

**APPLICATION OF**  
**RICCI SUPPLY CO., INC**  
**Bartlett Street, Portsmouth, Tax Map 164, Lot 4-2**

**APPLICANT'S NARRATIVE**

**I. THE PROJECT:**

The applicant, Ricci Supply Company, Inc. dba Ricci Lumber, on behalf of property owners Iron Horse Properties, LLC, Clipper Traders, LLC and Portsmouth Lumber & Hardware, LLC, seeks a variance from § 10.1251.20, §10.1253.10 and §10.1212 to replace the cabinets and panels in the existing free-standing sign located adjacent to the Ricci Lumber driveway at 105 Bartlett Street. The proposed new signs will substantially be a replacement in kind, however the gross sign area will actually be reduced from 153.73 square feet to 142.33 square feet. A panel of the proposed sign will have the capability of being electronically modified, thus falling under the ordinance's definition of a "changeable sign." The proposed signage will remain in the exact location of the existing sign, as shown on the site plan submitted herewith, and will retain its existing height of 25 feet above grade. Representations of the existing and proposed signs are submitted herewith as Exhibits A and B.

The property is within the CD4-W zone and Sign District 3. According to the tables at § 10.1251.20 and §10.1253.10, the maximum sign area for a freestanding sign is 20 square feet and the maximum height is 12 feet. At 153.73 square feet in area and 25 feet in height, the existing signage is obviously non-conforming. As such, and because at least a portion of the new signage will be an electronic "changeable sign" and thus feature a change in technology, the alteration, replacement or reconstruction of such sign requires compliance with current zoning. §10.1281.

The existing sign has been in place for over 27 years and is showing signs of age. Ricci Lumber would like to update the sign to incorporate its current branding. Additionally, the location of the sign on the bank of Hodgson Brook/North Mill Pond and near the busy Bartlett Street right of way make both the routine maintenance and manual changing of the advertising problematic, and potentially dangerous. See Exhibit C. Replacement with a modern, electronically changeable sign will obviate the need for employees to climb ladders to access the sign for these purposes.

The existing sign has an interesting provenance. Ricci Lumber has been operating in its present location on Bartlett Street since 1957. In 1987, setback variances were obtained to construct a free standing sign in this location. See Exhibit D.<sup>1</sup> The approval was for a sign of 138 square feet. Id. In May of 1991, Ricci Lumber suffered a devastating fire that destroyed its then existing showroom, on the location where the Ace Hardware store now stands. Exhibit E. It was rebuilt in the summer of 1991. In August

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<sup>1</sup> It does not appear the size or height of the sign required zoning relief at that time.

of 1991, Category 3 Hurricane Bob hit Portsmouth<sup>2</sup>. Shortly thereafter, in November 1991, the "Perfect Storm" nor'easter hit Portsmouth. The then-existing sign was irreparably damaged in one of these storms.

Economically, the savings and loan crisis had precipitated a significant recession which severely impacted Ricci Lumber's operations, as construction and real estate development ground to a near halt, compounding the business' financial struggles resulting from the recent fire. The owners of Ricci Lumber owned a property on Lafayette Road which was leased to a Hyundai dealership. When the dealership went under, "Mike the Russian," a local client of Ricci Lumber and part-time sign man, offered to repurpose its signage to replace the free standing sign that had been damaged on Bartlett Street. The Hyundai sign was repurposed and placed where the previous Ricci Lumber sign stood in June, 1992. See Exhibit F. It has remained there ever since.

It is unclear whether any independent approvals were obtained for the 1992 replacement sign. The applicant acknowledges that it slightly exceeds the square footage of the sign for which approvals were obtained in 1987, but, again, it is unclear if any additional relief would have been necessary. In any event, the current proposed replacement of the existing non-conforming sign with anything larger than 20 square feet, taller than 12 feet and featuring a change in technology to a digitally changeable sign would trigger the need for a variance. §10.1281.

In addition, because the proposed sign advertises businesses on adjacent lots, a variance from §10.1212 is also required. As noted above, the proposed signage actually results in a slight reduction from the existing square footage.

## II. CRITERIA:

The applicant believes the within Application meets the criteria necessary for the Board to grant the requested variances.

