



Original Signature(s) :



(Petitioner(s) / Owner)

DUNCAN MACARTHUR

(Print Name)

Address : FOR BAKER POND LLC

67 SMITH PLACE 12A

Tel. No. : CAMBRIDGE MA 02138

617-864-2234

E-Mail Address : DMACARTHUR@MACCOCO.COM

OFFICE@MACCOCO.COM

Date : 8-12-2020

**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 BAKER POND LLC  
(OWNER)

Address: 67 SMITH PLACE CAMB. MA 02138 UNIT 12A

State that I/We own the property located at 362 BROADWAY CAMB MA  
which is the subject of this zoning application.

The record title of this property is in the name of BAKER POND LLC

\*Pursuant to a deed of duly recorded in the date 10/11/18, Middlesex South  
County Registry of Deeds at Book 13042, Page 440; or  
Middlesex Registry District of Land Court, Certificate No. \_\_\_\_\_  
Book \_\_\_\_\_ Page \_\_\_\_\_.

  
Manager Baker Pond LLC  
**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 Duncan Macarthur personally appeared before me,  
this 28 of March, 2019, and made oath that the above statement is true.

Mary Colt Navins Notary

My commission expires 02/03/2023 (Notary Seal).

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



MARY COLT NAVINS  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires  
February 3, 2023

**BZA APPLICATION FORM****DIMENSIONAL INFORMATION**

**APPLICANT:** MacArthur Construction Company      **PRESENT USE/OCCUPANCY:** Multi-Use

**LOCATION:** 362 Broadway Cambridge, MA      **ZONE:** Business A-1 Zone

**PHONE:** \_\_\_\_\_ **REQUESTED USE/OCCUPANCY:** Multi-Use

	<u>EXISTING CONDITIONS</u>	<u>REQUESTED CONDITIONS</u>	<u>ORDINANCE REQUIREMENTS</u> <sup>1</sup>	
<u>TOTAL GROSS FLOOR AREA:</u>	<u>2427</u>	<u>2677</u>	<u>1340/1005</u>	(max.)
<u>LOT AREA:</u>	<u>1340</u>	<u>1340</u>	<u>5000</u>	(min.)
<u>RATIO OF GROSS FLOOR AREA TO LOT AREA:</u> <sup>2</sup>	<u>1.81</u>	<u>1.98</u>	<u>1/0.75</u>	(max.)
<u>LOT AREA FOR EACH DWELLING UNIT:</u>	<u>1340</u>	<u>1340</u>	<u>1200/1500</u>	(min.)
<u>SIZE OF LOT:</u> <u>WIDTH</u>	<u>20</u>	<u>20</u>	<u>0/50</u>	(min.)
<u>DEPTH</u>	<u>0</u>	<u>0</u>	<u>0</u>	
<u>SETBACKS IN FEET:</u> <u>FRONT</u>	<u>0</u>	<u>0</u>	<u>10</u>	(min.)
<u>REAR</u>	<u>7.2</u>	<u>17</u>	<u>20</u>	(min.)
<u>LEFT SIDE</u>	<u>0.9</u>	<u>0.9</u>	<u>7'6"</u>	(min.)
<u>RIGHT SIDE</u>	<u>0</u>	<u>0</u>	<u>7'6"</u>	(min.)
<u>SIZE OF BLDG.:</u> <u>HEIGHT</u>	<u>30</u>	<u>31'3"</u>	<u>35</u>	(max.)
<u>LENGTH</u>	<u>50</u>	<u>50</u>	<u>n/a</u>	
<u>WIDTH</u>	<u>19'6"</u>	<u>19'6"</u>	<u>n/a</u>	
<u>RATIO OF USABLE OPEN SPACE TO LOT AREA:</u>	<u>0</u>	<u>0</u>	<u>0%/30%</u>	(min.)
<u>NO. OF DWELLING UNITS:</u>	<u>1 com/1 res</u>	<u>1 com/1/res</u>	<u>1</u>	(max.)
<u>NO. OF PARKING SPACES:</u>	<u>1</u>	<u>1</u>	<u>2</u>	(min./max)
<u>NO. OF LOADING AREAS:</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	(min.)
<u>DISTANCE TO NEAREST BLDG. ON SAME LOT:</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	(min.)

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

New building's use, look, and general size will mimic existing use, look, and size. Existing and future use will be commercial first floor and residential on upper two floors.

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'.

**BZA APPLICATION FORM**

**SUPPORTING STATEMENT FOR A VARIANCE**

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

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

*The dormer was previously approved, but it was discovered upon framing that it was incorrectly drawn and based on the floor plan we could not achieve the required head height on the interior stair, which becomes a building code issue. The hardship lies in that reconfiguring the floor plan with the dormer as approved would make the floor space unusable for the owner's needs. In order to keep the stairs on the exterior wall as drawn, the dormer needs to extend to meet the face of the building on the east side.*

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

*The hardship created by the relationship of the structure to the lot (lot-line-to-lot-line construction) affects this building only and is not a neighborhood-wide or zoning district issue.*

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

**1) Substantial detriment to the public good for the following reasons:**

*The alteration of the dormer does not change the building's relationship to its environment, and will create no detriment to the public good.*

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

*Granting the petitioner's application will neither nullify nor derogate from the intent of the Ordinance, and allows for building code compliance.*

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

## **BZA APPLICATION FORM**

### **SUPPORTING STATEMENT FOR A SPECIAL PERMIT**

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

**Granting the Special Permit requested for 362 Broadway Cambridge, MA (location) would not be a detriment to the public interest because:**

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

The Ordinance is designed to regulate changes to existing buildings or uses and the construction of new buildings or uses. Here, the requested changes are designed to allow for the general replication of the original structure without creating any added burdens to the neighborhood or to the abutters. We have since discovered two windows were in the original structure that had been covered over, which we would like to recreate. The windows in the dormer were previously approved, but now will be non-conforming as the dormer has extended to the building edge, which needs additional approval, but will not cause any detriment to the neighborhood.

