144 Washington Street P.O. Box 1222 Portsmouth, NH 03802 www.durbinlawoffices.com



Derek R. Durbin, Esq. 603.287.4764 derek@durbinlawoffices.com *Also admitted in MA

BY: VIEWPOINT & HAND DELIVERY

January 2, 2020

City of Portsmouth Zoning Board of Adjustment Attn: David Rheaume, Chairman 1 Junkins Avenue Portsmouth, NH 03801

RE: Variance Application of SAI Builders LLC 21 Elwyn Avenue, Tax Map 113, Lot 28

Dear Chairman Rheaume,

Our Office represents SAI Builders LLC, owner of 21 Elwyn Avenue shown on Tax Map 113 as Lot 28. Please find twelve (12) copies of SAI Builders LLC's zoning application and related materials for consideration by the Zoning Board at its January meeting. The original application package has been filed via the City's online permitting portal, Viewpoint. The following are included in the package:

- 1) Landowner Letter of Authorization;
- 2) Narrative to Variance Application;
- 3) ZBA Site Plan (Existing and Proposed Conditions);
- 4) Floor Plans;
- 5) Elevations;
- 6) Tax Map Image of Property; and
- 7) Photographs of Property.

Should you have any questions or concerns regarding the enclosed application materials, do not hesitate to contact me at your convenience.

Sincerely,

Derek R. Durbin, Esq.

LETTER OF AUTHORIZATION

SAI Builders LLC, of 12 Industrial Way, Salem, New Hampshire 03079, the owner of the property located at 21 Elwyn Avenue, identified on Tax Map 113, as Lot 28 (the "Property"), hereby authorizes Durbin Law Offices PLLC to act as his agent and representative in connection with any building, zoning, planning or other municipal permit applications filed with the City of Portsmouth for said Property. Said Letter of Authorization shall be valid until expressly revoked in writing.

Printed Name: Anton J. Miller

Duly Authorized

12/27/19 Date

CITY OF PORTSMOUTH ZONING BOARD OF ADJUSTMENT APPLICATION NARRATIVE

SAI Builders LLC (Owner/Applicant) Tax Map 113, Lot 28 21 Elwyn Avenue Portsmouth, NH 03801

INTRODUCTORY STATEMENT

The Property

SAI Builders LLC (the "Applicant") is the owner of property located at 21 Elwyn Avenue, identified on Portsmouth Tax Map 113, as Lot 28 (the "Property"). The Property is located within Portsmouth's General Residence A ("GRA") Zoning District.

The Property contains a single-family home that was originally constructed in 1850, as noted in Portsmouth's assessing records. The Property is non-conforming with respect to lot area (5,017 s.f.), lot area per dwelling unit, and building coverage (31.1%). Moreover, the existing home on the Property encroaches into the right yard setback. In fact, almost 1/3rd of the existing home is within the right yard setback, leaving little to no setback with the abutting property to the south.

Proposed Renovation

The existing home needs structural improvements and contains an outdated interior floor plan and amenities. Prior to the Applicant purchasing the Property, it was owned by the same family for approximately 60 years. The Applicant intends to renovate the home so that it contains a modern floor plan with basic amenities consistent with what many homebuyers desire in today's market.

Because the Property already exceeds allowable building coverage by 6.1%, the Applicant cannot demolish and rebuild any portion of the home within the same footprint (or expand upon the existing footprint) without obtaining a variance. Likewise, because the existing home encroaches into the right yard setback, any vertical or horizontal expansion proposed within this setback requires a variance.

The following is a basic summary of the changes being made to the Property in the context of the relief sought from the Board, as denoted in the Applicant's Site Plan:

"Rebuild [front] porch in same footprint and size": The existing porch is enclosed and outdated. The new porch will be covered but unenclosed which will create a more aesthetically pleasing facade and streetscape.

"New foundation and expanded kitchen": The existing kitchen is very small (narrow) and its layout is obsolete. The kitchen area to the north (left) side of the home in the rear of the Property will be expanded into the area that is currently a side porch. The side porch will be removed so that the kitchen may expand into the area it presently occupies. The side porch does not currently have a foundation. A new foundation will be built to accommodate for the kitchen expansion.

"New [back] porch and steps": The existing side porch has egress with steps. Since the existing porch will be removed and replaced by the expanded kitchen area, the proposed rear steps will provide egress to the kitchen. The proposed back porch entryway will be located in a different area to the rear of the Property than the existing porch entryway.

