

ITEM 3

**Town of Kittery
 Planning Board Meeting
 October 13, 2022**

ITEM 1 – 8 Hoyts Island Lane – Shoreland Development Plan Review

Action: continue, approve, or deny plan: Pursuant to of §16.4 Land Use Regulations and §16.9.3 Shoreland Development Review of the Town of Kittery Land Use and Development Code, owner/applicant David H. Moulton and agent Stephen Doe request approval to expand two legally non-conforming structures on a conforming lot within the base zone setback of the Shoreland Overlay Zone located on real property with the address of 8 Hoyts Island Lane, Tax Map 36, Lot 73, in the Residential – Kittery Point Village (R-KPV), Shoreland Overlay Zone (OZ-SL-250’), and Resource Protection Overlay Zone (OZ-RP)/FEMA Flood Zone.

PROJECT TRACKING

| REQUIRED | ACTION | COMMENTS | STATUS |
|-----------------|---------------------------|-----------------|---------------|
| No | Sketch Plan | N/A | N/A |
| No | Site Visit | 9/15/22 | Held |
| Yes | Completeness / Acceptance | 8/11/22 | Held |
| No | Public Hearing | N/A | Not Held |
| Yes | Final Plan Approval | 10/13/22 | Pending |

PROJECT INTRODUCTION

8 Hoyt Island Lane is located off Pepperrell Road in Pepperrell Cove near the mouth of Chauncey Creek within the Residential – Kittery Point Village (R-KPV), Shoreland Overlay Zone (OZ-SL-250), and Resource Protection Zone (OZ-RP)/FEMA Flood Zone. The property is a conforming lot of approximately 1.25 acres (54,450-sf with 40,000 sf required in the R-KPV Zone), containing a legally, non-conforming dwelling unit and a second structure primarily used as a “bunk room” according to the applicant – a sleeping quarters with no kitchen and thus not a dwelling. The existing dwelling unit (1,272 square feet, including a 180sf attached deck) is positioned within the base zone setback (100 feet) of the Shoreland Overlay Zone as well as the base zone setback (100 feet) of the Resource Protection Zone. The Town Assessor categorizes the “bunk room” as a “Cabin with Plumbing,” and it is 340 square feet in footprint. The site’s existing total de-vegetated area – 5,017 square feet (including the dwelling, deck, steps, driveway, walkways) – is 10.9%, below the zone’s requirement of 20% maximum de-vegetation.

The property file for the property was empty. The existing house was built in 1938, according to Tax Assessor records. Those records indicate the dwelling unit was built in 1938 and the cabin in 1998. The owner proposes to remove the existing house and build a new, expanded dwelling unit further from the resource and completely outside of the 25-foot setback (though still within the 100-foot setback at 31 feet). The applicant also proposes removing the existing cabin (“guest cottage”) and building a new, expanded cabin further away from the resource, moving the existing

36 footprint from 14 feet from the HAT to 29 feet from the HAT. A garage within the 100-foot buffer
37 is proposed to remain unexpanded.

38 The proposed plan includes shifting the driveway away from the resource and adding two
39 additional parking spaces near the main house and one parking space near the cabin. The applicant
40 has provided a replanting plan due to the proposed removal of some vegetation in order to
41 accommodate the new driveway. The applicant also proposes to install a new septic system located
42 totally outside of the 100-foot setback. As proposed, both reconstructed structures and the new
43 septic system would become more conforming.

44

45 **APPLICATION & PLAN REVIEW**

46 Staff reviewed the submitted application and plan from Sebago Technics, dated July 13, 2022 and
47 have the following comments:

48 1. The site is a legal, conforming lot of record with a legal, non-conforming dwelling unit and
49 a legal, non-conforming accessory building, both within the 100-foot setback to the water
50 required by the Shoreland Overlay Zone.

51

52 2. The applicant’s plan increases the overall de-vegetated area, although the proposed plan is
53 still below the 20% allowable de-vegetated area. Though there is some discrepancy in the
54 figures the applicant uses and the Tax Assessor records. The applicant uses the total upland
55 area when calculating de-vegetated area. The entire lot (1.25 acres, or 54,450sf) appears to
56 be covered by the Shoreland Overlay Zone. Additionally, the applicant lists the main house
57 at 1,132sf when the Town shows 1,092sf. The applicant shows the cabin at 383sf while the
58 Town shows 364sf. The applicant indicates a 240sf garage, while Town records show a
59 180sf shed. The applicant should be prepared to address these inconsistencies. However,
60 comparing the proposed expansion with the Town’s existing still places the proposal under
61 the allowable de-vegetated threshold.

62

63 3. The zoning district requires a maximum building coverage of 20%, which is 10,890 square
64 feet. The applicant provides calculations showing the existing building coverage at 1,755
65 square feet (or 3.2%), and the proposal increases building coverage to 2,187 square feet, or
66 4%, which is below the required threshold.

67

68 4. Title 16 includes additional regulations for the expansion of structures within the shoreland
69 overlay base zone setback. This plan is subject to Section 16.1.C.8.(4)(b)[3](e)[v][A],
70 which states:

71

72 *[A] For structures located less than the base zone setback from the normal high-*
73 *water line of a water body, tributary stream, or upland edge of a coastal or*
74 *freshwater wetland, the maximum combined total footprint for all structures may*
75 *not be expanded to a size greater than 1,000 square feet, or 30% larger than the*
footprint that existed on January 1, 1989, whichever is greater. The maximum

76 *height of any portion of a structure that is located within the base zone setback may*
 77 *not be made greater than 20 feet, or the height of the existing structure, whichever*
 78 *is greater.*

79 The above means that there is a limit to structure expansion based on what structures
 80 existing in 1989. That 30% expansion limit is applied cumulatively over the years and can
 81 never be exceeded. The applicant has provided calculations of the existing structures in
 82 place today, though it is unclear if they were all existing in 1989. Records from the Tax
 83 Assessor indicate the main house was built in 1938 but that the shed/garage and guest
 84 cottage/cabin were added in 1998.

85 The applicant provides the following table to show the allowable expansion:

| BUILDING CALCULATIONS | | | |
|-------------------------|------------|------------|-----------------------------|
| | EXISTING | PROPOSED | MAX (30% EXPANSION ALLOWED) |
| MAIN HOUSE | 1,132 S.F. | 1,468 S.F. | 1,472 S.F. |
| EXISTING DECK AND STEPS | 182 S.F. | 236 S.F. | 236 S.F. |
| GUEST COTTAGE | 383 S.F. | 493 S.F. | 498 S.F. |
| EXISTING STEPS | 13 S.F. | 16 S.F. | 17 S.F. |
| GARAGE | 240 S.F. | 240 S.F. | 312 S.F. |
| DOCK | 27 S.F. | 27 S.F. | 35 S.F. |
| TOTAL | 1,977 S.F. | 2,480 S.F. | 2,570 S.F. |

86
 87 The above calculations would be correct (ignoring the square foot discrepancies between
 88 the applicant’s and the Town’s figures for a moment) if all of the listed structures have
 89 existed on site since January 1, 1989. Staff suggests the applicant provide information on
 90 the age of the structures used in their calculations, aside from the main house.

91 A more minor issue would be the 30% expansion allowed for the main house given the
 92 records discrepancy. Town records show the dwelling unit at 1,092 square feet. A 30%
 93 expansion of this figure would be 1,420 square feet. Rather than providing further
 94 competing expansion calculations based on Town records here, staff advises the applicant
 95 to confirm the actual square footage calculations of all structures.

- 96 5. The proposed structure building heights are shown on the plans are calculated using the
 97 average existing grade around the structures, however Title 16 dictates that Height of
 98 Structure be used when measuring height in the Shoreland (Section
 99 16.1.C.8.(4)(b)[3](e)[v][A] in #4 cited above). Applicant may need to revise the height of
 100 the structures to conform with Title 16.

101 **STAFF REVIEW**

102 **UPDATE 10/13/22:**

103 The applicant has provided a memorandum dated September 13, 2022 to provide updated building
 104 area calculations. Staff appreciates the additional details. A site walk was held on September 15,

105 2022. The applicant was previously asked to consider moving either of the structures towards the
106 upland. At the site walk, the applicant was able to show the grove of mature trees that occupied
107 the upland area. The applicant has provided a second memorandum dated September 29, 2022,
108 thoroughly discussing the issues related to potentially moving the structures into the upland. Staff
109 concurs with the applicant’s analysis that moving the structures further into the upland would not
110 be a practical improvement to the proposed plan.

111 Staff has included in this packet two abutter letters from the neighbors, who are both supportive
112 of this project.

113 Staff notes the updated plan sets did not include the de-vegetated area calculations due to some
114 sort of printing error. Those calculations were previously included on a previously plan set and
115 appear accurate. Staff recommends the applicant provide updated plans with the de-vegetated table
116 shown.

117 **DISCUSSION, NEXT STEPS, AND RECOMMENDATIONS**

118 Planning Board should discuss the plan and determine if it meets the requirements to approve the
119 plan and/or direct the applicant to make any changes that are necessary.

120 **RECOMMENDED MOTIONS**

121 Staff recommends the below motion for the Board’s consideration:

122 *Motion to approve*

123 Move to approve the shoreland development application from owner/applicant David H. Moulton
124 and agent Stephen Doe requesting to expand two legally non-conforming structures on a
125 conforming lot within the base zone setback of the Shoreland Overlay Zone located on real
126 property with the address of 8 Hoyts Island Lane, Tax Map 36, Lot 73, in the Residential – Kittery
127 Point Village (R-KPV), Shoreland Overlay Zone (OZ-SL-250’), and Resource Protection Overlay
128 Zone (OZ-RP)/FEMA Flood Zone.

From: [Kalinich, Jeffrey C](#)
To: [Kathy Connor](#)
Cc: [Adam Causey](#)
Subject: RE: Another question on Kittery's shoreland zoning
Date: Tuesday, October 4, 2022 1:25:10 PM

Hi Kathy,

Kittery's Ordinance Sec. 16.5.24 (A)(7) does state the Planning Board must consider the type and amount of vegetation to be removed when determining greatest practical extent. It does not mention septic systems, but Chapter 1000 does in in Sec. 12(C)(3). Based on the diagram it would appear the structures could be moved back more, but without seeing the lot it is not possible to provide further guidance.

Let me know if you have any questions.

Jeff

Jeffrey C. Kalinich
Assistant Shoreland Zoning Coordinator
Maine Department of Environmental Protection
312 Canco Road
Portland, Maine 04103
Ph. (207) 615-7044
Fax. (207) 822-6303
www.Maine.gov/dep

From: Kathy Connor <KConnor@kitteryme.org>
Sent: Tuesday, October 4, 2022 10:16 AM
To: Kalinich, Jeffrey C <Jeffrey.C.Kalinich@maine.gov>
Cc: Adam Causey <ACausey@kitteryme.org>
Subject: Another question on Kittery's shoreland zoning

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Jeff,

Another interesting shoreland project has come to the Planning Board. This one has two existing seasonal residential buildings that are partially within the 25-foot setback to Portsmouth Harbor. The applicant proposes to reconstruct them outside the 25-foot setback. The lot does not offer enough land area outside the 100-foot setback (Kittery's standard) to accommodate both buildings without violating front or side setbacks. The applicant is contending that the considerable number of mature and existing trees on the property make moving the buildings within the currently developed lot area better environmentally and that using the area closest to the road and outside the 100-foot setback for the septic system is also environmentally superior. The two existing buildings use tanks that are pumped.

