



TOWN OF DURHAM
8 NEWMARKET RD
DURHAM, NH 03824-2898
603/868-8064
www.ci.durham.nh.us

MEMORANDUM

TO: Neil Niman, Chair Durham ZBA
FROM: Audrey Cline, Code Administrator, Durham
DATE: April 26, 2026
RE: 31 Main Street Variance Request for Unit Configuration

Chair Niman and Members of the Board,

Torrington Properties was approved for the conversion of 31 Main Street from commercial to residential by this Board on April 14, 2026. The Planning Board approved the amendment of the site plan on April 22, partial approval below:

The amendment is approved with the following terms:

1) *The building may be converted for residential use at the applicant's option, either: a) with one or more dwelling units that include no more than 2 bedrooms each in accordance with Section 175-42 C. 8. of the Zoning Ordinance; or b) with one or more dwelling units that include more than 2 bedrooms each if the applicant obtains a variance from Section 175-42 C. 8.*

*Findings of fact. The original site plan was approved in 2014. A variance was issued at that time to allow for all residential uses in the six buildings on the site provided that three buildings (the front section of the easterly building) be used for commercial purposes. The site plan approval included that same condition per the variance. **The applicant obtained a new variance to allow for 31 Main Street to be used for residential purposes. Note that the Town of Durham adopted a 2-bedroom maximum in the Central Business-1 District (after the original approval) to encourage smaller units in the core which would be attractive to a wider range of potential tenants. There is a rationale for allowing a larger unit at 31 Main Street because most of the site is composed of units with more than 2 bedrooms accompanying a particular type of tenant, and the building is existing, resulting in significant additional cost to convert it to 2-bedroom units.***

During the April 14 ZBA hearing, the board discussed the matter of number of units and/or bedrooms per unit, but did not make a finding on that issue, instead determining that the variance approval was encumbered by the submitted drawings. However, the number of bedrooms per unit is restricted within a mixed use development (all buildings on one parcel, regardless of each building's floor plan) and was not given a variance specific to this section. The applicant is in front of you tonight for a hearing on this narrow matter. Please see zoning language below:

175-42. Central Business-1 District (CB-1) and Central Business-2 District (CB-2)

C. *Development Standards in the Central Business District* In addition to the dimensional standards, development in the Central Business District shall conform to the following additional requirements:

8. Number of bedrooms – There shall be a maximum of 2 bedrooms in any dwelling unit within a mixed use with residential building or development.

Exhibit A



TOWN OF DURHAM
ZONING BOARD OF ADJUSTMENT
 8 NEWMARKET RD
 DURHAM, NH 03824
 PHONE: 603/868-8064
 www.ci.durham.nh.us

Fees \$469 paid
 4/23/2026

VARIANCE

Prior to seeking a variance, the property owner must have been denied a building permit by the Building Inspector or denied approval by the Planning Board.

Name of Applicant Torrington NH OP LLC

Address: 125 High Street, 5th Floor, Museum Building, Boston, MA 02110

Phone # 617-366-7318 Email: jmg@torprops.com

Owner of Property Concerned same
 (If same as above, write "Same")

Address: same
 (If same as above, write "Same")

Location of Property: 31 Main Street, Durham, NH
 (Street & Number)

Tax Map & Lot number Tax Map 108, Lot 14

A Variance is requested from Article(s) 175.42 Section(s) (C)(8) of the Zoning Ordinance to permit: a 5 bedroom single family home where the ordinance only permits 2 bedrooms

All applications must include a statement explaining how the applicant meets each of the five (5) statutory requirements for granting a variance, (A) through (E), which are found on page 2. The Zoning Board of Adjustment may consider the variance application incomplete if these five statements have not been addressed. In addition, all applications must be accompanied by adequate plans and exhibits.

Owner Authorization and Signature:

1. I/we do hereby authorize Donahue, Tucker & Ciandella, PLLC to file this application with the Zoning Board of Adjustment, to appear before the Board and to act on my/our behalf.
2. I/we do hereby authorize members of the Zoning Board of Adjustment and/or staff to enter upon the property on the afternoon prior to the Zoning Board meeting for purposes of reviewing this application.
3. To the best of my/our knowledge the information contained in this application is complete and accurate.

