

# TOWN OF MILFORD

## Office of Community Development

Planning • Zoning • Building Safety • Code Enforcement • Health  
Economic Development • Active Projects



### Administrative Review

**Date:** January 29, 2022

**To:** Jason Plourde, Chair, Zoning Board of Adjustment

**From:** Lincoln Daley, Community Development Director

**Subject: Case #2022-001:** Chris Moore, 10 Oakwood Circle, Milford Tax Map 26, Lot 29  
Variance Application – Attached Accessory Dwelling Unit Common Interior Access

The applicant is before the Board of Adjustment seeking a Variance from the Milford Zoning Ordinance, Article X, Section 10.02.6.A.1.f to construct an attached accessory dwelling unit without a common interior access between the principal dwelling unit and the ADU consisting of a connector that is a minimum of 36” in width or a doorway a minimum of 32” in width. The property falls within the Residential ‘A’ Zoning District. In reviewing the files for this property, I offer the following comments:

1. Existing Conditions:
  - a. The subject property is approximately .34 acres in area (14,810.4 sf) with approximately 148 linear feet of frontage on Oakwood Circle.
  - b. The property consists of a 1-story, 3 bedroom, single-family residence and is serviced by municipal water and sewer.
  - c. The subject property is situated in an established single-family residential area and directly abuts residential uses to the north, south, and east.
2. The proposal calls for construction of a new two story, attached addition to the existing ranch style residence consisting of a 2 car garage on lower level and a 744 square space above the garage on second floor. Access to the ADU will through an internal, dedicated stairwell from the front of the addition facing Oakwood Drive. The proposed stairwell and dedicated access will only serve the second story ADU and not be accessed by/from the primary residence. No internal common interior access/egress is being provided between the existing residence and the ADU.
3. An ADU is a permitted use in the Residential ‘A’ zoning district through the issuance of a Special Exception pursuant to Zoning Ordinance, Article 5.02.2.A.13 and Article X, Section 10.2.6. The Applicant has filed a concurrent application seeking a Special Exception for the attached ADU.
4. With the exception of the common interior access between principal dwelling and the ADU, the submittal generally meets the minimum requirements of the Zoning Ordinance. However, pursuant to Section 10.02.6.A.1.f a common interior access is required between the principal dwelling unit and the attached ADU consisting of a connector that is a minimum of 36” in width or a doorway a minimum of 32” in width. As such, a Variance application is require for relief from this ADU criteria.

The purpose and intent of this requirement is to provide an occupant within an attached ADU an alternate means of escape during an emergency situation that may block the primary means of escape from the dwelling unit. To comply with this requirement, the applicant is proposing to install two egress windows (sized to codes specifications) located on the front side of the ADU facing Oak Wood Drive. This requirement for a second means of egress is specified in the applicable building and safety codes NFPA 101 Life Safety Code (2015 Edition) Chapter 24.2.2.3, IRC R310, and IBC 1029. An egress window is required when the building lacks (in this case an ADU) an automatic sprinkler system or a door remote from the primary means of escape. A building permit for the addition (does not include the ADU) has been submitted and reviewed

by the Building Inspector. The Building Inspector has determined the addition meets the cited building and life safety codes .

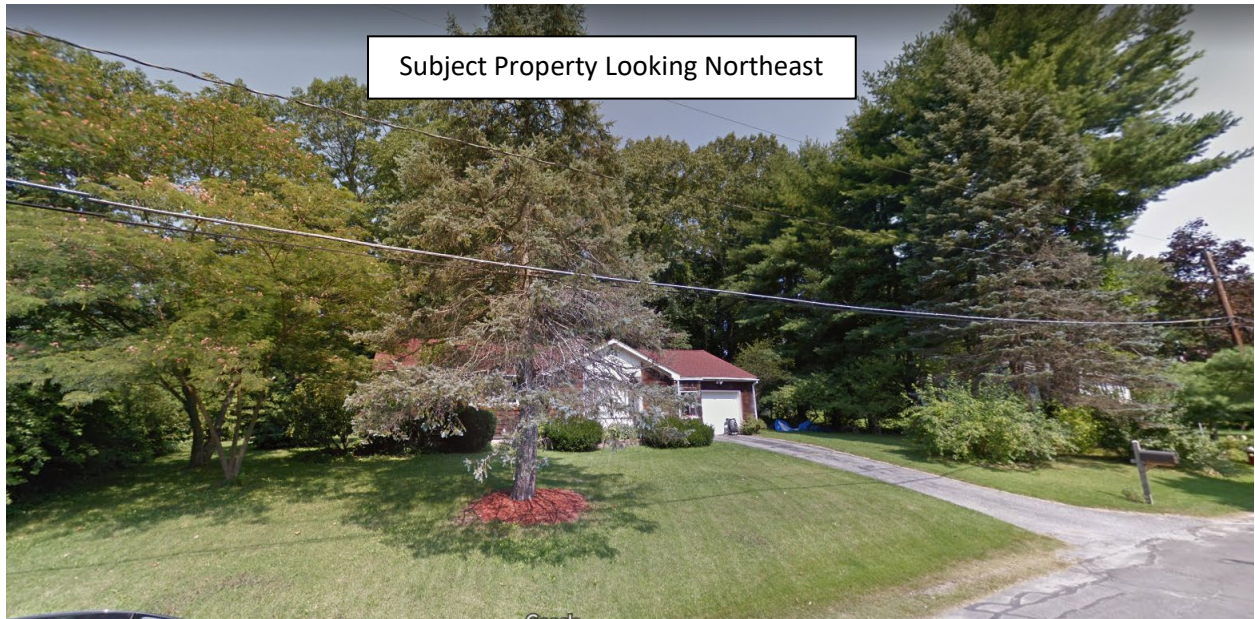
**Aerial Photos of Subject Property:**



**Street Photos of Subject Property:**



Subject Property Looking North



Subject Property Looking Northeast

Oakwood Circle Looking East



Oakwood Circle Looking West





# ZBA Application

## MILFORD ZONING BOARD OF ADJUSTMENT

### GENERAL PROPERTY INFORMATION FOR ALL APPLICATIONS

#### PROPERTY INFORMATION

Street Address: 10 Oakwood Circle

Tax Map / Parcel #: 26-29 Lot Size:

#### PROPERTY CURRENTLY USED AS

House lot

If the application involves multiple lots with different owners, attach additional copies of this page.

