



**Town of Brewster**  
**Zoning Board of Appeals**  
 2198 Main St., Brewster, MA 02631  
 brewplan@brewster-ma.gov  
 (508) 896-3701

**ZBA MEETING AGENDA**  
**2198 Main Street Room B**  
**September 12, 2023 at 7:00 PM**

**Zoning Board**

Brian Harrison  
 Chair

Jeff Carter  
 Vice Chair

Patricia Eggers

Bruce MacGregor

Trish Metz

**Department Assistant**

Ellen Murphy

This meeting will be conducted in person at the time and location identified above. This means that at least a quorum of the members of the public body will attend the meeting in person and members of the public are welcome to attend in person as well. **As a courtesy only, access to the meeting is also being provided via remote means in accordance with applicable law. Please note that while an option for remote attendance and/or participation is being provided as a courtesy to the public, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast or affect remote attendance or participation, unless otherwise required by law.** Members of the public with particular interest in any specific item on this agenda, which includes an applicant and its representatives, should make plans for in-person vs. virtual attendance accordingly.

**Members of the public who wish to access the meetings may do so in the following manner:**

- Phone:** Call (929) 436-2866 or (301) 715-8592. **Zoom Meeting ID:** 880 7666 8068 **and Passcode** 047258  
 To request to speak: Press \*9 and wait to be recognized.
- Zoom Webinar:** <https://us02web.zoom.us/j/88076668068?pwd=b3lXWnMwM2tybTk4SzlKMk5vT3NTUT09>  
**enter Passcode** 047258

To request to speak: Tap Zoom "Raise Hand" button, then wait to be recognized.

When required by law or allowed by the Chair, persons wishing to provide public comment or otherwise participate in the meeting, may do so by accessing the meeting remotely, as noted above. **Additionally, the meeting will be broadcast live, in real time via Live broadcast** (Brewster Government TV Channel 18), **Livestream** ([livestream.brewster-ma.gov](http://livestream.brewster-ma.gov)), or **Video recording** ([tv.brewster-ma.gov](http://tv.brewster-ma.gov)).

Please note that the ZBA may take official action, including votes, on any item on this agenda.

- Call to Order
- Declaration of a Quorum
- Meeting Participation Statement
- Recording Statement: As required by the Open Meeting Law we are informing you that the Town will be video and audio taping as well as broadcasting this public meeting. In addition, if anyone else intends to either video or audio tape this meeting they are required to inform the chair.
- Public Announcements and Comments: Members of the public may address the ZBA on matters not on the meeting's agenda for a maximum of 3-5 minutes at the Chair's discretion. The ZBA will not reply to statements made or answer questions raised during public comment but may add items presented to a future agenda
- Approval of Meeting Minutes
- Applications:  
**New Applications:**  
**ZBA Case #23-17 Owner/Applicant: Allen and Jodie Cash-Eddy, Trustees of Jodie A. Cash Revocable Trust, 23 and 32 Franklin Cartway, Map 50, Lot 11 & 12, in the RM zoning district. The applicant seeks a special permit pursuant to Section 179-25B of the Brewster Zoning Bylaw to raze and replace a pre-existing nonconforming single-family dwelling which encroaches further into the required setbacks.**
- For your Information
- Matters Not Reasonably Anticipated by the Chair
- Next Meeting: October 10, 2023
- Adjournment

**Date Posted:**  
 8/16/2023

**Date Revised:**

**Received by Town Clerk:**

TOWN OF BREWSTER ZONING BOARD OF APPEALS  
MEETING MINUTES  
Town Hall Room B  
Tuesday, August 8, 2023, at 7 PM

Jeff Carter, Vice Chair acting as Chair, convened the Brewster Zoning Board of Appeals with members: Patricia Eggers, Bruce MacGregor, and Trish Metz. Brian Harrison, Chair was absent.

Also present: Russell Karasik and Mark Grant (ZBA # 23-13), Andrew L. Singer, Esq. (ZBA #23-14), Mark H. Bourdeau, Esq. (ZBA case #23-15), Thomas H Moore, Design Co. (23-16), Jon Idman (Town Planner), Davis Walters (Building Commissioner), and Ellen Murphy (Department Assistant)

The Chair read the Recording or Taping Notification: This meeting will be conducted in person at the time and location identified above. This means that at least a quorum of the members of the public body will attend the meeting in person and members of the public are welcome to attend in person as well. As a courtesy only, access to the meeting is also being provided via remote means in accordance with applicable law. Please note that while an option for remote attendance and/or participation is being provided as a courtesy to the public, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast or affect remote attendance or participation, unless otherwise required by law. Members of the public with particular interest in any specific item on this agenda, which includes an applicant and its representatives, should make plans for in-person vs. virtual attendance accordingly.

To submit public comment or questions to the Zoning Board of Appeals, please email: [zbameeting@brewster-ma.gov](mailto:zbameeting@brewster-ma.gov).

**Review and Approval of July 11<sup>th</sup> meeting minutes:**

Jeff asked the Board if there were any changes to the minutes. There being none, a motion was made by Pat to approve the July 11<sup>th</sup> meeting minutes, Trish seconded the motion, a vote was taken, and the minutes were approved by a majority vote, Bruce MacGregor was absent at the last meeting and did not vote.

**New Applications:**

- **ZBA case #22-13 Owner/Applicant: Russell Karasik, 24 Oak Lane, Map 125, Lot 13 in the RR zoning district.**  
Members present and voting: Jeff Carter, Bruce MacGregor, Pat Eggers, and Trish Metz.  
Jeff Carter called ZBA case # 23-13. Russell Karasik and Mark Grant addressed the Board providing an overview of the request for a special permit for an addition to the existing dwelling and extend the existing deck. Mr. Karasik indicated that he has support from the Robinswood HOA president. He highlighted other letters of support from neighbors and stated there is no negative impact to the neighborhood. Pat asked about the common space in the rear of the property. Mr. Karasik stated it is all wooded and when the subdivision was created the area was not large enough for another house, so it remains as an undeveloped lot between Oak Lane and Holly Avenue. He confirmed that the deck would encroach on that area of land. Pat made a motion to open to public comment, Trish seconded the motion a vote was taken, and the Board unanimously approved to open to public comment. There being no public input, the Board voted to close to public input. There being no more discussion by the Board, Trish made a motion to approve ZBA case #23-13 to grant a special permit, Pat seconded the motion, a vote was taken, and the Board unanimously granted ZBA case #23-13 a special permit.
  
- **ZBA case #22-14 Owner/Applicant: Captain Del Associates, Inc., (represented by Andrew L. Singer, Esq.), 261 Linnell Landing Road, Map 103, Lot 12-0 in the RM zoning district.**  
Members present and voting: Jeff Carter, Bruce MacGregor, Pat Eggers, and Trish Metz.  
Jeff Carter called ZBA case #23-14. Andrew Singer, Esq. addressed the Board referring to a summary of reasoning and pictures that were included in the packet. He stated the property is also known as Linger Longer. He provided background on the property and indicated it is preexisting non-conforming due to use and number of dwellings on the property. The main residential building has 6 units and there are 7 other residential buildings on the property. He informed the Board the request is for use only, there are no changes to the buildings on the property. The property has legally been under condominium ownership since 1979, although none of the units were sold. Attorney Singer continued to provide background information to the Board. He

informed the Board the current owners want to sell the property to individual owners however keeping the character of the property. The current owners are requesting to allow all thirteen units to be multifamily use which they believe is the best way to preserve the ambiance and character of the property moving forward. He informed the Board the Building Commissioner referred to the ZBA for a special permit under zoning bylaw 179-25B to change the pre-existing, non-conforming accommodations use and provide relief under zoning bylaw 179-28A to change from one non-conforming use to another non-conforming use provided the proposed use is not a substantially different use from the current use. Attorney Singer read guidance under zoning bylaw 179-28A and stepped through the current use. He indicated there will be very few changes if any from the public point of view. He stated many families have been coming to Linger Longer for decades and have expressed interest in owning a unit if the request is granted. There are plans to mark the parking spaces to indicate each unit and include visitor spaces. He highlighted the letters of support that were included in the hearing packet. He asked the Board to respectfully make a determination that the proposal is not for a substantially different use and that the proposal is not substantially detrimental to the neighborhood and community that is there today.

Trish asked who would manage the property. Attorney Singer stated the condominium association would decide to manage it themselves or hire someone to manage the property. Trish expressed her full support for the project and informed the Board she has stayed at the property multiple times in the past prior to owning property in Brewster.