**Granting the requested variance will not be contrary to the spirit and intent of the ordinance nor will it be contrary to the public interest.** 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 or not granting a variance would be contrary to the public interest or contrary to the spirit and intent of the ordinance is whether or not the variance being granted would substantially alter the characteristics of the neighborhood or threaten the health, safety and welfare of the public.

In this case, were the variances to be granted, there would be no change in the essential characteristics of the neighborhood, nor would the public health, safety or welfare be threatened. The property exists within a transitional stretch which features both residential and commercial uses. It is abutted by a four unit apartment building to

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<sup>2</sup> Hurricane Bob has been described as "one of the costliest hurricanes in New England history."  
[https://en.wikipedia.org/wiki/Hurricane\\_Bob](https://en.wikipedia.org/wiki/Hurricane_Bob)

the north and railroad tracks to the south. Across Bartlett Street, the property is abutted by the former Alltex facility, another multi-unit apartment building and Precision Auto. None of the existing characteristics of the neighborhood will change if the variance is granted. None of the existing characteristics of the neighborhood can be said to have been affected by the applicant's existing signage. The proposed new sign will not threaten the public health, safety and welfare of the public in any manner whatsoever.

**Substantial justice would be done by granting the variance.** Whether or not substantial justice will be done by granting a variance requires the Board to conduct a balancing test. If the hardship upon the owner/applicant outweighs any benefit to the general public in denying the variance, then substantial justice would be done by granting the variance. It is substantially just to allow a property owner the reasonable use of his or her property. The proposed free standing sign is slightly smaller than what exists now and has been in place for over 27 years. Modern, changeable sign technology will increase convenience and safety for the applicant and its employees without causing any detriment to the public. It would be an injustice to the owner to require strict compliance with the ordinance where the long-existing sign has produced no deleterious effects on the neighborhood and the sign area is actually decreasing.

**The values of surrounding properties will not be diminished by granting the variance.** The existing sign has not in any manner negatively affected surrounding properties. Replacement with a slightly smaller, more modern sign will not either. The surrounding properties and those in the vicinity will not be affected in any way by this relief. The values of the surrounding properties will not be diminished in any way.

**There are special conditions associated with the property which prevent the proper enjoyment of the property under the strict terms of the zoning ordinance and thus constitute unnecessary hardship.** The property for which relief is sought is unique. It is a long, narrow irregularly shaped lot which fronts on Bartlett Street at the North Mill Pond where the public way shifts significantly from its southeasterly orientation to a more directly southerly orientation. It is adjacent to and actually surrounds commercial properties that have long benefitted from the existing sign.

**The use is a reasonable use.** The proposed signage is reasonable in character and is actually slightly smaller than the existing sign.

**There is no fair and substantial relationship between the purpose of the ordinance as it is applied to this particular property.** The purpose of the limitations within the sign ordinance is to maintain and enhance the character of the city's commercial and residential neighborhoods and to protect the public from hazardous and distracting displays. §10.1211. The relief here requested does not compromise in any way these goals. There is no fair and substantial relationship between the purpose of the square footage, height and lot requirements and their application to this property.

### **III. Conclusion.**

For the foregoing reasons, the applicant respectfully requests the Board grant the variances as requested and advertised.

Respectfully submitted,

Dated:

6/12/19

By:

  
\_\_\_\_\_  
John K. Bosen, Esquire

EXHIBIT  
A

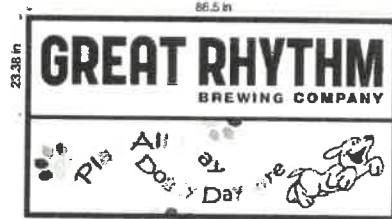
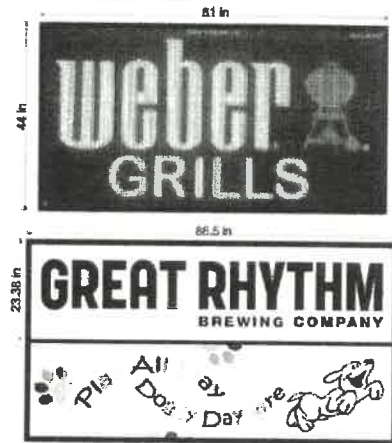
**ACE** Hardware

