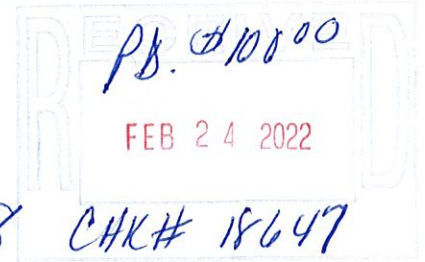


APPLICATION FOR A SPECIAL USE PERMIT/DIMENSIONAL VARIANCE

CITY OF NEWPORT, RI
ZONING BOARD OF REVIEW



DATE: February 23, 2022

Board members:

The undersigned hereby petitions the Zoning Board of Review for a special use permit /dimensional 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: 5 Bayside Avenue

Tax Assessor's Plat 9 Lot 210

Petitioner Information

Applicant Pleasant Properties, LLC Address c/o Matthew H. Leys, 43B Memorial Blvd., Newport, RI 02840

Owner same Address same

Lessee N/A Address N/A

Property Characteristics

Dimensions of lot-frontage 50' depth 80' area 4,000 sq. ft.

Zoning District in which premises is located R-10

How long have you owned above premises? approximately 3 years

Are there buildings on the premises at present? yes

Total square footage of the footprint of existing buildings 889 square feet

Total square footage of the footprint of proposed buildings 1,452 square feet

Present use of premises single-family home

Proposed use of premises no change

Give extent of proposed alterations: Construct a new single-family home to replace a dilapidated single-family home that will be torn down. The principals of the applicant live at and own the abutting property immediately to the south of the subject property and wish to improve the neighborhood with the new proposed single-family home. The new proposed single-family home will have dimensional characteristics consistent with the character of the neighborhood and both the demolition of the existing structure and the plans for the new proposed home were unanimously approved by the HDC.

Zoning Characteristics Matrix

	Existing	Required/Allowed	Proposed
Lot Size (sq. ft.)	4,000sf	10,000	No change
Lot Coverage	889sf – 22.3%	20%	1,452sf – 36.3%
Dwelling Units	1	N/A	1
Parking (# of spaces)	1	1	2
Front Setback	13'-9"	15ft (or match neighbors)	6' 3" ¹
Side Setbacks	12'-1" North / 4'-4" South	10ft	11'-1" North / 5'-1.5" South
Rear Setback	32'-2.5"	20'	16'-11"
Height	23'-1"	30'	27'-1"

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

Goal H-1, Policy H-1.3: promoting the repair, revitalization or rehabilitation of residential structures and neighborhoods.

¹ Measured to proposed front steps. Distance to proposed front porch is 10'1". The front setback to the stairs of the abutting property to the north is approximately 6'. The front setback to the stairs of the abutting property to the south is approximately 10'.

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

The subject property has for years contained a badly dilapidated, outdated single family home that cannot be saved as a result of years of neglect by a prior owner. The demolition of that structure has been unanimously approved by the HDC, as mentioned above. The applicant proposes to replace the old house with a new, modern single-family home that is consistent with the character of the neighborhood and which, as noted, has also been unanimously approved by the HDC.

Explain how the 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?

A literal interpretation of the zoning code would prevent the applicant from building a modern, new single-family home consistent with the character of the neighborhood.

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

The reasonable use of the property requires a new single-family home that is reasonably sized by modern living standards. The proposed new single-family home will have rooms and spaces that are customary and reasonably sized. However, the subject lot is very substandard in size, with only 40% of the lot size and 62.5% of the lot width required in the R-10 district. Accordingly, the proposed new home, although modestly sized, requires a lot coverage variance and setback variances. The proposed house will have lot coverage substantially lower than the houses on either side of it and lower than 4 of the 5 other houses on Bayside Avenue south of Van Zandt Avenue where the subject property is located.² Moreover, it is common in the area to have one or more setbacks less than required for the R-10 district. As mentioned, the principals of the applicant live at and own the abutting property to the south, which is closest to the area requiring the side setback variance. The plans have also been shared with the neighbors next door to the north and they have expressed support for the project. The front setback will

² Includes 5 Van Zandt, which is on the corner of Van Zandt and Bayside Avenue.

approximately match the front setback on the property to the north and will be similar to the front setback on the property to the south. Also, there will be a substantial distance between the rear of the proposed house and the house to the rear of the subject property. As also noted, the proposed new single-family home has been unanimously approved by the HDC, reflecting its consistency with the character of the neighborhood.

