



# CITY OF NEWTON, MASSACHUSETTS

City Hall

1000 Commonwealth Avenue, Newton, MA 02459-1449

Telephone: (617) 796-1120 TDD/TTY: (617) 796-1089 Fax: (617) 796-1086

[www.newtonma.gov](http://www.newtonma.gov)

Ruthanne Fuller  
Mayor

## ZONING BOARD OF APPEALS

**To:** Zoning Board of Appeals Members  
**From:** Heather Zaring, Interim Clerk  
**Date:** January 14, 2022  
**Subject:** Materials for **January 26, 2022** Public Hearing

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### Packet 1

Hello,

Please see the following supplemental materials for the upcoming hearing on January 26, 2022 Public Hearing. The following board members are scheduled to sit: *Brooke Lipsitt (Chair), William McLaughlin, Denise Chicoine, Michael Rossi, Stuart Snyder and Michael Quinn (Alternate).*

1. January 26, 2022 Agenda
2. 229 Bellevue Street Variance Application
3. 14 Crystal Street Variance Application
4. 15 Riverdale Avenue Insubstantial Change Request
5. Draft minutes from November 17, 2021

Thank you,

Heather Zaring

[hzaring@newtonma.gov](mailto:hzaring@newtonma.gov) |



# CITY OF NEWTON, MASSACHUSETTS

City Hall  
1000 Commonwealth Avenue, Newton, MA 02459-1449  
Telephone: (617) 796-1060 Fax: (617) 796-1086  
[www.newtonma.gov](http://www.newtonma.gov)

Ruthanne Fuller  
Mayor

**ZONING BOARD OF APPEALS**  
Heather Zaring, Interim Board Clerk

**The Zoning Board of Appeals will hold this meeting as a virtual meeting on Wednesday, January 26, 2022 at 7:00 pm.**

**To view and participate in this meeting using Zoom, click this link: <https://us02web.zoom.us/j/89730188672> or call 1-646-558-8656 and use the Meeting ID: 897 3018 8672**

## AGENDA

**A public hearing of the Newton Zoning Board of Appeals will be held virtually via Zoom on Wednesday, January 26, 2022 at 7:00 p.m. on the following petitions:**

1. Elections; discuss and/or adopt changes to the City of Newton Rules of the Zoning Board of Appeals, effective January 1, 2019; any necessary briefing from the Law Department about items in litigation.
2. **#09-21** David and Suzanne Wakefield of 229 Bellevue Street, Newton, Massachusetts, requesting to amend two previously granted variances (#87291 and #9-11) to allow a 3.6 foot front setback for a detached structure. The petitioner seeks to raze and reconstruct a detached garage. The subject property is located at 229 Bellevue Street within a Multi-Residence 1 (MR-1) zoning district and consists of a 9,700 square foot lot improved with a single family dwelling.
3. **#10-21** Jeff and Jane Freedman of 14 Crystal Street, Newton, Massachusetts, requesting a variance from Section 3.1.3 & Section 3.4.4.C.3 of the Newton Zoning Ordinance to reduce the required side setback to 3.4 feet where 7.5 feet is required and to allow an 18-foot wide double garage door on a front facing garage. The petitioner seeks to raze and reconstruct an existing attached garage. The subject property is located at 14 Crystal Street within a Single-Residence 2 (SR-2) zoning district and consists of a 11,640 square foot lot improved with a single family dwelling.
4. **#01-20** CPC Land Acquisition Company, LLC requesting to change the details of the Comprehensive Permit previously granted to the applicant on June 17, 2020, for a project located at 15 Riverdale Avenue in Newton, Massachusetts that consists of 51 affordable housing units. The applicant proposes to make minor elevation and material changes and to modify its Transportation Demand Management Plan. Pursuant to 760 CMR 56.05(11), this item will be heard for the purpose of determining whether the proposed change is substantial or insubstantial.
5. Review and approval of minutes for November 17, 2021 meeting.

The location of this meeting/event is wheelchair accessible and Reasonable Accommodations will be provided to persons with disabilities who require assistance. If you need a Reasonable Accommodation, please contact the city of Newton's ADA/Section 504 Coordinator, Jini Fairley, at least two business days in advance (2 weeks for ASL or CART) of the meeting/event: [jfairley@newtonma.gov](mailto:jfairley@newtonma.gov) or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

City Clerk Date/Time Stamp

**RECEIVED**  
By Interim ZBA Clerk at 10:15 am, Oct 26, 2021

**CITY OF NEWTON**  
**ZONING BOARD OF APPEALS**

**RECEIVED**  
By City Clerk at 3:33 pm, Oct 26, 2021

**CHECKLIST COVER PAGE**  
**FOR VARIANCE PETITION**

**To be completed by Staff:** \_\_\_\_\_ **Project No.:** \_\_\_\_\_ **Petition No.:** \_\_\_\_\_

**PROPERTY LOCATION:** 229 Bellevue St \_\_\_\_\_ **DATE:** 10/25/2021 \_\_\_\_\_

**PETITIONER:** David & Suzanne Wakefield \_\_\_\_\_

**ADDRESS:** 229 Bellevue St Newton, MA 02458 \_\_\_\_\_

**PHONE:** 617-549-5056 \_\_\_\_\_ **EMAIL:** diwakefeld@gmail.com \_\_\_\_\_

**POINT OF CONTACT:** David I Wakefield | 617-549-5056 | diwakefeld@gmail.com \_\_\_\_\_

**PLEASE CONFIRM THAT YOU HAVE INCLUDED THE FOLLOWING WITH YOUR VARIANCE PETITION. THIS CHECKLIST MUST BE INCLUDED WITH YOUR PETITION THE FIRST PAGE.**

**VARIANCE PETITIONS WILL NOT BE ACCEPTED FOR PROCESSING & SCHEDULING UNLESS ALL REQUIRED DOCUMENTS ARE PROVIDED.**

**DOCUMENTS**

**ENCLOSED**  
(checked by Petitioner)

**CONFIRMED**  
(checked by Clerk)

Variance Petition Form (15 copies)	✓ _____	_____
Application Fee	✓ _____	_____
Zoning Review Memorandum	✓ _____	_____
Evidence of Legal Interest	✓ _____	_____
Corporate Interest List	N/A _____	_____
Supporting Statements	✓ _____	_____
Reference to Zoning Ordinance	✓ _____	_____
Required Site Plans	✓ _____	_____
Electronic Copy	✓ _____	_____

CITY OF NEWTON  
ZONING BOARD OF APPEALS

PETITION FOR VARIANCE

IMPORTANT: APPLICANTS MUST COMPLETE ALL ITEMS ON THIS FORM

**PETITIONER INFORMATION**

NAME: David & Suzanne Wakefield

ADDRESS: 229 Bellevue St Newton, MA 02458

PHONE: 617-549-5056 EMAIL: diwakefield@gmail.com

*If the petitioner and/or property owner is a company, corporation or other entity, a list of the names and addresses of the principals, officers and/or managers must be attached to this form.*

**SUBJECT PROPERTY INFORMATION**

LOCATION OF PROPERTY: 229 Bellevue St

ZONING DISTRICT: MR1 PROPERTY SBL NO.: 12017 0029

OWNER OF RECORD: The Suzanne E Wakefield Trust | The David I Wakefield Trust

DEED RECORDED AT MIDDLESEX SOUTH REGISTRY OF DEEDS AT:  
BOOK: 73921 PAGE 504 OR CERTIFICATE NO.: \_\_\_\_\_

RELATIONSHIP TO SUBJECT PROPERTY (i.e. owner, abutter, etc.):  
Owners and inhabitants of property

CURRENT USE: Single family residence

PROPOSED USE: Single family residence

PREVIOUS VARIANCE GRANTED: YES NO DECISION NO./DATE: 799; 10/26/1945 | 2011 0011837; 6/20/2011

OTHER REGULATORY REVIEW: YES NO IF YES, DESCRIBE STATUS:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

EXISTING CONDITIONS DESCRIPTION:  
See attached on following page.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## EXISTING CONDITIONS DESCRIPTION

The property at 229 Bellevue Street is approximately 9,700 square feet in size; and is a corner lot, bounded by Bellevue Street and Newtonville Avenue improved with a single-family dwelling constructed around 1880. A single-story two-car detached garage located along the front property line was built in 1945 under Variance #87291 (1945) to extend a nonconforming structure to accommodate existing topography where residence is 17 feet above street level. The existing detached two car garage built in 1945 does not accommodate modern vehicles and is enclosed with a flat roof. The property is located in MR-1 District and is subject to the pre-1953-dimensional controls set out in Table1, Sec 30-15 of Newton Zoning Ordinance. The property contains a Victorian single-family dwelling which faces Bellevue Street.

**PROPOSAL DESCRIPTION**

1. Briefly describe all proposed changes to the structure(s) and/or use(s):

See attached on following pages.

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2. State all sections of the Newton Zoning Ordinance implicated in this variance petition:

See attached on following pages.

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3. State the specific relief being sought from the Newton Zoning Ordinance, including all ordinance dimensional requirements and proposed dimensional conditions:

See attached on following pages.

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4. Identify and describe all plans and supporting documents being submitted with this variance petition:

See attached on following pages.

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## PROPOSAL DESCRIPTION

### 1) Briefly describe all proposed changes to the structure(s) and/or use(s):

Request for a Special Permit/Site Plan Approval with an Amendment to Variance #87291 (1945) to extend a nonconforming structure. Special Permit/Site Plan Approval and amendment to Variance #87291 (1945) is to demolish the existing garage and rebuild a 1½ story garage. The proposed structure will accommodate four cars below grade (2 X 2 tandem) without materially increasing visible garage door size or decreasing the green space by excavating deeper into the slope. The petitioner intends to maintain the single-family status of the home.

The proposed 1½ story garage will include space above which will provide a landing for an interior stairway from the garage level to lawn level for safer and easier access to the front door of the home. The space above will also provide storage that can be accessed from the lawn level and allow the removal of the existing shed from the property.

The petitioner's plan does not make any changes to the existing setback for entry into the garage from Bellevue Street nor does the project reduce the existing green space of the lawn. The building above the front portion of the underground garage will cover the same area as the existing flat, black rubber coated roof.

The plan will rebuild the existing 7-foot garage walls with standard 9-foot garage walls. Due to the existing topography, this height change provides an enhancement to the view by bringing the ceiling of the garage to the same level as the existing lawn, now held back with a cement block retaining wall. Existing natural stone retaining wall along the property line on Bellevue Street will be retained. The current location of the existing garage doors will be retained. The existing exterior steps to the home will be moved easterly, towards Newtonville Avenue, approximately 15 feet taking advantage of the topography and reduce the number of steps required to access the front door of the home. The proposed structure will not materially increase the Floor Area Ratio (FAR) and remain sufficiently within the allowable FAR standards. The petitioner believes this is consistent with other properties in the City, especially those along Newtonville Avenue, and design of the new garage will be an improvement over the existing structure and benefit the neighborhood.

Additionally, the petitioner proposes to work with the city to replace the curb with granite curbing from the curb cut to the corner of Bellevue Street and Newtonville Avenue on the petitioner's side of the street. As part of this work, the petitioner also proposes to work with the city to reset the sidewalk slope entering Bellevue Street to provide a safer passage. Several years ago, the City of Newton installed an ADA Truncated Dome Pad at the northeast corner of Bellevue Street and Newtonville Avenue. As a result, the sidewalk slope leading to the corner was increased to over 18%, or more than 10 degrees, significantly steeper than the roadway itself. The petitioner proposes to work with the city to create a safer grade.

**2) State all sections of the Newton Zoning Ordinance implicated in this variance petition:**

§3.4.3.A.1 | §7.8.2.C.2 | §3.4.3.A.4 | §3.4.4.E | §3.4.4.H | §5.4.2

**3) State the specific relief being sought from the Newton Zoning Ordinance, including all ordinance dimensional requirements and proposed dimensional conditions:**

Request to amend Variances #87291 (1945) and to allow a garage accommodating more than three vehicles and with a ground floor area exceeding 700 square feet, to extend a nonconforming side setback and to allow a system of retaining walls exceeding four feet within the front setback.

**4) Identify and describe all plans and supporting documents being submitted with this variance petition:**

- a) Special Permit Application
- b) Zoning Review Memorandum
- c) Architectural Plan
- d) FAR Worksheet
- e) Preliminary Survey Plan
- f) Variance #87291 (1945)
- g) Variance #9-11 (2011)
- h) City of Newton Planning Memorandum re 158 Newtonville Avenue



## SUPPORTING STATEMENT

EACH OF FOLLOWING REQUIREMENTS FOR A VARIANCE MUST BE ESTABLISHED AND SET FORTH IN COMPLETE DETAIL BY THE APPLICANT IN ACCORDANCE WITH G.L. C. 40A, § 10.

1. Explain the special circumstances related to soil conditions, the shape or the topography of the land or structure that are unusual and that do not generally affect other properties in the zoning district:

Please see attached on following pages

2. Explain how the literal enforcement of the Newton Zoning Ordinance will result in a substantial hardship to the owner and that the proposed variance is the minimum change that is necessary to allow the reasonable use of the land or structure.

Please see attached on following pages.

3. Explain why granting the proposed variance will be in harmony with the purpose and intent of the Newton Zoning Ordinance and will not be detrimental to the neighborhood or the public welfare.

Please see attached on following pages.

## SUPPORTING STATEMENT

- 1) Explain the special circumstances related to soil conditions, the shape or topography of the land or structure that are unusual and that do not generally affect other properties in the zoning district:

The property site is a corner lot in a residential neighborhood surrounded by single family and multifamily dwellings. Due to the existing topography the location, size, width, depth, shape and property grade for the homes in the area many have garages that do not meet today's parking garage requirements. The petitioner believes the request is in keeping with the intent of Newton Zoning Ordinance. The project would not introduce any new safety or environmental concerns and will be more visually appealing than the existing structure.

The City has recently approved several Special Permits and Variance Amendments for similar garage projects in the area, such as 150 Newtonville Avenue, and 158 Newtonville Avenue.



- 2) Explain how the literal enforcement of the Newton Zoning Ordinance will result in substantial hardship to the owner and that the proposed variance is the minimum change that is necessary to allow the reasonable use of the land or structure.

Literal compliance with the parking requirements of the Newton Zoning Ordinance (NZO) is impractical due to the nature of the use, or the location, size, width, depth, shape, or grade of the lot, or that such exceptions would be in the public interest or in the interest of safety or protection of environmental features.

The topography is descending along Bellevue Street and has a steep decline from the intersection of Bellevue Street and Newtonville Avenue to its termination. Due to the declining slope of Bellevue Street the elevation of the house is 17 feet higher than the roadway and existing garage entrance. There is limited on-street and off-street parking. The subject property does not have a driveway. Due to the topography of the north end of Bellevue and the surrounding streets, many lots have located parking in the front setback and utilized retaining walls.



- 3) Explain why granting the proposed variance will be in harmony with the purpose and intent of the Newton Zoning Ordinance and will not be detrimental to the neighborhood or public welfare.

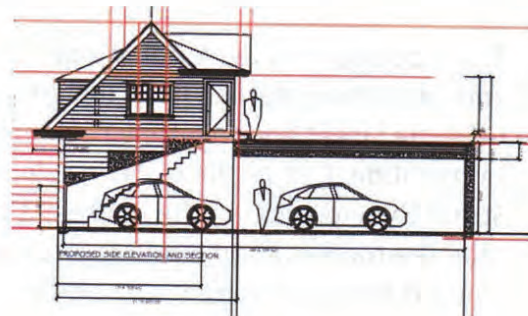
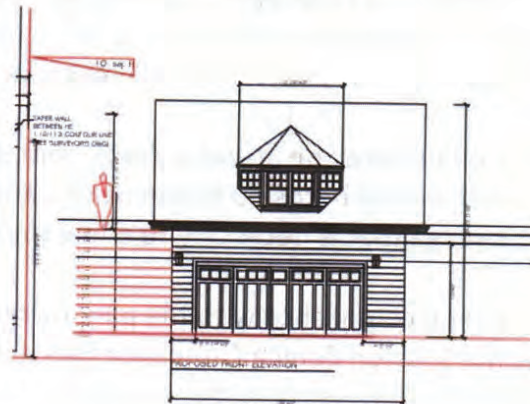
The design of the new garage will be an improvement over the existing structure and a benefit to the neighborhood. This project is not out of character with the neighborhood and the unique topography of the lot supports the requested relief.

The proposed underground tandem parking will ensure no additional open space is sacrificed and is less detrimental to the neighborhood than other alternatives. The creation of tandem underground parking stalls is appropriate considering that the petitioner does not have a driveway, and this portion of Bellevue Street is relatively narrow, often overcrowded with street parking, and does not easily accommodate guest parking. Leveraging the existing space ensures the specific site is an appropriate location for the proposed garage. The proposed project as developed and operated will not adversely affect the neighborhood. There will be no nuisance or serious hazard to vehicles or pedestrians.

**EXISTING**



**PROPOSED**

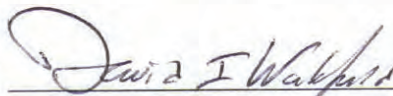


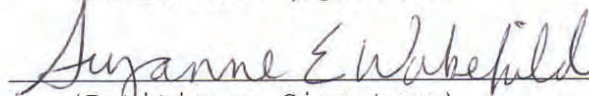
**PROPERTY OWNER CONSENT, CERTIFICATION & SIGNATURE**

*(Signatures of Petitioner(s) are required)*

I am (we are) the owner(s) of the property subject to this variance petition and I (we) consent and certify as follows:

1. I (we) grant permission for officials and employees of the City of Newton to access my property for the purposes of this petition;
2. I (we) certify that I (we) have read the Board's Rules and Procedures before submittal to ensure the completeness of my (our) petition;
3. I (we) certify that all the statements within this application and attachments are true and accurate to the best of my (our) knowledge and belief.

X  10/25/2021  
(Petitioner Signature) (Date)

X  10/25/2021  
(Petitioner Signature) (Date)

***If Applicable:***

Name of Attorney/Agent for Applicant: \_\_\_\_\_

Address of Attorney/Agent: \_\_\_\_\_

Phone Number of Attorney/Agent: \_\_\_\_\_

Email Address of Attorney/Agent: \_\_\_\_\_



Ruthanne Fuller  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
1000 Commonwealth Avenue Newton, Massachusetts 02459

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**Barney S. Heath**  
Director

## ZONING REVIEW MEMORANDUM

Date: June 23, 2021

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official  
Neil Cronin, Chief Planner for Current Planning

Cc: David and Suzanne Wakefield, Applicants  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Associate City Solicitor

**RE: Request to amend Variances #87291 (1945) and #9-11 (2011) and to allow a garage accommodating more than three vehicles and with a ground floor area exceeding 700 square feet, to extend a nonconforming side setback and to allow a system of retaining walls exceeding four feet within the front setback**

Applicant: David and Suzanne Wakefield	
Site: 229 Bellevue Street	SBL: 12017 0029
Zoning: MR1	Lot Area: 9,700 square feet
Current use: Single-family dwelling	Proposed use: No change

### BACKGROUND:

The property at 229 Bellevue Street consists of a 9,700 square foot lot improved with a single-family residence constructed in 1890 and a detached garage. A variance was granted in 1945 allowing for a front setback of two feet for the garage. A second variance from the rear setback for the principal dwelling was granted in 2011. The petitioners intend to raze the existing detached garage and construct a new garage with accommodation for four vehicles, requiring amendments to the existing variances and a special permit.

The following review is based on plans and materials submitted to date as noted below.

- Zoning Review Application, prepared by David Wakefield, applicant, dated 3/24/2021
- Proposed Site Plan, prepared by Everett M. Brooks, surveyor, dated 1/28/2021
- Architectural Plans and Elevations, submitted 3/24/2021

**ADMINISTRATIVE DETERMINATIONS:**

1. The property was granted a variance in 1945 from the front setback requirement to allow a garage within 2 feet of the front lot line. The petitioners seek to amend the Variance #87291, and to the extent necessary Variance #9-11, to allow for the garage to be razed and reconstructed with a 3.6-foot front setback where 25 feet is required per section 3.4.3.A.1.
2. The existing one-story garage has a side setback of 4.3 feet where 5 feet is required per section 3.4.3.A.1. The proposed garage maintains the existing nonconforming side setback and extends it vertically to accommodate a half story. To vertically extend the nonconforming side setback requires a special permit per sections 3.4.3.A.1 and 7.8.2.C.2.
3. The petitioners intend to raze the existing detached two-car garage and construct an enlarged garage built into the slope. The ground level of the proposed garage is 1,250 square feet, exceeding the 700 square foot by right maximum prescribed in sections 3.4.3.A.4 and 3.4.4.E. Per section 3.4.4.H, a special permit is required to allow a detached garage structure with a ground floor area of 1,250 square feet.
4. Section 3.4.4.E requires that a garage may provide for no more than three vehicles unless by special permit. The petitioners propose a garage that accommodates four vehicles, requiring a special permit per section 3.4.4.H.
5. The petitioner proposes to relocate stairs and retaining walls within the front setback of 25 feet per section 3.2.3. The system of walls results in an overall height of 5.4 feet. Per section 5.4.2, retaining walls exceeding four feet in height within a setback require a special permit.

MR1 Zone	Required	Existing	Proposed
Lot Size	7,000 square feet	<b>3,906 square feet</b>	<b>No change</b>
Frontage	70 feet	<b>51 feet</b>	<b>No change</b>
Setbacks – Principal			
• Front	25 feet		No change
• Side	7.5 feet		No change
• Side	7.5 feet		No change
• Rear	15 feet		No change
Setbacks – Accessory			
• Front	2 feet*	2 feet	3.6 feet
• Side	5 feet	<b>4.3 feet</b>	<b>No change</b>
• Side	5 feet	>50 feet	>50 feet
• Rear	5 feet	>50 feet	>50 feet
Height – Accessory	22 feet	NA	20.5 feet
Stories – Accessory	1.5	1	1.5
Max Lot Coverage	30%	23.1%	27.2%
Min. Open Space	50%	76%	66%

\*Per Variance #87291

1. See "Zoning Relief Summary" below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>		<i>Action Required</i>
	Request to amend variances #87291 and #9-11	
§3.4.3.A.1 §7.8.2.C.2	Request to vertically extend a nonconforming side setback	S.P. per §7.3.3
§3.4.3.A.4 §3.4.4.E §3.4.4.H	Request to allow an accessory building with a ground floor area greater than 700 square feet	S.P. per §7.3.3
§3.4.4.E §3.4.4.H	Request to allow a garage with provision for more than three vehicles	S.P. per §7.3.3
§5.4.2	Request to allow a system of retaining walls exceeding four feet in height	S.P. per §7.3.3

PLEASE RETURN TO:  
Patricia C. D'Agostino, Esq.  
Margolis & Bloom, LLP  
100 William Street, Ste. 220  
Wellesley, MA 02481

**QUITCLAIM DEED**

We, Suzanne E. Wakefield and David I. Wakefield, husband and wife, as tenants by the entirety, both of 229 Bellevue Street, Newton, Middlesex County, Massachusetts, for consideration paid of One Dollar (\$1.00), grant a one-half undivided interest to Suzanne E. Wakefield and David I. Wakefield, not individually, but as trustees of The Suzanne E. Wakefield Trust, under a declaration of trust dated December 18, 2019, with a trust address of 229 Bellevue Street, Newton, Middlesex County, Massachusetts, and a one-half undivided interest to Suzanne E. Wakefield and David I. Wakefield, not individually, but as trustees of The David I. Wakefield Trust, under a declaration of trust dated December 18, 2019, with a trust address of 229 Bellevue Street, Newton, Middlesex County, Massachusetts, for which Trustee Certificates under M.G.L. Ch. 184, Sec. 35 are filed herewith,

**WITH QUITCLAIM COVENANTS**

the land with the buildings thereon, situated in Newton, Middlesex County, Massachusetts, being Lot 12 on a plan entitled, "Plan of Real Estate situated on Mount Ida, Newton Corner, belonging to Langdon Coffin" drawn by Marshall S. Rice, Surveyor, dated October 1, 1872, and recorded with Middlesex South District Deeds, in Plan Book 21, Plan 35, bounded and described as follows:

Beginning at the southwesterly corner of said lot 12 at the junction of Newtonville Avenue and Bowditch Street, now called Bellevue Street, thence running

- NORTHERLY      by said Bellevue Street, one hundred (100) feet to lot 13 as shown on said plan; thence running
- EASTERLY      by said lot 13, one hundred and two (102) feet; thence running
- SOUTHERLY     by lot 11 as shown on said plan, ninety-two and 50/100 (92.50) feet to said Newtonville Avenue; thence running
- WESTERLY      by said Newtonville Avenue, ninety-five (95) feet to the point of beginning.

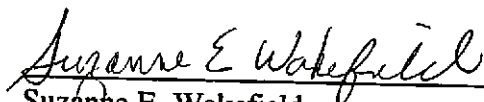
Containing 9,700 square feet, more or less, and subject to all liens and encumbrances of record.

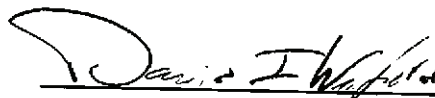
Meaning and intending to convey all of our right, title and interest in our property included in deed from John D. Wakefield, Maria T. Wakefield, David I. Wakefield and Suzanne E. Wakefield, to Suzanne E. Wakefield and David I. Wakefield as tenants by the entirety. For reference to title, see deed dated August 12, 2015, and recorded with the Middlesex South Registry of Deeds at Book 65967, Page 121.

Property Address: 229 Bellevue Street, Newton, MA



WITNESS our hands and seals 18<sup>th</sup> day of December, 2019.

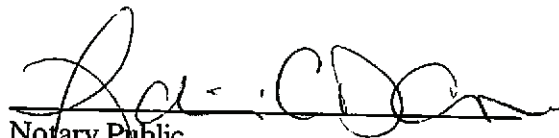
  
Suzanne E. Wakefield

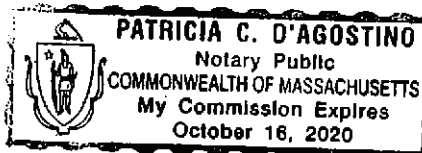
  
David I. Wakefield

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.

On this 18<sup>th</sup> day of December, 2019, before me appeared Suzanne E. Wakefield and David I. Wakefield, as Grantors, who proved to me through government-issued photo identification to be the above-named persons, in my presence executed the foregoing instrument, and acknowledged that they voluntarily executed the same for its stated purpose.

  
Notary Public  
My commission expires:



CITY OF NEWTON  
PUBLIC BUILDINGS DEPARTMENT



Application for Permit to Build

(GARAGE)

Ser. No... 385...  
No..... 799..

Newton, Mass.,.....10/26....., 1945

To the  
PUBLIC BUILDINGS COMMISSIONER:—

The undersigned hereby applies for a permit to build, according to the following specifications:

1. Street and No.? 229 Bellview St..... Ward? 1.....
2. What is the nearest street? Newtonville Ave.....
3. Material of Garage? Concrete..... No. of Cars? 2.....
4. Name of Owner? Adolph Genovese Address? 229 Bellview St.....
5. Name of Architect?..... Address?.....
6. Name of Builder? Nardone Bros Address? Newton.....
7. Size of Lot, No. of feet front? 100..... No. of feet rear? 90..; No. of feet deep? 98..
8. Size of Garage, No. of feet front? 20..... No. of feet rear? 20..; No. of feet deep? 21..
9. Height of Garage? 9'..... Distance from street line? 2'-0".....
10. Distance of the proposed Garage from the adjoining lot lines? 5'-0".....
11. Distance from adjoining buildings? front...feet; side 10.feet; side...feet; rear...feet
12. When was House erected?.....

**IF OF FRAME**

13. Size of sills?.....; posts.....; rafters.....; Distance on centres.....

**OTHER THAN FRAME**

14. Thickness of walls? 12"..... Size of girder? 12"..... Material of girder?.....
15. Thickness of slab? 5"..... Size and spacing of steel? 1/2-8"-OC.....
16. Size of rafters?..... Distance on centres?.....

**IN GENERAL**

17. Material of floor? Conc.....
18. Foundation, material of? Conc.....; height of? 4'.....; thickness of? 12".....
19. Will the roof be flat, pitch, gambrel or hip? Flat.....; Material of roofing? Conc.....
20. Heating, Steam?..... Hot Water?..... Gas?.....
21. Estimated cost? \$1,000.....

Plans in duplicate must be submitted to and approved by this department  
before a permit for erection will be granted.

