



OFFICE OF PLANNING

CITY OF NEW BEDFORD
JONATHAN F. MITCHELL, MAYOR

May 21st, 2015

Ian M. Comerford, Chairman
Zoning Board of Appeals
133 William Street
New Bedford, MA 02740

Re: Case #4182
Petitioner: Natalia F. Araujo "Trustee"
Shaw Realty Trust
123 Nyes Lane
Acushnet, MA 02743

Location: 220-222 Shaw Street (Plot 110 Lot 471)

Dear Mr. Comerford:

Please be advised that I have reviewed the petition, and submit the following for consideration by the Board.

The petitioner is submitting plans relative to property located at 220-222 Shaw Street (Plot 110, Lot 471) for which plans had previously been submitted and denied by this Board on March 27th, 2014 (Case # 4121). The denied proposal consisted of a 26.5 foot high, 1223+/- square foot, two-story garage, requiring relief of lot coverage, side yard setback, and height of an accessory structure. The project was redesigned to meet zoning requirements and was issued a building permit, with the proposed height as 18 feet. The construction of the structure measures a height of 19' 2", requiring a Variance after the fact, as the maximum height allowed for an accessory structure is 18'. The structure is located within a Residential C zoning district. The petitioners require a variance for the height of an accessory structure.

As the Board has denied a petition for a garage at this location within the past two years it is deemed a Repetitive Petition. The Board must make a Finding, that there are specific and material changes in the conditions upon which the previous unfavorable action was based and describes such changes in the record, before hearing any testimony on the variance petition. If a Finding is made by this Board, then the applicant must then present to the Planning Board to receive their consent as well. Only if the Planning Board also consents, then can the Zoning Board hear the petition for the Variance.

Sincerely,

Jill Maclean
City Planner

Cc: Danny Romanowicz, Building Commissioner

Steven Martins, Ward 2 City Councilor

133 William Street, New Bedford, MA 02740

Tel: 508.979.1488

Fax: 508.979.1576

CASE 16-15
ZBA CASE 4182



DEPARTMENT OF INSPECTIONAL SERVICES
133 WILLIAM STREET - ROOM 308
NEW BEDFORD, MA 02740

CITY OF NEW BEDFORD
JONATHAN F. MITCHELL, MAYOR

May 8, 2015

Zoning Board of Appeals
City of New Bedford

Re: Petition for a Variance

Natalia F. Araujo "Trustee"
Shaw Realty Trust
123 Nyes Lane
Acushnet, MA 02743

Thompson Farland, Inc.
398 County Street
New Bedford, MA 02745

Board Members:

The above named owners have submitted a Petition for a Variance under provisions of Chapter 9, Comprehensive Zoning relative to property located at 220-222 Shaw Street, Assessor's Map Plot 110 Lot 471 in a Residential-C Zoned District. The petitioner has constructed an addition to the existing garage with a building height of 19 feet 2 inches and the maximum allowed Building Height for an accessory structure in Residential-C District is 18 feet therefore this will require a Variance under Chapter 9, Comprehensive Zoning **Sections 2330 (Accessory Structures) and 2333 (Height)**

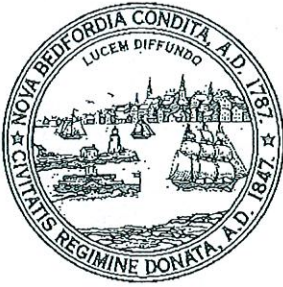
Previous Board of Appeals Cases heard: **Yes - Case #4121 Denied**
Site Plan filed with Appeal: Yes
Photographs taken of Said Property: No

An appeal has been filed with the City Clerk and the Building Department and is transmitted herewith.

