

**Town of Kittery Maine
 Planning Board Meeting
 December 13, 2018**

ITEM 5 - 50 Chauncey Creek Drive – Shoreland Development Plan Review.

Action: Accept or deny application. Approve or deny plan. Owners and applicants, Thomas and Michele Jordan request consideration to reconstruct and expand a nonconforming single family dwelling on a 7,800 +/- square foot parcel located at 50 Chauncey Creek Road (Tax Map 44 Lot 59) in the Residential Kittery Point Village (R-KPV), Shoreland Overlay (OZ-SL-250’) and Resource Protection (OZ-RP) zones. Agent Tom Emerson, studioB-E.

PROJECT TRACKING

REQ'D	DESCRIPTION	COMMENTS	STATUS
YES	Determination of Completeness	Possible for 12/13/2018	PENDING
NO	Public Hearing		
NO	Site Walk		
Yes	Final Plan Review and Decision		TBD

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, because the proposed development is located within the required 250-foot setback in the Shoreland Overlay Zone. The parcel includes a nonconforming single-family dwelling unit, a boathouse and dock on a lot with a non-conforming area (40,000 sf is minimum), street frontage (150 feet required) or front yard setback (40 feet required) for the R-KPV zone.

The applicants propose to remove the building frame of the dwelling and rebuild on the same foundation, remove the enclosed front porch and rebuild on a new foundation and expand the deck (noted as deck #1 on the plan) by approximately 67 sf. In addition, a storage shed and a hot tub are proposed with the 100 foot shoreland setback.

While the property is currently non-conforming with 26.5% devegetated area (20% is the requirement), the applicant proposes to remove some impervious surfaces and revegetate to lower the overall devegetated area to 25.7%. These improvements include: 1) remove an existing brick walkway and an asphalt paved walkway and replace with two grass/stone walkways, and 2) Removing miscellaneous wood ramps, retaining wall, concrete pad and an area of brick. Reductions are also proposed to two gravel areas and a portion of wood ramp #2. In their place are proposed two sets of stone stairs and a retaining wall. See the Existing and Proposed Devegetated Coverage Calculations on the plan for details.

Staff Review

1. The proposed expansion 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.
 - a. Per 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.

- b. Relative to the proposed deck #1 expansion, per 16.7.3.3.B. (3) (e) [4] [truncated]... *All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or coastal or freshwater wetland setback requirements may be expanded or altered as follows:*

[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.

[truncated] Because the deck is considered a structure and is attached to the principal structure, the proposed expansion of deck #1 would need to meet this section of the code. The footprint of the existing dwelling is 1,115 sf and 30% would increase this by 334.5 sf. The proposed deck expansion is 67 sf, so it appears to conform with this section of the code, however, this needs to be shown on the plans as an expansion of the principal structure.

- c. Per 16.3.2.17.D (2) (a) *All new principal and accessory structures [except certain patios and deck per 16.3.2.17.D (2) (b) must be setback at least 100 feet, horizontal distance, from the normal high-water line of any water bodies, tributary streams, the upland edge of a coastal wetland, or the upland edge of a freshwater wetland, with the following exceptions.*

**exceptions 1-3 do not apply. The proposed hot tub does not conform to this code section as it is considered an accessory structure and the plans depict the hot tub to be within 100 feet, and a portion within 25 feet of the normal high water line.*

- d. Per 16.3.2.17.D (2) (e) *On a nonconforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the Code Enforcement Officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure must not exceed 80 square feet in area nor eight feet in height and must be located as far from the shoreline or tributary stream as practical and meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case will the structure be allowed to be situated closer to the shoreline or tributary stream than the existing principal structure. The proposed storage shed would not be permitted as there is already an accessory structure on the lot, the boathouse.*

- e. Per 16.3.2.17.D (Shoreland Overlay Zone, Standards) the total footprint of the devegetated area cannot exceed 20%. The property is currently non-conforming with about 26.5% devegetated. The proposal calls for removal of a paved path, brick path, wood ramp and a concrete pad along with a reduction in size of two gravel areas. The paved path and a portion of the brick path will be removed and replaced by stones set into grass. It appears that all devegetated areas have been noted on the plans. See the Existing and Proposed Devegetated Coverage Calculations on the plan for details.

