



# CITY OF CAMBRIDGE

## BOARD OF ZONING APPEAL

831 Massachusetts Avenue, Cambridge MA 02139

617-349-6100

2023 AUG 17 AM 11:09  
OFFICE OF THE CITY CLERK  
CAMBRIDGE, MASSACHUSETTS

### BZA Application Form

**BZA Number: 238314**

#### General Information

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

Special Permit: \_\_\_\_\_ Variance: X Appeal: \_\_\_\_\_

**PETITIONER:** David Brewster and Oleanna Klein C/O Maggie Booz, SmartArchitecture

**PETITIONER'S ADDRESS:** 33 Lawn Street, Cambridge, MA 02138

**LOCATION OF PROPERTY:** 46 Brewster St., Cambridge, MA

**TYPE OF OCCUPANCY:** Single family

**ZONING DISTRICT:** Residence A-1 Zone

**REASON FOR PETITION:**

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

Construction of a portion of a rear deck that exceeds the rear yard setback minimum. Construction of a hot tub within 10' from the primary structure.

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

Article: 5.000      Section: 5.31 Table of Dimensional requirements  
Article: 4.000      Section: 4.21 (Accessory Structure).  
Article: 10.000      Section: 10.30 (Variance).

Original  
Signature(s):

(Petitioner (s) / Owner)

MAGGIE BOOZ

(Print Name)

Address:

33 LAWN ST, CAMB 02138

Tel. No.

617-576-2720

E-Mail Address:

maggie@smartarchitecture.net

**Date:** 8.16.23

### BZA Application Form

**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 Oleanna Klein and David B. Brewster  
(OWNER)

Address: 46 Brewster Street, Cambridge, MA 02138

State that I/We own the property located at 46 Brewster St., Cambridge MA  
which is the subject of this zoning application.

The record title of this property is in the name of \_\_\_\_\_  
Oleanna Klein and David B. Brewster

\*Pursuant to a deed of duly recorded in the date 12/23/2011, Middlesex South  
County Registry of Deeds at Book 58149, Page 74; or

Middlesex Registry District of Land Court, Certificate No. \_\_\_\_\_

Book \_\_\_\_\_ Page \_\_\_\_\_

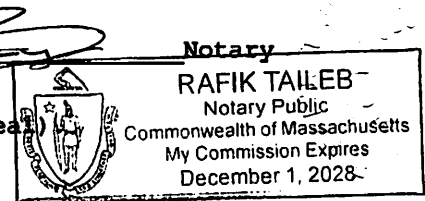
  
SIGNATURE BY LAND OWNER OR  
AUTHORIZED TRUSTEE, OFFICER OR AGENT\*

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

-----  
Commonwealth of Massachusetts, County of MIDDLESEX

The above-name OLEANNA KLEIN and DAVID BREWSTER personally appeared before me,  
this 18<sup>th</sup> of JULY, 2023, and made oath that the above statement is true.

My commission expires 12/01/2028 (Notary Seal)



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

**BZA Application Form****SUPPORTING STATEMENT FOR A 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 lot at 46 Brewster slopes significantly down from the front yard to the rear, which results in almost a story difference in height below the first floor and the backyard grade. Owners would like to create an outdoor space closer to the ground, but not a full stair's journey down from the first floor, and this kind of vertical drop of course means an accompanying horizontal distance of stairs as well. In order to make a useable porch, for grilling, eating, sitting, that porch extends further into the yard than the rear setback allows. And while a hot tub could be placed in many areas by-right in the backyard, the by-right areas provide less privacy than the proposed location. The Ordinance defines a hot tub as an accessory structure, and thus mandates a 10' distance from the house. But this mandate is meant to offer fire protection between structures, which is not an issue with a hot tub.

- 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 large grade change on the property from north to south necessitates a solution to be concocted, in order for the Owners to enjoy use of their backyard and proximity to their children using the backyard, that presses into the rear yard setback zone. But the fact that the backyard is broad (while not deep) more than makes up for the encroachment. The proposed structure still results in an open space percentage far above the required 50% minimum.

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

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

The abutting property to the south of 46 Brewster Street, arguably the property most affected by the proposal, has a detached Carriage house/accessory structure which sits on the shared property line. Therefore, the encroachment of the proposed porch has no affect on the perceived land between the houses. The current deck at the rear of 46 Brewster, while complying with the rear setback, is at first floor level and as such there is a perception by neighboring properties that the Owners, when using the deck, are up very high and unable to be privatized. The proposed porch and considerable new planting that the Owners are doing will serve to make a more private yard and garden and give the neighboring properties a chance to feel more private as well .

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

The proposed deck and hot tub location are causing no exacerbated safety issues, density, shadows, lack of open space, nor inappropriate development in the zoning district or neighborhood. Therefore, the intent and purpose of the Ordinance is not nullified with the granting of the proposal.

