

## Town of Kittery Maine Planning Board Meeting September 12, 2019

### ITEM 1 – 3 Knight Ave – Shoreland Development Plan Review

Action: Approve or deny plan. Owner Christopher Eckel and applicant Deane Rykerson requests consideration of plans to repair and rebuild garage on a 8,355 sf lot located at 3 Knight Ave (Tax Map 4 Lot 70) in the Mixed Use – Kittery Foreside (MU-KF), Shoreland Overlay (OZ-SL-250’) and Commercial Fisheries/Maritime Uses (OZ-CFMU) Overlay Zones.

#### PROJECT TRACKING

| REQ'D | ACTION                                   | COMMENTS                      | STATUS   |
|-------|--|-------------------------------|----------|
| YES   | Determination of Completeness/Acceptance | 08/08/19 Meeting              | ACCEPTED |
| NO    | Public Hearing                           |                               |          |
| NO    | Site Walk                                | Scheduled for 08/20/19        | HELD     |
| YES   | Final Plan Review and Decision           | Possible for 09/12/19 Meeting |          |

Plan Review Notes reflect comments and recommendations regarding applicability of Town Land Use Development Code, and standard planning and development practices. Only the PB makes final decisions on code compliance and approves, approves with conditions or denies final plans. Prior to the signing of the approved Plan any **Conditions of Approval related to the Findings of Fact along with waivers and variances (by the BOA) must be placed on the Final Plan and recorded at the York County Registry of Deeds. PLACE THE MAP AND LOT NUMBER IN ¼: HIGH LETTERS AT LOWER RIGHT BORDER OF ALL PLAN SHEETS.** As per Section 16.4.4.13 – Grading/Construction Final Plan Required. – Grading or construction of roads, grading of land or lots, or construction of buildings is prohibited until the original copy of the approved final plan endorsed has been duly recorded in the York County registry of deeds when applicable.

#### Background

Planning Board review of this project is required by 16.10.3.4. Shoreland Development Review since the proposed development is located in the Shoreland Overlay Zone. The existing use is a non-conforming single-family dwelling with a two story garage on a conforming lot. The entire lot is located within the 75-foot setback from the highest annual tide (HAT) of the Piscataqua River.

The applicant proposes to reconstruct a 12’3” x 20’ 1” (250 sf) two story garage on the same footprint with a 10’ x 18’3” at-grade landing on the west side and set of stairs down to grade on the east side. The garage currently sits 2.7 feet from the front property line and 6 feet from the side property line at its closest point. The applicable building setbacks are 10 feet.

The Planning Board approved a similar application for this property on February 11, 2016 to construct a new, larger garage 20’ x 22’ in dimension to replace the existing one. The applicant did not go forward with the approval and is now back with this request.

#### Staff Review

- The proposed reconstruction does not meet the requirements of the Shoreland Zone (OZ-SL-250’). However, the provisions of Article III. Nonconformance apply to the property and existing structures. Per **Section 16.3.2.17. D. (2) (a) [1]** the setback requirement for all new principal and accessory structures is 75 feet from the Highest Annual Tideline (HAT) . The existing garage is set back 28.1 feet from the HAT. The proposed garage does not result in a greater encroachment than the 28.1 feet, and therefore does not increase nonconformance in the Shoreland Overlay Zone.

16.7.3.3.B Nonconforming Structure Repair and Expansion provides for the expansion of a non-conforming structure within the Shoreland Zone within certain standards and requirements. **16.7.3.3.B (3) (d)** states the addition of steps and landings exterior to the structure does not constitute an expansion. Step landings may not exceed three feet by three feet in size. The new set of stairs down to grade on the east side of the rebuilt structure would not constitute an expansion.

**Update:** The new stairs have been added to the site plan. The proposed at-grade landing is considered an expansion of the structure which is limited as outlined below.