Yours Truly,

Danny D. Romanowicz
Commissioner of Buildings & Inspectional Services

CAS # 16-15
ZPA (A02)



ZONING BOARD OF APPEALS
 City Hall, Room 303, 133 William Street, New Bedford, MA 02740
 (508)979-1488 www.newbedford-ma.gov

CITY OF NEW BEDFORD
 JONATHAN F. MITCHELL, MAYOR

CITY CLERK'S OFFICE
 NEW BEDFORD, MA
 2014 APR - 9 PM 3:30
 CITY CLERK

NOTICE OF DECISION

Case Number:	#4121			
Request Type:	Variance			
Address:	220-222 Shaw Street			
Zoning:	Residential C Zoned District			
Applicant:	Natalia F. Araujo "Trustee", Shaw Realty Trust			
Applicant Address:	123 Nye Lane Acushnet, MA 02743			
Application Submittal Date:	February 20 th , 2014			
Public Hearing Date:	March 27, 2014			
Decision Date:	March 27, 2014			
Assessor's Plot Number	Lot Numbers	Book Number	Page Number	Certificate Number
110	471	10383	176	.

Application: Variance under Chapter 9, Comprehensive Zoning Sections 2000 (Use and Dimension Regulations) 2300 (Accessory Buildings and Uses) 2310 (General) 2330 (Accessory Structures) 2333 (Height of Accessory Structures). 2700 (Dimensional Regulations) 2710 (General) 2720 (Table of Dimensional Requirements. See Appendix B Lot Coverage by Buildings (%). 2750 (Yards in Residence Districts) 2753 (Rear Yards) and 2755 (Side Yards) to allow the petitioner to erect a 1223 SF Two Story (one stall garage).

Action: DENIED, for the reasons set forth in the attached Decision with the Conditions as described in the attached Decision. (See Attachment)

A copy of this Decision was filed with the City Clerk of the City of New Bedford on April 8, 2014. Any person aggrieved by this decision has twenty (20) days to appeal the decision in accordance with the procedures set forth in Section 17 of Chapter 40A of the General Laws of Massachusetts.

April 10, 2014
 Date

Allen Decker
 Clerk, Zoning Board of Appeals

1.) APPLICATION SUMMARY

The petitioner proposes to erect a 1223 SF Two Story (one stall garage), which would require a Variance under Chapter 9, Comprehensive Zoning Sections 2000 (Use and Dimension Regulations) 2300 (Accessory Buildings and Uses) 2310 (General) 2330 (Accessory Structures) 2333 (Height of Accessory Structures). 2700 (Dimensional Regulations) 2710 (General) 2720 (Table of Dimensional Requirements. See Appendix B Lot Coverage by Buildings (%). 2750 (Yards in Residence Districts) 2753 (Rear Yards) and 2755 (Side Yards).

2.) MATERIALS REVIEWED BY THE BOARD

Plans Considered to be Part of the Application

- Site Plan titled “Variance Plan”, drawn by Thompson Farland Professional Engineers/Land Surveyors dated November 12, 2013
- A.2 Exterior Elevations Permit Set, drawn by South Coast Architecture, dated August 28, 2013
- A.3 1st & 2nd Floor Plans Permit Set, drawn by South Coast Architecture, dated August 28, 2013

Other Documents & Supporting Material

- Completed Petition for a Variance Form, Stamped Received by City Clerk dated February 20th, 2014.
- Letter to ZBA, from Commissioner of Buildings & Inspectional Service Danny D. Romanowicz, dated March 10, 2014
- Letter to ZBA, from City Planner Jill Maclean, dated March 27, 2014
- Letter to ZBA, from Councillor Ward Two, Steven Martins and Councillor at Large, Linda M. Morad, dated March 27, 2014
- Aerial view photo, submitted by the applicant at the hearing March 27, 2014

3.) DISCUSSION

Board Members I. Comerford, D.Gomes, A. Decker, J. Mathes were present on the evening of the public hearing.

City of New Bedford Staff Danny D. Romanowicz (Commissioner of Buildings & Inspectional Services), Attorney Blair Bailey, Jill Maclean (City Planner), Patrick Sullivan (Director of Planning, Housing, and Community Development), Jennifer Gonet (Assistant Project Manager) were present during proceedings for the subject case review.

