

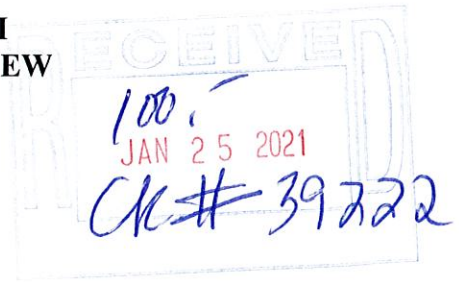
**COMBINED APPLICATION FOR A SPECIAL USE PERMIT &
A REGULATORY (DIMENSIONAL) VARIANCE**

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

DATE: January 25, 2021

Board Members:

*ZBR
Feb 2*



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.: 37 Powell Avenue

Tax Assessor's Plat: 11, Lot: 56

Powell

Petitioner Information

Applicants: Eric M. Picard

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

Owner: Same

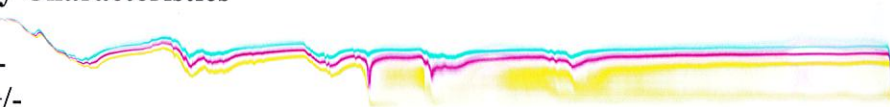
Same

Leasee: N/A

N/A

Property Characteristics

Dimensions of Lot: **Frontage:** 48 ft. +/-
Depth: 144 ft. +/-
Area: 6,534 sq. ft. +/-



Zoning District in which premises is located:

R-10

How long have you owned above premises?

2.5 Years (Purchased 6/29/2018)

Are there buildings on the premises at present?

Yes

Total square footage of the footprint of existing buildings:

2,403 sq. ft. (37%)

Total square footage of the footprint of proposed buildings:

2,403 sq. ft. (37%)

Present use of premise: Mixed: Two Residential Dwellings and a Professional Office Unit

Proposed use of premises: Two Family Residential with one dwelling unit being used as a Guest House

Give extent of proposed alterations: The Applicant's property suffered a devastating fire in 2018. The structure is being rebuilt with the same footprint with no zoning relief required. The will be alterations to the interior. The structure previously consisted of three units. One unit was a professional/medical office and the other two units were dwellings. The mixed use is being abandoned and the Applicant proposes a two family structure with a small one bedroom unit on the third floor and a larger five bedroom unit on the first two floors. The owner proposes to operate the larger unit as a guest house and live in the third floor dwelling unit.

Zoning Characteristics Matrix

	Existing	Required/Allowed	Proposed
Lot Size (sq. ft)	6,534 sq. ft.	10,000 sq. ft.	6,534 sq. ft.
Lot Coverage	37 %	20 %	37 % (No Change)
Dwelling Units	2 Dwellings + 1 Professional Office	2	2
Parking (# of spaces)	5	7 Spaces with Guest House Use	5
Front Setback (ft.)	17 ft. +/-	15 ft.	17 ft. +/- (No Change)
Side Setbacks (ft.)	West = 13 ft. East = 3 ft. 2 inches ----- Garage West = 1 ft. 1 inch	10 ft.	West = 13 ft. East = 3 ft. 2 inches ----- Garage West = 1 ft. 1 inch (No Changes)
Rear Setback (ft.)	40 ft. +/- ----- Garage 1 ft. 2 inches	20 ft.	40 ft. +/- ----- Garage 1 ft. 2 inches (No Changes)
Height (ft.)	36 ft. 3 inches	30 ft.	36 ft. 3 inches (No Change)

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 17.104.020 (Parking Space Standards)

The Applicant is completing renovations to this multi-unit structure. The Applicant proposes to abandon the professional office/mixed use of the property and redevelop the structure as a two family. The Applicant proposes to use the larger dwelling unit as a Guest House. The Applicant will live on site and occupy the third floor dwelling as his primary residence. The Applicant and his wife will operate the Guest House. The Applicant is requesting a Special Use Permit for the Guest House use and a Regulatory Variance for parking. The proposed use requires seven (7) on-site parking spaces. The Applicant can provide five (5) on-site parking spaces.

The existing parcel is a legal non-conforming lot of record containing only 6,534 square feet of land. The property is in the R-10 Zone. The parcel is substandard in width. The existing structure already encroaches into the east side setback and the existing garage encroaches into the west side and rear setbacks. None of the dimensional non conformities will be changed or intensified. All setbacks, lot coverage and building height will remain the same. The conversion of this property from a multi-unit mixed use development to a two family is allowed by right, however, the use of one of the dwelling units as a Guest House requires a Special Use Permit. The property is not in the Newport Historic District. This property is adjacent to the Newport Hospital complex as well as other non-residential uses on the western portion of Powell Avenue. The plan proposed by the Applicants will not be 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 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 6,534 square feet of land. The lot is substandard in width and area for the R-10 Zone. The structure was devastated by fire in 2018 and is being rebuilt. The interior is being modified to reduce the number of units. The existing house and garage already encroach into the setbacks. None of that will change. The Applicant proposes a Guest House use for the property. He and his wife will live on site and operate the Guest House. Because the lot is significantly substandard, the Applicant can provide only five (5) of the seven (7) required on-site parking spaces. As a result a parking variance is required.

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 reduce the number of units on site and eliminate the professional office use. The renovated structure will consist of two dwelling units. The subject property is located on the western portion of Powell Avenue. It is adjacent to the Newport Hospital complex and other professional and medical offices. This property is surrounded by a number of abutting parcels that are substandard in size with dimensional nonconformities and with a number of non-residential uses. The literal interpretation of the zoning code, resulting in the denial of the relief requested, would unreasonably deny this Applicant the ability to operate a Guest House. The proposed use of this property with five (5) on-site parking spaces 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 Applicants are before the Board for permission to operate a Guest House in one dwelling unit as he lives in the second dwelling unit on site. The only variance needed is a parking variance. The Applicant can provide a majority of the spaces on site and requires only a variance for two (2) spaces. The Applicant has taken great care to develop a renovation plan which reduces the total number of units and allows for a Guest House use. The hardship is driven by the substandard lot.

Granting the request for dimensional relief in the form of a parking variance 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 will be an appropriate use for this mixed use 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.

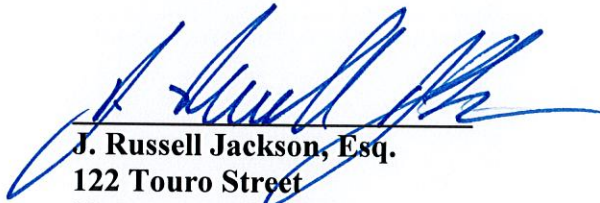
In granting a variance, the zoning board of review shall require that evidence of the following standards be entered into the record of the proceedings:

- 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.

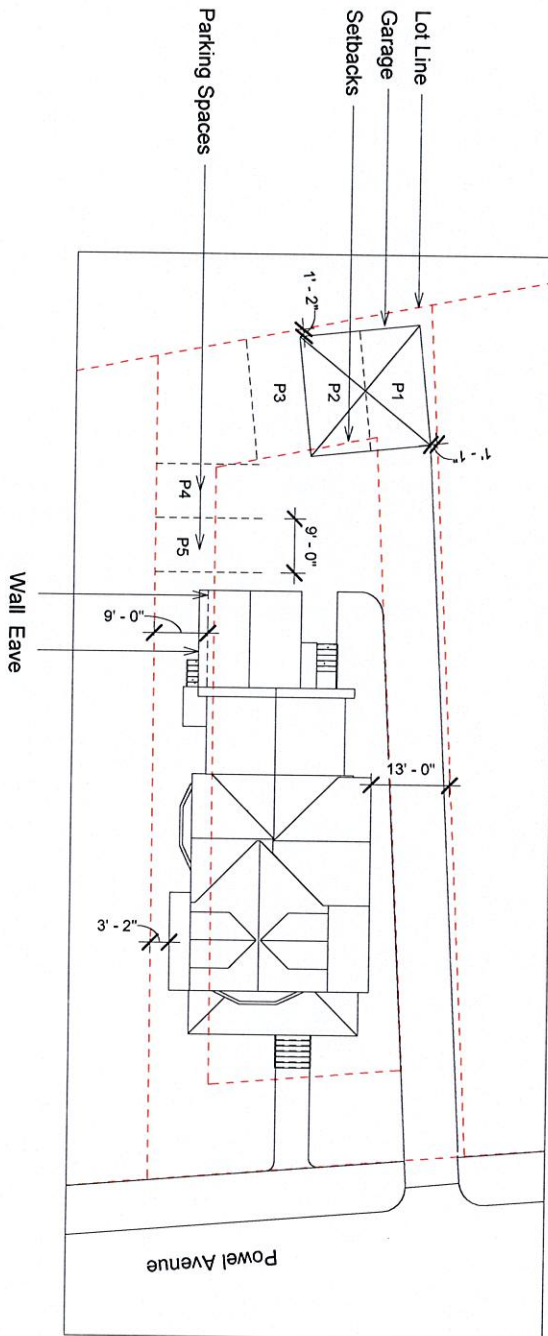
**By signing below, I hereby attest that the information provided is accurate and truthful.
I also attest that I have read the section entitled "The Zoning Board's Role".**

**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**

Plat	11	Allowed Lot Coverage	1,307 SF 20%	Historic District	NO	Front Setback	15'
Lot	056	Existing Lot Coverage	2,403 SF 37%	Zone	R10	Rear Setback	20'
Lot Size	6,534 SF	Proposed Lot Coverage	2,403 SF 37%			Side Setback	10'



① Site Plan NEW
1" = 20'-0"



S1.0

Project 01.2019
Date 01.21.2021
Drawn by KMS
Revision

Site Plan NEW

1" = 20'-0"

37 Powel Avenue

Eric Picard
37 Powel Avenue
Newport, RI 02871

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37 Powel Avenue Renovation

Floor 1 Plan EX	A1.0	E/W Section N NEW/1	A9.0
Floor 1 Plan NEW	A1.1	E/W Section N NEW/2	A9.1
Floor 2 Plan EX	A2.0	N/S Section W NEW	A10.0
Floor 2 Plan NEW	A2.1	N/S Section E NEW	A10.1
Floor 3 Plan EX	A3.0	1K Plan NEW	A11.0
Floor 3 Plan NEW	A3.1	1K EL N NEW	A11.1
Roof Plan EX	A4.0	1K EL E NEW	A11.2
Roof Plan NEW	A4.1	1K EL ISL NEW	A11.5
South Elevation EX	A5.0	3K Plan NEW	A13.0
South Elevation NEW	A5.1	3K EL N NEW	A13.1
West Elevation EX	A6.0	3K EL E NEW	A13.2
West Elevation NEW	A6.1	3K EL S NEW	A13.3
North Elevation EX	A7.0	3K EL W NEW	A13.4
North Elevation NEW	A7.1	F2 Views	A22.0
East Elevation EX	A8.0	F3 Views	A23.0
East Elevation NEW	A8.1		

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37 Powel Avenue

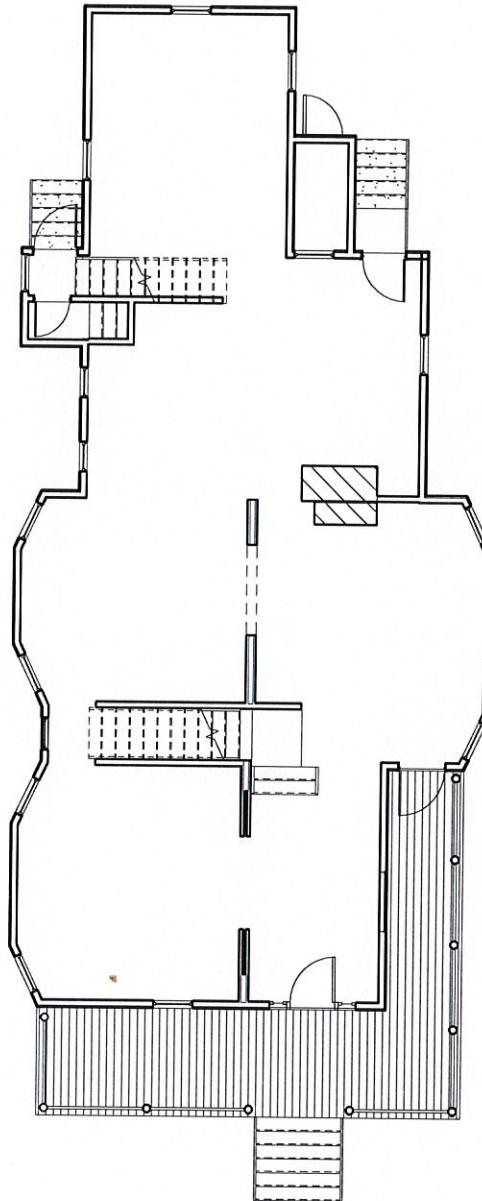
Dan Kinsella
Kinsella Building
Portsmouth, RI 02871