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

Same answer as part (A)

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

Same answer as part (A)

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

Same answer as part (A)

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

Same answer as part (A)



362 Broadway

Petitioner

108-3  
360 BROADWAY LLC,  
358 BROADWAY  
CAMBRIDGE, MA 02139

108-92  
CORCORAN, SUSAN  
356 BROADWAY  
CAMBRIDGE, MA 02139

MACARTHUR CONSTRUCTION COMPANY  
C/O DUNCAN MACARTHUR  
67 SMITH PLACE - # 12-A  
CAMBRIDGE, MA 02138

108-55  
O'DONNELL, PATRICIO &  
MARINA UMASCHI BERS  
7 BROADWAY TER., #1  
CAMBRIDGE, MA 02139

108-55  
ZEIDEL, REBECCA & BENJAMIN S. TOWBIN  
7 BROADWAY TER., #2  
CAMBRIDGE, MA 02139

108-91  
WATZMAN, SUZANNE, TRUSTEE  
25 INMAN PL  
CAMBRIDGE, MA 02139

108-70  
BAKER POND LLC  
67 SMITH PLACE 12-A  
CAMBRIDGE, MA 02138

108-55  
MINIKEL, ERIC SONIA MINIKEL VALLABH  
7 BROADWAY TERR, UNIT 3  
CAMBRIDGE, MA 02139

108-90  
BROADWAY REPRIS LLC,  
358 BROADWAY  
CAMBRIDGE, MA 02139

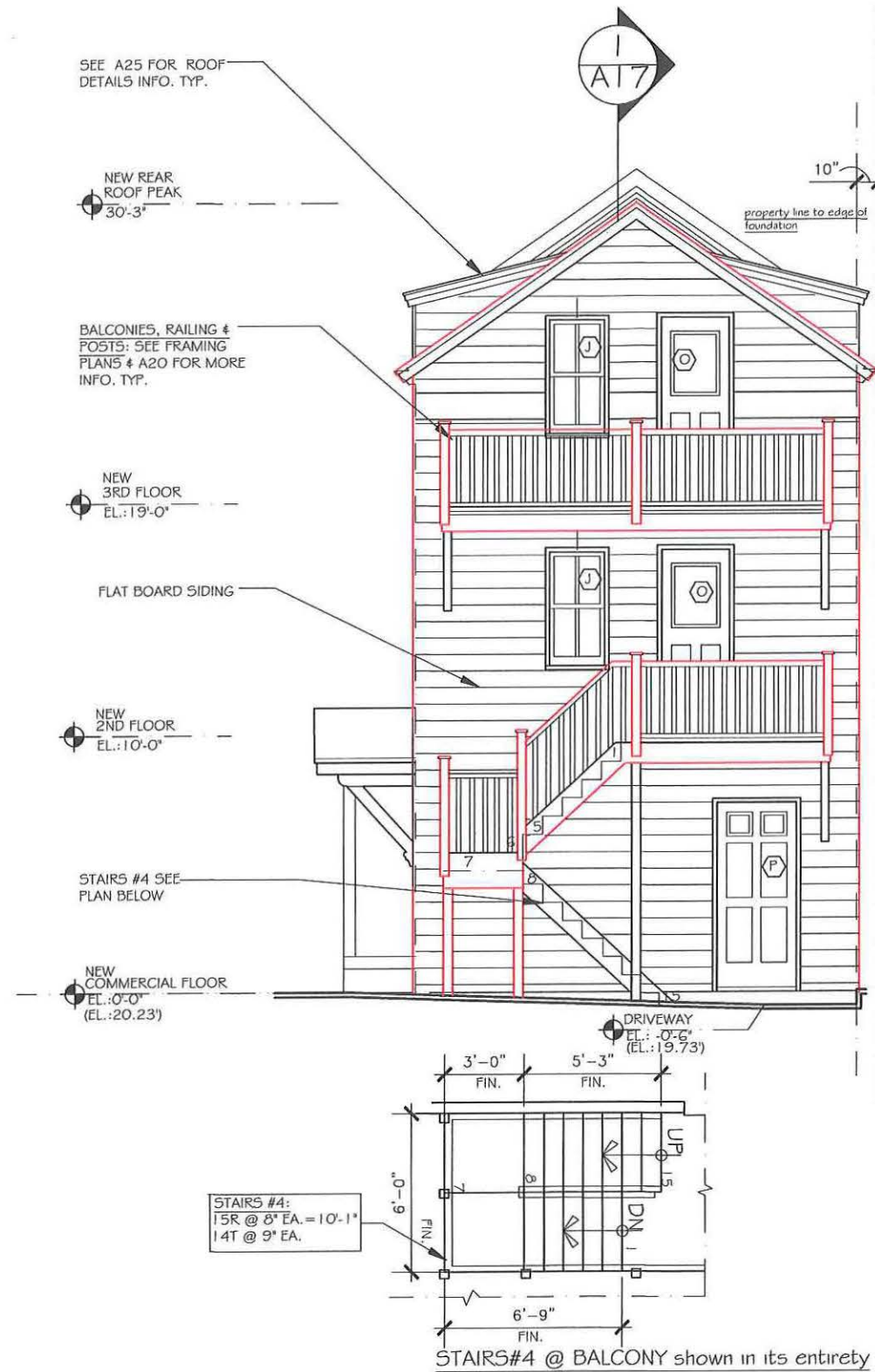
108-90  
TZELNIC, MORI & PERCY TZELNIC  
156 UPLAND RD  
CONCORD, MA 01742

108-54  
7 BROADWAY TERRACE LLC,  
305 HARVARD ST  
CAMBRIDGE, MA 02139

114-130  
CAMBRIDGE CITY OF SCHOOL DEPT  
159 THORNDIKE ST  
CAMBRIDGE, MA 02141

114-130  
CITY OF CAMBRIDGE  
C/O LOUIE DEPASQUALE  
CITY MANAGER

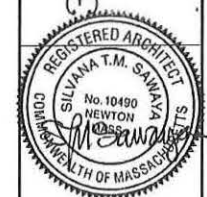
114-130  
CITY OF CAMBRIDGE  
C/O NANCY GLOWA  
CITY SOLICITOR



1 Rear Elevation (South)  
SCALE: 1/4" = 1'-0"

9 REV.4/2/20  
7 REV.4/2/20  
6 REV.3/29/20  
5 REV.3/25/20  
2 REV.3/5/20

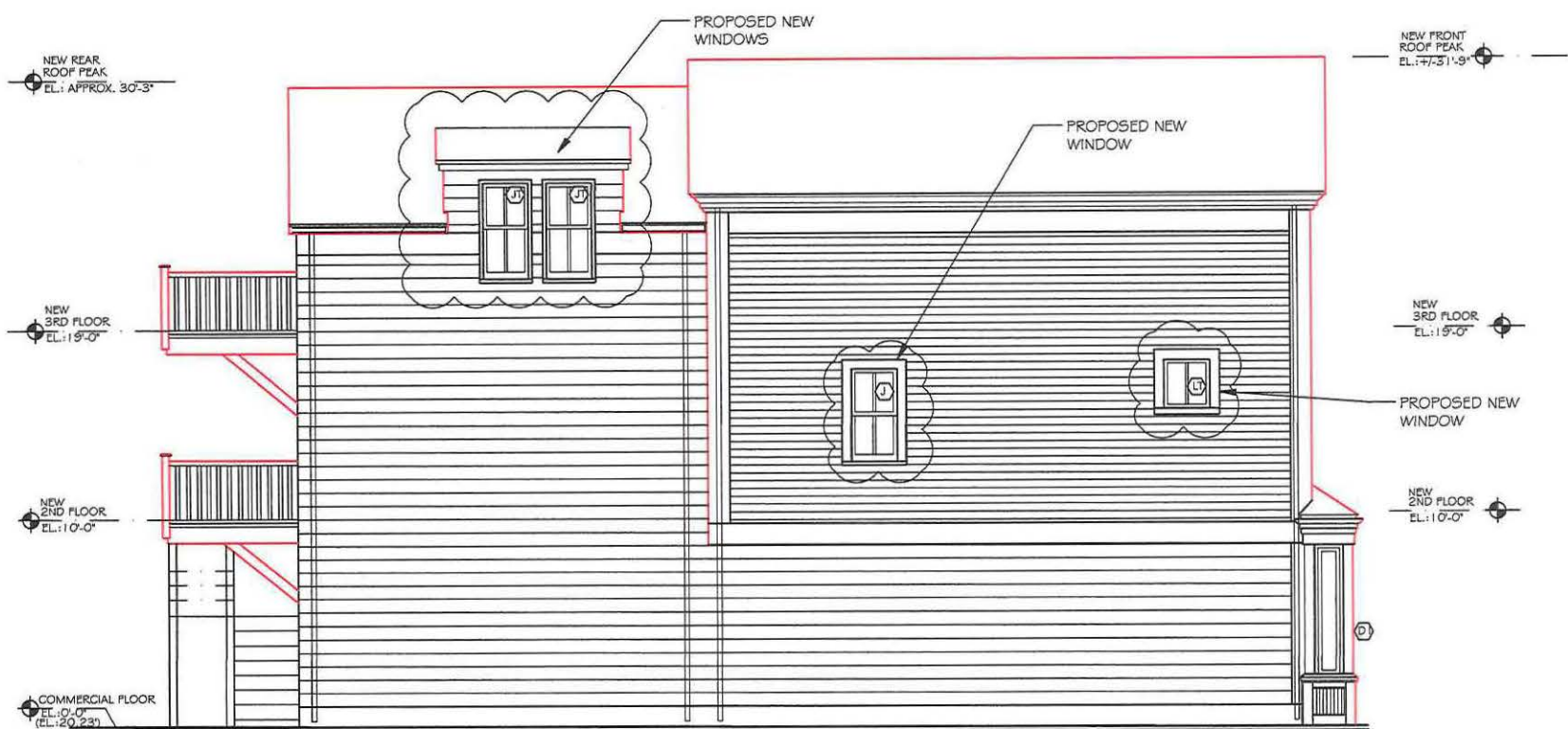
362 BROADWAY STREET  
CAMBRIDGE, MA



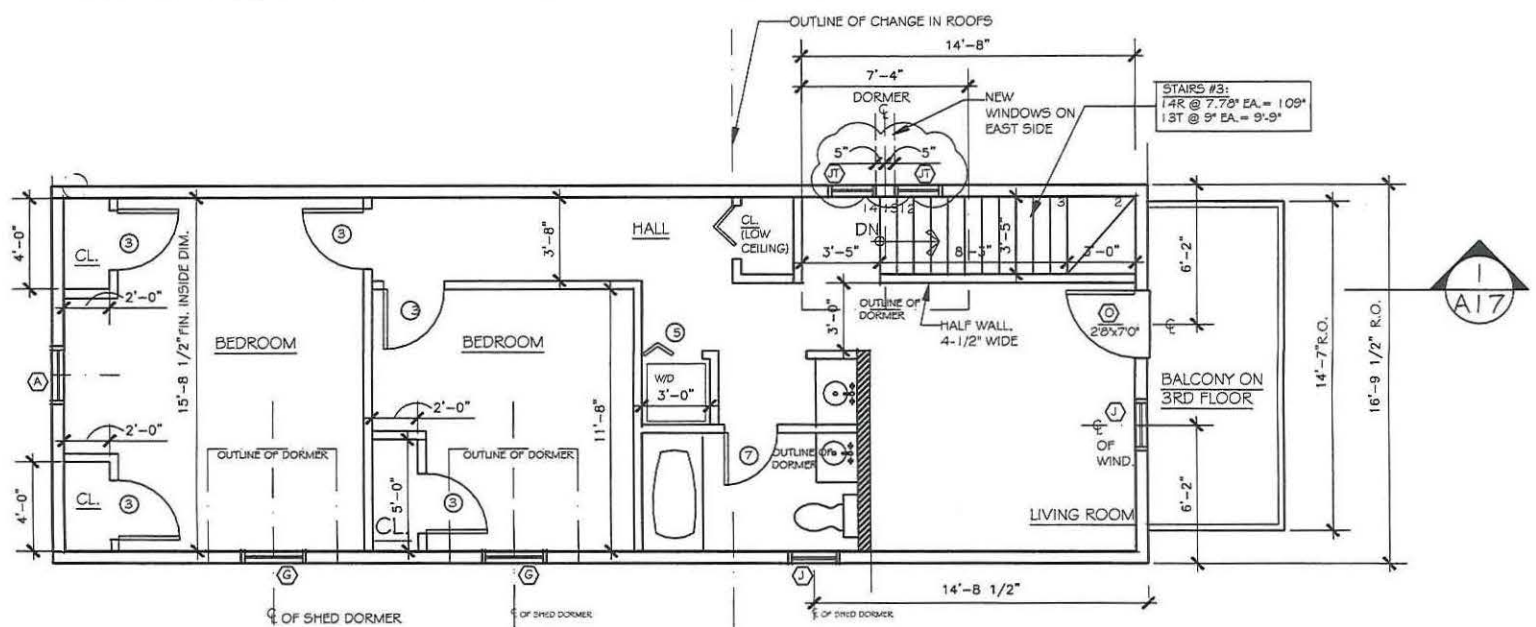
South Elevation  
Scale: 1/4" = 1'-0"  
Date: 04.17.20  
362Broadwayplans.dwg

Silvana Sawaya Architect  
1839 Washington Street  
Newton, MA 02466 tel: 617.967.1487