- 2. Per 16.7.3.3.B (e)[5][a]** *For structures located less than 100 feet from the normal high-water line of a water body, tributary stream, or upland edge of a coastal or freshwater wetland, the maximum combined total footprint for all structures may 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 height of any structure may not be made greater than 20 feet, or the height of the existing structure, whichever is greater.* **Update:** The reconstructed garage with landing will total 430.5 sf in size. As detailed at the August 8<sup>th</sup> meeting, staff calculated the building footprints for all structures on the property including expansions since January 1, 1989. The resulting figure is a 25.3% larger footprint which falls within the threshold. The height of the rebuilt structure is indicated on the plans and complies with the code requirement.
- 3. Per Section 16.7.3.3.C.(1)** *In the Shoreland or Resource Protection Overlay Zone(s), any nonconforming structure which is located less than the required setback from a water body, tributary stream, or coastal or freshwater wetland and which is removed, damaged or destroyed, by any cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within 18 months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or coastal or freshwater wetland setback requirement to the greatest practical extent as determined by the Planning Board. In determining whether the structure reconstruction meets the setback to the greatest practical extent the Planning Board must consider, in addition to the criteria in § 16.7.3.3A(2), Nonconforming structure relocation, the physical condition and type of foundation present, if any.* The garage will be rebuilt on its existing footprint and cannot be setback or relocated on the lot where it will be further away from the water resource.
- 4.** The maximum devegetated area in the Shoreland Overlay Zone in the MU-KF zone is 60%. The current devegetated area is 16% of the lot. The proposed reconstruction increases the devegetated coverage to 18% which still meets the zone standard. Without detailed devegetated coverage calculations, it isn't clear if the gravel areas and retaining walls are included in the calculations. No tree clearing is indicated in the plans.
- 5.** The Mixed Use – Kittery Foreside (MU-KF) zone has a 60% maximum building coverage standard. According to the plan submitted, the existing building coverage is 16% of the lot. The proposed building coverage is 18%, which still conforms to the zone standard.

#### **Recommendation / Action**

The Board has accepted the Shoreland Development Plan as complete (8/8/19) and conducted a site walk on August 20, 2019.

***Move to approve the Shoreland Development Plan application, dated August 28, 2019, from owner Christopher Eckel and applicant Deane Rykerson to repair and rebuild garage on a 8,355 sf lot located at 3 Knight Avenue (Tax Map 4 Lot 70) in the Mixed Use-Kittery Foreside (MU-KF), Shoreland Overlay (OZ-SL-250') and Commercial Fisheries/Maritime Uses (OZ-CFMU) Overlay Zones.***