**RICCI** Lumber

<b>Benjamin Moore</b>  Benjamin Moore Paints	<b>Andersen</b> <b>AW</b>  WINDOWS • DOORS
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**SPRING IS COMING  
BURPEE SEEDS  
NOW IN STOCK**

EXHIBIT  
B



<p>PortsmouthSign.com 603-436-0047</p>	<p><b>REVISION:</b> All orders under \$250 include 1 revision only. All orders over \$250 include 3 revisions only. Additional revisions will be charged at \$25 per revision.</p> <p><b>PLEASE NOTE:</b> Designs are NOT actual size and color may vary depending on printer and/or monitor.</p>	<p>3/18/16</p> <p>I understand this Order Form is the final production order and replaces all previous drawings, notes and verbal instructions to this job. Standard vinyl &amp; paint colors will be used. Custom colors and specific matches to PMS colors will be an additional fee. I have carefully reviewed this form and verify that it contains all necessary specifications and represents my order. I authorize fabrication according to this approval.</p>	<p>RETURN SIGNED TO: <a href="mailto:service@portsmouthsign.com">service@portsmouthsign.com</a></p>	<p>Member of:</p> <p>Greater Dover Chamber of Commerce</p>
	<p>SIGNATURE: _____ Date: _____</p>		<p>©COPYRIGHT 2015, BY PORTSMOUTH SIGN COMPANY. All designs and custom artwork remain the property of Portsmouth Sign Company until the order is complete and paid in full.</p>	

Ship the Only    Qty:    Materials:    Background Color:    Vinyl Color:    Other:

SS  DS     HP  Int



EXHIBIT  
C





**SIGN PERMIT**

Inspection Department  
700 Islington Street  
Portsmouth, New Hampshire

PERMIT NUMBER 74 Date: December 22, 1967

FEE: \$20.00 Cash        Check No. 04358

Issued to: Ricci Supply Co Inc. Zoning District IND

Doing Business As: Ricci Supply Co Inc.

Mailing Address: 105 Bartlett Street Business Phone: 436-7480

SIGN LOCATION: 105 Bartlett Street

Size of Sign(s):

- (1) Ht. 18'3" x Width 7'6" = Sq.Ft. 138 15' from front lot line and 31' from side lot line.
- (2) Ht.        x Width        = Sq.Ft.
- (3) Ht.        x Width        = Sq.Ft.
- (4) Ht.        x Width        = Sq.Ft.
- (5) Ht.        x Width        = Sq.Ft.

Type of Sign: Wood        Metal X Plastic X Cloth         
Free Standing X Projecting from Bldg.         
Attached flush to Bldg.         
Temporary - Valid Until (Date)       

Type of Illumination: Internal X External (Spots/Floods)       

Number of Signs on this Permit: 1

Stipulations/Restrictions Imposed by Board of Adjustment: Remove all other non-permitted, temporary, signs on the lot.

Approved By: [Signature]  
Inspection Department

Applicant's Signature [Signature] Date 12/22/67



20 s.f. sign free-standing sign 15' from the side lot line at Roberts Avenue where 35' is the minimum yard required from all lot lines; and, d) a total maximum aggregate sign area of 248 s.f. where a total maximum aggregate sign area of 200 s.f. is allowed. Said property is shown on Assessor Plan R-86 as Lot 017 and 021 and lies within a General Business district.

S E) Petition of William A. Bischoff, owner, and Richard A. Beaulieu, option holder, for property located at 461 Middle Street wherein the following are requested: 1) a Variance from Article II, Section 10-205, to allow a real estate business office to locate in a district which does not allow real estate offices to be located; 2) a Variance from Article XII, Section 10-1201 Table 7, to allow the establishment of parking for 5 cars where a minimum of 8 parking spaces are required; and, 3) a Variance from Article XII, Section 10-1201, to allow vehicles to back into the street where vehicles are not allowed to back into the street. Said property is shown on Assessor Plan U-35 as Lot 011 and lies within an Apartment-Office and Historic A districts.

