



CITY OF CAMBRIDGE

BOARD OF ZONING APPEAL

831 Massachusetts Avenue, Cambridge MA 02139

617-349-6100

2023 APR 13 PM 1:54
OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

BZA Application Form

BZA Number: 218034

General Information

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

Special Permit: X Variance: X Appeal:

PETITIONER: Thomas A. Culotta and Mary Custic C/O Adam J. Costa, Esq.

PETITIONER'S ADDRESS: Mead, Talisman & Costa, LLC, Newburyport, MA 01950

LOCATION OF PROPERTY: 26 Bellis Cir., Unit 26, Cambridge, MA

TYPE OF OCCUPANCY: Single-family residence **ZONING DISTRICT:** Residence B Zone

REASON FOR PETITION:

/Additions/

DESCRIPTION OF PETITIONER'S PROPOSAL:

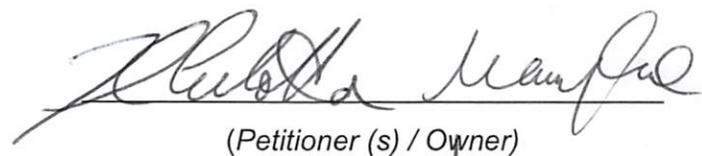
To add a new nonconformity, namely an encroachment up the 30.75-foot minimum rear setback.

Amendment to construct an addition to a pre-existing, dimensionally nonconforming detached single-family structure, increasing gross floor area/floor area ratio.

SECTIONS OF ZONING ORDINANCE CITED:

Article: 5.000 Section: 5.31 (Table of Dimensional Requirements).
Article: 8.000 Section: 8.22.2.c and 8.22.3 (Non-Conforming Structure).
Article: 10.000 Section: 10.30 (Variance). & 10.40 (Special Permit).

Original
Signature(s):



(Petitioner (s) / Owner)

Thomas Culotta / MARY CUSTIC
(Print Name)

Address: _____

Tel. No. 978.463.7700

E-Mail Address: adam@mtclawyers.com

Date: 4/13/23

BZA APPLICATION FORM - OWNERSHIP INFORMATION

To be completed by OWNER, signed before a notary and returned to The Secretary of the Board of Zoning Appeals.

I/We Thomas A. Culotta and Mary Cusic
(OWNER)

Address: 26 Bellis Circle #26

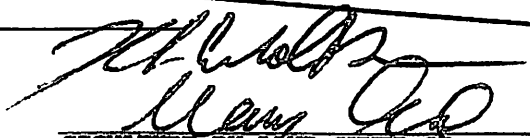
State that I/We own the property located at 26 Bellis Circle #26,
which is the subject of this zoning application.

The record title of this property is in the name of Thomas A. Culotta and Mary Cusic, husband and wife, as tenants by the entirety

*Pursuant to a deed of duly recorded in the date 10/12/2005, Middlesex South County Registry of Deeds at Book 46275, Page 237; or

~~Middlesex Registry District of Land Court, Certificate No. _____~~

~~Book _____ Page _____~~

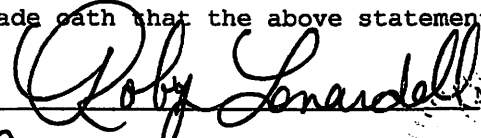


**SIGNATURE BY LAND OWNER OR
AUTHORIZED TRUSTEE, OFFICER OR AGENT***

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

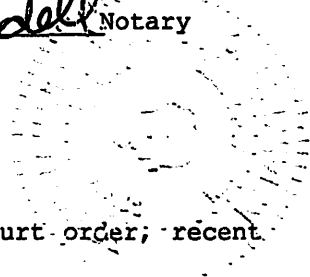
Commonwealth of Massachusetts, County of Middlesex

The above name Thomas A. Culotta and Mary Cusic personally appeared before me,
this 10th of April, 2023, and made oath that the above statement is true.



Notary

My commission expires February 9, 2029 (Notary Seal).



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

BZA Application Form

SUPPORTING STATEMENT FOR A VARIANCE

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

- A)** A literal enforcement of the provisions of this Ordinance would involve a substantial hardship, financial or otherwise, to the petitioner or appellant for the following reasons:

Full compliance with the minimum 30.75-foot rear setback severely restricts the Petitioners' placement of the addition to their home, even with a mere 238-square-foot footprint as is now proposed. Aesthetics aside, locating the addition at the front of the home would be too near the 24 Bellis Circle residence; its placement along the westerly side of the home would encroach upon a driveway shared with 25 and 27 Bellis Circle; and its placement along the easterly side of the home, as originally approved by the BZA, was troublesome to neighbors at 18 Bellis Circle, prompting them to file an appeal with the Land Court.

- B)** The hardship is owing to the following circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located for the following reasons:

Locating their addition almost entirely at the rear of the home would be possible, without zoning relief, if not for the unusual shape of the property in relation to the placement of the residence (and others) thereupon. The rear of the Petitioners' home is not parallel to the property's rear boundary; rather, the sharp angle of the boundary yields a setback of only 31.3 feet at the southwesterly corner of the existing home, such that virtually any meaningful addition can occur only with a variance from the Zoning Bylaw's setback requirement.

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

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

The BZA issued a special permit for the Petitioners' addition in early-2022, based in-part on a finding of "no... adverse effect[s]" on adjacent uses of property. The within proposal is not substantially different from that previously approved; it more-or-less rotates the orientation of the approved addition, but does not alter its footprint or overall size. The redesign, if now approved, will also resolve the appeal filed by the neighbors at 18 Bellis Circle; the new proposal offers greater separation from their residence.

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

Again, in its early-2022 special permit, the BZA concluded the the Petitioners' earlier proposal "would not... derogate from the intent and purpose of the Ordinance." And while the redesign now encroaches upon the minimum rear setback, thereby requiring a variance, it still maintains a 29.7-foot setback from the chain-link fence separating 26 Bellis Circle from Danehy Park.

***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

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 26 Bellis Cir , Unit 26 , 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:

Except for a variance from minimum rear setback as is requested herewith, the Petitioners' proposal is generally compliant with the Zoning Ordinance. No change in the residential use is proposed; the addition to their home is modest in both footprint and overall size; and the neighbors to whom the addition will be most visible, i.e. at 18 Bellis Circle, support the redesign now before the BZA.

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:

Because the use of the 26 Bellis Circle property is not changing, no impact to traffic volume or circulation will occur. There will also be no change - and certainly no substantial change - to neighborhood character. The proposed addition is residential, as is the neighborhood. The size of residence, even with the addition, will be equal to or even less than that of other residences in the immediate area.

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 Petitioners did not believe that their original design would adversely affect adjacent uses; but the owners-of-record of the 18 Bellis Circle disagreed, and appealed the special permit issued by the BZA in early-2022. The redesign is the consequence of that litigation; is supported by the aforementioned neighbors; and would resolve the lawsuit against the Petitioners and the BZA.

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 construction of a 476-square-foot addition to the Petitioners' home, i.e. with a footprint of only 238 square feet, will generate no nuisance or hazard to the public health, safety or welfare.

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 residential use of the proposed addition will be consistent with the purpose and intent of the Residence B 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: Thomas A. Culotta and Mary Cusic
Location: 26 Bellis Cir., Unit 26., Cambridge, MA
Phone: 978.463.7700

Present Use/Occupancy: Single-family residence
Zone: Residence B Zone
Requested Use/Occupancy: Single-family residence

		<u>Existing Conditions</u>	<u>Requested Conditions</u>	<u>Ordinance Requirements</u>
<u>TOTAL GROSS FLOOR AREA:</u>		7,255 sq. ft.	7,731 sq. ft.	7,114 sq. ft. (max.)
<u>LOT AREA:</u>		18,185 sq. ft.	N/A	5,000 sq. ft. (min.)
<u>RATIO OF GROSS FLOOR AREA TO LOT AREA: ²</u>		0.5 + 0.36	0.5 + 0.397	0.5 + 0.35
<u>LOT AREA OF EACH DWELLING UNIT</u>		4,395 sq. ft. +/-	4,395 sq. ft. +/-	2,500 sq. ft.
<u>SIZE OF LOT:</u>	WIDTH	163 ft. +/-	N/A	50 ft.
	DEPTH	123 ft.	N/A	N/A
<u>SETBACKS IN FEET:</u>	FRONT	50.3 ft.	50.3 ft.	15 ft.
	REAR	31.3 ft.	22.3 ft. *Or 29.7 ft. to chain-link fence along rear boundary	30.75 ft.
	LEFT SIDE	14.1 ft.	12.1 ft.	7.5 ft.
	RIGHT SIDE	103.6 ft.	103.6 ft.	7.5 ft.
<u>SIZE OF BUILDING:</u>	HEIGHT	18.4 ft. +/-	18.4 ft. +/-	35 ft.
	WIDTH	N/A	N/A	N/A
	LENGTH	N/A	N/A	N/A
<u>RATIO OF USABLE OPEN SPACE TO LOT AREA:</u>		0.50	0.44	0.40
<u>NO. OF DWELLING UNITS:</u>		4	4	4
<u>NO. OF PARKING SPACES:</u>		8	8	4 min.
<u>NO. OF LOADING AREAS:</u>		N/A	N/A	N/A
<u>DISTANCE TO NEAREST BLDG. ON SAME LOT</u>		>9.5 ft.	>9.5 ft.	>9.5 ft. +/-

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.:

N/A

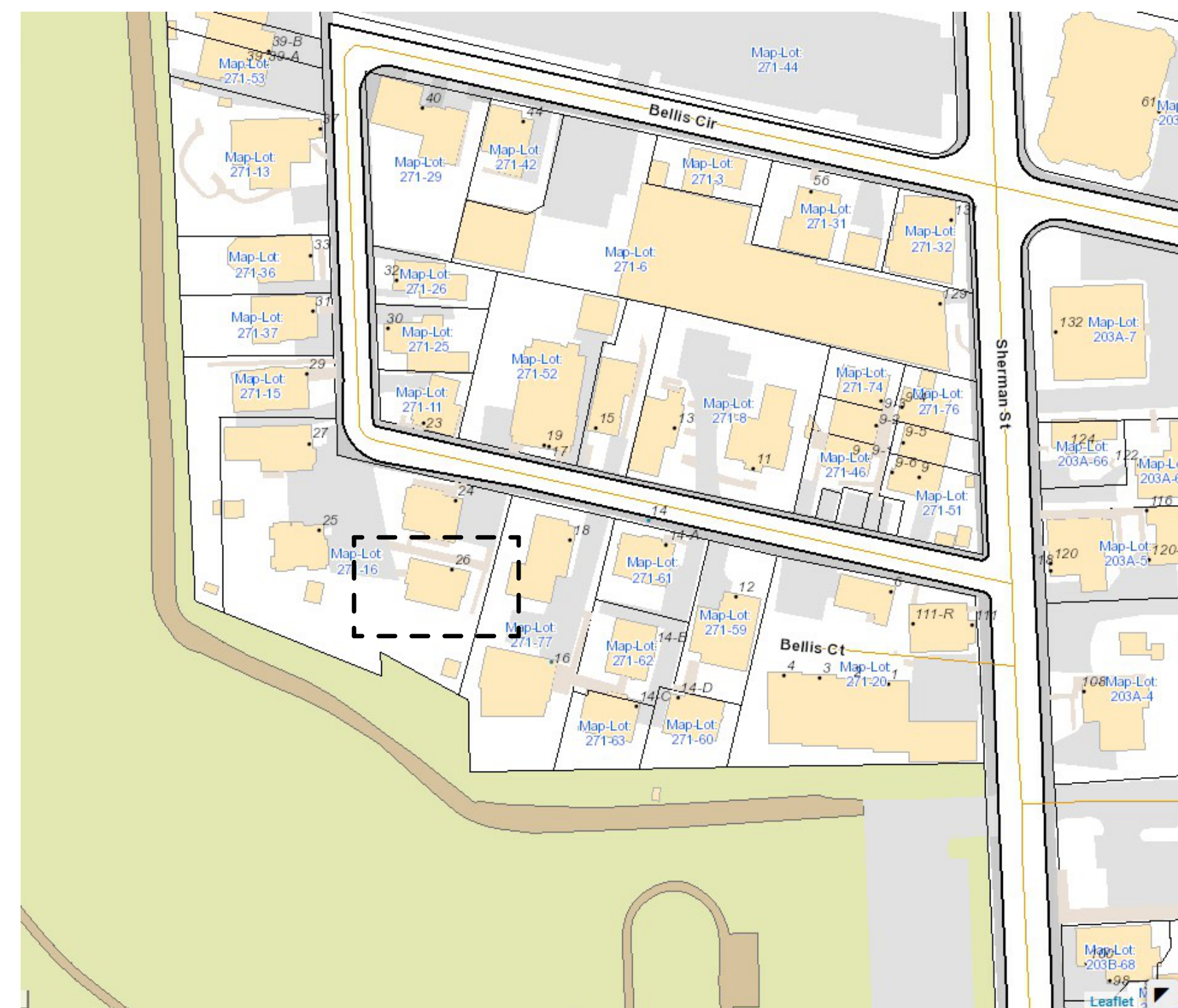
1. SEE CAMBRIDGE ZONING ORDINANCE ARTICLE 5.000, SECTION 5.30 (DISTRICT OF DIMENSIONAL REGULATIONS).
2. TOTAL GROSS FLOOR AREA (INCLUDING BASEMENT 7'-0" IN HEIGHT AND ATTIC AREAS GREATER THAN 5') DIVIDED BY LOT AREA.
3. OPEN SPACE SHALL NOT INCLUDE PARKING AREAS, WALKWAYS OR DRIVEWAYS AND SHALL HAVE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



CULOTTA RESIDENCE - ADDITIONS /RENOVATIONS

26 Bellis Circle, Cambridge MA 02140

THE CULOTTA RESIDENCE IS A WOOD FRAMED SINGLE FAMILY STRUCTURE. WORK WILL INCLUDE A INTERIOR RENOVATIONS AND A NEW TWO-STORY ADDITION AT THE REAR OF THE STRUCTURE.



