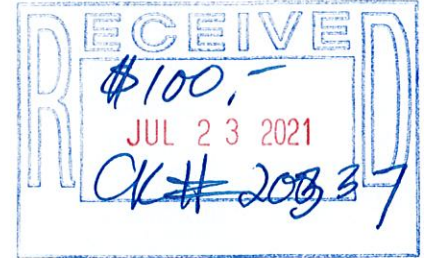




COMBINED APPLICATION FOR A SPECIAL USE PERMIT & A REGULATORY (DIMENSIONAL) VARIANCE

CITY OF NEWPORT, RI ZONING BOARD OF REVIEW



DATE: July 23, 2021

Board Members:

The undersigned hereby petitions the Zoning Board of Review for a special use permit and a regulatory 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.: 25-1/2 Willow Street
Tax Assessor's Plat: 12 Lot: 294

Petitioner's Information

Applicant:	Justin P. Kushner	Counsel's	
		Addresses:	c/o Gregory F. Fater, Esq. .
			55 Memorial Blvd.
	25-1/2 Willow Street		Newport, RI 02840
	Newport, RI 02840		(401)848-7777
Owner:	Same		gf@faterlaw.net

Property Characteristics

Dimensions of Lot:

Depth:	100 ft. +/-
Area:	2641sq. ft. +/-

Zoning District in which premises is located:

R-10

Do you own above premises?:

Applicant-Sole Owner:

Are there buildings on the premises at present?:

Yes

Total square footage of the footprint of existing buildings:

975 sq. ft. +/-

Total square footage of the footprint of proposed buildings:

975 sq. ft. +/-

Present use of premises:

Single Family Residential.

Proposed use of premises:

Single Family Residential.

Give extent of proposed alterations: The Applicant proposes a 2nd floor bathroom addition directly over the existing 1st floor bathroom: (1) **renovate, modernize and install a 2nd floor bathroom which will meet the current building code for living space.**

Zoning Characteristics Matrix

	Existing	Required/Allowed	Proposed
Lot Size (sq. ft)	2641 sq. ft.	10,000	2641 +/-no chg.
Lot Coverage	36%	20 %	36 % (same)
Dwelling Units	1	1	1 (same)
Parking (# of spaces)	0	2	0 (same)
Front Setback (ft.)	<u>Willow Street</u> 30 ft.	15 ft.	<u>Willow Street</u> 30 ft. (same)
Side Setbacks (ft.)	<u>North</u> 6'11" in.	10 ft.	<u>North</u> 6 ft.11 inch (same)
Rear Setback (ft.)	4'5" ft.	20 ft.	4 ft. 5 inch (same)
Height (ft.)	ft. in.	ft.	- No change-

Project Summary:

The Applicant seeks relief under (Section 17.24.040(b) (R10A) Side Setback Requirements), for permission to construct a 2nd addition, which will expand the Main House to accommodate a 2nd floor new and modernized bathroom. The proposed elevation will allow an interior second floor height which will meet current Building Code.

The existing parcel is on Willow Street. At 2641 +/- square feet, the lot is typical for the R-10 Zone, and it is consistent with this area of the Willow Street Point neighborhood. The property contains a single family home which the Applicant uses and intends to occupy the residence. The purpose of this project is to add and modernize the livable area on the second floor to suit the needs of the Applicant family for a 2nd floor bathroom.

The property is in the R-10 Zone. The existing Deck on the house encroaches into the Westerly side setback. In its current condition, the property lot coverage requirement, due to the exceptionally small lot size for the R-10 Zone. The current and proposed structures will remain within the building height limitations. The footprint of the building will increase in the rear area the house and for the bathroom addition and on the west side. The proposed addition will result in lot coverage remaining the same.

The plan proposed by the Applicant which calls for additions to for 2nd floor bathroom in this home, will not create or perpetuate 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. The ongoing single family use is allowed by right, and is the most appropriate use of the property in this residential 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 Goals and Policies: LU-1

Housing Goals and Policies: H-1, H-3

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 2641 +/- square feet of land. The existing structure is a modestly sized home residence with a relatively small foot print. Even with this modest house size, there are already set back encroachments. As a result of the original position of the house close to the westerly property line together with the setback and lot coverage requirements for the R-10 Zone, the structure are dimensionally non-conforming. Even modest alterations to the existing structures cannot be done without triggering some type of need for dimensional relief. In this case, the proposed addition to accommodate a second floor bathroom will not result in an increase of lot coverage. The second floor addition will not encroach into any setbacks any further than the current condition. There will be some type of need for dimensional relief.

The house was constructed in 1900.

1. The elevation of the small addition second story will have the same and identical setback as the original first floor.
2. The rear addition to accommodate a second (2nd) floor bathroom requires a side set back of 6'11" will be the same as the current side setback.

The proposed additions will allow the Applicant to enjoy this home in an accommodating manner as their residence. The Applicant has taken great care to work with the size and configuration of the lot

to ensure that the proposed development, which will allow the modernization of the home, will require only modest dimensional relief and will not otherwise intensify the existing dimensional non conformities of the property.

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 with the single family home use and will be seeking relief for minor dimensional variances. The subject property is located at 251/2 Willow Street in the "Point" neighborhood. This area of the Willow Street neighborhood is fully developed and characterized by varied lot sizes and a mix of older homes. A number of the immediately abutting properties in the neighborhood are substandard, in terms of lot size, appear to exceed the lot coverage, and encroach into setbacks. Accordingly, a number of these parcels fail to meet dimensional requirements of the R-10 Zone. The literal interpretation of the zoning code, resulting in the denial of the relief requested, would unreasonably deny this Applicant the ability to modernize their home and add the second floor bathroom. The planned renovations and improvements to the property by the Applicant are appropriate and not inconsistent with the surrounding neighborhood, or 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 construct a bathroom addition to the second floor of their home. Although it will maintain the setback, the modest expansion will allow for the modernization and the addition of a second floor bathroom. This will allow the Applicant the space necessary for accommodation to the property and occupies it as a residence. The Applicant has developed a thoughtful plan to meet the needs of the family while also preserving the integrity of the house. Their efforts to mitigate impacts to the abutting neighbors, preserve the character and integrity of the property, while also modernizing the first floor living space has resulted in a modest increase in setbacks continuation. The proposed changes will result in a dwelling with amenities consistent with modern living and provide the needed space for the Applicant and the family. 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 or hardship for abutting property owners, will be harmonious with the neighborhood, and is appropriate in scope, size and use for this 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.

