



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

Plan No: BZA-017307-2020

BZA APPLICATION FORM

GENERAL INFORMATION

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

Special Permit : √ **Variance :** √ **Appeal :**

PETITIONER : Baker Pond LLC - C/O Duncan MacArthur

PETITIONER'S ADDRESS : 67 Smith Place #12-A Cambridge, MA 02138

LOCATION OF PROPERTY : 362 Broadway Cambridge, MA

TYPE OF OCCUPANCY : **ZONING DISTRICT :** Business A-1 Zone

REASON FOR PETITION :

Dormer

DESCRIPTION OF PETITIONER'S PROPOSAL :

We are seeking to make an amendment to BZA-017108-2019.

Firstly, we need to move the recessed dormer on the east elevation out to align with the outside wall to accommodate the stairs. During construction, we discovered a head height issue on the stairs as previously designed. Without moving the dormer out, we cannot achieve the required head height to meet code.

Secondly, there were existing windows on the original house on the east elevation on the second floor. We have since found out that it is possible to put dry sprinkler heads in that location, and as such we would like to add those windows back in. We would also like to maintain the windows that we had approved in the recessed dormer that is now being pushed out to the exterior wall, as stated above, which can also be covered by dry sprinkler heads.

Lastly, we would like to add two windows on the south side of the building, one each on the second and third floors.

SECTIONS OF ZONING ORDINANCE CITED :

Article 5.000 Section 5.31 (Table of Dimensional Requirements).

Article 8.000 Section 8.22.2.C (Non-Conforming Structure).

Article 10.000 Section 10.30 (Variance).

Article 10.000 Section 10.40 (Special Permit).

Original Signature(s) :



(Petitioner(s) / Owner)

DUNCAN MACARTHUR

(Print Name)

FOR BAKER POWD LLC

Address :

67 SMITH PLACE 12A

CAMBRIDGE MA 02138

Tel. No. :

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 12 A

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, common law or Massachusetts deed, 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> ¹	
<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> ²	<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)

Pacheco, Maria

From: Mike Witt <mikewittdesign@yahoo.com>
Sent: Thursday, September 24, 2020 3:47 PM
To: Pacheco, Maria
Subject: submittal for case # BZA-017307-2020
Attachments: Mike Witt submittal Zoning hearing BZA-017307-2020.pdf

Maria,
Thank you for letting me get to this to you so late.

Kind regards,
Mike

358 Broadway
Cambridge, MA02139

p 617-338-9097
c 617-755-3581

Submitted by Mike Witt 358 Broadway, Cambridge, MA 02139 617-755-3581

Hello,

I'm submitting these photos to show that there were no existing windows on 360 side of the original house at 362 Broadway. I am an abutter and own the property at 360. I'm against moving the newly added recessed dormer if it contains windows. And I'm also against granting a special permit to allow windows. I'm am planning to build a home on the 360 lot which has quite a few constraints. The addition of windows, where there were none previously, would significantly constrain what I'm allowed to build. I point to what I believe is an applicable zoning ordinance, see below. I believe the new owners also could raise the issue of "Privacy" if windows are allowed. I have had several conversations with Duncan MacArthur prior to and after the original zoning hearing relaying that we were planning on building a home at 360 and would not support the addition of windows.

I unsure of the protocols for the virtual hearings so I have submitted my objections in writing but will also be attending the virtual meeting. Thank you for your consideration.

Mike

(c) In a Residence C, C-1, C-2, C-2A, C-2B, C-3, or C-3A district if a building is hereafter erected on a lot adjacent to a building having a blank wall directly on the side lot line, the new building may be so designed and erected that it will be flush with that portion of the blank wall of the former building which extends along the lot line; otherwise, however, not less than the required side yard shall be provided; in any case the required side yard shall be provided for the remainder of the full lot depth. In case a side wall contains windows or in case any part of a side blank wall of an existing building shall be set back from the side lot line, then a building hereafter erected on the lot adjacent to such an existing building shall be set back from the side lot line in accordance with the provisions thereof.

"Broadway 360 and 362" Survey photo from Cambridge Historic Commission



Photo of 360 Lot side of the original 362 structure taken May 2018 showing no windows on side of house. The house at 360 burned in 2008.



* * * * *

(7:49 p.m.)

Sitting Members: Constantine Alexander, Brendan Sullivan,
Andrea A. Hickey, Jim Monteverde, and
Matina Williams

CONSTANTINE ALEXANDER: The Chair will now call
Case Number 017307 -- 362 Broadway. Anyone here wish to be
heard on this matter?

DUNCAN MACARTHUR: Yes, Duncan MacArthur.

CONSTANTINE ALEXANDER: The floor is yours, sir.

DUNCAN MACARTHUR: So we came up to -- this is
regarding 362 Broadway in Cambridge, a house that we're
building for our client. And we requested a variance
because we tore down the house and rebuilt it primarily like
it was, when we came before you and got a variance in the
spring of 19.

And we commenced to build a house, and in building
it there's a couple things we discovered. And if I just
read what we put in there, is that we need to move a
recessed dormer that we had towards the east elevation out
to align with the outside wall to accommodate the stairs.

During construction, we discovered a head height

1 issue on the stairs, as previously designed. Without moving
2 the dormer out, we cannot achieve the required head height
3 to meet code.

4 The reason we kept the dormer in to begin with is
5 because we wanted to have windows in the dormer to allow
6 light into the building.

7 We also discovered while we were building that we
8 could have windows on that side, which doesn't meet side
9 yard setback or code for fire code, as long as we put dry
10 head sprinklers in.

11 So that's new information. So given that, we
12 would like to bring the dormer out. We wanted to
13 accommodate -- and I think we need the variance for this --
14 to accommodate the stairs.

15 And then secondly, we would like to add the
16 windows that we had in the dormer, making them slightly
17 larger, and supplying those with dry head sprinklers.

18 Also in the original building, there were a couple
19 of windows on that same elevation side. And because we
20 didn't have any setback -- or we had the setback issues
21 there, we didn't include any windows on that side. But now
22 that we can do the dry head sprinklers, we would like to

1 sort of replace those windows that were in the original
2 structure that we took down.

3 So we're seeking relief -- I think it's a special
4 permit -- to add windows in that elevation, windows in the
5 dormer that we need a variance to bring out to the sideline.
6 So yeah, that's great. Thank you, Sisia. And you can see,
7 the dormer there.

8 So the original building had a dormer, but it was
9 just recessed back three feet, you know, from the edge of
10 the property line so that we could have windows there. So
11 on this east elevation, we're asking for those four windows.
12 And then we're also asking on the south elevation, the rear
13 elevation, to add two windows also.

14 So before we had just doors centered on the
15 building, but we would like to shift the doors over to the
16 right and add those two windows.

17 CONSTANTINE ALEXANDER: Have your plans -- the use
18 of the building changed since the last time you saw us?

19 DUNCAN MACARTHUR: So same ownership coming into
20 it, but they did change the interior a little bit, just to
21 meet their needs. But for the same use.

22 CONSTANTINE ALEXANDER: Well, what's the building

1 going to be used for? The old building, or --

2 DUNCAN MACARTHUR: It's going to be used as -- I
3 guess you could call it a spiritual center, but it's a
4 nondenominational spiritual center. And it's going to be
5 run by a couple Sri Lankan monks, and that's primarily what
6 it's used for, to have meetings and to house incoming
7 visitors.

8 CONSTANTINE ALEXANDER: Okay.

9 DUNCAN MACARTHUR: But there will be two monks
10 primarily living there and running it. It's for a
11 foundation called, the "ONCE HERE FOUNDATION."

12 And they're trying to model it after -- there's a
13 chapel in, at Colgate University. And they're sort of
14 trying to model how it's run, similar to that operation,
15 which is a nondenominational spiritual center.

16 CONSTANTINE ALEXANDER: And they'll be using the
17 entire structure?

18 DUNCAN MACARTHUR: They will. You know, they'll
19 be using the lower level more for public space, and then the
20 upper two levels for living space.

21 CONSTANTINE ALEXANDER: All right. Questions from
22 members of the Board, or comments?

1 BRENDAN SULLIVAN: No questions, Brendan Sullivan.

2 JIM MONTEVERDE: Jim Monteverde, no questions.

3 ANDREA HICKEY: Andrea Hickey -- I just had a
4 question regarding these visiting folks that they would be
5 hosting, are they charging them rent for use of part of the
6 building, is that the plan?

7 DUNCAN MACARTHUR: No. No charge. I mean, this
8 is all -- no. Nope.

9 CONSTANTINE ALEXANDER: Do you have any questions?

10 DUNCAN MACARTHUR: Not a rental situation in any
11 way.

12 ANDREA HICKEY: Thank you.

13 CONSTANTINE ALEXANDER: All right. I will now
14 close -- I'll open the matter up to public testimony, I'm
15 sorry. And as I've said before, any member of the public
16 who wishes to speak on this matter should now click the icon
17 at the bottom of your Zoom screen that says, "Raise hand."

18 If you are calling in by phone, you can raise your
19 hand by pressing *9 and unmute or mute by pressing *6. I'll
20 wait a second to see if anyone has -- wants to speak.

21 DUNCAN MACARTHUR: You've got a Mike With that.

22 CONSTANTINE ALEXANDER: I'm sorry?

1 MIKE WITT: Hello.

2 DUNCAN MACARTHUR: Mike -- go ahead.

3 MIKE WITT: This is Mike Witt; can you hear me?

4 CONSTANTINE ALEXANDER: Yes. Now I can, yes, sir.

5 MIKE WITT: So I had submitted some photos and a
6 letter, not knowing the protocol for the virtual meeting.
7 And I'm wondering if you have access to those images.

8 CONSTANTINE ALEXANDER: Let's see. I have the --
9 yes, we do.

10 MIKE WITT: Okay.

11 CONSTANTINE ALEXANDER: Our file continues. It
12 includes your e-mail to Maria Pacheco with the attached
13 photos.

14 MIKE WITT: Okay. So I will continue, and then we
15 can go from there. I'm submitting the photos because I
16 believe that there were no windows original to the 362
17 structure.

18 As an abutter, I own the property at 360. When
19 the building came before the Zoning Board in the first
20 hearing, I stated my opinion that I was against any windows,
21 and specifically the only thing that was being proposed at
22 the time was the newly added dormer.

1 And the dormer proposed at that time was set back
2 with windows.

3 And the reason I was opposing it was because I
4 planned to build a home on this lot. I am against moving
5 the newly added recessed dormer if it contains windows.

6 I'm also against granting a special permit to
7 allow windows. The lot that I am looking to build on has
8 quite a few constraints. The addition of windows where
9 there were none previously will significantly constrain my
10 ability to build.

11 I point out to what I believe is an applicable
12 zoning ordinance, and I've noted that. I believe the new
13 owners also could raise the issue of privacy if windows are
14 allowed.

15 I've had several conversations with Duncan
16 MacArthur prior to and after the original zoning hearing
17 relaying that we were planning on building a home at 360 and
18 would not support the addition of windows.

19 And the particular -- I'm sorry, I don't have the
20 particular number of the zoning, but it says, "A district --
21 if a building is hereafter erected on a lot adjacent to a
22 building having a blank wall directly on the side lot line,

1 the new building may be so designed and erected that it will
2 be flush with the portion of the blank wall of the former
3 building, which extends along the lot line." And then it
4 goes on.

5 And I have provided two photos. One is a survey
6 photo from the Cambridge Historic Commission of both 360 and
7 362, and I believe the entry was for 1965. And then I have
8 submitted my photos of the lot from two different viewpoints
9 from both behind the building and from Broadway, which shows
10 the side with no windows.

11 The house that was at -- there was a house there,
12 and you will see in the survey photos -- it burned in 2008.

13 CONSTANTINE ALEXANDER: Thank you. Would it make
14 a difference to you if any new windows on the side that will
15 face your place at 360 Broadway, if we were to require that
16 they not be transparent but marbled or something so that
17 there's privacy if maintained? People can't look into your
18 -- look through the window, the new windows, into your new
19 structure? Would that help?

20 MIKE WITT: But then isn't that possible that the
21 new owners could raise that as an issue against providing a
22 variance?

1 CONSTANTINE ALEXANDER: What I'm trying to suggest
2 -- and I haven't made a decision -- is that we would grant
3 the variance subject to the condition that the windows not
4 be transparent in order to maintain the privacy of whoever
5 lives at 360 Broadway?

6 MIKE WITT: But they could be opened?

7 CONSTANTINE ALEXANDER: Yeah. But it's middle of
8 the winter. I don't think they'd be open very much.

9 MIKE WITT: But it's the issue would not be
10 winter, but would be summer -- autumn, spring, whenever
11 someone wants to open a window.

12 CONSTANTINE ALEXANDER: Well.

13 MIKE WITT: It's a very narrow -- the lot's very -
14 -

15 CONSTANTINE ALEXANDER: Another possibility --
16 another possibility is we can require, I don't know if the
17 petitioner would be amenable to this, require that the
18 windows not be open. Can't be open. There are just --
19 there's glass to let the light in. But it's not to let the
20 air in, or to look through a transparent glass and look into
21 your property. What about that?

22 MIKE WITT: So, okay, I would probably be amenable

1 to that. My concern is that how it limits my capacity for
2 building to the lot line.

