



# CITY OF CAMBRIDGE

BOARD OF ZONING APPEAL

831 Massachusetts Avenue, Cambridge MA 02139

617-349-6100

2021 JAN 27 AM 11:47

OFFICE OF THE CITY CLERK  
CAMBRIDGE, MASSACHUSETTS

## BZA Application Form

**BZA Number: 103314**

### General Information

The undersigned hereby petitions the Board of Zoning Appeal for the following:

Special Permit:   X  

Variance:   X  

Appeal:       

**PETITIONER:** FRANK P. FIORENTINO, CPA, TRUSTEE OF THE MOBIL NOMINEE TRUST U/D/T DATED MARCH 13, 2017 C/O JESSE D. SCHOMER, ESQ.

**PETITIONER'S ADDRESS:** REGNANTE STERIO LLP - 401 EDGEWATER PL, STE 630, WAKEFIELD, 01880

**LOCATION OF PROPERTY:** 2615 Massachusetts Ave., Cambridge, MA

**TYPE OF OCCUPANCY:** GAS STATION

**ZONING DISTRICT:** Residence B Zone

### **REASON FOR PETITION:**

/New Structure/ /Petition for M.G.L. c. 40A, § 6 Finding/

### **DESCRIPTION OF PETITIONER'S PROPOSAL:**

CONSTRUCTION OF 2 DIMENSIONALLY-COMPLIANT ACCESSORY STRUCTURES (CANOPIES) OVER THE EXISTING FUEL PUMP ISLANDS. NO CHANGE, EXTENSION, OR ALTERATION TO THE PRE-EXISTING, NONCONFORMING USE (GAS STATION) OR BUILDING/STRUCTURES IS PROPOSED.

CONSTRUCTION OF 2 DIMENSIONALLY-COMPLIANT ACCESSORY STRUCTURES (CANOPIES) OVER THE EXISTING FUEL PUMP ISLANDS. NO CHANGE, EXTENSION, OR ALTERATION TO THE PRE-EXISTING, NONCONFORMING USE (GAS STATION) OR BUILDING/STRUCTURES IS PROPOSED.

### **SECTIONS OF ZONING ORDINANCE CITED:**

- Article: 8.000      Section: 8.22 (Special Permit, Nonconforming Use).
- Article: 8.000      Section: 8.22.3 (Variance, Nonconforming Use).
- Article: 4.000      Section: 4.21.k (Height, Accessory Structures).

Original  
Signature(s):

(Petitioner (s) / Owner)

JESSE D. SCHOMER, ESQ.

(Print Name)

ATTORNEY FOR PETITIONER

Address:

Tel. No. 781-710-1248

E-Mail Address: JSCHOMER@REGNANTE.COM

Date: 1/20/21

**BZA APPLICATION FORM - OWNERSHIP INFORMATION**

*To be completed by OWNER, signed before a notary and returned to The Secretary of the Board of Zoning Appeals.*

I/We FRANK P. FIORENTINO, CPA, TRUSTEE OF THE MOBIL NOMINEE TRUST w/d/t DATED MARCH 13, 2017  
(OWNER)

Address: 607 NORTH AVENUE, SUITE 16, WAKEFIELD, MA 01880

State that I/We own the property located at 2615 MASSACHUSETTS AVENUE,  
which is the subject of this zoning application.

The record title of this property is in the name of \_\_\_\_\_  
FRANK P. FIORENTINO, CPA, TRUSTEE OF THE MOBIL NOMINEE TRUST w/d/t DATED MARCH 13, 2017

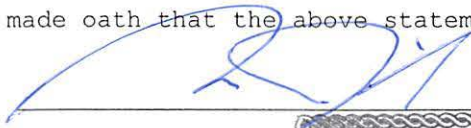
\*Pursuant to a deed of duly recorded in the date 8/8/2017, Middlesex South  
County Registry of Deeds at Book 69737, Page 577; ~~or~~  
~~Middlesex Registry District of Land Court, Certificate No. \_\_\_\_\_~~  
Book \_\_\_\_\_ Page \_\_\_\_\_.

  
SIGNATURE BY LAND OWNER OR  
AUTHORIZED TRUSTEE, OFFICER OR AGENT\*

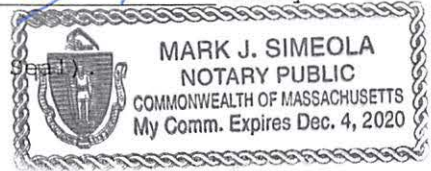
\*Written evidence of Agent's standing to represent petitioner may be requested.

-----  
Commonwealth of Massachusetts, County of Middlesex

The above-name Frank P. Fiorentino personally appeared before me,  
this 25<sup>th</sup> of November, 2020, and made oath that the above statement is true.

  
Notary

My commission expires 12-4-2020 (Notary Seal)



- If ownership is not shown in recorded deed, e.g. if by court order, recent deed, or inheritance, please include documentation.

1. The first part of the document is a list of names and addresses.

The second part of the document is a list of names and addresses.

*James O. [unclear]*

2. The second part of the document is a list of names and addresses.

1. The first part of the document is a list of names and addresses.

**SUPPORTING STATEMENT FOR A VARIANCE**

**EACH OF THE FOLLOWING REQUIREMENTS FOR A VARIANCE MUST BE ESTABLISHED AND SET FORTH IN COMPLETE DETAIL BY THE APPLICANT IN ACCORDANCE WITH MGL 40A, SECTION 10.**

**A)** A literal enforcement of the provisions of this Ordinance would involve a substantial hardship, financial or otherwise, to the petitioner or appellant for the following reasons:

CONSTRUCTION OF CANOPIES IS NECESSARY TO SHIELD FUEL PUMPS FROM WEATHER DUE TO COMPUTER EQUIPMENT WHICH IS PRESENT IN ALL MODERN FUEL PUMPS.

**B)** The hardship is owing to the following circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures by not affecting generally the zoning district in which it is located for the following reasons:

PROPERTY IS A PRE-EXISTING, NONCONFORMING GAS STATION THAT WAS BUILT WITH UNCOVERED FUEL ISLANDS PRIOR TO THE AREA BEING ZONED FOR RESIDENTIAL USE. THE EXISTING UNCOVERED FUEL PUMPING ISLANDS NOW REQUIRE CANOPIES TO PROTECT SENSITIVE COMPUTER EQUIPMENT WHICH IS PRESENT IN ALL MODERN FUEL PUMPS.

**C) DESIRABLE RELIEF MAY BE GRANTED WITHOUT EITHER:**

**1)** Desirable relief may be granted without substantial detriment to the public good for the following reasons:

THE PROPOSED CANOPIES WILL COMPLY WITH ALL DIMENSIONAL REQUIREMENTS, INCREASE SAFETY, AND WILL ENABLE THE SITE TO BE MODERNIZED. CANOPIES WILL PROVIDE ADDITIONAL LIGHT SCREENING FOR NEIGHBORS.

**2)** Desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of this Ordinance for the following reasons:

THE PROPOSED CONDITION OF THE PROPERTY WILL BE SUBSTANTIALLY LESS DETRIMENTAL TO THE NEIGHBORHOOD THAN THE EXISTING CONDITION OF THE PROPERTY, WHICH IS PRESENTLY VISUALLY UNAPPEALING, WITH UNSHIELDED LIGHT IMPACTS. THE PROPOSED CANOPIES WILL PROMOTE SAFETY AND REDUCE VISUAL IMPACTS.

**\*If you have any questions as to whether you can establish all of the applicable legal requirements, you should consult with an attorney.**

**BZA Application Form**

**SUPPORTING STATEMENT FOR A SPECIAL PERMIT**

**Please describe in complete detail how you meet each of the following criteria referring to the property and proposed changes or uses which are requested in your application. Attach sheets with additional information for special permits which have additional criteria, e.g.; fast food permits, comprehensive permits, etc., which must be met.**

**Granting the Special Permit requested for 2615 Massachusetts Ave., Cambridge, MA (location) would not be a detriment to the public interest because:**

**A) Requirements of the Ordinance can or will be met for the following reasons:**

THE PROPOSED CONDITION OF THE PROPERTY WILL BE LESS DETRIMENTAL THAN ITS EXISTING CONDITION BASED ON INCREASED SAFETY, IMPROVED VISUAL APPEAL, REDUCED LIGHT IMPACTS.

**B) Traffic generated or patterns of access or egress would not cause congestion hazard, or substantial change in established neighborhood character for the following reasons:**

NO CHANGE TO THE PRE-EXISTING NONCONFORMING USE IS PROPOSED, SO NO CHANGE IN TRAFFIC WILL OCCUR.

**C) The continued operation of or the development of adjacent uses as permitted in the Zoning Ordinance would not be adversely affected by the nature of the proposed use for the following reasons:**

THE PROPOSED CANOPIES WITH IMPROVE THE VISUAL APPEAL OF THE SITE AND REDUCE LIGHT IMPACTS OF THE EXISTING COMMERCIAL GAS STATION ON ADJACENT PROPERTIES.

**D) Nuisance or hazard would not be created to the detriment of the health, safety, and/or welfare of the occupant of the proposed use or the citizens of the City for the following reasons:**

THE PROPOSED CANOPIES WOULD IMPROVE HEALTH, SAFETY, AND WELFARE CONDITIONS BY PROVIDING IMPROVED SHIELDING FROM WEATHER, PROTECTION OF SENSITIVE COMPUTERIZED FUEL PUMP EQUIPMENT, AND IMPROVED FIRE SAFETY.

**E) For other reasons, the proposed use would not impair the integrity of the district or adjoining district or otherwise derogate from the intent or purpose of this ordinance for the following reasons:**

THE PROPOSED CONDITION OF THE PROPERTY WILL BE LESS DETRIMENTAL THAN ITS EXISTING CONDITION BASED ON INCREASED SAFETY, IMPROVED VISUAL APPEAL, REDUCED LIGHT IMPACTS.

**\*If you have any questions as to whether you can establish all of the applicable legal requirements, you should consult with an attorney.**

**BZA Application Form****DIMENSIONAL INFORMATION**

**Applicant:** FRANK P. FIORENTINO, CPA, TRUSTEE OF  
THE MOBIL NOMINEE TRUST U/D/T DATED  
MARCH 13, 2017

**Present Use/Occupancy:** GAS STATION

**Location:** REGNANTE STERIO LLP - 401 EDGEWATER  
PL, STE 630

**Zone:** Residence B Zone

**Phone:** 781-710-1248

**Requested Use/Occupancy:** NO CHANGE

	<b><u>Existing Conditions</u></b>	<b><u>Requested Conditions</u></b>	<b><u>Ordinance Requirements</u></b>	
<b><u>TOTAL GROSS FLOOR AREA:</u></b>	2020	NO CHANGE	N/A	(max.)
<b><u>LOT AREA:</u></b>	21222	NO CHANGE	5000	(min.)
<b><u>RATIO OF GROSS FLOOR AREA TO LOT AREA: <sup>2</sup></u></b>	0.095	NO CHANGE	0.5	
<b><u>LOT AREA OF EACH DWELLING UNIT</u></b>	N/A	N/A	N/A	
<b><u>SIZE OF LOT:</u></b>				
WIDTH	>200	NO CHANGE	50	
DEPTH	N/A	N/A	N/A	
<b><u>SETBACKS IN FEET:</u></b>				
FRONT	15	15	15	
REAR	38.7	38.7	25	
LEFT SIDE	15	15	15	
RIGHT SIDE	7.9	7.9	7.5	
<b><u>SIZE OF BUILDING:</u></b>				
HEIGHT	14.2	15	35 (15 FOR ACC. STRUCTURES)	
WIDTH	57.7	57.7	N/A	
<b><u>RATIO OF USABLE OPEN SPACE TO LOT AREA:</u></b>	N/A	N/A	N/A	
<b><u>NO. OF DWELLING UNITS:</u></b>	N/A	N/A	N/A	
<b><u>NO. OF PARKING SPACES:</u></b>	23	23	N/A	
<b><u>NO. OF LOADING AREAS:</u></b>	N/A	N/A	N/A	
<b><u>DISTANCE TO NEAREST BLDG. ON SAME LOT</u></b>	N/A	N/A	N/A	

Describe where applicable, other occupancies on the same lot, the size of adjacent buildings on same lot, and type of construction proposed, e.g; wood frame, concrete, brick, steel, etc.

1. SEE CAMBRIDGE ZONING ORDINANCE ARTICLE 5.000, SECTION 5.30 (DISTRICT OF DIMENSIONAL REGULATIONS).
2. TOTAL GROSS FLOOR AREA (INCLUDING BASEMENT 7'-0" IN HEIGHT AND ATTIC AREAS GREATER THAN 5') DIVIDED BY LOT AREA.
3. OPEN SPACE SHALL NOT INCLUDE PARKING AREAS, WALKWAYS OR DRIVEWAYS AND SHALL HAVE A MINIMUM DIMENSION OF 15'.



# City of Cambridge

MASSACHUSETTS

BOARD OF ZONING APPEAL

831 Mass Avenue, Cambridge, MA.  
(617) 349-6100

2021 MAR -1 PM 2:41

OFFICE OF THE CITY CLERK  
CAMBRIDGE, MASSACHUSETTS

## Board of Zoning Appeal Waiver Form

The Board of Zoning Appeal  
831 Mass Avenue  
Cambridge, MA 02139

RE: Case # BZA-103314

Address: 2615 Mass Avenue

Owner,  Petitioner, or  Representative: Jesse D. Schomer, Esq.

(Print Name)

hereby waives the required time limits for holding a public hearing as required by Section 9 or Section 15 of the Zoning Act of the Commonwealth of Massachusetts, Massachusetts General Laws, Chapter 40A. The  Owner,  Petitioner, or  Representative further hereby waives the Petitioner's and/or Owner's right to a Decision by the Board of Zoning Appeal on the above referenced case within the time period as required by Section 9 or Section 15 of the Zoning Act of the Commonwealth of Massachusetts, Massachusetts General Laws, Chapter 40A, and/or Section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, codified as 47 U.S.C. §1455(a), or any other relevant state or federal regulation or law.

Public hearing continued from 2/25/21 to 4/8/21.

Date: 3-1-21

J. D. Schomer  
Signature



1 \* \* \* \* \*

2 (7:02 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,  
4 Andrea A. Hickey, Matina Williams and  
5 Jason Marshall

6 CONSTANTINE ALEXANDER: The Chair will now call  
7 Case Number 103314 -- 2615 Massachusetts Avenue. Anyone  
8 here wish to be heard on this matter?

9 JESSIE SCHOMER: Yes, Mr. Chair. My name is  
10 Attorney Jesse Schomer. I represent the applicant.

11 CONSTANTINE ALEXANDER: Before -- this is our  
12 night. Before we talk further about this case, I'm going to  
13 tell you we have to continue it for a number of reasons.

14 First of all, the office -- Ms. Pacheco required --  
15 -- requested -- at the request of one of the members of the  
16 Board that we be provided with photo simulations for the  
17 proposed canopies, and they should show the proposed color  
18 in any lettering on the canopies.

19 And someone -- a Jesse Schomer -- replied, "I have  
20 requested renderings of the canopies, and will try to get  
21 those to you ASAP." This was about a week ago. We never got  
22 them. So we haven't had a chance to review them as part of

1 our file. That's one reason to continue the case.

2 The second is I don't understand your application.  
3 You're applying for a variance and a special permit? What  
4 is this, take your choice? What are you? We don't proceed  
5 that way, sir. You tell us whether you want a special  
6 permit or a variance, and we'll act on that request. But  
7 we're not going to choose the form of relief for you. We  
8 had this before, and that's our policy.

9 And lastly, there's a memo in the file regarding a  
10 case which would suggest that if that case is applied or the  
11 standards of that case, that you don't need any relief. So  
12 you've put on the table three different forms of relief.  
13 And again, as I said before, that's not how we go about it.  
14 Take your case and get us those photo simulations, decide  
15 which way you're going to go, and argue your case on that  
16 basis.

17 Any other members of the Board --

18 BRENDAN SULLIVAN: This is Brendan Sullivan. The  
19 other condition that was requested is that you reach out and  
20 submit all your materials to the North Cambridge  
21 Stabilization Committee. According to the reply to Ms.  
22 Pacheco, that has been done. And I don't know if you e-

1 mailed it over to them or not, but you really should have  
2 dialogued conversation with them.

3           And I would ask the member of the North Cambridge  
4 Stabilization Committee who is listed again that they should  
5 send us a written correspondence regarding the fruits of any  
6 of those discussions.

7           So there are two things: Number one is we need  
8 the photo simulations showing color and any lettering, and  
9 also, contact with the North Cambridge Stabilization  
10 Committee, before I'm willing to go forward and hear the  
11 case.

12           CONSTANTINE ALEXANDER: Any questions, sir, the  
13 Counsel for the petitioner before I make my motion to  
14 continue the case?

15           JESSIE SCHOMER: No, no questions, Mr. Chair, just  
16 to respond very briefly. We are in the process of getting  
17 the photo simulations that the Board had requested. I had  
18 hoped to have those before the hearing, and unfortunately  
19 that didn't come through.

20           And we have been requesting those, actually, from  
21 the manufacturer of the canopies that we're proposing since  
22 November. So we're as frustrated as the Board is with the

1 delay.

2           CONSTANTINE ALEXANDER: I accept that. Do you  
3 have any -- we're going to have to set a specific date. I  
4 don't want to have a date -- pick a date and find out the  
5 photo simulations are not available. Do you want to take a  
6 longer date? How much time would you like to continue this  
7 case?

8           JESSIE SCHOMER: My suggestion, Mr. Chairman, was  
9 going to be the first meeting in April. I think that would  
10 be enough time. And we are in conversations with the North  
11 Cambridge Stabilization Committee and we had a good  
12 conversation with them last night and we hope to iron out  
13 any issues.

14           I would, if I may I'd like to address the issue of  
15 the relief that we're requesting?

16           CONSTANTINE ALEXANDER: Yes. Go right ahead.

17           JESSIE SCHOMER: Thank you. I admit that the  
18 application is somewhat confusing. And that's -- what we're  
19 requesting in this case is actually a Section 6 finding  
20 under Mass. General Laws Chapter 40a Section 6. And this is  
21 how we originally filed this application. However, when it  
22 was received by the ISD, they didn't understand what it was

1 that we were requesting. And so, they had requested that we  
2 file applications for a special permit and a variance under  
3 the local bylaw.

4 So what we're requesting is a Section 6 finding  
5 under Chapter 40A 6, and --

6 CONSTANTINE ALEXANDER: Understood. Thank you for  
7 that explanation. I think for the hearing, since it will be  
8 the first one in April, I think you want to modify your  
9 application to be more specific than we have right now.

10 JESSIE SCHOMER: Happy to do so.

11 CONSTANTINE ALEXANDER: Sisia, when is the first  
12 hearing in April that we have room?

13 SISIA DAGLIAN: April 8, and we actually have  
14 room.

15 CONSTANTINE ALEXANDER: Okay. April 8 work for  
16 you, sir?

17 JESSIE SCHOMER: Yes, Mr. Chair.

18 CONSTANTINE ALEXANDER: Okay. The Chair moves  
19 that we continue this case as a case not heard until 6:00  
20 p.m. on April 8, subject to the following conditions:

21 One, that the petitioner sign a waiver of time for  
22 decision, and that's required to avoid complications under

1 Massachusetts General Laws. That waiver, which is a  
2 standard document that we use, and I think you'll find it's  
3 not controversial -- if we had an in-person meeting I would  
4 hand it to you, but we don't have that.

5 In any event, that waiver of notice must be signed  
6 and returned to the Inspectional Services Department no  
7 later than 5:00 p.m. a week from Monday. If that is not  
8 done, this case will be ipso facto terminated, and that will  
9 be it for two years.

10 So just make sure you work with Ms. Pacheco and  
11 get that waiver of time for decision to be signed.

12 Second, that the posting sign that you need to  
13 post for the new hearing date -- you can do one of two  
14 things: You can get a new sign, which I would prefer,  
15 because the old sign is in bad condition, the last time I  
16 looked -- but again, a new sign with the new date and new  
17 time; or alternatively, you can mark up the existing sign to  
18 reflect the new date and the new time.

19 That sign, that marker must be readable.  
20 Otherwise, they will not satisfy the requirements of the  
21 ordinance, and we will not hear the case on April 8.

22 And lastly, to the extent you're going to submit,

1 as we requested, photo simulations, and any other  
2 modifications to the specifications -- data or the like  
3 regarding the relief you're seeking, that must be in the ISD  
4 files no later than 5:00 p.m. on the Monday before April 8.

5 That is to allow Board members and interested  
6 citizens of the city time to review those changes from what  
7 are now the facts, and formulate whatever conclusions they  
8 want or don't want to formulate.

9 So those are the conditions. Brendan, how do you  
10 vote?

11 BRENDAN SULLIVAN: Yes to the continuance --  
12 Brendan Sullivan.

13 CONSTANTINE ALEXANDER: Andrea?

14 ANDREA HICKEY: Andrea Hickey yes to the  
15 continuance.

16 CONSTANTINE ALEXANDER: Jason?

17 JASON MARSHALL: Jason Marshall yes to the  
18 continuance.

19 CONSTANTINE ALEXANDER: Matina?

20 MATINA WILLIAMS: Matina Williams yes to the  
21 continuance.

22 CONSTANTINE ALEXANDER: And the Chair votes yes as

1 well.

2 [All vote YES]

3 So this case will be continued until April 8. See  
4 you then -or- hear you then! Thank you.

5 JESSIE SCHOMER: Thank you.

6 CONSTANTINE ALEXANDER: Our next case is scheduled  
7 for 7:15, and it's now 7:11, so we're going to take a quick  
8 four-minute break, it would appear.

9 [BREAK]

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# City of Cambridge

MASSACHUSETTS

BOARD OF ZONING APPEAL

831 Mass Avenue, Cambridge, MA.  
(617) 349-6100

*Replacements  
BZAs*

BZA

## POSTING NOTICE – PICK UP SHEET

The undersigned picked up the notice board for the Board of Zoning Appeals Hearing.

Name: Jason Santos Date: \_\_\_\_\_  
(Print)

Address: 2615 Mass Ave

Case No. BZA-103314

Hearing Date: 4/8/21

Thank you,  
Bza Members

# Parkway Condominium Trust

2595 Massachusetts Avenue  
Cambridge, MA 02140

City of Cambridge  
Board of Zoning Appeal  
831 Massachusetts Ave.  
Cambridge, MA 02139

April 5, 2021

RE: BZA-103314

To Whom it May Concern;

Allow me to introduce myself, my name is Rich Cadotte I am president, resident and managing trustee of the Parkway Condominium community. The western side of our building, which consist of nine units, directly abuts Alewife Mobil at 2615 Massachusetts Avenue. As the representative of this community I would like to voice the opposition of owners and residents to the proposed construction of canopies at this location.

In regard to light pollution Mr. Schomer was asked to share the basis of his findings, he states that light trespass would be significantly reduced and to provide us with an accurate rendition of the proposed canopies. To date neither were provided.

The petition also states that canopies are required to protect the proposed replacement of fuel dispensers, it is my belief that this statement is untrue. We requested product data from the manufacturer stating these new units could not be installed without the protection of said canopies. To date this information has also not been received.

The petition also states that project will increase the appeal of the location, it is in our opinion that the current operators have not been good stewards of the location. For the several years more than 50% of the outside lighting has been non-functioning, they have uprooted several mature plantings along the Alewife Brook Parkway leaving the area barren, their stockade fence has sections laying on its side unrepaired, curbing laying strewed about after being dislodge by the plow, clothes and book collection boxes overflowing with residual debris tossed about on both properties. We find it difficult to believe that the location would be maintained in a professional and neighborly manner.

In regard to improved safety, in our opinion it is too congested to accommodate four dispensing location. There are chronic issues especially with trucks coming into contact with the crash bars protecting the fueling islands, and crashing with the overhead fire suppression rigging. The location has suffered damage to the fire

The Board of Trustees  
President, Treasurer, Managing Trustee  
Richard Cadotte 617.497.5661  
Secretary: Amy Middleton 781.956.7869  
Trustee: Denis Rouleau 617.576.2841

## Parkway Condominium Trust

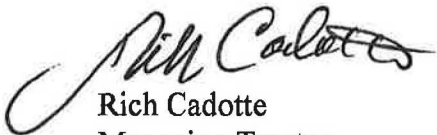
2595 Massachusetts Avenue  
Cambridge, MA 02140

suppression located over island #1 several months ago and to date it has not been repaired. Question, is it operational.

In closing, let me address the elephant in the room. The view from the nine units facing the location are seeing 2 fueling locations at ground level when they look out of their windows. They have a clear view of the greenway along Alewife Brook Parkway where wildlife is often observed early morning and evenings. It's obvious that the current operators of Alewife Mobil are only concerned with the business side of this project, on the other hand we will need to live with this structure outside our windows every day and night.

It is because of these reasons I respectfully request that this application be denied.

Sincerely



Rich Cadotte  
Managing Trustee  
Parkway Condominium Trust  
2595 Massachusetts Ave.  
Cambridge, MA 02140  
617 497-5661  
[pkwycondo@mail.com](mailto:pkwycondo@mail.com)

The Board of Trustees  
President, Treasurer, Managing Trustee  
Richard Cadotte 617.497.5661  
Secretary: Amy Middleton 781.956.7869  
Trustee: Denis Rouleau 617.576.2841

City of Cambridge  
Board of Zoning Appeal  
831 Mass Ave.  
Cambridge, MA 02139

Re: Case number BZA-103314

Dear Board of Zoning Appeal:

We, the unit owners and current residents of the Parkway Condominiums at 2595 Mass Ave, vehemently oppose the petition for the variance and special permit at 2615 Mass Ave. In 2017, the owners also opposed BZA-013985-2017, which also sought to a variance to construct canopies at this address.

The owners oppose BZA-103314 for the following reasons:

- 1) The light pollution from the canopies will have a direct effect on the residents of the Parkway condominium. The petition states that the canopies will have downward-pointing lights, but it lacks information about 1) the brightness of the lights, 2) potential light trespass, and 3) whether there will be lighting on the sides of the canopies.
- 2) The exhibits presented in the petition do not show any rendering of what the finished canopies would look like. (In contrast, BZA-013985-2017 included renderings of the completed canopies.)
- 3) The canopies in this petition will obstruct the views of the residents of the Parkway Condominiums of the Alewife Greenway, which will diminish residents' enjoyment of their homes and negatively affect property values. This refutes the petitioner's statement that "the proposed condition of the property will be substantially less detrimental to the neighborhood than the existing condition of the property".

Sincerely yours,

Unit owners at Parkway Condominiums (see attached list)

Unit # 1

Date: 3-15-2021

Name: (print) Richard CaDotte Signature: 

Name: (print) \_\_\_\_\_ Signature: \_\_\_\_\_

Name: (print) Zachary Rice

Signature: *Zachary Rice*

Name: (print) Teresa Rice

Signature: *Teresa Rice*

City of Cambridge  
Board of Zoning Appeal  
831 Mass Ave.  
Cambridge, MA 02139

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- 3) The canopies in this petition will obstruct the views of the residents of the Parkway Condominiums of the Alewife Greenway, which will diminish residents' enjoyment of their homes and negatively affect property values. This refutes the petitioner's statement that "the proposed condition of the property will be substantially less detrimental to the neighborhood than the existing condition of the property".

Sincerely yours,

Unit owners at Parkway Condominiums (see attached list)

Unit # 3

Date: Mar 2, 2018

Board of Zoning Appeal  
831 Mass Ave.  
Cambridge, MA 02139

Re: Case number BZA-103314

Dear Board of Zoning Appeal:

We, the unit owners at Parkway Condominiums at 2595 Mass Ave, vehemently oppose the petition for the variance and special permit at 2615 Mass Ave. In 2017, the owners also opposed BZA-013985-2017, which also sought to a variance to construct canopies at this address.

The owners oppose BZA-103314 for the following reasons:

- The light pollution from the canopies will have a direct effect on the residents of the Parkway condominium. The petition states that the canopies will have downward-pointing lights, but it lacks information about 1) the brightness of the lights, 2) potential light trespass, and 3) whether there will be lighting on the sides of the canopies.
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Sincerely yours,

Unit owners at Parkway Condominiums (see attached list)

Unit # 4

Date: 3-11-2021

Name: (print) RAIF ISHAK

Signature: 

Name: (print) \_\_\_\_\_

Signature: \_\_\_\_\_

City of Cambridge  
Board of Zoning Appeal  
831 Mass Ave.  
Cambridge, MA 02139

Re: Case number BZA-103314

Dear Board of Zoning Appeal:

We, the unit owners at Parkway Condominiums at 2595 Mass Ave, vehemently oppose the petition for the variance and special permit at 2615 Mass Ave. In 2017, the owners also opposed BZA-013985-2017, which also sought to a variance to construct canopies at this address.

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Sincerely yours,

Unit owners at Parkway Condominiums (see attached list)

Unit # 5

Date: 1 March 2021

Name: (print) Nathalie Nopakon Signature: N. N

Name: (print) \_\_\_\_\_ Signature: \_\_\_\_\_



City of Cambridge  
Board of Zoning Appeal  
831 Mass Ave.  
Cambridge, MA 02139

Re: Case number BZA-103314

Dear Board of Zoning Appeal:

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Sincerely yours,

Unit owners at Parkway Condominiums (see attached list)

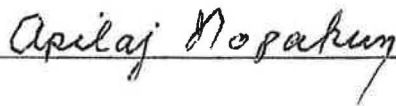
Unit # 5

Date: 12 March 2021

Name: (print) SUVITYA NOPAKUN

Signature: 

Name: (print) APILAT NOPAKUN

Signature: 

Name: (print) Thomas J. Carroll

Signature: 

Name: (print) Shelia Kennedy

Signature: 

City of Cambridge  
Board of Zoning Appeal  
831 Mass Ave.  
Cambridge, MA 02139

Re: Case number BZA-103314

Dear Board of Zoning Appeal:

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Sincerely yours,

Unit owners at Parkway Condominiums (see attached list)

Unit # 7

Date: March 3, 2021

City of Cambridge  
Board of Zoning Appeal  
831 Mass Ave.  
Cambridge, MA 02139

Re: Case number BZA-103314

Dear Board of Zoning Appeal:

We, the unit owners or current residents of the Parkway Condominiums at 2595 Mass Ave, vehemently oppose the petition for the variance and special permit at 2615 Mass Ave. In 2017, the owners also opposed BZA-013985-2017, which also sought to a variance to construct canopies at this address.

The owners oppose BZA-103314 for the following reasons:

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Sincerely yours,

Unit owners at Parkway Condominiums (see attached list)

Unit # 8

Date: 3/17/21

Name: (print) Linda Owens

Signature: 

Name: (print) \_\_\_\_\_

Signature: \_\_\_\_\_

City of Cambridge  
Board of Zoning Appeal  
831 Mass Ave.  
Cambridge, MA 02139

Re: Case number BZA-103314

Dear Board of Zoning Appeal:

We, the unit owners and current residents of the Parkway Condominiums at 2595 Mass Ave, vehemently oppose the petition for the variance and special permit at 2615 Mass Ave. In 2017, the owners also opposed BZA-013985-2017, which also sought to a variance to construct canopies at this address.

