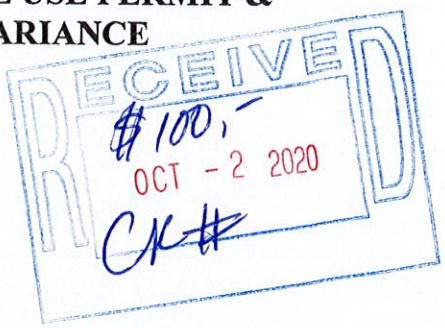
COMBINDED APPLICATION FOR A SPECIAL USE PERMIT & A REGULATORY (DIMENSIONAL) VARIANCE

CITY OF NEWPORT, RI
ZONING BOARD OF REVIEW



DATE: September 30, 2020

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.: 5 Gooseberry Road

Tax Assessor's Plat: 41, Lot: 264

Petitioner Information

Applicants:	John Doyle James Bartz	**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:**	71.4 ft. +/-
	Depth:	131.5 ft. +/-
	Area:	9,747 sq. ft. +/-

Zoning District in which premises is located: R-10A

How long have you owned above premises? 2.5 Months (Purchased 7/6/2020)

Are there buildings on the premises at present? Yes

Total square footage of the footprint of existing buildings: 1,600 sq. ft. (16.4%)

Total square footage of the footprint of proposed buildings: 2,463 sq. ft. (25.2%)

Present use of premise: Single Family Residential Dwelling

Proposed use of premises: Single Family Residential Dwelling

Give extent of proposed alterations: The Applicants propose a total exterior renovation including an addition along the front and above the original garage structure, new roof sections, second floor dormers, and a back yard pool. The exterior renovations and expansion will allow for further interior improvements and upgrades, including a dedicated home office.

Zoning Characteristics Matrix

	Existing	Required/Allowed	Proposed
Lot Size (sq. ft)	9,747 sq. ft.	10,000 sq. ft.	9,747 sq. ft.
Lot Coverage	16.4 %	20 %	25.2 %
Dwelling Units	1	1	1
Parking (# of spaces)	2	2	2
Front Setback (ft.)	15 ft.	15 ft.	15 ft.
Side Setbacks (ft.)	West = 1 ft. 5 inches East = 5 ft. 3 inches	10 ft.	West = 0.0 ft. East = 5 ft. 3 inches
Rear Setback (ft.)	House = 71 ft. 2 inches Accessory Structure N/A	20 ft.	House = 71 ft. 2 inches Accessory Structure 20 ft.
Height (ft.)	23 ft. 10 inch.	30 ft.	23 ft. 10 inch

Project Summary:

The Applicants seek relief under:

Section 17.108.020 (Special Use Permits)
Section 17.108.010 (Variances)
Section 17.72.030 (Alteration to Nonconforming Development)
Section 17.24.050 (R-10A Lot Coverage Requirements)
Section 17.24.040 (Setback Requirements)

The Applicants seek permission to renovate the exterior of this single family home with an addition adjacent to and above the original garage structure, second floor dormers and a pool installation. The expanded living space will provide great functionality and flow to the first and second floor living spaces, easier access to backyard outdoor living spaces and the inclusion of a home office above the former garage structure.

The existing parcel is a legal non-conforming lot of record containing 9,747 square feet of land. The purpose of this project is to renovate the exterior, expand the original garage structure and increase the living space on both the first and second floor. The property is in the R-10A Zone. The expansion of the second floor is above and in front of the original garage structure, which currently encroaches in the west side setback. The addition will result in a small increase of the west side setback encroachment. This lot is substandard in width for the R-10A Zone and the existing structure encroaches into both side setbacks. The east side setback encroachment will not be increased. Lot coverage increases to 25.2% due to the new addition, pool house and pool installation. 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 Applicants 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-10A Zone.

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

The Applicants state 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 9,747 square feet of land. The lot is substandard in width and area for the R-10A Zone. The structure to be renovated already encroaches into both side setbacks. Because of the existing encroachments, the proposed addition to the original garage structure will fall within the west side setback. The existing space above the garage will be opened up with new roof gables and expanded to allow for additional living space. As a result of the lot width and the existing side setback encroachments, both the lot and the structure are already dimensionally non-conforming. Alteration requires dimensional relief.

