

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

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

DATE: February 24, 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.: 12 Redwood Street

Tax Assessor's Plat: 25, Lot: 070

Petitioner Information

Applicants: Robert Higginbotham

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:** 98.02 ft. +/- Redwood Street
Frontage: 39.4 ft. +/- Catherine Street
Depth: 193.75 ft. +/-
Area: 13,642 +/- sq. ft.

Zoning District in which premises is located: R-10

How long have you owned above premises? September 6, 2019

Are there buildings on the premises at present? Yes

Total square footage of the footprint of existing buildings: 2,912.4 sq. ft. (21.3%)

Total square footage of the footprint of proposed buildings: 3,770.6 sq. ft. (27.6%)

Present use of premise: Single Family Residential Dwelling and Garage

Proposed use of premises: Single Family Residential Dwelling and Garage with Pool

Give extent of proposed alterations: The Applicant proposes to remove an existing mudroom entry and stairs at the rear of the house; construct a new rear entry porch and addition with pergola; remove a portion of the existing enclosed porch and construct a new first floor addition on the east side of the house; construct a second floor addition; install an in-ground pool; install two A/C condensing units on the east side of the house; and install three A/C condensing units on the west side of the house with pool equipment and an emergency generator.

Zoning Characteristics Matrix

	Existing	Required/Allowed	Proposed
Lot Size (sq. ft)	13,642	10,000	No Change
Lot Coverage	21.3%	20 %	27.6 %
Dwelling Units	1	1	1
Parking (# of spaces)	2 +	2	2 +
Front Setback (ft.)	Redwood Street House = 29 ft. 7 in. Front Stairs = 22 ft. +/- ----- Catherine Street Garage = 26 ft. 2 ¾ in.	15 ft.	Redwood Street No Change ----- Catherine Street No Change
Side Setbacks (ft.)	Main House East = 27 ft. 5 in. West = 14 ft. 9 in. ----- Generator East = N/A West = N/A ----- Garage East = 6 ft. 6 in. West = 3 ft.	10 ft.	Main House East = 20 ft. 8 ¼ in. West = No Change ----- Generator East = N/A West = 3 ft. 6 in. ----- Garage East = No Change West = No Change
Rear Setback (ft.)	Main House = 28 ft. 3 in.	20 ft.	20 ft.
Height (ft.)	30 ft. 6 in.	30 ft.	No Change

Provisions or regulations of Zoning Ordinance applicable:

Section 17.108.020	Special Use Permits
Section 17.108.010	Variances
Section 17.72.030	Alteration of Nonconforming Development
Section 17.20.050	R-10 Lot Coverage Requirements
Section 17.20.040 B	R-10 Side Yard Setback Requirements

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-1.4: The City shall maintain design standards to protect historic structures, maintain the heritage of the community, and maintain views and access to the harbor and waterfront areas.

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.

Transportation & Circulation:

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

State grounds for Special Use Permit and Variance in this case:

The existing parcel is an irregular shaped legal conforming lot of record containing 13,642 +/- square feet of land. The existing house is in fair condition, but presently requires various repairs, improvements and upgrades. The property is a "non-conforming development" by virtue of the existing building height, the side setback encroachments of the garage and the total lot coverage which exceeds the 20% maximum.

The Applicant has undertaken a rehabilitation and renovation of this existing single family residence. As part of this project, the Applicant proposes to construct small additions to the east and north sides of the house to provide additional living space and improve functionality; install updated modern mechanicals to service the residence; and install a modest in-ground pool in the back yard. The proposed development will not increase setback encroachments beyond existing conditions other than the placement of a proposed generator in the west side setback. The required on-site parking spaces will continue to be provided. The project as proposed will require dimensional relief for setbacks and lot coverage.

The subject property is on Redwood Street, across from the Redwood Library property and next to the Redwood Library Annex. The immediate neighborhood is a transitional area between the adjacent General Business Zone on Bellevue Avenue and the R-10 Zone. The surrounding properties are a mix of various commercial and institutional uses, as well as multifamily, commercial and residential condominiums. The Applicant has taken great care to develop a proposed renovation of the single family residence consistent with modern living which will require modest dimensional relief. The in-ground pool is a common amenity enjoyed by residences throughout the R-10 Zone and will have no adverse impact on immediate abutters based on its proposed location and the existing fencing and/or vegetative screening. The overall 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. The ongoing single family residential use is allowed by right. The application has received approval from the Historic District Commission, is in accordance with the public convenience and welfare, and meets or exceeds all of the conditions required in Sections 17.108.010 (Variances) and 17.108.020 (Special Use Permits).