"Second floor addition 61 sf in setback": The existing rear portion of the second floor layout is narrow and obsolete. That portion of second story will be removed and a new second story addition will be added to create an expanded space for a master bedroom suite.

52 square feet of pavement to be removed and replaced with stepping stones" : Pavement to the rear of the Property is being removed to create additional open space on the Property and to reduce impervious surface area.

SUMMARY OF VARIANCE RELIEF

The Applicant seeks the following variances:

Section 10.320: To allow a lawfully existing non-conforming structure to be enlarged or extended without achieving compliance with the Ordinance.

Section 10.521: To allow a 3' 6" (\pm) right yard setback where 10' is required by the Ordinance and 0' \pm 1' exists.

Section 10.521: To allow 32% (+/-) in building coverage where 25% is required by the Ordinance and 31.1% exists.

VARIANCE CRITERIA

Granting the variances will not be contrary to the public interest and will observe the spirit of the Ordinance.

"There are two methods of ascertaining whether granting a variance would violate an ordinance's basic zoning objectives: (1) examining whether granting the variance would alter the essential character of the neighborhood or, in the alternative; and (2) examining whether granting the variance would threaten the public health, safety, or welfare." *Harborside Assoc v. Parade Residence Hotel*, 162 N.H. 508, 514 (2011).

The goal of GRA Zoning is "to provide areas for **single-family**, **two family** and **multifamily dwellings**, with appropriate **accessory uses**, at moderate to high densities...[.]" The character of the neighborhood will remain unaltered if the variances are granted. The Applicant is proposing to continue the existing single-family use of the Property. In order to restore and update the current mid-19th century home on the Property to provide for a more modern floor plan and amenities, it must be renovated. The appearance of the home will be improved with the proposed renovations and will remain consistent in design and character to other homes within the neighborhood. The neighborhood is characterized mostly by "New Englander" style homes with gabled facades that were built in the late 1800s and early 1900s and later improved with dormers and other modern space-creating features to keep up with the evolving needs of homebuyers.

The public health safety and welfare will not be negatively impacted by granting the variances requested. To the contrary, the improvements to the home will help ensure that the public safety, health and welfare is protected. The existing home is outdated. Any renovations performed on the home will be required to meet current building codes, which is a public benefit.

Vertical Expansion / Right Yard Setback Relief

Front Porch Re-Construction

A 3' 6" right yard setback variance is needed so that the front porch can be demolished in re-built in its existing footprint. The existing front porch has inadequate structural support and needs to be re-framed using modern pressure treated wood. This will only have a positive effect on neighboring properties, as the appearance of the home will be improved by the re-constructed porch, which will be in keeping with the design of other similar features on nearby properties.

Vertical Expansion over Rear of Home

The Applicant has proposed a vertical expansion over the kitchen and dining area to the rear of the home within the existing footprint. This expansion is designed to accommodate a master bedroom, something which is sought by most homebuyers in today's market. In its existing configuration, the home does not have a true master bedroom, but rather is comprised of 3 smaller to modest sized bedrooms. Having a master bedroom in the home will improve the functionality and value of the home at no detriment to abutters or the general public. The vertical expansion can be described as "an-fill" construction, as it will not encroach further into the right yard setback

than the current structure. The front of the home has a 0' to 1' setback from the southern (right) property boundary, while the rear of the home has a 6.5' right yard setback. The proposed addition will be inset from the main living area of the home.

The proposed vertical expansion to the rear of the home will not affect the existing right yard setback. Therefore, this proposed vertical expansion imposes little or no additional impact upon the light, air and space of the abutting property to the south than what exists. It is also important to note that the abutting property to the south is undeveloped land also owned by the Applicant. The Board granted relief to the Applicant in September to build a single-family home on the abutting land.

Expansion of Non-Conforming Structure / Building Coverage Relief

As set forth in the summary above, the Applicant intends to demolish and re-construct several areas of the existing home (i.e. front porch, side porch, etc.). In addition, the Applicant intends to expand upon the kitchen and replace the rear entryway to the home. Because the Property has 31.1% +/- building coverage where only 25% is allowed in the GRA District, it is considered lawfully non-conforming per Article 3 of the Ordinance. As such, the Ordinance requires that the proposed construction comply with the dimensional requirements set forth in Section 10.521. This means that the Applicant is required to meet the 25% building coverage requirement unless variance relief is granted by the Board.

The Applicant is proposing to increase total building coverage on the Property by a mere 0.5% or 24 square feet. The increase in building coverage is related to the expansion of the kitchen into the area where the side porch currently exists and the construction of the new rear porch entryway.