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Sincerely yours,

Unit owners at Parkway Condominiums (see attached list)

Unit # 12

Date: March 14, 2021

Name: (print) PATRICIA A. BUCKLEY Signature: Patricia A. Buckley

Name: (print) \_\_\_\_\_ Signature: \_\_\_\_\_

City of Cambridge  
Board of Zoning Appeal  
831 Mass Ave.  
Cambridge, MA 02139

Re: Case number BZA-103314

Dear Board of Zoning Appeal:

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Sincerely yours,

Unit owners at Parkway Condominiums (see attached list)

Unit # 13

Date: 3-11-21

Name: (print) Denis Rouleau Signature: Denis Rouleau

Name: (print) \_\_\_\_\_ Signature: \_\_\_\_\_

City of Cambridge  
Board of Zoning Appeal  
831 Mass Ave.  
Cambridge, MA 02139

Re: Case number BZA-103314

Dear Board of Zoning Appeal:

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Sincerely yours,

Unit owners at Parkway Condominiums (see attached list)

Unit # 14

Date: 3/14/2021

Name: (print) DALBAS OLE PAULO Signature: Dalbas de Paulo

Name: (print) VALDETE OLE PAULO Signature: Valdete de Paulo

City of Cambridge  
Board of Zoning Appeal  
831 Mass Ave.  
Cambridge, MA 02139

Re: Case number BZA-103314

Dear Board of Zoning Appeal:

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Sincerely yours,

Unit owners at Parkway Condominiums (see attached list)

Unit # 15 Date: 3/21/2021

Name: (print) Long Zhao Signature: [Handwritten Signature]

Name: (print) \_\_\_\_\_ Signature: \_\_\_\_\_



City of Cambridge  
Board of Zoning Appeal  
831 Mass Ave.  
Cambridge, MA 02139

Re: Case number BZA-103314

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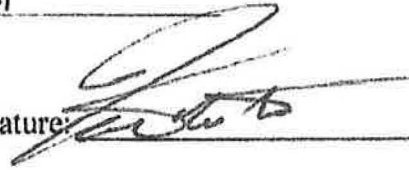
Sincerely yours,

Unit owners at Parkway Condominiums (see attached list)

Unit # 17

Date: 3/29/21

Name: (print) Deke Wilmes  
Dist. Manager, CHA

Signature: 

Name: (print) \_\_\_\_\_

Signature: \_\_\_\_\_

City of Cambridge  
Board of Zoning Appeal  
831 Mass Ave.  
Cambridge, MA 02139

Re: Case number BZA-103314

Dear Board of Zoning Appeal:

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~~Sincerely, yours~~

Unit owners at Parkway Condominiums (see attached list)

Unit # 17

Date: 3/15/21

Name: (print) Lloyd Smith

Signature: Lloyd Smith

Name: (print) \_\_\_\_\_ Signature: \_\_\_\_\_

City of Cambridge  
Board of Zoning Appeal  
831 Mass Ave.  
Cambridge, MA 02139

Re: Case number BZA-103314

Dear Board of Zoning Appeal:

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Sincerely yours,

Unit owners at Parkway Condominiums (see attached list)

Unit # 18

Date: 16 March 2021

Name: (print) Maria E. Maddaloni

Signature: 

Name: (print) \_\_\_\_\_

Signature: \_\_\_\_\_

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(6:01 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,  
Andrea Hickey, Jim Monteverde, Jason  
Marshall

Okay. The case -- we start, as usual, with  
continued cases, before getting to our regular agenda. The  
continued cases are cases that have started at an earlier  
date and for one reason or another were deferred until this  
evening.

So the first continued case I'm going to call is  
Case Number -- where's the paper? There it is. Case Number  
103314. Anyone here wishing to be heard on this matter?

No one?

SISIA DAGLIAN: Yeah.

CONSTANTINE ALEXANDER: Okay. The reason why I  
think there's no one is that the petitioner in this case has  
requested a further continuance. The letter -- okay,  
they're having problems getting some information or  
something --

SISIA DAGLIAN: Oh, okay, sorry there is somebody.

1           CONSTANTINE ALEXANDER:  -- are things that we have  
2 requested from their -- from Mobile Oil.

3           SISIA DAGLIAN:  Sorry, there is somebody.

4           CONSTANTINE ALEXANDER:  I'm sorry?

5           SISIA DAGLIAN:  There is somebody that raised  
6 their hand.

7           CONSTANTINE ALEXANDER:  Oh.  I'm sorry.  Someone  
8 wish to speak?

9           SISIA DAGLIAN:  Jesse Schomer.

10          JESSE SCHOMER:  Yes, Mr. Chair, good evening.  My  
11 name is Attorney Jesse Schomer.  I represent the applicant  
12 on this matter.

13          CONSTANTINE ALEXANDER:  Right.

14          JESSE SCHOMER:  We had requested a continuance  
15 tonight, Mr. Chair.

16          CONSTANTINE ALEXANDER:  I know.  I'm aware of  
17 that, I had the letter.  Or I have a letter requesting  
18 continuance.

19          JESSE SCHOMER:  Can you hear me, Mr. Chair?

20          CONSTANTINE ALEXANDER:  Yes.  Can you hear me?

21          JESSE SCHOMER:  Okay.  I can, and I apologize.  
22 There was an issue -- I was just being promoted to panelist.

1 So I think my audio cut out for a moment.

2 I'm the attorney for the applicant on this, and  
3 we've requested that the Board members grant us a  
4 continuance of this matter because we're still in the  
5 process of working on the documents that the Board had  
6 requested that we provide and file with the members, and  
7 specifically that the photometric light impact study and a  
8 3D rendering of the proposed canopies at this site.

9 CONSTANTINE ALEXANDER: Right.

10 JESSE SCHOMER: I'm led to understand from the  
11 manufacturer of these canopies that these documents should  
12 be ready and ready to be filed with the Board within the  
13 next few days, but unfortunately they couldn't be done by  
14 this past Monday at 5:00 p.m. So we weren't able to get  
15 them in time for tonight.

16 So if it pleases the members, we would request a  
17 continuance to the May 20 hearing, and that would allow us  
18 some time to get these documents and review them, and make  
19 sure that they show exactly what we're proposing on the  
20 site... and as well to show them to the neighbors and the  
21 neighborhood group and go over them with the neighbors in  
22 the hopes of earning their support for this proposal.

1           CONSTANTINE ALEXANDER: Thank you. Some problems  
2 with continuing it to the twentieth. We are having a  
3 hearing on the twentieth, but it is to hear a comprehensive  
4 permit case in Cambridge that's drawn a lot of attention.

5           JESSE SCHOMER: Okay.

6           CONSTANTINE ALEXANDER: And meeting that night is  
7 going to be quite protracted, I suspect. So we decided not  
8 to hear any other cases on the twentieth.

9           The plot thickens. The regular meeting will be  
10 the twenty-seventh of May. But I can -- I would not be able  
11 to sit that night. I'm going to be out of the state.

12           So you will have a choice to continue it until May  
13 27, but there will only be four members sitting that night.  
14 And as you probably know, to get relief we need four votes.  
15 So the odds are not in your favor, so to speak.

16           If you had a regular five-person panel, one person  
17 could dissent, and you would still get your relief if the  
18 other four agreed to do that. You don't have that luxury  
19 for the May 27 meeting. So it's up to you to do that. If  
20 not, the next meeting would be June --

21           SISIA DAGLIAN: June 10, right.

22           CONSTANTINE ALEXANDER: So either we can continue

1 to June 10, then you'll have five -- presumably five members  
2 present, I'll have to check before we take a vote -- to make  
th  
3 sure the other members of the Board can make the 10 . Or  
4 you can go for the twenty-seventh and take your chances with  
5 just four members.

6 JESSE SCHOMER: Thank you, Mr. Chair. I think our  
7 preference would be to continue to June the tenth.

8 CONSTANTINE ALEXANDER: That's what most people  
9 do. Let me see -- Brendan, will you be available on the  
10 tenth?

11 BRENDAN SULLIVAN: Brendan Sullivan yes,  
12 available.

13 CONSTANTINE ALEXANDER: Jim?

14 JIM MONTEVERDE: Jim Monteverde yes.

15 CONSTANTINE ALEXANDER: Andrea?

16 ANDREA HICKEY: Yes, I'm available.

17 CONSTANTINE ALEXANDER: Okay, now --

18 JASON MARSHALL: Jason?

19 CONSTANTINE ALEXANDER: Jason didn't sit on the  
20 original case --

21 BRENDAN SULLIVAN: Oh, I'm sorry.

22 CONSTANTINE ALEXANDER: So I think it's got to be



1 Laura. I don't know if Laura --

2 SISIA DAGLIAN: Yeah, Laura's here.

3 JIM MONTEVERDE: She was here.

4 CONSTANTINE ALEXANDER: She was here?

5 JIM MONTEVERDE: Yeah.

6 LAURA WERNICK: -- I wasn't asked to be on the  
7 continuing case tonight, so I assume that I was not on the  
8 original case.

9 JIM MONTEVERDE: Yeah. It was a case not heard,  
10 so --

11 CONSTANTINE ALEXANDER: No, no, this is a case  
12 heard.

13 JIM MONTEVERDE: Oh, I'm sorry. I'm looking at  
14 the agenda.

15 JESSE SCHOMER: If I may, Mr. Chair, this is a  
16 case not heard. We did agree to continue without being  
17 opened.

18 CONSTANTINE ALEXANDER: I'm sorry, could you  
19 repeat that, sir?

20 JESSE SCHOMER: This is a case not heard. We did  
21 agree to a continuance.

22 CONSTANTINE ALEXANDER: It is, I'm sorry. My

1 mistake. Well, if it's a case not heard, we could do it on  
2 the twenty-seventh -- presumably we'll be able to get five  
3 members. Would you prefer the twenty-seventh of May or June  
4 10?

5 JESSE SCHOMER: That would be fine, Mr. Chair.  
6 The twenty-seventh would be fine, in that case.

7 CONSTANTINE ALEXANDER: Twenty-seventh? We have  
8 room on our --

9 SISIA DAGLIAN: Yes.

10 CONSTANTINE ALEXANDER: Okay. I will continue  
11 this case.

12 LAURA WERNICK: This is Laura. I definitely will  
13 not be here on the twenty-seventh. But I'm sure you can get  
14 others.

15 ANDREA HICKEY: And I also -- this is Andrea. I  
16 also will not be here on the twenty-seventh, but I'm sure  
17 there are Associate Members that can step up.

18 CONSTANTINE ALEXANDER: I assume that to be the  
19 case as well. As a matter of fact, we just filled our last  
20 vacancy the other day; we now have a full staff of Board  
21 members. So anyway, Laura, you can't make the twenty-  
22 seventh?

1 LAURA WERNICK: Sorry. It's my birthday.

2 CONSTANTINE ALEXANDER: [Laughter]

3 JIM MONTEVERDE: Write that down.

4 CONSTANTINE ALEXANDER: You might be very  
5 "chattable" that night. [Laughter] Okay. Sir, do you still  
6 want to have the twenty-seventh? The members will be  
7 presumably Mr. Sullivan, Mr. Monteverde, and three other  
8 players, to be named later.

9 JESSE SCHOMER: Either of those dates is fine with  
10 us, Mr. Chair. The twenty-seventh would be fine.

11 CONSTANTINE ALEXANDER: Okay.

12 JESSE SCHOMER: Thank you very much.

13 CONSTANTINE ALEXANDER: I will make the motion.  
14 The Chair moves that we continue this case as a case not  
15 heard until 6:00 p.m. on May 27, subject to the following  
16 conditions:

17 First -- it's already been satisfied -- the  
18 petitioner will sign a waiver of time for decision and you  
19 did that in connection with tonight's meeting, so that's  
20 taken care of.

21 Second, a new posting sign must be put up for the  
22 14 days requires by our ordinance. It should be a wholly

1 new sign. You can take the current sign and just with a  
2 magic marker or what have you change the date and the time.  
3 That's up to you.

4 And last, the plans and drawings or whatever it is  
5 we're waiting for and you're getting from Mobile, those --  
6 as you know, but I'll have to repeat it -- those must be in  
7 our files no later than 5:00 p.m. on the Monday before May  
8 27.

9 Brendan, how you vote on the continuance?

10 BRENDAN SULLIVAN: Brendan Sullivan yes to the  
11 continuance.

12 CONSTANTINE ALEXANDER: Jim?

13 JIM MONTEVERDE: Jim Monteverde yes to the  
14 continuance.

15 CONSTANTINE ALEXANDER: Laura? Nope, not Laura --  
16 Jason. Sorry.

17 JASON MARSHALL: Jason Marshall yes to the  
18 continuance.

19 CONSTANTINE ALEXANDER: Andrea?

20 ANDREA HICKEY: Andrea Hickey yes to the  
21 continuance.

22 CONSTANTINE ALEXANDER: And I vote yes for the

1 continuance as well.

2 [All vote YES]

3 So this case is continued until 6:30 on May 27.

4 BRENDAN SULLIVAN: 6:00.

5 CONSTANTINE ALEXANDER: 6:00. I'm sorry. Thank  
6 you, Brendan. 6:00.

7 JESSE SCHOMER: Thank you very much.

8 CONSTANTINE ALEXANDER: 6:00 on May 27. Thank  
9 you.

10 JESSE SCHOMER: Thank you very much.

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Jesse D. Schomer, Esq.  
jschomer@regnante.com

Regnante Sterio LLP  
Attorneys-at-Law  
401 Edgewater Place, Suite 630  
Wakefield, MA 01880  
(781) 246-2525  
regnante.com

April 1, 2021

City of Cambridge  
Board of Zoning Appeal  
Attn: Maria Pacheco  
831 Massachusetts Avenue  
Cambridge MA 02139

**Re: 2615 Massachusetts Avenue (BZA File No. 103314)**

---

Dear Board Members:

This office is legal counsel to the applicant in the above-referenced zoning application. I write to respectfully request a continuance of the April 8, 2021 hearing of this matter. My clients have been diligently attempting to obtain the documents requested by the Board at its previous hearing (a 3D rendering of the proposed condition of the property and a photometric light impact survey) since we were last before the Board. However, the company hired to produce these documents was unable to complete them before the Board's submission deadline for the April 8 meeting. That company have advised me that the documents will not be completed likely until later this week.

Because – despite my clients' best efforts – the documents requested by the Board are not yet ready for submission to the Board, we respectfully request that this matter be continued to the Board's May 20, 2021 meeting. This would give us adequate time to obtain the requested documents, as well as to continue our efforts to work with the neighbors to earn their support for this project.

In connection with this request, we formally agree to waive and extend any/all statutory deadlines for the Board to open and conduct its public hearing on this matter.

Respectfully,

REGNANTE STERIO LLP

/s/ Jesse D. Schomer, Esq.  
JESSE D. SCHOMER, ESQ.

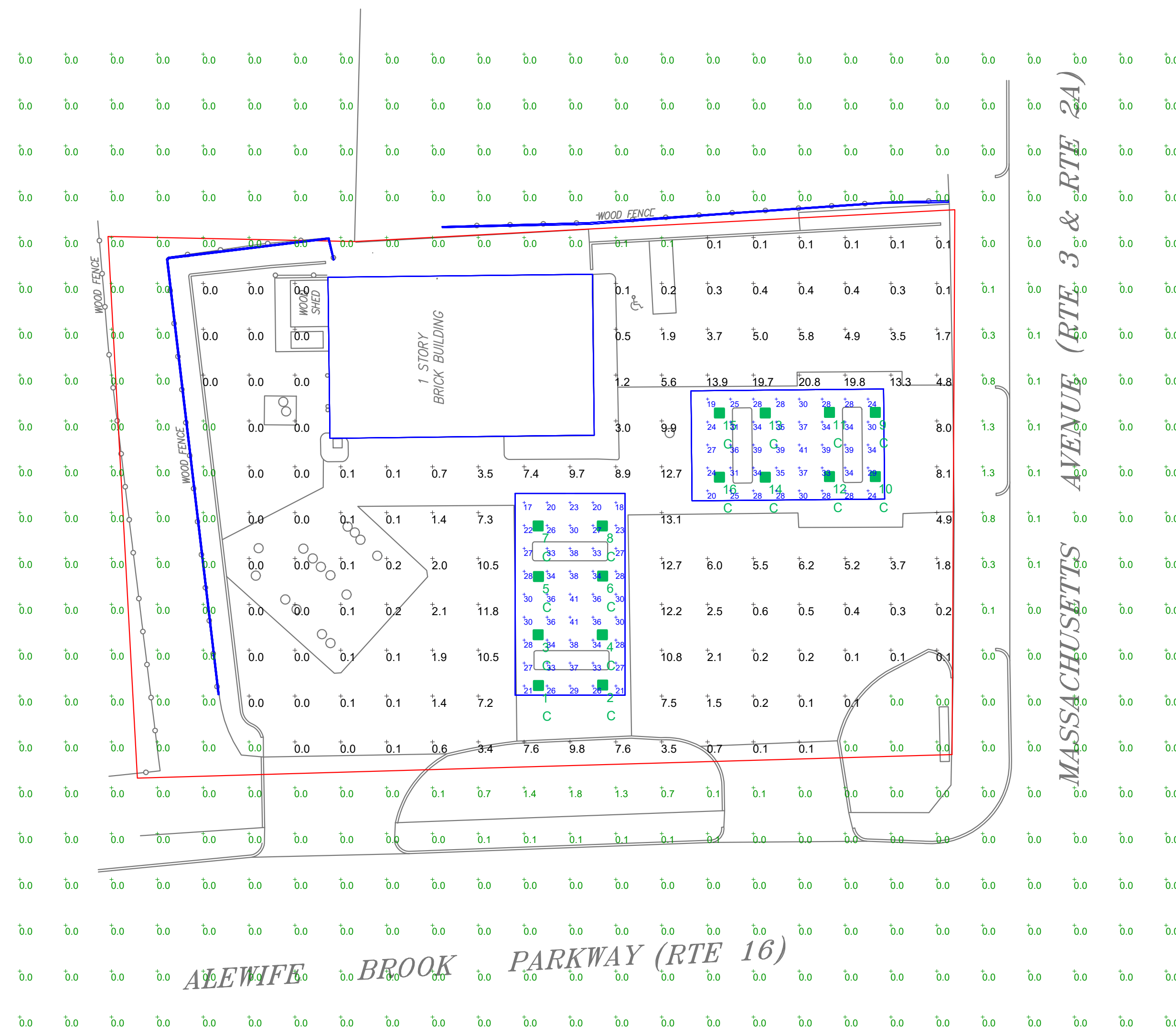












LUMINAIRE LOCATION SUMMARY		
LUM. NO.	LABEL	MTG. HT.
1	C	13.5
2	C	13.5
3	C	13.5
4	C	13.5
5	C	13.5
6	C	13.5
7	C	13.5
8	C	13.5
9	C	13.5
10	C	13.5
11	C	13.5
12	C	13.5
13	C	13.5
14	C	13.5
15	C	13.5
16	C	13.5

FOOTCANDLE LEVELS CALCULATED AT GRADE USING INITIAL LUMEN VALUES					
LABEL	AVG	MAX	MIN	AVG/MIN	MAX/MIN
PAVED AREA	3.12	20.8	0.0	N.A.	N.A.
UNDEFINED	0.03	1.8	0.0	N.A.	N.A.
UNDER CANOPY 1	29.64	41	17	1.74	2.41
UNDER CANOPY 2	30.78	41	19	1.62	2.16

LUMINAIRE SCHEDULE									
SYMBOL	QTY	LABEL	ARRANGEMENT	LUMENS	LLF	ARR. WATTS	TOTAL WATTS	MANUFACTURER	DESCRIPTION
	16	C	SINGLE	7039	1.030	94	1504	BETALED, A DIVISION OF RUUD LIGHTING	CAN-304-PS-RS-04-E-UL-WH-700-30K

REV.	BY	DATE	DESCRIPTION
R1	LMP	04/01/21	REVISED PER UPDATED SITE PLAN
R2	JSG	4/8/21	REMOVE ALL AREA LIGHTS

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SCALE:  
1" = 20'  
DWG. SIZE:  
D

LAYOUT BY:  
LMP  
DATE:  
04/25/17

PROJECT NAME:  
**MOBIL GAS STATION**  
CAMBRIDGE, MA  
DRAWING NUMBER:  
**RL-4555-S1-R2**



QTY	LABEL	DESCRIPTION
CANOPY	16	C CAN-304-PS-RS-04-E-UL-WH-700-30K



### 304 Series™

LED Recessed Canopy Luminaire

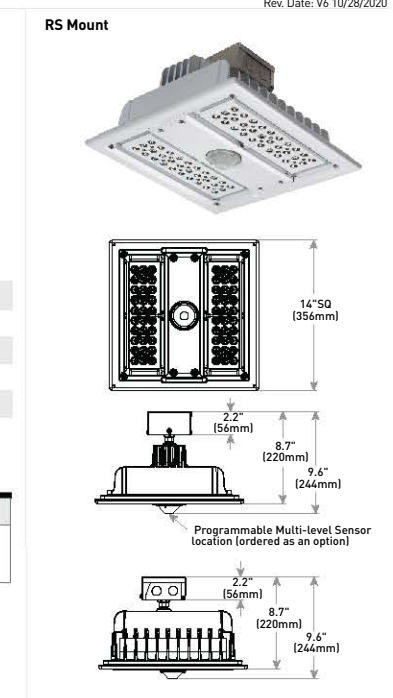
**Product Description**  
 Luminaire housing is constructed from rugged die cast aluminum components (RS Mount) or die cast and extruded aluminum components (RD Mount). LED driver is mounted in a sealed weatheright center chamber that allows for access from below the fixture. Luminaire mounts directly to the canopy deck and is secured in place with die cast aluminum trim frame. Luminaire housing is provided with factory applied foam gasket that provides a watertight seal between luminaire housing and canopy deck. Suitable for use in single or double skin canopies with 1/2" (12.7mm) wide panels. Designed for canopies of 19-22 gauge (maximum 0.040" [1mm] thickness).

**Applications:** Perimeter stations, convenience stores, drive-thru banks and restaurants, retail and grocery

**Performance Summary**

Patented NanoOptic™ Product Technology
Assembled in the U.S.A. of U.S. and imported parts
CRI: Minimum 70 CRI
CCT: 4700K (-) - 500K, 5700K (-) - 500K standard
Limited Warranty*: 10 years on luminaire/10 years on Colorfast DeltaGuard® finish

**Accessories**  
 Field-installed  
 Heat-Sink Remover  
 For successful implementation of the programmable multi-level option, a minimum of one hand-held remote is required.



### Ordering Information

Example: CAN-04a-04a-RS-04-E-UL-04-200

Label	Code	Meaning
Product	04a	LED Count 4x16
Mount	RS	Series
Options	E	UL
Color	04a	4700K
Options	04a	4700K
Options	04a	4700K
Options	04a	4700K
Options	04a	4700K

\*All LED luminaires require a minimum spacing of 4" x 4" (102mm x 102mm) and 1" (25.4mm) between luminaire to luminaire. 3" x 3" (76.2mm) center-to-center spacing between luminaire to luminaire. 1" (25.4mm) center-to-center spacing between luminaire to luminaire.

**CREE LIGHTING**

US: [cree.com](http://cree.com) (800) 234-4800  
 Canada: [cree.com/canada](http://cree.com/canada) (800) 473-1234

### 304 Series™ LED Recessed Canopy Luminaire

- Product Specifications**
- CONSTRUCTION & MATERIALS**
- RS Mount luminaire housing is constructed from rugged die cast aluminum and incorporates integral high performance heatlinks specifically designed for LED canopy applications.
  - RD Mount luminaire housing is constructed from rugged die cast aluminum and features high performance extruded aluminum heatlinks specifically designed for LED canopy applications.
  - LED driver is mounted in a sealed weatheright center chamber that allows for access from below the luminaire.
  - Field adjustable drive current between 350mA, 450mA and 700mA on RS-Mount luminaires.
  - Luminaire housing provided with factory applied foam gasket and provides for a watertight seal between luminaire housing and canopy deck.
  - Mounts directly to the canopy deck and is secured in place with a die cast aluminum trim frame.
  - RS mount includes integral junction box which allows ease of installation without need to open luminaire.
  - Suitable for use in single (RS Mount) or double (RD Mount) skin canopies with 1/2" (12.7mm) wide panels.
  - Designed for canopies of 19-22 gauge (maximum 0.040" [1mm] thickness).
  - See 228 Series™ canopy luminaires for canopies using 1/2" (12.7mm) deck sections.
  - Exclusive Colorfast DeltaGuard® finish features an E-Cool epoxy primer with an ultra-durable powder topcoat, providing excellent resistance to corrosion, ultraviolet degradation and abrasion. Black, bronze, silver, and white are available.

**Electrical Data\***

LED Count	System Voltage	Total Current (A)
16x16	120V	208V
	240V	277V
	347V	480V

**350mA**

04	04	0.39	0.26	0.22	0.21	0.15	0.12
04	04	0.57	0.26	0.30	0.27	0.21	0.16

**450mA**

04	04	0.59	0.28	0.31	0.28	0.21	0.16
04	04	0.84	0.48	0.43	0.38	0.30	0.22

**700mA**

04	04	0.79	0.48	0.43	0.38	0.28	0.21
04	04	1.14	0.48	0.57	0.50	0.42	0.29

\* Electrical Data is at 25°C (77°F). Actual average may differ by +/- 10% when operating between 10°C (50°F) to 35°C (95°F).

**304 Series™ Ambient Adjusted Lumen Maintenance\***

Ambient CCT	Input LMF	Output LMF	Color Temp. (K)	90% LMF	80% LMF	70% LMF	60% LMF	50% LMF
4700K	300K/400K/500K	1.04	1.01	0.99	0.96	0.94	0.91	0.89
5700K	300K/400K/500K	1.04	1.04	1.04	1.04	1.04	1.04	1.04
6500K	300K/400K/500K	1.03	1.06	1.06	1.06	1.06	1.06	1.06
7500K	300K/400K/500K	1.02	0.99	0.97	0.94	0.94	0.94	0.94
9000K	300K/400K/500K	1.03	1.03	1.03	1.03	1.03	1.03	1.03
10000K	300K/400K/500K	1.03	0.98	0.96	0.94	0.93	0.93	0.93
12000K	300K/400K/500K	1.03	1.01	1.01	1.01	1.01	1.01	1.01
15000K	300K/400K/500K	1.03	0.97	0.95	0.94	0.94	0.94	0.94
20000K	300K/400K/500K	1.03	1.00	1.00	1.00	1.00	1.00	1.00

\* Lumen maintenance values at 25°C (77°F) are calculated per IES TM-10 based on IES LM-80 report data for the LED manufacturer's bin. Please refer to the IES LM-80 report for detailed test procedures and methodology. The values represent average light output over a 10,000-hour period. The values represent the average light output over a 10,000-hour period. The values represent the average light output over a 10,000-hour period. The values represent the average light output over a 10,000-hour period.

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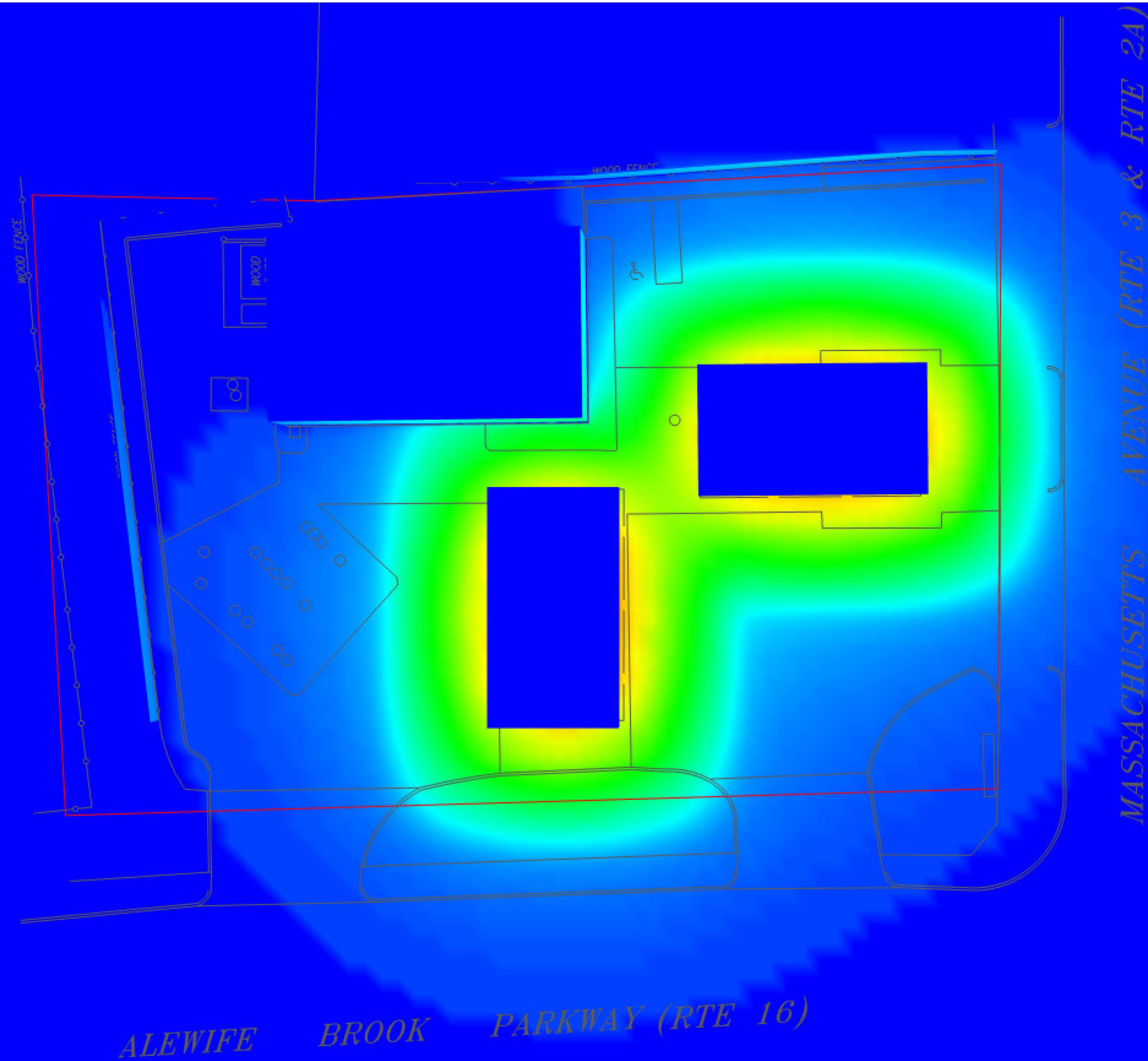
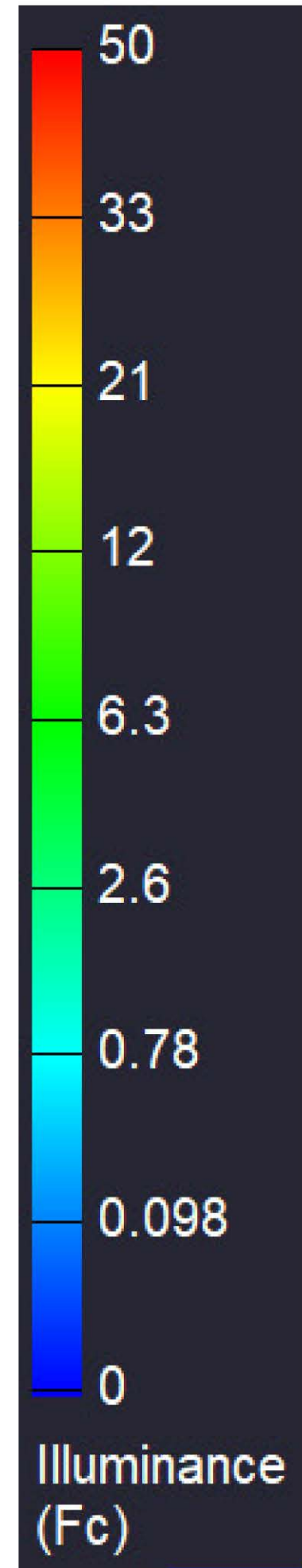
**REDLEONARD ASSOCIATES**

