

Harwich Planning Board Agenda  
**Thursday, May 28, 2020 – 6:30 PM**  
Griffin Room, Town Hall, 732 Main Street, Harwich  
This meeting will be held VIA REMOTE PARTICIPATION.  
Access is available through GoToMeeting.com and live broadcast on Channel 18

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**Access Code:** 151-052-589

- I. Call to Order** Pursuant to Governor Baker’s March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20, and the Governor’s March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the Harwich Planning Board is being conducted via remote participation. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings as provided for in the Order. A reminder that persons who would like to listen or view this meeting while in progress may do so by logging in or calling in as specified above on this agenda.

**II. Public Hearing**

- A. *Continued* **PB2020-11 Gerald E. Burke, owner**, c/o William Crowell, Esq., seek approval of a Use Special Permit, with waivers, pursuant to the Code of the Town Harwich §325-13, Table 1 - Use Regulations and §325-14.Q - to alter the upper level of detached residential accessory garage/stable into an accessory structure with a bedroom. The property is located at 22 Sunrise Road, Map 26, Parcel E2-3, in the R-M and W-R Zoning Districts. Continued from April 28, 2020.
- B. *Continued Hearing from April 14, 2020 on proposed* **Amendment to the Harwich Zoning Codes:**

Article \_\_\_\_: To amend the Code of the Town of Harwich, §325-4 and Attachment 4 – The Zoning Map, by extending the Industrial (I-L) Zoning District westerly along Queen Anne Road and the existing I-L zoning district as shown on the amended Zoning Map, dated January 23, 2020, a copy of which is on file in the Town Clerk’s Office.

***PLEASE NOTE: The Planning Board Chairman has determined that at this time the Board will not be moving forward with this proposed zoning amendment article. The hearing will be reopened and immediately closed, with no testimony taken. The Board will take no action on this proposed amendment.***

**III. Public Meeting\***

- A. New Business:
1. Approval Not Required (ANR) Plans Pursuant to M.G.L. c. §81 P and §400-9 of the Codes of the Town of Harwich
    - a. **PB2020-15 David Treworgy**, as applicant, seek endorsement of a two (2) lot ANR plan entitled “Plan of Land in Harwich, MA, prepared for E. James Gunn, Janet E. Gunn, Sara Osborn, David Treworgy” dated January 20, 2020, prepared by Terry A. Warner, PLS for property located at #6 and #12 Village Green, Map 13, Parcels L1-6 and L1-7, respectively. The parcels are in the R-M zoning districts.

- b. **PB2020-16 Bryan Murphy** c/o Edward Hayes, as applicant, seek endorsement of a two (2) lot ANR entitled “Division Plan off Blue Heron Landing”, dated April 1, 2020, prepared by J. Thaddeus Eldredge, PLS for property located at 0 Kendrick Road, Map 108, Parcel P3. The parcels are in the R-R zoning district
- c. **PB2020-17 James R. Knickman**, applicant, c/o Phillip O. Scholomiti, PLS, seeks endorsement of a two (2) lot ANR entitled “Plan of Land in Harwich, MA, showing a division of Lots B-1, C and 2, L.C.P 10688-B”, scale 1”=40’, dated March 6, 2020, prepared by Ryder & Wilcox, Inc., for property located at 0 Deep Hole Road, Map 16, Parcels M1-C and M1-B1. The parcels are in the R-M zoning districts.

B. Meeting Minutes: May 12, 2020

C. Old Business

D. Briefings and Reports by Board Members

#### **IV. Adjourn**

\*Per the Attorney General’s Office – Boards/Commissions may hold an open session for topics not reasonably anticipated by the Chair 48 hours in advance of the meeting following “New Business”.

***Next Planning Board Meeting (Subject to Change) – Tuesday, June 9, 2020.***

*Requests for accommodations for any person having a disability can be made by contacting the Administration Office at 508-430-7513.*

Authorized Posting Officer: Elaine Banta, ebanta@town.harwich.ma.us or 508-430-7511



**AGENDA ITEM II.A**

To: Planning Board  
From: Charleen Greenhalgh, Town Planner  
Date: May 19, 2020  
Re: Staff Report #2 - Use Special Permit: Accessory Structure with Bedrooms

**PB2020-11 Gerald E. Burke, owner**, c/o William Crowell, Esq., seek approval of a Use Special Permit, with waivers, pursuant to the Code of the Town Harwich §325-13, Table 1 - Use Regulations and §325-14.Q - to alter the upper level of detached residential accessory garage/stable into an accessory structure with a bedroom. The property is located at 22 Sunrise Road, Map 26, Parcel E2-3, in the R-M and W-R Zoning Districts.

The Planning Board will reopen the public hearing on this matter on Thursday, May 28, 2020, not sooner than 6:30 P.M. This is a continuation of the public hearing from April 28, 2020. No testimony was taken at that time. The abutters were notified on April 14, 2020.

**Description:**

The applicant seeks approval for one (1) bedroom above a detached accessory building. The applicant provided an application packet of the proposed project. The application and plans were filed with the Town Clerk on March 10, 2020 and additional information was submitted on May 19, 2020 and includes the following:

1. Form A Planning Board Application.
2. A project description/narrative, with waiver request.
3. "Existing Conditions Plan" prepared for Gerald Burke, 22 Sunrise Lane, South Harwich, MA, dated 1/15/2020, scale 1" = 30', prepared by Michael S. Ladue, PLS, Moran Engineering Assoc., LLC
4. "Remodeling For: Mr. Gerard Burke", 22 Sunrise Ln., S. Harwich, MA, dated 12/31/2019, Design/Drawn by Thomas A. Moore Design Co., not stamped:
  - a. "First Floor Plan", scale ¼" = 1'-0", Sheet A1.
  - b. "Lower Level Floor Plan", scale ¼" = 1'-0", Sheet A2.
  - c. "Elevations (Front, Right Side, Rear and Left Side Elevation", scale 3/16" = 1'-0", Sheet A3.
5. "Exist. Conditions For: Mr. Gerard Burke", 22 Sunrise Ln., S. Harwich, MA, dated 12/31/2019, Design/Drawn by Thomas A. Moore Design Co., not stamped:
  - a. "First Floor Plan", scale ¼" = 1'-0", Sheet EX1.
  - b. "Lower Level Floor Plan", scale ¼" = 1'-0", Sheet EX2.
  - c. "Elevations (Front, Right Side, Rear and Left Side Elevation", scale 3/16" = 1'-0", Sheet EX3.

**MGL Reference and Planning Board Jurisdiction**

Pursuant to MGL c.40 A, §9 the Planning Board must, within 65 days of submission of application for a special permit hold a public hearing. The decision of the Planning Board shall

take place within 90 days following the close of the public hearing. Further, a special permit issued shall require a two-thirds vote of the Board. The Planning Board has jurisdiction to the review this application pursuant to the Code of the Town of Harwich §§ 325-13 (Use Table), 325-14(Q) and 325-51. The 65<sup>th</sup> day would normally be May 14, 2020; however, due to the emergency order issued March 10, 2020, there is a stay/toll on the time.

### **Waivers Requested**

The applicant seeks waivers of any and all commercial or residential requirements of the Bylaw that are not applicable to this Petition.

### **Comments from other Boards, Departments, Committees:**

**Conservation:** The majority of the lot is in Conservation Department jurisdiction due to the top of bank and riverfront setback. The existing garage, shed, walls and any other site modifications never received Conservation Commission approval. We cannot approve modification of any of these structures as they were not approved in the first place. An after-the-fact filing must be done with the Conservation Commission for these structures. If the Commission approves the filing, then modification of the interior or change of use of the building would not be an issue with this department.

**Health Department:** Although this property is located within a Zone II, a five bedroom septic system was approved and installed in 2017. The proposed apartment could be approved by the health department if certain septic system requirements are met. Either a two compartment tank, or two septic tanks in series are required. Additionally, the repairs identified in the recent title 5 inspection must be made. The property is limited to five bedrooms maximum.

### **Planning Staff Comments:**

1. The applicant's representative was notified March 24, 2020, via email that the application as submitted was incomplete. The revised plan submitted xx addresses the comments/concerns raised by Planning.
2. The comments from Conservation should not impede on the Planning Boards ability to render a decision.
3. Standard conditions are recommended, along with a condition that restricts the rental/letting of this space.

## **BOARD VOTE**

### **Continuance**

If the Board will require additional information or wants to take the matter under advisement the following motion is recommended:

Move to continue the hearing for **PB2020-11 Gerard Burke**, to no earlier than 6:30 pm on \_\_\_\_\_ (Next Meeting Dates: *June 9, June 25, July 14*) for the following reason(s): *Need to provide reasons for the continuance...additional information.*

### **Vote on Waivers:**

Motion to waive any and all commercial or residential requirements of the Bylaw that are not applicable to this Petition.

### **Vote on Findings of Facts**

Motion to adopt the following findings of fact:

1. The property is located within the R-M Zoning District.
2. The use is consistent with the Zoning Code and will not adversely affect the neighborhood.
3. The site is an appropriate location for such use.
4. The accessory structure will not contain a stove and therefore is not a kitchen and is not an accessory apartment as defined in §325-2 Word usage and definitions “Dwelling, Single-family with Accessory Apartment”.
5. The proposed parking area will provide sufficient off street parking which meets the minimum requirements of Town Code and as such, there will be no nuisance or serious hazard to vehicles or pedestrians.

**Vote – Special Permit** - A vote by at least five members of the Planning Board is required.

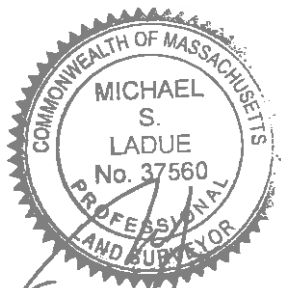
I. Move to **approve with conditions** the Use Special Permit and waivers for PB2020-11 Gerald E. Burke, pursuant to the Code of the Town Harwich §325-13, Table 1 - Use Regulations and §325-14.Q - to alter the upper level of detached residential accessory garage/stable into an accessory structure with a bedroom for property located at 22 Sunrise Road, Map 26, Parcel E2-3, in the R-M and W-R Zoning Districts. The approval is based on the fact that the application meets the necessary requirements and criteria for approval pursuant to the Code of Town of Harwich with the above findings and following conditions:

1. The accessory structure is not an accessory apartment pursuant to §325-2 Word usage and definitions “Dwelling, Single-family with Accessory Apartment” and shall not contain a kitchen.
2. All Board of Health and Conservation Commissioner requirements shall be met.
3. There shall be no rental or letting of this bedroom space.
4. Any changes of the use or changes to the plan may be subject to further Planning Board review.
5. The special permit decision shall be recorded at the Registry of Deeds.

