




City of Portsmouth, NH

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Land Use Application

LU-19-107

-
- Your Submission
 - Attachments

-
- Preliminary Application Review
 - Land Use Permit -- Planning Department Review and Fee Calculation
 - Application Permit Fee
 - Land Use Code Review
 - Zoning Board of Adjustment Approval

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BY: _____

- Certificate of Use Issued
- Building Permit Issued

Your submission

Submitted May 27, 2019 at 9:25am

Contact Information

Eric Weinrieb

Email address

eric@altus-eng.com

Phone Number

603-433-2335

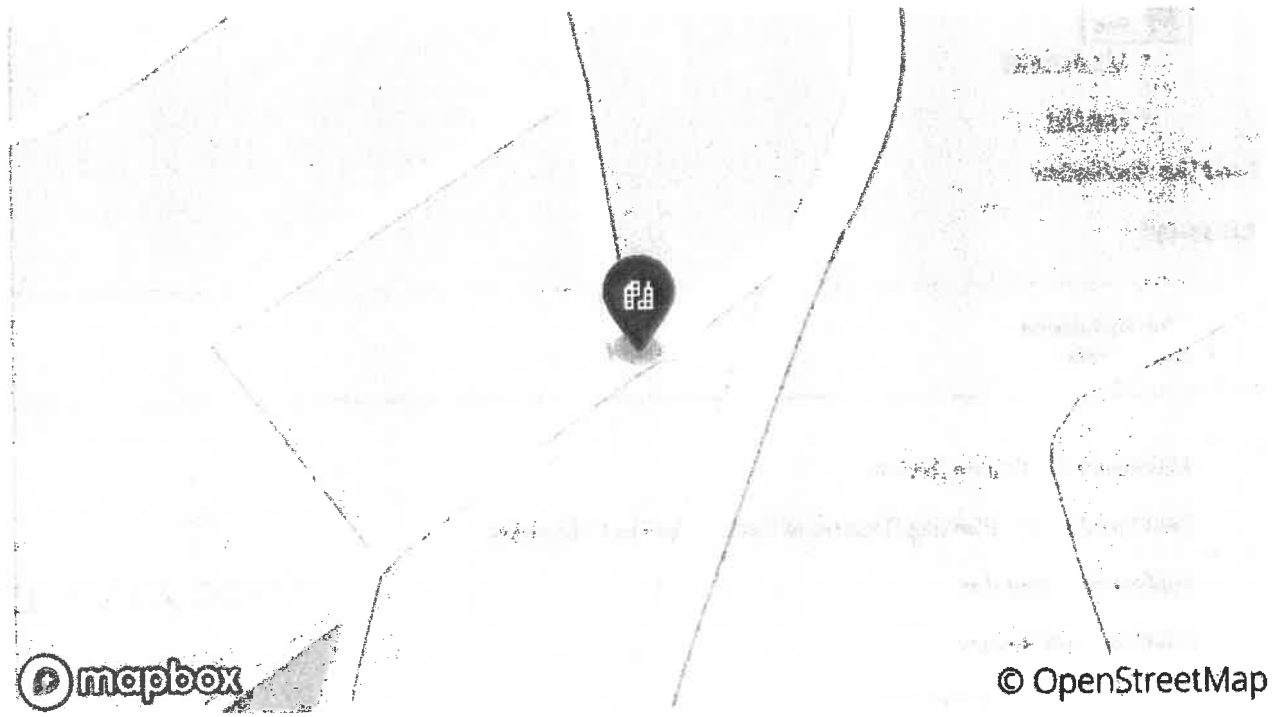
Mailing Address

133 Court Street , Portsmouth, NH 03801

Location

9 MIDDLE RD

Portsmouth, NH 03801



Home Occupation: residential home occupation established in an existing residential dwelling unit and regulated by the Zoning Ordinance. Home Occupations are not allowed in the following Zoning Districts: Waterfront Business, Office Research, Industrial, or Waterfront Industrial

--

New Use/Change in Use: for a change of land use or an expansion to an existing use (e.g. addition of dwelling units) that includes no exterior work or site modifications

--

Temporary Structure / Use: only for temporary uses (e.g. tents, exhibits, events)

--

Demolition Only: only applicable for demolition projects that do not involve any other construction, renovation, or site work

--

Subdivision or Lot Line Revision: for projects which involved a subdivision of land or an adjustment to an existing lot line

--

Other Site Alteration requiring Site Plan Review Approval and/or Wetland Conditional Use Permit Approval

--

Sign: Only applies to signs requiring approval from a land use board (e.g. Historic Commission, Zoning Board of Adjustment)

--

Zoning Information

Base Zoning District

General Residence A (GRA)

