



Agenda
City of Charlevoix Zoning Board of Appeals Regular Meeting
Wednesday, June 15, 2022 - 6:00 PM
Council Chambers, 210 State Street, Charlevoix, MI

- 1. Call to Order**
- 2. Roll Call/Pledge of Allegiance**
- 3. Inquiry Into Potential Conflicts of Interest**
- 4. Approval of Agenda**
- 5. Approval of Minutes**
 - A. Minutes from the April 20, 2022 ZBA meeting
 - B. Minutes from the May 18, 2022 ZBA meeting
- 6. Old Business**
 - A. Public Hearing for Applicant **2022-05 ZBA**. Dimensional variance request from William and Beverly Barton - 401 Antrim Street
 1. Staff presentation
 2. Applicant presentation (if requested)
 3. Call for public comments
 4. ZBA determination of findings of fact
 5. Motion
- 7. New Business**
- 8. Call for General Public Comment**
- 9. Adjournment**

Persons with disabilities who need an accommodation to fully participate in these meetings should contact the City Clerk's Office at 231-547-3250 or by email clerk@charlevoixmi.gov. A 24-hour notice may be needed for certain accommodations. An attempt will be made to grant all reasonable accommodations requests.

CITY OF CHARLEVOIX
ZONING BOARD OF APPEALS MINUTES
Wednesday, April 20, 2022 – 6:00 p.m.
City Hall Council Chambers
210 State Street, Charlevoix, MI

A) CALL TO ORDER

The meeting was called to order by Chair Hodgson at 6:00 p.m.

B) ROLL CALL/PLEDGE OF ALLEGIANCE

Chair: Richard Hodgson
Vice Chair: Timothy Kish
Members Present: Shirley Gibson, Ann Gorney, Patricia Miller
Members Absent: None
Staff Present: Jonathan Scheel, Zoning Administrator

C) APPROVAL OF AGENDA

Motion by Member Gibson, second by Member Gorney to approve the agenda as presented. Motion passed by unanimous voice vote.

D) APPROVAL OF MINUTES

1. Motion to approve or amend the meeting minutes – 07/21/2021

Motion by Member Gibson, second by Member Kish to approve the meeting minutes of July 21, 2021 as presented. Motion passed by unanimous voice vote.

E) INQUIRY INTO POTENTIAL CONFLICTS OF INTEREST

F) CALL FOR GENERAL PUBLIC COMMENT

No public comment

G) OLD BUSINESS

None

H) NEW BUSINESS

1. Case 22-01 ZBA 6.7-foot variance for a side yard setback– 207 East Lincoln

a. Staff Presentation

Darren Romano, the applicant is requesting a 6.7 -foot variance for a side yard setback per requirements as defined in 153.072 (b) of the Zoning Ordinance. The property is zoned residential R-2. The applicant wishes to change the use of an existing accessory structure to an accessory dwelling unit. The side yard setback for an accessory dwelling unit is 8 feet. The applicant received a similar side yard variance for the structure to use as a garage/shop in 2019. The structure has been used as a short term rental most recently and was an enforcement issue because of that. The variance is the applicants attempt at making the use legal.

b. Applicant presentation

Applicant Darren Romano stated that as the new structure was being built, the contractor suggested that a bathroom be installed. Mr. Romano stated his business was having a hard time obtaining staff because of a lack of housing, he decided to use the structure as housing for his staff. He wanted to be legal, and he is seeking the variance for that reason.

c. Call for public comments

No public comments

d. Findings of fact

The members of the board collectively agreed that there were not extraordinary circumstances on the property. The parcel is a double lot with room to build an ADU that would meet all setback and lot coverage regulations.

Motion by Member Gibson, second by Member Kish to deny Case 22-01 ZBA 6.7-foot variance for a side yard variance – 207 East Lincoln per the findings of fact that there is not an extraordinary condition on the property.

Motion carried by roll call vote with all members voting affirmatively for the motion.

2. Case 22-02 ZBA 6-foot variance for maximum height of the building and a 5-foot maximum height of mechanical equipment variance-205 Bridge Street

a. Staff Presentation

Charannndor, LLC, the applicant is requesting a 6-foot variance for maximum height of the building and a 5-foot maximum height of mechanical equipment variance per requirements as defined in 153.087 and 153.174 of the Zoning Ordinance. The property is zoned Central Business District (CBD). The applicant wishes to construct a third story, a rooftop deck and mechanical equipment on the roof.

b. Applicant presentation

Applicant Charannndor, LLC stated they are required by the building department to have two accesses on the roof per the building code. One needs to be accessed per the American Disability Act and the second for fire/life and safety. They have a staircase for each apartment and an elevator that serves both. The board were confused on the plans that were submitted as some were contradictory with each other. After some discussion, it was realized the Zoning Administrator had submitted preliminary plans and final plans to the board.

c. Call for public comments

There were no public comments but there were three letters in support that were part of the public record.

d. Findings of fact

Motion by Member Kish, second by Member Gorney to table Case 22-02 ZBA 6-foot variance for maximum height of the building and a 5-foot maximum height of mechanical equipment variance-205 Bridge Street and request a clean set of plans.

Motion carried by roll call vote with all members voting affirmatively for the motion.

3. Case 22-03- ZBA 23.25-foot variance for rear yard setback and addition to the existing building

a. Staff Presentation

Charlevoix Historical Society, applicant is requesting a 23.25-foot variance for rear yard setback variance per requirements as defined in 153.087 of the Zoning Ordinance. The property is Professional Office District (PO). The applicant wishes to construct a fire-resistant storage addition to the existing building.

b. Applicant presentation

Denise Fate, President of the Charlevoix Historical Society, stated that the Historical Society has had a large donation of materials including many photographs in the last few years. Because of this, the need for safe proper storage is critical. The present historic structure they are in was donated to them with the condition that it be used only for the museum. They are trying to be sensitive to the architecture of the structure and sensitive to the neighborhood with their proposal.

c. Call for public comments

There were numerous public comments from Historical Society Members in support of the proposal.

d. Findings of fact

1. Variance for rear yard setback

Substantial justice –

Impact on the Surrounding Neighborhood –to read: “The ZBA finds that the applicant’s request will not have a negative impact on the neighborhood, as the new structure will have a negligible impact on the adjacent property because it is reasonably sized for the Office District and is adjacent to a parking lot and the input from the community has been supportive.

Public Safety and Welfare – No change

Not Self-Created – After much discussion - No change

2. Construction of addition to existing building

Extraordinary Circumstances - Chair Hodgson suggested a change to the first sentence to read: “The ZBA finds that the need for the requested variance is due to unique circumstances and physical conditions of the property including steepness, odd shape and layout.”

Motion by Member Gorney, second by Member Miller to approve Project 22-03-ZBA for a rear yard variance with the conditions that the addition is limited to one story and that storm water run off shall be managed in a manner that will not impact neighboring property.

Motion carried by roll call vote with all members voting affirmatively for the motion.

I) ADJOURNMENT

Motion by Member Kish, second by Member Gibson to adjourn the meeting at 8:45 p.m. Motion passed by unanimous voice vote.

Sarah Dvoracek

City Clerk

Richard Hodgson

Chair

City of Charlevoix
Zoning Board of Appeals Regular Meeting minutes
Wednesday, May 18, 2022 - 6:00 PM
Council Chambers, 210 State Street, Charlevoix, MI

1. Call to Order

The meeting was called to order by Chair Hodgson at 6:00 p.m.

2. Roll Call/Pledge of Allegiance

Chair: Richard Hodgson
Vice Chair: Timothy Kish
Members Present: Shirley Gibson, Dan Reed
Members Absent: Ann Gorney, Patricia Miller
Staff Present: Janet Koch, Zoning Administrator

3. Inquiry into Potential Conflicts of Interest

Member Kish stated that he had worked with Harry Golski in the past on a couple of occasions related to real estate transactions. Member Reed stated that Mr. Golski had also helped him with a will.

4. Approval of Agenda

Motion by Member Gibson, second by Member Kish to approve the agenda as presented.

Motion carried by unanimous voice vote.

5. Approval of the Minutes from April 20, 2022

Chair Hodgson stated that he had just received the minutes and he proposed that the item be tabled until the next meeting and the Board concurred.

6. Old Business

A. Interpretation of 153.005 Definition of Building Height

i. Staff Presentation:

Previous Zoning Administrator Jonathan Scheel explained that the Zoning Administrator interprets the Zoning Ordinance and preceded to review the particulars of his interpretation of Zoning Ordinance, Section 153.005, *Definition of Building Height*, as reflected in the memo provided as part of the agenda packet. He explained the two possible interpretations of "building height" and responded to questions and comments from the Board members.

Chair Hodgson stated he felt the intent of the definition language was the maximum building height and 6' above that defines what "you can build within". He also noticed that the version in the memo is from 2020 and the latest is 2021 where they added the 50% coverage and when that happened part of the change (life safety structure) was dropped, therefore a correction to the Ordinance was needed. Chair Hodgson stated that the interpretation is "as written, 6' above maximum building height". Mr. Scheel stated for clarification based on that interpretation in the Central Business District it would be 6' above 40'. Member Reed stated that the interpretation needs to be spelled out in more detail.

Motion by Member Reed, second by Member Gibson to interpret maximum building height to

be consistent with that described under area and placement requirements later in this Chapter. **Motion carried by unanimous voice vote.**

Chair Hodgson asked the Zoning Administrator for a review of the Ordinance and its discrepancies from the Planning Commission

B. Public Hearing for Applicant **2022-02 ZBA**. Dimensional variance request from Charanndor LLC
- 205 Bridge Street

i. Staff Presentation

Chair Hodgson stated that it might be advisable if the applicant wanted to request tabling this item for the interpretation/correction needed related to the building height. The applicant advised that he would still need a variance for the corridor/staircase and elevator shaft as proposed in his application.

Former Zoning Administrator Jonathan Scheel stated that he believed with the flaws in the Ordinance that the ZBA would be derelict in their duties if it stopped the proceeding because of the flaws, but there are absolutely multiple other flaws in that Ordinance and the ZBA had to do its best under the circumstances with intent.

Zoning Administrator Janet Koch reviewed the staff report for ZBA-22-02 at 205 Bridge Street which included requests for two variances: one for the corridor/stairwell height (above the 40' maximum), and one for the elevator and elevator mechanicals (above the 46' maximum).

ii. Applicant presentation (if requested)

The applicant stated that the Board had the revised drawings for the project which included revisions to the location of the AC condensers and the privacy wall to align with the center of the building, limited the height of the privacy wall to 6' above the rooftop so the maximum is 46', shortened the remaining privacy wall in the front to be at the maximum 40' height. He believed that with those changes they did not need any variances for those items. The needed variances were for the elevator shaft height and the stairwell height. He stated he reviewed the building and fire codes which require two (2) stairwells at a minimum, and he described in detail the requirements discussed with John Cochrane, Building Inspector. He responded to questions from the ZBA members.

iii. Call for public comments

Jonathan Scheel stated that he did call the Building Inspector who gave him exactly the same response as the applicant just stated, but per the ADA and the Health & Safety Fire Code he called back and asked directly if the ADA is required because of the residential usage and he spoke to John Cook an inspector who stated that the Charlevoix Building Department was going to require both the elevator and the two staircases.

iv. ZBA determination of findings of fact

(1) Height variance request for corridor/stairwell.

The size of the variance is 1' not 7' as reflected in the staff report.

Extraordinary circumstances: Chair Hodgson stated that extraordinary circumstances do not exist because heights could be adjusted to meet the requirement; the members agreed.

(2) Height variance request for elevator/elevator mechanicals (above 46' max.).