Mr. Decker read and motioned to receive and place on file communications from Commissioner and Inspector of Buildings, Danny D. Romanowicz, dated March 10, 2014. Motion seconded by Mr. Gomes. With all in favor, the motion carried.

Mr. Decker motioned to have the appeal be received and placed on file. Motion seconded by Mr. Gomes. With all in favor, the motion carried.

Mr. Decker motioned to have the plan be received and placed on file. Motion seconded by Mr. Gomes. With all in favor, the motion carried.

Mr. Decker motioned that the owners of the lots as indicated are the ones deemed by the Board to be affected. Motion seconded by Mr. Gomes. With all in favor, the motion carried.

Mr. Decker motioned that the actions of the Clerk in giving notice of the hearing is hereby ratified. Motion seconded by Mr. Gomes. With all in favor, the motion carried.

Mr. Decker motioned that the Communication from the Office of City Planner dated March 27, 2014 be received and placed on file. Motion seconded by Mr. Gomes. With all in favor, the motion carried.

Chairman I. Comerford then declared the hearing open.

Representatives of the petitioner: Christian Farland (398 County Street, New Bedford, MA 02740) provided information about the plan and rationale for the requested variance. Mr. Farland submitted an aerial photo of the neighborhood block, which displayed similar garages existing within the neighborhood.

Mr. Decker made a motion to receive and place on file the aerial photo submitted by Mr. Farland. Motion seconded by Mr. Gomes. With all in favor, the motion carried.

Following Mr. Farland's testimony, Chairman Comerford invited to the podium anyone wishing to speak in favor of the application. A letter of support for the project addressed to the Zoning Board of Appeals, from Councillor Ward Two, Steven Martins and Councillor at Large, Linda M. Morad, dated March 27, 2014 was read aloud. Mr. Decker made a motion to receive and place on file the letter from Councillor Martins and Councillor Morad, dated March 27, 2014. Motion seconded by Mr. Gomes. With all in favor, the motion carried. No one in attendance spoke in support of the petition or wished to be recorded in favor of the petition.

Chairman Comerford then invited to the podium anyone wishing to speak in opposition of the petition. Paul S. Allan (213 Shaw Street, New Bedford, MA 02745), Connie Viera and Donald Viera (210 Shaw Street, New Bedford, MA 02745), Michael Correia (219 Shaw Street, New Bedford, MA 02745), James Wahno (207 Shaw Street, New Bedford, MA 02745), Teofilo Carvalho (215 Shaw Street, New Bedford, MA 02745), Arther R. Allain (213 Shaw Street, New Bedford, MA 02745). Mia Correia (219 Shaw Street, New Bedford, MA 02745), spoke in opposition to the petition. Those in opposition expressed concerns for

the necessity of the additional garage and storage space in addition to the existing multi-unit garage.

Following the statements in opposition, Chairman Comerford invited to the podium any comments in rebuttal. Amandio Araujo (123 Nyes Lane, Acushnet, MA 02743) and Mr. Farland spoke in rebuttal.

The Board members had questions for the applicant. The applicant answered the questions of the Board members.

Chairman Comerford then invited to the podium anyone in opposition of the petition wishing to speak in rebuttal. Connie Viera and Donald Viera, Michael Correia, Mia Correia spoke in rebuttal.

With no further stated questions or concerns, Chairman Comerford declared the hearing closed.

4.) FINDINGS

Criteria for Approval of Dimensional Variation(s) (Ch. 9, Sect. 2730)

The Board of Appeals may vary otherwise applicable dimensional requirements pertaining to frontage, lot area, building height and sidelines upon finding the following:

- a.) *That owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant;*

The Board found that denying the variance did not constitute a hardship for the applicant, but, rather granting the variance would be a hardship for abutters.

- b.) *That desirable relief may be granted without substantial detriment to the public good;*

The Board found that sufficient information and testimony had been given to determine that granting the requested relief would result in negative impacts to the public good.