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 conforming lot of record. The existing garage encroaches into the side setbacks at the rear of the property adjacent to Catherine Street. The dwelling slightly exceeds the building height limitation and the overall existing development exceeds lot coverage. As a result, almost any proposed modifications or additions will result in the need for dimensional relief. The Applicant is seeking to rehabilitate and modernize the property. Because of the unique shape of the lot and layout of the property, the Applicant can best meet the need for additional living space with the various proposed small additions on the east and north sides of the house, together with the placement of the emergency generator in the west side yard setback. The proposed pool will meet all setback requirements and will be sited in the long and narrow yard area between the house and garage. The Applicant has taken care to site the additions and the pool in such a manner as to mitigate impacts to neighbors. To achieve these objectives with this unique property, the Applicant requires 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 small additions to the single family home with the installation of modern mechanicals and an in-ground pool. The Applicant will be seeking dimensional setback and lot coverage relief. This property is in the transitional neighborhood between the commercial and institutional uses along Bellevue Avenue and the residential uses in the Kay/Catherine neighborhood. The overall neighborhood is characterized by a mix of densely developed residential properties, institutional and commercial uses. A number of the properties in this area are non-conforming in terms of residential density, use, and compliance with the 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 and Owner the ability to develop the parcel and construct the necessary expansion and amenities to this single family residence. Dimensional non-conformities exist with other properties throughout this neighborhood. The planned improvements to the property by the Applicant is appropriate, compatible and consistent 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:

Special conditions and circumstances exist which are particular to the subject property given the property's irregular shape and the siting of the house and detached garage. A literal interpretation of the provisions would deprive the Applicant of rights commonly enjoyed by other owners in the same district. This is the minimum relief necessary that will make possible the reasonable use of the property; and given the location of mature trees, the existing house and garage, as well as the lot's irregular shape, this is the most reasonable plan and layout for the expansion and modernization of the dwelling and the installation of mechanicals and pool. Upon the completion of the proposed project, the overall lot coverage will be 27.6%. The completed development of this parcel will not be inconsistent in size, scope and scale of other properties in the Bellevue/Redwood/Kay/Catherine area. The Applicant requires lot coverage relief and relief to install a generator within the side yard setback. The proposal represents a carefully developed plan which preserves historic character of the property. This project has received HDC approval. The proposed development will result in a dwelling with amenities consistent with modern living. Granting the request for dimensional relief is the minimum variance which will allow the Applicants to rehabilitate and modernize this 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.

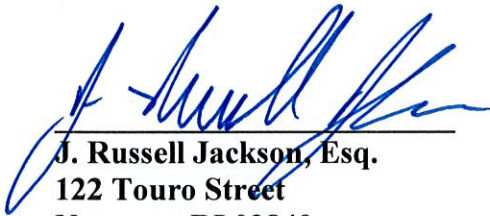
The burden of proof in a special-use permit application is on the applicant. This means that if the applicant fails to present adequate competent evidence to prove the applicable standard for issuing a special-use permit has been met, the board must deny the application.

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".

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

A handwritten signature in blue ink, appearing to read "J. Russell Jackson", is written over a horizontal line.

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

REDWOOD STREET

EXISTING 4 BEDROOM DWELLING
AP 25 LOT 70
15,642 SQ FT
0.3422 ACRES

PROPOSED POOL

EXISTING 5 BAY GARAGE

LOT COVERAGE CALCULATIONS

EXISTING LOT COVERAGE		PROPOSED LOT COVERAGE	
MAIN BUILDING (GARAGE)	20% 5.3'	MAIN BUILDING (GARAGE)	20% 5.3'
MAIN BUILDING (GARAGE)	79.0 1.3'	MAIN BUILDING (GARAGE)	79.0 1.3'
HEDGEBANK & STAIR (TO BE REMOVED)	53.1 1.3'	FRONT STAIRS (NEW ADDITION)	83.8 1.3'
EXISTING TOTAL	2,912.2 2'	FRONT STAIRS (NEW ADDITION)	53.0 1.3'
		BREAKFAST NOOK & STAIR ADDITION	144.3 3'
		EQUIPMENT & GENERATOR	53.0 1.3'
		PROPOSED TOTAL	3,770.8 3'
		PROPOSED LOT COVERAGE	3,770.8 3' / 15,642 = 27.6%

LOT COVERAGE CALCULATIONS

EXISTING LOT COVERAGE		PROPOSED LOT COVERAGE	
LOT AREA	20%	LOT AREA	20%
MAX. LOT COVERAGE	80 FEET	MAX. LOT COVERAGE	80 FEET
MINIMUM LOT WIDTH	98'-0"	MINIMUM LOT WIDTH	98'-0"
PRINCIPAL BLDG. FRONT YARD SETBACK	15 FEET	PRINCIPAL BLDG. FRONT YARD SETBACK	20'-0"
PRINCIPAL BLDG. EAST SIDE YARD SETBACK	10 FEET	PRINCIPAL BLDG. EAST SIDE YARD SETBACK	20'-0"
PRINCIPAL BLDG. WEST SIDE YARD SETBACK	20 FEET	PRINCIPAL BLDG. WEST SIDE YARD SETBACK	20'-0"
PRINCIPAL BLDG. REAR YARD SETBACK	30 FEET	PRINCIPAL BLDG. REAR YARD SETBACK	20'-0"
PRINCIPAL BUILDING HEIGHT	30'-4"	PRINCIPAL BUILDING HEIGHT	NO CHANGE

PROPOSED SITE PLAN
SCALE: 1/16" = 1'-0"

SCALE: 1/16" = 1'-0"