Base Zoning District 2

--

Historic District

--

Flood Plain District

--

Downtown Overlay District

--

Osprey Landing Overlay District

--

Airport Approach Overlay District

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--

Waterfront Use Overlay District

--

North End Incentive Overlay District

--

West End Incentive Overlay District

--

Highway Noise Overlay District

--

Application Type

Land Use Approval

--

Lot Line Revision (Planning Board)

--

Subdivision (Planning Board)

--

Amended Subdivision or Lot Line Revision Approval (Planning Board)

--

Wetland Conditional Use Permit (Planning Board)

--

Amended Wetland Conditional Use Permit (Planning Board)

--

Accessory Dwelling Unit / Garden Cottage Conditional Use Permit (Planning Board)

--

Site Plan Review (Planning Board)

--

Amended Site Plan Review (Planning Board)

--

Other Conditional Use Permit (Planning Board)

--

Variance (Zoning Board of Adjustment)

Special Exception (Zoning Board of Adjustment)

--

Historic District Certificate of Approval (Historic District Commission)

--

Land Use Application Fee Calculation

Valuation of New Construction (\$)

3000

Total Number of Dwelling Units

--

Project Information

Lot Area (s.f.)

10047

Lot Area Source

boundary survey

Detailed Description of Proposed Work *

Removal of existing aged deck and stairs. Reconstruction stairs in the same location with modest expansion top deck area

Brief Description of Existing Land Use *

Single family residence

Existing Buildings/Structures

Existing Buildings/Structures

Building / Structure Description

single family residence

Total Gross Floor Area (s.f.)

2400

Area of Footprint (s.f.)

1500

Height (ft.)

--

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Height (stories)

2

Are you proposing to remove this building/structure?

Existing Buildings/Structures

Building / Structure Description

garage

Total Gross Floor Area (s.f.)

540

Area of Footprint (s.f.)

540

Height (ft.)

--

Height (stories)

1

Are you proposing to remove this building/structure?

Building / Structure Description	Total Gross Floor Area (s.f.)	Area of Footprint (s.f.)	...
single family residence	2400	1500	...
garage	540	540	...

Existing Yards, Coverage, Parking, and Wetlands

Principal Front Yard / Building Setback (ft)

9

Secondary Front Yard / Building Setback (ft)

7

Rear Yard / Building Setback (ft)

1

Right Side Yard / Building Setback (ft)

3

Left Side Yard / Building Setback (ft)

--

Total # of Residential Units

1

Number of Parking Spaces

8

Number of Loading Spaces

0

Area of Surface Parking & Driveways (sq ft)

1340

Other Impervious Surface Area (sq ft)

500

Is all or a portion of the property located in the wetland area and/or within 100' of the wetland boundary?

--

Proposed Building/Structures (REQUIRED)

×

Proposed Building/Structures (REQUIRED)

Building / Structure Description

replace deck and stairs

Total Gross Floor Area (sq ft)

180

Area of Footprint (s.f.)

180

Height (ft.)

5.25

Height (stories)

0

Building / Structure Description	Total Gross Floor Area (sq ft)	Area of Footprint (s.f.)	...
replace deck and stairs	180	180	...

Additional Proposed Building Information

Number of new hotel rooms

0

Total New Restaurant Use Gross Floor Area

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0

Proposed Yards, Coverage, Parking and Wetlands (REQUIRED)

Principal Front Yard / Building Setback (ft)

9

Secondary Front Yard / Building Setback (ft)

7

Rear Yard / Building Setback (ft)

1

Right Side Yard / Building Setback (ft)

--

Left Side Yard / Building Setback (ft)

3

Total # of Residential Units

1

Number of Parking Spaces

8

Number of Loading Spaces

0

Area of Surface Parking & Driveways (sq ft)

1340

Other Impervious Surface Area (sq ft)

500

Are you proposing to do any work in the wetland area or within 100' of the wetland boundary?

--

Zoning Board of Adjustment Application Check List

Application Type *

Variance or Special Exception from Dimensional Requirements

I understand that I will need to submit a site plan with this application showing existing and proposed conditions including: front, side, and rear setback/yard dimensions; lot dimensions; abutting streets and street names; driveways / accessways; dimensions (size and height) of structures; dimensions and location of parking spaces; scale of all drawings and plans (scale is the ratio of the drawing's size relative to the actual size) *

I understand that I will need to submit labeled photos of existing conditions with this application *

I understand that I will need to submit building plans and elevations of any proposed structures or additions with this application *

I understand that I will need to submit interior floor plans for any renovations to or expansion of existing structures with this application *

I understand that I will need to submit a written statement with this application explaining how the request complies with the requirements of the Zoning Ordinance as provided in Article 2 (Section 10.233.20 for Variances, Section 10.232.20 for Special Exceptions) *

I understand that all plans / exhibits submitted with this application shall be 8.5" X 11" or 11" X 17" in size *

Project Representatives



Project Representatives

Relationship to Project

Owner

If you selected "Other", please state relationship to project.

