



CITY OF CAMBRIDGE

BOARD OF ZONING APPEAL

831 Massachusetts Avenue, Cambridge MA 02139

617-349-6100

2021 DEC 15 AM 11:34
OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

BZA Application Form

BZA Number: 155114

General Information

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

Special Permit: X Variance: Appeal:

PETITIONER: Daniel P Anderson C/O Anderson Porter Design

PETITIONER'S ADDRESS: 1972 Massachusetts Avenue, Cambridge, MA 02140

LOCATION OF PROPERTY: 33 Webster Ave., Cambridge, MA

TYPE OF OCCUPANCY: residential single family **ZONING DISTRICT:** Residence C-1 Zone

REASON FOR PETITION:

/Additions/

DESCRIPTION OF PETITIONER'S PROPOSAL:

To increase the height of the building which will violate setback requirements.

SECTIONS OF ZONING ORDINANCE CITED:

Article: 5.000 Section: 5.31 (Table of Dimensional Requirements).
Article: 8.000 Section: 8.22.2.C (Non-Conforming Structure).
Article: 10.000 Section: 10.40 (Special Permit)

Original
Signature(s):

(Petitioner (s) / Owner)

DANIEL ANDERSON

(Print Name)

Address:

APP 1972 MASS AVE CAMB 4R

Tel. No.

617 794 2371

E-Mail Address:

dan@andersonporter.com

Date: _____

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 Parviz Parvizi
(OWNER)

Address: 33-35 Webster Ave., Cambridge, MA 02141

State that I/We own the property located at 33-35 Webster Ave (Cambridge, MA) which is the subject of this zoning application.

The record title of this property is in the name of Parviz Parvizi

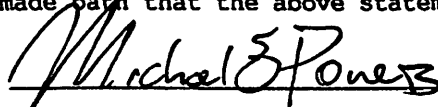
*Pursuant to a deed of duly recorded in the date _____, Middlesex South County Registry of Deeds at Book _____, Page _____; or Middlesex Registry District of Land Court, Certificate No. 276648
Book 1575 Page 61.


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 Parviz Parvizi personally appeared before me, this 17th of Nov, 2021, and made oath that the above statement is true.

 Notary

My commission expires 5/26/28 (Notary Seal).



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

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 33 Webster 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 project at 33 Webster proposes a top floor addition within a non-conforming side yard setback. The proposed work represents an increase in surface area of 0.7 percent. This work respects the district FAR and height limits, and minimally impacts an existing non-conforming yard condition. The proposed project significantly improves the overall quality and longevity of the structure and remains a single-family dwelling.

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 increase in traffic is proposed. The project proposes access and egress with a new curb cut, driveway, and off-street parking. These changes will improve the current conditions and not cause congestion hazard, or detriment to the neighborhood character by adding off street parking where there is none currently.

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:

No change in the existing permitted residential use. The proposed project is consistent in use with the surrounding neighborhood and adjacent residential uses.

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:

No change in the existing permitted residential use will occur. The project will not create any nuisance or hazard to the detriment of health, safety or welfare of its occupants or citizens.

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 project will not impair the integrity of the district or otherwise derogate from the intent or purpose of this ordinance as it improves the overall

condition of the property, improves the access and parking, and is complementary to the character of the neighborhood.

***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: Daniel P Anderson
Location: 33 Webster Ave., Cambridge, MA
Phone: 617 794 2371

Present Use/Occupancy: residential single family
Zone: Residence C-1 Zone
Requested Use/Occupancy: residential single family

		<u>Existing Conditions</u>	<u>Requested Conditions</u>	<u>Ordinance Requirements</u>	
<u>TOTAL GROSS FLOOR AREA:</u>		3179.55	3991.58	4017.75	(max.)
<u>LOT AREA:</u>		5375	5375	5000	(min.)
<u>RATIO OF GROSS FLOOR AREA TO LOT AREA: ²</u>		0.59	0.74	0.75	
<u>LOT AREA OF EACH DWELLING UNIT</u>		2687.5	1785.7	1500	
<u>SIZE OF LOT:</u>	WIDTH	50	50	50	
	DEPTH	107.13	107.13	100	
<u>SETBACKS IN FEET:</u>	FRONT	4.1	4.1	10	
	REAR	51.9	21.8	21.8	
	LEFT SIDE	3.4	3.4	7.5	
	RIGHT SIDE	1.6	1.6	7.5	
<u>SIZE OF BUILDING:</u>	HEIGHT	31.3	35	35	
	WIDTH	52.71	41.42	41.42	
<u>RATIO OF USABLE OPEN SPACE TO LOT AREA:</u>		64%	34%	30%	
<u>NO. OF DWELLING UNITS:</u>		2	3	3.57	
<u>NO. OF PARKING SPACES:</u>		0	3	3	
<u>NO. OF LOADING AREAS:</u>		0	0	0	
<u>DISTANCE TO NEAREST BLDG. ON SAME LOT</u>		3	11.9	10	

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.:

two single family dwellings, wood frame construction

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'.

Pacheco, Maria

From: Manny P <mannyp10021962@gmail.com>
Sent: Wednesday, January 26, 2022 9:52 PM
To: Pacheco, Maria
Subject: Webster Ave. Case #155114,155115 and 155116

Dear BZA members,

My name is Manuel Pacheco,

My family and I own 49 Webster Ave. and I grew up in the neighborhood. While it is expected to see changes and developments throughout the years, the changes that are proposed for 33 and 35 Webster Ave. are not acceptable. Increasing the height of the exterior walls on both existing buildings within the required setbacks will cast shadows on the other abutting properties and the sidewalk, allowing more openings and the non-conforming setback will reduce the privacy in the next-door properties.

I used to play in this neighborhood as a kid. I love the small cottage at 35 Webster, this proposal seems to double it in size and it will not look anything like what is now. I cannot believe the historical commission is allowing this to happen.

The zoning ordinance in part is in place to prevent overcrowding and to allow separation between buildings and not block sunlight. Please do not approve the request for the special permit.

Sincerely,

Manuel Pacheco
49 Webster Avenue
Cambridge, MA02141

Pacheco, Maria

From: Graham McMahon <grahammcmahon@hotmail.com>
Sent: Sunday, April 10, 2022 4:54 PM
To: Pacheco, Maria; Singanayagam, Ranjit; Ratay, Olivia
Cc: josephguarinojr@me.com
Subject: BZA-155114 -155115 & -155116
Attachments: Board of Zoning Appeal from 5 Lilac Ct-01272022.pdf

Hello Maria, Olivia and Ranjit,

We had submitted comments previously (attached pdf document) about this application to create a large new structure at 33-35 Webster abutting our back yard as outlined in the BZA-155114, BZA-155115 and BZA-155116. Mr. Parvizi had promised (in an email on Feb 22, appended below) to keep us apprised of his plan to substantially revise the design in response to our many concerns. Unfortunately, neither Mr. Parvizi nor his architect, Dan, have responded to several emails so have kept us out of the loop. There are no documents posted on the zoning board's website for our review. Joe and I remain very concerned about this development (as do many neighbors), with specific concerns related to:

- The planned windows look directly into our rear windows and yard
- The shadow from this tall new structure substantially reduces light into our yard and space
- The anticipated effects of this construction plan on the health of the large tree
- The change in character of the space and its effect on our neighborhood
- The proximity of the building to the property line
- The requests for special exemptions that do not appear to be appropriate or warranted

As the meeting minutes from Jan 27 will reflect, the board had encouraged/instructed the applicant to work with the neighbors on a new plan and require an independent arborist to evaluate the plan for protecting the tree. Mr. Parvizi appears to be ignoring these reasonable requests for additional information and may even be trying to rush through this new application and avoid the public scrutiny the plan deserves and needs.

If there are additional documents that have been shared, please share them with me and us so we can review with enough time before Thursday's meeting.

I and we look forward to being heard at the upcoming continuance meeting and hope the secretary and the committee will not ignore these concerns.

Graham McMahon
Joseph Guarino Jr
Owners at 5 Lilac Ct., Cambridge.

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From: Parviz Parvizi
Sent: Tuesday, February 22, 2022 4:00 PM
To: Graham McMahon <grahammcmahon@hotmail.com>
Subject: Re: 33-35 Webster Ave follow-up

Hi Graham, nice to hear from you and hope you enjoyed the long weekend. Dan (architect) is re-thinking our plans based on the town meeting. We'd be happy to share our updated thinking when it's ready. Has anything come to mind for you and Joe beyond what you shared at the meeting?

Best,
Parviz

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Parviz Parvizi
+1 617.595.8116
pparvizi@gmail.com

Board of Zoning Appeal
831 Mass Avenue, Cambridge, MA

Dear Secretary and Zoning Board Members,

Case Numbers: BZA-155114, BZA-155115 & BZA-155116

My husband and I have owned 5 Lilac Ct since 2005, a residence directly abutting the proposed new building set at 35 Webster Ave. We oppose Mr. Parvizi's request for special permits and allowing him his requested variances from established precedents in the city and neighborhood we love.

	Request	Reason for Opposition
BZA-155114	Special Permit: To increase the height of building which further violates setbacks and addition of new openings in non-conforming wall setback.	<ul style="list-style-type: none">• Setbacks are set in land law to prevent owners from crowding their neighbors and neighborhoods, ensure views, light and ventilation are sufficient and shared among neighbors. There is no justification for it and it would be unfair to preferentially award a setback exception to this applicant at the expense of a neighbor/abutter, including us and our neighbors.• Approving such a permit would allow construction of a non-conforming property that is out of character with the neighborhood.• An approval would set a new precedent for future construction in Cambridge.• The height of the building will interfere with light on the pathway and road and interfere with the reasonable fair use and enjoyment of the abutters' properties including ours.• There does not appear to be adequate justification to waive expectations that the applicant conforms with existing standards and precedents that guide the consistency, look and feel of the neighborhood.
BZA-155115	Special Permit: To increase the height of building which further violates setbacks and addition of new openings in non-conforming wall setback.	<ul style="list-style-type: none">• Setbacks are set in land law to prevent owners from crowding their neighbors and neighborhoods, ensure views, light and ventilation are sufficient and shared among neighbors. There is no justification for it, and it would be unfair to preferentially award a setback exception to this applicant at the expense of a neighbor/abutter, including us and our neighbors.• Approving such a permit would allow construction of a non-conforming property that is out of character with the neighborhood.• An approval would set a new precedent for future construction.• The height of the building will interfere with light on the pathway and road and interfere with the reasonable fair use and enjoyment of the abutters' properties including ours.

**BZA-
155116**

Variance: To construct a new single-family structure with areaway and guardrail construct within the side yard setback.

- There does not appear to be adequate justification to waive expectations that the applicant conforms with existing standards and precedents that guide the consistency, look and feel of the neighborhood.
- Setbacks are set in land law to prevent owners from crowding their neighbors and neighborhoods, ensure views, light and ventilation are sufficient and shared among neighbors. There is no justification for it, and it would be unfair to preferentially award a setback exception to this applicant at the expense of a neighbor/abutter, including us and our neighbors.
- Approving such a variance would allow construction of a non-confirming property that is out of character with the neighborhood.
- The proximity to the fence lines of the abutters coupled with the height of the structure will unfairly restrict and reduce sunlight into the adjoining homes.
- An approval would set a new precedent for future construction.
- The height of the building will interfere with light on the pathway and road and interfere with the reasonable fair use and enjoyment of the abutters' properties including ours.
- The proposed windows will introduce a new view into the adjoining properties where those occupants have enjoyed comparative privacy and create new costs.
- The construction introduces meaningful risk to the large and rare American Elm tree that brings character to several of the abutting houses, including ours. If the tree and its roots are damaged by the construction and its survival is impeded by the necessary reduction in its root distribution, then the loss of the tree would be a preventable travesty to the community. There is reasonable justification for fear that the construction would have this predictable effect. The tree protection plan submitted by the applicant extends only one year, and the zoning board will have no capacity to hold the applicant accountable if he defaults on the submitted plan. A tree that does not survive this applicant's construction with its known and predictable risks to the roots and health of the tree could fall onto one of the local structures causing risk to persons and property if the application for an exception and variance is approved. What is more, any damage to the tree caused by the applicant's destruction might not be detectable for years.
- There does not appear to be adequate justification to waive expectations that the applicant conforms with existing standards and precedents that guide the consistency, look and feel of the neighborhood.

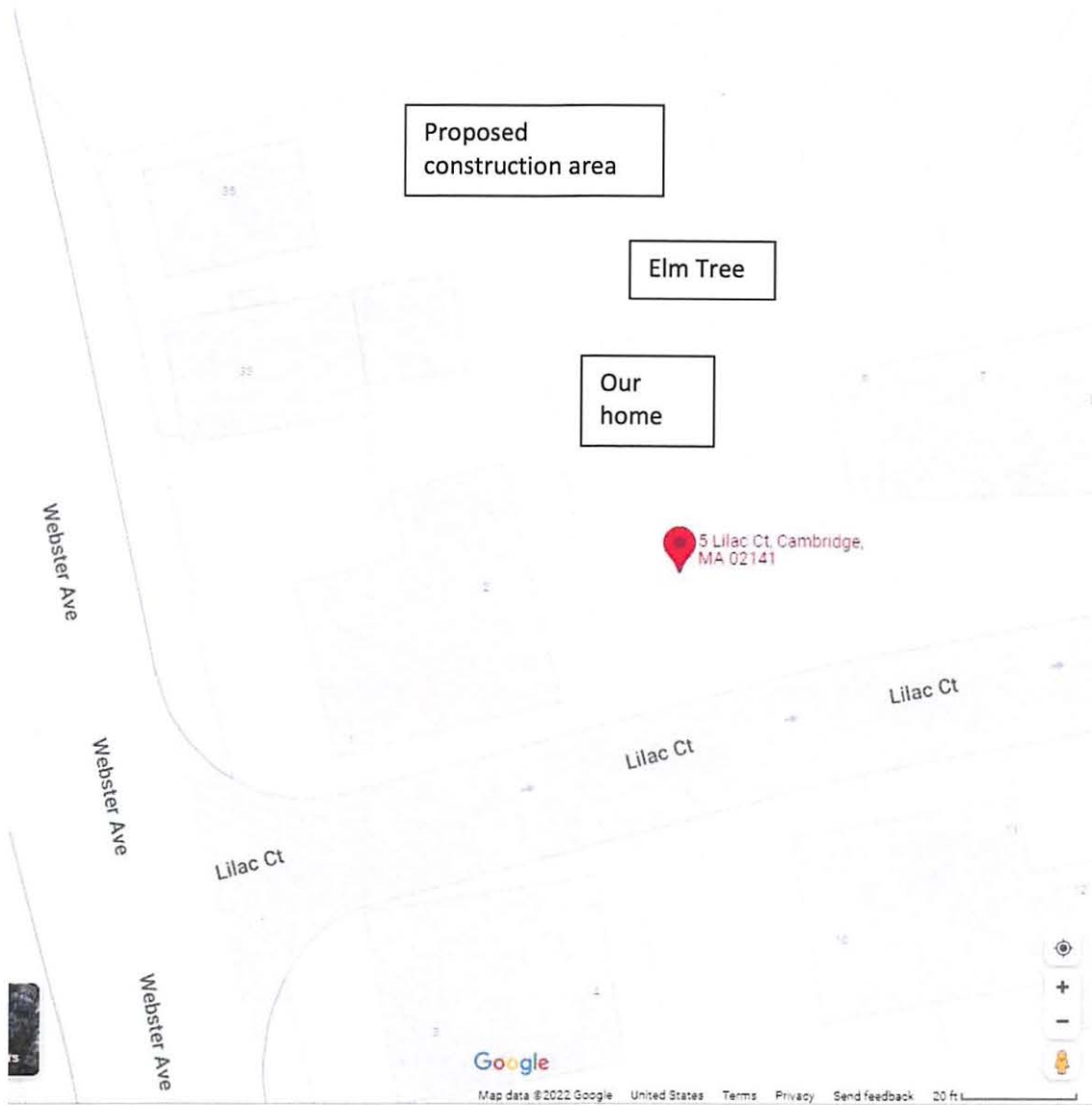
We look forward to sharing these perspectives and concerns on the zoom call on Thursday, January 27.

With best wishes,

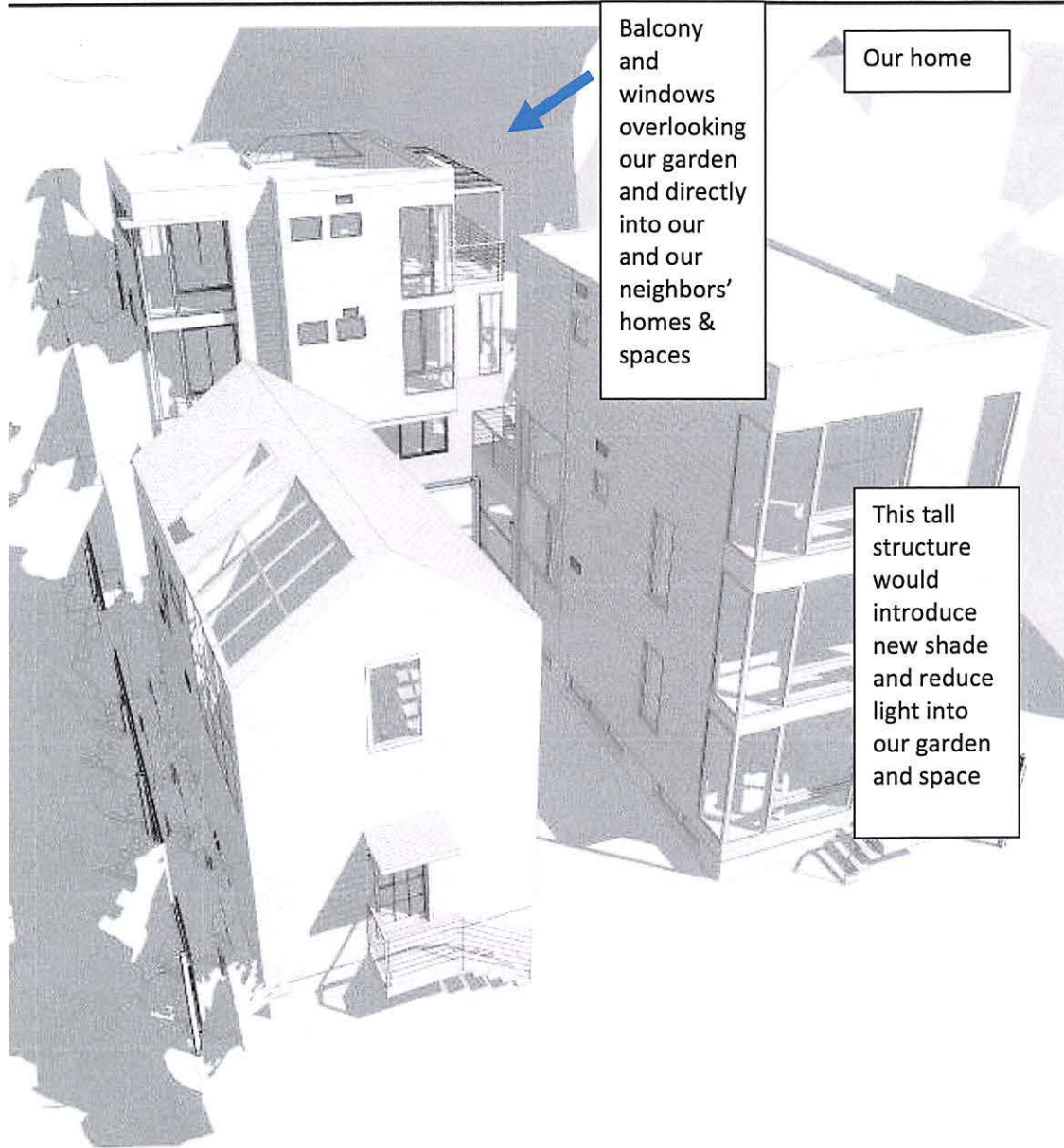
Graham McMahon

Joe Guarino

Map showing location of the proposed construction relative to 5 Lilac Court



Elevation view showing the impact of these large properties on the look and feel of the neighborhood, the view directly into our garden and house, and the impact on fair access to sunlight



Balcony and windows overlooking our garden and directly into our and our neighbors' homes & spaces

Our home

This tall structure would introduce new shade and reduce light into our garden and space

Before and After view of impact of shade at one time point showing effect on sunlight into the gardens, to the tree and to the abutting properties

AFTERNOON (5 PM)

AFTERNOON (5 PM)



Pacheco, Maria

From: Yuliang Sun <yuliangleonsun@gmail.com>
Sent: Monday, April 11, 2022 8:47 PM
To: Pacheco, Maria; Singanayagam, Ranjit; Ratay, Olivia
Cc: Zi Wang
Subject: Concerns on BZA-155114 -155115 & -155116
Attachments: Comments and concerns on 33-35 Webster Ave development.pdf

Dear Board of Zoning Appeal and Cambridge city officials,

We are the owners of 6 Lilac Court, abutting 33-35 Webster Ave. We had previously submitted our comments (PDF attached) based on presented architectural plans at the BZA hearing on January 27th (BZA-155114 -155115 & -155116). In the hearing, the board had recommended Mr. Parvizi and his architect to change his design based on potential impact on surrounding properties in terms of crowding, lighting, privacy concerns, and potential direct harm to surrounding properties secondary to the construction's impact on the elm tree.

On this point, board member Mr. Constantine Alexander had recommended to have "another arborist be brought in to look at the issues of the trees and the like. That arborist should be mutually satisfactory to a neighborhood representative, and of course the petitioner, and get another view." (page 98, 1-27-22 minutes)

Despite this recommendation, since the hearing, we have not received any communication from Mr. Parvizi, nor from his architect, Daniel Anderson (Anderson Porter Design) ahead of this Thursday's BZA hearing with regards to our reasonable concerns.

We appreciate your time in hearing our concerns and look forward to sharing them at the hearing.

Best Regards,

Yuliang Leon Sun
Zi Wang

6 Lilac Court

Dear Board of Zoning Appeal and Cambridge city officials,

My name is Zi Wang, owner of 6 Lilac Ct and an 8-year resident of Cambridge, together with my husband, Yuliang Leon Sun. We are writing to provide comments and raise concerns/objections to CASE NO. BZA-155115, the construction plan at 33 WEBSTER AVENUE by PARVIZ PARVIZI – C/O DANIEL ANDERSON, ARCHITECT (refer to as "the developer" henceforth).

In the BZA application CASE NO. BZA-155115, we found that the supporting statement is insufficient and inaccurate especially on the required tree study and reasons that "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". Our comments are detailed below.

1. The proposed construction plan will negatively impact two trees: 1) alongside the public walkways on Webster Ave and 2) a big American Elm tree that stands on the border of 5 Lilac Ct and 33-35 Webster Ave. The American Elm tree's main trunk is 3-4 ft. wide in diameter with the canopy reaching at least 40 ft. wide in diameter covering 3 adjacent properties including 5, 6, and 7 Lilac Ct. Below are the reasons for our concerns and the developer's violations to existing city regulations on tree protection for the big American Elm tree.

- When the developer shared his initial construction plan, we consulted Dr. Qiang Sun, a professor of plant biology at the University of Wisconsin-Stevens Point to understand the potential impact of the construction on the big American Elm tree between 5 Lilac Ct and 33-35 Webster Ave. Based on his expert opinion, we learned that given the shallow root system of the elm tree family, the proposed construction including pruning of the root system as well as its canopy will result in the loss of stability. This can consequently result in short- and long-term potentials to **cause property and personal harm** if such a big tree is uprooted and falls during a natural event. We are especially concerned by the proposed root pruning given that it will selectively occur on the property of 33-35 Webster Ave which will result in loss of the tree's ground attachment, potentiating a fall on our property at 6 Lilac Court which is directly opposite to the site of root pruning.
- This proposed plan violates [Cambridge, Massachusetts - Zoning Ordinance ARTICLE 10.000 - APPEALS, VARIANCES, AND SPECIAL PERMITS 10.47.1 \(8\)](#): "Applications for special permits shall be accompanied by three copies of a development plan containing the following graphic and written information: ... (8) **A Tree Study**, certified complete by the City Arborist, as required by the Tree Protection Ordinance of the City of Cambridge, Chapter 8.66."
- We reached out to Councilor Quinton Y. Zondervan who forwarded us a tree protection plan submitted by the developer (33-35 Webster Tree Protection Plan.pdf attached) after requested. However, the plan does not seem to meet the definition of a tree study or a tree protection plan specified in [the Tree Protection Ordinance of the City of Cambridge - 8.66.030 - Definitions](#).
- Despite having a tree protection plan, the developer DID NOT adhere to his protection plan nor await the approval of the protection plan by the BZA, and **has already completed cutting the roots of the elm tree during the December holiday** at the end of 2021 (root_excavation_email_picture.pdf attached). This violates [the Tree](#)

[Protection Ordinance of the City of Cambridge](#) and [THE DIG SAFE LAW IN MASSACHUSETTS](#).

- 33-35 Webster Tree Protection Plan.pdf, although insufficient, outlined some solutions to improve stability of the big American Elm tree. This involves asking consent from all surrounding neighbors with overhanging canopy to access their properties and prune the tree branches. Despite the developer's quick move to excavate the tree roots, the developer DID NOT ask us about pruning tree branches.
- The developer mentioned to us about the dead trees located north of 7 Lilac Ct (on common use land of Lilac Ct) and how one of them might have been affected by the Dutch Elm disease according to the arborists he consulted. While those two trees were dead for years, the American Elm tree has remained healthy. The proposed pruning as part of the current construction plan will decrease the natural immunity of the tree (akin to a 'limb amputation' or a 'severe injury', as described by Dr. Sun) and will likely increase the susceptibility of the tree to opportunistic diseases. In our discussion, the developer told us verbally that he planned to remove those two dead trees and we also agreed that it would be his responsibility to do so. As of today, there are no concrete plans to remove the dead trees.
- unsafe_digging.jpeg (picture taken on Sep 30, 2021) shows that the developer dug a hole to reach the water table (at least 6 feet deep) without a visible permit, likely violating [THE DIG SAFE LAW IN MASSACHUSETTS](#) and [the Tree Protection Ordinance of the City of Cambridge](#).

2. Impact on mental and physical health on surrounding neighbors.

- The proposed plan will further diminish sunlight in the surrounding neighborhood due to the close proximity of buildings. From October to March every year, the main source of sunlight is from the south (see [sunlight analysis](#)), including south west and south east. The winter period is also when depression and seasonal affective disorder are most prevalent in the city filled with students and professionals with stressful lifestyles. Depression, especially seasonal affective disorder, can be directly caused by lack of sunlight. The construction of the new dwelling (referred to as UNIT 37 in the application) is **above the MAX. ALLOWABLE BUILDING HEIGHT** and will lead to a **daily loss of ~2 hours of sunlight** at our property.
- The height increase of the two existing buildings will violate setbacks and block a large proportion of surrounding properties' sunlight from the south. Note that the new constructions at 45 Webster Ave (4 units in total; north of 33-35 Webster Ave) are not sold yet and the potential owners will not have an opportunity to object to this proposed plan. The senior couple at 28 Bristol St (also north of 33-35 Webster Ave) right now are unable to respond due to private issues.
- Basement excavation will lead to severe shaking of nearby properties. We experienced it when 45 Webster Ave was undergoing digging in 2020-2021, and the house was experiencing periodic 'small earthquakes' during that excavation. 33-35 Webster Ave is much closer to our property and we worry that it can cause visible and invisible structural damage to our property. As someone who works from home during the ongoing COVID19 pandemic, I strongly oppose the current plan of CASE NO. BZA-155115 due to safety concerns. The developer also needs to have a noise control plan and detail the potential disturbances to neighbors during construction in the application.

3. There exist alternative plans that more efficiently make use of the land while resolving most of the issues raised above.

- The two existing dwellings currently already violate setbacks. The developer proposes to significantly increase the height of these two buildings including raising the roofing structures and conversion to a roof-top deck. While we understand the practical and economical reasons to not enforce setback rules on existing buildings, we believe it is in the interest of the city to not allow building on top of these non-conforming building. **Approving such construction plans will likely set a dangerous example and worsen the problems the Zoning Ordinance was designed to prevent.**
- We urge the committee to consider alternative construction plans and guidelines for the above reasons including revisiting construction of the two existing units and construction of the entirely new third unit. Despite ongoing discussion of the above concerns with the developer, while awaiting this hearing, the developer has already proceeded with initial steps of construction including applying for driveway curbs and completion of root excavation (see root_excavation_email_picture.pdf). The developer references the architect DANIEL ANDERSON and their experience developing in the region when concerns were raised.
- While we cannot fully appreciate the limitations of construction, below are some ideas that could evolve to a feasible alternative plan to resolve issues mentioned above.
 - Demolish the two existing buildings that violate setbacks; build a single multi unit dwelling that respects setbacks and potentially makes use of part of the existing basement structure. This will also allow parking in the back of the property.
 - Note that there is only a 812 sq. ft. difference in TOTAL GROSS FLOOR AREA from "requested conditions" to "existing conditions". Within the 812 sq. ft., the developer added two indoor parking garages totalling about 444 sq. ft.. If for economical reasons, the existing two non-conforming dwellings need to be kept, the same 812 sq. ft. difference can be added by adding a new dwelling with a first floor of two-car garage (406 sq. ft.), a second floor of 406 sq. ft. living area and no basement. This new building can be located away from the big American Elm tree and its no-basement structure can also prevent potential damage to other tree roots. The construction of a new building without a basement can also alleviate issues raised above on 'small earthquakes' during that excavation. The 2-story building will reduce impact on sunlight access as well. Meanwhile, no structural changes will be needed for the existing two non-conforming dwellings.
 - If only one dwelling needs to be kept, then the other one can be demolished and a new dwelling can be established on top of the demolished one while obeying all regulations.

4. Other miscellaneous issues.

- Can we get an explanation on why the balcony is exempted from GROSS FLOOR AREA of Unit 37? The BZA application says that "3' MIN. CLEAR O.C. FOR STRUCTURAL ELEMENTS, PER 20.53", but 20.53 of the Zoning Ordinance does not have corresponding regulations.
- The GROSS FLOOR AREA in this BZA application does not include any basement floor area. However, it is unclear that all basements can be exempted: their heights are not labeled to be within 7" in height and this lot of 33-35 Webster Ave is no longer a single-family or two-family home. Can we get the heights of all floors (including basement and attic space) proposed to ensure they comply with existing regulations?

- The following information in this BZA application is incomplete but required by 10.47.1 of [Cambridge, Massachusetts - Zoning Ordinance ARTICLE 10.000 - APPEALS, VARIANCES, AND SPECIAL PERMITS](#).
 - (3) Photographs showing conditions on the development parcel at the time of application and showing structures on abutting lots.
 - (5) Front, side and rear elevations for each structure on the lot indicating building height and heights of buildings on abutting lots.
- The roof areas / 4-th floors of Unit 37 and Unit 33 both appear to be unroofed balconies above the third floor. By [Cambridge, Massachusetts - Zoning Ordinance ARTICLE 2.000 - DEFINITIONS](#), they may also have to be included in GROSS FLOOR AREA.
- Why are the indoor garages not included in the GROSS FLOOR AREA? The exemption in [Cambridge, Massachusetts - Zoning Ordinance ARTICLE 2.000 - DEFINITIONS](#) says that "Gross Floor Area shall include: ... (g) Area of parking facilities in structures except as excluded in (2) below ... (2) Area of parking facilities in structures located underground and the area of on grade open parking spaces outside the building footprint at or below the maximum number permitted on the premises as set forth in Sections 5.25 and [6.30](#)". The proposed indoor parking garages are NOT underground, nor are they on grade open parking spaces.
- The proposed SOUTH ELEVATION - UNIT 33 has a 2-story high attachment that acts like a 2-story fence. However, the installation of such an attachment fence poses security dangers to nearby units. In fact, this attachment fence was not present when the developer first presented his plan to us. Therefore, we are opposed to this attachment fence. Such an partially enclosed space is also not clearly defined to be excluded from the GROSS FLOOR AREA.

Thank you in advance for your consideration.

Zi & Leon

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Zi Wang, Ph.D.
 Research Scientist @ Google
<https://ziw.mit.edu/>



Hartney Greymont
433 Chestnut St
Needham, MA 02492-2822
Phone: (781) 726-2280
Fax: (781) 455-6698
Email: jweksner@hartney.com



Client

8/24/2021

Parviv Parvizi
33 Webster Ave
Cambridge, MA 02141-1931

Elm Macro Injection (Arbotect)

May - Sep

Arbotect Elm Program - Large elm at the back right of the property will be injected with Arbotect fungicide to help protect against Dutch elm disease infection. This treatment should provide two years of protection.

*Neighbor's consent required to access their property to perform this treatment on their side of the tree.

Growth Regulator - 3 year

Apr - Nov

Growth Regulator - A growth regulator will be applied to the elm tree at the back right of the property. This product will help the tree conserve resources typically dedicated to woody tissue growth. This will manifest in smaller, glossier leaves, shorter than average twig elongation, and increased fibrous root production. It will be active in the tree for 3 years and should not require re-application during that period.

*Neighbor's consent required to access their property to perform this treatment on their side of the tree.

Fert w/ Arbor GreenPRO (1yr)

Mar - Aug

A liquid, slow-release fertilizer will be applied to the elm at the back right of the property. This fertilizer will promote vigor and help support overall plant health.

*Neighbor's consent required to access their property to perform this treatment on their side of the tree.

Tree Pruning

Winter

Elm at the back right corner of the property will be pruned to improve structure. Reduction and removal cuts 2-6" in diameter will be made throughout the canopy to eliminate excessive weight and help promote resilience to storm damage. This will also help provide 10-15' of clearance from surrounding structures. Deadwood 2" in diameter or greater will be removed.

*This work will require consent from all surrounding neighbor's with overhanging canopy to access their property in order to lower and remove brush.

Excavate Root Crown w/AirSpade

Mar - Nov

A crew will use an air tool to excavate suspected areas of impact under the elm tree ahead of any mechanical digging. Exposed roots will be cut cleanly with sharp tools to increase likelihood of regeneration and minimize stress.

*Exposed roots should be covered as soon as possible to prevent desiccation.

*This work is best done in late October or November to minimize stress on the tree that could lead to Dutch Elm Disease.



Hartney Greymont
433 Chestnut St
Needham, MA 02492-2822
Phone: (781) 726-2280
Fax: (781) 455-6698
Email: jweksner@hartney.com



Client

8/24/2021

Parviv Parvizi
33 Webster Ave
Cambridge, MA 02141-1931

PHC Inspection (T&S Pest)

Jun - Sep / 2022

Elm at the back right of the property will have a systemic miticide applied to help control mites.

*Neighbor's consent required to access their property to perform this treatment on their side of the tree.

ArborTrack Monitor Program

Mar - Nov / 2022

The ArborTrack Program would involve regularly scheduled visits from a trained plant healthcare technician to monitor the large elm tree at the back of the property through and/or post construction. Visits would take place monthly during the growing season and would include a detailed written report following each visit regarding the current health of the tree as well as any future threats or issues, or opportunities for improvement.

*Recommended 8 visits (April - November)



Parviz Parvizi
to Yuliang, me

Wed, Jan 5, 1:41 PM ☆ ↶ ⋮

Hi Zi and Leon,

Hope you enjoyed the holidays and are off to a wonderful 2022. It was good to speak with you in December. I wanted to follow up on the points you brought up in your note.

1. Elm tree

a. Tree roots. My arborists air spaded several feet into the ground to create a trench along the excavation line for the new building and pruned the tree roots along the entire excavation perimeter facing the tree last month. Since the excavation will occur beyond where the roots have already been pruned, it will not affect the roots regardless of what time of year construction occurs. Also, having had a chance to physically observe the root structure

as part of their work, the arborists reiterated their earlier conclusion that structural stability is not a risk for the tree in the context of my plan. I took on the air spading and root pruning at my own cost based on a plan developed in August, which I shared with you on December 1st, and there was no regulatory requirement for me to do so. I did it because it was the right thing to do and did not seek contributions to defray the cost from you or the neighborhood -- the elm tree is wonderful and I see myself as its steward for the benefit of all of us.

b. Fungicide. Thank you for bringing this up. I have mentioned it to my arborists and, before any injections occur, I will have them share with me how they are accounting for your points. Depending on what they say, I could see a scenario in which it could well make sense to skip the fungicide altogether.

c. Tree failure contingency. There is established law on this topic and I maintain a \$1m liability insurance policy. I'm happy to discuss further if helpful.