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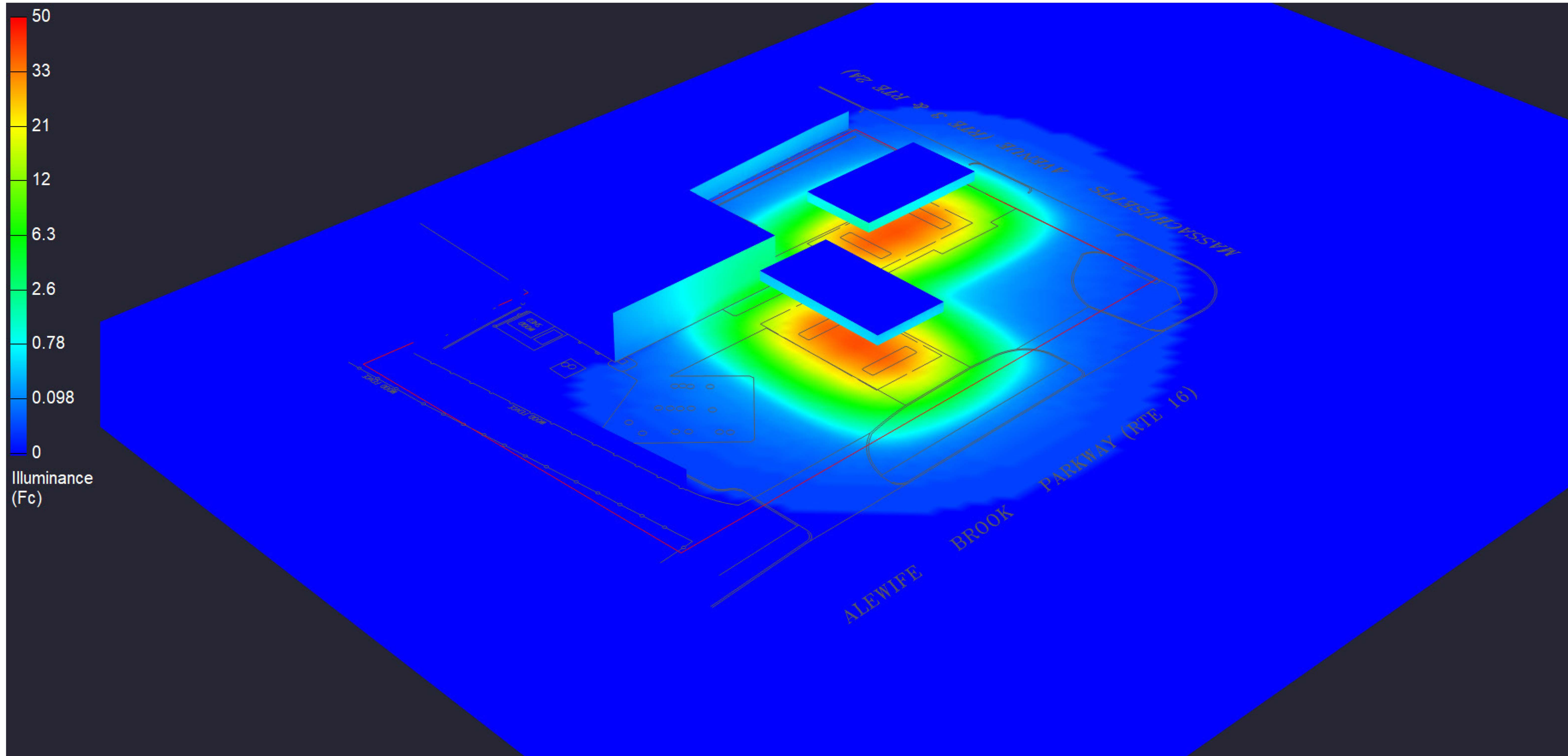
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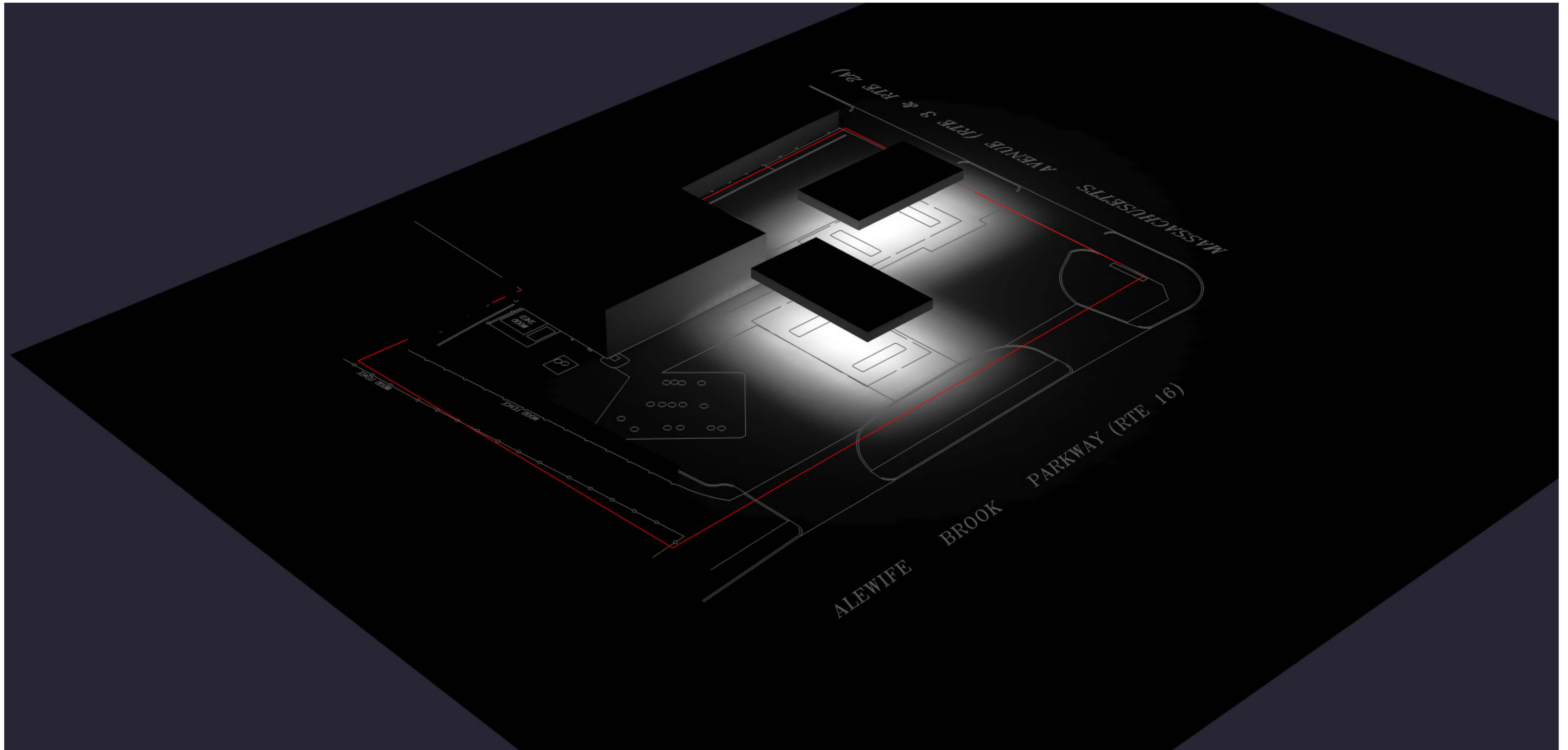
PROJECT NAME:  
**MOBIL GAS STATION  
 CAMBRIDGE, MA**

DRAWING NUMBER:  
**RL-4555-S1-R2**











## **Description of Relief Requested**

The property that is the subject of this application is located at 2615 Massachusetts Avenue, at the corner of Massachusetts Avenue and Alewife Brook Parkway, in the Residence B zoning district. It is currently developed with a pre-existing nonconforming gas and service station, which has existed at the site since 1921 and is proposed to remain in its current form without any change to the use or building.

The applicant requests a finding pursuant to Section 6 of Chapter 40A of the Massachusetts General Laws authorizing the construction of two accessory canopy structures over the existing fuel pump islands on the basis of a finding that such construction would be not substantially more detrimental to the neighborhood than the existing condition of the site in accordance with M.G.L. c. 40A, § 6 and/or Sections 8.22 and/or 8.22.3 of the Cambridge Zoning Ordinance.

As shown on the attached plans and section views, the proposed canopies have been designed to comply with all dimensional requirements of Section 4.21 of the Cambridge Zoning Ordinance, namely: the canopies “shall not exceed fifteen (15) feet in height above the ground level” and “shall not be located nearer than ten (10) feet to the principal building or nearer than five (5) feet to any side or rear lot line or nearer to the front lot line than the minimum setback in the zoning district.” The proposed canopies have been designed with as minimal a footprint as possible, so as to respect all applicable height and setback requirements. The canopies are open on all four sides and are supported only by four 7”-diameter columns, so it will not obstruct views through the site. With respect to height, it should be noted that the 15’ height of the proposed canopies is significantly shorter than is customary for such installations, but the applicant has proposed this lesser height as an accommodation to neighbors. Additionally, the canopies have been designed with a slimline cover with a height of only 18”, which further reduces the appearance of mass. No signage is proposed to be mounted to the canopies.

The purpose of the proposed canopies is to provide shielding from weather for motorists fueling their vehicles, and weather protection to the fuel pumps themselves, which today feature modern computerized equipment, for which protection from weather is needed. The proposed canopies will also provide greater fire protection and added shielding for nearby residential properties from light pollution, which currently emanates from the site via unshielded lighting fixtures mounted to the existing fuel pump islands. In contrast to these existing unshielded “up lights”, the proposed canopy lights would light downward from above, resulting in greater protection of residential neighbors. The photometric study submitted herewith demonstrates that the canopies will have a minimal light impact on neighboring properties.

It is well-settled law that modifications to pre-existing, nonconforming uses intended to ensure that such use is “improved and made more efficient,” are permitted as of right as long as the modifications are “ordinarily and reasonably adapted to the original use and do not constitute a change in the original nature and purpose of the undertaking.” *Derby Ref. Co. v. City of Chelsea*, 407 Mass. 703, 714 (1990). In that case, the court held not only that the conversion of a gasoline storage facility to an asphalt storage facility did not constitute a change of use, but also that site upgrades (enabling the asphalt to be heated) were also permissible, particularly where, as here, there was evidence that neighborhood impacts would be ameliorated.

Similarly here, the proposed canopies are ordinarily and reasonably adapted to the existing use insofar as they have been minimized in size to accommodate only the existing fuel pumps, and there has been no proposal to expand the use of the site, such as by adding additional fuel pumps. Quite simply, advances in fuel pump technology have resulted in a need to provide weather protection to the sensitive computerized equipment that is now in use. These protections were not needed at the time when the unprotected fuel islands were originally constructed. The proposed canopies also provide ancillary benefits insofar as they protect customers from weather, provide added fire protection, and create better light protection for neighbors.

The proposed canopies – far from being a detriment to the neighborhood – would represent a vast improvement over the existing condition of the site by modernizing its appearance and providing additional screening of visual impacts for adjacent residential properties, while also improving safety conditions.

\* \* \* \* \*

(6:04 p.m.)

Sitting Members: Brendan Sullivan, Jim Monteverde, Slater  
W. Anderson, Matina Williams and Jason  
Marshall

BRENDAN SULLIVAN: First case I'm going to call  
tonight is Case Number 103314 -- 2615 Massachusetts Avenue.  
Mr. Schomer?

JESSE SCHOMER: Yes, good evening Mr. Chair.

BRENDAN SULLIVAN: Proceed.

JESSE SCHOMER: Thank you very much. I think I  
have audio only, but I'm available for my video if the  
Board would like. I also have some documents that I could  
put up on the screen that we could follow along with the  
presentation, if it pleased the Board?

BRENDAN SULLIVAN: Sure.

SISIA DAGLIAN: Well, no, we're doing --

BRENDAN SULLIVAN: Staff has to do the video. Any  
documents I'm not sure if you can transmit from your place  
to here now? Unfortunately. You can probably refer to  
documents that we may have in the file.

Mr. Schomer, just for clarification, on your

1 application I know there was a brief discussion in the last  
2 meeting regarding a request for a variance and the special  
3 permit. It has been determined that it is a variance that  
4 you are going to require. Do you agree with that?

5 JESSE SCHOMER: Well, I would not fully agree with  
6 that, Mr. Chair. We believe that this is permissible under  
7 Chapter 40A Section 6. But we did request in the  
8 alternatives of the variance that the Inspectional Services  
9 Department felt was necessary for this.

10 So I would leave that up to the Board.

11 BRENDAN SULLIVAN: Yes. I had a very brief  
12 conversation with the commissioner as to his feel in moving  
13 on it, and he said they would require a variance. And so I  
14 would then defer to that.

15 If you disagree with that, you can also take an  
16 appeal to his decision, but in view of what he told me that  
17 the required relief was a variance, then I will rely on his  
18 presentation to me.

19 JESSE SCHOMER: Understood.

20 BRENDAN SULLIVAN: Okay. So we'll proceed on the  
21 variance standard.

22 JESSE SCHOMER: Okay.

1           BRENDAN SULLIVAN: Yeah.

2           JESSE SCHOMER: Thank you very much.

3           BRENDAN SULLIVAN: Okay. So your presentation?

4           JESSE SCHOMER: Thank you very much, Mr. Chair.

5           What you see in front of you on the screen here, this is an  
6           image of the site. 2615 Mass Ave is the address.

7           This is the vantage point of the site from Mass  
8           Ave, and you see on the screen left there some sitting  
9           traffic. That's Alewife Brook Parkway. And the site itself  
10          is used for a gas station, as you can see. There are four  
11          filling stations with pumps on each side of those islands.

12          And this view may look somewhat anachronistic  
13          because these fuel pumps obviously do not have canopies, and  
14          that's somewhat atypical for gas stations in this day in  
15          age, primarily because of the computerized equipment that  
16          modern fuel pump equipment utilizes.

17          And so the pump islands themselves are completely  
18          uncovered. There is some fire suppression equipment on the  
19          pumps themselves. You can see the red tanks there. Those  
20          are for fire suppression. And there are lights mounted onto  
21          these islands, but they're unshielded lights, so it sends  
22          light more or less in every direction throughout the site.

1           So what we've proposed -- and if whoever is  
2 controlling the slide show could go onto the next slide --  
3 we have proposed to construct canopies over these fuel  
4 islands, and there would be two canopies in total; one  
5 covering the cluster of fuel pumps along Mass Ave, and the  
6 other along Alewife Brook Parkway.

7           The canopies themselves -- one of them is proposed  
8 to be 24 feet in width by 44 feet in length. The other one  
9 is slightly smaller than that at 24 x 42. And both of the  
10 canopies are proposed to be 15 feet in height.

11           And the reason why we chose that height, Board  
12 members, was because we wanted to permit this as an  
13 accessory structure. And the requirements of the zoning  
14 ordinance for test restructures is not taller than 15 feet  
15 above grade. So that's what we've proposed here.

16           It's also at least 10 feet away from the lot  
17 lines, and in fact meets all setback requirements for  
18 primary and accessory structures, and is also more than five  
19 feet away from the principal building on the property. So  
20 there's no dimensional relief that's required for these  
21 canopies.

22           If you could go on to the next slide, please?

1           This is a detailed sheet that shows the footings  
2 of the canopies, I won't dwell on that one.

3           The next slide, please? This is more of the same  
4 detail sheets. We could go, if you have the site plan --  
5 that's it there.

6           So this is a survey plan of the site, and the area  
7 that you see shaded in dark gray, that's the extent of the  
8 canopy that they would be covering over the site. You'll  
9 see that dashed line around the property; those are the  
10 setback lines. So it shows that both of the canopies meet  
11 all required setbacks.

12           And if you could go on to a few more slides later,  
13 we did recently submit renderings and a photometric study of  
14 the proposed canopies.

15           If it's possible, I would be happy to share my  
16 screen, if that's something that can be permitted for me to  
17 do.

18           BRENDAN SULLIVAN: Yeah, I'm not sure if it can.  
19 Can we download the photo simulations?

20           JESSE SCHOMER: Mr. Chair, it does appear that I  
21 am able to do this. I'll give it a shot here.

22           BRENDAN SULLIVAN:

1 JESSE SCHOMER: Are you able to see that, Members?

2 JIM MONTEVERDE: Yep.

3 JESSE SCHOMER: Okay. So this is -- again, this  
4 is that view of the site that we saw previously. This is  
5 another view of the same site from Alewife Brook Parkway.  
6 This is the site plan that we were just looking at a moment  
7 ago.

8 So to move on to the photometric study, this was  
9 the study that was commissioned that measures the light  
10 impact of the canopies.

11 And you see these outlines in blue here. These  
12 are the canopies. And the green squares represent the light  
13 fixtures that would be affixed to these structures on the  
14 underside of the canopy.

15 And you see a series of numbers -- a grid around  
16 the site. These represent the light impact around the site  
17 and on neighboring properties. And that's measures in foot  
18 candles, which is a measurement of light based on the light  
19 of one candle at a distance of one foot.

20 So if you can see here around the edges, the light  
21 impact beyond the property line is zero along all of the  
22 residential sides of this property. There's no light impact



1 whatsoever. There's a slight impact here, but this is  
2 Alewife Brook Parkway, so there are -- as you know, a number  
3 of street lights here, and the same is true here for Mass  
4 Ave; a slight light impact, but nothing significant.

5 The most important thing from our perspective is  
6 the residential property here, which is the closest, there's  
7 an apartment building here. There's a wood fence along the  
8 property, and that shields the light impact and provides  
9 zero light impact to that property.

10 If we move on to the -- this is a heat map of that  
11 light impact. It shows the way that the light is cast  
12 around the site.

13 You see here the blue measures effectively zero  
14 light impact, and so it's really limited right here, to the  
15 areas right around the canopy and right under the canopy,  
16 and that's intentional, because we wanted to be sensitive to  
17 the nearby residential neighbors.

18 This is the same thing from a three-dimensional  
19 perspective, and then this is how it would look at night,  
20 the same street map more or less and the same impact here.

21 And then this is that 3D image of that. And you  
22 can see the fence here along the property line here -- that

1 shields the light from entering the neighboring properties.

2 The next slides that we have, these are 3D models  
3 of what the canopies would look like. We're proposing them  
4 to be -- as you can see here, these are what's known as  
5 "slimline canopies."

6 These are 15 feet in height from the grade here to  
7 the top of the structure here, and this fascia board here,  
8 this is only 18 inches in height, and that was also selected  
9 to be sensitive to the nearby neighbors, because we don't  
10 want to have a large visual impact the property that's right  
11 here, and this is that apartment building here.

12 So that 18 -- I'm sorry, 15 inch height sits  
13 slightly above the first-story level. So this is a view of  
14 the site at night, with a light impact. Moving onto another  
15 view of the site from Mass Ave same view.

16 This is a 3D from above showing that there's  
17 nothing mounted on the top here, and we're not proposing the  
18 signage on these canopies. They're just simple fascia.

19 And then here's how it would look during the day.  
20 It looks like the same cars have been parked there  
21 overnight, so I'm sure we should be calling the local Police  
22 Department to have them towed, but never mind.

1           And that's the extent of our presentation, Board  
2 members. Just to let the members know, we did provide these  
3 images to the local North Cambridge Stabilization Committee,  
4 which is a neighborhood group, and requested their feedback  
5 on these.

6           We have not heard back from them. We have met  
7 with them previously to try to earn their support for this  
8 project. I understand that at least one of the neighbors  
9 has submitted a letter with some concerns about this.

10           But we have reached out to them, and we've done  
11 our best we think to try to satisfy their concerns, and we  
12 believe that this project would be a welcome addition to the  
13 neighborhood because it would shield impacts from those  
14 neighbors. It would provide added safety in the form of  
15 their fire suppression for their fuel islands, and we think  
16 it would have a minimal visual impact the neighbors.

17           BRENDAN SULLIVAN: Mr. Schomer, the hours of  
18 operation from 6:00 a.m. to 12:00 midnight, can you confirm  
19 that?

20           JESSE SCHOMER: Mr. Chair, I would have to defer  
21 to my client on that one. His name is Mark Lakkis, and I do  
22 see that he is on the line. I'm not sure if he's able to

1 unmute himself.

2           MARC LAKKIS: Hi, good evening Mr. Chair. Good  
3 evening, Jesse, how are you?

4           JESSE SCHOMER: Hi.

5           MARC LAKKIS: Yeah, sorry. The hours --

6           JESSE SCHOMER: Go ahead, Marc.

7           MARC LAKKIS Sure. The hours of operation, before  
8 COVID it was 6:00 a.m. to midnight. During COVID, it's 6:00  
9 a.m. to 10:00 p.m.

10           BRENDAN SULLIVAN: Okay. So after the COVID  
11 emergency has been lifted, you'll go back to the midnight  
12 closing you think, or --

13           MARC LAKKIS: Yes, sir.

14           BRENDAN SULLIVAN: Okay. I guess where I'm going  
15 is at midnight when they close the station and shut off the  
16 lights in the station house if you will -- what happens to  
17 the canopy lights? Will they also be dimmed?

18           MARC LAKKIS: Yes, they will all be turned off.  
19 They will all be turned off from the control inside where  
20 the cashier stays.

21           JESSE SCHOMER: Okay.

22           MARC LAKKIS: And we will take care of it. So

1 after midnight there will be no light exposure or anything  
2 to bother our residential neighbors.

3 BRENDAN SULLIVAN: Okay. That's one -- I guess --  
4 plus as far as the neighbors' concerned. The other thought  
5 that I have -- and again, this is -- I shouldn't even really  
6 get into it, I don't have the expertise at it -- is that  
7 there probably should be some lighting as far as to identify  
8 the pumps, because at night your gas station can be a cut-  
9 through.

10 And I would want to make sure that those pumps and  
11 everything are visible, and also protected. I'm sure you do  
12 also.

13 So I'm not going to require it, but I think that  
14 dimming the lights is a plus. Shutting them off, if that  
15 would ameliorate the neighbors, then I guess that would be  
16 okay also.

17 So some lighting there to identify the gas station  
18 or the pumps may not be a bad idea, but you can think about  
19 that.

20 Any questions by members of the Board? Jim?

21 JIM MONTEVERDE: [Jim Monteverde.] Are there  
22 lights on any dimming system at all or dimmable?

1           MARC LAKKIS: Not at this point. All this  
2 equipment is now -- there are lights inside the repair shop  
3 in the station. Now, there's lights inside, and if we keep  
4 the power onto the pumps or put on an all-stop, the pumps  
5 will have the lights on. So they'll be able to see the  
6 pumps from the screens -- the digital screens and  
7 everything.

8           So if that -- I mean, if that's a -- this is just  
9 me brainstorming right now, we're thinking about it. But as  
10 of now, I mean all the equipment right now is about 30 years  
11 old. So none of those at this point have that. But --

12           JIM MONTEVERDE: Right, but the new equipment --  
13 the new lights and the new canopies, are they dimmable?

14           MARC LAKKIS: Jesse, Can I defer that question to  
15 you? I'm not sure about everything on the equipment.

16           JESSE SCHOMER: I believe they are. I'm not 100  
17 percent certain. I know that the canopy light fixtures do  
18 allow different levels of light in terms of what the maximum  
19 is.

20           JIM MONTEVERDE: Yep.

21           JESSE SCHOMER: And I believe we would be going  
22 for the lower end of that. As to whether they're dimmable,

1 I don't know the answer to that. I'd have to ask that of  
2 the manufacturer.

3 JIM MONTEVERDE: All right. Thank you.

4 BRENDAN SULLIVAN: Slater, any questions?

5 SLATER ANDERSON: No questions.

6 BRENDAN SULLIVAN: Matina, any questions?

7 MATINA WILLIAMS: No questions.

8 BRENDAN SULLIVAN: Jason?

9 JASON MARSHALL: Yeah. Thank you, Mr. Chair.

10 Counsel, you mentioned that you wouldn't be putting up any  
11 signage on top of the canopies, is that correct?

12 JESSE SCHOMER: That's our intent, Mr. Marshall.

13 JASON MARSHALL: Yeah. And would you seek to do  
14 that in the future? It sounds like you would not, given the  
15 height restriction. Is that right?

16 JESSE SCHOMER: Do you mean something on top of  
17 the sign itself, or mounted on the base of the sign?

18 JASON MARSHALL: I mean on top of the canopy.

19 JESSE SCHOMER: No. I don't believe that there is  
20 any intent to do that this time. You know, we're really  
21 just primarily trying to get the canopies themselves  
22 primarily for the weather protection, because those pumps --

1 the equipment really does need it. And we are -- the  
2 operators are planning on upgrading that equipment in the  
3 near future. In order to do that, we need the canopies.

4 So no, the answer is no. A long-winded no.

5 JASON MARSHALL: Okay.

6 JESSE SCHOMER: We're not looking to put up any  
7 signage.

8 JASON MARSHALL: Thank you. Thank you for the  
9 response. And then just finally, I know you had referenced  
10 40A Section 6. I think I would tend to agree that that's  
11 the starting point of the conversation. I just want to make  
12 sure I understand your position.

13 Is it that really the only issue before us is the  
14 question of us, is that your position, whether or not the  
15 canopies would constitute a change in use? Is that your  
16 primary position?

17 JESSE SCHOMER: Yes, Mr. Marshall. That was the  
18 way we initially presented this application to the Board,  
19 and at that point the Commissioner raised -- the  
20 Commissioner of the Building Department raised an issue  
21 about whether a variance was needed.

22 I respectfully disagree with the Commissioner. I



1 think Section 6 does permit what we're proposing to do,  
2 which is to change a nonconforming use. The gas station has  
3 been there since 1921 in one form or another, so it long  
4 predates the zoning bylaw, and in our position, the addition  
5 of these canopies does not change the use. It would not be  
6 substantially more detrimental to the neighborhood.

7 But with all that having been said, we recognize  
8 that the Commissioner, his view is that a variance is more  
9 appropriate in this case, and as the Chair mentioned, he  
10 will defer to the Commissioner, and so will we.

11 JASON MARSHALL: Okay. Thank you. No further  
12 questions.

13 BRENDAN SULLIVAN: Jason, are you familiar with  
14 the Powers case at all?

15 JASON MARSHALL: I am. That's why I was trying to  
16 tease out the conversation, yes.

17 BRENDAN SULLIVAN: Yeah. For the other members of  
18 the Board, let me just bring that out. In the case of  
19 Powers versus the Building Inspector of Barnstable, the SJC  
20 -- Supreme Judicial Court -- articulated a three-prong test  
21 for determining whet a proposed development relating to a  
22 preexisting, nonconforming use would rise to the level of a

1 change, extension or alteration of such use.

2 The three prongs are: whether the use reflects  
3 the nature and purpose of the use prevailing when the Zoning  
4 Board bylaw took effect.

5 Two, whether there was a difference in the quality  
6 or character, as well as the degree of use. Whether the  
7 current use is different in kind and its effect on the  
8 neighborhood.

9 And Mr. [25:27 indiscernible proper name], the  
10 Commissioner, feels that it is somewhat of a change and to  
11 the quality and character of the existing nonconforming use  
12 as a gas station.

13 And he basically said that you're adding a  
14 structure in a -- to a nonconforming use, because what was a  
15 business use, business zone, is now a residence. And he  
16 felt that the proper vehicle was a variance.

17 This can be sited -- you know, you can go back and  
18 forth I think on this, and so I defer basically to his  
19 ruling that it should be a variance, and that's the three-  
20 prong test. So Jason, any other comments, questions?

21 JASON MARSHALL: I think, you know, I'd appreciate  
22 any response you might want to provide for that. I'm just

1 trying to sort of square my head arounds the Powers test and  
2 under what posture this application is before the Board:  
3 Whether or not we would provide a ruling on 48 Section 6, or  
4 whether you're simply here to seek a variance at this point?

5 JESSE SCHOMER: So Mr. Marshall, so what I would  
6 say is the Powers test -- what is at issue in that case, as  
7 I understand it, is a question of whether zoning relief of  
8 any kind is needed in order to do something involving a  
9 preexisting nonconforming use or structure, and if the three  
10 tests that were recited regarding nature and purpose,  
11 quality and character in kind..

12 If those are all satisfied, if it's determined  
13 that the proposal does not constitute a change in the nature  
14 or change in the quality or change in time, then what Powers  
15 holds is that no zoning relief of any kind is needed, and  
16 you can call a building permit for the proposed work.

17 But if you trigger any of those factors, if it is  
18 deemed to be a change in the kind of use, as it sounds like  
19 the Commissioner has determined, at that point you have to  
20 go to the Zoning Board for a Section 6 finding, which is  
21 what we have sought in this case.

22 And the finding that would be requested in that

1 instance is a finding that the proposal would be not  
2 substantially more detrimental to the neighborhood than the  
3 existing development of the site.

4 And we believe that it is less detrimental to the  
5 neighborhood because of the increased safety, as I mentioned  
6 before, and the light shielding, which is not available to  
7 the nearby residents.

8 If there is a proposal that would violate zoning  
9 effectively, that's when you come into the variance  
10 standard, which is I'm sure very familiar to the Board  
11 members regarding hardship and things of that nature.

12 So we believe that the proposal meets both  
13 standards. We applied under the Section 6 findings  
14 standard, because frankly I prefer if I can avoid requesting  
15 variances from zoning bylaws.

16 That's how I prefer to do my permitting, because I  
17 think that this is something that qualifies for a Section 6  
18 finding.

19 But as before, we'll defer to however the Board  
20 feels about that. If they want to defer to the Commissioner  
21 and vote on a variance standard, that's fine with us. We  
22 will even meet that.

1           JASON MARSHALL: Okay. Thank you for that  
2 clarification. Thank you Mr. Chair as well.

3           BRENDAN SULLIVAN: Okay. With that being said,  
4 let me open it to public comment. Any member of the public  
5 who wish to speak should now click the button that says,  
6 "Participants." And then click the button that says, "Raise  
7 hand."

8           If you are calling in by phone, you can raise your  
9 hand by pressing \*9 and unmute or mute by pressing \*6. You  
10 will be given up to three minutes to make your comments,  
11 with -- at the two and a half minute point, Staff will  
12 notify you of 30 seconds left in your presentation.

13           With that said, I will open it now to public  
14 comment.

15           SISIA DAGLIAN: Richard Cadotte?

16           RICHARD CADOTTE: Thank you. My name is Rich  
17 Cadotte. And I want to thank you for giving me this  
18 opportunity to speak. I reside -- I live in this building  
19 next door, directly adjacent to the gas station, and I am  
20 the Managing Trustee who represents all the owners and  
21 residents of this building.

22           I'd like to state right off the bat that no one

1 has reached out to us concerning the questions or opinions  
2 we may have on the proposed canopy.

3 Mr. Schomer has -- I think that's his name,  
4 Schomer -- has reached out Stabilization Committee, but not  
5 to us.

6 I have -- it's obvious that we are opposed to this  
7 canopy or these canopies for basically because it's the  
8 albatross in the room. I find it difficult to believe that  
9 there will be no light intrusion from these canopies. I  
10 believe that the renditions are not as accurate as they  
11 should be.