Owner's Signature(s): *Jeffrey Gannon* Date: 04/23/2026

Owner's Signature(s): _____ Date: _____

PRINTED NAME(S): Jeffrey Gannon Date: 04/23/2026

PRINTED NAME(S): _____ Date: _____

APPLICATION OF TORRINGTON NH OP LLC

31 Main Street, Durham
Map 108, Lot 14

APPLICANT'S NARRATIVE

I. Project Overview

- a. **Project address:** 31 Main Street (Tax Map 108, Lot 14), Durham, NH
- b. **Zoning district:** Central Business-1 District
- c. **Applicant:** Torrington NH OP, LLC (owner/developer)
- d. **Project description:** Conversion of 31 Main Street (Building C) from a vacant commercial use to a single-family residential dwelling containing five (5) bedrooms. The conversion is interior-only and will not alter the building envelope, footprint, or streetscape. The Zoning Board of Adjustment ("ZBA") granted relief on March 10, 2026, permitting the interior-only conversion, and the Planning Board approved the conversion on April 22, 2026.

II. Requested Relief

- a. **Relief sought:** Variance from Section 175.42(C)(8) of the Durham Zoning Ordinance, which states: "*There shall be a maximum of 2 bedrooms in any dwelling unit within a mixed-use with residential building or development.*"
- b. **Specific request:** Authorization to allow a single-family dwelling with five (5) bedrooms at 31 Main Street (Building C).

III. Statement of Need and Project Context

- a. **Long-term vacancy:** The building has been vacant since 2021 despite professional marketing; the Applicant seeks to make productive use of its investment.
- b. **No exterior impact:** The proposed conversion will preserve the exterior appearance and the character of Main Street; there will be no changes to access, circulation, or infrastructure, and the project will generate only normal residential activity.
- c. **Cost and schedule advantages:** The Applicant evaluated alternatives. The five-bedroom, single-family option requires significantly fewer renovations and shorter construction time than converting the building into two separate dwelling

units. Converting to two units would require an additional kitchen and associated systems, increasing cost and complexity.

- d. **Market fit and leasing durability:** A five-bedroom single-family unit better matches local rental demand (whole-house student), simplifies management and marketing, and is more likely to end the prolonged vacancy.
- e. **Occupancy pattern in the development:** The majority of other residential buildings in this development are configured as at least four-bedroom units and are fully rented. This established occupancy pattern demonstrates clear market demand for larger single-unit residences; therefore, a five-bedroom single-family unit aligns with the existing unit mix, complements the development's proven leasing profile, reduces vacancy risk, and increases the likelihood of sustained, stable occupancy.
- f. **Narrow, targeted request:** The Applicant is requesting a variance for one additional bedroom and one additional resident in a single, interior-only dwelling unit – not a change in use, not an increase in building footprint, and not an expansion of the site's physical or infrastructure demands. The relief sought is therefore narrowly tailored to a single, discrete dimensional standard in Section 175.42(C)(8).
- g. **Net change is minimal:** Approving the requested variance would expand the residential allowance for the property by +5 bedrooms (from 179 to 184 bedrooms overall) and +5 maximum residents (from 197 to 202), a minimal net change given the alternatives and the building's context.
- h. **Proportionality and reasonableness:** The variance request is proportionate to the problem it solves: it makes the conversion economically viable and marketable while keeping all external impacts unchanged. The relief is a measured accommodation that allows reasonable use of the property without granting any broad or open-ended exception.
- i. **Public benefit outweighs the small concession:** The modest relief will return a long-vacant building to productive use, stabilize the streetscape, and support local housing demand with minimal to no public impact. Granting the variance would be a proportionate allowance that advances both private and public interests.

IV. Variance Criteria Analysis (RSA 674:33 / ZBA Standard)

New Hampshire RSA 674:33, I (a)(2) sets forth five criteria upon which variances may be granted. The application of these criteria to the Applicant's proposal is discussed hereafter.