**NO WORK TO BE STARTED UNTIL PERMIT CARD IS DISPLAYED  
ALL MEASUREMENTS TAKEN FROM OVERHANGS**

The above is subscribed to and executed by me under the penalties of perjury in accordance with Chapter 187, Acts of 1926.

Approved.....193..

Signature Adolph Genovese  
Address.....

OCT 26 1945

APPLICATION FOR PERMIT TO BUILD  
GARAGE

St. & No. 229, Bellevue

Permit No. 799, Ser. No. 385

Owner, Adolph Genevese

Architect, .....

Builder, Nardone Brothers

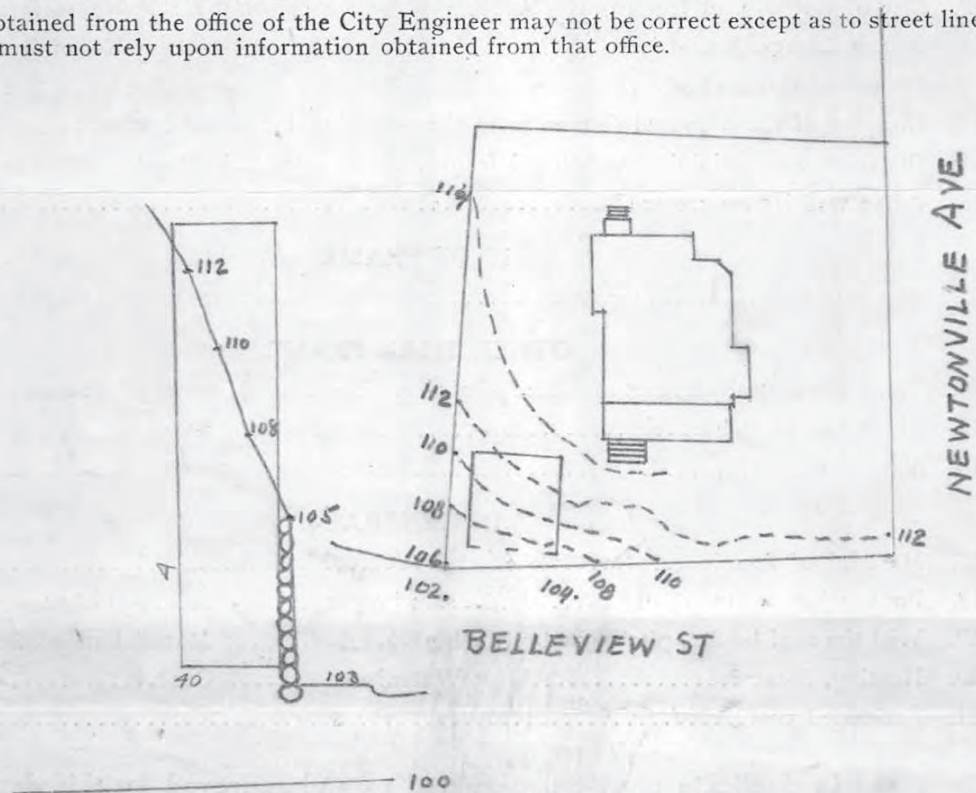
PERMIT GRANTED

October 26, 1945, 193

PLOT PLAN

The Applicant for a building permit shall draw in ink to a scale of 40 ft. to an inch a plan of their lot and all adjoining lots, all buildings erected and all proposed buildings giving size of all buildings, including all overhangs, projections, and distances.

Data obtained from the office of the City Engineer may not be correct except as to street lines. Applicants must not rely upon information obtained from that office.



I hereby certify that the dimensions and other information on this plot plan are correct. The above is subscribed to and executed by me under the penalties of perjury in accordance with Chapter 187 Acts of 1926.

House No. ....

Signature, .....

*Adolfo Genevese*

By .....

Address, .....



ORDERED

City of Newton  
IN BOARD OF ALDERMEN

October 22, 1945

*Blodg. Sept*

87425

*33*

That Petition #87291 with plan accompanying, of Adolfo Genovea, for variance of application of the Zoning Ordinance, under the provisions of Section 590, for waiver of setback line from twenty-five feet to two feet from street line, in connection with the construction of a two-car fireproof garage on lot with existing dwelling at 229 Bellevue Street, Ward 1 in Private Residence District, be and is hereby granted subject to the provisions of the Zoning Ordinance.

Read twice and adopted,

Yeas      Absent

Executive Department

Approved October 24, 1945.

FRANK M. GRANT,

Clerk

PAUL M. GODDARD,

Mayor

A true copy

Attest

CITY CLERK

A TRUE COPY  
ATTEST:  
*Frank M. Grant*  
CITY CLERK OF NEWTON, MASS.

*33*



# CITY OF NEWTON, MASSACHUSETTS

City Hall  
1000 Commonwealth Avenue, Newton Centre, MA 02459-1449  
Telephone: (617) 796-1065 TDD/TTY: (617) 796-1089 Fax: (617) 796-1086  
www.ci.newton.ma.us

Setti D. Warren  
Mayor

## ZONING BOARD OF APPEALS

Sherri A. Lougee, Board Clerk

05-74



Bk: 57119 Pg: 15 Doc: DECIS  
Page: 1 of 4 07/11/2011 11:44 AM

11 JUN 20 P 1:10  
#9-11  
CITY CLERK  
NEWTON, MA. 02159

### Detailed Record of Proceeding and Decision

Petition of David and Suzanne Wakefield, 229 Bellevue Street, Newton, MA 02458.

For a variance of 6.1 feet from the rear yard setback requirement of 15 feet in order to construct a two and one-half story addition for the property located at 229 Bellevue Street (the "Subject Property"), Newton, MA 02458.

The Zoning Board of Appeals for the City of Newton held a public hearing on the above entitled proceeding on Tuesday, April 26, 2011 at 7:00 p.m. in the Aldermanic Chambers at City Hall, Newton, Massachusetts.

BK 46524 PG 314

The following members of the Board were present:

- Harvey A. Creem, Chairman
- Vincent Farina
- William M. McLaughlin
- James H. Mitchell, Esq.
- Selma H. Urman, Esq.

The petition was filed on March 11, 2011.

Due notice of the hearing was given by mail, postage prepaid, to all persons deemed to be affected thereby as shown on the most recent tax list and by publication in the Newton Tab, a newspaper of general circulation in Newton, Massachusetts, on April 5 and 12, 2011.

Accompanying the petition and incorporated into the record are the following documents:

"Plan of Land in Newton MA, 229 Bellevue Street, Existing Conditions," dated February 3, 2011;

"Plan of Land in Newton MA, 229 Bellevue Street, Proposed Additions," dated March 22, 2011; and

"Plan of Land in Newton MA," dated March 22, 2011 which shows an area of roughly 300' radius around the 229 Bellevue Street property. All Survey Plans were prepared by Bruce Bradford of Everett M. Brooks Co., of West Newton, MA.

A True Copy  
Attest  
*[Signature]*  
City Clerk of Newton, Mass.

¼" scale Architectural drawings of both existing and proposed floor plans, as well as Exterior Elevations (all sides) dated April 26, 2011. All plans and elevations were prepared by the Project Architect Patricia Welbourn of Fantuzzi Welbourn Design, Waban, MA.

Copy of Quitclaim Deed dated November 22, 2005, conveying the Subject Property to David and Suzanne Wakefield (the "Petitioners") and a copy of the deed dated July 13, 1979, conveying the Subject Property to the Petitioners' predecessors in title; and

Letter to the Zoning Board of Appeals from David and Paula Schleifer (residents of 203 Newtonville Avenue), Robert Crooks and Kalpana Seshardri (residents of 233 Bellevue Street), and Vivek and Heather Mehra (residents of 217 Bellevue Street), dated March 22, 2011, offered in support of the Request for Variance.

The Petitioners were represented at the hearing by the Project Architect, Patricia Wellbourn. Only the Petitioners testified at the hearing.

### SUMMARY AND REQUEST FOR RELIEF

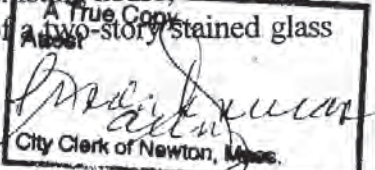
The Subject Property is located at 229 Bellevue Street Newton, MA, Ward 1, Section 12, Block 17, Lot 29; is approximately 9,700 square feet in size; and is a corner lot, bounded by Bellevue Street and Newtonville Avenue. The Subject Property is located in a MR-1 District and is subject to the pre-1953 dimensional controls set out in Table 1, sec. 30-15 of the Newton Zoning Ordinance. The Subject Property contains a Victorian single family dwelling, which faces Bellevue Street. Under the Newton Zoning Ordinance, the rear lot line on a corner lot is the lot line opposite the street on which the front door of a residential structure is located. Hence, the Subject Property's rear lot line abuts 201-203 Newtonville Avenue.

The Petitioners are requesting a 6.1 foot variance from the 15 foot rear yard setback requirement applicable to pre-1953 lots in the MR-1 District in order to construct a two and one-half story addition. As proposed, the addition will extend into the 15 foot rear year setback, and will be set back 8.9 feet from the lot line between the Subject Property and 201-203 Newtonville Avenue. If the Subject Property were not a corner lot, the lot line between this property and 201-203 Newtonville Avenue would be considered a side lot line subject to a 7.5 foot setback requirement, and the proposed addition would comply with the side yard setback requirements.

### ARGUMENT IN SUPPORT OF VARIANCE

Petitioners state that in designing the proposed addition, they attempted to both respect the abutting neighbor's side setback rights while working to create an addition that respects the historical architecture of the home, which is over 130 years old. The house was constructed in 1890, and has inadequate bath and kitchen facilities for a modern family. The proposed addition will update the dwelling's kitchen and bathrooms, making the house much more livable, and a fundamentally better home.

Petitioner stated the addition was designed to look as if it was *always* part of the original planning, and not to look like an "addition". Placing the addition on the north side of the existing house, which has a side setback requirement of only 7.5 feet, would have resulted in the loss of a two-story stained glass

A True Copy  
Attest  
  
City Clerk of Newton, Mass.

window and would negatively impact the architectural integrity of this historic home. The proposed addition has been administratively reviewed and approved by the City's Senior Preservation Planner.

Petitioners state that the hardship presented is that the Subject Property is a corner lot, with an existing structure fronting on Bellevue Street. This results in the lot line abutting 201-203 Newtonville Avenue to be considered a rear, rather than a side, lot line. Additionally, the existing house is pushed back from Bellevue Street, closer to the rear lot line, due to the grade of the lot which slopes up from Bellevue Street

Petitioners state that the character of the neighborhood, once grand with turn of the century Victorians, was dramatically altered by the building of the Massachusetts Turnpike in the late 1950's. The Turnpike essentially dissected this neighborhood. 229 Bellevue is on the side of Newtonville Avenue roughly 200' from the chain link fence that now overlooks the Turnpike. The Turnpike made this area somewhat undesirable. The areas between Newtonville Avenue to the Turnpike overlook has become a buffer zone for the rest of the Neighborhood as evidenced by it being zoned "Multi-Family" as opposed to "Single Residence." Some of the houses in the buffer zone have been demolished and reconstructed, or enhanced in the past several years.

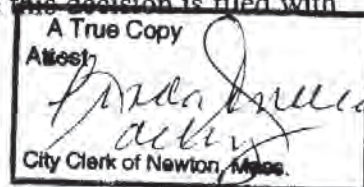
Petitioners state that they believe their addition is consistent with the architectural context of this classic Victorian, and will only serve to further the overall improvements to the neighborhood.

#### **FINDINGS AND DETERMINATION:**

1. The Subject Property is a corner lot which results in a hardship not shared by other lots surrounding the Subject Property because the lot line separating this property from 201-203 Newtonville Avenue is treated as a rear, rather than side, lot line. This lot line is considered a rear lot line under the Zoning Ordinance based on the location of the front door of the existing house, which location could be changed so that this lot line would then be considered a side, rather than rear, lot line. Additionally, the grade of the lot results in the existing structure being pushed closer to the rear lot line. Literal enforcement of the 15 foot rear yard setback will impose a substantial hardship on the Petitioners by preventing them from locating the proposed addition on the rear of the existing structure.
2. Granting a 6.1 foot variance from the rear yard setback so that the addition may be located 8.9 feet from the rear lot line will not result in a detriment to the public good or derogate from the spirit and intent of the Zoning Ordinance because the 8.9 foot setback exceeds the side setback requirement and will not change the character of the surrounding area.

Accordingly, a motion was made by Mr. Mitchell and duly seconded, to grant the petition, which motion passed, four in favor, with Mr. Farina voting in the negative. Therefore, a variance of 6.1 feet from the 15 foot rear yard setback is granted subject to the following conditions:

1. That this variance must be recorded with the Middlesex Registry of Deeds within one year from the date this decision is filed with the City Clerk or the variance lapses.
2. That this variance must be exercised within one year from the date this decision is filed with the City Clerk or the variance lapses.



- 3. That the north lot line separating the Subject Property from 233 Bellevue Street be treated as the rear lot line with a 15 foot rear yard setback requirement.

  
 \_\_\_\_\_  
 Harvey A. Creem, Chairman

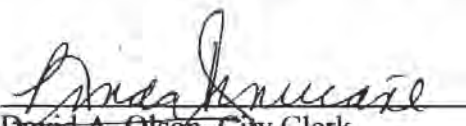
AYES: Harvey A. Creem, Chairman  
 William M. McLaughlin  
 James H. Mitchell, Esq.  
 Selma H. Urman, Esq.

NAYES : Vincent Farina

Copies of this decision and all plans referred to in this decision have been filed with the Planning and Development Board and the City Clerk.

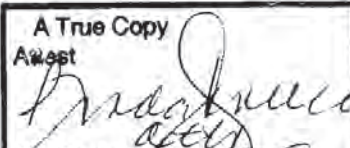
This decision was filed with the City Clerk on *June 20, 2011.*

The City Clerk certified that all statutory requirements have been complied with and that 20 days have elapsed since the date of filing of this decision and no appeal, pursuant to Section 17 of Chapter 40A has been filed.

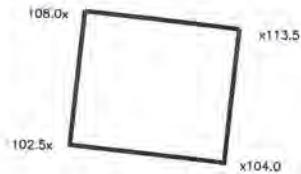
  
 \_\_\_\_\_  
 David A. Olson, City Clerk  
*acting*

I, Sherri A. Lougee, am the Clerk of the Zoning Board of Appeals and the keeper of its records. This is a true copy of its decision.

  
 \_\_\_\_\_  
 Sherri A. Lougee

A True Copy  
 Attest  
  
 \_\_\_\_\_  
 City Clerk of Newton, Miss.



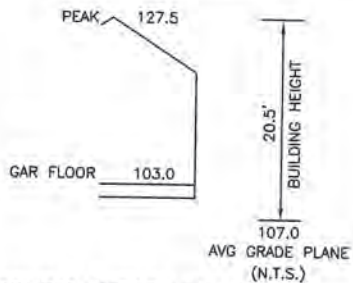


**AVERAGE GRADE CALCULATION:**  
[SEC 1.5.4(F)]

$$AVG = \frac{\sum[(E1+E2)]/2}{P}$$

$$AVG = 9951 / 93 = 107.0$$

**BUILDING HEIGHT CALCULATION**

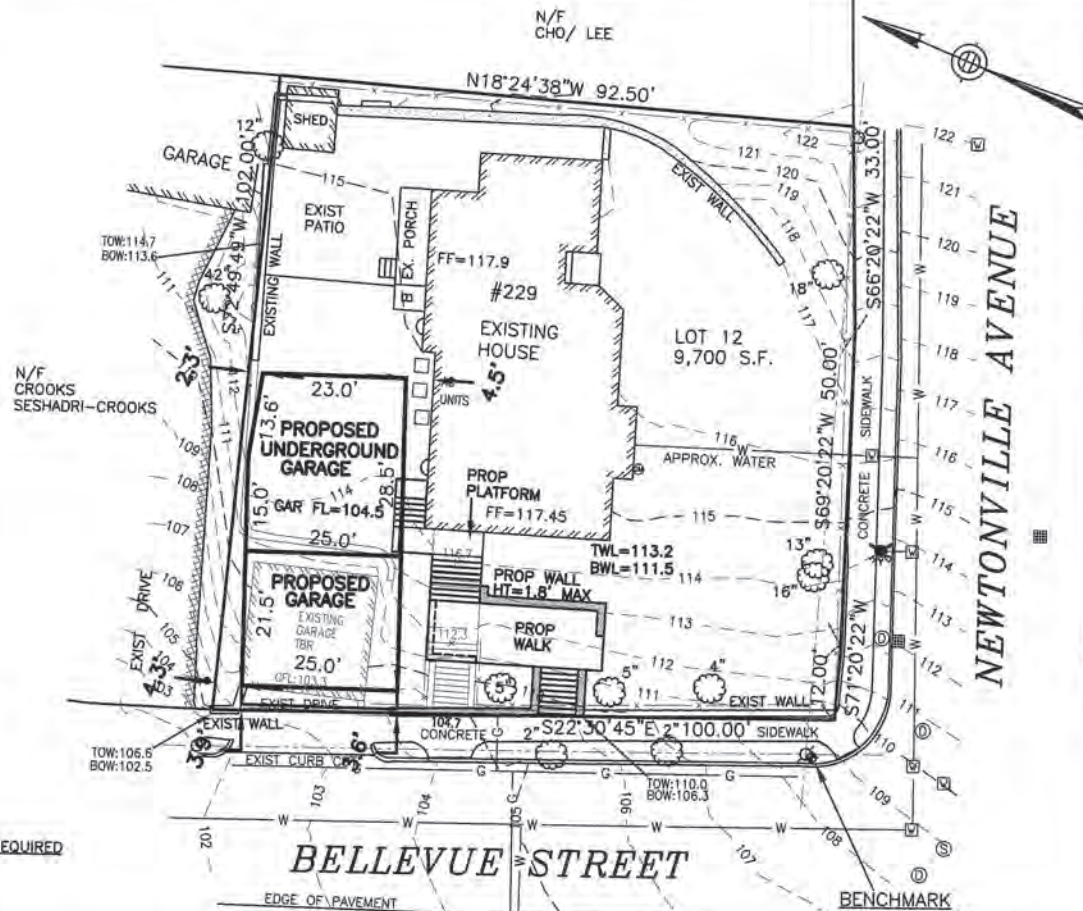


**ZONING INFORMATION**

ZONE: MR-1  
PLAN DATED: OCTOBER 1, 1872  
DEED REFERENCE: BOOK 46524 PAGE 314

	EXISTING	PROPOSED	REQUIRED
BUILDINGS	2,232 S.F.	2,641 S.F.	
STRUCTURES	2,270 S.F.	2,699 S.F.	
DRIVE	60 S.F. ±	582 S.F. ±	
	2,330 S.F. ±	3,281 S.F. ±	
LOT COVERAGE	23.1%	27.2%	(30% MAX.)
OPEN SPACE	76% ±	66% ±	(50% MIN.)

ZONING COMPLIANCE DETERMINED BY MUNICIPALITY.  
AREAS FOR F.A.R. CALCULATION PROVIDED BY ARCHITECT.



ESTABLISHED 1916  
**EMB**  
EVERETT M. BROOKS CO.  
SURVEYORS & ENGINEERS  
49 LEXINGTON STREET  
WEST NEWTON, MA 02465  
  
(617) 527-8750  
info@everettbrooks.com

**PRELIMINARY PLAN**

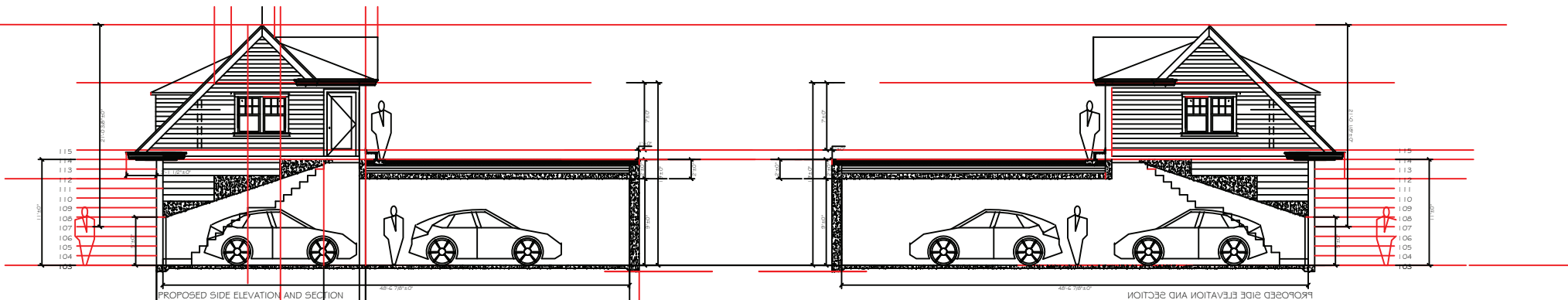
**PLAN OF LAND IN  
NEWTON, MA**

229 BELLEVUE STREET  
PROPOSED GARAGE & DRIVE

SCALE: 1 IN. = 20 FT.
DATE: JANUARY 28, 2021
DRAWN: GAR/ES
CHECK: BB

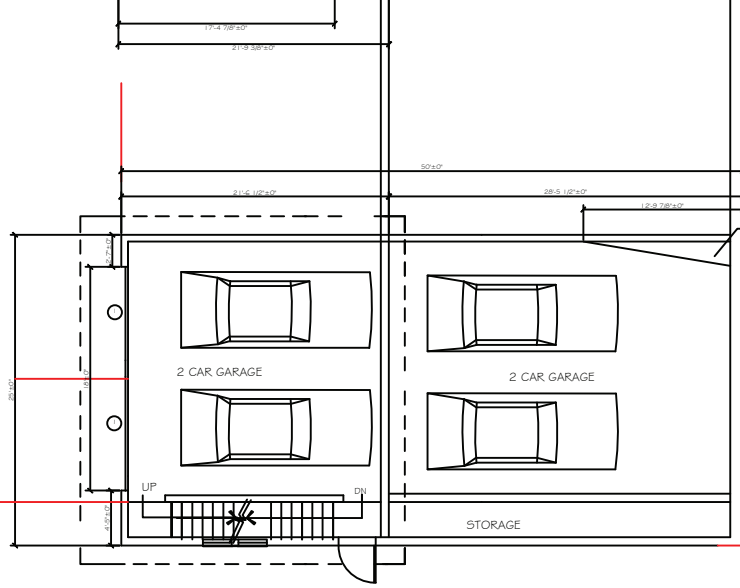
REVISIONS:


PROJECT NO. 23687



PROPOSED SIDE ELEVATION AND SECTION

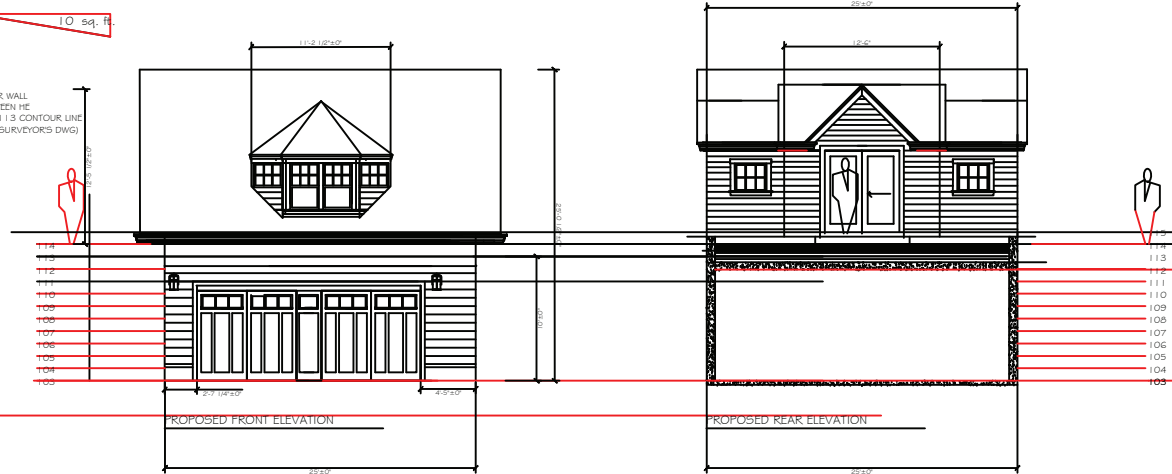
PROPOSED SIDE ELEVATION AND SECTION



PROPOSED FLOOR PLAN

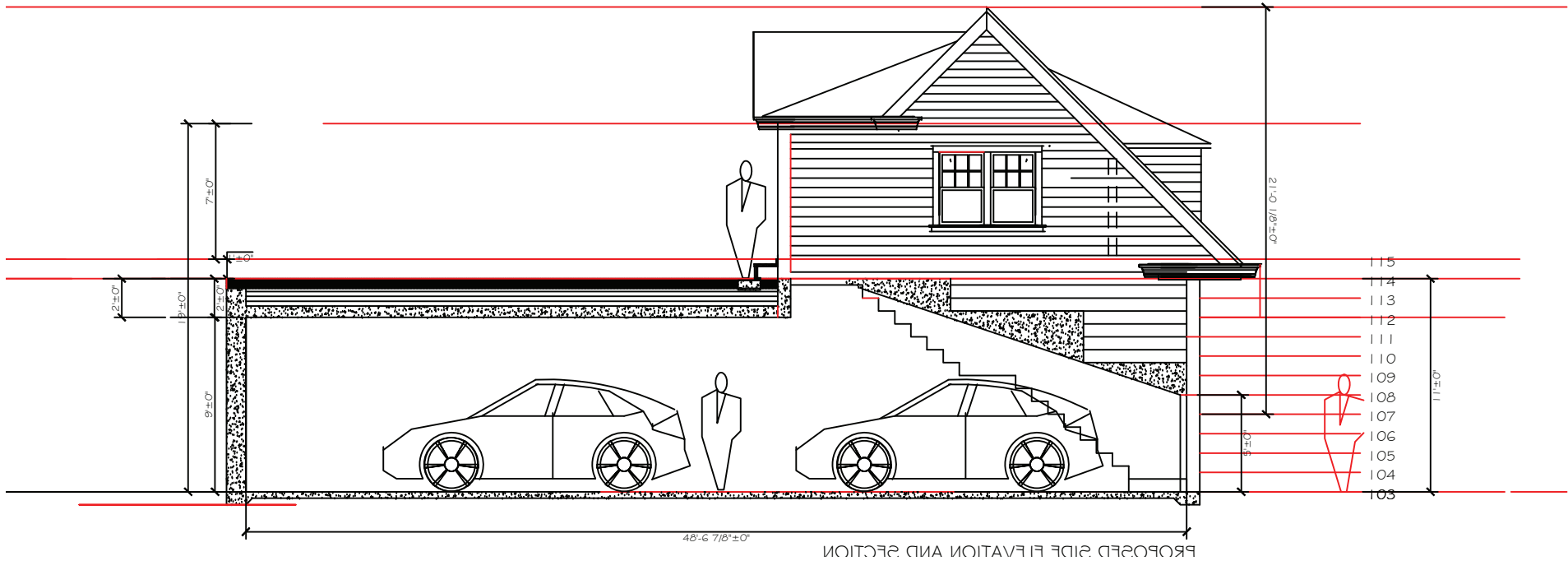
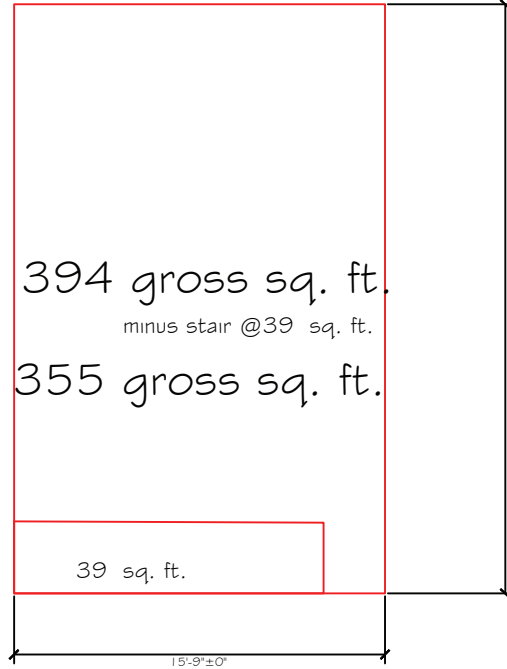
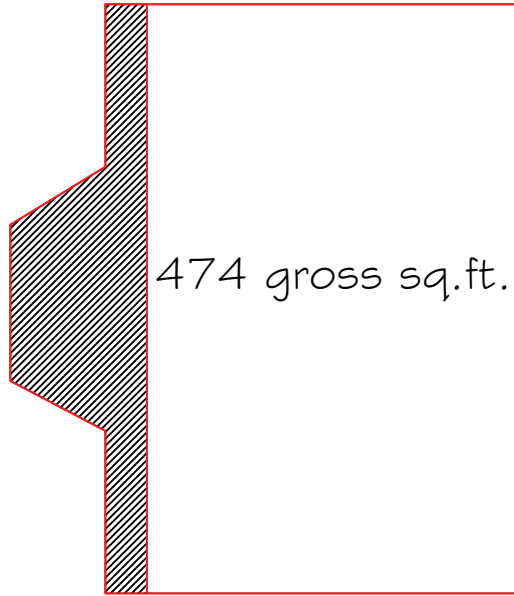
10.54 ft

TAPER WALL BETWEEN HE 112/113 CONTOUR LINE (SEE SURVEYORS DWG)



PROPOSED FRONT ELEVATION

PROPOSED REAR ELEVATION





Ruthanne Fuller  
Mayor

City of Newton, Massachusetts  
Department of Inspectional Services  
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone  
(617) 796-1060  
Telefax  
(617) 796-1086  
TDD/TTY  
(617) 796-1089  
www.newtonma.gov

John Lojek  
Commissioner

### FLOOR AREA RATIO WORKSHEET

For Residential Single and Two Family Structures

Property address: 229 BELLEVUE STREET NEWTON

FAR Calculations for Regulations Effective As Of October 15, 2011		
Inputs (square feet)		
	EXISTING	PROPOSED
1. First story	1,498	1,498
2. Attached garage	0	0
3. Second story	1,423	1,423
4. Atria, open wells, and other vertical spaces (if not counted in first/second story)	0	0
5. Certain floor area above the second story <sup>1b</sup>	97	97
6. Enclosed porches <sup>2b</sup>	238	238
7. Mass below first story <sup>3b</sup>	0	0
8. Detached garage	200	624
9. Area above detached garages with a ceiling height of 7' or greater	0	355
10. Other detached accessory buildings (one detached building up to 120 sq. ft. is exempt)	120	0
FAR of Proposed Structure(s)		
A Total gross floor area (sum of rows 1-9 above)	3,456	4,235
B Lot size	9,700	9,700
C FAR = A/B	.36	.44
Allowed FAR		
Allowable FAR	.48	.48
Bonus of .02 if eligible <sup>4b</sup>	0	0
TOTAL Allowed FAR	.48	.48

FISHER ASSOCIATES, INC  
Architects / Engineers  
35 Fisher Road  
Weymouth, Massachusetts 02190  
617-733-8404 (cell)  
fisherassociates@comcast.net



**RECEIVED**

By City Clerk at 2:40 pm, Nov 19, 2021

**RECEIVED**

By Interim ZBA Clerk at 2:33 pm, Nov 19, 2021

CITY OF NEWTON  
ZONING BOARD OF APPEALS

CHECKLIST COVER PAGE  
FOR VARIANCE PETITION

To be completed by Staff:      Project No.:      Petition No.:

PROPERTY LOCATION: 14 Crystal St. Newton, MA      DATE: Nov 11, 2021

PETITIONER: Jeff and Jane Freedman

ADDRESS: 14 Crystal St. Newton, MA

PHONE: 617-285-1796      EMAIL: smallarmyjeff@gmail.com

POINT OF CONTACT: Jeff Freedman

PLEASE CONFIRM THAT YOU HAVE INCLUDED THE FOLLOWING WITH YOUR VARIANCE PETITION. THIS CHECKLIST MUST BE INCLUDED WITH YOUR PETITION THE FIRST PAGE.