The increase in building coverage will be unnoticeable to the public and abutters. The Applicant will comply with the Ordinance's open space requirement. The percentage of building coverage on the Property will be consistent with surrounding properties. Moreover, the expansion and reconfiguration of the kitchen area and newly constructed entryway will comply with the left side yard setback requirement, thus preserving space the existing space the abutting property while allowing the Applicant to improve the functionality of the home. It would be unreasonable to deny the minimal increase in building coverage proposed by the Applicant.

It would also be unreasonable to deny the Applicant the ability to re-construct the other areas of the home that need improvement, such as the front porch/entryway, simply for the purpose of requiring strict compliance with the Ordinance. Like other properties in this area of Portsmouth, 21 Elwyn Avenue is a substandard lot that contains a modest sized home that was constructed well before modern zoning was adopted. If the relief were to be denied, the Applicant could leave the home and Property as it exists now and do nothing to repair or improve it, which would be a detriment to abutters and the general public and do nothing to reduce the percentage of building coverage on the Property. All improvements that are being made to the Property are designed to improve its appearance and functionality.

Substantial justice will be done by granting the variance relief.

Any loss to the individual that is not outweighed by a gain to the general public is an injustice. New Hampshire Office of State Planning, The Board of Adjustment in New Hampshire, A Handbook for Local Officials (1997); Malachy Glen Assocs., Inc. v. Town of Chichester, 155 N.H. 102 (2007).

The application involves a *de minimis* request for relief from the dimensional requirements of the Ordinance. If the relief were to be denied, the Applicant would be left with a home that needs significant upgrades to make it a desirable place to live. There would be no gain to the public by denying the variance relief sought. If the variance relief were denied, the Applicant would have no incentive to make meaningful improvements to the Property. Likewise, the City would have no mechanism for requiring the Applicant to upgrade the Property or bring or require current code compliance. Any areas of the home proposed for renovation will have to meet current building code. Ultimately, granting the variance relief achieves a better result than denying it. Accordingly, substantial justice is done by granting the relief requested.

The values of surrounding properties will not be diminished by granting the variance relief.

The improvements proposed to the home on the Property will be in keeping with the character of the neighborhood and give it a fresh, attractive appearance. This can only serve to benefit abutting properties and help to maintain or increase values in the neighborhood.

Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.

The Property itself is consistent in size and building coverage to many of the other properties in the neighborhood. However, the home on the Property is one of the older ones in the neighborhood, having been originally built in 1850. The home was built well before many other homes in the neighborhood were constructed and long before the concept of zoning was introduced to the City of Portsmouth. The home was constructed in near proximity to the southern boundary of the Property, leaving it with little to no setback from the abutting property to the right. It appears that this property along with the abutting property to the south, which is also owned by the Applicant, have been under common ownership since they were created. This may explain why the home was constructed in its present location. Taken together, these are special conditions that distinguish 21 Elwyn Avenue distinguishable from surrounding properties. Owing to these special conditions, there is no fair and substantial relationship between the general purposes of the Ordinance provisions and their application to the Property. If the variance relief were to be denied, the Property would still fail to meet the building coverage limitation set forth in Section 10.521 of the Ordinance, albeit by 0.5% less than what is proposed. In addition, the home would still have a 0'-1' right yard setback.

The proposed use is reasonable.

Dated: January 2, 2020

The Property will continue to contain a single-family residence, a use which is permitted by right by GRA Zoning. Granting the variances associated with the vertical expansion and 24 square foot increase in building coverage is reasonable when you consider that the home was built in its present location long before modern zoning existed in Portsmouth.

CONCLUSION

In conclusion, the Applicant has demonstrated that it meets the five (5) criteria for granting each of the variances requested. Accordingly, it respectfully requests that the Board approve its Variance Application.