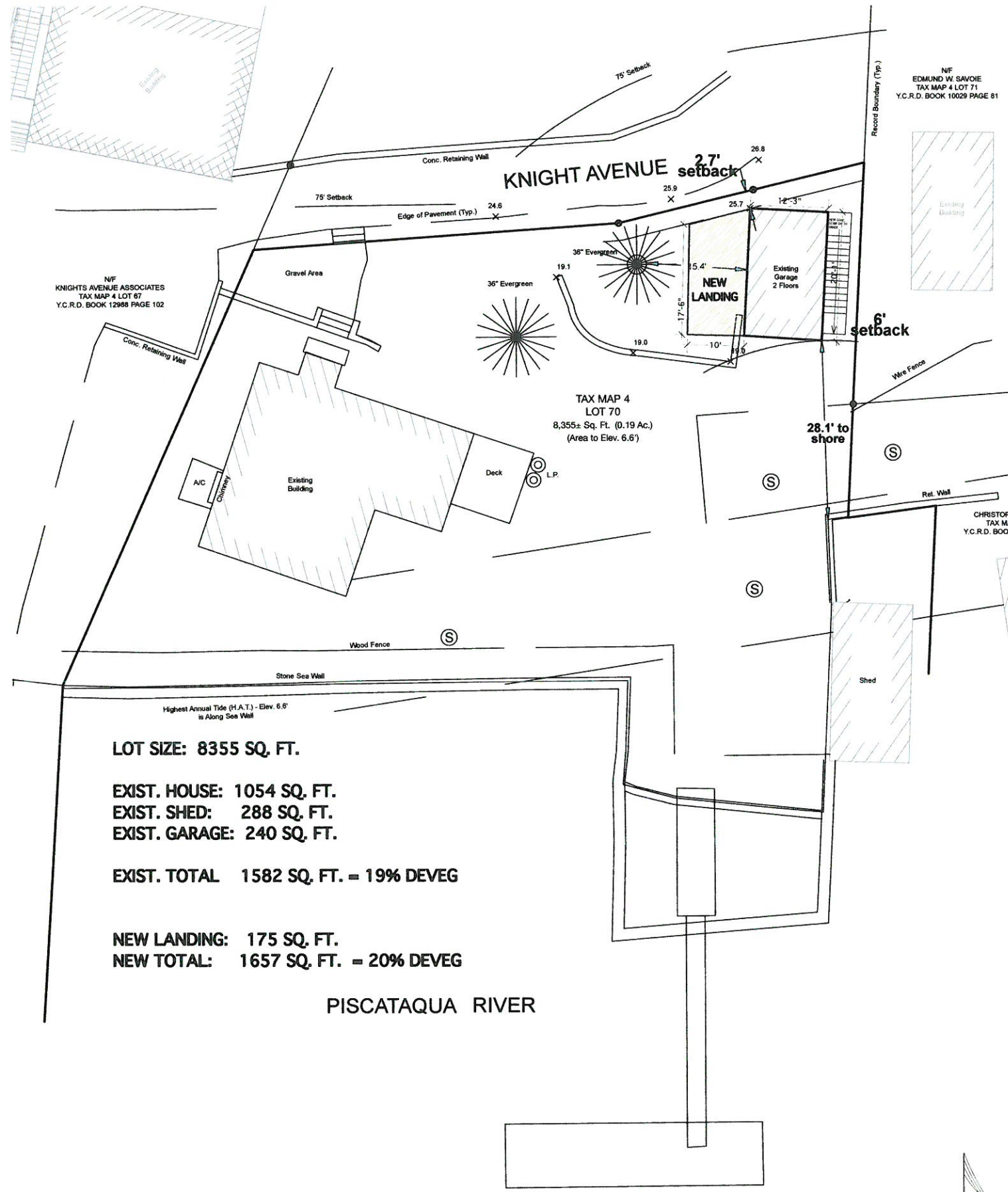
|                          |                |
|--------------------------|----------------|
| <b>MU-KF ZONING</b>      |                |
| MIN. LOT SIZE: 5,000 SF. | EXIST: 8355 SF |
| MIN. FRONT YD: 10 FT.    | EXIST: 2.7 FT. |
| MIN. SIDE YD: 10 FT.     | EXIST: 6 FT.   |
| MAX. BLDG COVER: 60%     | EXIST: 19%     |
|                          | PROP: 20%      |
| MAX. DE-VEG AREA: 60%    | EXIST: 19%     |
|                          | PROP: 20%      |

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PLANNING BOARD CHAIR

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DATE OF PLANNING BOARD APPROVAL