For the foregoing reasons, the requested variance is the minimum variance that will make possible the reasonable use of the land, building or structure and is the least relief necessary. Also, for the above reasons, the variance would not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based. The hardship is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area as described above; and is not due to a physical or economic disability of the applicant. The hardship is not the result of any prior action of the applicant as it did not cause the prior structure to become so badly dilapidated that it had to be torn down or create the severely substandard lot. Moreover, the hardship does not result primarily from the desire of the applicant to realize greater financial gain, but is to allow the applicant to build a reasonable, new single-family home consistent with the character of the neighborhood. Without the requested variance the applicant would suffer a hardship amounting to more than a mere inconvenience because it will not be allowed to have a reasonably sized new single-family home consistent with modern living standards and the character of the area.

Dimensional variances³

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

1. That the relief to be granted is the least relief necessary.
2. That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based.
3. That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant, excepting those physical disabilities addressed in GLRI §45-34-30(a)(16); and
4. 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.

The zoning board of review shall, in addition to the above standards, require that evidence is entered into the record of the proceedings showing that:

- b. In granting a dimensional variance, that the hardship suffered by the owner of the subject property if the dimensional variance is not granted amounts 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. The zoning board of review shall have the power to grant dimensional variances where the use is permitted by a special use permit.

Special Use Permits

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 Applicant has filed this application for both a special use permit and a variance to be consistent with current practice; however, the Applicant reserves the right to object to the requirement of a dimensional variance pursuant to the Rhode Island Supreme Court decision in Lloyd v. Zoning Board of Review of the City of Newport et al, 62 A.3d 1073 (R.I. 2013).

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.

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."

Pleasant Properties, LLC,

By its attorney,



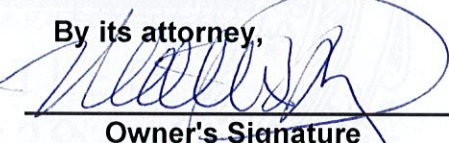
Applicant's Signature

(401) 847-0872

Telephone Number

Pleasant Properties, LLC,

By its attorney,



Owner's Signature

(401) 847-0872

Telephone Number

Email address: mleys@cphnpt.com

Be sure all required drawings are attached to this application at the time of the submittal.