The Board voted to open to public input. There being no public input the Board unanimously voted to close to public input. Pat asked what exactly does the Board need to grant? Attorney Singer stated a special permit to change a pre-existing non-conforming accommodation use to a multi-family residential use. The Town Planner, Jon Idman agreed and informed the Board they need to first make a determination that the proposed use is not substantially different than the existing non-conforming use. If the Board makes that determination the project is eligible to be granted a special permit. Jon clarified there are two ancillary findings; the proposed non-conforming use is not substantially different than the existing non-conforming use. The second finding is the proposed use is not substantially detrimental to the neighborhood and the existing use and structures.

Bruce expressed a concern that the units could be used as Airb&bs. The Board discussed options for bookings and who would manage the condo association. Attorney Singer informed the Board there will be limits on rentals and rules and regulations in the condo documents. He indicated that many people who have expressed an interest to purchase property are people who have been coming to Linger Longer for many years. Carol Austin, president of Captain Del Associates and a resident addressed the Board confirming they do not want Airb&b, and rules and regulations as well as restrictions on rentals will be managed by the condo association. As a resident they will have control. Resident Alice Barber Barillo, 197 Linnell Landing, addressed the Board informing them she works for Captain Del Associates and is an abutter. Her family has stayed at Linger Longer for over 60 years and has a vested interest in the property. After discussion by the Board, a motion was made by Pat and seconded by Trish to grant the Special Permit based on the findings discussed to change the pre-existing non-conforming use and authorize year-round multi-unit/multi-family dwelling use. A vote was taken, and the Board unanimously granted the Special Permit subject to the conditions agreed upon.

- **ZBA case #22-15 Owner/Applicant: George E. Martin and Lorraine M. Spenie, (represented by Mark H. Bourdeau, Esq.), 169 and 173 Paines Creek Road, Map 36, Lot 15 in the RM zoning district.**

Members present and voting: Jeff Carter, Bruce MacGregor, Pat Eggers, and Trish Metz.

Jeff Carter, Vice Chair informed attorney Bourdeau the Board only has 4 members and therefore a unanimous vote is required. Attorney Mark Bourdeau representing the owner/applicant addressed the Board providing background on the property. He indicated the proposal is to divide the lots along the topography as the two lots have been used historically. The front lot would be 30,000 sq.ft and the back lot would be 76,213 sq ft. He indicated he met with the Jon Idman, Town Planner and Davis Walters, Building Commissioner to discuss the proposal and modified the plan. Because there would not be enough frontage at 173 Paines Creek Road they are proposing a variance for a driveway to the property and at 169 Paines Creek Road they are requesting an area variance from the required 60,000sq ft to 30,200sq ft. He indicated the property would not change and it is unique in the area. There are a very few properties with two dwellings on a property. The property is unique

due to the topography. The Board discussed the proposal regarding the lots and the division of the two properties. The owner/applicants want to establish two lots for their son and themselves. The lots and the dwellings were created prior to zoning and subdivision control in the Town. Jon Idman, Town Planning informed the Board there is a provision in the zoning bylaw that allows you to divide the property as a matter of right without doing a subdivision on the basis of those two dwellings, although you still might create a zoning violation and that is why a variance is needed. After much discussion by the Board, Pat made a motion to grant the variances to allow for the division of the property as outlined on the plan, Trish seconded the motion, a vote was taken, and the Board unanimously granted the variances.

- **ZBA case #22-16 Owner/Applicant: Maura and David Clancy, (represented by Thomas A. Moore, Design Co.), 216 Commons Way, Map 97, Lot 76 in the RR zoning district.**

Members present and voting: Jeff Carter, Bruce MacGregor, Pat Eggers, and Trish Metz.

Jeff Carter, Vice Chair informed Thomas Moore, representing the owner/applicant the Board only has 4 members and therefore a unanimous vote is required. Mr. Moore and Mr. Clancy addressed the Board. Mr. Moore provided background information on the proposal. He indicated the property is non-conforming due to the size of the lot in a RL zoning district, and front, left and right setbacks. They are proposing to add a one-car garage with a sunroom on the backside of the garage on the right side, encroaching on the right side and on the front. Mr. Moore indicated that the proposed addition will not be detrimental to the neighborhood, the lots are all small with modest homes. He referenced letters of support from the neighbors which were included in the hearing packet for the Board's review. Pat made a motion to open to public comment, Trish seconded the motion, the Board voted unanimously to open to public comment. Jessica Gelatt, 211 Commons Way, joined remotely and informed the Board she wrote a letter and expressed her and her neighbor's support. There being no more public comment a vote was taken to close to public comment. The Board voted unanimously to close to public comment. Bruce made a motion to grant ZBA case #23-16 a Special Permit for a pre-existing non-conforming single-family dwelling, Pat seconded the motion, a vote was taken, and the Board unanimously granted ZBA case # 23-16 a Special Permit.

**Matters Not Reasonably Anticipated by the Chair:**

- The Board discussed the vacancies on the Board. Ellen informed the Board she reached out to the interested candidate providing the information to apply.

The next meeting of the Brewster Zoning Board of Appeals is scheduled for September 12<sup>th</sup>, 2023.

Pat made a motion to adjourn the meeting, Trish seconded the motion, the vote was taken, and the Board unanimously voted to adjourn. Vote: 4-0-0. The hearing adjourned at 8:29 pm.



**Brewster Zoning Board of Appeals**

2198 Main Street  
Brewster, Massachusetts 02631-1898  
(508) 896-3701 x 1168  
FAX (508) 896-8089  
www.brewster-ma.gov

Date + Time Stamped  
By Town Clerk  
*[Handwritten signature]*

**ZBA CASE FILE # 23-17**  
**APPLICATION FOR BREWSTER ZONING BOARD OF APPEALS**  
**SPECIAL PERMIT/ VARIANCE/ ZBA APPEAL APPLICATION**  
**(\$300 Filing Fee)**

**NAME OF APPLICANT** Allen and Jodie Cash- Eddy, Trustees of Jodie A. Cash Revocable Trust

**REPRESENTATIVE** Marian S. Rose, Esq. **PHONE NUMBER** 508 398 2221

**MAILING ADDRESS** C/O Law Office of Singer & Singer LLC - P.O. Box 67, Dennisport, MA 02639

**PROPERTY ADDRESS** 23 and 32 Franklin Cartway

**CURRENT PROPERTY OWNER(S)** #23 Jodie Cash-Eddy, Trustee; Jodie Cash Revocable Trust - #33 Robert and Cheryl Dolan

**REGISTRY OF DEEDS TITLE REFERENCE BOOK** 34696 & 35127 **PAGE** 239 & 334 **OR**

**CERT. OF TITLE #** \_\_\_\_\_ **LAND COURT #** \_\_\_\_\_

**PLAN #** Book 701, Pg. 22 and Book 524, Pg 18

**TOWN MAP #** 50 **LOT #** 11 and 12

**ZONING DISTRICT** RM **YEAR BUILT** 1955

**STATEMENT OF PROJECT**

~~Applicant seeks to raze and replace the existing single-family dwelling on a combined lot and parcel from 33 Franklin Cartway (ANR Plan approved by PB on 07/26/2023). Existing dwelling is pre-existing nonconforming as to all setbacks and proposed dwelling will remain nonconforming but less nonconforming as to setbacks, and slightly more nonconforming as to building coverage.~~

*[Handwritten signature: Marian S. Rose]*  
**SIGNATURE OF OWNER OR AGENT FOR OWNER**

1 August 2023  
**DATE**

**NOTE:** This petition is NOT COMPLETE until all information is provided. Accuracy of this information is the responsibility of the petitioner.

**DATA SHEET**

Complete this form for **every structure** on the site that is in some way **nonconforming**.