Cover

Project 01.2019
Date 12.12.2019
Drawn by KMS
Revision

00.0

1 Floor Plan 1 EXISTING
1/8" = 1'-0"



A5.0
1

A6.0
1

A6.0
1

1
A7.0



A1.0

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Date 12.12.2019
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Revision

Floor 1 Plan
EX

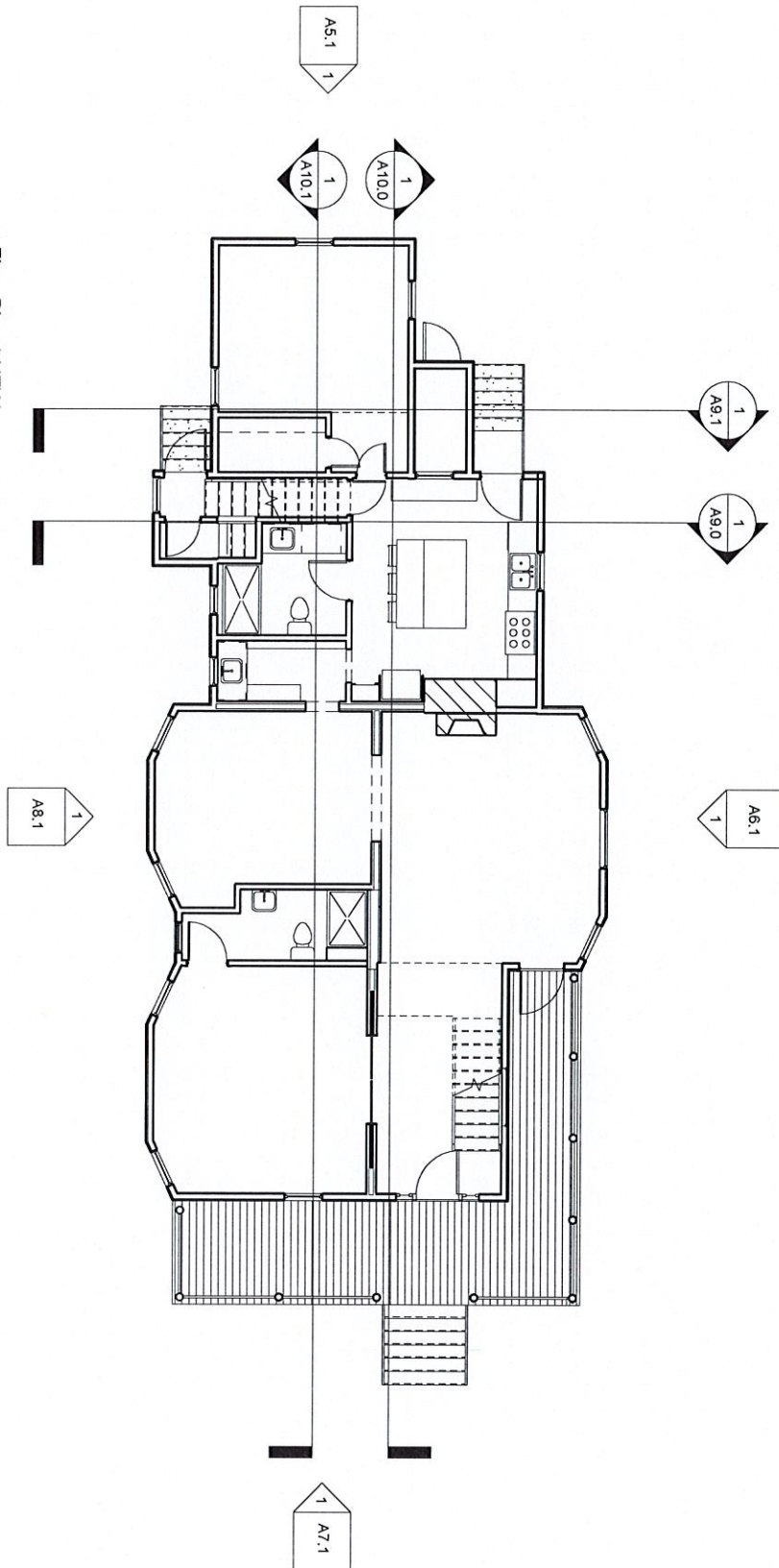
1/8" = 1'-0"

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1 Floor Plan 1 NEW
1/8" = 1'-0"



A1.1

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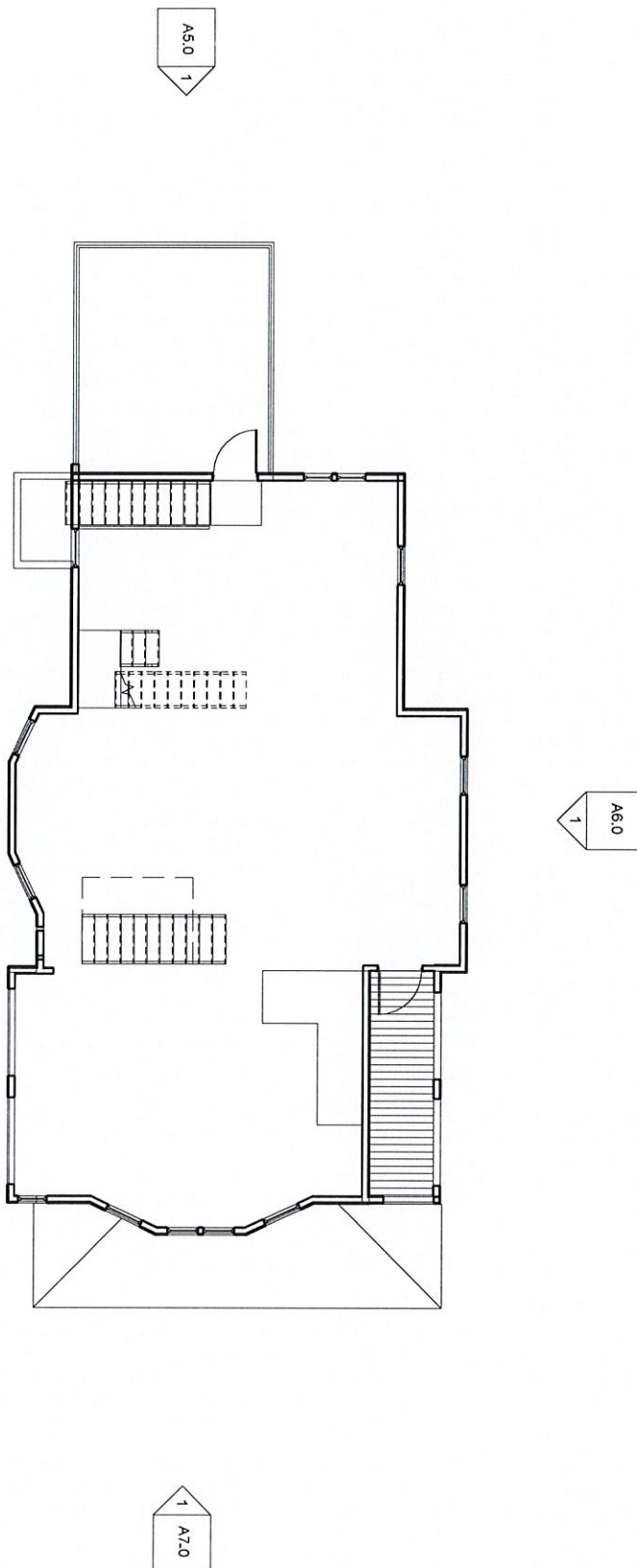
Floor 1 Plan
NEW
1/8" = 1'-0"

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① Floor Plan 2 EXISTING
1/8" = 1'-0"



A2.0

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**Floor 2 Plan
EX**

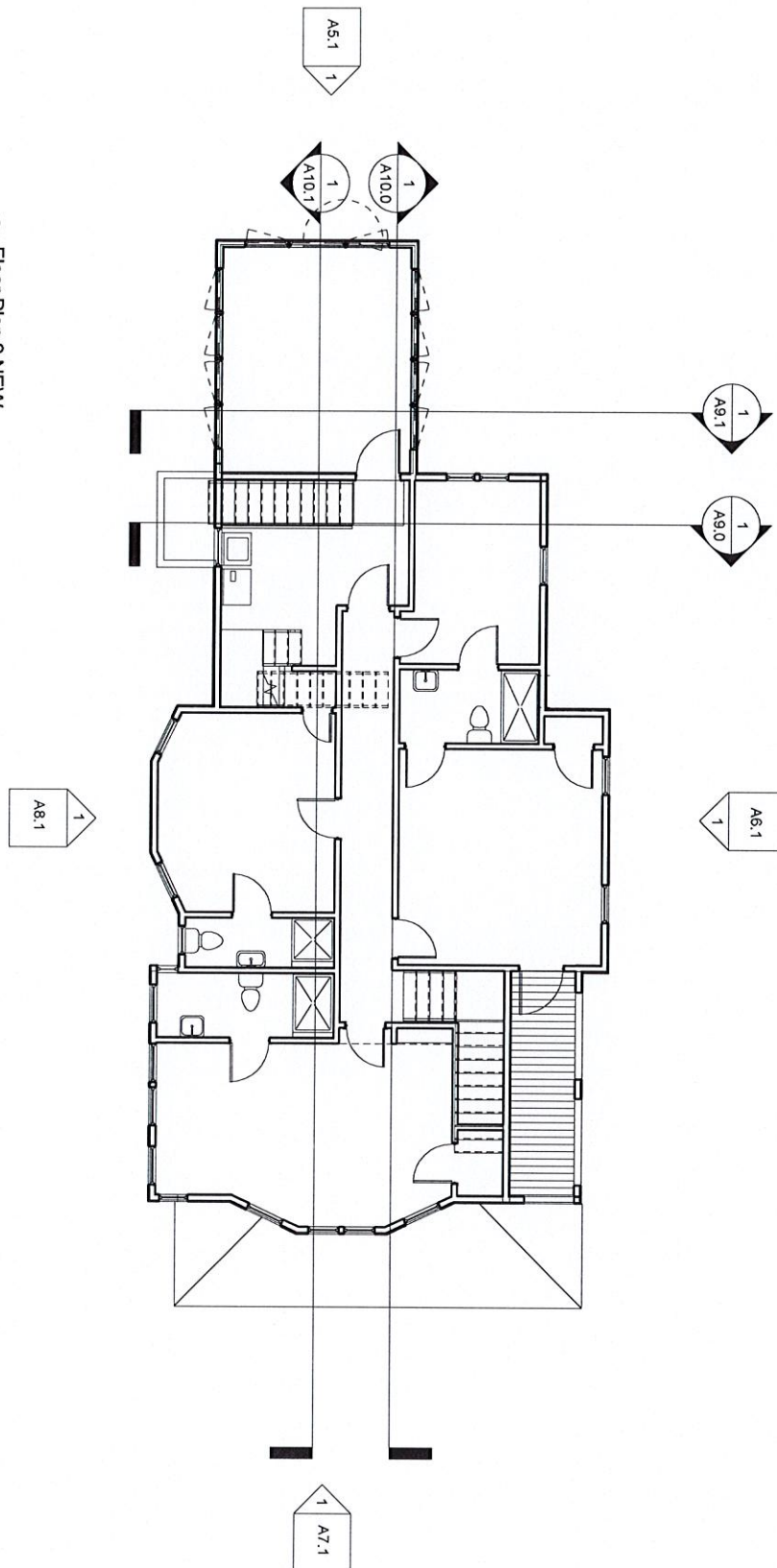
1/8" = 1'-0"

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① Floor Plan 2 NEW
1/8" = 1'-0"



