

**261 Sagamore Road, LLC
261 Sagamore Road
Map 221, Lot 16**

APPLICATION FOR VARIANCE

Introduction

The property subject to this application is located at 261 Sagamore Road and is depicted on the City's Tax Maps at Map 221, Lot 16. The property is located in the General Residence A ("GRA") Zone. The lot contains an existing single-family house and a garage, where the house encroaches upon a side setback with a setback of 5.4'+/-, where 10' is required and where the garage encroaches upon the side and rear setback, with a side setback of 6.5'+/-, where 10' is required and a rear setback of 8.3'+/-, where 20' is required. The total area of these encroachments into these setbacks is 255 +/- sq. ft. The Applicant intends to demolish the existing house and garage and replace the house with a new house that will contain an attached garage as part of the new structure. The proposed plan will remove all side and rear yard setback encroachments, however, the maximum building coverage will be 26.7% from an existing 25.9%, where 25% is permitted (114 sq. ft. over allowed building coverage, or 54 sq. ft. above the existing building coverage). The proposed structure is depicted on the enclosed plan prepared by Altus Engineering, Inc. as well as within the building plans submitted herein.

The lot is considered a non-conforming lot as it is comprised of 6,669 sq. ft., where 7,500 sq. ft. is required and has 60.08' of frontage, where 100' is required. Although the size of the lot will not be altered at all, according to staff and pursuant to Section 10.311, the Applicant has been advised that, in order to build the new proposed house, it will need a variance as to lot size, where GRA Zone requires 7,500 sq. ft. and a variance as to frontage, where the GRA Zone requires 100' of continuous frontage. In addition, the Applicant needs a variance as to maximum building coverage, as it proposes 26.7%, where 25% is permitted. Thus, the Applicant seeks variances from Section 10.520, Table 10.521 – Table of Dimensional Requirements, as to the lot area, continuous street frontage and maximum building coverage requirements.

For the reasons set forth herein, the Applicant respectfully submits that the grant of the variances is reasonable and can be supported by the following evidence:

Variance Requirements:

1. The variance will not be contrary to the public interest.

The Applicant respectfully submits that the proposed use represents a reasonable use of the property in question. By permitting the use, the public interest is served by permitting orderly development in an area where such development has already occurred. In addition, the proposed plan will result in the removal of all existing encroachments in the side and rear setbacks. All of these reasons are consistent with the purpose behind the General Residence A Zone, which provides for single-family, two-family and multifamily dwellings, with appropriate accessory uses, at moderate to high densities on lots not less than 7,500 square feet. In addition,

the location of the single-family residence as depicted on the plan represents a context sensitive design considering the surrounding properties within the area. Given the conformance to the building setbacks, it is respectfully submitted that the proposed dwelling will be consistent with surrounding properties, if not more conforming as to setbacks, despite the lack of lot area. As such, the proposed use will not be contrary to the public interest, as the use will not “alter the essential character of the locality.” See Chester Rod and Gun Club, Inc. v. Town of Chester, 152 NH 577 (2005). Granting the variance will permit the use of the lot as intended and consistent with the purposes of the specific zone.

2. The spirit of the Ordinance will be observed.

The Applicant respectfully submits that if the variances are granted, the spirit of the ordinance would be observed as the use in question is suitable, considering configuration of the lot and the surrounding properties, and therefore results in an encouragement of the most appropriate use of the land. In addition, by allowing the location of the single-family residence as depicted on the plan, the purpose of the zone, allowing for moderate to high densities will be observed. To be contrary to the public interest or injurious to the public rights of others, the variance must unduly and in a marked degree conflict with the ordinance, such that it violates the ordinance’s basic zoning objectives. See Chester Rod and Gun Club, Inc. v. Town of Chester, 152 NH 577, at 581 (2005). It is respectfully submitted, that given the reasons set forth above, and the removal of the setback encroachments, the granting of the variances will promote the ordinance’s basic zoning objectives.

3. Granting the variances will result in substantial justice.

The grant of the variances would due substantial justice as it would allow the Applicant’s property to be utilized in a similar fashion to other properties located within the area, by allowing the location of a structure, in a location that is consistent with the intent of the ordinance, while removing and avoiding construction within setbacks. This test considers whether the benefit to the Applicant outweighs the burden to the public. See Farrar v. City of Keene, 158 NH 684, 692 (2009). In this instance, given the proposed location of the structure, there will be no burden to the public whatsoever, and as to the neighbors, there will be a benefit with the removal of setback encroachments. Accordingly, the benefit to the Applicant would exceed the burden to the public, thus resulting in substantial justice being done.

