



# CITY OF CAMBRIDGE

BOARD OF ZONING APPEAL

831 Massachusetts Avenue, Cambridge MA 02139

617-349-6100

2023 OCT 12 PM 2:34

OFFICE OF THE CITY CLERK  
CAMBRIDGE, MASSACHUSETTS

## BZA Application Form

**BZA Number: 245510**

### General Information

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

Special Permit:   X  

Variance:           

Appeal:           

**PETITIONER:** Abigail Lipson C/O Shelly Ziegelman, AIA

**PETITIONER'S ADDRESS:** 30 Winsor Ave., Watertown, MA 02472

**LOCATION OF PROPERTY:** 45 Orchard St , Unit REAR , Cambridge, MA

**TYPE OF OCCUPANCY:** Residential

**ZONING DISTRICT:** Residence B Zone

**REASON FOR PETITION:**

/Additions/

### **DESCRIPTION OF PETITIONER'S PROPOSAL:**

The Special Permit seeks relief for an increase in Total Gross Floor Area and FAR, due to adding a modest first floor bedroom addition to the rear single family unit which will enable the Owner to age in place.

### **SECTIONS OF ZONING ORDINANCE CITED:**

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

Original  
Signature(s):

(Petitioner (s) / Owner)

Shelly Ziegelman, AIA  
(Print Name)

Address:

Tel. No.

E-Mail Address:

617 893-8907

shellywoodz@gmail.com

Date: 10/10/23

**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 Abigail Lipson  
(OWNER)

Address: 45 Orchard Street, Cambridge MA 02140

State that I/We own the property located at 45 Orchard St., Cambridge, which is the subject of this zoning application.

The record title of this property is in the name of Abigail Lipson Trust

\*Pursuant to a deed of duly recorded in the date 11/24/2015, Middlesex South County Registry of Deeds at Book 66429, Page 468; or Middlesex Registry District of Land Court, Certificate No. \_\_\_\_\_  
Book \_\_\_\_\_ Page \_\_\_\_\_.

Abigail Lipson  
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 Abigail Lipson personally appeared before me, this 26<sup>th</sup> of September, 2023, and made oath that the above statement is true.

[Signature]  
Notary

My commission expires 2/8/2030 (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 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 45 Orchard St., Unit REAR, 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 proposed, one story bedroom addition to the single family rear unit will allow for the Owner to age-in-place. In 2020, the Owner was granted a Variance for the existing barn structure to be converted into a single family residence. The addition will benefit the City by transforming the one bedroom unit into a two bedroom, accessible residential structure without any impact to the abutters or the neighborhood. This small addition will also provide increased privacy to the neighbors on the left side

**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 property currently has 3 units and there will be no change to the traffic generated by adding the addition to the rear unit.

**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 proposed addition does not impact or adversely affect the development or operation of adjacent uses. Privacy will be maintained through new and existing plantings or distance.

**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 addition will increase the health, safety and welfare of the occupant for the following reasons: It transforms one of the three dwelling units on the property into an age-in-place house, allowing the property's owner to remain in her home. The small addition will not have any effect on the abutters.

**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 proposed addition will enhance, not impair the integrity of the district and adjoining districts for all of the above reasons.

**\*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:** Abigail Lipson  
**Location:** 45 Orchard St., Unit REAR, Cambridge, MA  
**Phone:** 617 893-8907

**Present Use/Occupancy:** Residential  
**Zone:** Residence B Zone  
**Requested Use/Occupancy:** Residential

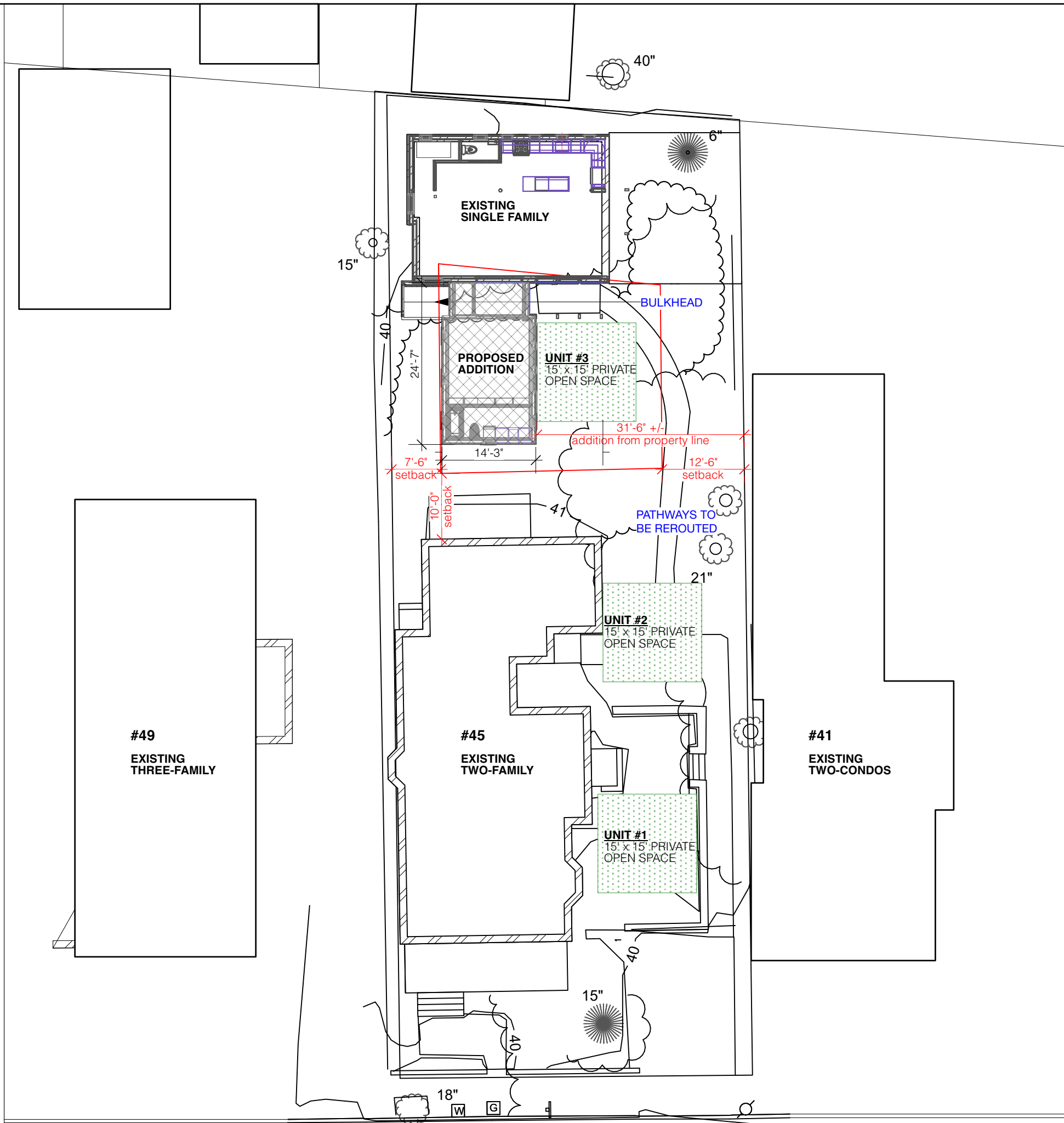
		<u>Existing Conditions</u>	<u>Requested Conditions</u>	<u>Ordinance Requirements</u>	
<u>TOTAL GROSS FLOOR AREA:</u>		4379	4715	3512	(max.)
<u>LOT AREA:</u>		7894	7894	5000	(min.)
<u>RATIO OF GROSS FLOOR AREA TO LOT AREA: <sup>2</sup></u>		.55	.59	.45	
<u>LOT AREA OF EACH DWELLING UNIT</u>		not applicable, 1 Owner (NA)	NA	NA	
<u>SIZE OF LOT:</u>	<u>WIDTH</u>	53.58'	53.58' (no change)	50'	
	<u>DEPTH</u>	147.3'	147.3' (no change)	NA	
<u>SETBACKS IN FEET:</u>	<u>FRONT</u>	20.4'	20.4'	15'	
	<u>REAR</u>	3.6'	27' (to proposed addition)	25'	
	<u>LEFT SIDE</u>	.2'	7.5' (to proposed addition)	7.5' (sum of 20')	
	<u>RIGHT SIDE</u>	19.85'	31.5' (to proposed addition)	12.5' (sum of 20')	
<u>SIZE OF BUILDING:</u>	<u>HEIGHT</u>	27.7'	27.7'	35'	
	<u>WIDTH</u>	22.6'	47.1'	NA	
	<u>LENGTH</u>	30.4'	30.4'	NA	
<u>RATIO OF USABLE OPEN SPACE TO LOT AREA:</u>		.52	.48	.4	
<u>NO. OF DWELLING UNITS:</u>		3	3	2 (3 units previously granted in 2020)	
<u>NO. OF PARKING SPACES:</u>		2	2	3 (2 granted previously)	
<u>NO. OF LOADING AREAS:</u>		NA	NA	NA	
<u>DISTANCE TO NEAREST BLDG. ON SAME LOT</u>		39'	14'	10'	

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.:

The 7894 square foot lot contains a 2 family (approx. 30' x 60'), two-story dwelling at the front of the lot with a 1.5 story (approx. 30' x 22.6'), 1 bedroom single family at the rear of the lot. Both structures are wood frame construction. The proposed addition to the rear single family dwelling unit is wood frame construction over a concrete cellar with a 6'3" ceiling height.

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'.

