

APPLICATION FOR SPECIAL USE PERMIT AND VARIANCE

PD #108 00

CITY OF NEWPORT, RI

MAR 28 2022

ZONING BOARD OF REVIEW

Date: March 23, 2022

Board Members:

ZON APRIL 13

CHK# 40408

The undersigned hereby petition the Zoning Board of Review for a Special Use Permit and Variance in the application of the provisions or regulations of the Zoning Ordinance affecting the following described premises in the manner and on the grounds hereinafter set forth.

Location of Premises

Street & No.: 1 Ocean Heights Road

Tax Assessor's Plat 41 Lot 334

Petitioner Information

Applicant: Ted Fischer

Address: c/o Tanner Jackson, 122 Touro St.

Owner: Ted Fischer

Address: c/o Tanner Jackson, 122 Touro St.

Lessee: N/A

Address: N/A

Property Characteristics

Dimensions of Lot: 100.41' x 208.55' x 172.02 x 285.85' area: 43,704 sq. ft.

Zoning District in which premises is located: R-120

How long have you owned the above premises: August 20, 2021

Are there any buildings on the premises at present: Yes – single family home and accessory structures

Total square footage of the footprint of existing buildings: 3,761 sq. ft.

Total square footage of the footprint of proposed buildings: 3,937 sq. ft.

Present use of premises: Single Family

Proposed use of premises: Single Family

Give extent of proposed alterations: Relocate existing detached garage; attach it to the main residence along its eastern elevation. Extend the main residence's southern elevation. Add chimney.

Zoning Characteristics Matrix

	Existing	Required/Allowed	Proposed
Lot Size (sq. ft.)	43,704	120,000	43,704
Lot Coverage (%)	9.8% (3,761 sq. ft.)	8% (3,496 sq. ft.)	10.2% (3,937 sq. ft.)
Dwelling Units	1	2	1
Parking	3	1	3
Front Setback	<u>North</u> 73' 3.5" <u>East</u> 76' 4"	75'	<u>North</u> 76' 4" <u>East</u> 23' 5.25"
Side Setbacks	<u>South</u> 98' 11.5" <u>West</u> 46' 8.5"	50'	<u>South</u> 98' 11.5" <u>West</u> 46' 2.5"
Rear Setback	N/A	50'	N/A
Accessory Setbacks	<u>Garage – South</u> 47' 11"	50'	N/A
Height	36' 6"	<35'	36' 6"

What Special Conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district?

The Subject Property is non-conforming by dimension because the lot size is substandard, being roughly a third the minimum required lot size in the R120 zone. This small lot size results in the main residence disproportionately increasing lot coverage percentage as compared to similar houses on standard lots in the same neighborhood. In addition to the small lot size, there also exists two front setbacks because the Subject Property is a corner lot, which further dampens by-right development opportunities because the large setbacks create only a small buildable area within the center of the lot.

The structures on the Subject Property are situated at perpendicular angles; the main residence faces north while the detached garage faces east. This peculiar layout warrants rearrangement to be more aesthetically pleasing and functional, yet the constrictive front setbacks and small lot size prevent moving the garage or renovating the house without necessitating zoning relief. Indeed, the conditions unique to this lot create a narrow corridor of buildable area that do not apply to other properties within the R120 zone.

The Historic District Commission granted approval for the proposed work as to its size, scale, massing, and location.

What provisions of the Comprehensive Land Use Plan are applicable to this project?

Land Use – 1.2

Land Use – 1.4

Housing – 1.3

Housing – 1.4

Provisions or regulations of Zoning Ordinance applicable:

Section 17.44.030(A) – Dimension Requirements – lot size

Section 17.44.040 – Setback Requirements

Section 17.44.050 – Lot Coverage Requirements

Section 17.72.030(C) – Alteration to Nonconforming Development

Section 17-108.010 – Variances

Explain how a literal interpretation of the provisions of this zoning code deprive the applicant of rights commonly enjoyed by other property owners in the same district under the provisions of this zoning code?

The single-family home exists on an acre lot, much less than the 120,000 sq. ft. required for the district, meaning that the setback and lot coverage requirements are more onerous at the Subject Property than neighboring properties. The home that encompasses more than 8% of the lot indicates that strict adherence to the zoning code would completely eliminate the Applicant's ability to move the garage, since any alteration to the dimensionally non-conforming property requires zoning relief. Strict adherence to the zoning code would deprive the owner/applicant of the ability to reposition the garage for a more aesthetically pleasing and functional layout that would otherwise be permitted by-right on neighboring properties.

