED ON AN ON-THE-GROUND SURVEY AND PRESENTS THE FACTS AS FOUND AT THE TIME OF THE SURVEY.  
I FURTHER CERTIFY THAT THE PROPERTY LINES SHOWN ON THIS PLAN ARE THE LINES DIVIDING EXISTING OWNERSHIP AND THE LINES OF THE STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED, AND NO NEW LINES FOR DIVISION OF EXISTING OWNERSHIP OR FOR THE NEW WAYS ARE SHOWN AND IS NOT A CERTIFICATION TO THE TITLE OR OWNERSHIP OF THE PROPERTY SHOWN.



PROFESSIONAL LAND SURVEYOR DATE 3-26-18

ZONING BOARD OF APPEAL  
PLAN OF LAND  
35 MARLBORO STREET  
IN  
NEWBURYPORT, MASSACHUSETTS  
ESSEX COUNTY

PREPARED FOR:  
THOMAS BAILLIE

PREPARED BY:  
**HANCOCK ASSOCIATES**

16 CENTER STREET  
SUITE 1  
NEWBURYPORT, MA

Civil Engineers  
Land Surveyors  
Wetland Scientists

TEL: 978.485.0003

RESEARCH:  
EDX/AM

FIELD:  
CHA/RML

CALCULATION:  
EDX

DRAFTING:  
AMM

CHECK:  
EDX

PROJ. MANAGER:  
EDX

DATE:  
MARCH 22, 2018

HANCOCK JOB#  
22057

CRD FILE  
22057.CRD

SHEET NO.



SOUTH ELEVATION

1/8"=1'-0"

EAST (REAR) ELEVATION

LAINE M. JONES



781-442-5246  
18 Huguenot Street  
Westbury, MA 01581  
www.lainejonesdesign.com