- c.) *And, that desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.*

The Board found that the impact of the dimensional relief could be substantial, and would substantially derogate from the intent of the zoning ordinance.

7.) DECISION

Based on a review of the application documents, testimony given at the public hearing and the findings described above, the Zoning Board of Appeals hereby DENIES the requested Variances.

On a motion by A. Decker, seconded by D. Gomes, to grant the requested Variances, the vote failed 0-4 with no members voting in the affirmative, and members D. Gomes, A. Decker, I. Comerford, and J. Mathes voting in the negative,. (Tally 0-4)

Filed with the City Clerk on:

April 10, 2014
Date

Allen Decker

Allen Decker. Clerk of the Zoning Board of Appeals

220- 222 Shaw Street

Plot 110 Lot 471

Zoning Board of Appeals-Variance

Section 2000. Use and Dimensional Regulations

2300. Accessory Buildings and Uses

2310. General

2330. Accessory Structures

2333. Height of Accessory Structures. Proposed (26. 4 ¼ ft.) Allowed (18 ft.)

2700. **DIMENSIONAL REGULATIONS**

2710. **General**

2720. **Table of Dimensional Requirements.** See Appendix B.

Lot Coverage by Buildings (%). Maximum Allowed 30 %

Proposed/Provided 33 %

2750. Yards in Residence Districts.

2753. Rear Yards Required 4 feet. Provided 3.6 feet.

2755. Side Yards Required 12 feet. Provided 3 feet.

PB CASE 4121
ZBA HEARING 3/27/2014

ZONING BOARD OF APPEALS
May 28th, 2015
New Bedford Free Public (Main) Library
Public Meeting Room, 3rd Floor
613 Pleasant Street
6:00 P.M.
MARKED AGENDA

1.) MEETING CALLED TO ORDER

MEMBERS IN ATTENDANCE: I. Comerford, A. Decker, R. Schilling, J. Mathes, L. Schick

2.) APPROVAL OF MINUTES

- April 23rd, 2015 Meeting Minutes

APPROVED 5-0; MOTION BY A.DECKER, SECONDED BY J.MATHES

3.) SCHEDULED HEARINGS

#4182 Notice is given that a public hearing on the Petitions of: Natalia F. Araujo, Trustee of Shaw Realty Trust (123 Nye's Lane Acushnet, MA 02743) who has submitted a petition for a Variance under provisions of Chapter 9, Comprehensive Zoning relative to property located at 220-222 Shaw Street, Assessor's Map Plot 110 Lot 471 in a Residential-C Zoned District. The petitioner has constructed an addition to the existing garage with a building height of 19 feet 2 inches and the maximum allowed Building Height for an accessory structure in Residential-C District is 18 feet therefore this will require a Variance under Chapter 9, Comprehensive Zoning Sections 2330 (Accessory Structures) and 2333 (Height).

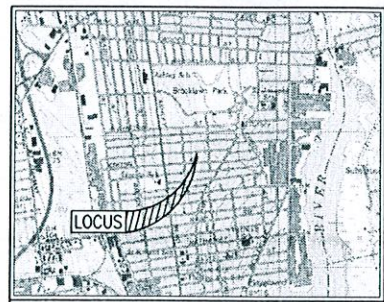
REPETITIVE PETITION - FINDING WAS MADE THAT IT IS A SIGNIFICANT CHANGE 5-0; MOTION BY A. DECKER, SECONDED BY J. MATHES. REFERRED TO PLANNING BOARD FOR A FINDING.

#4183 Notice is given that a public hearing on the Petitions of: David Amaral and Lisa Amaral (652 W Rodney French Blvd New Bedford, MA 02740) who have submitted a petition for a Variance under provisions of Chapter 9, Comprehensive Zoning relative to property located at 652 West Rodney French Boulevard, Assessor's Map Plot 5 Lot 96 in a Residential-A Zoned District. The petitioner is proposing to make alterations to the front porch on the first and second floors as plans filed, which will require a Variance under Chapter 9, Comprehensive Zoning Sections 2700 (Dimensional Regulations), 2710 (General), 2720 (Table of Dimensional Requirements Appendix-B- (Front Yard), 2750 (Yards in Residence Districts), and 2751 (Front Yard). VARIANCE GRANTED WITH CONDITIONS 5-0; MOTION BY A.DECKER, SECONDED BY J.MATHES.

