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**Also admitted in MA*

BY: VIEWPOINT & HAND DELIVERY

April 27, 2021

City of Portsmouth
Zoning Board of Adjustment
1 Junkins Avenue
Portsmouth, NH 03801

**RE: Variance Application of Daniel Marino
114 Pine Street, Tax Map 162, Lot 28**

Dear Chairman Rheaume,

Our Office represents Daniel Marino. Enclosed herewith, please find the following materials for submission to the Zoning Board of Adjustment for consideration at its next regularly scheduled meeting:

- 1) Landowner Letter of Authorization;
- 2) Narrative to Variance Application;
- 3) Variance Site Plan Set;
- 4) Floor Plans and Elevations; and
- 5) Photographs of the Property.

Twelve (12) copies of the application submission are being delivered to the City. Should you have any questions or concerns regarding the enclosed application materials, do not hesitate to contact me at your convenience.

Sincerely,

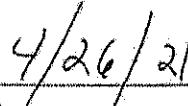
Derek R. Durbin, Esq.

LETTER OF AUTHORIZATION

Daniel Marino, the owner of the property located at 114 Pine Street, Portsmouth, NH 03801 (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: Daniel Marino
Duly Authorized



Date

**CITY OF PORTSMOUTH
ZONING BOARD OF ADJUSTMENT
APPLICATION NARRATIVE**

Daniel Marino
(Owner/Applicant)
Tax Map 162, Lot 28
114 Pine Street
Portsmouth, NH 03801

INTRODUCTORY STATEMENT

The Property

Daniel Marino (the “Applicant”) is the owner of property located at 114 Pine Street, identified on Portsmouth Tax Map 162, as Lot 28 (the “Property”). The Property is located within Portsmouth’s General Residence A (“GRA”) Zoning District.

There is a two and a half-story, two-bedroom, two-bathroom single-family home on the Property that was constructed in 1902 per the City’s assessing records. The Applicant purchased the Property in 2009. He and his wife, Eva, and their two young children, Noah and Zoe, reside in the home.

There is also a detached outbuilding (“garage”) on the Property that pre-dates current zoning. The garage is approximately 197 square feet in size and is situated just 2.1’ – 2.4’ from the right (southern) property boundary, making it lawfully non-conforming by current zoning standards.

Proposed Addition

The Applicant and his family have outgrown the home which contains less than 1,500 square feet of living space. The Applicant is proposing to construct a two-story addition to the right side of his home that would accommodate a master bedroom and bathroom, mudroom, laundry area, one vehicle garage and a deck. As part of their plan, they would demolish the existing garage and construct the proposed addition farther from the southern boundary line (8.6’ – 9.1’).

The proposed addition is a long-term investment for the Marino family. The Applicant and his wife both are both Portsmouth business owners. They can walk or bike to work from their house. Their children have lived in the home since they were born. Many of the family’s close friends reside in the neighborhood. The addition would create the space and amenities the family needs to remain in the home for the foreseeable future, which is the desired outcome.

Summary of Zoning Relief

The Applicant seeks the following two variances from the Ordinance:

1. Section 10.521: To allow a right yard setback of 8.6' +/- where 10' is the minimum required and only 2.1' +/- exists.
2. Section 10.521: To allow a front yard setback of 6.4' where 15' is the minimum required.¹

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; (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).

Granting the setback relief sought by the Applicant will not alter the essential character of the neighborhood. It will not negatively impact the light, air and space of abutting properties or threaten public health, safety or welfare.

The proposed addition will comply with the building coverage and open space requirements set forth in Section 10.521 of the Ordinance. By demolishing the existing garage and constructing the addition in its proposed location, the Applicant will bring the right yard setback into greater conformance with the side yard setback requirement of 10'. The addition will tie in naturally to the existing home and driveway on the Property, leaving the rear yard of the Property as open space. The addition will also blend in cohesively with the existing streetscape. Most homes along Pine Street and in the surrounding neighborhood are located in very proximity to the street. The Applicant’s surveyor has calculated the average alignment of principal buildings within 200’ of the Property along Pine Street to range from 0’ to 5.3’. The garage proposed as part of the addition will also create one compliant off-street parking space for the Property where none presently exist. Overall, granting the variances is a win-win situation for the Applicant, abutting property owners and the general public.

¹ The Applicant has only applied for a front yard variance out of an abundance of caution. Based on existing data for the street, it does not appear that this relief is required pursuant to Section 10.516 of the Ordinance. The average alignment of principal buildings within 200’ on the same side of the street is less than 6.4’, which obviates the need for relief.

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).