Respectfully Submitted,

SAI BUILDERS LLC

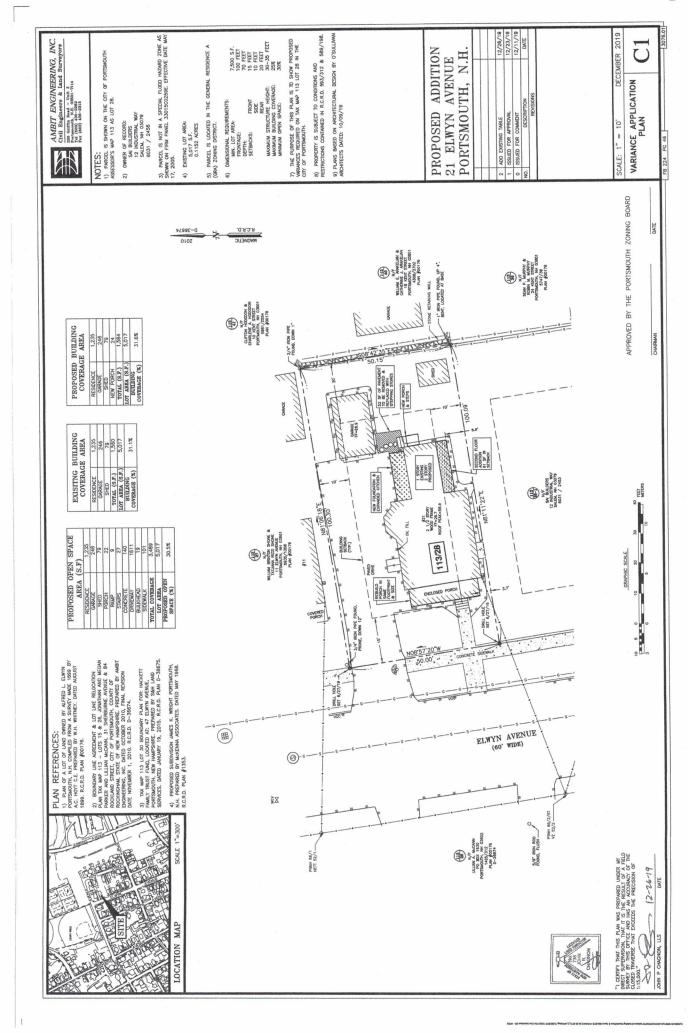
By: Derek R. Durbin, Esq.

DURBIN LAW OFFICES PLLC

144 Washington Street Portsmouth, NH 03801

(603)-287-4764

derek@durbinlawoffices.com



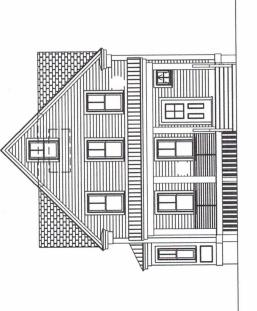


21 Elwyn Ave

Renovation/Addition - Portsmouth, NH

DRAWING LIST

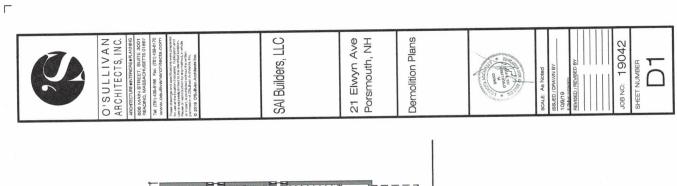
- DEMOLITION PLANS DI
- RENOVATION & ADDITION PLANS Al
 - ELEVATIONS
- ELEVATIONS
 - A2 A3 A4 A5
- SECTIONS & DETAILS FRAMING PLANS