AO

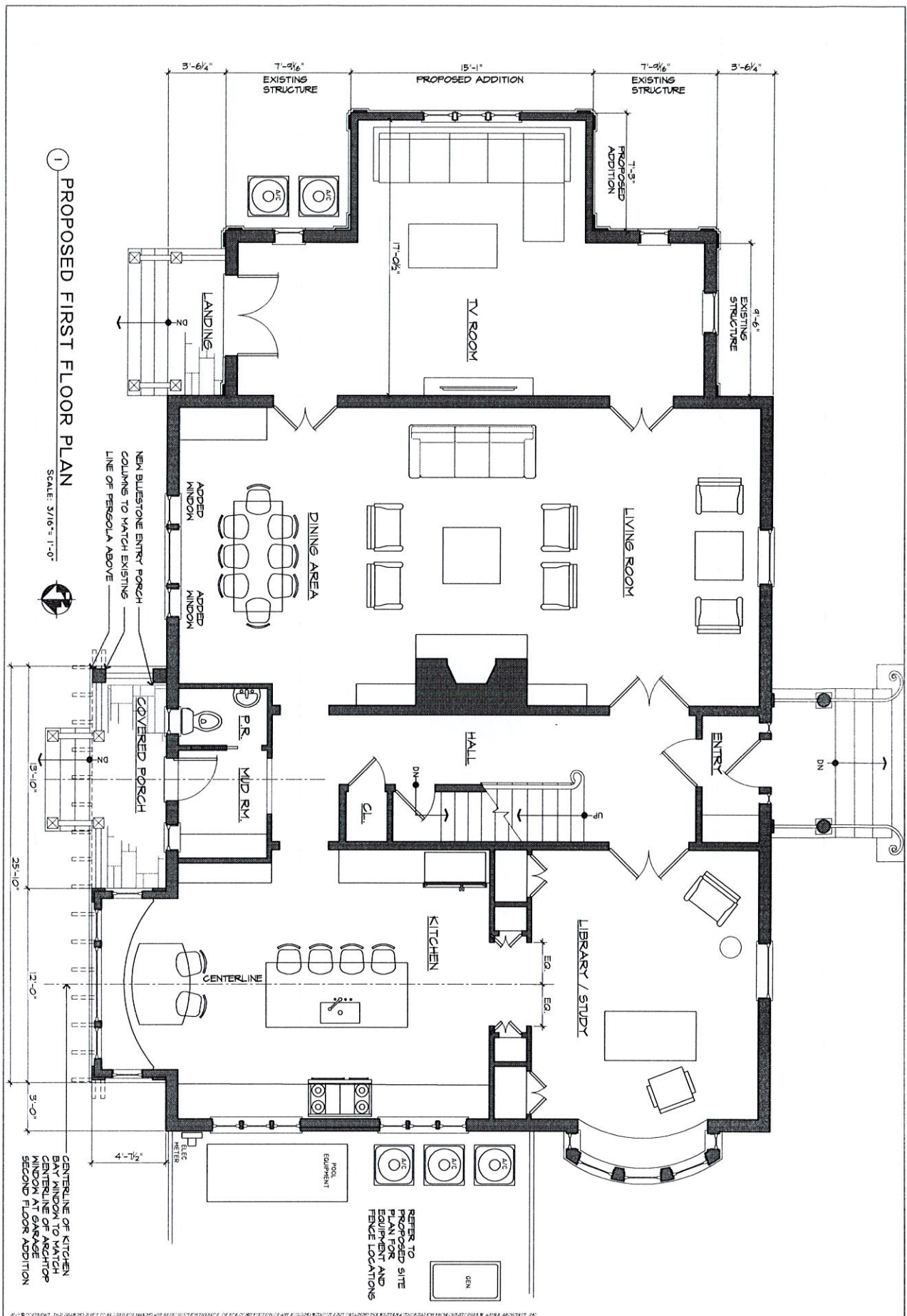
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PROPOSED SITE PLAN