D F) Petition of Bank East Savings Bank and Trust for property located at 134 Pleasant Street wherein a Special Exception as allowed in Article XII, Section 10-1201(d)(1)(b) is requested to permit the conversion of 2,180 s.f. of un-used attic and basement space within an existing building (which will require 11 additional parking spaces) thereby to allow for a reduction in the required parking of 84 spaces with 37 spaces being provided where the Board may allow either the reduction or elimination of the required parking in consideration of the availability of public parking spaces within 500' of the proposed use. Said property is shown on Assessor Plan U-16 as Lot 030 and lies within the Central Business and Historic A districts.

S G) Petition of Ricci Supply Co., Inc. for property located at 105 Bartlett Street wherein the following are requested; a Variance from Article IX, Section 10-906 is requested to allow a 138 s.f. free-standing sign to be located 15' from the front lot line and 31' from the side lot line where minimum yards of 35' are required. Said property is shown on Assessor Plan U-64 as Lot 001 and lies within an Industrial district.

S H) Petition of TBC Realty, owner, and Paul M. Elliott for Ann's Uniform, option holder, for property located at 210 West Road wherein a Variance is requested from Article II, Section 10-207, to allow 1,250 s.f. of a one story 30,000 s.f. industrial structure to be used for warehousing, uniform distribution and 1,250 s.f. used for retail sales and display space in a district where retail sales are not allowed. Said property is shown on Assessor Plan R-67 as Lots 16 and 17 and lies within an Industrial district.



LUMBER - HARDWARE  
RICCI SUPPLY Co.