#### PROPERTY OWNER

Name: Chris Moore

Address: 10 Oakwood Circle

City/State/Zip: Milford, NH 03055

Phone: ( )

Email:

The applicant is the person who is making this proposal on behalf of themselves, the owner or a third party. This is usually the same as the property owner, but might be a tenant, someone who plans to purchase the property, an engineer or lawyer, etc. If the applicant is the same as the owner, just check "Same as owner" and leave the rest of this section blank.

#### APPLICANT/REPRESENTATIVE

SAME AS OWNER

Name: Stephen J Gaspar

Address: 123 Ridgefield Dr.

City/State/Zip: Milford, NH 03055

Email: SJGasparCarpentry@yahoo.com

Phone: ( ) Cell: (603) 801-7191

The undersigned property owner(s) hereby authorize(s) the filing of this application and agree to comply with all code requirements applicable to this application.

Property Owner's signature

12-21-21

Date:

Case #2022-01

Date Completed: DE

Hearing Date:

Decision Date: ZBA Office

Decision:

2021 1732

#### Zoning District (check one):

- Residence A
- Residence B     Residence R
- Commercial
- Limited Commercial
- Industrial
- Integrated Commercial-Industrial
- Integrated Commercial-Industrial-2

#### Overlay District (check any that apply):

- West Elm Street Overlay
- Nashua/Elm Street Overlay
- Commerce & Community Overlay
- Open Space & Conservation
- Wetlands Conservation
- Groundwater Protection
- Floodplain Management

#### APPLICATION FEES

Application Fee:	\$75.00
Abutters Fee: \$4 x 11	47.08
Amount received:	
Date Received:	12-22-08

Check  Cash  CK# 2203

@ 4.28/ea

THE FEES ASSOCIATED WITH THIS APPLICATION DO NOT APPLY TO ANY OTHER FEES REQUIRED FOR APPROVAL OF THIS PROJECT. PLANNING, IMPACT, BUILDING AND OTHER FEES MAY APPLY.



# ZBA Application - Variance

## MILFORD ZONING BOARD OF ADJUSTMENT

Date Received: \_\_\_\_\_

Case Number: \_\_\_\_\_

Application #: \_\_\_\_\_

Date Complete: \_\_\_\_\_

Hearing Date: \_\_\_\_\_

Decision Date: \_\_\_\_\_

Decision: \_\_\_\_\_

PROPERTY INFORMATION
Street Address:
Tax Map / Parcel #:
<i>A Variance is a use which is not permitted by the Zoning Ordinance. Approval from the Zoning Board of Adjustment is required to allow any use or deviation from the Zoning Ordinance. Please work with the Zoning Administrator to make sure your application is complete and you know what will be required of you at the hearing.</i>
What section of the Zoning Ordinance are you asking to be varied? Article _____ Section _____ Describe the variance you are requesting under the above section of the Ordinance. _____ _____ _____

### General Criteria Section 10.01

**Explain how the proposal meets the following conditions per New Hampshire RSA 674:33.I**

- Granting the Variance would not be contrary to the public interest because:
- If the Variance were granted, the spirit of the ordinance would be observed because:
- Granting the Variance would do substantial justice because:
- Granting the Variance would not diminish the value of surrounding properties because:
- Unnecessary Hardship:  
*This section is the central portion of your argument and is the critical factor that the Zoning Board of Adjustment will need to determine what is unique to your property and not generally applicable to other properties in the area or in town.*



## **ZBA Application – Variance**

### **MILFORD ZONING BOARD OF ADJUSTMENT**

A. Owing to special conditions of the property that distinguish it from other properties in the area; denial of the Variance would result in unnecessary hardship because:

i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because :

AND

ii. The proposed use is a reasonable one because:

(B) Explain how, if the criteria in paragraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the Ordinance, and a Variance is therefore necessary to enable a reasonable use of it:

(C) Notwithstanding paragraph (B) above, a Variance may be granted without finding a hardship arising from the terms of the Zoning Ordinance when reasonable accommodations are necessary to allow a person or persons with a recognized **physical disability** to reside in or regularly use the premises, provided that:

1. The Variance requested under this paragraph shall be in harmony with the general purpose and intent of the Zoning Ordinance because:

In addition, Variances may have extra criteria that must be met. This includes, but is not limited to:

**6.03.5 Floodplain Management:** The criteria for evaluation is listed in 6.03.5:B General Conditions and the applicable conditions are listed in 6.03.5:C. If your project is covered by this regulation, include your answers to the required criteria as specified in the referenced Section of the Milford Zoning Ordinance as an attachment under Section 3 C. of this application.

**ATTACHMENTS – additional information may be needed to help the Zoning Board of Adjustment fully understand your petition.**

- A. A plan of the property and all buildings, drawn to scale, is required.
- B. A Building Permit Application as needed (to be determined by the building official.)
- C. Additional explanations, justification, abutters' statements, letters, etc.

## **Applicant's Application Material**

### **Project Summary:**

The Applicant is seeking a Variance from the Milford Zoning Ordinance, Article X, Section 10.02.6.A.1.f to construct an attached accessory dwelling unit without a common interior access between the principal dwelling unit and the ADU consisting of a connector that is a minimum of 36” in width or a doorway a minimum of 32” in width. The property falls within the Residential ‘A’ Zoning District and as such, the applicant filed a Special Exception concurrently with this Variance application to allow the construction of the 744 square foot ADU.

The proposed two-story addition will be attached to the existing single-story residence. The attached addition will consist of a 2 car garage on lower level and a 744 square space above the garage on second floor. Access to the ADU will through an internal, dedicated stairwell from the front of the addition. The proposed stairwell and dedicated access will only serve the second story ADU and not be accessed by/from the primary residence. As shown in the architectural renderings, constructing a common interior access between the principal dwelling unit and the ADU would be challenging given the height discrepancy between both sections and need for substantial improvements (both engineering and architectural) to create a viable/functional connection (e.g. stairwell).

To comply with the applicable building and safety codes NFPA 101 Life Safety Code (2015 Edition) Chapter 24.2.2.3, IRC R310, and IBC 1029, the construction of the ADU requires the installation of two egress windows (appropriately sized) that will be located on the front side facing Oak Wood Drive. The primary purpose of the egress window is to provide an occupant with an alternate escape route when fire or smoke blocks the primary means of escape from the dwelling unit. An egress window is required when the building lacks (in this case an ADU) an automatic sprinkler system or a door remote from the primary means of escape.