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PROJECT  
BAULIE RES  
35 MAELBOO ST  
NEW BEDFORD, MA

SCHEMATIC A1

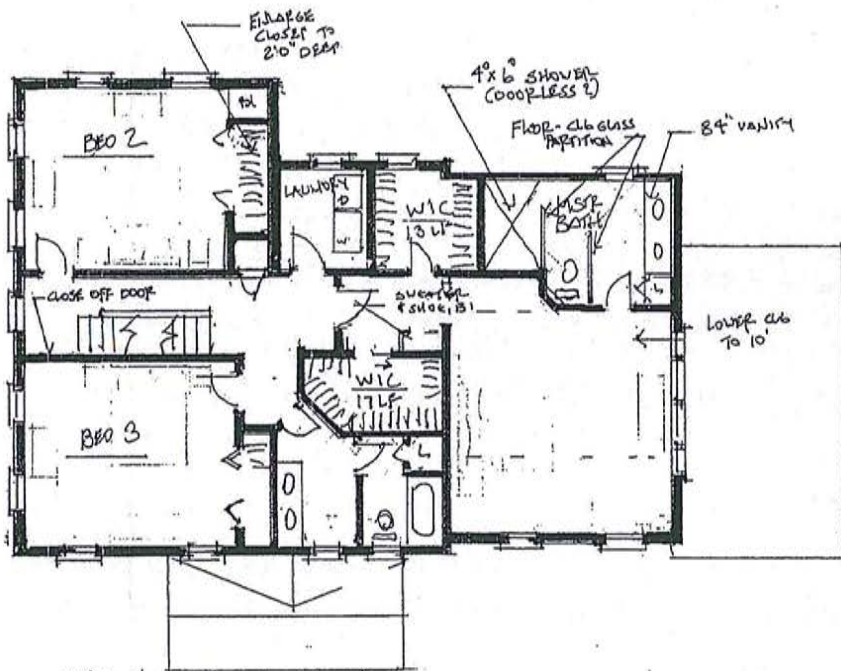
SHEET

REVISIONS

DRAWN BY LJJ  
CDS 1805  
DATE 3/2/18

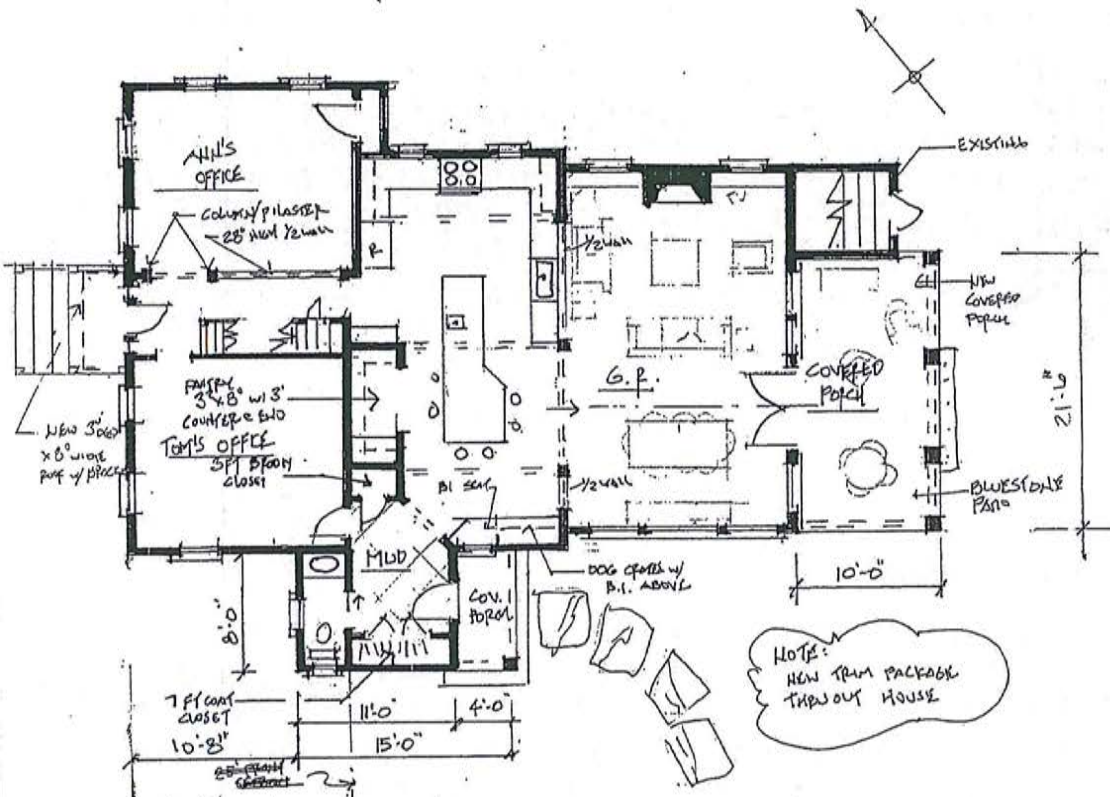
SHEET 04

THIS SHEET IS PART OF A SET OF ARCHITECTURAL DRAWINGS. IT IS NOT TO BE USED SEPARATELY. THE USER SHALL BE RESPONSIBLE FOR OBTAINING THE COMPLETE SET AND PROTECTING IT AGAINST UNAUTHORIZED REPRODUCTION.



SECOND FLOOR PLAN

1/8" = 1'-0"



FIRST FLOOR PLAN

1/8" = 1'-0"

	<b>LAINE M JONES</b> ARCHITECT 15 Park Street West Newbury, MA www.lainemjones.com	Copyright © 2010 Laine M. Jones ALL RIGHTS RESERVED	PROJECT <b>BAILIE RES</b> 35 MARLBORO ST NEWBURYPORT, MA	SHEET <b>SCHEMATIC A-1</b>	DRAWN BY LW DATE 3/2/18 1805
	<small>           Where dimensions are shown on these drawings, they shall have precedence over verbal description. Contractor shall verify and be responsible for all dimensions and conditions on the job. This office shall be notified of any variations from the quantity and conditions indicated herein.         </small>				





STREET (WEST) ELEVATION

1/8" = 1'-0"

L A I N E M  
J O N E S  
A R C H I T E C T S



019-442-5346  
18 Regan Street  
West Newbury, MA  
01985  
www.LaineJonesDesign.com