The other unique aspect to the property is that its western boundary abuts "Damon Street," a paper road that has never been accepted or developed by the city. The various abutters along this paper road have all expanded their yards to incorporate the road area. If the Applicants included half of the width of the paper road along their western boundary line, it would increase their lot area to 11,712 square feet. This would eliminate any west side setback encroachment and result in proposed lot coverage after renovations of only 21%. Although this additional area cannot be included for the purposes of the present application for relief, it is important to understand, as it provides context and speaks to the streetscape, spacing and buffering between properties.

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 Applicants propose 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 Gooseberry Road near Ruggles and Carroll Avenue. This property is surrounded by a number of abutters, especially to the east, that are substandard in size with dimensional nonconformities. A number of these properties also 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 these Applicants the ability to renovate their home, upgrade their living space and enjoy an accessory use. The proposed lot coverage and continued setback encroachments will not be inconsistent with surrounding properties. The renovation of this property to provide additional living space, a home office 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-10A Zone.

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

The Applicants are before the Board for permission to renovate their single family residence in the R-10A Zone. The existing structure encroaches into the side setbacks. Expanding the garage structure is the most efficient way to increase the livable space, improve the functionality of the floor plan and create a home office to allow for remote work. A significant portion of the garage structure encroaches into the side setback. The renovations will result is a small increase of the encroachment, primarily because the house does not sit squarely on the lot and is slightly angled to

the west. These changes, along with the addition of the accessory structures (pool and pool house) result in an increase in lot coverage. The addition and accessory structures are modest is size, preserve the front and rear setbacks, and enhance the large back yard. There will be no change in the east side setback encroachment and no change in building height. The Applicants have taken great care to develop a renovation plan which meets their needs and is appropriate in scope, scale and size for this substandard lot. The overall proposal has been designed to meet the reasonable living needs of the Applicants. The hardship is driven by the substandard lot, non-conforming structure, and the fact that much of the renovation work is taking place within a side setback. Granting the request for dimensional relief is the minimum variance which will allow the reasonable use of the property. Accordingly, the proposed use of the property and the relief sought by the Applicants 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;

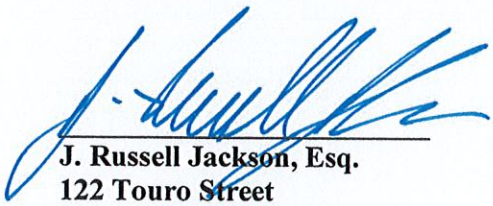
c) That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding are; and is not due to a physical or economic disability of the applicant; and

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



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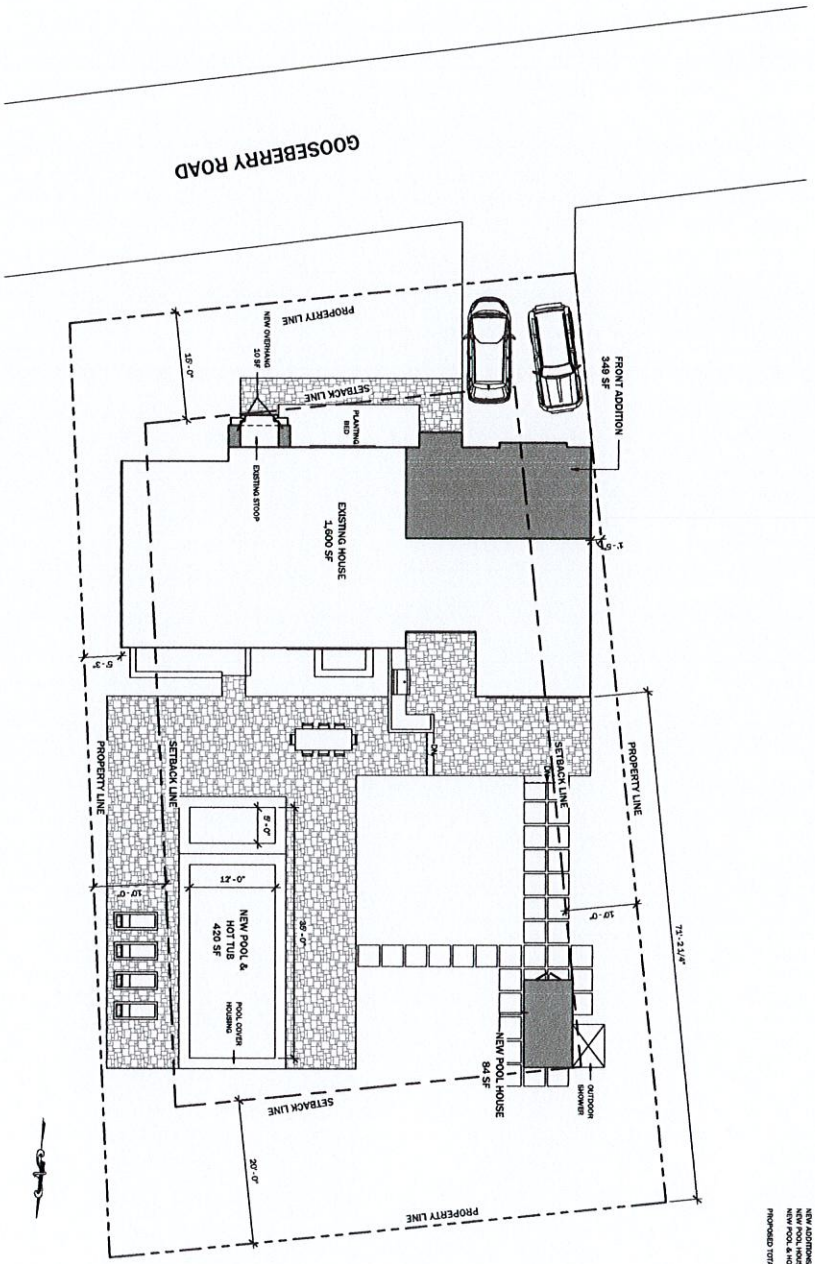

