



CITY OF CAMBRIDGE

BOARD OF ZONING APPEAL

831 Massachusetts Avenue, Cambridge MA 02139

617-349-6100

2022 APR -1 AM 10:22

CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS

BZA Application Form

BZA Number: 168852

General Information

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

Special Permit: _____ Variance: _____ Appeal: X

PETITIONER: Daniel Anderson C/O Anderson Porter Design

PETITIONER'S ADDRESS: 1972 Mass Ave, Cambridge, MA 02140

LOCATION OF PROPERTY: 35 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:

Appealing decision from ISD Commissioner dated 3/17/2022 that Section 8.22.1.h.1 of the Zoning Ordinance limits permitted second story additions to those that are horizontal extensions only.

Article: 5.000 Section: 5.31 (Table of Dimensional Requirements).

Article: 8.000 Section: 8.22.3 (Non-Conforming Structure).

Article: 10.000 Section: 10.21 (Appeal of Determination by ISD).

Original
Signature(s):

(Petitioner (s) / Owner)

DANIEL P. ANDERSON

(Print Name)

Address:

1972 MASS AVE CAMBRIDGE 02140

Tel. No.

617 794 2371

E-Mail Address:

dan@andersonporter.com

Date:


3.31.22

BZA Application Form

RE: 35 Webster - zoning ordinance interpretation



Singanayagam, Ranjit <ranjits@cambridgema.gov>
To: ● Dan Anderson

 You forwarded this message on 3/17/2022 1:01 PM.

Good Morning Dan,

The Section 8.22.1.h.1 reads as follows:

"A dormer or addition to the second story that does not extend beyond the vertical walls of the first story of the structure. The interpretation is that addition can be made horizontally as long as it does not extend beyond the vertical walls of the first story. If you have any questions, please call or email.

Thanks

Ranjit

From: Dan Anderson <dan@andersonporter.com>
Sent: Monday, March 14, 2022 11:58 AM
To: Singanayagam, Ranjit <ranjits@cambridgema.gov>
Cc: Pacheco, Maria <mpacheco@cambridgema.gov>
Subject: FW: 35 Webster - zoning ordinance interpretation

Good morning Ranjit;

I have been assuming that I need your written interpretation in order to submit an application for appeal. If this is not necessary I will get an application prepared as soon as possible to get on the next BZA hearing agenda. Can you please confirm and/or provide your interpretation of Article 8 Section 8.22.1 h. 1.?

Best,

Dan

Daniel P. Anderson

AndersonPorterDesign
1972 Massachusetts Avenue, 4th Floor
Cambridge, MA 02140

o. 617 354 2501 ext. 111
m. 617 794 2371

www.andersonporter.com



"Always design a thing by considering it in its larger context - a chair in a room, a room in a house, a house in an environment."

Appealing decision from ISD Commissioner dated 3/17/2022 that Section 8.22.1.h.1 of the Zoning Ordinance applies only to those second story additions that consist of horizontal extensions only, and that the addition sought at 35 Webster Street proposing an addition to the second story that increases the height of the second story (but not the horizontal width) cannot be allowed by issuance of a building permit under Section 8.22.1.h.1.

Section 8.22.1 allows for "alterations, reconstructions, extensions, and enlargements of nonconforming structures which do not result in a use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent than the existing use, or which are undertaken to accommodate a new conforming use" upon the "issuance of a building permit by the Superintendent of Buildings." The proposed second story addition to the existing nonconforming single-family structure at 35 Webster meets these prerequisites for an "as of right" building permit pursuant to this Section 8.22.1. No change, extension or alteration of a nonconforming use is proposed.

Subsection 8.22.1.h allows for "the construction of a dormer or an addition to a nonconforming one- or two-family dwelling which will further violate the yard and height requirements of Article 5, but no other requirements of Article 5 including FAR" in two scenarios. The proposed project involves the construction of an addition to a nonconforming single-family dwelling which will further violate the yard requirements of Article 5 (in the sense that the addition will occur within the side yard setback) but will not violate any other requirements of Article 5 including both FAR and height.

Subsection 8.22.1.h.1 allows for construction of "an addition to the second story that does not extend horizontally beyond the vertical walls of the existing first story of the structure." The proposed project at 35 Webster is to construct a second story addition that does not extend horizontally beyond the vertical walls of the existing first story of the structure.

The term "addition" is not specifically defined in Article 2 of the Ordinance. However, the preamble of Article 2 states that "definitions set forth in the State Building Code are also applicable, where appropriate, with respect to words and terms not defined herein." The State Building Code incorporates by reference Chapter 2 of the 2015 International Building Code, which defines an "addition" as "[a]n extension or an increase in floor area or height" (emphasis added). The proposed addition to the single-family structure at 35 Webster is an increase in the height of the second story of the structure, whereby the roof height is increased in order to provide for additional code compliant habitable living area at the second story of the structure.

Article 2 of the Ordinance defines a "story" as "that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above." The existing second story of the structure currently has a low pitch roof with a maximum interior clear height of less than seven (7) feet at the peak. Although this second story contains existing living space and accounts for a Gross Floor Area of 246 sf, all of that GFA is less than seven feet in height and thus not meeting habitable room requirements of the State Building Code. The purpose of the addition in height is to create a State Building Code compliant full-height second story to the existing structure. The additional height proposed to the structure is not sufficient to create a third story to this structure now or in the future. The space under the pitch roof is open.

On this basis, we believe the proposed addition to the second floor fully conforms to the requirements of 8.22.1.h.1 and should be allowed by the issuance of a building permit. We are in agreement that any new or enlarged openings in the non-conforming yard would require an application for special permit as required by 8.22.2.d, and no such relief is requested at this time.

DIMENSIONAL INFORMATION

Applicant: . Daniel Anderson
Location: 35 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>		2637.31	3991.58	4017.75	(max.)
<u>LOT AREA:</u>		5357	5357	5000	(min.)
<u>RATIO OF GROSS FLOOR AREA TO LOT AREA: ²</u>		.50	.74	.75	
<u>LOT AREA OF EACH DWELLING UNIT</u>		2678.5	1785.7	1500	
<u>SIZE OF LOT:</u>	WIDTH	50	50	50	
	DEPTH	109.2	109.2	NA	
<u>SETBACKS IN FEET:</u>	FRONT	4.4	4.4	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	19.52	26.91	35	
	WIDTH	34.34	28.25	NA	
<u>RATIO OF USABLE OPEN SPACE TO LOT AREA:</u>		64	34	30	
<u>NO. OF DWELLING UNITS:</u>		2	3	3	
<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>		7	11.5	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.:

#33 Existing Wood Frame 2.5 stories/ #37 Proposed Wood Frame 3 stories

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'.

May 2, 2022

Via Email

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

Attn: Mr. Constantine Alexander, Chair

Re: BZA Case No. 168852, Appeal of ISD Determination re 35 Webster Avenue, Cambridge, MA (the "Property")


Dear Mr. Alexander and Members of the Board:

On behalf of the Petitioner, we respectfully request a continuance of the hearing of this appeal, currently scheduled for 6:30 p.m., May 5, 2022. The Petitioner has provided the Commissioner with information about the Property relevant to the matters of this appeal and awaits a response from the Commissioner as to his further interpretation of the applicability of Section 8.22.1.h.1.

Due to conflicting schedules, the Petitioner is requesting a continuance of the hearing of this matter until the evening of June 9th, 2022.

Thank you very much for your consideration.

Sincerely,



Sarah Like Rhatigan, Esq.

Enclosures

CC (via email): Mr. Ranjit Singanayagam
Ms. Maria Pacheco
Mr. Parviz Parvizi
Mr. Dan Anderson



City of Cambridge

MASSACHUSETTS

BOARD OF ZONING APPEAL

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

2022 MAY -2 PM 3:33
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-168852

Address: 35 Webster Ave (Appeal)

Owner, Petitioner, or Representative: Sarah Phatigan, Esq
(Print Name)

hereby waives the required time limits for holding a public hearing as required by Section 9 or Section 15 of the Zoning Act of the Commonwealth of Massachusetts, Massachusetts General Laws, Chapter 40A. The Owner, Petitioner, or Representative further hereby waives the Petitioner's and/or Owner's right to a Decision by the Board of Zoning Appeal on the above referenced case within the time period as required by Section 9 or Section 15 of the Zoning Act of the Commonwealth of Massachusetts, Massachusetts General Laws, Chapter 40A, and/or Section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, codified as 47 U.S.C. §1455(a), or any other relevant state or federal regulation or law, until July 30, 2022.

Date: 5/2/22

Signature

June 6, 2022

Via Email

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

Attn: Mr. Constantine Alexander, Chair

Re: BZA Case No. 168852, Appeal of ISD Determination re 35 Webster Avenue, Cambridge, MA (the "Property")

Dear Mr. Alexander and Members of the Board:

On behalf of the Petitioner, we respectfully request a continuance of the hearing of this appeal, currently scheduled for 6:30 p.m., June 9th, 2022. The Petitioner is in the process of evaluating its design options and additionally has a related special permit application (Case No. 15515-2022 - 35 Webster) that is pending with this Board and which, if granted, may render the subject matter of this Appeal not applicable.

Accordingly, and due to summer schedules, the Petitioner is requesting a continuance of the hearing of this matter until the evening of September 8th, 2022.

Thank you very much for your consideration.

Sincerely,



Sarah Like Rhatigan, Esq.

Enclosures

CC (via email): Mr. Ranjit Singanayagam
Ms. Maria Pacheco
Mr. Parviz Parvizi
Mr. Dan Anderson

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.

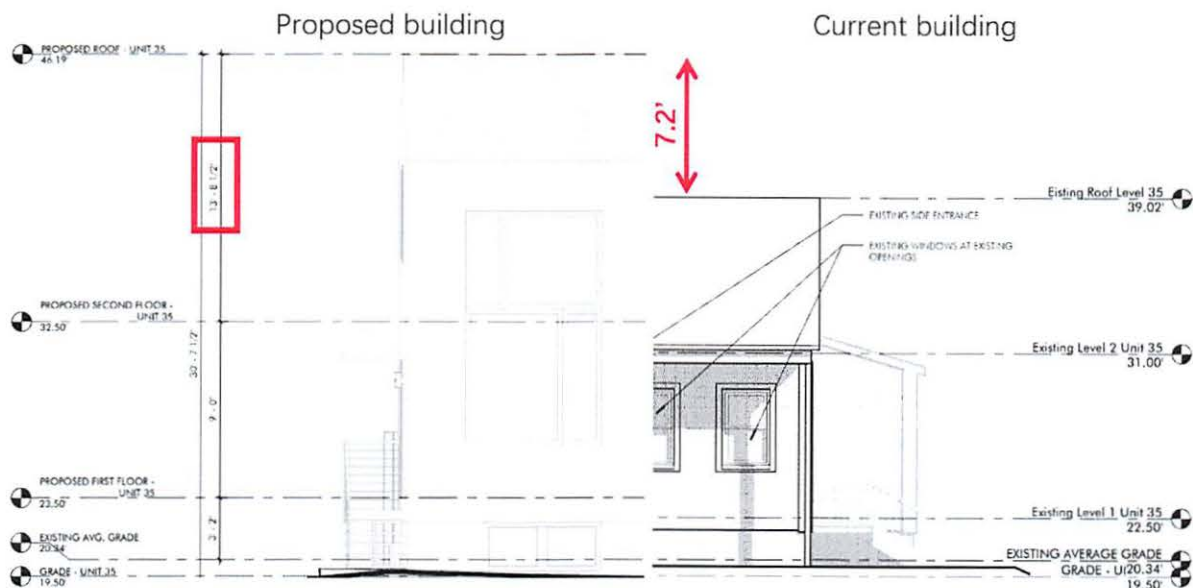
Set wrong precedent for the ordinance

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.

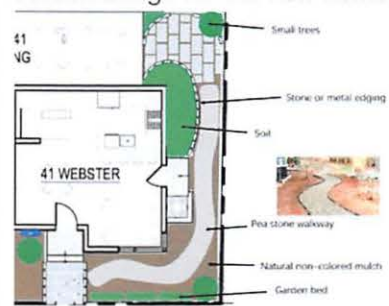
Yard:

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.

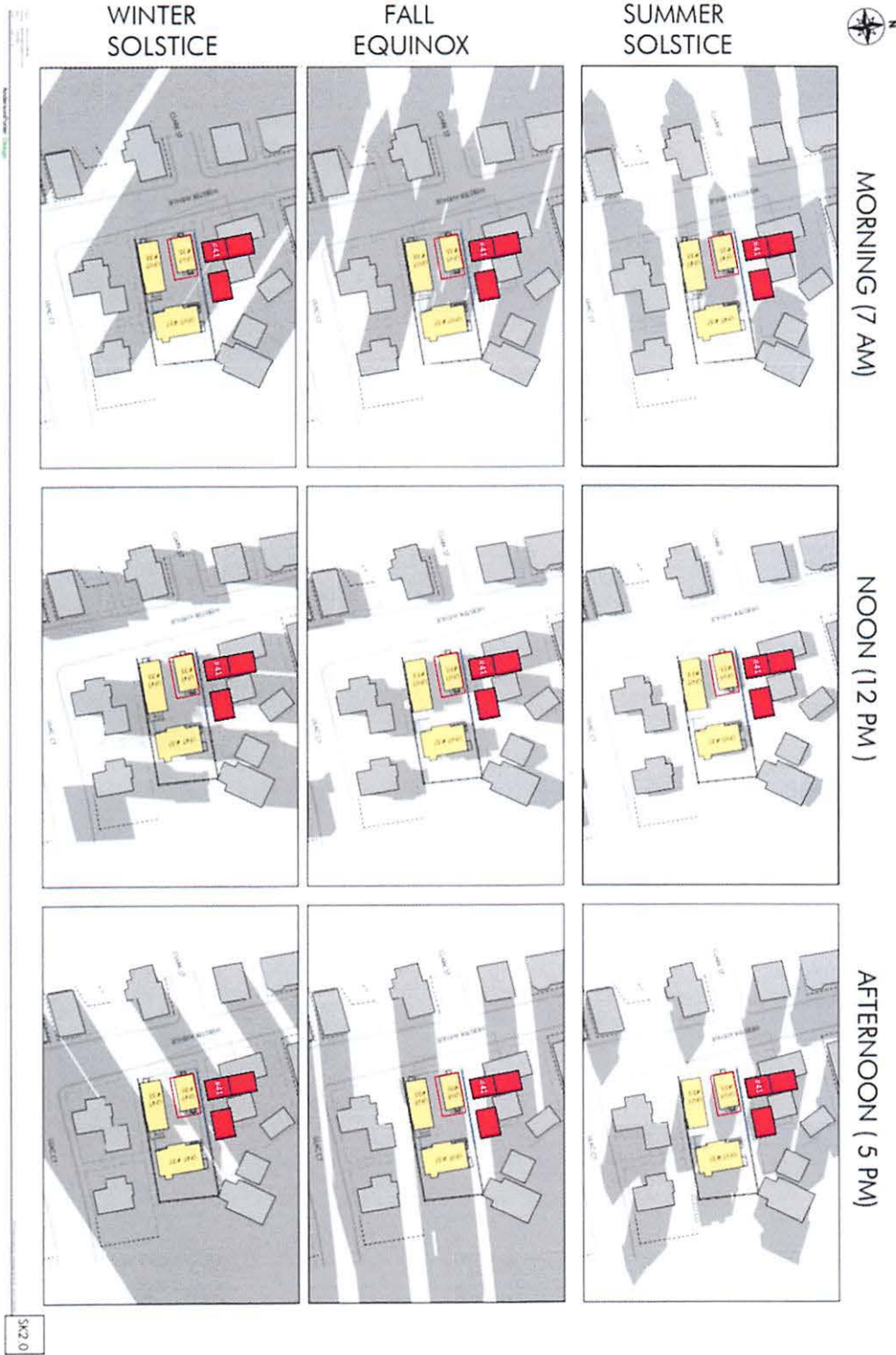
There are many ways to improve living standards of 35 Webster without significantly damaging our home. For example, flattening the south side of the roof and adding a dormer on the north side without raising the height of the building. But the applicants choose to go to the extreme. This shows the flavor 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)



Pacheco, Maria

From: Dan Anderson <dan@andersonporter.com>
Sent: Friday, June 3, 2022 2:52 PM
To: Pacheco, Maria
Subject: FW: Webster Ave Appeal - Commissioners Determination
Attachments: 35_Webster_Ave_Appeal_BZA-168852_Commissioners_Determindation_Thu_Jun_2_2022_14-17-27.pdf; 35 Webster Ave - interpretation of 8.22.1.h.1; RE: 35 Webster - zoning ordinance interpretation

Hi Maria;
Could you please add this correspondence for this appeal case to the file?
Best,
Dan

Daniel P. Anderson

AndersonPorterDesign
1972 Massachusetts Avenue, 4th Floor
Cambridge, MA 02140

o. 617 354 2501 ext. 111
m.617 794 2371

www.andersonporter.com



"Always design a thing by considering it in its larger context - a chair in a room, a room in a house, a house in an environment, an environment in a city plan."

Eliel Saarinen

From: Dan Anderson
Sent: Friday, June 3, 2022 1:14 PM
To: ranjits@cambridgema.gov
Cc: Sarah Rhatigan <sarah@trilogylaw.com>; Parviz Parvizi <pparvizi@gmail.com>
Subject: Webster Ave Appeal - Commissioners Determination

Hi Ranjit;
I read through your recent determination letter and need to address a couple of points of fact.

In the first paragraph of your section titled Factual Background, your list of contact dates is incomplete. We had phone calls and an email exchange regarding this interpretation on and before January 25, 2022 (see attached email)

In the second paragraph of your section titled Factual Background, you state that the proposed addition would increase the height to 2.5 stories. The proposed addition will only be 2 stories as defined in the Ordinance. No half story is proposed.

In the second paragraph of your section titled City's Ordinance and ISD's Historical Interpretation of the Ordinance, you state incorrectly that we did not seek your interpretation of 8,22.1 until after we received the opposition presented at BZA Case

155115. As documented in the attached email from January 25, 2022 this interpretation was discussed and requested prior to the BZA hearing and concerns presented by abutters.

Your written interpretation that required the appeal arrived by email on March 17, 2022. (see attached) In this you state that the "ISD interpretation is that addition can made horizontally as long as it does not extend beyond the vertical walls of first story and conforms to GFA." (my emphasis added) This interpretation, expanded upon in this section, contradicts the language of the ordinance which specific ally prohibits horizontal extensions.

In your section titled Impact of Granting the Building Permit, you repeat again that the appeal of your interpretation is a late follow on to the continued special permit case. The attached email correspondence from January 25, 2022 shows that there were multiple early requests for the applicability of 8.22.1 to a by-right permit for the proposed second story addition that demonstrably does not extend horizontally beyond the vertical walls of the existing first story and conforms with FAR.

You go on to speculate that a future insertion of an additional story would be allowed without zoning relief and additional living space created by a fifteen foot dormer. This is contradicted by the specific language of 8.22.1.h which would only allow the application of 8.22.1.h.2 provided "no other requirements of Article 5.000 including FAR. The proposed project, or any project for that matter, would be subject to relief for added gross building or any other dimensional limitations.

Thanks for your attention to these important clarifications.

Best,
Dan

Daniel P. Anderson

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"Always design a thing by considering it in its larger context - a chair in a room, a room in a house, a house in an environment, an environment in a city plan."

Eliel Saarinen



CITY OF CAMBRIDGE
INSPECTIONAL SERVICES DEPARTMENT 831 MASS. AVE.
CAMBRIDGE, MASSACHUSETTS 02139 (617) 349-6100

Ranjit Singanayagam
Commissioner

June 2, 2022

Re: 35 Webster Avenue, BZA Case No. 168852 Appeal of ISD Commissioner's determination on 3/17/2022 that Section 8.22.1.h.1 of the Zoning Ordinance Limits Permitted Second Story Additions to those that are Horizontal Extensions Only

To the Members of the Board of Zoning Appeal:

I am writing this letter to ask the Board of Zoning Appeal to uphold my determination that Section 8.22.1.h.1 of the Cambridge Zoning Ordinance (the "Ordinance") limits permitted second story additions to those that are horizontal extensions only. I submit this information in support of my position to assist the Board in its consideration of the issue presented by this appeal, and respectfully ask that the Board uphold my determination.

Factual Background

On January 28, 2022, February 7, 2022, and March 14, 2022, Daniel Anderson of Anderson Porter Design contacted me about a potential building permit to add an addition to the top level of the Property. Daniel Anderson requested I provide my interpretation of Section 8.22.1.h.1. The Petitioner has not submitted a building permit application, rather their appeal centers on my response to his inquiry on March 17, 2022. The latest request came after a continuance in BZA Case No. 155115 relating to a request for a Special Permit for the same work for which Parviz Parvizi (the "Petitioner") now seeks to appeal my determination that Section 8.22.1.h.1 is limited to additions to second stories that are horizontal extensions only. As more fully discussed below, BZA Case No. 155115 was continued as there was significant neighborhood opposition and BZA member concerns relating to the Petitioner's proposal.

Located on the Property currently is a residential single-family house with 1.5 stories. (Exhibit A). The Petitioner's proposed addition would increase the height of the structure from 1.5 stories to 2.5 stories, which is an increase from 19.52 to 26.91 feet (an approximate 38% increase in height).

Procedural History

On January 27, 2022, Petitioner, along with his architect Daniel Anderson, appeared before the BZA regarding proposed work at 33-35 Webster Avenue. As to 35 Webster, the Petitioner, through his architect, proposed an addition from a one-and-a-half to a two-story structure. At the BZA hearing held on January 27th, several neighbors raised concerns relating to the proposed work, including but not limited to, impacts on trees, privacy concerns, crowding, design issues, and shadowing.

City's Ordinance and ISD's Historical Interpretation of the Ordinance

Article 8 of the Ordinance addresses nonconforming structures or uses. Section 8.22 provides that “as provided in Section 6, Chapter 40A, G.L., permits for the change, extension, or alteration of a pre-existing nonconforming structure or use may be granted as permitted in Subsections 8.22.1 and 8.22.2. 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 finds that such change, extension, or alteration will not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use.”

Here, the Petitioner applied for a special permit, which is still pending before the BZA (BZA Case No. 155115), and which was continued because of neighborhood opposition to Petitioner's proposal. It was not until the Petitioner received the opposition that they sought my interpretation of Section 8.22.1., which provides:

The following alterations, reconstructions, extensions, and/or enlargements of nonconforming structures, which do not result in a use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent than the existing use, or which are undertaken to accommodate a new conforming use, shall be permitted after the issuance of a building permit by the Superintendent of Buildings. Any change, extension or alteration of a nonconforming use shall be subject to the provisions of Subsection 8.22.2.

The Petitioner sought an interpretation of Section 8.22.1.h.1, as it pertained to the Petitioner's proposed addition, and whether a building permit could be issued. Section 8.22.1.h.1 allows “[c]onstruction of a dormer or an addition to a nonconforming one or two family dwelling which will further violate the yard and height requirements of Article 5.000, but no other requirements of Article 5.000 including FAR, in the following cases: 1. A dormer or addition to the second story that does not extend horizontally beyond the vertical walls of the existing first story of the structure.” The Petitioner seeks to add an addition to the 1.5 story structure by raising the structure to 26.91 feet in height, which while presented as raising the structure to a 2-story building, actually has the effect of raising the structure to the equivalent of a 2.5 story structure.

Section 8.22.1 of the Ordinance specifies under what circumstances a building permit could be issued. The Ordinance does not permit a vertical addition. If such construction, extension, or enlargement were intended, the Ordinance would have specifically listed that permitted construction, as it did when allowing horizontal additions. The Ordinance's language is clear, the Ordinance permits construction of an “addition to the second story that does not extend horizontally beyond the vertical walls of the existing first story of the structure.” (Emphasis added). Here the Ordinance only references and allows additions in the context of horizontal additions. The BZA should read the Ordinance to mean what it says. My interpretation of Section 8.22.1.h.1 is consistent with how ISD has historically interpreted this section of the Ordinance, which is to allow additions only if the addition does not extend horizontally beyond the vertical walls of the existing first story of the structure.

Impact of Granting the Building Permit

The Ordinance does not permit the relief sought by the Petitioner. The Petitioner, after initially seeking a special permit, and requesting a continuance at the BZA hearing on January 27, 2022, after hearing neighborhood opposition and concerns from multiple BZA members (e.g., impacts on trees, privacy concerns, crowding, design issues, and shadowing), now attempts to read into the Ordinance relief that is not permitted as-of-right. If the Petitioner's incorrect interpretation of the Ordinance were allowed, the Petitioner could essentially continue to build within the structure (i.e., add an additional "story") without needing to seek Zoning relief. There would be nothing to stop the Petitioner from inserting an additional story within the structure to create a 2.5 story structure, and then later returning to ISD and attempting to create additional living space by building a dormer on the new third story utilizing Section 8.22.1. h.2.¹

Conclusion

Based upon my review of the materials submitted by the Petitioner in BZA Case No. 155115, and the provisions of the Ordinance referenced above, I believe that I have correctly determined that Section 8.22.1.h.1 of the Ordinance limits permitted second story additions to those that are horizontal extensions only. I respectfully ask the Board to uphold my determination.