--

Full Name (First and Last)

Rachel Hopkins

Business Name (if applicable)

--

Mailing Address (Street)

9 Middle Road

City/Town

Portsmouth

State

NH

Zip Code

03801

Phone

603-427-5105

Email Address

Rachel.Hopkins@comcast.net

Relationship to Project If you selected "Other", please state relationship to project. Full Name (First and Last) ...

Owner --

Rachel Hopkins ...

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Plan Submission

I understand that this application will not be considered complete until I have provided the required plans and any additional submission requirements. (You will be prompted at the next screen to upload your plans.) *

I have reviewed the application requirements provided on the Planning Department's web page -- www.cityofportsmouth.com/planportsmouth/land-use-applications-forms-and-fees. *

Acknowledgement

I certify that the information given is true and correct to the best of my knowledge. *

By checking this box, I agree that this is equivalent to a handwritten signature and is binding for all purposes related to this transaction *

I hereby certify that as the applicant for permit, I am the *

Owner of this property

If you selected "Other" above, please explain your relationship to this project. Owner authorization is required.

--

I understand that it is the obligation of the applicant to submit adequate documents, plans, and exhibits to demonstrate compliance with the Zoning Ordinance. *

INTERNAL USE -- Land Use Approvals

Historic District Commission

--

HDC Approval Granted

--

Zoning Board of Adjustment

--

BOA Approval Granted

--

Zoning Relief Required

--

Conservation Commission Review

--

Conservation Commission Review Completed

--

Conditional Use Permit (Wetlands)

--

Wetland CUP Granted

--

Conditional Use Permit (Other)

--

Other CUP Granted

--

Technical Advisory Committee Review

--

TAC Review Completed

--

Subdivision / Lot Line Revision

--

Subdivision / Lot Line Revision Granted

--

Site Plan Review

--

Site Plan Review Granted

--

Internal consistency review required

--

Certificate of Use Required

--

Stipulations

--

Additional Planning Department Comments

--

Inactivity Warning

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You have been logged out due to inactivity.
Please log back in to continue your work.



Your session will expire in **15 minutes**. Please finish your work, log out and log back in to start a new session.

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Your session has expired. Please log in again.

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Photo taken 5-19-19
View from Lawrence Street



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Photo taken 5-19-19

**View from existing deck towards the intersection of Lawrence Street
and Middle Road**



Photo taken 5-19-19

View from end of driveway at Lawrence Street towards deck



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In order for a variance to be granted, the Board must find that the meets all of the following criteria.

The variance will not be contrary to the public interest.

The first step in the Board of Adjustment's analysis is to determine if granting the variance is not contrary to the public interest and is consistent with the spirit and intent of the ordinance. These factors are considered together through the decision of Malachy Glen v. the Town of Chichester. The BOA must determine whether granting the variance "would unduly and to a marked degree conflict with the ordinance such that it violates the ordinance's basic zoning objectives." "Mere conflict with the zoning ordinance is not enough."

The proposed reconstruct deck and stair will not be any closer to the property line than the existing structure. The existing stairs are within 7-feet of the side (secondary front yard). The proposed deck expansion is located of the side entry to the home. The home was constructed in 1912 and predates the City Zoning Ordinance. The existing deck area is only 6' - 4" wide. There is sufficient space to site a deck closer to Middle Road. The entry way is not located at that end of the building. Additionally, there is room on the east side of the house to construct a deck. There are no doors on that side of the house. Thus, the only logical location to construct the deck is in the same location where it currently exists. The public interest will not be infringed upon with the expansion. There will be a benefit to the public interest as it will allow us to interact with our neighbors while they are walking through the neighborhood rather creating isolated pockets that restrict interaction with neighbors.

This modest encroachment further into the setback is will be barely noticeable from the street as the majority of the expansion will be screened by the existing stairs, landing and vegetation. The encroachment will not diminish the public's enjoyment of the adequate light and air. It will not create overcrowding of the land. There will be no increase in the amount of runoff discharging from the property as the deck will not be constructed as an impervious surface.

The spirit of the Ordinance will be observed.

See above

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Substantial justice will be done.

The property has a porch along the front yard that has adequate space to enjoy out dining. However, the thirteen years that we have lived there, there has been a continued increase in traffic especially in the summer months when motorcycles and other vehicles with loud music stop at the intersection. The front porch is positioned six feet away from Middle Road where it intersects with Middle Street. As the noise ordinance is not enforced we are constantly bombarded with loud music and motorcycles 24/7 during the summer. We no longer enjoy sitting on our front porch. Thus, for us to enjoy our property, we need to find a space where the noise is diminished enough to allow us to enjoy the outdoors. We note a couple of summers ago when the Middle Road, Route 1 Bypass bridge was being reconstructed, we were able to enjoy the front porch.