1 SITE PLAN
1/8" = 1'-0"

PROPERTY/ZONING

MAP: 49-41
PARCEL: 264
ZONING DISTRICT: R-12A
ZONING USE: SINGLE FAMILY DWELLING

YARD SETBACKS, MINIMUM REQUIRED:

FRONT YARD:	15'
SIDE YARD:	10'
REAR YARD:	20'

BUILDING HEIGHT, MAXIMUM ALLOWED: 30'-0"
*HEIGHT FROM AVERAGE NATURAL GRADE
BUILDING HEIGHT, EXISTING: 23'-10"
BUILDING HEIGHT, PROPOSED: 23'-10"

LOT COVERAGE:

ALLOWABLE LOT COVERAGE:	20% OF 9,767 SF = 1,849 SF
EXISTING LOT COVERAGE:	1,600 SF = 16.4%
NEW ADDITIONS:	288 SF
NEW POOL HOUSE	84 SF
NEW POOL & HOT TUB	420 SF
PROPOSED TOTAL LOT COVERAGE: (963 SF ADDED)	2,463 SF = 25.2%

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DOYLE - BARTZ RESIDENCE

5 Gooseberry Road, Newport, RI

DESCRIPTION: SITE PLAN

SCALE: As Indicated

DATE: 9/23/2020

REVISION SCHEDULE	
REV. #	REV. DATE

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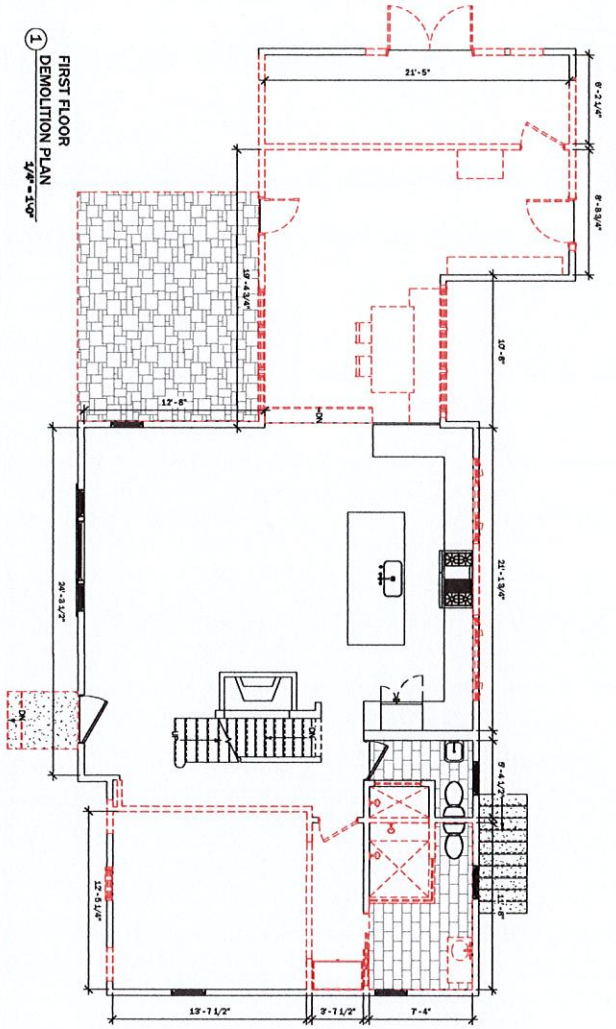
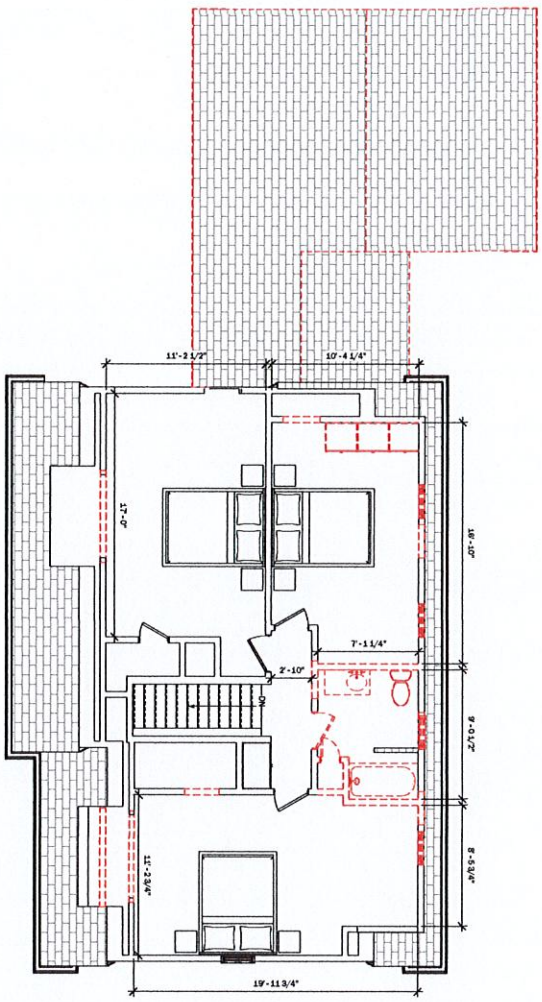
1 FIRST FLOOR DEMOLITION PLAN
1/4" = 1'-0"



2 SECOND FLOOR DEMOLITION PLAN
1/4" = 1'-0"



3 BASEMENT DEMOLITION FLOOR PLAN
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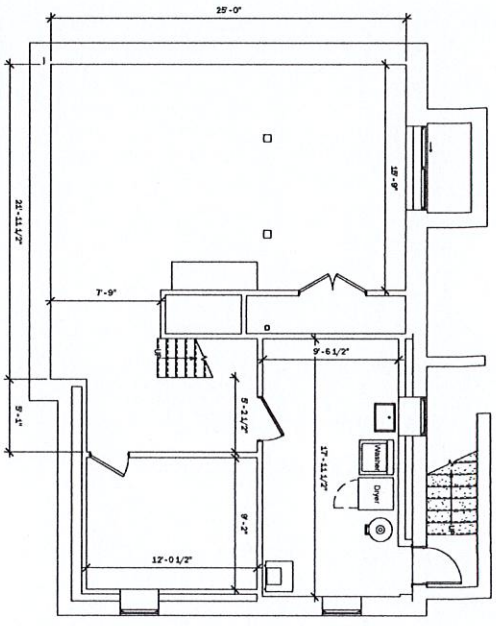

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DOYLE - BARTZ RESIDENCE

5 Gooseberry Road, Newport, RI

DESCRIPTION: EXISTING / DEMO PLANS

SCALE: 1/4" = 1'-0"