# LIPSON RESIDENCE: ROOM ADDITION - SPECIAL PERMIT 10.05.2023

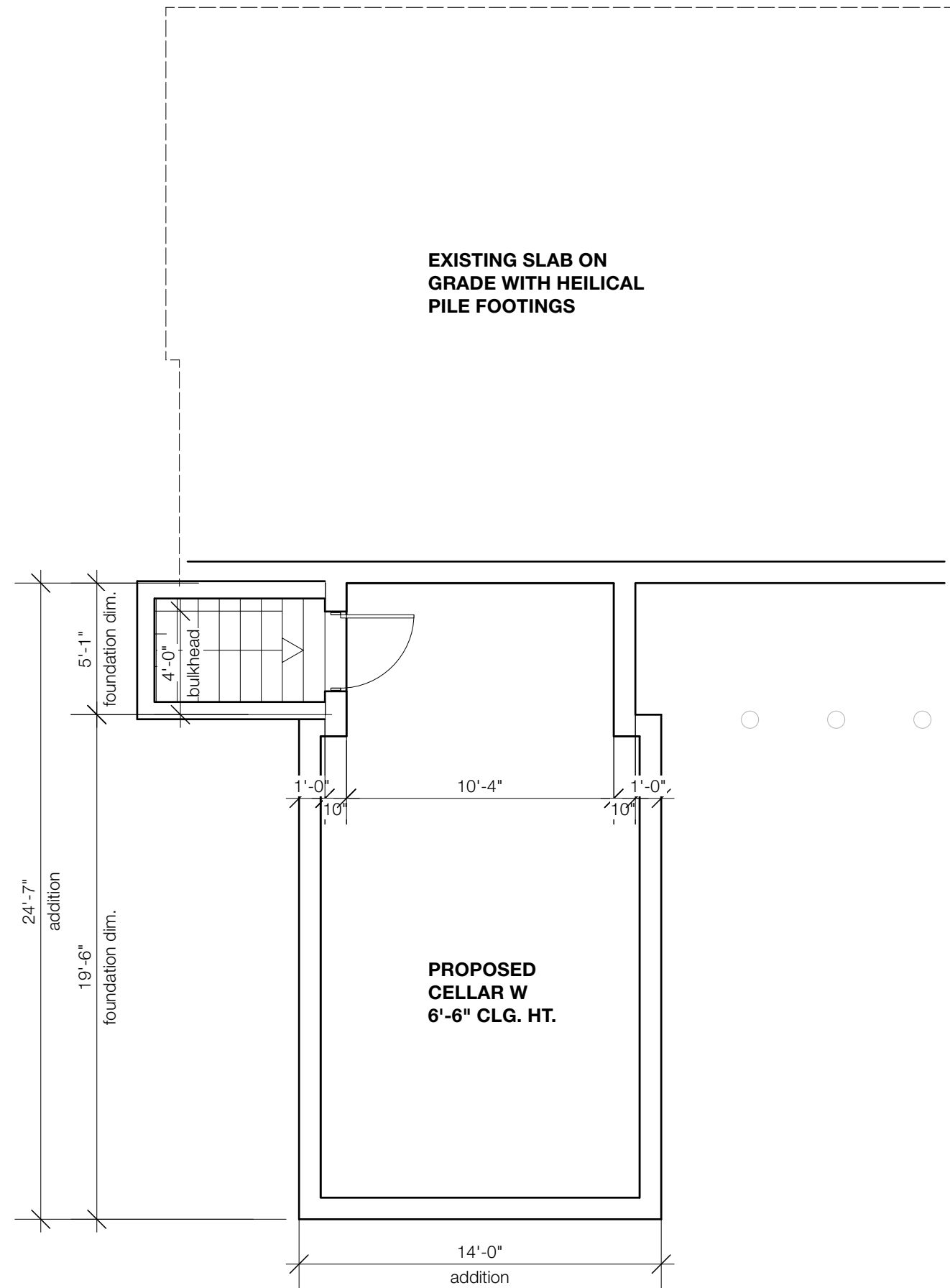



**ORCHARD STREET**

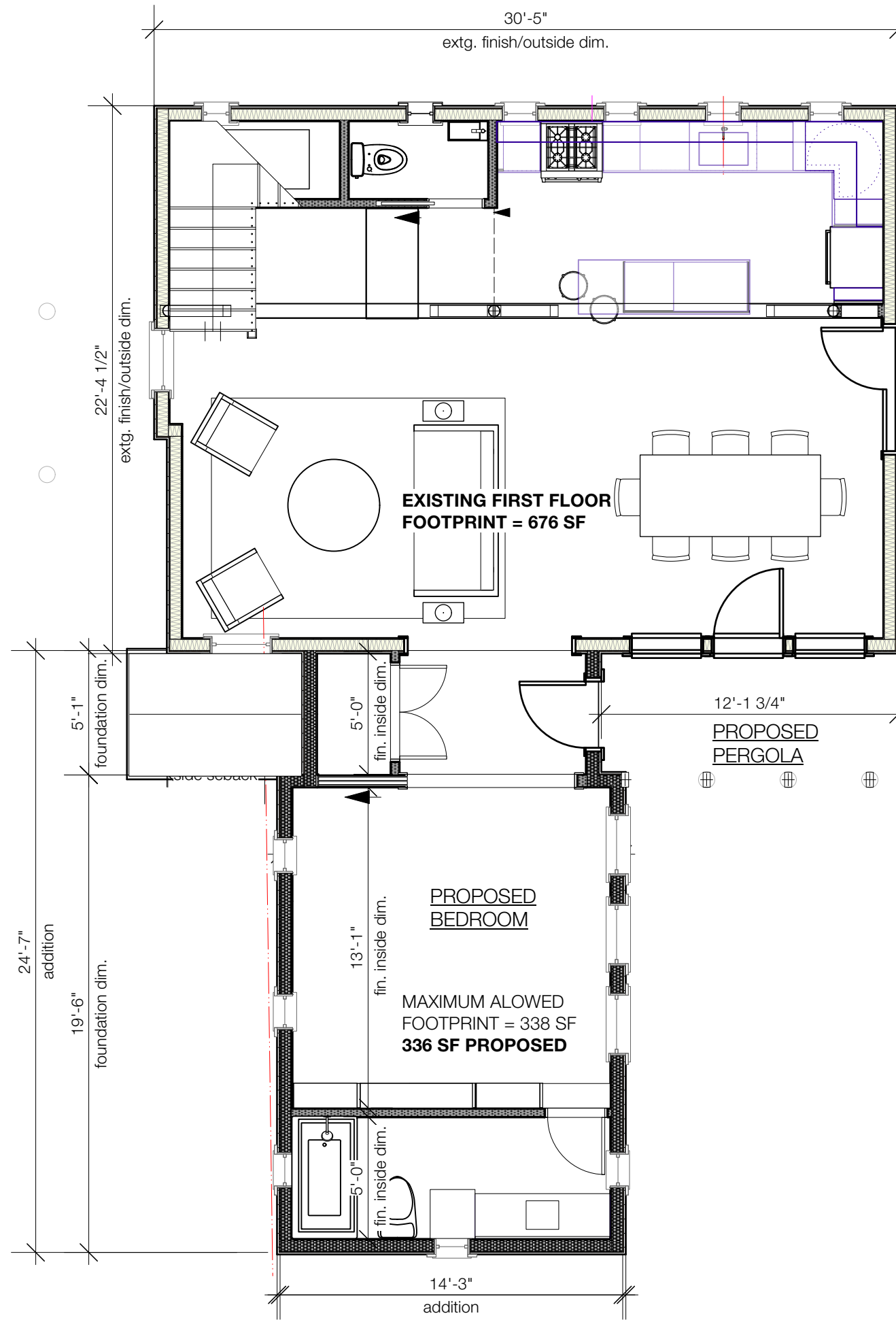



Proposed Site Plan  
Scale: 1/16" = 1'-0"

No.	Date	By	Revision Notes
No.	Date	Issue Notes	
Design Firm		<b>SWZ ARCHITECTS LLC</b> 617.893.8907 shelly@swzarchitects.com	
Consultant		<b>Leonard Morse-Fortier Ph.D., P.E.</b> 781.424.3965 lenmorsefortier@gmail.com	
Project Title		<b>LIPSON RESIDENCE</b> 45 ORCHARD STREET CAMBRIDGE, MA 02140	
Sheet Title		<b>Proposed Site Plan</b>	
Project Manager	SZ	Project ID	LIPSON2023
Drawn By		Scale	1:96
Reviewed By		Sheet No.	<b>A0.1</b>
Date	10/5/23	_____ of _____	
CAD File Name		4	

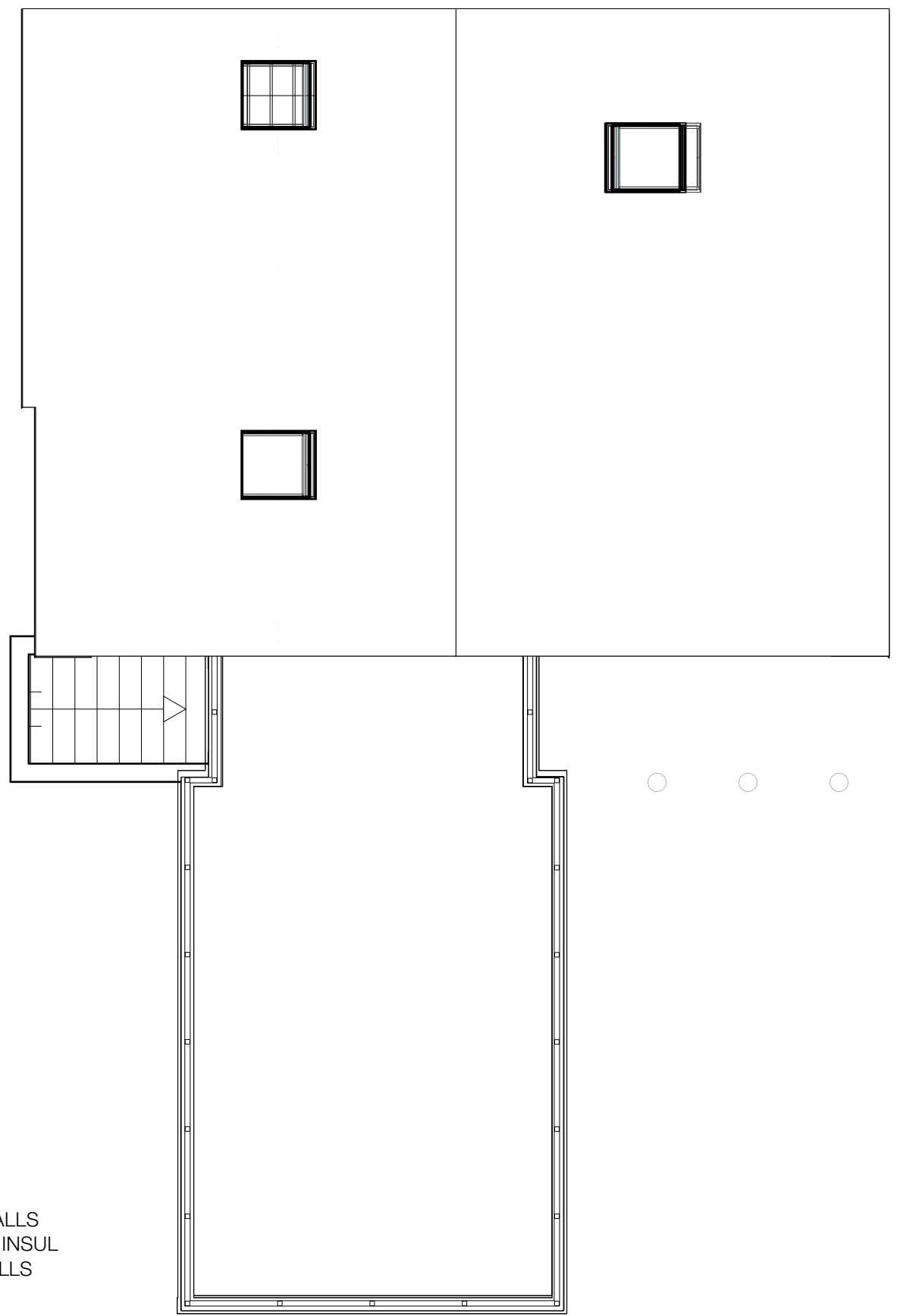
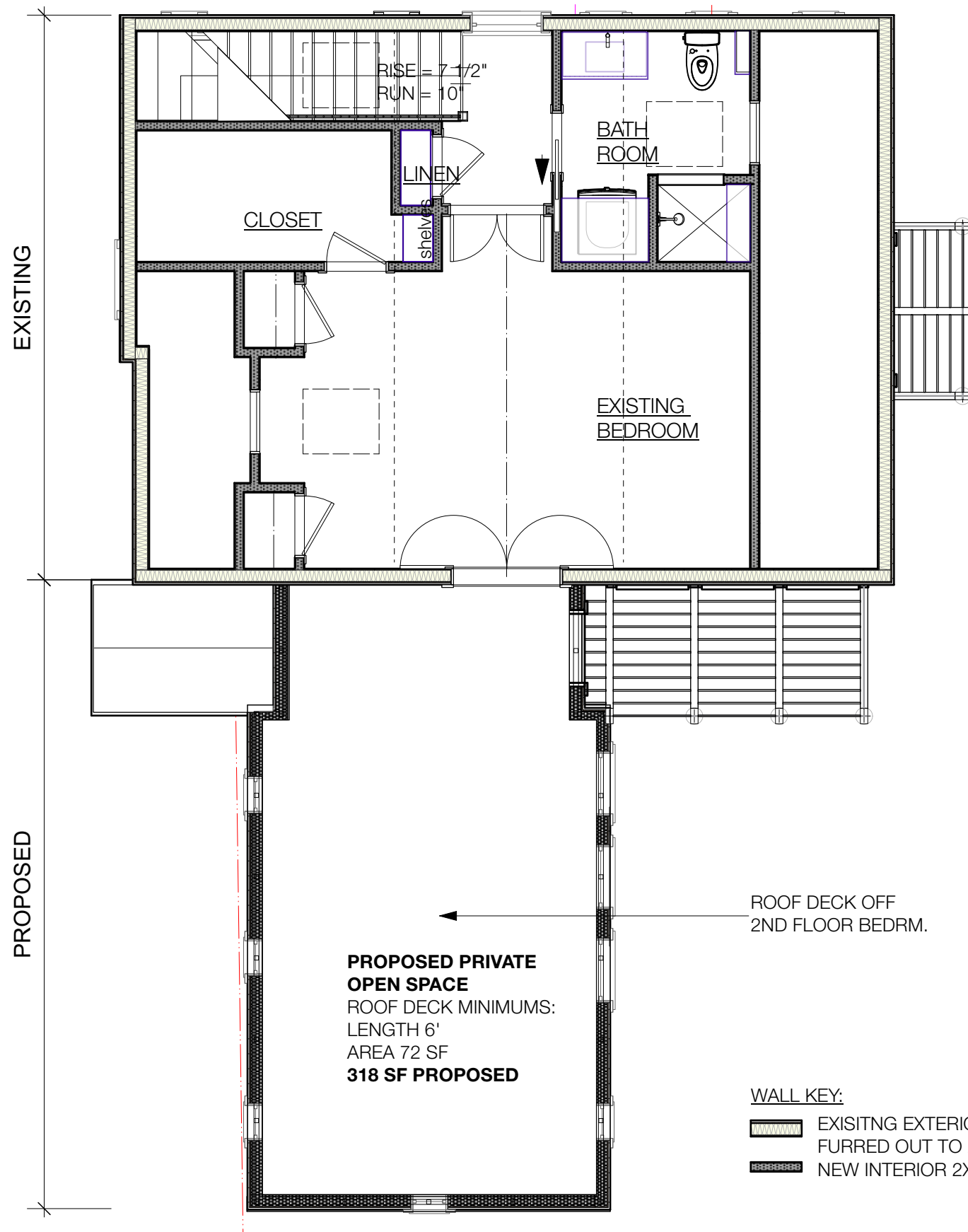


