# CITY OF CAMBRIDGE

BOARD OF ZONING APPEAL

831 Massachusetts Avenue, Cambridge MA 02139

617-349-6100

2021 JUL 19 PM 2:32

OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

## BZA Application Form

**BZA Number: 133276**

### General Information

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

Special Permit: ___X___ Variance: _____ Appeal: _____

**PETITIONER:** Applicant: Emily Ma and John Mistovich, Owner: Tuscan West, LLC C/O James J. Rafferty

**PETITIONER'S ADDRESS:** 907 Massachusetts Avenue, MA, Cambridge 02139

**LOCATION OF PROPERTY:** 20 Larchwood Dr , Cambridge, MA

**TYPE OF OCCUPANCY:** SINGLE FAMILY **ZONING DISTRICT:** Residence A-1 Zone

**REASON FOR PETITION:**

/Additions/

**DESCRIPTION OF PETITIONER'S PROPOSAL:**

Petitioner seeks to construct enclosed front entry, a two story addition and a single story addition with deck above, also sited within the front setback. Petitioner also seeks to construct two story rear addition.

**SECTIONS OF ZONING ORDINANCE CITED:**

Article: 5.000 Section: 5.31 (Table of Dimensional Requirements).
Article: 8.000 Section: 8.22.2(d) (Non-Conforming Structure).
Article: 10.000 Section: 10.40 (Special Permit).

Original Signature(s): _____
*(Petitioner (s) / Owner)*

James J. Rafferty
(Print Name)

Address:

Tel. No. 617.492.4100
E-Mail Address: jrafferty@adamsrafferty.com

**Date:** 7/19/21

## OWNERSHIP INFORMATION FOR BOARD OF ZONING APPEAL RECORD

To be completed by OWNER, signed and returned to Secretary of Board of Appeal

Emily Ma and John Mistovich
(Owner or Petitioner)

Address: c/o James J. Rafferty 907 Massachusetts Avenue, Cambridge MA 02139

Location of Premises: 20 Larchwood Drive

the record title standing in the name of Tuscan West, LLC

whose address is 10202 Rafter O Trail, Helotes, TX 78023
(Street) (City or Town) (State & Zip Code)

by a deed duly recorded in the Middlesex South County Registry of Deeds in

Book 59891 Page 282 or _____ Registry

District of Land Court Certificate No. _____ Book _____ Page _____

(Authorized Agent)

==========

On this 19th day of July 2021, before me, the undersigned notary public, personally appeared James J. Rafferty proved to me through satisfactory evidence of identification, which were personally known, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

CATHERINE M. WILLIAMS
Notary Public
Commonwealth of Massachusetts
My Comm. Expires March 21, 2025

Catherine M. Williams
Notary Public

My commission expires: 3/21/25

CATHERINE M. WILLIAMS
Notary Public
Commonwealth of Massachusetts
My Comm. Expires March 21, 2025

# BZA Application Form

## SUPPORTING STATEMENT FOR A SPECIAL PERMIT

**Please describe in complete detail how you meet each of the following criteria referring to the property and proposed changes or uses which are requested in your application. Attach sheets with additional information for special permits which have additional criteria, e.g.; fast food permits, comprehensive permits, etc., which must be met.**

**Granting the Special Permit requested for 20 Larchwood Dr , Cambridge, MA (location) would not be a detriment to the public interest because:**

**A)** Requirements of the Ordinance can or will be met for the following reasons:

The provisions of Section 6, Chapter 40A, G.L. recognize the ability for single and two family dwellings to be altered as proposed in this application.

**B)** Traffic generated or patterns of access or egress would not cause congestion hazard, or substantial change in established neighborhood character for the following reasons:

The proposed additions will not alter traffic patterns.

**C)** The continued operation of or the development of adjacent uses as permitted in the Zoning Ordinance would not be adversely affected by the nature of the proposed use for the following reasons:

The adjacent uses are all similarly sized single family dwellings.

**D)** Nuisance or hazard would not be created to the detriment of the health, safety, and/or welfare of the occupant of the proposed use or the citizens of the City for the following reasons:

The proposed additions represent an increase of only approximately 8% of the existing structure which will not create any detriment to the health of Cambridge citizens.

**E)** For other reasons, the proposed use would not impair the integrity of the district or adjoining district or otherwise derogate from the intent or purpose of this ordinance for the following reasons:

The intensity of the use of this single family dwelling will not be altered as a result of the proposed addition. As a result, there will not be any detrimental effect to the neighborhood. The structure will continue to comply with the FAR and Open Space requirements of the Residence A-1 Zoning District.

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

# BZA Application Form

## DIMENSIONAL INFORMATION

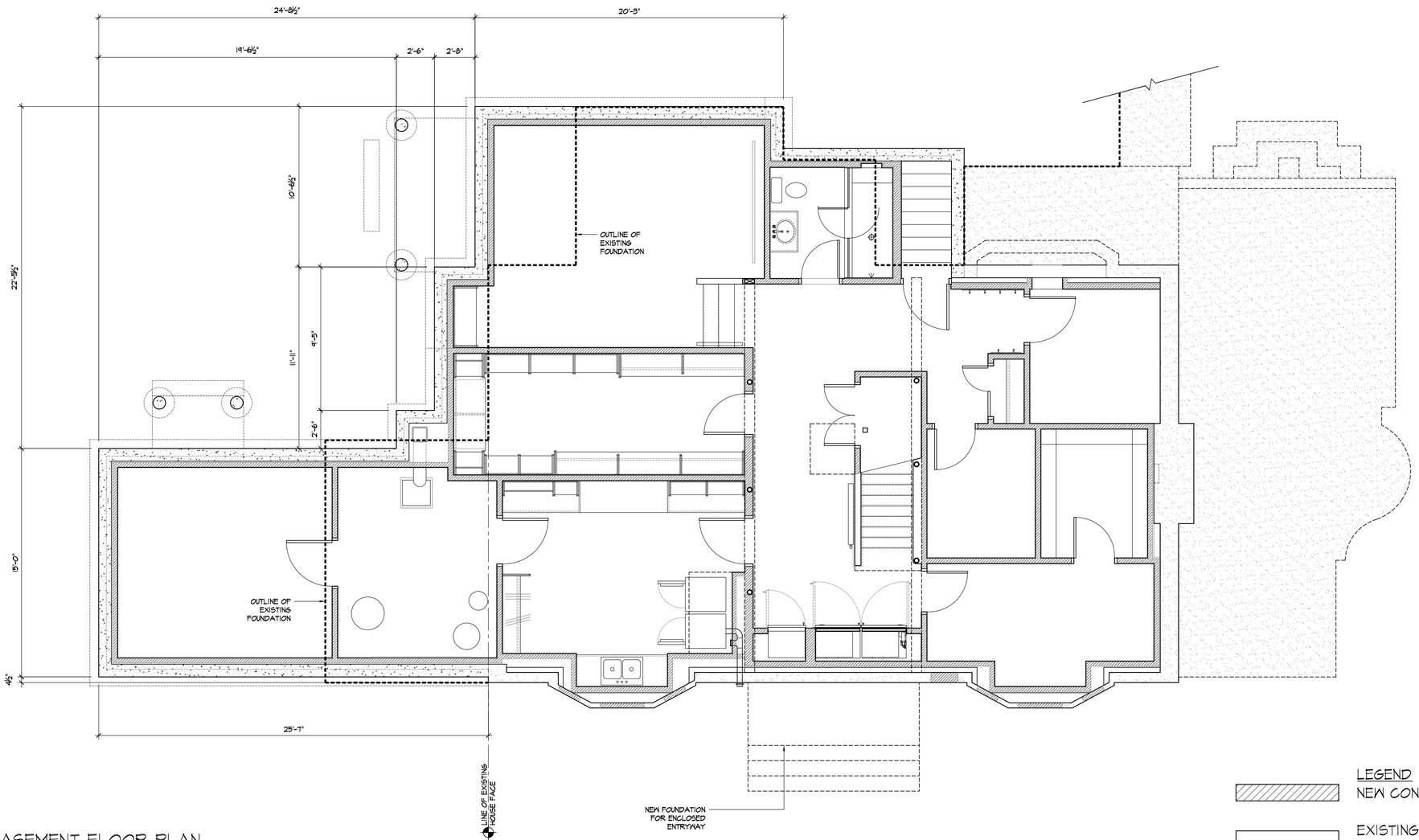
**Applicant:** Applicant: Emily Ma and John Mistovich, Owner: Tuscan West, LLC
**Location:** 907 Massachusetts Avenue
**Phone:** 617.492.4100