LOCATION MAP

PROJECT INFORMATION

PROJECT ADDRESS: 26 Bellis Circle, Cambridge MA 02140
 MAP: 16
 BLOCK: B
 LOT: 34
 PROJECT OWNER: TOM CULOTTA / MARY CUSTIC
 ZONE: NR

APPLICABLE CODES

THE BUILDING SHALL COMPLY AND/OR CONFORM WITH THE FOLLOWING BUILDING CODES & STANDARDS:

ZONING: The Zoning Act Massachusetts General Law 40A Somerville Zoning Ordinance ADOPTED DECEMBER 12TH 2019
 BUILDING: Massachusetts State Building Code, Ninth Edition, Base Volume ADOPTS WITH AMENDMENTS: International Building Code 2015 (IBC 2015)
 ENERGY: Energy Conservation Code 2015 of Massachusetts ADOPTS WITH AMENDMENTS: International Energy Conservation Code 2015 (IECC 2015)
 MECHANICAL: Mechanical Code 2015 of Massachusetts ADOPTS WITHOUT AMENDMENTS: International Mechanical Code 2015 (IMC 2015)
 FIRE: MASSACHUSETTS COMPREHENSIVE FIRE SAFETY CODE, 527 CMR 1.00 INCORPORATES NFPA1-2015, BY REFERENCE

CODE SUMMARY

ZONING + SQUARE FOOTAGE ANALYSIS

Date: 1/30/2023
 Project: 26 Bellis Circle, Cambridge MA 02140

Parcel ID: 271-16-26
 Property Type: Condominium
 Classification Code: 192
 Zoning: B
 Map: 271-16-26
 Lot Size (per assessor's database): 18,185 sf
 Living Area (per assessor's database): 1,488 sf
 Gross building Area (for FAR): 1,488 sf
 Year Built: 2005
 Referenced Zoning Article: City of Cambridge Zoning Code

Zone B	Required	Existing Conditions	Proposed Conditions
Minimum Lot Size (sq ft)	5,000	18,185	no change
Minimum Lot Area for Each D.U. (sq ft)	2,500	4,395	no change
Minimum Lot Width (ft)	50	NA	no change
Floor Area Ratio Maximum	.50 / 1" 5,000 sq ft, .35 remainder (2,500 + 4,614 = 7,114 sq ft)	50 / 38 (2,500 + 4,755 = 7,255)*	50 / 41 (2,500 + 5,231 = 7,731)*
Building Height Maximum (ft)	35	18.4	no change
Minimum Ratio of Private Open Space to Lot Area	40%	50.6%	44.3%
Front Yard Minimum Depth (ft)	15	50.3	no change
Side Yard Minimum Width (ft)	7.5' (sum of 20)	14.1	no change
Rear Yard Minimum depth (ft) See (c) below	25 + 5.75 = 30.75	31.3	22.00

*Does not includes basements

ZONING NOTES

(c) In no case may a building be nearer the rear lot line than twenty (20) feet in Residence C-2, C-2B, C-2A, C-3, C-3A, C-3B districts. In Residence C and C-1 districts, no building may be nearer the rear lot line than twenty (20) feet plus one additional foot of rear yard for each four feet that the depth of the lot exceeds 100 feet, up to a maximum of thirty (30) feet. In Residences A-1, A-2, and B districts, no building may be nearer the rear lot line than twenty-five (25) feet plus one additional foot of rear yard for each four feet that the depth of the lot exceeds one hundred (100) feet, up to a maximum of thirty-five (35) feet. For purposes of this Footnote C, the lot depth shall be that distance measured along a line perpendicular to the front lot line and extending to that point on the rear lot line most distant from the front lot line.
 (j) Applicable to the first five thousand (5,000) square feet of lot area. For those portions of any lot exceeding five thousand (5,000) square feet, the applicable Maximum Ratio of Floor Area to Lot Area shall be 0.35 for all permitted residential uses and the Minimum Lot Area for Each Dwelling Unit shall be four thousand (4,000) square feet. However, for any lot in existence as of June 30, 1995 that is subsequently subdivided into two or more lots, the total amount of gross area and number of units on the subdivided lots, in total, shall at no time exceed that permitted by this footnote (j) on the lot before the subdivision occurred. Unless otherwise permitted by special permit from the Board of Zoning Appeal, the gross floor area and dwelling units permitted on each subdivided lot shall be in the same ratio as that lot's area is to the area of the unsubdivided lot. Nothing in this footnote (j) shall prohibit the subdivision of a Townhouse Development conforming at the time of its construction, as permitted in Section 11.10.

DRAWING LIST

Sheet List			
Sheet Number	Sheet Name	Sheet Issue Date	Current Revision Issued To
G-000	Cover Sheet	2/3/23	
R-1.00	Existing Floor Plans	2/3/23	
A-1.20	Proposed Schematic Floor Plans	2/3/23	
A-2.20	Proposed Exterior Elevations	2/3/23	
Z-1.01	Project Boundries	11/9/22	

SYMBOLS & ABBREVEATIONS

NORTH ARROW		DOOR TAG	101
BUILDING ELEVATION		WALL TAG	
SECTION MARKER		WINDOW TAG	
INTERIOR ELEVATION MARKER		ROOM TAG	Room name 101
ELEVATION/LEVEL MARK		REVISION TAG	
DETAIL CALLOUT		EXISTING PARTITION	
		DEMOLISHED PARTITION	
		NEW PARTITION	

1/4" = 1'-0"

Document

These Documents are recorded on or can be transmitted as electronic media and are therefore subject to undetectable alteration or erasure, intentionally or unintentionally, due in part by transmission, conversion, media degradation, software error or human alteration. Accordingly, New England Design + Construction shall not be held liable for any claims, losses, damages or costs arising out of any such alteration or unauthorized use or modification of these Documents.

Culotta Residence
 26 Bellis Circle
 Cambridge, MA 02140

Locus Plan

No.	Date	Revision/Issue

Date
 02/03/2023
 Scale
 1/4" = 1'-0"
 NEDC Job No.
 20.001

Cover Sheet

G-000

Document

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Culotta Residence

26 Bellis Circle
Cambridge, MA 02140

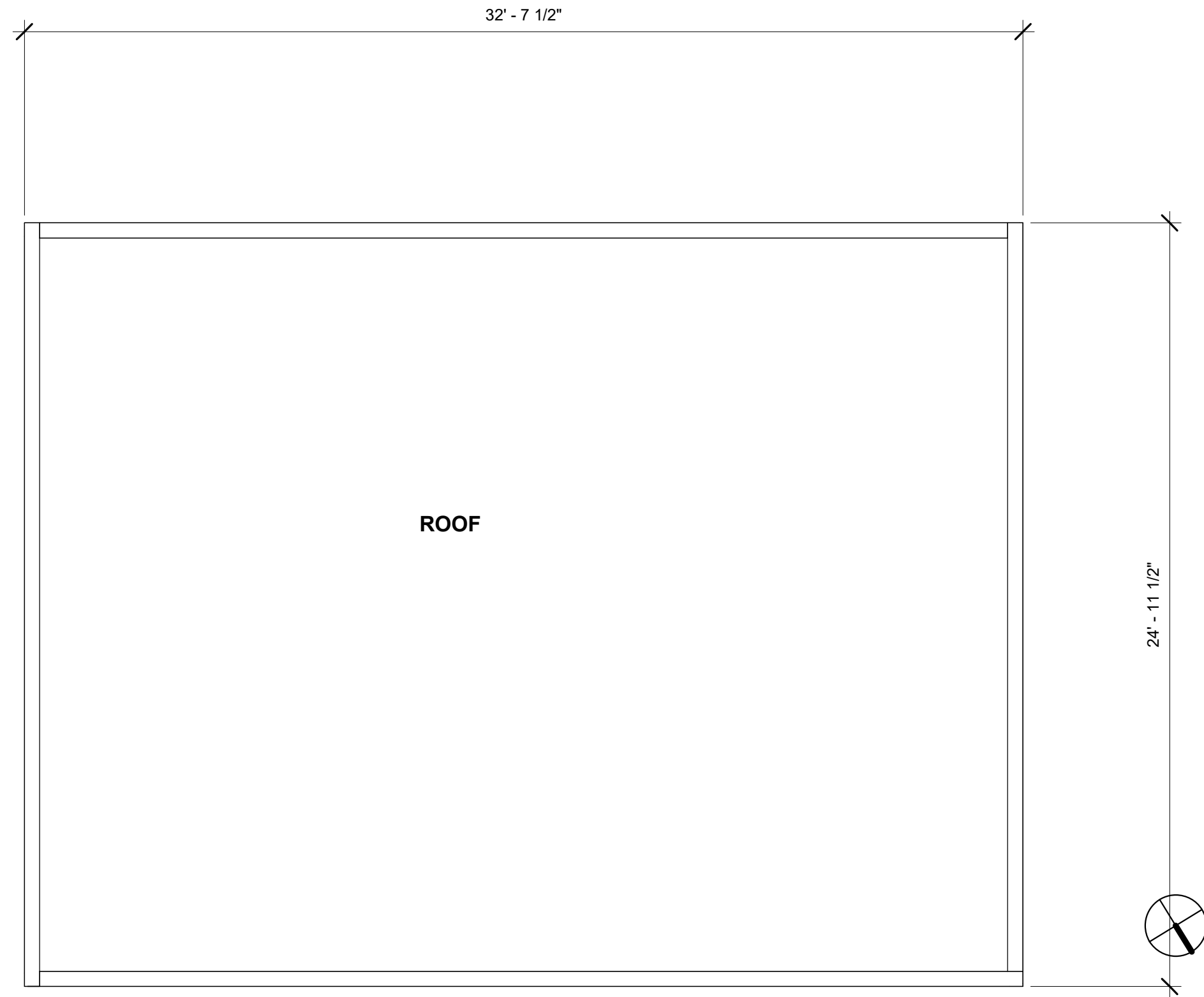
Locus Plan

No.	Date	Revision/Issue

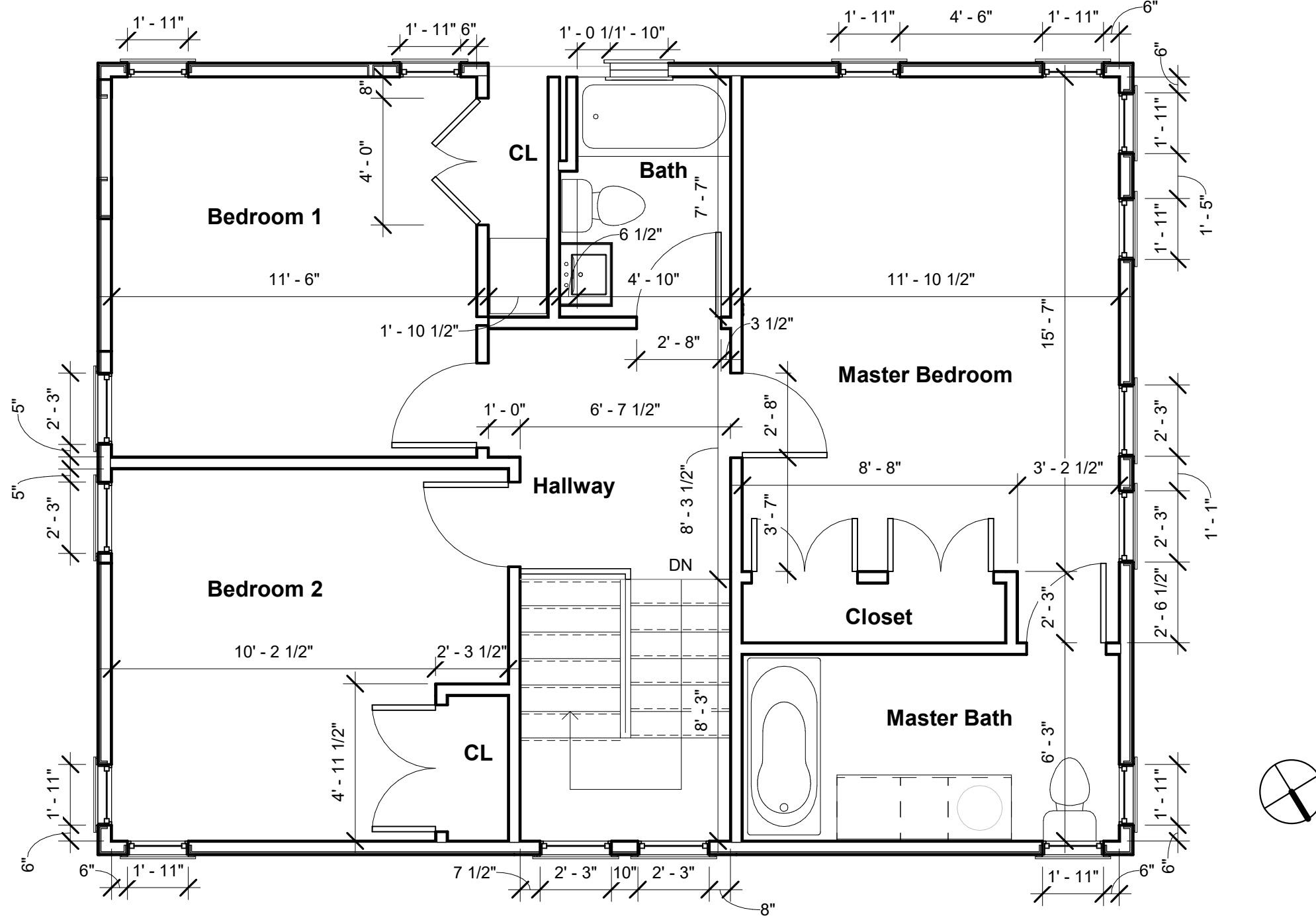
Date
02/03/2023
Scale
1/4" = 1'-0"
NEDC Job No.
20.001