Extraordinary circumstances: Chair Hodgson stated that it was the design of the building and the selection of the elevator that requires the variance.

v. Motion

Motion by Member Reed, second by Member Gibson to deny the variance for the height variance request for the corridor/stairwell (above 40' maximum) based on extraordinary circumstances not being met. **Motion carried by unanimous roll call vote.**

Motion by Member Reed, second by Member Gibson to deny the variance for the height variance request for the elevator/elevator mechanicals (above 46' maximum) based on extraordinary circumstances not being met. **Motion carried by unanimous roll call vote.**

7. New Business

A. Public Hearing for Applicant **2022-07 ZBA**. Dimensional variance request from Harry Golski, PLC (Maurine Watts, Trustee) - 103 Grant Street

i. Staff Presentation

Zoning Administrator Koch stated the applicant is proposing to split an existing lot with two primary structures into two lots with one primary structure on each lot on parcel ID #052-252-002-00. The property is within the Earl Young Historic District, but the District did not need to be consulted on this application as there is no physical change to the buildings. She stated that with this request the parent parcel would be 7,333 sq. ft. and the second parcel would be 3,042 sq. ft. significantly less than the minimum lot width requirement of 6,000 sq. ft.; and it does not meet the minimum parcel width of 50'.

ii. Applicant presentation (if requested)

Harry Golski, Attorney representing the Wallace sisters, stated that should the width variance be granted for 46', the applicants would have no objection to that being granted conditional upon the applicants obtaining a vacation of the alley to the north of the parcel. When that condition was satisfied they would pick up 8.25' which would be added to the north/south line. He explained that this was an unusual situation in that the daughters inherited the property from their mother and this "problem" has been in existence for 100 years. He further explained the reasons for the request to split the property into two separate lots.

Member Gibson stated that the lot size was 10,291 sq. ft. and it appeared that they could make the split more conforming to the minimum lot size at approximately 6,000 sq. ft. for the one lot and 4,291 sq. ft. for the second lot. Mr. Golski stated that the homes are of different sizes and the lot sizes are somewhat more proportional to the size of the existing structures.

iii. Call for public comments

Jonathan Scheel stated that when he was Zoning Administrator he did discuss the alley vacation with the City Manager, Public Works Director, and the Electrical Division and none of them had an issue with the vacation of that alley.

iv. ZBA determination of findings of fact

Member Gibson stated that she believed that this was a perfectly conforming lot in the R-2 with an accessory dwelling unit (ADU), and the City now allows ADU's. She stated that if this is approved they will be setting a precedent that lots with an ADU can be split and she felt that would cause a lot of problems. Discussion followed regarding what lot size is big enough to warrant a variance, creation of a non-conforming lot, non-conforming use of two (2) residences on one parcel, and possible precedents regarding ADU's.

(1) Request for a variance from the required 6,000 sq. ft. minimum lot area required in the R-2, Zoning District of Table 153.072 (a).

Extraordinary circumstances as included in staff report:

(1) Exceptional or extraordinary circumstances or conditions exist on the parent parcel, including exceptional topographic or physical conditions, that do not generally apply to other lots, parcels or tracts of land in the City.

Member Gibson stated that she was not in favor of non-conforming lots. Zoning Administrator Koch stated that they could not consider the smaller residence as an ADU since it was built long before ADU's were regulated and has been a primary residence for many years. Member Kish stated that the City was allowing people to create ADU's and they were not forcing people to create ADU's. Chair Hodgson and Member Gibson did not feel the situation was extraordinary.

(2) The exceptional or extraordinary circumstances or conditions existing on the parent parcel are not the result of any act or omission by the applicant or his or her predecessors in title. Board agreed that the parcel was "grandfathered in". Discussion followed regarding whether or not this was a unique situation.

(3) The granting of the variance shall not be injurious or otherwise detrimental to adjoining lots, parcels or tracts of land or to the general health, safety and general welfare of the City.

Chair Hodgson stated that this was a very small lot which could create additional problems if the owner wanted to add anything else to the property.

(4) The resulting lots, parcels or tracts of land with the variance granted shall be compatible with surrounding lots, parcels or tracts of land.

Member Gibson stated that the small lot does not meet the standards.

(5) The variance granted shall be the minimum variance that will make possible the reasonable use of the parent parcel.

v. Motion

Motion by Member Gibson, second by Member Reed to deny the project 2022-07-ZBA based on specific findings of fact that proves the project does not meet the review standards in 154.08 as there are no extraordinary circumstances and is self-created.

Motion carried by a 3 to 1 vote with Member Kish voting no.

B. Public Hearing for Applicant **2022-04 ZBA**. Dimensional variance request from Timothy Shindorf - 217 West Garfield Street

i. Staff Presentation.

Zoning Administrator Koch stated that the applicant was proposing to construct an attached two-story garage which requires a variance of 8.7' from Section 153.117(D) of the Zoning Ordinance which defines the dimensional requirements for accessory buildings. The corner lot (Grant & Garfield) has two housing units on the property, an older nonconforming mobile home and a newly remodeled home.

ii. Applicant Presentation.

Tim Shindorf stated that his family has owned the property for many years. He stated that he wanted to build a 24' x 26' garage and attach it to the house with a small breezeway and the reason was because the house is on a cement slab and where the two lines come into the house one in the front and one 20' to the back is the only place that he had to undermine the house to get up to Code footing and blocks put in. Member Kish questioned why the new garage couldn't be built in the same area as the small garage that would be demolished and Mr. Shindorf stated there was not enough room for the garage he wanted to build. Mr. Shindorf stated that he rented out the mobile home on the property.

iii. Call for public comments.

Tim Wojan, adjacent property owner, stated that there was a traffic problem in that area and the proposed garage would cause issues with the traffic and he was against granting of the variance. He felt that the property owner could remove the mobile home trailer which would provide more space for the garage.

Bruce Livingston, 803 Grant, questioned the purpose of the second story of the garage. He felt that he would need a variance to the front of the house and Chair Hodgson stated that was not part of the request before the Board. Mr.. Livingston expressed concern about the second story of the garage turning into a living area in the future.

iv. ZBA determination of findings of fact.

Chair Hodgson questioned if the breezeway and garage would come under that limitation where the maximum height was 16' and he felt right away that he could not build the two-story plan. Zoning Administrator Koch confirmed that the maximum height for the garage could only be 16' with the attached breezeway.

Chair Hodgson reviewed the Findings of Fact:

Extraordinary circumstances: Chair Hodgson stated that the applicant could build the garage in another area on the property that would not require variances or eliminate the breezeway.

v. Motion.

Motion by Member Gibson, second by Member Kish to deny 2022-04-ZBA based on specific findings of fact that proves the project does not meet the review standards as there are no extraordinary circumstances and is self created. **Motion carried by unanimous roll call vote.**

C. Public Hearing for Applicant **2022-05 ZBA**. Dimensional variance request from William and Beverly Barton - 401 Antrim Street

- i. Staff Presentation
- ii. Applicant presentation (if requested)
- iii. Call for public comment
- iv. ZBA determination of findings of fact
- v. Motion

Zoning Administrator Koch stated that there was a public hearing notice issue and she would send out the revised notice next week and this case would come before the ZBA in June.

D. Public Hearing for Applicant **2022-01 ZBA**. Dimensional variance request for Turn Key Property Services (Jordan Irish) - 808 East Dixon Avenue

- i. Staff Presentation
- ii. Applicant presentation (if requested)
- iii. Call for public comment
- iv. ZBA determination of findings of fact
- v. Motion

This case was withdrawn.

8. Call for General Public Comment

Mrs. Shindorf questioned why their case was denied and Chair Hodgson explained the extraordinary circumstances.

9. Adjournment

The meeting adjourned at 8:31 p.m.



OFFICE OF PLANNING AND ZONING
Janet Koch, Zoning Administrator
210 State Street Charlevoix, MI. 49720
planner@charlevoixmi.gov
Phone: (231)547-3265

ZONING BOARD OF APPEALS STAFF REPORT

AGENDA ITEM:	<u>ZBA 22-05 Variance Request for 401 Antrim Street</u>
PUBLIC MEETING DATE:	June 15, 2022, 6:00 PM
PRESENTED BY:	Janet Koch, Zoning Administrator

EXHIBITS:	1. Variance application form dated 4-30-2022 2. Site Plan and Proposed Plans 3. Applicant letter 4. Public comment letters (3) 5. City of Charlevoix Zoning Ordinance, adopted 1-17-2022
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1. PROPOSAL

The applicant is proposing to change the use of an existing accessory building to an accessory dwelling unit (ADU) on parcel ID 052-256-001-50. The applicant is requesting a variance from §153.117(D)9(b) of the City of Charlevoix Zoning Ordinance which defines the dimensional requirements for ADUs. The variance requested is a 4'4" foot side yard variance and a 6 foot front/side yard variance to allow a change of use for an existing structure. The setback standards for ADUs in the R-2 District are:

Front yard setback..... 15 feet	Side yard setback5 feet
Street side setback..... 15 feet	Rear yard setback.....5 feet

The purpose of this Staff Report is to evaluate this proposal against the procedures and criteria outlined in Chapter 153, §153.035-153.042 of the City of Charlevoix Zoning Ordinance adopted March 19, 2019.

2. BACKGROUND

The date of the submitted variance application was April 30, 2022. The original notice of public hearing was published in the *Petoskey News-Review* on April 30, 2022 and mailed to property owners within 300 feet of this parcel on May 3, 2022. However, an error in the notice was subsequently discovered. A second notice of public hearing was published in the *Charlevoix Courier* on June 3, 2022 and mailed to property owners within 300 feet on June 3, 2022.

The proposed site plan illustrates the current setbacks and the location of the existing garage, which is the proposed ADU. The applicant is requesting two setback variances. If granted, the variances will allow a change of use from an accessory building to an ADU. ADUs are a Use by Right in the R-2 District.

The Zoning Administrator reviewed this proposal. No other City staff was asked for input for this project. On May 9, 2022, the Planning Commission approved a Special Use for the property of a bed & breakfast establishment with the condition that the applicant provide topographic information regarding storm water runoff to the zoning administrator.

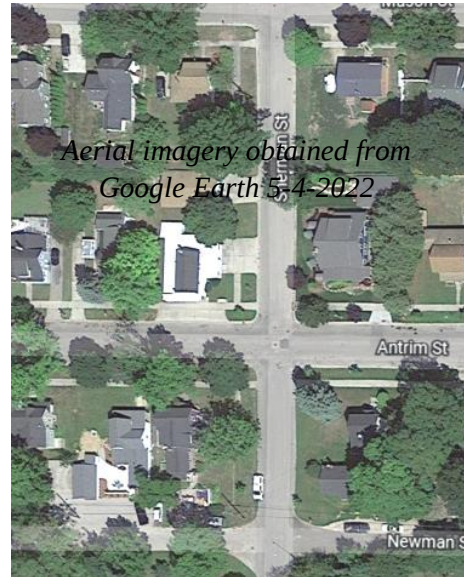
3. SITE

The subject property is located at 401 Antrim Street. The tax description is the South 1/2 of Lot 1 of Block 16 of the Original Plat of the Village (now City) of Charlevoix. The parcel is roughly 66 x 99', totaling approximately 6,534 square feet.



*Aerial imagery obtained from
Charlevoix County website 5-4-2022*

*Aerial imagery obtained from
Charlevoix County website 5-4-2022*



*Aerial imagery obtained from
Google Earth 5-4-2022*

*Aerial imagery obtained from
Google Earth 5-4-2022*



Photo of 401 Antrim St. garage taken on 5-4-2022

4. STAFF ANALYSIS

Staff opinion concerning this variance request is that the ZBA will have to evaluate the findings of fact below. At this time, staff does not have any recommended conditions of approval.

5. REVIEW STANDARDS - FINDINGS OF FACT - CONDITIONS OF APPROVAL

The City of Charlevoix Zoning Ordinance has additional standards for ADUs requiring a Special Use Permit for ADU's that do not meet accessory building setbacks. The standards are below for the ZBA to review with the normal standards for a variance:

§153.038(D)(9) Dimensional requirement modifications. Under some circumstances certain dimensional requirements modifications may be granted by a Special Land Use Permit after a site plan review by the Planning Commission. Application for modifications may be applied for new construction or pre-existing structures built prior to 2019 that are located within the required setbacks of the district. In order to grant a Special Land Use permit for any modifications all of the following must be met:

- (a) That any walls within the setback areas comply with applicable building and fire codes.*
- (b) That a setback requirement of a minimum of 5 feet from the side and rear property lines shall be required.*
- (c) The location and design of the ADU maintains a compatible relationship to adjacent properties and does not significantly impact the privacy, light, air, or parking of adjacent properties.*
- (d) Windows on the ADU that impact the privacy of the neighboring side or rear yards have been minimized or screened.*

Regarding dimensional variances, the Zoning Ordinance also states that;

The ZBA, after holding a public hearing in accordance with the requirements of the Zoning Act, shall have the power to grant requests for dimensional variances from the provisions of this chapter where it is proved by the applicant that there are practical difficulties in the way of carrying out the strict letter of this chapter relating to the construction, equipment or alteration of buildings or structures, or of storm water management requirements so that the spirit of this chapter shall be observed, public safety secured and substantial justice done. §153.038(F)(1)

During the public hearing on the June 15, 2022, the role of the ZBA is to make findings of fact to determine if each variance proposal meets each of the following standards. **The ZBA must find that each variance proposal meets all the following standards based on findings of fact before considering a motion to approve.** Staff has written the following recommended findings of fact as a starting point. The ZBA may add, modify, or delete any of the following findings on the hearing date.