- a. **The variance will not be contrary to the public interest, &**
- b. **The spirit of the ordinance is observed**

The “public interest” and “spirit and intent” requirements are considered together pursuant to Malachy Glen Associates v. Chichester, 152 NH 102 (2007). The test for whether granting a variance would be contrary to the public interest or to the spirit and intent of the Ordinance is whether the variance would substantially alter the characteristics of the neighborhood or threaten the health, safety, and welfare of the public.

Granting the requested variance is consistent with the public interest because the relief preserves the public realm and downtown character while returning a long-vacant building to productive use. The conversion is interior-only; there will be no exterior changes to the building envelope, footprint, or streetscape, so the visual character of Main Street remains unchanged. The project will not increase traffic, alter circulation patterns, or require new infrastructure. The modest increase of one bedroom (relative to the 4-bedroom alternative) will not create impacts that would harm public health, safety, or welfare. Restoring occupancy to a vacant building supports the town’s economic vitality and reduces blight, which is plainly in the public interest.

The ordinance’s purpose is to manage land use impacts, preserve neighborhood character, and ensure compatible development. This proposal honors those objectives: the building’s exterior and streetscape presence remain intact, preserving the historic residential style and Main Street character that prior planning decisions sought to protect. The interior conversion to a single-family dwelling with five bedrooms maintains residential use consistent with the Town’s planning goals and the Planning Board’s approval. Because the change does not increase external impacts or alter the building’s relationship to the street, the spirit and intent of the zoning ordinance are observed.

c. **Substantial justice is done.**

Substantial justice favors allowing a reasonable, minimally intrusive use that returns a long-vacant property to productive occupancy. Denying the variance would force the Applicant into a more burdensome and costly alternative—conversion to two separate dwelling units—requiring an additional kitchen and associated systems, higher construction costs, and a longer renovation duration. That outcome would impose disproportionate economic hardship on the owner while producing no public benefit. Granting the variance balances private and public interests by enabling reuse with minimal external impact.

d. **The values of surrounding properties are not diminished.**

The conversion will not diminish surrounding property values because there will be no exterior changes to the building or streetscape; the appearance and character of Main Street will be preserved. The project will not increase traffic, create new curb cuts, or add parking demand beyond existing conditions. Restoring occupancy to a long-vacant building is more likely to stabilize or enhance nearby property values by reducing vacancy and improving street vitality. The proposed single-family use is consistent with the historic pattern of residential-style structures along Main Street and in the surrounding area; therefore, it is compatible with neighboring properties.

e. **Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.**

Literal enforcement of Section 175.42(C)(8) would require the Applicant to convert the building into 2 separate dwelling units, each with 2 bedrooms, to comply. Compliance in this instance would be impractical given the property's condition and market realities. Converting to two units would require constructing an additional kitchen and associated mechanical and life-safety systems, substantially increasing cost and construction time. The Applicant estimates the 5-bedroom single-family buildout will cost approximately 15% less and finish 3–4 weeks sooner than the 2-unit, 2-bedroom alternative. The property has been vacant for an extended period despite marketing; the minimal relief requested—one additional bedroom beyond the 4-bedroom option—is necessary to make the project

financially viable and to meet local rental demand for whole-house units. Granting the variance would allow reasonable use of the property while imposing no material external impacts.

V. Conclusion

For the reasons stated above, the Applicant respectfully requests that the ZBA grant a variance from Section 175.42(C)(8) to permit a single-family, five-bedroom dwelling at 31 Main Street (Building C). The requested relief is modest, preserves the exterior character of Main Street, addresses prolonged vacancy, and enables a financially viable reuse that aligns with local housing demand. Granting the variance satisfies the five statutory criteria: it is not contrary to the public interest; it observes the spirit of the ordinance; it achieves substantial justice; it will not diminish surrounding property values; and literal enforcement would result in an unnecessary hardship. The Applicant, therefore, requests approval of the variance as described.