SIMON RESIDENCE: 5 BAYSIDE AVE - PROPOSED NEW CONSTRUCTION RESIDENCE

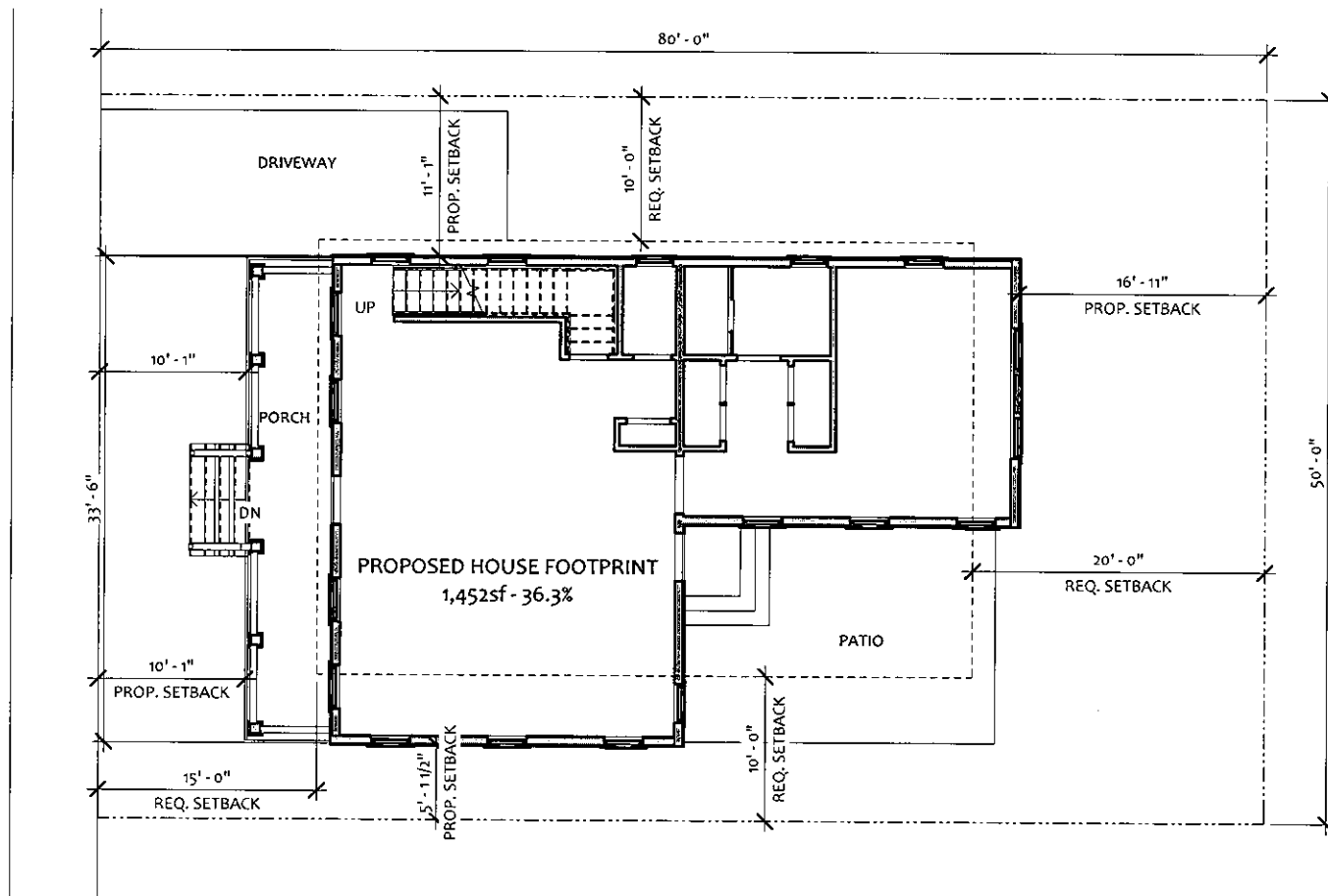


SIMON RESIDENCE
5 Bayside Ave., Newport RI

3-D EXTERIOR VIEWS

1/18/2022 10:01:08 AM

A-000