Identify structure: primary house, garage, tool shed, other primary house

**STREET ADDRESS** 23 Franklin Cartway **YEAR BUILT** 1955

**MAP #** 50 **LOT #** 11

**ZONING DISTRICT** R-60

**List only the nonconformities below:** Identify all nonconforming setbacks.

LOCATION	EXISTING	REQUIRED	PROPOSED
Front setback	<u>18'</u>	<u>40'</u>	<u>21'</u>
Lt side setback	<u>2'</u>	<u>25'</u>	<u>7.2'</u>
Rt side setback	<u>14'</u>	<u>25'</u>	<u>11'</u>
Rear setback	<u>+/- 12'</u>	<u>25'</u>	<u>15'</u>

- **Location** is used to identify the setback: I.E. front, back, left side, right side, N-north, S-south, E-east, W-west,
- **Existing** is the setback that currently exists on the ground
- **Required** is the applicable setback required currently in the Brewster zoning bylaw
- **Proposed** is the setback being requested

**FRONTAGE: EXISTING** +/-51' **REQUIRED** 150'

**LOT SIZE:** Existing 2,500 SF - Proposed 3,685 SF

**LOT COVERAGE EXISTING %** 29.6% **PROPOSED %** 30.1% **ALLOWED %** 25%

**SIZE OF PARCEL** 3,685 sq. ft. **BUILDABLE UPLAND** 3,685 sq. ft.

**BUILDING COVERAGE/PRIMARY STRUCTURE** 817 (existing) sq. ft. 1,108 SF (proposed)

**BUILDING COVERAGE ALL OTHER STRUCTURES** 0 sq. ft.

**BUILDING HEIGHT: EXISTING** Conforming 1 story **PROPOSED** Conforming

**SPECIAL PERMITS:**

- APPLICATION FOR SPECIAL PERMIT AS SET FORTH IN M.G.L. 40A, § 6, or § 9 and SECTION 179-25, BREWSTER BYLAW UPON WHICH THE BOARD IS EMPOWERED TO ACT.**

**SECTION(S) PARAGRAPH(S) OF BREWSTER BYLAW UNDER WHICH THE SPECIAL PERMIT IS SOUGHT AND A BRIEF DESCRIPTION OF THE PROPOSAL.**

~~See attached narrative~~  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**VARIANCES:**

- APPLICATION FOR VARIANCE AS SET FORTH IN M.G.L. 40A, § 10

**SECTION(S) PARAGRAPH(S) OF BREWSTER BYLAW UNDER WHICH THE VARIANCE IS SOUGHT AND A BRIEF DESCRIPTION OF THE PROPOSAL.** In order to grant a Variance, the ZBA must find all three of the following to be true:

- Owing to 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, and
- A literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and
- That desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- APPEAL IN ACCORDANCE WITH M.G.L. 40 A, § 8, 14

**CITE ORDER OR DECISION OF ZONING AGENT OR OTHER ADMINISTRATIVE OFFICIAL OR ATTACH LETTER FROM ZONING AGENT/ADMINISTRATIVE OFFICIAL.**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## ZONING BOARD OF APPEALS FILING PROCEDURES

Completed application packages are required to be submitted and time stamped by the Town Clerk at least thirty-five (35) days prior to the requested hearing date. Town Hall hours are 8:30 am – 4:00 pm Monday- Friday.

Complete application (**12 copies**) checklist:

- Application
- Professionally engineered site plan
- Assessor's map showing the applicant's lot
- Building plans, including floor layout, elevations and dimensions
- Decision letter from the zoning agent, if applicable
- \$300 Filing Fee (made payable by check)

Photographs are recommended.

**Please also provide one (1) pdf or electronic copy of the completed application package.**

An Abutter's List will be requested by the Zoning Board Clerk when the application is filed.

In accordance with Massachusetts General Laws, Chapter 40A, Section 11, the Appeal will be advertised in the local newspaper for two (2) consecutive weeks prior to the public hearing. The agenda will also be posted of the Meeting Board on the main floor of the Town Offices.

A copy of the Zoning-By-Law, Chapter 179, is available at the Brewster Ladies' Library. It may also be purchased at the Town Offices for \$25.00 or downloaded without charge from The Town of Brewster e-code website: <http://www.ecode360.com/BR1068>

Any Decision of the Board of Appeals may be appealed to Superior Court, Land Court or District Court within twenty (20) days from the time that the decision is filed with the Town Clerk.



**Town of Brewster**

**Board of Appeals**

**Application for Special Permit**

**Applicant: Jodie Cash Eddie and Allen Eddy, Trustees of the Jodie A. Cash Revocable Trust**

**Property Address: 23 Franklin Cartway**

This Property has been in the Applicant's family since 1948. The existing dwelling was built in 1955. The existing dwelling, on a lot that is 2,500 square feet in area, is pre-existing nonconforming as to all setbacks, lot size, and as to coverage in the RM zoning district. The Applicants seek to raze and replace the existing dwelling with a new dwelling which will be centered on the lot rather than located within two feet of the left-side setback. The proposed dwelling will be less nonconforming to three of four setbacks but continue to be nonconforming to all setbacks. Lot size will remain nonconforming. Building coverage will continue to be nonconforming, increasing from 29.6% to 30.1% where 25% is the maximum allowed. Existing building coverage is 817 s.f. and proposed building coverage will be 1,108 s.f.

The Applicants sought Planning Board review of an ANR plan creating a parcel from 33 Franklin Cartway on July 26, 2023. The Applicants have entered a purchase and sale agreement to purchase the parcel, Lot 1B, on a plan of land recorded as Plan Book 701, Page 22, from their neighbors at 33 Franklin Cartway. The parcel combined with the existing Property is 3,685 s.f., an increase from the existing 2,500 s.f.

The Applicants seek a special permit under section 179-25B of the Brewster Zoning By-Law to raze and replace a pre-existing nonconforming single-family dwelling on a lot which is nonconforming as to size, building coverage and all setbacks with a single-family dwelling on a larger but still nonconforming as to size lot. Pre-existing nonconforming lot coverage will increase minimally, 291 s.f., and the setback encroachments, while nonconforming, will be on a net basis, less nonconforming than the existing setback encroachments.

# Law Office of Singer & Singer, LLC

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Marian S. Rose

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Myer R. Singer (1938-2020)

Locus: 23 Franklin Cartway

Zoning Board of Appeals

Applicants: Jodie Cash Eddy and Allen Eddy,  
Trustees of the Jodie A. Cash Revocable Trust (#23)  
Robert and Cheryl Dolan,  
Trustees of the Robert J. Dolan Sr. 2021 Trust and the  
Cheryl M. Dolan 2021 Trust (#33)

Submitted: 9.7.2023

## SUMMARY OF REASONING

The Applicants, Jodie Cash Eddy and Allen Eddy, Trustees of the Jodie A. Cash Revocable Trust, own a property located at 23 Franklin Cartway (the "Property"). Cheryl and Robert Dolan, as trustees of their namesake trusts, also join this application as they are the owners of a parcel of land, 33 Franklin Cartway) located immediately to the rear of the 23 Franklin Cartway's original rear property line for which they are in contract to sell to the Cash-Eddy's. (See further below for more detail).

The Property has been in Ms. Cash-Eddy's family since 1948 and is improved with a modest single-family dwelling which is now well over fifty years old. The existing dwelling, on a lot that is 2,500 square feet in area, is pre-existing nonconforming as to all setbacks and as to coverage in the RM zoning district. The lot is pre-existing nonconforming as to lot size and frontage. The Applicants seek to raze the existing dwelling and replace it with a new two-story

dwelling which will be centered on a slightly larger and more traditionally shaped lot rather than located within two feet of the left-side setback as is the existing dwelling (proposed left side setback: 7.2 ft. where 25 f.t required). The proposed dwelling will be less nonconforming to three of four setbacks but continue to be nonconforming to all setbacks. (front setback: 18 ft. existing, 21 ft. proposed, 40 ft. required; right side setback: 14 ft. existing; 11 ft. proposed and left side setback: 2 ft. existing; 7.2 ft. proposed where 25 ft. required; rear setback: 12 ft. existing; 15 ft. proposed from combined lot's rear property line; where 25 ft. required.)<sup>1</sup> Lot size will remain considerably nonconforming. (2,500 s.f existing; 2685 s.f proposed where 60,000 sf. required). Building coverage will continue to be nonconforming, increasing from 29.6% to 30.1% where 25% is the maximum allowed. (existing building coverage 817 s.f.; proposed building coverage 1,108 s.f).

The Applicants' existing lot has an unusual rear lot line, created through court-recognized adverse possession claim. The Applicants have entered an agreement with their neighbors at 33 Franklin Cartway to purchase a parcel of land to "square off" the rear lot line. The Applicants have not yet purchased the parcel. However, with the consent and support of the owners of 33 Franklin Cartway, the Applicants submitted an ANR plan of the proposed parcel to the Planning Board and the Plan was approved on July 26, 2023. Only the rear line of the Property has changed in relation to the existing dwelling on the Property.