A2.1

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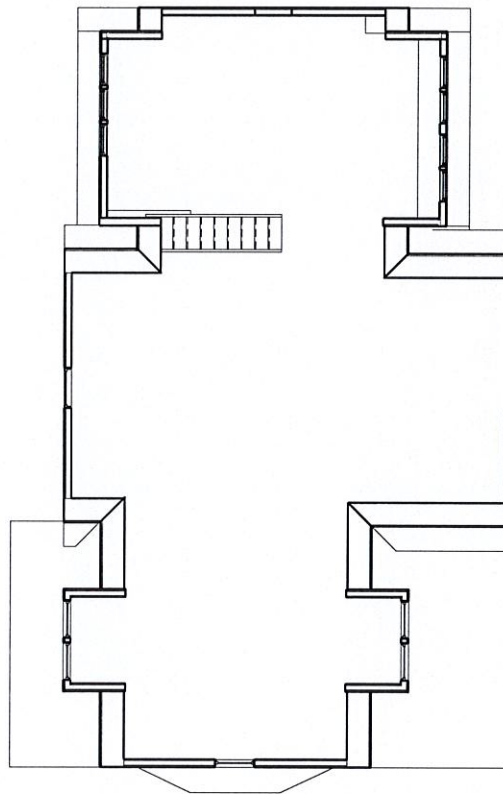
**Floor 2 Plan
NEW**
1/8" = 1'-0"

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① Floor Plan 3 EXISTING
1/8" = 1'-0"



A3.0

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**Floor 3 Plan
EX**

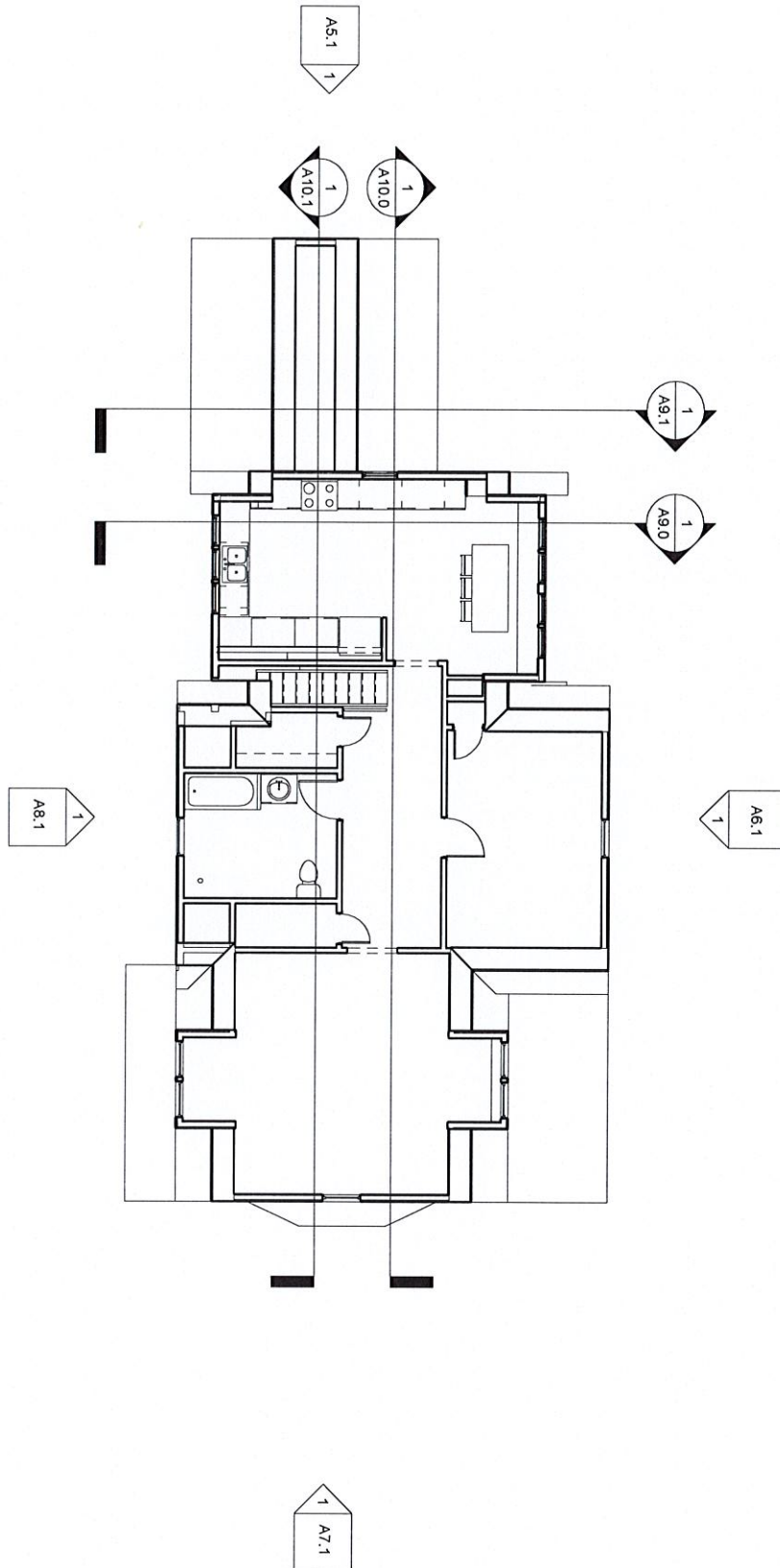
1/8" = 1'-0"

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① Floor Plan 3 NEW
1/8" = 1'-0"



A3.1

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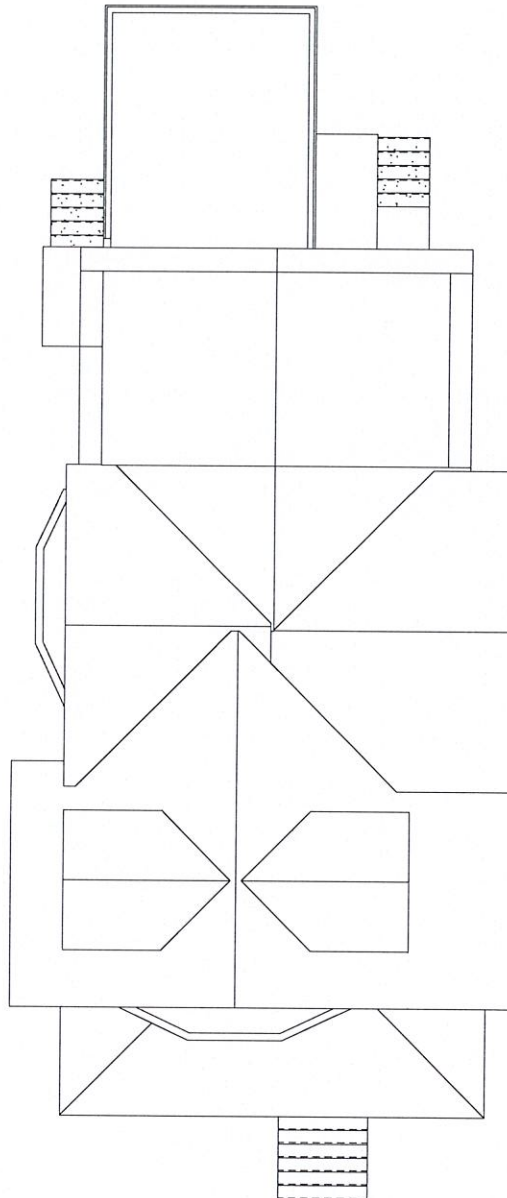
**Floor 3 Plan
NEW**
1/8" = 1'-0"

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① Roof Plan EXISTING
1/8" = 1'-0"



A4.0

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Roof Plan EX

1/8" = 1'-0"

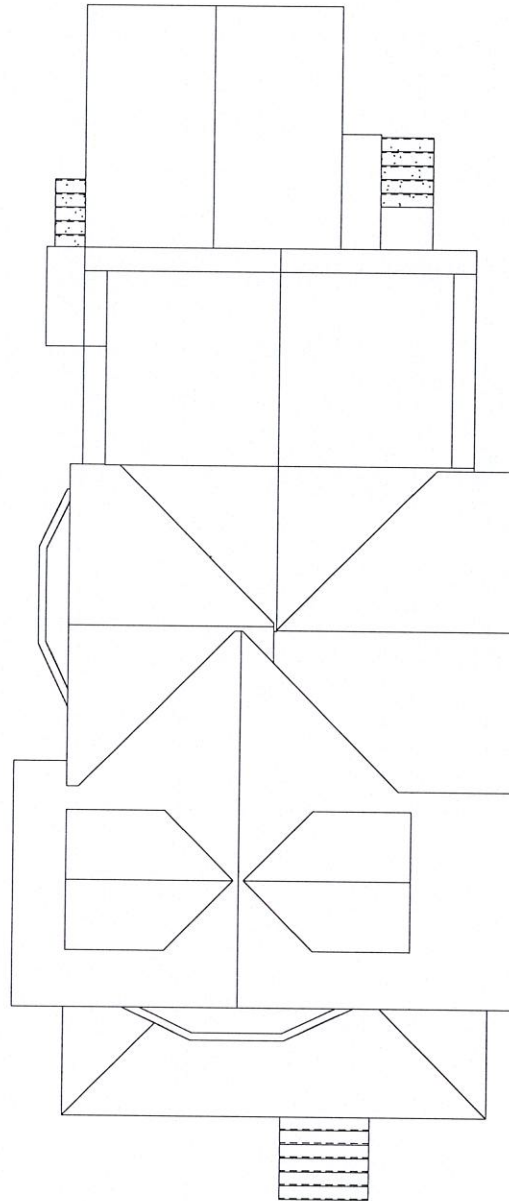
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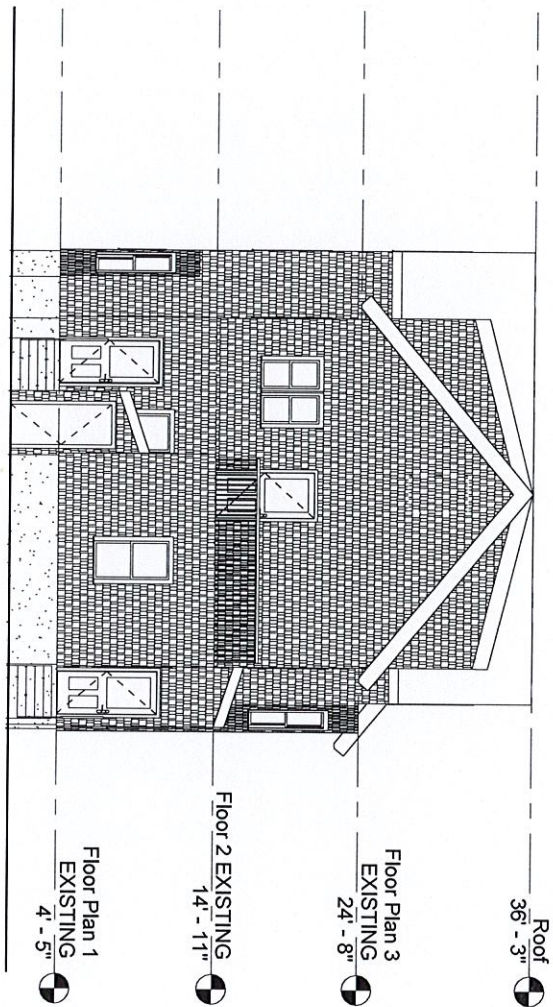




① Roof Plan NEW
1/8" = 1'-0"



ELEVATIONS ARE
APPROXIMATE



① South Elevation EXISTING
1/8" = 1'-0"

A5.0

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Date 12.12.2019
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Revision