II. Move to **deny** the Use Special Permit and waivers for PB2020-11 Gerald E. Burke, pursuant to the Code of the Town Harwich §325-13, Table 1 - Use Regulations and §325-14.Q - to alter the upper level of detached residential accessory garage/stable into an accessory structure with a bedroom for property located at 22 Sunrise Road, Map 26, Parcel E2-3, in the R-M and W-R Zoning Districts. The denial is based on the fact that the application does not meet the necessary requirements and criteria for approval pursuant to the Code of Town of Harwich, specifically: *(Need to list or note which requirements/criteria are not being met)*.

The Petitioners hereby request a Special Permit for a detached residential accessory building with bedrooms pursuant to Table 1. Use Regulations, Paragraph I-Residential Uses, sub-paragraph 1b in R-M Zoning District as shown on the Certified Plot Plan by Moran Engineering Assoc., LLC dated January 15, 2020 filed herewith and as shown on the Building and Elevation Plans dated December 31, 2019 by Thomas A. Moore Design Co. filed herewith. The proposed use will not adversely affect the neighborhood, the site is an appropriate location for the use, there will be no nuisance or serious hazard to vehicles or pedestrians, and adequate and appropriate facilities are provided for the proper operation of the proposed use.

The Petitioners hereby request Administrative Waivers of any and all commercial or residential requirements of the Bylaw that are not applicable to this Petition.



# 10 Sunrise Lane  
Owner: Matthew E. Hubbard  
Assessor's Map: 26 & Parcel: B3-4-0  
Ctf: 220019 LCP: 26954-B, Lot 4

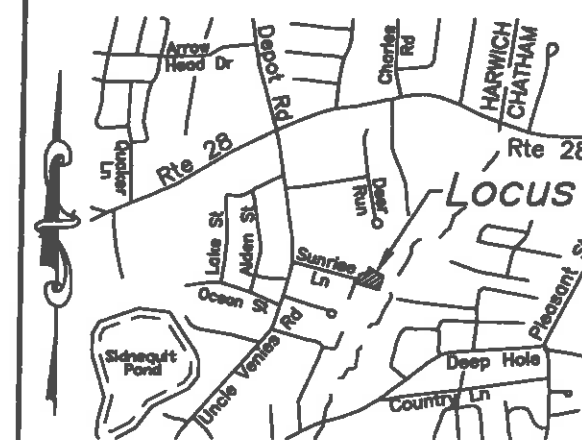
Zoning Compliance  
Zone: R-M

	Zoning	Existing & Proposed Garage
Min Front Setback	25'	78.3'
Min Side Setback	20'	26.4'/73.1'
Min Rear Setback	20'	42.6'

		Total
Building Coverage	(4765sf) 20%max	*(2898sf) 12.2%
Site Coverage	(8340sf) 35%max	*(5875sf) 24.7%

\* Entire Lot Area Used (23,829 SF±)

# 0 Uncle Venies Road  
Owner: Town of Harwich-Conservation  
Assessor's Map: 26 & Parcel: P7-18-0  
Ctf: 99676 LCP: 39992-B, Lot 16



Deed: Book 30984, Page 147  
Plan: Book 88, Page 63, Lot 3  
Plan: Book 456, Page 84

### LEGEND

	Existing Building
	Edge of Driveway
	Existing Contour
	Existing Spot Elevation
	Existing Septic
	Top of Bank
	Edge of River
	Buffer Offset
	Floodplain Limit
	Fence
	Edge Clearing
	Existing Water

### EXISTING & PROPOSED CONDITIONS PLAN

SUBJECT: 22 Sunrise Lane  
South Harwich, MA

OWNER OF RECORD: Gerard E. Burke  
19 Tamie Way  
Pittsfield, MA 01201

ASSESSOR'S ID: 26-E2-3 SHEET: SHEET 1

DATE: 1/15/2020  
rev. 3/10/2020  
rev. 5/13/2020 PROJECT: 20-002

Moran Engineering Associates, LLC  
941 Route 28 ~ PO Box 183  
South Harwich, MA 02661  
508-432-2878

SUNRISE LANE  
VARIABLE WIDTH

Existing Septic System  
Installed per permit #17-117  
Location per As-Built

# 26 Sunrise Lane  
Owner: 26 Sunrise Lane Realty Trust  
Assessor's Map: 26 & Parcel: E2-2-0  
Deed: 31781/61 Plan: 88/63, Lot 2

LOT 3  
23,829 SF±  
0.55 Ac±  
Upland beyond  
200' Riverfront  
6,674 SF±

SCALE: 1"=30'



\*Elevation Datum is NAVD-88

### NOTE:

- \* The existing structures are not located within a Special Flood Hazard Area.
- \*\* This property is located within a Zone II, Drinking Water Protection District



NOTE:  
THE PLANS SHOWN ARE  
THE SOLE PROPERTY OF  
THE DESIGNER AND CANNOT  
NOT BE COPIED,  
REPRODUCED AND/OR  
ALTERED WITHOUT THE  
EXPRESS WRITTEN  
CONSENT OF THE  
DESIGNER.

DESIGNED/DRAWN BY:  
THOMAS A. MOORE DESIGN CO.  
P.O. BOX 2124 949 ROUTE 137  
BREWSTER MA (508) 896-6403

REMODELING FOR:  
MR. GERARD BURKE  
CUNNINGHAM  
C HADWICH MA

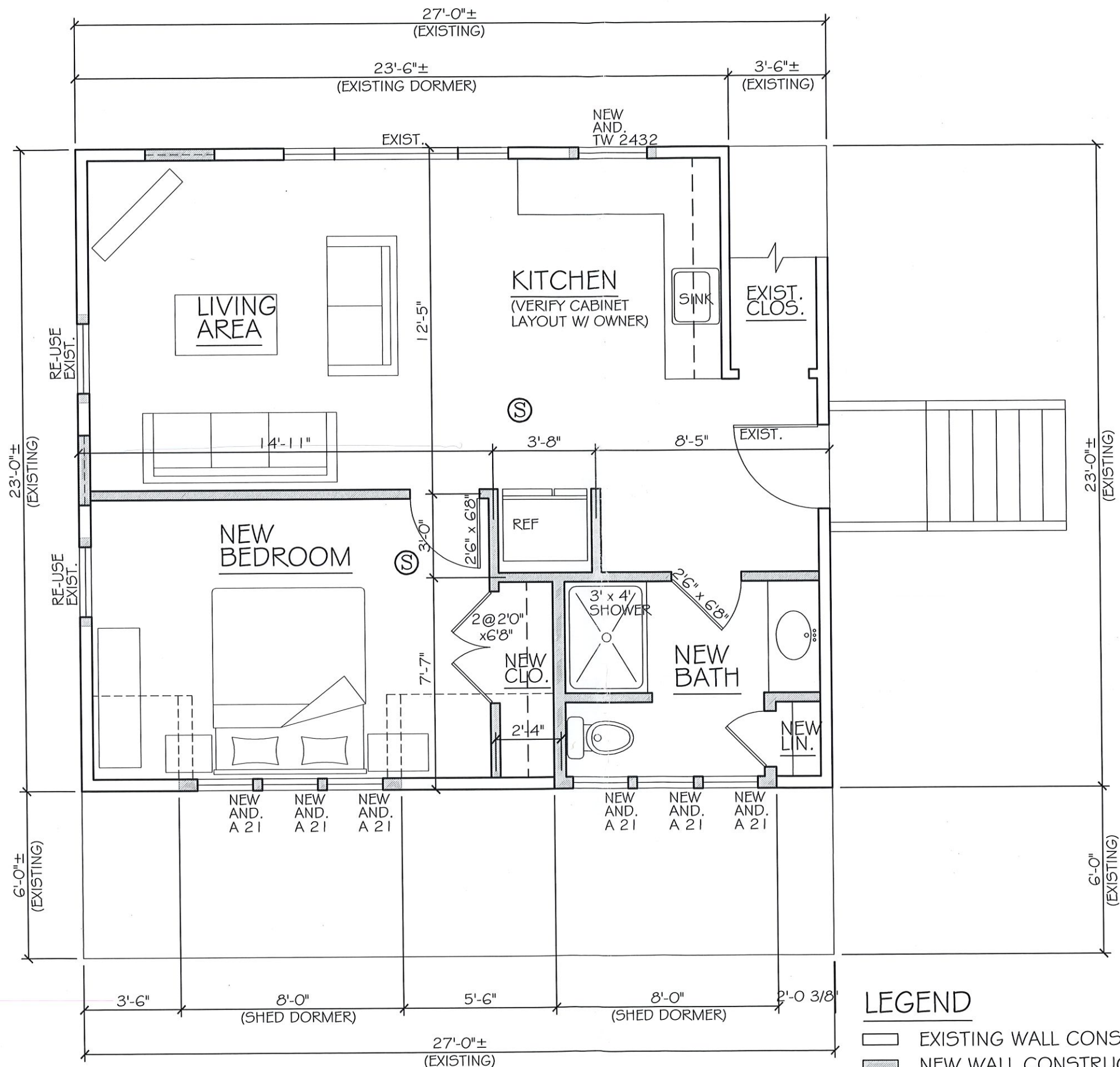
SCALE :  
1/4" = 1'-0"

DATE :  
12/31/20

PROJ. NO.  
2019-285

DWG. NO.