VARIANCE PETITIONS WILL NOT BE ACCEPTED FOR PROCESSING & SCHEDULING UNLESS ALL REQUIRED DOCUMENTS ARE PROVIDED.

DOCUMENTS

ENCLOSED  
(checked by Petitioner)

CONFIRMED  
(checked by Clerk)

Variance Petition Form (15 copies)	X	_____
Application Fee	in person	_____
Zoning Review Memorandum	X	_____
Evidence of Legal Interest	X	_____
Corporate Interest List	X	_____
Supporting Statements	X	_____
Reference to Zoning Ordinance	X	_____
Required Site Plans	X	_____
Electronic Copy	X	_____

CITY OF NEWTON  
ZONING BOARD OF APPEALS

PETITION FOR VARIANCE

IMPORTANT: APPLICANTS MUST COMPLETE ALL ITEMS ON THIS FORM

**PETITIONER INFORMATION**

NAME : Jeff and Jane Freedman

ADDRESS : 14 Crystal St. Newton, MA

PHONE : 617-285-1796 EMAIL : smallarmyjeff@gmail.com

*If the petitioner and/or property owner is a company, corporation or other entity, a list of the names and addresses of the principals, officers and/or managers must be attached to this form.*

**SUBJECT PROPERTY INFORMATION**

LOCATION OF PROPERTY : 14 Crystal St. Newton, MA

ZONING DISTRICT : SR2 PROPERTY SBL NO. : 62007 0008

OWNER OF RECORD : Jeff Freedman

DEED RECORDED AT MIDDLESEX SOUTH REGISTRY OF DEEDS AT:  
BOOK : \_\_\_\_\_ PAGE \_\_\_\_\_ OR CERTIFICATE NO. : \_\_\_\_\_

RELATIONSHIP TO SUBJECT PROPERTY (i.e. owner, abutter, etc.):  
Owner

CURRENT USE : Lot

PROPOSED USE : 2-car garage and office (while knocking down 2-car garage on opposite side of house)

PREVIOUS VARIANCE GRANTED: YES\_\_ NO X DECISION NO./DATE: \_\_\_\_\_

OTHER REGULATORY REVIEW: YES\_\_ NO X IF YES, DESCRIBE STATUS:  
~~No other regulatory review anticipated, but we understand we need to get a special permit for exceeding the maximum allowed FAR.~~

EXISTING CONDITIONS DESCRIPTION:

**An existing two-car garage with a single 18' wide door on the south side of the house is proposed to be demolished as it is ugly, in poor condition, and not in keeping the historic Victorian shingle-style main house. It also extends beyond the side yard setback, occupies the sunny portion of the yard, blocks a connection between the front and rear yards and is inconveniently located on the opposite side of the house as the mudroom/kitchen entrance.**

City of Newton  
Zoning Board of Appeals  
Petition for Variance  
14 CRYSTAL ST

## **PROPOSAL DESCRIPTION**

### ***1. Briefly describe all proposed changes to the structure(s) and/or use(s):***

The existing two-car garage with a single 18' wide door is proposed to be demolished. This garage is on the south side of the house inconveniently located remote from the kitchen/entry area of the house. The garage occupies the side yard, extends beyond the side yard setback. It occupies the sunny portion of the yard and blocks a connection between the front and rear yards. The existing garage is constructed of exposed concrete block with a flat roof. It is ugly, in poor condition, and not in keeping the historic Victorian shingle-style main house. Renovations must be done to preserve the existing garage, or it must be torn down. The proposed solution is to build a new two-car garage with single 18' wide door of similar size on the other side of the house. This would conveniently locate the garage adjacent to the kitchen and side entry. The new garage would be built in the shady part of the house where nothing grows and pavement exists while the existing garage would be demolished allowing the yard, planting and pervious area to be increased. The existing driveway and curbcut would be removed and a new driveway and curbcut would be added to serve the new garage. The main reason for the increased area is the additional living space above the garage. This space will be used as a home office, a very critical program component as "work from home" is ever more prevalent. To make the new garage design sympathetic to the existing historic home, a sloped roof is required. The Newton Zoning Ordinance requires such space to be counted as part of the FAR so it makes sense to actually use this space which is what has been proposed. There are no proposed change of uses.

### ***2. State all sections of the Newton Zoning Ordinance implicated in this variance petition:***

Zoning Relief Required (per the City of Newton Zoning Review Memorandum, 10/5/21):

- Section 3.1.3 – Request for a variance to reduce required side setback (Action Required: Variance per Section 7.4)
- Section 3.4.4.C.3 – Request for a variance to allow an 18-foot-side double garage door on the front-facing garage (Action Required: Variance per Section 7.4)
- Sections 3.1.3 & 3.1.9 – Request to exceed FAR (Action Required: Special Permit per Section 7.3.3)

### ***3. State the specific relief being sought from the Newton Zoning Ordinance, including all ordinance dimensional requirements and proposed dimensional conditions:***

Zoning Relief Required

- Section 3.1.3 – The proposal intends to raze the existing two-car attached garage on the southern portion of the property and construct a new two-car garage attached garage with home office space above. The side setback of the new garage varies from 4.5' to 2.4', where 7.5' is required per Section 3.1.3. A variance per Section 7.4 is required to reduce the required side setback from 7.5' to 2.4'.

- Section 3.4.4.C.3 – The proposal intends to install a single 18’ wide double garage door to service the two-car garage. Per Section 3.4.4.C.3, a double garage door may be no wider than 16’ on a front-facing garage. A variance per Section 7.4 is required to allow an 18’ wide double garage door facing the front.
- Sections 3.1.3 & 3.1.9 – The existing FAR of the dwelling is .35 where .36 is the maximum per Sections 3.1.3 and 3.1.9. The proposal intends to increase the square feet resulting in an FAR of .39, requiring a Special Permit per Section 7.3.3.

**4. Identify and describe all plan and supporting documents being submitted with this variance petition:**

1. City of Newton Zoning Board of Appeals Petition for Variance Form
2. Site Plan, Existing Conditions – Plan of Land in Newton, Everett M. Brooks Co. 12/28/20
3. Site Plan, Proposed – Plan of Land in Newton, Everett M. Brooks Co. 10/19/21
4. FAR Worksheet, submitted 8/22/21
5. City of Newton Zoning Review Memorandum, 10/5/21
6. Architectural Drawings – All dated 4.23.21, SDS Architects LLC
  - Site Plan/Zoning Analysis – Existing Conditions
  - Site Plan/Zoning Analysis – Proposed Conditions
  - Existing Basement/Foundation Plan
  - Existing First Floor Plan
  - Existing Second Floor Plan
  - Existing Elevations – Front and Left Side
  - Existing Elevations – Rear and Right Side
  - Proposed Basement/Foundation Plan
  - Proposed First Floor Plan/Garage First Level Plan
  - Proposed Garage Second Level Plan and Garage Building Sections
  - Proposed Second Floor Plan
  - Proposed Elevations – Front and Left Side

**SUPPORTING STATEMENT**

**1. Explain the special circumstances related to soil conditions, the shape of the topography of the land or structure that are unusual and that do not generally affect other properties in the zoning district:**

Due to width of lot and configuration of the existing house, not able to situate a garage with entry from side. Further, we are proposed replacing the existing garage that extend into the side yard setback with a 18’ wide front-facing door with the same condition. The proposed is a superior solution in that it moves the existing garage to a shady paved area of the site and demolishes the existing garage to take advantage of the south facing area improved with planting, lawn and pervious ground cover. The abutting neighbor’s garage is adjacent to the proposed new garage, minimizing the impact of the new garage to others and has agreed to support the side yard setback variance.



***2. Explain how the literal enforcement of the Newton Zoning Ordinance will result in a substantial hardship to the owner and that the proposed variance is the minimum change that is necessary to allow the reasonable use to the land or structure:***

Current garage is non-conforming with extension into side yard setback and has single 18' wide double garage door. We have studied options but it is not possible to build a functional garage without extending into the side yard setbacks due to the current location of the existing house. Further, a 16' wide garage door will significantly impact the functionality of the new garage, limiting the accessibility of the garage with medium-sized cars. Practically speaking, with a 16' wide garage door and two cars parked side by side, the space between the cars is so tight that the driver's car door for the car on the right is not accessible.

***3. Explain why granting the proposed variance will be in harmony with the purpose and intent of the Newton Zoning Ordinance and will not detrimental to the neighborhood or the public welfare:***


The end result will be virtually the same condition as what exists today with a two-car garage with a single 18' wide double garage door facing the street and the garage extending into the side yard setback. If this variance is not provided, the homeowner will need to invest significant expenses into restored the existing concrete block garage. We have studied this option and there is no good solution. While we could improve the appearance, the garage would still be located far from the kitchen/side entry, will occupy the side yard setback, will have a 18' wide garage door facing the street. Alternatively, if the existing garage were demolished, the house value would be impaired and more cars would need to park on the narrow street, adversely impacting the abutting property owners.

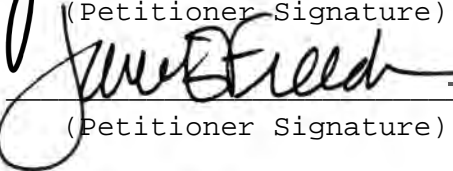
**PROPERTY OWNER CONSENT, CERTIFICATION & SIGNATURE**

*(Signatures of Petitioner(s) are required)*

I am (we are) the owner(s) of the property subject to this variance petition and I (we) consent and certify as follows:

- 1. I (we) grant permission for officials and employees of the City of Newton to access my property for the purposes of this petition;
- 2. I (we) certify that I (we) have read the Board's Rules and Procedures before submittal to ensure the completeness of my (our) petition;
- 3. I (we) certify that all the statements within this application and attachments are true and accurate to the best of my (our) knowledge and belief.

X  (Jeffrey R Freedman) 11/19/2021  
 \_\_\_\_\_  
 (Petitioner Signature) (Date)

X  (Jane E Freedman) 11/19/2021  
 \_\_\_\_\_  
 (Petitioner Signature) (Date)

**If Applicable:**

Name of Attorney/Agent for Applicant: \_\_\_\_\_

Address of Attorney/Agent: \_\_\_\_\_

Phone Number of Attorney/Agent: \_\_\_\_\_

Email Address of Attorney/Agent: \_\_\_\_\_



**Ruthanne Fuller**  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone  
(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
www.newtonma.gov

**Barney S. Heath**  
Director

## ZONING REVIEW MEMORANDUM

Date: October 5, 2021

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official  
Neil Cronin, Chief Planner for Current Planning

Cc: Jeffrey Freedman, Applicant  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Associate City Solicitor

**RE: Request for variances from the side setback requirement and garage door width and a special permit to exceed FAR**

Applicant: Jeffrey Freedman	
Site: 14 Crystal Street	SBL: 62007 0008
Zoning: SR2	Lot Area: 11,640 square feet
Current use: Single-family dwelling	Proposed use: No change

### BACKGROUND:

The property at 14 Crystal Street consists of a 11,640 square foot lot improved with a single-family residence constructed circa 1880. The petitioner seeks to raze an existing attached garage on the southern portion of the lot and construct a new attached garage on the northern portion. The proposed garage does not meet the required side setback and door width requirements, requiring variances, and the addition exceeds the maximum FAR, requiring a special permit.

The following review is based on plans and materials submitted to date as noted below.

- Zoning Review Application, prepared by Jeffrey Freedman, applicant, dated 8/22/2021
- Existing Conditions Site Plan, signed and stamped by Bruce Bradford, surveyor, dated 12/28/2020
- Proposed Conditions Site Plan, signed and stamped by Bruce Bradford, surveyor, dated 6/17/2021
- FAR worksheet, submitted 8/22/2021
- Architectural Plans and Elevations, prepared by SDS Architects, dated 4/23/2021

**ADMINISTRATIVE DETERMINATIONS:**

1. The petitioners propose to raze an existing 574 square foot attached garage on the southern portion of the property and construct a two-story addition on the northern portion of the structure to include a two-car attached garage with living space above. The proposed addition results in a 2.4-foot side setback, where 7.5 feet is required per section 3.1.3. A variance per section 7.4 is required to reduce the required side setback from 7.5 feet to 2.4 feet.
2. The petitioners propose to install a single 18-foot-wide double garage door to service the two-car garage. Per section 3.4.4.C.3, a double garage door may be no wider than 16 feet on a front-facing garage. A variance per section 7.4 is required to allow an 18-foot-wide double garage door.
3. The existing FAR of the dwelling is .35 where .36 is the maximum allowed per section 3.1.3 and 3.1.9. The petitioners propose to net 424 square feet of new garage and living space, resulting in an FAR of .39, requiring a special permit.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	11,640 square feet	No change
Frontage	80 feet	117 feet	No change
Setbacks			
• Front	25 feet	26.8 feet	No change
• Side	7.5 feet	<b>5.7 feet</b>	±25 feet
• Side	7.5 feet	23.1 feet	<b>3.4 feet*</b>
• Rear	15 feet	15.2 feet	No change
Max Height	36 feet	33.2 feet	No change
Max stories	2.5	2.5	No change
FAR	.36	.35	<b>.39*</b>
Max Lot Coverage	30%	21.3%	<b>22.2%</b>
Min. Open Space	50%	74%	72%

\*Requires relief

Figures in **BOLD** are nonconforming

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§3.1.3	Request for a variance to reduce required side setback	Variance per §7.4
§3.4.4.C.3	Request for a variance to allow an 18-foot-wide double garage door on a front-facing garage	Variance per §7.4
§3.1.3 §3.1.9	Request to exceed FAR	S.P. per §7.3.3



2009 00067819

Bk: 52619 Pg: 484 Doc: HOME  
Page: 1 of 2 04/22/2009 03:13 PM

### DECLARATION OF HOMESTEAD

KNOW ALL MEN BY THESE PRESENTS, that I, JEFFREY FREEDMAN, of Newton, Middlesex County, Massachusetts, an owner of the real estate situated at and numbered 14 Crystal Street, in said Newton, Middlesex County, Commonwealth of Massachusetts, by Deed from CHARLES B. McMILLAN and RONNI L. McMILLAN to JANE E. FREEDMAN and me, dated February 15, 2007, and recorded with the Middlesex South District Deeds, Book 48995, Page 20, as an owner thereof and having a family and being entitled to an estate of Homestead in the land and buildings hereinafter described, do hereby declare that I am an owner of, and am possessed and occupy said premises as, a residence and homestead under Massachusetts General Laws, Chapter 188, Section 1, as amended, to wit:

A certain parcel of land with the buildings thereon situated in Newton, being now numbered 14 Crystal Street and being shown as Lot C on a plan entitled "Damon Estate Newton Centre," by Whitman & Breck, Surveyors, recorded with Middlesex South District Deeds, Plan Book 43, Plan 28, being bounded and described as follows:

NORTHWESTERLY: by said Crystal Street, being shown as Crystal Avenue on said plan, one hundred seventeen and 43/100 (117.43) feet;

NORTHEASTERLY: by Lot D on said plan, one hundred nine and 5/10 (109.5) feet;

SOUTHEASTERLY: by land of owners now or formerly unknown, thirty-four (34) feet;

SOUTHWESTERLY: by Lot B on said plan, nine and 68/100 (9.68) feet;

14 Crystal Street, Newton

SOUTHWESTERLY: by Lot B on said plan, nine and 68/100 (9.68) feet;

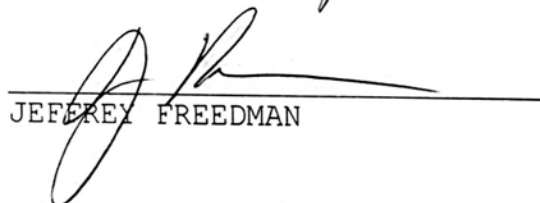
SOUTHEASTERLY: again by said Lot B, seventy-six and 06/100 (76.06) feet; and

SOUTHWESTERLY: again by land of owners now or formerly unknown, ninety-nine (99) feet.

Containing 11,640 square feet of land.

I expressly reserve the right to myself and my spouse and to the survivor of us, and to the Executor or Administrator of the survivor of us, to revoke and rescind this Homestead as to ourselves and our minor, unmarried children.


WITNESS my hand and seal this 9<sup>th</sup> day of April, 2009.

  
JEFFREY FREEDMAN

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.

On this 9<sup>th</sup> day of April, 2009, before me, the undersigned notary public, personally appeared JEFFREY FREEDMAN, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

  
Ann C. Eiselein, Notary Public

My Commission Expires:

6/4/10



2007 00030102

Bk: 48995 Pg: 20 Doc: DEED  
Page: 1 of 2 02/15/2007 02:43 PM

**QUITCLAIM DEED**

We, Charles B. McMillan and Ronni L. McMillan, of Newton, Massachusetts, in consideration of One Million Two Hundred Seventy-Five Thousand (\$1,275,000.00) Dollars paid, grant to Jeffrey Freedman and Jane E. Freedman, husband and wife as tenants by the entirety, of 14 Crystal Street, Newton, Massachusetts, with Quitclaim Covenants,

A certain parcel of land with the buildings thereon situated in Newton, being now numbered 14 Crystal Street and being shown as Lot C on a plan entitled "Damon Estate Newton Centre," by Whitman & Breck, Surveyors, recorded with Middlesex South District Deeds, Plan Book 43, Plan 28, being bounded and described as follows:

NORTHWESTERLY: by said Crystal Street, being shown as Crystal Avenue on said plan, one hundred seventeen and 43/100 (117.43) feet;

NORTHEASTERLY: by Lot D on said plan, one hundred nine and 5/10 (109.5) feet;

SOUTHEASTERLY: by Land of owners unknown, thirty-four (34) feet;

SOUTHWESTERLY: by Lot B on said plan, nine and 68/100 (9.68) feet;

SOUTHEASTERLY: again by said Lot B, seventy-six and 06/100 (76.06) feet;

SOUTHWESTERLY: again by land of owners unknown, ninety-nine (99) feet.

Containing 11,640 square feet of land.

This conveyance is made subject to all easements, restrictions and encumbrances of record insofar as they may be in force and applicable.

For Grantor's title, see deed recorded with the Middlesex County Registry of Deeds in Book 14435, Page 289.

Witness our hands and seals this 15 day of February, 2007.

Charles B. McMillan  
Charles B. McMillan

Ronni L. McMillan  
Ronni L. McMillan

**GOLDSTEIN & HERNDON, LLP**  
Attorneys at Law  
1244 Boylston Street, Suite 200  
Chestnut Hill, MA 02467-2116

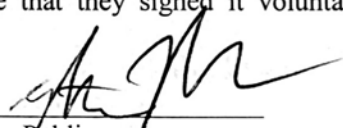
MASSACHUSETTS EXCISE TAX  
Southern Middlesex District, ROD # 001  
Date: 02/15/2007 02:43 PM  
City# 087431 04780 Doc# 00030102  
Fee: \$5,814.00 Cons: \$1,275,000.00

14 Crystal St, Newton

COMMONWEALTH OF MASSACHUSETTS

*Norfolk*, ss

On this 15 day of February, 2007, before me, the undersigned notary public, personally appeared Charles B. McMillan and Ronni L. McMillan, proved to me, through satisfactory evidence of identification, which were [] Massachusetts driver's licenses or [ ] \_\_\_\_\_, to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

  
\_\_\_\_\_  
Notary Public



  
\_\_\_\_\_  
Attest. Middlesex S. Register



## **Corporate Interest List**

**There are no Corporate Interests  
associated with this property**

## **SUPPORTING STATEMENT**

(Also included in the petition form)

### **1. Explain the special circumstances related to soil conditions, the shape of the topography of the land or structure that are unusual and that do not generally affect other properties in the zoning district:**

Due to width of lot and configuration of the existing house, not able to situate a garage with entry from side. Further, we are proposed replacing the existing garage that extend into the side yard setback with a 18' wide front-facing door with the same condition. The proposed is a superior solution in that it moves the existing garage to a shady paved area of the site and demolishes the existing garage to take advantage of the south facing area improved with planting, lawn and pervious ground cover. The abutting neighbor's garage is adjacent to the proposed new garage, minimizing the impact of the new garage to others and has agreed to support the side yard setback variance.

### **2. Explain how the literal enforcement of the Newton Zoning Ordinance will result in a substantial hardship to the owner and that the proposed variance is the minimum change that is necessary to allow the reasonable use to the land or structure:**

Current garage is non-conforming with extension into side yard setback and has single 18' wide double garage door. We have studied options but it is not possible to build a functional garage without extending into the side yard setbacks due to the current location of the existing house. Further, a 16' wide garage door will significantly impact the functionality of the new garage, limiting the accessibility of the garage with medium-sized cars. Practically speaking, with a 16' wide garage door and two cars parked side by side, the space between the cars is so tight that the driver's car door for the car on the right is not accessible.

### **3. Explain why granting the proposed variance will be in harmony with the purpose and intent of the Newton Zoning Ordinance and will not detrimental to the neighborhood or the public welfare:**

The end result will be virtually the same condition as what exists today with a two-car garage with a single 18' wide double garage door facing the street and the garage extending into the side yard setback. If this variance is not provided, the homeowner will need to invest significant expenses into restored the existing concrete block garage. We have studied this option and there is no good solution. While we could improve the appearance, the garage would still be located far from the kitchen/side entry, will occupy the side yard setback, will have a 18' wide garage door facing the street. Alternatively, if the existing garage were demolished, the house value would be impaired and more cars would need to park on the narrow street, adversely impacting the abutting property owners.

## REFERENCE TO ZONING ORDINANCE

(Also included in the Petition Form)

**State all sections of the Newton Zoning Ordinance implicated in this variance petition:  
Zoning Relief Required (per the City of Newton Zoning Review Memorandum, 10/5/21):**

- **Section 3.1.3** – Request for a variance to reduce required side setback (Action Required: Variance per Section 7.4)
- **Section 3.4.4.C.3** – Request for a variance to allow an 18-foot-side double garage door on the front-facing garage (Action Required: Variance per Section 7.4)
- **Sections 3.1.3 & 3.1.9** – Request to exceed FAR (Action Required: Special Permit per Section 7.3.3)

**State the specific relief being sought from the Newton Zoning Ordinance, including all ordinance dimensional requirements and proposed dimensional conditions:**

Zoning Relief Required

- **Section 3.1.3** – The proposal intends to raze the existing two-car attached garage on the southern portion of the property and construct a new two-car garage attached garage with home office space above. The side setback of the new garage varies from 4.5' to 2.4', where 7.5' is required per Section 3.1.3. A variance per Section 7.4 is required to reduce the required side setback from 7.5' to 2.4'.
- **Section 3.4.4.C.3** – The proposal intends to install a single 18' wide double garage door to service the two-car garage. Per Section 3.4.4.C.3, a double garage door may be no wider than 16' on a front-facing garage. A variance per Section 7.4 is required to allow an 18' wide double garage door facing the front.
- **Sections 3.1.3 & 3.1.9** – The existing FAR of the dwelling is .35 where .36 is the maximum per Sections 3.1.3 and 3.1.9. The proposal intends to increase the square feet resulting in an FAR of .39, requiring a Special Permit per Section 7.3.3.



Ruthanne Fuller  
Mayor

# CITY OF NEWTON, MASSACHUSETTS

City Hall  
1000 Commonwealth Avenue, Newton, MA 02459-1449  
Telephone: (617) 796-1120 TDD/TTY: (617) 796-1089 Fax: (617) 796-1086  
www.ci.newton.ma.us

## ZONING BOARD OF APPEALS

Adrianna Henriquez, Board Clerk

## INSTRUCTIONS FOR REQUIRED PLANS

Revised 7/22/19

- All dimensions and text must be legible at 8 ½ x 11 or 11 x 17
- All plans must include a graphic scale
- Please include one full size set, printed to scale

### PLAN OF LAND

The plan of land of the property that is the subject of the petition for a variance must be:

1. Prepared by a Registered Engineer or Land Surveyor and may be
  - a. A certified copy of the Plan of Land of the property as recorded at the Registry of Deeds (a mortgage plot plan will not suffice), or
  - b. If a newly created lot, then an ANR Plan or a Definitive Subdivision Plan with applicable Planning Board approvals or certifications.
2. Approved as to form and content by the Inspectional Services Department.

### AREA PLAN

An area plan for the lot in question shall be filed in order to show the character of the surrounding area within 300 feet of subject property. The subject lot shall be in the approximate center of the plan.

The plan shall include the following:

1. All street names, street lines and house numbers for the entire area.
2. Section, block and lot numbers, as shown on the City of Newton Assessor's Plans, areas and boundaries, with dimensions.
3. City of Newton sewer and drain easements.



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Ruthanne Fuller  
Mayor

## ZONING BOARD OF APPEALS

Adrianna Henriquez, Board Clerk

4. In the case of lots located in Flood Plain/Watershed areas, all flood plain elevations, watershed distances and all brooks, streams, wetlands and ponds.

