



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

MEETING AGENDA
June 13, 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, person 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), or **Video recording** (tv.brewster-ma.gov).

1. Call to Order
2. Declaration of a Quorum
3. Meeting Participation Statement
4. Recording Statement
5. Approval of Meeting Minutes
6. Applications:

Continued Applications:

ZBA Case #22-15 Owner/Applicant: Remington's Trust; Peter T. Lomenzo & Kerry Barton, Trustees, 61-63 A. P. Newcomb Road, Map 25, Lot 75, in the RM zoning district. The applicant seeks a special permit for a Bed & Breakfast use in an existing accessory building.
ZBA Case #23-04 Applicants: Preservation of Affordable Housing, Inc./Housing Assistance Corporation, 0 Millstone Road, Map 98, Lot 12-0. The applicants seek a Comprehensive Permit to construct 45 affordable rental units on 16.6 acres, pursuant to MGL Chapter 40B, Section 20-23.

New Applications:

ZBA Case #23-12 Owner/Applicant: Lea Anne Copenhefer, (represented by Walter Jacob Architects, LTD.) 8 Shepherds Quay, Map 74, Lot 78, in the RR zoning district. The applicant seeks a Special Permit under Section 179-25B to build a second story balcony on a single-family dwelling within a pre-existing non-conforming side yard setback.

7. Reorganization of ZBA
8. Matters Not Reasonably Anticipated by the Chair
9. Next Meeting: July 11, 2023
10. Adjournment

Date Posted:
 5-17-2023

Date Revised:

Received by Town Clerk:

BREWSTER TOWN CLERK


 123 MAY 17 3:21 PM

TOWN OF BREWSTER ZONING BOARD OF APPEALS
MEETING MINUTES
Town Hall Room B
Tuesday, May 9, 2023, at 7 PM

Brian Harrison, Chairman, convened the Brewster Zoning Board of Appeals with members: Jeff Carter, Patricia Eggers, Bruce MacGregor and Trish Metz.

Also present: Attorney Marian Rose, Peter Lomenzo, and Kelly Barton (representing ZBA #22-15), Attorney Michael Ford (representing ZBA #23-08), Attorney Peter Freeman, Judi Barrett (virtual), Vida Shklovsky, POAH (virtual), Dave Quinn, HAC, Paul Attemann, Union Studio (virtual), Joe Henderson and Brain Kuchar, Horsley Witten Group (virtual), Jefferey Dirk, Vanasse and Associates, Alanna Jaworski, (representing ZBA #23-04), John Ferris (representing ZBA # 23-10), Jamie McGrath, Pine Harbor Wood Products (representing ZBA # 23-11), Donna Kalinick, (Assistant Town Manager), Jon Idman (Town Planner), Jill Scalise, (Housing Coordinator), and Davis Walters (Building Commissioner)

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.

Review and Approval of March 14th meeting minutes:

Brian asked the Board if there were any changes to the minutes. There being none, a motion was made by Pat to approve the April 11th meeting minutes, Trish seconded the motion, a vote was taken, and the minutes were unanimously approved.

The Chair informed the Board that he would be taking cases out of order and started with ZBA case #23-08.

Continued Applications:

- **ZBA case #22-15 Owner/Applicant: Remington's Trust; Peter T. Lomenzo & Kerry Barton, Trustees. 61-63 A.P. Newcomb Road, Map 25, Lot 75.**

Members present and voting: Brian Harrison, Bruce MacGregor, Jeff Carter, Pat Eggers, and Trish Metz. Attorney Marian Rose addressed the Board. She provided background information on the case requesting a special permit to change the use to a Bed and Breakfast for the accessory structure on the property referred to as "the barn" currently used as storage. She provided additional information on the property, outlining the setbacks. She indicated that "the barn" is considered an accessory dwelling with a setback of approximately 23ft. and is conforming. She outlined the steps taken to reach the final point of presenting to the ZBA. Attorney Rose explained the layout of the property and informed the Board that most of the property is undeveloped. She discussed the improvements to the property and the interior of the barn. She indicated that the proposed plan is for a 3-unit Bed and Breakfast (B&B) with a pool and pool house structure on the property. On the main floor there will be a group sitting area and a kitchen where breakfast will be prepared for the guests, which is a requirement for a B&B. The kitchen will not be accessible to guests or rented separately. Attorney Rose indicated that the property was recently bought by her clients and prior to this the previous owners did not properly permit the barn referring to letters from an abutter. She indicated although the barn was not properly permitted it has been there well over 10 years and is considered grandfathered. She read the uses informing the Board the B&B use is not a separate principle use and is dependent on a primary use, the resident is a full-time owner and willing to make breakfast. She stated that she believes the size of the barn isn't relevant to whether or not it is a primary or accessory use. The B&B is dependent on the primary residential use. If the B&B

is running at full capacity, there will only be a total of 6 guests. She indicated reuse of the barn as the B&B will not be detrimental to the neighborhood. She outlined the plans for landscaping and lighting and informed the Board that the Planning Board voted unanimously in favor of the proposed project. After reviewing the project, Attorney Rose requested the Board approve the use change to a B&B as proposed. The Chair asked if this was considered a primary residence and would a new nonconformity be created. Attorney Rose suggested that it would not be because the B&B is dependent on the single-family dwelling, which is the primary residence that is currently on the property. Trish asked if an accessory structure was an ADU (accessory dwelling unit). Jon Idman, Town Planner requested to speak and confirmed that an ADU is an accessory use and an accessory structure. Attorney Rose read the definition in the bylaw of a building accessory residential structure. She referred to the term guest house in the definition. The Board discussed an ADU, B&B, guesthouse, and primary residential use.

Pat made a motion to open to public input, Trish seconded the motion, a vote was taken, and the Board unanimously voted to open to public input. Mr. Foscaldi, 87 A.P. Newcomb Road addressed the Board expressing his concern that a B&B, which is a commercial business, will be in a residential zone. He stated that the building is for a principle use for a B&B and if the B&B is taken away there is no principle use. He discussed the plans of the previous owner and his concerns with the proximity of the structure to his property. He stated according to the assessor's office the building was assessed as an accessory building or storage garage. After the property was sold to the applicant, the building was reassessed as a dwelling. He stated that currently there is no violation until the use is changed, suggested it become a principle structure. This would prevent any additional single-family dwelling to be built on the property in the future. He proposed to settle the possible setback issue for a principle dwelling he is willing to negotiate with the applicant to provide two feet of his property for a proper setback. Attorney Rose stated this is not a principle use or structure because it is contingent upon having a single-family dwelling which is part of the definition. Jon Idman, Town Planner spoke suggesting ensuring additional dwellings are not constructed on the property conditions can be imposed in the decision. Jillian Douglas joining virtually provided her personal perspective that a B&B is a commercial activity. Attorney Rose confirmed that B&Bs have been approved in the RM zoning district, the Board agreed it is an allowed use. Jon Idman also confirmed commercial businesses are allowed in the RM zoning district. He stated he reviewed the files with the Building Commissioner in depth and there were subsequent building permits for the barn that legitimized the current structure. The Chair informed Mr. Foscaldi it is a building issue and not in front of the ZBA. Jon Idman suggested Mr. Foscaldi come to the Town Hall to review the files. The Board reviewed the plans and photos of the property. Mr. Lomenzo clarified the areas on the plot plan that was included in the hearing packet.

A motion was made by Pat to close to public input, seconded by Trish, a unanimous vote was made and the Board closed to public input. The Board discussed the request for a special permit to change the use to a B&B. Bruce questioned the proposed kitchen on the plan. Attorney Rose confirmed the kitchen will only be for preparing the breakfast meal and will not be accessible to the guests. The Chair stated that the issue is not two kitchens it is how the kitchens will be used.

Pat made a motion to grant the special permit for ZBA case# 22-15 for the reasons stated in the application with the condition that there will be no other dwelling units on the property, Attorney Rose asked for point of order and requested the Board poll prior to a formal vote. Bruce would oppose, Pat would support, Jeff would support, Trish would abstain, and Brian would support. Attorney Rose requested to continue ZBA case #22-15 until the June 13th hearing, Brian made a motion to continue, Pat seconded the motion and the Board voted unanimously to continue ZBA case #22-15 until June 13th.

- **ZBA case #23-08 Owner/Applicant: Ocean Edge Resort LLC, 2907 Main Street, Map 90, Lot 160.**

Members present and voting: Brian Harrison, Jeff Carter, Bruce MacGregor, Pat Eggers, and Trish Metz. Attorney Michael Ford addressed the Board requesting his client withdraw without prejudice. His client will operate under the State regulations and continue to work with abutters and possibly return to the Board at a later date. Pat made a motion to grant the request withdraw without prejudice, Bruce seconded the motion, a vote was taken, and the Board voted unanimously to grant the request for ZBA case#23-08 to withdraw without prejudice.

- **ZBA case #23-04 Owner/Applicant: Preservation of Affordable Housing, Inc./Housing Assistance Corporation, 0 Millstone Road, Map 98, Lot 12-0.**

Members present and voting: Brian Harrison, Jeff Carter, Bruce MacGregor, Pat Eggers, and Trish Metz. Attorney Peter Freeman, representing the applicant, Joe Henderson and David Quinn joining him addressed the Board outlining the final changes made from discussions at the last hearing and abutter's input. He referred to the summary of changes submitted with the hearing materials indicating an updated waiver was also submitted. Stepping through the changes in the landscape, Dave Quinn proposed additional plantings on the North side close to Building 3. Using a shared screen they outlined the changes to the site plans, addressing abutters concerns and highlighting additional screening in the landscape plan.

Attorney Freeman informed the Board in the draft decision he changed the condition, originally drafted by the consultant, Judi Barrett, on affordability income mix due to the changes in requirements to the tax credit program and the regulatory agreement that goes with it. This is aligned with Brewster Woods. Judi Barrett asked the Board if they have all the information, they need to address the decision, and if not please let the applicant know what is still outstanding. Attorney Freeman stated he believes the Board has all the information necessary to make a decision and suggested the Board agree to close the hearing and if the Board decides it needs more time at the next hearing they will extend. Pat commented that she believes the Board has all the information required and provided her support for the project. The Board discussed if there was any additional information required before closing the hearing. Jon Idman, Town Planner informed the Board they can close the hearing and leave the record open for a specific purpose, for example, a complete and final waiver list. Attorney Freeman agreed. Pat made a motion to open to public input, Bruce seconded the motion, a vote was taken, and the Board unanimously voted to open to public input. Aileen Linder, 34 Howland Circle, addressed the Board referring to the Howland Homeowner's Associations (HOA) I & II petitions that were submitted to the Board. Speaking for both HOAs, she stated that the proposed buffer between the properties was not sufficient. She highlighted the terms of the petition requesting the applicant provide a security fence, additional landscaping and keeping the height of the buildings as low as possible. Glenn Casey, 288 Fletcher Lane addressed the Board revisiting his previous concerns regarding an impact study for wildlife, additional landscaping, a security fence and the financials. Diane Bedard, 11 Howland Circle, addressed the Board reiterating the previous neighbor's concerns and expressing her concerns for privacy, noise and light pollution. Amanda Bebrin, 560 Millstone Road, expressed her enthusiastic support for a much-needed project. She highlighted the positive points of the project and requested the Board move the project forward. There being no more public input, Pat made a motion to close to public input, Bruce seconded the motion, the Board unanimously voted to close to public input.

Pat made motion to close the hearing for ZBA case #23-04, but leave the record open for updated waivers, Trish seconded the motion, a vote was taken, and the Board unanimously voted to close the hearing for ZBA case #23-04, leaving the record open for updated waivers.

New Applications:

- **ZBA Case #23-10 Owner/Applicant: John W. Ferris, 138 Fiddlers Lane, Map 48, Lot 38.**

Members present and voting: Brian Harrison, Bruce MacGregor, Jeff Carter, Pat Eggers, and Trish Metz. John Ferris, applicant addressed the Board providing background on the proposed project. He outlined the changes to the current footprint and asked the Board to consider his request for a special permit for the proposed additions and a variance for a proposed deck addition. Jeff asked how the deck would be built and Mr. Ferris indicated the deck would be made of composite material, and accessible to the kitchen. The front of the house porch and deck will be larger and used for congregating and not interfere with the setback. Brian asked Mr. Ferris if his lot contained any conservancy soils, Mr. Ferris stated according to his records he is unaware of any conservancy soils on his lot. Brian asked what is allowed as a matter of right for a setback for a stoop. Jon Idman responded that with a stoop or a step you can intrude into half the required setback. He agreed with the Building Commissioner's determination that the proposed plan is more of a deck and not a stoop. A step or stoop's principle use is to provide access to the entry door. Jeff asked if the rear could be constructed with a stoop and a patio to put a grill on rather than building a deck. The Board discussed the options of a larger stoop or a deck. Brian asked the applicant if he fully understood the requirements for a

variance. Mr. Ferris stated he believes this is a hardship. Brian suggested the Board vote on the request for a special permit and treat the request for variance separately allowing Mr. Ferris to have time to research the criteria for a variance.

Pat made a motion to open to public input, Bruce seconded the motion, a vote was taken, and the Board unanimously approved to open to public input. Pete Mayer, 142 Fiddler's Lane an abutter expressed support for the proposed plan. Paula Fleming, 113 Fiddler's Lane, expressed her full support for the proposed plan. There being no more public input, Pat made a motion to close to public input, Trish seconded the motion, a unanimous vote was taken. Pat made a motion to grant the special permit, Trish seconded the motion, the Board unanimously voted to grant a special permit for ZBA case #23-10. Mr. Ferris requested to withdraw the without prejudice the request for a variance for ZBA case #23-10. Brian made a motion to grant the request to withdraw without prejudice, Pat seconded the motion, the Board voted unanimously to grant the request to withdraw without prejudice.

- **ZBA Case #23-11 Owner/Applicant: Michael Russillo (represented by Pine Harbor Wood Products), 8 Leeds Lane, Map 50, Lot 91, in the RM zoning district.**

Members present and voting: Brian Harrison, Bruce MacGregor, Jeff Carter, Pat Eggers, and Trish Metz. Jamie McGrath, Pine Harbor Wood Products represented the applicant. He provided the background of the proposed project to the Board. He indicated that the date of the current structure is unknown, however the house and lot was created in 1940, well before the zoning bylaws. He referred the Board to the pictures of the existing structure that were included in the hearing packet. He informed the Board that the current structure is in disrepair, and they are requesting it be removed and replaced. The new structure will be 8ft. 10in x 18ft. He indicated there is no adverse effect to the neighborhood. Pat made a motion to open to public input, Trish seconded the motion, a vote was taken, and the Board unanimously approved to open to public input. There being no public input, Pat made a motion to close to public input, Trish seconded the motion, a vote was taken, and the Board unanimously voted to close to public input. There being no more discussion by the Board, Trish made a motion to grant a special permit for ZBA case #23-11, Pat seconded the motion, a vote was taken, and the Board unanimously granted a special permit for ZBA case #23-11.

Matters Not Reasonably Anticipated by the Chair:

- none

The next meeting of the Brewster Zoning Board of Appeals is scheduled for June 13th, 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: 5-0-0. The hearing adjourned at 9:28 pm.

#22-15 Applicant:
Remington's Trust;
Peter T. Lomenzo

&

Kerry Barton, Trustees

Represented by:

Attorney Marian S. Rose
61-63 AP Newcomb Road

Town of Brewster

Zoning Board of Appeals

2198 Main Street
Brewster, MA 02631

(508) 896-3701 X1168
FAX (508) 896-8089

WAIVER/ CONTINUANCE

TO: ZONING BOARD OF APPEALS

RE: PETITION NUMBER _____

NAME OF APPLICANT _____

MEETING DATE: _____

I HEREBY REQUEST THE ZONING BOARD OF APPEALS TO CONTINUE THE HEARING OF THE ABOVE PETITION UNTIL THE NEXT REGULARLY SCHEDULED HEARING ON _____ AND AGREE TO AN EXTENSION OF THE DEADLINES FOR ZONING BOARD OF APPEALS ADMINISTRATIVE ACTION. I UNDERSTAND THIS WAIVES MY RIGHTS UNDER THE STATUTORY TIME PERIODS AND THE CONSTRUCTIVE GRANT SECTIONS OF THE M.G.L. CHAPTER 40A.