There would be no gain realized by the public if the variances were denied. To the contrary, the Applicant will be bringing the Property into greater conformity with the Ordinance, which is a benefit to the public. Granting the variances will enable the Applicant's family to add much-needed living space and functionality to their home. As proposed, the addition contains the minimum amount of additional space necessary to accommodate the features that the Applicant and his family have deemed necessary to remain in the home long-term. If the variances were denied, it would only be for the purpose of requiring the Applicant to achieve strict compliance with the Ordinance, which is not reasonable. In the present instance, the loss that the Applicant would suffer by denying the variances significantly outweighs any benefit that could be realized by the public.

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

The proposed addition is tastefully designed and is in keeping with the character of the neighborhood. The construction of a well-designed addition in the location proposed should only increase surrounding property values based on similar examples throughout Portsmouth. This is also evidenced by the fact that the most directly impacted neighbors support the application.

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

The Property contains a lawfully non-conforming garage that is situated only 2.1' - 2.4' from the southern property boundary. This is a special condition that distinguishes it from surrounding properties. The garage will be demolished as part of the Applicant's plan to construct the addition. The proposed addition will be constructed 8.6' - 9.1' from the right (southern) property boundary, thus bringing the Property into greater conformance with the side yard setback requirement. In addition, one legally dimensioned off-street parking space will be created where none exist. Accordingly, there is no fair and substantial relationship between the general purposes of the setback requirements and their specific application to the Property.

The proposed use is reasonable.

The Property will continue to contain a single-family residence, a use which is permitted by right in the GRA zoning district and is therefore reasonable. The proposed addition is also reasonable, as it is designed to provide greater functionality for the home while improving overall setback conditions.

CONCLUSION

In conclusion, the Applicant has demonstrated that he meets the five (5) criteria for granting the variance relief requested. Accordingly, he respectfully requests that the Board approve his application.

