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HARWICH, MA

2023 OCT 26 P 2:46

732 Main Street, Harwich, Massachusetts 02645

TOWN OF HARWICH

ZONING BOARD OF APPEALS

Notice of Appeal/Application and Petition for Public Hearing, ("APPLICATION")

ZB2023-37

Case #

This Application *does not* apply to Comprehensive Permits.

Please refer to the Rules and Regulations of the Town of Harwich Board of Appeals for documentation requirements.

This original completed and signed notice ("Application"), along with a certified abutters list and twelve (12) copies of all plans, sketches, statements, site plans or other supporting documents per the attached checklist must be presented to the Building Department prior to being filed with the Town Clerk. The required documentation, **ALL** of which must be submitted on the date of filing, is listed on this Application. **THE RULES AND REGULATIONS ("RULES") OF THE TOWN OF HARWICH BOARD OF APPEALS APPLY TO ALL APPEALS AND APPLICATIONS AND SHOULD BE CONSULTED BEFORE FILING AN APPEAL OR APPLICATION TO ENSURE COMPLIANCE WITH THEM.**

To the Zoning Board of Appeals, Harwich, MA:

(We, I) hereby petition your Board for a public hearing on the request for action checked below:

- (X) Appeal from decision of or refusal of permit application by the Building Inspector, Selectmen or Planning Board or other administrative officer or officers.
- (X) Application for a Variance from requirements of the Harwich Zoning By-Law.
- (X) Application for a Special Permit that is subject to Board of Appeals approval.

I/we am/are the owner[s]/agent of the property involved in this petition, which is located in Harwich, MA at the following address:

78 Lovers Lane, Harwich, MA 02645. Said property is further described on

Assessor's Map #41 and Parcel # L4-0 located in the R-R Zoning District as shown on the attached plan.

Describe Petition/Appeal: See attached

Relief requested - Cite specific Bylaw Section(s): See attached correspondence from Building Commissioner.

Signature of Owner (or Agent) [Signature] Date 10/26/23
(Written authorization by the owner must accompany an Application signed by agent.)

Owner Name Brendan J. Lowney Phone No. 508-432-1643

Mailing Address: 25 Pleasant Lake Avenue, Harwich, MA 02645

Agent Name: William D. Crowell, Esq. Phone No. 508-432-1643

Mailing Address: 466 Main Street, Harwich Port, MA 02646

Has a petition previously been submitted for this property (Y/N) (N)

If yes, the date of original hearing _____ Petition No. _____ Decision _____

For Appeal Only:

Reason for Denial: _____

Denial From: _____ Date of Denial: _____

Within 14 days following any Board decision, the Board will file its decision with the Town Clerk. A building permit will not be issued during the appeals period, until 21 days after the Board of Appeals decision has been filed with the Town Clerk or if an appeal to that decision has been filed during that time. It is the applicant's responsibility to have the decision recorded at the Barnstable County Registry of Deeds or Land Court, whichever may be applicable, and to present copies of that recording to the Town Clerk and to the Building Department with all Building Permit application requirements.

Please be advised that an incomplete Application may result in a delay in processing your Application and **may result in a denial by the Board** without consideration of the merits of the Application. **IT IS YOUR RESPONSIBILITY TO REVIEW THE RULES THAT APPLY TO YOUR APPEAL/APPLICATION AND TO MAKE SURE BEFORE FILING THAT YOUR APPLICATION/APPEAL COMPLIES WITH THOSE RULES.** The burden of proof is on the petitioner, not on the Town. If you do not understand the criteria, legal counsel should be sought. Either the petitioner or his/her agent is required to appear at the hearing to present the Application.

All applicants for hearing before the Board of Appeals must complete the Application and submit along with it the supporting documentation listed herein to the Building Department for review and subsequent filing with the Town Clerk. The Building Department accepts Applications during posted hours. You are strongly encouraged to submit your Application to the Building Department well in advance of the filing deadline to allow adequate time for staff review for completeness. **All information, including the applicable fee made payable to the Town of Harwich, must be submitted with the Application.**

Please submit the following, sorted and grouped into **twelve (12) packets along with one (1) Certified Abutters List** (Available from the Assessors Department. A separate application and fee is required):

- X The original Application (additional stamped copies can be provided at a nominal fee):**
 - Signed by the owner or agent.
 - If signed by an agent, a letter of authorization signed by the owner must also be included.

- X A typewritten narrative to explain the project , the purpose for this Application and the relief requested, with citations to the applicable provisions of the MGL and the Harwich Zoning Bylaw.**

- X The original and eleven (11) copies of a Certified Plot Plan with topographical information plan (not septic plans) not more than five (5) years old (total of 12 copies):**
 - 8½" x 11" or larger. *Larger plans must be folded.*
 - Scale no greater than 1" = 50'
 - Original stamped and signed by a Professional Engineer (as allowed by law), or a Professional Land Surveyor.
 - Certified Plot Plan **must** indicate:
 - the locus;
 - the parcel or parcels of land involved;
 - the existing building or buildings;
 - the proposed building or buildings and/or additions to, or alterations of existing buildings with all dimensions set forth;
 - the location of the septic;
 - the Town of Harwich zoning requirements applicable to the property, as well as existing and proposed dimensions for: frontage, front, sides, and rear setback distances, building height(s), building stories, building and site coverage and parking requirements (if any);
 - all perimeter dimensions (existing and proposed);
 - location and width of abutting and on-site street and drives, parking, existing topography;
 - a grading plan, areas of proposed and retained vegetation, distinction between upland and wetland.
 - Building Plans drawn to scale:
 - Floor layout (for existing structure and proposed additions and/or alterations)
 - Proposed front, side, and rear elevations

- X Certified Abutters List**

- X Check made payable to "Town of Harwich" for \$315.00.**

Name of Applicant: **Brendan J. Lowney**

Address of Property: **78 Lovers Lane, Harwich, MA 02645**

Zoning District: **R-R**

Is the property Located in any Special District(s)/Overlay District(s) established by the Town of Harwich or the State of Massachusetts: Yes _____ No **X**

If Yes, specify District(s): _____

Year Structure(s) Built: **1954**

Name/Address of Engineer/Architect: n/a

Name/Address of Attorney: **William D. Crowell, Esq., 466 Main Street, Harwich Port, MA 02646**

	Required by Bylaw	Existing	Proposed
Lot Area	40,000	9,423	9,423
Frontage	150'	190.5'	190.5'
Front Yard Setback	25'	6.2'	6.2'
Side yard Setback	20'	34.6'	32.7'
2 nd Side Yard Setback	20'	-	-
Rear Yard Setback	20'	36.1'	36.3'
Building Coverage	15%	11.1%	12.4%
Site Coverage	25%	20.5%	21.4%
Building Height	<30'	<30'	25.2'
If this is an Application for an Accessory Apartment, in addition to the above:			
A. Net Floor Area of the Principal Dwelling			
B. Net Floor Area of the proposed Accessory Apartment			

Form of Relief Requested: **Special Permit**

If the Applicant is requesting a Variance, state the hardship which the Applicant believes justifies this form of relief in accordance with MGL Chapter 40 and the Harwich Zoning Bylaw:

By signing and submitting this Application, you hereby authorize the members of the Board of Appeals, or its agent, to conduct a site visit of the exterior of your property for an inspection of the property involved in this petition, should they deem it appropriate.

The Board of Appeals is entitled to rely on the information contained in this Application. Therefore, the undersigned certifies that the information provided in this Application, and all submitted plans and other documentation, is true and accurate to the best of my knowledge and belief.