**Present Use/Occupancy:** SINGLE FAMILY
**Zone:** Residence A-1 Zone
**Requested Use/Occupancy:** SINGLE FAMILY

| | | Existing Conditions | Requested Conditions | Ordinance Requirements | |
|---|---|---|---|---|---|
| TOTAL GROSS FLOOR AREA: | | 5,617 sf | 6,574 sf | 7,876 sf | (max.) |
| LOT AREA: | | 15,752 sf | no change | 8,000 sf | (min.) |
| RATIO OF GROSS FLOOR AREA TO LOT AREA: [2] | | .36 | .41 | .5 | |
| LOT AREA OF EACH DWELLING UNIT | | 15,752 sf | no change | 6,000 sf | |
| SIZE OF LOT: | WIDTH | 138.51' | no change | 80' | |
| | DEPTH | 133.857' | no change | N/A | |
| SETBACKS IN FEET: | FRONT | 13.2' | 10.6' | 25' | |
| | REAR | 49.6' | no change | 25' | |
| | LEFT SIDE | 28.5' | 18.8' | 15' (sum to 35') | |
| | RIGHT SIDE | 3.3' | no change | 15' (sum to 35') | |
| SIZE OF BUILDING: | HEIGHT | 27.83' | no change | 35' | |
| | WIDTH | 99.13' | no change | N/A | |
| RATIO OF USABLE OPEN SPACE TO LOT AREA: | | 66 | 63.4 | 50 | |
| NO. OF DWELLING UNITS: | | 1 | no change | 2 | |
| NO. OF PARKING SPACES: | | 1 | no change | 1 | |
| NO. OF LOADING AREAS: | | 0 | no change | N/A | |
| DISTANCE TO NEAREST BLDG. ON SAME LOT | | N/A | no change | N/A | |

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

1. SEE CAMBRIDGE ZONING ORDINANCE ARTICLE 5.000, SECTION 5.30 (DISTRICT OF DIMENSIONAL REGULATIONS).
2. TOTAL GROSS FLOOR AREA (INCLUDING BASEMENT 7'-0" IN HEIGHT AND ATTIC AREAS GREATER THAN 5') DIVIDED BY LOT AREA.
3. OPEN SPACE SHALL NOT INCLUDE PARKING AREAS, WALKWAYS OR DRIVEWAYS AND SHALL HAVE A MINIMUM DIMENSION OF 15'.




1 BASEMENT FLOOR PLAN

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

LEGEND

NEW CONSTRUCTION

EXISTING WALLS, PARTITIONS & COMPONENTS TO REMAIN

OUTLINE OF EXISTING HOUSE FOR REFERENCE

NO WORK IN THIS AREA

0 2' 4' 8'

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

N

NOTE:

1. DIMENSION SHOW ARE FROM FACE OF FOUNDATION TO FACE OF FOUNDATION AND DO NOT INCLUDED EXTERIOR TRIM OR CLADDING.

# RENOVATIONS TO LWD PHASE III

CAMBRIDGE, MA

BECHTEL FRANK ERICKSON ARCHITECTS, INC.
1840 MASSACHUSETTS AVE
LEXINGTON, MA 02420
(781) 862-3313
www.bfearc.com

| | |
|---|---|
| 05/05 2021 | ZBA APPLICATION |

ISSUANCES

DRAWING TITLE

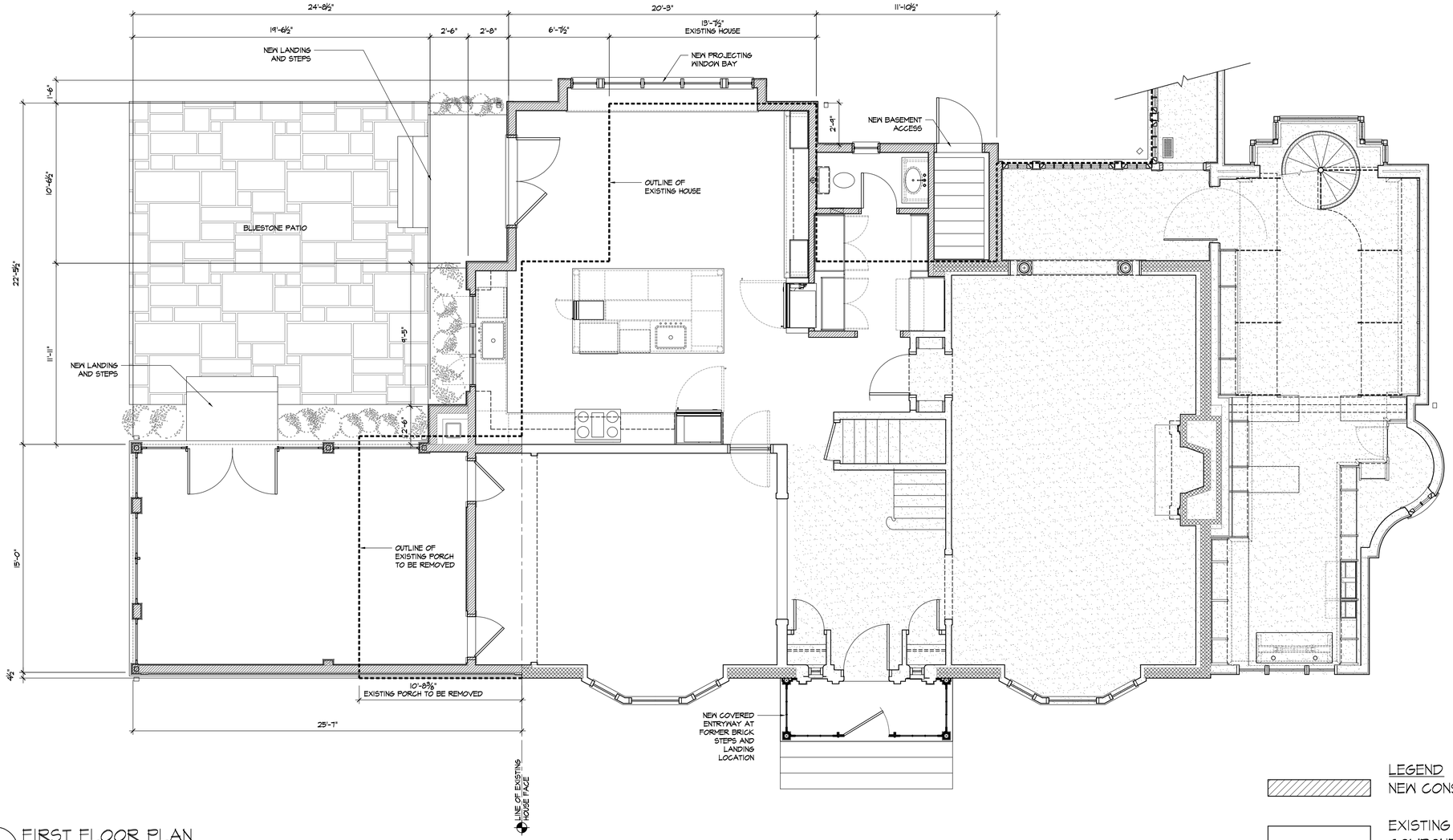
BASEMENT FLOOR PLAN

DATE 05 MAY 2021

SCALE 1/4" = 1'-0"

BFE PROJ. No. 1904.00

A1.0




1 FIRST FLOOR PLAN

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

LEGEND

NEW CONSTRUCTION

EXISTING WALLS, PARTITIONS & COMPONENTS TO REMAIN

OUTLINE OF EXISTING HOUSE FOR REFERENCE

NO WORK IN THIS AREA

0 2' 4' 8'

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

N

NOTE:

1. DIMENSION SHOW ARE FROM FACE OF FOUNDATION TO FACE OF FOUNDATION AND DO NOT INCLUDED EXTERIOR TRIM OR CLADDING.

# RENOVATIONS TO LWD PHASE III

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| | |
|---|---|
| 05/05 2021 | ZBA APPLICATION |