Exhibit B

Exhibit C

BELL
ATLANTIC
2/21
03

MADBURY
ROAD

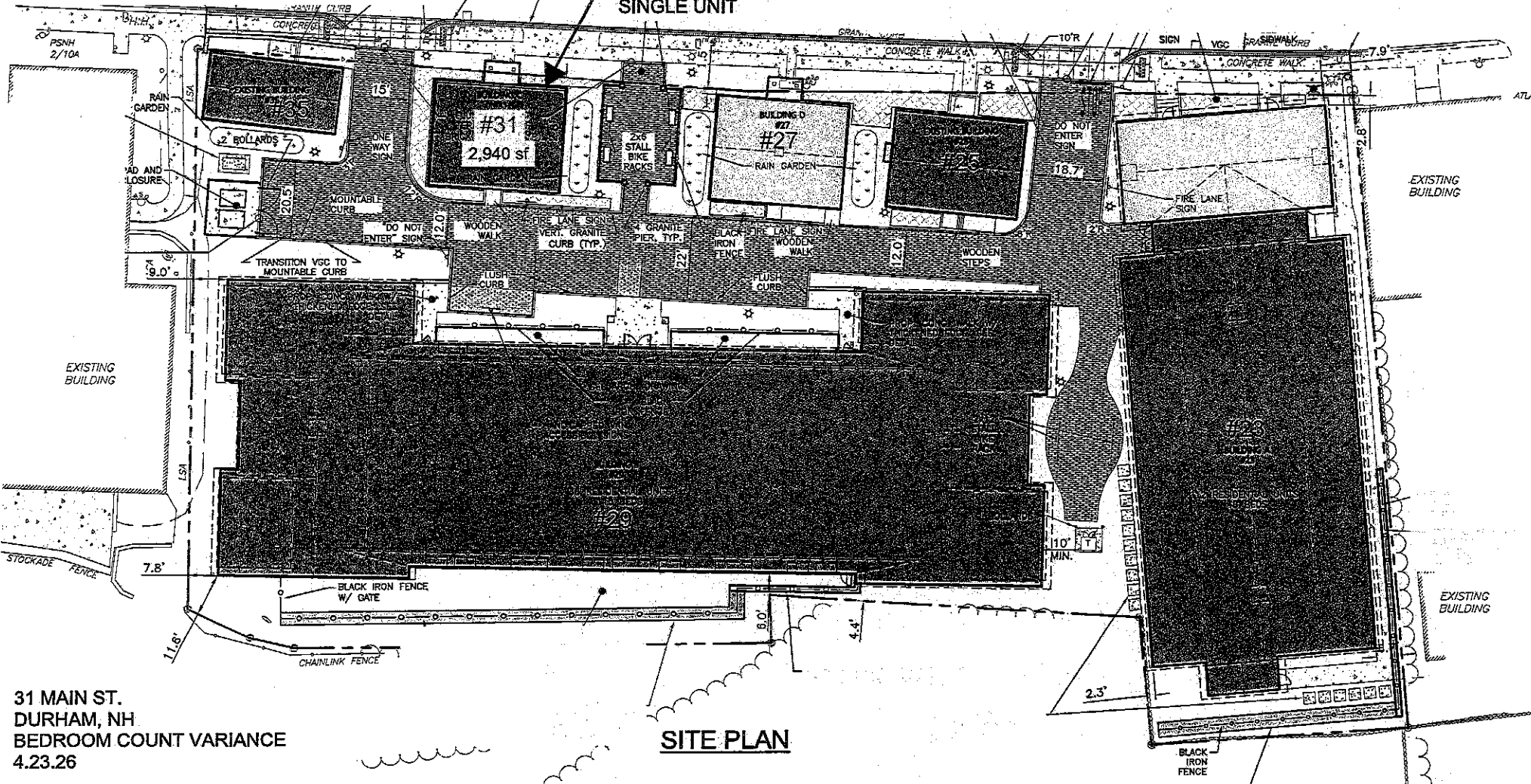
APPROVED CONVERSION
FROM COMMERCIAL TO
RESIDENTIAL
ZBA: 3.10.26
PB: 4.22.26

-  - COMMERCIAL USE
-  - RESIDENTIAL USE

PROPOSED