2. Per 16.3.2.17.D (2) (g) Stairways or similar structures may be allowed with a permit from the Code Enforcement Officer to provide shoreline access in areas of steep slopes or unstable soils, provided the:
 - a. Structure is limited to a maximum of four feet in width;
 - b. Structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S. § 480-C); and
 - c. Applicant demonstrates that no reasonable access alternative exists on the property.The proposed Stairs #1 and #2 are depicted at 3 feet in width and appear to conform with this code, replacing existing walkways and stairs and reducing the overall devegetated area.
3. It is not clear why the proposed stairs are positioned at an angle – they don't seem to align with wood ramp #2 which exists and is going to remain. How will the residents access the boat house and dock? The plan should provide clarity.
4. Are any improvements proposed for access to the storage shed and hot tub?
5. The path to the entry that is being rebuilt seems to extend beyond the property line into the public ROW. The part that extends into the ROW should be removed from the plans.

Recommendations

While a site walk and public hearing are not required, the Board will need to consider whether or not to hold them. Staff recommends that the Board conduct both.

Action

If the Board concurs with Staff's recommendation, the Board may use one or both of the motions below.

Move to schedule a site visit on {date and time} for a Shoreland Development Plan application dated November 20, 2018 from owners and applicants, Thomas and Michele Jordan, who request consideration to reconstruct a nonconforming single family dwelling on a 7,800 +/- square foot parcel located at 50 Chauncey Creek Road (Tax Map 44 Lot 59) in the Residential Kittery Point Village (R-KPV), Shoreland Overlay (OZ-SL-250') and Resource Protection (OZ-RP) zones.,

And/or

Move to schedule a public hearing on {date and time} for a Shoreland Development Plan application dated November 20, 2018 from owners and applicants, Thomas and Michele Jordan, who request consideration to reconstruct a nonconforming single family dwelling on a 7,800 +/- square foot parcel located at 50 Chauncey Creek Road (Tax Map 44 Lot 59) in the Residential Kittery Point Village (R-KPV), Shoreland Overlay (OZ-SL-250') and Resource Protection (OZ-RP) zones.,

Shoreland Development Plan Application

1051

Applicant

👤 Tom Emerson
 ☎ 207.752.1371
 @ studiob-e@comcast.net

Location

50 CHAUNCEY CREEK ROAD
 KITTERY, ME 03905

Project Information

Size of Waterbody

> 1 Acre

Will this project create one acre or more of disturbed area? If yes, you will be required to file a MDEP Notice of Intent to Comply with the Maine Construction Permit. Excavation will require a Maine Dep certified contractor in erosion control measures.

No

Briefly describe the project

Remove building frame & rebuild on the same foundation. Remove enclosed front porch & rebuild on new foundation. Remove miscellaneous wood ramps, asphalt walkway, brick walkway & landscape wood ties. Extend existing deck, lay stepping stone pavers, install stone stairs, storage shed & hot tub.

Estimated fair market value of work (Materials/Labor) \$ Lot Size (SF)

400000 7800

Overlay Zone(s)

OZ-SL-250 Shoreland Overlay Zone/Water Body/Wetland Protection Area 250'

true

OZ-SL-75 Shoreland Overlay Zone Stream Protection Area 75'

--

OZ-CFMU Commercial Fisheries/Maritime Uses Overlay Zone

--

OZ-RP Resource Protection Overlay Zone

--

Project within buffer of overlay zone?

WITHIN 100FT or 75FT (0-100FT from Highest Annual Tide) see sect. A, B, C, D, F Planning Board Review

A. Devegetated Area - Parcel Devegetation

% Allowed

20

Existing SF

2069

% Proposed

25.6

Proposed SF

2001

B. Building Footprint Principle Structure

Structure distance from Highest Annual Tide (FT)	% Allowed
11	20
% Proposed Change	Existing SF
0	1115
Proposed SF	
1115	

C. Building Height

Building Height (FT)	Bldg. Height Maximum (FT)
23.4	23.4
Bldg. Height Existing (FT)	Bldg. Height Proposed (FT)
23.4	23.4
Proposed roof slope pitch	
5.4/12	

D. Certifications

I certify I have provided, to the best of my knowledge, information requested for this application that is true and correct and I will not deviate from the Plan submitted without notifying the Code Enforcement and/or Planning and Development Departments of any changes.

true

I understand that for applications to the Planning Board I will submit 12 physical copies of all materials to the Town Planner (10 sets 11x17 and 2 sets 24x36) that have been included with this online submission.