HIGGINBOTHAM RESIDENCE

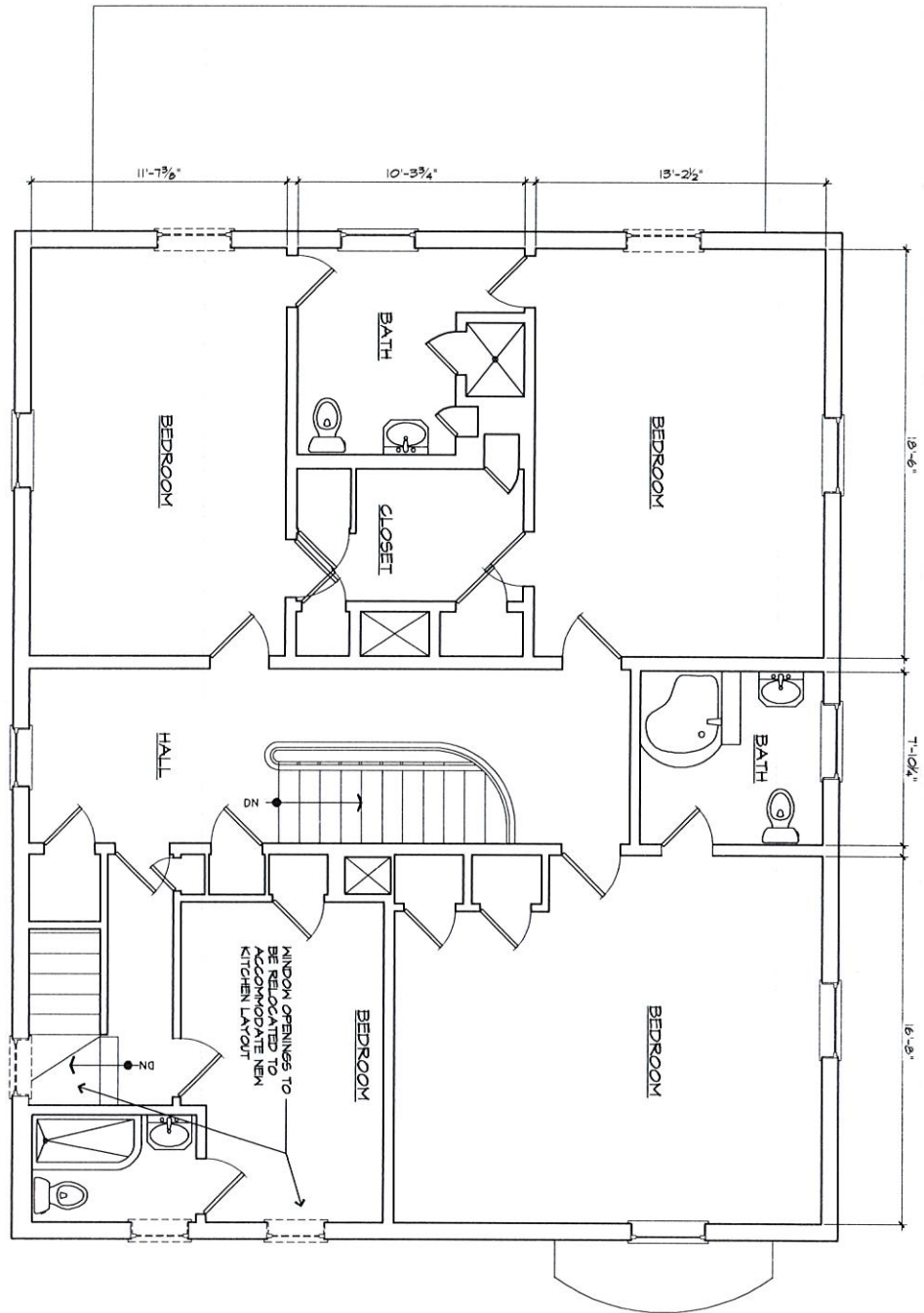
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NEWPORT, RI, 02840

**CHRISTOPHER
ARNER,
ARCHITECT**
1 WASHINGTON STREET
NEWPORT, RI 02840
401.225.6497
WWW.CWA-AIA.COM



<p>A2</p> <p>2-18-2020</p>	<p>PROPOSED FIRST FLOOR PLAN</p>	<p>HIGGINBOTHAM RESIDENCE</p> <p>12 REDWOOD STREET NEWPORT, RI, 02840</p>	<p>CHRISTOPHER ARNER, ARCHITECT</p> <p>1 WASHINGTON STREET NEWPORT, RI 02840 401.225.6467 WWW.CWA-AR.com</p>
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① EXISTING SECOND FLOOR PLAN
SCALE: 3/16" = 1'-0"