General findings of fact: 4'4" side yard variance, 6' street side variance

*§ 153.038(F)(2) states that a dimensional variance may be allowed by the ZBA only in cases where the applicant has shown a practical difficulty in the official record of the hearing. **The applicant must prove that all of the following conditions have been met.***

- (a) Extraordinary Circumstances. *Exceptional or extraordinary circumstances or conditions may include: 1) Exceptional narrowness, shallowness, small size or shape of a specific property on the effective date of this chapter; (2) Exceptional topographic conditions or other extraordinary situation on the land, building or structure; and (3) The use or development of the property immediately adjoining the property in question, whereby the literal enforcement of the requirements of this chapter would involve practical difficulties. § 153.038(F)(2)(a)*

The ZBA finds that the need for the requested variance is due to unique circumstances and physical conditions of the property. The parcel is 66' feet wide and 99' feet deep, which is similar to the majority of lots on this street but smaller than most lots in the R-2 District. Most lots in the R-2 District are one- and one-half times as large as this lot. The ZBA finds that this standard is met since the size of the lot is substantially smaller and is a corner lot which takes away even more buildable area because of the additional seven feet removed by the front/side yard setback.

- (b) Substantial Justice. *Compliance with the strict letter of the restriction's governing area, setbacks, frontage, height, bulk, density or other dimensional provisions would unreasonably prevent the use of the property. Granting of a requested variance or appeal would do substantial justice to the applicant as well as to other property owners in the district and such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. Any variance granted shall be the minimum necessary to allow the preservation of these substantial property rights. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance. § 153.038(F)(2)(b)*

The ZBA finds that the applicant is requesting to change the use of an accessory structure to an accessory dwelling unit that is allowed in the R-2 District. The existing structure has been in existence since at least the last 40+ years like many other nonconforming accessory buildings in the district.

- (c) Impact on the Surrounding Neighborhood. *The variance will not be detrimental to adjacent property and the surrounding neighborhood or interfere with or discourage the appropriate development, continued use or value of adjacent properties and the surrounding neighborhood as compared to other uses in the neighborhood. §153.038(F)(2)(c)*

The ZBA finds that the applicant's request will not have a negative impact on the adjacent property owner or the neighborhood as the new use is of minimal impact and similar to other existing ADU structures in the district.

- (d) Public Safety and Welfare. *The granting of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, comfort, morals or welfare of the inhabitants of the city. §153.038(F)(2)(d)*

The ZBA finds that the applicant's request will not negatively affect public safety and welfare.

- (e) *Not Self-Created.* The immediate practical difficulty causing the need for the variance request was not self-created by the applicant or previous owners of the subject property. §153.038(F)(2)(e)

The ZBA finds that the applicant's request is not self-created. The existing structure was built before current regulations.

Section 504 of Public Act 110 of 2006, the Zoning Enabling Act as amended, states the following:

- (4) Reasonable conditions may be required with the approval of a special land use, planned unit development, or other land uses or activities permitted by discretionary decision. The conditions may include conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:
- (a) Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being, of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 - (b) Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
 - (c) Be necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in the zoning ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

6. ZBA ROLE AND OPTIONS

The City of Charlevoix Zoning Board of Appeals has the following options for the variance application, project number 22-05 ZBA for 401 Antrim:

1. Deny project 22-05 ZBA based on specific findings of fact that prove the project does not meet the review standards in 153.038 (F).
2. Approve project 22-05 ZBA without conditions, based on specific findings of fact that prove the project does meet the review standards in 153.038 (F).
3. Approve project 22-05 ZBA with conditions, based on specific findings of fact that prove the project does meet the review standards in 153.038 (F).
4. Table the decision on project 22-05 ZBA.

**OFFICE USE ONLY**

Case # _____

Date Rec'd _____

Fee Rec'd _____

Receipt # _____

Office of Planning and Zoning
210 State Street Charlevoix, MI. 49720
planner@charlevoixmi.gov
www.charlevoixmi.gov
(231)547-3265

VARIANCE APPLICATION

Beverly Barton
Applicant

401 ANTRIM ST.
Address of subject property

Charlevoix, MI 49720
Address (City/State/Zip)

Property Owner Name (If different than applicant)

Property Owner Address (City/State/Zip) (If different than address of subject property)

Property Owner Phone (734) 320-0121 Email bevbarton00@gmail.com

Agent Phone () - - - - Email _____

Current Zoning of subject property: R2

Current Use of Property: (Example: Single Family, Duplex, Apartments, Commercial)
SF

Date of original construction (If known): 1970

Please describe the type of construction or proposed use for a use variance:

ADU

Dimensions of proposed construction excluding eaves: _____

Total square footage of proposed construction: _____

Height of proposed construction to the top of the roof: _____

Height of proposed construction to the midpoint of the roof for gabled roof: _____

Roof Type: (Examples: Gable, Hip, Gambrel, Mansard, Flat) _____

Variance Requested: ☒ Front Yard Setback 6' feet from front property line.

☐ Rear Yard Setback _____ feet from front property line.

☒ Side Yard Setback 4.4 feet from front property line.

☐ Lot Coverage: Request _____ % coverage.

Use Variance Requested: Yes ☒ No ☐ If yes please describe the proposed use: ADU

What hardship or practical difficulties exist that prevents the property owner from being able to meet the requirements of the Zoning Ordinance?

see attached

Attach a scale drawing of the proposed construction. Please be as detailed as possible, as this will be used to determine if a variance can be approved in accordance with the Zoning Ordinance. Corrections or additions may be required by the Zoning Administrator to determine compliance with the Zoning Ordinance.

Include all of the following:

- Lot or parcel dimensions.
- Existing building and dimensions, excluding eaves.
- Proposed building and dimension, excluding eaves.
- Front, site, and rear yard dimensions.
- Dimensions between existing and/or proposed buildings.
- Location and dimensions of all impervious surfaces including structures, sidewalks, driveways, patios, etc.

- Name of nearest road, easement, or dedicated right-of-way.
- Scale, North arrow.

AFFIDAVIT: I agree the statements made above are true, and if found not to be true, any Zoning Board of Appeals ruling that may be issued may be void. Further, I agree that any Zoning Board of Appeals ruling and subsequent permit that may be issued is issued with the understanding that the individual(s) in receipt of that ruling/permit will comply with all applicable sections of the City of Charlevoix Zoning Ordinance. Also, I agree to notify the City of Charlevoix Zoning Administrator before the start of construction and when locations of proposed uses are marked on the ground so that the Administrator may perform a site inspection. Further, I agree to give permission for officials of the City of Charlevoix, the County, and the State of Michigan to enter the property subject to this permit application for purposes of inspection. Also, I understand any zoning action by the Zoning Board of Appeals conveys only land use rights, and does not include any representation or conveyance of rights in any other statute, building code, deed restriction, or other property rights. I understand that the ZBA may impose conditions of approval and I agree to meet those conditions as outlined in the Decision and Order.

Signed: Beverly Barton
Date: 4-30-22

401 Antrim St. Variance Requests

Hardship

This is a non-intruding variance request due to current conditions. We are not creating a new non-conforming situation.

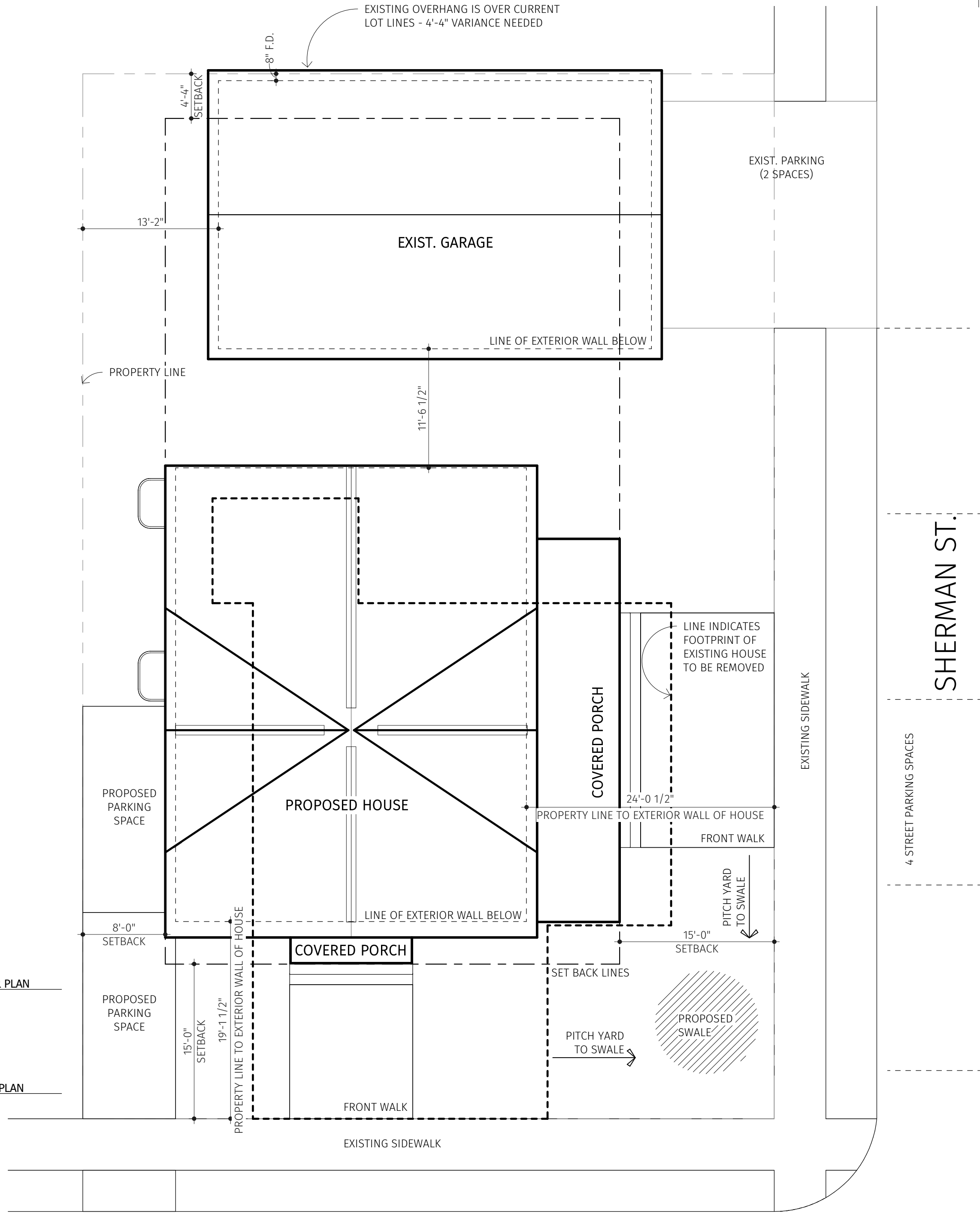
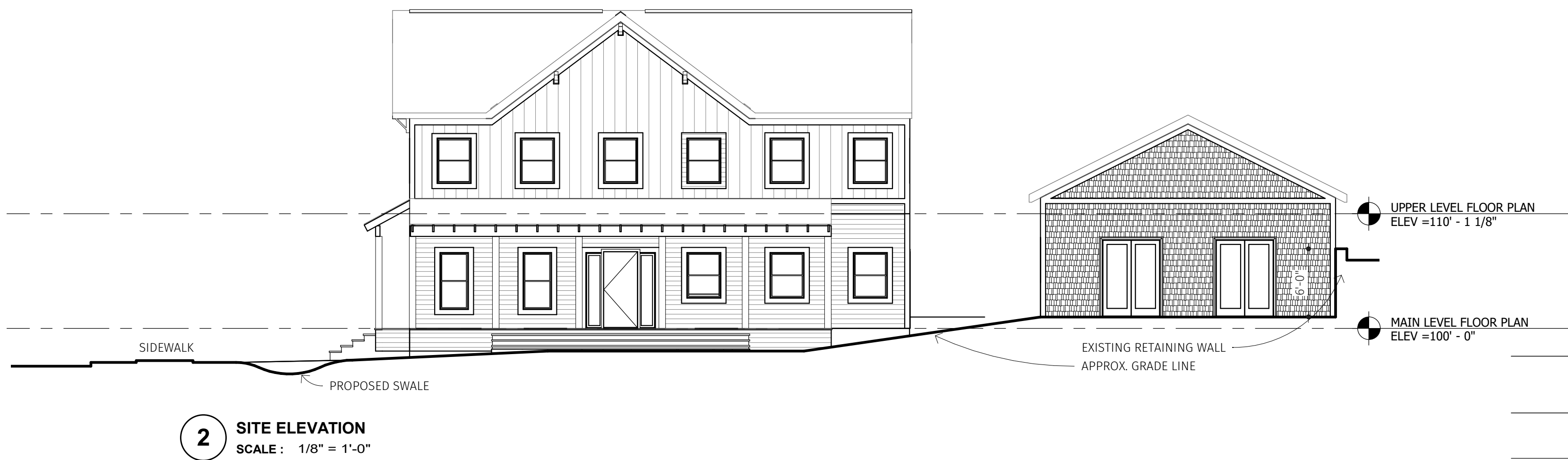
Corner lot making setbacks greater than that of an interior lot.