ISSUANCES

DRAWING TITLE

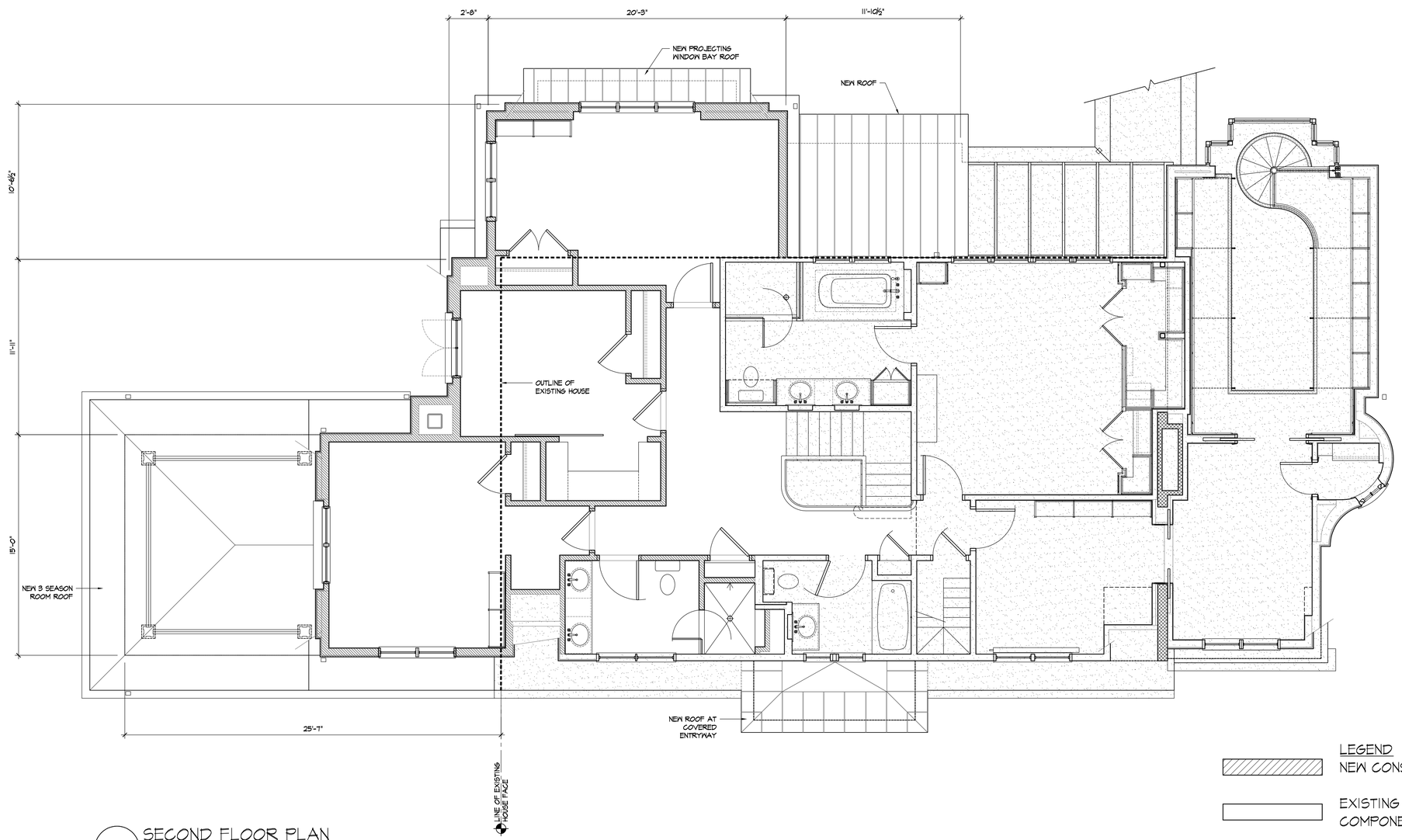
FIRST FLOOR PLAN

DATE 05 MAY 2021

SCALE 1/4" = 1'-0"

BFE PROJ No. 1904.00

A1.1




1 SECOND FLOOR PLAN

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

LEGEND

NEW CONSTRUCTION

EXISTING WALLS, PARTITIONS & COMPONENTS TO REMAIN

OUTLINE OF EXISTING HOUSE FOR REFERENCE

NO WORK IN THIS AREA

0 2' 4' 8'

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

N

NOTE:

1. DIMENSION SHOW ARE FROM FACE OF FOUNDATION TO FACE OF FOUNDATION AND DO NOT INCLUDED EXTERIOR TRIM OR CLADDING.

# RENOVATIONS TO LWD PHASE III

CAMBRIDGE, MA

BECHTEL FRANK ERICKSON ARCHITECTS, INC.
1840 MASSACHUSETTS AVE
LEXINGTON, MA 02420
(781) 862-3313
www.bfearc.com

| | |
|---|---|
| 05/05 2021 | ZBA APPLICATION |

ISSUANCES

DRAWING TITLE

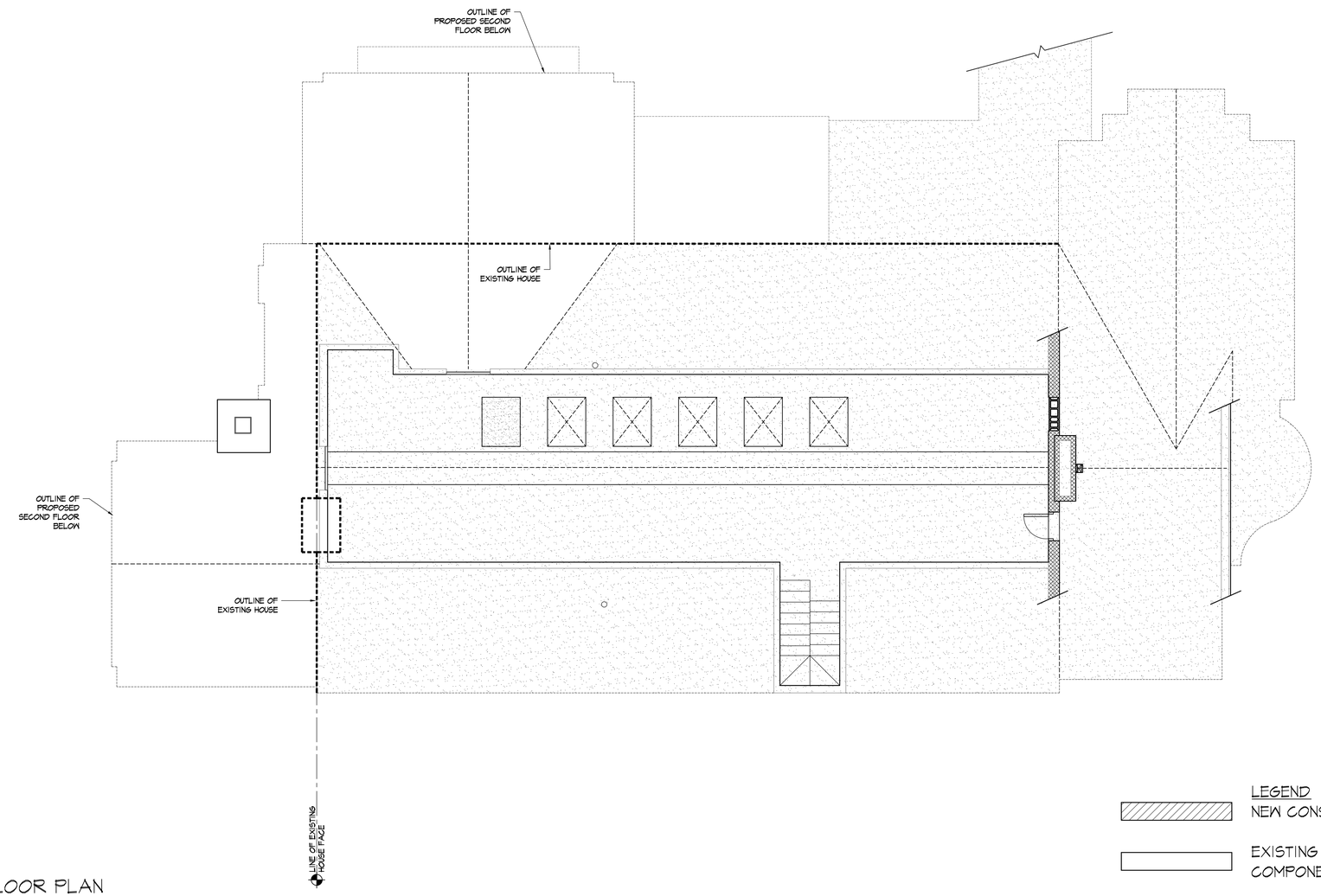
SECOND FLOOR PLAN

DATE 05 MAY 2021

SCALE 1/4" = 1'-0"

BFE PROJ No. 1904.00

A1.2




1 ATTIC FLOOR PLAN

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

LEGEND

NEW CONSTRUCTION

EXISTING WALLS, PARTITIONS & COMPONENTS TO REMAIN

OUTLINE OF EXISTING HOUSE FOR REFERENCE

NO WORK IN THIS AREA

0 2' 4' 8'

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

N

NOTE:

1. DIMENSION SHOW ARE FROM FACE OF FOUNDATION TO FACE OF FOUNDATION AND DO NOT INCLUDED EXTERIOR TRIM OR CLADDING.

# RENOVATIONS TO LWD PHASE III

CAMBRIDGE, MA

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1840 MASSACHUSETTS AVE
LEXINGTON, MA 02420
(781) 862-3313
www.bfearc.com

