



Town of Marblehead Zoning Board of Appeals

2023 AUG -2 AM 10: 36

Town Clerk Stamp

APPEAL FORM (Appeal of the Building Commissioner's Action/Inaction Regarding Zoning Enforcement) With respect to the property at (address): Assessor Map Number: Parcel Number: Pursuant to Chapter 40A, §8 of the General Laws and Chapter 200-2-I of the Marblehead Zoning Bylaw and Section 7 of the Rules and Regulations of the Board of Zoning Appeals, I (we) respectfully appeal to the Board of Appeals the following action taken or not taken, or determination made, by the Building Commissioner and/or Local Inspector: (a) the failure to take a requested enforcement action. The written request for enforcement, the written response (if any), and a written statement specifying the grounds for this appeal are attached to this Form (b) the failure to issue a requested building permit. The application for the building permit, the written notice (if any) of the denial of the permit, and a written statement specifying the grounds for this appeal are attached to this Form. (c) an order or decision of the Building Commissioner and/or Local Inspector. The written order or decision (if any) and a written statement specifying the grounds for this appeal are attached to this Form. **Applicant Signature:** Applicant Name Printed: Applicant Phone Number: (Home) Form Complete: Town Engineer's Office:

Eng. Dept. - MaryAlley Municipal Building, 7 Widger Road, Marblehead, MA 01045
Phone: 781-631-1529
Fax: 781-631-2617

Revision Date: 9/22/2011

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Sean Regan 781.884.1612 seanr@amcondolaw.com Admitted in: MA

July 31, 2023

VIA EMAIL ONLY (townclerk@marblehead.org)

Robin A. Michaud, Town Clerk Abbot Hall 188 Washington Street Marblehead, MA 01945

RE: 7 Redstone Lane: Appeal of Denial of Zoning
Enforcement Request Pursuant to G.L. c. 40A § 15.

Dear Clerk Michaud:

This Firm represents Mark and Terry Medlinsky, residents of Marblehead living at 10 Redstone Lane, who seek to appeal the Interim Building Commissioner, Mr. Robert Ives' refusal to enforce the zoning laws of the Town of Marblehead, and the conditions of the Site Plan Special Permit for 7 Redstone Lane (Exhibit A). In accordance with the requirements of G.L. c. 40A sec. 8 and sec. 15, and § 200-2 of the Town of Marblehead Bylaws, this is intended to serve as notice of appeal to the Town Clerk in accordance therewith.

On June 12, 2023, the Medlinskys, through predecessor attorney, requested the Building Inspector enforce the conditions of the June 8, 2018, Site Plan Special Permit for 7 Redstone Lane as provided in the zoning laws of the Town of Marblehead. Correspondence with the Buildings Inspector's office regarding their potential enforcement of the conditions continued until June 30, 2023 (see letter and emails attached as **Exhibit B**). On July 27, 2023, since more than fourteen (14) days passed since the June 30, 2023 email and no further action commenced, this office followed up by email, pursuant to § 200-2, to request the building inspector "state any enforcement measures and any other action taken or state their refusal to act and the reasons for that refusal or determination," as required, so that we may seek redress with the Board of Appeals in accordance with the requirements of G.L. c. 40A sec. 8 and sec. 15 (email attached as **Exhibit C**). Receiving no response, we now seek to appeal the Building Commissioner's failure to act under § 200-2H and related General Laws to the Board of Appeals.

The owners of 7 Redstone Lane continue to violate the conditions of the Site Plan Special Permit. Those conditions which remain in violation are:

1. Any future plantings in this area (the northeast property line to the house) will be maintained at (eight foot) height;

ALLCOCK & MARCUS, LLC

10 Forbes Road, Suite 420W, Braintree, MA 02184

781.884.1660 | www.amcondolaw.com

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- 2. Along the northwest property line, the existing vegetation shall be trimmed and maintained at a height no greater than the present height of the hedge which is eight feet six inches (8' 6"). Any future plantings in this area will be maintained at this height; and
- "Site lighting will be controlled to keep light onsite to avoid light trespass on neighboring properties."

Pictures (attached as **Exhibit D**) show the vegetation over 8 feet tall at the northeast and northwest parts of the property, as the wall is six feet tall, and the property drops about three to four feet below the wall. Additionally, the attached photos show light trespassing from 7 Redstone through the bedroom windows of 10 Redstone.

Further, the original Application for a Special Permit and subsequent Zoning Board (**Exhibit E**) Decision on the same by the Town of Marblehead Board of Appeals describe the project as "certain additions and modifications to a pre-existing non-conforming single-family dwelling and a pre-existing non-conforming garage..." When in fact, at least 50% of the preexisting structure was not maintained, and therefore the applicant failed to acquire the correct Special Permit for a New Building, pursuant to the zoning bylaws. This application requires a higher level of scrutiny, and this failure brings the property out of compliance with the zoning requirements, and which a Court may require taken down.

Therefore, we are seeking:

- 1. The Zoning Board to state any enforcement measures to be taken or their refusal to act on the noncompliance with the requirements for additions to maintain 50% of the preexisting structure at 7 Redstone Lane;
- The streetlamp on the exterior wall and the "event lighting" throughout the property on poles, trees and rooftops at 7 Redstone all to be remove as they trespass on 10 Redstone;
- 3. The vegetation to be cut back as it blocks views and for that reason is restricted by the recorded limitations on the property.

Hopefully, the Zoning Board of Appeals will require compliance with the conditions of the Site Plan Special Permit for 7 Redstone Lane, as was originally permitted and the involvement of the Court system will not be necessary.

Please, advise if anything further is required to place this matter on the agenda of the Marblehead Zoning Board of Appeals.

Thank you for your attention to this matter.

Very truly yours,

ALLCOCK & MARCUS, LLC

Sean 7. Regan

Sean T. Regan

/str

Enclosures:

Exhibits A-E

cc:

Marblehead Zoning Board of Appeal c/o Town Engineer

Marblehead Building Department

Lisa Mead, Esq. Paul Lynch, Esq.

Edmund A. Allcock, Esq.





TOWN OF MARBLEHEAD PLANNING BOARD SITE PLAN SPECIAL PERMIT APPROVAL DECISION

Project Address: 7 Redstone Lane, Marblehead, MA

Map: 113 Parcel: 16

Applicant: Laurance R. Clark and Ann D. Clark

Date: June 8, 2018

On April 10, 2018 and May 29, 2018 the Marblehead Planning Board held a hearing on an Application for a Site Plan Special Permit pursuant to Site Plan Approval Special Permit Section 200-37 of the Marblehead Zoning Bylaw wherein the Applicants requested approval for the issuance of a site plan approval special permit for the construction of additions to a new single family structure and accessory building.

The public hearing was opened on April 10, 2018 and had been advertised in the Marblehead Reporter on March 22 and 29, 2018 and duly posted at the office of the Town Clerk. Evidence was taken and the hearing was continued until May 29, 2018. At this meeting of the Planning Board voted (5-0) Leverone, Hyte, Ferrante, Nilsson and Schaeffner, in favor to approve the Application as complying with the requirements for the issuance of a Special Permit subject to the conditions listed in this Decision.

The Planning Board reviewed the plans and other submission material. Throughout its deliberations, the Planning Board has considered the statements of the Applicants and their representatives and any comment made at the public hearing or received and read into the record.

I. Findings

- 1. The Application for a Site Plan Special Permit Approval requests permission to construct additions to a new single family structure and existing accessory structure at 7 Redstone Lane.
- The subject property is located at 7 Redstone Lane, as shown on Assessor Map 113 Parcel, and consists of approximately 18,200 sq. ft. of lot area.
- The subject property has 70.24 feet of frontage on Redstone Lane.
 The property is located within a shoreline general residence district.
- 5. The property consists of the following structures: Single-family dwelling and two detached garages.

EXHIBIT A

II. Special Permit Criteria

Section 200-3 7. Basic Standards for Special Permit for Site Plan Approval Planning Board

The Planning Board shall make its Decision regarding the Special Permit after considering the following criteria standards:

(1) The general purpose and intent of this Bylaw;

(2) Compliance with the technical requirements of this section; and to the extent that the criteria listed below are affected, and applicability with all federal, state and local laws including the By-Laws of the Town of Marblehead. To the maximum extent feasible, whether the following standards are met:

The architectural and design features are in harmony with the prevailing character and scale of buildings in the neighborhood and Town (such as but not limited to: building materials, screening, breaks in roof and wall lines, adequate light, air,

circulation and separation between buildings).

The character of the site is preserved (such as but not limited to: protection of (b) historical and natural resources and existing terrain, minimization of grade

changes, tree and soil removal).

Vehicular and pedestrian movement within the site are convenient and safe (such (c) as but not limited to: traffic patterns, circulation, and location of driveway openings, parking, loading, access by emergency vehicles, and visibility of and identity of street address numbers).

External emissions from the site are minimized or eliminated (such as but not (d) limited to: erosion, surface water runoff, pollution, sewage, disposal of refuse,

odors, noise, glare, light and any other environmental impacts).

The adverse effects on abutting lots, the immediate neighborhood and the Town of Marblehead are minimized including (such as but not limited to: conflicts between residential, commercial and industrial uses, obstructions of views, increases in use of Town services and impact on Town infrastructure).

III. Specific Findings

- 1. The building as originally proposed was altered through the Planning board process in order to attempt to minimize the negative effects on the neighboring properties and form the harbor.
- 2. The proposed lot and proposed construction does not meet the Dimensional Regulations of the By-Laws. A special permit from the board of appeals was obtained for dimensional relief.
- 3. The location and design of the new structure will result in minimum grade change and disruption of any natural resources.
- 4. The new structure is in character with the style of other houses in the immediate area.

5. The use of the building will not change.

6. The plan utilizes the existing driveway openings

7. The use and construction of the new building will not result in any external emissions or environmental impacts.

IV. Specific Conditions of Decision

As specified in Section 200-37. Conditions for Special Permit for Site Plan Approval, the Planning Board grants this Site Plan Approval Special Permit in accordance with the following conditions:

1. Subject to the Conditions contained herein, the Project shall be substantially constructed in accordance with the Record Plans, as listed below. Any proposed change to the Project, whether major or minor, shall be submitted to the planning board for approval.

Record Plans

- Architectural plans entitled Clark Residence 7 Redstone Lane Marblehead MA"
 Prepared by Bosworth Architect LLC of Marblehead MA dated February 6, 2018 and revised April 10, 2018. Sheets A-1 through A-7
- Site Plan proposed Scope of Work 7 Redstone Lane Scale 1"=10' dated February 14, 2018 Prepared by Patrowicz Land Development Engineering, Salem MA
- Sheet 1 of 1

Construction Practices.