### **PLOT PLAN**

The plot plan, also referred to as a site plan, is the plan that shows the structures on the subject property and must comply with the following:

1. The plan shall include lot area, frontage, grade plane, basement/first floor calculations, building height, stories, lot coverage, existing and proposed setbacks, open space percentage, and, if applicable, lot area/unit, floor area ratio and build factor.
2. The plan shall show the following:
  - a. The exterior shape of existing structures, proposed structures, alterations or additions to existing structures, together with front, rear, and side yard dimensions, driveways, paved areas, and all off-street parking spaces, existing and proposed.
  - b. The zoning district of the lot in question and surrounding lots.
  - c. If the area is one of the steep terrain (10% or more), the topography must be shown in two-foot contour intervals.
  - d. If the variance is sought based on soil conditions or other physical condition of the land, the location and character of this condition must be shown on the plan.
3. The plan shall include petitioners name, date of plan and the name of the person drawing the plan.
4. The plan shall be prepared and stamped by a Registered Engineer or Land Surveyor.

### **ARCHITECTURAL PLANS**

1. The plans shall consist of existing and proposed floor plans, and elevations of all sides.
2. The plans shall have a title block containing the applicant's name and address, the name



Ruthanne Fuller  
Mayor

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www.ci.newton.ma.us

## ZONING BOARD OF APPEALS

Adrianna Henriquez, Board Clerk

and address of the person who prepared the plans, the date on which the plans were prepared, and the location of the property involved in the petition.

3. If drawn by an architect, the architect shall stamp the plans.

Type text here

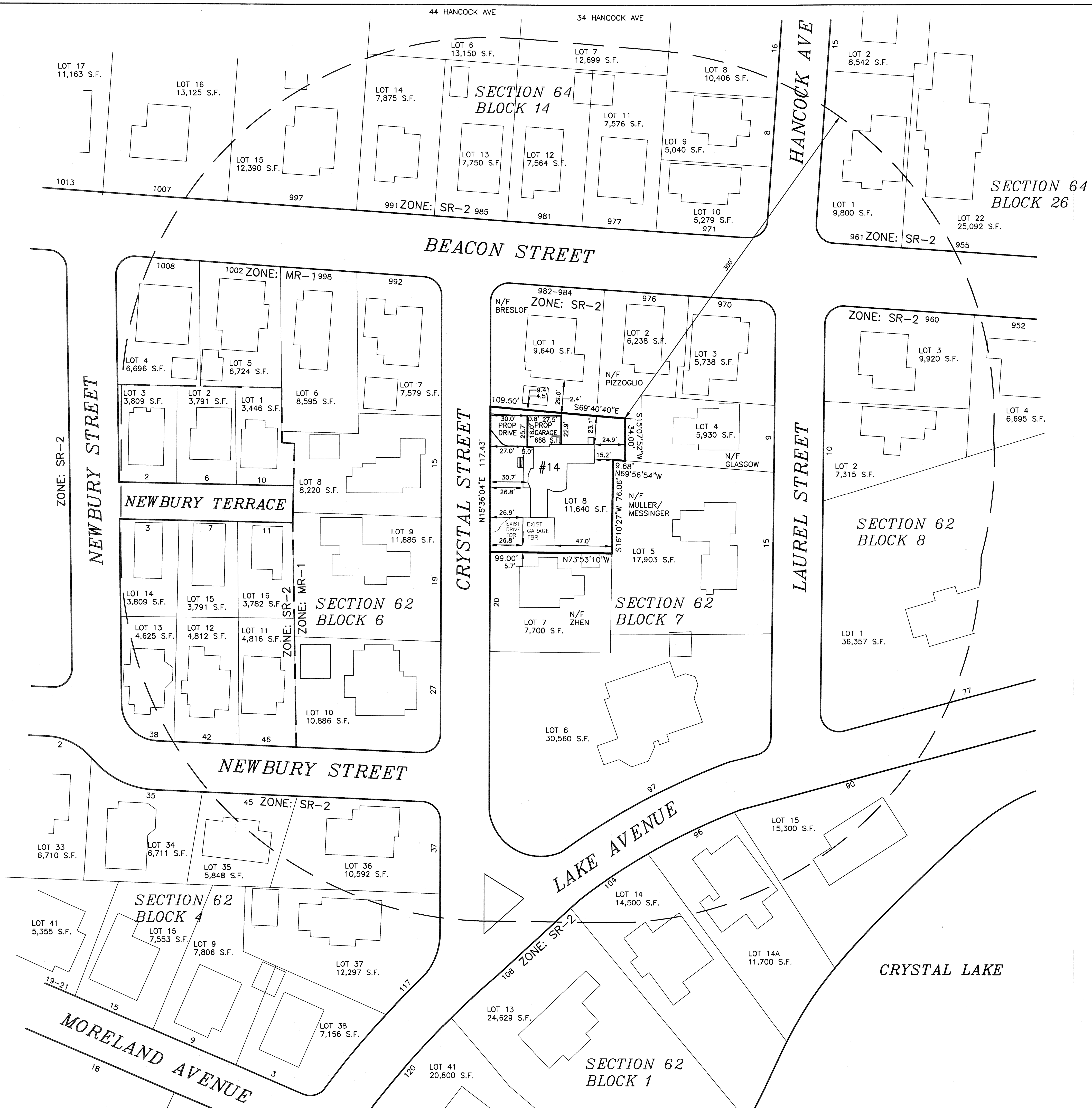
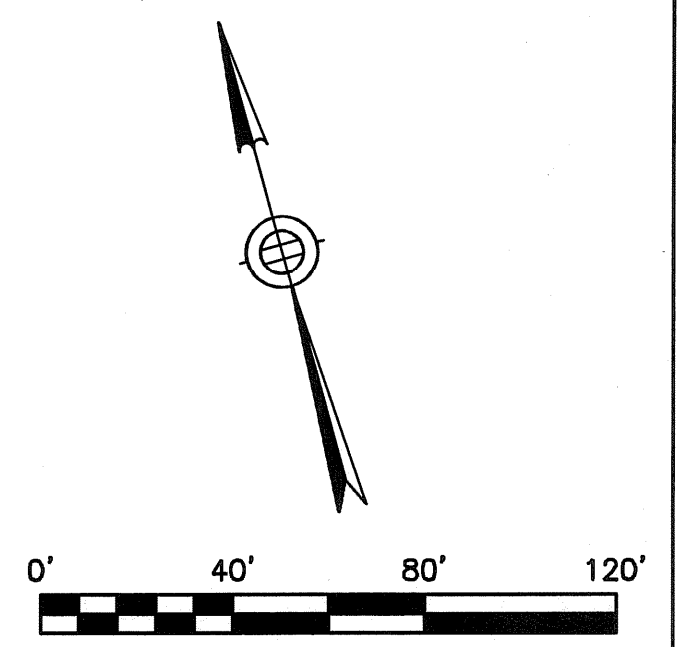
### **Plan Documents Provided is Separate Files:**

Architectural Plan - 14 Crystal St.PDF

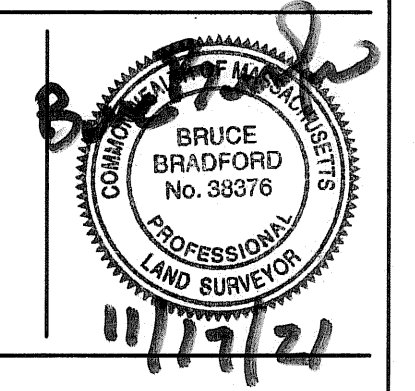
Area Plan - 14 Crystal St.PDF

Plot Plan - 14 Crystal St.PDF

Plan of Land - 14 Crystal St - Lot C.pdf



**ZONING INFORMATION**  
 ZONE: SR-2  
 SECTION: 62 BLOCK: 7 LOT: 8  
 PLAN DATED:  
 NOVEMBER 11, 1884  
 DEED REFERENCE:  
 BOOK 48995 PAGE 20  
 OWNER OF RECORD:  
 JEFFREY & JANE E FREEDMAN  
 14 CRYSTAL STREET  
 NEWTON, MA 02459



**AREA WIDE  
 PLAN OF LAND IN  
 NEWTON, MA**  
 14 CRYSTAL STREET  
 PROPOSED ADDITIONS

SCALE: 1 IN. = 40 FT.
DATE: NOVEMBER 17, 2021
DRAWN: ER/ ES
CHECK: BB
REVISIONS:



**Damon Estate  
NEWTON CENTRE**  
Scale 20 ft = 1 inch.  
Whitman & Breck Surveyors Boston.

(Original on file.)  
(Scale of this plan: 1 inch = 40 feet.)



MIDDLESEX REGISTRY OF DEEDS, SO. DIST.  
CAMBRIDGE, MASS

**COPY OF PLAN**

Recorded NOV. 11, 1884 at 4 h - m P. M.  
In Plan Book 43 Plan 28

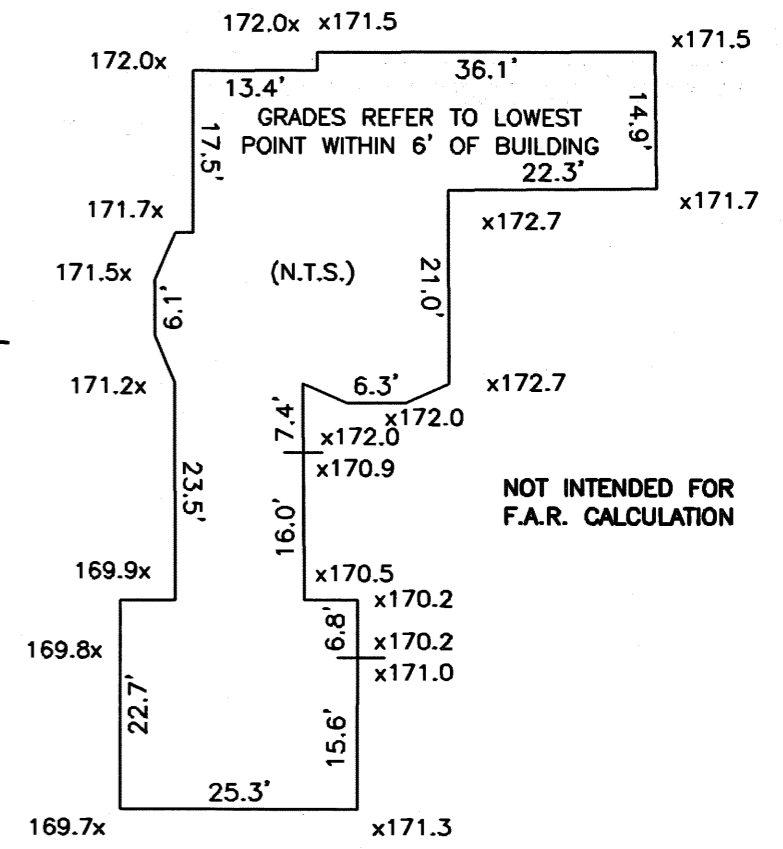
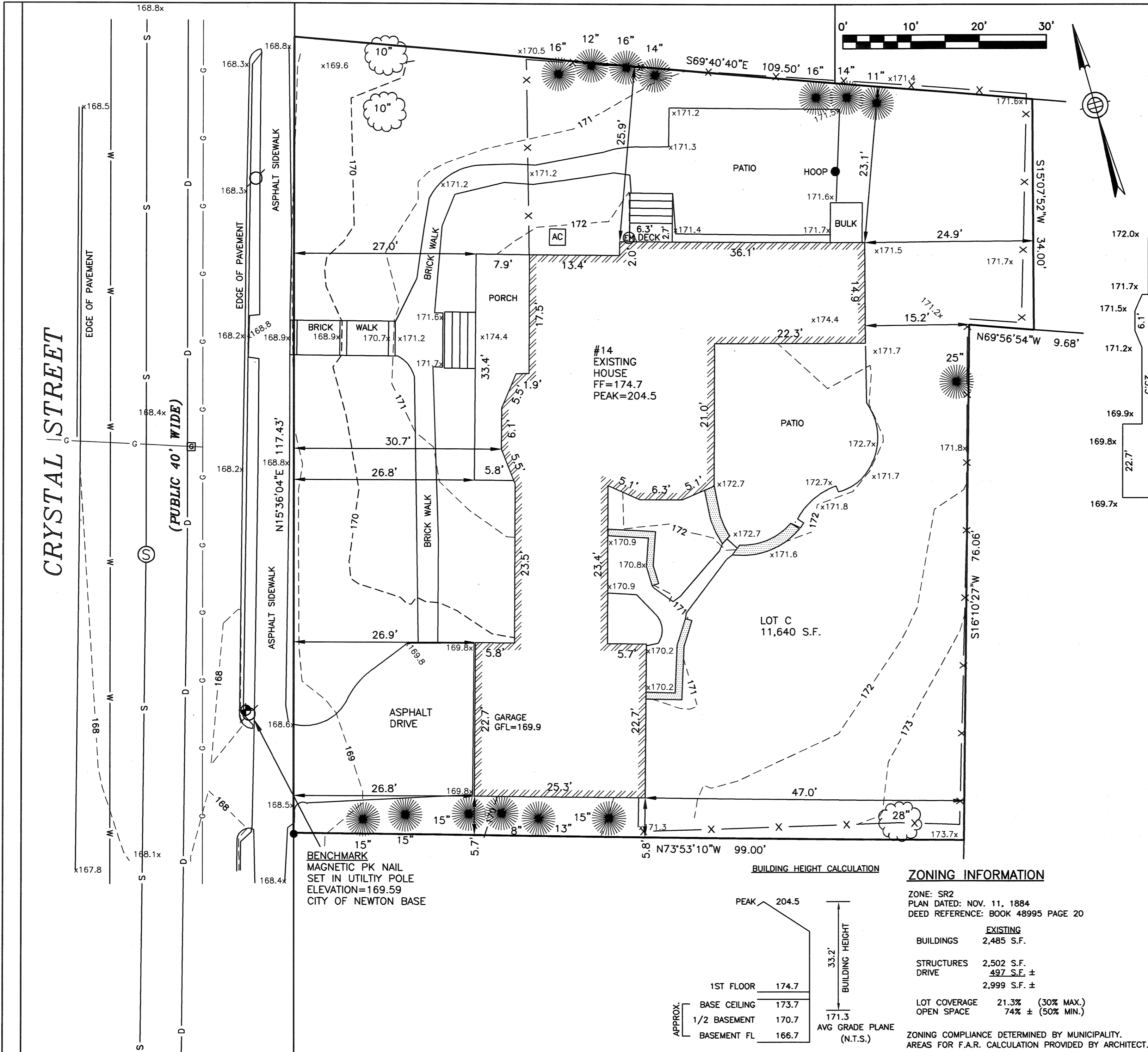
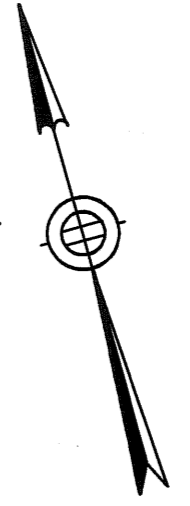
Attest ~~James F. Fitzgerald~~ Register

*James F. Fitzgerald*

K

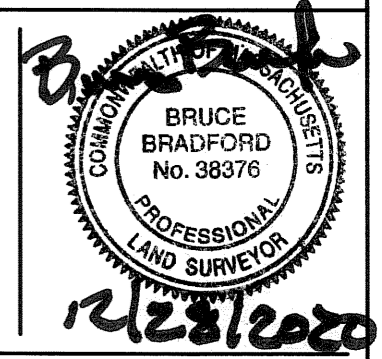


ESTABLISHED 1916  
**EMB**  
 EVERETT M. BROOKS CO.  
 SURVEYORS & ENGINEERS  
 49 LEXINGTON STREET  
 WEST NEWTON, MA 02465  
 (617) 527-8750  
 info@everettbrooks.com



AVERAGE GRADE CALCULATION:  
 [SEC 1.5.4(F)]  
 $AVG = \frac{\sum[L(E1+E2)]}{2} / P$   
 $AVG = 43,662.88 / 254.9 = 171.3$

THIS SURVEY SHOWS EXISTING CONDITIONS ONLY AND DOES NOT SHOW ANY PROPOSED CONSTRUCTION



**PLAN OF LAND IN NEWTON, MA**

14 CRYSTAL STREET  
 EXISTING CONDITIONS

SCALE:	1 IN. = 10 FT.
DATE:	12/28/20
DRAWN:	ES
CHECK:	BB
REVISIONS:	

PROJECT NO. 26212

**BUILDING HEIGHT CALCULATION**

PEAK	204.5
1ST FLOOR	174.7
BASE CEILING	173.7
1/2 BASEMENT	170.7
BASEMENT FL	166.7

APPROX. BUILDING HEIGHT: 33.2'  
 171.3' AVG GRADE PLANE (N.T.S.)

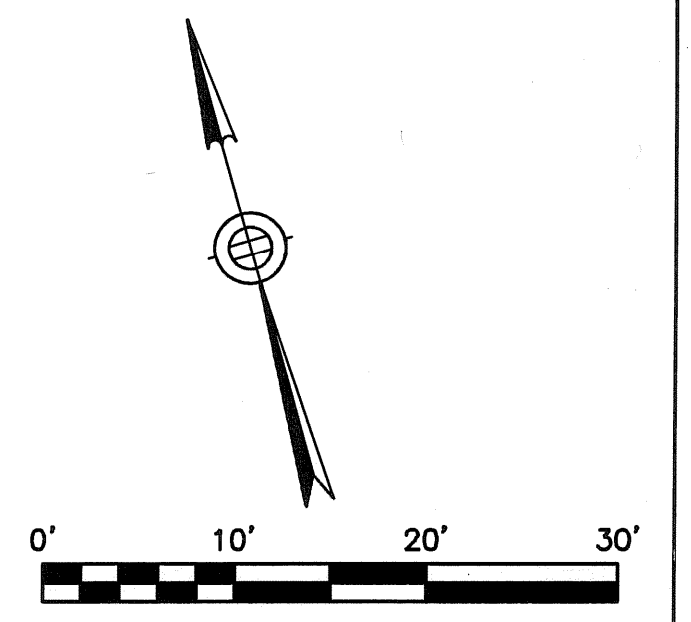
**ZONING INFORMATION**

ZONE: SR2  
 PLAN DATED: NOV. 11, 1884  
 DEED REFERENCE: BOOK 48995 PAGE 20

BUILDINGS	EXISTING	2,485 S.F.
STRUCTURES	2,502 S.F.	
DRIVE	497 S.F. ±	
		2,999 S.F. ±

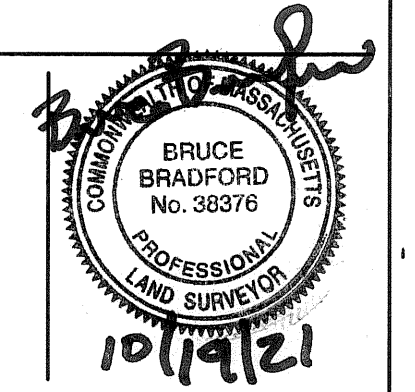
LOT COVERAGE 21.3% (30% MAX.)  
 OPEN SPACE 74% ± (50% MIN.)

ZONING COMPLIANCE DETERMINED BY MUNICIPALITY.  
 AREAS FOR F.A.R. CALCULATION PROVIDED BY ARCHITECT.



**LEGEND**

- UTILITY POLE
- WATER GATE
- ⊗ HYDRANT
- ⊕ GAS GATE
- ⊙ SEWER MANHOLE
- ⊖ DRAIN MANHOLE
- ⊞ CATCH BASIN
- TREE
- TREE
- ⊙ LIGHT POLE
- ⊞ SIGN
- TBR TO BE REMOVED
- TBA TO BE ABANDONED
- THH DEEP TEST HOLE
- PTH PERCOLATION TEST
- 71.4 X SPOT ELEVATION
- 71 — EXISTING CONTOUR
- D — DRAIN LINE
- W — WATER LINE
- S — SEWER LINE
- G — GAS LINE
- X — FENCE
- ⊞ STONEWALL
- ⊞ HEDGE
- ⊞ TREE LINE



**PLAN OF LAND IN  
 NEWTON, MA**

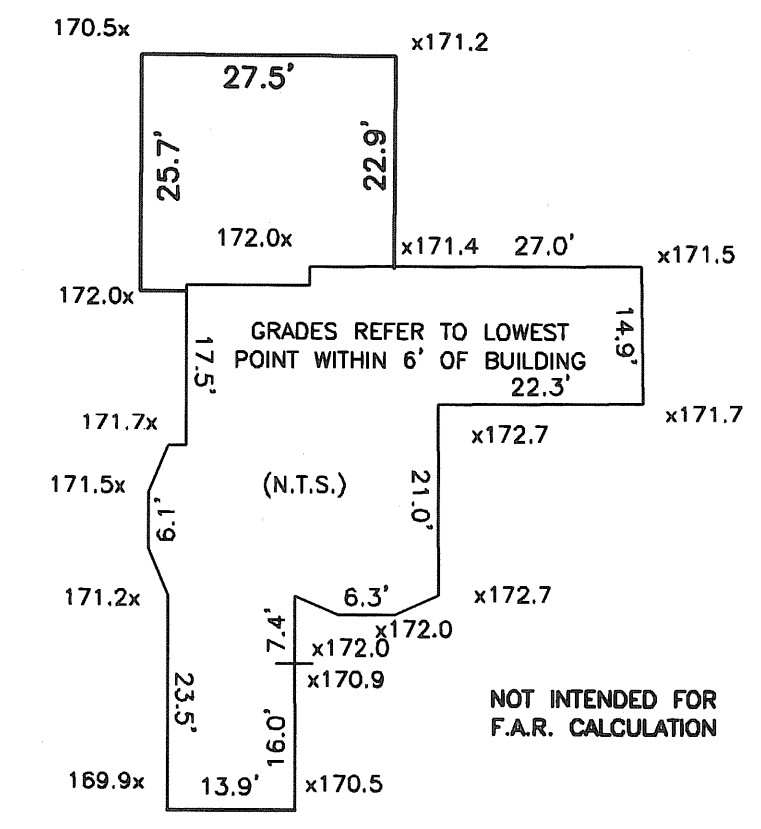
14 CRYSTAL STREET  
 PROPOSED ADDITIONS

SCALE: 1 IN. = 20 FT.  
 DATE: JUNE 17, 2021  
 DRAWN: ER  
 CHECK: BB

REVISIONS:

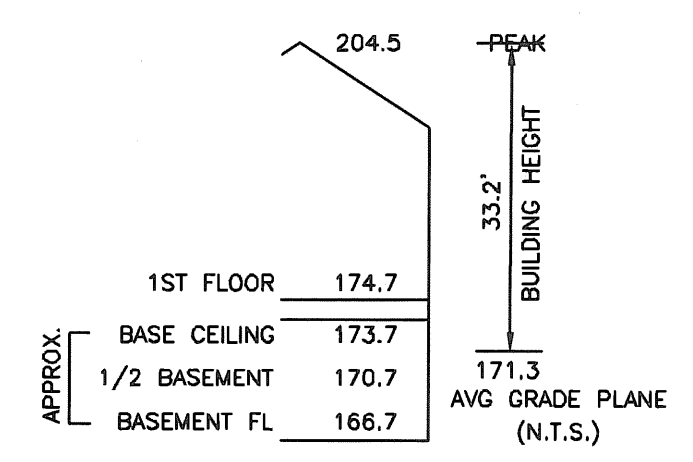
10/19/21	garage door

PROJECT NO. 26212



**AVERAGE GRADE CALCULATION:**  
 [SEC 1.5.4(F)]  
 $AVG = \frac{\sum[(E1+E2)/2] \cdot P}{\sum P}$   
 $AVG = 43,662.88 / 254.9 = 171.3$

**BUILDING HEIGHT CALCULATION**



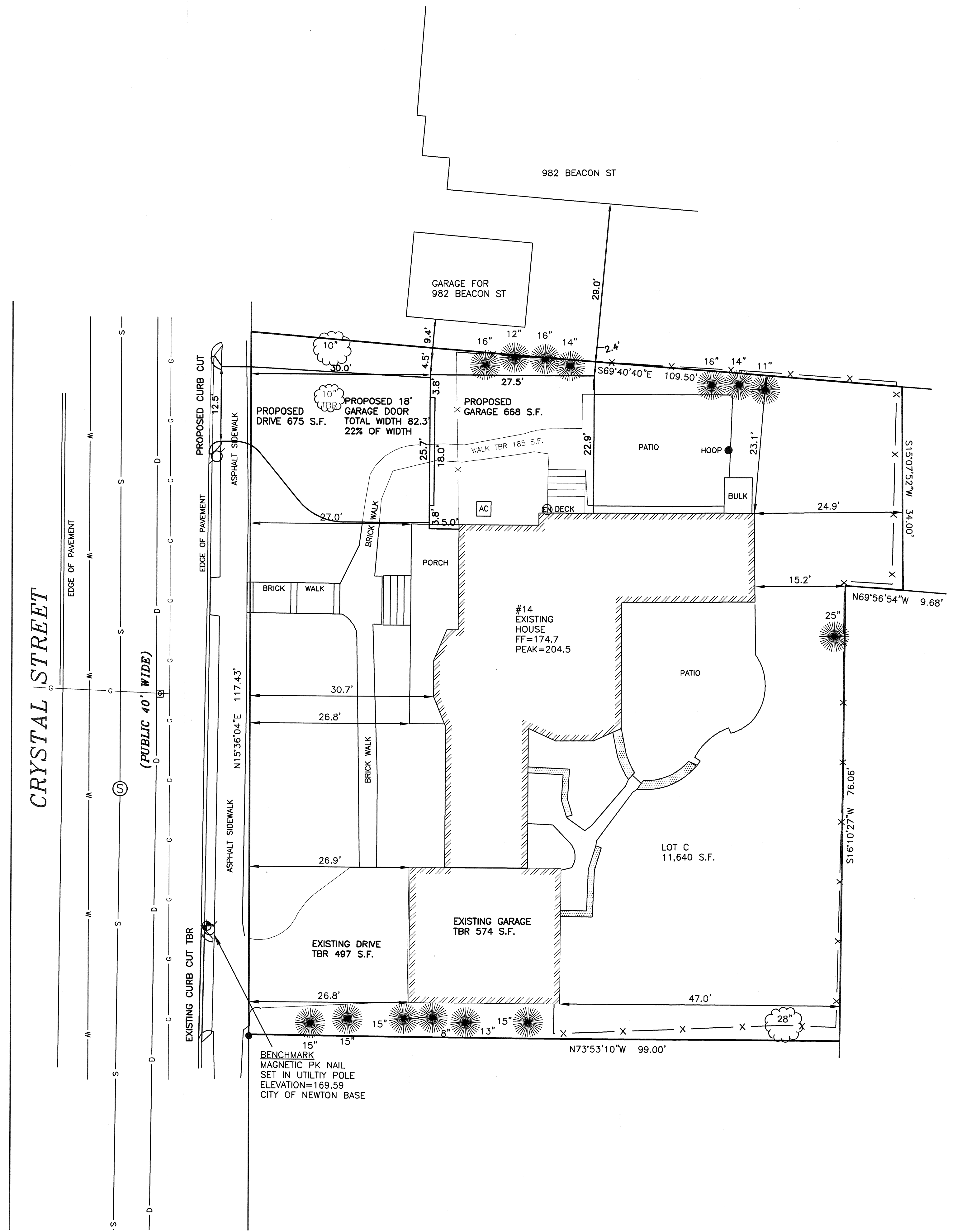
**ZONING INFORMATION**

ZONE: SR2  
 PLAN DATED: NOV. 11, 1884  
 DEED REFERENCE: BOOK 48995 PAGE 20

	EXISTING	PROPOSED
BUILDINGS	2,485 S.F.	2,579 S.F.
STRUCTURES	2,502 S.F.	2,579 S.F.
DRIVE	497 S.F. ±	675 S.F. ±
	2,999 S.F. ±	3,254 S.F. ±
LOT COVERAGE	21.3%	22.2% (30% MAX.)
OPEN SPACE	74% ±	72% ± (50% MIN.)

ZONING COMPLIANCE DETERMINED BY MUNICIPALITY.  
 AREAS FOR F.A.R. CALCULATION PROVIDED BY ARCHITECT.

**IMPERVIOUS INCREASE CALCULATION**  
 PROPOSED IMPERVIOUS AREA - EXISTING IMPERVIOUS AREA =  
 (688 + 675) - (574 + 497 + 185) = 87 S.F.