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EXISTING
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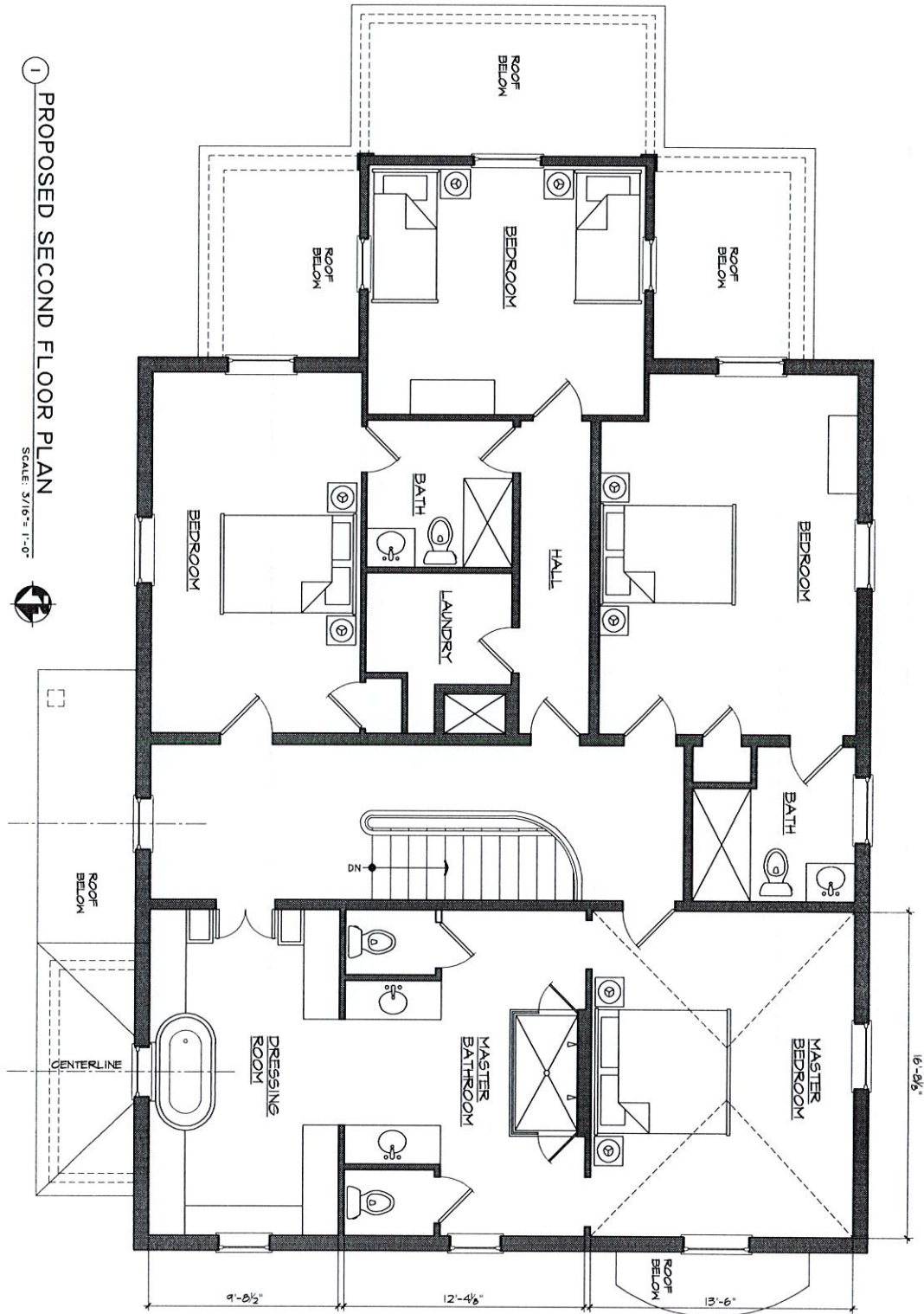
HIGGINBOTHAM RESIDENCE

12 REDWOOD STREET
NEWPORT, RI, 02840

CHRISTOPHER
ARNER,
ARCHITECT
1 WASHINGTON STREET
NEWPORT, RI 02840
401.225.5867
WWW.CWA-VA.COM

1 PROPOSED SECOND FLOOR PLAN

SCALE: 3/16" = 1'-0"



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A4

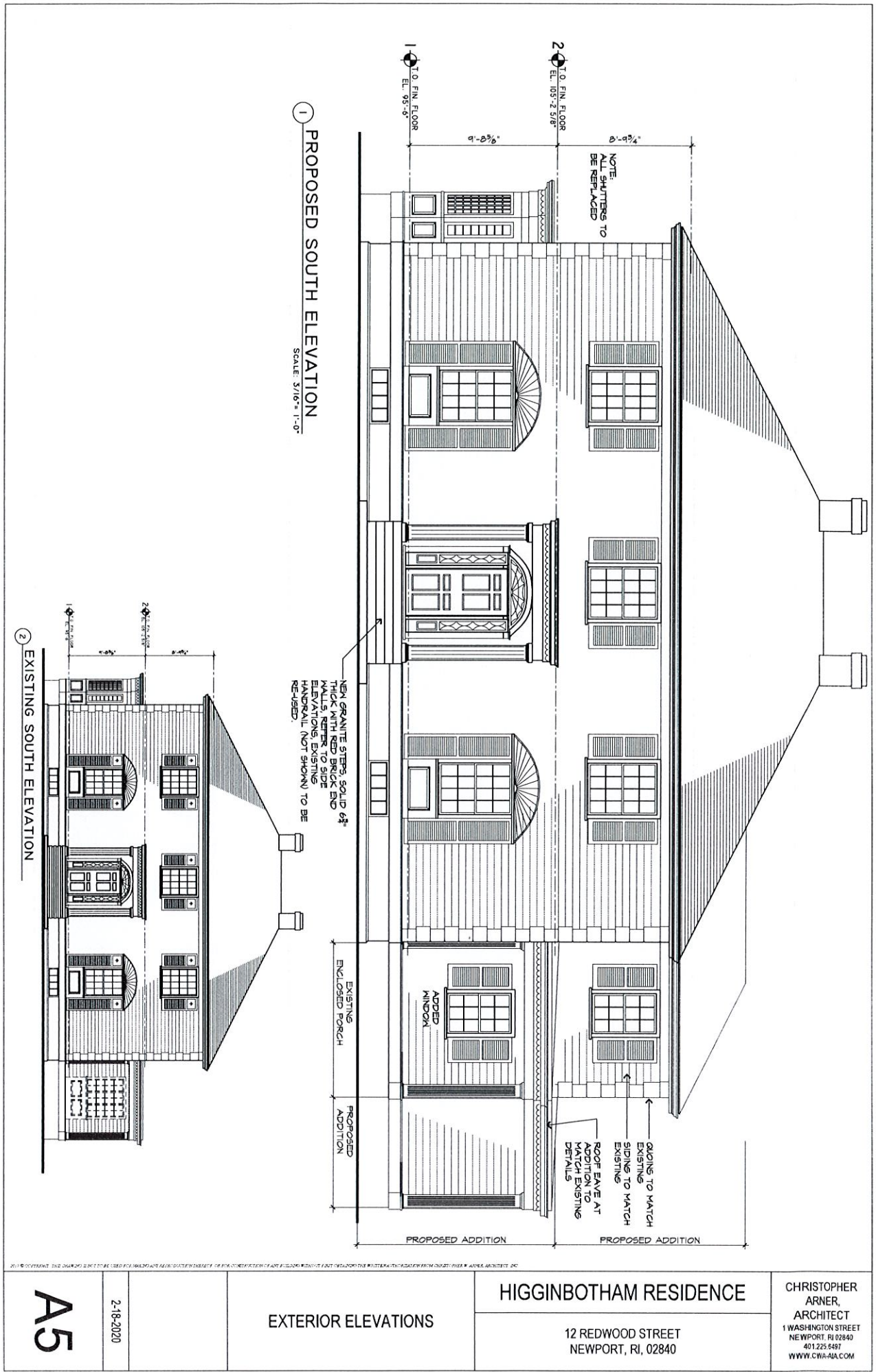
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PROPOSED
SECOND FLOOR PLAN