All Construction shall be carried out in accordance with the following Conditions:

- a. No work shall commence before 7:00 AM. No work shall be conducted after 5:00 PM. Commencement of work includes the start of machinery including trucks. No work shall be conducted on Sundays or holidays. No work shall commence before 8:00 AM on Saturdays. Inside work of a quiet nature may be permitted at other times.
- All reasonable action shall be taken to minimize the negative effects of construction on abutters.
- c. All construction vehicles shall be cleaned prior to leaving the site so that they do not leave dirt or debris on roadways as they leave the site.
- d. Clean up all dirt and debris deposited on public ways and damage by vehicles leaving the site shall be the responsibility of the Applicants, their successors or assigns. This shall include street sweeping.
- e. Construction vehicles will park on site as much as practical
 - f. eight feet (8'). Any future plantings in this area (the northeast property line to the house) will be maintained at that height.
 - g. Along the northwest property line, the existing vegetation shall be trimmed and maintained at a height no greater than the present height of the hedge which is eight feet six inches (8'-6"). Any future plantings in this area will be maintained at this height.

2. Lighting

Site lighting will be controlled to keep light onsite to avoid light trespass on neighboring properties.

3. Violations:

- a. Violation of any Conditions may result in revocation of this permit by the Planning Board.
- b. Violation of any condition under this Permit may result in the issuance of a cease and desist order by the Building Commission or the Police Department.
- c. This Special Permit shall not take effect until a copy of this Decision bearing the Certification of the Town Clerk that twenty (20) days have elapsed after the Decision has been filed in the office of the Town Clerk and no appeal has been filed or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Southern Essex Registry of Deeds and is indexed in the grantor index under the name of the owner of record and noted on the owner's Certificate of Title. The fee for recording or registry shall be paid by the owner Applicants.

Marbhehead Planning Board

By: Rebecca Curran Cutting, Town Planner

I hereby certify that twenty days have elapsed since this decision has been filed in the office of the Town Clerk and no appeal has been filed.

Robin A. Michaud

Town Clerk-Marbiehead

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EXHIBIT B

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COUNSELLORS AT LAW

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June 12, 2023

Mr. John Albright-Superintendent of Buildings Mr. Robert Ives- Interim Building Commissioner Mary Alley Municipal Building Building Department 7 Widger Road Marblehead, MA 01945

Re: Violations of Special Permit conditions:

Dear Superintendent Albright and Commissioner Ives:

I am counsel to Mark and Terry Medlinsky, residents of Marblehead living at 10 Redstone Lane. This letter is a request in writing sent pursuant to the provisions of G.L. c. 40A § 7 asking that you enforce three specific requirements that the Planning Board included as conditions of its grant of a Site Plan Special Permit for 7 Redstone Lane, a property located across the street from my clients. (Copy of Special Permit of June 8, 2018 attached)

That Special Permit was granted in connection with a major construction project proposed by 7 Redstone Lane's owners. The grant required that the Board make affirmative findings under (what is now) Section 200-38 (C) of the Town's zoning bylaws. The "criteria standards" for approval of the Special Permit relevant to this enforcement request required that the Planning Board determine 1) that external emissions from the site be minimized including, which emissions specifically include glare and light (§ 38 (C)(3)(d)), and 2) that the adverse effect on abutting lots be minimized including by preventing obstructions of views. (§ 38 (C)(3)(e)).

In order to assure that the proposed project complied with those criteria the Board specifically made its grant "subject to the conditions listed in this Decision." After listing several construction conditions the Board's decision included several ongoing limitations clearly aimed at minimizing discomfort to the neighborhood. Three of those conditions were objective, measurable requirements that the owners of 7 Redstone Lane have not only ignored but frankly flaunted:

¹ The Decision cites Section 200-37 and phrases the findings somewhat differently.

1. Any future plantings in this area (the northeast property line to the house) will be maintained at (eight foot) height;"

 Along the northwest property line, the existing vegetation shall be trimmed and maintained at a height no greater than the present height of the hedge which is eight feet six inches (8'-6"). Any future plantings in this area will be maintained at this height;" and

3. "Site lighting will be controlled to keep light onsite to avoid light trespass on neighboring

properties."

Photographs included with this notice demonstrate that none of those conditions are being met. Multiple plantings are substantially above the height limitations set forth in the Decision. As a result my clients' historic harbor views are impaired growing toward eliminated.

More consistently intrusive, the property's owners have installed a garish LED lamp atop the wall adjacent to their gate and for no apparent reason they leave it burning all night long. This light trespasses on the Medlinsky's home at all levels and is a particular problem in that it lights up their bedroom. (See photos enclosed) Compounding that nuisance, the Medlinskys attempt to solve the issue directly with their neighbors led to what appears to have been a vindictive weeklong warning that all-night "event lighting" wrapped around multiple poles in the yard at 7 Redstone Lane are available at the flip of a switch and can be used to make things even more uncomfortable for them. (See ____th photograph)

These circumstances unquestionably violate the specific conditions of the Special Permit. The permit provides that "Violation of any condition under this permit may result in the issuance of a cease and desist order by the Building Commission (sic) or the Police Department." We seek such an order or your intervention to otherwise bring the property into compliance. I will note in this regard that prior to seeking your involvement, I wrote to Mr. and Mrs. Clark asking for some consideration of their neighbors and noting that nothing necessary to come into compliance was particularly difficult or expensive to achieve. They neither responded nor made any attempt to come into compliance. Regrettably, this route is what is left.

Please enforce the conditions as written. In the event you decline to act, please provide notice of your decision within the fourteen (14) days required by the statute.

Thank you for your consideration of these issues.

Very truly yours,

David L. Klebanoff

Cc: Lisa Mead, Esq.



FW: 7 Redstone Lane

David Klebanoff <dklebanoff@gilmac.com>
To: Mark Medlinsky <carrollrealtymgmt@gmail.com>
Co: Josh Klebanoff <jklebanoff@gilmac.com>

Fri, Jun 30, 2023 at 11:11 AM

Here is the update. They seem to be trying to help.

Have a nice holiday weekend.

From: John Albright <albrightj@marblehead.org>

Sent: Friday, June 30, 2023 10:49 AM

To: David Klebanoff <dklebanoff@gilmac.com>

Cc: Bob Ives <ivesb@marblehead.org>; Andrea Flaxer <flaxera@marblehead.org>

Subject: RE: 7 Redstone Lane

Good morning, David.

I've spoken twice with Paul – phone and personally. He's notified the Clarks via email that our office is engaged, seeking a quick resolution to the lighting issue and that we're requesting a visit the site to measure plantings.

I doubt we'll hear anything until the end of next week.

I will keep you posted.

Thanks, have a safe, relaxing holiday weekend.

John

From: David Klebanoff <dklebanoff@qilmac.com>

Sent: Friday, June 30, 2023 10:20 AM

To: John Albright <albrightj@marblehead.org>

Cc: Bob Ives <ivesb@marblehead.org>; Andrea Flaxer <flaxera@marblehead.org>

Subject: RE: 7 Redstone Lane

John

EXHIBIT C

From:

Sean Regan

To:

albrightj@rnarblehead.org; ivesb@marblehead.org; flaxera@marblehead.org

Cc:

build@marblehead.org; Edmund Allcock; lisa@mtclawyers.com

Subject:

7 Redstone Lane Enforcement of Violation to Special Permit Conditions

Date:

Thursday, July 27, 2023 11:30:00 AM

Attachments:

image003.png

Medlinsky Letter 6.12.2023.pdf

Good afternoon,

This office now represents Mark and Terry Medlinsky, residents of Marblehead at 10 Redstone Lane.

We write in follow up to the attached letter sent pursuant to G.L. c. 40A sec. 7, from their previous counsel, which request in writing that you enforce requirements that the Planning Board included as conditions of a Special Permit for 7 Redstone Lane.

As more than 14 days have now passed, we are now requesting the Building Commissioner respond, in writing, and state any enforcement measures and any other action taken or state a refusal to act and the reasons for that refusal or determination, as required under Marblehead Zoning Bylaw - Enforcement 200-2; H - Appeals to Board of Appeals, so that we may seek proper redress in accordance with the requirements of G.L. c. 40A sec. 8 and sec. 15.

Please let me know if you need any additional information or would like to discuss further.

Thank you, Sean



Sean Regan Partner



Braintree, MA 02184 Phone: 781.884.1660 Direct: 781.884.1612 Email: seanr@amcondolaw.com www.amcondolaw.com

