COMBINDED APPLICATION FOR A SPECIAL USE PERMIT & A REGULATORY (DIMENSIONAL) VARIANCE

CITY OF NEWPORT, RI
ZONING BOARD OF REVIEW

RECEIVED
APR 26 2021

$100.-
CK # 39481

ZBR May-16

DATE: April 26, 2021

Board Members:

The undersigned hereby petitions the Zoning Board of Review for a Special Use Permit and a Regulatory (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.: 31 Mt. Vernon Street

Tax Assessor's Plat: 21, Lot: 207

Petitioner Information

Applicants:	Rui A. Tereso, Trustee	**Addresses:**	c/o J. Russell Jackson, Esq. Miller Scott Holbrook & Jackson 122 Touro Street Newport, RI 02840
Owner:	Same		Same
Leasee:	N/A		N/A

Property Characteristics

Dimensions of Lot:	**Frontage:**	74 ft. +/-
	Depth:	100 ft. +/-
	Area:	7,405 sf. +/-

Zoning District in which premises is located:	R-10
How long have you owned above premises?	13 Years
Are there buildings on the premises at present?	Yes
Total square footage of the footprint of existing buildings:	1,721 sf. (23.24%)
Total square footage of the footprint of proposed buildings:	1,948 sf. (26.30%)

Present use of premise: Single Family Residential Dwelling

Proposed use of premises: Single Family Residential Dwelling

Give extent of proposed alterations: The Applicant proposes renovations and upgrades to the exterior and the outdoor living area and grounds. These include minor modifications to the south side entrance and landing, installation of an in-ground pool, construction of an outdoor kitchen and the installation of pool equipment.

Zoning Characteristics Matrix

	Existing	Required/Allowed	Proposed
Lot Size (sq. ft)	7,405 sf.	10,000 sf.	7,405 sf.
Lot Coverage	23.24 %	20 %	26.30%
Dwelling Units	1	1	1
Parking (# of spaces)	2	2	2
Front Setback (ft.)	22 ft. 9 in.	15 ft.	22 ft. 9 in.
Side Setbacks (ft.)	South = 14 ft. 4 in. North = 6 ft. 9 in.	10 ft.	South = 11 ft. 4 in. North = 6 ft. 9 in.
Rear Setback (ft.)	House = 37 ft. 3 in. Accessory Structure N/A	20 ft.	House = 37 ft. 3 in. Accessory Structure 20 ft.
Height (ft.)	30 ft.	30 ft.	No Change

Project Summary:

The Applicant seeks relief under:

Section 17.108.020 (Special Use Permits)
Section 17.108.010 (Variances)
Section 17.72.030 (Alteration to Nonconforming Development)
Section 17.20.050 (R-10 Lot Coverage Requirements)
Section 17.20.040 (Setback Requirements)

The Applicant seeks permission to complete minor exterior modifications of the house and upgrade the back yard with the installation of a pool and outdoor kitchen. The expanded outdoor living space will provide greater functionality, use and enjoyment of the back yard and grounds.

The existing parcel is a legal non-conforming lot of record containing 7,405 square feet of land. The purpose of this project is to expand the use and enjoyment of the outdoor living space. The property is in the R-10 Zone. The proposed pool equipment will be installed next to the existing bulk head and AC condensers which already encroach into the north side setback. The pool equipment will not encroach any further into the setback than the existing bulk head. This lot is substandard in width for the R-10 Zone. Lot coverage increases to 26.30% due to the pool and structures associated with the outdoor kitchen. Building height remains the same. The existing single family use is allowed by right. The property is not in the Newport Historic District. The plan proposed by the Applicant will not create dimensional non-conformities to such a degree that it is injurious to, or inconsistent with, the surrounding neighborhood or the purpose and intent of the R-10 Zone.