The values of the surrounding properties will not be diminished; and,

The expansion is modest and is only visible from our abutter directly across the street. The abutters to the east and the north will not be affected as the encroachment does affect either property. The westerly abutter recently purchased their home. They support the request. In the packet is copy of their letter of support.

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

The deck and stair well are aging and need substantial repair. Literal enforcement of the provision of the Ordinance would not allow us to reconstruct the stairs without seeking zoning relief. As such, we would need to reduce the size of the deck and construct the stairs in a manner that would need to meet the 15-foot front setback requirement. There was no consideration for the construction of a deck in 1912 house construction. The house was constructed skewed to the property lines. There is sufficient space closer to Middle Road, but there are no doors at that end of the home and it would not solve the traffic noise issue. There is space on the east side of our home in the back yard but again there are no doors at that side of the home. The logical location for the deck is in the location of the existing door and deck. An alternative that provides a similar function that does not require zoning relief would be to construct a patio in this location. It would allow us to have a reasonable place to enjoy the outdoors close to the kitchen. However, with the house being constructed on a sloping lot and the entryway approximately 6-feet above grade, the lot does not lend an easy transition between the ground surface and the living space. As such, expanding the deck is reasonable use of the space. Not allowing the expansion would create unnecessary hardship by creating a situation where we cannot reasonable expand a deck to allow us to enjoy the outdoor space. The noise is a nuisance creates "special conditions" that cause an unnecessary hardship which justifies the need for the relief.

eric weinrieb

From: Greg Estey <gestey8188@hotmail.com>
Sent: Wednesday, May 22, 2019 8:41 PM
To: eric@altus-eng.com; rachel.hopkins@comcast.net
Cc: Vicky Parker
Subject: Endorsement of your request for a variance for replacing your deck

Eric and Rachel:

Vicky and I agree that your planned new deck will provide improved functionality while maintaining an appearance in keeping with the very nice overall look your house now presents to Lawrence Street.

Our driveway is directly across Lawrence Street from your deck. We will see the new deck multiple times each day as we go in and out of our own house. If anyone other than you has a stake in how the new deck will look, it is us. We believe that the zoning variance you need to replace the deck should be approved forthwith. We look forward to seeing the completed work.

Please feel free to contact us if anyone needs any further explanation of our views on your request for a variance.

Yours,

Greg Estey greg_estey@post.harvard.edu (781.718.9658)
Victoria Parker vapkids@hotmail.com (781.718.7537)
35 Middle Road
Portsmouth, NH 03801