**LOT SIZE: 8355 SQ. FT.**

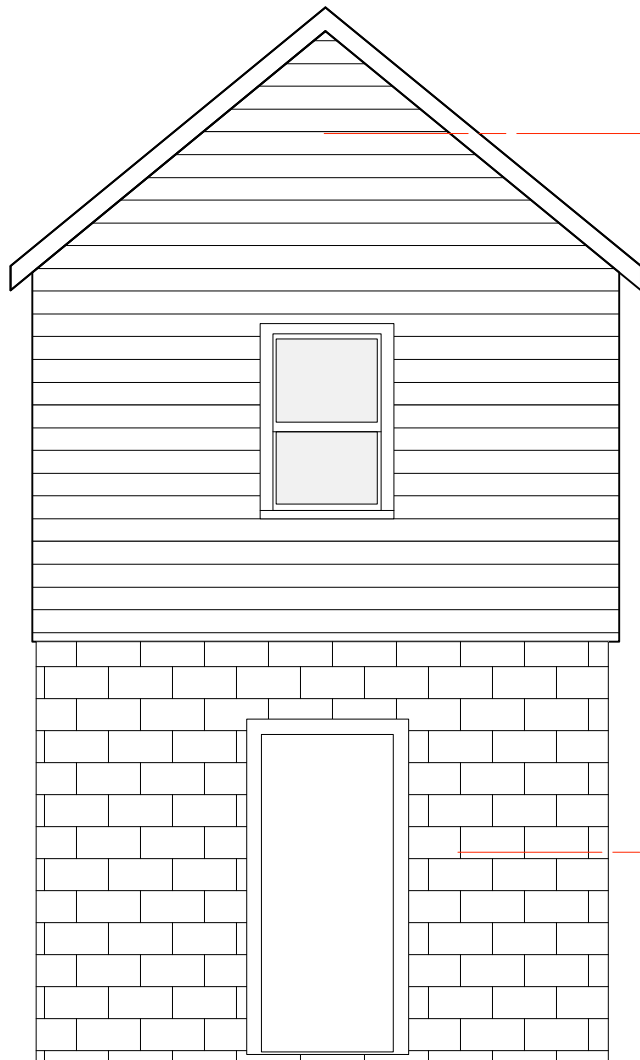
**EXIST. HOUSE: 1054 SQ. FT.**  
**EXIST. SHED: 288 SQ. FT.**  
**EXIST. GARAGE: 240 SQ. FT.**

