

Board Members
Brian White, Chair
Gibb Phenegar, Vice Chair
Christina Oster, Clerk
Joe Barresi, Member
Tom Emero, Member
Adam Kaufman, Associate
Member



Medway Town Hall
155 Village Street
Medway, MA 02053
Telephone (508) 321-4890
zoning@townofmedway.org

TOWN OF MEDWAY
COMMONWEALTH OF MASSACHUSETTS
ZONING BOARD OF APPEALS

DECISION
SPECIAL PERMIT-NONCONFORMING STRUCTURE
192 MAIN STREET

Applicant: Magued Barsoum and Mariette Barsoum, Trustees of the Medway Main Nominee Trust, 192 Main Street

Location of Property: 192 Main Street (Assessor Parcel ID: 47-070)

Approval Requested: The application is seeking a Special Permit (Determination/Finding) under Zoning Bylaw Section 5.5.E. that a proposed alteration or enlargement of the existing nonconforming structure will not be substantially more detrimental than the existing non-conforming structure to the neighborhood.

Members Voting: Gibb Phenegar, Vice Chair; Christina Oster, Clerk; Joe Barresi, Member; Tom Emero, Member; Adam Kaufman, Associate Member

Date of Decision: May 15, 2024

Decision: GRANTED WITH CONDITIONS

I. PROCEDURAL HISTORY

1. On April 22, 2024, the Applicant filed for a Special Permit (determination/finding) under Zoning Bylaw Sections 5.5.E.
2. Notice of the public hearing was published in the Milford Daily News on May 1, 2024, and May 8, 2024, and notice sent by mail to all parties in interest and posted in Town Hall as required by G.L. c. 40A §11.
3. The public hearing was opened on May 15, 2024. The hearing was closed that evening.
4. The Property at 192 Main Street is located in the AR-II (Agricultural Residential II) District. The front setback requirement is 35 feet, and the side and rear setback requirements

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3. The public hearing was opened on May 15, 2024. The hearing was closed that evening.
4. The Property at 192 Main Street is located in the AR-II (Agricultural Residential II) District. The front setback requirement is 35 feet, and the side and rear setback requirements

are 15 feet. The minimum lot area requirement is 22,500 sq. ft., and the minimum lot frontage requirement is 150 feet.

5. The Board notified Town departments, boards, and committees of this application.

6. All documents and exhibits received during the public hearing are contained in the Zoning Board of Appeal's files and listed in Section V of this Decision.

II. SUMMARY OF EVIDENCE AND TESTIMONY

Attorney Steve Kenney and Magued Barsoum, Trustee of Medway Main Nominee Trust represented the applicants. Attorney Kenney stated that they are seeking to make alterations to the existing nonconforming structure on the site, which predates zoning. Additions are shown on the Plans, adding landings and stairs in the rear of the building on the second floor. The applicant originally proposed changes to the front of the building, but after meeting with the Design Review Committee, the applicant has agreed not to make those changes. This will preserve the historic look of the property in keeping with the neighborhood. The proposed changes are listed in the Addendum submitted by the applicant. It will clean up the rear of the property and improve the appearance. It will not change the view from the street. There will be only a very small increase in impervious ground surface where they will fill in a gap outside the back entry door.

III. FINDINGS

In making its findings and reaching the decision described herein, the Board is guided by G.L. c. 40A, as amended, and by the Medway Zoning Bylaw. The Board also considered the Plans, comments from Town officials and committees, and evidence and testimony presented at the public hearing.

Special Permit under Section 5.5 to extend or alter a nonconforming structure.

The Board finds that the existing six-family structure is nonconforming as to front yard setback, because the structure is not set back at least 35 feet from Slocumb Place. The Board finds that the nonconformity pre-dates the applicable zoning bylaw and is therefore a protected pre-existing, nonconforming structure. The Board further finds that the proposed extension and alteration of the structure does not create any new nonconformities.

The Board found that the applicant has established a legally pre-existing, nonconforming structure at the property, which is nonconforming as to front yard setback.

Special Permit Decision Criteria for Section 5.5: that the alteration or extension the pre-existing, nonconforming structure will not be substantially more detrimental to the neighborhood.

The Board members agreed that the proposed extensions and alterations will be an improvement to the property. With only a very small increase in impervious surface, there is no substantial detriment to the neighborhood.

The Board found that the extension or alteration of the nonconforming structure by adding additional gross floor area as conditioned herein, will be substantially more detrimental to the neighborhood, for the reasons set forth above.

