



Zoning Board of Appeals  
Regular  
Tuesday, June 23, 2026  
7:00 PM  
Town Hall Council Chambers

Contact: Benjamin McDougal  
Email: Benjamin.mcdougal@capeelizabeth.gov  
Phone: 207-799-1619

#### **Call to Order**

#### **Review of Draft Minutes**

1. **ZBA Draft Minutes May 26, 2026 -**

#### **New Business:**

1. **To hear the request of Kimberly Newcomber, representing Joe Eiduson, owner of the property at 18 Charles Road, Map U01 Lot 52, to expand the house by adding a second story and rear addition based on Section 19-4-3.B.4 of the Zoning Ordinance. -**

#### **Old Business:**

#### **Communications:**

#### **Adjournment**

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# TOWN OF CAPE ELIZABETH

**DRAFT** MINUTES OF THE MAY 26, 2026  
ZONING BOARD OF APPEALS MEETING  
Town Hall & Hybrid

Present:

Adam Foster-Webster Joseph Barbieri Gretchen Noonan  
Colin Powers Chris Gorski Kevin Justh

Absent

Michael Brangwynne

Staff: The Code Enforcement Officer (CEO), Ben McDougal, and Recording Secretary, Sullivan McCarthy, were present.

## A. Call to Order

Adam Foster-Webster called the hybrid meeting to order at 7:00 p.m. The Chair reviewed the procedures for participating remotely and the protocols based on the Maine Municipal Association Board of Appeals Manual. The Chair called the roll of members. A quorum was declared with 6 members present.

Chris Gorski Motioned to approve the minutes of March 24, 2026 with clerical edits, seconded by Chris Gorski. The motion carried with a vote of 6 to 0.

## B. New Business:

1. To hear the request of Jennifer Healy & John DiPalazzo, owners of the property at 79 Oakhurst Road, Map U04 Lot 125, to construct a 1 story addition based on section 19-4-3.B.4 of the Zoning Ordinance.

CEO Ben McDougal gave an overview of the application. The applicants came to him to create an addition that is not more non-conforming, but does not meet the requirements of a **ten foot setback** in the RC zone. McDougal advised that going to the Zoning Board was the correct path towards approval.

John DiPalazzo presented application. Applicants expressed that they would like to do a one floor one room addition with a full bathroom and laundry room on the first floor to allow for further aging in place. Addition would be off the back of the garage.

Gorski asked the applicants for further information regarding the conclusions they came to as to why it is the only practical spot. DiPalazzo responded that the elevation, grade, setbacks, the clearest connection to the existing structure, lead to the presented location. Applicant continued; a different location could require a demolition of a deck. Applicant stated they could not expand upward, as the desire was to place essential living activities to the first floor.

McDougal confirmed proposed addition is four feet from the side property line. The addition would be tapering away from the setback and would be becoming more conforming; going from 4.2 feet from side to 4.4 feet. He added that the only way it would more nonconforming is if they got closer than 4 feet to property line

Powers confirmed it will be a poured foundation.

Joseph Barbieri confirmed that demoing the deck and the slope of the land would be the primary reasons as to why applicants could not build in a conforming part of the lot. To do so would require more excavation for the footings and more cost. McDougal confirmed that the land is 2 or 3 feet lower on the section of the lot; and would require 6 ft of exposed foundation, backfill, and a retaining wall. Justh added that from the plans, it could actually require 7 to 8 feet of exposed foundation.

McDougal confirmed rear setback goes from 20 feet to 15 feet. The front remains at 30 feet.

Foster-Webster confirmed that the proposed structure does not impact a view corridor. Applicant stated they confirmed with neighbors that there was not conflict with the project. DiPalazzo added, the neighbor's house sits higher.

Gorski asked if it would cause any issues with the sewer. McDougal confirmed it is public sewer and would not be a problem.

Noonan stated for the record that they reside on the same street as the applicant. Noonan stated they also were coworkers. Applicant asked Noonan for information a year ago about the project and they directed the applicant to CEO McDougal. The board did not find a conflict of interest.

Foster-Webster asked if the board had any more questions. The board did not have any further questions. Chair opened comments to the public.

McDougal confirmed there was public communication. McDougal stated that they had email communication from abutting neighbor that expressed support.