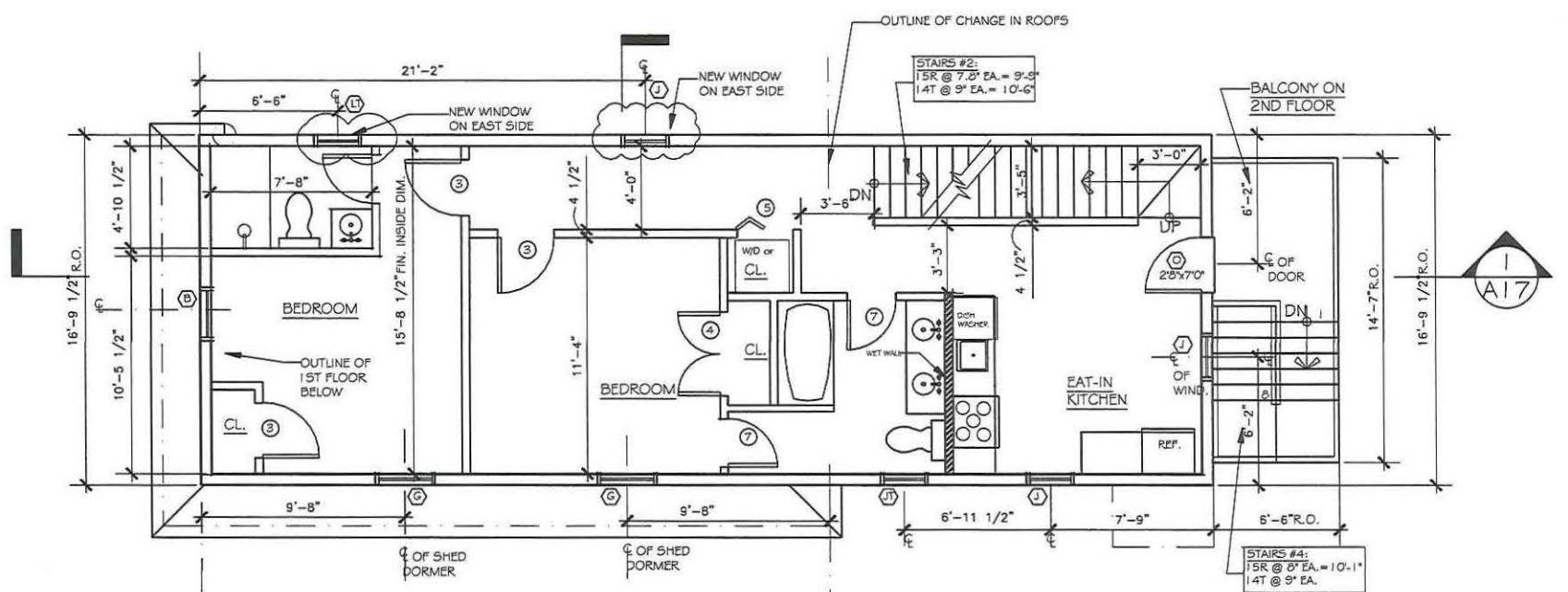
A13



EAST ELEVATION W/ PROPOSED NEW WINDOWS



THIRD FLOOR PLAN - PROPOSED WINDOWS IN BUBBLES

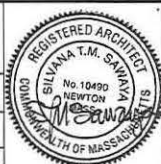


SECOND FLOOR PLAN - PROPOSED WINDOWS IN BUBBLES

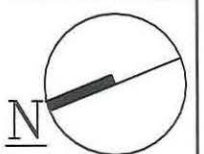
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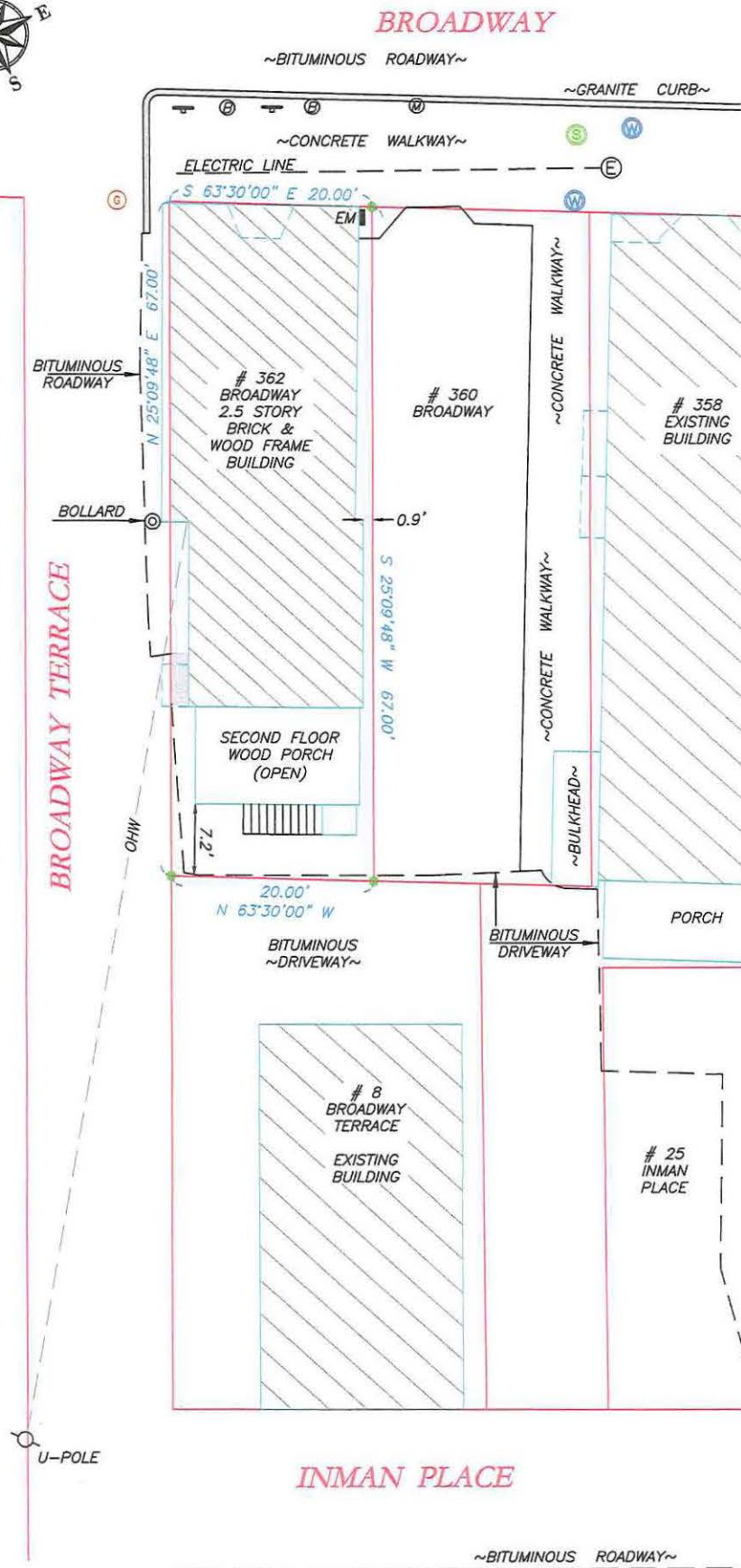
Silvana Sawaya Architect  
1839 Washington Street  
Newton, MA 02466 tel:617.967.14.87