APPLICANT/AUTHORIZED AGENT _____

CHAIRMAN, ZONING BOARD OF APPEALS _____

Time and Date Stamped
By Town Clerk

#23-04 Applicants: Preservation
of Affordable Housing, Inc. &
Housing Assistance Corporation

Represented by:

Attorney Peter Freeman

0 Millstone Road

DECISION
BREWSTER ZONING BOARD OF APPEALS
Millstone Road Comprehensive Permit Application

Decision Number: 23-04

Date Application Filed: December 22, 2022

Applicant: Preservation of Affordable Housing, Inc./Housing Assistance Corporation

Premises Affected: 0 Millstone Road, Assessor's Map 98 Lot 12

Relief Requested: Comprehensive Permit, G.L. c. 40B, §§ 20-23

Public Notice: January 20, 27, 2023

Public Hearing(s) held: February 7, 2023; March 14, 2023; April 11, 2023; May 9, 2023

Decision of the Board: Approved with Conditions

Members participating: Brian Harrison (Chair), Jeff Carter (Vice Chair), Patricia Eggers, Bruce MacGregor and Trish Metz

Date of Decision: _____, _____ 2023

DECISION
BREWSTER ZONING BOARD OF APPEALS
Millstone Road Comprehensive Permit Application

I. FINDINGS

The Zoning Board of Appeals hereby finds as follows:

Procedural History

1. On December 22, 2023, Preservation of Affordable Housing, Inc. and Housing Assistance Corp. (“Applicant”) submitted a Comprehensive Permit application to construct 45 rental units (“Project”) in eleven buildings on approximately 16.6 acres of land at 0 Millstone Road in Brewster (Tax Assessor’s Map 98 Lot 12) (“Site”). Thirty-five units will be affordable for households with incomes at or below 60 percent of Area Median Income (AMI), and ten units will be affordable for households with incomes at or below 80 percent AMI. Upon receipt of the application, Brewster Planning Department staff distributed copies of the application to Local Boards and town departments for review and comment.
2. The Zoning Board of Appeals (“Board”) opened and held a duly-noticed public hearing on February 7, 2023, and continued the hearing to March 14, 2023; April 11, 2023; and May 9, 2023. The Applicant consented in writing to extend the opening of the hearing. The Board closed the public hearing on May 9, 2023. *The Board reviewed a draft written decision and deliberated on the Project at its duly-noticed public meeting on June 13, 2023, and voted to grant the Comprehensive Permit with Conditions.*
3. At its hearing on February 7, 2023, the Board received presentations from the Applicant’s development team. Attorney Peter Freeman provided an overview of the Project and the basic requirements of G.L. c. 40B, §§ 20-23 (“Chapter 40B”) for the Board. He described the proposed development as a “friendly 40B” because the project is on land owned by the Town of Brewster and which will be ground-leased to the Applicant as a result of a Request for Proposals (RFP) process involving the Brewster Affordable Housing Trust and Select Board. After designating the Applicant as the developer of the Site, the Select Board supported a Low-Income Housing Tax Credits (LIHTC) Project Eligibility Application to the Department of Housing and Community Development (DHCD) by letter dated August 10, 2022, and on August 17, 2022, DHCD issued a Project Eligibility Letter to the Applicant. The Applicant’s design team, including Joseph Henderson, P.E., from Horsley Witten Group, and Paul Attemann, AIA, from Union Studio Architecture and Community Design., presented information about the building plans, site design, stormwater, wastewater disposal, wetlands, traffic, and other information within the Board’s purview under Chapter 40B.
4. When the hearing continued on March 14, 2023, the Applicant’s traffic consultant, Jeffrey Dirk, P.E., of Vanasse & Associates, Inc., presented the Traffic Impact Assessment (TIA) for the project.

5. To evaluate the plans, documents, and testimony submitted by the Applicant's development team, the Board sought technical assistance and comments from Town staff and other boards and commissions. The Board received comments and recommendations from the DPW Director, Planning Board and Planning Department, Housing Coordinator, Health Department, Assistant Town Manager, Fire Department, and Cape Cod Commission.
6. Abutters presented several questions and comments to the Board during the course of the public hearing. Their concerns covered the following topics:
 - (a) Whether the Project would disturb wildlife habitat;
 - (b) Adequacy of the proposed parking;
 - (c) Buffering and fencing as related to claimed visual, noise and privacy impacts;
 - (d) Traffic impact on Millstone Road;
 - (e) Building height;
 - (f) Project cost; and
 - (g) Whether Brewster needs more affordable housing.
7. The Board also questioned several aspects of the Project during the public hearing, specifically:
 - (a) Adequacy of the proposed parking;
 - (b) The affordability levels and income ranges to be served by the Project;
 - (c) Whether a financial impact analysis should be conducted; and
 - (d) Whether portions of the Site not currently proposed for development could be proposed for additional development in the future.
8. To respond to these questions and comments, the Applicant provided the following:
 - (a) The Site is not within a state-designated Priority Habitat Area, as noted both by the Applicant's engineering consultant and the report from the Cape Cod Commission;
 - (b) The proposed number of parking spaces was increased by the Applicant during the course of the hearing, and the plans were revised to show the additional parking, larger parking spaces, and to allow for reserve parking;
 - (c) Fencing and additional landscaping was provided where needed and as appropriate, and the plans were revised accordingly;
 - (d) The addition of vehicular traffic on Millstone Road will be a *de minimis* impact on existing traffic volumes, as reported in the TIA, and safe sight lines for the Project's access drive would be provided with the necessary clearing within the Millstone Road layout.
9. The Assistant Town Manager, the Town's Housing Coordinator, Town Planner, and Brewster Housing Partnership provided other comments as well:
 - (a) The size of the proposed Project represents what is authorized under the Town's land Disposition Agreement with the Applicant, and any additional development would violate the terms of that agreement;
 - (b) Seventy-two percent of the Site will remain undeveloped open space;

- (c) Affordable housing lottery information from the past two Chapter 40B developments in Brewster indicate there is a continuing regional need for affordable housing. For Brewster Woods and Serenity, 81 percent of the qualified applicants were residents of Cape Cod communities, including Brewster.
10. Sitting for the Board and present for the public hearing process were Brian Harrison, Chair, Bruce MacGregor, Pat Eggers, Jeff Carter, and Trish Metz. The first hearing session was held virtually; all subsequent public hearing and meeting sessions were held in person. Mr. MacGregor missed the first hearing session but subsequently reviewed all evidence from that missed session. Mr. MacGregor's affidavit certifying to the same, pursuant to MGL Ch 39, Section 23D, has been accepted into the hearing record.
11. All documents received in connection with this application and the public hearing process are on file with the Brewster Board of Appeals.

Governing Law

12. The law governing this application is the Comprehensive Permit Law, Massachusetts General Laws, Chapter 40B, §§ 20-23 (the "Act"), and the regulations promulgated by the Massachusetts Department of Housing and Community Development ("DHCD"), 760 CMR 56.00 et seq. (the "Regulations").
13. The Act promotes regional distribution of low- or moderate-income housing by preventing individual cities and towns from using exclusionary zoning to block construction of such housing. Toward these ends, the purposes of the Act are satisfied if: (a) a town has low or moderate income housing in excess of 10 percent of the total number of year-round housing units reported in the latest decennial census or (b) which is on sites comprising 1.5 percent or more of the town's total land area zoned for residential, commercial, or industrial use, or (c) if the application results in the commencement of low and moderate income housing construction on sites comprising more than 0.3 percent of such total area or 10 acres, whichever is larger, in one year.
14. DHCD's Regulations expand the definition of what constitutes satisfaction of the statute to include such methods as "recent progress" toward the statutory minima or compliance with a DHCD-approved Housing Production Plan (HPP), all as described in 760 CMR 56.03(1). The Town of Brewster has an approved HPP, and as of the date of the Application, the Town's HPP was certified for one year (expiring on May 15, 2023). Accordingly, the Board issued a Reservation of Rights letter to the Applicant within 15 days of opening the public hearing. Nevertheless, the Board (and Applicant) proceeded with the public hearing process. DHCD acknowledged receipt of a copy of said letter in writing.
15. The Board's decision on a comprehensive permit must balance the regional need for low- or moderate-income housing against the Town's long-range planning goals, local requirements and regulations to the extent that they are applied equally to subsidized and unsubsidized housing, and valid concerns about the health and safety of residents of the

proposed housing, the surrounding neighborhood, or the Town as a whole. A board of appeals may approve a project subject to reasonable conditions to mitigate its impacts.

16. At present, the Town of Brewster does not meet the statutory minima set forth in G.L. c. 40B § 20 or 760 CMR 56.03(3).

Jurisdictional Findings

17. The Applicant meets the jurisdictional requirements under Chapter 40B. The Subsidizing Agency for the Project is DHCD. The Applicant has demonstrated its eligibility to submit an application for a Comprehensive Permit to the Board, and the development fulfills the minimum project eligibility requirements set forth in 760 CMR 56.04(1). Specifically:

- (a) Applicant's Status. The Applicant is a partnership of Preservation of Affordable Housing, Inc. (POAH, Inc.) and Housing Assistance Corp. ("HAC"), both of which are non-profit organizations, and the partnership agrees and intends to enter into a Regulatory Agreement with DHCD under the Federal Low Income Housing Tax Credit ("LIHTC") Program (the "LIHTC Regulatory Agreement"). Therefore, as found by DHCD in the Project Eligibility Letter described below, the Applicant is an eligible Applicant pursuant to 760 CMR 56.04(1)(a).
- (b) Fundable Project. The Applicant has submitted a Project Eligibility Letter from DHCD dated August 17, 2022, which confirms the project's eligibility for receiving a governmental subsidy under the LIHTC Program and the suitability of the site. Therefore, the Applicant fulfills the requirement of 760 CMR 56.04(1)(b), which states: "The project shall be fundable under a subsidizing agency under a low- and moderate-income subsidy program."
- (c) Site Control by Applicant. Housing Assistance Corporation and Preservation of Affordable Housing LLC, an affiliate of Preservation of Affordable Housing, Inc., have entered into a Land Disposition Agreement dated 8/25/22 with the Town of Brewster and Brewster Affordable Housing Trust to develop the Site. Therefore, the Applicant controls the site as required by 760 CMR 56.04(1)(c).

Findings of Fact

18. The Site is in the Residential Low Density (R-L) Zoning District with lot frontage on and direct access from Millstone Road. The Site meets the zoning bylaw's minimum lot width and frontage requirements.
19. The Project consists of 45 rental units with a mix of one-, two-, and three-bedroom units (80 total bedrooms) in ten multifamily residential buildings, a community building with laundry facilities and other amenities, and supporting infrastructure such as driveways, parking, and wastewater and stormwater facilities, depicted and described in the application materials, as revised and supplemented ("Project").
20. The Project will provide 45 units of affordable housing, consistent with needs identified in the Town of Brewster Housing Production Plan, which was approved by the Brewster Select Board and Planning Board in July 2022.

21. The Site is owned by the Town of Brewster, previously acquired and designated for community housing purposes by Brewster Town Meeting, and the Town administration together with the Affordable Housing Trust and the Town's Housing Coordinator, and other Town departments, spent considerable time developing a Request for Proposals (RFP) which called for the type of development that the Applicant is proposing. The Town received and used an MHP Technical Assistance grant to help develop the RFP. A robust, professionally facilitated community engagement process preceded drafting of the RFP. The Town had prepared a Watershed Study and Due Diligence Report by Bohler Engineering to assess and inform future development of the Site pursuant to the RFP.
22. In response to the RFP, the Applicant submitted a proposal and the Town selected the Applicant to develop the site for affordable housing consistent with the RFP.
23. The Applicant is proceeding under a Land Disposition Agreement (LDA) with the Town. The Project as described in the application, including as revised and supplemented, is consistent with the material terms of the LDA.
24. Consistent with the terms of the RFP, the Applicant intentionally clustered the proposed buildings and infrastructure on approximately 4.7 acres of the 16.6 acres of the Site in order to preserve as much undisturbed area as possible.
25. The Site is not in an Area of Critical Environmental Concern nor is it in or does it include any other environmentally sensitive areas, including without limitation a water recharge area/ Zone II, special flood hazard zone, wetlands or wetland buffer zones, and it is not upgradient of a nitrogen sensitive tidal embayment and not upgradient of any freshwater ponds.
26. The Site has no Priority Habitat Area designated by the Natural Heritage and Endangered Species Program on the Site and is not subject to any regional or state filings or determinations with respect to habitat protection.
27. The Applicant had prepared by its consultant Horsley Witten and submitted with its application an Existing Conditions Report/ Natural Resource Analysis, a Stormwater Analysis and Drainage Report, and a Phase 1 Environmental Site Assessment, all dated December 2022. The Town has a Stormwater Management Bylaw and corresponding regulations; the Applicant's Stormwater Analysis and Drainage Report complies with said bylaw and regulations, without Waiver.
28. The Site is not located in an historic district, though Millstone Road is a locally designated Scenic Road. Millstone Road is a public (town) way.
29. The Project is not located in the "District of Critical Planning Concern" Groundwater Overlay District of the Zoning Bylaw, and thus no Water Quality Certificate or review by

the Water Quality Review Committee is required for the Project, and no Waiver is required relative thereto.

30. The Project completed formal staff review (Brewster Code Ch. 83) prior to filing the comprehensive permit application. The Town Planner issued a staff review report to the Applicant, a copy of which was provided to the Zoning Board of Appeals for the hearing record.
31. The Project is subject to the Scenic Roads Act and Shade Tree Act, and the approval of this Comprehensive Permit includes approval of tree clearing within the Millstone Road layout as shown on the Applicant's plans.
32. The Applicant has communicated with the Cape Cod Regional Transit Authority (CCRTA) about on-call, off-route service that will be available to the Project, and the potential for a future fixed route stop at the Site.
33. The Town of Brewster Planning Board heard a presentation from the Applicant at its January 25, 2023 meeting, and the Planning Board "voted unanimously to communicate to the Zoning Board of Appeals its support of the project and of the requests for waivers relating to matters within the Planning Board's purview" (citation from Planning Board Memorandum to the Board dated January 30, 2023).
34. There is an acute rental housing shortage in the Town of Brewster and the Cape Cod region.
35. The Applicant has complied with all rules and regulations of the Board of Appeals as they pertain to the application for a Comprehensive Permit, except as waived in this decision.
36. The Applicant requested certain Waivers from the Town's applicable requirements, bylaws and regulations in the application, and revised and supplemented its request throughout the hearing process. A list of said Waivers and Board's corresponding Findings about the Waivers is attached hereto as Exhibit B.
37. No fee waivers are granted hereunder. Should the Applicant desire to pursue fee waivers related to building permits, disposal works construction permits or municipal water service, it shall pursue the same with the Select Board, Board of Health and Water Commission, respectively. The Select Board has adopted a Fee Waiver Policy, revised 12/21/20, which specifically exempts Town-sponsored projects including affordable housing development from certain applicable permit and license fees.
38. The Select Board will consider and it is anticipated that the Select Board will pursue approval of "local preference" for initial lease-up of the Project from DHCD, potentially up to a maximum 70% permitted under DHCD guidelines. The Select Board will be required to provide evidence satisfactory to the Subsidizing Agency of the need for the

level of local preference requested and to obtain approval of the categories of persons qualifying for the same. The Applicant shall provide reasonable and timely assistance to the Town in providing this evidence, as requested. In no event shall the Applicant be in violation of the terms of this Comprehensive Permit to the extent the Subsidizing Agency disapproves local preference or any aspect thereof.

39. Subject to the conditions imposed by this decision, the Project is “Consistent with Local Needs” within the meaning of G.L. c. 40B, § 20, and Section 56.02 of DHCD’s Chapter 40B Regulations (760 CMR 56.02).

II. DECISION

In consideration of all of the foregoing, including the plans, documents, and testimony given during the public hearing, the Board hereby grants the Applicant a comprehensive permit under Chapter 40B for the development described herein, subject to the Conditions set forth below. The Board notes that the Applicant has not identified any of the following conditions as requirements that will render the Project uneconomic. Said Conditions are consistent with Local Concerns.

The Board also grants the Waivers substantially as requested by the Applicant, a list of which are attached hereto and incorporated herein by reference as Exhibit B. The Waivers are Consistent with Local Needs and are required to permit the construction and operation of the Project.

III. CONDITIONS

General

1. The holder of this Comprehensive Permit is the Applicant, Preservation of Affordable Housing, Inc., and the Housing Assistance Corporation. The Applicant, its successors and assigns shall comply with this Decision and all applicable requirements of Chapter 40B and the regulations adopted thereunder. The provisions of this Comprehensive Permit Decision and Conditions shall be binding upon the Applicant and the successors and assigns of the Applicant, and the obligations shall run with the land, as set out in this Condition. In the event that the Applicant sells, transfers, or assigns its interest in the development, this Comprehensive Permit shall be binding upon the purchaser, transferee, or assignee and any successor purchasers, transferees or assignees. Prior to substantial completion of construction, this Decision may be transferred pursuant to the provisions of 760 CMR 56.05(12)(b), subject to approval of the Subsidizing Agency with notice to this Board. After substantial completion, this Decision shall be deemed to run with the land pursuant to 760 CMR 56.05(12)(b).
2. Except as may otherwise be provided in the following Conditions, the Project shall be constructed substantially in conformance with the plans, documents and drawings listed in Exhibit A attached hereto and incorporated herein by reference, which for purposes of this Comprehensive Permit shall be considered the Approved Plans for the Project (“Approved Plans”). The Project includes all features shown on the Approved Plans or as otherwise required by this Comprehensive Permit.