Board asked if there was anyone present who wanted to comment; no one in attendance commented.

Board entered deliberation. They determined it was not practical to expand upwards.

1. Colin Powers made the motion to approve the request of Jennifer Healy & John DiPalazzo, owners of the property at 79 Oakhurst Road, Map U04 Lot 125, to construct a 1 story addition based on section 19-4-3.B.4 of the Zoning Ordinance. Gretchen Noonan seconded motion. Motion carried by roll call vote of 6-0.

### **Findings of Fact:**

1. The property is a nonconforming lot in the RC zone. The property contains a single family dwelling with an attached garage. The existing garage is 4 feet from the side property line and the required setback is 10 feet.
2. The owner would like to add a 1 story addition on the rear of the garage based on section 19-4-3.B.4 of the Zoning Ordinance.

### **Additional Findings of Fact:**

1. The Zoning Board of Appeals has considered the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, and the impact on views.
2. The proposed structure will not increase the nonconformity of the existing structure.
3. The proposed structure is in compliance with the setback requirement to the greatest practical extent.
4. The building reconstruction meets the setback to the greatest practical extent based on the criteria in Section 19-4-3.B.2 & B.4 of the Zoning Ordinance

**Decision:** Gretchen Noonan moved to approve the Findings of Fact and Additional Findings of Fact. Chris Gorski seconded. The motion to approve with amendments was carried by a roll call vote of 6-0.

2. To hear the request of Knickerbocker Group, representing James & Christine Newton, owners of the property at 1 Summit Road, Map U03 Lot 47, to construct a 1.5 story addition based on section 19-4-3.B.4 of the Zoning Ordinance.

CEO Ben McDougal gave an overview of the application. Applicant came to the office to discuss the addition with the goal of aging in place. They do not meet the setbacks in the RC zone and would like to hold the existing setback and expand.

Claire Thibeault, who represented the applicant, presented the project. Applicants wanted build a primary bedroom on the first floor, as there is not one currently. Thibeault showed a site plan that depicts the current 3 foot setback. The proposal would not be further non-conforming. The addition could not be placed somewhere else, as it is a corner lot with three front setbacks. Placing it within the setbacks would require the addition to be 8-10ft above grade and block access to the daylight full windows of the basement. The proposed site would be more compatible with the floor plan and grade.

Kevin Justh asked how the lot coverage was calculated and if it could be presented in a percentage. McDougal confirmed that the current lot coverage is 14.1% and 16.6% proposed.

Barberili asked if aging in place was a policy with the town. The board discussed that it was a priority from a housing diversity survey but does not impact the zoning ordinance. McDougal confirmed that the comprehensive plan also sites aging in place as a concern for the community.

Thibeault confirmed that building in the middle of the lot would block sunlight to current structure, would be more expensive, prevent potential septic site, and would appear as a three story structure. Increasing the height of the structure would impact the view corridor of their neighbors. The increased cost would also prevent the applicant from being able to move forward.

Foster-Webster asked about the current vegetation. Thibeault stated applicants plan to have more vegetation as a buffer. The grade of the proposed structure is flat and erosion is not a concern; gutters would be able to direct water flow.

Powers asked about the condition of the current foundation. Applicants would add to slab with frost walls.

Foster-Webster asked if the board had any more questions. The board did not have any further questions. The chair opened comments to the public.

McDougal confirmed there was not any public communication.

Foster-Webster asked if there was anyone present who wanted to comment; there was not public comment from anyone present.

The board entered deliberation. Justh expressed that it is a low setback and acknowledged the setback is near a road, not another lot. Powers stated he is struggling to approve the structure, as it is impacting multiple setbacks and believes the middle of the lot could provide a solution. Thibeault clarified that they are only expanding against one setback.

Gorski asked Thibeault to return to answer more questions regarding the position of the proposed structure. Thibeault stated that moving the addition to connect to the dining room would impact the floorplan. It would be an additional cost that would prohibit the project from moving forward. Additionally, moving the structure would prevent entrance from an accessible location from the street. Barberili confirmed there is not a realistic concern to build a potential septic. Foster-Webster asked for the condition of the subsoil. Thibeault confirmed that close to the house is ledge. Thibeault confirmed building within the setback would impact the view corridor. Barberli stated concerns about the setbacks. Justh added that moving the structure towards the center would require an additional story and would be impractical. Noonan stated support, added they have demonstrated the location of the proposed structure meets the greatest possible extent. Powers disagreed and believed there was another option. Foster-Webster believed the application was thorough and addressed the questions.