| | |
|---|---|
| 05/05 2021 | ZBA APPLICATION |

ISSUANCES

DRAWING TITLE

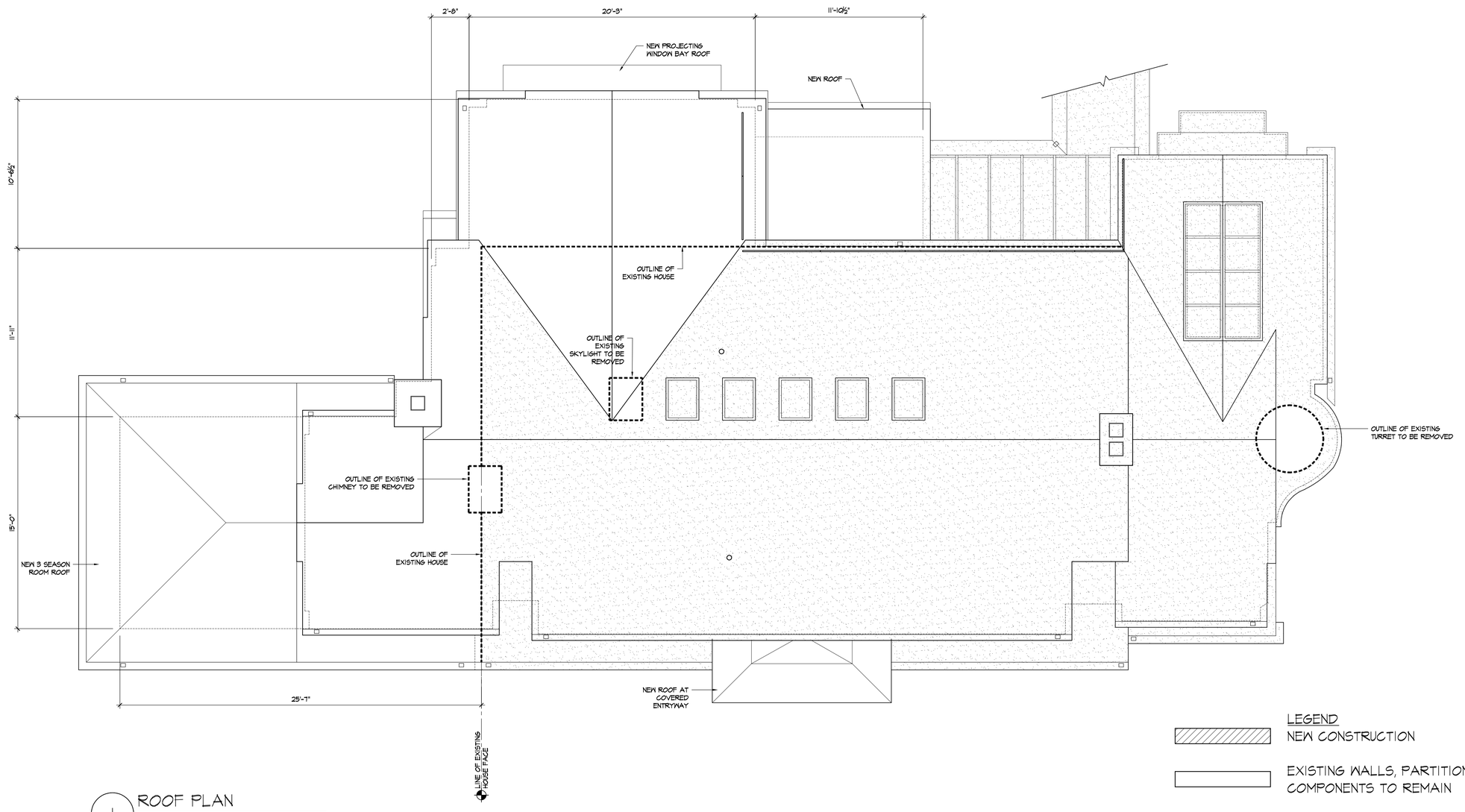
ATTIC FLOOR PLAN

DATE 05 MAY 2021

SCALE 1/4" = 1'-0"

BFE PROJ No. 1904.00

A1.3




1 ROOF PLAN

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

LEGEND

NEW CONSTRUCTION

EXISTING WALLS, PARTITIONS & COMPONENTS TO REMAIN

OUTLINE OF EXISTING HOUSE FOR REFERENCE

NO WORK IN THIS AREA

0 2' 4' 8'

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

N

NOTE:

1. DIMENSION SHOW ARE FROM FACE OF FOUNDATION TO FACE OF FOUNDATION AND DO NOT INCLUDED EXTERIOR TRIM OR CLADDING.

# RENOVATIONS TO LWD PHASE III

CAMBRIDGE, MA

BECHTEL FRANK ERICKSON ARCHITECTS, INC.
1840 MASSACHUSETTS AVE
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| | |
|---|---|
| 05/05 2021 | ZBA APPLICATION |

ISSUANCES

DRAWING TITLE

ROOF PLAN

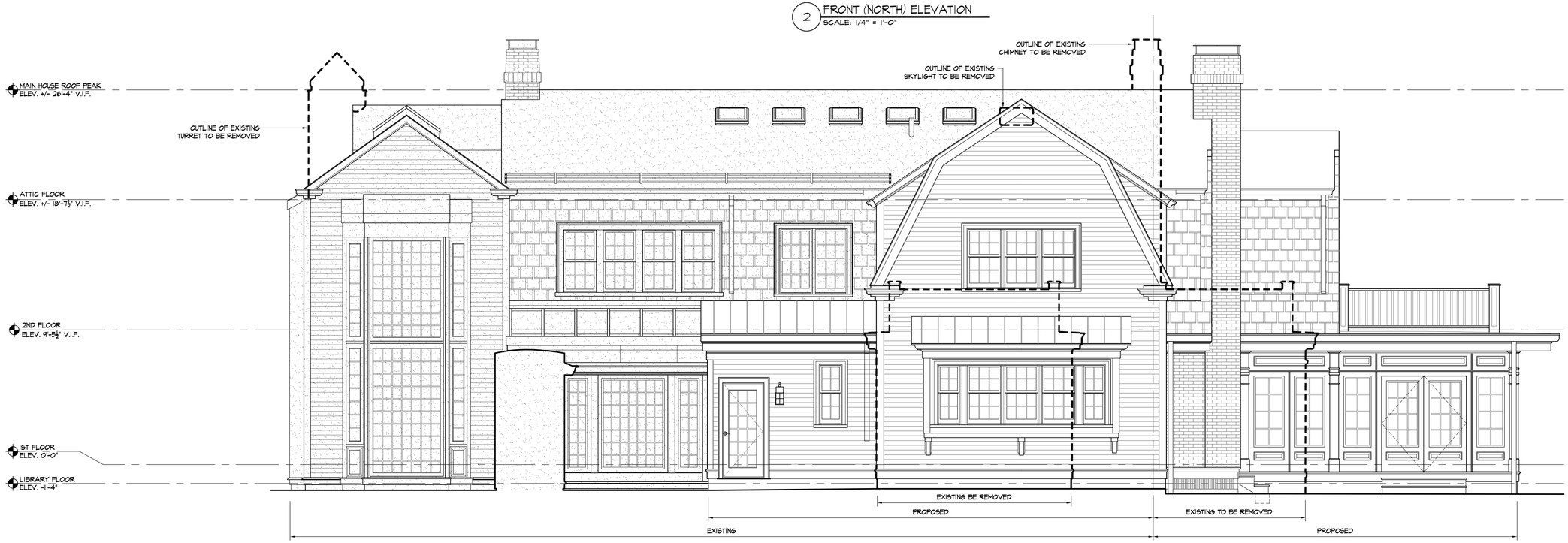
DATE 05 MAY 2021

SCALE 1/4" = 1'-0"

BFE PROJ No. 1904.00

A1.4


2 FRONT (NORTH) ELEVATION
SCALE: 1/4" = 1'-0"




1 REAR (SOUTH) ELEVATION
SCALE: 1/4" = 1'-0"

LEGEND
OUTLINE OF EXISTING RESIDENCE FOR REFERENCE

NO WORK IN THIS AREA

# RENOVATIONS TO LWD PHASE III

CAMBRIDGE, MA

BECHTEL FRANK ERICKSON ARCHITECTS, INC.
1840 MASSACHUSETTS AVE
LEXINGTON, MA 02420
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www.bfearc.com

