

HELLMAN SHEARN & ARIENTI LLP  
ATTORNEYS AT LAW

C. Nicholas Arienti  
Ethan S. Klepetar

342 Main Street  
Great Barrington, Massachusetts 01230  
Telephone (413) 528-4800  
Facsimile (413) 528-9988  
[www.hellmanshearn.com](http://www.hellmanshearn.com)

VIA HAND DELIVERY  
AND EMAIL: [admin@montereyma.gov](mailto:admin@montereyma.gov)

August 2, 2021

Monterey Zoning Board of Appeals  
Monterey Town Hall  
435 Main Road  
Monterey, MA 01245  
Attn: Melissa Noe

RE: **Special Permit Application for Gelbard Family Nominee Trust**  
22 Point Road, Monterey, MA

Dear Members of the Board:

Enclosed please find a special permit application (11 copies and \$100.00 filing fee) along with attachments on behalf of Arlen Gelbard/Gelbard Family Nominee Trust (“Gelbard” or “Applicant”) pertaining to the property at 22 Point Road, Monterey (the “Property”). The application to the Monterey Zoning Board of Appeals (“ZBA”) is made pursuant to Monterey Zoning Bylaws (the “Bylaws”) Section 9.4 and Section 5.1.6.2.

The property at 22 Point Road (the “Property”) comprises approximately .24 acres of land along the north-easterly side of Lake Garfield, and is served by 45 feet of frontage, as described on the plan entitled “Subdivision A1 of Land in Monterey-Mass, owned by Garfield Point Associates, Sept. 1955, Scale 1”=100’, Eliot G. Pease, Engr., Lee”, and recorded at the Berkshire Southern District Registry of Deeds in Map Book 2, Page 104 (See *Exhibit ‘A’* attached hereto. Also see the Assessor’s map plan attached as part of Exhibit ‘A’.

The single-family residence on the Property (the “House”) is a two-story contemporary structure originally built in 1958 (See *Exhibit ‘B’* Assessment Field Card attached hereto), at the time comprising a single story. The Property was purchased by Paul and Estelle Gelbard in September 1969, and ownership was later transferred to the Gelbard Family Nominee Trust in December 1999. The House has been subject to a number of additions/expansions during its history, including an addition to add a second story studio space at the northwestern corner in 1988, and in 2003 the porch facing Lake Garfield to the south was reconstructed to provide an enclosed finished space taking better advantage of the lake views. Please see the photographs of the existing exterior of the House, attached hereto as *Exhibit ‘C’*, for your reference.

The Property is situated in the “LS” or Lakeshore Zoning District and is existing-nonconforming with respect to lot area at approximately .24 acres (10,274 square feet) (the Bylaws require 2 acre minimum), and is dimensionally existing-nonconforming with regard to southerly side-yard setback with the House approximately 4 feet from the sideline (the Bylaws s.4.2.1\*\* provides 15’ setbacks), and with the rear/lake facing western portion of the House well within the 40-foot setback from the mean high-water line of Lake Garfield (see the Bylaws s.4.2.2.2). Please see the Proposed Site Development Plan by White Engineering attached hereto at *Exhibit ‘D’*. With regard to lot area coverage of the existing House footprint, the House comprises approximately 1,465.5 square feet, which equals 14% lot area coverage, well within the 20% Max. Land Coverage (lot area coverage) for the LS District, rendering this aspect conforming.

The House is proposed to be substantially renovated with modest additions to its footprint comprising an approximate 35 square foot addition to the existing master bedroom along the Point Road/northeastern side of the House, an approximate 160 square foot addition (2 stories in height) adding bedroom space on the northwestern side of the House along with an approximate 90 square foot deck adjacent thereto, the addition of approximately 110 square feet of deck space at the northerly corner of the rear/lake facing/southwesterly side, the addition of approximately 44 square feet to square-off the existing sunroom/dining porch area at the southern corner of the

lake side, and the replacement/addition of a stair and landing area at the southern-most corner of the House. Please see architectural floor plans and elevations by Stephen Gerard Dietemann, AIA, attached hereto as *Exhibit 'E'*.

With regard to lot area coverage/Land Coverage, the proposed additions to the House footprint combined add a total of approximately 489 square feet (“sf”) to the existing 1,465.5sf of lot area coverage/Land Coverage, resulting in total lot area coverage/Land Coverage of 1,954.5sf, equaling 19% and thus remaining within the 20% Max Land Coverage ratio mandated in the LS District as per the Bylaws.

With regard to dimensional setbacks, while the proposed additions to the existing master bedroom along the Point Road side of the House and the bedroom and deck addition along the northwestern side of the House are both outside of the Side and LS setbacks respectively, in each case the proposed addition of the 110sf deck, the 44sf additional area to the sunroom/dining porch area, and the 50sf replacement/addition of the stair and landing area are within the 40’ LS District setback from Lake Garfield.