**EXIST. TOTAL 1582 SQ. FT. = 19% DEVEG**

**NEW LANDING: 175 SQ. FT.**  
**NEW TOTAL: 1657 SQ. FT. = 20% DEVEG**

PISCATAQUA RIVER

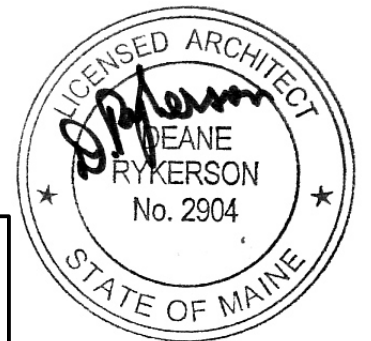
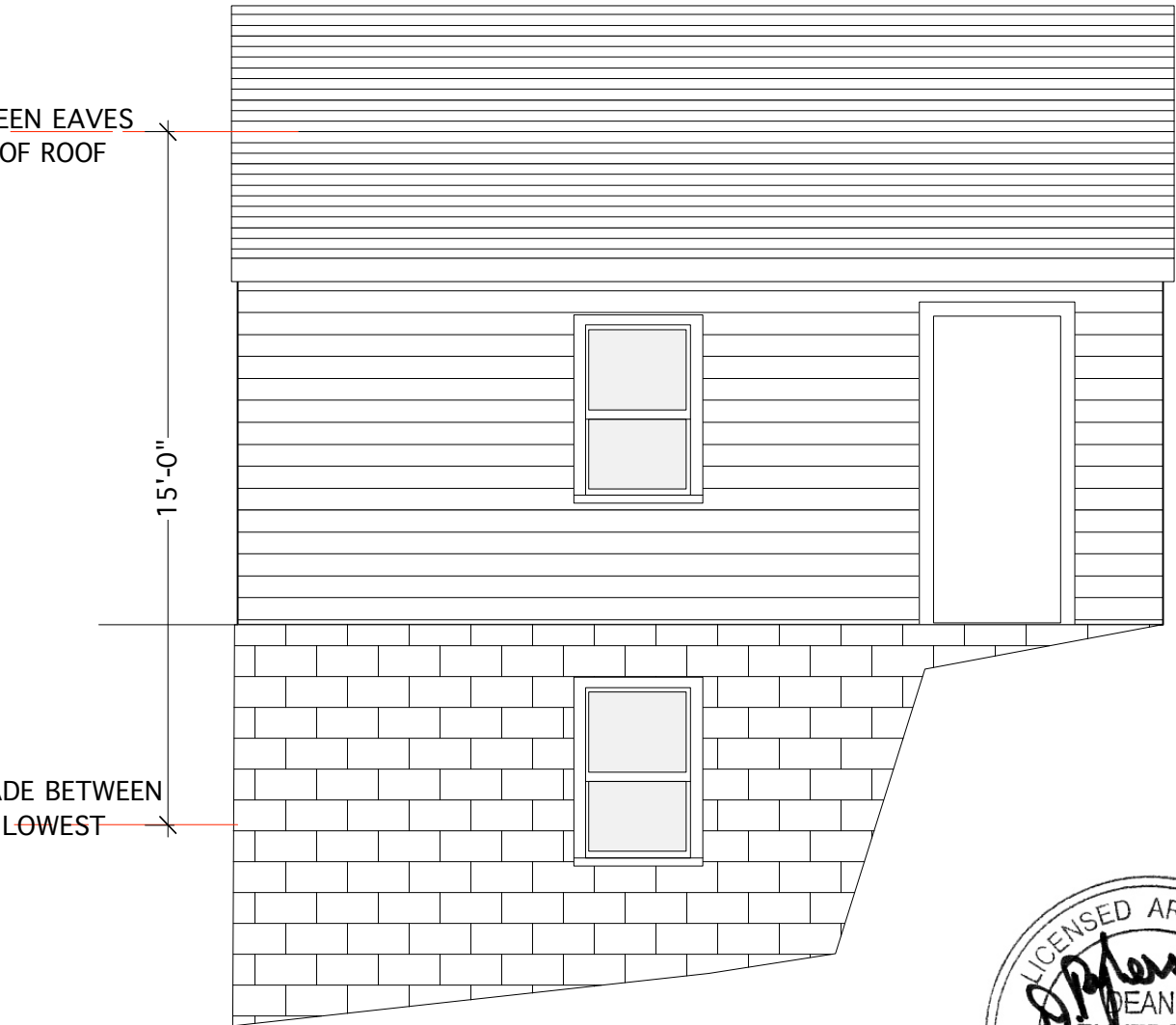




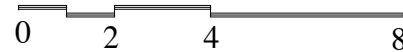
MIDWAY BETWEEN EAVES  
TO HIGHPOINT OF ROOF

15'-0"