The Board was impressed with the size of some of the trees (oak mostly) and the number of the trees during the site walk. I've attached the plans – the largest trees are shown with their caliper – mostly located by the buildings. The portion of the lot towards Hoyt's Island Lane is also forested but individual trees are not shown.

The Planning Board has asked me to get DEP's opinion on this – can the Board consider the trees and less environmental impact when weighing whether or not to allow the two buildings to be re-constructed outside the 25-foot but still very much non-conforming to Kittery's 100-foot setback?

Thanks for your help. We can talk on the phone if that is easier. Let me know and I'll give you a call.
Kathy

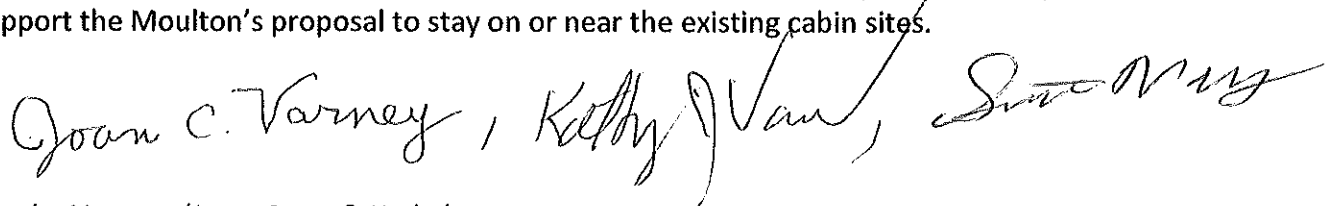
Kathy Connor
Project Planner
Town of Kittery
(207) 439-0452 x319
kconnor@kitteryme.org

08/25/2022
Kittery Planning Board
200 Rogers Road
Kittery, ME 03904

Concerning 8 Hoyt's Island Lane

Dear Planning Board:

The Varney's and the Moulton's have been neighbors on Hoyts Island for over 50 years. We are aware that the Moulton's have proposed renovating their two cabins by rebuilding about where they are now so that they can spend more time here when the weather turns cold. We want to be clear that we are in favor of sticking closely to the existing locations when the cabins are renovated and would strongly oppose moving these structures up the driveway. Please support the Moulton's proposal to stay on or near the existing cabin sites.

Handwritten signatures of Joan C. Varney, Kathy Varney, and Scott Varney.

For the Varneys (Joan, Scott & Kathy)
7 Hoyts Island Lane
Kittery Point, Maine

September 7, 2022

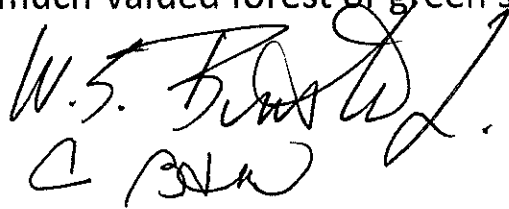
The Planning Board
Town of Kittery
200 Rogers Road
Kittery, ME 03904

SEP 7 2022 04:11:52

Re: Application for Reconstruction of 8 Hoyt's Island Lane

Dear Members of Kittery Planning Board:

We write regarding the application of David Moulton and Francie de Peyster to turn their 84-year-old log cabin into a year-round home while respecting their neighbors' wishes to stick closely to the current locations so as not to disturb any more green space than is necessary. We immediately abut their property and share an existing ROW. We believe their design and location have been carefully considered and are the least disruptive approach to rebuilding. We do not support, and would oppose, efforts to locate new structures in areas that are in much-valued forest or green space. Thank you for your consideration.

A handwritten signature in black ink, appearing to read "W.S. Bristow" with a large flourish extending upwards and to the right. Below the main signature is a smaller, less legible signature.

Bill and Cathy Bristow
10 Hoyts Island Lane
Kittery Point, ME 03905

MEMORANDUM

TO: Town of Kittery, Planning Board
FROM: R. Timothy Phoenix, Esquire
Monica F. Kieser, Esquire
DATE: September 29, 2022
RE: The David Hurd Moulton Revocable Trust
David H. Moulton & Frances Lee de Peyster, Trustees
8 Hoyt's Island Lane (Map 36, Lot 73)
Residential-Kittery Point Village District
Shoreland Overlay Zone (OZ-SL-250)
Resource Protection Overlay Zone (OZ-RP)
FEMA Flood Zone V2 El. 13

Dear Chair Dunkelberger and Planning Board Members:

On behalf of The David Hurd Moulton Revocable Trust ("Moulton"), we are pleased to submit this supplemental memorandum to be considered with our pending Shoreland Development Application for 8 Hoyt's Island Road, to be considered by the Planning Board on October 13, 2022.

Moulton previously submitted a Memorandum and several exhibits in support of his proposal to relocate, reconstruct, and expand the main home and guest cottage with renovations that will enable their use beyond the months of July and August (the "Project"). On September 15, 2022, the Planning Board met for a site walk to evaluate the Project. At that time, the Planning Board asked us to submit another narrative addressing the feasibility of relocating the guest house further west than presently proposed, specifically up against the side lot line near the Bristow property. For several reasons, we assert that this is neither feasible nor practical and also contrary to the intent of Kittery's Shoreland and Resource Protection requirements.

I. KZO §16.1.8.C(4)(a)[2]:

In determining whether the structures meet the setback to the greatest practical extent, the Planning Board or Board of Appeals must consider the following conditions:

(a) The size of the lot;

Response: The existing lot is 46,173.6 s.f. and is located entirely within the 250 Shoreland Protection Zone; all but the westerly corner is within the 100 ft. buffer. The area abutting the Bristow lot must accommodate the 15 ft. yard setback. No portion of this area is in the 100 ft. setback and only a tiny portion is outside the 75 ft. setback; however, the placement of the guest cottage must meet the 15 ft. yard setback. Given the placement of the main home and other constraints, there is not sufficient area to locate the

guest cottage near the Bristow lot. Relatedly, shifting the cottage to that side of the lot will result in relocating the compacted gravel driveway and parking areas close to the resource, at a minimum requiring removal of a major limb from, and increasing the adverse impacts to the root system of, a giant 72" oak tree. Moulton's team considered all these factors in reaching a determination that the proposed guest cottage location meets the setback to the greatest practical extent.

(b) The slope of the land;

Response: The area abutting the Bristow home is upgradient from the main home and previously proposed guest house location and contains considerable rock ledge close to the Bristow lot line. The result is a guest home that would be 5 ft. higher than now proposed. The current plan provides for limited blasting to adjust the location of the driveway to accommodate a giant oak tree, which is a prominent feature of the property. Significantly more blasting would be required to remove ledge to site the guest home at the appropriate elevation. Blasting close to the Bristow lot line and home could have adverse effects on their property and foundation. Much of the vegetation abutting the Bristow lot line would need to be removed and the ledge would prevent revegetation, resulting in a negative effect on the privacy and seclusion of both owners. The driveway currently enters the developed area of the lot at a sloped curve. Relocation of the guest cottage and parking would in turn require shifting this section of the driveway to an area where the slope is steeper, requiring more clearing. The driveway and parking would also need to be shifted closer to the resource than now proposed and closer than the guest house location now proposed.

(c) The potential for soil erosion;

Response: The blasting required to site the guest cottage close to the Bristow lot line will not remove all the ledge and remaining ledge will prevent revegetation in this area resulting in more potential for erosion. Shifting the location of the driveway and guest cottage threatens removal of the giant oak or several of its largest limbs to accommodate construction vehicles traveling on the relocated driveway. Any impact to the limbs or roots of the oak will jeopardize its health and that of the root system which stabilizes the soil in this area of the lot. In addition, shifting the compacted gravel driveway's entrance to the developed area toward onto a steeper slope would require removal of additional vegetation and relocating it closer to the resource is likely to result in more erosion and sediment deposits closer to the resource as water runs down the driveway.

(d) The location of other structures on the property and on adjacent properties;

Response: Siting the guest cottage close to the Bristow lot line would result in removal of significant vegetation which acts as a natural buffer between both properties. This vegetation cannot be replanted due to the presence of ledge in the area, so the existing buffer between the lots will be destroyed. Blasting may also adversely affect the Bristow property and risks damage to Bristow's foundation.

(e) The location of the septic system and other on-site soils suitable for septic systems;

Response: The relocation of the home in the area closer to the Bristow home will not change the location of the septic system. As now proposed, the septic system is sited in the location on the lot outside the 100 ft. buffer.

(f) The type and amount of vegetation to be removed to accomplish the relocation. (see also KZO §16.1.8.C(4)(a)(3) for replanting requirements).

Response: Significantly more vegetation would need to be removed to enable Moulton to site the guest cottage near the Bristow lot line. Ledge blasting will occur in this area and all vegetation within the 15 ft. side yard setback will need to be removed to accommodate construction. That area of the lot contains a significant ledge outcropping so the result would be an exposed ledge cut in the area which cannot be revegetated. The driveway currently enters the developed area of the lot at a sloped curve. Relocation of the guest cottage and parking would require alteration of the driveway's entrance to the developed portion of the lot to an area where the slope is steeper, requiring more clearing on the north side of the relocated driveway. The vegetation on this sloped area plays an important role in stabilizing soils in that location. Finally, at a minimum, large limbs would need to be removed from the giant oak tree to accommodate construction vehicles traveling the relocated driveway.

KZO §16.1.8.C(4)(a)(4 - relocation) and (c)(5 - reconstruction).

If the total footprint of the structures can be relocated/reconstructed beyond the required setback area, no portion of the relocated/reconstructed structures may be relocated/reconstructed at less than the setback requirement for new structures. If the reconstructed or replacement structure is less than the required setback, it may not be any larger than the original structure, except as allowed in KZO §16.1.8C(4)(b), Nonconforming structure repair and expansion.

Response: In addition to our previously submitted memorandum, we note that siting guest house closer to the Bristow home will not result in it meeting the 100 ft. setback, and only a tiny portion will meet the 75 ft. setback, so the total footprint *cannot* be relocated/reconstructed outside the required setback area. The proposed expansion of each structure also complies with KZO §16.1.8C(4)(b). Accordingly, this factor is satisfied.

II. CONCLUSION

Moulton's team has considered these factors and more in reaching the determination that the proposed location of the main home and guest cottage are sited in the most appropriate locations, furthering the purposes of the Shoreland Protection Zone and Resource Protection Districts. Shifting the guest cottage closer to the Bristow lot line would require significant blasting, removal of a natural buffer and other vegetation without the ability to replant due to the

ledge outcropping. Placing the guest cottage in this location would also shift the compacted gravel driveway north toward a steeper area of the lot requiring additional removal of vegetation. At a minimum, this proposal requires removal of a large limb from the oak tree as grading for the driveway and is likely to negatively impact its root system as well.