CRYSTAL STREET

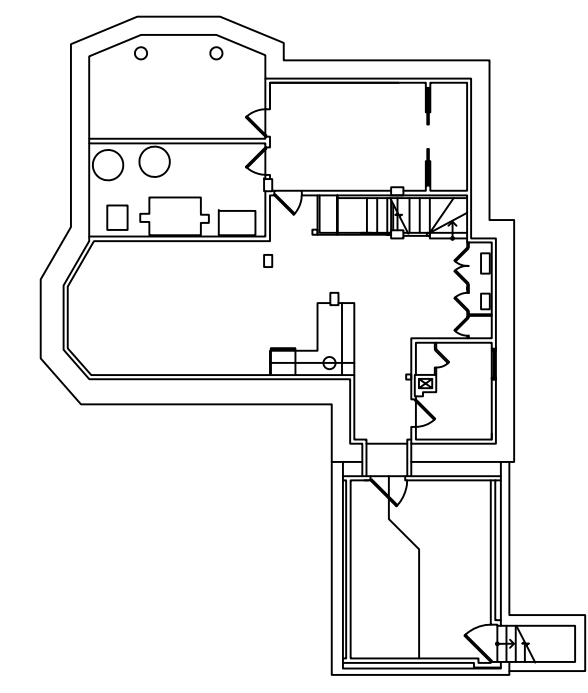
(PUBLIC 40' WIDE)

BENCHMARK  
 MAGNETIC PK NAIL  
 SET IN UTILITY POLE  
 ELEVATION=169.59  
 CITY OF NEWTON BASE

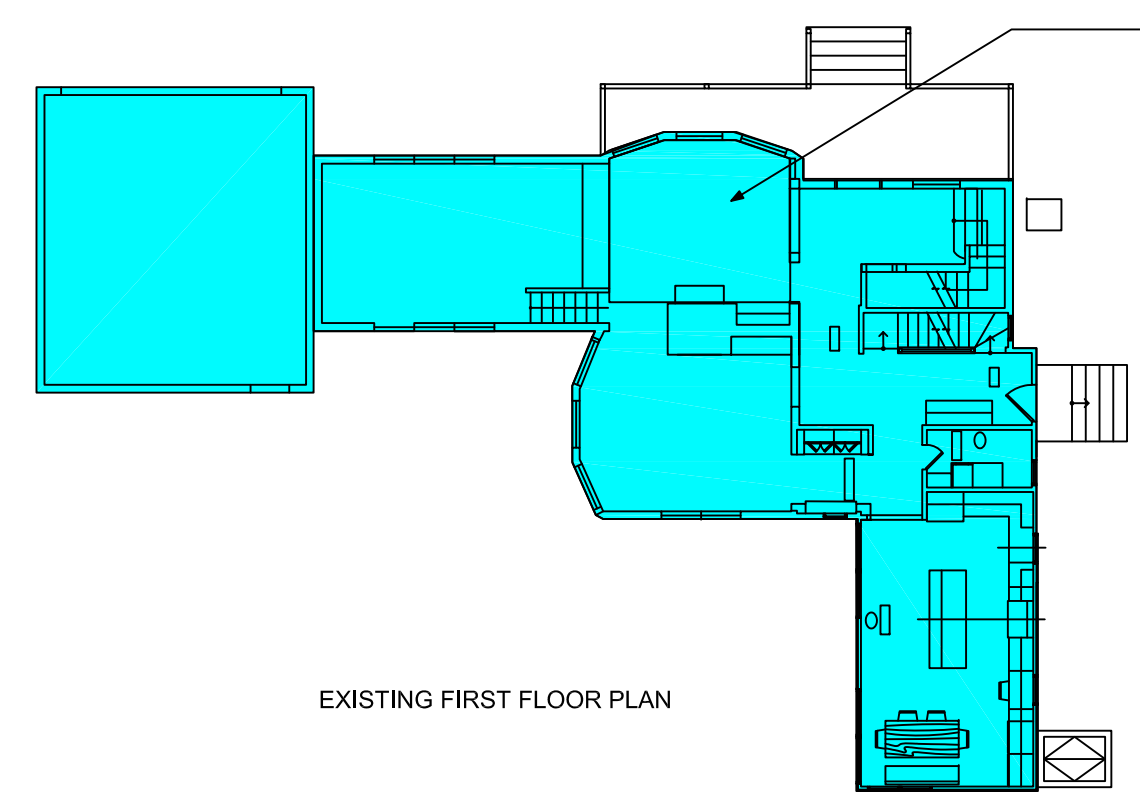
**EXISTING CONDITIONS**

FAR TABLE	
UNIT	AREA (SF)
BASEMENT	N/A
FIRST LEVEL	2436.24
SECOND LEVEL	1277.83
THIRD LEVEL	393.82
TOTAL	4107.89
SITE AREA	11640
FAR	0.3636 * 11640 = 4232.3
FAR - EXISTING SF TOTAL	4232.30 - 4107.89 = 124.41

**ZONING ANALYSIS**  
ZONE  
SR2  
LOT SIZE (PER SURVEY)  
11,640 SF  
SETBACKS  
FRONT 25'  
SIDE 7.5'  
REAR 15'  
F.A.R. CALCULATION  
 $0.38 - (0.000010(11,640 - 10,000)) = 0.3636$   
\* MAX F.A.R. - 0.3636 X 11300 = 4232.3 SF

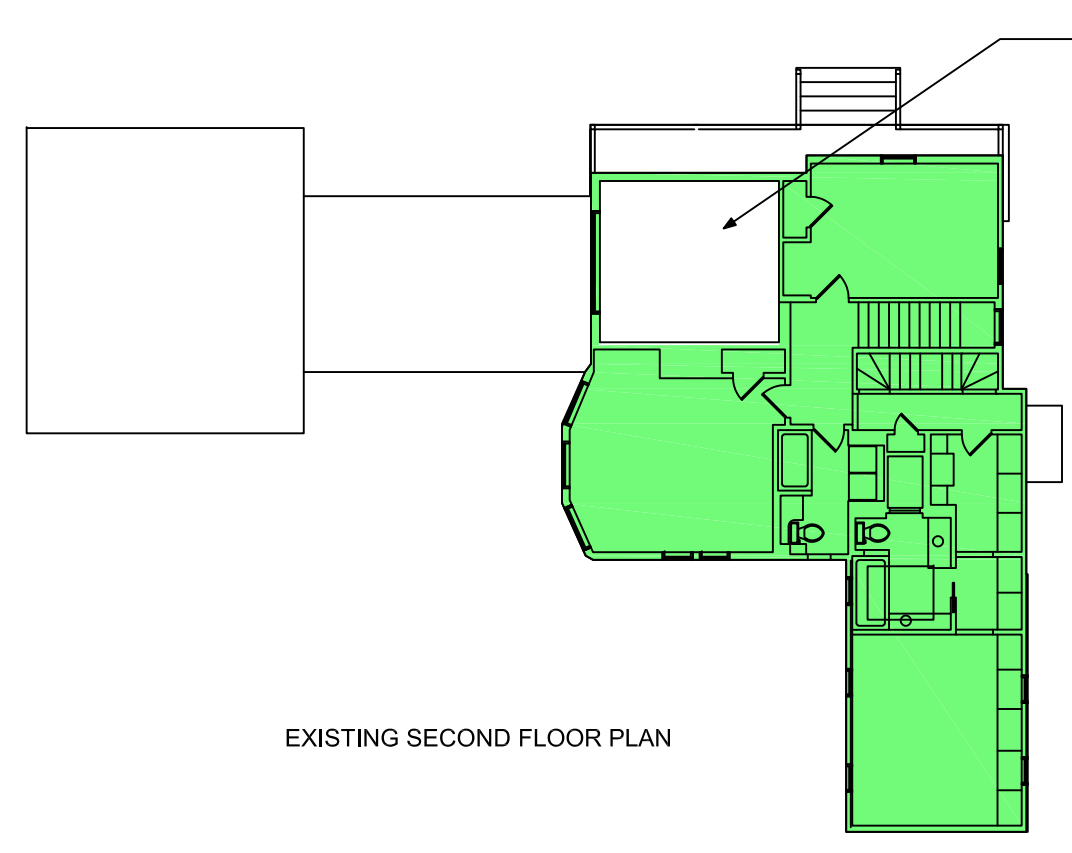


EXISTING BASEMENT PLAN



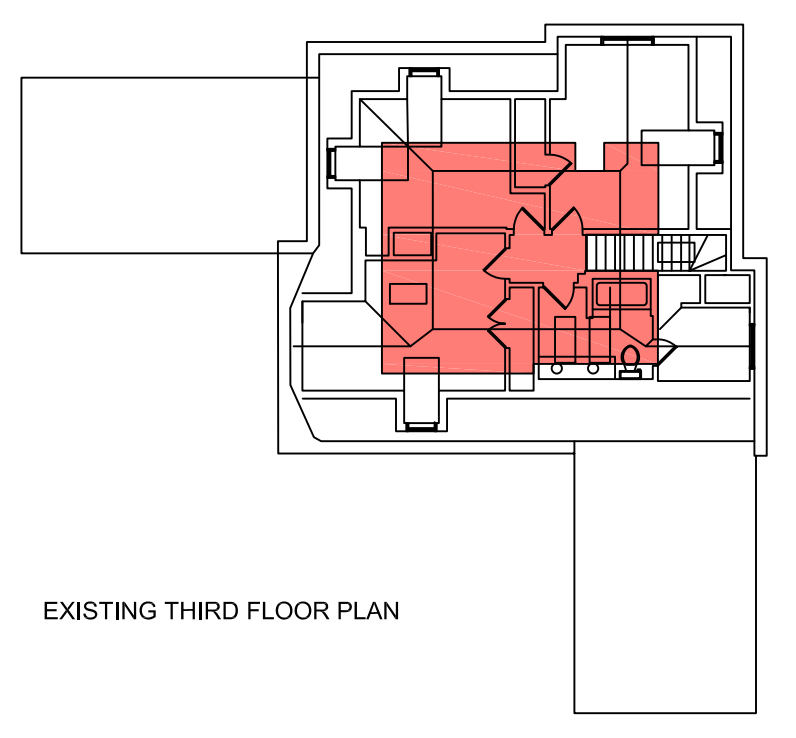
EXISTING FIRST FLOOR PLAN

VERTICAL OPEN SPACE AREA INCLUDED IN FIRST FLOOR AREA  
SEE NOTES BELOW  
TOTAL FIRST FLOOR SF = 2278.30  
TOTAL FIRST FLOOR VERTICAL OPEN SPACE AREA = 190.29  
VERTICAL OPEN SPACE CALCULATION  
AVG CEILING HT = 18.33'  
 $18.33/10 = 1.83$  \* VERTICAL OPEN SPACE AREA (190.29) = 348.23 SF  
NEW TOTAL AREA CALCULATION  
(TOTAL SF AREA - TOTAL VERTICAL OPEN SPACE AREA) + CALCULATED VERTICAL OPEN SPACE AREA = NEW TOTAL SF AREA  
(2278.30 SF - 190.29 SF) + 348.23 SF = 2436.24 SF

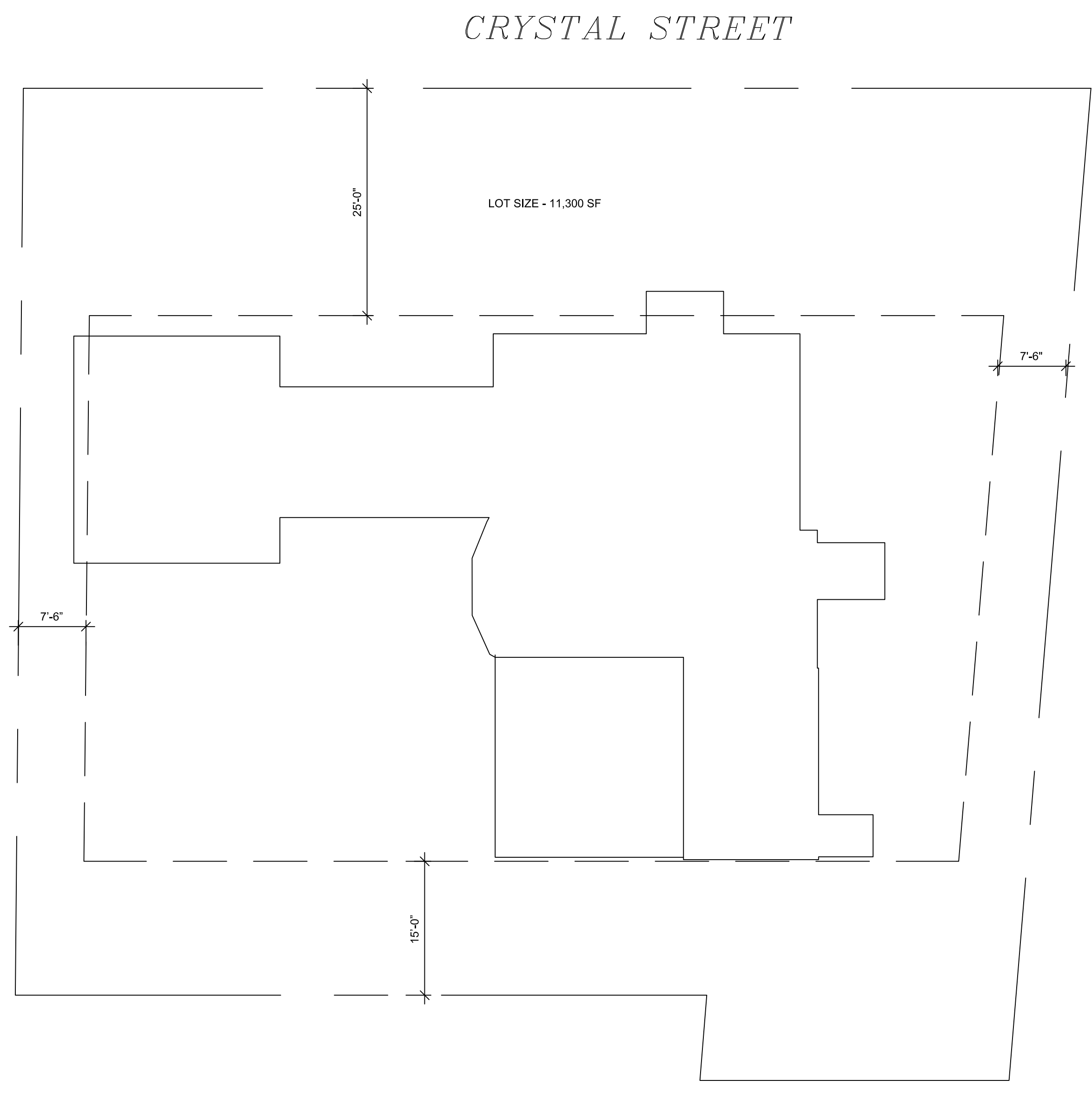


EXISTING SECOND FLOOR PLAN

VERTICAL OPEN SPACE AREA NOT INCLUDED IN SECOND FLOOR PLAN  
TOTAL SECOND FLOOR SF = 1473.55  
TOTAL SECOND FLOOR VERTICAL OPEN SPACE AREA = 195.72  
TOTAL SECOND FLOOR SF - TOTAL SECOND FLOOR VERTICAL OPEN SPACE AREA = NEW SECOND FLOOR AREA  
 $1473.55 - 195.72 = 1277.83$  SF

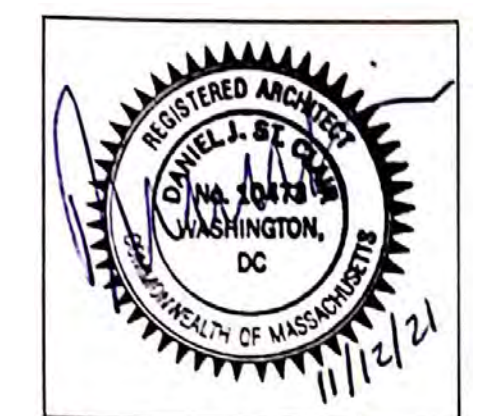


EXISTING THIRD FLOOR PLAN



\*SEE SITE SURVEY FOR DETAILS

1 ZONING ANALYSIS  
ZA01 scale: 1"=10'



**PROPOSED CONDITIONS**

FAR TABLE	
UNIT	AREA (SF)
BASEMENT	N/A
FIRST FLOOR/ GARAGE FIRST LEVEL	2518.56
GARAGE SECOND LEVEL	321.30
SECOND FLOOR	1277.83
THIRD LEVEL	393.82
TOTAL	4511.51
SITE AREA	11640
FAR	0.3636 * 11640 = 4232.3
FAR - SF TOTAL	4232.30 - 4511.51 = -279.21

**ZONING ANALYSIS**

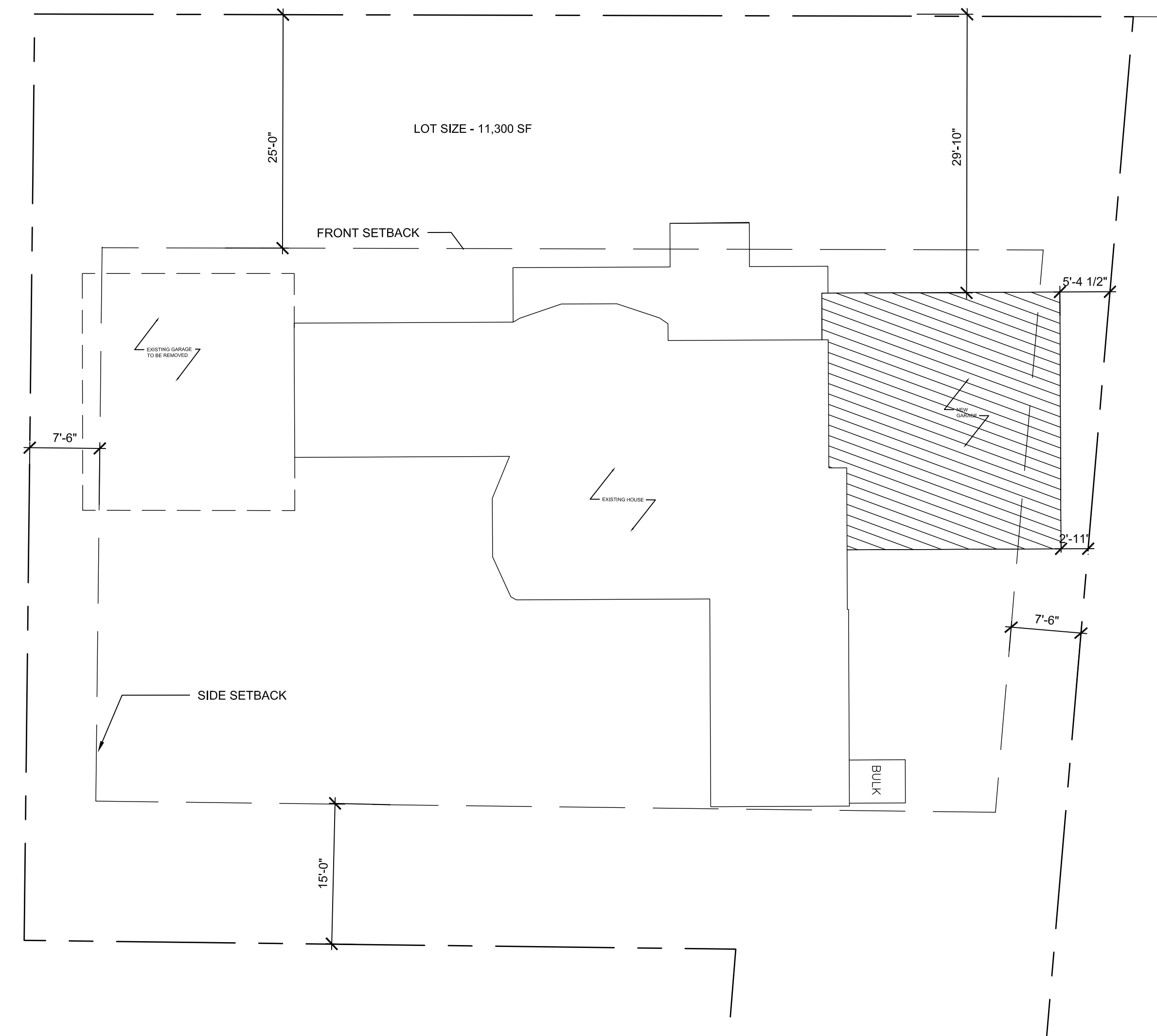
ZONE  
SR2

LOT SIZE (PER SURVEY)  
11,640 SF

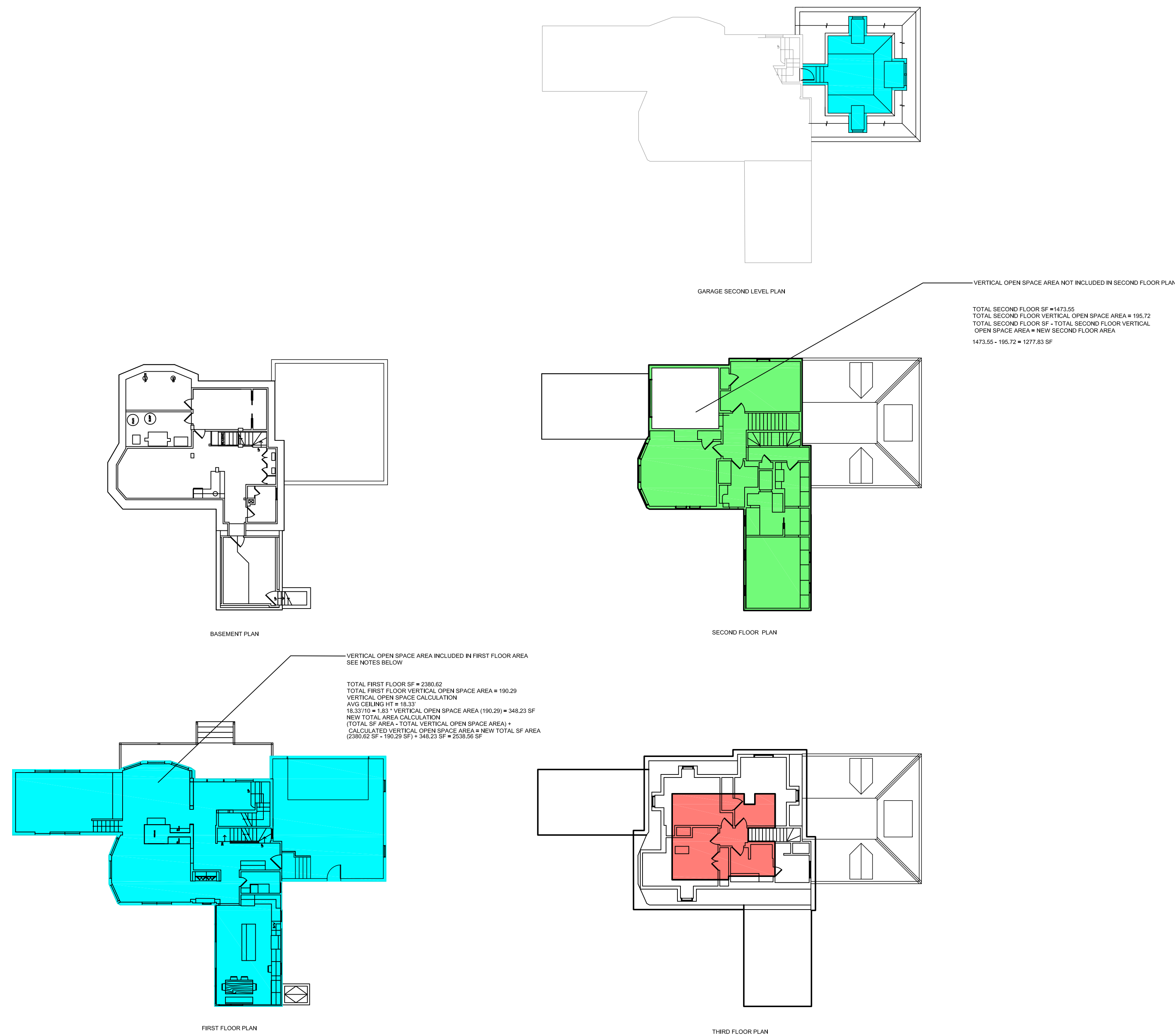
SETBACKS  
FRONT 25'  
SIDE 7.5'  
REAR 15'

F.A.R. CALCULATION  
0.38 - (0.000010(11,640 - 10,000)) = 0.3636  
\* MAX F.A.R. - 0.3636 X 11300 = 4232.3 SF

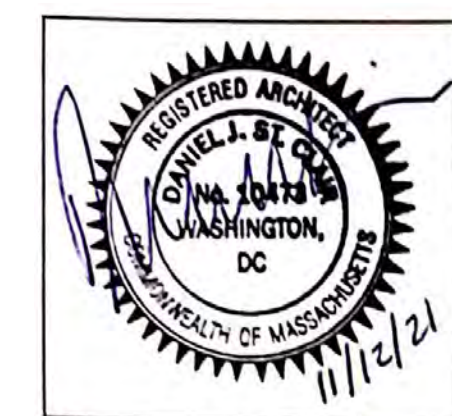
*CRYSTAL STREET*



\*SEE SITE SURVEY FOR DETAILS



1 : ZONING ANALYSIS  
A01 scale: 1"=10'