A1

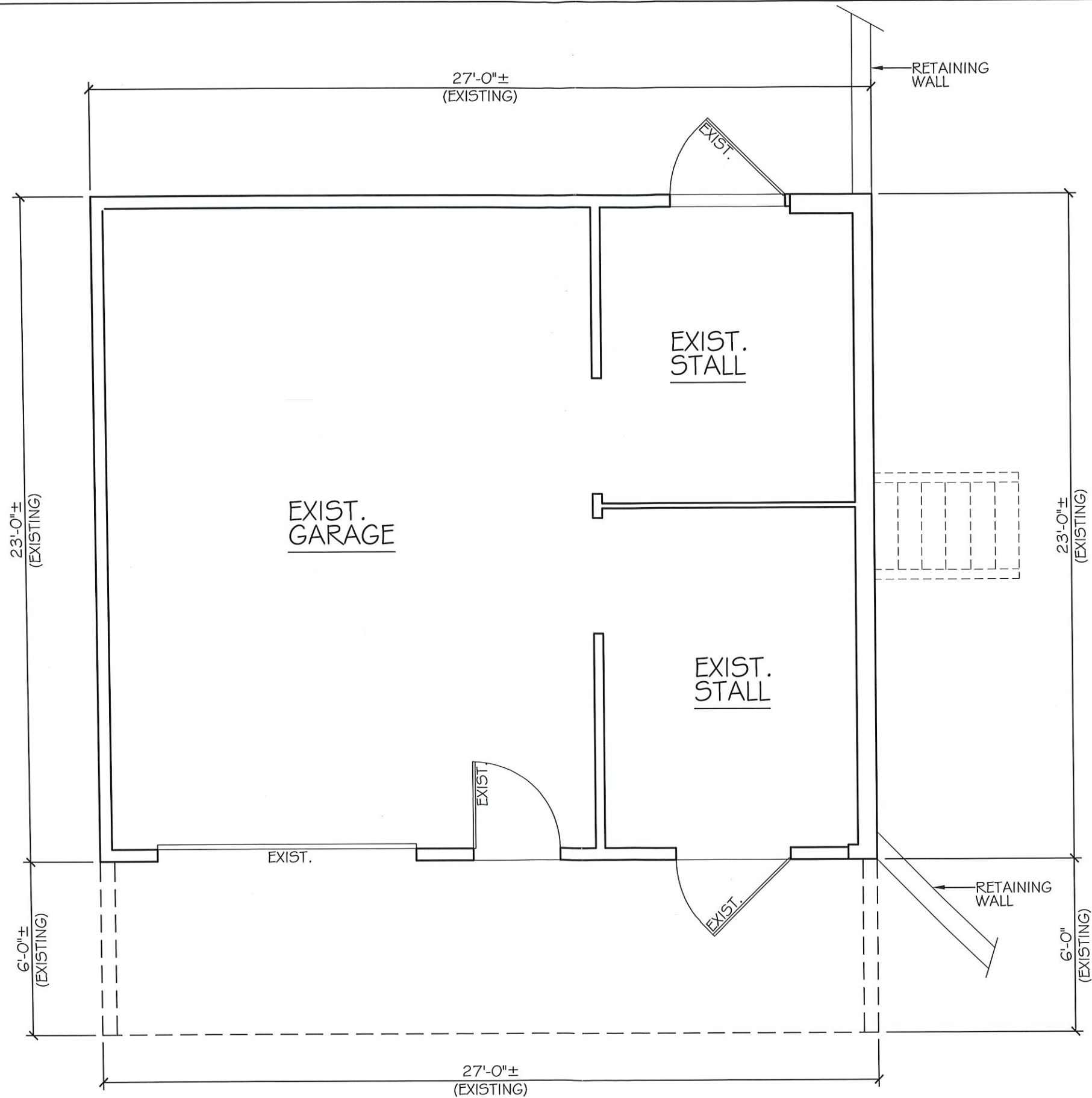


# FIRST FLOOR PLAN

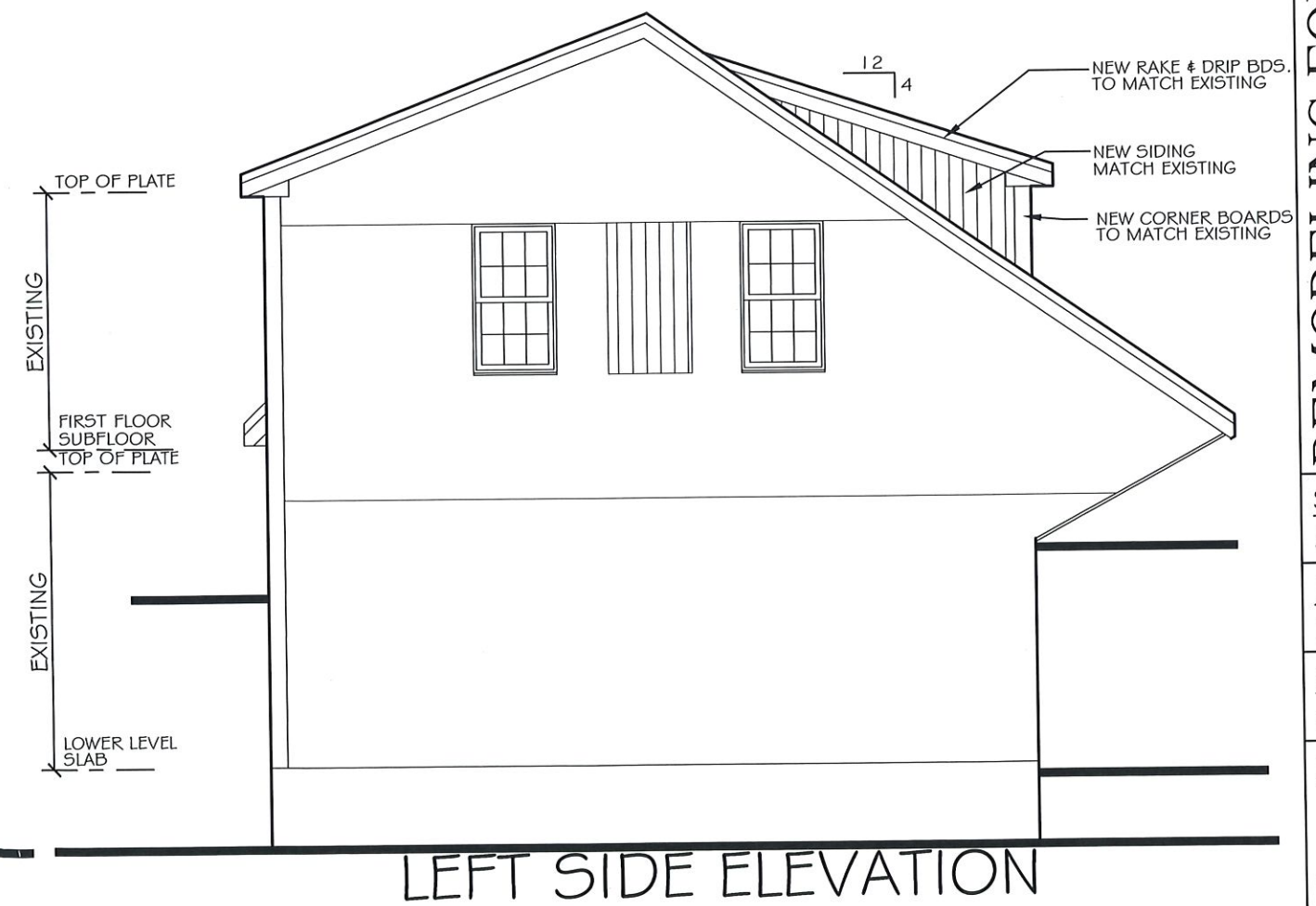
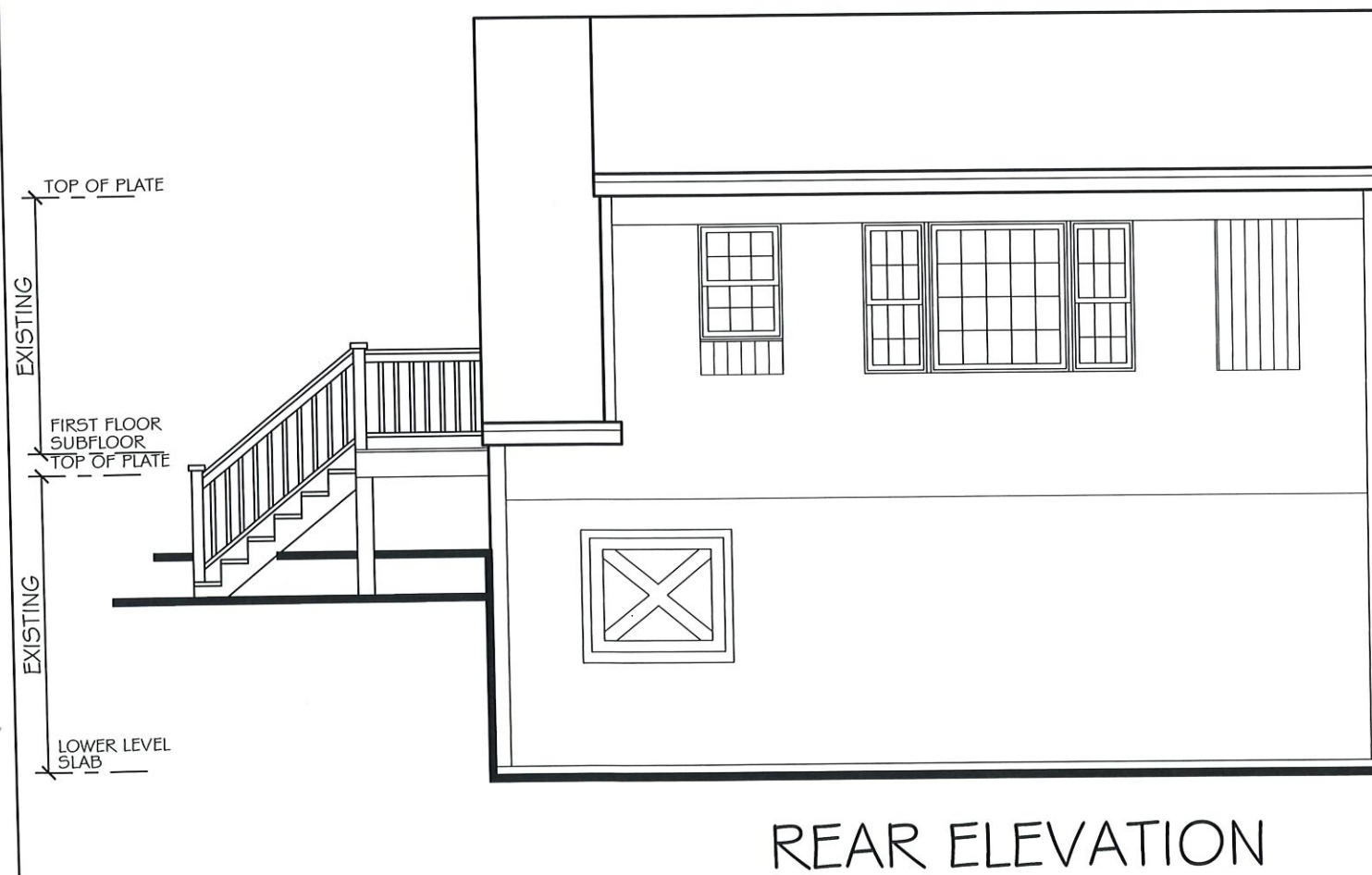
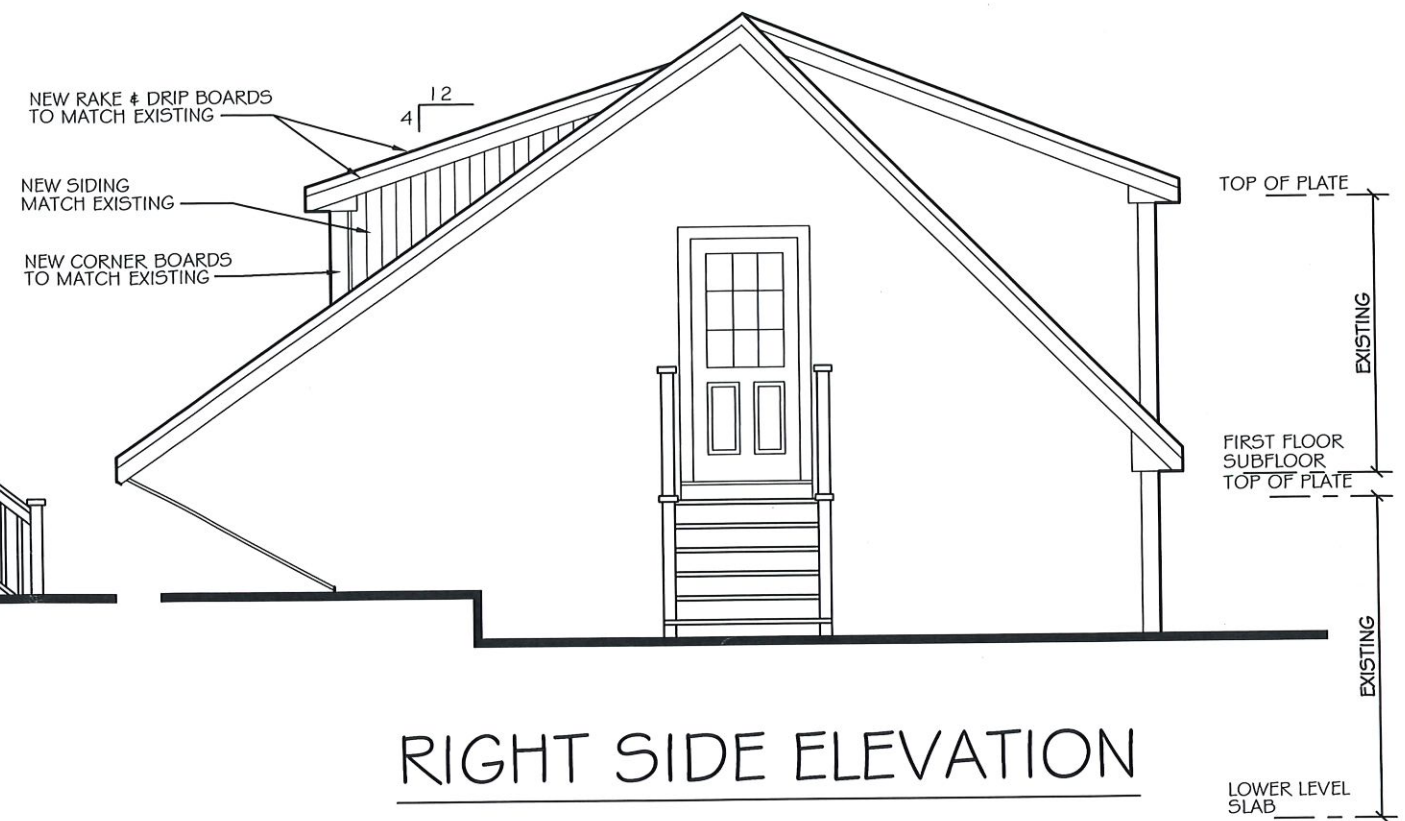
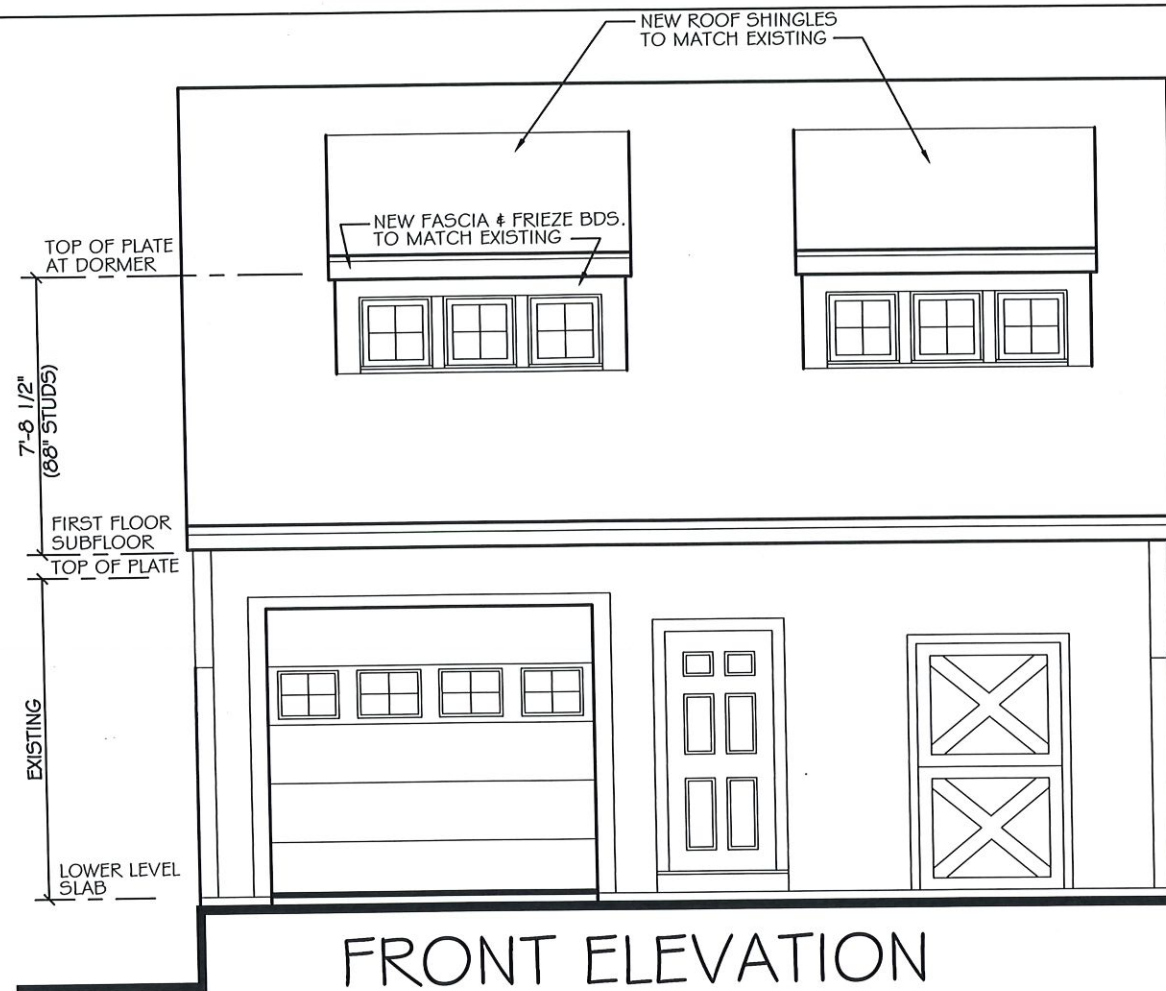
## LEGEND