← RICCI

ALL  
SALES  
BY  
CHECK  
ONLY



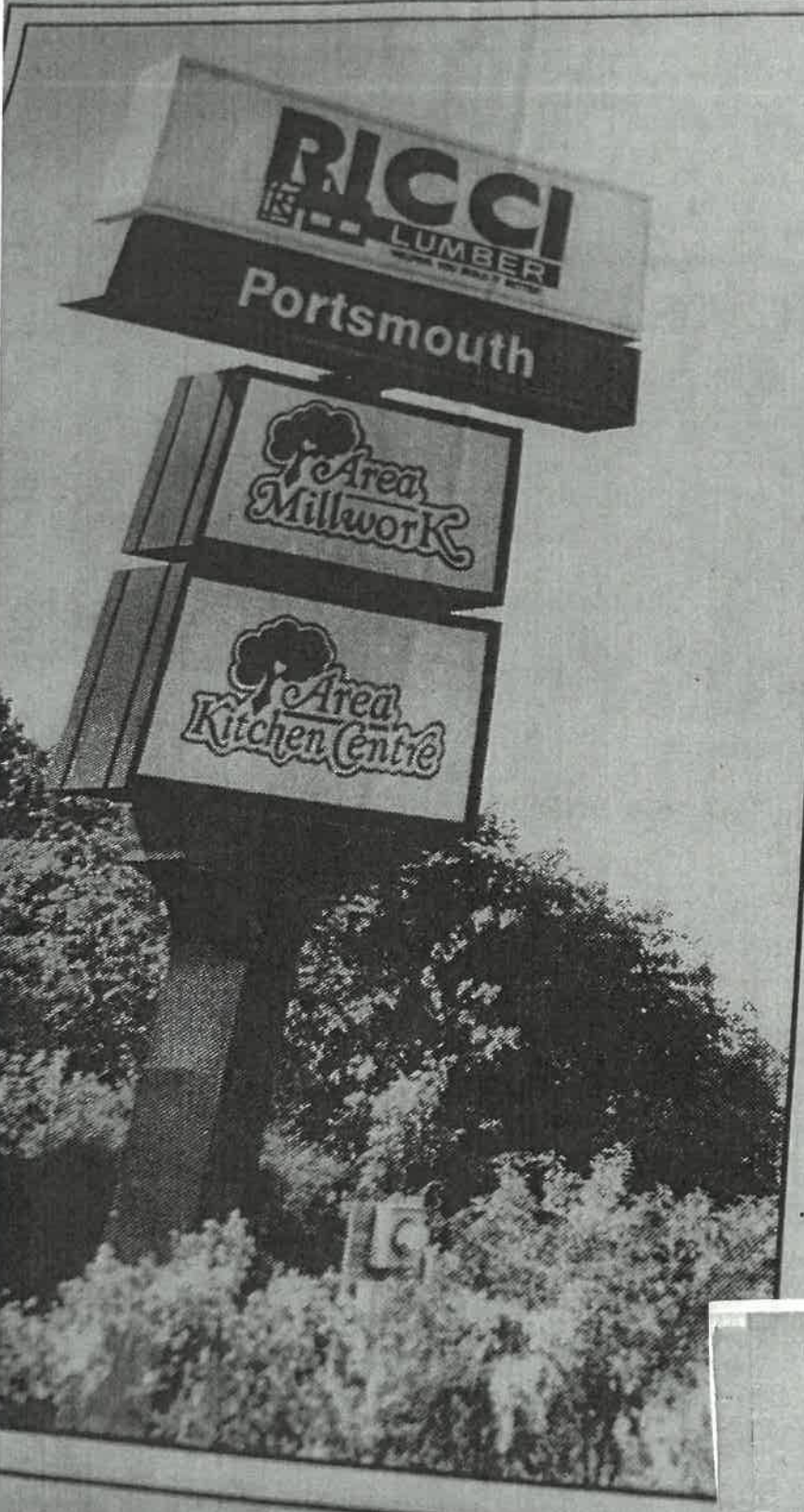
EXHIBIT

E

family of George Demoulas, who built the Northeast supermarket chain into an empire with his brother Telemachus by the time of his death in 1971.  
At the time, George Demoulas' family sold out its interest in the grocery chain, but filed a suit in September alleging mismanagement of employee profit-sharing funds, which are shared by some 2,000 employees.  
The Department of Labor's suit proposed that trustees Telemachus Demoulas; his son, Arthur T. Demoulas;

far above the roughly 50 percent... maintain an acceptable degree of risk.  
Further, according to the suit, that portion is said to have been invested in 18 loans secured by real estate.  
According to a published report, Peter Weyer for the trustees, denied the validity of the loans and defended the performance and collateral value of the loans.

EXHIBIT  
F



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**SIGNS OF LIFE** — Ricci Lumber's phoenix-like rise from the ashes of a devastating fire last year was completed last week when the Portsmouth store's new sign was hoisted into place by the Bartlett Street firm.  
(Staff photo by Erika Schutz)

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B2—Portsmouth Herald (N.H.) Monday, June 15, 1992

## Business

From Page B1

**NOTES**

- 1) DIMENSION REGULATIONS:  
 ZONE: OFFICE RESEARCH  
 MINIMUM STREET FRONTAGE: 200'  
 MINIMUM LOT AREA: 3 ACRES  
 MINIMUM LOT DEPTH: 200'  
 MINIMUM FRONT SETBACK: 70'  
 MINIMUM SIDE SETBACK: 50'  
 MINIMUM REAR SETBACK: 50'  
 MAXIMUM BUILDING HEIGHT: 60'  
 MINIMUM OPEN SPACE: 30%

\*THE LOT IS LOCATED NEARBY NORTH MILL POND AND THEREFORE IS SUBJECT TO REQUIREMENTS OF INDUSTRIAL DISTRICT WITH RESPECT TO MINIMUM LOT AREA, STREET FRONTAGE, LOT DEPTH, AND YARDS

2) PARKING NOTES: THE EXISTING LOT PROVIDES SPACES FOR 33 VEHICLES. THE PROPOSED RENOVATION WOULD REQUIRE PARKING SPACES FOR 32 VEHICLES AS FOLLOWS:

GENERAL RETAIL:	4832 SF	● 1 PER 250 SF	= 20 SPACES
GENERAL MANUFACTURING/LIGHT INDUSTRY:	1888 SF	● 1 PER 1000 SF	= 2 SPACES
1ST FLOOR WHOLESALE USE/WAREHOUSE:	4550 SF	● 1 PER 2000 SF	= 3 SPACES
2ND FLOOR WHOLESALE USE/WAREHOUSE:	5048 SF	● 1 PER 2000 SF	= 3 SPACES
2ND FLOOR OFFICE:	1000 SF	● 1 PER 250 SF	= 4 SPACES
			TOTAL REQUIRED SPACES: = 32 SPACES
			TOTAL SPACES PROVIDED: = 33 SPACES