STONE WALL

BRICK PAVERS

APPLICANT SEEKS TO
BUILD 5 BEDROOMS IN A
SINGLE UNIT



31 MAIN ST.
DURHAM, NH
BEDROOM COUNT VARIANCE
4.23.26

SITE PLAN

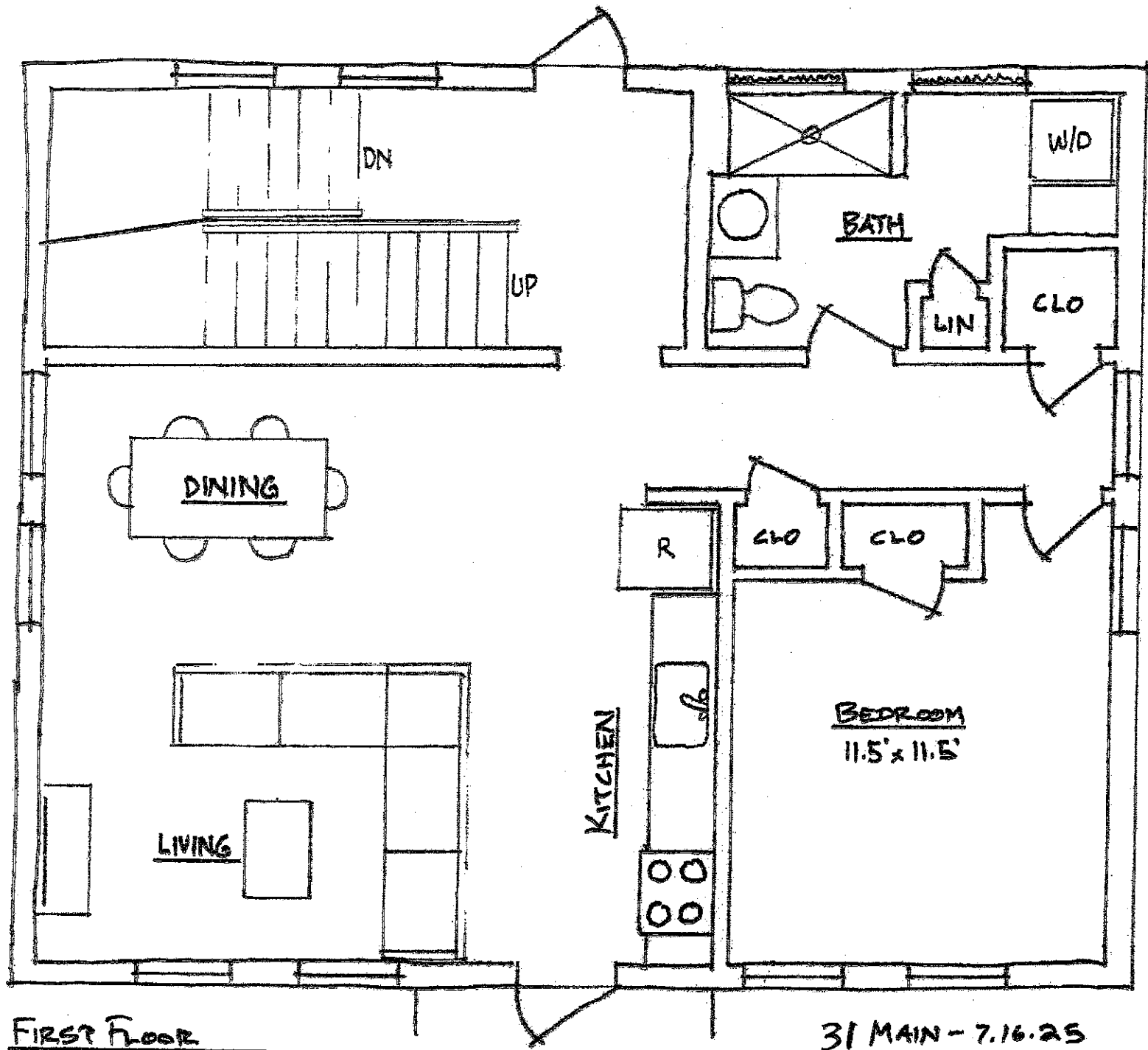
Exhibit D

31 MAIN STREET – DURHAM, NH