- EXISTING WALL CONSTRUCTION TO REMAIN
- NEW WALL CONSTRUCTION
- EXISTING WALL CONSTRUCTION TO BE REMOVED
- NEW SMOKE/CARBON MONOXIDE DETECTORS





# LOWER LEVEL FLOOR PLAN



NOTE:  
THE PLANS SHOWN  
THE SOLE PROPERTY  
THE DESIGNER AND  
NOT BE COPIED,  
REPRODUCED AND/  
ALTERED WITHOUT  
EXPRESS WRITTEN  
CONSENT OF THE  
DESIGNER

DESIGNED/DRAWN BY:  
THOMAS A. MOORE DESIGN CO.  
P.O. BOX 2124 949 ROUTE 137

REMODELING FOR:  
MR. GERARD BURKE

SCALE :  
3/16" = 1'

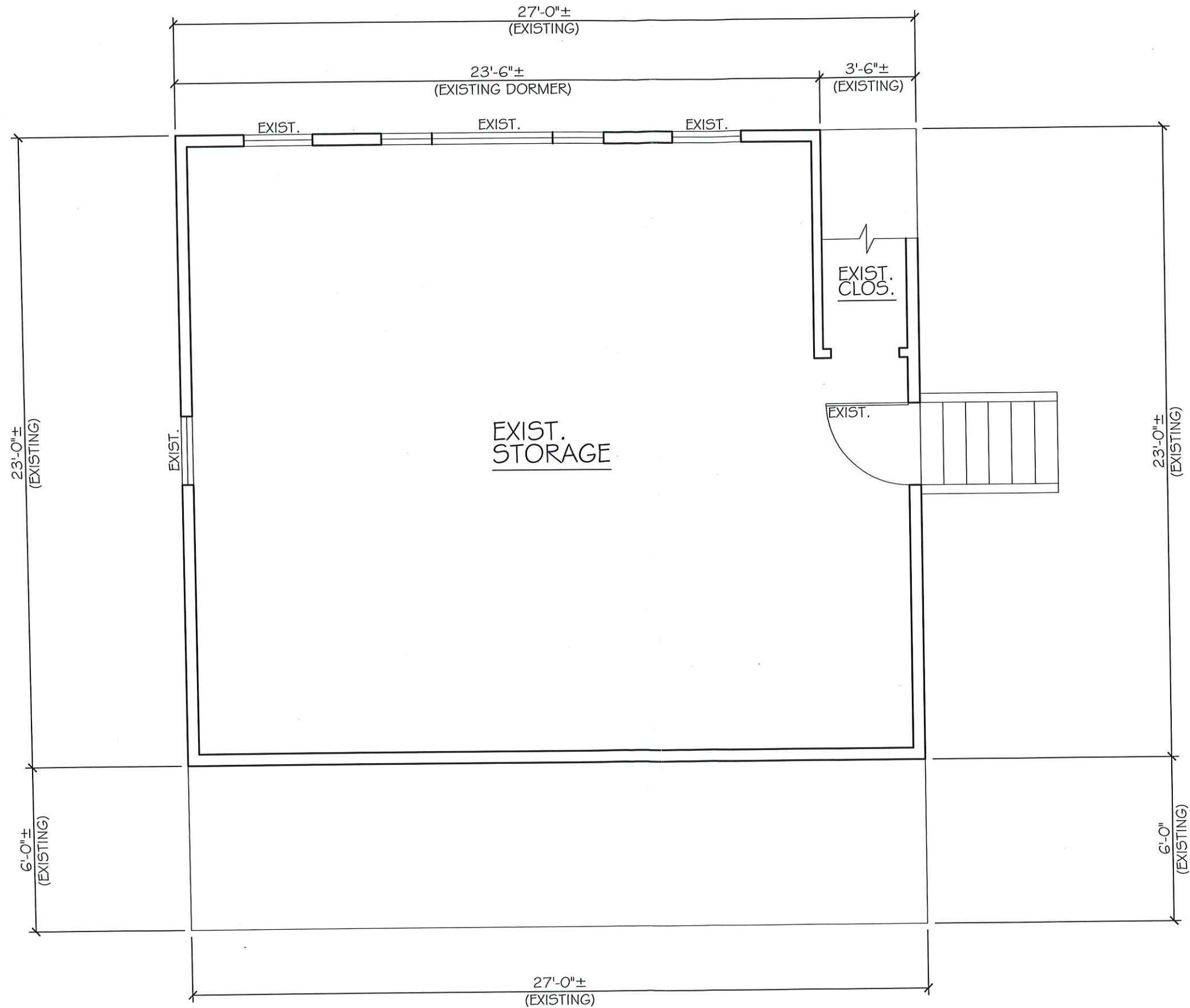
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12/31/20