The Applicants seek a special permit under section 179-25B of the Brewster Zoning By-Law to raze and replace a pre-existing nonconforming single-family dwelling on a lot which is nonconforming as to size, building coverage and all setbacks with a single-family dwelling on a larger but still nonconforming as to size lot and ask that the Board find that the proposed work is not substantially more detrimental to the neighborhood for the following reasons:

1. No new non-conformities in terms of height, lot coverage, front, side, and rear yard setbacks will be created and there will be a net decrease in the degree of nonconformity of setbacks given that the proposed dwelling will be centered on the lot rather than located within two feet of the left side setback;
2. The proposed dwelling remains of modest size and is keeping with the homes in the neighborhood. The proposed work has been reviewed and is supported by four neighbors, 3 of whom are immediate neighbors;
3. No disturbance to the neighborhoods is anticipated given that the Property will continue its existing single-family use;
4. There are no wetlands on the site and no wetlands resource buffer areas on site. water supply wells is anticipated. In addition, the proposal will not result in the degradation of groundwater quality or coastal water quality off site, and there will be no negative ecological impacts to surface waters;
5. The Property has adequate utilities and public services;
6. The proposed new dwelling will be less nonconforming as to front, left-side and rear setbacks than the existing dwelling. Existing building coverage is nonconforming and the modest increase in coverage (less than 300 s.f.) is not detrimental to the neighborhood, as those potentially most affected, the immediate neighbors, have given their support to the project;
7. Building height for the existing dwelling and the new dwelling (25+/- feet) will remain conforming.
8. The Property is not within Conservation jurisdiction and the work to be done is not anticipated to disturb more than 2,500 s.f. of land. Construction practices and

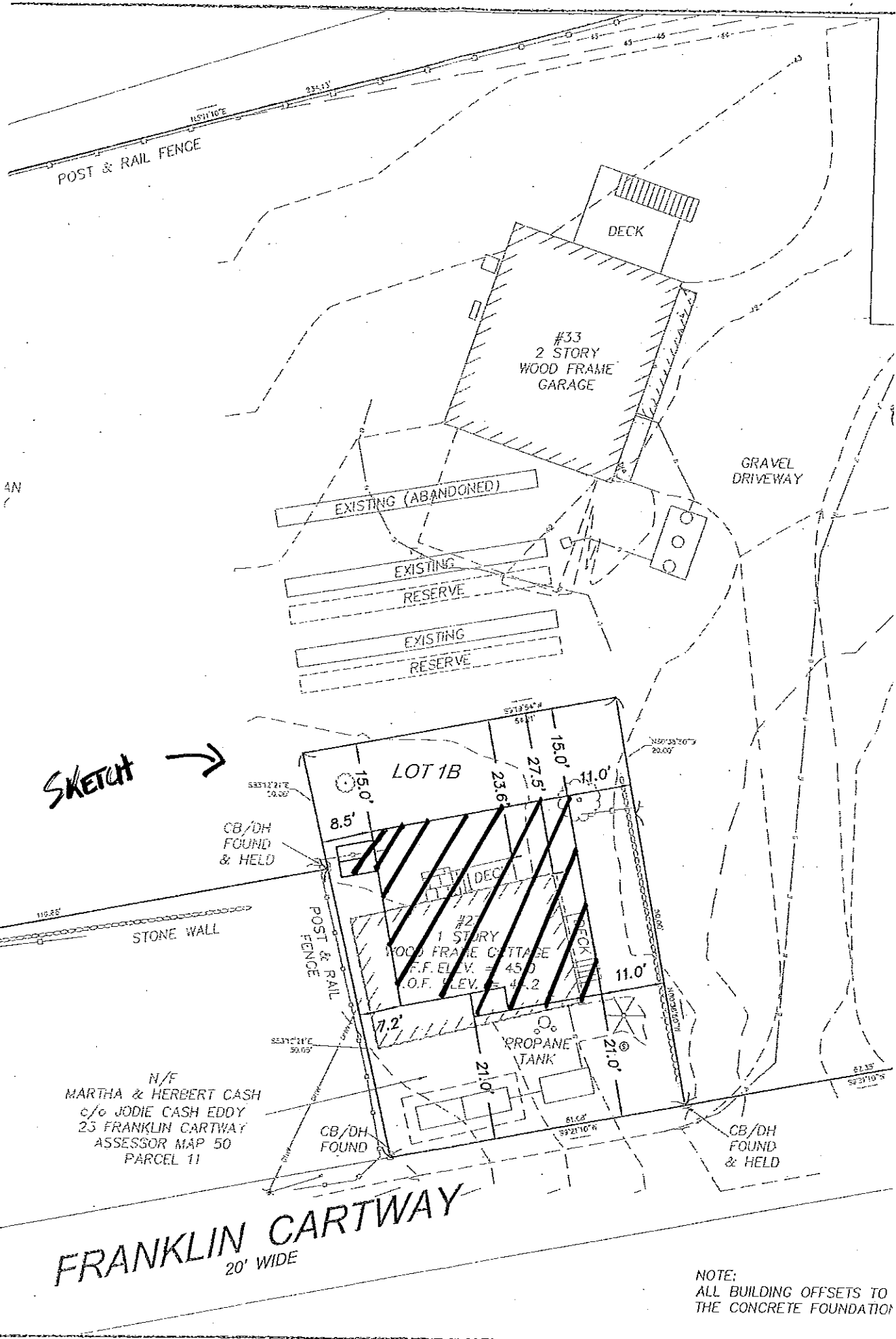
drainage will meet the requirements of the Brewster Storm Water By-Law. No substantial harm to the environment is anticipated;

9. There is adequate off-street parking for the continued residential use of the Property, and there will be no decrease in traffic safety;
10. There will be no negative impact on water supply or drainage; and
11. The proposal will not adversely affect the public health, safety, convenience or general welfare of the Town.

For the above reasons, the Applicant respectfully requests that the Board make findings that the criteria for a special permit are met and grant approval allowing the proposal to be completed as shown on the submitted plans.

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<sup>i</sup> Note that even if the existing rear setback is measured from the existing structure to the combined property line, the rear deck is still within the 25 foot setback. As such, Brewster Town Planner, Jon Idman, has indicated that this project would need relief in the form of a special permit from the Board of Appeals.



NOTE:  
ALL BUILDING OFFSETS TO  
THE CONCRETE FOUNDATION

**#23 LOCUS INFORMATION**

CURRENT OWNER: JODIE A. CASH-EDDY REVOCABLE TRUST  
 JODIE A. CASH-EDDY, TRUSTEE  
 TITLE REFERENCE: DEED BOOK 35127 PAGE 334  
 PLAN REFERENCE: PLAN BOOK 701 PAGE 22  
 ASSESSORS MAP: 50  
 PARCEL: 11

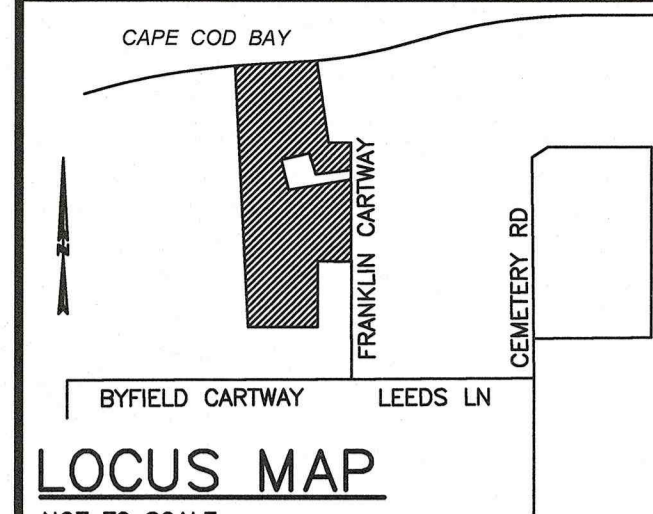
PROPOSED LOT SIZE: 3,685± S.F.  
 MINIMUM LOT SIZE: 60,000 S.F.  
 FORMER BUILDING COVERAGE: 817± S.F. (29.6) - 25% MAX  
 (PRIOR TO LAND ACQUISITION)  
 EXISTING BUILDING COVERAGE: 817± S.F. (22.2) - 25% MAX  
 PROPOSED BUILDING COVERAGE: 1,108± S.F. (30.1%)  
 FEMA FLOOD ZONE DISTRICT: "X"  
 PANEL #25001C0413J  
 DATED 7/16/2014

NITROGEN SENSITIVE ZONE: NOT IN A ZONE II  
 MINIMUM FRONTAGE: 150'  
 ZONING DISTRICT: RM  
 SETBACKS: FRONT 40'  
 SIDE 25'  
 REAR 25'

OVERLAY DISTRICT: NONE

**LEGEND**

- 50.9 X SPOT ELEVATION
- C.B. ◊ CATCH BASIN
- DMH ⊙ DRAINAGE MANHOLE
- SMH ⊙ SEWER MANHOLE
- TMH ⊙ TELEPHONE MANHOLE
- LP ✖ LIGHT POLE
- UPLT ✖ UTILITY POLE / LIGHT
- UPT ✖ UTILITY POLE / LIGHT & TRANSFORMER
- UP ⊙ UTILITY POLE / TRANSFORMER
- UP ⊙ UTILITY POLE
- OHW — OVERHEAD ELECTRIC LINE
- EHH ELECTRIC HANDHOLE
- GMET GAS METER
- G — GAS LINE
- ⊙ G GAS GATE
- WG ⊙ WATER GATE
- W — WATER LINE



**LOCUS MAP**  
 NOT TO SCALE

I CERTIFY TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION AND BELIEF THAT THE LOT CORNERS, DIMENSIONS AND SETBACKS TO THE STRUCTURE AS DETERMINED BY INSTRUMENT SURVEY AND AS SHOWN ON THIS PLAN ARE CORRECT.