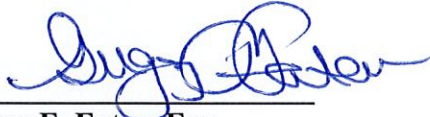
The burden of proof in a special-use permit application is on the applicant. This means that if the applicant fails to present adequate competent evidence to prove the applicable standard for issuing a special-use permit has been met, the board must deny the application.

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 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 & Owner,
Justin P. Kushner
By His Attorney
Gregory F. Fater, Esq.

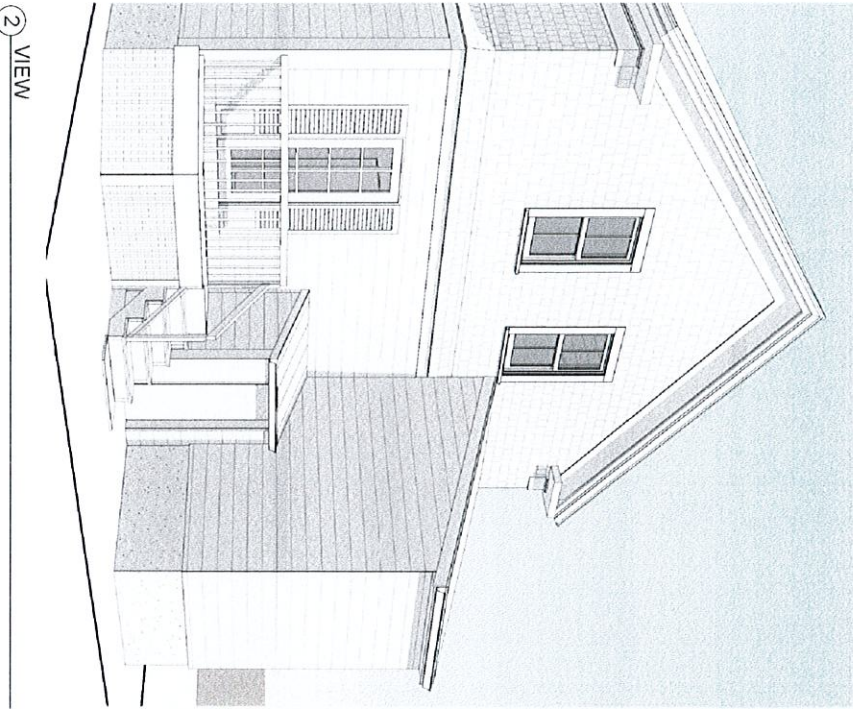


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Fax: 401-848-7733
gf@faterlaw.net

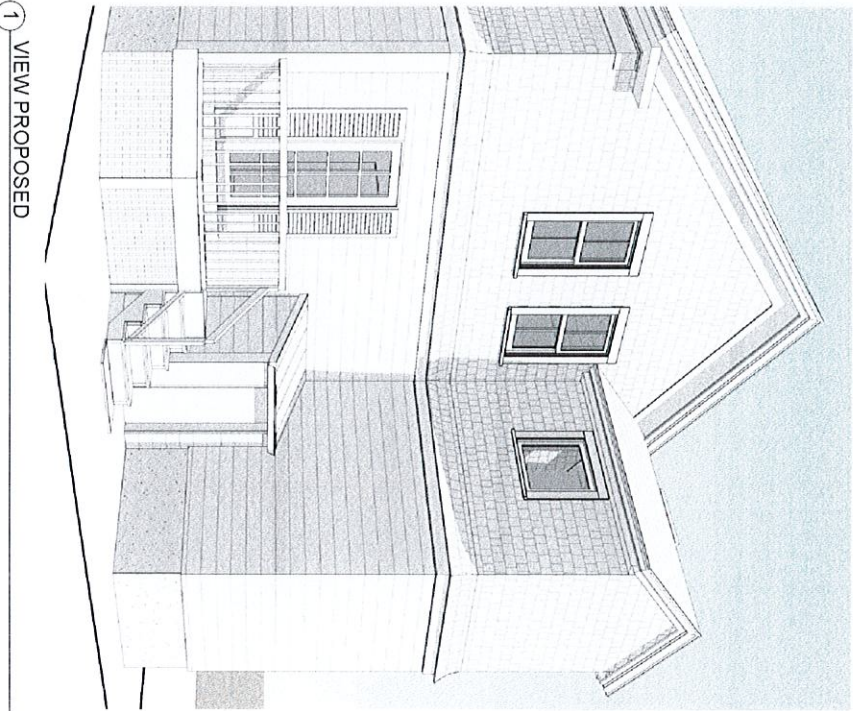
KUSHNER RESIDENCE
25 1/2 WILLOW STREET
NEWPORT, RI 02840

'SCHEMATIC SET'

SHEET LIST	
Sheet Number	Sheet Name
A0	COVER
A010	VIEWS
A011	SITE PLAN
A111	EXISTING FLOOR PLANS
A112	2ND FLOOR PROPOSED
A211	REAR ELEVATION
A221	SIDE ELEVATION (WEST)
A231	SIDE ELEVATION (EAST)