1 PROPOSED SITE PLAN
1/8" = 1'-0"

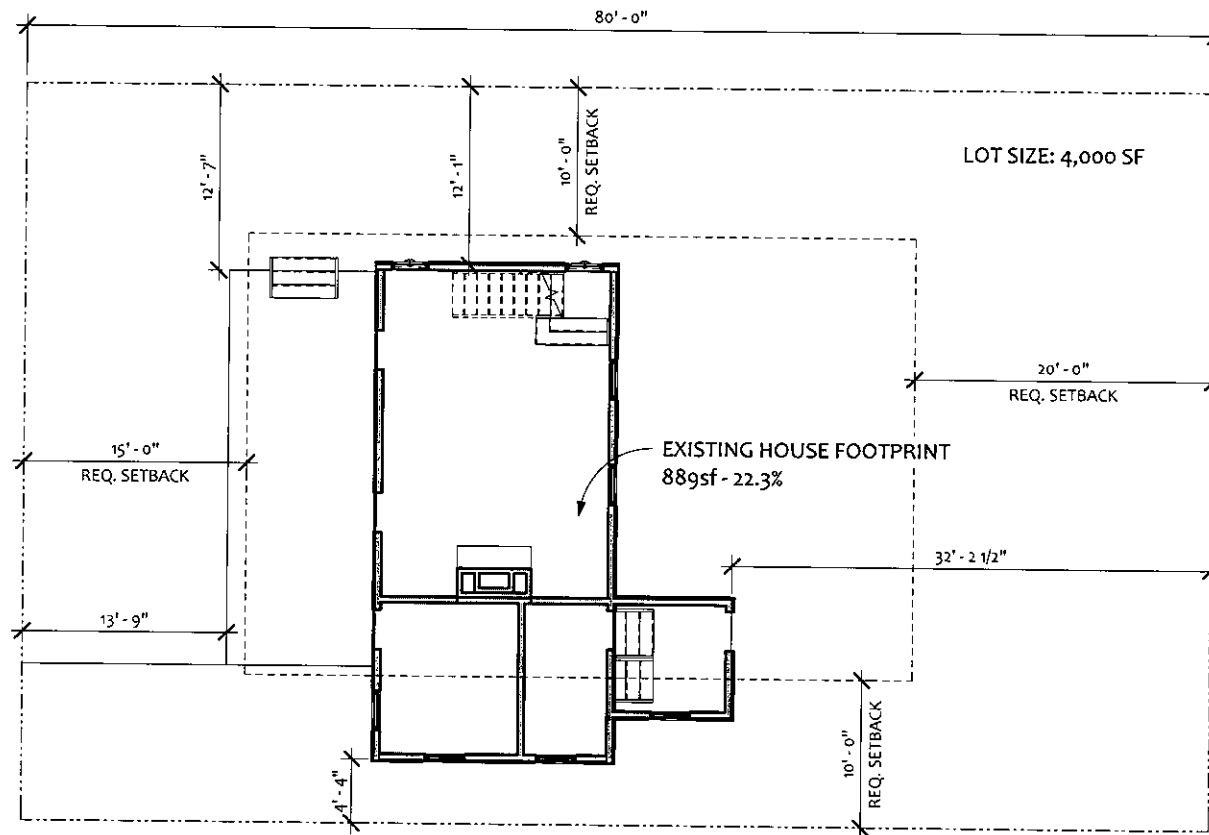


SIMON RESIDENCE
5 Bayside Ave., Newport RI

PROPOSED SITE PLAN

2/11/2022 12:16:28 PM

A-051



① EXISTING SITE PLAN
 1/8" = 1'-0"