Very truly yours,



Ranjit Singanayagam
Commissioner of Inspectional Services

¹ Section 8.22.1.h.2 allows construction of "[a] dormer on the third story no longer than fifteen (15) feet that does not extend horizontally beyond the vertical walls of the existing second story nor above the existing ridge line provided that the total linear length of all dormers on the third story of the building, after the issuance of the permit authorized by this Subparagraph h 2, does not exceed fifteen (15) feet."

Pacheco, Maria

From: Dan Anderson <dan@andersonporter.com>
Sent: Tuesday, January 25, 2022 5:41 PM
To: Singanayagam, Ranjit
Cc: Ratay, Olivia
Subject: 35 Webster Ave - interpretation of 8.22.1.h.1

Hi Ranjit;

Thank you very much for your call to discuss the special permit application for 35 Webster and interpretation of 8.22.1.h.1

While I understand the case example you gave regarding a roof extension out over an existing rear one story addition, I suggest that our proposed addition to the second story corresponds to the language of this section. 8.22.1.h gives two examples of permissible additions. Part 1 identifies a dormer or addition to the second story; Part 2 identifies a dormer to the third story. I suggest that the use of story in both examples must refer to the roof (or half story) as Part 2 specifically refers to the ridge line and dormer. Part 1 makes no reference to the configuration of the roof or roofline and allows a dormer or addition to the second story, i.e. the roof. I submit that an example of creating an addition to a single story structure that converts an existing pitched roof to a flat roof would comply with Part 2. Furthermore since there is no restriction in Part 2 or 8.22.h regarding roof or ridge height, the new flat roof could be built higher than the existing ridge as long as it did not exceed the allowable building height of 35 feet.

Curious to hear from you if my further reading and example make sense to you. I also wanted to give you a heads up that I've discussed this with my client and will raise this interpretation at the hearing with the board to suggest that the requested special permit be reduced to simply addressing the new openings in the non-conforming side yard.

I'm available tomorrow if you would like to discuss further.

Best,
Dan

Daniel P. Anderson

AndersonPorterDesign
1972 Massachusetts Avenue, 4th Floor
Cambridge, MA 02140

o. 617 354 2501 ext. 111
m.617 794 2371

www.andersonporter.com



"Always design a thing by considering it in its larger context - a chair in a room, a room in a house, a house in an environment, an environment in a city plan."

Eliel Saarinen

Pacheco, Maria

From: Singanayagam, Ranjit <ranjits@cambridgema.gov>
Sent: Thursday, March 17, 2022 11:39 AM
To: Dan Anderson
Subject: RE: 35 Webster - zoning ordinance interpretation

Good Morning Dan,

The Section 8.22.1.h.1 reads as follows:

"A dormer or addition to the second story that does not extend beyond the vertical walls of the first story of the structure" ISD interpretation is that addition can be made horizontally as long as it does not extend beyond the vertical walls of first story and conforms to GFA.

If you have any questions, please call or email.

Thanks

Ranjit

From: Dan Anderson <dan@andersonporter.com>
Sent: Monday, March 14, 2022 11:58 AM
To: Singanayagam, Ranjit <ranjits@cambridgema.gov>
Cc: Pacheco, Maria <mpacheco@cambridgema.gov>
Subject: FW: 35 Webster - zoning ordinance interpretation

Good morning Ranjit;

I have been assuming that I need your written interpretation in order to submit an application for appeal.

If this is not necessary I will get an application prepared as soon as possible to get on the next BZA hearing agenda.

Can you please confirm and/or provide your interpretation of Article 8 Section 8.22.1 h. 1.?

Best,

Dan

Daniel P. Anderson

AndersonPorterDesign

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Cambridge, MA 02140

o. 617 354 2501 ext. 111
m.617 794 2371

www.andersonporter.com



"Always design a thing by considering it in its larger context - a chair in a room, a room in a house, a house in an environment, an environment in a city plan."

Eliel Saarinen

From: Dan Anderson
Sent: Monday, February 7, 2022 2:09 PM
To: ranjits@cambridgema.gov
Cc: Ratay, Olivia <oratay@cambridgema.gov>; Parviz Parvizi <pparvizi@gmail.com>; Adam Sitterly <adam@andersonporter.com>
Subject: RE: 35 Webster - zoning ordinance interpretation

Hi Ranjit;
Have you been able to review our request and provide an official interpretation?
I left you a voicemail and am available for a call to discuss.
Best,
Dan

Daniel P. Anderson

AndersonPorterDesign
1972 Massachusetts Avenue, 4th Floor
Cambridge, MA 02140

o. 617 354 2501 ext. 111
m.617 794 2371

www.andersonporter.com



"Always design a thing by considering it in its larger context - a chair in a room, a room in a house, a house in an environment, an environment in a city plan."

Eliel Saarinen

From: Dan Anderson
Sent: Friday, January 28, 2022 12:56 PM
To: ranjits@cambridgema.gov
Cc: Ratay, Olivia <oratay@cambridgema.gov>; Parviz Parvizi <pparvizi@gmail.com>; Adam Sitterly <adam@andersonporter.com>
Subject: 35 Webster - zoning ordinance interpretation

Hi Ranjit;

On behalf of my client for 35 Webster Avenue, I'm requesting an official interpretation of Article 8 Section 8.22.1 h. 1. as it pertains to our proposed addition to the second story of an existing non-conforming single family residence. This proposed addition raises the roof height of the second story which will further violate the yard requirements of Article 5 but no other requirements of Article 5 including FAR. This second story addition does not extend horizontally beyond the vertical walls of the existing first story of the structure. On this basis we believe the proposed addition to the second floor should be permitted. We are in agreement that any new or enlarged openings in the non-conforming yard will only be allowable by special permit as these do not meet the requirements of 8.22.1.d.

When we discussed this proposed addition to the second story you raised two objections. First that this section did not allow an increase in height for the existing ridge. Second that the roof did not constitute a second story therefore you suggested that the proposed addition would need a special permit subject to Article 8 Section 8.22.2.d.

Regarding the extension of height above the existing ridge line is only a requirement of 8.22.1.h.2 and does not apply to 8.22.1.h.1.

Regarding the definition of the roof as a second story I refer to Article 2. Story. That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

I am available to discuss this with you further but am requesting an official interpretation as my client may wish to file an appeal to the BZA.

Best,

Dan

Daniel P. Anderson

AndersonPorterDesign

1972 Massachusetts Avenue, 4th Floor
Cambridge, MA 02140

o. 617 354 2501 ext. 111

m.617 794 2371

www.andersonporter.com



"Always design a thing by considering it in its larger context - a chair in a room, a room in a house, a house in an environment, an environment in a city plan."

Eliel Saarinen

1 * * * * *

2 (6:30 p.m.)

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

6 BRENDAN SULLIVAN: The Board will hear Case No.
7 168852 -- 35 Webster Avenue. Is there anybody -- Mr.
8 Anderson or -- and nobody's on the line? The Board is in
9 receipt of correspondence dated May 2 from Trilogy Law,
10 Sarah Rhatigan.

11 "Members of the Board, or ready on behalf of the
12 petitioner, we respectfully request a continuance of the
13 hearing of this appeal, currently scheduled for 6:30, May 5.

14 "The petitioner has provided the Commission with
15 information about the property, relevant to the matters of
16 this appeal, and await a response from the Commissioner as
17 to his further interpretation of the applicability of
18 Section 8.22-1-h-1.

19 "Due to conflicting schedules, the petitioner is
20 requesting a continuance of the hearing of this matter
21 until the evening of June 9, 2022."

22 Is that possible for June 9? The other -- and

1 they sort of all tie together, in a sense. Okay. So on the
2 motion, then, to continue this matter until June 9, 2022,
3 the petitioner has signed a waiver.

4 So on the motion, then, to continue this matter,
5 Jim Monteverde?

6 JIM MONTEVERDE: In favor.

7 BRENDAN SULLIVAN: Laura Wernick?

8 LAURA WERNICK: In favor.

9 BRENDAN SULLIVAN: Wendy Leiserson?

10 WENDY LEISERSON: In favor.

11 BRENDAN SULLIVAN: Jason Marshall?

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

13 BRENDAN SULLIVAN: And Brendan Sullivan yes, in
14 favor of the continuance, provided that any new submittals
15 from the petitioner regarding this appeal be in the file by
16 5:00 p.m. on the Monday prior to the June 9 hearing.

17 [All vote YES]

18 BRENDAN SULLIVAN: Also that the petitioner -- is
19 there a sign posting on this regarding the appeal? I don't
20 think there is. No, there's not. Okay. So the matter is
21 continued until June 9.

22



CITY OF CAMBRIDGE
INSPECTIONAL SERVICES DEPARTMENT 831 MASS. AVE.
CAMBRIDGE, MASSACHUSETTS 02139 (617) 349-6100

Ranjit Singanayagam
Commissioner

June 2, 2022

Re: 35 Webster Avenue, BZA Case No. 168852 Appeal of ISD Commissioner's determination on 3/17/2022 that Section 8.22.1.h.1 of the Zoning Ordinance Limits Permitted Second Story Additions to those that are Horizontal Extensions Only

To the Members of the Board of Zoning Appeal:

I am writing this letter to ask the Board of Zoning Appeal to uphold my determination that Section 8.22.1.h.1 of the Cambridge Zoning Ordinance (the "Ordinance") limits permitted second story additions to those that are horizontal extensions only. I submit this information in support of my position to assist the Board in its consideration of the issue presented by this appeal, and respectfully ask that the Board uphold my determination.

Factual Background

On January 28, 2022, February 7, 2022, and March 14, 2022, Daniel Anderson of Anderson Porter Design contacted me about a potential building permit to add an addition to the top level of the Property. Daniel Anderson requested I provide my interpretation of Section 8.22.1.h.1. The Petitioner has not submitted a building permit application, rather their appeal centers on my response to his inquiry on March 17, 2022. The latest request came after a continuance in BZA Case No. 155115 relating to a request for a Special Permit for the same work for which Parviz Parvizi (the "Petitioner") now seeks to appeal my determination that Section 8.22.1.h.1 is limited to additions to second stories that are horizontal extensions only. As more fully discussed below, BZA Case No. 155115 was continued as there was significant neighborhood opposition and BZA member concerns relating to the Petitioner's proposal.

Located on the Property currently is a residential single-family house with 1.5 stories. (Exhibit A). The Petitioner's proposed addition would increase the height of the structure from 1.5 stories to 2.5 stories, which is an increase from 19.52 to 26.91 feet (an approximate 38% increase in height).

Procedural History

On January 27, 2022, Petitioner, along with his architect Daniel Anderson, appeared before the BZA regarding proposed work at 33-35 Webster Avenue. As to 35 Webster, the Petitioner, through his architect, proposed an addition from a one-and-a-half to a two-story structure. At the BZA hearing held on January 27th, several neighbors raised concerns relating to the proposed work, including but not limited to, impacts on trees, privacy concerns, crowding, design issues, and shadowing.

City's Ordinance and ISD's Historical Interpretation of the Ordinance

Article 8 of the Ordinance addresses nonconforming structures or uses. Section 8.22 provides that “as provided in Section 6, Chapter 40A, G.L., permits for the change, extension, or alteration of a pre-existing nonconforming structure or use may be granted as permitted in Subsections 8.22.1 and 8.22.2. 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 finds that such change, extension, or alteration will not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use.”

Here, the Petitioner applied for a special permit, which is still pending before the BZA (BZA Case No. 155115), and which was continued because of neighborhood opposition to Petitioner's proposal. It was not until the Petitioner received the opposition that they sought my interpretation of Section 8.22.1., which provides:

The following alterations, reconstructions, extensions, and/or enlargements of nonconforming structures, which do not result in a use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent than the existing use, or which are undertaken to accommodate a new conforming use, shall be permitted after the issuance of a building permit by the Superintendent of Buildings. Any change, extension or alteration of a nonconforming use shall be subject to the provisions of Subsection 8.22.2.

The Petitioner sought an interpretation of Section 8.22.1.h.1, as it pertained to the Petitioner's proposed addition, and whether a building permit could be issued. Section 8.22.1.h.1 allows “[c]onstruction of a dormer or an addition to a nonconforming one or two family dwelling which will further violate the yard and height requirements of Article 5.000, but no other requirements of Article 5.000 including FAR, in the following cases: 1. A dormer or addition to the second story that does not extend horizontally beyond the vertical walls of the existing first story of the structure.” The Petitioner seeks to add an addition to the 1.5 story structure by raising the structure to 26.91 feet in height, which while presented as raising the structure to a 2-story building, actually has the effect of raising the structure to the equivalent of a 2.5 story structure.

Section 8.22.1 of the Ordinance specifies under what circumstances a building permit could be issued. The Ordinance does not permit a vertical addition. If such construction, extension, or enlargement were intended, the Ordinance would have specifically listed that permitted construction, as it did when allowing horizontal additions. The Ordinance's language is clear, the Ordinance permits construction of an “addition to the second story that does not extend **horizontally** beyond the vertical walls of the existing first story of the structure.” (Emphasis added). Here the Ordinance only references and allows additions in the context of horizontal additions. The BZA should read the Ordinance to mean what it says. My interpretation of Section 8.22.1.h.1 is consistent with how ISD has historically interpreted this section of the Ordinance, which is to allow additions only if the addition does not extend horizontally beyond the vertical walls of the existing first story of the structure.

Impact of Granting the Building Permit

The Ordinance does not permit the relief sought by the Petitioner. The Petitioner, after initially seeking a special permit, and requesting a continuance at the BZA hearing on January 27, 2022, after hearing neighborhood opposition and concerns from multiple BZA members (e.g., impacts on trees, privacy concerns, crowding, design issues, and shadowing), now attempts to read into the Ordinance relief that is not permitted as-of-right. If the Petitioner's incorrect interpretation of the Ordinance were allowed, the Petitioner could essentially continue to build within the structure (i.e., add an additional "story") without needing to seek Zoning relief. There would be nothing to stop the Petitioner from inserting an additional story within the structure to create a 2.5 story structure, and then later returning to ISD and attempting to create additional living space by building a dormer on the new third story utilizing Section 8.22.1. h.2.¹

Conclusion

Based upon my review of the materials submitted by the Petitioner in BZA Case No. 155115, and the provisions of the Ordinance referenced above, I believe that I have correctly determined that Section 8.22.1.h.1 of the Ordinance limits permitted second story additions to those that are horizontal extensions only. I respectfully ask the Board to uphold my determination.

Very truly yours,

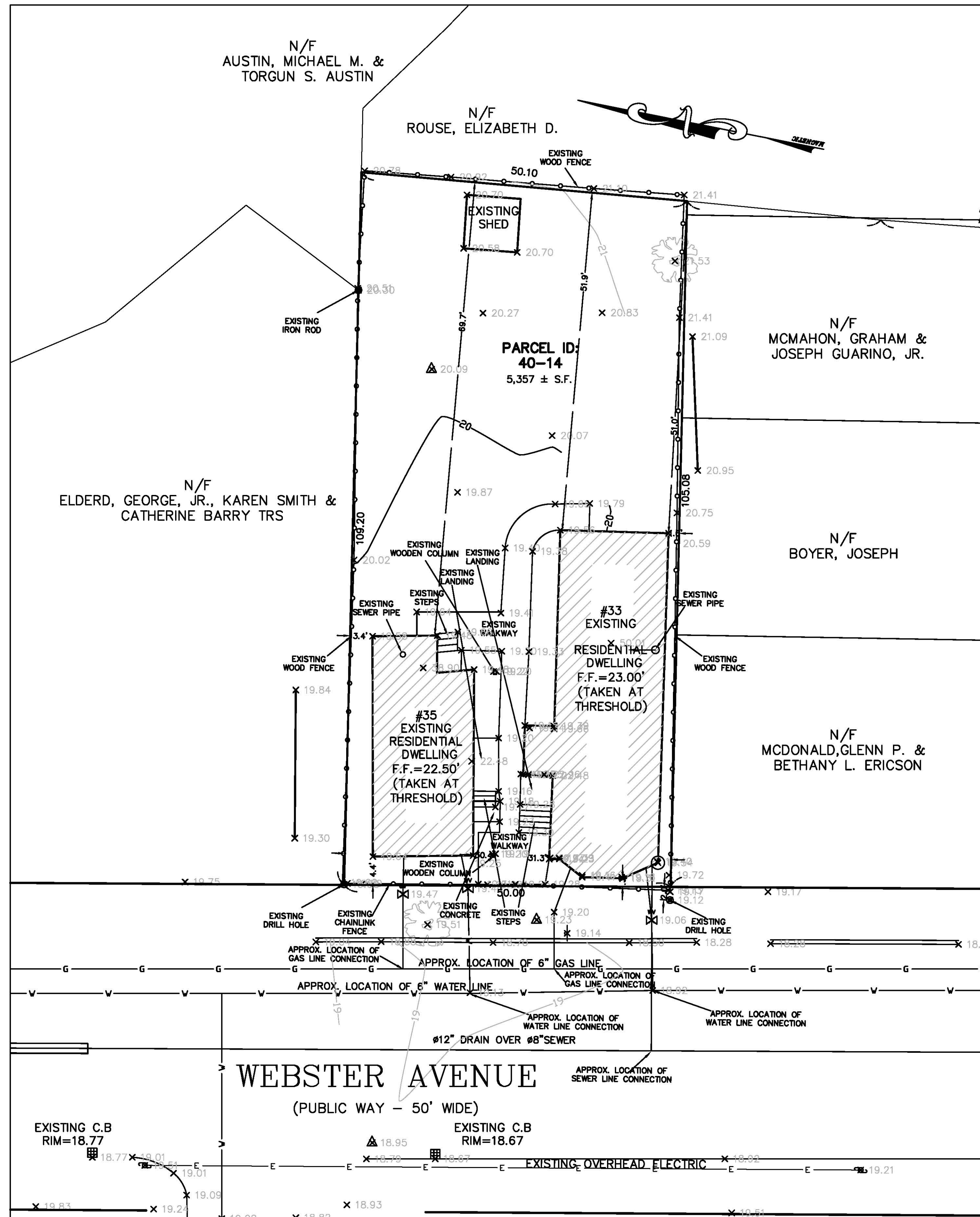


Ranjit Singanayagam
Commissioner of Inspectional Services

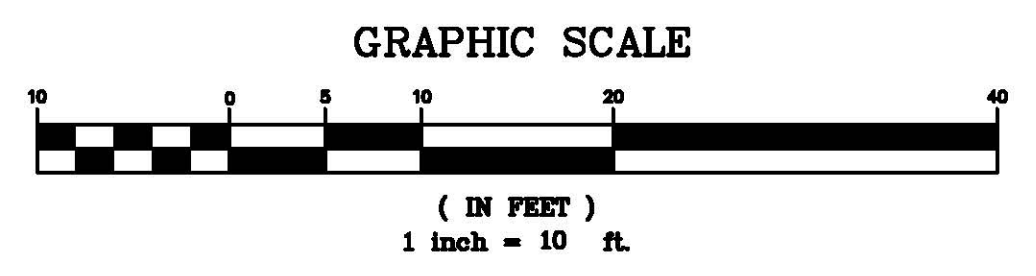
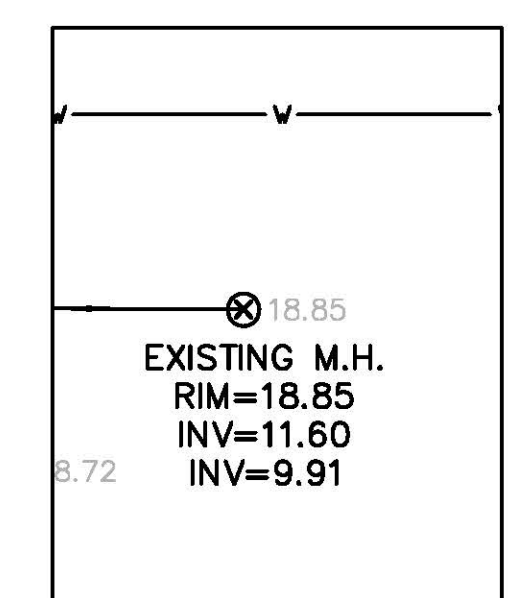
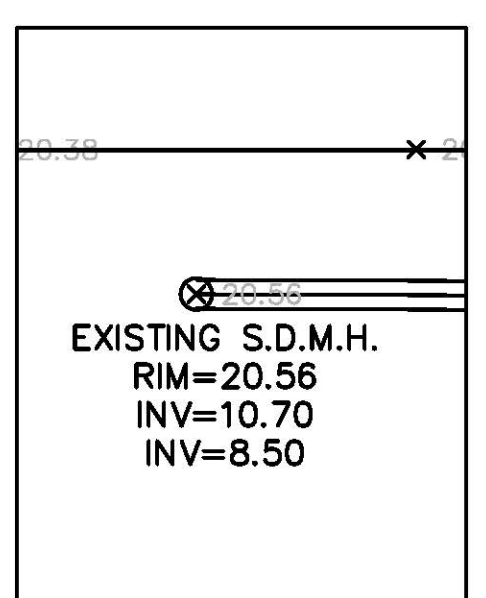
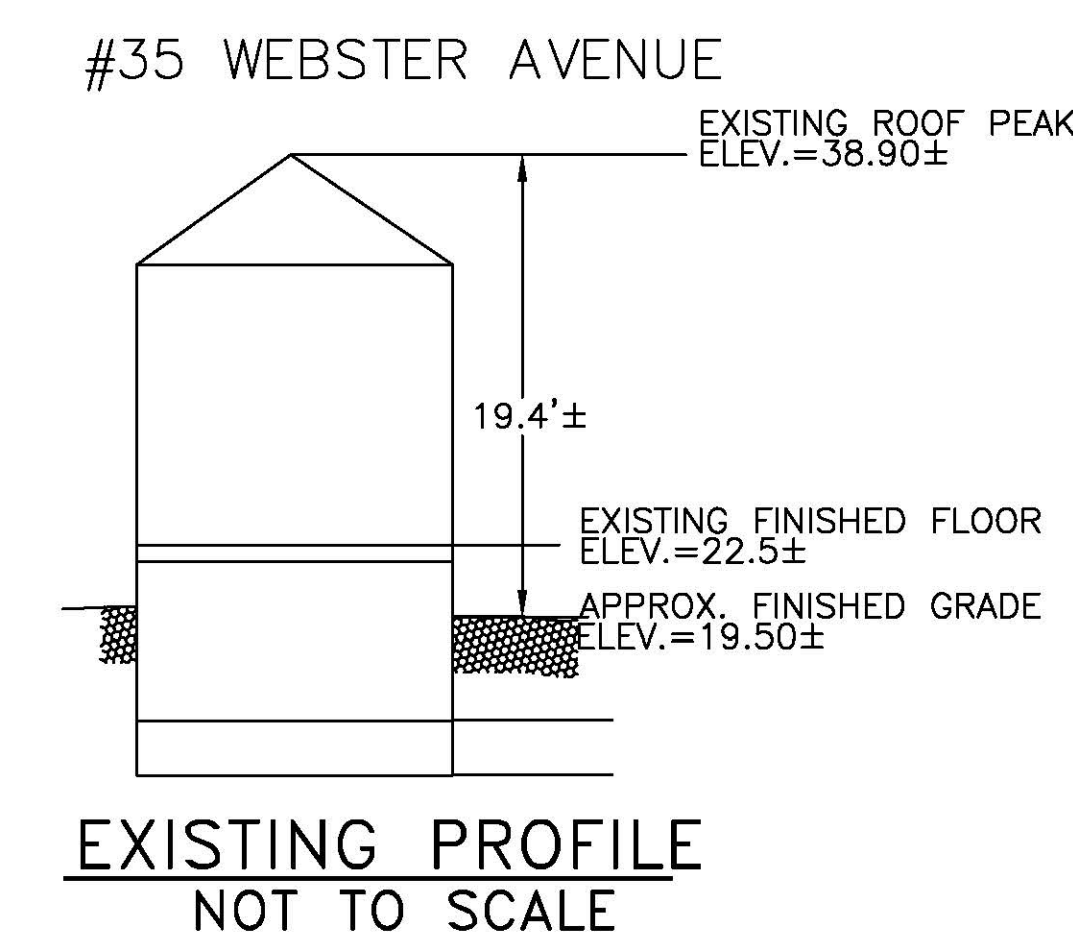
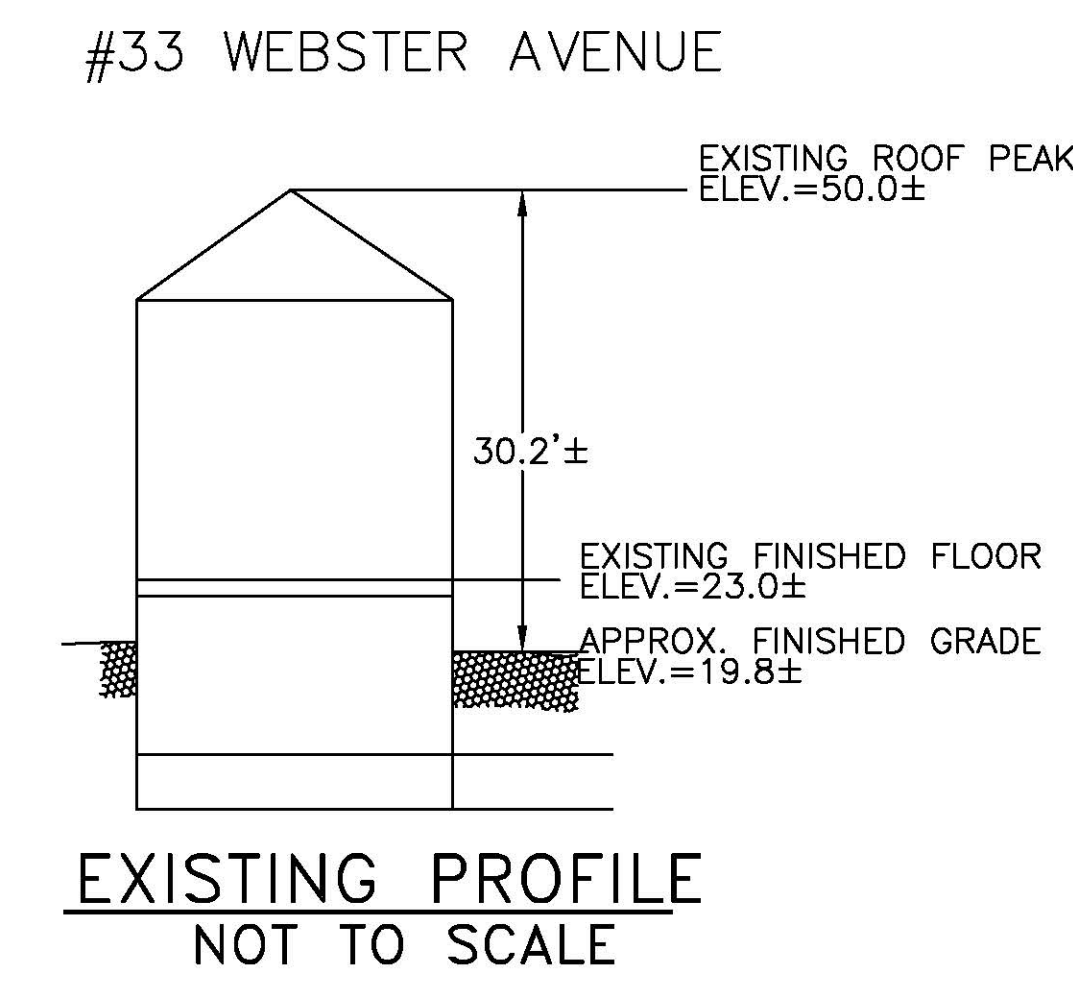
¹ Section 8.22.1.h.2 allows construction of "[a] dormer on the third story no longer than fifteen (15) feet that does not extend horizontally beyond the vertical walls of the existing second story nor above the existing ridge line provided that the total linear length of all dormers on the third story of the building, after the issuance of the permit authorized by this Subparagraph h 2, does not exceed fifteen (15) feet."