3. Minor changes to the Approved Plans (e.g., changes that do not materially affect the location of, or increase the height or massing of the structures, or increase the number of units contained in the residential buildings) shall be submitted to the Building Inspector who shall have the authority to approve such changes as immaterial changes. If the Building Inspector determines that the proposed changes do not conform to the requirements of this comprehensive permit, s/he shall so notify the Applicant and the Applicant shall either bring the plans into conformance with this decision or seek modification in accordance with 760 CMR 56.05(11).
4. The Project shall consist of not more than 45 units with a mix of one-, two-, and three-bedroom units in ten multifamily residential buildings as shown on the Approved Plans.
5. There shall be 79 off-street parking spaces, as well as a reserve area for possible future additional parking spaces which would result in a net gain of 8 spaces (87 in total), all as depicted in the Approved Plans (5 accessible spaces are proposed as part of the 79 spaces).
 - (a) Three years after the issuance of the last/ final Certificate of Occupancy for the Project, or earlier if identified by the Building Inspector and communicated to the Applicant, the Applicant shall submit to the Building Inspector an assessment as to whether the 79 constructed parking spaces are adequately serving the parking needs of the Project; such assessment shall include the number of vehicles owned by the tenants, the number of spaces that are assigned to the units, the number of spaces available to guests; and the average number of vacant spaces, if any.
 - (b) If in the Building Inspector's opinion additional parking spaces are needed, then the Building Inspector shall so notify the Applicant in writing and inform the Applicant of how many of the reserve parking spaces must be constructed in the area denoted for reserve parking in the Approved Plans; and the Applicant shall do so within three (3) months of such notice, subject to reasonable extension due to weather conditions or the like.
 - (c) Such construction may include any necessary grading or drainage facilities; the reserve parking area may be constructed of pervious surface adequate for parking purposes.
 - (d) Further review by the Board or modification to this Decision shall not be required to construct the reserve spaces if consistent with this Condition.
6. All dwelling units approved under this Comprehensive Permit shall be rental units.
7. The Applicant shall comply with all local regulations of the Town of Brewster and its boards and commissions unless specifically waived herein or as otherwise addressed in these conditions.
8. The Applicant shall copy the Building Inspector on all correspondence by and between the Applicant and any federal, state, or Town official, board, or commission concerning the conditions set forth in this decision, including but not limited to all testing results, official filings, environmental approvals, and other permits issued for the Project.

9. Except as otherwise specifically provided herein, where this Decision provides for the submission of plans or other documents for approval by the Building Inspector or other Town Departments, the Applicant shall pay all permit application fees normally charged by the Town. The Building Inspector or applicable Department Head will use reasonable efforts to review and provide a written response within thirty (30) days following submission and payment of application fees. For submissions that require assistance from an outside consultant, as determined by the Building Inspector or applicable Department Head, the thirty-day time period shall not begin until the consultant's fee has been fully funded by the Applicant.
10. Nothing herein shall affect the Applicant's obligations to the Town under the LDA.
11. The sidewalks, driveways, roads, utilities, drainage systems, wastewater disposal systems, water system, and all other infrastructure shown on the Approved Plans as serving the Project shall remain private in perpetuity unless otherwise agreed to and accepted in writing by the Town, consistent with all applicable laws and regulations. Subject to the foregoing, the Town of Brewster shall not have, now or in the future, any legal responsibility for the operation or maintenance of the infrastructure, including but not limited to snow removal, trash removal, recycling, and landscape maintenance.
12. Unless the language of a Condition suggests that it is intended to have shorter duration, all Conditions in this Comprehensive Permit shall be "in perpetuity" and remain in full force and effect for the life of the Project.
13. Prior to commencement of any Project construction, the Applicant shall record this Comprehensive Permit with the Barnstable County Registry of Deeds, at the Applicant's expense, and provide proof of the same to the Building Inspector. The Board reserves the right to cause this Decision to be recorded at the Barnstable County Registry of Deeds at any time.

Affordability Requirements

14. All of the units on the Site shall be affordable in perpetuity: of the forty-five (45) total units, thirty-five (35) units shall be affordable to and occupied by households with incomes at or below 60 percent of AMI (the "Low Income Households") and the remaining ten (10) units shall be affordable to and occupied by households with incomes at or below 80 percent of AMI (the "Moderate Income Households"). All units required to be affordable to and occupied by Low Income Households or Moderate Income Households are referred to herein as "Affordable Units." Notwithstanding the foregoing, in the event of foreclosure, a minimum of 45% of the units on the Site shall be and remain Affordable Units: 25% of the units shall be permanently affordable to and occupied by Moderate Income Households, and an additional 20% of the units shall be permanently affordable to and occupied by Low Income Households. However, in the event of a conflict between this condition and the DHCD requirements under the LIHTC Program, the DHCD requirements shall control, including without limitation the provisions of the LIHTC Program and Regulatory Agreement concerning foreclosure.

15. All Affordable Units shall be eligible for inclusion in DHCD's Subsidized Housing Inventory ("SHI") in accordance with 760 CMR 56.02(2).
16. To comply with the requirements of the LIHTC Program, the Affordable Units shall be available to and restricted for rent and occupancy as required by the LIHTC Program and as approved by DHCD (which currently requires the Affordable Units to be available to and restricted for rent and occupancy to eligible households, as determined by HUD, provided that the average household income does not exceed 60 percent HUD area median income).
17. The Applicant and the Town shall enter into a Local Regulatory and Use Agreement, incorporating the provisions of Conditions 14 and 15 hereof, in form and substance reasonably acceptable to Applicant and the Town, and approved by DHCD under the relevant provisions of the Massachusetts General Laws and DHCD's regulations and Guidelines (the "Local Regulatory Agreement"), sufficient to include all the Affordable Units in the SHI, which Local Regulatory Agreement shall be recorded with the Barnstable Registry of Deeds prior to the issuance of a building permit. Notwithstanding the foregoing, the terms of the LIHTC Regulatory Agreement and any applicable rent restrictions of the federal low-income housing tax credit program under Section 42 of the Internal Revenue Code of 1986, as amended, set forth in the LIHTC Regulatory Agreement, shall take precedence over the Local Regulatory Agreement until such time as the LIHTC Regulatory Agreement expires, terminates or is otherwise no longer in effect and there is no other substitute regulatory agreement in effect. Any reference herein to a Regulatory Agreement herein shall refer to the LIHTC Regulatory Agreement or substitute regulatory agreement for so long as the same is in effect, after which all references to a Regulatory Agreement shall mean the Local Regulatory Agreement. Execution and recording of a "Restriction" approved by the Town in accordance with the LDA will satisfy the foregoing requirement for a Local Regulatory Agreement.
18. The Affordable Units shall be dispersed throughout the Project in accordance with the DHCD's Comprehensive Permit Guidelines (it being understood that the location of Affordable Units can change over time as provided in the Regulatory Agreement).
19. The Applicant shall be responsible for maintaining records sufficient with DHCD guidelines for the rental of such Affordable Units by income-eligible households.
20. The Applicant shall obtain the Subsidizing Agency's approval of an Affirmative Fair Housing Marketing Plan prior to making any of the Affordable Units available for rent. The Plan approved by the Subsidizing Agency shall be provided to the Planning Department and Brewster Housing Partnership for informational purposes.
21. The Subsidizing Agency is responsible for regulating, monitoring, and enforcement in accordance with the LIHTC Regulatory Agreement. The Applicant and successors and assigns as owners of the Project, shall pay, in perpetuity, any reasonable fees charged by the Subsidizing Agency's monitoring agent and any subsequent monitoring agent retained by the

Town when the LIHTC Regulatory Agreement is no longer in effect, as set forth in the Local Regulatory Agreement. The Town of Brewster shall not be responsible for paying such fees or for monitoring the Project's compliance with the Regulatory Agreement.

Submission Requirements

22. Prior to any construction on the Site, whether or not pursuant to a building permit, the Applicant shall:
- (a) Submit Final Engineering Drawings and Plans that conform to the requirements of this Comprehensive Permit and incorporate the conditions herein ("Final Plans") to the Building Inspector for review and approval as to conformity with this Decision. The Final Plans shall incorporate all conditions and requirements of permitting agencies having jurisdiction. Applicable sheets of the Final Plans shall be signed and sealed by the Professional Land Surveyor of record, the Registered (Civil) Engineer of record, the Registered Landscape Architect of record, or the Registered Architect of record. No construction of buildings, structures, or improvements shall be performed on the Site unless they are substantially in accordance with the Approved Plans and the Final Plans;
 - (b) Submit a final landscaping plan consistent with the Approved Plans, signed and sealed by a Registered Landscape Architect, depicting the following:
 - i. Overall planting plan that includes a demarcation of clearing and the limits of work; including areas where the existing vegetated buffer will be enhanced with additional plantings;
 - ii. Planting plans for drives showing shade trees and lighting fixture locations;
 - iii. Plans of walkways in open space and recreation areas;
 - iv. Prototype planting plans for each building that include shade trees, ornamental trees, shrubs, and groundcovers;
 - v. Planting details for coniferous and deciduous shade trees, ornamental trees, and shrubs;
 - vi. Planting schedules listing the quantity, size, height, caliper, species, variety, and form of trees, shrubs, and groundcovers;
 - vii. Tree protection and preservation plans;
 - viii. Construction details; and
 - ix. Location of fencing on southeast property line near the Site's access to Millstone Road, designed to shield the neighboring property from vehicular headlights in the driveway area.
 - x. All plantings shall consist of non-invasive, drought-tolerant species. Plantings installed along drives and walkways shall be salt-tolerant as well.
 - (c) If the Project is to be phased, provide a Phasing Plan, in form and substance satisfactory to the Building Inspector, showing, among other things, construction of the access drives and utilities sufficient to serve the current phase(s) proposed, and protection of landscaping, plantings and improvements. The Phasing Plan shall be provided to the Building Inspector at least seven days prior to the start of construction;
 - (d) Obtain approval of proposed fire hydrant locations from the Brewster Fire Department.
23. The Applicant and the site general contractor shall attend a preconstruction conference with the Building Inspector and other Town department heads as the Building Inspector may determine.

24. Prior to the issuance of a building permit for the Project, the Applicant shall:
- (a) Submit the Final Plans for administrative review by the Board (no public hearing required) as to conformity with this Decision;
 - (b) Submit the Final Plans and specifications for the wastewater treatment facilities to the Board of Health for review and approval as to conformity with this Decision prior to the issuance of a foundation permit;
 - (c) Submit to the Building Inspector final Architectural Plans prepared and sealed by an architect with a valid registration in the Commonwealth of Massachusetts. The Architectural Plans shall be submitted in such form as the Building Inspector may require pursuant to the State Building Code;
 - (d) Obtain and file with the Building Inspector a written review from the Brewster Water Department of the Applicant's construction plans and engineering details to tie into the public water distribution system, and to undertake any work and improvements within public ways, all in a manner consistent with the Approved Plans and the Conditions of this Comprehensive Permit; provided, however, permission is granted by this Decision for the project to connect to the municipal water system;
 - (e) Submit to the Building Inspector a copy of the fully executed LIHTC Regulatory Agreement for the Project; provided, however, due to the fact that such Regulatory Agreement is not executed by DHCD until the funding closing for the Project, this Condition shall be deemed satisfied if the Building Inspector issues a "will issue" letter as to the Building Permits indicating that they will be issued upon submission by the Applicant of the fully executed LIHTC Regulatory Agreement and the payment of the applicable fess for the Building Permits;
 - (f) Submits to the Building Inspector a copy of the Local Regulatory Agreement duly signed by the Applicant, the Town, and DHCD and recorded with the Barnstable Registry of Deeds and/or the Barnstable Registry District of the Land Court. All mortgages and other liens on the Site shall be subject to the Local Regulatory Agreement.
 - (g) Obtain and file with the Building Inspector a copy of all federal, state, and local permits and approvals required for the Project;
 - (h) Obtain all necessary building, electrical, plumbing, and associated permits for the Project required by state law.

Construction Completion; Certificate of Occupancy

25. Prior to issuance of the first certificate of occupancy or certificate for any portion or phase of the Project, the Applicant shall:
- (a) If the Project is built in Phases, submit interim as-built utilities plan and profiles for each Phase as completed, showing actual-in ground installation of the utilities and stormwater management systems, to the Department of Public Works;
 - (b) Obtain acceptance from the Fire Department of testing of all smoke and carbon monoxide detectors within the dwelling units, for the portion or phase as applicable;
 - (c) Provide evidence in a form satisfactory to the Building Inspector that the Applicant complies with the Traffic Safety conditions listed under the Section below.
26. Prior to issuance of the last/ final certificate of occupancy for the Project, the Applicant shall:

- (a) Submit to the Department of Public Works (DPW), in digital file format, a final as-built utilities plan including profiles, showing actual-in ground installation of all utilities, roadway, sidewalk and associated construction, and stormwater management systems. The file format shall be in accordance with the DPW's requirements. The digital file shall include property boundaries, dimensions, easements, rights-of-way, edge of pavement, edge of sidewalk, edge of water bodies, wetland boundaries, topographic contours, spot elevations, parking areas, road centerline and associated text. Said digital data shall be delivered in the Massachusetts State Plane Coordinate System, North American Datum 1983 and North American Vertical Datum 1988, in U.S. Survey Feet (or Meters, as required by the Town);
- (b) Submit to the Building Inspector as-built plans for all buildings in the Project;
- (c) Complete all items on a site construction "punch list" that might be developed by the Department of Public Works.

Project Design and Construction

- 27. The Applicant shall allow the Board and Town employees, agents, and representatives to observe and inspect the Site and construction progress until such time as the Project has been completed.
- 28. The Applicant shall ensure that nuisance conditions do not exist in and around the Site during construction operations. The Applicant shall at all times use reasonable means to minimize inconvenience to businesses and residents in the surrounding area.
- 29. Soil material used as backfill for pipes, access drives, infiltration beds, porous pavement areas, and other underground drainage structures shall be certified by the Design Engineer to the Building Inspector as meeting design specifications.
- 30. Construction activities shall only be conducted between the hours of 7:00 AM., and 6:00 PM., Monday through Friday, and between 9:00 AM and 3:00 PM on Saturday. For purposes of this Condition, construction activities shall be defined as: start-up of equipment or machinery, delivery of building materials and supplies; removal of trees; grubbing; clearing; grading; filling; excavating; import or export of earth materials; installation of utilities both on and off the site; removal of stumps and debris; and erection of new structures. All off-site utility work shall be coordinated and approved by the Department of Public Works and shall not be subject to the timing restrictions set forth above. Finish work inside a structure once fully enclosed (walls, doors, windows and roof) is not restricted by this condition. Parking of all vehicles and equipment must be on site during construction.
- 31. During construction, the Site shall be secured against unauthorized entry or vandalism by fencing, or other appropriate means, and all construction materials shall be stored or stockpiled in a safe manner.
- 32. No building areas shall be left in an open, unstabilized condition longer than sixty (60) days.

33. As set out in more detail in Section 5 of the Applicant's Stormwater Analysis and Drainage Report, temporary stabilization on the Site shall be accomplished by hay bales, hay coverings or matting; final stabilization shall be accomplished by loaming and seeding exposed areas.
34. Exterior lighting on the Site shall be downlit, full cut-off and fully shielded in order to minimize glare or trespass onto or into any adjacent property.
35. During the pendency of construction, the Applicant shall erect barriers to prevent turtles from entering the limit of work for the Project, and conduct sweeps to remove any found turtles and move them elsewhere on-site outside said limit of work.