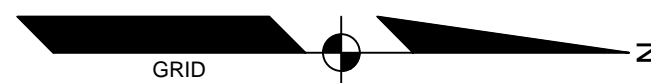
The upshot of this proposal will be a compacted gravel driveway traversing a steeper area of the lot sloping down toward the resource with parking located closer to the resource than the guest cottage now proposed. The combined effect will not put the guest cottage outside the required setback area and will result in loss of vegetation, increased erosion, and impervious parking surfaces closer to the resource than currently proposed. Such a proposal is neither feasible, nor practicable and is contrary to the intent of the Shoreland Protection and Resource Protection Zones.

For all the reasons stated herein and in the previous submissions, Moulton respectfully requests that the Planning Board approve the Shoreland Development Plan.

Respectfully submitted,
The David Hurd Moulton Revocable Trust
David H. Moulton &
Frances Lee de Peyster, Trustees



By: R. Timothy Phoenix, Esq.
Maine Bar #005641
Monica F. Kieser, Esq.
Hoefle, Phoenix, Gormley & Roberts, PLLC
127 Parrott Avenue
Portsmouth, NH 03801
(603) 436-0666



DEVEGETATED COVERAGE IN SHORELAND ZONE:

TOTAL LOT UPLAND AREA IN SHORELAND ZONE: 46,150± SQ.FT.

| | EXISTING | PROPOSED |
|-------------------------|-----------------------|-----------------------|
| MAIN HOUSE | 1,132± SQ.FT. | 1,468± SQ.FT. |
| REAR DECK & STEPS | 182± SQ.FT. | 236± SQ.FT. |
| GUEST COTTAGE | 383± SQ.FT. | 493± SQ.FT. |
| STEPS | 13± SQ.FT. | 16± SQ.FT. |
| GARAGE | 240± SQ.FT. | 240± SQ.FT. |
| RET. WALL | 40± SQ.FT. | 0± SQ.FT. |
| DOCK | 27± SQ.FT. | 27± SQ.FT. |
| GRAVEL DRIVEWAY | 3,000± SQ.FT. | 4,256± SQ.FT. |
| TOTAL DEVEGETATED AREA: | 5,017± SQ.FT. (10.9%) | 6,726± SQ.FT. (14.6%) |

BUILDING HEIGHTS:

| | EXISTING | PROPOSED |
|---------------|----------|-----------|
| MAIN HOUSE | 17' - 2" | 19' - 10" |
| GUEST COTTAGE | 13' - 7" | 14' - 4" |

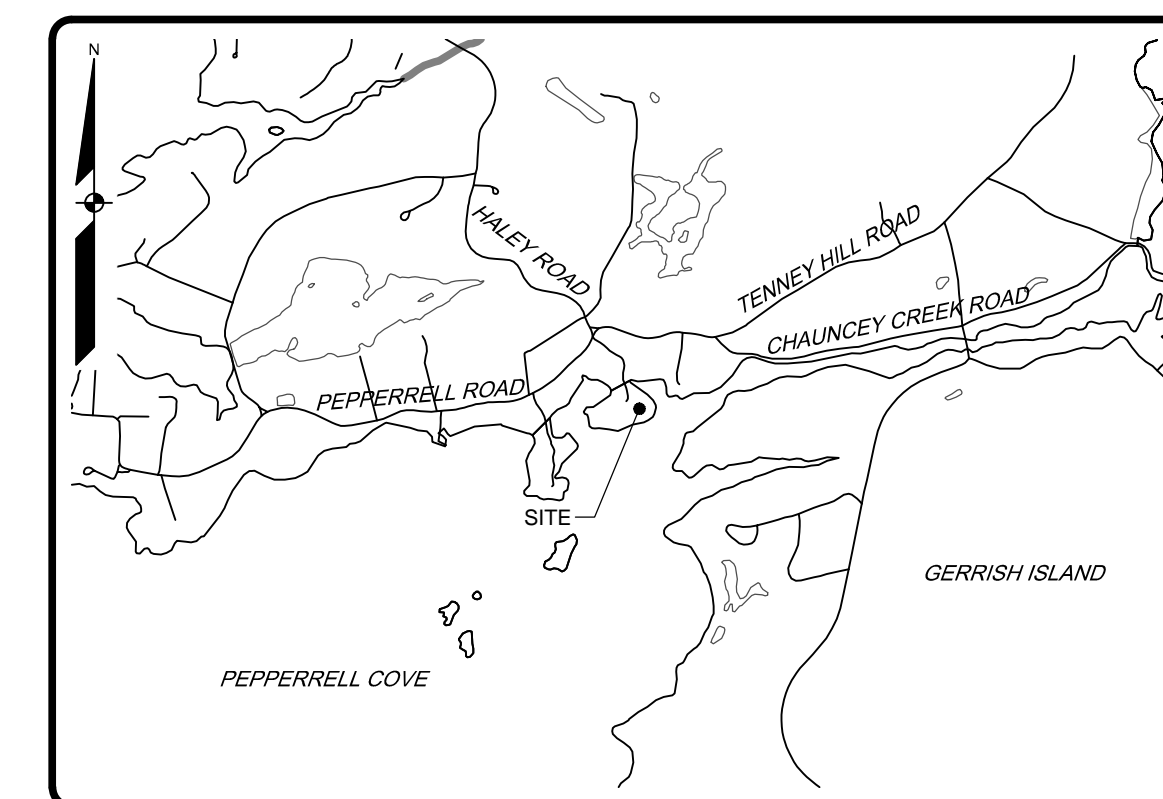
*BUILDING HEIGHTS WERE MEASURED USING THE VERTICAL DISTANCE BETWEEN THE MEAN ORIGINAL GRADE AT THE DOWNHILL SIDE OF THE STRUCTURE AND THE HIGHEST POINT OF THE STRUCTURE, AS DEFINED BY THE TOWN OF KITTERY ZONING ORDINANCE, 16.3.2. HEIGHT OF STRUCTURE

BUILDING HEIGHTS SHOWN ARE MEASURED TO THE TOP ROOF RIDGE OF THE STRUCTURES

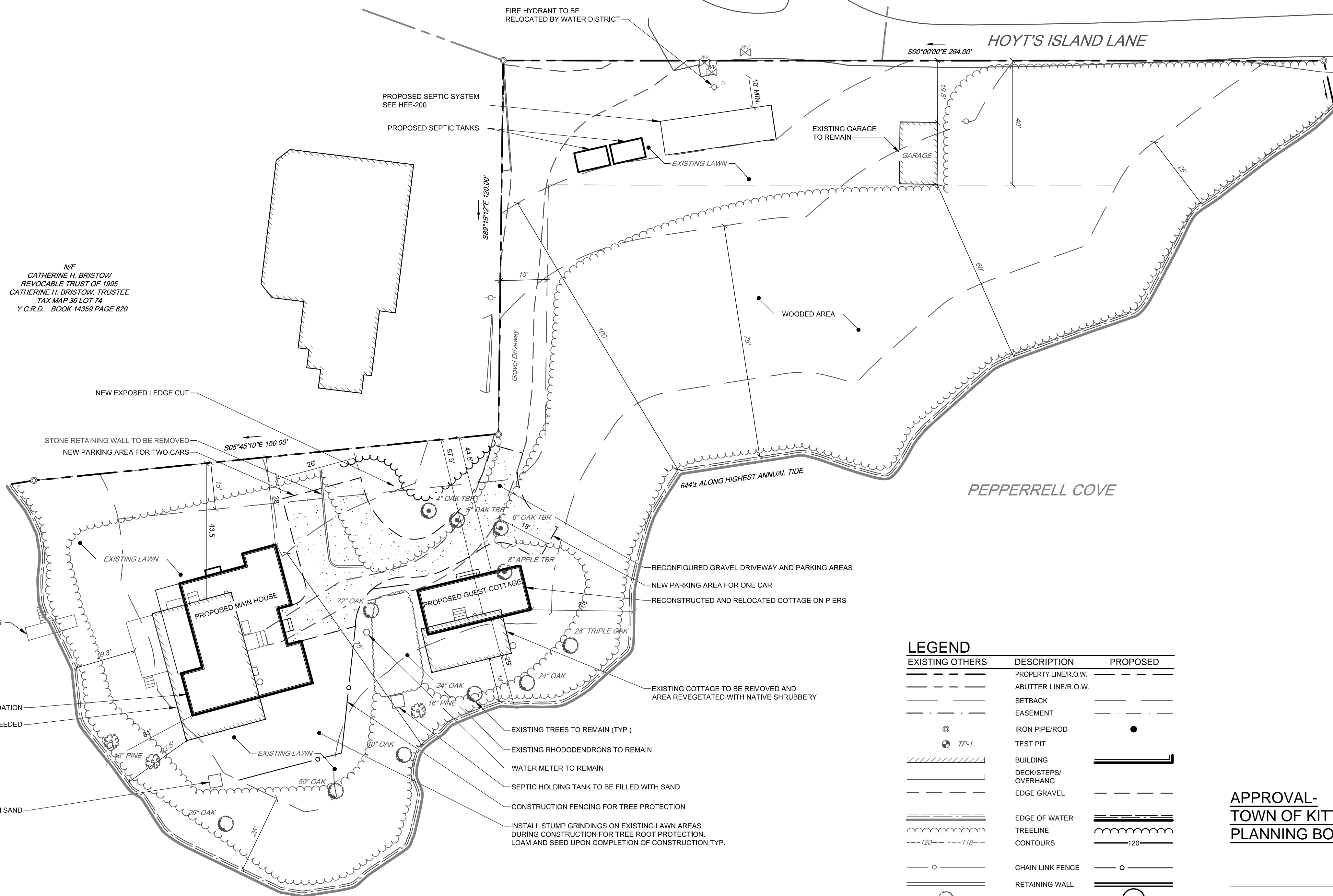
| BUILDING CALCULATIONS | | | |
|-------------------------|------------|------------|-----------------------------|
| | EXISTING | PROPOSED | MAX (30% EXPANSION ALLOWED) |
| MAIN HOUSE | 1,132 S.F. | 1,468 S.F. | 1,472 S.F. |
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| EXISTING STEPS | 13 S.F. | 16 S.F. | 17 S.F. |
| GARAGE | 240 S.F. | 240 S.F. | 312 S.F. |
| DOCK | 27 S.F. | 27 S.F. | 35 S.F. |
| TOTAL | 1,977 S.F. | 2,480 S.F. | 2,570 S.F. |

N/F
JOAN C. VARNEY
TAX MAP 36 LOT 76
Y.C.R.D. BOOK 1724 PAGE 383

N/F
JOAN C. VARNEY
TAX MAP 36 LOT 76
Y.C.R.D. BOOK 1371 PAGE 307



LOCATION MAP NTS



N/F
CATHERINE H. BRISTOW
REVOCABLE TRUST OF 1995
CATHERINE H. BRISTOW, TRUSTEE
TAX MAP 36 LOT 74
Y.C.R.D. BOOK 14389 PAGE 820