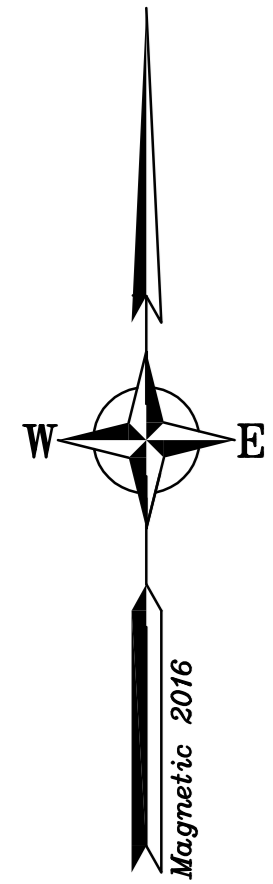
true

I understand an approved Shoreland Development Plan must be recorded in the York Country Registry of Deeds and I am responsible for incurred costs.

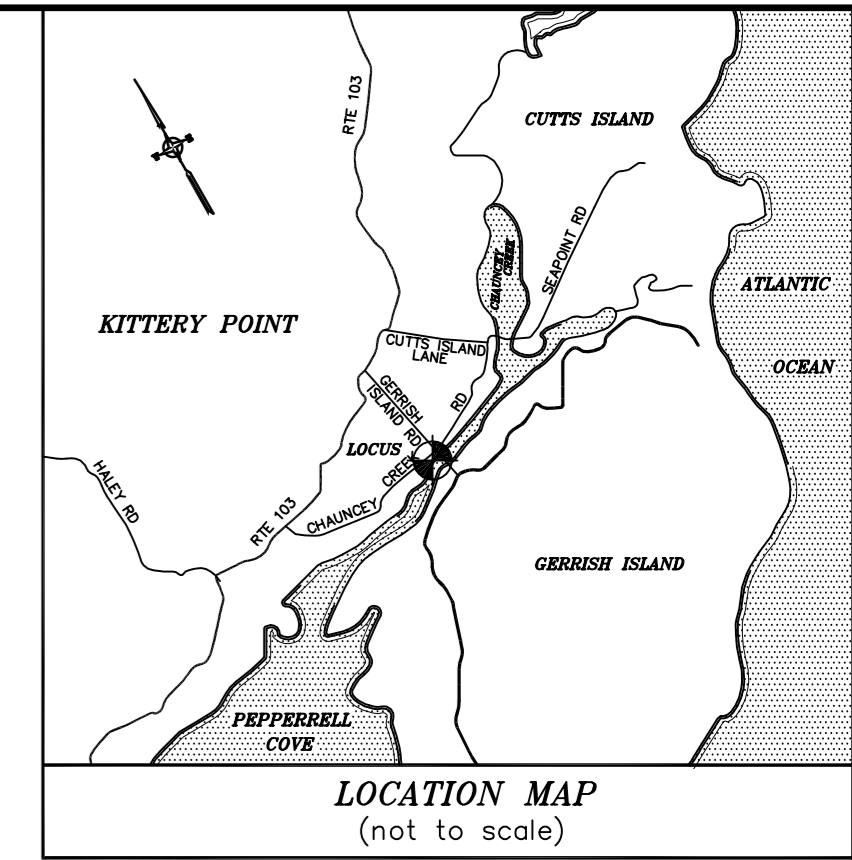
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Applicant is

Owner's Agent



CHAUNCEY CREEK ROAD



ZONING DATA PER KITTERY TOWN CODE "TITLE 16 LAND USE AND DEVELOPMENT CODE"(LAST AMENDMENT 7/24/17) (SEE NOTE #8):

BASE ZONE: RESIDENTIAL-KITTERY POINT VILLAGE (R-KPV)
 OVERLAY ZONES:
 WATER BODY/WETLAND PROTECTION AREA - 250' (OZ-SL-250')
 RESOURCE PROTECTION OVERLAY ZONE - OZ-RP