East Elevation  
Windows  
Scale: 3/16" = 1'-0"  
Date: 04/17/20  
362Broadwayplans.dwg



362 BROADWAY  
CAMBRIDGE, MA





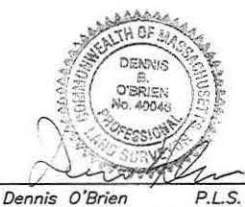
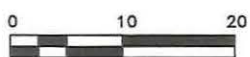
NOTES:

ALL OFFSETS & DIMENSIONS ARE TO THE SIDING UNLESS OTHERWISE NOTED.

GM=GAS METER  
EM=ELECTRIC METER  
OHW=OVERHEAD WIRES  
WB=WALKOUT BASEMENT

LEGEND:

- = IRON ROD & CAP - SET
- W = WATER GATE
- S = SEWER MANHOLE
- E = ELECTRIC MANHOLE
- B = BIKE LOCK POLE
- = SIGN
- G = GAS GATE
- M = PARKING METER



PLAN SHOWING EXISTING CONDITIONS 362 BROADWAY CAMBRIDGE, MA MIDDLESEX COUNTY				
SCALE: 1:10	DATE: 3/5/2019	REVISED: ---	DRAWN BY: W.M.N.	CHECKED BY: D.O.

362 Broadway  
Current/  
Proposed  
Structure





MACARTHUR  
CONSTRUCTION  
COMPANY, INC.

617 864 2234

www.maccoco.com



Co  
Co

617 864 2234

www













25



CITY OF CAMBRIDGE  
MASSACHUSETTS  
BOARD OF ZONING APPEAL  
831 MASSACHUSETTS AVENUE  
CAMBRIDGE, MA 02139  
617 349-6100



2019 00134351

Bk: 73236 Pg: 116 Doc: DECIS

Page: 1 of 5 09/05/2019 03:14 PM

July 24, 2019

Baker Pond LLC - C/O Duncan MacArthur  
67 Smith Place 12-A  
Cambridge MA, 02138

Case No: BZA-017108-2019

Dear Duncan MacArthur

We enclose the decision of the Board of Zoning Appeal as it pertains to the premises located at  
**362 Broadway Cambridge, MA**

A copy of this decision has been filed with office of the City Clerk, this date. When twenty days have passed you MUST:

1. HAVE THIS DECISION COMPLETED AND SIGNED BY THE CITY CLERK, CITY HALL -  
795 Mass Avenue, Cambridge, Ma. (In the space provide on the decision)
  2. FILE THE DECISION WITH THE REGISTRY OF DEEDS  
Middlesex County Courthouse, 208 Cambridge Street, Cambridge, MA. (There is usually a  
fee, payable to the Registry of Deeds and the book and page number is required by the Registry).
  3. SUPPLY THE BOARD OF ZONING APPEAL WITH DOCUMENTATION OF SUCH  
FILING - (with the Registry of Deeds).
- THE DIVISION OF INSPECTIONAL SERVICES WILL NOT ISSUE BUILDING PERMITS
  - UNLESS THE ABOVE ITEMS HAVE BEEN COMPLETED.

BK-71737  
PG-34

Any person aggrieved by a decision of the Board of Zoning Appeal may appeal to the Superior Court or Land Court.  
Appeals, if any, shall be made pursuant to Section 17, Chapter 40A, Massachusetts General Laws and shall be filed within  
twenty days of the above date, and a copy thereof shall be filed with the Cambridge City Clerk's office by that same date.

If you have any questions, please phone me at 349-6100.

Sincerely yours,

Maria L. Pacheco  
Secretary

Section 10.35 of the Zoning Ordinances:

If the rights authorized by a variance are not exercised within one year of the date of granting of such variance (two years  
for a special permit), they shall lapse and may be reestablished only after notice and new hearing pursuant to this Section  
10.30.



CITY OF CAMBRIDGE  
MASSACHUSETTS  
BOARD OF ZONING APPEAL  
831 MASSACHUSETTS AVENUE  
CAMBRIDGE, MA 02139  
617 349-6100

019 JUL 24 PM 2:50

CASE NO: BZA-017108-2019 Business A-1 Zone

LOCATION: 362 Broadway  
Cambridge, MA

PETITIONER: Baker Pond LLC - C/O Duncan MacArthur

PETITION: Variance: To raze existing structure and rebuild to match existing with minor modifications; add three small dormers and reduce rear decks with insufficient parking and park 1 space within the front yard setback.

Special Permit: Setbacks for parking and excavation of basement.

**VIOLATION :**

Article 5.000	Section 5.31 (Table of Dimensional Requirements).
Article 6.000	Section 6.36 (Parking Requirements).
Article 6.000	Section 6.44.1.C (Front Yard Parking).
Article 6.000	Section 6.44.1.G (Special Permit for Setbacks).
Article 2.000	Section 2.16 (Excavate Basement).

DATE OF PUBLIC NOTICE: May 30, 2019 and June 06, 2019

DATE OF PUBLIC HEARING: June 13, 2019;

**MEMBERS OF THE BOARD:**

CONSTANTINE ALEXANDER - CHAIR  
BRENDAN SULLIVAN - VICE-CHAIR  
JANET O. GREEN  
ANDREA A. HICKEY

✓  
✓  
✓  
✓

**ASSOCIATE MEMBERS:**

SLATER W. ANDERSON  
ALISON HAMMER  
JIM MONTEVERDE  
LAURA WERNICK

✓  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Case No. BZA-017108-2019  
Location: 362 Broadway  
Petitioner: Baker Pond LLC – c/o Duncan MacArthur

On June 13, 2019, Petitioner Duncan MacArthur appeared before the Board of Zoning Appeal with his architect Silvana Sawaya requesting a variance in order to raze and rebuild the existing structure with minor modifications including adding three small dormers, reducing rear decks, providing insufficient parking, and parking one space within the front yard setback and a special permit in order to park in the setbacks and excavate the basement. The Petitioner requested relief from Article 5, Section 5.31, and Article 6, Sections 6.36, 6.44.1.C&G of the Cambridge Zoning Ordinance (“Ordinance”). The Petitioner submitted materials in support of the application including information about the project, plans, and photographs.