Existing Floor Plans

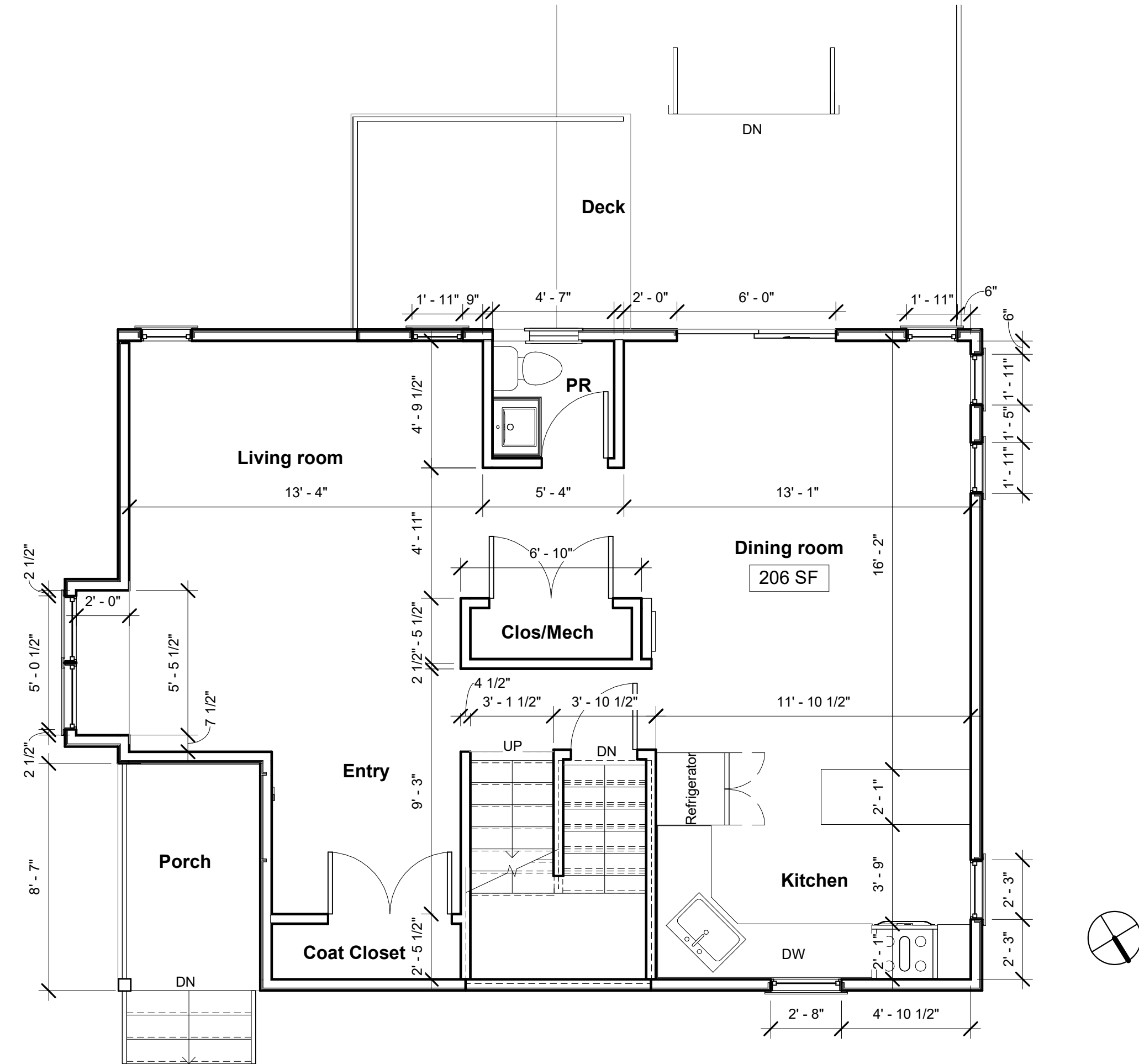
R-1.00



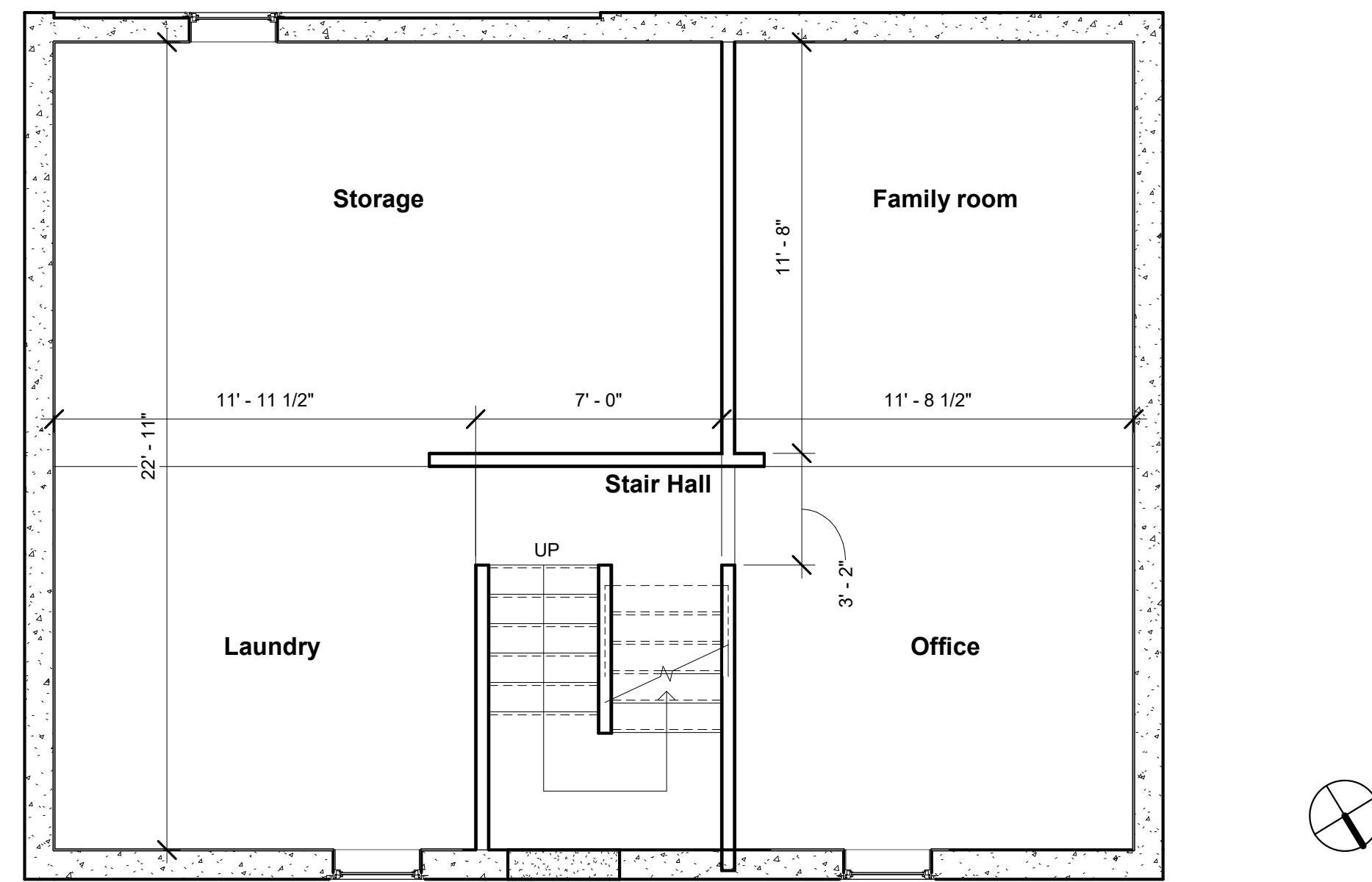
④ 3 Roof Existing
1/4" = 1'-0"



③ 2_2nd Floor Existing
1/4" = 1'-0"



② 1_1st Floor Existing
1/4" = 1'-0"



① 0_Basement Existing
1/4" = 1'-0"

Document

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Culotta Residence
26 Bellia Circle
Cambridge, MA 02140

Locus Plan

No.	Date	Revision/Issue

Date
02/03/2023
Scale
1/4" = 1'-0"
NEDC Job No.
20.001

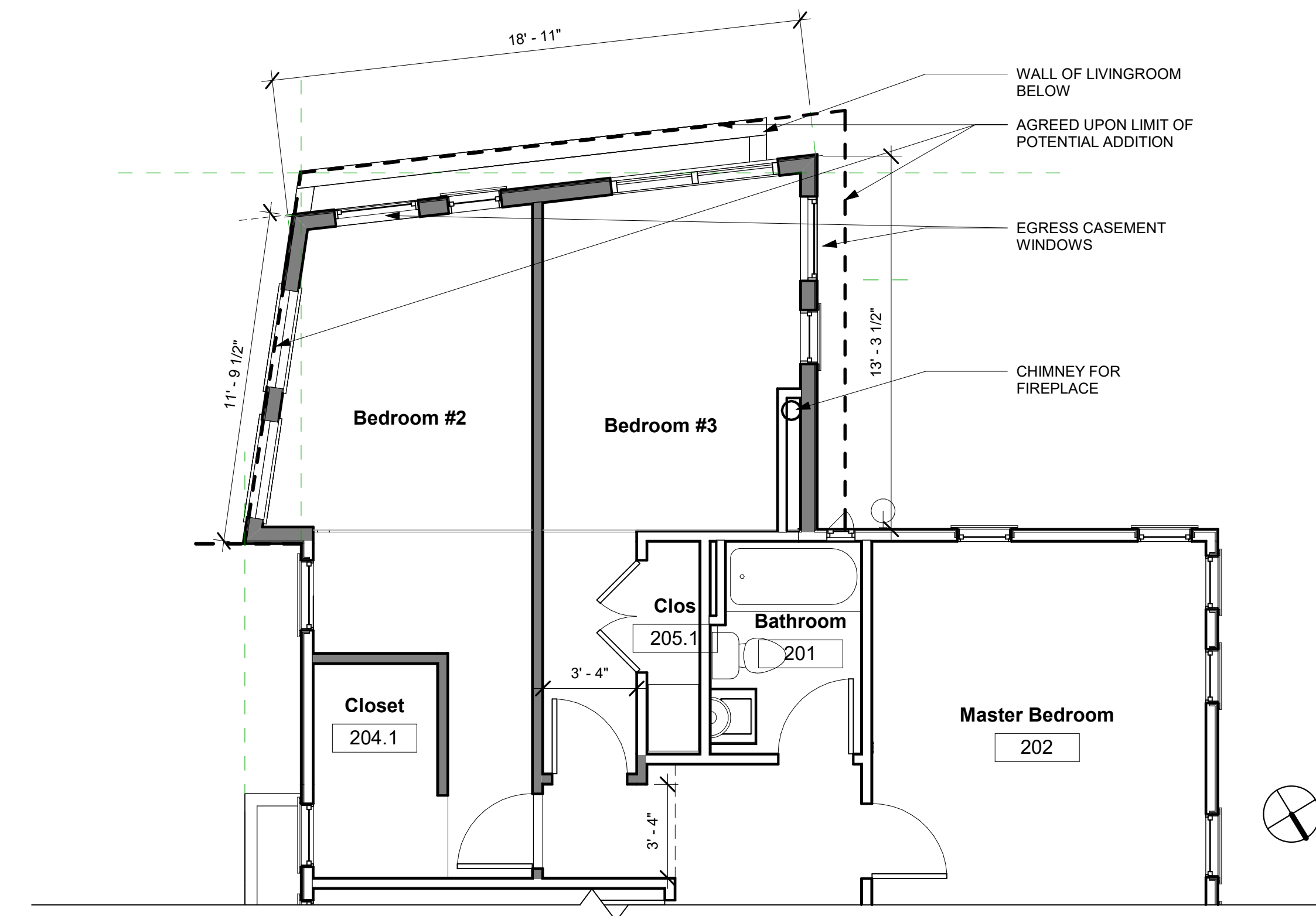
Proposed Schematic
Floor Plans

A-1.20

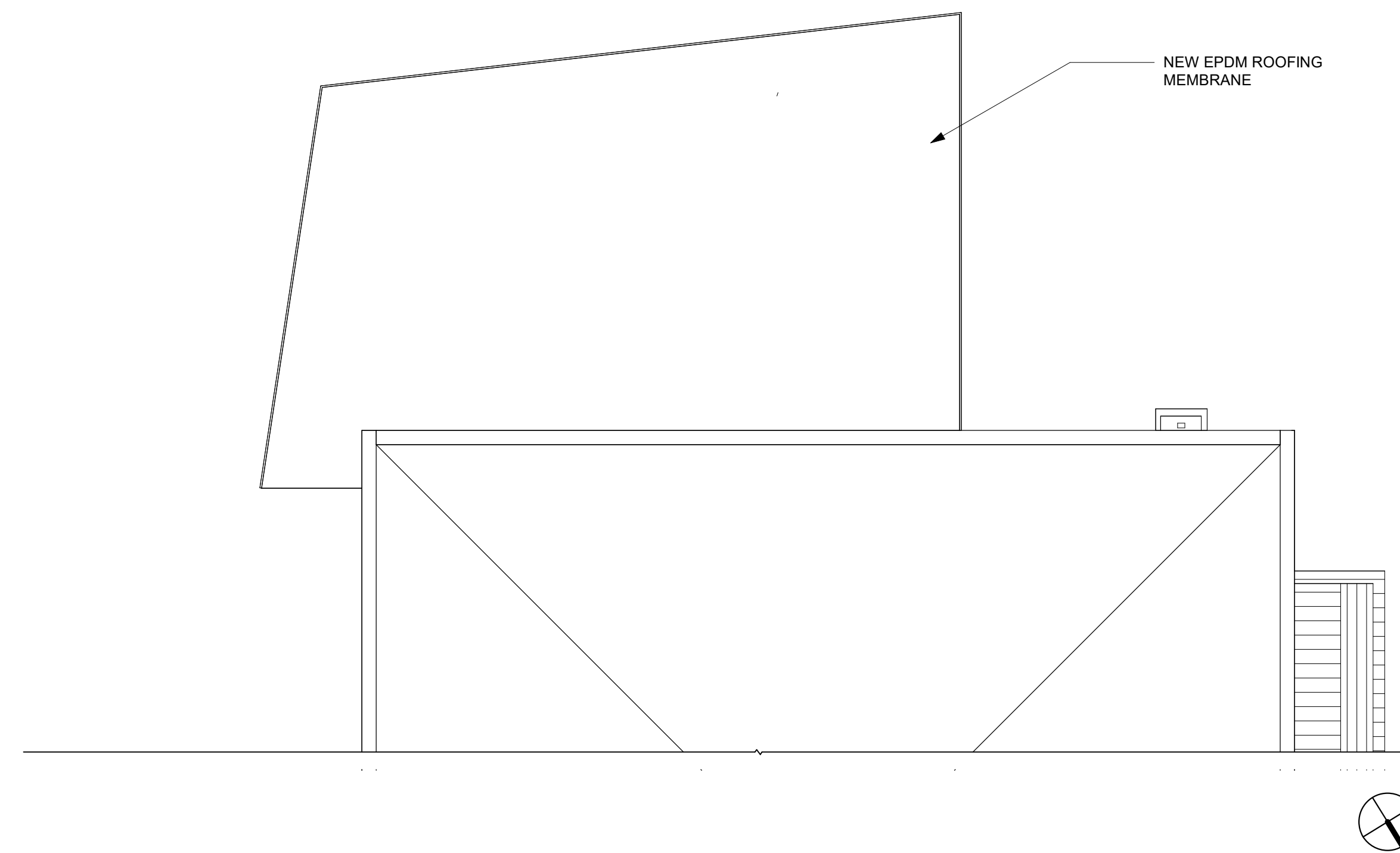


4 Perspective #1

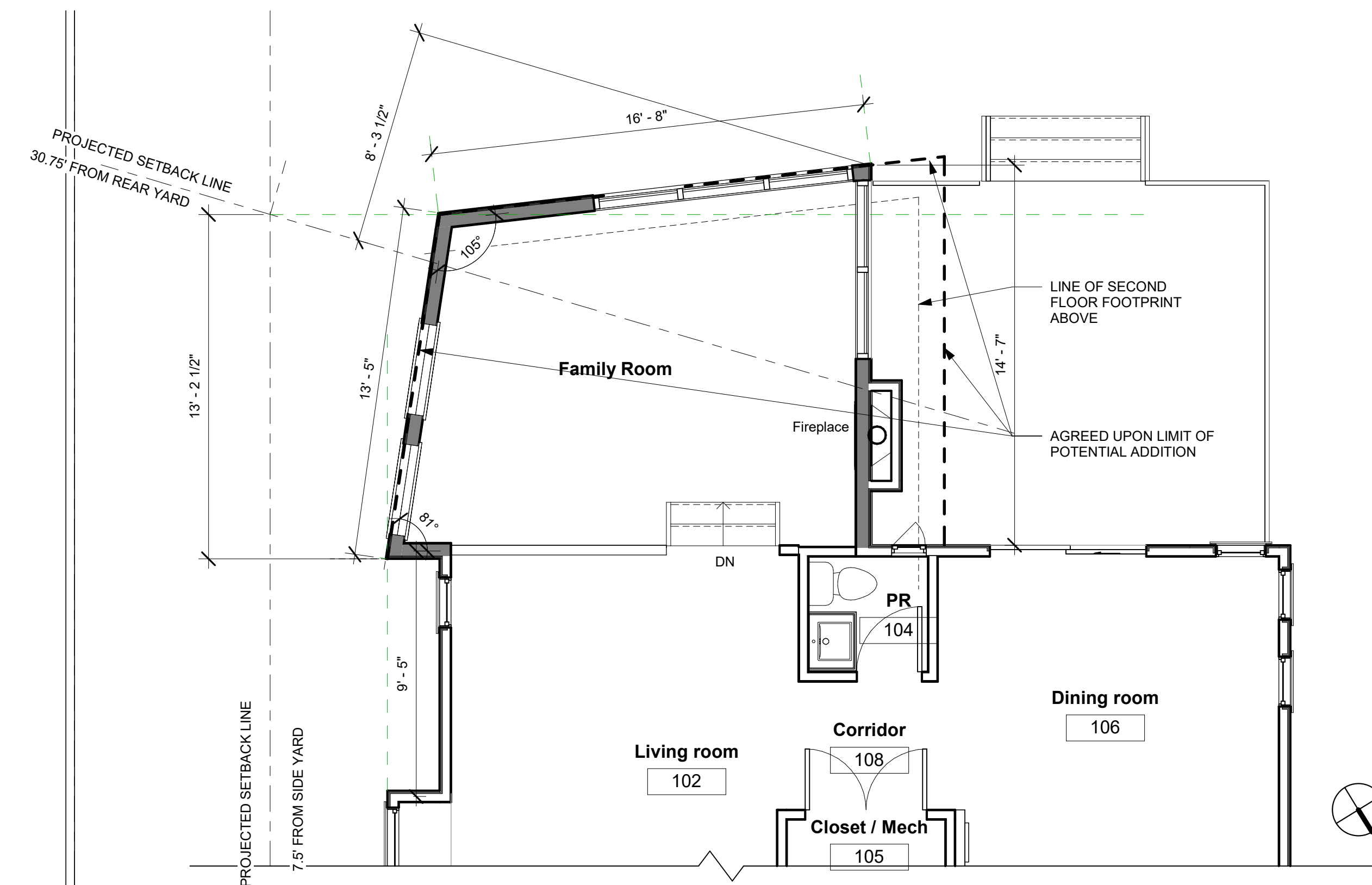
THE MATERIALS AND FINISHES SHOWN ON THE ELEVATIONS AND RENDERINGS ARE FOR ILLUSTRATIVE PURPOSES ONLY; THE OWNER RESERVES THE RIGHT TO SUBSTITUTE THE SAME IN ITS SOLE DISCRETION.