2 VIEW



1 VIEW PROPOSED



HERK WORKS
ARCHITECTURE
401.662.7875
DAN@HERK-WORKS.COM



HERK WORKS
401.662.7875
DAN@HERK-WORKS.COM

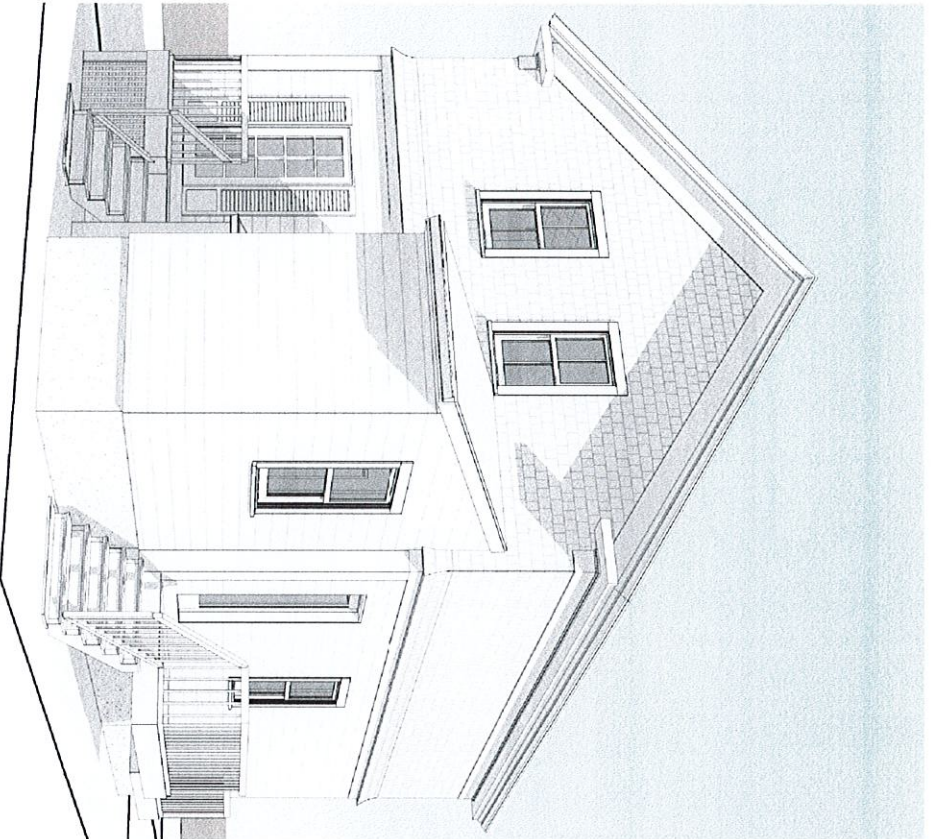
KUSHNER RESIDENCE
25 1/2 WILLOW STREET - NEWPORT, RI 02840