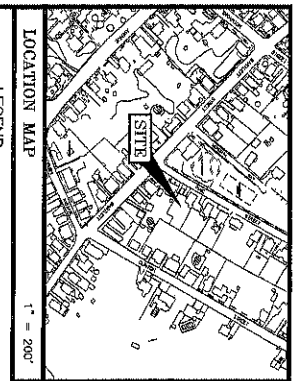
Respectfully Submitted,

Dated: April 27, 2021

Daniel Marino

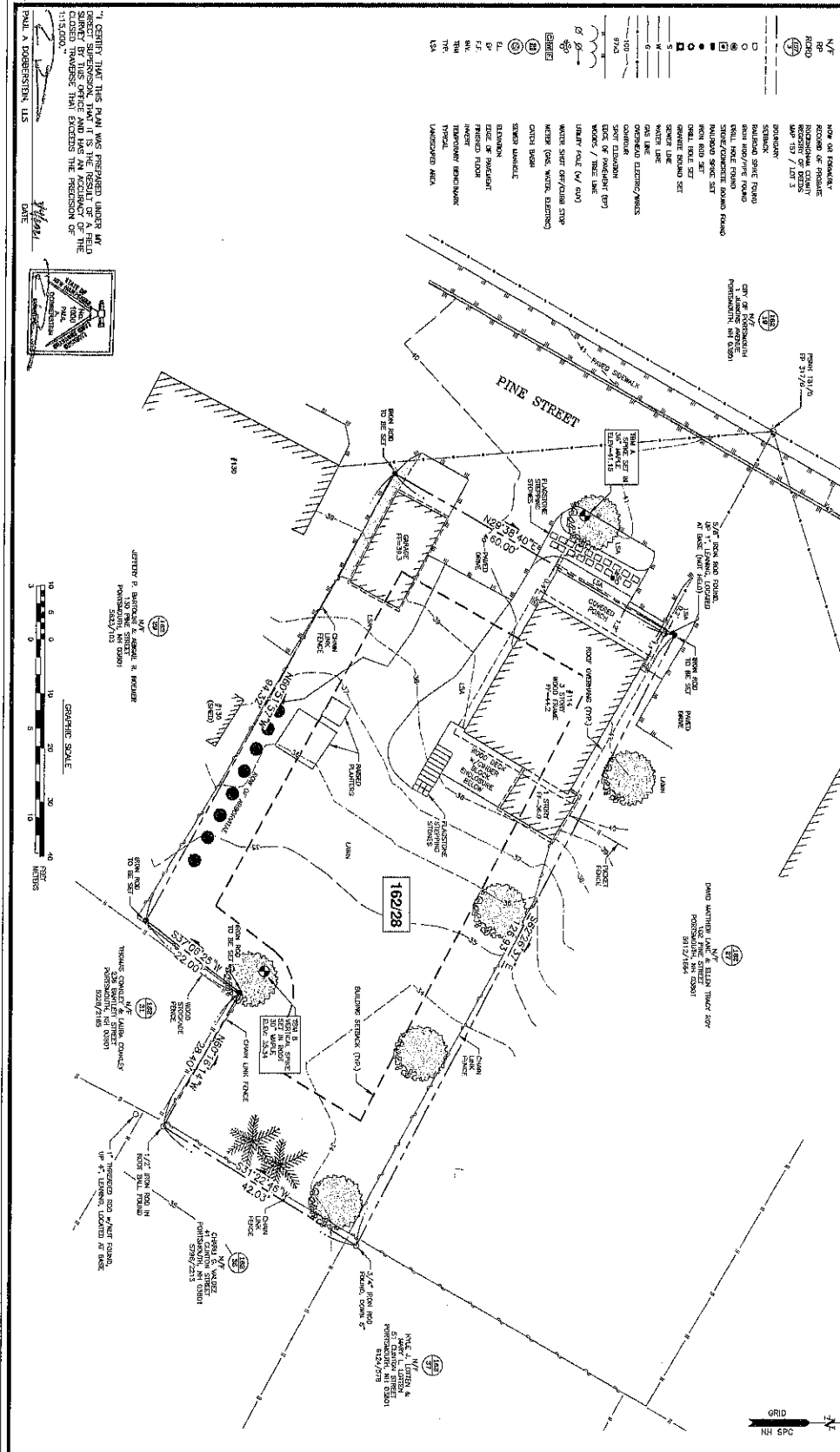


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Portsmouth, NH 03801
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- PLAN REFERENCES:**
- 1) PLAN OF EUB PLACE SITUATED IN PORTSMOUTH, N.H. DATED 1858. RECORDED PLAN #608.
 - 2) PLAN OF LOTS, 25-75 CLINTON ST. PORTSMOUTH, NH. PREPARED BY JOHN W. DUNSON, DATED SEPTEMBER 1944. NOT RECORDED.
 - 3) PLAN OF LOT 25-27 CLINTON ST. PORTSMOUTH NH. PREPARED BY JOHN W. DUNSON, DATED JUNE 1944. NOT RECORDED.
 - 4) LAND ON BARNETT ST. PORTSMOUTH, NH. HARRY E. YONKIN TO ADOLPH BOZDZICH. PREPARED BY JOHN W. DUNSON, DATED JAN. 1963. RECORDED PLAN #97215.
 - 5) TAX MAP 182 LOT 32, COMMERCEVILLE SITE PLAN, BARTLETT STREET COMPOUNDING, 217 BARTLETT STREET PORTSMOUTH, NEW HAMPSHIRE. COUNTY OF ROCKINGHAM, OWNED BY 217 BARTLETT STREET LLC. PREPARED BY T/M/M/LLC. DATED NOVEMBER 27, 2018. RECORDED PLAN D-411911.
 - 6) STREET PLAN OF SPANISH, BARNETT, STARK, CLINTON, AND PINE STREETS IN PORTSMOUTH, NEW HAMPSHIRE. PREPARED BY JOHN W. DUNSON ASSOCIATES, INC. DATED JULY 1980. NOT RECORDED.

LOT COVERAGE AREAS (TO PROPERTY LINE)	
STRUCTURE	EXISTING LOT COVERAGE (S.F.)
MAIN STRUCTURE	743
DRIVE	197
WOOD STAIRS, DECK, & PORCH	290
PAVED DRIVE	173
TOTAL	1,403
LOT SIZE	21,033
% LOT COVERAGE	19.7%
% OPEN SPACE	80.3%
% BUILDING COVERAGE	11.2%



AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
500 GARDEN ROAD - SUITE 211
PORTSMOUTH, NH 03801
TEL: (603) 233-8888
FAX: (603) 233-5555

NOTES:

- 1) THIS PLAN IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 182 AS LOT 28.
- 2) OWNER OF RECORD: DANIEL MARONZI, 5051/23116 PORTSMOUTH, NH 03801
- 3) PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FEMA PANEL 3201502098E. EFFECTIVE DATE JANUARY 28, 2021.
- 4) DIGGING LOT AREA: 2133 S.F., 0.1627 ACRES
- 5) PARCEL IS LOCATED IN THE GENERAL RESIDENTIAL A (GR9) ZONING DISTRICT.
- 6) DIMENSIONAL REQUIREMENTS:
MIN. LOT AREA: 7,200 S.F.
MIN. FRONT SETBACKS: 15 FEET
MIN. SIDE SETBACKS: 10 FEET
MIN. REAR SETBACKS: 25 FEET
MAXIMUM BUILDING COVERAGE: 25%
MAXIMUM OPEN SPACE: 30%
- 7) THE PURPOSE OF THIS PLAN IS TO SHOW THE EXISTING CONDITIONS ON ASSESSOR'S MAP 182 LOT 28 IN THE CITY OF PORTSMOUTH.
- 8) VERTICAL DATUM IS NAVD83. BASIS OF VERTICAL CURVE IS RECONSIDERED (FM CURS OBSERVATIONS (44)27).

