

**FINDINGS AND RECOMMENDATION  
OFFICE OF PLANNING AND ZONING  
ANNE ARUNDEL COUNTY, MARYLAND**

**APPLICANT:** Emad & Janet AlJunaidi

**ASSESSMENT DISTRICT:** 3

**CASE NUMBER:** 2023-0198-V

**COUNCIL DISTRICT:** 5

**HEARING DATE:** January 30, 2024

**PREPARED BY:** Sumner Handy  
Planner

**REQUEST**

The applicants seek variances to allow dwelling additions and renovations (installation of a new septic tank and drywell; expansion of the existing attached garage; relocation of the front entry & approach walkway; construction of an upper-story deck on the water side; and replacement of the existing retaining wall) with less setbacks and buffer than required and with disturbance to slopes of 15% or greater at 1330 Kinloch Circle in Arnold.

**LOCATION AND DESCRIPTION OF SITE**

The subject site measures about 88,375 square feet in area, with about 200 feet of frontage on the south side of Kinloch Circle. It is identified as Lot 7 of Parcel 491 in Grid 16 of Tax Map 39 in the subdivision of Glen Oban.

The subject property is zoned R1 - Residential District and has been since the adoption of comprehensive zoning for the Fifth Council District, effective January 29, 2012. This waterfront lot lies entirely within the Chesapeake Bay Critical Area overlay, and is designated as LDA – Limited Development Area. The lot is improved by a single-family detached dwelling, driveway, deck/patio, and pier, and is served by public water and private septic systems.

**APPLICANTS' PROPOSAL**

The applicants propose several improvements to their existing dwelling as part of an overall renovation. Critical area variances to disturb the buffer, as expanded, and steep slopes are necessary for portions of the renovation plan that include disturbance to those environmental features. Installation of the BAT septic tank and new drywell require disturbance to the expanded buffer, but not to steep slopes. Expansion of the garage will result in permanent buffer disturbance (the entirety of the expansion is to be located on top of the existing driveway). Relocation of the entryway to the dwelling and its approach walkway require disturbance to both the buffer and steep slopes. Replacement of the upper-level deck and retaining wall will require temporary disturbance to the buffer and to steep slopes for access, but require no new permanent disturbance. No variance to disturb the buffer or steep slopes is necessary to permit the removal of the existing outdoor access staircase and landing or to permit re-siding of the dwelling.

## **REQUESTED VARIANCES**

Section 18-13-104(a) of the Anne Arundel County Zoning Ordinance requires that there shall be a minimum 100-foot buffer landward from the mean high-water line of tidal waters, tributary streams and tidal wetlands. Section 18-13-104(b) provides for an expanded buffer in cases where there are, among other things, steep slopes. Section 17-8-301(b) provides that development on properties containing buffers shall meet the requirements of COMAR, Title 27. Section 27.01.01(B)(8)(ii) of COMAR states a buffer exists “to protect a stream, tidal wetland, tidal waters, or terrestrial environment from human disturbance,” and Section 27.01.09 E.(1)(a)(ii) of COMAR authorizes disturbance to the buffer for a new development activity or redevelopment activity by variance. In the case of the subject property, there are steep slopes present, and the buffer to the Severn River expands to encompass the entire subject property. Portions of the applicants’ proposed renovation require a variance to allow disturbance within the expanded buffer. Applicants estimate 2,218 square feet of temporary disturbance to the buffer and 207 square feet of permanent disturbance; the actual degree of buffer disturbance will be determined at the time of permitting.

Section 17-8-201(a) of the Subdivision and Development Article stipulates that development in the Limited Development Area (LDA) may not occur within slopes of 15% or greater unless development will facilitate stabilization of the slope; is to allow connection to a public utility; or is to provide direct access to the shoreline. Portions of the applicants’ proposed renovation require a variance to allow disturbance to slopes of 15% or greater. Applicants estimate 306 square feet of temporary disturbance to steep slopes and 60 square feet of permanent disturbance; the actual degree of steep slope disturbance will be determined at the time of permitting.

Section 18-4-501 of the Code sets forth the bulk regulations for development in the R1 district, a review of which reveals that no setback variances are required.

## **FINDINGS**

The subject property measures 88,375 square feet (2.02 acres) in area and is entirely encumbered by the critical area buffer to the Severn River, as expanded due to the presence of slopes 15% or greater, which are all throughout this property. The applicants propose to construct an addition/renovation that requires disturbance to the buffer and to steep slopes. The applicants note that because the buffer expands to cover the entirety of the subject property, there is no reasonable possibility of developing the property absent relief from the Code’s requirements. The applicants also stress that the expansions to this dwelling that require variance relief are “modest” (especially when compared to the degree of work planned for the interior renovation), and also note that this project will result in just 50 feet of additional lot coverage in the Critical Area, even as the existing lot coverage (6,480 square feet) remains well below the allowed lot coverage at this site (13,256 square feet).

This property was the subject of a prior variance application. In case number 1998-0217-V, the prior owners of the property applied for variances to disturb the buffer and steep slopes to construct a deck addition. Conditioned on the requirement that the applicants stabilize the ground

beneath and around the new deck, that application was approved.

The **Critical Area Team** reviewed the proposal and offered no objection.

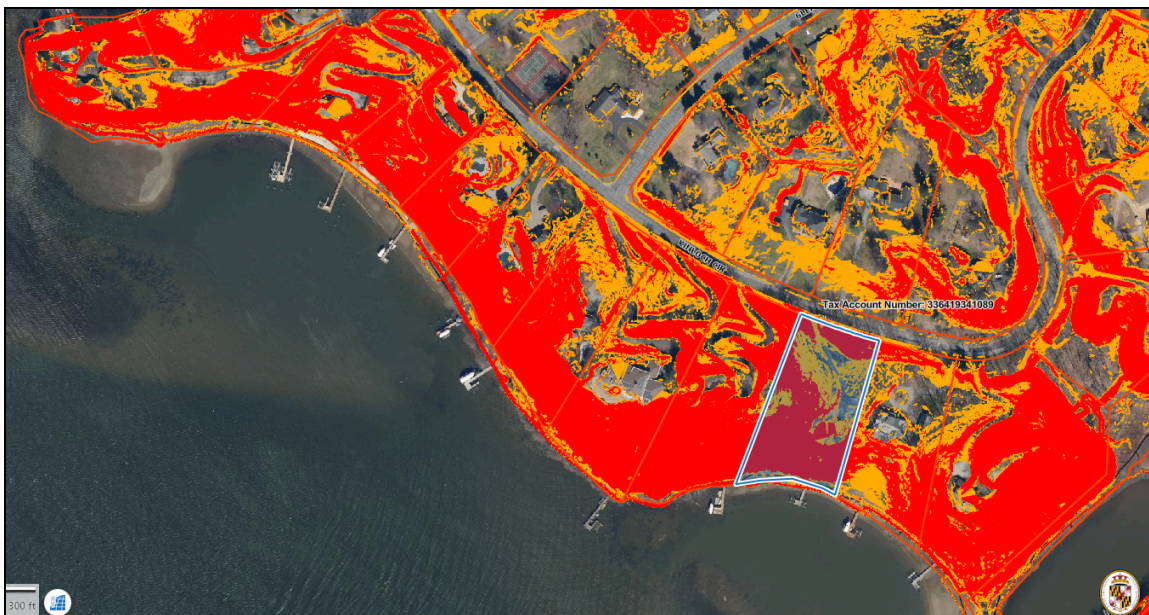
The **Critical Area Commission** reviewed the proposal and noted only that appropriate mitigation shall be required.

The **Health Department** commented that it reviewed the on-site sewage disposal for the subject property, determined that the proposal will not adversely affect that system, and has no objection to the proposal.

The **Department of Inspections and Permits, Engineering Division**, reviewed the proposal and noted that it has no objection to the request so long as the requirements they laid out in that comment document are addressed with the building permit application. The Engineering Division's comments are appended to this report in full as an exhibit.

For the granting of a Critical Area variance, a determination must be made as to whether, because of unique physical conditions, strict implementation of the County's critical area program would result in an unwarranted hardship. The entirety of the subject property is encumbered by the expanded buffer to the Severn River as the lot is significantly covered by steep slopes. Any addition to the dwelling is impossible without relief from the Code's prohibitions against disturbing the buffer and these slopes.

Steep slopes along the shore of this length of the Severn River and the expanded buffer are shared by neighboring properties and are not unique to the site, and therefore the prohibitions against their disturbance do not *uniquely* affect property owners or the subject property. Steep slopes are shown in red (25% and greater slopes) and yellow (15%-24.99%) on the below image; the subject property is shown shaded slightly blue.



However, the subject property is just over two acres in area and the dwelling was built more than 40 years ago: some enhancement and/or embellishment of the dwelling after so much time is understandable. This Office opines that the proposed enlargement of the principal structure's footprint (the addition to the garage measures about 122 square feet and the addition at the new front entryway measures 30 square feet) is modest, and believes that the dwelling's age, the lot's size, the modest degree of disturbance to the buffer and to steep slopes, and the modest increase in lot coverage in the Critical Area, taken together, comprise exceptional circumstances such that denial of the variances requested would result in an unnecessary hardship in the development of this lot.

Based on the foregoing, this Office finds that a literal interpretation of the County's Critical Area Program (and denial of the variances requested) would deprive the applicants of rights that are commonly enjoyed by other properties in similar areas, and that the granting of these variances would not confer on the applicants a special privilege that would be denied by COMAR, Title 27. It is appropriate here to once again stress the modesty of the proposal when considering the age of the existing dwelling and the size of the subject property. No evidence has been presented that the proposal will adversely affect water quality or adversely impact fish, wildlife, or plant habitat; and as the State Critical Area Commission noted, appropriate mitigation will be required.

This Office finds that the applicants have adequately considered site planning alternatives, having made extensive efforts to keep the renovation plans confined to the existing footprint. The variance requests are not based on conditions or circumstances that are the result of actions by the applicants and do not arise from any condition relating to land or building use on any neighboring property.

The construction of the proposed addition will not alter the essential character of the neighborhood; substantially impair the appropriate use or development of adjacent property; reduce forest cover in the Limited Development Area; be contrary to acceptable clearing and replanting practices; or be detrimental to the public welfare. This Office concludes that the relief requested is the minimum relief necessary to afford relief from the Code's requirements, and will recommend approval of the requested variances.

## **RECOMMENDATION**

Based upon the standards set forth under Section 18-16-305 under which a variance may be granted, this Office recommends ***approval*** of Critical Area variances to Sections 18-3-104 and 17-8-201(a) to allow disturbance to the buffer to the Severn River, as expanded, and to allow disturbance to slopes of 15% or greater, respectively, to allow dwelling additions as shown on the site plan.

DISCLAIMER: This recommendation does not constitute a building permit. In order for the applicant(s) to construct the structure(s) as proposed, the applicant(s) shall apply for and obtain the necessary building permits and obtain any other approvals required to perform the work described herein. This includes but is not limited to verifying the legal status of the lot, resolving adequacy of public facilities, and demonstrating compliance with environmental site design criteria.





Jennifer Esposito -DNR- &lt;jennifer.esposito@maryland.gov&gt;

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**2023-0198-V\_Aljunaidi**

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**Jennifer Esposito** <jennifer.esposito@maryland.gov>  
To: Sadé Medina <pzmedi22@aacounty.org>  
Cc: Charlotte Shearin -DNR- <charlotte.shearin@maryland.gov>

Tue, Nov 14, 2023 at 3:26 PM

The Critical Area Commission has reviewed the following variance and appropriate mitigation is required:

- 2023-0198-V; Aljunaidi (AA 364-23)

The above comments have also been submitted to the County's project-review portal.



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***Jennifer Esposito***

Critical Area Commission for the  
Chesapeake & Atlantic Coastal Bays  
1804 West Street, Suite 100

Annapolis, MD 21401

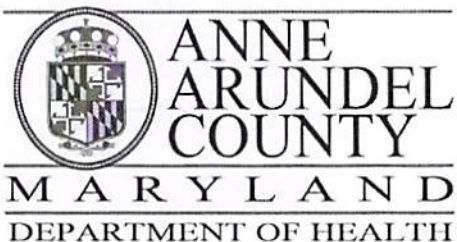
Office: 410-260-3468

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Maryland Relay (TTY): 711  
www.aahealth.org

**Tonii Gedin, RN, DNP**  
Health Officer

**MEMORANDUM**

TO: Sadé Medina, Zoning Applications  
Planning and Zoning Department, MS-6301

FROM: Brian Chew, Program Manager  
Bureau of Environmental Health *BC*

DATE: November 8, 2023

RE: Hayley Keyhyannah  
Emad N. Aljunaidi  
1330 Kinloch Circle  
Arnold, Md 21012

NUMBER: 2023-0198-V

SUBJECT: Variance/Special Exception/Rezoning

The Health Department has reviewed the above referenced variance to allow dwelling additions and retaining wall with less setbacks and buffer than required and with disturbance to slopes of 15% or greater.

The Health Department has reviewed the on-site sewage disposal for the above referenced property. The Health Department has determined that the proposed request does not adversely affect the on-site sewage disposal system. The Health Department has no objection to the above referenced request.

If you have further questions or comments, please contact Brian Chew at 410-222-7413.

cc: Sterling Seay



Mark Wedemeyer, Director

## Memorandum

TO: Planner, OPZ Development Division

FROM: Hala Flores, P.E., Engineer Manager, Department of Inspections and Permits

SUBJECT: Aljunaidi Property (1330 Kinloch Circle)  
Project Number 2023-0198-V  
Steep slope buffer disturbance (expanded buffer)

DATE: 11/14/2023

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### **Engineering and Utility Review**

The above-referenced modification request(s) has/have been reviewed for Engineering and Utility issues, and the following comments apply:

**Project Information:** The address is 1330 Kinloch Circle and the applicant is proposing a 6 feet extension to the front of the existing garage and the relocation of an entryway to the east approximately 7 feet from the current location. The applicant also proposes a new septic system and a small deck off the upper floor on the waterfront side of the dwelling.

### **Allow Disturbance within the Steep Slope/Buffers § 18-12-104(b)(1)**

This office has previously reviewed the grading permit application and issued approval on

- The limit of disturbance to perform this work (excluding the septic area) shall not exceed 5000 SF, and the earth moving shall not exceed 100 CY.
- Applicant shall submit photographs and a statement regarding the slope stability near the construction site.
- The applicant will provide a list of equipment for use within the steep slope buffers. Heavy equipment should not be utilized.
- Install silt fence around the build area

**Determination** –This office has no objection to the subject request as long as the comments above are addressed with the building permit application.



## OFFICE OF PLANNING AND ZONING

### CONFIRMATION OF PRE-FILE MEETING

**PRE-FILE #:** 2023-0023-P  
**DATE:** 09/05/2023  
**OPZ STAFF:** Jennifer Lechner  
Kelly Krinetz

**APPLICANT/REPRESENTATIVE:** EMAD & JANET ALJUNAIDI / Bay Engineering

**EMAIL:** janet\_aljunaidi@verizon.net / khayley@bayengineering.com

**SITE LOCATION:** 1330 KINLOCH CIR ARNOLD 21012

**LOT SIZE:** 2.02 acres (88,375 sqft)

**ZONING:** R1

**CA DESIGNATION:** LDA

**BMA:** NO or **BUFFER:** YES

**APPLICATION TYPE:** Variance

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The applicants are requesting the following variances for additions and renovations to the existing dwelling:

1. A variance to allow disturbance to slopes exceeding 15% in the Chesapeake Bay Critical Area (Article 17-8-201).
2. A variance to allow disturbance within the 100' Chesapeake Bay Critical Area Expanded Buffer (Article 18-13-104).

#### COMMENTS

##### **Critical Area Team:**

No objection to the proposed reconfiguration of existing improvements.

##### **Zoning Administration Section:**

The applicants are reminded that, in order for the Administrative Hearing Officer to grant approval of the variances, the proposal must meet ALL of the Critical Area variance standards provided under Section 18-16-305, which includes the requirement that the variance must be the minimum necessary to afford relief.

#### INFORMATION FOR THE APPLICANT

Section 18-16-201 (b) Pre-filing meeting required. Before filing an application for a variance, special exception, or to change a zoning district, to change or remove a critical area classification, or for a variance in the critical area or bog protection area, an applicant shall meet with the Office of Planning and Zoning to review a pre-file concept plan or an administrative site plan. For single lot properties, the owner shall prepare a simple site plan as a basis for determining what can be done under the provisions of this Code to avoid the need for a variance.

\*\*\* A preliminary plan checklist is required for development impacting environmentally sensitive areas and for all new single-family dwellings. A stormwater management plan that satisfies the requirements of the County Procedures Manual is required for development impacting environmentally sensitive areas OR disturbing 5,000 square feet or more. State mandates require a developer of land provide SWM to control new development runoff from the start of the development process.

Section 18-16-301 (c) Burden of Proof. The applicant has the burden of proof, including the burden of going forward with the production of evidence and the burden of persuasion, on all questions of fact. The burden of persuasion is by a preponderance of the evidence.

A variance to the requirements of the County's Critical Area Program may only be granted if the Administrative Hearing Officer makes affirmative findings that the applicant has addressed all the requirements outlined in Article 18-16-305. Comments made on this form are intended to provide guidance and are not intended to represent support or approval of the variance request.





Existing Front of House



Rear of Garage - Waterside



View of Existing Entry

ARCHITECT:

BARBARA BECK, ARCHITECT  
614 BURNSIDE STREET  
ANNAPOLIS, MARYLAND 21403  
410.263.4994 barbara.beck07@gmail.com



EXISTING PHOTOS ALJUNAIDI RESIDENCE  
11330 KINLOCH CIRCLE  
ARNOLD, MARYLAND

Date:

01.03.24

Sheet:

A-2



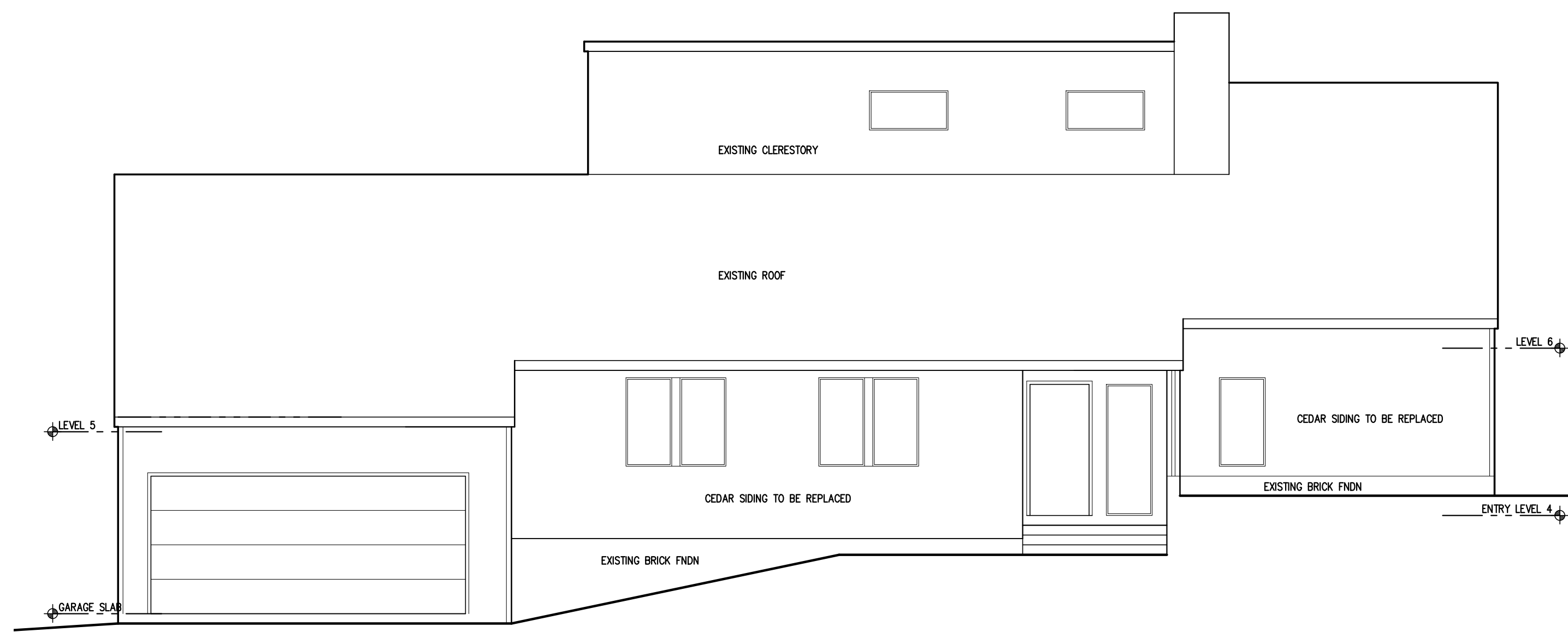


View of Proposed Garage



View of Proposed Entry

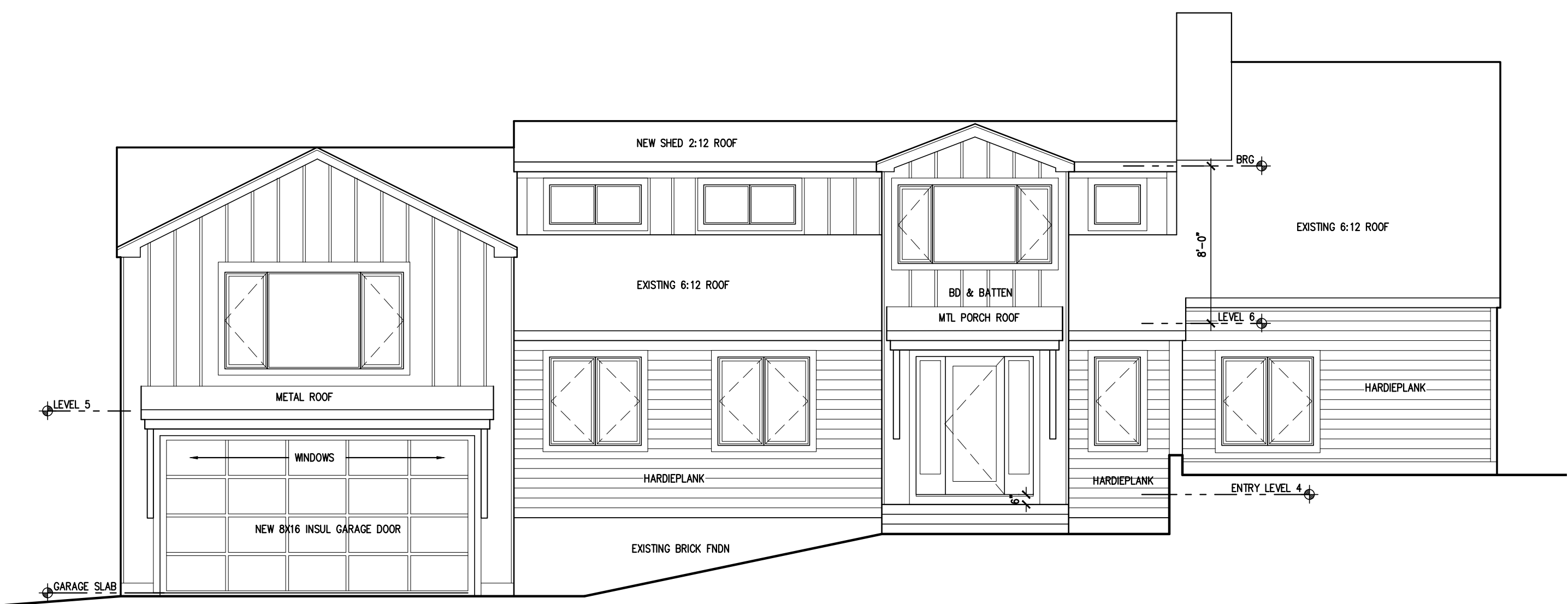




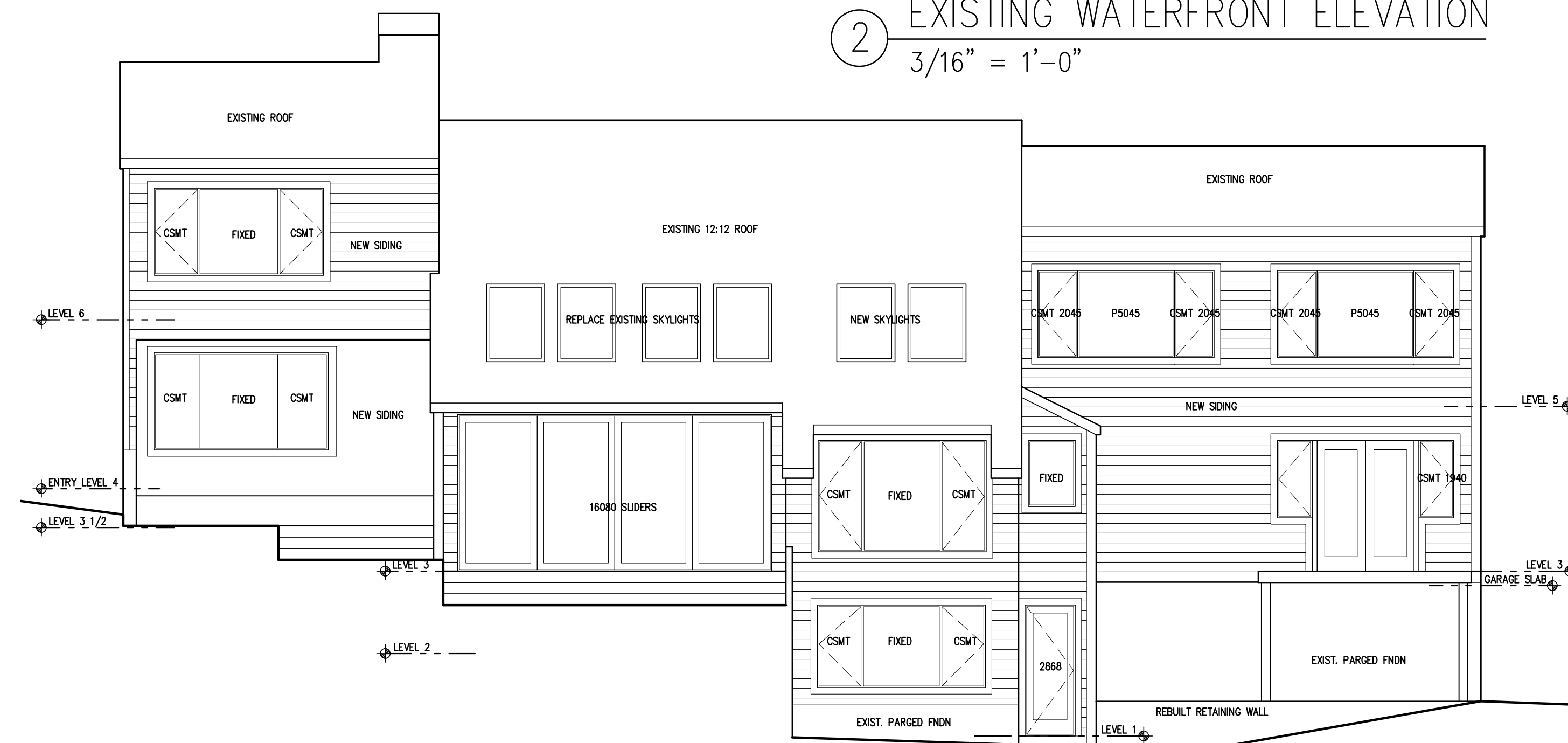
① EXISTING FRONT ELEVATION  
3/16" = 1'-0"



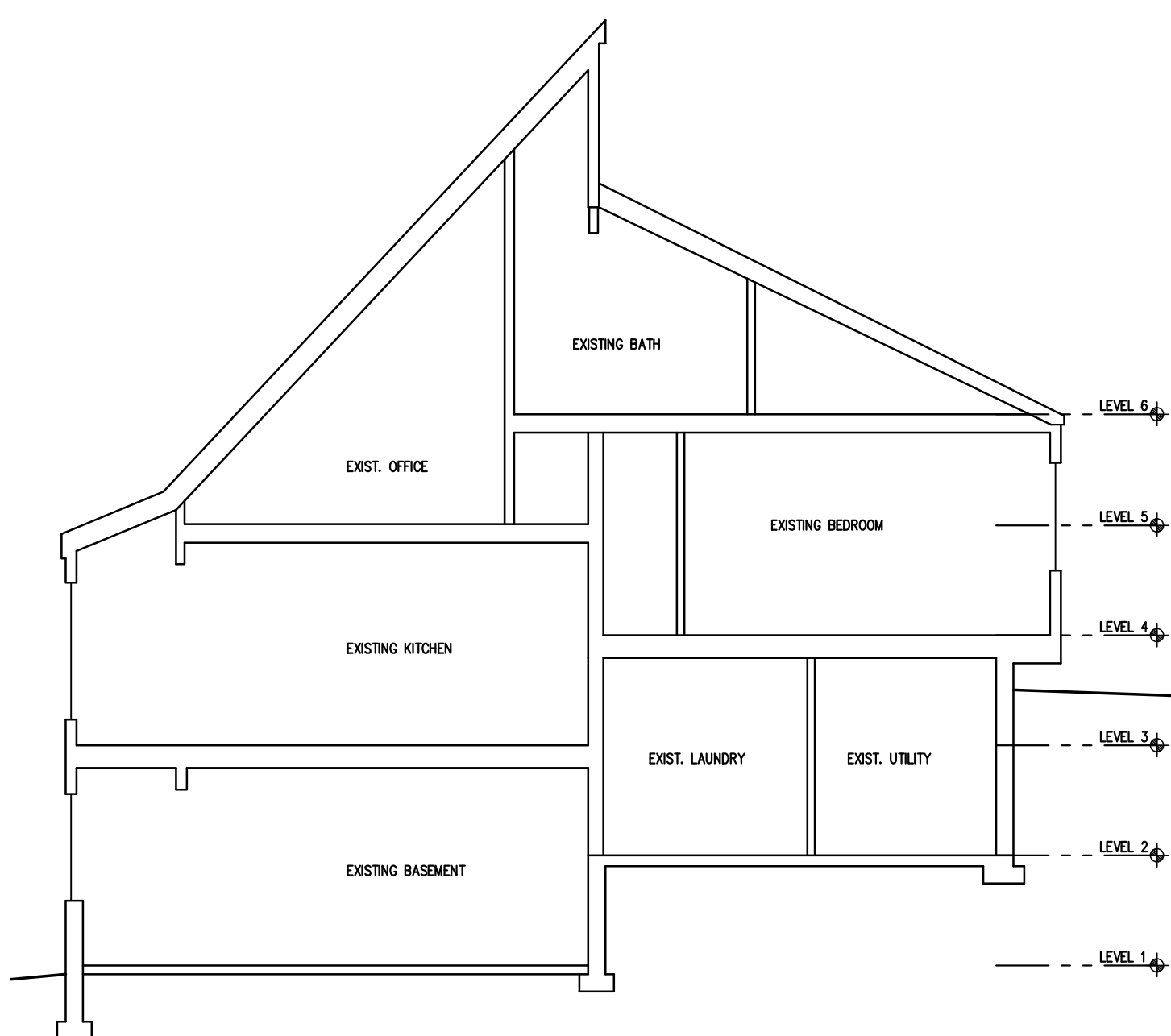
② EXISTING WATERFRONT ELEVATION  
3/16" = 1'-0"



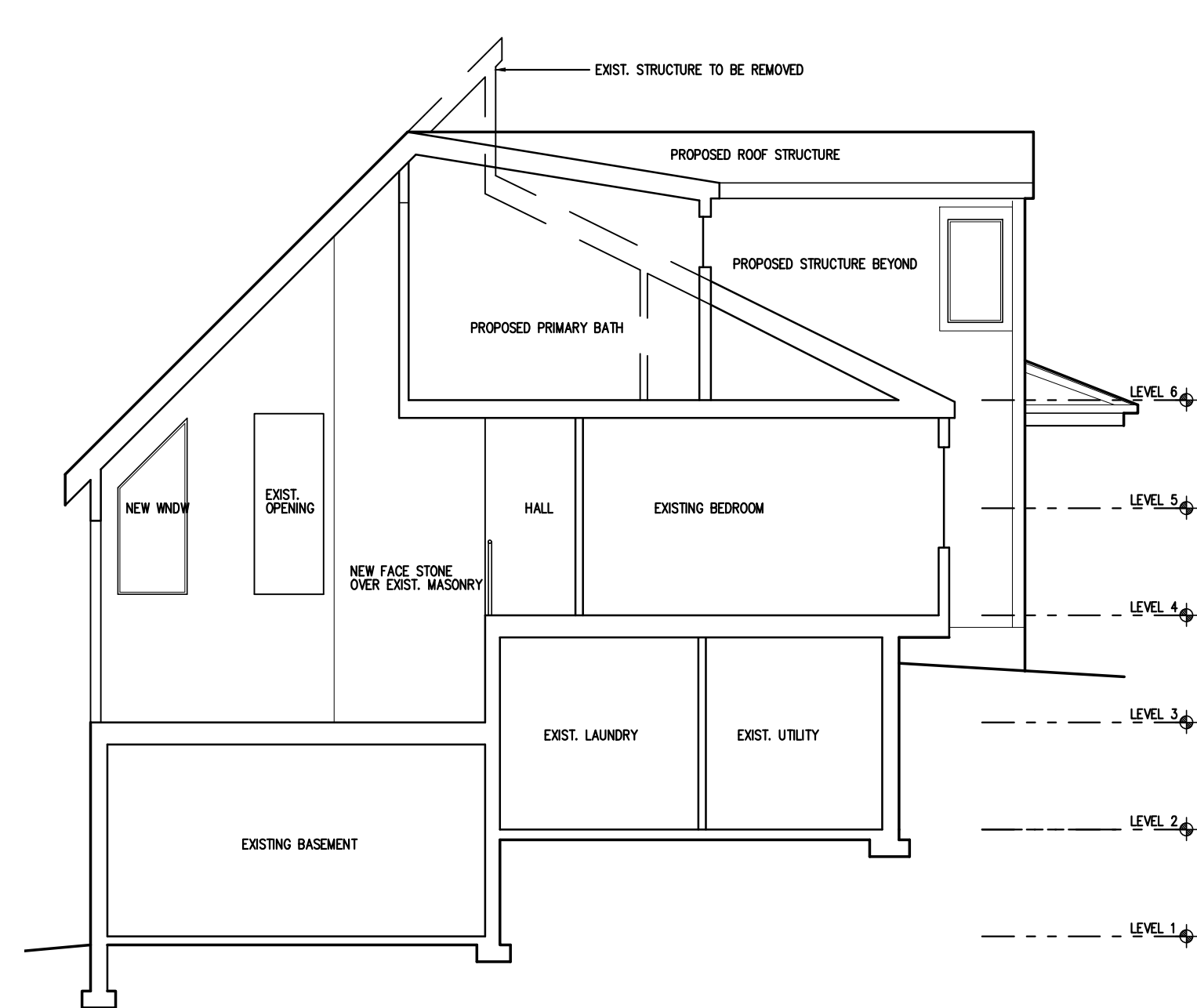
③ PROPOSED FRONT ELEVATION  
3/16" = 1'-0"



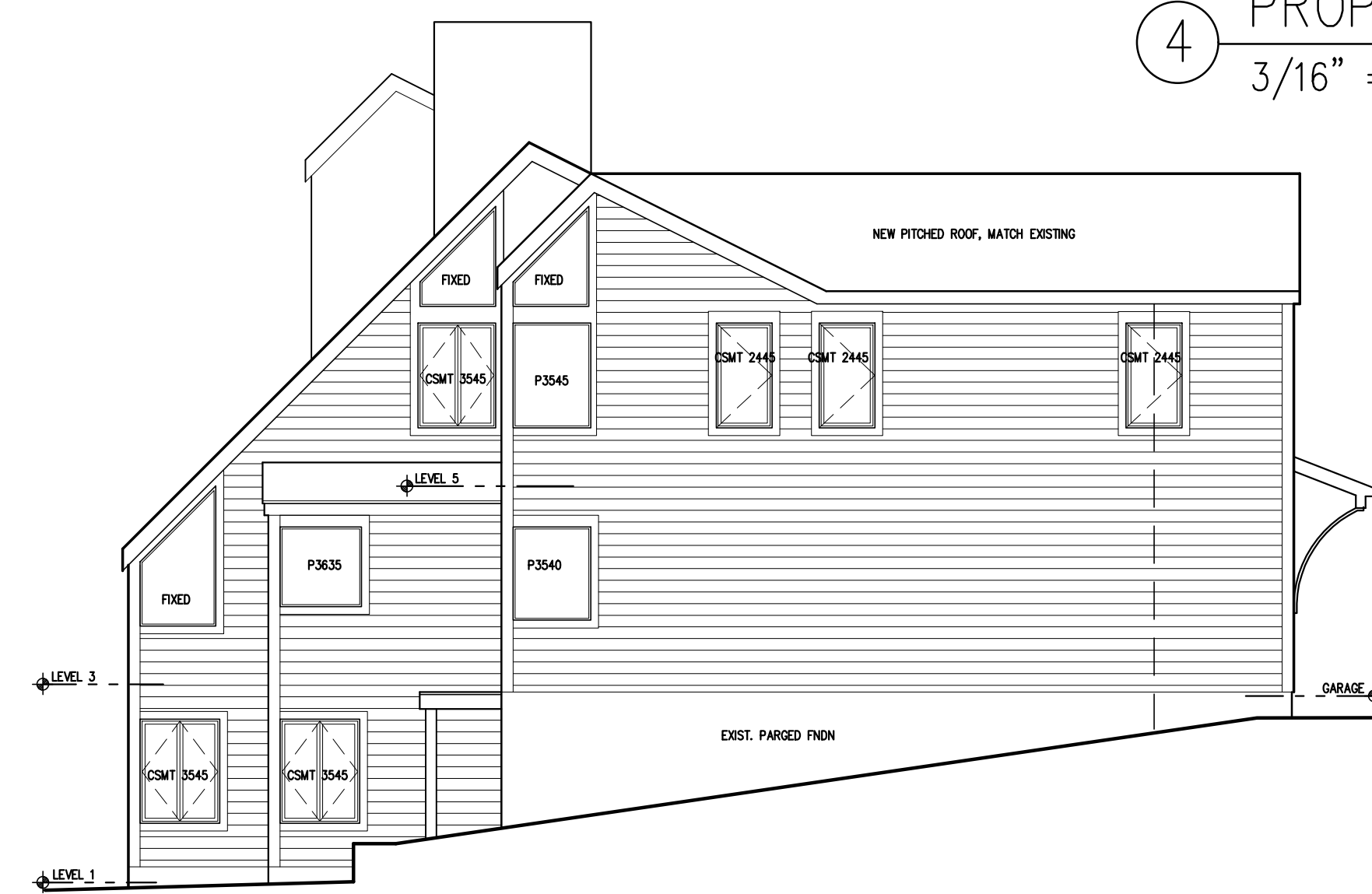
④ PROPOSED WATERFRONT ELEVATION  
3/16" = 1'-0"



⑤ EXISTING BUILDING SECTION  
3/16" = 1'-0"



⑥ PROPOSED BUILDING SECTION  
3/16" = 1'-0"



⑦ PROPOSED EAST SIDE ELEVATION  
3/16" = 1'-0"

ARCHITECT:

BARBARA BECK, RA, LEED AP  
614 BURNSIDE STREET  
ANNAPOLIS, MARYLAND 21403  
410.263.4994 barbara.beck07@gmail.com



Renovations to:

ALJUNAIDI RESIDENCE  
1330 KINLOCK CIRCLE  
ARNOLD, MARYLAND

ELEVATIONS

DATE

11.06.23

SHEET

A-1

I certify that these documents were prepared or approved by me, and that I am a duly licensed architect under the laws of the State of Maryland. License number 15612, expiration date 11-26-2024.

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

**CASE NUMBER 1998-0217-V**

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**IN RE: CAROL AND JOSEPH FRIEND**

**THIRD ASSESSMENT DISTRICT**

**DATE HEARD: AUGUST 20, 1998**

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**ORDERED BY: STEPHEN M. LeGENDRE, ADMINISTRATIVE HEARING OFFICER**

**ZONING ANALYST: KEVIN P. DOOLEY**

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**DATE FILED: AUGUST 25 1998**

## **PLEADINGS**

Carol and Joseph Friend, the applicants, seek a variance (1998-0217-V) to permit a deck addition with less setbacks and buffer than required and on steep slopes on property located along the south side of Kinloch Circle, east of Glen Oban Drive, Arnold.

## **PUBLIC NOTIFICATION**

The case was advertised in accordance with the provisions of the County Code. Dr. Friend testified that the property was posted for 14 days prior to the hearing.

## **FINDINGS AND CONCLUSIONS**

The applicants own a single-family residence located 1330 Kinloch Circle in the subdivision of Glen Oban, Arnold. The property comprises 2.02 acres and is zoned R-1 residential with a Chesapeake Bay Critical Area designation as Limited Development Area (LDA). This is a waterfront lot along the Severn River. The proposal calls for the construction of an irregularly shaped deck, approximately 28' X 34', which will be located within the Critical Area shoreline buffer and over steep slopes.

The Anne Arundel County Code, Article 28, Section 1A-104(a)(1) establishes a minimum 100-foot buffer landward from the mean high-water line of tidal waters; the buffer expands to include all land within 50 feet of the top of any

contiguous steep slope. Section 1A-105(c) prohibits development on slopes of 15 percent or greater in the LDA. Accordingly, this proposal necessitates a variance to permit the deck within the expanded buffer and to permit development on steep slopes.

Kevin P. Dooley, a zoning analyst with the Department of Planning and Code Enforcement, testified that the entire property is steeply sloped. The lot was platted and developed prior to the enactment of the Critical Area legislation. He indicated that a strict application of the program requirements would prohibit any additions to the dwelling. The property is heavily wooded with a clearing at the center where the house is located. The proposed construction does not require any additional clearing. The area is bare ground; he suggested the need for stabilization as a condition of his recommended approval.<sup>1</sup>

Dr. Friend testified that he has occupied the property for 18 years, during which time the naturally wooded areas have remained undisturbed. This proposal does not require any trees to be removed. The applicants are prepared to stabilize under and around the proposed deck. The applicants submitted letters in support of the proposal from adjoining neighbors; there was no opposition at the hearing.

Upon review of the facts and circumstances, I find and conclude that the applicants are entitled to relief from the code. In view of the fact that the entire

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<sup>1</sup>The witness reported that the Critical Area Commission suggested extending the deck laterally rather than towards the water. However, this configuration would compromise several windows and also require additional clearing.

property is steeply sloped, a strict application of the code would impose an unwarranted hardship on the applicants. That is, to literally interpret the code would deprive them of rights commonly enjoyed by other properties in similar areas within the Critical Area of the County. Conversely, to grant the variance would not confer any special privilege denied by the program to other lands within the Critical Area. There was nothing to indicate that the request is based on conditions resulting from actions by the applicants; nor does it arise from conditions relating to land use on neighboring property. Finally, the grant of a conditional variance will not adversely affect water quality, or adversely impact fish, wildlife or plant habitat within the Critical Area and will be in harmony with the general spirit and intent of the program. I find and conclude that the variance is the minimum necessary to afford relief. This is not an overly large structure. There is no opportunity to shift its location without blocking windows and removing additional vegetation. There is nothing to indicate that granting the variance will alter the essential character of the neighborhood, substantially impair the appropriate use or development of adjacent property or be detrimental to the public welfare. The variance will not reduce forest cover in the LDA and is not contrary to acceptable clearing and replanting practices required for developing in the Critical Area.

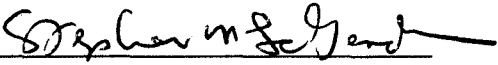
**ORDER**

PURSUANT to the application of Carol and Joseph Friend, petitioning for a

variance to permit a deck addition with less setbacks and buffer than required and on steep slopes; and

PURSUANT to the advertising, posting of the property, and public hearing and in accordance with the provisions of law, it is this 25<sup>th</sup> day of August, 1998,

ORDERED, by the Administrative Hearing Officer of Anne Arundel County, that the applicants' request for a variance to permit the construction of an irregularly shaped deck measuring 28' X 34' within the expanded buffer and to permit development on steep slopes is hereby **granted**. The foregoing variance is subject to the condition that the applicants shall provide stabilization under and around the deck addition and shall provide mitigation with native buffer plantings, both as prescribed by PACE.

  
Stephen M. LeGendre  
Administrative Hearing Officer

#### **NOTICE TO APPLICANT**

Within thirty (30) days from the date of this Decision, any person, firm, corporation, or governmental agency having an interest therein and aggrieved thereby may file a Notice of Appeal with the County Board of Appeals.

Further, Section 11-102.2 of the Anne Arundel County Code states:

A variance granted under the provisions of this Article shall become void unless a building permit conforming to the plans for which the variance was granted is obtained within one year of the grant and construction is completed within two years of the grant.

If this case is not appealed, exhibits must be claimed within 60 days of the date of this order, otherwise they will be discarded.



**FINDING AND RECOMMENDATION  
DEPARTMENT OF PLANNING AND CODE ENFORCEMENT  
ANNE ARUNDEL COUNTY, MARYLAND**

**APPLICANT:** Carol & Joseph Friend      **ASSESSMENT DISTRICT:** Third  
**CASE NUMBER:** 1998-217-V      **COUNCILMANIC DISTRICT:** Fifth  
**HEARING DATE:** August 20, 1998      **PREPARED BY:** Kevin P. Dooley  
Planner

**REQUEST**

The applicants are requesting a variance to permit a deck addition with less setbacks and buffer than required and on steep slopes.

**LOCATION AND DESCRIPTION OF SITE**

The subject property comprises 2.02 acres fronting 201 feet along the south side of Kinloch Circle approximately 400 feet east of Glen Oban Drive. Known as lot 7 in Section 5 of Glen Oban, which is designated as Parcel 491 in Block 16 of Tax Map 39, the site is developed with a single-family dwelling.

The current R1 Residential classification of the site was received as a result of the comprehensive zoning for the Southern Third Assessment District, effective February 13, 1989. The site is a waterfront lot along the Severn River with an LDA Critical Area Classification.

**APPLICANT'S PROPOSAL**

The applicants propose to construct a deck of irregular dimensions (approximately 28' x 34') to be located within the expanded shoreline buffer and extend over steep slopes.

**REQUESTED VARIANCE**

The following variance are needed to construct the deck as proposed:

- Section 1A-104(a)(1) requiring a minimum 100-foot buffer landward from the mean high-water line of tidal waters with the buffer expanded to include all land within 50 feet of the top of any contiguous steep slopes. The variance will permit the deck to be built within the expanded shoreline buffer.
- Section 1A-105(c) prohibiting development on slopes of 15 percent or greater. The variance will allow the deck to extend over steep slopes.

## **RECOMMENDATION**

With regard to the criteria by which a variance may be granted, as set forth under Section 11-102.1, this office would note that the existing dwelling was constructed prior to the Critical Area Program. The dwelling was constructed on steep slopes and is located entirely within the expanded buffer. A strict application of the buffer and slope restrictions would preclude any additions to the dwelling. Additionally, no significant vegetation needs to be removed for the construction of the deck.

Accordingly, this office would recommend for approval of this request with the following conditions:

- The area beneath and surrounding the deck shall be stabilized as required by PACE.

KD:lr

friend.wpd/shared/kevin









KINLOCH CIR





01/19/2020

7 of 74

Select Date



KINLOCH CR



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