



# TOWN OF WARE

Planning & Community Development  
126 Main Street, Ware, Massachusetts 01082  
t. 413.967.9648 ext. 120      rwatchilla@townofware.com

## ZONING BOARD OF APPEALS MEETING AGENDA WEDNESDAY, MARCH 22, 2023

Location:                      Selectboard Meeting Room  
                                    126 Main Street, Ware, MA  
Time:                            7:00 PM

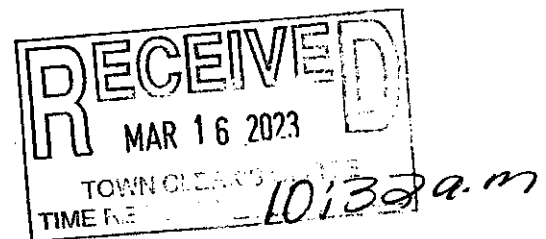
### Virtual Participation:

Phone number:      929-205-6099  
Meeting ID:            784 604 1861  
Passcode:              01082

Instructions for call in option: Call the phone number above and when prompted enter the Meeting ID number and Passcode.

Join the Meeting Online: <https://zoom.us/join>

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1. Pledge of Allegiance
  2. Administrative
    - a. Approval of Minutes
      - i. February 23, 2022
  3. Public Hearings
    - a. SP-2023-02 (M&A Real Estate) [CONTINUED]
      - i. Applicant is requesting a Special Permit to exceed the density maximum to allow for an additional two residential first floor units. Site Location: 135 Main Street. Deed recorded in the Hampshire County Registry of Deeds, Book 14778, Page 20. Assessor's Parcel 60-0-219. Zoned: Downtown Commercial (DTC).
  4. New Business
    - a. Discussion on signs, flags, and murals
    - b. Discussion on how the Open Meeting Law applies to the Zoning Board of Appeals
  5. Adjourn



*At the time of posting of this meeting, the agenda items listed above are what is reasonably anticipated by the Chairman to be discussed at this meeting. Other items not listed may be brought up for discussion to the extent permitted by law. The general public is invited to this and all meetings of the Ware Zoning Board of Appeals.*



# TOWN OF WARE

**Planning & Community Development**  
126 Main Street, Ware, Massachusetts 01082  
t. 413.967.9648 ext. 120  
**Zoning Board of Appeals**  
Meeting Minutes from  
February 23rd, 2023  
Select Board Room, Town Hall

## Zoning Board Members Present:

|                |            |
|----------------|------------|
| Lewis Iadarola | Chair      |
| Jodi Chartier  | Vice Chair |
| Phil Hamel     |            |
| Dave Skoczylas | Alternate  |

## Staff Present:

|                  |                                      |
|------------------|--------------------------------------|
| Rob Watchilla    | PCD Department Director              |
| Anna Marques     | Building Commissioner/Zoning Officer |
| Kristen Jacobsen | PCD Dept. Admin. Assistant           |

## Public in Attendance:

|                  |               |
|------------------|---------------|
| Keith Krukas     | Peter Mlaguzi |
| Brianna Boudreau | Jessica Rohan |
| Antroy Cleghorn  | Keith Krukas  |

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D. Skoczylas read the legal notice.

L. Iadarola nominated alternate D. Skoczylas a voting member for the public hearing.

|   |        |
|---|--------|
| L. Iadarola   | Aye    |
| J. Chartier   | Aye    |
| C. Dowd   | Absent |
| G. Eaton  | Absent |
| P. Hamel  | Aye    |
| D. Skoczylas, Alternate                                     | Aye    |
| SK Robinson, Alternate                                      | Absent |
| <b>Four in favor. Three<br/>Absent. Approved<br/>4/0/3.</b> |        |

## PLEDGE OF ALLEGIANCE

Chairman L. Iadarola called the meeting to order at 7:00pm and, at the Chairman's request, P. Hamel led the Pledge of Allegiance

### Public Hearings - 7:05pm SP-2023-02 (M&A Real Estate)

Applicant is requesting a Special Permit to exceed the density maximum to allow for an additional two residential first floor units. Site Location: 135 Main Street. Deed recorded in the Hampshire County Registry of Deeds, Book 14778, Page 20. Assessor's Parcel 60-0-219. Zoned: Downtown Commercial (DTC)

P. Mlaguzi presented his request.

The board and P. Mlaguzi discussed the history of the building. The building had a fire 3/23/21 and has not had any repairs made to the two fire damaged units (third floor left side unit kitchen and the abutting apartments living room) Currently the building is empty except for the one commercial business occupying space on the ground floor.