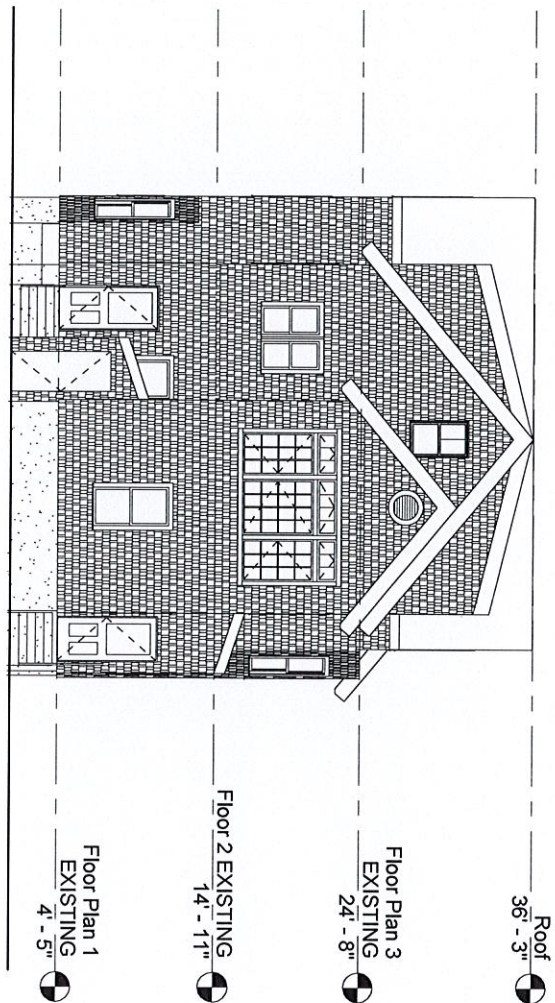
South
Elevation EX
1/8" = 1'-0"

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ELEVATIONS ARE
APPROXIMATE



① South Elevation NEW
1/8" = 1'-0"

A5.1

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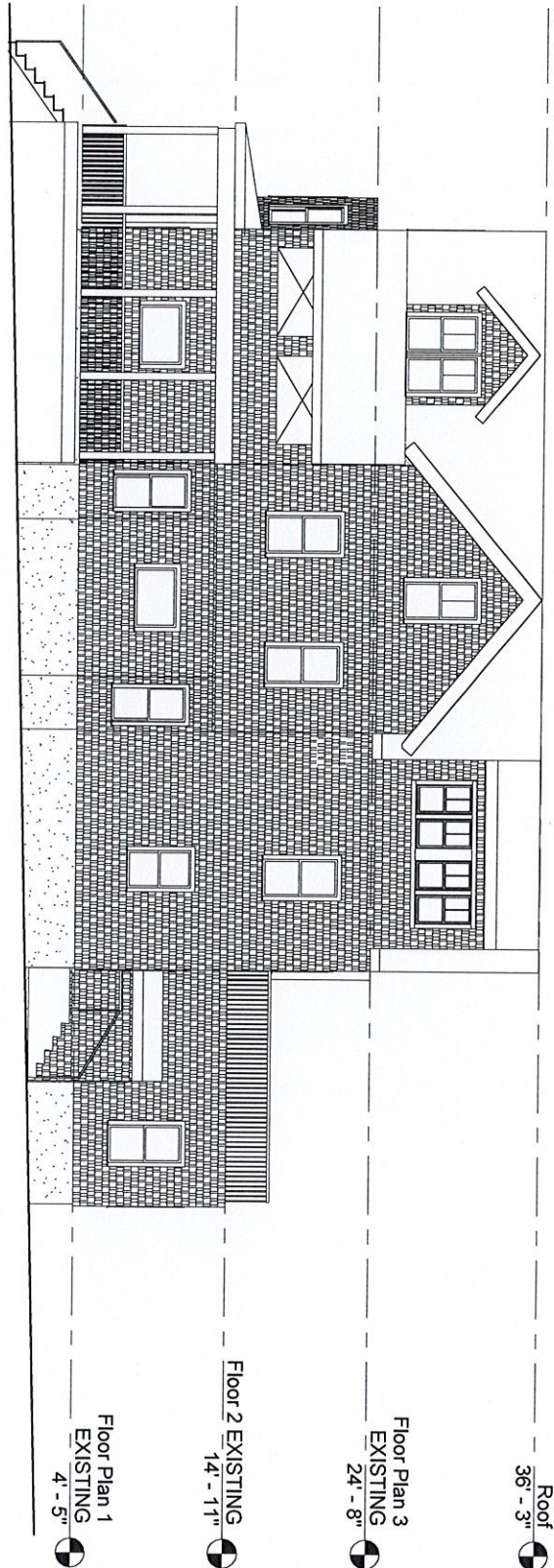
South
Elevation
NEW
1/8" = 1'-0"

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ELEVATIONS ARE
APPROXIMATE



① West Elevation EXISTING
1/8" = 1'-0"

A6.0

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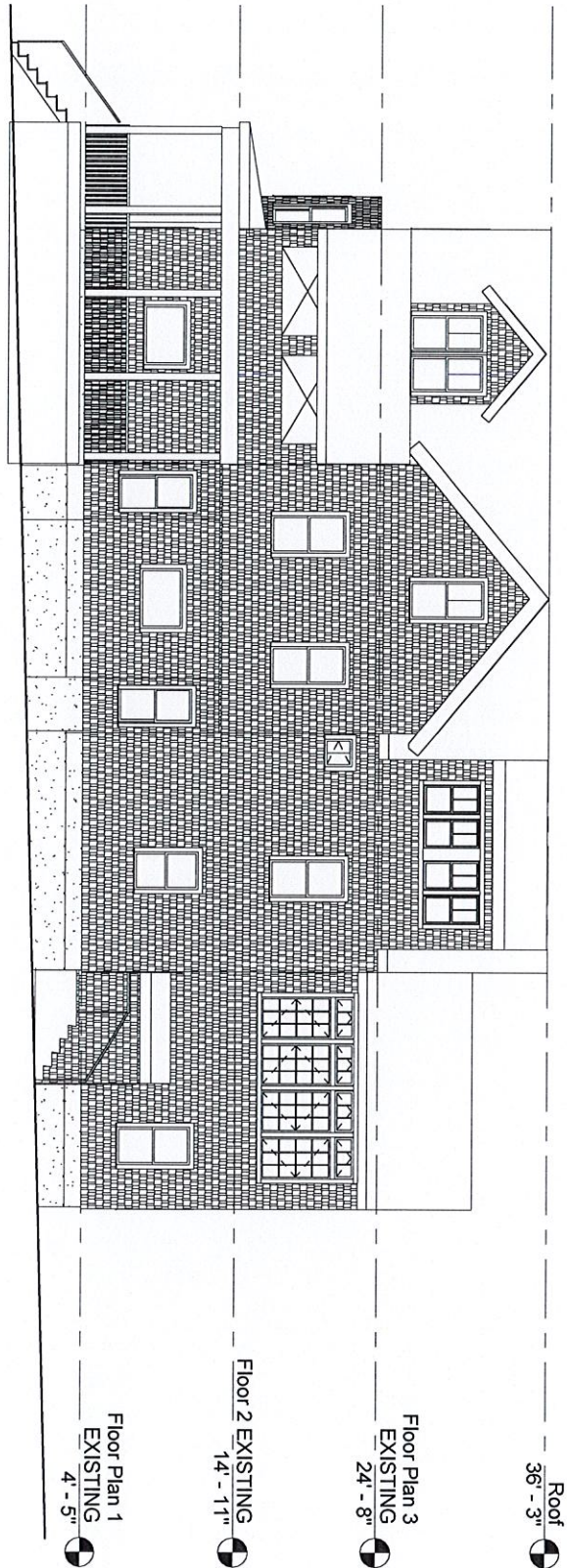
**West
Elevation EX**
1/8" = 1'-0"

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ELEVATIONS ARE
APPROXIMATE



① West Elevation NEW
1/8" = 1'-0"

A6.1

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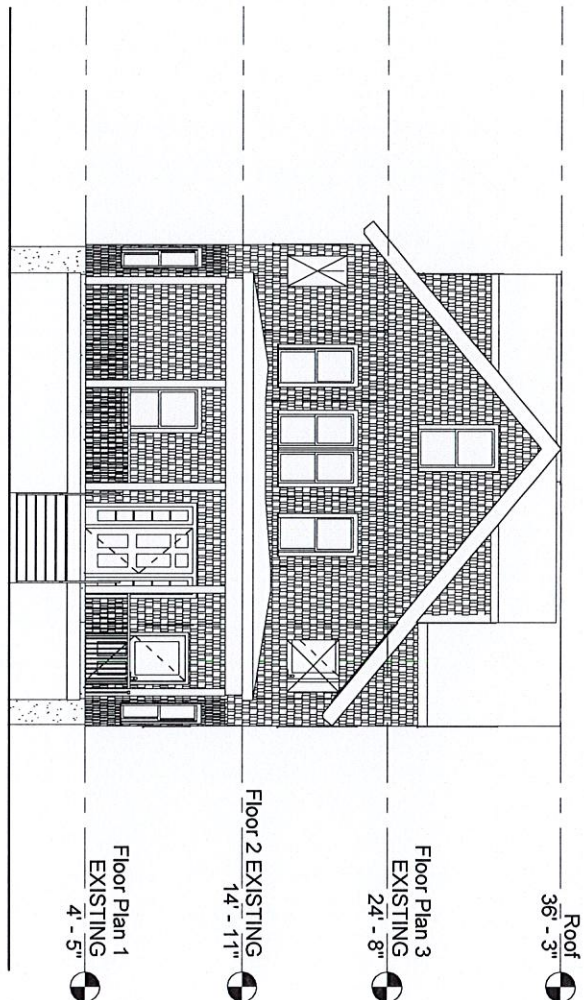
West
Elevation
NEW
1/8" = 1'-0"

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ELEVATIONS ARE
APPROXIMATE



① North Elevation EXISTING
1/8" = 1'-0"

A7.0

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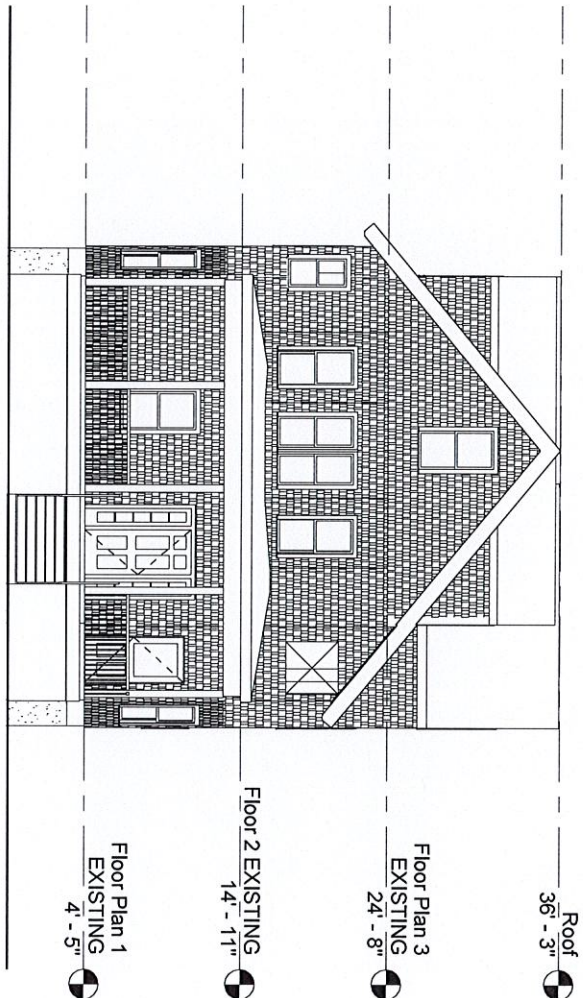
North
Elevation EX
1/8" = 1'-0"

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ELEVATIONS ARE
APPROXIMATE



① North Elevation NEW
1/8" = 1'-0"