With the exception of the common interior access between the principal dwelling unit and the ADU, the proposed ADU complies with the minimum requirements of Section 10.02.6. As stated above, the applicant is before the Board seeking a Special Exception to permit the ADU in the Residential ‘A’ district. The inclusion of the egress windows (as required by applicable building and safety codes) meets the intent of ordinance by providing a second means of egress from the ADU.

### **Variance Criteria 1 - Granting the Variance would not be contrary to the public interest.**

An accessory dwelling unit (ADU) is a permitted use within the Residential ‘A’ Zoning District with the granting of a Special Exception. The Ordinance requires an attached accessory dwelling unit contain a common interior access between the principal dwelling unit and the ADU consisting of a connector that is a minimum of 36” in width or a doorway a minimum of 32” in width. The purpose and intent of this requirement is to ensure that ADUs attached to the primary residence contain a secondary means of egress to provide an occupant with an alternate escape route when fire or smoke blocks the primary means of escape from the dwelling unit. Although the proposal does not include a common interior access, the installation of the two egress windows would not be contrary to the public interest as the proposal meets the safety and health requirements of NFPA 101 Life Safety Code (2015 Edition) Chapter 24.2.2.3, IRC R310, and IBC 1029 and requirements of the Ordinance by providing a secondary means of egress for the



second story ADU.

**Variance Criteria 2 – The spirit of the Ordinance would be observed.**

Granting the variance will not alter the essential character of the neighborhood. The property is located within an established residential neighborhood. Pursuant to Section 5.02.2.A.13, an ADU is a permitted use by way of a Special Exception. With the exception of the common interior access between the principal dwelling unit and the ADU, the proposed ADU complies with the minimum requirements of Section 10.02.6. The proposed two story attached addition will not impact essential character of the neighborhood. (See attached architectural drawings). The construction of the addition is consistent with existing residential structure and the neighboring properties. An additional unit will not significantly affect traffic or noise or the level of emissions, vibrations or odor.

Nor would granting the variance threaten the public health, safety or welfare. The Ordinance requires an attached accessory dwelling unit contain a common interior access between the principal dwelling unit and the ADU consisting of a connector that is a minimum of 36” in width or a doorway a minimum of 32” in width. The purpose and intent of this requirement is to ensure that the attached ADUs contains a secondary means of egress to provide an occupant with an alternate escape route when and emergency situation (e.g. fire or smoke) blocks the primary means of escape from the dwelling unit. Although the proposal does not include a common interior access, the installation of the two egress windows as secondary means of egress for the proposed second story ADU meets spirit and intent of the Ordinance by addressing the safety and health concerns requirements of the State and ICC building/health/safety codes.

**Variance Criteria 3 – Granting the Variance would do substantial justice.**

As stated previously, an ADU is a permitted use in the Residential ‘A’ District with the issuance of a Special Exception. With the exception of the common interior access between the principal dwelling unit and the ADU, the proposed ADU complies with the minimum requirements of Section 10.02.6. The issues involving safety and access to the ADU has been addressed through the inclusion of the two egress windows. The burden on the Applicant by losing the full use and enjoyment of the property outweighs any benefit to the public of denying the Applicant the right to the full use and enjoyment of the property due to this requirement that has been address by an equivalent means.

**Variance Criteria 4 – Granting the Variance will not diminish the value of the surrounding properties.**

An ADU is a permitted use in the Residential ‘A’ District with the issuance of a Special Exception. With the exception of the common interior access between the principal dwelling unit and the ADU, the proposed ADU complies with the minimum requirements of Section 10.02.6. The proposed two story attached addition will not impact essential character of the neighborhood. (See attached architectural drawings). The construction of the addition is consistent with existing residential structure and the neighboring properties. An additional unit will not significantly affect traffic or noise or the level of emissions, vibrations or odor and as such, the proposed additional unit will not diminish the value of surrounding properties.

**Variance Criteria 5 – Owing to special conditions of the premises that distinguish it from other properties in the area, denial of the Variance would result in unnecessary hardship because:**

**1) No fair and substantial relationship exists between the general public purpose of the Ordinance provisions and the specific application of that provision to the premises:**

No fair and substantial relationship exists between the general purpose of the ordinance provision and the specific application of that provision to the proposed accessory dwelling unit because the Applicant's proposal is in substantial compliance with the ordinance. With the exception of the common interior access between the principal dwelling unit and the ADU, the proposed ADU complies with the minimum requirements of Section 10.02.6 and is before the Board for a Special Exception for the proposed use. The obvious purpose of the ordinance provisions is to ensure that attached ADUs contains a secondary means of egress to provide an occupant with an alternate escape route when and emergency situation (e.g. fire or smoke) blocks the primary means of escape from the dwelling unit. The installation of the two egress windows meet the safety and health requirements building and life safety codes/standards as secondary means of egress for the proposed second story ADU. By satisfying the requirements of the building and life safety codes/standards the specific provision of the Ordinance has been addressed.

Further, the existing house consists of a single story ranch and one stall garage. The proposal is to construct a two story addition consisting of a first floor, two stall garage and second story ADU. As shown in the architectural renderings, constructing a common interior access between the principal dwelling unit and the ADU would be challenging given the height discrepancy between both sections and need for substantial improvements (both engineering and architectural) to create a viable/functional connection (e.g. stairwell).

**2) The proposed use is a reasonable one because:**

And the proposed use is reasonable. As stated above, the proposed use is a permitted use in the Residential 'A' district through the issuance of a Special Exception (filed concurrently with this application). The proposed two story attached addition will not impact essential character of the neighborhood. (See attached architectural drawings). The construction of the addition is consistent with existing residential structure and the neighboring properties. An additional unit will not significantly affect traffic or noise or the level of emissions, vibrations or odor and as such, the proposed additional unit will not diminish the value of surrounding properties.

With the exception of the common interior access between the principal dwelling unit and the ADU, the proposed ADU complies with the minimum requirements of Section 10.02.6. The applicant is seeking relief only from the requirement for a common interior access which seeks to ensure that the attached ADU includes an alternate escape route when fire or smoke blocks the primary means of escape from the dwelling unit. This criteria is addressed by the inclusion/installation of the two egress windows along the front of the residence facing Oakwood Circle. Said window meet the applicable building and safety codes NFPA 101 Life Safety Code (2015 Edition) Chapter 24.2.2.3, IRC R310, and IBC 1029.