Traffic Safety Conditions

36. The Applicant shall provide a bus stop area or bench on-site and continue to work with the CCRTA on serving the Site.
37. The Applicant shall implement the "Recommendations" of Vanasse & Associates, Inc., in its Traffic Impact Assessment Report dated January 2023 (as revised by letter dated March 31, 2023) concerning on- and off-site traffic mitigation for safe, multi-modal travel into and out of the Site. Specifically:

The Project site driveway should be a minimum of 20-feet in width where parking will not be permitted and designed to accommodate the turning and maneuvering requirements of the largest anticipated responding emergency vehicle. If the minimum driveway width is used, "No Stopping Any Time" signs shall be installed along both sides of the driveway.;

 - (a) Where perpendicular parking is proposed, the drive aisle behind the parking should be a minimum of 22 feet in width in order to facilitate parking maneuvers;
 - (b) Vehicles exiting the Project site should be placed under STOP-sign control with a marked STOP-line provided;
 - (c) All signs and pavement markings to be installed within the Project site should conform to the applicable standards of the Manual on Uniform Traffic Control Devices (MUTCD);
 - (d) A sidewalk and marked crosswalks are provided within the Project site that connect the proposed buildings to the amenity building and parking area, and extend along the driveway to Millstone Road where a future sidewalk is to be constructed by the Town. It is recommended that a widened sidewalk area be provided at Millstone Road to serve as a school bus waiting area;
 - (e) Existing trees and vegetation located along the west side of Millstone Road within the sight triangle areas of the Project site driveway shall be selectively trimmed and/or removed as necessary in order to provide the required sight lines to and from the driveway. The Applicant should continue to communicate with Brewster DPW and coordinate the Project with work that will be required to complete the proposed Millstone Road improvements, which includes sidewalks, that is being advanced by the Town independent of the Project. The Applicant shall not, pursuant to this Decision, be responsible to construct or pay for the construction of any portion of the Town's said Millstone Road improvements program;

- (f) Signs and landscaping to be installed as a part of the Project within the intersection sight triangle areas of the Project site driveway should be designed and maintained so as not to restrict lines of sight;
- (g) Snow accumulations (windrows) within the sight triangle areas of the Project site driveway will be promptly removed where such accumulations would impede sight lines.
- (h) Approval of the foregoing measures are granted by this Decision, provided however, the Applicant shall comply with technical requirements of the Town of Brewster DPW.

Water, Wastewater Disposal, Stormwater Management, and Utilities

- 38. Utilities shall be installed underground by the Applicant using methods standard to those installations. Utilities shall be defined as electric service lines, telephone lines, water service lines, CATV lines, municipal conduit, stormwater management systems, and the like.
- 39. The water, wastewater, drainage, and stormwater management systems servicing the buildings shall be installed and tested in accordance with applicable Town of Brewster standard requirements and protocols, except as Waived by this Decision.
- 40. The Stormwater design shall function consistent with the Approved Plans, as revised, and the Applicant's Stormwater Analysis and Drainage Report. Specifically, without limitation, the Applicant shall comply with the construction period erosion and sedimentation controls set out in Section 5 of said Report, and Appendix G- the Operation and Maintenance Plan.
- 41. The Applicant shall comply with the following as to the wastewater system:
 - (a) The Leach Facility shall be pressure dosed per Title 5 requirements for flows greater than 2000 gpd unless a state approved technology is used that eliminates the requirement for pressure dosing;
 - (b) Installation of an I/A Technology under DEP General Approval;
 - (c) Quarterly effluent sampling and field testing for pH, dissolved oxygen, turbidity, and color;
 - (d) Quarterly effluent sampling for settleable solids and total nitrogen to be analyzed at a certified laboratory;
 - (e) Annual measurements of depth ponding in the soil absorption system and thickness of scum layer in the septic tanks and other process tanks;
 - (f) Preparation of annual summary reports to be submitted to the Brewster Board of Health and presented to same once per year by the system operator/consultant or more frequently as needed for noncompliance.
 - (g) After the first year of system operation, the frequency of sampling can be reduced upon written request and approval by the Board of Health, or its designated agent, without the requirement for further review by the ZBA or modification to this Decision.

Other Conditions

- 42. Upon submission of any documents or plans that must be submitted to the Board for administrative approval, the Board shall notify the Applicant in writing within thirty (30) days of submission either that such documents and/or plans have been approved by the Board or its designee, or that they are not approved (with a statement of the specific reasons

why they are not approved). If the Board does not so notify the Applicant within said thirty (30) days, such documents and/or plans shall be deemed approved.

43. This decision will be deemed to be final upon the expiration of the appeal period with no appeal having been filed or upon the final judicial decision following the filing of any appeal, whichever is later. In accordance with 760 CMR 56.05(12)(c), this Comprehensive Permit shall expire three (3) years from the date that the permit becomes final, unless (i) prior to that time substantial use of the Comprehensive Permit has commenced or (ii) the time period is otherwise tolled in accordance with law. The Applicant may timely apply to the Board for extensions to the Comprehensive Permit as permitted by law.
44. This Comprehensive Permit prohibits the parking or storage of any unregistered vehicle on the Site, and likewise prohibits the service of any vehicles on the Site.
45. If any default, violation or breach of these conditions by the Applicant is not cured within thirty (30) days after notice thereof (or such longer period of time as is reasonably necessary to cure such a default so long as the Applicant is diligently and continuously prosecuting such a cure), then the Town may take one or more of the following steps: (a) by mandamus or other suit, action or other proceeding at law or in equity, require the Applicant to perform its obligations under these conditions; (b) have access to, and inspect, examine and make copies of all of the books and records of the Applicant pertaining to the Project; or (c) take such other action at law or in equity as may appear necessary or desirable to enforce these conditions. If the Town brings any claim to enforce these conditions, and the Town finally prevails in such claim, the Applicant shall reimburse the Town for its reasonable attorneys' fees and expenses incurred in connection with such claim.

CONCLUSION

For all the reasons stated above and pursuant to the Board's authority found in G.L. c.40B, §§ 20-23, the comprehensive permit application from Preservation for Affordable Housing, Inc., and Housing Assistance Corporation for the residential Project at 0 Millstone Road, Brewster, Massachusetts is hereby APPROVED WITH CONDITIONS, along with Waivers substantially as requested.

(Signature Page Follows)

Millstone Road
Decision No. 23-04

SIGNATURES

Approving ZBA Members:

_____	_____
_____	_____

DRAFT

Millstone Road
Decision No. 23-04

CERTIFICATION

I, Colette Williams, Town Clerk of the Town of Brewster, Massachusetts do hereby certify that twenty days have elapsed since the above referenced decision of the Board of Appeals, which was filed in the office of the Town Clerk on _____, 2023, and that no appeal has been filed with the Town Clerk.

Colette Williams
Town Clerk
Brewster, Massachusetts

DRAFT

EXHIBIT A

The following are the civil engineering and architectural plans submitted to the Board; to the extent that certain plans were modified since submission to the Board, the latest date of such plans constitute the “Approved Plans” per Condition (General) 3:

Civil Engineering Plans

Wet-stamped plan set entitled, “0 Millstone Road Comprehensive Permit Set, Brewster, Massachusetts, December 20, 2022, Revised: May 2, 2023,” prepared by Horsley Witten Group, Inc. for Preservation of Affordable Housing, Inc., consisting of the following sheets:

Sheet List Table	
Sheet Number	Sheet Title
C-1	COVER
C-2	GENERAL NOTES
C-3	PROPERTY LINE PLAN
C-4	EXISTING CONDITIONS
C-5	DEMOLITION & EROSION CONTROL PLAN
C-6	OVERALL SITE PLAN
C-7	SITE PLAN (1)
C-8	SITE PLAN (2)
C-9	GRADING PLAN (1)
C-10	GRADING PLAN (2)
C-11	UTILITY PLAN (1)
C-12	UTILITY PLAN (2)
C-13	DETAILS (1)
C-14	DETAILS (2)
C-15	DETAILS (3)
C-16	DETAILS (4)
L-1	PLANTING PLAN (1)
L-2	PLANTING PLAN (2)
L-3	PLANTING DETAILS

Architectural Plans

Wet-stamped Floor Plans and Exterior Elevations Buildings 1 through 11, prepared by Union Studio for Preservation of Affordable Housing and Housing Assistance Corporation, 0 Millstone Road Comprehensive Permit, consisting of 11 sheets, dated 12/20/2023.

EXHIBIT B

The following are Waivers approved by the Board, revised and supplemented through the review process, substantially as requested by the Applicant. Associated Board Findings accompany the Waivers, below.

Brewster ZBA Comprehensive Permit Regulations

The Board waives the following provisions of its Chapter 40B Regulations:

- Section 3.01(k): The Subsidizing Agency will file a Project Notification Form with the Massachusetts Historical Commission (“MHC”) in compliance with the state MHC regulations.
- Section 3.01(l): The Project does not require review by the Natural Heritage and Endangered Species Program (“NHESP”) because none of the Project locus falls within a Priority Habitat of Rare Species or an Estimated Habitat of Rare Wildlife.
- Section 3.01(m): Financial information such as a pro forma is not applicable as it is in conflict with 760 CMR 56.05(6); a pro forma is more properly within DHCD’s purview.
- Section 3.01(o) and (q): Submission of an analysis of impacts on town services is not necessary. All town boards and staff have had an opportunity to comment on the Applicant’s plans.

Brewster Zoning Bylaw

The Board grants the following waivers of Chapter 179 (Zoning) of the Code of the Town of Brewster:

- Sections 179-10 and 179-11, Applicability of Use Regulations and Table 1 (Article IV, Use Regulations): The Applicant proposes eleven buildings for multifamily development. Strict compliance with the Zoning Bylaw would prohibit the proposed multifamily dwellings because they are not allowed in the R-L district.
- Section 179-16, Table 2, Area Regulations, R-L zoning district, minimum side yard setback and footnote 1 (generally, only one principal structure shall be permitted on a lot):

	Required	Proposed
Side Yard Setback	25 feet	17 feet

The proposed project will consist of 10 residential buildings and a one community building to be permitted under a Comprehensive Permit. The proposed (south) side yard setback abuts undevelopable open space for the neighboring cluster subdivision development.

- Section 179-16, Table 3, Height and Bulk Regulations. 30’ maximum height limit in the R-L district. Ten of the eleven proposed buildings will exceed 30’ in height, including the tallest “Building C” which is to be constructed with a maximum height of approximately 36 feet. This height is necessary, among other things, to reduce the development footprint of the Project and to allow the proposed elevator in Building C.
- Section 179-23, Off-Street Parking and Loading. Some of the proposed parking spaces are to be 9’ by 19’ and the drive aisle width is 22’, both as shown on the Approved Plans,

where the required parking space dimension is 10' by 20' and drive aisle width is 24'. The reduction in parking space size and drive aisle width allows the total development footprint of the Project to be reduced.

- Section 179-34. Multifamily Dwellings not a use permitted in the R-L district. The proposed multi-family development is permitted under a Comprehensive Permit.
- Section 179-64, Site Plan Review applicability. As this is a Comprehensive Permit, all local approvals, including Site Plan Review, fall within the jurisdiction of the Zoning Board of Appeals.

Brewster Board of Health Regulations

Water Quality Report Regulation (Effective January 15, 1988)

The Board grants a waiver from the applicability of this Water Quality Report Regulation. The proposed wastewater system is designed and sited to comply with Title V requirements and Board of Health requirements. The Project Site is not in a well recharge area, not upgradient of a nitrogen sensitive tidal embayment, and not upgradient of any freshwater ponds. The Applicant prepared a nitrogen loading report and submitted it as part of its application. Site-wide nitrogen loading at 3.8 ppm is substantially lower than required under any federal, state or local standard.

Design, Operation, and Maintenance of Small Wastewater Treatment Facilities (Effective March 15, 2007)

The Board grants a waiver from the applicability of this regulation pertaining to the Design, Operation, and Maintenance of Small Wastewater Treatment Facilities. The proposed wastewater system design flow is less than 10,000 gpd and is not regulated under MassDEP groundwater discharge permit regulations. The proposed wastewater system is designed and sited to comply with Title 5 requirements and Board of Health requirements. The Project Site is not in a well recharge area, not upgradient of a nitrogen sensitive tidal embayment, and not upgradient of any freshwater ponds. Without limiting the Waiver, certain sections are described below:

1.00 Disposal Works Construction Permit. Applicant will apply for a Disposal Works Construction Permit under Massachusetts DEP Title 5 and the I/A Technology DEP General Use Approval.

4.00 SWWTF Financial Assurance Mechanism. The Applicant should not be required to establish and maintain a financial assurance mechanism to provide for repair and replacement of the septic system.

5.00 SWWTF Effluent Test Frequency Parameters and Limits. The I/A system is designed to meet an effluent Total Nitrogen concentration of 19 mg/L. Rather than monthly testing, Applicant agrees to quarterly effluent field testing of pH, dissolved oxygen, turbidity, total nitrogen and color and laboratory testing of settleable solids. Annual measurements of ponding depth in the soil absorption system and thickness of scum layer in the septic tanks and other process tanks will also be performed.

6.00 Groundwater Monitoring Installation. The Applicant should not be required to install groundwater monitoring wells.

7.00 Reporting of all SWWTFs and Wastewater Treatment Facilities that discharge over 10,000 gallons per day. Not applicable; however, the Applicant has agreed to file an annual report with the Board of Health concerning the operations of the septic system.

8.00 Variances. Not applicable; the Board of Appeals is the permit granting authority under M.G.L. c. 40B, §§20-23.

9.00 Enforcement. Not applicable for the reason stated above. The Board of Health retains enforcement authority under Massachusetts DEP Title 5; and the Applicant agrees that the Board of Health may enforce the modified effluent testing requirement under Section 5.00 that the Applicant has agreed to as described above.

Town of Brewster General Bylaws

Scenic Road Act and Public Shade Tree Act

The Board grants a waiver from obtaining approval from the Planning Board of any tree cutting within the Millstone Road public right of way.

DRAFT

#23-12 Owner/Applicant:

Lea Anne Copenhefer

Represented by:

Walter Jacob Architects, LTD

8 Shepherds Quay



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

BREWSTER TOWN CLERK
[Signature]
12:23 PM 04/24/23

ZBA CASE FILE # 23-12
APPLICATION FOR BREWSTER ZONING BOARD OF APPEALS
SPECIAL PERMIT/ VARIANCE/ ZBA APPEAL APPLICATION
(\$300 Filing Fee)

NAME OF APPLICANT Lea Anne Copenhefer

REPRESENTATIVE Walter Jacob Architects LTD. **PHONE NUMBER** 781.631.7440

MAILING ADDRESS 3 Pleasant St, Marblehead, MA 01945

PROPERTY ADDRESS 8 Shepherds Quay, Brewster, MA 02631

CURRENT PROPERTY OWNER(S) Lea Anne Copenhefer & Scott Kafker

REGISTRY OF DEEDS TITLE REFERENCE BOOK _____ **PAGE** _____ **OR**

CERT. OF TITLE # 216145 **LAND COURT #** 14

PLAN # 20339-B (Sheet 3)

TOWN MAP # 74 **LOT #** 78

ZONING DISTRICT R-R **YEAR BUILT** 1988

STATEMENT OF PROJECT

This project includes a new balcony on the second level which encroaches on the side-yard setback on an existing non-conforming building that encroaches on the side-yard setback.

[Handwritten Signature]

SIGNATURE OF OWNER OR AGENT FOR OWNER

04.24.23
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 _____

STREET ADDRESS _____ **YEAR BUILT** _____

MAP # _____ **LOT #** _____

ZONING DISTRICT _____

List only the nonconformities below: Identify all nonconforming setbacks.

LOCATION	EXISTING	REQUIRED	PROPOSED
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

- **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 _____ **REQUIRED** _____

LOT SIZE: _____

LOT COVERAGE EXISTING % _____ **PROPOSED %** _____ **ALLOWED %** _____

SIZE OF PARCEL _____ sq. ft. **BUILDABLE UPLAND** _____ sq. ft.

BUILDING COVERAGE/PRIMARY STRUCTURE _____ sq. ft.

BUILDING COVERAGE ALL OTHER STRUCTURES _____ sq. ft.

BUILDING HEIGHT: EXISTING _____ **PROPOSED** _____

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.

On behalf of our client Lea Anne Copenhefer, Walter Jacob Architects LTD. is seeking a special permit for dimensional setback relief for a proposed second level balcony on a pre-existing non-conforming structure. The property is located within a cluster development. According to Brewster Zoning bylaw Section 179-35B part 4, lot setbacks in cluster developments are to be reduced exactly 1/2 of that which is shown in Section 179 Attachment 2 Table 2 setbacks, which for the R-R district is 40' front, 25' sides and rear. The existing side-yard dimension is ±10' and the proposed side-yard dimension is ±5.8'. According to Brewster Zoning bylaw Section 179-25B, pre-existing nonconforming structures or uses may be changed, extended, or altered on special permit from the Board of Appeals, if the Board of Appeals finds that such change, extension or alteration will not be substantially more detrimental to the neighborhood than the existing nonconforming use.

- 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.