PROJ. NO.  
2019-28

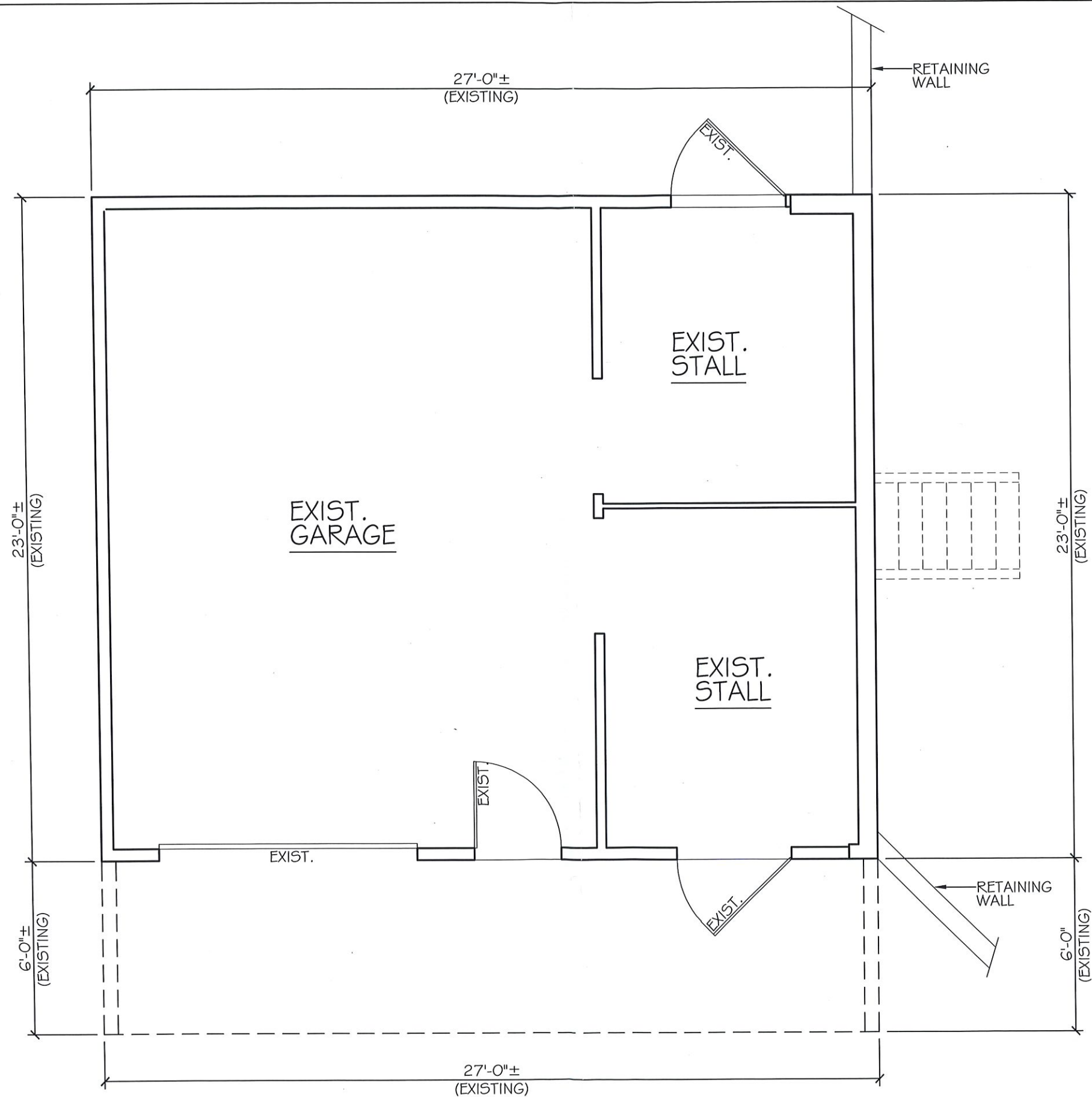
DWG. NO.