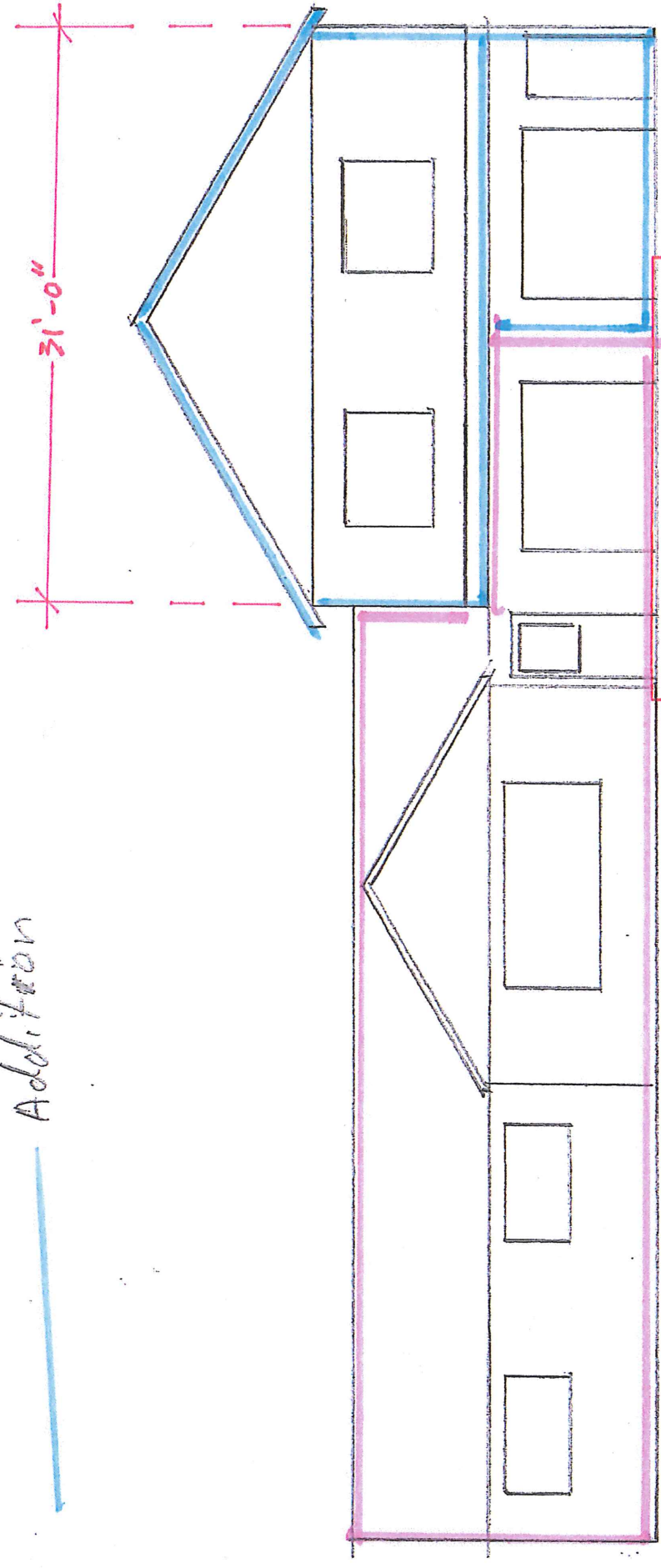
12-23-21

existing

Addition

Stephen J Gaspar Construction  
603 801 7191

Chris Maere  
Job: 10 Oakwood Circle

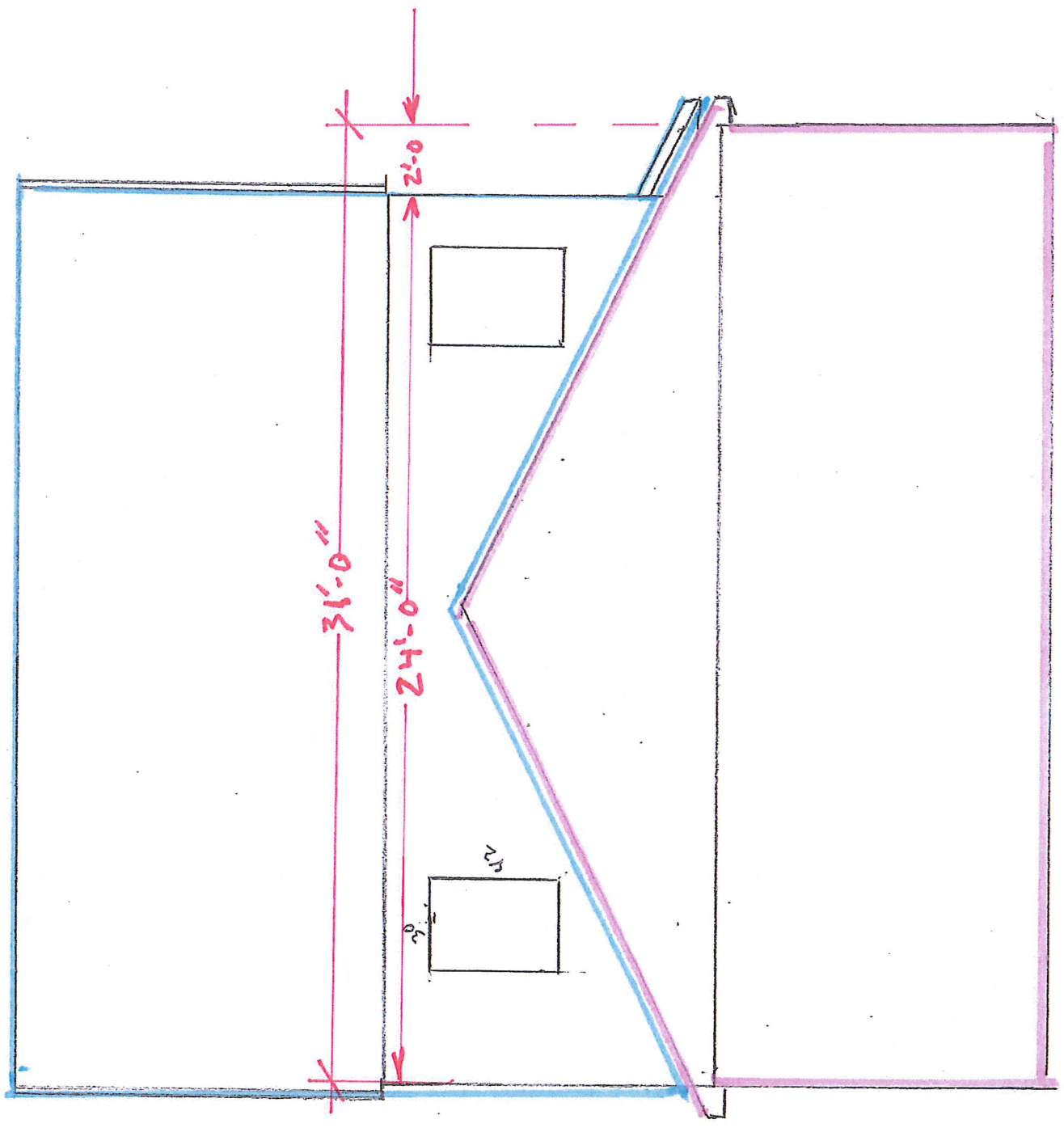