| | |
|---|---|
| 05/05 2021 | ZBA APPLICATION |

ISSUANCES

DRAWING TITLE

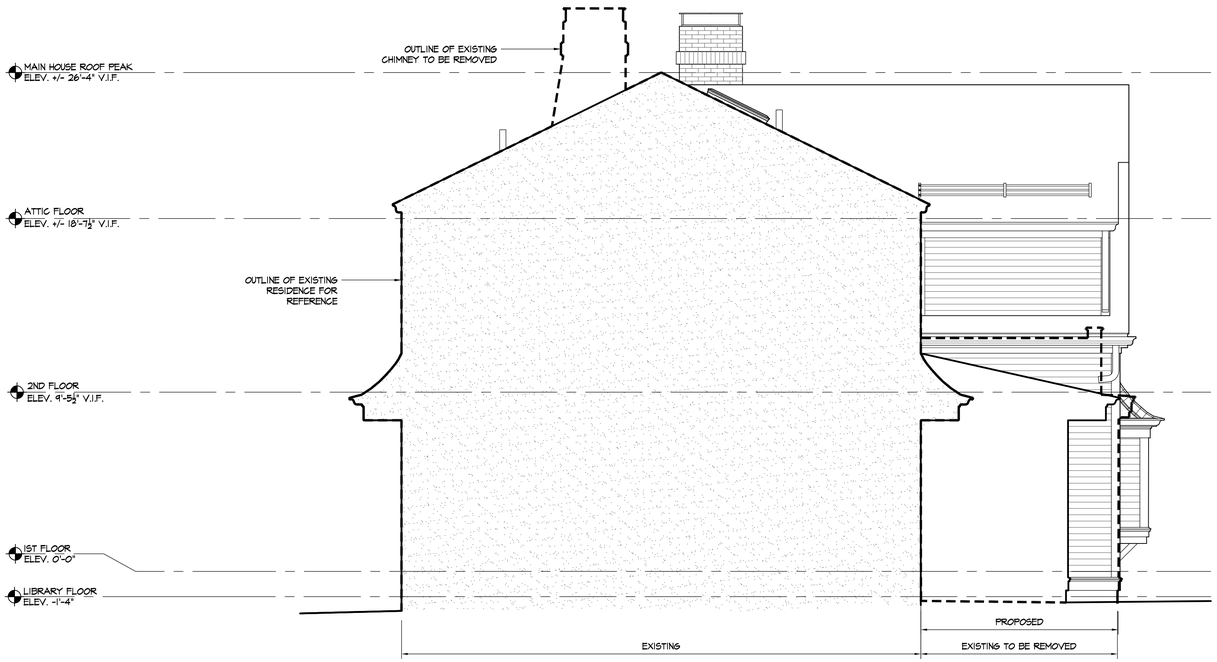
FRONT (NORTH) ELEVATION AND REAR (SOUTH) ELEVATION

DATE 05 MAY 2021

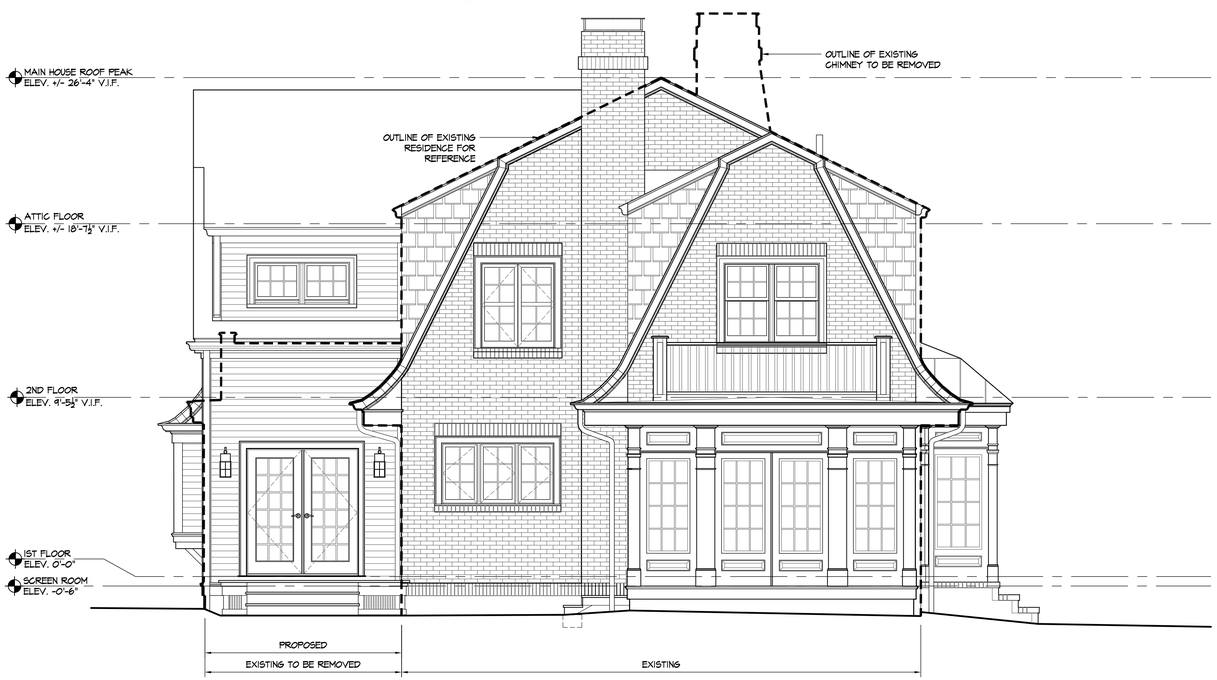
SCALE 1/4" = 1'-0"

BFE PROJ No. 1904.00

A2.1




2 SIDE (WEST) SECTION/ELEVATION
SCALE: 1/4" = 1'-0"




1 SIDE (EAST) ELEVATION
SCALE: 1/4" = 1'-0"

LEGEND
OUTLINE OF EXISTING
RESIDENCE FOR REFERENCE

NO WORK IN THIS AREA

RENOVATIONS TO LWD
PHASE III
CAMBRIDGE, MA

BECHTEL FRANK ERICKSON
ARCHITECTS, INC.
1840 MASSACHUSETTS AVE
LEXINGTON, MA 02420
(781) 862-3313
www.bfearc.com

| | |
|---|---|
| 05/05 2021 | ZBA APPLICATION |

ISSUANCES

DRAWING TITLE
SIDE (WEST) SECTION/ELEVATION AND SIDE (EAST) ELEVATION

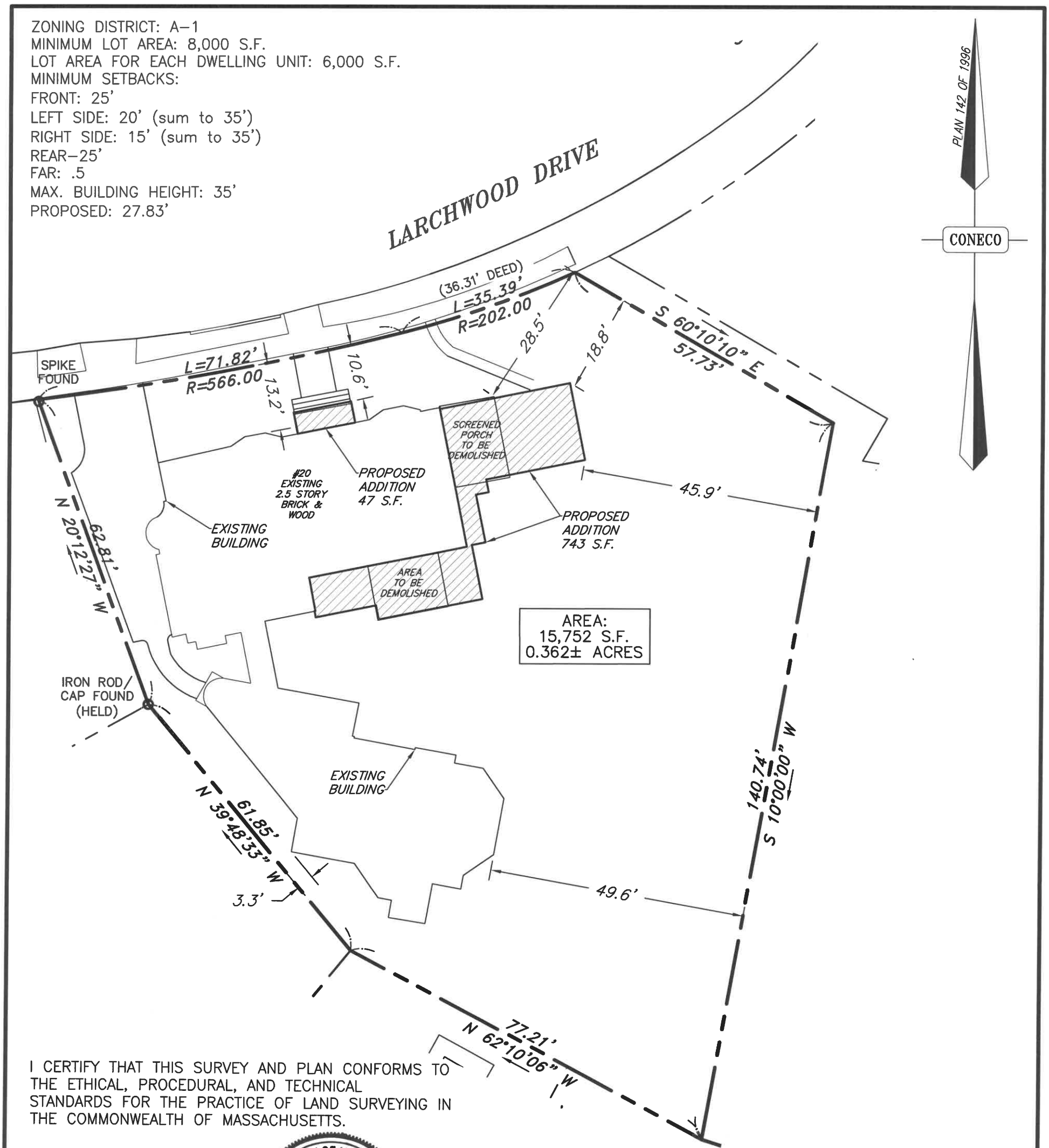
DATE 05 MAY 2021

SCALE 1/4" = 1'-0"

BFE PROJ No. 1904.00

A2.2

ZONING DISTRICT: A–1
MINIMUM LOT AREA: 8,000 S.F.
LOT AREA FOR EACH DWELLING UNIT: 6,000 S.F.
MINIMUM SETBACKS:
FRONT: 25'
LEFT SIDE: 20' (sum to 35')
RIGHT SIDE: 15' (sum to 35')
REAR–25'
FAR: .5
MAX. BUILDING HEIGHT: 35'
PROPOSED: 27.83'




I CERTIFY THAT THIS SURVEY AND PLAN CONFORMS TO THE ETHICAL, PROCEDURAL, AND TECHNICAL STANDARDS FOR THE PRACTICE OF LAND SURVEYING IN THE COMMONWEALTH OF MASSACHUSETTS.