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

**DIMENSIONAL INFORMATION**

**Applicant:** David Brewster and Oleanna Klein  
**Location:** 46 Brewster St., Cambridge, MA  
**Phone:** 617-576-2720

**Present Use/Occupancy:** Single family  
**Zone:** Residence A-1 Zone  
**Requested Use/Occupancy:** Single family

		<b><u>Existing Conditions</u></b>	<b><u>Requested Conditions</u></b>	<b><u>Ordinance Requirements</u></b>	
<b><u>TOTAL GROSS FLOOR AREA:</u></b>		5164	5164	5513	(max.)
<b><u>LOT AREA:</u></b>		11026	11026	8000 SF min	(min.)
<b><u>RATIO OF GROSS FLOOR AREA TO LOT AREA: <sup>2</sup></u></b>		.46	.46	.50	
<b><u>LOT AREA OF EACH DWELLING UNIT</u></b>		11026	11026	6000	
<b><u>SIZE OF LOT:</u></b>	<b>WIDTH</b>	100.14	100.14	80	
	<b>DEPTH</b>	110.14	110.14	NA	
<b><u>SETBACKS IN FEET:</u></b>	<b>FRONT</b>	9.6	9.6	25	
	<b>REAR</b>	33.5	21	27	
	<b>LEFT SIDE</b>	29	29	15 (sum of 25)	
	<b>RIGHT SIDE</b>	29.4	29.4	15 (sum of 25)	
<b><u>SIZE OF BUILDING:</u></b>	<b>HEIGHT</b>	38.5 ave	38.5 ave	35	
	<b>WIDTH</b>	67.04	67.04	58	
	<b>LENGTH</b>	41.84	41.84	70 max	
<b><u>RATIO OF USABLE OPEN SPACE TO LOT AREA:</u></b>		72% open	69% open	50 % open	
<b><u>NO. OF DWELLING UNITS:</u></b>		1	1	2 maximum	
<b><u>NO. OF PARKING SPACES:</u></b>		2	2	1	
<b><u>NO. OF LOADING AREAS:</u></b>		NA	NA	NA	
<b><u>DISTANCE TO NEAREST BLDG. ON SAME LOT</u></b>		9'	0'	10'	

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

Existing free-standing garage on site is 9' from primary building. Petitioner is requesting permission to install a concrete pad for an above-ground hot tub, the corner of which touches the corner of the house.

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'.

# BREWSTER-KLEIN RESIDENCE

## 46 BREWSTER STREET, CAMBRIDGE, MASSACHUSETTS

ARCHITECT  
SMART ARCHITECTURE  
33 LAWN ST, CAMBRIDGE, MA 02138  
T: 617.576.2720 www.smartarchitecture.net

DRAWING INDEX:

- A-0.0 Cover Page With Certified Plot Plan
- A-2.0 Existing Partial Site Plan
- A-3.0 Proposed Partial Site Plan
- A-6.0 Existing & Proposed Partial Rear & Side Elevations

Stretch Energy Code Compliance - Prescriptive Option for Residential Alterations

Alterations to this existing building shall conform to Chapter 11 - Energy Efficiency 2015 International Residential Code w/ Massachusetts Amendments, and shall further demonstrate compliance with:

1. Implementation of the Energy Stair Qualified Homes Thermal Bypass Inspection List:

- Overall Air Barrier and Thermal Barrier Alignment - Insulation shall be installed in full contact with sealed interior and exterior air barrier except for alternate to interior air barrier under *Walls Adjoining Exterior Walls or Unconditioned Spaces*.
- Walls Adjoining Exterior Walls or Unconditioned Spaces - Fully insulated wall aligned with air barrier at both interior & exterior, or, Alternate for Climate Zones 1 thru 3, sealed exterior air barrier aligned with RESNET grade 1 insulation fully supported. Continuous top and bottom plates or sealed blocking.
- Floors between Conditioned and Exterior Spaces - Air barrier is installed at any exposed fibrous insulation edges. Insulation is installed to maintain permanent contact with sub-floor above including necessary supports. Blanket insulation is verified to have no gaps, voids or compression. Blown-in insulation is verified to have proper density with firm packing.
- Shafts - Opening to unconditioned space are fully sealed with solid blocking or flashing and any remaining gaps are sealed with caulk or foam (provide fire-rated collars and caulking where req'd).
- Attic/ Ceiling Interface - All attic penetrations and dropped ceilings include a full interior air barrier aligned with insulation with any gaps fully sealed with caulk, foam or tape. Movable insulation fits snugly in opening and air barrier is fully gasketed.