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BY: _____

MDB DESIGN/BUILD LLC
Construction Consulting
Residential Design

81 Lincoln Ave. Portsmouth, N.H. 03801
 603-234-7398

CONSULTANTS

REBUILD EXISTING DECK AT
WEINRIEB/HOPKINS
RESIDENCE
 9 MIDDLE ROAD
 PORTSMOUTH, NH 03801

MARK	DATE	DESCRIPTION
	4/5/19	CONSTRUCTION DOCS

PROJECT NO:
 MODEL FILE:
 DRAWN BY:
 CHK'D BY:
 COPYRIGHT

SHEET TITLE

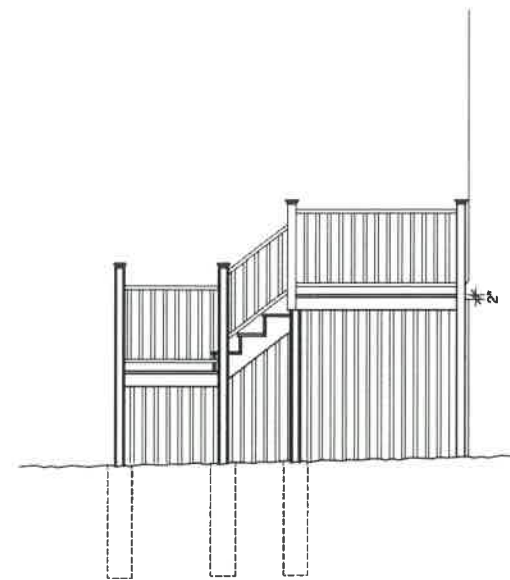
EXISTING DECK
PLAN/
ELEVATIONS

EX-1

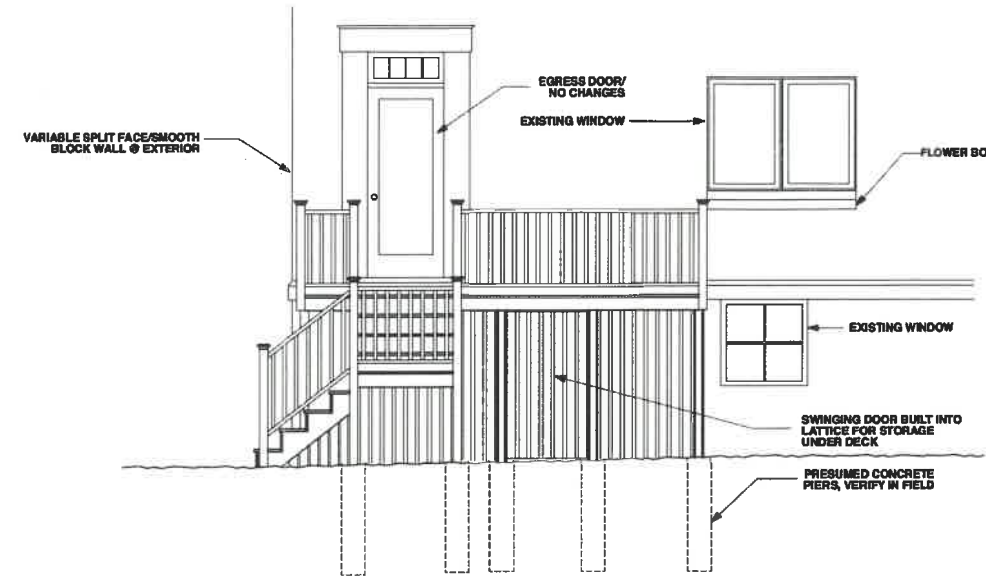
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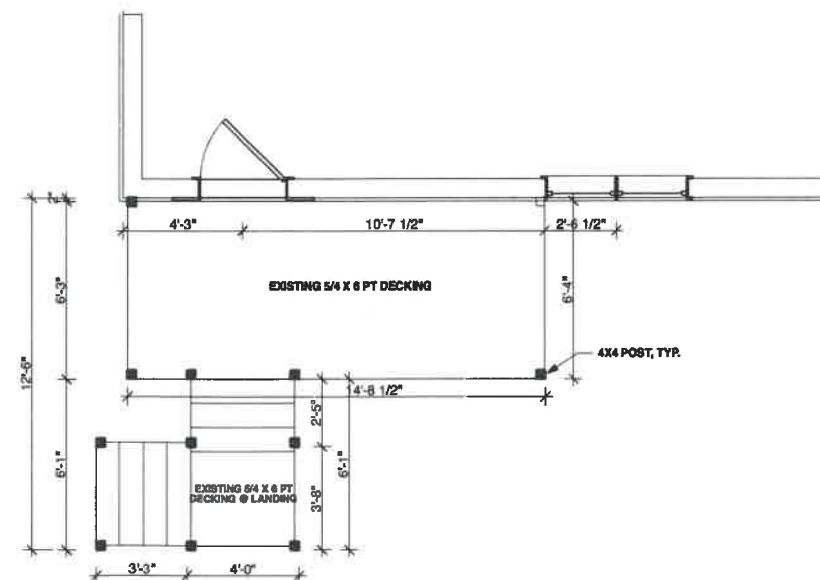
BY: _____