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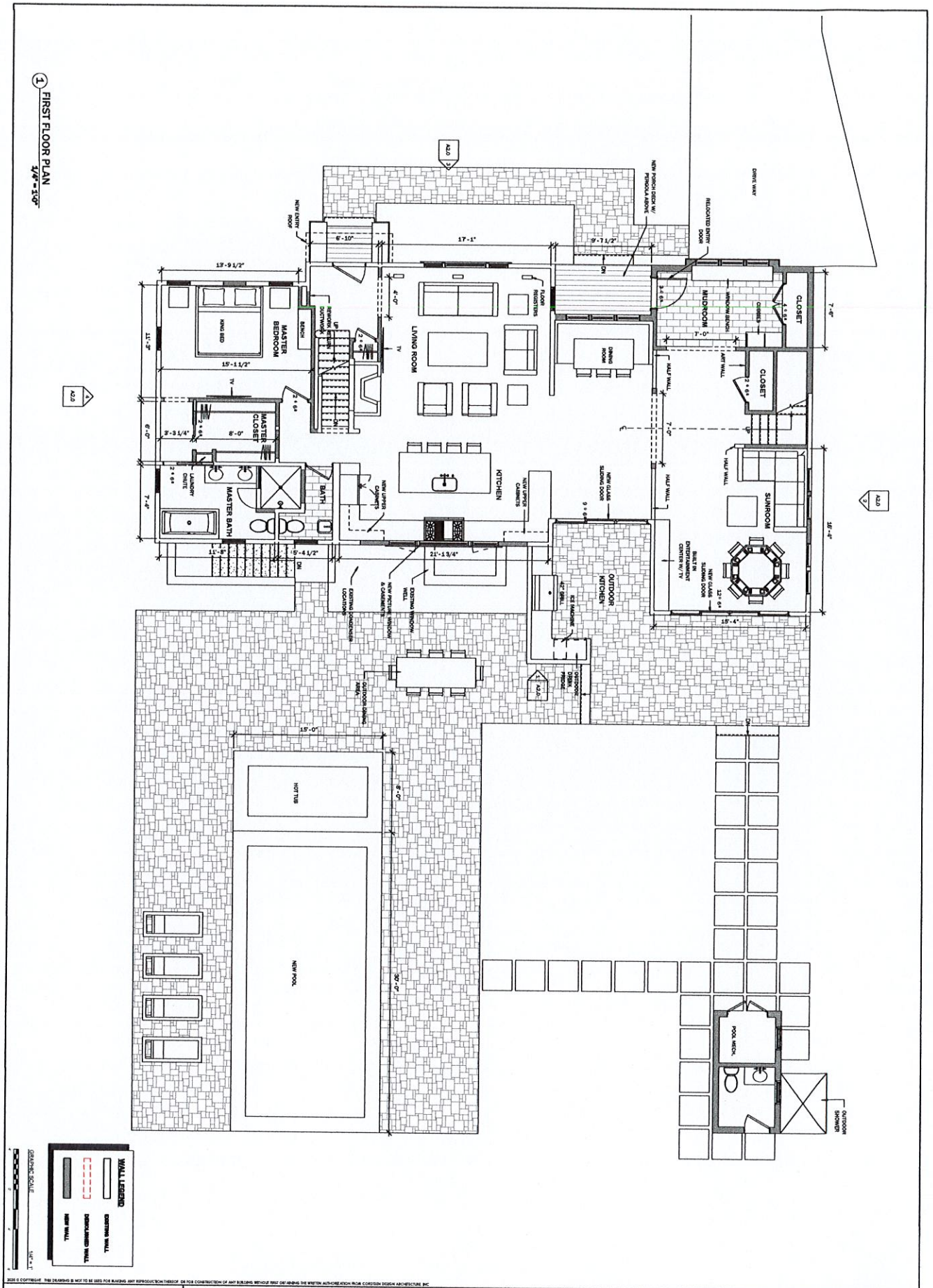

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DOYLE - BARTZ RESIDENCE

5 Gooseberry Road, Newport, RI

DESCRIPTION: FIRST FLOOR PLAN

SCALE: 1/4" = 1'-0"