3) PROPOSED SITE IMPROVEMENTS

- A) REMOVE & REPLACE 180' OF FRONT OF BUILDING (FIRST 210 FEET OF BUILDING)
- B) RENOVATE 3200SF (32'X100') WAREHOUSE BUILDING
- C) RE-CONFIGURE LANDSCAPED AREA ALONG BARTLETT STREET TO ALLOW CITY SNOW REMOVAL
- D) INSTALL GUTTERS, DOWNSPOUTS, & RAIN GARDENS AS SHOWN
- E) REMOVE & RELOCATE UTILITY POLES
- F) INSTALL DRAIN LINE IN FOUNDATION TO ALLOW FUTURE STORMWATER SEPARATION FROM CITY SEWER
- G) ADD TRAFFIC LANE STRIPING

4) EROSION CONTROL

- A) INSTALL "SILT CATCH" OR EQUAL CATCH BASIN FILTER SYSTEMS ON CATCH BASINS #1, #4, & #5. SILT CATCH BY DGI INDUSTRIES, HOOKSETT, NH.

5) PROPOSED UTILITIES:

- A) SEWER: EXISTING 6" PVC SEWER LINE WILL CONTINUE TO SERVE THE BUILDING.
- B) WATER DOMESTIC: A NEW 2" COPPER WATER LINE IS PROPOSED.
- C) SPRINKLER: A NEW 6" DUCTILE IRON LINE IS PROPOSED FOR A WET SPRINKLER SYSTEM. A FIRE DEPARTMENT HOOK-UP MUST BE INSTALLED ON THE BUILDING ALONG BARTLETT STREET. TYPE & LOCATION MUST BE APPROVED BY FIRE DEPARTMENT. FINAL WATER CONNECTIONS SHALL BE REVIEWED AND APPROVED BY CITY WATER DEPARTMENT.
- D) ELECTRIC: UTILITY POLES LABELED #2, #3, #4 ON DRAWING 1 SHALL BE REMOVED. A NEW UTILITY POLE SHALL BE INSTALLED AT THE REAR OF THE BUILDING. FROM THIS NEW UTILITY POLE, THE SERVICE WILL TRAVEL UNDERGROUND TO THE BUILDING.
- E) GAS: THE EXISTING GAS LINE WILL CONTINUE TO SERVE THE BUILDING.
- F) FUTURE STORMWATER DRAINAGE: CB #2: TIE IN FEE OF \$200 AS REQUIRED. TIE IN METHOD TO BE APPROVED BY CITY ENGINEER. FUTURE STORMWATER/SEWER SEPARATION: INSTALL 12" CULVERT INTO FOUNDATION

6) LIGHTING:

- A) OUTSIDE LIGHTING SHALL CONFORM TO CITY REGULATIONS AND MEET FOOT CANDLE REQUIREMENTS
- B) PROPOSED BUILDING LIGHTING AS SHOWN:  
 18 - 13 WATT STRAIGHT SHADE LED GOOSENECK LUMINAIRE LIGHT  
 12 - LED WALLPACK 26 WATT LIGHT

**LEGEND**

- Utility Pole
- Catch Basin
- ⊙ Drainage Manhole
- ⊕ Telephone Manhole
- ⊙ Sewer
- ⊙ Water Valve Cover
- Sewer Line
- Water Line
- Fence
- Wetland Setback
- ▭ Lumber Rack
- ▭ Flood Zone AE (EL. 9)
- ▭ 12X36 Spot Grade
- Proposed Grading
- 13 Watt Straight Shade LED Gooseneck Luminaire Light
- LED Wallpack 26 Watt Light

Catch Basin	RIM	Outlet of Pipe	Pipe Orientation	Outlet Dia.
#1	4.43	6.31	HORIZONTAL	12"
#2	11.04	7.96	HORIZONTAL	12"
#3	10.71			
#4	8.82	4.40	HORIZONTAL	8"
#5	8.94	5.77	VERTICAL	8"