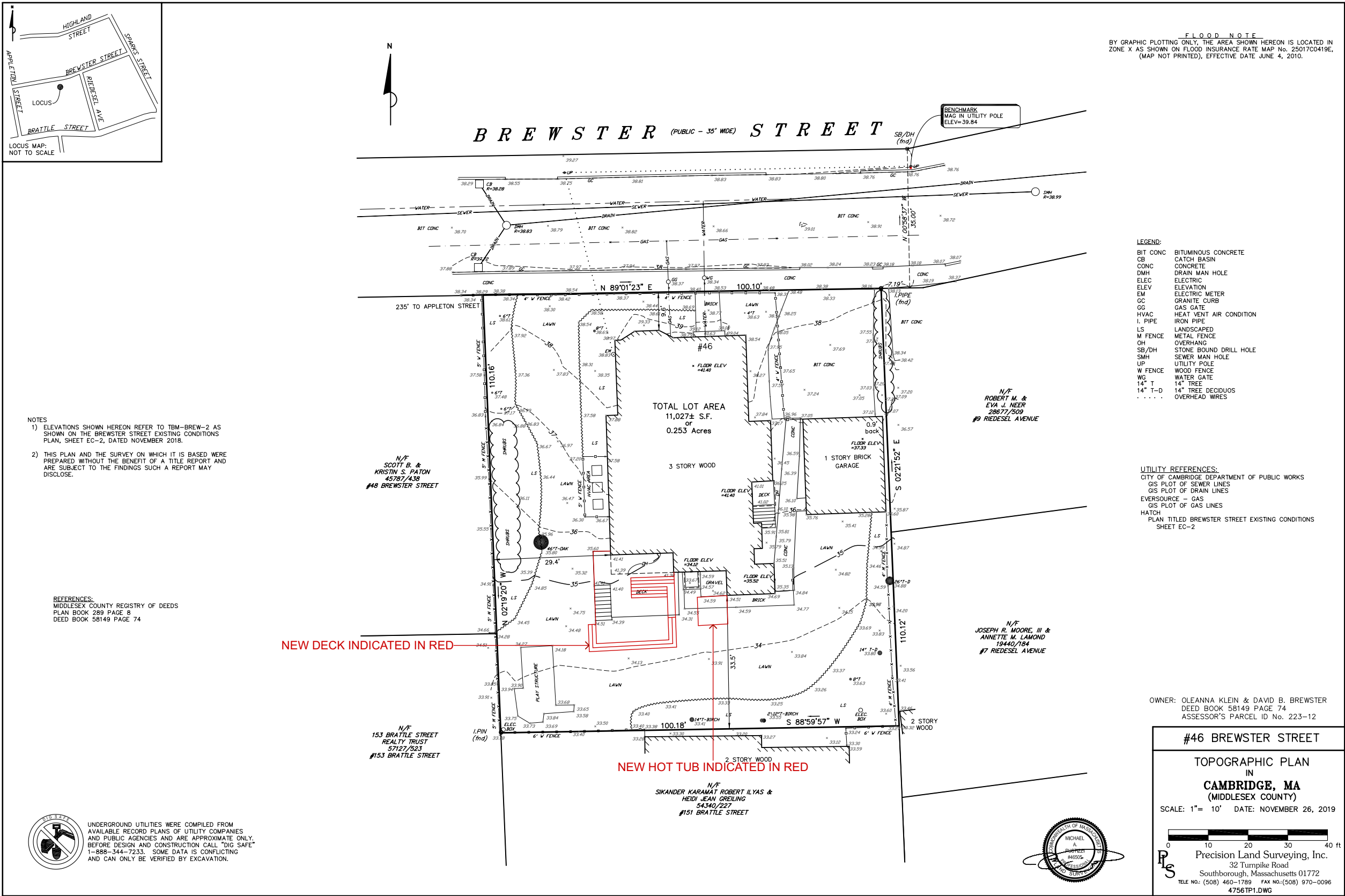
2. All Windows, Doors, and Skylights shall meet the minimum Energy Star Requirements for U-factor: Windows  $\leq 0.30$ ; Solid Doors  $\leq 0.21$ ; More than 50% Glass  $\leq 0.32$ ; Skylights  $\leq 0.55$

3. Ducts for new HVAC systems shall be sealed and tested post-construction to demonstrate leakage to outdoors of less than or equal to 4 cfm per 100 SF of conditioned floor area, except where the air handler and all ducts are located within *conditioned space*.

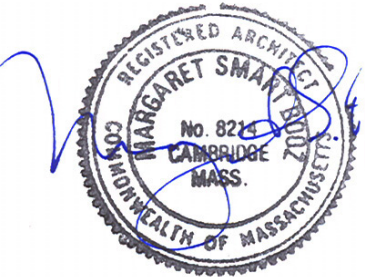
4. Electrical Power and Lighting Systems: Lighting equipment (Prescriptive). A minimum of 50 percent of the lamps in permanently installed lighting fixtures shall be high-efficiency lamps.

ENERGY CODE COMPLIANCE

1



Board of Zoning Appeal  
Application



General Drawing Note:  
Do not scale off these drawings. Written dimensions take precedence. Contractor to verify all written dimensions in field before proceeding with work. Notify architect and owner of any dimensional discrepancies before proceeding with work. Exterior dimensions given are to framing, interior dimensions given are to finished surfaces.

SMART  
ARCHITECTURE  
33 LAWN STREET, CAMBRIDGE, MA 02138

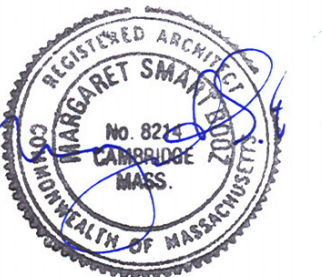
Brewster Klein Residence  
46 Brewster Street  
Cambridge, MA 02138

Job number	2308
Scale	as noted
Date	08.15.23
Drawn by	rb
Checked by	msb

Cover Page With Certified  
Plot Plan

A-0.0





**General Drawing Note:**  
Do not scale off these drawings. Written dimensions take precedence. Contractor to verify all written dimensions in field before proceeding with work. Notify architect and owner of any dimensional discrepancies before proceeding with work. Exterior dimensions given are to framing, interior dimensions given are to finished surfaces.