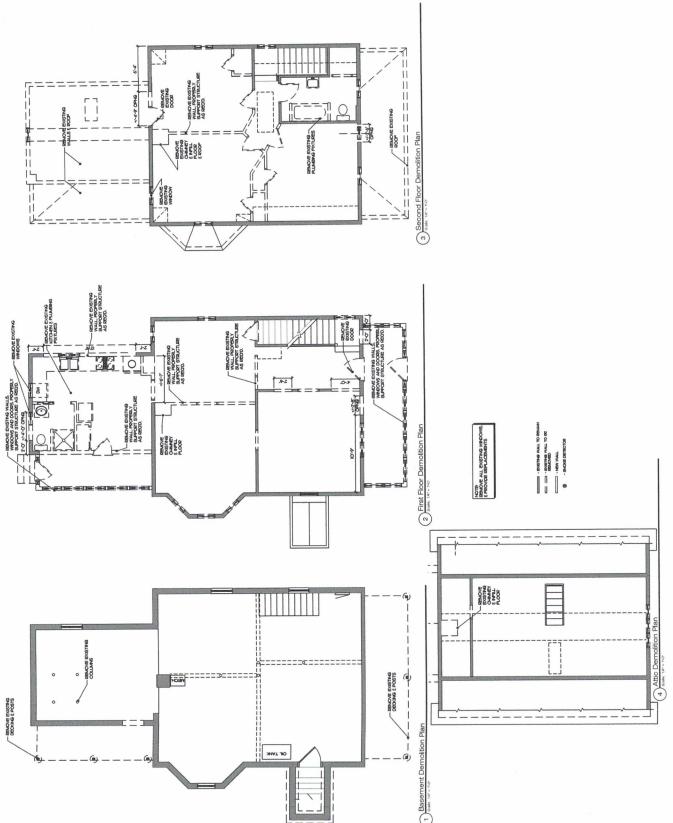


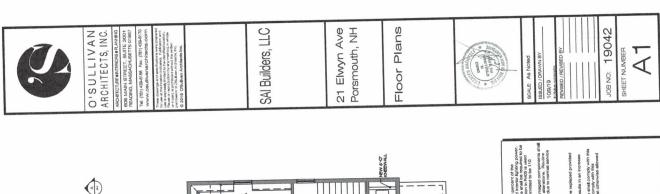
606 MAIN STREET, SUITE 3001 O'SULLIVAN ARCHITECTS READING, MA 01867-3009 Voice: (781) 439-6166 Fax: (781) 439-6170 ARCHITECT

12 INDUSTRIAL WAY SALEM, NH SAI BUILDERS, LLC Voice (603) 421-0470 DEVELOPER

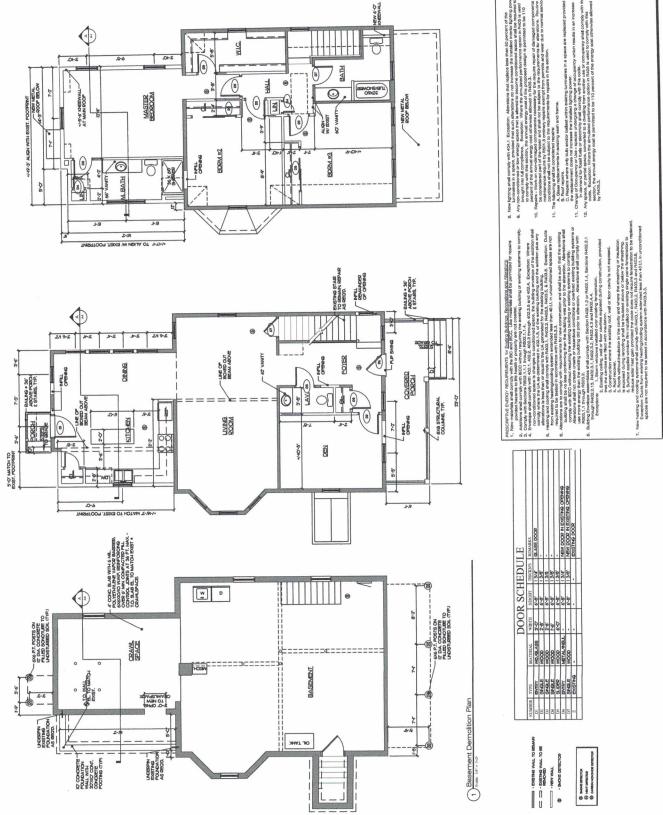
AMBIT ENGINEERING, INC. 200 GRIFFIN RD - UNIT 3 PORTSMOUTH, NH 03801 Voice (603) 430-9282 Fax (603) 436-2315 SITE ENGINEER







Г



21 Elwyn Ave Porsmouth, NH SAI Builders, LLC Elevations O'SULLIVAN ARCHITECTS, INC. JOB NO: 19042 **A**2 SHEET NUMBER SCALE: As Noted

> REFER TO SECTION 7025 OF IEBC 2015 REGARDING EGRESS WINDOWS. WR - WINDOW REPLACEMENT

EREPLACEMENT, TIP. SIDNG, 5' T.T.W.

2 ALL WINDOW 6-C" OR HIGHER ABOVE GRADE TO HAVE SILL HEIGHT OF 2-C" AFF. OR LIMITER AS RECYD. I. ALL WINDOWS TO BE HARVEY TRIBUTE VINYL WINDOW SERIES UNLESS OTHERWISE NOTED

Γ

3. NEW E REPLACEMENT WINDOWS TO MATCH EXIST. HEADER HEIGHT, UNLESS OTHERWISE NOTED.

- IO' TRIM BOARD

(1)

NEW 8" FRIEZE BOARD, TYP.

NEW METAL ROOFING • EGST, BAY WINDOW

NEW 6' CORNER -BOARD, TYP.

NEW ARCHTECTURAL ASPILALT SHINGLES, ThP.

NFIL REMANDER OF ... OPENING, TIP.