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 148.00	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	0.50	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',	3.4'	3.4'	EXISTING NON CONFORMING
RIGHT SIDE	(H+L) / 7 >= 7.5',	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',	N/A	8.5'	COMPLIES
RIGHT SIDE	(H+L) / 7 >= 7.5',	N/A	8.5'	COMPLIES
REAR	(H+L) / 6 + 1' per 4' > 100' 21.8'	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	252.80	515.28
TOTAL (UNIT 33)	1906.94	1507.85
BASEMENT UNIT 35 (N/A)	N/A	N/A
FIRST FLOOR UNIT 35	484.37	432.81
SECOND FLOOR UNIT 35	246.00	237.65
TOTAL (UNIT 35)	730.37	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	2637.31	3991.58

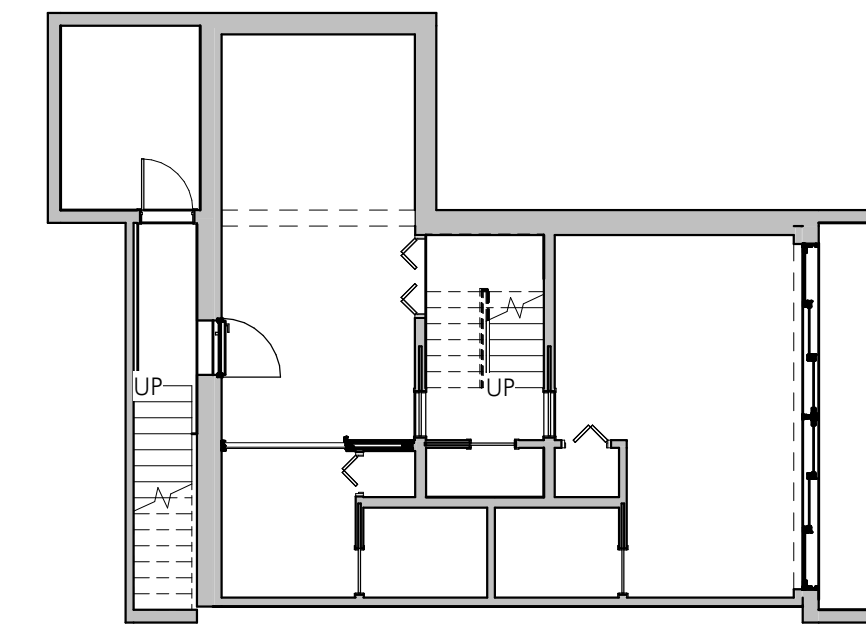
N/A; BASEMENT AREA IS EXCLUDED FROM GROSS FLOOR AREA PER ARTICLE 2.

FOOTNOTES:

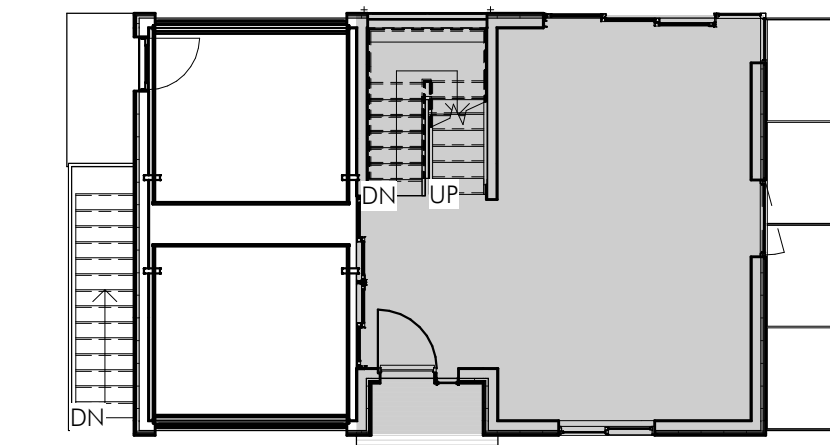
- Identifying rear yard set back.
- Min. distance between buildings: Sum of Heights/6 or 10'-0", whichever is greater.



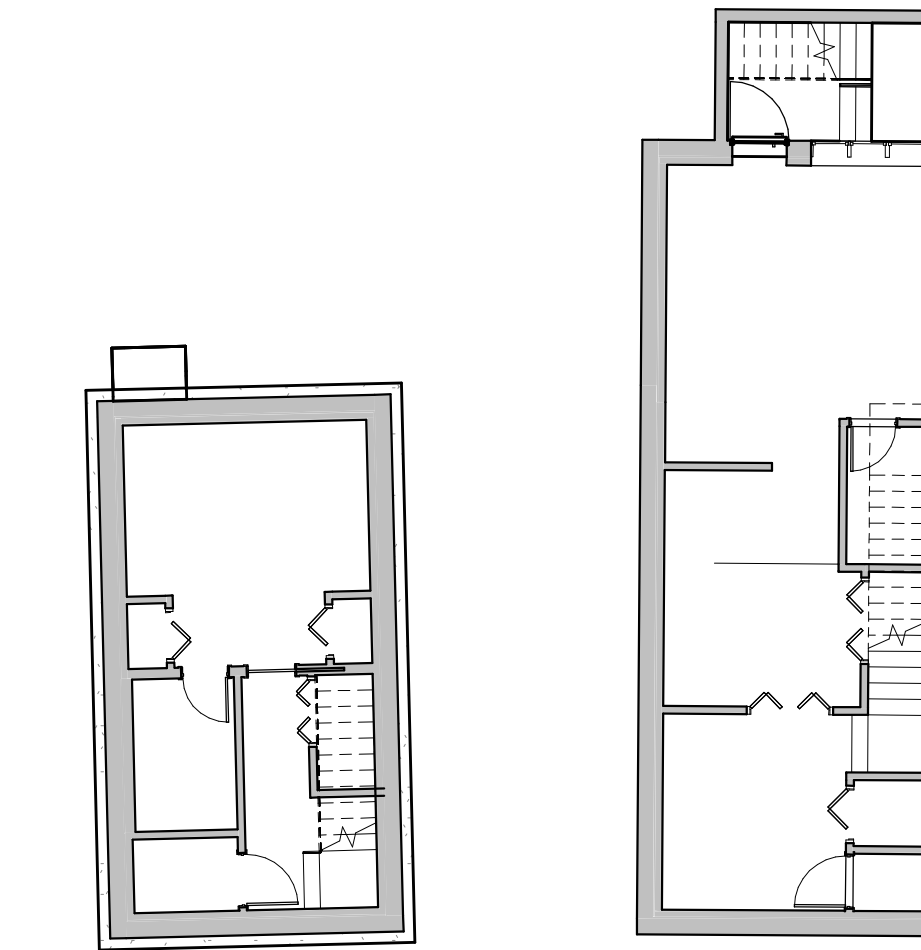
5 AREA ELEVATION
1/4" = 1'-0"



37



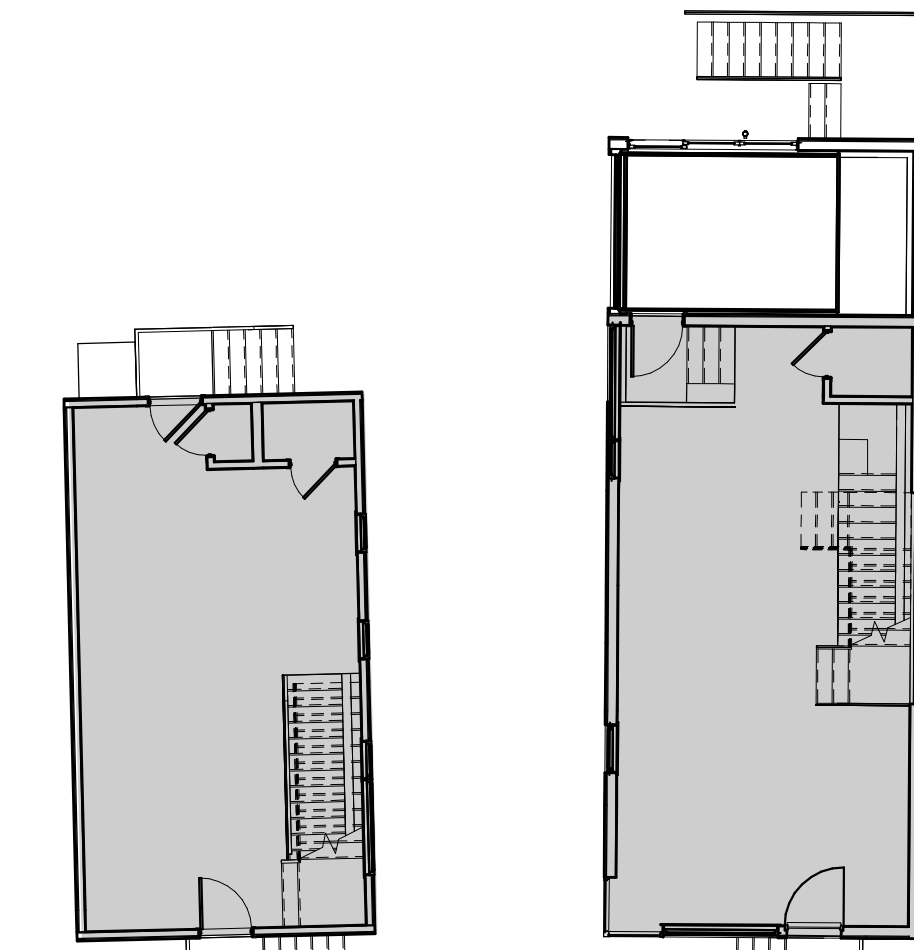
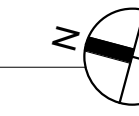
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35

33

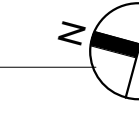
4 ZONING-BASEMENT
1" = 10'-0"



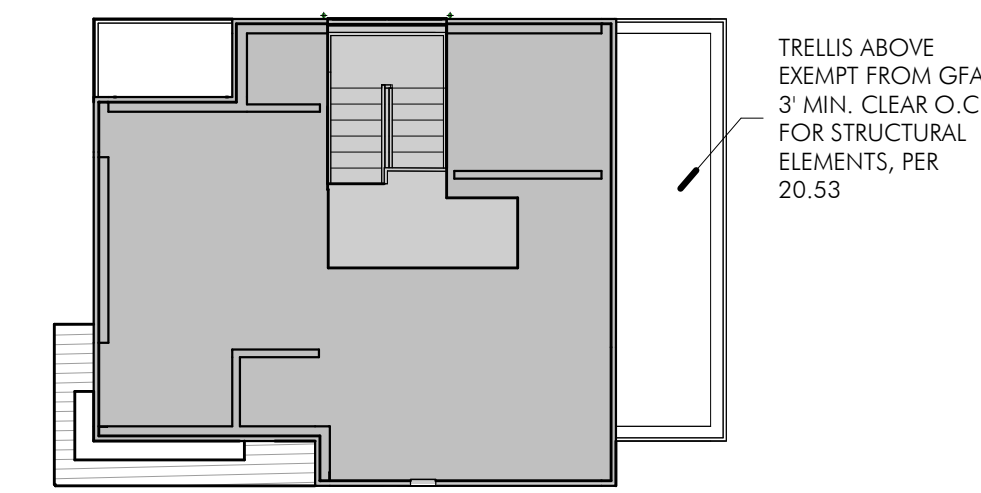
35

33

1 ZONING-FIRST FLOOR
1" = 10'-0"



37



37

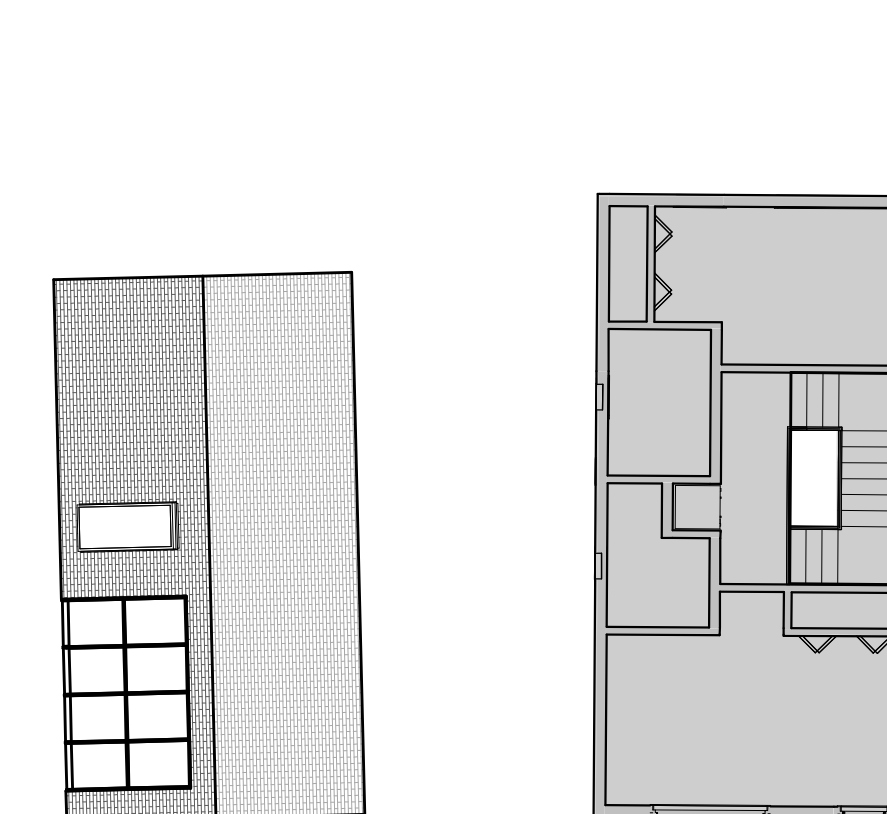
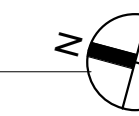
TRELLIS ABOVE EXEMPT FROM GFA
3' MIN. CLEAR O.C.
FOR STRUCTURAL
ELEMENTS, PER
20.53



35

33

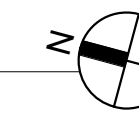
2 ZONING-SECOND FLOOR
1" = 10'-0"



35

33

3 ZONING-THIRD FLOOR
1" = 10'-0"



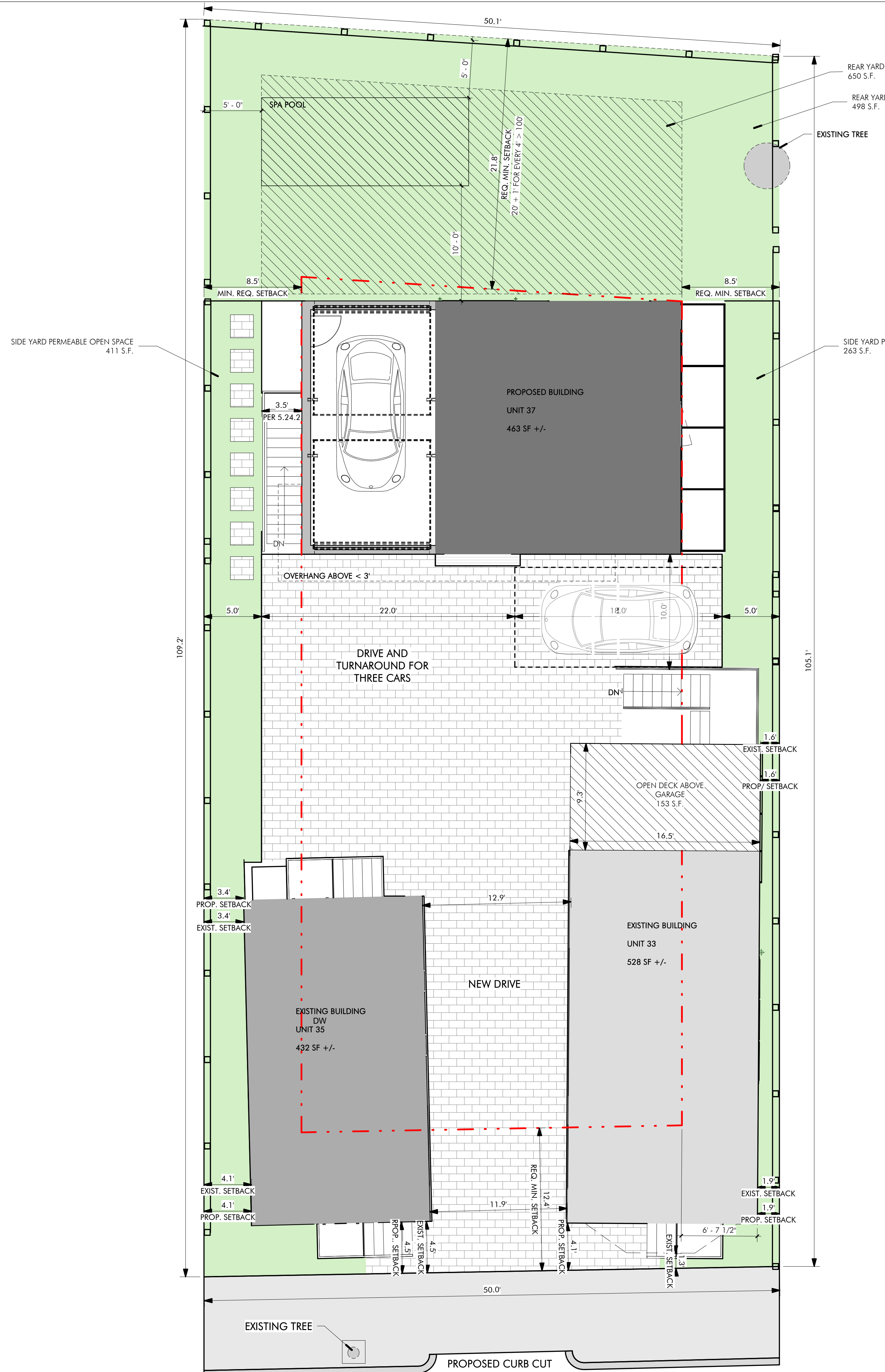
SPECIAL PERMIT

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: ZONING COMPLIANCE

Drawing Issued By: ANDERSON PORTER DESIGN
Project #: 2112 Drawn No.
Date: 11/24/2021
Scale: As indicated
Drawn by: AS,DA,RB,AS



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 = 1,969.00 SF
PERMEABLE OPEN SPACE = 1,166.00 SF
 SIDE YARD PERMEABLE OPEN SPACE = 411 S.F.
 SIDE YARD PERMEABLE OPEN SPACE = 263 S.F.
 REAR YARD PERMEABLE OPEN SPACE = 498 S.F.
(15'x15') PRIVATE OPEN SPACE = 803.55 SF
 REAR YARD PRIVATE OPEN SPACE = 650 S.F.
 DECK ABOVE GARAGE = 153 S.F.