COMMONWEALTH OF MASSACHUSETTS
TIMOTHY S. BODAH
No. 46110
PROFESSIONAL LAND SURVEYOR

TIMOTHY S. BODAH, PLS

OWNER OF RECORD:
TUSCAN WEST, LLC
PARCEL ID: MAP 250, LOT 191
BOOK 59891, PAGE 282


CONECO
Engineers & Scientists
4 FIRST STREET, BRIDGEWATER, MASSACHUSETTS 02324
PHONE 508–697–3191 OR 800–548–3355; FAX 508–697–5996
WEBSITE: www.coneco.com


CERTIFIED PLOT PLAN

# 20 LARCHWOOD DRIVE CAMBRIDGE, MA

20' 0 20' 40'
SCALE IN FEET

| PREPARED FOR: | HARDEN DESIGN & BUILD, INC. | | |
|---|---|---|---|
| SCALE | DATE | ACAD FILE | JOB NO. |
| 1"=20' | 06/08/2020 | 2384.DWG | 2384 |

20 LARCHWOOD DRIVE - FRONT ELEVATION

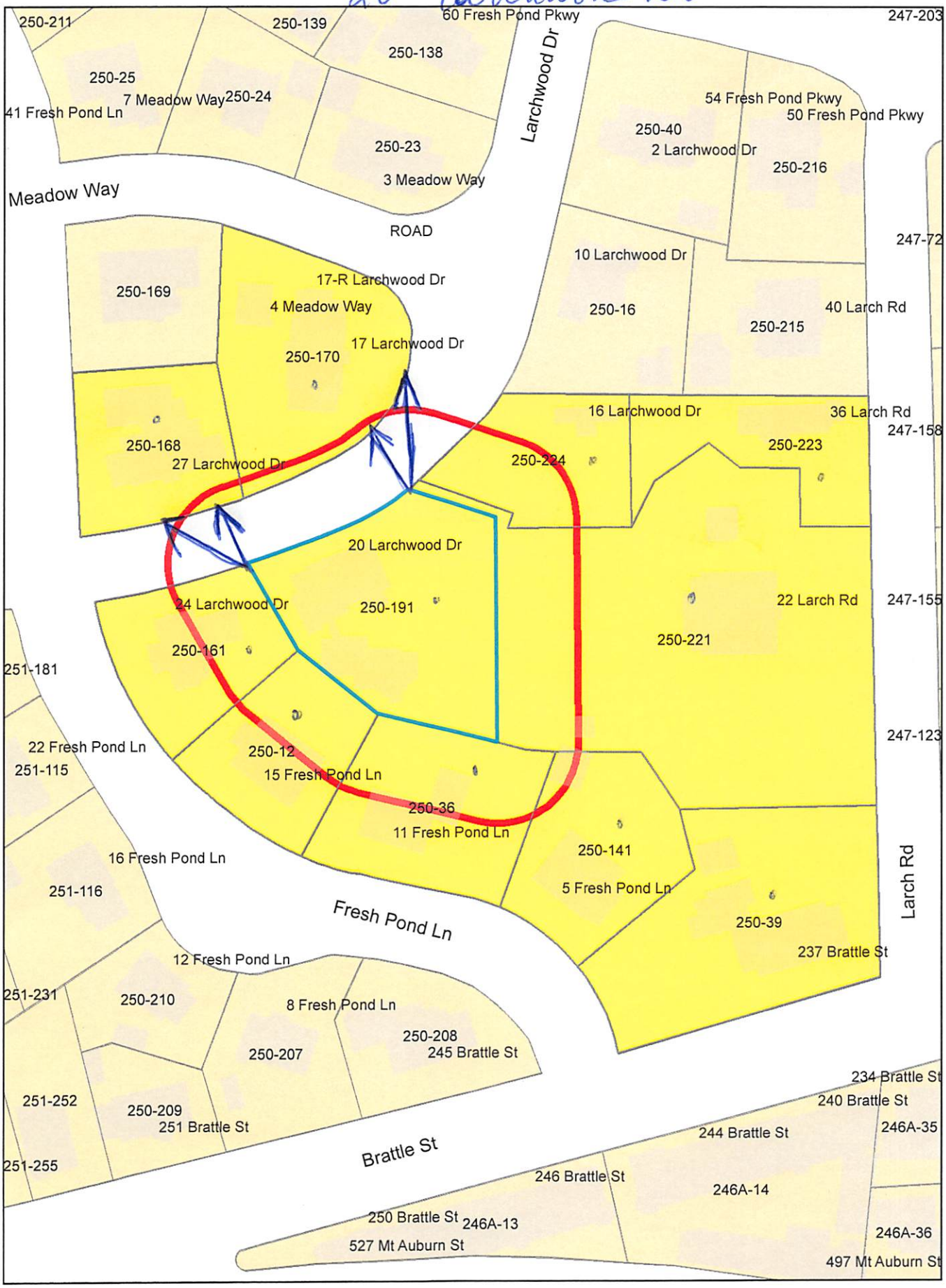
20 LARCHWOOD DRIVE - LEFT SIDE ELEVATION (EXISTING SCREEN PORCH)

20 LARCHWOOD DRIVE - REAR ELEVATION (EXISTING SCREEN PORCH)

FRONT & SIDE ELEVATION

20 LARCHWOOD DRIVE - REAR ELEVATION

20 larchwood Dr.



20 Larchwood Dr. - Petitioner

250-12
HODDER, MELVILLE T. & ELIZABETH D. HODDER
15 FRESH POND LANE
CAMBRIDGE, MA 02138-4615

250-36
FPL REALTY LLC
11 FRESH POND LANE
CAMBRIDGE, MA 02138

JAMES J. RAFFERTY, ESQ.
907 MASS AVENUE – 3RD FLOOR
CAMBRIDGE, MA 02139

250-168
MOORE, JOANNE CIPOLLA
TR. OF THE CIPOLLA MOORE REVOC TRUST
27 LARCHWOOD DR
CAMBRIDGE, MA 02138

250-221
BIRNBAUM, ROBERT L.
TR. OF TWENTY-TWO C/O FOLEY HOAG
155 SEAPORT BLVD
BOSTON, MA 02210

250-224
TUSCAN WEST, LLC,
C/O JACOB N. POLATIN, TRUSTEE
20 LARCHWOOD RD
CAMBRIDGE, MA 02138

250-161
NASELLA, MICHELE M.
24 LARCHWOOD DR
CAMBRIDGE, MA 02138-4618

250-39
WALKER, PAUL F. & DEBORAH KLEIN WALKER
237 BRATTLE STREET
CAMBRIDGE, MA 02138-4645

250-141
GILMAN, PETER J.,
TRUSTEE THE 5 FRSH POND LANE NOM TR
5 FRESH POND LN
CAMBRIDGE, MA 02138

250-170
ALBRIGHT, TIMOTHY & SARAH BAKER
17 LARCHWOOD DR
CAMBRIDGE, MA 02138-4617

250-191
TUSCAN WEST, LLC
C/O JACOB POLATIN, TRUSTEE
22 LARCH RD
CAMBRIDGE, MA 02138

250-223
POLATIN, JACOB N. TRUSTEE
22 LARCH RD
CAMBRIDGE, MA 02138

1 * * * * *

2 (7:52 p.m.)

3 Sitting Members: Constantine Alexander, Brendan Sullivan,

4 Andrea A. Hickey, Wendy Leiserson, and Jim

5 Monteverde

6 CONSTANTINE ALEXANDER: The Chair will now call

7 Case Number 133276 -- 20 Larchwood Drive. Anyone here wish

8 to be heard on this matter?

9 JAMES RAFFERTY: Good evening, Mr. Chair.

10 CONSTANTINE ALEXANDER: Good evening, sir.

11 JAMES RAFFERTY: Members of the Board, for the

12 record, my name is James Rafferty. I'm an attorney with

13 offices located at 907 Massachusetts Avenue. I'm appearing

14 this evening on behalf of the applicants, Emily Ma and John

15 Mistovich. Emily and John are present in their screen.

16 Also, the Project Architect is present as well, if there are

17 any questions.

18 This case is similar to the prior case. It's a

19 special permit case seeking a special permit under the

20 provisions of 8.22.2.D, that would allow additions to a

21 single-family house, that would otherwise have required

22 relief because it represents more than 25 percent of an

1 increase to the house since it first became nonconforming.
2 This is a single-family house on Larchwood Road,
3 located on a significantly large lot, approximately 15,000
4 square feet.
5 The house -- existing house is nonconforming in
6 terms of setback. Both the portion of the front setback and
7 the right-side setback do not comply with the setback
8 requirements in the Residence A-1 District.
9 The proposed additions are occurring in a couple
10 of locations, and they're best depicted -- and I would
11 suggest understood -- by an examination of the plot plan,
12 perhaps if Ms. Daglian might be able to put the plot plan
13 up. Thank you very much.
14 The architect, you'll see, has conveniently
15 inserted the proposed additions onto the site plan, so they
16 consist primarily of additions on the first floor that will
17 allow for the creation, removal of a screen porch and the
18 creation of a den.
19 And also, in the rear an expanded kitchen. In the
20 second floor of the house, the additional GFA will allow for
21 a third bedroom.
22 Ms. Ma and Mr. Mistovich are the parents of three

1 children, apparently all under the age of 5. I grew up in
2 Cambridge. This is a wonderful home, and a very nice
3 [Pause]
4 SISIA DAGLIAN: Oops, what happened?
5 CONSTANTINE ALEXANDER: Hello? We lost you.
6 JIM MONTEVERDE: They lost the audio.
7 CONSTANTINE ALEXANDER: You lost audio, Mr.
8 Rafferty.
9 SISIA DAGLIAN: No, I think it --
10 JAMES RAFFERTY: -- to accommodate their findings.
11 SISIA DAGLIAN: -- Jim, we lost you for a minute
12 there. I think it froze up.
13 JAMES RAFFERTY: Oh. I'm sorry, can you hear me
14 now?
15 SISIA DAGLIAN: Yes. I think your connection
16 froze out.
17 JAMES RAFFERTY: I always dread that. I
18 apologize.
19 CONSTANTINE ALEXANDER: Okay. You can go back to
20 where you were talking about three children.
21 JAMES RAFFERTY: Yeah. They have three children
22 under the age of 5. This is their family home. They've