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.iii

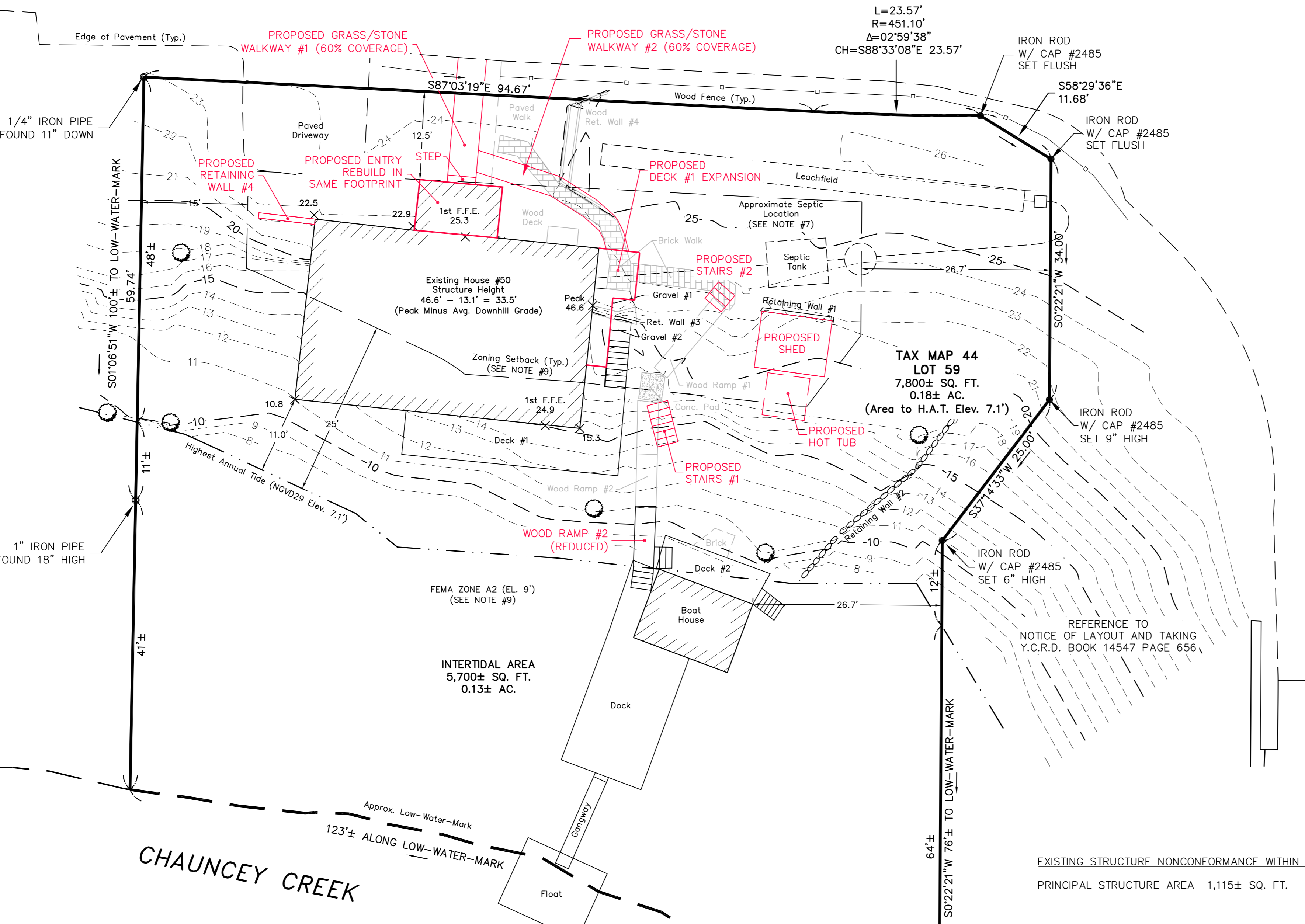
PLAN REFERENCES:

- "STATE AID HIGHWAY NO. 7/POCAHONTAS ROAD, GERRISH ISLAND LANE/POCAHONTAS ROAD, KITTERY, YORK COUNTY, FEDERAL AID PROJECT NO. BH-1105(700)X, PAGE 39 OF 40", PREPARED BY STATE OF MAINE DEPARTMENT OF TRANSPORTATION, DATED 8/10/07 AND RECORDED AT THE Y.C.R.D. AS PLAN BOOK 322 PAGE 46.
- "STANDARD BOUNDARY SURVEY FOR PROPERTY AT 50 CHAUNCEY CREEK ROAD, KITTERY POINT, YORK COUNTY, MAINE, OWNED BY ESTATE OF FRANK C. ESTES & EDITH M. ESTES", PREPARED BY NORTH EASTERLY SURVEYING, INC., DATED 8/11/16 AND RECORDED AT THE Y.C.R.D. AS PLAN BOOK 389 PAGE 1.

NOTES:

- OWNERS OF RECORD:
THOMAS D. JORDAN
MICHELE JORDAN
Y.C.R.D. BOOK 17509 PAGE 742
DATED JUNE 30, 2017
- TOTAL EXISTING PARCEL AREA:
0.18± Acres
- BASIS OF BEARING IS MAGNETIC 2016.
- CHAUNCEY CREEK ROAD AND GERRISH ISLAND LANE RIGHT-OF-WAY IS BASED ON PLAN REFERENCE #1 AND NOTICE OF LAYOUT AND TAKING RECORDED AT Y.C.R.D. BOOK 14547 PAGE 656.
- REFERENCE IS MADE TO EASEMENT TO VERIZON NEW ENGLAND INC., DATED AUGUST 1, 2005 AND RECORDED AT Y.C.R.D. BOOK 14571 PAGE 939. SEE SAID EASEMENT FOR DESCRIPTION AND TERMS FOR UTILITY INSTALLATION AND MAINTENANCE ACROSS THE SUBJECT PROPERTY.
- EASEMENTS OR OTHER UNWRITTEN RIGHTS NOT SHOWN HEREON, MAY EXIST THAT ENCUMBER OR BENEFIT THE PROPERTY.
- SEPTIC SYSTEM SHOWN IS APPROXIMATE PER SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPLICATION DATED 4/6/94, PREPARED BY MICHAEL MARIANO, S.E. #219. VERIFY IN FIELD PRIOR TO DESIGN OR CONSTRUCTION.
- ZONING INFORMATION AND SETBACKS SHOWN HEREON ARE FOR REFERENCE PURPOSES. CONFIRM CURRENT ZONING REQUIREMENTS WITH THE TOWN OF KITTERY PRIOR TO DESIGN OR CONSTRUCTION.
- REFERENCE IS MADE TO FEMA FIRM 230171 0006 C, DATED JULY 6, 1984.
- REFER TO DESIGN DRAWINGS PREPARED BY TOM EMERSON FOR BUILDING DIMENSIONS AND SPECIFICATIONS.

N/F
 GALE A. SEAWARD REV. TRUST
 GALE A. SEAWARD, TRUSTEE
 TAX MAP 44 LOT 60
 Y.C.R.D. BOOK 12466 PAGE 349



GERRISH ISLAND LANE

EXISTING STRUCTURE NONCONFORMANCE WITHIN 100' SETBACK:
 PRINCIPAL STRUCTURE AREA 1,115± SQ. FT.

EXISTING DEVEGETATED COVERAGE CALCULATION:

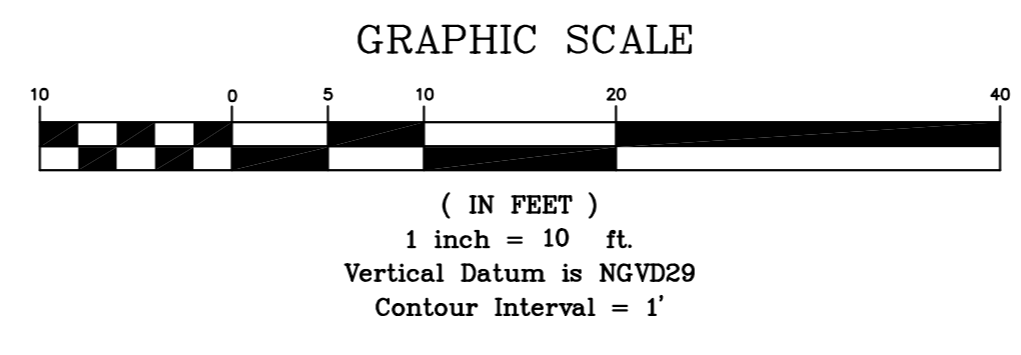
LOT AREA	7,800± SQ. FT.
BUILDING	1,115± SQ. FT.
DECK #1 & STEPS	253± SQ. FT.
BRICK WALK	112± SQ. FT. (TO BE REMOVED)
PAVED DRIVEWAY	217± SQ. FT.
PAVED WALK	77± SQ. FT. (TO BE REMOVED)
RETAINING WALL #1	5± SQ. FT.
RETAINING WALL #2	32± SQ. FT.
RETAINING WALL #3	9± SQ. FT.
RETAINING WALL #4	23± SQ. FT. (TO BE REMOVED)
GRAVEL #1	15± SQ. FT. (TO BE REDUCED)
GRAVEL #2	28± SQ. FT. (TO BE REDUCED)
CONC. PAD	12± SQ. FT. (TO BE REMOVED)
WOOD DECK	10± SQ. FT. (TO BE REMOVED)
WOOD RAMP #1	30± SQ. FT. (TO BE REMOVED)
WOOD RAMP #2 & STAIR	77± SQ. FT. (TO BE REDUCED)
DECK #2	41± SQ. FT.
BRICK	13± SQ. FT. (TO BE REMOVED)
TOTAL	2,069± SQ. FT. (2,069± SQ. FT. / 7,800± SQ. FT. = 26.5%)

PROPOSED DEVEGETATED COVERAGE CALCULATION:

LOT AREA	7,800± SQ. FT.
BUILDING	1,115± SQ. FT.
DECK #1 & STEPS	253± SQ. FT.
PAVED DRIVEWAY	217± SQ. FT.
RETAINING WALL #1	5± SQ. FT.
RETAINING WALL #2	32± SQ. FT.
RETAINING WALL #3	6± SQ. FT.
GRAVEL #1	5± SQ. FT.
GRAVEL #2	8± SQ. FT.
WOOD RAMP #2 & STAIR	33± SQ. FT.
DECK #2	41± SQ. FT.
DECK #1 EXPANSION	67± SQ. FT.
PROPOSED WALK #1	28± SQ. FT.
PROPOSED WALK #2	44± SQ. FT.
PROPOSED STEP	4± SQ. FT.
PROPOSED SHED	80± SQ. FT.
PROPOSED HOT TUB	36± SQ. FT.
PROPOSED STAIR #1	18± SQ. FT.
PROPOSED STAIR #2	9± SQ. FT.
PROPOSED RETAINING WALL #4	6± SQ. FT.
TOTAL	2,007± SQ. FT. (2,007± SQ. FT. / 7,800± SQ. FT. = 25.7%)

EXISTING BUILDING COVERAGE:

BUILDING	1,115± SQ. FT.
TOTAL	1,115± SQ. FT. (1,115± SQ. FT. / 7,800± SQ. FT. = 14.3%)



SHORELAND DEVELOPMENT PLAN
 FOR PROPERTY AT
50 Chauncey Creek Road
 Kittery Point, York County, Maine
 OWNED BY
Thomas D. Jordan
Michele Jordan
 24 Barnum Place, Ridgefield, CT 03877

North

EASTERLY SURVEYING, Inc.
 SURVEYORS IN N.H. & MAINE 191 STATE ROAD, SUITE #1
 (207) 439-6333 KITTERY, MAINE 03904

SCALE: 1" = 10'	PROJECT NO. 12601	DATE: 11/20/18	SHEET: 1 OF 1	DRAWN BY: A.M.P.	CHECKED BY: P.L.A.
DRAWING No: 12601_Existing_Conditions					
FIELD BOOK No: "Kittery Point #14"					

REV.	DATE	STATUS	BY	CHKD	APPD.