OPEN SPACE	%	EXISTING	%	PROPOSED	%
		1,607.10	30%	1,969.00	37%
(15'x15') PRIVATE OPEN SPACE		803.55	50%	803.55	50%
PERMEABLE OPEN SPACE		803.55	50%	1,166.00	73%

SPECIAL PERMIT

REVISIONS

No.	Description	Date
01	REVISION	01/21/22
02	REVISION	01/25/22

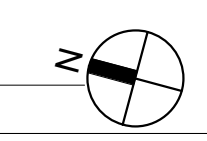
AndersonPorterDesign
 1972 Massachusetts Ave, 4th Floor
 Cambridge, MA 02140
 Tel. 617.354.2501 Fax. 617.354.2509

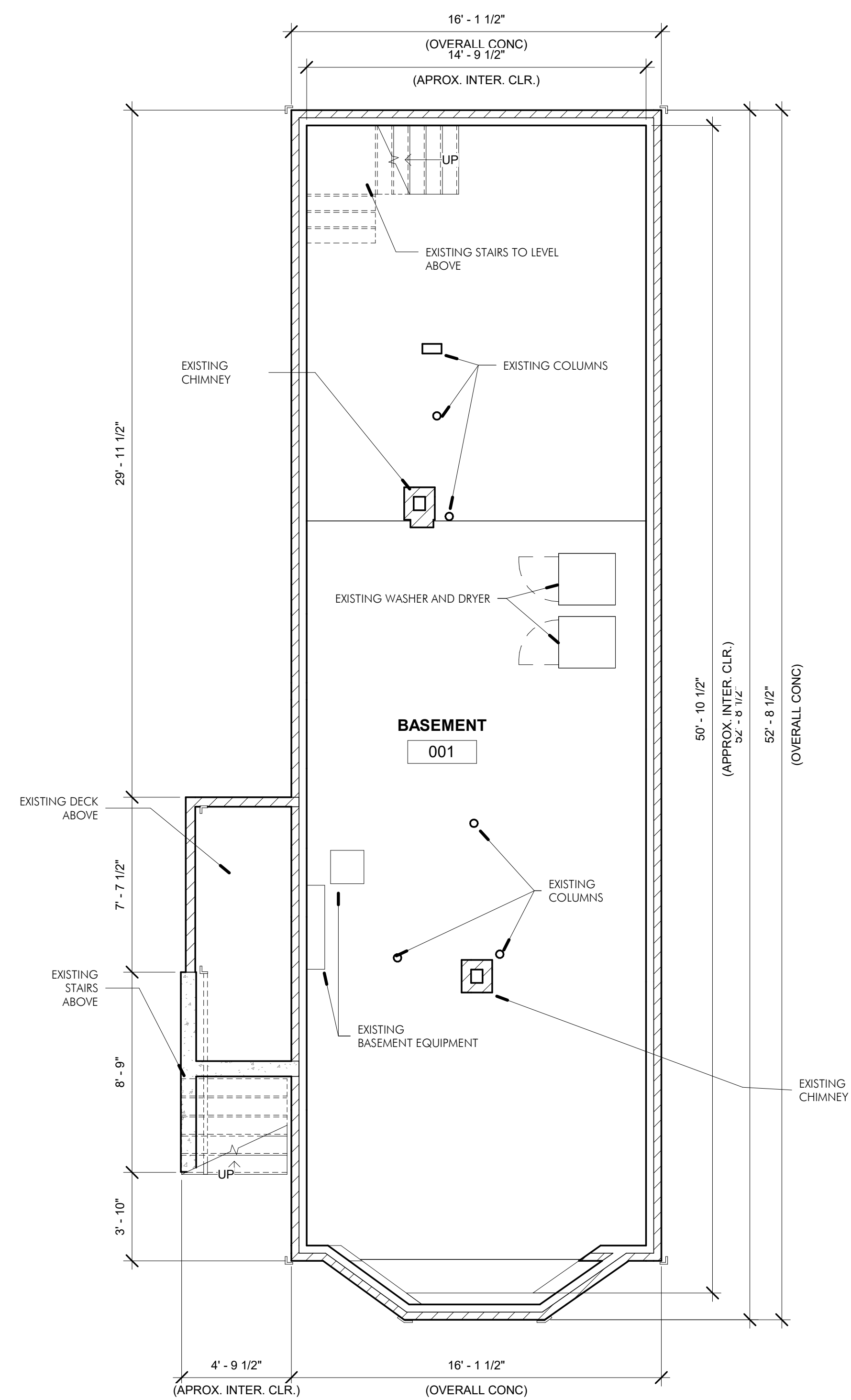
Project: **33, 35 & 37 WEBSTER**
 Address: **35 WEBSTER AVENUE
 CAMBRIDGE, MA 02141**
 Title: **PROPOSED SITE PLAN**

Drawing Issued By: ANDERSON PORTER DESIGN

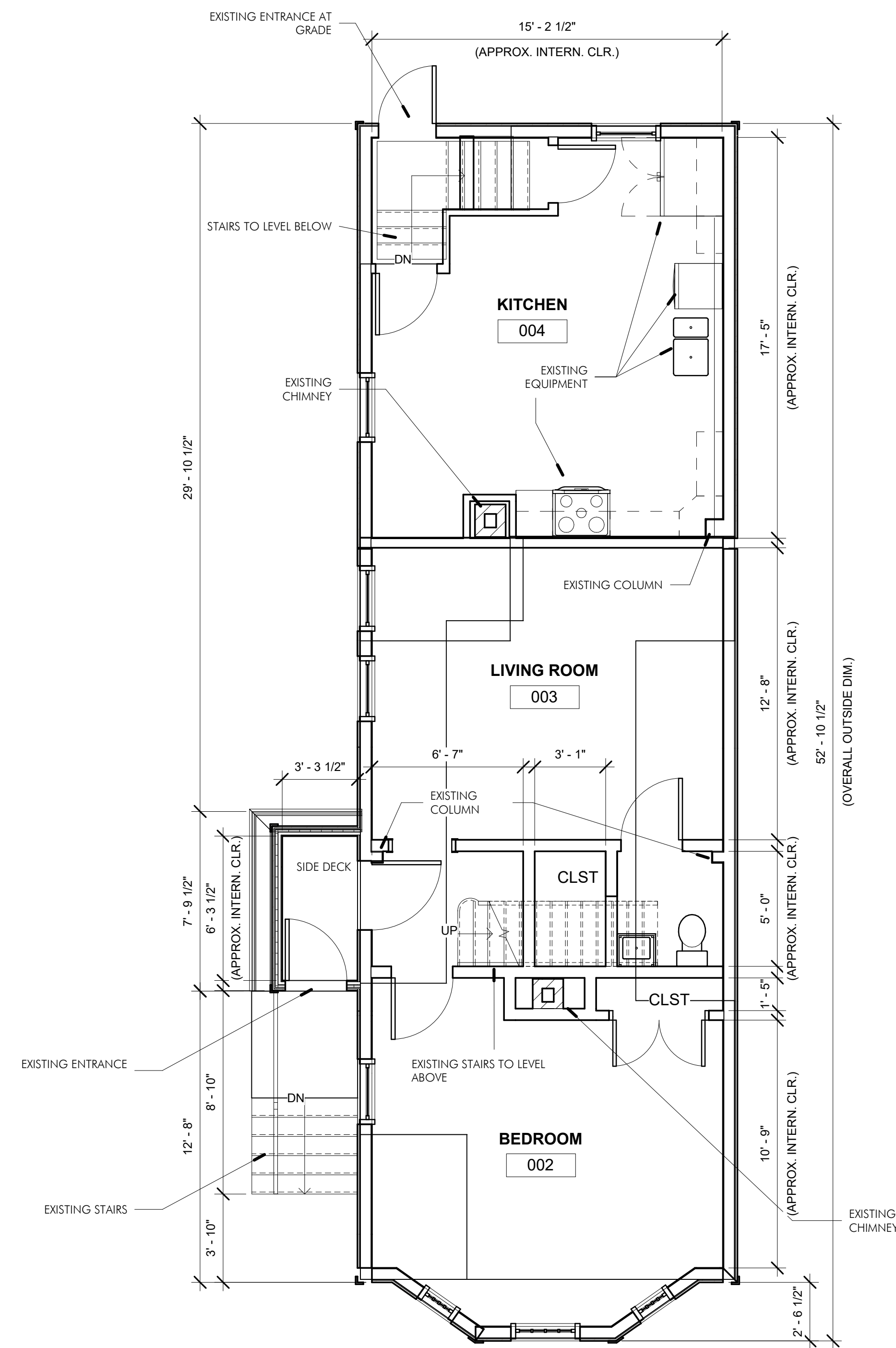
Project #:	2112	Drawn No.:
Date:	11/24/2021	
Scale:	As indicated	L1.1
Drawn by:	AR.S., R.B.	

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

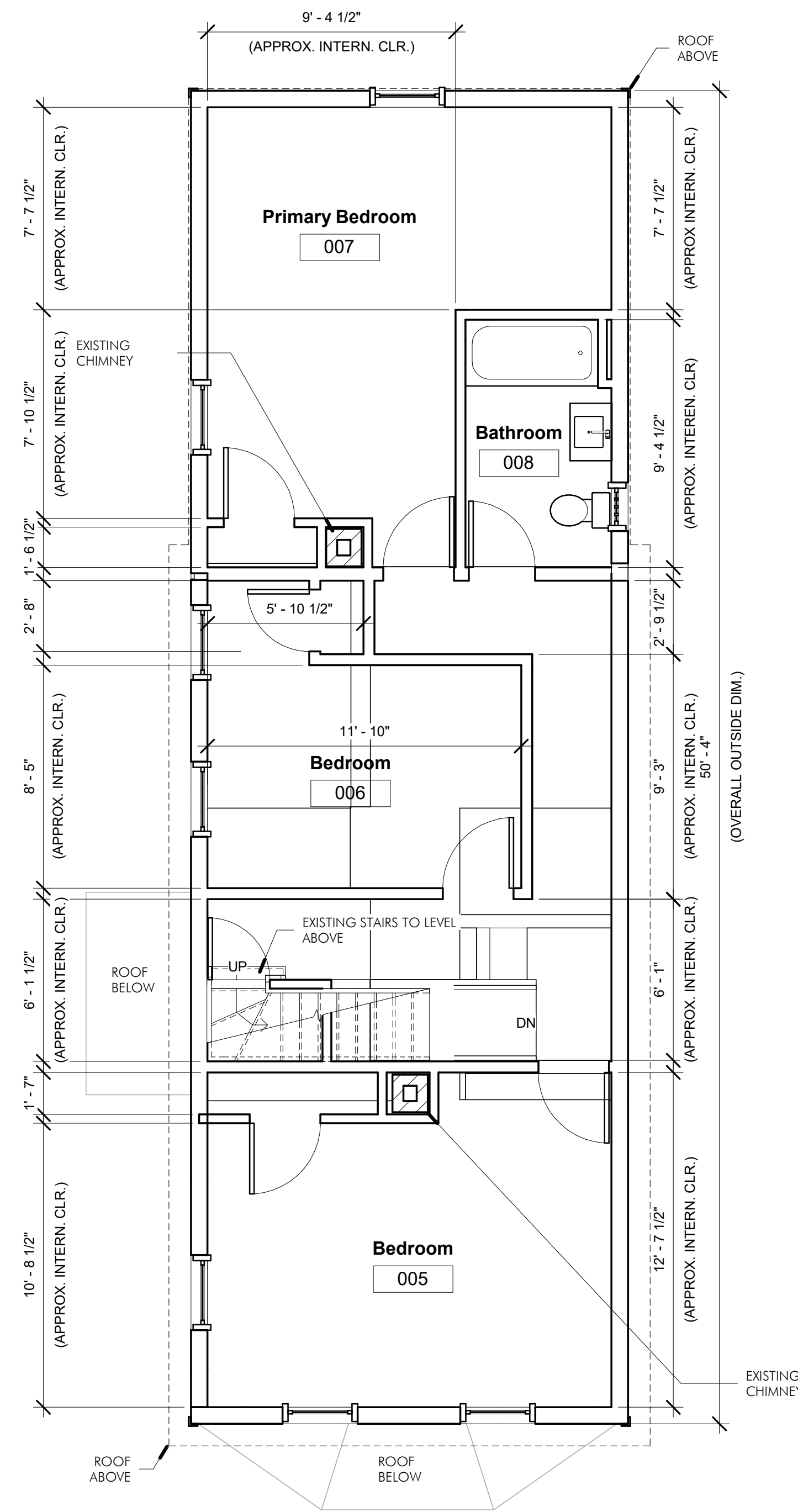




1 EXISTING BASEMENT PLAN-UNIT 33
1/4" = 1'-0"



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



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

SPECIAL PERMIT

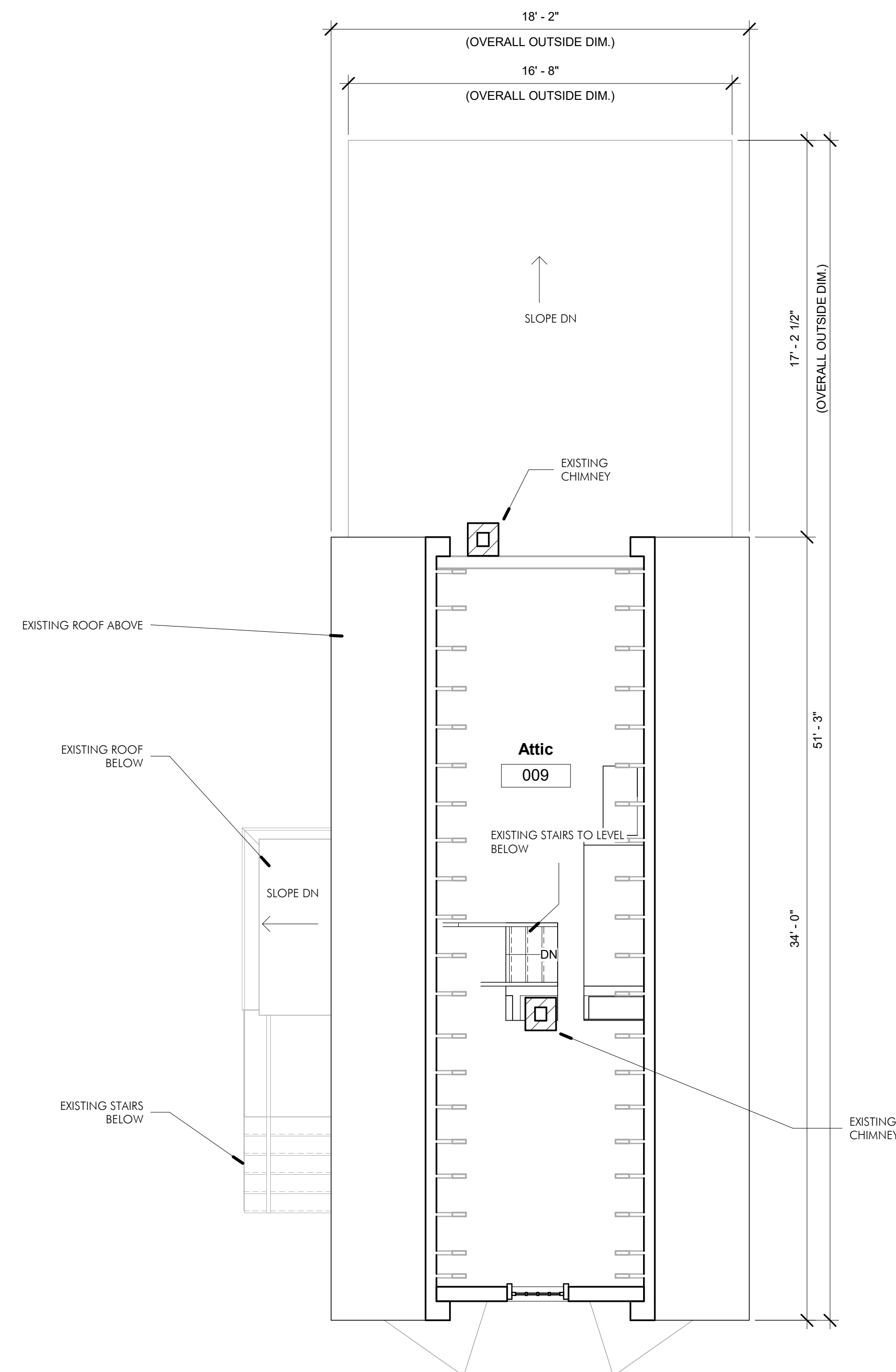
REVISIONS		
No.	Description	Date

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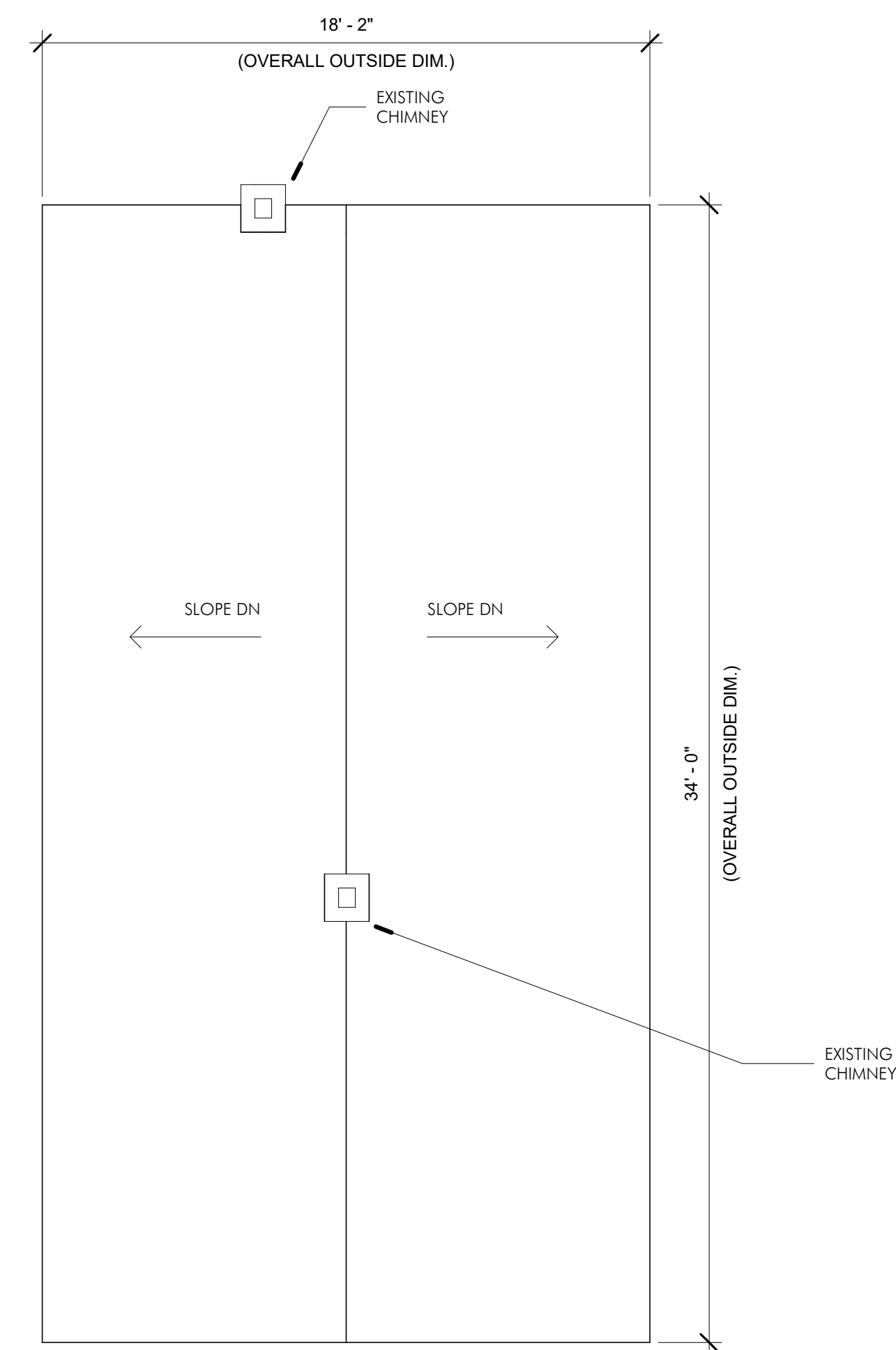
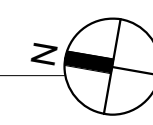
Project: 33 WEBSTER
Address: 33 WEBSTER AVENUE
CAMBRIDGE, MA 02141
Title: EXISTING FLOOR PLANS - UNIT 33

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

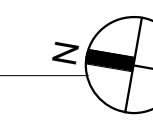
AX1.1



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



2 EXISTING ROOF PLAN UNIT 33
1/4" = 1'-0"



SPECIAL PERMIT

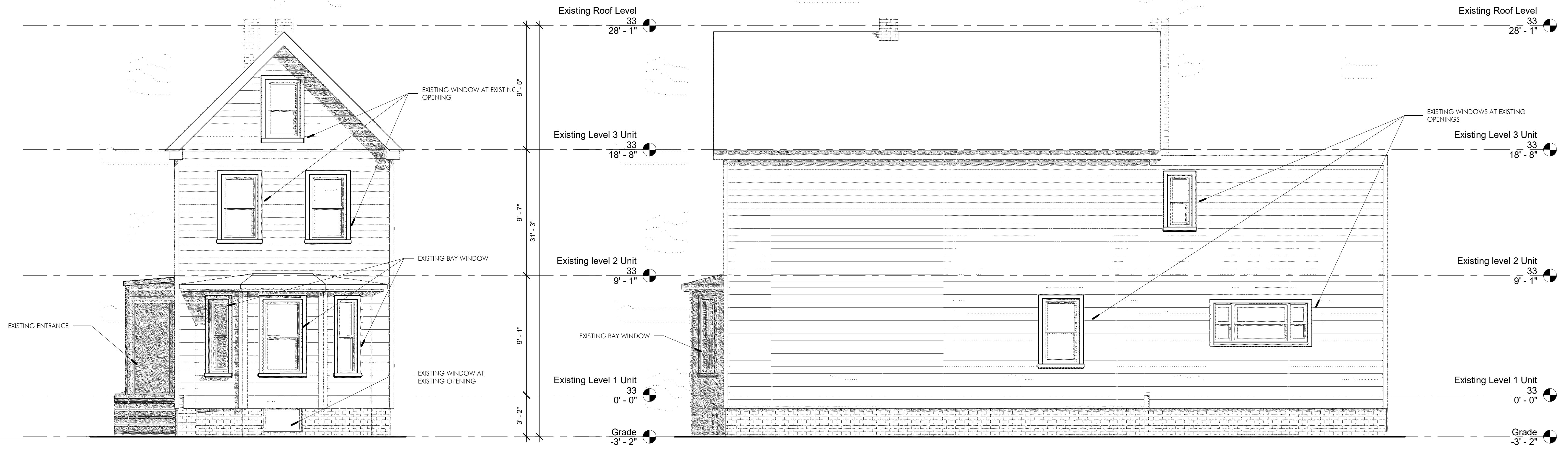
REVISIONS		
No.	Description	Date

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Tel. 617.354.2501 Fax. 617.354.2509

Project: 33 WEBSTER
Address: 33 WEBSTER AVENUE
CAMBRIDGE, MA 02141
Title: EXISTING FLOOR PLANS - UNIT 33

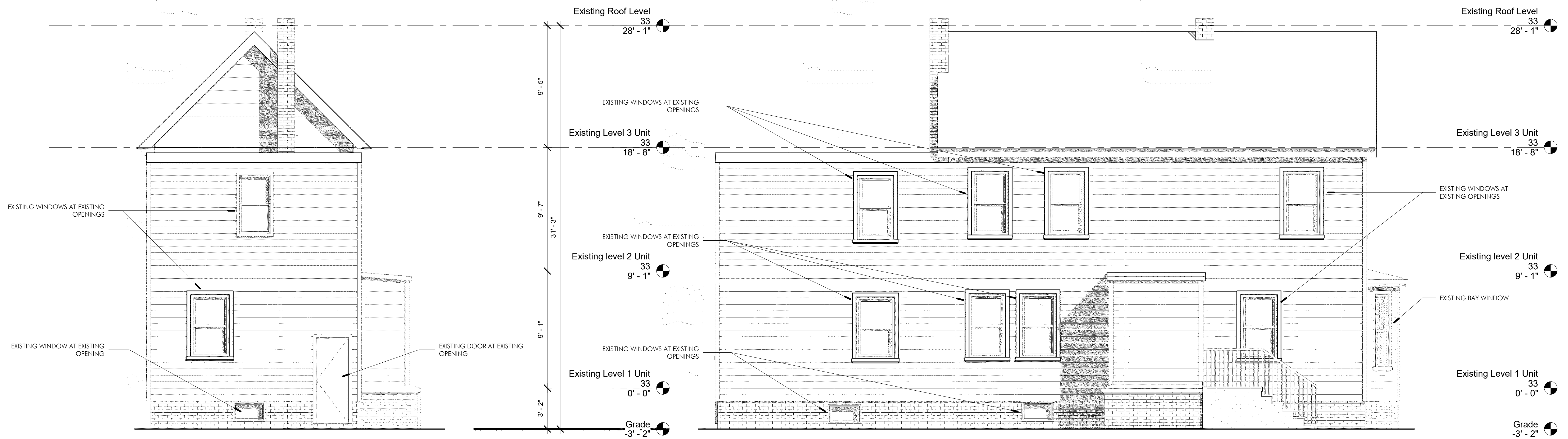
Drawing Issued By: ANDERSON PORTER DESIGN
Project #: 2112 Drawn No.:
Date: 11/24/2021
Scale: 1/4" = 1'-0"
Drawn by: DS

AX1.2



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

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



③ EXISTING EAST ELEVATION-UNIT 33
1/4" = 1'-0"