Agent's Signature:  Date: 10/26/23

Owner's Signature: _____ Date: _____

Key	Parcel ID	Owner	Location	Mailing Street	Mailing City	ST	ZipCd/Country
4424	42-B1-2-0-R	VALLEE NORMAND & VALLEE SUSAN	33 CHATHAM RD	350 DENNISON DR	SOUTH BRIDGE	MA	01550
4425	42-B2-1-0-R	CIUCCI ANTHONY V & SALLUHI-CIUCCI SILVA	41 CHATHAM RD	PO BOX 617	S HARWICH	MA	02661
4429	42-C1-0-R	VIPRINO BARRY DINO	35 CHATHAM RD	35 CHATHAM RD	HARWICH	MA	02645
7879	42-A8-0-R	CONNOLLY CHRISTOPHER & COX-CONNOLLY STEPHANIE ET ALS	93 LOVERS LN	3650 GLOBE RD UNIT 553	ARLINGTON	VA	22202
9260	41-K1-0-R	JAEGER STEPHANIE PAFENBERG TR STEPHANIE P JAEGER REALTY TRUS	10 CHATHAM RD	920 N FORD ST	BURBANK	CA	91505
9261	41-K4-0-R	ENDRES DARROLD E TRS ET AL FRITZ JANET L TRS	825 ORLEANS RD	437 NORTH RD	CARLISLE	MA	01741
9262	41-L2-0-R	MCKENNA DAVID W TRS ET AL MCKENNA JUDITH A TRS	23 CHATHAM RD	77 SUNSET RD	ARLINGTON	MA	02474
9263	41-L4-0-R	LONG BARBARA & ESTATE OF C/O LOWNEY BRENDAN J	78 LOVERS LN	25 PLEASANT LAKE AVE	HARWICH	MA	02645
9283	41-S1-70-0-R	DEY ALBERT A & DEY MARJORIE W	71 BERIAH BROOKS RD	71 BERIAH BROOKS RD	HARWICH	MA	02645
9287	41-S1-74-0-R	TURNER GREG G TRS ET AL TURNER STEPHANIE L TRS	68 BERIAH BROOKS RD	37 GLENDALE AVE	MELROSE	MA	02176
9297	41-S1-76-0-R	ROSE JOSEPH E	64 BERIAH BROOKS RD	64 BERIAH BROOKS RD	HARWICH	MA	02645
9310	42-B1-3-0-R	POTTER SCOTT R & POTTER ELIZABETH A	81 LOVERS LN	81 LOVERS LN	HARWICH	MA	02645
9315	42-B2-2-0-R	BANGS BEVERLY	43 CHATHAM RD	43 CHATHAM RD	HARWICH	MA	02645

Lowney – 78 Lovers Lane

The Petitioner requests a Special Permit to renovate and remodel the pre-existing, non-conforming, single-family dwelling as per the Certified Plot Plan/Title 5 Site Plan by Down Cape Engineering dated October 23, 2023 and Revised October 26, 2023, and the Building and Elevation Plans by Muldoon Architects LLC dated October 19, 2023, Sheets A0.0, A1.0, A1.1, A2.1, and X2.1.

The only changes to the existing footprint will be a small addition to square off the northwest corner of the existing dwelling and the addition of a bulkhead on the southwest side of said dwelling.

The renovations will include the addition of a second floor with a maximum height of 25.2 feet which is less than the 30 foot maximum per the By-law. The existing building coverage is 11.1% (15% max.) and will remain conforming at 12.4%. The existing site coverage is 20.5% (25% max.) and will remain conforming at 21.4%.

Since the addition of the second floor will include new habitable space within the 25 foot set-back from Lovers Lane and Beriah Brooks Road, such will constitute an intensification of existing nonconformities. However, as per the findings of the Gale Case this Board has the authority to grant a Special Permit for the same upon a finding that the renovated dwelling will not constitute a substantial detriment to the entire neighborhood.

In the alternative, the Petitioner requests a Variance for the above renovations and remodeling.

TOWN OF HARWICH

Building Department
732 Main Street
Harwich, MA 02645



Telephone: (508) 430-7506

By First Class Mail

October 24, 2023

Brendan J Lowney
25 Pleasant Lake Avenue
Harwich, Ma 02645

Re: Zoning Relief Required
78 Lovers Lane, Harwich, MA (Parcel ID 41-L4-0)
Zoning District R-R

Dear property owner,

Please be advised that as a condition to issuance of the above-referenced building permit as submitted, shown on a plan prepared by Down Cape Engineering Inc., dated October 25, 2023, we cannot issue without relief listed below.

Harwich Zoning Bylaw §325-54 "Nonconforming Structures and Uses."
Harwich Zoning Bylaw §325-Table 3, Height and Bulk Regulations

Should you desire to proceed with the project, you must first apply for the foregoing relief; this letter shall serve as a referral to the Board for the same. Copies of the necessary zoning forms and applications are available in the offices of the Town's Building and Planning Departments.

In the meantime, your building permit application shall be deemed 'incomplete' and the period to review and issue such permit suspended until such time as you apply for and obtain the special permit; the special permit decision issues and is filed with the Town Clerk; the applicable appeal period elapses; and you provide the Building Department a copy of the special permit decision as recorded with the Barnstable Registry of Deeds or, as applicable, the Barnstable Registry District.

The Town reserve the right, should you not expeditiously and continuously proceed with obtaining the required zoning relief or otherwise withdraw the building permit application, to deny the building permit application for incompleteness, or inconsistency with zoning, or both.

TOWN OF HARWICH

Building Department
732 Main Street
Harwich, MA 02645



Telephone: (508) 430-7506

Further, be advised that, subject to obtaining the required permits and after construction, you will be required to submit a final as-built plan to the Building Department certifying that the project complies with the approved plans and all applicable dimensional requirements under town zoning.

This correspondence also serves as a zoning determination under Section 7 of Massachusetts General Laws Chapter 40A, which may be appealed by a 'person aggrieved' under Sections 8 & 15 of Massachusetts General Laws Chapter 40A.

Please feel free to contact the Building Department to discuss this further, as necessary.

Respectfully,

A handwritten signature in cursive script that reads "Jack Mee".

Jack Mee
Harwich Building Commissioner

wcrowell.office1@comcast.net

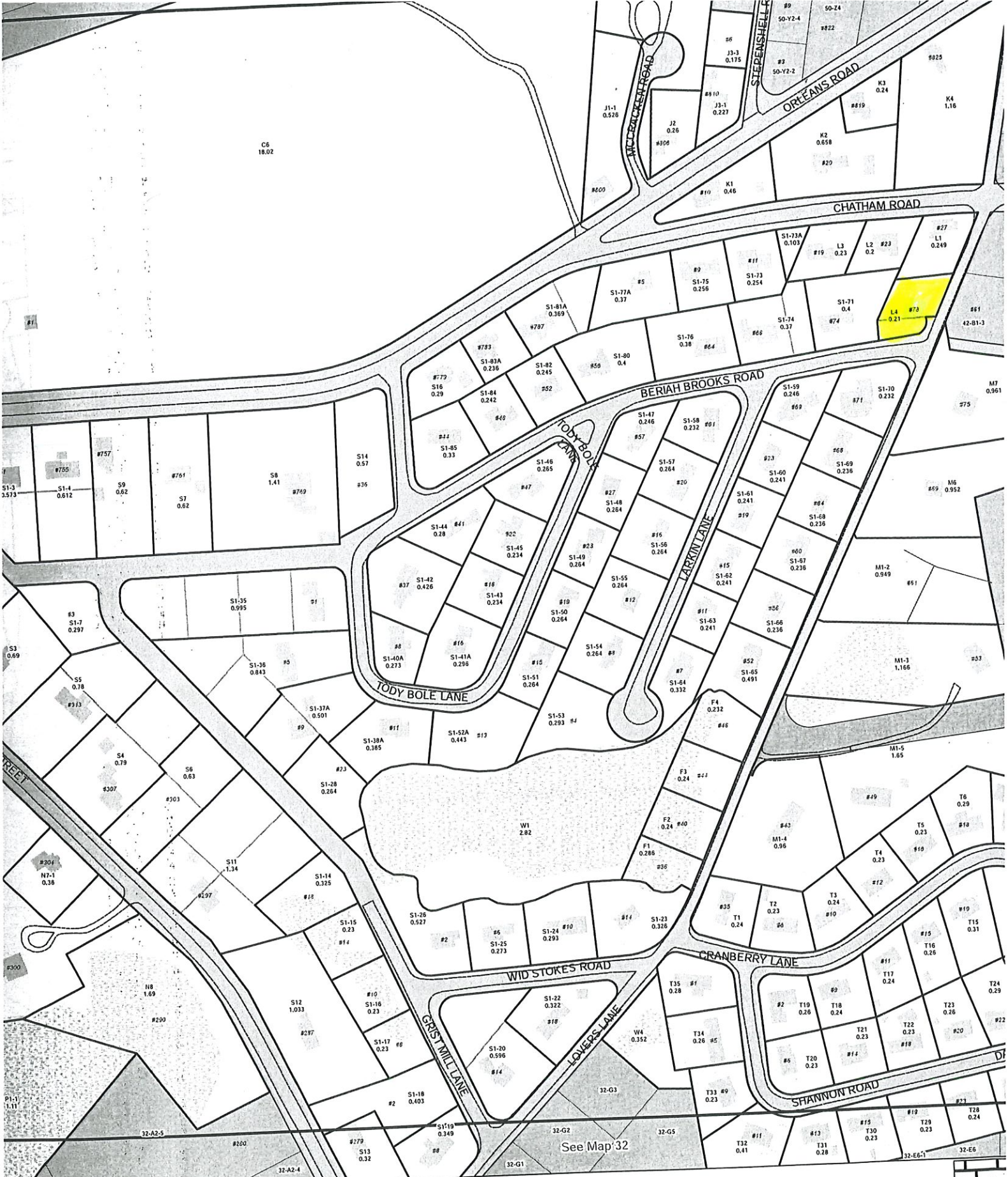
To: Brendan Lowney
Subject: RE: Lovers Lane Plans and ZBA

From: Brendan Lowney <r2bjl@yahoo.com>
Sent: Monday, October 23, 2023 8:36 AM
To: wcrowell.office1@comcast.net
Subject: Re: Lovers Lane Plans and ZBA

I, Brendan J. Lowney, owner of 78 Lovers Lane, Harwich, hereby authorize Attorney William D. Crowell to represent me before the Town of Harwich Zoning Board of Appeals regarding the same.