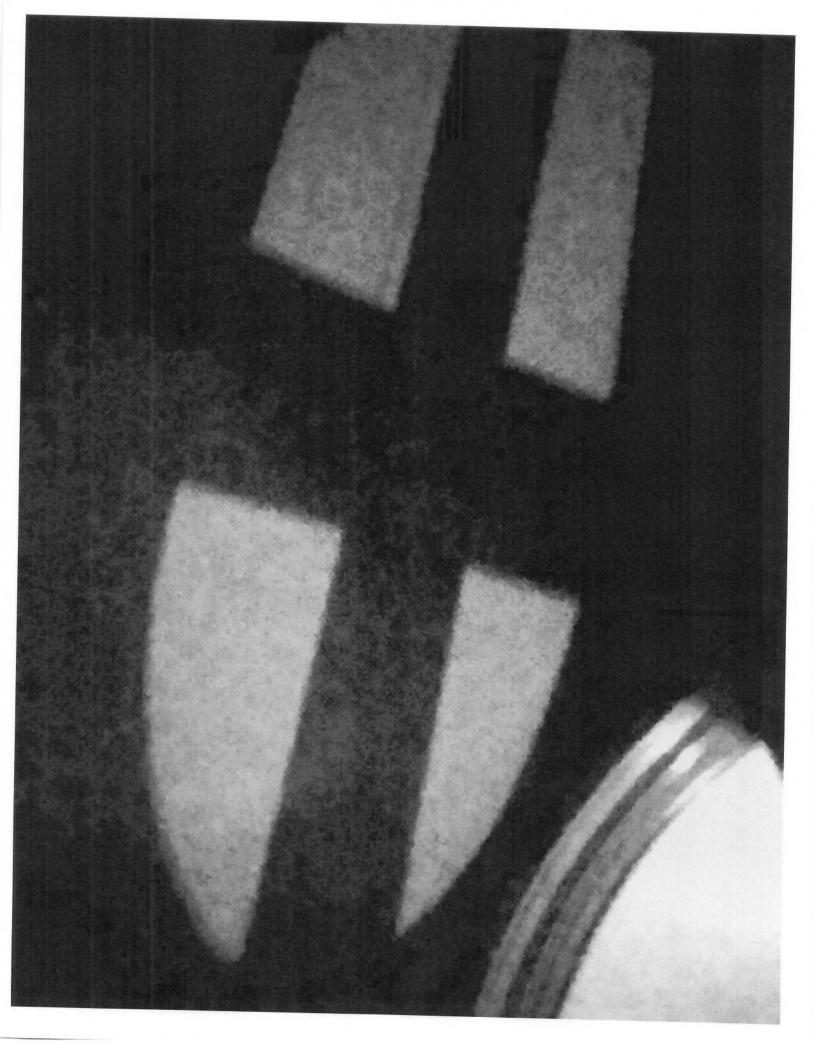




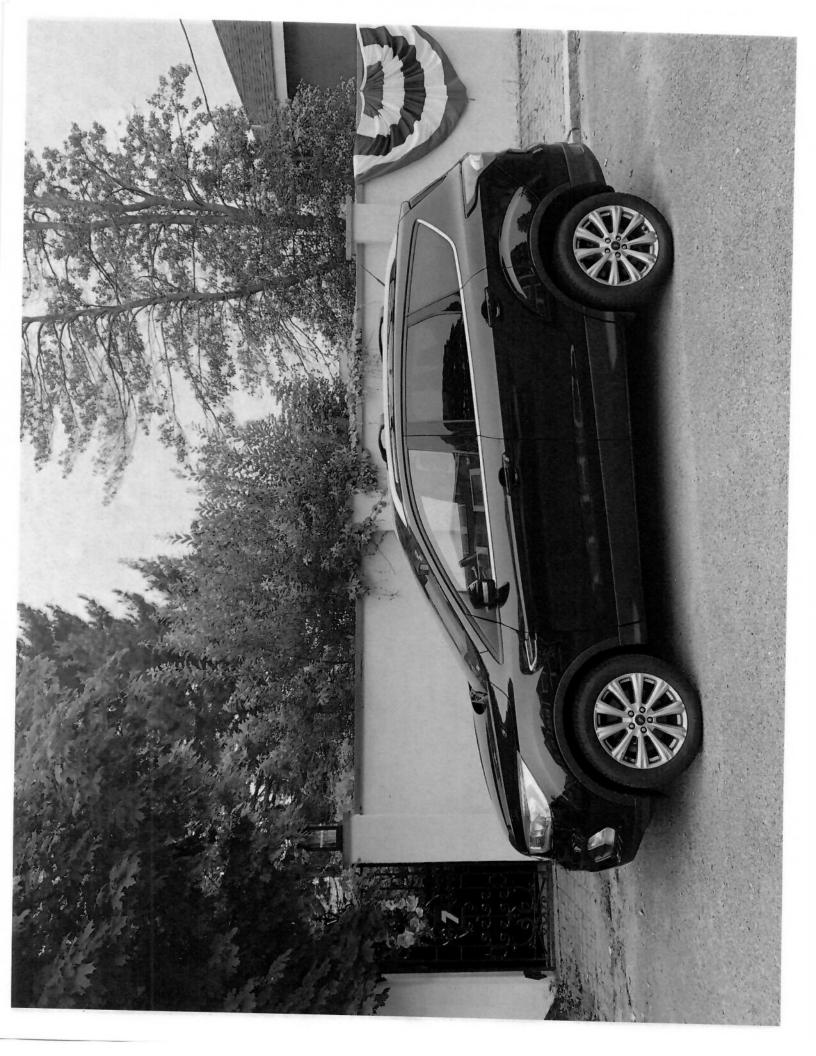
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EXHIBIT D







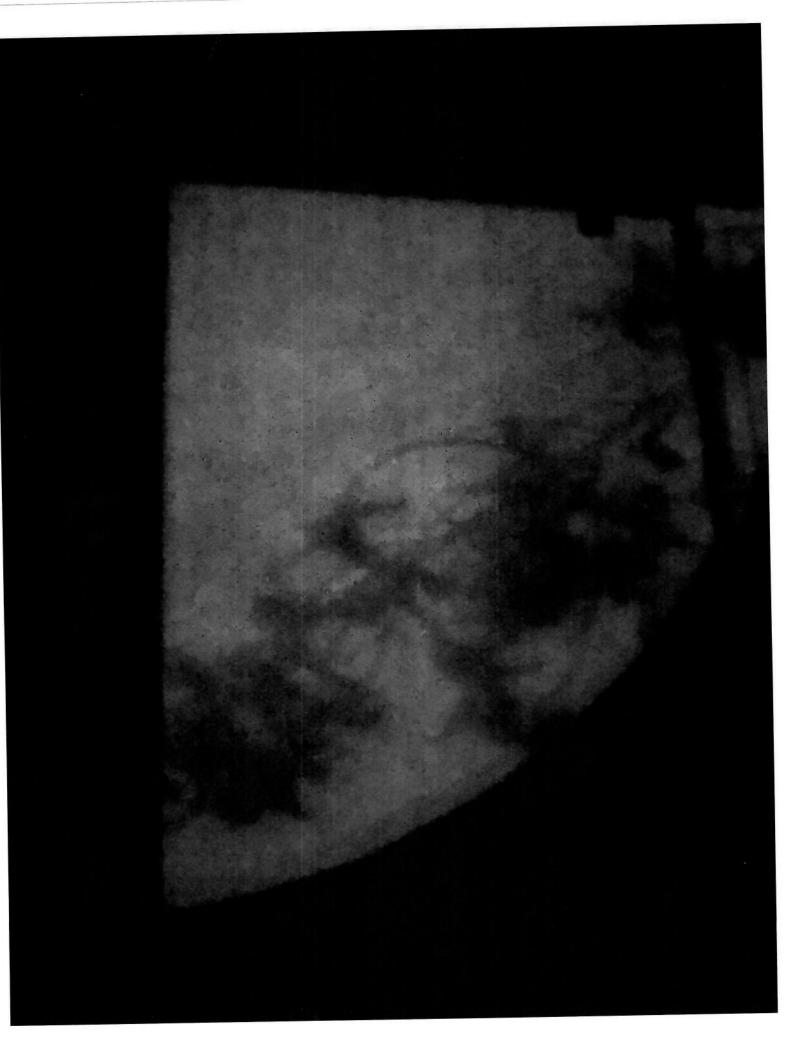














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McCann & McCann, P.C. 89 Newbury Street Suite 302 Danvers, MA 01923



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TOWN OF MARBLEHEAD DECISION OF THE BOARD OF APPEALS

10

Application of
Laurance R. Clark and Anne D. Clark
For a Special Permit
7 Redstone Lane
Marblehead, MA

Report of Facts, Findings, and Decision of the Board of Appeals on the petition of:

Laurance R. Clark and Anne D. Clark

(collectively the "Petitioner")

TITLE REFERENCE Essex South District Registry of Deeds, Book 36288, Page 24

requesting a Special Permit under the Zoning By-Laws approving certain additions and modifications to a pre-existing non-conforming single-family dwelling and a pre-existing non-conforming garage that have less than the required Side Yard Set Back, Rear Yard Set Back, exceed the maximum allowed Height and are set back more than twice the required frontage of the Lot, on a conforming lot. The additions will result in an increase to the Gross Floor Area by more than ten (10%) percent, will increase the nonconforming Height and will be constructed partially within the Side Yard Set Back and Rear Yard Set Back on the property located at 7 REDSTONE. LANE in the SHORELINE GENERAL RESIDENCE DISTRICT.

All statutory requirements relating to publication and notice were duly complied with including timely publication in the Marblehead Reporter, a local newspaper. Notice to all persons deemed by the Board to be affected by the petition, as required by Section 17 of Chapter 40A of the General

Laws of the Commonwealth and the provisions of the Marblehead Zoning By-Laws, was given. The Petitioner was represented by counsel, Robert C. McCann, McCann & McCann, P.C., 89 Newbury Street, Suite 302, Danvers, MA 01923 and Architect Craig Bosworth, Bosworth Architect L.L.C., 78 Front Street, Marblehead, MA 01945.

The Public Hearing was called to order at or after 7:30 PM in the Selectmen's Room, Town Hall, 188 Washington Street, Town of Marblehead on May 22, 2018. The Board Members present and sitting on the hearing were:

> Chairman: Members:

William R. Moriarty Christopher T. Casey Leon W. Drachman William Lewis Barlow IV Benjamin LaBrecque

The following documents were filed with the Petition and constitute a part of the permanent record

The Survey entitled "ZONING BOARD OF APPEALS PLAN, 7 REDSTONE LANE, MARBLEHEAD", Property of Laurance and Anne Clark, having a Scale 1" = 20', dated February 12, 2018, drawn by North Shore Survey Corporation, 14 Brown Street, Salem,

Architectural Plans and Renderings prepared by Architect Craig Bosworth, Bosworth Architect L.L.C., dated February 6, 2018 consisting of the following:

C COVER SHEET EX1

EXISTING BASEMENT FLOOR PLANS EX2

EXISTING FIRST FLOOR PLANS EX3

EXISTING SECOND FLOOR PLANS EX4

EXISTING EXTERIOR ELEVATIONS EX5

EXISTING EXTERIOR ELEVATIONS EX6

EXISTING EXTERIOR ELEVATIONS EX7

EXISTING EXTERIOR ELEVATIONS A1 PROPOSED BASEMENT FLOOR PLANS

A2 PROPOSED FIRST FLOOR PLANS

A3 PROPOSED SECOND FLOOR PLANS A4

PROPOSED EXTERIOR ELEVATIONS A5

PROPOSED EXTERIOR ELEVATIONS A6

PROPOSED EXTERIOR ELEVATIONS A7 PROPOSED EXTERIOR ELEVATIONS

Also submitted at the hearing and made a part of the record, were:

- Updated plans reflecting changes requested by the Planning Board to the roof line between the dwelling and the detached, but to be attached, garage as described below;
- Updated Open Space Ratio calculations
- A copy of the Marblehead GIS Map colored to show the abutters in support of the Application together with their respective signatures or support;
- A colored copy of the side elevation demonstrating that the Height is driven primarily by the topography and a large depression on the Side Yard which increases the Height from approximately 30 feet (measuring from the lowest point to the ridge line);
- · Various pictures of the existing structure.

The Petitioner explained the petition as follows:

The property is located in a Shoreline General District and contains the main dwelling and two detached garages. The Lot has 18,200 Square Feet of land in a Zoning District which requires only 7,500 square feet. The existing dwelling and associated lower garage exceed the maximum allowed Front Yard Set Back and do not meet the Side Yard Set Back or Rear Yard Set Back. The main dwelling exceeds the maximum allowed Height. The proposed construction is for the renovation of the existing dwelling and lower garage and the connection of the lower garage to the house. The existing garage at the street does not meet the Front or Right Side Set Back requirements of the By-Law and is being renovated only. The new non-conformities will be construction in the Right Side Set Back, Rear Yard Set Back and an increase in Height above the maximum allowed Height. The dimensional changes are:

	Required	Existing	Proposed
Lot			
Area	7500	18200	18200
Lot Width			
Frontage	50	70.24	70.24
Front Set Back	20	99	99
Side Set Back - right	11	2.5	4.5
Side Set Back - left	11	5.2	5.2
Rear Set Back	15	2	13
Height	30	41.2	43.7

The Petitioner explained that the Height dimensional request is being made based upon the topography of the land. On the Side Line Set Back there is an extreme depression which increases the Height from approximately 30 feet (measuring from the lowest point to the ridge line). Because of this depression the Height, as viewed from the overall land elevation excluding the depression, would be approximately 30 feet. However, because of the depression, it will measure 43.7 feet.