A7.1

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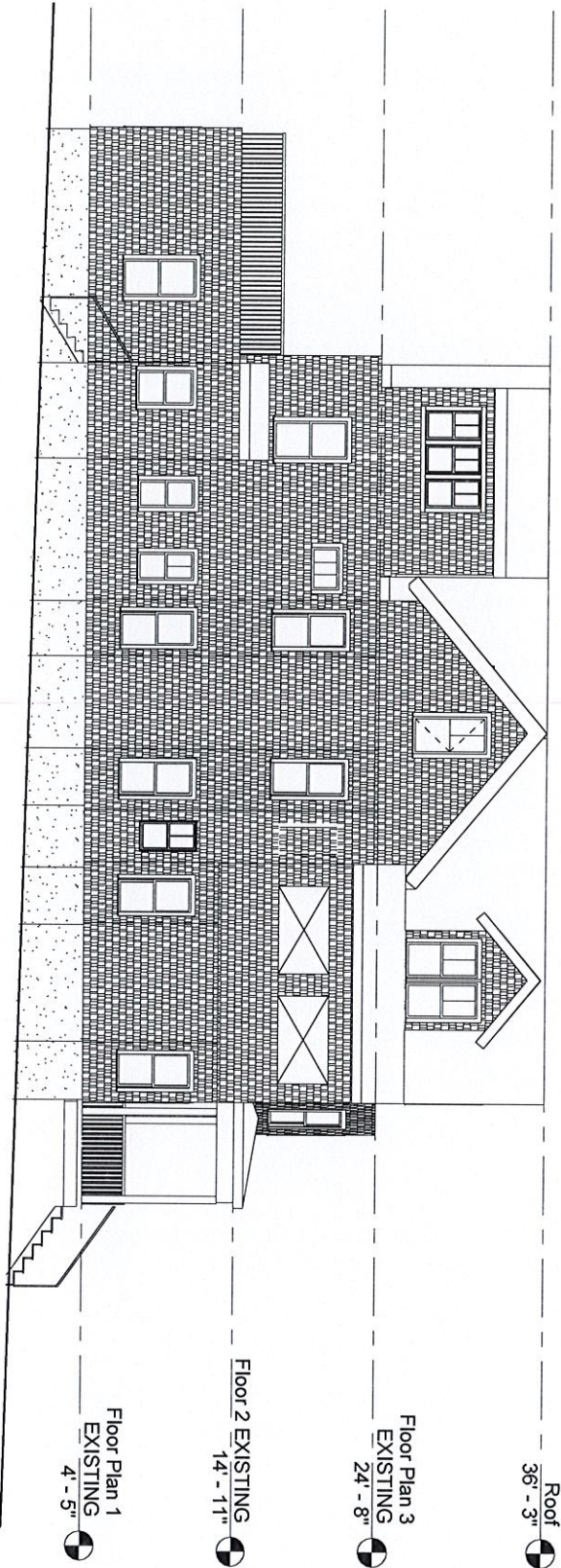
North
Elevation
NEW
1/8" = 1'-0"

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ELEVATIONS ARE
APPROXIMATE



① East Elevation EXISTING
1/8" = 1'-0"

A8.0

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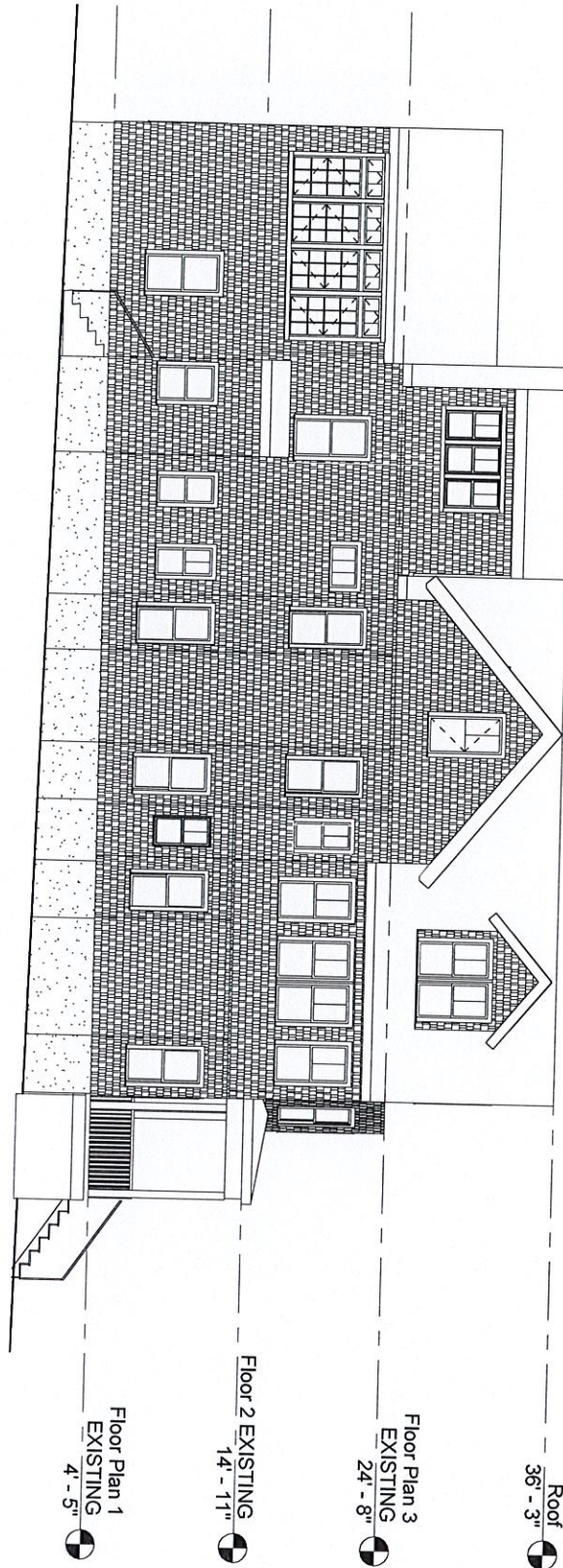
East Elevation
EX
1/8" = 1'-0"

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ELEVATIONS ARE
APPROXIMATE



① East Elevation NEW
1/8" = 1'-0"

A8.1

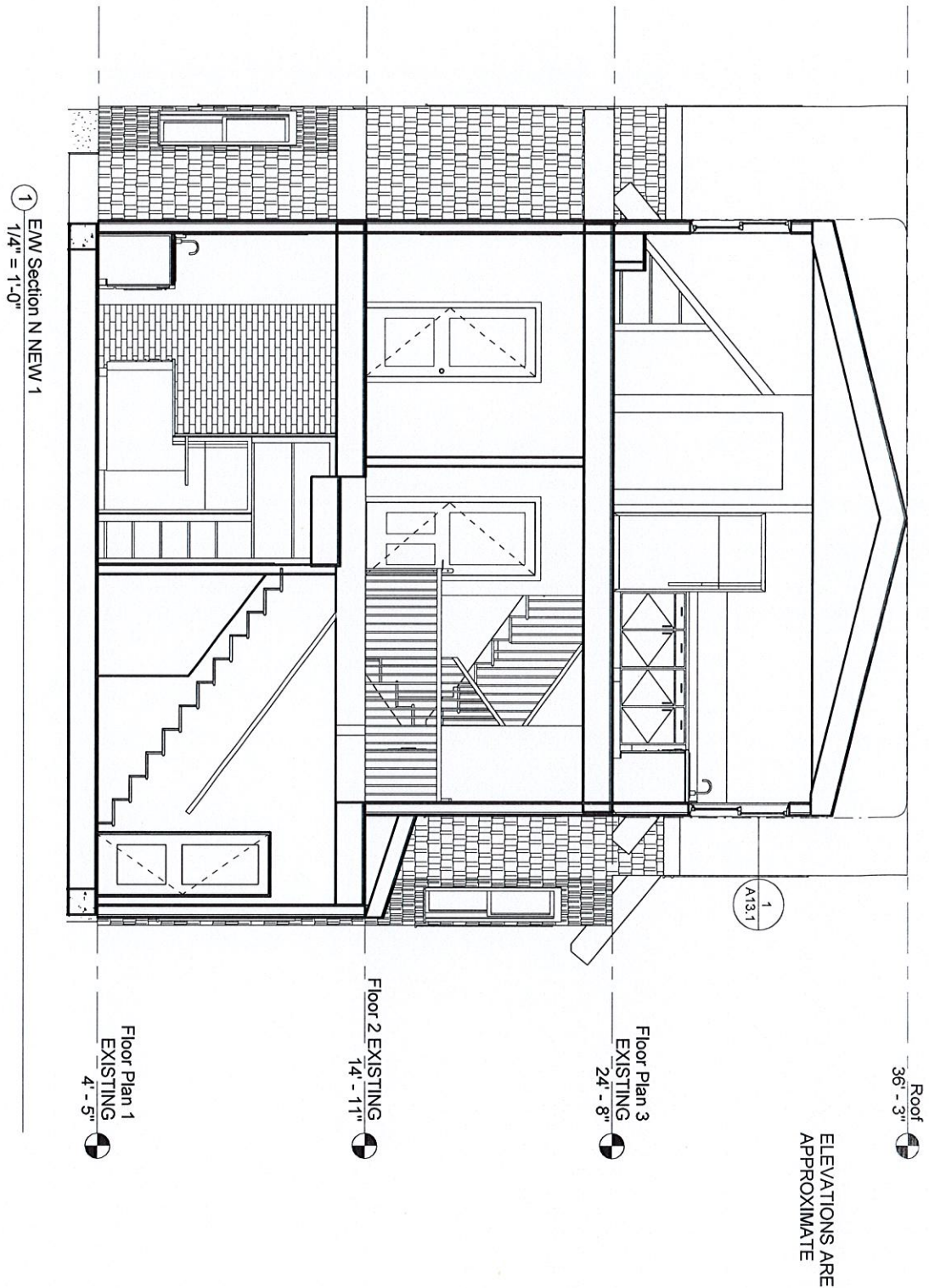
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Date 12.12.2019
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**East Elevation
NEW**
1/8" = 1'-0"

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A9.0

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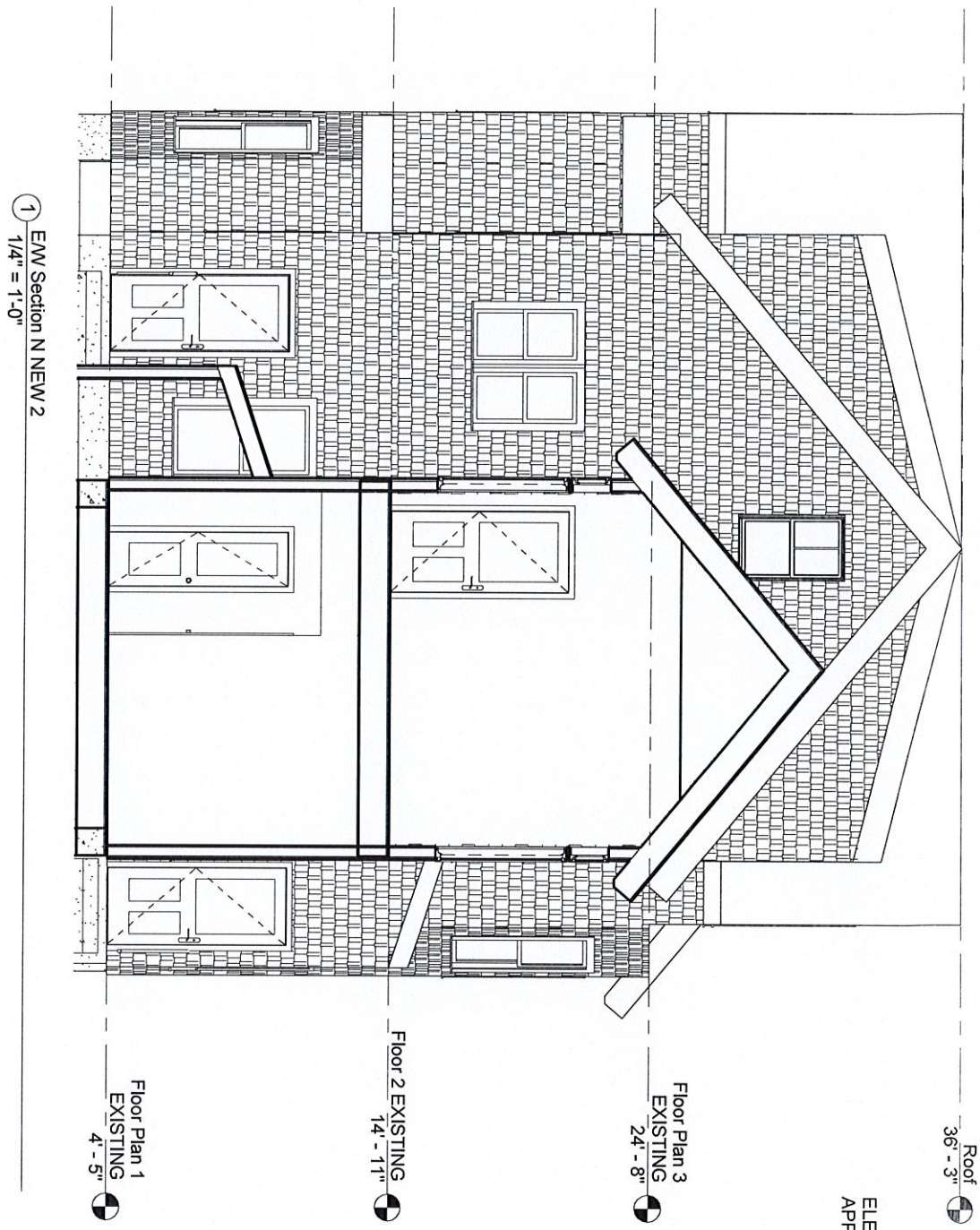
**E/W Section N
NEW 1**