**STRUCTURE ADDITION
MARINO RESIDENCE
114 PINE STREET
PORTSMOUTH, N.H.**

NO. 0 ISSUED FOR COMMENT REVISIONS

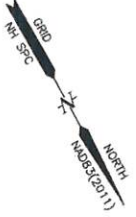
NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT REVISIONS	3/4/21

SCALE: 1"=10'

EXISTING CONDITIONS PLAN

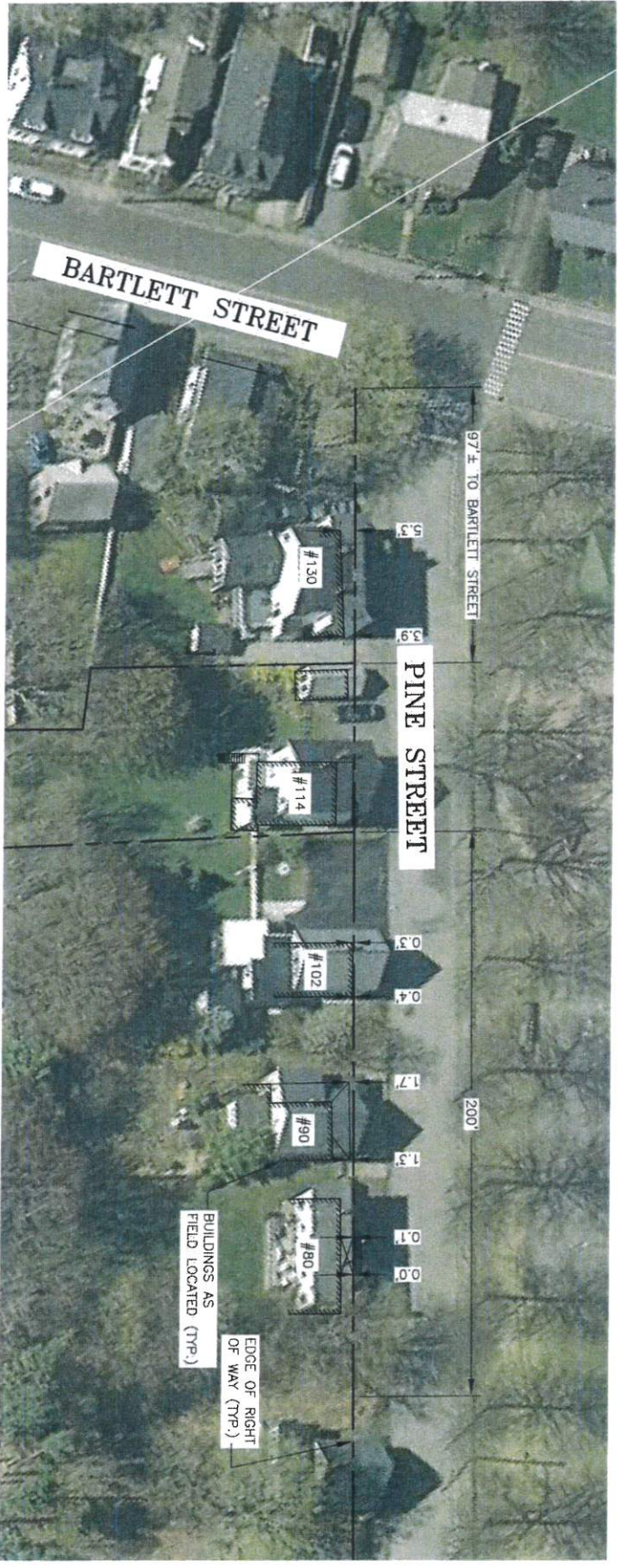
MARCH 2021

C1



FRONT YARD CALCULATION SHEET

OWNER: DANIEL MARINO
 PROPERTY LOCATION: 114 PINE STREET
 CITY OF PORTSMOUTH
 COUNTY OF ROCKINGHAM
 STATE OF NEW HAMPSHIRE



AVERAGE OF FRONT YARDS ON THE EASTERLY SIDE OF PINE STREET WITHIN 200' OF SUBJECT PARCEL (PURSUANT TO PZO 10.516.10)

CALCULATIONS:

- 5.3 +
- 3.9 +
- 0.3 +
- 0.4 +
- 1.7 +
- 1.3 +
- 0.1 +
- 0.0 ±

13.0 / 8 (MEASUREMENTS) = 1.625' AVERAGE FRONT YARD
 1.625 ROUNDED TO NEAREST WHOLE FOOT = 2 FEET

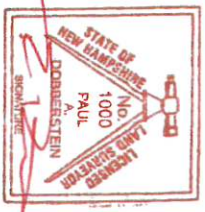


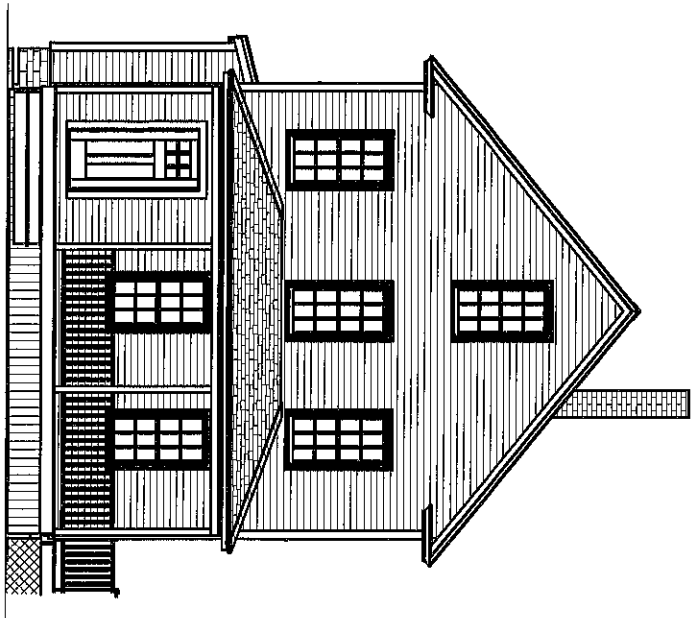
AMBIT ENGINEERING, INC.
 Civil Engineers & Land Surveyors
 200 Griffin Road - Unit 3
 Portsmouth, NH 03801-7114
 Tel: (603) 430-5282
 Fax: (603) 438-2315

"I, CERTIFY THAT THIS PLAN WAS PREPARED UNDER MY DIRECT SUPERVISION, THAT IT IS THE RESULT OF A FIELD SURVEY BY THIS OFFICE AND HAS AN ACCURACY OF THE CLOSED TRANVERSE THAT EXCEEDS THE PRECISION OF 1:15,000."

PAUL A DOBERSTEIN, LLS

DATE 4/14/2021





EXISTING PINE STREET ELEVATION
 (Documentation provided by Other)