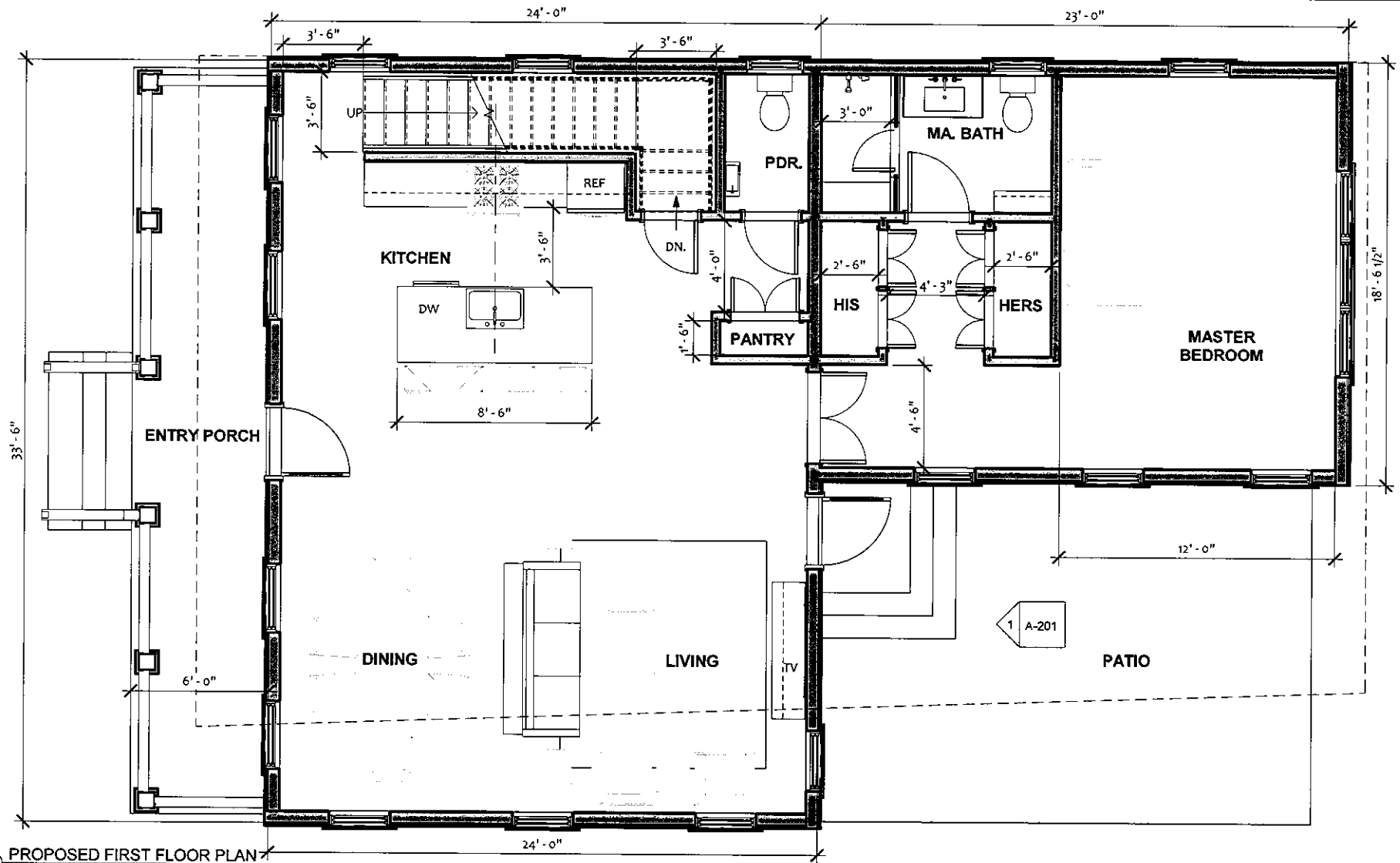


SIMON RESIDENCE
 5 BAYSIDE AVE.

EXISTING SITE PLAN

2/11/2022 11:57:39 AM

A-050



① PROPOSED FIRST FLOOR PLAN
1/4" = 1'-0"