HIGGINBOTHAM RESIDENCE

12 REDWOOD STREET
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CHRISTOPHER
ARNER,
ARCHITECT
1 WASHINGTON STREET
NEWPORT, RI 02840
401.225.5497
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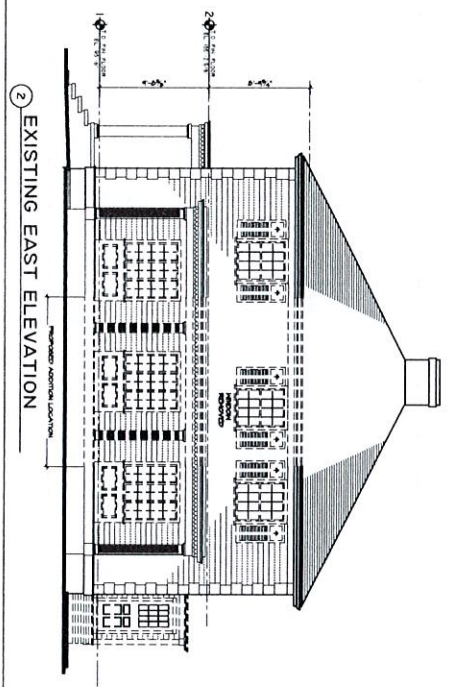
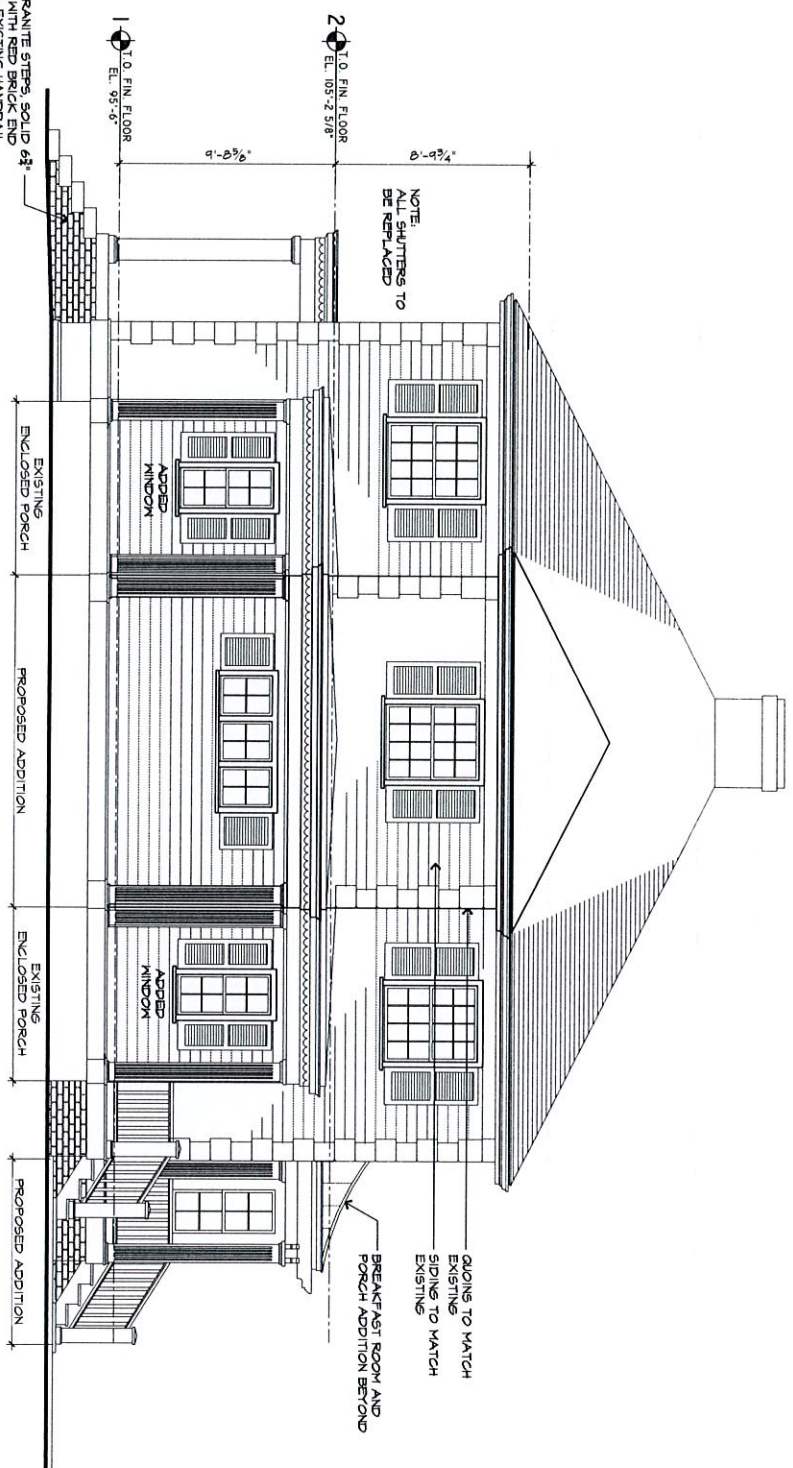