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PROJECT  
BAILLIE BES  
35 MARLBORO ST.  
NEW BURYPORT, MA

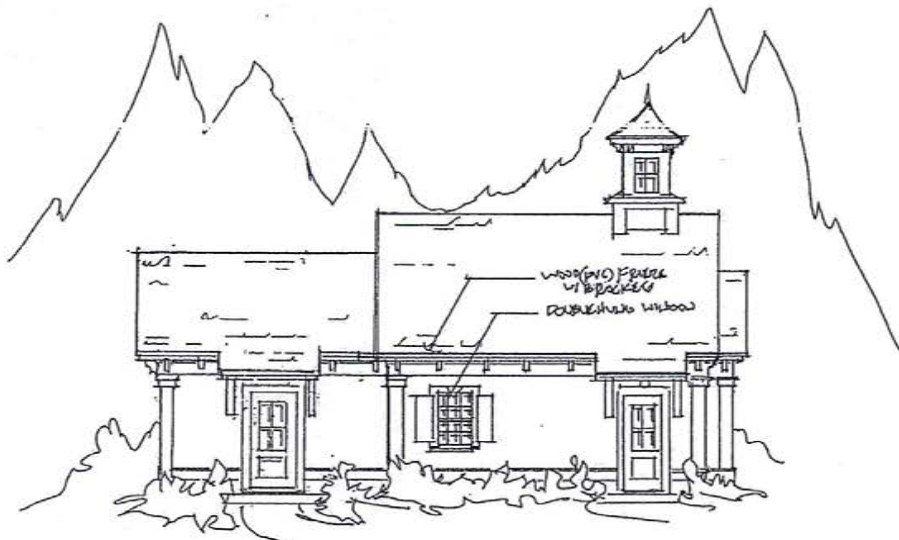
SHEET  
SCHEMATIC A-1

While drawings in this package are being prepared, the architect and contractor shall be responsible for all dimensions and quantities. This sheet shall be subject to change without notice.