4.) OLD AND NEW BUSINESS

#4179 Notice is given of a continuance of the public hearing on the Petition of: The Tacoma Street Realty Trust c/o David Pina Fernandes (47 Medeiros Lane Dartmouth, MA) who have submitted a petition for a Variance under provisions of Chapter 9 Comprehensive Zoning relative to property located at North Side Tacoma Street, Assessor's Map Plot 130C, Lot 259-260 in a Mixed Use Business District. The petitioner is proposing to build a 44'x45' two family dwelling as plans filed, which will require a Variance under Chapter 9, Comprehensive Zoning Sections 2700 (Dimensional Regulations), 2710 (General), 2720 (Table of Dimensional Requirements, Appendix-B-Minimum Lot Size, Lot Frontage, Rear Yard), and 2753 (Rear Yards). CASE CONTINUED TO THE JUNE 25th, 2015 MEETING.

6.) ADJOURNMENT



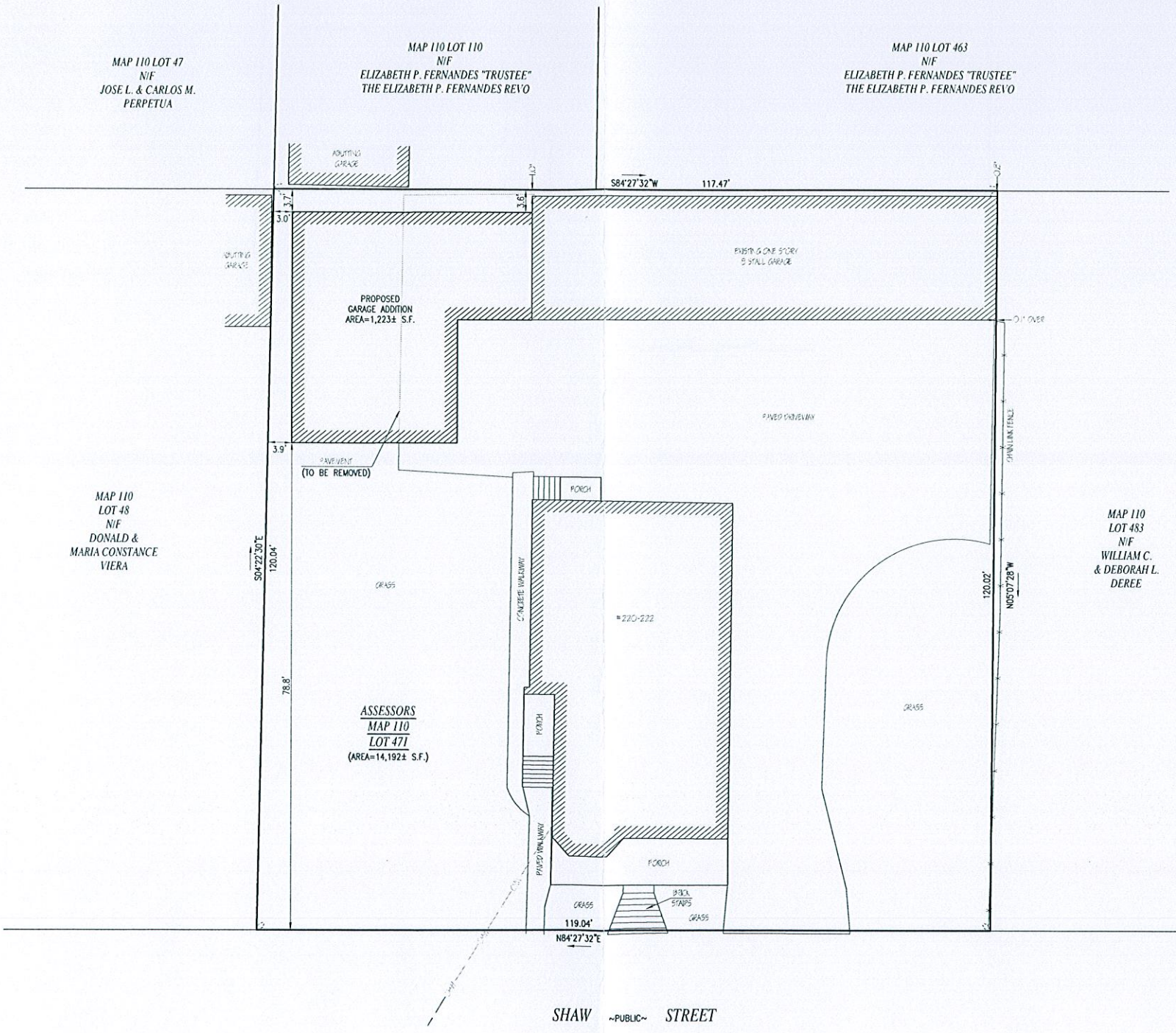
LOCUS MAP SCALE: 1"=2,000'±



CITY CLERKS OFFICE
NEW BEDFORD, MA
2015 JUN 12 A 10:34
CITY CLERK

— ZONING DATA —
DISTRICT: RESIDENTIAL C (RC)

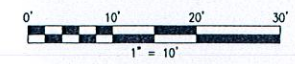