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

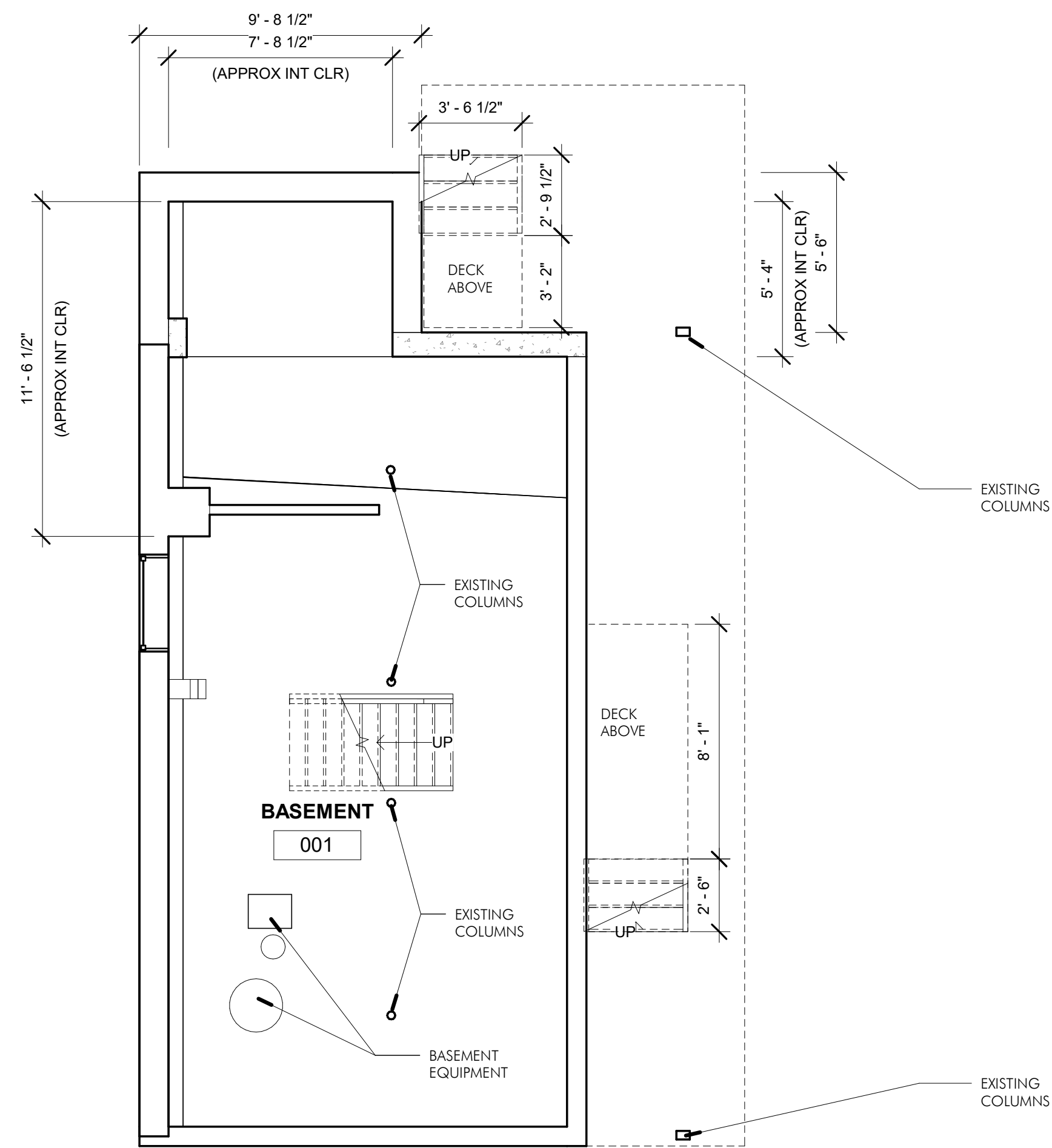
SPECIAL PERMIT

REVISIONS		
No.	Description	Date

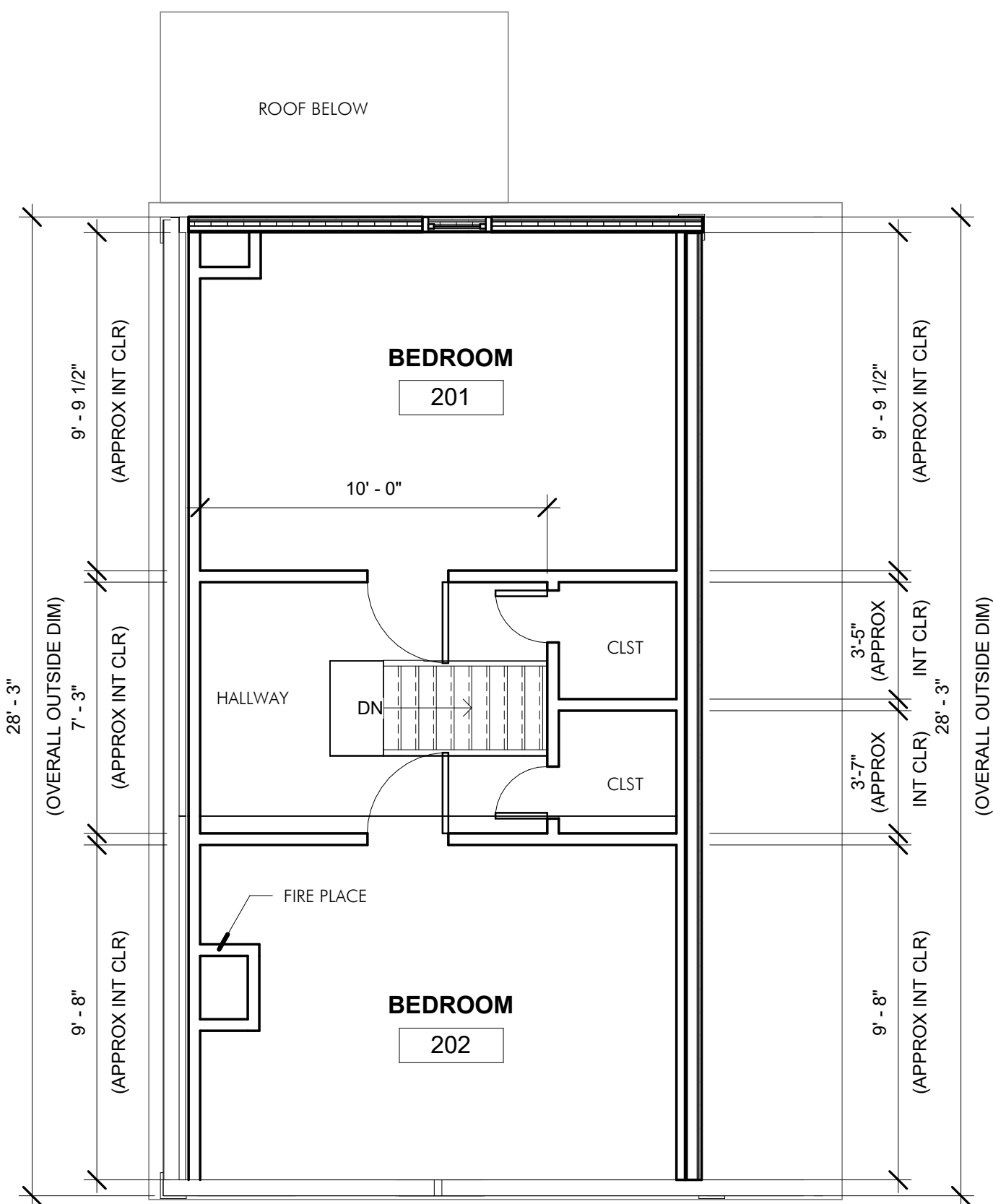
AndersonPorterDesign
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Cambridge, MA 02140
Tel. 617.354.2501 Fax. 617.354.2509

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

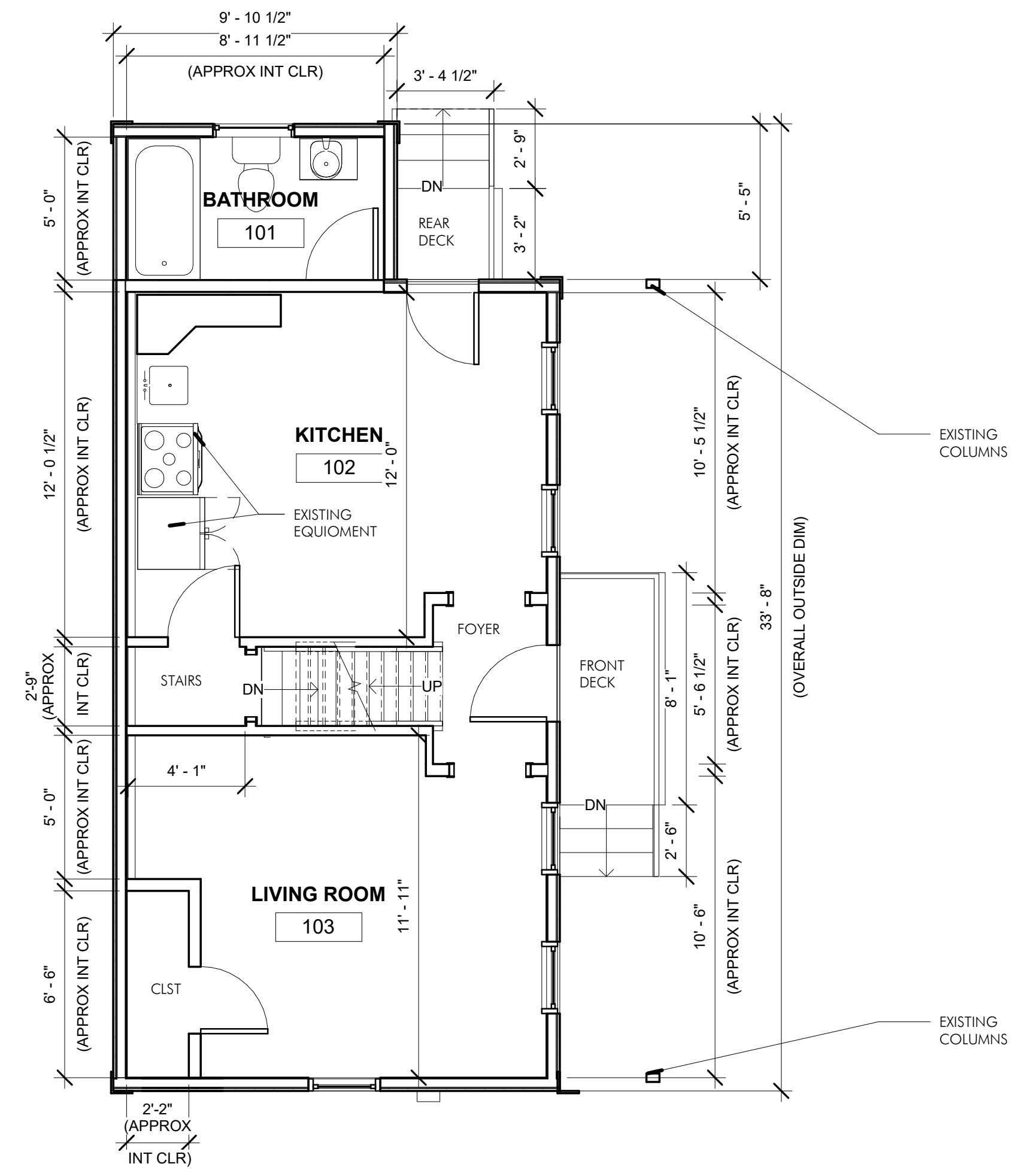
Drawing Issued By: ANDERSON PORTER DESIGN
Project #: 2112 Drawn No.
Date: 11/24/2021
Scale: 1/4" = 1'-0" AX2.1
Drawn by: DS



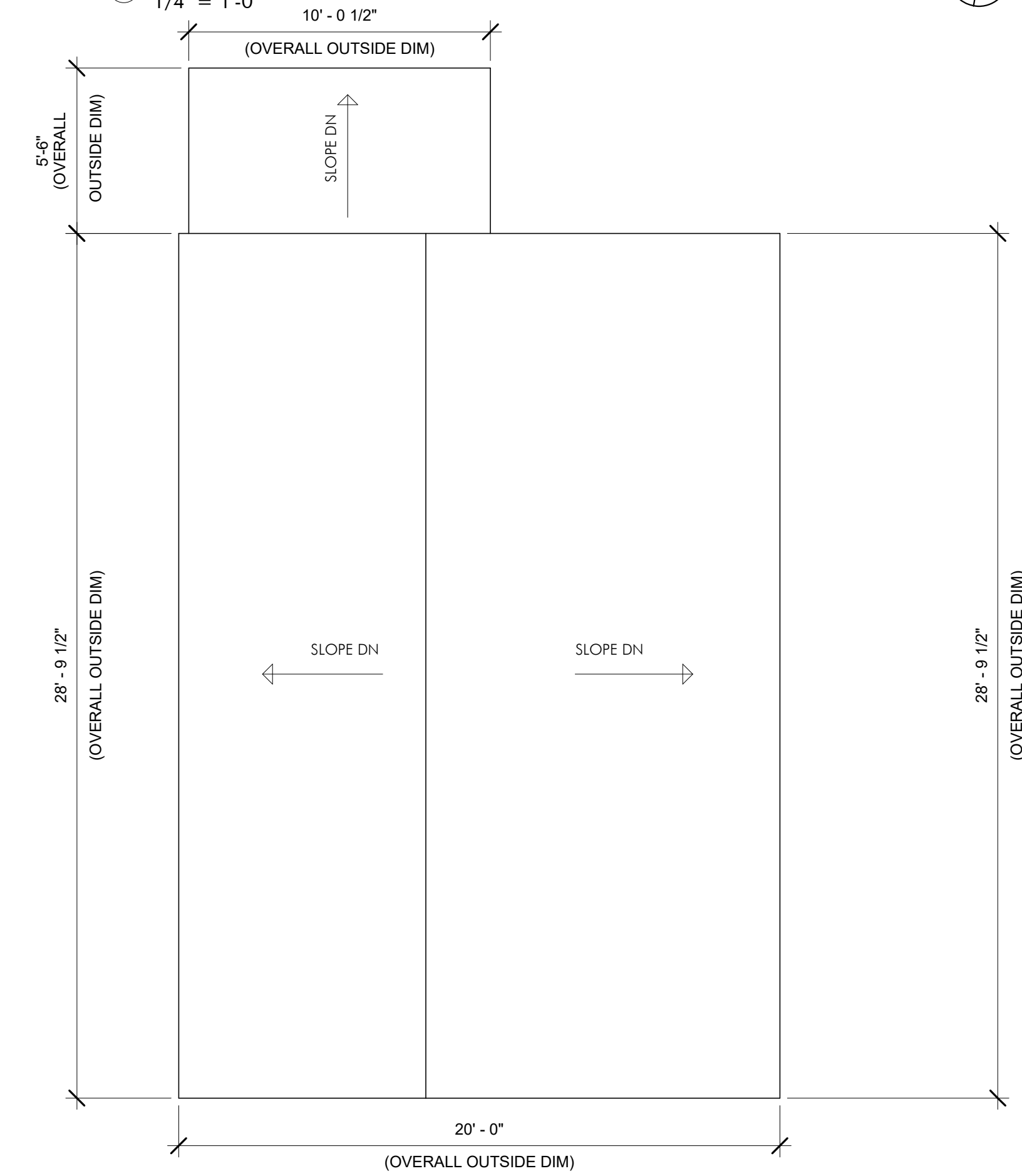
1 EXISTING BASEMENT PLAN
1/4" = 1'-0"



3 EXISTING LEVEL 2
1/4" = 1'-0"



2 EXISTING LEVEL 1
1/4" = 1'-0"



4 EXISTING ROOF
1/4" = 1'-0"

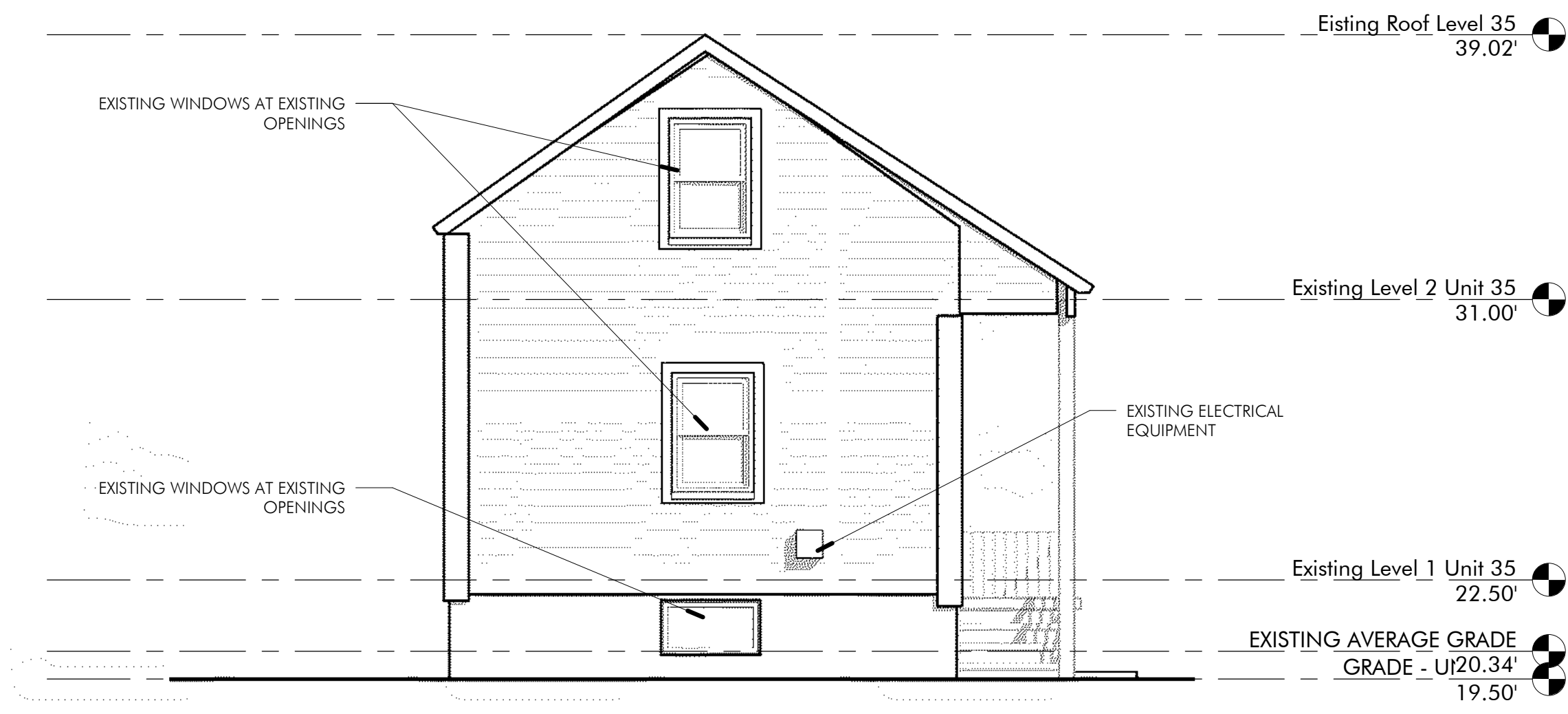
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Project: 35 WEBSTER
Address: 35 WEBSTER AVENUE
CAMBRIDGE, MA 02141
Title: EXISTING PLANS - UNIT 35

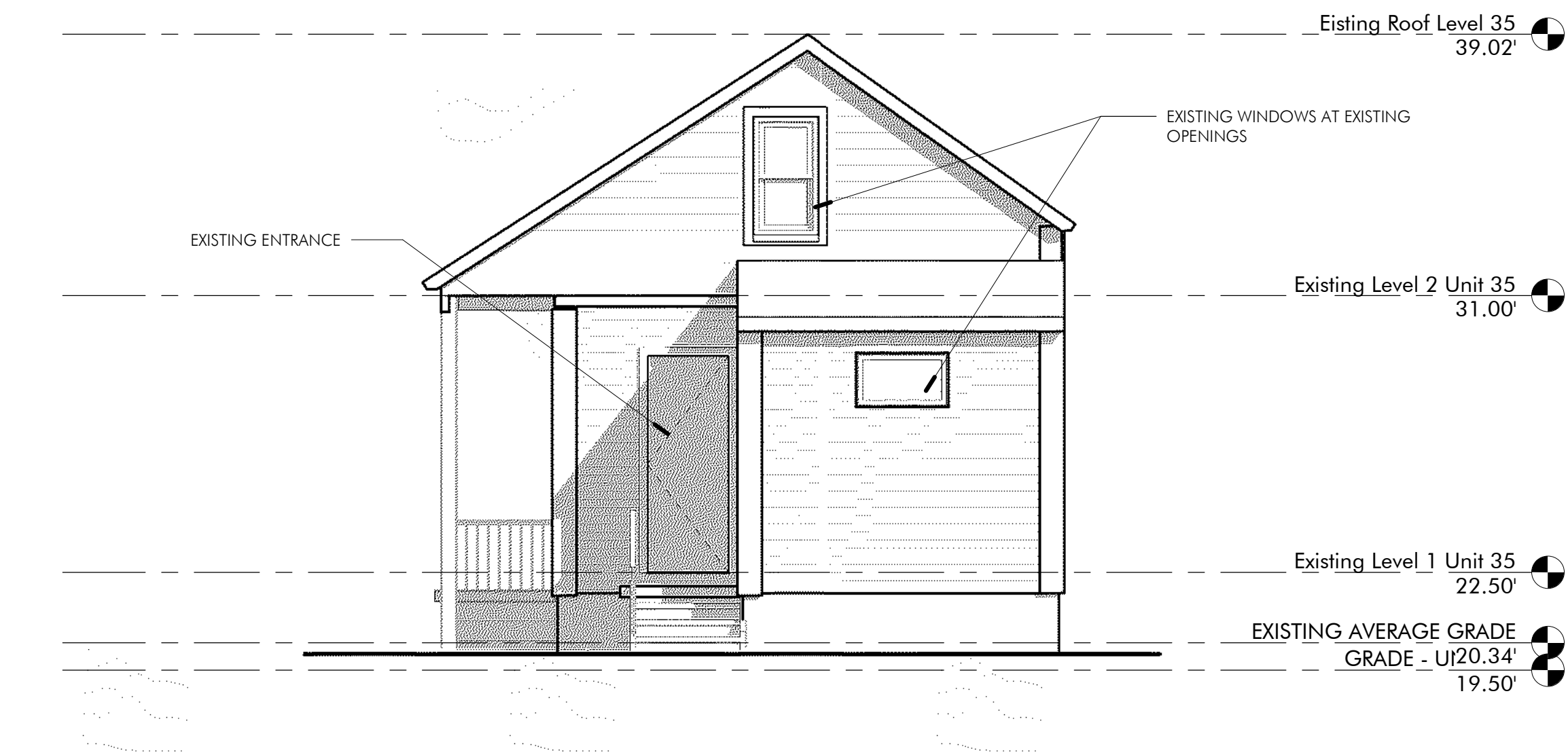
Drawing Issued By: ANDERSON PORTER DESIGN
Project #: 2112 Drawn No.
Date: 11/24/2021
Scale: 1/4" = 1'-0" AX1.3
Drawn by: DS



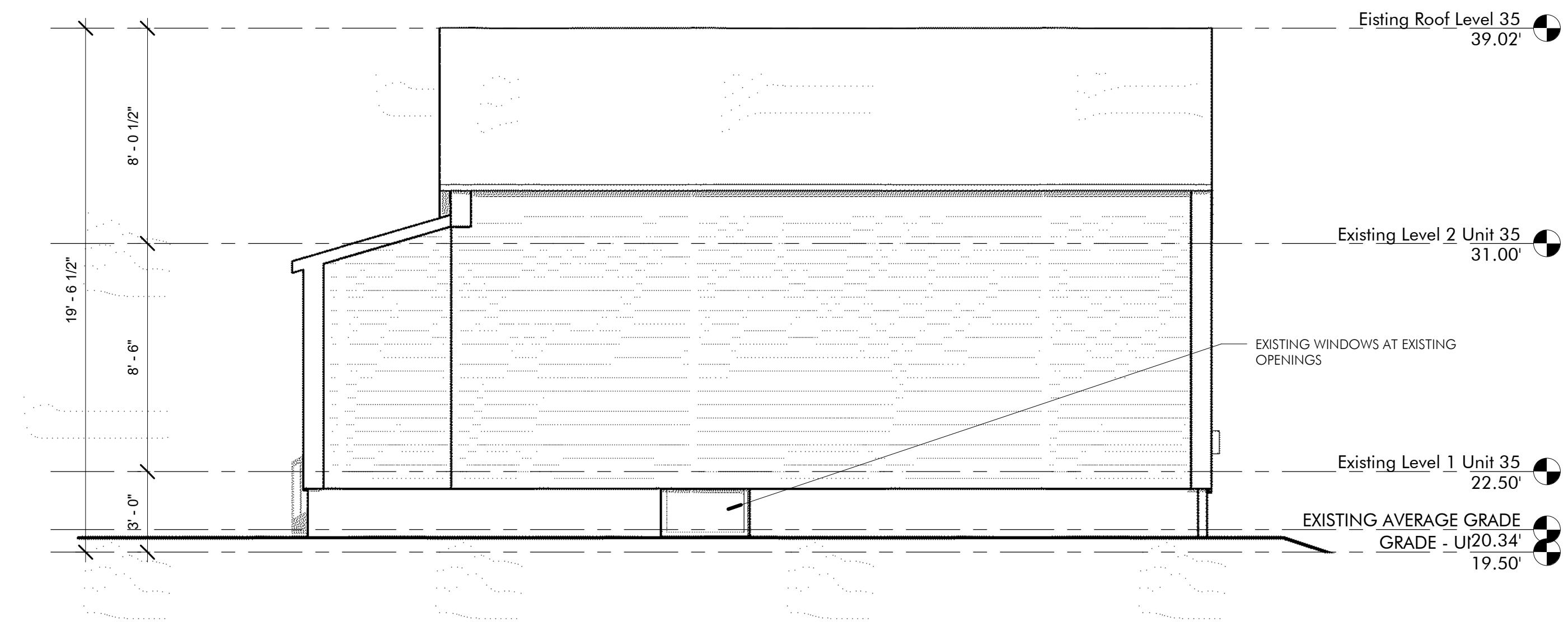
④ EXISTING WEST ELEVATION
1/4" = 1'-0"