3 CONSTANTINE ALEXANDER: You might -- I'm talking
4 off the top of my head now, and other members of the Board
5 can add in, you might need to get a variance when you go to
6 build your new home.

7 MIKE WITT: Right, I understand.

8 CONSTANTINE ALEXANDER: Just like -- and there's
9 no guarantee you'll get it, but you know --

10 MIKE WITT: I understand that. What I'm trying to
11 prevent is any further obstacles that I can put and that I
12 can remove. And I feel like this is adding a significant
13 obstacle to my trying to build on the lot line like he has
14 done and I was willing to go along with, based on the fact
15 that there were going to be no windows put on this
16 elevation.

17 CONSTANTINE ALEXANDER: Any other members of the
18 Board want to speak to this? We hear your objection, sir,
19 and we'll take it up in any event when we make -- we vote on
20 the case.

21 JIM MONTEVERDE: This is Jim Monteverde. I was
22 just going to suggest if Sisia could just scroll through the

1 plans, and if Duncan, if you could just explain -- you know,
2 what's the function behind that window in plan? Just so we
3 understand.

4 DUNCAN MACARTHUR: Well, I don't -- Sisia, do you
5 have the pictures of the existing house? Because there were
6 -- there were windows on the existing.

7 JIM MONTEVERDE: Well, besides that, if you just
8 stick to the plan as proposed, where will those windows,
9 what are the rooms behind those windows?

10 DUNCAN MACARTHUR: The windows and the dormer are
11 to light up a stairwell.

12 JIM MONTEVERDE: No, I get that. And then the one
13 to the right?

14 DUNCAN MACARTHUR: One is I think -- I'd have to
15 look at it -- one is in a hallway.

16 MIKE WITT: Hallway, yeah.

17 DUNCAN MACARTHUR: And the other one is in a
18 bathroom.

19 JIM MONTEVERDE: Is in a bedroom that has a
20 bathroom?

21 DUNCAN MACARTHUR: Bathroom. All the way back,
22 and really all hallway.

1 JIM MONTEVERDE: Right.

2 DUNCAN MACARTHUR: Come over the stairways, yeah,
3 there's a hallway.

4 JIM MONTEVERDE: Oh, I see it. Yeah, the second-
5 floor plan. Mm-hm.

6 DUNCAN MACARTHUR: Right.

7 JIM MONTEVERDE: So is it possible that the
8 bathroom window be an obscure glass?

9 DUNCAN MACARTHUR: It is. I mean, they all could
10 be. I mean, I know that they're going to put some stained-
11 glass panels inside some of the other windows, so I don't
12 think they would --

13 JIM MONTEVERDE: Right. But I mean starting out
14 as an obscure glass.

15 DUNCAN MACARTHUR: Yep, no.

16 JIM MONTEVERDE: -- for both. Both the hall, both
17 the bathroom -- at least allow the light in. I'm assuming
18 the staircase light window is higher, correct?

19 DUNCAN MACARTHUR: It is.

20 JIM MONTEVERDE: So from the second floor, are you
21 actually looking out through it, or is it higher? Is it
22 above your head?

1 DUNCAN MACARTHUR: The stairwells are going to be
2 above your head. I mean, you might be able to see --

3 MIKE WITT: Yeah.

4 DUNCAN MACARTHUR: -- yeah, you know, especially
5 as you're going up the stairs, correct.

6 JIM MONTEVERDE: Right. But again, if there was
7 an objection there, would you consider opaque glass on all
8 four of those windows on that particular opening?

9 DUNCAN MACARTHUR: I think that would be fine.
10 The idea is to get light into these areas.

11 JIM MONTEVERDE: Right. Okay.

12 BRENDAN SULLIVAN: This is Brendan Sullivan. I
13 think one of the issues is privacy, but the real issue is
14 that once you have a window or fenestration on that wall,
15 then it clouds what Mr. -- or it's a hindrance as to what
16 Mr. Witt can do with his structure.

17 Is that correct, Mr. Witt?

18 MIKE WITT: That is my biggest concern, and that
19 is one concern that I expressed before Mr. McArthur went
20 before the Board and at the original zoning hearing I was
21 willing for him to be able to build all the way onto the lot
22 line, and I'm asking for the same consideration.

1 And the fenestration is a huge obstacle in doing
2 that.

3 CONSTANTINE ALEXANDER: And we can't give you any
4 assurance with regard to that, because we don't have a case
5 before us. We can do what we can to restrict the impact of
6 what Mr. MacArthur wants to do, but I -- that's all the best
7 we can do.

8 We have -- whoever's on the Board at that time
9 will have the benefit of this hearing, and the discussion
10 we've had, but that Board will help to make the decision if
11 you need zoning relief.

12 MIKE WITT: And I understand what you're saying,
13 and I appreciate that. So that's why I am trying to
14 mitigate obstacles in advance of when I go before the --

15 CONSTANTINE ALEXANDER: Understood.

16 MIKE WITT: -- Board.

17 CONSTANTINE ALEXANDER: Understood. We get it.

18 BRENDAN SULLIVAN: We're talking -- Brendan
19 Sullivan, we're talking less than a foot between two
20 structures. Is that correct?

21 MIKE WITT: Yeah.

22 DUNCAN MACARTHUR: Yes.

1 MIKE WITT: Roughly, yes. And if you see the --
2 if you can look at the original -- unfortunately I don't
3 have photos here with me, but I submitted the photos you
4 will see that the houses were extremely close -- the
5 original structures in the survey photo.

6 BRENDAN SULLIVAN: I can't see the -- this is
7 Brendan Sullivan -- I can't see the benefit of any windows
8 on either one of those walls. It's their negligible. Well,
9 somewhat.

10 I don't know where the benefit is, other than the
11 fact that by putting windows on Duncan's building there,
12 then it hampers your ability to build out to the lot line.

13 CONSTANTINE ALEXANDER: What's being suggested is
14 that we would grant the variance to move the dormer closer
15 to the lot line, but to deny the special permit for
16 additional windows? Is that the sentiment so far of the
17 Board?

18 DUNCAN MACARTHUR: You know, you -- can I speak,
19 or am I out of turn?

20 CONSTANTINE ALEXANDER: Who was that?

21 DUNCAN MACARTHUR: This is Duncan MacArthur again.
22 Yeah, a photograph would just show you two windows. You

1 know, granted they were smaller, but there were windows, and
2 there's another one that was framed up that were within the
3 original structure.

4 So I understand what Mr. Witt did, and he's
5 correct that we had these conversations, but I also
6 explained to him at the time that, you know, I'm building
7 this for someone else, and by the time he gets around to
8 granting his variance, I'm not going to be in control of
9 this anymore.

10 So, you know, and his building lot is a
11 nonconforming lot, that's going to take a lot of variance
12 issues. It may or may not be granted. So, you know, and at
13 that point, you know, they could be dealt with.

14 But if these windows are not operable, you know, I
15 don't think that the owners of this building are going to
16 allow him to attach to the building. I don't think they
17 ever were, and that was never discussed. So there's going
18 to have to be some distance between the buildings.

19 I think when they go for their variance, you know,
20 the people that own the building I would imagine are going
21 to say, you know, "I don't want you right on top of our
22 building." And I don't believe we're right on the lot line.

1 But, you know, there's going to have to be some
2 relief there.

3 ANDREA HICKEY: Could I ask Mr. MacArthur, do you
4 know when on the original building the windows that you show
5 in this picture on the screen, when were those windows
6 installed? Do you have any idea? I'm looking at --

7 DUNCAN MACARTHUR: I don't have any idea, but
8 there was another larger window opening that you can't see.
9 -- we should have brought the picture -- that is hidden
10 behind the plywood that we only noticed when we gutted the
11 interior of the building.

12 ANDREA HICKEY: Where roughly was that window?

13 DUNCAN MACARTHUR: Do you see the higher window?

14 ANDREA HICKEY: Yes.

15 DUNCAN MACARTHUR: It was down below that window.

16 ANDREA HICKEY: And it was a full-sized window?

17 DUNCAN MACARTHUR: Yeah. Maybe not quite as large
18 as the ones that we're proposing, but it was a bigger
19 window.

20 ANDREA HICKEY: All right.

21 DUNCAN MACARTHUR: Yeah.

22 JIM MONTEVERDE: This is Jim Monteverde. Can I

1 ask a question, Mr. Chair?

2 ANDREA HICKEY: Jim, speak up a little bit; you're
3 hard to hear.

4 JIM MONTEVERDE: Oh, sorry.

5 ANDREA HICKEY: Yeah.

6 JIM MONTEVERDE: Mr. Chair, can I ask a question

7 CONSTANTINE ALEXANDER: Yes, you may.

8 JIM MONTEVERDE: Thank you. So Duncan?

9 DUNCAN MACARTHUR: Yes.

10 JIM MONTEVERDE: If those windows beside the --
11 the two windows beside the ones above the stair, the one in
12 the hall, the one in the bathroom --

13 DUNCAN MACARTHUR: Mm-hm.

14 JIM MONTEVERDE: Those are on the second floor,
15 correct?

16 DUNCAN MACARTHUR: That's correct.

17 JIM MONTEVERDE: And this is three-story, or two-
18 story plus an attic?

19 DUNCAN MACARTHUR: Correct.

20 JIM MONTEVERDE: So you couldn't do a skylight; a
21 roof skylight wouldn't give you light to that second floor
22 area, would it?

1 DUNCAN MACARTHUR: Not to those areas. In
2 theoretically, we could do it on the dormer, but --

3 JIM MONTEVERDE: Right.

4 DUNCAN MACARTHUR: Right. You know, just for the
5 record, we're not -- we didn't build right to the lot line.
6 We're 10 inches -- not that it's a lot, but we're 10 inches
7 off the lot line, our building.

8 MIKE WITT: I would like to see the survey on
9 that. I'm not -- this is Mike With -- I'm not convinced
10 that it's not right on the lot line. Unfortunately the
11 survey markers that were there have been covered. So it's
12 hard to discern.

13 DUNCAN MACARTHUR: We could provide an as-built.
14 I guess we don't have that here, but we could get an as-
15 built before we can continue with the foundation. But it
16 was always proposed to be 10 inches off.

17 And we went through -- Sisia, we went through a
18 lot of work to actually -- because of the overhangs and
19 everything and -- to make it conform and fit onto the lot,
20 but we're definitely not on the lot line.

21 JIM MONTEVERDE: Yes. If I read that drawing
22 that's on the screen as the survey, it's basically showing

1 the lot line. And it shows that you're -- at least the
2 southern portion, the bottom portion -- is that 0.9 inches
3 or the -- you know, 11 inches + or - away. And that --

4 DUNCAN MACARTHUR: Right.

5 JIM MONTEVERDE: -- appears a step further away
6 from the property line up above, if that's the true -- if
7 that's the existing condition.

8 DUNCAN MACARTHUR: That is not. That was the
9 existing condition of the building.

10 JIM MONTEVERDE: Oh, okay.

11 DUNCAN MACARTHUR: No, we made that. If you look
12 across the pictures now, there's no bump out there. The
13 bump out, where it's a smaller dimension, that was the brick
14 wall. We took that down, so it's just flush all the way
15 down. And we're --

16 JIM MONTEVERDE: Right, okay.

17 DUNCAN MACARTHUR: -- we're 10 inches, we're 10
18 inches from the foundation from the face of the wall, and
19 the eaves and gutter on that side come out a little bit
20 further to the lot line.

21 In fact, it's the eave and the gutter that we
22 weren't allowed to sort of go beyond that. So that's what

1 sets the lot line. And then we have to be back 10 inches
2 from the lot line, so that we're not going over the lot line
3 with our eave and gutter.

4 SILVANA SAWAYA: Could I speak? [Silvana Sawaya,
5 the architect.] I'm just wondering if Sisia does have the
6 as-builts, or if I can provide it, put it on my screen and
7 share? Because we have -- we have as-built as well as a
8 simple drawing showing all the utilities as-built.

9 SISIA DAGLIAN: We haven't been doing screen
10 sharing, Silvana, but if you want to e-mail it to me, I can
11 bring it up.

12 SILVANA SAWAYA: Okay, okay.

13 BRENDAN SULLIVAN: This is Brendan Sullivan. Let
14 me just sort of chime in. I'm not sure how this is going to
15 get resolved. Because say we were to grant the relief
16 requested, we'd have presumed standing -- could possibly
17 contest our grant, and then that would tie the whole thing
18 up.

19 And, which would be unfortunate because I think
20 what you've done, you know, Duncan, is a wonderful thing for
21 the dilapidated building, and I think going down the road,
22 the future use of this is very admirable.

1 So trying to avert that scenario, is it at all
2 possible that the two of you could come to some
3 accommodation, rather than having us come to a vote tonight,
4 which then could possibly kick this into another venue?

5 So I offer to both of you if you think that you
6 really can sit down and come to some accommodation outside
7 of tonight? Duncan, and to Mr. Witt?

8 DUNCAN MACARTHUR: It sounds like the
9 accommodation would be to eliminate the windows, if I listen
10 to Mike.

11 MIKE WITT: Well, I am willing to talk, but I want
12 to have -- I need to have a further understanding of what
13 any windows mean for me. And again, I'm not asking for you
14 to say whether or not I can build, but the onus should be on
15 him as a hardship to someone who is looking to build on
16 their own property.

17 And so what I would like to understand is if, for
18 instance, windows are allowed and they are opaque, and they
19 are not operable, that could be one scenario. But I need to
20 understand what the ramifications are for me and building on
21 that lot.