OFFICE TO HOUSING CONVERSION
CONCEPTUAL DESIGN – 3.10.26



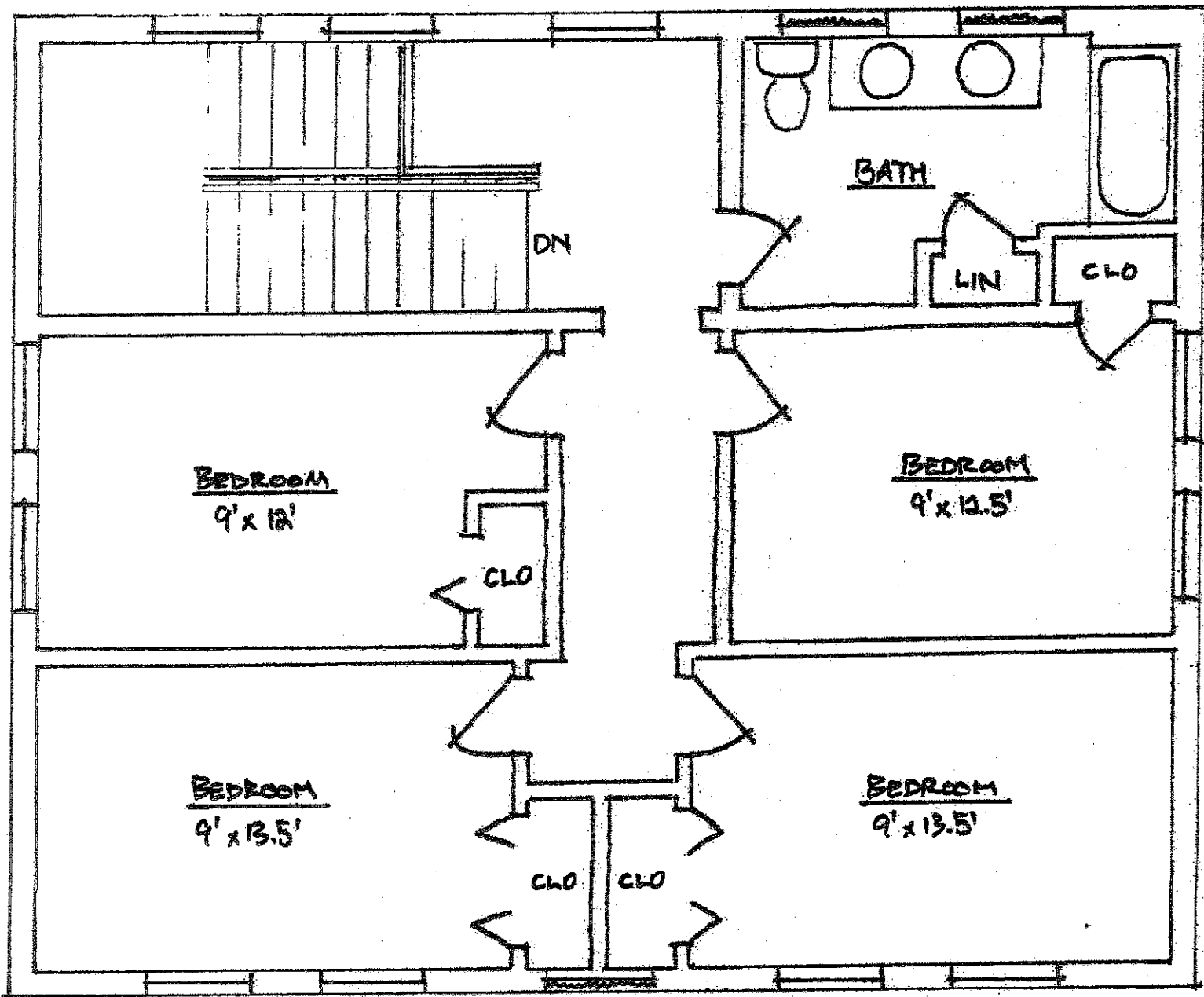
TORRINGTON PROPERTIES



FIRST FLOOR
1/4" = 1'-0"

31 MAIN - 7.16.25





SECOND FLOOR
 1/4" = 1'-0"

31 MAIN - 7.16.25