2 2nd Floor
1/4" = 1'-0"
238 SF ADDITION ON THE SECOND FLOOR



3 Roof
1/4" = 1'-0"



1 1st Floor
1/4" = 1'-0"
238 SF ADDITION ON THE FIRST FLOOR

Document

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Culotta Residence
26 Belle Circle
Cambridge, MA 02140

Locus Plan

No.	Date	Revision/Issue

Date
02/03/2023
Scale
1/4" = 1'-0"
NEDC Job No.
20.001

Proposed Exterior Elevations

A-2.20



④ Perspective #2

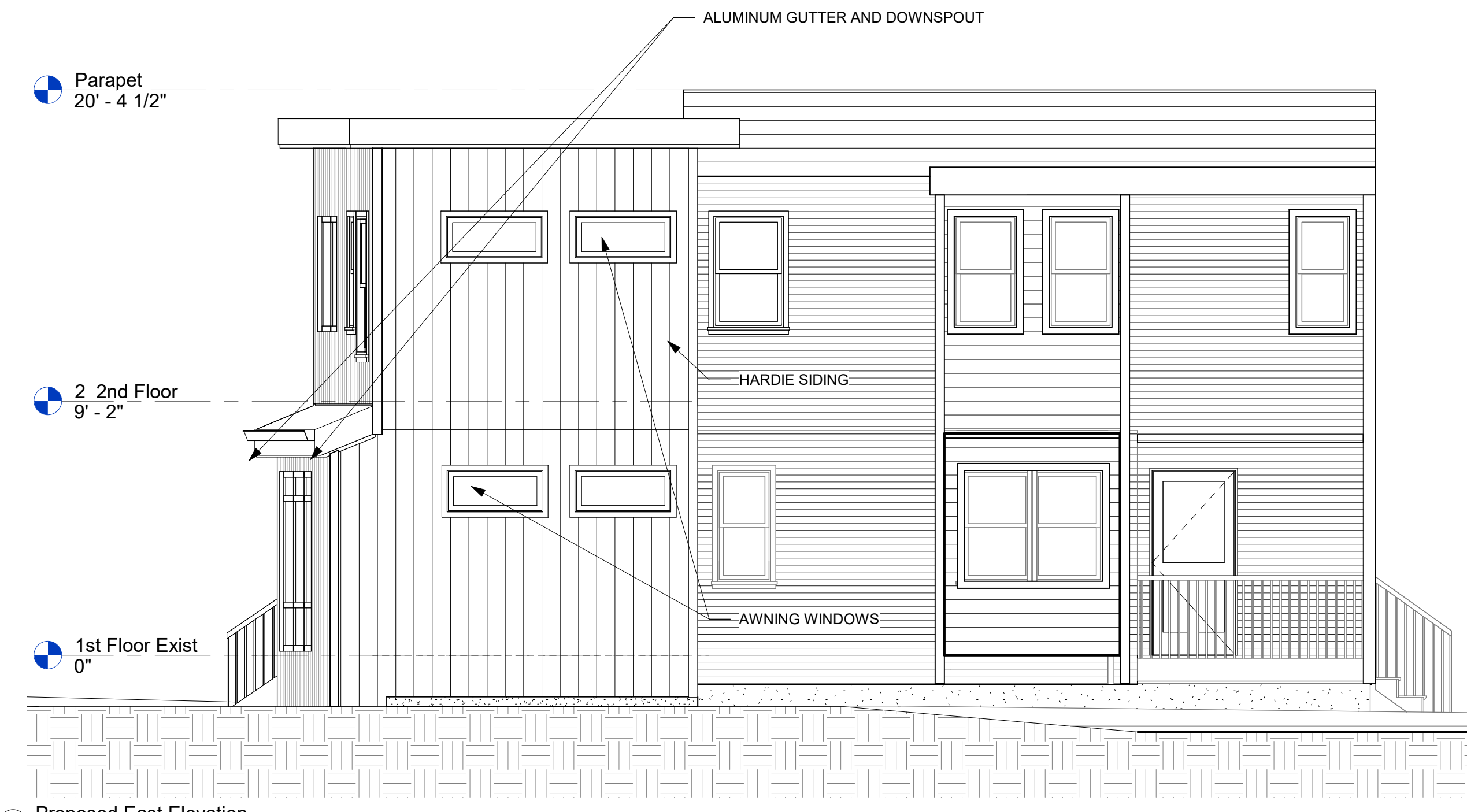
THE MATERIALS AND FINISHES SHOWN ON THE ELEVATIONS AND RENDERINGS ARE FOR ILLUSTRATIVE PURPOSES ONLY; THE OWNER RESERVES THE RIGHT TO SUBSTITUTE THE SAME IN ITS SOLE DISCRETION.



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



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



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

THE MATERIALS AND FINISHES SHOWN ON THE ELEVATIONS AND RENDERINGS ARE FOR ILLUSTRATIVE PURPOSES ONLY; THE OWNER RESERVES THE RIGHT TO SUBSTITUTE THE SAME IN ITS SOLE DISCRETION.

Culotta Residence

26 Bellis Circle
Cambridge, MA 02140

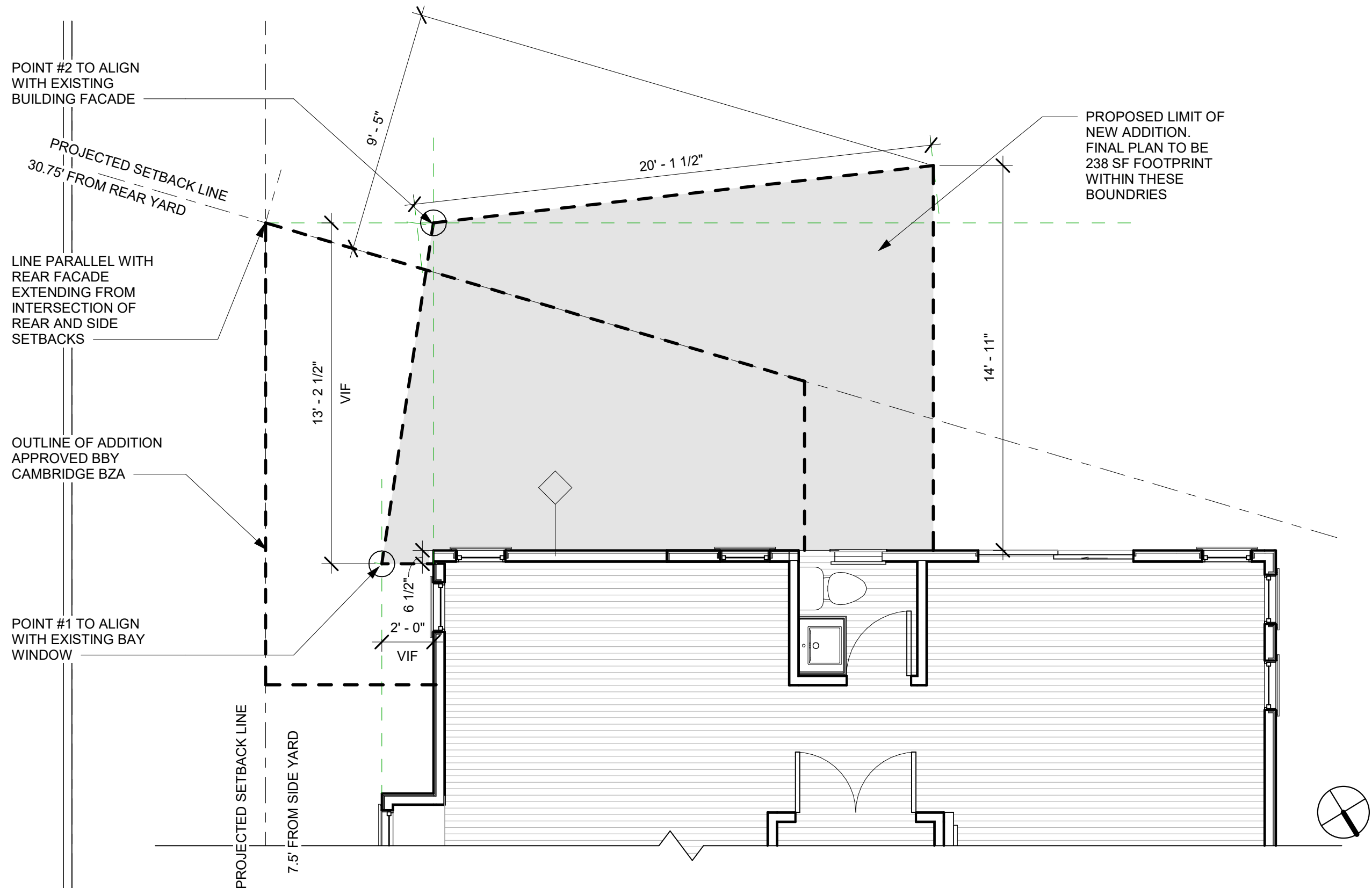
Project
Boundaries

20.001

Date
02/03/2023

Scale
1/4" = 1'-0"

Z-1.01



① 1st Floor Boundry Plan
1/4" = 1'-0"

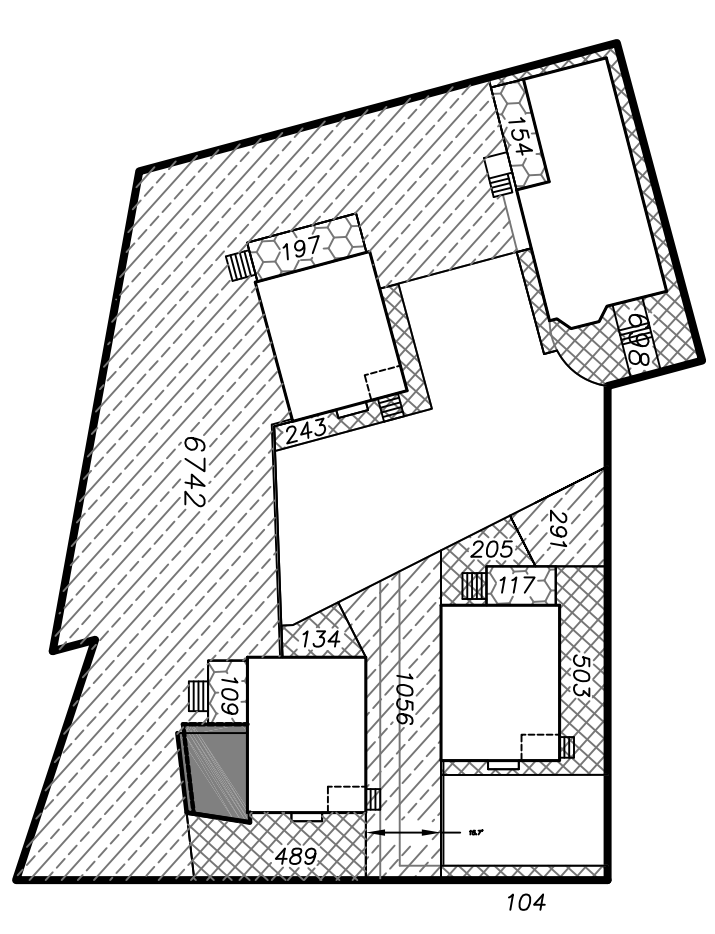
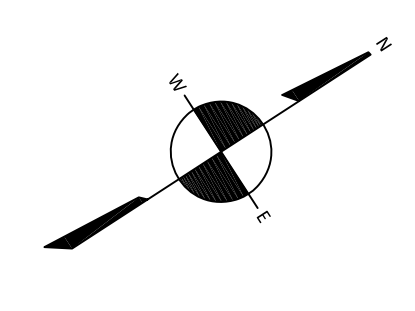
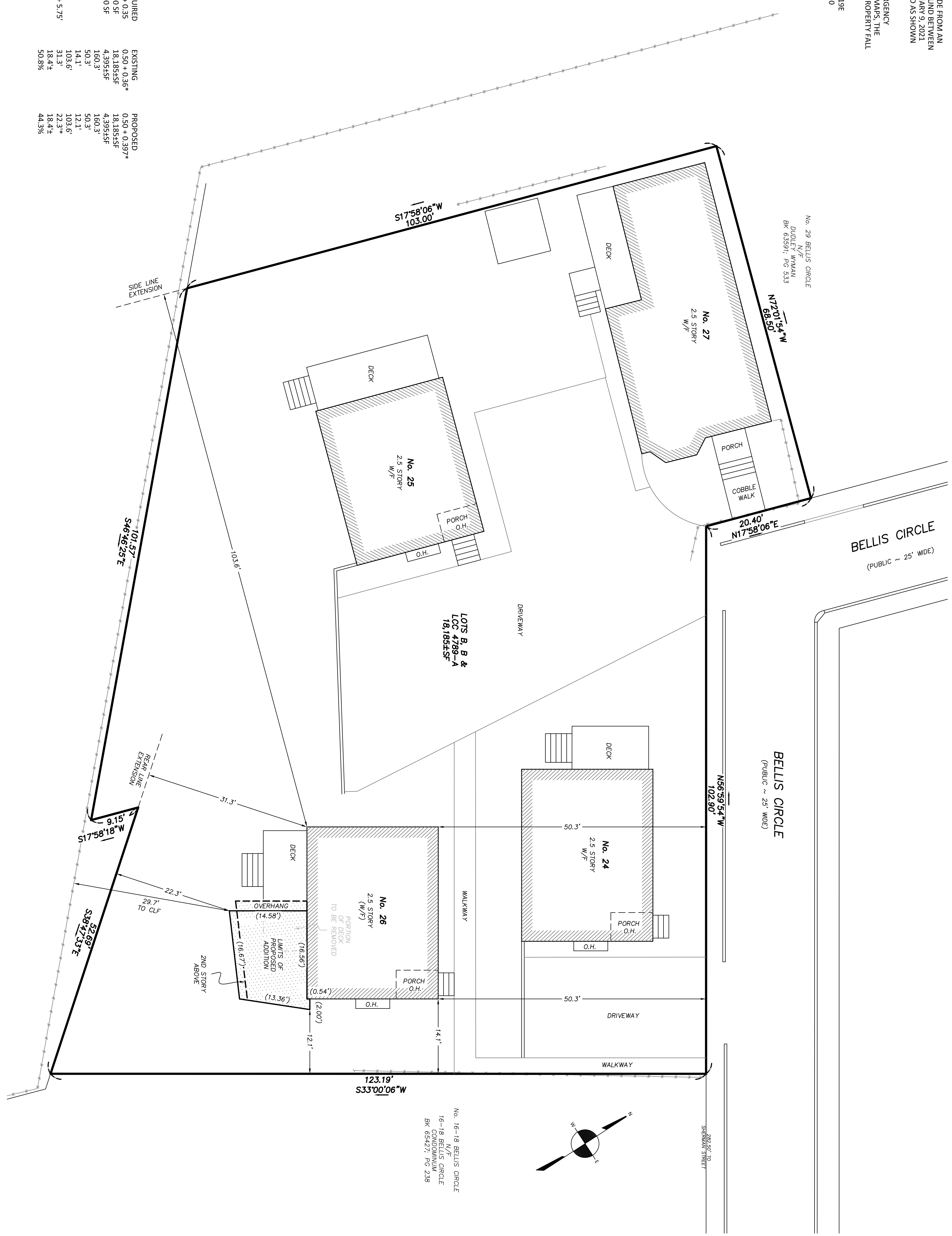
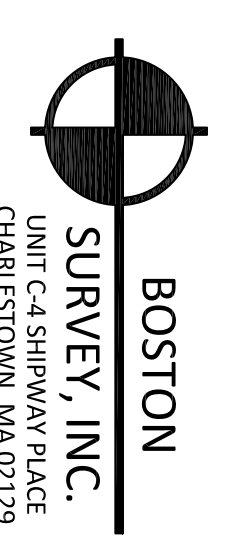
PREPARED FOR:
 THOMAS A. COLIOTTA
 28 BELLS CIRCLE
 CAMBRIDGE, MA 02140