 **First Floor Plan**  
Scale: 3/16" = 1'-0"



 **First Floor Plan**  
Scale: 3/16" = 1'-0"

No.	Date	By	Revision Notes						
<table border="1"> <thead> <tr> <th>No.</th> <th>Date</th> <th>Issue Notes</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>				No.	Date	Issue Notes			
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Design Firm		<b>SWZ ARCHITECTS LLC</b> 617.893.8907 shelly@swzarchitects.com							
Consultant		<b>Leonard Morse-Fortier Ph.D., P.E.</b> 781.424.3965 lenmorsefortier@gmail.com							
Project Title		<b>LIPSON RESIDENCE</b> 45 ORCHARD STREET CAMBRIDGE, MA 02140							
Sheet Title <b>Proposed Basement &amp; First Floor Plans</b>									
Project Manager <b>SZ</b>		Project ID <b>LIPSON2023</b>							
Drawn By		Scale <b>3/16" = 1'-0"</b>							
Reviewed By		Sheet No. <b>A1.1</b>							
Date <b>10/5/23</b>		of							
CAD File Name		<b>4</b>							



**PROPOSED PRIVATE OPEN SPACE**  
 ROOF DECK MINIMUMS:  
 LENGTH 6'  
 AREA 72 SF  
**318 SF PROPOSED**

ROOF DECK OFF 2ND FLOOR BEDRM.

**WALL KEY:**  
 [Pattern] EXISTING EXTERIOR WALLS  
 [Pattern] FURRED OUT TO 2X6 & INSUL  
 [Pattern] NEW INTERIOR 2X4 WALLS

**Second Floor Plan**  
 Scale: 3/16" = 1'-0"

**Roof Plan**  
 Scale: 3/16" = 1'-0"

No.	Date	By	Revision Notes
No.	Date	Issue Notes	
Design Firm		<b>SWZ ARCHITECTS LLC</b> 617.893.8907 shelly@swzarchitects.com	
Consultant		<b>Leonard Morse-Fortier Ph.D., P.E.</b> 781.424.3965 lenmorsefortier@gmail.com	
Project Title			
<b>LIPSON RESIDENCE</b> 45 ORCHARD STREET CAMBRIDGE, MA 02140			
Sheet Title			
<b>Proposed Second Floor Plan &amp; Roof Plan</b>			
Project Manager		Project ID	
SZ		LIPSON2023	
Drawn By		Scale	
		1:96	
Reviewed By		Sheet No.	
		<b>A1.2</b> _____ of _____ 4	
Date		CAD File Name	
10/5/23			

17 November 2023

Board of Zoning Appeal – City of Cambridge  
831 Mass Avenue  
Cambridge, MA 02139

Re: Case Number BZA-245510, Continuance Date Change  
45 Orchard Street  
Dr. Abigail Lipson – c/o Shelly Ziegelman, AIA

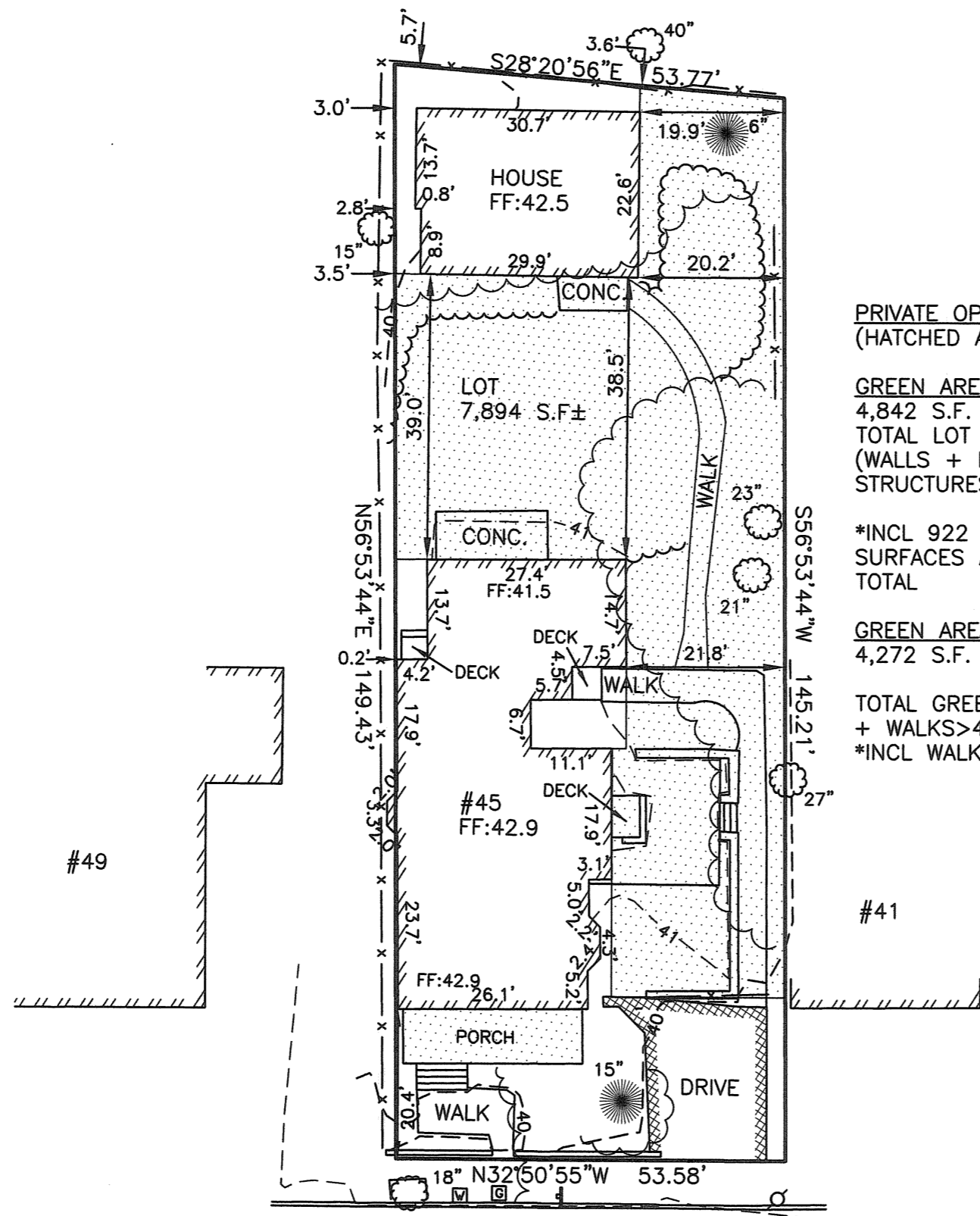
Dear Board of Zoning Appeal,

We are requesting a change of date for our December 14<sup>th</sup>, 2023 Continuance as I am scheduled for surgery on December 13<sup>th</sup>. Kindly reschedule our Continuance on the following available dates: January 25<sup>th</sup> or February 8<sup>th</sup> of 2024.

Thank you in advance,

Shelly Ziegelman  
Shelly Wood Ziegelman, AIA, LEED AP  
S W Z ARCHITECTS LLC





ORCHARD STREET

PRIVATE OPEN SPACE: 4,137 S.F.  
(HATCHED AREA)

GREEN AREA OPEN SPACE:  
4,842 S.F.  
TOTAL LOT AREA MINUS  
(WALLS + DRIVEWAY +  
STRUCTURES + STAIRS)

\*INCL 922 S.F. OF HARD  
SURFACES AT GRADE < 25% OF  
TOTAL

GREEN AREA PERMEABLE:  
4,272 S.F.

TOTAL GREEN AREA MINUS (PATIO  
+ WALKS > 48" + CONC LANDINGS)  
\*INCL WALKWAYS < 48" WIDE



© DMH  
RIM:38.9

ESTABLISHED 1916



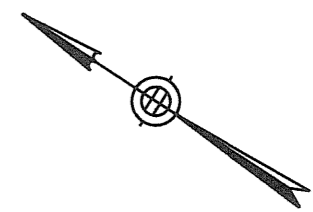
EVERETT M. BROOKS CO.

SURVEYORS & ENGINEERS

49 LEXINGTON STREET  
WEST NEWTON, MA 02465

(617) 527-8750

info@everettbrooks.com



DEED REFERENCE:  
BOOK: 66429 PAGE: 488

PLAN OF LAND IN  
CAMBRIDGE, MA

45 ORCHARD STREET  
EXISTING CONDITION

SCALE: 1 IN. = 20 FT.

DATE: JUNE 14, 2023

DRAWN: GAR/LNS

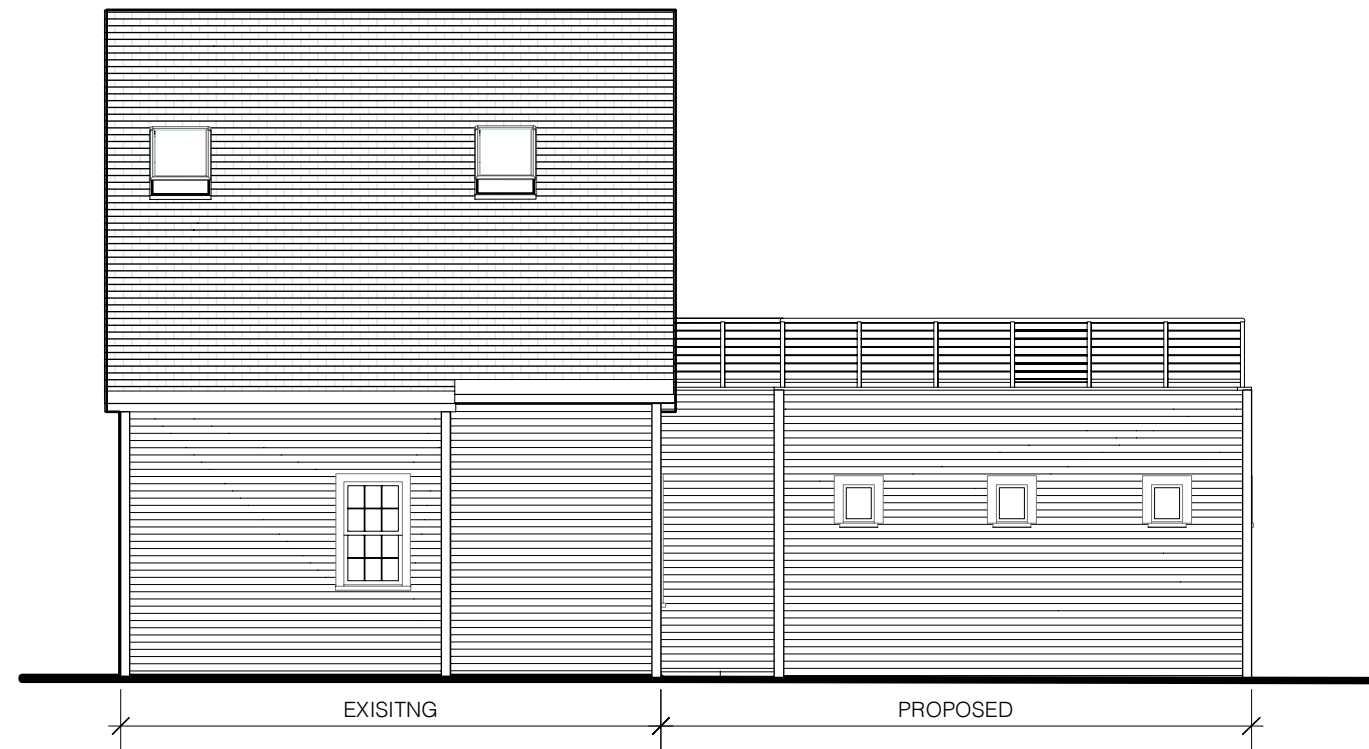
CHECK: BB

REVISIONS:

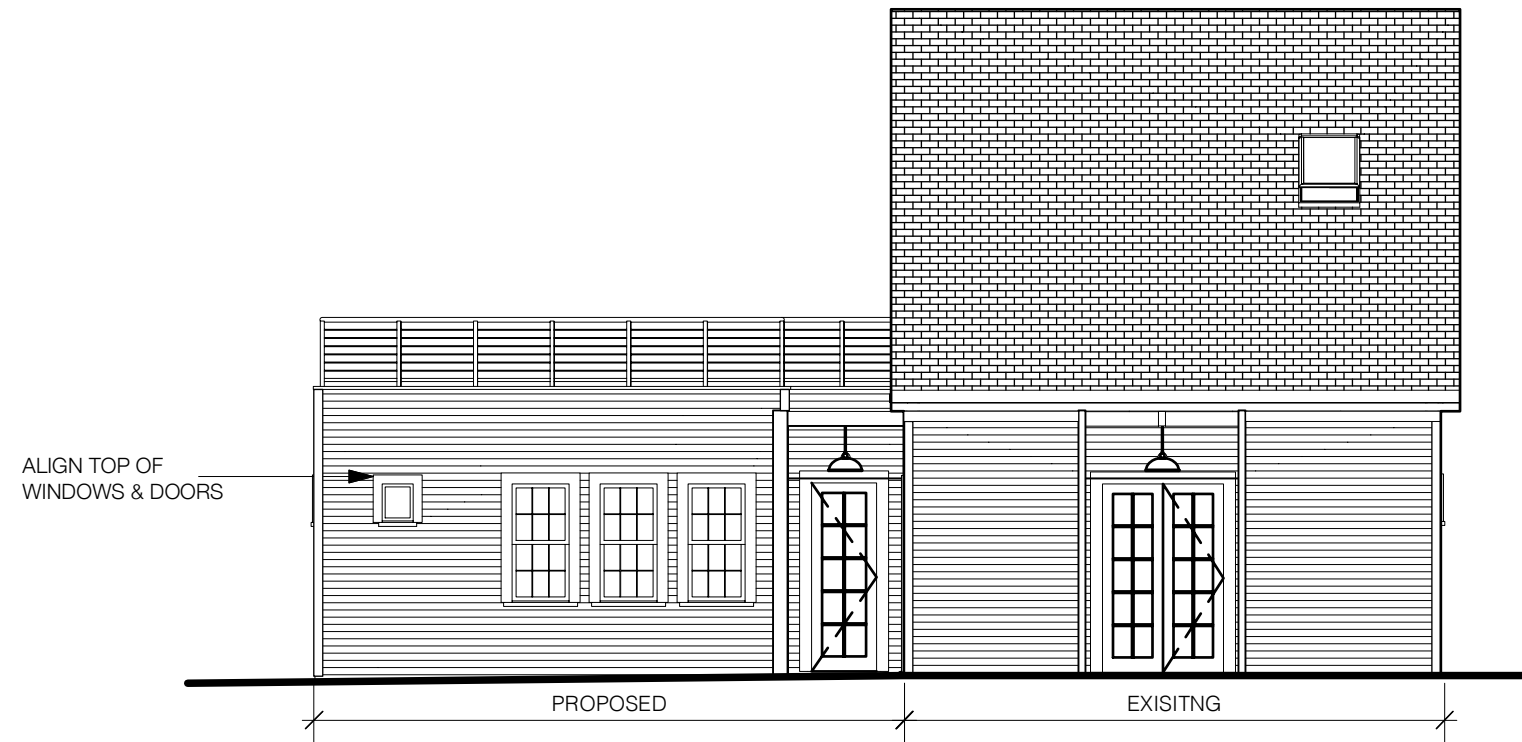

PROJECT NO. 25684



3 Front Elevation  
Scale: 1/8" = 1'-0"



2 NW Side Elevation  
Scale: 1/8" = 1'-0"



1 SE Side Elevation  
Scale: 1/8" = 1'-0"

No.	Date	By	Revision Notes

No.	Date	Issue Notes

Design Firm	SWZ ARCHITECTS LLC 617.893.8907 shelly@swzarchitects.com		
Consultant	Leonard Morse-Fortier Ph.D., P.E. 781.424.3965 lenmorsefortier@gmail.com		
Project Title	LIPSON RESIDENCE 45 ORCHARD STREET CAMBRIDGE, MA 02140		
Sheet Title	Proposed Front & Side NW & SE Elevations		
Project Manager	SZ	Project ID	LIPSON2023
Drawn By		Scale	1/8" = 1'-0"
Reviewed By		Sheet No.	A2.1
Date	10/5/23		of
CAD File Name			4



**From:** Janie Katz-Christy <buckriverdesigns2@gmail.com>  
**Sent:** Saturday, October 7, 2023 11:01 AM  
**To:** Abigail Lipson <a.lipson@comcast.net>  
**Subject:** Support for One-Story Addition to 45 Orchard Street barn

Hi Abigail,  
Please share with the Zoning Board of Appeals:

Dear BZA,

We have spoken with Abigail Lipson about her plans for a one-story addition to her home at 45 Orchard Street, and are in support of it.

Janie Katz and Samuel Christy  
166A Elm St  
North Cambridge, MA 02140

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**Susan Matkoski/Stewart Wiley**

168 Elm St. North  
North Cambridge, MA 02140

4 October 2023

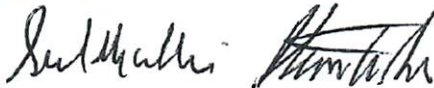
**Board of Zoning Appeal**

City of Cambridge  
Cambridge, MA

To whom it may concern:

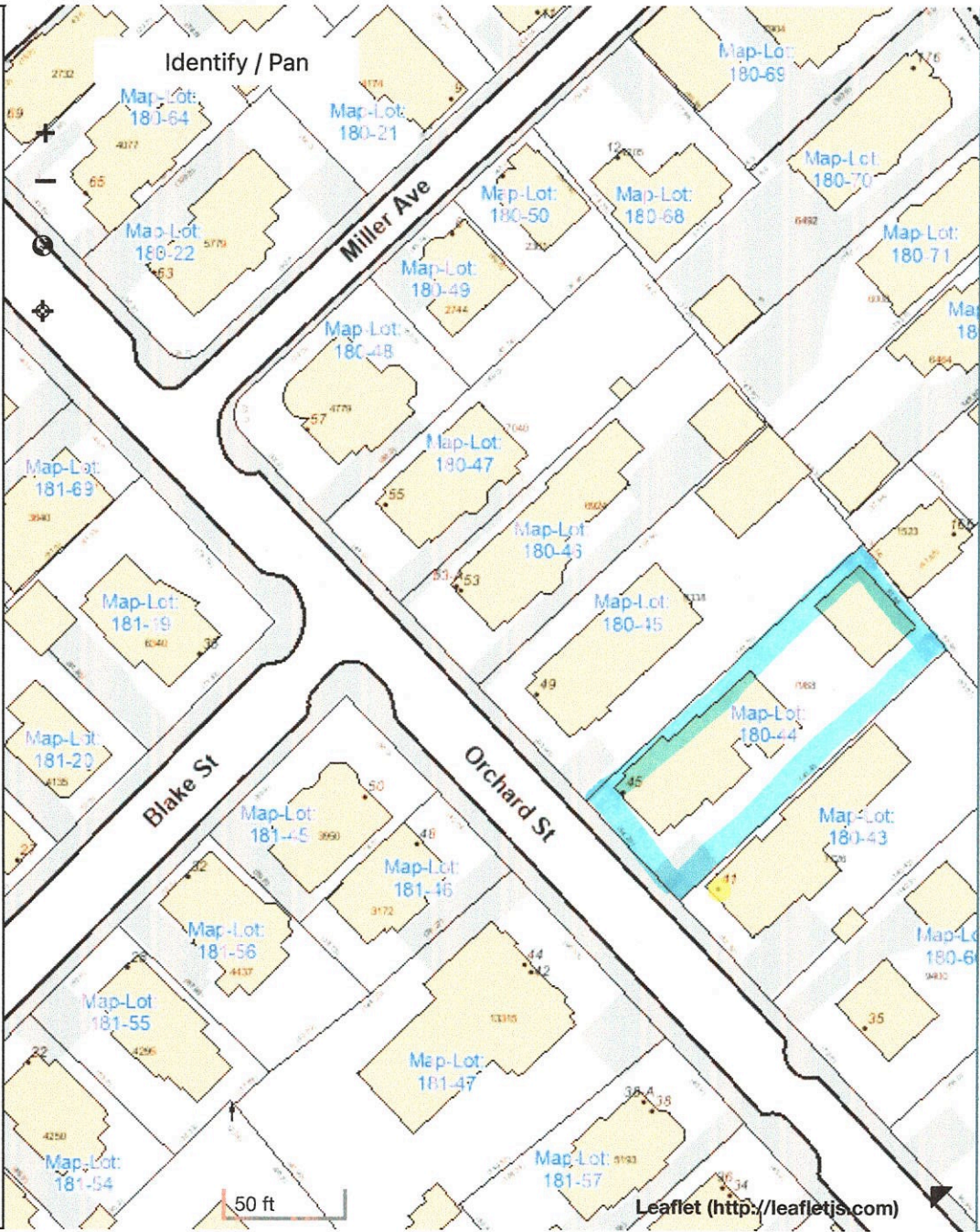
My neighbor Abigail Lipson, who resides at 45 Orchard St, recently informed us of her intention to build a one-story addition, about 14 ft. by 20 ft., to her carriage barn. We have no objections.

Sincerely,



Susan Matkoski/Stewart Wiley

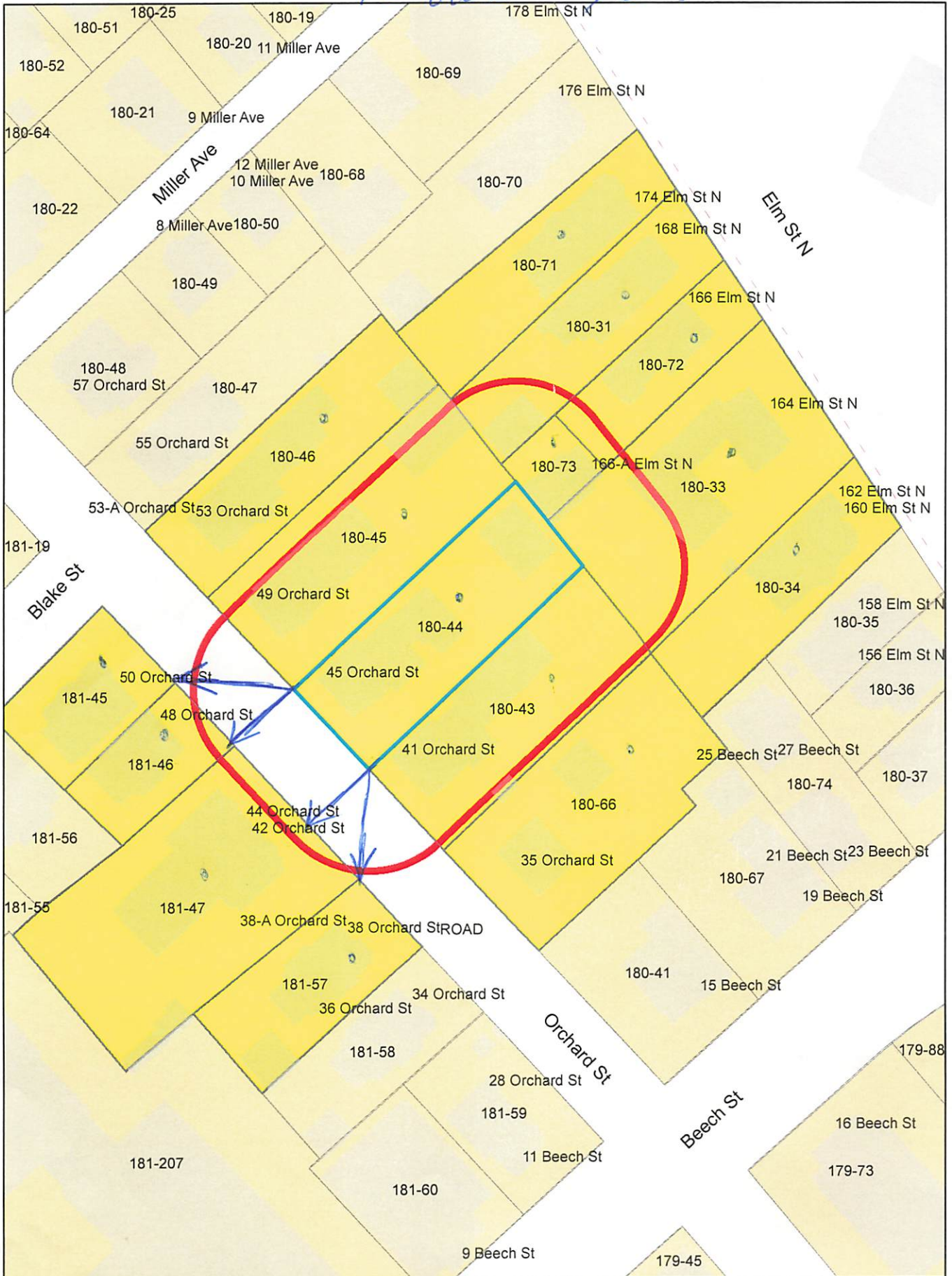
- ☰ Identify / Pan
- 🔍 Search
- 👉 Selection
- ☰ Maps
- ✂ Draw
- 🔗 Share