2. Alternative plan suggestions. Thank you for taking the time to share your alternative plan. I reviewed it carefully and several threshold challenges emerged: it appears to contemplate a triple-wide curb cut that would require removal of a city tree with garage parking that flows directly out into the street without any turnaround area for cars; the new building expansion appears to encroach into the side setback; and a phased effort that extends construction across two years could be disruptive for the neighborhood. For the above reasons, and potentially others that I did not surface upon my initial review, these suggestions do not initially appear to be workable -- even though that does nothing to diminish my appreciation and respect for the effort and consideration you undertook to share them.

On the planning front, I have been working with Anderson Porter Design, a firm based in Cambridge that has decades of experience working in our community. Dan Anderson is a longtime Cambridge resident who earned his architecture degree at Harvard and Bill Porter was the Dean at MIT's School of Architecture. Sensitivity to context is an area where Dan and his team especially excel and I think that they have brought a great deal of expertise and sound judgment to bear in developing the plan that we have.

If it's helpful to catch up and discuss anything, let me know some times that are convenient for you and I would love to do so.

Best,
Parviz

--
Parviz Parvizi
[+1 617.595.8116](tel:+16175958116)
pparvizi@gmail.com



Picture taken on Jan 6, 2022.





City of Cambridge

MASSACHUSETTS

BOARD OF ZONING APPEAL

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

2022 JAN 28 AM 10:41

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-155114

Address: 33 Webster Ave

Owner, Petitioner, or Representative: Daniel Anderson, Architect
(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.

Date: 1-28-22

D Anderson
Signature

TO: Cambridge Board of Zoning Appeals
831 Mass Ave
Cambridge, MA , 02139

FROM: Dan Anderson
ANDERSON PORTER DESIGN
1972 Massachusetts Avenue
Cambridge, MA 02140

RE: Continuance for BZA Cases 155114, 155115, 155116

Wednesday March 30, 2022

Dear Chair and Members of the Board;

This letter is a request for a continuance of BZA Cases 155114, 155115, and 155116 currently scheduled to be heard on Thursday, April 14, 2022. Modifications to the proposed projects are underway but will not be ready for this hearing date. Please advise as to the next available hearing date.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Anderson', written in a cursive style.

Daniel P. Anderson
Anderson Porter Design, Inc.

Date: Monday, June 6, 2022
To: Cambridge Board of Zoning Appeals
Re: Webster Ave Cases #155114, #155115, #155116
From: Daniel P. Anderson, Partner
Anderson Porter Design

Dear Chair and Members of the Board

I'm writing on behalf of Parviz Parvizi, the owner of 33-35 Webster Avenue, to request a continuance of the open cases #155114, #155115, and #155116. Mr. Parvizi has been in conversation with his abutters regarding his proposed plans and is now in receipt of building site location plans from the property located at 41 Webster. A copy of the certified plot plan of the recently constructed structures was delivered to him on May 23, 2022, from Lin Yang, his abutter at 41 Webster Ave. This information is being incorporated into our site model to provide updated sun shadow information and more accurately address questions regarding the impact of the proposed addition and renovation work.

In addition to updated shadow studies, Mr. Parvizi has requested alternative design studies from Anderson Porter Design, to respond to abutters. We respectfully request additional time necessary to complete this work and further communication with neighbors.

Regards,

Daniel P. Anderson, Partner
Anderson Porter Design

Pacheco, Maria

From: Yuliang Sun <yuliangleonsun@gmail.com>
Sent: Monday, June 6, 2022 10:15 PM
To: Pacheco, Maria; Singanayagam, Ranjit; Ratay, Olivia
Cc: Zi Wang; Zondervan, Quinton
Subject: Concerns on BZA-155114 -155115 & -155116
Attachments: Original objection letter.pdf; third objection letter 06062022.pdf

Dear Board of Zoning Appeal and Cambridge city officials,

We are the owners of 6 Lilac Court, abutting 33-35 Webster Ave. We had previously submitted our comments (PDF attached) based on presented architectural plans at the BZA hearing on January 27th (BZA-155114 -155115 & -155116). In the hearing, the board had recommended Mr. Parvizi and his architect to change his design based on potential impact on surrounding properties in terms of crowding, lighting, privacy concerns, and potential direct harm to surrounding properties secondary to the construction's impact on the elm tree.

Despite this recommendation, since the hearing, we have not received any communication from Mr. Parvizi, nor from his architect, Daniel Anderson (Anderson Porter Design) ahead of this Thursday's BZA hearing with regards to our reasonable concerns.

Additionally, we would like to **update the board on recent development concerning the deteriorating health of the big elm tree as a direct consequence of root pruning done by the developer in December 2021**, resulting in absent/delayed leaf growth in canopy directly above the site of root pruning as well as active disease symptomatology diagnosed by a local certified arborist (Mr. Jeff Bourque, SavATree) familiar with the lilac court trees. This poses **an immediate to short term hazard** with further disease progression and potential damages to the surrounding properties if tree removal is required. Further description and photos documenting this are also attached.

We appreciate your time in hearing our concerns and look forward to sharing them at the hearing.

Best Regards,

Yuliang Leon Sun
Zi Wang

6 Lilac Court

Dear Board of Zoning Appeal and Cambridge city officials,

My name is Zi Wang, owner of 6 Lilac Ct and an 8-year resident of Cambridge, together with my husband, Yuliang Leon Sun. We are writing to provide comments and raise concerns/objections to CASE NO. BZA-155115, the construction plan at 33 WEBSTER AVENUE by PARVIZ PARVIZI – C/O DANIEL ANDERSON, ARCHITECT (refer to as "the developer" henceforth).

In the BZA application CASE NO. BZA-155115, we found that the supporting statement is insufficient and inaccurate especially on the required tree study and reasons that "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". Our comments are detailed below.

1. The proposed construction plan will negatively impact two trees: 1) alongside the public walkways on Webster Ave and 2) a big American Elm tree that stands on the border of 5 Lilac Ct and 33-35 Webster Ave. The American Elm tree's main trunk is 3-4 ft. wide in diameter with the canopy reaching at least 40 ft. wide in diameter covering 3 adjacent properties including 5, 6, and 7 Lilac Ct. Below are the reasons for our concerns and the developer's violations to existing city regulations on tree protection for the big American Elm tree.

- When the developer shared his initial construction plan, we consulted Dr. Qiang Sun, a professor of plant biology at the University of Wisconsin-Stevens Point to understand the potential impact of the construction on the big American Elm tree between 5 Lilac Ct and 33-35 Webster Ave. Based on his expert opinion, we learned that given the shallow root system of the elm tree family, the proposed construction including pruning of the root system as well as its canopy will result in the loss of stability. This can consequently result in short- and long-term potentials to **cause property and personal harm** if such a big tree is uprooted and falls during a natural event. We are especially concerned by the proposed root pruning given that it will selectively occur on the property of 33-35 Webster Ave which will result in loss of the tree's ground attachment, potentiating a fall on our property at 6 Lilac Court which is directly opposite to the site of root pruning.
- This proposed plan violates [Cambridge, Massachusetts - Zoning Ordinance ARTICLE 10.000 - APPEALS, VARIANCES, AND SPECIAL PERMITS 10.47.1 \(8\)](#): "Applications for special permits shall be accompanied by three copies of a development plan containing the following graphic and written information: ... (8) **A Tree Study**, certified complete by the City Arborist, as required by the Tree Protection Ordinance of the City of Cambridge, Chapter 8.66."
- We reached out to Councilor Quinton Y. Zondervan who forwarded us a tree protection plan submitted by the developer (33-35 Webster Tree Protection Plan.pdf attached) after requested. However, the plan does not seem to meet the definition of a tree study or a tree protection plan specified in [the Tree Protection Ordinance of the City of Cambridge - 8.66.030 - Definitions](#).
- Despite having a tree protection plan, the developer DID NOT adhere to his protection plan nor await the approval of the protection plan by the BZA, and **has already completed cutting the roots of the elm tree during the December holiday** at the end of 2021 (root_excavation_email_picture.pdf attached). This violates [the Tree](#)

[Protection Ordinance of the City of Cambridge](#) and [THE DIG SAFE LAW IN MASSACHUSETTS](#).

- 33-35 Webster Tree Protection Plan.pdf, although insufficient, outlined some solutions to improve stability of the big American Elm tree. This involves asking consent from all surrounding neighbors with overhanging canopy to access their properties and prune the tree branches. Despite the developer's quick move to excavate the tree roots, the developer DID NOT ask us about pruning tree branches.
 - The developer mentioned to us about the dead trees located north of 7 Lilac Ct (on common use land of Lilac Ct) and how one of them might have been affected by the Dutch Elm disease according to the arborists he consulted. While those two trees were dead for years, the American Elm tree has remained healthy. The proposed pruning as part of the current construction plan will decrease the natural immunity of the tree (akin to a 'limb amputation' or a 'severe injury', as described by Dr. Sun) and will likely increase the susceptibility of the tree to opportunistic diseases. In our discussion, the developer told us verbally that he planned to remove those two dead trees and we also agreed that it would be his responsibility to do so. As of today, there are no concrete plans to remove the dead trees.
 - unsafe_digging.jpeg (picture taken on Sep 30, 2021) shows that the developer dug a hole to reach the water table (at least 6 feet deep) without a visible permit, likely violating [THE DIG SAFE LAW IN MASSACHUSETTS](#) and [the Tree Protection Ordinance of the City of Cambridge](#).
2. Impact on mental and physical health on surrounding neighbors.
- The proposed plan will further diminish sunlight in the surrounding neighborhood due to the close proximity of buildings. From October to March every year, the main source of sunlight is from the south (see [sunlight analysis](#)), including south west and south east. The winter period is also when depression and seasonal affective disorder are most prevalent in the city filled with students and professionals with stressful lifestyles. Depression, especially seasonal affective disorder, can be directly caused by lack of sunlight. The construction of the new dwelling (referred to as UNIT 37 in the application) is **above the MAX. ALLOWABLE BUILDING HEIGHT** and will lead to a **daily loss of ~2 hours of sunlight** at our property.
 - The height increase of the two existing buildings will violate setbacks and block a large proportion of surrounding properties' sunlight from the south. Note that the new constructions at 45 Webster Ave (4 units in total; north of 33-35 Webster Ave) are not sold yet and the potential owners will not have an opportunity to object to this proposed plan. The senior couple at 28 Bristol St (also north of 33-35 Webster Ave) right now are unable to respond due to private issues.
 - Basement excavation will lead to severe shaking of nearby properties. We experienced it when 45 Webster Ave was undergoing digging in 2020-2021, and the house was experiencing periodic 'small earthquakes' during that excavation. 33-35 Webster Ave is much closer to our property and we worry that it can cause visible and invisible structural damage to our property. As someone who works from home during the ongoing COVID19 pandemic, I strongly oppose the current plan of CASE NO. BZA-155115 due to safety concerns. The developer also needs to have a noise control plan and detail the potential disturbances to neighbors during construction in the application.
3. There exist alternative plans that more efficiently make use of the land while resolving most of the issues raised above.

- The two existing dwellings currently already violate setbacks. The developer proposes to significantly increase the height of these two buildings including raising the roofing structures and conversion to a roof-top deck. While we understand the practical and economical reasons to not enforce setback rules on existing buildings, we believe it is in the interest of the city to not allow building on top of these non-conforming building. **Approving such construction plans will likely set a dangerous example and worsen the problems the Zoning Ordinance was designed to prevent.**
- We urge the committee to consider alternative construction plans and guidelines for the above reasons including revisiting construction of the two existing units and construction of the entirely new third unit. Despite ongoing discussion of the above concerns with the developer, while awaiting this hearing, the developer has already proceeded with initial steps of construction including applying for driveway curbs and completion of root excavation (see root_excavation_email_picture.pdf). The developer references the architect DANIEL ANDERSON and their experience developing in the region when concerns were raised.
- While we cannot fully appreciate the limitations of construction, below are some ideas that could evolve to a feasible alternative plan to resolve issues mentioned above.
 - Demolish the two existing buildings that violate setbacks; build a single multi unit dwelling that respects setbacks and potentially makes use of part of the existing basement structure. This will also allow parking in the back of the property.
 - Note that there is only a 812 sq. ft. difference in TOTAL GROSS FLOOR AREA from "requested conditions" to "existing conditions". Within the 812 sq. ft., the developer added two indoor parking garages totalling about 444 sq. ft.. If for economical reasons, the existing two non-conforming dwellings need to be kept, the same 812 sq. ft. difference can be added by adding a new dwelling with a first floor of two-car garage (406 sq. ft.), a second floor of 406 sq. ft. living area and no basement. This new building can be located away from the big American Elm tree and its no-basement structure can also prevent potential damage to other tree roots. The construction of a new building without a basement can also alleviate issues raised above on 'small earthquakes' during that excavation. The 2-story building will reduce impact on sunlight access as well. Meanwhile, no structural changes will be needed for the existing two non-conforming dwellings.
 - If only one dwelling needs to be kept, then the other one can be demolished and a new dwelling can be established on top of the demolished one while obeying all regulations.

4. Other miscellaneous issues.

- Can we get an explanation on why the balcony is exempted from GROSS FLOOR AREA of Unit 37? The BZA application says that "3' MIN. CLEAR O.C. FOR STRUCTURAL ELEMENTS, PER 20.53", but 20.53 of the Zoning Ordinance does not have corresponding regulations.
- The GROSS FLOOR AREA in this BZA application does not include any basement floor area. However, it is unclear that all basements can be exempted: their heights are not labeled to be within 7" in height and this lot of 33-35 Webster Ave is no longer a single-family or two-family home. Can we get the heights of all floors (including basement and attic space) proposed to ensure they comply with existing regulations?

- The following information in this BZA application is incomplete but required by 10.47.1 of [Cambridge, Massachusetts - Zoning Ordinance ARTICLE 10.000 - APPEALS, VARIANCES, AND SPECIAL PERMITS](#).
 - (3) Photographs showing conditions on the development parcel at the time of application and showing structures on abutting lots.
 - (5) Front, side and rear elevations for each structure on the lot indicating building height and heights of buildings on abutting lots.
- The roof areas / 4-th floors of Unit 37 and Unit 33 both appear to be unroofed balconies above the third floor. By [Cambridge, Massachusetts - Zoning Ordinance ARTICLE 2.000 - DEFINITIONS](#), they may also have to be included in GROSS FLOOR AREA.
- Why are the indoor garages not included in the GROSS FLOOR AREA? The exemption in [Cambridge, Massachusetts - Zoning Ordinance ARTICLE 2.000 - DEFINITIONS](#) says that "Gross Floor Area shall include: ... (g) Area of parking facilities in structures except as excluded in (2) below ... (2) Area of parking facilities in structures located underground and the area of on grade open parking spaces outside the building footprint at or below the maximum number permitted on the premises as set forth in Sections 5.25 and [6.30](#)". The proposed indoor parking garages are NOT underground, nor are they on grade open parking spaces.
- The proposed SOUTH ELEVATION - UNIT 33 has a 2-story high attachment that acts like a 2-story fence. However, the installation of such an attachment fence poses security dangers to nearby units. In fact, this attachment fence was not present when the developer first presented his plan to us. Therefore, we are opposed to this attachment fence. Such an partially enclosed space is also not clearly defined to be excluded from the GROSS FLOOR AREA.

Thank you in advance for your consideration.

Zi & Leon

Zi Wang, Ph.D.
 Research Scientist @ Google
<https://ziw.mit.edu/>

Hello Olivia, Maria, and Ranjit,

We are the owners of 6 Lilac Court, abutting 33-35 Webster Ave. We had previously submitted our comments (PDF attached) based on presented architectural plans at the BZA hearing on January 27th (BZA-155114 -155115 & -155116). In the hearing, the board had recommended Mr. Parvizi and his architect to change his design based on potential impact on surrounding properties in terms of crowding, lighting, privacy concerns, and potential direct harm to surrounding properties secondary to the construction's impact on the elm tree.

On this point, board member Mr. Constantine Alexander had recommended to have "another arborist be brought in to look at the issues of the trees and the like. That arborist should be mutually satisfactory to a neighborhood representative, and of course the petitioner, and get another view." (page 98, 1-27-22 minutes)

Despite this recommendation, since the hearing, we have not received any communication from Mr. Parvizi, nor from his architect, Daniel Anderson (Anderson Porter Design) ahead of this Thursday's BZA hearing with regards to our reasonable concerns.

Concerningly, Mr. Parvizi had already completed root pruning of the big elm tree (Fig 1) prior to reaching an agreement with neighbors in winter of 2021, which has resulted in harm to the tree only beginning to be visible in recent months. This has manifested as bare branches and delayed leaf growth directly above the area of root pruning (Fig 2, 3). Previously the healthy canopy bore full leaves as seen in picture from 2 years ago (Fig 4). Arborists hired by Mr. Parvizi also reported no obvious signs of disease at the time of consultation in 2021.

Because of these recent, visible abnormalities of the canopy, we reached out to an independent certified arborist Jeff Bourque (SavATree), a well-known arborist having previously worked on other trees on Lilac Court and around the neighboring Bristol Street. According to Mr. Bourque, the root pruning likely affected 1/5 of the total root system, potentially resulting in negative impact to the canopy directly above it (Fig 3). While difficult to validate without lab testing, the tree is diseased and show symptoms of Nectarine Canker and/or Dutch elm disease, becoming a potential hazard to the neighboring community in the coming years. When asked the cost of potential tree removal, he mentioned it will require a large crane and cost between 10,000 to 15,000\$ to remove, likely causing neighboring property damage during the removal process due to the size of the tree. Thus, Mr. Parvizi's development has already caused visible and significant harm to the tree itself and potentially to the surrounding properties in the immediate to short term future.

We appreciate your time in hearing our concerns and look forward to sharing them at the hearing.

Best Regards,

Zi Wang
Yuliang Leon Sun
6 Lilac Court



Figure 1: Root pruning undertaken in December 2021, visible as unvegetated line in the backyard of 33-35 Webster ave. Picture taken Jan 22, 2022



Figure 2: Big elm tree (view from lilac court), red outline- absent/delayed leaf growth



Figure 3: Big elm tree, red outline: affected branches directly above site of root pruning showing delayed/absent leaves compared to healthy growth (green outline).



Figure 4: photo of big elm tree taken summer 2020 showing healthy canopy full of leaves

Pacheco, Maria

From: Lin Yang <a519522@gmail.com>
Sent: Monday, June 6, 2022 11:12 AM
To: Pacheco, Maria; Ratay, Olivia; Singanayagam, Ranjit; Sixian You
Subject: Opposition letter for BZA-155115 & BZA-168852 (35 Webster Avenue)
Attachments: Fourth opposition letter for BZA-155115 & BZA-168852 (35 Webster Avenue) - Google Docs.pdf

Hello Ms. Pacheco, Ms. Ratay and Mr. Singanayagam,

We are Sixian You (cc-ed here) and Lin Yang, the owners of 41 Webster Avenue. I have attached our opposition letter for BZA-155115 & BZA-168852 (35 Webster Avenue) to this email where we:

1. Point out the application failed to mention that section 8.22.1.h.1 also requires "the addition will not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use".
2. Explain in detail how the petition is substantially more detrimental than the current non-conforming structure to our living.
3. Corrected a few misleading information from the applicants from the previous hearing.

We hope the committee looks again at the extensive commentary the neighbors have already provided in written and verbal testimony before making a determination.

Please let us know if you need any documents or further information.

Thank you for your help.

Sincerely,
Lin and Sixian

Fourth opposition letter for BZA-155115 & BZA-168852 (35 Webster)

Sixian You and Lin Yang

Background

Previously in BZA-155115, the applicant asked the Board of Zoning Appeal (BZA) to grant a special permit for increasing the height of the building which **further** violates setback. While the special permit application is still pending. The applicant submitted BZA-168852 to appeal the decision from ISD Commissioner that denied the same change under a different section 8.22.1.h.1.

We, Sixian You and Lin Yang, as the owners of 41 Webster Avenue write this letter to express our strongest **opposition** to both applications.

The application BZA-155115 and BZA-168852 are substantially more detrimental than the current non-conforming structure to the neighborhood (which is also required for 8.22.1.h.1); will set wrong precedent which will damages the purpose of the zoning ordinance. In the following sections, we explain these points in detail.

During the original hearing on 01/27/2022, the applicants presented some misleading information which we are worried they might give the board some wrong impressions. We will provide some clarifications in this letter.

As of the current version of the petition, we respectfully urge the board to deny this petition. As a direct abutter with standing, we reserve full legal rights to challenge this appeal in court.

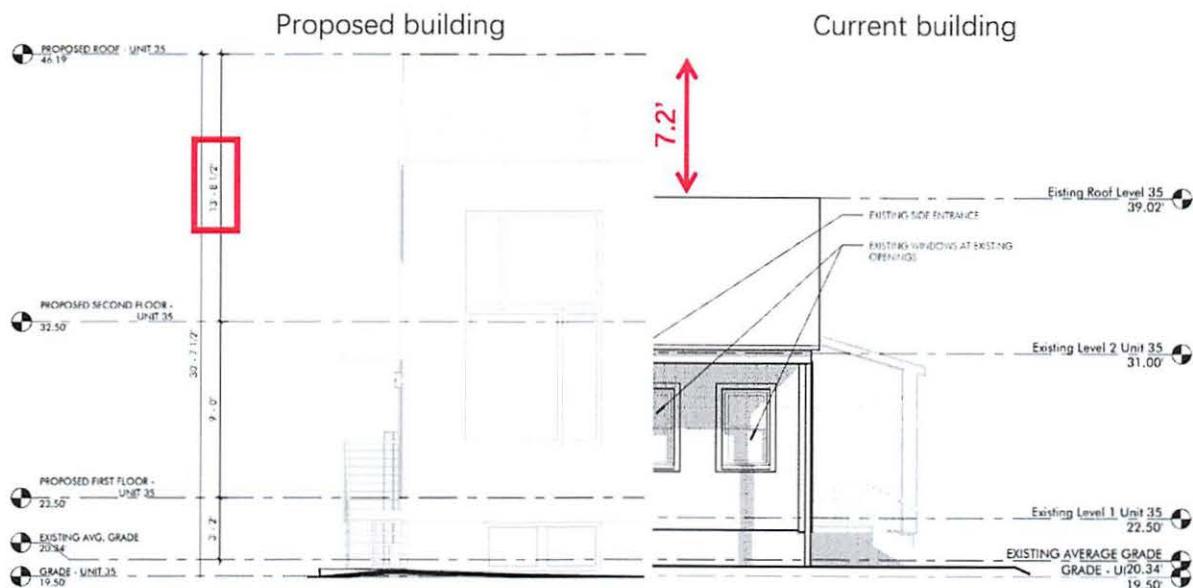
Set wrong precedent for the ordinance

As mentioned by the board member from the original hearing, "Using the Zoning Board or a variance as a vehicle to enhance that initial investment is really not part of our charge, nor should it be part of our consideration".

In BZA-168852, the applicant failed to mention the section 8.22.1.h.1 also requires non-detrimental to the neighborhood as quoted below from the zoning ordinance: "Such a permit, either a building permit in the case of the construction authorized in Section 8.22.1 or a special permit in the case of construction authorized in Section 8.22.2. may be granted only if the permit granting authority specified below finds that

such change, extension, or alteration **will not be substantially more detrimental to the neighborhood** than the existing nonconforming structure or use”.

The current interpretation that the applicant is pursuing would allow the height of non-conforming second floor to be arbitrarily increased until the overall building height reached 35 feet. This is also reflected in the applicant’s plan, as they are aiming to increase the height of the building by **7.2 feet** which contains a **13.7 feet** tall second floor as shown below. This is far more than necessary to the applicant’s claim for a “code compliant habitable living area”.



If the board accepts this petition, it sets the wrong precedent to the public. Future buyers could use this precedent as their rationale to hunt for existing non-conforming properties and abuse non-conformities to maximize profits. This is clearly nullifying the intent of the ordinance. This directly violates the purpose of the ordinance to preserve the property rights of others. It also violates the Equal Protection under the 14th Amendment where the law requires the permit issuing authority to conduct a fair process and provide equal protections to all petitioners and abutters.

With the “not more detrimental to the neighborhood” as the final line to protect abutters' property rights. We urge the board to set a sustainable standard for characterization of “detrimental” to avoid a future where people would seek after non-conforming properties for profit. An existing non-conformity does not grant license to arbitrarily extend that non-conformity.

Substantially more detrimental to the neighborhood

We strongly disagree with the applicants that the new design will have little negative impact on our home. This section highlights two examples of how the petition will be substantially detrimental to our living.

Impact on our basement bedroom:

We sympathize with the applicant that buying a home in Cambridge is expensive and difficult. But this difficulty is not only experienced by the applicants, but also current and future residents in Cambridge. We also sympathize with the applicant on his intention of having parents move in.

We are planning to do the same. We are planning to have kids within 1~2 years, and with both our parents, we inevitably need to use the basement as a bedroom. We all know that the basement is not a great place to be a bedroom, but, currently in our home, there is a large basement window which has some sunlight for around half of a year which makes it a little less depressing.

In the petition, the application is aiming to increase the height of 35 Webster by 7.17' (nearly the height of one story). By our calculation from solar angles and height, this will reduce the current half of a year sunlight to around 4 month. This will lead to significant reduction in our quality of lives.

Yard:

We have been garden enthusiasts for a long time and have always been growing plants on the windowsill because we don't have a garden. After so many years, we finally own a garden (where Lin has spent weeks designing all the tiny little details) and then we learnt about the petition which effectively vaporized the usefulness of it to grow any plants that need partial to full sunlight (since the new height in the petition additionally blocks sunlight in April and August which is the time for seeding and harvest). This not only reduces our property values but also breaks our dream to grow beautiful flowers/veggies/fruits in our garden.

Plants that we have been growing on windowsill



Garden design for our new home



Correction of misleading information from original hearing

Note that the content in this section is only for the impact to our home (41 Webster), there may be other misleading information impacting other neighbors which is not included here.

(1) **The applicants sugar-coated the negative impact of shadow on our home.**

The applicants made many statements to sugar-coat the negative impact of shadow on our home. We quote them here and add the actual facts.

(a) The first one we quote is "So that increase of height does increase shadows predominantly in the solstice -- I'm sorry, the equinox -- and obviously in the winter solstice. The impacts, however, in terms of our assessment are that they predominantly impact, obviously, the yard, which is going to be impacting in those seasons pretty much anyway."

In fact, by further increasing the height in the non-conforming setback, our already precious 6-month sunlight will be reduced to 4 months. And the new sunlight blockage in April and August will post significant damage for gardening as those are the time for seeding and harvest.

More specifically, the attitude of the sun is 48 degree on fall equinox (around mid september) and decreases to 24 degree in winter solstice (around mid december) and then come back to 48 degree in spring equinox (around mid march). As the applicants acknowledged, the current non-conforming struture already blocks the sunlight for half a year. By further increasing the height by 7.17' in the non-conforming set back, this blockage will extend to mid-march to mid april and mid-august to mid september.

Also the statement "*which is going to be impacting in those seasons pretty much anyway*" is quite ill-posed. **We found it bewildering for the applicant to have this sentiment as the justification – we are already in a bad shape due to previous non-conformities so making it worse is ok.**

(b) The second one we quote is "According to our sun shadow studies, which we believe Parviz distributed, there's no shadow impact on that deck area. So there's I believe a door, or a glass door and two windows on that side, which would be impacted after the fall equinox and really the kind of later and earlier parts of the day"

Our home is a small footprint townhouse and consists of 4 floors (including basement). We want to emphasize that the two windows in their statement are actually on the second floor. So the proposed new height will block nearly all our south facing windows except the deck on the top floor.

The applicant's also mentioned "*the impact will be after the fall equinox and really the kind of later and earlier parts of the day*". But in fact, the impact will range from fall equinox to spring equinox which is half a year. And from our revised shadow study (in the appendix), the impact will last for almost the entire day from 7am to 4pm.

Affecting sunlight everyday for half a year for nearly all our rooms will definitely reduce our quality of life and reduce the property's value.

(2) The applicants coated the petition into improving living standards, but didn't make clear the extent of unnecessary luxurious/design statements.

After increasing the non-conforming structure height by 7.17' (nearly the height of one story), the second floor of 35 Webster even reduces to a single bedroom (originally two bedrooms) but with luxurious windows and height. The ceiling height for their proposed second floor is 13.7 feet! Considering the damage it does to our unit (affecting sunlight for four rooms and yard), this excessive luxury ceiling height is quite unjustified.

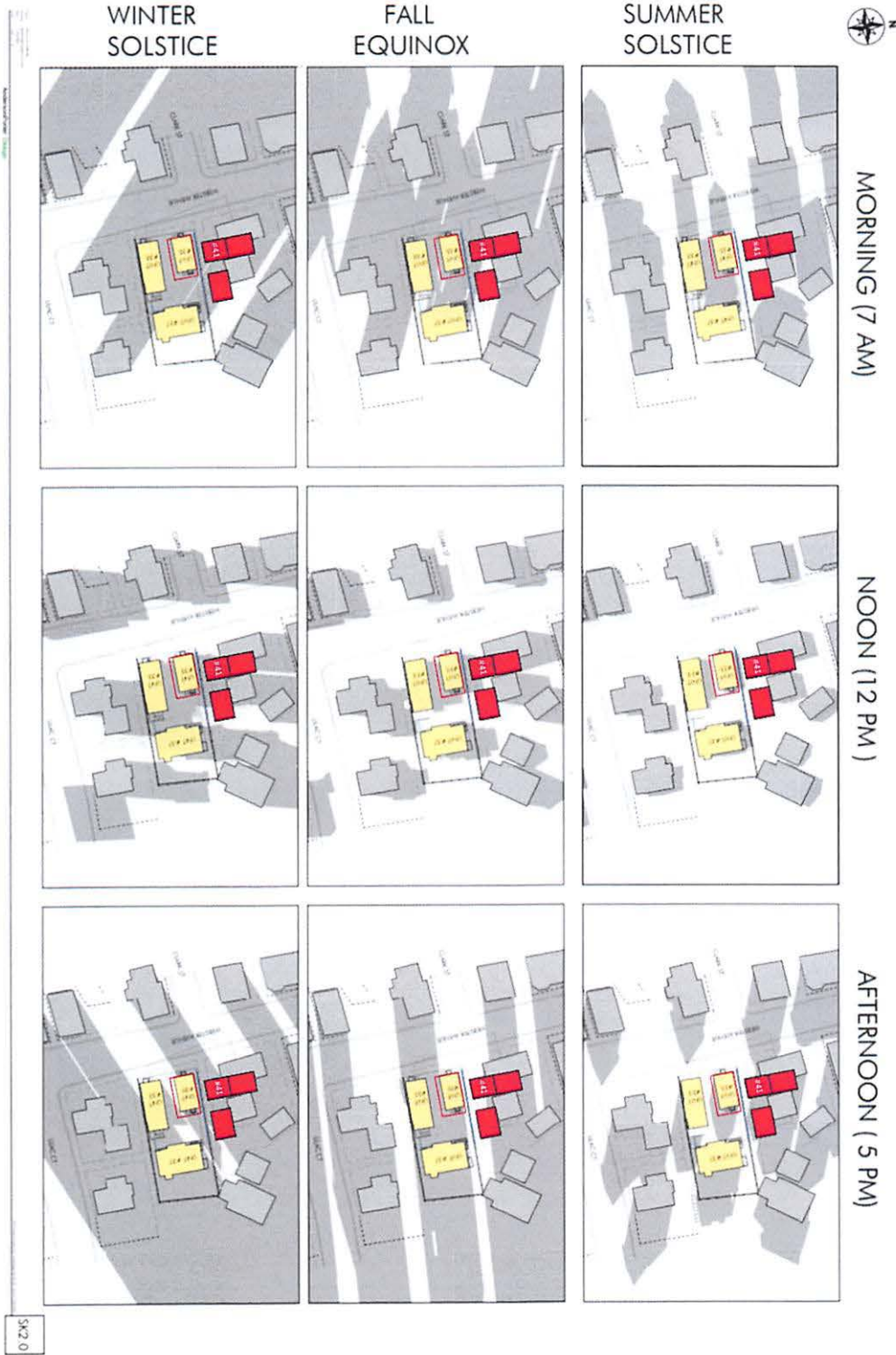
There are many ways to improve living standards of 35 Webster without significantly damaging our home. For example, flattening the south side of the roof and adding a dormer on the north side without raising the height of the building. But the applicants choose to go to the extreme. This shows the flavor of the application is more for profit than addressing hardships and the negative impact to the neighbors is severely understated, under-researched.

Privacy concerns

The addition of new openings in non-conforming wall setback also poses privacy concerns as they are directly facing our second floor bedroom windows.

Appendix

Corrected shadow study of the proposed structure (red boxes indicate correct building locations)



1 * * * * *

2 (6:19 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,
4 Jim Monteverde, Laura Wernick and Jason
5 Marshall

6 BRENDAN SULLIVAN: The Board will hear Case No.
7 155114 -- 33 Webster Avenue.

8 DAN ANDERSON: Mr. Chair and Board, this is Dan
9 Anderson, I'm a partner at Anderson Porter Design.

10 On behalf of my client, I'd submitted written
11 requests for continuance, and I'm hoping we can find a good
12 time to schedule a next appearance. My client has been
13 going through a variety of design alternatives, but has not
14 yet arrived at something that's either shareable with the
15 neighbors for comment, or to present to the Board.

16 BRENDAN SULLIVAN: Okay. Do we have a date?

17 OLIVIA RATAY: For three cases, we could do June
18 9?

19 BRENDAN SULLIVAN: June 9?

20 OLIVIA RATAY: Mm-hm.

21 BRENDAN SULLIVAN: Dan, June 9, are you aware of
22 that? Is that fine?

1 DAN ANDERSON: June? That should work fine.

2 BRENDAN SULLIVAN: June 9, 2022.

3 CONSTANTINE ALEXANDER: And it's a case not heard?

4 BRENDAN SULLIVAN: This is a case heard.

5 CONSTANTINE ALEXANDER: Oh, I'm sorry, a case
6 heard. It is a case heard.

7 BRENDAN SULLIVAN: There were three cases -- three
8 separate cases that we have heard been continued, and we'll
9 hear again. Now, who sat on those cases?

10 JASON MARSHALL: I sat on it.

11 JIM MONTEVERDE: I believe I did as well.

12 CONSTANTINE ALEXANDER: I did as well.

13 BRENDAN SULLIVAN: And I did.

14 LAURA WERNICK: And I did as well. So I think the
15 five that are here. Oh, okay, great. That makes it easier.
16 Are all five of us available on June 9?

17 JIM MONTEVERDE: I am.

18 LAURA WERNICK: It works for me.

19 JIM MONTEVERDE: Yep, works for me.

20 JASON MARSHALL: That's fine.

21 CONSTANTINE ALEXANDER: Yep.

22 BRENDAN SULLIVAN: Okay. And Dan, it works for

1 you also?

2 DAN ANDERSON: Mm-hm.

3 BRENDAN SULLIVAN: So let me make a motion, then,
4 to grant the relief requested. I'm sorry --

5 DAN ANDERSON: No.

6 BRENDAN SULLIVAN: Excuse me, grant --

7 DAN ANDERSON: That would save us all a lot of
8 time.

9 JIM MONTEVERDE: Bingo.

10 LAURA WERNICK: You got it!

11 BRENDAN SULLIVAN: Any other night for that. Let
12 me make a motion, then, to grant the request for a
13 continuance to June 9, 2022, on the condition that the
14 petitioner change the posting sign to reflect the new date
15 of June 9, 2022, and the new time of 6:00 p.m.

16 We have waiver in the file.

17 Also, that in case there is any new submittals
18 regarding this particular case that they be in the file by
19 5:00 p.m. on the Monday prior to the June 9, 2022, hearing.