3 EXISTING DECK ELEVATION 1/4" = 1'-0"



2 EXISTING DECK ELEVATION 1/4" = 1'-0"



1 EXISTING DECK PLAN 1/4" = 1'-0"

MDB DESIGN/BUILD LLC
Construction Consulting
Residential Design

81 Lincoln Ave. Portsmouth, N.H. 03801
 603-234-7398

CONSULTANTS

RENOVATION TO EXISTING DECK AT

WEINRIEB/HOPKINS
RESIDENCE
 9 MIDDLE ROAD
 PORTSMOUTH, NH 03801

MARK	DATE	DESCRIPTION
	4/5/19	CONSTRUCTION DOCS

PROJECT NO:
 MODEL FILE:
 DRAWN BY:
 CHK'D BY:
 COPYRIGHT

SHEET TITLE

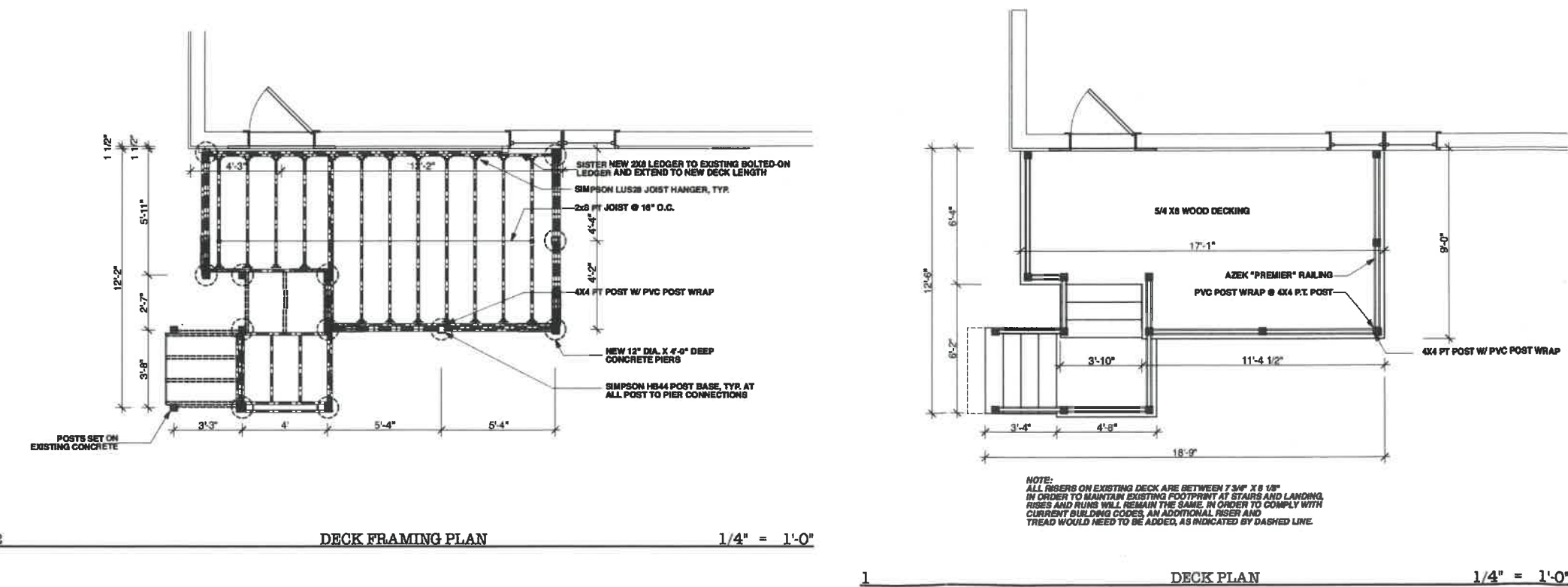
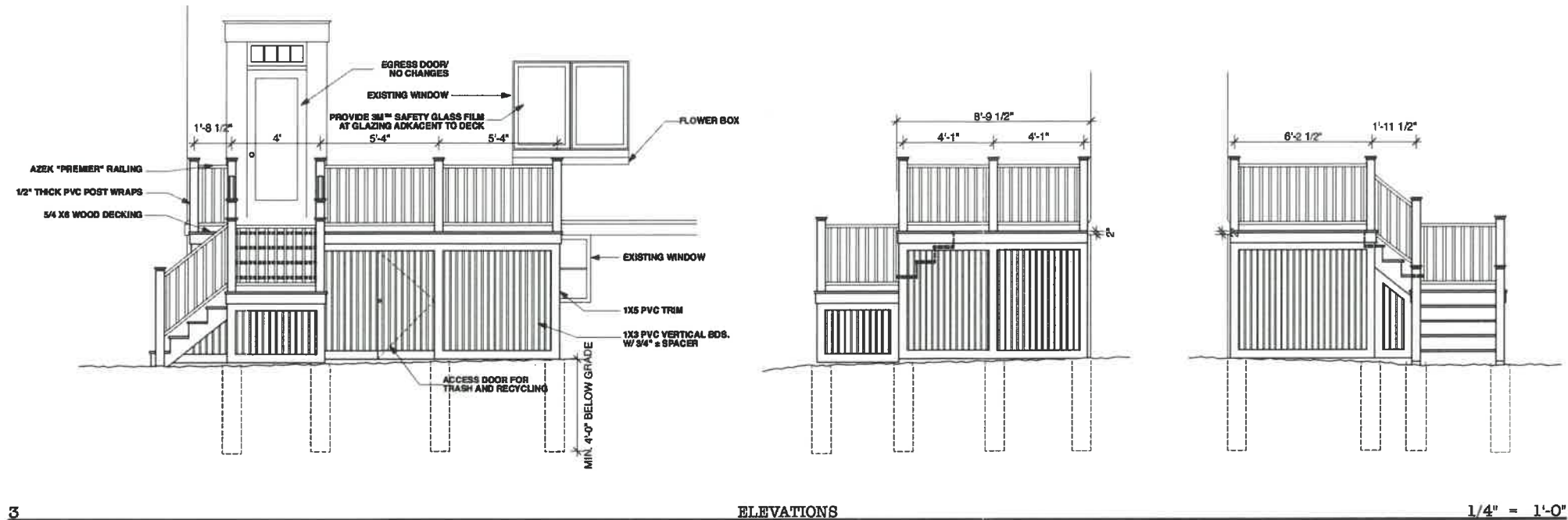
NEW DECK
PLAN AND
ELEVATIONS