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

The Applicant states that the proposed development is consistent with many provisions of the Comprehensive Land Use Plan, including, but not limited to the following:

Land Use:

Goal LU-1: *To provide a balanced City consisting of residential, commercial, and employment uses consistent with the character, environmental resources and vision of the community.*

Policy LU-1.7 *The City shall protect the existing character of residential neighborhoods while encouraging local neighborhood business.*

Housing:

Goal H-1: *To preserve and protect existing housing resources in the community.*

Policy H-1.3 *The City shall continue to promote the repair, revitalization or rehabilitation of residential structures and neighborhoods.*

Policy H-1.4 *The City shall encourage resident involvement in identifying and addressing the maintenance of housing in their neighborhood.*

Goal H-3: *To reduce the percentage of seasonally vacant homes and increase neighborhood stability and vitality.*

Transportation & Circulation:

Goal T-5: *To provide sufficient and suitably located parking, designed to eliminate, mitigate or reduce impacts.*

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 existing parcel is a legal non-conforming lot of record containing 7,405 square feet of land. The lot is substandard in width and area for the R-10 Zone. The structures exceed lot coverage and encroach into the north side setback. Because of the existing nonconformities relating to the lot and structures, the installation of a small pool, pool equipment and outdoor kitchen structures require dimensional relief.

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?

The Applicant proposes to continue the single family residential use of the property and will be seeking relief for dimensional variances and a special use permit. The subject property is located on Mount Vernon Street which is close to Kay Street, Mann Avenue and Bull Street. This property is surrounded by a number of abutters, especially to the north toward Mann Avenue, that are substandard in size with dimensional nonconformities. A number of these properties appear to exceed lot coverage and encroach into setbacks. The literal interpretation of the zoning code, resulting in the denial of the relief requested, would unreasonably deny this Applicant the ability to upgrade his outdoor living space and enjoy customary accessory uses. The proposed lot coverage and continued setback encroachment will not be inconsistent with surrounding properties. The renovation of this property to provide additional outdoor living space and a pool is appropriate and not inconsistent with the surrounding neighborhood and the rights enjoyed by other property owners in this area of the R-10 Zone.

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

The Applicant is before the Board for permission to upgrade his outdoor living space with the installation of a pool and outdoor kitchen amenities as accessories to his single family residence. The existing structure encroaches into the north side setback. The pool equipment will be installed next to the bulk head and AC condensers, which already encroach into the north side setback. The installation of the pool and structures associated with the outdoor kitchen will result in a small (3%) increase in lot coverage. The pool, outdoor kitchen components and pergola will meet all setback requirements. The accessory structures are small in size, preserve the front, rear and south side setbacks and enhance the back yard. There will be no intensification of the north side setback encroachment and no change in building height. The Applicant has taken great care to develop a renovation plan for the outdoor living space, which meets his needs and is appropriate for this substandard lot. The overall proposal has been designed to meet the reasonable living needs of the Applicant. The hardship is driven by the substandard lot and non-conforming structure. Granting the request for dimensional relief is the minimum variance which will allow the reasonable use of the property. The proposed use of the property and the relief sought by the Applicant will not be injurious to, or create a burden or hardship for abutting property owners, will be harmonious with the neighborhood, and will be an appropriate use for this residential area.

The Zoning Boards 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 are; 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".

Applicants & Owners,
By Their Attorneys,
Miller Scott Holbrook & Jackson

J. Russell Jackson, Esq.
122 Touro Street
Newport, RI 02840
Tel: 401-847-7500
Fax: 401-848-5854
jrjackson@millerscott.com

TERESO

31 MT VERNON STREET
NEWPORT, RI 02840

PROJECT DESCRIPTION:

REMOVE EXISTING WOOD ROT AT FRONT STEPS. REMOVE EXISTING STAIRS TO SIDE PORCH AND RECONSTRUCT IN NEW LOCATION TO ACCOMMODATE NEW PARKING. NEW RAILING AND STAIR FINISHES TO MATCH EXISTING. CONSTRUCT NEW PERGOLA AND OUTDOOR KITCHEN. KITCHEN TO INCLUDE BUILT IN GRILL AND UNDER COUNTER REFRIGERATOR. OUTDOOR KITCHEN FINISHED WITH A STONE FACADE. CONSTRUCT NEW OUTDOOR SHOWER. NEW 10'-0" X 20'-0" IN-GROUND POOL.