Details  

**Property ID 180-44**  
**Address** 45 ORCHARD ST  
**Unit**  
**Land Use** TWO-FAM-RES

45 Orchard St.



45 Orchard St.

Petitioner's

180-45  
OLIVER, SHERAN O.  
TR. OF SHERMAN O. OLIVER LIVING TRUST  
49 ORCHARD ST  
CAMBRIDGE, MA 02140

180-33  
MITARACHI, JOHN PAUL & REGINA MITARACHI  
164 ELM ST N. UNIT#164/3  
CAMBRIDGE, MA 02140

SHELLY ZIEGELMAN, AIA  
30 WINSOR AVENUE  
WATERTOWN, MA 02472

180-34  
SUPPANISANUWONG, MOOKDA TRS THE  
MOOKDA SUPPANISANUWONG REC TRUST  
162 ELM ST N.  
CAMBRIDGE, MA 02140

180-43  
SAMUELS, RICHARD L. &  
VARDIT HAIMI SAMUELS  
41 ORCHARD ST. UNIT#41F  
CAMBRIDGE, MA 02140

180-44  
LIPSON, ABIGAIL,  
TRUSTEE THE ABIGAIL LIPSON TRUST  
45 ORCHARD ST  
CAMBRIDGE, MA 02140

180-72  
HAUG, STEFANIE & STEPHEN J. WELLER  
166 ELM ST UNIT 2  
CAMBRIDGE, MA 02140

181-47  
SOARES, ANTONIO P. AND GILDA C. SOARES,  
TRS OF SOARES FAMILY TRUST  
44 ORCHARD ST.  
CAMBRIDGE, MA 02140-1308

180-31  
WILEY, STEWART & SUSAN D. MATKOSKI  
168 ELM ST NORTH  
CAMBRIDGE, MA 02140

180-43  
WINTERS, PAMELA  
41 ORCHARD ST #41R  
CAMBRIDGE, MA 02140

180-73  
CHRISTY, SAMUEL T. & JANE KATZ  
166A ELM ST NORTH  
CAMBRIDGE, MA 02140

180-46  
WEITZ, JAMES & ELINOR C WINSLOW  
53 ORCHARD STREET, UNIT #2  
CAMBRIDGE, MA 02139

180-46  
OKUN, DOUGLAS R.,  
TRUSTEE THE DOUGLAS OKUN REV TRUST  
334 WALDEN ST  
CAMBRIDGE, MA 02138

180-71  
ESDAILE, MICHAEL J.  
174 ELM ST UNIT N 2  
CAMBRIDGE, MA 02140

180-71  
KATZ, BENJAMIN  
5B RANDOLPH RD  
CHESTNUT HILL, MA 02467

180-46  
AGRAWAL, KRISHNA  
53 ORCHARD STREET, UNIT #1  
CAMBRIDGE, MA 02139

180-66  
WALSH, DAVID  
35 ORCHARD STREET  
CAMBRIDGE, MA 02140

181-57  
ROBERTS, VIRGINIA S. TRUSTEE  
38 ORCHARD ST  
CAMBRIDGE, MA 02140

180-33  
WHITE, HANNA T. ROSS A. MARINO  
164 ELM ST NORTH UNIT 2  
CAMBRIDGE, MA 02140

181-46  
KIRKPATRICK EDWARD SCOTT  
48 ORCHARD ST  
CAMBRIDGE, MA 02140

180-33  
HANSON, GORDON CATHERINE HANSON  
164 ELM ST, UNIT 1  
CAMBRIDGE, MA 02140

180-71  
ROTH SHARON G  
174 ELM ST N - UNIT 3  
CAMBRIDGE, MA 02140

181-45  
GERSHENFELD, NEIL LAURA BREWER TRS  
50 ORCHARD ST  
CAMBRIDGE, MA 02140

180-72  
GOULD, KAREN L & IAN BRIGGS  
166 ELM ST NORTH - UNIT 1  
CAMBRIDGE, MA 02140



41 Orchard Street  
Cambridge, MA  
October 31, 2023

To the BZA re: BZA-245510

There are several reasons why we come before you tonight to oppose Ms. Lipson's addition to her accessory building. For those of you who were not on the BZA a few years ago, Ms. Lipson wanted to convert the barn on her property to a living space, which was illegal except for 900 square feet. She then renovated the barn and was able to have her wish to "age in place"....it was approved and now she has decided she does not have enough space for guests and wants to put on an addition, including a roof deck and basement. These are not "modest" as she says in her petition and would adversely affect the use and enjoyment of our home, which is just a few feet from hers. It is neither appropriate nor lawful to expand the current dwelling space beyond the size restrictions for accessory dwelling units.

1. Ms. Lipson has 2 other units on the lot which she is now renting out in front of her current building. They have 2 or 3 bedrooms each which would be more than enough to accommodate company or caretakers and for her to "age in place".
2. Ms. Lipson's addition would reduce the green space and increase the carbon footprint on the lot.
3. Ms. Lipson now returns with another proposal that would add a room app. 18 by 14 feet with an adjoining bathroom...and as mentioned a basement and a roof deck. These are outside the footprint of the 900 sq. ft. who was originally given by the BZA for an accessory apartment.

Therefore the current proposal to expand the structure is inconsistent with the zoning regulations applying to an accessory dwelling unit. These units are restricted in size because they are extremely close to abutters and represent a marked change in the intensity of their use by adding additional dwelling units to backyards.

Thank you for your consideration.

Sincerely,



Pamela Winters

10/10/2014  
10/10/2014  
10/10/2014

10/10/2014

The following information was obtained from the records of the Department of Health and Human Services, Office of Inspector General, regarding the activities of the [redacted] in the [redacted] area. The information was obtained from the records of the Department of Health and Human Services, Office of Inspector General, regarding the activities of the [redacted] in the [redacted] area. The information was obtained from the records of the Department of Health and Human Services, Office of Inspector General, regarding the activities of the [redacted] in the [redacted] area.

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10/10/2014  
10/10/2014  
10/10/2014

To: Cambridge Board of Zoning Appeals  
Case # BZA-245510

CITY OF CAMBRIDGE  
INSPECTIONAL SERVICES

Nov 1, 2023

2023 OCT 32 A 11: 23.

I reside at 41 Orchard Street in Cambridge, next door to 45 Orchard Street. I have many reasons to oppose expansion of Ms Lipson's accessory apartment at the rear of the 45 Orchard Street lot:

-it will adversely affect the use and enjoyment of my home. The deck atop the proposed addition, in particular, would greatly reduce my privacy;

-it will reduce green space on Ms Lipson's lot. My neighborhood has over the years already lost much open space to development. (Specifically the nearby park abutting the church on Mass Ave near Elm Street, and three private properties directly abutting mine.)

-it will increase the carbon footprint of the lot;

-the proposal is inconsistent with the zoning regulations.

To expand a bit on this last point, and I hope this does not take up too much of the Board's time, I'd like to acknowledge that the third unit at the rear of Ms Lipson's lot, in which she now lives, replaced a freestanding barn. Ms Lipson's goal was to develop the barn into a dwelling unit in which she could 'age in place', notwithstanding the fact that either of the two already existing dwelling units could have served the same purpose. The purpose and intent of converting the barn to a dwelling unit were entirely consistent with the creation of 'Accessory Apartments' per Article 4.22. I believe it makes sense to view the third dwelling unit in this way, and apply to it the use regulations of 'Accessory Apartments'.

The initial proposal in 2019 sought to increase the total gross floor area to 4712 sq feet and to expand the footprint of the existing barn. That proposal was rejected by the BZA. After scaling back the plans, in 2020 approval was granted to develop approximately 900 sq feet of additional living space which was to remain within the envelope of the barn. (Total GFA 4379 sq feet). Now Ms Lipson again seeks expansion, to 4715 sq feet, virtually identical in size to the proposal that was rejected in 2019.

Specifically, she would add 336 sq feet to the existing 900 sq foot structure, all outside of the footprint of the original structure. This is far larger than Accessory Apartments were ever intended to be (900 sq feet max) on a lot that already exceeds the maximum total GFA.

The plans also include an outdoor deck atop the new addition, and a cellar beneath. One must at least acknowledge the possibility that the proposed cellar could be used as additional living space. As mentioned, the deck will intrude upon my privacy.

1970-1971

1970-1971

On the 1st day of March 1971, the undersigned, a duly qualified and licensed professional accountant, was called upon to audit the books and records of the above named entity for the period ending on the 31st day of December 1970.

The books and records were examined and found to be correct and in accordance with the generally accepted accounting principles.

The financial statements prepared by the management of the above named entity for the period ending on the 31st day of December 1970, are true and correct in all material aspects.

In witness whereof, I have hereunto set my hand and seal at the City of New York, this 1st day of March 1971.

Accountant

The undersigned is a duly qualified and licensed professional accountant, and has been called upon to audit the books and records of the above named entity for the period ending on the 31st day of December 1970. The books and records were examined and found to be correct and in accordance with the generally accepted accounting principles. The financial statements prepared by the management of the above named entity for the period ending on the 31st day of December 1970, are true and correct in all material aspects.

On the 1st day of March 1971, the undersigned, a duly qualified and licensed professional accountant, was called upon to audit the books and records of the above named entity for the period ending on the 31st day of December 1970. The books and records were examined and found to be correct and in accordance with the generally accepted accounting principles.

The financial statements prepared by the management of the above named entity for the period ending on the 31st day of December 1970, are true and correct in all material aspects.

In witness whereof, I have hereunto set my hand and seal at the City of New York, this 1st day of March 1971.

It may have been unrealistic to plan to 'age in place' in 900 sq feet of living space. Such an unfortunate miscalculation does not justify further expansion. As stated, Ms Lipson owns two other dwelling units on the property that are larger and could readily accommodate her housing needs to 'age in place'.

My request, in brief, is that the BZA remain consistent and not approve this repackaging of a previously rejected proposal.

Sincerely,

A handwritten signature in black ink, appearing to read 'Harry Shapiro', with a stylized, cursive script.

Harry Shapiro  
41 Orchard Street

57-4  
2 0

**CITY OF CAMBRIDGE**  
**INSPECTIONAL SERVICES**

2023 NOV - 1 A 11:24

Cambridge, MA  
02142

**Pacheco, Maria**

---

**From:** Ross Marino <marinoross@gmail.com>  
**Sent:** Tuesday, October 31, 2023 3:44 PM  
**To:** Pacheco, Maria  
**Subject:** Special Permit BZA-245510

To Maria Pacheco,

We are Hanna and Ross Marino and live in 164 Elm st unit 3, Cambridge. Our backyard abuts 45 Orchard Street where there is a petition for a special permit.