**SDS Architects, LLC**  
30 Heath Street  
Brookline, MA 02445 Tel:  
000.000.0000

**CLIENT**  
Client Name  
14 Crystal St  
Newton, MA

**ISSUE**  
04.23.21

**RE-ISSUE**  
M/M, D/D, Y/Y

**PROJECT NO.**  
NA

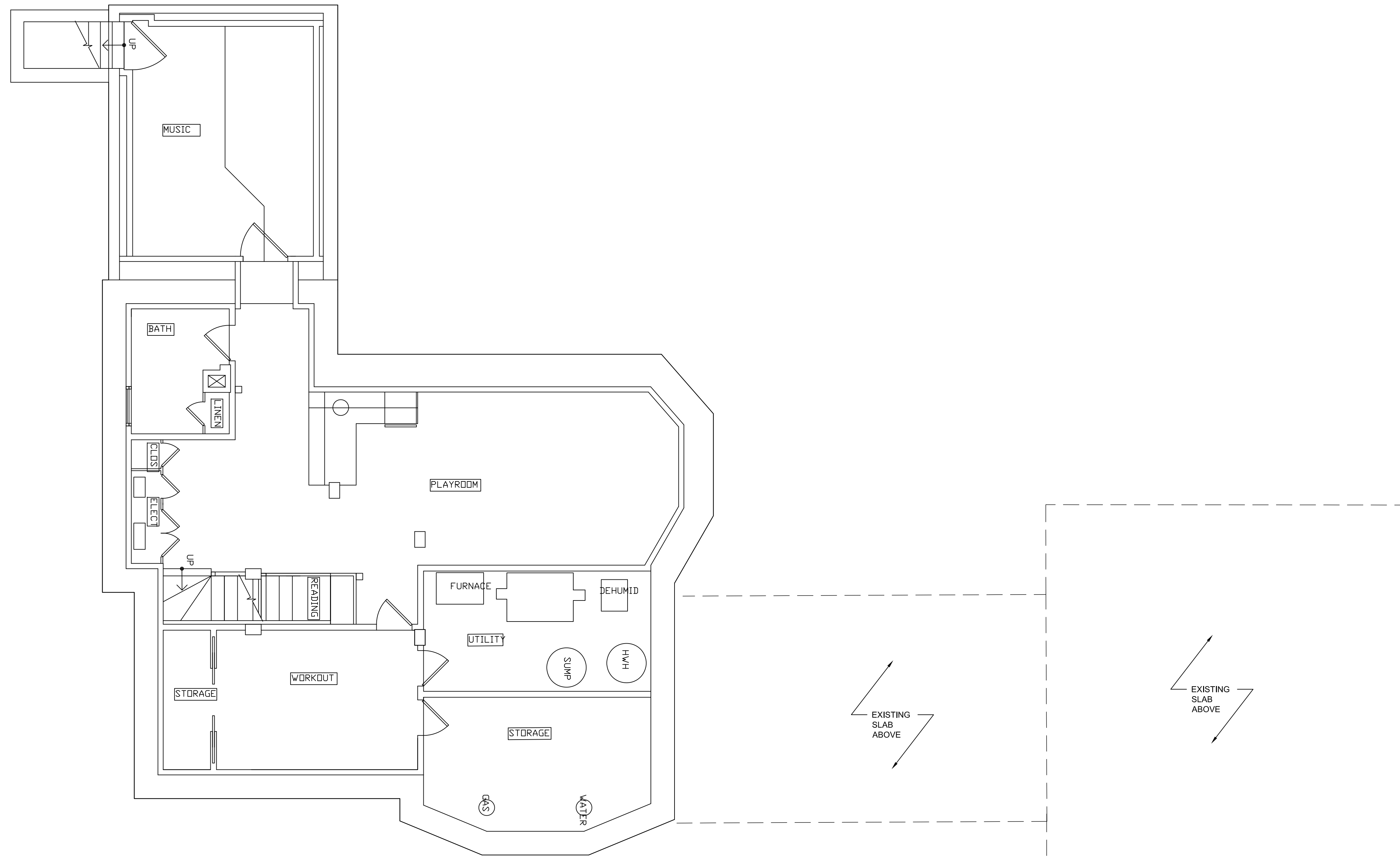
**PROJECT**  
14 Crystal St  
Residence

**DRAWN BY**  
SV

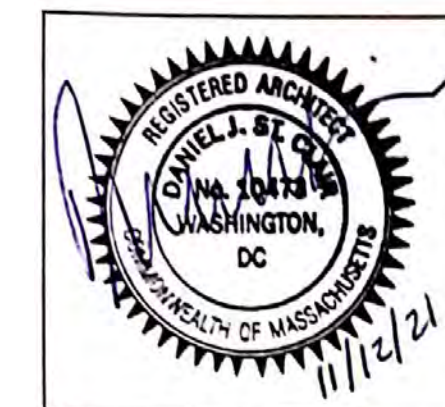
**DESCRIPTION**  
Site Plan

**ZA**

**02**



**1** : EXISTING FOUNDATION PLAN  
EX01 scale: 1/4"=1'



**SDS Architects, LLC**  
30 Heath Street  
Brookline, MA 02445 Tel:  
000.000.0000

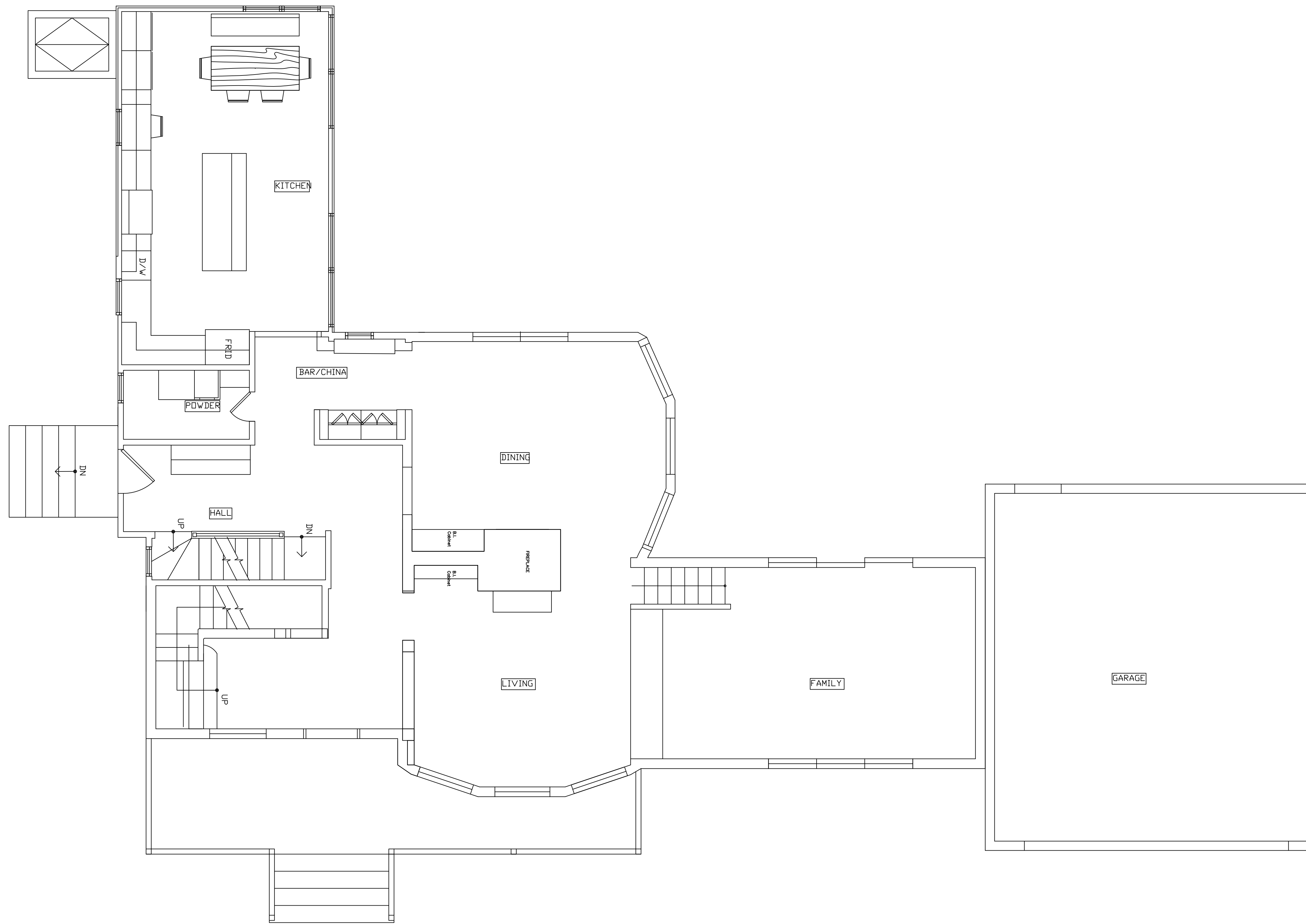
**CLIENT**  
Client Name  
14 Crystal St  
Newton, MA

**ISSUE**  
04.23.21  
**RE-ISSUE**  
M/M, D/D, Y/Y

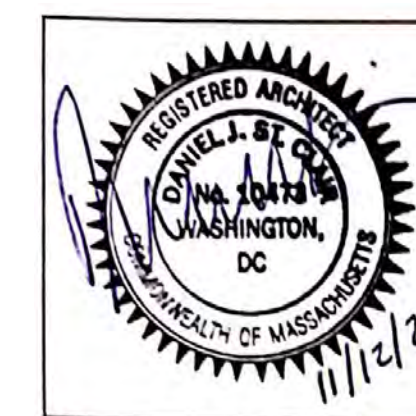
**PROJECT NO.**  
NA  
**PROJECT**  
14 Crystal St  
Residence

**DRAWN BY**  
SV  
**DESCRIPTION**  
Main House Foundation Plan

**EX**  
**01**



**1** EXISTING FIRST FLOOR PLAN  
EX02 Scale: 1/8"=1'-0"



**SDS Architects, LLC**  
30 Heath Street  
Brookline, MA 02445  
Tel: 000.000.0000

**CLIENT**  
Client Name  
14 Crystal St  
Newton, MA

**04.23.21**

**RE-ISSUE**  
MM, DD, YY

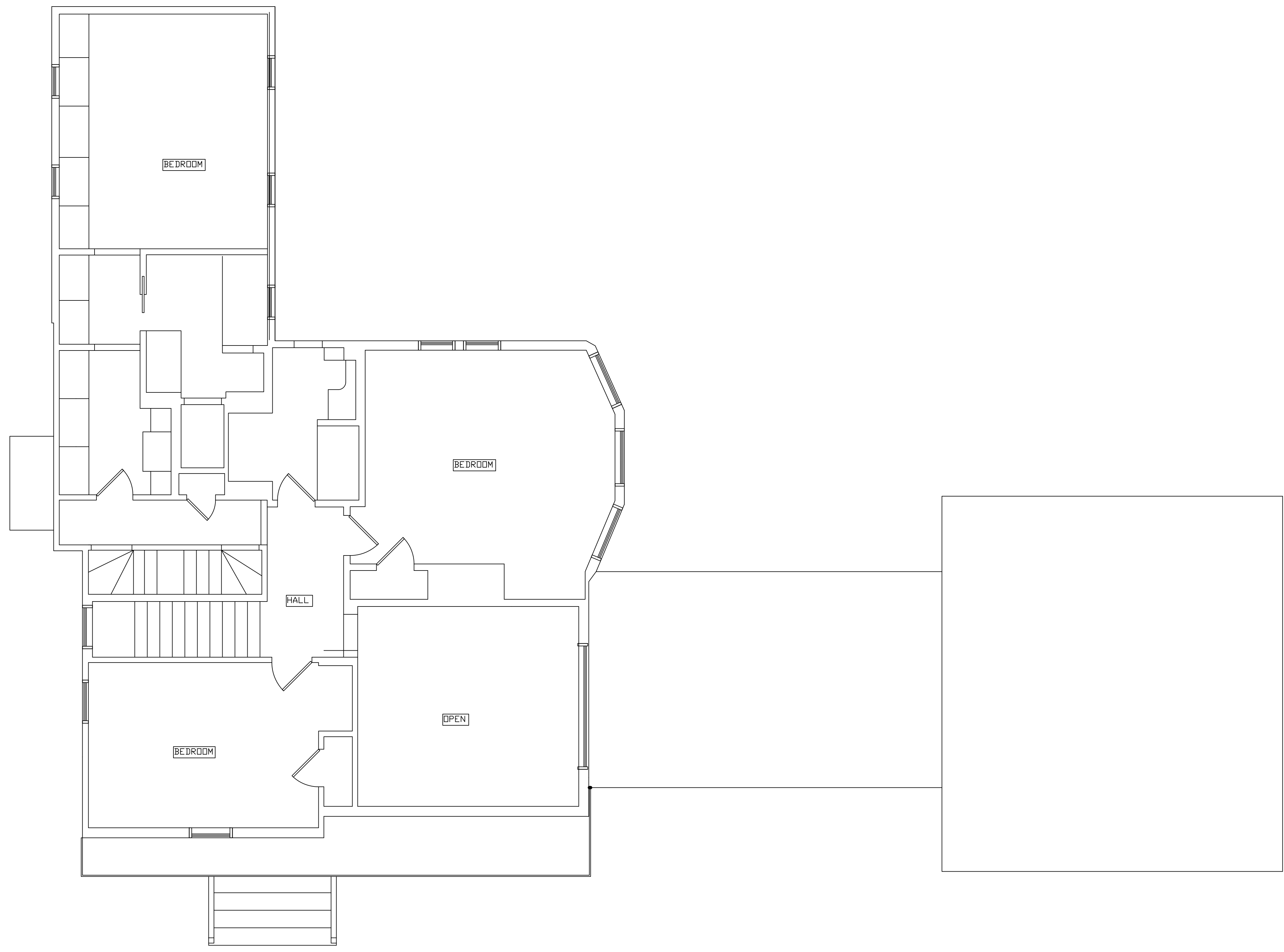
**PROJECT NO.**  
NA

**PROJECT**  
14 Crystal St  
Residence

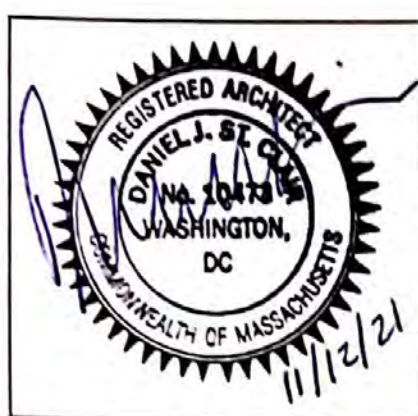
**DRAWN BY**  
SV

**DESCRIPTION**  
Main House First Floor Plan

**EX**  
**02**



**1** :: EXISTING SECOND FLOOR PLAN  
EX03 scale: 1/8"=1'



**SDS Architects, LLC**  
30 Heath Street  
Brookline, MA 02445 Tel:  
000.000.0000

**CLIENT**  
Client Name  
14 Crystal St  
Newton, MA

**ISSUE**  
04.21.23  
**RE-ISSUE**  
MM.DD.YY

**PROJECT NO.**  
NA  
**PROJECT**  
14 Crystal St  
Residence

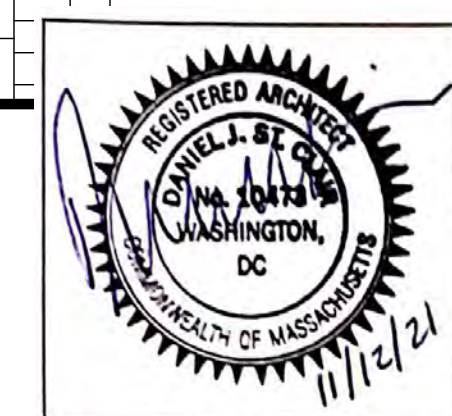
**DRAWN BY**  
SV  
**DESCRIPTION**  
Main House Second Floor  
Plan



**2** : EXISTING LEFT SIDE ELEVATION  
EX05 (scale: 1/4"=1')



**1** : EXISTING FRONT ELEVATION  
EX05 (scale: 1/4"=1')



**SDS Architects, LLC**  
30 Heath Street  
Brookline, MA 02445 Tel:  
000.000.0000

**CLIENT**  
Client Name  
14 Crystal St  
Newton, MA

**ISSUE**  
04.23.21  
**RE-ISSUE**  
MM.DD.YY

**PROJECT NO.**  
NA  
**PROJECT**  
14 Crystal St  
Residence

**DRAWN BY**  
SV  
**DESCRIPTION**  
Main House Elevations

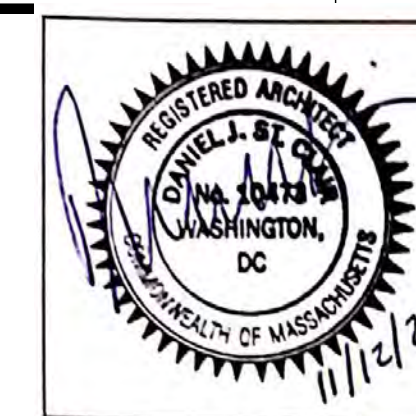




**2** EXISTING RIGHT SIDE ELEVATION  
EX06 Scale: 1/8"=1'



**1** EXISTING REAR ELEVATION  
EX06 Scale: 1/8"=1'



**SDS Architects, LLC**  
30 Heath Street  
Brookline, MA 02445 Tel:  
000.000.0000

**CLIENT**  
Client Name  
14 Crystal St  
Newton, MA

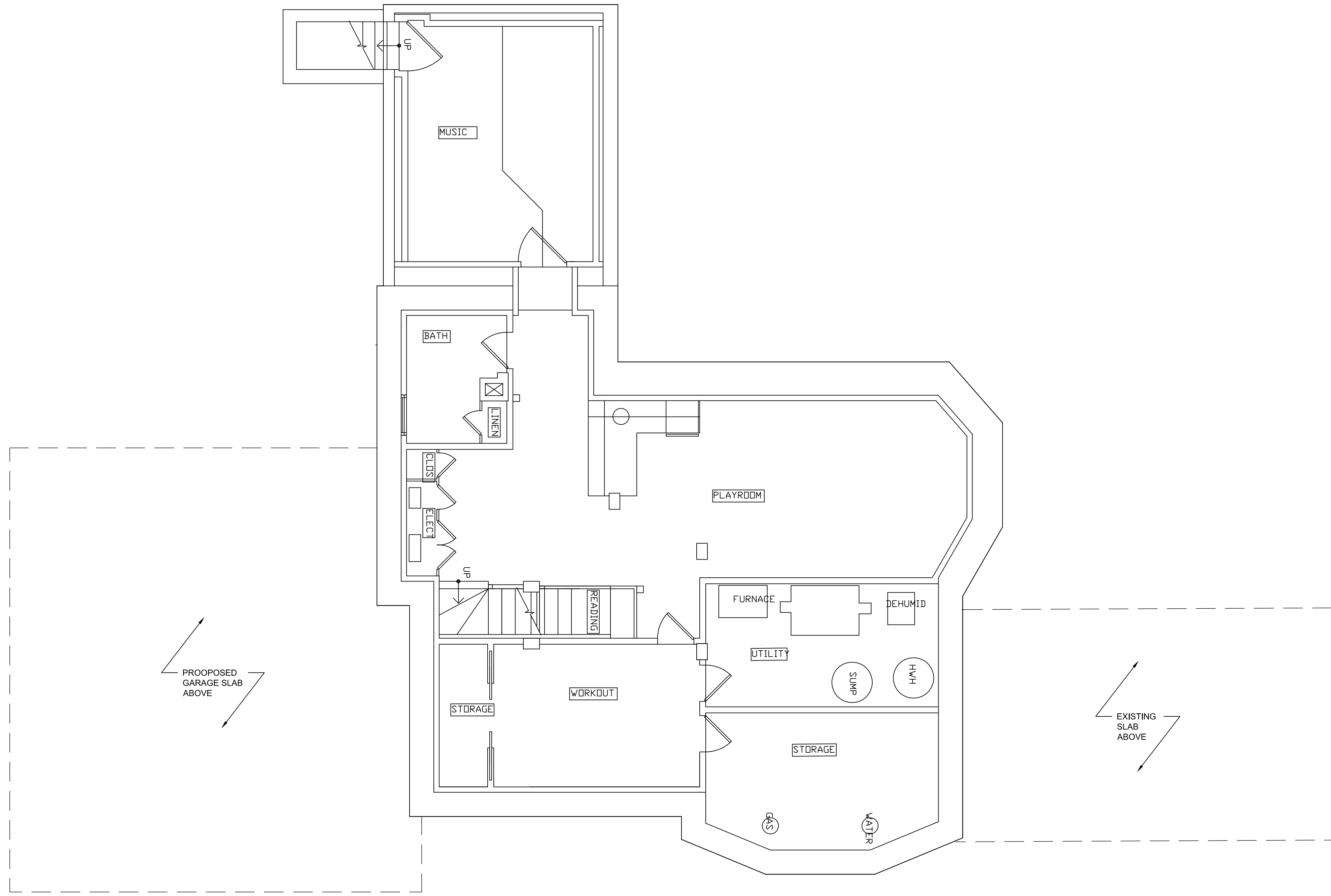
**ISSUE**  
04.23.21  
**RE-ISSUE**  
MM.DD.YY

**PROJECT NO.**  
NA  
**PROJECT**  
14 Crystal St  
Residence

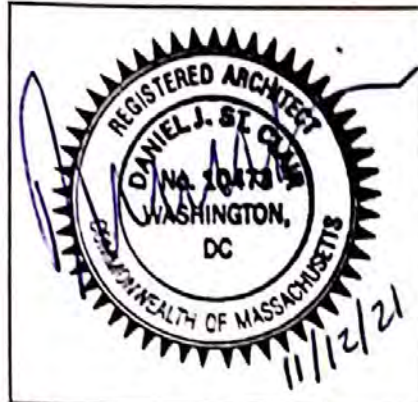
**DRAWN BY**  
SV  
**DESCRIPTION**  
Main House Elevations

**EX**

**06**



**1** BASEMENT PLAN  
A01 SCALE: 1/8"=1'-0"



**SDS Architects, LLC**  
30 Heath Street  
Brookline, MA 02445  
Tel: 000.000.0000

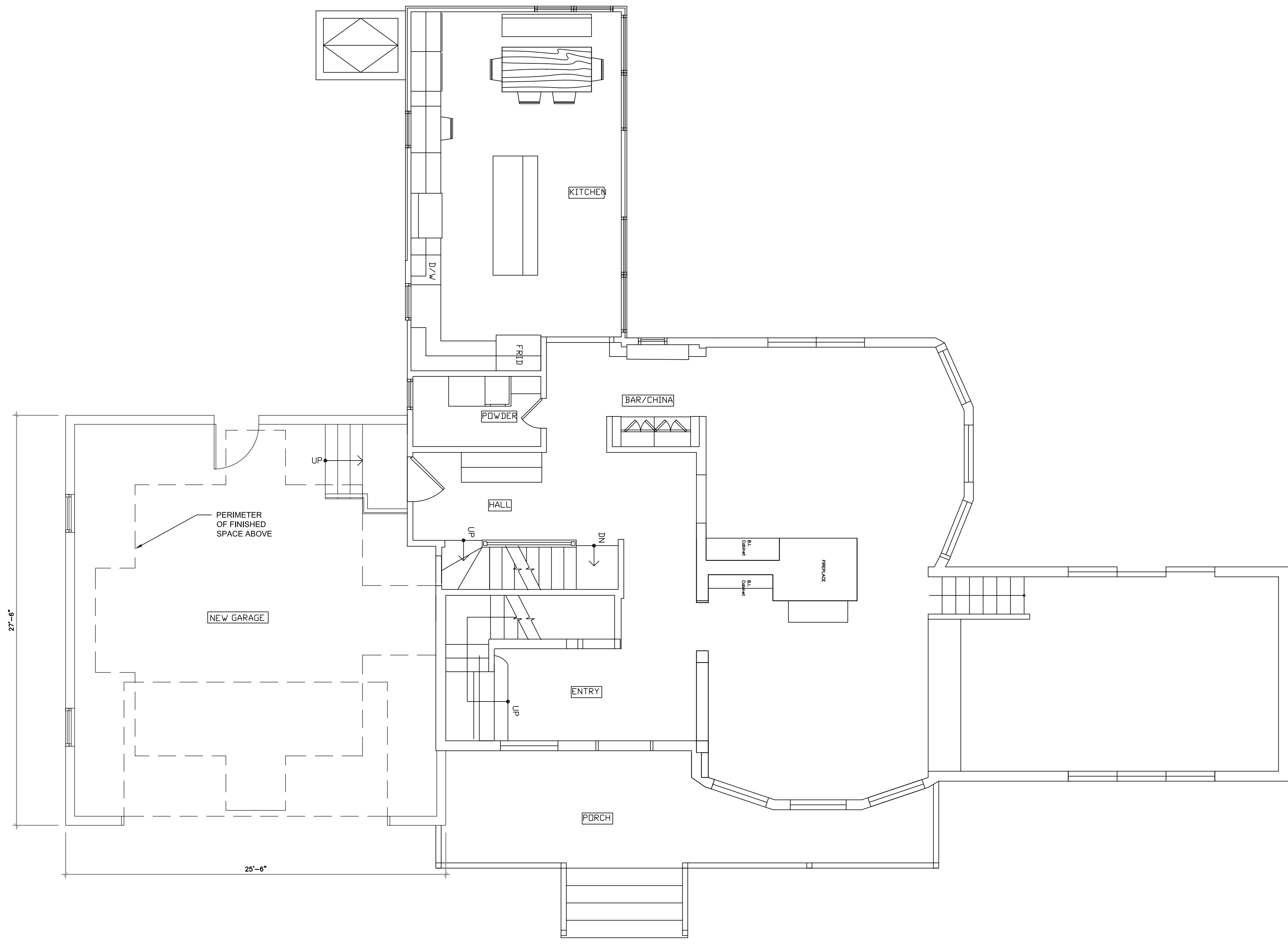
**CLIENT**  
Client Name  
14 Crystal St  
Newton, MA

**ISSUE**  
04.23.21  
**RE-ISSUE**  
MIM, DD, YY

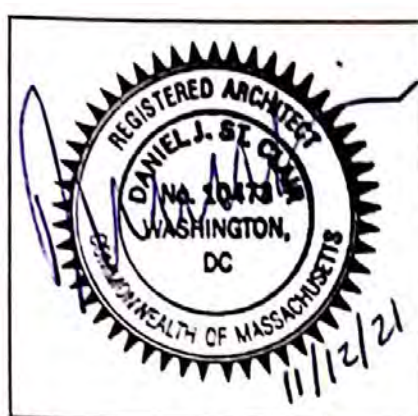
**PROJECT NO.**  
NA  
**PROJECT**  
14 Crystal St  
Residence

**DRAWN BY**  
SV  
**DESCRIPTION**  
Main House Foundation Plan

**A**  
**01**



**1** : FIRST FLOOR PLAN/GARAGE FIRST LEVEL  
A02 SCALE: 1/4"=1'-0"



**SDS Architects, LLC**  
30 Heath Street  
Brookline, MA 02445  
Tel: 000.000.0000

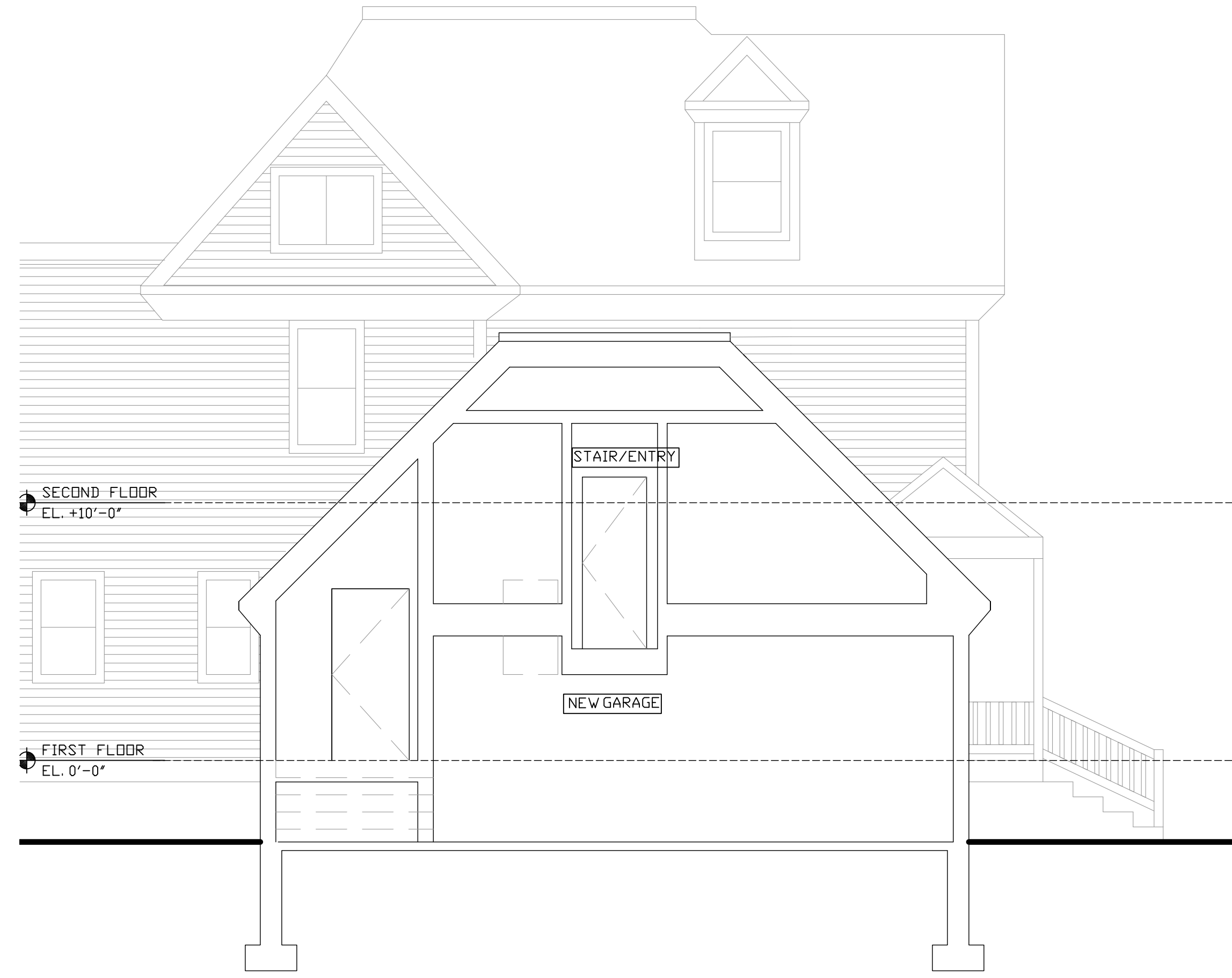
**CLIENT**  
Client Name  
14 Crystal St  
Newton, MA