CONTACTS:

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PHONE: 401-619-1260
EMAIL: Anderson@JPSConstructionDesign.com

BUILDER: JPS Construction And Design
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PROJECT MANAGER: Kevin Sawyer
PHONE: 401-619-1260
EMAIL: Sawyer@JPSConstructionDesign.com

INDEX OF DRAWINGS

SHEET NUMBER	SHEET TITLE
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L0.0	SITE PLAN
A Architectural Plans	
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A2.1	EXISTING & PROPOSED EAST ELEVATIONS
A2.2	EXISTING & PROPOSED SOUTH ELEVATIONS
A2.3	EXISTING & PROPOSED WEST ELEVATIONS
A Architectural Exterior DetailS	
A5.0	CONSTRUCTION DETAILS

DESIGN BY:
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PROJECT:

TERESO

31 MT VERNON STREET
NEWPORT, RI 02840

REVISIONS

NO	DATE	DESCRIPTION

NOTES

ISSUE: 2021.03.24
FOR HDC/ZONING

PROJECT PHASE: DESIGN DEVELOPMENT

SHEET TITLE: COVER SHEET

DESIGNED BY: KS
DRAWN BY: DA
CHECKED BY: KS
PROJECT NUMBER:

SHEET NUMBER: G0.0
TOTAL SHEETS:

FOR HDC/ZONING

PROJECT DATA:

REFERENCED CODES
RHODE ISLAND STATE BUILDING CODE SBC-2: RHODE ISLAND ONE AND TWO FAMILY DWELLING CODE, 11TH EDITION, EFFECTIVE JULY 1, 2013

CONSTRUCTION TYPE: 5B
OCCUPANCY TYPE: R3

CLIENT
CLIENT: Rui Teresa
ADDRESS: 31 Mt Vernon Street
Newport, RI 02840

PROJECT LOCATION
STREET ADDRESS: 31 Mt Vernon Street
Newport, RI 02840
PLAT: 21 LOT: 207
ZONE: R10

LOT COVERAGE
LOT AREA: 7,405 Sq Ft
ALLOWABLE: 1,481 Sq Ft (20%)
EXISTING: 1,721 Sq Ft (23.24%)
PROPOSED: 1,948 Sq Ft (26.30%)

SETBACKS

	FRONT	SIDE	SIDE	REAR
ALLOWABLE	15'-0"	12'-0"	10'-0"	20'-0"
EXISTING	22'-9"	6'-9"	14'-4"	37'-3"
PROPOSED	22'-9"	6'-9"	11'-4"	20'-0"

LOT COVERAGE CALCULATIONS:

LOT SIZE: 7,405 SQ FT

EXISTING LOT COVERAGE CALCULATIONS

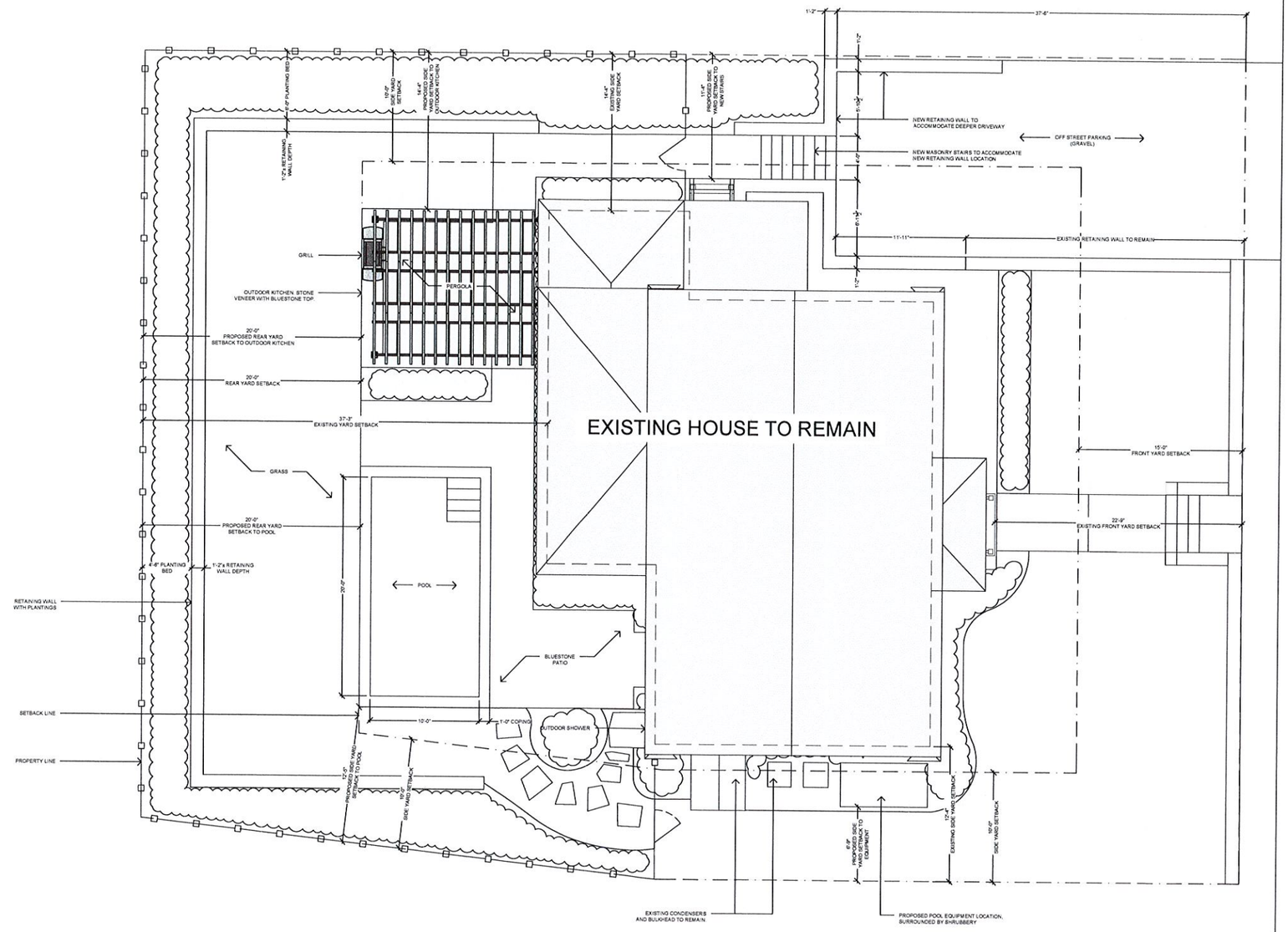
-HOUSE+ PORCHES: 1,695 SQ FT
-SHED: 26 SQ FT

TOTAL: 1,721 SQ FT (23.24%)

PROPOSED LOT COVERAGE CALCULATIONS

-HOUSE+ PORCHES: 1,695 SQ FT
-POOL: 200 SQ FT
-OUTDOOR KITCHEN: 53 SQ FT

TOTAL: 1,948 SQ FT (26.30%)



1 / L0.0 SITE PLAN
SCALE: 3/16" = 1'-0"