IV. CONDITIONS OF APPROVAL

1. Smoke, heat and carbon monoxide detectors must be installed in accordance with the Massachusetts Fire and Building Codes.
2. This special permit is subject to all subsequent conditions that may be imposed by other Town departments, boards, agencies, or commissions. Any changes to the variance or special permit that may be required by the decisions of other Town boards, agencies or commissions shall be submitted to the Board for review as a new request.
3. Any work or use that deviates from this Decision may be a violation of the Medway Zoning Bylaw. All conditions imposed by this Decision are mandatory, and any violation of a condition imposed by this decision may be a violation of the Medway Zoning Bylaw. Any violations of this Decision may prevent the issuance of a building permit and/or occupancy permit or result in the issuance of a cease-and-desist order, noncriminal penalties, or fines, as further provided in Section 3.1 of the Zoning Bylaw. Please note that Section 3.1.F of the Zoning Bylaw provides:
 1. Anyone who violates a provision of this Zoning Bylaw, or any condition of a variance, site plan review decision or special permit, shall be punishable by a fine of not more than three hundred dollars for each offense. Each day during which any portion of a violation continues shall constitute a separate offense.
 2. As an alternative means of enforcement, the Building Commissioner may impose noncriminal penalties pursuant to G.L. c. 40, § 21D and Article 19 of the Town's General Bylaws, in accordance with the following schedule:
First offense: warning (verbal or written)
Second offense: one hundred dollars
Third offense: two hundred dollars
Fourth and each subsequent offense per violation: three hundred dollars
4. As provided in Section 3.4.E of the Zoning Bylaw, special permits shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal under G.L. c. 40A, §17, from the grant thereof, if a substantial use thereof has not sooner

commenced except for good cause, or, in the case of a special permit for construction, if construction has not begun by such date, except for good cause. Upon receipt of a written request by the applicant filed at least 30 days prior to the date of expiration, the Board may grant an extension for good cause. The request shall state the reasons for the extension and also the length of time requested.

5. Any and all new gutters and downspouts shall not be placed in a manner to allow discharge of stormwater to the street or toward abutting properties.

6. All site work shall be in compliance with the Plans as conditioned by this Decision, provided, however, that the Building Commissioner may approve minor changes in the course of construction that are of such a nature as are usually approved as “field changes” that do not require further review by the Board. The dimensions shall not be changed without Board approval, except that minor changes in dimension that do not increase the size of the addition or encroach on any required setback may be allowed by the Building Commissioner as field changes.

7. There shall be no tracking of construction materials onto any public way. In the event construction debris is carried onto a public way, the applicant shall be responsible for all clean-up of the roadway which shall occur as soon as possible and in any event within twelve hours of its occurrence.

8. The owner must affirm that there is no connection whether direct or indirect to the Town storm water system from the site, including any drainage sump pump, perimeter drains, roof drains, or any other source.

9. The applicant shall comply with all Department of Public Works (DPW) regulations and requirements for any street opening permits, utility connections, or other work within DPW jurisdiction.

10. This special permit is applicable only to the following proposed extensions and alterations of the nonconforming structure outlined in the Addendum and shown on the Plans submitted by the applicant:

- Second floor addition behind Units 192 and 194
- First and second floor addition behind Unit 196
- Second floor addition behind Unit 198
- One landing behind Unit 198
- One landing behind Unit 196
- One landing behind Units 192 and 194

V. INDEX OF DOCUMENTS

A. The application included the following information that was provided to the Board at the time the application was filed:

1. Application dated April 22, 2024.
2. Plans entitled “House Interior Renovation & Addition” prepared by Rise Architecture dated April 18, 2024, 12 pages
3. Addendum to Application for Determination/Finding re: 192 Main Street, Medway, MA, dated May 1, 2024
4. Undated plans labeled “Addition”, 2 sheets (the Plans)
5. Photo of back of house highlighting entry area

B. Other documents received by the Board:

1. Email Nolan Lynch, Superintendent of Highway, dated April 25, 2024
2. Email from Jonathan Ackley, Building Commissioner, dated April 24, 2024
4. Email from Bridget Graziano, Conservation Agent, dated May 3, 2024

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VI. VOTE OF THE BOARD

By a vote of 5 to 0, the Zoning Board of Appeals hereby GRANTS the Applicant, Magued Barsoum and Mariette Barsoum, a **Special Permit** (Determination/Finding) under G.L. c. 40A §§9, and Zoning Bylaw Section 5.5.E. that a proposed alteration or enlargement of the existing nonconforming structure will not be substantially more detrimental than the existing nonconforming structure to the neighborhood, subject to the Plans and the CONDITIONS contained in this decision, see copy of Plans attached.