The board and A. Marques discussed the numerical assignments. A. Marques stated the building would remain 135 Main St. and the apartments would have alphabetic assignments.

R. Watchilla stated that the parcel is 0.09 acres which would allow for 1.8 units under the current zoning bylaws. There is a 2-year statute of limitations during which a fire damaged building may be repaired and not altered to meet current zoning standards. L. Iadarola and the board discussed the size of the proposed first floor units and the exits of the 2<sup>nd</sup> floor.

The board discussed the parking regulations in the zoning bylaw which allots 1.5 per unit and a building with more than 7 units requires additional spaces. Also, the bylaw states 50% of parking is to be on premises. Currently, the building only has 2 designated parking spaces. P. Mlaguzi added that he had planned for the residents to use the parking at Veterans Park and street parking. L. Iadarola sighted that the street parking is limited to 2-hours, there is no overnight parking allowed at Veterans Park, and the spots on Parker Street are allowed with Selectmen approval.

J. Chartier inquired about the sprinkler systems. P. Mlaguzi stated a commercial system would cost them \$160,000.00 whereas a residential system would cost \$57,000.00 - \$60,000.00.

D. Skoczlyas inquired about the plans for the basement of the building. P. Mlaguzi stated they were going to clean it and leave it as is. A. Marques spoke about compartmentalization of areas.

Members of the audience B. Boudreau and J. Rohan spoke about the business and its owner. Both expressed concern that the business owner had not been notified of the proceedings. R. Watchilla explained that property owners as noted by the assessor's office were notified as per state law, however, renting tenants are not included. B. Boudreau asked why the landlord P. Mlaguzi had not notified the tenant. P. Mlaguzi explained his reasoning and that this was the beginning of the process.

P. Mlaguzi discussed how the group had budgeted for a residential sprinkler system.

L. Iadarola discussed the need for housing in Ware. The board discussed the possibility of keeping the 2- commercial spaces. P. Mlaguzi said the rent from those spaces would not be comparable to the income that would be generated by 4-apartments. J. Chartier inquired what the intended rent per apartment was. P. Mlaguzi answered that depending on the market they are looking at \$1100 - \$1200 per month per apartment. An audience member spoke saying that did not seem low income.

B. Boudreau discussed the vacant commercial space and how the current condition of the building affects the opinion of prospective commercial tenants.

**Motion** made by J. Chartier to close the open portion of the meeting. **Seconded** by D. Skoczylas. No additional discussion.

|   |        |
|---|--------|
| L. Iadarola   | Aye    |
| J. Chartier   | Aye    |
| C. Dowd   | Absent |
| G. Eaton  | Absent |
| P. Hamel  | Aye    |
| D. Skoczylas, Alternate                                     | Aye    |
| SK Robinson, Alternate                                      | Absent |
| <b>Four in favor. Three<br/>Absent. Approved<br/>4/0/3.</b> |        |

The board discussed the parking situation. L. Iadarola read 6.1.1 of the Ware Zoning Bylaw and discussed the parking guidelines. A. Marques discussed at the time of the fire many tenants did not have transportation. The board discussed the prior parking situation versus the present. J. Chartier brought up the future need for electric charging stations. The board discussed whether or not to allow the parking situation to affect the current need for housing in the area and how the parking could affect potential rental income.

An audience member inquired what P. Mlaguzi would do with the building if the board voted to keep the building configured as-is. P. Mlaguzi said he would need to discuss that with the investment group.

**Motion** made by P. Hamel to grant SP-2023-02. **Seconded** by none

**Motion** made by D. Skoczylas, approve SP-2023-02 for 8 residential and 2 commercial units. **Seconded** by none

**Motion** made by D. Skoczylas to withdraw his previous motion and schedule a continuance for March 22, 2023, at 7:05pm. **Seconded** by J. Chartier. No additional discussion.

|   |        |
|---|--------|
| L. Iadarola   | Aye    |
| J. Chartier   | Aye    |
| C. Dowd   | Absent |
| G. Eaton  | Absent |
| P. Hamel  | Aye    |
| D. Skoczylas, Alternate                                     | Aye    |
| SK Robinson, Alternate                                      | Absent |
| <b>Four in favor. Three<br/>Absent. Approved<br/>4/0/3.</b> |        |

## Administrative

### Approval of Minutes – October 26, 2022

**Motion** made by J. Chartier to approve the minutes as submitted with the following corrections: pg 2 D. Skoczylas did not vote and pg 4: 'Atty. Berthiaume and the board discussed the pending changes to the Zoning Bylaws and whether the cease-and-desist should stand under a pending bylaw change and discussed aspects of the preexisting nonconforming uses of the property" **Seconded** by D. Skoczylas . No additional discussion

|   |        |
|---|--------|
| L. Iadarola   | Aye    |
| J. Chartier   | Aye    |
| C. Dowd   | Absent |
| G. Eaton  | Absent |
| P. Hamel  | Aye    |
| D. Skoczylas, Alternate                                     | Aye    |
| SK Robinson, Alternate                                      | Absent |
| <b>Four in favor. Three<br/>Absent. Approved<br/>4/0/3.</b> |        |

### New Business

- Discussion on signs, flags, and murals
- Discussion on how the Open Meeting Law applies to the Zoning Board of Appeals

The board decided to postpone the discussion of signs, flags, and murals.

R. Watchilla distributed a packet on Open Meeting Law for the board to review.

### **ADJOURN**

**Motion** made by J. Chartier to adjourn at 8:42pm. Seconded by D. Skoczylas. No additional discussion.

|   |        |
|---|--------|
| L. Iadarola   | Aye    |
| J. Chartier   | Aye    |
| C. Dowd   | Absent |
| G. Eaton  | Absent |
| P. Hamel  | Aye    |
| D. Skoczylas, Alternate                                     | Aye    |
| SK Robinson, Alternate                                      | Absent |
| <b>Four in favor. Three<br/>Absent. Approved<br/>4/0/3.</b> |        |

Minutes from February 23, 2023  
Respectfully submitted by,

Kristen Jacobsen  
Administrative Assistant  
Planning & Community Development

**Minutes Approved on:** \_\_\_\_\_

Iadarola \_\_\_\_\_

Chartier \_\_\_\_\_

Hamel \_\_\_\_\_

Dowd \_\_\_\_\_

Eaton \_\_\_\_\_

Skoczylas \_\_\_\_\_

Robinson \_\_\_\_\_



**TOWN OF WARE**  
Planning & Community Development  
126 Main Street, Ware, MA 01082  
t. 413.967.9648 ext. 120

## PERMIT SUMMARY REPORT

To: Zoning Board of Appeals  
From: Robert A. Watchilla, Director of Planning & Community Development  
Date: February 23, 2023  
Permit: **Special Permit (SP-2023-02)**  
**M&A Real Estate – 135 Main Street, Ware, MA**

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The applicant is requesting a special permit to exceed the allowed density of 8 dwelling units (pre-existing non-conforming until March 23, 2023) to create 4 additional units on the first floor of 135 Main Street. The current first floor is occupied commercial space and a vacant space. The following materials were submitted to the Planning & Community Development Office on February 1, 2023:

- **Special Permit Applications**
  - Applicant is listed as “M&A Real Estate on behalf of owner BlackRock SH Group” based out of 4209 Inns Brook Drive, Snellville, GA 30039.
  - Owner is listed as “BlackRock SH Group” based out of 467 Ferry Street, Malden, MA 02148.
  - Zoned in Downtown Commercial (DTC)
  - Tax Parcel ID: 60-0-219
  - Applicant stated that they would repair the burned unit, perform cosmetic updates of the other units and conversion of 2 commercial spaces into 4 residential spaces.
- **Site Plans of Project Location**
  - Prepared by Holmberg & Howe Land Surveyors (87 Union Street, Easthampton, MA 01027)
  - Drawn at a scale of 1" to 10'
  - Dated January 27, 2023
- **Floor Plans of Existing Building**
  - Prepared by RTA Architects + OPM (245 Shea Avenue, Belchertown, MA 01007)
  - Drawn at various scales
  - Includes 5 sheets depicting building elevation, basement floor, first floor, second floor, and third floor plans

## Comments from Other Departments

- **DPW**
  - Geoff McAlmond (DPW Director) commented on February 3, 2023:
    - *The water service connection is not shown on the basement floor plans, but the sewer service connection is indicated.*
  - The applicant has updated the plans accordingly
- **Fire Department**
  - Fire Chief Jim Martinez commented on February 3, 2023:
    - *There is no indication of the sprinkler system that is required for the building before there can be approval of any project.*
    - *There needs to be a fully developed plan for an NFPA 72 compliant alarm system NFPA 13R sprinkler system if the conversion to a residential use only, and if not approved and it remains a mixed use then an NFPA 13 sprinkler system. In addition, they will also need to purchase the Supra Safe to comply with the town by-law.*
  - The applicant has updated the plans per the instructions of the Fire Chief
- **Health Department**
  - Health Inspector Sai Palani commented on February 16, 2023:
    - *I am basing some of these comments on the new housing code effective in April so these units would be compliant with it going forward. These comments might not be relevant at this stage of the review process so feel free to ignore them or pass them along to the applicant.*
      - 1. What are the room sizes for the existing 2nd and 3rd floors? I am assuming they are similar to the 1st floor schematics and if this is the case there should not be an issue. And what is the ceiling height in all the rooms?
      - 2. Are there vent hoods for the stoves in the kitchens? If so, the new code requires them to be vented to the outdoors if they are not already. Same with laundry dryer vents if there are any owner provided ones in the units.
      - 3. Are there vent fans in the bathrooms? If there is no window or other form of natural ventilation, mechanical ventilation is required.
      - 4. The fridges provided by the owners must be at least 11 cubic square feet and have a fridge + freezer. The oven and cooktops must be at least 1.7 cubic feet, unless otherwise stated in leasing agreements. These are normal sized appliances.
      - 5. Flooring surfaces in kitchen, pantry and bathrooms must be nonabsorbent. Wall above countertops contain sinks in the kitchen must be non-absorbent and should extend up to 2 feet.
      - 6. The main entry door to the building must be equipped with a self-closing and self-locking door with an electrically operated striker mechanism.



- 7. Owner must post as sign with their contact info or the property manager contact information and the owner must provide a list of legal remedies to all tenants or post them in the building.
- 8. Where would the garbage dumpster be stored for the tenants of this building?

END OF REPORT

Planning Board  
Zoning Board of Appeals

Robert A. Watchilla  
Director of Planning &  
Community Development

Town of Ware  
Planning & Community Development  
**Application for Special Permit**



126 Main Street  
Ware, MA 01082  
413.967.9648 ext. 120  
www.townofware.com

SP-20 23 - 02

**Applicant**  
Name of Applicant (primary contact): M&A Real Estate on behalf of owner BlackRock SH Group  
Address: 4209 Inns Brook Dr, Snellville, GA 30039  
Phone: 617-233-1476 Cell: 617-233-1476  
Email Address: Peter@marealestateinc.com

**Owner**  
Name of Owner (primary contact): BlackRock SH Group  
Address: 467 Ferry st, Malden, Ma 02148  
Phone: 617-233-1476 Cell: 617-233-1476  
Email Address: Peter@marealestateinc.com

**Request**  
Choose applicable Zoning Bylaw Section: 7.2, M.G.L. Ch. 40A Sec. 9  
Will the project require a: **Site Plan Review:** ☐ Yes\* ☒ No **Variance:** ☐ Yes\* ☒ No \*Explain in narrative

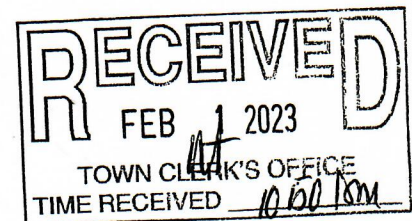
**Property**  
Location of Property: 135 Main st, Ware, Ma  
Assessor's Tax Map/Parcel Number: 60-0-219  
Deed Reference – Hampshire District Registry of Deeds Book/Page Number: Book 14778 Page 20  
Plan Reference – Hampshire District Registry of Deeds Book/Plan Number: N/A  
Zoning District: Downtown Commercial (DTC) Acreage: 0.0961  
Check all that apply: ☐ Wetlands ☐ Floodplain ☐ Aquifer

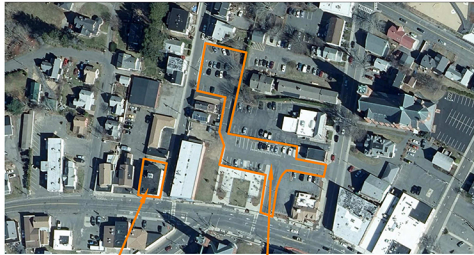
**Proposal**  
Brief description of the proposal: Repairing of the burned unit, cosmetic updates of the other units and conversion of 2 commercial Spaces into 4 residential spaces.

**Sign**  
Applicant's signature: [Signature]  
Owner's signature: [Signature]  
Date: 1/26/2023

• **Official Use Only:** Preliminary Review By: RAW Date 2/1/2023  
Fee: \$ 202.00 Date Paid: 1/31/2023 Check #: 1491  
Date of Public Hearing: \_\_\_\_\_  
Decision of Board: \_\_\_\_\_  
Date of Decision: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

Town Clerk's stamp:



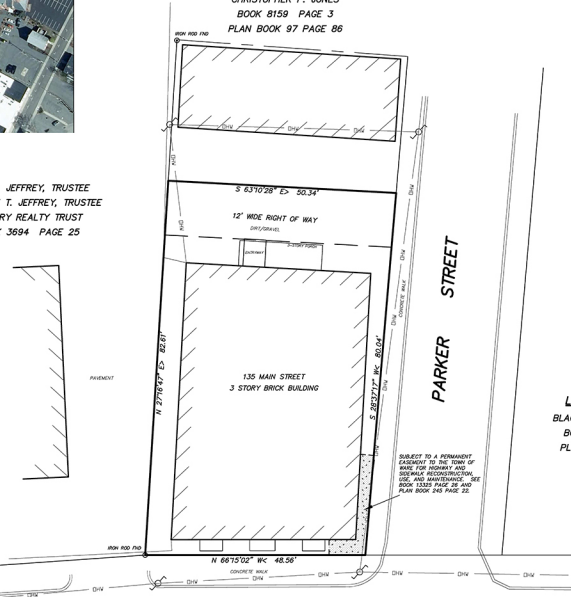


135 MAIN ST.

TOWN PARKING LOT

REID C. JEFFREY, TRUSTEE  
CHRISTINE T. JEFFREY, TRUSTEE  
JEFFREY REALTY TRUST  
BOOK 3694 PAGE 25

EDWARD D. KENT, JR.  
CHRISTOPHER P. JONES  
BOOK 8159 PAGE 3  
PLAN BOOK 97 PAGE 86



LOCUS REFERENCE  
BLACKROCK SH GROUP, LLC  
BOOK 14778 PAGE 20  
PLAN BOOK 97 PAGE 86  
4,015 SF±

Page 12

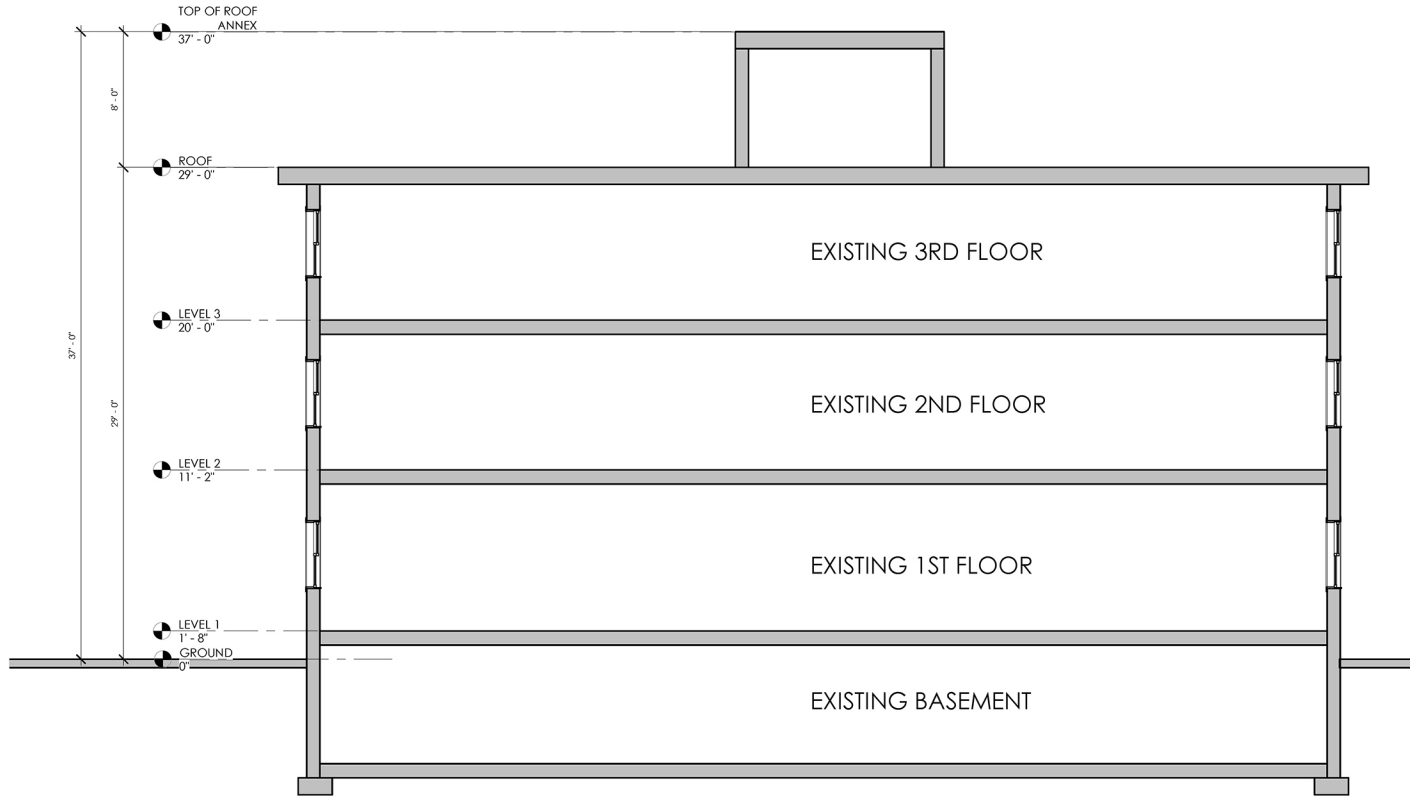
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|      |          |    |
| DATE | REVISION | BY |

|                          |            |     |
|--------------------------|------------|-----|
| ORIGINAL SIZE: 24" X 36" |            |     |
| FEET                     | 0          | 10  |
|                          | 0          | 30  |
| METERS                   | 0          | 3.6 |
|                          | 0          | 7.2 |
|                          | 0          | 9.1 |
| SURVEY: 50               | FLD. BK.   |     |
| CALC: LWH                | DESIGN:    |     |
| DRAFT: LWH               | CHECK: EBN |     |

**Holmberg & Howe**  
LAND SURVEYORS  
87 UNION STREET  
P.O. BOX 945  
EASTHAMPTON, MA 01027  
TELEPHONE (413) 529-1700  
FAX (413) 529-2237  
37 DAMON POND ROAD  
CHESTERFIELD, MA 01012  
TELEPHONE (413) 596-4025  
FAX (413) 529-2237



|  |                |                  |                   |
|--|----------------|------------------|-------------------|
| PLOT PLAN OF LAND IN<br>WARE, MASSACHUSETTS<br>PREPARED FOR<br>BLACKROCK SH GROUP, LLC |                |                  |                   |
| SHEET: 1 OF 1  | SCALE: 1"= 10' | JANUARY 27, 2023 | JOB NO.: 2023-007 |



① Section  
1/4" = 1'-0"

SECTION

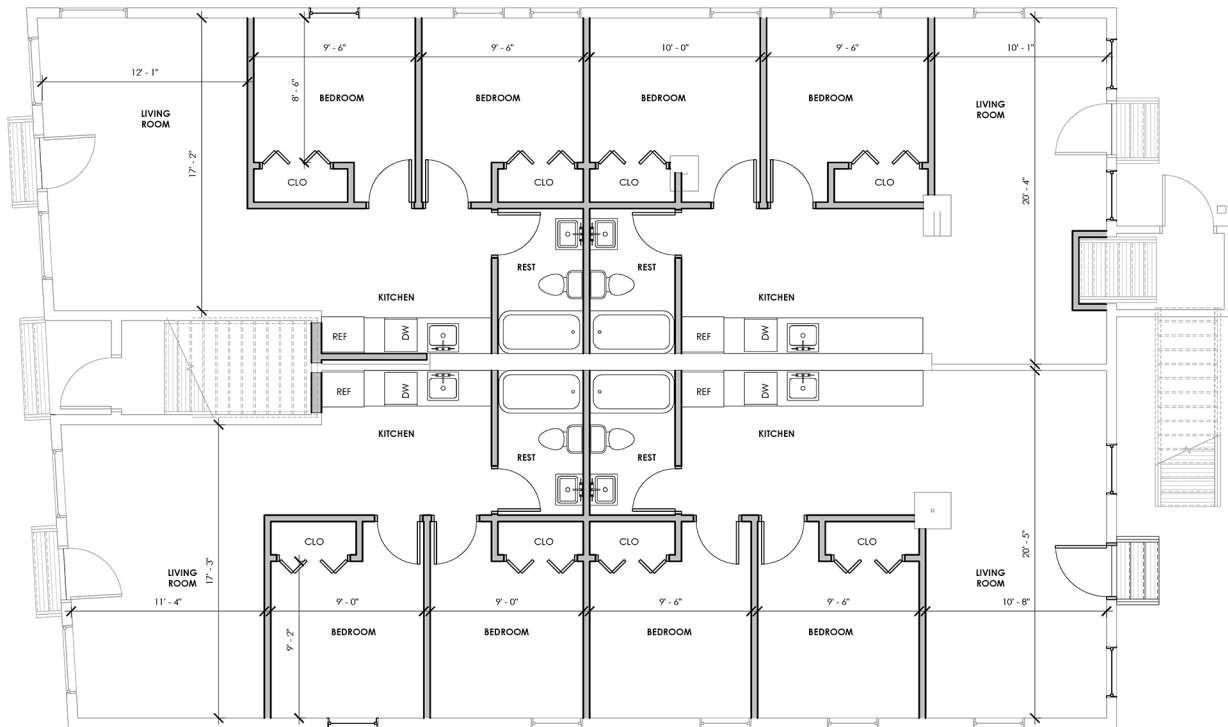
135 MAIN ST., WARE, MA

A.1.2

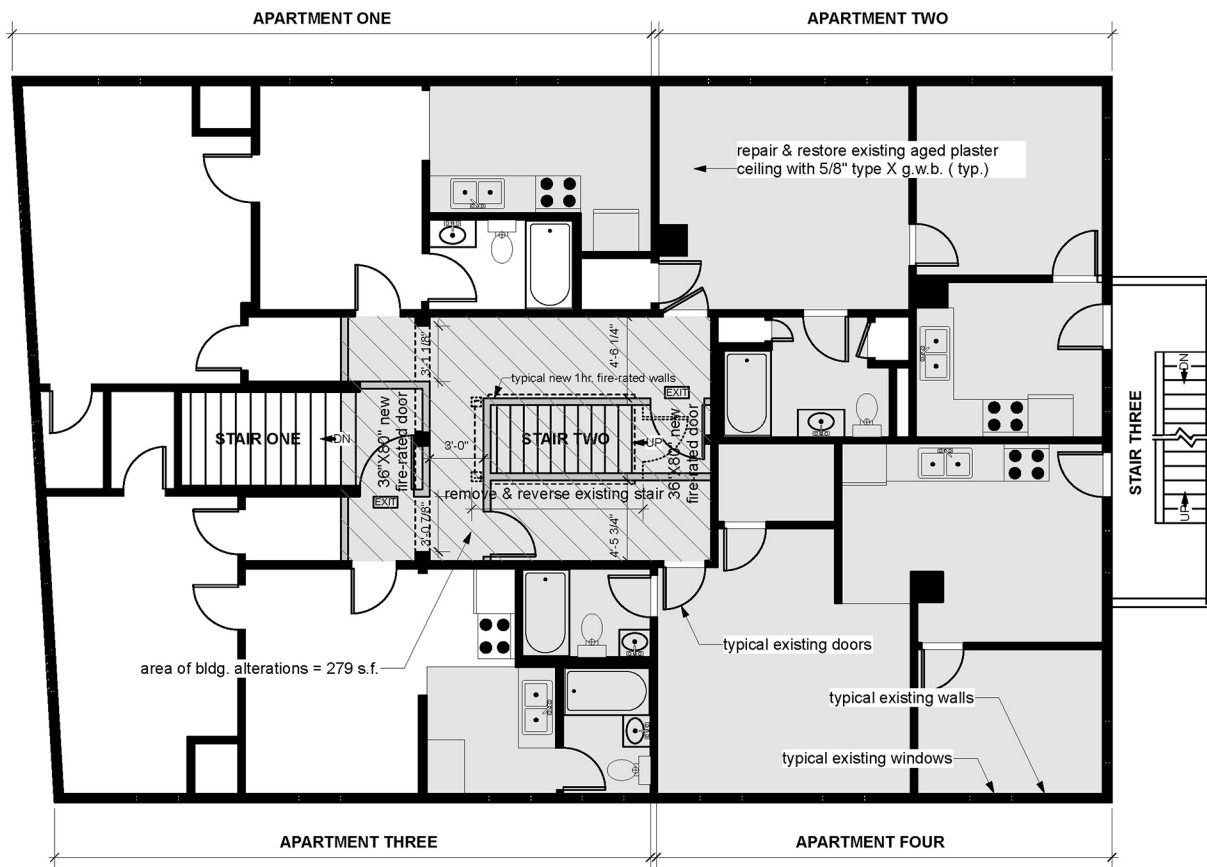
scale: 1/4" = 1'-0"

02/16/23



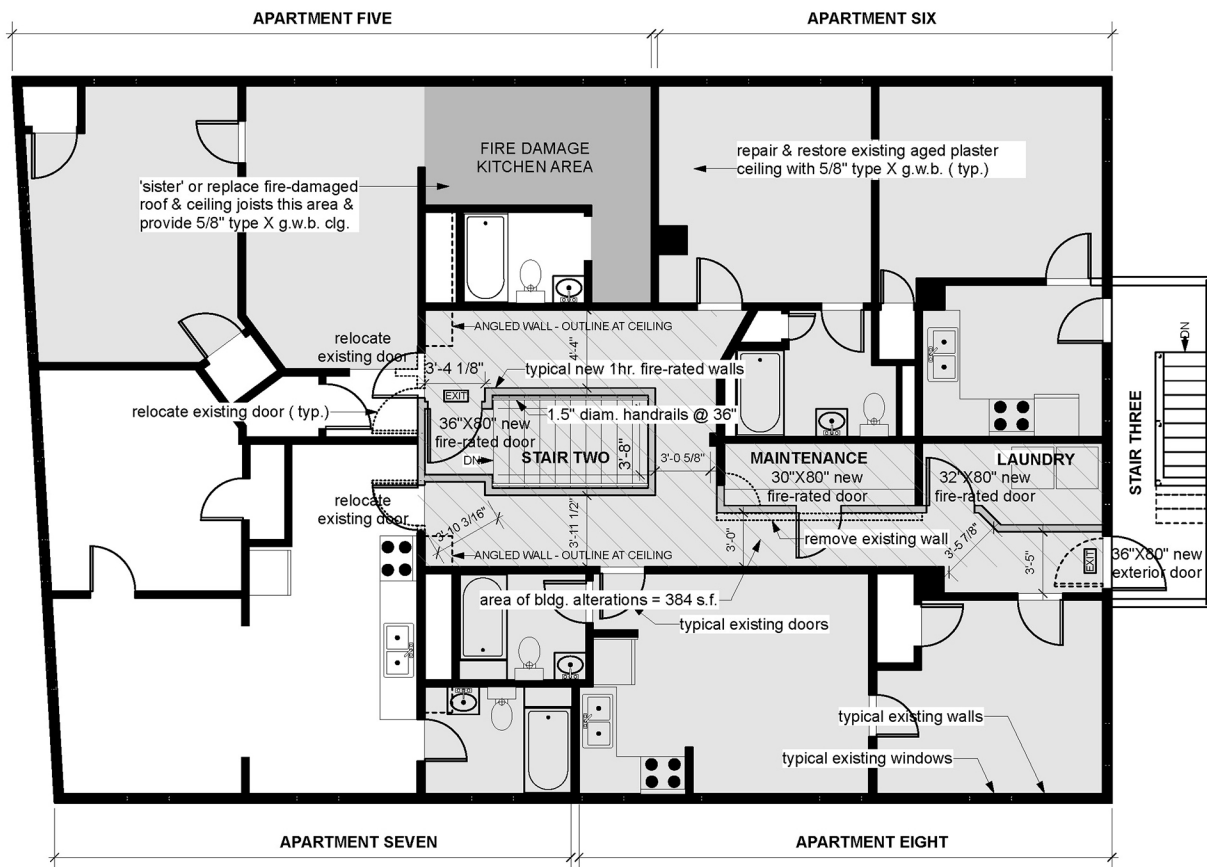


① 1ST FLOOR PROPOSED PLAN  
1/4" = 1'-0"



EXISTING SECOND FLOOR PLAN





EXISTING THIRD FLOOR PLAN