20 CONSTANTINE ALEXANDER: I would just make it clear
21 this these new submittals by the petitioner or his
22 representatives -- I mean, if a citizen of the city wants to

1 make a submittal, they don't have to meet at that time.

2 BRENDAN SULLIVAN: Right. We would encourage it
3 as soon as possible before our meeting, so that the Board
4 has a chance --

5 CONSTANTINE ALEXANDER: Right.

6 BRENDAN SULLIVAN: -- to review it, but that the
7 petitioner is bound by 5:00 p.m. on the Monday prior to June
8 9.

9 On the motion, then, to continue this matter to
10 June 9, Mr. Alexander?

11 CONSTANTINE ALEXANDER: I vote in favor.

12 BRENDAN SULLIVAN: Jim Monteverde?

13 JIM MONTEVERDE: I vote in favor.

14 BRENDAN SULLIVAN: Laura?

15 LAURA WERNICK: I vote in favor.

16 BRENDAN SULLIVAN: Jason?

17 JASON MARSHALL: Yes, in favor of the continuance.

18 BRENDAN SULLIVAN: Yes, in favor of the
19 continuance to June 9, 2022 at 6:00 p.m.

20 [All vote YES]

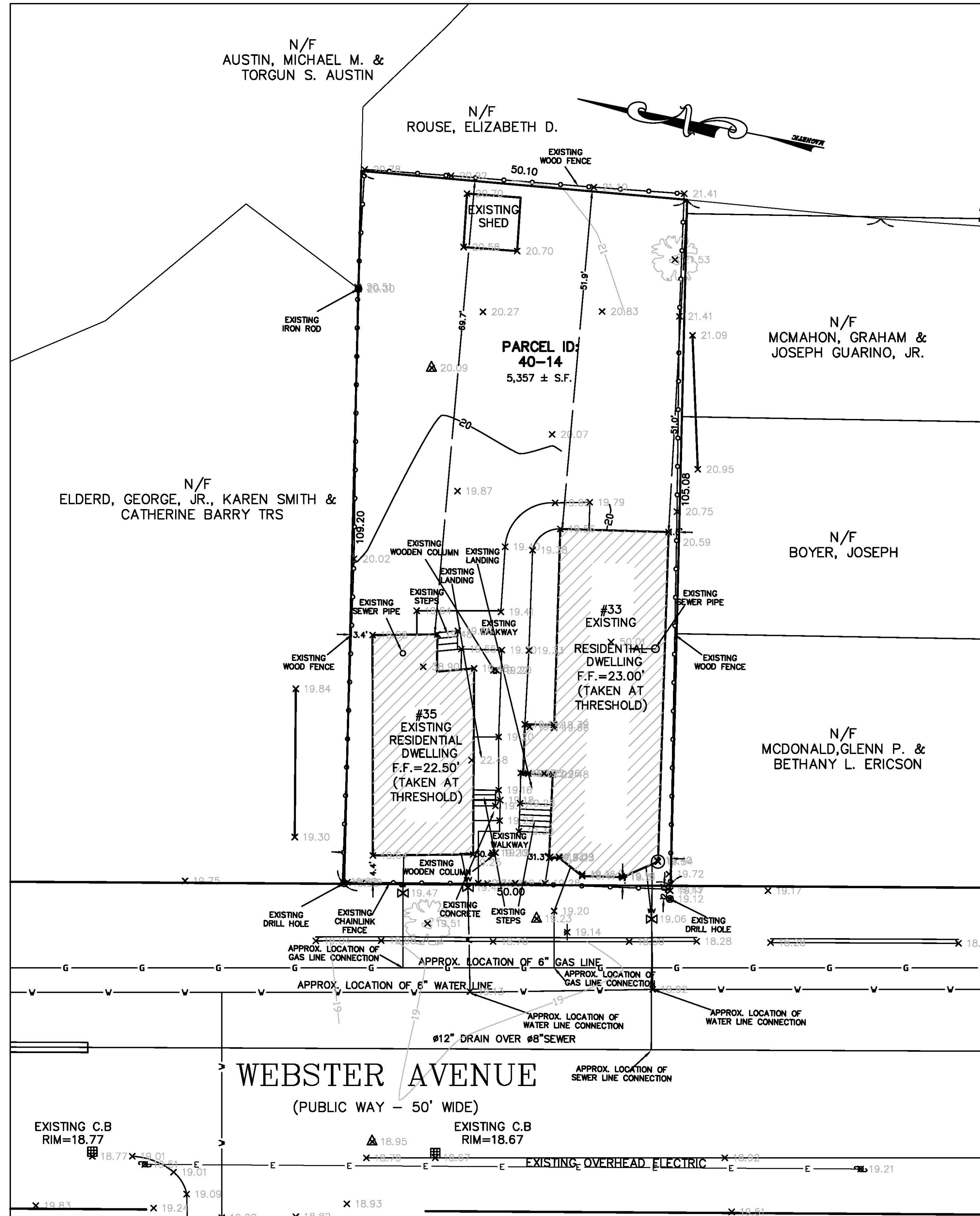
21 BRENDAN SULLIVAN: We're going to have to do this
22 two more times, Dan, just for the record.

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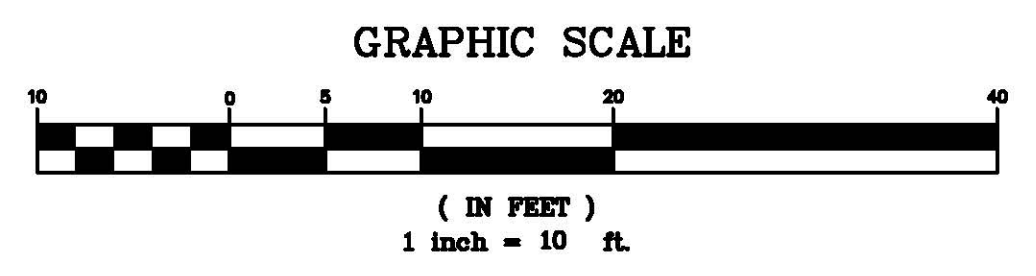
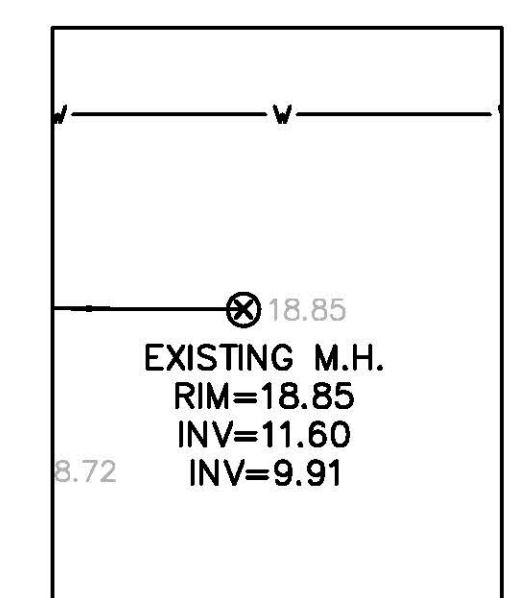
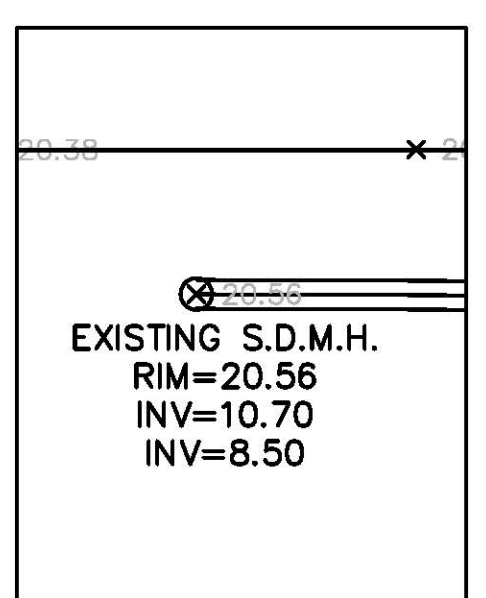
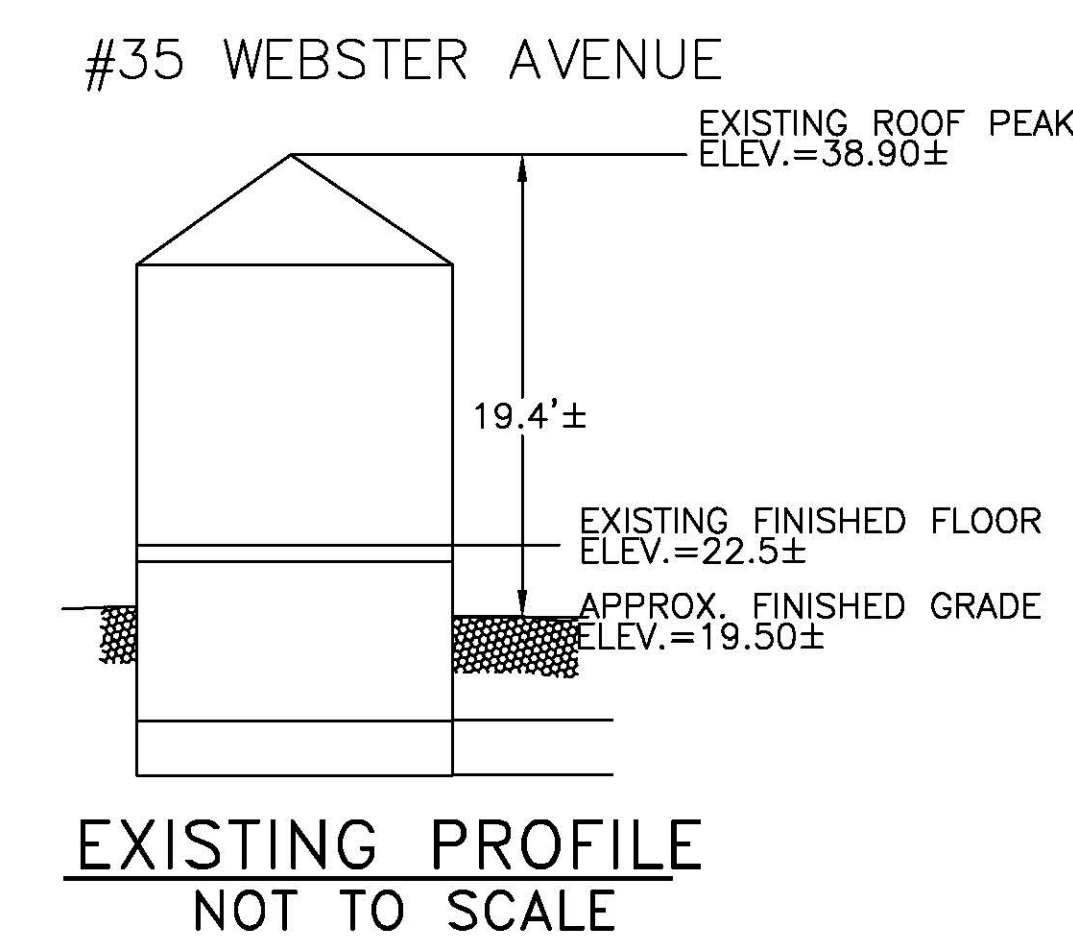
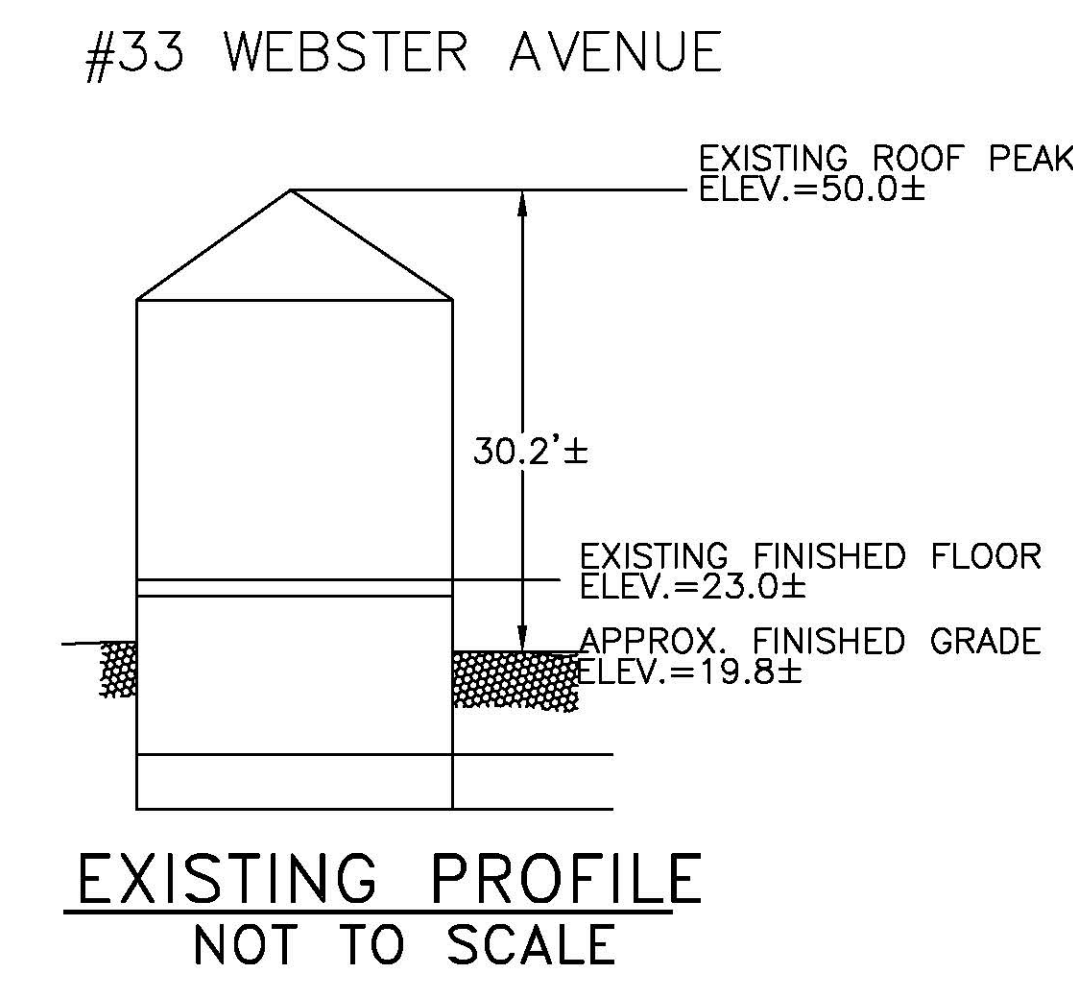
DAN ANDERSON: Yep.

LEGEND

□	BOUND
•	IRON PIN/PIPE
○	STONE POST
⊗	TREE
⌒	TREE STUMP
⊕	SHRUBS/FLOWERS
⌒	SIGN
○	BOLLARD
⊙	SEWER MANHOLE
⊙	DRAIN MANHOLE
⊙	CATCH BASIN
⊙	WATER MANHOLE
⊙	WATER VALVE
⊙	HYDRANT
⊙	GAS VALVE
⊙	ELECTRIC MANHOLE
⊙	ELECTRIC HANDHOLE
⊙	UTILITY POLE
⊙	LIGHT POLE
⊙	MANHOLE
X 48.00	SPOT GRADE
TW	TOP OF WALL
BW	BOTTOM OF WALL
▨	EXISTING BUILDING
▨	RETAINING WALL
▨	STONE WALL
▨	FENCE
—	TREE LINE
S	SEWER LINE
D	DRAIN LINE
W	WATER LINE
G	GAS LINE
E	UNDERGROUND ELECTRIC LINE
OHW	OVERHEAD WIRES
145	CONTOUR LINE (MJR)
146	CONTOUR LINE (MNR)



- NOTES:
1. INFORMATION SHOWN ON THIS PLAN IS THE RESULT OF A FIELD SURVEY PERFORMED BY SPRUHAN ENGINEERING, P.C. AS OF 05/27/2021.
 2. DEED REFERENCE: BOOK 1323, PAGE 116, PLAN REFERENCE: PLAN 829 Pg 62(139817) MIDDLESEX COUNTY DISTRICT REGISTRY OF DEEDS
 3. THIS PLAN IS NOT INTENDED TO BE RECORDED.
 4. I CERTIFY THAT THE DWELLING SHOWN IS NOT LOCATED WITHIN A SPECIAL FLOOD HAZARD ZONE. IT IS LOCATED IN ZONE X, ON FLOOD HAZARD BOUNDARY MAP NUMBER 25017C0577E, COMMUNITY NUMBER 250186, PANEL NUMBER 0557E, DATED 06/04/2010.
 5. THIS PLAN DOES NOT SHOW ANY UNRECORDED OR UNWRITTEN EASEMENTS WHICH MAY EXIST. A REASONABLE AND DILIGENT ATTEMPT HAS BEEN MADE TO OBSERVE ANY APPARENT USES OF THE LAND; HOWEVER THIS NOT CONSTITUTE A GUARANTEE THAT NO SUCH EASEMENTS EXIST.
 6. FIRST FLOOR ELEVATIONS ARE TAKEN AT THRESHOLD.
 7. NO RESPONSIBILITY IS TAKEN FOR ZONING TABLE AS SPRUHAN ENGINEERING, P.C. ARE NOT ZONING EXPERTS. TABLE IS TAKEN FROM TABLE PROVIDED BY LOCAL ZONING ORDINANCE. CLIENT AND/OR ARCHITECT TO VERIFY THE ACCURACY OF ZONING ANALYSIS.
 8. THE ELEVATIONS SHOWN ARE BASED ON CITY OF CAMBRIDGE DATUM.
 9. ZONING INFORMATION: RESIDENCE C-1



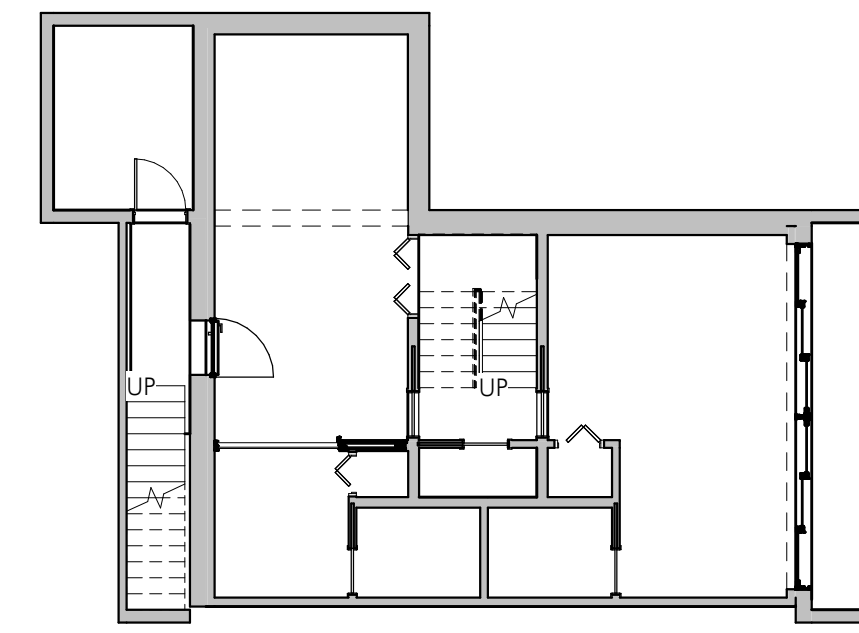
SCALE	1"=10'		
DATE	06/07/2021		
REV	DATE	REVISION	BY
SHEET			
33-35 WEBSTER AVENUE CAMBRIDGE MASSACHUSETTS			
EXISTING CONDITIONS			
DRAWN BY ES			
CHKD BY P.J.N			
APPD BY P.J.N			
PETER NOLAN & ASSOCIATES LLC LAND SURVEYORS/CIVIL ENGINEERING CONSULTANTS 80 JEWETT STREET, SUITE 2, NEWTON MA 02458 PHONE: 857 891 7478/617 782 1533 FAX: 617 202 5691 EMAIL: pnolan@pnasurveyors.com			
SHEET NO.			1

ZONING CHART - CAMBRIDGE

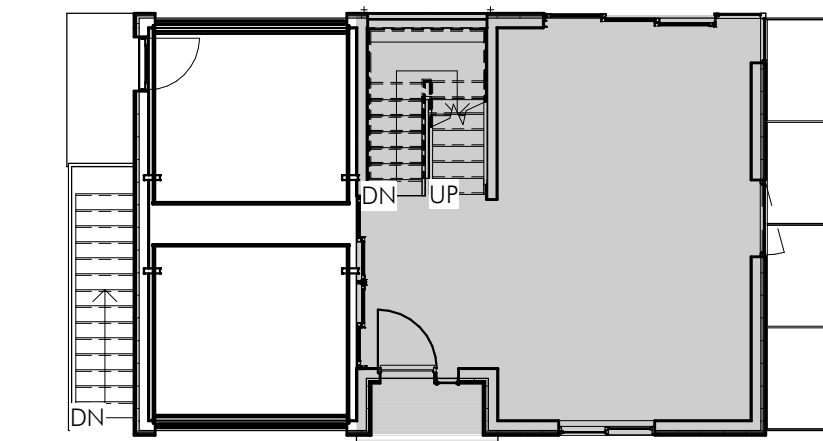
LOT SIZE:	ALLOWED / REQUIRED	EXISTING	PROPOSED	COMPLIANCE
ZONE	C1 ZONE	C1 ZONE	C1 ZONE	COMPLIES
USE	RESIDENTIAL/ MULTI-FAMILY.	RESIDENTIAL/ MULTI-FAMILY.	RESIDENTIAL/ MULTI-FAMILY.	COMPLIES
MIN LOT SIZE	5,000 S.F.	5,357 +/- S.F.	5,357 +/- S.F.	COMPLIES
MIN LOT AREA PER DWELLING	1,500 S.F.	2,678.5 S.F.	1,785.7 S.F.	COMPLIES
MAX FLOOR AREA RATIO (FAR)	0.75	0.59	0.74	COMPLIES
MAX BUILDING HEIGHT	3 ST 35'	3 ST 31'	3 ST 35'	COMPLIES
MIN. YARD SETBACKS (UNITS 33 - 35)				
FRONT	(H+L) / 6 MIN 10'	1.3'	4.1'	EXISTING NON CONFORMING
LEFT SIDE	(H+L) / 7 >= 7.5', SUM >=20'	3.4'	3.4'	EXISTING NON CONFORMING
RIGHT SIDE	(H+L) / 7 >= 7.5', SUM >=20'	1.6'	1.6'	EXISTING NON CONFORMING
REAR	(H+L) / 6 MIN 20'	51.9'	21.8'	COMPLIES
MIN. YARD SETBACKS (UNITS 37)				
LEFT SIDE	(H+L) / 7 >= 7.5', SUM >=20'	N/A	8.5'	COMPLIES
RIGHT SIDE	(H+L) / 7 >= 7.5', SUM >=20'	N/A	8.5'	COMPLIES
REAR	(H+L) / 6 MIN 20'	N/A	21.8'	COMPLIES
MIN LOT WIDTH	50'	50'	50'	COMPLIES
PARKING REQUIREMENTS	ONE PER DWELLING UNIT	0 PARKING SPACES	3 PARKING SPACES	COMPLIES
OPEN SPACE, MIN % OF LOT	30% OF TOTAL LOT AREA = 1607.10 SF	64% = 3450 +/- SF	34% = 1828.49 SF	COMPLIES
PRIVATE OPEN SPACE	50% OF TOTAL OPEN SPACE = 803.55 SF	95% = 3279.06 S.F.	66% = 1064.99 S.F.	COMPLIES
PERMEABLE OPEN SPACE	50% OF TOTAL OPEN SPACE = 803.55 SF	100% = 3450.00 S.F.	123% = 1969.19 S.F.	COMPLIES
BICYCLE PARKING	0 SPACES	0 SPACES	0 SPACES	COMPLIES

AREA CALCULATIONS	EXISTING	PROPOSED
BASEMENT UNIT 33 (N/A)	N/A	N/A
FIRST FLOOR UNIT 33	834.94	527.73
SECOND FLOOR UNIT 33	819.24	464.78
THIRD FLOOR UNIT 33	609.22	515.28
TOTAL (UNIT 33)	2263.40	1507.85
BASEMENT UNIT 35 (N/A)	N/A	N/A
FIRST FLOOR UNIT 35	484.37	432.81
SECOND FLOOR UNIT 35	431.78	237.65
TOTAL (UNIT 35)	916.15	670.46
BASEMENT UNIT 37 (N/A)	N/A	N/A
FIRST FLOOR UNIT 37	N/A	463.73
SECOND FLOOR UNIT 37	N/A	751.22
THIRD FLOOR UNIT 37	N/A	598.32
TOTAL (UNIT 37)	N/A	1813.27
GRAND TOTAL	3179.55	3991.58

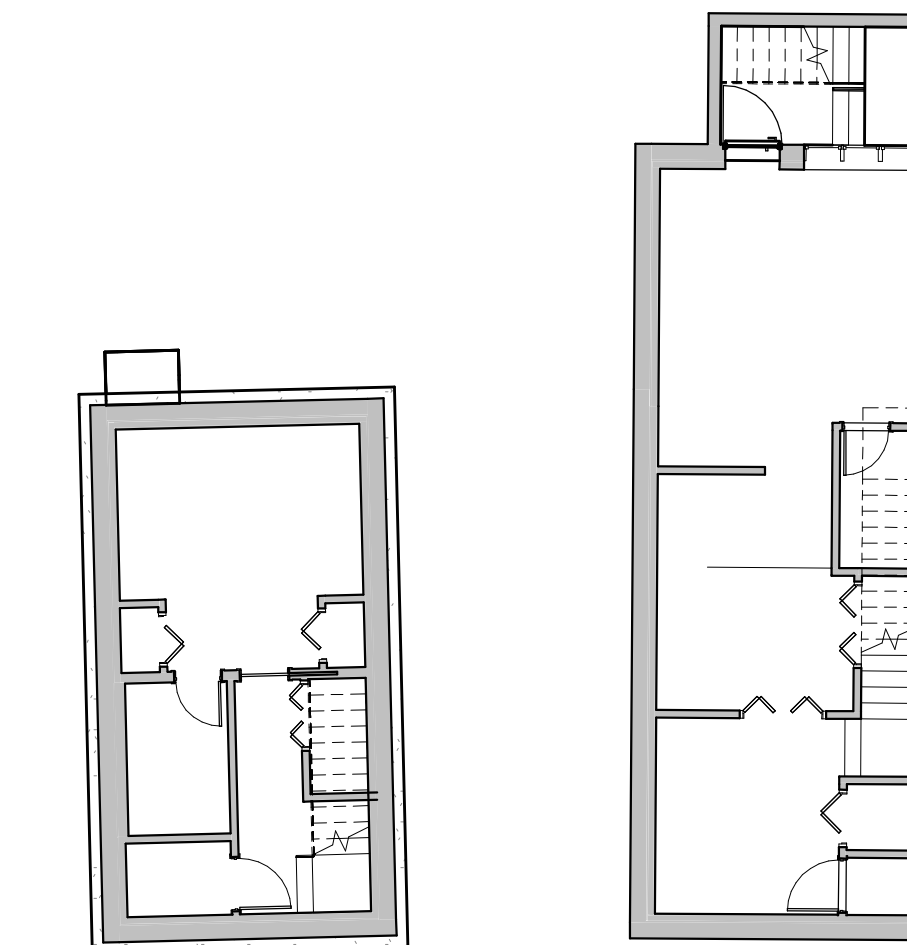
N/A; BASEMENT AREA IS EXCLUDED FROM GROSS FLOOR AREA PER ARTICLE 2.



UNIT 37

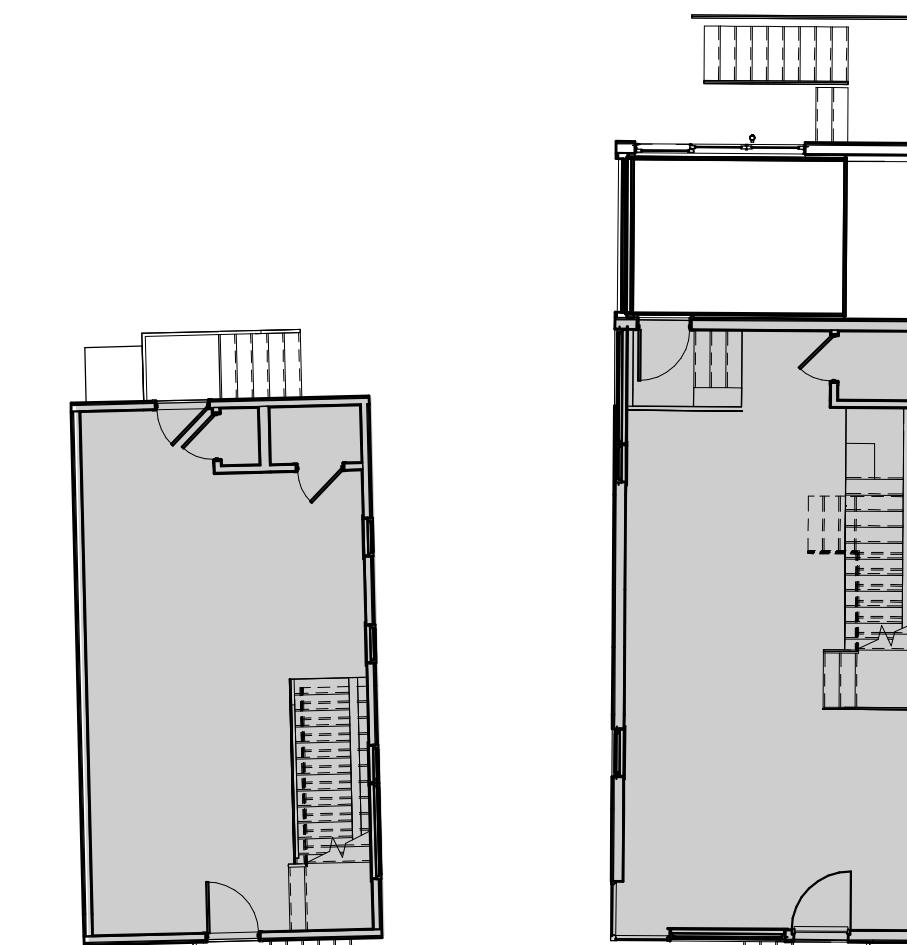


UNIT 37



UNIT 35

UNIT 33



UNIT 35

UNIT 33

④ ZONING-BASEMENT
1" = 10'-0"

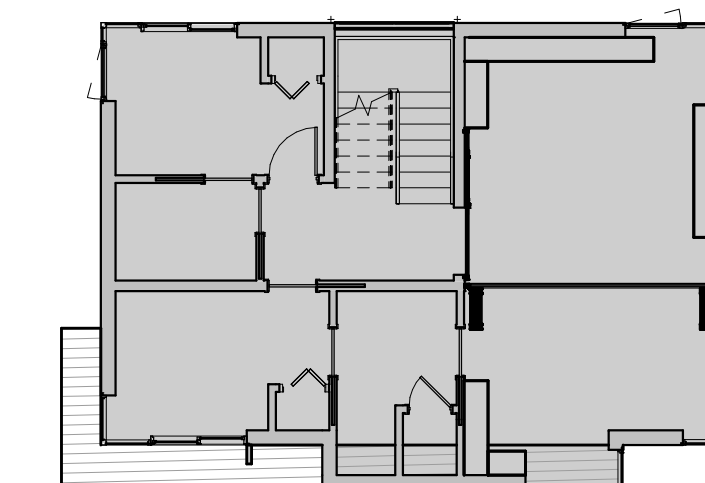
① ZONING-FIRST FLOOR
1" = 10'-0"

FOOTNOTES:

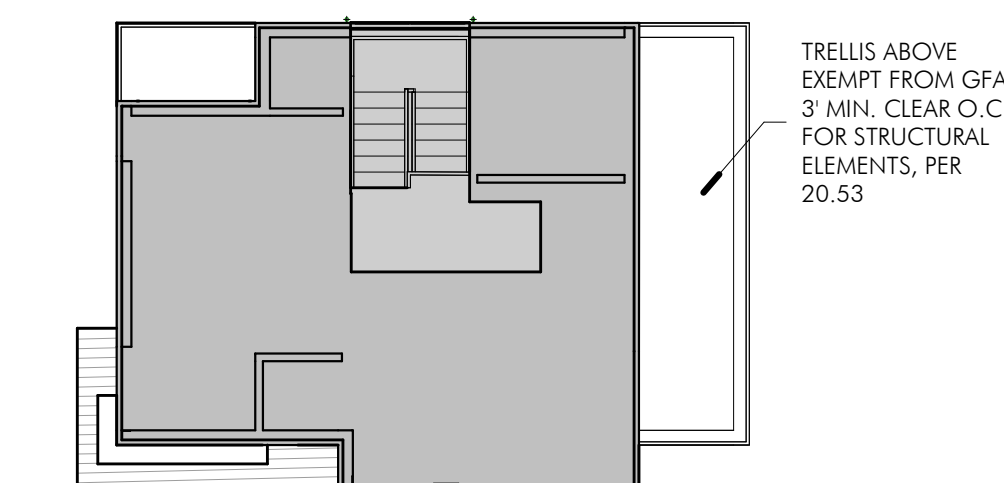
- Identifying rear yard set back.
- Min. distance between buildings: Sum of Heights/6 or 10'-0", whichever is greater.