AVERAGE GRADE BETWEEN  
HIGHEST AND LOWEST  
ELEVATION



**R**YKERSON  
ARCHITECTURE  
1 SALT MARSH LANE  
KITTERY POINT MAINE 03905  
207 439 8755

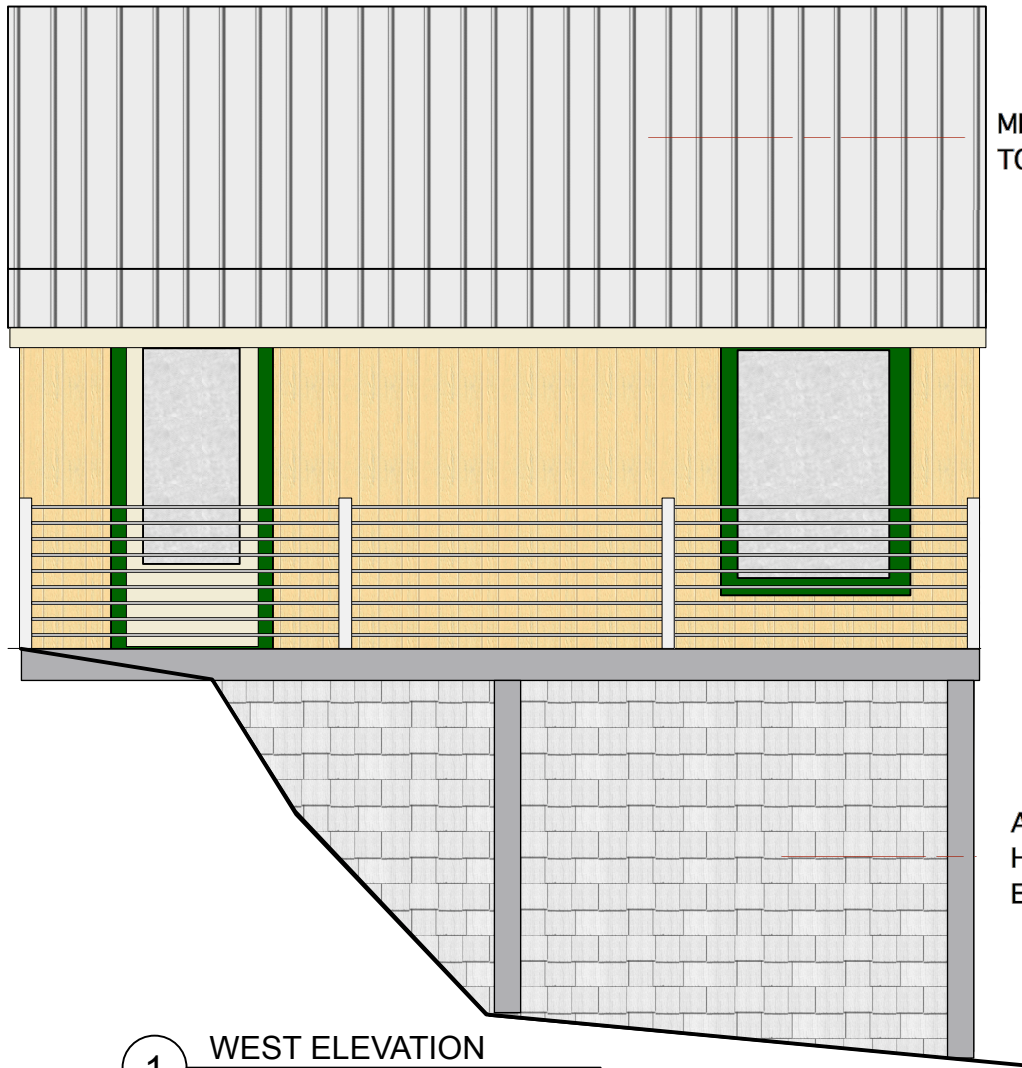


3 KNIGHT AVE. GARAGE  
KITTERY ME 03904  
15 JULY 2019 REV. 9 AUGUST

EXISTING SOUTH &  
EAST ELEVATIONS

**X-2**

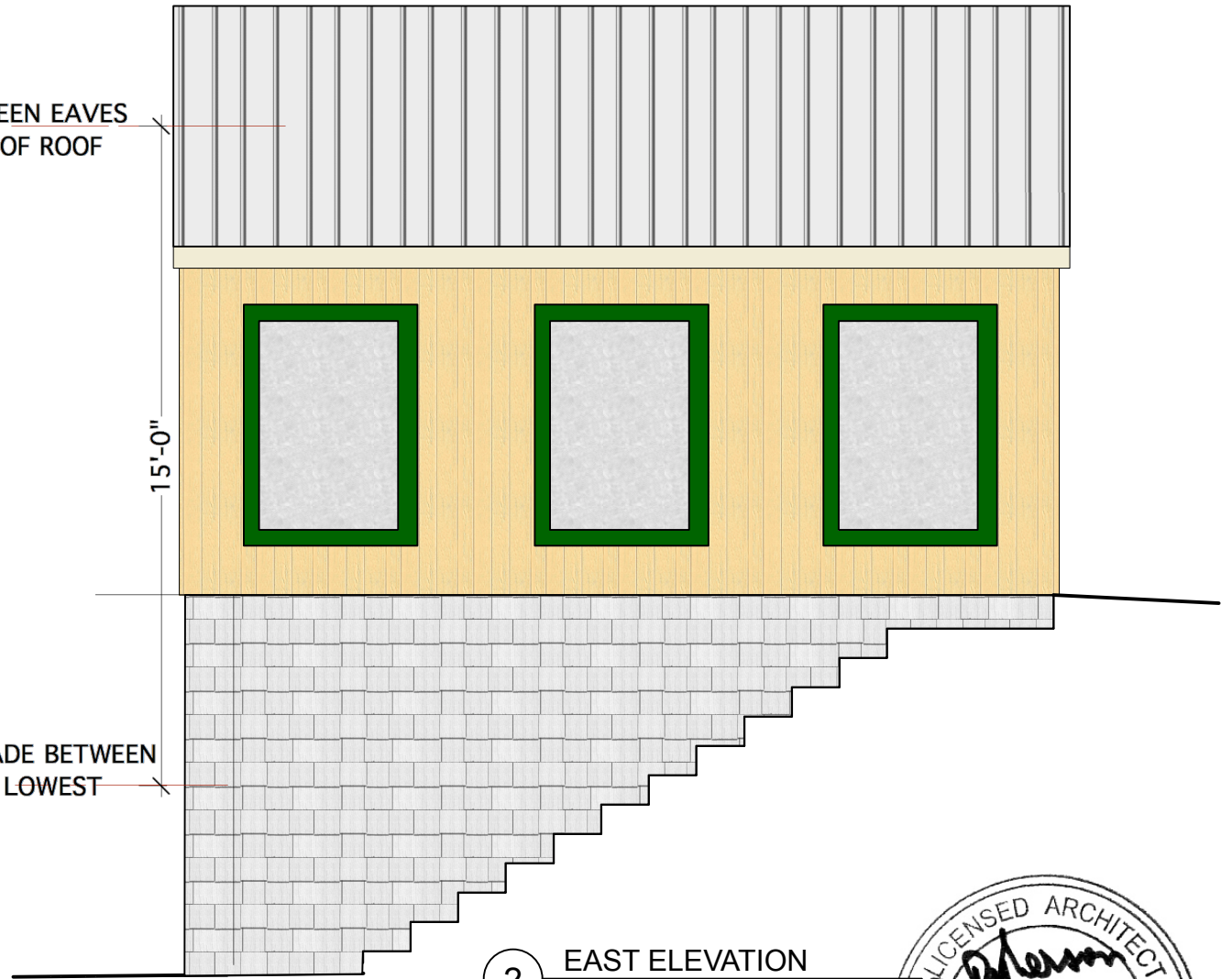




1 WEST ELEVATION

MIDWAY BETWEEN EAVES  
TO HIGHPOINT OF ROOF

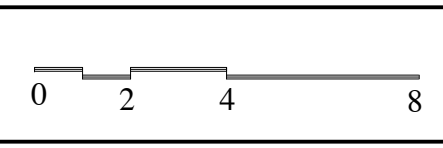
AVERAGE GRADE BETWEEN  
HIGHEST AND LOWEST  
ELEVATION



2 EAST ELEVATION

15'-0"

**R**YKERSON  
ARCHITECTURE  
1 SALT MARSH LANE  
KITTERY POINT MAINE 03905  
207 439 8755



3 KNIGHT AVE. GARAGE  
KITTERY ME 03904  
15 JULY 2019 REV. 9 AUGUST

EAST / WEST  
ELEVATIONS

**A-4**