REPAIR OR REPLACE.

BAY WINDOW SECOND FLOOR

BLACK WINDOW FRAMES - NEW 5 REPLACEMENT, -8" CORNER BOARD, TYP. 8' PREZE BOARD, TYP. -BRACKET ADDITION ON EXIST. FND. WALLS EIGTING HOUSE TO REMAIN NFLL RBAANDS OF OPENING Right Elevation NEW CLAPBOARD SIDING, 5' T.T.M. NEW 8" FRIEZE BOARD, TYP. NEW ARCHITECTURAL ASPHALT SHINGLES, TYP. WOOD HANDRAL
W/ HORIZONTAL
METAL BALLSTRADES
• 36" ABOVE PORCH
E STARS, TTP. NEW IO' TRIM, T'P:
LATTICE AT NEW
PORCY, TIP. NEW 8" STRUCTURAL COLUMN, TYP. NEW RAKE TO A NEW 6" CORNER --BOARD, TYP. SECOND PLOOR IO' TRIM BOARD .

Front Elevation

NEW ICT TRW TIP.

LATTICE AT NEW PORCH TIP.

Γ

REFER TO SECTION 702.5 OF IEBC 2015 REGARDING EGRESS WINDOWS. (MR) - WINDOW REPLACEMENT

I. ALL WINDOWS TO BE HARVEY TRIBUTE VINYL WINDOW SERIES UNLESS OTHERWISE NOTED

O'SULLIVAN ARCHITECTS, INC.

2 ALL WINDOW 6-0" OR HIGHER ABOVE GRADE TO HAVE SILL HEIGHT OF 2-0" AFF. OR LIMITER AS REOTO. 3. NEW E REPLACEMENT WINDOWS TO MATCH EXIST. HEADER HEIGHT, UNLESS OTHERWISE NOTED.

NEW METAL ROOPING • EGST, BAY WINDOW

6 CORNER BOARD, TIP. 6 SECOND PLOCE B ACK WINDOW PRAMES - NEW FRETACEMENT, TIP.

ARCHITECTURAL-ASPHALT SHINGLES, TYP.

6" FRIEZE BOARD, TYP.

4" DOOR E WINDOW TRIM, TYP. - WHITE GLAPBOARD.

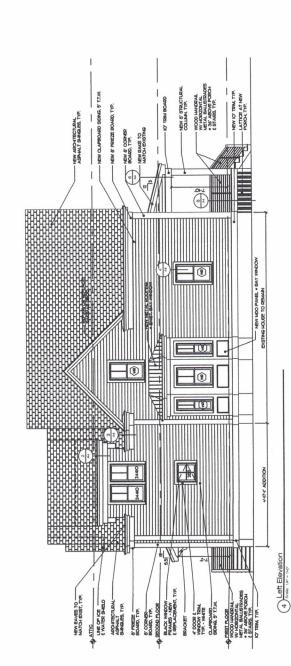
PRST PLOOR

IO' TRIM TYP.

BAY WINDOW

3 Rear Elevation

NEW EAVES TO MATCH EXIST, TYP. NEW ROOF PITCH TO MATCH EGST.