12 I also understand that there will be nothing on  
13 the canopies. I find it hard to believe that there will not  
14 be a tank farm above with all the fire suppression  
15 equipment. We all know there has to be fire suppression  
16 equipment, and I doubt that they're going to be hidden  
17 within the structure of the canopy.

18 I asked the question several months ago, where  
19 they stated that this equipment required canopies because of  
20 the electronics. There has been electronics in those fuel  
21 dispensers for quite some time, and they appear to be  
22 working correctly. These units are sealed from the weather.

1 So the statement of them being required: totally  
2 unsubstantiated.

3 I'm also concerned about the viability of these  
4 canopies standing. I stated in my letter that in my  
5 opinion, the space in and around pump island number one and  
6 pump island number 3 is too tight for trucks. They're  
7 constantly being -- these units are constantly being hit by  
8 these Weekend Warriors who drive these U-Haul and Ride-A-  
9 Trucks.

10 As we can see on pump island Number 1, which I'm  
11 wondering, is it functional? The fire suppression has been  
12 damaged by a truck, and it's all --

13 SISIA DAGLIAN: 30 seconds.

14 ROBERT CADOTTE: Okay, sorry. I'll make this  
15 quick. I just do not believe that this is a good fit for  
16 the area, and I don't believe that the residents and owners  
17 of this building should have a lesser equality of life than  
18 anywhere else in the city. Thank you very much. Have a  
19 great night.

20 BRENDAN SULLIVAN: Thank you, Mr. Cadotte. The  
21 next speaker?

22 SISIA DAGLIAN: Maria Maddaloni?

1           MARIA MADDALONI: Thank you. My name is Maria  
2 Maddaloni. I'm a 16-year owner and resident in Parkway  
3 Condos. My unit faces the Mobil Station from two different  
4 sides of my unit.

5           I will be -- along with a number of my neighbors -  
6 - living with the view of these canopies. Preliminary the  
7 view I have is straight across to the Alewife Greenway,  
8 which is certainly a pleasant view. And that will be  
9 diminished substantially.

10           And I think a large concern I have after watching  
11 Mr. Schomer's presentation concerns the light trespassing,  
12 where he's focused on basically the lighting that was right  
13 on the property, and then he did point out that there would  
14 be more lighting that is reflected onto Alewife Brook  
15 Parkway, which I face.

16           So it's not about what's on the actual property of  
17 the gas station, I can see beyond that. And so I will be  
18 looking at that lighting. And as it is, although the gas  
19 station's hours are presently 6:00 to 10:00, the lights are  
20 routinely on at 5:30 in the morning.

21           I have light blocking curtains, and it still seeps  
22 in, and their trash gets removed at 5:30 in the morning,



1 which has woken me up a few times.

2 The fence that Mr. Schomer talked about, which  
3 separates our building from the Mobil station really only  
4 applies to the first floor of this building. There are  
5 three floors of residences in this building. The second and  
6 third floor still will have a view. The fence is immaterial  
7 with respect to that. So the lighting going into  
8 different directions needs to be considered.

9 And lastly, I just want to point out that I have  
10 concerns about the stewardship of the property. The  
11 renderings have really nice landscaping shown there.  
12 There's presently not landscaping of that caliber there.

13 I am sitting in another room of my condo. I can  
14 see the fence in the back of the property, what has been  
15 feeling down for a while. You know, there's not been -- you  
16 know, there's not been good maintenance of this property.  
17 And, you know, we used to have nicer landscaping there, and  
18 then it was taken out. And, you know, I'm concerned --

19 SISIA DAGLIAN: 30 seconds?

20 MARIA MADDALONI: I'm concerned just like my  
21 neighbor, Rich Cadotte said, that -- you know, a lot of this  
22 is just for show, and what we're going to actually see is

1 not going to be -- you know, favorable to our building.

2 Thank you.

3 BRENDAN SULLIVAN: Thank you, Maria. Next

4 speaker?

5 SISIA DAGLIAN: I don't see other hands raised.

6 Brendon?

7 MICHAEL BRANDON: Good evening, good evening, Mr.

8 Chair and members of the Board. I'm Michael Brandon, 27

9 Seven Pines Avenue. I'm the Clerk for the North Cambridge

10 Stabilization Committee, and I'm sorry we didn't have a

11 chance to submit anything in writing, but I'm here to let

12 you know that the Stabilization Committee does not support

13 this proposal, and we hope that you will not make a

14 favorable finding.

15 You've heard from the immediate neighbors -- some

16 of them -- and they had attended a meeting that we did have

17 with Mr. Schomer where we discussed the proposal. And our

18 members decided to support the abutters because of their

19 concerns.

20 It appears that this proposal would be

21 substantially more detrimental under Section 6 than the

22 current situation in terms of blocking views of the

1 neighbors, potentially increasing traffic if there's weather  
2 protection.

3 A lot of issues were raised about the existing  
4 condition of the site, seeming zoning violation -- some of  
5 which is shown in the photos that were presented tonight.  
6 So a big point that seems to be lost is that this is a  
7 Residence B zone. It's one- and two-family houses. It's a  
8 residential zone.

9 And even though this facility has been here for  
10 years, decades, it doesn't justify allowing it to be  
11 expanded, which will decrease the probability that it would  
12 be converted to a use that's more conducive --

13 SISIA DAGLIAN: 30 seconds.

14 MICHAEL BRANDON: -- thank you, with the  
15 residential neighborhood. So the issues of fire suppression  
16 are of great concern.

17 [Pause]

18 BRENDAN SULLIVAN: Are you still there, Michael?

19 JIM MONTEVERDE: No, he's muted.

20 BRENDAN SULLIVAN: All right.

21 SISIA DAGLIAN: That's it.

22 BRENDAN SULLIVAN: Okay. I will close public

1 comment. Let me note in the file that there are 12  
2 correspondents from the neighbors in the adjoining building  
3 opposing the granting of this relief. Some have spoken this  
4 evening. But that public comment is closed.

5 Mr. Schomer, if you would like any other comments,  
6 before I turn it to the Board.

7 JESSE SCHOMER: Yes, I would. Thank you, Mr.  
8 Chair. I would just say that we did meet with Mr. Brandon  
9 and we did meet with Mr. Cadotte, I believe it was back in  
10 February when we met with them. And, you know, we went  
11 through a whole host of issues that they're having with this  
12 site in its existing condition.

13 And out of good neighborliness, we made offers to  
14 them to address many of these issues that you've heard  
15 tonight -- specifically, landscaping. We also offered to  
16 move -- there's a donation bin on the site. We offered to  
17 move that to the other side of the site.

18 So these issues from our perspective were all on  
19 the table. We offered to do this as an accommodation for  
20 the neighbors, to win their support for this proposal. But  
21 unfortunately, they were not willing to come out and support  
22 us on this, and that's unfortunate. We did make best

1 efforts.

2 Those sorts of accommodations in my view could be  
3 made conditions of this permit. We're happy to do some  
4 landscaping. They didn't previously raise any issue about  
5 the fence deteriorating, but I believe we'd be agreeable to  
6 replacing that if it needs it.

7 You know, we respect the neighbor's concerns, and  
8 we did make an effort to try to reach out to them and  
9 resolve those. You know, with that having been said, as I  
10 mentioned before, this property has been under this use for  
11 exactly a century, actually.

12 There's not a single person in this room who moved  
13 into that property and was surprised by the fact that it's a  
14 gas station all of a sudden; everyone knew what they were  
15 getting into -- next door to a gas station at the corner of  
16 Mass Ave and Alewife Brook Parkway.

17 We believe that this is a sensitive, appropriate  
18 use for this site, it will not be detrimental to the  
19 neighborhood, and it would actually be an improvement.  
20 Clean up the site, get a replacement for these pumps which  
21 are -- as I believe Mark mentioned several decades old at  
22 this point.

1           You know, we're really trying to improve the  
2 condition of this site as a whole and make it look a lot  
3 better, look a lot nicer.

4           More light protection for the neighbors, better  
5 fire suppression, and we believe this is an all-around win  
6 for everyone. But neighbors disagree. We respect that, and  
7 we leave it up to the Board.

8           BRENDAN SULLIVAN: Great, thank you.

9           JESSE SCHOMER: Thank you.

10          BRENDAN SULLIVAN: And we'll close the  
11 presentation part, and now turn it to the Board for  
12 discussion and eventual motion. Let me start the  
13 discussion. When I first saw this case, my first question  
14 was -- and I remember, actually, when the apartment building  
15 was built.

16                 And I wanted to know the years how one building  
17 relates to the other. The gas station was built in 1974.  
18 The apartment building was built a year later, in 1975.

19                 There's been a gas station or auto repair facility  
20 at that site since 1921. The thought that I have is that  
21 most gas stations do have canopies over it. And I think  
22 that it serves a dual purpose. One is to -- for me to

1 protect me from the weather when it's inclement, because you  
2 have some protection over you. And I think it also does --  
3 it's a valid argument it does protect the equipment.

4 I went to one gas station who does not have a  
5 canopy. He does not have self-serve. He does have a  
6 rudimentary fire suppression system barely. The -- and I  
7 asked him if he would require a canopy, and he actually did  
8 get a permit for a canopy, he just never built it.

9 He did say to me that with the new electronic  
10 equipment that he does not need a canopy at the present;  
11 however, his point of sale is not at the pump. And it is in  
12 a remote location.

13 So he said that it is somewhat valid that with the  
14 new pumps coming out and the fact that you either scan your  
15 card or you put your card in or you wave something, and that  
16 executes the sale, that that equipment is somewhat sensitive  
17 really to the ice and snow.

18 And we heard that same argument up at the corner  
19 of Mount Auburn Street and Aberdeen Ave here last year from  
20 that gas station that wanted a canopy, and we granted relief  
21 there.

22 Regarding this particular canopy, I was somewhat

1 pleased when I saw the minimalistic nature of it. It is  
2 barely high enough just to allow basically a truck to go  
3 underneath it.

4 I think the minimal standard may be like 11-foot-  
5 six or something, and this is at 12-foot something. And the  
6 fact that it didn't have mobile or any kind of glaring  
7 signage to it.

8 So the motion that I would make is that the canopy  
9 be as presented; not be allowed to have any signage on it  
10 and/or coloring, only the -- apparently it's white now, and  
11 it should remain as such. And that will reduce its impact  
12 on the neighborhood and actually be quite -- well, as  
13 stealth as it possibly can. It will also house the fire  
14 suppression system and a much-needed, I think updated fire  
15 suppression system.

16 So those are my thoughts on it anyhow. Jim, any  
17 thoughts from you?

18 JIM MONTEVERDE: No. [Jim Monteverde] I don't  
19 have any other comments or questions. Thank you.

20 BRENDAN SULLIVAN: Slater?

21 SLATER ANDERSON: No comments or questions.

22 BRENDAN SULLIVAN: Matina?



1           MATINA WILLIAMS: No comments or questions.

2           BRENDAN SULLIVAN: Jason?

3           JASON MARSHALL: Yes, thanks, Mr. Chair. It seems  
4 like our first cases are also almost always the most  
5 challenging ones, and I'm finding this one challenging as  
6 well in that same light. And I think I have a different  
7 view.

8                   And I just want to be fair about it the best I  
9 can. And, you know, I found the testimony that was given  
10 tonight and the letters in the record to be compelling.

11                   From my perspective, if this case were solely in  
12 front of us as a request for a zoning relief in the form of  
13 a variance, as it sounds like it is, I would not be inclined  
14 to support granting relief.

15                   But -- and here's where state law comes into play  
16 for me at least -- I don't think, again at least in this one  
17 Board's view -- I don't think we ever reached the question  
18 of granting relief given the restraint and the constraint of  
19 state law, which I view as controlling here.

20                   You know, the use of the proposed canopies, as set  
21 forth in the application and presented tonight, it remains  
22 the same as a gas station, and it conforms to our bylaws and

1 dimensional requirements, at least as I understand it from  
2 the record.

3 So I don't think that the canopies are extending  
4 the permitted use or are changing the use in a substantially  
5 different manner, you know, consistent with case law.

6 So, again, in my view I think the Board is  
7 required under state law to give the applicant the existing  
8 use protection that state law requires. And I don't think  
9 we have the discretion to act otherwise.

10 So, you know, to sum up I would grant it according  
11 to Section -- sorry Chapter 40A Section 6, but I am not  
12 inclined to vote in favor of a variance.

13 BRENDAN SULLIVAN: Okay. Let me make a motion,  
14 then, to grant the relief requested -- to construct two  
15 dimensionally compliant accessory structures over the  
16 existing fuel pump islands.

17 The Board finds that a literal enforcement of the  
18 provisions of the ordinance would involve a substantial  
19 hardship to the petitioner.

20 The Board finds that the construction of the  
21 canopies is necessary to shield the fuel pumps to the  
22 weather, due to the sensitivity of the computer equipment,

1 and also to provide necessary protection to customers from  
2 the site from inclement weather.

3           The Board finds that the hardship is owing to the  
4 fact that the property is a preexisting nonconforming gas  
5 station that were built with uncovered fuel island prior to  
6 the area being zoned for residential use. Hence, the  
7 property is encumbered by the change of use by the previous  
8 business allowed use to a residential use.

9           The existing uncovered fuel island pumps do  
10 require canopies to protect the equipment, as previously  
11 stated, and that the new modern fuel pumps coming online  
12 have such equipment that we would accept (sic) the  
13 presentation to require some protection.

14           The Board finds that desirable relief may be  
15 granted without substantial detriment to the public good.

16           The Board finds that the proposed canopies will  
17 comply with all the dimensional requirements; will increase  
18 the safety and will enable the site to be upgraded and  
19 provide additional light screening for the neighbors.

20           The Board finds that desirable relief may be  
21 granted without nullifying or substantially derogating from  
22 the intent and purpose of the ordinance. The proposed

1 condition of the site will be substantially less detrimental  
2 to the neighborhood and the existing condition, which is  
3 presently somewhat unappealing with the unshielded light  
4 impact and the proposed canopy will promote the safety and  
5 reduce the visual impact.

6 I will grant -- make the motion that we will grant  
7 the relief requested, provided that the canopies are  
8 constructed and maintained as per the drawings submitted,  
9 the visual simulations as presented and initialed by the  
10 Chair.

11 That there be no signage allowed on the canopies  
12 and no coloring on the canopies going forward.

13 Any other conditions from any members of the  
14 Board? On the motion then to grant the relief requested for  
15 the variance, Jim Monteverde?

16 JIM MONTEVERDE: [Jim Monteverde], I vote yes for  
17 the variance.

18 BRENDAN SULLIVAN: Slater?

19 SLATER ANDERSON: Slater Anderson votes yes for  
20 the variance.

21 BRENDAN SULLIVAN: Matina Williams?

22 MATINA WILLIAMS: I vote yes for the variance.

1                   BRENDAN SULLIVAN: Jason?

2                   JASON MARSHALL: Jason Marshall no for the  
3 variance, for the reasons stated prior, although I  
4 appreciate the Chair's development of the motion. Thank  
5 you.

6                   BRENDAN SULLIVAN: Thank you. [Brendan Sullivan]  
7 votes yes to grant the variance.

8                   [FOUR VOTE YES, ONE VOTE NO]

9                   The variance is granted.

10                  JESSE SCHOMER: Thank you very much, Members.

11

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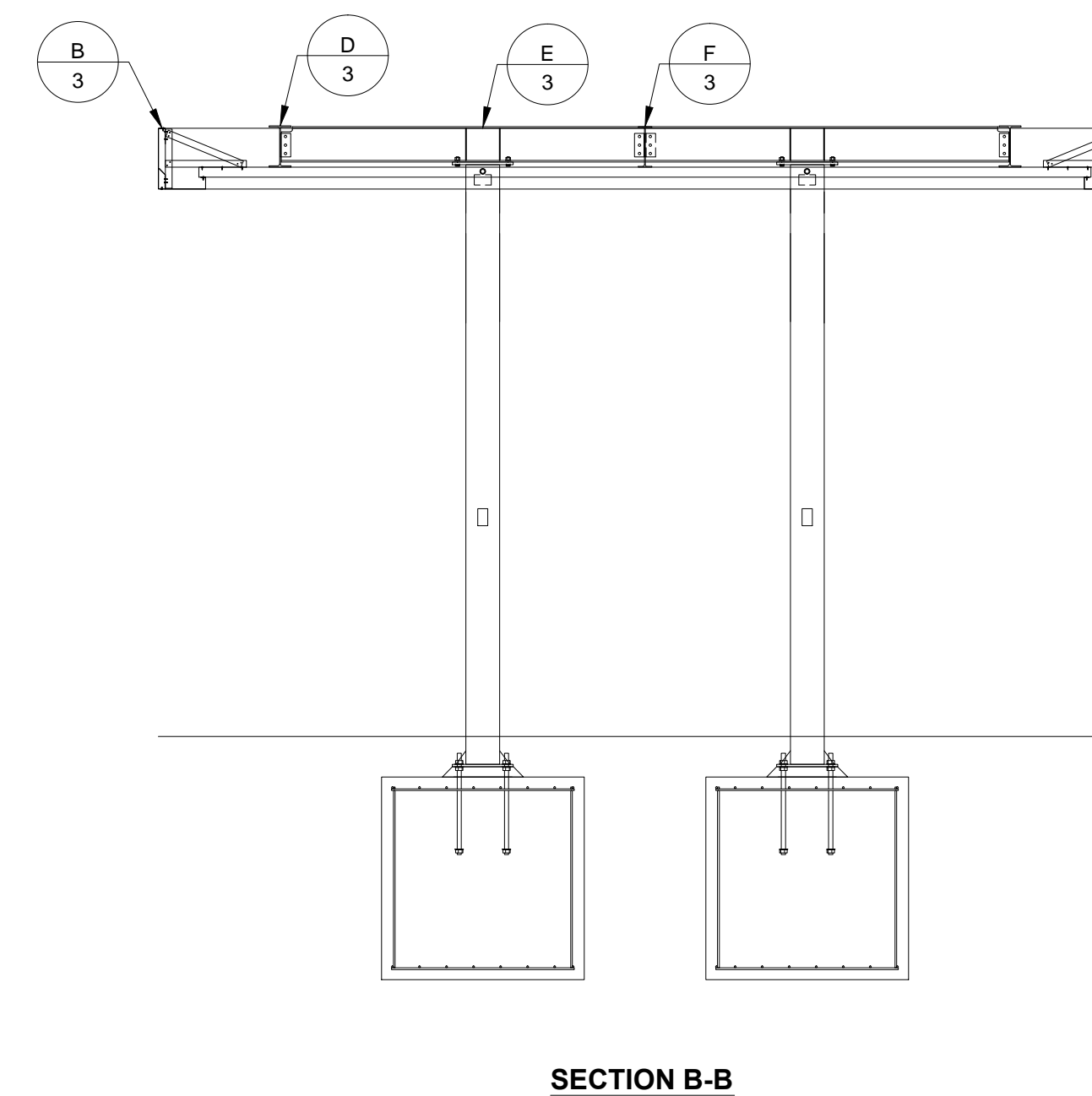
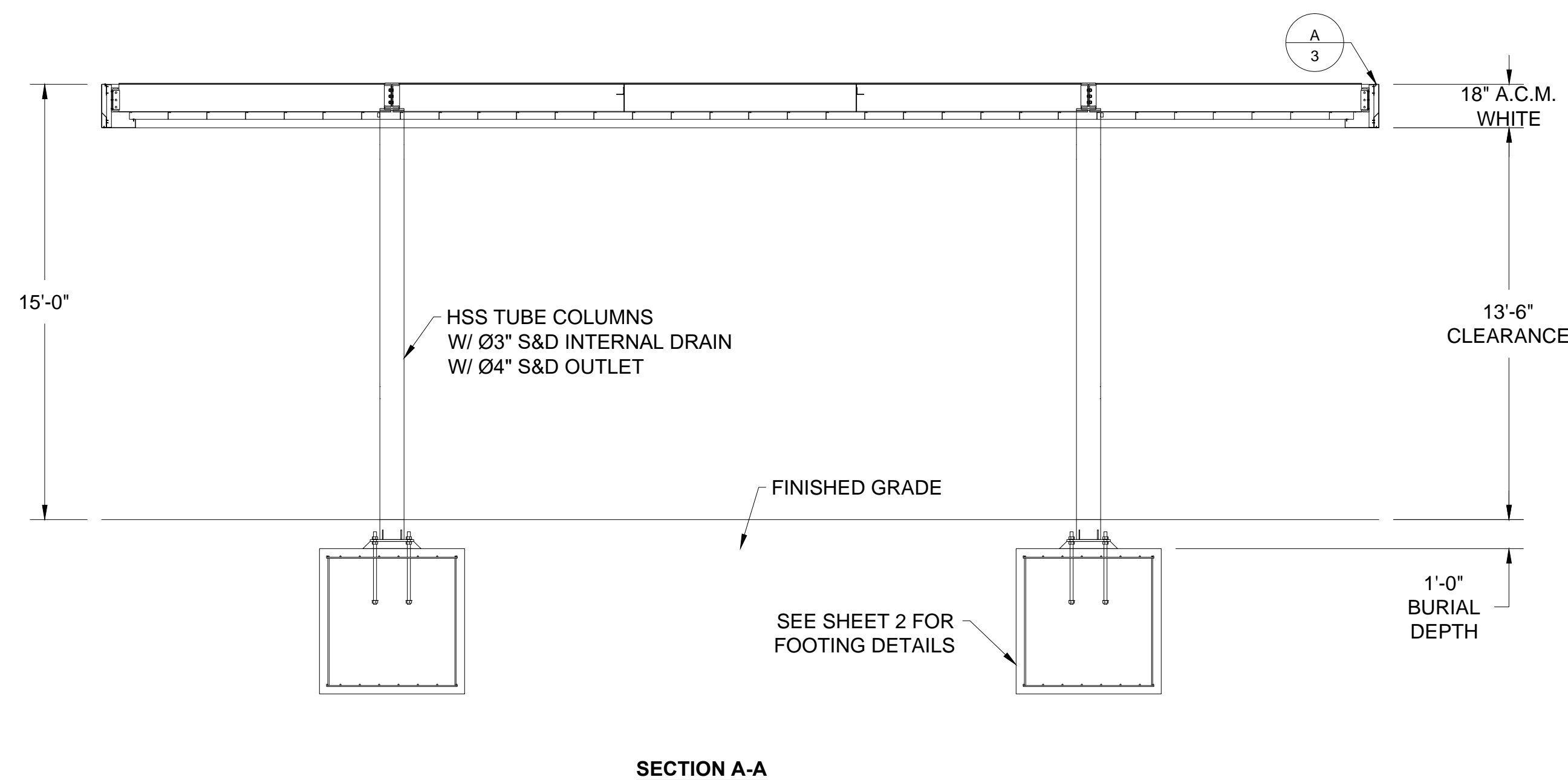
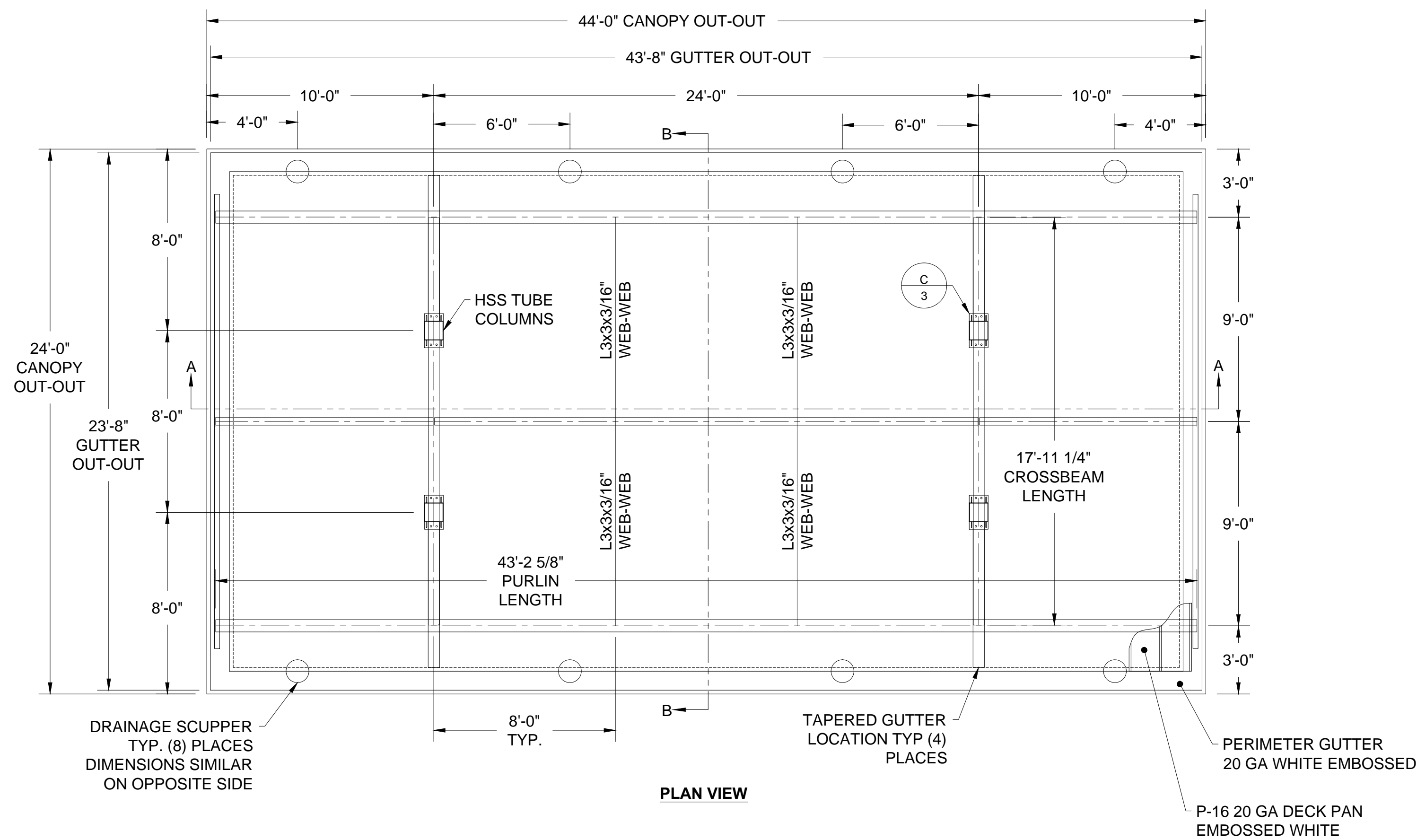
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AUSTIN MOHAWK & CO., LLC.  
 2175 BEECHGROVE PLACE  
 UTICA, NY 13501  
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 TOLL FREE: 1.800.765.3110  
 FAX: 315.793.9370  
 WEBSITE: www.austinmohawk.com  
 E-MAIL: info@austinmohawk.com