Accordingly, this application for a Special Permit pursuant to section 5.1.6.2 of the Bylaws is hereby presented to the ZBA demonstrating that the proposed extensions, alterations and/or reconstruction of the existing nonconforming House, recited hereinabove, do not increase the nonconforming nature of the structure or lot. Specifically, with regard to the proposed 110 square foot deck at the northerly corner of the House along the Lake side (see *Exhibit E, Lower Level Plan and South Elevation*), this improvement does not extend any further into the LS setback than the existing wall of the sunroom/dining porch area, and therefore does not further intensify the non-conforming nature of this façade of the House. The deck is proposed at the “Lower Level” living area accessible from an office room, and will be supported by posts, reducing the scale and visual impact of this addition. Similarly, the addition at the southern corner of this side of the House of approximately 44 square feet of floor area is intended to square-off the existing sunroom/dining porch area to allow for better use of this space (see *Exhibit E, Lower Level Plan, South Elevation and East Elevation*). Once again the boundary of

this small addition toward the Lake is the existing wall of the sunroom/dining porch area, so it will not result in an intensification of the non-conforming condition as it pertains to the LS setback. The other wall framing this small corner addition to the east will line up with the existing eastern wall of the House, filling the corner void to provide approximately 44 additional square feet of usable space. The existing exterior wall along this façade (see *Exhibit E, South Elevation*) is intended to be renovated and extended to a height of 13'-10" (see *Exhibit E, East Elevation*) in order to take better advantage of the view of Lake Garfield from the interior. The Applicant intends to specify a non-reflective glazing application to the proposed Lake facing windows, and to provide interior shades to alleviate illumination impacts from this area during the nighttime. Finally, with regard to the 50sf reconstruction/addition of stairs leading from the existing sunroom/dining porch area to the ground level below, this means of exterior access is intended to replace the existing stairs but are oriented to run perpendicular to the Lake as opposed to parallel to it (see *Exhibit C – Exterior photographs*). The new proposed stairs do not extend further into the eastern side setback than the existing wall at the western corner along this side of the House, representing the setback limit on this façade.

In conjunction with this Special Permit application, the applicant applied for and was granted approval on July 13, 2021, for an Order of Conditions from the Monterey Conservation Commission pursuant to the Notice of Intent dated July 2021, (copy on file with the Monterey Conservation Commission) stipulating adherence to typical construction controls during the construction of a new septic system, well and improvements to the House and Property consistent with the instant application for a Special Permit.

In order to grant the Application, the ZBA, as the Special Permit Granting Authority pursuant to Sections 9.4 and 5.1.6.2 of the Bylaws, are required to consider each of the following factors in determining that the adverse effects of the proposed use will not outweigh its beneficial impacts to the Town of Monterey or the neighborhood along Point Road. The ZBA's determination shall include consideration of each of the following:

1. Social, economic, or community needs which are served by the proposal;

2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures;
5. Impacts on the natural environment; and
6. Potential fiscal impact, including impact on town services, tax base, and employment.

The Applicant respectfully suggests that the Application meets the above listed requirements, as follows:

1. Social, economic, or community needs are served by sustaining and improving the existing single family residence at the Property and by bringing the Property, House and all utilities serving it into a modern and environmentally safe and efficient condition, as well as improving the architectural quality and character of the House to a condition more consistent with neighboring properties and that of the neighborhood generally (see photos attached as *Exhibit 'F'*).
2. Traffic flow and safety, including parking and loading, are not significantly impacted by the Application since the use of the House and Property will not change in nature or character.
3. Adequacy of utilities and other public services are not impacted by the proposed Application since the use of the House and Property will not change in nature or character, and because the House is served by a well for water and a septic system each located on-site.
4. Neighborhood character will benefit as a result of the proposed Application because it will improve the architectural quality and character of the House rendering it more consistent with neighboring properties and that of the neighborhood generally (see *Exhibit 'F'*), while social structures will largely be unaffected by the proposed Application because the use of the House and Property as a residence will not change.
5. Impacts on the natural environment will be less burdensome due to new and more efficient building materials and equipment incorporated into the House, and water efficiency and safety will be improved by installation of a new septic system and well.
6. Potential fiscal impact, including impact on town services, tax base, and employment will be beneficial due to an increase in taxable value of the Property following completion of the Project leading to additional tax revenue, and the local area

will benefit during the construction period from additional or sustained employment opportunities.

The information contained in this Application along with a presentation to the ZBA will show that the improvements proposed herein are in accordance with Sections 9.4 and 5.1.6.2 of the Bylaws, the Massachusetts Zoning Act, MGL ch. 40A, as well as controlling case law for the issuance of a Special Permit because it **will not** be substantially more detrimental to the character of the neighborhood than the existing nonconforming structure or use, and rather will improve the neighborhood's character and quality substantially.

Thank you for your consideration of this Application.

Very truly yours,

HELLMAN SHEARN & ARIENTI, LLP



C. Nicholas Arienti



## Town of Monterey

### Zoning Board of Appeals Application

For office use only	
Date application was received & filed with the Town Clerk	
Application Number	
Filing fee/expense reimbursement (check #)	
Property Address	
Dates advertised in the Berkshire Eagle	
Hearing Date	
11 copies submitted	

Be sure to supply all required information and sign the form where indicated. Please refer to the Zoning By-Laws of the Town of Monterey adopted by Town Meeting on May 5, 2012, as amended, and, when necessary, refer to specific sections within.

**Section A. Please check the action you are seeking (check all that apply):**

Special Permit

Variance

Appeal (to modify a decision of a Town Board)

**Section B. Site/Property Information:**

Address of property (ex. 123 Main Rd.): 22 Point Road

Assessor's Map #: 102 Assessor's Lot #: 025

Zoning District(s): LS

Registry of Deeds Book & Page Number for Applicant's Title: Bk. 1165; Pg. 316

**Section C. Property Ownership Information:**

**Full Name of Owner(s) (this must match the name on your deed referenced in Section B):**

Gelbard Family Nominee Trust

**Mailing Address:** 10 Point Place, Chappaqua, NY 10514

**Owner's email address and phone number:** awgelbard@gmail.com; (703) 801-4156

**Full name and mailing address of owner's agent or representative:** C. Nicholas Arienti, Hellman Shearn & Arienti LLP, 342 Main St. Great Barrington MA 01230

**Agent or representative's email address and phone number:** narienti@hellmanshearn.com; (413) 528-4800

**Section D. Project Description (attach additional sheets if necessary):**

**Please provide a brief description of the Relief Sought and/or Proposed Project:**

Addition and renovation to the existing single-family residence.