22 BRENDAN SULLIVAN: So -- Brendan Sullivan again --

1 so I think that even reinforces my thoughts of possibly
2 kicking this over to another night so that you can
3 investigate that possibility and that scenario, and then
4 also you had a question I thought about exactly what the
5 location of that building is, vis-à-vis the lot line, if
6 that's even an issue.

7 But to answer your last question, it's not going
8 to be answered tonight, and so would you want to give it a
9 little bit more time, Duncan, and also, Mr. Witt, to get the
10 answers to those questions and then come back another night
11 before us?

12 CONSTANTINE ALEXANDER: I think I would just
13 concur with Brendan's suggestion. This is not -- this case
14 is not ready for a decision tonight, given what we've heard
15 -- what I heard, certainly so far.

16 One thing I want to be clear, though, we can't
17 make any commitments with regard to 360 Broadway, as a
18 result of whatever relief you grant tonight. Every case
19 we'll have to decide it separately.

20 You could get the -- as part of a deal you make
21 now, you could get an agreement from the -- Mr. MacArthur,
22 that they will support your request for a variance, should

1 you want to build your new house. That helps. Doesn't mean
2 that the then Board -- it could be five new people who were
3 not here tonight -- will grant the relief.

4 But that does, at least while this Board operates,
5 that would go a long way to getting you the relief you may
6 need, come the future.

7 CONSTANTINE ALEXANDER: But I think there's need
8 for further dialogue. There's need for further
9 investigation. We need more facts. We need -- we got this
10 information from you, sir, Mr. Witt, within the last 24-
11 hour. That was enough for us to just digest, as you can
12 tell from the questions we have.

13 MIKE WITT: Yes, sir.

14 CONSTANTINE ALEXANDER: But we have an opening on
15 November 5. All five members that have been on the call
16 tonight are going to be available to that, because they
17 continued another case until that night. And I think I
18 would strongly urge -- or, I think we should continue this
19 case.

20 DUNCAN MACARTHUR: Can I say one thing? You know,
21 I don't have an issue with that, other than we -- you know,
22 haven't been finishing this building, strictly because of

1 these reasons.

2 And is there any way you can vote on the rear
3 window, so we can at least continue with the back of that
4 building? It's basically been held up with this. And I
5 don't know if the owners, quite frankly, are going to --

6 CONSTANTINE ALEXANDER: I don't --

7 DUNCAN MACARTHUR: Go ahead.

8 CONSTANTINE ALEXANDER: -- I'll defer to my other
9 Board members, but I don't like taking these cases up
10 piecemeal. I think I'd want to see the whole thing done or
11 approved. We have everything exactly where it's going to go
12 and how it's going to be, and not have a little bit now and
13 a little bit later.

14 DUNCAN MACARTHUR: Okay. But we may just be
15 coming back to you, to be clear, on the back of the building
16 now.

17 CONSTANTINE ALEXANDER: Any other Board members
18 feel differently? I would not vote on the back -- the
19 windows on the back of the building tonight.

20 BRENDAN SULLIVAN: Brendan Sullivan. No, I
21 concur. It has to be a one-time vote for all of it. Sisia,
22 could I ask a question? Is if the second meeting in October

1 is possible for the -- to squeeze this in?

2 SISIA DAGLIAN: We already have four people, and I
3 don't know if you want to add another one.

4 BRENDAN SULLIVAN: Okay.

5 SISIA DAGLIAN: We have eight regular cases and
6 four continuances.

7 BRENDAN SULLIVAN: Okay. Okay. All right. I
8 tried.

9 CONSTANTINE ALEXANDER: All right. The Chair will
10 make a motion, unless Board members feel otherwise or want
11 to have further discussion.

12 ANDREA HICKEY: Well, hi. It's Andrea Hickey
13 here. I think we need to hear from Mr. MacArthur with the
14 certainty that he doesn't want to withdraw his request for
15 the windows on the side and proceed with the back. That's
16 an option for us to vote now.

17 So Mr. MacArthur?

18 DUNCAN MACARTHUR: Yes, it is maybe one of the
19 things I'm saying. You know? Because I just -- I don't
20 want to hang this up for that much longer, because I know
21 they're anxious to get going.

22 So, you know, we originally didn't have the

1 windows in that side. That came about when we discovered
2 there were windows there. So whatever dwellings were there
3 before, side by side, obviously had windows open to that
4 area.

5 I know for a fact that the owners are going to
6 want -- you know, whatever Mr. Witt does, they're probably
7 not going to deny him building there, but they're not going
8 to let him build up to the building when we have a 10 inch -
9 - and they're going to have to have at least 10 inches if
10 not more they're going to require.

11 So, but, you know, I don't want to delay this any
12 more for them. It's a foundation that -- you know, money is
13 an issue. So I want to -- if we could just maybe withdraw
14 it and just go up the back if it's going to be an issue with
15 Mr. Witt.

16 I don't see how we're going to come to a
17 resolution not knowing what he's going to do. And he's been
18 sitting on -- you know, we gave him these plans a long time
19 ago, and we could have had a conversation about this. We
20 reached out to him several times and never heard from him.

21 So --

22 MIKE WITT: That's not true.

1 DUNCAN MACARTHUR: Yeah, well we --

2 MIKE WITT: This is Mike Witt, that's not true.

3 DUNCAN MACARTHUR: We submitted the plans, we sent
4 you e-mails and we -- you know, I mean, you could have just
5 said, you know, we could have had this discussion, quite
6 frankly, you know, two weeks ago and come to a resolution
7 so.

8 You know, we sent you the plans, we sent you
9 everything we're doing, we sent you a couple e-mails, and
10 you didn't respond. All you said is yes, you received it.
11 You acknowledge that you received it. So --

12 MIKE WITT: And we were -- this is Mike Witt.

13 DUNCAN MACARTHUR: So be that as it may --

14 MIKE WITT: -- I believe we were very clear.

15 DUNCAN MACARTHUR: -- not to interrupt you --

16 MIKE WITT: I believe we were very clear.

17 JIM MONTEVERDE: Not to interrupt you going back
18 and forth.

19 DUNCAN MACARTHUR: Right.

20 JIM MONTEVERDE: But in order to move forward
21 tonight and settle -- allow the Board to settle this, or at
22 least vote or -- again, we're asking you Duncan how you'd

1 like to proceed?

2 ANDREA HICKEY: Right.

3 DUNCAN MACARTHUR: Let's continue, and then we can
4 withdraw if we want. But, you know, it's just -- you know,
5 and I'll go back to the owners to see if they really want to
6 delay the progress of the building that long.

7 ANDREA HICKEY: Right. But if you continue,
8 you're still not going to get before us for the back until -
9 - what's the next available date? November?

10 SISIA DAGLIAN: November 5.

11 CONSTANTINE ALEXANDER: November 5.

12 ANDREA HICKEY: Right. So you're delaying your
13 project without any other options that we have, until at
14 least November.

15 DUNCAN MACARTHUR: Unless I just decide --
16 correct. But at that point, can I decide for the back -- if
17 I decide to sort of give up the right to do anything on the
18 east side, I can go ahead and just close that up? And then
19 I --

20 ANDREA HICKEY: On the east side yes, but you'd
21 have to come back to us in November for the back.

22 DUNCAN MACARTHUR: That's correct. But I'm going

1 to -- it sounds like I'm going to have to do that
2 regardless.

3 But I guess what you're suggesting if I give up
4 the east side, you're willing to vote on the back side. But
5 I sort of understood that the rest of the Board didn't
6 really want to break it up like that.

7 ANDREA HICKEY: Well, they didn't. We're not
8 breaking it up if you're taking the first part of the case
9 off the table. If you're taking the side windows off the
10 table, then we're not breaking it up, we're only going to
11 decide the rear. That's all you're asking us to decide.

12 Would anyone else like to be perhaps more
13 articulate than I am?

14 DUNCAN MACARTHUR: And it's okay that they're
15 under the same special permit? You can modify that
16 midstream like this?

17 BRENDAN SULLIVAN: No, you're -- Brendan Sullivan
18 -- you can't break it up. You can't approve part of it and
19 then -- and then pull that out of the file and out of that
20 case number and all that other stuff.

21 You can't break it up like this and then approve
22 part of it and let you go forward with that while this other

1 thing is still hanging there. It's different if it were --

2 ANDREA HICKEY: That wasn't -- the suggestion was
3 to withdraw the portion of the request that relates to the
4 windows on the side and to proceed then, only with the
5 portion on the back.

6 BRENDAN SULLIVAN: All right.

7 CONSTANTINE ALEXANDER: If he wants to do that, I
8 don't know what the abutter wants to do, what his views
9 would be. I'm not -- we could proceed that way.

10 ANDREA HICKEY: Right. I think he has the right
11 to sort of withdraw permanently a portion of his petition
12 and proceed with the remaining portion. It doesn't give him
13 the right to come back on the side. Once that's withdrawn,
14 it's over for two years.

15 CONSTANTINE ALEXANDER: That's exactly right.

16 DUNCAN MACARTHUR: I don't know -- I appreciate
17 your suggestion, Andrea, but I'd have to go back to the
18 building at 4:00. So I don't really feel like I have the
19 authority to answer that. So I think we have to continue
20 it. But I appreciate your --

21 ANDREA HICKEY: I wasn't -- I just wanted to make
22 sure that that option was understood as on the table.

1 DUNCAN MACARTHUR: Yeah. No, I get it. And
2 that's makes sense. But I can't pull the trigger on that by
3 myself. I appreciate the suggestion.

4 ANDREA HICKEY: All right. Then it seems as if
5 we're at a place where a continuance, then, if what you're
6 requesting? Is that --

7 DUNCAN MACARTHUR: Yep. That is correct.

8 ANDREA HICKEY: All right.

9 CONSTANTINE ALEXANDER: We will just -- the upshot
10 of all of this is that we will continue the case in its
11 entirety until November 5. And that will give everyone a
12 chance to speak further, have some discussions, and then be
13 prepared for us to make a decision -- presumably -- on
14 November 5.

15 DUNCAN MACARTHUR: Correct.

16 CONSTANTINE ALEXANDER: Okay. The Chair now will
17 make a motion. The Chair moves that this case be continued
18 as a case heard, until 7:00 p.m. on November 5, subject to
19 the following conditions:

20 First, that the petitioner sign a waiver of time
21 for decision and unless this waiver has not been signed, and
22 delivered to the Inspectional Services Department by one

1 week from today, the case will be automatically dismissed,
2 and the relief sought rejected.

3 And you've signed -- and I guess you haven't
4 continued the case with this property before. It's a very
5 simple, straightforward form that all people who continue
6 cases are required to sign and do sign.

7 Second, that a new posting sign reflecting the new
8 date, November 5, and the new time, 7:00 p.m., be maintained
9 for the 14 days prior to November 5, just as you maintained
10 signs for tonight's hearing and earlier hearings.

11 And lastly, and maybe very importantly, any
12 modified or new plans specifications -- dimensional
13 information.

14 All of that must be in our file no later than 5:00
15 p.m. on the Monday before -- our files or the ISD files --
16 no later than 5:00 p.m. on the Monday before November 5.
17 That's to allow us and the public to -- and Mr. Witt -- to
18 get a look at them and see whether they have comments or
19 approvals or negative reaction.

20 So that's the basis, that's the motion. So we
21 continue subject to these three conditions. Brendan?

22 BRENDAN SULLIVAN: Brendan Sullivan yes to the

1 continuance.