MILEORD BUILDING SAFETY  
**OFFICE COPY**  
 Approved: *[Signature]*  
 Approved 12/22/2021 w/ Review  
 Returns on Contractor  
 Copy also

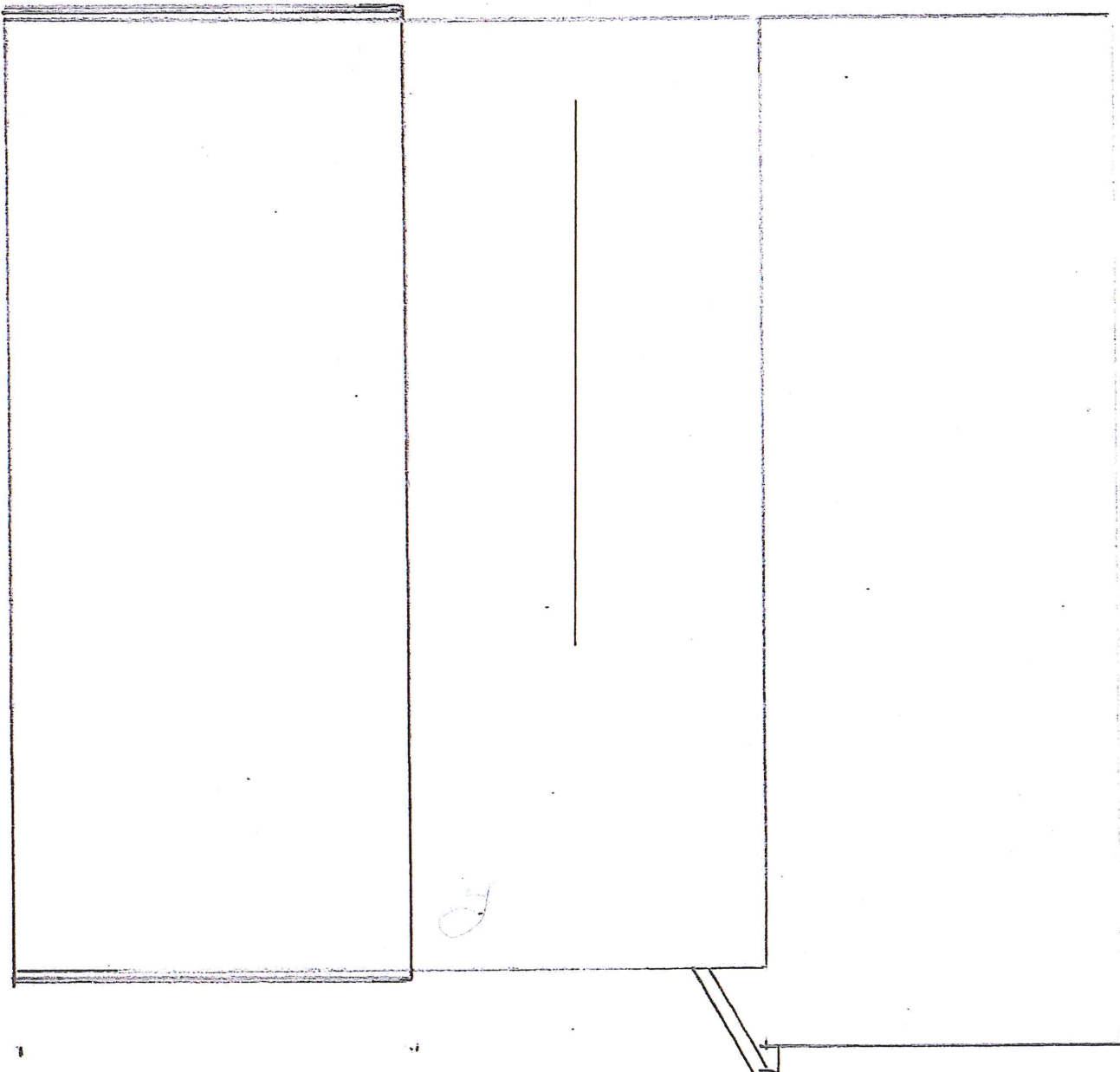
1/8" = 1'