**PRELIMINARY DRAWING  
 NOT FOR CONSTRUCTION**

**JOB # -**

QUOTE # Q0190803	DRAWING # 19-056
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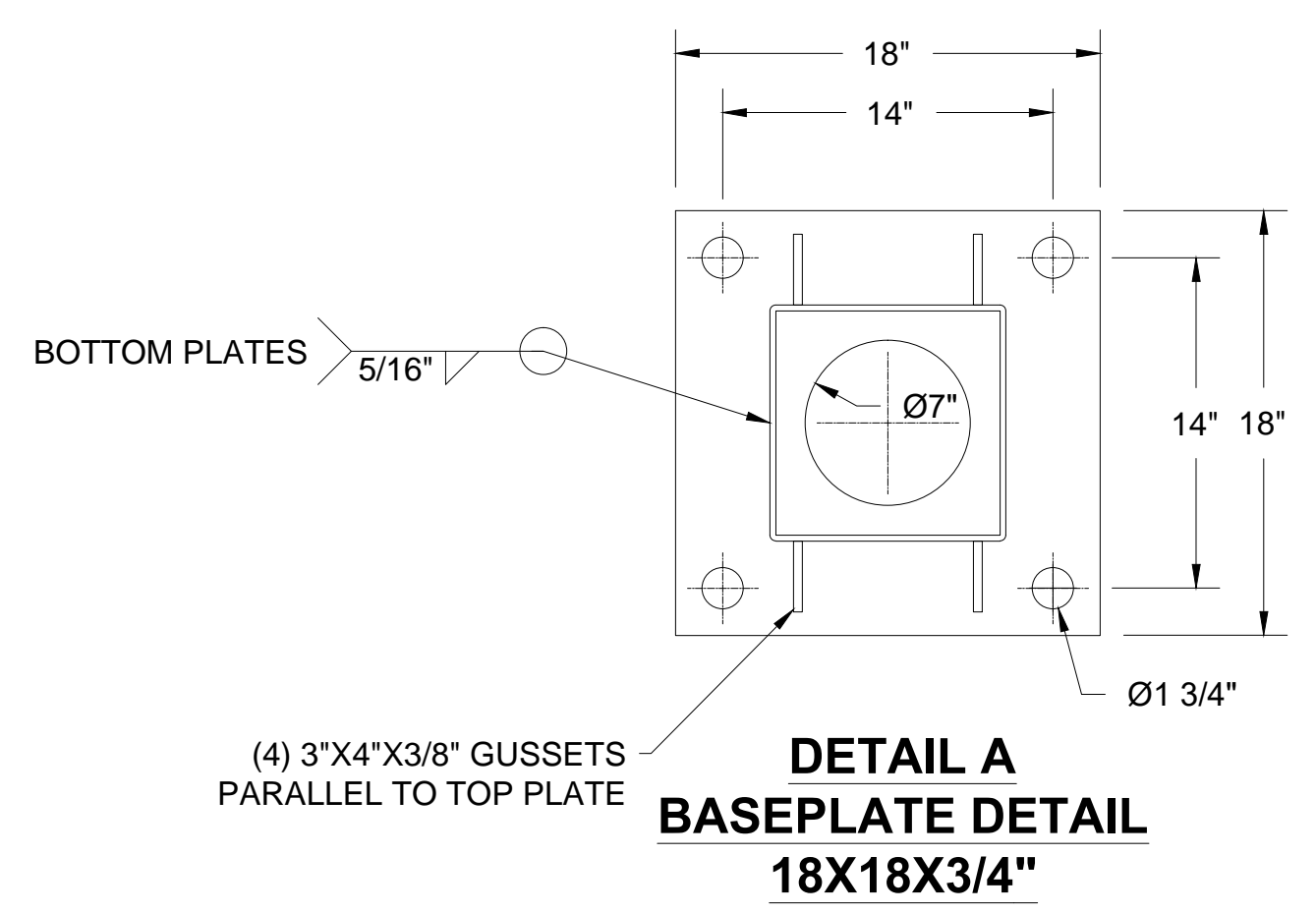
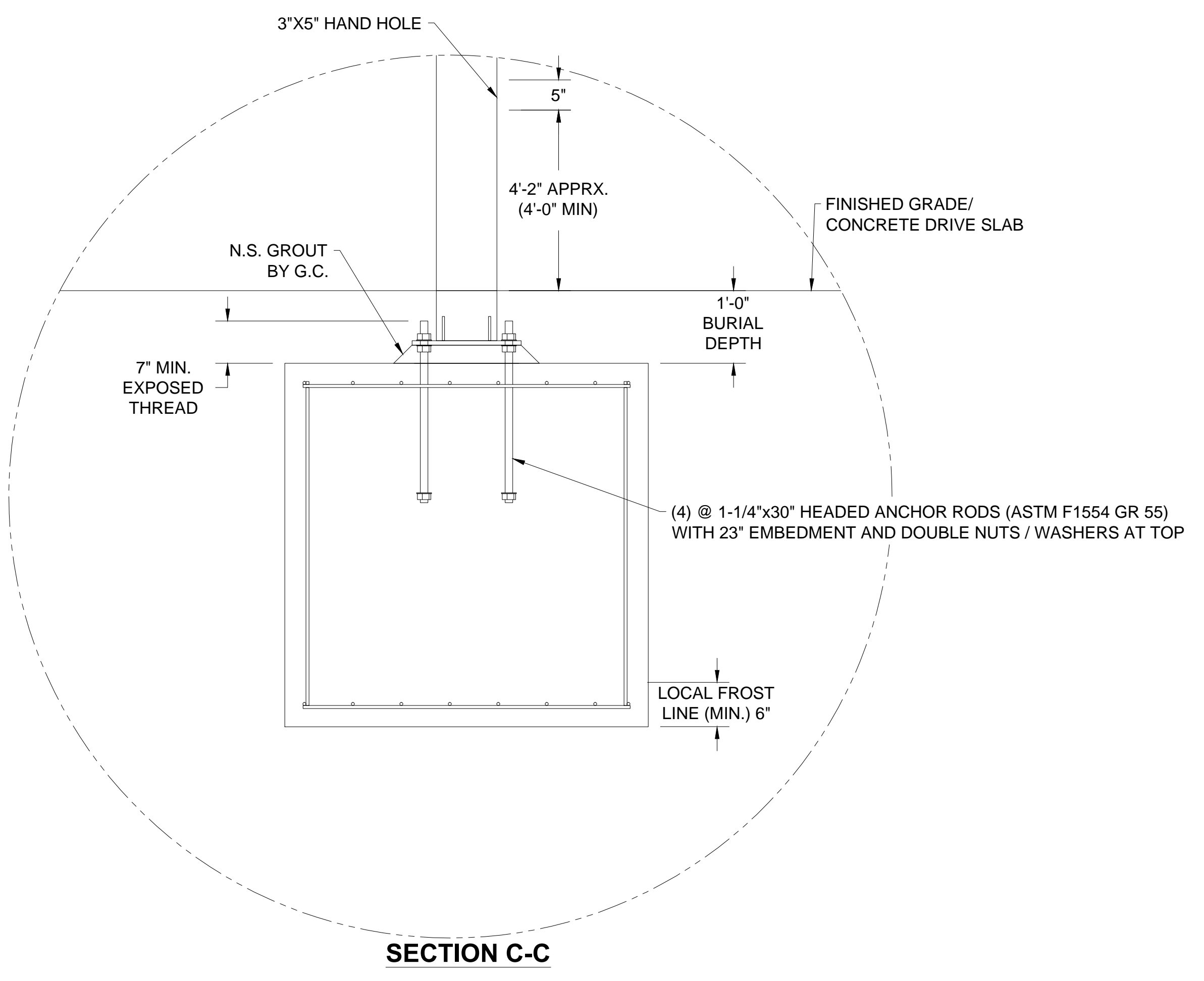
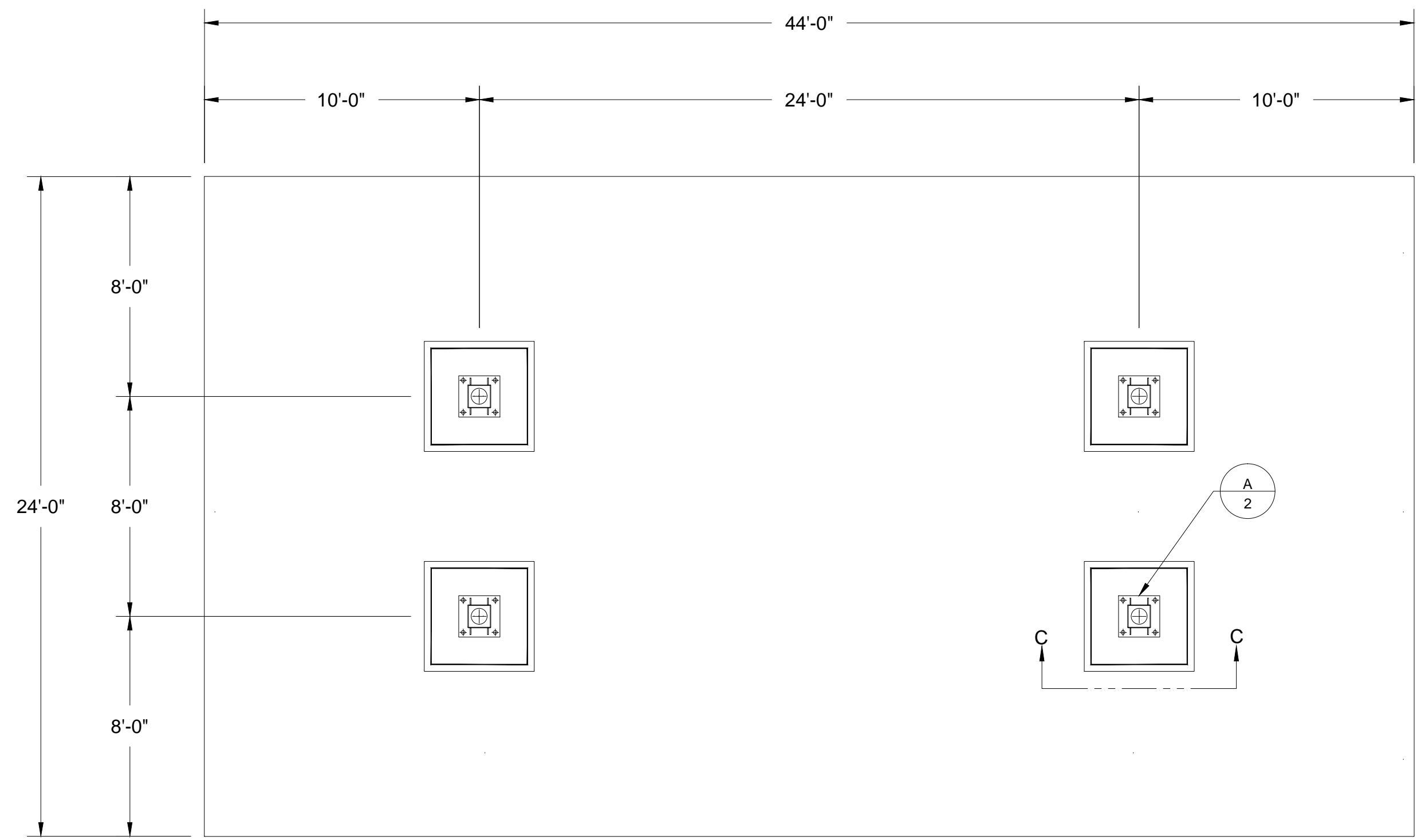
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**CUSTOMER:**  
 WILDCO

**LOCATION:** CAMBRIDGE, MA

**SCALE:** N.T.S. **DRAWN BY:** AJM

**DATE:** 11.11.19 **SHEET:** 1 OF 3



AUSTIN MOHAWK & CO., LLC.  
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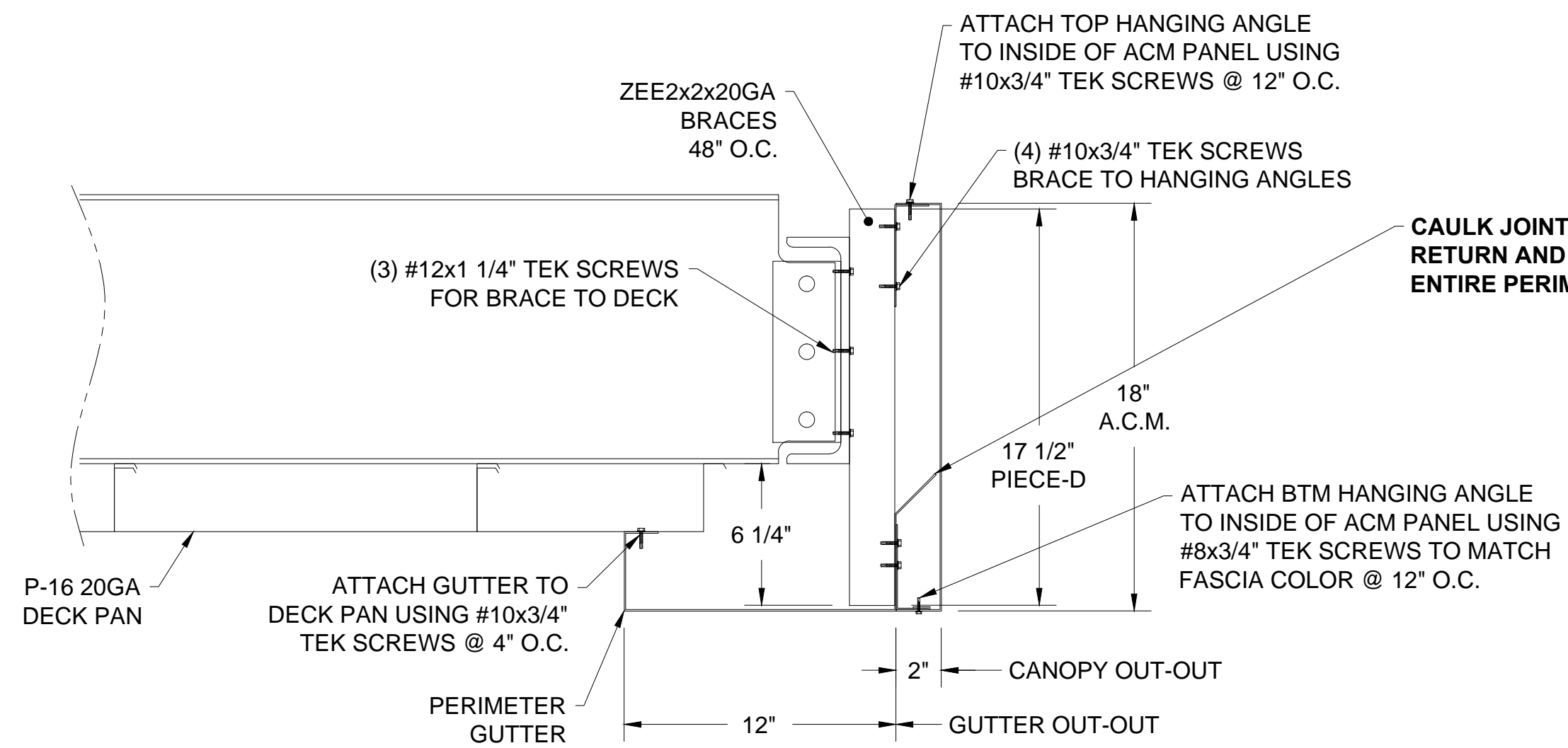
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LOCATION: **CAMBRIDGE, MA**

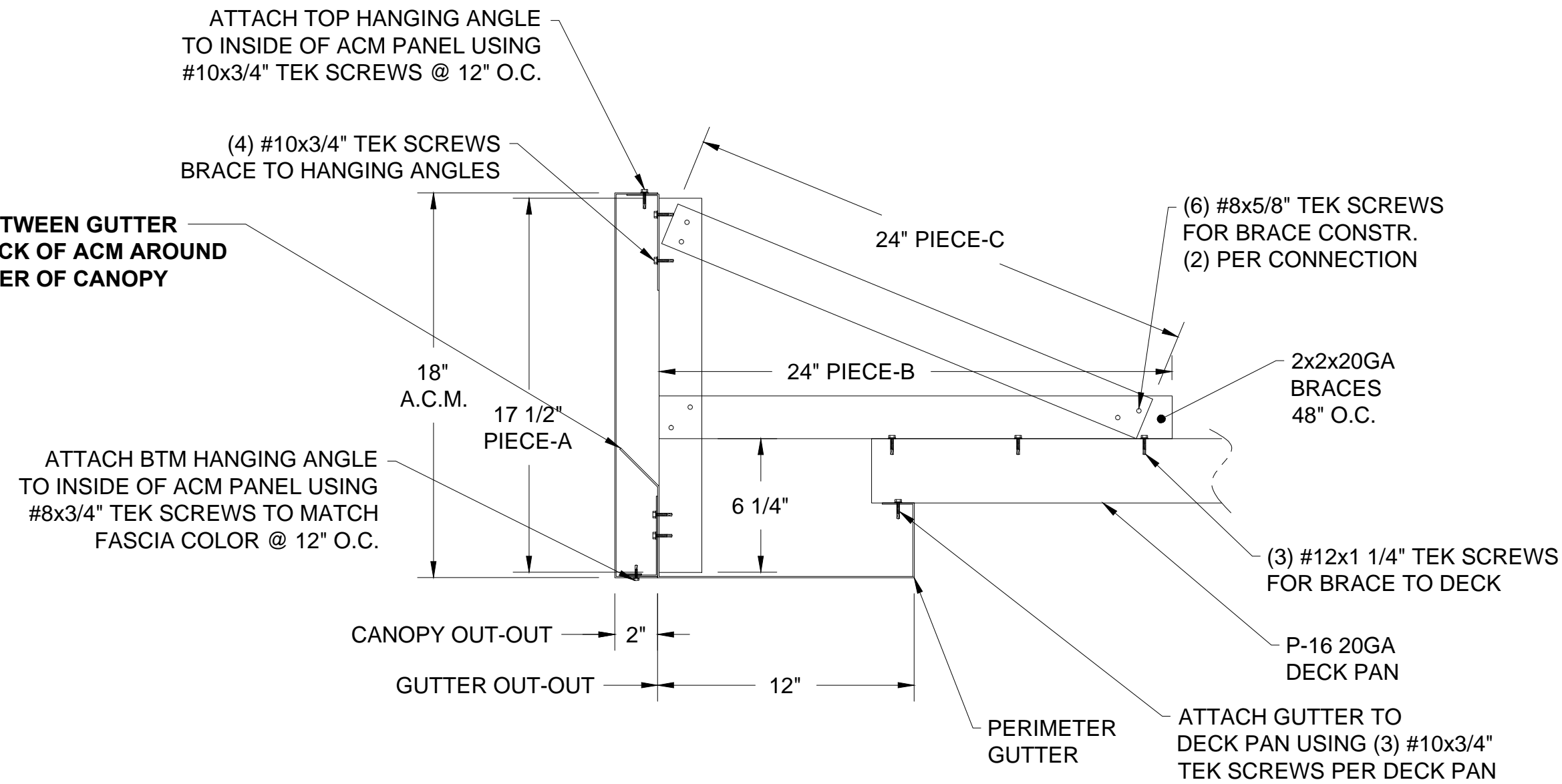
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DATE: <b>11.11.19</b>	SHEET: <b>2 OF 3</b>
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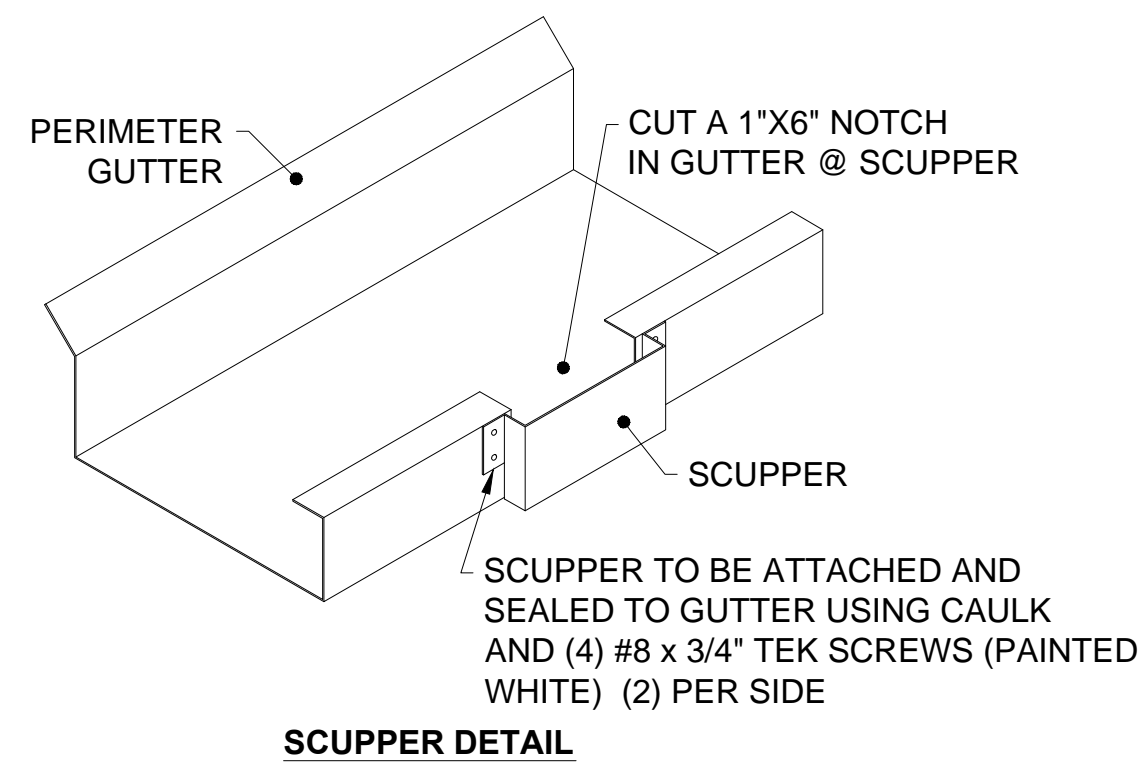
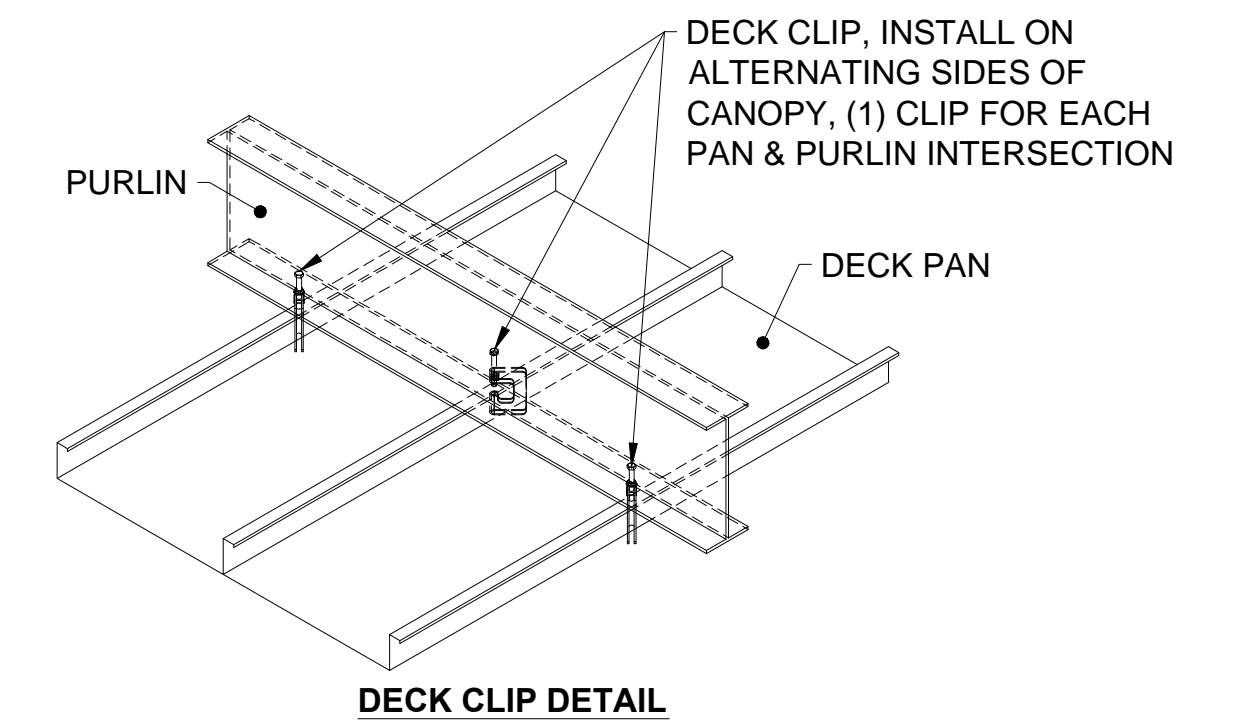
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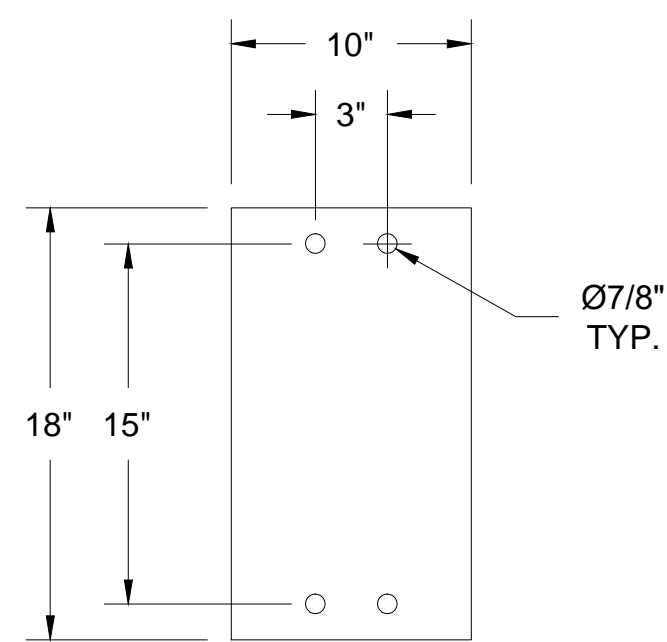
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**24'-0" SIDE FASCIA BRACE DETAIL**



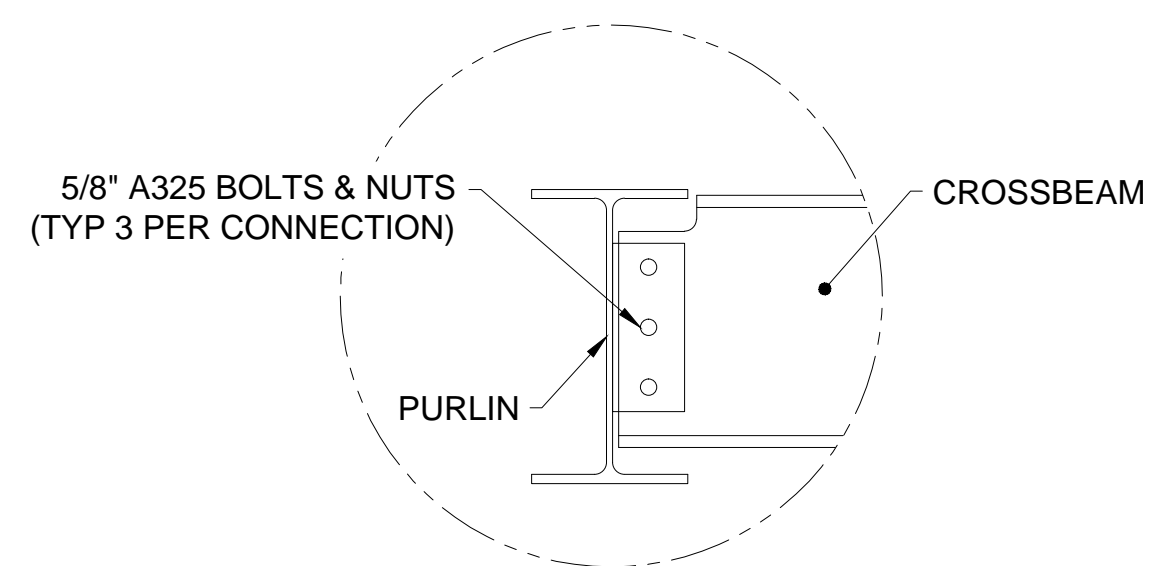
**DETAIL B:**  
**44'-0" SIDE FASCIA BRACE DETAIL**



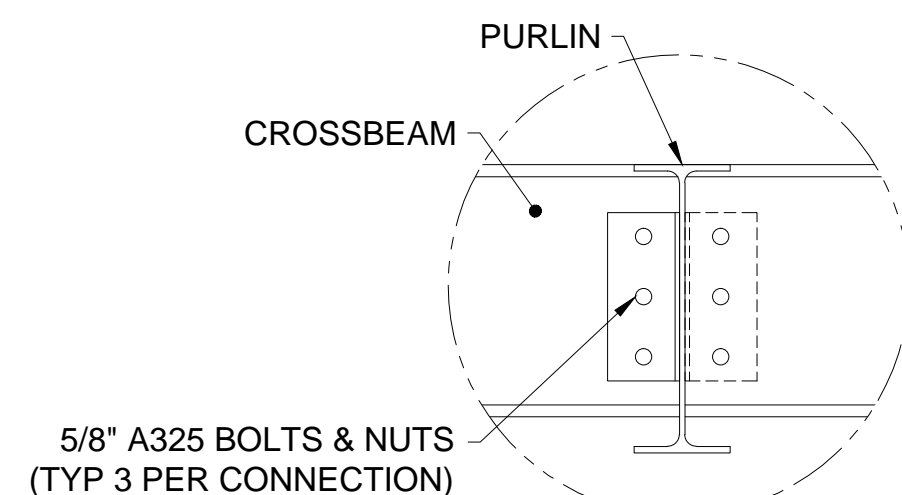
**SCUPPER DETAIL**



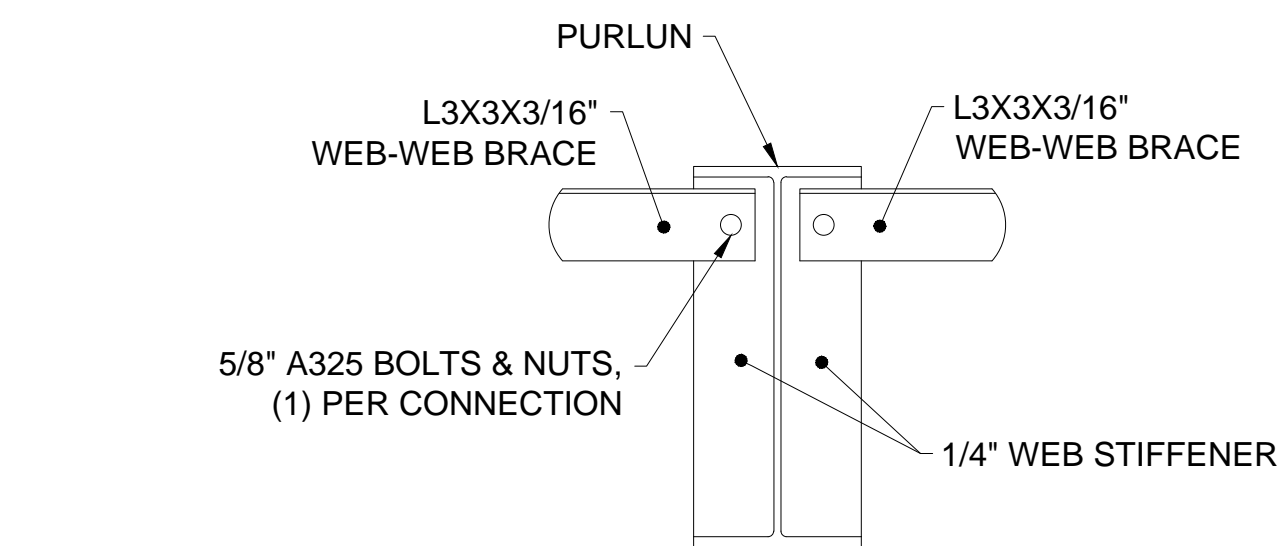
**DETAIL C:**  
**10 X 18 X 3/4" TOP PLATE**



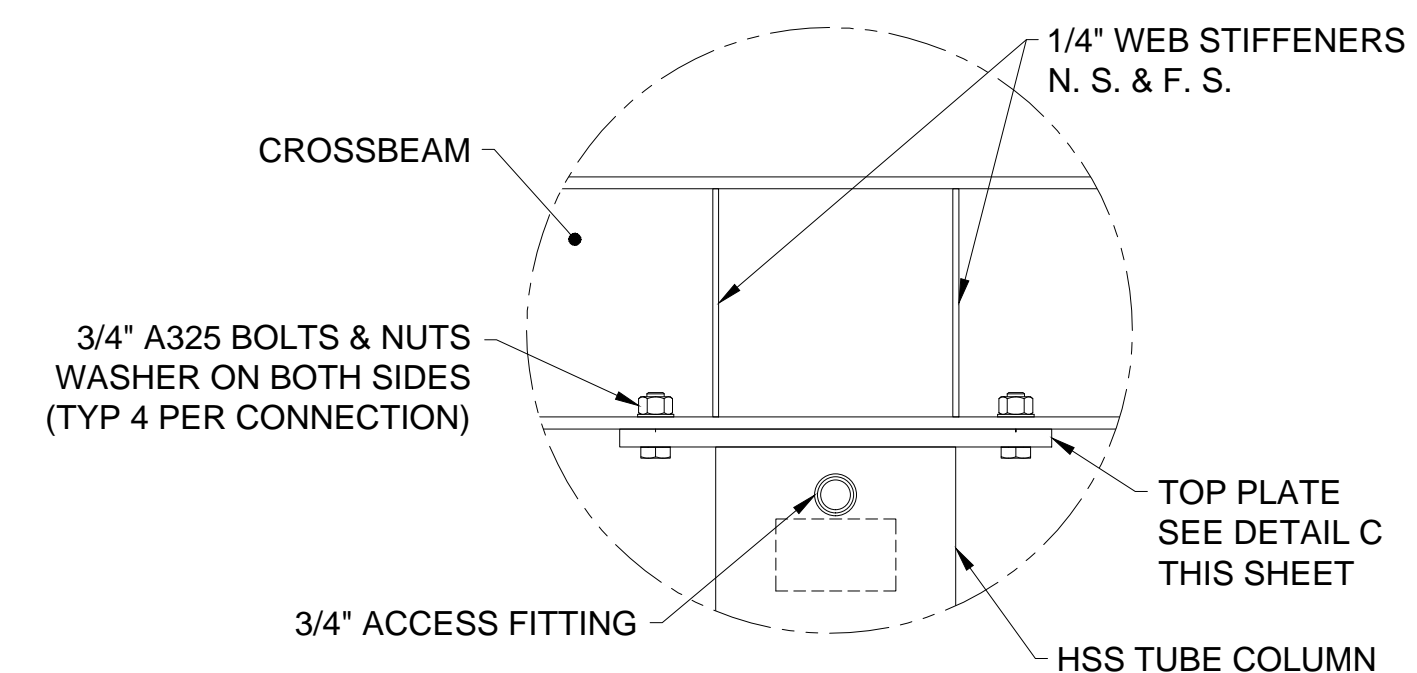
**DETAIL D:**  
**OUTER PURLIN TO CROSSBEAM DETAIL**



**DETAIL F:**  
**CENTER PURLIN TO CROSSBEAM DETAIL**



**WEB-WEB ANGLE BRACE DETAIL**



**DETAIL E:**  
**CROSSBEAM TO COLUMN DETAIL**



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**QUOTE #**  
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**DRAWING #**  
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24'-0" X 44'-0" X 4 COLUMN CANOPY

**CUSTOMER:**  
 WILDCO

**LOCATION:** CAMBRIDGE, MA

**SCALE:** N.T.S. **DRAWN BY:** AJM

**DATE:** 11.11.19 **SHEET:** 3 OF 3





# CITY OF CAMBRIDGE

Massachusetts

BOARD OF ZONING APPEAL  
831 Mass Avenue, Cambridge, MA.  
617) 349-6100

2021 AUG -3 PM 2:49

OFFICE OF THE CITY CLERK  
CAMBRIDGE, MASSACHUSETTS

CASE NO: BZA-103314

LOCATION: 2615 Mass Avenue Residence B Zone  
Cambridge, MA

PETITIONER: Frank P. Fiorentino, CPA, Tr.  
C/o Jesse D. Schomer, Esq.