SAI Builders, LLC

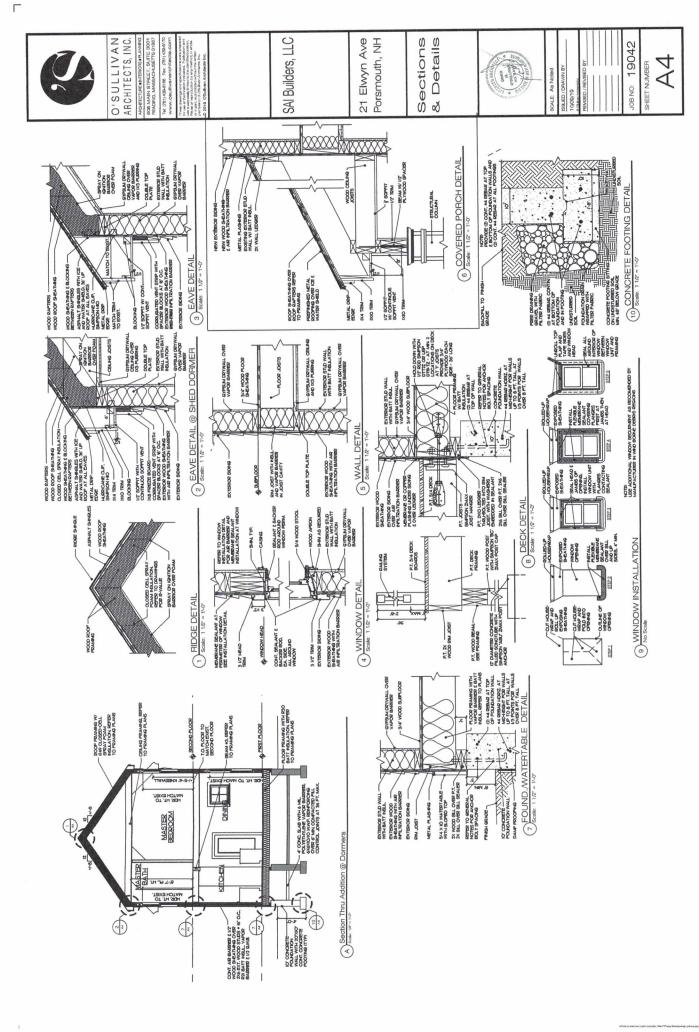
21 Elwyn Ave Porsmouth, NH

Elevations

SCALE: As Noted

JOB NO: 19042

A3 SHEET NUMBER



1

O'SULLIVAN ARCHITECTS, INC.

SAI Builders, LLC

21A Elwyn Ave

Porsmouth, NH

Framing Plans

SCALE: As Noted ISSUED / DRAWN BY

JOB NO: 19042

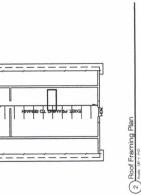
A5 SHEET NUMBER

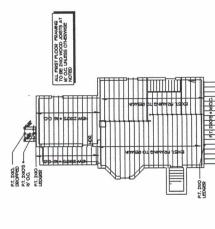
Second Floor Ceiling Framing Plan 265 • EDGER CONT. THE LALL COORDED CONT. CONT. CS 2005 DROPPED

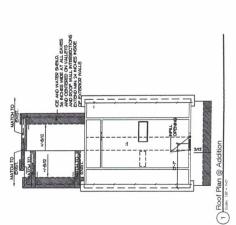
7. MICROLLAM 6.V.D. PAZALLAN (PSL.) TIMERRETRAND (LSL.) AND TJAPRO SERIES ARE REGISTERED TRADE MARKS. 8. ANY SLESTITUTION OF OTHER MANUFACTURERS ENGINEERED INVESTIGE CHECKED AND VERFIED BY COMPLACTOR. 2. PROVIDE DS MID-PPAN BRIDGING AT ALL SPANG OVER DO FREET OR AS RECOMMENDED BY ENGNEEDED LLANGER MANUFACTURES. IO. ALL WOOD IN CONTACT WITH CONCRETE OR MASON MAST BE PRESSURE TREATED. L ALL PLOCE JOISTS, RAFTERS & CELING JOISTS TO BE 16" OC., UNLESS OTHERWISE NOTED. IL ALL POSTS SHOWN ON BULDING OR FRANKIS PLANS
UNDER BEAMS SHALL BE CONTINUOUS, 1 SUPPORTED DO
TO FOLNDATION WALLS OR COLLIANS IN THE BASSIMENT 5. PROVIDE CD 200 HEADERS AT ALL DOOR AND WINCK OPENINGS MARKED AS 4-DRI LINESS OTHERWISE NOTES 3. DOLBLE ALL JOISTS BELOW PARTITIONS PARALLE. VIOSTS. MANLFACTURERS SPECIFICATION RESARDING INSTALLATION OF ENGNEERED LIANSER MUST BE FOLLY 6. ALL FRAMING LIMBER TO HAVE A MINIMUM FIBER STREES (FB) OF 1000 AND MINIMUM MODULLS OF ELASTICITY (E) OF 1200,000 PSI. 4. PROVIDE DOUBLE JOISTS ON ALL SIDES OF OPEN UNLESS OTHERWISE NOTED. 12 BULDING DESIGN LOADS ARE AS FOLLOWS ROOM 50 PSF

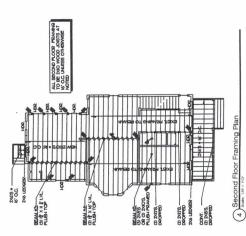
PRAMING NOTE
THIS DRAWNER IS A GRAPHIC REPRESENTATION OF THE
THIS DRAWNER FOR THE CONTRACTION SHALL NOT
SCALLE THIS DRAWNER FOR THE LOCATION OF PRAMING
MEMBERS REPORT OF THE PLANS REPORTIONS. AND
RECEIPING FOR DMARKSIONS AND HEIGHTS.