FOR HDC/ZONING

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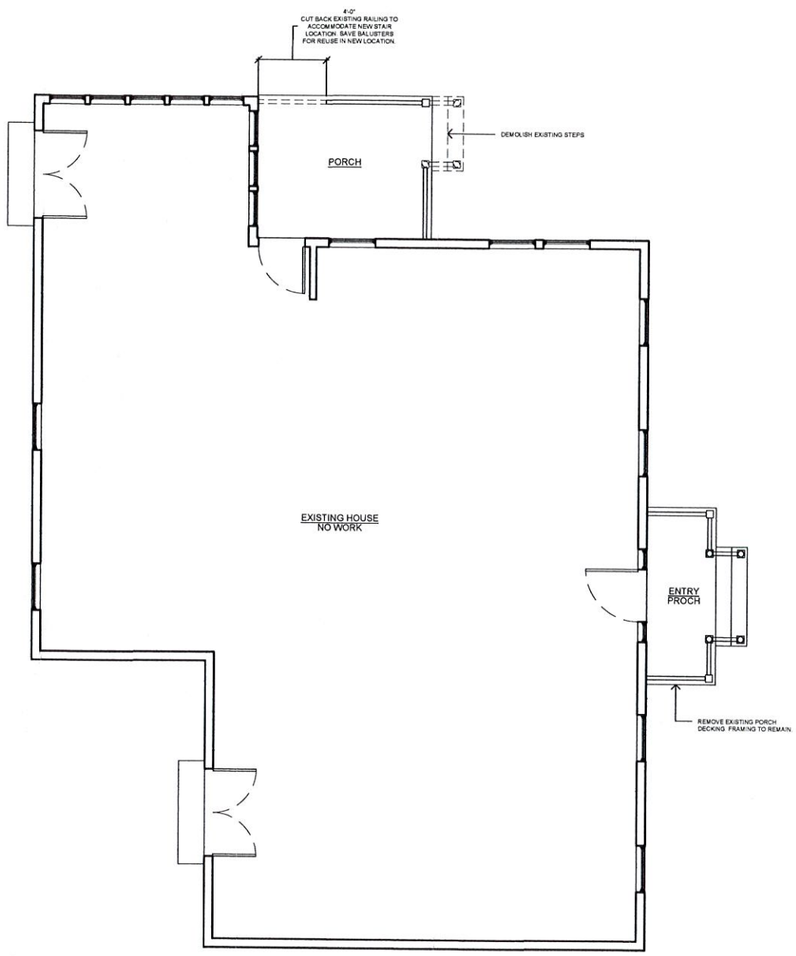
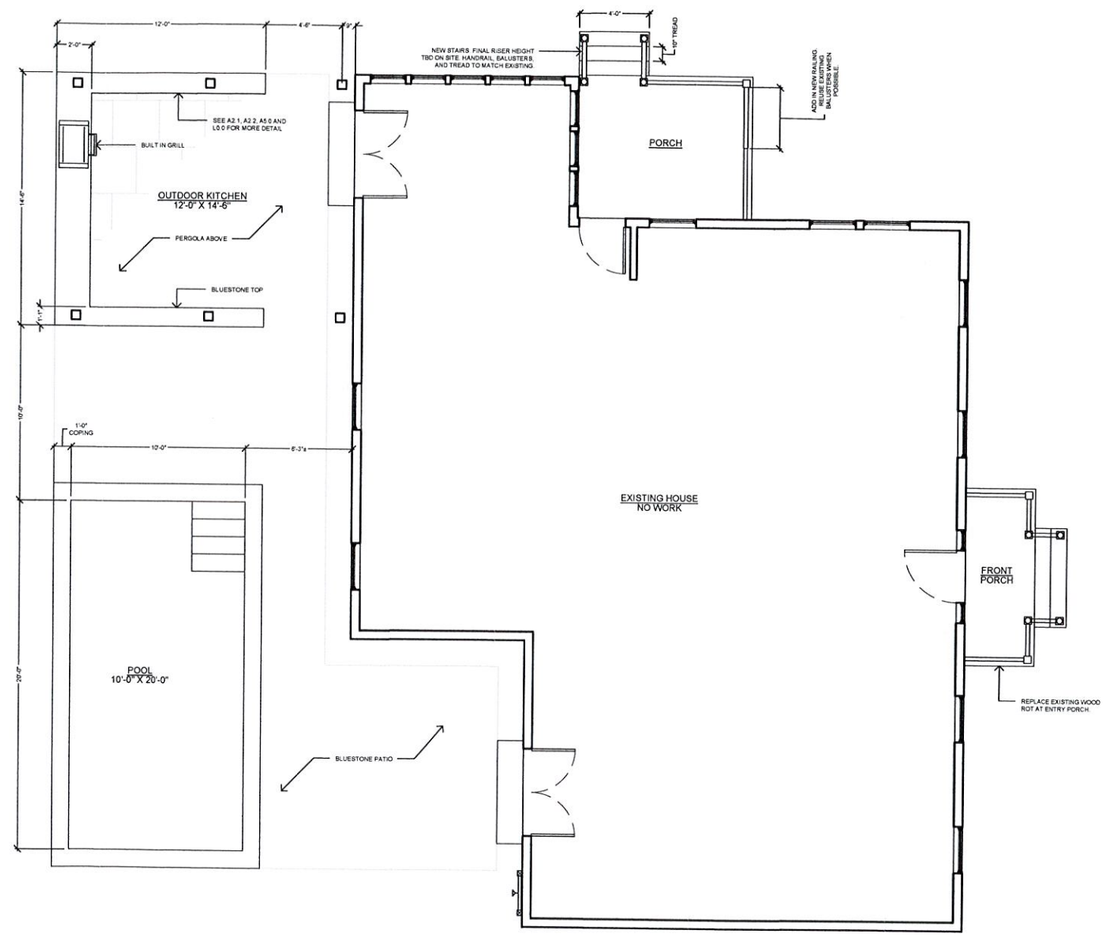
ISSUE: 2021.03.24 FOR HDC/ZONING
PROJECT PHASE: DESIGN DEVELOPMENT
SHEET TITLE: SITE PLAN