WJa

Walter Jacob architects

PROJECT TEAM

CLIENT

Lea Anne Copenhefer
 Scott Kafker
 8 Shepherds Quay
 Brewster, MA 02631

ARCHITECT

Walter Jacob Architects LTD.
 3 Pleasant Street
 Marblehead, MA 01945
 T: 781-631-7440
 F: 781-631-7441
 E: walter@architectwaj.com

SURVEYOR

David Lyttle
 Ryder-Wilcox
 P.O. Box 439
 South Orleans, MA 02662
 t: 508.255.8312
 e: davidlyttle@ryder-wilcox.com

PROJECT LOCATION

8 Shepherds Quay
 Brewster, MA 02631

ZONING INFORMATION

Zoning District: R-R (Cluster Subdivision)

	REQUIRED	EXISTING	PROPOSED
BUILDING COVERAGE	15% (MAX.)	8.427%	8.671%
LOT AREA	5,000 sf (MIN.)	± 37,748 sf	± 37,748 sf
FRONTAGE	115' (MIN.)	± 151.8'	± 151.8'
FRONT SETBACK	20'	± 108.3'	± 108.3'
SIDE SETBACK	12.5'	±10'	±5.8'
REAR SETBACK	12.5'	±158.8'	±158.8'
HEIGHT/STORIES	30' (MAX.)	±29.8'	±29.8'

PROJECT DESCRIPTION:

This project includes a new balcony on the second level which encroaches on the side-yard setback on an existing non-conforming building that encroaches on the side-yard setback and is located within a cluster subdivision.

SYMBOLS

ROOM 100	ROOM/AREA DESIGNATION
	WINDOW TAG
	EXTERIOR ELEVATION REFERENCE
	NORTH ARROW
	DOOR AND DOOR DIMENSION (WIDTH & HEIGHT)
	NEW WALL
	EXISTING WALL TO REMAIN
	WALL TO BE DEMOLISHED
	DIMENSION STRING

DRAWING INDEX

CS.1	Cover Sheet
-	Survey
P.1	Assessor's Map
P.2	Existing Conditions Photographs
X.1	Existing Basement Level Plan
A.1	Proposed Basement Level Plan
X.2	Existing First Level Plan
A.2	Proposed First Level Plan
X.3	Existing Second Level Plan
A.3	Proposed Second Level Plan
X.5	Existing Roof Plan
A.5	Proposed Roof Plan
X.6	Existing Elevations
A.6	Proposed Elevations
X.7	Existing Elevations
A.7	Proposed Elevations



Private Residence

Walter Jacob Architects LTD
 3 Pleasant Street
 Marblehead, MA 01945
 781.631.7440

CS.1

8 Shepherds Quay, Brewster, MA 02631

01.03.23_8 Shepherds Quay.pln 4/26/23

Ryder & Wilcox

SURVEYING · ENGINEERING
HOME PLANNING & DESIGN

3 GIDDIAH HILL ROAD P.O. BOX 439
SO. ORLEANS, MASSACHUSETTS 02662
TEL: 508.255.8312 FAX: 508.240.2306

Certified Plot Plan

Location

8 Shepherd's Quay Dr.

Brewster, MA

prepared for

Lea Anne

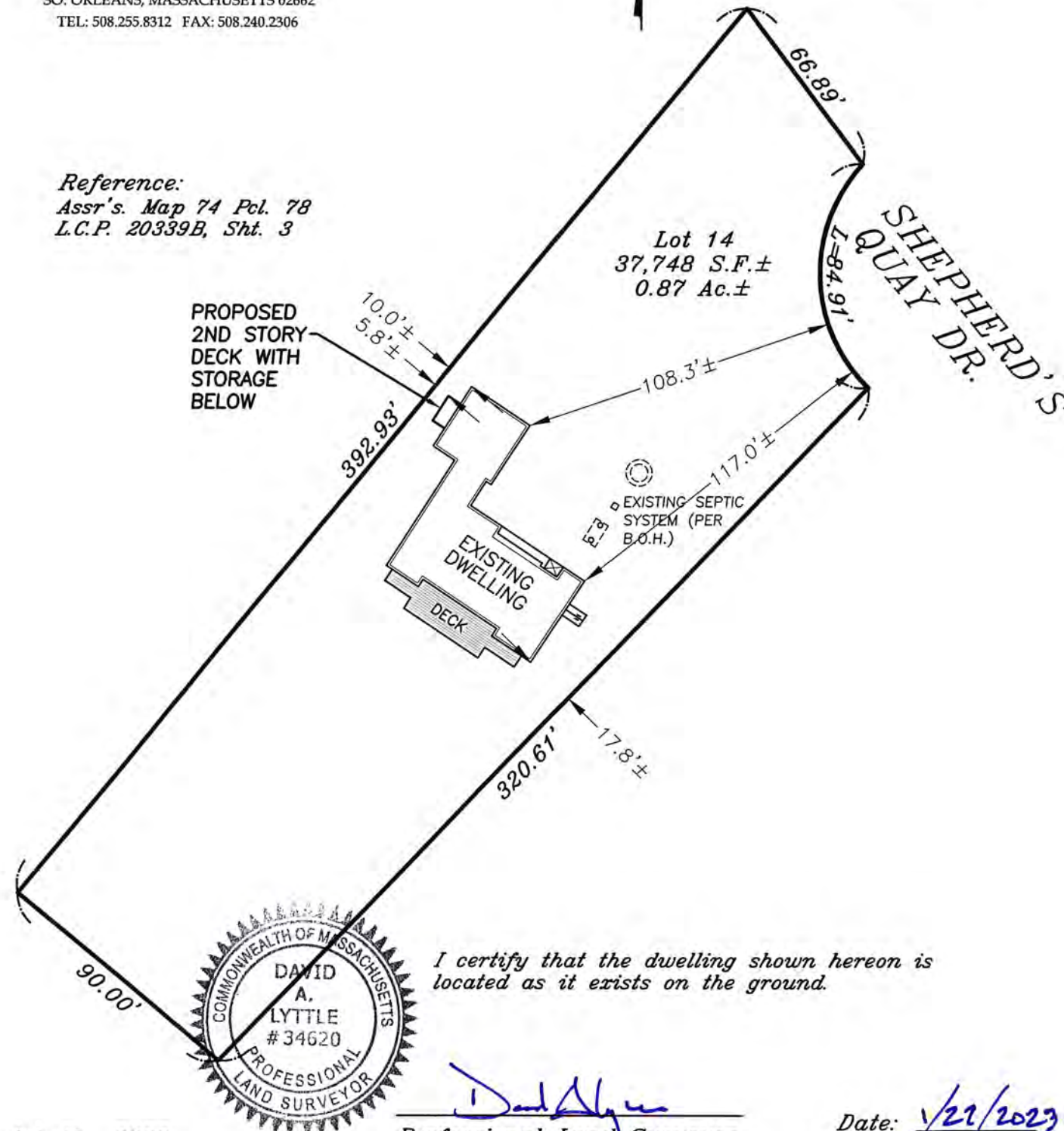
Copenhefer

Scale: 1" = 50'

Date: January 27, 2023

Reference:

Assr's. Map 74 Pcl. 78
L.C.P. 20339B, Sht. 3

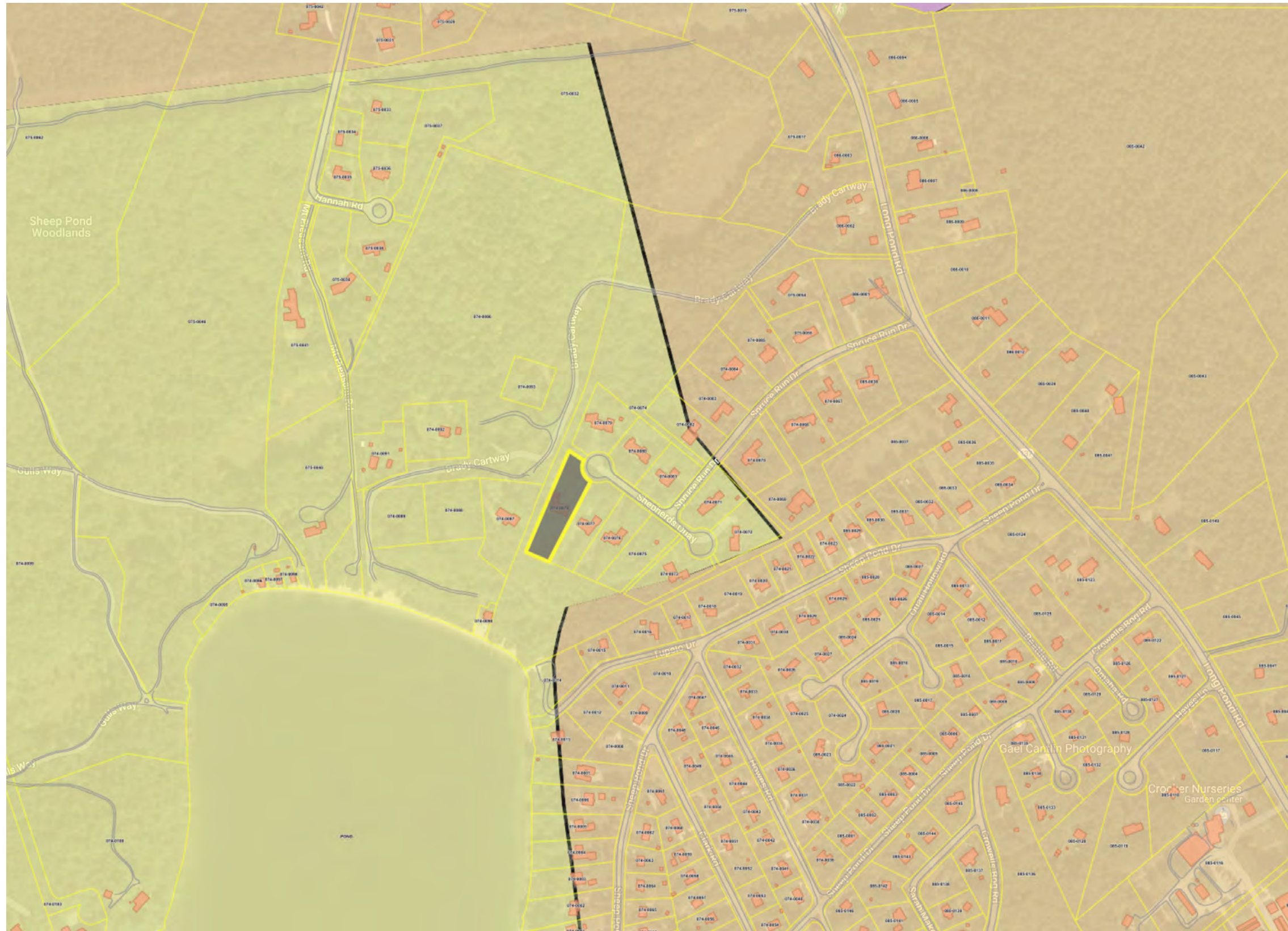


I certify that the dwelling shown hereon is located as it exists on the ground.

Job No. 2033

David Lytle
Professional Land Surveyor

Date: *1/27/2023*



ASSESSOR'S MAP

SOURCE: MAPSONLINE.NET - TOWN OF BREWSTER

Private Residence

8 Shepherd's Quay, Brewster, MA 02631



FRONT PERSPECTIVE



REAR PERSPECTIVE

LOCATION OF PROPOSED DECK



FRONT PERSPECTIVE

LOCATION OF PROPOSED DECK

Private Residence

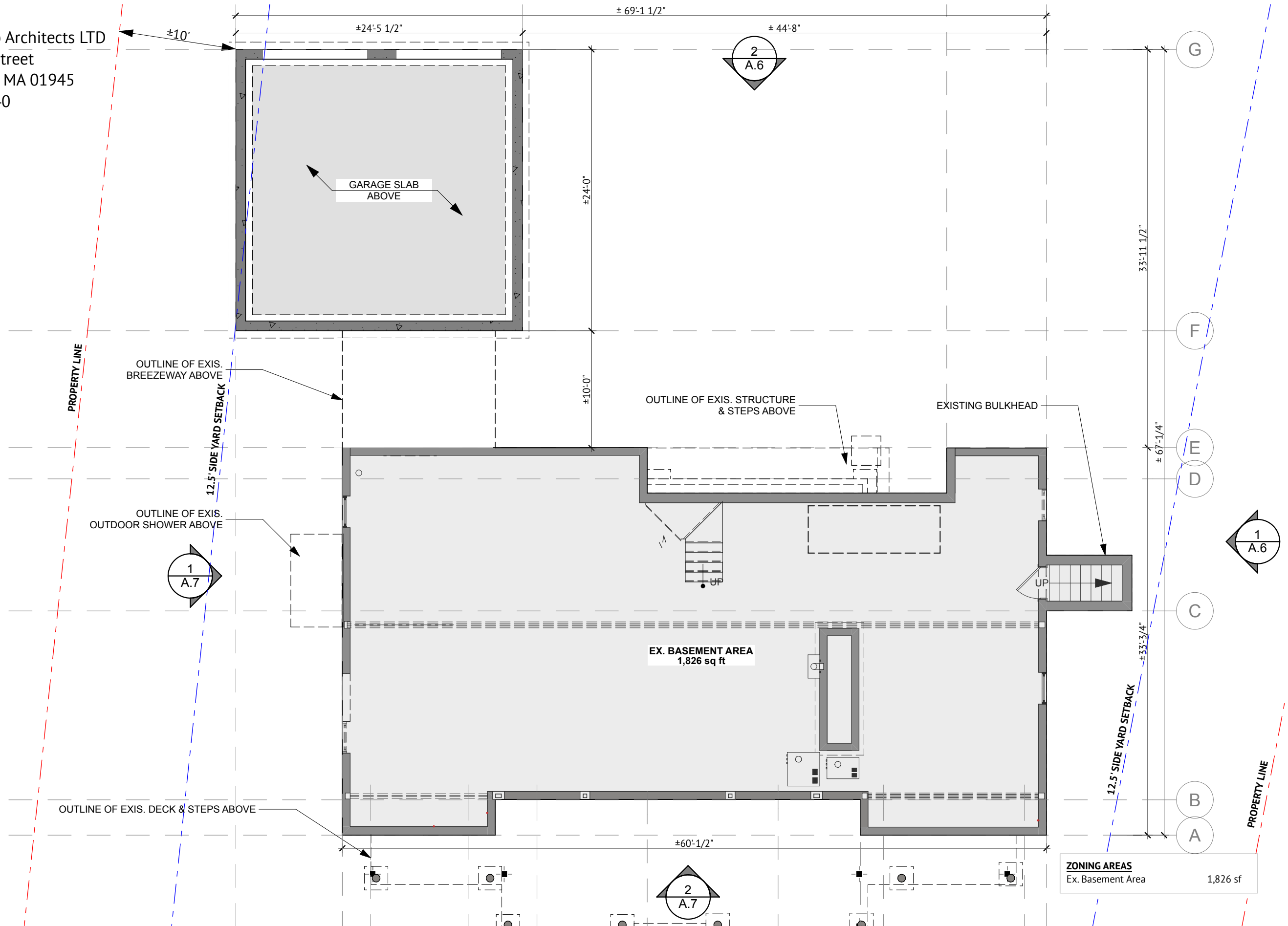
8 Shepherd's Quay, Brewster, MA 02631

X.1

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8 Shepherd's Quay, Brewster, MA 02631

Private Residence



ZONING AREAS	
Ex. Basement Area	1,826 sf

Existing Basement Level Plan

SCALE: 1/8" = 1'-0"