There is a proposed increase in Height from 41.2 feet to 43.7 feet, or 2.5 feet. This is being requested so that the roof may be properly pitched to have shingles, and partially to accommodate the headroom on the existing dwelling and the addition.

The Petitioner confirmed that the property had been through the Conservation Commission and that with the exception of a small bump out on the harbor side deck which was above the Resource Area, and which at the request of the Commission was removed from the plans filed with the Board, the Commission approved the project and issued an Order of Conditions. The property still requires a Site Plan Special Permit for Approval from the Planning Board. Because of the Town Meeting and the delay of the Planning Board meeting, the Town Planner confirmed with the Board that the Zoning meeting may precede final action by the Planning Board. It was explained that at the first hearing before the Planning Board there were questions raised regarding the connection between the lower garage and the main dwelling, and the Planning Board requested that plans be changed in order to break up the long, straight wall. The plans on file with the Board reflect that change.

NOTE: Subsequent to the hearing, the Planning Board did hold the follow up hearing on May 29, 2018 and approved the redesign unanimously.

An updated Open Space Ratio Sheet was submitted at the hearing which recalculated the area of the structures which changed as a result of the Planning Board suggestion for a roof line change. The Open Space Ratio after all construction will be 1.307: 1.00, in excess of the required Open Space Ratio.

The abutters who signed in favor of the Application were:

Webbs at 3 Redstone Lane Millett at 4 Redstone Lane Muthian at 5 Redstone Lane Askill at 6 Redstone Lane Boal/Willis at 9 Redstone Lane Medlinsky at 10 Redstone Lane

The Architect, Craig Bosworth, then detailed the entire project on a plan sheet by sheet basis. During this presentation, Board Member Leon W. Drachman raised the same concern as the Planning Board on the connection of the lower garage to the main dwelling, a concern which resulted in his voting against the project. All other Members of the Board voted in favor.

After the Petitioner's presentation, the Board opened the hearing to the general public for comment. No one spoke either in favor or in opposition.

Thereafter, upon motion duly made and seconded, the Board voted to close the public comment portion of the hearing. After discussion amongst the Board Members, the Board made the following findings and decision:

Findings of the Board

By voting positively on the Application and granting the requested Special Permit, the Board made the following determinations and findings:

- That all statutory requirements relating to publication and notice were duly complied with.
- That all submitted plans and specifications meet the requirements of the Rules and Regulations of the Board.
- 3. That based upon the plans and specifications, and the information presented to the Board, the criteria set forth in ARTICLE IX, § 200-36B of the Marblehead Zoning By-Laws, consisting of the following, have been satisfied:
 - a. The general purposes and intent of the By-Law are met; and
 - b. The specific site is an appropriate location for such use or building; and
 - c. The use as developed will not adversely affect the neighborhood; and,
 - d. There will be no nuisance or serious hazard to vehicles or pedestrians; and
 - e. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

Decision

Whereupon the Board, after discussion and comments that the project met the Special Permit criteria, voted: To grant a Special Permit with the following conditions:

- This Special Permit is issued on the condition that there shall be no construction at any time following the vote of the Board of Appeals which either differs from the construction set forth on the drawings approved and stamped by the Board of Appeals by that vote, or which is inconsistent with this Decision and these conditions, without the Petitioner obtaining prior written approval from the Board of Appeals for such construction.
- This Special Permit is issued on the condition that no demolition, building or occupancy permit, whether temporary, conditional or permanent, shall issue for the proposed work approved by this Decision unless and until a copy of this six (6) page Decision, in its entirety, and not merely the conditions, bearing the certification of the Town Clerk that twenty (20) days have elapsed after the Decision has been filed in the office of the Town Clerk and either that no appeal has been filed, or that an appeal has been filed within such time, has been recorded in the Essex South District Registry of Deeds and indexed in the Grantor Index under the name of the owner of record or is filed for registration, if the land is registered, and noted on the Owner's Certificate of Title, all as required by Massachusetts General Laws Chapter 40A. The application for and/or issuance of

any such permit prior to the recording of the endorsed copy of this Decision shall render the Special Permit granted herein null and void.

- This Special Permit is issued on the condition that no Certificate of Occupancy shall be issued by the office of the Building Inspector if any of the construction either differs from the construction set forth on the drawings approved and stamped by the Board of Appeals by that vote, or which is inconsistent with this Decision and these conditions, without the Petitioner obtaining prior written approval from the Board of Appeals for such construction.
- If the Petitioner shall exercise any rights of construction under a duly appealed Special Permit such rights shall be at the Petitioner's sole risk that a court will reverse the Special Permit and that any construction performed under the Special Permit may be ordered undone.
- The Petitioner shall comply with the conditions of the Conservation Commission and the Planning Board.

The votes by the Board Members granting the Special Permit were:

Chairman: Members:	William R. Moriarty Christopher T. Casey Leon W. Drachman William Lewis Barlow IV		YES YES NO YES
	Benjamin LaBrecque	-	YES

The hearing adjourned at approximately 8:15 PM

BOARD OF APPEALS TOWN OF MARBLEHEAD

By: William R. Moriarty

Decision filed with Town Clerk______, on ______at ____

LS :OI HY & - MIN CLASS

AD TO



TOWN SEAL tel: 781-631-1529

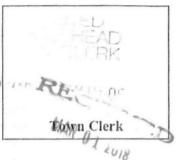
fax: 781-631-2617 Revision Date: 12-14-15

Town of Marblehead ZONING BOARD OF APPEALS

Mary A. Alley Municipal Building 7 Widger Road, Marblehead, MA 01945

ZBA APPLICATION

PAGE 1 of 3



Project Address 7 Redstone Lane, Marblehead	. MA 01945
Assessor Map(s) 113 Parcel Number(
OWNER INFORMATION Signature	date March 1, 2018
Name (printed) Laurance R. Clark and Anne D. C	lark
Address 79 Pleasant Street, Marblehead, MA 0	
Phone Numbers: home 617-312-5602	work
E-mail laurance.r.clark@morganstanley.com	fax
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	(if different from owner)
Signature Japan Miller	date March 1, 2018
Name (printed) Robert C. McCann, Esq. McCann	& McCann, P.C.
Address 89 Newbury Street - Suite 302, Danve	
Phone Numbers: home	work 978-739-8484
E-mail rmccann@mccannlaw.com	fax 978-739-8455
SEE ATTACHED	
Please schedule a Zoning / Application review with the Build.	ing Department by calling 781-631-2220.
 Obtain the Town Clerk's stamp and submit 12 copies of each the signed and stamped application (3 pages); current survey plan (not older than 90 days) as prepare the project design plans as required; check for the applicable fee payable to the Town of M 	of the following to the Town Engineer's Office: red by a Registered Professional Land Surveyor;
· Any relevant permit(s) that were previously issued must be av	ailable for review by the Board of Appeals at the
scheduled hearing. (Section 3(D), Board of Zoning Appeals Ru <u>REQUIRED SIGNAT</u>	Reviewed by
1. Building Commissioner (pages 1, 2 and 3)	Of Appeals
2. Town Clerk's stamp (upper right corner)	0/
View Bylaws - (Chapter 200, Zoning) - online a	t: www.marblehead.org/

PROJECT DESCRIPTION AND RELIEF REQUESTED

7 Redstone Lane, Marblehead, MA

The Applicants request that the Board of Appeals issue a Special Permit under the Zoning By-Laws approving certain additions and modifications to a pre-existing non-conforming single-family dwelling and a pre-existing non-conforming garage that have less than the required Side Yard Set Back, Rear Yard Set Back, exceed the maximum allowed Height and are set back more than twice the required frontage of the Lot, on a conforming lot. The additions will result in an increase to the Gross Floor Area by more than ten (10%) percent, will increase the nonconforming Height and will be constructed partially within the Side Yard Set Back and Rear Yard Set Back on the property located at 7 REDSTONE LANE in the SHORELINE GENERAL RESIDENCE DISTRICT.

For details of the proposed construction see letter of Bosworth Architect L.L.C. attached.



February 13, 2018

Planning Board & Zoning Board of Appeals Mary A. Alley Municipal Building 7 Widger Road Mablehead, MA. 01945

RE: 7 Redstone Lane

Dear board(s),

We propose renovations and additions to a single-family residence at 7 Redstone Lane. My client recently bought this property with the goal to renovate and create a new home for his wife, four children, and pets.

The existing conditions comprise the main dwelling building with two separate accessory use buildings. The house is dated and consist of many small rooms which we intent to completely renovate for my clients ultimate living conditions.

The property is in a Shoreline General Residence District with existing non-conformities to the side-yard setback, rear yard setback, building height, building width, and exceed the 10% allowable increase for an existing non-conforming structure. That said the property is more than double the required lot area for a single-family use at 18,200 s.f. and will not exceed the required 1:1 ratios for open space. The existing non-conforming height is due the house being built on a stone ledge with a dramatic drop in elevation to the lowest spot which was created by tidal surge adjacent to the house.

Our proposed conditions require additions to connect one accessory structure to the main house. My client will use this existing accessory structure for parking their cars and require direct access to the main house internally. From the courtyard side of the house we will introduce covered porches which enhance the accessibility to the first-floor entry points, but also help to keep the courtyard side quaint.

The harbor side will have one small addition to create a new bay form which will set up for the living room on the first floor, and master bedroom on the second floor. This bay anchors the knuckle of the house, and will have the best views up the harbor toward the light house. The living room will have a new masonry fireplace.

There is an existing exterior deck and porch which we will remove and replace with a slightly larger deck and porch. Our new deck will have a staircase to the lower level yard. The deck will be supported by new stone arches per our drawings.

78 Front Street Marblehead, MA 01945 781-631-1982 craig@boswortharchitecl.com



BOSWORTH ARCHITECT L.L.C.

The second floor of the main house will have its roof removed and reconstructed with additions over the first-floor footprint. The additions are to provide for his family water view bedrooms, including the master bedroom, and bathroom. Due to the low pitch of the existing roof, we are asking for an additional 2.5 feet in ridge height which will allow us to put an asphalt shingled roofing finish on the minimal 4/12 pitched roof.

The exterior envelope of the house will be completely reviewed and constructed per the architectural drawings to include repairs to existing stucco finish, the introduction of shingle siding, replacement and new windows, exterior doors, new architectural asphalt shingle roofing, copper roofing accents, new composite decking, post and railings, and natural stone veneer.

Please call with any questions.

Very Truly Yours,

Architect

Craig R. Bosworth, A.I.A.