1/4" = 1'-0"

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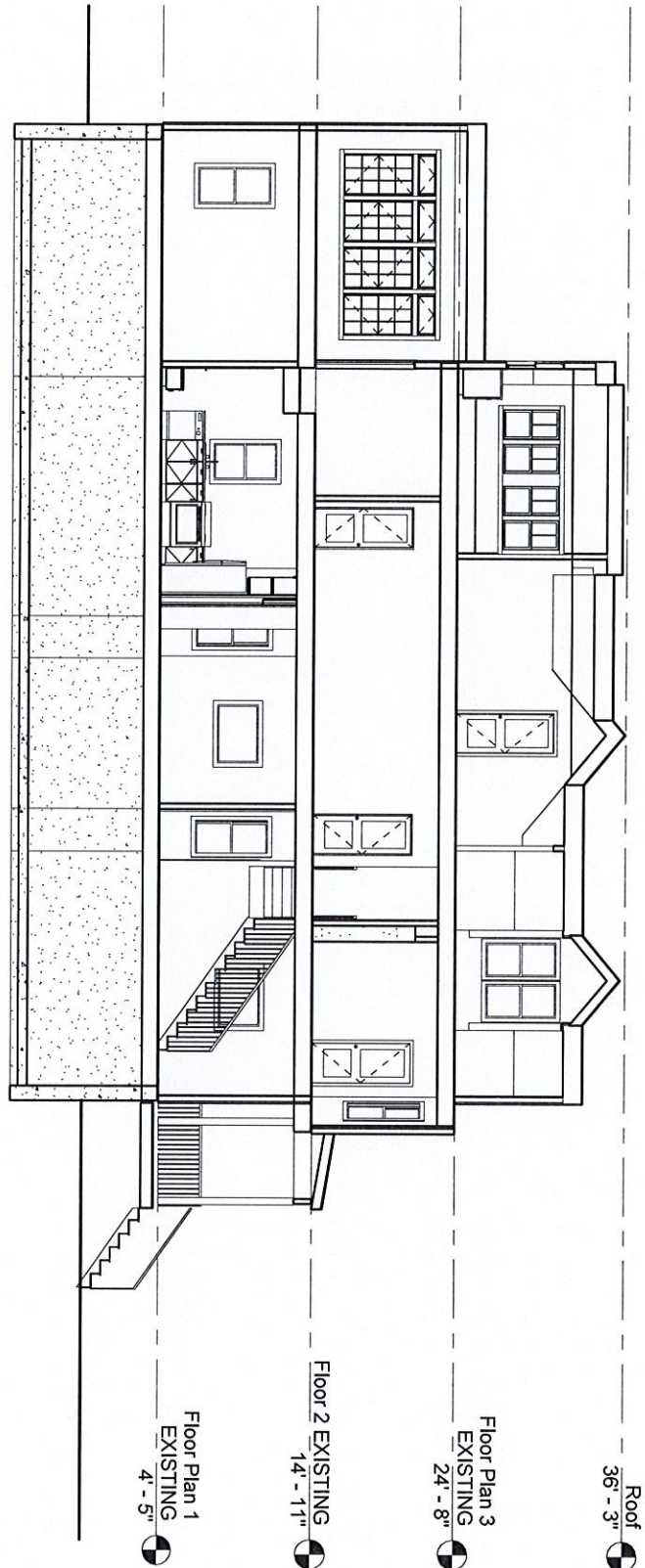
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ELEVATIONS ARE
APPROXIMATE

ELEVATIONS ARE
APPROXIMATE



① N/S Section W NEW
1/8" = 1'-0"

A10.0

Project 01.2019
Date 12.12.2019
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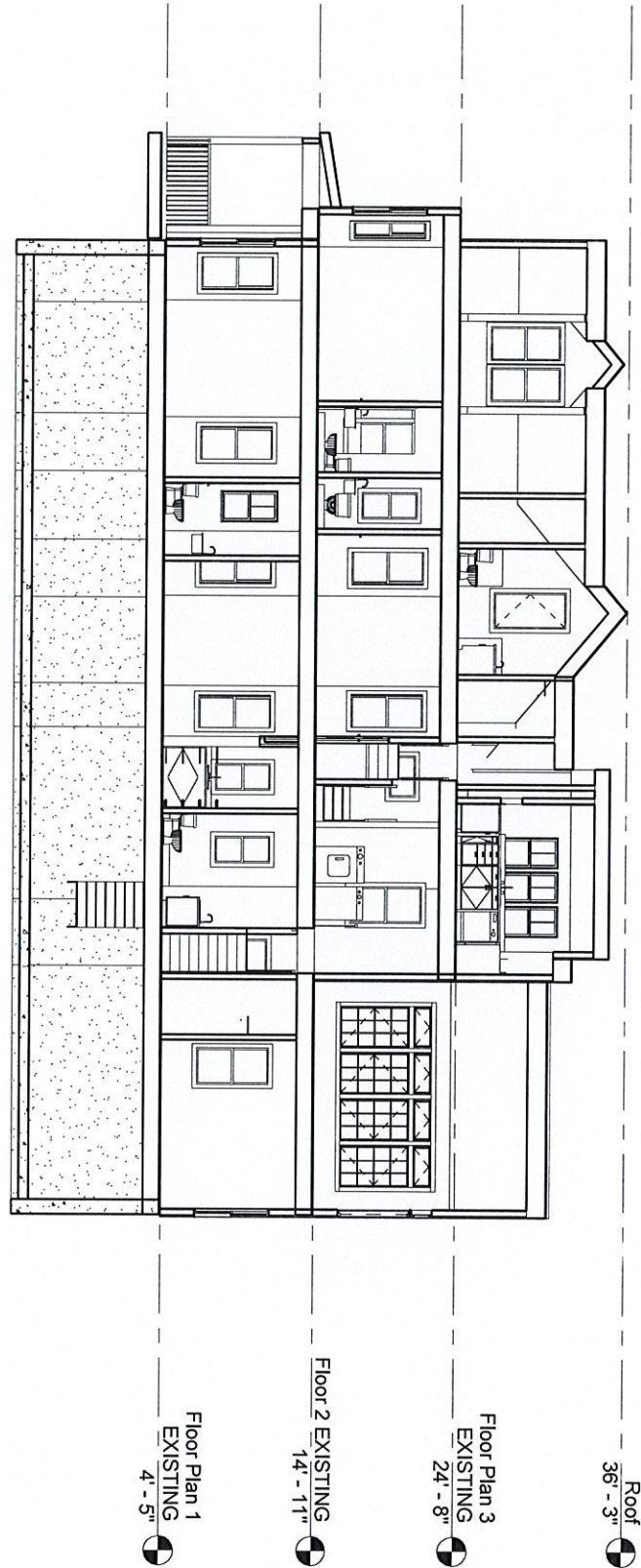
N/S Section W
NEW

1/8" = 1'-0"

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1 N/S Section E NEW
1/8" = 1'-0"

A10.1

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N/S Section E
NEW

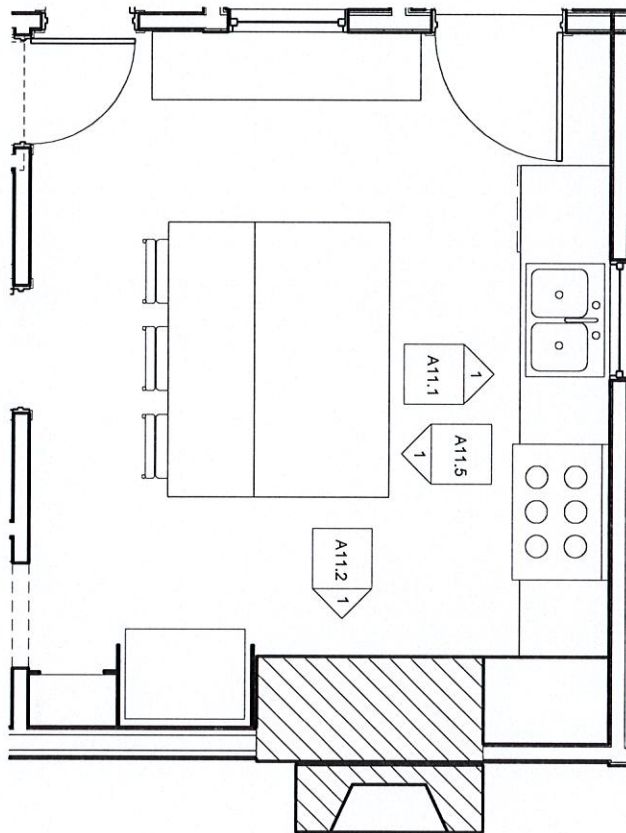
1/8" = 1'-0"

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① 1K Plan NEW
3/8" = 1'-0"



A11.0

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Date 12.12.2019
Drawn by KMS
Revision

1K Plan NEW

3/8" = 1'-0"

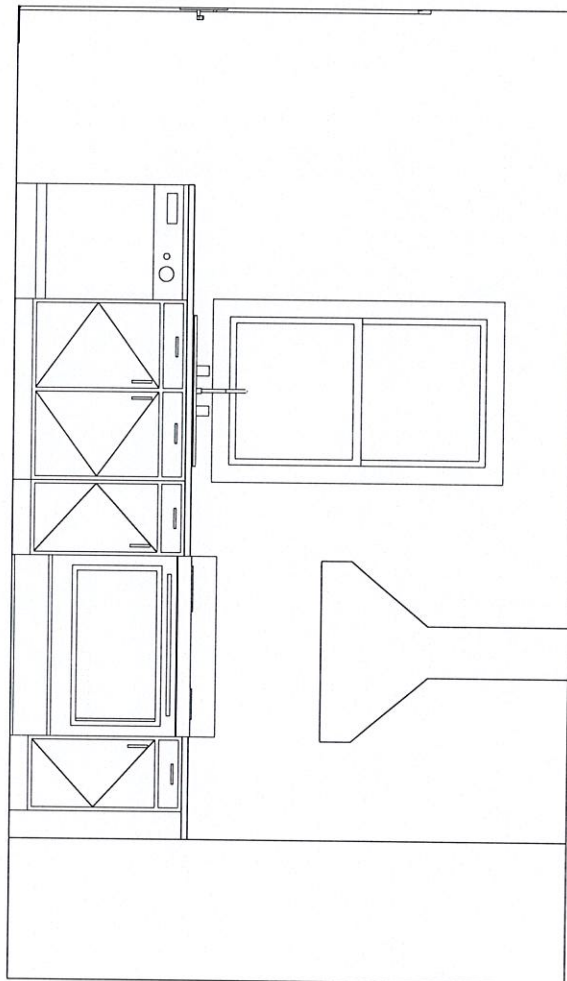
37 Powel Avenue

Dan Kinsella
Kinsella Building
Portsmouth, RI 02871

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www.havendesigner.com
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① 1F Kitchen EL N NEW
1/2" = 1'-0"



A11.1

Project 01.2019
Date 12.12.2019
Drawn by KMS
Revision

1K EL N NEW

1/2" = 1'-0"