GENERAL NOTES

- THE RECORD OWNER OF THE PARCEL IS DAVID HURD MOULTON REVOCABLE TRUST BY DEED DATED DECEMBER 16, 2015 AND RECORDED AT THE YORK COUNTY REGISTRY OF DEEDS (YCRD), BOOK 17166, PAGE 817.
- THE PROPERTY IS SHOWN AS LOT 73 ON THE TOWN OF KITTERY TAX MAP 36 AND IS LOCATED IN THE BASE ZONE: RESIDENTIAL - KITTERY POINT (R-KPV), OVERLAY ZONE: WATER BODY / WETLAND PROTECTION AREA - 250' (OZ-SL-250'), RESOURCE PROTECTION OVERLAY ZONE: (OZ-RP).
- SPACE AND BULK CRITERIA:
R-KPV BASE ZONE REQUIREMENTS
MINIMUM LAND AREA PER DWELLING UNIT: 40,000 SQ. FT.
MINIMUM LOT SIZE: 40,000 SQ.FT.
MINIMUM STREET FRONTAGE: 150 FT.
MINIMUM FRONT YARD: 40 FT.
MINIMUM REAR AND SIDE YARDS: 15 FT.
MAXIMUM BUILDING HEIGHT: 35 FT.
MINIMUM SETBACK FROM WATER BODY AND WETLAND DEPENDENT USES: 0 FT.
MAXIMUM BUILDING COVERAGE: 20%
OZ-SL-250' REQUIREMENTS (SEE 16.3.2.17):
MINIMUM LOT SIZE: 20,000 SQ. FT.
MINIMUM LAND AREA PER DWELLING UNIT: 20,000 SQ. FT.
MINIMUM SHORE FRONTAGE: 50 FT.
MAXIMUM DEVEGETATED COVERAGE*: 20%
*SEE 16.3.2.17.D.1.d.ii
- BOUNDARY AND TOPOGRAPHIC INFORMATION SHOWN HEREON IS BASED UPON PLAN REFERENCE 5A.
- PLAN REFERENCES:
A. EXISTING CONDITIONS PLAN FOR PROPERTY AT 8 HOYT'S ISLAND LANE, KITTERY POINT, YORK COUNTY, MAINE DATED DECEMBER, 17, 2021 BY EASTERLY SURVEYING, INC.
- THE ENTIRE LOT FALLS WITHIN THE OZ-SL-250' SHORELAND ZONE WITH PORTIONS BEING IN THE RESOURCE PROTECTION ZONE. ZONING INFORMATION AND SETBACKS SHOWN HEREON ARE FOR REFERENCE PURPOSES. CONFIRM CURRENT ZONING REQUIREMENTS WITH THE TOWN OF KITTERY PRIOR TO DESIGN OR CONSTRUCTION.

LEGEND

| EXISTING OTHERS | DESCRIPTION | PROPOSED |
|-----------------|----------------------|----------|
| --- | PROPERTY LINE/R.O.W. | --- |
| --- | ABUTTER LINE/R.O.W. | --- |
| --- | SETBACK | --- |
| --- | EASEMENT | --- |
| ○ | IRON PIPE/ROD | ● |
| ⊕ | TEST PIT | ⊕ |
| ▬ | BUILDING | ▬ |
| ▬ | DECK/STEPS/ OVERHANG | ▬ |
| ▬ | EDGE GRAVEL | ▬ |
| ▬ | EDGE OF WATER | ▬ |
| ▬ | TREELINE | ▬ |
| --- | CONTOURS | --- |
| ○ | CHAIN LINK FENCE | ○ |
| ▬ | RETAINING WALL | ▬ |
| ○ | DECIDUOUS TREE | ○ (X) |
| ○ | CONIFEROUS TREE | ○ (X) |
| ○ | TREE TO BE REMOVED | ○ |
| ○ | BOLLARD | ● |
| ⊕ | WATER GATE VALVE | ⊕ |
| ⊕ | HYDRANT | ⊕ |
| ⊕ | UTILITY POLE | ⊕ |
| ▬ | FILTER BARRIER | ▬ (FB) |

APPROVAL-TOWN OF KITTERY PLANNING BOARD

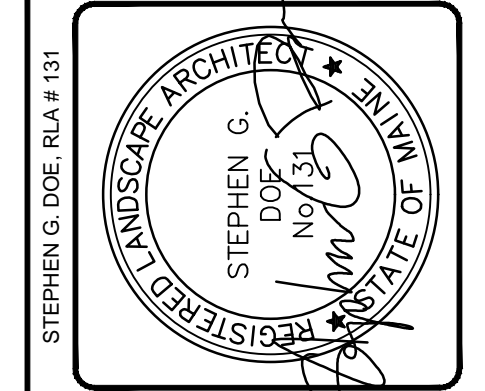
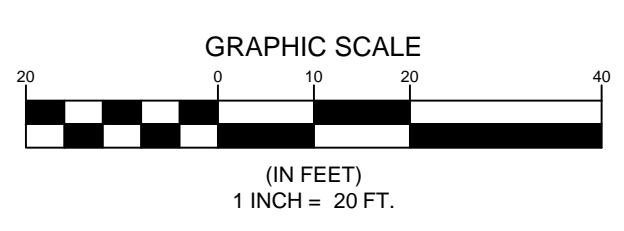
DATE _____

CHAIRPERSON _____

STATE OF MAINE
YORK COUNTY SS REGISTRY OF DEEDS
RECEIVED _____ 20____
AT _____ M. AND RECORDED IN
PLAN BOOK _____ PAGE _____

ATTEST _____ REGISTRAR

TAX MAP 36 LOT 73



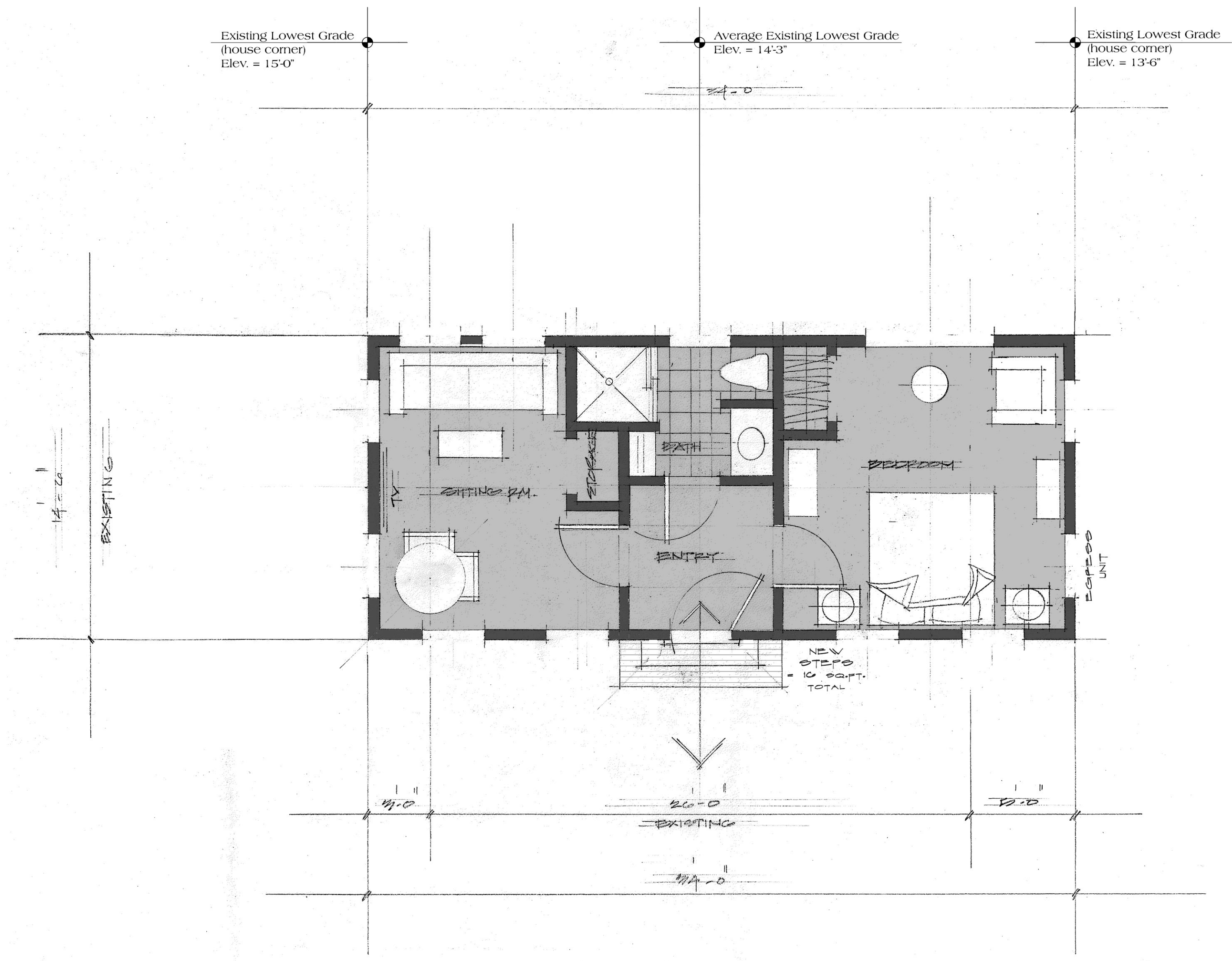
| REV. | BY | DATE | STATUS |
|------|-----|------------|----------------------------------|
| B | SGD | 09/26/2022 | REVISED BUILDING HEIGHT NOTES |
| A | SGD | 07/21/2022 | ISSUED FOR PLANNING BOARD REVIEW |

THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM SEBAGO TECHNIQS, INC. ANY ALTERATIONS, AUTHORIZED OR OTHERWISE, SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO SEBAGO TECHNIQS, INC.



SHORELAND DEVELOPMENT PLAN
OF:
8 HOYT'S ISLAND LANE
8 HOYT'S ISLAND LANE
KITTERY POINT, YORK COUNTY, ME
FOR:
DAVID H. MOULTON & FRANCES LEE DE PEYSTER
7209 FAIRFAX ROAD
BETHESDA, MD 20814

| | |
|----------|----------|
| DESIGNED | SGD |
| DRAWN | EPR |
| CHECKED | SGD |
| DATE | 07/13/22 |
| SCALE | 1" = 20' |
| PROJECT | 220061 |



First Floor Plan

Total allowable footprint with 30% expansion = 498 Sq.Ft.
 Total footprint shown above = 493 Sq.Ft.
 5 Sq.Ft.