DESIGNED BY: KS	SHEET NUMBER: L0.0
DRAWN BY: DA	
CHECKED BY: KS	
PROJECT NUMBER: 20159	TOTAL SHEETS: 8



1 A1.1 EXISTING FIRST FLOOR PLAN
SCALE: 1/4" = 1'-0"



2 A1.1 PROPOSED FIRST FLOOR PLAN
SCALE: 1/4" = 1'-0"

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NO	DATE	DESCRIPTION

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ISSUE:
2021.03.24
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PROJECT PHASE:
DESIGN DEVELOPMENT

SHEET TITLE:
EXISTING AND PROPOSED FIRST FLOOR PLANS

DESIGNED BY: KS
DRAWN BY: DA
CHECKED BY: KS
SHEET NUMBER: A1.1
PROJECT NUMBER: 20159
TOTAL SHEETS: 8

1 / A2.0 EXISTING NORTH ELEVATION
SCALE: 1/4" = 1'-0"

2 / A2.0 PROPOSED NORTH ELEVATION
SCALE: 1/4" = 1'-0"

FOR HDC/ZONING

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FOR HDC/ZONING

PROJECT PHASE
DESIGN DEVELOPMENT

SHEET TITLE
EXISTING & PROPOSED NORTH ELEVATION

DESIGNED BY: KS
DRAWN BY: DA
CHECKED BY: KS
SHEET NUMBER: A2.0
PROJECT NUMBER: 20159
TOTAL SHEETS: 8

1 A2.1 EXISTING EAST ELEVATION
SCALE: 1/4" = 1'-0"

2 A2.1 PROPOSED EAST ELEVATION
SCALE: 1/4" = 1'-0"

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PROJECT:

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REVISIONS:

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PROJECT PHASE:
DESIGN DEVELOPMENT

SHEET TITLE:
EXISTING & PROPOSED EAST ELEVATIONS

DESIGNED BY: KS
DRAWN BY: DA
CHECKED BY: KS
SHEET NUMBER: A2.1
PROJECT NUMBER: 20159
TOTAL SHEETS: 8

1 / A2.2 EXISTING SOUTH ELEVATION
SCALE: 1/4" = 1'-0"

2 / A2.2 PROPOSED SOUTH ELEVATION
SCALE: 1/4" = 1'-0"