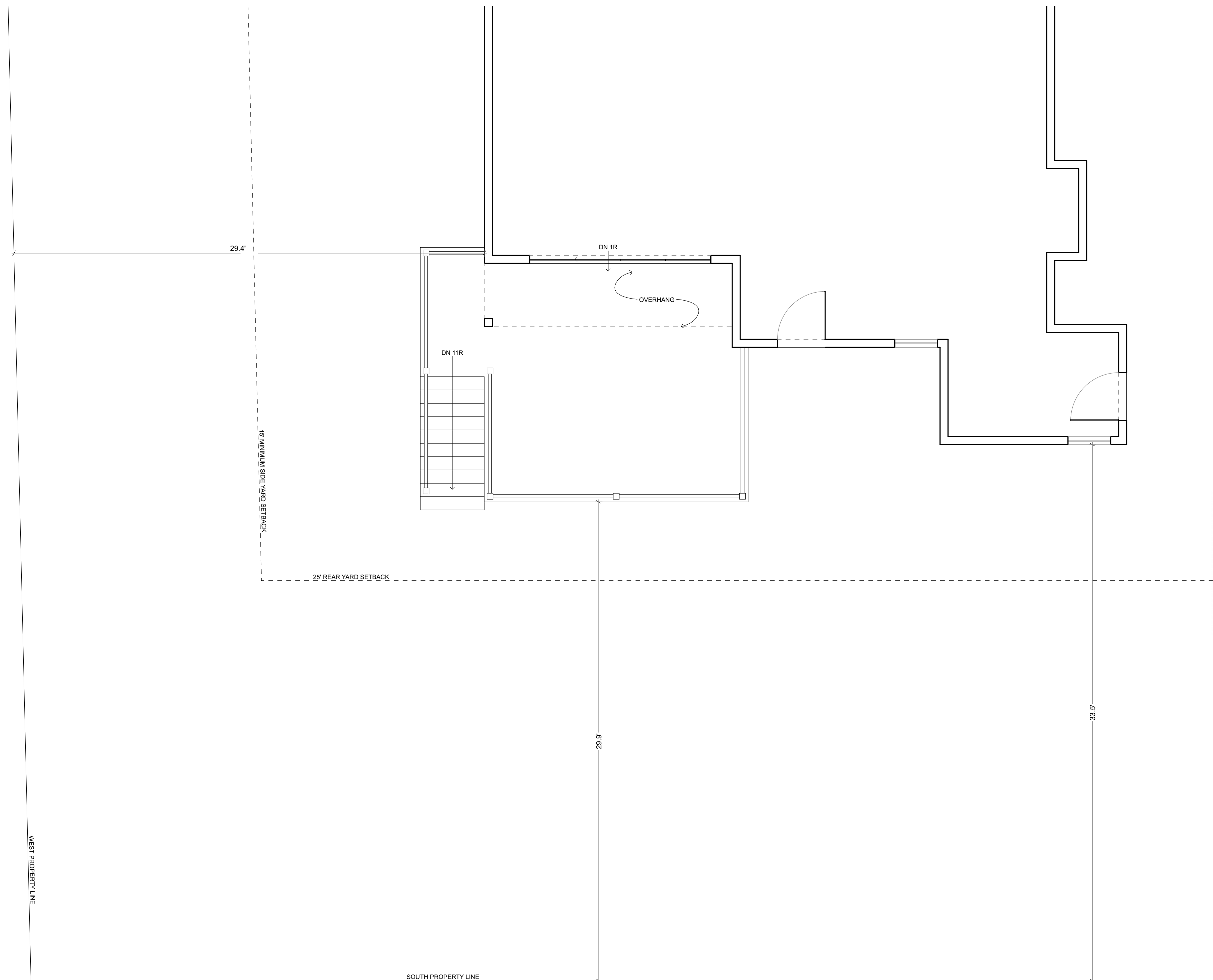
SMART  
ARCHITECTURE  
33 LAWN STREET, CAMBRIDGE, MA 02138

Brewster Klein Residence  
46 Brewster Street  
Cambridge, MA 02138

Job number	2308
Scale	as noted
Date	08.15.23
Drawn by	rb
Checked by	msh

### Existing Partial Site Plan

## A-2.0



### Proposed Deck Plan

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1/4" = 1'-0"

1



General Drawing Note:  
Do not scale off these drawings. Written dimensions take precedence. Contractor to verify all written dimensions in field before proceeding with work. Notify architect and owner of any dimensional discrepancies before proceeding with work. Exterior dimensions given are to framing, interior dimensions given are to finished surfaces.