2. Kevin Justh made the motion to approve the request of Knickerbocker Group, representing James & Christine Newton, owners of the property at 1 Summit Road, Map U03 Lot 47, to construct a 1.5 story addition based on section 19-4-3.B.4 of the Zoning Ordinance. Chris Gorski seconded motion. Motion carried by roll call vote of 6-1. Colin Powers dissented.

#### **Findings of Fact:**

1. The property is a nonconforming lot in the RC zone. The property contains a single family dwelling. The existing house is close to the front property line.
2. The owner would like to add a 1.5 story addition on the south side of the house based on section 19-4-3.B.4 of the Zoning Ordinance.

#### **Additional Findings of Fact:**

1. The Zoning Board of Appeals has considered the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, and the impact on views.

2. The proposed structure will not increase the nonconformity of the existing structure.
3. The proposed structure is in compliance with the setback requirement to the greatest practical extent.
4. The building reconstruction meets the setback to the greatest practical extent based on the criteria in Section 19-4-3.B.2 & B.4 of the Zoning Ordinance.

**Decision:** Kevin Justh moved to approve the Findings of Fact and Additional Findings of Fact. Gretchen Noonan seconded. The motion to approve with amendments was carried by a roll call vote of 6-0.

**C. Old Business:** None

**D. Communications:** None

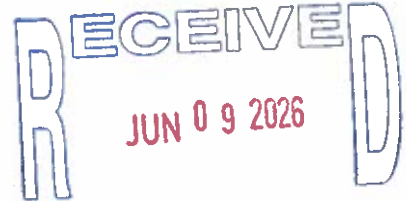
**E. Adjournment:** Meeting adjourned 8:06 P.M.

# ZBA APPLICATION B

TOWN OF CAPE ELIZABETH, MAINE  
APPLICATION FOR ENLARGEMENT, RELOCATION,  
RECONSTRUCTION, OR REPLACEMENT OF AN  
EXISTING NONCONFORMING STRUCTURE

TYPE OF APPROVAL SOUGHT:

- ENLARGEMENT
- RELOCATION
- RECONSTRUCTION
- REPLACEMENT



LOCATION 18 CHARLES ROAD MAP U01 LOT 52

DISTRICT RC OVERLAY DISTRICT \_\_\_\_\_ SIZE OF LOT 0.08 AC.

APPLICANT(S) NAME KIMBERLY NEWCOMER TEL. # 240.676.1681

ADDRESS 19 OLD HOLLIS ROAD BIDDEFORD ME 04005

INTEREST IN PROPERTY OWNER'S REPRESENTATIVE / CONTRACTOR

OWNER(S) NAME JOE EIDUSON TEL. # 617.416.5005

ADDRESS 18 CHARLES ROAD, CAPE ELIZABETH, ME 04107

PROJECT DESCRIPTION REMOVE EXISTING DECK, CONSTRUCT LIVING ROOM ON FIRST FLOOR AND NEW DECK OFF BACK, ADD NEW BEDROOM TO SECOND FLOOR OVER EXISTING KITCHEN.

TYPE OF SEWERAGE DISPOSAL EXISTING

PUBLIC  PRIVATE \_\_\_\_\_

IF PRIVATE, DESIGN FLOW \_\_\_\_\_ GPD YEAR INSTALLED \_\_\_\_\_

NUMBER OF CURRENT BEDROOMS 2

NUMBER OF PROPOSED BEDROOMS 2

IF CORNER LOT, NAME OF INTERSECTING STREETS N/A

SETBACKS FROM PROPERTY LINES:

CURRENT: FRONT 11.1' / SIDES 8.6' / 9.3' REAR 30.2'

PROPOSED: FRONT 11.1' / SIDES 10' / 9.3' REAR 19'