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PROJECT PHASE:
DESIGN DEVELOPMENT

SHEET TITLE:
EXISTING & PROPOSED SOUTH ELEVATIONS

DESIGNED BY: KS
DRAWN BY: DA
CHECKED BY: KS
SHEET NUMBER: A2.2
PROJECT NUMBER: 20159
TOTAL SHEETS: 8

1 / A2.3 EXISTING WEST ELEVATION
SCALE: 1/4" = 1'-0"

2 / A2.3 PROPOSED WEST ELEVATION
SCALE: 1/4" = 1'-0"

FOR HDC/ZONING

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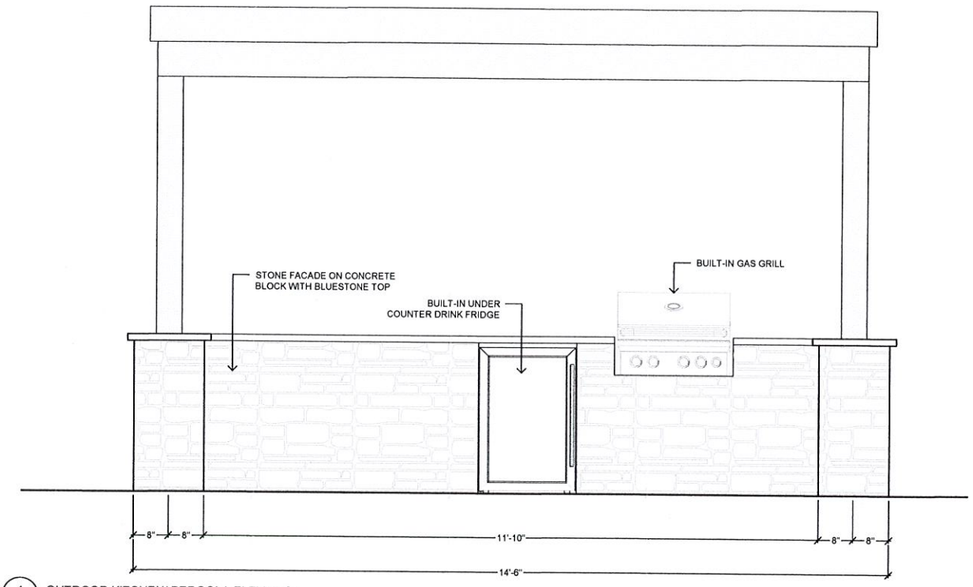
PROJECT PHASE:
DESIGN DEVELOPMENT