COVER

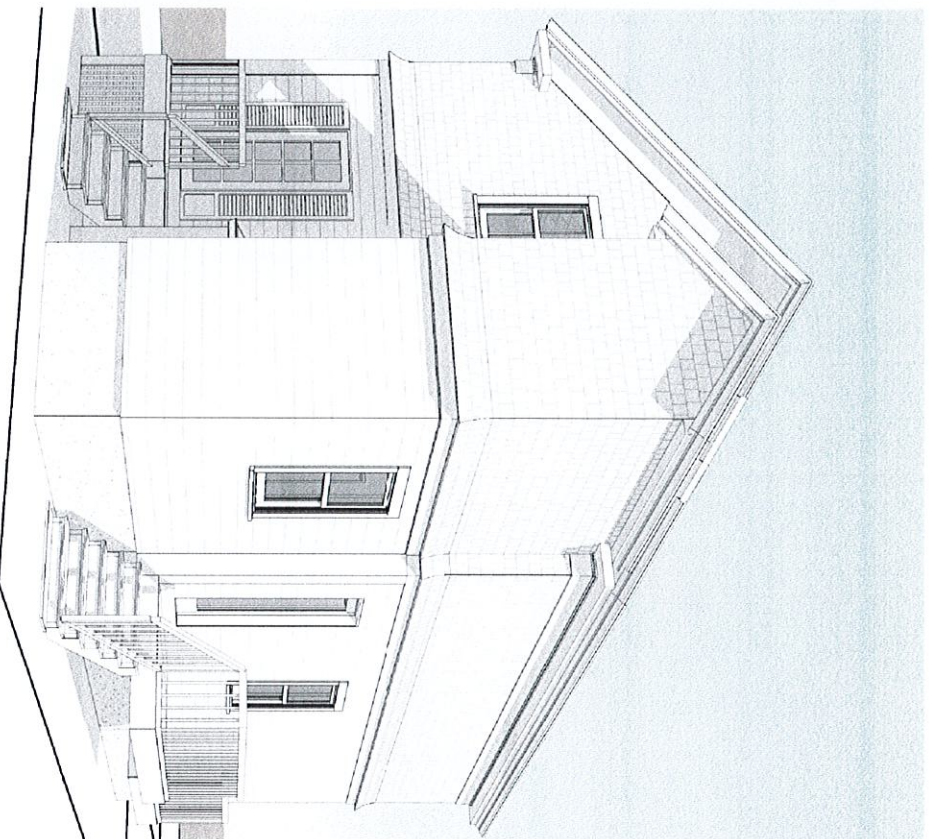
NOT FOR CONSTRUCTION...YET

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A0



① VIEW 2



② VIEW 2 PROPOSED



HERK WORKS
401-667-1029
SOUTH BRITAIN, VT 05493

KUSHNER RESIDENCE
25 1/2 WILLOW STREET - NEWPORT, RI 02840

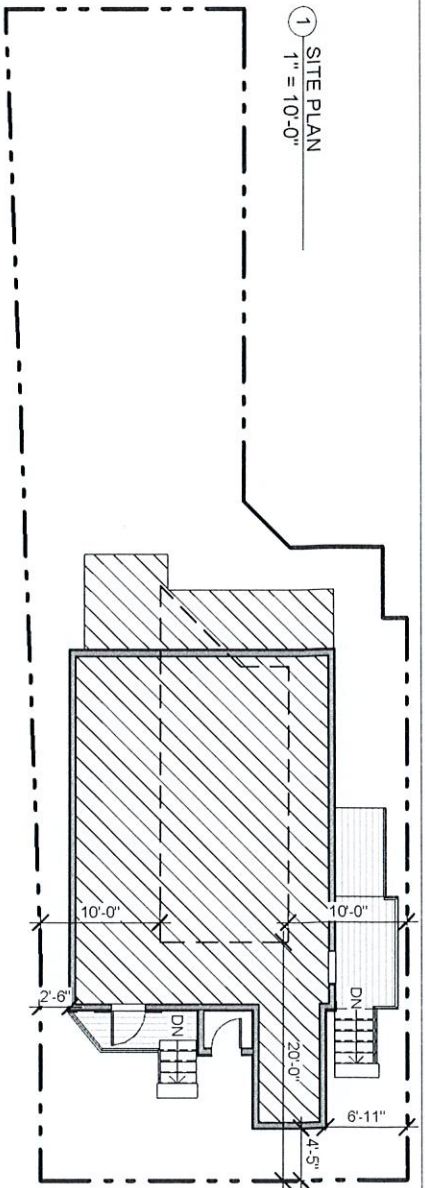
VIEWS

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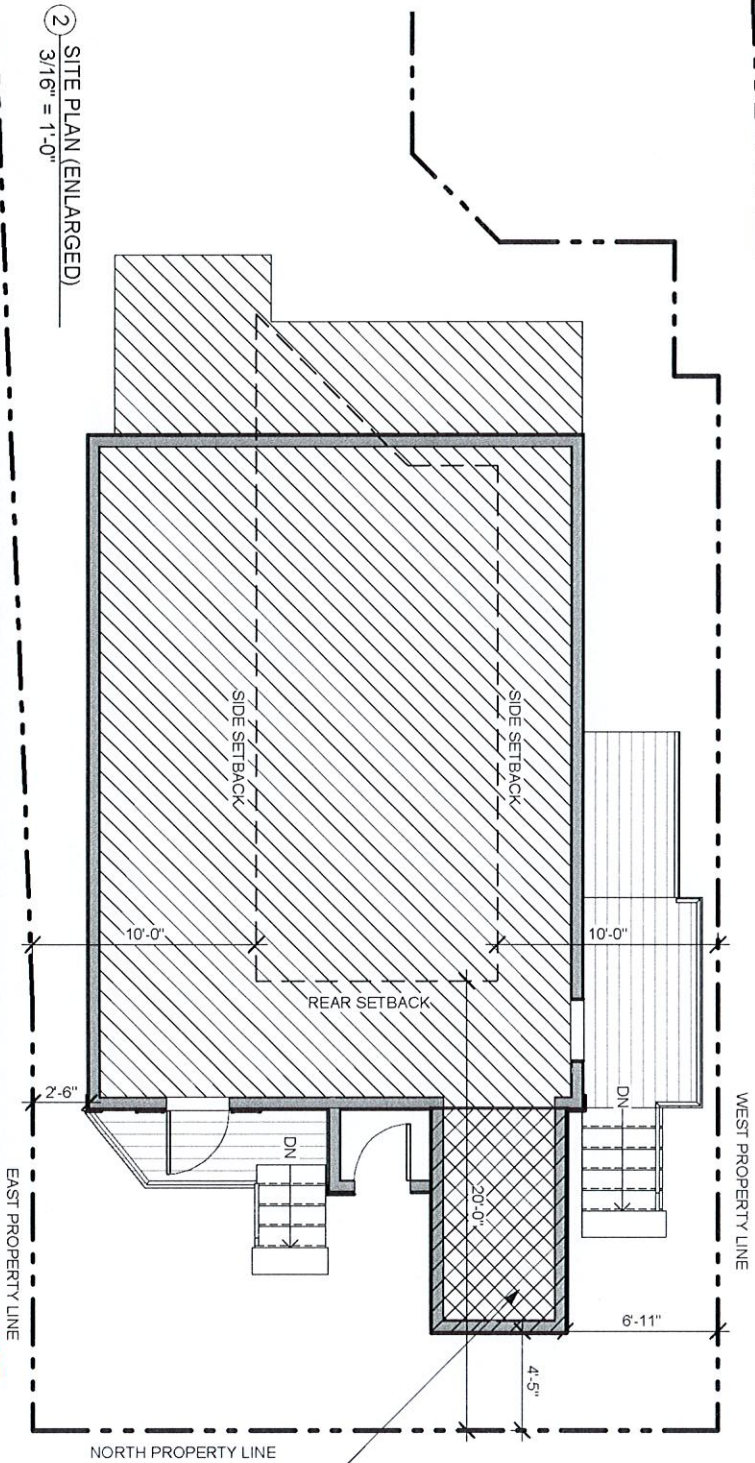
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A010

① SITE PLAN
1" = 10'-0"



② SITE PLAN (ENLARGED)
3/16" = 1'-0"



HERK WORKS

401 E. 7th St. - New York, NY 10003

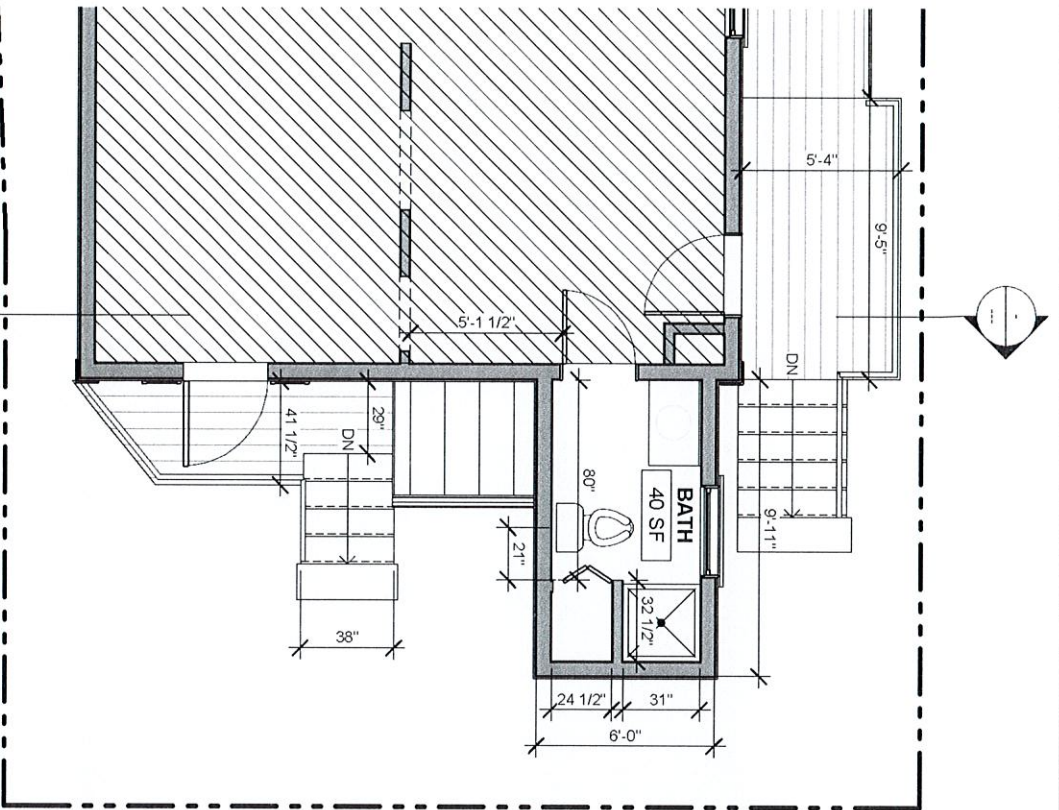
KUSHNER RESIDENCE
25 1/2 WILLOW STREET - NEWPORT, RI 02840