2 ANDREA HICKEY: Andrea Hickey yes to the
3 continuance.

4 MATINA WILLIAMS: Matina Williams yes to the
5 continuance.

6 JIM MONTEVERDE: And Jim Monteverde yes to the
7 continuance.

8 CONSTANTINE ALEXANDER: And the Chair votes to
9 continue as well.

10 [All vote YES]

11 CONSTANTINE ALEXANDER: Case continued for you
12 folks -- hear you folks, on November 5.

13 DUNCAN MACARTHUR: All right, thank you.

14 COLLECTIVE: Thank you.

15

16

17

18

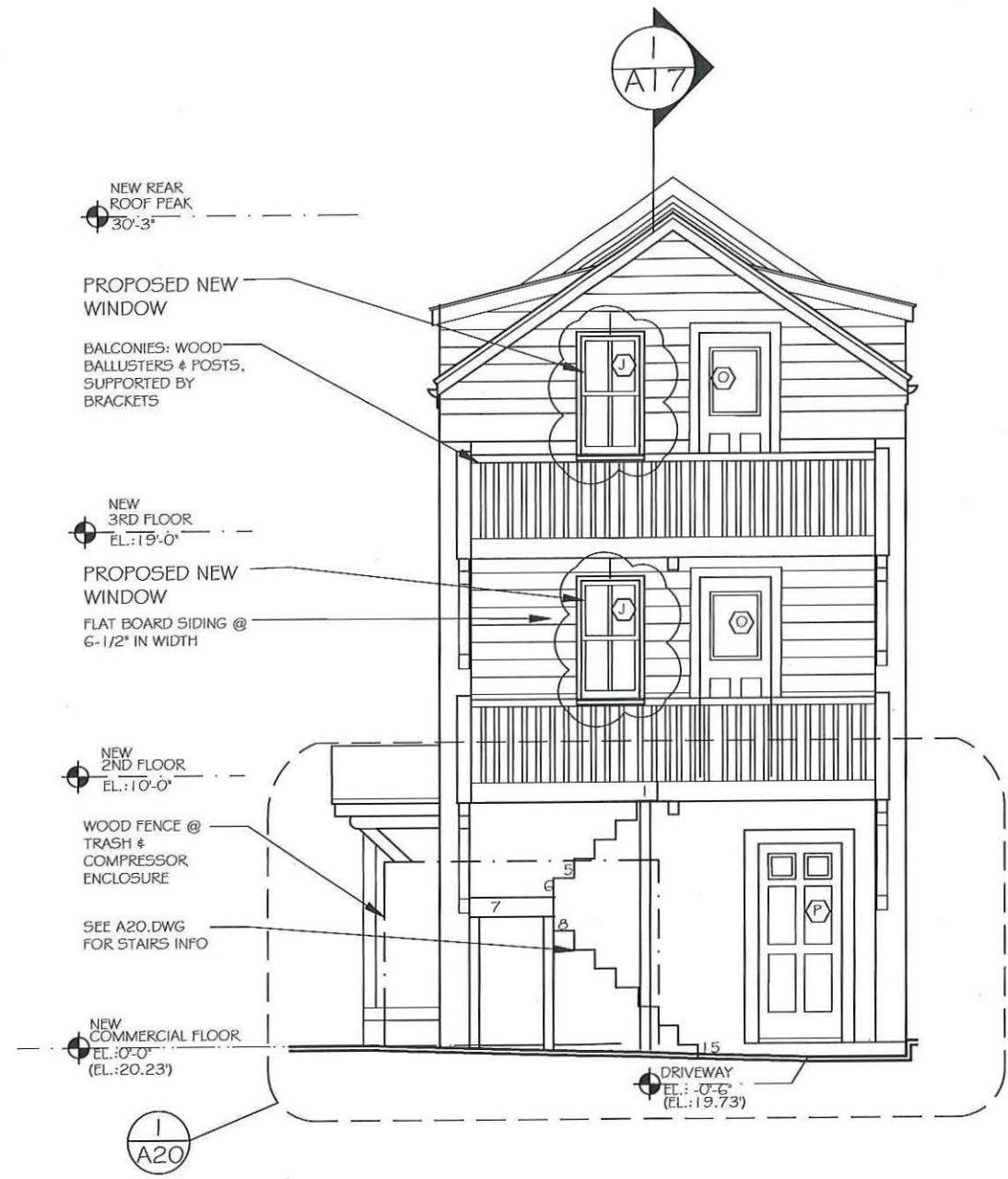
19

20

21

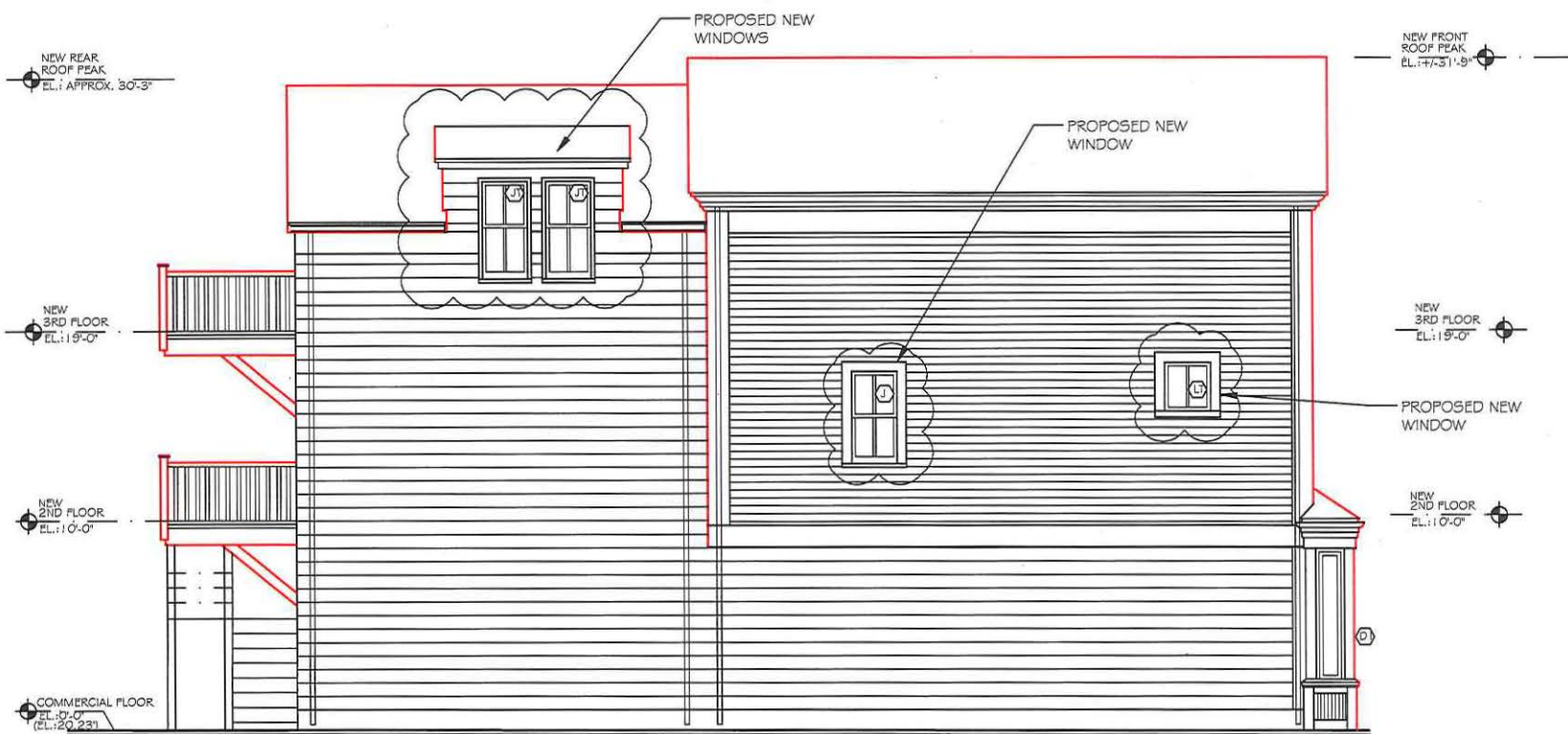
22

Option 1
Received 3-2-20

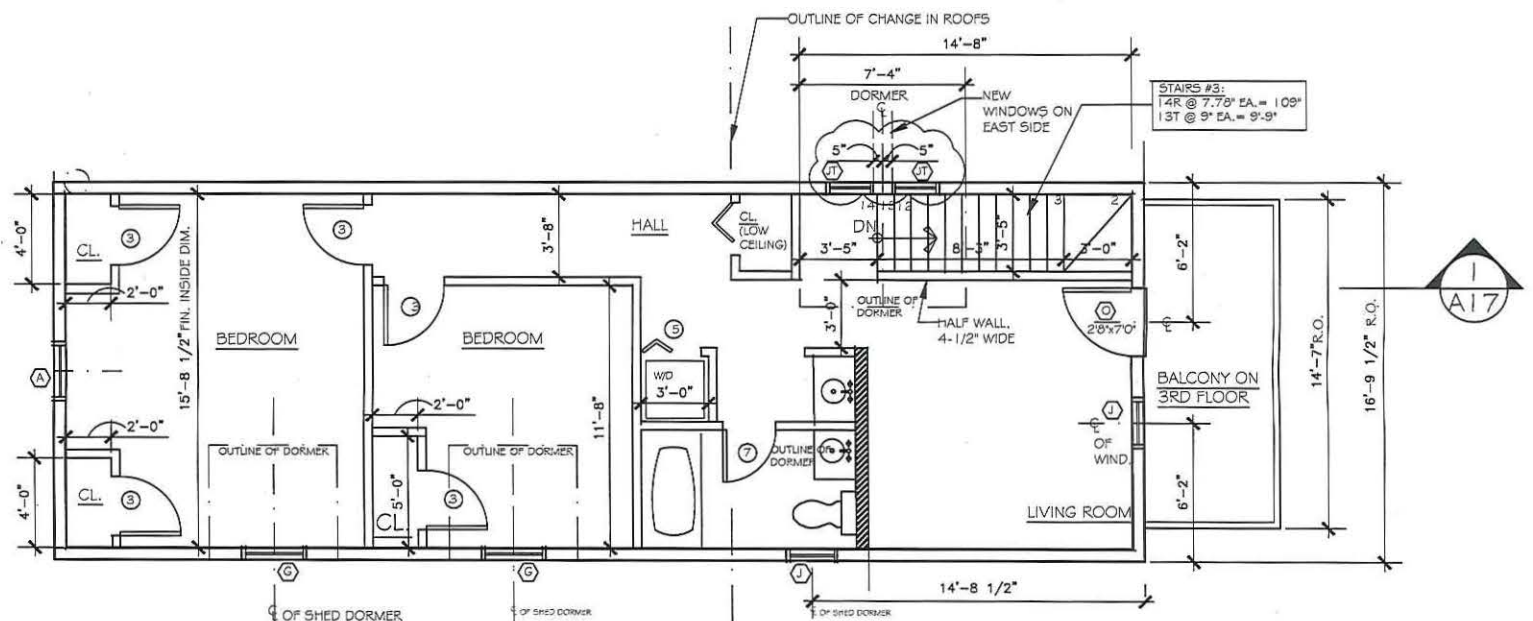


1 Rear Elevation (South) with Proposed New Windows
SCALE: 1/4"=1'-0"

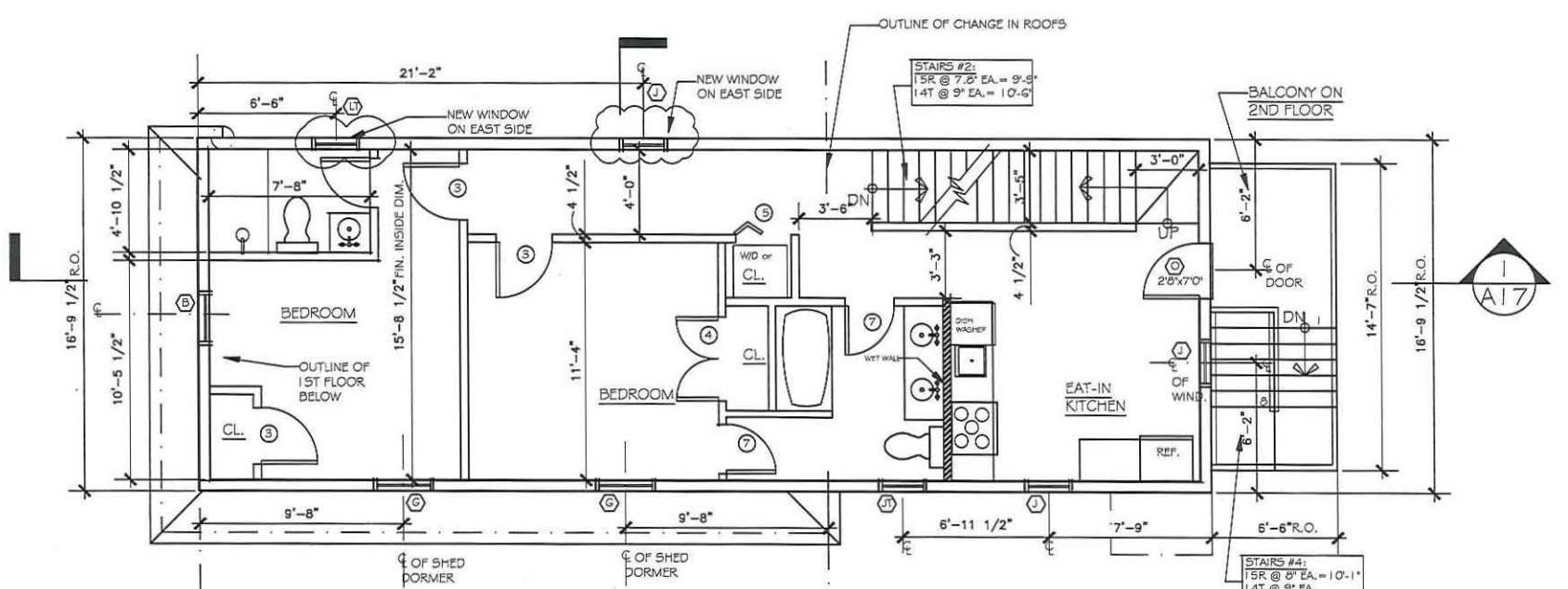
South Elevation	362 BROADWAY STREET CAMBRIDGE, MA	
	Silvana Sawaya Architect 1839 Washington Street Newton, MA 02466 tel:617.967.14.87	A13