(IF REPLACEMENT) TYPE OF FOUNDATION PRESENT N/A

PHYSICAL CONDITION EXCELLENT

PERCENT OF LOT COVERED BY BUILDINGS

CURRENT 25.5 %

PROPOSED 32.8 %

PLEASE JUSTIFY WHY THE RELOCATION, RECONSTRUCTION, AND/OR REPLACEMENT SHOULD BE GRANTED BASED ON THE FOLLOWING

THE SIZE OF THE LOT

THE LOT IS QUITE SMALL. THE PROPOSED ADDITION USES THE CURRENT EDGE OF EXISTING DECK & STAIRS AS THE EDGE BOUNDARY TO RESPECT THE CURRENT SETBACK AND EXPANDS UPWARD USING EXISTING FOOTPRINT & ROOFLINE. EXPANSION ON SMALL NARROW LOTS IS DIFFICULT.

THE SLOPE OF THE LAND

THE LAND SLOPE IS NOT AN ISSUE HERE, BUT THE FLAT YARD ALLOWS FOR A SIMPLE EXPANSION GIVEN THE OTHER LOT CONSTRAINTS.

THE POTENTIAL FOR SOIL EROSION

THE LOT IS SURROUNDED ON ALL SIDES BY OTHER BUILT LOTS AND CARE WILL BE TAKEN TO PREVENT EROSION USING STANDARD BEST PRACTICES FOR EXCAVATION & CONSTRUCTION.

THE LOCATION OF OTHER STRUCTURES ON THE PROPERTY AND ADJACENT PROPERTIES

ADJACENT PROPERTIES ARE CLOSE, ALL SHARING SIMILAR LOT SIZES & SET BACKS. THE ADDITION ATTEMPTS TO MAINTAIN ARCHITECTURAL CONFORMITY WITH THE NEIGHBORHOOD TO NOT OVERPOWER THIS LOT OR DRAW ATTENTION FROM NEIGHBORING PROPERTIES.

THE LOCATION OF THE SEPTIC SYSTEM AND OTHER ON-SITE SOILS SUITABLE FOR SEPTIC SYSTEMS

SITE IS SERVED BY PUBLIC SYSTEMS AND SEPTIC IS NOT A CONCERN FOR THIS PROJECT.

THE IMPACT ON VIEWS

SIMILAR TO ADJACENT PROPERTIES, THE PROJECT ATTEMPTS TO HAVE MINIMAL IMPACT ON VIEWS FROM NEIGHBORING HOMES. THERE ARE NO OCEAN OR VEGETATIVE VIEWS FROM THIS NEIGHBORHOOD, THE ONLY VIEWS IN QUESTION ARE TO NEIGHBORING PROPERTIES.

THE TYPE AND AMOUNT OF VEGETATION TO BE REMOVED

SOME OF THE LAWN IN THE BACK YARD WILL BE REMOVED. DISTURBED AREAS WILL BE RE-SEEDED.