Brendan J. Lowney

On Monday, October 23, 2023 at 08:08:51 AM EDT, <wcrowell.office1@comcast.net> wrote:



TOWN OF HARWICH
ASSESSORS MAP
 January 2022

100 Feet

49	50
40	41
31	32

78 Lovers Ln

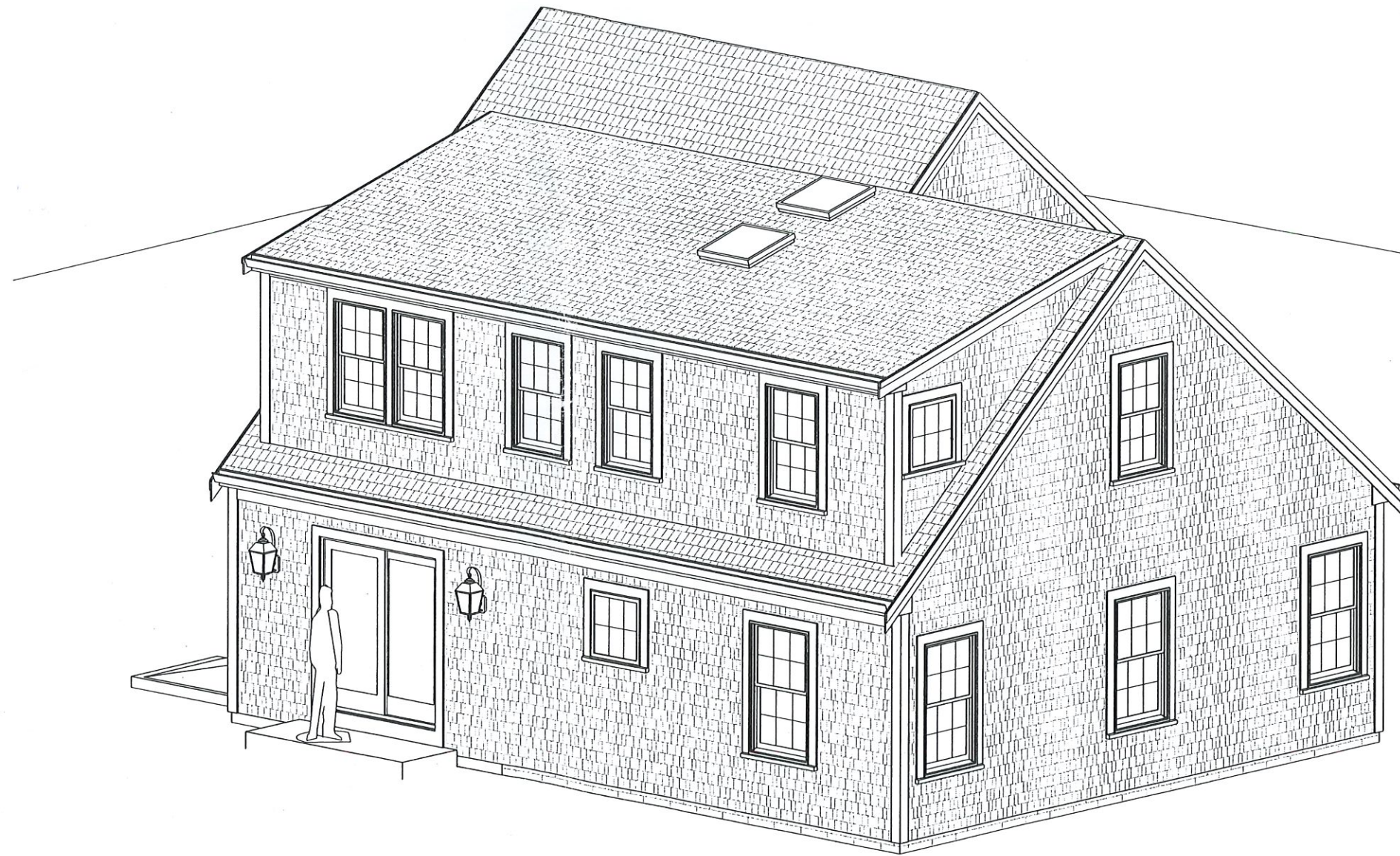
Harwich, MA 02645

Project Status: ZBA Set

10/19/2023

Drawing List - Working

Sheet Number	Sheet Name
A 1.0	Proposed Basement Plan
A 1.1	Proposed Floor Plans
A 2.1	Proposed Elevations
X 2.1	Existing Elevations



Muldoon Architects llc

571 MA-28, Harwich Port, MA 02646
t: 774 . 237 . 9671 www.muldoonarch.com

Cover Sheet

Drawn By: MM

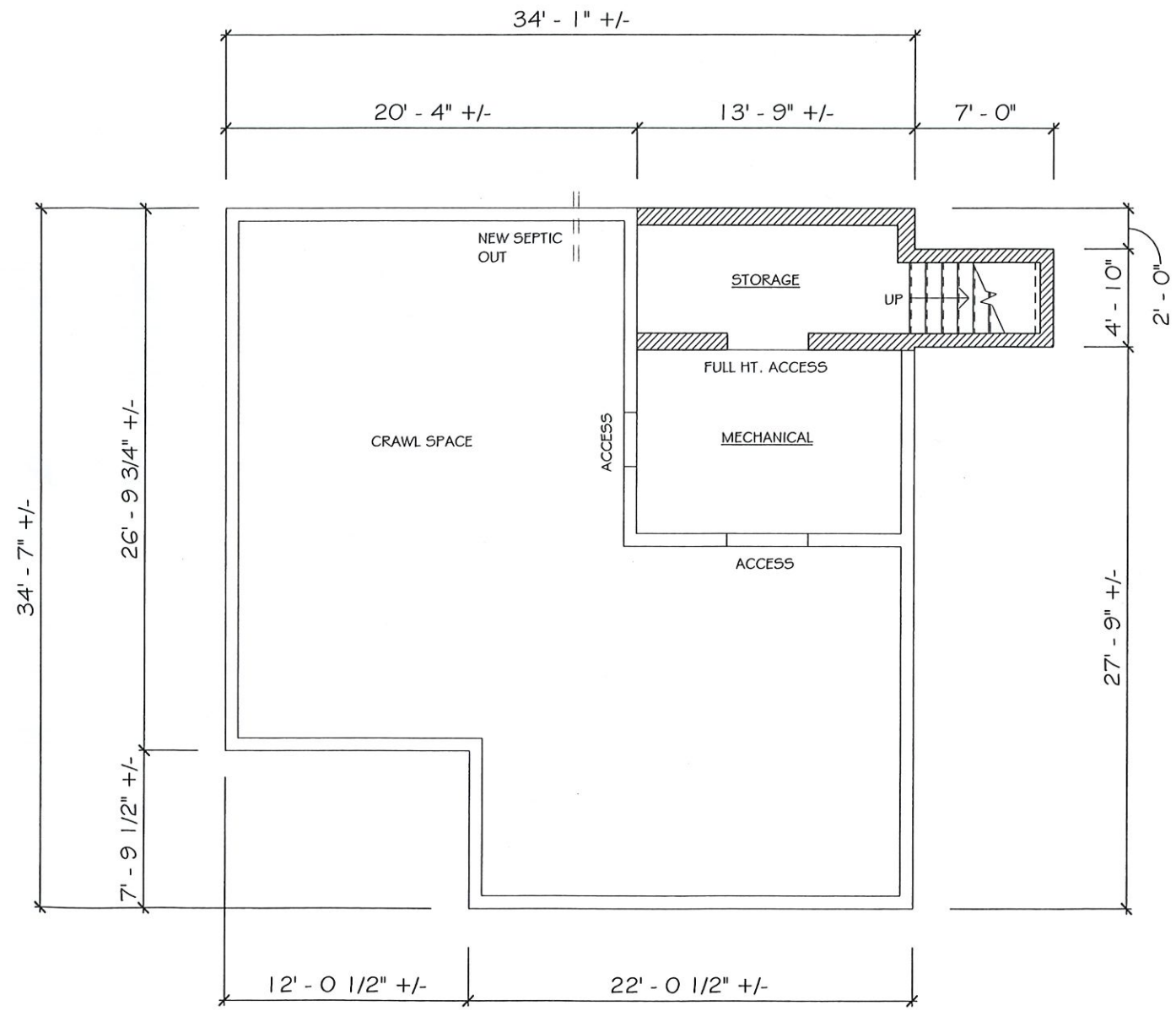
Scale: As Noted

Date: 10/19/2023

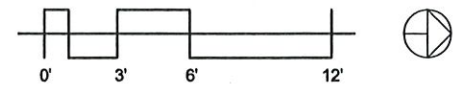
Proposed Renovations to the
78 Lovers Ln