SITE PLAN

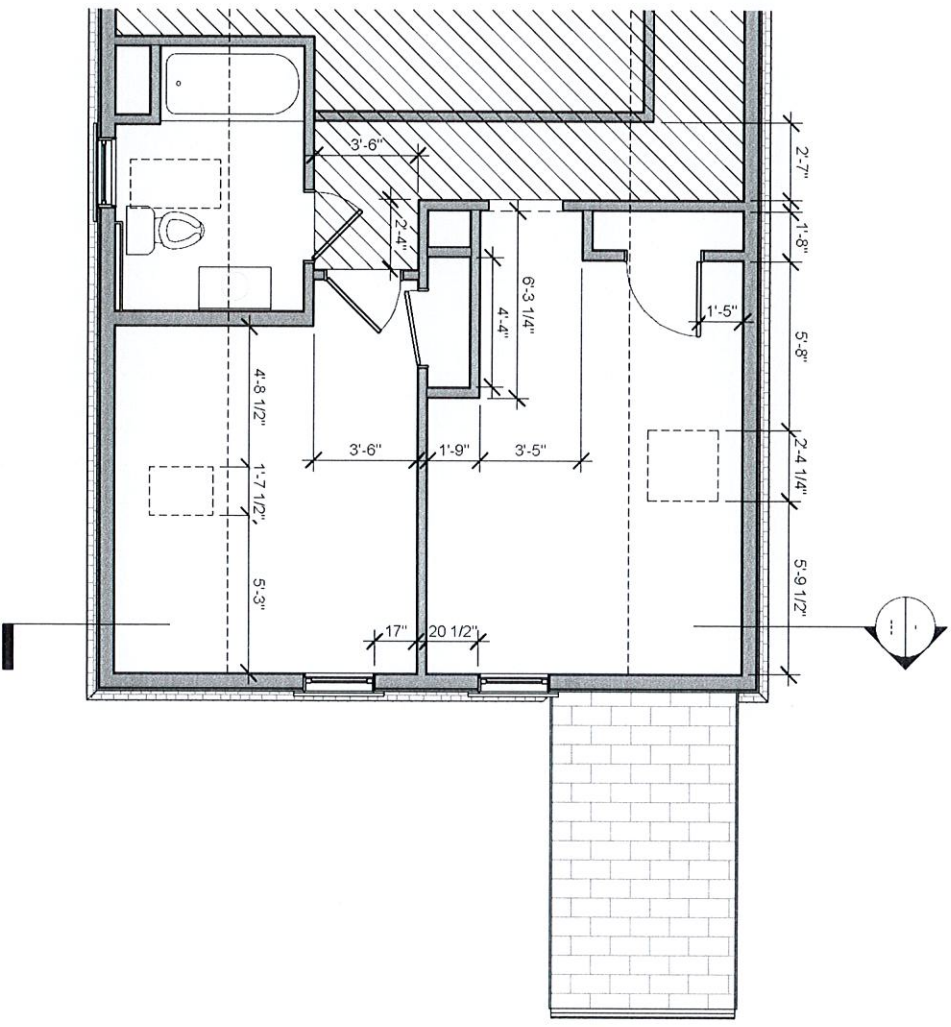
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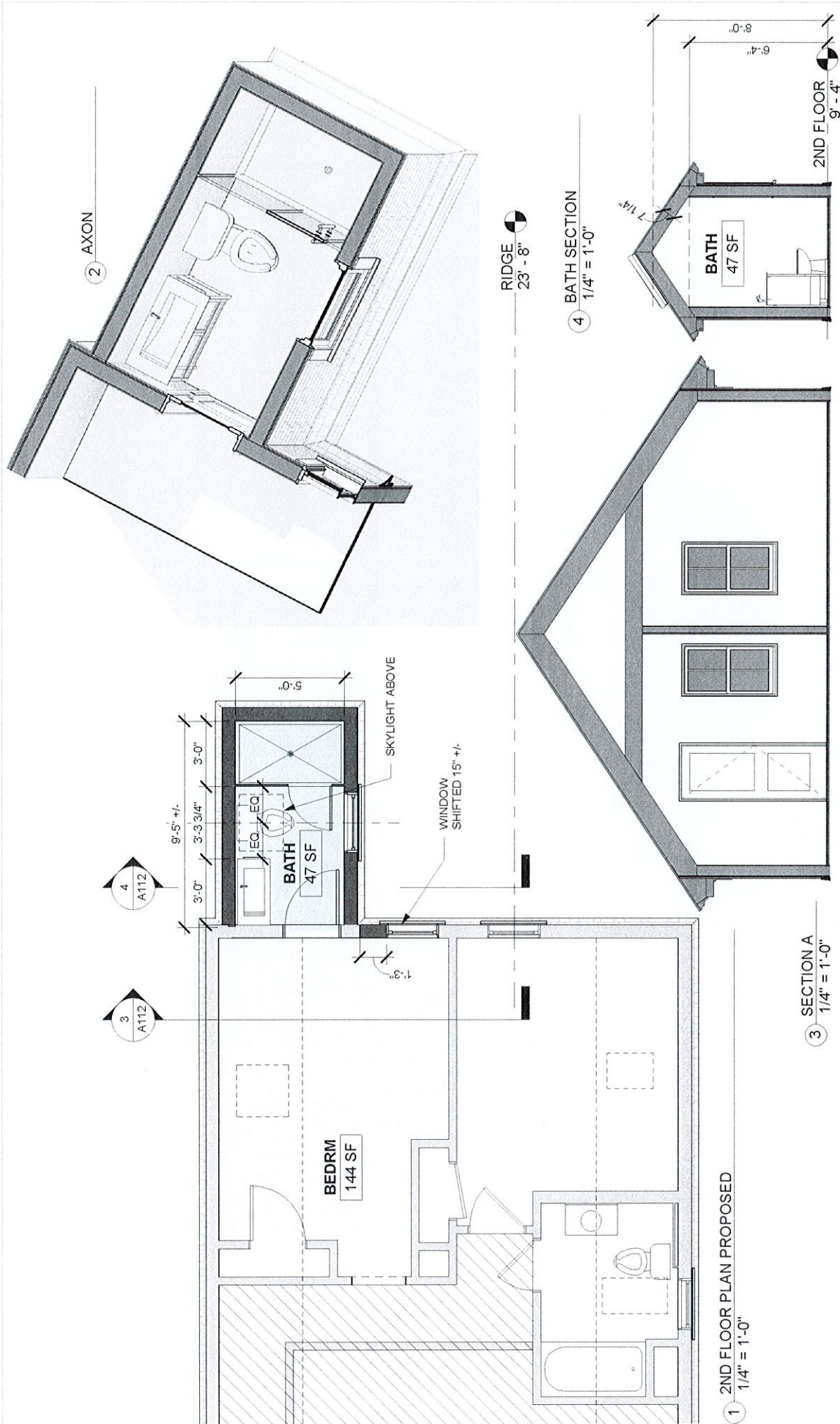
A011