4. Granting the variances will not diminish the values of the surrounding properties.

It is respectfully submitted that all of the surrounding properties have a value associated with them that is premised upon the existence of the same type of structure to be located upon the Applicant’s property. In this instance, the location of the structure in the area sought by the Applicant will have no negative affect upon any abutter with respect to its property, as the use will be consistent with other uses in the near vicinity, and consistent with the intent of the existing zoning. To the contrary, given compliance with the setbacks, and the addition of an entirely new structure, it is respectfully submitted that the value of surrounding properties will be enhanced.

5. Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship. Unnecessary hardship means:

Owing to special conditions of the property that distinguish it from other properties in the area,

(a) no fair and substantial relationship exists between the general public purposes of the Ordinance provision and the specific application of that provision to the property.

As one can see from the plan, the parcel in this case is unique as it has an irregular shape and has multiple existing encroachments with the setback restrictions within the GRA Zone. As a result of the proposed plan of improvements, the lot is not going to be overcrowded given the structure proposed as it will meet all applicable setbacks. The general purpose of the ordinance is to promote orderly development and to protect the health, safety and general welfare of the public. In this instance, the Applicant seeks to locate a single-family residence in the area that is also suitable, per the purposes of the specific zone, for single-family, two-family and multifamily dwellings. As such, the purpose of the ordinance and the purposes of the specific restrictions as to lot size, frontage and building coverage will be preserved given the design of the proposed structure, and in considering the context of the surrounding uses. Thus, the Applicant respectfully submits that there is no substantial relationship between the general public purpose of the ordinance, and the specific application of the lot area and frontage restrictions, and the minimal increase in building coverage, given the proposed use submitted by the Applicant.

and

(b) the proposed use is a reasonable one.

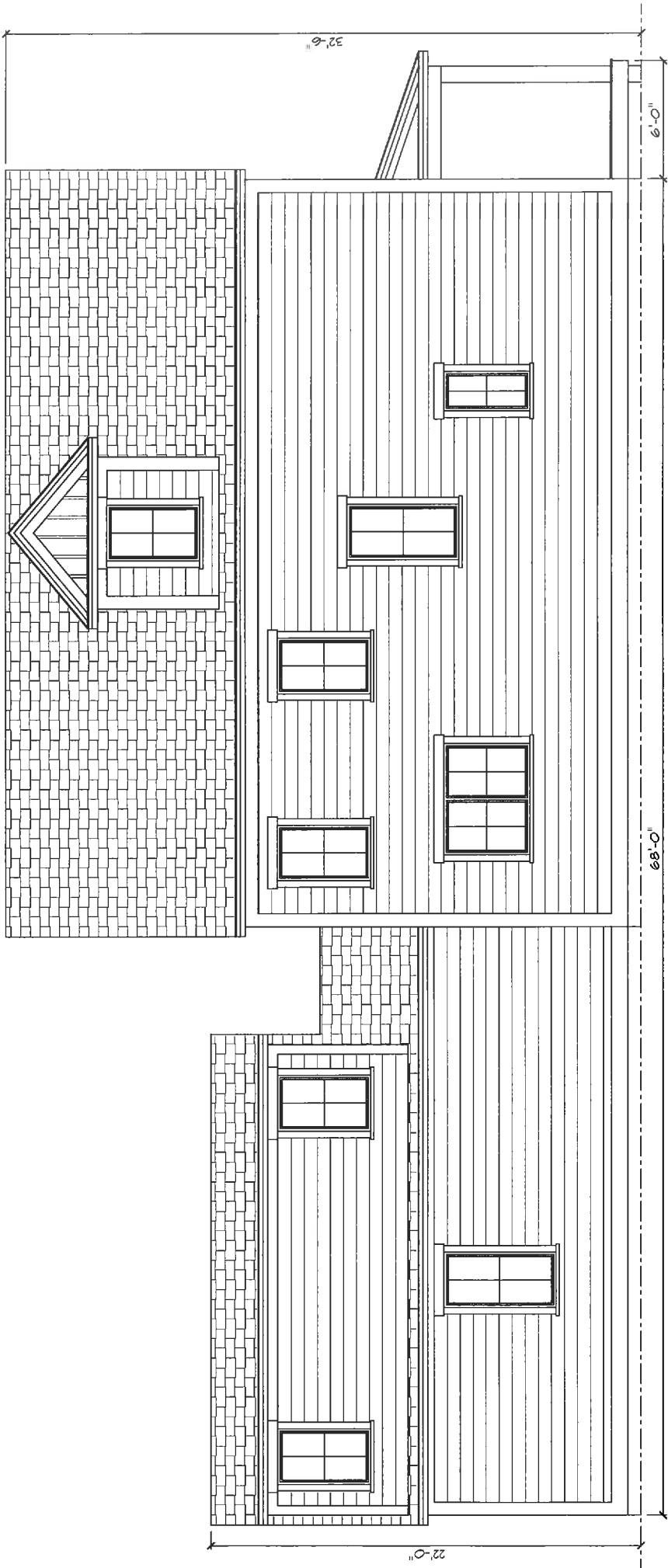
The proposed use is reasonable as it provides for the location of the single-family residence within an area that is “context sensitive,” given the other homes and dwelling uses within the area. The proposed location will allow the use of the property in a manner that is anticipated within the GRA Zone, and one where the building structure setbacks will be cured, as all such encroachments will be removed, making the use reasonable.