REFERENCES:
 OWNER OF RECORD:
 BELLS CIRCLE CONDOMINIUM
 DEED: BK 46247, PG 103
 PLAN: NO. 1381 OF 2005
 NO. 369 OF 2015

I CERTIFY THAT THIS PLAN WAS MADE FROM AN INSTRUMENT SURVEY ON THE GROUND BETWEEN THE DATES MARCH 7, 2008 - FEBRUARY 9, 2021 AND ALL STRUCTURES ARE LOCATED AS SHOWN HEREON.
 ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY (F.E.M.A.) MAPS, THE MAJOR IMPROVEMENTS ON THIS PROPERTY FALL IN AN AREA DESIGNATED AS
 ZONE: X
 COMMUNITY PANEL: 250170449E
 EFFECTIVE DATE: 06/04/2010

PLAN OF LAND
 LOCATED AT
24, 25, 26, & 27 BELLS CIRCLE
 CAMBRIDGE, MA

DATE: FEBRUARY 9, 2023 SCALE: 1.0 INCH = 10.0 FEET



OPEN SPACE AREAS	
TOTAL LOT AREA:	18,185.53SF
REQUIRED (40%):	7,274.51SF
USABLE OPEN SPACE COMPLIANT (15' X 15')	
TOTAL:	291.55F
	1,056.55F
	6,742.55F
TOTAL:	8,089.55F
NON-USABLE OPEN SPACE NON-COMPLIANT	
TOTAL:	698.55F
	248.55F
	2,035.55F
	503.55F
	104.55F
	134.55F
	489.55F
TOTAL:	2,376.55F
DECK OPEN SPACE	
TOTAL:	154.55F
	117.55F
	109.55F
TOTAL:	277.55F
TOTAL GROSS OPEN SPACE	
TOTAL:	10,742.55F

No. 16-18 BELLS CIRCLE
 16-18 BELLS CIRCLE
 N/F
 BK 65427, PG 238

ZONING: RESIDENCE B
 DISTRICT: RESIDENCE B

FAR	(MAX)	REQUIRED	EXISTING	PROPOSED
LOT SIZE	(MIN)	0.51 ± 0.35*	0.50 ± 0.36*	0.50 ± 0.37*
LOT AREA, DW/U	(MIN)	5,000 SF	18,185.55F	18,185.55F
LOT WIDTH	(MIN)	2,500 SF	4,395.55F	4,395.55F
FRONT SETBACK	(MIN)	50'	160.3'	160.3'
SIDE SETBACK 1	(MIN)	15'	50.3'	50.3'
SIDE SETBACK 2	(MIN)	7.5'	14.1'	12.1'
REAR SETBACK	(MIN)	7.5'	103.6'	103.6'
HEIGHT, FEET	(MAX)	25' ± 5.75'	31.3'	22.3'*
PVT. OP. SPACE	(MIN)	35'	18.4'	18.4'
		40%	50.8%	44.3%

* = NON-CONFORMING

NOTE:
 LOT WIDTH, BUILDING SETBACKS SHOWN APPLY TO DWELLING AT #26 AS SHOWN HEREON.

FIELD:	DRM
DRAFT:	DRM, NRP
CHECK:	GCC
DATE:	02/09/23
JOB #	04-00197



26











26 Bellis Circle #26









Mead, Talerman & Costa, LLC
Attorneys at Law

30 Green Street
Newburyport, MA 01950
Phone 978.463.7700
Fax 978.463.7747

www.mtclawyers.com

By Hand

April 5, 2023

Constantine Alexander, Chairman
Board of Zoning Appeal
City of Cambridge
831 Massachusetts Avenue
Cambridge, Massachusetts 02139

RE: Special Permit and Variance Applications
26 Bellis Circle #26

Dear Mr. Chairman and Members of the Board:

Reference is made to the above-captioned matter. In that connection, I represent Thomas A. Culotta and Mary Custic, husband and wife, as the owners-of-record of the 26 Bellis Circle property cited above and as recipients of a special permit from the Board of Zoning Appeal (BZA) dated April 21, 2022. Said special permit authorized the construction of a two-story, 476-square-foot addition to the Petitioners' single-family residence, i.e. with a footprint of 238 square feet. The addition was somewhat awkwardly shaped due to the Petitioners' efforts to avoid encroachments into the minimum side- and rear-yard setbacks applicable in the Residence B zoning district. Notably, the rear boundary of the property is not only angled vis-à-vis the Petitioners' residence, but also includes a "jog" in the vicinity of the residence which causes the 30.75-foot minimum rear setback to broadcast well into, and consume much of, the Petitioners' backyard.

Following the BZA's unanimous issuance of the above special permit, the Petitioners' neighbors at 18 Bellis Circle filed an appeal thereof naming both the Petitioners and the BZA as Defendants. Even though the addition as approved would satisfy the applicable minimum side setback nearest the neighbors' property and residence, they expressed in their appeal certain concerns with and about its proximity to them and its anticipated interference with their view(s) of nearby Danehy Park. Efforts began almost immediately to resolve these objections without protracted litigation. The neighbors expressed to the Petitioners that they did not object to the concept of an addition to the home, but that they did object to its location and configuration. After lengthy discussions and back-and-forth negotiations, the Petitioners and their neighbors achieved a settlement contingent upon amending the aforementioned special permit and seeking additional relief from the BZA, i.e. a variance, for relocation of the addition.

Now submitted herewith are the Petitioners' modified plans for their addition. Importantly, and by agreement with the neighbors, the footprint of the Petitioners' redesigned addition is the same as what the BZA previously approved (as is the overall square footage of the addition); but the addition will now be oriented and shaped somewhat differently. Sheet Z-1.01 of the design plans prepared by NEDC Design +

Millis Office

730 Main Street, Suite 1F
Millis, MA 02054
Phone/Fax 508.376.8400

New Bedford Office

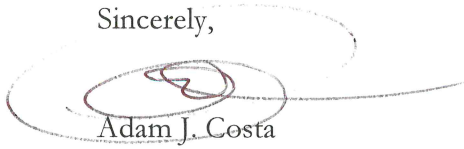
227 Union Street, Suite 606
New Bedford, MA 02740

Construction, entitled “Project Boundaries,” shows the original “Outline of Addition Approved by Cambridge BZA” as well as the redesigned “Proposed Limit of New Addition.” The actual boundaries of the proposed new addition, as well as the interior layout thereof, are similarly shown on Sheet A-1.20 of the same plans, entitled “Proposed Schematic Floor Plans.”

To implement these new plans for the Petitioners’ addition, the **special permit** issued by the BZA in early-2022 must be **amended**. The BZA’s prior decision had made the requisite findings, among others, that “traffic generated or patterns of access or egress... would not cause congestion, hazard, or substantial change in neighborhood character”; that “continued operation of or development of adjacent uses would not be adversely affected by the proposed use”; that “there would not be any nuisance or hazard created to the detriment of health, safety and/or welfare”; that “the proposed use would not impair the integrity of the district or adjoining district”; that “there would be no change in use”; and that “the proposed alteration would not be substantially more detrimental than the existing nonconforming structure to the neighborhood.” The Petitioners contend that the reorientation of their addition, without changing its size or footprint, does not and should not alter these findings. Further support for amendment of the special permit is supplied within the attached “BZA Application Form,” specifically on Page 6 thereof.

Also required for the redesigned addition to the Petitioners’ home is a **variance** from the 30.75-foot minimum rear setback requirement. As shown on the aforementioned design plans, as well as on the new site “Plan of Land” prepared by Boston Survey, Inc., the Petitioners’ proposed addition – at its closest point – will be situated approximately 21.3 feet from the rear boundary of the property. Notably, the angle of the back wall of the addition and the angle of the boundary itself diverge, running northeasterly and southeasterly, respectively, meaning that other portions of the addition encroach upon the rear-yard setback to a lesser degree. Additionally, the “jog” in the property’s rear boundary, referenced above, is located not-so-conveniently nearest the addition. Measuring the rear-yard setback from the “CLF,” or chain-link fence, on the City’s adjacent property, i.e. Danehy Park, which runs along the boundary in a linear fashion without accommodating the aforesaid “jog,” yields a distance of 29 feet at the addition’s closest point, a lesser deviation from the 30.75-foot minimum setback. It is thus the awkward shape of the lot in relation to the placement of the existing house that justifies issuance of a variance. See Bobrowski, Handbook of Massachusetts Land Use and Planning Law § 8.03[A][4] (5th ed. 2022) (“Mass. Gen. L. ch. 40A, § 10 also refers to ‘circumstances related to... structures, but not affecting generally the zoning district in which it is located’ (emphasis added)). Further support for grant of the variance is supplied within the attached “BZA Application Form,” specifically on Page 5 thereof.

I thank you for your consideration of the above. I look forward to attending the public hearing on the Petitioners’ application; and addressing Board members’ questions and concerns, if any.

Sincerely,

Adam J. Costa

AJC/fhs
Enclosures
cc: Clients (w/ encl., via e-mail only)

4/1/2023

To Whom it may Concern:

This letter confirms that the owners of 24-25-27 Bellis Circle Condominium have approved and support the proposed addition to and associated renovations of 26 Bellis Circle, including the applications submitted or soon-to-be submitted by Thomas Culotta and Mary Custic to the BZA in the spring of 2023 for a special permit amendment and variance to complete these improvements.

Owners:

24 Bellis Circle

Print Name: Kathryn L. Childs

Signature: Kay Childs

Date: 4-2-23

25 Bellis Circle

Print Name: Dudley Wymann

Signature: [Signature]

Date: 4/2/23

27 Bellis Circle

Print Name: Leah Kerr

Signature: Leah Kerr

Date: 4-2-23



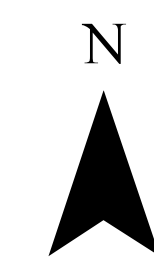
City of Cambridge
Assessing Department

795 Massachusetts Ave.
Cambridge, MA 02139

- Buildings
- Water
- Lot Line
- Sub-Parcel Line
- Block Line
- Easement
- City Boundary
- Railway

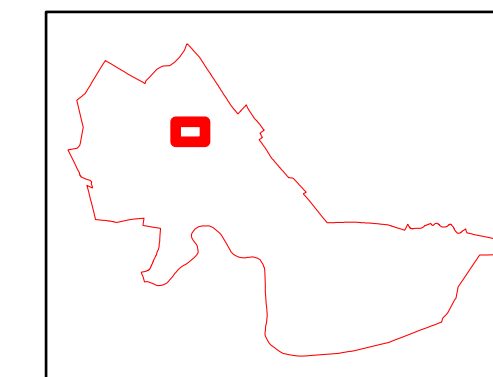
10 Lot Number 100 Parcel size in Sq. Ft.
 271 Block Number 44.0LC Land Court Dimension
 10 Cam Street Number 65.0 Survey Dimensions
 (125.0) Deed Dimension

DISCLAIMER:
 All Real Property shown on this map was compiled from existing Assessor's Tax Maps dated 1920 to 2022 and maintained by the City Assessor's Office and the Department of Public Works. Subsequent maintenance has been completed using the City of Cambridge Geographic Information System (GIS). Parcels have not been created from survey, and map is suitable for assessing purposes only.
 The City of Cambridge assumes no legal responsibility for information shown on this map.