1 lived here for years, and they're looking to expand it.
2 As the Board is well aware, the ordinance for this
3 special permit finding requires the finding that what's
4 proposed is not substantially more detrimental to the
5 neighborhood than the existing structure, and in addition
6 that the work complies with the criteria for a special
7 permit under Section 10.40.3.
8 We have set forth a response to those criteria in
9 the application, but suffice it to say that the requirements
10 of the ordinance can be met, because under 8.22.2.D this is
11 a single-family home that is currently nonconforming.
12 Traffic patterns will not change as a result of
13 these additions. The adjacent uses are all well-sized,
14 single-family homes. So this is in keeping with that.
15 There will be no hazards created to the detriment
16 of Cambridge citizens, and there will not be a change in the
17 intensity of the use here.
18 The lot far exceeds the open space requirements,
19 and this addition still leaves the house well below the
20 allowed FAR for this residence A-1 Zoning District.
21 As I noted, the architect, Adina Fuller, is on the
22 call. She's happy to answer any questions about the design

1 or any other aspect of the work. Thank you.
2 CONSTANTINE ALEXANDER: Thank you, Mr. Rafferty.
3 Questions from members of the Board, either of Mr. Rafferty
4 or the architect? Jim?
5 JIM MONTEVERDE: [Jim Monteverde] I have one
6 question. With the survey that's on the screen, there
7 appear to be two existing buildings. Were they as one
8 building connected? What's the building in the lower
9 portion of the screen?
10 JAMES RAFFERTY: Yeah. The answer is yes, they
11 are connected. It was -- well, the history of it, the prior
12 owner had that as a guest house. But they were connected --
13 I'm looking at my records -- they appear to have been
14 connected back in 1994.
15 JIM MONTEVERDE: Okay. And it still continues to
16 function as either a guest house or as part of the main
17 house?
18 JAMES RAFFERTY: Yeah. Ms. Ma might -- or Mr.
19 Mistovich, but my understanding is yes, it's part of the
20 main house.
21 JIM MONTEVERDE: Okay.
22 JAMES RAFFERTY: I believe it's currently used as

1 a children's playroom is the information Ms. MA has told me.
2 CONSTANTINE ALEXANDER: What's the total floor
3 area of the two houses -- the one house -- with the
4 connection that we see on the plan? How many feet of --
5 square feet of occupancy is there?
6 JAMES RAFFERTY: Well, the current house is at
7 5600 square feet. This addition is approximately 1300
8 square feet that brings the total size to 6500 square feet,
9 approximately.
10 CONSTANTINE ALEXANDER: So it's a 65-square --
11 roughly 6500 square foot house, am I correct?
12 JAMES RAFFERTY: It would be -- it will be with
13 these additions, correct.
14 CONSTANTINE ALEXANDER: Yeah. No, that's right.
15 I'm assuming with the addition. Right. Okay. Jim, any
16 further questions?
17 JIM MONTEVERDE: No, thank you.
18 CONSTANTINE ALEXANDER: Andrea?
19 ANDREA HICKEY: I have no questions, Mr. Chair.
20 Thank you.
21 CONSTANTINE ALEXANDER: Wendy?
22 WENDY LEISERSON: [Wendy Leiserson,] I do have a

1 question, but it's a technical question interpreting Section
2 8.22.2.D. I know that we have to find that the proposal is
3 not substantially more detriment to the neighborhood.
4 But in the sentence preceding that, it says --
5 [well, my read, and I invite feedback on this] is that you
6 cannot increase or create a new dimensional nonconformity.
7 And based on the numbers that I see, the left setback is
8 conforming as is, but will be nonconforming as proposed. Is
9 that correct?
10 JAMES RAFFERTY: I believe that might be correct.
11 But I -- the way that section is interpreted is the property
12 now has nonconforming setbacks.
13 So we are taking a nonconforming setback, and in
14 this case, we have nonconforming setbacks both front and
15 side. So this represent a further nonconforming side
16 setback.
17 The way that has been interpreted and explained to
18 me is if there was an attempt here to put let's say a third
19 floor on this house that would require -- which would
20 constituent a violation of the 35-foot height limitation --
21 since the current house does not have a nonconforming
22 height, it would not be possible to create additional height

1 onto the house.
2 The house currently has setback issues in terms of
3 front, side and this -- those setback nonconformities are
4 present and allow for this provision. I reviewed this with
5 Mr. Singanayagam prior to the filing.
6 WENDY LEISERSON: So your position is that -- and
7 based on feedback you got from Inspectional Services --
8 Department that a setback is a setback no matter which side,
9 as long as there's a nonconforming setback?
10 JAMES RAFFERTY: That's correct.
11 WENDY LEISERSON: As the revision applies?
12 JAMES RAFFERTY: Yes, that's correct.
13 WENDY LEISERSON: I'd be curious to hear whether
14 my fellow Board members have feedback on that. Thank you.
15 CONSTANTINE ALEXANDER: I'm -- this is the Chair,
16 I'm speaking for myself, obviously. I think I'm -- and I
17 accept Mr. Rafferty's conclusion and new notice.
18 I think he's pointed out that Mr. Singanayagam is
19 also -- has reached the same conclusion. So therefore I
20 think Section 8.22.2.D does apply to this case before us.
21 JAMES RAFFERTY: Yes. Candidly, I reviewed this
22 application while the proposed recent amendment was under

1 consideration because of that very issue.
2 And it was a strategic determination to wait for
3 the adoption of the special permit, based on my conversation
4 with Mr. Singanayagam, so that this matter could proceed in
5 this fashion. And it was specifically based on that very
6 question.
7 CONSTANTINE ALEXANDER: Okay. Thank you. Wendy,
8 does that -- do you want to ask any further questions? Have
9 any further comments?
10 WENDY LEISERSON: No, that's my main question.
11 Thank you.
12 CONSTANTINE ALEXANDER: Who did I miss? Well, if
13 there's anybody I haven't on the Board asked their opinion,
14 now you speak or forever hold your peace.
15 [Pause]
16 CONSTANTINE ALEXANDER: I guess they'll hold their
17 peace. I'll open it with -- we have no letters in the file,
18 I don't believe -- let me just check -- one way or another.
19 No, I don't think we do.
20 So I will open the matter up now to public
21 testimony. Let me give the instructions. Here we go. Any
22 members of the public who wish to speak should now click the

1 icon at the bottom of your Zoom screen that says, "Raise
2 hand."
3 If you're calling in by phone, you can raise your
4 hand by pressing *9 and unmute or mute by pressing *6.
5 We'll wait a moment to see if anyone wishes to take
6 advantage of that.
7 [Pause]
8 CONSTANTINE ALEXANDER: No one does. I will close
9 public testimony. I can make a motion, or do we need
10 further discussion?
11 BRENDAN SULLIVAN: Ready for a vote.
12 CONSTANTINE ALEXANDER: Okay. Let's -- let me get
13 my notes out. One second, please.
14 The Chair moves that we make the following
15 findings with regard to the relief being sought:
16 That the alteration or the modifications to the
17 structure as proposed by the petitioner shall not be
18 substantially more detrimental than the existing
19 nonconforming structure to the neighborhood.
20 That the requirements of this ordinance cannot be
21 met unless we grant the -- with regard to the modifications
22 desired by the petitioner, unless we grant the special

1 permit.

2 The traffic generated or patterns of access or
3 egress resulting from what the petitioner is proposing will
4 not cause congestion, hazard, or substantial change in
5 established neighborhood character.

6 This is a neighborhood that has got substantial
7 open space and the modifications of the structure before us
8 tonight does not have an -- to my mind have an effect on the
9 neighborhood on the established neighborhood character.

10 That the continued operation of or development of
11 adjacent uses, as permitted in the zoning ordinance, will
12 not be adversely affected by the nature of the proposed use.
13 Testimony to that is the fact that we've received no
14 comments from neighbors.

15 And that the relief being sought is what I would
16 describe inward in nature. It modifies the structure on the
17 lot itself without any corresponding impact to neighboring
18 structures.

19 That no nuisance or hazard will be created to the
20 detriment of the health, safety and/or welfare of the
21 occupant of the proposed use, or the citizens of the city.

22 And generally, what is being proposed will not

impair the integrity of the district or adjoining district, or otherwise derogate from the intent and purpose of this ordinance.

So on the basis of all these findings, the Chair moves that we grant the special permit sought by the petitioner on the condition that the work proceed in accordance with plans prepared by -- hard to read here -- Bechtel (sic) -- I think I've got it right, the print's very small -- B-e-c-h-t-e-l Frank Erickson Architects, dated May 5, 2021.

Brendan, how do you vote?

BRENDAN SULLIVAN: Brendan Sullivan yes to granting the special permit.

CONSTANTINE ALEXANDER: Jim?

JIM MONTEVERDE: Jim Monteverde yes to granting the special permit.

CONSTANTINE ALEXANDER: Wendy?

WENDY LEISERSON: Wendy Leiserson yes to granting the special permit, on that understanding as well.

CONSTANTINE ALEXANDER: Andrea?

ANDREA HICKEY: Andrea Hickey yes in favor of granting the special permit.

