

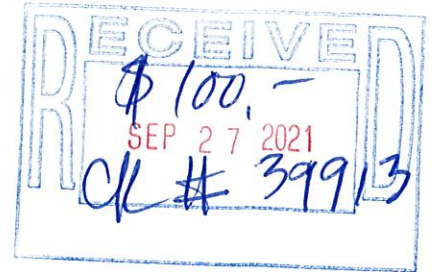
**COMBINED APPLICATION FOR A SPECIAL USE PERMIT &  
A REGULATORY (DIMENSIONAL) VARIANCE**

**CITY OF NEWPORT, RI  
ZONING BOARD OF REVIEW**

DATE: September 27, 2021

Board Members:

ZBR  
Oct-13



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.: 38 Pope Street

Tax Assessor's Plat: 32, Lot: 088

**Petitioner Information**

**Applicants:** Laura Gill

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

**Owner:** Laura's Landing, LLC  
**Leasee:** N/A

**Property Characteristics**

**Dimensions of Lot:** **Frontage:** 42 ft. +/-  
**Depth:** 62 ft. +/-  
**Area:** 2,450 sf. +/-

<b>Zoning District in which premises is located:</b>	R-10
<b>How long have you owned above premises?</b>	5 Years (11/4/2016)
<b>Are there buildings on the premises at present?</b>	Yes
<b>Total square footage of the footprint of existing buildings:</b>	1,424 sf. (58%)
<b>Total square footage of the footprint of proposed buildings:</b>	1,444 sf. (59%)
<b>Present use of premise:</b>	Two Family Residential
<b>Proposed use of premises:</b>	Two Family Residential

**Give extent of proposed alterations:** The Applicant proposes to remove and replace the existing stair case and landing at the rear of the house which is rotting and in poor structural condition. The new stairs and landing will run parallel along the rear wall of the house and make more efficient use of the limited back yard space. The new structure will also provide improved access and egress to and from the second and third floors, especially to the door on the east side rear of the second floor which currently has no access to a landing or staircase.

### Zoning Characteristics Matrix

	Existing	Required/Allowed	Proposed
Lot Size (sq. ft)	2,450 sf.	10,000 sf.	2,450 sf.
Lot Coverage	58 %	20 %	59 %
Dwelling Units	2	2	2
Parking (# of spaces)	4	4	4
Front Setback (ft.)	0 ft. +/-	15 ft.	0 ft. +/-
Side Setbacks (ft.)	House West = 12 ft. +/- East = 1 ft. +/- ----- Stairs/Landing West = 22 ft. +/- East = 15 ft. +/- ----- Garage West = 0 ft. East = 21 ft. +/-	10 ft.	House West = 12 ft. +/- East = 1 ft. +/- ----- Stairs/Landing West = 15 ft. +/- East = 2 ft. ----- Garage West = 0 ft. East = 21 ft. +/-
Rear Setback (ft.)	House = 30 ft. +/- ----- Stairs/Landing 16 ft. +/- ----- Garage = 0 ft.	20 ft.	House = 30 ft. +/- ----- Stairs/Landing 23 ft. +/- ----- Garage = 0 ft.
Height (ft.)	House < 30 ft.	30 ft.	House < 30 ft.

## **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 17.20.050 (R-10 Lot Coverage Requirements)

Section 17.20.040 (Setback Requirements)

The Applicant seeks permission to construct a new staircase and landing along the rear of the existing residence. The new stairs and landing will efficiently use the limited space on this extremely small lot and provide enhanced safety and emergency egress to the second floor dwelling unit and third floor deck.