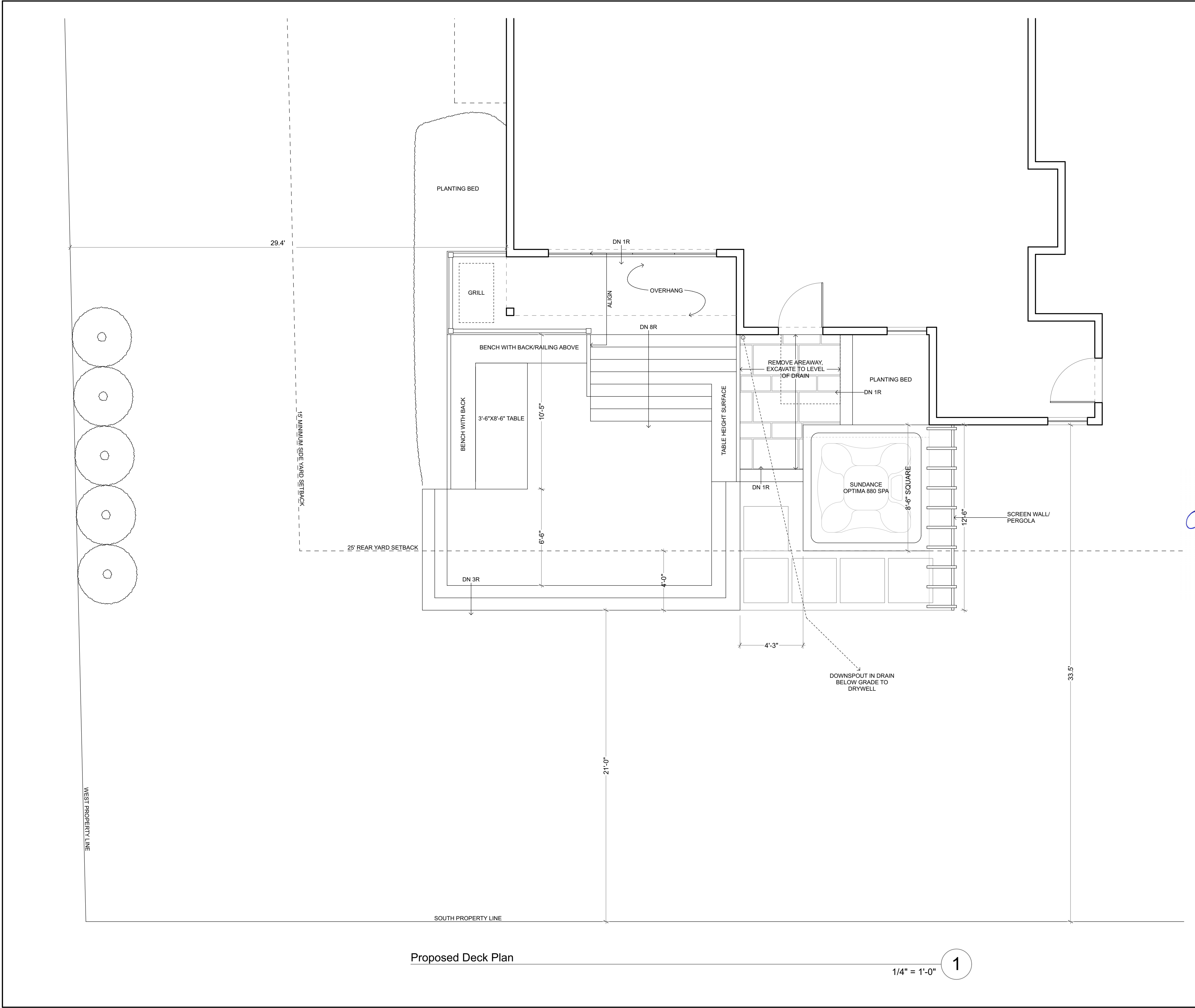
**SMART ARCHITECTURE**  
33 LAWN STREET, CAMBRIDGE, MA 02138