**Section E. Variances, if applicable (attach additional sheets if necessary):**

**From which section of the zoning bylaws are you requesting a variance?** n/a

**What will the requested variance enable you to do?** Click here to enter text.

**If the variance is not granted, what hardship will you endure?** Click here to enter text.

**What special circumstances relating to soil condition, shape or topography of the land is prompting your request for a variance?** Click here to enter text.

**Explain why your special circumstances are not a result of your own actions?** Click here to enter text.



**Section F. Appeals (attach additional sheets as necessary and a copy of any written determination/action)**

**What action of which Town board is being appealed?** n/a

**Date of the action:** Click here to enter text.

**Describe the remedy you seek:** Click here to enter text.

**Section G. Special Permits, if applicable (attach additional sheets if necessary):**

**Describe the need for a Special Permit:** The addition in part requires the extension and/or alteration of existing non-conformities.

**List all the nonconforming aspects of the property:** Lot Area is .24ac; Frontage is approximately 45 feet; the eastern side of the house is within the East Side Setback; the lake side (southerly) of the house is within 40 feet of the mean high water line.

**Has a special permit or variance been previously granted to this property which is/are currently active? If yes, please describe and/or attach copies of prior decisions:** No.

Each party signing this Application certifies that the information contained herein is true, accurate, complete and that no material fact or statement has been omitted from this Application which would be relevant to the relief requested hereunder. Signing and submitting this Application constitutes permission for the Board and/or its designees to access and walk the exterior portions of the property for the purpose of site visits in connection with the Application.

**Applicant or Representative's Signature:** \_\_\_\_\_

*Cel Nicholas Arzenti*

**Owner's Signature:** \_\_\_\_\_

*Alan W. Gelbard*

**Date:** July 14, 2021

## Table of Exhibits

### Memorandum in Support of Special Permit Application

- Exhibit A: Subdivision Plan – September 1955
- Exhibit B: Assessor's Property Record Card
- Exhibit C: Exterior Photographs
- Exhibit D: Proposed Site Development Plan
- Exhibit E: Architectural Plans and Elevations
- Exhibit F: Neighborhood Photographs
- Exhibit G: Abutter's Notice