SIGNATURE OF APPLICANT

06/03/2026

DATE

KIMBERLY NEWCOMER

PRINTED NAME OF APPLICANT

06/03/2026

DATE

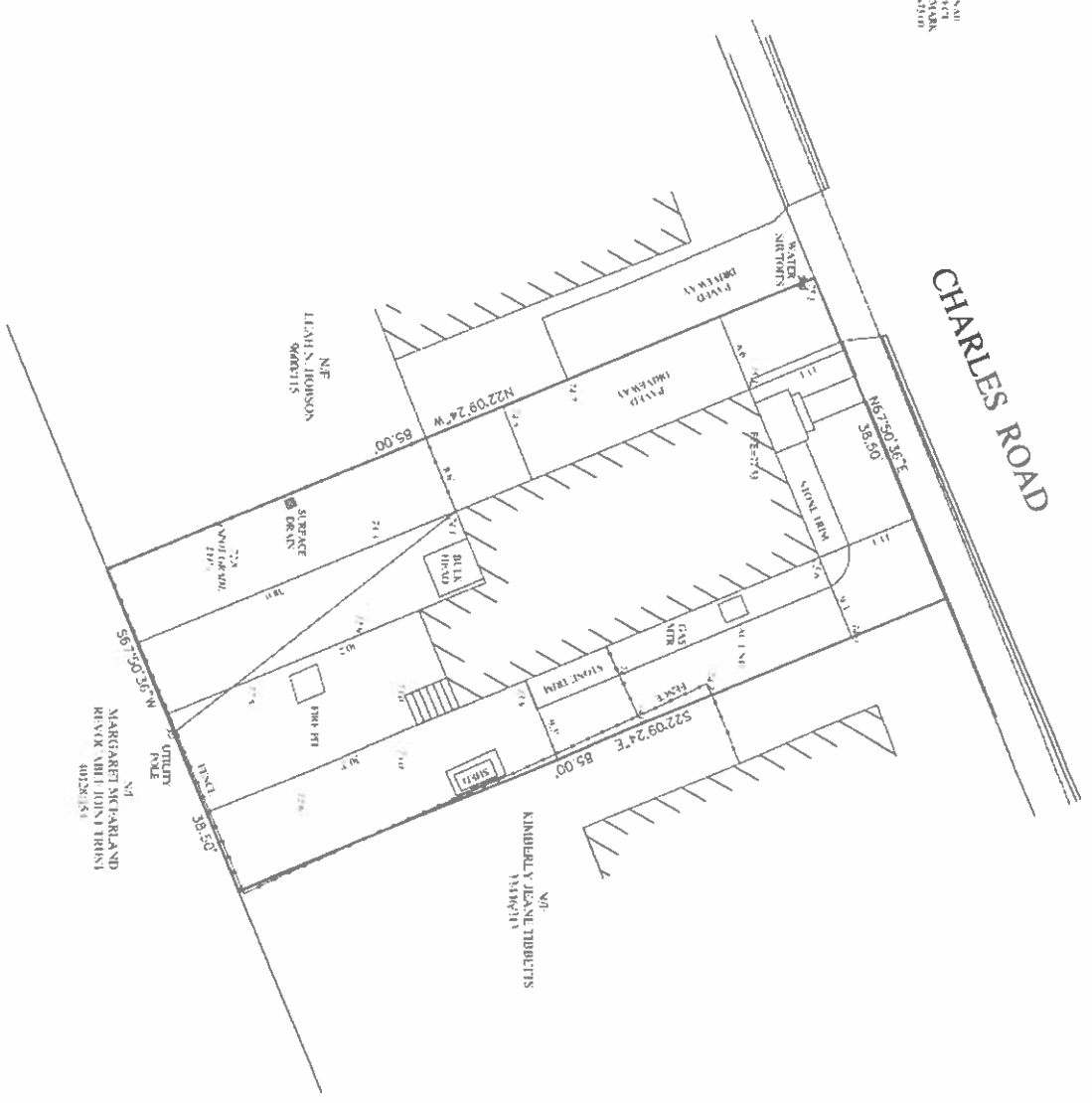
RECEIVED  
JUN 09 2026

# 18 Charles Road, Cape Elizabeth, ME

Zoning Review Documents

A  
 MAIN  
 PRODUCT  
 BENTONITE  
 ETC.

CHARLES ROAD



**SURVEY NOTES**

(1) THE OWNERS OF RECORD ARE RUTHIE LERSON AND LISA S. LERSON AS SHOWN IN A DEED RECORDED FROM PARAGRAPH 301 IN THE CLERK RECORD OF THE TOWN OF CAPE ELIZABETH.

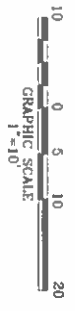
(2) THE PARCEL IS DEPICTED AS LOT 52 ON THE TOWN OF CAPE ELIZABETH ASSESSORS MAP.

(3) BEARINGS ARE GRID NORTH MAIN STATE PLANE 1907 WEST ZONE.

(4) VERTICAL DATUM NAVD83.

**PLAN REFERENCE**

PLAN OF AN EASEMENT FOR JOHN D. BURGESS IN CAPE ELIZABETH, MAINE DATED 12-10-1986 BY JOHN COOPER IS RECORDED IN PLAN BOOK 184 PAGE 11 IN THE CLERK RECORD OF DEEDS.