Gara Kisust

Town of Marblehead <u>ZBA-APPLICATION</u> Page 2 of 3

Revision Date: 12-14-2015

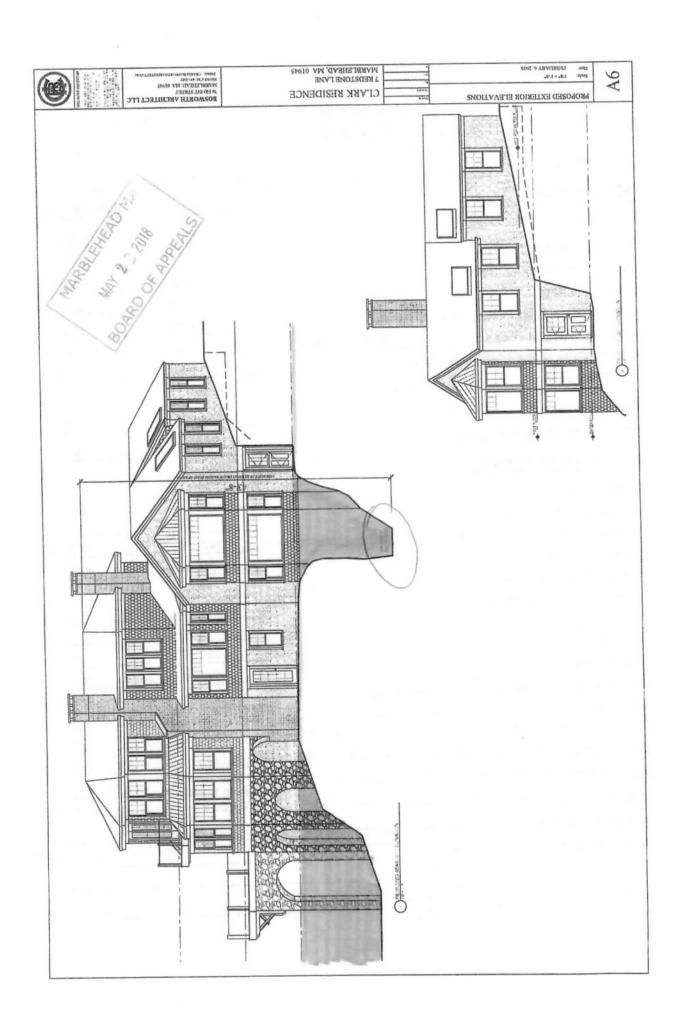
Project Address 7 Redstone Lane, Marblehead, MA 0194 Map(s) / Parcel(s) 113 - 16
ZONING DISTRICT (circle all that apply)
B B1 BR CR SCR ECR GR SGR SR SSR ESR SESR HBR U SU
CURRENT USE (explain) Single-family dwelling
CURRENT USE CONFORMS TO ZONING (Article IV, Table 1)
Yes X No (explain)
PROPOSED CHANGE OF USE
No X Yes (explain)
PROPOSED CONSTRUCTION QUALIFIES AS "Building New" (§200-7) Yes No _X
EXISTING DIMENSIONAL NON-CONFORMITIES (check all that apply) Lot Area - Less than required (§200-7 and Table 2) Lot Width - Less than required (§200-7 and Table 2) Frontage - Less than required (Table 2) Rear Yard Setback - Less than required (Table 2) X Rear Yard Setback - Less than required (Table 2) X Side Yard Setback - Less than required (Table 2) Wheight - Exceeds maximum allowed (§200-7 and Table 2) Open Area - Less than required (§200-7, §200-15.B(4) and Table 2) Parking - Less than required; undersized; tandem (§200-17 to §200-21) (circle all that apply) X Other Non-conformities (explain) Structure is set back more than twice the required No Existing Dimensional Non-conformities frontage NEW DIMENSIONAL NON-CONFORMITIES (check all that apply) Lot Area - Less than required (§200-7 and Table 2) Lot Width - Less than required (§200-7) Frontage - Less than required (§200-7 and Table 2) Yeard Setback - Less than required (Table 2) X Rear Yard Setback - Less than required (Table 2) X Side Yard Setback - Less than required (Table 2) X Height - Exceeds maximum allowed (§200-7 and Table 2) Open Area - Less than required (§200-7, \$200-15.B(4) and Table 2) Parking - Less than required (§200-7, \$200-15.B(4) and Table 2) Parking - Less than required (§200-7, \$200-15.B(4) and Table 2) Parking - Less than required (§200-7, \$200-15.B(4) and Table 2) Parking - Less than required (§200-7, \$200-15.B(4) and Table 2) Exceeds 10% Expansion Limits for Non-conforming Building (§200-30.D)
Other Non-conformities (explain) No New Dimensional Non-conformities
ADDITIONAL HEARINGS REQUIRED Conservation Commission Yes X No Building Department For Zoning Board Of Appeals Planning Board Yes X No Of Appeals
DESIGN & SURVEY PLANS MEET -ZBA- RULES & REGULATIONS (Sections 3(A) and 3(C))
Yes X No (explain)
Building Official Date 3/1/18

Town of Marblehead ZBA-APPLICATION

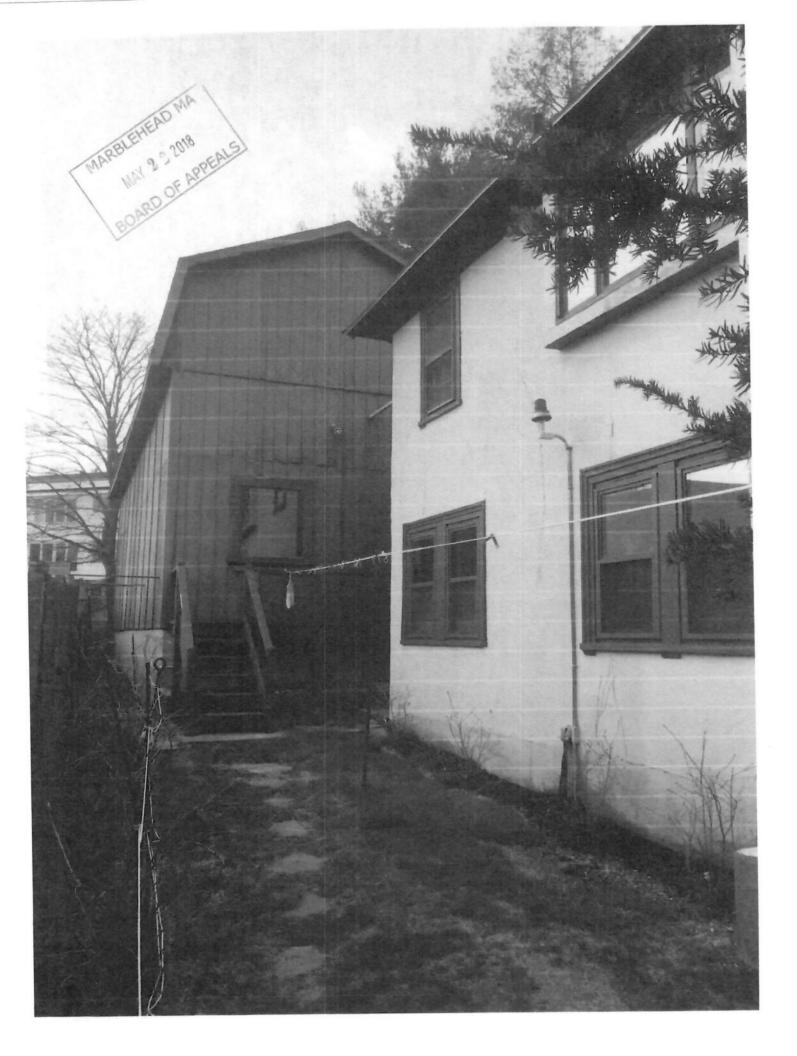
Revision Date: 1-16-2014

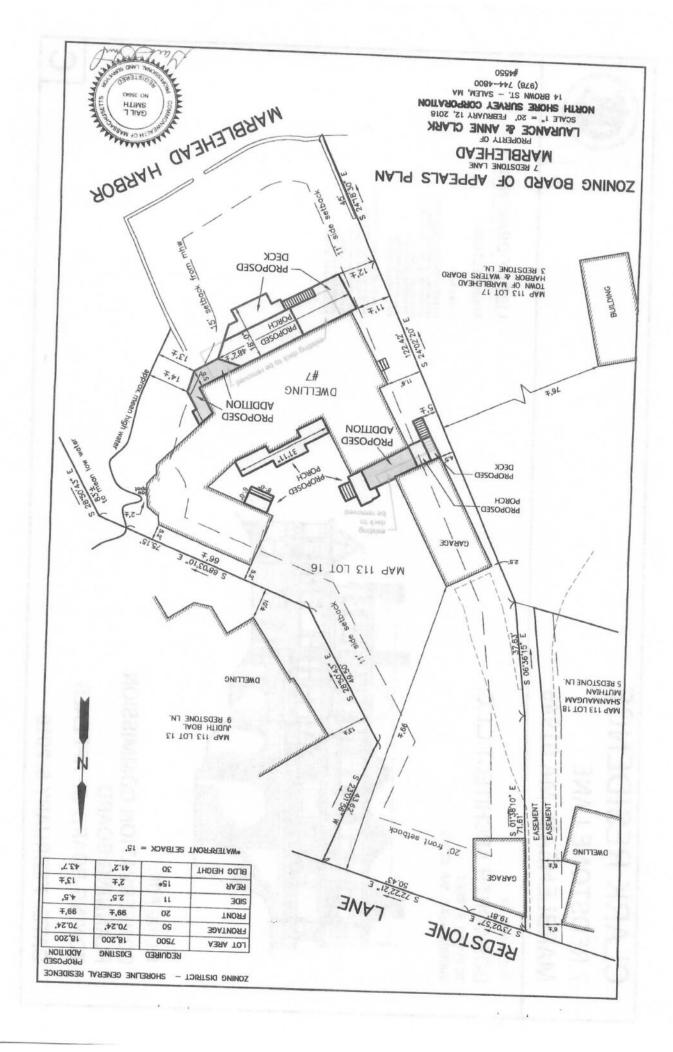
Page 3 of 3

Project Address 7 Redstone Lane Map(s) / Parcel(s) NET OPEN AREA (NOA) EXISTING PROPOSED Lot area = A 18200 18200 Area of features footprint of accessory building(s) 1042 SF footprint of building 402 SF 2974 SF footprint of deck(s), porch(es), step(s), bulkhead(s) 3877 SF number of required parking spaces 618 SF 1035 SF x (9'x20' per space) 360 SF area of pond(s), or tidal area(s) below MHW 360 SF 0 SF other areas (explain) 0 SF 0 0 SF Sum of features = B 4994 NET OPEN AREA (NOA) = (A - B) 5674 13206 SF 12526 SF **GROSS FLOOR AREA (GFA)** accessory structure(s) 2084 basement or cellar (area > 5' in height) 804 1192 SF 1st floor (12' or less in height) 1192 SF NOTE. (for heights exceeding 2974 SF 2nd floor (12' or less in height) 3877 SF 12' see definition 946 SF 3rd floor (12' or less in height) 3022 SF of STORY ~200-7] 0 4th floor (12' or less in height) 0 0 attic (area > 5' in height) 0 0 area under deck (if > 5' in height) 0 392 roofed porch(es) 538 244 SF Gross Floor Area (GFA) = sum of the above areas 320 SF 7832 SF 9753 SF Proposed total change in GFA = (proposed GFA - existing GFA) Percent change in GFA = (proposed total change in GFA / existing GFA) evil ewed by 1921 SF Existing Open Area Ratio = (existing NOA / existing GFA) 24.527579 % **Building Department** Proposed Open Area Ratio = (proposed NOA / proposed GFA) 1.6861593 For Zoning Board Of Appeals = 1.2843228 This worksheet applies 1. plan by/dated North Shore Survey dated February 12, 2018 to the following plan(s): Bosworth Architects L.L.C. dated February 6, 2018 2 plan by/dated 3. plan by/dated **Building Official** 3/1/18 Date