① 1ST FLOOR PLAN
1/4" = 1'-0"



② 2ND FLOOR PLAN
1/4" = 1'-0"



NO PROPOSED CONSTRUCTION YET

KUSHNER RESIDENCE
25 1/2 WILLOW STREET - NEWPORT, RI 02840

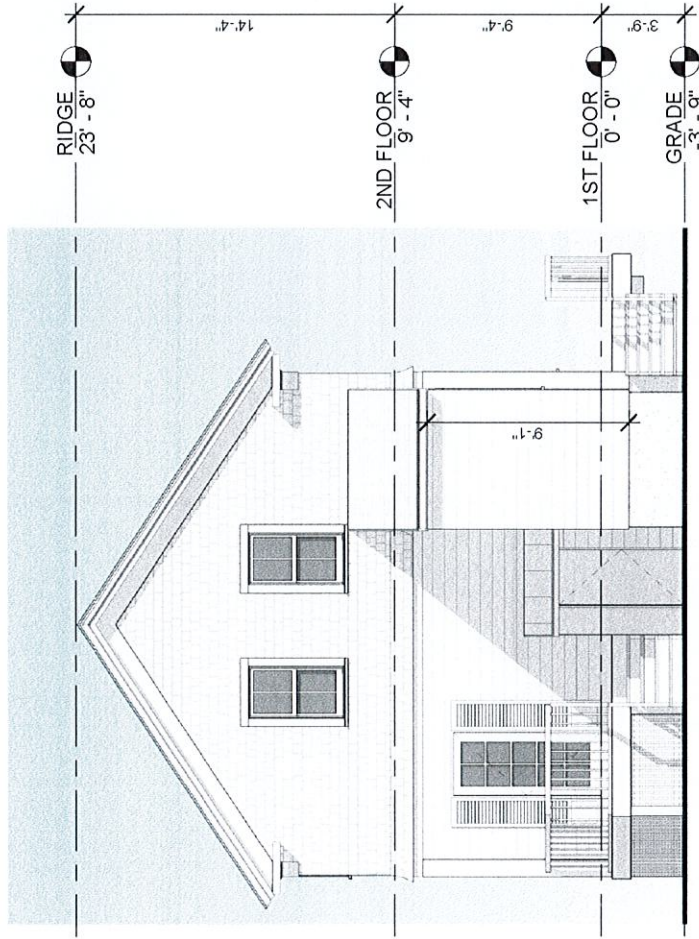
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A112

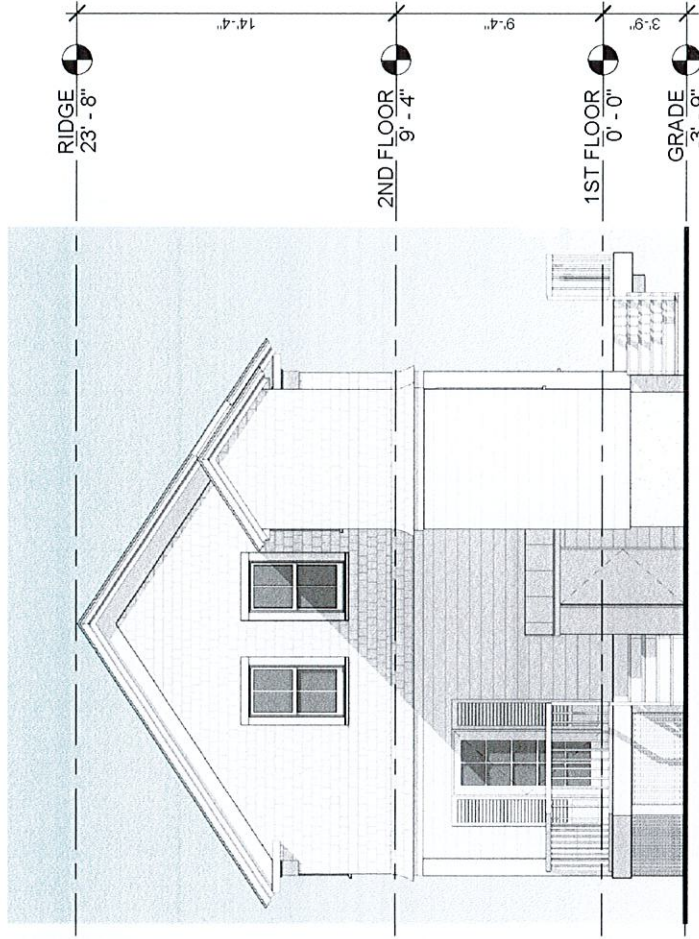
HERK WORKS

401.662.8753





① REAR ELEVATION (NORTH)
3/16" = 1'-0"



② REAR ELEVATION (NORTH) PROPOSED
3/16" = 1'-0"