Harwich, MA 02645

A 0.0



1 Proposed - Basement Plan
 1/8" = 1'-0"



Muldoon Architects llc

571 Ma-28, Harwich Port, MA 02646
 t: 774 . 237 . 9671 www.muldoonarch.com

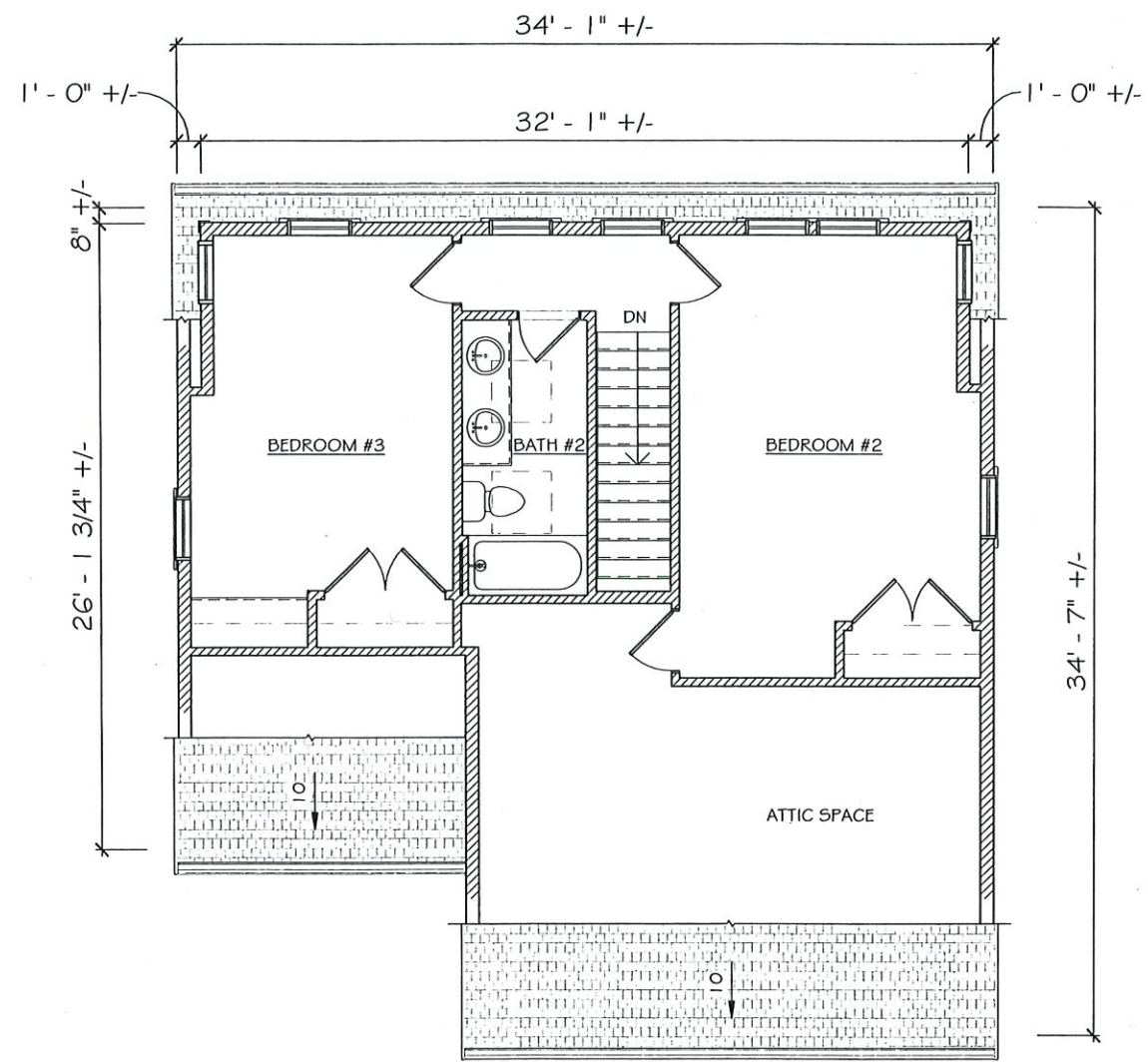
Proposed Basement Plan

Scale: As Noted
 Date: 10/19/2023
 Drawn By: MM

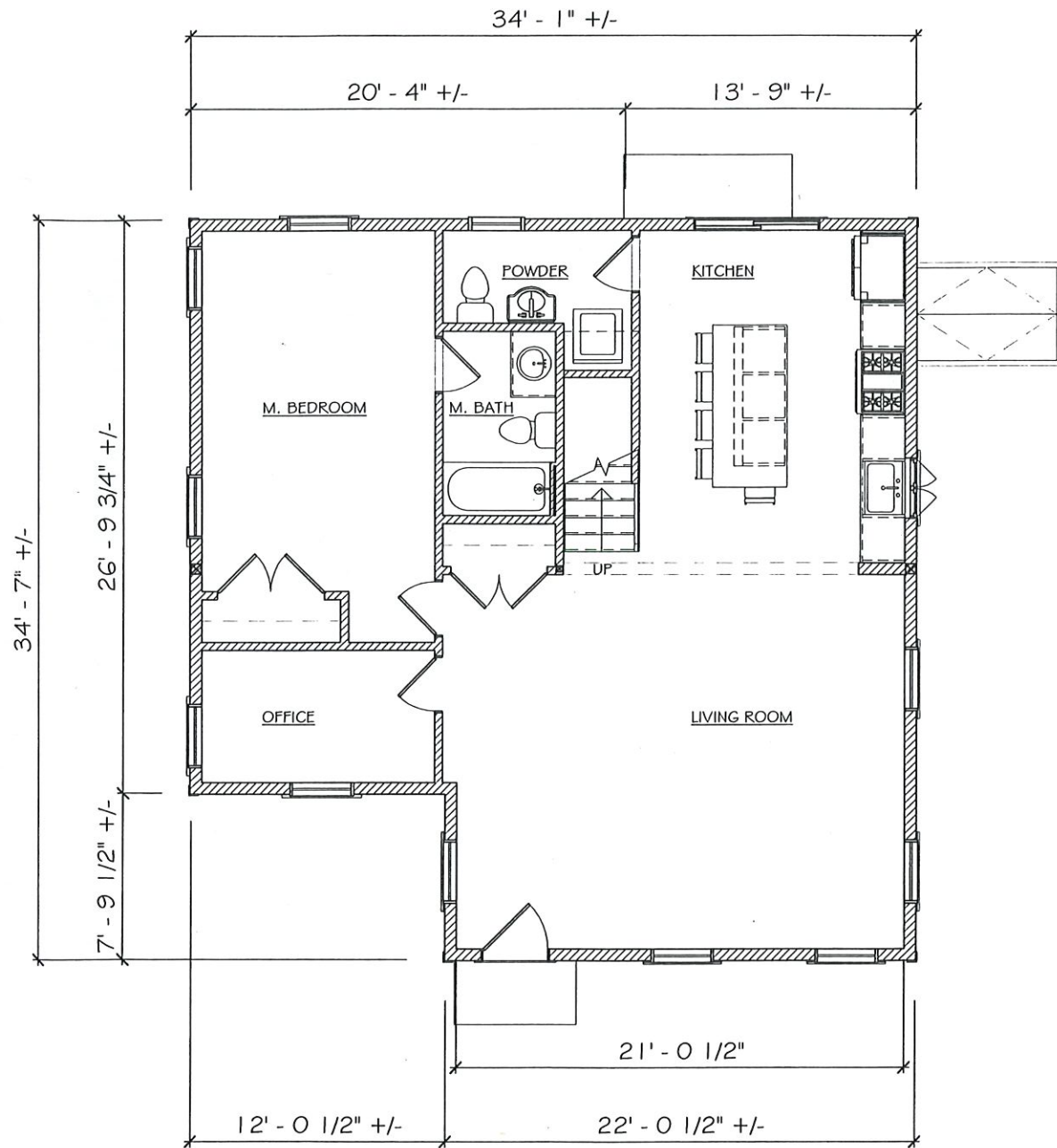
Proposed Renovations to the
78 Lovers Ln

Harwich, MA 02645

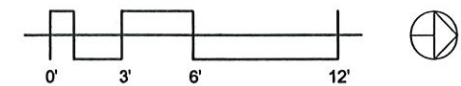
A 1.0



2 Proposed - Second Floor Plan
1/8" = 1'-0"



1 Proposed - First Floor Plan
1/8" = 1'-0"



Muldoon Architects llc
571 Ma-28, Harwich Port, MA 02646
t: 774 . 237 . 9671 www.muldoonarch.com