First Floor Framing Plan











Property Information

Property ID 0113-0028-0000 Location 21 ELWYN AVE Owner SAI BUILDERS LLC



MAP FOR REFERENCE ONLY NOT A LEGAL DOCUMENT

City of Portsmouth, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

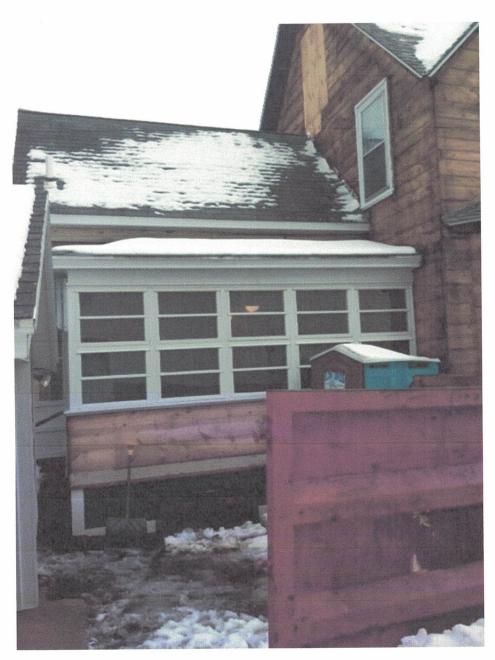
Geometry updated 4/1/2019 Data updated 7/17/2019



Existing Front Porch



Rear of Existing House



Existing Side Porch on Northerly Side of House (where Kitchen Expansion is proposed)



Southerly Side of Existing House



EXISTING SIDE PORCH (TO LEFT OF HOUSE)



EXISTING ATTIC IN REAR OF HOME



EXISTING KITCHEN



EXISTING KITCHEN AND PORCH



Existing Kitchen









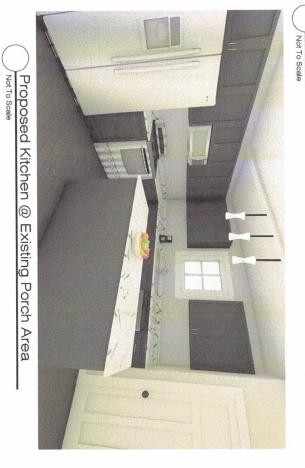


O'SULLIVAN ARCHITECTS, IN ARCHITECTURE * INTERIORS * PLANNI STREET, SUITE 3001 * READING, MA 01
Tel: (781) 439-6166 * Fax: (781) 439-6170 * www.osullivanarchitects
* 2016 OSullivan Archite Not To Scale

		ects Inc.
000		ts.com
JOE		1867
	REVISED / REVISED BY	a Z Z
	1/2/2020	Z C.
ST T	20000	2



Existing Kitchen



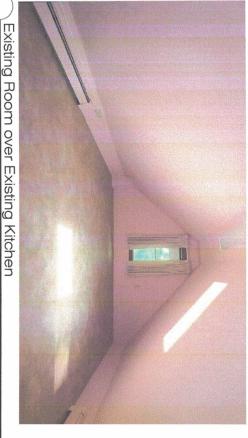
Portsmouth, NH 21 Elwyn Ave

O'SULLIVAN ARCHITECTS, INC.
ARCHITECTURE INTERIORS - PLANNING
BOB MAIN STREET, SUITE 3001 - READING, MA 01867
Tel: (781) 439-6166 - Fax: (781) 439-6170 - www.osullivan.architects.com
© 2016 O'Sullivan.architects.inc.

2	1/2/2020
SNIN	REVISED / REVISED BY
1867	
ts.com	
tects Inc.	

JOB NO: 19042

SHEET NUMBER 2 of 3



Existing Room over Existing Kitchen



Proposed Master Bedroom Over Existing Kitchen Portsmouth, NH 21 Elwyn Ave



Proposed Master Bath@ Addtion over New Kitchen

O'SULLIVAN ARCHITECTS, IN ARCHITECTURE *INTERIORS * PLANNI 606 MAIN STREET, SUITE 3001 * READING, MA 01 Tel: (781) 439-6166 * Fax: (781) 439-6170 * www.osullivanarchitects * 2016 O'Sullivan Architects * 2016 O'Sullivan

ects Inc.	s.com	1867	DNIE	Z C	
			REVISED / REVISED BY	1/2/2020	DEUSSI
		BOL			E

3 of 3

19042