HERK WORKS

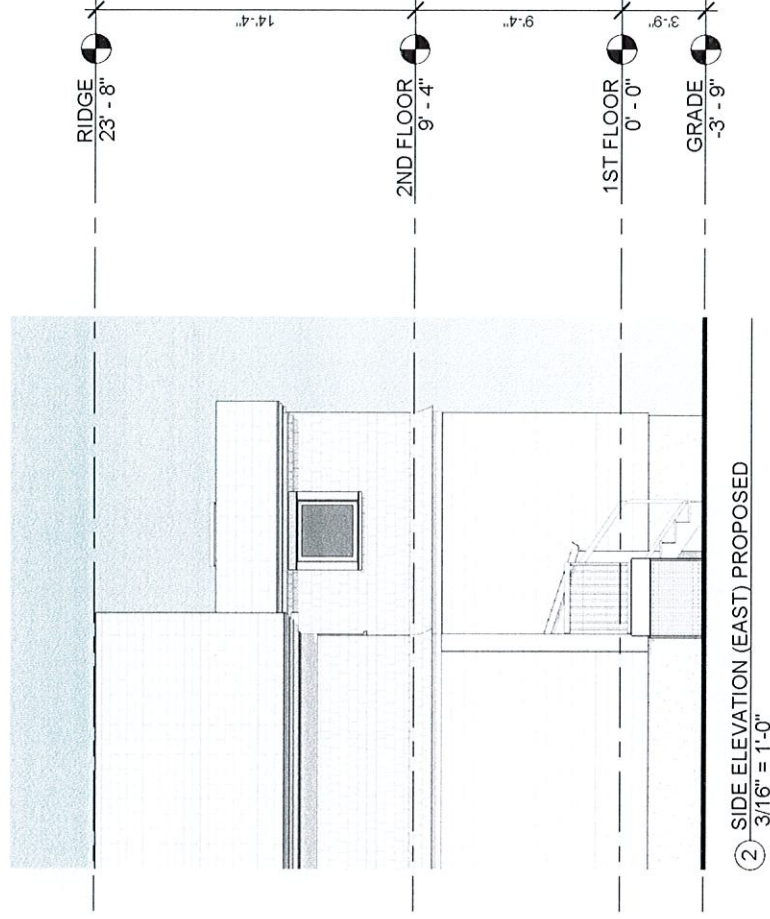
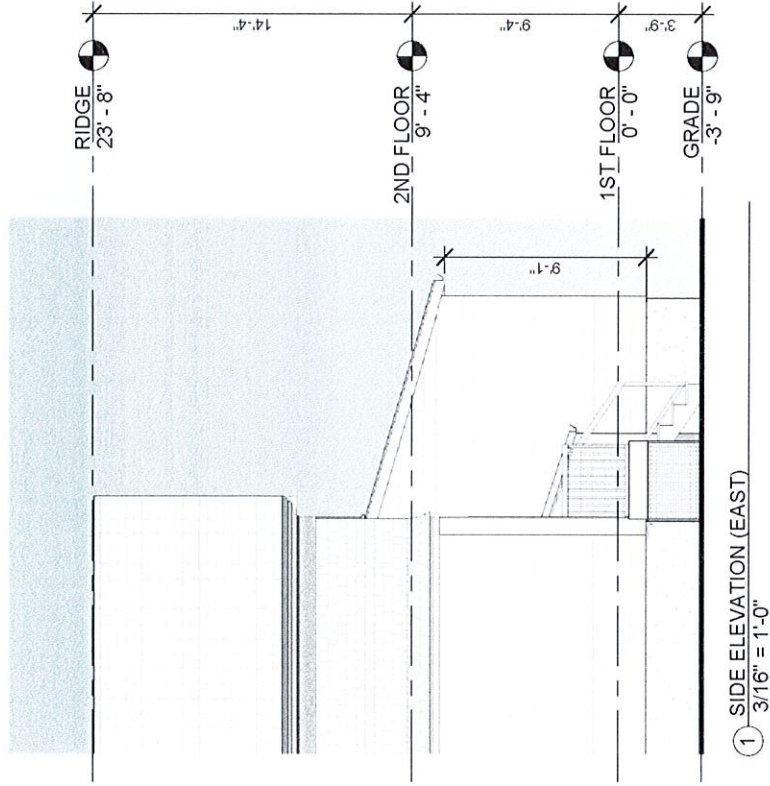
KUSHNER RESIDENCE
25 1/2 WILLOW STREET - NEWPORT, RI 02840

REAR ELEVATION FOR CONSTRUCTION ..YET

A211

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HERK WORKS

KUSHNER RESIDENCE
25 1/2 WILLOW STREET - NEWPORT, RI 02840

SIDE ELEVATION (EAST) CONSTRUCTION ..YET
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A231

Plate 13

120				124	125
				280	147
				118-4	126
				275	117
				119	118
				147-4	146

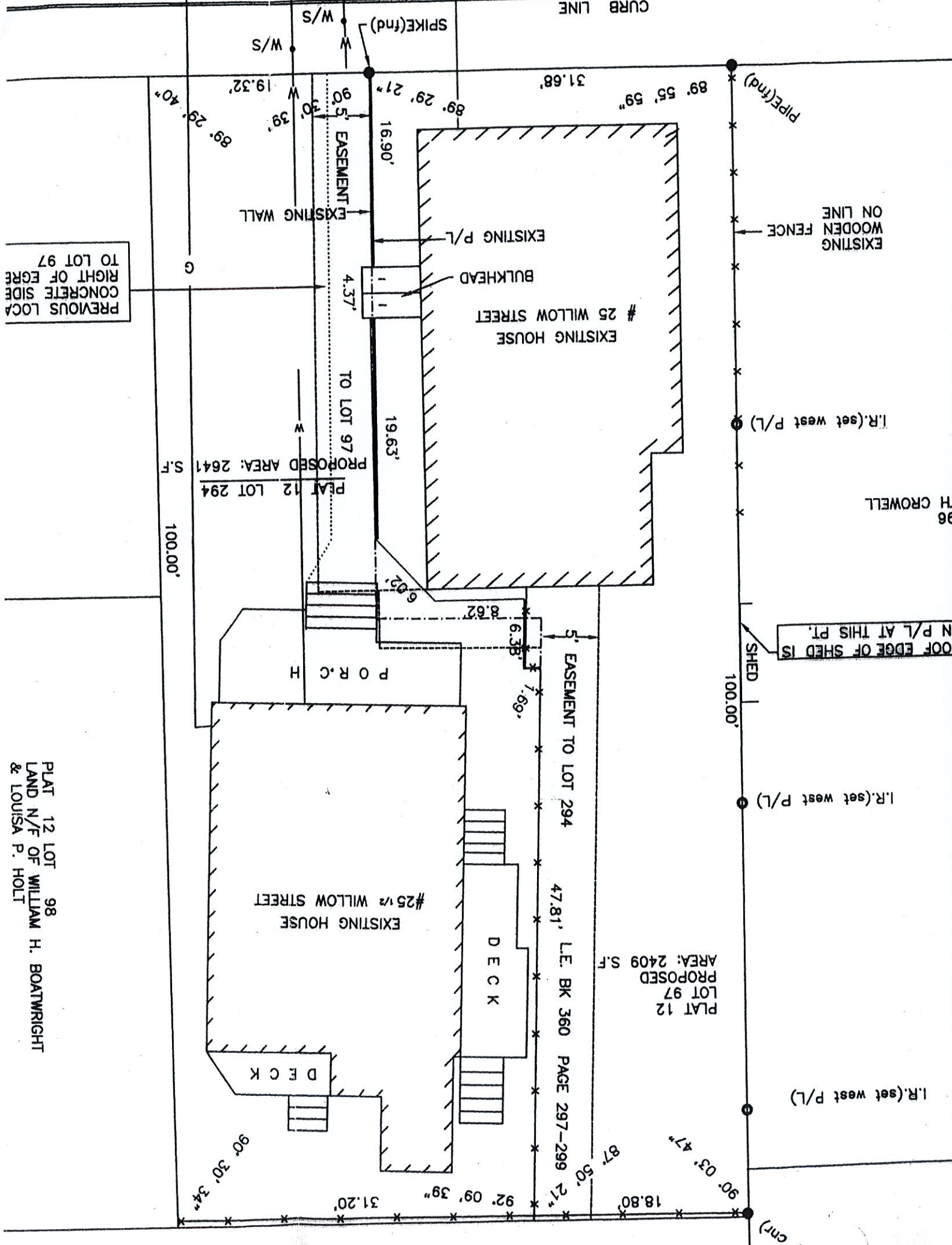
WILLOW STREET

94		252		96	97	99
75		95		294		98
91		76		90		292
224		77		78-4		78
				89		79
				100-4		79-4
				159		
				100-6		100