⑤ AREA ELEVATION / SECTION
1/4" = 1'-0"



UNIT 37



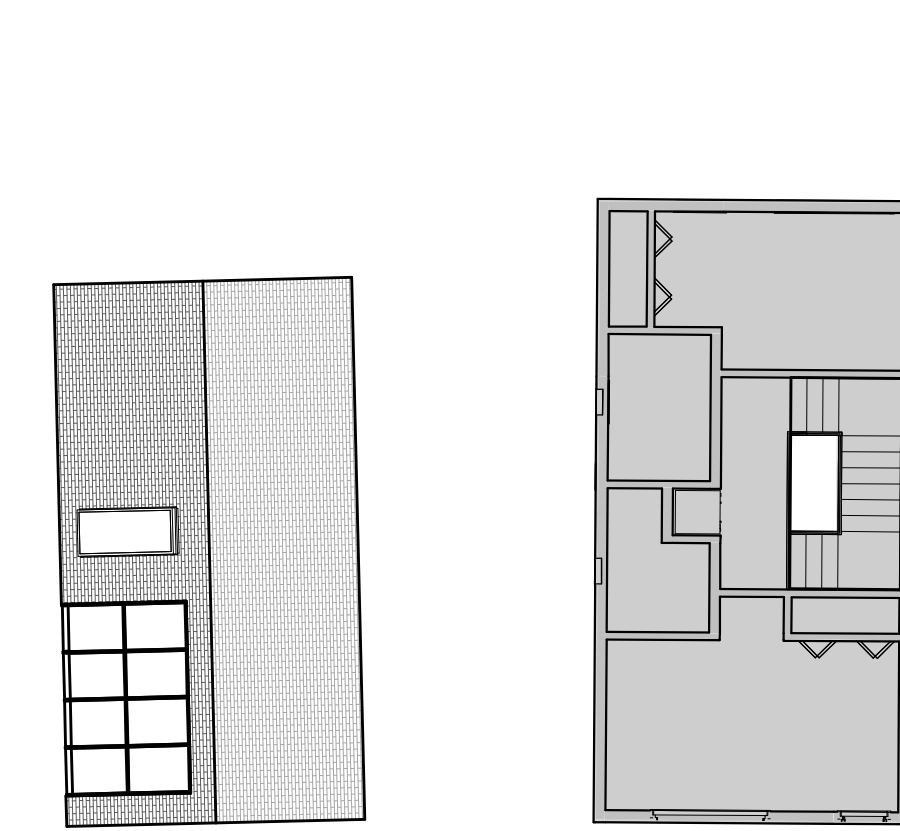
UNIT 37

TRELLIS ABOVE EXEMPT FROM GFA 3' MIN. CLEAR O.C. FOR STRUCTURAL ELEMENTS, PER 20.53



UNIT 35

UNIT 33



UNIT 35

UNIT 33

② ZONING-SECOND FLOOR
1" = 10'-0"

③ ZONING-THIRD FLOOR
1" = 10'-0"

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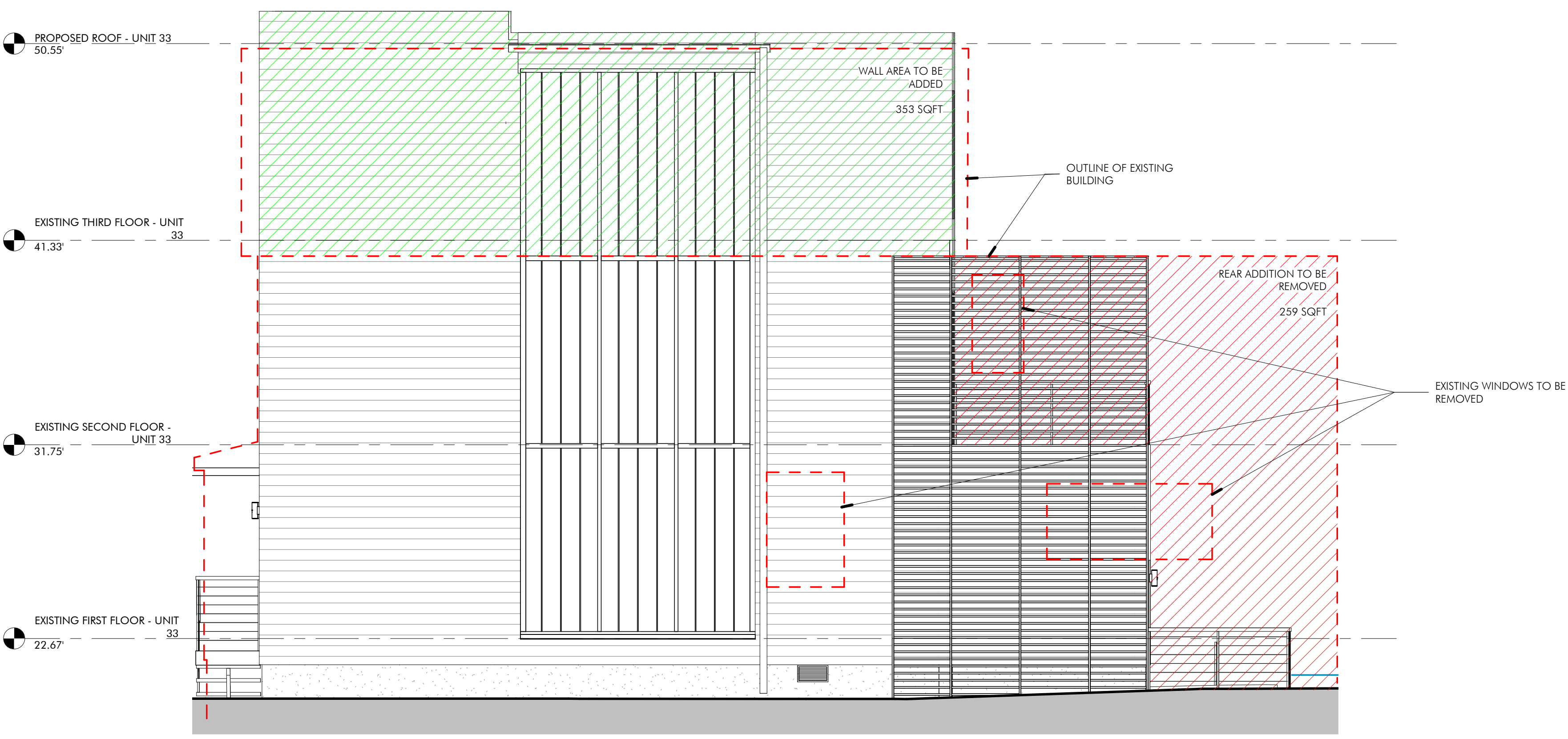
Project: 33,35 & 37 WEBSTER
Address: 35 WEBSTER AVENUE
CAMBRIDGE, MA 02141
Title: ZONING COMPLIANCE

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Date: 11/24/2021
Scale: As indicated
Drawn by: AS,DA,RBAS **Z1.1**

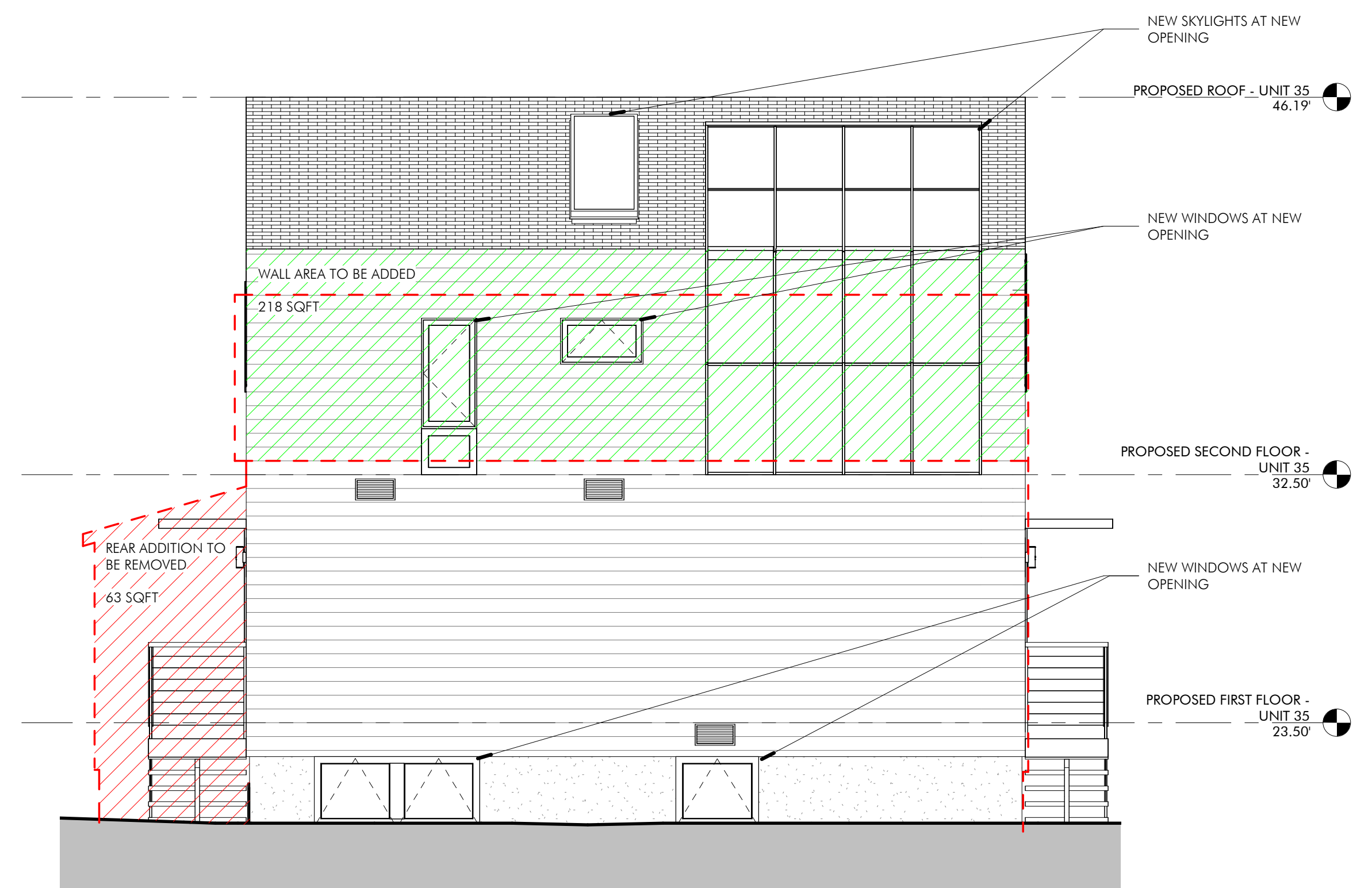


③ UNITS 33 & 35 FRONT ELEVATION
1/4" = 1'-0"

AREA	UNIT 33	UNIT 35
TO BE REMOVED	269 sqft	63 sqft
TO BE ADDED	353 sqft	218 sqft
% CHANGE	+ 0.7 %	+ 25 %



② SOUTH ELEVATION - UNIT 33
1/4" = 1'-0"



① NORTH ELEVATION - UNIT 35
1/4" = 1'-0"

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Title: ZONING COMPLIANCE

Drawing Issued By: ANDERSON PORTER DESIGN
Project #: 2112 Drawn No.
Date: 11/24/2021
Scale: 1/4" = 1'-0"
Drawn by: Author

11/24/2021 5:01:10 PM

ZONING PLAN LEGEND

-  PROPOSED 33 WEBSTER
-  PROPOSED 35 WEBSTER
-  PROPOSED 37 WEBSTER
-  LANDSCAPE
-  PRIVATE OPEN SPACE
-  PAVERS
-  REQUIRED MINIMUM SETBACKS

NOTE:
This plan is for informational and illustrative purposes only. The preparer of this plan makes no claim to its accuracy. This plan shall not be used or relied upon in any circumstance. A certified Land Surveyor shall provide an official certified plot plan.

ZONING
1/4" = 1'-0"

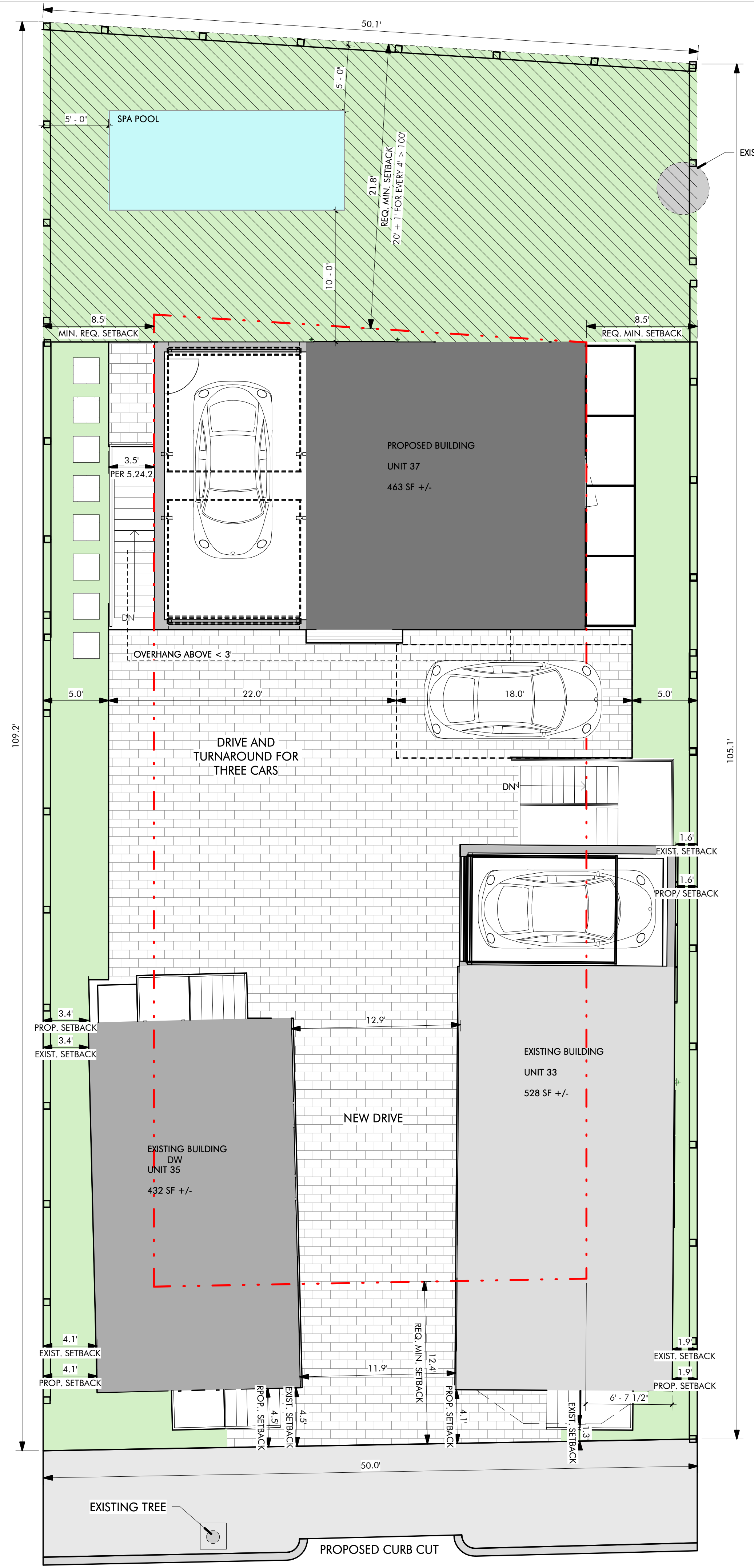
LANDSCAPE NOTES

TOTAL LOT AREA = 5,357 SF
 TOTAL LANDSCAPE AREA = 2,063.80 SF
 PERVIOUS AREA = 1,828.49 SF
 PRIVATE OPEN SPACE = 1,057.27 SF

PRIVATE OPEN SPACE = SF-MIN. DIMENSION 15'x15'

LANDSCAPE AREA = 34% OF TOTAL LOT

PRIVATE OPEN SPACE = 66% OF TOTAL LANDSCAPE



1 PROPOSED SITE PLAN
3/16" = 1'-0"

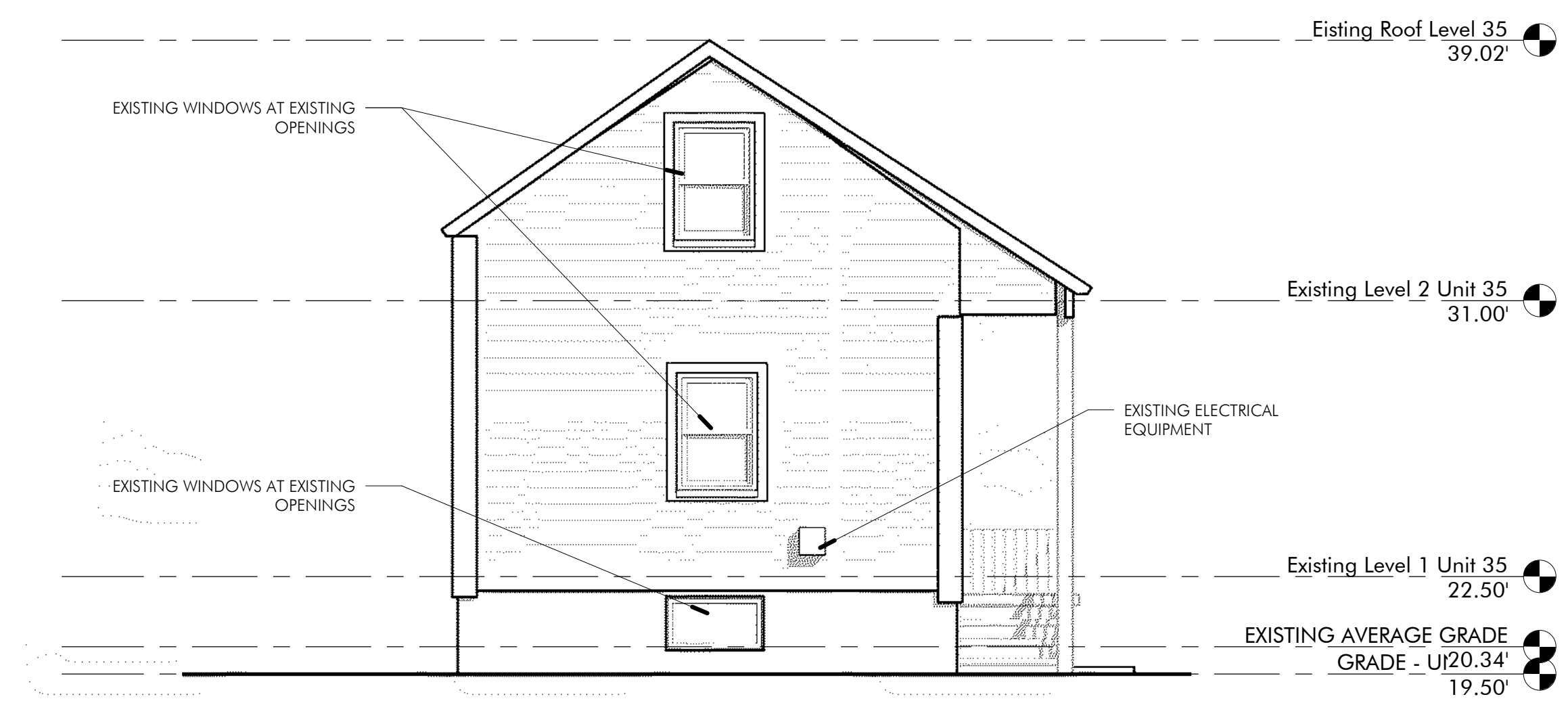
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Project: 33,35 & 37 WEBSTER
Address: 35 WEBSTER AVENUE
CAMBRIDGE, MA 02141
Title: PROPOSED SITE PLAN

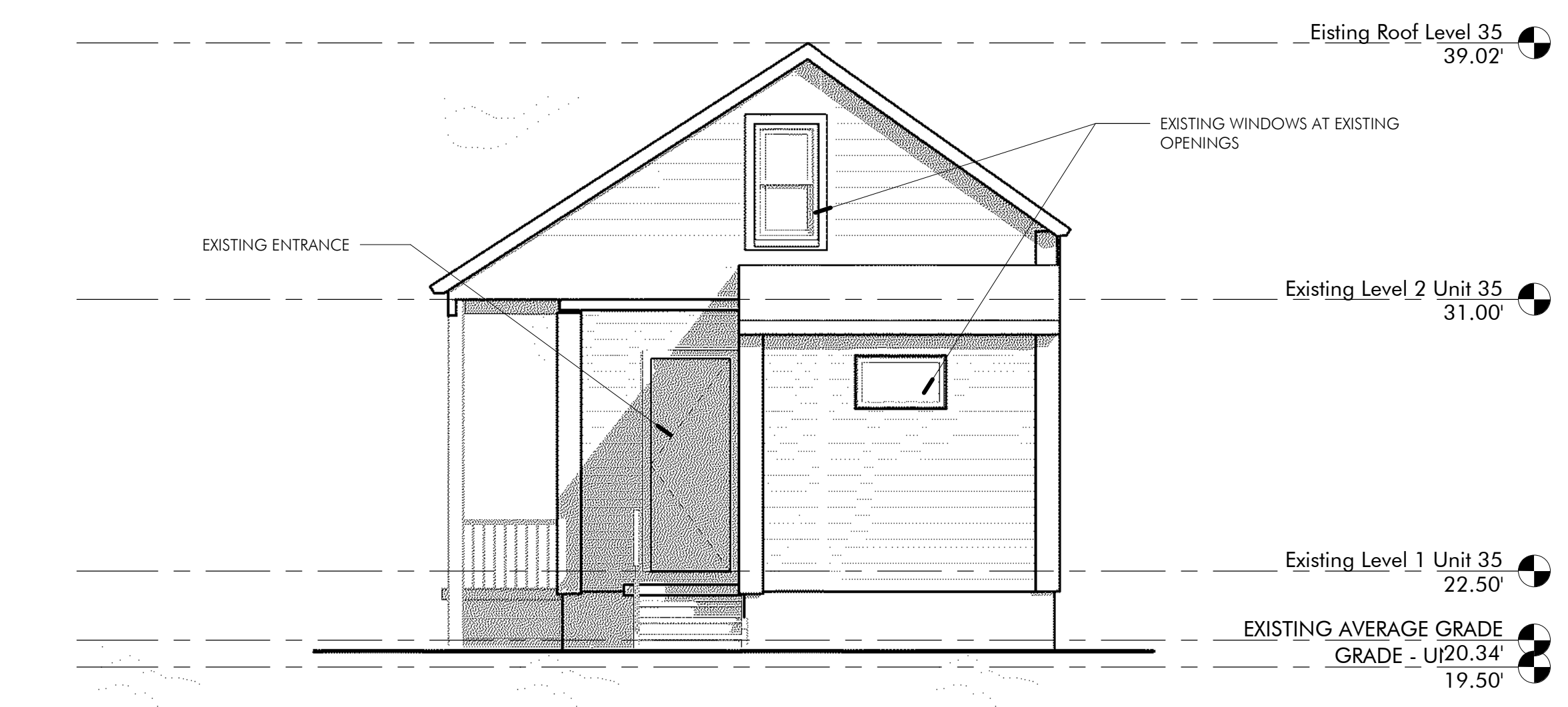
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Date: 11/24/2021	Scale: As indicated	L1.1
Drawn by: AR.S., R.B.		



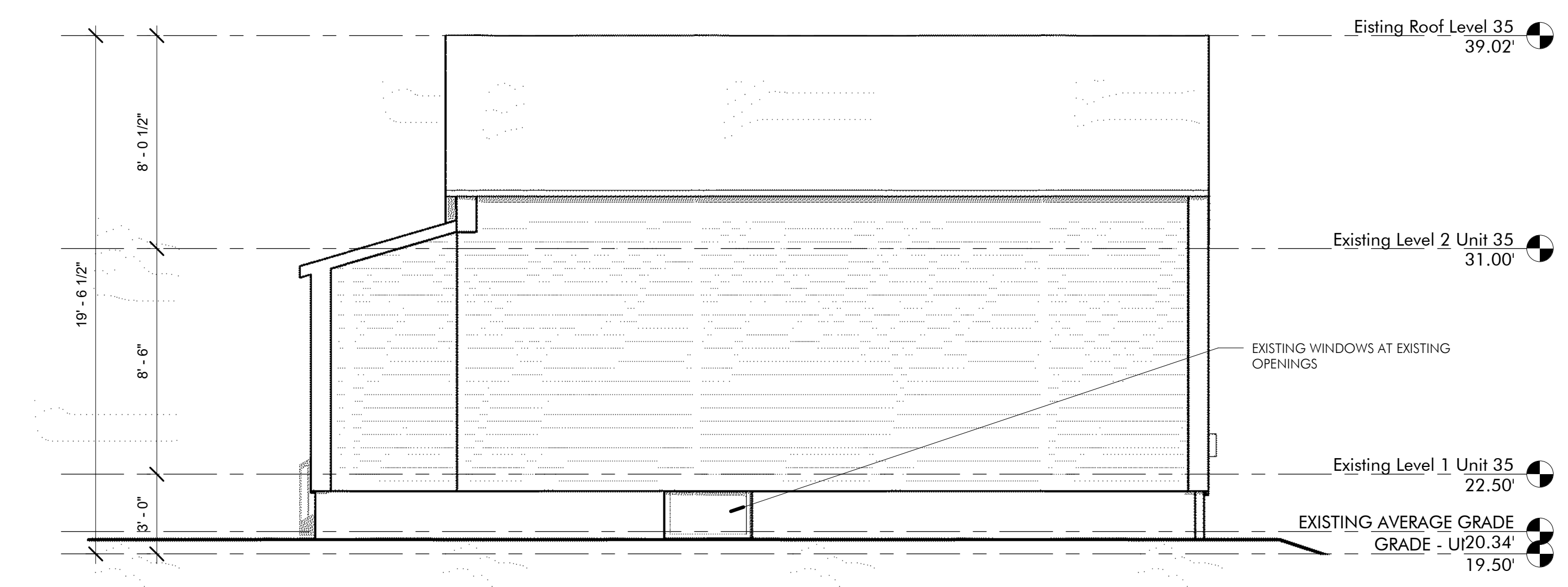
4 EXISTING SOUTH ELEVATION
1/4" = 1'-0"



1 EXISTING EAST ELEVATION
1/4" = 1'-0"



2 EXISTING NORTH ELEVATION
1/4" = 1'-0"



3 EXISTING WEST ELEVATION
1/4" = 1'-0"

SPECIAL PERMIT

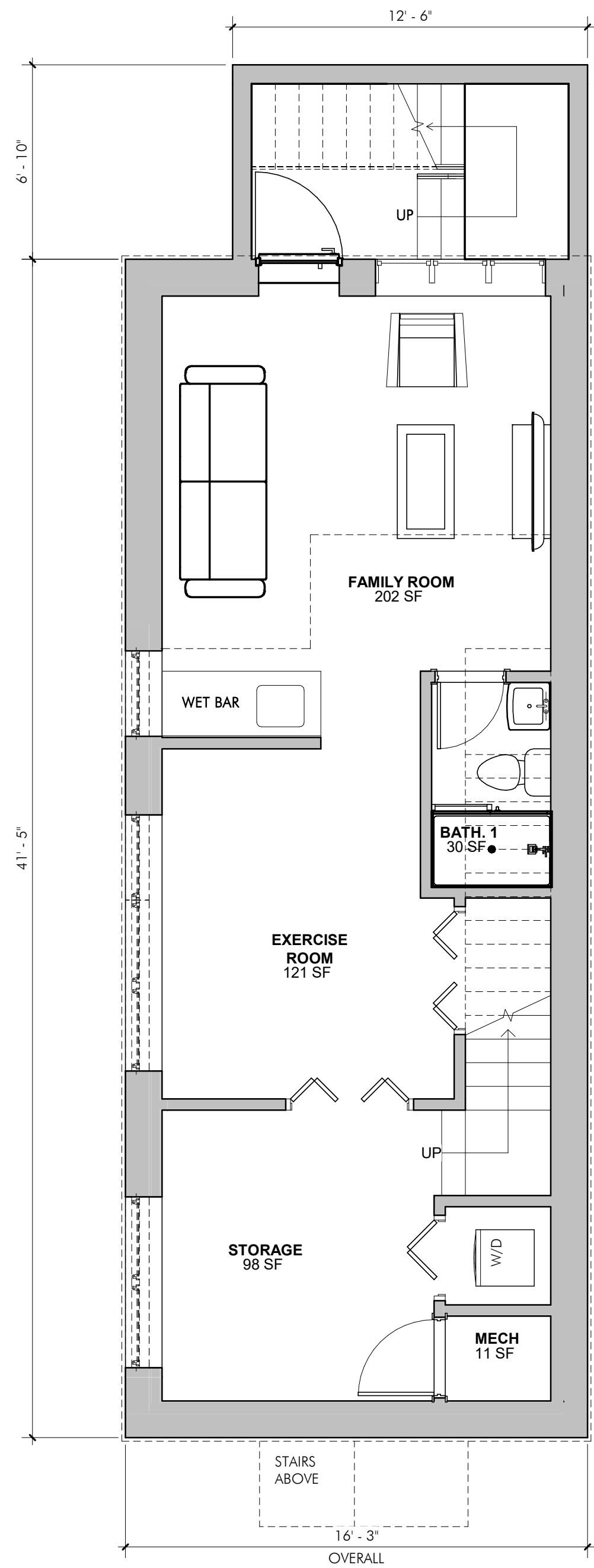
REVISIONS		
No.	Description	Date

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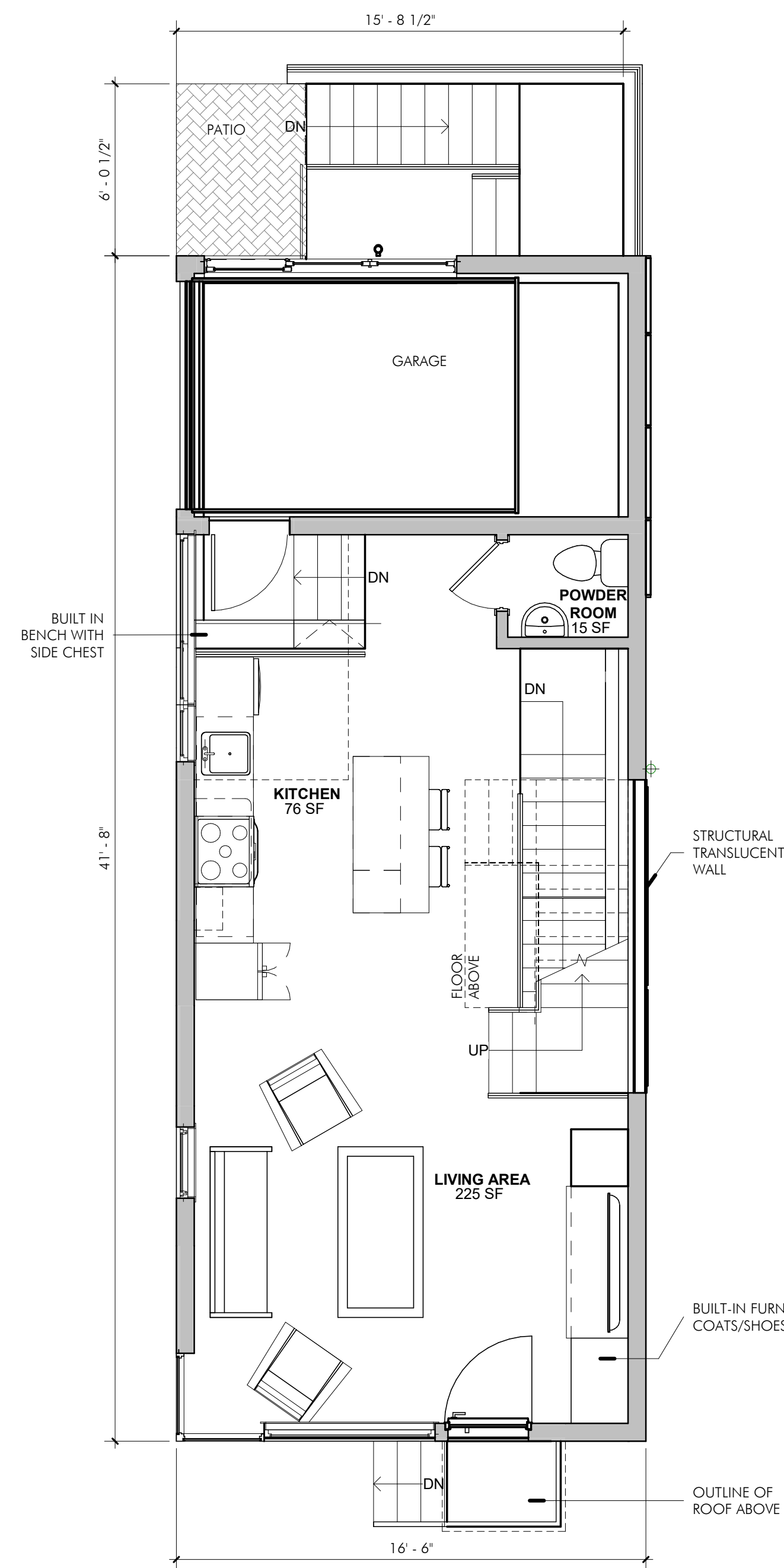
Project: 35 WEBSTER
Address: 35 WEBSTER AVENUE
CAMBRIDGE, MA 02141

Title: EXISTING ELEVATIONS - UNIT 35

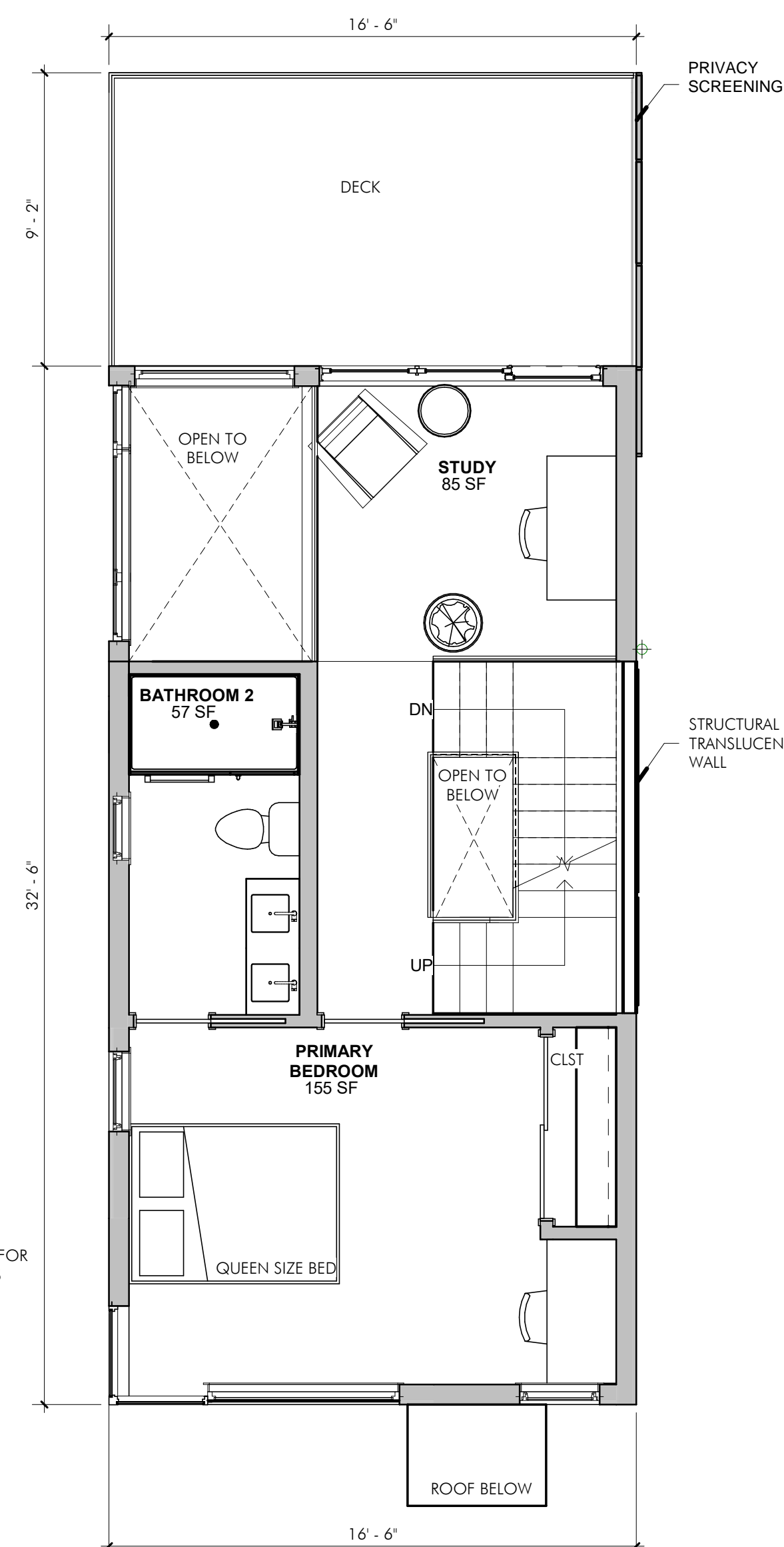
Drawing Issued By: ANDERSON PORTER DESIGN	Project #: 2112	Drawn No.:
Date: 11/24/2021	Scale: 1/4" = 1'-0"	AX2.2
Drawn by: DA/RB/AS		