1 CONSTANTINE ALEXANDER: And the Chair votes yes as
2 well.
3 [All vote YES]
4 CONSTANTINE ALEXANDER: Special permit granted.
5 JAMES RAFFERTY: Thank you very much. Have a good
6 evening.
7 CONSTANTINE ALEXANDER: Thank you.
8 EMILY MA: Thank you very much.
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# City of Cambridge

MASSACHUSETTS

BOARD OF ZONING APPEAL

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

## BZA

## POSTING NOTICE – PICK UP SHEET

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

**Name:** Pat Coyle **Date:** 8/16
(Print)

**Address:** 20 larchwood Drive.

**Case No.** BZA-133276

**Hearing Date:** 9/2/21

**Thank you,**
**Bza Members**

# CITY OF CAMBRIDGE

Massachusetts
**BOARD OF ZONING APPEAL**
**831 Mass Avenue, Cambridge, MA.**
**617) 349-6100**

2021 NOV -3 PM 12: 16
OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

CASE NO: BZA-133276

LOCATION: 20 Larchwood Drive
Cambridge, MA
Residence A-1 Zone

PETITIONER: Emily Ma, John Mistovich & Tuscan West
C/o James J. Rafferty, Esq.

PETITION: **Special Permit:** To construct enclosed front entry, a two-story addition and a single-story addition with deck above, also sited within the front setback. Petitioner also seeks to construct two story rear addition.

VIOLATIONS: Art. 5.000, Sec. 5.31 (Table of Dimensional Requirements).
Art. 8.000, Sec. 8.22.2.D (Non-Conforming Structure). &
Art. 10.000, Sec. 10.40 (Special Permit).

DATE OF PUBLIC NOTICE: August 19 & August 26, 2021

DATE OF PUBLIC HEARING: September 2, 2021

MEMBERS OF THE BOARD:

| | |
|---|---|
| CONSTANTINE ALEXANDER – CHAIR | ✓ |
| BRENDAN SULLIVAN – VICE-CHAIR | ✓ |
| ANDREA A. HICKEY | ✓ |
| JIM MONTEVERDE | ✓ |
| LAURA WERNICK | |

ASSOCIATE MEMBERS:

| | |
|---|---|
| SLATER W. ANDERSON | |
| ALISON HAMMER | |
| JASON MARSHALL | |
| MATINA WILLIAMS | |
| WENDY LEISERSON | ✓ |

Members of the Board of Zoning Appeal heard testimony and viewed materials submitted regarding the above request for relief from the requirements of the Cambridge Zoning Ordinance. The Board is familiar with the location of the petitioner's property, the layout, and other characteristics as well as the surrounding district.

Case No. BZA-133276

Location: 20 Larchwood Drive

Petitioner: Emily Ma, John Mistovich and Tuscan West – c/o James J. Rafferty, Esq.

On September 2, 2021, Petitioners Emily Ma and John Mistovich appeared before the Board of Zoning Appeal with their attorney James Rafferty requesting a special permit in order to construct an enclosed front entry, a two-story addition, a single-story addition with deck above, also sited within the front setback, and a two-story rear addition. The Petitioner requested relief under Article 5, Section 5.31, Article 8, Section 8.22.2.D and Article 10, Section 10.40 of the Cambridge Zoning Ordinance ("Ordinance"). The Petitioner submitted materials in support of the application including information about the project, plans, and photographs.

Mr. Rafferty stated that the proposal was to build a series of additions to the nonconforming single-family home, but that the house would remain under the allowed FAR. He stated that relief was required because the house and some of the additions would be in the setback. He stated that the proposed work would not make the house substantially more detrimental than the existing house to the neighborhood and would not cause traffic or hazards.

The Chair asked if anyone wished to be heard on the matter and no one indicated such.

After discussion, the Chair moved that the Board make the following findings based upon the application materials submitted and all evidence before the Board and that based upon the findings the Board grant the requested relief as described in the Petitioner's submitted materials and the evidence before the Board: that the Board find that the modifications to the structure, as proposed by the petitioners, would not be substantially more detrimental than the existing nonconforming structure to the neighborhood; that the Board find that the requirements of the Ordinance could not be met without the special permit; that the Board find that the traffic generated or patterns of access or egress resulting from what was proposed would not cause congestion, hazard, or substantial change in established neighborhood character; that the Board find that the established neighborhood character, which had substantial open space, would not be affected by the proposed modifications; that the Board find that the continued operation of or development of adjacent uses, as permitted in the Ordinance, would not be adversely affected by the nature of the proposed use, as demonstrated by the lack of opposition from the neighbors; that the Board find that the relief sought would modify the structure without any corresponding impact to neighboring structures; that the Board find that no nuisance or hazard would be created to the detriment of the health, safety and/or welfare of the occupant of the proposed use, or the citizens of the City; that the Board find that, generally, what was proposed would not impair the integrity of the district or adjoining district, or otherwise derogate from the intent and purpose of the Ordinance.

The Chair further moved that based upon all the information presented the Board grant the requested relief as described in the Petitioners' submitted materials and the evidence before the Board on the condition that the work proceed in accordance with the plans prepared by Bechtel Frank Erickson Architects, dated May 5, 2021, as initialed by the Chair at the September 2, 2021 hearing.

The five-member Board voted unanimously in favor of granting the special permit with the above condition (Alexander, Sullivan, Hickey, Monteverde, and Leiserson). Therefore, the special permit is granted as conditioned.

The Board of Zoning Appeal is empowered to waive local zoning regulations only. This decision therefore does not relieve the petitioner in any way from the duty to comply with local ordinances and regulations of the other local agencies, including, but not limited to the Historical Commission, License Commission and/or compliance with requirements pursuant to the Building Code and other applicable codes.

Constantine Alexander, Chair

ATTEST: A true and accurate copy of the above decision has been filed on 11-3-21 with the Offices of the City Clerk and the Planning Board by Maria Pacheco, duly authorized representative of the Board of Zoning Appeal.

Twenty days have elapsed since the above decision was filed in the office of the City Clerk and:

____ no appeal has been filed; or

____ an appeal has been filed within such twenty days.

The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. This certification shall in no event terminate or shorten the tolling, during the pendency of any appeals, of the periods provided under the second paragraph of G.L. c. 40A, §6.

Date: _____ _____, City Clerk

Appeal has been dismissed or denied.

Date: _____ _____, City Clerk

**ADAMS & RAFFERTY**
ATTORNEYS AT LAW
A Professional Association *
907 Massachusetts Avenue, Suite 300
Cambridge, MA 02139



**James J. Rafferty, P.C.**
*jrafferty@adamsrafferty.com*

Telephone (617) 492-4100
Fax (617) 492-3131

September 15, 2023

Maria Pacheco
Board of Zoning Appeal
831 Massachusetts Avenue
Cambridge, MA 02139

**Re: BZA Case No. 133276**
**20 Larchwood Drive**

Dear Ms. Pacheco

Please accept this correspondence as a request to extend the time for the Special Permit on the above-captioned matter for a period of six (6) months.

Please contact me if you require any additional information in order to bring this request before the Board.

Thank you for your cooperation and assistance with this matter.

Very truly yours,

James J. Rafferty

JJR/pwc

**not a partnership*

# City of Cambridge

MASSACHUSETTS

BOARD OF ZONING APPEAL

2023 OCT 13 AM 10:09

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

EXTENSION OF TIME OF EXPIRATION

CASE NO: BZA-133276

LOCATION: 20 Larchwood Drive
Cambridge, MA

Residence A-1 Zone

PETITIONER: Emily Ma, John Mistovich & Tuscan West
C/o James J. Rafferty, Esq.

PETITION: **Special Permit**: To construct enclosed front entry, a two-story addition, and a single-story addition with deck above, also sited within the front setback. Petitioner also seeks to construct two story rear addition.

DATE OF FILING DECISION: **November 3, 2021**

Petitioner was granted a **Special Permit** on **November 3, 2021,** for the above-mentioned petition.

A letter was filed with the office of the City Clerk on **September 18, 2023,** requesting an extension of the expiration of that Special Permit granted by the Board of Zoning Appeal.

The Board of Zoning Appeal, at their **October 12, 2023,** hearing, unanimously granted the 6-month extension to expire on **May 2, 2024.**

J Monteverde

Jim Monteverde, Chairperson

Attest: A true and correct copy of Extension of Time of Expiration for

Case: BZA-133276 filed with the office of the City Clerk and Planning Board on

10-13-23 by Maria Pacheco, Zoning Clerk.

**ADAMS & RAFFERTY**
ATTORNEYS AT LAW
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907 Massachusetts Avenue, Suite 300
Cambridge, MA 02139



**James J. Rafferty, P.C.**
*jrafferty@adamsrafferty.com*

Telephone (617) 492-4100
Fax (617) 492-3131

April 26, 2024

Maria Pacheco
Cambridge Board of Zoning Appeal
831 Massachusetts Avenue
Cambridge, MA 02139

**Re: BZA Case No. 133276**
**<u>20 Larchwood Drive</u>**

Dear Ms. Pacheco:

Please accept this correspondence as a request to extend the time for the above-captioned special permit for a period of one (1) year.

Please contact me if you require any additional information in order to bring this request before the Board.

Thank you for your cooperation and assistance with this matter.

Very truly yours,

James J. Rafferty

JJR/pwc

**not a partnership*