WALNUT STREET

72-4		72		70		251	69
71						188	
						192	
						68	
						68-4	

SECC



PREVIOUS LOCAL
CONCRETE SIDE
RIGHT OF EGRESS
TO LOT 97

PLAT 12 LOT 98
LAND N/F OF WILLIAM H. BOATWRIGHT
& LOUISA P. HOLT

PLAT 12 LOT 294
PROPOSED AREA: 2641 S.F.

PLAT 12
LOT 97
PROPOSED
AREA: 2409 S.F.

ROOF EDGE OF SHED IS
ON P/L AT THIS PT.

96
TH CROWELL

CURB LINE

EXISTING
WOODEN FENCE
ON LINE

EXISTING HOUSE
25 WILLOW STREET
BULKHEAD
EXISTING P/L
EXISTING WALL
EASEMENT
TO LOT 97
19.63'
4.37'
16.90'
90° 29' 21"
90° 30' 39"
19.32'
89° 29' 40"
W/S
W/S
SPIKE (fnd)

EXISTING HOUSE
25 1/2 WILLOW STREET
DECK
P O R C H
DECK
5' EASEMENT TO LOT 294
47.81' L.E. BK 360 PAGE 297-299
7.69'
6.38'
8.62'
6.02'
92° 09' 39"
31.20'
90° 30' 34"
18.80'
87° 50' 21"
90° 03' 47"
I.R. (set west P/L)
I.R. (set west P/L)
I.R. (set west P/L)
SHED
100.00'
100.00'

Z O N I N G

R-10 ZONE MINIMUM LOT AREA: 10,000 S.F.

ADMINISTRATIVE SUBDIVISION

APPROVED

PLAT 12 LOT 9 & 294

SIGNATURE [Signature] DATE 7.20.11

N O T E S

1. TO THE BEST OF MY KNOWLEDGE THERE ARE NO WETLANDS ON THIS PROPERTY.
2. TO THE BEST OF MY KNOWLEDGE THIS PROPERTY IS IN FLOOD ZONE "X" (area outside the 500 yr floodplain.)
3. THE PURPOSE OF THIS PLAN IS TO REVISE THE COMMON BOUNDARY LINE BETWEEN LOTS 97 & 294 ONLY AND TO DELINEATE THE WESTERLY BOUNDARY.

THIS PLAN AND SURVEY CONFORM TO A CLASS 1
STANDARD AS ADOPTED BY THE RHODE ISLAND
BOARD OF REGISTRATION FOR PROFESSIONAL
LAND SURVEYORS.

BY:

[Signature]
JOHN J. BARKER, JR.
PLS #1885

ADMINISTRATIVE SUBDIVISION

DWG NO.	SCALE	DATE	DRAWN BY	SHEET
PLAT 12 LOT 97 & 294	WILLOW STREET	NEWPORT R.I. 02840		
BARKER LAND SURVEYING, INC. 168 HIGH ST., BRISTOL, R.I. 02809 (401) 254-0824				
PROPERTY LINE SURVEY for Mary E. Berlinghof				



REV: 7/15/11
15/11
7/15/11
ISTINA G. AGNEW

KATHLEEN M. SILVIA
CITY OF NEWPORT
CITY CLERK
JUL 20, 2011 11:18:11
BOOK: 2184 PAGE:

I.R.(set west P/L)

PLAT 12
LOT 97
PROPOSED
AREA: 2409 S.F

I.R.(set west P/L)

ROOF EDGE OF SHED IS
ON P/L AT THIS PT.

SHED

100.00'

96
TH CROWELL

I.R.(set west P/L)

EXISTING
WOODEN FENCE
ON LINE

PIPE(fnd)

CURB LINE

EASEMENT TO LOT 294

DECK

DECK

EXISTING HOUSE
#25 1/2 WILLOW STREET

PORCH

PLAT 12 LOT 294
PROPOSED AREA: 2641 S.F

EXISTING HOUSE
25 WILLOW STREET

BULKHEAD

EXISTING P/L

EXISTING WALL

EASEMENT
TO LOT 97

PREVIOUS LOCA
CONCRETE SIDE
RIGHT OF EGRE
TO LOT 97

SPIKE(fnd)

W/S

W/S

W

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PLAT 12 LOT 98
LAND N/F OF WILLIAM H. BOATWRIGHT
& LOUISA P. HOLT

Z O N I N G

R-10 ZONE MINIMUM LOT AREA: 10,000 S.F

ADMINISTRATIVE SUBDIVISION APPROVED	
PLAT <u>12</u>	LOT <u>97 & 294</u>
<u>(Signature)</u> SIGNATURE	<u>7.20.11</u> DATE

KATHLEEN M. SILVIA
CITY OF NEWPORT
CITY CLERK
Jul 20, 2011 11:18:11
BOOK: 2184 PAGE:

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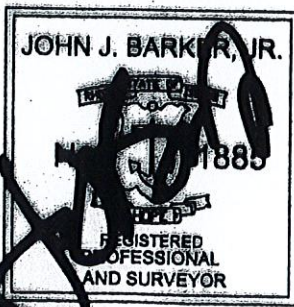
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BY:

(Signature)
JOHN J. BARKER, JR.

PLS #1885

ADMINISTRATIVE SUBDIVISION

	BARKER LAND SURVEYING, INC.				
	168 HIGH ST., BRISTOL, R.I. 02809 (401) 254-0824				
	PROPERTY LINE SURVEY for <u>Mary E. Berlinghof</u>				
	PLAT 12 LOT 97 & 294 WILLOW STREET NEWPORT R.I. 02840				
REV:	DWG NO.	SCALE	DATE	DRAWN BY	SHEET

105-7/15/11
1/15/11
7.15.11
10F
STINA G. AGNEW