Proposed Floor Plans

Drawn By: MM

Scale: As Noted

Date: 10/19/2023

Proposed Renovations to the
78 Lovers Ln
Harwich, MA 02645

A1.1



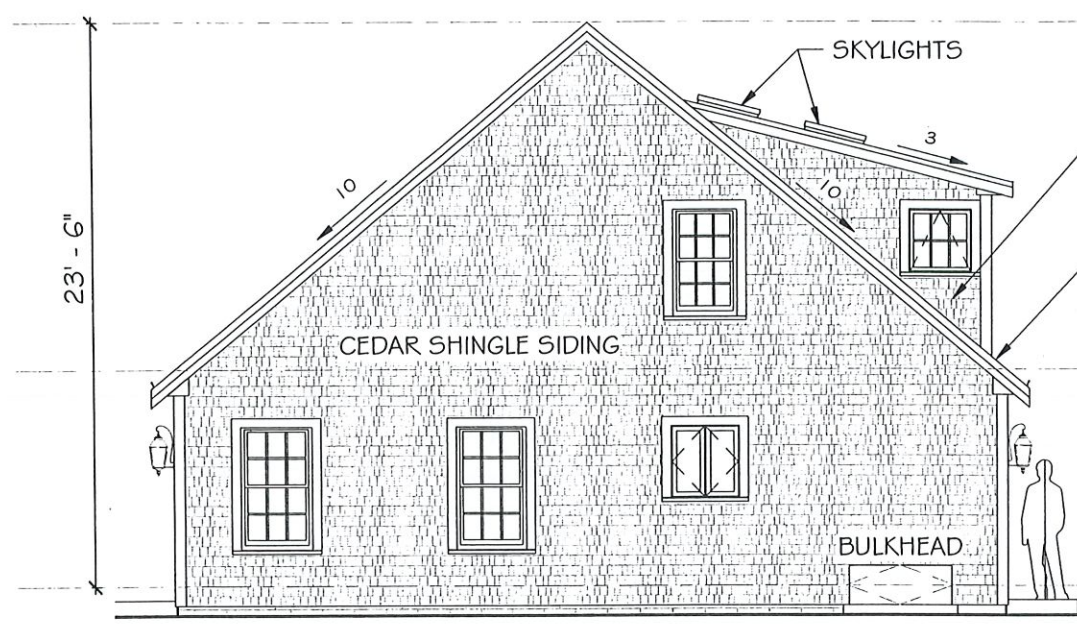
Muldoon Architects llc
 571 Ma-28, Harwich Port, MA 02646
 t: 774 . 237 . 9671 www.muldoonarch.com

Proposed Elevations

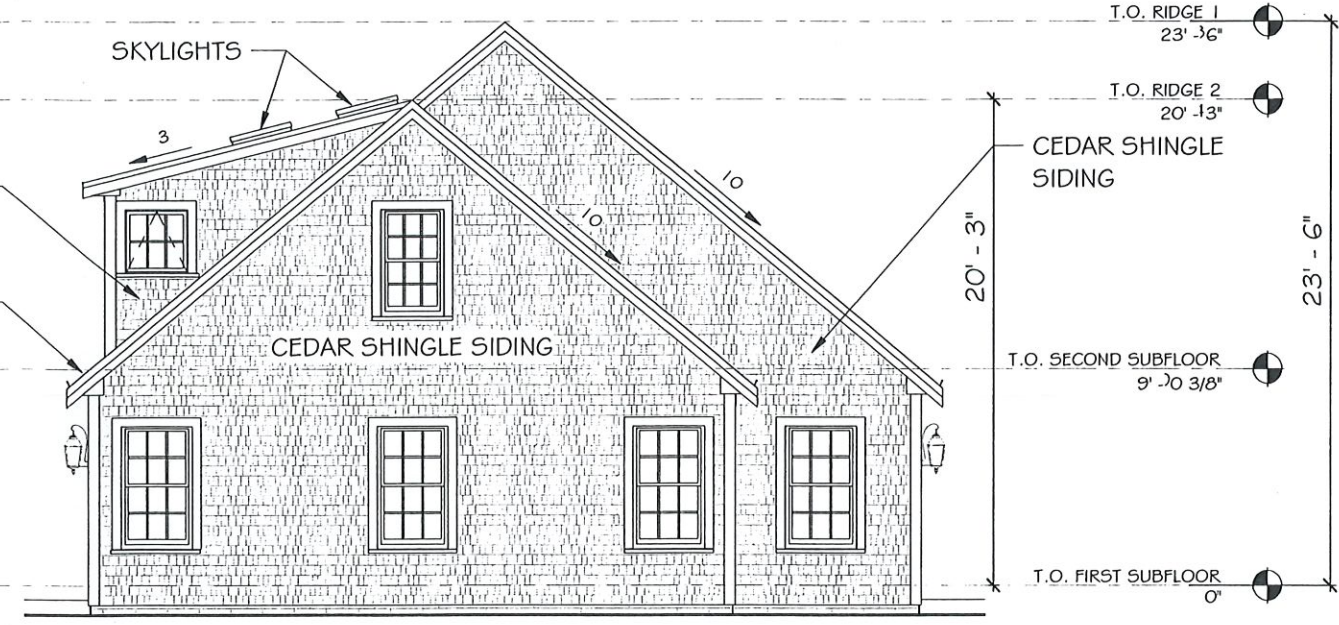
Scale: As Noted
 Date: 10/19/2023
 Drawn By: MM