EAST ELEVATION W/ PROPOSED NEW WINDOWS



THIRD FLOOR PLAN - PROPOSED WINDOWS IN BUBBLES



SECOND FLOOR PLAN - PROPOSED WINDOWS IN BUBBLES

A22

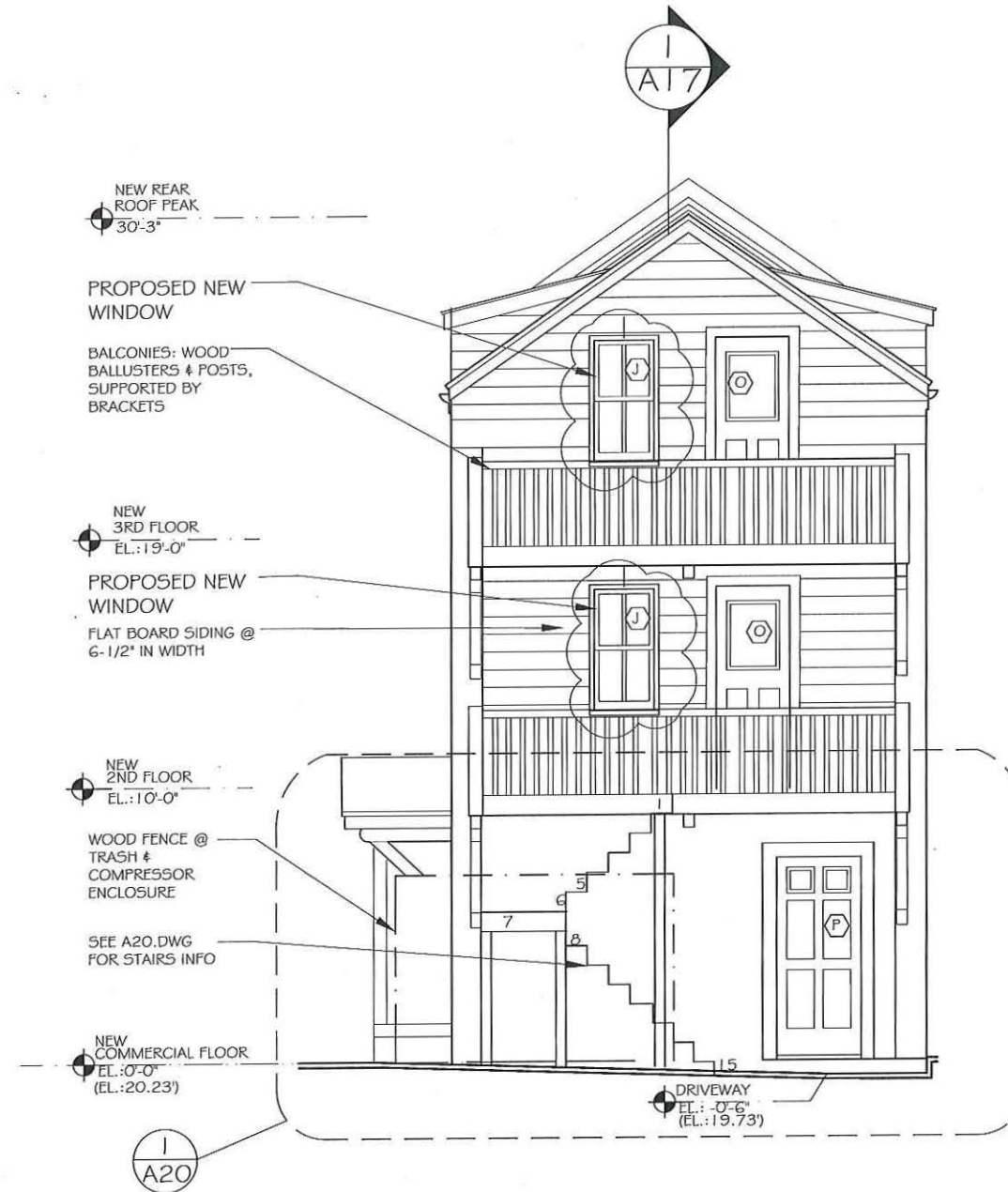
Silvana Sawaya Architect
1839 Washington Street
Newton, MA 02466 tel:617.967.14.87

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



362 BROADWAY
CAMBRIDGE, MA





① Rear Elevation (South) with Proposed New Windows
SCALE: 1/4" = 1'-0"

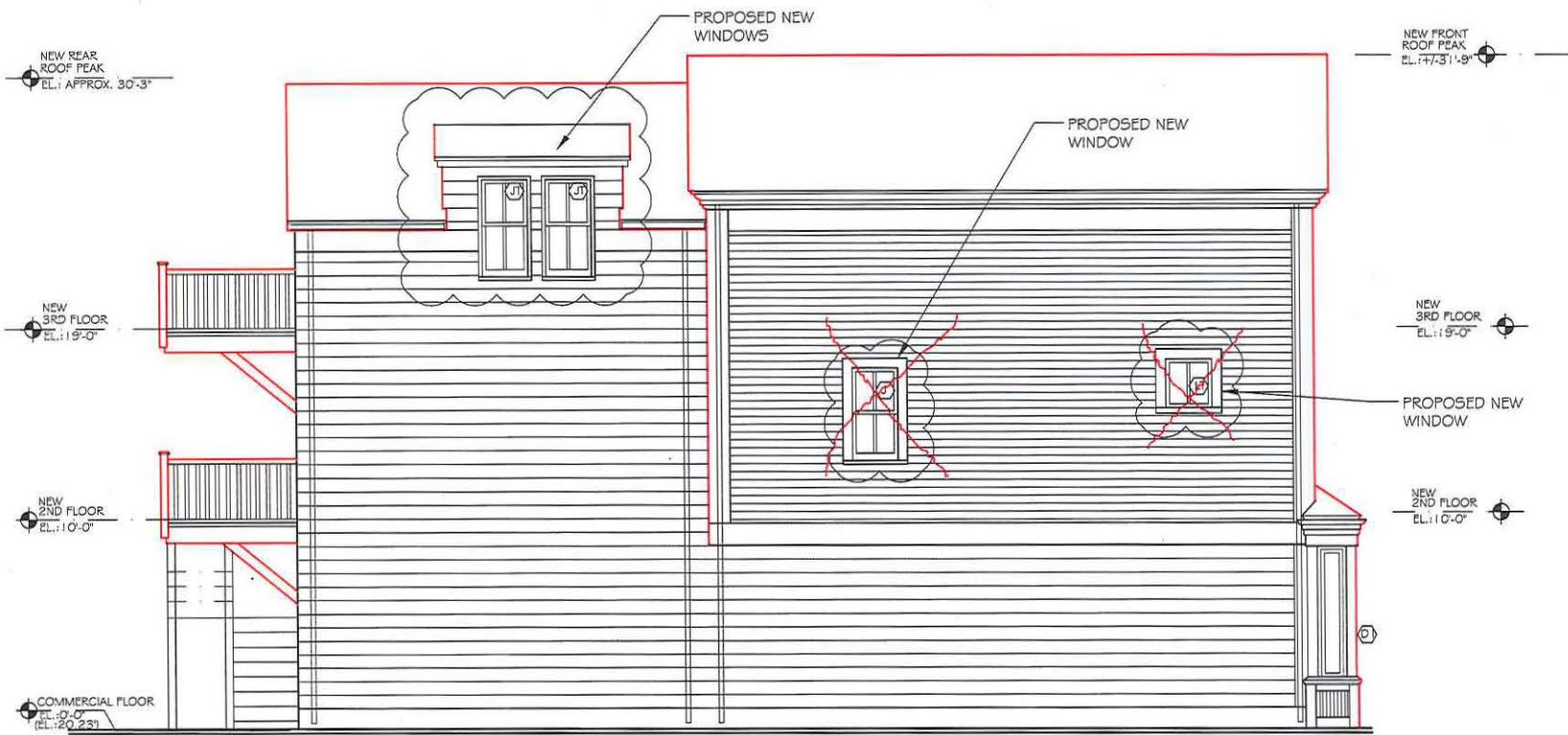
362 BROADWAY STREET
CAMBRIDGE, MA

South Elevation

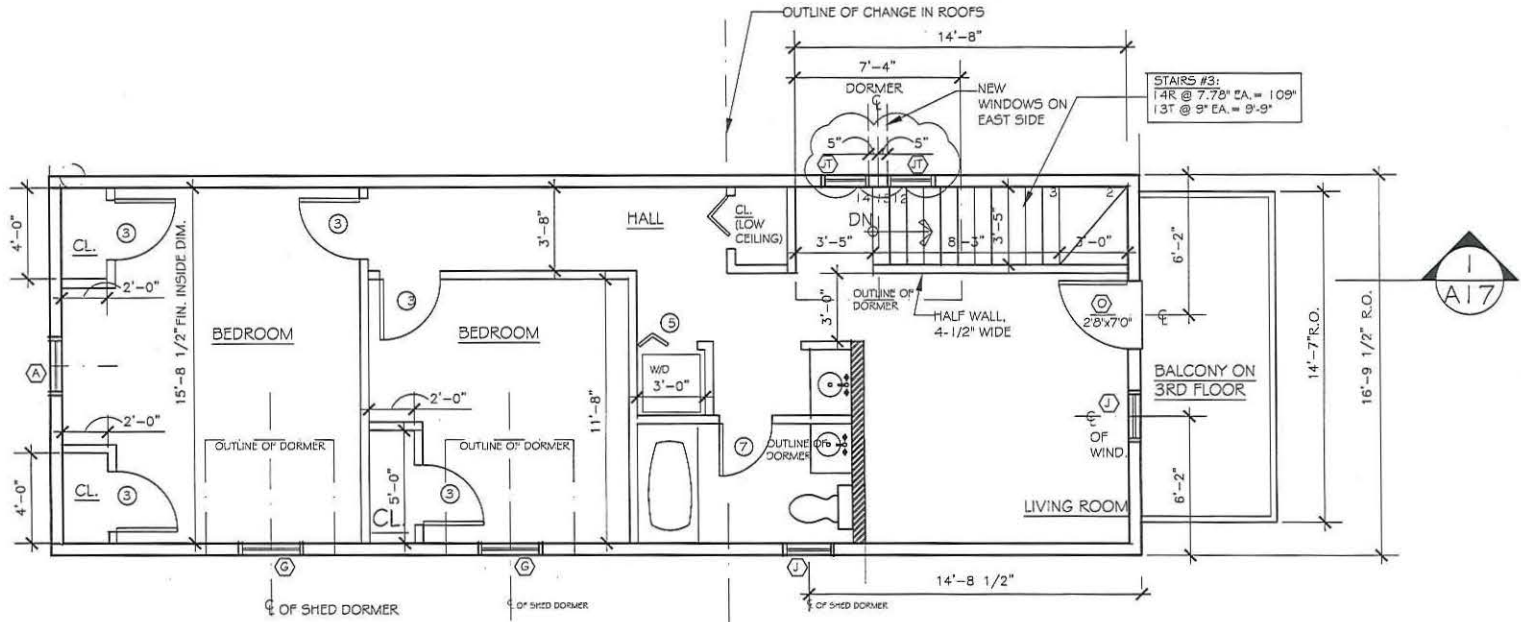
Scale: 1/4" = 1'-0"
Date: 03/30/20
362Broadwayplans.dwg