Sewer	RIM	Top of Culvert/Pipe	PIPE DIA.
#1	10.33	6.33	36"
#2	10.18	5.68	36"
#3	9.73	5.40	36"

ISS.	DATE	DESCRIPTION OF ISSUE
4	AUGUST 8, 2012	FOR APPROVAL
3	JULY 31, 2012	FOR APPROVAL
2	JULY 27, 2012	FOR APPROVAL
1	JULY 16, 2012	FOR APPROVAL

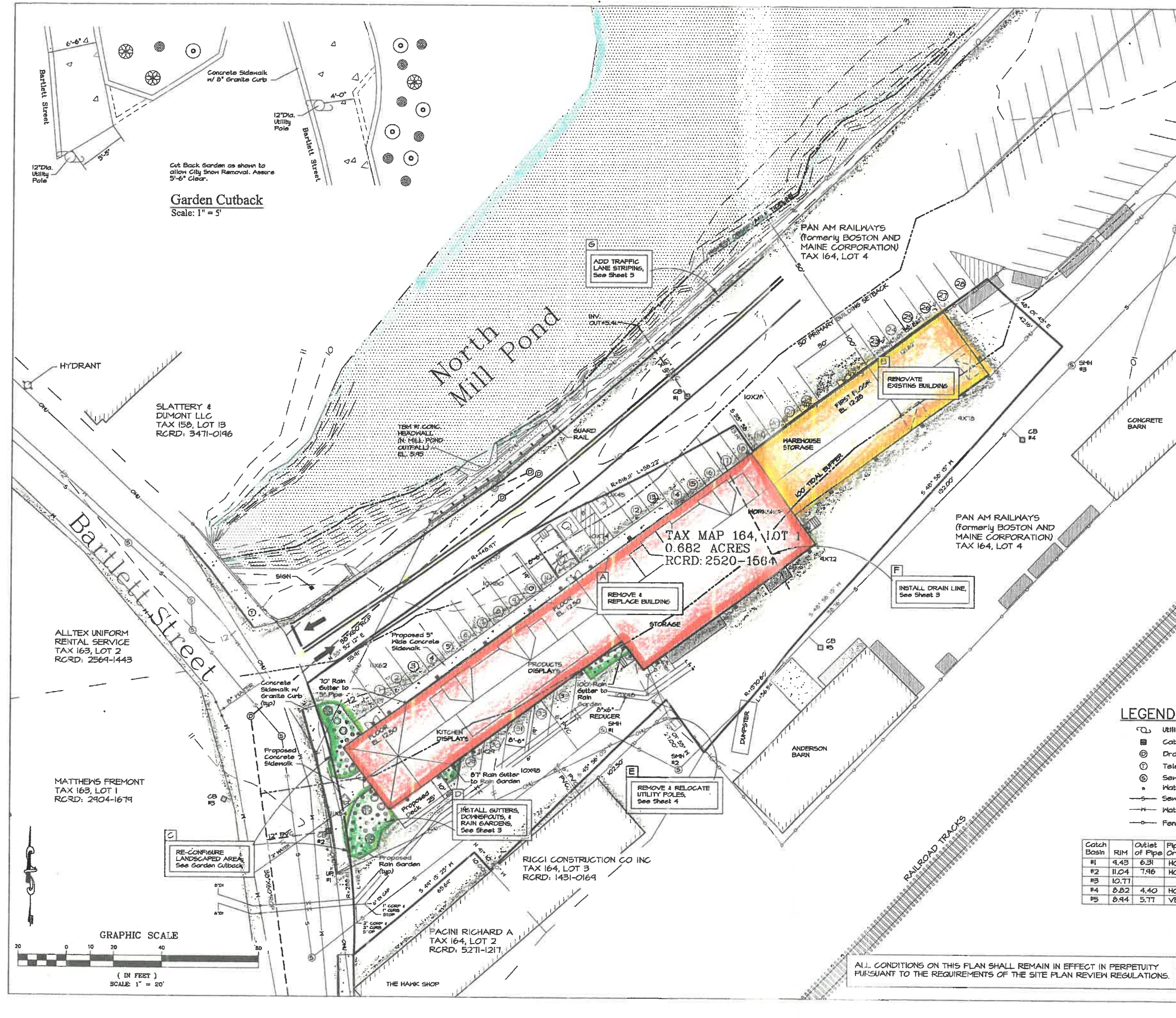
CHECKED: A.R.  
 DRAWN: B.W.K.  
 CHECKED: A.R.