The existing parcel is a legal non-conforming lot of record containing only 2,450 square feet of land according to the tax assessor's records. The property is in the R-10 Zone and is significantly substandard in size. The lot contains both a residential structure and a detached two car garage. As a result of the house and garage sitting on such a small lot, the existing development exceeds lot coverage and encroaches into setbacks. The house is set back only one foot from the east property line. Any modification to this development will trigger the need for zoning relief. Total proposed lot coverage will be 59%, which is only a slight increase of 1% over existing conditions. The new landing for the second floor egress will be setback two feet from the east side property line. This allows additional access space for maintenance with the abutter to the east. The small increase in lot coverage and the side setback encroachment are reasonable for a parcel which is so significantly smaller than required for a conforming lot in the R-10 Zone. No building height relief is required. The property is not in the Newport Historic District. The plan proposed by the Applicant is harmonious with the surrounding neighborhood and will not create dimensional non-conformities to such a degree that it is injurious to, or inconsistent with the area 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 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.*

### **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 only 2,450 square feet of land. The lot is significantly substandard and is essentially only one quarter of the standard lot size for the R-10 Zone. The structures already encroach into side setbacks. The house is setback only one foot from the east property line. Based on the size of the lot and the location of existing structures, any reasonable improvements or construction will require dimensional relief. As a result, the proposed reconfigured rear stairs and landing will increase lot coverage by 1% and encroach into the east side setback.

### **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 two family residential use of the property and will be seeking relief for dimensional variances and a special use permit for the alternation of a non-conforming development by removing the existing exterior rear stairs and landing and constructing a new reconfigured stairs and landing. The subject property is located in the heart of the "Yachting Village" on Pope Street. The neighborhood is densely developed with a number of abutting parcels 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 this Applicant the ability to construct an improved rear exterior staircase and landing to provide egress from the second and third floors. The proposed lot coverage and side setback encroachment will not be inconsistent with surrounding properties. The project is appropriate and is 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 remove the existing rear exterior stairs and landing and construct a new reconfigured stairs and landing which more efficiently uses the limited space on the property. The new stairs will run parallel to the rear exterior wall of the house and will

essentially be the same size as the existing structure. The slight increase in lot coverage is due to the larger landing which will now service the second floor door on the east side of the property, which currently cannot be used as an egress since it does not connect to any stairs. The new project substantially improves safety. The new structure will only increase lot coverage by 1% and will be setback at least two feet from the east side property line. The existing house is setback only one foot from the property line. There will be no modification to the other setbacks. There will be no change in building height. The Applicant has taken great care to develop a plan for improved exterior egress at the rear of the building which meets safety requirements and is appropriate in scope, scale and size for this substandard lot. The overall proposal has been designed to meet the reasonable needs of the Applicant with the minimal dimensional variances. The hardship is driven by the substandard lot and the location of existing structures. 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 Applicant will not be injurious to, or create a burden for abutting property owners, will be harmonious with the neighborhood, and will be an appropriate use for this area of the R-10 Zoning District.

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### **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.

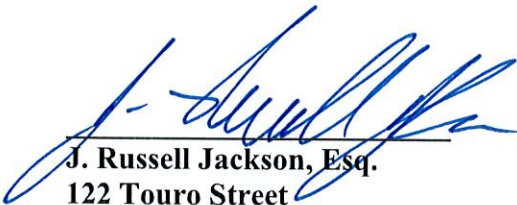
In granting a variance, the zoning board of review shall require that evidence of the following standards be entered into the record of the proceedings:



- 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 & Owner,  
By Their Attorneys,  
Miller Scott Holbrook & Jackson**



**J. Russell Jackson, Esq.  
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Newport, RI 02840  
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38 POPE ST.  
NEWPORT, RI



GARAGE

PATIO

STONE WALL

20'8"

17'6"

2'

21'

PROPOSED REORIENTATION  
OF OUTSIDE STAIRS

REMOVE  
EXISTING  
STAIRS

3'6"

2'4"

2ND  
FLOOR

2'4"

EXISTING  
ROOF  
DECK

DRIVE WAY

33'

DORMER

ROOF RIDGE

EXISTING HOUSE

12'