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



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



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

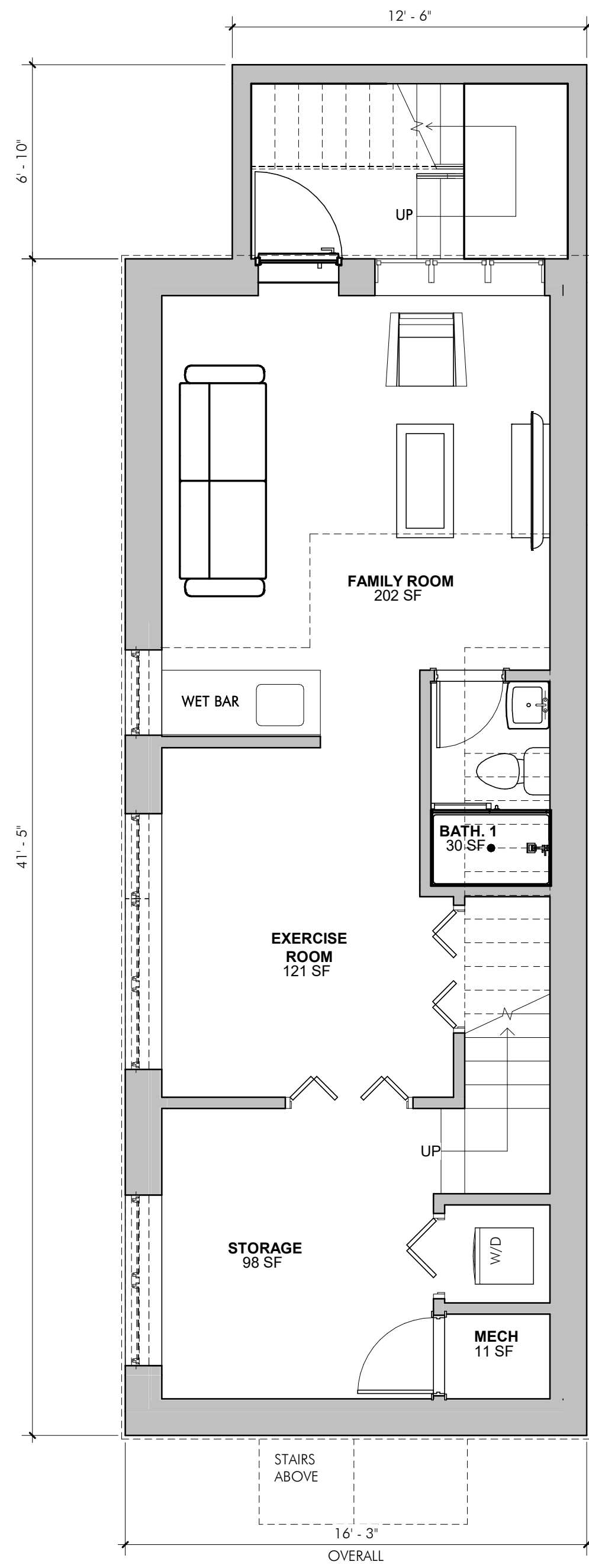
SPECIAL PERMIT

REVISIONS		
No.	Description	Date

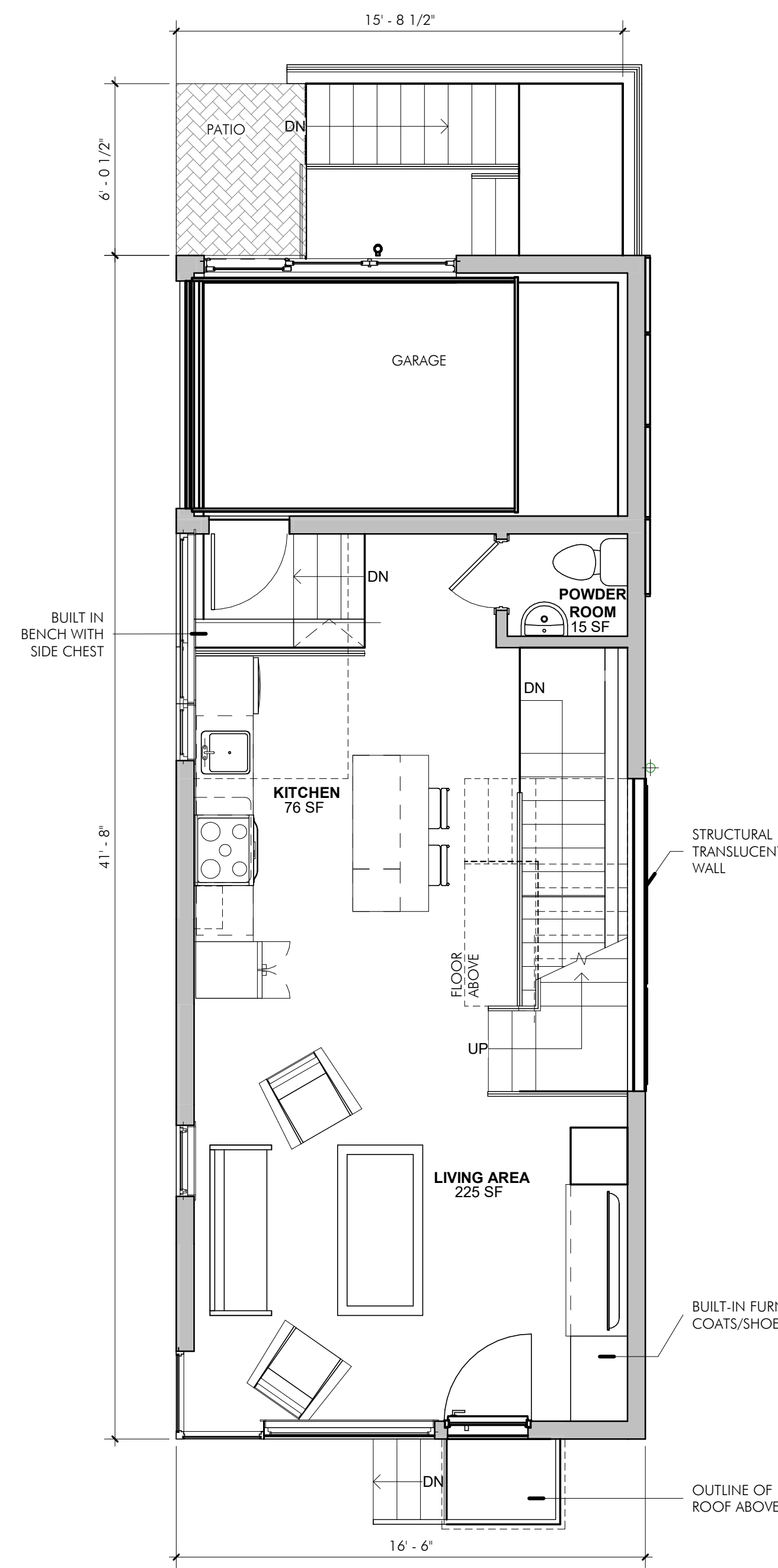
AndersonPorterDesign
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Tel. 617.354.2501 Fax. 617.354.2509

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

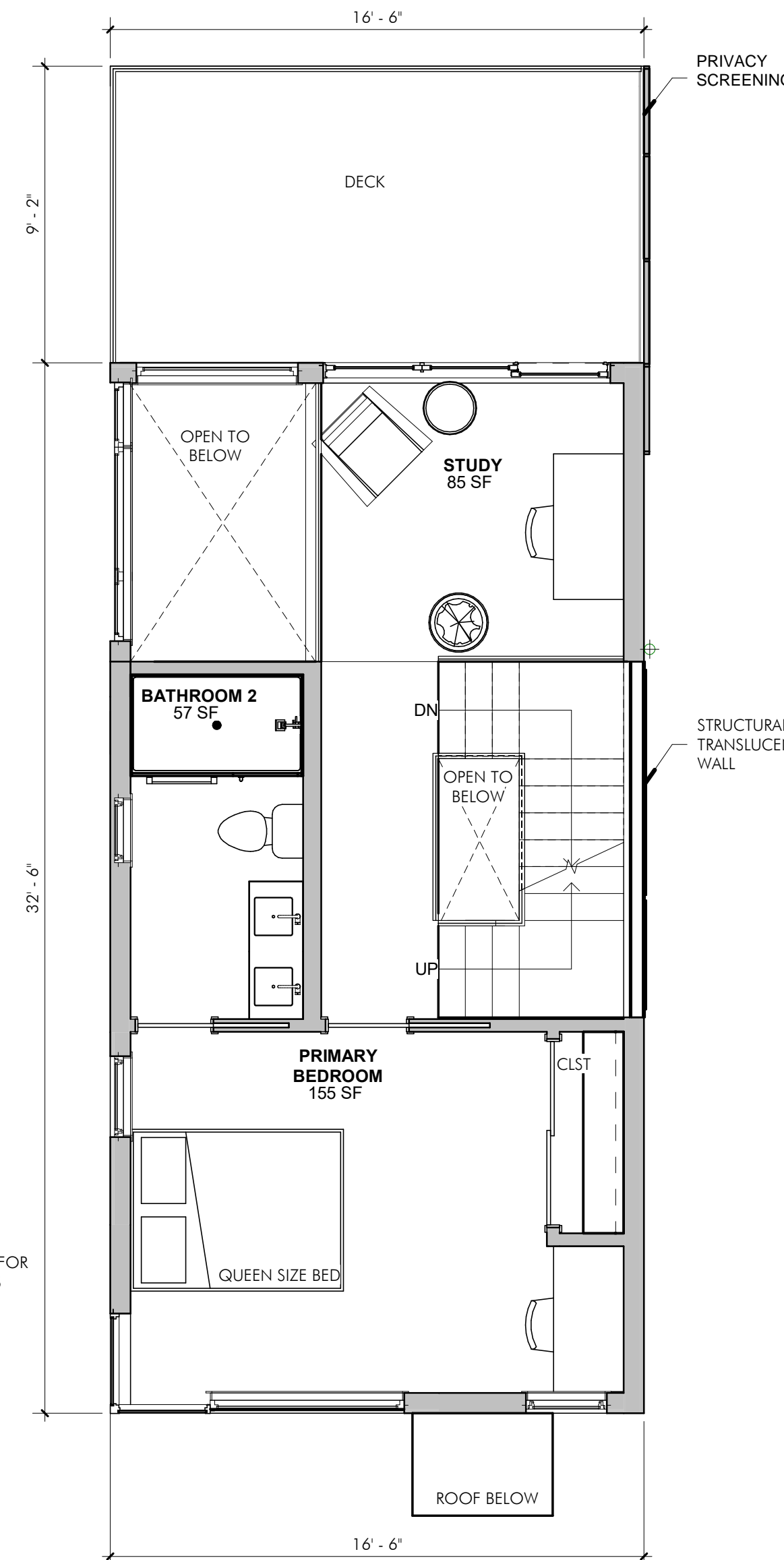
Drawing Issued By: ANDERSON PORTER DESIGN
Project #: 2112 Drawn No.:
Date: 11/24/2021
Scale: 1/4" = 1'-0" AX2.2
Drawn by: DA/RB/AS



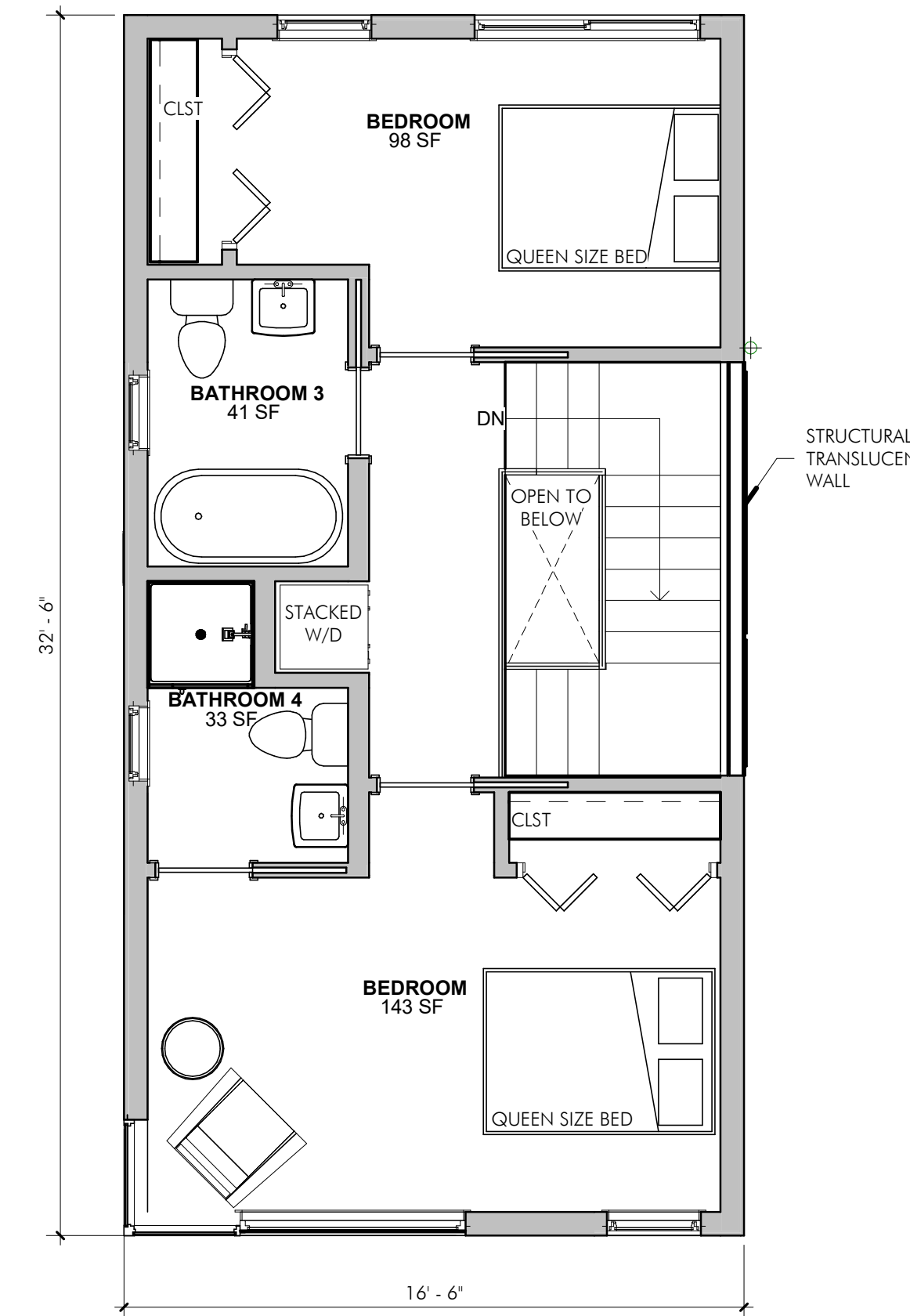
1 PROPOSED BASEMENT PLAN - UNIT 33
1/4" = 1'-0"



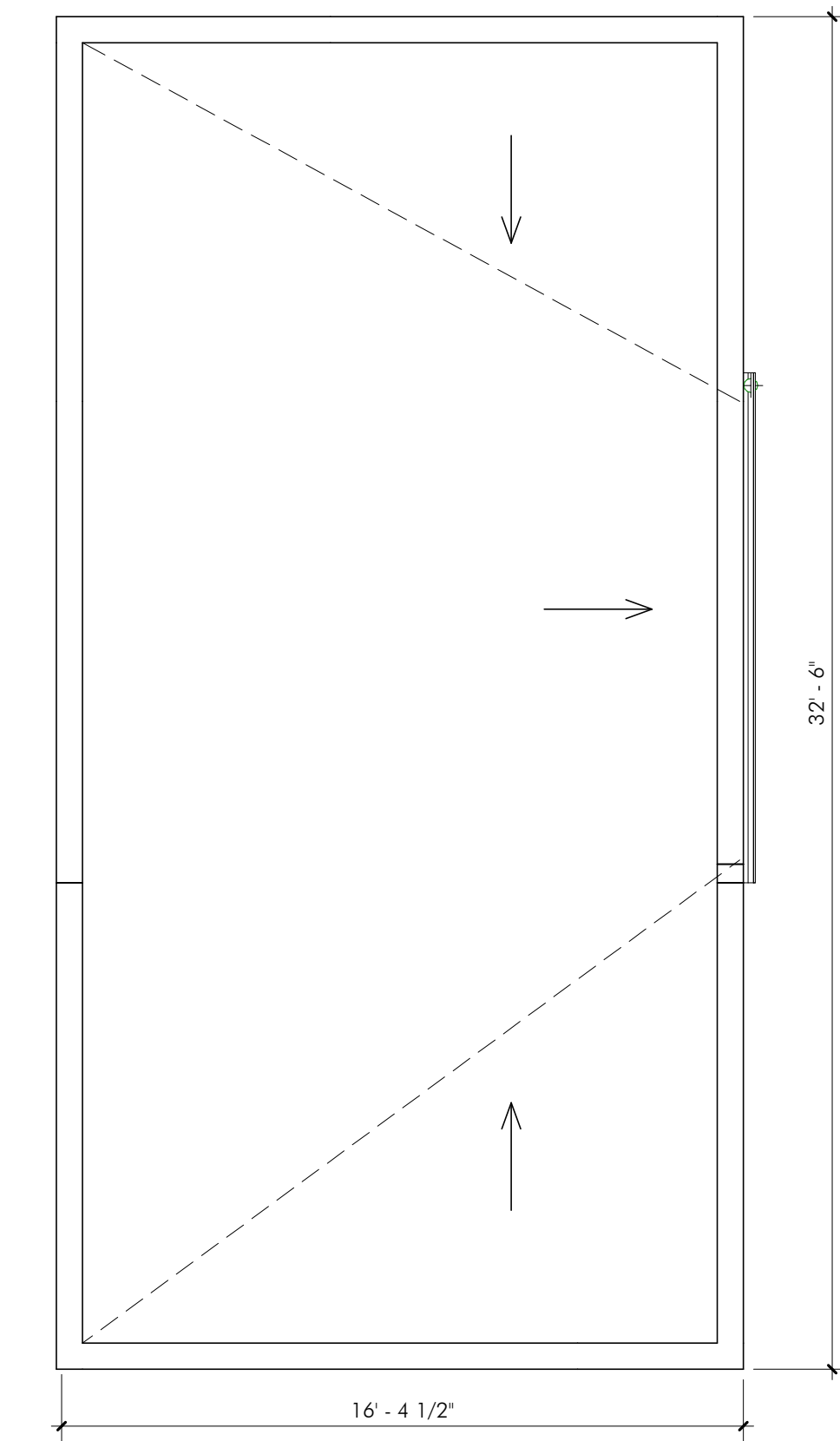
2 PROPOSED FIRST FLOOR PLAN - UNIT 33
1/4" = 1'-0"



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"

SPECIAL PERMIT

REVISIONS		
No.	Description	Date

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Project: 33 WEBSTER
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

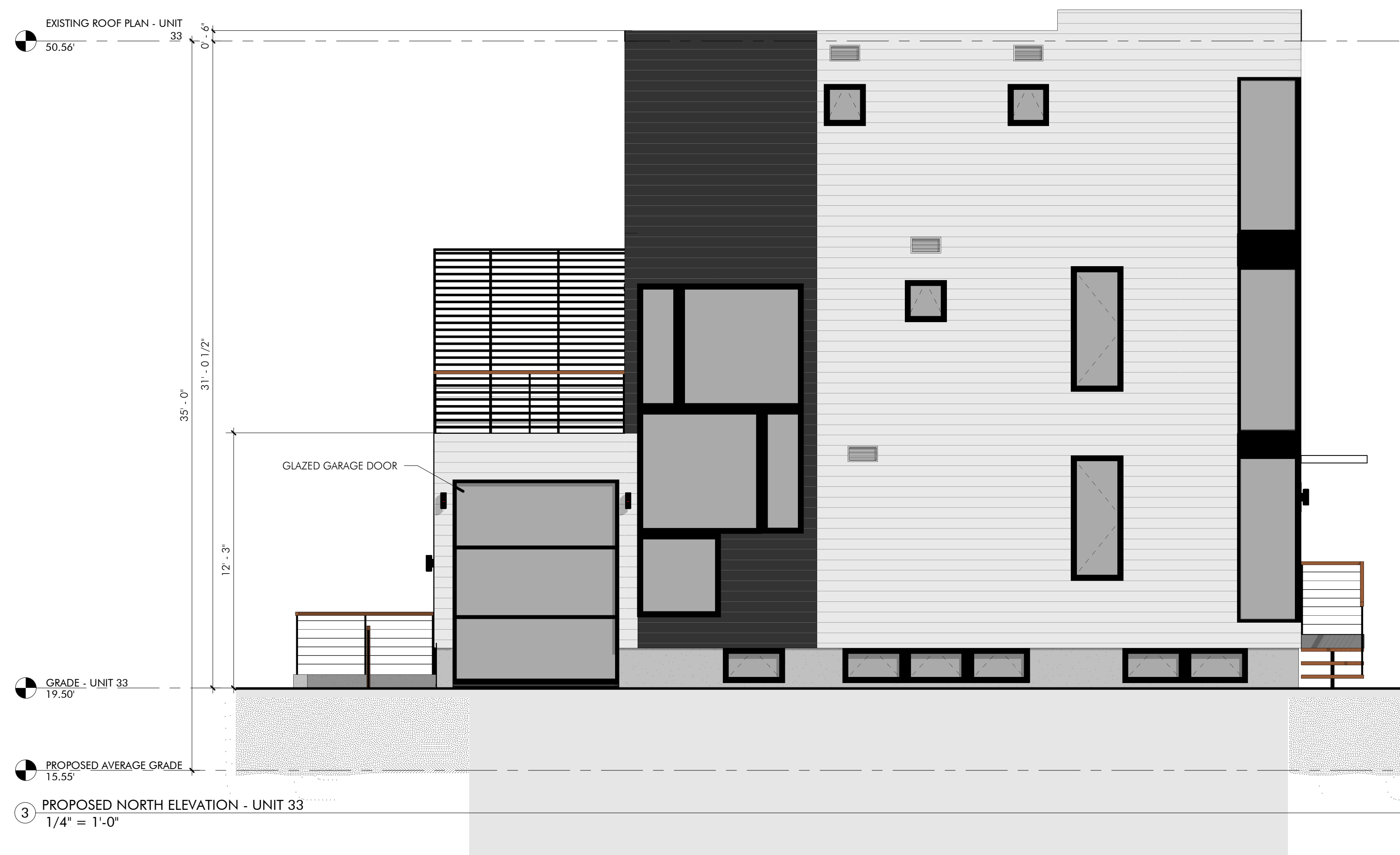
A1.1



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

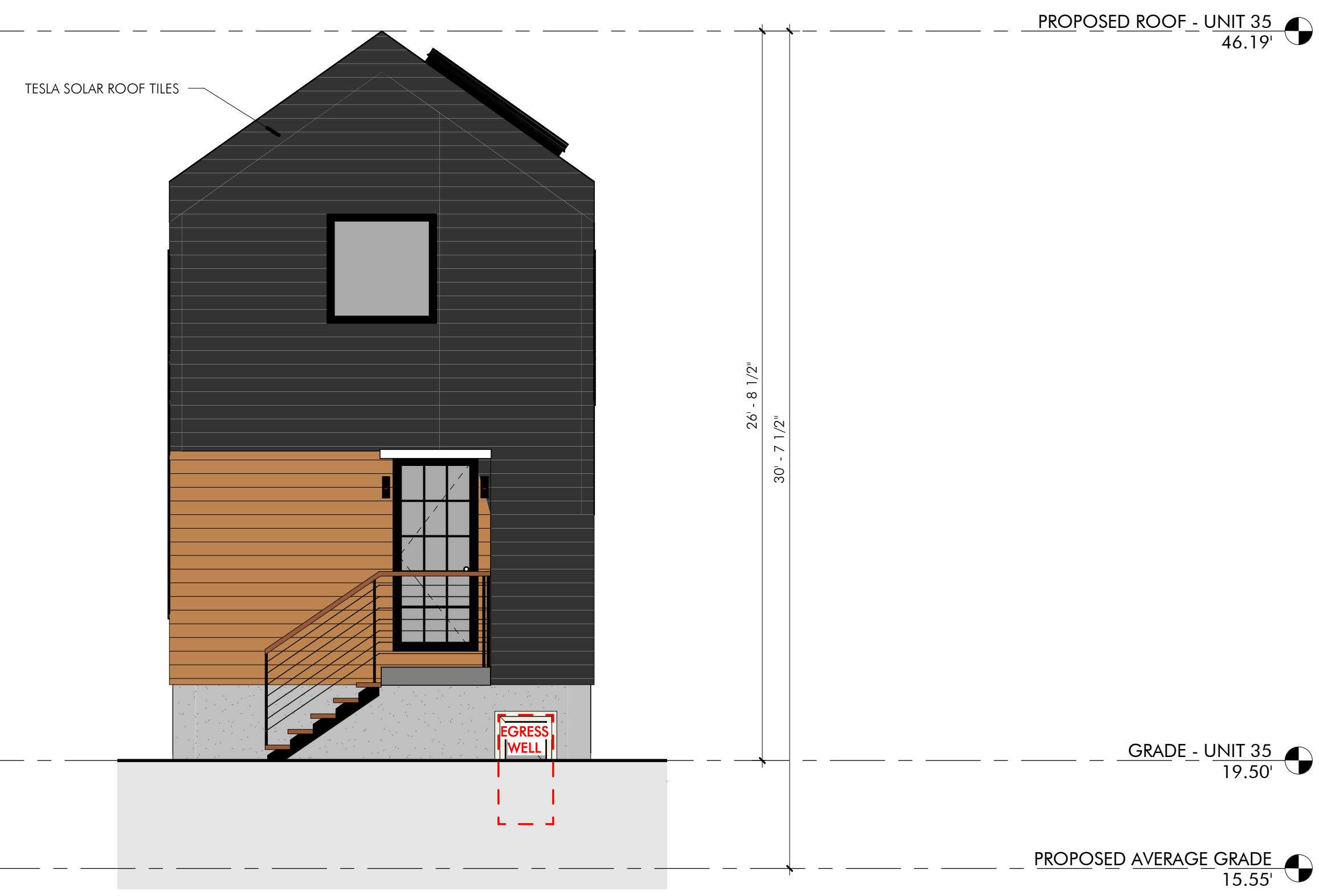
AndersonPorterDesign
1972 Massachusetts Ave, 4th Floor
Cambridge, MA 02140
Tel. 617.354.2501 Fax. 617.354.2509