We would like to ask that the BZA allow the special permit and allow the bedroom to be added. We believe that this will not cause any issues or damages in any way.

Thank you for reading,

Hanna and Ross Marino

**Pacheco, Maria**

---

**From:** SHERRY OLIVER <sherryoliver46@comcast.net>  
**Sent:** Sunday, November 5, 2023 6:01 PM  
**To:** Pacheco, Maria  
**Subject:** Case Number: BZA-245510

November 5, 2023

To: Board of Zoning Appeal, Cambridge

I am a direct abutter to the petitioner, Abigail Lipson at 45 Orchard Street. The proposal adds an addition that will have a significant impact on me by eliminating an open green space (a coveted commodity in the city) but I have decided to remain neutral on the addition.

I am, however, opposed to the addition of a roof deck. My house is two stories and I live on the second floor. I have a deck that overlooks Abigail's yard and it will be in a direct line of view with her roof deck. I feel it will impact my privacy. It will also increase the height of the addition.

Sherry Oliver  
49 Orchard Street





# 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: Abigail Lipson Date: 10/23/23  
(Print)

Address: 45 Orchard St.

Case No. BZA-245510

Hearing Date: 11/9/23

Thank you,  
Bza Members

## **Pacheco, Maria**

---

**From:** Shelly Ziegelman <shellywoodz@gmail.com>  
**Sent:** Monday, November 6, 2023 3:55 PM  
**To:** Pacheco, Maria  
**Cc:** Abigail Lipson  
**Subject:** 45 Orchard Street  
**Attachments:** 45 Orchard Street - Privacy Buffer.pdf

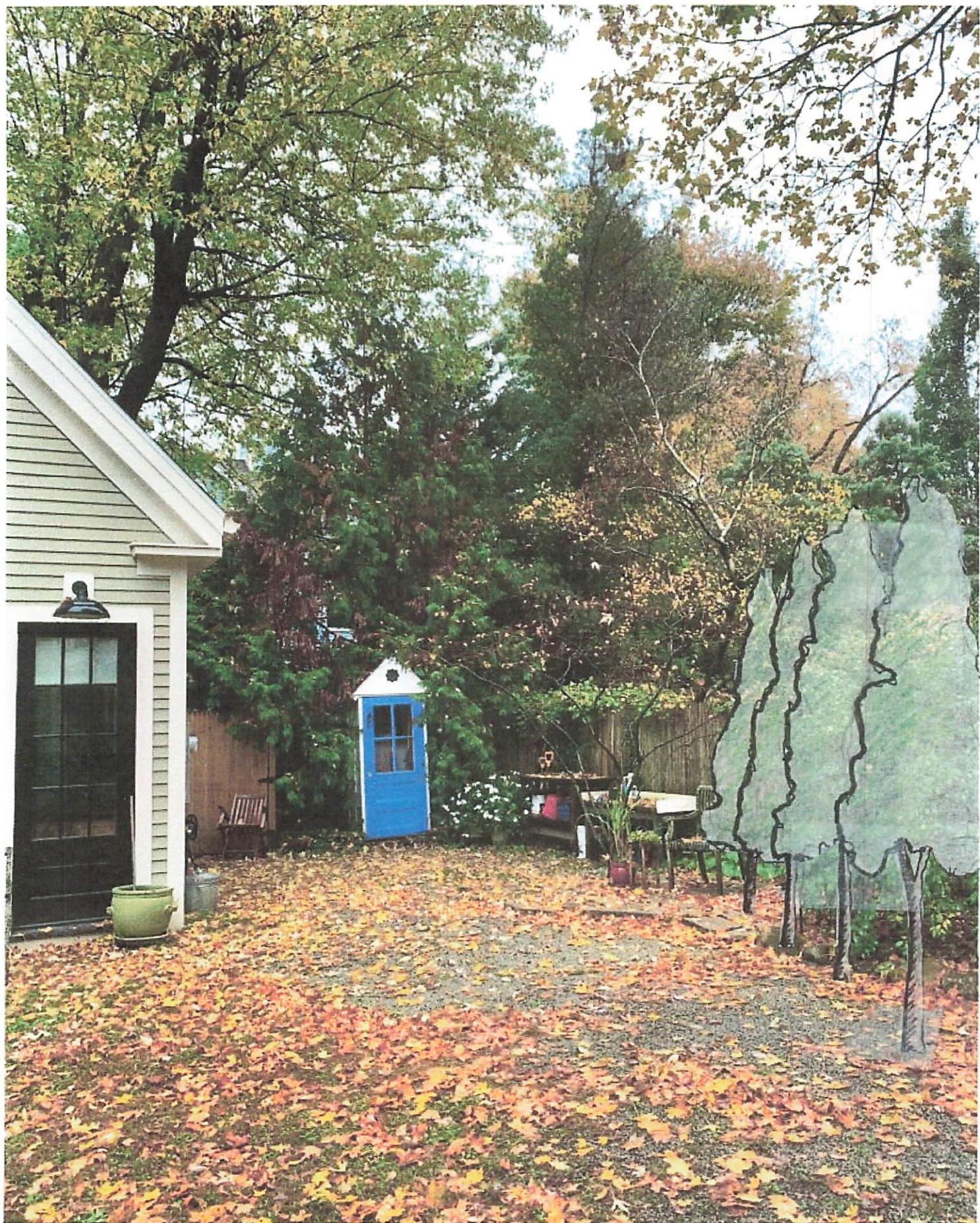
Hi Maria,

Please upload this sketch that addresses the privacy concerns of the neighbors at 41 Orchard Street with a planted buffer.

Thanks so much,

Shelly

Shelly Wood Ziegelman, AIA, LEED AP  
S W Z ARCHITECTS LLC  
cell: 617.893.8907



1 \* \* \* \* \*

2 (7:42 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Virginia  
4 Keesler, Daniel Hidalgo, and Bill Boehm

5 JIM MONTEVERDE: Next case is BZA-245510 -- 45  
6 Orchard Street.

7 SHELLY ZIEGELMAN: Good evening, everyone. I'm  
8 Shelly Ziegelman. I'm the architect, and I'm here with  
9 Abigail Lipson, the homeowner. And we're here to discuss 45  
10 Orchard Street, a special permit.

11 The first thing that I'd like to go over -  
12 Olivia, can you put a picture of the house up?  
13 Thank you. The lot consists of a two-family house on the  
14 front of the lot, and a single-family house in the rear of  
15 the lot.

16 We're seeking relief for an increase in the total  
17 gross floor area, and the FAR for the proposed one-bedroom  
18 addition in the front of the rear single-family.

19 JIM MONTEVERDE: And for context, can you describe  
20 how you got to the house in the rear?

21 SHELLY ZIEGELMAN: For the context? How --

22 JIM MONTEVERDE: Yeah, history.

1           SHELLY ZIEGELMAN: The history. So --

2           JIM MONTEVERDE: In other words, you've been  
3 before this Board twice before?

4           SHELLY ZIEGELMAN: No, I haven't --

5           JIM MONTEVERDE: For that --

6           SHELLY ZIEGELMAN: It was a different architect.

7           JIM MONTEVERDE: Thank you.

8           SHELLY ZIEGELMAN: Yes.

9           JIM MONTEVERDE: Same address?

10          SHELLY ZIEGELMAN: Same address. The existing --

11          JIM MONTEVERDE: Same property.

12          SHELLY ZIEGELMAN: -- the existing house in the  
13 back that you see the picture of is -- was a barn.

14          JIM MONTEVERDE: Correct.

15          SHELLY ZIEGELMAN: And the previous architect went  
16 before the Board seeking a variance, I believe. But I,  
17 again, was not part of that history. The barn originally  
18 was more than twice the size, and was reduced, and then  
19 turned into this single-family house. It's a one-bedroom  
20 house. It is not an accessory dwelling unit; it is a  
21 single-family -- considered a single-family.

22          JIM MONTEVERDE: Mm-hm.

1           SHELLY ZIEGELMAN: Is there any more history that  
2 -- since you were there that you'd like --

3           JIM MONTEVERDE: I think just proceed with your  
4 presentation, yes.

5           SHELLY ZIEGELMAN: Okay.

6           JIM MONTEVERDE: There's correspondence --

7           SHELLY ZIEGELMAN: All right.

8           JIM MONTEVERDE: -- in the file, and I was part of  
9 the decision the first two times, so we can bring all that  
10 up then.

11          SHELLY ZIEGELMAN: Right. Okay, great. But thank  
12 you for bringing that up.

13           The other part of the overall description before  
14 we move on to the site plan is the proposed bedroom addition  
15 will provide the owner with one-floor living, so she is able  
16 to age in place.

17           The other two units in the front are -- the front  
18 unit is raised above grade, and the rear unit is a  
19 multilevel unit, so it would not provide and age-in-place  
20 possibility.

21           Olivia, can we please see the site plan -- not the  
22 next one, the A -- the architectural? Yes. Thank you. The

1 dimensional information for this house, it's in Zone B,  
2 single-family as we mentioned. It -- the proposed bedroom  
3 addition complies with all of the ordinances except for the  
4 FARs, as discussed earlier.

5           And you can also look at the dimensional sheet.  
6 But the proposed addition is situated within all of the  
7 required setbacks. However, the barn is nonconforming --  
8 what was the barn.

9           It maintains the ratio of usable open space to the  
10 lot area and it's greater than required. The addition falls  
11 within the size requirements for a single-family house  
12 addition, as it is less than half the existing footprint of  
13 the first floor.

14           So if you move on to the next drawing, you can see  
15 that the proposed bedroom addition, which consists of an  
16 entrance area, a bedroom and a bathroom, is less than half  
17 of the existing first floor footprint.

18           The proposed cellar that you see on the left side  
19 of the drawing is a cellar that will contain the plumbing,  
20 electrical ductwork and all the mechanicals. It is -- the  
21 ceiling height is no higher than 6'6". It can never be  
22 finished, and it is not part of the livable space.

1           Then on the next drawing, please -- thank you --  
2 we have created a proposed roof deck. And it's defined in  
3 the Zoning Ordinance as private, open space.

4           There have been a couple of -- the two adjacent  
5 neighbors on either side 41 and 49 -- have concerns over  
6 privacy as well as my client, everyone would like it to be  
7 private, which makes total sense. And to respect that, we  
8 -- there will be planting and planters all around the roof  
9 deck and also near the property lines.

10           And I believe that Abigail is in conversation with  
11 any neighbors that would like to discuss privacy, because I  
12 think site lines are very important and maximizing privacy  
13 is everyone's concern.

14           So this proposed green deck both -- it also  
15 moderates the heat island effect if it were just to be a  
16 traditional roof and is intended to provide privacy for both  
17 the neighbor and the client with plantings.

18           The proposed addition is in keeping with the other  
19 structures in the neighborhood, including other additions  
20 and roof decks in the neighborhood. There will be lighting,  
21 sound control, and -- again, site lines. And everything  
22 will be carefully planned.



1           The proposed addition also includes replacing the  
2 existing lawn areas with robust plantings, trees and  
3 gardens. And that will also improve air quality and  
4 environmental well-being.

5           If we can move on to the elevations, please, thank  
6 you.

7           Another thing that we took into account was window  
8 placement.

9           JIM MONTEVERDE: Ms. Ziegelman?

10          SHELLY ZIEGELMAN: Yes.

11          JIM MONTEVERDE: Can I ask you to just hang on for  
12 two minutes?

13          SHELLY ZIEGELMAN: Of course.

14          JIM MONTEVERDE: We need to take a two-minute  
15 break. Be right back.

16          SHELLY ZIEGELMAN: Sure.

17          [Pause]

18          JIM MONTEVERDE: Sorry for the interruption.

19          ANN FULLERTON: That's okay. Okay. So just to --  
20 the final comment about the elevations is that the windows  
21 are respectful of the neighbors. The horse stall windows,  
22 the little -- the small ones that are reminiscent of a horse

1 stall from the barn are above the owners. You can't see out  
2 it. It's just light, like a clear story.

3 And the window on the lower elevation in the  
4 proposed part, you can see the existing and the proposed.  
5 The proposed is on the left. Those windows, the larger  
6 double hungs are 31.5' from the property line.

7 So there -- it's a great distance, and all of the  
8 windows have window treatments on them in the existing barn  
9 as well as the proposed.