Existing Basement Level Plan

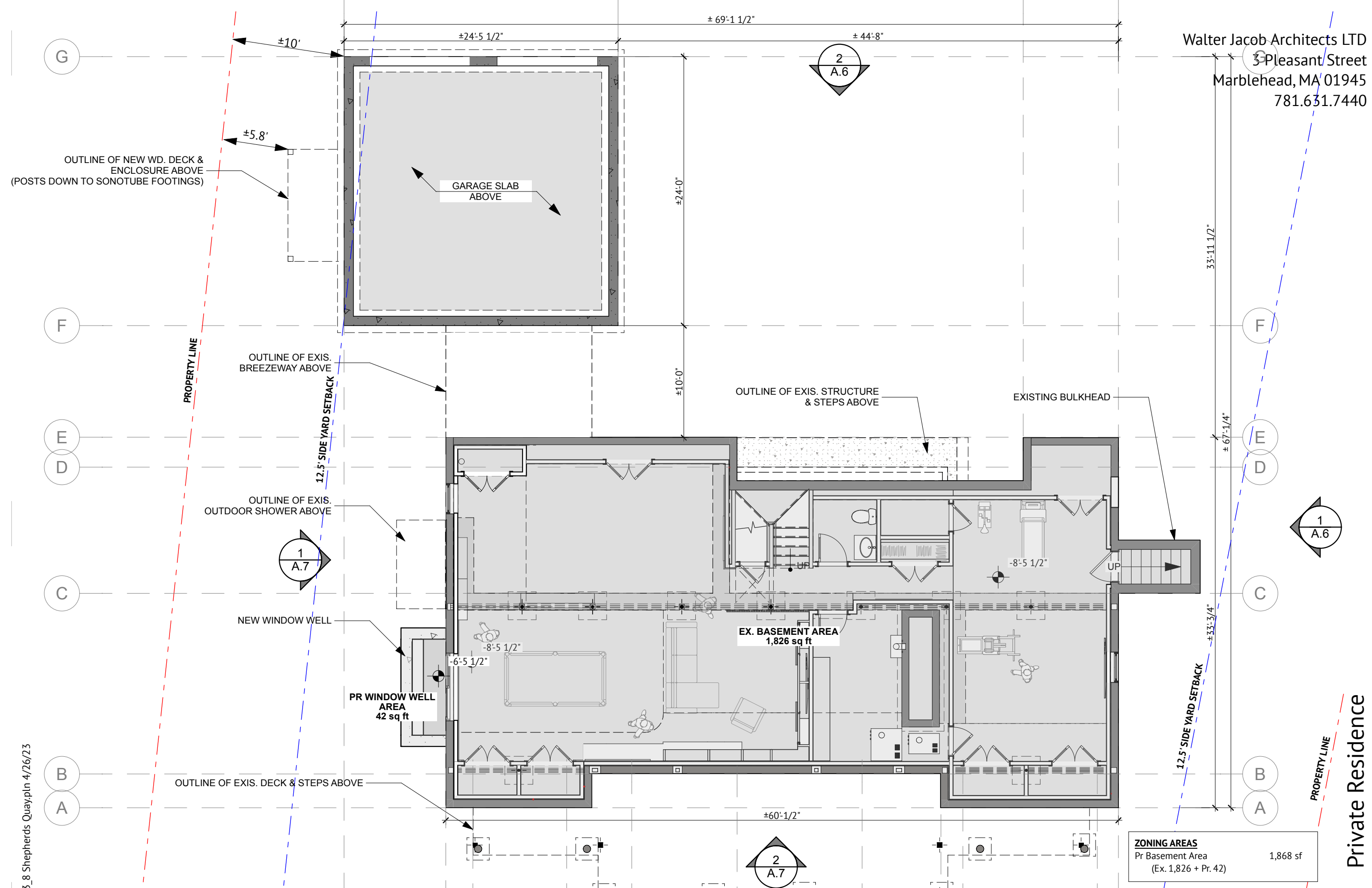
04.26.23 Brewster Zoning Board of Appeals

1

01.03.23_8 Shepherds Quay.pln 4/26/23

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 Marblehead, MA 01945
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A.1



ZONING AREAS	
Pr Basement Area	1,868 sf
(Ex. 1,826 + Pr. 42)	

Proposed Basement Level Plan

SCALE: 1/8" = 1'-0"

Proposed Basement Level Plan
 04.26.23 Brewster Zoning Board of Appeals

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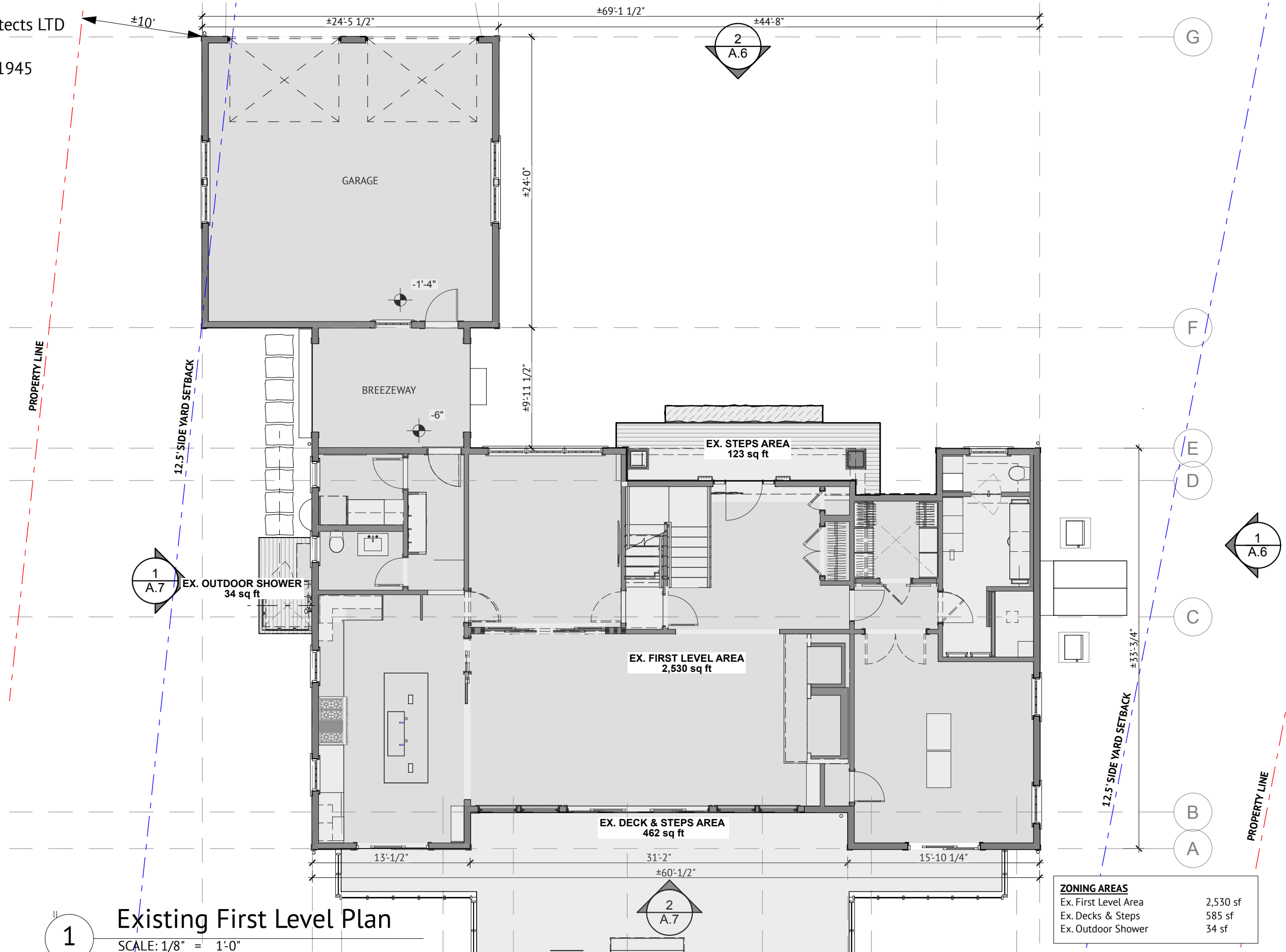
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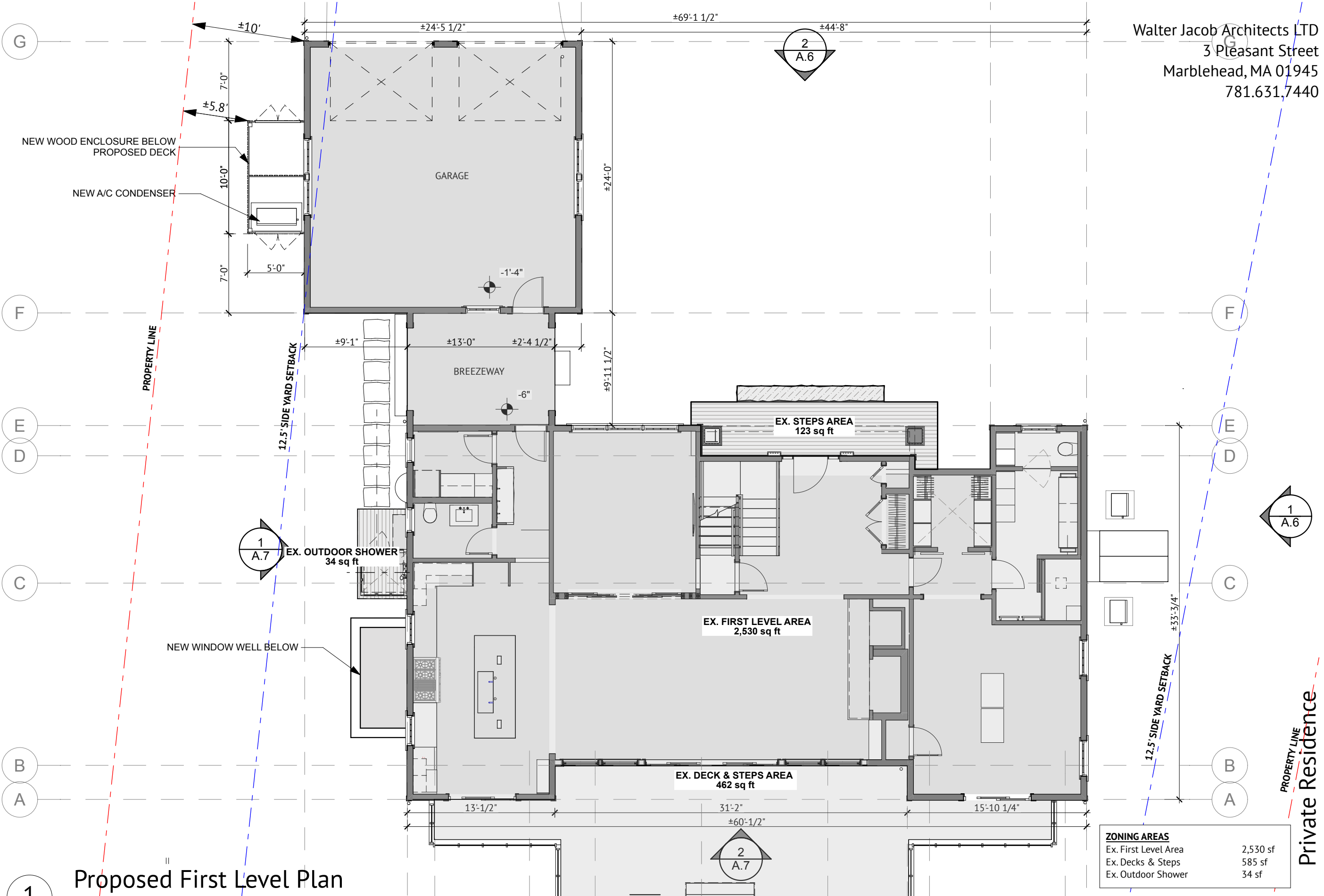


Existing First Level Plan

SCALE: 1/8" = 1'-0"

ZONING AREAS	
Ex. First Level Area	2,530 sf
Ex. Decks & Steps	585 sf
Ex. Outdoor Shower	34 sf

01.03.23_8 Shepherds Quay.pln 4/16/23



Walter Jacob Architects LTD
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 Marblehead, MA 01945
 781.631.7440

A.2

1 Proposed First Level Plan
 SCALE: 1/8" = 1'-0"

ZONING AREAS	
Ex. First Level Area	2,530 sf
Ex. Decks & Steps	585 sf
Ex. Outdoor Shower	34 sf

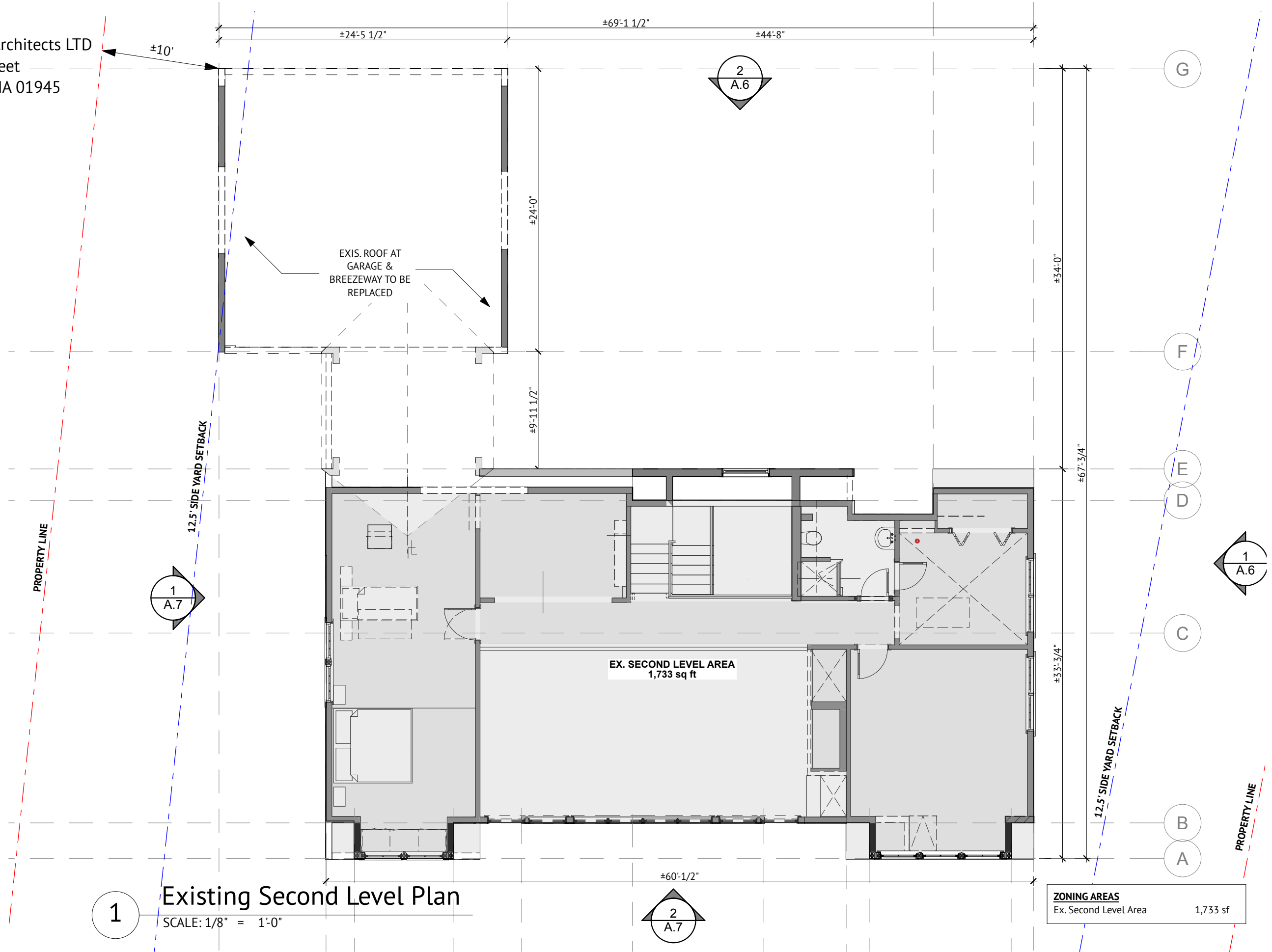
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8 Shepherd's Quay, Brewster, MA 02631