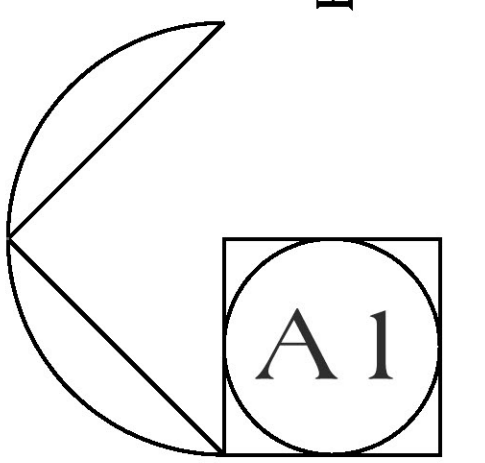
(Existing Footprint = 383 Sq.Ft.
 383 Sq.Ft x 30% = 115 Sq.Ft.
 383 Sq.Ft. + 115 Sq.Ft. = 498 Sq.Ft.)

Total allowable steps with 30% expansion = 17 Sq.Ft.
 Total new steps shown above = 16 Sq.Ft.
 1 Sq.Ft.

(Existing steps = 13 Sq.Ft.
 13 Sq.Ft x 30% = 4 Sq.Ft.
 13 Sq.Ft. + 4 Sq.Ft. = 17 Sq.Ft.)

(Total new steps = 16 Sq.Ft.)

Conceptual Drawings
 - Not for Construction -
 Date: 9/12/22



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 207 • 363 • 8071
 www.williamrossdesign.com

Moulton / De Peyster Residence
 - Guest Cottage -
 8 Hoyt's Island Lane
 Kittery Point, Maine

REVISIONS:

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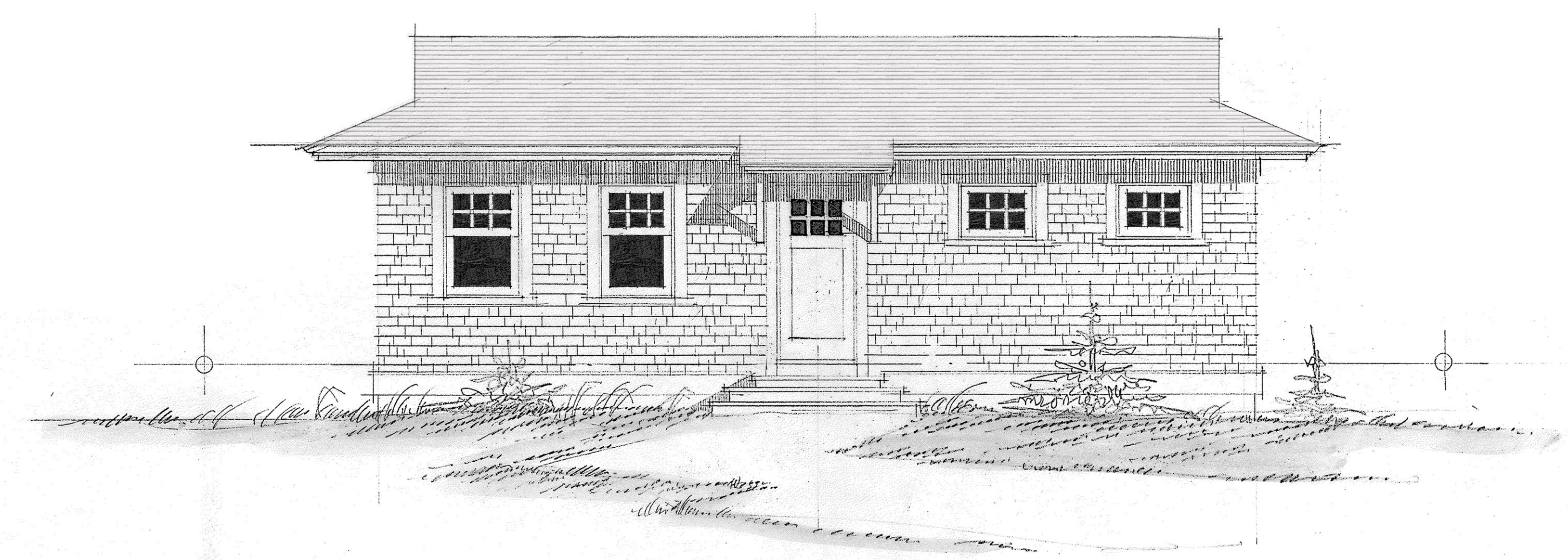
TITLE: FIRST FLOOR PLAN
 DATE: 09/24/22
 SCALE: 1/4" = 12"

TITLE: S/V ELEVATIONS
DATE: 01/24/22
SCALE: 1/4" = 12'

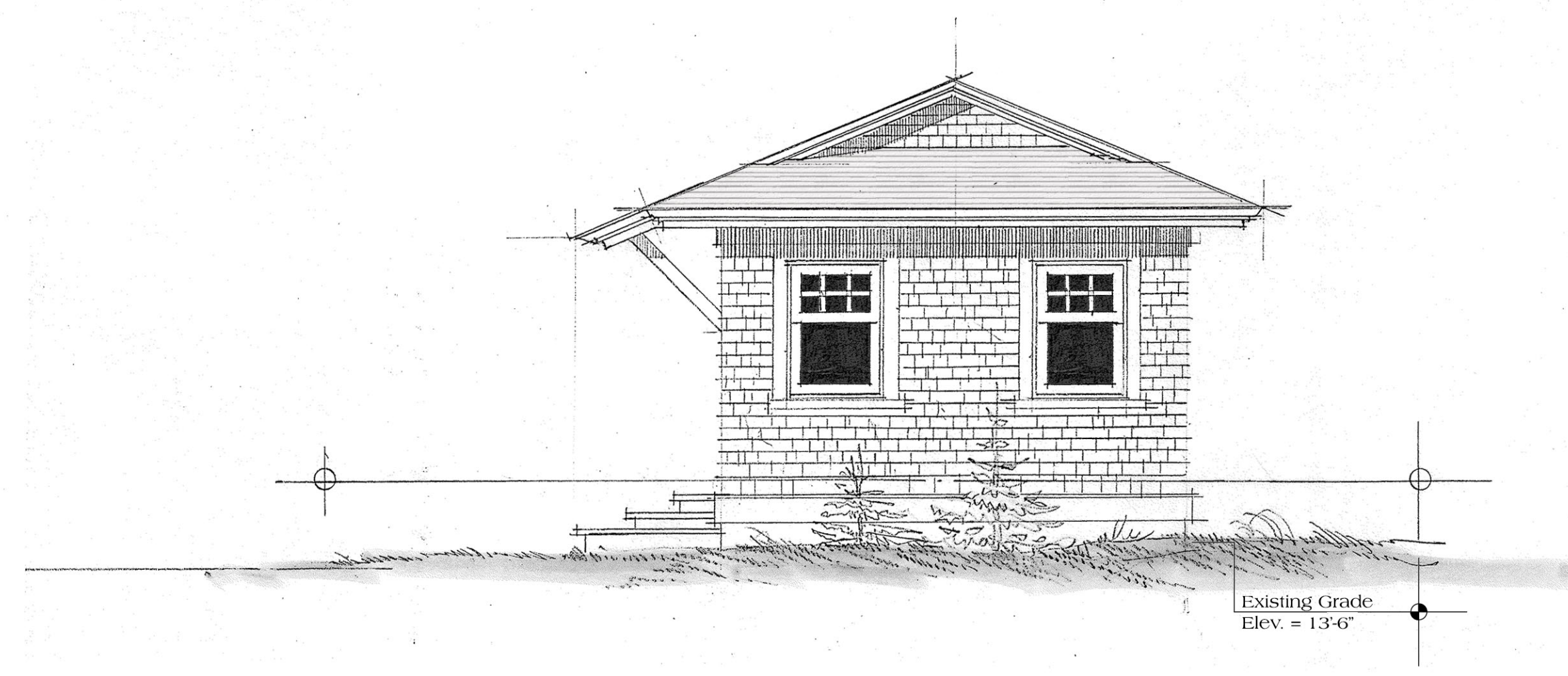
REVISIONS:
1/11/22
1/14/22
2/11/22

Moulton / De Peyster Residence
- Guest Cottage -
8 Hoy's Island Lane
Kittery Point, Maine

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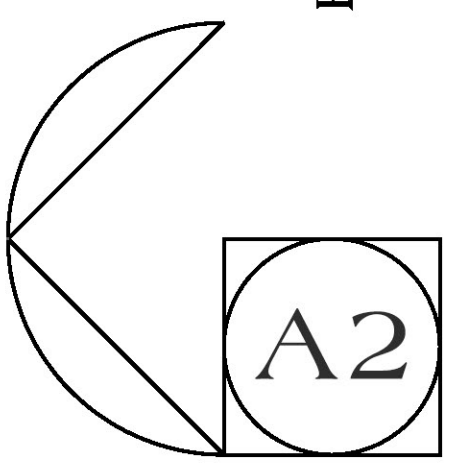


West Elevation



South Elevation

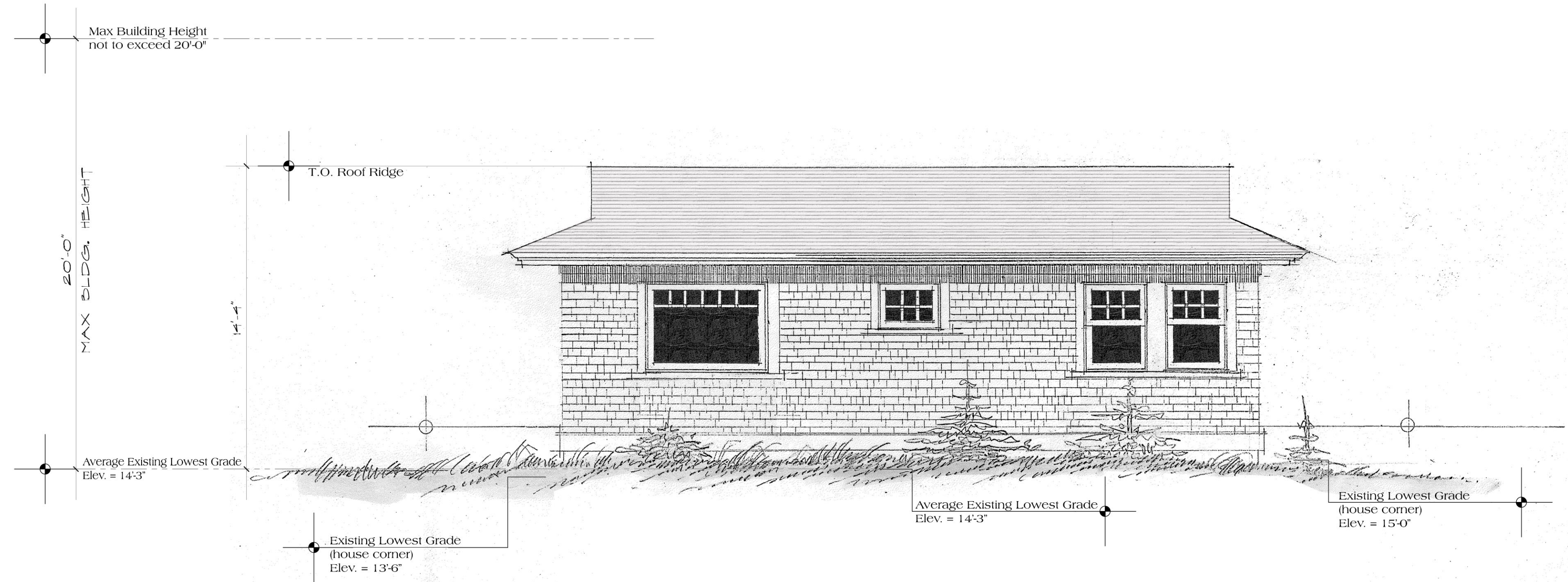
Conceptual Drawings
- Not for Construction -
Date: 9/12/22