**CERTIFICATION:**

I CERTIFY THAT THIS SURVEY CONFORMS TO THE STANDARDS OF THE MAINE BOARD OF LICENSED PROFESSIONAL LAND SURVEYORS AND IS CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

WILLIAM C. SHIPPEN  
 P.L.S. 2118



**BOUNDARY SURVEY**  
 18 CHARLES ROAD  
 CAPE ELIZABETH, MAINE

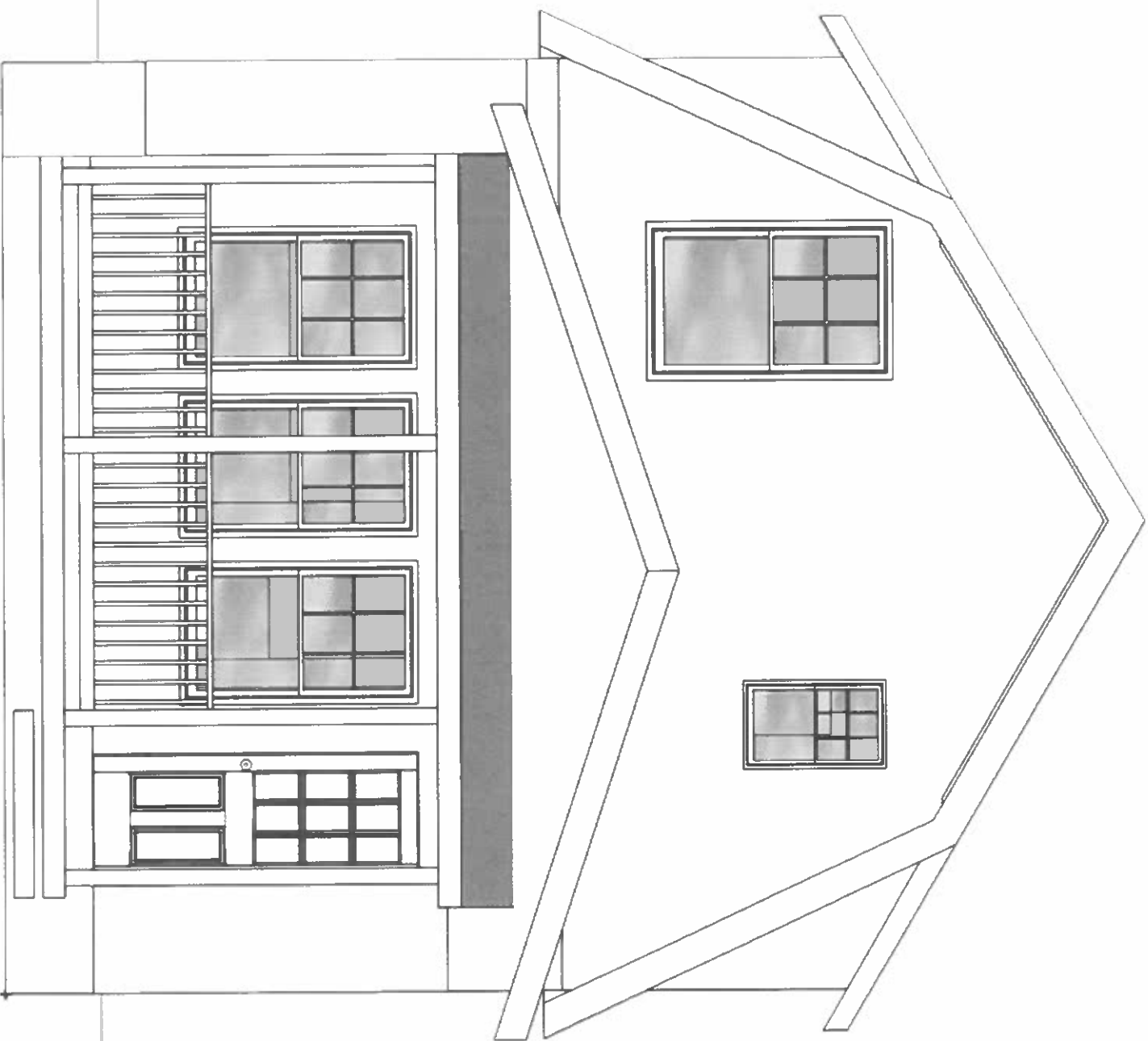