A3



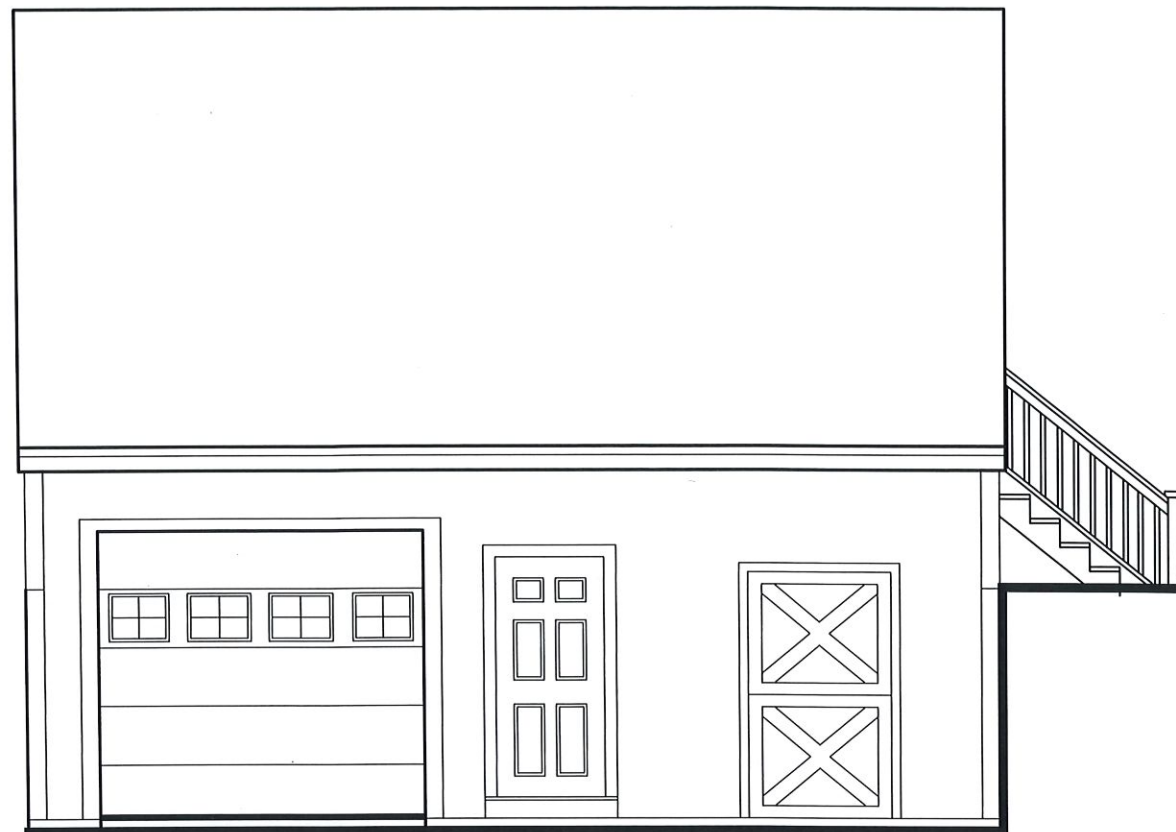


## FIRST FLOOR PLAN



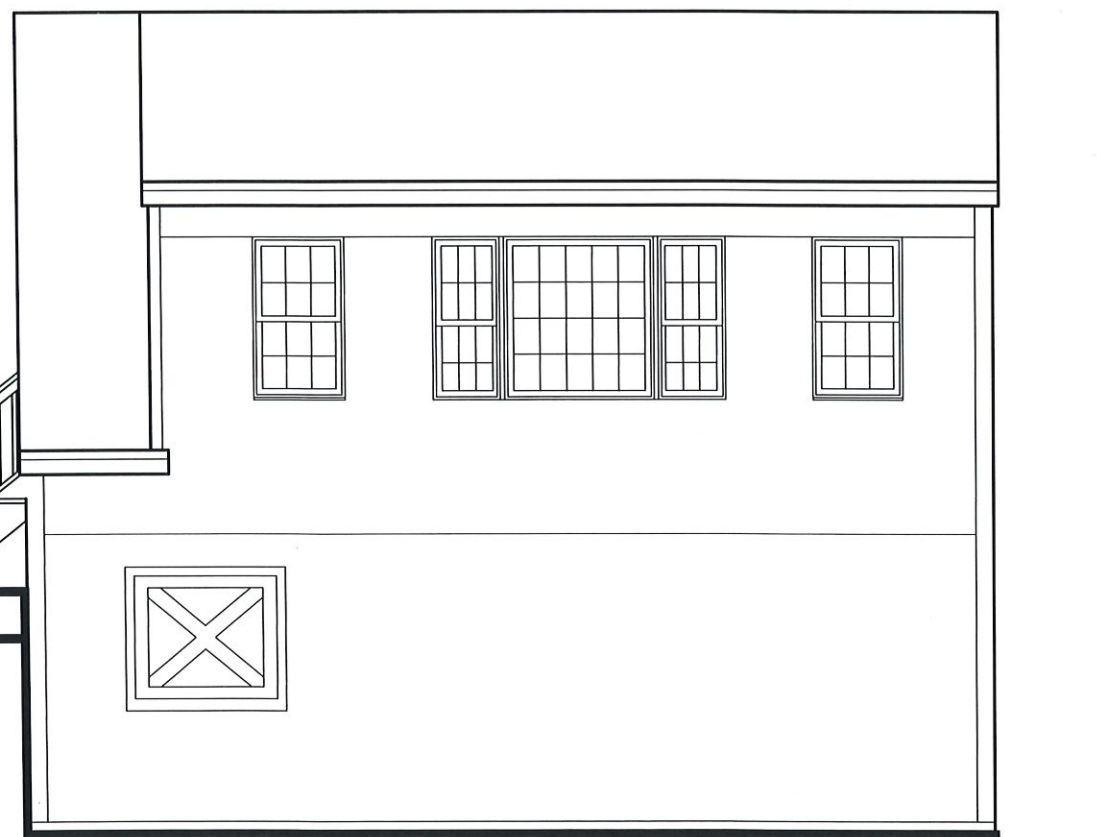
## LOWER LEVEL FLOOR PLAN

TOP OF PLATE  
EXISTING  
FIRST FLOOR  
SUBFLOOR  
TOP OF PLATE  
EXISTING  
LOWER LEVEL  
SLAB



FRONT ELEVATION

TOP OF PLATE  
EXISTING  
FIRST FLOOR  
SUBFLOOR  
TOP OF PLATE  
EXISTING  
LOWER LEVEL  
SLAB

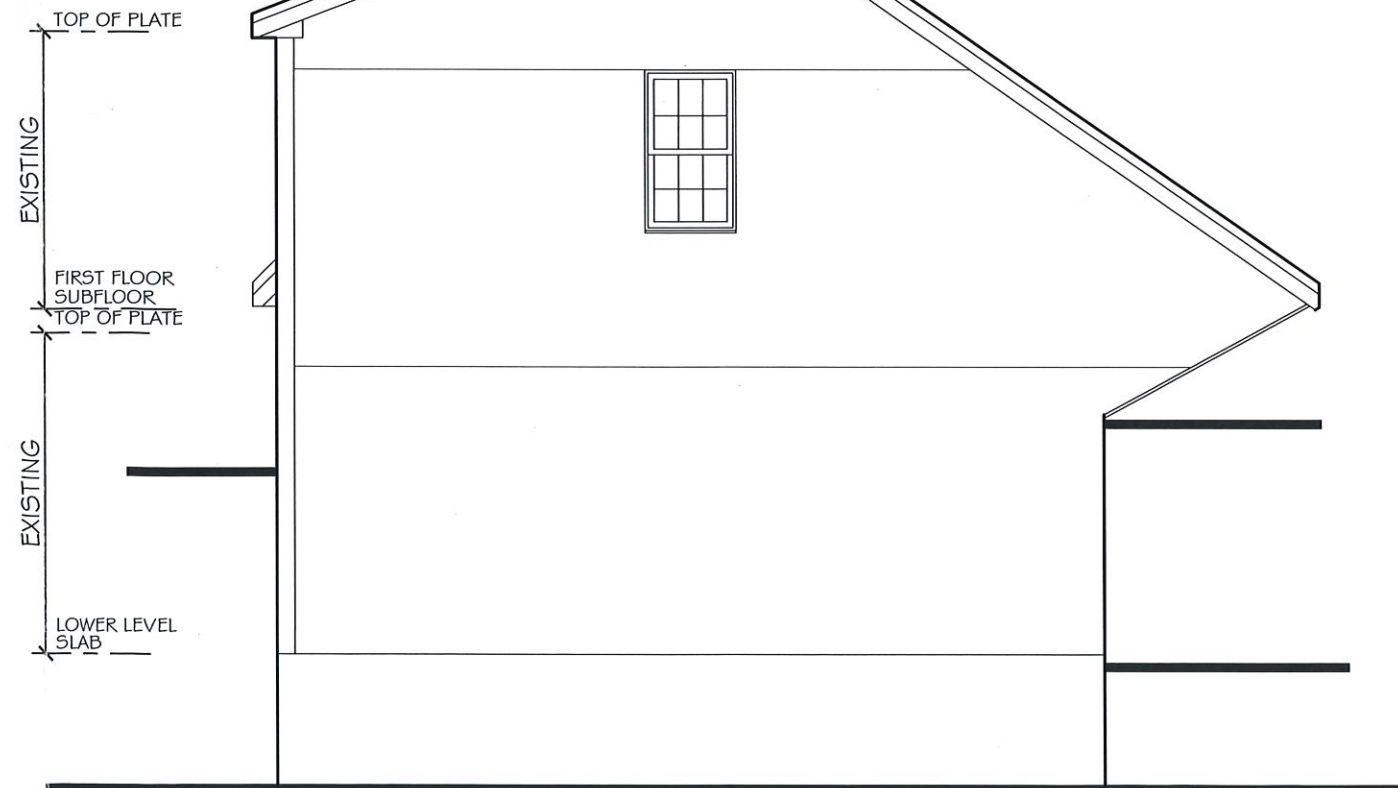


REAR ELEVATION

TOP OF PLATE  
EXISTING  
FIRST FLOOR  
SUBFLOOR  
TOP OF PLATE  
EXISTING  
LOWER LEVEL  
SLAB



RIGHT SIDE ELEVATION



LEFT SIDE ELEVATION

NOTE:  
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THE SOLE PROPERTY  
THE DESIGNER AND  
NOT BE COPIED,  
REPRODUCED AND  
ALTERED WITHOUT  
EXPRESS WRITTEN  
CONSENT OF THE  
DESIGNER

DESIGNED/DRAWN BY:  
THOMAS A. MOORE DESIGN CO.  
P.O. BOX 2124 949 ROUTE 137

EXIST. CONDITIONS FOR:  
MR. GERARD BURKE

SCALE :  
3/16"=1'-0"

DATE :  
12/31/20

PROJ. NO.  
2019-28

DWG. NO.

EX



May 18, 2020

### Agenda Item III.A.1.a

To: Planning Board  
From: Charleen Greenhalgh, Town Planner  
Re: Staff Report – Approval Not Required (ANR) Plan

**PB2020-15 David Treworgy**, as applicant, seek endorsement of a two (2) lot Approval Not Required plan entitled “Plan of Land in Harwich, MA, prepared for E. James Gunn, Janet E. Gunn, Sara Osborn, David Treworgy” dated January 20, 2020, prepared by Terry A. Warner, PLS. The plan is pursuant to M.G.L. c. §81 P and §400-9 of the Codes of the Town of Harwich for property located at #6 and #12 Village Green, Map 13, Parcels L1-6 and L1-7, respectively. The parcels are in the R-M zoning districts.

The application was received on May 4, 2020. Pursuant to MGL c.401, §81P, the Planning Board has 21-days to act and file a decision with the Town Clerk, that date would have been May 25, 2020. As the Board may recall, an emergency order was enacted which as of March 10, 2020 put a stay on all timelines.

Pursuant to MGL c.41, §81.L the lot(s) created must have, *frontage on (a) a public way or a way which the clerk of the city or town certifies is maintained and used as a public way, or (b) a way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law, or (c) a way in existence when the subdivision control law became effective in the city or town in which the land lies, having, in the opinion of the planning board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. Such frontage shall be of at least such distance as is then required by zoning or other ordinance or by-law, if any, of said city or town for erection of a building on such lot, and if no distance is so required, such frontage shall be of at least twenty feet.*

The Board may:

- 1) Vote to endorse the ANR; or
- 2) Deny the ANR specifically ***detailing*** why it does not meet the requirements for endorsement as an ANR; or
- 3) Take no action; which would result in the Town Clerk certifying that the Planning Board took no action within the statutory time.

**Staff comments:**

**Planning:**

1. This appears to be a simple land swap between #6 and #12 Village Green.
2. Both lots will retain the required frontage of 150 feet.
3. **Most important**, if the Board does vote to endorse this plan, it is unclear as to when that will be able to occur. Town Hall is currently closed with limited access for specific employees only. Endorsement will have to wait until after the declared emergency is over.



**Conservation, Police and Fire:** No comments

**Health:** No issues or concerns with moving the lot line provided that the setbacks are all still maintained.

**Findings (vote to adopt):**

*This is a **positive finding** the Board may choose to make:*

Said plan does not constitute a subdivision as the way shown on the plan is a way in existence when the subdivision control law became effective in the town and has, in the opinion of the planning board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

*This is a **negative finding** (denial) the Board may choose to make:*

The way shown on the plan is not a way in existence when the subdivision control law became effective in the town and has, in the opinion of the planning board, does not have sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

**Board Vote:** *This is a suggested motion, the Board may choose to deny or to take no action.*

Motion to endorse (or deny) the ANR plan entitled “Plan of Land in Harwich, MA, prepared for E. James Gunn, Janet E. Gunn, Sara Osborn, David Treworgy” dated January 20, 2020, prepared by Terry A. Warner, PLS.

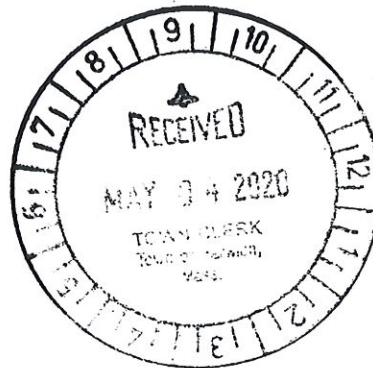
## Approval Not Required Plan of Land in Harwichport, MA

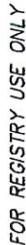
The owners of 6 Village Green and 12 Village Green wish to engage in an even land swap. The purpose of the land swap is to straighten out a jagged, confusing property line.

The proposed new property lines are depicted in a survey prepared by Warner Surveying of Harwich. The land swap is an even exchange. The square feet of each lot would remain the same with the proposed new property lines.

The septic plan for 6 Village Green requires revision because the reserved area would not have a minimum 10 foot setback. Moran Engineering of Harwich prepared a revised septic plan with a minimum 10 foot setback from the proposed new property lines.

The septic plan for 12 Village Green should not require revision because the system continues to have a minimum 10 foot setback with the proposed new property lines.