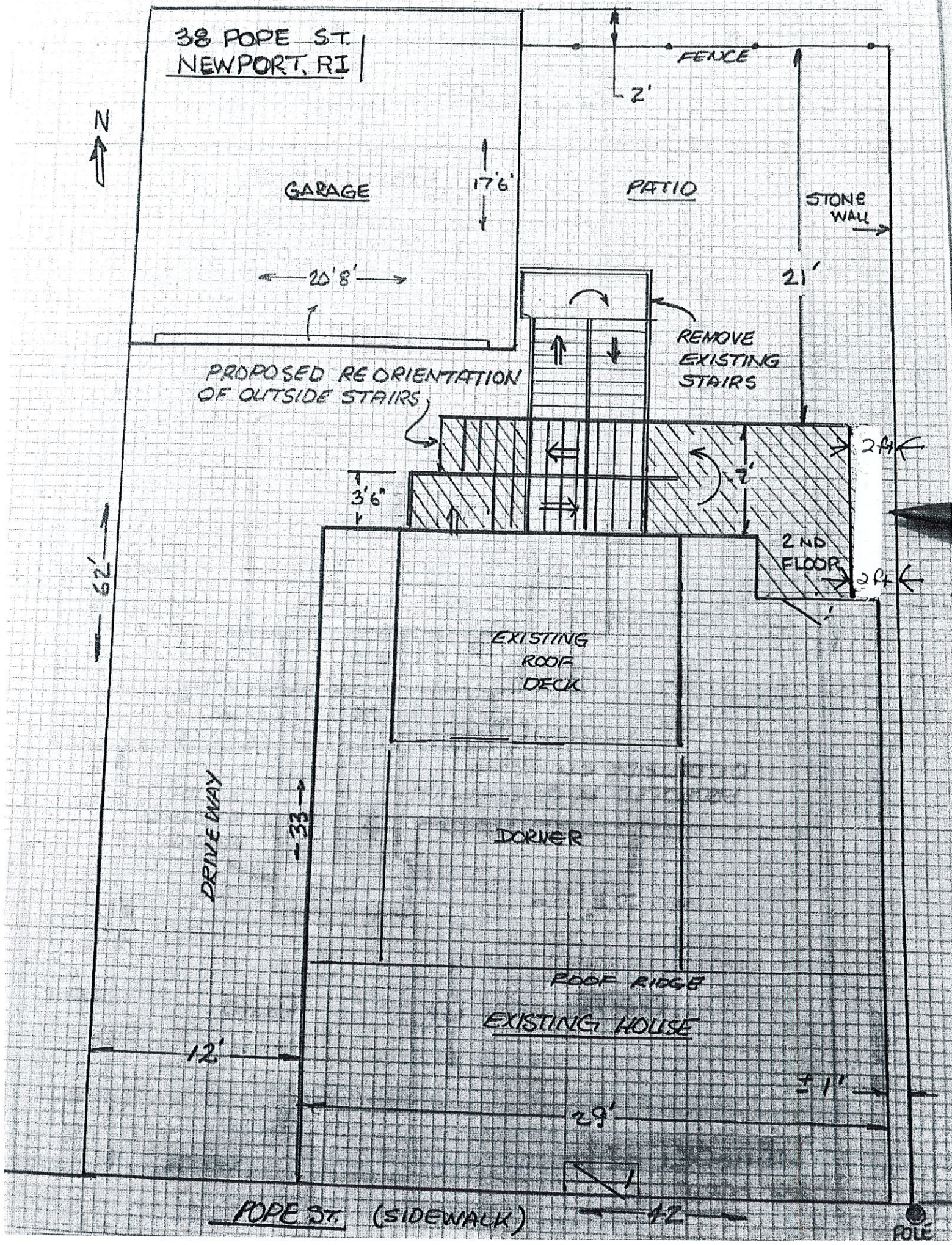
29'

7'1"