**ROSS ENGINEERING**  
 Civil/Structural Engineering & Surveying  
 909 Islington St.  
 Portsmouth, NH 03801  
 (603) 433-7550

CLIENT:  
 Ricci Lumber Co.  
 105 Bartlett Street  
 Portsmouth, NH 03801

TITLE  
**Site Plan**  
 for  
**Ricci Supply Co. Inc.**  
 105 Bartlett Street  
 Tax Map 164, Lot 1  
 Portsmouth, NH 03801

J.D. NUMBER	DWG. NO.	ISSUE
12-011	2 OF 5	4



**Garden Cutback**  
 Scale: 1" = 5'

Cut Back Garden as shown to allow City Snow Removal. Assure 5'-6" Clear.

6'-6" 4  
 Concrete Sidewalk w/ 8" Granite Curb  
 12" Dia. Utility Pole  
 Bartlett Street  
 12" Dia. Utility Pole  
 HYDRANT  
 SLATTERY & DUMONT LLC  
 TAX 158, LOT 13  
 RCRD: 3471-0196  
 ALL TEX UNIFORM RENTAL SERVICE  
 TAX 163, LOT 2  
 RCRD: 2564-1443  
 MATTHEWS FREMONT  
 TAX 163, LOT 1  
 RCRD: 2904-1679  
 GRAPHIC SCALE  
 ( IN FEET )  
 SCALE: 1" = 20'

TAX MAP 164, LOT 1  
 0.682 ACRES  
 RCRD: 2520-156A

PAN AM RAILWAYS  
 (formerly BOSTON AND MAINE CORPORATION)  
 TAX 164, LOT 4

PAN AM RAILWAYS  
 (formerly BOSTON AND MAINE CORPORATION)  
 TAX 164, LOT 4

RIGGI CONSTRUCTION CO INC  
 TAX 164, LOT 3  
 RCRD: 1431-0169

PACINI RICHARD A  
 TAX 164, LOT 2  
 RCRD: 5271-1217

ALL CONDITIONS ON THIS PLAN SHALL REMAIN IN EFFECT IN PERPETUITY PURSUANT TO THE REQUIREMENTS OF THE SITE PLAN REVIEW REGULATIONS.

Scale: 1" = 5'

NORTH  
MILL POND

HYDRANT

SLATTERY &  
DUMONT LLC  
TAX 158, LOT 13  
RCRD: 3471-0196

Bartlett Street

ALL-TEX UNIFORM  
RENTAL SERVICE  
TAX 163, LOT 2  
RCRD: 2564-1443

MATTHEWS FREMONT  
TAX 163, LOT 1  
RCRD: 2904-1674

RE-CONFIGURE  
LANDSCAPED AREA  
See Garden Outback

INSTALL GUTTERS,  
DOWNSPOUTS, &  
RAIN GARDENS,  
See Sheet 3

RICCI CONSTRUCTIVE  
TAX 164, LOT 3  
RCRD: 1431-0169

GRAPHIC SCALE



( IN FEET )  
SCALE: 1" = 20'

ADD  
LANE  
See

INV.  
CUTS

TBM W/ CONC.  
HEADWALL  
IN MILL POND  
OUTFALL  
EL. 575

GUARD  
RAIL

SIGN

Proposed 5"  
Wide Concrete  
Sidewalk

Concrete  
Sidewalk w/  
Granite Curb  
(top)

Proposed  
Concrete  
Sidewalk

KITCHEN  
DISPLAYS

PRODUCTS  
DISPLAYS

10' Rain  
Sutter to  
Sutter to  
Sutter to  
Sutter to

6" Rain Sutter  
to Rain Garden

Proposed  
Rain Garden  
(top)

THE HAWK SHOP

FACINI RICHARD A  
TAX 164, LOT 2  
RCRD: 5271-1217