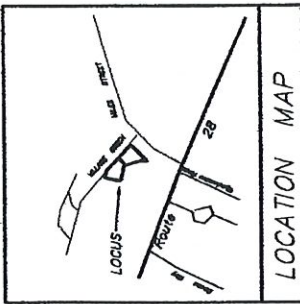
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SIDE - 20'  
REAR - 20'

APPLICATION DATE

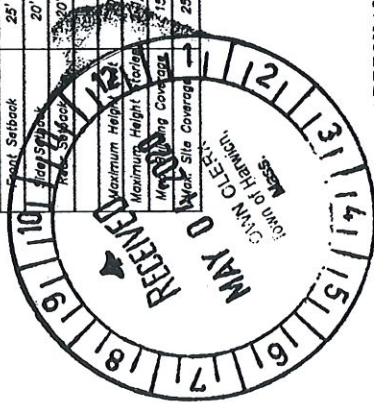
SIGNED DATE

*There is no implied compliance with zoning.*

Project No. 18-213



ZONING DIST. R-M	Required	Existing	Proposed
Min. Lot Area of 1	40,000	10,819	10,819
Min. Lot Frontage	150'	108.11'	108.11'
Front Setback	25'	25.8'	25.8'
Side Setback	20'	23.8'	23.8'
Rear Setback	20'	18.8'	18.8'
Maximum Height (feet)	20'	20.5'	20.5'
Maximum Height (stories)	5 1/2	5	5
Maximum Coverage	15%	16%	16%
Max. Slope Coverage	25%	15%	15%



**APPROVAL NOT REQUIRED  
PLAN OF LAND**

HARWICHPORT, MA

PREPARED FOR:

E. JAMES GUNN  
JANET E. GUNN  
SARA OSBORN  
DAVID TREWORY

Scale: 1"=20' JAN. 10, 2020

**TERRY A. WARNER, P.L.S.**  
22 LONG ROAD  
HARWICH, MA. 02645  
(508) 432-8309



May 18, 2020

### Agenda Item III.A.1.b

To: Planning Board  
From: Charleen Greenhalgh, Town Planner  
Re: Staff Report – Approval Not Required (ANR) Plan

**PB2020-16 Bryan Murphy** c/o Edward Hayes, as applicant, seek endorsement of a two (2) lot Approval Not Required plan entitled “Division Plan off Blue Heron Landing”, dated April 1, 2020, prepared by J. Thaddeus Eldredge, PLS. The plan is pursuant to M.G.L. c. §81 P and §400-9 of the Codes of the Town of Harwich for property located at 0 Kendrick Road, Map 108, Parcel P3. The parcels are in the R-R zoning districts.

The application was received on May 4, 2020. Pursuant to MGL c.401, §81P, the Planning Board has 21-days to act and file a decision with the Town Clerk, that date would have been May 25, 2020. As the Board may recall, an emergency order was enacted which as of March 10, 2020 put a stay on all timelines.

*Pursuant to MGL c.41, §81.L the lot(s) created must have, frontage on (a) a public way or a way which the clerk of the city or town certifies is maintained and used as a public way, or (b) a way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law, or (c) a way in existence when the subdivision control law became effective in the city or town in which the land lies, having, in the opinion of the planning board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. Such frontage shall be of at least such distance as is then required by zoning or other ordinance or by-law, if any, of said city or town for erection of a building on such lot, and if no distance is so required, such frontage shall be of at least twenty feet.*

The Board may:

- 1) Vote to endorse the ANR; or
- 2) Deny the ANR specifically ***detailing*** why it does not meet the requirements for endorsement as an ANR; or
- 3) Take no action; which would result in the Town Clerk certifying that the Planning Board took no action within the statutory time.

#### **Staff comments:**

##### **Planning:**

1. This appears to be a simple land swap between this parcel and two abutting parcels, which contain sufficient frontage per Note 4 on the plan.
2. **Most important**, if the Board does vote to endorse this plan, it is unclear as to when that will be able to occur. Town Hall is currently closed with limited access for specific employees only. Endorsement will have to wait until after the declared emergency is over.

**Police and Fire:** No comments

**Conservation:** Both parcels will have a portion in Conservation jurisdiction. The department has no issue with the division of the property, but when developed it may be subject to Conservation review. All future construction must be 60' away from the edge of wetland and any work within 100' will require mitigation which can be difficult on undisturbed lots.

**Health:** No issues or concerns. If the lots are ever further developed no variances from Title 5 or local requirements will be granted.

**Findings (vote to adopt):**

*This is a **positive finding** the Board may choose to make:*

Said plan does not constitute a subdivision as the way shown on the plan is a public way maintained and used as a public way and has, in the opinion of the planning board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

*This is a **negative finding** (denial) the Board may choose to make:*

The way shown on the plan does not have sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

**Board Vote:** *This is a suggested motion, the Board may choose to deny or to take no action.* Motion to endorse (or deny) the ANR plan entitled "Division Plan off Blue Heron Landing", dated April 1, 2020, prepared by J. Thaddeus Eldredge, PLS.







May 18, 2020

### Agenda Item III.A.1.c

To: Planning Board  
From: Charleen Greenhalgh, Town Planner  
Re: Staff Report – Approval Not Required (ANR) Plan

**PB2020-17 James R. Knickman**, applicant, c/o Phillip O. Scholomiti, PLS, seeks endorsement of a two (2) lot ANR entitled “Plan of Land in Harwich, MA, showing a division of Lots B-1, C and 2, L.C.P 10688-B”, scale 1”=40’, dated March 6, 2020, prepared by Ryder & Wilcox, Inc., for property located at 0 Deep Hole Road, Map 16, Parcels M1-C and M1-B1. The parcels are in the R-M zoning districts.

The application was received on May 14, 2020. Pursuant to MGL c.401, §81P, the Planning Board has 21-days to act and file a decision with the Town Clerk, that date would have been June 4, 2020. As the Board may recall, an emergency order was enacted which as of March 10, 2020 put a stay on all timelines.

Pursuant to MGL c.41, §81.L the lot(s) created must have, *frontage on (a) a public way or a way which the clerk of the city or town certifies is maintained and used as a public way, or (b) a way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law, or (c) a way in existence when the subdivision control law became effective in the city or town in which the land lies, having, in the opinion of the planning board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. Such frontage shall be of at least such distance as is then required by zoning or other ordinance or by-law, if any, of said city or town for erection of a building on such lot, and if no distance is so required, such frontage shall be of at least twenty feet.*

The Board may:

- 1) Vote to endorse the ANR; or
- 2) Deny the ANR specifically ***detailing*** why it does not meet the requirements for endorsement as an ANR; or
- 3) Take no action; which would result in the Town Clerk certifying that the Planning Board took no action within the statutory time.

#### **Staff comments:**

##### **Planning:**

1. Each lot shows frontage along Deep Hole Road; however it appears that access for these parcel would need to be over something other than frontage.
2. **Most important**, if the Board does vote to endorse this plan, it is unclear as to when that will be able to occur. Town Hall is currently closed with limited access for specific employees only. Endorsement will have to wait until after the declared emergency is over.

**Police and Fire:** No comments

**Conservation:** Both parcels will have a portion in Conservation jurisdiction. The department has no issue with the division of the property, but when developed it may be subject to Conservation review. All future construction must be 60' away from the edge of wetland and any work within 100' will require mitigation which can be difficult on undisturbed lots.

**Health:** No issues or concerns. If the lots are ever developed no variances from Title 5 or located requirements will be granted.

**Findings (vote to adopt):**

*This is a **positive finding** the Board may choose to make:*

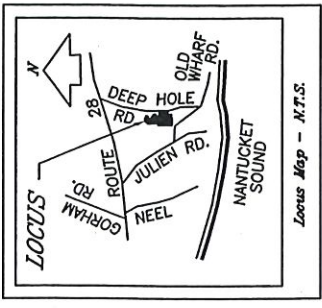
Said plan does not constitute a subdivision as the way shown on the plan is a public way maintained and used as a public way and has, in the opinion of the planning board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

*This is a **negative finding** (denial) the Board may choose to make:*

The way shown on the plan does not have sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

**Board Vote:** *This is a suggested motion, the Board may choose to deny or to take no action.*

Motion to endorse (or deny) the ANR plan entitled "Plan of Land in Harwich, MA, showing a division of Lots B-1, C and 2, L.C.P 10688-B", scale 1"=40', dated March 6, 2020, prepared by Ryder & Wilcox, Inc.



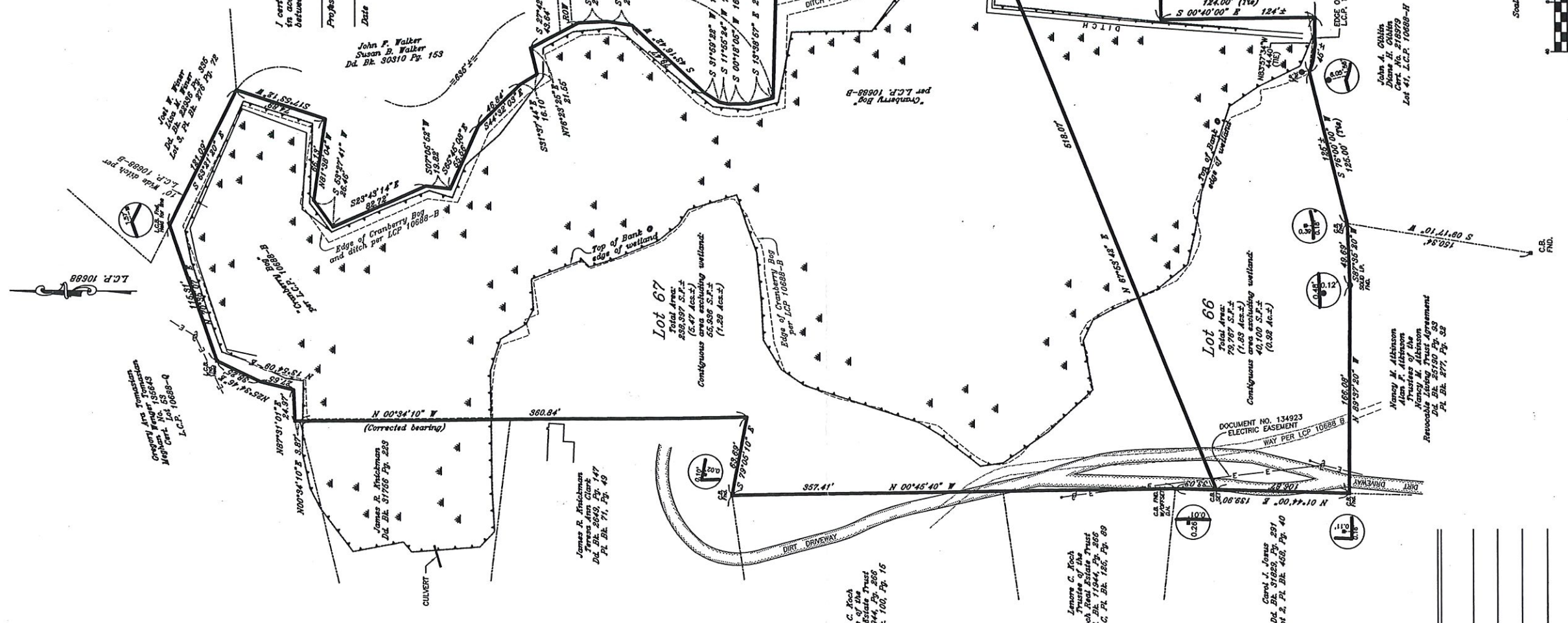
Locust Map - M.T.S.