**Brewster Klein Residence**  
46 Brewster Street  
Cambridge, MA 02138

2308	
Job number	
as noted	
Scale	
08.15.23	
Date	
rb	
Drawn by	
msb	
Checked by	

Proposed Partial Site Plan

A-3.0

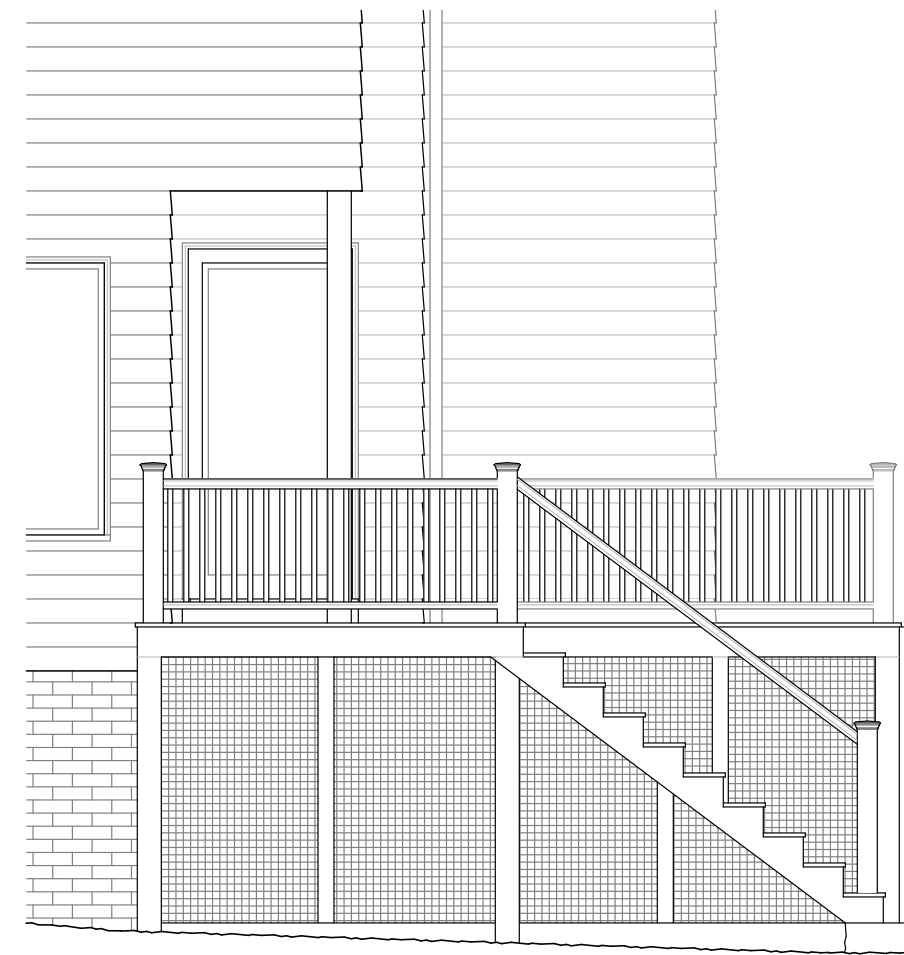




Existing Partial Rear Elevation

1/4" = 1'-0"

1



Existing Partial West Side Elevation

1/4" = 1'-0"

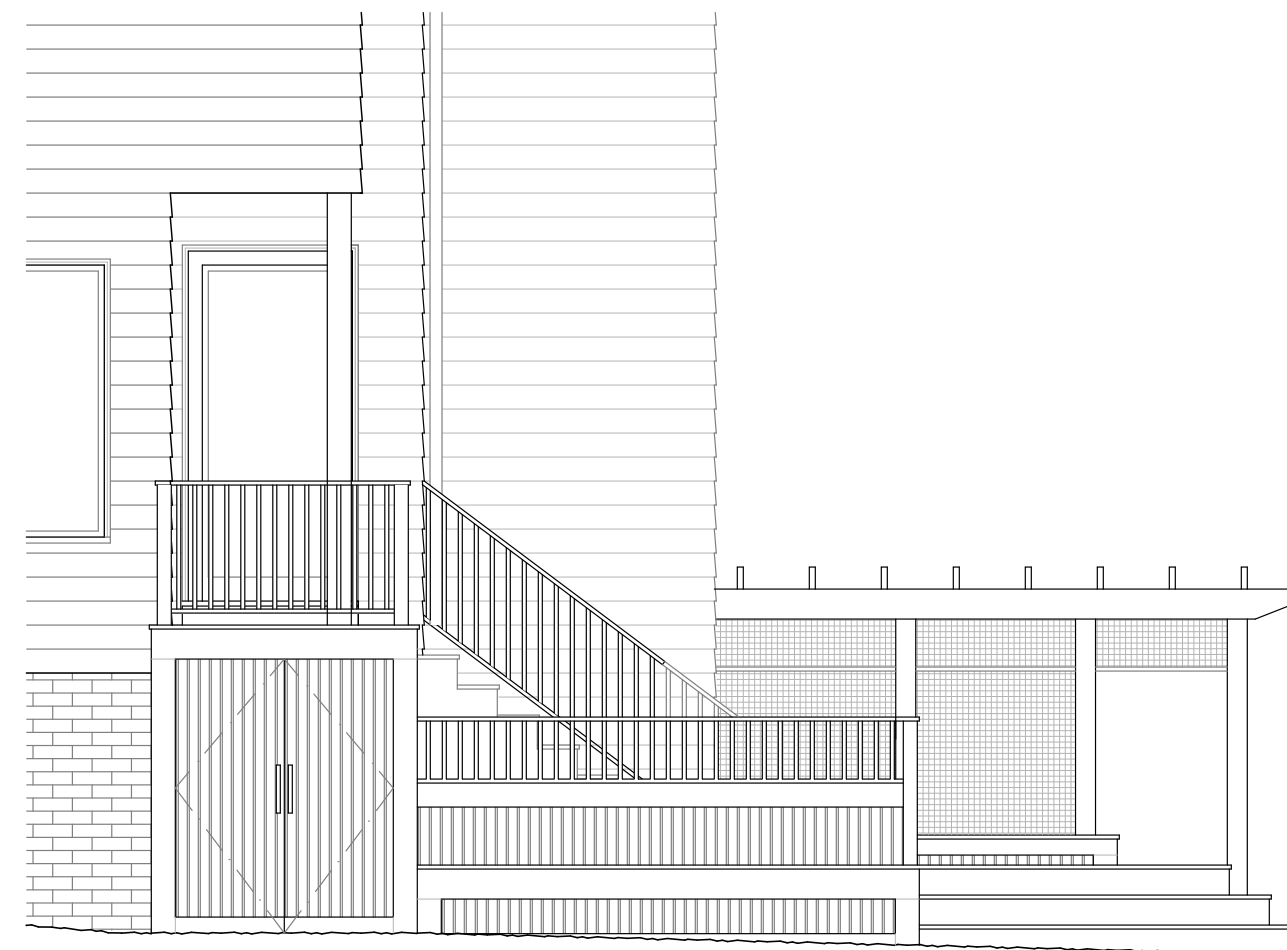
2



Proposed Partial Rear Elevation

1/4" = 1'-0"