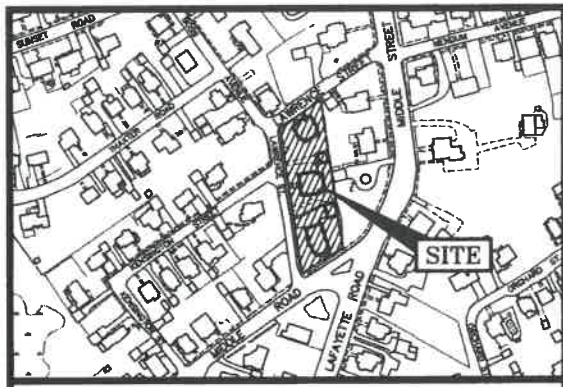
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A1





LOCATION MAP 1" = 200'

LEGEND:

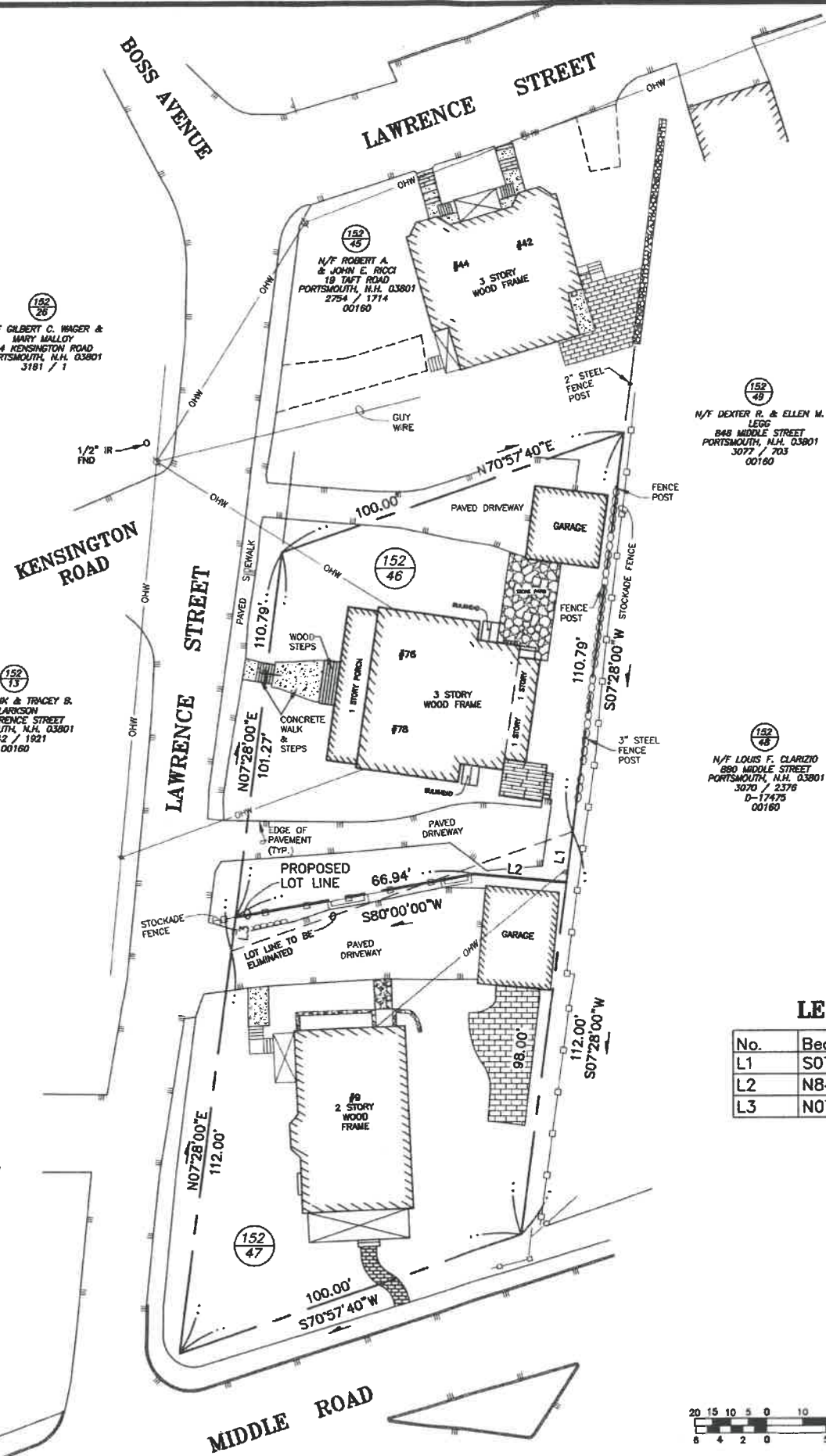
- | | |
|-----------------|---------------------------|
| N/F | NOW OR FORMERLY |
| RP | RECORD OF PROBATE |
| RCRD | ROCKINGHAM COUNTY |
| | REGISTRY OF DEEDS |
| (21) | MAP 11/LOT 21 |
| ○ IR FND | IRON ROD FOUND |
| ○ IP FND | IRON PIPE FOUND |
| ○ GALV. IR FND | GALVANIZED IRON ROD FOUND |
| ● IR SET | IRON ROD TO BE SET |
| □ STONE BND FND | STONE BOUND FOUND |