PETITION: **Variance:** Construction of 2 dimensionally compliant accessory structures (Canopies) over the existing fuel pump islands. No change, extension, or alteration to the pre-existing, non-conforming use (Gas Station) or building/structures is proposed.

**Special Permit:** Construction of 2 dimensionally compliant accessory structures (Canopies) over the existing fuel pump islands. No Change, extension, or alteration to the pre-existing, non-conforming use (Gas Station) or building/structures is proposed.

VIOLATIONS: Art. 8.000, Sec. 8.22.3 & Sec. 8.22 (Non-Conforming Structure).  
Art. 4.000, Sec. 4.21.K (Height, Accessory Structures).

DATE OF PUBLIC NOTICE: February 11 & 18, 2021

DATE OF PUBLIC HEARING: February 25, 2021, April 8, 2021 & May 27, 2021

MEMBERS OF THE BOARD:

CONSTANTINE ALEXANDER – CHAIR	_____
BRENDAN SULLIVAN – VICE-CHAIR	_____✓
ANDREA A. HICKEY	_____
JIM MONTEVERDE	_____✓
LAURA WERNICK	_____

ASSOCIATE MEMBERS:

SLATER W. ANDERSON	_____✓
ALISON HAMMER	_____
JASON MARSHALL	_____✓
MATINA WILLIAMS	_____✓
WENDY LEISERSON	_____

Members of the Board of Zoning Appeal heard testimony and viewed materials submitted regarding the above request for relief from the requirements of the Cambridge Zoning Ordinance. The Board is familiar with the location of the petitioner's property, the layout, and other characteristics as well as the surrounding district.

Case No. BZA-103314

Location: 2615 Massachusetts Avenue

Petitioner: Frank P. Fiorentino, CPA, Tr. – c/o Jesse D. Schomer, Esq.

On May 27, 2021, Petitioner's attorney Jesse Schomer appeared before the Board of Zoning Appeal requesting a variance in order to construct two dimensionally compliant accessory structures (canopies) over existing fuel pump islands, with no change, extension, or alteration to the pre-existing, non-conforming use or structures and a special permit in order to construct two dimensionally compliant accessory structures (canopies) over existing fuel pump islands, with no change, extension, or alteration to the pre-existing, non-conforming use or structures. The Petitioner requested relief from Article 8, Sections 8.22.3 and 8.22.2.c, and Article 4, Section 4.21.K of the Cambridge Zoning Ordinance ("Ordinance"). The Petitioner submitted materials in support of the application including information about the project, plans, and photographs.

The Chair informed Mr. Schomer that the Commissioner of the Inspectional Services Department had determined that the proposed work required a variance rather than a special permit and so the case would proceed under the variance standard.

Mr. Schomer stated that the gas station had uncovered pumps, which were going to be upgraded. He stated that the new pumps had computer equipment that needed to be covered and so the proposal was to add canopies over the pumps. He stated that the canopies would be dimensionally compliant, would provide superior fire suppression, and would provide less intrusive lighting for the neighbors. He stated that the canopies would have no signage on them. He stated that the gas station use was nonconforming because the property was zoned residential after the gas station use had begun.

Neighbors spoke and wrote in opposition to the proposal.

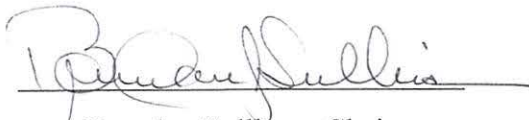
After discussion, the Chair moved that the Board make the following findings based upon the application materials submitted and all evidence before the Board and that based upon the findings the Board grant the requested relief as described in the Petitioner's submitted materials and the evidence before the Board: that the Board find that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the petitioner; that the Board find that the construction of the canopies was necessary to shield the fuel pumps from the weather, due to the sensitivity of the computer equipment, and also to provide necessary weather protection to customers; that the Board find that the hardship owed to the preexisting nonconforming gas station, built with an uncovered fuel island prior to the area being zoned for residential use; that the Board find that desirable relief could be granted without substantial detriment to the public good; that the Board find that the proposed canopies would comply with all the dimensional requirements, would increase the safety at the site, would enable the site to be upgraded, and would provide additional light screening for the neighbors; that the Board find that desirable relief could be granted without nullifying or substantially derogating from the intent and purpose of the Ordinance; that the Board find that the proposed condition of the site would be substantially less detrimental to the neighborhood than the existing condition, which was presently somewhat unappealing with the unshielded light impact; that the Board find that the proposed canopies would promote safety and reduce visual impact.

The Chair further moved that the Board specifically find that based upon all the information presented, there are circumstances involving a substantial hardship relating to this property within the meaning of M.G.L. c. 40A § 10 and that the Board grant the variance based on the further finding that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner on the following conditions:

1. that the canopies be constructed and maintained as per the drawings and visual simulations submitted as initialed by the Chair at the hearing of May 27, 2021,
2. that there be no signage or coloring on the canopies.

The five-member Board voted four in favor of granting the variance as conditioned (Sullivan, Anderson, Monteverde, and Williams) and one opposed (Marshall) Therefore, the variance is granted as conditioned.

The Board of Zoning Appeal is empowered to waive local zoning regulations only. This decision therefore does not relieve the petitioner in any way from the duty to comply with local ordinances and regulations of the other local agencies, including, but not limited to the Historical Commission, License Commission and/or compliance with requirements pursuant to the Building Code and other applicable codes.

  
Brendan Sullivan, Chair

Attest: A true and correct copy of decision filed with the offices of the City Clerk and Planning Board on 8-3-21 by Maia Pacheco, Clerk.

Twenty days have elapsed since the filing of this decision.

No appeal has been filed \_\_\_\_\_.

Appeal has been filed and dismissed or denied.

Date: \_\_\_\_\_ City Clerk.

Middlesex South Registry of Deeds  
Electronically Recorded Document

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Recording Information

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Document Type	: DECIS
Recorded Date	: August 25, 2021
Recorded Time	: 02:50:20 PM
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Number of Pages(including cover sheet)	: 4
Receipt Number	: 2708563
Recording Fee	: \$105.00

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Cambridge, MA 02141  
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# CITY OF CAMBRIDGE

Massachusetts

## BOARD OF ZONING APPEAL

831 Mass Avenue, Cambridge, MA.

617) 349-6100

SEP 2008-3 PM 2:49

SEP 2008-3 PM 2:49

CASE NO: BZA-103314

LOCATION: 2615 Mass Avenue Residence B Zone  
Cambridge, MA

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C/o Jesse D. Schomer, Esq.

PETITION: **Variance:** Construction of 2 dimensionally compliant accessory structures (Canopies) over the existing fuel pump islands. No change, extension, or alteration to the pre-existing, non-conforming use (Gas Station) or building/structures is proposed.

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JIM MONTEVERDE  
LAURA WERNICK

\_\_\_\_\_  
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\_\_\_\_\_

ASSOCIATE MEMBERS:

SLATER W. ANDERSON  
ALISON HAMMER  
JASON MARSHALL  
MATINA WILLIAMS  
WENDY LEISERSON

\_\_\_\_\_  
\_\_\_\_\_  
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Members of the Board of Zoning Appeal heard testimony and viewed materials submitted regarding the above request for relief from the requirements of the Cambridge Zoning Ordinance. The Board is familiar with the location of the petitioner's property, the layout, and other characteristics as well as the surrounding district.

Deed Reference: Book 69737, Page 577

Case No. BZA-103314  
Location: 2615 Massachusetts Avenue  
Petitioner: Frank P. Fiorentino, CPA, Tr. – c/o Jesse D. Schomer, Esq.

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The Chair informed Mr. Schomer that the Commissioner of the Inspectional Services Department had determined that the proposed work required a variance rather than a special permit and so the case would proceed under the variance standard.

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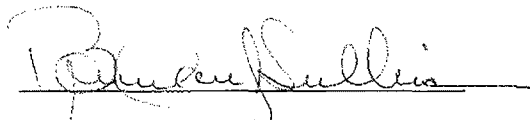
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The Chair further moved that the Board specifically find that based upon all the information presented, there are circumstances involving a substantial hardship relating to this property within the meaning of M.G.L. c. 40A § 10 and that the Board grant the variance based on the further finding that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the Petitioner on the following conditions:

1. that the canopies be constructed and maintained as per the drawings and visual simulations submitted as initialed by the Chair at the hearing of May 27, 2021,
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The five-member Board voted four in favor of granting the variance as conditioned (Sullivan, Anderson, Monteverde, and Williams) and one opposed (Marshall) Therefore, the variance is granted as conditioned.

The Board of Zoning Appeal is empowered to waive local zoning regulations only. This decision therefore does not relieve the petitioner in any way from the duty to comply with local ordinances and regulations of the other local agencies, including, but not limited to the Historical Commission, License Commission and/or compliance with requirements pursuant to the Building Code and other applicable codes.

  
 \_\_\_\_\_  
 Brendan Sullivan, Chair

Attest: A true and correct copy of decision filed with the offices of the City Clerk and Planning Board on 8-3-21 by Maria Pacheco, Clerk.

Twenty days have elapsed since the filing of this decision.

No appeal has been filed .

Appeal has been filed and dismissed or denied.

Date: Aug. 24, 2021  City Clerk.

Jesse D. Schomer, Esq.  
jschomer@regnante.com



Regnante Sterio LLP  
Attorneys-at-Law  
401 Edgewater Place, Suite 630  
Wakefield, MA 01880  
(781) 246-2525  
regnante.com

2022 JUL 21 PM 12:14

OFFICE OF THE CITY CLERK  
CAMBRIDGE, MASSACHUSETTS

July 20, 2022

City of Cambridge  
Board of Zoning Appeal  
831 Massachusetts Avenue  
Cambridge, MA 02139

**Re: Request for Extension of Variance**  
**Case No.: BZA-103314**  
**Applicant: G&G Corp., Inc. d/b/a Alewife Mobil**  
**Property: 2615 Massachusetts Avenue, Cambridge, MA**

---

Dear Board Members:

I am legal counsel to the applicant in the above-referenced case, in which the Board approved a variance for the above-referenced property to authorize the construction of two canopies over the existing fuel pump islands at this property.

I write to request a 6-month extension of this variance in accordance with Massachusetts General Laws Chapter 40A, Section 10. The reason for this request is that my client has been unable to commence construction of the approved canopies due to the need to obtain other local permits/approvals before building permits can issue, i.e., a stormwater management permit from the Cambridge Department of Public Works and an order of conditions from the Cambridge Conservation Commission. Applications for these permits are currently in process and we anticipate securing these permits by the end of the calendar year 2022.

The Board is authorized to extend variances for 6-months in accordance with M.G.L. c. 40A, § 10, provided an application for such extension is filed prior to the expiration of the variance. The variance in question is currently in effect until August 25, 2022; thus, the application for an extension is timely.



Cambridge Board of Zoning Appeal  
Request for Extension of Variance (Case No.: BZA-103314)  
July 20, 2022  
Page 2 of 2

In sum, for the reasons stated above, the applicant respectfully requests an extension of this variance for a period of 6 months.

Respectfully,

/s/ Jesse D. Schomer, Esq.  
JESSE D. SCHOMER, ESQ.

**GENERAL NOTES:**

1. BASIS OF BEARINGS: MASSACHUSETTS COORDINATE SYSTEM-NAD83
2. TOTAL LAND AREA = 21,222 Sq. Ft. 0.487 Acres
3. CITY OF CAMBRIDGE ASSESSORS I.D.: MAP 195 LOT 95  
SITE ADDRESS: 2615 MASSACHUSETTS AVENUE, CAMBRIDGE, MA (MIDDLESEX COUNTY)  
CURRENT OWNER OF RECORD: CHAMPLAIN OIL COMPANY, INC.  
DEED REFERENCE: BOOK 1606, PAGE 891
4. NO EVIDENCE WAS OBSERVED OF CEMETERIES, GRAVESITES OR BURIAL GROUNDS, LOCATED ON THE SUBJECT PREMISES. NO OBSERVABLE EVIDENCE OF SITE USED AS A SOLID WASTE DUMP, SUMP OR SANITARY LANDFILL.
5. TABLE A (ITEM 16): THERE IS NO OBSERVED EVIDENCE OF CURRENT EARTH MOVING WORK, BUILDING CONSTRUCTION OR BUILDING ADDITIONS.
6. TABLE A (ITEM 17): THERE ARE NO PROPOSED CHANGES IN STREET RIGHT OF WAY LINES, ACCORDING TO THE CITY OF CAMBRIDGE. THERE IS NO OBSERVED EVIDENCE OF RECENT STREET OR SIDEWALK CONSTRUCTION OR REPAIRS.
7. PROPERTY HAS DIRECT ACCESS TO MASSACHUSETTS AVENUE AND ALEWIFE BROOK PARKWAY, A PUBLIC WAY THROUGH ACCESS POINTS AS NOTED.
8. THIS PLAN IS THE RESULT OF AN ON-THE-GROUND SURVEY PERFORMED BY ODOONE SURVEY & MAPPING ON APRIL 21, 2020.
9. UTILITY NOTE: OBSERVED EVIDENCE OF UTILITIES HAS BEEN SHOWN PURSUANT TO SECTION 5 PARAGRAPH E (IV) OF THE ALTA/NSPS MINIMUM STANDARD DETAIL REQUIREMENTS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED.

**SCHEDULE B-TITLE EXCEPTION NOTES**

THE SURVEY WAS PREPARED WITHOUT THE BENEFIT OF AN UP TO DATE TITLE REPORT AND IS SUBJECT TO THE FACTS THEREOF.

**SIGNIFICANT OBSERVATIONS**

- A** WOOD FENCE EXTENDS OVER NORTHERLY PROPERTY LINE OF SURVEYED PROPERTY BY 4' FOR A LENGTH OF 55' AS SHOWN.
- B** BITUMINOUS CONCRETE PAVING EXTEND OVER PROPERTY LINE ON TO LANDS OF PARKWAY CONDOMINIUM BY 2.5' FOR A LENGTH OF 36' AS SHOWN.

**ZONING INFORMATION:**

LISTED BELOW ARE SETBACK, HEIGHT, AND FLOOR SPACE AREA RESTRICTIONS AS DISCLOSED BY APPLICABLE ZONING OR BUILDING CODES (AS REQUIRED UNDER TABLE A 6(a)(b) OF THE ALTA STANDARDS.

ZONING CLASSIFICATION: RESIDENCE B (RB) DISTRICT.  
INFORMATION PROVIDED FROM CITY OF CAMBRIDGE ZONING CODE  
POINT OF CONTACT: LIZ PADEN SENIOR PLANNER, CITY OF CAMBRIDGE 617-349-4647

SITE REQUIREMENTS	REQUIRED	MEASURED
MINIMUM LOT AREA	5,000 SQ. FT.	21,222
MINIMUM LOT FRONTAGE	50 FT.	296.60'
MAX. BUILDING COVERAGE	40%	10%
MINIMUM SETBACKS: FRONT	15 FT.	71.8 FT.
SIDE	7.5 FT.	7.9 FT.
REAR	25 FT.	38.7 FT.
MAXIMUM BUILDING HEIGHT	35 FT.	14.2 FT.

PARKING REQUIREMENT: NONE

ZONING INFORMATION PROVIDED MKASSOCIATES, INC.

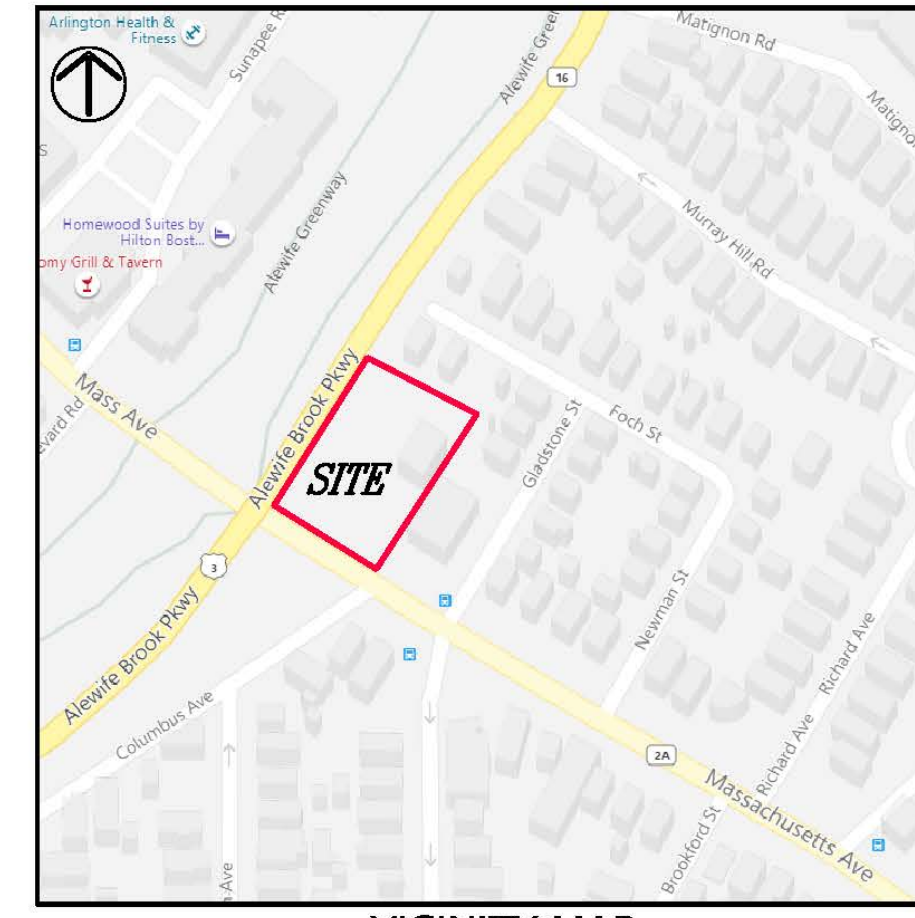
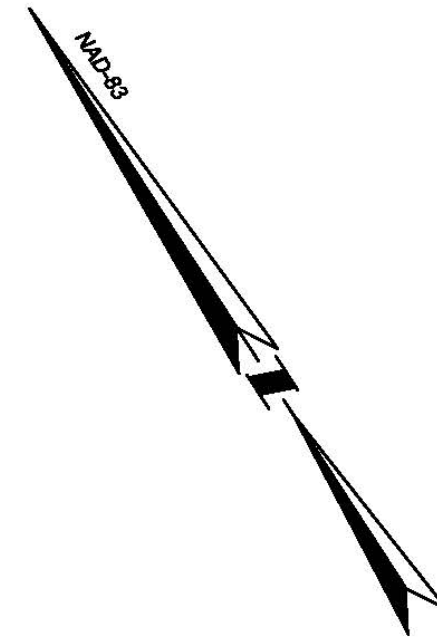
PARKING TABULATION:  
TOTAL REGULAR SPACES: 0  
TOTAL HANDICAPPED SPACES: 1  
TOTAL PARKING SPACES: 1

**FLOOD NOTE:**

BY GRAPHIC PLOTTING ONLY, THIS PROPERTY IS IN ZONE X OF THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 25017C0419E, WHICH BEARS AN EFFECTIVE DATE OF 08/04/2010 AND IS NOT IN A SPECIAL FLOOD HAZARD AREA. NO FIELD SURVEYING WAS PERFORMED TO DETERMINE THIS ZONE AND AN ELEVATION CERTIFICATE MAY BE NEEDED TO VERIFY THIS DETERMINATION OR APPLY FOR A VARIANCE FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

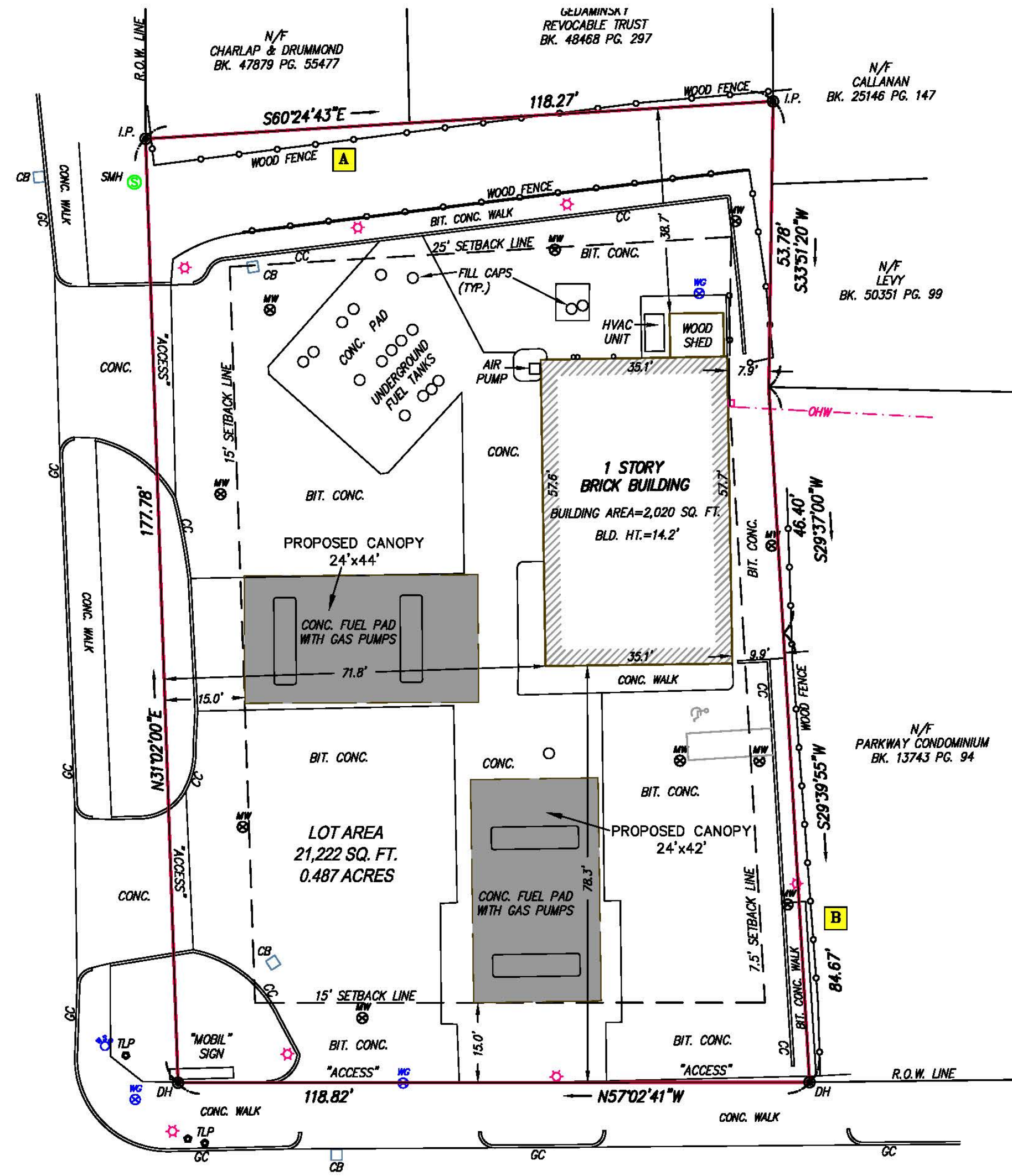
**LEGEND OF SYMBOLS & ABBREVIATIONS**

BK. PG.	DEED BOOK/PAGE		BUILDING
BIT. CONC.	BITUMINOUS CONCRETE		EASEMENT LINE
CONC.	CONCRETE SURFACE		LOCUS BOUNDARY LINE
CC	CONC. CURB		OVERHEAD ELECTRIC
EOP	EDGE OF PAVEMENT		BOLLARD
(F)	FOUND		CATCH BASIN
GC	GRANITE CURB		FIRE HYDRANT
GM	GAS METER		LIGHT POLE
N/F	NOW OR FORMERLY		DRAIN MANHOLE
OHW	OVERHEAD WIRES		SEWER MANHOLE
R.O.W.	RIGHT-OF-WAY		SIGN
TLP	TRAFFIC LIGHT POLE		UTILITY POLE
(S4'50"E)	RECORD DIMENSIONS		WATER GATE VALVE
REC.	RECORD		IRON PIPE
(12)	NUMBER OF PARKING SPACES		HANDICAP PARKING
A	ENCROACHMENT SYMBOL		DRILLHOLE
	PROPERTY LINE LEADERS		MONITORING WELL



VICINITY MAP  
-NOT TO SCALE-

ALEWIFE BROOK PARKWAY (PUBLIC - VARIABLE WIDTH) PAVEMENT WIDTH=VARIABLE (RTE 16)



MASSACHUSETTS AVENUE (PUBLIC - VARIABLE WIDTH) PAVEMENT WIDTH=VARIABLE (RTE 3 & RTE 2A)

**RECORD DESCRIPTION**

TITLE DESCRIPTION - NOT PROVIDED

**ALTA/NSPS LAND TITLE SURVEY**

**EXXONMOBIL**

2615 MASSACHUSETTS AVENUE  
CAMBRIDGE, MA

**SURVEYOR'S CERTIFICATION**

TO: COMMTANK AND MKASSOCIATES, INC.  
THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2016 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 6(a), 6(b), 7(a), 7(b)(1), 7(c), 8, 9, 13, 14, 16, 17 AND 20 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON APRIL 21, 2020.

GLENN D. ODOONE JR.  
REGISTERED LAND SURVEYOR NO. 45068  
COMMONWEALTH OF MASSACHUSETTS

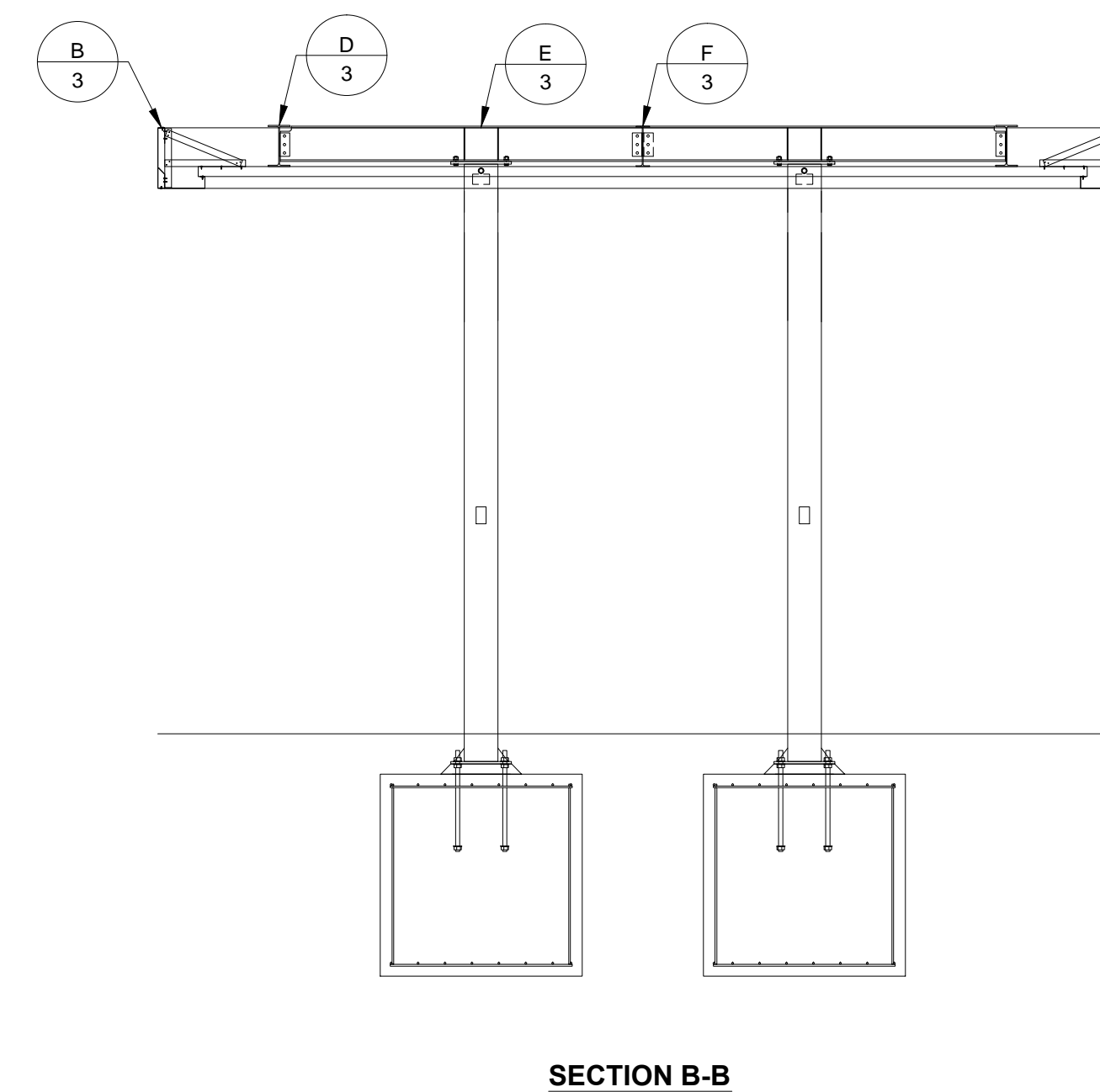
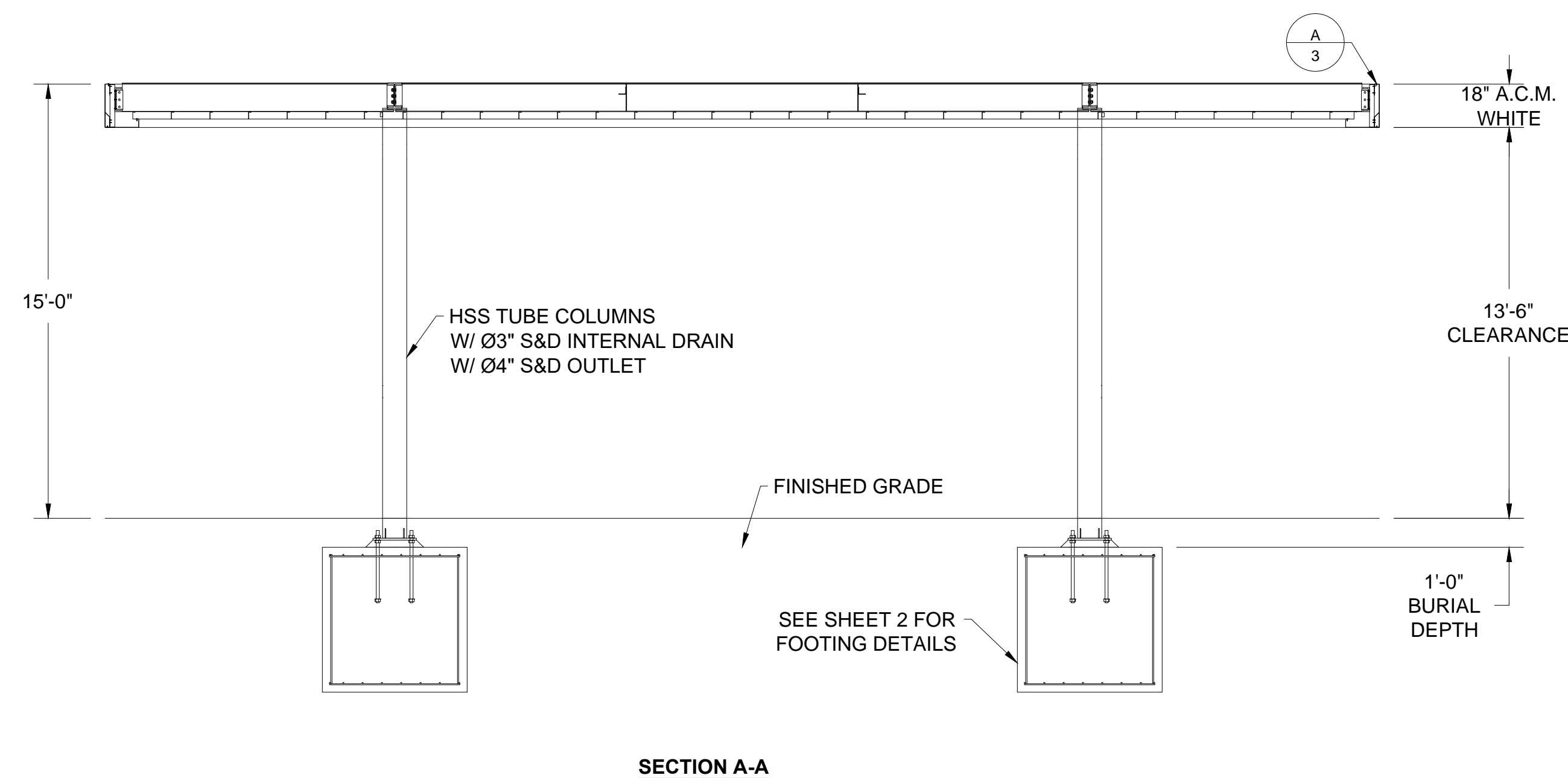
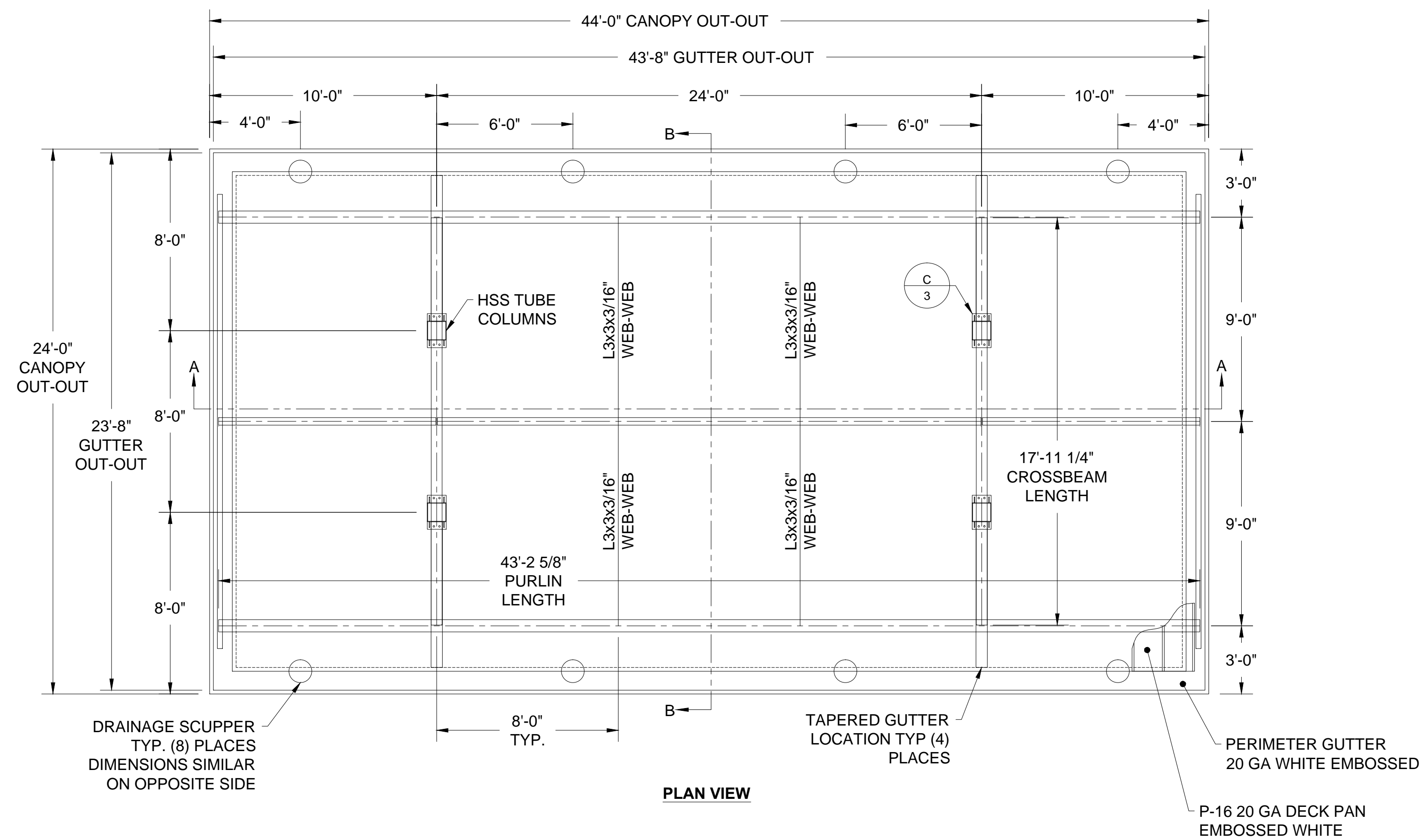
DATE OF SURVEY: APRIL 30, 2020  
DATE OF LAST REVISION: MAY 1, 2020