A5	2-18-2020	EXTERIOR ELEVATIONS	HIGGINBOTHAM RESIDENCE	CHRISTOPHER ARNER, ARCHITECT 1 WASHINGTON STREET NEWPORT, RI 02840 401.225.6497 WWW.CWA-AIA.COM
			12 REDWOOD STREET NEWPORT, RI, 02840	

NEW GRANITE STEPS, SOLID 6" THICK WITH RED BRICK END WALLS, EXISTING HANDRAIL (NOT SHOWN) TO BE RE-USED.

1 PROPOSED EAST ELEVATION

SCALE: 3/16" = 1'-0"



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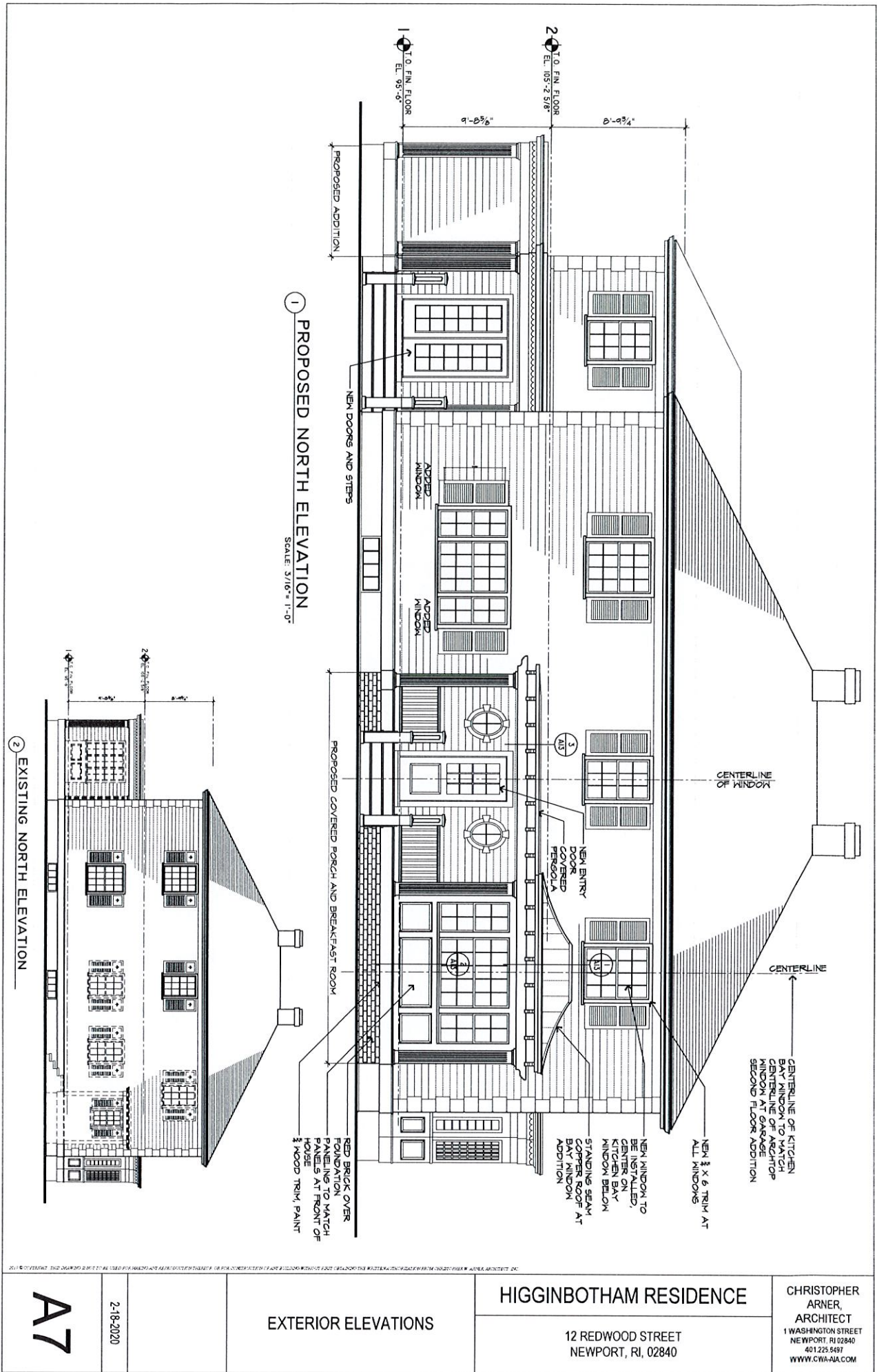
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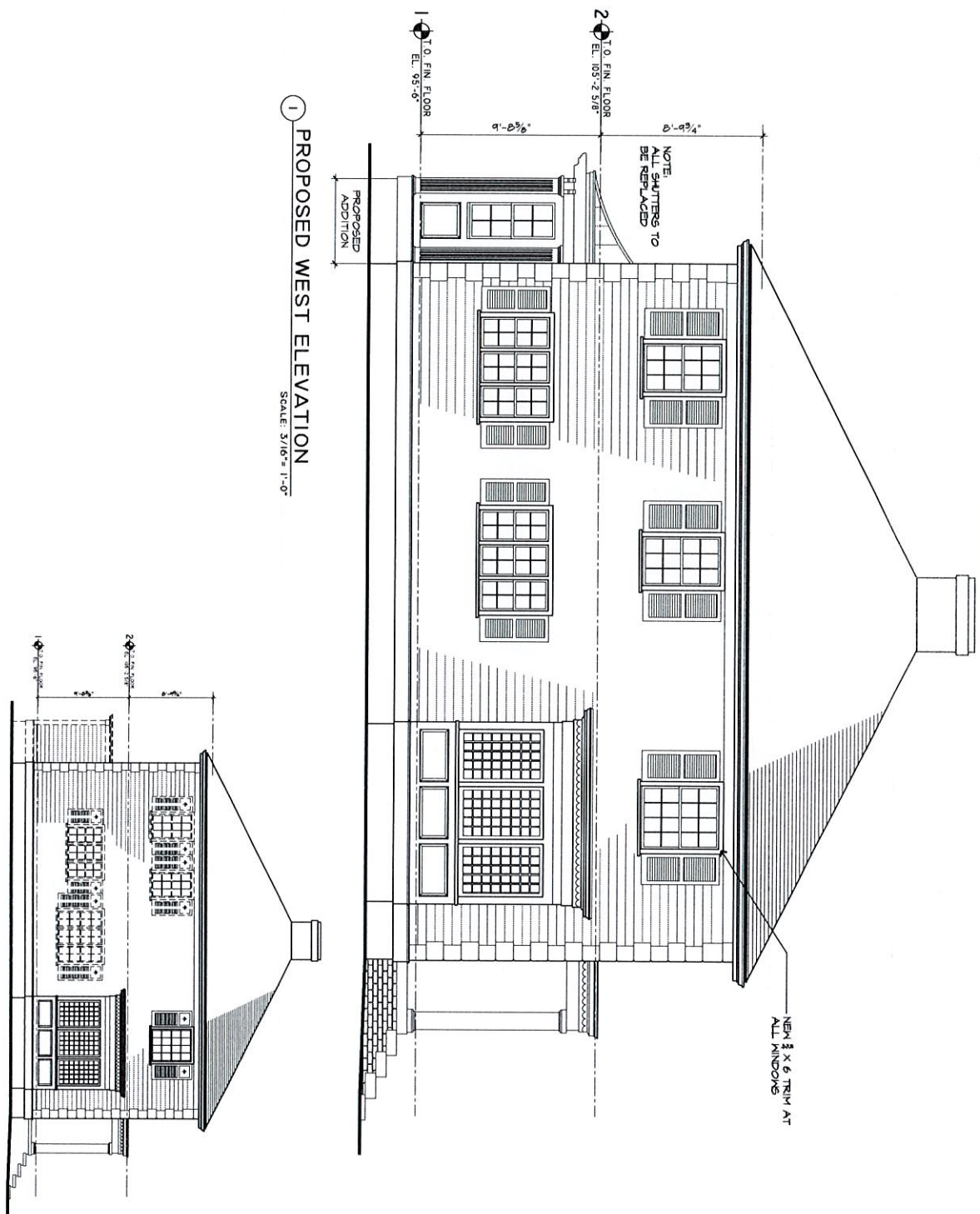
EXTERIOR ELEVATIONS

HIGGINBOTHAM RESIDENCE

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