152/28
N/F GILBERT C. WAGER & MARY MALLOY
24 KENSINGTON ROAD
PORTSMOUTH, N.H. 03801
3181 / 1

152/13
N/F FRANK & TRACEY B. CLARSON
85 LAWRENCE STREET
PORTSMOUTH, N.H. 03801
2842 / 1921
00160

152/72
N/F THERESA T. NORELLI
REVOCABLE TRUST
T. NORELLI TRUSTEE
35 MIDDLE ROAD
PORTSMOUTH, N.H. 03801
3143 / 250
00160



PLAN REFERENCES:

- "PLAN OF LOTS OF LAND BELONGING TO CHAS. E. TRAFTON & HARRY B. YEATON", 40 FEET TO 1 INCH, NOV. 27th 1897. RCRD 00160.
- "PLAN OF LOTS OF LAND, BELONGING TO C. E. TRAFTON AND H. B. YEATON", 40 FEET TO THE INCH, OCTOBER 1st 1900 BY L. E. SCRUTON. RCRD 0238.
- "PLAT OF LAND FOR CAREY LYDSTON - 880 MIDDLE STREET", 1" = 20', SEPTEMBER 1987 BY DURGIN-SCHOFIELD ASSOCIATES. RCRD D-17475.



AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
801 Inlington Street - Suite 31
Portsmouth, N.H. 03801-4255
Tel (603) 430-2822
Fax (603) 436-2916

NOTES:

- PARCELS ARE SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 152 AS LOTS 46 & 47.
- OWNERS OF RECORD:
LOT 46
PETER & MEG MIDDLETON
76 LAWRENCE STREET
PORTSMOUTH, N.H. 03801
3176 / 2588
PLAN 00160
LOT 47
DANIEL P. & LISA A. SCHWARZ
9 MIDDLE ROAD
PORTSMOUTH, N.H. 03801
2738 / 602
PLAN 00160
- PARCELS ARE NOT IN A FLOOD HAZARD ZONE AS SHOWN ON MAP INDEX (FIRM PANEL #330139 0016 B), MAY 17, 1982.
- EXISTING LOT AREAS: PROPOSED LOT AREA:
LOT 46 LOT 46
9,914 S.F. 9,890 S.F.
0.2276 ACRES 0.2270 ACRES
LOT 47 LOT 47
10,023 S.F. 10,047 S.F.
0.2301 ACRES 0.2307 ACRES
- PARCELS ARE LOCATED IN GENERAL RESIDENCE A (GRA) DISTRICT.
- DIMENSIONAL REQUIREMENTS:
MIN. LOT AREA: 7,500 S.F.
FRONTAGE: 100 FEET
SETBACKS: FRONT: 15 FEET
 SIDE: 10 FEET
 REAR: 20 FEET
MAXIMUM STRUCTURE HEIGHT: 35 FEET
MAXIMUM STRUCTURE COVERAGE: 25%
MINIMUM OPEN SPACE: 30%
- PARCELS ARE SERVED BY MUNICIPAL SEWER AND WATER.
- THE PURPOSE OF THIS PLAN IS TO SHOW THE RELOCATION OF THE BOUNDARY LINE BETWEEN LOT 46 AND LOT 47.

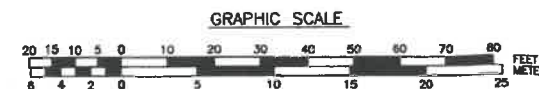
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LENGTH TABLE

No.	Bearing	Distance
L1	S07°28'00"W	14.00'
L2	N84°48'30"W	25.66'
L3	N07°28'00"W	9.52'



APPROVED BY THE PORTSMOUTH PLANNING BOARD

CHAIRMAN _____ DATE _____

NO.	DESCRIPTION	DATE
1	ISSUED FOR APPROVAL	9/28/01
0	ISSUED FOR COMMENT	9/21/01

LOT LINE RELOCATION PLAN
MAP #152 LOTS 46 & 47
76 & 78 LAWRENCE STREET
& 9 MIDDLE ROAD
FOR
PETER & MEG MIDDLETON & DANIEL & LISA SCHWARZ
LAWRENCE STREET & MIDDLE ROAD
PORTSMOUTH, N.H.
COUNTY OF ROCKINGHAM