The proposed work will respect the zoning ordinance requirements in all areas, except for the de minimis increase to lot coverage and the reduced eastern set back, which, as mentioned, is already constrictive due to the Subject Property's small size and corner position. A literal interpretation of the zoning code would deprive the applicant of the ability to attach the garage to the principal residence, as well as prohibiting any future alteration or change to the Subject Property. Such an interpretation would enforce the limited buildable space and crystalize the existing structural layouts, whereas other property owners within the R120 may more freely alter similarly sized residential and accessory structures.

Explain why this is the minimum variance that will make possible the reasonable use of the land, building or structure.

The proposed work is conscientiously limited in an effort to seek the minimum variance necessary for the reasonable use of the single-family dwelling. Special conditions exist, namely the small corner lot, that are particular to the Subject Property, and a literal interpretation of the provisions would deprive the owner of rights commonly enjoyed by other owners in the same district. The applicant requests the minimum variance necessary for the reasonable use of the

property because there is no reasonable alternative to move and attach the garage without necessitating the requested relief. There exists no alternative spot to move the garage because the unique setbacks already envelope the existing structures.

This request will permit the owner/applicant to obtain additional and reasonable use of the residence, which will be in line with the nature of the residential home and neighborhood, and will **not** be injurious to neighbors. The existing residential use is in need of renovations to support a reasonable, modern residential use of the property. The proposed work is a reasonable use of the property because it will beautify the property and, at the same time, provide functional amenities for modern living. The Applicant proposes a thoughtful design to ensure that the proposed improvement will both enhance and contribute to the residence, as well as the neighborhood as a whole. The proposed work will not impair the zoning code or alter the general character of the surrounding neighborhood because the property will continue to be used as a single-family home. The Application is in accord with the public convenience and welfare and meets or exceeds all of the conditions required in Section 17.108.10.

The Zoning Board's Role

Special use permits shall be granted only where the zoning board of review finds that the proposed use or the proposed extension or alteration of an existing use is in accord with the public convenience and welfare, after taking into account, where appropriate:

1. The nature of the proposed site, including its size and shape and the proposed size, shape and arrangement of the structure;
2. The resulting traffic patterns and adequacy of proposed off-street parking and loading;
3. The nature of the surrounding area and the extent to which the proposed use or feature will be in harmony with the surrounding area;
4. The proximity of dwellings, churches, schools, public buildings and other places of public gathering;
5. The fire hazard resulting from the nature of the proposed buildings and uses and the proximity of existing buildings and uses;
6. All standards contained in this zoning code;
7. The comprehensive plan for the city.

The burden of proof in a special-use permit application is on the applicant. This means that if the applicant fails to present adequate competent evidence to prove the applicable standard for issuing a special-use permit has been met, the board must deny the application.

In granting a variance, the zoning board of review shall require that evidence of the following standards be entered into the record of the proceedings:

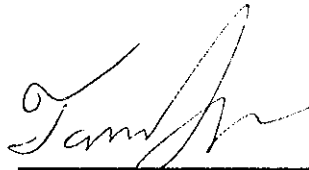
- a. That the reasons set forth in the application justify the granting of the variance and that the variance, if granted, is the minimum variance that will make possible the reasonable use of the land, building or structure;

- b. That the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare, and will not impair the intent or purpose of the zoning code or the comprehensive plan upon which this zoning code is based;
- c. That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant; and
- d. That the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.
- e. That the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief;

By signing below, I hereby attest that the information provided is accurate and truthful. I also attest that I have read the section entitled "The Zoning Board's Role".



Applicant's Signature
c/o Tanner L. Jackson 401-847-7500



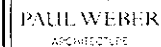
Owner's Signature
c/o Tanner L. Jackson 401-847-7500

EXHIBIT A

Existing Site Plan

&

Proposed Site Plan



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FISCHER RESIDENCE
NEWPORT, RI

Job No: 7

Regulation

Phone: 204.16.44.547

Description:

Date issued: 1994.01.01

Year	Age group	Prevalence (%)
1990	15-24	1.2
1990	25-34	1.5
1990	35-44	1.8
1990	45-54	2.1
1990	55-64	2.4
1990	65-74	2.7
1990	75-84	3.0
1990	85-94	3.3
1990	95-104	3.6
1990	105-114	3.9
1990	115-124	4.2
1990	125-134	4.5
1990	135-144	4.8
1990	145-154	5.1
1990	155-164	5.4
1990	165-174	5.7
1990	175-184	6.0
1990	185-194	6.3
1990	195-204	6.6
1990	205-214	6.9
1990	215-224	7.2
1990	225-234	7.5
1990	235-244	7.8
1990	245-254	8.1
1990	255-264	8.4
1990	265-274	8.7
1990	275-284	9.0
1990	285-294	9.3
1990	295-304	9.6
1990	305-314	9.9
1990	315-324	10.2
1990	325-334	10.5
1990	335-344	10.8
1990	345-354	11.1
1990	355-364	11.4
1990	365-374	11.7
1990	375-384	12.0
1990	385-394	12.3
1990	395-404	12.6
1990	405-414	12.9
1990	415-424	13.2
1990	425-434	13.5
1990	435-444	13.8
1990	445-454	14.1
1990	455-464	14.4
1990	465-474	14.7
1990	475-484	15.0
1990	485-494	15.3
1990	495-504	15.6
1990	505-514	15.9
1990	515-524	16.2
1990	525-534	16.5
1990	535-544	16.8
1990	545-554	17.1
1990	555-564	17.4
1990	565-574	17.7
1990	575-584	18.0
1990	585-594	18.3
1990	595-604	18.6
1990	605-614	18.9
1990	615-624	19.2
1990	625-634	19.5
1990	635-644	19.8
1990	645-654	20.1
1990	655-664	20.4
1990	665-674	20.7
1990	675-684	21.0
1990	685-694	21.3
1990	695-704	21.6
1990	705-714	21.9
1990	715-724	22.2
1990	725-734	22.5
1990	735-744	22.8
1990	745-754	23.1
1990	755-764	23.4
1990	765-774	23.7
1990	775-784	24.0
1990	785-794	24.3
1990	795-804	24.6
1990	805-814	24.9
1990	815-824	25.2
1990	825-834	25.5
1990	835-844	25.8
1990	845-854	26.1
1990	855-864	26.4
1990	865-874	26.7
1990	875-884	27.0
1990	885-894	27.3
1990	895-904	27.6
1990	905-914	27.9
1990	915-924	28.2
1990	925-934	28.5
1990	935-944	28.8
1990	945-954	29.1
1990	955-964	29.4
1990	965-974	29.7
1990	975-984	30.0
1990	985-994	30.3
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1990	1005-1014	30.9
1990	1015-1024	31.2
1990	1025-1034	31.5
199		