REVISIONS

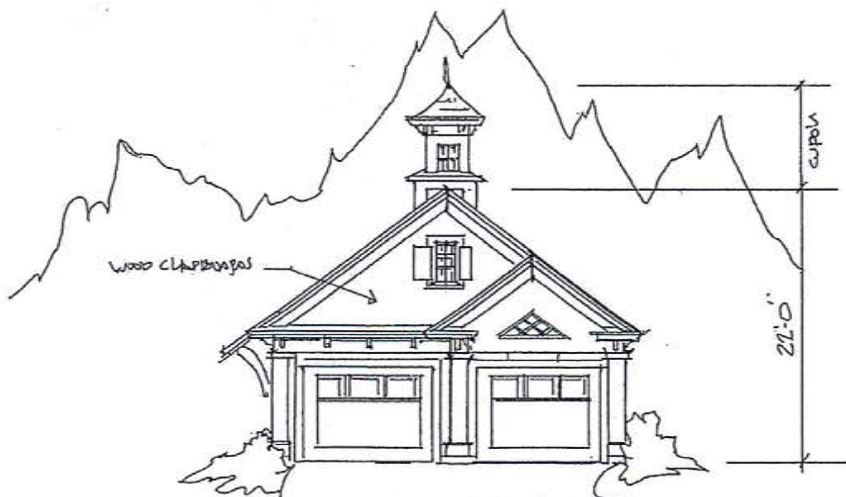
DRAWN BY LJM  
JOB 1805  
DATE 3/21/18

SHEET  
3 4



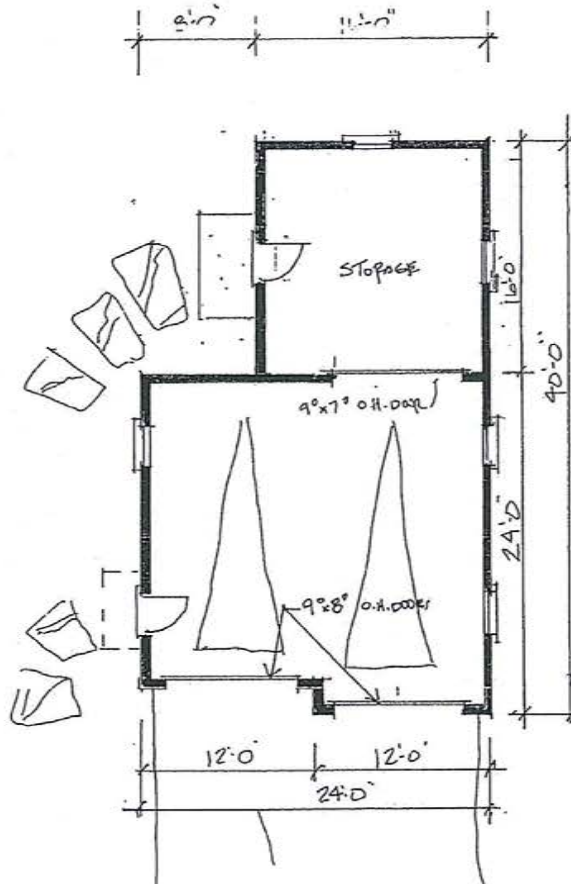
GARAGE NORTH ELEVATION

1/8"=1'-0"



WEST ELEVATION

1/8"=1'-0"



GARAGE FLOOR PLAN

1/8"=1'-0"

**LAINE M. JONES**  
ARCHITECT



770-222-2232  
18 Rogers Street  
West Newbury, MA  
01985  
www.LaineJonesDesign.com



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PROJECT  
BAILIE RES  
65 MARLBORO ST  
NEWBURYPORT, MA

SHEET  
Schematic  
**A-1**

REVISIONS

NO.	DESCRIPTION

DRAWN BY LM

JOB 1805

DATE 3/21/18

SHEET

4 4

NOTES: CONSULTOR TO THESE DRAWINGS SHALL BE RESPONSIBLE FOR ALL PERMITS AND COMPLIANCE WITH ALL LOCAL, STATE AND FEDERAL REGULATIONS. THIS OFFICE SHALL NOT BE RESPONSIBLE FOR ANY DELAYS OR COSTS INCURRED BY THE CLIENT.

# ZONING

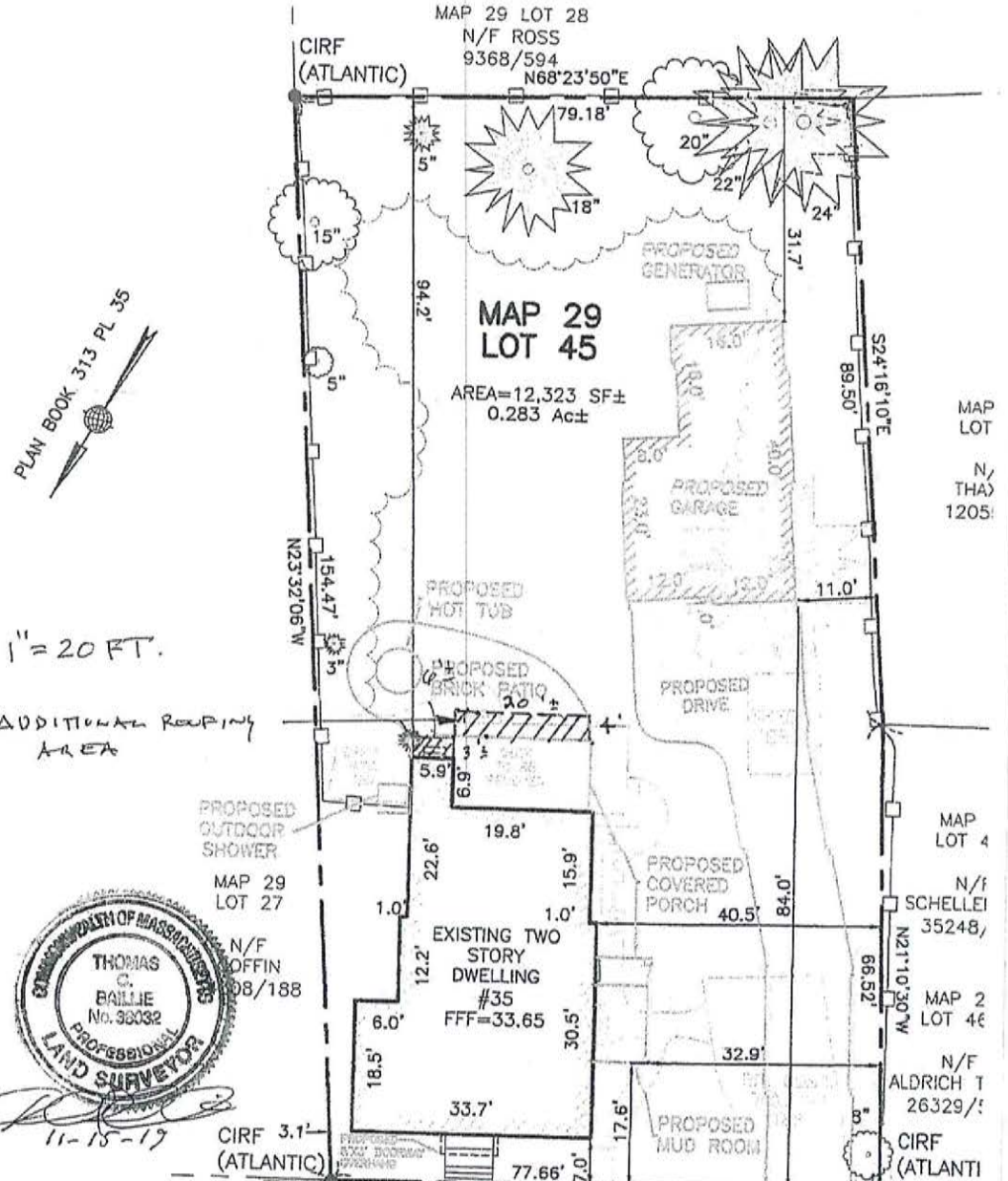
RESIDENTIAL 2 (R2)