Proposed Renovations to the
78 Lovers Ln
 Harwich, MA 02645

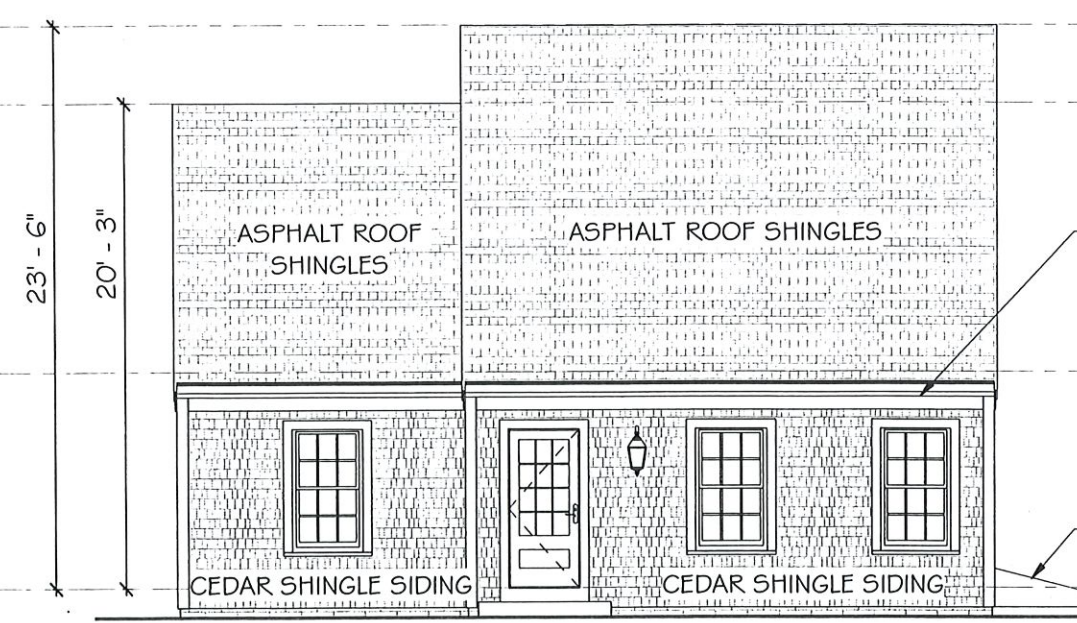
A 2.1



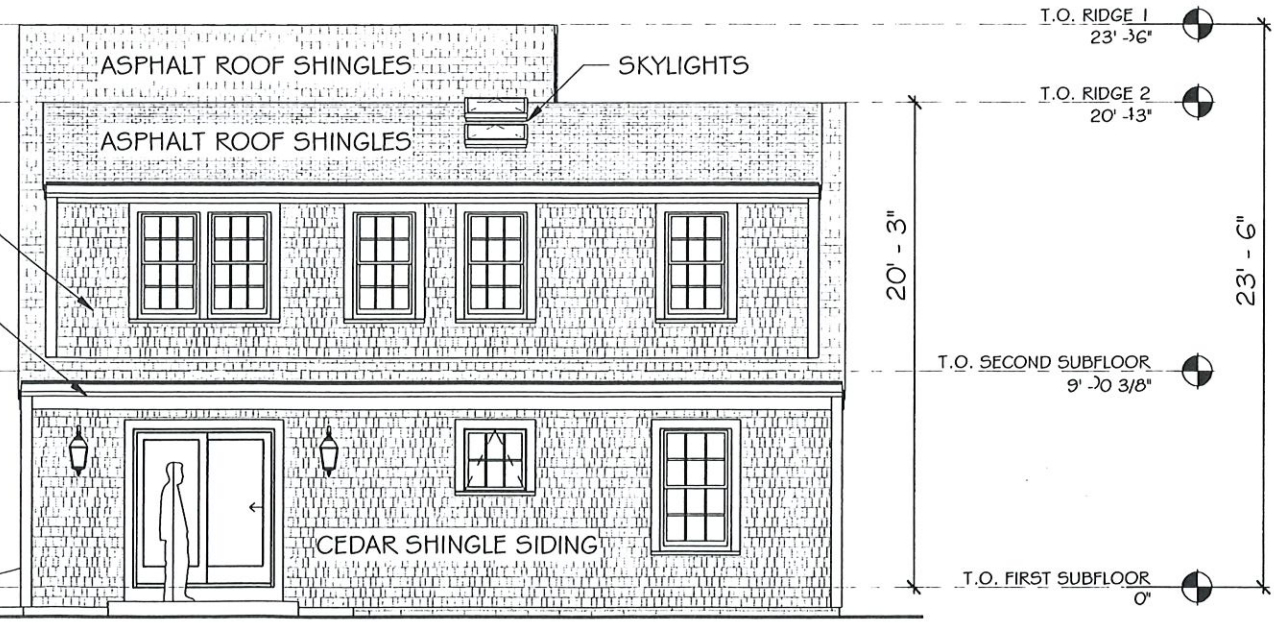
1 Proposed - North Elevation
 1/8" = 1'-0"



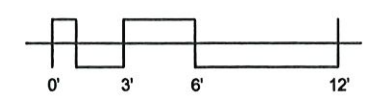
2 Proposed - South Elevation
 1/8" = 1'-0"



3 Proposed - East Elevation
 1/8" = 1'-0"

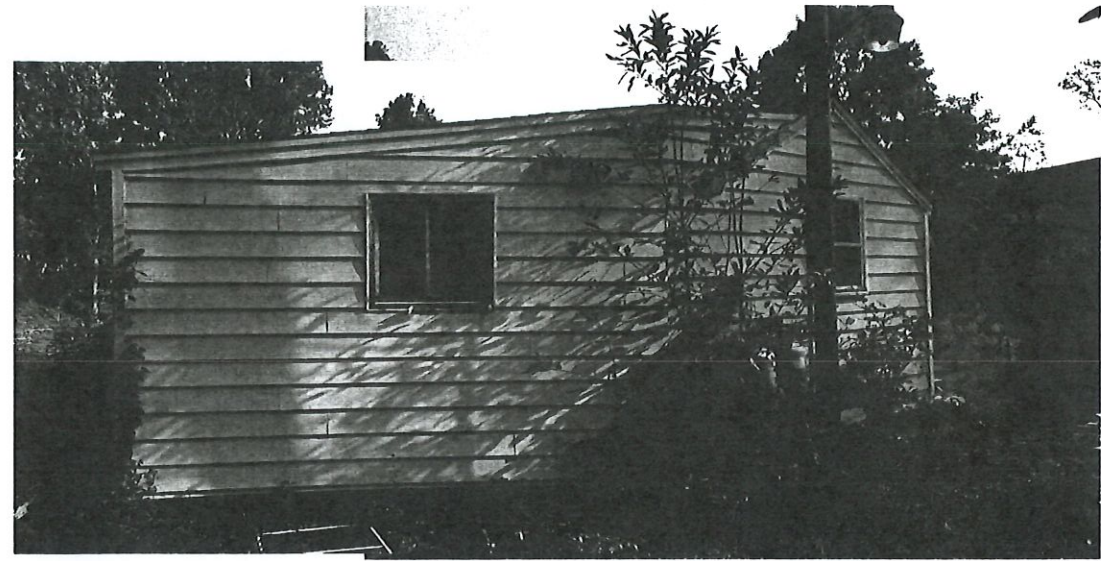


4 Proposed - West Elevation
 1/8" = 1'-0"





EXISTING NORTH ELEVATION



EXISTING SOUTH ELEVATION



EXISTING EAST ELEVATION



EXISTING WEST ELEVATION



Muldoon Architects llc

571 Ma-28, Harwich Port, MA 02646
t: 774 . 237 . 9671 www.muldoonarch.com

Existing Elevations

Scale: As Noted
Date: 10/19/2023

Drawn By: MM

Proposed Renovations to the

78 Lovers Ln

Harwich, MA 02645

X 2.1



Drawing List	
Sheet Number	Sheet Name
X1.0	Existing Floor Plans
X1.1	Existing Floor Plans
A1.0	Proposed Basement Plan
A1.1	Proposed Floor Plans
A2.1	Proposed Elevations

M
Architects

Muldoon Architects LLC
571 Ma-28
Harwich Port, MA
774 237 9671
www.muldoonarch.com



Revisions	
#	Date: Description

SD 02
October 12, 2023

78 Lovers Ln

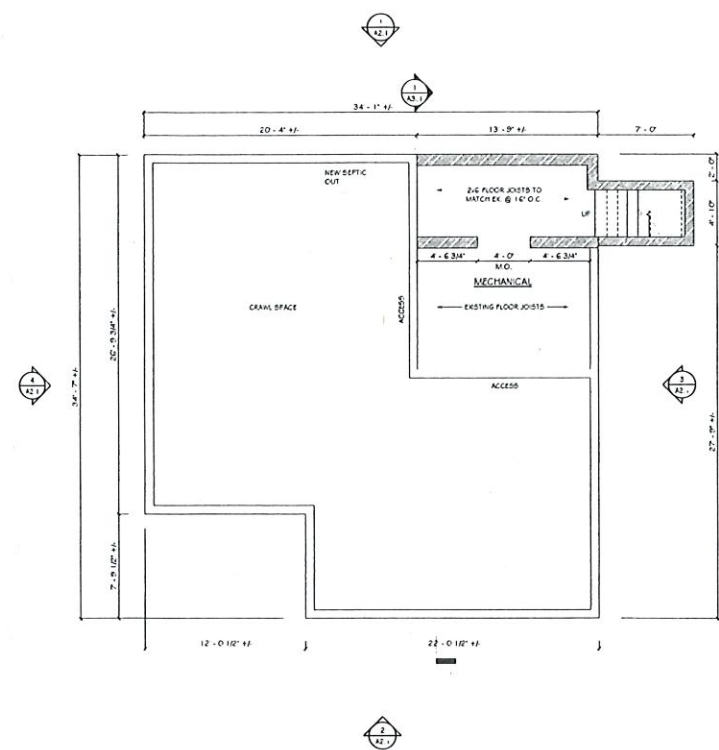
Project Status: Schematic Design 02
10/12/2023

Harwich, MA 02645

78 Lovers Ln
Harwich, MA 02645

Cover Sheet
Scale: 1/8" = 1'-0"
Drawn By: LM
Checked By: PM
Project #: 137023

A0.0



1 Proposed Basement Plan
1/8" = 1'-0"



Muldoon Architects
Muldoon Architects Inc
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Harwich Port MA
774 237 9671
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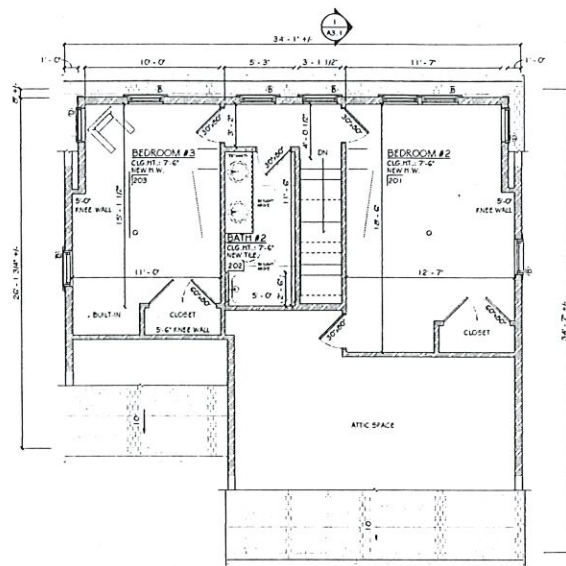
Revisions	
#	Date Description
1	SD 02 October 12, 2023