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

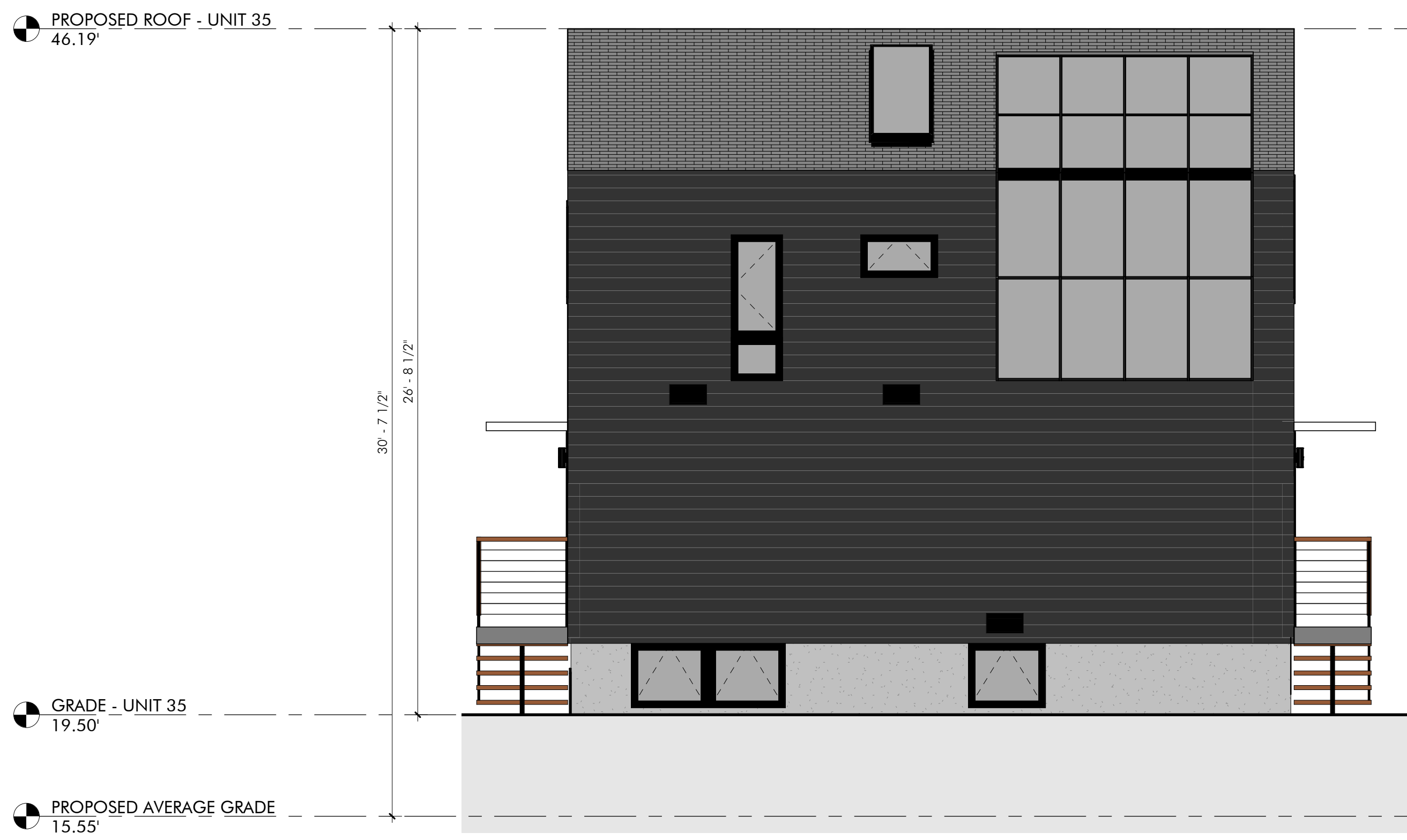
Drawing Issued By: ANDERSON PORTER DESIGN
Project #: 2112 Drawn No.
Date: 11/24/2021
Scale: 1/4" = 1'-0" A2.1
Drawn by: AR.S



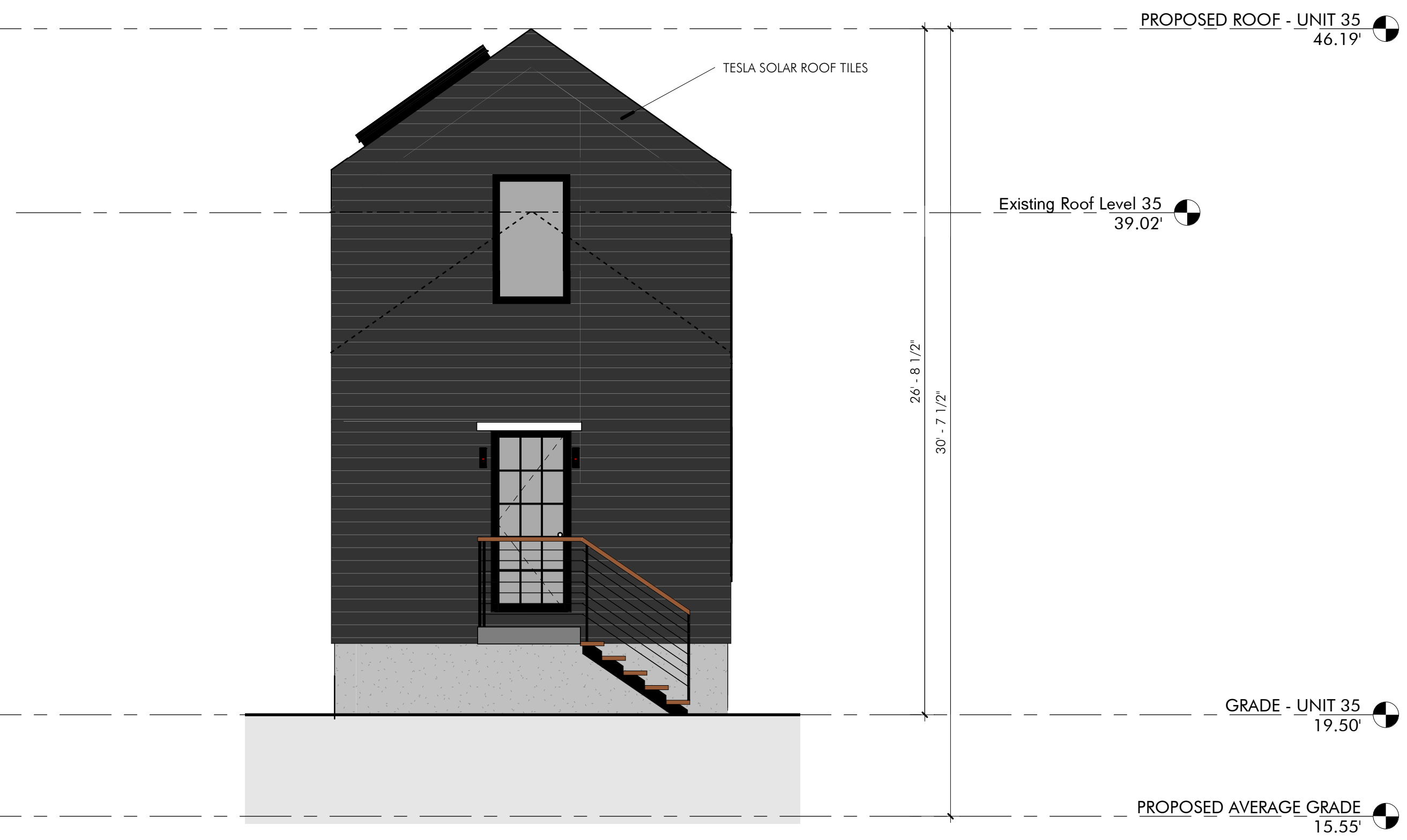
① PROPOSED SOUTH ELEVATION - UNIT 35
1/4" = 1'-0"



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"

SPECIAL PERMIT

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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 Drawn No.
Date: 11/24/2021
Scale: 1/4" = 1'-0"
Drawn by: AR.S

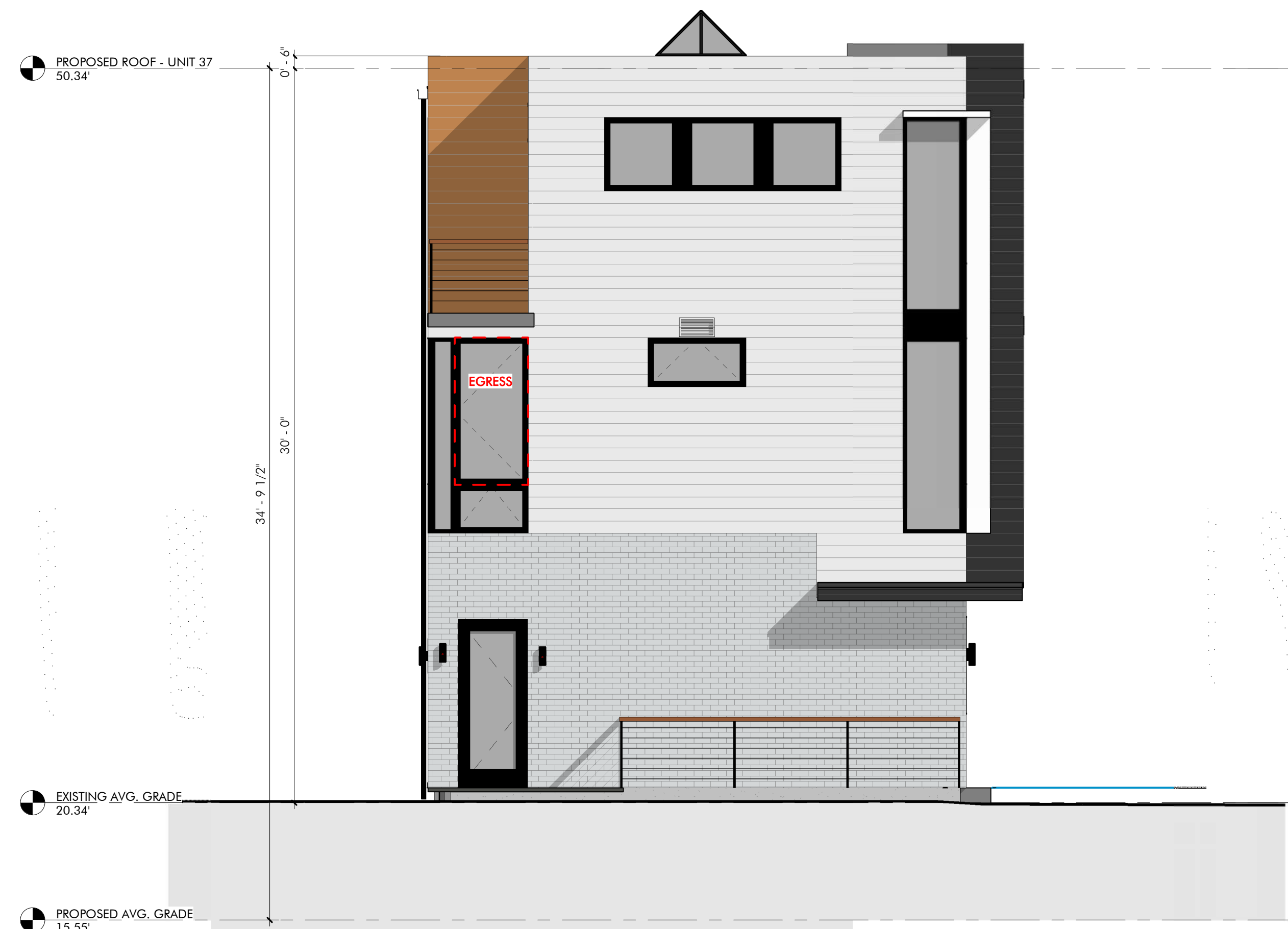
A2.2



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

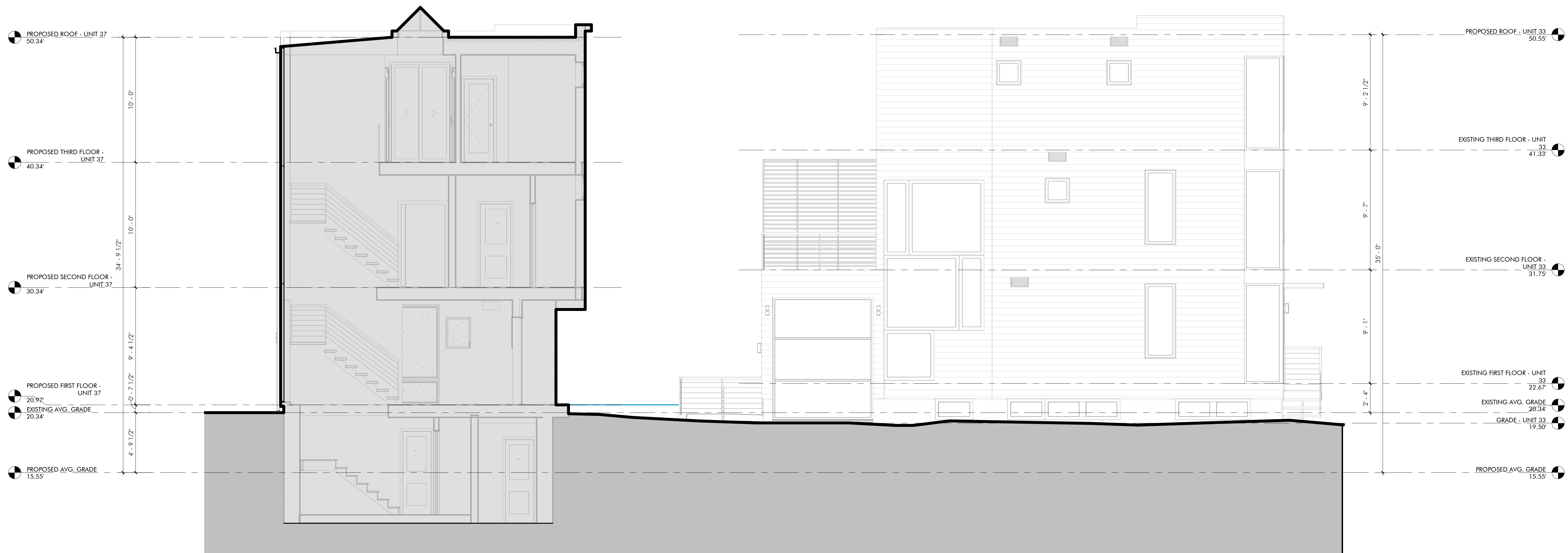
REVISIONS		
No.	Description	Date

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Cambridge, MA 02140
Tel. 617.354.2501 Fax. 617.354.2509

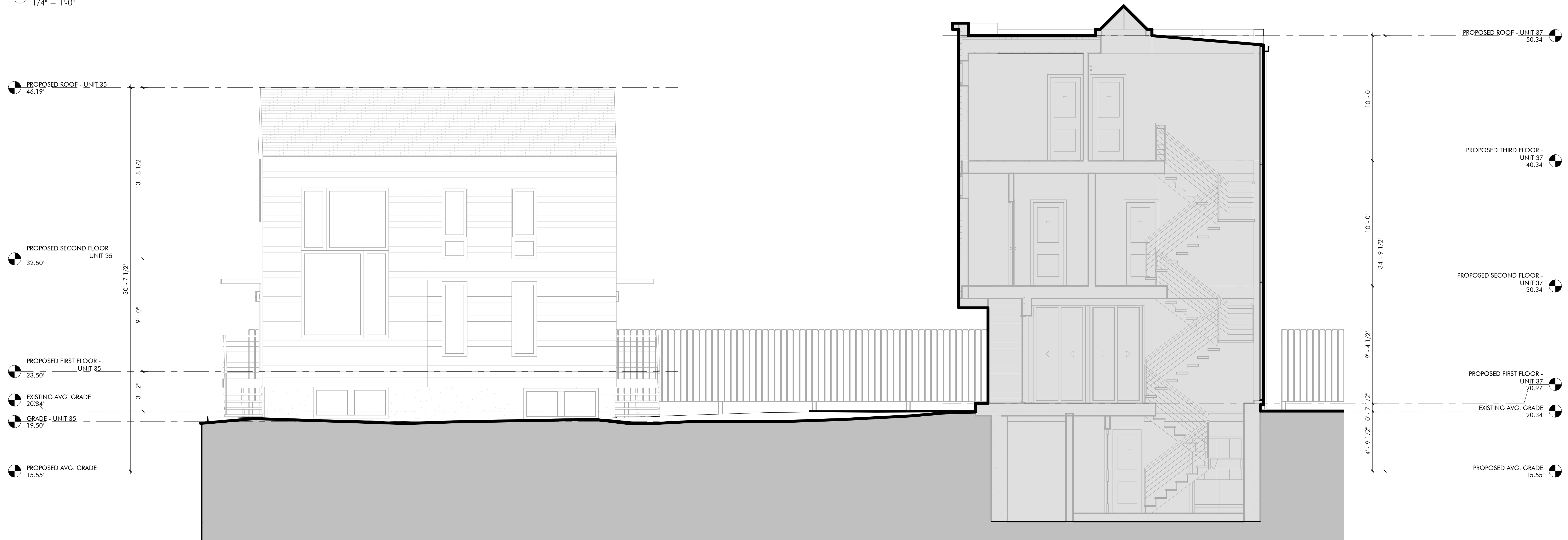
Project: 33,35 & 37 WEBSTER
Address: 35 WEBSTER AVENUE
CAMBRIDGE, MA 02141
Title: PROPOSED ELEVATIONS - UNIT 37

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

A2.3



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



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

SPECIAL PERMIT

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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.



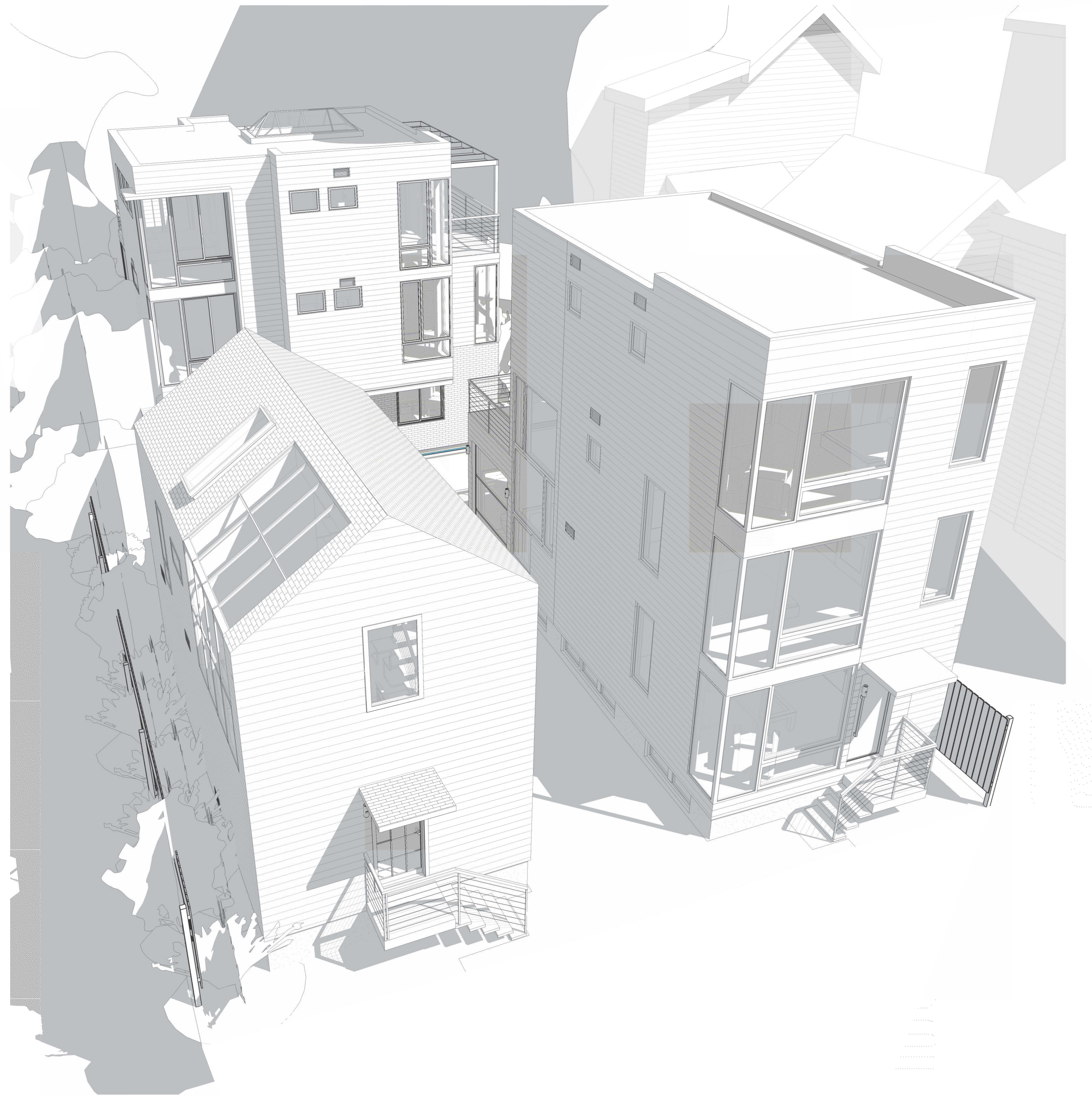
SPECIAL PERMIT

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.