PROJECT NAME: EXXONMOBIL PROJECT No.: 6741-20-1845:057R  
ADDRESS: 2615 MASSACHUSETTS AVENUE CITY: CAMBRIDGE STATE: MASSACHUSETTS

For Inquiries Concerning This Survey Contact MKA  
National Coordinators of Land Survey Services  
6593 Commerce Court - Warrenton, Virginia 20187  
Phone: (540) 428-3550 Fax: (540) 428-3560  
Email: comments@mkassociates.com  
www.mkassociates.com

Surveyor's Drawing No.: 1254-01A  
Surveyor's Site Ref: 20201254  
Checked by: GDO Drawn by: GDO  
GRAPHIC SCALE: 1 INCH = 20 FEET

SURVEY PREPARED BY:  
 **ODOONE SURVEY & MAPPING**  
SURVEYING -- MAPPING -- PLANNING  
291 Main Street, Suite 5 Northborough, MA 01532  
Tel.: 508-351-6022 Fax: 508-351-6633  
CONTACT: Glenn D. Odone, P.L.S.  
email: glenn.odone@osm-pc.com  
OSM PROJECT NO. 20201154



AUSTIN MOHAWK & CO., LLC.  
 2175 BEECHGROVE PLACE  
 UTICA, NY 13501  
 PHONE: 315.793.3000  
 TOLL FREE: 1.800.765.3110  
 FAX: 315.793.9370  
 WEBSITE: www.austinmohawk.com  
 E-MAIL: info@austinmohawk.com

**PRELIMINARY DRAWING  
 NOT FOR CONSTRUCTION**

**JOB # -**

QUOTE #  
 Q0190803

DRAWING #  
 19-056

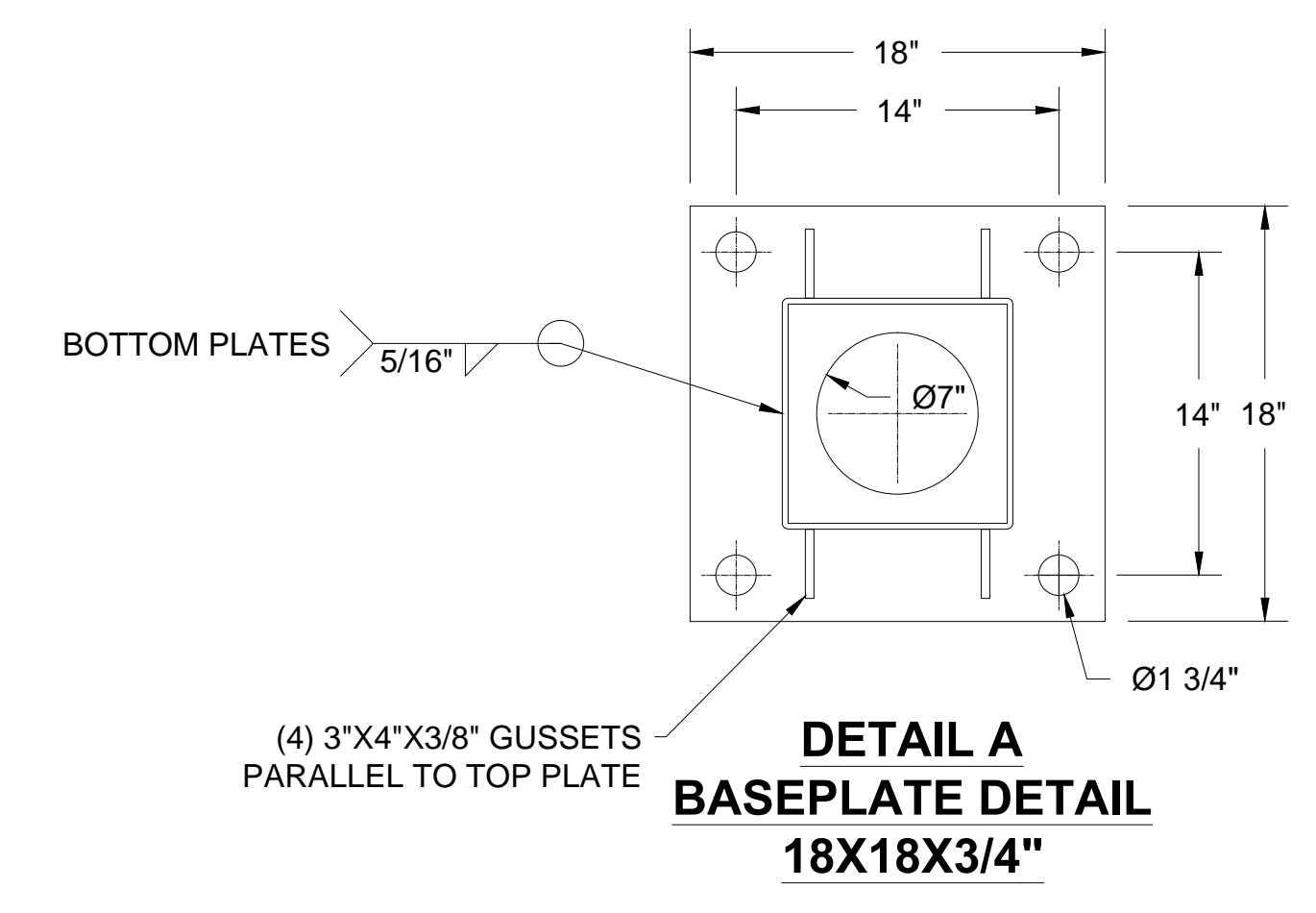
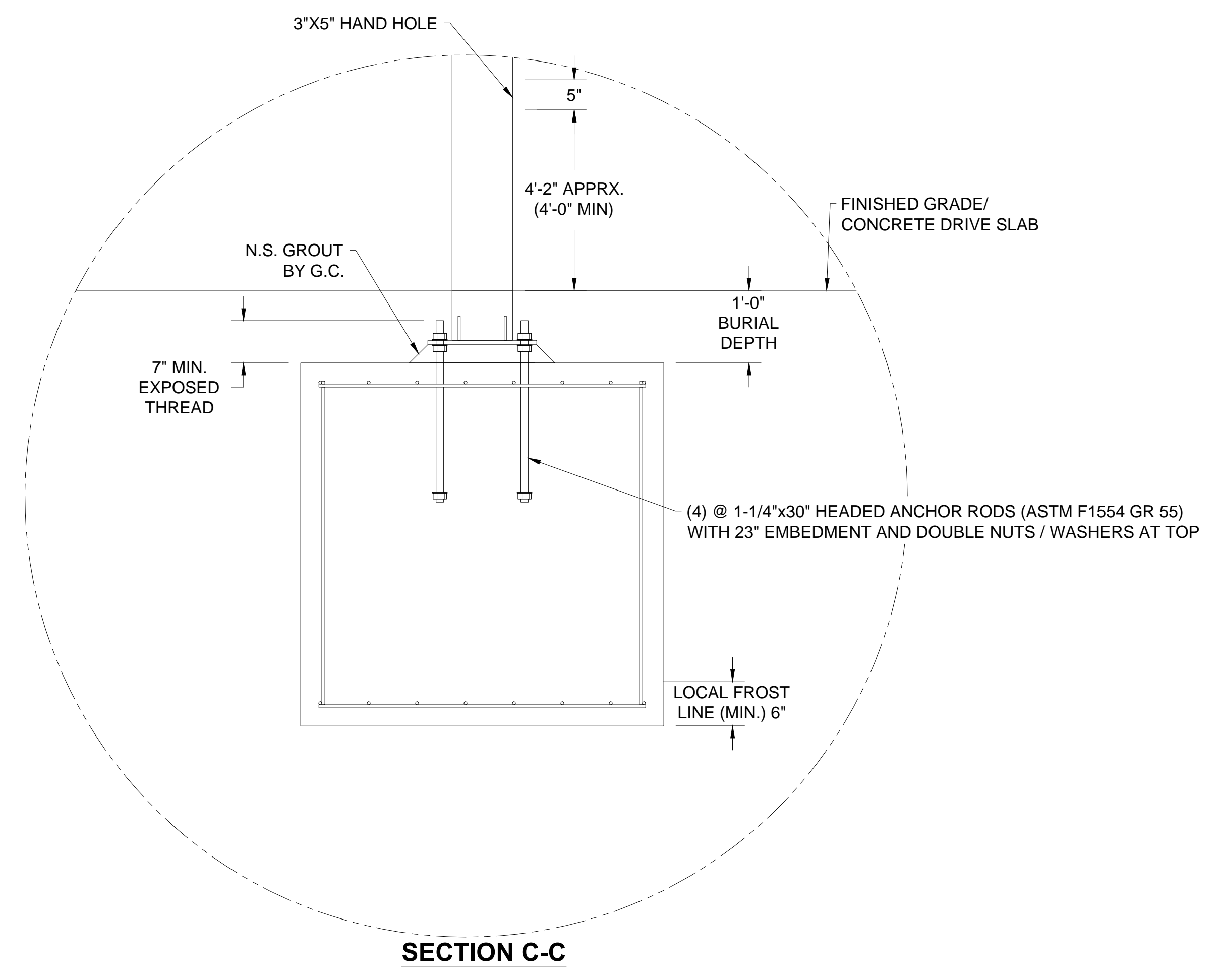
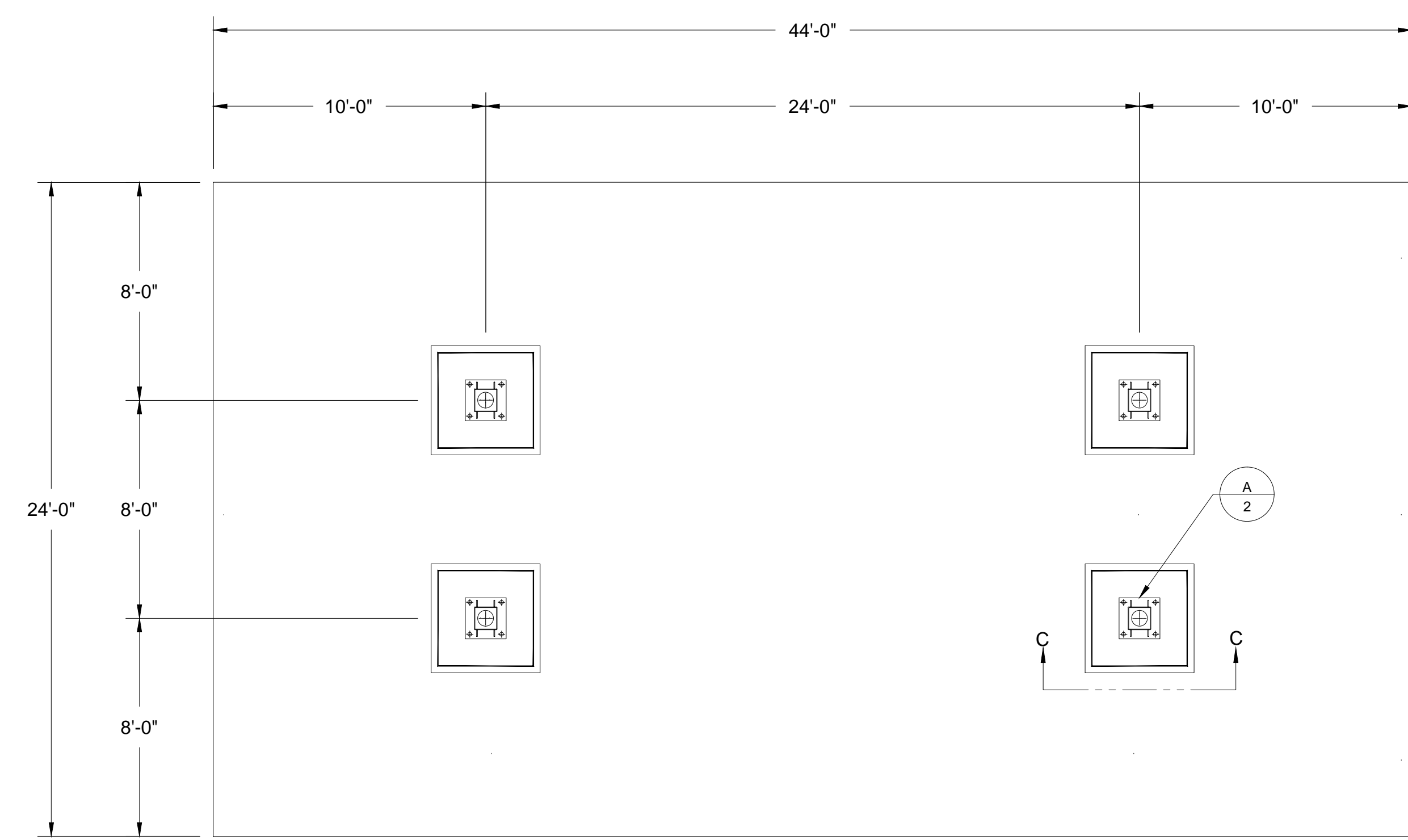
24'-0" X 44'-0" X 4 COLUMN CANOPY

CUSTOMER:  
 WILDCO

LOCATION: CAMBRIDGE, MA

SCALE: N.T.S. DRAWN BY: AJM

DATE: 11.11.19 SHEET: 1 OF 3



AUSTIN MOHAWK & CO., LLC.  
 2175 BEECHGROVE PLACE  
 UTICA, NY 13501  
 PHONE: 315.793.3000  
 TOLL FREE: 1.800.765.3110  
 FAX: 315.793.9370  
 WEBSITE: www.austinmohawk.com  
 E-MAIL: info@austinmohawk.com

**PRELIMINARY DRAWING  
 NOT FOR CONSTRUCTION**

**JOB # -**

QUOTE # Q0190803	DRAWING # 19-056
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24'-0" X 44'-0" X 4 COLUMN CANOPY

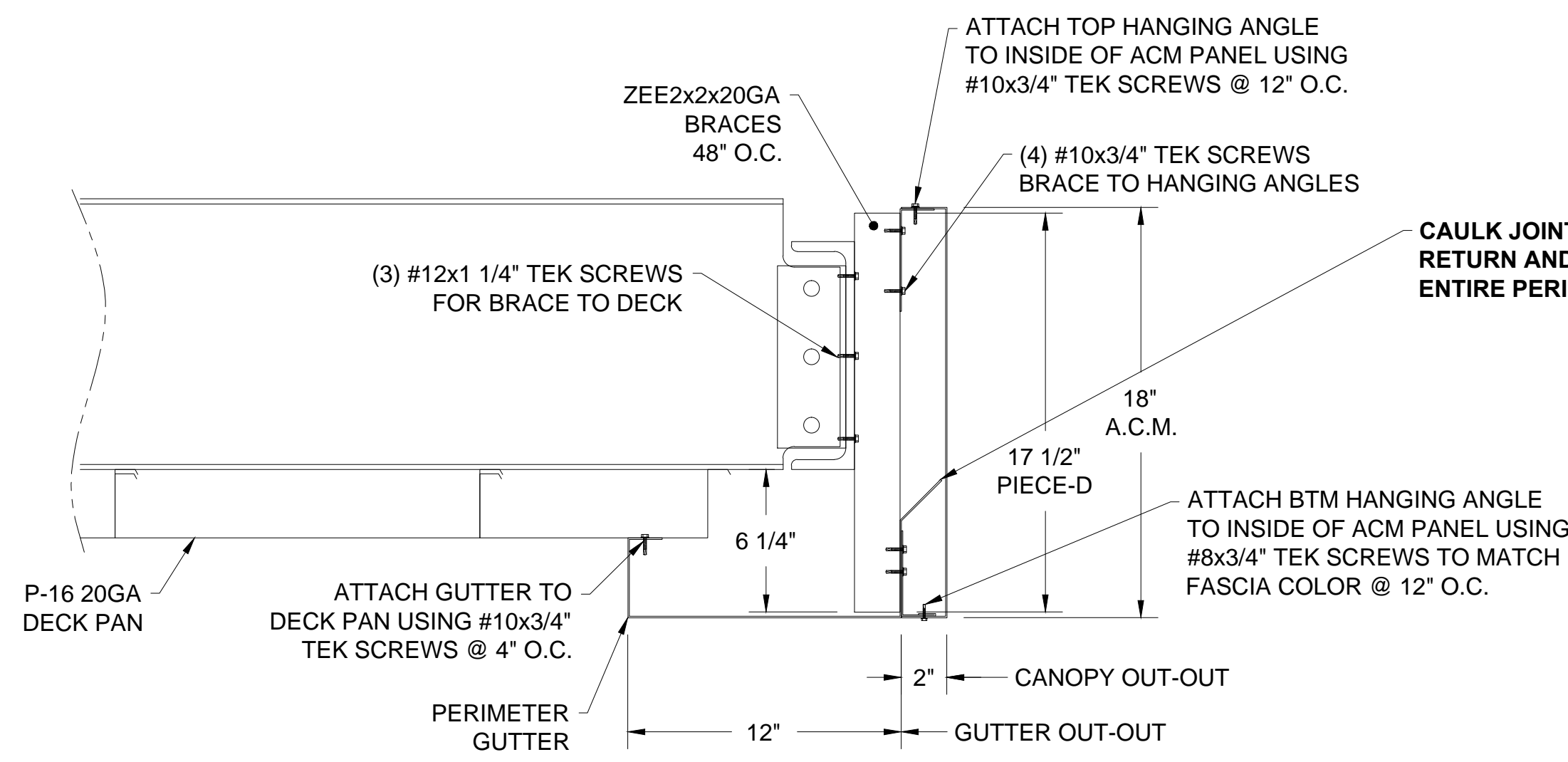
CUSTOMER: **WILD CO**

LOCATION: **CAMBRIDGE, MA**

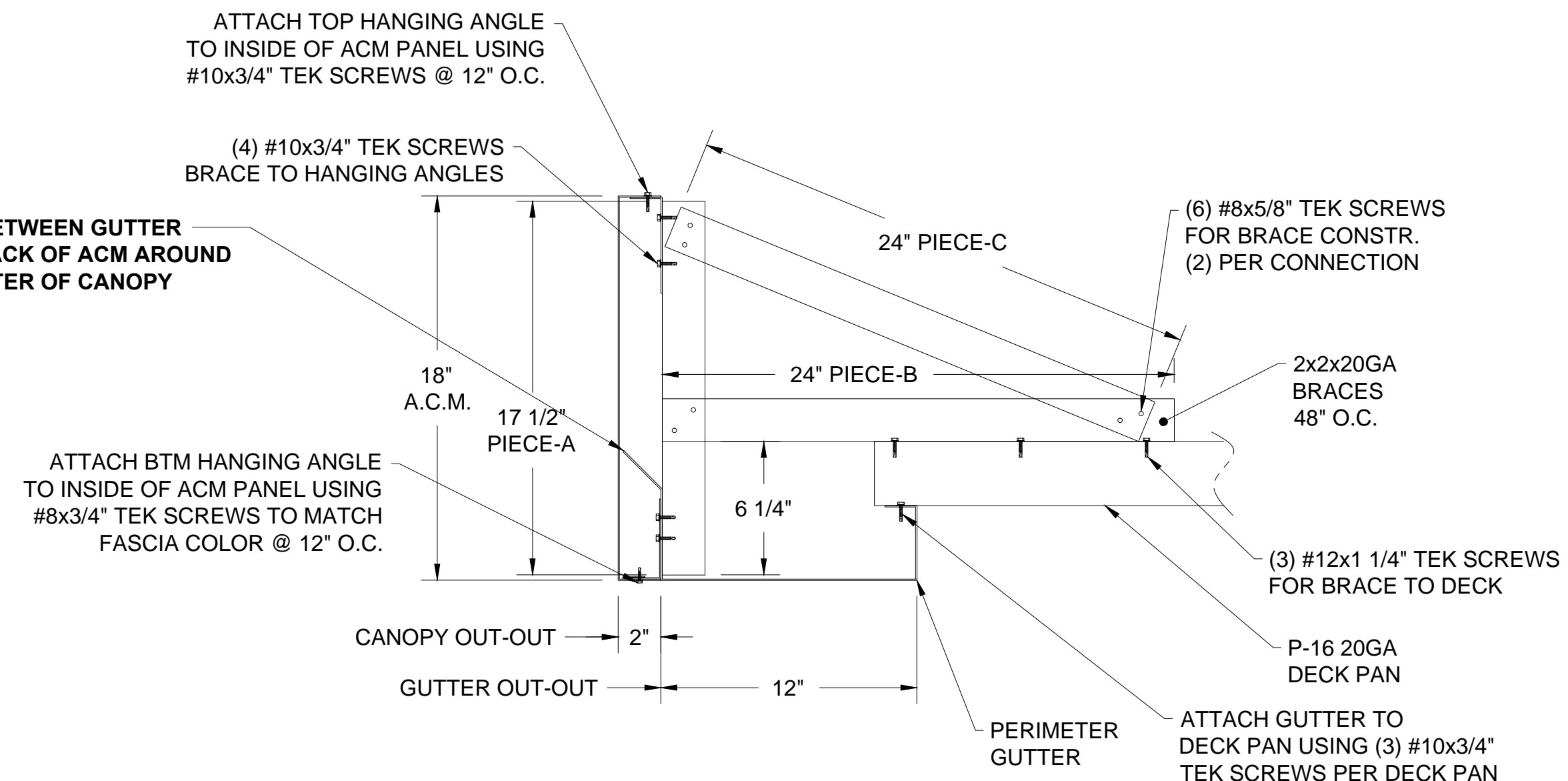
SCALE: <b>N.T.S.</b>	DRAWN BY: <b>AJM</b>
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DATE: <b>11.11.19</b>	SHEET: <b>2 OF 3</b>
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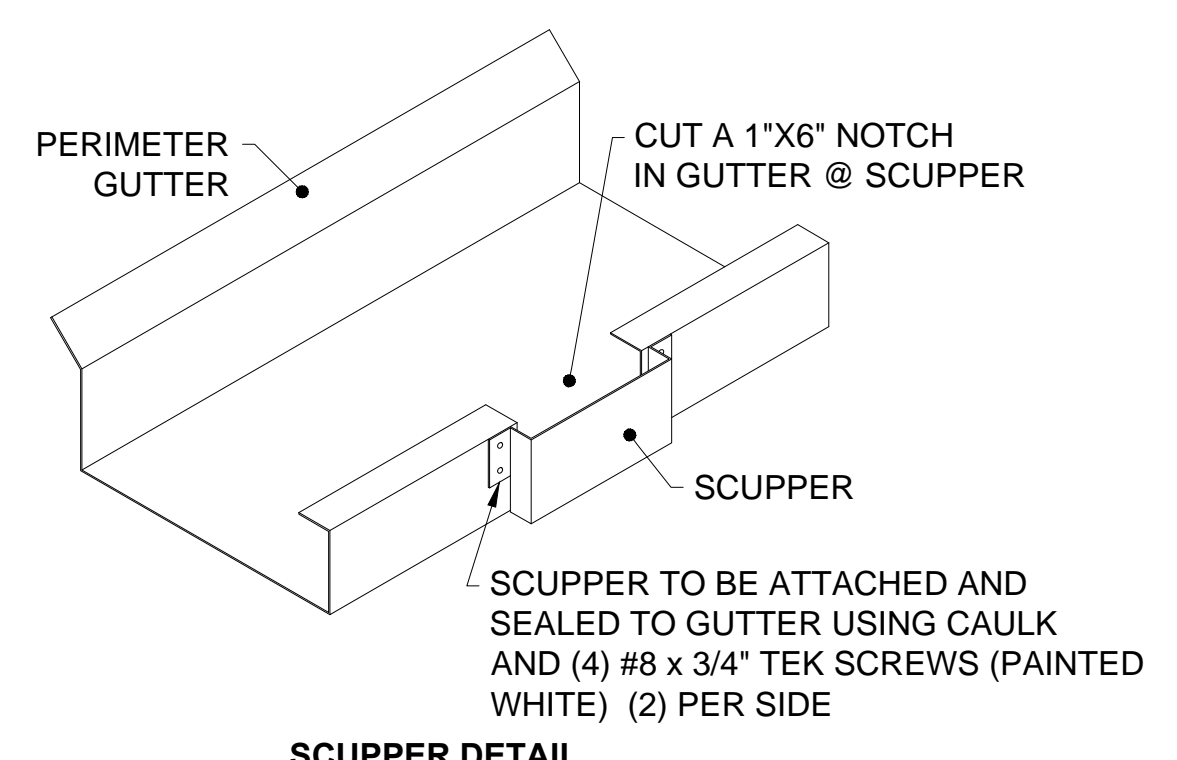
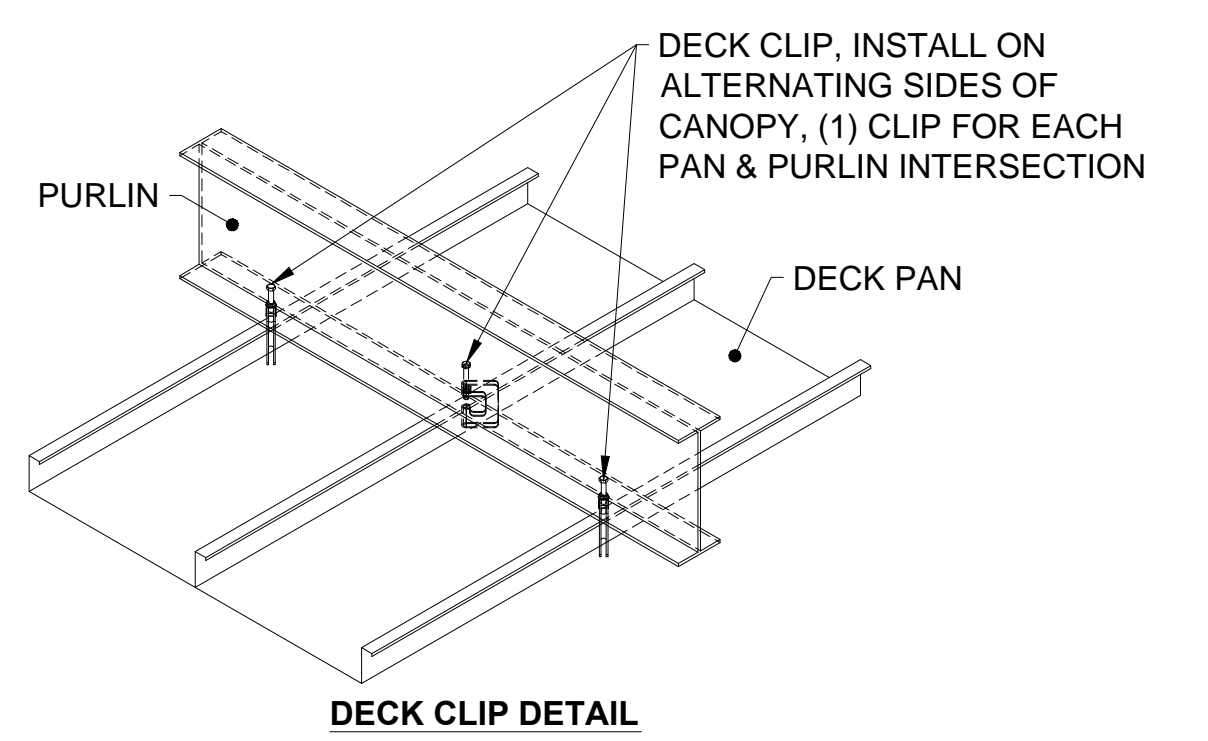
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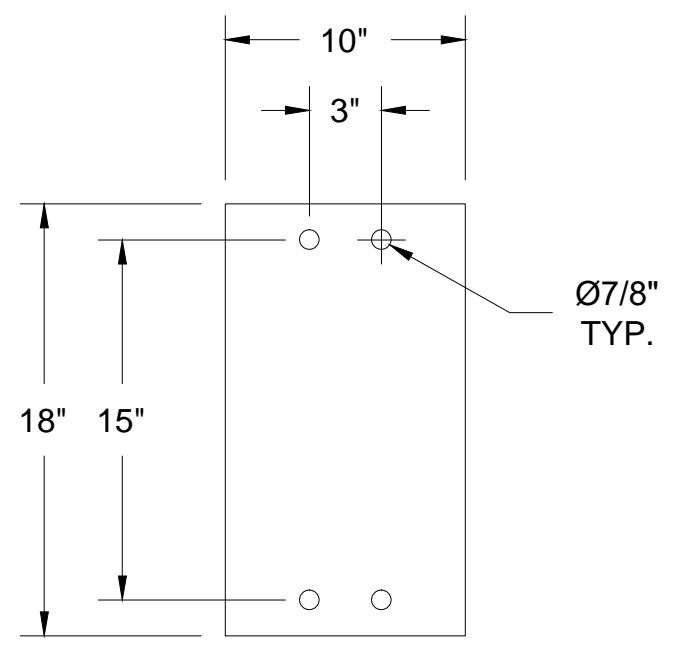
**DETAIL A:  
24'-0" SIDE FASCIA BRACE DETAIL**