10 Oakwood Circle

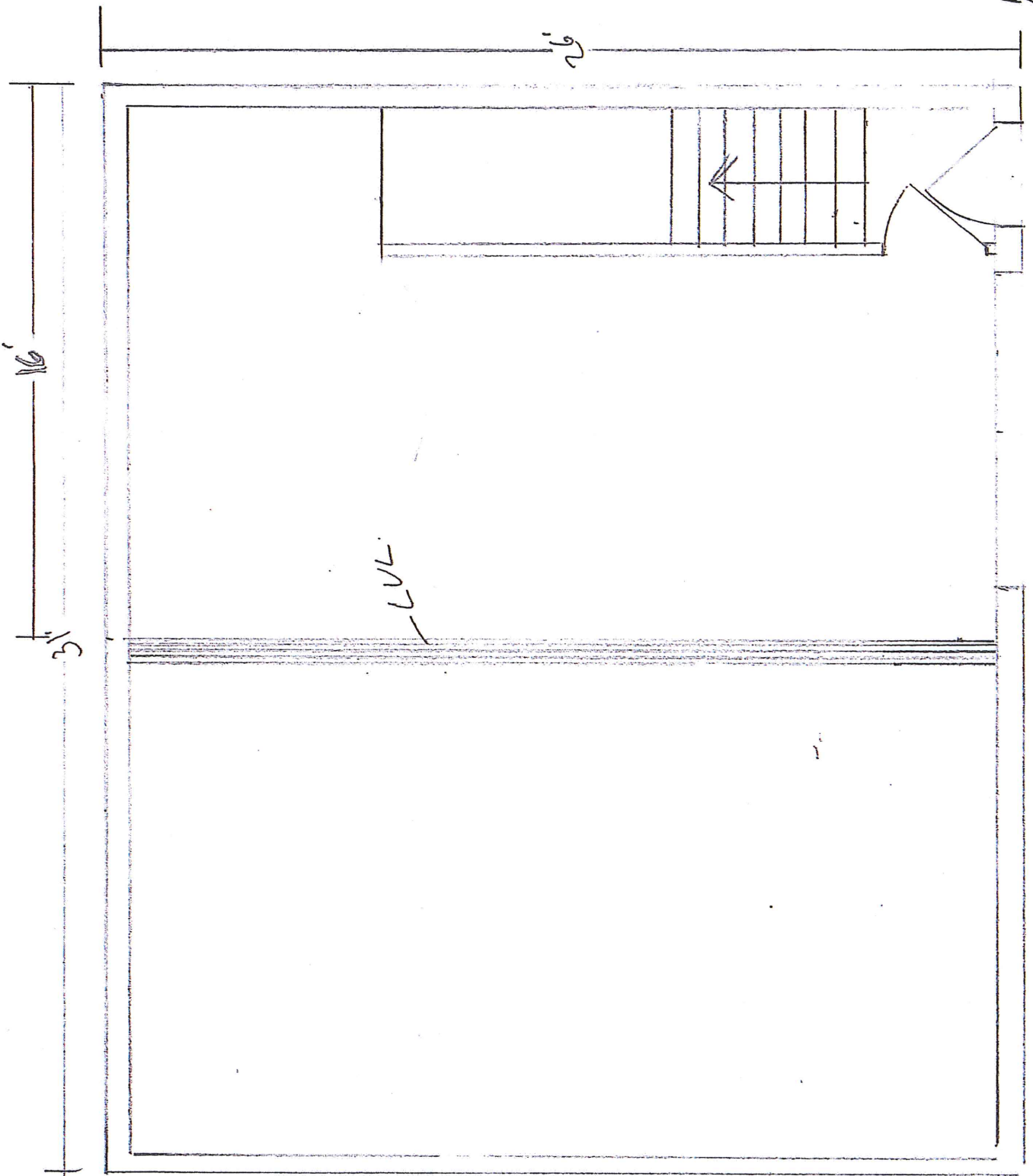
1/4" = 1'



1/4" = 1'



1/4" = 1'



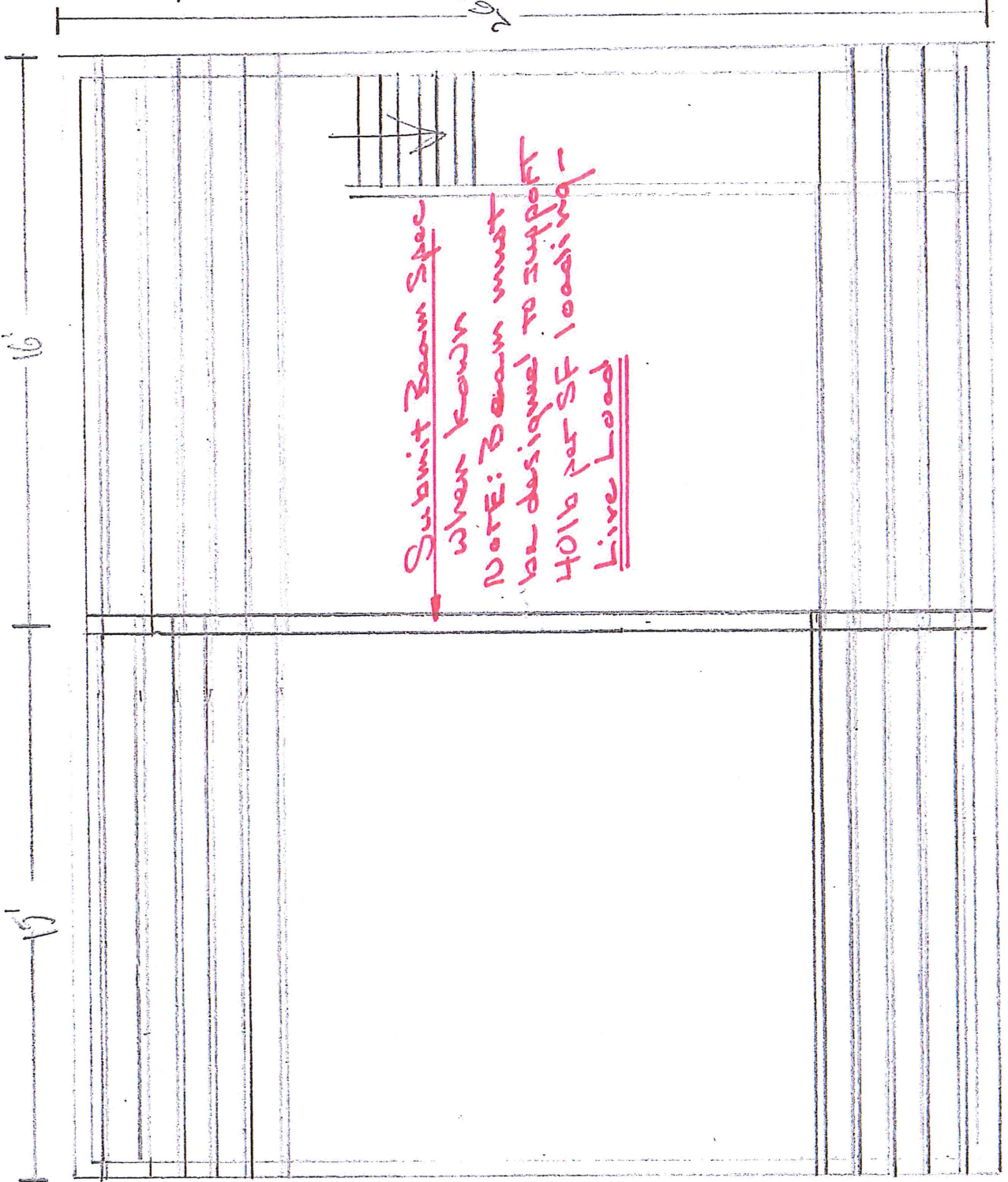
6'