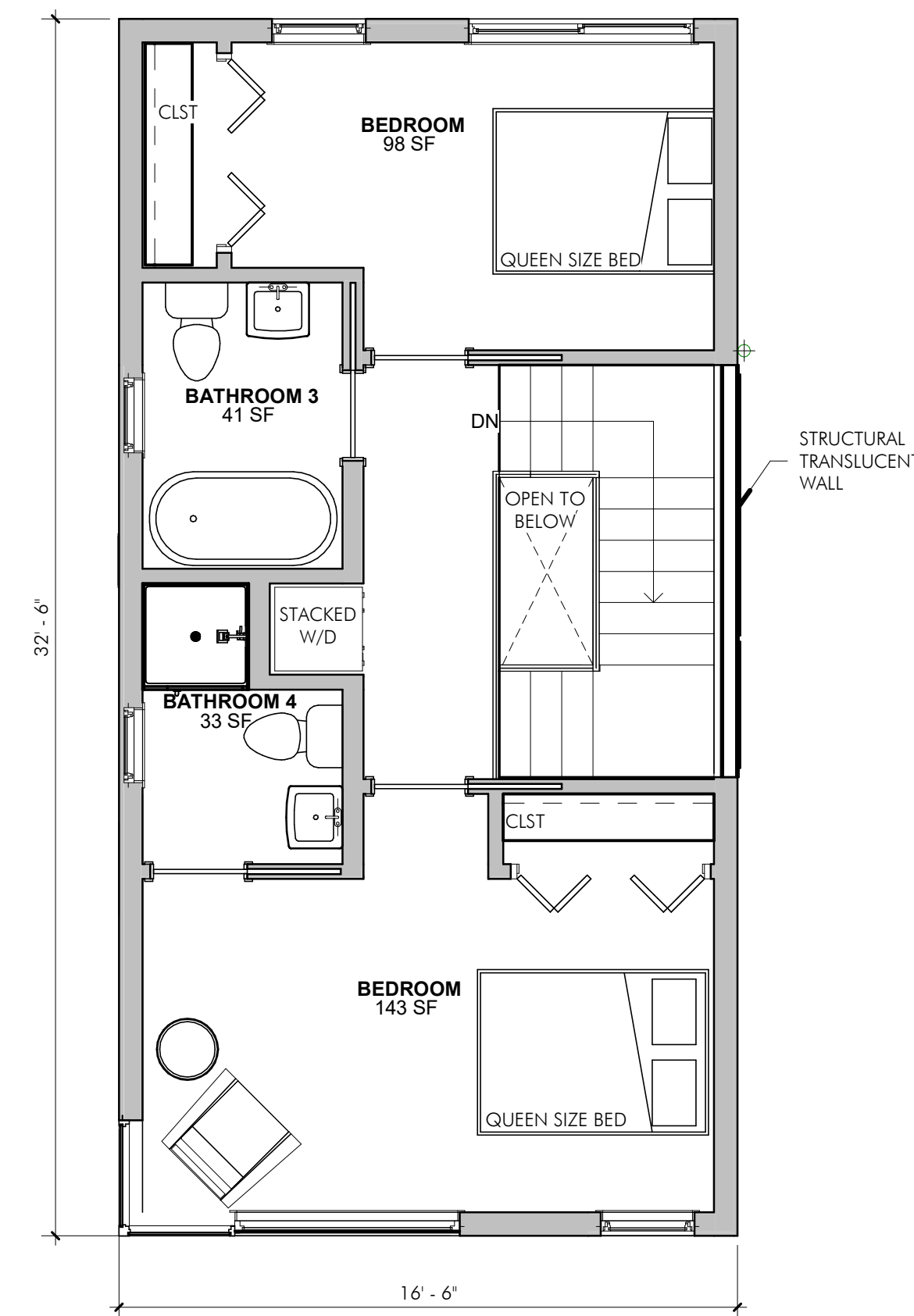
1 PROPOSED BASEMENT PLAN - UNIT 33
1/4" = 1'-0"



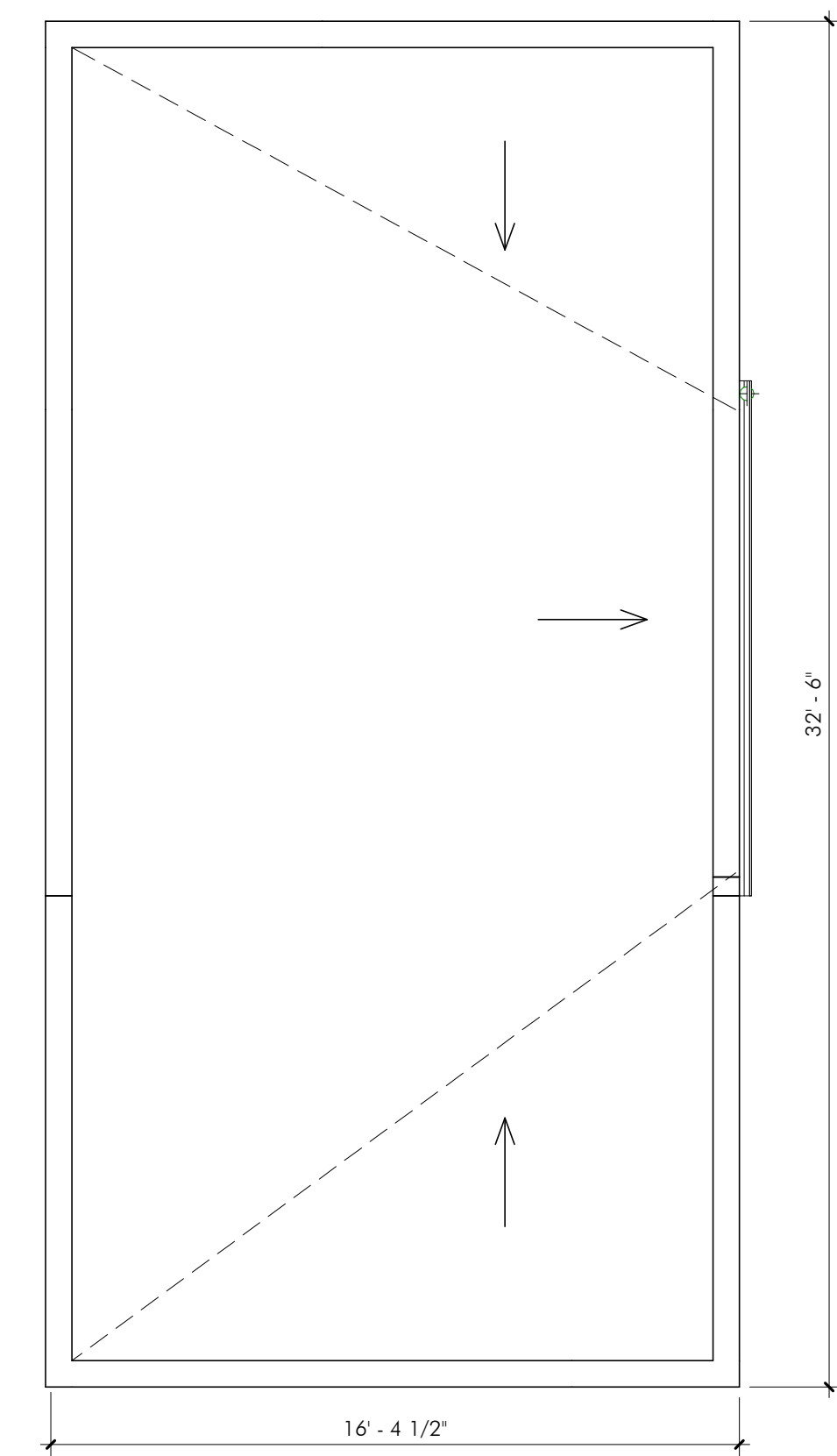
2 PROPOSED FIRST FLOOR PLAN - UNIT 33
1/4" = 1'-0"



3 PROPOSED SECOND FLOOR PLAN - UNIT 33
1/4" = 1'-0"



4 PROPOSED THIRD FLOOR PLAN - UNIT 33
1/4" = 1'-0"



5 PROPOSED ROOF PLAN - UNIT 33
1/4" = 1'-0"

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Address: 33 WEBSTER AVENUE
CAMBRIDGE, MA 02141
Title: PROPOSED PLANS - UNIT 33

Drawing Issued By: ANDERSON PORTER DESIGN
Project #: 2112 Drawn No.
Date: 11/24/2021
Scale: 1/4" = 1'-0"
Drawn by: AR.S

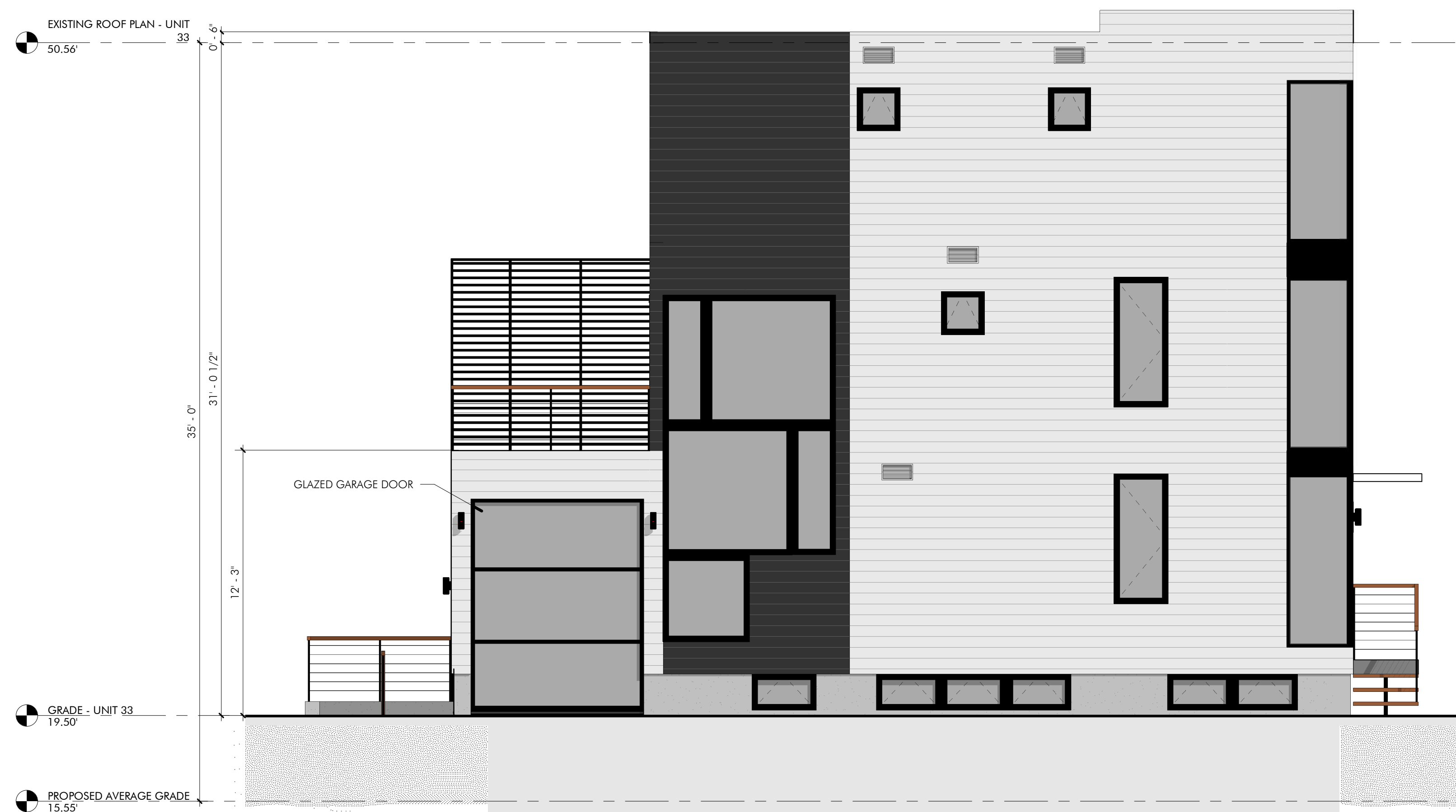
A1.1



1 PROPOSED SOUTH ELEVATION - UNIT 33
1/4" = 1'-0"



2 PROPOSED EAST ELEVATION - UNIT 33
1/4" = 1'-0"



3 PROPOSED NORTH ELEVATION - UNIT 33
1/4" = 1'-0"



4 PROPOSED WEST ELEVATION - UNIT 33
1/4" = 1'-0"

SPECIAL PERMIT

REVISIONS		
No.	Description	Date

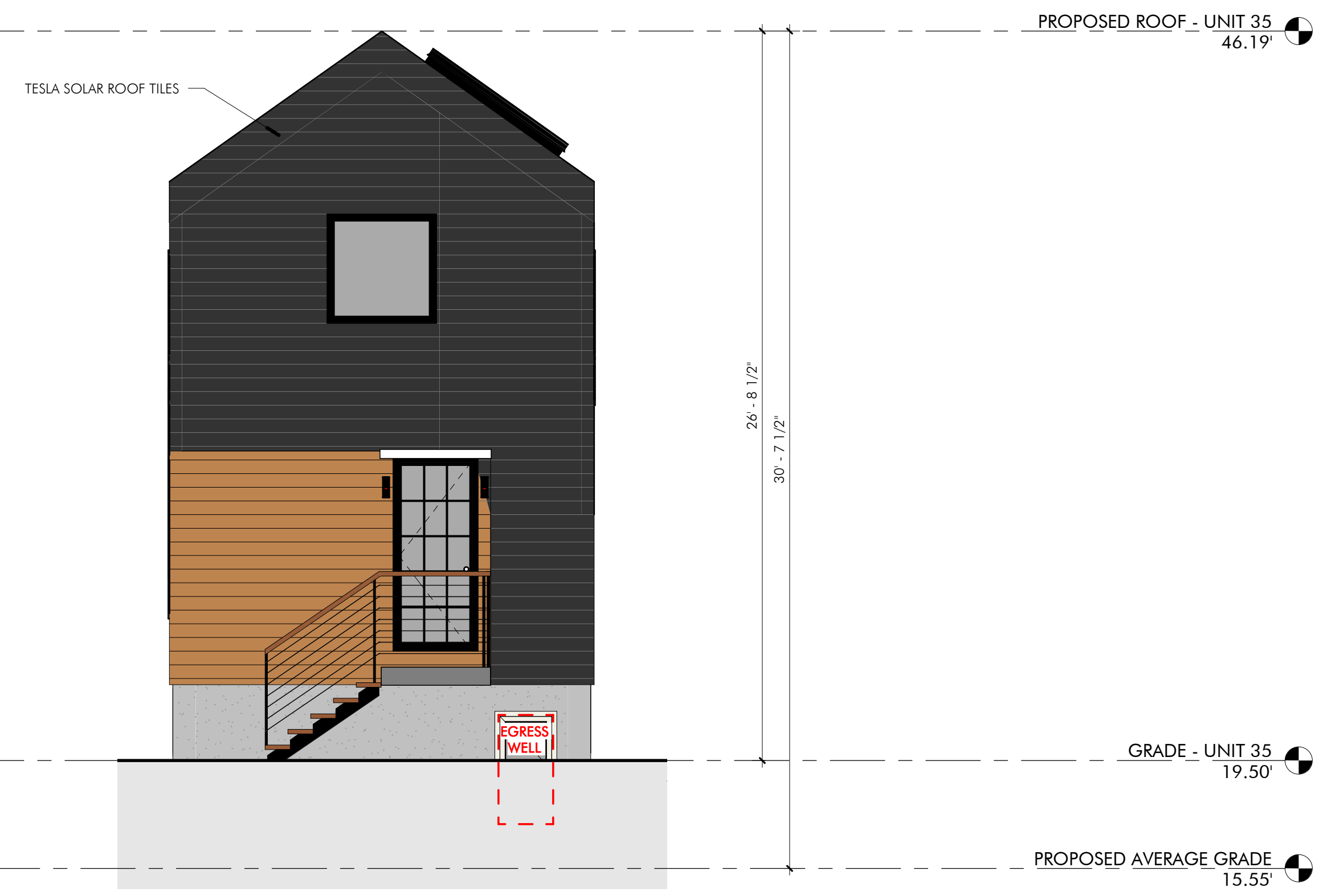
AndersonPorterDesign
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Cambridge, MA 02140
Tel. 617.354.2501 Fax. 617.354.2509

Project: 33 WEBSTER
Address: 33 WEBSTER AVENUE
CAMBRIDGE, MA 02141
Title: PROPOSED ELEVATIONS - UNIT 33

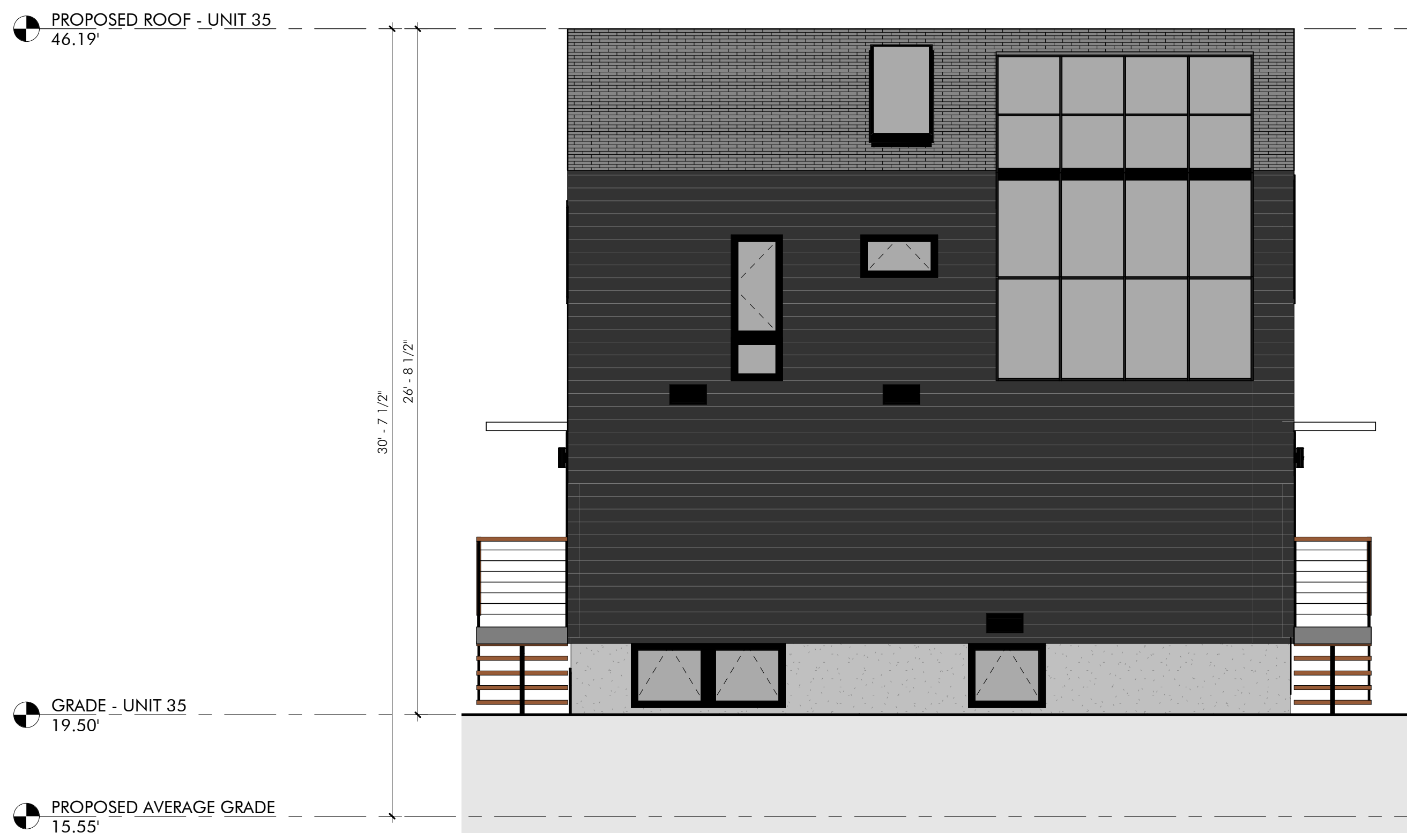
Drawing Issued By: ANDERSON PORTER DESIGN
Project #: 2112 Drawn No.
Date: 11/24/2021
Scale: 1/4" = 1'-0"
Drawn by: AR.S



① PROPOSED SOUTH ELEVATION - UNIT 35
1/4" = 1'-0"



② PROPOSED EAST ELEVATION - UNIT 35
1/4" = 1'-0"



③ PROPOSED NORTH ELEVATION - UNIT 35
1/4" = 1'-0"



④ PROPOSED WEST ELEVATION - UNIT 35
1/4" = 1'-0"

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No.	Description	Date

AndersonPorterDesign
1972 Massachusetts Ave, 4th Floor
Cambridge, MA 02140
Tel. 617.354.2501 Fax. 617.354.2509

Project: 35 WEBSTER
Address: 35 WEBSTER AVENUE
CAMBRIDGE, MA 02141
Title: PROPOSED ELEVATIONS - UNIT 35

Drawing Issued By: ANDERSON PORTER DESIGN
Project #: 2112
Date: 11/24/2021
Scale: 1/4" = 1'-0"
Drawn by: AR.S

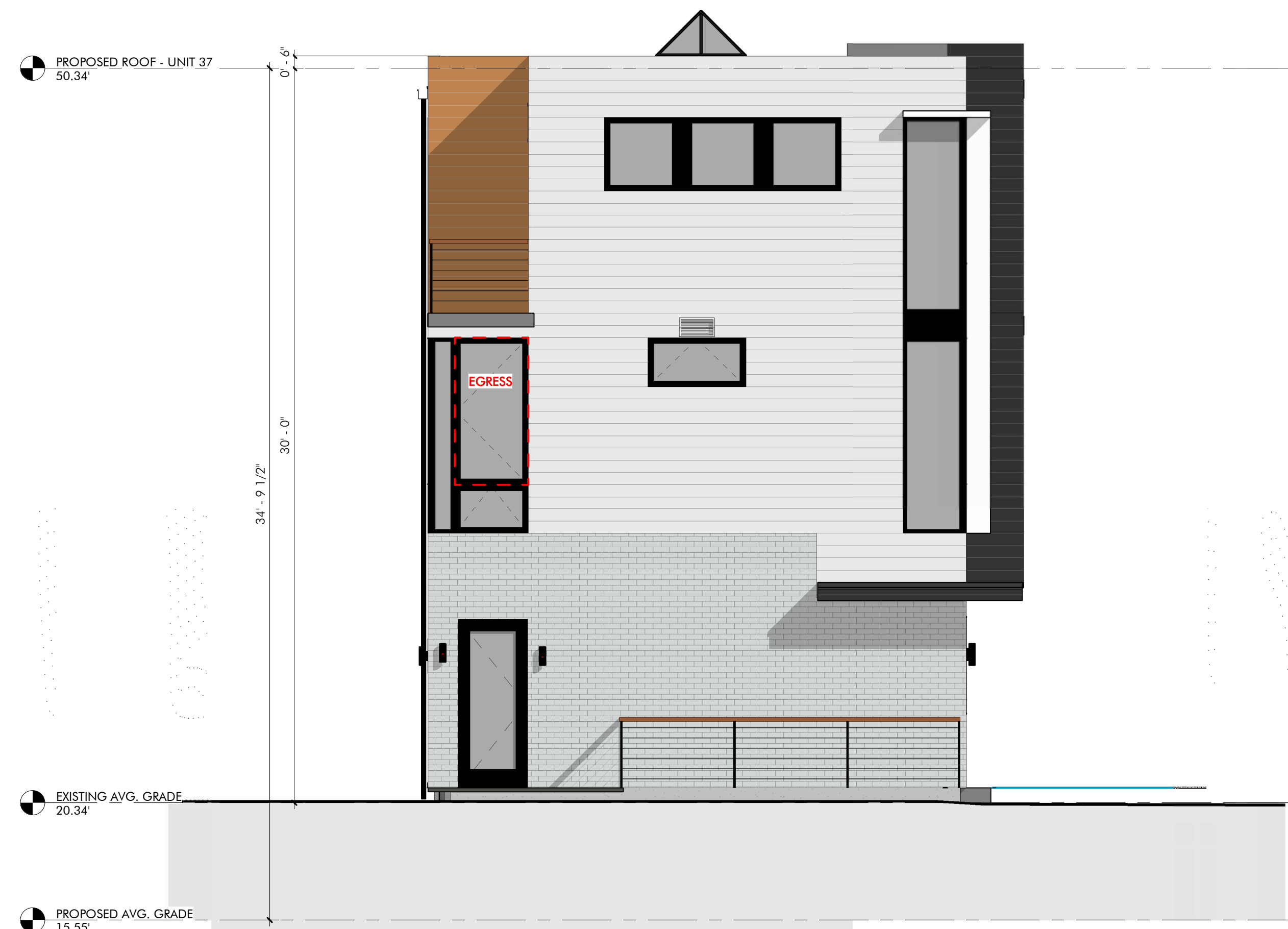
A2.2



① PROPOSED SOUTH ELEVATION - UNIT 37
1/4" = 1'-0"



② PROPOSED EAST ELEVATION - UNIT 37
1/4" = 1'-0"



③ PROPOSED NORTH ELEVATION - UNIT 37
1/4" = 1'-0"



④ PROPOSED WEST ELEVATION - UNIT 37
1/4" = 1'-0"

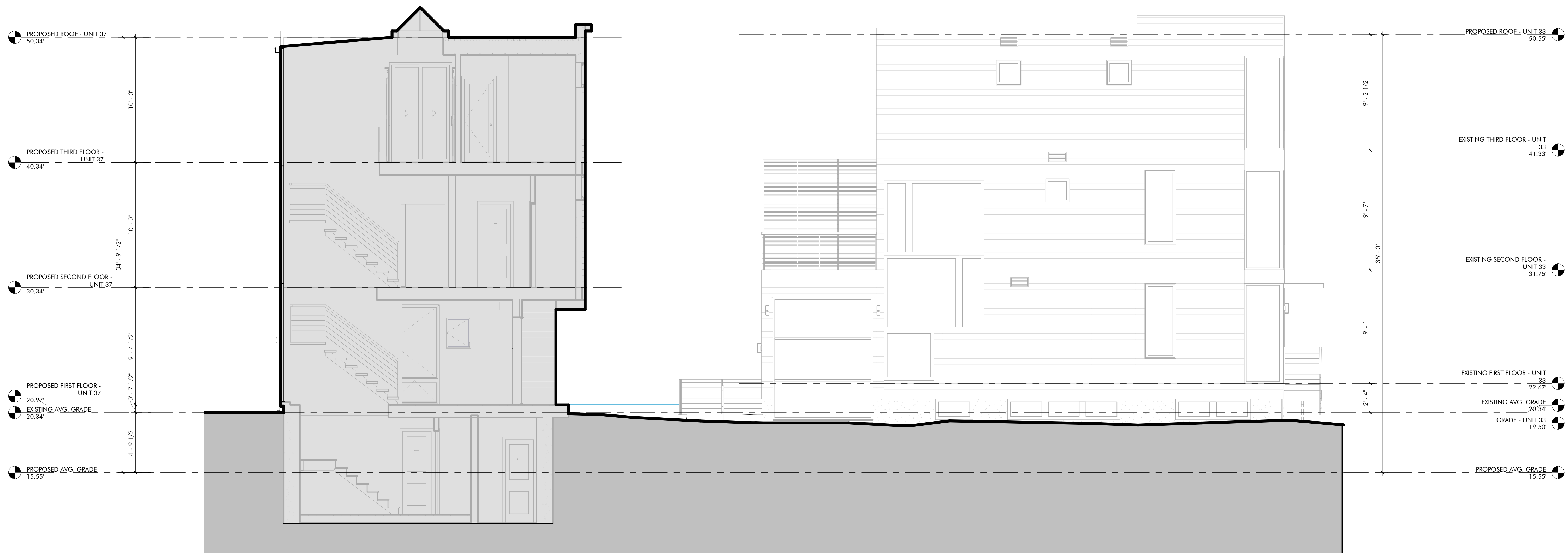
SPECIAL PERMIT

REVISIONS		
No.	Description	Date

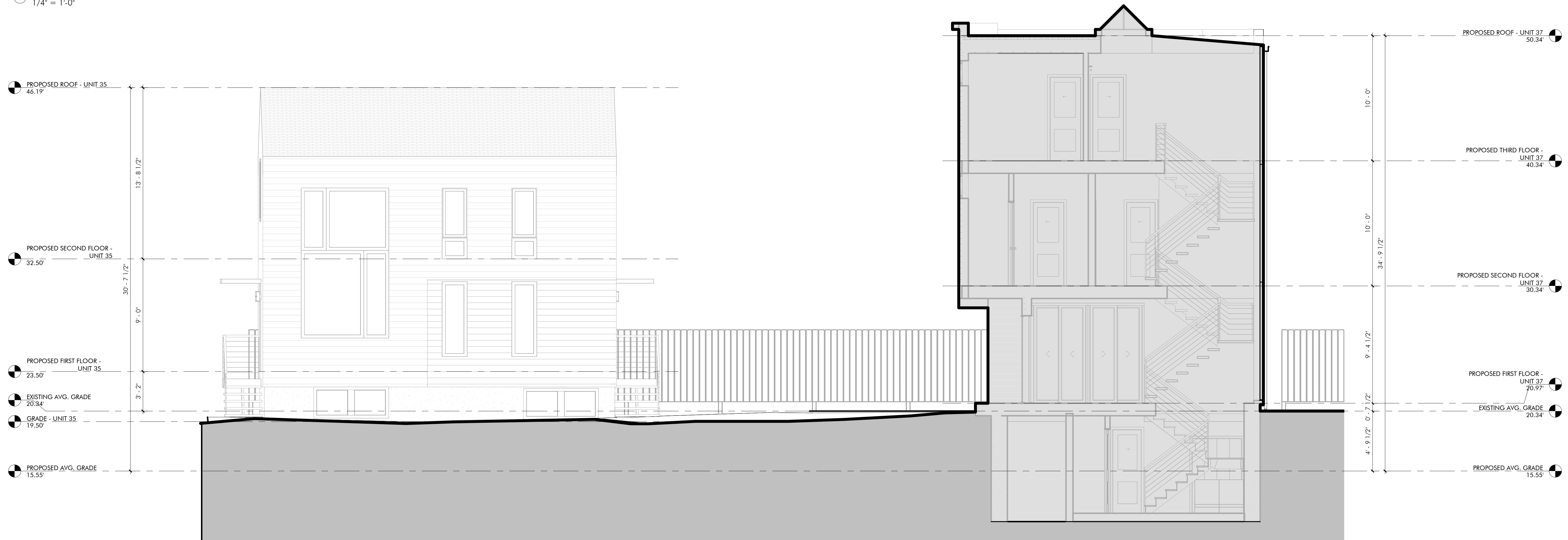
AndersonPorterDesign
1972 Massachusetts Ave, 4th Floor
Cambridge, MA 02140
Tel. 617.354.2501 Fax. 617.354.2509

Project: 33,35 & 37 WEBSTER
Address: 35 WEBSTER AVENUE
CAMBRIDGE, MA 02141
Title: PROPOSED ELEVATIONS - UNIT 37

Drawing Issued By: ANDERSON PORTER DESIGN
Project #: 2112 Drawn No.
Date: 11/24/2021
Scale: 1/4" = 1'-0"
Drawn by: AR.S



1 CROSS SECTION UNIT 37 - ELEVATION UNIT 33
1/4" = 1'-0"



2 PROPOSED SECTION UNIT 37 - ELEVATION UNIT 35
1/4" = 1'-0"

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Cambridge, MA 02140
Tel. 617.354.2501 Fax. 617.354.2509

Project: 33,35 & 37 WEBSTER
Address: 35 WEBSTER AVENUE
CAMBRIDGE, MA 02141
Title: PROPOSED SITE SECTION

Drawing Issued By: ANDERSON PORTER DESIGN
Project #: 2112 Drawn No.
Date: 11/24/2021
Scale: 1/4" = 1'-0" A3.5
Drawn by: A.R.S.



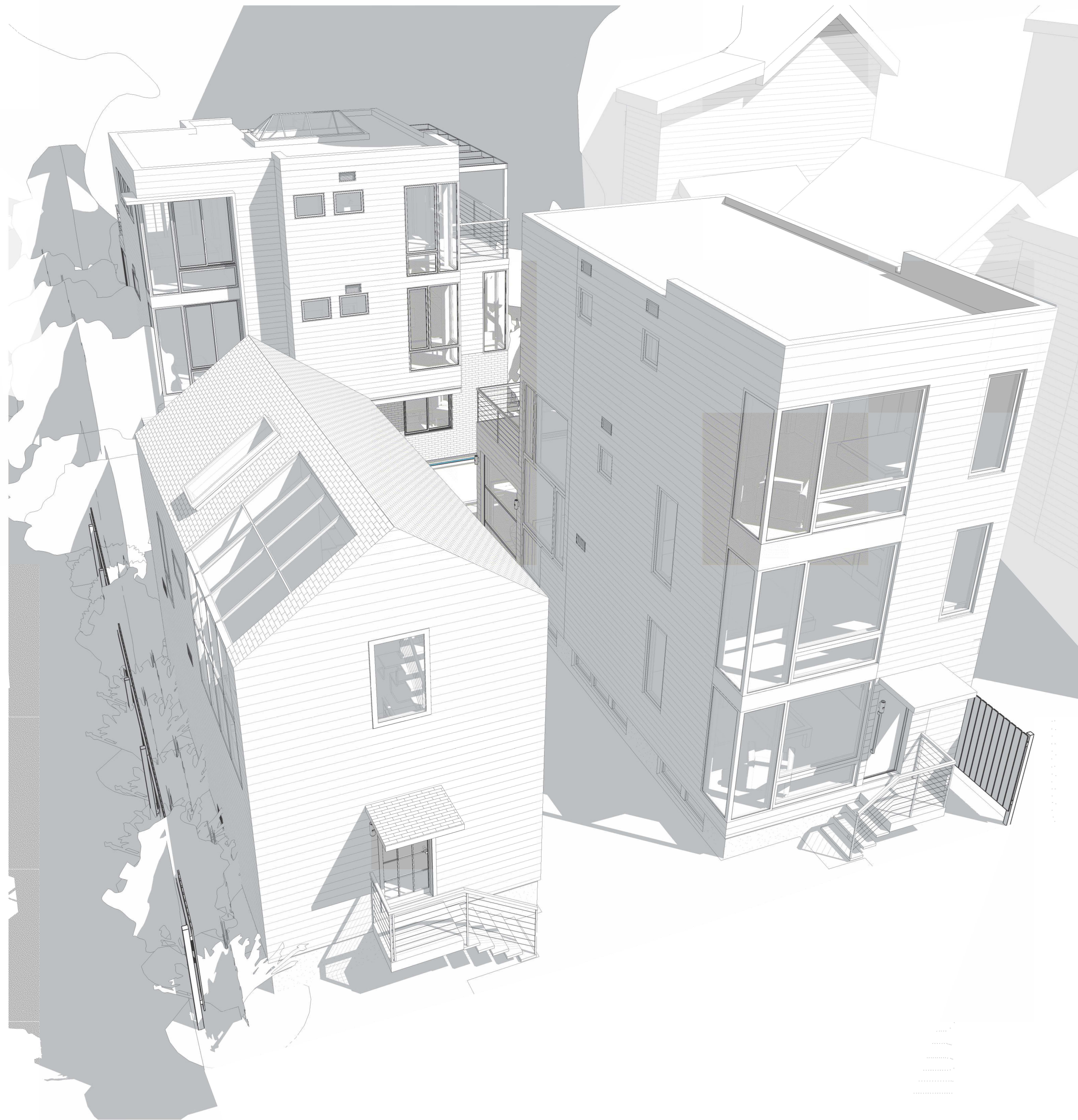
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REVISIONS		
No.	Description	Date

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Cambridge, MA 02140
Tel. 617.354.2501 Fax. 617.354.2509

Project: **33,35 & 37 WEBSTER**
Address: **35 WEBSTER AVENUE
CAMBRIDGE, MA 02141**
Title: **PERSPECTIVES**

Drawing Issued By: ANDERSON PORTER DESIGN	
Project #:	2112
Date:	11/24/2021
Scale:	A9.1
Drawn by:	AR.S., R.B.