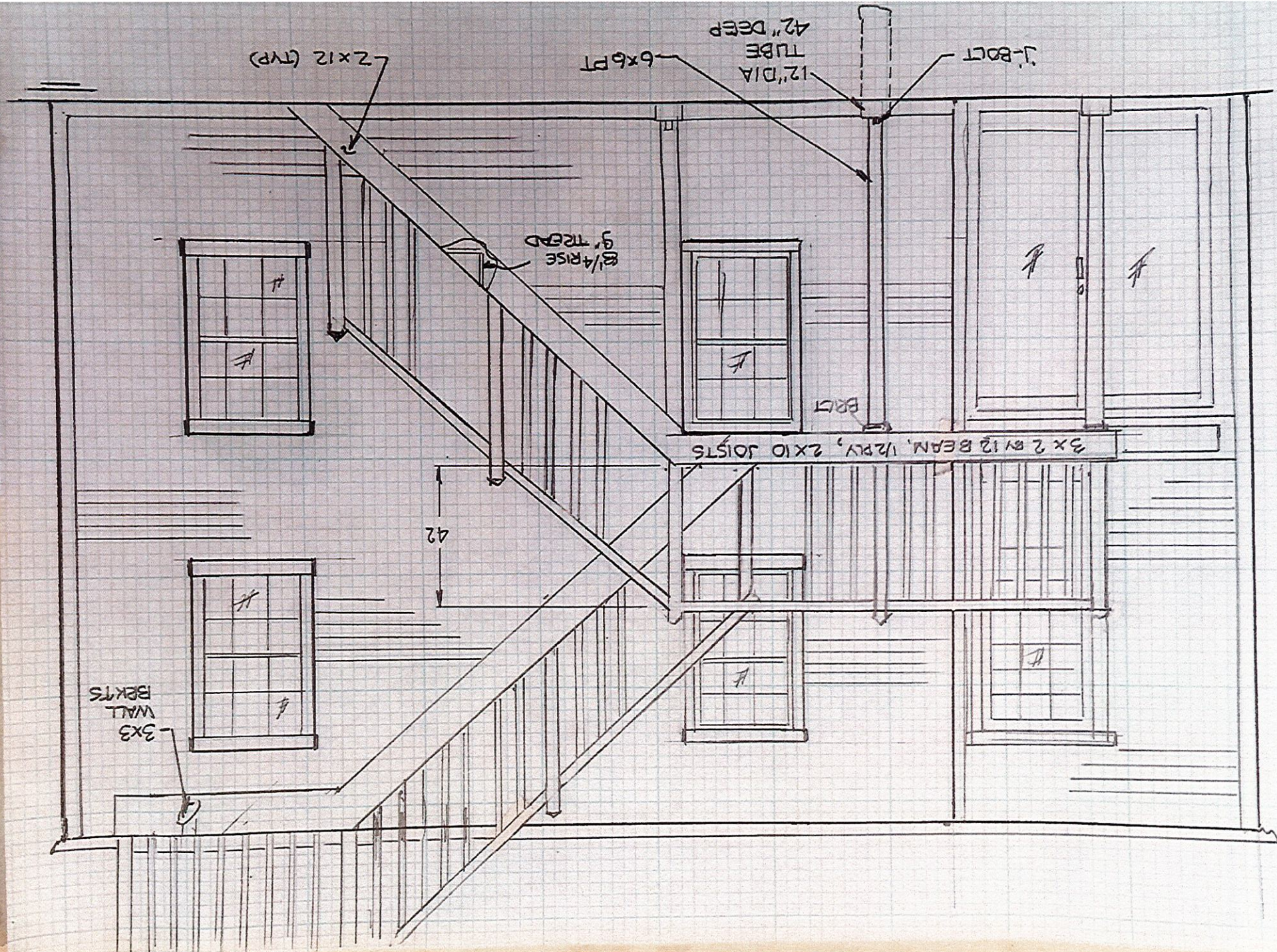
POPE ST. (SIDEWALK)

42'

POLE







10' 0" W.S.M.