78 Lovers Ln
Harwich, MA 02645

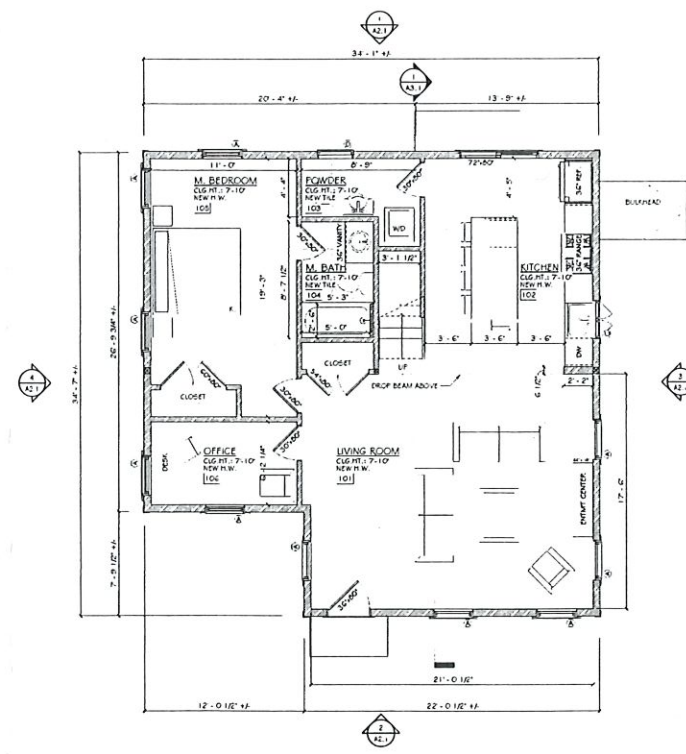
Proposed Basement Plan

Project # 1370023
Date: 10/12/23
Drawing: 101

A1.0



2 Proposed Second Floor Plan
1/4" = 1'-0"



1 Proposed First Floor Plan
1/4" = 1'-0"



Muldoon Architects Inc.
571 MA-28
Harwich Port MA
774 237 9671

www.muldoonarch.com



Revisions
Date Description

SD 02
October 12, 2023

78 Lovers Ln
Harwich, MA 02645

Proposed Floor Plans

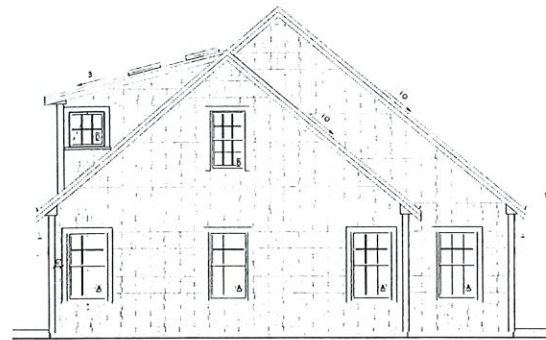
Project No. 137903
Date: 10/13/23
Drawn by: MM
Checked by: TN

A1.1

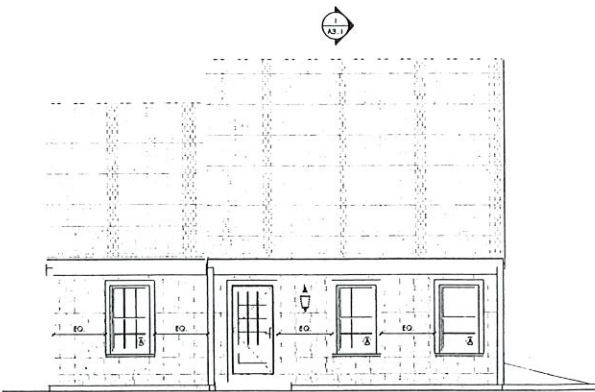
Window Schedule						
TYPE	MANUFACTURER	SERIES	MODEL	WIDTH	HEIGHT	COMMENTS
A	Andersen Corporation	400 Series 18" x 24" Double Hung	Tw210410	35 5/8"	60 7/8"	
B	Andersen Corporation	400 Series 18" x 24" Double Hung	Tw2042	31 5/8"	52 7/8"	
C	Andersen Corporation	400 Series Casement	6423	33 3/4"	35 1/2"	
D	Andersen Corporation	400 Series Awning	AW281	31 1/2"	31 1/2"	
E	Value	VES Series	MS2	20 3/16"	30 1/2"	Side Faced Trim At 5/8" Light - Dark Moulded



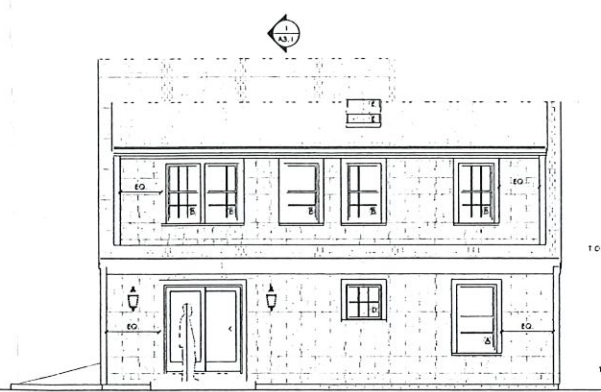
3 Proposed East Elevation
1/4" = 1'-0"



4 Proposed West Elevation
1/4" = 1'-0"



2 Proposed South Elevation
1/4" = 1'-0"



1 Proposed North Elevation
1/4" = 1'-0"

T.O. ROOF 1
23'-0"

T.O. ROOF 2
20'-3"

T.O. SECOND SUBFLOOR
9'-0.30"

T.O. FIRST SUBFLOOR
0'-0"

T.O. ROOF 1
23'-0"

T.O. ROOF 2
20'-3"

T.O. SECOND SUBFLOOR
9'-0.30"

T.O. FIRST SUBFLOOR
0'-0"

M
Architects

Muldoon Architects Inc.
571 MA-28
Harwich Port MA
774 237 9671

www.muldoonarch.com



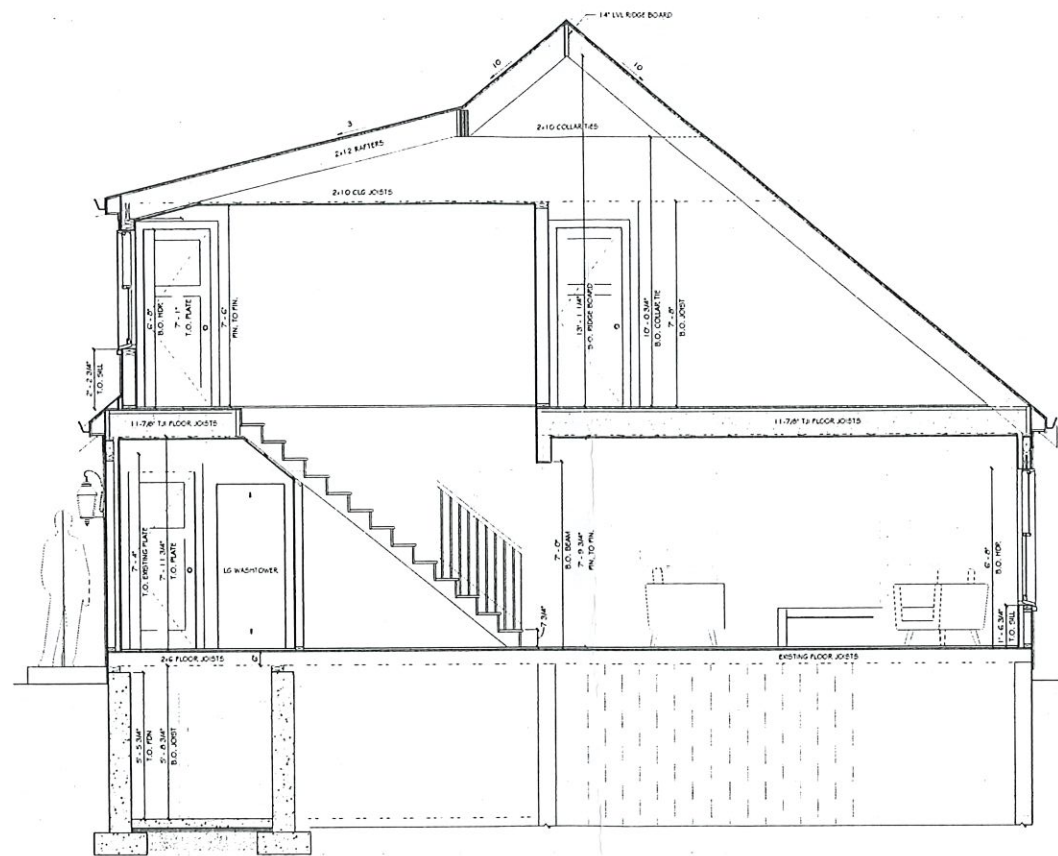
Revisions	
#	Date: Description

SD 02
October 12, 2023

78 Lovers Ln
Harwich, MA 02645

Proposed Elevations
Sheet # 137023
Date: 10/12/23
Drawn by: UM
Checked by: RM

A2.1



- T.O. EDGE 1
23'-0"
- T.O. SECOND FLOOR PLATE
10'-8 3/8"
- B.O. SECOND FLOOR
15'-8 3/8"
- T.O. SECOND SUBFLOOR
9'-0 3/8"
- T.O. FIRST FLOOR PLATE
7'-11 3/4"
- T.O. EXISTING PLATE
7'-4"
- B.O. FIRST FLOOR
6'-0"
- T.O. FIRST SUBFLOOR
0'-0 1/2"
- T.O. FIN
0'-4 3/4"
- T.O. SUB
-3'-0 1/2"
- B.O. FOOTING
-7'-7 1/2"