Tax Map 44 Lot 59



Jordan Residence

50 Chauncey Creek Road

Kittery Point, Maine

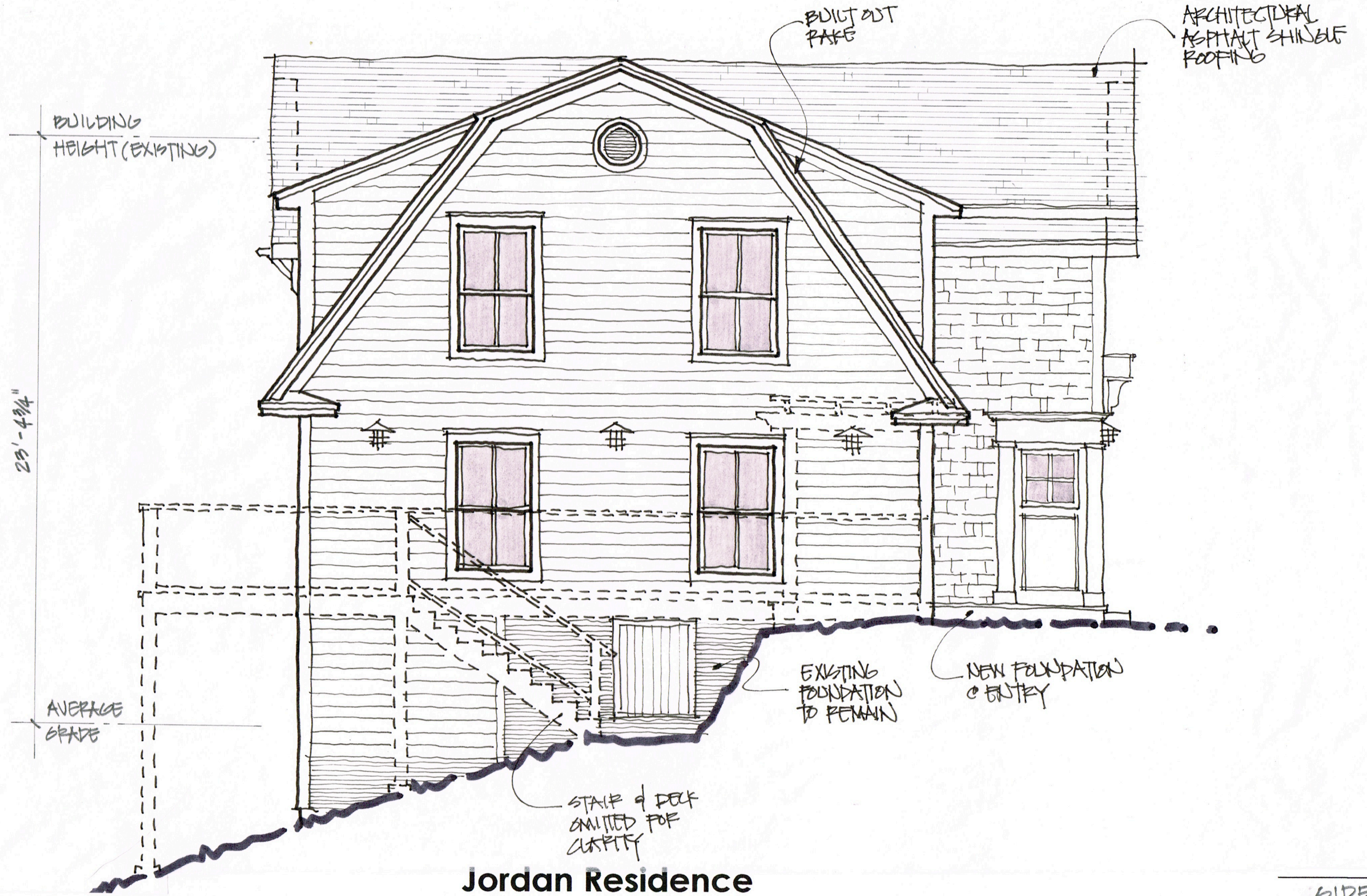


Jordan Residence

50 Chauncey Creek Road

Kittery Point, Maine

FRONT
ELEVATION



Jordan Residence

50 Chauncey Creek Road

Kittery Point, Maine

SIDE
ELEVATION



Jordan Residence

50 Chauncey Creek Road

Kittery Point, Maine

BACK
ELEVATION





Jordan Residence

50 Chauncey Creek Road

Kittery Point, Maine

SIDE
ELEVATION