DESCRIPTION	REQUIRED	EXISTING	PROVIDED
LOT AREA	15,000 S.F.	14,192 S.F.	14,192 S.F.
LOT FRONTAGE	150 FT	119.04 FT	119.04 FT
FRONT SETBACK	20 FT	98.8 FT	78.8 FT
SIDE SETBACK	8/12 FT	0 FT	0 FT
REAR SETBACK	4 FT	0.8 FT	0.8 FT
BUILDING COVERAGE (MAXIMUM)	30 %	29.3 %	33.9 %
LOT COVERAGE (MAXIMUM)	65 %	56.9 %	63.1 %



Previously Denied Plan

NOTES:
1. PROPERTY LINE SURVEY PERFORMED BY THOMPSON FARLAND, INC. IN MARCH OF 2013.

FLOOD NOTE:
BY GRAPHIC PLOTTING ONLY, THE PROPERTY DEPICTED ON THIS PLAN FALLS IN ZONE "X", AS SHOWN ON THE FLOOD INSURANCE RATE MAP 25005C0391F, EFFECTIVE DATE: JULY 7, 2009.



RECORD OWNER:
ASSESSORS MAP 110 LOT 471
NATALIA F. ARAUJO "TRUSTEE"
SHAW REALTY TRUST
123 NYES LANE
ACUSHNET, MA 02743
DEED BOOK 10383 PAGE 176

REVISIONS

THOMPSON FARLAND
PROFESSIONAL ENGINEERS // LAND SURVEYORS
www.ThompsonFarland.com
(MAIN OFFICE) 398 COUNTY STREET, NEW BEDFORD, MA 02740 P.508.717.3479
NEW BEDFORD | TAUNTON | CAMBRIDGE | MARLBOROUGH

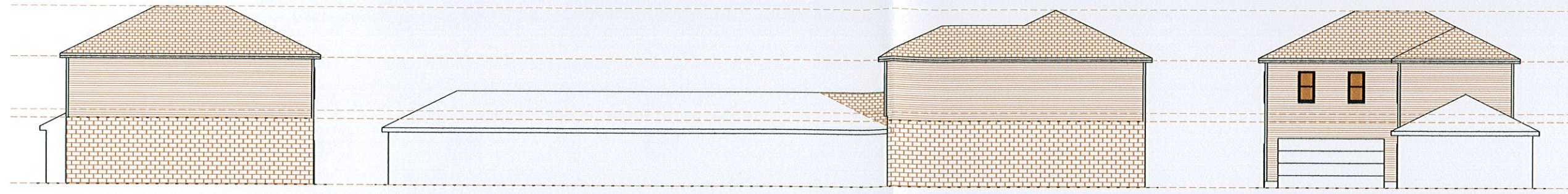
DRAWN BY: CKG
DESIGNED BY: CKG
CHECKED BY: CAF