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1 SECOND FLOOR PLAN
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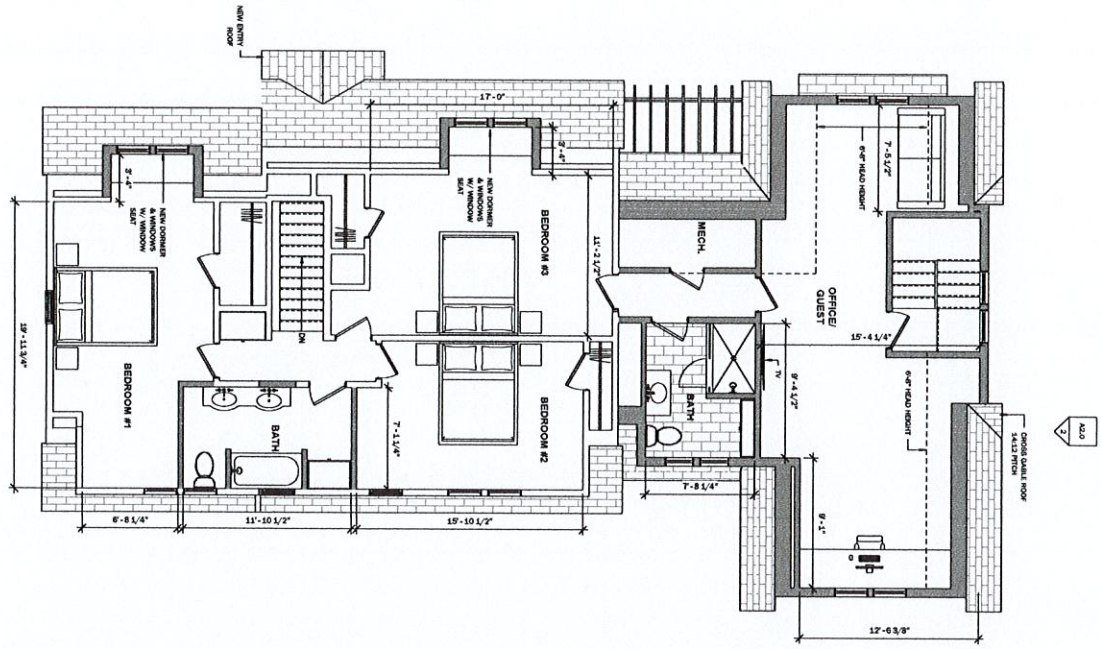
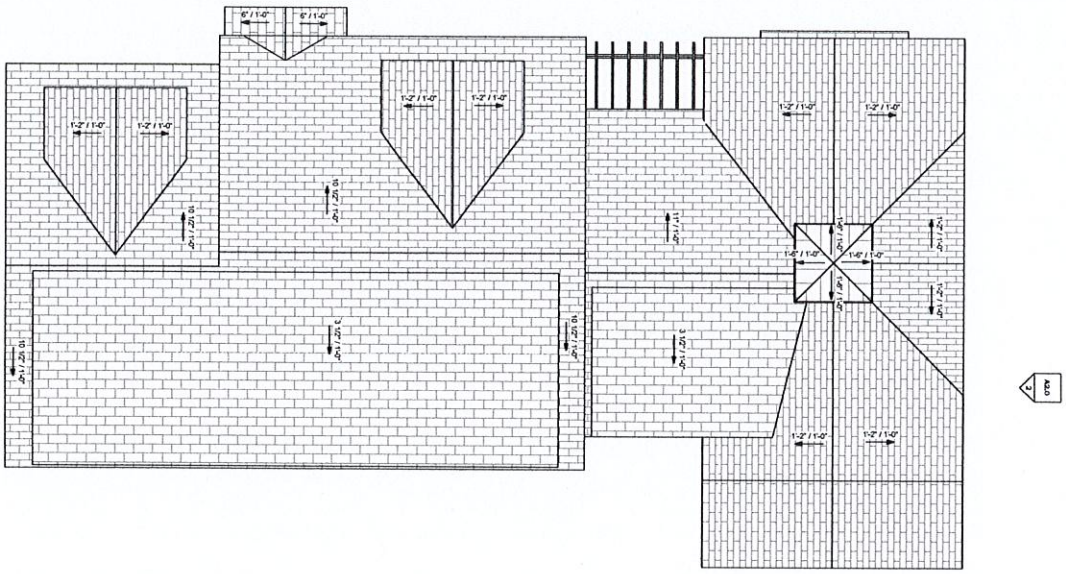


2 ROOF PLAN
3/8" = 1'-0"



GRAPHIC SCALE 1/4" = 1'

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DOYLE - BARTZ RESIDENCE

5 Gooseberry Road, Newport, RI

DESCRIPTION: **SECOND FLOOR PLAN & ROOF PLAN**

SCALE: 1/4" = 1'-0"