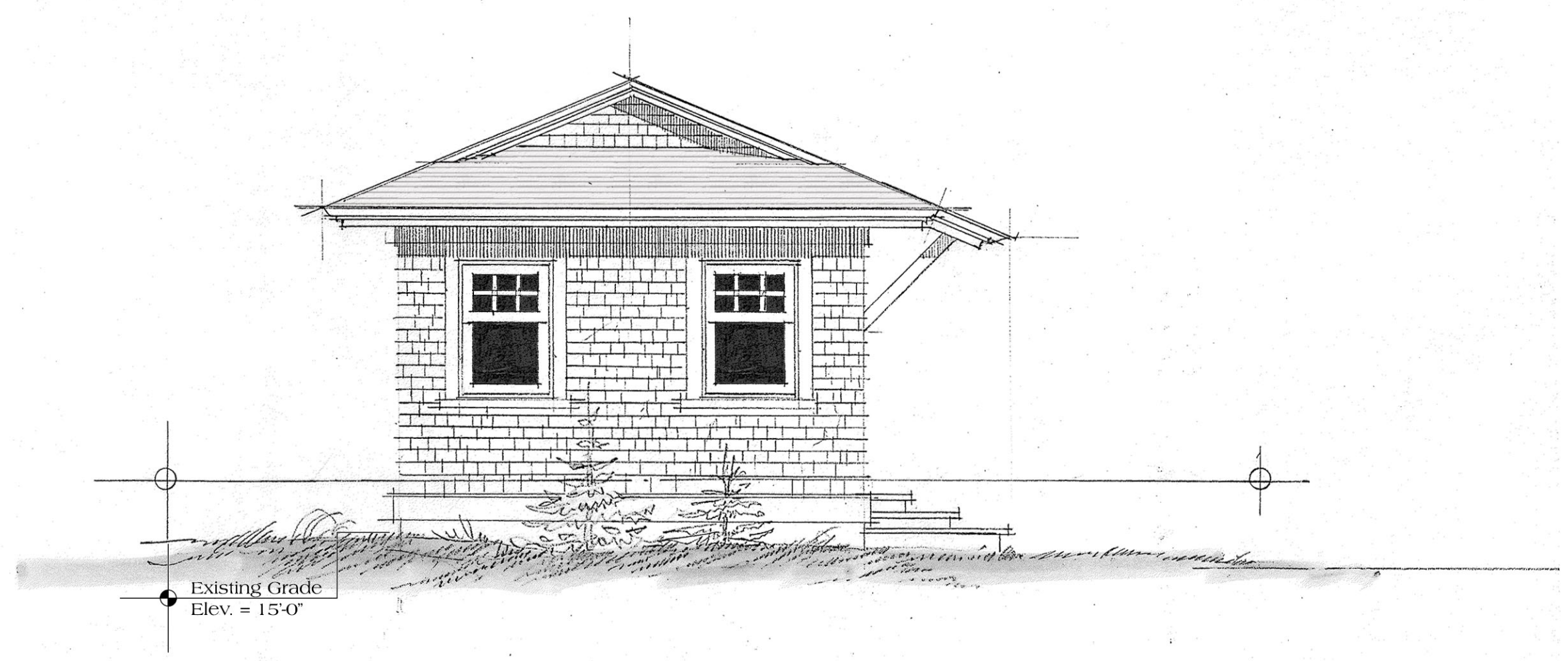
TITLE: N E ELEVATIONS
 DATE: 01/24/22
 SCALE: 1/4" = 12'

| REVISIONS: |
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Moulton / De Peyster Residence
 - Guest Cottage -
 8 Hoy's Island Lane
 Kittery Point, Maine



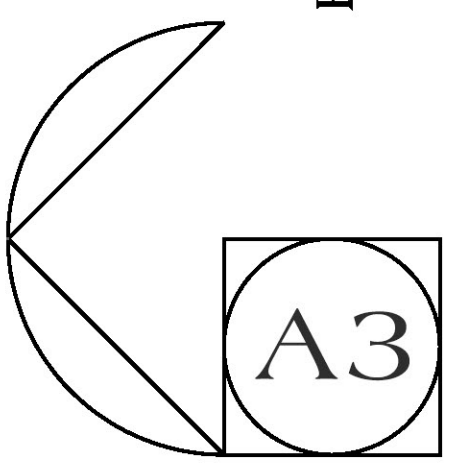
East Elevation



North Elevation

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Conceptual Drawings
 - Not for Construction -
 Date: 9/12/22





Moulton / De Peyster Residence

Kittery Point, Maine

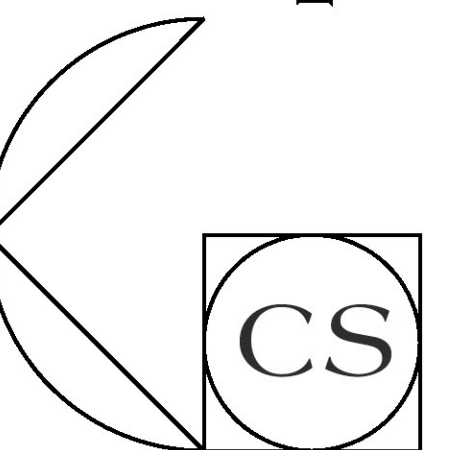
Conceptual Drawings
- Not for Construction -
Date: 9/12/22

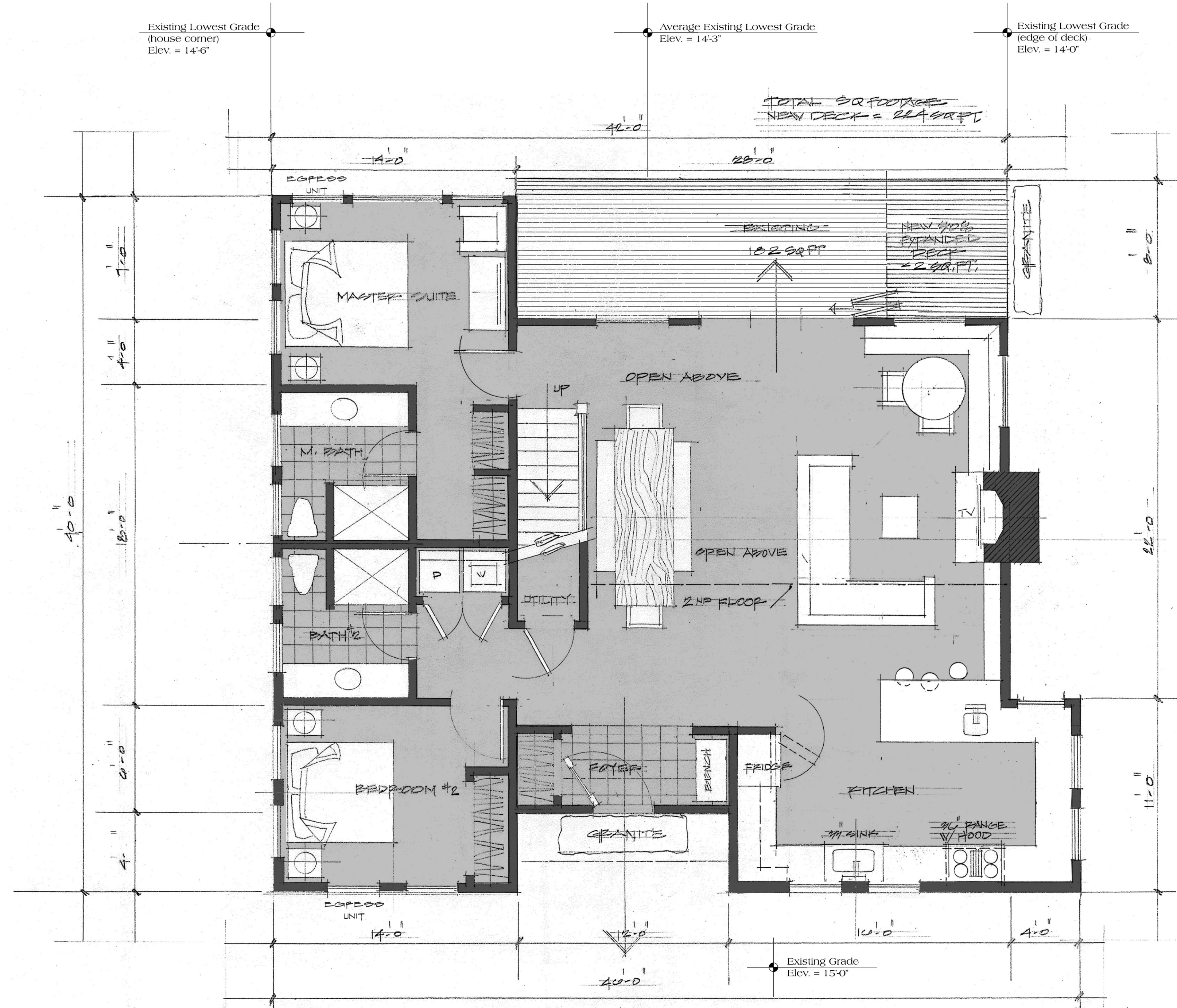
TITLE: COVER SHEET
DATE: 9/12/22
SCALE: N/A

REVISIONS:

Moulton / De Peyster Residence
8 Hoyts Island Lane
Kittery Point, Maine

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First Floor Plan

Total allowable footprint with 30% expansion = 1,472 Sq.Ft.

Total footprint shown above = 1,468 Sq.Ft.

4 Sq.Ft.

(Existing House Footprint = 1,132 Sq.Ft.
 1,132 Sq.Ft x 30% = 340 Sq.Ft.
 1,132 Sq.Ft. + 340 Sq.Ft. = 1,472 Sq.Ft.)

Total allowable deck & steps with 30% expansion = 236 Sq.Ft.

Total new deck shown above = 224 Sq.Ft.