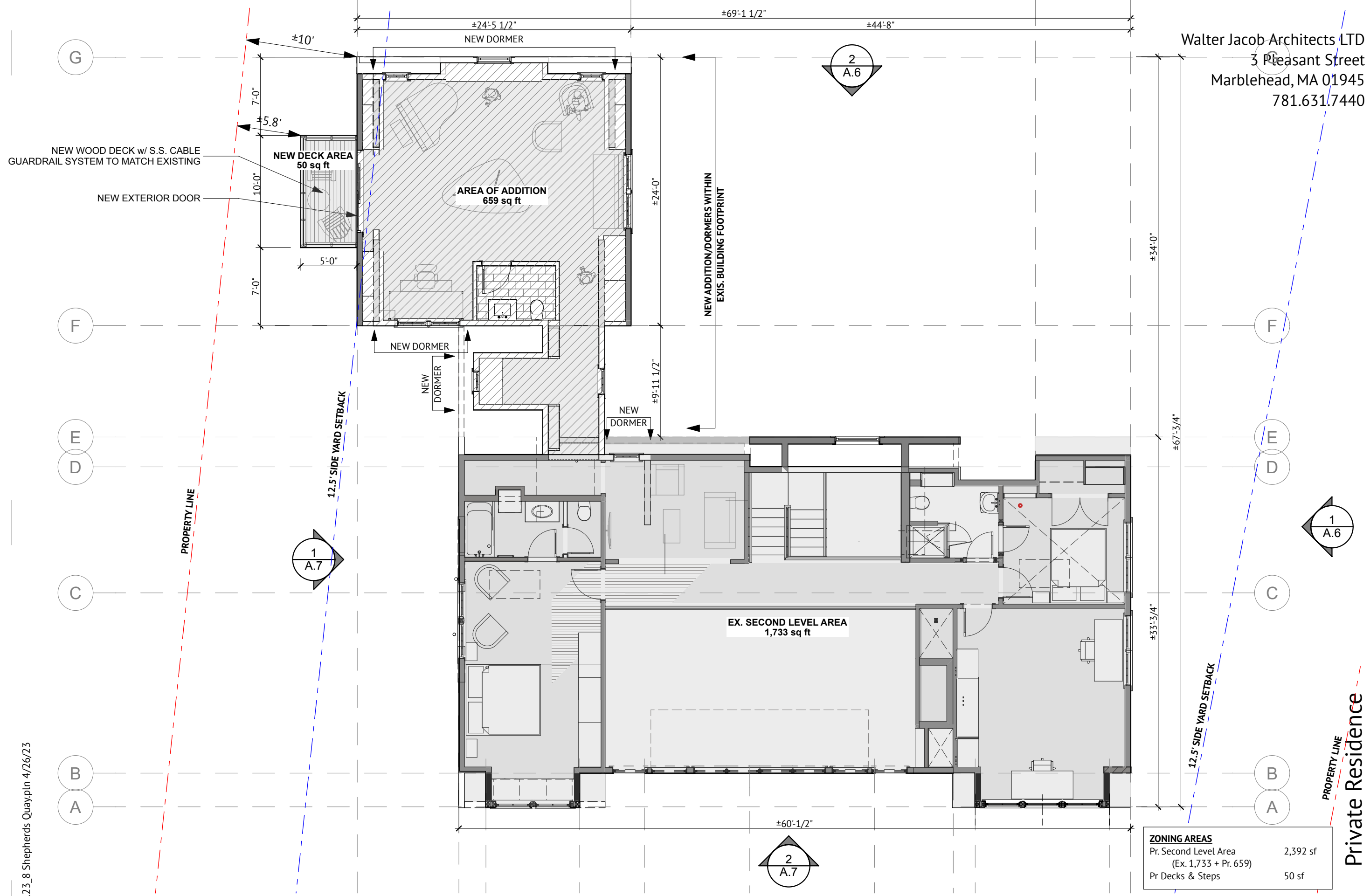
Private Residence



1 Existing Second Level Plan
SCALE: 1/8" = 1'-0"

ZONING AREAS	
Ex. Second Level Area	1,733 sf

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3 Pleasant Street
Marblehead, MA 01945
781.631.7440



ZONING AREAS	
Pr. Second Level Area (Ex. 1,733 + Pr. 659)	2,392 sf
Pr Decks & Steps	50 sf

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Proposed Second Level Plan

SCALE: 1/8" = 1'-0"

Proposed Second Level Plan

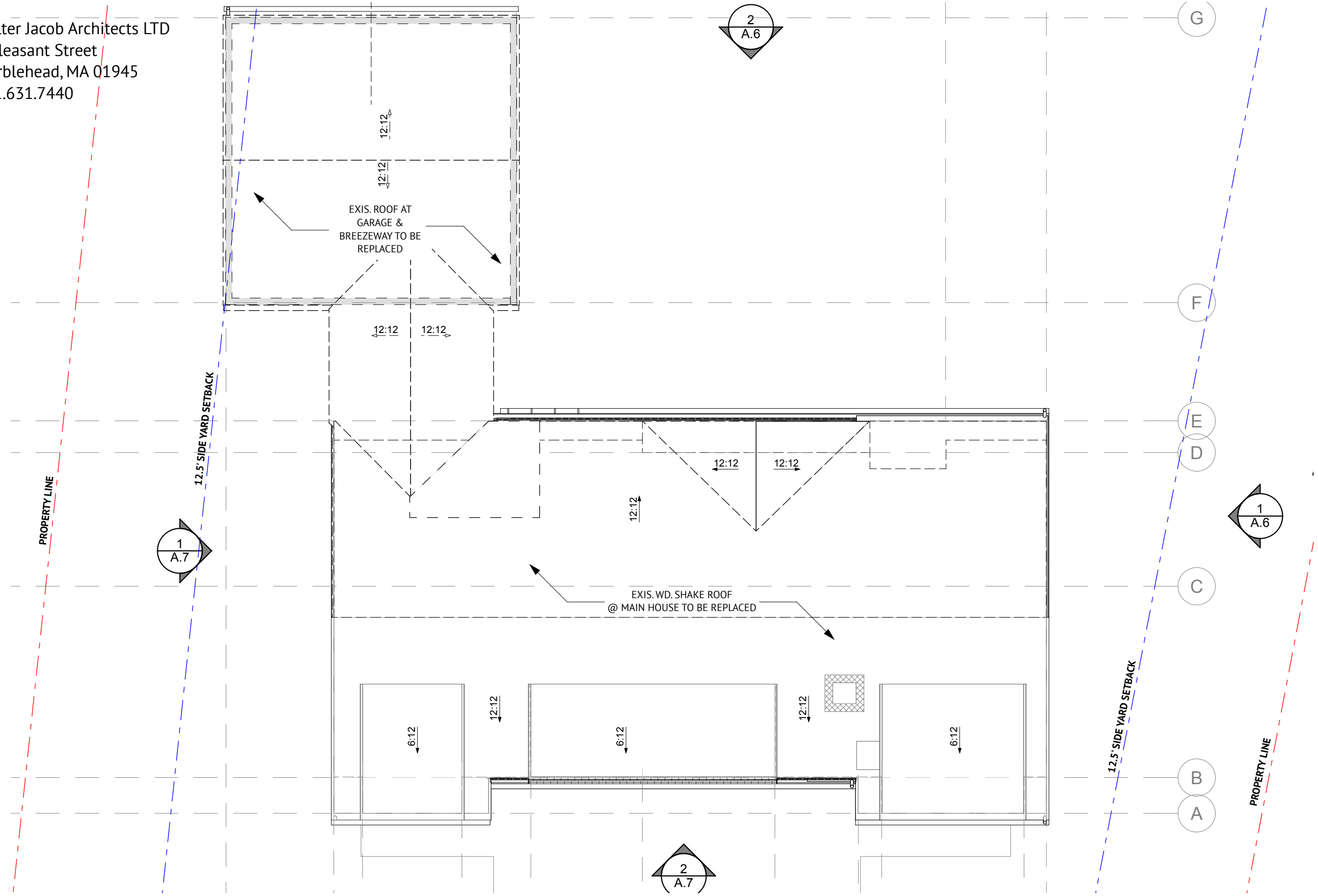
04.26.23 Brewster Zoning Board of Appeals

8 Shepherd's Quay, Brewster, MA 02631

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Marblehead, MA 01945
781.631.7440

8 Shepherd's Quay, Brewster, MA 02631

Private Residence



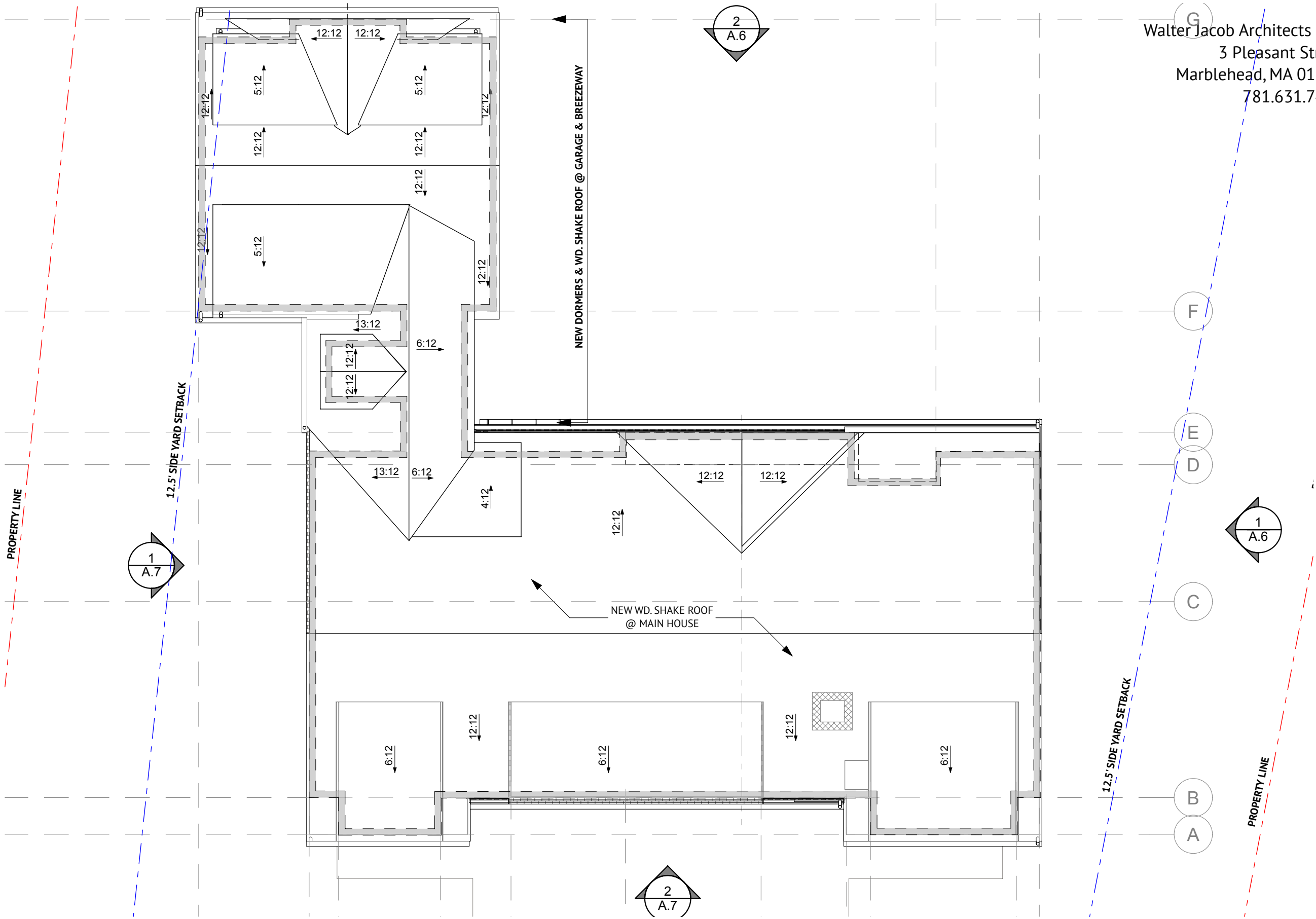
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Existing Roof Plan

SCALE: 1/8" = 1'-0"