VARIANCE PLAN
220-222 SHAW STREET
ASSESSORS MAP 110 LOT 471
NEW BEDFORD, MASSACHUSETTS

PREPARED AMANDIO ARAUJO
FOR: 220 SHAW STREET
NEW BEDFORD, MA 02745

NOVEMBER 12, 2013
SCALE: 1"=10'
JOB NO. 13-246
LATEST REVISION:

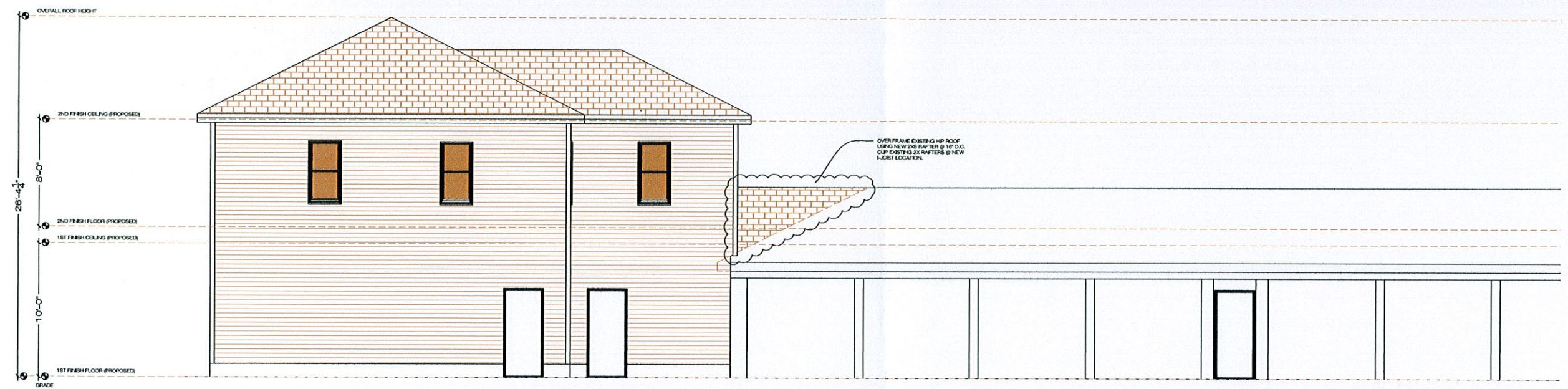
SHEET 1 OF 1



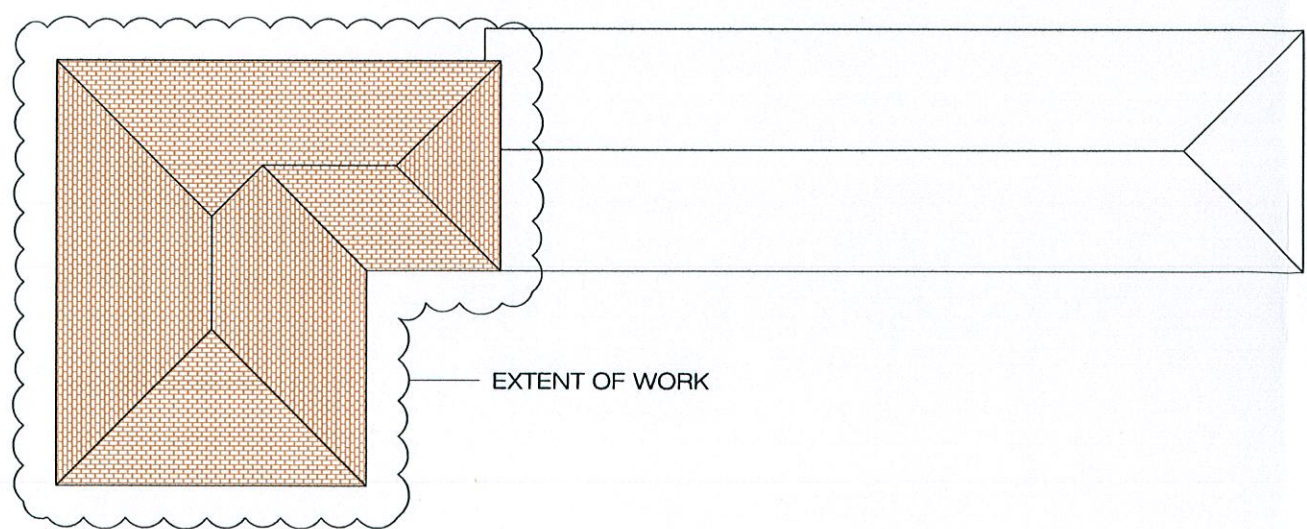
LEFT SIDE ELEVATION
 SCALE: 1/8"=1'-0"

REAR ELEVATION
 SCALE: 1/8"=1'-0"

RIGHT SIDE ELEVATION
 SCALE: 1/8"=1'-0"



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



ROOF PLAN
 SCALE: 1/8"=1'-0"

- ELEVATION NOTES:**
- WINDOWS**
- ALL WINDOWS SHALL BE ANDERSEN 400 SERIES OR EQUAL SEE NOTES BELOW FOR ADDITIONAL INFORMATION
 SERIES : 400 SERIES
 EXTERIOR: WHITE (VERIFY WITH OWNER)
 INTERIOR: PREFINISHED WHITE
 SCREEN: FULL SCREEN ON ALL OPERABLE UNITS
 HARDWARE: WHITE (CLASSIC) (VERIFY WITH OWNER)
 - ALL WINDOW SIZES TO BE VERIFIED BY G.C. PRIOR TO ORDERING.