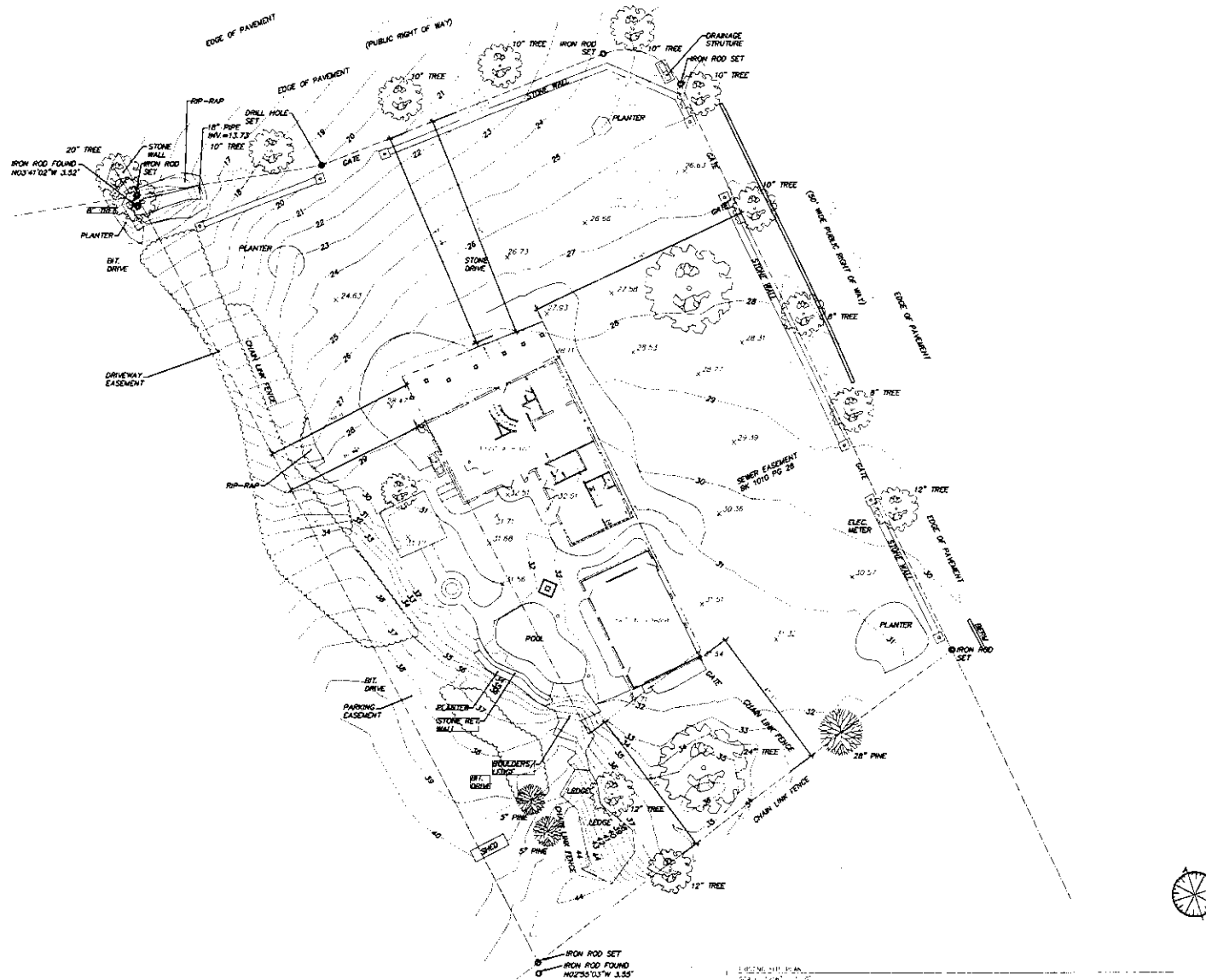
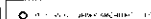
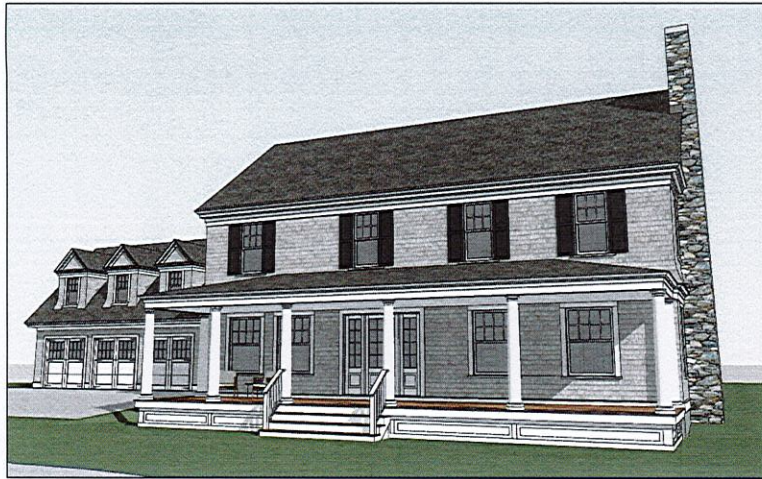