**ISSUE**  
04.23.21  
**RE-ISSUE**  
MM.DD.YY

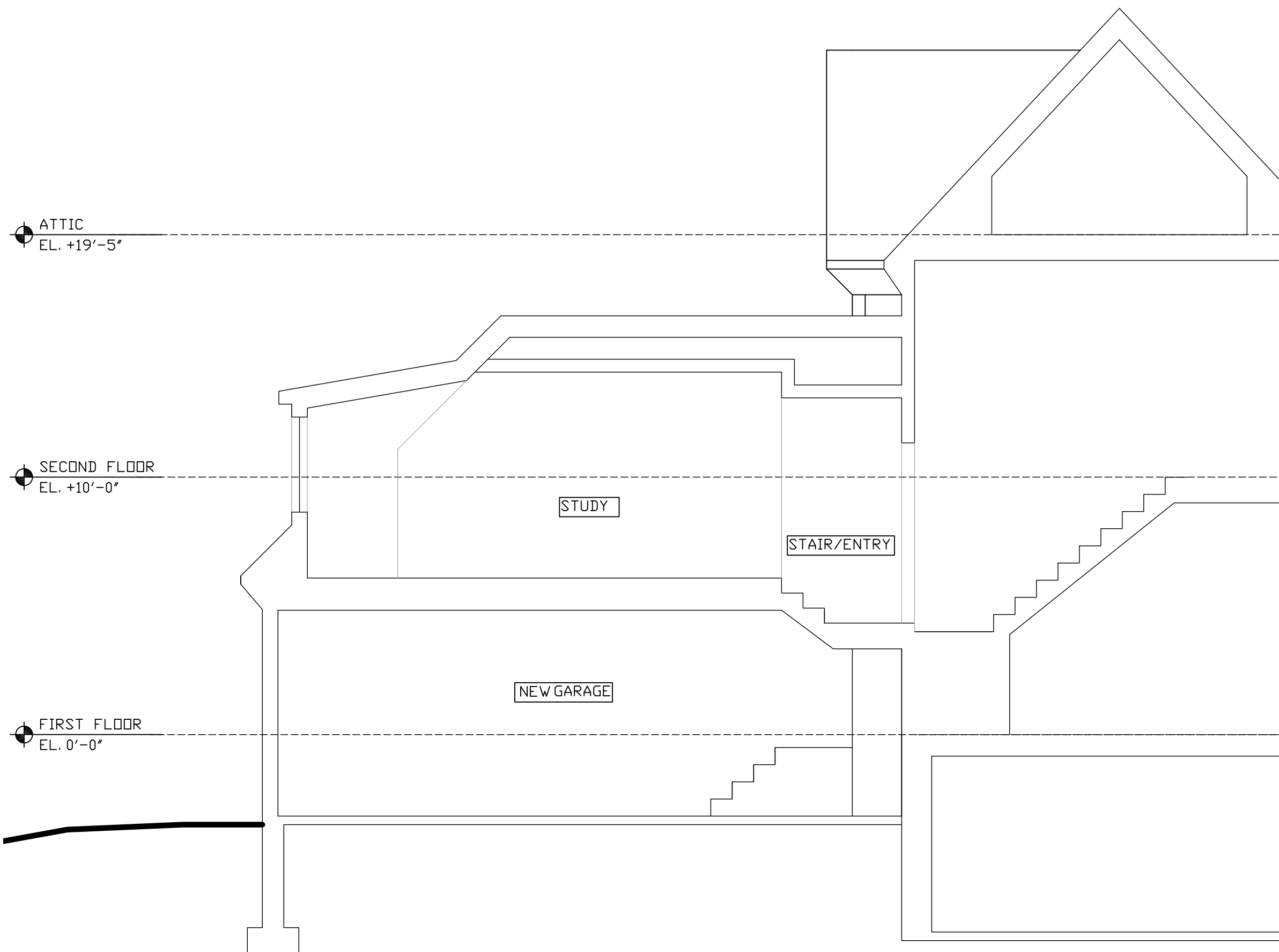
**PROJECT NO.**  
NA  
**PROJECT**  
14 Crystal St  
Residence

**DRAWN BY**  
SV  
**DESCRIPTION**  
Main House Foundation Plan

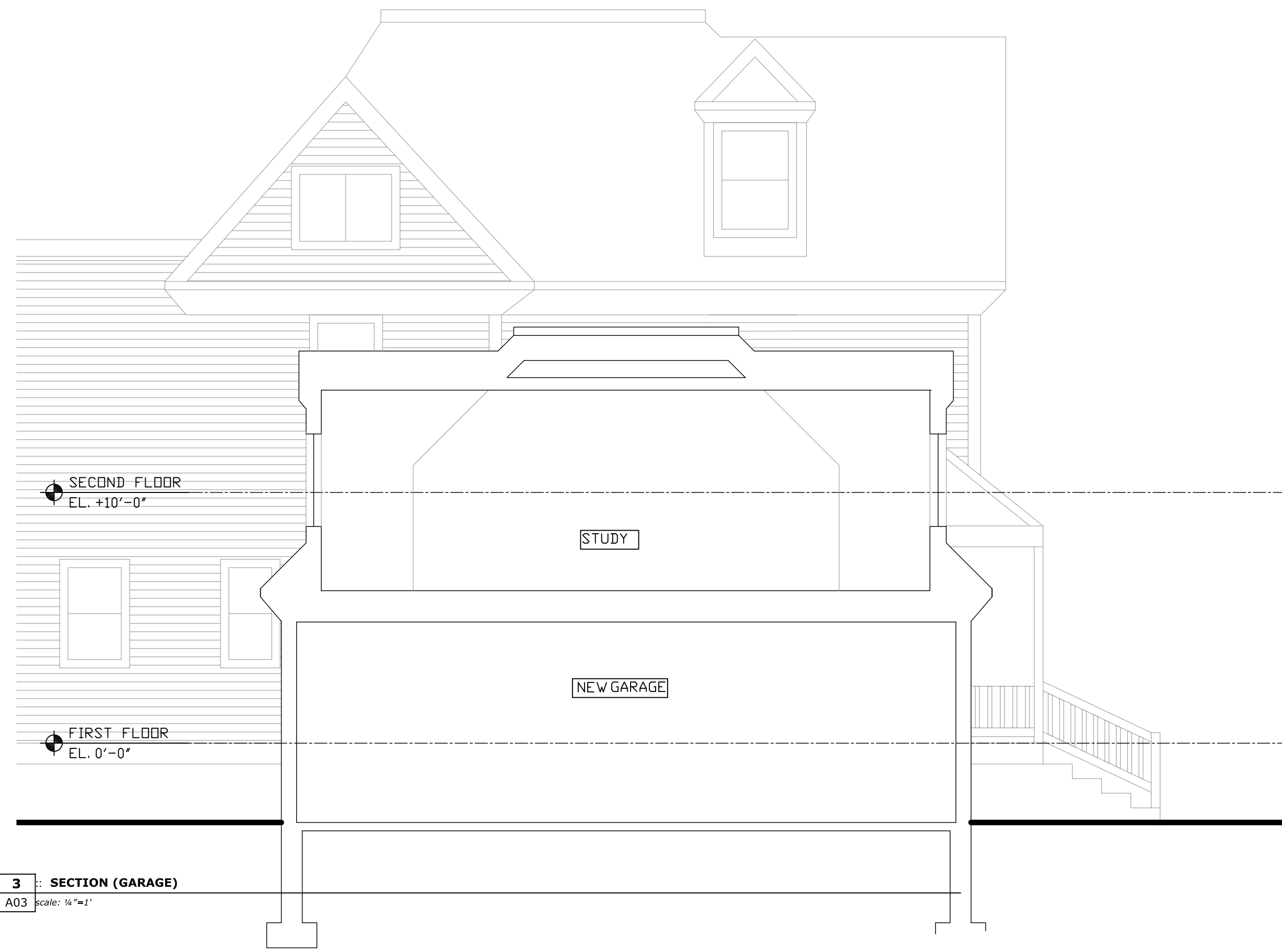
**A**  
**02**



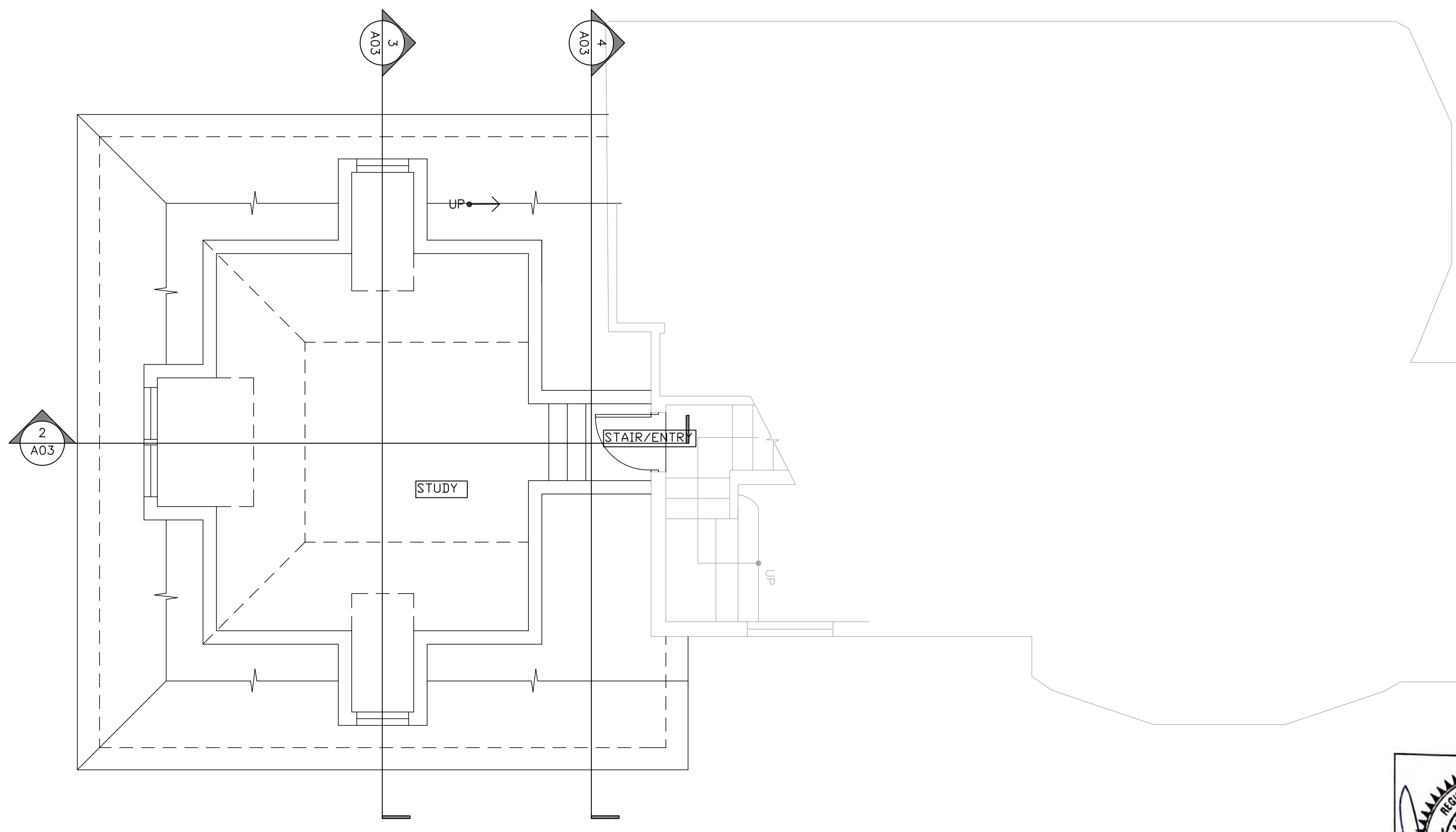
**4** SECTION (GARAGE)  
A03 scale: 1/8"=1'



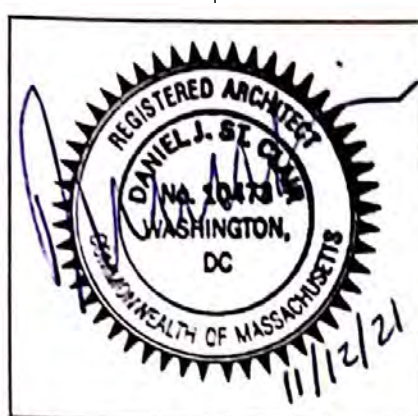
**2** GARAGE SECOND LEVEL  
A03 scale: 1/8"=1'

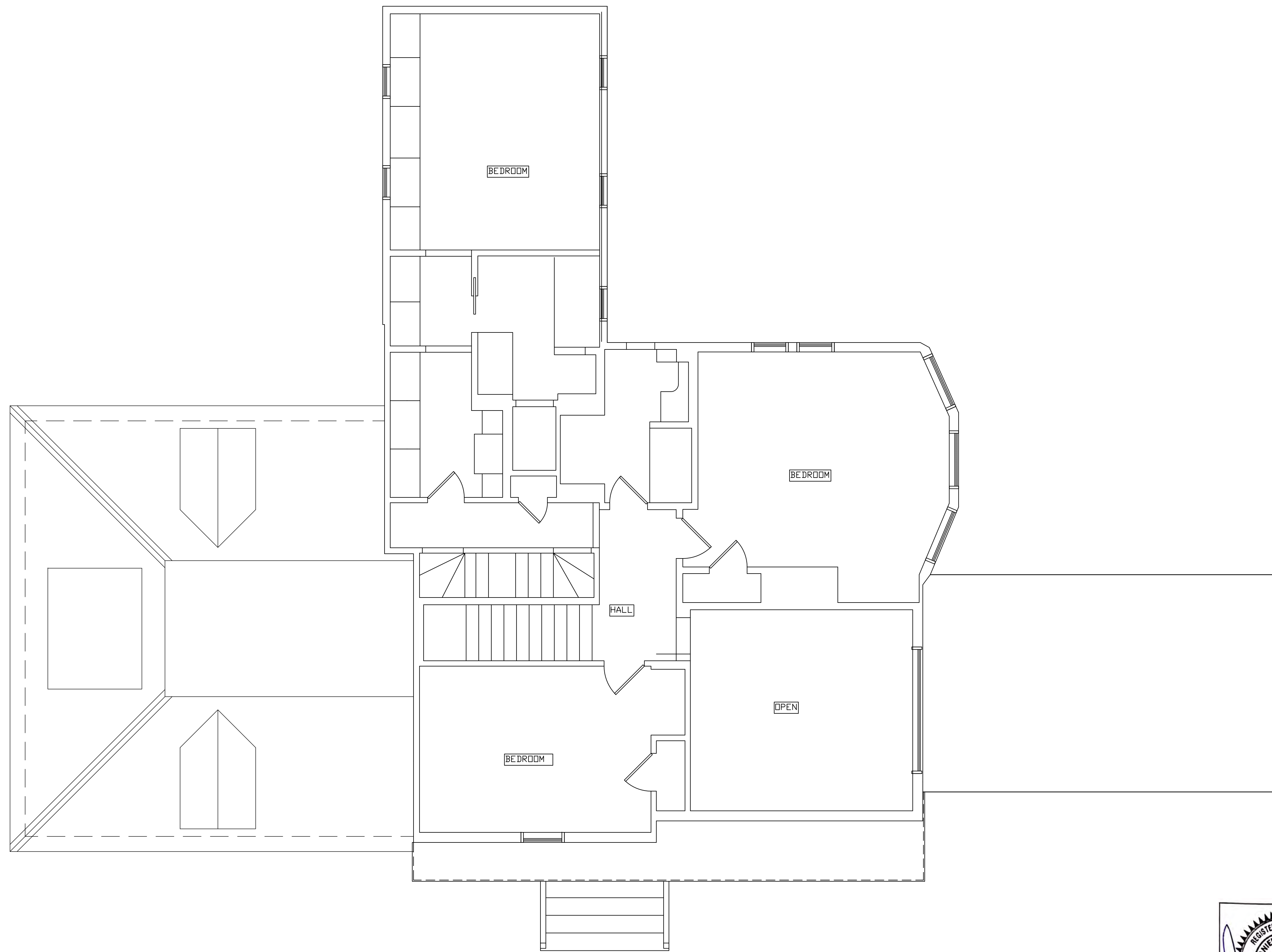


**3** SECTION (GARAGE)  
A03 scale: 1/8"=1'



**1** GARAGE SECOND LEVEL  
A03 scale: 1/8"=1'





**1** SECOND FLOOR PLAN  
A04 scale: 1/8"=1'



**SDS Architects, LLC**  
30 Heath Street  
Brookline, MA 02445 Tel:  
000.000.0000

**CLIENT**  
Client Name  
14 Crystal St  
Newton, MA

**ISSUE**  
04.21.21  
**RE-ISSUE**  
MM.DD.YY

**PROJECT NO.**  
NA  
**PROJECT**  
14 Crystal St  
Residence

**DRAWN BY**  
SV  
**DESCRIPTION**  
Main House First Floor Plan

**A**

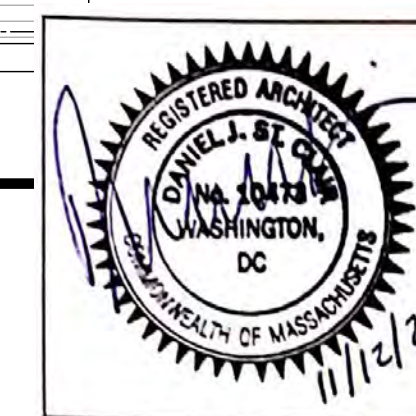
**04**



**2** LEFT SIDE ELEVATION  
A06 scale: 1/8"=1'



**1** FRONT ELEVATION  
A06 scale: 1/8"=1'



**SDS Architects, LLC**  
30 Heath Street  
Brookline, MA 02445 Tel:  
000.000.0000

**CLIENT**  
Client Name  
14 Crystal St  
Newton, MA

**ISSUE**  
MM.DD.YY

**RE-ISSUE**  
MM.DD.YY

**PROJECT NO.**  
NA

**PROJECT**  
14 Crystal St  
Residence

**DRAWN BY**  
SV

**DESCRIPTION**  
Main House Elevations

**A**

**06**

**SCHLESINGER AND BUCHBINDER, LLP**  
ATTORNEYS AT LAW

STEPHEN J. BUCHBINDER  
ALAN J. SCHLESINGER  
LEONARD M. DAVIDSON  
A MIRIAM JAFFE  
SHERMAN H. STARR, JR.  
JUDITH L. MELIDEO-PREBLE  
BARBARA D. DALLIS  
JULIE B. ROSS  
KATHRYN K. WINTERS  
KATHERINE BRAUCHER ADAMS  
FRANKLIN J. SCHWARZER  
RACHAEL C. CARVER  
ADAM M. SCHECTER

1200 Walnut Street  
Newton, Massachusetts 02461-1267  
Telephone (617) 965-3500

www.sab-law.com  
Email: sjbuchbinder@sab-law.com

**RECEIVED**

*By Interim ZBA Clerk at 1:28 pm, Jan 13, 2022*

January 13, 2022

**RECEIVED**

*By City Clerk at 2:18 pm, Jan 13, 2022*

**BY FEDEX**

Ms. Brooke K. Lipsitt, Chairman  
Zoning Board of Appeals  
Newton City Hall  
1000 Commonwealth Avenue  
Newton, MA 02459-1449

Re: The Residences on the Charles

Dear Chairman Lipsitt,

On June 17, 2020 the Zoning Board of Appeals (the “ZBA”) issued a Comprehensive Permit Decision (#01-20) (“the Decision”) to CPC Land Acquisition Company (“the Applicant”) granting approval for the construction of a mixed-use development known as the Residences on the Charles containing three new buildings with 204 residential units and ancillary tenant and community space. On October 6, 2021, the ZBA approved certain Insubstantial Changes to approved architectural plan A-102 resulting in a decrease of two parking stalls and updates to the parking layout and to the tenant and community space.

**Plan Changes**

The Applicant now seeks to make certain additional modifications to the Decision, and for those modifications to be determined to be insubstantial changes to the Decision in accordance with the factors set forth in 760 CMR 56.05(11) and 756.07(4).

In accordance with said request, the Applicant presents updated architectural elevations prepared by ICON Architecture (sheet A-200P, “Comparison of Overall Elevations” dated December 6, 2021), a copy of which is hereto attached as Exhibit A. We are seeking a determination from the ZBA that these changes are insubstantial.

The minor changes, which are the result of the progression of the schematic design documents into construction documents, are summarized on the attached narrative (Exhibit B) and are the result of changes to materials which were specified on the previously approved plans. Rooftop mechanicals have also been added to the proposed building elevations. Sheet A-200, “Overall Elevations” dated December 6, 2021, a copy of which is attached hereto as Exhibit C, will replace Sheet A-201 (the approved elevation). I note that the approved plan set includes perspectives listed as A-202 to A-206 on Schedule A of the Decision. Replacements for these perspectives are not available because the software used for the construction plans does not offer perspective views. Therefore, the Applicant requests that Sheet A-200 replace Sheets A-201 to A-206.

The Applicant also requests a modification of Condition 56d of the Decision, which mandates that the Applicant shall implement a Transportation Demand Management Plan to include the following:

“Providing funding to the Watertown TMA for the creation or maintenance of a shuttle service along Pleasant Street and/or California Street.”

**SCHLESINGER AND BUCHBINDER, LLP**

Ms. Brooke K. Lipsitt, Chairman  
January 13, 2022

Page 2

The Applicant has been in touch with the Watertown TMA, and has learned that there is presently no funding to extend the Pleasant Street shuttle into Newton via California Street. Accordingly, the Applicant proposes the following language to replace Condition 56d:

“Providing the City with a contribution of \$100,000. The funds are to be used for such transportation purposes as the City deems appropriate, including without limitation, NewMo. These funds shall be paid in three equal installments: the first on February 1, 2022, the second on August 1, 2023, and the third on February 1, 2024.”

The Applicant has discussed this proposed modification with Planning Director Barney Heath and his team, along with Transportation Director Nicole Freedman and her team, and we believe that the proposed transportation provision satisfies the City.

**Insubstantial Change**

The 40B regulations at 760 CMR 56.07(4) (b)-(d) provide commentary and examples to assist a Zoning Board as to what constitutes a substantial or insubstantial change to a comprehensive permit.

As set forth in 56.07(4)(c), the following matters generally constitute a substantial change:

1. An increase of more than 10% in the height of the building(s);
2. An increase of more than 10% in the number of housing units proposed;
3. A reduction in the size of the site of more than 10% in excess of any decrease in the number of housing units proposed;
4. A change in building type (e.g., garden apartments, townhouses, high-rises); or
5. A change from one form of housing tenure to another.

As set forth in 56.07(4)(d), the following matters generally will not constitute substantial changes:

1. A reduction in the number of housing units proposed;
2. A decrease of less than 10% in the floor area of individual units;
3. A change in the number of bedrooms within individual units, if such changes do not alter the overall bedroom count of the proposed housing by more than 10%;
4. A change in the color or style of materials used; or
5. A change in the financing program under which the Applicant plans to receive a Subsidy, if the change affects no other aspect of the proposal.

The Applicant hereby requests that the Board act on this request within twenty (20) days as is required pursuant to 760 CMR 56.05(11)(a). If it is determined that the above-described revisions to the Decision are insubstantial changes, or if notice is not provided to the Applicant to the contrary within twenty (20) days, the Comprehensive Permit shall be deemed modified as requested. The above process does not require a public hearing. A public hearing would only be required if you determine that the requested changes are substantial changes, and if so, and pursuant to the referenced regulations, a public hearing would need to be held within thirty (30) days.

Thank you for your consideration of these requests.

Sincerely,

*Stephen J. Buchbinder*

Stephen J. Buchbinder



**SCHLESINGER AND BUCHBINDER, LLP**

Ms. Brooke K. Lipsitt, Chairman  
January 13, 2022

Page 3

Enclosures

cc: (By FedEx, w/enclosures)  
Mr. Treff LaFleche  
Mr. Michael J. Quinn  
Mr. Michael Rossi  
Mr. Stuart Snyder  
Ms. Elizabeth Sweet

(By Email, w/enclosures)  
Mr. Jack Englert

(By Hand and By Email, w/enclosures)  
Ms. Heather Zaring  
Jonah Temple, Esquire, Assistant City Solicitor  
Ms. Jennifer Caira, Deputy Director of Planning and Development  
Mr. Neil Cronin, Chief Planner, Planning and Development Department

1 BLDG 1 - NORTH ELEVATION (RIVERFRONT)  
1" = 20'-0"



2 BLDG 1 - SOUTH ELEVATION (MIDLAND AVE.)  
1" = 20'-0"



3 BLDG 1 - EAST ELEVATION (RIVERDALE AVE.)  
1" = 20'-0"



4 BLDG 1 - WEST ELEVATION  
1" = 20'-0"



5 BUILDING 2 - WEST ELEVATION (LOS ANGELES STREET)  
1" = 20'-0"



6 BUILDING 2 - NORTH ELEVATION (MIDLAND AVENUE)  
1" = 20'-0"



**EXTERIOR MATERIAL LEGEND**

1 CONCRETE	6 FIBER CEMENT - 7" LAP SIDING	10 CORRUGATED METAL PANEL
2 BRICK	7 METAL SHINGLES STAGGERED	11 SQUARE CHANNEL SIDING
3 STONE VENEER	8 FIBER CEMENT - 8" LAP SIDING	12 COMPOSITE METAL PANEL
4 CAST STONE HEADSILL	9 FIBER CEMENT - 5" LAP SIDING	

THE RESIDENCES ON THE CHARLES

BUILDING 1: 2 LOS ANGELES ST.  
BUILDING 2: 4 LOS ANGELES ST.

CREATION MANAGEMENT COMPANY, LLC

**E-ICON** ARCHITECTURE  
101 SUMMER ST. BOSTON MA 02110

DATE: \_\_\_\_\_

PROJECT NUMBER: 21007

DRAWN BY: Author

CHECKED BY: Checker

SHEET TITLE

COMPARISON OF OVERALL ELEVATIONS

A-200P

REVISIONS

NO. DATE DESCRIPTION

1 12/06/2021 10/ALLEN #1

2 08/02/2021 10/ALLEN #3

3 08/02/2021 10/ALLEN #3

4 08/02/2021 10/ALLEN #3

5 08/02/2021 10/ALLEN #3

6 08/02/2021 10/ALLEN #3

7 08/02/2021 10/ALLEN #3

8 08/02/2021 10/ALLEN #3

9 08/02/2021 10/ALLEN #3

10 08/02/2021 10/ALLEN #3

11 08/02/2021 10/ALLEN #3

12 08/02/2021 10/ALLEN #3

13 08/02/2021 10/ALLEN #3

14 08/02/2021 10/ALLEN #3

15 08/02/2021 10/ALLEN #3

16 08/02/2021 10/ALLEN #3

17 08/02/2021 10/ALLEN #3

18 08/02/2021 10/ALLEN #3

19 08/02/2021 10/ALLEN #3

20 08/02/2021 10/ALLEN #3

21 08/02/2021 10/ALLEN #3

# The Residences on the Charles - Building Elevations & Materials

## INTRODUCTION

---

As described and approved in prior submittals, the footprints of Building 1 & 2 have undergone minor changes as the building elements and systems have been fully engineered. These changes as well as minor changes to the residential unit layouts required modifications to the building elevations that are described herein.

We have also had to make changes to some materials to address the unprecedented impacts of Covid on the supply-chain and on material prices. As an example, our window manufacturer stopped taking orders for large-scale residential projects. While we have identified a new manufacturer, we have had to modify all window selections to reflect this manufacturer's offerings and to address Covid-related price escalations for the window units. Additionally, the approved palette of building materials including brick, fieldstone, metal, and lap siding has remained the same, although quantities have been adjusted to address Covid-related price escalations and material availability.

Rooftop mechanicals have been added to the proposed building elevations. The height of the mechanical units vary but are well below 15 feet in height above the roof line and conform to Section 1.5.4 of the City of Newton Zoning Ordinance.

# BUILDING 1

---

## NORTH ELEVATION (RIVERFRONT)



ZBA APPROVED



PROPOSED CHANGES

### Elevation Changes

- Revised all windows in residential units to simplify window profiles and reflect new manufacturer's product line. Replaced several storefronts to reflect options available from new manufacturer.
- Realigned windows to accommodate final design of unit layouts.
- Eliminated storefront windows at garage to eliminate view into parking garage.
- Aligned wall graphics on Building 1B façade (left side of elevation) to align with window bays above and to accommodate mechanical louver and pedestrian door to garage.
- Relocated Building 1B corner balconies to better align with structural elements.
- Glazing at bridge reduced (added benefit of reducing bird strike potential).
- Metal panel changed to square channel fiber cement siding at top floor.
- Sections of glazing along 5th floor walkway above bridge element replaced with siding.
- Eliminated one kayak storage recess at first floor of Building 1A (right side of elevation) due to conflicts with steel structure.
- Changed from storefront window to roll-up door at Kayak Room in Building 1A to accommodate movement of kayaks in and out of building.
- Corner decks turned 90 degrees.

### Material Changes

- Replaced metal shingles at upper floors.
- Concentrated the fieldstone treatment along the ground floor of Building 1 to the central area of the building and applied square channel and lap siding at either end of building where facades step and/or angle back to meet east and west facades.