CLARK RESIDENCE

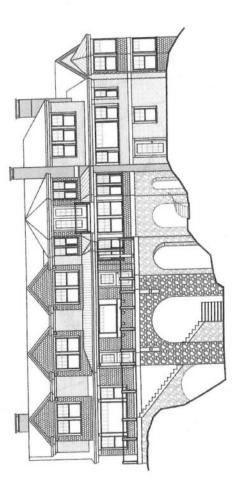
MARBLEHEAD, MA 01945 7 REDSTONE LANE

PREPARED BY:

BOSWORTH ARCHITECT L.L.C.

MARBLEHEAD, MA 01945 **78 FRONT STREET**





FILING FOR:

CONSERVATION COMMISSION PLANNING BOARD

ZONING BOARD OF APPEALS

DATE: FEBRUARY 6, 2018

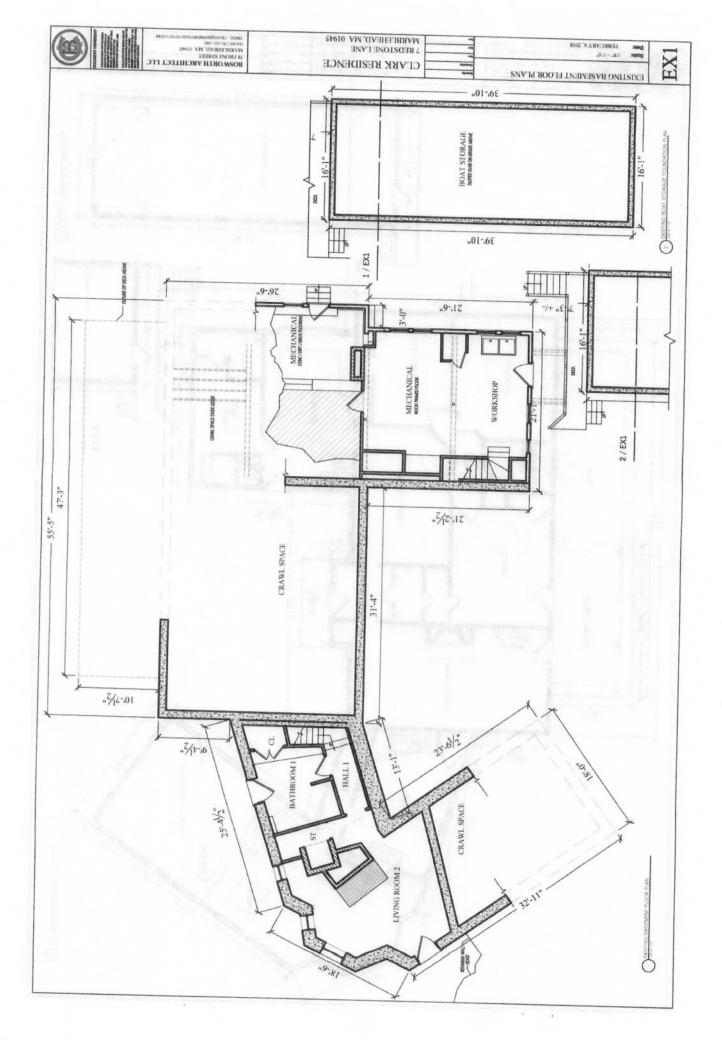
LIST OF DRAWINGS

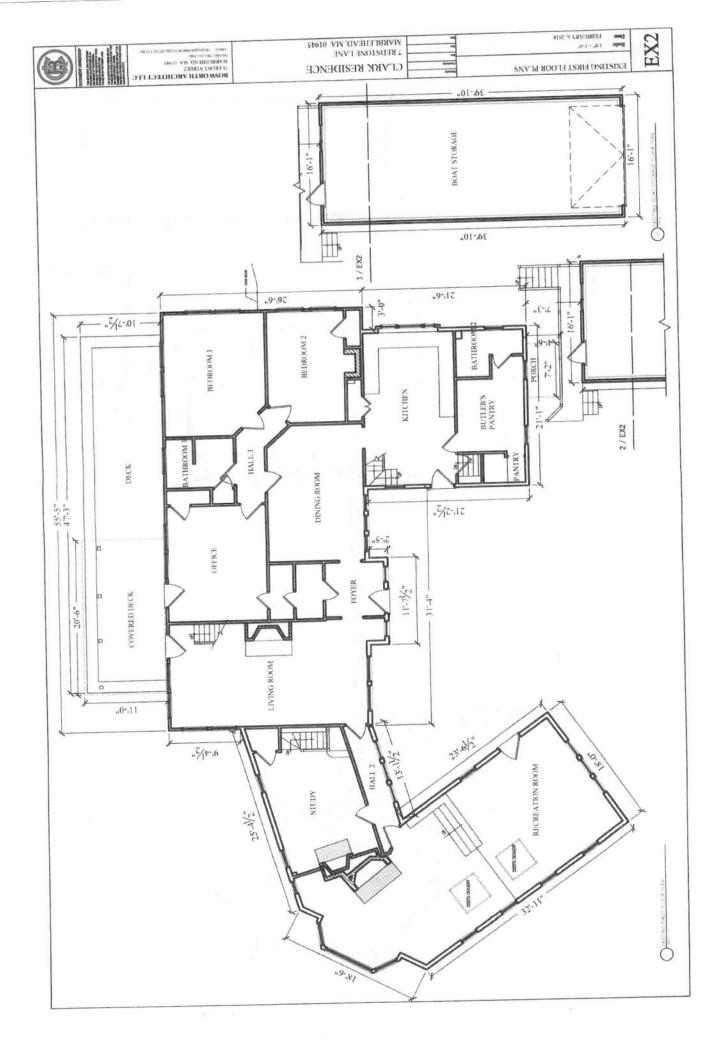
ARCHITECTURAL

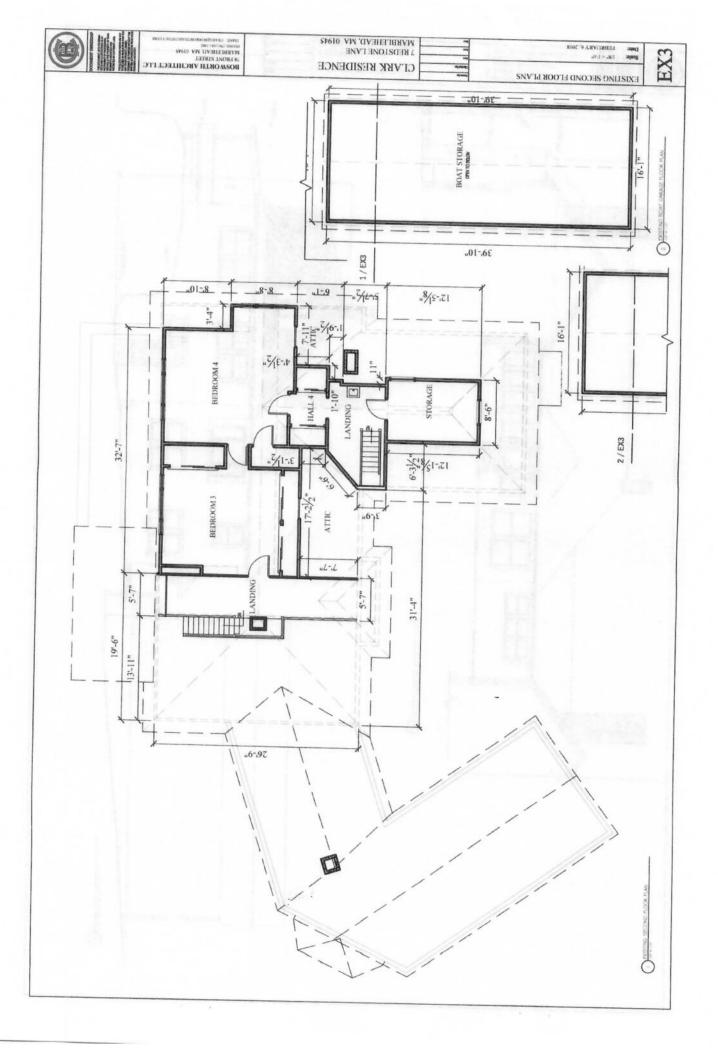
C COVER SHEET

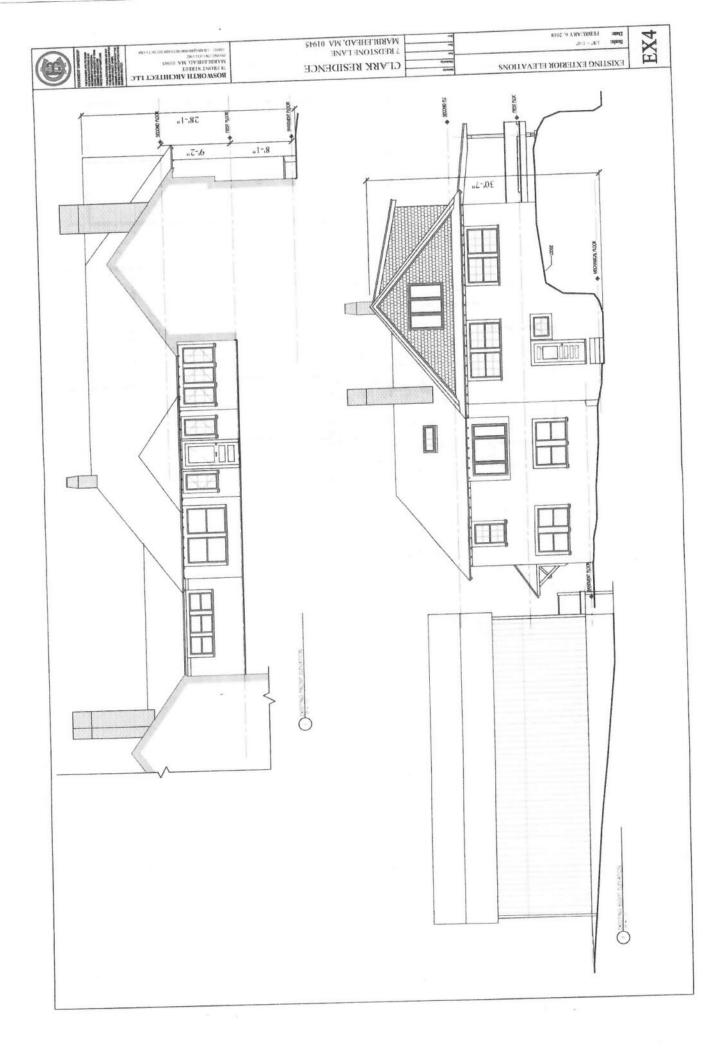
EXI EXISTING BASEMENT FLOOR PLANS
EXZ EXISTING FIRST FLOOR PLANS
EXZ EXISTING SECOND FLOOR PLANS
EXZ EXISTING ELEVATIONS
EXE EXISTING ELEVATIONS
EXT EXISTING ELEVATIONS
EXT EXISTING ELEVATIONS