0 20 40 80 Feet

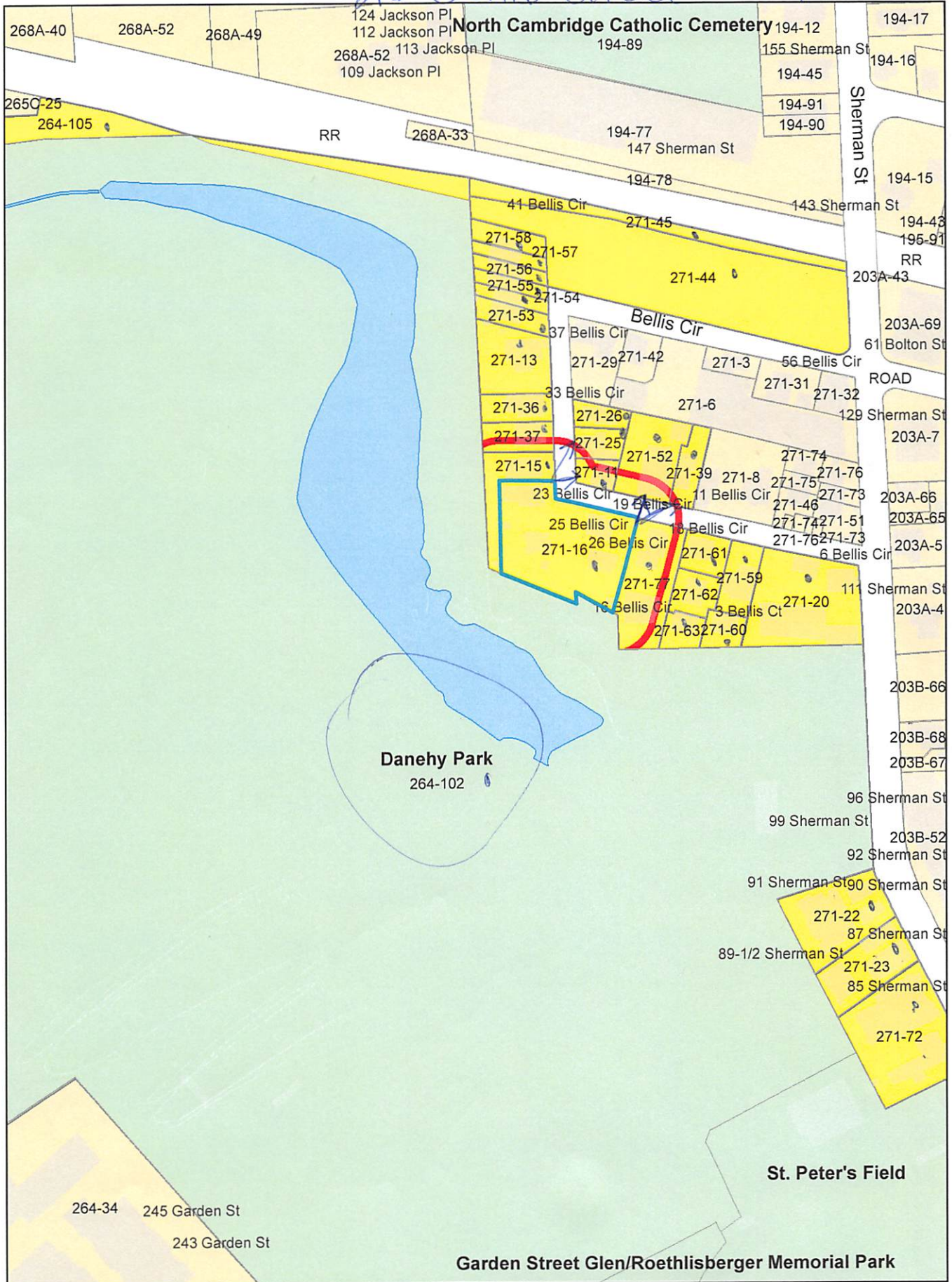
1:610



Parcel Block Map

271

26 Bellis Circle #26



26 Bellis Circle # 26

143
Petitioner

271-23
GARLAND, HAZEL I.
87-89 SHERMAN ST., #87/1
CAMBRIDGE, MA 02140

271-23
PALLOTTA, CHRISTOPHER F.
87 SHERMAN ST., #87-3
CAMBRIDGE, MA 02138

271-16
CULOTTA, THOMAS A. & MARY CUSTIC
26 BELLIS CIR
CAMBRIDGE, MA 02140

271-54
HUA, HAIYAN & YUHUA LI
39B BELLIS CIR.
CAMBRIDGE, MA 02140

271-58
OLKEN, DEBORAH
39 JOHN F. BELLIS CIRCLE
CAMBRIDGE, MA 02140

Esq.
MEAD, TALERMAN & COSTA, LLC
C/O ADAM J. COSTA, ESQ.
30 GREEN STREET
NEWBURYPORT, MA 01950

271-44
CAMBRIDGE MONTESSORI SCHOOL. INC
161 GARDEN ST
CAMBRIDGE, MA 02138

271-45
MASSACHUSETTS BAY TRANSPORTATION
AUTHORITY
10 PARK PLAZA
BOSTON, MA 02116

271-60
KING, CAROLYN B.
14 D BELLIS CIRCLE
CAMBRIDGE, MA 02138

271-72
BORDONE, ROBERT C.
81 SHERMAN ST., #81-1
CAMBRIDGE, MA 02140

271-23
LIEB, LAWRENCE B.
87 SHERMAN ST., #87-2
CAMBRIDGE, MA 02138

271-39
HARRIS, EUGENE N. & ESTHER K. HARRIS
15 BELLIS CIR
CAMBRIDGE, MA 02140

271-56
MUELLER, FREDERICK W.
39D BELLIS CIR
CAMBRIDGE, MA 02140

271-57
RUDD, CHRISTOPHER E.
4026 AVENUE DE VENDOME
MONTREAL, QC _

271-62
THOMAS, BARBARA & TIMOTHY WALL
14B BELLIS CIRCLE
CAMBRIDGE, MA 02140

271-63
TITCOMB, TIMOTHY PAUL AND KITT SCHAFFER
14 C JOHN F. BELLIS CIR
CAMBRIDGE, MA 02140

271-72
BARRICELLI, LAURA C.
85 SHERMAN ST., UNIT #85/2
CAMBRIDGE, MA 02138

271-72
NIXON, JEANNE M. K.
85 SHERMAN ST, #3
CAMBRIDGE, MA 02140

271-72
KELLY, CAROL
85 SHERMAN ST., UNIT #85/8
CAMBRIDGE, MA 02138

271-72
WHELAN, DAVID & CATHERINE BOHN
81 SHERMAN ST., UNIT #2
CAMBRIDGE, MA 02140

271-72
TWEED, AMANDA J.
85 SHERMAN ST 85/4
CAMBRIDGE, MA 02140

271-72
ORMOND, CATHERINE,
TRUSTEE THE CATHERINE ORMOND LIV TR
85 SHERMAN ST., #5
CAMBRIDGE, MA 02138

271-72
SONG, KYUNG I.
85 SHERMAN ST., UNIT #9
CAMBRIDGE, MA 02140

271-22
LI, XIANJING
91 SHERMAN ST #2
CAMBRIDGE, MA 02140

271-23
LANGE, NANCY J., TRUSTEE OF REVOCABLE
LIVING TRUST NANCY J. LANGE
87 SHERMAN ST., UNIT #87 1/2-1
CAMBRIDGE, MA 02138

271-26
LADD, MARIBETH & BARRY MURPHY
32 BELLIS CIRCLE
CAMBRIDGE, MA 02140

271-52
VISE, DAVID
19 BELLIS CIR
CAMBRIDGE, MA 02140

271-53
GIRALDI, WILLIAM M. & KATIE GIRALDI
39A BELLIS CIR
CAMBRIDGE, MA 02140

271-13
BERRY, ROGER S. & SONIA PEREZ VILLANUEVA
35 BELLIS CIR
CAMBRIDGE, MA 02140

271-11
MORIARTY, PATRICIA M.
23 BELLIS CIR
CAMBRIDGE, MA 02140

271-20
KIM, JENNIFER Y. & LAWRENCE K. KIM
1 BELLIS CT. UNIT A
CAMBRIDGE, MA 02140

271-20
GILL, RICHARD J. & SUZAN E. WOLPOW
111 SHERMAN ST UNIT E
CAMBRIDGE, MA 02140

271-20
KERAMARIS, JOHN & NICHOLAS KERAMARIS
111 SHERMAN ST., #F
CAMBRIDGE, MA 02140

271-15
WYMAN, DUDLEY & NICOLE A. BARNA
29 BELLIS CIR
CAMBRIDGE, MA 02140

271-20
ROWLANDS, DAVID JOHN &
MARIANNA PAPASPYRIDONOS
2 BELLIS COURT
CAMBRIDGE, MA 02140

271-20
SUN, GERALD & TING FENG
111 SHERMAN STREET UNIT C
CAMBRIDGE, MA 02138

271-20
WEITZMAN, CATHERINE EZELL AND
ARTHUR J. WEITZMAN
4 JOHN F. BELLIS CT
CAMBRIDGE, MA 02140

271-23
LUCAS, JUAN CESAR SANCHEZ & EVA MARIA
FERRERAS RODRIGUEZ
87-89 SHERMAN ST UNIT #89
CAMBRIDGE, MA 02138

1271-37
WILTON, LISA JAYNE
31 J. F. BELLIS CIR.
CAMBRIDGE, MA 02140-3207

271-77
WU, SHUO & KUN HU
18 BELLIS CIR
CAMBRIDGE, MA 02140

271-22
JAYARAM, HARIHARAN GEETA ATHALYE TRS
91 SHERMAN ST - UNIT 6
CAMBRIDGE, MA 02140

271-36
SIEGELL, MICHAEL LAKSHMI MUDUNURI
33 BELLIS CIR
CAMBRIDGE, MA 02140

271-22
KELLEY, BRITTA E. & KATHLEEN M. RIESING
91 SHERMAN ST #1
CAMBRIDGE, MA 02140

271-59
MAHMOODABADI,
SINA ZAREI HANIEH AKBARIROMANI
12 BELLIS CIRCLE
CAMBRIDGE, MA 02140

271-72
ZEA NICOLAS VARGAS
85 SHERMAN ST UNIT 11`
CAMBRIDGE, MA 02140

271-72
JUNG ERIC HOONEE
85 SHERMAN STREET - UNIT 85-1
CAMBRIDGE, MA 02140

271-22
DRAZEN, BRADFORD,
TRS THE CREESE CAMBRIDGE TRUST
91 SHERMAN ST UNIT 5
CAMBRIDGE, MA 02140

271-77
BIAL ERICA
16 BELLIS CIR -UNIT 16
CAMBRIDGE, MA 02140

271-22
WANG, RUWEI & JEREMY P. MCNEES
91 SHERMAN ST UNIT 3
CAMBRIDGE, MA 02140

271-25
TOFIAS, LEVI J. ROSEMARY PARK
30 BELLIS CIR
CAMBRIDGE, MA 02140

271-61
BHARGAVA, ANKUR & AVANTI TILAK
14A BELLIS CIRCLE
CAMBRIDGE, MA 02140

271-16
KERR, LEAH A & ADAM F.
TRS THE LEAH KERR 2005 TR
27 BELLIS CIR
CAMBRIDGE, MA 02140

271-72
VARY GYORGY & ANITA KOVACS
85 SHERMAN ST
CAMBRIDGE, MA 02140

271-55
GARCIA, GARRETT & SAMANTHA LIVINGSTON
39C BELLIS CIR
CAMBRIDGE, MA 02140

271-22
RIGEL CAPITAL LLC
1175 W BITTERS RD, STE 2203 78216
SAN ANTONIO , TX 78229

271-16
KANE, STUART A & KATHRYN L CHILDS TRS
24 BELLIS CIR - UNIT 24
CAMBRIDGE, MA 02140

271-72
MAKARANKA MIKALAI
85 SHERMAN ST APT 10
CAMBRIDGE, MA 02140

271-16
WYMAN, DUDLEY & NICOLE BARNA
25 BELLIS CT - UNIT 25
CAMBRIDGE, MA 02318

271-23
POIRIER, JOSEPH A ELIZABETH A POIRIER
299 LEXINGTON ST - UNIT 16
WOBURN, MA 01801

271-22
TAI JEANNE CHING
TRS JEANNE CHING TAI TRUST
91 SHERMAN ST - UNIT 4
CAMBRIDGE, MA 02140

26 Belles Circle # 26

343

271-22
KUCAB, BRADLEY & FARZANEH NEKUI
91 SHERMAN ST - UNIT 7
CAMBRIDGE, MA 02140

264-102 & 105
CITY OF CAMBRIDGE
C/O NANCY GLOWA
CITY SOLICITOR

264-102
CAMBRIDGE CITY OF PWD
147 HAMPSHIRE ST
CAMBRIDGE, MA 02139

264-105-102
CITY OF CAMBRIDGE
C/O YI-AN HUANG
CITY MANAGER

Thomas Culotta & Mary Cusic
26 Bellis Circle
Cambridge, MA 02140
tculotta@yahoo.com
617-417-9112

2024 JUN 11 PM 1:33
OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

June 10, 2024

Cambridge Board of Zoning Appeal
831 Massachusetts Ave.
Cambridge, MA 02139

Subject: Request for Extension of Variance – Special Permit/Variance Number 218034

Dear Members of the Board,

I am writing to formally request a six-month extension to the variance granted under Special Permit/Variance number 218034. Due to the significant increase in construction costs since the commencement of this project, I have found it necessary to seek new bids from different builders. This reassessment has taken longer than anticipated, and as a result, I will not be able to secure a building permit before the current deadline of July 12, 2024.

The rise in construction costs has compelled us to conduct due diligence to ensure we secure a contractor within our budget. We have recently initiated the process of obtaining new bids and are currently in the phase of receiving and reviewing these bids. This reassessment period has extended our timeline, making it unlikely for us to meet the existing deadline.

In light of these circumstances, I respectfully request a six-month extension to the variance. This extension will provide the necessary time to complete the bidding process and secure a builder, thereby allowing us to proceed with obtaining the building permit.

Thank you for your attention to this matter. I appreciate your consideration and look forward to your positive response. Please do not hesitate to contact me if you require any additional information or documentation.

Sincerely,



Thomas Culotta & Mary Cusic



2023 00099400

Bk: 81958 Pg: 73 Doc: DECIS
Page: 1 of 3 09/01/2023 10:46 AM



CITY OF CAMBRIDGE

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

2023 JUL 12 PM 2:53

OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

CASE NO: 218034

LOCATION: 26 Bellis Circle – Unit 26
Cambridge, MA

Residence B Zone

PETITIONER: Thomas A. Culotta & Mary Cusic
C/o Adam J. Costa, Esq.

HC275-237

PETITION: Variance: To add a new nonconformity, namely an encroachment up to 30.75-foot minimum rear setback.

Special Permit: Amendment to construct an addition to a pre-existing, dimensionally nonconforming detached single-family structure, increasing gross floor area/floor area ration.

VIOLATIONS: Art. 5.000, Sec. 5.31 (Table of Dimensional Requirements).
Art. 8.000, sec. 8.22.2.c & Sec. 8.22.3 (Non-Conforming Structure).
Art. 10.000, Sec. 10.30 (Variance). & Sec. 10.40 (Special Permit).

DATE OF PUBLIC NOTICE: May 11 & May 18, 2023

DATE OF PUBLIC HEARING: May 25, 2023

MEMBERS OF THE BOARD:

JIM MONTEVERDE – VICE-CHAIR
BRENDAN SULLIVAN
STEVEN NG
VIRGINIA KEESLER
FERNANDO DANIEL HIDALGO
WILLIAM BOEHM
ANDREA A. HICKEY
LAURA WERNICK

ASSOCIATE MEMBERS:

SLATER W. ANDERSON
MATINA WILLIAMS
WENDY LEISERSON
CAROL AGATE
THOMAS MILLER
ZARYA MIRANDA
MICHAEL LAROSA

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-218034

Location: 26 Bellis Circle – Unit 26, Cambridge, MA

Petitioner: Thomas A. Culotta and Mary Custic -- c/o Adam J. Costa, Esq.

On May 25, 2023, Petitioners Thomas Culotta and Mary Custic appeared before the Board of Zoning Appeal with their attorney Adam Costa requesting a variance in order to encroach on the rear yard setback and a special permit in order to construct an addition to a pre-existing, dimensionally nonconforming detached single-family structure, increasing gross floor area/floor area ratio. The Petitioner requested relief from Article 5, Section 5.31, Article 8, Sections 8.22.2.c and 8.22.3, and Article 10, Sections 10.30 and 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. Costa stated that the property had previously received a special permit for an addition and that subsequently an abutter had filed an appeal. He stated that, after negotiations with the abutter, a new plan emerged with the same FAR, but just moved back from the abutter’s property line. He stated that the addition would now violate the rear yard setback, creating a new nonconformance, which required the variance. He stated that this invasion was inevitable given the oddly shaped lot.

The attorney for the abutter spoke in support of the proposal. The Chair noted letters of support from the neighbors.

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 Petitioners’ submitted materials and the evidence before the Board: that the Board find that the requirements of Article 10, Section 10.30 were met; that the Board find that the encroachment on the rear setback was a result of the oddly shaped lot and the legal objections of the abutters, which forced the addition over the rear setback; that the Board find that the hardship created the need for the addition’s nonconforming placement; and that the Board incorporate the supporting statements and dimensional forms as part of the application.

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 conform to the drawings entitled "Culotta Residence" prepared by "NEDC Design & Construction", dated February 3, 2023, as initialed and dated by the Chair.

The five-member Board voted unanimously in favor of granting the variance with the above condition (Monteverde, Leiserson, Ng, Williams, Miranda). Therefore, the variance is granted as conditioned.

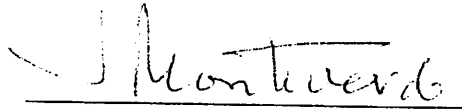
After discussion, the Chair moved that the Board make the following findings based upon the application materials submitted and all evidence before the Board and that based upon the findings the Board grant the requested relief as described in the Petitioners’ submitted materials and the evidence before the Board: that the Board find that Petitioners had met the requirements

of Article 8, Section 8.22.2.c and Article 10, Section 10.40 for the granting of a special permit; that the Board incorporate the supporting statements and dimensional form.

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 conform to the drawings entitled "Culotta Residence" prepared by "NEDC Design & Construction", dated February 3, 2023, as initialed and dated by the Chair.

The five-member Board voted unanimously in favor of granting the special permit with the above condition (Monteverde, Leiserson, Ng, Williams, Miranda). 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.



Jim Monteverde, Chair

Attest: A true and correct copy of decision filed with the offices of the City Clerk and Planning Board on 7-12-23 by Maria Pacheco, Clerk.

Twenty days have elapsed since the filing of this decision.

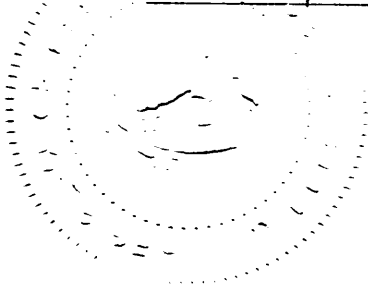
No appeal has been filed ✓.

Appeal has been filed and dismissed or denied.

Date: SEPT. 1st, 2023



City Clerk.