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

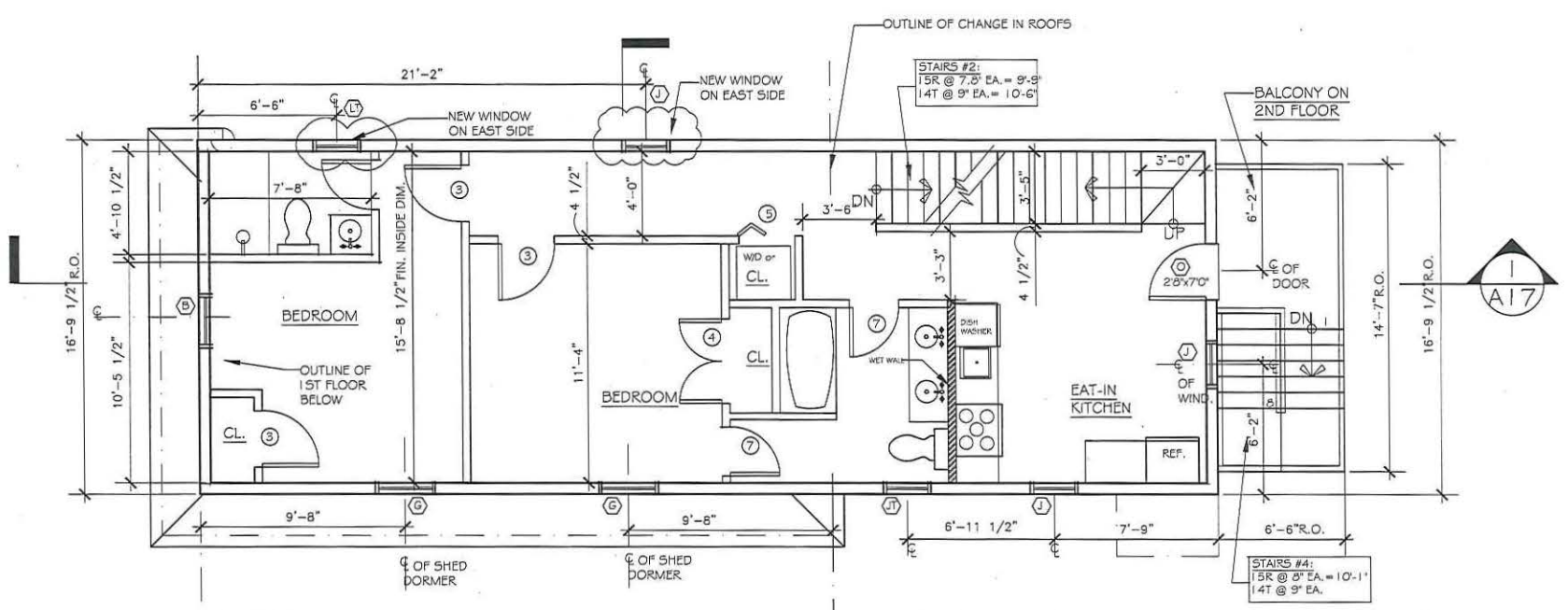
A13



EAST ELEVATION W/ PROPOSED NEW WINDOWS

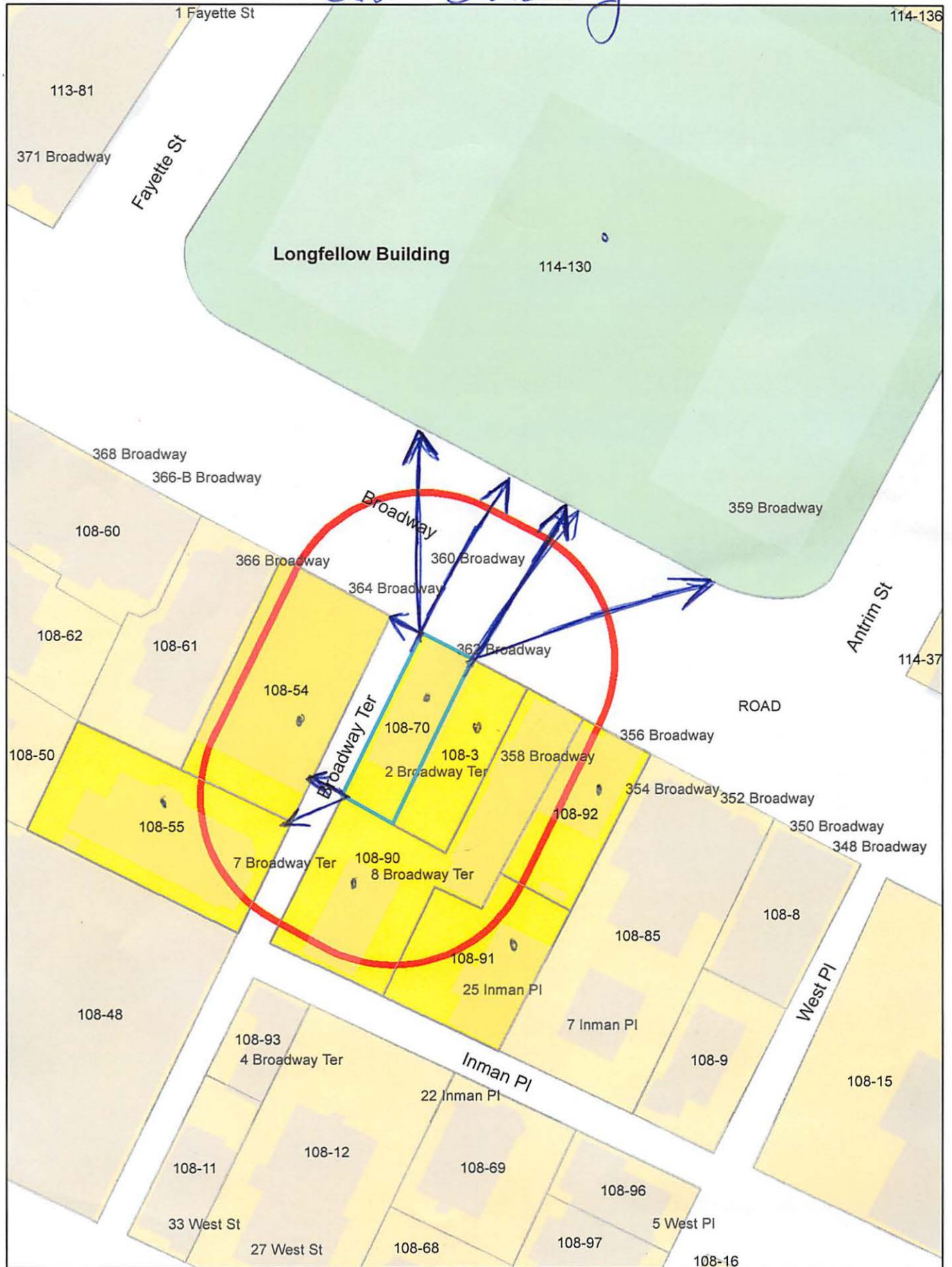


THIRD FLOOR PLAN - PROPOSED WINDOWS IN BUBBLES



SECOND FLOOR PLAN - PROPOSED WINDOWS IN BUBBLES

362 Broadway



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

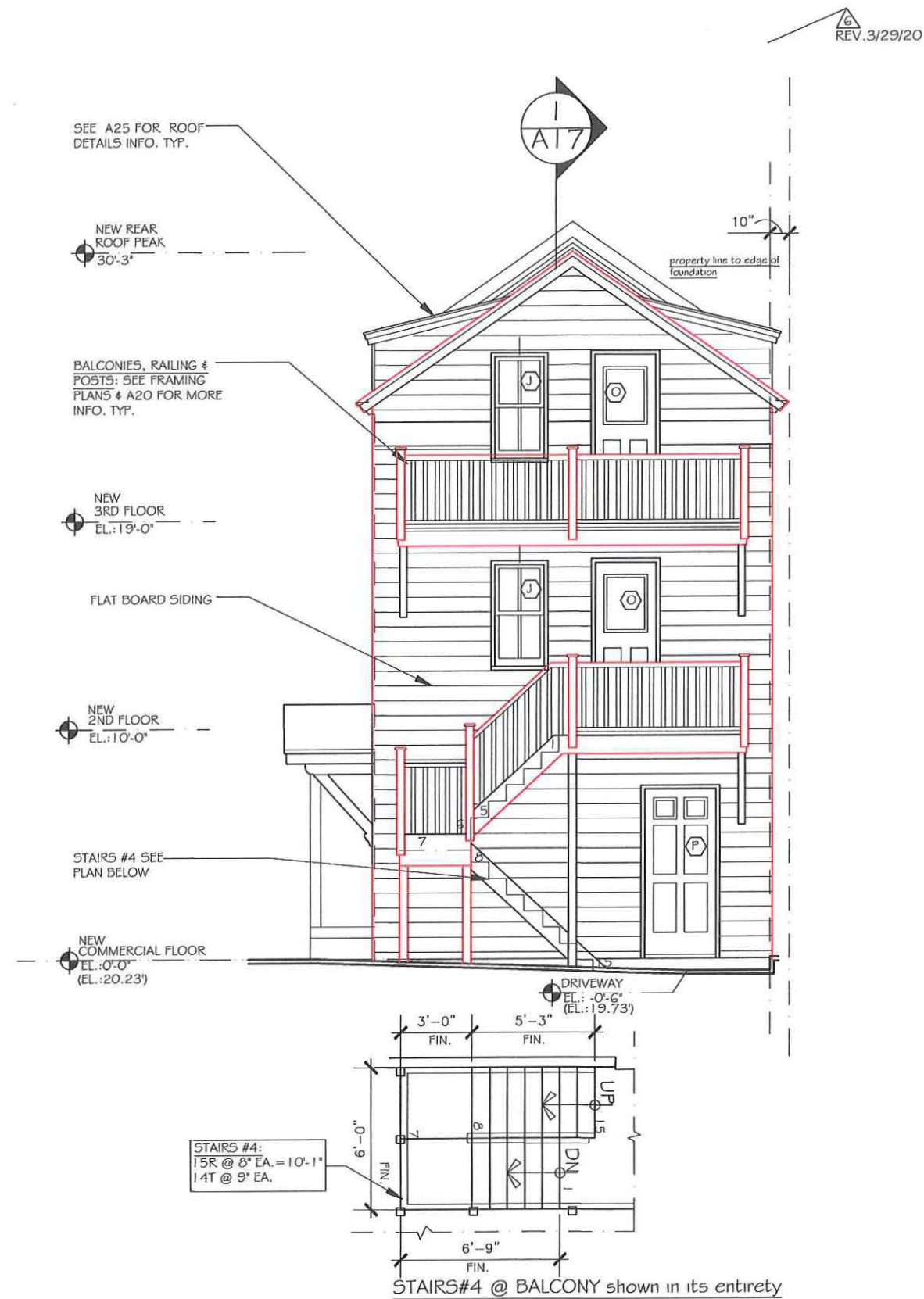
108-90
TZELNIC, MORI & PERCY TZELNIC
156 UPLAND RD
CONCORD, MA 01742

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

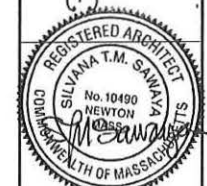
114-130
CITY OF CAMBRIDGE
C/O NANCY GLOWA
CITY SOLICITOR



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

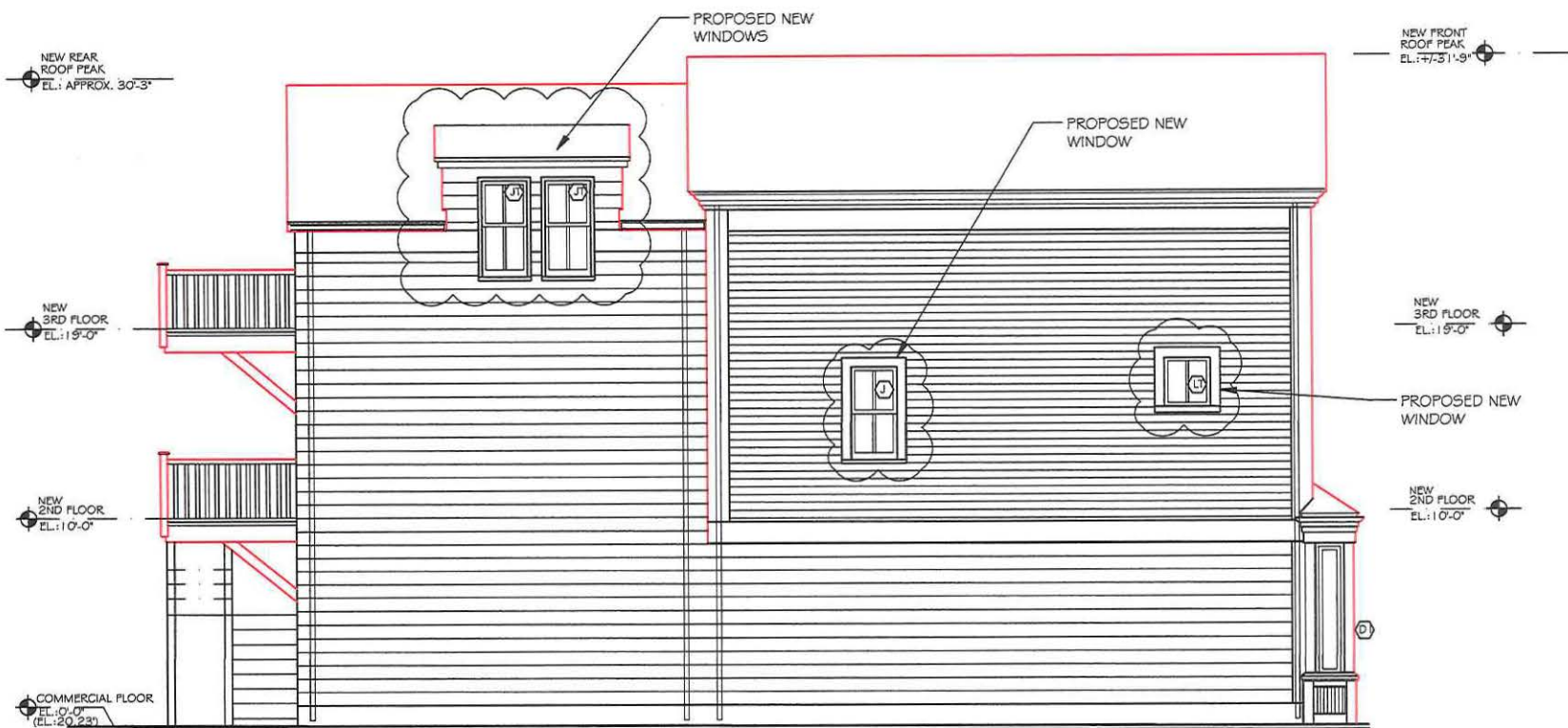
362 BROADWAY STREET
CAMBRIDGE, MA



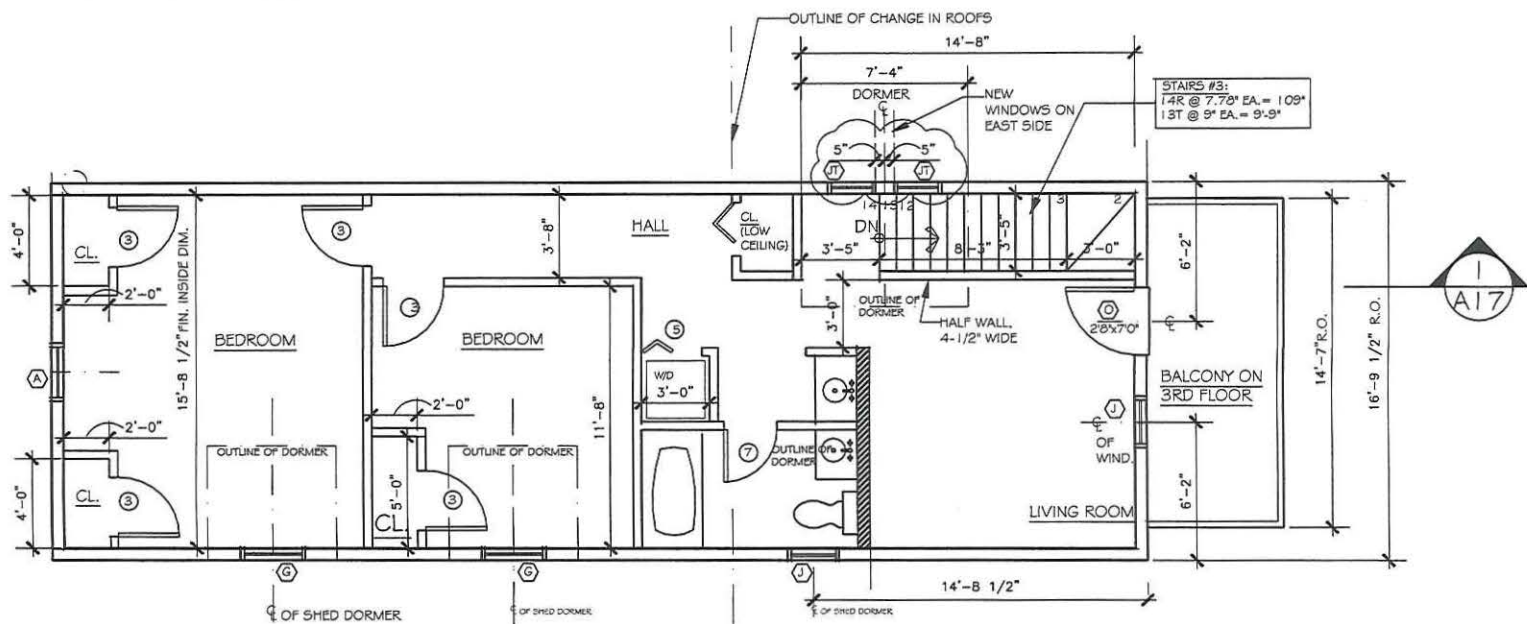
South Elevation
Scale: 1/4" = 1'-0"
Date: 04.17.20
362Broadwayplans.dwg

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

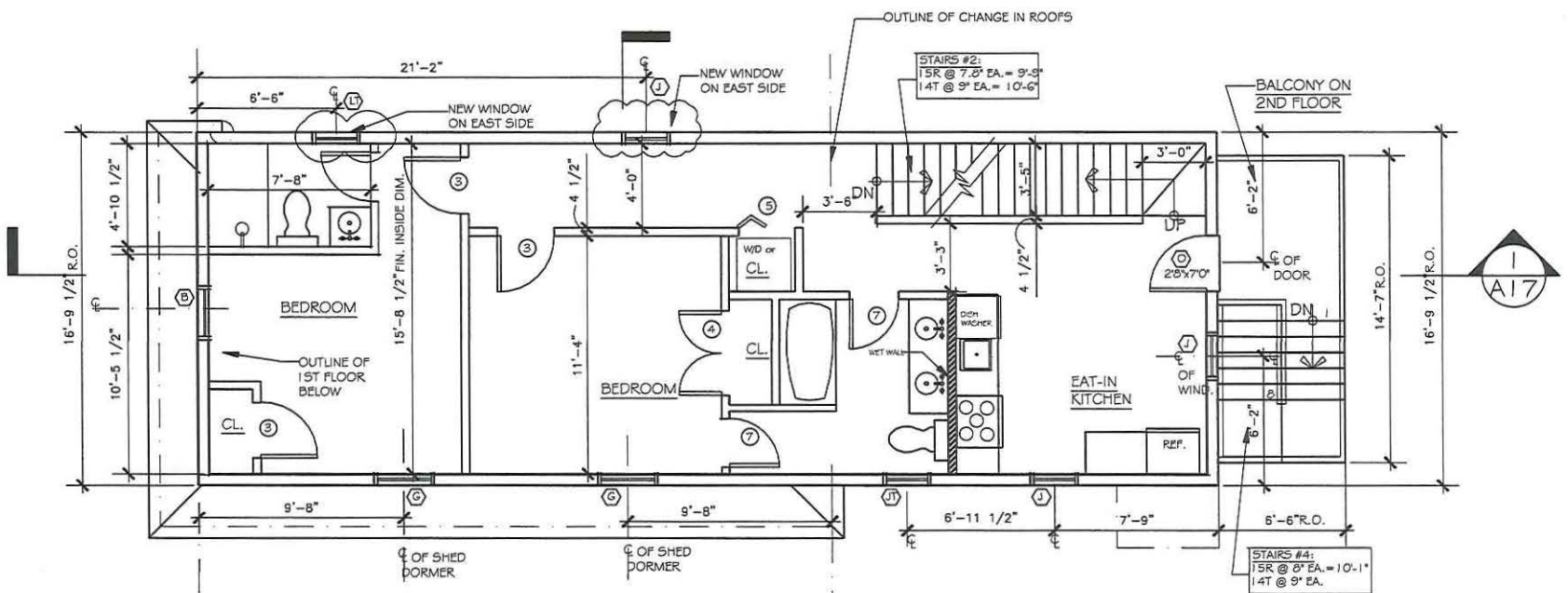