It is one of the smaller lots in the City.

Driveway is in and has been being used since 1970 when the garage was built.

It is currently and legal non-conforming lot. It was never zoned for a store. Building and lot will be used differently and will have a permitted use. It was used as a store and now will be a less impactful bed and breakfast.

It would be environmentally detrimental and cost prohibitive to tear down, dispose of and to construct an accessory unit of that size to that level of construction: trusses and wood back when it was built is no longer available.



CARMEN AND NICHOLAS GEERS

21191 WESTHAMPTON ST. OAK PARK, MI 48237

EMAIL: NICHOLASLGEERS@GMAIL.COM PHONE: 616-375-1075
CARMENGIBES@GMAIL.COM

SHEET INDEX

- A0.1 COVER SHEET
- A2.1 LOWER AND MAIN LEVEL FLOOR PLANS
- A2.2 UPPER LEVEL AND ROOF PLANS
- A3.1 EXTERIOR ELEVATIONS
- A3.2 EXTERIOR ELEVATIONS
- A4.1 BUILDING SECTIONS
- A7.1 STAIR SHEETS
- A8.1 EXTERIOR AND INTERIOR
- E2.1 LOWER AND MAIN LEVEL ELECTRICAL
- E2.2 UPPER LEVEL ELECTRICAL PLAN
- PL2.1 LOWER AND MAIN LEVEL PLUMBING PLAN
- PL2.2 UPPER LEVEL PLUMBING PLAN

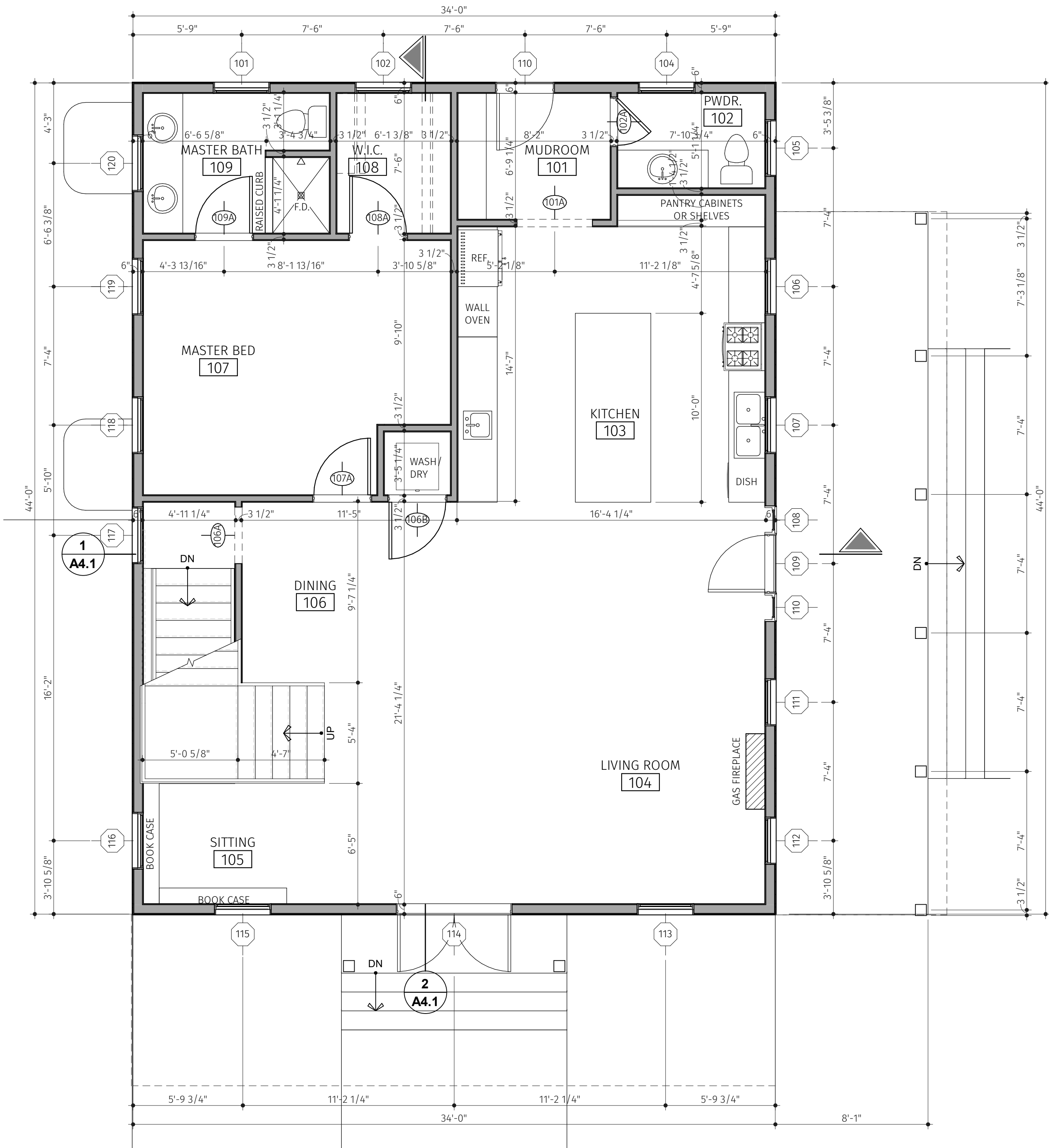
BARTON RESIDENCE

401 ANTRIM STREET
CHARLEVOIX, MI 49720

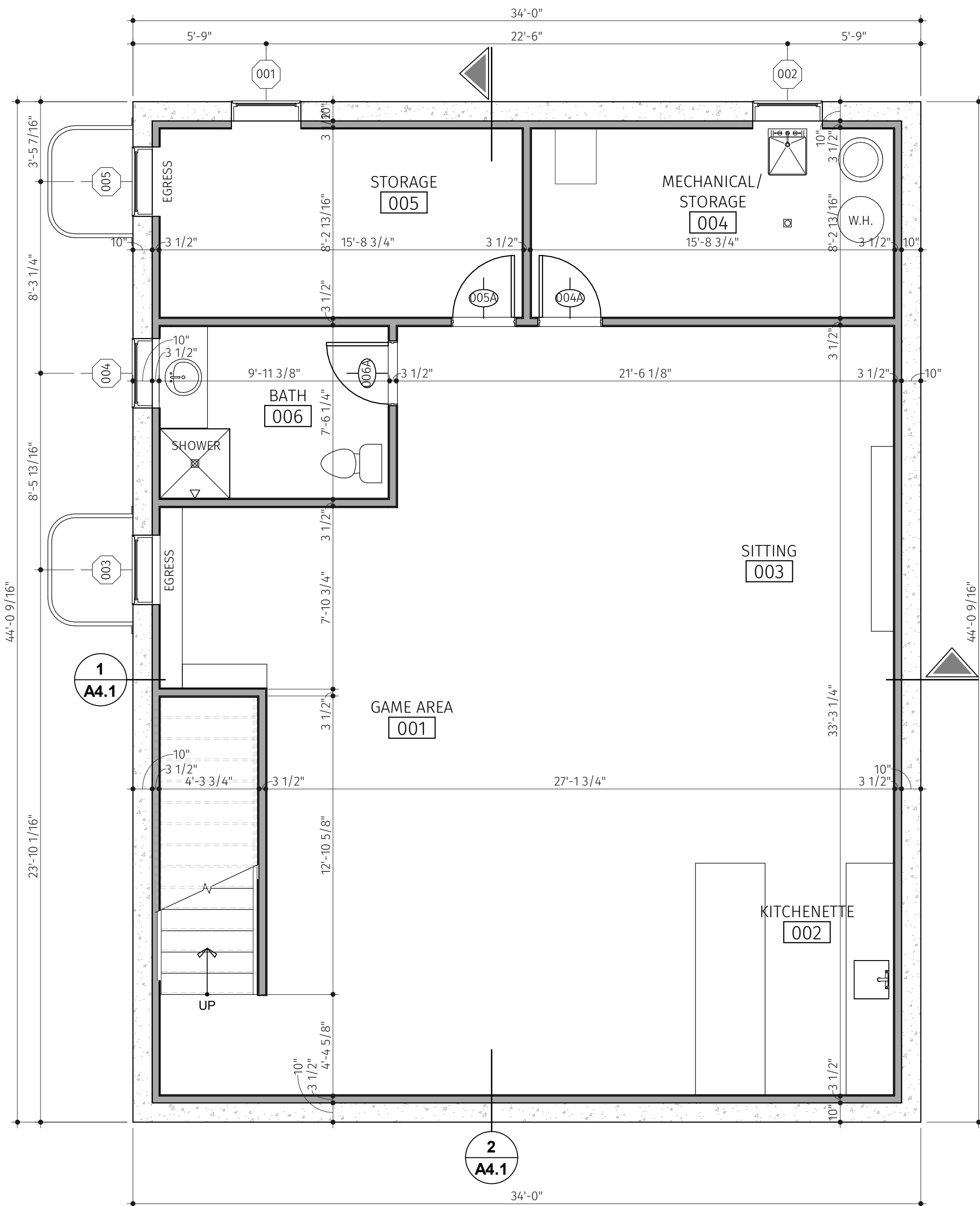
REVISIONS
*03-01-22 PERMIT SET

COVER SHEET

A0.1



2 PROPOSED MAIN LEVEL PLAN
SCALE : 1/4" = 1'-0"



1 PROPOSED LOWER LEVEL PLAN
SCALE : 1/4" = 1'-0"

SQUARE FOOTAGE CALCULATIONS

LOWER LEVEL PROPOSED - 1,411 SQFT GROSS

MAIN LEVEL PROPOSED - 1,411 SQFT GROSS

UPPER LEVEL PROPOSED - 1,411 SQFT GROSS

BARTON RESIDENCE

401 ANTRIM STREET
CHARLEVOIX, MI 49720

REVISIONS

:

LOWER AND MAIN LEVEL FLOOR
PLANS

A2.1

EMAIL: NICHOLASLGEEERS@GMAIL.COM **PHONE:** 616-375-1075
CARMENGIBES@GMAIL.COM

ATTIC AREA = 2,222 S.F. = 222,222 S.I.
222,222 S.I. X (1/300 OR 1/150) = 740.74 REQ. MIN. NFVA < 740.74 PROVIDED NFVA

REVISIONS
:

A2.2

DO NOT SCALE DRAWINGS



2 PROPOSED ROOF PLAN
SCALE : 1/4" = 1'-0"



1 PROPOSED UPPER LEVEL PLAN
SCALE : 1/4" = 1'-0"

CARMEN AND NICHOLAS GEERS

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BARTON RESIDENCE

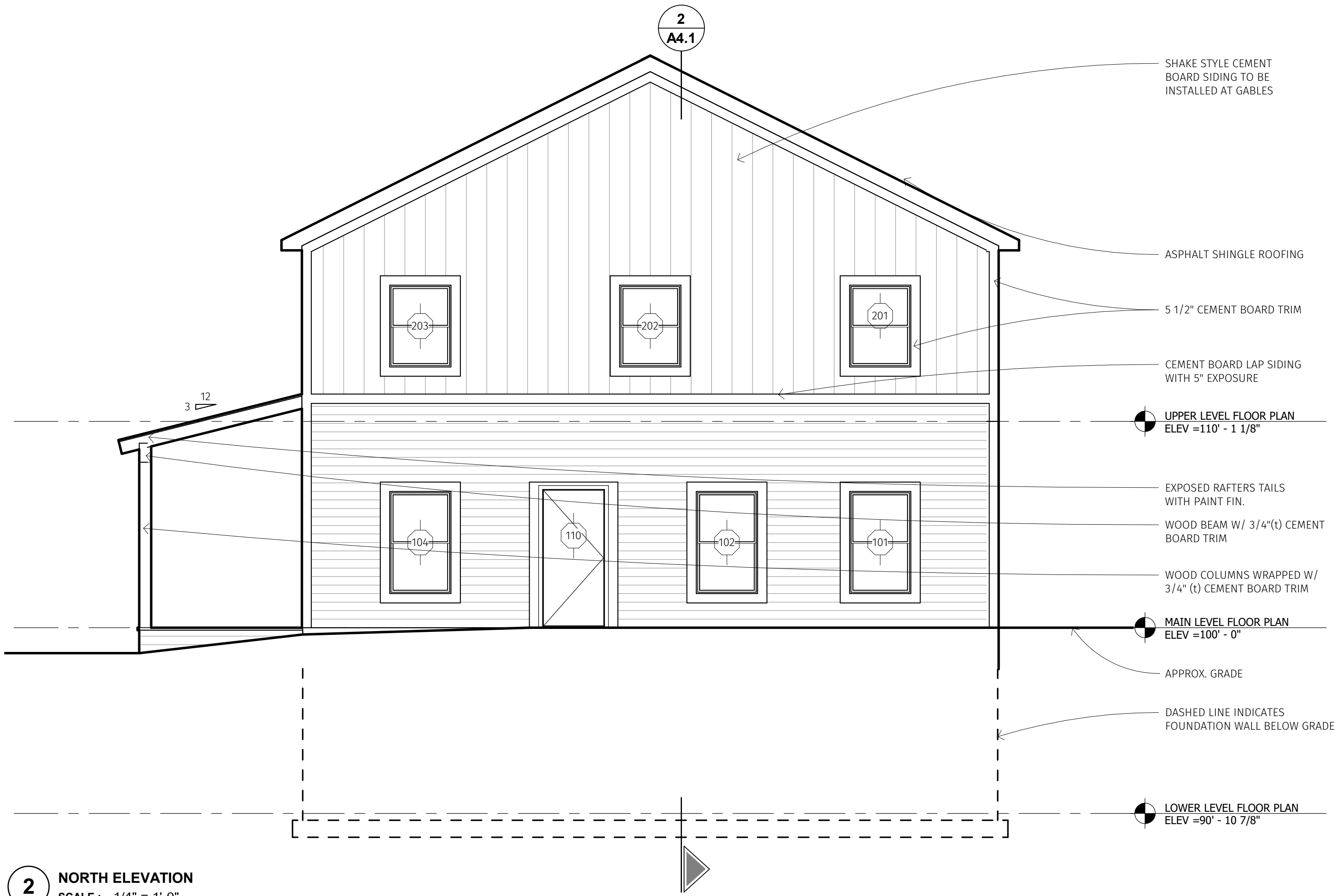
401 ANTRIM STREET
CHARLEVOIX, MI 49720

REVISIONS

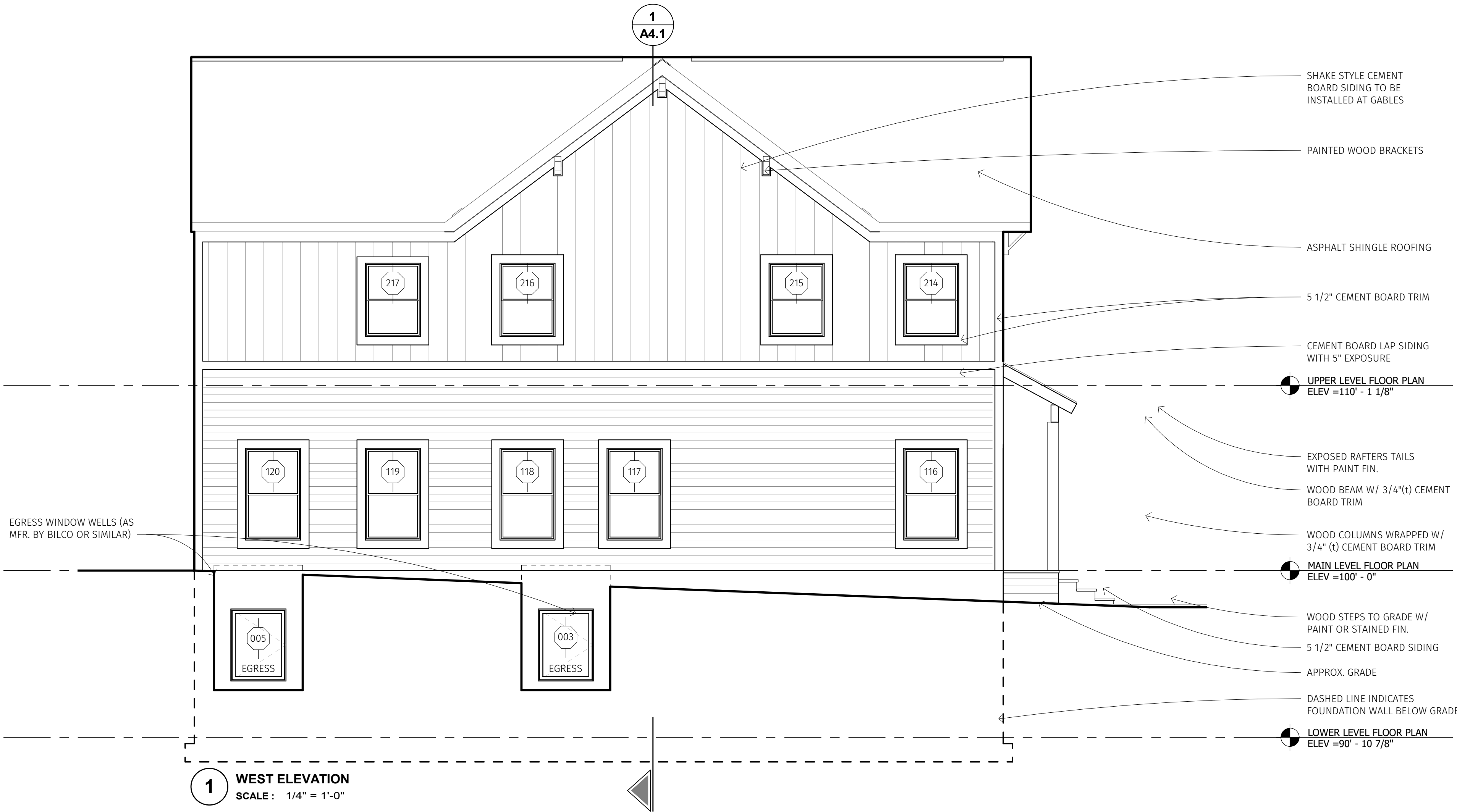
EXTERIOR ELEVATIONS

02/08/22

A3.1



2 NORTH ELEVATION
SCALE: 1/4" = 1'-0"



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

BARTON RESIDENCE

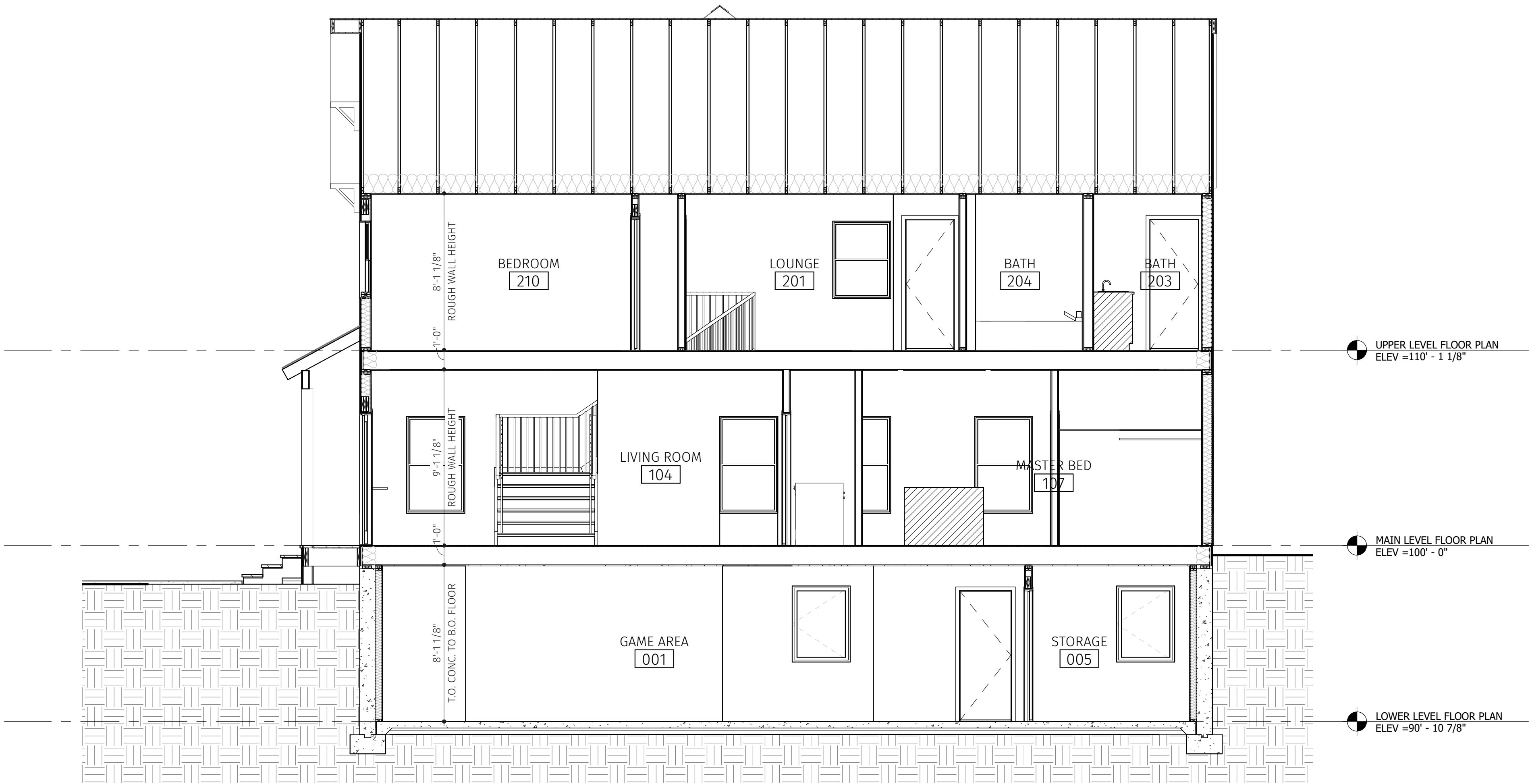
401 ANTRIM STREET
CHARLEVOIX, MI 49720

REVISIONS

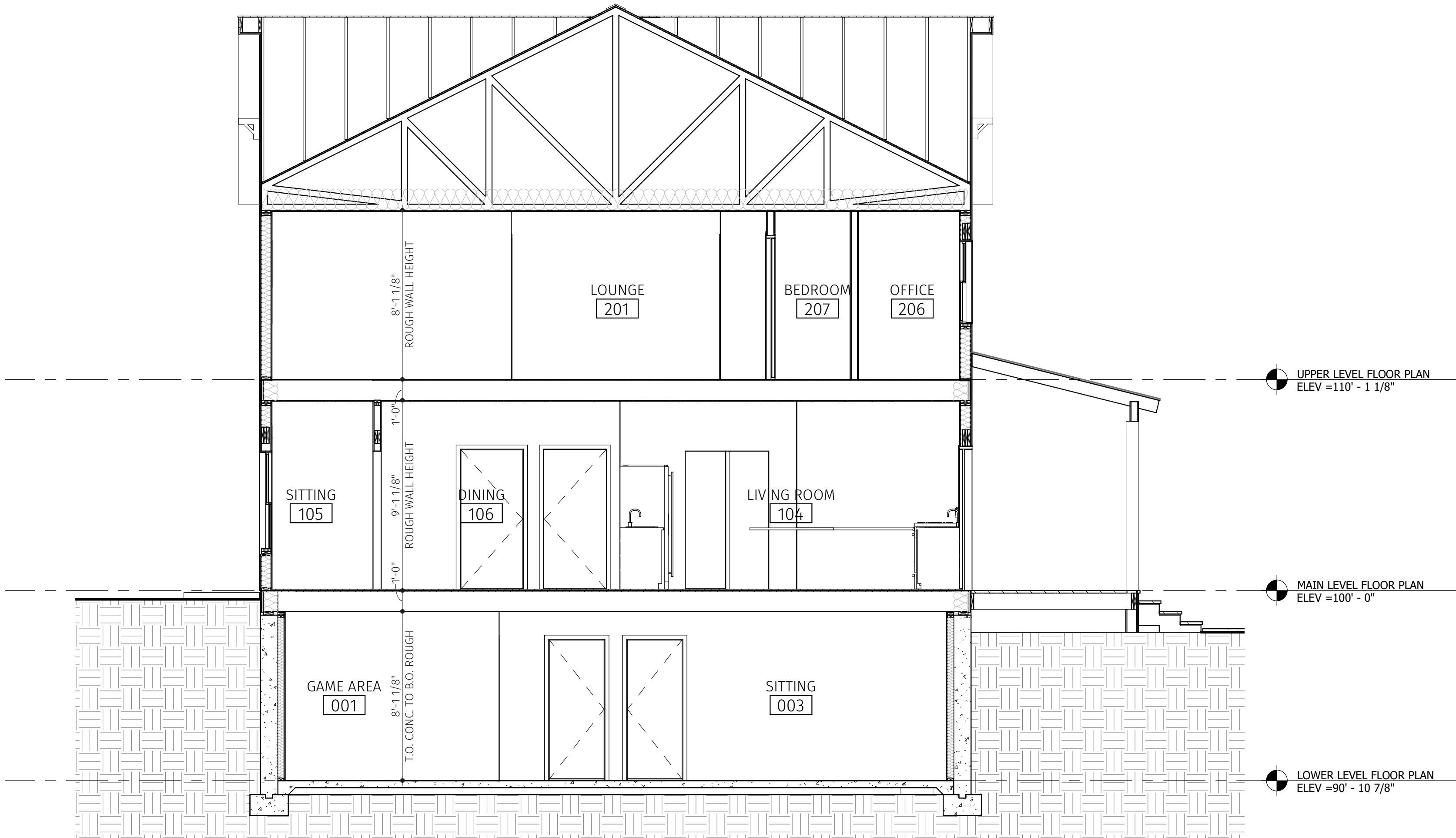
EXTERIOR ELEVATIONS

A3.2

02/27/22



2 BUILDING SECTION
SCALE: 1/4" = 1'-0"



1 BUILDING SECTION
SCALE: 1/4" = 1'-0"

BARTON RESIDENCE

401 ANTRIM STREET
CHARLEVOIX, MI 49720

REVISIONS

:

BUILDING SECTIONS

A4.1

[illegible][illegible]

CARMEN AND NICHOLAS GEERS

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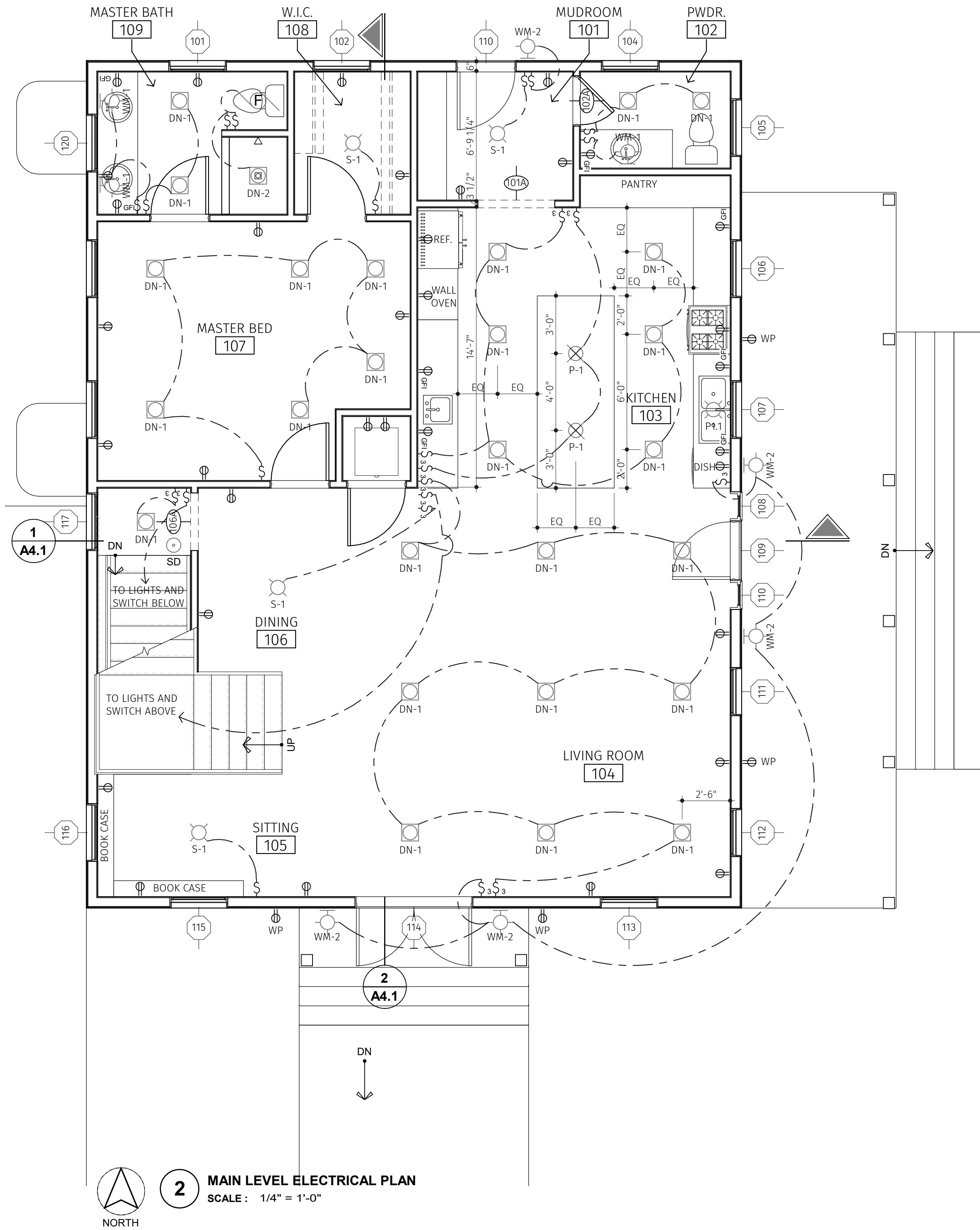
REVISIONS

EXTERIOR AND INTERIOR

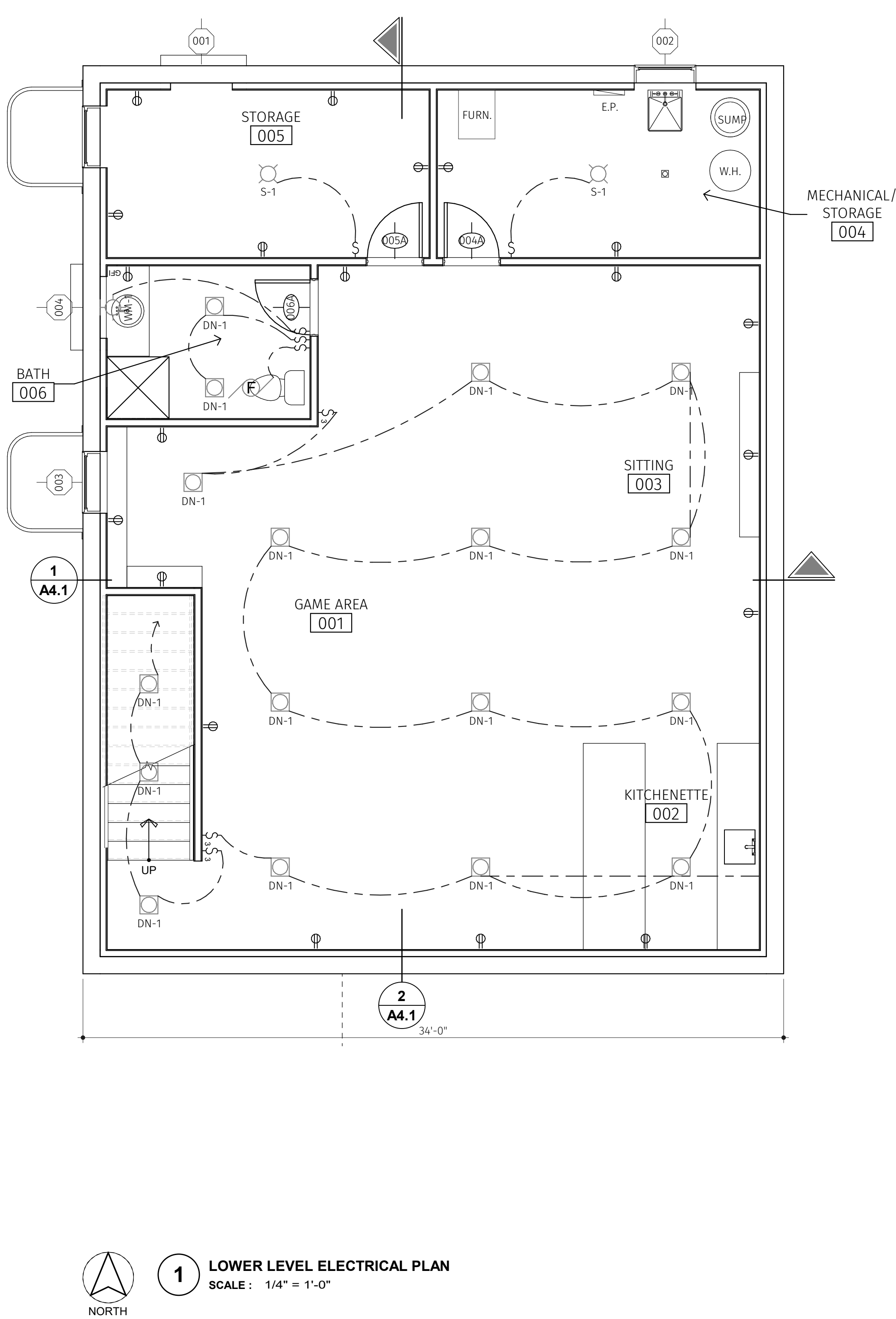
01/14/21

A8.1

DO NOT SCALE DRAWINGS



2 MAIN LEVEL ELECTRICAL PLAN
SCALE: 1/4" = 1'-0"



1 LOWER LEVEL ELECTRICAL PLAN
SCALE: 1/4" = 1'-0"

ELECTRICAL LEGEND / LIGHTING FIXTURE SPECIFICATIONS

DN-1		3" APERTURE RECESSED LOW VOLTAGE ADJUSTABLE DOWNLIGHT W/ WHITE TRIM & D CLEAR REFLECTOR. AIR TITE HOUSING & RATED FOR DIRECT CONTACT W/ INSULATION. HALO H38LVICAT-3004 WHC 50W IR MR16 WFL
DN-2		3" APERTURE RECESSED LENSED SHOWER LIGHT LOW VOLTAGE ADJUSTABLE DOWNLIGHT W/ CHROME TRIM & CLEAR REFLECTOR. AIR TITE HOUSING & RATED FOR DIRECT CONTACT W/ INSULATION. HALO H38LVICAT-3007 WHC 50W IR MR16 WFL
S-1		SURFACE MOUNTED LIGHT FIXTURE - T.B.S.
P-1		PENDANT LIGHT FIXTURE - T.B.S.
WM-1		WALL MOUNTED VANITY LIGHT(S) TO BE SELECTED. ALLOW 100W
WM-2		EXTERIOR WALL MOUNTED LIGHT TO BE SELECTED. ALLOW 100W

MISC. ELECTRICAL LEGEND / FIXTURE SPECIFICATIONS

	SWITCH OPERATED BATHROOM FAN FOR WALL & CEILING APPLICATIONS. PANASONIC FV-10VS1 100 CFM LOW PROFILE FAN.
	SMOKE DETECTOR: HARD WIRED W/ BATTERY BACK-UP AND INTERCONNECTED
	DUPLEX OUTLET
	DUPLEX GROUND FAULT INTERRUPTER OUTLET
	WATERPROOF COVER ON DUPLEX OUTLET W/ GROUND
	APPLIANCE OUTLET
	SINGLE POLE SWITCH (36" A.F.F. U.N.O.)
	3 OR 4 WAY POLE SWITCH (36" A.F.F. U.N.O.)

ELECTRICAL NOTES:

- SWITCHES / RECEPTACLES - FINISHED AREAS**
LUTRON "DIVA" SERIES IN ARCHITECTURAL MATTE WHITE.
SWITCHES / RECEPTACLES FOR UNFINISHED AREAS - STORAGE / MECHANICAL / GARAGE
LEVITON "DECORA" SERIES IN WHITE. 15/20 AMP
OUTDOOR SWITCHES & RECEPTACLE
LEVITON WEATHERPROOF WALLPLATE & SWITCH MODEL 1432
LEVITON DECORA 1 GANG WITH SELF CLOSING LID (HORZ.) MODEL 4990
- PUSH BUTTON CONTROL
 - CABLE TELEVISION JACK
 - PHONE/DATA JACK
- FURNISH LABOR AND MATERIALS TO PROVIDE A COMPLETE ELECTRICAL SYSTEM AS SHOWN ON THE PLANS.
 - PROVIDE NEW LIGHTING FIXTURES AS SHOWN. ELECTRICAL CONTRACTOR TO REVIEW FIXTURE SELECTION WITH OWNER.
 - ALL WORK SHALL BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF THE STATE OF MICHIGAN CODES, CODES AND ORDINANCES OF THE LOCAL MUNICIPALITY, AND THE REQUIREMENTS AND CRITERIA OF THE NATIONAL ELECTRIC CODE.
 - ALL MATERIAL AND EQUIPMENT SHALL BEAR THE LABEL OF APPROVAL OF THE NATIONAL BOARD OF FIRE UNDERWRITER'S LABORATORIES.
- ALL WIRING SHALL BE NEW COPPER CONDUCTORS WITH TYPE THWN OR XHHW INSULATION AND SHALL BE INSTALLED IN GALV. ELECTRICAL METALLIC TUBING OR RIGID STEEL CONDUIT AS REQUIRED BY CODE.
 - THE ELECTRICAL CONTRACTOR SHALL BE RESPONSIBLE TO OBTAIN ALL PERMITS, PAY ALL ASSOCIATED FEES, AND ARRANGE FOR ALL INSPECTIONS FOR THEIR WORK. AT THE COMPLETION OF ELECTRICAL WORK, THE ELECTRICAL CONTRACTOR SHALL FURNISH THE OWNER WITH ALL CERTIFICATES OF FINAL INSPECTIONS AND APPROVALS.
 - ALL RECEPTACLES AND SWITCHES SHALL CONFORM TO NEC REQUIREMENTS. COLOR TO BE SELECTED.
 - ALL CIRCUITS AND EQUIPMENT SHALL BE TESTED UPON COMPLETION OF WORK WHEN REQUESTED.
 - THE ELECTRICAL CONTRACTOR IS TO COORDINATE EXACT LOCATION OF ALL FIXTURES AND RECEPTACLES (LIGHTING, TV, PHONE, ETC.) WITH THE OWNER IN THE FIELD.

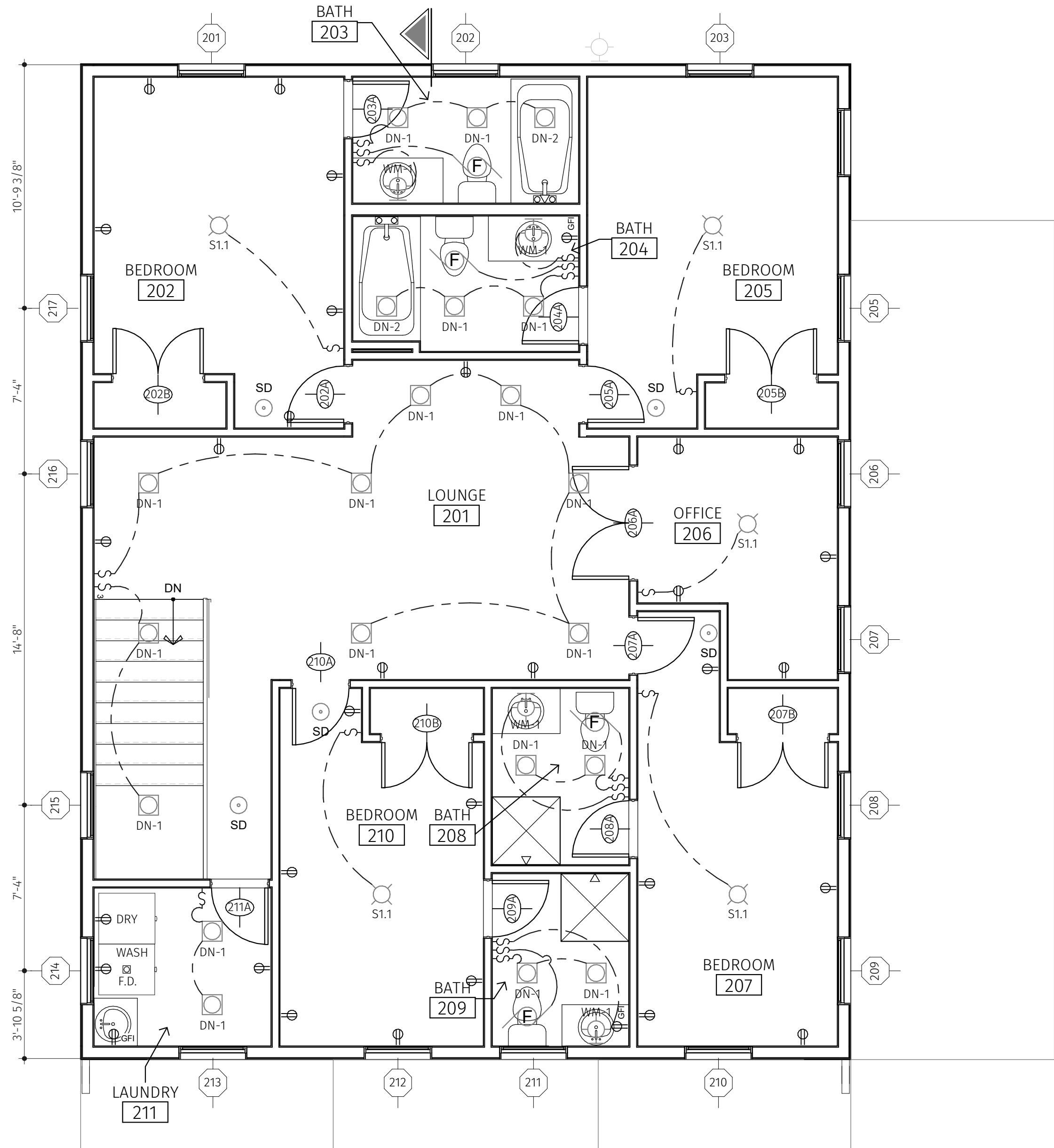
BARTON RESIDENCE

401 ANTRIM STREET
CHARLEVOIX, MI 49720

REVISIONS
:

LOWER AND MAIN LEVEL
ELECTRICAL

E2.1



2
A4.1



1 UPPER LEVEL ELECTRICAL PLAN
SCALE: 1/4" = 1'-0"

MISC. ELECTRICAL LEGEND /
FIXTURE SPECIFICATIONS

ELECTRICAL LEGEND / LIGHTING FIXTURE SPECIFICATIONS

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- PUSH BUTTON CONTROL
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BARTON RESIDENCE

401 ANTRIM STREET
CHARLEVOIX, MI 49720

REVISIONS
:

UPPER LEVEL ELECTRICAL PLAN

E2.2

BARTON RESIDENCE

401 ANTRIM STREET
CHARLEVOIX, MI 49720

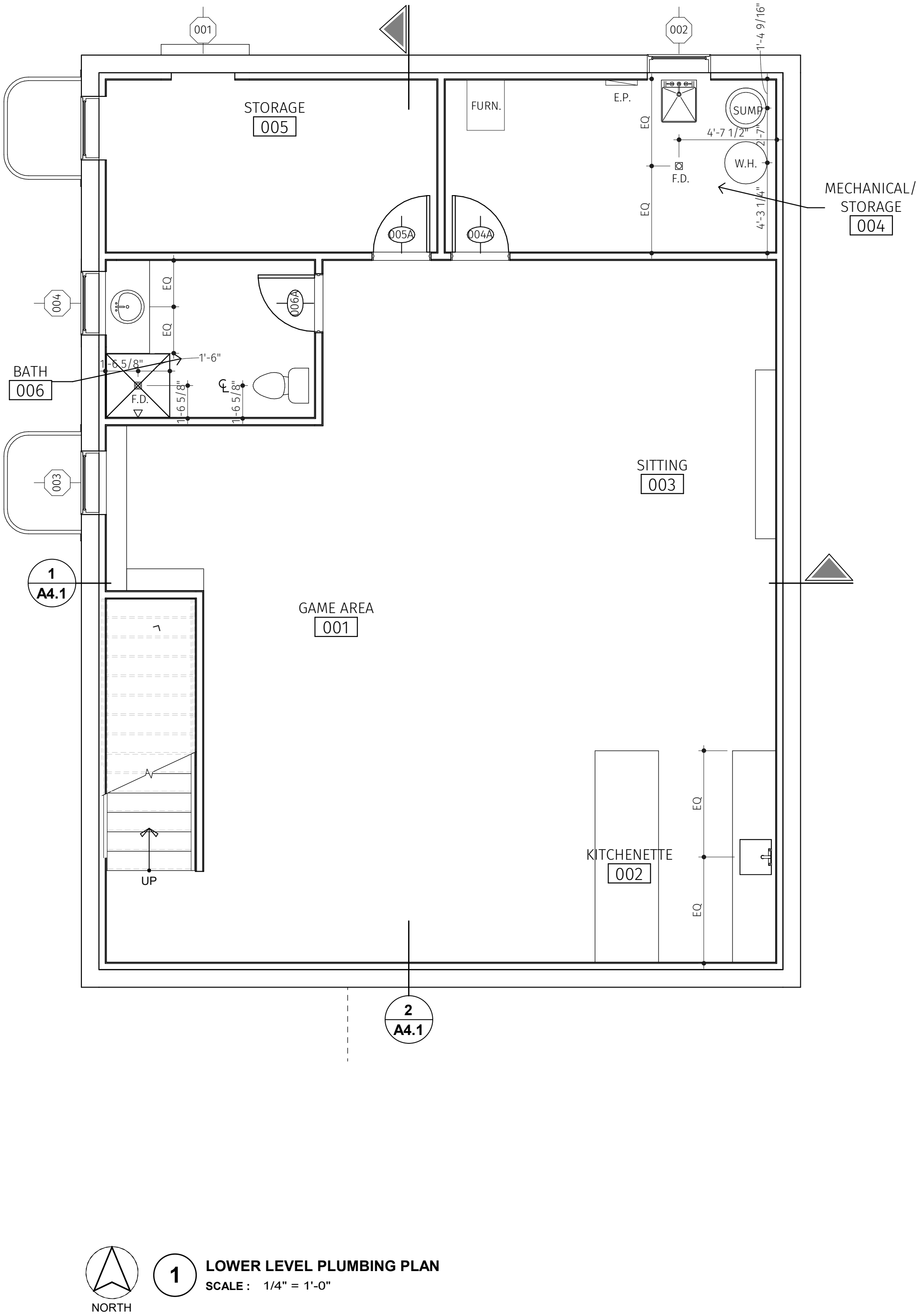
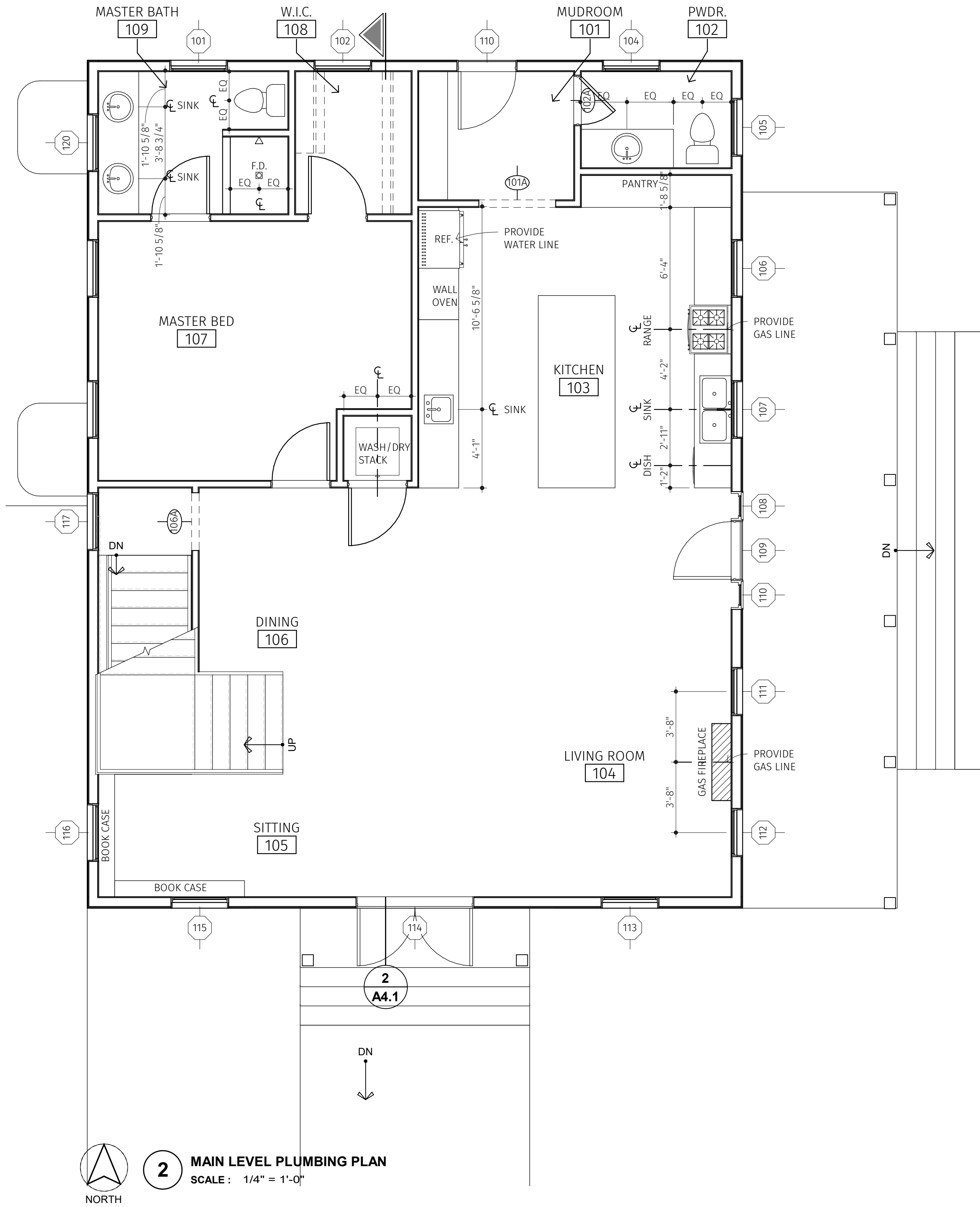
REVISIONS

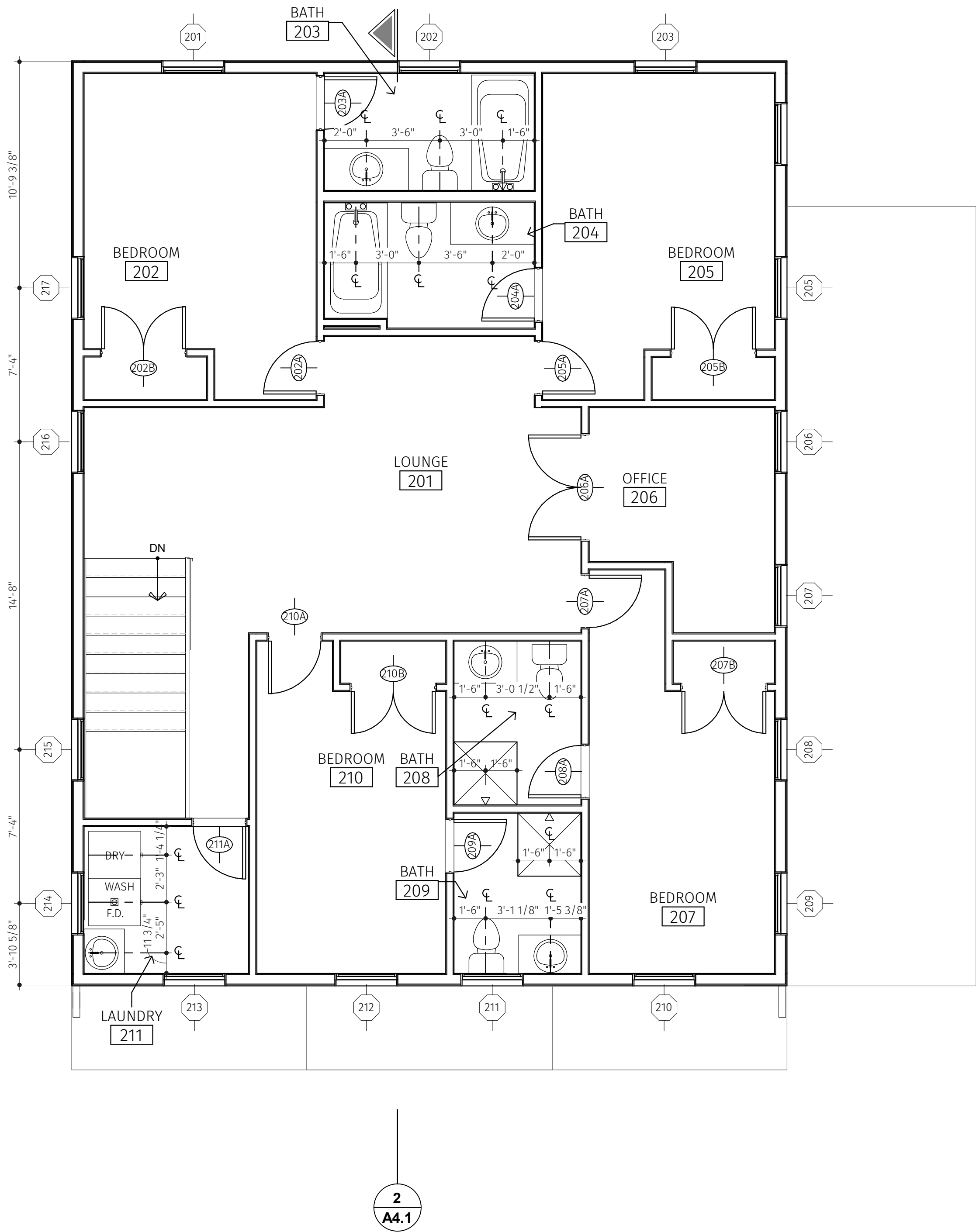
LOWER AND MAIN LEVEL PLUMBING
PLAN

03/04/22

PL2.1

DO NOT SCALE DRAWINGS





1 UPPER LEVEL PLUMBING PLAN
SCALE : 1/4" = 1'-0"

BARTON RESIDENCE

401 ANTRIM STREET
CHARLEVOIX, MI 49720

REVISIONS

UPPER LEVEL PLUMBING PLAN

PL2.2

03/04/22

401 Antrim St. Variance Requests

This is a non-intruding variance request due to current conditions. We are not creating a new non-conforming situation. There are no public services or facilities that will be affected by the variance.

It is on a corner lot making setbacks greater than that of an interior lot.

It is one of the smaller lots in the City.

Driveway is in since 1970 and has always been used.

It is currently and legal non-conforming lot. It was never zoned for a store. Building and lot will be used differently and will have a permitted use. It was a store and now will be a less impactful bed and breakfast. The ADU will be compatible with current adjacent land use.

This ADU would allow us to protect the health, safety and well-being of those using the bed and breakfast, neighbors and the community.

It would be environmentally detrimental and cost prohibitive to tear down, dispose of and to construct an accessory unit of that size to that level of construction because the trusses and wood back when it was built is no longer available. Built in 1970.

It does meet the intent and purpose of the zoning ordinance for the proposed activity relating to the land use and is compatible with other uses in the neighborhood.

Approval has no negative effects.

Owners directly adjacent to the property not only support the request but encourage the ZBA to approve the variance. (see attached letters)

The Planning Commission approval and Fire Chief letters (see attached)

We are 20 ft plus away from neighboring structures with no doors/windows facing either side.

It is a more legal and much better development and use than previous and current and will look like it belongs in the neighborhood.

We will be reducing the size of the footprint and impervious surfaces by about 1000 sf. and can now contain the water runoff.

Previous approvals have shown that ADU's can successfully integrate on existing lots. They are brilliant examples of living with less house and more home with minimum environmental impacts to precious resources in charming communities like Charlevoix.

Allowing us an ADU is a benefit to the neighborhood and the City. We can provide much needed additional and alternative type of stays for visitors to Charlevoix while still living on-site to serve the customers and oversee operations.

We believe things in life should be put to their highest and best use. Approving this variance would be approving the highest and best use of the property and permitted special use.

Our project is community integrated and environmentally friendly throughout the building construction, use and our giving back. Ex: buying locally, promoting local businesses, low/no voc impacts, low flow water output, etc.

We hope you will allow these variances so that we can go beyond basics and create a place that the City of Charlevoix will be proud of.

Date: April 25, 2022

Re: 401 Antrim

To the Members of the Zoning Board of Appeals

We have been notified of the request for a variance for a 4.4" side yard setback. We have no opposition to the request. As a matter of fact, we encourage the approval.

Thank you

A handwritten signature in black ink, appearing to read "Ginny Schulz", with a stylized, flowing script.

Ginny Schulz

403 Antrim



Haggard's
PLUMBING
& HEATING

May 2, 2022

Charlevoix City Hall
210 State St.
Charlevoix, MI 49720

Ref: Case#22-05 ZBA Parcel#052-256-001-50 Applicant William and Beverly Barton located at 401 Antrim St. is requesting a 4.4 foot variance for a side yard setback for an accessory dwelling.

To whom it May Concerns,

Upon reviewing the above notice, I would like to express my view on the above plan request. Haggard's Plumbing & Heating is not opposed to the changes of the property and/or the request to the Zoning Board. If a property owner is fortunate enough to have the ability and the recourses in this time to either build and/or improve their existing property, it would only help the economy continue to grow. It would prove positive for the local, county, and state to do all we can to improve and promote in anyways possible.

Sincerely,

John Haggard

Haggard's Plumbing & Heating

Planner

From: denise riley <momriley06@gmail.com>
Sent: Sunday, May 8, 2022 9:15 AM
To: Planner

CASE #: 22-05-ZBA
TAX ID#: 052-256-001-50
APPLICANT: William and Beverly Barton
PROPERTY ADDRESS: 401 Antrim St.

Dear Members of the Zoning Board,

I am writing in regards to the Bed and Breakfast busines being proposed at the corner of Sherman and Antrim Street and the rezoning of the property as a result. As a resident of the neighborhood for over 40 years, I have seen the neighborhood go from an area heavily populated by families and growing children, to temporary rentals and summer homes. Because of this change, the foot traffic, automobile traffic and noise levels of the neighborhood have also exponentially increased.

The proposal of a Bed and Breakfast business to the neighborhood would only make these expanding situations worse. With a business that focuses on bringing more temporary people into the heart of the neighborhood, there will be an excessive amount of traffic up and down Sherman Street where people ride bikes, walk pets and take children on their way to the beach. Many near misses have happened on this street with people speeding up and down the hill and almost missing the pedestrians. Adding a business to the middle of this foot traffic will only make this a more dangerous situation.

Another issue is parking for the guests and owners. There is minimal space for adequate parking for the guests of the Bed and Breakfast let alone potential guests/ visitors that they may have visiting them during their stay. Sherman street is not wide enough for two way traffic on top of street side parking and pedestrians. This is a viable safety issue and an accident waiting to happen.

I sincerely hope the zoning board takes these space and safety issues that the long time, year round residents of the neighborhood have about the addition of this business. It is the year round residents that see these issues daily, weekly and monthly. Their lives will be affected by these issues much more frequently than the summer and short term rental residents will. For this reason, please consider denying this zoning change and business.

Sincerely,

Denise Riley
320 Mason
Charlevoix MI 49720