**KIERAN J. HEALY**  
 NO. 48135  
 REGISTERED PROFESSIONAL LAND SURVEYOR

08/02/2023  
 DATE

KIERAN J. HEALY, PLS  
 FOR THE BSC GROUP

**PLAN OF LAND**

#23 FRANKLIN CARTWAY  
 IN  
 BREWSTER,  
 MASSACHUSETTS  
 (BARNSTABLE COUNTY)

PROPOSED RAZE  
 AND REPLACE

AUGUST 2, 2023

REVISIONS:

NO.	DATE	DESC.

PREPARED FOR:  
 JODIE CASH-EDDY  
 69 CONIFER HILL  
 PLYMOUTH, MA 02360  
 jcash@nac.com

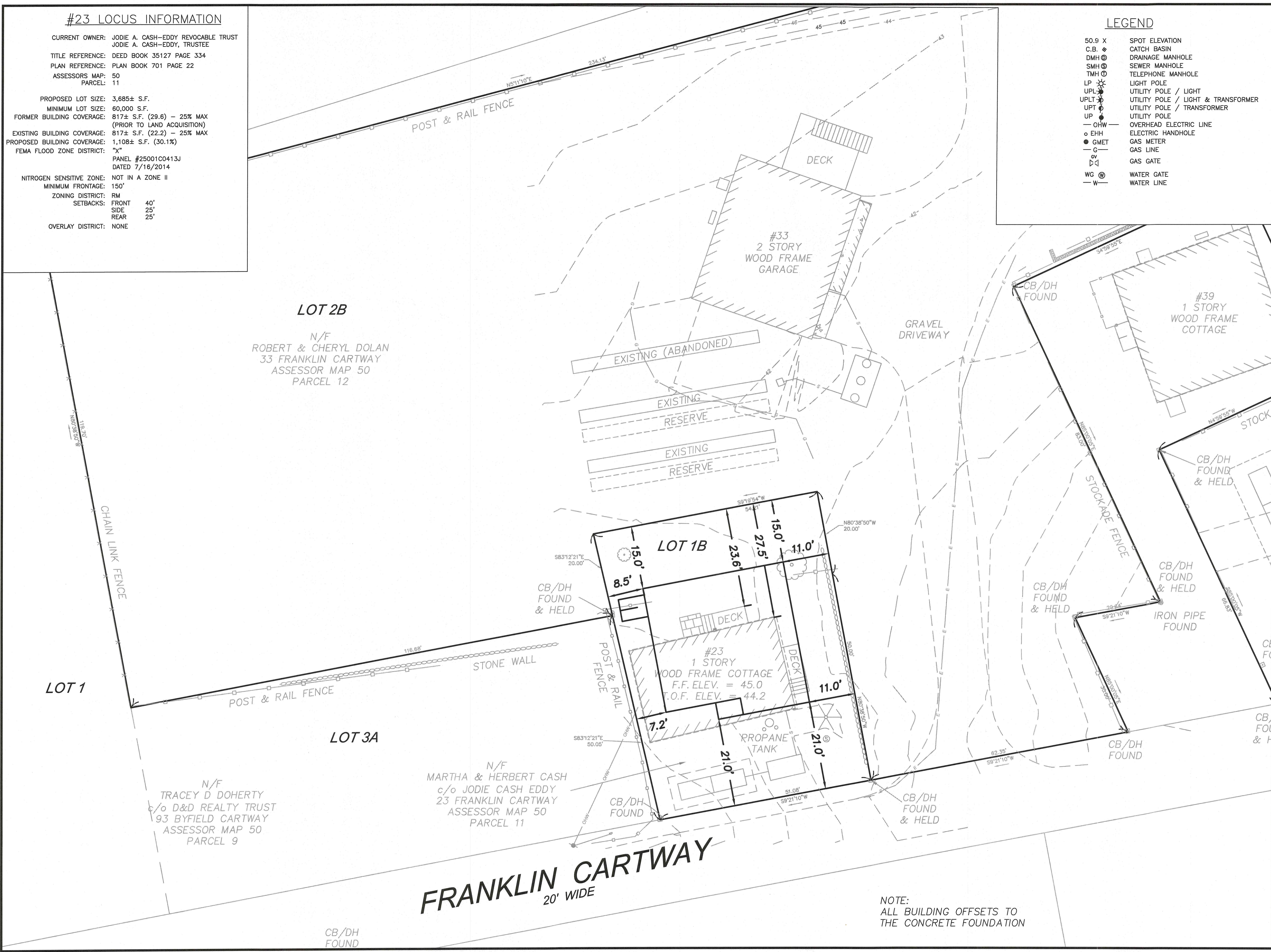
**BSC GROUP**

349 Main Street - Route 28  
 West Yarmouth, Massachusetts  
 02673  
 508 778 8919

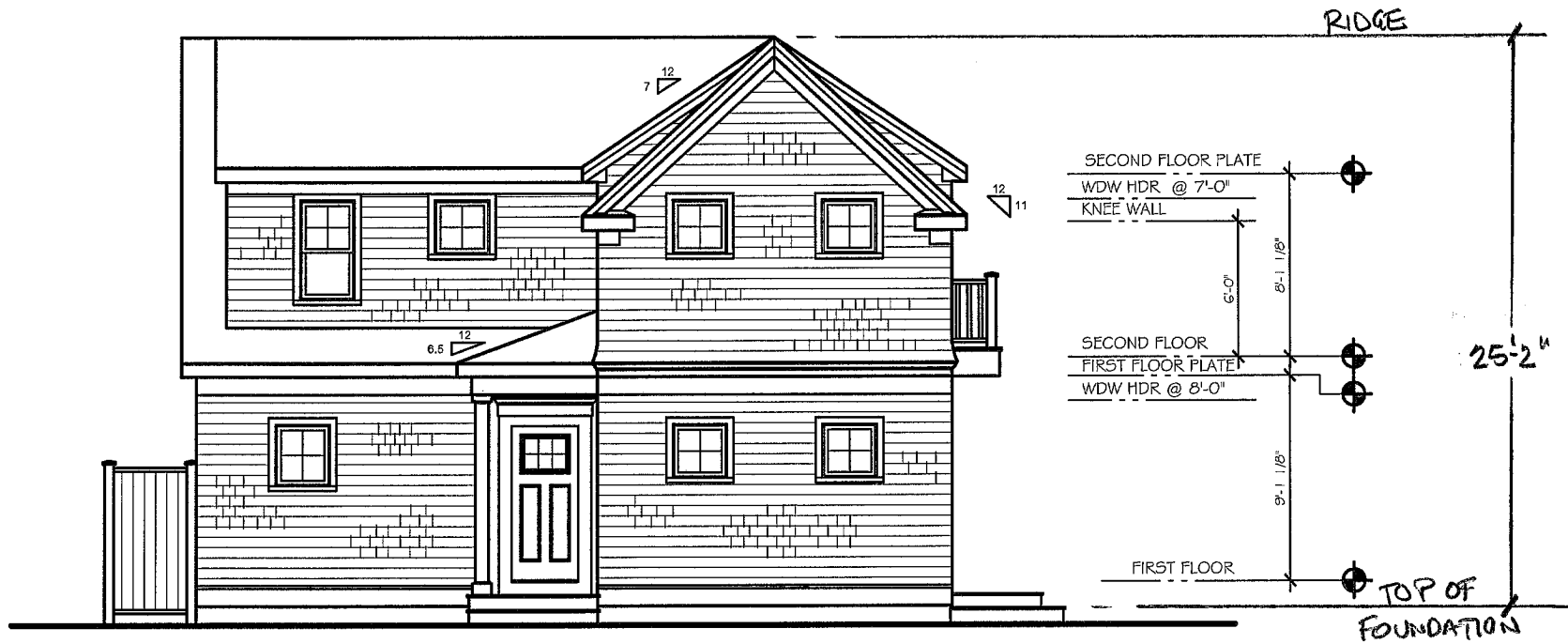
© 2023 BSC Group, Inc.  
 SCALE: 1" = 10'  
 0 5 10 20 FEET