LVL

16'

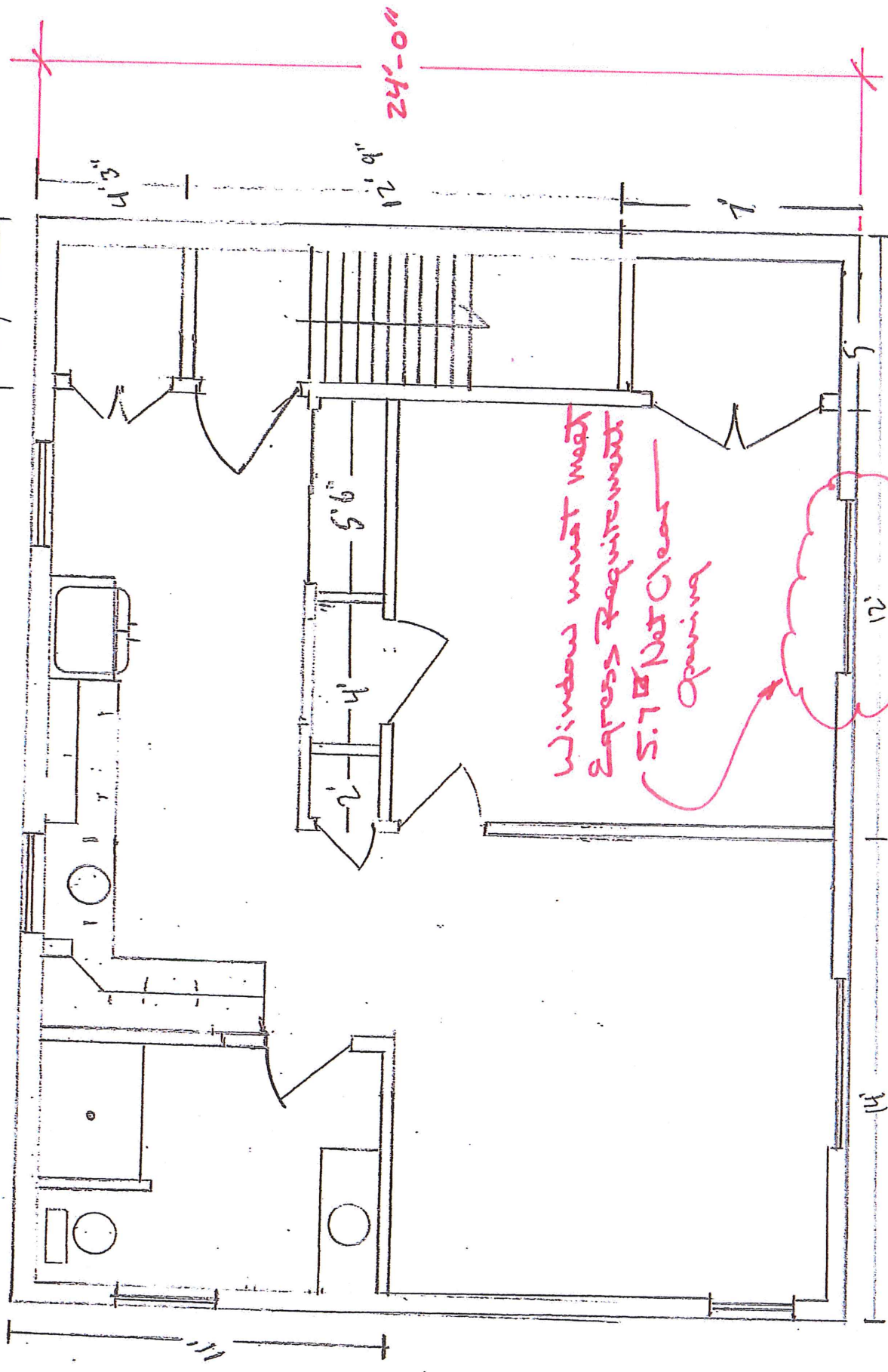
31'

Gaspar 801 7191



14' 11" = 1

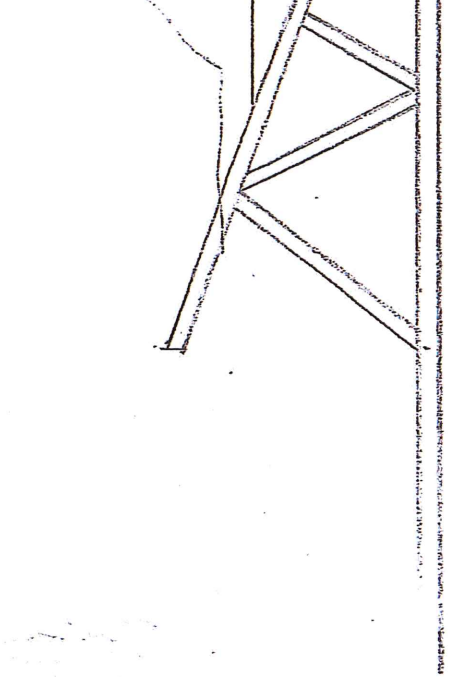
31'





R-38 is REQUIRED  
 Under 194 Energy Code EC-1  
 AND R-21 walls  
 Shingles

Close Cell  
 Insulation  
 5" = R-35 where



1/2" Zip wall  
 3/8 Zip wall  
 2' OSB  
 2x6 top plate

Vinyl Siding  
 1/2" Zip wall

2x6 studs 16 OC  
 2x6 Bottom Plate  
 2x6 Advantect  
 3/4" x 4 x 8 Joist 1' on center  
 2x10 floor Joist  
 2x2x4 top plates

Heat Detectors (1 @ each Gas Bay)  
 are recommended w/ living space above

R-19 Fiber glass Insulation

R-7 Fiber glass Insulation  
 5/8" Sheet rock  
 under side of existing wall  
 construction & exterior  
 condensation existing & new  
 and wall between wall  
 and Garage wall  
 2x4 wall plate