BAILLIE RESIDENCE  
35 MARLBORO STREET  
NEWBURYPORT.

	REQUIRED	EXISTING	PROPOSED
MIN LOT AREA	10,000 SF	*12,323± SF	12,323± SF (NC) (NC)
MINIMUM FRONTAGE	90 FEET	*77.66 FEET	77.66 FEET (NC) (NC)
FRONT	25 FEET	*7.0 FEET	7.0 FEET (NC) (NC)
SIDE	10 FEET	*3.1 FEET (L) 40.5 FEET (R)	3.1 FEET (L) (NC) (NC) 11.0 FEET (R) (NC)
REAR	25 FEET	94.2 FEET	31.7 FEET (NC)
% LOT COVERAGE	25%	12.61%	18.79% $+ .80\% = 19.59\%$ OK ✓
MAX BLD HEIGHT (MEAN)	35 FEET	27 FEET±	27 FEET± (NC-DWELLING) (NC) 22 FEET± (GARAGE) (NC)
% OPEN SPACE	40%	83.59%	70.81% (NC)

\*DENOTES PRE-EXISTING NON CONFORMANCE

LOT COVERAGE INCREASE  $20' \times 4' = 80 SF$  (NEW ROOF AREA)  
 $\frac{80 SF}{12,323 SF} = .0065 = .65\%$   
 $\frac{98}{12,323} = .0080 = .80\%$



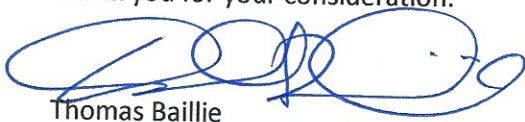
35 Marlboro Street

Newburyport, MA 01950

November 15, 2019

Please note we are intending to increase the roof area of our back porch. The existing shingled roof will be removed and replaced with a rubber roof. The increased roof area will be 4 ft. wide by 20 ft. long and 3 ft. wide by 6 ft. long thus adding 98 sf of roofing. The only zoning change it affects is an addition to Lot Coverage. It adds a lot coverage of .80% thus bringing the Total Lot Coverage from the existing 18.79% to the new 19.59%. This is still below the maximum 25% requirement. I have attached a plan showing the increased roof area along with the calculations.

Thank you for your consideration.



Thomas Baillie