10 And that concludes the presentation. And if there  
11 are any questions?

12 JIM MONTEVERDE: All right. Thank you. Before I  
13 open it up to members of the Board, I just want to confirm  
14 that everyone read -- I'm sure you read the correspondence  
15 that's in the electronic file -- one in particular that I  
16 think rather accurately -- from Harry Shapiro, dated  
17 November 1.

18 And it goes through the history I was alluding to  
19 in that, and just for reference for members of the Board:  
20 This project, different architect, same owner I believe,  
21 came before the Board in 2019 as an expanding the footprint  
22 of the existing barn. Same use. Owner would occupy it, age

1 in place. And it totaled 4,712 square feet.

2 The Board -- in the discussion at that hearing,  
3 the Board let the proponent know that they didn't have  
4 enough favorable votes to be granted the variance for a  
5 number of reasons about the size and et cetera. And the  
6 case was continued.

7 The proponent came back, with a different  
8 architect, same owner, same discussion, age in place, in  
9 2020 with a scheme that was reduced to I think it's 4,379  
10 square feet, thereabouts. Basically the footprint of the  
11 barn, if I recall.

12 And that was approved. And those are the  
13 photographs that you see of the building that exists. And  
14 the proposal now, if I read the dimensional form, would now  
15 increase the previously approved 4,300 square feet and  
16 change and go back to the 4,715 square feet that in 2019  
17 that Board objected to and discussed with the proponent that  
18 they should withdraw their case -- not withdraw their case,  
19 continue the case -- because they weren't going to be  
20 approved.

21 So I just want to give you that background. It's  
22 in the letter. The letter is, I think, pretty accurate.

1 I've got the file from the other hearings. We can go  
2 through that if anyone desires.

3 But with that in mind, any questions from members  
4 of the Board?

5 VIRGINIA KEESLER: It was mentioned that the barn  
6 was originally twice the size. So is it just a lot taller  
7 than the existing -- than the current structure?

8 SHELLY ZIEGELMAN: It projected towards the two-  
9 family house. It was longer. It was twice the size of the  
10 current barn, current house rather.

11 ABIGAIL LIPSON: That was reduced long before the  
12 conversion of the barn to house. That was reduced because  
13 the back of the house and the front of the barn basically  
14 were rotting and irreparable when we first purchased the  
15 property. And so, to save the structure we removed the  
16 front portion that was rotting and put the front back on the  
17 reduced structure.

18 VIRGINIAL KEESLER:: Thank you.

19 ABIGAIL LIPSON: That was many years before.

20 DANIEL HIDALGO: I think you said this at the  
21 beginning, but I just wanted to make sure, because several  
22 correspondents referred to this as an accessory apartment

1 under 4.22.

2 And you -- just to clarify, are you saying that  
3 isn't the case? This was not, you know, granted under that  
4 part of the Zoning Code as an accessory apartment?

5 SHELLY ZIEGELMAN: It was not. It is a single-  
6 family dwelling.

7 DANIEL HIDALGO: Okay. Thank you.

8 SHELLY ZIEGELMAN: And it was confirmed by Ranjit  
9 and his team.

10 DANIEL HIDALGO: Great.

11 BILL BOEHM: My question is, you've said that your  
12 -- you've acknowledged neighbors' privacy concerns. And so,  
13 you got it sounds like a fairly extensive landscape agenda  
14 and a green roof agenda, which I don't believe you have  
15 plans of.

16 I know in the case of the green roof that the  
17 weight of a green roof often entails, you know, a more  
18 robust structure.

19 So I guess my question is, how far along are you  
20 in your design and planning for a green roof and extensive  
21 landing? And have you been able to share that with your  
22 neighbors?

1           SHELLY ZIEGELMAN: Just to clarify, the -- it is  
2 not a green roof with all the extensive structure. It is a  
3 roof that will have structure that will provide for planters  
4 around the perimeter of the roof. But it won't have beds  
5 and irrigation and the whole works. It will have planters.  
6 So there will be privacy met by that.

7           The landscape plan has not been started yet.  
8 That's something that we will start if there is -- if we're  
9 able to do this.

10           ABIGAIL LIPSON: I've interviewed two landscape  
11 architects and reviewed the possibilities. And shopped  
12 basically for various kinds of green barriers that would  
13 work both at the roof level and at the property line level.

14           And I've invited my neighbors to also suggest what  
15 would help make them feel comfortable in the way of  
16 plantings or barriers.

17           JIM MONTEVERDE: Thank you. Any other questions from  
18 members of the Board? If not, I will read into the public  
19 correspondence we've received what's in the file, and than  
20 open it up to public commentary.

21           So we have three pieces of correspondence in favor  
22 and three objecting. I have one from Sherry Oliver, 49

1 Orchard Street, direct abutter.

2 "Proposal adds an addition that will have a  
3 significant impact on me by eliminating the open green space  
4 (a coveted commodity in the city) but I have decided to  
5 remain neutral on the addition.

6 "I am, however, opposed to the addition of a roof  
7 deck. My house is two stories and I live on the second  
8 floor. I have a deck that overlooks Abigail's yard, and it  
9 will be in direct line of view with her roof deck. I feel  
10 it would impact my privacy and it will increase the height  
11 of the addition."

12 JIM MONTEVERDE: Ms. Ziegelman, is this -- you  
13 sent a sketch in?

14 SHELLY ZIEGELMAN: That's the other. That's Pam  
15 and Harry's side.

16 JIM MONTEVERDE: That's the other side?

17 SHELLY ZIEGELMAN: But Abigail has been in  
18 conversation with Sherry, and there's also a distance.  
19 There -- we just have not -- again, we are in good faith  
20 working on the privacy issue and her --

21 JIM MONTEVERDE: Okay.

22 SHELLY ZIEGELMAN: -- her concerns are, you know,

1 our concerns. Oh, I'll just add that because --

2 JIM MONTEVERDE: Nope. Hold on one second. I'm  
3 really just reading through the correspondence. So let me  
4 just keep going through it.

5 The second one, dated November 1, from Harry  
6 Shapiro. This is a two-page letter. I'm going to summarize  
7 as best as I can.

8 The person who writes the letter resides at 41  
9 Orchard Street, next door.

10 "It will adversely affect the use and enjoyment of  
11 my home. The deck atop the proposed addition, in  
12 particular, would greatly reduce my privacy.

13 "It will reduce green space on Ms. Lipson's lot.  
14 The neighborhood has over the years already lost much open  
15 space to development.

16 "It will increase the carbon footprint of the  
17 lot," and "the proposal is inconsistent with the zoning  
18 regulations."

19 And then it goes on, and there's a paragraph and I  
20 will read from A to --

21 "The initial proposal in 2019 sought to increase  
22 the total gross floor area to 4712 square feet and to expand



1 the footprint of the existing barn. That proposal was  
2 rejected by the BZA.

3 "After scaling back the plans, in 2020 approval  
4 was granted to develop approximately 900 square feet of  
5 additional living space which was to remain within the  
6 envelope of the barn. (Total GFA 4379 square feet).

7 "Now Ms. Lipson again seeks expansion to 4715  
8 square feet, virtually identical in size to the proposal  
9 that was rejected in 2019."

10 And the last one I will read verbatim from the  
11 paragraph:

12 "It may have been unrealistic to plan to 'age in  
13 place' in 900 square feet of living space. Such an  
14 unfortunate miscalculation does not justify further  
15 expansion. As stated, Ms. Lipson owns two other dwelling  
16 units on the property that are larger and could readily  
17 accommodate her housing needs to 'age in place.'"

18 That's from Harry Shapiro.

19 Next is Pamela Winters, October 31. There are  
20 several reasons why they come before us tonight to oppose  
21 the addition.

22 "It would adversely affect the use and enjoyment

1 of our home." I'm summarizing here.

2 "It is neither appropriate nor lawful to expand  
3 the current dwelling space beyond the size restrictions for  
4 accessory dwelling units."

5 But you've explained that this is not an accessory  
6 dwelling unit, it's a separate home.

7 There are a couple of paragraphs here. It says:

8 "1. Ms. Lipson has two other units on the lot,  
9 which she is now renting out in front of her current  
10 building. They have two or three bedrooms each which would  
11 be more than enough to accommodate company or caretakers for  
12 her to 'age in place.'

13 "2. Ms. Lipson's addition would reduce the green  
14 space and increase the carbon footprint.

15 And "3. Ms. Lipson now returns with another  
16 proposal that would add a room approximately 18 by 14 feet  
17 with an adjoining bathroom...and as mentioned a basement and a  
18 roof deck. The footprint of 900 square feet was originally  
19 given by the BZA for an accessory apartment."

20 And there is Hanna and Ross Marino, October 31,  
21 164 Elm Street, Unit 3. Their back yard abuts 45 Orchard  
22 Street. They are speaking in favor of the addition.

1           Jenny Katz, Samuel Christy, 166A Elm Street. They  
2 have spoken to Ms. Lipson about the plans, and they are in  
3 support of it.

4           And Susan Matkoski and Stewart Wiley, October 4.  
5 They reside -- no, they don't say where they reside. Oh,  
6 I'm sorry. 168 Elm Street. And they were recently informed  
7 they intend to build a one-story addition, and they have no  
8 objections.

9           That is the correspondence in the file. So now  
10 open it 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.

16           OLIVIA RATAY: John Buten?

17           JOHN BUTEN: I think that's an error. We're the  
18 next case. I didn't mean to raise my hand, I'm sorry.

19           JIM MONTEVERDE: Oh, okay. Yep, you're next.  
20 Hang on.

21           OLIVIA RATAY: Pamela Winters? Nevermind, she put  
22 her -- Pamela Winters?

1 JIM MONTEVERDE: Pamela Winters go away?

2 OLIVIA RATAY: She's -- no, she's here.

3 PAMELA WINTERS: Hello? Hello? Hi. Can you hear  
4 me?

5 JIM MONTEVERDE: Yes, we can.

6 PAMELA WINTERS: Oh, excellent. Well, I'm just  
7 going to, you know, just sort of review something that the  
8 Chair has already talked about. But there are several  
9 reasons why we come before you tonight to oppose Ms.  
10 Lipson's addition to her accessory building.

11 For those of you who were not on the BZA a few  
12 years ago, Ms. Lipson wanted to convert the barn in her  
13 property to a living space, which was illegal, except for  
14 900 square feet, which ironically enough the barn is exactly  
15 just about.

16 And she then renovated the barn and was able to  
17 have her wish to age in place. It was approved. And now  
18 she has decided she does not have enough space for guests  
19 and wants to put on an addition, including a roof deck and a  
20 basement.

21 These are not modest, as she says in her petition,  
22 and would adversely affect the use and enjoyment of our

1 home, which is just a few feet from hers.

2 It is neither appropriate nor lawful to expand the  
3 current dwelling space beyond the size restrictions for  
4 accessory dwelling units.

5 Ms. Lipson has two other units on the lot; she  
6 owns them. And she is now renting out the front, renting  
7 out in front of her current building where she's living.  
8 They all have two or three bedrooms each, which would be  
9 more than enough to accommodate company or caretakers or for  
10 her to age in place.

11 Ms. Lipson's addition would reduce the green space  
12 and increase the carbon footprint in the lot. And Ms.  
13 Lipson now returns with another proposal that would add a  
14 room and it's -- I think I said in my letter it was 18' x  
15 14'; I think it's closer to 25' x 14'. Perhaps the  
16 architect could be more specific about that -- with an  
17 adjoining bathroom.

18 And as mentioned, a basement and a roof deck.  
19 These are outside the footprint of the 900 square feet that  
20 was originally given by the BZA for her accessory apartment.  
21 And that's under -- in the Zoning Regulations it's under  
22 4.22.1 and it's number 3. And it's just one sentence, so I

1 can read it to you.

2 "An accessory apartment created within an  
3 accessory building shall not occupy more than 900 square  
4 feet." Which she has. Therefore, the current proposal to  
5 expand the structure is inconsistent with the Zoning  
6 Regulations applying to an accessory dwelling unit.

7 "These units are restricted in size because they  
8 are extremely close to abutters and represent a marked  
9 change in the intensity of their use by adding additional  
10 dwelling units to back yards."