Member:	Vote:	Signature:
Gibb Phenegar, Vice-Chair	Aye	_____
Christina Oster, Clerk	Aye	_____
Joe Barresi, Member	Aye	_____
Tom Emero, Member	Aye	_____
Adam Kaufman, Associate Member	Aye	_____

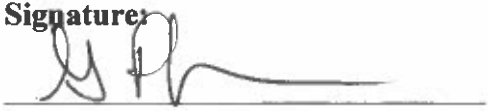




The Board and the Applicant have complied with all statutory requirements for the issuance of this appeal on the terms herein set forth. A copy of this Decision will be filed with the Medway Town Clerk and mailed to the Applicant, and notice will be mailed to all parties in interest as provided in General Laws, chapter 40A, section 15.

Any person aggrieved by the decision of the Board may appeal to the appropriate court pursuant to Massachusetts General Laws, chapter 40A, section 17, and shall be filed within twenty days after the filing of this notice in the office of the Medway Town Clerk.

In accordance with General Laws chapter 40A, section 11, no special permit shall take effect until a copy of the Decision is recorded in the Norfolk County Registry of Deeds, and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title, bearing the certification of the Town Clerk that twenty days have elapsed after the Decision has been filed in the office of the Town Clerk and no appeal has been filed within said twenty day period or the appeal has been filed within such time. The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

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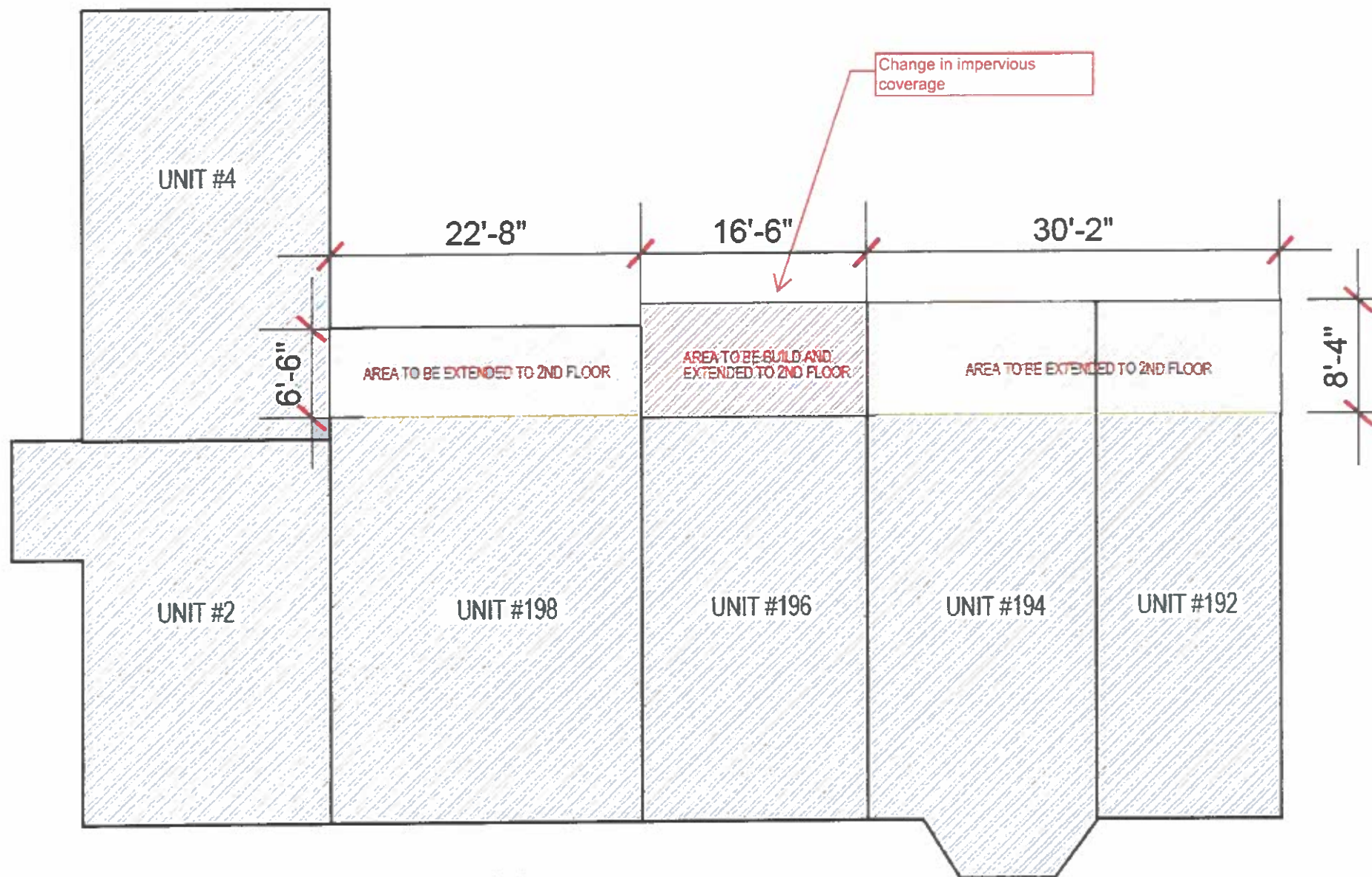
Member:	Vote:	Signature:
Gibb Phenegar, Vice-Chair	Aye	
Christina Oster, Clerk	Aye	
Joe Barresi, Member	Aye	
Tom Emero, Member	Aye	
Adam Kaufman, Associate Member	Aye	