1 Section @ Stair
1/2" = 1'-0"



Mulloon Architects LLC
571 MA-28
Harwich Port MA
774 237 9671
www.mulloonarch.com



Revisions	
#	Date: Description

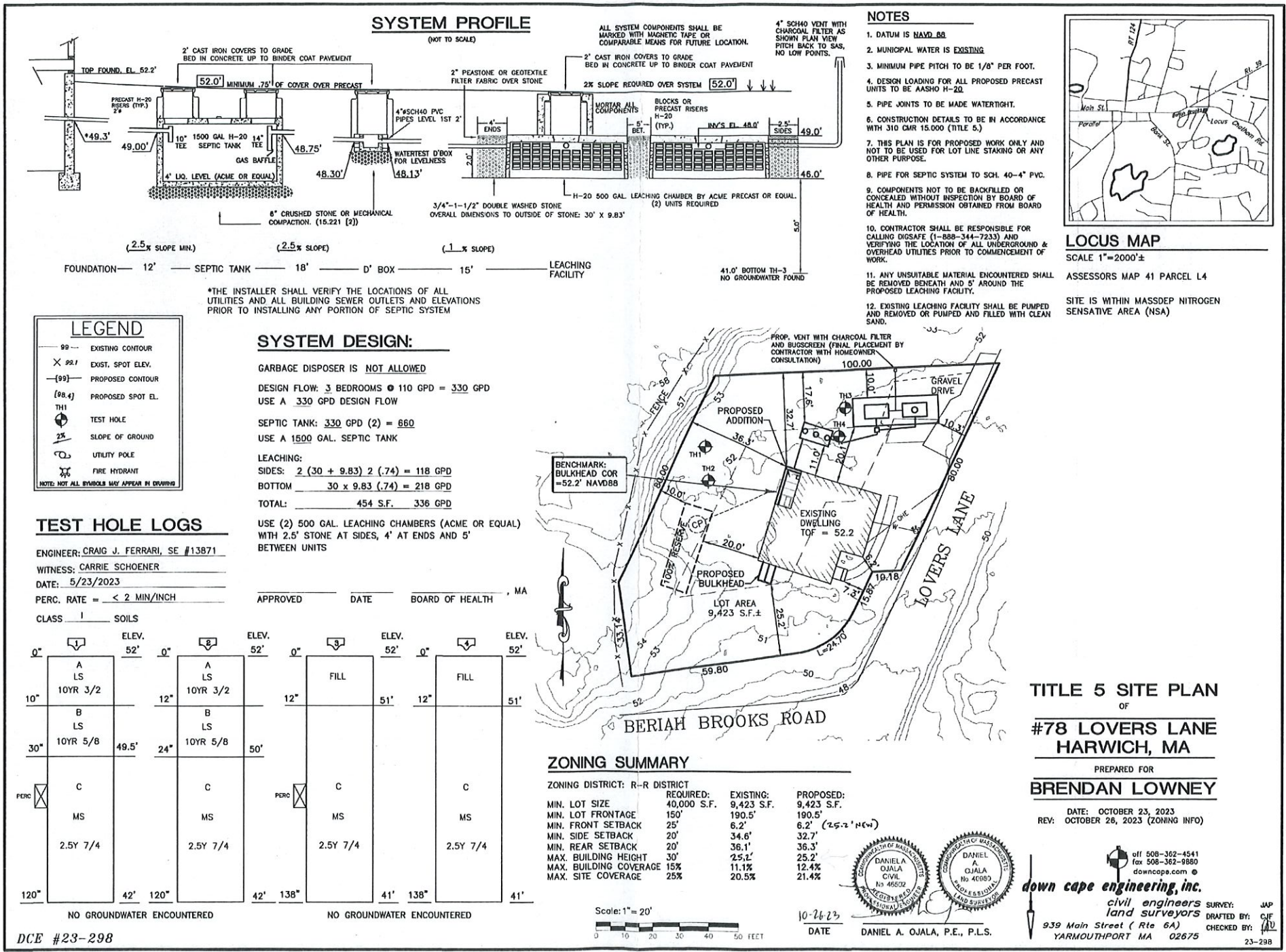
SD 02
October 12, 2023

78 Lovers Ln
Harwich, MA 02645

Proposed Section

Project # 137203
Sheet No. 107 of 107
Drawn by: JLN
Checked by: RM

A3.1



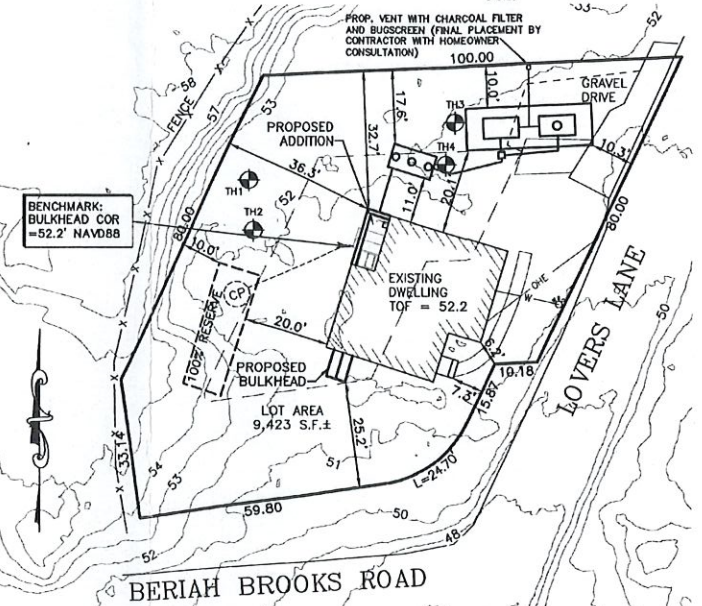
LOCUS MAP

SCALE 1"=2000'±

ASSESSORS MAP 41 PARCEL L4

SITE IS WITHIN MASSDEP NITROGEN SENSITIVE AREA (NSA)

- #### NOTES
1. DATUM IS NAVD_83
 2. MUNICIPAL WATER IS EXISTING
 3. MINIMUM PIPE PITCH TO BE 1/8" PER FOOT.
 4. DESIGN LOADING FOR ALL PROPOSED PRECAST UNITS TO BE AASHO H-20.
 5. PIPE JOINTS TO BE MADE WATERTIGHT.
 6. CONSTRUCTION DETAILS TO BE IN ACCORDANCE WITH 310 CMR 15.000 (TITLE 5)
 7. THIS PLAN IS FOR PROPOSED WORK ONLY AND NOT TO BE USED FOR LOT LINE STAKING OR ANY OTHER PURPOSE.
 8. PIPE FOR SEPTIC SYSTEM TO SCH. 40-4" PVC.
 9. COMPONENTS NOT TO BE BACKFILLED OR CONCEALED WITHOUT INSPECTION BY BOARD OF HEALTH AND PERMISSION OBTAINED FROM BOARD OF HEALTH.
 10. CONTRACTOR SHALL BE RESPONSIBLE FOR CALLING DIGSAFE (1-888-344-7233) AND VERIFYING THE LOCATION OF ALL UNDERGROUND & OVERHEAD UTILITIES PRIOR TO COMMENCEMENT OF WORK.
 11. ANY UNSUITABLE MATERIAL ENCOUNTERED SHALL BE REMOVED BENEATH AND 5' AROUND THE PROPOSED LEACHING FACILITY.
 12. EXISTING LEACHING FACILITY SHALL BE PUMPED AND REMOVED OR PUMPED AND FILLED WITH CLEAN SAND.



ZONING SUMMARY

ZONING DISTRICT: R-R DISTRICT

REQUIRED:	EXISTING:	PROPOSED:
MIN. LOT SIZE 40,000 S.F.	9,423 S.F.	9,423 S.F.
MIN. LOT FRONTAGE 150'	190.5'	190.5'
MIN. FRONT SETBACK 25'	6.2'	6.2' (25.2' H&W)
MIN. SIDE SETBACK 20'	34.6'	32.7'
MIN. REAR SETBACK 20'	36.1'	36.3'
MAX. BUILDING HEIGHT 30'	25.1'	25.2'
MAX. BUILDING COVERAGE 15%	11.1%	12.4%
MAX. SITE COVERAGE 25%	20.5%	21.4%

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DRAFTED BY: CJF
CHECKED BY: [Signature]
23-298