1/2" L Bolts 4' on center  
 2x6 PT. plate

#4 - 1/2" rebar  
 2 rows (top & bottom)  
 w/ new foot walls  
 pinned to existing  
 tie rebar & connect  
 both ends  
 lapped bars

8" x 4' tall foundation  
 10" footing 16" wide  
 1/4" = 1'

**26-26-3**

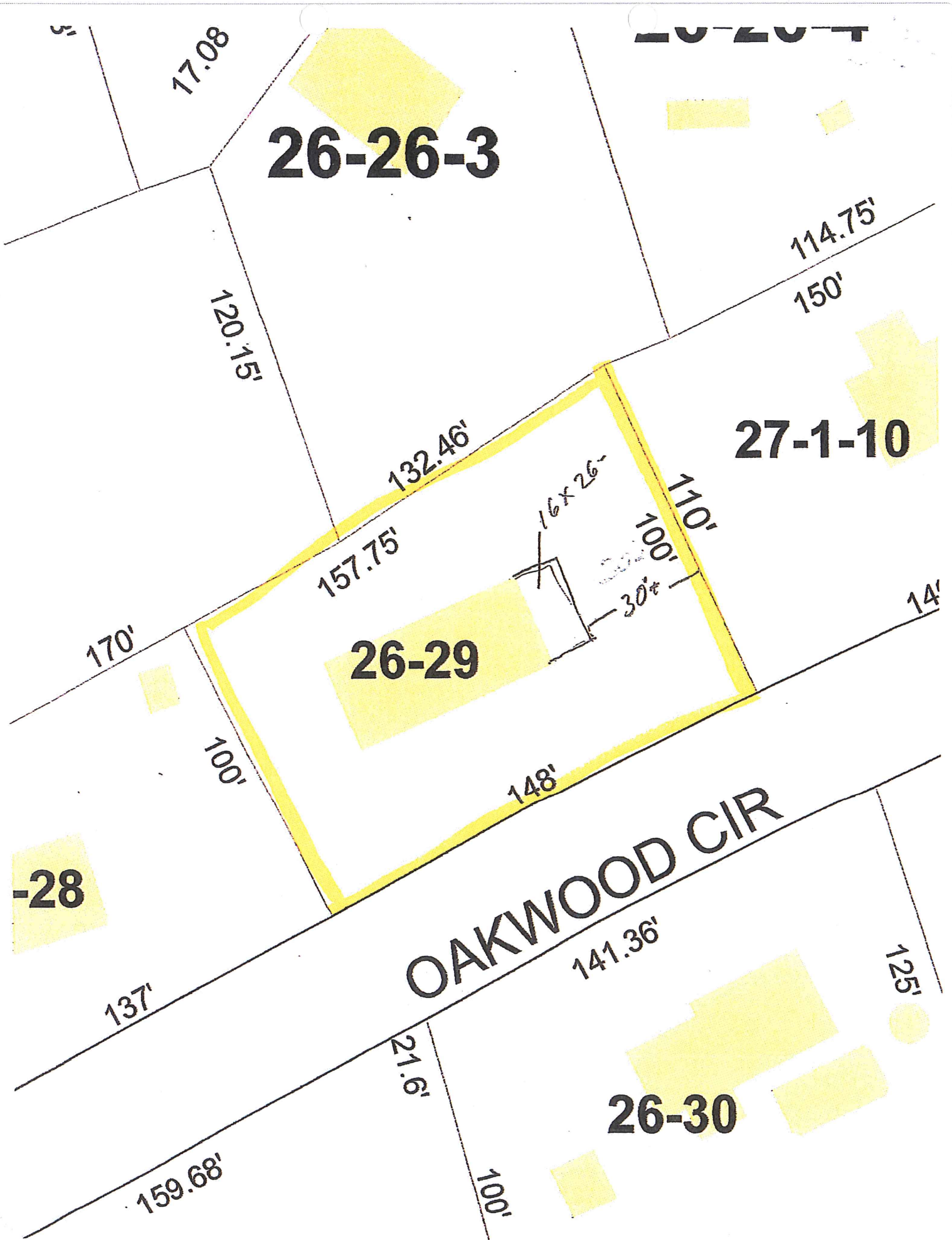
**27-1-10**

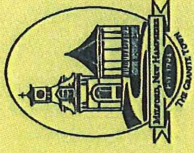
**26-29**

**-28**

**26-30**

**OAKWOOD CIR**





# TOWN OF MILFORD BUILDING PERMIT

MAP/LOT/PARCEL: 026029000000

PERMIT NUMBER

20210314

PROPERTY LOCATION: 10 OAKWOOD CIRCLE

APPLICANT: STEPHEN J GASPAR CONSTRUCTION  
ADDRESS: 123 RIDGEFIELD DRIVE MILFORD, NH 03055  
Street / City / State / Zip

OWNER: MOORE, CHRISTOPHER R & BRITTNEY J  
ADDRESS: 10 OAKWOOD CIR MILFORD, NH 03055  
Street / City / State / Zip

CONTACT NAME: STEPHEN GASPAR CONSTRUCTION

PERMIT TO CONSTRUCT: TWO-STORY RESIDENTIAL ADDITION

REMARKS/CONDITIONS: SEE ATTACHED INSTRUCTIONS & COMMENTS

APPROVAL:   
TOWN OF MILFORD BUILDING OFFICIAL

DATE ISSUED: 12/23/2021  
APPL: 20211733

FEE: \$ 212.40  
AMOUNT PAID: \$ 00.00  
AMOUNT DUE: \$ 212.40

PP  
12/23/21

All construction shall comply with all applicable Town and State building regulations.

This permit conveys no right to occupy any street, alley or sidewalk or any part thereof, either temporarily or permanently. Encroachments on public property, not specifically permitted under the building code, must be approved by the Town of Milford.

The issuance of this permit does not release the applicant from the conditions of any applicable subdivision or site plan restrictions. **Permit is valid for one year and must be renewed if work not completed.**

**PERMIT MUST BE POSTED IN VISIBLE LOCATION  
PROTECTED FROM THE WEATHER**  
BUILDING & CODE ENFORCEMENT OFFICE  
One Union Square · Milford, NH 03055  
Phone (603) 249-0620