12 Sq.Ft.

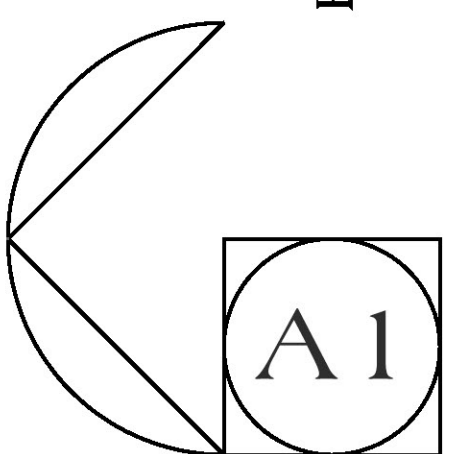
(Existing deck & steps = 182 Sq.Ft.
 182 Sq.Ft x 30% = 54 Sq.Ft.
 182 Sq.Ft. + 54 Sq.Ft. = 236 Sq.Ft.)

(Total new deck = 224 Sq.Ft.)

Conceptual Drawings

- Not for Construction -

Date: 9/12/22



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Moulton / De Peyster Residence
 - Main House -
 8 Hoy's Island Lane
 Kittery Point, Maine

REVISIONS:

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TITLE: FIRST FLOOR PLAN
 DATE: 1/25/22
 SCALE: 1/4" = 12"



Second Floor Plan

TITLE: SECOND FLOOR PLAN
 DATE: 5/27/22
 SCALE: 1/4" = 12"

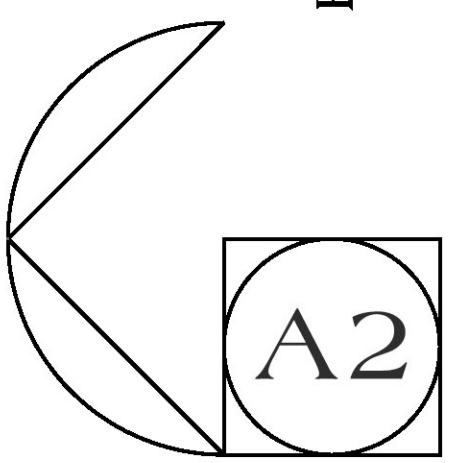
REVISIONS:

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| 01/27/22 | |
| 1/14/22 | |

Moulton / De Peyster Residence
 - Main House -
 8 Hoy's Island Lane
 Kittery Point, Maine

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Conceptual Drawings
 - Not for Construction -
 Date: 9/12/22





North Elevation

TITLE: NORTH ELEVATION
 DATE: 1/25/22
 SCALE: 1/4" = 12'

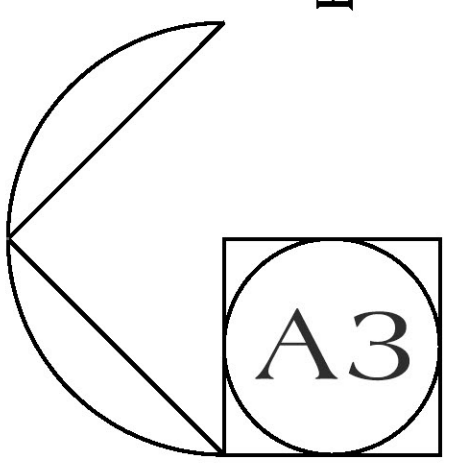
REVISIONS:

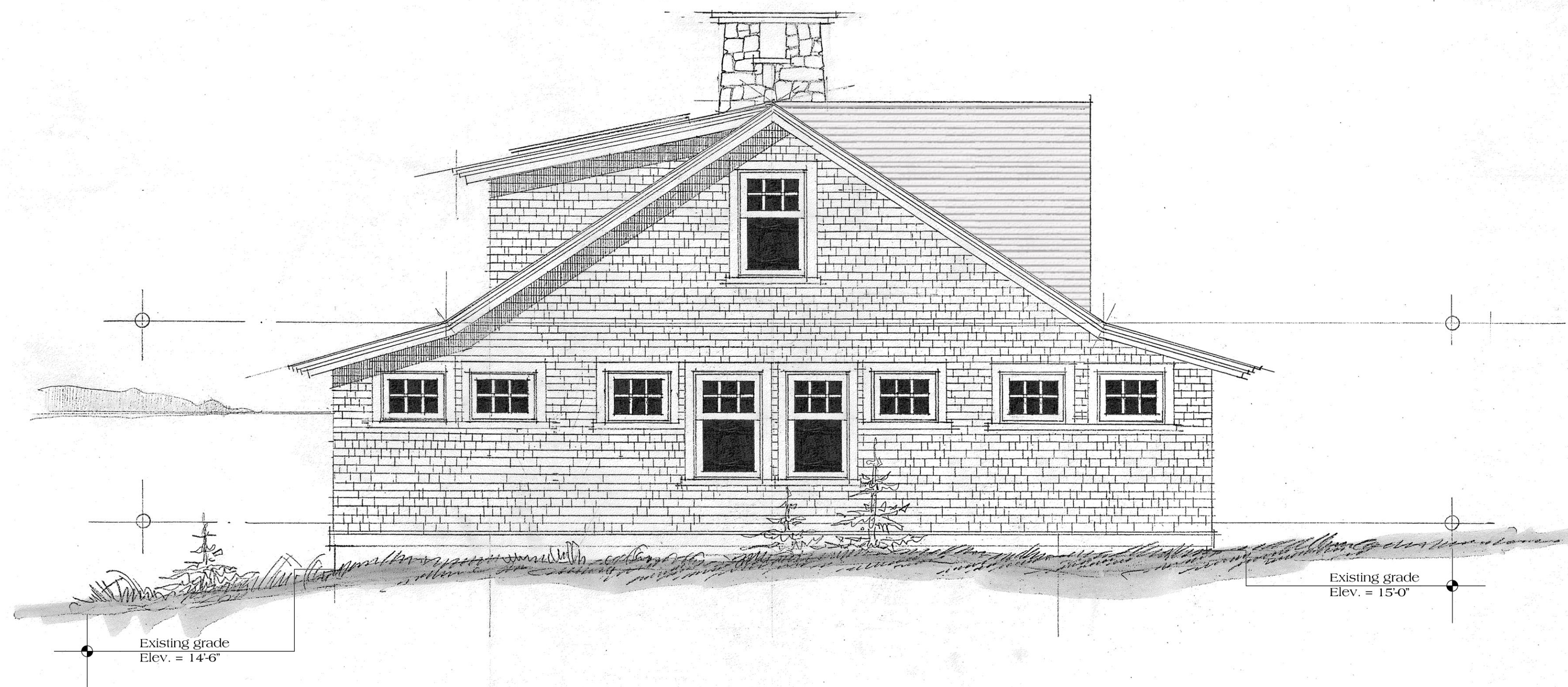
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Moulton / De Peyster Residence
 - Main House -
 8 Hoyt's Island Lane
 Kittery Point, Maine

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Conceptual Drawings
 - Not for Construction -
 Date: 9/12/22





East Elevation

TITLE: EAST ELEVATION
 DATE: 1/25/22
 SCALE: 1/4" = 12'

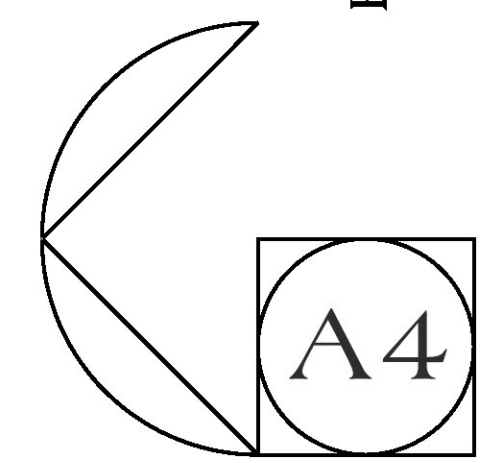
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| 01/25/22 | |

Moulton / De Peyster Residence
 - Main House -
 8 Hoyt's Island Lane
 Kittery Point, Maine

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Conceptual Drawings
 - Not for Construction -
 Date: 9/12/22





South Elevation

TITLE: SOUTH ELEVATION
 DATE: 1/25/22
 SCALE: 1/4" = 12'

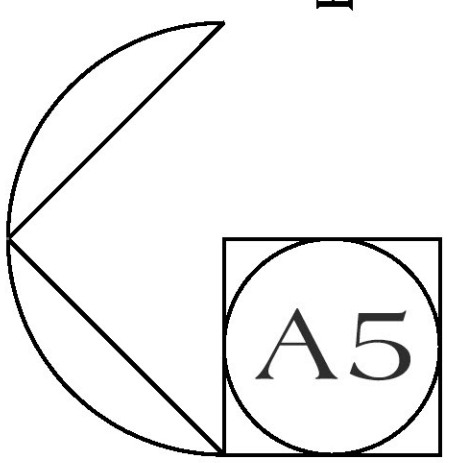
REVISIONS:

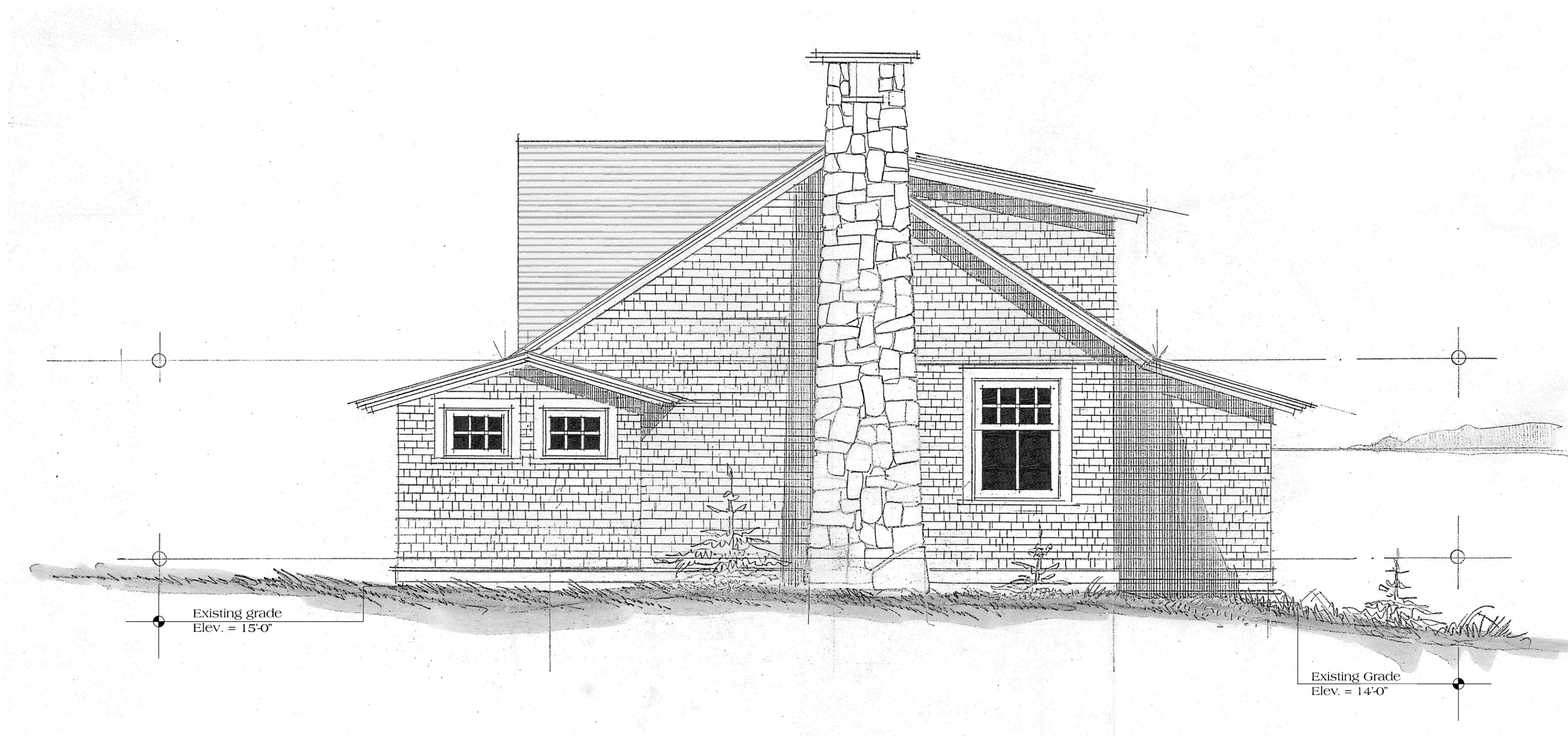
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| 5/21/22 | |
| 7/14/22 | |
| 8/11/22 | |