FILE: P:\5078900\SU\DR\50789-EXC.dwg  
 DWG.: 6923-02  
 JOB. NO: 50789.00 SHEET 1 OF 1

File Name: P:\5078900\SU\DR\50789-EXC-1.dwg - Tab: SITE-PLAN Plotted On: August 2, 2023 - 10:38 AM by HEALY, KIERAN J. Saved on 7/31/2023 12:13 PM by KHEALY



NOTE:  
 ALL BUILDING OFFSETS TO  
 THE CONCRETE FOUNDATION

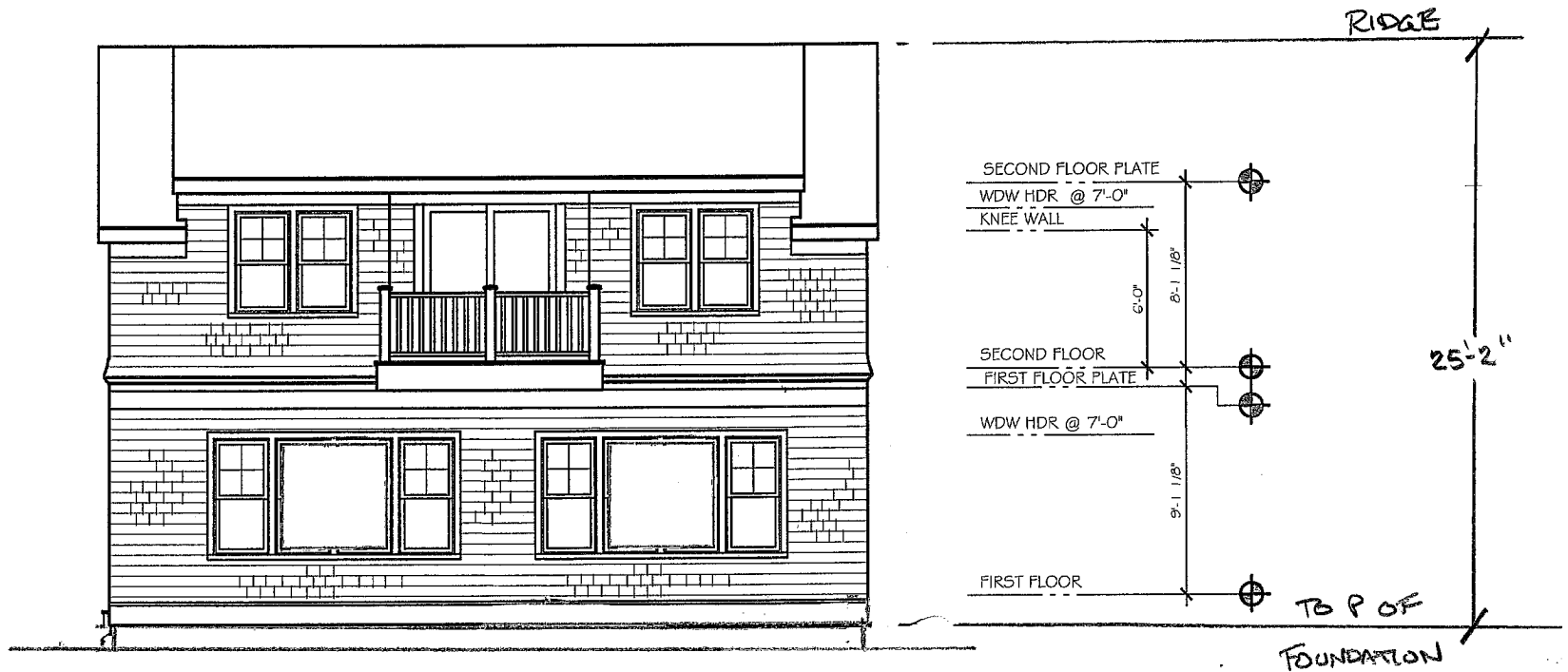


**EAST SIDE ELEVATION**

1/8" = 1'-0"

23 FRANKLIN CARTWAY			
REVISIONS	DATE: 6-9-23	SCALE: 1/8" = 1'-0"	DRAWN: TGD
	<b>Patriot Builders</b> <small>537 Route 28 - Harwich Port, MA 20646          Phone (508)-430-0771 Fax (508)-432-7789</small>		<b>A1 - 6</b>
	SHEET TITLE: FRONT ELEVATION		





## NORTH ELEVATION

1/8" = 1'-0"

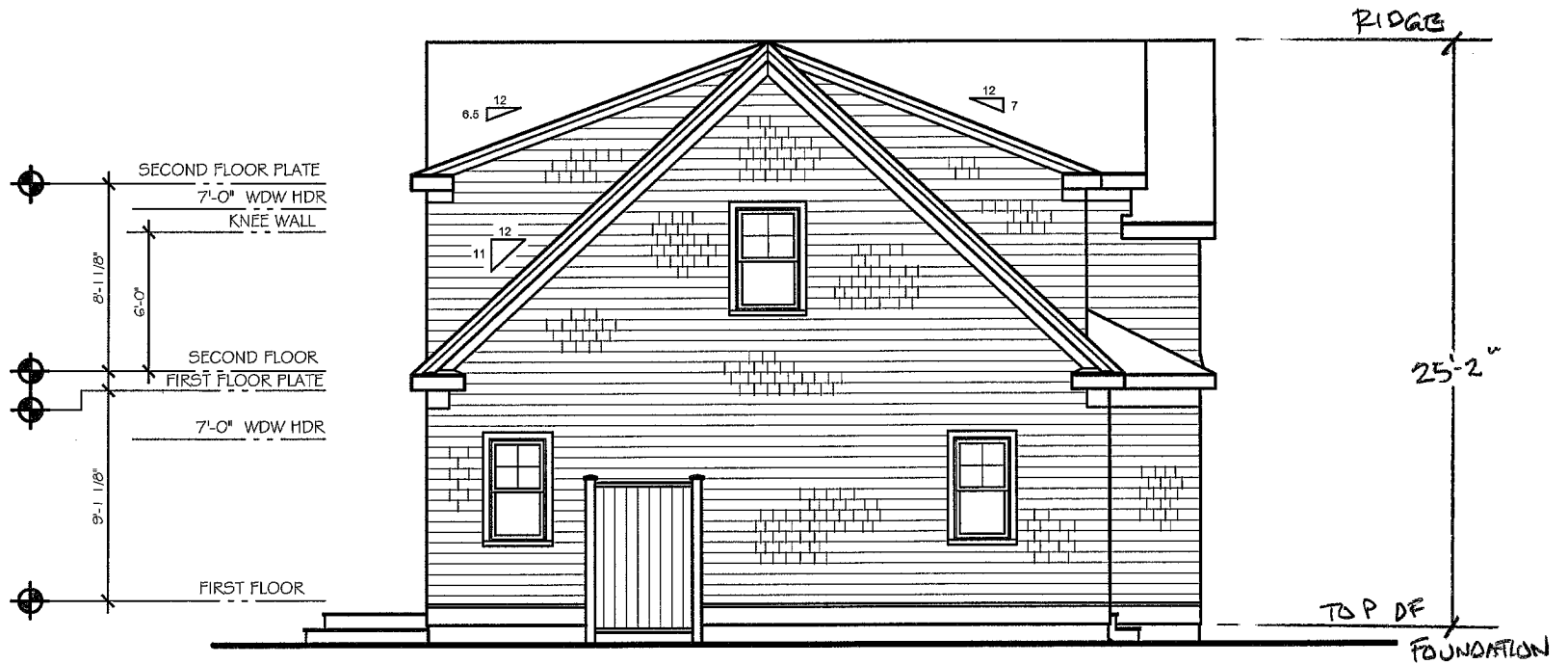
23 FRANKLIN CARTWAY				
REVISIONS	DATE: 6 - 9 - 23	SCALE: 1/8" = 1'-0"	DRAWN: TGD	DRAWING NO.
	<b>Patriot Builders</b> <small>537 Route 28 - Harwich Port, MA 20646          Phone (508)-430-0771 Fax (508)-432-7789</small>			<b>A2 - 6</b>
	SHEET TITLE: RIGHT SIDE ELEVATION			