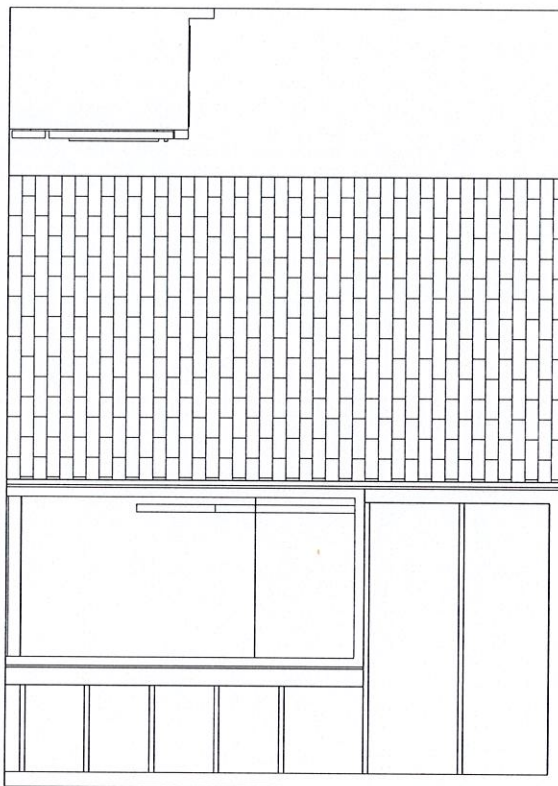
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① 1F Kitchen EL E NEW
1/2" = 1'-0"



A11.2

Project 01.2019
Date 12.12.2019
Drawn by KMS
Revision

1K EL E NEW

1/2" = 1'-0"

37 Powel Avenue

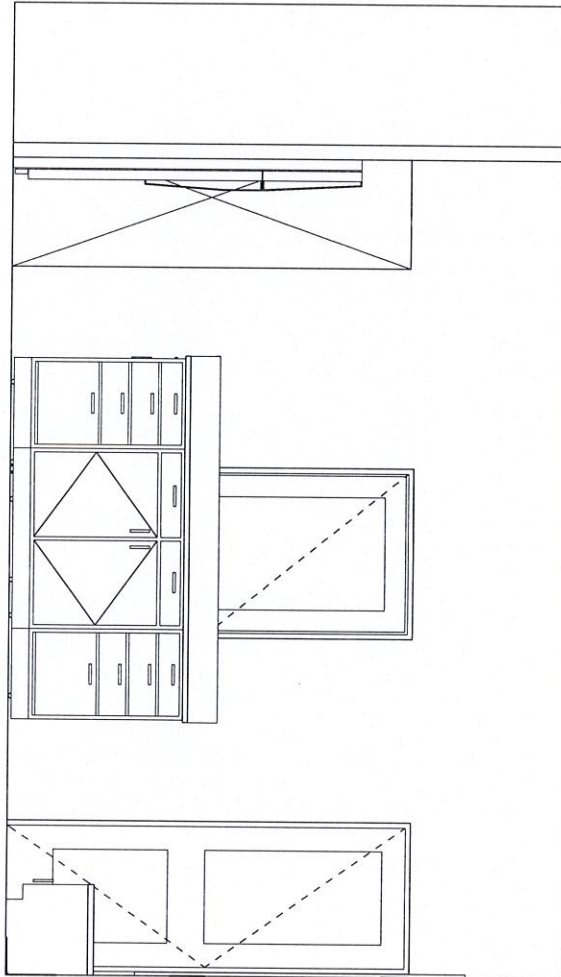
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① 1F Kitchen EL ISL NEW
1/2" = 1'-0"



A11.5

Project 01.2019
Date 12.12.2019
Drawn by KMS
Revision

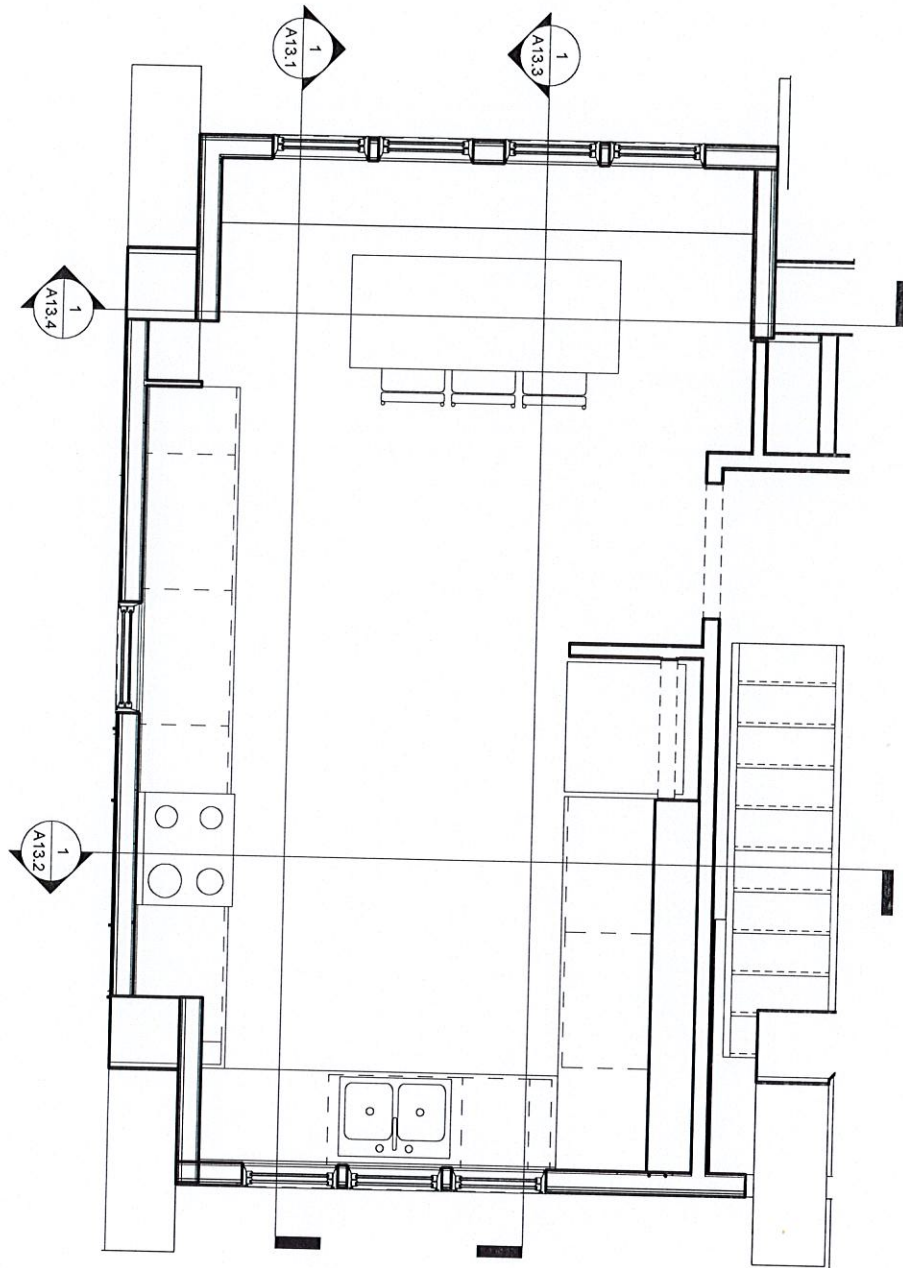
**1K EL ISL
NEW**
1/2" = 1'-0"

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① 3K Plan NEW
3/8" = 1'-0"



A13.0

Project 01.2019
Date 12.12.2019
Drawn by KMS
Revision

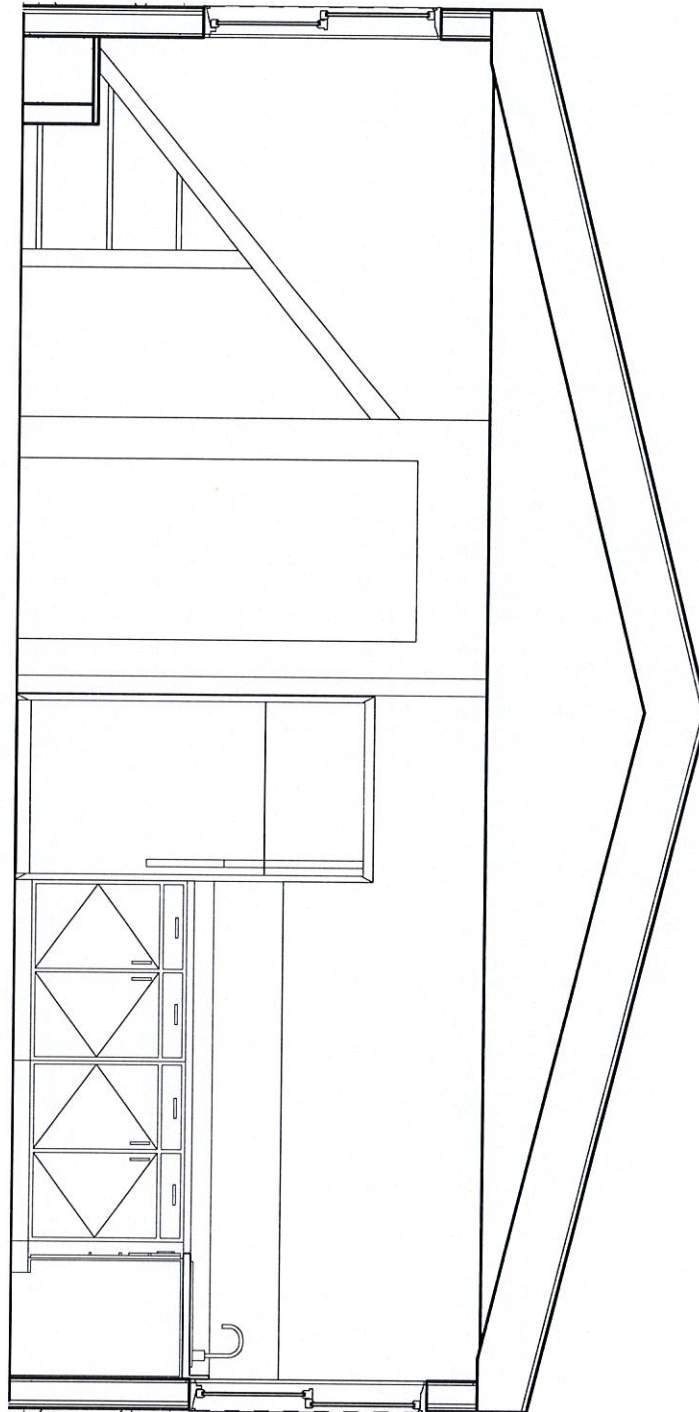
3K Plan NEW
3/8" = 1'-0"

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① 3F Kitchen EL N
1/2" = 1'-0"



A13.1

Project 01.2019
Date 12.12.2019
Drawn by KMS
Revision

3K EL N NEW

1/2" = 1'-0"

37 Powel Avenue

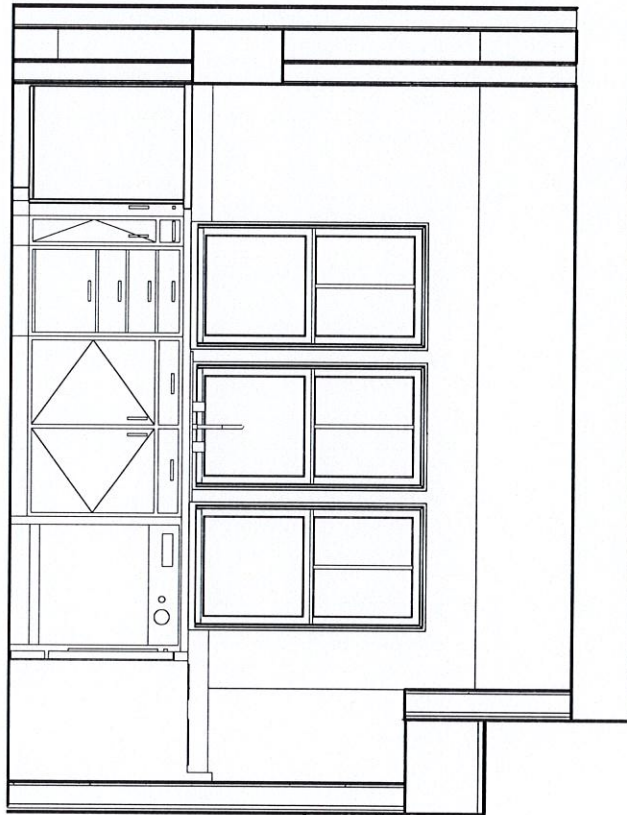
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① 3F Kitchen EL E
1/2" = 1'-0"