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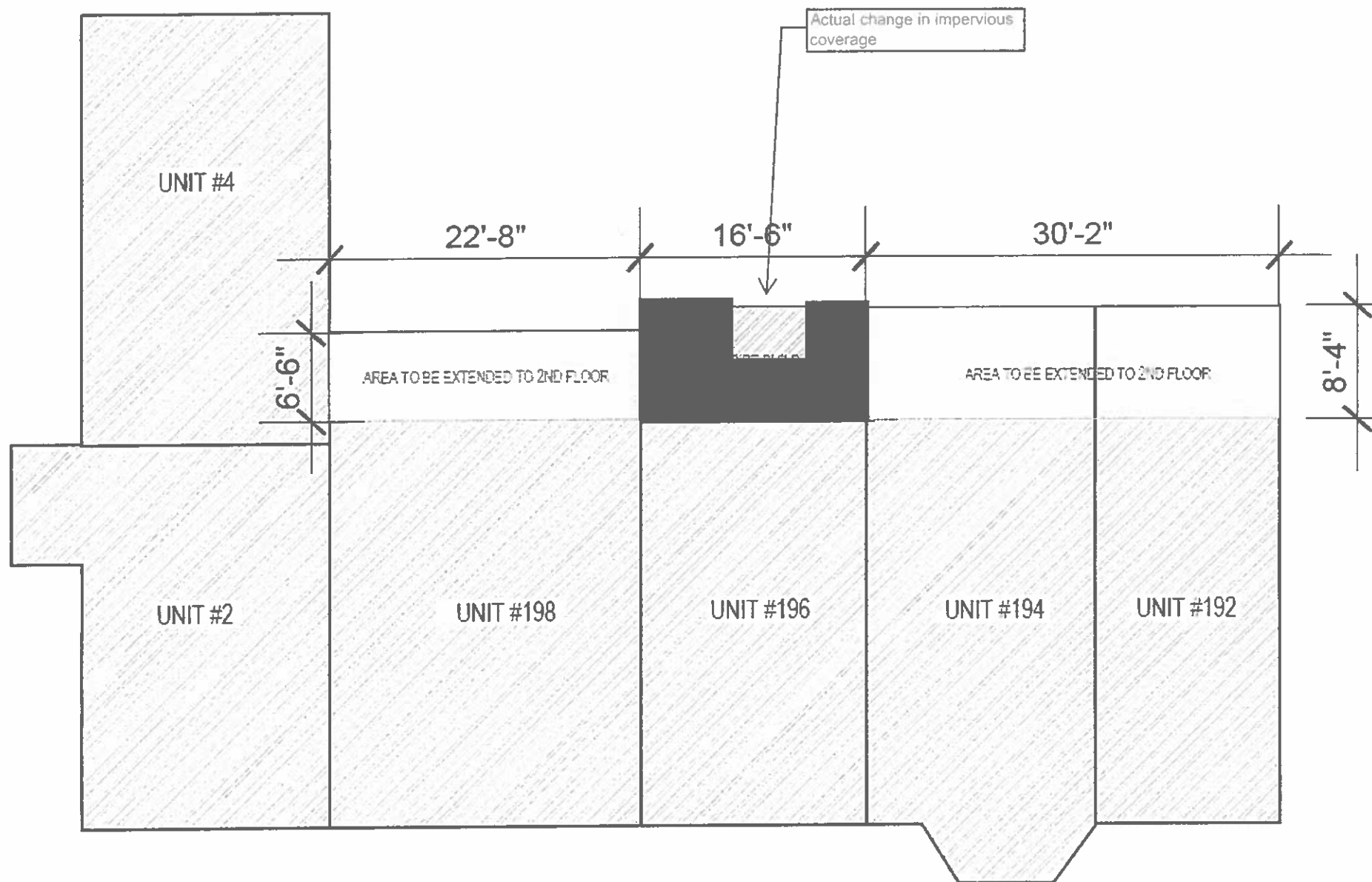
The fee for recording or registering shall be paid by the Applicant. A copy of the recorded Decision certified by the Registry, and notification by the Applicant of the recording, shall be furnished to the Board.



2

ADDITION

$\frac{1}{16}" = 1'0"$



2

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$1/16" = 1'0"$