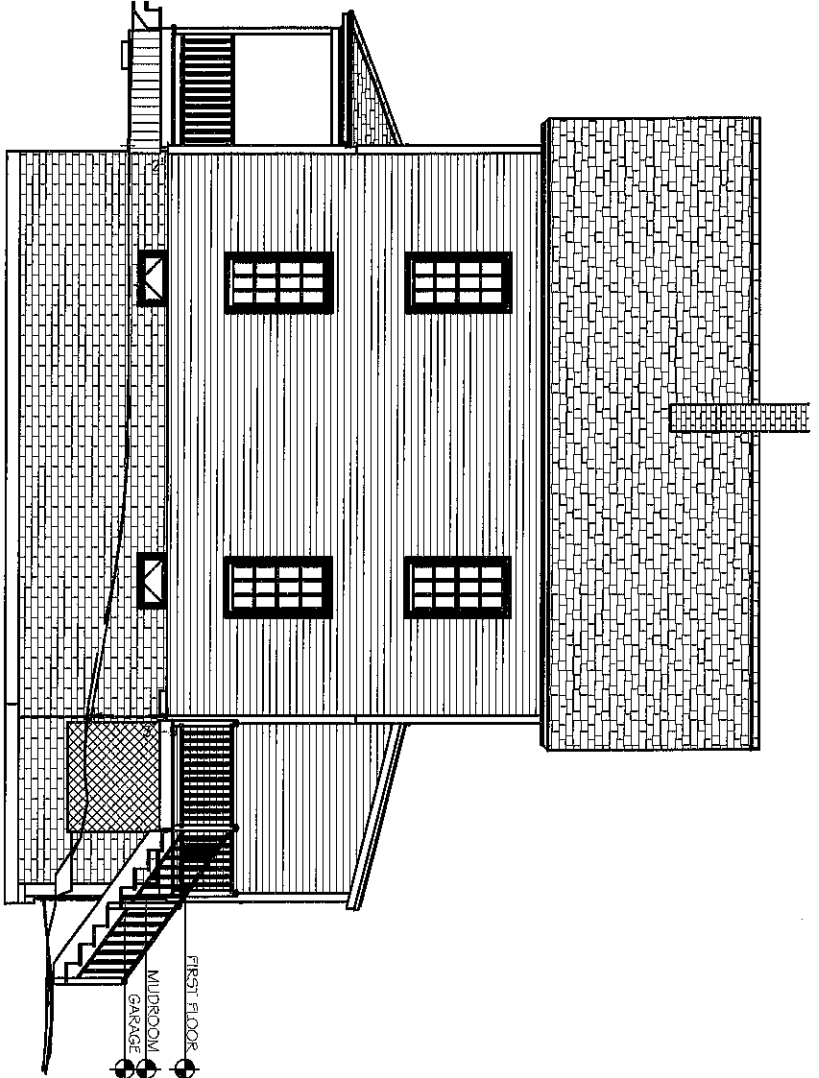
PROPOSED PINE STREET ELEVATION

114 PINE STREET, PORTSMOUTH, NH

PINE STREET ELEVATION

SOMMA Studios, Portsmouth, NH 603.766.3760

MAY 2021

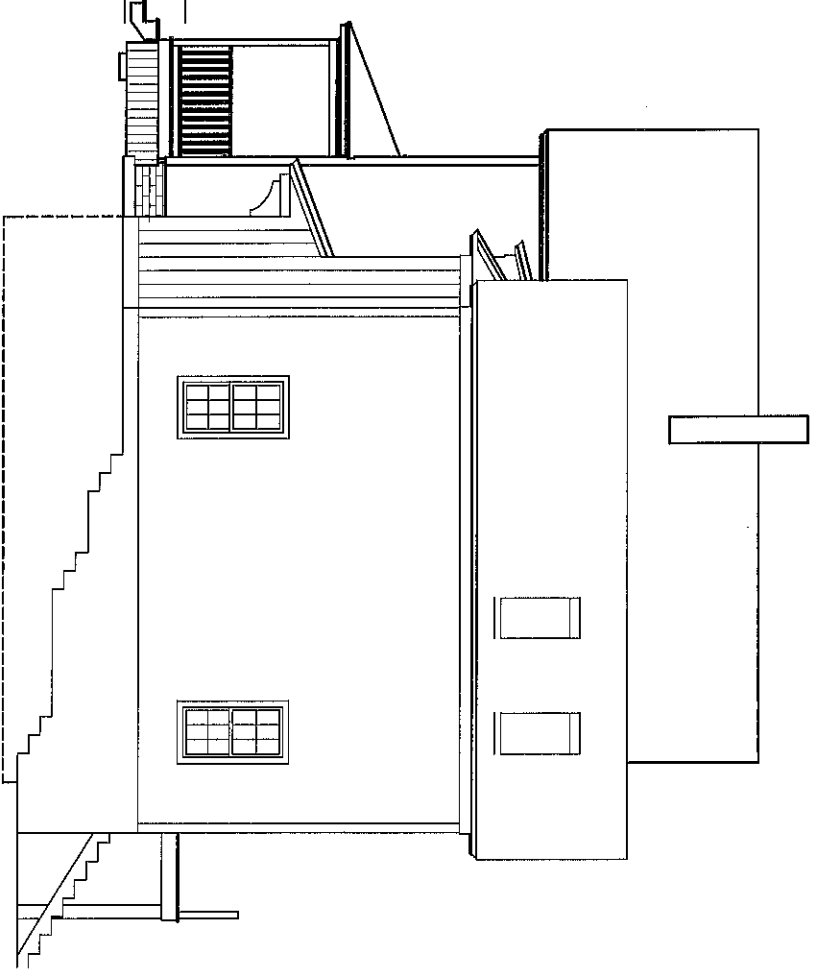


EXISTING SIDE ELEVATION

(Documentation provided by Other)