11 Thank you very much for your time. I appreciate  
12 it. Thank you.

13 JIM MONTEVERDE: Thank you for your comment.

14 PAMELA WINTERS: Mm-hm.

15 JIM MONTEVERDE: That's it for public comments. I  
16 will close public testimony.

17 ABIGAIL LIPSON: May I mention something before  
18 the Board deliberates? Just because my architect was not  
19 here for the earlier petition, and I was.

20 JIM MONTEVERDE: Yes. You can make it brief,  
21 please.

22 ABIGAIL LIPSON: Yes. I'll make it brief. The

1 original conversion of the barn to my house was different in  
2 a couple ways in that it was a conversion into a living  
3 situation from a nonliving space. This has now been my home  
4 for over a year and a half I think now. So I'm living there  
5 as my home now.

6 The original petition with the conversion included  
7 a variance for example about the setback things that were  
8 understandably felt to be more -- you know, more intrusion  
9 from my neighbors.

10 This petition now is a change to my current home  
11 within the setbacks, asking only for the special permit for  
12 the FAR. And the -- it would allow for ground-level one-  
13 floor living, which none of the other units will allow.

14 Thank you.

15 JIM MONTEVERDE: Thank you. Discussion from  
16 members of the Board? I'll start. I'm concerned. Although  
17 this technically isn't a repetitive petition by definition  
18 of the Ordinance, it's a repetitive petition. Again, not as  
19 defined by the Ordinance.

20 But this was turned down initially, or something  
21 similar was turned down initially -- almost exactly the same  
22 size square footage and reduced at the request of the

1 previous Board, and approved by the previous Board at the  
2 current footprint that you see in the photographs.

3 And I am troubled to have the proponent come back  
4 and ask for what amounts to exactly what was denied in  
5 2019/2020. Beside the objections -- and then there are the  
6 objections from the neighbors; privacy and -- primarily  
7 privacy and objections to the deck.

8 So I for one at the moment would not be in support  
9 of this relief.

10 Any other discussion, or are we ready for a  
11 motion?

12 BILL BOEHM: I'll share your concerns, Jim. I  
13 find the roof deck addition, you know, I guess, particularly  
14 out of keeping with the stated intent of the or need for the  
15 addition, and that's of -- you know, particular concern to  
16 neighbors.

17 And I feel like the proposed solution of planters  
18 and landscaping has not really been fully developed or  
19 vetted. So I'm also concerned.

20 JIM MONTEVERDE: So I'm concerned to the extent  
21 that I would not vote to grant the special permit. Are you  
22 of the same mind?



1 BILL BOEHM: Yes.

2 JIM MONTEVERDE: Okay.

3 BILL BOEHM: Oh, sorry.

4 VIRGINIA KEESLER: Oh no, you got it, Dan.

5 JIM MONTEVERDE: Go ahead.

6 DANIEL HIDALGO: Yeah, I'm fine with the plan, I  
7 think. But I am sort of worried about the precedent of  
8 returning to the Board -- you know, after turnover with  
9 something that's, you know, similar to what's approached  
10 just a couple years ago. So I sympathize with the problems  
11 raised by Jim.

12 JIM MONTEVERDE: Okay. Anyone else?

13 VIRGINIA KEESLER: I guess I share a similar  
14 sentiment to Daniel. I think I'm less troubled by the plan  
15 just in that the open space ratio is maintained and the new  
16 addition is over 31' from the property lot line with 41  
17 Orchard.

18 I guess, Jim, I'd be interested to hear you expand  
19 a little more on the precedent that this sets. And I know  
20 you have already spoken to it, but just maybe like any  
21 history of repetitive proposals and just --

22 JIM MONTEVERDE: Well, yeah.

1 VIRGINIA KEESLER: Yeah.

2 JIM MONTEVERDE: -- if I use that word, that's --  
3 again, have to be careful -- it's technically not a  
4 repetitive petition. Because you can't come back -- a  
5 repetitive petition is if you -- look to my, I'm sorry?  
6 Yeah. It would be if it's a negative action by the Board,  
7 you can't come back for two years for something identical,  
8 similar.

9 So just a timeline here, it's 2019. The  
10 discussion -- it wasn't a vote; it was agreed to continue.  
11 You know, we read the tea leaves. Basically advised them  
12 that they weren't going to pass. Suggested they do a  
13 continuance, they did. 2020 came back with a new scheme  
14 that reduced it to what you see here in the photographs as  
15 built.

16 And now in 2023, they're back with something that  
17 resembles -- at least in area, if not in concept, what they  
18 had in 2019 that the Board was going to reject.

19 Basically, advised them to continue and reduce the  
20 scheme. The neighborhood's objection and it was just too  
21 large behind there. That's about as clear as I can make it  
22 a history without reading the file in detail.

1 So if I read the tea leaves -- and Virginia, I'll leave you  
2 out of this for a moment -- it sounds like about four, three  
3 against, which won't get you approval.

4 So Ms. Ziegelman and Ms. Lipson, are you still  
5 with us?

6 SHELLY ZIEGELMAN: Yes.

7 ABIGAIL LIPSON: Yes. So you have a choice. We  
8 can proceed with the vote -- the tea leaves say you don't  
9 get approved -- or you can continue.

10 SHELLY ZIEGELMAN: We'll take the continuance.

11 JIM MONTEVERDE: Okay. November 30, does that  
12 work for members of the Board and for the proponent?

13 SHELLY ZIEGELMAN: I will be out of town.

14 JIM MONTEVERDE: Okay. What was the other one?

15 OLIVIA RATAY: December 14.

16 JIM MONTEVERDE: December 14?

17 SHELLY ZIEGELMAN: That's fine.

18 JIM MONTEVERDE: Members of the Board, can you do  
19 December 14?

20 DANIEL HIDALGO: Fine with me.

21 VIRGINIA KEESLER: Yes.

22 STEVEN NG: Yes, that works for me.

1 JIM MONTEVERDE: Okay. Virginia?

2 VIRGINIA KEESLER: Yes, that works for me.

3 JIM MONTEVERDE: Okay. Denial that's fine?

4 DANIEL HIDALGO: Fine with me, yeah.

5 JIM MONTEVERDE: Yep. Bill?

6 BILL BOEHM: Yep. Works for me.

7 JIM MONTEVERDE: Okay. Jim Monteverde, it works  
8 for me. So I will continue to December 14.

9 SHELLY ZIEGELMAN: And can we just clarify that  
10 this building is not an ADU for the neighbors?

11 JIM MONTEVERDE: I'm going to confirm that myself  
12 when I go back in the record. So I'm going to leave that  
13 one for the moment. I'm not going to touch that until I've  
14 had the time to do the research.

15 You, I think, Ms. Lipson, said you talked to  
16 Ranjit?

17 ABIGAIL LIPSON: I spoke with --

18 JIM MONTEVERDE: You did.

19 ABIGAIL LIPSON: -- Ranjit and Olivia.

20 JIM MONTEVERDE: Yeah. So I just want to go  
21 through the file and see what was voted, how it's recorded,  
22 how it's registered, and we'll take it from there when we

1 come back.

2 SHELLY ZIEGELMAN: What we presented is exactly --  
3 has been confirmed by me and Ranjit and Olivia.

4 JIM MONTEVERDE: Mm-hm. Okay. Well, I think  
5 members of the Board are probably going to want to just see  
6 the paperwork themselves and go through the file and get  
7 ready for the next time. So --

8 STEVEN NG: Yeah, I --

9 JIM MONTEVERDE: -- let me make a motion -- all  
10 right.

11 STEVEN NG: Jim, just real quick before you do, I  
12 just didn't get the opportunity to voice my opinion. I  
13 think the design is quite a bit more square footage I think  
14 than, you know, the objective was to kind of age in place  
15 but there's a lot of development happening up on the second  
16 floor.

17 And I think that outdoor terrace is a cause of  
18 concern with the neighbors. So I think those are your  
19 critical -- some of the critical items you have to address.

20 JIM MONTEVERDE: Agreed. Okay.

21 STEVEN NG: Thank you.

22 JIM MONTEVERDE: Yep. Let me make a motion to

1 continue this matter to September 14, 2023 (sic) on the  
2 condition that the petitioner change the posting sign to  
3 reflect the new date of December 14, 2023 and the new time  
4 of 6:00 p.m.

5 Also that the petitioner sign a waiver to the  
6 statutory requirement for the hearing. This waiver can be  
7 obtained from Maria Pacheco or Olivia Ratay at the  
8 Inspectional Services Department. I ask that you sign the  
9 waiver and return it to the Inspectional Services Department  
10 by a week from this coming Monday.

11 Failure to do so will de facto cause this Board to  
12 give an adverse ruling on this case.

13 Also, that if there are any new substantial  
14 changes to the drawings, dimensional forms, or any  
15 supporting statements that those be in in the file by 5:00  
16 p.m. on Monday prior to the continued meeting date.

17 On the motion to continue this matter to December  
18 14, 2023, voice vote by members of the Board, please? Bill?

19 BILL BOEHM: In favor.

20 JIM MONTEVERDE: Daniel?

21 DANIEL HIDALGO: In favor.

22 JIM MONTEVERDE: Virginia?

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VIRGINIA KEESLER: In favor.

JIM MONTEVERDE: Steven?

STEVEN NG: In favor.

JIM MONTEVERDE: And Jim Monteverde in favor.

[All vote YES]

JIM MONTEVERDE: That's five in favor. The matter is continued until December 14, 2023. Thank you.

SHELLY ZIEGELMAN: Thank you.



# City of Cambridge

MASSACHUSETTS

2023 NOV 13 PM 1:45

BOARD OF ZONING APPEAL OFFICE OF THE CITY CLERK  
CAMBRIDGE, MASSACHUSETTS

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

## Board of Zoning Appeal Waiver Form

The Board of Zoning Appeal  
831 Mass Avenue  
Cambridge, MA 02139

RE: Case # 245510

Address: 45 Orchard Street

Owner,  Petitioner, or  Representative: Shelly Ziegelman, AIA  
(Print Name)

hereby waives the required time limits for holding a public hearing as required by Section 9 or Section 15 of the Zoning Act of the Commonwealth of Massachusetts, Massachusetts General Laws, Chapter 40A. The  Owner,  Petitioner, or  Representative further hereby waives the Petitioner's and/or Owner's right to a Decision by the Board of Zoning Appeal on the above referenced case within the time period as required by Section 9 or Section 15 of the Zoning Act of the Commonwealth of Massachusetts, Massachusetts General Laws, Chapter 40A, and/or Section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, codified as 47 U.S.C. §1455(a), or any other relevant state or federal regulation or law.

Date: 11/13/23

[Signature]  
Signature



**Pacheco, Maria**

---

**From:** William Bloomstein <wittcreate@gmail.com>  
**Sent:** Friday, November 10, 2023 9:52 AM  
**To:** Pacheco, Maria  
**Cc:** pamharry87@comcast.net  
**Subject:** We opposed proposed 45 Orchard Street expansion

**RE: SPECIAL PERMIT FOR PROPOSED 45 ORCHARD STREET EXPANSION**

Dear Ms. Pacheco:

85-year-old Krishna Agrawal is an abutter to 45 Orchard Street (Krishna is an owner at 53 Orchard). As Krishna's son-in-law (married to Krishna's oldest daughter), I am writing on behalf of Krishna and her family, as Krishna is of poor health and does not use email.

**Krishna is adamantly OPPOSED to the proposed expansion at 45 Orchard and urges the BZA to DENY the special permit.**

Please call me with any questions.

Regards, William Bloomstein

Krishna Agrawal  
Aparna Agrawal  
53 Orchard Street  
Cambridge  
617.721.9445

# DOUGLAS OKUN ARCHITECT

November 14, 2023

Cambridge Board of Zoning Appeal  
831 Massachusetts Avenues  
Cambridge, MA 02138

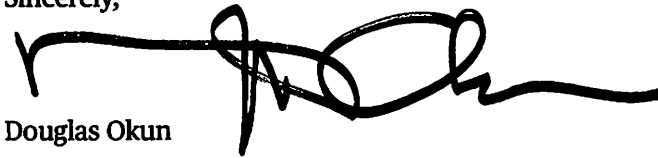
Re: Case BZA 245510

To Whom It May Concern:

Please accept this letter of support for Abigail Lipson.

The small addition is not a deterrent to neighbors or the general public.

Sincerely,

A handwritten signature in black ink, appearing to read 'DOUGLAS OKUN', written over a horizontal line.

Douglas Okun

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