I certify that this survey was made on the ground in accordance with Land Court instruction of 2008 between February 19, 2019 and January 23, 2020.

Professional Land Surveyor

Date

John P. Walker  
Susan B. Walker  
Dd. Bk. 30310 Pg. 153



**ZONE:**  
R-M

**MINIMUM ZONING REQUIREMENTS:**  
Area - 40,000 S.F.  
Frontage - 150 Ft.  
Width - 65 Ft.  
Side - 20 Ft.  
Rear - 20 Ft.

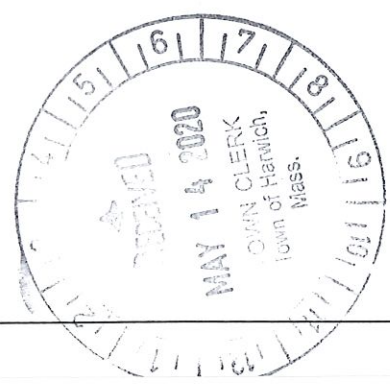
**RECORD OWNER:**  
James R. Knickman

**REFERENCE:**  
Ass't's map 16, Pl. M-C & M-B  
L.C. Cert. No. 210220  
L.C.P. 10688-B

**PRECISION:**  
Unadjusted survey precision:  
1:88,364  
Angular error of closure:  
00'-00"-22 Seconds  
Linear error of closure:  
0.04'  
Directional error of closure:  
291'-11"-51' (unadjusted estimate)  
Accuracy of E.D.M.:  
±5MM ±5PPM  
All traverse lines measured  
with E.D.M.

**SHAPE FACTORS:**  
Lot 66 - 17.03 (Partial lot)  
Lot 67 - 17.82 (Partial lot)

**LEGEND:**  
- Utility pole  
- Lamp post  
- Concrete bound found  
- Concrete bound found  
- Land Court seal  
- Harwich road bound found  
- Iron pipe found  
- Overhead electric line



**HARWICH PLANNING BOARD**  
APPROVAL NOT REQUIRED

Date: \_\_\_\_\_

Planning Board endorsement of this plan indicates only that the plan is not a subdivision under Chapter 41A, Section 81-L of the Massachusetts General Laws and does not indicate that the lots are buildable or that they meet Zoning, Health, Conservation or General By-Law requirements.

**NOTE:**  
All monuments found or set are in accordance with Harwich rules unless noted otherwise.

**Plan of Land**  
in  
Harwich, MA  
showing a portion of  
Lots B-1, C and 2,  
L.C.P. 10688-B

Scale: 1" = 40' Date: March 6, 2020



1 inch = 40 ft.  
Ryder & Wilson, Inc. - P.E. & P.L.S.  
P.O. Box 432, South Orleans, MA 02663  
Phone: (508) 255-8312

**HARWICH PLANNING BOARD  
HARWICH TOWN HALL - 732 MAIN STREET, HARWICH  
VIA REMOTE PARTICIPATION GoToMeeting.com  
TUESDAY, MAY 12, 2020 – 6:30 PM  
MEETING MINUTES**

**BOARD MEMBERS PRESENT:** Chairman, Joseph McParland; Vice-Chairman, Allan Peterson; Mary Maslowski; William Stoltz; Duncan Berry; Craig Chadwick; David Harris; and Arthur Rouse were all present via remote participation.

**BOARD MEMBERS ABSENT:** None.

**OTHERS PRESENT:** Town Planner, Charleen Greenhalgh; Katie Tenaglia; Susan Ladue; William Marsh; Ben Zehnder; David Reid; and Chris Murphy.

**CALL TO ORDER** - 6:36 PM by Chairman McParland with a quorum present.

Call to Order Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the Harwich Planning Board is being conducted via remote participation. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings as provided for in the Order. A reminder that persons who would like to listen or view this meeting while in progress may do so by logging in or calling in as specified above on this agenda.

**PB2019-45 Royal Apartments LLC, 328 Bank Street, Multi-Family Use Special Permit**  
***Representative:*** Attorney Ben Zehnder

Chairman McParland opened the public hearing at 6:39 PM. Applicant seeks approval of a Multi-Family Use Special Permits in the Harwich Center Overlay District and a Site Plan Review Special Permit for the proposed use and additional parking and other appurtenances pursuant to the Code of the Town of Harwich §§325-51.D and -51.O and 325- 55. The property is located at 328 Bank Street, Map 41, Parcel N4 in the M-R-L, Harwich Center Overlay and Historic Districts. Continued from April 14, 2020. Please note: the applicant has requested that the applicant be withdrawal without prejudice.

Ben Zehnder requested that the application be withdrawn without prejudice.

Mr. Chadwick made the motion to close the public hearing, seconded by Chairman McParland, unanimously so voted via roll call (8-0-0).

Mr. Chadwick made the motion to allow the withdrawal of PB2019-45 without prejudice as requested by the applicant, seconded by Mr. Harris, unanimously so voted via roll call (8-0-0).

Mr. Zehnder also requested that a new application fee be waived for a future filing.

Ms. Maslowski made the motion that in the event the applicant reapplies for site plan review or special permit within 365 days, the Planning Board wave the application fee, seconded by Mr. Berry, unanimously so voted via roll call.

**PB2020-12 Eastward Home Business Trust, Bascom Hollow, Modification of a Definitive Subdivision Plan**

***Representatives:*** Susan Ladue and William Marsh

Chairman McParland opened the public hearing at 6:46 PM by reading the legal notice into the record. Eastward MBT, LLC, Trustee, c/o Eastward Companies, seeks approval of a Modification of a Definitive Subdivision Plan pursuant to M.G.L. c.41 §81K-GG, and §400 of the Code of Town of Harwich for the subdivision known as Bascom Hollow Assessors Map 97, Barnstable County Registry of Deeds Plan Book 675, Page 71. The property is within R-R and the W-R overlay districts. The modification is relative to the Board of Health conditions only.

It was noted that Alternate Member Rouse was not eligible to vote on the Modification.

Ms. Ladue and Bill Marsh presented the modification of Bascom Hollow subdivision. The Board of Health approved the release already with conditions. They are asking for the additional lot release with the Board of Health condition.

Mrs. Greenhalgh read departmental input and the Town Planners report into the record. Health: Due to the funding shortages, this phase of CWMP will not be completed per the original schedule. The revised Environmental Impact Review proposes individual conventional Title 5 systems on the remaining 4 Lots. After considerable review and discussion, it was decision of the Board to approve the proposal with the following order of conditions: 1. Allow the newly released properties to have conventional systems on their own lots and that if funding to complete this section of municipal sewer is not approved at a 2020 special fall town meeting, that Innovative/Alternative technology will be added to the systems. Planning Staff Comments 1. The original plan and decision restricted the number of lots that could be developed to four (4) lots. The Board of Health has now changed that conditions to allow for all the lots to be built on with proper septic systems. A note on the modification plan has been added to indicate this change. 2. The original condition imposed by the Board of Health restricting development to only four (4) of the lots is still noted on the plan; this should be deleted or crossed out, based on the new condition imposed. 3. Currently Lots 3, 5, 6 and 7 have been released for building purposes. Lot one was released for the community septic system (which will not be taking place based on the new condition imposed by the Board of Health.) 4. There is no need for a new covenant, as the existing covenant is adequate.

Mr. Chadwick asked several questions on Innovative/Alternative technology, all which were all answered.

Mr. Harris made the motion to close the public hearing at 6:57 PM, seconded by Mr. Stoltz, unanimously so voted via roll call (7-0-0).

The Board members reviewed the criteria for granting a Definitive Subdivision and following a motion by Ms. Maslowski and seconded by Mr. Chadwick, the Board voted unanimously (7-0-0) by rollcall vote to adopt the following findings of fact:

1. There are no changes proposed other than the number of parcels that can be developed.
2. The modification does not change the fact that this is a division of land for single-family homes is a permitted use or two-family by special permit, in the underlying RR and the Water Resources district.
3. Board of Health requirements will be met.

On a motion from Ms. Maslowski, seconded by Mr. Harris, the Board voted unanimously (7-0-0) by rollcall vote to approve with conditions PB2020-12 Eastward Home Business Trust, Eastward MBT, LLC, Trustee, c/o Eastward Companies, a Modification of a Definitive Subdivision Plan (PB2018-13) pursuant to M.G.L. c.41 §81K-GG, and §400 of the Code of Town of Harwich for the subdivision known as Bascom Hollow Assessors Map 97, Barnstable County Registry of Deeds Plan Book 675, Page 71. The property is within R-R and the W-R overlay districts. The following conditions are imposed and required to be submitted prior to endorsement of the plan:

1. The existing covenant recorded at the Barnstable County Registry of Deeds, Book 31370, Page 49 shall run with this Modification Plan.
2. This decision shall comply with the conditions imposed by the Harwich Board of Health dated March 26, 2020 and recorded at the Barnstable County Registry of Deeds, Book 32798, Page 113.

**NEW BUSINESS:** None

**MEETING MINUTES:** April 28, 2020

Vice-Chairman Peterson made the motion to approve the minutes from April 28 2020 as written, seconded by Mr. Berry, unanimously so voted (8-0-0).

**OLD BUSINESS:** Brief discussion on draft amendment to Multi-family Dwelling related Bylaws. Mrs. Greenhalgh explained that the Board discussed the need for amendments to multi-family after the 2019 Town Meeting. This is a draft for the Board to discuss in the near future.

**BRIEFINGS AND REPORTS BY BOARD MEMBERS:**

Mrs. Greenhalgh stated that the next meeting is May 28<sup>th</sup>, and she will not be at the meeting.

**ADJOURNMENT:**

Mr. Chadwick made the motion to adjourn at 7:13 PM, seconded by Mr. Berry, unanimously so voted via roll call (8-0-0).

Respectfully Submitted,  
Kathleen A. Tenaglia, Board Secretary

Adopted: