

BY: VIEWPOINT & HAND DELIVERY

June 28, 2021

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

**RE: Variance Application of Sara Sommer Kaufman, Trustee, Sara Sommer Kaufman Revocable Trust
546 Sagamore Avenue, Tax Map 222, Lot 10**

Dear Chairman Rheaume,

Our Office represents Sara Kaufman. 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;
- 4) Floor Plans and Elevations;
- 5) Tax Map; and
- 6) 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.

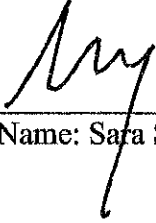
Sincerely,



Derek R. Durbin, Esq.

LETTER OF AUTHORIZATION

Sara Sommer Kaufman, Trustee of the Sara Sommer Kaufman Revocable Trust, the owner of the property located at 546 Sagamore Avenue, Portsmouth, NH 03801, shown on Tax Map 222 as Lot 10 (the "Property"), hereby authorizes Durbin Law Offices PLLC to act as his agent and representative in connection with our application to the City of Portsmouth Zoning Board of Adjustment. Said Letter of Authorization shall be valid until expressly revoked in writing.



Printed Name: Sara Sommer Kaufman



Date

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

**Sara Sommer Kaufman, Trustee of
the Sara Sommer Kaufman Revocable Trust**
(Owner/Applicant)
Tax Map 222, Lot 10
546 Sagamore Avenue
Portsmouth, NH 03801

INTRODUCTORY STATEMENT

The Property

Sara Sommer Kaufman (the “Applicant”) is the owner of property located at 546 Sagamore Avenue, identified on Portsmouth Tax Map 222, as Lot 10 (the “Property”). The Property is located within Portsmouth’s Single Family Residence B (“SRB”) Zoning District. The Applicant purchased the Property in 2016. The Property consists of 11,401 square feet.

The Property contains a two story, 3-bedroom, 2-bathroom single-family home with attached garage that was constructed in 1890 per the City’s assessing records. The Applicant’s home encroaches into the right yard setback by 5.4’ at its closest point (right yard setback is 4.6’).

Proposed Additions

The Applicant desires to add some additional living space and functionality to her home. To accomplish this, she is proposing the construction of a two-story addition to the right rear side of her home and a second-story addition above the attached garage. An existing non-conforming deck connected to the rear right side of the home would be removed to make way for the proposed addition.

The vertical expansion of the attached garage does not require zoning relief. The two-story addition to the rear of the home requires a variance because it will encroach into the right yard setback by 5.2’ at its closest point (4.8’ setback). Architecturally, the addition will integrate and fall into line with the front of the home when viewed from Sagamore Avenue. As “in-fill” construction, it will have little to no impact upon the nearest abutting property and the home thereon.

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 4.8' +/- where 10' is the minimum required and only 4.6' +/- exists.
2. Section 10.321: To allow a non-conforming structure to be reconstructed and enlarged without complying with the terms of the Ordinance.

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. The proposed addition will not be visible from Sagamore Avenue from most vantage points. The property will continue to comply with all other dimensional requirements set forth in the Ordinance.

The proposed addition will not negatively impact the light, air and space of the abutting property to the right. The existing home already encroaches into the right yard setback. The proposed addition will not encroach further than the existing home into the right yard setback. It will be constructed further from the abutter’s home than the Applicant’s existing home and will be buffered by some larger trees along the common boundary. It will replace an existing non-conforming deck that is partially situated within the right yard setback but has a slightly smaller building footprint.

The proposed addition will not threaten public health, safety or welfare. It, as well as all other improvements being made to the property contemporaneously, will be required to meet current building and life safety codes. It will add to the aesthetic character and functionality of the home and property, which is a benefit to the neighborhood and general public.

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 general public if the setback variance were denied. Granting the variance will enable the Applicant's family to add much-needed living space and functionality to their home. If the variance 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.

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

The Property has special conditions that distinguish it from surrounding properties. The Property itself is quite small in comparison with surrounding properties, as shown on the Tax Map submitted herewith. The existing home was constructed well before adoption of current zoning standards. The Property will continue to encroach into the right yard setback regardless of whether the variance relief is approved. The proposed addition will not encroach further into the right yard setback than the existing home and will have minimal impact upon the closest abutter. As such, there is no fair and substantial relationship between the general purposes of the side yard setback requirement and its 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 SBR Zoning District. The proposed addition is a reasonable extension of a pre-existing non-conforming use. Accordingly, the use is reasonable.

CONCLUSION

In conclusion, the Applicant has demonstrated that her request meets the five (5) criteria for granting the variance relief and respectfully requests that the Board approve her application.

Respectfully Submitted,

Dated: June 28, 2021

Sara Sommer Kaufman, Trustee
Sara Sommer Kaufman Revocable Trust



By: Derek R. Durbin, Esq.
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SITE NOTES

- DESIGN INTENT - THIS PLAN IS INTENDED TO DEPICT PROPOSED RESIDENCE IMPROVEMENTS.
- APPROXIMATE LOT AREA: 11,401 S.F. ± (0.26 AC. ±)
- ZONE: SINGLE RESIDENCE B (SRB)
- DIMENSIONAL REQUIREMENTS:

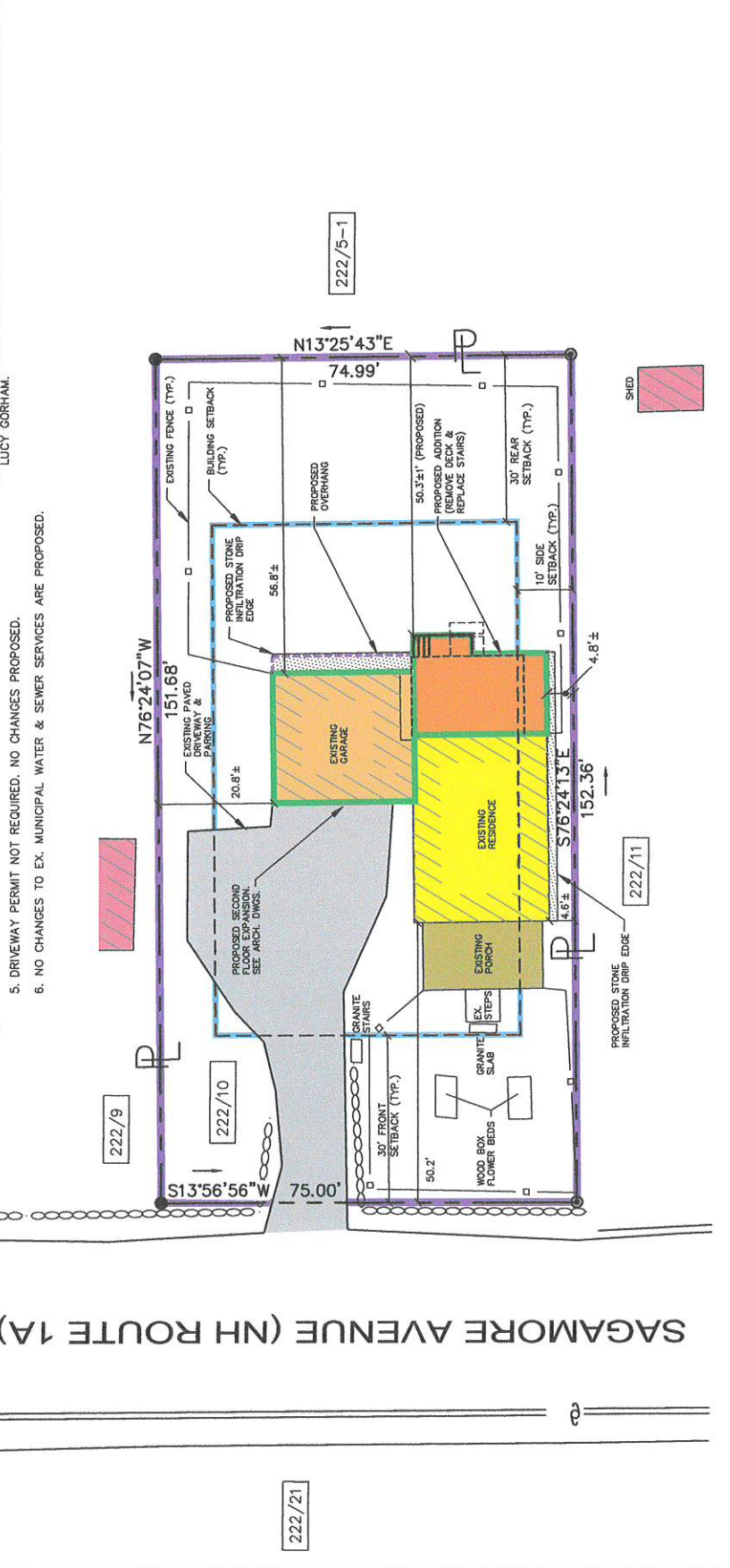
REQUIRED	EXISTING	W/ADDITION
MIN. LOT AREA: 15,000 SF	11,401 SF	11,401 SF
MIN. STREET FRONTAGE: 100'	151' ±	151' ±
MIN. LOT DEPTH: 30'	50.2' ± (SURVEY)	50.2' ±
FRONT SETBACK: 10'	4.8' ± (SURVEY)	4.8' ±
SIDE SETBACK: 30'	56.8' ± (SURVEY)	50.3' ± 1'
REAR SETBACK: 35'	<35'	<35'
MAX. BLDG. HEIGHT: 35'	17.8%	18.4%
MAX. BLDG. COVERAGE: 20%	67.5%	66.2%
MIN. OPEN SPACE: 40%		
- DRIVEWAY PERMIT NOT REQUIRED. NO CHANGES PROPOSED.
- NO CHANGES TO EX. MUNICIPAL WATER & SEWER SERVICES ARE PROPOSED.

7. THE FOLLOWING VARIANCE FROM THE PORTSMOUTH ZONING ORDINANCE IS REQUESTED:

- SECTION 10.521 - 4.8- FEET FROM THE SIDE LOT LINE.
- ALL BONDS AND FEES SHALL BE PAID/POSTED PRIOR TO INITIATING CONSTRUCTION.
- THE CONTRACTOR SHALL VERIFY ALL BENCHMARKS AND TOPOGRAPHY IN THE FIELD PRIOR TO CONSTRUCTION.
- THE CONTRACTOR SHALL VERIFY ALL BUILDING DIMENSIONS WITH THE ARCHITECTURAL AND STRUCTURAL PLANS PRIOR TO CONSTRUCTION. ALL DISCREPANCIES SHALL BE IMMEDIATELY BROUGHT TO THE ATTENTION OF THE ARCHITECT AND ENGINEER FOR RESOLUTION.
- BUILDING AREA SHOWN IS BASED ON FOOTPRINT MEASURED TO THE EDGE OF FOUNDATIONS AND/OR SLABS. ACTUAL INTERIOR SPACE WILL DIFFER.
- BUILDING EXPANSION AREA PER PRELIMINARY ARCHITECTURAL DRAWINGS BY LUCY GORHAM.

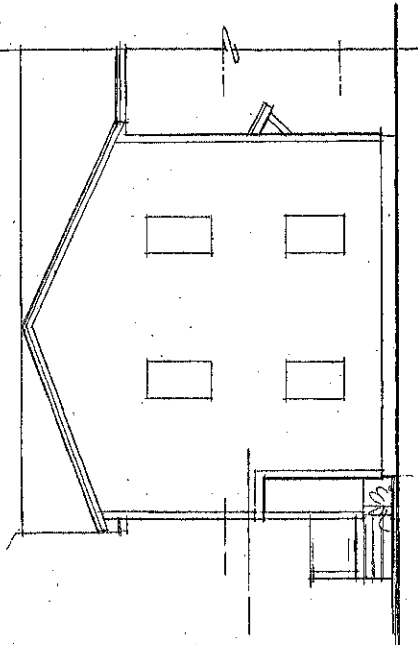
ABUTTERS LIST

OWNER OF RECORD
 222-5-1 JESSICA FAE & RICHARD SNELL HAYES II
 40 WALKER BUNGALOW RD, PORTSMOUTH, NH 03801
 222-9 ELIZABETH ANN CUMMINGS & JAMES RALPH LEE
 520 SAGAMORE AVE., PORTSMOUTH, NH 03801
 222-11 FR. MOULDUZE, ALEX. BEAUCAMERON, PROUSTEES
 C/O SAGAMORE AVENUE, PORTSMOUTH, NH 03801
 222-21 SAGAMORE COURT LTD. PARTNERSHIP
 C/O FOREST PROPERTIES MANAGEMENT, INC.
 625 MOUNT AUBURN ST. SUITE 210,
 CAMBRIDGE, MA 02138



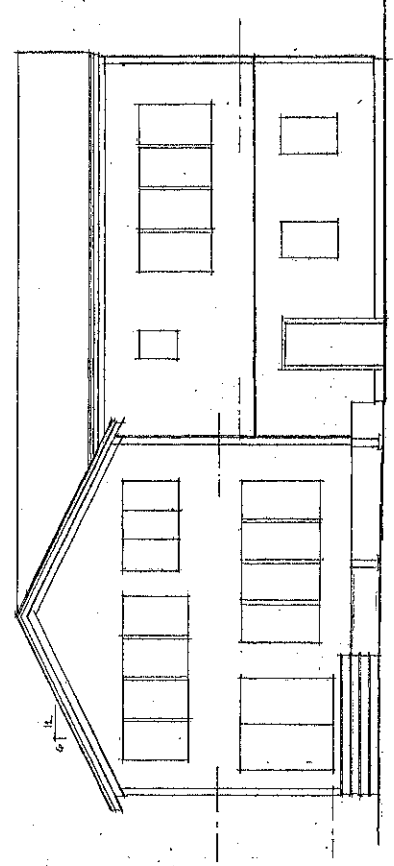
PLAN REFERENCE

- "BOUNDARY PLAN", BY ECKMAN ENGINEERING, LLC DATED NOVEMBER 7, 2020. CAD FILE OBTAINED FROM SURVEYOR AND USED WITH PERMISSION.



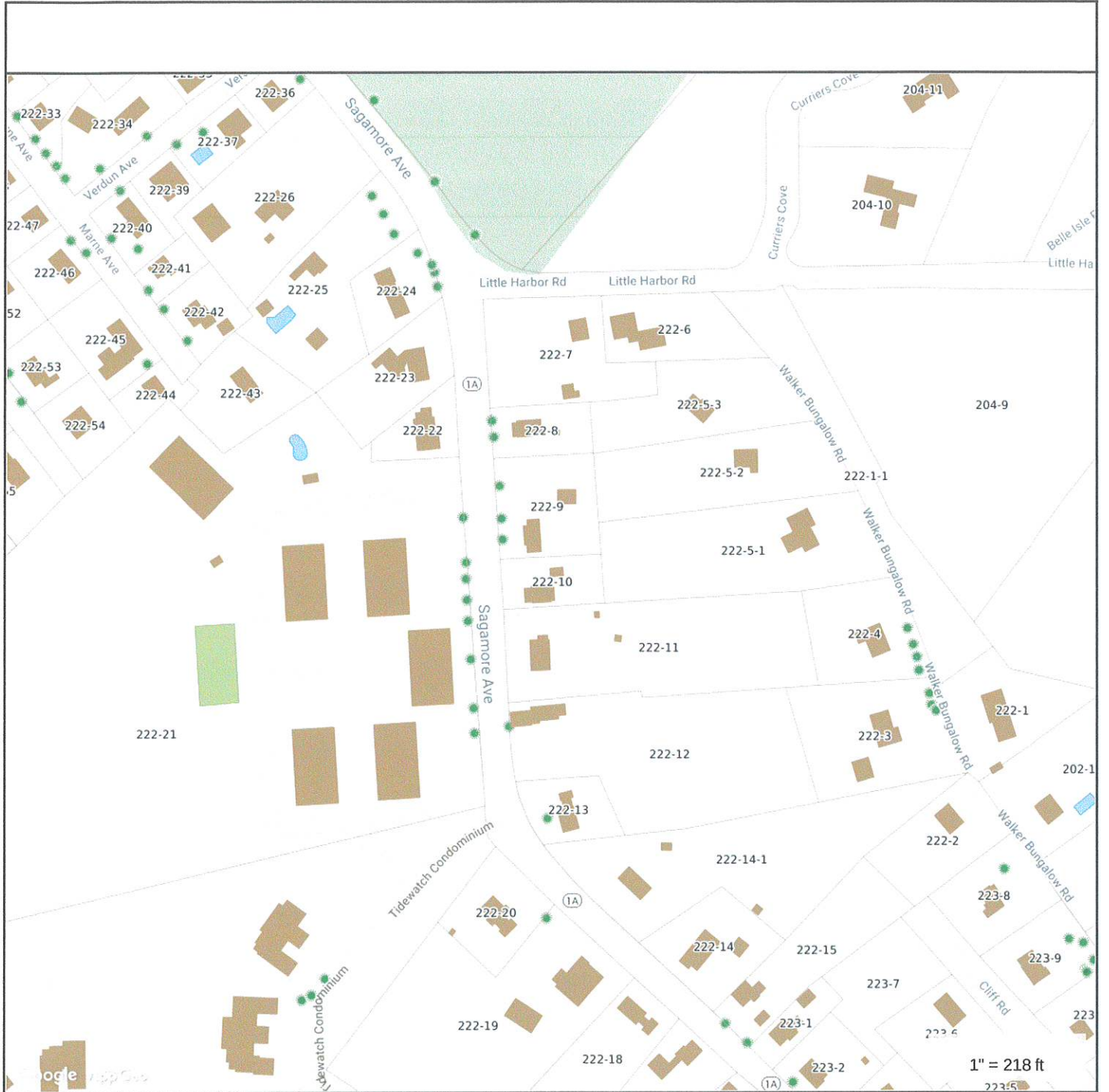
LEFT SIDE ELEVATION
1/4" = 1'-0"

PRELIMINARY



BACK ELEVATION - PROPOSED 1/4" = 1'-0"

Structural framing and construction is permitted
 in accordance with the provisions of the International
 Building Code, 2006 Edition, as amended, and the
 International Residential Code, 2003 Edition, as amended.
 See also the International Fire Safety Code, 2003 Edition.



**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

Print map scale is approximate. Critical layout or measurement activities should not be done using this resource.



Rear View of House and Garage



Rear View of Home and Garage



Left Front View of Home and Garage



Front View of Home and Garage