EXHIBIT B

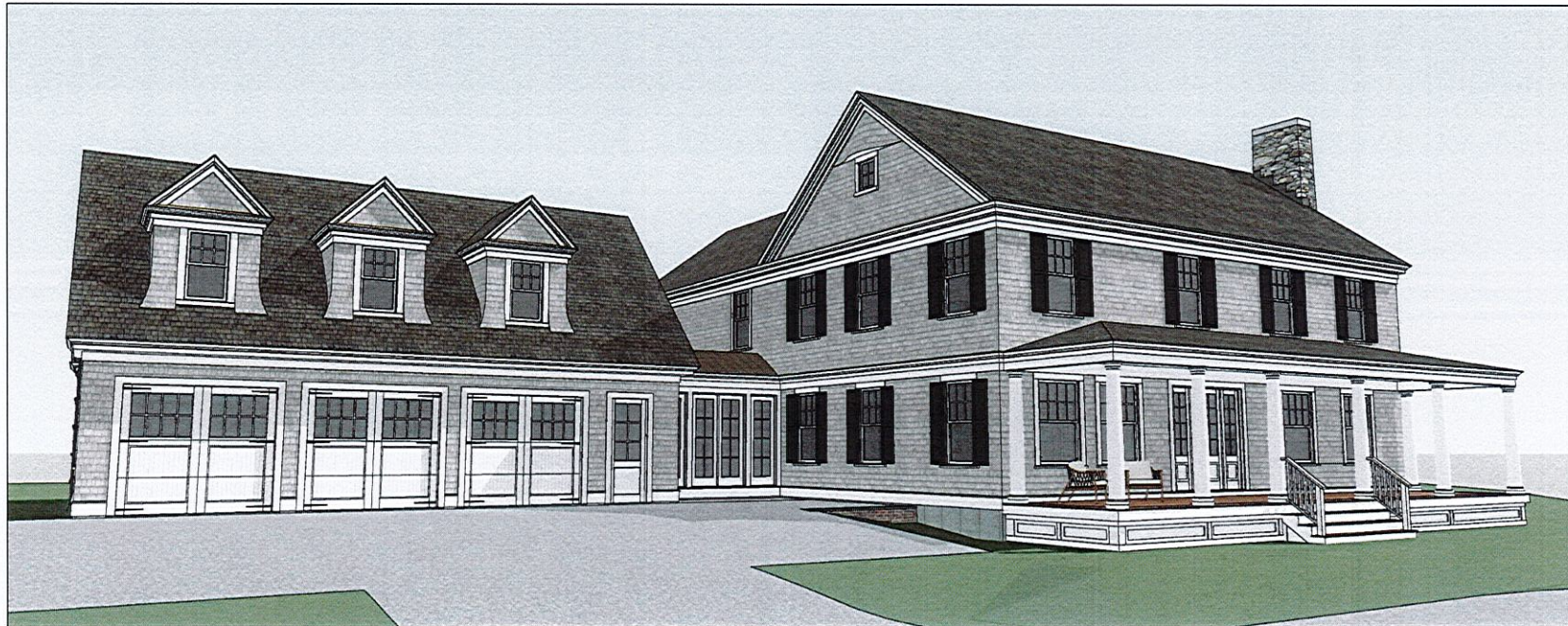
Renderings of Proposed Work



1 RENDERED PERSPECTIVE VIEW
SCALE: N.T.S.



2 RENDERED PERSPECTIVE VIEW
SCALE: N.T.S.



3 RENDERED PERSPECTIVE VIEW
SCALE: N.T.S.

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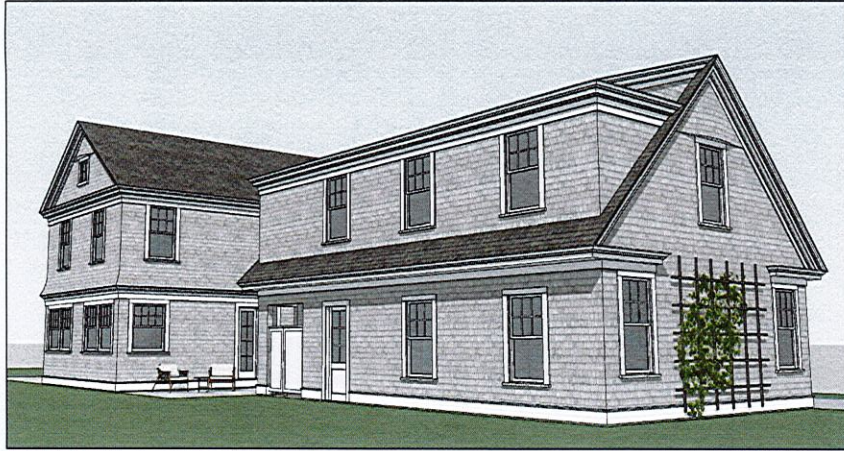
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NEWPORT, RI