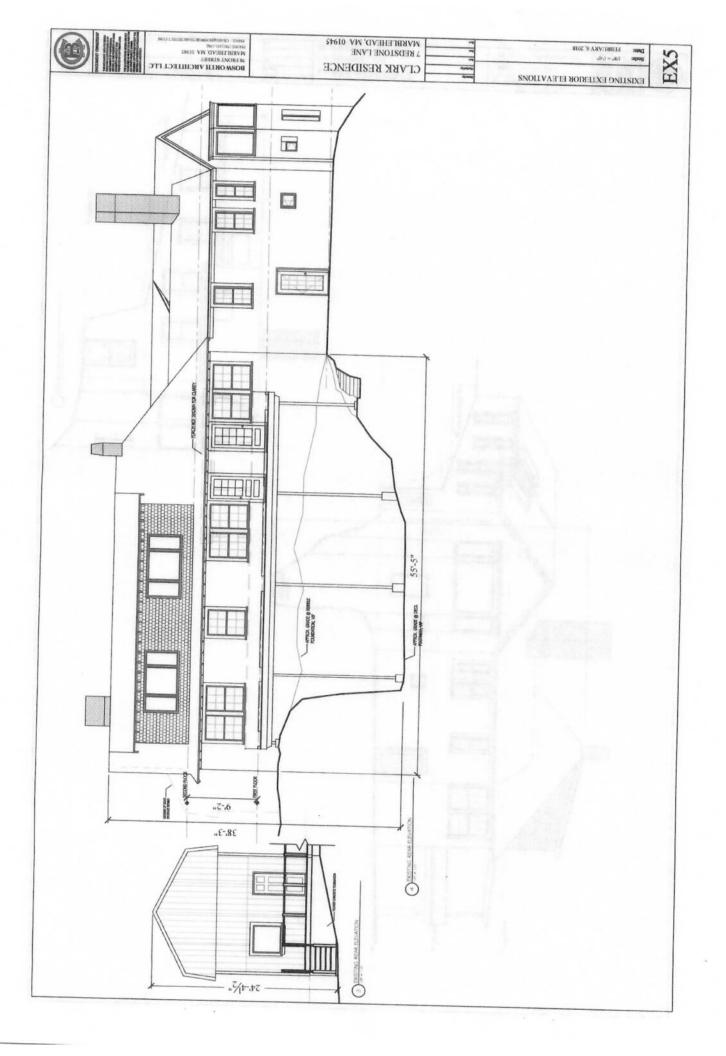
A1 PROPOSED BASEMENT FLOOR PLANS A2 PROPOSED FIRST FLOOR PLANS A3 PROPOSED SECOND FLOOR PLANS