3



Proposed Partial West Side Elevation

1/4" = 1'-0"

4



General Drawing Note:  
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**SMART  
ARCHITECTURE**  
33 LAWN STREET, CAMBRIDGE, MA 02138

**Brewster Klein Residence**  
46 Brewster Street  
Cambridge, MA 02138

Job number	2308
Scale	as noted
Date	08.15.23
Drawn by	rb
Checked by	msb

Existing & Proposed Partial  
Rear and West Side  
Elevations

**A-6.0**



46 Brewster St.









This map shows a residential neighborhood with the following streets and features:

- Streets:** Highland St, Brewster St, Appleton St, Brattle St, Riedesel Ave, Hubbard Park Rd.
- Property Lots and Addresses:**
  - Highland St: 231-44, 231-7, 22 Highland St, 18 Highland St, 16 Highland St, 223-33, 223-34, 223-32, 223-39, 223-1053, 223-54, 223-57, 223-58, 223-59, 223-60, 223-61, 223-62, 223-63, 223-64, 223-71, 223-72, 223-29, 223-9, 40 Appleton St, 223-10, 223-17, 223-16, 223-15, 223-14, 223-12, 223-11, 223-10, 223-9, 223-8, 223-7, 223-6, 223-5, 223-4, 223-3, 222-3, 222-2, 222-1, 222-4, 222-5, 222-10, 222-11, 222-12, 222-13, 222-14, 222-15, 222-16, 222-17, 222-18, 222-19, 222-20, 222-21, 222-22, 222-23, 222-24, 222-25, 222-26, 222-27, 222-28, 222-29, 222-30, 222-31, 222-32, 222-33, 222-34, 222-35, 222-36, 222-37, 222-38, 222-39, 222-40, 222-41, 222-42, 222-43, 222-44, 222-45, 222-46, 222-47, 222-48, 222-49, 222-50, 222-51, 222-52, 222-53, 222-54, 222-55, 222-56, 222-57, 222-58, 222-59, 222-60, 222-61, 222-62, 222-63, 222-64, 222-65, 222-66, 222-67, 222-68, 222-69, 222-70, 222-71, 222-72, 222-73, 222-74, 222-75, 222-76, 222-77, 222-78, 222-79, 222-80, 222-81, 222-82, 222-83, 222-84, 222-85, 222-86, 222-87, 222-88, 222-89, 222-90, 222-91, 222-92, 222-93, 222-94, 222-95, 222-96, 222-97, 222-98, 222-99, 223-1, 223-2, 223-3, 223-4, 223-5, 223-6, 223-7, 223-8, 223-9, 223-10, 223-11, 223-12, 223-13, 223-14, 223-15, 223-16, 223-17, 223-18, 223-19, 223-20, 223-21, 223-22, 223-23, 223-24, 223-25, 223-26, 223-27, 223-28, 223-29, 223-30, 223-31, 223-32, 223-33, 223-34, 223-35, 223-36, 223-37, 223-38, 223-39, 223-40, 223-41, 223-42, 223-43, 223-44, 223-45, 223-46, 223-47, 223-48, 223-49, 223-50, 223-51, 223-52, 223-53, 223-54, 223-55, 223-56, 223-57, 223-58, 223-59, 223-60, 223-61, 223-62, 223-63, 223-64, 223-65, 223-66, 223-67, 223-68, 223-69, 223-70, 223-71, 223-72, 223-73, 223-74, 223-75, 223-76, 223-77, 223-78, 223-79, 223-80, 223-81, 223-82, 223-83, 223-84, 223-85, 223-86, 223-87, 223-88, 223-89, 223-90, 223-91, 223-92, 223-93, 223-94, 223-95, 223-96, 223-97, 223-98, 223-99, 224-1, 224-2, 224-3, 224-4, 224-5, 224-6, 224-7, 224-8, 224-9, 224-10, 224-11, 224-12, 224-13, 224-14, 224-15, 224-16, 224-17, 224-18, 224-19, 224-20, 224-21, 224-22, 224-23, 224-24, 224-25, 224-26, 224-27, 224-28, 224-29, 224-30, 224-31, 224-32, 224-33, 224-34, 224-35, 224-36, 224-37, 224-38, 224-39, 224-40, 224-41, 224-42, 224-43, 224-44, 224-45, 224-46, 224-47, 224-48, 224-49, 224-50, 224-51, 224-52, 224-53, 224-54, 224-55, 224-56, 224-57, 224-58, 224-59, 224-60, 224-61, 224-62, 224-63, 224-64, 224-65, 224-66, 224-67, 224-68, 224-69, 224-70, 224-71, 224-72, 224-73, 224-74, 224-75, 224-76, 224-77, 224-78, 224-79, 224-80, 224-81, 224-82, 224-83, 224-84, 224-85, 224-86, 224-87, 224-88, 224-89, 224-90, 224-91, 224-92, 224-93, 224-94, 224-95, 224-96, 224-97, 224-98, 224-99, 225-1, 225-2, 225-3, 225-4, 225-5, 225-6, 225-7, 225-8, 225-9, 225-10, 225-11, 225-12, 225-13, 225-14, 225-15, 225-16, 225-17, 225-18, 225-19, 225-20, 225-21, 225-22, 225-23, 225-24, 225-25, 225-26, 225-27, 225-28, 225-29, 225-30, 225-31, 225-32, 225-33, 225-34, 225-35, 225-36, 225-37, 225-38, 225-39, 225-40, 225-41, 225-42, 225-43, 225-44, 225-45, 225-46, 225-47, 225-48, 225-49, 225-50, 225-51, 225-52, 225-53, 225-54, 225-55, 225-56, 225-57, 225-58, 225-59, 225-60, 225-61, 225-62, 225-63, 225-64, 225-65, 225-66, 225-67, 225-68, 225-69, 225-70, 225-71, 225-72, 225-73, 225-74, 225-75, 225-76, 225-77, 225-78, 225-79, 225-80, 225-81, 225-82, 225-83, 225-84, 225-85, 225-86, 225-87, 225-88, 225-89, 225-90, 225-91, 225-92, 225-93, 225-94, 225-95, 225-96, 225-97, 225-98, 225-99, 226-1, 226-2, 226-3, 226-4, 226-5, 226-6, 226-7, 226-8, 226-9, 226-10, 226-11, 226-12, 226-13, 226-14, 226-15, 226-16, 226-17, 226-18, 226-19, 226-20, 226-21, 226-22, 226-23, 226-24, 226-25, 226-26, 226-27, 226-28, 226-29, 226-30, 226-31, 226-32, 226-33, 226-34, 226-35, 226-36, 226-37, 226-38, 226-39, 226-40, 226-41, 226-42, 226-43, 226-44, 226-45, 226-46, 226-47, 226-48, 226-49, 226-50, 226-51, 226-52, 226-53, 226-54, 226-55, 226-56, 226-57, 226-58, 226-59, 226-60, 226-61, 226-62, 226-63, 226-64, 226-65, 226-66, 226-67, 2