## SOUTH ELEVATION (MIDLAND AVE.)



### Elevation Changes

- Revised window styles and profiles and realigned window locations as described previously.
- Shifted exterior wall of first row of units at westerly (left) end of elevation to the west to increase size of corner units and changed balconies to French balconies.
- Added a vertical bay to center of Building 1A façade (left side of elevation) to increase the unit size in this stack and to add visual interest to the elevation.
- Added two columns to support the 2<sup>nd</sup> story bridge element as required by structural calculations.
- Reduced window areas along ground floor of Building 1B (right side of elevation) to coordinate with the addition of trash, maintenance, and main electrical rooms.
- Eliminated street-facing balconies at easterly end of Building 1B (plan right) to increase the size of corner units.

### Material Changes

- Replaced linear window on 5<sup>th</sup> level of bridge with individual windows and lap siding to reflect available options from manufacturer and minimize bird strikes.
- Replaced composite metal panels proposed for floors 2 through 5 of bridge element with corrugated metal panels on floors 2 through 4. Maintained composite metal panels as vertical accents at window bays.
- Replaced horizontal band of metal shingles along 5<sup>th</sup> floor of Building 1A and 1B façade with lap siding.
- Adjusted areas of brick and metal shingles on floors 2 through 4 to offset Covid-related price escalations and added square channel siding.
- Full-height, storefront windows changed to new manufacturer's full light window.

## EAST ELEVATION (RIVERDALE AVE.)



ZBA APPROVED



PROPOSED CHANGES

### Elevation Changes

- Revised window styles for reasons previously discussed and aligned windows to coordinate with final design of unit layouts.
- Eliminated storefront windows to the south (plan left) of the garage door and along the northerly (plan right) section of the façade to screen the parking garage.
- Garage door shifted to coordinate with approved parking layout revisions.
- Added decks to units facing 2<sup>nd</sup> floor courtyards.

### Material Changes

- Replaced areas of brick towards Midland Ave. (left end of elevation) with square channel siding.
- Replaced metal shingles along top floor with lap siding.
- Modified fieldstone section along first floor at northerly end of elevation to incorporate lap siding.

## WEST ELEVATION (FORTE PARK)



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PROPOSED CHANGES

### Elevation Changes

- Revised window styles and alignment as described previously.
- French balconies added to stack of corner units of at southerly end of building (right side of elevation).

### Material Changes

- Replaced fieldstone section at ground level of northerly end of building (left side of elevation) with square channel siding.
- Replaced metal shingles primarily proposed along 5<sup>th</sup> floor with lap siding.
- Replaced multi-story application of brick at southerly end of building with square channel siding.
- Extended brick along ground floor at southerly section of building.

# BUILDING 2

## WEST ELEVATION (LOS ANGELES ST.)



ZBA APPROVED



PROPOSED CHANGES



## NORTH ELEVATION (MIDLAND AVE.)



ZBA APPROVED



PROPOSED CHANGES

### Elevation Changes

- Revised window styles as described previously and aligned windows with final unit layouts and structural columns.
- Enlarged garage opening to accommodate two-way traffic.
- Replaced storefront windows adjacent to garage entrance with decorative wood screen walls to screen views into parking garage.

### Material Changes

- Eliminated metal shingles and changed brick to lap siding to present a more residential look at this smaller-scale building.
- Added vertical fieldstone bays to highlight entries and recesses in façade, and to carry materiality of Building 1 onto Building 2.
- Added contrasting lap siding accents between vertical windows to add warmth and interest to façade.

THE RESIDENCES ON THE CHARLES

BUILDING 1: 2 LOS ANGELES ST.  
BUILDING 2: 4 LOS ANGELES ST.

CREATION AND DESIGN COMPANY, LLC

ARCHITECT  
**E-ICON**  
ARCHITECTURE  
101 SUMMER ST. BOSTON MA 02110



1 BLDG 1 - NORTH ELEVATION (RIVERFRONT)  
1" = 20'-0"



2 BLDG 1 - SOUTH ELEVATION (MIDLAND AVE.)  
1" = 20'-0"



3 BLDG 1 - EAST ELEVATION (RIVERDALE AVE.)  
1" = 20'-0"



4 BLDG 1 - WEST ELEVATION  
1" = 20'-0"

**EXTERIOR MATERIAL LEGEND**

1 CONCRETE	6 FIBER CEMENT - 7" LAP SIDING	8 CORRUGATED METAL PANEL
2 BRICK	7 METAL SHINGLES STAGGERED	9 SQUARE CHANNEL SIDING
3 STONE VENEER	8 FIBER CEMENT - 8" LAP SIDING	10 COMPOSITE METAL PANEL
4 CAST STONE HEADSILL	9 FIBER CEMENT - 8" LAP SIDING	



5 BUILDING 2 - WEST ELEVATION (LOS ANGELES STREET)  
1" = 20'-0"



6 BUILDING 2 - NORTH ELEVATION (MIDLAND AVENUE)  
1" = 20'-0"

12/06/2021	3/14/2021	3/14/2021	3/14/2021
NO.	DATE	DESCRIPTION	
PROJECT NUMBER: 21007			
DRAWN BY: Author			
CHECKED BY: Checker			

SHEET TITLE  
**OVERALL ELEVATIONS**  
**A-200**



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Mayor

## ZONING BOARD OF APPEALS

Heather Zaring, Interim Board Clerk

### MEETING MINUTES

Wednesday, November 17, 2021

7:00 p.m.

Virtually via Zoom

**Board Members Present:** Brooke Lipsitt (Chair), Michael Quinn, Michael Rossi, Stuart Snyder, Treff LaFleche, Elizabeth Sweet (alternate) (all participated remotely)

**Staff Present:** Heather Zaring, Interim ZBA Clerk; Jonah Temple, Assistant City Solicitor

**A public hearing of the Newton Zoning Board of Appeals was held virtually via Zoom on Wednesday, November 17, 2021, at 7:00 p.m. on the following petitions:**

1. **#07-21** Brenda Arduino of 15 Keefe Avenue, Newton, Massachusetts, requesting to amend a previously granted variance (#17-63) which created the subject property in 1963 by allowing for a reduced frontage of 50.13 feet where 80 feet was the requirement. The Petitioner seeks to remove two conditions placed on variance #17-63 that limited the use of the property to a single-family home and that required the dwelling be located at least 60 feet from the front lot line. The subject property is located at 15 Keefe Avenue within a Multi-Residence 1 (MR-1) zoning district and consists of a 10,640 square foot lot improved with a single-family dwelling.
2. **#04-19** Terrence P. Morris of 57 Elm Road, Newton, Massachusetts, requesting an extension of time to exercise variance decision (#04-19) to construct a three-story, nine-unit residential building at 39 Herrick Road. The subject property is located at 39 Herrick Road within a Business 1 (BU1) zoning district and consists of a 12,979 square foot lot.
3. **#08-21** Rachel and Marko Rosenfeldt of 158 Parmenter Road, Newton, Massachusetts, requesting a variance from Section 3.1.3 of the Newton Zoning Ordinance to allow a 5.4-foot side setback and a 4.9 rear setback. The petitioner seeks to construct an attached garage with a home office above. The subject property is



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located at 158 Parmenter Road within a Single-Residence 3 (SR-3) zoning district and consists of a 4,990 square foot lot improved with a single-family dwelling.

- #09-21** David and Suzanne Wakefield of 229 Bellevue Street, Newton, Massachusetts, requesting to amend two previously granted variances (#87291 and #9-11) to allow a 3.6-foot front setback for a detached structure. The petitioner seeks to raze and reconstruct a detached garage. The subject property is located at 229 Bellevue Street within a Multi-Residence 1 (MR-1) zoning district and consists of a 9,700 square foot lot improved with a single-family dwelling. **The public hearing for this item has been postponed to the January 26 hearing date.**
- Review and approval of minutes for August 9, 2021, September 9, 2021, and September 22, 2021 meetings.

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**Agenda Item 1:** #07-21---15 Keefe Avenue. Sitting Members: Brooke Lipsitt (Chair), Michael Quinn, Michael Rossi, Stuart Snyder, Treff LaFleche

### Documents Submitted:

- 15 Keefe Avenue Stamped Application received October 14, 2021
- 15 Keefe Avenue Variance Decision #17-63

### Testimony:

Erica Chamberlain, realtor, 25 Bonad Road, spoke on behalf of the property owners regarding the history of the subject property expanding on the previously provided information contained in the packet documents. Ms. Chamberlain explained that the subject property was created in the 1960s when 9-11 Keefe Avenue was subdivided, has been owned by the same owners since it was created, and that it is a single-family home on a Multi-Residence 1 (MR-1) lot set back a great distance from the front property line. She stated that there are numerous non-conforming lots in the immediate area without the 80 feet of required frontage just like the subject property, including 9-



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11 Keefe Avenue, and 16 Keefe Avenue. Ms. Chamberlain concluded her comments by stating that the two conditions of the existing variance significantly decrease the property value as the lot is unable to be marketed as a standard MR-1 lot and arguing that the conditions should be removed to make the lot consistent with the rest of the neighborhood.

Chair Lipsitt stated that to amend the variance to remove the conditions that the Board would have to find that the variance as it is currently written causes hardship to the applicants.

Ms. Chamberlain explained that the subject property has been the family's nest egg and the family is trying to sell the property to provide some financial support for aging family members.

Marketing the property as a MR-1 zoned home with the potential to put a two-family home on the property increases the property value so the family would have more funding to help them tend for their elderly family members.

Member Rossi stated that if the Board was discussing this petition as if there was no previous variance and they were submitting for the first time that the petitioner would have to meet each of the three requirements for a variance. Furthermore, the applicant even stated in their petition that there is nothing about the lot that satisfies any of the three requirements, so Member Rossi finds it hard to support the applicant's request.

Member LaFleche explained that he was struggling to comment on the petition without knowing the history of why the original variance was granted. It made sense to him that the Board that granted the original variance granted it due to the frontage being less than required and they wanted to limit the massing on this piece of a subdivided lot. He agreed with Member Rossi's



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comments regarding there being no hardship present and that the land did not seem to have any unique characteristics. He concluded his comments by stating that if the lot had been created prior to the adoption of zoning regulations and had the burden of an unusual width, then there would be a non-conforming condition that would lead to a hardship but the fact that the lot was created via the variance seems the most logical reason why the Board at the time conditioned it with a single-family limitation.

Member Quinn stated that the owners created their own insufficient frontage in 1963 when they subdivided the lot to create 9-11 and 15 Keefe Avenue and if they had not done so then the lot would meet current frontage requirements.

### **Public Comment:**

Stephen Tocci, 17 Keefe Avenue, asked how much frontage is currently required by zoning to create a lot and whether a new owner come back to the Board and ask to remove the conditions as the current owner is doing. He also mentioned that the subject property is within two hundred feet of the Charles River and has an easement by the Massachusetts Water Resources Authority (MWRA).

Chair Lipsitt replied that 80 feet is the required frontage currently for an MR-1 zoning district.

Jonah Temple, Assistant City Solicitor, explained that, if the Board denies the request and if someone else comes in with the same request, there is a 2-year moratorium before the Board can rule on it again unless there is an independent finding by both the Board and the Planning Board that there are substantially changed circumstances.



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Mr. Tocci thanked the Board for the answers to his questions and concluded his comments by commenting that he does not want a large house built next door but also feels like Ms. Arduino should not be penalized for trying to sell her lot for as much as she can.

A motion was made by Michael Quinn to close the public hearing. This motion was duly seconded by Stuart Snyder. The motion passed five in favor, and none opposed.

### **Deliberation:**

Member Rossi stated that he feels sympathetic to the applicant in this situation as he understands the desire to maximize the value of one's property, but that desire does not satisfy the hardship requirement that is needed to grant the request. He commented that if the Board granted variances for every resident in the City who wanted to maximize their property value, then half of the City would have variances. Member Rossi concluded his comments by stating that he is sympathetic to the applicant but there is no hardship so he cannot support the petition.

Member Quinn agreed with Member Rossi's comments and explained that he does not feel that another variance on the lot is warranted.

Member Snyder also agreed with Member Rossi's remarks and added that in the previous variance decision it mentioned that a similar request to the current one was proposed and denied. The only reason the previous request even made it in front of the Board back then was because the Planning Board at the time voted unanimously to support it. He continued that the petition as presented at the hearing did not offer any new information from the previous request and he was inclined to not support the petition for that reason.



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Member LaFleche echoed his fellow Board members' sentiments regarding the request to amend the variance to remove the two conditions and stated that he was not in favor of the applicant's request.

A motion was made by Treff LaFleche to deny the request to amend the variance #17-63 to remove the condition limiting the use of the property to a single-family dwelling and the structure be at least 60 feet setback from the front property line. This motion was duly seconded by Stuart Snyder. This motion passed five in favor (Brooke Lipsitt, Michael Quinn, Michael Rossi, Stuart Snyder, Treff LaFleche), and none opposed.

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**Agenda Item 2:** #04-19 ---39 Herrick Road. Sitting Members: Brooke Lipsitt (Chair), Michael Quinn, Michael Rossi, Stuart Snyder, Elizabeth Sweet

### **Documents Submitted:**

1. 39 Herrick Road Request for #04-19 Variance Extension Letter dated October 14, 2021,

### **Testimony:**

Attorney Terrence P. Morris, with offices at 57 Elm Road, represented 39 Herrick Road Realty Trust and provided background information as to why his clients have come before the Board requesting an extension of time to exercise their variance. Attorney Morris also noted that his original letter to the Board regarding the calculation of time in which the applicant had to exercise the variance was not correct and he provided an updated calculation that the initial deadline to





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exercise was not November 24, 2021, but December 2, 2021. He stated that the variance decision was recorded with the City Clerk's office in August 2019, which meant the applicant had one year from that date to exercise the decision and 195 days had elapsed when the Governor of Massachusetts issued their emergency order tolling the time for projects of this nature, stopping the clock on requiring the exercise of the variance decision. He continued to note that when the emergency order was lifted on June 15, 2021, there were 170 days left running from the granting of the variance in June 2020 and the variance decision would expire on December 2, 2021. Attorney Morris explained that within Chapter 40A, Section 10 of Massachusetts General Law, it is within the rights of the applicant to come back to the Board prior to the variance decision expiration date to request a six-month extension of time. He asked the Board to grant the six-month extension of time request, as his client was unable to work on his project for a significant portion of time due to the pandemic.

Stuart Rothman, trustee and principal at 39 Herrick Road Realty Trust, with offices at 907 Massachusetts Avenue, Cambridge discussed the timeline of his team's work to get the project moving forward. He outlined how they had done everything leading up to selecting a contractor and the project went out to bid in 2020 just as the pandemic came to an apex. Mr. Rothman explained that the contractor was then unable to maintain their cost structure due to substantial supply chain issues, so that contractor dropped out and there were vast amounts of uncertainty through the next year. It was the combination of the tolling period being in effect, supply chain costs, and finding a new contractor that stalled this project until recently. Mr. Rothman concluded his comments by stating that the building permit application has been submitted and is currently under review by various City Departments to ensure compliance with the variance decision requirements, City Ordinances, etc. and the proposed six-month extension will ensure that the variance decision does not expire before it gets to the Inspectional Services Department for



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issuance of a building permit.

Member LaFleche stated that he did not previously realize that Mr. Rothman was the principal of 39 Herrick Road Realty Trust and recused himself from voting on this item as he and Mr. Rothman are both board members of an organization in Newton.

Chair Lipsitt explained that the Board can vote without Member LaFleche but added that Member Elizabeth Sweet was present, and she could vote on this matter as she has heard the whole discussion.

Member Rossi inquired as to what is the standard under Massachusetts General Law 40A Section 10 for the extension of time, whether it is a 'good cause' or 'reasonable basis' standard.

Attorney Temple replied that there is no standard set forth in the statute or case law.

Member Snyder inquired whether there are other opportunities for the applicant to come back to ask for additional time extensions or if it was just a one-time six-month extension.

Attorney Temple remarked that it is just a one-time extension for six-months.

Member Quinn inquired whether there were any other extensions needed besides the Board's, e.g., from the Land Use Committee.

Attorney Morris remarked that the applicant has already received a one-year extension from the City Council regarding the special permit.



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Member Quinn asked what the estimated time period is for completing the project once all the approvals are given.

Mr. Rothman explained that under ordinary circumstances the project could potentially be completed within 14 months; circumstances are not normal as the supply chains are still moving slowly, but he believed the project would be completed in 16 months if everything goes as planned.

### **Public Comment:**

This item is not a public hearing so public comment is not required.

A motion was made by Stuart Snyder to grant the requested extension of time of six-months. This motion was duly seconded by Elizabeth Sweet. This motion passed five in favor (Brooke Lipsitt, Michael Quinn, Michael Rossi, Stuart Snyder, Elizabeth Sweet) and none opposed.

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**Agenda Item 3:** #08-21---158 Parmenter Road. Sitting Members: Brooke Lipsitt (Chair), Michael Quinn, Michael Rossi, Stuart Snyder, Treff LaFleche

### **Documents Submitted:**

1. 158 Parmenter Road Variance Application received October 20, 2021
2. 158 Parmenter Road Special Permit Board Order #298-21

### **Testimony:**



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Attorney Laurance Lee of Rosenberg, Freedman, and Lee, with offices at 256 Walnut Street, represented the applicants and used various visuals to illustrate his client's rear and side setback variance request. He stated that the subject property is a corner lot, which meant it has technically two front setbacks, which severely limits what can be done with the lot and is under 5,000 square feet making it one of the smallest lots within the area. He continued to explain that the subject property has two pre-existing non-conformities regarding floor area ratio (FAR) and lot coverage as well. The applicants wish to demolish their existing undersized detached single car garage and construct an attached single car garage with a small office above it. Attorney Lee stated that his clients have already received a special permit from the City Council to further extend the nonconforming FAR and lot coverage. He illustrated via visual how attaching the garage to the house via a single-story mudroom connection it changes the setback requirements for the side to 7.5 feet and the rear to 15 feet when previously they were 5 feet on the side and rear when the garage was detached. Attorney Lee explained that having the weather protected connection is critical to his clients as it means that they will be able to move between the garage and the house easily as they age and will assist their family members who are not as mobile navigate from one space to the other without dealing with the elements. He concluded his comments by noting that the Board has previously approved another variance (#07-19) request for an attached accessory apartment at 73 Falmouth Road (within the neighborhood of the subject property) that had similar conditions and reasons for needing a variance (small corner lot with two front setbacks, which contributed to the uniqueness of the site).

Member Rossi inquired as to how the two front setbacks relate to the need for a variance for the rear and side setbacks.

Attorney Lee remarked that two front setbacks that it forces a building towards the back corner of



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the lot. He also mentioned that because the rear setback is determined by the location of the front door it further limits the available locations to put structures by right. The combination of those setback requirements speaks to the uniqueness of the subject property.

Member Rossi inquired as to what the current setbacks on the side and rear are and what the proposed setbacks will be.

Attorney Lee stated that the existing detached garage is 7 feet from the side property line and 5.5 feet from the rear property line, allowed as a detached accessory structure to be 5 feet from the rear or side property lines. The proposed attached garage would be 4.9 feet from the rear property line and 5.4 feet from the side property line when the required rear setback is 15 feet and side setback is 7.5 feet, which is the same as the principal dwelling.

Member LaFleche inquired as to what the minimum lot size was for an old lot in the Single Residence 3 (SR-3) district and asked if Attorney Lee could show other properties in the neighborhood that were comparable size.

Attorney Lee stated that the minimum lot size for an old lot (SR-3) is 7,000 square feet and the subject property is slightly less than 5,000 square feet. He illustrated via a visual the surrounding lots, specifically mentioning the other three lots that make up the four-corner intersection that the subject property is part of along with their lot sizes and added that the subject property is 1,600 square feet smaller than the average of the surrounding lots.

Chair Lipsitt remarked that she has reviewed a larger number of lots in the area and noticed numerous other corner lots under 5,000 square feet. She stated that people define what is



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considered part of the neighborhood as they see convenient and comparing lots in “a neighborhood” is not an effective way to determine the uniqueness of a lot.

Attorney Lee stated that the only property in the area truly comparable to his clients’ is the - property for which the Board had previously granted a variance at 73 Falmouth Road (#07-19) as it is the only one with similar circumstances regarding lot size and being a corner lot. The other lots in the area are either larger in size or nonconforming for other reasons like density so they are not good examples to compare with the subject property. Attorney Lee concluded his comments by remarking that the Board applied the standards of hardship and uniqueness in petition #07-19 for 73 Falmouth Road for an attached accessory apartment and the same rationale should be used for his clients’ request as they are comparable lots in terms of two front setbacks and substandard lot size.

Member Snyder commented that the petition before the Board tonight was unique enough even though it did not meet the strict definition of uniqueness, but he struggled with finding a hardship that meets the statute. He continued to state that he believed that the Board’s previous decisions on individual petitions do not act as precedent and does not mean that the Board should apply the same exact thinking to a similar but different petition.

Attorney Lee replied that the hardship is the fact that the applicants have a constrained lot and there is no other place to put a connection between the house and the garage. He added that the connection between the house and garage is critical as it will allow safe passage for the applicants and future property owners who may be or become physically incapable of moving from one space to another without having to go outside. It is a hardship particularly as it relates to site conditions and the use of the property.



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Member Quinn inquired what the current and proposed FAR are and what the height of the proposed attached garage would be.

Attorney Lee replied that the proposed garage height will be eighteen feet high as measured by zoning and the FAR would be increased from .51 to .65. The proposal is for roughly a 667 square foot structure.

Chair Lipsitt commented that it made sense why City Council gave the applicant their special permit as it is a reasonable request, but the applicant should have come to the Board first as she cannot see how not having a connection from the house to the garage rises to the level of hardship that the Board needs to find to give relief. She agreed that many of those who have detached garages would surely like to have an attached garage but it just not possible on every lot and the fact that a newer detached garage could be built without needing any relief speaks against the proposed hardship argument.

Member Rossi asked whether there was a financial hardship that would impact the current and future property owners.

Attorney Lee stated that the proposed connection is the least impactful way to add living space to the home without having to fully disrupt the family living there and forcing them to pay to live elsewhere until construction is complete as the cost of housing is high. He also stated that the connector will allow the property owners to stay in the home that they can afford while providing the space they need to accommodate their family. Attorney Lee addressed Chair Lipsitt's comment about other lots in the neighborhood with detached garages arguing that the difference is that the



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other lots in the area can connect their houses to their garages theoretically by right and do not need variances unlike the subject property.

Chair Lipsitt disagreed with Attorney Lee's comment regarding the applicant not having to move out of their home to do the construction if the variance request was granted. She stated that whether the garage was detached or attached, the applicant could remain living in their home with minor adjustments as many people do when renovating their homes, so it was not a sufficient reason to be cited as a reason to support the variance request.

Member LaFleche stated that the combination of the subject property's being a corner lot and an unusual size may rise to the level of uniqueness for him along with the fact that the applicants do have a slight financial hardship in terms of not being able to improve their home commensurate to their neighbors.

Applicant Rachel Rosenfeldt, 158 Parmenter Road, explained that it was her family's desire to simply rebuild the garage, but their plan changed to needing to construct a home office above the garage over the past two years for them to work. They both went from a situation where they had the option to work outside of their home to a position where they are both permanently working from home so the space over the garage is critical. She continued to discuss how the connection between the house and the garage is now needed so they can get back and forth to the bathroom and such during the workday without having to be exposed to the elements as they are not planning to install any plumbing in the garage.

Member Snyder inquired if the applicant were constrained by anything currently that would lend itself towards needing the one-story connection or if it was more about looking towards the future





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and aging in place long term.

Ms. Rosenfeldt remarked that it is her family's intent to age in place and she knows that going through the variance process can be difficult and it not something that should be done lightly.

### **Public Comment:**

No public comment was made.

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A motion was made by Michael Quinn to close the public hearing. This motion was duly seconded by Stuart Snyder. This motion passed 5-0.

### **Deliberation:**

Member Snyder commented that he felt the subject property was unique in terms of the lot size and being a corner lot. He concluded his comments by expressing that he was in support of allowing the connection for the applicants to age in place.

Member LaFleche agreed with Member Snyder's comments about the lot being unique and expanded on them to include that the subject property is a prime example of why the zoning regulations need to be updated in the City to accommodate property owners with odd lots that want to improve their homes. He concluded his comments by discussing the other corner lots in the area that are like the subject property and the fact that one of them already has been granted a variance makes him more inclined to grant the variance request for the subject property.

Member Rossi remarked that he was persuaded on the topic of the uniqueness of the lot but not on what the hardship is as a hardship needs to be something that seriously impacts the reasonable use



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of the property. He stated that the hardship could be the unique setback requirements that negatively impact the development options in comparison to typical other properties in the area, but he still was not completely convinced that was enough of hardship.

Chair Lipsitt agreed that the zoning ordinance may need to be updated to deal with the question of corner lots but, until that happens, people must adhere to the regulations of the zoning ordinance and the Board must grant or deny projects based on the regulations regarding finding hardships. She added that if she was a member of the Land Use Committee, she would absolutely grant a special permit for the attached garage with the office above as it makes sense to allow the applicants to enjoy their home without being affected by the elements and age in place, but those reasons do not rise to the standard of hardship. Chair Lipsitt also stated that a detached garage with an office above could be built in the same place as the proposed attached garage with an office above in the same location by right, which goes against the applicant's hardship argument. She concluded her comments by stating that just because a person wants to age in place does not mean that every house/site is suitable as a place to age in place, and it is not enough reason to grant the variance request.

Member LaFleche inquired about the specific language in the variance ordinance related to the description of uniqueness and if it included size in the definition.

Attorney Temple explained that the definition of uniqueness states that there are special circumstances related to the soil conditions, shape, or topography of the land or structure which affect the property but do not generally affect other properties in the zoning district in which the property is located.



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Member LaFleche responded that the subject property does not meet any of the individual descriptions, as the lot is like other lots if the characteristics are compared individually, but if you take the combination of the property being a corner lot with the pre-existing nonconforming size relative to the zoning ordinance, it is a unique lot from the others in the area, so he was struggling with whether the lot met the uniqueness standard.

Member Quinn explained that applying the rules and regulations of the zoning ordinance to all lots in Newton is not truly fair. When the lot is 5,000 square feet or less and/or a corner lot, it is harder for property owners to conform to those regulations, so he believes that the applicant has a true hardship.

A motion was made by Michael Quinn to approve the Variance request. This was duly seconded by Michael Rossi.

Member Rossi stated that there is enough evidence to establish that the subject property warrants different treatment by the Board and that there could potentially be a safety issue for the applicants as the connector would provide a better situation for egress and getting to and from their car that is close to the roadway. He also stated that the lot shape is slightly trapezoidal as the rear lot line is slanted in way that changes the setbacks for the lot, which furthers the uniqueness argument.

Chair Lipsitt stated that the safety of the home is not a reason for granting a variance.

Member LaFleche agreed with Chair Lipsitt about safety not being a germane argument as other property owners have detached accessory structures within five feet of the property line and they have no issues getting in and out of their lots. He continued to state that the applicant's argument



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that the land is inhibiting them from doing what anybody in their neighborhood would be entitled to do as of right is generating a hardship for them. Member LaFleche concluded that the trapezoidal shape of the property added with the corner lot and undersized argument made a solid case of a uniqueness hardship.

Chair Lipsitt explained that she is not in support of the variance request as there is nothing that rises to the level of the hardship standard and that the fact that the subject property is not perfectly rectangular by a few feet does not make it a trapezoid as there is almost no lot in the City that is a perfect rectangle.

Member LaFleche replied that it is the combination of all the factors that are creating a uniqueness and development hardship for the applicants. If the lot were 15 feet deeper like most of the neighbors, the applicants could rebuild their garage and attach it to their home while meeting the setback requirements but because they have an undersized trapezoidal shaped corner lot, they are severely limited with what they can do to improve their home.

The motion passed four in favor (Michael Quinn, Michael Rossi, Stuart Snyder, Treff LaFleche) and one opposed (Brooke Lipsitt).

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### **Agenda Item 4:** #09-21----229 Bellevue Street

Item was postponed until January 26, 2022, Zoning Board of Appeals Hearing

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### **Agenda Item 5:** Review and approval of minutes for August 9, 2021, September 9, 2021, and September 22, 2021, meetings



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A motion was made by Treff LaFleche to approve all three sets of minutes as circulated. This motion was duly seconded by Stuart Snyder. This motion carried 5-0.

Adjourned 9:02 p.m.

**ZBA DECISIONS can be found at:**

<https://www.newtonma.gov/government/planning/zoning-board-of-appeals/2021>