SEP 01 2023

COMMONWEALTH OF MASSACHUSETTS.
MIDDLESEX S.S. _____
SOUTH DIST. REGISTRY OF DEEDS
CAMBRIDGE, MA

I HEREBY CERTIFY THE FOREGOING
IS A TRUE COPY OF A PAPER 81958
RECORDED IN BOOK _____

PAGE 73 _____

Alvin A. Cantatore
REGISTER





CITY OF CAMBRIDGE

Massachusetts

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

2023 JUL 12 PM 2: 53

OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

CASE NO: 218034

LOCATION: 26 Bellis Circle – Unit 26
Cambridge, MA

Residence B Zone

PETITIONER: Thomas A. Culotta & Mary Custic
C/o Adam J. Costa, Esq.

PETITION: Variance: To add a new nonconformity, namely an encroachment up to 30.75-foot minimum rear setback.

Special Permit: Amendment to construct an addition to a pre-existing, dimensionally nonconforming detached single-family structure, increasing gross floor area/floor area ration.

VIOLATIONS: Art. 5.000, Sec. 5.31 (Table of Dimensional Requirements).
Art. 8.000, sec. 8.22.2.c & Sec. 8.22.3 (Non-Conforming Structure).
Art. 10.000, Sec. 10.30 (Variance). & Sec. 10.40 (Special Permit).

DATE OF PUBLIC NOTICE: May 11 & May 18, 2023

DATE OF PUBLIC HEARING: May 25, 2023

MEMBERS OF THE BOARD:

JIM MONTEVERDE – VICE-CHAIR	<input checked="" type="checkbox"/>
BRENDAN SULLIVAN	<input type="checkbox"/>
STEVEN NG	<input checked="" type="checkbox"/>
VIRGINIA KEESLER	<input type="checkbox"/>
FERNANDO DANIEL HIDALGO	<input type="checkbox"/>
WILLIAM BOEHM	<input type="checkbox"/>
ANDREA A. HICKEY	<input type="checkbox"/>
LAURA WERNICK	<input type="checkbox"/>

ASSOCIATE MEMBERS:

SLATER W. ANDERSON	<input checked="" type="checkbox"/>
MATINA WILLIAMS	<input checked="" type="checkbox"/>
WENDY LEISERSON	<input checked="" type="checkbox"/>
CAROL AGATE	<input type="checkbox"/>
THOMAS MILLER	<input type="checkbox"/>
ZARYA MIRANDA	<input checked="" type="checkbox"/>
MICHAEL LAROSA	<input type="checkbox"/>

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Case No. BZA-218034
Location: 26 Bellis Circle – Unit 26, Cambridge, MA
Petitioner: Thomas A. Culotta and Mary Custic – c/o Adam J. Costa, Esq.

On May 25, 2023, Petitioners Thomas Culotta and Mary Custic appeared before the Board of Zoning Appeal with their attorney Adam Costa requesting a variance in order to encroach on the rear yard setback and a special permit in order to construct an addition to a pre-existing, dimensionally nonconforming detached single-family structure, increasing gross floor area/floor area ratio. The Petitioner requested relief from Article 5, Section 5.31, Article 8, Sections 8.22.2.c and 8.22.3, and Article 10, Sections 10.30 and 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. Costa stated that the property had previously received a special permit for an addition and that subsequently an abutter had filed an appeal. He stated that, after negotiations with the abutter, a new plan emerged with the same FAR, but just moved back from the abutter’s property line. He stated that the addition would now violate the rear yard setback, creating a new nonconformance, which required the variance. He stated that this invasion was inevitable given the oddly shaped lot.

The attorney for the abutter spoke in support of the proposal. The Chair noted letters of support from the neighbors.

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 Petitioners’ submitted materials and the evidence before the Board: that the Board find that the requirements of Article 10, Section 10.30 were met; that the Board find that the encroachment on the rear setback was a result of the oddly shaped lot and the legal objections of the abutters, which forced the addition over the rear setback; that the Board find that the hardship created the need for the addition’s nonconforming placement; and that the Board incorporate the supporting statements and dimensional forms as part of the application.

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 conform to the drawings entitled "Culotta Residence" prepared by "NEDC Design & Construction", dated February 3, 2023, as initialed and dated by the Chair.

The five-member Board voted unanimously in favor of granting the variance with the above condition (Monteverde, Leiserson, Ng, Williams, Miranda). Therefore, the variance is granted as conditioned.

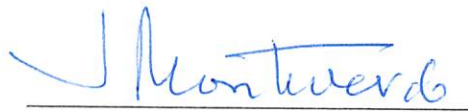
After discussion, the Chair moved that the Board make the following findings based upon the application materials submitted and all evidence before the Board and that based upon the findings the Board grant the requested relief as described in the Petitioners’ submitted materials and the evidence before the Board: that the Board find that Petitioners had met the requirements

of Article 8, Section 8.22.2.c and Article 10, Section 10.40 for the granting of a special permit; that the Board incorporate the supporting statements and dimensional form.

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 conform to the drawings entitled "Culotta Residence" prepared by "NEDC Design & Construction", dated February 3, 2023, as initialed and dated by the Chair.

The five-member Board voted unanimously in favor of granting the special permit with the above condition (Monteverde, Leiserson, Ng, Williams, Miranda). 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.



Jim Monteverde, Chair

Attest: A true and correct copy of decision filed with the offices of the City Clerk and Planning Board on 7-12-23 by Maria Pacheco, Clerk.

Twenty days have elapsed since the filing of this decision.

No appeal has been filed _____.

Appeal has been filed and dismissed or denied.

Date: _____ City Clerk.

1 * * * * *

2 (7:48 p.m.)

3 Sitting Members: Jim Monteverde, Wendy Leiserson, Matina
4 Williams, Stephen Ng, and Zarya Miranda

5 JIM MONTEVERDE: Next case is No. 218034 -- 26
6 Bellis Circle, unit 26. And as Yogi Berra would say, this
7 seems like déjà vu all over again.

8 Is the proponent here to present? Thomas? Mary?
9 Adam?

10 ADAM COSTA: Yes, Thank you, Mr. Chairman. How
11 are you?

12 JIM MONTEVERDE: Very good. So --

13 ADAM COSTA: Apologize for the lag but thank you
14 for promoting me as a panelist. I have my clients here with
15 me as well.

16 JIM MONTEVERDE: So -- oh, thank you. So we --
17 I'm sure we've all read the file. We've seen this case
18 before at least once. But what I did, and I think it would
19 be helpful -- your supporting statement for the variance,
20 paragraphs a), b), c), c1) is kind of the crux if I
21 understand it correctly?

22 So if you could -- if you could just walk us

1 through that one, what brings you before us today, and then
2 what the modifications are that have been made to satisfy
3 your -- what negotiations you've gone through, that would be
4 helpful.

5 ADAM COSTA: Sure. I'd be happy to do that. And
6 I'll try and be as brief and efficient as I can be.
7 Because, as you said, Mr. Chair, I know the Board has seen
8 this project once or twice before. So --

9 JIM MONTEVERDE: Well --

10 ADAM COSTA: My clients --

11 JIM MONTEVERDE: -- not all -- go ahead.

12 ADAM COSTA: Not all of you. Correct, correct.
13 Some of you haven't.

14 JIM MONTEVERDE: Correct.

15 ADAM COSTA: So my clients reside at a single-
16 family home. The address is 26 Bellis Circle. You can see
17 a photograph of it there -- a partial photograph of it there
18 on the screen.

19 Tom Culotta and Mary Custic reside at the
20 premises. They had a desire to add additional living space
21 to the home; nothing too substantial. In fact, quite modest
22 -- a footprint of 238 square feet in total, two stories, so

1 a total addition of 476 square feet.

2 And so, they went through multiple iterations
3 about 15, 16 months ago to try and find a workable solution
4 -- something that both allowed them to orient the addition
5 so as to meet with their needs in terms of internal
6 configuration, both for a slightly enlarged living area on
7 the first floor, and then some additional space for the
8 bedroom on the second floor, while working within the
9 confines of what is a rather challenging lot.

10 So ultimately, they got unanimous approval from
11 your Board for a special permit for the addition I just
12 described. The reason that they required a special permit
13 for the modification is because the existing structure is a
14 preexisting, nonconforming structure in as much as it
15 exceeds -- albeit not significantly, but it exceeds the
16 maximum floor area ratio for the district.

17 So they came before you, they checked the boxes
18 with respect to a special permit, and I'm happy to walk
19 through those criteria again if the Board so desires.

20 But soon after the decision was filed with the
21 City Clerk's office, their immediate neighbors I guess
22 closest to the addition -- not closest to their home, but

1 closest to the addition sort of on the left side as you're
2 looking at their home, filed an appeal.

3 At that point, my clients engaged me. I was not
4 permanent Counsel prior to that, but I was engaged in
5 litigation counsel. We immediately contacted the neighbor
6 and said, "Is there any way to work things out? This is a
7 modest addition."

8 It's a real financial burden to be litigating a
9 special permit, even though we felt we had strong grounds.
10 As you probably know, municipal Boards are entitled to some
11 deference in granting special permits.

12 And the neighbor said, "Well, you know, we'll work
13 with you." So we went back and forth, as you can guess, by
14 the fact that it's not April of -- or May of 2023 and we
15 received a special permit in April of 2022.

16 It took us the better part of a year to go back
17 and forth with the neighbors to design and redesign and
18 redesign again the addition -- really with two goals in
19 mind. And these were partly mindful of the fact that we had
20 to come back to your Board, and partly mindful of the fact
21 that we had to satisfy the neighbor.

22 Number one, we were not going to increase the

1 size, either the footprint or the overall square footage of
2 the addition -- and number two, we had to find a way to pull
3 that addition away from the neighboring property.

4 We would not be violating that side yard setback,
5 but we would be bringing the structure closer. And in fact,
6 if there's any way for the operator to scroll down on this
7 sheet set, the very last page on this sheet, I think that
8 would be the most helpful page. We can show as the -- right
9 there, a little bit lower.

10 Right there.

11 JIM MONTEVERDE: There we go.

12 ADAM COSTA: So you can actually see -- and it's
13 difficult to describe in words, but if you look at the two
14 versions of past editions, they both look like they are sort
15 of rectangles with a cutoff angle at the rear, the one that
16 is not shaded that cuts into the side yard on the left side
17 of the page, is what we ultimately had received approval for
18 from your Board back in April of 2022.

19 And what we are now proposing to you is the
20 version that sort of looks like we flipped it and rotated
21 it, and it's what's shaded in sort of a lighter gray color,
22 also outlined in a dashed line.

1 And you can see there's arrows pointing to each of
2 these. At the top right it has an arrow that says,
3 "Proposed limit of new addition."

4 And again, final plan: 238 square feet within the
5 boundaries. But you can also see if you look at the very
6 left side of the page sort of in the center of the page,
7 there is an arrow that points to the dashed line that says,
8 "outline of addition improved by Cambridge BZA."

9 And so, from a special permit perspective, we
10 hope, and we would presume -- and I guess we hope -- that
11 your Board wouldn't see any reason to vary the findings we
12 made 13 months ago; that this addition merely by flipping it
13 and rotating it still meets all of the Special Permit
14 Criteria and is not substantially more detrimental to the
15 neighborhood than the existing nonconforming structure.

16 The added complication -- and we were mindful of
17 this when we were negotiating with the neighbors -- we in
18 fact consulted with the City's Law Department on a couple of
19 occasions and I know that they had an opportunity to -- an
20 attorney from the Department had an opportunity to speak to
21 you in Executive Session while the litigation was pending --
22 but we sought some guidance as to whether your Board would

1 even entertain a redesign and would necessitate a variance.

2 And obviously, the Law Department couldn't commit
3 on behalf of the Board but indicated that you would be
4 willing to at least engage in a dialogue, and for us to make
5 the proposal to you that we're making today.

6 So you can see here -- and I'm going to draw your
7 attention to another notion on this plan -- on the left side
8 of the plan, sort of the second set of words down, it says,
9 "Projected setback line 30.75' from the rear yard." And
10 there's a dashed line that runs between those two parts of
11 the sentence sort of across the page at an angle.

12 And you can see that because of the odd
13 orientation of this single-family structure on the lot, it's
14 not parallel to the rear lot line, and therefore it's not
15 parallel to the 30.75' broadcast setback from that rear lot
16 line.

17 We had made every effort before and successfully -
18 - barely -- to keep the addition out of that setback, to not
19 necessitate the need for -- necessitate a variance.

20 Unfortunately, there's simply no way to do that because of
21 the angle of that setback.

22 There's no way to place an addition of really any

1 meaningful size, even if we reduce this addition by
2 10,20,30,40 feet, there's no way to fit an addition of any
3 meaningful size away from the neighbors on the left, not
4 increasing the setback or decreasing the setback on the left
5 side, and without encroaching into that rear yard setback.

6 So that's what we're before you tonight asking --
7 asking for, not only an amendment of the special permit you
8 granted before, but also for the variance.

9 And one point I want to make, and then I'll take a
10 breath and see if the Board wants me to address any specific
11 items in my submittal or answer any questions, but:

12 If we're able to scroll down to the to the site
13 plan -- this is an excerpt from the architecture and
14 elevation right here -- if we scroll down a little further
15 on the page, you can see number 26. That's great. Thank
16 you.

17 So number 26 is in the bottom right side here.
18 This is the structure that we've been talking about. You
19 can see the now proposed addition and you can see there are
20 a couple of lines measuring -- well, one's measuring a
21 setback and one is measuring something similar to a setback.

22 But I want to point something out to the Board

1 that I think is relevant to this variance, and maybe
2 distinguishes -- I think certainly distinguishes this case
3 from the run of the mill applicant that asks you to grant a
4 variance but doesn't meet the standard.

5 Obviously, variances are statutory. One of the
6 grounds for a variance is unusual shape paired with other
7 matters like hardship and no substantial derogation from the
8 purpose of the ordinance.

9 Well, if you look at the rear boundary, you can
10 see that there is one arrow -- and it's difficult to see
11 without zooming in a bit further, but it measures the 22.3'
12 setback of the nearest corner of the proposed addition to
13 the rear boundary.

14 But there's another arrow that also comes from
15 that same bottom left corner of the addition. So we're
16 going to zoom in a little bit here, maybe. That's great.
17 Thank you.

18 So you can see there's an arrow that originates in
19 that same corner to the addition all the way back to it says
20 to CLF. CLF of course, is a notation depicting a chain-link
21 fence. And it says, "29.7' to the chain-link fence."

22 So what's unusual about this law is it has -- the

1 thick black line is the rear lot line. And it is -- it's
2 awkward, because it has this jog. And ever so
3 inconveniently for my clients, the jog is in their back
4 yard, as opposed to in the yard of their neighbors.

5 And so, in placing the addition where they're
6 placing it, because that jog in the angle gets closer and
7 closer and closer to their home, it's only 22.3' from that
8 corner to the rear boundary.

9 But there is a chain-link fence that separates the
10 adjacent park -- and it's not a private property on the
11 other side of that line, it's the park -- that separates the
12 park from effectively the back yard of my clients.

13 And so, although the gap between the chain-link
14 fence and the boundary sort of for most that wedge there,
15 it's almost triangular in shape -- although that is not
16 property that my clients own, although it's not part of
17 their back yard, it's technically part of the City's
18 property, the City has effectively deprived itself of use of
19 that property. It's cut off by virtue of constructing a
20 fence. And I have some photographs if you're interested in
21 seeing it.

22 But so the practical effect of that is that for

1 appearances, it's really as if that closest corner of this
2 addition is 29.7' from what looks like the rear boundary to
3 the naked eye, to somebody who might be in the back yard
4 looking around.

5 Now again, 29.7' still not quite the 30.75' that
6 is the minimum, but it really would make this much more of a
7 de minimis variance than it might appear, or that the
8 numbers might indicate when you see 22.3.