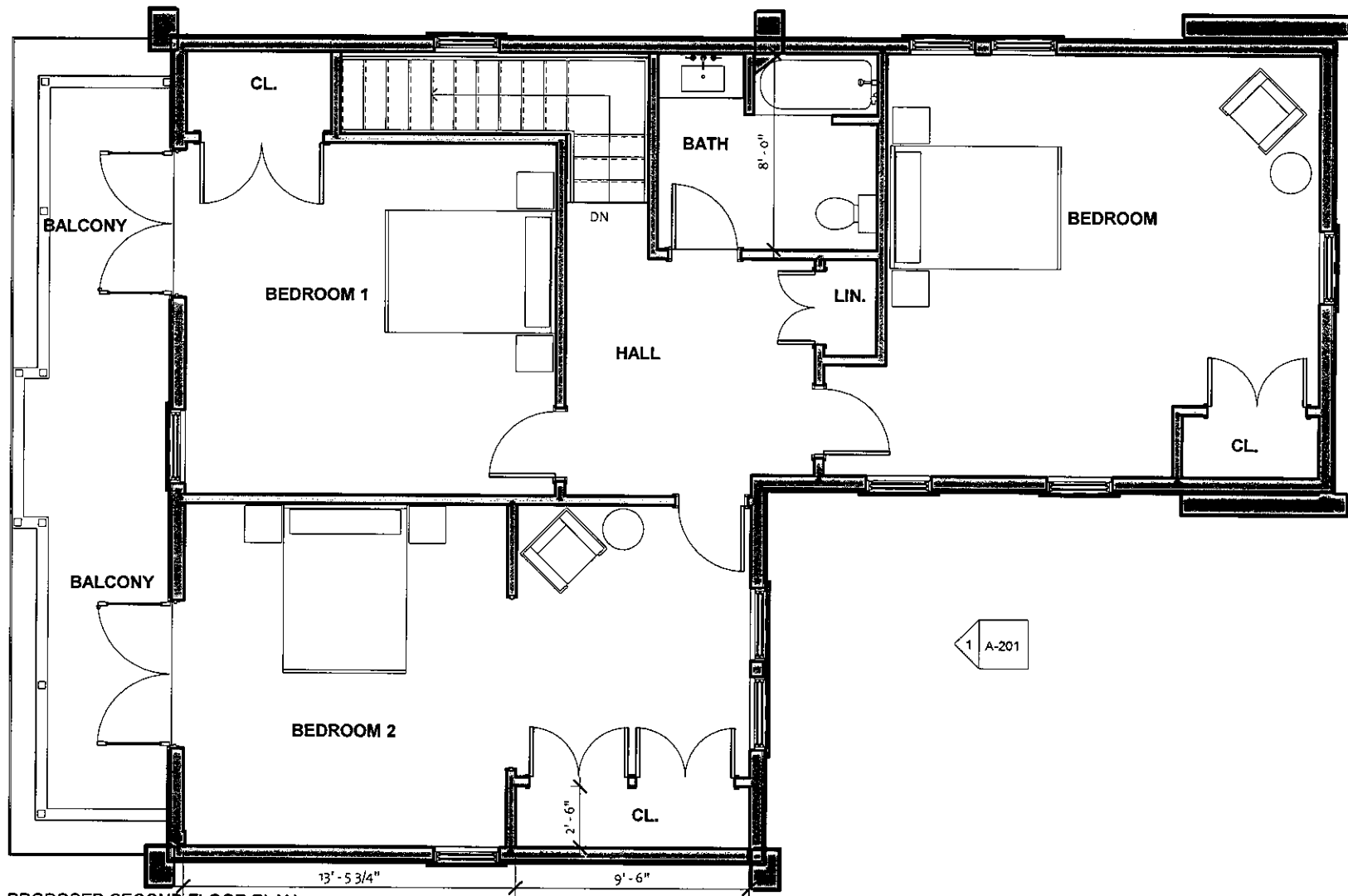


SIMON RESIDENCE
5 Bayside Ave., Newport RI

PROPOSED FIRST FLOOR PLAN

1/18/2022 10:01:10 AM

A-110



① PROPOSED SECOND FLOOR PLAN
1/4" = 1'-0"



CHANDLER

SIMON RESIDENCE
5 Bayside Ave., Newport RI

PROPOSED SECOND FLOOR PLAN

1/18/2022 10:01:10 AM

A-120



① FRONT ELEVATION
1/4" = 1'-0"



SIMON RESIDENCE
5 Bayside Ave., Newport RI

PROPOSED FRONT ELEVATION

1/18/2022 10:01:14 AM

A-200



① REAR ELEVATION
1/4" = 1'-0"