114 PINE STREET, PORTSMOUTH, NH

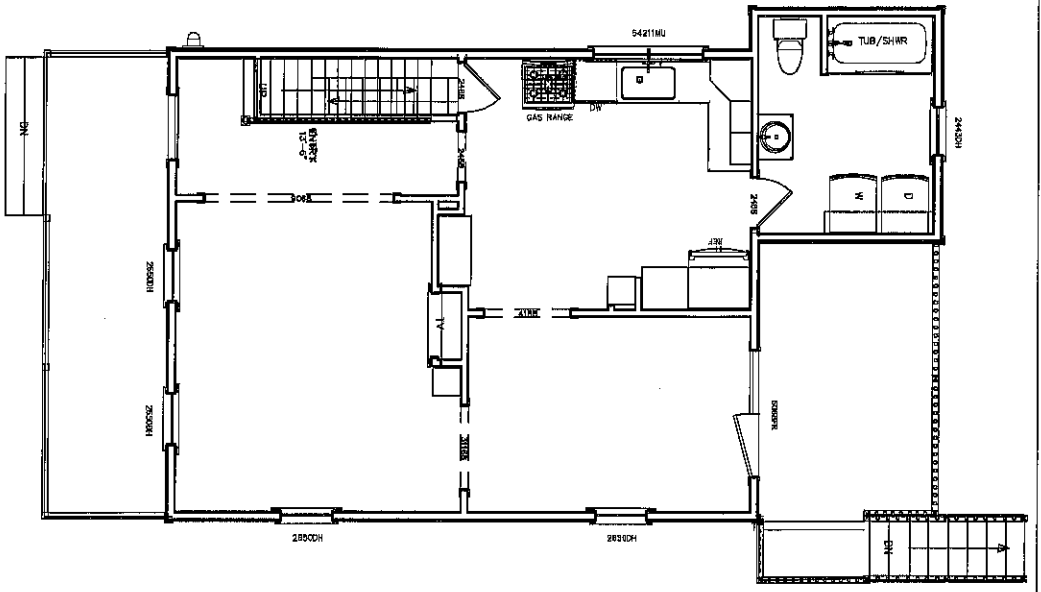
SOMMA Studios, Portsmouth, NH 603. 766.3760



PROPOSED SIDE ELEVATION

SIDE ELEVATION

MAY 2021

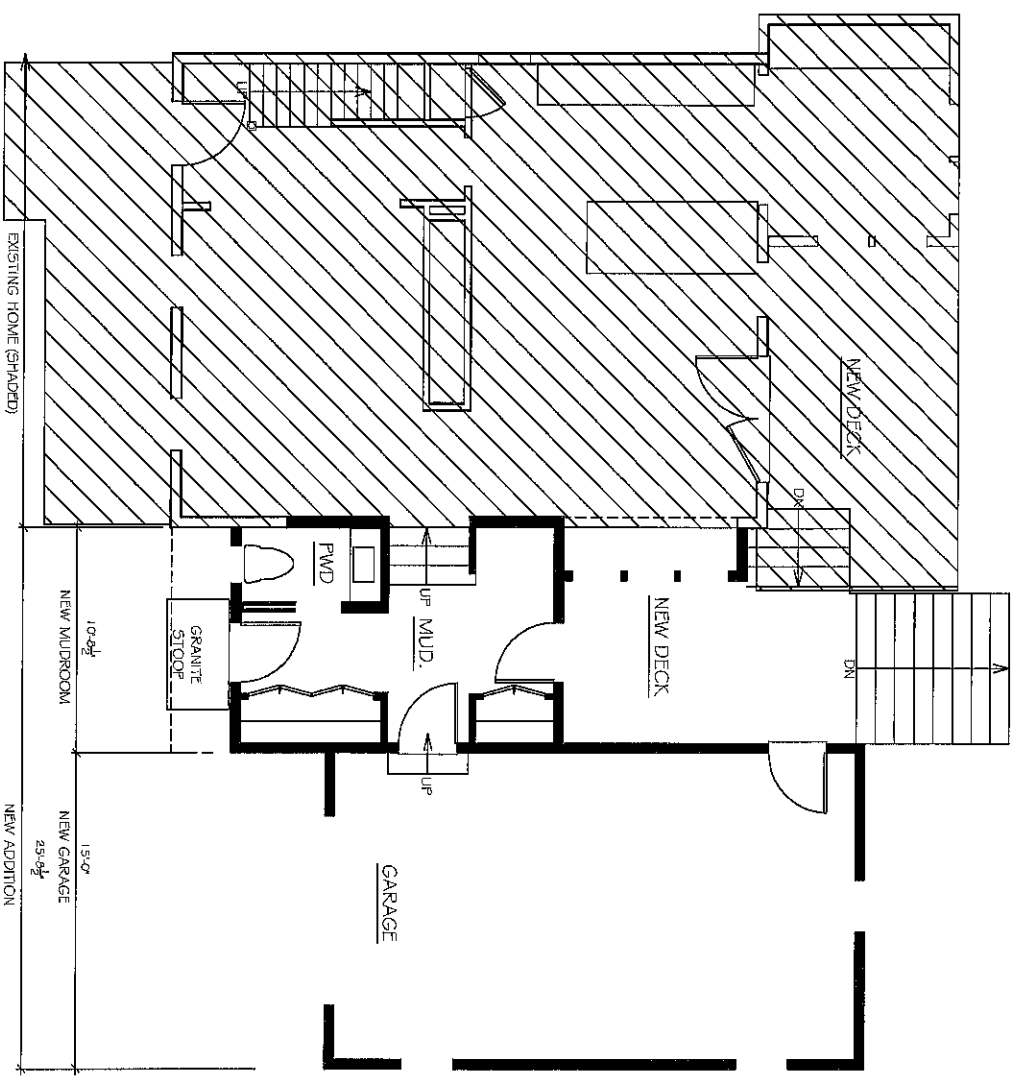


EXISTING FIRST FLOOR

(Documentation provided by Other)