9 So again, I appreciate the Bord considering this.
10 Again, we bring this to you because it is with the support
11 of the immediate neighbors. I believe that they have
12 counsel present tonight that was prepared to speak in favor
13 of it, pursuant to the agreement we negotiated. It resolves
14 litigation between us and the neighbor also naming the BZA
15 as a codefendant.

16 We have submitted two other letters; one from the
17 three neighbors who reside on this same parcel and single-
18 family home. Each of the three of them support this
19 wholeheartedly. And we also have a letter from our
20 immediately adjacent neighbor -- a lengthy letter speaking
21 in favor of the proposal.

22 So we believe we have the support of our

1 neighbors. We believe that this is certainly no more
2 detrimental than what we had approved previously, but
3 admittedly it does require a different or an additional form
4 of zoning relief from the Board.

5 JIM MONTEVERDE: Thank you. Any questions from
6 members of the Board?

7 WENDY LEISERSON: I have some questions. I just
8 want to get clear about the legal grounds for your different
9 reliefs, because I know that was part of this challenge for
10 the Board.

11 So when I read your letters -- and just jump in
12 here please, Counsel -- you're asking -- you're relying on
13 what the decision of the Board was previously and asking
14 that it be amended, is that correct? Is what you're citing
15 a different provision, I believe in this matter now for the
16 relief you're requesting?

17 Can you just clarify the legal grounds that you're
18 -- you know, walk me through what is being requested under
19 the special permit and what is being requested in the
20 variance, please?

21 ADAM COSTA: Sure. I'd be happy to, through you
22 Mr. Chairman. So you are correct that we are asking for two

1 things tonight: One is an amendment of the relief we
2 already received; an amendment of the special permit. In a
3 moment I can walk through those criteria.

4 The second is new relief -- relief that we didn't
5 ask for a year ago or 13 months ago, and that is a variance.
6 And similarly, we have completed the -- not only the
7 narrative I submitted, I've also completed the one-page
8 supporting statement form that you include in your
9 application package.

10 So for a moment, if we focus on the special permit
11 -- again, the relief that you granted before -- the special
12 permit is subject to a five-part a), b), c), d), e) and
13 again, it's referred to in the supporting statement in your
14 application form.

15 So the first requirement is that the requirements
16 of the ordinance can or will be met for the following
17 reasons, and the statement that I included here is that
18 except for a variance from the minimum rear yard setback,
19 the proposal is otherwise compliant with the zoning
20 ordinance. There is no change in the residential use, the
21 addition is modest both in footprint and in overall size.

22 And the property to whom the addition will now be

1 -- and even before would be most visible supports the
2 redesign. And in fact we've redesigned it at that
3 neighbor's behest, at their request through settlement.

4 Criteria number 2 is that the traffic generated,
5 or patterns of access or egress would not cause congestion,
6 hazard, or substantial change in established neighborhood
7 character.

8 Again, we're not changing the use of this
9 property. It's simply an addition for the same residential
10 -- single-family residential purposes that exist today.

11 We don't believe there will be any meaningful
12 change in neighborhood character. This addition really
13 isn't visible to many of the immediate neighbors -- many of
14 the neighbors, except for maybe the immediate neighbor at
15 the 16-18 Bellis Circle condominium that you see on the
16 right side of the page here. And that again is the litigant
17 that has assented to the proposal that's before you.

18 The third criterion in your ordinance, the
19 continued operation of or development of adjacent uses, as
20 permitted in the Zoning Ordinance, would not be adversely
21 affected by the nature of the proposed use for the following
22 reasons: Again, the petitioners believe that their original

1 design was adequate, and you concurred -- your board
2 concurred that it was adequate and that it met the standard.

3 The new design really does nothing except let them
4 rotate the addition. And arguably, the person, the property
5 most affected by that prior proposal just in terms of the
6 bulk and the mass being closer, were the litigants for the
7 Plaintiffs in the lawsuit that ensued, and they've now
8 assented to, they're now in support.

9 And again, I don't want to speak for them, but I
10 feel I can, because I've been speaking with their counsel
11 for 13 months now -- are now in support of this proposal,
12 and really were advancing this proposal to resolve the
13 litigation.

14 You might recall for those of you who were either
15 on the Board at the time or maybe have reviewed the
16 pleadings that followed: You know, they had concerns about
17 really the location of the prior addition casting shadows on
18 their property. They had concerns about it interfering with
19 their view of the park sort of at an angle across the back
20 yard of the 26 Bellis Circle property.

21 You know, we believe that we had provided the
22 Board with information to rebut some of that, but they

1 didn't believe we did, and that's what prompted their
2 appeal.

3 So certainly this proposal addresses those issues
4 because of the shifting of the massing away from the side-
5 bound roof.

6 WENDY LEISERSON: Excuse me, Counsel?

7 ADAM COSTA: Sure.

8 WENDY LEISERSON: I'm sorry to interrupt, but I
9 just want to get something to clarify something for myself.
10 So if -- and this is just a matter of law -- if you were not
11 able to rely on the reason that you were granted permission
12 previously, like if for example one would argue that as a
13 condo association you couldn't rely on the legal provision
14 that you got relief under for -- as if you were a single-
15 family, meaning the Bellalta case, would you be able to do
16 what you're trying to do as a variance if we were so
17 inclined to recognize hardship in this case?

18 Without, you know, relying on the special permit
19 that was granted previously?

20 ADAM COSTA: So I -- the answer to that is yes.
21 And just so that it's clear, and I suspect it's clear in
22 your mind, because you're asking a very intelligent question

1 and you're carefully crafting it. But just to sort of
2 restate what I think you're asking is we're already asking
3 for a variance, and that variance is for encroaching into
4 the rear yard setback.

5 But in addition to the variance, we're asking for
6 the special permit as we did before. And I think your
7 question is if this were not treated as a single-family
8 residence, could we obtain all of the relief that we're
9 requesting for -- that we're currently requesting -- could
10 we receive all of that in the form of a variance?

11 And my answer to that question would be yes, we
12 need to satisfy the variance? And my answer to that
13 question would be yes, we would need to satisfy the variance
14 standard with respect to, you know, the entirety of the
15 addition as opposed to just addressing the setback, the rear
16 yard setback, which is really where my focus was.

17 I do concede that one of the arguments that was
18 advanced by counsel for the neighbors in the litigation, in
19 the lawsuit that was filed, was that we didn't qualify for
20 relief under the cited section of the zoning ordinance.

21 I don't agree with that argument. I guess I don't
22 really need to -- I didn't need to debate it with counsel

1 for the neighbors, because we never litigated the merits of
2 the case before the court. The neighbors expressed a
3 willingness to negotiate a settlement, as did we early on in
4 the process.

5 So my position is still that this can be treated
6 as a single-family residence, because it operates as a
7 single-family residence, notwithstanding the fact that it's
8 on shared common land.

9 Certainly, because it's on shared common land,
10 when we get to the chart, if you include the dimensional
11 form that you have in your application where you have
12 columns for existing, requested conditions, and then the
13 ordinance requirements, we need to apply the standards that
14 would apply to the entirety of the property.

15 And we've done that in terms of setback from the
16 larger property boundaries and calculating the lot area for
17 each dwelling unit and so forth. We've applied those
18 standards and we meet those standards. We don't need relief
19 from those standards.

20 WENDY LEISERSON: Thank you, Counsel. You
21 correctly interpreted what I was asking. And just for the
22 record, did the Board previously decide -- make a decision

1 about whether you met the variance requirements for this
2 addition? Albeit in the front of the house, as opposed to
3 behind the house, as it is now?

4 ADAM COSTA: So -- so --

5 WENDY LEISERSON: Was there a decision on that?

6 ADAM COSTA: So the Board did not apply the
7 variance standard previously, because the Board -- the
8 Board's position, as continues to be my position, as I just
9 explained, was that absent an encroachment into a setback
10 like a rear yard setback, there was no need for a variance.

11 WENDY LEISERSON: Okay.

12 ADAM COSTA: That the addition -- the addition
13 could be accomplished by way of special permit for
14 nonconformities.

15 WENDY LEISERSON: I do remember that decision, of
16 which I was a part, but I did not remember, because I think
17 there were a few filings, or at least there were a few
18 different hearings -- whether or not there has been any
19 separate decision on the variance criteria as some
20 petitioners do bring alternative petitions. So.

21 ADAM COSTA: We have -- through the Chair, we have
22 suggested early on in one of the early iterations of the

1 proposal, which was designed somewhat differently, we were
2 going to be encroaching upon setbacks.

3 And so, initially our proposal going way back did
4 incorporate both a variance and special permit. We worked
5 very hard to eliminate the need for the variance, thinking
6 that that was the better course, only to find out that
7 that's not what our immediately adjacent neighbors
8 preferred. And so, now we're back with a variance request.

9 WENDY LEISERSON: Okay. Thank you for clarifying
10 the legality of this matter for me. That's all I have for
11 you now.

12 ADAM COSTA: Okay.

13 JIM MONTEVERDE: Thank you. Any other questions
14 from members of the Board?

15 [Pause]

16 I just have one. Did I hear this is a
17 condominium?

18 ADAM COSTA: Correct.

19 JIM MONTEVERDE: And do you have a letter in the
20 file from a company - I assume there's a condominium
21 association?

22 ADAM COSTA: So we actually -- we actually did one

1 better, Mr. Chair. We have a letter in the file that's
2 signed by the owners -- both of the owners at each of the
3 other three single-family homes advising the condominium.
4 So every --

5 JIM MONTEVERDE: Oh, okay.

6 ADAM COSTA: -- everything's on our website.

7 JIM MONTEVERDE: That's fine. I saw those. I
8 didn't realize they were everyone. Okay. Thank you. If
9 there are no more questions from members of the Board, I
10 will open it up to public comment.

11 Any member of the public who wishes to speak
12 should now click the icon at the bottom of your Zoom screen
13 that says, "Raise hand."

14 If you're calling in by phone, you can raise your
15 hand by pressing *9 and unmute or mute by pressing *6. I'll
16 now ask Staff to unmute the speakers one at a time. You
17 should begin by saying your name and address, and Staff will
18 then confirm that we can hear you. After that you will have
19 up to three minutes to speak before I ask you to wrap it up.

20 And as I said previously, we do have some letters
21 in the file. There's no reason to repeat those letters. We
22 have those, but if there's anything else you'd like to

1 offer, please raise your hand.

2 STEPHEN NATOLA: Robert Hopkins?

3 JIM MONTEVERDE: Mr. Hopkins?

4 ROBERT HOPKINS: There we go. Can you hear me?

5 JIM MONTEVERDE: Yes.

6 ROBERT HOPKINS: Good evening. Robert Hopkins.

7 I'm an attorney at Phillips & Angley, One Washington,
8 Boston. Our office represents Steven Wu and Kate Hu of 18
9 Bellis Circle in Cambridge. They were the Plaintiffs who
10 appealed the prior special permit.

11 We're here tonight to support this revised project
12 and to thank the applicants, their team and Attorney Costa
13 for being willing and open to the design changes that are
14 before you today that address my client's concerns.

15 So we are here in support of the project.

16 JIM MONTEVERDE: Thank you. That's all we have
17 for public comment. Any discussion by members of the Board,
18 please? No? Are we ready for a motion?

19 WENDY LEISERSON: I'm sorry. This is Wendy
20 Leiserson. I -- it's -- I'm inclined to support this --
21 this settlement, this application.

22 And I just had a question for you in terms of the

1 grounds as you read them into the record for a vote, which
2 is whether or not when you get to the variance, I don't know
3 if you can make a finding of hardship with regard to the
4 project itself or not, if it's not in the current
5 application, but that's my question for you. So.

6 JIM MONTEVERDE: Let me figure that one out. Do
7 you have a suggestion? I mean, the variance request, the
8 literal enforcement, the substantial hardship is really
9 owing to the circumstances, the shape, not so much the
10 topography but the shape of the lot. It's that along with
11 the spaces they're trying to add, that force them over the
12 rear lot line.

13 WENDY LEISERSON: Yes. And I would say because of
14 the situation of the abutting properties and the --

15 JIM MONTEVERDE: Sure.

16 WENDY LEISERSON: -- fact that this is a single-
17 family in a, or a freestanding unit also called a single-
18 family in their case in a condo association. That makes it
19 more complicated to site this --

20 JIM MONTEVERDE: Okay.

21 WENDY LEISERSON: -- you know, addition --

22 JIM MONTEVERDE: Well --

1 WENDY LEISERSON: -- which we've found to be
2 justified. So.

3 JIM MONTEVERDE: Let me file the motion --

4 WENDY LEISERSON: Something like that --

5 JIM MONTEVERDE: -- and feel free to chip in. Are
6 we ready for a motion? And I'll take the variance first?

7 MATINA WILLIAMS: Ready for a motion.

8 STEVEN NG: Ready for a motion.

9 JIM MONTEVERDE: Ready? The Chair makes the
10 motion to grant the relief for the requirements of the
11 ordinance under the sections cited for the variance, which
12 is really an encroachment on the rear of setback that really
13 is engendered by the odd shape of the light -- the lot, the
14 light, lot -- and the result of the negotiations and legal
15 discussions between the owners and their objecting neighbors
16 that basically forces the footprint of this addition over
17 that rear setback.

18 WENDY LEISERSON: And that hardship was found to
19 support the need for this addition, is what I was
20 suggesting.

21 JIM MONTEVERDE: Yeah, correct. The hardship was
22 found to support the need for the addition on the condition

1 that the work proposed conforms to the drawings entitled
2 "Culato residence" prepared by "NEDC Design & Construction"
3 dated February 3, 2023 initialed and dated by the Chair.

4 And further, that we incorporate the supporting
5 statements, and dimensional forms submitted as part of the
6 application. And for a vote? Zarya?

7 ZARAYA MIRANDA: In favor.

8 JIM MONTEVERDE: Thank you. Wendy?

9 WENDY LEISERSON: In favor.

10 JIM MONTEVERDE: Matina?

11 MATINA WILLIAMS: In favor.

12 JIM MONTEVERDE: Thank you. Steven?

13 STEVEN NG: In favor.

14 JIM MONTEVERDE: And Jim Monteverde in favor.

15 [All vote YES]

16 JIM MONTEVERDE: So that variance is granted. And
17 on the special permit, the Chair makes a motion to grant the
18 relief from the requirements of the ordinance under the
19 sections cited in the application -- those being Article 8,
20 Section 822.2.c and Section -- Article 10 Section 10.4 for
21 special permit.

22 The Chair makes a motion -- Section -- yep. And

1 on the condition that the work proposed conforms to the
2 drawings entitled "Culotta residence" and prepared by NEDC
3 Design & Construction dated February 3, 2023 and initialed
4 and dated by the Chair.

5 And further, that we incorporate the supporting
6 statements, and dimensional forms submitted as part of the
7 application.

8 On the motion, Zarya?

9 ZARAYA MIRANDA: In favor.

10 JIM MONTEVERDE: Wendy?

11 WENDY LEISERSON: In favor.

12 JIM MONTEVERDE: Matina?

13 MATINA WILLIAMS: In favor.

14 JIM MONTEVERDE: Steven?

15 STEVEN NG: In favor.

16 JIM MONTEVERDE: In favor.

17 [All vote YES]

18 JIM MONTEVERDE: Five votes in favor. The special
19 permit is granted. Thank you. Congratulations.

20 ADAM COSTA: Thank you, Mr. Chair. Thank you,
21 members. Appreciate your consideration and your
22 accommodation under the circumstances. Thank you.

1 JIM MONTEVERDE: Good luck.

2 WENDY LEISERSON: Thank you for being good
3 neighbors.

4 ADAM COSTA: Really appreciate it.

5 JIM MONTEVERDE: What happened with Hutchinson?
6 Did they withdraw, or do we have to cancel it or continue it
7 or --

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