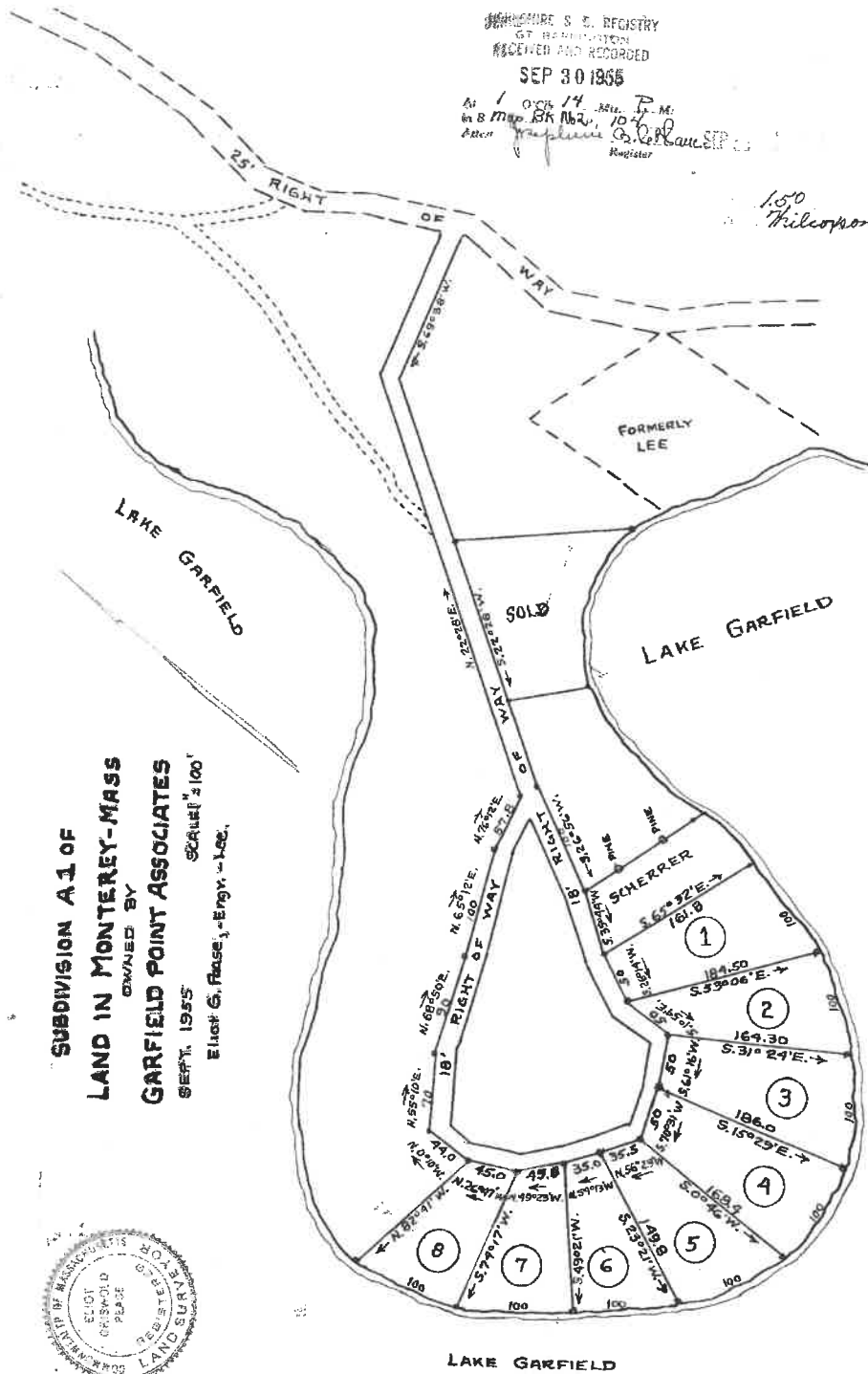
A

COMMONWEALTH OF MASSACHUSETTS  
REGISTRY  
RECEIVED AND RECORDED  
SEP 30 1955

As 1 Oct 14 A.M. P.M.  
in 8 Map 187 No. 10  
Attest Registrar

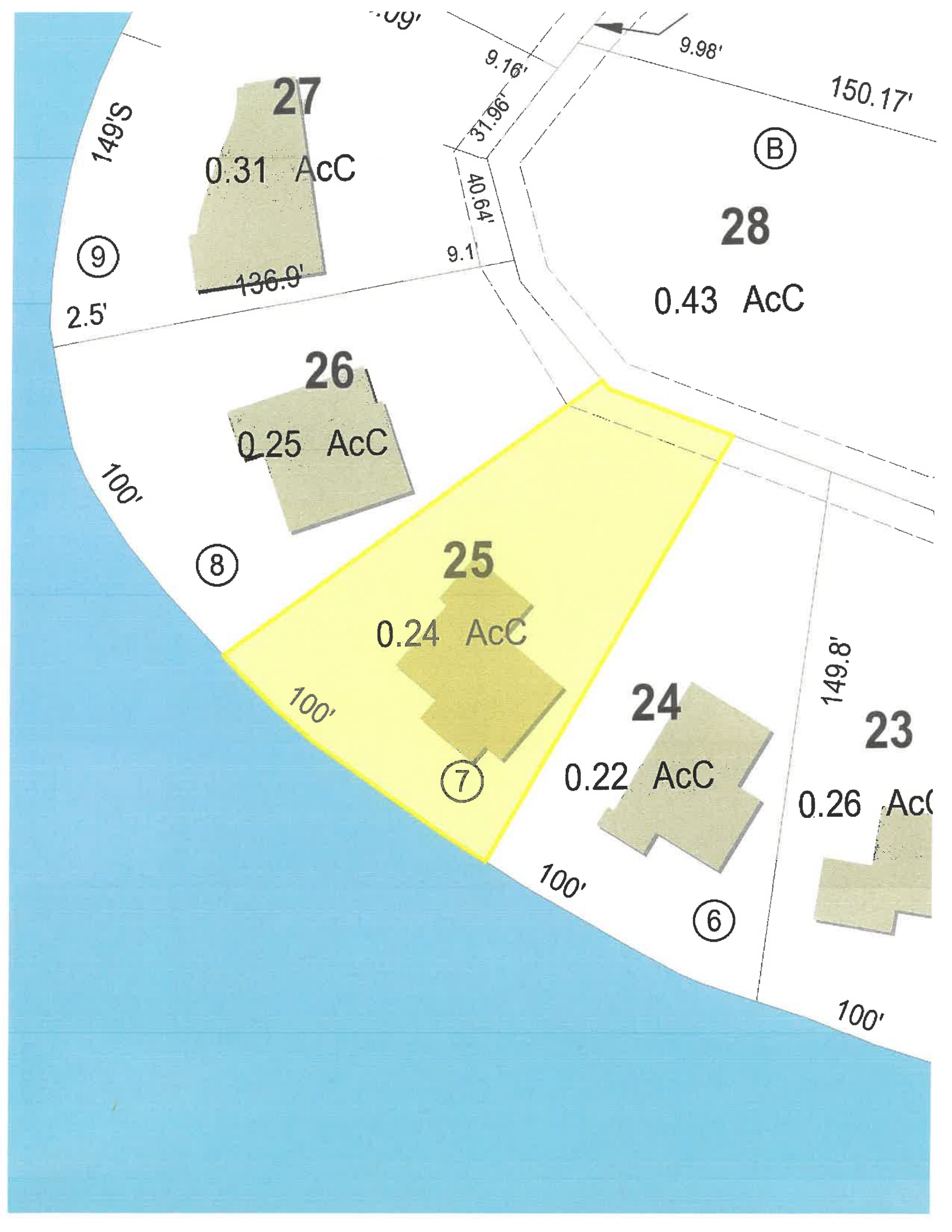
150  
Hilcompton

**SUBDIVISION A.1 OF  
LAND IN MONTEREY-MASS  
OWNED BY  
GARFIELD POINT ASSOCIATES  
SEPT. 1955**  
SCHEU 2 100'  
Eliot G. Rouse, -Engy. -Lec.



LAKE GARFIELD

map 187, p. 104



**B**

# Assessment Field Card

Town of Monterey, Massachusetts



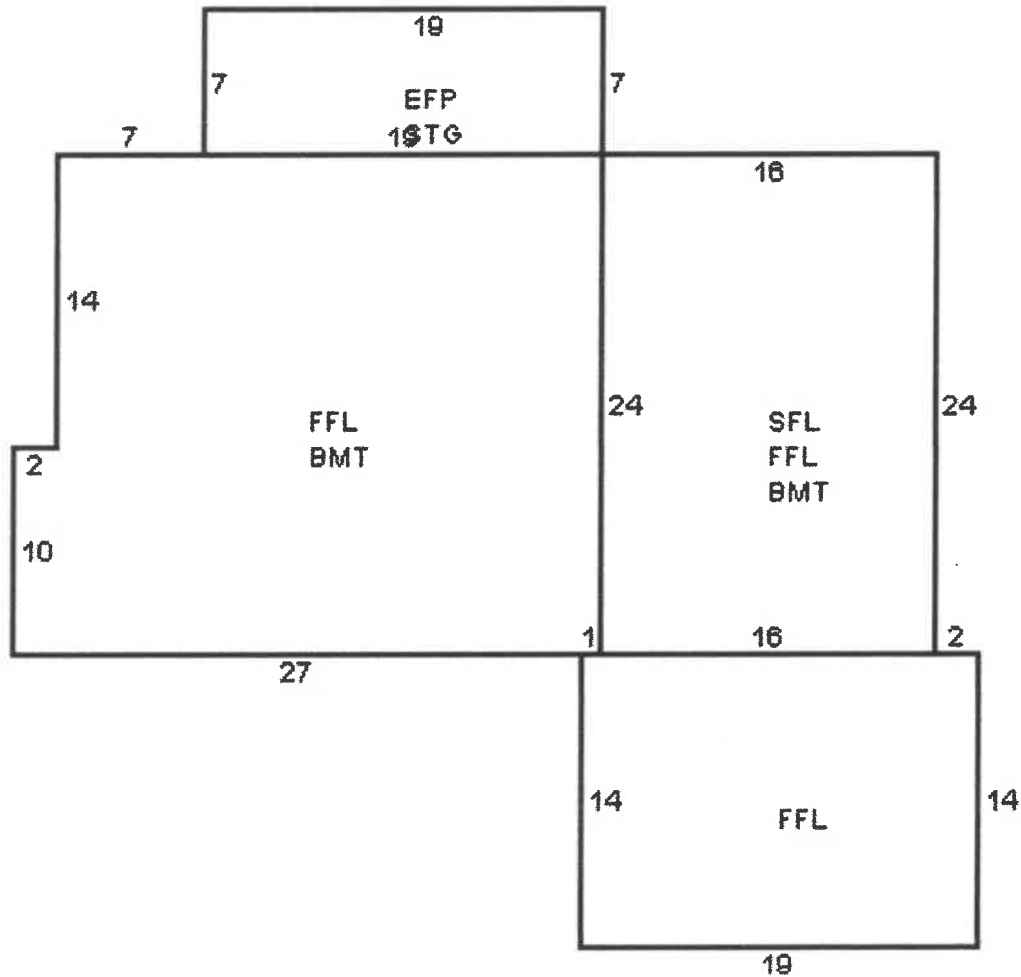
Parcel Information	
	<p> <b>Address:</b> 22 POINT RD  <b>Map-Lot:</b> 102-025-000-000-0000  <b>Patriot Account #:</b> 313  <b>Owner:</b> GELBARD PAUL+ESTELLE  <b>Co-Owner:</b> TRUSTEES  <b>Mailing Address:</b> GELBARD FAMILY NOMINEE TRUST                      Contact Assessor's Office for Address.                 </p>
Building Exterior Details	General Information
<p> <b>Building Type:</b> CONTEMPORY  <b>Year Built:</b> 1958  <b>Grade:</b> C+  <b>Frame Type:</b> WOOD  <b>Living Units:</b>  <b>Building Condition:</b> Good-VG  <b>Roof Cover:</b> ASPHALT  <b>Roof Type:</b> GABLE  <b>Exterior Wall Type:</b> TEX 111  <b>Pool:</b> False                 </p>	<p> <b>Total Acres:</b> 0.24  <b>Land Use Code:</b> 1010  <b>Neighborhood Code:</b>  <b>Owner Occupied:</b> N  <b>Condo Name:</b>  <b>Condo Unit:</b>  <b>Zone:</b>  <b>Utility Code 1:</b>  <b>Utility Code 2:</b>  <b>Utility Code 3:</b> </p>
Building Area	Ownership History
<p> <b>Gross Area:</b> 2972 sqft  <b>Finished Area:</b> 1678 sqft  <b>Basement Area:</b> 1028 sqft  <b>Garage Area:</b> 0 sqft  <b>Detached Garage:</b> sqft  <b>Basement Garage:</b> 0 sqft                 </p>	<p> <b>Sale Date:</b> 9/26/1969  <b>Sale Price:</b> \$ 0  <b>Nal Description:</b>  <b>Grantor (Seller):</b> GELBARD PAUL + ESTELLE  <b>Book/Page:</b> 368-8                 </p>
Building Interior	Assessed Value



Data shown on this report is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this report.

**No. Total Rooms:** 4  
**No. Bedrooms:** 1  
**No. Full Baths:** 2  
**No. Half Baths:** 0  
**Bath Rating:** AVER  
**No. Kitchens:** 1  
**Kitchen Rating:** AVER  
**Building Framing:** WOOD  
**Interior Wall Type:** DRYWALL  
**Fireplaces:** 1  
**Solar Hot Water:** False  
**Central Vac:** False  
**Floor Type:** HARDWOOD  
**Heat Type:** FORCED H/A  
**Heat Fuel:** OIL  
**Percent A/C:** 0

**Assessed Yard Value:** \$ 0  
**Assessed Land Value:** \$ 435300  
**Assessed Bldg Value:** \$208700  
**Total Assessed Value:** \$644000





C









D



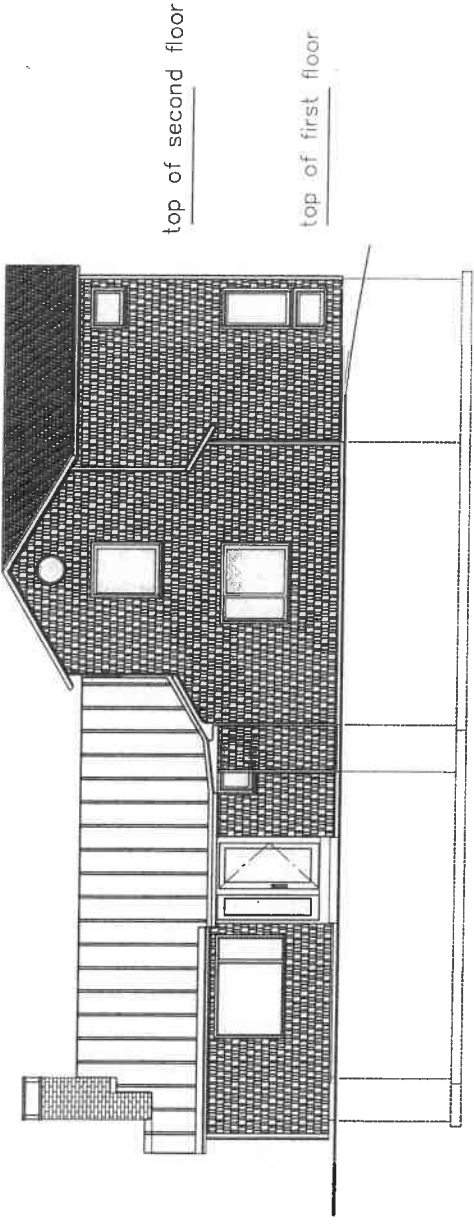
E



Gelbard Residence Renovation/Addition, Monterey, MA  
Schematic Design / North/Entry Elevation 07-20-21



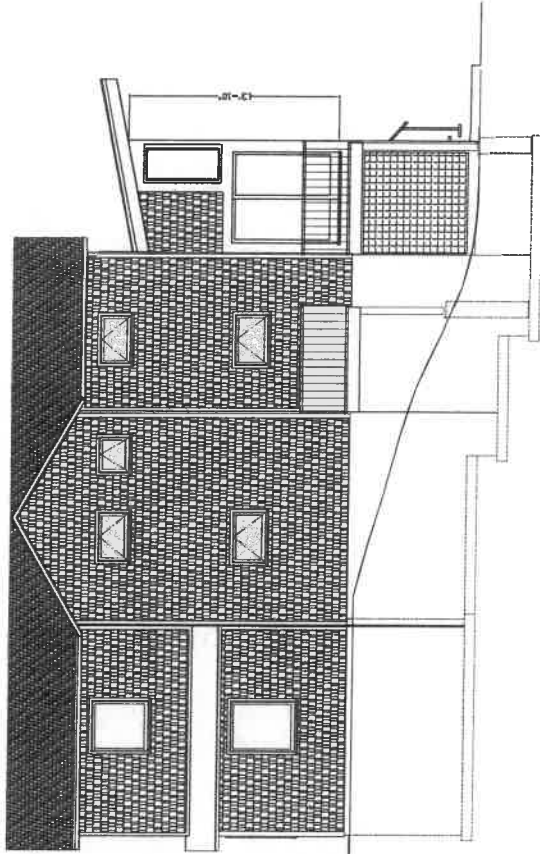
stephen gerard dietemann architect



Gelbard Residence Renovation/Addition, Monterey, MA  
Schematic Design / West Elevation 07-20-21



stephen gerard dietemann architect



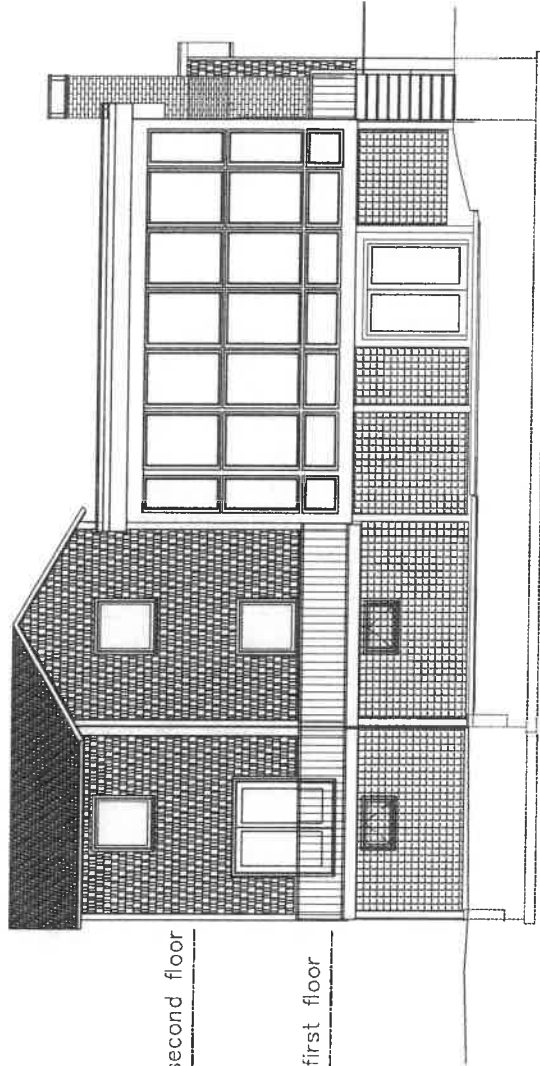
top of second floor

top of first floor

Gelbard Residence Renovation/Addition, Monterey, MA  
Schematic Design / South Elevation 07-20-21



stephen gerard dietemann architect



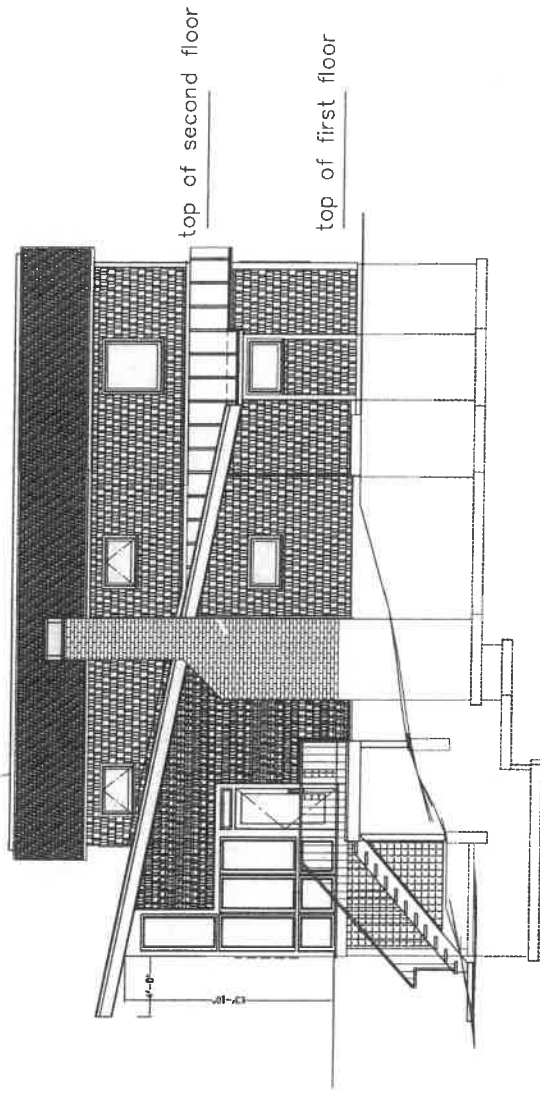
top of second floor

top of first floor

Gelbard Residence Renovation/Addition, Monterey, MA  
Schematic Design / East Elevation 07-20-21



stephen gerard dietermann architect

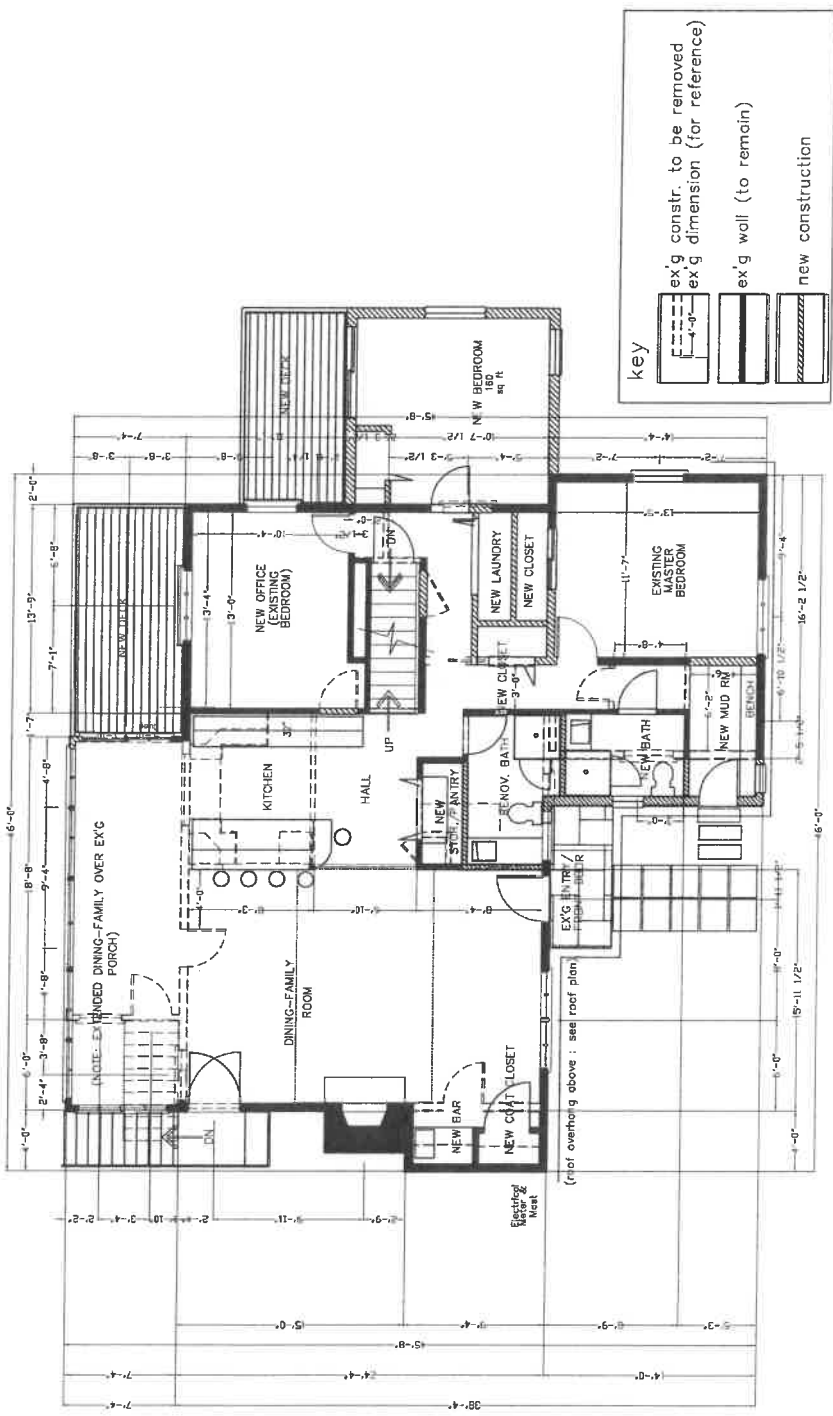


Gelbard Residence Renovation/Addition, Monterey, MA  
 Schematic Design / Lower Level Plan 07-20-21



stephen gerard diemann architect

01' 5' 10' 15' 20' 25'





F











G



# 300 foot Abutters List Report

Monterey, MA  
July 01, 2021

## Subject Property:

Parcel Number: 102-025-000  
CAMA Number: 102-025-000-000-0000  
Property Address: 22 POINT RD

Mailing Address: GELBARD PAUL+ESTELLE TRUSTEES  
GELBARD FAMILY NOMINEE TRUST  
10 POINT PLACE  
CHAPPAQUA, NY 10514

## Abutters:

Parcel Number: 102-019-000  
CAMA Number: 102-019-000-000-0000  
Property Address: 11 POINT RD

Mailing Address: MAULTASCH JONATHAN MAULTASCH  
MYRA  
10 DUNSTER RD  
GREAT NECK, NY 11021

Parcel Number: 102-020-000  
CAMA Number: 102-020-000-000-0000  
Property Address: 19 POINT RD

Mailing Address: LANG PAUL LANG JANE  
37 PEMBROKE DRIVE  
GLEN COVE, NY 11542

Parcel Number: 102-021-000  
CAMA Number: 102-021-000-000-0000  
Property Address: 21 POINT RD

Mailing Address: BOGUE MARTIN J HEANUE-BOGUE  
EILEEN  
238 WASHINGTON AVE  
CHATHAM, NJ 07928

Parcel Number: 102-022-000  
CAMA Number: 102-022-000-000-0000  
Property Address: 23 POINT RD

Mailing Address: HOLZER MARC HOLZER MADELEINE  
60 FOSTER ST  
CAMBRIDGE, MA 02138

Parcel Number: 102-023-000  
CAMA Number: 102-023-000-000-0000  
Property Address: 25 POINT RD

Mailing Address: HUTCHER DONALD L HUTCHER  
ROBERTA  
9 SURREY LA  
SHERBURN, MA 01770

Parcel Number: 102-024-000  
CAMA Number: 102-024-000-000-0000  
Property Address: 24 POINT RD

Mailing Address: EPSTEIN ROBERT EPSTEIN ROBERTA J  
174 DORCHESTER RD  
SCARSDALE, NY 10583-6051

Parcel Number: 102-026-000  
CAMA Number: 102-026-000-000-0000  
Property Address: 20 POINT RD

Mailing Address: ROSEN HERMAN ROSEN MYRNA  
11 RIVERSIDE DR APT GLW  
NEW YORK, NY 10023

Parcel Number: 102-027-000  
CAMA Number: 102-027-000-000-0000  
Property Address: 18 POINT RD

Mailing Address: SMITH AUDREY  
PO BOX 702  
MONTEREY, MA 01245

Parcel Number: 102-028-000  
CAMA Number: 102-028-000-000-0000  
Property Address: POINT RD

Mailing Address: BURNS HOWARD W BURNS LOUISE  
PO BOX 664  
MONTEREY, MA 01245

Parcel Number: 102-029-000  
CAMA Number: 102-029-000-000-0000  
Property Address: 16 POINT RD

Mailing Address: LEE STANLEY G LEE DEBRA G  
85 BENTWOOD DR  
STAMFORD, CT 06903



www.cai-tech.com

Data shown on this report is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this report.



# 300 foot Abutters List Report

Monterey, MA  
July 01, 2021

Parcel Number: 102-030-000  
CAMA Number: 102-030-000-000-0000  
Property Address: 14 POINT RD

Mailing Address: PERLMAN ALAN TRUSTEE PERLMAN  
CAROL TRUSTEE  
PO BOX 298  
MONTEREY, MA 01245

Parcel Number: 102-031-000  
CAMA Number: 102-031-000-000-0000  
Property Address: POINT RD

Mailing Address: PERLMAN ALAN TRUSTEE PERLMAN  
CAROL TRUSTEE  
PO BOX 298  
MONTEREY, MA 01245

Parcel Number: 102-077-000  
CAMA Number: 102-077-000-000-0000  
Property Address: 27 LIME ROCK LN

Mailing Address: SCHMERLER JOHN F SCHMERLER  
SUSAN P  
1 BROCKDEN DRIVE  
MENDHAM, NJ 07945

Parcel Number: 102-078-000  
CAMA Number: 102-078-000-000-0000  
Property Address: 33 LIME ROCK LN

Mailing Address: PASCO WILLIAM F  
5760 MARINA DR APT 4  
SEBASTIAN, FL 32958-6348



[www.cai-tech.com](http://www.cai-tech.com)

Data shown on this report is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this report.

7/1/2021

Page 2 of 2