Mr. MacArthur stated that the structure consisted of a residential unit over a commercial unit and sat in a business zone on a corner lot. He stated that the building suffered extensive damage and structural deficiencies. He stated that the proposal was to rebuild the structure with minor modifications in order to correct for the structural deficiencies as well as architecturally incorrect additions, which had been added to the original structure. He stated that the proposal had received a Certificate of Appropriateness from the Historical Commission. He stated that he needed relief for FAR, setback, basement GFA, and parking setback relief. He stated that the basement GFA exemption would allow for commercial storage space, which would support the character of the business district. He stated that the parking front yard setback relief was needed due to the hardship of having two front yards.

Neighbors spoke in support of the proposal.

After discussion, the Chair moved that the Board make the following findings based upon the application materials submitted and all evidence before the Board and that based upon the findings the Board grant the requested relief as described in the Petitioner’s submitted materials and the evidence before the Board: that the Board find that a literal enforcement of the provision of the Ordinance would involve a substantial hardship; that the Board find that the hardship related to the old building being in very poor condition; that the Board find that reconstruction was essential in order to preserve the appearance of the building, which the City desired; that the Board find that the hardship owed to conditions relating to the nature of the structure, which could only be made useable by variance; that the Board find that desirable relief could be granted without substantial detriment to the public good or nullifying or substantially derogating from the intent or purpose of the Ordinance; that the Board find that there was no detriment to the public good, but rather a benefit to the public good, because the proposed building would renew a commercial and residential space in a building that could no longer be used for that purpose.

The Chair further moved that the Board specifically find that based upon all the information presented, there are circumstances involving a substantial hardship relating to this property within the meaning of M.G.L. c. 40A § 10 and that the Board grant the variance in order to raze and rebuild the existing structure with minor modifications including adding three small dormers, reducing rear decks, providing insufficient parking, and parking one space within the front yard setback on the condition that the work proceed in accordance with plans prepared by Silvana Sawaya, Architect, dated 04/29/19, as initialed by the Chair at the hearing of June 13, 2019.

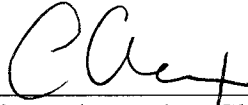
The five-member Board voted unanimously in favor of granting the variance as conditioned (Alexander, Sullivan, Anderson, Monteverde, and Hammer). Therefore, the variance is granted as conditioned.

After discussion, the Chair moved that the Board make the following findings based upon the application materials submitted and all evidence before the Board and that based upon the findings the Board grant the requested relief as described in the Petitioner's submitted materials and the evidence before the Board: that the Board find that the requirements of the Ordinance could not be met without the special permit; that the Board find that traffic generated or patterns of access or egress resulting from what was proposed would not cause congestion, hazard, or substantial change in established neighborhood character; that the Board find that the use of the building was going to continue as it was before, being one residential unit and one commercial unit, just in a newer and better building; that the Board find that the continued operation or development of adjacent uses as permitted in the Ordinance would not be adversely affected by what was proposed; that the Board note the testimony from people in the neighborhood in support of the relief sought; that the Board find that no nuisance or hazard would be created to the detriment of the health, safety and/or welfare of the occupants of the use or the citizens of the City; that the Board find that generally what was proposed would not impair the integrity of the district or adjoining district, or otherwise derogate the intent and purpose of the Ordinance.

The Chair further moved that based upon all the information presented the Board grant the requested relief as described in the Petitioner's submitted materials and the evidence before the Board on the condition that the work proceed in accordance with the plans referred to with regard to the above variance.

The five-member Board voted unanimously in favor of granting the special permit with the above condition (Alexander, Sullivan, Green, Hickey, and Anderson). Therefore, the special permit is granted as conditioned.

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

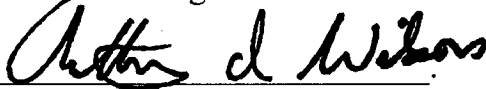


Constantine Alexander, Chair

Attest: A true and correct copy of decision filed with the offices of the City Clerk and Planning Board on 7-24-19 by Maria J. Pollock, Clerk.

Twenty days have elapsed since the filing of this decision.