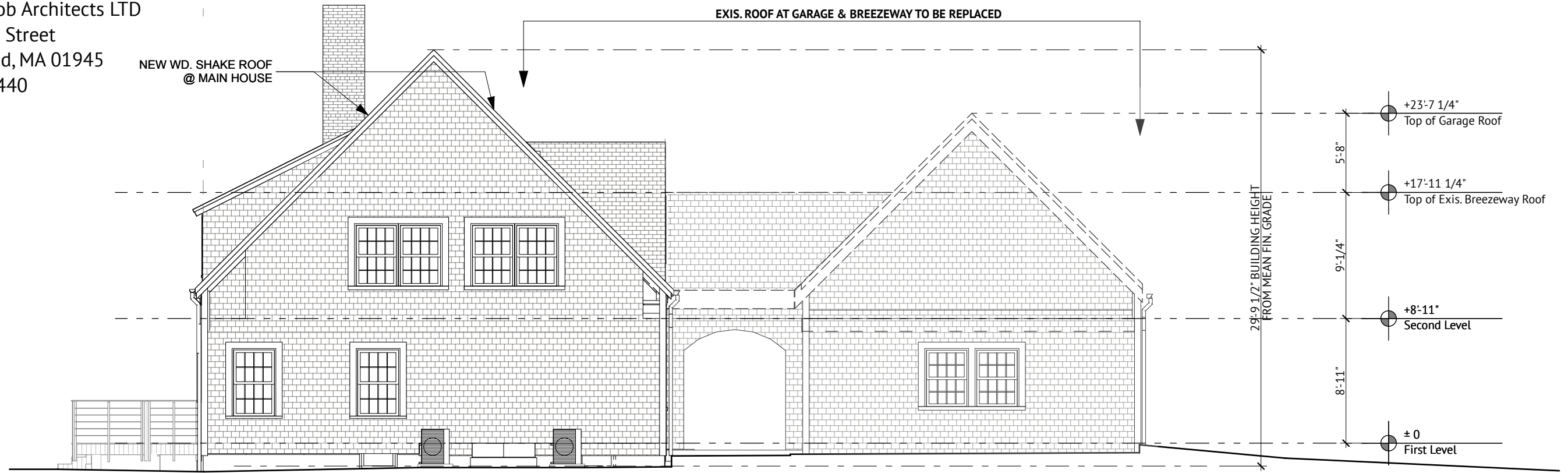
Existing Roof Plan

04.26.23 Brewster Zoning Board of Appeals

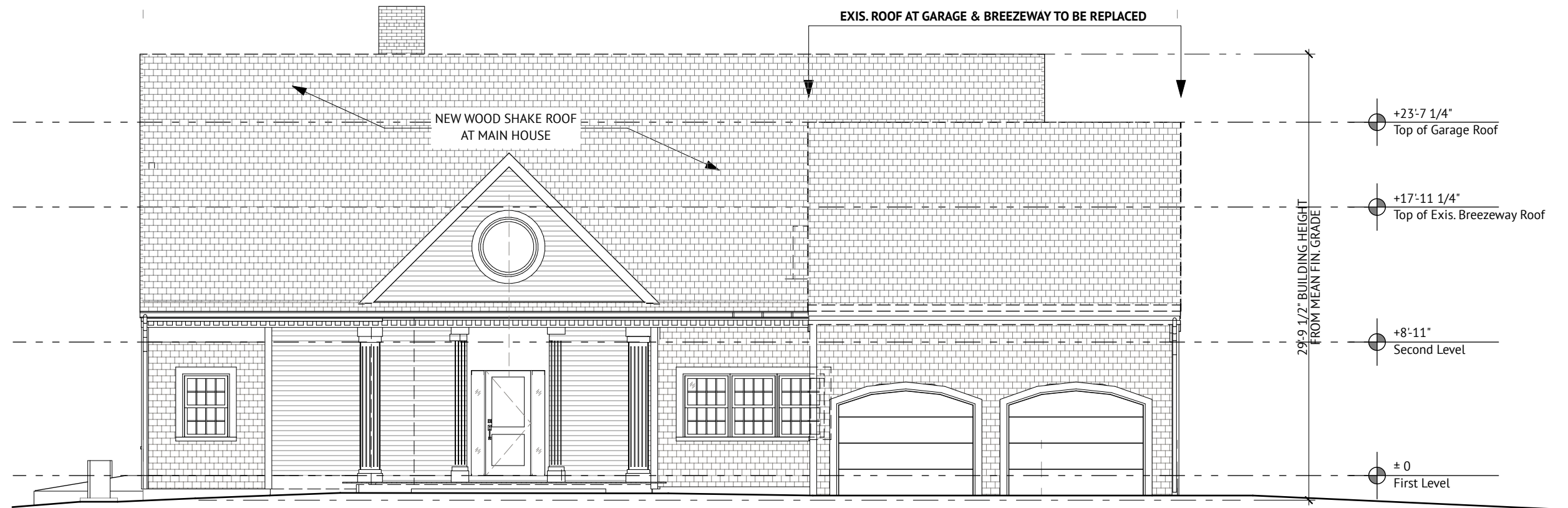


1 Proposed Roof Plan
SCALE: 1/8" = 1'-0"

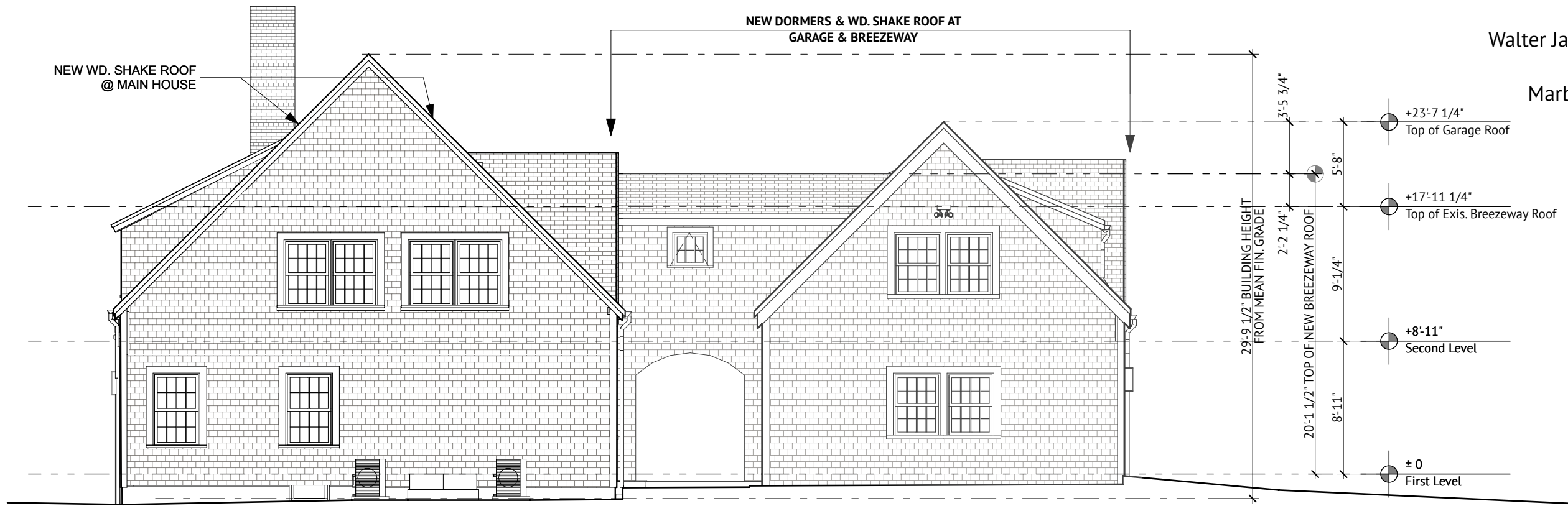
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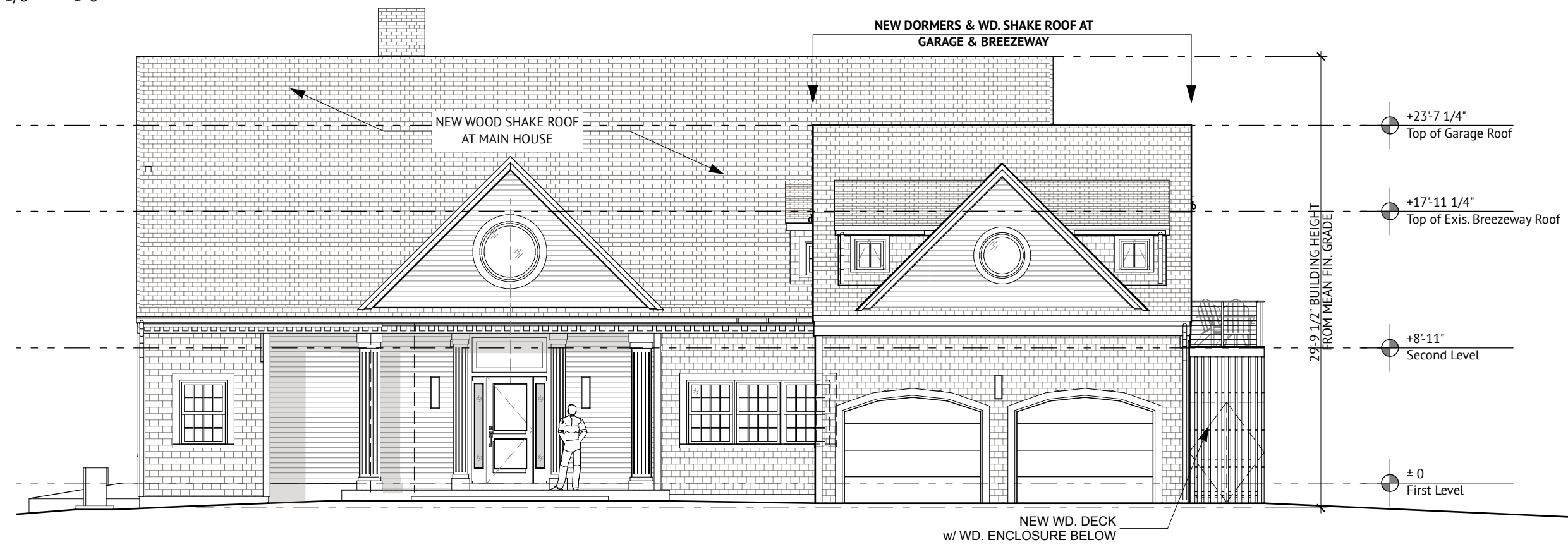
1 Existing East Elevation
SCALE: 1/8" = 1'-0"



2 Existing North Elevation
SCALE: 1/8" = 1'-0"



1 Proposed East Elevation
 SCALE: 1/8" = 1'-0"



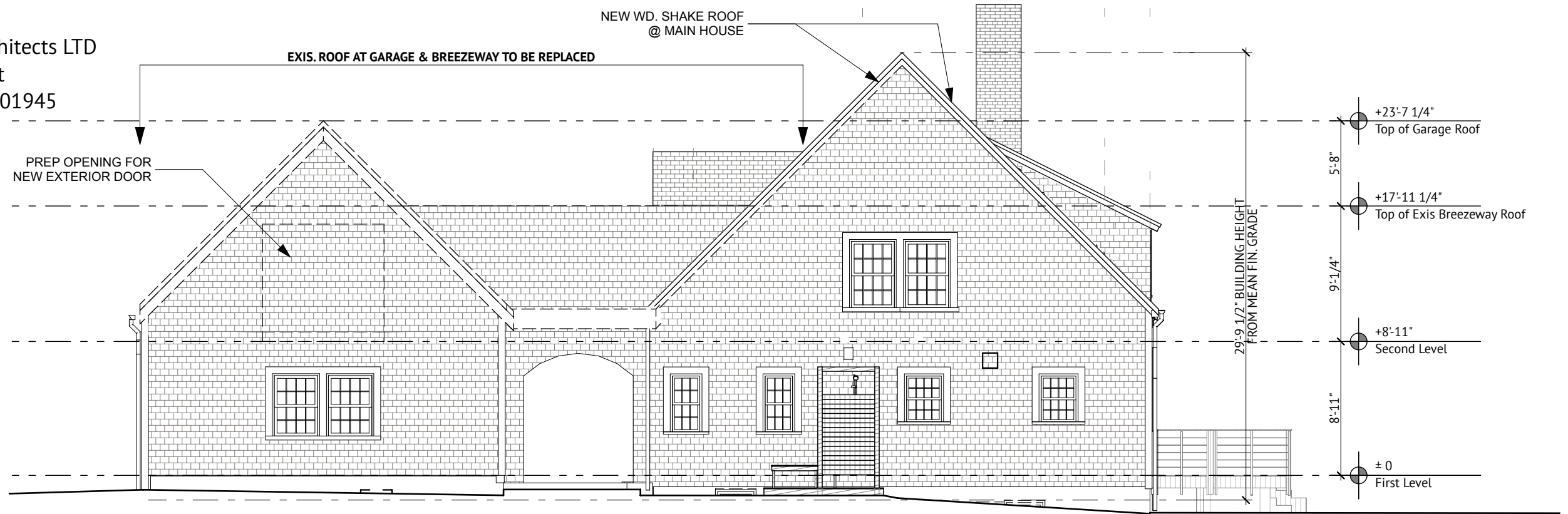
2 Proposed North Elevation
 SCALE: 1/8" = 1'-0"

Private Residence

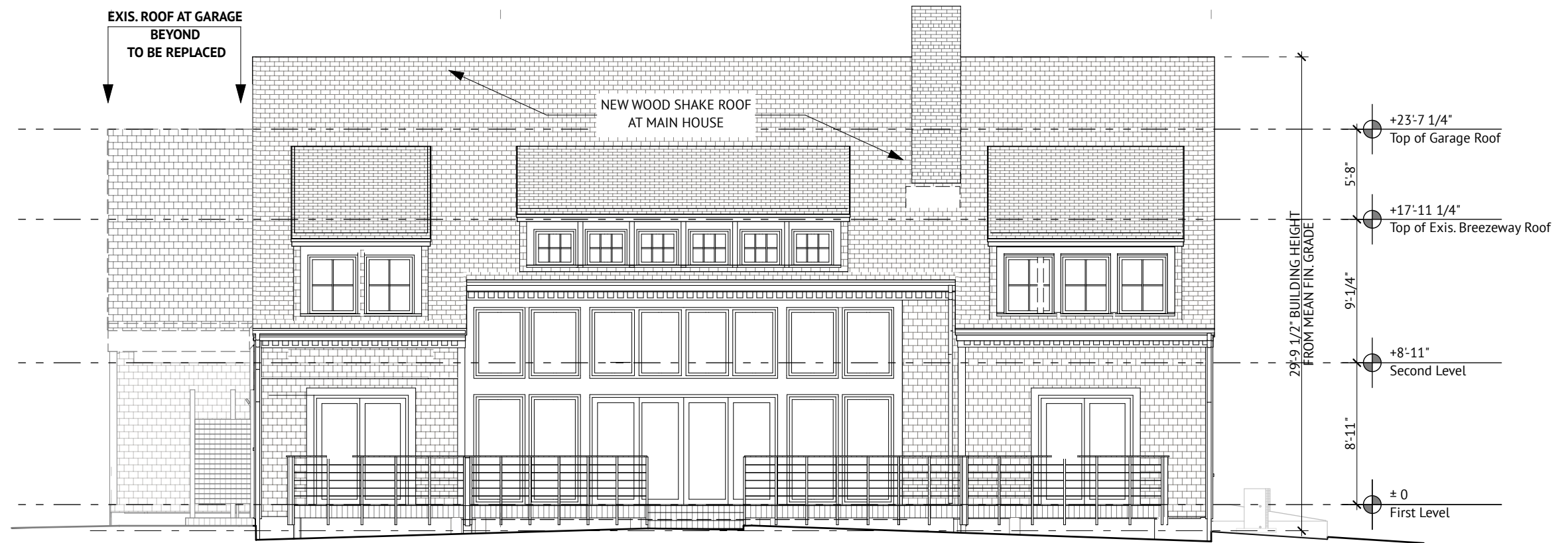
8 Shepherd's Quay, Brewster, MA 02631

01.03.23_8 Shepherds Quay.pln 4/16/23

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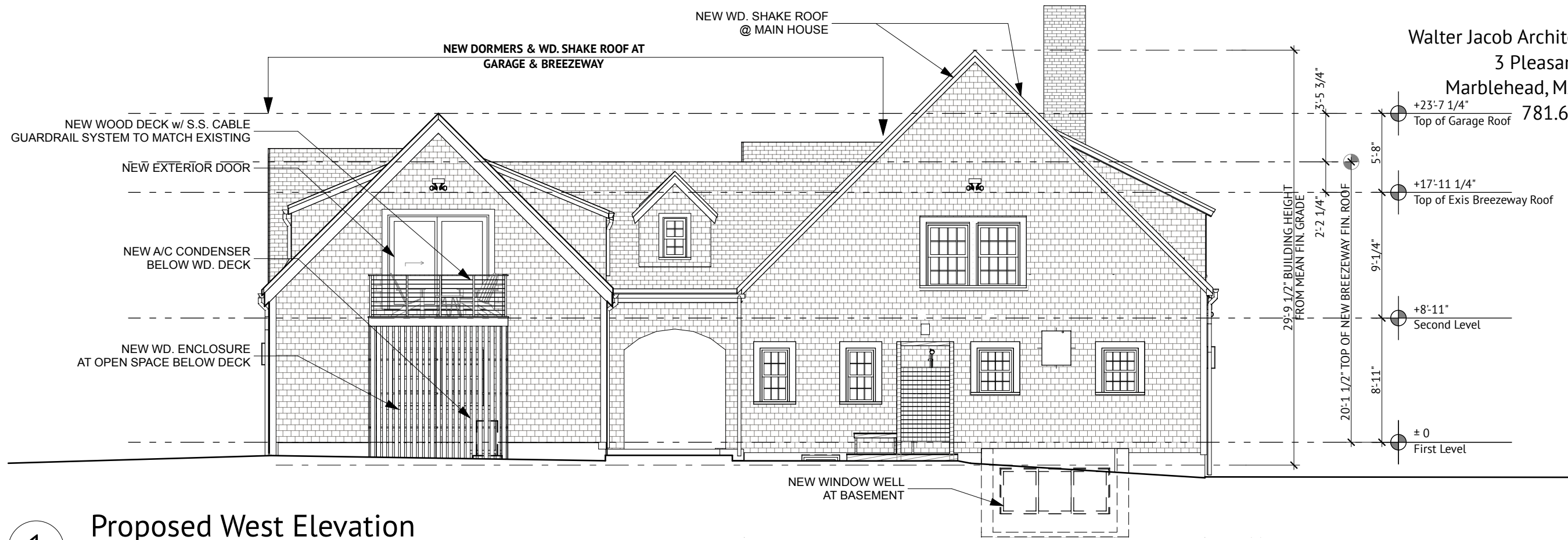
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SCALE: 1/8" = 1'-0"



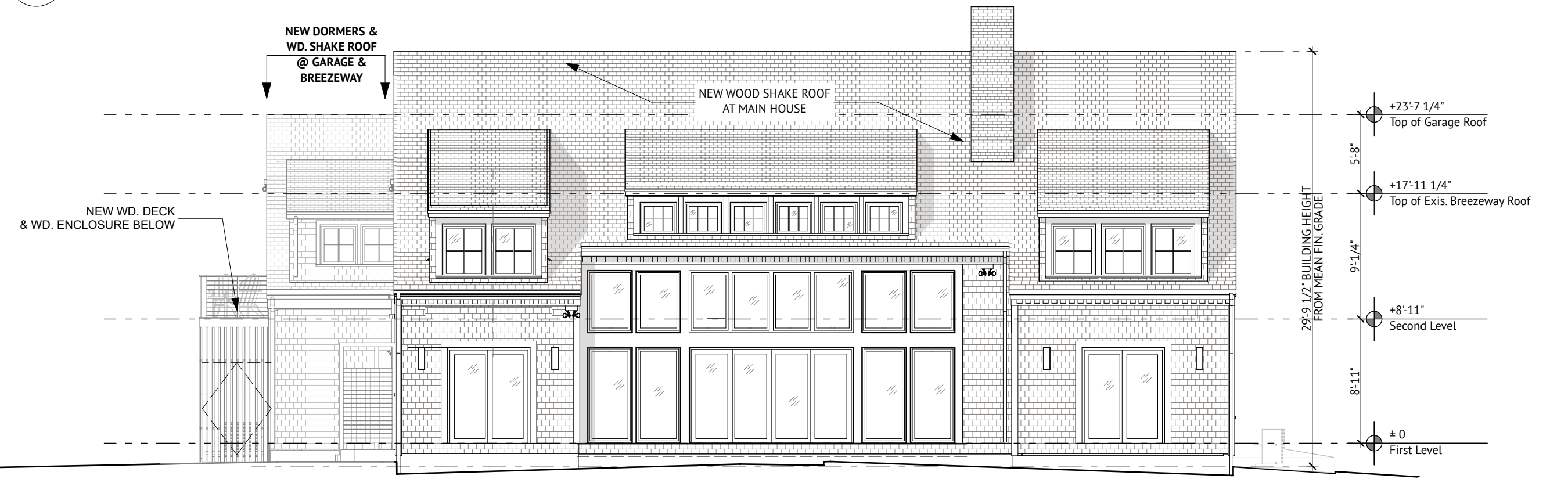
2 Existing South Elevation
SCALE: 1/8" = 1'-0"

8 Shepherd's Quay, Brewster, MA 02631

Private Residence



1 Proposed West Elevation
 SCALE: 1/8" = 1'-0"



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

Private Residence

8 Shepherd's Quay, Brewster, MA 02631

01.03.23_8 Shepherds Quay.pln 4/16/23



Brewster Zoning Board of Appeals

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

DEPARTMENT REVIEWS

Application #23-12

APPLICANT: Lea Anne Copenhefer
REPRESENTATIVE: Walter Jacob Architects, LTD.
MAP/LOT: Map 74, Lot 78
PROPERTY ADDRESS: 8 Shepherds Quay

Received from:

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

- The police dept has no comments to add at this time.


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

- The existing lot lies outside Zone II and outside the District of Critical Planning Concern, (DCPC).
- The existing four-bedroom dwelling is serviced by a 1997 Title 5 septic system on a 37,748 square foot lot.
- A Title 5 Septic Inspection Report is on file dated March 1, 2018.
- The proposed work will not add an increase to the existing septic flow and the proposed work will not encroach upon the existing septic components.
- The applicant will need to submit a Building Waiver Application for final approval by health.



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 74/78/0