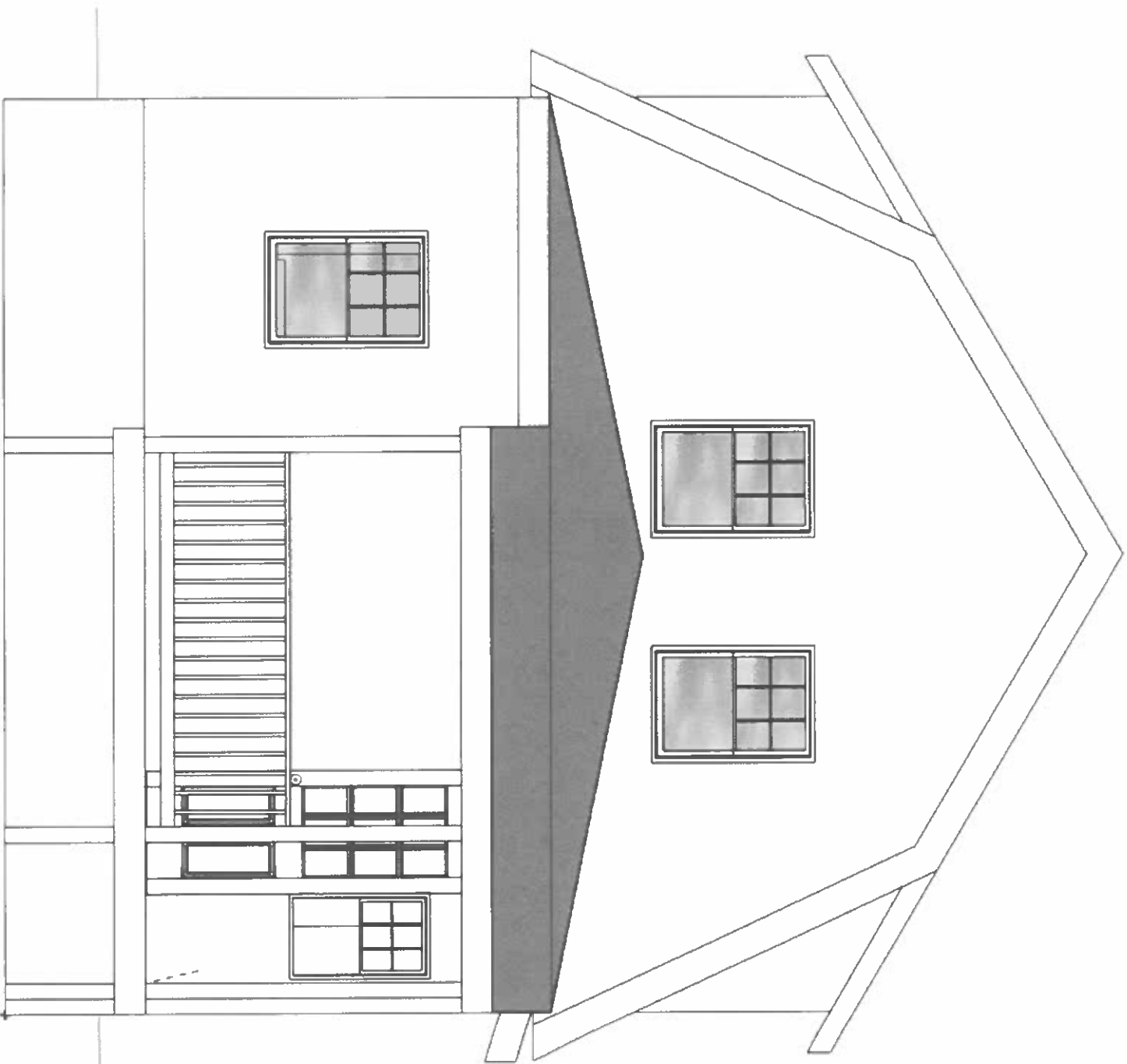
FOR: **H+H HOME IMPROVEMENTS**  
 18 OLD HOLLIS ROAD  
 BIDDEFORD, MAINE 04115

SURVEY BY: **SURVEY, INC.**  
 P.O. BOX 210  
 WINDHAM, ME 04092  
 (207) 895-2556  
 INFO@SURVEYINCORPORATED.COM

DWL:WCS  
 DATE: MAY 2016  
 CHK: DBR  
 JOB NO: 26-100







Rear Elevation – Existing / Proposed

Side Elevations – Existing / Proposed