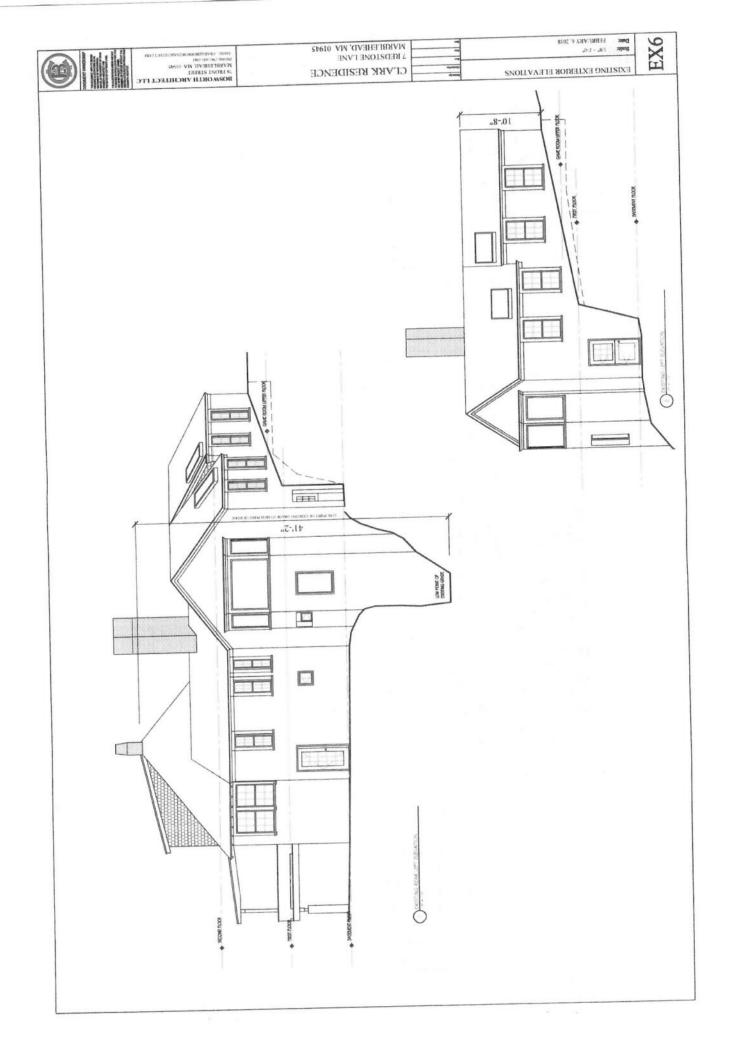


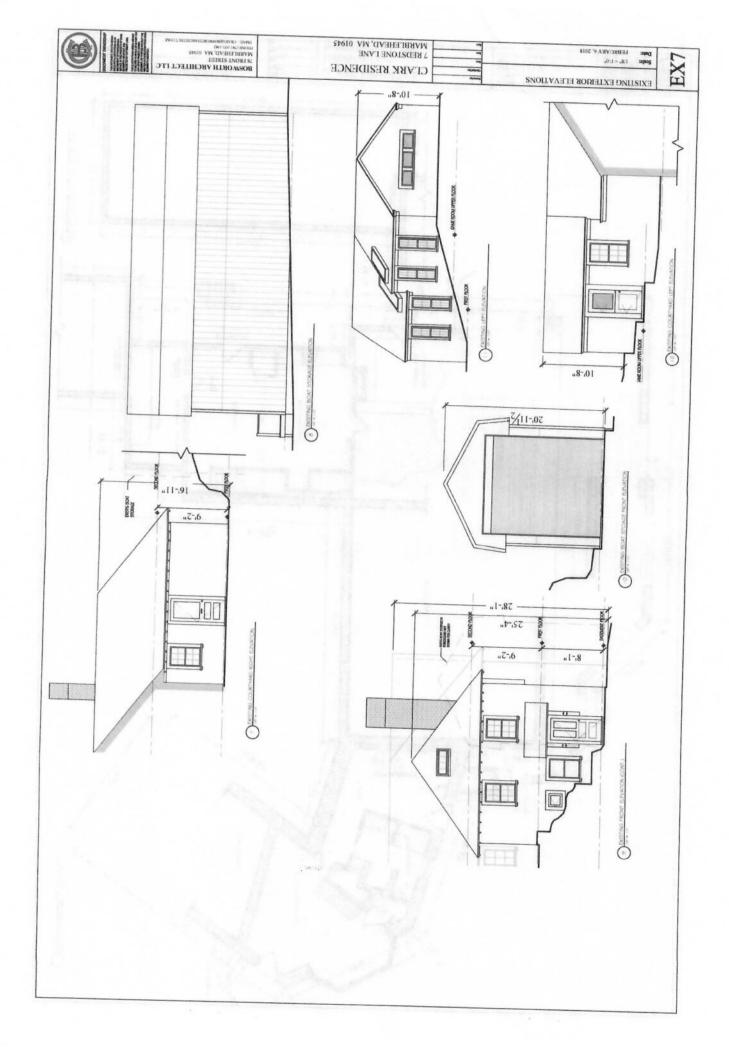


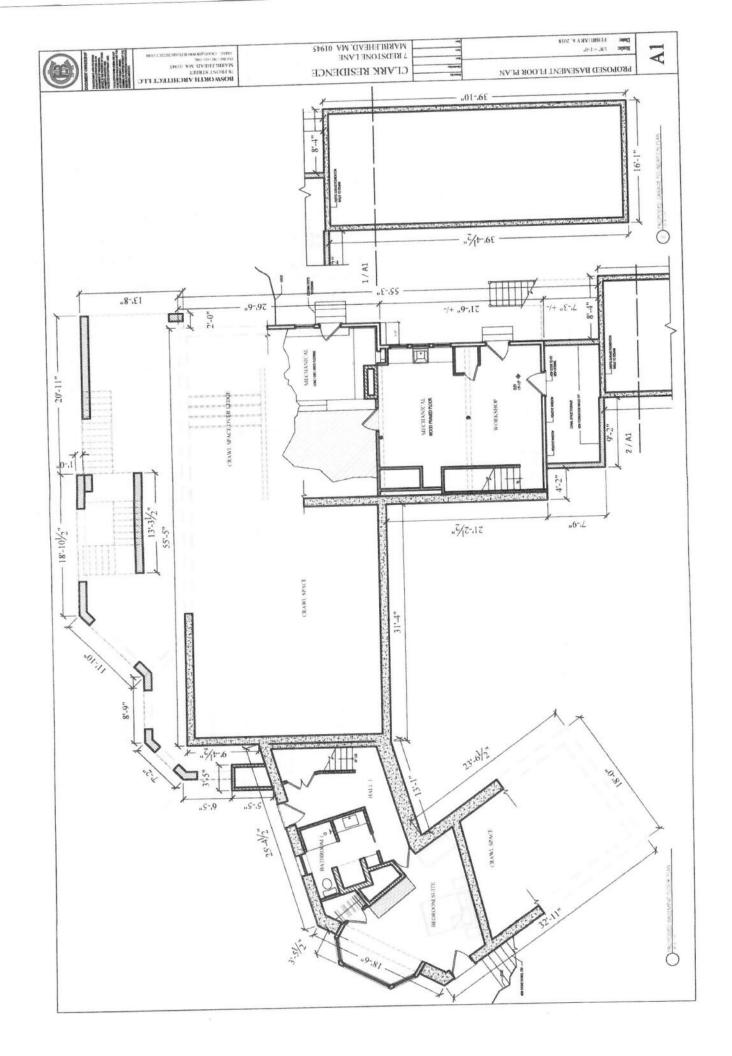


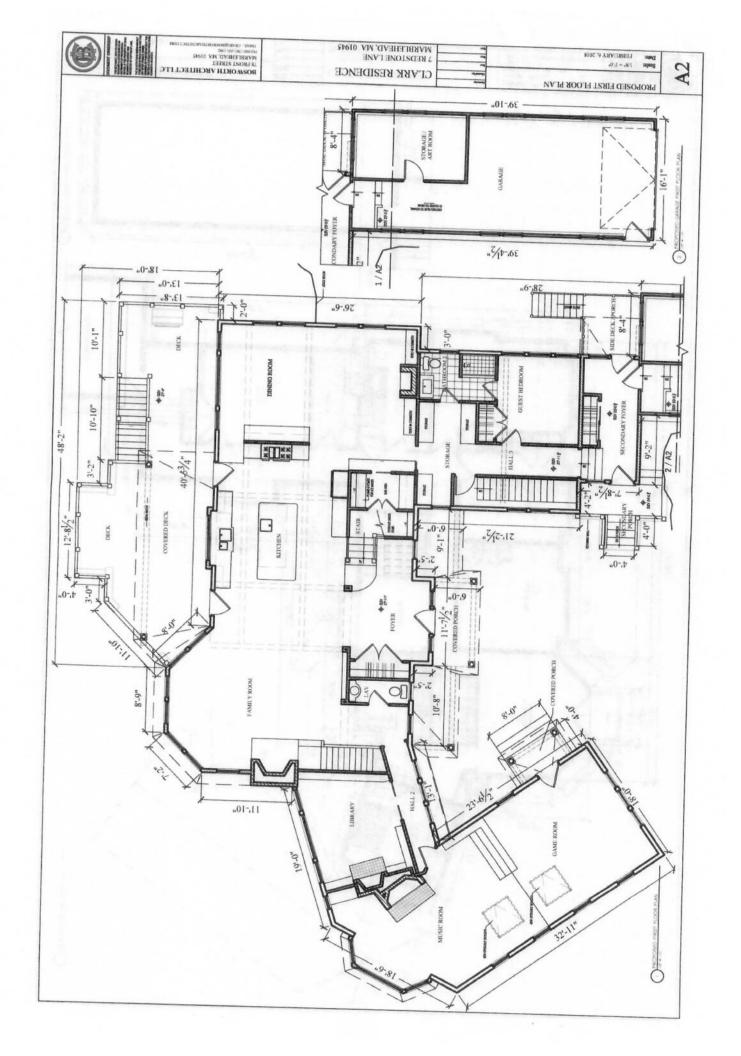


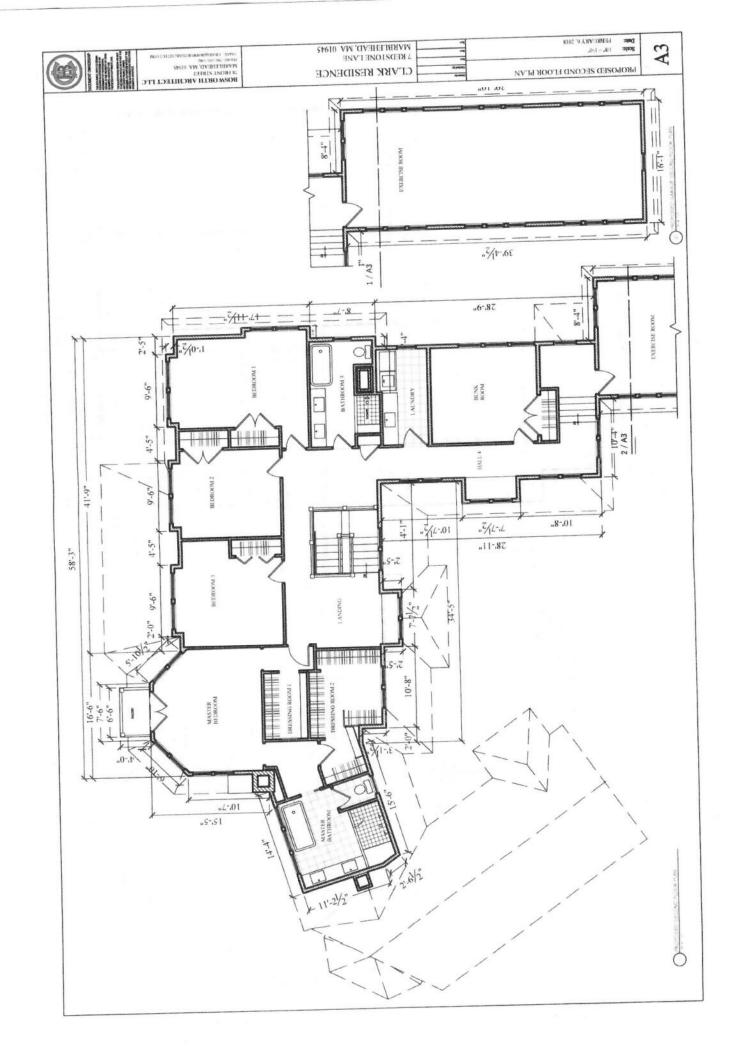




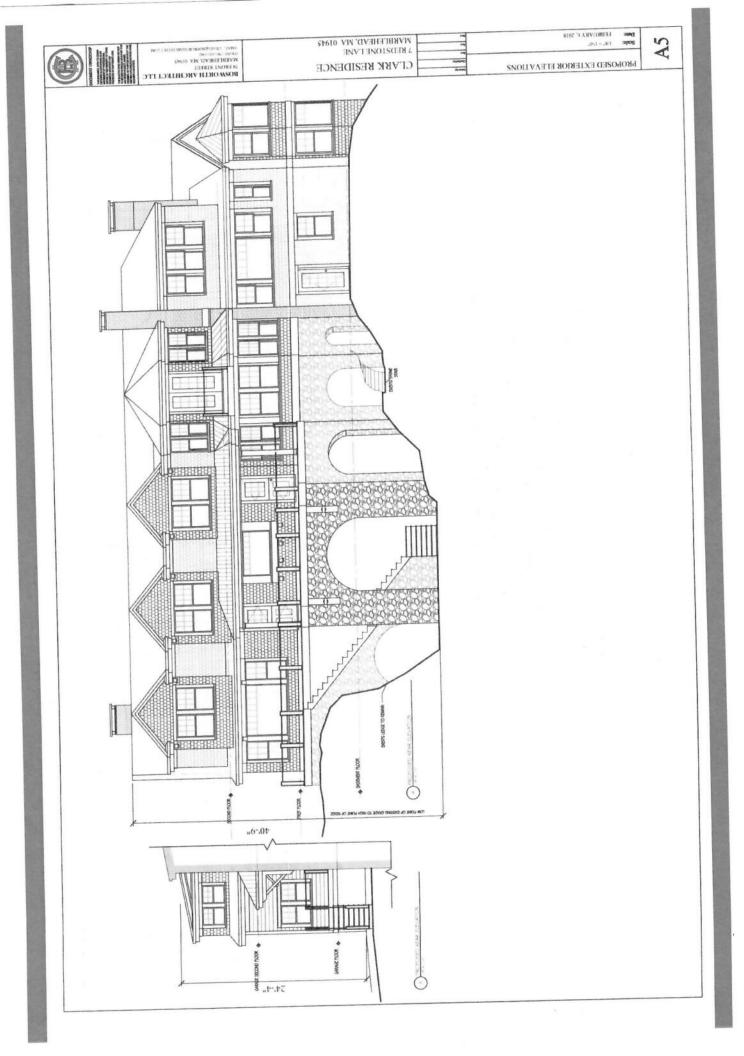


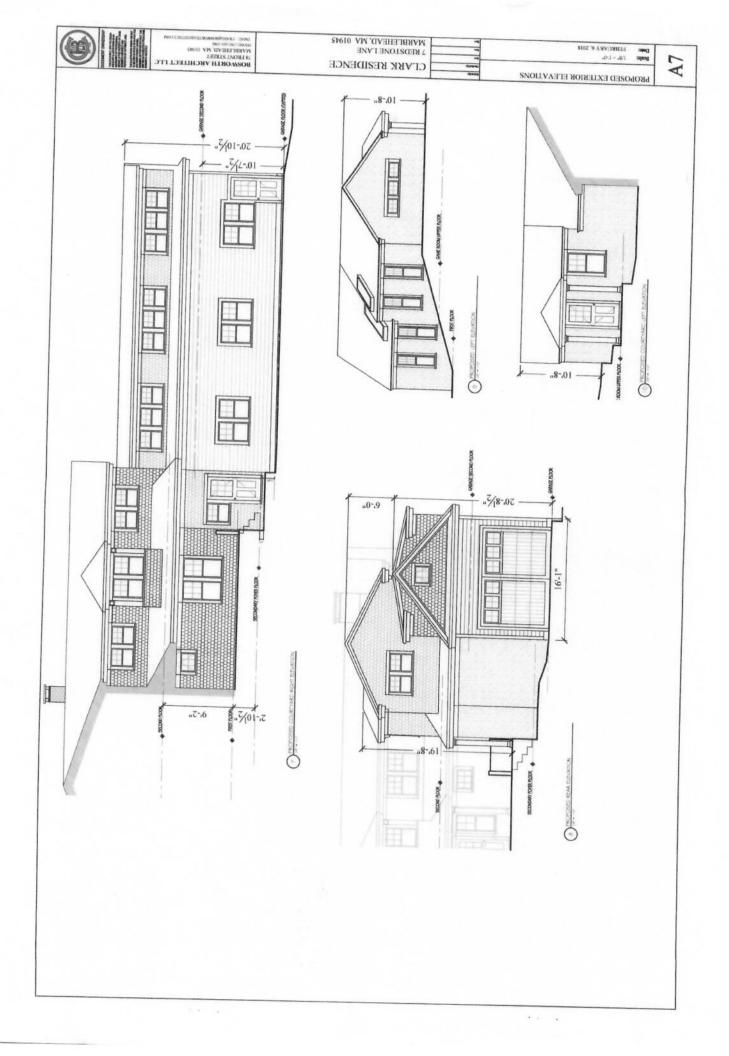












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