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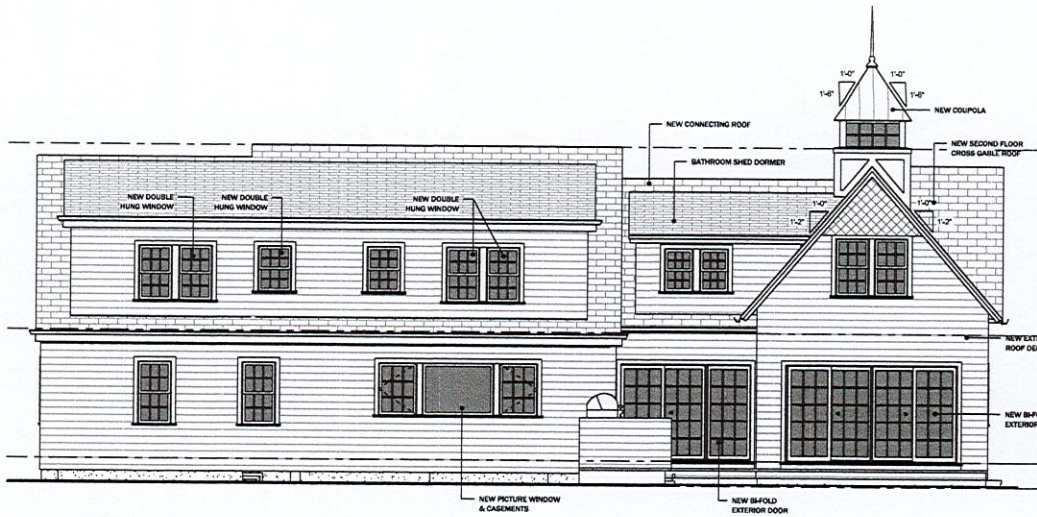
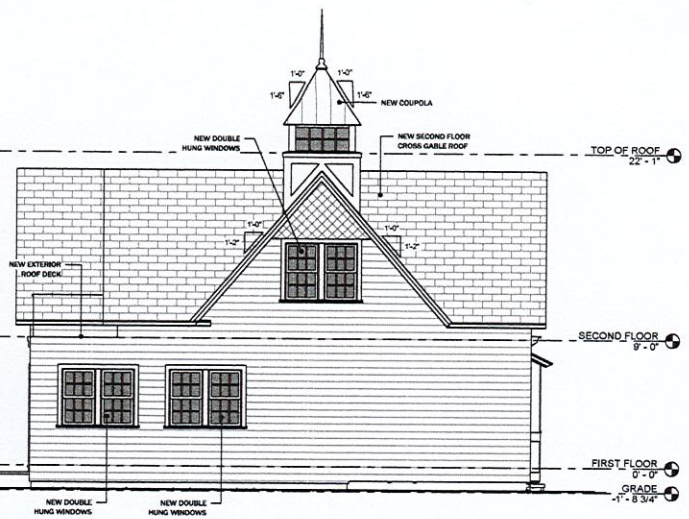
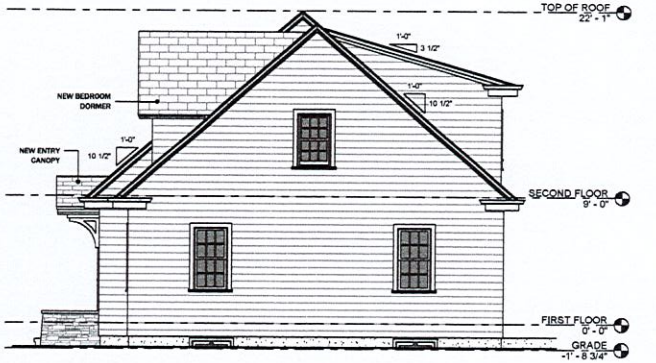


PROPOSED NORTH ELEVATION
1 1/4" = 1'-0"



PROPOSED WEST ELEVATION
2 1/4" = 1'-0"

PROPOSED SOUTH ELEVATION
3 1/4" = 1'-0"



PROPOSED EAST ELEVATION
4 1/4" = 1'-0"

GRAPHIC SCALE 1/4" = 1'

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DESCRIPTION: BUILDING ELEVATIONS
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DATE: 9/23/2020

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