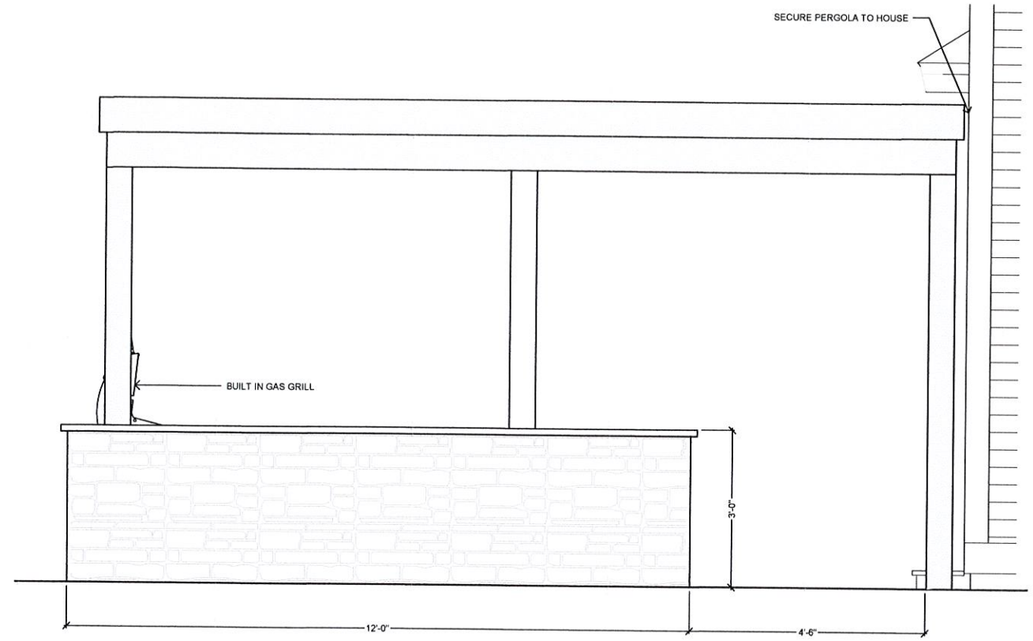
SHEET TITLE:
EXISTING & PROPOSED WEST ELEVATIONS

DESIGNED BY: KS
DRAWN BY: DA
CHECKED BY:

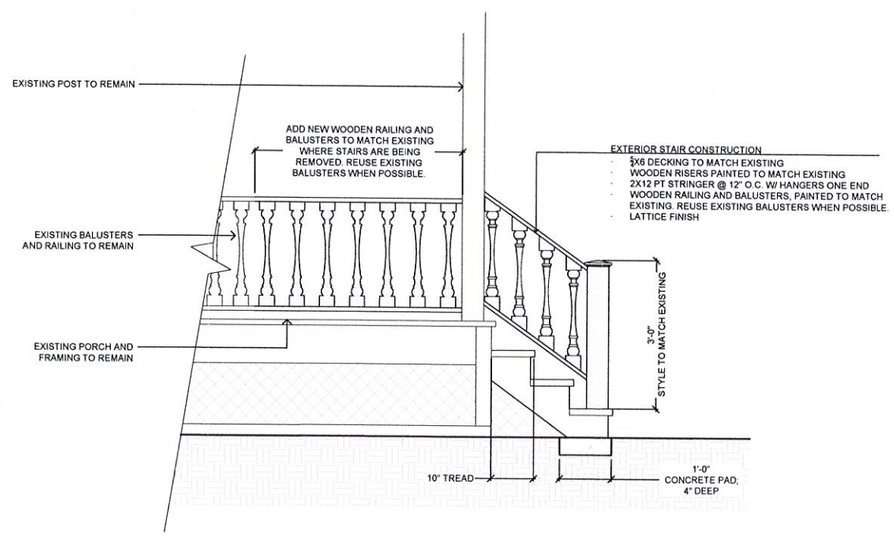
SHEET NUMBER: A2.3



1 / A5.0 OUTDOOR KITCHEN/ PERGOLA ELEVATION
SCALE: 3/4" = 1'-0"



2 / A5.0 OUTDOOR KITCHEN/ PERGOLA ELEVATION
SCALE: 3/4" = 1'-0"



3 / A5.0 PORCH STAIR CONSTRUCTION
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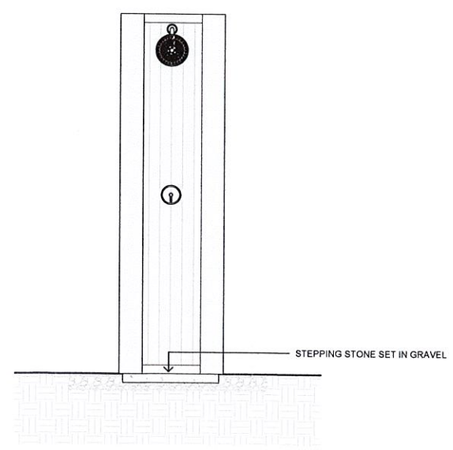

4 / A5.0 OUTDOOR SHOWER
SCALE: 3/4" = 1'-0"

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PROJECT PHASE:
DESIGN DEVELOPMENT

SHEET TITLE:
CONSTRUCTION DETAILS

DESIGNED BY: KS
DRAWN BY: DA
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PROJECT NUMBER: 20159
SHEET NUMBER: A5.0
TOTAL SHEETS: 8