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No.	Description	Date

AndersonPorterDesign
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Cambridge, MA 02140
Tel. 617.354.2501 Fax. 617.354.2509

Project: **33,35 & 37 WEBSTER**
Address: **35 WEBSTER AVENUE
CAMBRIDGE, MA 02141**
Title: **PERSPECTIVES**

Drawing Issued By: **ANDERSON PORTER DESIGN**
Project #: **2112** Drawn No.: **A9.2**
Date: **11/24/2021**
Scale:
Drawn by: **AR.S., R.B.**

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No.	Description	Date

AndersonPorterDesign
1972 Massachusetts Ave, 4th Floor
Cambridge, MA 02140
Tel. 617.354.2501 Fax. 617.354.2509

Project: 33,35 & 37 WEBSTER
Address: 35 WEBSTER AVENUE
CAMBRIDGE, MA 02141
Title: PERSPECTIVES

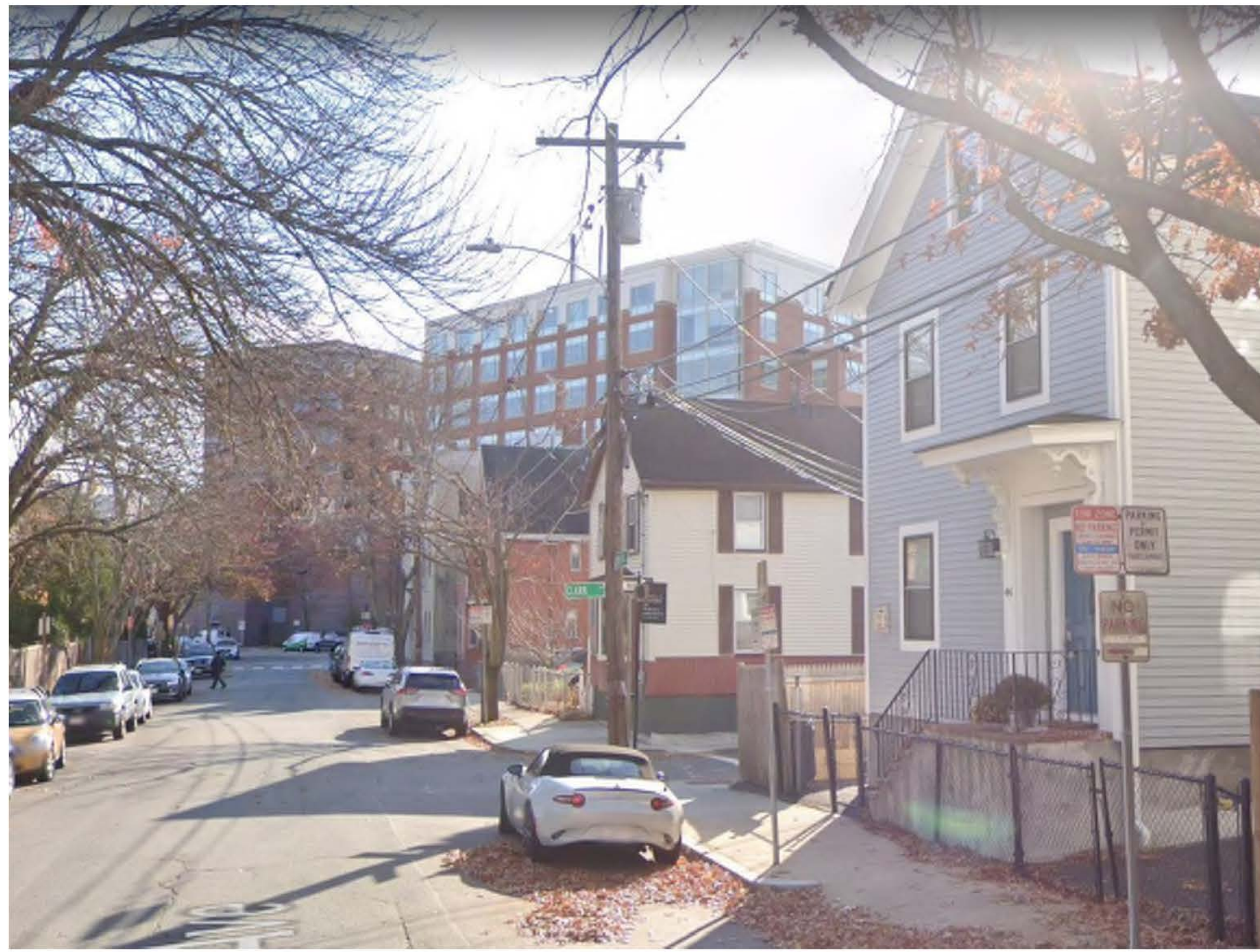
Drawing Issued By: ANDERSON PORTER DESIGN
Project #: 2112 Drawn No.:
Date: 11/24/2021
Scale: A9.3
Drawn by: A.R.S.



1 PERSPECTIVE - UNIT 35



33 - 35 STREET VIEW - EXISTING CONDITIONS



44 WEBSTER - EXISTING CONDITION



33 - 35 WEBSTER - EXISTING CONDITION



41 WEBSTER - EXISTING CONDITION



33 - 35 WEBSTER PERSPECTIVE VIEW - EXISTING CONDITION

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No.	Description	Date

AndersonPorterDesign
1972 Massachusetts Ave, 4th Floor
Cambridge, MA 02140
Tel. 617.354.2501 Fax. 617.354.2509

Project: 33,35 & 37 WEBSTER

Address: 35 WEBSTER AVENUE
CAMBRIDGE, MA 02141

Title: EXISTING CONDITIONS

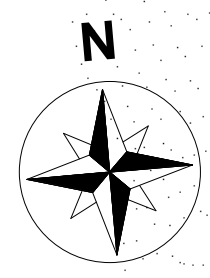
Drawing Issued By: ANDERSON PORTER DESIGN

Project #: 2112 Drawn No.:

Date: 11/24/2021

Scale: A9.4

Drawn by: A.R.S.



MORNING (7 AM)

NOON (12 PM)

AFTERNOON (5 PM)

SUMMER
SOLSTICE

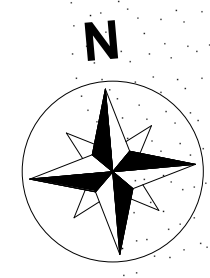


FALL
EQUINOX



WINTER
SOLSTICE





MORNING (7 AM)

NOON (12 PM)

AFTERNOON (5 PM)

SUMMER
SOLSTICE



FALL
EQUINOX



WINTER
SOLSTICE



33 Webster Ave

Relatives

40-160
HALL, JOHN W. & VIRGINIA ROHAN HALL
36 WEBSTER AVENUE
CAMBRIDGE, MA 02141-1327

40-208
COTTON, LAURENCE F. & THUAN TIN COTTON
C/O TIN COTTON
3564 NE KNOTT
PORTLAND, OR 97212

ANDERSON PORTER DESIGN
C/O DAN ANDERSON
1972 MASS AVENUE - #4B
CAMBRIDGE, MA 02140

40-236
DESROCHES, ALEXANDER S.
94-1051 MAWAHO ST.
WAIPAHU, HI 96797

40-177
KATZ, WARREN JAY
20 FAIRFIELD ST
BOSTON, MA 02116

40-227
SPRINGER, SARAH & DOMINIC PEDULLA
30 VOLUNTEER WAY
LEXINGTON, MA 02420

40-234
MCDONALD, GLENN P. & BETHANY L. ERICSON
1 LILAC CT
CAMBRIDGE, MA 02141

40-240
SINGH, SWARN JIT
26 WEBSTER AVE
CAMBRIDGE, MA 02141

40-254
AUSTIN, MICHAEL M. & TORGUN S. AUSTIN
28 BRISTOL ST
CAMBRIDGE, MA 02141

40-232
MCMAHON, GRAHAM & JOSEPH GUARINO, JR.
5 LILAC CT
CAMBRIDGE, MA 02141-1911

40-233
BOYER, JOSEPH
2 LILAC COURT
CAMBRIDGE, MA 02141-1911

40-22
CHUANG, GEORGE C. & IRENE C. KUAN,
TRUSTEES OF CHUANG FAMILY NOM TR.
29 GOOSE POND RD
LINCOLN, MA 01773

78-112
EVERETT, MARGARET
44 WEBSTER AVE
CAMBRIDGE, MA 02141

40-17
PACHECO, JOSE
TR. OF THE PACHECO FAMILY LEGACY TRUST
11 COMET RD
METHUEN, MA 01844

40-253
39-45 WEBSTER AVENUE LLC
1979 MASSACHUSETTS AVE
CAMBRIDGE, MA 02140

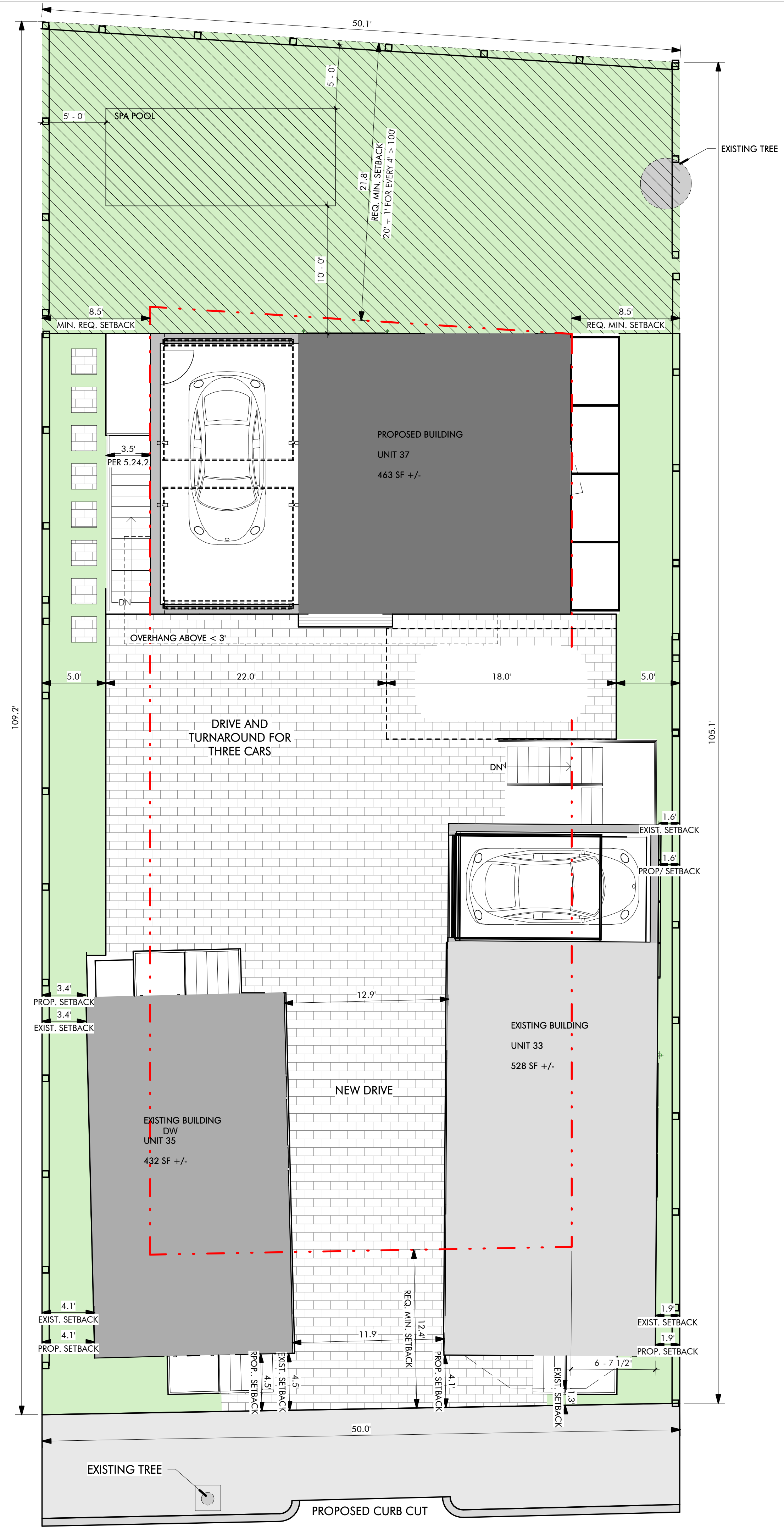
40-235
KUCSKO GEORG DHANDE MEHAK
3 LILAC CT
CAMBRIDGE, MA 02141

40-228
WANG ZI SUN YULIANG LEON
6 LILAC CT
CAMBRIDGE, MA 02141

40-24
FREITAS, MARIA Z. & NATALIE COSTA
34 SEAVIEW AVE
MARLBHEAD, MA 01945

40-14
PARVIZI PARVIZ
33 WEBSTER AVE
CAMBRIDGE, MA 02141

40-209
LANGDO, THOMAS A. & JUNE F. CHENG
11 LILAC CT
CAMBRIDGE, MA 02139



ZONING PLAN LEGEND

- PROPOSED 33 WEBSTER
- PROPOSED 35 WEBSTER
- PROPOSED 37 WEBSTER
- PERMEABLE LANDSCAPE
- PRIVATE OPEN SPACE
- PERMEABLE PAVERS
- REQUIRED MINIMUM SETBACKS

NOTE:
This plan is for informational and illustrative purposes only. The preparer of this plan makes no claim to its accuracy. This plan shall not be used or relied upon in any circumstance. A certified Land Surveyor shall provide an official certified plot plan.

ZONING
1/4" = 1'-0"

LANDSCAPE NOTES

TOTAL LOT AREA = 5,357 SF
 OPEN SPACE AREA = 2,893.48 SF
 PERMEABLE OPEN SPACE = 1,828.49 SF
 PERMEABLE LANDSCAPE = 643.32 S.F.
 PERMEABLE PAVERS = 1,185.17 S.F.
 (15'x15') PRIVATE OPEN SPACE = 1,064.99 SF

OPEN SPACE	%	EXISTING	%	PROPOSED	%
	1607.1	30%	3450	64%	2893.48
(15'x15') PRIVATE OPEN SPACE		803.55	50%	3279.06	204%
PERMEABLE OPEN SPACE		803.55	50%	3450	215%
				1828.49	114%

1 PROPOSED SITE PLAN
3/16" = 1'-0"

SPECIAL PERMIT

REVISIONS

No.	Description	Date
01	REVISION	01/21/22

AndersonPorterDesign
1972 Massachusetts Ave, 4th Floor
Cambridge, MA 02140
Tel. 617.354.2501 Fax. 617.354.2509

Project: 33,35 & 37 WEBSTER
 Address: 35 WEBSTER AVENUE
 CAMBRIDGE, MA 02141
 Title: PROPOSED SITE PLAN

Drawing Issued By: ANDERSON PORTER DESIGN

Project #:	2112	Drawn No.:	
Date:	11/24/2021	Scale:	As indicated
Drawn by:	AR.S., R.B.		

Pacheco, Maria

From: Zi Wang <ziwang.cs@gmail.com>
Sent: Tuesday, January 4, 2022 3:57 PM
To: Pacheco, Maria; Singanayagam, Ranjit; Ratay, Olivia
Cc: Graham McMahon; Joseph Guarino, Jr.; Melissa Chan; Lee Gresham; Leon Sun; dompedulla@gmail.com
Subject: Letter of appeal against the construction plan at 33-35 Webster Ave

To Whom It May Concern:

We are the property owners and residents residing adjacent to the recently proposed construction permit at 33-35 Webster Avenue submitted by owner, Parviz Parvizi, who has already shared his plans with us. We are writing to appeal against this construction plan proposed for 33-35 Webster Avenue.

After reviewing the plan, we'd like to express our shared, deep concerns regarding the consequences of the proposed construction on the safety and stability of the large elm tree located at the property boundaries of 33-35 Webster Ave and 5 Lilac Ct. We are aware of the recently passed Tree Protection Addendum to the Cambridge City Law and want to ensure Mr. Parvizi follows any legally required guidelines to safeguard the safety and stability of the tree as well as possible consequences to property and personal injuries.

As part of Mr. Parvizi's 'preliminary tree protection plan', which he outlined in email with us after discussing with his privately-hired arborist, he will remove a section of the tree's root system and canopy branches overhanging his proposed new construction on the property. After discussing with an expert, Dr. Qiang Sun, a professor of plant biology at the University of Wisconsin-Stevens Point, we became aware of potentially lethal plant-based diseases (ex: Dutch Elm Disease) which can be instigated by the trimming of large root and canopy branches to this specific species of elm trees particularly if the trimming occurs over the spring or summer time when such diseases can be easily spread by pathogen-borne insects.

Importantly, we are also deeply concerned by the loss of stability to the tree and its short- and long-term potential to cause property and personal harm as a result of the proposed trimming of the tree's **root system (only 3-4 feet below ground)** characteristic of this species of elm trees which can easily be destabilized by building a foundation for a new construction, not to mention a basement in Mr. Parvizi's current plans. Note that the **tree trunk is about 3-4 ft. wide in diameter and the canopy is at least 40 ft. wide** covering 5 Lilac Ct, 6 Lilac Ct and part of 7 Lilac Ct.

As a result of these harmful impacts, we would like to request a formal assessment of Mr. Parvizi's construction plans as it pertains to the elm tree to ensure his finalized construction permit will safeguard the safety and stability of the tree.

Thank you in advance for your time and consideration.

Concerned neighbors, property owners, residents:
Graham McMahon <grahammcmahon@hotmail.com> (owner of 5 Lilac Ct),
Joseph Guarino, Jr. <josephguarinojr@me.com> (owner of 5 Lilac Ct),
Melissa Chan <melissalchan@yahoo.com> (tenant of 5 Lilac Ct),
Lee Gresham <lee.gresham@gmail.com> (tenant of 5 Lilac Ct),
Yuliang Leon Sun <yuliangleonsun@gmail.com> (owner of 6 Lilac Ct),
Zi Wang <wangzi.cs@gmail.com> (owner of 6 Lilac Ct),
Dominic Pedulla <dompedulla@gmail.com> (owner of 7 Lilac Ct).

Pacheco, Maria

From: Zi Wang <ziwang.cs@gmail.com>
Sent: Sunday, January 23, 2022 8:36 PM
To: Pacheco, Maria
Cc: Singanayagam, Ranjit; Zondervan, Quinton; Ratay, Olivia; Leon Sun; Putnam, Andrew; DePasquale, Louie; Lefcourt, David; O'Riordan, Owen; Watkins, Kathy
Subject: Comments and Objections to CASE NO. BZA-155114 (BZA Application at 33 WEBSTER AVENUE)

Dear Board of Zoning Appeal and Cambridge city officials,

My name is Zi Wang, owner of 6 Lilac Ct and an 8-year resident of Cambridge, together with my husband, Yuliang Leon Sun. We are writing to provide comments and raise concerns/objections to CASE NO. BZA-155114, the construction plan at 33 WEBSTER AVENUE by PARVIZ PARVIZI – C/O DANIEL ANDERSON, ARCHITECT (refer to as "the developer" henceforth).

In the BZA application CASE NO. BZA-155114, we found that the supporting statement is insufficient and inaccurate especially on the required tree study and reasons that "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". Our comments are detailed below.

1. The proposed construction plan will negatively impact two trees: 1) alongside the public walkways on Webster Ave and 2) a big American Elm tree that stands on the border of 5 Lilac Ct and 33-35 Webster Ave. The American Elm tree's main trunk is 3-4 ft. wide in diameter with the canopy reaching at least 40 ft. wide in diameter covering 3 adjacent properties including 5, 6, and 7 Lilac Ct. Below are the reasons for our concerns and the developer's violations to existing city regulations on tree protection for the big American Elm tree.

- When the developer shared his initial construction plan, we consulted Dr. Qiang Sun, a professor of plant biology at the University of Wisconsin-Stevens Point to understand the potential impact of the construction on the big American Elm tree between 5 Lilac Ct and 33-35 Webster Ave. Based on his expert opinion, we learned that given the shallow root system of the elm tree family, the proposed construction including pruning of the root system as well as its canopy will result in the loss of stability. This can consequently result in short- and long-term potentials to **cause property and personal harm** if such a big tree is uprooted and falls during a natural event. We are especially concerned by the proposed root pruning given that it will selectively occur on the property of 33-35 Webster Ave which will result in loss of the tree's ground attachment, potentiating a fall on our property at 6 Lilac Court which is directly opposite to the site of root pruning.
- This proposed plan violates [Cambridge, Massachusetts - Zoning Ordinance ARTICLE 10.000 - APPEALS, VARIANCES, AND SPECIAL PERMITS 10.47.1 \(8\)](#): "Applications for special permits shall be accompanied by three copies of a development plan containing the following graphic and written information: ... (8) **A Tree Study**, certified complete by the City Arborist, as required by the Tree Protection Ordinance of the City of Cambridge, Chapter 8.66."
- We reached out to Councilor Quinton Y. Zondervan who forwarded us a tree protection plan submitted by the developer (33-35 Webster Tree Protection Plan.pdf attached) after requested. However, the plan does not seem to meet the definition of a tree study or a tree protection plan specified in [the Tree Protection Ordinance of the City of Cambridge - 8.66.030 - Definitions](#).
- Despite having a tree protection plan, the developer DID NOT adhere to his protection plan nor await the approval of the protection plan by the BZA, and **has already completed cutting the roots of the elm tree during the December holiday** at the end of 2021 (root_excavation_email_picture.pdf attached). This violates [the Tree Protection Ordinance of the City of Cambridge](#) and [THE DIG SAFE LAW IN MASSACHUSETTS](#).
- 33-35 Webster Tree Protection Plan.pdf, although insufficient, outlined some solutions to improve stability of the big American Elm tree. This involves asking consent from all surrounding neighbors with overhanging

canopy to access their properties and prune the tree branches. Despite the developer's quick move to excavate the tree roots, the developer DID NOT ask us about pruning tree branches.

- The developer mentioned to us about the dead trees located north of 7 Lilac Ct (on common use land of Lilac Ct) and how one of them might have been affected by the Dutch Elm disease according to the arborists he consulted. While those two trees were dead for years, the American Elm tree has remained healthy. The proposed pruning as part of the current construction plan will decrease the natural immunity of the tree (akin to a 'limb amputation' or a 'severe injury', as described by Dr. Sun) and will likely increase the susceptibility of the tree to opportunistic diseases. In our discussion, the developer told us verbally that he planned to remove those two dead trees and we also agreed that it would be his responsibility to do so. As of today, there are no concrete plans to remove the dead trees.
- unsafe_digging.jpeg (picture taken on Sep 30, 2021) shows that the developer dug a hole to reach the water table (at least 6 feet deep) without a visible permit, likely violating [THE DIG SAFE LAW IN MASSACHUSETTS](#) and [the Tree Protection Ordinance of the City of Cambridge](#).

2. Impact on mental and physical health on surrounding neighbors.

- The proposed plan will further diminish sunlight in the surrounding neighborhood due to the close proximity of buildings. From October to March every year, the main source of sunlight is from the south (see [sunlight analysis](#)), including south west and south east. The winter period is also when depression and seasonal affective disorder are most prevalent in the city filled with students and professionals with stressful lifestyles. Depression, especially seasonal affective disorder, can be directly caused by lack of sunlight. The construction of the new dwelling (referred to as UNIT 37 in the application) is **above the MAX. ALLOWABLE BUILDING HEIGHT** and will lead to a **daily loss of ~2 hours of sunlight** at our property.
- The height increase of the two existing buildings will violate setbacks and block a large proportion of surrounding properties' sunlight from the south. Note that the new constructions at 45 Webster Ave (4 units in total; north of 33-35 Webster Ave) are not sold yet and the potential owners will not have an opportunity to object to this proposed plan. The senior couple at 28 Bristol St (also north of 33-35 Webster Ave) right now are unable to respond due to private issues.
- Basement excavation will lead to severe shaking of nearby properties. We experienced it when 45 Webster Ave was undergoing digging in 2020-2021, and the house was experiencing periodic 'small earthquakes' during that excavation. 33-35 Webster Ave is much closer to our property and we worry that it can cause visible and invisible structural damage to our property. As someone who works from home during the ongoing COVID19 pandemic, I strongly oppose the current plan of CASE NO. BZA-155114 due to safety concerns. The developer also needs to have a noise control plan and detail the potential disturbances to neighbors during construction in the application.

3. There exist alternative plans that more efficiently make use of the land while resolving most of the issues raised above.

- The two existing dwellings currently already violate setbacks. The developer proposes to significantly increase the height of these two buildings including raising the roofing structures and conversion to a roof-top deck. While we understand the practical and economical reasons to not enforce setback rules on existing buildings, we believe it is in the interest of the city to not allow building on top of these non-conforming building. **Approving such construction plans will likely set a dangerous example and worsen the problems the Zoning Ordinance was designed to prevent.**
- We urge the committee to consider alternative construction plans and guidelines for the above reasons including revisiting construction of the two existing units and construction of the entirely new third unit. Despite ongoing discussion of the above concerns with the developer, while awaiting this hearing, the developer has already proceeded with initial steps of construction including applying for driveway curbs and completion of root excavation (see root_excavation_email_picture.pdf). The developer references the architect DANIEL ANDERSON and their experience developing in the region when concerns were raised.
- While we cannot fully appreciate the limitations of construction, below are some ideas that could evolve to a feasible alternative plan to resolve issues mentioned above.
 - Demolish the two existing buildings that violate setbacks; build a single multi unit dwelling that respects setbacks and potentially makes use of part of the existing basement structure. This will also allow parking in the back of the property.

- Note that there is only a 812 sq. ft. difference in TOTAL GROSS FLOOR AREA from "requested conditions" to "existing conditions". Within the 812 sq. ft., the developer added two indoor parking garages totalling about 444 sq. ft.. If for economical reasons, the existing two non-conforming dwellings need to be kept, the same 812 sq. ft. difference can be added by adding a new dwelling with a first floor of two-car garage (406 sq. ft.), a second floor of 406 sq. ft. living area and no basement. This new building can be located away from the big American Elm tree and its no-basement structure can also prevent potential damage to other tree roots. The construction of a new building without a basement can also alleviate issues raised above on 'small earthquakes' during that excavation. The 2-story building will reduce impact on sunlight access as well. Meanwhile, no structural changes will be needed for the existing two non-conforming dwellings.
- If only one dwelling needs to be kept, then the other one can be demolished and a new dwelling can be established on top of the demolished one while obeying all regulations.

4. Other miscellaneous issues.

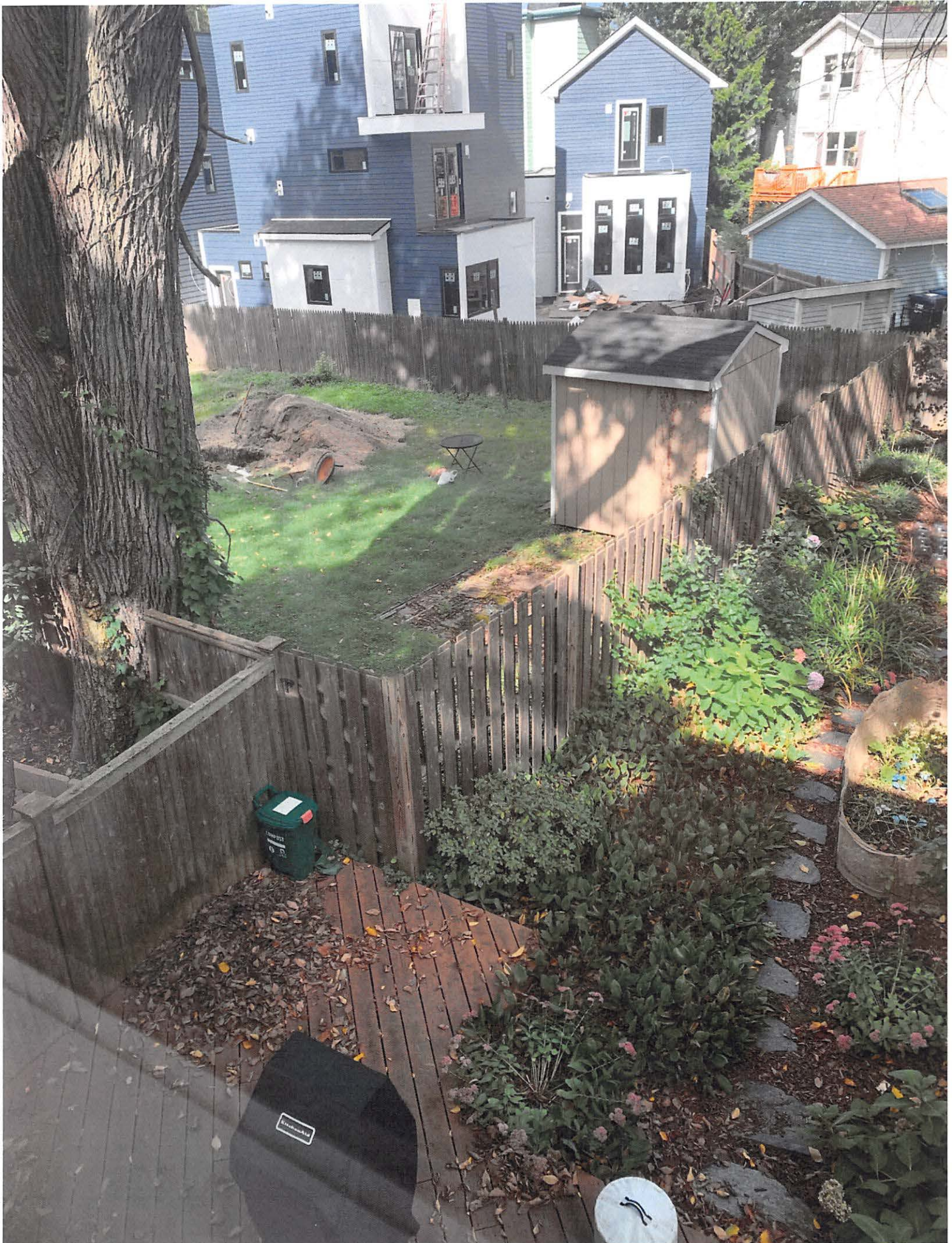
- Can we get an explanation on why the balcony is exempted from GROSS FLOOR AREA of Unit 37? The BZA application says that "3' MIN. CLEAR O.C. FOR STRUCTURAL ELEMENTS, PER 20.53", but 20.53 of the Zoning Ordinance does not have corresponding regulations.
- The GROSS FLOOR AREA in this BZA application does not include any basement floor area. However, it is unclear that all basements can be exempted: their heights are not labeled to be within 7" in height and this lot of 33-35 Webster Ave is no longer a single-family or two-family home. Can we get the heights of all floors (including basement and attic space) proposed to ensure they comply with existing regulations?
- The following information in this BZA application is incomplete but required by 10.47.1 of [Cambridge, Massachusetts - Zoning Ordinance ARTICLE 10.000 - APPEALS, VARIANCES, AND SPECIAL PERMITS](#).
 - (3) Photographs showing conditions on the development parcel at the time of application and showing structures on abutting lots.
 - (5) Front, side and rear elevations for each structure on the lot indicating building height and heights of buildings on abutting lots.
- The roof areas / 4-th floors of Unit 37 and Unit 33 both appear to be unroofed balconies above the third floor. By [Cambridge, Massachusetts - Zoning Ordinance ARTICLE 2.000 - DEFINITIONS](#), they may also have to be included in GROSS FLOOR AREA.
- Why are the indoor garages not included in the GROSS FLOOR AREA? The exemption in [Cambridge, Massachusetts - Zoning Ordinance ARTICLE 2.000 - DEFINITIONS](#) says that "Gross Floor Area shall include: ... (g) Area of parking facilities in structures except as excluded in (2) below ... (2) Area of parking facilities in structures located underground and the area of on grade open parking spaces outside the building footprint at or below the maximum number permitted on the premises as set forth in Sections 5.25 and [6.30](#)". The proposed indoor parking garages are NOT underground, nor are they on grade open parking spaces.
- The proposed SOUTH ELEVATION - UNIT 33 has a 2-story high attachment that acts like a 2-story fence. However, the installation of such an attachment fence poses security dangers to nearby units. In fact, this attachment fence was not present when the developer first presented his plan to us. Therefore, we are opposed to this attachment fence. Such a partially enclosed space is also not clearly defined to be excluded from the GROSS FLOOR AREA.

Thank you in advance for your consideration.

Zi & Leon

--

Zi Wang, Ph.D.
 Research Scientist @ Google
<https://ziw.mit.edu/>





Hartney Greymont
433 Chestnut St
Needham, MA 02492-2822
Phone: (781) 726-2280
Fax: (781) 455-6698
Email: jweksner@hartney.com



Client

8/24/2021

Parviv Parvizi
33 Webster Ave
Cambridge, MA 02141-1931

Elm Macro Injection (Arbotect)

May - Sep

Arbotect Elm Program - Large elm at the back right of the property will be injected with Arbotect fungicide to help protect against Dutch elm disease infection. This treatment should provide two years of protection.

*Neighbor's consent required to access their property to perform this treatment on their side of the tree.

Growth Regulator - 3 year

Apr - Nov

Growth Regulator - A growth regulator will be applied to the elm tree at the back right of the property. This product will help the tree conserve resources typically dedicated to woody tissue growth. This will manifest in smaller, glossier leaves, shorter than average twig elongation, and increased fibrous root production. It will be active in the tree for 3 years and should not require re-application during that period.

*Neighbor's consent required to access their property to perform this treatment on their side of the tree.

Fert w/ Arbor GreenPRO (1yr)

Mar - Aug

A liquid, slow-release fertilizer will be applied to the elm at the back right of the property. This fertilizer will promote vigor and help support overall plant health.

*Neighbor's consent required to access their property to perform this treatment on their side of the tree.

Tree Pruning

Winter

Elm at the back right corner of the property will be pruned to improve structure. Reduction and removal cuts 2-6" in diameter will be made throughout the canopy to eliminate excessive weight and help promote resilience to storm damage. This will also help provide 10-15' of clearance from surrounding structures. Deadwood 2" in diameter or greater will be removed.

*This work will require consent from all surrounding neighbor's with overhanging canopy to access their property in order to lower and remove brush.

Excavate Root Crown w/AirSpade

Mar - Nov

A crew will use an air tool to excavate suspected areas of impact under the elm tree ahead of any mechanical digging. Exposed roots will be cut cleanly with sharp tools to increase likelihood of regeneration and minimize stress.

*Exposed roots should be covered as soon as possible to prevent desiccation.

*This work is best done in late October or November to minimize stress on the tree that could lead to Dutch Elm Disease.



Hartney Greymont
433 Chestnut St
Needham, MA 02492-2822
Phone: (781) 726-2280
Fax: (781) 455-6698
Email: jweksner@hartney.com



Client

8/24/2021

Parviv Parvizi
33 Webster Ave
Cambridge, MA 02141-1931

PHC Inspection (T&S Pest)

Jun - Sep / 2022

Elm at the back right of the property will have a systemic miticide applied to help control mites.

*Neighbor's consent required to access their property to perform this treatment on their side of the tree.

ArborTrack Monitor Program

Mar - Nov / 2022

The ArborTrack Program would involve regularly scheduled visits from a trained plant healthcare technician to monitor the large elm tree at the back of the property through and/or post construction. Visits would take place monthly during the growing season and would include a detailed written report following each visit regarding the current health of the tree as well as any future threats or issues, or opportunities for improvement.

*Recommended 8 visits (April - November)



Parviz Parvizi

to Yuliang, me

Hi Zi and Leon,

Hope you enjoyed the holidays and are off to a wonderful 2022. It was good to speak with you in December. I wanted to follow up on the points you brought up in your note.

1. Elm tree

a. Tree roots. My arborists air spaded several feet into the ground to create a trench along the excavation line for the new building and pruned the tree roots along the entire excavation perimeter facing the tree last month. Since the excavation will occur beyond where the roots have already been pruned, it will not affect the roots regardless of what time of year construction occurs. Also, having had a chance to physically observe the root structure

as part of their work, the arborists reiterated their earlier conclusion that structural stability is not a risk that the use in the context of my plan took on the air spading and root pruning at my own cost based on a plan developed in August, which I shared with you on December 1st, and there was no regulatory requirement for me to do so. I did it because it was the right thing to do and did not seek contributions to defray the cost from you or the neighborhood -- the elm tree is wonderful and I see myself as its steward for the benefit of all of us.

b. Fungicide. Thank you for bringing this up. I have mentioned it to my arborists and, before any injections occur, I will have them share with me how they are accounting for your points. Depending on what they say, I could see a scenario in which it could well make sense to skip the fungicide altogether.

c. Tree failure contingency. There is established law on this topic and I maintain a \$1m liability insurance policy. I'm happy to discuss further if helpful.

2. Alternative plan suggestions. Thank you for taking the time to share your alternative plan. I reviewed it carefully and several threshold challenges emerged: it appears to contemplate a triple-wide curb cut that would require removal of a city tree with garage parking that flows directly out into the street without any turnaround area for cars; the new building expansion appears to encroach into the side setback; and a phased effort that extends construction across two years could be disruptive for the neighborhood. For the above reasons, and potentially others that I did not surface upon my initial review, these suggestions do not initially appear to be workable -- even though that does nothing to diminish my appreciation and respect for the effort and consideration you undertook to share them.