## WEST SIDE ELEVATION

1/8" = 1'-0"

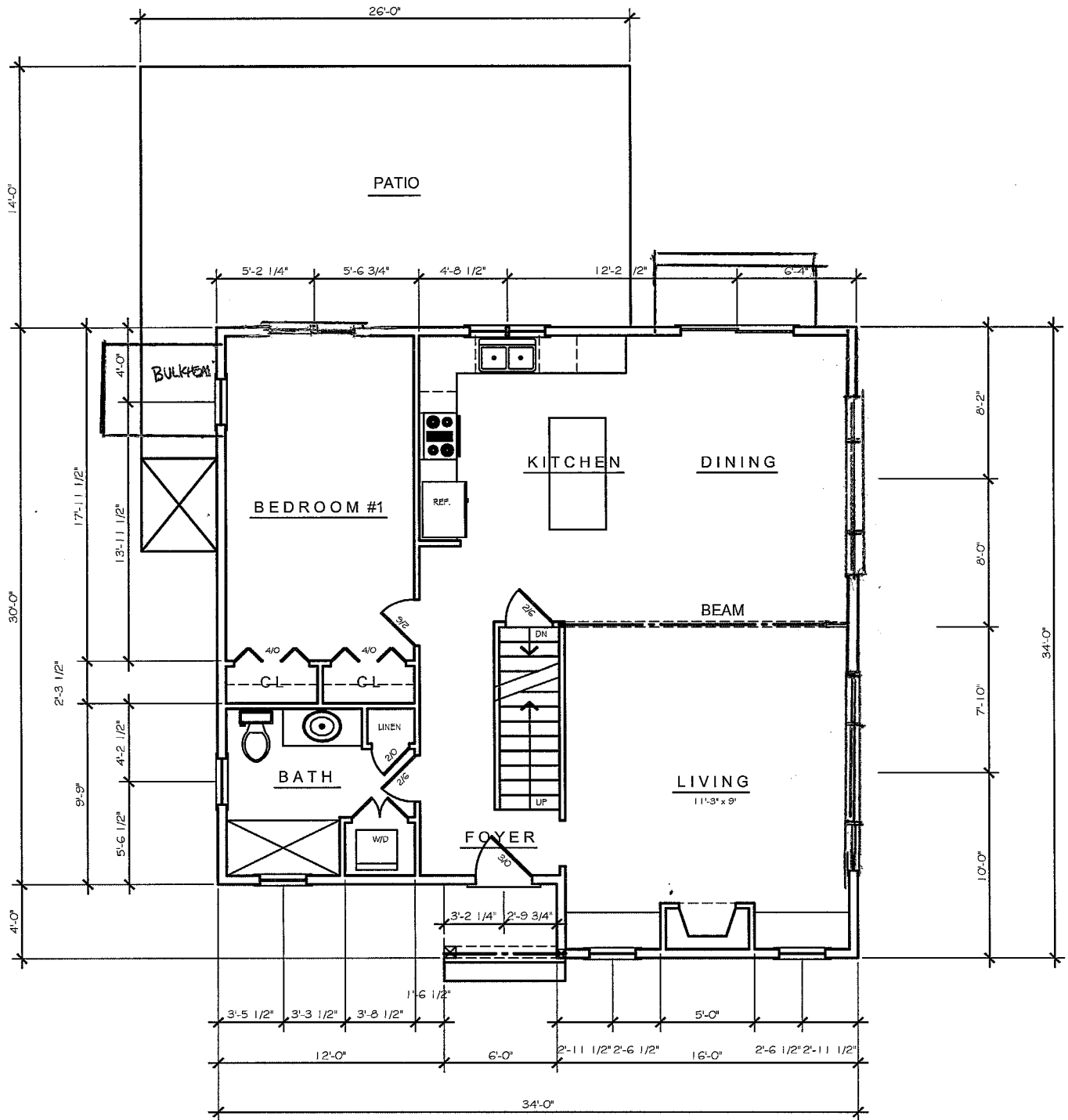
23 FRANKLIN CARTWAY				
REVISIONS	DATE: 6-9-23	SCALE: 1/8" = 1'-0"	DRAWN: TGD	DRAWING NO.
	<b>Patriot Builders</b> 537 Route 28 - Harwich Port, MA 02646 Phone (508)-430-0771 Fax (508)-432-7789			<b>A3 - 6</b>
	SHEET TITLE: REAR ELEVATION			



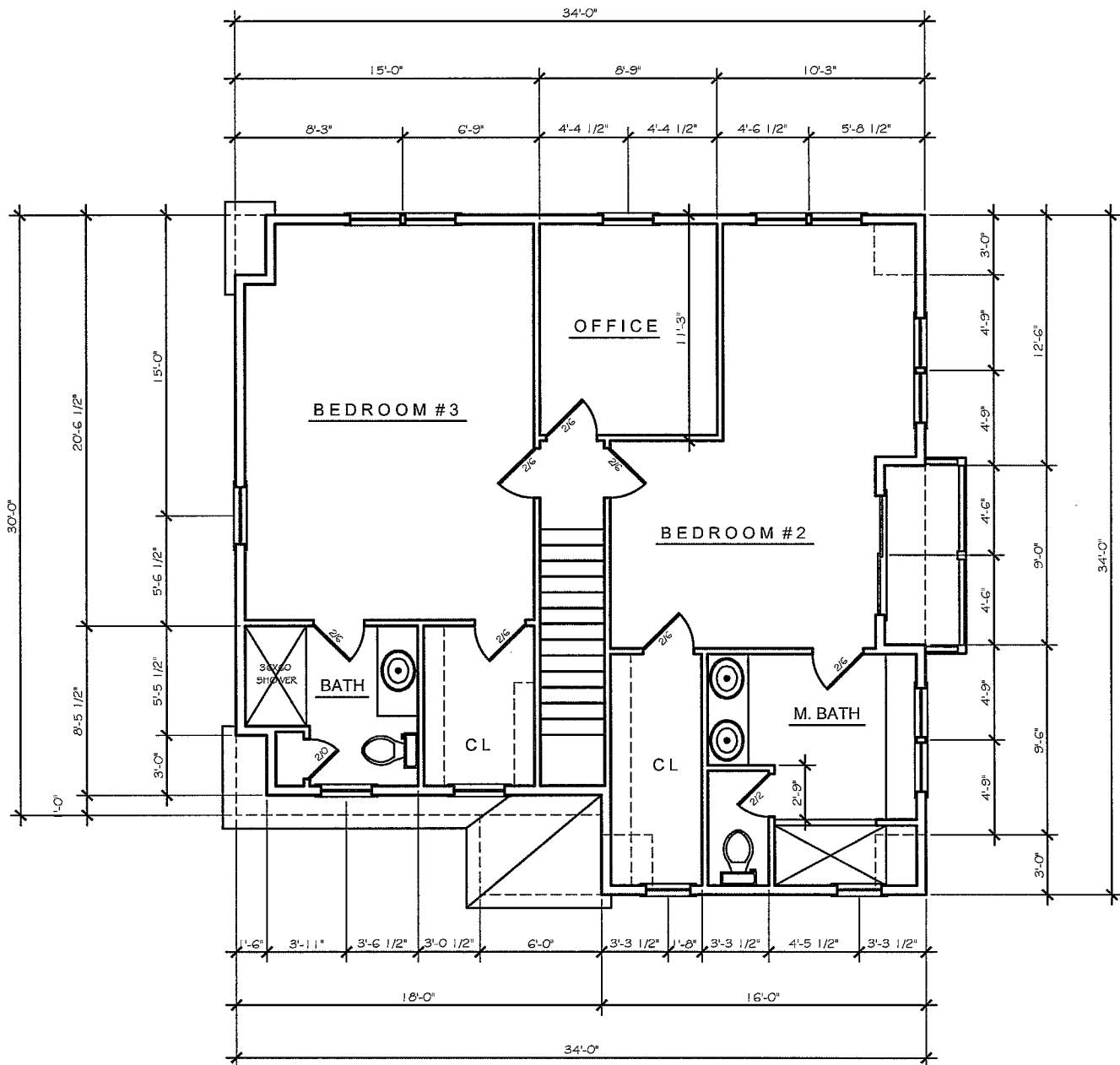
## SOUTH ELEVATION

1/8" = 1'-0"