46 Brewster St.

Petitioner

223-14  
ILYAS, SIKANDER KARAMAT ROBERT &  
HEIDI JEAN GREILING  
12 EARLS TERRACE  
LONDON, \_ W8 6LP

223-15  
GINER, A. SILVANA,  
TRUSTEE OF 153 BRATTLE ST REALTY TRUST  
153 BRATTLE ST  
CAMBRIDGE, MA 02138

SMART ARCHITECTURE  
C/O MAGGIE BOOZ  
33 LAWN STREET  
CAMBRIDGE, MA 02138

223-17  
CHASIN, RICHARD  
2 APPLETON ST  
CAMBRIDGE, MA 02138

223-48  
PARK, YOUNG K. & ANJA LANGBEIN  
5 RIEDESEL AVE.  
CAMBRIDGE, MA 02138

223-12  
KLEIN, OLEANNA & DAVID B. BREWSTER  
46 BREWSTER ST  
CAMBRIDGE, MA 02138

223-69  
VON REKOWSKY, ROBERT B. & ALICIA E. FRANK  
45 BREWSTER ST.  
CAMBRIDGE, MA 02138

223-49  
MOORE, JOSEPH R., III & ANNETTE M. LAMOND  
7 RIEDESEL AVE  
CAMBRIDGE, MA 02138-2211

223-47  
KNIGHT, CLEMENTINE A.  
C/O MS. LAURA STANTON  
BK OF AMERICA PRIV WEALTH  
114 W 47TH ST(MAIL #: NY8-114-04-07)  
NEW YORK, NY 10036-1510

223-71  
HORST, ARCH WILLIAM, JR. & KATE PAGE KIRBY  
55 BREWSTER STREET  
CAMBRIDGE, MA 02138-2203

223-72  
HINSHAW, FOSTER D. & DONNA L. STONE  
TRUSTEES OF 57 BREWSTER REALTY TR.  
57 BREWSTER ST  
CAMBRIDGE, MA 02138

223-10  
MANZI JIM P TRS JIM P MANZI TR - 2010  
10 APPLETON ST  
CAMBRIDGE, MA 02138

223-50  
ELDRIDGE ANN  
TRS THE ROBERT M NEER 2020 FAMILY TR  
9 RIEDESEL AVE  
CAMBRIDGE, MA 02138

223-11  
ZHANG, JIANWEI & RANXI MA  
48 BREWSTER ST  
CAMBRIDGE, MA 02138

223-64  
RAMIREZ VLADIMIR  
35 BREWSTER ST  
CAMBRIDGE, MA 02138

223-16  
MEYER, JACK R. & ELIZABETH D. MEYER  
155 BRATTLE ST.  
CAMBRIDGE, MA 02138-2243