On the planning front, I have been working with Anderson Porter Design, a firm based in Cambridge that has decades of experience working in our community. Dan Anderson is a longtime Cambridge resident who earned his architecture degree at Harvard and Bill Porter was the Dean at MIT's School of Architecture. Sensitivity to context is an area where Dan and his team especially excel and I think that they have brought a great deal of expertise and sound judgment to bear in developing the plan that we have.

If it's helpful to catch up and discuss anything, let me know some times that are convenient for you and I would love to do so.

Best,

Parviz

--

Parviz Parvizi

+1 617.595.8116

pparvizi@gmail.com

...

Wed, Jan 5, 1:41 PM ☆ ↶ ⋮



Picture taken on Jan 6, 2022.

Board of Zoning Appeal
831 Mass Avenue, Cambridge, MA

Dear Secretary and Zoning Board Members,

Case Numbers: BZA-155114, BZA-155115 & BZA-155116

My husband and I have owned 5 Lilac Ct since 2005, a residence directly abutting the proposed new building set at 35 Webster Ave. We oppose Mr. Parvizi's request for special permits and allowing him his requested variances from established precedents in the city and neighborhood we love.

	Request	Reason for Opposition
BZA-155114	Special Permit: To increase the height of building which further violates setbacks and addition of new openings in non-conforming wall setback.	<ul style="list-style-type: none">• Setbacks are set in land law to prevent owners from crowding their neighbors and neighborhoods, ensure views, light and ventilation are sufficient and shared among neighbors. There is no justification for it and it would be unfair to preferentially award a setback exception to this applicant at the expense of a neighbor/abutter, including us and our neighbors.• Approving such a permit would allow construction of a non-confirming property that is out of character with the neighborhood.• An approval would set a new precedent for future construction in Cambridge.• The height of the building will interfere with light on the pathway and road and interfere with the reasonable fair use and enjoyment of the abutters' properties including ours.• There does not appear to be adequate justification to waive expectations that the applicant conforms with existing standards and precedents that guide the consistency, look and feel of the neighborhood.
BZA-155115	Special Permit: To increase the height of building which further violates setbacks and addition of new openings in non-conforming wall setback.	<ul style="list-style-type: none">• Setbacks are set in land law to prevent owners from crowding their neighbors and neighborhoods, ensure views, light and ventilation are sufficient and shared among neighbors. There is no justification for it, and it would be unfair to preferentially award a setback exception to this applicant at the expense of a neighbor/abutter, including us and our neighbors.• Approving such a permit would allow construction of a non-confirming property that is out of character with the neighborhood.• An approval would set a new precedent for future construction.• The height of the building will interfere with light on the pathway and road and interfere with the reasonable fair use and enjoyment of the abutters' properties including ours.

**BZA-
155116**

Variance: To construct a new single-family structure with areaway and guardrail construct within the side yard setback.

- There does not appear to be adequate justification to waive expectations that the applicant conforms with existing standards and precedents that guide the consistency, look and feel of the neighborhood.
- Setbacks are set in land law to prevent owners from crowding their neighbors and neighborhoods, ensure views, light and ventilation are sufficient and shared among neighbors. There is no justification for it, and it would be unfair to preferentially award a setback exception to this applicant at the expense of a neighbor/abutter, including us and our neighbors.
- Approving such a variance would allow construction of a non-confirming property that is out of character with the neighborhood.
- The proximity to the fence lines of the abutters coupled with the height of the structure will unfairly restrict and reduce sunlight into the adjoining homes.
- An approval would set a new precedent for future construction.
- The height of the building will interfere with light on the pathway and road and interfere with the reasonable fair use and enjoyment of the abutters' properties including ours.
- The proposed windows will introduce a new view into the adjoining properties where those occupants have enjoyed comparative privacy and create new costs.
- The construction introduces meaningful risk to the large and rare American Elm tree that brings character to several of the abutting houses, including ours. If the tree and its roots are damaged by the construction and its survival is impeded by the necessary reduction in its root distribution, then the loss of the tree would be a preventable travesty to the community. There is reasonable justification for fear that the construction would have this predictable effect. The tree protection plan submitted by the applicant extends only one year, and the zoning board will have no capacity to hold the applicant accountable if he defaults on the submitted plan. A tree that does not survive this applicant's construction with its known and predictable risks to the roots and health of the tree could fall onto one of the local structures causing risk to persons and property if the application for an exception and variance is approved. What is more, any damage to the tree caused by the applicant's destruction might not be detectable for years.
- There does not appear to be adequate justification to waive expectations that the applicant conforms with existing standards and precedents that guide the consistency, look and feel of the neighborhood.

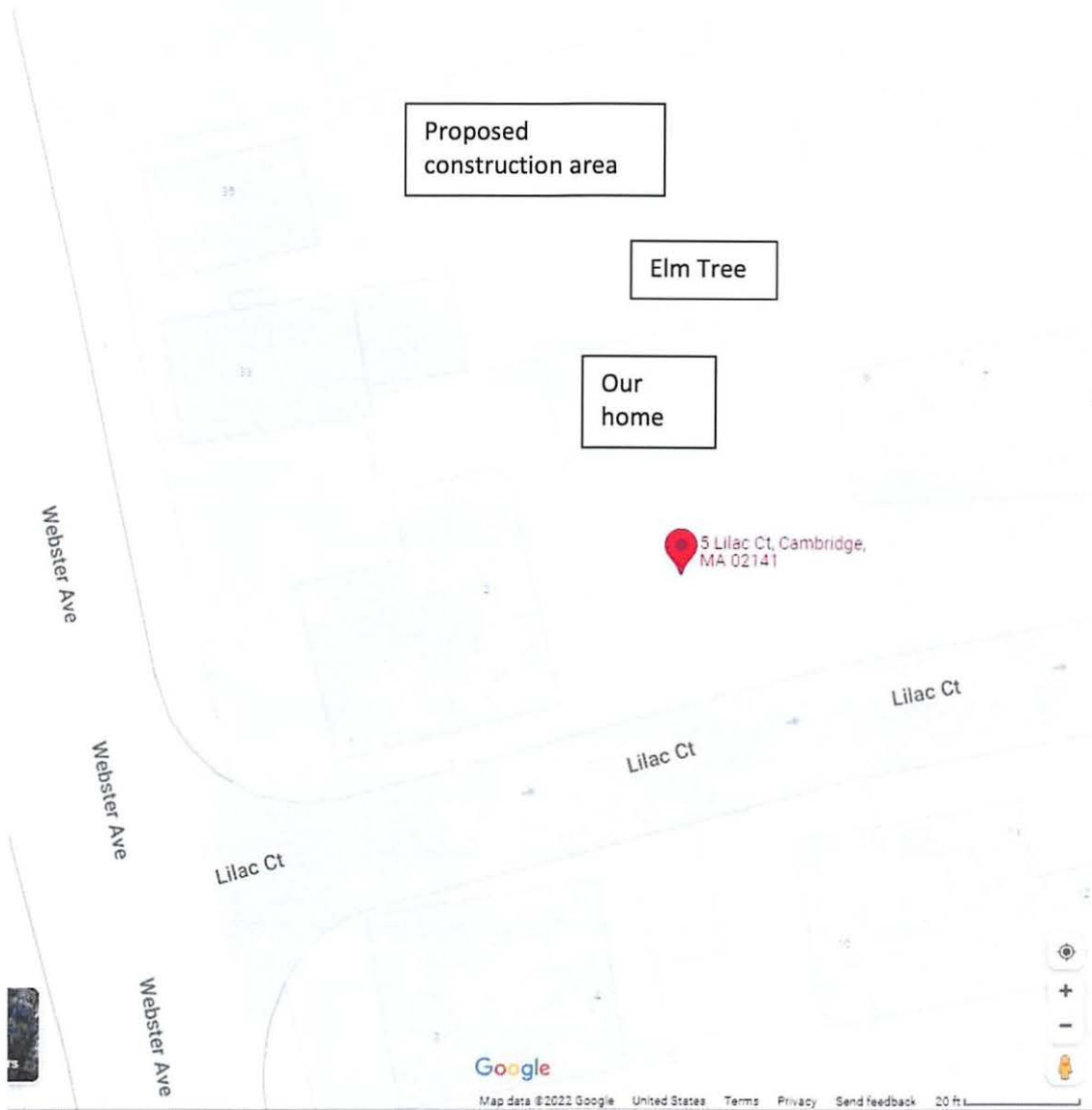
We look forward to sharing these perspectives and concerns on the zoom call on Thursday, January 27.

With best wishes,

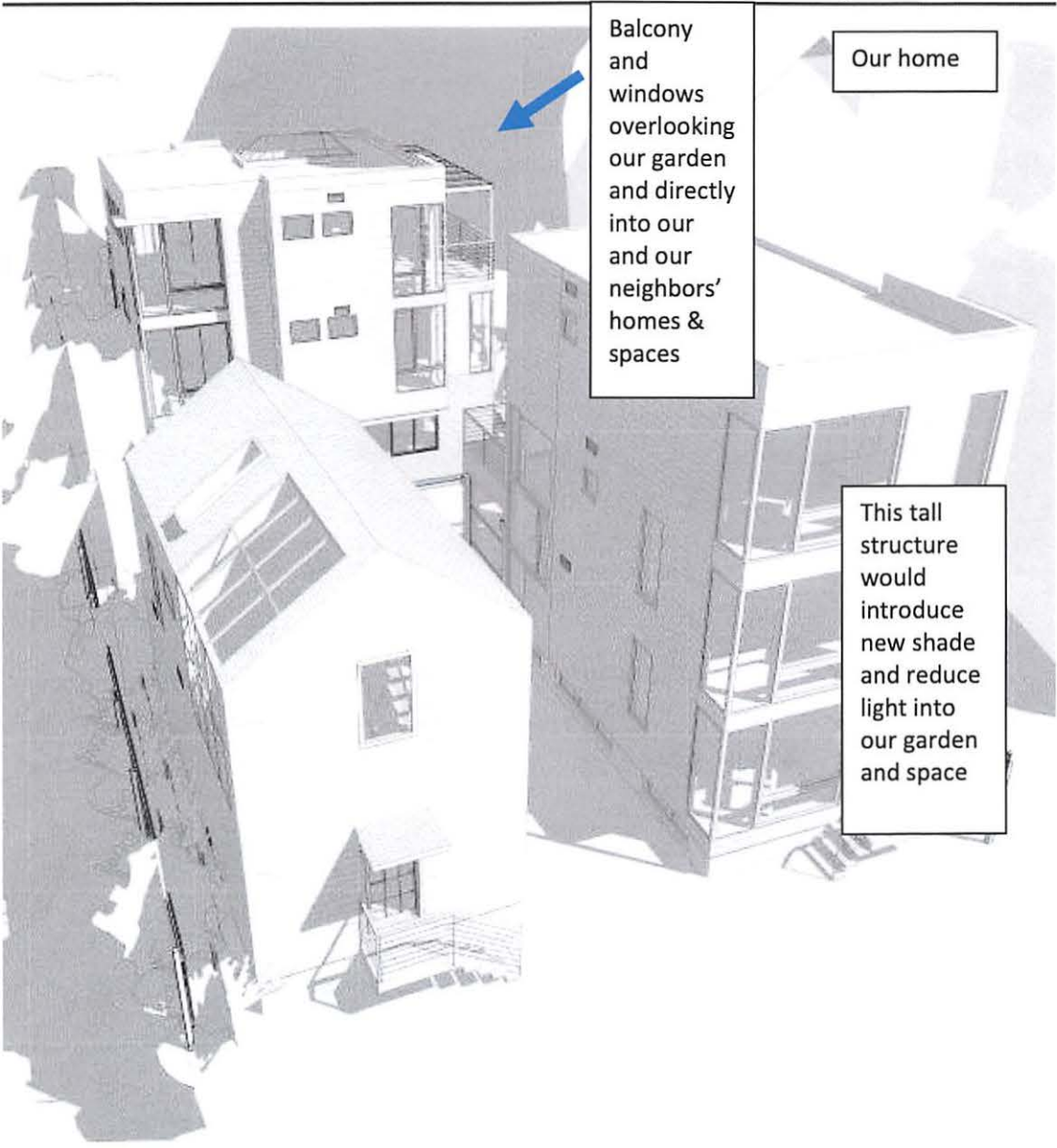
Graham McMahon

Joe Guarino

Map showing location of the proposed construction relative to 5 Lilac Court



Elevation view showing the impact of these large properties on the look and feel of the neighborhood, the view directly into our garden and house, and the impact on fair access to sunlight



Balcony and windows overlooking our garden and directly into our and our neighbors' homes & spaces

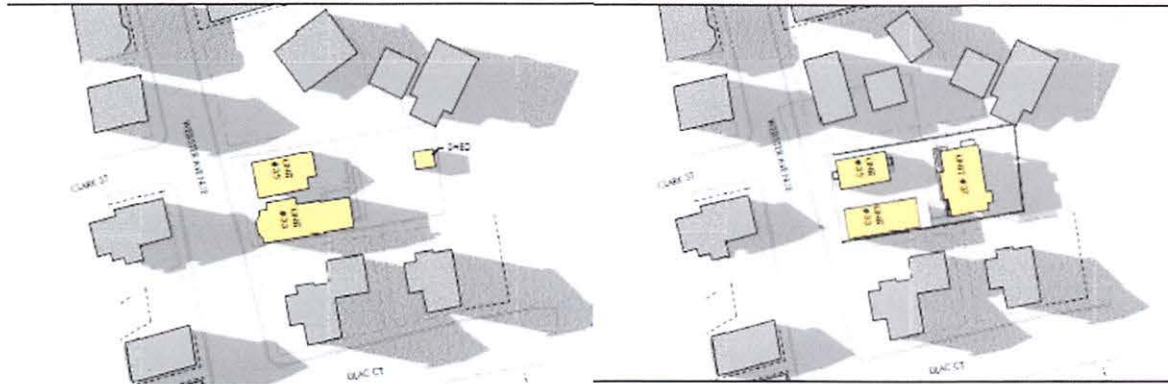
Our home

This tall structure would introduce new shade and reduce light into our garden and space

Before and After view of impact of shade at one time point showing effect on sunlight into the gardens, to the tree and to the abutting properties

AFTERNOON (5 PM)

AFTERNOON (5 PM)





City of Cambridge

MASSACHUSETTS

BOARD OF ZONING APPEAL

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

BZA

POSTING NOTICE – PICK UP SHEET

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

Name: Paviz Paviz Date: 1/11/2022
(Print)

Address: 33 Webster Ave

Case No. BZA-155114

Hearing Date: 1/27/22

Thank you,
Bza Members

* * * * *

(6:57 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Laura Wernick, Jim Monteverde and Jason
Marshall

BRENDAN SULLIVAN: Okay. The next cases are 33 --
33-35 Webster. Sitting on this is myself, Mr. Alexander,
Jim Monteverde, Laura you're sitting on this and Jason
Marshall you're sitting on the regular agenda?

JASON MARSHALL: Yes, I am. Laura? Laura, are
you audible?

LAURA WERNICK: Yes. Hello.

JIM MONTEVERDE: There you go.

BRENDAN SULLIVAN: Laura, you're there?

LAURA WERNICK: Yes.

BRENDAN SULLIVAN: Great. Okay.

LAURA WERNICK: Okay. Thank you.

BRENDAN SULLIVAN: All right. The Board will now
hear Case Number 155114 -- 33 Webster Avenue. Mr. Anderson?

DANIEL ANDERSON: I'm going to let Parviz Parvizi
introduce himself.

BRENDAN SULLIVAN: Sure. Absolutely.

1 PARVIZ PARVIZI: Hi. Thank you, Mr. Chair. I'm
2 Parviz Parvizi. That's spelled P-a-r-v-i-z first name, P-a-
3 r-v-i-z-i last name. I'm the owner of 33-35 Webster Avenue.
4 With the Chair's permission, I'd like to share some
5 background.

6 I've lived in Cambridge as an active member of the
7 community for close to two decades as a renter. In the past
8 five years, my rent has gone up by over 70 percent. My
9 partner and I have tried to purchase a home to get some
10 measure of stability with an eye toward the near future,
11 when we had looked to have aging grandparents with us.

12 We've submitted numerous purchase offers,
13 typically over asking price, and lost out, often by hundreds
14 of thousands of dollars, in what's become a frenzied market.

15 We got to the point where we needed to think
16 creatively and be open to a place that needed work, and that
17 we could make our own with some extra effort and sweat
18 equity. We bought 33-35 Webster with that in mind.

19 We'd like to build our long-term home in the back.
20 The two existing homes in the front are not in great shape,
21 and the City's assessor has given them a grade of 4. We'd
22 like to renovate them to have a multigenerational property

1 with grandparents as they age.

2 Much of what's driving the relief we're asking for
3 with this set of applications is due to the existing
4 nonconforming nature of the property and structures.

5 In addition to our planned improvements, we're
6 able to provide compliance with the zoning ordinance's
7 parking requirements. We've had to reconfigure 33 and 35
8 Webster to take out living space to incorporate our new
9 primary residence and off-street parking.

10 We're looking to improve the two existing
11 structures for long-term use for our family, which will
12 require limited relief from the zoning ordinance. I'll hand
13 things off to Dan Anderson in a moment to walk through the
14 details.

15 I do want to emphasize that we're staying within
16 the city's square footage limits. No building is higher
17 than the maximum that's allowed in this district, and we have
18 more open space than the ordinance requires.

19 I also wanted to share with you my neighborhood
20 outreach. Starting last fall, I reached out to over 20
21 neighbors. I hosted an open neighborhood meeting, had met
22 in person or by phone with all but one direct abutter, and

1 several neighbors who are not direct abutters. The last
2 abutter corresponded with me in writing.

3 Nobody who I communicated with, other than those
4 filing with you tonight, has expressed opposition to what
5 we're covering with the permit applications before the BZA.
6 Neighbor input has focused on how construction would be
7 conducted and landscaping.

8 Since learning of some of the opposition filings
9 on Monday, I have gotten in touch with some of the filers to
10 better understand their concerns and clarify the exact scope
11 of my plans. I hope this outreach has helped address some
12 of their concerns.

13 Through the interactions I've had with neighbors,
14 I've accommodated for their well-being on things that are
15 outside the scope of what the zoning ordinance requires, but
16 just felt like the right thing to do in order to be a good
17 neighbor -- such as incorporating a deck privacy screen in
18 the design at 33 Webster, modifying plans for the roof at 37
19 Webster, planting additional trees, and sharing my plans to
20 maintain the health and safety of a tree at the back of my
21 property based on conversations I've had with five different
22 arborists.

1 Thanks for your time. I'm really excited to be
2 part of Cambridge as a homeowner, and I'm looking forward to
3 building deeper connections with the community and with my
4 neighbors. I'll now hand it over to Dan Anderson, who's the
5 architect for these buildings.

6 CONSTANTINE ALEXANDER: I'm Mr. Alexander, one of
7 the Board members. I'd like to have some conversation with
8 you, before we --

9 PARVIZ PARVIZI: Yeah, please.

10 CONSTANTINE ALEXANDER: -- move on. I must say I
11 was -- frankly, agree with you about the problems with
12 trying to buy residential real estate in Cambridge these
13 days. It's just crazy, period. However, letters -- no
14 letters of support.

15 There are several detailed, long letters of
16 opposition, citing all sorts of reasons -- many of which are
17 tied to the trees on the property and the modifications of
18 trees. For those -- and that's not technically a voting
19 issue, the trees, but as you probably know, in Cambridge
20 these days trees are very, very much in the front people's
21 minds, and there's a strong movement about anything that
22 removes trees or damages them or the like.

1 So I'm not -- and I may be wrong, so correct me if
2 I am -- I think to do some of the tree work that you want or
3 need, you're going to have to remove some of the roots of
4 the trees. Is that right?

5 PARVIZ PARVIZI: Yes, so it's actually there's one
6 tree. And --

7 CONSTANTINE ALEXANDER: But that one tree is --

8 PARVIZ PARVIZI: Absolutely. It's a big tree, and
9 it's --

10 CONSTANTINE ALEXANDER: Right.

11 PARVIZ PARVIZI: -- actually, like, a wonderful
12 tree. And so what I did starting in August before really
13 engaging in any of the planning is I met with several
14 arborists to just understand what the situation was with
15 that tree, and if it would even be feasible to build near
16 it, for the benefit of the neighborhood, for my own safety.

17 But what they've told me is that there's really no
18 risk, or very limited risk, to the health of the tree and
19 the safety of the tree. And if I wanted to be diligent,
20 what I should do is a few things, which is to AirSpade and
21 prune the roots of the tree around the excavation zone.

22 Because one of the things that happens is when you

1 excavate sort of near a tree, the excavators will go in and
2 dig and they'll grab the roots. And they'll yank them out.
3 And so they'll grab some roots that are in that excavation
4 zone, but what's particularly harmful is that they'll pull
5 out the roots all the way to the tree.

6 So if you use an AirSpade to basically create a
7 trench around the perimeter, and then an arborist goes and
8 prunes those roots, what you do is you actually then take
9 that risk away.

10 You're pruning some roots, just like when you
11 prune branches you have to be judicious in doing that,
12 right? If you prune branches and cut off 50 percent of
13 them, that's going to be really bad for the tree.

14 And also there's a matter of timing and when you
15 do that. If you do that at a time when the tree is most
16 sort of alive in warm weather, that's more damaging to the
17 tree. If you do it in the winter when it's dormant, that
18 does the least harm to the tree.

19 So in this case, I sort of developed that plan
20 with the arborists. I chose an arborist. In December, we
21 actually had that AirSpading and root pruning done. So
22 anything in terms of construction when it comes to the roots

1 would not cause incremental damage to the tree, because
2 we've sort of protected that root area from having the sort
3 of -- the sort of excavators come and yank out the proposed
4 roots.

5 And then there is a separate set of activities
6 like pruning the branches -- clearly -- giving, taking care
7 of the tree as you should anyway. You know, giving
8 fungicides. It's a Dutch Elm, so there's Dutch Elm -- it's
9 an elm tree, so there's Dutch Elm disease. So fungicide can
10 be beneficial, giving macronutrient boosts -- things of that
11 sort.

12 So -- and then in the conduct of the construction,
13 there's also a relevant factor there, where what you want to
14 do is make sure you don't put heavy things and heavy
15 equipment on top of the root structure that's closest to the
16 tree, because even if you're not for example digging a hole,
17 if you're just simply putting a lot of heavy things on top
18 of the root structure, you compact the roots. And that can
19 be damaging.

20 So part of the plan also is to basically cordon
21 off the area around the tree to make sure that no equipment
22 is sort of placed on it.

1 CONSTANTINE ALEXANDER: There's a letter in the
2 files, I assume from the arborist you selected. It talks
3 about things you can do injecting into the -- which you
4 mentioned, injecting in the roots and the like.

5 But they all -- almost every one of the measures
6 also talks about you have to get permission from the owner
7 of the tree.

8 And if those people in opposition have a right to
9 block you, what are we doing? Inviting you to put a --
10 allowing you to build -- do the work you want; we're going
11 to put the trees at risk and putting the structures at risk.
12 That's what my concern is.

13 PARVIZ PARVIZI: Sure.

14 CONSTANTINE ALEXANDER: I don't know where we are,
15 and we're not arborists. Or certainly, I am not an
16 arborist. And are we rolling the dice -- we as a Board, or
17 me as a Board Member, by allowing this to go forward on the
18 basis of a lot of uncertainty about the -- even the midterm,
19 not the long-term -- midterm life of these trees?

20 I'm sympathetic to what you want to do -- no
21 issues. But I have to consider the other side.

22 PARVIZ PARVIZI: Sure. I don't know if it's

1 helpful. I'm happy to address part of that or --

2 CONSTANTINE ALEXANDER: Yeah. What do you want to
3 know? I want you to address it.

4 PARVIZ PARVIZI: Yeah. So if you look at that
5 list, sort of the couple most critical things are the root
6 pruning. And that's entirely on my property, and that's
7 been done. That's completed.

8 Then the second thing that's important is the
9 branch burning. And the tree's a border tree. So it
10 borders 5 Lilac Court. And Graham and Joe own that. They
11 are -- they live in Chicago, and act as landlords for their
12 property. I contacted them the fall, you know, sent digital
13 copies of the file, et cetera. Didn't hear back other than
14 initial very quick e-mail.

15 When I learned about their opposition this week, I
16 did contact them. I had a good conversation with Graham.
17 Hopefully he -- he was planning on showing up this evening
18 prior to us speaking to oppose this -- and we talked about a
19 couple other.

20 One was on the branch pruning, that's something
21 that he and Joe have done over the years every two years.
22 And they haven't had cooperation from the property from my

1 property, from the prior owners. And so we talked about how
2 we would actually work together on that. That's just
3 something that's beneficial to the tree, regardless of any
4 construction.

5 And the other activities -- the injections, et
6 cetera. -- those are sort of beneficial bonus things to do.
7 They're good things to do. If they had opposition to that,
8 I'd certainly want to talk it through with them.

9 But when it comes to the conduct of the
10 construction, I think we've been quite diligent in really
11 the most critical thing, which is making sure the excavation
12 doesn't harm the root structure.

13 Much of what else is on that list is certainly
14 beneficial and helpful, but everything on that list is kind
15 of going above and beyond kind of the call of duty on this.

16 The initial recommendations were this tree is
17 really not something that should be harmed by what you want
18 to do. I just wanted to do the right thing and go above and
19 beyond that.

20 So to answer your question of, "Is this relevant,
21 can somebody block this, will the tree just die and there be
22 harm?" I really don't think so. That's -- from the work

1 I've done, which has been significant, there's very little
2 reason to believe that to be the case.

3 CONSTANTINE ALEXANDER: Thank you. You're very
4 good in your comments, and you're responsive to the
5 questions I'm asking. I'd like to see when we have
6 questions from the neighbors if they chose to speak, what
7 they have to say and what you will have to say.

8 PARVIZ PARVIZI: Yeah. I'd love for Graham and
9 Joe -- hopefully, again, if they have thoughts, hopefully it
10 was a good, helpful conversation. I know they have, you
11 know, their own perspectives on things. And no matter what,
12 you can't have a zero-risk situation. It's not possible to
13 have zero risk.

14 But in terms of being diligent, you know, I talked
15 to five different arborists. I hired a national company.
16 These are people who have reputations to uphold, and they're
17 not going to come in and do work that's going to just cause
18 significant harm to the community.

19 CONSTANTINE ALEXANDER: Well, I don't want to
20 pursue this any longer. Just one final comment. If you've
21 talked to five arborists and you've pick one arborists, I
22 don't know what the other four arborists told you. The

1 Board doesn't know. And they tell you the rest of them
2 agree?

3 I'm not saying they did. I don't have the benefit
4 of what the other four said to you and why you didn't use
5 any one of the other four, which makes me a little
6 suspicious.

7 PARVIZ PARVIZI: Well, for whatever it's worth, to
8 be fair, I mean this is public testimony and I'll say that
9 they all said there isn't risk, but in fact the one who I
10 wanted to work with, because of COVID, didn't have
11 availability until later in the spring. So I went with
12 another arborist. So there are at least two that I can
13 demonstrably show said the same thing, wanted to do the same
14 work.

15 So as for the other three, I mean I could be
16 perjuring myself here, but I think I'm a reasonably --
17 person --

18 CONSTANTINE ALEXANDER: -- to the Board Members.
19 You made your point. Okay, I want to hear the rest of the
20 case.

21 PARVIZ PARVIZI: Sure.

22 CONSTANTINE ALEXANDER: And presumably the

1 neighbors who are going to speak.

2 BRENDAN SULLIVAN: Mr. Parvizi -- and also
3 directed to Mr. Anderson -- there's three distinct cases
4 here, but in fact it's really, you know, one lot. This is
5 going to be a condominium setup?

6 PARVIZ PARVIZI: I'm planning to just keep one
7 property, as opposed to condominiumizing, because it's a
8 family sort of space.

9 BRENDAN SULLIVAN: So it's going to be one piece
10 of property, three houses, and a common ownership?

11 PARVIZ PARVIZI: I mean, I haven't gone through --
12 that's the current plan. I don't know if there's a
13 background to one path or another in terms of how you guys
14 regulate this. That's -- currently that's the plan. But
15 you tell me.

16 DANIEL ANDERSON: Mr. Chair, if I may -- this is
17 Dan Anderson, Partner at Anderson Porter Design. So Mr.
18 Parvizi, Parviz owns this piece, simple. So he is developing
19 this, and there's no reason for him to change the ownership
20 structure of this. And as far -- in all of our
21 conversations, there is no intention to do so.

22 And I just would want to make the comment this is

1 a fairly unusual case, three structures on the lot -- two
2 preexisting, nonconforming structures. But the very first
3 meeting that I had with Parvizi, I asked him to contact an
4 arborist, because in our experience, it just requires extra
5 diligence.

6 We have added additions and structures underneath
7 canopy using a variety of different methods. But it was
8 first and foremost in our recommendation that before we even
9 started design and planning, that he have a clear path
10 forward with a good arborist.

11 And the conversations that were reported to me we
12 were as Parvizi described them, all saying that there was
13 nothing -- there was no risk, but with proper management
14 they had a clear path forward.

15 BRENDAN SULLIVAN: I'll be quite candid is that
16 when -- obviously I've been wrestling with for more than a
17 couple weeks -- have been down to the site three times, four
18 times, and actually stood in the middle of the yard at
19 various times in the morning and in the afternoon to see the
20 direction of the sun, the sunlight, how it would be affected
21 to the neighbors.

22 And that thought that I came away with and where

1 I'm at is that you bought a site with two houses on it.
2 Yes, they do need some work and what have you, but then
3 proceeded to basically maximize the site.

4 And by adding that third unit, I understand, you
5 know, your agenda and your wishes, wants and desires as far
6 as that being your home and what have you, but I think that
7 it will have a deleterious effect on the surrounding
8 properties.

9 And again, my observation of sunlight and the
10 effect of the buildings on the neighbors is something I am
11 troubled with and wrestle with.

12 But I'll let you go on with your presentation,
13 Dan, but it's -- it's a tough sell right now on me, anyway.
14 But anyhow.

15 DANIEL ANDERSON: No, thank you for your
16 observations and diligence in going and visiting the site.
17 It is a tight site. Just as a quick summary, apart from --

18 BRENDAN SULLIVAN: In hindsight -- and again, Mr.
19 Parvizi, you know, you buy -- again, the site with two
20 houses on it and you paid x number of dollars, whatever that
21 is, for those two pieces of property and houses and the
22 adjoining large lot for the condition that it's in and what

1 you can do with it as-of-right.

2 Now, obviously after you bought it you said, "Aha,
3 there's a potential here to do whatever." But using the
4 Zoning Board or a variance as a vehicle to enhance that
5 initial investment, you know, is really not part of our
6 charge, nor should it be part of our consideration. It's
7 really what is beneficial to the site, and/or to the
8 neighborhood.

9 But again, I think that you bought these -- I
10 assume -- from the previous owner and the condition that
11 they were in, what you needed to spend to enhance them,
12 bring them up to code or modern, livable standards, but only
13 as-of-right. And not seeking any kind of relief from the
14 Zoning Board.

15 DANIEL ANDERSON: Well, it -- Mr. Chair, this is
16 Dan --

17 BRENDAN SULLIVAN: Beyond that -- you know.

18 DANIEL ANDERSON: -- so I think that Parviz has a
19 slightly different approach and perspective on this. But
20 let me give a quick rundown of what we're asking for, and we
21 can engage in a conversation about what those specific
22 reliefs are, and how they may or may not be acceptable. And

1 it's worth having your input as well.

2 But we're specifically looking at modifications to
3 number 33, which --

4 BRENDAN SULLIVAN: That's the building on the
5 right.

6 DANIEL ANDERSON: -- which is the building on the
7 right. Yeah, so the existing as you're looking at it from
8 the street, 33 is on the right, 35 is on the left, and
9 although the application says 35, we've numbered the new
10 structure at the rear as 37.

11 And fundamentally, the changes were reduction in
12 gross building area to the front two units to allow for what
13 was Parviz's primary interest, was building his own single-
14 family primary residence in the back and renovating the two
15 structures in the front, the existing structures, for the
16 extended family as the family comes down to him in future.

17 So the modifications to the two structures in the
18 front do in fact ask for increases -- specifically 33
19 converts the existing second-story to a third story in order
20 to provide the number of bedrooms in there that his program
21 asks for. And that change is an increase of the exposed
22 elevation in a nonconforming setback.

1 However, it also removes any window openings from
2 that. So there's -- we're talking about a foot and a half,
3 just shy of two feet of side setback on that site. So it is
4 a tight side setback, but in conversations with neighbors
5 and abutters, you know, Parviz mentions the application of a
6 privacy screen on a deck area, and the removal of the one
7 operable window there.

8 We do have a translucent wall there that can help
9 provide some light, but the only request there is an
10 increase in height in the side yard setback.

11 Number 35, which is the one to the left as you're
12 facing, is an older workers' cottage, which is in rough
13 shape and has very, very low ceiling heights, and we've
14 reviewed this with the Cambridge Historic Commission, and
15 the strategy is in addition to the second-story, which
16 currently you can't stand up in.

17 And we are providing this as a -- basically going
18 from a one-and-a-half story structure to a two-story
19 structure, and currently proposing some change in window
20 openings to the north, which faces 41 the abutter.

21 The addition of a new structure at the rear,
22 number 37, is a conforming structure in all respects,

1 including FAR, height, setbacks. The only relief that we're
2 really asking for is a variance for a guardrail/handrail to
3 the areaway basement stair access to the lower level.

4 So it would be -- the hardship created or
5 otherwise is that placing that conforming structure on the
6 site, placing a new curb cut, which we have in the works
7 right now as an application with neighborhood approval would
8 allow there to be conforming parking on the site, conforming
9 off-street parking.

10 So the strategy employed here is really to meet
11 Parvizi's desired program to improve and modify the two
12 existing structures that definitely needed work, and to
13 create an otherwise conforming single-family primary
14 residence in the rear.

15 So there wasn't a certain sense of, "Aha, I can do
16 this to maximize." Rather, how can this site meet the
17 programming requirements that Parviz has for a long-term
18 family compound. So we worked at this very diligently, and
19 I think that the opposition came quite late.

20 Parviz did a lot of outreach, and we didn't see
21 any letters of opposition or quite honestly even responses
22 of opposition, apart from conversations around the tree and

1 concerns from Lilac Court about privacy and screening,
2 really until Monday.

3 So I'm certainly happy to open this up to
4 conversation with the Board. I do have one particular
5 request, which is that we were asked to submit the special
6 permit application for number 35 -- again, the worker's
7 cottage that's on the left-hand side -- under 8.22.2.

8 Again, same as number 33, in that we were
9 increasing the height of that nonconforming -- of the
10 elevation in the nonconforming setback.

11 It does seem that 8.22.1 h) allows as-of-right a
12 modification, an addition to the second story that further
13 violates the yard and height width strictly by building
14 permit. So I would ask that you kind of consider that.

15 Certainly, the -- any issues around window
16 placement on that side are legitimately special permit, and
17 Parviz has tried to engage with that conversation. We do
18 have some opposition from new owners at number 41, and
19 Parviz had tried to be as engaging on that front as
20 possible.

21 BRENDAN SULLIVAN: Regarding the previous
22 statement that you made about just getting a building

1 permit, had you had a conversation with the Commissioner on
2 that fact?

3 DANIEL ANDERSON: So I -- in terms of a building
4 permit for number 30 --

5 BRENDAN SULLIVAN: Because it's written as-of-
6 right.

7 DANIEL ANDERSON: For number 35, is that
8 specifically what you're asking?

9 BRENDAN SULLIVAN: Yes.

10 DANIEL ANDERSON: Yeah. So I had two different
11 response. One is first from Ms. Ratay and the second in
12 conversation with Ms. Ranjit -- with Mr. Singanayagam. He
13 was -- I'm happy to make the argument for it -- he felt that
14 the 822.1 h)1) would only apply to extending an existing
15 roofline.

16 However, so we were not in agreement of
17 interpretation on that. I put it forward to you that I
18 believe that that is applicable. But now is not the time
19 and place to debate that. We're happy to move forward with
20 just a discussion of the whole piece as special permit.