114 PINE STREET, PORTSMOUTH, NH

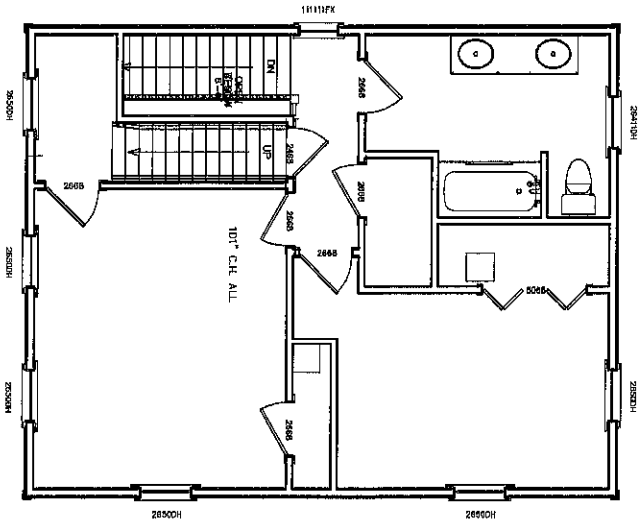
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PROPOSED FIRST FLOOR

FIRST FLOOR PLAN

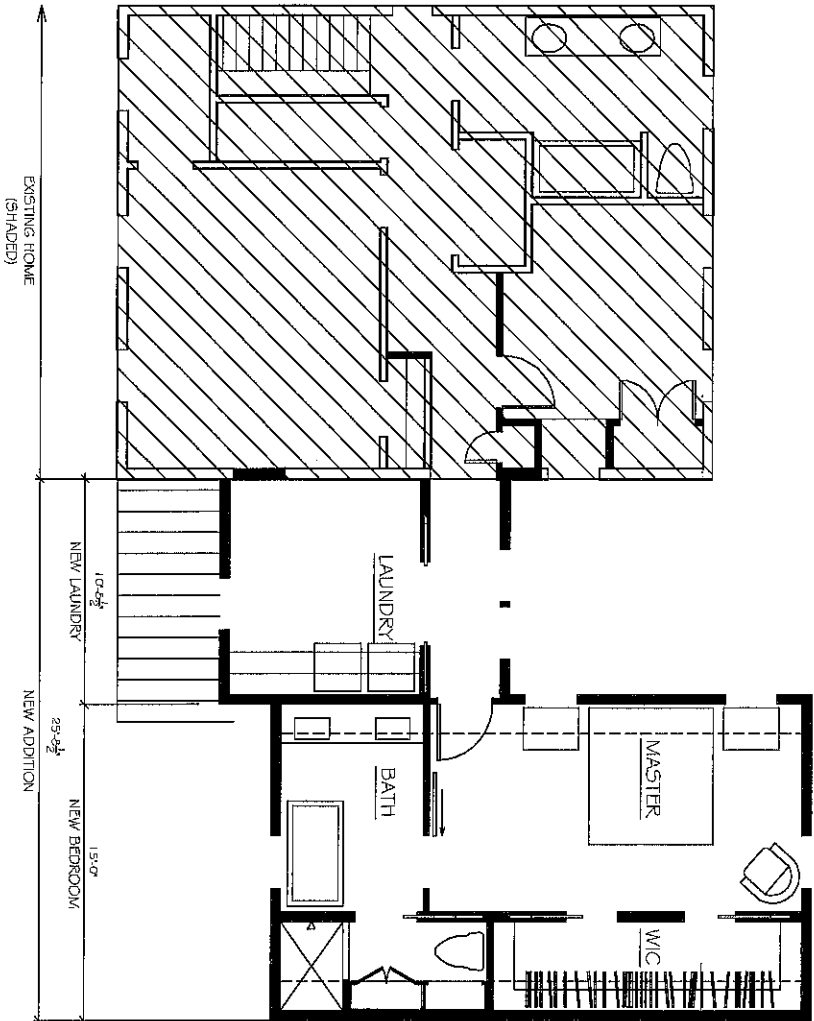
MAY 2021



EXISTING SECOND FLOOR
 (Documentation provided by Other)

114 PINE STREET, PORTSMOUTH, NH

SOMMA Studios, Portsmouth, NH 603.766.3760



PROPOSED SECOND FLOOR

SECOND FLOOR PLAN

MAY 2021



Front Elevation



Front Elevation



Right Side Elevation



Rear Elevation



Left Side Elevation