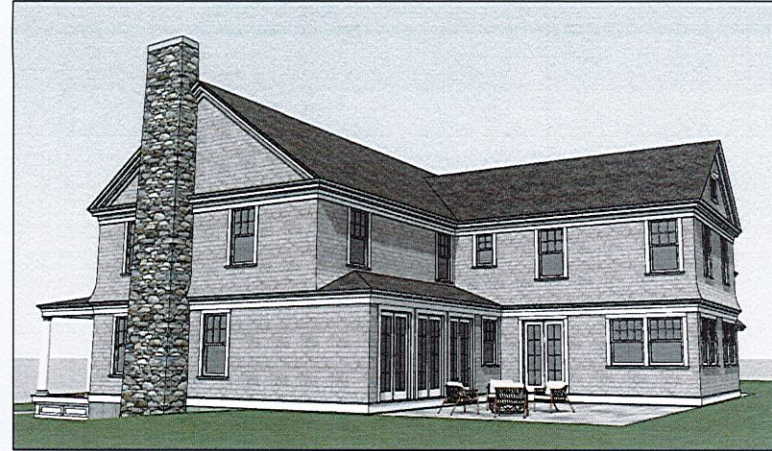
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Revision:
Phase: ZONING BOARD
Description:
BUILDING ELEVATIONS
Date Issued: 03.25.2022
Scale: AS NOTED

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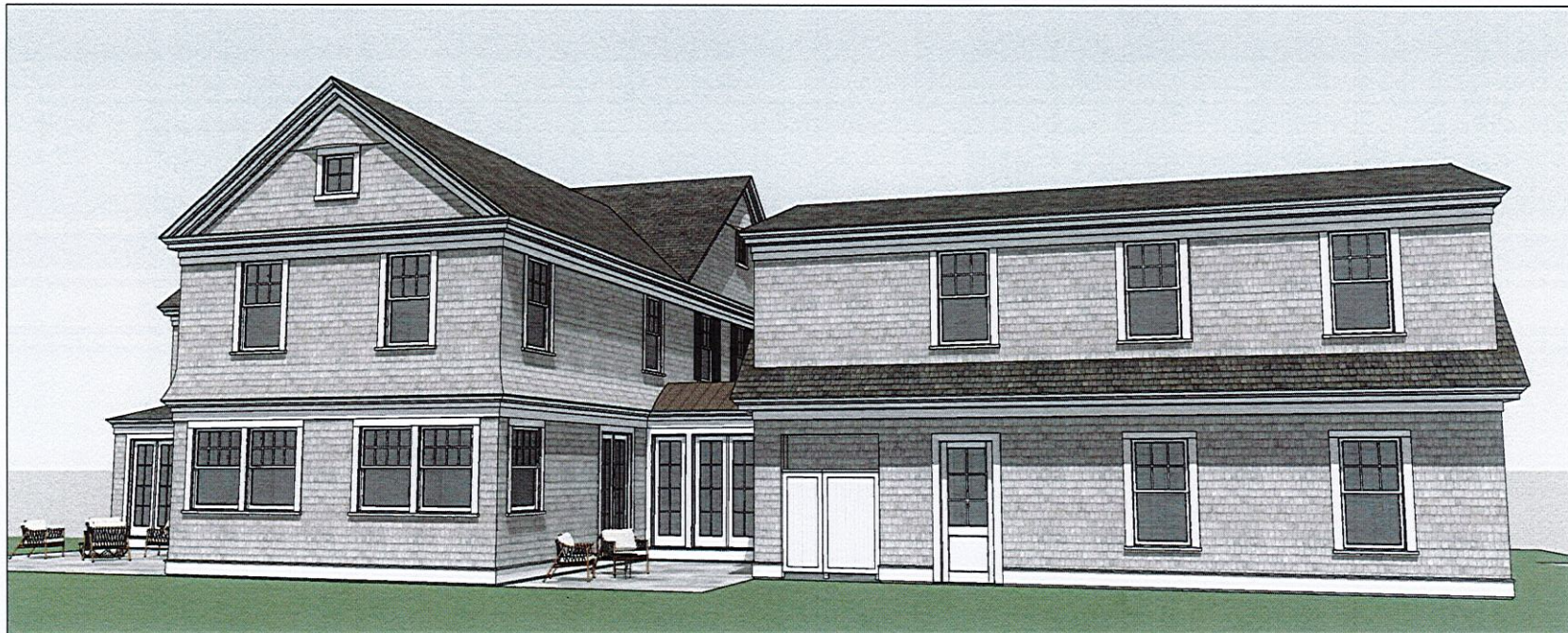
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1 RENDERED PERSPECTIVE VIEW
SCALE: N.T.S.



2 RENDERED PERSPECTIVE VIEW
SCALE: N.T.S.



3 RENDERED PERSPECTIVE VIEW
SCALE: N.T.S.

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FISCHER RESIDENCE
NEWPORT, RI

Job No: 2101
Revision:

Phase: ZONING BOARD
Description:
BUILDING ELEVATIONS

Date Issued: 03.25.2022
Scale: AS NOTED

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