21 BRENDAN SULLIVAN: Okay. So he has a different
22 interpretation than you have?

1 DANIEL ANDERSON: So it comes down to the fact
2 that he thinks that the second-story addition is not
3 applicable to a half story, he says, through a roof.
4 However, part 2 says the dormer to the third story, which is
5 clearly a roof, the half-story.

6 So I find that I don't agree with his
7 interpretation, I think it is contradictory. But because
8 this project specifically is raising the roof to add to the
9 second story. But I can only give my interpretation.

10 BRENDAN SULLIVAN: Dan, on the back Unit 37 --

11 DANIEL ANDERSON: Yes.

12 BRENDAN SULLIVAN: -- where you're seeking a
13 variance, have you explored an as-of-right solution to --

14 DANIEL ANDERSON: Yes. So we have an as-of-right
15 -- we do have an as-of-right solution. If we provide a
16 safety grate to cover that basement access areaway, we don't
17 need the variance.

18 BRENDAN SULLIVAN: Oh.

19 DANIEL ANDERSON: It's just the guardrail within
20 the side yard setback as I understand it.

21 BRENDAN SULLIVAN: So you do have the ability to
22 construct whatever you want without needing a variance?

1 DANIEL ANDERSON: That's correct. And that
2 includes height above new average grade. So we're well
3 within that caveat.

4 BRENDAN SULLIVAN: All right. I didn't mean to
5 take away from some of your thunder here, but the Board
6 heard it. Did you want any more presentation at all?

7 DANIEL ANDERSON: No, I would open it back to the
8 Chair and Board for comments. And I'm happy to have all
9 your observations heard.

10 BRENDAN SULLIVAN: All right. Let me open it up,
11 then, to Board discussion. Mr. Alexander, any additional
12 comments?

13 CONSTANTINE ALEXANDER: I want to see if the other
14 Board Members have anything they want to say at this point?

15 BRENDAN SULLIVAN: Jim Monteverde, any comments at
16 this time?

17 JIM MONTEVERDE: No comments, thank you.

18 BRENDAN SULLIVAN: And --

19 CONSTANTINE ALEXANDER: Laura.

20 BRENDAN SULLIVAN: -- Laura?

21 LAURA WERNICK: Yes, please. I just want to make
22 sure I understand. And I think that Mr. Sullivan clarified

1 this, but I just want to go through it. So the 37 could be
2 done as-of-right, given if you chose to do the grate
3 coverage, rather than the railing? Otherwise it's as-of-
4 right?

5 DANIEL ANDERSON: Correct.

6 LAURA WERNICK: That's correct? So -- and then
7 the two front buildings, are they -- were they being lived
8 in when Mr. Parvizi purchased the property? Were they
9 occupied?

10 DANIEL ANDERSON: I don't know.

11 PARVIZ PARVIZI: Yes, they were. They both were.
12 The one on the left, the smaller 135, the two bedrooms are
13 upstairs. They have six-foot ceilings at the maximum, and
14 then the roof slopes down to a little under three feet. So
15 those are the bedrooms. And they were living --

16 LAURA WERNICK: They're not code, though?

17 PARVIZ PARVIZI: They were certainly
18 grandfathered. And, you know, to the earlier comments, I
19 mean, regardless of the thought of -- I don't even want to
20 kind of try to summarize that earlier thought, but
21 regardless of the thought of my using the back, that left
22 side building is just not livable, according to a modern

1 standard as it is, regardless of anything else that's done.

2 It's hard for me to debate that.

3 LAURA WERNICK: So you're in fact improving the
4 quality of the housing stock, your suggested improvement --

5 PARVIZ PARVIZI: Absolutely. I mean, my long-term
6 plan is to have my mom live there. Regardless of that, I
7 would be happy to walk any of you through that place. It
8 would take about five minutes, because it's quite small. A
9 six-foot ceiling that goes down to --

10 LAURA WERNICK: No, no, I get it, I get it, I get
11 it. I'm just trying -- so --

12 PARVIZ PARVIZI: Yeah.

13 LAURA WERNICK: -- on 37 --

14 PARVIZ PARVIZI: Yep.

15 LAURA WERNICK: -- so you're making two bedrooms
16 that don't meet code will be made to meet code, and will
17 become livable? At 33, how many bedrooms are there
18 currently? You're -- it'll be the same number of bedrooms,
19 they're just as there are now?

20 PARVIZ PARVIZI: Want me to answer that, Dan, or
21 should --

22 DANIEL ANDERSON: I'm just looking at this

1 quickly. I believe that there are the same number of
2 bedrooms. Currently there are three bedrooms on the second
3 floor, and a kind of quasi-livable bedroom, but quite low
4 ceilings on the third floor.

5 So we're proposing a -- I believe it is the exact
6 same number of bedrooms.

7 LAURA WERNICK: Again, in that instance you're
8 making those what you termed, "quasi-livable" into code-
9 approved rooms?

10 DANIEL ANDERSON: Yeah. It's a very typical, you
11 know, half-story, you know, 1800 -- late 1800s -- yeah. So
12 that's not very usable.

13 LAURA WERNICK: So the way I'm seeing is that
14 you're -- in both of those instances, 33 and 35 you're
15 improving the quality of the housing stock, making either
16 the same number of bedrooms or the same number of bedrooms
17 more livable than they currently are.

18 And the house in the rear, the new house is as-of-
19 right, or could be as-of-right with minor adjustments?

20 DANIEL ANDERSON: That is also correct.

21 LAURA WERNICK: So okay, that's fine. That's --

22 DANIEL ANDERSON: Yeah.

1 LAURA WERNICK: Yeah.

2 DANIEL ANDERSON: And just to give a little
3 further piece, the number 33, which is the one on the right,
4 could be improved not quite to Parviz's satisfaction, but
5 that dormer ordinance, the 822.1 h)1) would allow an as-of-
6 right 15-foot dormer on that side.

7 So we're here suggesting that the impact is
8 appropriate under special permits, as per that basically
9 third floor renovation to provide relief -- the same number
10 of bedrooms, but at a more modern and livable capacity.

11 Thank you.

12 LAURA WERNICK: That was good. I appreciate that
13 -- that you could have improved the bedrooms and do it as-
14 of-right with/by making it a dormer, rather than changing
15 the roof. Is that correct for 33?

16 DANIEL ANDERSON: That is correct.

17 LAURA WERNICK: Yeah. Okay. Thank you. That's
18 all.

19 BRENDAN SULLIVAN: Jason Marshall, any questions?

20 JASON MARSHALL: At this point, Mr. Chair, given
21 the extensive discussion that's already occurred, I think
22 I'd benefit most from hearing public comment.

1 BRENDAN SULLIVAN: Let me now open it to public
2 comment. Any members of the public who wish to speak should
3 now click the button that says, "Participants," and then
4 click the button that says, "Raise hand."

5 If you are calling in by phone, you can raise your
6 hand by pressing *9 and unmute or mute by pressing *6. And
7 I will allow the speakers up to three minutes to speak,
8 comment on the case. And I would ask Staff Olivia to
9 monitor the time. And then at the end of three minutes, we
10 will then mute.

11 OLIVIA RATAY: Lin Yang?

12 LIN YANG: Am I on?

13 BRENDAN SULLIVAN: Yes.

14 LIN YANG: Okay. So I'll be very brief. So I
15 will tell another side of the story. I'm the future owner
16 of 41 Webster.

17 And according to what I can say, they are taking
18 up space for parking space, but actually they are maximizing
19 the floor area ratio as they could. So I don't think that's
20 the right argument.

21 And for the neighboring outreach, I was trying to
22 say you are raising the roof too high, and what I said is

1 they can do it by right. They will not take my input at
2 all.

3 And then I have to argue with the Building
4 Department with the code explanation, and that's why there
5 are two explanations for them. And then they kind of
6 started to work with me. So that's that.

7 And secondly, they are not raising a 1.5 floor
8 building to 2. -- to 2 they're actually raising the height
9 for 7.2 feet, which is nearly raising it to 2.5 story
10 height.

11 And also for the code, for the both codes 8.2.22
12 and .1, they both need to be not detrimental to the
13 neighborhood. So either way, so we -- I don't think that's
14 being met.

15 Okay. So other than that, I want to say the
16 applicant doesn't meet the requirement to the Section
17 8.22.2.c (sic) where the code requires any enlargement or
18 alteration of such nonconforming structure. It's not
19 further in violation of the dimensional requirements. And
20 the aerial volume is up by 25 percent.

21 And as stated in the petitioner's proposal, the
22 application increases the height of the building, which

1 further violates setback. So that -- the petitioner
2 acknowledged by themselves that they're violating the first
3 requirement.

4 Also, their building is increasing the height of
5 36.7 percent, and this will most likely result in a
6 violation for the second requirement.

7 Secondly, as we pointed out in the opposition
8 letter, the shadow study in the current application is
9 extremely inaccurate. And that being said, given our
10 observation in real life, the current structure of 35
11 Webster already blocks a significant portion of sunlight of
12 the whole yard and our basement at noon and late fall,
13 winter and early spring.

14 And any additional increase of the height would
15 definitely block sunlight for our yard and rooms for a
16 longer period of time. And we'll have additional negative
17 impact. We believe this is substantially more detrimental.

18 And thirdly, the height increase, not as the
19 applicant said, doesn't serve much purpose than design
20 statement. Like, each --

21 OLIVIA RATAY: 30 seconds.

22 LIN YANG: -- initially, they have two bedrooms

1 on the second floor of 35. But now they are dropping the
2 entire bedroom. There's only one bedroom there, and all the
3 other space is open to below and used for demonstration of
4 the high view. And --

5 BRENDAN SULLIVAN: Thank you very much.

6 LIN YANG: Okay.

7 BRENDAN SULLIVAN: Thank you.

8 OLIVIA RATAY: Graham McMahon?

9 GRAHAM MCMAHON: Hi. Good evening, everybody.
10 Thanks for hearing from me. And nice to be able to see Mr.
11 Parvizi as well. As he mentioned, we've had some
12 conversations. We were very worried about this property for
13 many reasons brought up by my colleagues and the other
14 neighbors in our conversations.

15 But the three primary issues that we're worried
16 about are the height of the structure and its effect on
17 shading and light access to our property, which is directly
18 to the south of the 37 structure.

19 Number two, we're genuinely worried about the
20 integrity of the tree and the unnecessary risk to that
21 integrity by proceeding with the large development plan in
22 this what has traditionally been an open-field space.

1 And number three, we're alarmed at the position of
2 the windows in the balcony, which in their current
3 formulation look directly into our property into the main
4 living space into it. And those windows are extremely tall
5 and large and face specifically into the property.

6 So it substantially and detrimentally affects the
7 integrity of our experience of Cambridge and the property
8 that we've owned since 2005.

9 So we have real worries about this new, large
10 structure being placed, and feel like the Zoning Board
11 should facilitate our efforts to ensure that it's modified
12 to an acceptable extent to be within the character of the
13 neighborhood, without affecting the neighbors so
14 substantially.

15 And we appeal to you for your help in helping us
16 navigate this position of this particular property. Thank
17 you.

18 OLIVIA RATAY: Scott Kenton?

19 SCOTT KENTON: Hello? Hello? Hello, hello?

20 BRENDAN SULLIVAN: Yes, proceed.

21 CONSTANTINE ALEXANDER: You're on.

22 SCOTT KENTON: Okay, yeah. Hi. I'm Scott Kenton.

1 I am one of the partners who live -- who owns the property
2 next door at 45 Webster. And, you know, as has been
3 mentioned, we have a concern in general about the overall
4 density of the project.

5 But two things come to mind and one is just the
6 consideration which between -- of the access, the driveway
7 between 33 and 35.

8 It's very tight, and in my experience, it might be
9 a good idea, whether or not this application moves ahead or
10 not, you know, tonight or another time, that the applicant
11 speaks to the Fire Department and someone in Fire Prevention
12 to determine whether there is going to be some issues with
13 that access for the Fire Department, especially with the new
14 construction going into the back.

15 And it would be sort of unfortunate if, you know,
16 the Fire Prevention comes back with a necessary revision,
17 and then you would have to come back to the Board. So I
18 just want to mention that.

19 But the main objection that we next door have, I
20 think, is to the work being done to 35, which I call, "The
21 Worker's Cottage" which is, you know, essentially a historic
22 structure.

1 My understanding is that in the past, the amount
2 of work that's being done completely dismantling the second-
3 floor half-story and the complete roof would have required
4 the Historic Commission to have purview over it.

5 I did have a discussion with the Historic folks,
6 and they made clear there has been a rule change
7 unofficially about demolition of percent of roof structure
8 so that they do not have any purview for a public hearing by
9 Historic, although reading between the lines, I got a sense
10 that they wish they did have purview over it.

11 And our concern is that that structure has -- is
12 just being completely blown out of proportion. It is going
13 from around 19-foot to the ridge to around 28 feet.

14 So it's an increase of about 40 percent in height.
15 It's affecting -- you know, our property -- the shadow
16 study, as had been mentioned. It just seems excavate. It's
17 going to have a radical change to the streetscape -- you
18 know, notwithstanding any design considerations, just the
19 massing.

20 And we really have a concern about that. So
21 that's.

22 BRENDAN SULLIVAN: Okay.

1 CONSTANTINE ALEXANDER: Is that all?

2 OLIVIA RATAY: John Hall?

3 JENNA AND JOHN HALL: Hi. This is Jenna Hall and
4 John Hall. We live directly across from 35 and 33. We live
5 at 36 Webster Ave, and we've lived here for -- well, since
6 1999. So we've seen a lot of change in the neighborhood.
7 And we welcome new neighbors.

8 We do have some concerns about the structures in
9 front. We feel that they are too close together. I'm
10 really surprised that any modification can be made to the
11 little house. I mean, it should probably just be taken
12 down. I know one of the Board Members has seen the space,
13 it's extremely, they're extremely close together.

14 And one of my concerns is about crowding and
15 density of the neighborhood. We have had four large
16 buildings put up to the left of 35, and I worry that there's
17 fire danger.

18 Because we have had a history of fires in the
19 neighborhood -- you know, 2017 17 houses burnt down. We had
20 a huge fire just a few weeks ago, and then there was another
21 fire around the corner from us yesterday. So there's a lot
22 of fire in the neighborhood. And we're very concerned about

1 the closeness of the houses.

2 I'm also very concerned about the large, open
3 windows that are being put on the front of 33. Those will
4 look directly into our property. It looks like Florida
5 ceiling glass on three floors. It's really out of character
6 with the neighborhood, and it's also just really daunting to
7 think about those large neighbor -- large windows on the
8 front, you know.

9 We live in the city. We love this city. We're
10 not asking for, like, country-level privacy, but those
11 windows are really, really big and open.

12 And then I'm also just concerned about all of the
13 construction on three different buildings simultaneously.
14 We, as I mentioned, have just lived through a period of,
15 like, four or five years or total redos around us -- new
16 construction.

17 It's been a constant noise. Our house shakes
18 constantly. It's -- there's -- I'm worried about damage to
19 our foundation, some of the pounding. Our house will
20 literally shake, and this has been going on for years. It's
21 very, very disruptive. So I'm also just concerned about
22 that.

1 So my two points are the mitigation of the noise
2 and the damage and the, you know, volume of the
3 construction, but also crowding, density, privacy and fire
4 risk. Did you have anything else to add?

5 JOHN HALL: Uh-huh.

6 JENNA HALL: Okay. Thank you.

7 OLIVIA RATAY: Graham McMahon?

8 LEON SUN: This is Leon Sun. This is -- we're
9 actually -- I'm here with my wife, Zi Wang. We are the co-
10 owners of 6 Lilac Court. We abut Mr. Parvizi's property,
11 kind of on the -- towards the east side. We're owners of
12 this long kind of courtyard to which the big American elm
13 tree has a large portion of its canopy shading our yard.

14 And so I just want to give a little background
15 about, you know, American elm trees and why this tree is so
16 important. Now, this is a tree -- you know, my father is a
17 plant biologist, and he actually -- I talked to him about
18 kind of the danger of this tree. And so this is a decent
19 tree.

20 Now, unfortunately in North America, it's been in
21 decline really due to Dutch Elm disease, as Mr. Parvizi's
22 mentioned earlier, and this is -- the root system of this

1 tree in particular based on my father is that, you know, it
2 only reaches, you know, three to four feet under the ground.
3 It's quite shallow.

4 And, you know, we were in discussion with Mr.
5 Parvizi about, you know, root pruning and how careful that
6 should be done. And the fact that it's already been done
7 during our discussion was surprising to us.

8 And, you know, our main concern is that based on
9 the design, the root pruning has already occurred. And that
10 it's occurred essentially, you know, without our notice, and
11 that because of the pruning that's already been done, you
12 can imagine if you take the root system -- if you take a
13 part of a chair off, or a stool, the chair will be unstable
14 and fall towards the opposite end, if the heavy -- you know,
15 wind would blow.

16 And so essentially, you know, this would blow
17 directly onto our property. Even though we're not the owner
18 of this tree, we worry that the tree would directly fall on
19 our property in our yard or on our deck, you know, when we
20 are outside on our deck.

21 And the fact that the pruning had already been
22 done really worries us that, you know, maybe not immediately

1 the tree will be in danger, but maybe down the line that the
2 tree might fall with strong wind, and fall on our property
3 and cause property and personal harm.

4 ZI WANG: So this is Zi Wang, also a co-owner of 6
5 Lilac Court. Two things that I want to add for the Board to
6 consider first is that Mr. Parvizi argued that the buildings
7 are in very poor condition. However, they are currently
8 both occupied by renters, according to our previous
9 conversations.

10 And if those buildings can be occupied by renters
11 -- especially, like, short-term renters from VRBO, then I
12 think it's probably not in super bad condition that
13 definitely needs, like, a gut renovation that elevates the
14 floor.

15 And secondly, I would also like to raise your
16 attention on the gross floor area that's being computed from
17 the plan. According to my understanding of the Zoning
18 Ordinance -- I think it's like number 10.47.1 -- I believe
19 that the indoor garage should also be counted towards the
20 total gross floor area, but they're not. And similarly, for
21 some balconies that have roofs, they're not counted towards
22 the total gross floor area.

1 So I think -- I really hope that the Board of
2 Zoning Appeal will consider redoing it very carefully.

3 Thank you.

4 BRENDAN SULLIVAN: Goodnight. Thank you for your
5 comments. There is no other calls coming in, and I will
6 cease public comment at this time. Let me turn it back to
7 Mr. Anderson. Do you have any comments, or shall I turn it
8 over to the board?

9 DANIEL ANDERSON: No, I think that there are a few
10 comments there -- some are predominantly questions of
11 clarification. Certainly, on the issues raised by the
12 abutters to the north that are predominantly in terms of the
13 sun shadow studies, we had done an initial sun shadow study
14 based strictly on observable pieces.

15 We didn't have -- as that was a relatively new
16 construction, we did not have access to public documents of
17 exact placement. And so objections came on Monday this past
18 week. We worked with parties making those corrections.

19 Essentially, yes, there is shadow impact on 41,
20 which sits directly to the north of number 35. So that
21 increase of height does increase shadows predominantly in
22 the solstice -- I'm sorry, the equinox -- and obviously in

1 the winter solstice.

2 The impacts, however, in terms of our assessment
3 are that they predominantly impact, obviously, the yard,
4 which is going to be impacting in those seasons pretty much
5 anyway. Come up the side face of the building, it is a two-
6 story addition at that portion, with a roof deck at the
7 third floor.

8 And the -- according to our sun shadow studies,
9 which we I believe Parviz distributed, there's no shadow
10 impact on that deck area.

11 So there's I believe a door, or a glass door and
12 two windows on that side, which would be impacted after the
13 fall equinox and really the kind of later and earlier parts
14 of the day.

15 But you can gauge that from our shadow study which
16 is included in the set with -- I think the adjustments were
17 within three or four feet of being accurate but, again, were
18 based on our best guess placement from direct observation.

19 So the abutters to the south: We very much
20 appreciate the concerns about the tree.

21 Everything that Parviz has done has been
22 consistent with the arborist and tree management approach,

1 and we have tried to be as conscientious as possible.

2 I think we've succeeded in keeping the issues of
3 privacy to those abutters to the south, reducing window area
4 visibility, and I know that we had discussions neighborhood
5 meeting with our across-the-street neighbors.

6 And Parvis is interested in obviously having
7 larger windows. This is a request specifically to the kind
8 of indoor light quality that he was looking for.

9 But we have a product that is an applied screen
10 that goes from transparent to opaque with a new technology.
11 So it's quite possible to have this be very, very private
12 and either all or portions of these windows be made opaque
13 at any point.

14 So we tried to be very conscientious about those
15 design considerations.

16 In terms of our calculations and things, I believe
17 they are all consistent with the zoning code, which we've
18 kept with whatever calculations for covered porch areas,
19 making sure that they don't impact with sizing and placement
20 and distribution of trellises.

21 So those are square footages that can be
22 legitimately extruded and are -- as far as I can tell are in

1 compliance with -- fully in compliance with number 37. And
2 I believe Parviz will start construction on that, hopefully
3 with the approval of a guardrail, but can move forward with
4 a grate on that.

5 So I think the root pruning is very much an
6 anticipation of starting construction on that property. And
7 obviously, the building permits will be dependent on full
8 review from ISD, from the Fire Department, from DPW. The
9 drive will be dependent on the successful application of the
10 curb cut, which is in process.

11 And I think generally I think it's just a question
12 maybe to ask the Board in terms of their -- how they're
13 looking at this, whether they want to rule on these
14 structures independently, I assume, since they're submitted
15 as independent applications, we can take them one at a time.

16 And I'd like the opportunity if there does seem to
17 be significant hesitation in giving approval this evening,
18 have the opportunity for a continuance to address any
19 changes that would be of benefit.

20 Essentially, I think although this is a very -- we
21 do live in a tight urban condition. I would argue that
22 these structures are not inconsistent with the form and

1 character of the neighborhood, particularly with the
2 addition of number 41 Webster next door -- very modern in
3 character.

4 These are of a traditional size and scale, even
5 though the placement on the lot is tighter, they work with
6 all of the dimensional requirements, and I'm happy to have
7 more conversation with the Board and hear any other
8 comments.

9 Thanks.

10 BRENDAN SULLIVAN: Well, the continuance to have
11 further discussion with the neighbors and/or to address
12 issues that were raised is at your option. So it can either
13 be continued, or we can proceed. So here you would have a
14 one-time opportunity to request or of course we can proceed.

15 But what I don't want is when we get into the
16 vote, and all of a sudden then you ask for a continuance.
17 If you --

18 DANIEL ANDERSON: Yeah, so --

19 BRENDAN SULLIVAN: -- one way or another, that's
20 all.

21 DANIEL ANDERSON: No, I appreciate that. I guess
22 I would ask generally what the pleasure of the Board,

1 whether there's -- I certainly for number 37, perhaps we
2 could discuss that for a moment.

3 If the Board seems disinclined to consider a
4 variance for that guardrail, I think it would be a -- in the
5 past that's been a fairly straightforward request. It would
6 be code required.

7 I think that the grate, while it will suffice is a
8 less than ideal piece for the project. But I would hesitate
9 to push this to a vote if the Board felt that that was
10 inappropriate, since that would put Parviz in terms of
11 having to wait two years before you could come back and
12 request that as a separate item.

13 BRENDAN SULLIVAN: Okay. Mr. Alexander, what is
14 your --

15 CONSTANTINE ALEXANDER: Okay. My thoughts are as
16 follows: What I feared was going to happen tonight has
17 happened. There is legitimate -- in my opinion, based upon
18 what I'm hearing -- legitimate and widespread neighborhood
19 opposition. It's just not a one-issue case; I've heard
20 about trees of course, I've heard about privacy concerns,
21 crowding, design issues.

22 I think what should be done, the case should be

1 continued. And that another arborist be brought in to look
2 at the issues of the trees and the like. That arborist
3 should be mutually satisfactory to a neighborhood
4 representative, and of course the petitioner, and get
5 another view.

6 I think it sounds like maybe the shadow studies
7 need to be redone, and there's been criticism of that. I
8 think the petitioner needs to rethink the design of the
9 project. I think it is probably too dense -- and I can tell
10 -- for the property.

11 Maybe there are things to be done that will make
12 it much more practical for the neighborhood. But all this
13 means is time and money.

14 But I don't think there's any alternative -- at
15 least for me. I'm prepared now to vote against granting
16 relief, based on what is before us tonight.

17 BRENDAN SULLIVAN: Jim Monteverde, your thoughts
18 on either continuing or proceeding with a vote?

19 DANIEL ANDERSON: Is he there?

20 BRENDAN SULLIVAN: Jim is on mute.

21 JIM MONTEVERDE: Sorry. That's -- I'll leave that
22 to the proponent whether it's continued or whether it

1 proceeds. I'm definitely ready to act on it if it proceeds.
2 I concur with Gus's sentiment -- I mean that's my head
3 talking that it feels too dense.

4 But when I look at the dimensional form, it's
5 exactly compliant with what the City Standards are, in terms
6 of the FAR, in terms of the amount of open space. So I
7 think, you know, they've met the ordinance and can't
8 complain about that.

9 There are some design issues or architectural
10 issues, but I don't think that's the purview of this Board.

11 So I'm prepared to vote if that's what the
12 proponent would like to do.

13 BRENDAN SULLIVAN: Laura, your thoughts as far as
14 if you wish to continue this and have the issues discussed
15 and ironed out, or proceed with a vote?

16 LAURA WERNICK: I'm concerned because 37 is as-of-
17 right. So they can turn around tomorrow and proceed, which
18 it seems kind of ridiculous for us to hold up something that
19 can be proceeding without -- these are filed as three
20 separate comments. So what is it that we're holding up?

21 The density is allowed, the square footage is
22 allowed, they could in fact at 33 by changing to a dormer,

1 this could be as allowed as well.

2 So there may be some -- I'm just wondering if
3 there isn't some middle ground here where we go ahead and
4 allow the handrail at 37 and suggest are there roof -- are
5 there ways to achieve the bedrooms, make the bedrooms legal
6 and code-compliant?

7 I think that's the issue is that they're not
8 compliant at this point -- without having this traumatic
9 impact on the neighbors, casting as much shade on the
10 neighbors. I'm not even sure that those two buildings are
11 the real concern for shadows.

12 So I guess I'm still a little bit -- I'm kind of
13 in line with Jim here. It appears as if we really,
14 particularly with 37 and even with the other ones, they fall
15 within the parameters of the code, as I understand it.

16 BRENDAN SULLIVAN: Okay.

17 LAURA WERNICK: I'm not sure what a continuation
18 would achieve.

19 BRENDAN SULLIVAN: No, your thoughts are right on.
20 Jason, what are your thoughts, as far as whether we wish to
21 continue this matter and have some of those issues further
22 discussed with the neighborhood or have the petitioner come

1 back and address some of those issues? Or to go forward
2 with a vote?

3 JASON MARSHALL: Well, I'm happy to share some
4 early thoughts. I mean, ultimately of course it's up to the
5 petitioner as to whether they want to seek a vote or not. I
6 mean, I guess I'll start just by saying, Mr. Parvizi, I'm
7 glad that you persisted in staying in Cambridge and
8 acquiring a property.

9 And it is a difficult market to break into, and
10 it's clear that you have invested a lot of time in meeting
11 your neighbors and making outreach and exploring different
12 avenues and alternatives for the property.

13 Unfortunately, as we heard tonight, and what was
14 in the records, it seems like there are still significant
15 concerns remaining with respect to the proposal across all
16 three properties. And there are concerns about shadows with
17 respect to the height, concerns about privacy with respect
18 to windows.

19 And again, this isn't exhaustive, this is just
20 what we've heard. You know, concerns about credibility of
21 the shadow study. And I would credit the Chair, who
22 observed some of the shadowing himself.

1 With respect to the proposed variance, you know, I
2 do struggle a little bit as to whether it meets a legal
3 standard for substantial hardship and how it relates to the
4 soil or the shape of the land. Those are threshold issues.
5 So, again, it's up to you.

6 I'm at this point not inclined to grant the
7 relief. But it is up to you as to whether you want to
8 proceed or not. And as to what you can do as-of-right,
9 obviously you can do it as-of-right.

10 That's not what's before us, though, just acting
11 on the application that is here in the record as before us
12 tonight.

13 DANIEL ANDERSON: I appreciate the opinions of the
14 Board very much. One procedural question on the special
15 permit: I note that a denial on the variance is very
16 specific in terms of returning with a substantially
17 different proposal. Is that same standard held through for
18 a special permit? What is the --

19 BRENDAN SULLIVAN: Yes.

20 DANIEL ANDERSON: -- read of the Board?

21 BRENDAN SULLIVAN: Yes.

22 CONSTANTINE ALEXANDER: Yes.

1 BRENDAN SULLIVAN: Yes.

2 DANIEL ANDERSON: Same thing.

3 CONSTANTINE ALEXANDER: That's what I say.

4 DANIEL ANDERSON: Same thing. Parviz, I look to
5 you a little bit --

6 PARVIZ PARVIZI: Oh, yeah.

7 DANIEL ANDERSON: -- this impacts your schedule
8 more than anything. My sense is that it's a hard sell this
9 evening. I think that your general approach to this has
10 really been neighborly, and the conversations to date with
11 all your Lilac Court abutters and across the street have
12 been very productive.

13 I think that probably the -- I can't say that you
14 will be able to satisfy all of the requests of all the
15 abutters, but I think it goes a long way to engaging in that
16 conversation.

17 Would you be inclined -- we would be hopeful that
18 we could be back within a short period of time, but, you
19 know, it's at the availability of the Board Members who've
20 heard the case so far.

21 BRENDAN SULLIVAN: To March?

22 PARVIZ PARVIZI: Yeah. Can I be heard here, or --

1 can you guys here me, am I live on this too, or --

2 DANIEL ANDERSON: We can hear you.

3 PARVIZ PARVIZI: Oh, great. Yeah, thanks. First
4 of all, I just want to thank everyone for engaging the Board
5 as well as the neighbors. So yeah. It's -- construction's
6 never fun. I've had construction around me in my time in
7 Cambridge forever.

8 So I'd certainly appreciate the opportunity for a
9 continuance. We can explore that path. We can explore by
10 right options. I really have been trying to be a good
11 neighbor; certainly 1 and 2 Lilac Court they're directly
12 next to 33 Webster, and it's been a lot of kind of
13 engagement and attention making sure that doesn't impact
14 them.

15 And also, just, you know, in building something,
16 at least doing it the right way, rather than just the way
17 that I'm allowed to without having to go in front of a
18 Board.

19 But I'd greatly appreciate a continuance, and we
20 can explore both of those paths during the next period of
21 time, whenever we can get this rescheduled.

22 BRENDAN SULLIVAN: April 14 would be the earliest

1 date.

2 PARVIZ PARVIZI: Wow. Well, it is what it is.

3 BRENDAN SULLIVAN: April 14. Now, can all five
4 Members who sat on this case be available on April 14?

5 JIM MONTEVERDE: I can be available.

6 BRENDAN SULLIVAN: Jason, are you available?

7 JASON MARSHALL: I'm just checking my calendar
8 now, Mr. Chair. Give me one minute, please.

9 BRENDAN SULLIVAN: Laura?

10 LAURA WERNICK: I'm also checking here, because I
11 have some things at the end of March.

12 BRENDAN SULLIVAN: While they're checking, Dan and
13 Parviz, let me leave you with just a couple of thoughts.

14 The purpose of the ordinance, Section 1.30, "it
15 shall be the purpose of this ordinance to lessen congestion
16 in the streets, conserve health, secure safety from fire,
17 flood, panic and other dangers, to provide adequate light
18 and air to prevent the overcrowding of land, and to avoid
19 undue concentration of population. That's one aspect.

20 The other one is a landmark case, Blackman versus
21 the Board of Appeals of Barnstable, Cambridge Judicial
22 Court. This court has said repeatedly that the power to

1 vary the application of a zoning ordinance must be sparingly
2 exercised, and only in rare instances, and under exceptional
3 circumstances particular in their nature, and with due
4 regard to the main purpose of the zoning ordinance is to
5 reserve the property rights of others.

6 The last thing I'll say is that on Section 8.222
7 d) which is the clarification of the Bellalta decision that
8 recently came down, that the Board may grant special
9 permits, alterations or enlargements -- this is also for the
10 people listening in, who have raised issues about violations
11 of various aspects of the dimension -- the Board may grant
12 special permit for the alteration or enlargement of a
13 preexisting, dimensionally nonconforming, detached single-
14 family dwelling or two-family dwelling, not otherwise
15 permitted in Section 8.22.1 above...

16 But not the alteration or enlargement on a
17 nonconforming use, provided that there is no change in use,
18 and that any enlargement or alteration of such preexisting,
19 nonconforming, detached single-family dwelling or two-family
20 dwelling may only increase a preexisting dimensional
21 nonconformity, but does not create a new dimensional
22 nonconformity.

1 Further, in order to grant the special permit, the
2 Board of Zoning Appeals is required to find that the
3 alteration or enlargement shall not be substantially more
4 detrimental than the existing nonconforming structure to the
5 neighborhood.

6 And that the alteration or enlargement satisfies
7 the criteria in Section 10.43.

8 Those are three things to be considered by the
9 Board, and also, by the applicants in our consideration of
10 granting relief. We are on for -- I'm sorry, going back to
11 Jason, are you available on the fourteenth?

12 JASON MARSHALL: I am, yes.

13 BRENDAN SULLIVAN: And Laura?

14 LAURA WERNICK: Yes, I am as well.

15 DANIEL ANDERSON: April 14. Confirmed?

16 PARVIZ PARVIZI: Was that everybody who's
17 available?

18 BRENDAN SULLIVAN: I'll go check with Laura.

19 PARVIZ PARVIZI: Sorry.

20 LAURA WERNICK: Yes. I am available. Can you
21 hear me?

22 BRENDAN SULLIVAN: So on the motion, then, to

1 continue this matter to April 14, 2022, at 6:00 p.m. on the
2 condition that the petitioner sign a waiver of time to a
3 statutory requirement for a decision -- for a statutory
4 decision to be rendered thereof, and that said waiver shall
5 be signed and in the file by a week from Monday.

6 Failure to do so will render de facto denial of
7 any relief for the three properties, and three cases at
8 hand.

9 Second, that the petitioner change the posting
10 sign and we put the new date of April 14, 2022 and the time
11 of 6:00 p.m.

12 Third, that should there be any changes,
13 submissions to the file for Case #155114, 155115, 155116
14 regarding 33,35 and 35-37 Webster Street. All changes must
15 be in the file by 5:00 p.m. on the Monday prior to the April
16 14 hearing.

17 Any other conditions?

18 On the motion then to continue this matter until
19 April 14? Mr. Alexander?

20 CONSTANTINE ALEXANDER: I vote in favor.

21 BRENDAN SULLIVAN: Jim Monteverde?

22 JIM MONTEVERDE: [Jim Monteverde] I vote in favor.

1 BRENDAN SULLIVAN: Laura?

2 LAURA WERNICK: Laura Wernick votes in favor.

3 BRENDAN SULLIVAN: Jason Marshall?

4 JASON MARSHALL: Jason Marshall yes in favor of
5 the continuance.

6 BRENDAN SULLIVAN: The matter is continued until
7 April 14. See you then.

8 PARVIZ PARVIZI: Thank you.

9 DANIEL ANDERSON: Thank you very much. Have a
10 good evening.

11 CONSTANTINE ALEXANDER: Since this is a waiver of
12 time for a decision you have to find the three conditions.
13 It's a very simple form, and the Inspectional Services
14 Department will give it to you. It's a printed form.

15 PARVIZ PARVIZI: Oh?

16 CONSTANTINE ALEXANDER: Just make sure you do it
17 by a week from Monday.

18 PARVIZ PARVIZI: I will. Thank you so much.

19 BRENDAN SULLIVAN: Wendy, you're available for
20 School Street?

21 WENDY LEISERSON: Wendy Leiserson yes.

22 BRENDAN SULLIVAN: And Laura, you're signing off

1 just for this particular case, is that right?

2 LAURA WERNICK: That's correct. Thank you. Thank
3 you, Wendy.

4 WENDY LEISERSON: No problem.
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