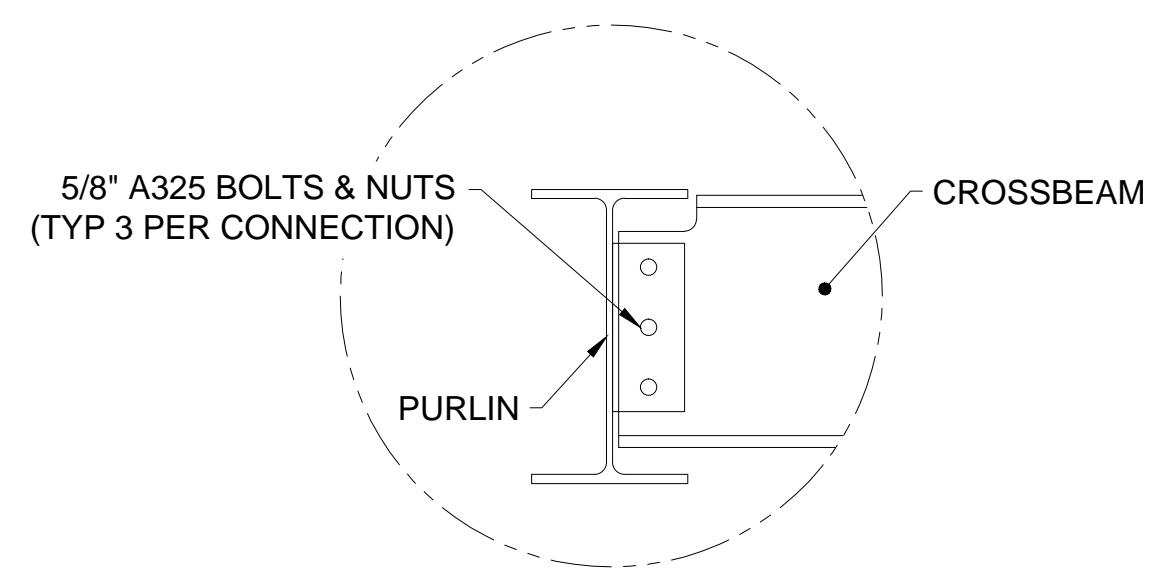
**DETAIL B:  
44'-0" SIDE FASCIA BRACE DETAIL**



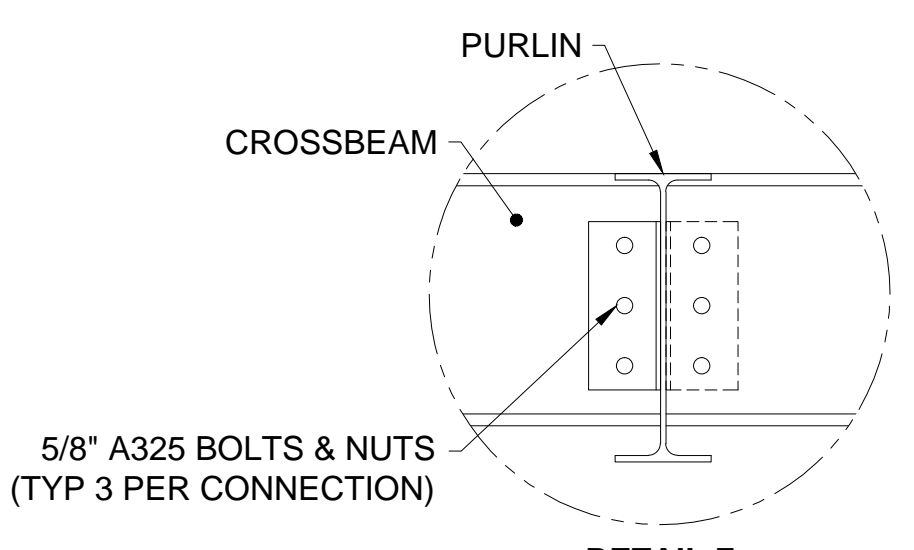
**SCUPPER DETAIL**



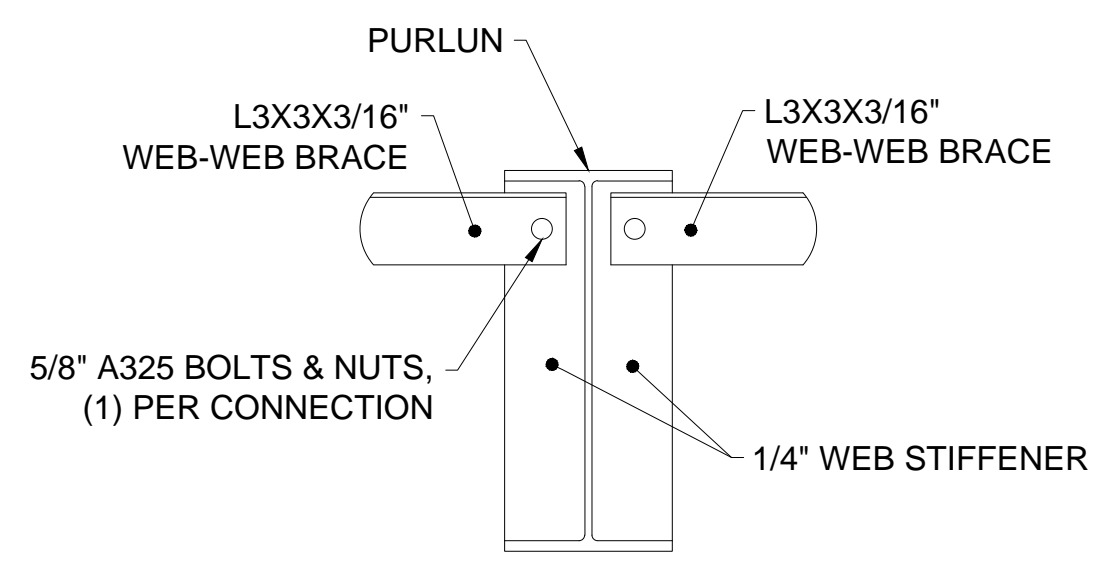
**DETAIL C:  
10 X 18 X 3/4\"/>**



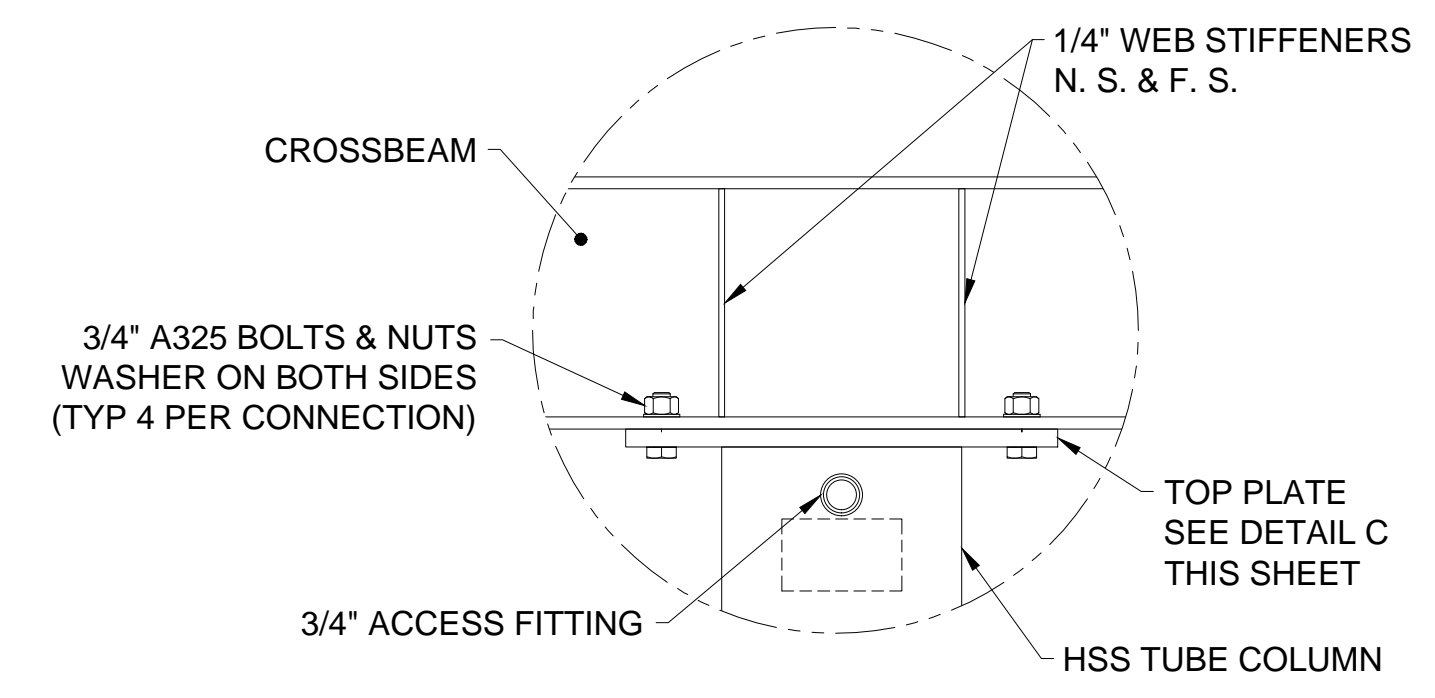
**DETAIL D:  
OUTER PURLIN TO CROSSBEAM  
DETAIL**



**DETAIL F:  
CENTER PURLIN TO CROSSBEAM  
DETAIL**



**WEB-WEB ANGLE BRACE DETAIL**



**DETAIL E:  
CROSSBEAM TO COLUMN DETAIL**



AUSTIN MOHAWK & CO., LLC.  
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**JOB # -**

**QUOTE #  
Q0190803**

**DRAWING #  
19-056**

24'-0" X 44'-0" X 4 COLUMN CANOPY

**CUSTOMER:  
WILDCO**

**LOCATION: CAMBRIDGE, MA**

**SCALE: N.T.S. DRAWN BY: AJM**

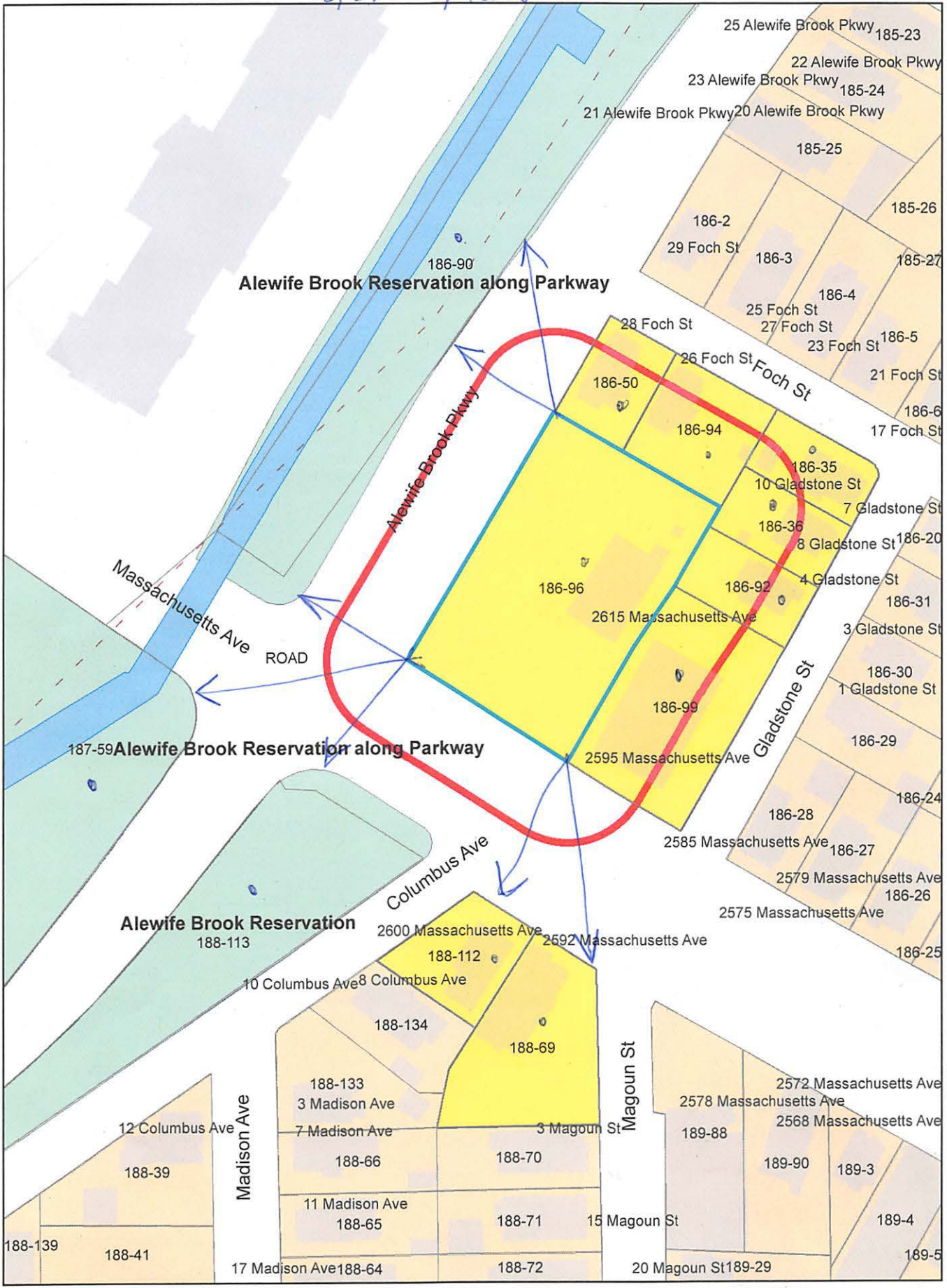
**DATE: 11.11.19 SHEET: 3 OF 3**

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2615 Mars Ave



2615 Mass Ave



2615 Mass Ave

Petitioner

186-99  
NAPAKUN, SUVITYA & APILAJ NAPAKUN  
12 DEER RUN RD.  
LINCOLN, MA 01773

186-99  
CASCAP REALTY, INC.  
231 SOMERVILLE AVE  
SOMERVILLE, MA 02143

REGNANTE STERIO LLP  
C/O JESSE SCHOMER  
401 EDGEWATER PLACE - SUITE 630  
WAKEFIELD, MA 01880

186-99  
MADDALONI, MARIA E.  
2595 MASS AVE. UNIT#18  
CAMBRIDGE, MA 02140

186-36  
CALLANAN, CHARLES & SUSAN CALLANAN  
8 GLADSTONE ST  
CAMBRIDGE, MA 02140

186-90 /187-59/188-113  
MASSACHUSETTS COMMONWEALTH OF  
STATE HOUSE  
BOSTON, MA 02133

186-99  
CADOTTE, RICHARD E.  
2591-2597 MASS. AVE., #1  
CAMBRIDGE, MA 02140

186-99  
RICE, ZACHARY L. & TERESA M. PILLARS  
2595 MASSACHUSETTS AVE., #3  
CAMBRIDGE, MA 02140

186-99  
DE PAULO, VALDETE & DALBAS DUCLOS  
2591-2597 MASS. AVE.  
CAMBRIDGE, MA 02140

186-99  
CAMBRIDGE AFFORDABLE HOUSING  
CORPORATION  
675 MASS. AVE., 2ND FLR  
CAMBRIDGE, MA 02139-3306

186-92  
LEVY, SARA B.  
4 GLADSTONE ST  
CAMBRIDGE, MA 02140

186-94  
MAHONEY, KELLYANNE  
26 FOCH ST  
CAMBRIDGE, MA 02139

186-96  
FIORENTINO, FRANK F. CPA TRUSTEE,  
THE MOBIL NOM TRUST  
607 NORTH AVE., SUITE 16  
WAKEFIELD, MA 01880

186-99  
BUCHNESS, PAUL  
PO BOX 522  
WEST SIMSBURY, CT 06092

186-99  
BUCKLEY, PATRICIA A.  
2595 MASS AVE. UNIT#12  
CAMBRIDGE, MA 02140-1636

188-69  
HARRIS, GREGORY A  
2592 MASSACHUSETTS AVE #2  
CAMBRIDGE, MA 02140

188-69  
JOSHI, HANSA PINAKIN, TRUSTEE THE  
MASSACHUSETTS AVE 2015 REALTY TRUST  
2592 MASSACHUSETTS AVE., #3  
CAMBRIDGE, MA 02140

188-112  
TSALAH, MOSHE  
2594 MASS AVE  
CAMBRIDGE, MA 02139

186-35  
MILI, OLGA, A LIFE ESTATE  
10 GLADSTONE ST  
CAMBRIDGE, MA 02140-1005

186-99  
FRIMLEY PROPERTIES, LLC  
73 WOODLAND ROAD  
LONGMEADOW, MA 01106

186-99  
CARROLL, THOMAS J & SHEILA M. KENNEDY  
132 ROBINS RD  
ARLINGTON, MA 02476

186-99  
ROULEAU, DENIS  
2595 MASS AVE - UNIT 13  
CAMBRIDGE, MA 02140-1636

186-99  
JAIN SACHIN H, TRS THE SACHIN H JAIN  
NOMINEE REALTY, TR  
2595 MASSACHUSETTS AVE UNIT 10  
CAMBRIDGE, MA 02140

186-99  
GARIMELLA, PARAMESWAR P. & NIRMALA V.  
TRTEES OF GARIMELLA FAMILY 2017 REVOC  
INTER VIVOS TRT  
11 BROOKFORD ST  
CAMBRIDGE, MA 02140

186-99  
ZHAO, LING  
80 HAWTHORN RD  
BRAintree, MA 02184

186-50  
BENZAN, JAVIER  
28 FOCH ST., UNIT #1  
CAMBRIDGE, MA 02140

188-69  
JOSHI, JAMIE  
2592 MASSACHUSETTS AVE UNIT 1  
CAMBRIDGE, MA 02140

186-99  
MILEWSKI, STEVEN C., TRUSTEE THE 2595  
MASSACHUSETTS AVE UNIT 11 REALTY TR  
35 ELM PLACE  
WHITMAN, MA 02382

186-99  
MIDDLETON, AMY B.  
TR. OF THE AMENDED ABM TRUST  
14428 ROYAL ST  
GEORGE ATHENS, AL 35613

186-50  
BENZAN, JAVIER L.  
28 FOCH ST UNIT 1  
CAMBRIDGE, MA 02140



## Description of Relief Requested

The property that is the subject of this application is located at 2615 Massachusetts Avenue, at the corner of Massachusetts Avenue and Alewife Brook Parkway, in the Residence B zoning district. It is currently developed with a pre-existing nonconforming gas and service station, which has existed at the site for at least 60 years and is proposed to remain in its current form without any change to the use or building.

The applicant requests a finding pursuant to Section 6 of Chapter 40A of the Massachusetts General Laws authorizing the construction of two accessory canopy structures over the existing fuel pump islands on the basis of a finding that such construction would not constitute a change, extension, or alteration of the pre-existing, nonconforming use. In the alternative, if the Board determines that such construction would constitute a change, extension, or alteration of the pre-existing, nonconforming use, the applicant requests a finding that the proposed canopies would be not substantially more detrimental to the neighborhood than the existing condition of the site in accordance with M.G.L. c. 40A, § 6 and/or Sections 8.22 and/or 8.22.3 of the Cambridge Zoning Ordinance.

As shown on the attached plans and section views, the proposed canopies have been designed to comply with all dimensional requirements of Section 4.21 of the Cambridge Zoning Ordinance, namely: the canopies "shall not exceed fifteen (15) feet in height above the ground level" and "shall not be located nearer than ten (10) feet to the principal building or nearer than five (5) feet to any side or rear lot line or nearer to the front lot line than the minimum setback in the zoning district." The proposed canopies have been designed with as minimal a footprint as possible, so as to respect all applicable height and setback requirements. The canopies are open on all four sides and are supported only by four 7"-diameter columns, so it will not obstruct views through the site. With respect to height, it should be noted that the 15' height of the proposed canopies is significantly shorter than is customary for such installations, but the applicant has proposed this lesser height as an accommodation to neighbors. Additionally, the canopies have been designed with a slimline cover with a height of only 18", which further reduces the appearance of mass. No signage is proposed to be mounted to the canopies.

The purpose of the proposed canopies is to provide shielding from weather for motorists fueling their vehicles, and weather protection to the fuel pumps themselves, which today feature modern computerized equipment, for which protection from weather is absolutely necessary. The proposed canopies will also provide greater fire protection and added shielding for nearby residential properties from light pollution, which currently emanates from the site via unshielded lighting fixtures mounted to the existing fuel pump islands. In contrast to these existing unshielded "up lights", the proposed canopy lights would light downward from above, resulting in greater protection of residential neighbors.

In the case of *Powers v. Bldg. Inspector of Barnstable*, 363 Mass. 648, 653 (1973), the SJC articulated a three-pronged test for determining whether a proposed development relating to a pre-existing, nonconforming use would rise to the level of a change, extension, or alteration of such use:

- (1) Whether the use reflects the nature and purpose of the use prevailing when the zoning by-law took effect.
- (2) Whether there is a difference in the quality or character, as well as the degree, of use.
- (3) Whether the current use is 'different in kind in its effect on the neighborhood.'

Here, the proposed construction of two accessory canopy structures complying with all dimensional requirements of the Zoning Ordinance satisfies all three of these tests.

First, the proposed canopies would have no effect whatsoever on the nature and purpose of the use of the site, which would remain entirely unchanged. The site, including all existing buildings and structures would continue to be used for their present purpose. The proposed canopies would merely modernize the site, which currently lacks any form of weather protection for customers and electronic equipment, nor any shielding of the existing commercial lighting.

Second, the proposed canopies would not cause any difference in the quality, character, or degree of the existing use. As noted, the use of the site would remain completely unchanged.

Third, the use of the site with the proposed canopies would not be in any way different in kind in its effect on the neighborhood as compared to the existing use, which, as noted, would be completely unchanged. Indeed, the proposal would have an ameliorative effect on the neighborhood insofar as it meets all dimensional requirements and results in improved lighting conditions.

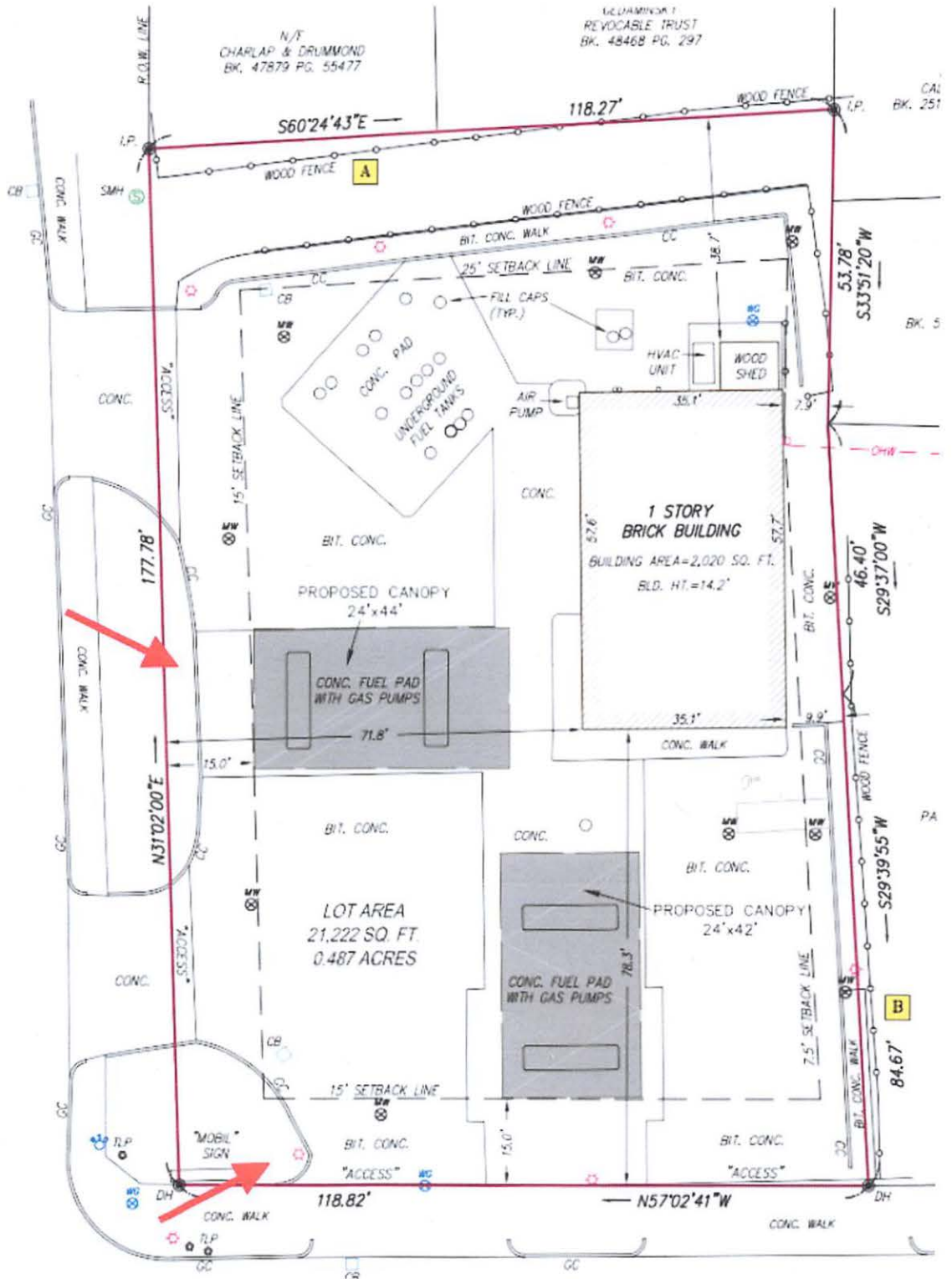
It is well-settled law that modifications to pre-existing, nonconforming uses intended to ensure that such use is "improved and made more efficient," are permitted as of right as long as the modifications are "ordinarily and reasonably adapted to the original use and do not constitute a change in the original nature and purpose of the undertaking." *Derby Ref. Co. v. City of Chelsea*, 407 Mass. 703, 714 (1990). In that case, the court held not only that the conversion of a gasoline storage facility to an asphalt storage facility did not constitute a change of use, but also that site upgrades (enabling the asphalt to be heated) were also permissible, particularly where, as here, there was evidence that neighborhood impacts would be ameliorated.

Similarly here, the proposed canopies are ordinarily and reasonably adapted to the existing use insofar as they have been minimized in size to accommodate only the existing fuel pumps, and there has been no proposal to expand the use of the site, such as by adding additional fuel pumps. Quite simply, advances in fuel pump technology have resulted in a need to provide weather protection to the sensitive computerized equipment that is now in use. These protections were not needed at the time when the unprotected fuel islands were originally constructed. The proposed canopies also provide ancillary benefits insofar as they protect customers from weather, provide added fire protection, and create better light protection for neighbors.

The proposed canopies – far from being a detriment to the neighborhood – would represent a vast improvement over the existing condition of the site by modernizing its appearance and providing additional screening of visual impacts for adjacent residential properties, while also improving safety conditions.

The applicant therefore requests a finding from the Board that the construction of the proposed accessory canopies would not constitute a change, extension, or alteration of the pre-existing, nonconforming gas station use, and on that basis authorizing the issuance of building permits for such work without need for further zoning relief. In the alternative, if the Board determines that such construction would constitute a change, extension, or alteration, the applicant requests a special permit and/or variance under Sections 8.22 and/or 8.22.3 of the Cambridge Zoning Ordinance on the basis that such construction would be not substantially more detrimental to the neighborhood than the existing condition of the site.

**ALEWIFE BROOK PARKWAY (RTE 16)**  
 (PUBLIC - VARIABLE WIDTH)  
 PAVEMENT WIDTH=VARIABLE



2615

**MASSACHUSETTS AVENUE** (PUBLIC - VARIABLE WIDTH)  
 PAVEMENT WIDTH=VARIABLE

BZA-103314



# City of Cambridge

MASSACHUSETTS

BOARD OF ZONING APPEAL

831 Mass Avenue, Cambridge, MA.  
(617) 349-6100

2 Bds

BZA

## POSTING NOTICE – PICK UP SHEET

The undersigned picked up the notice board for the Board of Zoning Appeals Hearing.

Name: Joson Santos Date: 2/8/2021  
(Print)

Address: 2615 Mass Ave

Case No. BZA-103314

Hearing Date: 2/25/21

Thank you,  
Bza Members