Moulton / De Peyster Residence
 - Main House -
 8 Hoy's Island Lane
 Kittery Point, Maine

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Conceptual Drawings
 - Not for Construction -
 Date: 8/11/22





West Elevation

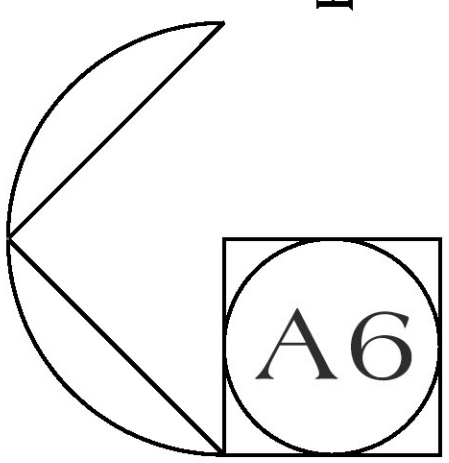
TITLE: WEST ELEVATION
 DATE: 01/27/22
 SCALE: 1/4" = 12'

REVISIONS:
 1/14/22
 2/17/22

Moulton / De Peyster Residence
 - Main House -
 8 Hoyt's Island Lane
 Kittery Point, Maine

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Conceptual Drawings
 - Not for Construction -
 Date: 9/12/22



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Kittery Planning Board
Findings of Fact
For 8 Hoyts Island Lane
Shoreland Development Plan Review

UNAPPROVED
M 36 L 73

WHEREAS: Owner David H. Moulton and agent Stephen Doe request approval to expand two legally non-conforming structures on a conforming lot within the base zone setback of the Shoreland Overlay Zone located on real property with the address of 8 Hoyts Island Lane, Tax Map 36, Lot 73, in the Residential – Kittery Point Village (R-KPV), Shoreland Overlay Zone (OZ-SL-250’), and Resource Protection Overlay Zone (OZ-RP)/FEMA Flood Zone.

Hereinafter the “Development” and

Pursuant to the Plan Review meetings conducted by the Planning Board as noted in the plan review notes prepared for 10/13/2022

| | |
|-----------------------------------|------------------------|
| Shoreland Development Plan Review | 8/11/2022 & 10/13/2022 |
| Site Walk | 9/15/2022 |
| Public Hearing | none |
| Approval | 10/13/2022 |

And pursuant to the application and plan and other documents considered to be a part of a plan review decision by the Planning Board in this Finding of Fact consisting of the following (hereinafter the “Plan”):

1. Shoreland Development Plan Application, received 7/21/2022
2. Shoreland Development Site Plan dated 7/13/2022 from Sebago Technics

NOW THEREFORE, based on the entire record before the Planning Board and pursuant to the applicable standards in the Land Use and Development Code, the Planning Board makes the following factual findings and conclusions:

FINDINGS OF FACT

Chapter 16.4 LAND USE ZONE REGULATIONS

16.4.28.E. Shoreland Overlay Zone

(2) The total footprints of the areas devegetated for structures, parking lots and other impervious surfaces, must not exceed twenty (20) percent of the lot area, including existing development, except in the following zones:

(a) Mixed-use. Badgers Island (MU-BI) and Mixed-Use - Kittery Foreside (MU-KF) Zones, where the maximum devegetated area is 60%. The Board of Appeals may approve a miscellaneous appeal application to increase allowable devegetated area in the Mixed-Use - Badgers Island (MU-BI) Zone to 70% where it is clearly demonstrated that no practicable alternative exists to accommodate a water-dependent use.

Finding: The proposed development’s devegetated area is 14.6%, which is under the allowed threshold.

Conclusion: The requirement appears to be met.

Vote: ___ in favor ___ against ___ abstaining

34
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36

Chapter 9 MARITIME AND SHORELAND RELATED DEVELOPMENT

Article III Planning Board Shoreland Development Review

16.9.3.F. Findings of Fact

(2) An application will be approved or approved with conditions if the reviewing authority makes a positive finding based on the information presented. It must be demonstrated the proposed use will:

(a) Maintain safe and healthful conditions;

Finding: The proposed development as represented in the plans and application does not appear to have an adverse impact on public health and safety.

Conclusion: This requirement appears to be met.

Vote: ___ in favor ___ against ___ abstaining

(b) Not result in water pollution, erosion or sedimentation to surface waters;

Finding: The proposed development as represented in the plans and application will not result in water pollution and best practices for erosion and sedimentation will be observed.

Conclusion: This requirement appears to be met.

Vote: ___ in favor ___ against ___ abstaining

(c) Adequately provide for the disposal of all wastewater;

Finding: The applicant proposes a new septic system constructed outside the 100-foot shoreland buffer.

Conclusion: This requirement appears to be met.

Vote: ___ in favor ___ against ___ abstaining

(d) Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

Finding: The proposed development as represented in the plans and application does not appear to have an adverse impact.

Conclusion: The requirement appears to be met.

Vote: ___ in favor ___ against ___ abstaining

(e) Conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;

Finding: Shore cover is conserved in accordance with the Code. There are no adverse impacts to visual or actual points of access to waters.

Conclusion: This requirement appears to be met.

Vote: ___ in favor ___ against ___ abstaining

(f) Protect archaeological and historic resources;

| |
|---|
| <p><u>Finding:</u> There does not appear to be any archaeological nor historic resources impacted.</p> <p><u>Conclusion:</u> This requirement appears to be met.</p> <p style="text-align: right;">Vote: ___ in favor ___ against ___ abstaining</p> |
| <p><i>(g) Not adversely affect existing commercial fishing or maritime activities in a commercial fisheries/maritime activities district;</i></p> <p><u>Finding:</u> The property is not located in the Commercial Fisheries / Maritime Use Zone and will have no adverse effect on commercial fishing nor maritime activities.</p> <p><u>Conclusion:</u> This requirement is not applicable.</p> <p style="text-align: right;">Vote: ___ in favor ___ against ___ abstaining</p> |
| <p><i>(h) Avoid problems associated with floodplain development and use;</i></p> <p><u>Finding:</u> The property is not located in the floodplain of the currently adopted Flood Insurance Rate Map.</p> <p><u>Conclusion:</u> This requirement appears to be met.</p> <p style="text-align: right;">Vote: ___ in favor ___ against ___ abstaining</p> |
| <p><i>(i) Is in conformance with the provisions of this code;</i></p> <p><u>Finding:</u> The proposed project is in conformance with the provisions of Title 16.</p> <p><u>Conclusion:</u> This requirement appears to be met.</p> <p style="text-align: right;">Vote: ___ in favor ___ against ___ abstaining</p> |
| <p><i>(j) Be recorded with the York County Registry of Deeds.</i></p> <p><u>Finding:</u> A plan suitable for recording once the Surveyor's stamp is added has been prepared by North Easterly Surveying, Inc.</p> <p><u>Conclusion:</u> As stated in the Notices to Applicant contained herein, a Shoreland Development Plan must be recorded with the York County Registry of Deeds prior to the issuance of a building permit.</p> <p style="text-align: right;">Vote: ___ in favor ___ against ___ abstaining</p> |

37
38 Based on the foregoing Findings, the Planning Board finds the applicant has satisfied each of the review
39 standards for approval and, therefore, the Planning Board approves the Shoreland Development Plan
40 Application subject to any conditions or waivers, as follows:

41
42 **Waivers:** None

43
44 **Conditions of Approval** (to be depicted on final plan to be recorded):

- 45
46 1. No changes, erasures, modifications or revisions may be made to any Planning Board approved
47 final plan per Title 16.9.3.I.
- 48 2. Applicant/contractor will follow Maine DEP *Best Management Practices* for all work associated
49 with site and construction to ensure adequate erosion control and slope stabilization.

50 3. All Notices to Applicant contained herein (Findings of Fact dated 10/13/2022).

51

52 **Conditions of Approval** (not to be depicted on final plan):

53 1. Incorporate any plan revisions on the final plan as recommended by Staff, Planning Board or Peer
54 Review Engineer, and submit for Staff review prior to presentation on final plan.

55 2. Surveyor's stamp must be on the final plan.

56

57 **Notices to Applicant:**

58

59 1. Incorporate any plan revisions on the final plan as required by Planning Board and submit for
60 Staff review prior to presentation of final plan.

61 2. Prior to the release of the signed plans, the applicant must pay all outstanding fees associated with
62 the permitting, including, but not limited to, Town Attorney fees, peer review, newspaper
63 advertisements and abutter notification.

64 3. One (1) copy of the final plan and any and all related state/federal permits or legal documents that
65 may be required, must be submitted to the Town Planning Department for signing. Date of Planning
66 Board approval shall be included on the final plan in the Signature Block. After the signed plan is
67 recorded with the York County Registry of Deeds, a copy of the signed and recorded original must be
68 submitted to the Town Planning Department.

69 4. This approval by the Town Planning Board constitutes an agreement between the Town and the
70 Developer, incorporating as elements the Development Plan and supporting documentation, the
71 Findings of Fact, and any Conditions of Approval.

72

73 The Planning Board authorizes the Planning Board Chair or Vice chair to sign the Final Plan and the
74 Findings of Fact upon confirmation of required plan changes.

75

76 **Vote: ___ in favor ___ against ___ abstaining**

77

78 APPROVED BY THE KITTERY PLANNING BOARD ON October 13, 2022

79

80

81

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83

84

Dutch Dunkelberger, Planning Board Chair

85 Per Title 16.2.12. - An aggrieved party with legal standing may appeal a final decision of the Planning
86 Board to the York County Superior Court in accordance with Maine Rules of Civil Procedures Section
87 80B, within forty-five (45) days from the date the decision by the Planning Board was rendered.

88

89