A13



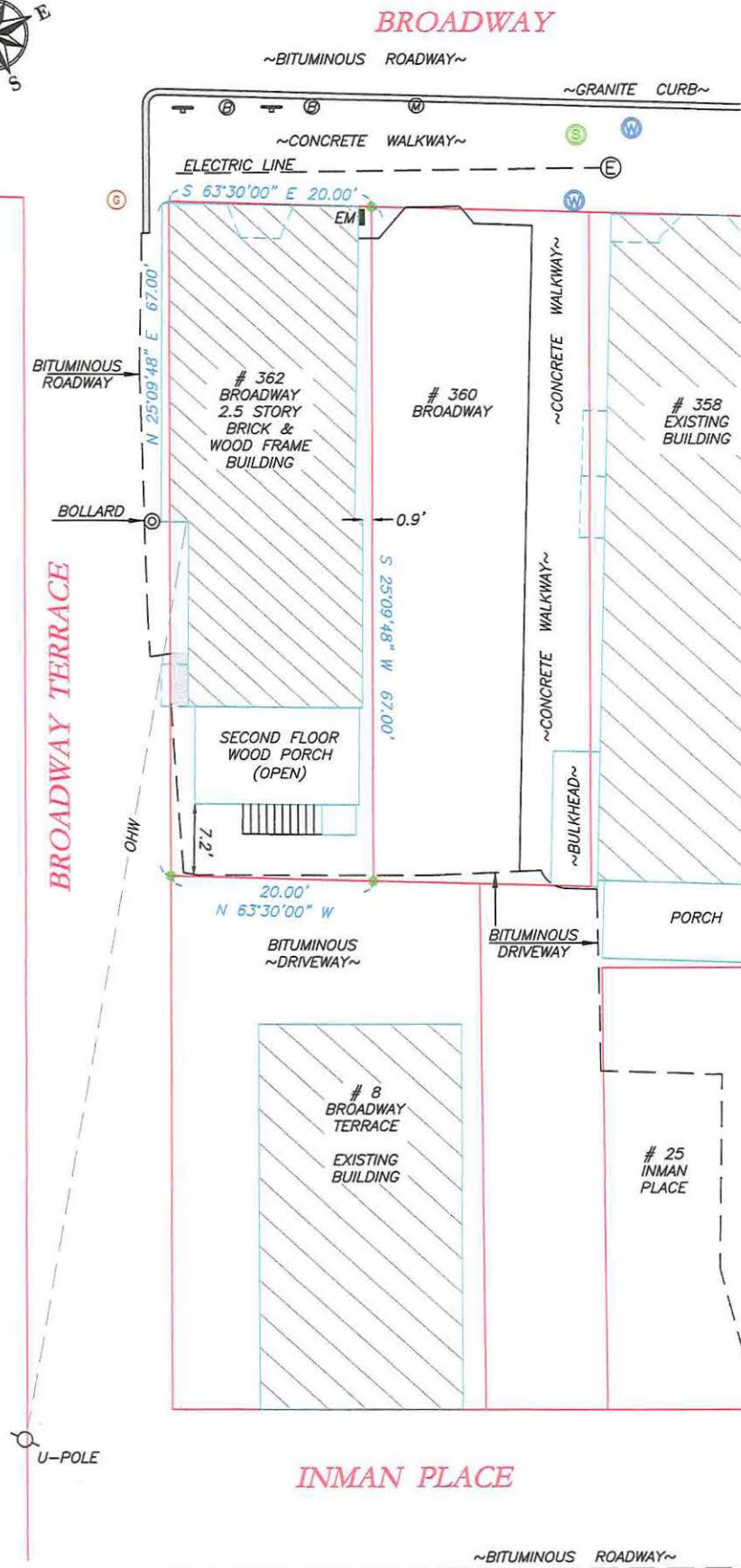
EAST ELEVATION W/ PROPOSED NEW WINDOWS



THIRD FLOOR PLAN - PROPOSED WINDOWS IN BUBBLES



SECOND FLOOR PLAN - PROPOSED WINDOWS IN BUBBLES



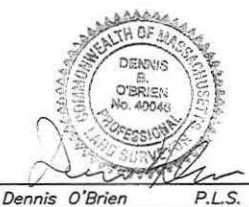
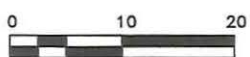
NOTES:

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 2:51

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.

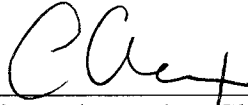
The five-member Board voted unanimously in favor of granting the variance as conditioned (Alexander, Sullivan, Anderson, Monteverde, and Hammer). Therefore, the variance is granted as conditioned.

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.

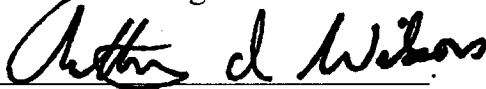


Constantine Alexander, Chair

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.

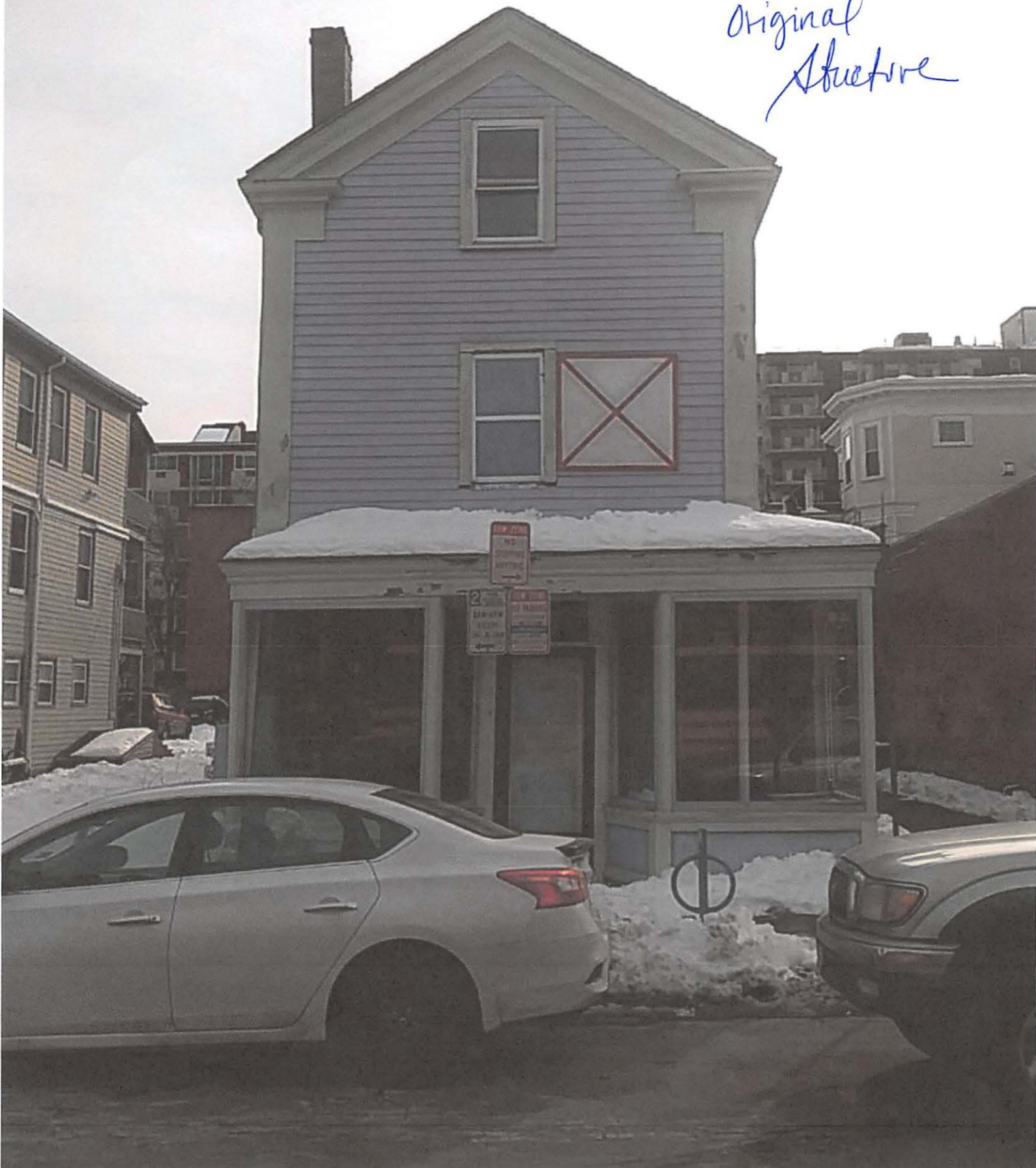
No appeal has been filed



Appeal has been filed and dismissed or denied.