 - G.C. SHALL FORWARD WINDOW SHOP DRAWINGS TO OWNER PRIOR TO ORDERING. OWNER APPROVAL OF SHOP DRAWINGS IS FOR DESIGN INTENT ONLY. G.C. RESPONSIBLE FOR FIELD COORDINATION.
 - SEE EXTERIOR ELEVATIONS TO VERIFY LITE PATTERNS AND HINGE SIDE FOR CASEMENTS AND DOORS.
 - ALL WINDOWS AND PATIO DOORS SHALL HAVE (GBG).
 - INSTALL WINDOWS WITH SHIMS, NAILING FLANGE, & STRAPS PER MANUFACTURERS RECOMMENDATIONS. INSTALL 6" STRIP ADHESIVE ICE & WATERSHIELD OVER 4 SIDES OF NAILING FLANGE. INSTALL EXPANDABLE FOAM AIRSEAL AT 4 SIDES OF ALL WINDOWS.
 - WINDOWS W/ EXPOSURE TO OCEAN AIR SHALL HAVE CORROSION RESISTANT COMPONENTS.
 - WINDOWS IN BUILDINGS LOCATED IN WIND-BORNE DEBRIS REGIONS SHALL HAVE GLAZED OPENINGS PROTECTED FROM WIND-BORNE DEBRIS.

PROJECT NAME: **ARAUJO**
 PROJECT #: **251311**

OWNER:
AMANDIO ARAUJO

LOCATION:
**220 SHAW ST.
 NEW BEDFORD, MA 02745**

DATE:
8.28.13

DRAWING INDEX:
 COVER
 A.1...STANDARD DETAILS
 A.2...EXTERIOR ELEVATIONS
 A.3...1ST & 2ND FLOOR PLANS
 A.4...FOUNDATION/FLOOR FRAMING
 A.5...ROOF FRAMING/BUILDING SECTI

PERMIT SET