SPECIAL PERMIT

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No.	Description	Date

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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:
Drawn by: **AR.S., R.B.**

A9.2

SPECIAL PERMIT

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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

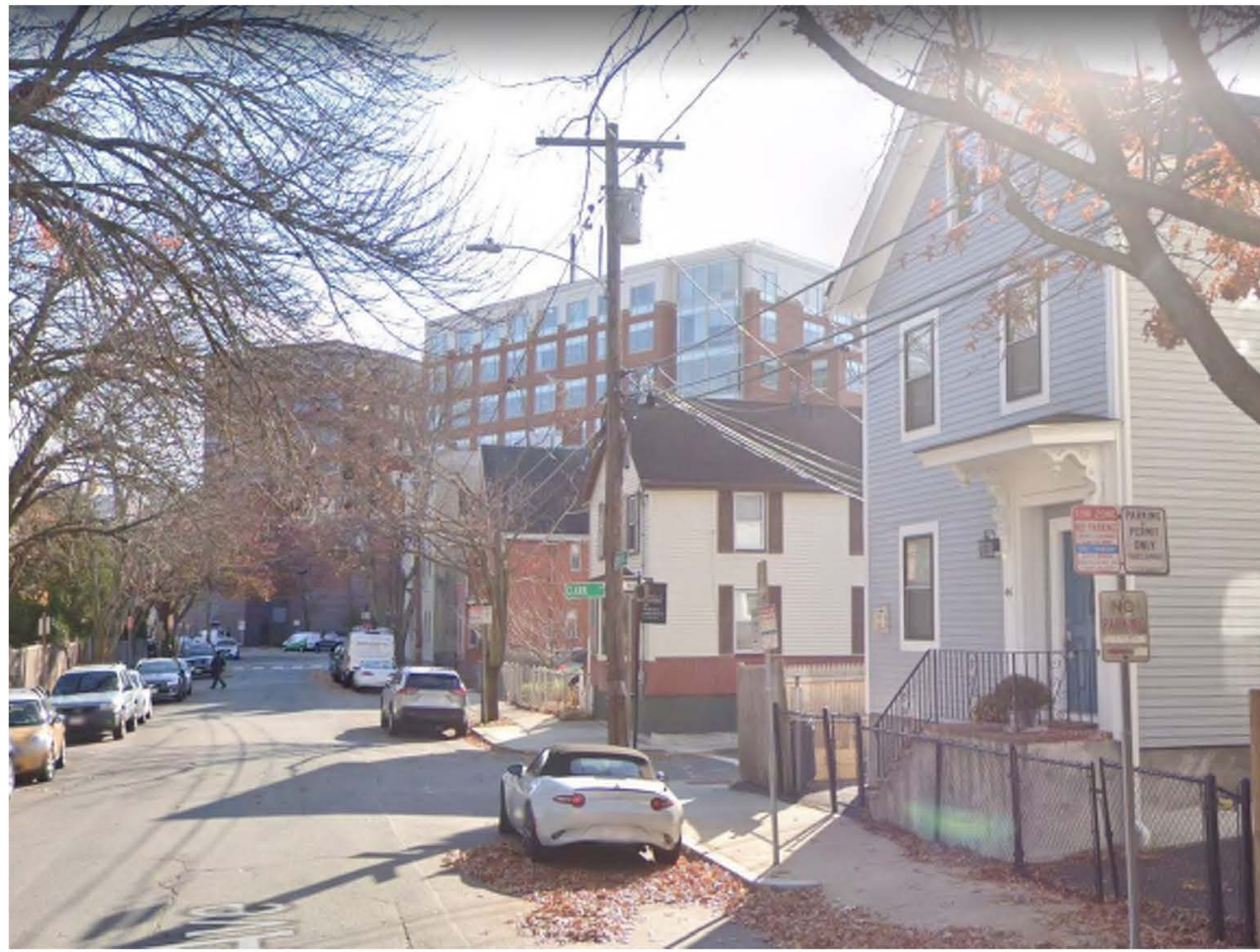
Project #:	2112	Drawn No.:	
Date:	11/24/2021	Scale:	A9.3
Drawn by:	AR.S.		

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

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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

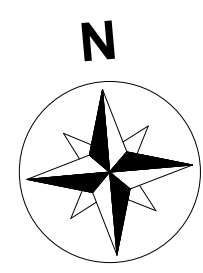
Project #: 2112 Drawn No.:

Date: 11/24/2021

Scale:

Drawn by: A.R.S.

A9.4



MORNING (7 AM)

NOON (12 PM)

AFTERNOON (5 PM)

SUMMER
SOLSTICE

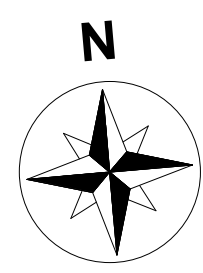


FALL
EQUINOX



WINTER
SOLSTICE





MORNING (7 AM)

NOON (12 PM)

AFTERNOON (5 PM)

SUMMER
SOLSTICE



FALL
EQUINOX



WINTER
SOLSTICE



Appealing decision from ISD Commissioner dated 3/17/2022 that Section 8.22.1.h.1 of the Zoning Ordinance applies only to those second story additions that consist of horizontal extensions only, and that the addition sought at 35 Webster Street proposing an addition to the second story that increases the height of the second story (but not the horizontal width) cannot be allowed by issuance of a building permit under Section 8.22.1.h.1.

Section 8.22.1 allows for "alterations, reconstructions, extensions, and enlargements of nonconforming structures which do not result in a use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent than the existing use, or which are undertaken to accommodate a new conforming use" upon the "issuance of a building permit by the Superintendent of Buildings." The proposed second story addition to the existing nonconforming single-family structure at 35 Webster meets these prerequisites for an "as of right" building permit pursuant to this Section 8.22.1. No change, extension or alteration of a nonconforming use is proposed.

Subsection 8.22.1.h allows for "the construction of a dormer or an addition to a nonconforming one- or two-family dwelling which will further violate the yard and height requirements of Article 5, but no other requirements of Article 5 including FAR" in two scenarios. The proposed project involves the construction of an addition to a nonconforming single-family dwelling which will further violate the yard requirements of Article 5 (in the sense that the addition will occur within the side yard setback) but will not violate any other requirements of Article 5 including both FAR and height.

Subsection 8.22.1.h.1 allows for construction of "an addition to the second story that does not extend horizontally beyond the vertical walls of the existing first story of the structure." The proposed project at 35 Webster is to construct a second story addition that does not extend horizontally beyond the vertical walls of the existing first story of the structure.

The term "addition" is not specifically defined in Article 2 of the Ordinance. However, the preamble of Article 2 states that "definitions set forth in the State Building Code are also applicable, where appropriate, with respect to words and terms not defined herein." The State Building Code incorporates by reference Chapter 2 of the 2015 International Building Code, which defines an "addition" as "[a]n extension or an increase in floor area or height" (emphasis added). The proposed addition to the single-family structure at 35 Webster is an increase in the height of the second story of the structure, whereby the roof height is increased in order to provide for additional code compliant habitable living area at the second story of the structure.

Article 2 of the Ordinance defines a "story" as "that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above." The existing second story of the structure currently has a low pitch roof with a maximum interior clear height of less than seven (7) feet at the peak. Although this second story contains existing living space and accounts for a Gross Floor Area of 246 sf, all of that GFA is less than seven feet in height and thus not meeting habitable room requirements of the State Building Code. The purpose of the addition in height is to create a State Building Code compliant full-height second story to the existing structure. The additional height proposed to the structure is not sufficient to create a third story to this structure now or in the future. The space under the pitch roof is open.

On this basis, we believe the proposed addition to the second floor fully conforms to the requirements of 8.22.1.h.1 and should be allowed by the issuance of a building permit. We are in agreement that any new or enlarged openings in the non-conforming yard would require an application for special permit as required by 8.22.2.d, and no such relief is requested at this time.

RE: 35 Webster - zoning ordinance interpretation



Singanayagam, Ranjit <ranjits@cambridgema.gov>
To: Dan Anderson

You forwarded this message on 3/17/2022 1:01 PM.

Good Morning Dan,

The Section 8.22.1.h.1 reads as follows:

"A dormer or addition to the second story that does not extend beyond the vertical walls of the first story of the structure"

ISD interpretation is that addition can be made horizontally as long as it does not extend beyond the vertical walls of first story and conforms to GFA.

If you have any questions, please call or email.

Thanks

Ranjit

From: Dan Anderson <dan@andersonporter.com>

Sent: Monday, March 14, 2022 11:58 AM

To: Singanayagam, Ranjit <ranjits@cambridgema.gov>

Cc: Pacheco, Maria <mpacheco@cambridgema.gov>

Subject: FW: 35 Webster - zoning ordinance interpretation

Good morning Ranjit;

I have been assuming that I need your written interpretation in order to submit an application for appeal.

If this is not necessary I will get an application prepared as soon as possible to get on the next BZA hearing agenda.

Can you please confirm and/or provide your interpretation of Article 8 Section 8.22.1 h. 1. ?

Best,

Dan

Daniel P. Anderson

AndersonPorterDesign

1972 Massachusetts Avenue, 4th Floor
Cambridge, MA 02140

o. 617 354 2501 ext. 111
m. 617 794 2371

www.andersonporter.com

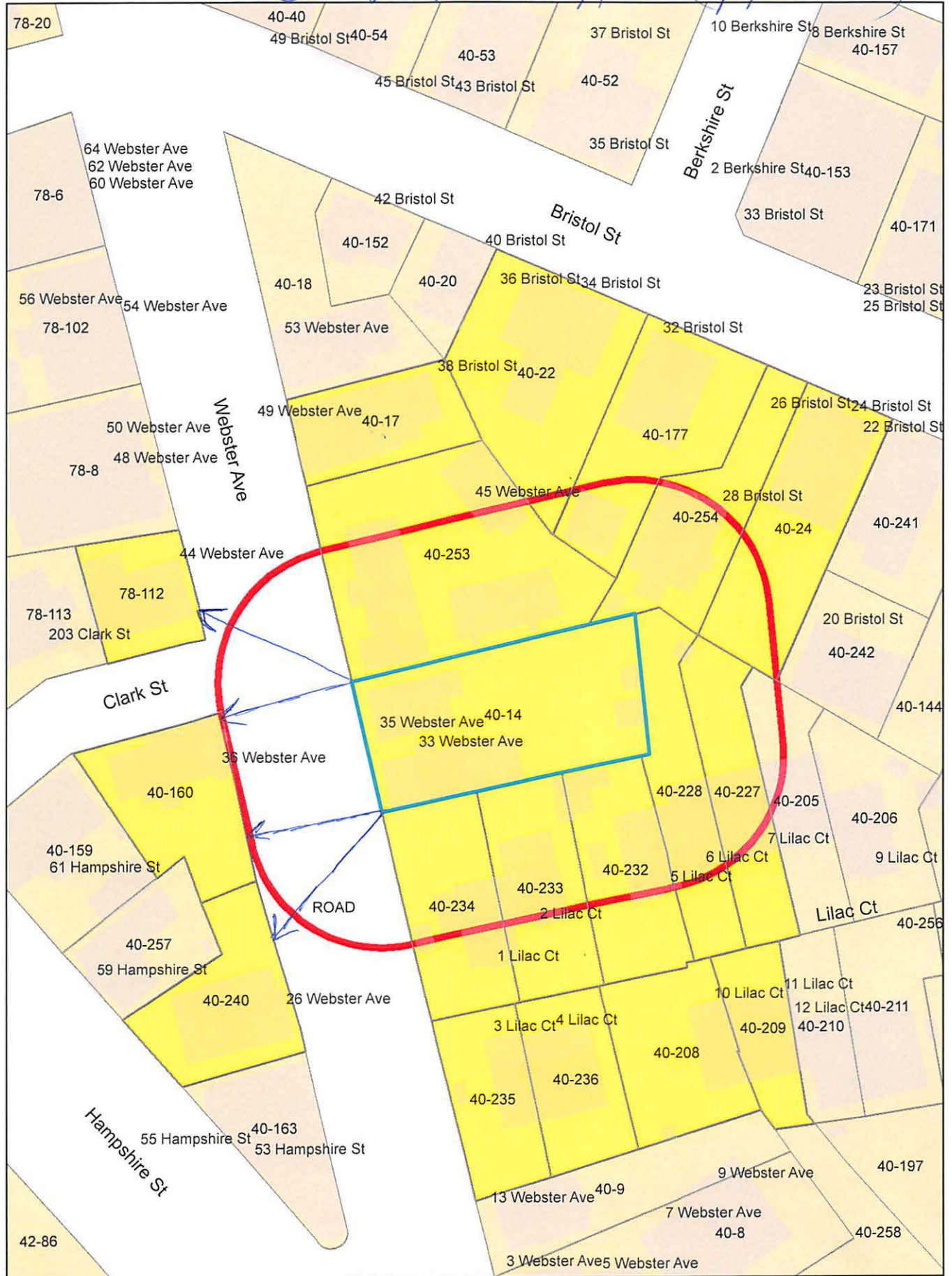


"Always design a thing by considering it in its larger context - a chair in a room, a room in a house, a house in an environment, an environment in a city plan."

Reply Reply All Forward

Thu 3/17/2022 11:39 AM

35 Webster Ave (Appeal)



35 Webster Ave

Petitioner

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Pacheco, Maria

From: Sarah Rhatigan <sarah@trilogylaw.com>
Sent: Wednesday, April 13, 2022 11:35 AM
To: Singanayagam, Ranjit
Cc: Pacheco, Maria; Parviz Parvizi; Dan Anderson; Adam Sitterly
Subject: 35 Webster Avenue, Cambridge - w/r/t BZA Appeal, Case No. 168852-2022
Attachments: Ltr to Mr. Singanayagam (4.13.22).pdf; 35 Webster Affidavit Executed - Gus Leddy.pdf

Hello Mr. Singanayagam —

Following up on our meeting the other day, we have some additional information and an affidavit that we would like to share with you about the history of the use of the second story of this house. Please see the attached Letter, Affidavit and photo (circa 1970).

Once you have had a chance to review, we would like the opportunity to meet with you to discuss sometime during the week of April 25th.

Thank you for your time and consideration,
-Sarah



April 13, 2022

Via Email and 1st Class Mail

Mr. Ranjit Singanayagam
Commissioner of Inspectional Services
City of Cambridge
831 Massachusetts Avenue
Cambridge, MA 02139

Re: BZA Case No. 168852, Appeal of Determination of ISD Commissioner re Interpretation of CZO Section 8.22.1.h.1 to Proposed Addition to 35 Webster Avenue, Cambridge, MA (the "Property")

Dear Mr. Singanayagam:

I am writing to provide you with information, including the enclosed Affidavit of a Prior Owner documenting the history of the use of this Property, as well as photo dated from 1970 from the Cambridge Historical Commission's files, which we believe may be relevant to this Appeal.

The Applicant has filed this Appeal to your determination that Section 8.22.1.h.1 of the Cambridge Zoning Ordinance should apply only to horizontal additions to a second story of a preexisting nonconforming structure; and your conclusion that this provision should not allow ("as of right") the proposed addition to 35 Webster Avenue that extends vertically the second level of this house. The Applicant is seeking to convert what is now a low-ceilinged second floor of the home to a full-height, State Sanitary Code compliant second floor.

When we met last week, you indicated a concern that the existing second floor may not legally be considered a "second story" (under 8.22.1.h.1) since the ceiling heights were lower than the State Building Code allows, rendering this area not legally "livable space." You also mentioned your concern about precedent if Section 8.22.1.h.1 were used by an applicant who wanted to convert an attic space (possibly illegally finished) or even a crawl space above a first floor to a full-height, two-story structure.

As we discussed, the Cambridge Zoning Ordinance's definition of a "story" does not require certain ceiling heights nor require habitability or code compliance. Article 2 of the Ordinance defines a "story" as "that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above."

Nonetheless, appreciating your concern, we investigated the history of the use of the second floor of this 1840's home in order to confirm that indeed it has been used as living and sleeping space for at least (and likely more than) 70 years.

The prior owner of 35 Webster Avenue – Mr. Augustine Leddy - provided us with an affidavit (attached here) describing the fascinating history of the use of the second floor of this home. Mr. Leddy describes that his seven-member family (parents and siblings) resided at 35 Webster Avenue from 1960 and, that during that time, he and his family slept in the two upstairs bedrooms (3 in each upstairs bedroom and his uncle on the first-floor couch). The family went on to purchase the property in 1971. From their initial residence through their purchase and up through the sale to Mr. Parviz Parvizi, the Applicant, Mr. Leddy states that the two bedrooms on the second story have continuously been used as sleeping and living space. Furthermore, Mr. Leddy's uncle had rented and lived at 35 Webster Avenue since the mid-1950's using the upstairs rooms as bedrooms.

The enclosed photo of the Property taken in 1970 shows the upstairs window had a curtain and blind, further supporting the conclusion that this floor was used as living space at the time. It is clear from the historical record that the second floor of this home has been used as sleeping and living space, albeit with lower-than-ideal ceiling heights, since at least the mid-1950s and quite likely before this time.

With this additional information, we hope that you will agree that this establishes that the structure indeed has two "stories," that the second floor constitutes legally preexisting nonconforming (as to the State Building Code), livable space, and further that the Applicant's proposed addition to extend the ceiling heights up to full-height should be allowed "as of right" pursuant to CZO Section 8.22.1.h.1.

This Appeal has been scheduled for a hearing on May 5th, 2022. We would be happy to meet with you to discuss this matter before the hearing in hopes that we can answer any questions you may have and hopefully reach a consensus.

Thank you very much for your consideration.

Sincerely,



Sarah Like Rhatigan, Esq.

Enclosures

CC (via email): Mr. Parviz Parvizi
Mr. Dan Anderson

AFFIDAVIT OF PRIOR OWNER

Re: 35 Webster Avenue, Cambridge, MA

I, Augustine (Gus) Leddy, do hereby state the following under oath:

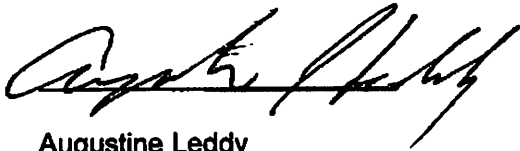
1. My family lived at 35 Webster Avenue when we immigrated to the United States from Ireland in 1960. My parents subsequently purchased 33-35 Webster Avenue in 1971. In 2006, my three siblings and I were added as owners of the property alongside our parents. In June 2021, my family sold 33-35 Webster Avenue to Parviz Parvizi.

2. When my family took up residence at 35 Webster Avenue in 1960, seven of us lived in the home. I, along with two of my siblings, slept in one of the bedrooms on the second story. My parents, along with a fourth sibling, slept in the second bedroom on the second story. My uncle slept on a couch in the living room on the first story.

3. Prior to our arrival in the United States in 1960, my uncle rented and lived in 35 Webster Avenue since the mid-1950s. My uncle used the two bedrooms on the second story as sleeping and living space. The second story and the bedrooms on it had been used in such a manner as sleeping and living space as far back as anyone could remember.

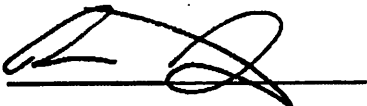
4. Since the mid-1950s through 2021 — a period that covered my uncle's time of residence in the mid-1950s, my family's initial residence in 1960, the 1971 purchase of the home by my parents, and the sale of the property in 2021 — the second story of 35 Webster Avenue has continuously been used as sleeping and living space with two bedrooms that each had their own entry doors off of the main second story hallway.

Executed under pains and penalties of perjury on April 6, 2022.



Augustine Leddy

Witness to the same:



Name: Nelson Dilloway

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

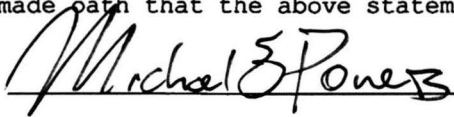
*Pursuant to a deed of duly recorded in the date _____, Middlesex South County Registry of Deeds at Book _____, Page _____; or Middlesex Registry District of Land Court, Certificate No. 276648
Book 1575 Page 61.


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.

Pacheco, Maria

From: Graham McMahon <grahammcmahon@hotmail.com>
Sent: Thursday, April 28, 2022 5:33 PM
To: Pacheco, Maria; Singanayagam, Ranjit
Subject: comments on BZA-168852: may 5th

Hi Maria and Ranjit,

Joe and I own 5 Lilac Ct which is contiguous with the 33-35 Webster project that is the subject of this upcoming appeal. We are substantially affected by Mr. Parviz's plan to extend the vertical height of the property at 35 Webster Ave. Allowing Mr. Parviz to add vertical height would not only establish new precedent in Cambridge, but also affect the neighbors access to light and privacy. The planned increased height of the structure would allow overlook into our gardens and living rooms in ways that would meaningfully disrupt all of us. We have been outspoken about our extensive objections to the current design of the property. The applicants appear to be resistant to the instruction to work with the neighbors to develop a property that fits within the surrounding structures without disruption. We hope the committee looks again at the extensive commentary the neighbors have already provided in written and verbal testimony before making a determination.

We also ask to be heard at the appeals meeting which several of us neighbors plan to join.

Graham

Pacheco, Maria

From: Yuliang Sun <yuliangleonsun@gmail.com>
Sent: Friday, April 29, 2022 4:31 PM
To: Pacheco, Maria
Subject: Public comment on BZA-168852

Dear Ms. Pacheco,

We are Zi Wang and Yuliang Sun, owners and residents at 6 Lilac Court. We are substantially affected by Mr. Parviz's plan to extend the vertical height of the property at 35 Webster Ave (BZA-168852). We write in support of the board's original determination to deny Mr. Parviz's plan and to uphold this decision in the upcoming May 5th appeals hearing.

Allowing Mr. Parviz to add vertical height would not only establish a consequential precedent in Cambridge, but also affect the neighbors' access to light and privacy. The planned increased height of the structure would allow overlook into our north-facing garden and living room in ways that would be intrusive to privacy and meaningfully disrupt the neighbors.

As concerned neighbors, we, as well as others in the lilac court/webster ave community have been outspoken about our extensive objections to the current design of the property. Unfortunately, the applicants appear to be resistant to the instruction to work with the neighbors to develop a property that fits within the surrounding structures without disruption. We hope the committee looks again at the extensive commentary the neighbors have already provided in written and verbal testimony across multiple hearings before making a determination.

Regards,

Yuliang Leon Sun
Zi Wang
Owners, 6 Lilac Court, Cambridge

Pacheco, Maria

From: Lin Yang <a519522@gmail.com>
Sent: Monday, May 2, 2022 11:04 AM
To: Pacheco, Maria; Ratay, Olivia; Singanayagam, Ranjit
Cc: Sixian You
Subject: Opposition letter for BZA-168852 (35 Webster Avenue)
Attachments: Third opposition letter for BZA-155115 (35 Webster Avenue).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-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.

Also, since the original hearing on 01/27/2022, the petitioners have not reached out to us to discuss their new plan nor address our concerns. 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

Third opposition letter for 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 the application.

The application BZA-168852 is 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.

Also, since the hearing on 01/27/2022, the petitioners have not reached out to us to discuss their new plan nor address our concerns.

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.

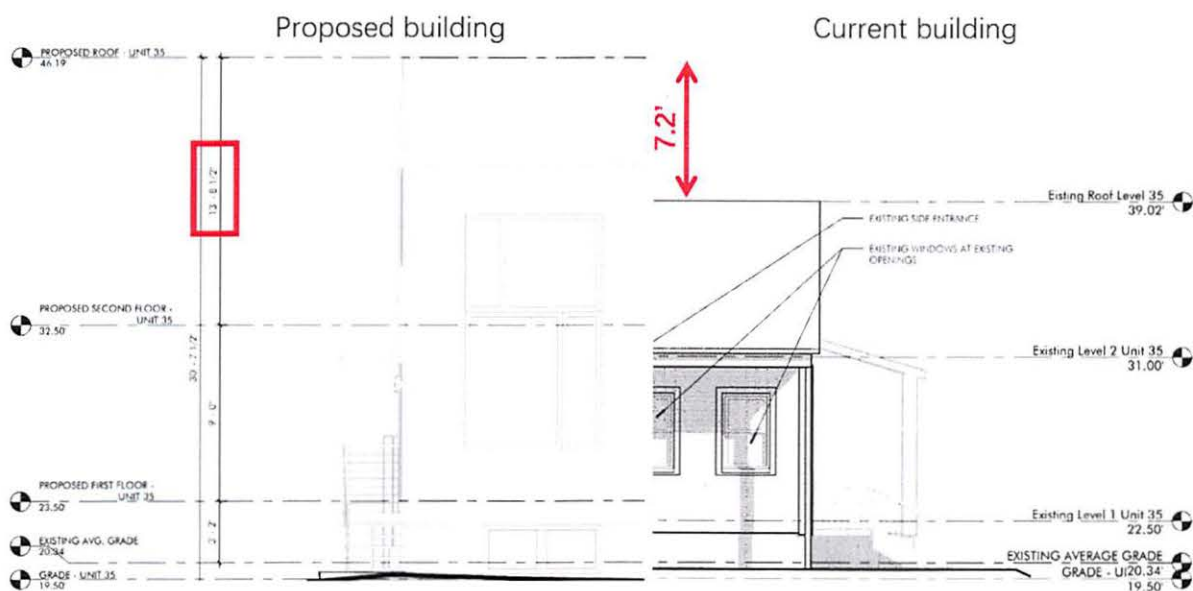
Set wrong precedent for the ordinance

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.

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.

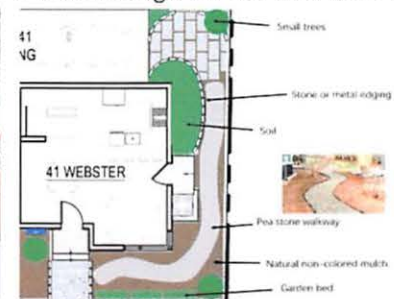
Yard:

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 said they are actively working with us.

We quote the applicants' statement from the original hearing "*We do have some opposition from new owners at number 41, and Parviz had tried to be as engaging on that front as possible.*" But in fact, we have not received a single communication from the applicants after the original hearing, despite our contacts being made available for them from our opposition letter from the original hearing.

(2) 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.

(3) 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)