Date: 09-03-2019 _____ City Clerk.

362 Broadway
original
structure

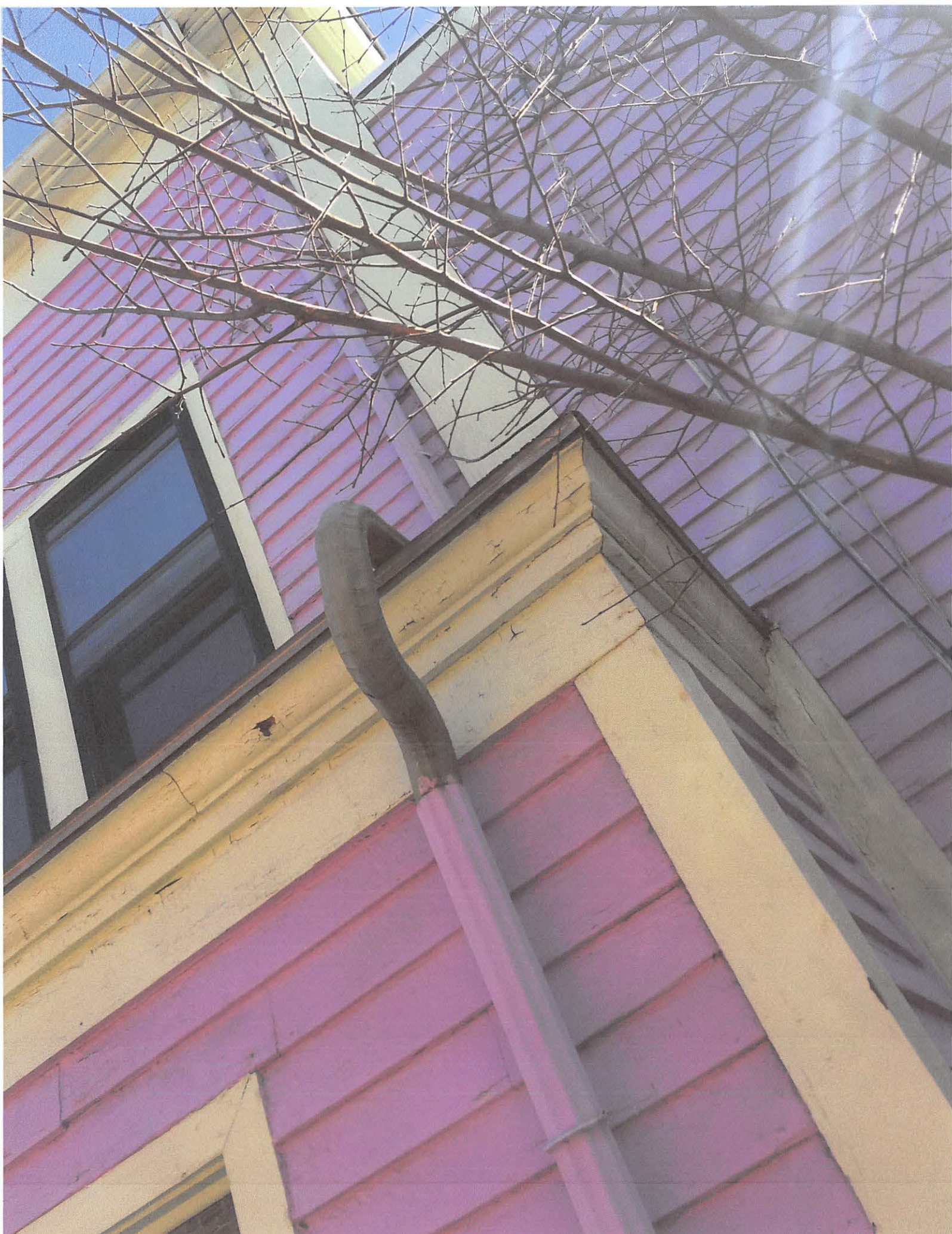












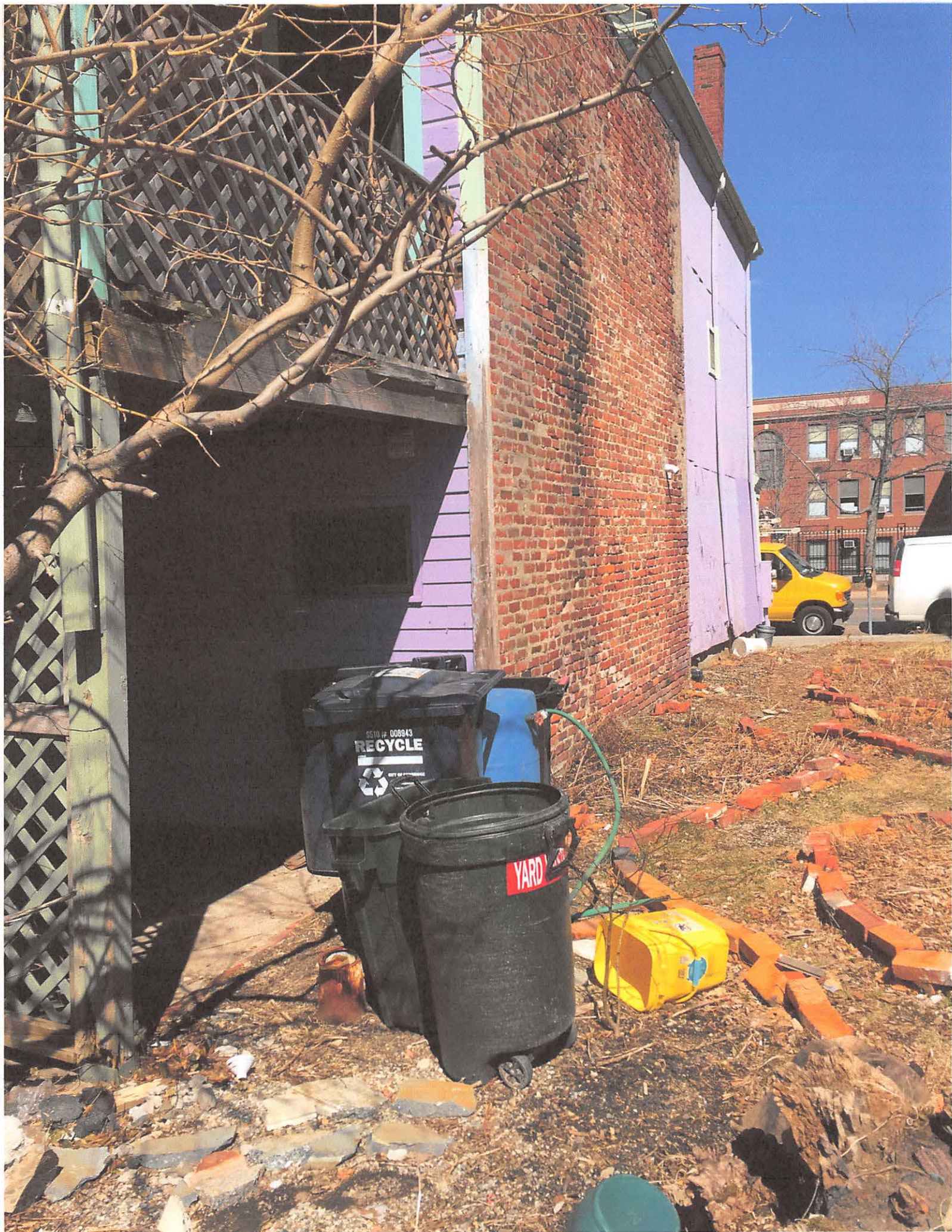


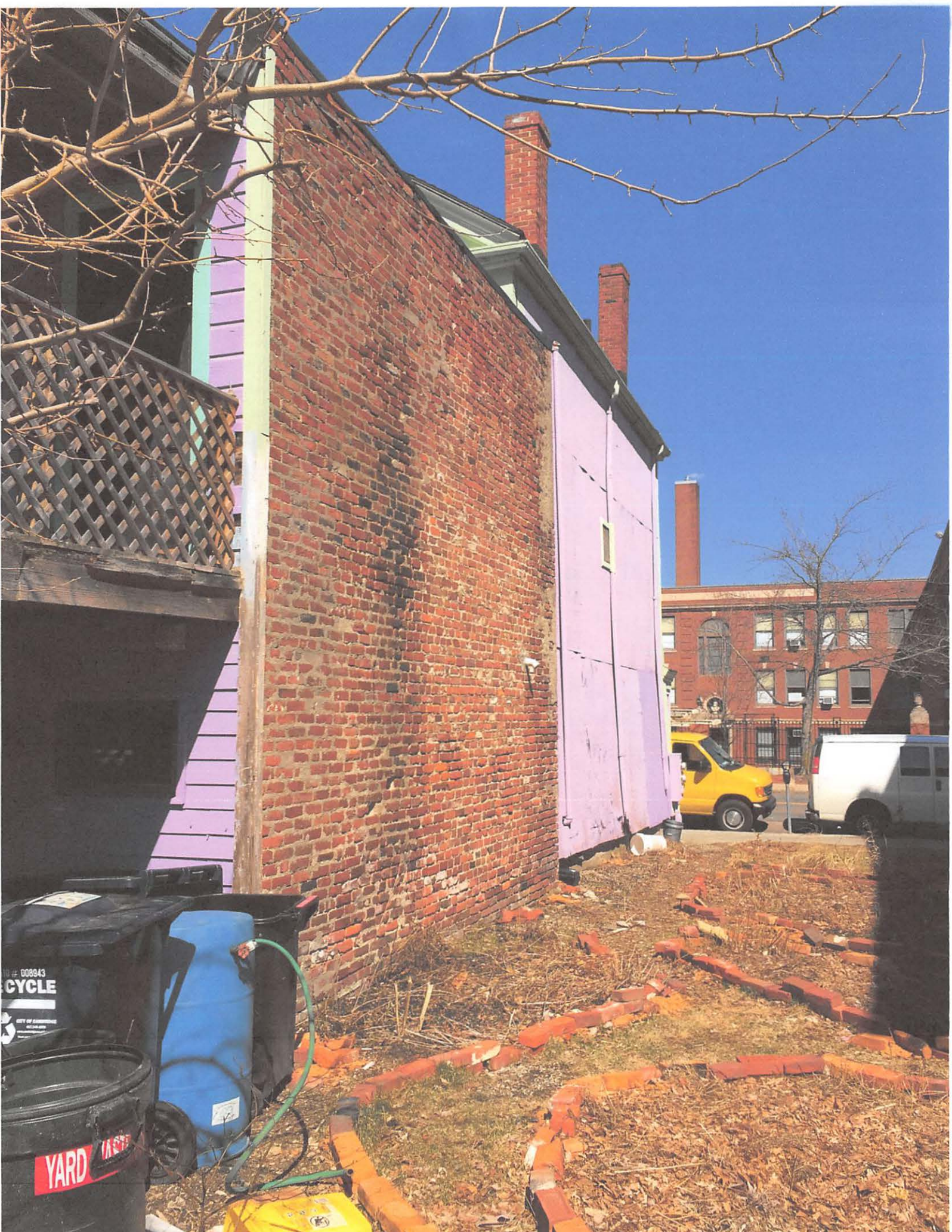












10 # 008943
CYCLE
CITY OF ALBANY
YARD





City of Cambridge

MASSACHUSETTS

BOARD OF ZONING APPEAL

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

2020 SEP 25 AM 10:32
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-017307-2020

Address: 362 Broadway

☒ Owner, ☐ Petitioner, or ☐ Representative: DUNCAN MACARTHUR, MANAGER
(Print Name) BAKER POND LLC

hereby waives the required time limits for holding a public hearing as required by

Section 9 or Section 15 of the Zoning Act of the Commonwealth of Massachusetts,

Massachusetts General Laws, Chapter 40A. The ☐ Owner, ☐ Petitioner, or ☐

Representative further hereby waives the Petitioner's and/or Owner's right to a

Decision by the Board of Zoning Appeal on the above referenced case within the time

period as required by Section 9 or Section 15 of the Zoning Act of the Commonwealth of

Massachusetts, Massachusetts General Laws, Chapter 40A, and/or Section 6409 of the

federal Middle Class Tax Relief and Job Creation Act of 2012, codified as 47 U.S.C.

§1455(a), or any other relevant state or federal regulation or law.

Date: 9-25-20

[Signature]
Signature



City of Cambridge

MASSACHUSETTS

BOARD OF ZONING APPEAL

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

BZA

POSTING NOTICE – PICK UP SHEET

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

Name:

JEREMY DEVONICH
(Print)

Date:

9/3/20

Address:

362 Broadway

Case No.

BZA-017307-2020

Hearing Date:

9/24/20

Thank you,
Bza Members