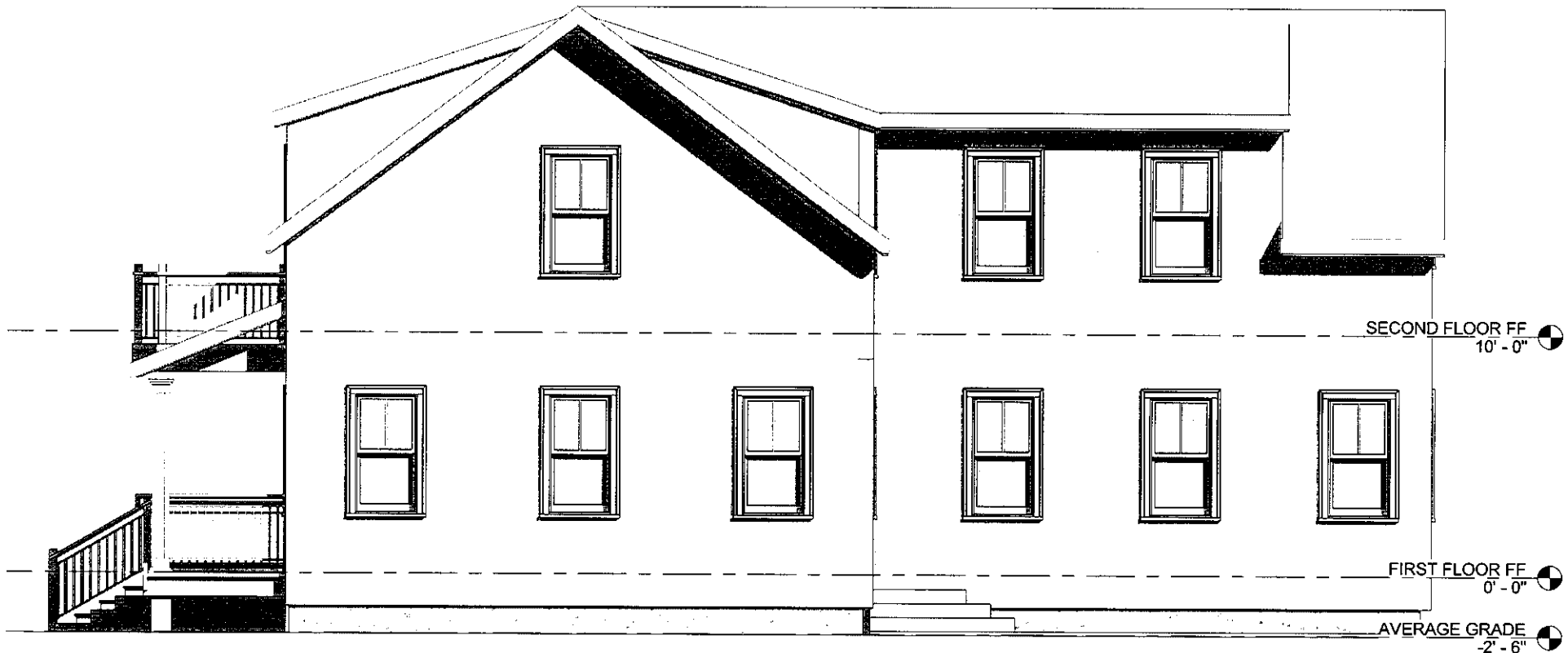
SIMON RESIDENCE
5 Bayside Ave., Newport, RI