A13.2

Project 01.2019
Date 12.12.2019
Drawn by KMS
Revision

3K EL E NEW

1/2" = 1'-0"

37 Powel Avenue

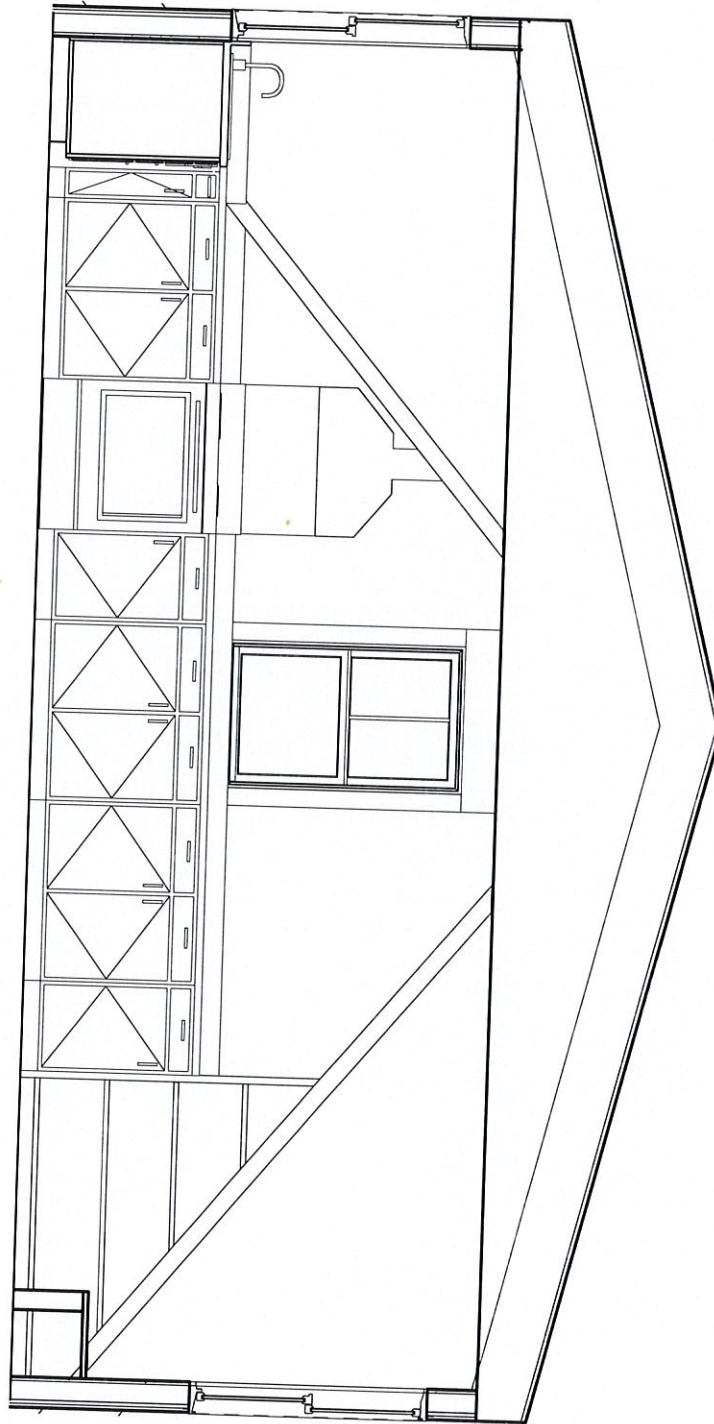
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① 3F Kitchen EL S
1/2" = 1'-0"



A13.3

Project 01.2019
Date 12.12.2019
Drawn by KMS
Revision

3K EL S NEW

1/2" = 1'-0"

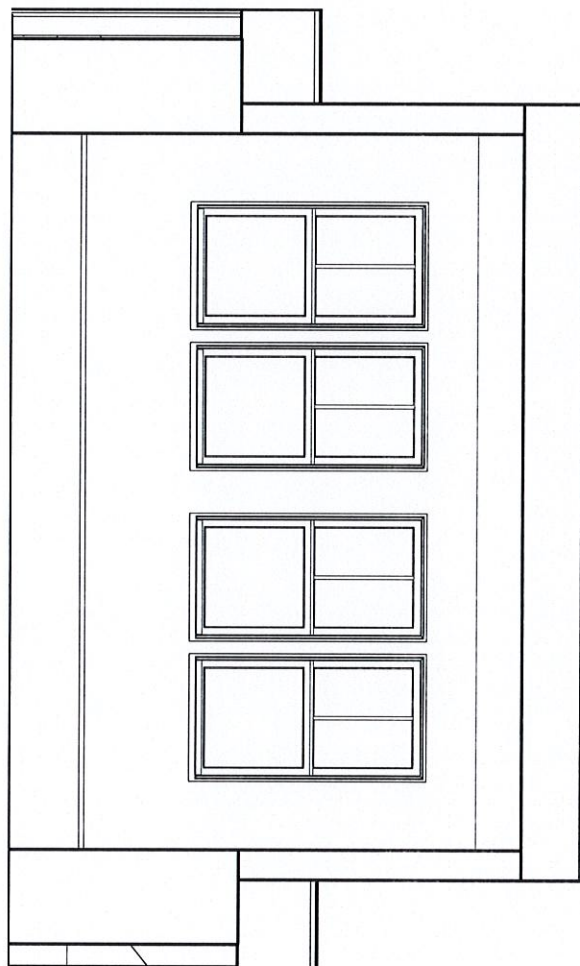
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① 3F Kitchen EL W
1/2" = 1'-0"



A13.4

Project 01.2019
Date 12.12.2019
Drawn by KMS
Revision

3K EL W NEW

1/2" = 1'-0"

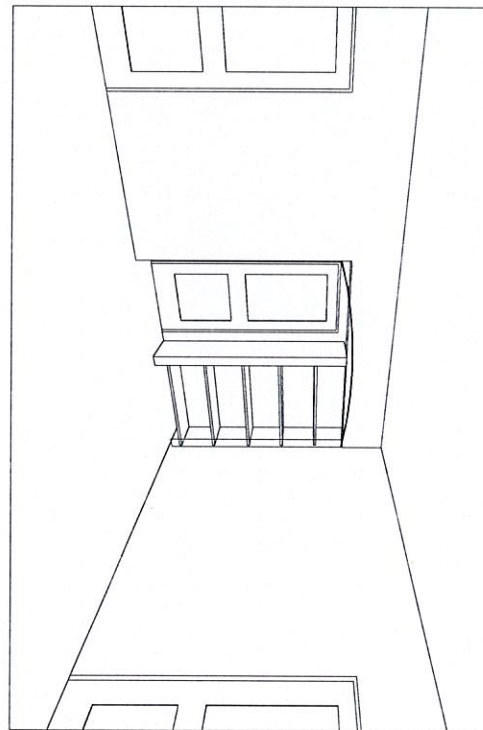
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A22.0

Project 01.2019
Date 12.12.2019
Drawn by KMS
Revision

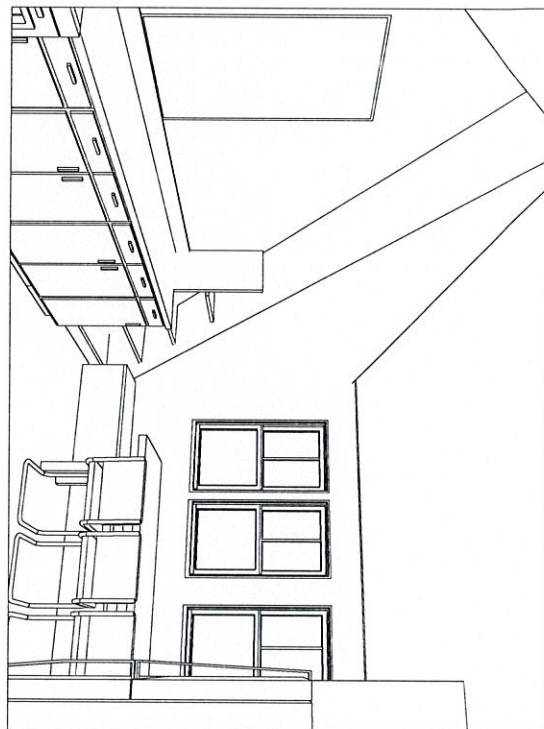
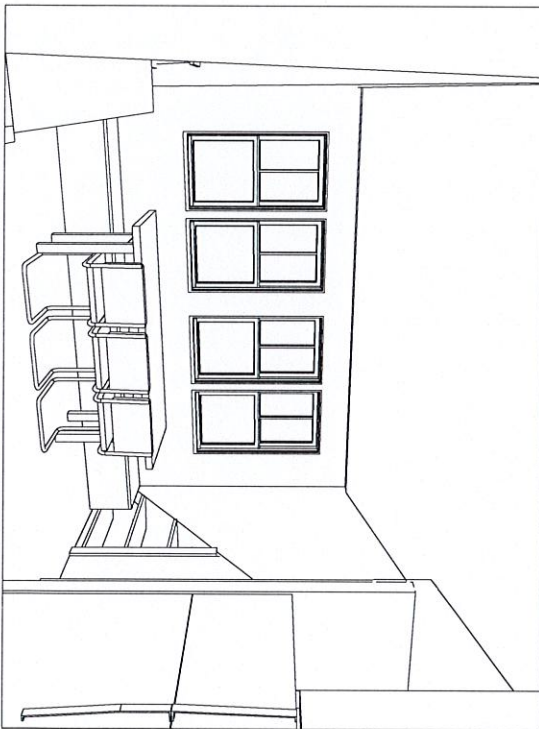
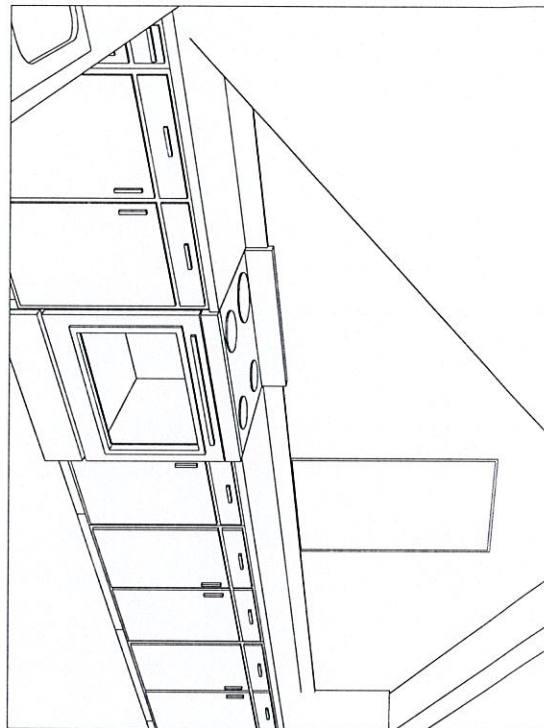
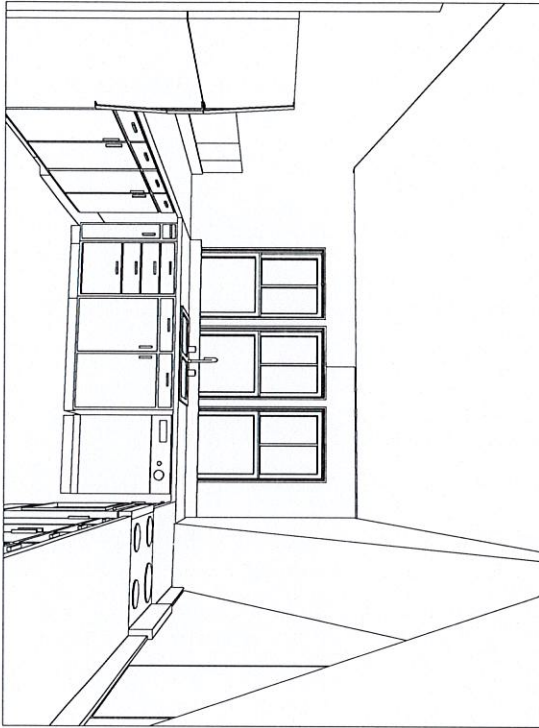
F2 Views

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A23.0

Project 01.2019
Date 12.12.2019
Drawn by KMS
Revision

F3 Views

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