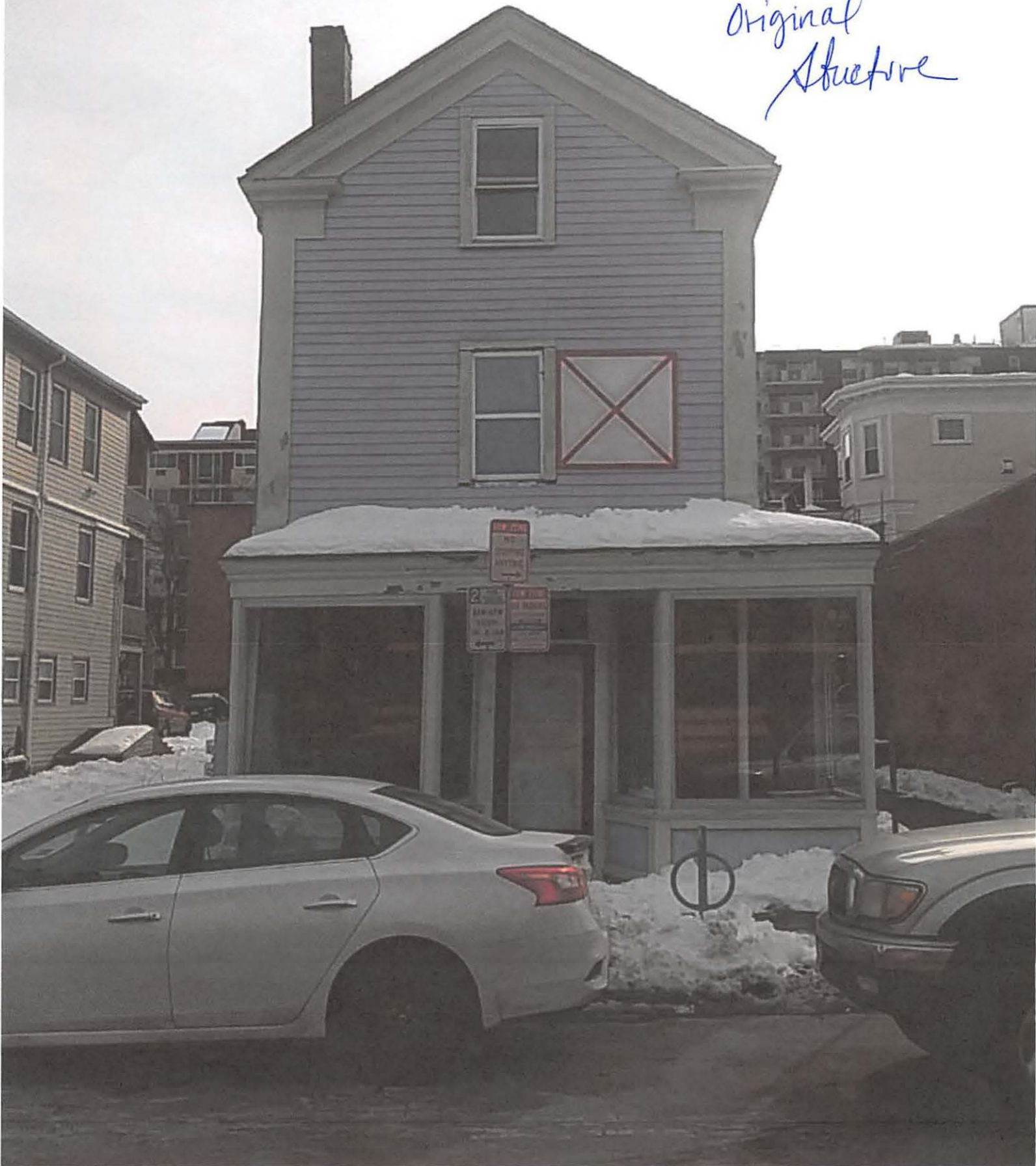
No appeal has been filed



Appeal has been filed and dismissed or denied.

Date: 09-03-2019 \_\_\_\_\_ City Clerk.