PROPOSED REAR ELEVATION

1/18/2022 10:01:16 AM

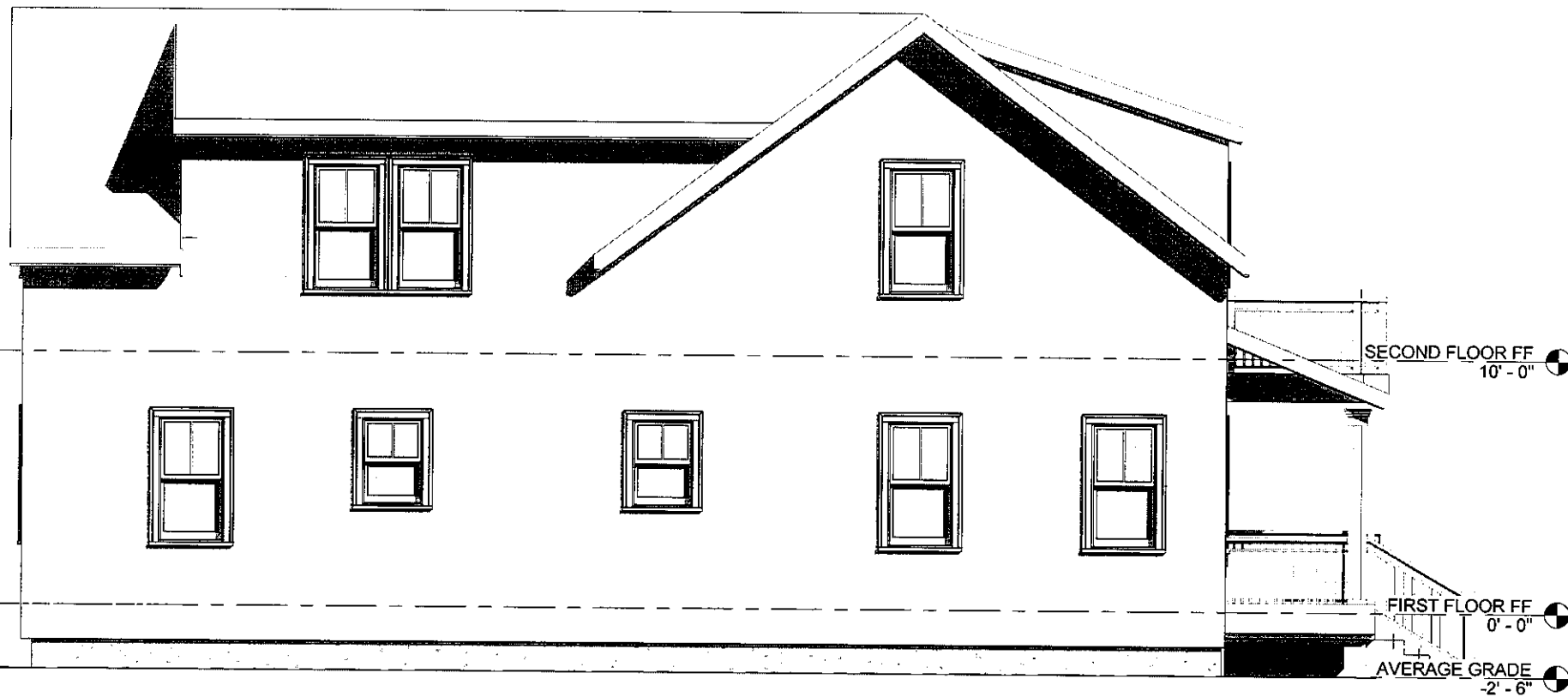
A-201

HEIGHT LIMIT
27' - 6"



① SOUTH ELEVATION
1/4" = 1'-0"

HEIGHT LIMIT
27' - 6"



① SIDE ELEVATION 1
1/4" = 1'-0"



SIMON RESIDENCE
5 Bayside Ave., Newport RI

PROPOSED SIDE ELEVATION

1/18/2022 10:01:19 AM

A-203

CORCORAN, PECKHAM, HAYES, LEYS & OLAYNACK, P. C.
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WILLIAM J. CORCORAN

February 23, 2022

Mr. Guy E. Weston
Newport City Hall
43 Broadway
Newport, RI 02840
Via Hand Delivery

FEB 24 2022

Re: Application of Pleasant Properties, LLC; 5 Bayside Ave. (Plat 9, Lot 210)

Dear Guy:

Enclosed please find an application for a dimensional variance and special use permit in relation to the above referenced property, along with the supporting plans and a check in the amount of \$100 for the filing fee.

These plans have already been approved by the Historic District Commission. Could you please place this application on the Zoning Board's March 28, 2022 agenda?

Please feel free to contact me if you have any questions or comments.

Sincerely yours,


Matthew H. Leys