23 FRANKLIN CARTWAY			
REVISIONS	DATE: 6-9-23	SCALE: 1/8"=1'-0"	DRAWN: TGD
<b>Patriot Builders</b> <small>537 Route 28 - Harwich Port, MA 20646          Phone (508)-430-0771 Fax (508)-432-7789</small>			<b>A4 - 6</b>
SHEET TITLE: LEFT SIDE ELEVATION			



23 FRANKLIN CARTWAY			
REVISIONS	DATE: 6-9-23	SCALE: 1/8" = 1'-0"	DRAWN: TGD
<b>Patriot Builders</b> <small>537 Route 28 - Harwich Port, MA 20646          Phone (508)-430-0771 Fax (508)-432-7789</small>			<b>A5 - 6</b>
SHEET TITLE: <b>FIRST FLOOR PLAN</b>			



23 FRANKLIN CARTWAY			
REVISIONS	DATE: 6 - 9 - 23	SCALE: 1/8" = 1'-0"	DRAWN: TGD
<b>Patriot Builders</b> 537 Route 28 - Harwich Port, MA 20646 Phone (508)-430-0771 Fax (508)-432-7789			<b>A6 - 6</b>
SHEET TITLE: <b>SECOND FLOOR PLAN</b>			

Height Peak 6' 3"  
+ Porch to Footing 7' 10"

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Total Height of House 13' 13"  
14' 1"  
(to top of footing)

Peak to Flat  
6' 3" (roof)

Front Width  
22' 4"

Height of porch to top of footing  
7' 4.5"

Footings  
2' 3"



Height Porch  
roof to Footing  
7' 10"

Total  
Length  
of House  
35' 5"

Porch/Deck  
8' 1" x 4' 2.5"



20



## Brewster Zoning Board of Appeals

2198 Main Street  
Brewster, MA 02631-1898  
(508) 896-3701 x1168  
brewplan@brewster-ma.gov

### DEPARTMENT REVIEWS

#### Application #23-17

**APPLICANT:** Alan and Jodie Cash-Eddy, Trustees of Jodie A. Cash Revocable Trust  
**REPRESENTATIVE:** Marian S. Rose, Esq.  
**MAP/LOT:** Map 50, Lot 11 & 12  
**PROPERTY ADDRESS:** 22 and 32 Franklin Cartway

#### Received from:

**Natural Resources Dept. Comments received from Chris Miller**

- No comments at this time.

**Historic District Committee Comments received from Erika Glidden**

- The property listed is not in the Historic District.

**Planning Dept. Comments received from Jon Idman**

- Any approval should be conditioned on conveyance of the additional land area for 23 Franklin Cartway from the owner of 33 Franklin Cartway. A copy of the deed should be provided to the building department at the time of the building permit application.

**Water Dept. Comments received from Paul Anderson**

- 23 Franklin Cartway currently has water, but the service appears to be old. We would recommend they install a new service to the new dwelling and install the water meter in the dwelling rather than in a meter pit as it currently is. They should contact our office prior to construction and request a cut and cap of the existing service.

**Fire Dept. Comments received from Chief Moran**

- New construction to comply with 527 CMR 1.00 Massachusetts Comprehensive Fire Safety Code and Building Code requirements for smoke and carbon monoxide detector compliance.
- Fire Department request owner approval to utilize dwelling for non-fire training prior to removal. Fire Department will coordinate with owner if approved.

**Police Dept. Comments received from Lt. Charles Mawn**

- Police Department has no comments on this application.

**Health Dept. Comments received from Sherrie McCullough**

- Health department files indicate a 1978 Title 5 code system servicing the existing three-bedroom dwelling.
- The dwelling is located on a 2,520 SF lot and is serviced by town water.
- The lot does not lie with the zone of contribution (Zone II) or the District of Critical Planning Concern (DCPC). It does lie within the Cape Cod Bay Embayment.
- The proposed floor plan submitted indicates a new dwelling with three bedrooms and an "office". The "office" as presented meets the Brewster Board of Health's definition of a bedroom deeming the new dwelling a four-bedroom single family home.
- Prior to construction, septic plans and a Building Waiver Application will need to be submitted to the health department for a full review of the proposal prior to final approval.
- Any proposed variances to the septic design will need Board of Health approval.



**Building Dept.****Comments received from Davis Walters, Building Commissioner**

- The new structure represents a significant increase in height (from 14'1" to 25'2" TOF) and volume from existing one-story dwelling.



## 23 Franklin Cartway

Jodie Cash <jcash@hac.center>  
To: "McKinnon, Alan" <amckinnon@thegarrettgroup.com>

Sat, Aug 26, 2023 at 7:50 AM

Hi Alan,

Al and I are in Brewster now and look forward to seeing you both and hearing all about your new boat. Hopefully, we will have a few nice beach days.

I am not sure if you received a letter yet from the Town of Brewster Assessors office regarding the Special Permit Application/Hearing for our new proposed home. We are really excited about the opportunity to have a new year-round home in our beautiful spot. It has been a very long process and we are almost there! We could really use the support of you and our other neighbors. If you are comfortable in doing so, we would greatly appreciate it if would send a simple email such as the one below to the Town Planner, John Idman, at your earliest convenience.

If you have any questions about our project, we would be happy to discuss it with you. Thank you for your consideration. Look forward to seeing you this week. Jodie and Al

*To the ZBA Board, via Jon Idman, Town Planner*

*Re: Proposed Project at 23 Franklin Cartway*

My name is Alan L. Melchior Sr <sup>or Great Partner of A-M College LLC</sup> and I live at 46 Franklin Cartway. I am familiar with the project proposed at 23 Franklin Cartway and support it. Brewster Ma

*Emailed to Jon at jidman@brewster-ma.gov*

*Cc to our representative Marian Rose at msrose@singer-law.com*

**Archived:** Thursday, September 7, 2023 3:33:51 PM  
**From:** [Jonathon Idman](#)  
**Sent:** Mon, 28 Aug 2023 12:39:01 +0000Authentication  
**To:** [Ellen Murphy](#)  
**Subject:** FW: 23 Franklin Cartway - Brewster  
**Sensitivity:** Normal

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Jonathon D. Idman  
Brewster Town Planner  
(508) 896-3701 x. 1150

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**From:** Paul Doherty <[paul@ddmulch.com](mailto:paul@ddmulch.com)>  
**Sent:** Monday, August 28, 2023 6:55 AM  
**To:** Jonathon Idman <[jldman@brewster-ma.gov](mailto:jldman@brewster-ma.gov)>; [msrose@singer-law.com](mailto:msrose@singer-law.com)  
**Subject:** 23 Franklin Cartway - Brewster

*To the ZBA Board, via Jon Idman, Town Planner*

*Re: Proposed Project at 23 Franklin Cartway*

*My name is Paul and Tracey Doherty and we live at 93 Byfield cartway in Brewster. We are familiar with the project proposed at 23 Franklin Cartway and support it.*

*Should you have any questions, please don't hesitate to contact us.*

--

*Paul D. Doherty*

**Paul D. Doherty**  
**President**  
**D&D Mulch and Landscape, Inc.**  
**236 Maple Street**  
**Bellingham, MA 02019**  
**Office Phone [\(508\) 478-1225](tel:5084781225)**  
**Fax [\(508\) 478-1271](tel:5084781271)**  
**Cell [\(508\) 922-6009](tel:5089226009)**  
**E-Mail: [Paul@ddmulch.com](mailto:Paul@ddmulch.com)**

**Archived:** Thursday, September 7, 2023 3:34:31 PM  
**From:** [Jonathon Idman](#)  
**Sent:** Mon, 28 Aug 2023 12:39:01 +0000Authentication  
**To:** [Ellen Murphy](#)  
**Subject:** FW: 23 Franklin Cartway - Brewster  
**Sensitivity:** Normal

---

Jonathon D. Idman  
Brewster Town Planner  
(508) 896-3701 x. 1150

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*Paul D. Doherty*

**Paul D. Doherty**  
**President**  
**D&D Mulch and Landscape, Inc.**  
**236 Maple Street**  
**Bellingham, MA 02019**  
**Office Phone [\(508\) 478-1225](tel:5084781225)**  
**Fax [\(508\) 478-1271](tel:5084781271)**  
**Cell [\(508\) 922-6009](tel:5089226009)**  
**E-Mail: [Paul@ddmulch.com](mailto:Paul@ddmulch.com)**



TOWN OF BREWSTER, MA  
BOARD OF ASSESSORS  
2198 Main Street Brewster, MA 02631

Certified by:

  
**James M. Gallagher, MAA**  
Deputy Assessor

Abutters List Within 300 feet of Parcel 50/11/0 & 50/12/0