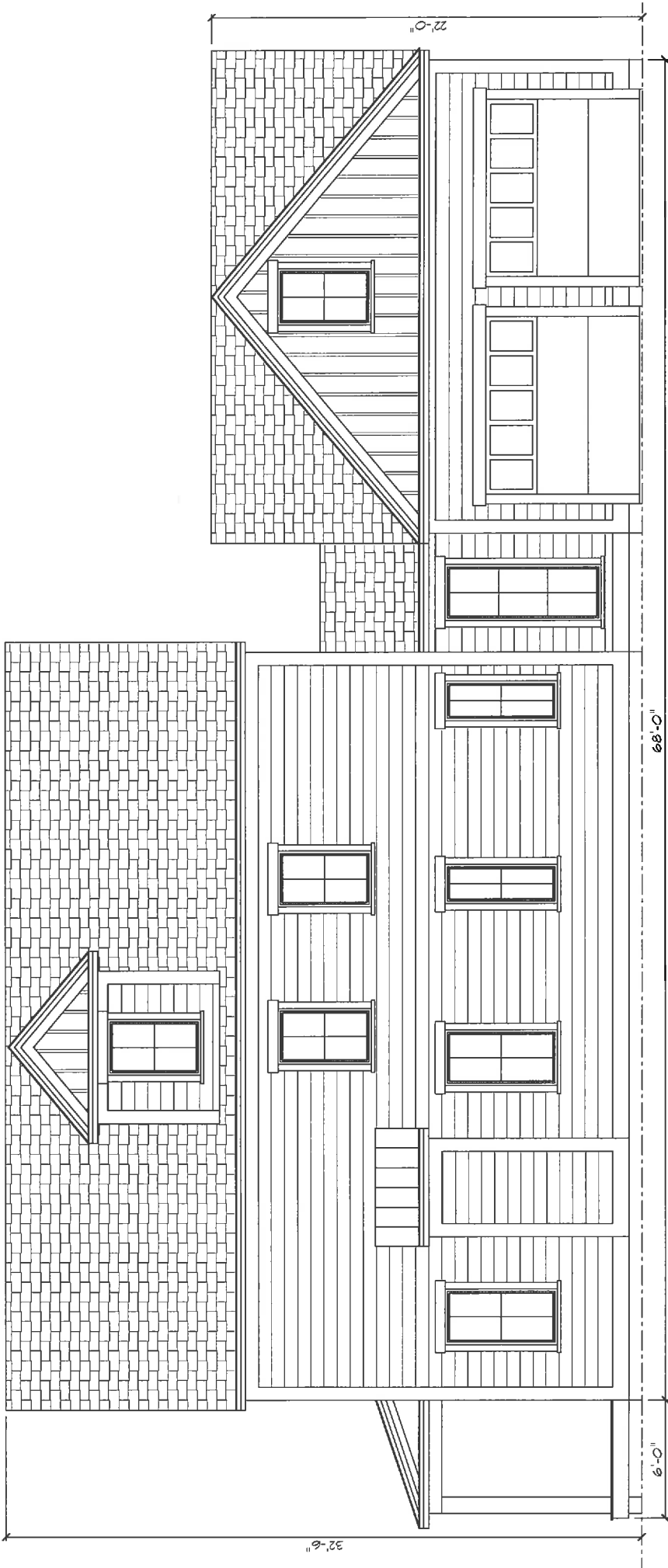
FRONT ELEVATION



REAR ELEVATION



LEFT ELEVATION



RIGHT/DRIVEWAY ELEVATION

VIEW FROM SAGAMORE ROAD - FRONT



VIEW FROM SIDE YARD - NORTHSIDE



VIEW OF BACKYARD AND GARAGE - WESTSIDE



VIEW OF BACK OF HOUSE – WESTSIDE



VIEW OF GARAGE FROM SAGAMORE ROAD – EAST SIDE



VIEW OF SIDE YARD – SOUTH SIDE