362 Broadway  
original  
structure

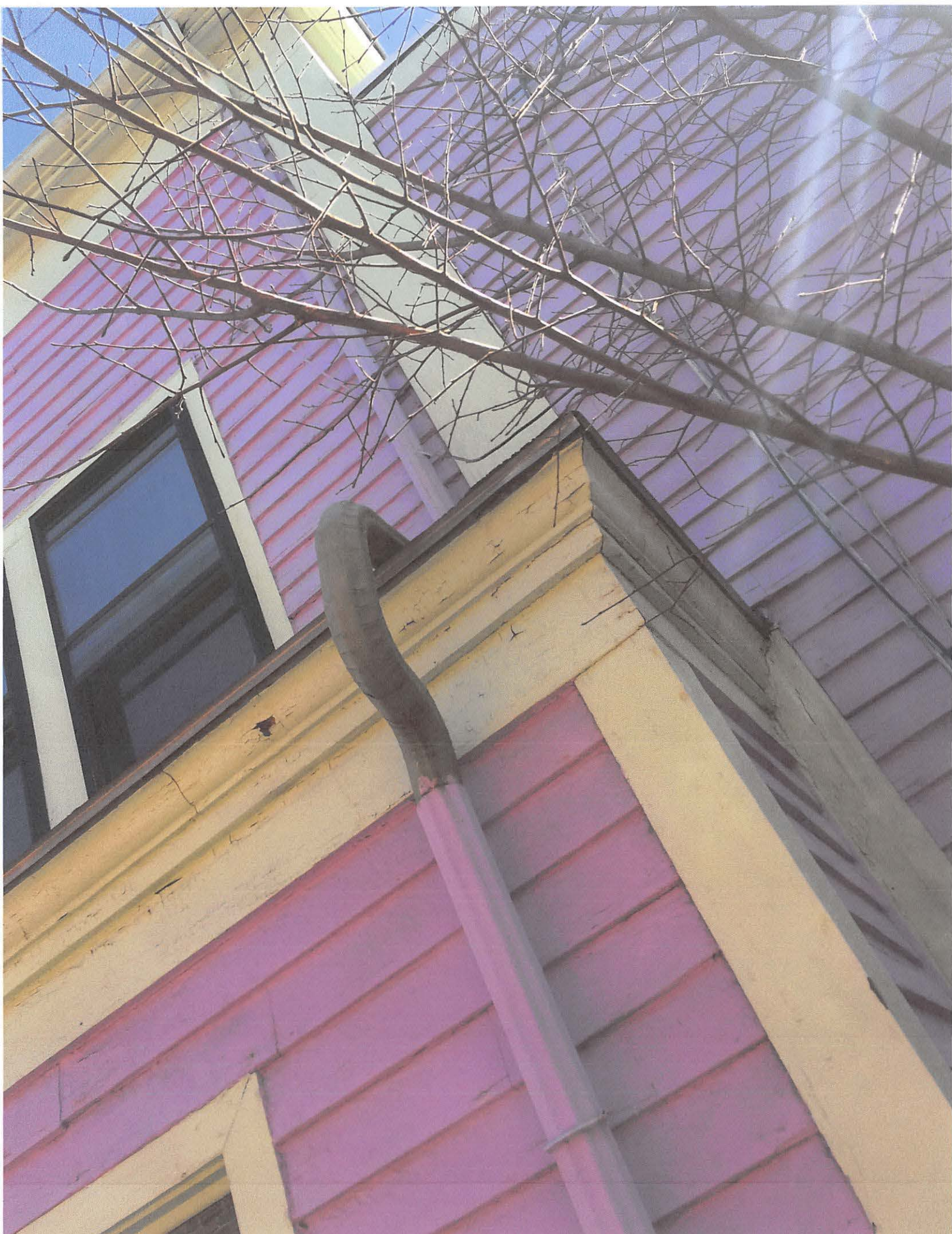












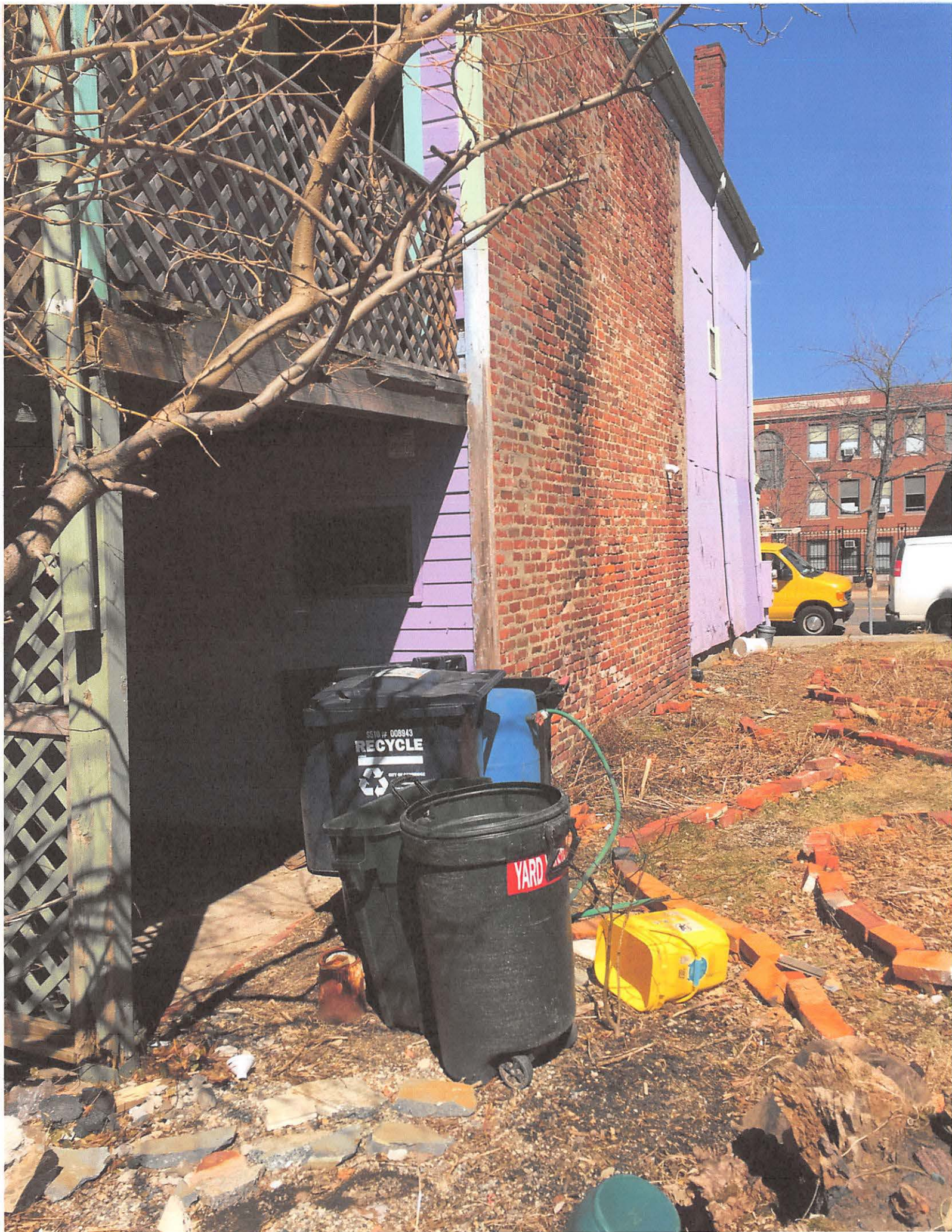


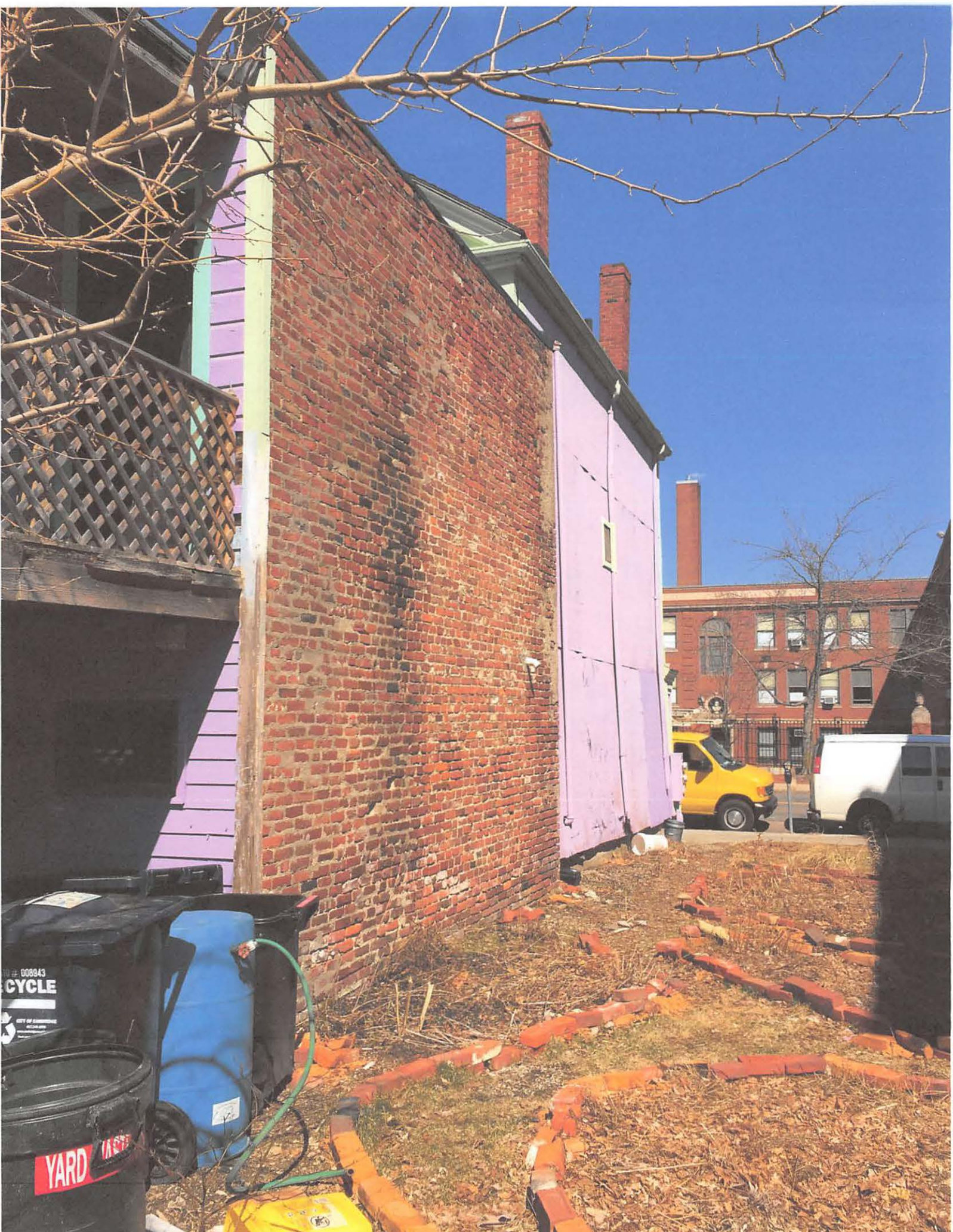












10 # 008943  
CYCLE  
CITY OF CHICAGO  
WASTE

YARD

